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SENATE—*Tuesday, May 18, 2004*

The Senate met at 9:45 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O Lord, our Lord, how majestic is Your Name in all the Earth. You are the giver of everlasting life. Thank You that nothing can separate us from Your limitless love. Thank You that You are never disillusioned by us, although You know us better than we know ourselves. How great is Your love toward us, for You call us Your children. We praise You for Your tremendous power inside us that strengthens us to cope with life and to do Your will. Give our Senators today a faith that will not shrink, though pressed by many a foe. Make them more than conquerors of our Nation's challenges. Develop their gifts and enlarge their capacities that with confidence and joy they can do the work of freedom. Be at work in each of us, creating within our spirits both the desire and the power to do Your will. We pray this in Your loving Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today, we will be in a period of morning business for 1 hour. The first half of that time will be under the control of the majority leader, with the second half under the control of the minority side. Following that period, the Senate will begin consideration of H.R. 3104, the Afghanistan/Iraq campaign medals bill. Under the agreement, there will be 20 minutes for debate prior to a vote on passage of the bill. Senators can, therefore, expect the first vote of the day to occur sometime around 11 or 11:15 this morning.

Following that vote, we will resume the Defense authorization bill. We began that bill yesterday and made some progress by disposing of the Hutchison amendment regarding cadets and midshipmen. We will continue on that bill throughout the day with rollcall votes expected. I have mentioned our desire to finish the Defense bill this week, and I hope Members will cooperate with the managers of the bill so we may have an orderly consideration of amendments. Senators who intend to offer amendments should be contacting the chairman and ranking member at this time so they may begin scheduling amendments for this week.

Also, we have a cloture vote scheduled for 2:15 p.m. today on the nomination of Marcia Cooke to be U.S. District Judge for the Southern District of Florida. There is still hope we can work out an understanding as to when we will vote on some of the 32 pending judicial nominations and, therefore, there is a chance the cloture vote may be vitiated. We will alert all Members if there is a change with that vote.

Also this week we will continue to look for a way to consider and complete the bioshield bill. I hope we can pass that important measure before we conclude our business this week. The highway bill is another one we need to get to conference, and we will find a way to do that if at all humanly possible this week. I am reminded daily of the importance of this bill and the necessity of going to conference. I was talking to our colleague from Missouri, Senator BOND, who again underscores the importance of moving this bill forward as soon as possible.

It is going to be a very busy week. As we approach the recess, Senators can expect late nights, if necessary, to complete the legislative and executive items I have mentioned.

BROWN v. BOARD OF EDUCATION

Mr. FRIST. Mr. President, on leader time, I want to briefly comment on the fact that yesterday was the 50th anniversary of the monumental Brown v. Board of Education Supreme Court decision.

I had the wonderful opportunity of joining my colleagues from Kansas, Senators ROBERTS and BROWNBACK, in Topeka, KS yesterday around noon. As we stood in front of that two-story Monroe Elementary School, which was one of the four segregated schools in Topeka in 1954 which Black children were forced into, you couldn't help but appreciate how far indeed we have come, but also reflect on how far we must continue to go.

It was 50 years ago and 1 day, May 17, 1954, that the Supreme Court struck down the separate but equal doctrine that had been established around 60 years before by Plessy v. Ferguson. The Brown v. Board decision is considered by many to be one of the most, if not the most, important Supreme Court decisions of the last 100 years. It energized the civil rights movement and the victories that would follow, including the Civil Rights Act of 1964. It catalyzed a tectonic shift in our Nation's social consciousness.

The Brown v. Board story begins a little over 50 years ago in the city of Topeka, KS where we were yesterday. It was a third grader named Linda Brown who was barred from attending the neighborhood school because she was black. At that time she was 7 years old. She had to walk six blocks through a rail yard to meet her bus, and then she would be transported an additional 2 miles across town to the all-Black elementary school. That trip every day took about an hour. It was her dad, Rev. Oliver Leon Brown, for whom the Supreme Court case is named, who decided his child deserved to go to a school closer to home. He joined 13 other families in filing suit to end segregation in America's public schools.

Linda Brown recalls that, using her words:

> When the parents involved tried to enroll us in all white schools and we were denied,

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

> my mother explained that it was because of the color of our skin. As a child I did not comprehend what difference that could possibly make.

Indeed, as a child Linda knew the truth so many adults refused to recognize, that the color of a person's skin should not make any difference at all.

Despite the Supreme Court's ruling, many States were slow to integrate classrooms. When I look back to my State of Tennessee, initial compliance was mixed. While Nashville public schools, for example, began their first day of integration in 1957, the surrounding county didn't begin until 1960. And even 10 years after that in 1970, 40 metro schools in Nashville were still segregated. But since that point in time, Tennessee, as the rest of the Nation, has made great progress. I think of the Chattanooga School for Arts and Sciences, which is hailed in the State as a model for diversity and academic success. Indeed, 99 percent of its students, who come from all racial backgrounds across the country, go on to college. In 2003, the elementary and middle schools scored above the national average in the Tennessee Comprehensive Assessment Program tests.

That all leads me to the ultimate hope of the Brown v. Board decision: That not only will Black and White students learn together, but that they will succeed together. In this we have a long way to go. As we look ahead and as we celebrate that wonderful decision of 50 years ago, as we were celebrating yesterday in Topeka, we have a long way to go.

Most recently, the President's No Child Left Behind Act is one powerful tool we have in closing the educational gap that exists between White and Black students. It sets rigorous standards for learning and teacher qualifications. It does hold schools accountable for their academic success. No longer will students be passed from grade to grade without mastering those basic learning skills. No longer will schools be able to mask their results in broad averages. They will have to account for every group of students under that schoolhouse roof.

Fifty years on, American has undergone a dramatic transformation. No longer is segregation an accepted, let alone celebrated, way of life. We recoil at the pictures of the Little Rock nine being jeered and threatened by angry White protesters. We hail the courage of those who led us forward. We tell their story that we will always aspire to America's true purpose, that true purpose which is so powerfully expressed in our founding, that all men are created equal, and that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness.

I yield the floor.

RESERVATION OF LEADER TIME

Mr. REID. Mr. President, I ask that the Chair reserve the leadership time of Senator DASCHLE.

The PRESIDENT pro tempore. Without objection, under the previous order, the unused leadership time will be reserved.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. SMITH). Under the previous order, there will be a period for the transaction of morning business for up to 60 minutes. The first half of the time will be under the control of the majority leader or his designee, the second half of the time under the control of the Democratic leader or his designee.

Who yields time?

The Senator from Wyoming.

ENERGY

Mr. THOMAS. Mr. President, I appreciate the opportunity to take some time in morning business to talk about one of the things that impacts us all, that we all see as we come to work each day or whatever we do in our day, and that is the cost of energy, particularly gasoline. It has an impact on all of us, certainly, something that affects not only you and me in our cars trying to get to work, but also the cost of other services and merchandise we buy, because there is an additional cost to development of all those things when gas is as high as it is right now.

It is a difficult thing to deal with because it is an item that over time we have expanded in our use, and we have begun to use a good deal more than we have in the past. We have increased our consumption, but we have not done the same thing with the kind of support facilities necessary to meet those increased demands. Again, one of the issues is not only gas or electricity, but it is the whole issue of energy in a broad sense, certainly, and energy policy that has to do with the long-term availability of energy to meet the demands we have.

Again, I point to the fact we have not been able to move an energy policy in the Senate in order to deal with the future. We will hear a lot of complaints, probably today, about something that ought to be done. The real important thing is, we ought to do something about the policy so over time we can make some of the changes that need to be made to change the whole situation with energy over time. Obviously, there are a number of activities that need to be done.

A lot of factors affect fuel price and supply. One of them, obviously, is the cost of oil. Crude oil is at historic highs right now. In the past, we were accustomed to seeing crude oil at about $22 a barrel. We talk about it when we make plans. It is now nearly $41. It has increased a great deal over the last several months. It is very important to understand that the cost of oil represents almost 50 percent of the cost of gas at the pump. There are other costs, of course, but this is the major cost.

Interestingly enough, the cost of crude oil, plus the taxes, represents a little over 70 percent of the cost of gasoline. So when we talk about these costs, of course, that has to be one of the factors.

Also, there are less refined gasoline imports, as gas, not as oil, because of sulfur regulations. Over the years, we have had a reduction in the number of refineries. It seems strange, doesn't it; as demand has gone up substantially, the number of refineries has gone down. It is true that capacity has not changed that much because the refineries have gotten larger, but they have not increased the capacity over time. In the late eighties, we were using about 85 percent of capacity of refineries. Now it is about 94 percent of capacity being used, and the demand, of course, has gone up over that time. There has been a continual closure of refineries over the last 23 years, and so the system is now very tight.

In addition to capacity, we have had a lot of different regulations and different kinds of additions to gasoline in different parts of the country so that refining has been made much more expensive and much more difficult to market in that they have to have this kind of reduction here and another one for this State and so on. It has been very difficult. The reality is that there are a number of components to the price of gasoline. We have to review those in context.

We will be hearing probably soon that the Government ought to be taking oil out of the Strategic Petroleum Reserve, which is there to be a reserve and has been put together over a period of time. The fact is that the daily input into the Strategic Petroleum Reserve is about 170,000 barrels a day, and the consumption in this country is almost 9 million barrels a day. It is a relatively small amount. There may be some merit in diverting the daily input into this reserve, but I certainly think it would not make a lot of sense to extract from it. It will be interesting to see what happens with respect to this issue.

The fact is that the current price, when adjusted for GDP or growth in the economy and inflation, is not at a record high. In the 1980s, as a matter of fact, given the same economics, the price of gas was higher than it is today. However, since it has gone up from $1.50 to $2, that is a sudden impact. The 1981 price, if it is measured against today's economy, would be over $3. We have to be realistic about where we are.

The most significant factor, of course, that affects gasoline prices is the cost of crude oil. As I mentioned, it represents almost 50 percent of the cost of a finished gallon of gasoline. Crude oil prices have increased about 60 percent since April a year ago. That is a great increase.

The other point is that we have become more dependent on imported crude oil as opposed to domestic production. We have, interestingly enough, less control over that production.

The high demand in Asia and the U.S., plus OPEC activities, has restrained production over the years. It is the most important factor affecting prices.

Another key factor is increased gasoline demand, and that continues to go up. We can see that each day on the street in the number of cars and SUVs that are using more gasoline per mile than they did in the past. It is interesting; as we are moving in one direction in use and consumption, we are moving in another direction in providing the supply.

We have had a crazy arrangement. We have had very little growth in the U.S. in refining capacity. Currently, there are 149 refineries with a capacity of 16.8 million barrels a day. In 1980, there were 321 refineries with a capacity of 18.6 million barrels per day. That has been a conflict in our situation. Of course, there are a number of reasons for that situation. There have been no new refineries built since 1976, and unlikely due, of course, to political considerations, including siting costs, environmental requirements, industrial profitability, and, most importantly, the "not in my backyard" attitude which we seem to see in energy. We have over here demand and consumption, we want this service, but over here we say: Oh, yes, but we do not want refineries in our midst, we do not want transmission lines, we do not want the things that are elements of energy, but at the same time we want more of the product. These are some of the problems. They are not easy to resolve, but they are resolvable.

We need to take a look at a policy for the future and begin to provide incentives to do what needs to be done, to take another look at some of the environmental controls we have put in place. That is not to say we do not want to protect the environment, but there are ways to do it that are less intrusive on production. There is no doubt that environmental regulations have played a part in increasing the cost of fuel. No one believes we ought to sacrifice the environment. That is not the issue. The question is how can we do it in a more environmentally secure way without putting limitations on production.

The environmental and energy policies are interlinked. We must remember, when we are considering new regulations and policies, what impact it is going to have on the result. We do not seem to consider those two issues at the same time. We put on regulations saying we are going to help the environment, not thinking about what impact it has. Now we are at the point where the impact is affecting us, and we say: My gosh, what have we done? What happened here? Why do we have these increased costs?

It is pretty clear we need to do some things that are different from what we have done in the past.

It is fair to say that many of the folks from the Northeast and California complain about the high prices; however, their delegations over time have supported unilateral disarmament of our energy security by refusing to accept the balance that has to be created. They have opposed offshore drilling, coal-fired plants, nuclear-fired plants, the development of ANWR, leasing and development of minerals on public lands, and hydro relicensing—just a few of the things that have to do with domestic production and transportation of energy.

I guess we have to ask, Where do they think energy fuel comes from? It does not come out of the sky. We have to produce it. It is kind of like that attitude that one thinks milk and eggs just come from Safeway. There are some animals behind it.

We have to consider the consequences when the Federal Government mandates a certain environmental equation such as a 2-percent oxygenate that is put into gas. We have to be sensitive and realize the consequences so that the decisions we make with regard to those issues have to be balanced with what we need.

I hear all of this complaining about it but then we do not seem to recognize the link between Federal regulations and the higher price of gas: the phaseout of MTBE, the tier II gasoline sulfur standards, diesel standards, regional haze. All of these Clean Air Act requirements are going to raise the price of gasoline.

There are some things we can do. We have to do something about conservation. We have to find ways that we can use energy more efficiently, and that is possible. It is starting to happen even in automobiles.

I come from a State where SUVs are necessary. Sometimes we need a four-wheel drive to get to my house. Where I stay in northern Virginia, pickups and SUVs are all over the place. I do not think they need four-wheel drives very often, but that is fine. We can still make those more efficient. We can take a look at it.

We have to do some things over time to fuel cars with other things—hydrogen, for example. In our energy policy we have the opportunity to take a look at more research and more opportunities to provide alternatives. Gas and oil are not going to be there forever at the same degree they are now. They will be for a good long time if we treat them properly, but there comes a time when we have to look at other kinds of things, and that is what this policy is about. That is why we need to be looking at more than just next week or next year. We have to take a look at what we are going to be doing. We have to modernize our energy structure to make it more efficient than it is now. We have to talk about renewables, whether it be electricity, wind energy, or Sun energy.

These are things we need to be doing. We know how to do them in small amounts now, but we have to find out how to do them in volume. We have to find out how to do them in a reasonable and bearable cost, but we can do that if we focus on doing it.

At the same time, we can protect the environment. My home State is one of the States where we have a great deal of energy production. We are the No. 1 producer of coal, for example. Well, in order to do that, we have to change things somewhat. We have to do some more research to find out how we can have clean burning coal, because it is the largest fossil fuel available to us.

We also are a producer of oil and gas. We have natural gas, of course, which has many uses as energy but we ought to be using coal or nuclear for the electric generation because natural gas is much more fluid. It can be used in other ways and for many other things, where coal cannot.

The point I am trying to make is that these are things that are out there in the future but they will not come about until we decide we are going to emphasize a policy with regard to energy and the impact it will have on us over the years.

The bill that we have is available to do these things. Unfortunately, we have had some problems of obstruction in getting it done. We need to work on that and acknowledge where we are and where our consumption is. Right now, it is reaching beyond where we are in terms of having a product to provide.

So it seems to me it is pretty clear that is the direction we need to move and it is the direction we can, indeed, move. We have a greater opportunity to do that now.

I will now take a second to look at some of the highlights of the energy policy bill that we do have. As far as oil and gas, we permanently authorized the Strategic Reserve. We have incentives for producing from marginal wells. As my colleagues can imagine, when wells produce a great deal of product each day everyone is interested in that. When they become marginal, there needs to be some incentives to continue to do that.

We have some royalty relief for deep water wells and for our greatest opportunity for these products offshore. We need to take into account the environmental status that we want there. We have to do something about a gas pipeline from Alaska where some of our greatest reserves of energy are.

I already mentioned clean coal and certainly there are opportunities for us to ensure that the largest resource, fossil fuel, is available without being harsh on the environment. Indian energy, we have not allowed the tribes to be doing something on the reservations, which many of them would like to do. A lot of people resist nuclear energy. The fact is, we want clean generated electricity. Nuclear is probably the best opportunity that we have to do that.

The section is also there on renewables so, again, we can make some progress in terms of being able to utilize some renewable energy sources that will take some of the pressure off of the kind of production that we have now.

We have a great challenge. I think it is a challenge to this body to move forward on an energy policy and stop finding reasons to not have one and object to having one. It is the same people who complain about not having affordable energy, and that is kind of where we are. We can indeed change that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I ask unanimous consent that when the time for the Democrats comes, Senator DORGAN be recognized for 10 minutes and Senator DURBIN for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Georgia.

WINNING THE WAR IN IRAQ

Mr. CHAMBLISS. Mr. President, I rise this morning to talk about several issues relative to what is happening in Iraq today. First, the terrible offenses that occurred at the Abu Ghraib prison that came forth a couple of weeks ago have obscured some of the positive things that have been happening relative to the war on the ground in Iraq. We made some great strides over the last couple of weeks and, once again, we have every reason to be extremely proud of our brave men and women who are carrying out this war against terrorism, because we are winning this war.

We are seeing more of the bad guys taken out in Iraq today, and a lot of that has been obscured by what happened at Abu Ghraib and the revelations that have been forthcoming relative to those incidents over the past couple of weeks.

With respect to Abu Ghraib and to the individuals who were involved in the atrocities that took place there, our Army is doing exactly what it is supposed to do relative to issues such as this. We are doing a complete and thorough investigation of the facts. Those who committed offenses for which they need to be held accountable are going to be held accountable, irrespective of their level of management.

I say that because these atrocities may have been carried out by privates or sergeants or any other enlisted or officer personnel up the line. If they were, then they are going to be held accountable. If any of these atrocities were carried out by civilians, they are going to be held accountable likewise.

Major General Taguba produced a very professional and comprehensive report on what did take place at Abu Ghraib. He found what happened there was a total lack of discipline and a failure of leadership. Our military forces want to be held accountable because those who are doing the great job over there—and this is 99.99 percent of our military personnel—want us to get to the bottom of this, just as everybody in America and every other individual around the world wants us to do. And we are going to do that.

Second, there was an announcement yesterday that the coalition forces discovered sarin gas in an artillery round, and that is a very significant fact. I don't think we can overstate the significance of this, but by the same token we need to be careful as to how far we go. There was a lot of criticism leveled at this administration for conducting this war on the basis that weapons of mass destruction were in Iraq and in the possession of Saddam Hussein and that was the sole reason we went to war with Iraq. That simply was not the case. We debated that and will continue to debate that down the road. But the fact is those of us who kept saying we know the weapons of mass destruction are there because Saddam Hussein admitted he had them—and he never told us what he did with them so we know they are there—that theory has now been validated.

But is this the be-all and end-all relative to the issue of weapons of mass destruction? I don't think so. I don't think we need to get overexcited. I think we need to continue to allow the Iraq Survey Team to do their investigation and at the end of the day we will find out what did happen, how many weapons of mass destruction exist today, and where those weapons are. We will proceed with the destruction of those weapons that once belonged to Saddam Hussein. It is important that we find and destroy these weapons of mass destruction so they can't be used by terrorists, as they attempted to do last weekend.

Third, I want to mention the killing yesterday of the President of the Iraqi Governing Council, Mr. Izzedine Salim. Mr. Salim was a respected member of the IGC. His leadership will be missed. Our thoughts and prayers go out to his family.

However, his successor, Mr. Ajil al-Yawar, will lead the IGC over the next 6 weeks until political sovereignty is turned over to the new Iraqi government on June 30. The terrorists and anarchists fighting to keep Iraq from becoming a free and democratic state are not going to win. We are not going to let the killing of a fine individual such as Mr. Salim keep the people of Iraq from forming a new, free and independent government and obtaining their democracy.

The perspective on these events is very important. We will turn over sovereignty to Iraq on 30 June. We have discovered weapons of mass destruction and we need to continue our search for others. We need to let our investigation on Abu Ghraib be completed before making pronouncements on who was responsible.

Last, I would like to relate that about 4 weeks ago, I had the pleasure of visiting 14 of our military institutions in Europe within a 4-day period. During that period of time, Senator SESSIONS, Senator ENZI, and myself had the occasion to visit with individual members of our Armed Forces such as those who belong to the 173rd Airborne Brigade, who are stationed at Caserme Ederly in Vicenza, Italy, who spent a year in Kirkuk, Iraq. They were the original occupying troops in Kirkuk. We had the occasion to visit with spouses of our soldiers who, today, are deployed to Iraq. We also had the opportunity to visit at Landstuhl Hospital at Ramstein, Germany, individuals who have been injured in Iraq. I have to say, every time I am around those men and women, my heart beats a little faster because they are not only the finest young men and women America has to offer, but they are doing a fantastic job of representing America, whether it is doing their duty of being fighting men and women or whether it is doing what they probably do best, and that is being the greatest ambassadors America has right now in that part of the world.

The men and women in the 173rd Airborne Brigade, for example, said when they marched into Kirkuk, the Iraqi people viewed them as simply an occupying military force, which was not going to be supportive of the goals that the citizens of Kirkuk wanted to see carried out; that is, to have their children educated, to have hospitals, to have water and sewer and power restored.

As the weeks and months went on, however, the members of the 173rd Airborne Brigade did exactly what the local people didn't believe possible: They rebuilt the hospitals, they rebuilt and opened the schools, they fixed the power grid so electricity could be restored to the citizens of that community, as well as increasing the availability of water and sewer, so at the point in time when the 173rd needed to be returned home, there were tears shed on both sides. The bonding between our fighting men and women, these soldiers and goodwill ambassadors, and the people of Kirkuk was exactly as we envisioned it should be; that is, our men and women had done a great job of liberating those people and at the same time had made good friends and had been great ambassadors for the United States in that part of the world.

At Landstuhl, I will have to say the attitude of soldiers who had received, in some cases, very serious injuries was unbelievable. One young man who was from the home State of the Presiding Officer, as he and I discussed, who had his right leg shot off below the knee, made a comment to me as I walked in the room—and he had a big smile on his face. He said:

> Senator, I'm leaving here and I am going to Walter Reed Hospital and I am going to get a new leg and as soon as I get me that new leg I want you to know I am going back to be with my buddies in Iraq.

What greater attitude, commitment, and dedication can you have from any individual? That young man is simply a shining light out there today and should far overshadow the stories we see coming out of Abu Ghraib.

Also, the spouses of the soldiers who are deployed to Iraq today, the spouses we visited with, about 35 or 40 of them, had, again, an unbelievable attitude. Our military families are truly that. They are families. They stand side by side with their spouses and support their deployment to any part of the world. But particularly now with respect to this very difficult and complex deployment in Iraq, these spouses had the opportunity to engage with us and to come forward to complain about a number of things, but they never did. They were all positive and said they knew their husbands were doing the right thing, they were truly supportive of them, and once again our military families were a shining light of which we can all be very proud.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I ask unanimous consent that I be allowed to speak on Democratic time in morning business.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

FOREIGN AND DOMESTIC POLICY

Mr. DURBIN. Mr. President, let me agree with the Senator from Georgia. The men and women in uniform representing the United States of America are our best. I have had a chance to meet with them, both the guard units in my State and their families, and to go to Walter Reed Hospital to meet those who have been seriously injured in combat. I have attended the funerals of those who have died from my State. My heart goes out to every single one of them and their families. They have given this country all we can ask and they have given Iraq millions of acts of kindness and bravery and good will, which we as citizens back home could never, ever repay.

But, having said all that, we cannot look beyond the fact that the policy and the decisions made by this administration that brought us into this war have raised the most serious and profound questions with the American people and with the Members of Congress. We understand now, sadly, that, frankly, we were given the wrong reasons. We were wrong in the reasons the administration gave us for going to war. There were no weapons of mass destruction massed on our borders, poised to threaten our troops and poised to threaten others. There were no chemical and biological weapons, no nuclear weapons.

The administration was wrong when they talked about plutonium being shifted from Africa to Iraq. There was no evidence of that whatever.

There was no evidence whatever, despite the administration's statement, of the presence of al-Qaida in Iraq or any connection between Saddam Hussein and September 11.

This administration was wrong on the number of troops we needed. When General Shinseki boldly said we would need more forces to accomplish our goal, he faced derision from this administration. He has been proven right and, sadly, at a time when we were supposed to be bringing American troops home, we are bringing more troops into Iraq. We are escalating the number of forces that are necessary for us to protect even those who were on the ground.

We were wrong about our coalition. It was too thin and too weak at the start and still is today.

This is an American war, borne largely if not exclusively by American taxpayers, and almost exclusively by American troops. Despite the contributions by Great Britain and Poland and others, these are American forces whose lives are on the line.

We were wrong about the reaction of Iraqis who were supposed to greet us with parades and flowers as we liberated their country. Sadly, we see what is actually happening today. Now three-fourths of the Iraqis want Americans to leave. They are glad Saddam Hussein is gone, but now they want us to be gone. That was something that was not predicted.

We were wrong about the protection of our troops. The fact that our Humvees were not properly armored has meant that one out of four American lives were lost because of this lack of preparedness. We were wrong about body armor. A third of our troops in Iraq, as of last year, did not have body armor to protect them personally. We were wrong about protection when it came to the helicopters which sadly still do not have the necessary defensive equipment to fight off shoulder-fired missiles.

We have been wrong, as well, in terms of the human lives, the lives we have given; wrong in terms of the dollar costs. This administration in February said we need no more money to execute this war. As of last week, they said we need $25 billion. Mr. Wolfowitz said it might be $50 billion more to finish this war at least into the beginning of next year. And we were wrong in the prison at Abu Ghraib with improper personnel not properly trained, not properly supervised.

Frankly, we have been wrong on the impact of the war on terrorism. We believed somehow that standing our ground in Iraq would help us in the war on terrorism. It has made it more difficult. This has become a magnet for terrorists who come to Iraq to kill American soldiers and American civilians. That is something that was not predicted.

So this administration has been wrong—wrong in its policy, as we find every single day. The American people still stand foursquare behind our men and women in uniform. They are doing their patriotic duty and we are proud of them. But this administration has not prepared us, did not prepare us, for this invasion and, sadly, we are paying that price today.

There is another important element beyond foreign policy. It is the question of the domestic policies of this administration. The question which should be asked is not a question from a Democrat but one that was asked by President Ronald Reagan in 1980. It is very basic. The question you have to ask yourself every time we have an election is: Are you better off as an American today than you were 4 years ago?

Take a look at the state of our economy and you can understand we are not. The middle Americans across America have to say, frankly, we are not better off. In the first 2 years of the Bush administration, real income has dropped by almost $1,500 per household. Growth and wages, remarkably weak. After growing at a healthy rate during the Clinton administration, wages have barely kept up with inflation under President George W. Bush. In fact, the Labor Department recently reported that in the last 12 months, wages and salaries grew at the slowest rate in over 20 years.

At the same time, Americans are facing skyrocketing costs. Take a look at this. Flat wages during the period that the President has been in office, average weekly earnings, are up 1 percent.

Gasoline prices are up 25 percent, college tuition prices are up 28 percent, and family health care premiums are up 36 percent. These are the real costs of families across America.

So when this administration says, We are in recovery, things are looking a lot better, take a look at the reality of the bills that American families have to pay. These are, sadly, families who are not doing better today under President George W. Bush's economic plan.

For many Americans the problem is even worse than flat wages and high costs. For millions, the problem is because they have lost their job. We have lost 2.2 million private sector jobs under President George W. Bush. Under President Clinton, we increased the number of people working in America by 21 million. Under President George W. Bush we have lost 2.2 million jobs.

The manufacturing sector has been devastated, with jobs lost in 36 out of the 39 months under this President. We have lost 2.7 million manufacturing jobs not likely to ever be replaced by jobs paying as well.

In 2000, the unemployment rate was 4 percent when President Bush took office. Today it is 5.6 percent. There are 8.2 million Americans out of work, a third more than when the President took office.

In addition, long-term unemployment has nearly tripled under President George Bush. Look at the situation with long-term employment. When he took office, 649,000 people were out of work. Today, 1.9 million are out of work. There are long-term unemployed and the Republican administration refuses, still, to provide unemployment benefits for these people struggling to keep their families together while they are out of work.

In addition, what we have seen is this administration has also turned record surpluses under President Clinton into record deficits. When President Bush took office, we were on track for a 10-year surplus of over $5 trillion. Sadly, in this situation today, we are headed toward a 10-year deficit of over $3 trillion.

In 2000, we were saving every penny of the Social Security trust fund for those who needed it in the future. Since 2001, we have raided it every year to pay for President Bush's tax cut for the wealthiest Americans. That does not add up. It does not add up to income security for seniors. It does not add up to fiscal responsibility, which this administration promised.

In addition, because of the weak state of the economy, State taxes have been on the increase, rising by $14.5 billion in 2002 and 2003 after 7 straight years of going down.

So while the President may talk about tax cuts for wealthy people, State taxes and local taxes are increasing to make up the difference. Household debt has increased among families in America from $7.1 trillion in the year 2000 to $9.4 trillion at the end of last year, a 32.8-percent increase. Our public debt has reached record levels under this President and, unfortunately, that debt comes down to $20,000 for every American—a $20,000 mortgage we are carrying because this President insisted on tax cuts while we fought a war, the first President to ever ask for that. Consumer confidence has fallen by 20 percent under this President.

And we come back, again, to the famous question asked by President Reagan in 1980. That question—are you better off now than you were 4 years ago?—it is hard to see in any circumstance why families, on an economic basis, could be considered better off. Their wages are flat, jobs have escaped us, and the costs of doing business in America and raising a family in America continue to go up.

It is clearly a time for a new direction in America. We need strong leadership to point us in a new direction of fiscal responsibility and economic growth. For the next 4 years we need to dedicate ourselves to working families struggling to make ends meet and raise a family that in the future can enjoy even a better standard of living than their parents.

We are not better off than we were, but we can be.

I yield the floor.

The PRESIDING OFFICER. The Democratic leader.

STATE OF THE ECONOMY

Mr. DASCHLE. Mr. President, I will use my leader time and save what Democratic morning business is still allocated to others. I compliment the distinguished Senator from Illinois for his comments this morning.

This week it will be our hope to discuss the question about how it is that Americans view themselves as we enter this critical decisionmaking period for our country, choosing its national leadership for the next 4 years.

Senator DURBIN has put his finger on the question that was so appropriately posed by then-candidate Reagan in 1980. The question he asked in 1980 to the American people was: Are you better off? In many cases, Americans had a right to say yes in 1980, but there was a perception that on many specific issues and circumstances they were not better off.

So we felt it was appropriate that we have some analysis of our circumstances today in the year 2004. Are we better off than we were in 2000? Are we better off in education today than we were back then, having passed but not funded the No Child Left Behind Act? Are we better off with our own national security and homeland security today than we were in 2000? Are we better off in our fiscal policy, our economic policy? Are we better off with regard to crime statistics? Are we better off with infrastructure? Where is it that we are better off?

I dare say no one could possibly say we are better off.

Well, this week, we hope to analyze a little bit of the lay of the land as the American people see it today. Wondering out loud, expressing concern, and certainly providing some of our own reaction to the question, Are you better off today?

Senator DURBIN, our distinguished colleague from Illinois, said it so well with regard to our circumstances for average working families. In asking the question, Are you better off than you were 4 years ago, when you look at the first 2 years of the Bush administration, real income actually dropped by $1,500 per household, and throughout the last 4 years growth in wages has actually been very weak.

After growing at a healthy rate during the Clinton administration, wages have barely kept up with inflation under the Bush administration. In fact, the Labor Department recently reported that in the last 12 months wages and salaries grew at the slowest rate in 20 years. At the same time, Americans are facing skyrocketing costs. Whether it is a 25-percent increase in gasoline prices at the pump, a 28-percent increase in college tuition, a 36-percent increase in family health care premiums, the middle class is being squeezed.

This chart says it as graphically as one can. Here you have the average weekly earnings for a typical American household. It has gone up 1 percent over this period of time. In that same timeframe, while wages have only gone up 1 percent, gasoline prices have gone up 25 percent; college tuition, 28 percent; health care premiums, a whopping 36 percent. So at times like these, the last thing you want to do is threaten wages, but that is exactly what the Bush administration is planning to do in August, by implementing rules that will actually strip millions of Americans of the ability to cope with this situation.

Here you have an increase in earnings of 1 percent. One of the ways Americans have historically coped with that situation is to say: OK, if I am only making a 1-percent increase, I am going to work harder and longer.

We already have the longest workweek in the world with regard to industrialized nations—the longest workweek in the world and Americans respond to these increasing pressures by saying: I am going to work longer. If they work longer, under current law, they are allowed overtime. But what the administration says is: We are going to make you work even harder and longer because we are going to take away some of your overtime. So the pressure is even greater.

For many Americans, the problem is even worse than just flat wages and high costs. For millions, the problem is no wages because they have lost their jobs. We have actually lost 2.2 million private sector jobs under President Bush, compared to 21 million jobs created during the time President Clinton was in office. The manufacturing sector has been particularly hard hit, with jobs lost in 36 out of 39 months under the Bush administration. In all, we have lost 2.7 million manufacturing jobs. And a net of 2.2 million private sector jobs lost—the first time since the Hoover administration we have actually seen an actual job loss over the 4 years of any one President's term in office.

So here you have it: During the Clinton administration, 21 million private sector jobs created; under the Bush administration, a loss of 2.2 million private sector jobs.

In 2000, the unemployment rate was 4 percent. Today, it is 5.6. Mr. President, 8.2 million Americans are actually out of work, a third more than when President Bush took office. In addition, long-term unemployment has nearly tripled in the last 4 years.

In 2000, the number of long-term unemployed people was 649,000. Now there are 1.9 million long-term unemployed people, three times what it was in 2000 when President Bush took office, chronically long-term unemployed people who have virtually given up any real prospect of gaining employment any time in the short term.

Put simply, the Bush administration has the worst jobs record since the Great Depression. As a result, millions of Americans are now worse off than they were 4 years ago.

It is not just jobs and unemployment, however. As I said, these cost pressures that American families are feeling go beyond their income and they go beyond their employment. They go to the very nuts and bolts of making ends meet on a weekly basis. There is no better illustration of the problem they are facing with pressure on prices than we have seen in gas prices over the last several months.

In 2001, gas prices were averaging $1.47 per gallon. Today, the nationwide average is $2.01 per gallon, and the Bush administration recently announced that it expects the average price to climb even higher by June. Unfortunately, the Bush administration has done nothing to help consumers relieve that pressure.

During the 2000 campaign then-candidate Bush urged President Clinton to put pressure on OPEC to increase oil production. But today, President Bush is actually refusing—refusing—to follow his own advice, and his administration has said it won't call on OPEC to increase production.

The administration has also failed to take other action that could help stem the rise in gasoline prices. It has refused to defer deliveries of oil to the Strategic Petroleum Reserve and, in fact, has not investigated anticompetitive actions in the gasoline market.

While Americans struggle to pay higher prices at the pump, oil companies are posting record profits. In the first quarter of 2004, British Petroleum reported a 165-percent increase in their profits; Chevron-Texaco reported a 294-percent increase in their profits; Conoco-Phillips, a 44-percent increase in their profits; and Exxon Mobil, a 125-percent increase in their profits.

The Bush administration has been totally unengaged, not providing one scintilla of leadership in addressing gasoline prices as these prices continue to flummox the American people and press them into longer working hours without the wage increases through overtime.

There is also a concern for fiscal irresponsibility. The Bush administration has turned record surplus into record deficit. When President Bush took office, we were on track for a 10-year surplus of $5 trillion. Now we are headed for a 10-year deficit of $3 trillion.

This graph shows the budget surplus/deficit just in the 4 short years President Bush has been in office. In 2000, we had a $236 billion surplus. This year, we are going to have the largest single deficit in our Nation's history.

We're now on track to take $2.9 trillion from the Social Security trust funds. On an individual basis, that means the Government will end up borrowing an average of $18,500 for every worker covered by Social Security last year. Much of that money, which belongs to the workers, will be used to finance the tax cuts we have heard so much about with this administration.

While millionaires get billions in Federal tax breaks, middle-class Americans are facing dramatic increases in their State taxes. State taxes actually rose by $14.5 billion in 2002 and 2003, after 7 straight years of decline. Household debt has climbed from $7.1 trillion in 2000 to $9.4 trillion at the end of last year. That is a 32-percent increase.

What does that tell you? What that tells you is that American households, because they are paying higher State taxes, higher gas prices, higher health insurance premiums, and higher tuition costs, what they are now doing is borrowing more and more. They are putting more of that debt on their credit cards, maxing out their credit cards at the very time when they do not have the ability to pay back that debt on a monthly basis.

By 2001, we had actually seen a reduction in the amount of public debt. It had fallen for 4 years, and we were on track to eliminate the debt by 2009. Now we are on track to reach $5.9 trillion in public debt by 2009. That is more than $20,000 for every American child, every American parent, every American family member.

We have heard a lot about the death tax, the so-called death tax, which is the estate tax paid by some who have large property transfers from one generation to the next. I do not hear my Republican colleagues talk about the birth tax.

There is now a birth tax of more than $20,000 because of fiscal irresponsibility and mismanagement. That birth tax is paid not just by people who inherit but by every single American child when they are born.

The consumer confidence index has fallen by 20 percent in the last 4 years. The NASDAQ has dropped over 30 percent. Standard & Poor's 500 has dropped by over 18 percent, and the Dow Jones by 5 percent.

We come back to the question posed famously by President Reagan: Are we better off? Are wages better off? Are gasoline prices better off? Are we better off with college tuition or health care costs? Do we have more or fewer jobs? Have we provided more or less tax relief when the entire picture of taxes paid by workers is taken into account? The question provides a simple and very obvious answer to all of us: We are not better off. Americans are not better off than they were 4 years ago.

But we can do better. We are a "can do" country. We can be stronger economically, stronger in national security. We can be strong in meeting the values and ideals of our heritage.

We proved during the Clinton administration that Federal deficits can be eliminated, that the stock market can boom, that 22 million jobs can be created, and that low interest and inflation rates could increase the quality of life for families from Maine to Washington. We are not better off than we were, but we can be and we will be with a new majority, with a change in administration policy, and new leadership in the White House.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, it is said that we inherit this great country of ours from our parents and we borrow it from our children. Yet, for all of us, it is what we do with this country, in what shape do we leave it for our children?

All of us aspire to give our children something more, leave a country to our children that is a better one, a stronger one, with better jobs and growth and opportunity.

My colleague asked the question: Are you better off today than 4 years ago? That was a question President Reagan asked repeatedly many years ago. It is a fair question. We have some serious challenges: the challenge of responding to the threat of terrorism; the challenge we now find in Iraq and Afghanistan; the challenge in this country of finding a way to create new jobs, to pay our bills and avoid running up very large deficits, and to deal with our trade imbalance. These are very significant challenges. In many ways the answer to these challenges relates to our values.

David McCullough wrote a wonderful book about John Adams, who traveled a great deal as they tried to put this new country together. He was in London and France. He would write right back to Abigail and he would ask the question in his letters plaintively: Where is the leadership? Where will the leadership come from to help put this country of ours together? Then he would answer his question by saying: There is really only us. There is Thomas Jefferson, Ben Franklin, George Washington, me, Mason, Madison.

In the rearview mirror of history we know the "only us" represents some of the greatest talent in human history. But for every generation, the question has been, Where will the leadership come from? Now more than ever the question is, Where will the leadership come from?

Let me talk for a moment about some of the challenges we face. I mentioned terrorism, the war in Iraq, Afghanistan. Let me talk about this country's fiscal policy and specifically trade policy with respect to large and growing and dangerous deficits.

This year we will have the largest Federal budget deficit in history, the largest ever in the world by any country. Last week we saw a story in the Washington Post that says: "U.S. Trade Deficit Grows Unchecked," $46 billion gap in March is the biggest monthly trade deficit in our history. Think of that, $46 billion in 1 month, over $10 billion of it to China alone. This is at a time when the dollar is weakening, and they expect that our trade deficit will begin to shrink. Our trade deficit grows.

We have the largest budget deficit in history, the largest trade deficit in history, and the administration acts as if this is just routine. They say: What problem? This is not a big issue. What problem?

Ultimately, our children will repay this trade deficit with a lower standard of living. They will inherit the budget deficit and have to repay it. As important as that is, the combination of these deficits that are choking our economy mean we will have fewer jobs and less opportunity and a less robust economic growth in the future. That is a fact.

Where are the values that deal with these questions? Should we not as a country begin to address this? Where is the leadership?

I know conservatives who say this is not true. It is true. The President says: Let's increase spending. He says: Let's increase defense spending by well over $100 billion a year. Let's increase homeland security spending. Let's increase spending on health care issues because health care spending is increasing. He proposes we pay that. So we have very large spending increases and at the same time he says, Let's cut taxes and cut taxes again. Yesterday's CQ Daily talks again about an additional tax cut campaign.

The question is, How do you pay for all this? Does it add up to have budgets proposed by this President that say, let's increase spending in category after category and then, by the way, let's cut revenue and let's have the kids pay for all this?

Now we have a proposal for $25 billion in additional funding for Iraq. That is on top of the nearly over $80 billion we appropriated recently just months ago. Part of that money, incidentally, which is not paid for and that is charged to the kids, is to reconstruct Iraq.

We have a program in this country offered to us by the administration for Iraq, a domestic program. They have a roads program for Iraq. They have a jobs program. They have a health care program for Iraq. They have an energy program for Iraq—all paid for by the American taxpayer. Is that what we ought to be doing?

Iraq has the second largest reserves of oil in the world. I had a soldier tell me he was standing on some sand in a low spot one day in Iraq and his boots got black with oil. It was seeping out of the sand. They have the second largest reserves of oil in the world. I believe the Iraqi people ought to sell Iraqi oil to pay for Iraq reconstruction. That is not the job of the American taxpayer. Yet this administration again, even on this issue, says: Let's borrow money and let the kids pay for it in order to provide a domestic program to reconstruct Iraq. In my judgment, it is fundamentally wrong. It means fewer jobs in our country, less economic growth, and less opportunity here.

Unless we get our hands around these issues, a reckless fiscal policy that has now given us the largest budget deficit in history and a trade policy that seems oblivious to fairness for American producers and workers, when you hear people talk about trade policy who espouse these things, you wonder whether the tongue is in any way connected to the brain. What on Earth could they be talking about, setting up trade policies with other countries that undercut our producers and undercut our workers?

I could give you examples. I have done it in recent weeks. Huffy bicycles are made in China; the little red wagon, that is made in China, not in America. You want to buy Mexican food, go buy a Fig Newton. Fig Newton used to be an all-American cookie. That is now made in Mexico; Fig Newton is Mexican food. You wear Fruit of the Loom underwear? You are not wearing American underwear anymore. It is made in Mexico and China. And Levis, that isn't all-American. They are gone, too.

This country has to have a trade policy that begins to ratchet these huge deficits down. Instead, they are going up. This administration doesn't care. Their interest? Go do another trade deal with another country, just do another deal. It undercuts the interests of our country. It is perfectly appropriate, as the Democratic leader said, to ask: Are you better off now than you were 4 years ago? The answer with respect to this country's economy and long-term outlook is, no, we are not.

The answer to John Adams' question, Where will the leadership come from is the leadership needs to come from an administration that says we have to pay for that which we consume. Why are we not asking in this country that we begin to pay for that which we are spending? If we want to increase defense spending $100 billion a year, as the administration has done and Congress has approved, should someone pay for that? If homeland security needs, in order to deal with the threat of terrorism, have increased, we must increase spending in homeland security, should someone pay for that, or is this all the obligation of our children?

We need leadership, and we need it now. This administration understands, or should understand, that in fiscal policy and trade policy, these large deficits—large, abiding, and growing deficits—will choke this economy, and that is not what we should aspire to want for our country's future. We can do better than that.

Mr. President, how much time is remaining on our side in morning business?

The PRESIDING OFFICER (Mr. ENZI). There is 10 minutes 45 seconds remaining.

Mr. DORGAN. Mr. President, I yield back that time.

The PRESIDING OFFICER. All time is yielded back.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

ESTABLISHMENT OF CAMPAIGN MEDALS

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of H.R. 3104, which the clerk will report.

The assistant legislative clerk read as follows:

> A bill (H.R. 3104) to provide for the establishment of separate campaign medals to be awarded to members of the uniformed services who participate in Operation Enduring Freedom and to members of the uniformed services who participate in Operation Iraqi Freedom.

The PRESIDING OFFICER. Debate is controlled. Who yields time?

The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I yield myself 6 minutes off of the time on this side, and then the remaining 4 minutes will be reserved for the Senator from Arkansas who is in the Chamber to speak. I know Senator WARNER intends to speak as well.

First, I thank the majority leader, the Democratic leader, Senator WARNER, and Senator LEVIN for their leadership in bringing this legislation to the Senate floor today for a vote.

H.R. 3104 is a bill to honor our service men and women in Iraq and Afghanistan with campaign medals that recognize—appropriately recognize, in my view—their service and their sacrifice.

A few days from now we will all honor those who have given their lives in defense of this great Nation. That is, of course, Memorial Day. This year it takes on special meaning since we clearly are engaged in two wars in which we have suffered many losses. Many fathers and mothers, sons and daughters will spend this Memorial Day not with family and friends but instead in Afghanistan or in Iraq. It is for them and their families that I believe we need to pass this legislation.

Over the last 2 weeks, we have been flooded with horrific images of Iraqi prisoners mistreated at the hands of a few soldiers. This set of incidents has cast a dark shadow over the honorable and courageous service of over 2 million men and women in uniform. Today, we have an opportunity to send a strong, unequivocal message of support for our brave young men and women who have served and continue to serve both in Iraq and in Afghanistan.

H.R. 3104 will provide the special recognition to these soldiers that, in my view, is long overdue.

The administration made a decision to award a generic global war on terrorism expeditionary medal to all of the men and women who have served in those two theaters of war. In my view, that is an effort to essentially practice a one-size-fits-all solution. I think it missed the mark. I think we can do better. This legislation will do better.

A campaign medal, such as is contemplated in this legislation, is different from an expeditionary medal. We can look back into the history of campaign medals and expeditionary medals awarded by our Department of Defense in previous campaigns and see that the campaign medals are reserved for those engaged in actual combat, or duty that is equally hazardous as combat duty, during the operation with armed opposition. That is what our men and women are facing today both in Iraq and Afghanistan. Clearly, service in those two locations warrants the authorization of campaign medals.

I am very pleased to see many of my colleagues have chosen to cosponsor the Senate version of this bill. This bill now has 24 cosponsors, including Senators LUGAR, LOTT, LANDRIEU, INHOFE, GREGG, JOHNSON, ROCKEFELLER, PRYOR, REID, DASCHLE, LINCOLN, BOXER, DURBIN, BIDEN, AKAKA, EDWARDS, KERRY, CLINTON, BAYH, FEINGOLD, NELSON, CONRAD, KENNEDY, STABENOW, DOLE, and BYRD. And, of course, I wish to thank the chairman and the ranking member of the Armed Services Committee again for their important leadership in getting this legislation enacted.

Also, I wish to acknowledge the very hard work and good work that was done by Representative VIC SNYDER, who was the sponsor of this measure in the House.

This measure we are going to vote on is identical to the bill we introduced in the Senate, and Representative SNYDER deserves great credit for his hard work in getting it enacted there.

Mr. President, I am informed there is some additional time. I have been informed we do not expect to start the vote until about 11:30 a.m.

Let me continue for another minute and say that after a particularly dangerous and brutal April, America now mourns the deaths of nearly 800 service men and women in Iraq, as well as 119 in Afghanistan. There have been nearly 3,000 Americans injured in those campaigns.

More than a year after the initial Iraqi invasion, the administration has announced plans to maintain a force of at least 135,000 troops in Iraq through 2005. Despite the assurances we would be able to handle this with an $87 billion supplement through this fiscal year, we now see that is not going to be possible. This is a significant military occupation. It is a significant reconstruction effort. In fact, it is the most significant we have ventured into since World War II. We must not underestimate the importance of the sacrifice these men and women are making.

The PRESIDING OFFICER. The Senator has used his time.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that I be allowed another 2 minutes.

Mr. WARNER. Mr. President, I certainly will not object, but we should clarify that the vote will now go off at 11:30 a.m. Therefore, why don't we equally divide the time and the Senator from New Mexico take such time as he wishes, and our distinguished colleague from Arkansas wishes to speak. I do not think there is any rush. The Senator can take the time he wishes.

Mr. BINGAMAN. Mr. President, I concur with that assessment, and ask the additional time between now and 11:30 a.m. be split equally between the two sides.

The PRESIDING OFFICER. The time will be divided equally, after subtracting the time that has already been consumed, I suspect.

Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I will conclude. This legislation and the establishment of these campaign medals will also serve to honor those who will not return home from these conflicts, including those who have fallen from my home State of New Mexico: Army SP James Prittle from Carlsbad, NM; Air Force Special Operations pilot, CPT Tamara Archuleta from Albuquerque, NM, a single mother whose helicopter crashed in Afghanistan; Marine PFC Christopher Ramos of Albuquerque, NM; and Marine Cpl Aaron Austin of Lovington, NM.

These heroes gave their lives for this Nation. This medal will honor that sacrifice as well. The great men and women of our military forces are doing their jobs every day in Iraq and Afghanistan. It is appropriate that we honor them with an award that truly stands for their heroic service. The Iraq and Afghanistan campaign medals will do that.

As I indicated before, I will now yield time to my colleague from Arkansas, and he can take as much time as he would like of that which remains on our side.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I rise to indicate my full support for the passage of this legislation, H.R. 3104, which requires the President to establish separate campaign medals for service members who participate in Operation Enduring Freedom in Afghanistan and Operation Iraqi Freedom. My good friend and colleague, Congressman VIC SNYDER of Arkansas, has worked tirelessly to pass this measure in the House. Congressman SNYDER is a man of character and conviction, and he has worked to develop a bill that rightly recognizes the service of our men and women in Operation Iraqi Freedom and Operation Enduring Freedom.

This bill truly is a credit to his leadership and his ability, and once again he is demonstrating his effectiveness in the Congress.

I am a cosponsor of S. 2262, the Senate companion measure offered by Senator BINGAMAN, who has also shown great leadership on this issue. I want to acknowledge that and thank him for championing this measure in this distinguished body.

This is a solid measure. The Senate Armed Services Committee, whose chairman is in the Chamber today, Senator JOHN WARNER, my distinguished colleague from Virginia, has shown tremendous leadership over the last several months and even over the last years as chairman of the Senate Armed Services Committee. The committee has passed identical language in the Defense authorization during the committee markup. The committee also reported favorably H.R. 3104.

This bill was not intended to replace the administration's Global War on Terrorism Expeditionary Medal and the Global War on Terrorism Service Medal. Instead, it complements the Global War on Terrorism Medals by providing additional separate campaign medals that would be awarded to qualified service members.

As we view and read about the difficulties that our troops are facing in Iraq, we see the camaraderie that exists between people who have served in the same war. There is definitely a unique bond. Separate campaign medals for Operation Iraqi Freedom and Operation Enduring Freedom honor those two distinct and separate military campaigns.

Separate campaign medals provide our men and women in uniform who serve in these operations with tangible acknowledgment of their duty to their country. I think this humble token of acknowledgment is the least we can do, and I urge my colleagues to support this very important bill.

I yield the floor.

Ms. LANDRIEU. Mr. President, I rise today to support this legislation, as it recognizes America's fighting men and women serving today in Iraq and Afghanistan. These soldiers, sailors, airmen, and marines are serving their country, in harms way, in two distinct theaters, and it is time that we recognize them appropriately.

The armed forces of this country have defended us valiantly for the last two hundred and twenty nine years. When our Nation has been challenged, each generation has risen to the occasion. And I do need to inform anybody in this chamber that the current generation has done the same, and that they are fighting valiantly in Iraq and Afghanistan. America knows all too well that many of our troops have given what President Lincoln called the "last full measure of devotion."

The generation that fought in Vietnam was given a medal for their service, as were the men and women who served in Korea. The generation that fought in World War II was awarded with a medal commemorating the victory, as well as service in the Pacific, European/African, and American theaters. And today we bestow the same honors upon the current generation that their fathers and grandfathers received.

This legislation is the right thing to do, and I am proud to join my colleague, Senator BINGAMAN, in this effort.

Mr. AKAKA. Mr. President, I rise today as a proud cosponsor to express my support of legislation introduced by Senators BINGAMAN, INHOFE, LANDRIEU, and LUGAR which would establish separate campaign medals to be awarded to those members of the Armed Forces who participate in Operation Enduring Freedom, OEF, and Operation Iraqi Freedom, OIF.

Campaign medals in the United States have a long history and date back to George Washington's time when he received a gold medal from Congress for the recovery of Boston on March 17, 1776. By 1907, members of the Army were wearing newly issued campaign medals, and by 1908, the Navy and Marine Corps began to recognize exemplary service with campaign medals.

During World War II a series of area campaign medals were authorized for service in the American Theater, the Asiatic-Pacific Theater, and the European-African-Middle Eastern Theater of the war. These medals were the same for all services and inaugurated a trend that exists today by recognizing the valor and service of military members involved in specific difficult deployments.

I had the privilege of traveling to Iraq and Afghanistan in March 2004 where I met many of our men and women proudly serving our nation. It was an honor for me to witness their dedication to duty and country. While our Nation is engaged in a global war on terrorism, it is clear that our soldiers, sailors, airmen, and marines are engaged in distinct operations in Afghanistan and Iraq. Some of them have served in both operations and deserve separate medals.

Campaign medals were specifically designed to recognize the service of military members in specific operations during a period of active hostilities. Service men and women deployed in Iraq and Afghanistan deserve this distinctive honor. I fully support this bill which would establish campaign medals for members of the Armed Forces who participate in Operation Enduring Freedom or Operation Iraqi Freedom.

The PRESIDING OFFICER. Who yields time? The Senator from Virginia.

Mr. WARNER. Mr. President, I express my appreciation to Senator BINGAMAN and Senator PRYOR and acknowledge our colleague in the House, Mr. SNYDER. I would like to add to that Congressman IKE SKELTON. He talked to me about it. He feels very strongly. He is a marvelous man. He is the ranking member of the House Armed Services Committee.

So I think this is a splendid initiative. I strongly urge Members of this Senate to support it. It is H.R. 3104, the act to provide for the establishment of separate campaign medals for those uniformed services participating in Operation Enduring Freedom and Operation Iraqi Freedom.

The bill before us passed the House in late March by a vote of 423 to 0. During the markup of the Defense Authorization Act for fiscal year 2005 on May 6, the committee unanimously decided to include the text of this provision in the bill as section 542. At the same time, in order to expedite its enactment, the committee also voted favorably to report out this bill. So we covered it in both ways in the Armed Services Committee, again showing our strong support.

I will touch on a little bit of history. Going back to World War II, we had a campaign medal called the Asiatic/Pacific Campaign Medal, and that covered all of the operations in the Pacific region. There was another separate medal for the Philippine campaign, to my recollection, but basically it was one to cover the many actions in the Pacific. Likewise, a second was the European/African/Middle Eastern Campaign Medal awarded to those who served between 1941 and 1946, which covered all of the operations in those three theaters.

There was a third medal which was sort of a medal that covered those who saw service, but their training and other duties did not require them to go overseas. They were largely in the continental limits of the United States and participated in actions along the coastlines of America, the Atlantic side, and, of course, the Pacific side.

Then when we came down to the campaigns in Korea, there was the Korean Service Medal given from 1950 to 1954. My distinguished colleague, Senator BINGAMAN, worked on a slight revision for the qualifications, which I supported, expanding the period of time, which I thought was a wise decision.

Then when we came down to the question of the service in Vietnam, again, we had the Vietnam Service Medal. So there are many precedents for this type of action regarding the very important recognition of the individuals who participate.

These particular categories of decorations indicate the geographic area where that individual saw service during the periods of conflict. Through experience I have found that the men and women of the Armed Forces—again, I say with the deepest humility I was entitled to the Korean Service Medal for very modest service—but I remember this weekend, as other Members do, where we traveled back to our States to seek out those who saw service in Iraq, and I met with six individuals in connection with a graduation speech. They had been reservists at this small college. They had been called back into active duty, and coincidentally with my visit they had just gotten home from their year obligation of service in Iraq.

The first question they asked me was, What sort of recognition do we get for service over there? Now, two of them had been wounded and, of course, received the Purple Heart, but they were anxious to know was recognition forthcoming. That is why I have joined in total support of this effort to bring to the attention of those people in this country the remarkable service that has been performed in both these theaters of operation in the past year or so.

So I strongly support this bill. The superb service rendered by our Nation's fighting forces since September 11 fully warrants the establishment of campaign medals for service in Operation Enduring Freedom and Operation Iraqi Freedom. I urge all of my colleagues to vote for it.

I again thank those who have taken a leadership role, our distinguished colleagues Senators BINGAMAN and PRYOR, and the two individuals on the House side.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, how much time remains?

The PRESIDING OFFICER. There remains 2 minutes 45 seconds.

Mr. BINGAMAN. Mr. President, let me take another minute to conclude the discussion. Again, I thank Senator WARNER particularly for his leadership in getting this bill up for a vote today, and, of course, Senator PRYOR, who was here a few minutes ago to speak; I appreciate his efforts. Of course, the majority leader and Senator DASCHLE on the Democratic side have both participated in helping do this.

This is an important step for us to take, to honor the brave men and women who are serving our country in distant locations. I have had a similar experience to the one Senator WARNER described, talking to service men and women who have returned—in the case of my State, from Afghanistan, the ones I spoke to, 2 weeks ago. They are very proud of what they have done. They have great reason to be proud of what they have done. This awarding of these campaign medals will help us to recognize that.

Let me also indicate my appreciation to David Montotya of my staff for the consistent work he has done trying to move this legislation ahead, both last year and again this year. I think the dedicated efforts of our staffs often go unrecognized. He deserves credit. Trudy Vincent, my staff legislative director, also deserves credit.

Mr. WARNER. Mr. President, I ask unanimous consent that I can proceed for a minute or two in a colloquy with my distinguished friend from Nevada.

Mr. REID. I agree we need 2 minutes on our side, also.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. We do not need the time now.

Mr. WARNER. If I could have a brief colloquy, the leadership needs to focus on working with Senator LEVIN and myself, as we always do each year on this bill. We are hopeful to finish this bill this week. I think that is shared by the other side of the aisle.

Our Members are going back for the Memorial Day weekend, and the provisions in this bill are provisions that relate to so many of the men and women in the Armed Forces with whom they will undoubtedly be associating over the course of this weekend. It is definitely in the interest of Members to move forward on this bill.

While we have a hearing in the Armed Services Committee tomorrow morning on the questions related to prison abuse, the bill is going forward. Members of our committee will be in the Senate intermittently as the hearing is going on. That will not in any way, I hope, be viewed as an impediment to forward progress.

I, personally, am willing to stay here as long into the evenings as desired by our leadership to get this done. In years past, my distinguished colleague from Nevada has been most helpful in moving this piece of legislation.

Mr. REID. Mr. President, through you to the distinguished Senator, first, on behalf of the people of the State of Nevada, and I think I speak for the country, the way the Senator has handled this committee with Senator LEVIN during this very difficult time has been admirable. The Senator is my stereotype of the Senate. The Senator is a proud member of the Republican Party, yet the Senator has the wisdom and the experience to be able to set those partisan desires to one side. That is good for the country. The Senator has certainly indicated that during the past few days. We respect the Senator for that.

Mr. President, we will be happy to cooperate with the distinguished chairman in attempting to finish this bill this week. It is a big "ask," because we have on our side, and the Senator has on their side, Members offering amendments. I see the distinguished junior Senator from Mississippi is shopping an amendment. We have a number of bipartisan amendments being talked about.

We are in the mode of wanting to cooperate. We understand the importance of this legislation. It may be very difficult to finish. We have Tuesday, we have Wednesday, we have Thursday, and Friday.

As the Senator knows, this is the Friday before the Memorial Day recess. The Senator is more experienced than I, but come Thursday night, Friday morning, Members will have parades and things to do so it will be very difficult to finish this bill. However, the Senator should understand that on this side we will cooperate in any way we can to finish the bill.

Mr. WARNER. I thank my distinguished colleague. I emphasize tomorrow morning's hearings will not interfere with progress on the bill. We have three of our combatant commanders, coincidentally, in Washington for a variety of reasons.

The letter Senator LEVIN and I sent to the Secretary of Defense scheduling additional witnesses offered the option of a teleconference hearing, thinking they would not be back, but we are fortunate they have returned for not only this hearing but a wide range of additional duties they are performing in Washington by way of consultation. That will not be an impediment. We will move forward tomorrow as scheduled with our work on the committee.

Mr. President, we are prepared to move ahead.

The PRESIDING OFFICER. All time has expired. The question is on third reading and passage of the bill.

The bill was ordered to a third reading and was read the third time.

Mr. WARNER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The bill having been read the third time, the question is, Shall the bill pass?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. INOUYE) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 96 Leg.]

YEAS—98

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchison
Inhofe
Jeffords
Johnson
Kennedy
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NOT VOTING—2

Inouye
Kerry

The bill (H.R. 3104) was passed.

Mr. LOTT. I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005—Resumed

The PRESIDING OFFICER. The clerk will report the pending business.

The journal clerk read as follows:

A bill (S. 2400) to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

Pending:

Lautenberg amendment No. 3151, to clarify the application of Presidential action under the International Emergency Economic Powers Act.

The PRESIDING OFFICER. The Senator from Mississippi.

AMENDMENT NO. 3158

Mr. LOTT. Mr. President, I call up amendment No. 3158, which is at the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The journal clerk read as follows:

The Senator from Mississippi [Mr. LOTT], for himself, Mr. DORGAN, Ms. SNOWE, Mrs. FEINSTEIN, Mr. COCHRAN, and Mr. DASCHLE, proposes an amendment numbered 3158.

Mr. LOTT. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide that the 2005 base closure round shall apply solely to military installations located outside the United States and to provide for expedited consideration by Congress of a proposal for a base closure round in 2007 on military installations located inside the United States)

At the end of title XXVIII, add the following:

Subtitle E—Defense Base Closure and Realignment

SEC. 2861. MODIFICATION OF 2005 BASE CLOSURE ROUND TO APPLY SOLELY TO MILITARY INSTALLATIONS OUTSIDE THE UNITED STATES.

The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by adding at the end the following new section:

"SEC. 2915. APPLICABILITY OF 2005 ROUND SOLELY TO MILITARY INSTALLATIONS OUTSIDE THE UNITED STATES.

"(a) IN GENERAL.—(1) Notwithstanding any other provision of this part, the military installations covered by activities under this part in 2005 shall consist solely of military installations outside the United States.

"(2) Except as otherwise provided in this section, for purposes of activities under this part in 2005 any reference to military installations inside the United States shall be deemed to be a reference to military installations outside the United States.

"(b) INAPPLICABILITY OF SELECTION CRITERIA FOR 2005.—The final selection criteria prepared under section 2913 shall not be used in making recommendations for the closure or realignment of military installations under this part in 2005.

"(c) RECOMMENDATIONS OF SECRETARY OF DEFENSE.—(1) In lieu of any information otherwise required under paragraph (1) or (2) of subsection (b) of section 2914, the recommendations of the Secretary of Defense under subsection (a) of that section shall include the following:

"(A) A detailed plan for eliminating any physical capacity at military installations outside the United States that requires the unnecessary diversion of scarce resources for operation and maintenance, sustainment, or recapitalization of such capacity.

"(B) A list of the military installations outside the United States that are proposed for closure or realignment under this part, and a schedule for the closure or realignment of such installations.

"(C) A list of the military installations to which personnel or equipment will be relocated from military installations included in the list under subparagraph (B), including for each military installation so listed, the new infrastructure to be required for such personnel or equipment and the cost of such infrastructure.

"(D) An estimate of the cost savings to be achieved by the closure or realignment of military installations under subparagraph (B).

"(E) A certification whether or not a round in 2007 for the closure or realignment of military installations inside the United States is advisable.

"(2) In making recommendations referred to in paragraph (1), the Secretary shall take into account the final report of the Commission on the Review of the Overseas Military Facility Structure of the United States under section 128 of the Military Construction Appropriations Act, 2004 (Public Law 108–132; 117 Stat. 1382; 10 U.S.C. 111 note).

"(d) COMMISSION REVIEW AND RECOMMENDATIONS.—(1) In addition to the requirements specified in section 2914(d), the Commission shall include in its report under paragraph (1) of that section the following:

"(A) An assessment by the Commission of the extent to which the recommendations of the Secretary under subsection (c) take into account the final report referred to in subsection (c)(2).

"(B) An assesement by the Commission whether or not the recommendations of the Secretary under subsection (c) maximize the amount of savings that can be achieved by the United States through the closure or realignment of military installations outside the United States.

"(C) An assessment by the Commission whether or not a round in 2007 for the closure or realignment of military installations inside the United States is advisable.

"(2) Paragraph (5) of section 2914(d) shall not apply to the review and recommendations of the Commission, under such section and this subsection, of the recommendations of the Secretary under subsection (c).

"(e) COMPLETION OF CLOSURE OR REALIGNMENT ACTIONS.—The closure or realignment of military installations outside the United States under this part pursuant to activities under this part in 2005 shall be completed not later than December 31, 2010.".

SEC. 2862. BASE CLOSURE ROUND IN 2007 RELATING TO INSTALLATIONS INSIDE THE UNITED STATES.

(a) TWO-YEAR EXTENSION OF BASE CLOSURE LAW FOR PURPOSES OF ROUND IN 2007.—Section 2909(a) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by striking "April 15, 2006," and inserting "April 15, 2008,".

(b) EXPEDITED CONSIDERATION BY CONGRESS OF ROUND IN 2007.—That Act, as amended by section 2861 of this Act, is further amended by adding at the end the following new section:

"SEC. 2916. REQUIREMENTS AND LIMITATIONS ON BASE CLOSURE ROUND IN 2007 RELATING TO INSTALLATIONS INSIDE THE UNITED STATES.

"(a) EXPEDITED CONSIDERATION BY CONGRESS OF AUTHORIZATION FOR ROUND.—The consideration by Congress of a joint resolution for a round of defense base closure and realignment under this part in 2007 relating to military installations inside the United States shall be governed by the provisions of section 2908.

"(b) JOINT RESOLUTION.—For purposes of this section and the application of section 2908 to the joint resolution referred to in subsection (a), the term 'joint resolution' means a joint resolution which is introduced within the 10-day period beginning on the date in 2005 on which the President transmits to Congress an approval and certification described in paragraph (2) or (4) of section 2903(e) in accordance with section 2914(e), and—

"(1) which does not have a preamble;

"(2) the matter after the resolving clause of which is as follows: 'That a round of defense base closure and realignment is authorized to occur under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) in 2007, with such round to apply to military installations inside the United States'; and

"(3) the title of which is as follows: 'Joint Resolution to authorize a round of defense base closure and realignment in 2007 with respect to military installations inside the United States.'.

"(c) CRITERIA AND SCHEDULE FOR 2007 ROUND.—Not later than 15 days after the date of the enactment of the joint resolution, the Secretary of Defense shall publish in the Federal Register the following:

"(1) The selection criteria to be utilized in the round of defense base closure and realignment under this part in 2007, which criteria shall be the final selection criteria developed under section 2913(e), together with such modifications of such final selection criteria as the Secretary considers appropriate in light of changes in circumstances since March 15, 2004.

"(2) The schedule in 2007 for actions on recommendations and consideration of recommendations in the round of defense base closure and realignment under this part under section 2914, which schedule shall, to the maximum extent practicable, be the schedule for 2005 as specified under that section together with such modifications as the Secretary considers appropriate to take into account changes in the calendar between 2005 and 2007.".

Mr. LOTT. Mr. President, first I have a couple of housekeeping items. I am delighted to join in support of a truly bipartisan amendment. The lead sponsors of the amendment are Senator DORGAN of North Dakota, Senator SNOWE of Maine, Senator FEINSTEIN of California, Senator COCHRAN of Mississippi, and Senator DASCHLE of South Dakota. We do have broad bipartisan support as original sponsors.

I would like to begin by describing the amendment. This will take approximately 10 minutes, and then perhaps Senator DORGAN can have 10 minutes and then Senator COCHRAN would like to be recognized. We will try to get the opening statements in before we break for the policy luncheons, and then we can discuss during the break the timing on the amendment and how we proceed from there.

Does the manager of the legislation have a comment?

Mr. WARNER. Mr. President, I thank my good friend and leader for bringing up this amendment at this time. I approached him on the floor saying we are anxious to get the bill moving, and he accepted the challenge. I am not sure If I am going to support him on this amendment, but, nevertheless, we will have a good and thorough debate.

My distinguished colleague, Senator LEVIN, and I conferred earlier this morning. We are both of a frame of mind that we want to move with tremendous momentum. Today is a good day to move on. I urge Senators to bring their amendments to the floor. We are willing to stay here into the evening and participate in the process.

During the hearing of the Armed Services Committee tomorrow morning at 8:30 to sometime midday, we will have members of the committee on the floor. We will not lose a step in moving forward on this bill. It is important to have this hearing tomorrow. We are fortunate that the Department of Defense brought back commanders for a variety of reasons, not just our hearing. Senator LEVIN and I had made the offer to do it by telephone conferences. It is important we continue the continuity of the hearings of our committee.

The point of this is, I would hope, if I can frankly say to our leadership, that perhaps we could get a unanimous consent agreement later tonight to lock in those amendments that we know are out there on this bill. I hope we can do that. I have seen a list of 50 amendments. Yet I think it is an incomplete list. Perhaps within the course of the day we can explore that option with our leadership.

Mr. LEVIN. Will the chairman yield?

Mr. WARNER. Yes.

Mr. LOTT. Mr. President, I believe I have the floor. I will be glad to yield.

Mr. LEVIN. If the Senator from Mississippi will yield, forgive me, I join our chairman in urging all of our colleagues to bring the amendments to the floor, share the language with us, and allow us to move expeditiously on this bill by doing that.

We are going to proceed, as the chairman indicated, tomorrow morning on the floor to consider amendments at the same time that we are holding a hearing with the three generals who have been outlined. We can do both at the same time with the cooperation of all of our Members. We have the cooperation of all of our Members.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I am delighted we are moving forward with this amendment. I know how much the managers like to get the process started and consider major amendments. I believe this is an issue that deserves some consideration and some debate during the day and early on. We will be prepared to work with the managers to get a reasonable time agreement and get to a vote because I think this is the best way to proceed on legislation such as this. We are not interested in delaying tactics.

I rise to offer this amendment which would modify the Base Realignment and Closure Act of 1990, BRAC, to first consider our needs overseas before we move forward with closing more bases at home.

Let me emphasize what this amendment is not. This is not an amendment that would eliminate or terminate the next BRAC round. This is not an amendment that would even delay it for 2 years, as the House Armed Services Committee language now provides. I believe they would delay the next base closure round until 2007. No, this amendment specifically says let's go forward with the realignment overseas. Let's look at our force structure. Let's determine how many installations are truly needed and required overseas, what their missions are, and what will the future call for.

We have talked about needing a more mobile, lighter force with a lot of prepositioning, but as we found out in Iraq, that may not be all that we need.

Then the question is, if we decide to bring back some of these divisions, such as the 1st Armored Division now based in Germany, where would we put them? The question is, before we go to the next domestic round, let's get this decision on realignment and changing of force structure overseas, see what we are going to need over there, where we are going to put our troops, and what are we going to do with them when they come home. Then the BRAC Commission would go forward with the domestic round.

I want to emphasize a couple of points about how this would work.

It would make clear that section 2913, the selection criteria, for the 2005 round does not apply in that we would have the overseas realignment first and then the domestic. It would keep the existing schedule for the Pentagon's mission of a list and for a BRAC consideration of that list. It specifies that the Secretary's May 16, 2005, submission to the BRAC Commission should include a number of items.

The Secretary's May 16, 2005 submission to the BRAC commission should include a detailed plan for eliminating excess physical capacity at the overseas bases and facilities of the Department of Defense, the operation, sustainment, and recapitalization of which diverts scarce resources from defense capability; a list of overseas bases and facilities that will be closed or realigned during the period 2005–2010 and a schedule for implementing each base closure or realignment; where the personnel and equipment from each base on the list will be relocated to; the infrastructure investments that are required at each receiving base; an estimate of the annual net savings for each of the military departments that will result from the closures and realignments; and a certification whether the need exists for an additional round of domestic base closures and realignments in 2007.

It also says in developing the overseas base closure plan, the Secretary shall take into consideration the report of the Commission on review of overseas military structures of the United States that is due to report its findings by December 31, 2004. In other words, this process is underway, but we need to get those Commission reports. They need to take into consideration the overseas decision before they go to the next domestic round. That is basically what this amendment does.

I want to cite, though, why I feel so concerned about this. The record is clear that I have never thought BRAC was a good idea. I think the way it should be done is the way it was done always up until the 1980s. The Pentagon determines where they have overlap or duplication, they send up foreclosure recommendations to the Congress, and Congress acts.

The argument might be that Congress wouldn't act. They did. Congress acted in the 1950s, the 1960s, the 1970s, and up to the midpart of the 1980s and numerous bases throughout the country were closed. It is an assumption we cannot assume our rightful role in this Government or in that process. So that is something that is clear.

There are other factors now. As I have looked at domestic bases and looked at overseas bases, the very idea we are now going to move forward with a base closure round that would close up to 25 percent of our existing bases is a real concern, if that is going to be done domestically. As a matter of fact, CBO says the four—count them, the four BRAC rounds we have already had resulted in little or no excess capacity in the United States—little or no excess capacity. Yet the Pentagon is insisting on moving forward with this BRAC at this time.

Let me assure my colleagues, too, they are doing it differently this time. The list is not being compiled by uniformed services, but it is being pulled up to the Office of the Secretary of Defense level. That does worry me.

We are doing this at a time when we have our troops all over the world, in combat situations in Afghanistan and Iraq. The American people are concerned about our troops, concerned about our capacity to have sufficient numbers there. We have National Guard and reservists serving now and doing a tremendous job, I think, up to perhaps as much as 40 percent of the troops are deployed in those locations. Keep this in mind. The next BRAC round will include National Guard. We didn't have that in the past. But National Guard facilities will probably—will, under the definition they are going forward with, be included in this process.

These are communities all over America, in almost every State. I have here a list of the bases that have been on earlier BRAC closure lists or would probably be on the list, based on the criteria as we now understand them. All over America, communities and States are worried about the situation. They are employing consultants to represent the communities or the States. It is running into the millions of dollars because of this sheer uncertainty: Is it going forward or not? Are we going to be affected or not? And, by the way, the Secretaries of Defense—and I say Secretaries because I have talked to three of them about it—refuse to set up this criterion in such a way where you look at the places where you know you have duplication or overlap. Why put everybody on the list, everybody in an uproar, when you know as a matter of fact the duplication is in this place or that place? No, they don't want to define it in that sort of limited way.

Here is the point. We need to decide what we are going to do overseas first. We need to be careful about what we do domestically because it could be affected by what we do overseas. At a time when we are at war in Afghanistan and Iraq, at a time when our people are already concerned about what the future is for their military men and women in their communities and in fact their families, let's do this in such a way that people will feel comfortable we are going about it in the right way.

There have been some bases eliminated overseas since the wall came down. In fact, I think 700 facilities in Europe have been closed. But we still have 200,000 troops stationed overseas—80,000 in Germany alone, and that doesn't count some of the reservists and civilians. I suspect there are as many as 100,000 in Germany alone. Let me give an example here with this chart of what we are talking about. This is Germany—unified Germany, surrounded by Belgium, France, Switzerland, Austria, Czech Republic, Denmark. I don't think they are threatened by any of those countries.

You will see on this chart the sites where we have Army and Air Force bases in Germany. They are, of course, right across the central part, but they are also now in what was East Germany. There are 310 installations, an estimated 100,000 people in Germany alone. Do we need 310 installations? Some of them are small, but let me assure you on my recent trip to Berlin it was clear they wanted to keep all these bases and it was clear why. Because economically it is helpful—economically helpful to Germany. Yet we are talking about closing bases here at home, when we have 310 bases there.

By the way, this is also a country that has recently said they would no longer provide 2,500 troops to guard our installations in Germany while the troops ordinarily stationed there are in Iraq not even 2,500 troops.

I am saying let's take a strong look at Germany. It is not only Germany. I don't want to pick on Germany. We have, I think, 18 installations in Belgium, 12 in The Netherlands. Let me make sure I have the exact numbers—18 in Belgium, 310 in Germany, 12 in The Netherlands, 101 in South Korea, 54 in the United Kingdom. There is a list here of what we have overseas, a total of 721 facilities overseas.

Do we need to have a hospital or Air Force bases in Germany? Sure. Do we need to have naval bases in Spain? Sure. Do we need to have prepositioning at various places around the world? Absolutely. We have heard a lot of talk about this restructuring or realignment overseas, but we still have not gotten it done. In fact, if you look at the force structure plan for BRAC 2005, based on the Pentagon's forecast, it assumes the same forces as now, from 2005 to 2009. It apparently assumes the forces that are based overseas now will remain based overseas.

Are we going to have a realignment and bring some home or not?

I think this amendment makes good sense. It does not stop BRAC. It allows it to go forward. But it puts the horse before the cart. Let's look at the overseas situation. Let's assess what we need there. Let's find out what we are going to do with them if we do bring them back home and then go forward with the next step.

I talked with Senator DORGAN a lot about this. We thought about it carefully. We want to do the right thing. Surely there are some bases we could close and installations in the United States that could be closed. But I think we should do it in an orderly way and I think the timing of doing it now could not be worse.

I don't trust this process. Some people say if you do the commission, it takes it out of politics. Who believes that? Commissions are beyond politics? Take a look at the last commission. We got in a terrible conflict based on a decision that involves the States of Texas and California. I am not picking on those States, but it happened.

Let's take more time. Let's do the overseas situation first and then go forward with the domestic bases a year or two from now, when we will have a better feel for what is happening in the world.

Since we are limited on time, I would like to withhold further comments at this time so Senator WARNER or Senator DORGAN could speak and perhaps Senator COCHRAN wishes to be heard on this issue, too.

I yield the floor.

Mr. WARNER. I thank my colleague. We are off to a very good start.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I ask unanimous consent that the hour for purposes of discussing these opening remarks be extended to 12:45.

Mr. LEVIN. I wonder——

Mr. WARNER. We could have some division between Senator LEVIN and myself. Perhaps if we could——

Mr. LEVIN. I wonder if the Senator would amend that to 12:40?

Mr. WARNER. You have 12:40. Why don't we reserve, say, 5 minutes within that period, or 6 minutes for the Senator from Michigan and myself and allocate the remainder of the time to our other two colleagues.

With that, I yield the floor.

The PRESIDING OFFICER. Without objection, it is so ordered. Time has been extended until 12:40.

The Senator from North Dakota.

Mr. DORGAN. It sounds to me as though we are left with 3 or 4 minutes, as I understood it. I don't think that accomplishes it. I will speak only 2 or 3 minutes at the moment. I know I have two colleagues who perhaps would like to speak for a couple of minutes. I would be glad to come back after our caucuses——

Mr. WARNER. Mr. President, we certainly could come back after the caucuses. I am trying to help to get a little bit of time.

Mr. DORGAN. Let me do 3 minutes, and then I will yield the floor so my colleagues might also say a word or so. My colleague, Senator LOTT, explained the reason for this.

Let me explain what this bill is not. This amendment is not an amendment that would obliterate or abolish next year's BRAC Commission. It does not do that. It does say next year's BRAC Commission should make judgments and recommendations to the Congress on the overseas base structure.

It makes good sense that we would understand and try to think through what our basing structure should be internationally before we decide what our needs are here at home. If, for example, at some point we do not have 100,000 troops in Germany and we bring home 50,000 of those troops to this country—incidentally, we ought to consider that because it is very expensive to keep 100,000 troops in Germany—if we did that, where would we put 50,000 troops? At which base? What set of bases?

So we propose something that would make good sense, make judgments in next year's BRAC Commission about the overseas bases, where we should retain overseas bases.

Since we authorized the BRAC round, we have had the continuing war on terrorism, a war in Afghanistan, and a war in Iraq. We have had a series of things that have altered in many ways what our responsibilities are around the world. The cold war is over. We have new challenges and new responsibilities.

The question we should answer first is, What should our base structure be internationally and from that, then, what kind of needs do we have to house troops at home?

My colleague mentioned several other features of this bill. Let me leave it at that. I will come back this afternoon after the caucus lunch and discuss in greater detail why we have offered this amendment. We do not intend to trip up the Pentagon or trip up the managers of the bill. We intend to see if we cannot have the base-closing process happen in an orderly way, figure out what the overseas structure should be, and from that, then if the Congress considers a 2007 round, have an affirmative vote to do that and make that judgment with respect to domestic bases.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, I will defer my statement until after the policy luncheon at 2:15, but I want to say I truly appreciate the leadership of Senator DORGAN and Senator LOTT in this matter. It is critical we concentrate on this particular issue in terms of the impact for the future.

Senator LOTT indicated so eloquently that there is no question there is a problem with this process. It is not transparent. We are in a different threat environment than we have ever been. Clearly, we have to reevaluate, reassess the base-closing process in that light.

I will defer all of my comments until 2:15.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. This is a very significant amendment, in light of the history of the Senate now for consecutive years, deciding to go forward with the BRAC process that is well underway.

I share the viewpoints expressed by Senator LOTT, Senator SNOWE, and the Senator from North Dakota, the need to address the overseas situation. When time permits later on, I will explain what has been done to date by the Department of Defense in conjunction with the ongoing BRAC Commission regarding these bases. It is very significant.

The Department of Defense has moved forward. I think shortly they will submit to the Congress drawing down forces and bases in both the areas referred to by Senator LOTT and others; I might add also significant drawing down of forces inside Korea. That is underway.

Part of this proposed legislation in this amendment is the 2-year delay. I draw on the very comment made by my distinguished colleague, the Senator from Mississippi, Mr. LOTT, of the turbulence in the communities engendered by the existing law as they are struggling to get high-powered assistance and expert advice from every possible source, depending on the community budget, to try to preserve their military installation. That process is now continued for another 2 years. This is a somewhat heavy burden on many of these small communities to try to do the best they can to fight the existing law.

That is the key question Members have to consider: Are they going to extend these hardships under the existing law for 2 more years as we address the overseas situation, which I can assure Members later this afternoon is being thoroughly addressed by the Department of Defense in the context of the existing law.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, we have received now a letter from the Chairman of the Joint Chiefs of Staff representing all of the chiefs urging the Senate to continue their unequivocalness to continue the 2005 round of base realignment and closures as authorized by Congress. They are pleading with us not to leave this issue unresolved because the savings which are essential for the transformation of our military are savings they want to achieve. They are working very hard on the transformation of our military. They clearly intend there be a global posture review, and there will be a global posture review, taking into account the closing of bases overseas.

There is a commission that must be created this year and is required to report to us on the review of the overseas military facility structure. This is referred to in the amendment. As I understand it, they have not yet been appointed, but it is required that the leadership appoint that commission, and it is required, obviously, that the Secretary of Defense and Department of Defense next year, in making their recommendations, take into account the very report this amendment says should be taken into account.

So we have a global posture review which is underway. It will be completed. We have a commission to review overseas military facilities. That is all in place. It is all ongoing. It is all in order. There is a logic to it all in terms of looking at the overseas bases first.

I could not agree more with the Senator from Mississippi and the Senator from North Dakota. Of course, you will look at overseas bases first. That is what is going on now. That is the global posture review. That is the commission on the review of the overseas military facility structure which is in the process of being appointed and will report this year.

But to disrupt all that and to leave every base in the United States in limbo for another 2 years is not doing a favor either to our military structure or to the bases around our country. We all have bases. Are we going to leave them nervous? Are we going to leave them in limbo for 2 more years? That is not doing them a favor and it is doing a significant disfavor to our military posture and the requirement that we transform, as the chief said, the combat capability of the Department of Defense.

I hope this amendment would be rejected.

Mr. WARNER. I simply add that right in this letter, and I ask unanimous consent this letter be printed in the RECORD at this point, a comprehensive overseas basing review is nearly complete. It is significant.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHAIRMAN OF THE
JOINT CHIEFS OF STAFF,
Washington, DC, May 18, 2004.

Hon. JOHN WARNER,
Chairman, Committee on Armed Services,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We are writing this letter to emphasize our continued and unequivocal support for conducting a 2005 round of base realignment and closure (BRAC), as authorized by the Congress. The convergence of ongoing strategy and overseas basing actions, the transformational direction in all the Services and force structure changes together afford us a once-in-a-generation opportunity to truly transform the Department's combat capability in an enduring way. A delay of this BRAC round, or a modification of the legislation that limits the Department's flexibility to execute it, will seriously undermine our ability to fundamentally reconfigure our infrastructure to best support the transformation of our forces to meet the security challenges we face now and will continue to face for the foreseeable future.

A comprehensive overseas basing review is nearly complete. The continued concentration of forces in Cold War locations highlights the need for a global repositioning to locations that best support our strategic goals. In order to ensure that the Department examines its entire infrastructure, the rationalization of our domestic infrastructure as conducted by the BRAC process must closely follow the Global Posture Review. Both efforts are necessary for a genuine capabilities-based infrastructure rationalization and to further transformation of our warfighting capabilities.

We ask for your careful consideration of the importance we place on conducting a 2005 BRAC round as currently authorized. BRAC has proven to be the only comprehensive, fair, and effective process for accomplishing this imperative. We assure you that the Department will conduct BRAC 2005 in a way that ensures it maintains force structure and infrastructure that is flexible enough to surge and respond to changing threats to our national security.

PETER PACE,
General, USMC, Vice Chairman of the Joint Chiefs of Staff.
RICHARD B. MYERS,
Chairman of the Joint Chiefs of Staff.
PETER J. SCHOOMAKER,
General, U.S. Army, Chief of Staff, U.S. Army.
VERN CLARK,
Admiral, U.S. Navy, Chief of Naval Operations.
JOHN P. JUMPER,
General, USAF, Chief of Staff, U.S. Air Force.
MICHAEL W. HAGEE,
General, U.S. Marine Corps, Commandant of the Marine Corps.

Mr. WARNER. I yield the floor.

Mr. DORGAN. How much time remains?

The PRESIDING OFFICER. There is 1½ minutes.

Mr. DORGAN. I will respond, of course.

I must point out, to proceed as current law anticipates, we should anticipate it will cost us money in the short term. We are struggling around here to find money but we will actually expend more money in the short term with respect to the 2005 BRAC round, and we do not propose we obliterate this entire process.

What we propose is to establish an order that makes sense. The order that would make sense would be to evaluate where we would house overseas troops, given the new realities of the world, and then from that understand what our domestic needs are. That seems to me to be the logical and right approach. I don't think it poses any additional risk for anyone.

The current 20-year plan, the unclassified portion of the 20-year forecast for the threat and for basing, apparently assumes the same size force as we now have and apparently assumes the same forces that are based overseas, which largely remain based overseas. I don't think that is likely to be the case.

We are proposing a structure which would put the horse in front of the cart. That is the amendment we have offered.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent that I be given 5 minutes, not on this subject.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. No objection.

Mr. WARNER. First, Mr. President, I yield back all time on our side. I believe that completes the debate, at this point, on this side.

The PRESIDING OFFICER (Ms. SNOWE). All time has expired.

Is there objection?

Without objection, it is so ordered.

Mr. HATCH. Madam President, I thank my dear colleagues for allowing me this time. I apologize for taking a little extra time today, but I think it is important.

(The remarks of Mr. HATCH are printed in today's RECORD under "Executive Session.")

Mr. HATCH. Madam President, I appreciate your patience and I appreciate this extra time. I yield the floor.

RECESS

The PRESIDING OFFICER. The Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:46 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader.

EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, earlier today Senator DASCHLE and I had a productive meeting with Andy Card, the President's chief of staff. At that meeting, Mr. Card committed that there would be no further circuit and district judicial recess appointments during the remainder of the President's term, and the Democratic leader committed to vote on, by the end of June, 25 judicial nominations now pending on the Executive Calendar.

I ask Senator DASCHLE if I have correctly summarized where we now stand on these nominations.

Mr. DASCHLE. Mr. President, the majority leader is correct. With these 25, we will have confirmed 198 of the President's judicial nominees, 100 of which were confirmed thanks to the efforts of Senator LEAHY and the other members of the Judiciary Committee while the Democrats controlled the Senate. In return for the President's commitment, which Mr. Card has conveyed to us, that there will be no further judicial recess appointments for the remainder of his term, we have committed to confirm now 25 of the judicial nominations currently on the Executive Calendar by the end of June. Some may entail more floor time than others, but there will be a vote on each of the 25 nominations and, if necessary, I will support cloture on any of these 25 that should be necessary.

EXECUTIVE SESSION

NOMINATION OF MARCIA G. COOKE TO BE UNITED STATES DISTRICT JUDGE

Mr. FRIST. I ask unanimous consent that the cloture vote be vitiated and the Senate proceed to executive session for the consideration of Calendar No. 606, the nomination of Marcia Cooke to be a United States district judge for the Southern District of Florida.

I further ask that the Senate proceed to vote on the nomination and that following the vote the President be immediately notified of the Senate's action and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the nomination.

The assistant legislative clerk read the nomination of Marcia G. Cooke, to be United States District Judge for the Southern District of Florida.

Mr. HATCH. Mr. President, I want my remarks to be thought of as constructive remarks rather than not constructive.

Yet another week has gone by without this body confirming a judicial nominee. That makes more than 9 weeks since the last judicial confirmation. Only four judges have been confirmed this year, and that is hardly a record of progress.

It is not enough for the minority to point out how many nominees were confirmed under their watch 2 years ago. We must also look at what is going on now, and this is a dismal record even for a Presidential election year.

Over the last six Presidential election years, both Republicans and Democrats won the White House and both Republicans and Democrats controlled the Senate. On average, the Senate has confirmed 45 judicial nominees in the six most recent Presidential election years, and continued confirmations until October in four of the last six Presidential election years. At this same point in the last six Presidential election years, the Senate confirmed, on average, 21 judicial nominees by now. I repeat, so far this year we have confirmed just four judges.

This is not for any lack of activity on the part of the Judiciary Committee. The committee is actually one-third ahead of the average for recent Presidential election years in voting out judicial nominees to the full Senate. We have held 10 nomination hearings this year alone.

Yet 32 nominees languish on the Senate calendar in a minority-imposed limbo despite the fact that we all know that if we took the simple up-or-down votes on each and every one of these nominees that the Constitution contemplates, it is probable that virtually all 32 of these nominees would be confirmed.

Fully 22 of the 32 nominees on the calendar were reported out of the Judiciary Committee without even one negative vote in the Judiciary Committee. And that is saying something because our committee is known to be the home of some of the most vigorous debates and debaters in the Senate. As anyone who has ever attended one of our markups can verify, no one on the Judiciary Committee is shy about expressing an opinion on most any subject or reticent to reflect or register a dissenting point of view.

When a nominee goes through the Judiciary Committee without opposition, the nominee is truly a consensus candidate of high qualifications and deserves prompt consideration by the full Senate.

For me and many others, a nominee's American Bar Association rating is a factor to consider. I do not think it is the be all and end all of the confirmation process, but it is something that can be helpful in evaluating a nominee's qualifications. During the Clinton administration, I can recall that some of my friends on the other side of the aisle took the position that the ABA rating was the "gold standard" with respect to judicial confirmations.

Well, where are they now when 24 of the 32 nominees on the Executive Calendar have received the highest rating, "well qualified," by the ABA? And what is more, 14 of the 24 nominees rated "well qualified" by the ABA received this "well qualified" rating by a unanimous vote of the ABA evaluators.

The Constitution requires, and this body has traditionally provided, a vote for every judicial nominee reaching the full Senate. Every Clinton nominee that reached the Senate floor got a vote, and President Clinton nearly broke the all-time confirmation record set by President Reagan who set this record with 6 years of a Republican-controlled Senate, while President Clinton only had 2 years of a Democratic-controlled Senate to help him. President Bush's nominees should receive the same treatment and get a vote on the floor.

I remain hopeful that this body will not abandon past practice and extend the recent spate of unprecedented filibusters of appellate court nominees to district court nominees. That is why I have continued to encourage the leadership on both sides of the aisle and the White House to arrive at an acceptable compromise on the 32 judges on the Senate Calendar.

I fully support the nomination of Ms. Marcia Cooke to serve as a District Judge on the Southern District of Florida.

Before the Senate votes on the Cooke nomination, it is only appropriate that we spend a few minutes considering her qualifications. Currently serving as Miami Dade County's Assistant County Attorney, Ms. Cooke is one of those nominees who received the ABA's highest "well-qualified" rating. Her experience includes service as both a public defender and prosecutor, a plaintiff's attorney and defense counsel, a private practitioner and public servant, and both an advocate and a jurist. I might add that Ms. Cooke is a graduate of Georgetown University and is an active leader in that fine school's alumni association.

Marcia Cooke served for 8 years as a Federal magistrate in Michigan. She has been an Assistant U.S. Attorney in Michigan and Florida. She has served as Florida's Chief Inspector General. Both of Florida's Democrat Senators support her. The position to which she has been nominated has been vacant so long it is now considered a judicial emergency. If confirmed she would be the first African-American woman to serve as a Federal judge in the Southern District of Florida.

It is no wonder why the Judiciary Committee approved her without a single dissenting vote. Today, the full Senate should act to support her.

I am pleased that a more reasonable and responsible atmosphere has returned to the Senate and this cloture vote has been vitiated as part of a larger agreement on judges.

We should all recognize that a cloture vote on a highly qualified, highly respected district court nominee such as Marcia Cooke is not a positive sign. It indicates that our friends across the aisle may be prepared to extend their policy of delay and filibusters to even district court nominees.

Many believe that the true target of these unprecedented filibusters of judicial nominees is to set the stage for the next Supreme Court vacancies. What they are trying to do is to, in effect, rewrite article II, section II, clause II, of the Constitution to require a 60-vote supermajority for Supreme Court vacancies. In the process, these misguided efforts have greatly damaged the confirmation process and diminished our efforts to work together on all judicial nominees.

Despite many challenges this year on the Judiciary Committee, Senator LEAHY and his Democratic colleagues have worked with us to approve many highly qualified consensus candidates.

I hope that the progress that we have made in the committee will not be derailed on the Senate floor.

Mr. President, I wish to express my appreciation to my colleagues for moving forward on this nomination, and other nominations to follow over the next few weeks.

I know these have been difficult negotiations. So I express my thanks to the President, to his chief of staff, Andrew Card, to Senator FRIST and to Senator DASCHLE for bringing this agreement to the Senate. I also thank Senator LEAHY and other members of the Judiciary Committee for their cooperation. I look forward to continuing the work of the Committee, and this agreement will help us in that effort.

Mr. President, I ask unanimous consent that an editorial published today by the Miami Herald in support of the confirmation of Marcia Cooke be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Miami Herald, May 18, 2004]

NOMINATION FACES KEY VOTE; IF CONFIRMED, MARCIA COOKE WOULD BECOME THE FIRST BLACK WOMAN APPOINTED TO A FEDERAL JUDGESHIP IN FLORIDA.; U.S. COURTS

(By Gary Fineout, Frank Davies and Tere Figueras)

Republicans trying to nudge along judicial nominations made by President Bush will force Democrats today to take a potentially embarrassing vote on stalling the appointment of the first black woman to a Federal judgeship in Florida.

Last week, Senate Republicans set in motion today's scheduled vote to close off debate on the appointment of Marcia Cooke, an assistant Miami-Dade County Attorney and the former chief inspector general for Gov. Jeb Bush.

A successful vote for the Republicans would force a final vote on Cooke's nomination, hastening her ascent to bench of the Southern District of Florida, which stretches from Fort Pierce to Key West.

Cooke is caught in a Democratic fight to gain more control over judicial nominations by blocking confirmation votes on even noncontroversial nominees like Cooke.

In Tallahassee, the younger brother of the president called on Democrats to support Cooke's nomination.

"This is ridiculous," said Gov. Jeb Bush, who spoke to reporters following a ceremony marking the 50th anniversary of the landmark Brown vs. Board of Education Supreme Court decision. "Marcia, who served here in Tallahassee, did a great job as inspector general, is well qualified to be a Federal judge. If the Democrats hold this up for political purposes, it stinks."

The nomination of Cooke has become a small part of a raging battle over judgeships in the Senate. Cooke is backed by Sens. Bob Graham and Bill Nelson, both Democrats.

REGISTERED DEMOCRAT

And Cooke, a Bay Harbor Island resident, is herself a registered Democrat.

But Senate Democrats, angered by Bush administration "recess appointments" of other judges, have tried to block confirmations until an agreement can be reached with the GOP on how to handle controversial nominees.

Leaders of both parties were still negotiating Monday, trying to reach some agreement on the process of appointments. If Cooke is confirmed, she would fill a vacancy left by the death of pioneering jurist U.S. District Judge Wilkie D. Ferguson Jr., the first black man appointed to the Miami-Dade Circuit bench and the Third District Court of Appeal.

Cooke, 49 and a native of South Carolina, was unanimously approved by the Senate Judiciary Committee.

A spokesman for Graham said Monday the senator was hopeful that the nomination would be ultimately approved. "Sen. Graham has been very pleased to support Marcia Cooke and considers her an outstanding nominee," said Paul Anderson from his Washington office. "He hopes some agreement can be reached to avoid partisan gamesmanship on the floor tomorrow."

It takes 60 votes for the motion to close debate to succeed. There are 51 Republicans in the U.S. Senate, meaning the nine Democrats would have to support the motion in order for it to pass.

Anderson predicted that when Cooke's name went before the full Senate that she would be "overwhelmingly" approved.

"There should be no need for a procedural vote," said Anderson. "We hope the opportunity will present itself soon for an up or down vote. When that vote comes, she should pass overwhelmingly."

TAPPED BY GOV. BUSH

Cooke earned a degree from Georgetown University in Washington D.C. and a law degree from Wayne State University in Michigan. She worked for legal aid and neighborhood legal services in Michigan before earning a spot as a Federal magistrate judge in the Eastern District of Michigan. She worked seven years for the U.S. Attorney's Office in Miami before Gov. Bush tapped her as his chief inspector general in 1999.

She has been an assistant county attorney for Miami-Dade County since 2002, and has also served as an adjunct professor at the University of Miami law school.

"She will be an excellent addition to that Federal bench," said former U.S. Attorney Roberto Martinez. "That she would be the first African American female Federal judge in the state is important. but her qualities and attributes go beyond her ethnic background."

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Marcia G. Cooke, of Florida, to be United States District Judge for the Southern District of Florida?

Mr. FRIST. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Kentucky (Mr. BUNNING) is necessarily absent.

I further announce that if present and voting the Senator from Kentucky (Mr. BUNNING) would vote "yea."

Mr. REID. I announce that the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KERRY), and the Senator from New Jersey (Mr. LAUTENBERG) are necessarily absent.

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 97 Ex.]

YEAS—96

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchison
Inhofe
Jeffords
Johnson
Kennedy
Kohl
Kyl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NOT VOTING—4

Bunning
Inouye
Kerry
Lautenberg

The nomination was confirmed.

The PRESIDING OFFICER. The President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

The Senator from Vermont.

NOMINATIONS

Mr. LEAHY. Mr. President, I want to commend our two leaders. I have been working with Senator DASCHLE for months, as well as with the White House, to find a way out of the impasse in judicial confirmations. Senator FRIST and I have spoken at length about this, and he has been working on it, as well.

I was delighted to see the meeting that Senator DASCHLE, Senator FRIST, and Mr. Card had today in which the White House agreed to no more recess appointments of judges. I think we have demonstrated our good faith. In the 17 months that the Democrats were in charge of the Senate, we confirmed 100 of President Bush's nominees to lifetime positions on the Federal bench. And the Republicans, during the 23 months that they have been in charge of the Senate, they have confirmed another 73 plus one today. With this agreement, I think we should be in a position to confirm another two dozen judicial nominees and achieve a total this is outstanding for a Presidential term. So I commend my friend from Tennessee. I commend my friend from South Dakota. And I appreciate their work in helping achieve this arrangement.

I am pleased that the Senate has now received assurances from the White House that the President will not further abuse the recess appointment power by making judicial recess appointments this presidential term. It was the White House's refusal to reach a reasonable accommodation of the concerns of many Senators about the unilateral approach of the President regarding his recess appointments to the federal courts that complicated our efforts to reach agreement regarding votes on less controversial judicial nominees. Thanks to the work of the Democratic leader and the Republican leader, we have now received a firm commitment from the White House in that regard.

I supported the nomination of Marcia Cooke. The Florida Senators supported the nomination of Marcia Cooke. All Democratic members of the Senate Judiciary Committee supported the nomination of Marcia Cooke. I am pleased to vote today to confirm the nomination of Marcia Cooke.

The selection of Ms. Cooke to be a judicial nominee for the Southern District of Florida serves as an example of how the judicial nominations process should work. She was interviewed and recommended by Florida's bipartisan judicial selection commission. This selection commission was created by Senators GRAHAM and NELSON in a negotiated agreement with the White House and it has produced talented and well-respected attorneys for the lifetime appointments on the district courts in Florida.

Ms. Cooke currently serves as an assistant county attorney in Miami-Dade County. She previously worked for 3 years as Governor Jeb Bush's Inspector General in Florida with oversight responsibilities regarding Florida administrative agencies. Ms. Cooke also was selected as a Federal Magistrate Judge in Detroit, after serving as a Federal prosecutor and also as a public defender.

I acted to report her nomination unanimously from the Judiciary Committee and welcome her confirmation today. Marcia Cooke is highly regarded. I congratulate Ms. Cooke and her family on her unanimous confirmation vote today.

I note that President Bush has nominated only 16 African Americans to the Federal courts, only about a quarter of the number of African Americans nominated by President Clinton to the federal bench. In fact, this President has put more people actively involved in the Federalist Society on the bench than African Americans, Hispanics and members of other minority groups combined.

With today's confirmation vote on Marcia Cooke to the U.S. District Court in Florida, the Senate has already confirmed 174 judicial nominees of President George W. Bush in 3½ years and blocked only a handful of the most extreme. Due to Democratic cooperation and bipartisanship, the Senate has confirmed more judges for this President than in President Ronald

Reagan's entire first 4 years in office—and it was President Reagan who ultimately appointed more judges than any other President in U.S. history. In fact, we have cooperated in reducing the 110 vacancies we inherited from Republican obstruction of President Clinton's judicial nomination to near 40 and attained the lowest vacancy level in 14 years.

Today, the Senate and the White House reached an agreement regarding 25 of this President's judicial nominations pending on the floor, including Judge Cooke. Not all of these nominees are uncontroversial and some may require significant debate before their confirmation vote. With this agreement, the Senate is poised to confirm 198 judicial nominees of President Bush for lifetime positions on the Federal courts, including 35 circuit court nominees.

We have already confirmed 30 circuit court nominees of President Bush. More of his circuit nominees have been confirmed than President Reagan had confirmed by this point in his first term. Recall that from the time Republicans assumed majority control of the Senate in 1995 until Democratic control in the summer of 2001, circuit court vacancies more than doubled from 16 to 33. We have worked to cut those vacancies in half by confirming 30 of President Bush's circuit court nominees. With five additional circuit court nominees part of the agreement, President Bush will exceed the number of circuit court appointments during President Reagan's first term, as well.

Republicans rarely acknowledge that 100 of President Bush's judicial nominees to the bench were confirmed under Democratic Senate leadership during 17 months. During the 23 months I have not served as Chairman of the Judiciary Committee and Republicans have been in control, the Senate has confirmed 74 additional judges. So in 30 percent more time, Senate Republicans have confirmed 26 percent fewer judges.

With the agreement reached today, the Senate will confirm a total of 29 judicial nominees of President Bush this year, including five circuit court nominees. With the progress we have already made this year and under the action agreed to today, the Senate will reach this mark before the July 4th recess. This is 29 times more judicial nominees than were allowed to be confirmed by Republicans before July during 1996, the last time an incumbent President was seeking reelection. During that session, Senate Republicans did not allow a single judicial nominee of President Clinton's to be confirmed before July. During that entire session Republicans allowed only 17 judicial nominees to be confirmed, none of them for the circuit courts. During that session when Republicans were in control of the Senate, they made sure that none of President Clinton's circuit court nominees were confirmed all session, not a single one. With our fifth judicial confirmation this year, we are well ahead of 1996.

Republicans have made no apology for the way in which they acted in 1996 but seek to employ a double standard now that a Republican occupies the White House.

All told, Republicans blocked more than 60 of President Clinton's judicial nominees. Yet Republicans Senators now routinely claim that every judicial nominee of President Bush is entitled to a confirmation vote. Suddenly, without regard to history, including their own very recent history, they claim that the Constitution requires a confirmation vote, at least for Republican nominees. The Constitution certainly does not say that. Republicans seem to have "confirmation amnesia" when they complain that Senate Democrats have filibustered six judicial nominees of President Bush after Republicans defeated by delay 10 times more judicial nominees of President Clinton through anonymous holds and without accountability.

Republicans know that they filibustered Justice Abe Fortas' Supreme Court nomination and several Clinton nominees. Republicans cannot erase their history, try as they might. Republicans defeated more than 60 Clinton judicial nominees and more than 200 of his executive branch nominees through delay. One judicial nomination was defeated when the Republican caucus took the unprecedented action of voting lockstep along party lines against confirmation of Judge Ronnie White.

With the agreement reached today, we are likely to adjourn with fewer vacancies than at any time in nearly a quarter of a century, since President Reagan's first term and well below the level of vacancies tolerated by Republicans during President Clinton's two terms. Having defeated more than 60 of President Clinton's nominees, including almost two dozen circuit court nominees, through concerted inaction, Senate Republicans have no standing to complain about the way in which the Senate is acting on President Bush's nominees. We have acted more fairly, more quickly and on more nominees than Republicans would allow when President Clinton was making much more moderate nominations.

I am pleased that the White House has promised to refrain from any more abuses of the recess appointment power. With that commitment, we have agreed to vote on two dozen judicial nominees this year. Even with the historically low vacancy levels we will reach as a result, I have no doubt that some partisan Republicans will still complain that they did not get 100 percent of their judicial nominees confirmed. Something no President in memory has achieved. This Congress we reached the lowest level of vacancies since 1990. There are more federal judges on the bench now than at any time in U.S. history.

Unfortunately, we are faced with continued White House defiance of the Senate's role as part of the checks and balances established by our Constitution. President Bush defied the Senate by recess appointing William Pryor and Charles Pickering, who were widely opposed due to their records of activism and poor ethics. No American President has ever abused the recess appointment power to put judges on the bench whose nominations were debated at length by the Senate and on which it had withheld its consent. The President's appointment of Charles Pickering was unprecedented, yet we noted our objection, turned the other cheek and continued to cooperate in the confirmation of judicial nominees. When the President abused his power a second time and appointed William Pryor, we had no alternative but to make our objection meaningful by seeking assurances from the White House that such abuse would not happen again.

Over the past several weeks, I have shared with the Senate information about a number of divisive developments regarding judicial nominations including the Pickering recess appointment during the weekend for commemorating Dr. Martin Luther King Jr. In spite of all the affronts, Senate Democrats cooperated in confirming four additional judicial nominees this year and continued to participate in hearings for judicial nominees.

The President's recess appointment of William Pryor was the last straw. It was properly termed an abuse of power by the Senate Democratic Leader. It was an abuse of the constitutional authority of the Executive to make necessary recess appointments during the unavailability of the Senate. The judicial recess appointments of nominees debated at length by the Senate was unprecedented.

Actions like this showed the American people that this White House was determined to try to turn the independent federal judiciary into an arm of the Republican Party. Doing this further erodes the White House's credibility as well as the respect and confidence that the American people have for the courts.

This is an administration that promised to unite the American people but that has chosen time and again to act in ways that divide us, to disrespect the Senate and our representative democracy. This is an administration that squandered the good will and good faith that Democrats showed in the aftermath of September 11, 2001. This is an administration that refused to acknowledge the strides we made in filling 100 judicial vacancies under Democratic Senate leadership during 17 difficult months in 2001 and 2002, while overcoming the September 11 attacks, the subsequent anthrax attacks and in spite of Republican mistreatment of scores of qualified, moderate judicial nominees of President Clinton.

This is an administration that has time and time again demonstrated its unilateralism, arrogance and intention to divide the American people and the Senate with its controversial judicial nominations. With its recess appointments, the President acted—as he has in so many areas over the past 3½ years—unilaterally, overextending and expanding his power, with disregard for past practice and tradition, and the rule of law.

The recess appointment of Mr. Pryor threatens both the independence of the judiciary and the constitutional balance of power between the legislative and executive branches. We entrust to the stewardship of lifetime judges in our independent Federal judiciary the rights that all of us are guaranteed by our Constitution and laws. That is an awesome responsibility. Accordingly, the Constitution was designed so that it would only be extended after the President and the Senate agreed on the suitability of the nomination. The President chose for the second time in as many months to circumvent this constitutional design and impose his will unilaterally.

I have sought in good faith to work with this administration for the last 3½ years in filling judicial vacancies, including so many left open by Republican obstruction of President Clinton's qualified nominees. When Chairman, I made sure that President Bush's nominees were not treated the way his predecessor's had been. They were treated far more fairly, as I had promised. Republicans had averaged only 37 confirmations a year while vacancies rose from 65 to 110 and circuit vacancies more than doubled from 16 to 33. Under Democratic leadership, we reversed those trends and opened the system to public accountability and debate by making home-State Senators' objections public for the first time. We openly debated and voted on nominations. We were able to confirm 100 judges in just 17 months and virtually doubled the Republican annual average of 37 with 72 confirmations in 2002, alone.

I have urged that we work together, that we cooperate, and that the President live up to the promise he made to the American people during the last campaign when he said he would act as a uniter and not a divider. I have offered to consult and made sure we explained privately and in the public record why this President's most extreme and controversial nominations were unacceptable.

Both his recess appointments are troubling. The President says that he wants judges who will "follow the law" and complains about what he calls "judicial activism." Yet, he has acted—with disregard for the constitutional balance of powers and the Senate's advice and consent authority—unilaterally to install on the Federal bench two nominees from whom the Senate withheld its consent precisely because they are seen by so many as likely to be judicial activists, who will insert their personal views in decisions and will not follow the law.

In the case of Mr. Pryor, he is among the most extreme and ideologically committed and opinionated nominees ever sent to the Senate. Mr. PRYOR's nomination to a lifetime appointment on the Federal bench was opposed by every Democratic member on the Senate Judiciary Committee after hearings and debate. It was opposed on the Senate floor because he appears to have extreme—some might say "radical"—ideas about what the Constitution should provide with regard to federalism, criminal justice and the death penalty, violence against women, the Americans with Disabilities Act, and the Government's ability to protect the environment on behalf of the American people. He has been a crusader for the "federalist" revolution. He has urged that Federal laws on behalf of the disabled, the aged, women, minorities, and the environment all be limited. His comments have revealed insensitivity to the barriers that disadvantaged persons and members of minority groups and women continue to face in the criminal justice system. He has testified before Congress in support of dropping a crucial part of the Voting Rights Act and has repeatedly described the Supreme Court and certain justices in overtly political terms. He received the lowest possible qualified rating from the American Bar Association—a partial rating of "Not Qualified"—underscoring his unfitness for the bench. In sum, Mr. Pryor demonstrated that he is committed to an ideological agenda that puts corporate interests over the public's interests and that he would roll back the hard-won rights of consumers, minorities, women, and others.

Mr. Pryor's nomination was considered in committee and on the Senate floor. The Senate debated his nomination, and had enough concerns about his fitness for a lifetime appointment that two motions to end debate on his nomination failed. That is the constitutional right of the Senate.

But President Bush decided to use the recess appointment clause of the Constitution to end-run the Senate. As far as I know, this power has never been used this way before this President. Of course this is the first President in our Nation's history to renominate someone rejected after hearings, debate and a fair vote by the Senate Judiciary Committee. He did that twice. He has now twice overridden the Senate's withholding of its consent after hearings and debate on judicial nominees. This demonstrates contempt for the Constitution and the Senate. The New York Times editorialized about "President Bush . . . stacking the courts with right-wing judges of dubious judicial qualifications" and even the Washington Post observed that recess appointments of judges "should never be used to mint judges who cannot be confirmed on their merits."

The recess appointments clause of the Constitution was not intended to change the balance of power between the Senate and the President that is established as part of the fundamental set of checks and balances in our Government. Indeed, the appointments clause in the Constitution requires the consent of the Senate as just such a fundamental check on the Executive. This was meant to protect against the "aggrandizement of one branch at the expense of the other." The clause was debated at the Constitutional Convention, and the final language—with shared power—is intended to be a check upon favoritism of the President and prevent the appointment of unfit characters.

The President's claimed power to make a unilateral appointment of a nominee the Senate considered and effectively rejected, slights the Framers' deliberate and considered decision to share the appointing power equally between the President and the Senate. This President's appointment of Mr. Pryor to the Eleventh Circuit—after he was considered by the full Senate seems irreconcilable with the original purpose of the appointments and recess appointment clauses in the Constitution. Perhaps that explains why the Pryor and Pickering recess appointments by this President are the first times in our centuries-long history that the recess appointment power has been so abused. No other President has engaged in this manner. No other President sought such unilateral authority without balance from the Senate.

The President chose to sully the Martin Luther King, Jr. weekend with his unilateral appointment of Judge Pickering. Sadly, he chose the Presidents' Day congressional break unilaterally to appoint Mr. Pryor. After the Presidents' Day weekend, we resumed our proceedings in the Senate with the traditional reading of President George Washington's Farewell Address. The Senate proceeds in this way every year. I urge this President and those in his administration to recall the wisdom of our first President. George Washington instructs us on the importance of not abusing the power each branch is given by the Constitution. He urges the three branches of our Government to "confine themselves within their respective constitutional spheres." He said more than 200 years ago words that ring true to this day:

> The spirit of encroachment tends to consolidate the powers of all the departments in

> one, and thus to create, whatever the form of government, a real despotism . . . The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositaries, and constituting each the guardian of the public weal against invasions by the others, has been evinced by experiments ancient and modern . . . To preserve them must be as necessary as to institute them.

The current occupant of the White House might do well to take this wisdom to heart and respect the constitutional allocations of shared authority that have protected our nation and our rights for more than 200 years so brilliantly and effectively.

The recess appointments power was intended as a means to fill vacancies when the Senate was not available to give its consent; it was intended to ensure effective functioning of the government when the Senate adjourned for months at a time. It was never intended as an alternative means of appointment by the Executive when the President chose to serve some partisan short-term goal by simply overriding the will of the Senate to employ his own—especially with respect to our third branch of Government, the Federal judiciary.

This administration and its partisan enablers have demonstrated their disdain for the constitutional system of checks and balances and for shared power among the three branches of our Federal Government. By such actions, this Administration shows that it seeks all power consolidated in the Executive and that it wants a Judiciary that will serve its narrow ideological purposes.

Such overreaching by this administration hurts the courts and the country. President Bush and his partisans have disrespected the Senate, its constitutional role of advice and consent on lifetime appointments to the Federal courts, the Federal courts, and the representative democracy that is so important to the American people. It is indicative of the confrontational and "by any means necessary" attitude that underlies so many actions by this administration and that created a climate on the Judiciary Committee in which Republican staff felt justified in spying upon their counterparts and stealing computer files.

After 8 years in office in which more than 60 judicial nominees had been stalled from consideration by Republican partisans, President Clinton made his one and only recess appointment of a judge. Contrast that appointment with the actions of the current President:

President Clinton acted to bring diversity to the Fourth Circuit, the last federal circuit court not to have had an African-American member. Judge Roger Gregory was subsequently approved by the Senate for a lifetime appointment under Democratic Senate leadership in the summer of 2001. This was made possible by the steadfast support of Senator JOHN WARNER, the senior Senator from Virginia, and I have commended my friend for his actions in this regard. When Judge Gregory's nomination was finally considered by the Senate, it passed by consensus and with only one negative vote. Senator LOTT explained his vote as a protest vote against President Clinton's use of the recess appointment power. How ironic then that Judge Pickering now serves based on President Bush's abuse of that power.

Judge Gregory was one of scores of highly qualified judicial nominations stalled under Republican Senate leadership. Indeed, Judge Gregory and so many others were prevented from having a hearing, from ever being considered by the Judiciary Committee and from ever being considered by the Senate. Sadly, others, such as the nominations of Bonnie Campbell, Christine Arguello, Allen Snyder, Kent Markus, Kathleen McCree Lewis, Jorge Rangel, Carlos Moreno, and so many more, have not been reinstated and considered. But President Clinton did not abuse his recess appointment power. Instead, his appointment of Judge Gregory was in keeping with traditional practices and his use of that power with respect to judicial appointments was limited to that one occasion.

By contrast, the current President made two circuit recess appointments in 2 months and his White House had threatened that more were on the way. These appointments are from among the most controversial and contentious nominations this administration has sent the Senate. After reviewing their records and debating at length, the Senate withheld its consent. The reasons for opposing these nominations were discussed in hearings and open debate during which the case was made that these nominees were among the handful that a significant number of Senators determined had not demonstrated their fairness and impartiality to serve of judges.

Contrast Roger Gregory's recess appointment, which fit squarely in the tradition of Presidents exercising such authority in order to expand civil rights and to bring diversity to the courts, with that of Mr. Pryor. Four of the five first African American appellate judges were recess-appointed to their first Article III position, including Judge William Hastie in 1949, Judge Thurgood Marshall in 1961, Judge Spottswood Robinson in 1961, and Judge Leon Higginbotham in 1964. The recent appointments of Judge Pickering and Mr. Pryor stand in sharp contrast to these outstanding nominees and the public purposes served by their appointments.

The nominations of Judge Pickering and Mr. Pryor were opposed by individuals, organizations and editorial pages across the Nation. Organizations and individuals concerned about justice before the Federal courts, such as Log Cabin Republicans, the Leadership Conference on Civil Rights, and many others opposed the Pryor nomination. The opposition extended to include organizations that rarely take positions on nominations but felt so strongly about Mr. Pryor that they were compelled to lodge their opposition in the record, such as the National Senior Citizens Law Center, Anti-Defamation League, and Sierra Club. Rather than bring people together and move the country forward, this President's recess appointments are more examples of unnecessarily divisive action.

Further, the legality of this President's use of the recess appointments power, without precedent and during such a short Senate break, is itself now a source of division and dispute. Recent Attorneys General have all opined that a recess of 10 days or less does not justify the President's use of the recess appointments power and would be considered unconstitutional. Starting in 1921, Attorney General Daugherty advised the President that he could make recess appointments during a mid-session adjournment of approximately four weeks but two days was not sufficient "nor do I think an adjournment for five or even 10 days can be said to constitute the recess intended by the Constitution." More recently, a memo from the Reagan administration Justice Department concluded: "Under no circumstances should the President attempt to make recess appointment during intrasession recess of less than 10 days." This year, a Federalist Society paper noted the dubious constitutionality of appointments during short intrasession breaks.

We will not resolve the question of legality of these recess appointments here today, but we can all anticipate challenges to rulings in which Mr. Pryor participates. Thus, we can expect this audacious action by the administration will serve to spawn litigation and uncertainty for months and years to come.

I thank the Democratic leader for the statements he made and the actions that he took in connection with the abuse of the recess appointment power by this President. I remind the Senate that a few years ago when President Clinton used his recess appointment power with regard to a short-term Executive appointment of James Hormel to serve as Ambassador to Luxembourg, Senator INHOFE responded by saying that President Clinton had "shown contempt for Congress and the Constitution" and declared that he would place "holds on every single Presidential nomination." Republicans continued to block nominations until President Clinton agreed to make recess appointments only after Congress was notified in advance. On November

10, 1999, 17 Republican Senators sent a letter to President Clinton telling him that if he violated the agreement, they would "put holds for the remaining of the term of your Presidency on all of the judicial nominees."

In November 1999, President Clinton sent a list of 13 positions to the Senate that he planned to fill through recess appointments. In response, Senator INHOFE denounced 5 of the 13 civilian nominees with a threat that if they went forward, he would personally place a hold on every one of President Clinton's judicial nominees for the remainder of his term. That led to more delays and to the need for a floor vote on a motion to proceed to consider the next judicial nomination, in order to override Republican objections.

When President Clinton appointed Judge Gregory at the end of 2000, Senator INHOFE called it "outrageously inappropriate for any president to fill a federal judgeship through a recess appointment in a deliberate way to bypass the Senate." When the Gregory nomination was confirmed with near unanimity under Senate Democratic leadership in 2001, Senator LOTT's spokesperson indicated that Senator LOTT's solitary opposition was to underscore his position that "any appointment of federal judges during a recess should be opposed."

Democrats have been measured in our response. Indeed, we continued our work after the unprecedented recess appointment of Judge Pickering. It was only with the repeated abuse of the recess appointment power to place Mr. Pryor on the Federal bench and the threat of additional recess appointments that we acted. I urged the White House to renounce this abuse of the recess appointment power so that we could resume Senate consideration of judicial nominations and increase our record number of confirmations before the end of the year. I am glad that the White House has finally decided to make a firm commitment against any additional judicial recess appointments.

We are defending fair courts. We have acted to protect the Senate's role as a check on excessive White House power grabs and to block the lifetime appointments of a handful of nominees for lifetime seats, nominees who have records of extremism. The American people deserve a Federal judiciary with fair judges who will enforce their rights and uphold the law. Rather than work with all Senators, the White House has fixated on forcing through the most divisive people for these lifetime jobs. This White House has the wrong priorities and is taking the country in the wrong direction.

President Bush ran as a "uniter" but has consciously chosen to send divisive nominees to the Senate. As a Presidential candidate, Bush promised the American people he would have "no litmus test" for Federal judges on reproductive rights "or any other issue" and that he would choose "competent judges" who would "not use the bench for writing social policy." As President, he has broken these and other promises repeatedly.

President Bush's choices for the only lifetime jobs in our system of Government show that he views the Federal courts as a spoils system for partisan activists, including some whose records prove that they will not be fair and impartial judges, but would use the Federal bench to write social policies they prefer into the law. Under our Constitution, the power to make lifetime appointments to the courts is shared: the President has the power to nominate or propose judges, but only the Senate has the power to confirm or reject those nominations. Throughout American history, the Senate has rejected judicial nominees. Not even President Washington saw all of his nominees confirmed. Senate Democrats have opposed only the most troubling judicial nominees of President Bush.

In his judicial appointments, President Bush has sought out judicial activists, often quite young, with the hope that these judges will rule for decades to come in ways that advance the Republican Party's narrow and partisan political and social agenda. President Bush has proposed many nominees to the federal courts, especially the appellate courts, who have records of extreme partisanship, activism or just plain poor ethics.

For example, President Bush nominated 41-year-old William Pryor for the appeals court after Mr. Pryor led the effort to undermine protections against age, sex and disability discrimination, to limit the reach of the Clean Water Act, to repeal the Voting Rights Act, to overturn Roe v. Wade, and to oppose lawsuits for tobacco-related deaths and illnesses. Mr. Pryor himself believes that President Bush should not appoint moderate judges to the federal courts, stating: "I'm probably the only one who wanted [Bush v. Gore] 5-4." He said, "I wanted Governor Bush to have a full appreciation of the judiciary and judicial selection so we can have no more appointments like Justice Souter."

Justice Souter's apparent "offense" was to be more faithful to the Constitution than to the partisan politics of the party of the President who nominated him to the highest court. Mr. Pryor was rejected under the Senate's longstanding Rules after extensive debate. But President Bush put him on the bench anyway. He is now sitting on the Court of Appeals for the Eleventh Circuit temporarily.

President Bush also appointed Judge Charles Pickering to the appeals court even though the Senate refused consent to his nomination. Judge Pickering was opposed due to the low quality of his judging, his habit of inserting his personal views into his decisions, and his questionable ethics. Judge Pickering willfully violated judicial ethics by his extraordinary campaign to get around a mandatory prison sentence for a man convicted by a jury of his peers of burning a cross on an interracial couple's lawn. His record was criticized by civil rights leaders and organizations. Numerous African Americans in Mississippi and from across the country wrote in opposition to his nomination. President Bush recess appointed him to the Fifth Circuit on the weekend designated to honor the memory of Dr. Martin Luther King, Jr.

President Bush also nominated to the D.C. Circuit Justice Janice Rogers Brown of California who has a reputation for injecting her political views into her judicial opinions. In speeches and decisions, she literally advocated turning back the clock 100 years to the era when worker protections were declared unconstitutional by activist judges. Justice Brown has even described the year 1937—when her brand of judicial activism was repudiated—as "the triumph of our own socialist revolution." Her views are so extreme and rigid she has suggested: "There are so few true conservatives left in America that we probably should be included on the endangered species list." The Senate refused to grant consent to her nomination at the end of the 40-hour talkathon Republicans engineered to shut down the Senate last year.

President Bush also selected State Judge Carolyn Kuhl for an appellate judgeship after she spearheaded a failed effort to give tax-exempt status to racially discriminatory schools like Bob Jones University, led the effort to get the Reagan Justice Department to seek the reversal of Roe v. Wade, sought to curtail discrimination laws, and tried to limit protections for whistleblowers. Before she was nominated to the Federal bench, Judge Kuhl also ruled in a case that a breast cancer patient had no privacy claims against a doctor who allowed a drug salesman to watch her breast examination without her permission. Both California Senators opposed Judge Kuhl's nomination and the Senate withheld its consent.

Additionally, President Bush chose Texas Supreme Court Justice Priscilla Owen for the federal bench after statements by her fellow judges in a wide range of cases—from environmental regulation to personal injury law to privacy to discrimination—that she was injecting her personal views into her opinions. Her opinions were called, among other things, "nothing more than inflammatory rhetoric" and an approach that "defies the Legislature's clear and express limits on our jurisdiction." One opinion in which she tried to write her preferred social policies into law was called "an unconscionable act of judicial activism" by then Justice Alberto Gonzales, who is now President Bush's White House Counsel. The Senate withheld its consent from her nomination after extensive debate.

The nomination of Miguel Estrada, who was 39 when nominated to the nation's second highest court, is another example of President Bush's practice of dividing instead of uniting Americans. Despite concerns that were raised whether Mr. Estrada could keep his personal views out of his legal work at the Justice Department and the ample precedent for the Senate's request for legal memos in nominations, President Bush decided to stonewall the Senate. This stonewalling, combined with Mr. Estrada's refusal to answer numerous questions about his views prompted the extended debate that led to his withdrawal.

Currently pending are William James Haynes, II and Brett Kavanaugh. Mr. Haynes has been less than forthcoming about his actions as the general counsel at the Department of Defense and his role in subverting legal protections in ways that may have contributed to the breakdown of compliance with the Geneva Conventions, our treaties against torture and the Constitution. Mr. Kavanaugh is another youthful nominee whose background as an aide to Kenneth Starr and in the White House is among the more partisan we have seen, even among this President's very partisan nominees.

For doing their job and upholding their constitutional responsibilities, Democratic Senators have been wrongly attacked as anti-woman, anti-Hispanic, anti-Christian and anti-Catholic. Those charges are reprehensible, ad hominem attacks without basis. This is partisan sniping at its worst. Republican Senators have been all too willing to fuel such baseless claims and the President has shown his willingness to play partisan politics with judicial nominations.

Some of this President's appointments have already started using their seat on the Federal bench to write their political, social or cultural views into law, despite promises that they would not do so. We are now seeing the impact of the Bush judges the Senate has confirmed in courts all over the country where a radically narrow view of the power of Congress, informed by a Federalist Society philosophy, is beginning to take hold. Let me give you a few examples of the ways in which these judges are attempting to remake the legal landscape in their own reactionary ideological image.

Judge Jeffrey Sutton has written a dissent in a federal arson case putting forward a distressingly narrow interpretation of Congress' power under the Commerce Clause. Judge Sutton was an extremely controversial Bush nominee who promised the Senate that he would not have an agenda on the bench to narrow congressional power and he was confirmed by one of the smallest number and proportion of positive votes in history, 52–41.

Judge John Roberts, another controversial nominee of President Bush, has questioned the constitutionality of the Endangered Species Act under a similar theory, showing his willingness to curtail Congress's ability to protect the environment. He has also ruled for the administration in the ongoing case seeking more transparency and accountability from Vice President CHENEY and his Energy Task Force.

Judge Edith Clement of the Fifth Circuit, another Bush circuit court nominee, has also showed her Federalist bent by voting to limit the Hobbs Act, also under the reasoning that Congress' ability to legislate under the Commerce Clause is more narrow than legal precedent actually shows. Other Bush judges have taken extreme positions and been criticized by their peers, often other conservatives, for overstepping bounds or substituting their views for the trial court's. Their tenure on the federal bench has so far been short, but even these few examples show that as it lengthens, the number of ideological opinions will grow.

While Democrats have not imposed ideological litmus tests on the Bush nominees, it is clear that President Bush has. President Bush has named to the bench many who have been leaders in the right-to-life movement and none who have been leaders on the other side of that social issue. The President has sought out people he hopes share his social agenda for our Federal courts.

President Bush has also used federal judgeships to reward lawyers who worked closely with Ken Starr or on the Florida recount, including some for lifetime seats who were as young as 34 years old. Many of his nominees have been drawn from a select group of neoconservatives whose views are surprisingly rigid given their youth. Indeed, more than half of President Bush's circuit court nominees have been involved with the Federalist Society and overall almost a quarter of all of his judicial nominees have been associated with this organization whose mission is to "reorder the legal priorities" along ideological lines. In fact, President Bush has chosen more judicial nominees involved in the Federalist Society than nominees who are Hispanic, African American or Asian Pacific combined.

No one is entitled to a lifetime job as a judge, entrusted with making decisions that affect the lives, liberties and property of millions of Americans. I will continue to oppose judicial nominees who I do not think will be fair, independent Federal judges. We are committed to defending the rights guaranteed by the Constitution and to ensuring that our Federal courts have fair judges who will be faithful to the Constitution and its precedents, not loyal to the partisan political agenda of President Bush. The fairness of the Federal judiciary is indivisible from our American ideal of justice for all.

Whether Congress may regulate lead in our water, whether we can provide leave for families during medical crises, and whether fundamental protections for our liberty, equality and privacy will be preserved, all these matters will be reviewed and decided by Federal judges. Our freedoms are the fruit of too much sacrifice to confirm those who will not fully enforce Federal protections.

It is imperative that there be fair judges for all people—poor or rich, Republican or Democrat, of any race or religion. A number of President Bush's nominees have records that do not demonstrate that they will be impartial. Democrats have refused to rubberstamp judicial activists. We know that the Federal courts should not be an arm of the Republican Party.

There are any number of issues and bills that the Senate could and should be addressing instead of arguing over cloture petitions for judicial nominees. Judicial vacancies is about the only number going in the right direction. With the deficit up, the debt up, the numbers of uninsured, unemployed and impoverished Americans up, but the number of Federal court vacancies going down, the Senate has much more to do.

Of course, April 15 was the legal deadline for adoption of a Federal budget. Even though Republicans have excluded congressional Democrats from the discussion, they have not been able to agree even among themselves on the Federal budget resolution. That statutory requirement is being violated daily.

The transportation bill is long overdue. Again, it is Republicans who cannot agree on a transportation bill that will fix our roads, bridges and provide for public transportation. That bill would mean hundreds of billions of dollars to our local communities and States all across the country.

A supposed priority this year was going to be welfare legislation. Republicans have not agreed on a welfare reform extension.

We have no legislation to confront the soaring gas prices that affect all Americans, nor will the Republican leadership schedule action on the bipartisan NOPEC bill that was unanimously reported by the Judiciary Committee to clarify that OPEC cannot act collusively with impunity from the law.

This week we mark the 50th anniversary of the Supreme Court's decision in Brown v. Board of Education, a landmark decision of the United States Supreme Court. It offered African-Americans throughout our Nation hope that the Government of the United States was prepared to make real Jefferson's declaration that "all men are created equal." It made good on Justice Harlan's famous words of dissent in Plessy v. Ferguson: "In view of the Constitution, in the eye of the law, there is in this country no superior, dominant, ruling class of citizens. There is no caste here."

Of course, the decision in Brown was not universally celebrated at the time. It was condemned from some quarters and sparked defiance in many parts of this nation. It was the beginning, not the end, of a long process of desegregation that was fought vigorously in many communities. Even today, 50 years later, there is still significant work to be done to ensure equal educational opportunity for all of our children. Schools in our cities are all too often in disrepair, both physically and in the quality of education they can offer to the most vulnerable children among us.

As we commemorate Brown, we must also note that the Republican Congress has funded Title I—the Federal program most directly targeted toward those schools and toward reducing educational inequality—at $6.3 billion below its authorized level for the current year.

We should celebrate the brave families who desegregated our schools, and the accomplished lawyers, including Thurgood Marshall, who led the fight. We should commemorate the nine Justices who were unanimous in their dedication to the constitutional principle of equality. And we should remember the many leaders who have continued the battle for justice in the decades since.

This anniversary should not be the cause of complacency or self-congratulation—our work is not done. There is much else we could be doing—but are not—in the area of civil rights. The Voting Rights Act is slated to expire in 2007, and the Majority Leader and the Chairman of the Judiciary Committee have said they want to make its key provisions permanent. I have said that I support this goal and want to make sure we achieve it in the way most likely to survive an inevitable constitutional challenge before a Supreme Court that shows little deference to Acts of Congress. Senator KENNEDY and I have both said we want to work with Senators FRIST and HATCH to begin committee consideration of the Voting Rights Act and build the legislative history that would justify making it permanent to the judicial branch. Up until now, we have received no response.

We have been fighting now for many years to pass hate crimes legislation that would both improve our existing hate crimes laws and apply them against criminals who target gay and lesbian Americans. I am one of 49 cosponsors of S. 966, the Local Law Enforcement Enhancement Act. This bill has passed the Senate before, only to be blocked by the Republican leadership in the House. In recent years, however, we have been unable to get the Senate to adopt it. In the last Congress, almost every Republican Senator voted against cloture on the hate crimes bill, dooming it to failure. In the current Congress, we have not considered the bill.

Meanwhile, the bipartisan Employment Non-Discrimination Act ("ENDA") of 2003 (S. 1705) is bottled up in the HELP Committee. This bill has 43 cosponsors. It would prohibit workplace discrimination based on sexual orientation. One might think that opposing firing people simply because they are gay is a rather commonplace position in 2004. In the Senate, however, we cannot get a vote on ENDA.

The Development, Relief, and Education for Alien Minors Act ("DREAM Act") S. 1545, continues to languish on the Senate calendar. This is a bill that the Judiciary Committee approved last November. It has 46 cosponsors, including a dozen Republicans. Its lead sponsors are Senator HATCH and Senator DURBIN. It would restore to States the right to provide in-state tuition to undocumented aliens who graduate from U.S. high schools.

The beneficiaries would be young people who came here as children, not of their own volition. They would be people like Jazmin Segura, a Los Angeles high school senior from a high-crime neighborhood with a 3.88 GPA. Ms. Segura, who came to the United States from Mexico when she was nine years old, was featured in a Wall Street Journal article last month. She had been accepted at the University of California at Berkeley and at UCLA, but did not know whether she would be able to afford to go.

We have legislation at the ready that could help Ms. Segura and many others like her. If we held a vote on this bill right now, it would undoubtedly pass by a wide margin. But the Republican leadership—eager to reach out only rhetorically to the Hispanic community—has refused to bring it up for a vote.

I came to the floor nearly two weeks ago to decry the Senate's failure to consider legislation to respond to a crisis affecting industries throughout the economy that depend on temporary labor. More than 2 months ago the Department of Homeland Security announced that for the first time ever the annual cap for H–2B visas had been met. These visas are used by a wide range of industries throughout the nation to fill temporary labor needs. In my home State of Vermont, they are used primarily by the tourist industry.

In response to this announcement, I joined with a substantial bipartisan coalition in introducing S. 2252, the Save Summer Act of 2004. Senator KENNEDY is the lead sponsor of this bipartisan bill, which has 18 cosponsors, including 8 Republicans. Our bill would add 40,000 visas for the current fiscal year, providing relief to those summer-oriented businesses that had never even had the opportunity to apply for visas. Senator HATCH introduced a competing bill sponsored only by Republicans, S. 2258. I do not think that bill is as good as our bipartisan bill, but it is certainly better than nothing. Unfortunately, a small minority of the Republican caucus has demanded we do nothing, and the Republican leadership has acceded to that demand. Either the Save Summer Act of Senator HATCH's bill would command the support of an overwhelming majority of Senators, but the majority leader has brought neither forward for a vote.

When it comes to immigration, the Republican leadership has ignored not only the concerns of the tourism industry and other businesses that depend on temporary summer workers, but even to the needs of farmers. Senators CRAIG and KENNEDY joined together in introducing S. 1645, the Agricultural Job, Opportunity, Benefits, and Security Act. This bill has 62 cosponsors, including 25 Republicans. It would solve problems in the H–2A program that have plagued American farmers for years, while also providing a path to legalization for farm workers who have been working here illegally for years. It has the vociferous support of both farmers and farm workers; it is indeed an example of the sort of compromise legislation that used to be a hallmark of this body. But we cannot get a vote on this bill.

So while the Republican leadership has devoted time last week and this to an impasse over judicial nominees caused by the President's abuse of the recess appointment power, we have seen little effort to work on matters of significance that can and should be considered and acted upon by the Senate to make bipartisan progress for all Americans.

While we celebrate progress today on judicial nomination, I hope that we will also soon see progress on these legislative matters. Through bipartisan action we can do much to serve the American people.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005—Continued

Mr. LOTT. Mr. President, is the pending business amendment No. 3158?

The PRESIDING OFFICER. The Senator is right. That amendment is pending.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I have confirmed with Senator SNOWE and Senator LOTT that they would permit me to set their amendments aside for 3 minutes so that I could offer a nonproliferation amendment. I ask the Senate for that privilege.

The PRESIDING OFFICER. Without objection, it is so ordered.

The pending amendment will be set aside.

Mr. DOMENICI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

Mr. KENNEDY. Reserving the right to object, and I will not object, I ask consent my amendment be in order, as well.

Mr. LOTT. Reserving the right to object, do we have the amendment? Have the managers had a chance to view that? I don't know that there is a problem.

Mr. KENNEDY. It is report language. All I want to do is have the same kind of courtesies. If I could ask, then, at least it be considered after the floor managers have an opportunity to review the amendment.

If there is an objection, that would be satisfactory with me. But it is relevant. Otherwise, I will insist on the reading of the amendment.

Mr. LOTT. Mr. President, reserving the right to object, and I don't intend to, I don't even believe it is my role, I don't know that anyone has had a chance to look at it.

Mr. KENNEDY. I was waiting for my time. You were next to offer your amendment and were going to take 90 minutes. I was prepared to remain here and, hopefully, we are alternating amendments. This is directly germane. My good friend from New Mexico offered his amendment and asked for consent to do it. I was trying to get the same courtesies.

I am glad to play by whatever rules the Senate wants to play by, but if we are waiting our turn to get here and someone asks consent to be able to advance their amendment, all I am asking is to get the same kind of consideration. That is the only thing.

Mr. REID. Mr. President, is there a unanimous consent agreement to set aside an amendment?

The PRESIDING OFFICER (Mr. CRAPO). To dispense with the reading of the amendment.

Mr. REID. Has there been an agreement to set the pending amendment aside to offer this amendment?

The PRESIDING OFFICER. That is correct, there has been.

Mr. REID. I am sorry, Mr. President, if that question was put to the Senate, I certainly did not hear it.

The PRESIDING OFFICER. The request was made.

Mr. DOMENICI. I made the request and the Lott amendment was pending and I asked it be set aside for 3 minutes so I could offer an amendment. That was granted.

Mr. REID. I heard the Senator from New Mexico. I thought he said there had been an agreement to that effect. If you check the record, that is what it said.

Mr. DOMENICI. And I said, and I ask the Senate grant me that privilege, after I made that statement to which you are referring.

Mr. KENNEDY. I ask for the same privilege.

The PRESIDING OFFICER. Is there objection to the Senator from——

Mr. WARNER. Reserving the right to object, might I suggest, and I ask my good friend—and the Senator knows I will support him—could you withdraw that at this time so Senator LEVIN and I, together with the leaders, can determine the order in which we will take amendments?

Mr. KENNEDY. I withdraw my request, in courtesy to my friend from New Mexico.

I ask consent that I be recognized to offer an amendment at the conclusion of the Senator from Mississippi and the Senator——

Mr. LOTT. Mr. President, I thank the Senator from Massachusetts in his typical courteous manner for the way he has handled it. I know the managers will work with him.

Mr. REID. So the consent now before the body is, following the disposition of the pending amendment—that is, the amendment of the Senators from Mississippi and North Dakota—Senator KENNEDY be recognized to offer his amendment?

Mr. WARNER. I have to object. I fervently asked that the two managers work with our respective leadership and those desiring to bring up amendments. So I suggest that we continue with the Lott amendment and you be ever so kind to hold yours in abeyance.

Mr. DOMENICI. They have already agreed on mine and it will take 3 minutes. I don't doubt that.

Mr. LEVIN. No. There has been no agreement on the Domenici amendment.

Mr. DOMENICI. What?

Mr. LEVIN. As I understand, Senator DOMENICI—and I was distracted—asked he be allowed to offer the amendment. As I understand it, there has been no agreement to the amendment, the time agreement on the amendment. The manager is asking the Senator from New Mexico would he now withhold that amendment so we can sort this out.

Mr. WARNER. Correct.

Mr. DOMENICI. I will be glad to do that.

Mr. WARNER. I thank the Senator.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. WARNER. Mr. President, and I ask that we pursue the opportunity to have a time agreement on the Lott-Dorgan amendment.

First, I ask the distinguished Senator from Mississippi how much time the Senator desires—and we will talk about it in terms of it being equally divided.

Mr. LOTT. Mr. President, we have talked back and forth and we think that 45 minutes a side should be sufficient.

Mr. WARNER. I ask my distinguished colleague.

Mr. LEVIN. An hour and a half equally divided.

Mr. WARNER. Forth-five minutes to the side?

Mr. LOTT. An hour and a half equally divided.

Mr. WARNER. Well, we want to keep moving with this bill. It seems to me the subject is pretty well understood. I was hoping maybe an hour.

Mr. LOTT. Mr. President, if I could respond, we do have Senators who have not been heard.

Mr. WARNER. Very well, I am agreeable if the——

Mr. LOTT. If we have time and we do not need it all, we can always yield it back—an idea I like.

Mr. WARNER. This issue has an intensity of its own.

If an hour and a half is agreeable to the Senator from Virginia and the Senator from Michigan.

Mr. LEVIN. No objection.

Mr. REID. Mr. President, if the Senators would be willing to modify their amendment, it is my understanding following the hour and a half that there would be a vote on or in relation to that amendment with no second-degree amendments in order.

Mr. WARNER. That is correct.

Mr. REID. I ask that be part of the consent agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Without objection, the original consent is so ordered.

Mr. LOTT. Mr. President, Senator SNOWE and Senator FEINSTEIN have been patiently waiting, Senator COCHRAN wishes to speak, as well as Senator DORGAN.

Would the Senator from New Hampshire have a question?

Mr. GREGG. I would like to get 3 minutes.

Mr. LOTT. Would the Senator be willing to withhold so we can proceed with the Senator from Maine?

Mr. GREGG. Certainly, unless the Senator from Maine——

The PRESIDING OFFICER. The Senator from Maine.

AMENDMENT NO. 3158

Ms. SNOWE. Mr. President, I rise today to speak in support of the amendment that has been offered by Senator DORGAN, Senator LOTT, Senator FEINSTEIN, and myself to refocus the provisions that are included in the underlying legislation that authorizes a base closure round in 2005 from our domestic installation to our overseas military infrastructure.

I do so because I am firmly convinced today in this unprecedented era of global war on terrorism, as we continue operations in Afghanistan to root out the seeds of terror, as we are engaged in ensuring a free Iraq in the heart of the Middle East, it makes no sense to consider closing nearly a quarter of our domestic military infrastructure in addition to the 21 percent that has already been lost over the past 15 years in America.

I arrive at this debate as a veteran of a number of issues that are key to our deliberations. First, I have been all too intimately acquainted with every base closure round since the first occurred in 1987, as well as the accompanying pitfalls, failures, and foibles of each—and there are many.

Also, in my capacity of both the House and the Senate, as ranking member of the Operations Subcommittee on the Foreign Affairs Committee of the House that oversaw terrorism and in my position in the Senate Armed Services Committee and former Chair of the Seapower Subcommittee.

I cannot and will not ignore the pattern I have discerned of the failure to "connect" the critical "dots" in the past, and the implications of these shortfalls on our ability to project into the future.

What most concerns me is the inadequacy of the military's threat assessment projections time after time accompanying the requirement, including enacting BRAC legislation in 1991 that stipulates the Secretary of Defense "shall include a force structure plan for the Armed Forces based on an assessment by the Secretary of the probable threats to the national security during the six-year period beginning with the fiscal year for which the budget request is made."

It is very important to understand the requirements and the obligations of the Defense Department. They have to make those projections. Unfortunately, whether they make those projections 20 years into the future or 6-year projections, the track record has been poor.

I can say this because I have reviewed the military threat assessments not only contained in the force structure plans the Department provided, along with their justifications for the 1991 base-closing round, but also the 1993 and 1995 BRAC rounds, as well as other key assessments made by the Department during that time, such as the 1993 Bottom-Up Review, the 1997 Quadrennial Review, and the 2001 Quadrennial Review.

Specifically, I wondered how actual events and results matched their expectations. How did their threat assessments dovetail with the new realities, such as terrorism, asymmetric threat, and homeland security or homeland defense?

I then went back a little more than 21 years ago to the bombing of the U.S. Embassy in Beirut, and looked at significant terrorist events directed against Americans throughout the world, as chronicled by the State Department. I put it on this chart because I think it is important to recall exactly what the events have been over the last 20 years with respect to terrorism.

A defining moment in 1983 was when our marines were under attack, when 242 brave marines were lost because of a suicide bomber.

In 1985, TWA flight 847 was hijacked, and U.S. Navy diver Robert Stethem was killed. Then, of course, we had the *Achille Lauro*. Then we had, of course, the Berlin disco that was bombed, and a number of American soldiers were killed or injured. We also know what happened with Pan Am flight 103 that was destroyed over Lockerbie.

These are a few of the significant events that occurred throughout the 1980s. In fact, I am illustrating only a few of the 17 events that were identified by the State Department where Americans were the target of terrorists.

Yet, after all these events, let's look at what was identified in these base-closing reports that are required under the legislation. We had a four-page report that was a result of the 1991 base-closing round, and they submitted a military assessment for the years, because they have to project out. In this case, it was 1992 to 1997. What did it have to say?

> The most enduring concern for U.S. leadership is that the Soviet Union remains the one country in the world capable of destroying the U.S. with a single devastating attack. . . .
>
> [T]he Soviet state still will have millions of well armed men in uniform and will remain the strongest military force on the Eurasian landmass.

But when it came to terrorism, they said: Our efforts to promote regional stability and to enhance the spread of democracy will continue to be challenged by insurgencies and terrorism.

So there was only a passing mention of this issue as an impediment to regional stability and the enhancement of democracy worldwide. But there was no discussion of it as a context, as a threat to the United States. There was no mention, as you can see, of it as an asymmetric threat or as a threat to our homeland security. And then what happened?

On February 26, 1993, we had the bombing of the World Trade Center. It was badly damaged, and 1,000 people were injured, leaving 6 people dead. Yet the military threat assessment, issued less than 1 month later—it would have been a matter of weeks later—in the 1993 base-closing round report again referred to the regional crises with North and South Korea, India and Pakistan, the Middle East, and Persian Gulf States. It went on to say:

> [T]he future world military situation will be characterized by regional actors with modern destructive weaponry, including chemical and biological weapons, modern ballistic missiles and, in some cases, nuclear weapons.

But note in this report there was suddenly, once again, no mention of terrorism after the World Trade Center bombing less than a few weeks later, maybe a month. And as to an asymmetric threat? Nothing. And homeland security? No reference whatsoever to homeland security.

Furthermore, the bottom-up review that occurs within the Defense Department, which is a wide-ranging review of strategy, resources, and programs to delineate our national defense strategy for the future, that was signed out in October of 1993—and, of course, that was about 8 months later—described four new dangers to U.S. interests after the end of the cold war. Again, no mention of particular asymmetric threats, homeland security, or anything with respect to terrorism. Even at that point, they did mention state-sponsored terrorism as a reference, but, again, they stated the World Trade Center bombing in 1993 was the result of the mastermind Sheikh Omar Rahman, who was a non-state-sponsored terrorist.

But, as you can see, in 1993, then, we had two Defense Department reports, one in response to the requirements under the base-closing process, and the second one was a bottom-up review by the Defense Department within the same year, having the foreknowledge of what happened and what transpired at the World Trade Center, and nothing was referenced with respect to terrorism, asymmetric threat, or homeland security.

The timeline continues to 1995. We have the Tokyo subway with the sarin gas. Ironically, that is sarin gas equivalent to what was discovered in Iraq last week. I was stunned then to look at what happened in the 1995 force structure report that was also required in response to the base closure round of 1995 that had to address the threats between 1995 and 2001. Other than the removal of a few sentences, it was exactly identical, the same as the 1993 BRAC threat assessment. So much for rigorous analysis. Still there was no mention of terrorism, no mention of asymmetric threat, and no references to homeland security. And this is less—less—than 6 years before September 11, when we had those catastrophic and devastating events.

Remember, this particular base closure round is required to project out 20 years. So now we are referring to a base-closing force structure plan in 1995, given all the preceding events of terrorism in which Americans were victims and a target, and there was no identification of terrorism being a major threat to the United States, or that there was an asymmetric threat, or that there was a threat to our homeland security. This was 6 years out.

After the 1995 report, we go to 1996. We have Khobar Towers. We have the East Africa Embassies in Tanzania and Kenya. Then, of course, we have the USS *Cole* in the year 2000. Again, we do not have any identification that we are now being threatened, in these base-closing force structure plans, in our homeland security, or by the threat of worldwide terrorism.

By 1997, the Department was acknowledging the fact terrorists using asymmetric means might attack the homeland. Again, I might add, yet it still remained a fourth-tier concern in their Quadrennial Defense Review—a fourth-tier concern—in spite of the continuing onslaught of terrorism around the world.

Then, of course, we have all the preceding events. So this, in my opinion, raises some serious concerns about the ability of the Defense Department to project into the future, and particularly when talking about projecting 20 years out.

I happened to review the Quadrennial Defense Review report issued in 2001. Mind you, that was issued 19 days after the attack of the World Trade Center on September 11, and it obviously identified that we were being challenged by adversaries who possessed a wide range of capabilities regarding asymmetric approaches. Obviously, at that point it was not an astute observation. But interestingly, in examining the QDR, there was a lack of mentioning al-Qaida by name—not once. In the 70-page report, there is not one mention of al-Qaida, when we are talking about 19 days after the events at the World Trade Center on September 11.

I think this all indicates the significant dose of skepticism with which we should examine the current force structure plan and the accompanying threat assessment submitted by the Department to justify the base-closing rounds of 2005. Considering that we now base decisions on a 20-year assessment—never mind just 6, and even the 6-year projections proved spotty at best—and considering the volatile times in which we live, I have to say that what we received, over a month later than was required by the base-closing legislation—and I might add it is about what we expected, not much—indeed, my sense is they took these assumptions that were made for the Future Year Defense Plan that the Department submits as part of their overall budget authorization and simply extended it to 2009.

But even after 20 years of constant assault, of terrorism on Americans either here or abroad, the Defense Department still has not matched its force structure with those assumptions. Indeed, they have avoided the entire issue of these threats that the Nation will face over the next 20 years by claiming that today's security environment "is impossible to predict with any confidence which nations, combination of nations, or non-state actors may threaten U.S. interests at home and abroad."

And when the Department claims they have adopted an approach to force development based on capabilities rather than threat-based requirements and will need a flexible, adaptive, and joint capability that can operate across the full spectrum of military contingencies, exactly what does that mean? That is a very good question. What does that mean? Clearly, it indicates an uncertainty upon which we should be considering closing military bases.

It is obvious that the Defense Department is not certain, and this is not the basis upon which we can make decisions that are irreversible when it comes to our military infrastructure. Indeed, a retired Navy captain, Ralph Dean, succinctly placed a column in a Maine newspaper where he said:

> Surprisingly it showed—

In reference to this force structure plan that was recently submitted by the Defense Department—

> virtually no changes in overall force structure during that long period. This may indicate the Department of Defense is unable to make projections about the future threat with any degree of certainty. This uncertainty must be addressed, because BRAC actions are irreversible.

Exactly. And therein lies the problem. We are required to make decisions on force structure, on threat assessments based on plans that are submitted to the Congress and to the base-closing commission. We are going to make permanent decisions. We cannot retreat from those decisions once they are made. You cannot retract those decisions once they are put in motion.

Let's look at the overall picture in the context of the threat environment in which we live today. How can we possibly project out 20 years to ascertain our military requirements? We are learning in Iraq that the quantity of troops matters, as DOD is forced to recalibrate and send an additional 20,000 troops there. Moreover, this underlying legislation, the Department of Defense reauthorization legislation we are currently considering, is actually increasing the Army's end strength of more than 30,000 soldiers. Yet at the same time we are suggesting that we are going to reduce the number of our bases at home? Indeed, the BRAC force structure plan of 2005 addresses neither the potential surge requirements that we may confront in these protracted struggles, nor the need for more troops.

Indeed, there seems to be some confusion within the Defense Department between DOD and the services. I saw a report the other day that interested me that appeared in the Boston Globe making reference to the fact that the Navy is planning to inactivate a number of submarines over the next few years. It was reported that the Navy is conducting a study that might reduce the attack submarine force substantially downward for the fiscal year 2006 budget submission, and we are told there are no changes, as indicated in the Future Year Defense Plan, upon which the force structure plan that was submitted for this base-closing round was predicated. So how can we be certain of the type of projections the Defense Department is going to make beyond the year 2009?

There is no mention of any changes up to 2009 in terms of its force structure requirements. How then are we going to base the kind of decisions within the base-closing process when we have not had an adequate projection of threat assessment for the next 20 years and what it will require in terms of force and also infrastructure? And what are the joint warfighting plans that are still being developed? If BRAC decisions are based on untested joint concepts, then the Department of Defense could well face limited options down the road because of the limitations of facilities.

I think it doesn't make any sense at this point to continue with the domestic base-closing round without a complete understanding and evaluation of our overseas basing requirements. This amendment will allow Congress time to conduct adequate oversight to ensure that these invaluable decisions that we will be making, permanent decisions, irreversible decisions, do not have implications for the future of our capacity to respond to the changing threat environment in which we currently are.

I am hoping that Members of this Senate, however they felt in the past about the base-closing process, will understand there is an enormous gap between threat assessments and force structure projections by the Defense Department and all of the previous base-closure rounds, and that is a serious problem in the world in which we live and certainly in the context of needing more flexibility when we are conducting a war on terrorism. As the President said, this is going to be an ongoing struggle for a long time in the foreseeable future. Therefore, we have to reconsider and look abroad for our overseas facilities as opposed to those at home.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I yield myself such time as I may take.

I ask my distinguished colleague from Maine, have you had an opportunity to examine the letter that was sent by the Chairman of the Joint Chiefs of Staff and all of the other Chiefs in which they say "a comprehensive overseas basing review is nearly complete." I have other documentation. They have done a conscientious job on the overseas base structure. They are coming forward with a very balanced program to work with the existing law.

My concern is, if we dislodge the existing law by adopting this amendment, it would have the effect of delaying the process another 2 years and putting on to the Department of Defense the added cost of continuing to maintain structure that they simply do not need for today's and the foreseeable military strength of our country.

I have to tell my distinguished colleague, in the course of the lunch period, I talked with a number of individuals. They said: JOHN, the most persuasive case to me is that I have called home and talked to several of the communities that have hired the lobbyists, and they pleaded with me: We can't afford this infrastructure that we felt necessary to defend our base under the existing 205 BRAC procedure. You add another 2 years, you are going to draw down those precious small amounts of tax dollars in those communities by another 2 years. Is the sentiment in your State to go on for another 2 years with all of the uncertainty?

A lot of communities cannot attract new business for fear that the base may leave. They have to have a decision and get on with this.

Ms. SNOWE. Mr. President, I appreciate the chairman's comments. First, with respect to overseas facilities, in this legislation, under the current law, it requires the Department of Defense to submit that report only 4½ months prior to when the base-closure commission's final decisions are completed. I think that is going to be a totally inadequate period of time in which to make a current examination as to whether or not to close the facilities. You can have an impact at home on domestic installations. We are talking about increasing the number of troops in the underlying legislation. Where are they going to be housed? There are a lot of decisions. We have never thoroughly evaluated overseas installations. I think that needs a thorough examination. We deserve that.

Frankly, I do not have confidence in the process. I can tell my colleague, as the Senator from Mississippi has indicated, I have no confidence in the integrity of the process. They have not been in position to ever not only provide a credible force structure plan in identifying the future threats, they have not been accurate in their projections.

Secondly, if you talk about the examination of savings—and I did not get into that subject because that is a wide-ranging subject—GAO, in a report yesterday, said the Department of Defense does not have any adequate methodology by which to ascertain whether they have made or achieved any savings. In fact, there may be one base closing round that has achieved any savings in the first 6 years—maybe.

We are going to be talking about spending a lot of money before we even get to that process even if we do because it costs so much in remediation in the cost of closing down those facilities, in conjunction with the war on terror, in conjunction with the conflict in Iraq, and all the potential costs associated with that which remain unknown in the foreseeable future.

That is why I say to the chairman, I think it is important, not for the sake of expediency and efficiency, but for the sake of fairness in looking abroad as to exactly what we need. We have more than 700 facilities that have not heretofore been examined. With regard to forward-deployed forces, many nations would not allow us to put our troops there when it came to the conflict—Saudi Arabia and Turkey.

The time has come to look at this situation very differently. We are in a very different environment, as the chairman well knows, and I appreciate that. But I think the time has come to understand there are huge gaps in understanding what our future threat environment is going to be all about, and that has enormous implications for the future.

Finally, may I mention, in this legislation there is a joint resolution of approval by the Congress in 1997 to make a decision as to whether to proceed to an additional base-closing round.

Mr. WARNER. I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I know the Senator from California has been waiting to speak. Will 10 minutes be sufficient, or if she does not need all that time, we will reallocate the time. I yield up to 10 minutes to the Senator from California.

Mrs. FEINSTEIN. Mr. President, I thank the Senator.

I had the privilege of listening to the Senator from Maine. I feel very privileged to join in this effort along with the Senator from Mississippi and the Senator from North Dakota. The Senator from Maine made an excellent case, and I concur wholeheartedly.

Specifically, what we are trying to do with this amendment are two simple things: modify the 2005 base closure round to make it apply solely to military installations outside the United States. As Senator SNOWE said, we need to begin to look at the 700 operations and installations we have around the globe and make some decisions with respect to them in this new asymmetrical war on terror we face.

Secondly, provide for expedited consideration of a request for a domestic base closure round in 2007.

I thought the Senator made the excellent point that Congress authorized the 2005 base closure round in 2001. Our military and our Nation have been confronted by several new challenges since that time: 9/11, the war on terror, the overthrow of the Taliban and the Hussein regime, and the reconstruction of Afghanistan and Iraq. We now know our enemy may well be rogue states, may well be nonstate entities who seek to find weapons of mass destruction. They may well be international groups which have replaced the Soviet Union as the greatest threat to American interests and security.

These challenges, we believe, mandate us to reexamine the role and composition of our military in this new era: What kind of force structure will be needed? How many troops will be sufficient? And, yes, what sort of infrastructure and basing needs will be required to meet these new threats?

It seems very shortsighted to me to proceed with a new round of domestic base closures that was approved before 9/11 took place and before any of these questions were raised. In fact, the criteria for the 2005 base closure round is almost identical to the criteria for the past four rounds. How can we be sure this process will be fair and balanced and in the best interest of our military and our national security interests if it is based on criteria appropriate for 1995?

For example, as Senator SNOWE pointed out, there was no Department of Homeland Security in 1995. We are only beginning to understand how our domestic military infrastructure can play a role in providing for the actual defense of our homeland. That is a very important point. I do not think there is anyone who would say our homeland is beyond attack. As a matter of fact, I think a majority of us, certainly on the Intelligence Committee, would say there are very good chances that there will be another attack; therefore, domestic military has a new and different role to play in our country.

I do not think now is the time to rush forward. We still have 112,000 troops based in Europe, 37,000 in Korea, 45,000 in Japan in bases designated, devised, and intended for cold-war-era threats. Those threats have changed.

We see on the Military Construction Subcommittee how the thinking is now changing with respect to force structure, the location of force structure in Korea, as well as in Europe, moving more of the European components south of the Alps so that we may be able to move them more rapidly into the Middle East and into Africa.

Suppose after the 2005 round is completed it is determined several overseas bases need to be closed and the troops relocated to the United States. Where will they go? Will closed bases have to be reopened?

Let us also remember there is an economic impact on a community that must be taken into consideration.

When a base is closed, jobs are lost, economic growth is stunted. Even the threat of a base closure is enough to scare away investment.

Should we not take a look at our overseas basing structure first before we ask our communities to make additional sacrifices?

Senator HUTCHISON, who is the chairman of the Military Construction Subcommittee, and I, as ranking member, introduced legislation last year to create a congressional commission to take an objective and thorough look at our overseas bases. We met with that commission last week and gave them their charge to look at the mission and then make some recommendations to us with respect to the placement of bases needed by that mission.

It seems to me the way one approaches this issue is to build on that legislation and first look at overseas basing needs in 2005, since they are, in fact, changing, and then turn to domestic bases, if necessary, in 2 years' time.

I also want very briefly to mention the impact of base closures on my home State of California. California has had 29 military bases closed. It has cost the State more than 93,000 jobs, of which 40,000 were civilian positions.

According to the executive director of the California Institute for Federal Policy Research, California lost more jobs than all of the other States combined in the last four rounds. While at the time we had only 15 percent of the Nation's military personnel, we shouldered 60 percent of the net personnel cuts. I believe we have sacrificed enough.

If California is called on to make additional sacrifices and additional bases are closed in a future domestic BRAC round, we should know that our Government did a complete and thorough examination of the threats our country will face in the future and the military capabilities we will need to face those threats.

While we are mentioning this, I also want to raise another real problem and that is the gross underfunding of cleanup and remediation of the bases. This has been short funded by literally billions of dollars. Let me make a couple of points.

It is estimated it will cost $1.3 billion to clean up the former McClellan Air Force Base in Sacramento. That process will not be finished until 2033. The cleanup of Fort Ord will not be finished until 2031. Castle Air Force Base will not be completed until 2038, and the list goes on.

What is the rush to close more bases that cannot be rapidly transitioned into civilian use because of the inability to fund remediation and cleanup of environmental hazards?

So I think Senator SNOWE made an excellent argument with respect to the need to take a good look at the overseas bases first—700 of them—and make some decisions with respect to where we are going in this new asymmetric war on terror and to leave intact America's bases for the next 2 years and then, in 2007, to consider an expedited round.

I am very proud to join with Senators DORGAN, LOTT, and SNOWE in this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. I rise in opposition to the Lott amendment and I yield myself such time as I may consume.

The PRESIDING OFFICER. The Senator may proceed.

Mr. ALLARD. Mr. President, we have to keep in mind that the main mission is to secure the safety of Americans both at home and abroad. I believe we are responding to the terrorist threat. We have stood up Northern Command in the military. We have set up a whole new Department dealing with homeland security.

At the very beginning of his administration, President Bush made it a priority to build and transform our military after 8 years of operation and maintenance funding shortfalls under the previous administration. Where does one get the money? If the bases and mission are being transformed, savings have to be figured somewhere. I think it is entirely appropriate, both at home and abroad, to review our mission.

I agree with many of the points that are being made on this amendment. We have to look at our bases overseas. Certainly our mission has changed considerably over there. As opposed to a large frontal assault, we are now dealing with a terrorist problem which requires a more mobile and modern military to address that threat.

We have the same threat at home, and we also need to look at whether bases at home are meeting the mission of the modern threat from terrorism. Those of us in the Senate have heeded the call of the President and I am pleased we are about to take the next step in maintaining a military fully capable of defending our Nation and meeting our foreign policy goals.

I continue to support the President's plan to transform our military. This authorization bill builds on the work we in the Congress have already accomplished toward that end. This amendment tends to undermine that effort.

I will take this opportunity to review where we are with BRAC. Congress granted the administration the authority in fiscal year 2002, that is the National Defense Authorization Act, to conduct a BRAC round in 2005, providing a critical opportunity to eliminate excess capacity and achieve additional savings that could be used to modernize and transform our Armed Forces to address emerging global threats.

The fiscal year 2002 National Defense Authorization Act improved the BRAC language from previous rounds to ensure future infrastructure satisfies emerging national security requirements and to correct earlier abuses of the process.

A 2002 GAO report on the 387 closures and realignments in four previous rounds; that is, in 1988, 1991, 1993, and 1995, reaffirmed that the Department of Defense generated a substantial net savings of somewhere around $17.6 billion, and expects the annual savings of $6.6 billion in fiscal year 2003 to grow.

DOD further estimated in March of 2004 that a BRAC round in 2005 will save $5 billion in 2011 and $8 billion annually thereafter. Now, BRAC is a key enabler for DOD transformation initiatives, including global basing and the rebalancing of Active and Reserve Forces.

I believe a delay of the 2005 BRAC round already underway delays the effort for us to modernize our forces. I cannot accept the argument that if we do not close bases that somehow or another we are better off. I think we need to have some savings. We need to save money. In the long run, there is going to be more money available for us to meet the changing threat from the terrorists that we now face today.

If we are serious about modernizing our facilities and being ready to meet the changing mission, we need to defeat the Lott amendment and we need to move forward with the provision that we have currently in the Defense authorization bill.

I ask my colleagues to join me in opposing the Lott amendment.

I yield back my time.

Mr. LOTT. Mr. President, how much time do we have remaining in support of the amendment?

The PRESIDING OFFICER. Those in support of the amendment have 16 minutes. The opposition to the amendment has 36 minutes.

Mr. LOTT. Mr. President, does Senator DORGAN wish to use some of the time at this point?

Mr. DORGAN. Mr. President, I would be happy to but I wonder if the opponents might want to use some of their time.

Mr. LOTT. How much time remains on the opposition side?

The PRESIDING OFFICER. There is 36 minutes.

Mr. LOTT. Senator LEVIN has not spoken and Senator INHOFE is here, so perhaps we could take some more time off the opposition.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I rise to speak in opposition to the amendment of Senator LOTT and Senator DORGAN. The first argument they make is that we ought to look first at overseas bases before we have our commission next year look at the domestic bases. I agree with that. I think it does make more sense to look at the overseas bases before we look at ours, and that is exactly what we provided for by law.

We have created a commission which will look at overseas bases and report back to the Department of Defense and to the Nation by the end of this year. That commission has now met and I believe they had their first meeting, in fact, this month and they have already scheduled a second meeting.

In terms of the argument that we should surely look at these bases all around the world before the commission which will be appointed next year looks at domestic bases, I think the argument is a good one, and we have provided for that argument.

The Global Posture Review, which is a requirement that the Department of Defense is now meeting, which is to see whether our forces are properly deployed around the world in order of addressing where the likely hotspots are, that Global Posture Review is also going to be completed this year. So there is a logic, there is a chronology, which meets the supporters' argument, the proponents of the amendment of Senator LOTT, that there is a sequence which should be followed.

We should first look at the overseas facilities before looking at ours is a sequence which we now have placed in law for many years. This, of course, has been in law and is now unfolding, as it was projected to unfold by law.

The Chairman of the Joint Chiefs and all of the chiefs have written us a letter. That letter has been printed in the RECORD. It is dated May 18, but I just quote from it to emphasize the importance of going through with a base realignment and closure round as authorized in the year 2001, and the importance to our uniformed military leadership.

The letter is addressed to Chairman WARNER. It says:

> We are writing this letter to emphasize our continued and unequivocal support for conducting a 2005 round of base realignment and closure (BRAC), as authorized by the Congress.
>
> The convergence of ongoing strategy and overseas basing actions, the transformational direction in all the services and force structure changes together afford us a once-in-a-generation opportunity to truly transform the Department's combat capability in an enduring way. A delay of this BRAC round, or a modification of the legislation that limits the Department's flexibility to execute it, will seriously undermine our ability to fundamentally reconfigure our infrastructure to best support the transformation of our forces to meet the security challenges we face now and will continue to face for the foreseeable future.

There is transformation going on. We are shifting to meet new threats—the best that we can foresee them. It has been argued that you can't perfectly foresee future threats. That is true. But that is surely no argument for not attempting to make the assessments in a thorough way, in a conscientious way, and then to structure your forces and to structure your infrastructure in a way that will most readily and most effectively meet those projected threats.

How can we reconfigure our military, which I think everybody recognizes is necessary in a new world of new threats, if we freeze into place the infrastructure that we have in this country? Somehow or other, the argument is made that because there are changes in the world, therefore we should not change, we should not allow our structures here to change. The opposite, it seems to me, is the case. The world has changed and changed dramatically, and the threats are very different. Surely we should not be frozen into our current structures here or around the world in response to a changing threat environment.

So the more we point out, and accurately so, and the more we argue how different the threats are following 9/11, it seems to me the more we should be willing to allow a process to work which first looks at our structures, our infrastructure, our base structure around the world, and then next year, after the foreign structures are looked at and the foreign bases are looked at, then our base-closing commission will look at the domestic bases.

I believe one of the Senators who spoke argued that the vote in 2001 came prior to 9/11 and that everything has changed since then. According to the information I have, our vote took place on September 25, 2001, 2 weeks after 9/11, the vote to sustain the title in the bill which authorized an additional round of base realignments and closures. I believe that vote—maybe my records are wrong here—took place after 9/11 and not before 9/11.

We also had a vote last year as to whether we should not proceed with another round of base closings. That vote last year also surely came after 9/11. We went through the same arguments, essentially, on our vote last year, whether the world has changed as to whether there are really savings that are created by the closing of bases.

On the savings point, I would simply give the best information available to us relative thereto. We have talked about the necessary closing of and realigning of bases in order to meet the new threats. But there is also a significant savings issue here as well. Here quoting from the Department of Defense report of March 2004, which we required, on page 55, this is the conclusion:

> The four prior rounds of base realignments and closures have generated significant savings for the Department of Defense. Through fiscal year 2001, the end of the four prior rounds' implementation period, the Department had accumulated net savings of about $17 billion over BRAC implementation costs from the closure and realignment actions approved in those four rounds.

Then the report goes on to say that:

> These BRAC-created savings continue, and the Department realizes recurring savings of almost $7 billion each year. These savings were realized even after environmental restoration funding was processed through BRAC accounts.

So the savings here are real. The necessity of closing unnecessary bases in order to meet new threats is real. It seems to me, as difficult as it is for all of us to confront the reality that some of our bases are in excess and do not meet the current threat situation, that we ought to proceed.

The amendment as written would require a new act on the part of Congress in order to restore a round of base closing. This is not a situation where the base closing is automatically going to take place. The commission would be allowed to recommend base closings in a future year. According to this amendment, it would require a subsequent act of Congress in order to restore a round of base closings in order to have a commission which would have the power to make those recommendations, both to the executive branch and to the Congress.

So this is not just simply a matter of delay, even though I think that would be a serious mistake. This is a matter of eliminating the round of base closings which is scheduled unless there is a subsequent enactment by Congress of a bill which would set up a round of base closing in the year 2007.

If we delay it or if we take the action that is proposed—technically more than a delay but actually a repeal in the absence of, subsequently, Congressional legislation—we will be leaving the bases in this country in limbo. It is hard enough. We all have bases in our States. It is difficult enough for our bases to go through this process, and we know that. We have all suffered some pain, some States more than others—my State a lot. But there is still a lot of real concern about the existing bases we do have in our State. But to simply say we are going to leave you in limbo for a few more years and then see whether Congress in 2007 adopts another round it seems to me is the worst of all worlds for everybody.

We have a need to realign bases. We have new threats. We have costs we cannot afford. It seems to me we have a process in place, which is a logical process looking first at the bases overseas, doing that this year through a Global Posture Review and through a report of a commission which specifically has been placed by law in operation to look at foreign bases, and then next year, according to a law which we passed in 2001, the next President, whether it is President Bush or whether it is President KERRY, would then appoint a commission that would look, in an objective way, at all of the bases, having before it the work of the commission which is looking at the foreign bases this year and having before it the Global Posture Review, which is being now adopted by the Department of Defense.

I want to close with another paragraph from this letter from the Joint Chiefs of Staff. Again, this was signed by every one of the Chiefs. It reads, in the second paragraph, as follows:

> A comprehensive overseas basing review is nearly complete. The continued concentration of forces in Cold War locations highlights the need for a global repositioning to locations that best support our strategic goals. In order to ensure that the Department examines its entire infrastructure, the rationalization of our domestic infrastructure as conducted by the BRAC process must closely follow the Global Posture Review.

In other words, we have a Global Posture Review which is being adopted this year, and for the BRAC process to be delayed or to be rendered uncertain at least until the year 2007 means there will be a disconnect between the Global Posture Review, which looks at our force structure around the world, a disconnect between that and the decision as to which bases to close.

Our chiefs say both efforts are necessary. Both efforts are necessary—the Global Posture Review as well as a BRAC process—for a genuine capabilities-based infrastructure rationalization and for further transformation of our war-fighting capabilities.

I yield the floor.

Mr. LOTT. Mr. President, I yield to the distinguished Senator from New Hampshire.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator from New Hampshire.

Mr. GREGG. Mr. President, I rise in support of the amendment of the Senator from Mississippi. I believe it is the proper process by which we should go forward with BRAC. BRAC is an extraordinarily complicated undertaking. I participated in four prior BRAC events and I can tell you from personal experience that it is intense, it is complicated, and it requires a great deal of planning and thought before it should go forward.

The Senator from Mississippi is proposing we make the logical step at taking what is the first first; specifically, that we look at those overseas bases and see how many should be addressed relative to closure; and if we decide that a series of bases overseas should be closed, it is more than likely that much of what they do and what they are responsible for will have to be moved back to the United States. When that returning of troops, materiel, and mission comes to the United States, that is going to adjust how we should approach the BRAC process here in the United States.

We all recognize there is excess in the military, although the last four BRAC processes have significantly reduced that. But we also should go forward in addressing that excess in an orderly and thoughtful manner. An orderly and thoughtful manner means you look at overseas bases first and decide which ones should be closed, and then look at domestic bases to determine whether they are going to have to take on new responsibility as a result of the closures overseas or whether they should also be closed.

It is, therefore, an extremely constructive proposal and one which I strongly support and look forward to voting for, and hopefully it will pass.

I yield the floor and reserve the time to Senator LOTT.

Mr. LEVIN. Mr. President, I yield 5 minutes to Senator McCAIN.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, here we go again. We have now been through this on several occasions in the past. These are tough decisions. I think people realize this could have significant impact on the economies of their States, and of their districts in the case of Members of the House.

But I think we need to again remind people that we are in a situation where the defense spending increases and our requirements to fight the war on terror in general and increased costs of the war in Iraq absolutely mandate that we do everything we can to institute savings for the American taxpayers as far as the expenditure of their tax dollars are concerned.

I don't in any way dispute the fact that when a base is closed it has a very significant and sometimes short-term devastating impact on a State or locality in which that base is located.

I do think it is well to point out that Taxpayers With Common Sense and the Center for Defense Information prepared an independent report which was released in October of 2001. There may be some surprise by those of my colleagues who are citing economic concerns as to why they oppose further base closure rounds. Of the 97 bases closed in four base closure rounds, 88 percent experienced per capita personal income growth as high as 36 percent, and averaging nearly 10 percent; 75 percent experienced gains in average earnings per job; 87 percent had positive employment rates; 68 percent beat the national average; the average job replacement rate of all bases closed is 102 percent; by the beginning of 2001, only 3 of the 97 counties had higher unemployment rates than the BRAC announcement year; and 53 percent had unemployment rates lower than the national average. I think it is important to put it in that economic context.

Far, far more important than that is the fact that we are going through a significant realignment to meet the post-cold-war needs and challenges.

The Department of Defense is well on its way to establishing an integrated commonsense basing strategy that will feed directly into the BRAC process. The Office of the Secretary of Defense is finalizing the decisions in the integrated global presence and basing strategy that will specify who will be coming back and who will be going forward as we transition away from a cold-war posture to a global war on terror posture.

The decisions from the new global lay-down would be precursors to and will greatly influence the BRAC process. It will take both processes acting in a close manner to optimize the deployment of our forces around the world. Delaying BRAC or disrupting the symbiotic relationship between the integrated global presence, basing strategy, and BRAC processes will ultimately minimize our efficiency in the combat effectiveness of our forces in fighting the global war on terrorism.

That is why the Joint Chiefs of Staff and the Secretary of Defense—all knowledgeable people who could be viewed as objective outside observers—agree that we have to move forward with this process. We have voted on it before. We will vote on it again, maybe, although I hope not between now and the time that is appointed. I don't think there is any doubt that at this particular time it would be a serious mistake for us to delay.

I add again that the economic benefits associated with base closure are generally very much more positive than negative. I hope my colleagues will understand the views of the Chairman of the Joint Chiefs of Staff, the Secretary of Defense, the President of the United States, and all others who strongly feel that we need to move forward with this process.

I look forward to seeing a list of the bases in my State when the Senator from Mississippi hands it out. As he handed out a list the last time, he left my State off the list. I hope he corrects that oversight this time.

Mr. VOINOVICH. Mr. President, I rise today to express my opposition to Senate amendment No. 3158, which intends to delay for 2 years the process of base realignments and closures that is set to begin in 2005.

Nearly 3 years ago, the Senate passed legislation calling for a round of base closures in 2005. I strongly supported that legislation, and I continue to believe it is important that we move forward with plans to realign and eliminate excess military infrastructure.

In March, the Defense Department estimated that we support a defense infrastructure that is in excess of 24 percent. Rather than continuing to pay for unneeded or duplicative facilities, our limited defense dollars can and should be better spent to meet the most pressing needs of our Armed Forces.

United States military forces remain engaged in Iraq and Afghanistan. An American military presence remains important in Asia, including Korea, and U.S. soldiers are deployed to support peacekeeping operations in Southeast Europe and other parts of the world. With such demands on our men and women in uniform, it is imperative that our military resources are directed to meet our most critical defense needs.

I agree with the chairman and ranking member of the Senate Armed Services Committee, Senator WARNER and Senator LEVIN, that we must move forward with implementation of the BRAC legislation that was passed during consideration of the fiscal year 2002 Defense Authorization Act.

Two years ago, the Armed Services Committee concluded:

> The committee believes that the arguments for allowing the closure of additional facilities are clear and compelling. The department has excess facilities. Closing bases saves money, and the military services have higher priority uses that could be funded with those savings.

This remains true today. The fact that we remain engaged in efforts to fight the global war on terrorism and promote peace and stability in Iraq, Afghanistan and other parts of the world, does not mean that we should put the BRAC process on hold. To the contrary, it makes action even more important. Now, more than ever, we need the resources that are spent to maintain excess infrastructure to meet more pressing defense needs.

Our highest-ranking military official, Chairman of the Joint Chiefs of Staff General Richard Myers, agrees with this assessment. In a letter to the Chairman and Ranking Member of both the Senate and House Armed Services Committees dated May 18, 2004, General Myers and the Joint Chiefs concluded:

> A delay of the BRAC round, or a modification of the legislation that limits the Department's flexibility to execute it, will seriously undermine our ability to fundamentally reconfigure our infrastructure to best support the transformation of our forces to meet the security challenges we face now and will continue to face for the foreseeable future.

Our highest-ranking men and women in uniform are requesting this authority so that we can best transform our military, moving beyond the cold war and preparing for current and future threats to U.S. national security interests at home and abroad.

Last week, I joined four of my Senate colleagues for a breakfast meeting with Secretary of Defense Donald Rumsfeld. During the meeting, Secretary Rumsfeld shared with us his vision for our global footprint. In an effort to better meet challenges to national security, the United States is changing its deployment of forces overseas. As the Secretary of Defense confirmed at that meeting, the realignment and closure of military installations, both at home and abroad, is critical as we look to continue that process.

As a result of prior rounds of base realignments and closures, through fiscal year 2001, the Department of Defense had accumulated net savings of approximately $17 billion. Savings continue annually, freeing up nearly $7 billion each year. These resources have been reinvested to meet urgent defense needs.

Given the fact that we still have a military infrastructure that is in excess of 24 percent, we can continue to generate even more savings with an additional round of base closures. The Defense Department estimates that an additional round of base closures could save more than $3 billion, with savings of $5 billion annually thereafter. Given these savings, there should be little doubt that additional rounds of closures will help to redirect expenditures where we need them the most.

As I have long advocated during my time in public office, I believe we should work harder and smarter and do more with less. That is what we are being asked to do. By maintaining excess and unneeded military installations, we are keeping scarce and critical resources from more important defense priorities. It just doesn't make sense.

Given the looming budget deficit, ongoing military operations in Iraq and Afghanistan, and other spending needs here at home, it does not make sense to spend billions of dollars each year on defense infrastructure that is not needed. We simply cannot afford it.

While I strongly support the BRAC process, I believe that every facility in Ohio can justify its existence on the merits, and I will work hard as a partner with local communities and my colleagues in Ohio's congressional delegation to support Ohio's defense installations.

I believe that base closures are essential to allowing our men and women in uniform to best serve the strategic and national security interests of the United States, and I strongly oppose any amendment that would delay the base realignments and closures process, or attempt to stop the process in its entirety.

Mrs. BOXER. Mr. President, I am proud to be a cosponsor of this important amendment to look at closing excess overseas military bases before moving forward on any future round of base closures in this country.

Over the past several years, I have consistently opposed additional rounds of base closures. The loss of a military base can have a devastating impact on local communities. This is not the time to subject our fragile national economy to the impact of another round—especially when the DoD is threatening to close one-quarter of our domestic bases.

In addition, I object the Department of Defense request for more base closures when it has failed to clean up former military bases shuttered during the previous four rounds. It will be decades before environmental remediation is complete at some former bases in California. The DoD must meet its responsibilities to the people of California before moving forward with any future rounds of base closures.

Given the ongoing war on terrorism and our current military operations in Iraq, now is not the time to close more bases. We must ensure that we have sufficient military assets to meet our growing challenges. At a time that our forces are stretched thin, it does not make any sense to waste resources in going forward with next year's round of base closures. These are uncertain times and it is impossible to know what the force structure of the U.S. military will be in the near future.

This amendment is a compromise. It allows the base closure process to move forward next year—but only for our installations overseas. It is logical to look at excess capacity overseas before looking at our domestic bases here at home.

I am proud to cosponsor this important amendment and urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Will the Presiding Officer kindly advise the Senate as to the time allocation remaining?

The PRESIDING OFFICER. The Senator from Mississippi has 14 minutes.

Mr. WARNER. And the Senator from Virginia?

The PRESIDING OFFICER. The Senator from Virginia has 18 minutes.

Mr. LOTT. Mr. President, would Senator WARNER be willing to yield 2 minutes to the Senator from Mississippi?

Mr. WARNER. Of course; whatever time our distinguished colleague wants.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I thank my distinguished friend and colleague for yielding to me, but especially I thank him for his leadership on this issue.

We have had experience with base realignment and closure rounds in my State over a period of years, and not ad infinitum but ad nauseam.

Economically, these have been disasters for the communities and the States because they required the hiring of consultants and advisers to try to come in and prepare the defense for the bases that are located there. It is a flawed process. It has not worked well. It needs to be changed.

Senator LOTT has pointed to a very real and important concern; that is, the enormous expenditures we are making overseas for bases and facilities, many of which are outdated, many of which were placed there because of cold-war concerns and NATO responsibilities which no longer exist.

We are seeing troops shifted from European facilities to new facilities in Italy because that is closer to where the action is in the Persian Gulf area or the Middle East.

We see changes being made, and the Congress has a role to play annually to authorize expenditures and to appropriate the funds for these changes. At any time, if the Congress believes we need to change those policies, we can make those changes legislatively. If the President believes that is inappropriate, he has the veto power. We do not need to turn this over to an unelected commission with no direction from the Congress.

This amendment gives some direction. First, look at our bases overseas, and let's make decisions about how we can improve and make more proficient our deployments there, and then consider proceeding to a base closure and realignment in the United States.

This amendment makes good sense. I compliment my friend, and I urge Senators to support the amendment.

Mr. WARNER. Mr. President, some colleagues have represented that this BRAC, which is law today, preceded September 11. The record is very clear: Congress authorized BRAC in December of 2001. After careful discussion with DOD as to whether we still require and should proceed, eight former Secretaries of Defense wrote Congress in 2002 that support for another round is unequivocal in light of the terrorist attacks of September 11, 2001.

I hope that is right in the RECORD. I hope it does not influence the earlier statements some of my colleagues made. This situation is extremely serious. If we were now to virtually repeal that law in many respects and thrust upon these communities the enormous expense to continue to try and work their cases such that BRAC does not take their case, I commend them for it. It is essential they do that. But the cost is enormous to so many small communities.

This question of the overseas bases, we all recognize that structure has to be brought down. Our Nation's basic defense policy for years has been to engage our adversaries beyond our shores. To do that, we had to have a base structure. We are now addressing how with terrorism there are no boundaries to the threats. This country no longer is protected by two mighty oceans. It is a one-world terrorist threat, and every single American citizen is on the front line in the war on terrorism. No one is behind any barricade anymore.

The Pentagon recognizes this and is beginning to restructure our overseas base forces in such a way as to reduce and bring the forces back home and to have fewer and fewer installations. But they have to integrate that into the various procedures now going on, consistent with the law of the land, the BRAC that we passed. For instance, General Jones and General LaPorte testified before the Armed Services Committee this year on their plans in Europe and South Korea, respectively, to draw down and consolidate forces at each location.

The committee has also received testimony from department heads to submit their Global Posture Review to Congress within the next 3 weeks. It is on target.

I wish to accord the opportunity for other Members to speak, including the Senator from Alabama, a valued member of our subcommittee.

Mr. INHOFE. I ask unanimous consent I be allowed to speak after the Senator from Alabama.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, it has been a great pleasure for me to work with Senator WARNER, the chairman of this committee, and Senator LEVIN, the ranking member.

This BRAC issue has been one we have debated for quite a number of years, and one to which all Members have given serious consideration.

Like a lot of Senators, we have military bases in my State. Year after year, month after month, we had the top military officers in the country telling members we needed to be able to spend our money more effectively; that they should be allowed to reconfigure our base structure; that it could save money and make this Nation stronger.

I became convinced that was true. And that is why—in December of 2001 we had that vote—I voted for this idea.

I led a delegation last month to Europe. We visited 12 installations in Europe. We talked with GEN Jimmy Jones, the Supreme Allied Commander of Europe, and heard from him about his vision for major drawdowns of our force strength in Europe, consolidation of bases. We could reduce that number by two-thirds. A huge number needs to be reduced and consolidated in Europe.

We can bring home, in my view, both infantry divisions and probably other troops, too. Troops from the Pacific can be brought home and maintained in the United States so we can keep expeditionary bases around the world.

That is part of what they are planning this very moment. It will not be long, and we will hear their report. I think it will be bold. I don't think it will be a little-bitty deal. I think they will recommend substantial alterations of past policy.

We do not have the threats in Germany that we had when the Soviet Union existed. It is not there. We can be much lighter in Europe, and we can be much more effective in our deployment of forces, keeping much larger numbers of people in the United States. I don't see a conflict between allowing this to happen at the same time.

In fact, General Jones said to us in our conversation, he envisioned it happening at the same time. In other words, we would reconfigure American bases while we were drawing down the foreign bases, and we would make our decisions about where they will go as we restructure and transform existing defense basing structure in the United States. That is the right way to go.

I have been checking in my State, and some other Senators have heard from their States. People are ready to get this over with. It has been out there for several years. The communities have worked on their bases. They have developed plans and arguments and ideas to demonstrate to the Department of Defense why they have an enduring installation. That has been good and healthy and they are prepared to do it. To delay again is not wise. We voted this down before.

I have the greatest respect for the Senator from Mississippi, my neighboring State, but this is the right thing to do. I take no pleasure in it, but it is not like in the mid-1990s when we were reducing the number of personnel in the military by 40 percent and reducing equipment and capabilities at the same time. We are still increasing our Defense Department.

What General Schoomaker envisions is a young person enlisting in the Army. They can stay at a major enduring base for 7 years without having to move his or her family around. They can be promoted and be trained. Units can remain with their integrity and their training capability for much longer periods of time than we have today.

Fewer, more properly configured bases can help strengthen the Nation's defense. That is why I have concluded it is right for America. It is the right way to strengthen our national defense.

Do not let anyone say this BRAC process in some way weakens defense. I would never vote for it if I thought that was so. In fact, all the uniform commanders say this will help make us a stronger America.

I thank Chairman WARNER for his leadership and courage in this matter. He certainly has bases in his State, as I do. But we believe it is the right procedure, after having heard the testimony in the Armed Services Committee.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank my distinguished colleague. Yes, we are very proud of our base structure. Almost every one of our communities now has engaged the lobbyists, and so forth. Listen to this, I say to the Senator. Delaying BRAC benefits one group; and that is, the lobbyists and the consultants paid by these communities and, indeed, State taxpayers.

The Congressional Research Service has estimated over $23 million will be spent in fiscal 2004 to pay lobbyists and consultants for services to defend installations. A delay of BRAC by 2 years will cost the taxpayers of one State, that is paying a firm $50,000 a month, over $1.2 million.

There is the debate.

Mr. SESSIONS. Will the Senator yield for a question?

Mr. WARNER. Yes. We better check on the time.

Mr. President, how much time, please, does the Senator from Virginia have?

The PRESIDING OFFICER. There is 6 minutes.

Mr. WARNER. There is 6 minutes. My distinguished colleague from Mississippi?

The PRESIDING OFFICER. There is 14 minutes.

Mr. WARNER. There is 14 minutes.

Mr. INHOFE. Mr. President, under a unanimous consent agreement, I am to be recognized, so I do have the floor now, but I will yield to the Senator from Virginia.

Mr. WARNER. I beg your pardon. I say to the Senator, you have the floor now?

Mr. INHOFE. Yes.

Mr. LOTT. He had a unanimous consent earlier to go after Senator SESSIONS.

Mr. INHOFE. I will be glad to let you go first.

Mr. WARNER. I will step down.

Mr. SESSIONS. I will yield the floor.

Mr. INHOFE. No. That is fine. I want to be sure I keep my UC in place. I do not want to lose it.

Mr. SESSIONS. I was going to suggest for the lobbyists, it is time to bring that to an end. As some wise person told me in Alabama, they exist to blame the politicians if they close the base, and to claim credit if it is not closed.

Mr. LOTT. Mr. President, I yield 4 minutes to the Senator from Oklahoma, if he needs that time.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I wish the Senator from Alabama would stay on the floor for a minute.

First of all, I direct this statement to my chairman, whom I deeply respect. There are three amendments floating around right now. There is a lot of confusion as to which one we are voting on now.

I say to the Senator, your statement, the statement from the Senator from Virginia, and the Senator from Alabama, if, in fact, this is a 2-year delay, I would agree wholeheartedly. For all the lobbyists in there—and I have five major installations in my State of Oklahoma—if this is a 2-year delay, as I have said publicly before, and as I said as recently as our policy meeting, I would say let's go ahead and do it, and do it now.

It is my understanding—and I would certainly yield to anyone who disagrees with this—this is killing this BRAC round; that if it should become necessary to have it, you would have to reauthorize it in 2007. That is now my understanding. It is not a delay. This is not the House language. I would like to ask if there is anyone who would correct me. If I am wrong, I need to know it.

Apparently, I am not.

Let me ask the author of the amendment.

Mr. WARNER. Let's ask Senator LOTT, who authored it. As I read it, there is a 2-year delay.

Mr. LOTT. This amendment is not the same as the House language, which is a 2-year delay.

Mr. INHOFE. That I realize.

Mr. LOTT. This amendment says when you get the global review, you would go forward with a BRAC for overseas bases, and then have the domestic round, presuming that is completed. It is not a 2-year delay. It could be that we would go forward with it after only 1 year. If the realignment in force restructuring that is going on globally would occur next year, then it could go forward next year.

Mr. INHOFE. This kills it, and it has to be reauthorized; is that correct?

Mr. LOTT. That is correct.

Mr. INHOFE. All right. Mr. President, I ask that time not be taken away from my time because I feel very awkward about this. The Senator from Alabama talked about spending time with General Jones, which I did over there. I have spent quite a bit of time, and I think I have a pretty good idea of what is going on. I have actually been to Bulgaria and Romania and Ukraine, looking at how we are going to restructure and bring home our troops who are stationed for these 2- and 3-year periods with their families, so we could actually get out there and have short deployments so they would not have to take their families with them. I think General Jones is right on target. That is going to have a tremendous effect on what we do in terms of base closures.

I answered a whip check, and I want to correct it right now, so everyone knows that whip check was not worded properly. It said: Would you support defeating a 2-year delay? I would support defeating a 2-year delay for the very reasons that have been outlined here, that we do not want our communities to have to continue to go through that.

But if you will remember the debate we had when I vigorously opposed having this fifth round, I used the argument that we are going to be changing our force structure, that we are going to be making changes that might make us relook as to what we are going to do in our installations here in the United States.

I was elected to the House in 1986, so I was there during the formulation of the BRAC process. I was a staunch supporter for the first three rounds. For the last one, I did not like the way it went. It became political. I have had the fear that would happen again. We closed some 97 installations in the last four rounds, and that is not only low-hanging fruit; a lot of great installations that were closed.

I believe, if this amendment kills it, and it would have to be reauthorized after such time that we know what the restructuring looks like, that I will support this amendment. I am going to find out between now and when the vote takes place if I am correct. But I believe my understanding now is correct.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LOTT. Mr. President, since we have more time, I believe, remaining on this side, the side of the proponents of the amendment, I yield such time as he may consume—the remainder of that time—to Senator DORGAN, who has been very much involved and a leader in this process for several years.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I thank my colleague from Mississippi for his leadership on this amendment.

Let me address a few of the issues that have been discussed. First of all, 5 days before September 11, 2001—5 days before September 11—the first vote occurred in the Senate on this BRAC round. It was September 6, and it was a vote in the Senate Defense Authorization Committee. That first committee vote, 5 days before September 11, 2001, is what propelled a base-closing commission proposal to the floor of the Senate.

The opponents of this amendment are quite correct when they say the final vote of the Congress occurred after September 11. But the origin of this, including the vote in the authorizing committee, occurred before September 11.

The reason I make that point is this: Things are changing. The world has changed. I will bet on September 6, 2001, there was not one member of the Armed Services Committee or a Member of the Senate, and I will bet not one person serving in the Pentagon, who would have predicted that within a matter of months we would be occupying an old Soviet air base in Uzbekistan in order to house our troops to prosecute a war in Afghanistan. No one would have predicted that. No one would have had the foggiest idea that was in front of us. Yet the world has changed.

We now fight a war against terrorism. We fought a war in Afghanistan, quite successfully. We are now fighting a war in Iraq. The world is changing. So our force structure will likely change. Our basing decisions will change. We no longer have a cold war with the Soviet Union. The Soviet Union is gone, it has disappeared.

So what next? Well, my feeling, and the reason I support this amendment and have worked on this amendment, is we ought to do first things first. I have voted for four previous base-closing rounds. My colleague from Oklahoma said we have voted to close some 97—nearly 100—military installations. I have voted for all of that, as I believe have most of my colleagues. So I am not a bit unwilling to vote to close military installations. We have done that on four occasions.

In this case, however, as I said, the world is changing very rapidly. I would ask the question of my colleagues if, in fact, there has been all of this activity about reevaluating overseas bases, given the changes in the world, and the fact we are no longer in a cold war, why, then, do we have nearly 100,000 troops still in Germany? Why?

My colleague from Alabama said, well, we could bring a lot of those folks back. I think he said we could probably bring a half to two-thirds of them back to this country.

Well, here is what the Congressional Budget Office said. It said: The U.S. Army has little or no excess capacity at bases in the United States. The need to house forces in the U.S. that are now stationed overseas could preclude some base closures.

So if that is the case—and it is—wouldn't you do first things first? Wouldn't you decide what it is you are going to do with overseas bases first so you understand what your obligation is with respect to bases here at home? If you are going to bring 50,000 Army troops from Germany back to American soil, where are you going to put them? Wouldn't you want to make those decisions before you have a base-closing commission here for domestic bases?

And one other point, I wonder if perhaps, with respect to the international war on terrorism, and the substantial need for homeland security, which we did not spend so much time thinking about years ago, I wonder if when we talk about domestic military installations whether we might not think about them in a slightly different way.

Perhaps we need more. I don't know. I would sure like all of these to be handled and discussed and debated and thought about in a logical way. Frankly, that has not been the case.

We have a very large Federal budget deficit. We are now going to be asked for a $25 billion reserve fund to fund the war in Iraq. The Congress is going to provide that. We are not going to ask the American men and women in uniform to go in harm's way and then not provide the funds that are necessary. But at a time when we have a very large Federal budget deficit and the need to provide funding to prosecute the war in Iraq, a base-closing commission next year will result in us spending more money, not saving money, spending more money. If you question that, look at all the previous rounds and ask yourself what the result has been of those rounds in the years following the round. It cost us more money to proceed with the recommendations of the BRAC Commission.

The Senator from Oklahoma asked the question: What is this amendment? The amendment is very simple. The amendment says the 2005 BRAC round shall proceed, but it shall proceed to evaluate and recommend realignment and closure only with respect to overseas bases. Why is that the case? Because that ought to be done first. First things first, but put the horse in front of the cart, evaluate what are the international, what are the worldwide needs and interests of our country with respect to our military troops and installations, and then from that you will determine what kind of military installations and needs you have in this country domestically.

That is what our amendment does. It provides for the 2005 round to proceed with respect to overseas bases. Then secondly it says, following that report and disposition of its recommendations by the Senate, a motion will be in order by someone who wishes to propose a motion for a new BRAC round. Under expedited procedures, that motion shall be considered, and there shall be a vote of the Senate on whether to implement another BRAC round. The Senator from Oklahoma, with respect to the question he asked, was absolutely correct.

I have great respect for the chairman and ranking member of this committee. They do outstanding work. They are both wonderful legislators, and I regret that we find ourselves on different sides of this question. I have great respect for their position. But I believe, as do many of my colleagues who have spoken today, that the better course for this country, given what we face, our challenges and the circumstances that now exist, would be to proceed with the amendment, have an overseas BRAC round next year, decide what it is we want to do internationally with overseas bases, and then proceed from that basis and make further judgments.

I yield the floor and reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I say to my good friend, he has correctly described how this operates, but the reality is, by killing the domestic BRAC program and putting it in abeyance subject to a future vote by the Congress—and mind you, any Member of Congress can trigger that vote; am I not correct?

Mr. DORGAN. That is correct.

Mr. WARNER. All Presidents have supported BRAC. You know that message is coming up. So what happens to the lobbyist? He tells the community: Keep me on the payroll, that vote is coming, and you do not know which way that vote is going to go. They will breathe fear into these communities, unlike anything before, to keep those lobbyists on the payroll. Those communities will be shelling out the money year after year.

I will close with the following comment: We are to soon receive a letter which will have this statement in it: Base Realignment and Closure, BRAC—the administration strongly opposes any provision to modify, delay, or repeal the BRAC authority passed by the Congress 3 years ago. If the President is presented a bill that modifies, delays, or repeals the BRAC authority, the Secretary of Defense, joining with other senior advisers, would recommend that the President veto the bill. Rather than waiting for the resolution of infrastructure issues as proposed by the committee, BRAC needs to move forward so it can be done in concert with such a resolution. A delay would postpone the achievement of a basing structure more suited to 21st century threats and delay billions and billions of dollars in savings. The current excesses in base and facility capacity create unnecessary demands on the Department of Defense resources needed to maintain military readiness and transform for the future.

I yield to my distinguished colleague from Michigan.

Mr. DORGAN. How much time remains on both sides?

The PRESIDING OFFICER. The Senator from Mississippi controls 2 minutes 22 seconds. The Senator from Virginia has 3 minutes 55 seconds.

Mr. WARNER. I yield that to my distinguished colleague from Michigan.

Mr. LEVIN. Mr. President, there has been a number of votes on BRAC. Just to clarify, it was not just that the Congress voted to keep a BRAC process going after 9/11; the Senate itself, on September 25, 2001, voted to table an amendment which struck the BRAC title. That was after 9/11. It was the Senate itself that voted on that.

Secondly, the point about first things first, it seems to me, is right. We ought to consider overseas bases first. That is why we created a commission last year in the 2004 appropriations bill, the MILCON appropriations bill. We appointed the Commission on Review of Overseas Military Facility Structures of the United States. That commission is meeting now. That commission is going to make a report this year. First things first, that is exactly what we are doing with that commission—reporting first on overseas structures.

The real question is whether we get to the second thing. This amendment kills BRAC. I think the sponsors have clarified it. This kills BRAC unless there is, as the Senator from Virginia points out, a vote in 2005 to have a BRAC process. That will be the vote that all of the lobbyists will be pointing to. Every one of our States has bases. A lot of those bases are nervous. They have hired people to lobby us. Now the focus will be on a 2005 vote. So the cost to the communities to keep this pot boiling will continue. The communities will be left in limbo because these bases' future will be uncertain.

The vote in 2005 will be certain. The outcome will not be certain, but there will be a vote in 2005. We know that because of the amendment language. So the beneficiaries of this amendment are the lobbyists and representatives of the communities, the communities kept nervous, kept in limbo. Keep the pot boiling; don't resolve this issue. The only argument to do that is first things first.

We did that. We have our overseas basing commission in place, appointed, meeting. That is the logical process. We ought to let it play out.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I yield 1 minute to the Senator from Texas.

Mrs. HUTCHISON. Mr. President, I think the administration has begun to address the overseas basing issue. I have visited bases, as have many of my colleagues. I have seen training constraints where you don't have the airspace to stay in training or you don't have the artillery range to stay in training. We have not had enough time to fully look at overseas bases and also know what our end strength is going to be. We don't know right this minute what our end strength is going to be and our force structure because we are having to adapt to some incredible changes in our security environment.

We are going to have the last round of BRAC at some point, but it needs to be at the right time, and it needs to be done right. The Lott amendment would give us that extra time to make sure we do it right.

The PRESIDING OFFICER. Who yields time?

Mr. LOTT. Mr. President, I yield myself the remainder of the time.

This commission on overseas bases is a Global Posture Review. It is not a closure or realignment process. It is a review of requirements that should then inform an overseas base process. But it is not a base closure. This commission which reports in December guarantees that nothing will happen. I want to make sure everybody understands that. We are trying to get an overseas realignment and base closure process.

Secondly, I am shocked with all this talk about the key factor here is the lobbyists: We don't want our communities or States to keep these lobbyists who are going to be working to try to keep the commission from closing this base or that base. I really can't really believe that has been the argument.

I have an answer to that. Take them off the payroll. I know how it has been working. Some of these people have been paid for 4 years, and there has not been a BRAC process underway. That is why we are here. We are here as representatives of the people. We do not need these people on the payroll. Surely, that is not the best argument.

I guarantee this: Some of the communities, some of the bases, some of the people will say this will give us 2 more years, at least, on life. We will take those 2 years. The very idea of "shoot me and get it over with" when, as a matter of fact, some of these bases are really needed—CBO has said there is not excess capacity.

My last point is, if we are going to have a base-closure process, target the excess bases; do not target every base in America. I urge we adopt this amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WARNER. All time has expired?

The PRESIDING OFFICER. The Senator from Virginia has 1 minute 26 seconds remaining.

Mr. WARNER. Mr. President, I simply say to my good friend, a very valuable adviser for these many years, this BRAC legislation is to take Congress and remove it, once we make the decision to go forward with a BRAC, because the very essence of BRAC was so distorted by a certain political individual some years ago.

I have to tell my dear friend, it took a lot of effort to get this law in place. To dislodge it and terminate it, as this amendment does—this is a killer amendment to BRAC—and then leave in limbo these communities with 2 years of uncertainty, not being able to attract business, not being able to do things in their community, with this cloud over their head as to the probability or improbability of their base remaining, is a dangerous situation.

Mr. LOTT. Mr. President, has all time expired?

Mr. WARNER. I will be happy to grant my good friend——

Mr. LOTT. Mr. President, I ask unanimous consent that I have an additional 30 minutes.

Mr. WARNER. Thirty minutes?

Mr. LOTT. Thirty seconds, to wrap up this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I want to emphasize again, think about what we are doing. Think about the time. Think about how much has happened in the last 2 years. Think of the troops, the Reserve and Guard forces in Iraq and Afghanistan. Think about the families, the mothers, and communities already very much concerned about the future of our military men and women, where they are going to be, and now add this to it. I think the timing is wrong. To say we are not going to even identify what bases will be subject to this review is not the way to go.

I say again, think about these issues. I do not think we have any guarantee overseas bases will be realigned. I have evidence to indicate they will have the same numbers overseas in 2025. We have heard a lot of talk about realignment overseas and restructuring. It has not happened. This will make sure we first have overseas bases realigned and a new structure and then the domestic bases.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LOTT. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 3158. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from Kentucky (Mr. BUNNING) is necessarily absent.

I further announce that if present and voting the Senator from Kentucky (Mr. BUNNING) would vote "yea."

Mr. REID. I announce that the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KERRY), and the Senator from New Jersey (Mr. LAUTENBERG) are necessarily absent.

The PRESIDING OFFICER (Mr. SMITH). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 47, nays 49, as follows:

[Rollcall Vote No. 98 Leg.]

YEAS—47

Baucus
Bayh
Bennett
Bingaman
Boxer
Breaux
Burns
Campbell
Chafee
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
Dodd
Domenici
Dorgan
Durbin
Edwards
Feinstein
Fitzgerald
Frist
Gregg
Hatch
Hollings
Hutchison
Inhofe
Johnson
Landrieu
Lott
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Sarbanes
Schumer
Snowe
Specter
Stabenow
Stevens
Sununu

NAYS—49

Akaka
Alexander
Allard
Allen
Biden
Bond
Brownback
Byrd
Cantwell
Carper
Chambliss
Coleman
Cornyn
DeWine
Dole
Ensign
Enzi
Feingold
Graham (FL)
Graham (SC)
Grassley
Hagel
Harkin
Jeffords
Kennedy
Kohl
Kyl
Leahy
Levin
Lieberman
Lincoln
Lugar
McCain

McConnell
Miller
Nickles
Reed
Reid
Roberts
Rockefeller
Santorum
Sessions
Shelby
Smith
Talent
Thomas
Voinovich
Warner
Wyden

NOT VOTING—4

Bunning
Inouye
Kerry
Lautenberg

The amendment (No. 3158) was rejected.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SMITH). Without objection, it is so ordered.

Mr. WARNER. Mr. President, I thank all Senators for their cooperation today. We made some progress on the bill. But at this time, on behalf of the leader, I ask unanimous consent that the Senate now proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Mr. President, reserving the right to object, and I will not object, I want the RECORD to reflect we were prepared to go ahead with our amendment this evening for debate and discussion. I understood the Senator from New Mexico had an amendment. We were here at 3:30 or so, 4 o'clock. I was reminded by our ranking member about the desire to move ahead on the Defense authorization bill, so I want to be sure the ranking member and the floor manager of the bill, my friend and colleague, knows we are here ready to go with an amendment. It is an amendment of very significant importance about the Iraq policy. We were prepared to debate that amendment this evening and have discussion about this matter. I want to say, I certainly want to cooperate with the floor manager.

We are all looking forward to the hearing tomorrow morning at 8:30, when we will have General Abizaid and General Sanchez, and others—General Miller—who are going to be there, which will necessitate my attendance. I want to cooperate in every way, and will certainly, but I do want to indicate many of us who feel strongly about this issue and the importance of it were prepared to deal with this through the evening time. But it is evidently the wish of the floor manager to bring us into morning business. I would like to ask if I cannot at least have my amendment pending after the Senator from—as I understand, the Senator from New Mexico had intended to offer an amendment. As the floor managers remember, I tried to follow that Senator, considering the fact we had the Lott amendment, and then the Domenici amendment, that we might have an amendment from over on this side.

I want to try to work it out, but I do want to try to at least find out if we can get in the queue on this issue so we can notify our Members. I am inquiring from the manager if we cannot at least get the amendment pending after the disposition of the amendment of the Senator from New Mexico, before we go into morning business.

Mr. WARNER. Mr. President, in reply to my distinguished colleague on the Armed Services Committee, at this time I am not in a position to suggest how we proceed tomorrow, other than to say we, as a matter of comity, will rotate one amendment to another. The pending business, of course, at this time on this bill is the Lautenberg amendment. I would presume if that is disposed of tomorrow, then we would go to an amendment on our side, and we would then come back to your side.

But at this time I would not be able to participate in trying to line up with certainty any amendments other than the fact that the Lautenberg amendment is the pending amendment.

Mr. KENNEDY. Mr. President, I will not object, although it is perfectly satisfactory with the Senator from New Jersey for us to move ahead in the way I have outlined here, but if the chairman, the Senator from Virginia, wants to proceed in that way, it is obviously his right to do so. I am going to ask at least that my amendment get sent to the desk, not that it be in order but that it be sent to the desk prior to the time we go into morning business, if that is agreeable with the Senator, so it can be printed in the RECORD.

Mr. WARNER. Mr. President, at this time I am not prepared to enter into any unanimous consent request.

Mr. KENNEDY. Well, Mr. President, then I object.

Mr. WARNER. Filing is a Senator's right.

Mr. KENNEDY. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

The Senator from Virginia has the floor.

Mr. KENNEDY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Virginia has the floor.

Mr. WARNER. He can file, but I did not hear the word "file."

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. There is no quorum call.

Mr. REID. I apologize. I thought there was. Will the Senator yield so the Senator can send his amendment to the desk?

Mr. WARNER. The Senator participates in the withdrawal of the quorum call. Yes, the quorum call can now be withdrawn. I ask unanimous consent that the quorum call——

The PRESIDING OFFICER. There is no quorum call. The Senator from Virginia has the floor.

Mr. REID. Mr. President, there is a unanimous consent request pending?

Mr. WARNER. That is correct.

The PRESIDING OFFICER. That is correct.

Mr. KENNEDY. Mr. President, I ask unanimous consent that my amendment to this legislation be printed at the appropriate place at the end of the discussion on this legislation here today.

Mr. WARNER. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 3174

(Purpose: To require a report on the efforts of the President to stabilize Iraq and relieve the burden on members of the Armed Forces of the United States deployed in Iraq and the Persian Gulf region)

On page 247, between lines 13 and 14, insert the following:

SEC. 1022. REPORT ON THE STABILIZATION OF IRAQ.

Not later than two weeks after the date of the enactment of this Act, the President shall submit to the congressional defense committees an unclassified report (with classified annex, if necessary) on the strategy of the United States for stabilizing Iraq. The report shall contain a detailed explanation of the strategy together with the following information:

(1) A description of the efforts of the President to work with the United Nations and the North Atlantic Treaty Organization to provide relief for the nearly 150,000 members of the Armed Forces of the United States who were serving in Iraq as of May 2004, including efforts to ensure that—

(A) more military forces of other countries are deployed to Iraq;

(B) more police forces of other countries are deployed to Iraq; and

(C) more financial resources of other countries are provided for the stabilization and reconstruction of Iraq.

(2) As a result of such efforts—

(A) a list of the countries that have committed to deploying military and police forces;

(B) with respect to each such country, the schedule and level of such deployments; and

(C) an estimate of the number of members of the Armed Forces that will be able to return to the United States as a result of such deployments.

(3) A description of the efforts of the President to develop the police and military forces of Iraq to provide relief for the nearly 150,000 members of the Armed Forces of the United States who were serving in Iraq as of May 2004.

(4) As a result of such efforts—

(A) the number of members of the police and military forces of Iraq that have been trained;

(B) the number of members of the police and military forces of Iraq that have been deployed; and

(C) an estimate of the number of members of the Armed Forces of the United States that will be able to return to the United States as a result of such training and deployment.

(5) An estimate of—

(A) the number of members of the Armed Forces that will be required to serve in Iraq during each of the first five years following the date of the enactment of this Act; and

(B) the percentage of that force that will be composed of members of the National Guard and Reserves.

MORNING BUSINESS

Mr. WARNER. Mr. President, I repeat, I ask unanimous consent that the Senate now proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. WARNER. Mr. President, I would like to say, with regard to our distinguished colleague from New Mexico, he had an amendment, and I would hope tomorrow in the course of the day, that amendment could be cleared. I do not believe it would require a rollcall vote. I wish to give that assurance to the Senator from New Mexico.

Am I correct on that?

Mr. LEVIN. Mr. President, if I could respond to my good friend from Virginia, we are hoping to clear that amendment. I believe it can be cleared. I hope it can be cleared. But apparently——

Mr. DOMENICI. Mr. President, I was going to say, frankly, I never withdrew it. We had a discussion about it, and you asked me something, but I do not think I ever formally said it. They said at 3:05 it was withdrawn. I do not remember at 3:05 being on the floor.

Mr. WARNER. Anyway, I say to the Senator, you have my assurances I will endeavor tomorrow to have that amendment adopted.

Mr. DOMENICI. Fine. And I have no doubt you will.

Mr. WARNER. Mr. President, I say to the Senator, thank you very much. I thank my colleagues.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

PROMPT TRIAL OF SADDAM HUSSEIN

Mr. SPECTER. Mr. President, I have sought recognition to discuss a matter which I have talked to executive officials about, and my colleagues in the Senate about, and that is to urge consideration for a prompt trial of Saddam Hussein.

The judgment, I think, is correct to try Saddam Hussein in Iraq so the people of Iraq and the people of the world will have confidence in what happens at a trial. It has obviously been difficult to constitute a judicial tribunal to try Saddam Hussein. But now, as we are approaching June 30 and the prospect of the transfer of sovereignty—and there is proceeding for an interim government and a constitution—I think the time has come to lay the groundwork for a trial of Saddam Hussein.

I believe it would be very salutary to have on the public record the atrocities where Saddam has been charged: crimes against humanity; genocide; murder; torture; embezzlement; public corruption; conspiracy to murder Israelis by soliciting suicide bombers and paying their families once the suicide bombing was completed.

There is no doubt the United States and the coalition of the willing—Great Britain and others who have supported the United States—have been subjected to a great deal of criticism in world public opinion, and especially in the Arab world. It is my thought that much of that criticism would be dissipated if there was presented in a public trial the evidence of Saddam Hussein's atrocities.

We have had a great deal of speculation on the issue of weapons of mass destruction. Just yesterday, a casing was found which contained chemical substances, a question as to whether that weapon of mass destruction was in Saddam's hands immediately before the war began.

We know with certainty that Saddam Hussein had weapons of mass destruction in December of 1998 before he kicked out the United Nations. This may have been an old shell or it may have been a recent shell. The issue of weapons of mass destruction is still subject to speculation. Yet evidence may be established that Saddam did, in fact, have weapons of mass destruction when the United States and Great Britain and the coalition of the willing moved against Saddam Hussein. Once the evidence is submitted of the atrocities of Saddam Hussein, I believe the issue of weapons of mass destruction, while still important, will recede into the background.

We have had the issue raised, and properly so, of the abusive treatment of Iraqi prisoners. Those investigations have to be pursued and the guilty have to be punished. We have seen the brutal assassination, murder and beheading of Nicholas Berg, and we have seen the Secretary of State Colin Powell roundly criticize the Arab world for not condemning that brutal assassination.

I have had an opportunity recently to view a video which purports to be atrocities by Saddam Hussein on film, the ghastly, ghoulish beheading of a man purportedly in Saddam's custody. I say "purportedly" because I haven't seen the authentication of the tape as acts committed by Saddam's henchmen or Saddam's subordinates. But a trial would bring out the evidence as to what Saddam did on genocide. A trial would bring out the specifics of the use of weapons of mass destruction against the Kurds, Saddam's own people. A trial would bring out the use by Saddam Hussein of chemical weapons against Iran in the Iran-Iraq war. I had occasion to talk to a man, an Iranian who recounted an incident where he was the victim of a chemical attack by Iraqi forces under the control of Saddam Hussein. A trial of Saddam Hussein would disclose the specifics on the torture he committed and the embezzlement and secreting of vast wealth which belonged to Iraq, deposited in foreign accounts, great sums of cash which were found by U.S. forces when Iraq was invaded.

It would be my hope that plans would be made now for the prosecution of Saddam. A prosecution will take some time to prepare. We couldn't proceed to have a trial realistically before June 30. But if we set in motion now the works to establish a court, security would be a matter of considerable concern. Judges have to be designated. Prosecutors have to be designated. There would be the opportunity for defense counsel. There has been some speculation as to some counsel already having been designated or in the process of being designated. But this would be something that ought to be accomplished at a very early date.

I have had some experience in the criminal process. From the experience I have had, it would not be all that complicated, once you have the provisional government established, a court, give it criminal jurisdiction, which it could be granted under the appropriate Iraqi procedures, and the designation of the trial judge or the designation of prosecutors, to move on with the trial.

I think once the details of Saddam's brutality are put on the public record, it would have a very profound effect on world public opinion, including Arab public opinion. I think it would put in an understandable light the action by the United States in toppling Saddam Hussein in the interest of stability in the Mideast and in the interest of bringing a violent perpetrator to justice. There is no doubt that it is very painful to see the casualties and fatalities of our service men and women in Iraq, the brutal assassination yesterday of the Iraqi leader, but I submit that if we are able to succeed with establishing a democracy in Iraq, it will be a historic achievement.

It will put great pressure on Iran, where there is an interest in developing nuclear weapons, which is a separate subject that we have to move against on the international front with the United Nations. Hopefully when the G-8 meets in the near future, they will take action to impose international safeguards, standards, and inspections to be sure Iran does not develop nuclear weapons. It will put a lot of pressure on Saudi Arabia to stop the tyranny on the Saudis and the terrible degradation of Arab women throughout the entire region, lend security to the Mideast. It would be very helpful to security for Israel, and that is a lofty goal worth our very resolute efforts.

But in the interim, I would like to see consideration started and a debate progress and thought given to the trial of Saddam Hussein, which would be very helpful to reinforce the position of the United States and influence world public opinion, especially the Arab world, of the justification for U.S. military action to bring down Saddam Hussein.

Mr. DOMENICI. Will the Senator yield?

Mr. SPECTER. I do.

Mr. DOMENICI. I want to take a minute to compliment the Senator. Actually, a lot is going on with reference to Iraq, but it seems that somehow or another, once Saddam was captured—whatever is happening to him, I hope it is humane, and we have every reason to think that it is—it seemed to pale in the background. It kind of went away—I am sure not in your mind, I am sure not in many minds, but in a sense because other things have happened that are somewhat gruesome. The enormity of Saddam Hussein's actions versus those kinds of events is actually inconceivable.

We talk about a prison. We talk about, even from their standpoint, Berg being decapitated. We talk about those four people they drug down the road. But imagine what he did to his people in comparison. I think the Senator is right. To put in perspective the conduct in that part of the world and the difficulty in changing things and the difficulty in bringing people together, which we are trying to do, would begin to put itself together. If we had him there with adequate prosecutors and evidence and people, I would assume some witnesses—you would have a lot of pictures—as to what he did, it would be a tremendous improvement in balancing what is going on. I commend the Senator.

I wish we had a way—this body—of expediting that.

But we don't. I think what you are doing helps. I commend you for it. I don't think a resolution here urging it would have much effect. It might have the reverse effect. I don't know. I thought maybe we would have one saying what we think. But in a sense they want to do their thing, and I think that is correct.

I do believe, while we turn their government over to them, turn over the governance, we ought not forget the issue of a judiciary and a criminal jurisdictional court for that purpose. That is big enough to be considered even in the transfer of governance because it has to happen. We do not want to do it, but we want it done right.

I understand what the Senator from Pennsylvania is saying. They can do it right. Actually, we ought to be able, in the transfer, to in some way indicate the gravity of the situation and how we feel about it.

I thank the Chair.

Mr. SPECTER. Mr. President, I thank the Senator from New Mexico for his support and comments. I have considered and still am considering the possibility of a Senate resolution on this subject. We pass resolutions with some rapidity around here, and it may well be that most of the resolutions do not accomplish a whole lot. But it is time, in my judgment, that we spoke out on this issue.

The Senator from New Mexico is exactly right. Saddam was captured in mid-December. Five months have passed, and it is time to proceed. Mr. President, 9/11 has occurred and thousands of Americans were killed in that brutal attack by flying hijacked planes into the World Trade Center, the Pentagon, and one probably was headed for the Capitol but went down in western Pennsylvania.

While many of us are worried on a daily basis, the President receives a CIA briefing every morning, and there is great concern about homeland security. In the public mind, the threat recedes. Understandably, it is human nature to have a short attention span. But what is going on in Iraq today is enormously problemsome.

The United States is taking it on the chin in world public opinion and especially in the Arab world. When you have the brutal assassination of Nicholas Berg—his head was cut off in public view—and the Secretary of State has to remonstrate, criticize the Arab world for not condemning that act of brutality, and meanwhile we are subjected to all sorts of criticism—and the criticism on the mistreatment of Iraqi prisoners is well placed, it is justified. But we are acting on it, and we acknowledge the problems, the President has and the Secretary of State has—people forget why we are there. It is very painful to have the casualties and fatalities, but we are dealing with large stakes in establishing a democracy there.

If Saddam's defalcations and crimes were put on the public record, people would understand why we are there and how important it is to change. When the Iraqi resistance comes up and the Iraqi terrorists come up, let them understand that when there is a change in sovereignty, that they are acting against their own people, a duly constituted Iraq Government which would bring Saddam to trial. We cannot bring him to trial. Nobody would trust a trial by the United States, as good and fair as our system is, and as just as we are with procedural due process.

We ought to let it be known that it is our recommendation that the Iraqis will have to make the final decision.

I would like to start consideration, which is why I have taken a few minutes of our time today, not that there is any rush on the Senate floor. The Senator from New Mexico and I are the only ones here.

I thank my colleague, Senator DOMENICI, for his support and comments. I yield the floor, Mr. President, and in the absence of any Senator seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The journal clerk proceeded to call the roll.

Mr. ALLARD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate is in a period for morning business, with Senators permitted to speak for up to 10 minutes each.

Mr. ALLARD. Mr. President, I ask unanimous consent that I be allowed to speak for 35 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF DEFENSE AUTHORIZATION

Mr. ALLARD. Mr. President, I rise today in support of the Defense authorization bill and ask that we proceed quickly to pass this legislation.

I thank Chairman WARNER for his leadership throughout this session. Clearly, the outcome of the bill reflects his commitment to our military men and women. We live in a very complicated world, and our national security depends on understanding that complexity, reacting to it appropriately when we must and keeping ahead of it when we can. I commend Senator WARNER for a job well done, both during the committee markup and with the full committee in responding to the recent prisoner abuses in Iraq.

I also wish to take a moment to thank the ranking member of the Strategic Forces Subcommittee, Senator BILL NELSON, for his efforts on our portion of the bill. While we do not always see eye to eye, there is much on which we agree, and I appreciate the opportunity to work with Senator NELSON on important issues that confront us.

I am also pleased by the work the Armed Services Committee has done on both sides of the aisle and fully support the passage of the Defense authorization bill.

At the very beginning of his administration, President Bush made it a priority to rebuild and transform our military after 8 years of operation and maintenance funding shortfalls under the previous administration. Those of us in the Senate have heeded this call, and I am pleased that we are about to take the next step in maintaining a military fully capable of defending our Nation and meeting our foreign policy goals.

I continue to support the President's plan to transform our military, and this authorization bill builds on the work we in the Congress have already accomplished toward that end.

In fact, since 2001, President Bush and Congress have given the Department of Defense the tools to accomplish the following: Fight the war on terror on the offensive; remove threats to our security in Afghanistan and Iraq; liberate nearly 50 million people; provide a more than 21-percent pay raise to our service men and women; expand the use of targeted pay and bonuses; begin to transform our Nation's defenses; improve readiness rates; increase research and development funding by 56 percent; improve the quality of housing for military personnel and their families through privatization and new construction; double investments in missile defense systems; and deploy the first ever land- and sea-based system this fall.

Overall, the Committee tackled the difficult task of simultaneously maintaining the transformational efforts in the department, while ensuring enough resources are available to guarantee success for our deployed soldiers overseas. The defense authorization bill includes more than $422 billion in budget authority for Defense programs and represents an increase of 3.4 percent in spending over the last fiscal year. I believe that this bill helps to maintain the high state of readiness that is expected of our military, and also focuses the Department on the future in terms of research and development programs and technologies.

Specifically, the more than $68 billion in research and development and the $11 billion directed toward science and technology programs will continue to ensure that our military is the best equipped and prepared force in the future. These increases over fiscal year 2004 have supported a wide range of new systems including the F–22 and the Joint Strike Fighter, the destroyer DDX program, unmanned aerial vehicle programs, the Army's future combat system, satellites, communications equipment, and intelligence systems designed to accelerate the availability and capability of future weapons programs. We must continue to make these research and development investments in order to skip a generation of weapons and transform our military into the 21st century fighting force it must become. Investing 3 percent of the budget toward science and technology has long been our goal and with the bill before us, we move a step closer to that goal.

While I am pleased at the focus on the weapons and technology available to our warfighters, it is heartening that the committee has not neglected our most valuable resource—the service members themselves.

The authorization includes a 3.5 percent pay increase across the board, and also permanently authorizes family separation and imminent danger pay created originally for Operation Enduring Freedom and continuing to Operation Iraqi Freedom.

The men and women in the military make great sacrifices for us all as do their dependents and families. The continued progress of improving their quality of life, compensation, and family housing programs should not be overshadowed by any weapons program. As I stated before, our most valuable resource is the personnel in the armed forces, and we must continue to provide the best possible environment for them.

In addition to the resources available for personnel and their families, the authorization also provides the near-term readiness and protection equipment needed for the war on terror. Specifically, force protection measures for our troops in Iraq and Afghanistan were given considerable attention by committee members. No resource should be spared to ensure that our warfighters have the equipment and training in place to provide for their safety.

To that end, $107 million was added for the rapid fielding initiative, $603 million was devoted toward protection gear and combat clothing, and $925 million was added for additional up-armored Humvees and add-on ballistic armor. Clearly this reflects the committee's concern that our soldiers have all the tools they need to be successful while they fight the war on terror.

Turning to the Strategic Forces Subcommittee, which I have the pleasure of serving as chairman, we exercised oversight for the Department of Defense budget request for strategic, space, intelligence, surveillance and reconnaissance, and intelligence support activities. The DOD budget request in these areas included $8.9 billion in procurement, $28.2 billion in research and development, and $3.1 billion in operations and maintenance. The administration budget request also included $15.4 billion for the Department of Energy nuclear weapons and environmental management programs and activities.

The committee bill reflects a net increase of about $80 million in research and development and procurement, and the amount requested in operations and maintenance. It also reflects the requested level of funding for Department of Energy programs and activities. The program supports the development and fielding of transformational capabilities, enhanced readiness, and capabilities directly relevant to defending the homeland from current and anticipated forms of attack.

The reductions reflect a thorough examination of the administration's budget request. A number of programs were identified in which excess funds were requested or the requested funds were not executable. Others were based on unrealistic schedules or showed unjustified program growth. The committee reduced these funding requests appropriately.

As the chairman of the Strategic Forces Subcommittee, ensuring full support of missile defense is my most important priority. As I have stated on the floor many times before, it is abundantly clear how important missile defense is to our country. The development of this program is central to homeland defense and to the protection of our friends, allies and deployed forces against growing threats.

Overall, $10.2 billion was requested, and the markup reduces that by a net of about $40 million. Significant funding actions in the markup include an increase of $75 million for the ground-based missile defense element to enhance the ability to operate and test concurrently; a $35 million reduction for long lead items for some GMD interceptors; an increase of $90 million for additional PAC–3 missiles; and a reduction of $200 million for the ballistic missile defense system interceptor project, also known as the kinetic energy interceptor, or KEI.

The markup includes two missile defense legislative provisions, including one identical to a provision last year that authorizes the use of this year's missile defense R&D funds to field an initial missile defense capability. The other provision of interest relates to the role of the director of the Missile Defense Agency in the Army's Patriot-MEADS program. The provision is intended to ensure that the Patriot MEADS program remains thoroughly integrated in the ballistic missile defense system.

Concerning Department of Defense space programs, the markup sustains the amount requested, but does shift some of the funding. Significant reductions are recommended in the transformational communications satellite, or T–SAT, to try to put the program on a healthier development track; and to the EELV launch program because of a delay in one of the launches for which services were being procured in fiscal year 2005.

Significant increases recommended include: $35 million in the advanced EHF program, $35 million in the space based infrared program, $25 million for a new operationally responsive satellite payload effort, $15 million for the wideband gapfiller satellite program, and $15 million for ballistic missile range safety technology.

The markup includes three space-related provisions, including one that would establish a panel to examine the future of military space launch, and another establishing a new program element for operationally responsive satellite payloads.

The markup includes minor adds for strategic forces and intelligence programs, and no significant legislative initiatives in these areas.

Related to the Department of Energy, the markup includes $15.4 billion for the Department of Energy Atomic Energy Act programs for fiscal year 2005, the amount requested by the administration. Of this amount, $7.8 billion is for the National Nuclear Security Administration, NNSA, a $117.9 million increase above the budget request.

Key NSSA increases in the subcommittee mark include:

$62.9 million for the Readiness in Technical Base and Facilities, RTBF, program, which will help NNSA continue to reduce the amount of deferred maintenance and repair;

$20.0 million for the Facilities and Infrastructure Recapitalization Program, FIRP, to help revitalize the infrastructure of the nuclear weapons complex. This additional funding will reduce the cost and accelerate the completion of the FIRP program;

$35 million for safeguards and security. After the attacks of September 11, 2001, the Secretary of Energy developed and issued a new design basis threat, which added security requirements across the nuclear weapons complex. This additional funding is to help address the increased needs for safeguards and security, including force multiplying technologies.

The subcommittee mark provides adequate funding for the National Nuclear Security Administration to advance directed stockpile work, science-based campaigns, and naval reactors programs. These efforts have been funded at the budget request for fiscal year 2005, a $367.0 million increase over the fiscal year 2004 appropriated levels.

The subcommittee mark includes authorization at the budget request for several of the continuing nuclear weapons initiatives, including the feasibility study on the robust nuclear earth penetrator, RNEP, the advanced concepts initiative, ACI, the NEPA study on the modern pit facility, and test readiness enhancements. No funding was requested nor authorized for the engineering development, production or deployment of a new or modified nuclear weapon. As was enacted in the National Defense Authorization Act for fiscal year 2004, there can be no engineering development, or subsequent phase of development, of a low-yield nuclear weapon nor a robust nuclear earth penetrator without a specific authorization from Congress. No such authorization was requested in the fiscal year 2005 budget request and no authorization is included in the subcommittee mark.

Turning to the Environmental Management, EM, program, the subcommittee mark includes $7 billion for these activities. This will be the last full fiscal year of funding for the first three major closure sites, including the Rocky Flats Site, the Fernald Closure Project, and the Mound Closure Project. The planned 2006 closure of the these three sites is very good news for DOE and for the United States. The early closure of these sites is expected to result in a cost savings of over $12 billion.

Now that DOE will begin shifting the oversight of the closure sites from the Environmental Management program to the Office of Legacy Management, LM, new challenges emerge. Environmental stewardship responsibilities, pension and health care needs, and community concerns will all require a high level of attention to ensure a smooth transition.

The subcommittee mark includes a provision that would authorize the Secretary of Energy to exclude from treatment as high-level radioactive waste, that which is stored Department of Energy, DOE, radioactive material resulting from the reprocessing of spent nuclear fuel as long as the waste can be appropriately characterized as low-level or transuranic waste.

The subcommittee mark also includes $566.6 million for other defense activities, a reduction of $97 million below the budget request for fiscal year 2005, and $108 million for the defense nuclear waste disposal, a reduction of $23 million below the budget request for fiscal year 2005. These amounts authorized include a $92.4 million reduction to the defense related administrative support account. The committee has consistently rejected funding for this account because the funding is for non-defense activities.

Once again, I thank my chairman for his superb leadership. I believe that the defense authorization bill is a good one, and that programs that fall under the purview of the Strategic Forces Subcommittee have been dealt with in a measured and responsible way. The Armed Service Committee and its staff have worked diligently and in a bipartisan manner to ensure our military remains the best equipped and best trained fighting force in the world. I would ask my colleagues that we proceed quickly with the Defense authorization, and urge support of the bill.

Mr. President, I yield the floor and my remaining time.

50TH ANNIVERSARY OF BROWN v. BOARD OF EDUCATION

Mr. REID. Mr. President, yesterday marked the 50th anniversary of the Supreme Court's decision to reverse the long-standing principle of "separate but equal" in our public schools. The ruling handed down in Brown v. Board of Education was the great catalyst America needed to move toward equal opportunities for all children.

On May 17th, 1954, the Supreme Court spoke unanimously: ". . . in the field of public education the doctrine of 'separate but equal' has no place."

When we talk about Brown v. Board of Education, it is natural to think about its application and enforcement in the South, because that was where the most publicized acts of segregation and discrimination took place.

But it is naïve to think that the South was the only region of America grappling with the new educational and racial standard of equality. Western states like Nevada struggled to adapt as well.

Nevada was not a place widely-associated with having a large population of African Americans back in 1954 . . . but in fact it was home to many African Americans who migrated from Arkansas, Louisiana, and Texas—primarily seeking employment in Law Vegas' hospitality industry.

Clark County's classrooms were segregated before the Brown Decision—and they remained so afterward. While there were no written laws segregating schools in Clark County, there were impenetrable school zoning laws that made it pretty clear that children could only go to school where they lived . . . and because of housing discrimination, most black people lived in concentrated areas.

Brown v. Board of Education was decided in 1954, yet Clark County schools were not officially integrated until much later, when attorney Charles Kellar arrived in Nevada in 1959. Thurgood Marshall, then head of the NAACP Bar Representation Program, solicited Mr. Kellar to move to Nevada to establish a chapter and legal representation.

At the time, one had to live in Nevada for one year before sitting for the bar exam. So, to establish residency, most white law students would engage in paralegal work, Mr. Kellar spent his year studying real estate at an unknown little college called UNLV in order to qualify for residency.

When he was finally eligible to sit for the exam, the hotel he reserved for his stay refused to admit him. He had to spend his two nights sleeping in the airport. To add insult to injury, Mr. Kellar was accused of cheating on his exam, for his results were near perfect. He had to sue the Nevada State Bar in order to gain admission, which he was finally granted in 1965.

The first case he filed was a class action suit against the Clark County School District in 1968, charging that access to an equal, public education was denied to African American students—in spite of the Brown v. Board of Education ruling 14 years earlier. Despite the fact that he won the case, the school district decided to convert the West Las Vegas schools to sixth grade centers, which would be fully integrated. However, the white students would be bused to the schools while the black students would have to walk.

Mr. President, the landscape of Clark County is much different today in the sense that we now publicly educate a much more diverse population of students. But there are still factors in our school system that separate and discriminate against certain groups of students: economic status, English language learners, students with learning disabilities, and so on.

I am concerned about these barriers, just as I am concerned about the gap in academic achievement between different groups of students. This gap says to me that we still have a lot of work to do in terms of providing truly equal opportunities for all of our children.

And even after 50 years, in spite of the law, segregation itself is still alive and well.

Taylor County High School in Butler, Georgia, held its first integrated prom in 31 years last year—in 2003. This year, the white students decided to return to their old tradition of holding their own private party—a segregated prom. It is disappointing to realize that segregation is still preferred by some people. But it just goes to show that we still have work to do.

The Brown decision truly was a landmark . . . it showed that America had come a long way since Plessy v. Ferguson. Before Brown, we knew that segregation was wrong. After Brown, we knew that it was illegal.

That was a tremendous step, and I am certainly grateful for it . . . but we cannot rest on our laurels.

We must keep struggling until we can live up to the spirit of the Brown ruling, and to the letter of the Civil Rights Act that followed 10 years later. Until we provide every child with an equal—not separate—opportunity to get a good education.

Mrs. DOLE. Mr. President, 50 years ago our Nation witnessed a significant step in providing equal education for every child of every race. On May 17, 1954, the United States Supreme Court ruled in favor of a young girl who had been denied enrollment in her neighborhood school simply because of the color of her skin. On the 50th Anniversary of the Supreme Court's Brown vs. the Board of Education ruling, I want to recognize the courage, vision and boldness of that decision and celebrate how far our country has come—and focus on a new bold vision that will lead us into the future.

The Brown decision not only called for an end to segregation—it began a process of healing in America, still needed almost 100 years after the Civil War. The Brown decision affirmed the constitutional promise of equality for all Americans. It overturned laws that denied millions of school children freedom and choice in education and set this country on a new course, affirming civil and human rights while demanding the full respect and protection of the law for all people. Brown vs. the Board of Education was a decision of courage and conviction and was one of the finest moments of the American judicial system. But while this decision paved the way for the establishment of equal learning environments, today there is evidence of work yet to be done.

Unfortunately, 50 years later, we still have a relatively two-tiered education system. Many students are in schools where they are receiving an incredible education; other children are in mediocre classrooms, emerging at the end of each school year barely even able to read at the levels of their peers. The reality is disheartening: nationally, at the fourth-grade level, the achievement gap in reading between blacks and whites is 28 percentage points. And consider this: only one in six African-Americans can read proficiently after graduating from high school. It truly is hard to believe such disparity exists today.

Years after opening the doors of opportunity to every child—regardless of their race—we have yet to truly take advantage of the possibilities Brown vs. Board created. Breaking through prejudice in school enrollment was the first step—educating each and every student to his or her full potential is the next. I give President Bush much credit for recognizing this problem and applaud his willingness to make it an issue in the last national election. He said that, if elected, he would institute change, and he did. Within four days of assuming office, he provided a blueprint that became the No Child Left Behind Act of 2001—an act that was passed with wide bipartisan support.

With this law our country is beginning to address the achievement gap. The "old ways" will no longer be tolerated. Along with many mothers, fathers, teachers and school administrators, we are demanding equity, justice and inclusion for every child.

This significant piece of legislation raises academic standards, holds schools accountable for performance, requires that every child learn to read, works to ensure that there is a quality teacher in every classroom, and provides more choices and flexibility for parents.

Accountability is the cornerstone of what makes No Child Left Behind so bold and visionary. In the past, the Federal Government would send checks to fund education and hope something good might happen. Now the Government is sending checks—at record levels, contrary to partisan charges—and asking school systems to show what progress they are making and what problems remain to be addressed.

While many years passed before the Brown vs. Board decision made a visible difference in our classrooms, it took far less time to see the changes initiated by No Child Left Behind. I am pleased to say we have witnessed this progress in my home State of North Carolina. In Charlotte, our State's largest city, reading levels have risen significantly. Dr. Jim Pugsley, superintendent of Charlotte-Mecklenburg Schools, has a lot to be proud of. Just a few years ago, only 35 percent of African-American fifth graders in his district were reading at grade level, but today, that number has more than doubled to 78 percent of African American fifth graders reading at grade level.

Schools all over the country are celebrating similar results. The Chicago Sun Times recently reported that Chicago public school children who transferred from schools in need of improvement to higher performing schools under NCLB showed an 8 percent greater learning gain in reading and math than the national average.

Granted, you cannot set lofty goals for thousands of schools without providing the funding to back it up. I am pleased to say president Bush, along with this Congress, is working to secure significant amounts for our school system. In fact, the United States spends more money in our K–12 education system than any other country in the world with the exception of Switzerland. This year, the President has requested unprecedented funding increases for education in his overall fiscal year 2005 budget. Never before has a President invested so much in education. Total spending for K–12 education has gone up $9.7 billion since No Child Left Behind was signed into law. In fact, the President's 2005 budget requests $2.5 billion for North Carolina education—that is 54 percent more than when President Bush took office. The 2005 budget also increases title I funding to $290.5 million to help our State's neediest children. That is more than $113 million above 2001 levels. Funding for schools in North Carolina and throughout the country is finally tied to real accountability for real results. I will continue to work with the education leaders in my home State to ensure that each child receives the best education possible—and to ensure that No Child Left Behind continues to build on the foundation the Brown Decision laid for closing the opportunity gap in classrooms across America.

Our classrooms are the training ground for America's future, and our schools and teachers are entrusted with the minds of tomorrow. We must guarantee that those minds are being challenged, educated and encouraged to their greatest potential. Together with the standard of excellence provided by the No Child Left Behind Act, teachers, parents and students have the opportunity to continue the dream first realized 50 years ago through the Brown vs. the Board of Education ruling. A dream where every child has the right to be educated—and none of them will be left behind.

Mr. EDWARDS. Mr. President, 50 years ago on a Monday in May, the Supreme Court revealed the soul of our Constitution when it said, ". . . in the field of education, separate but equal has no place." It was a moral decision just as much as it was a legal decision that ended discrimination in every place across America.

Some of you remember that day. I was just born and can only imagine what it was like to experience that moment of truth. To hear those words "has no place" To see those headlines, "Supreme Court bans . . . " To feel the advance of justice. It was a glorious day in America and for all those families, children, teachers, and heroes of the last two centuries who risked their lives to move America to that moment.

All of that effort and success and history was wrapped in the family name, Brown. But we can never forget that there were other families involved in that case.

One of these cases began in my birth state of South Carolina. The African-American kids had to walk up to nine miles each way between their homes and their only school in Summerton. The white kids had 30 school buses to take them back and forth to their schools. The African American parents went to the Clarendon County School Board with a simple request—one school bus.

The school board said no. So J.A. De Laine, a minister, convinced a humble farmer named Levi Pearson to sue the Clarendon County school district for buses. That case was Briggs v. Elliott and became one of the five cases from around the country that were consolidated and eventually became known as Brown v. Board of Education.

The long journey from the back roads of South Carolina to the chambers of the Supreme Court was mapped out and led by attorney Charles Hamilton Houston. Together with his protégé Thurgood Marshall, Charlie Houston patiently, painstakingly and brilliantly used the Constitution to correct itself and end legal segregation forever.

And the other cases were from Delaware, Virginia, and the District of Columbia. The other names were Belton, Davis, and Bolling. And in Topeka, there were 12 other families involved, nearly 200 total. This wasn't one case and one person and one school, but the cause of millions, and ultimately a cause for all of America.

You and I know that this country has made progress. The "White Only Signs" have come down. Thurgood Marshall went on to serve on the Supreme Court. We have Congressman and women and Senators who have taken their place in our national leadership. And we have doctors and lawyers and storeowners in every neighborhood and in any town.

We have come far, but we're not there yet.

I grew up in an America that was growing up too with this landmark decision. This is something I've lived with my entire life living in the South in the '50s and '60s.

We all have a responsibility when it comes to issues of race and equality and civil rights, but as a Southerner, I feel an especially enormous responsibility to lead on this issue. We Southerners have this special responsibility, not only because we know America's tragic and painful history on race, but also because we have led the way in breaking free from that history.

From the time I was very young, I saw up close the ugly face of segregation and discrimination. I saw young African-American kids shuttled upstairs in movie theaters. I saw white only signs on restaurant doors and luncheon counters. When I was in the sixth grade, my teacher walked into the classroom and said he wouldn't teach in an integrated school.

But even in the struggle's darkest days, countless Southerners stood as profiles in courage. For every George Wallace, we had a Terry Sanford. There were four Southern Justices on the Court that decided Brown. And it was Lyndon Johnson, a Texan, who told a joint session of Congress in 1965, "We SHALL overcome!"

I have heard some of these pundits and politicians on television debate where and when in America we can talk about this issue. They think it is fine to stop and pat ourselves on the back on special days like today or Martin Luther King Day or during Black History Month. But they don't think we should talk about race and equality and civil rights any other time. But we need to talk about this everyday and everywhere.

Why? Because this is not an African-American issue. This is not a Hispanic-American issue or an Asian-American issue. This is an American issue. It is about who we are. What our values are. What kind of country we want to live in. What kind of country we want our children and grandchildren to live in.

We have come far, but we are not there yet.

We need leaders who not only talk the talk of civil rights and equality, but are willing to DO something about it. We need leaders who understand that 50 years after Brown v. Board of Education we still have two public school systems in America: one for students who live in affluent communities and another for students who don't. There are still students in our rural areas and in our cities who try to learn in a crowded trailer, learn to read under a crumbling ceiling, and try to study science with equipment that ought to be seen only in their history books.

Yes, there are signs of hope. In my own State, for example, schools in Charlotte and Durham and elsewhere are raising test scores while also closing the achievement gap.

But the truth is that while our best public schools are among the best in the world—the state of many of our schools remains the shame of our Nation.

Education has made all the difference in my life. I was the first member of my family to go to college. But millions of our children are being denied the opportunities I had.

Poor and minority students come to school with greater challenges, and our education system then turns around and gives them less of everything that matters. We spend less in their classrooms. We give them fewer qualified teachers. And we teach them a weaker curriculum. One Washington, DC, high school enrolls three times more students in "office reprographics"—training on photocopiers—than in pre-calculus and calculus combined.

Millions of our young people drop out, turning their backs on their futures. Minority students have only a 50–50 chance of finishing high school.

Those who do make it to their senior year are four years behind their peers in reading and math. That's right—minority seniors test at the same level as white eighth-graders.

And just last week, a judge in Topeka, KS, of all places, ordered the public schools shut down because the funding was so inequitable that it utterly failed to serve the needs of poor, minority, disabled and non-English speaking children.

In his opinion, Judge Bullock quoted directly from Brown: "Today, education is perhaps the most important function of State and local governments. . . . It is required in the performance of our most basic public responsibilities, even service in the armed forces. . . . In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the State has undertaken to provide it, must be made available to all on equal terms."

We have come far, but we are not there yet.

Fifty years later, we are still fighting that fight. But thank God we have some courageous judges who uphold our civil rights laws and ensure equal justice for all. We have to continue to fight for judges who will enforce our civil rights laws and stand up for equality in America. We have so much work to do with economic equality and educational equality. That takes leadership, not slogans and photo ops.

The administration can talk about "No Child Left Behind" all they want. It is great rhetoric.

But the reality is that children are being left behind all over the country. They sit in the back of the classroom, wishing they could do better, but no one hears them, no one sees them. They walk the halls and go unnoticed because our schools are so crowded now that no one knows their names. They try their best, but drop out of high school—they give up on their education because the education system has given up on them.

None of us would tolerate that for our own children. Well, these ARE our children. Every single one of them. Their failure is our failure. And their success is our success. We've got to do better by them. Yes we must have high expectations of them. But as David Broder noted in a recent column, we also have to provide the resources they need to meet those standards.

And that takes real leadership not rhetoric. Real leadership is courage, and commitment, and action. It means doing everything we can to make equality a reality—not only in our laws, but in our lives, in communities where poverty and discrimination remain a scar on our Nation.

More than anything, leadership means recognizing that social justice is not a zero-sum game where "we" give something to "them"—whether it's women or minorities or immigrants. The Brown decision was not about some "them." It was about "us." All of us.

We have come so far, but we are not there yet.

I believe that the best way to mark the 50th anniversary of the Brown decision is to push onward with all of the strength and determination we can muster to ensure that the promise of Brown is finally realized. It is time to honor those heroes who would not quit, who would not settle for anything less than the right book to read, a school bus to ride on, and a great teacher to guide them.

In moving forward, we honor the Little Rock Nine who walked passed angry mobs, and inspired the Nation with their grace. We honor James Meredith, who persevered despite the full weight of Mississippi demanding that he stay home. We honor little Ruby Bridges, who needed U.S. Marshals to protect her from the wall of human hate that stood between her and her new school—a scene so compelling that Norman Rockwell used it as the basis for his painting, "The Problem We All Live With" that I have hanging in one of my Senate offices. And all of the families who joined the NAACP to take down Plessy vs. Ferguson once and for all.

When those walls were raised; when all the doors and gates were locked, the African American community found its own gateway to a good education. Despite all of the odds, despite those in power who said, "You can't have this chance," ordinary people stood together tall and strong and said, "Yes we can!"

These moments of history shadow us today. These heroes are looking right over our shoulders. They are urging us to move forward. They are telling us, "we've brought you this far, but you're not there yet."

Our journey to one America is the greatest mission of our history. Our work, our effort, our commitment must be constant. I know mine is. Together, from the heights of national power to every local Head Start center, we must strive to open doors, to make sure that there's always a seat at the table, and the voices of all Americans will be heard.

I believe that wherever you live, whoever your family is, and whatever the color of your skin is, if you are willing to work hard, you ought to be able to go as far as your God-given talents and hard work will take you. We believe in bringing people together. What we believe, what I believe, is that the family you are born into and the color of your skin will never control what you are able to do or how far you can go in this, our America.

That is the America we should all believe in. That is the promise of the Brown decision. And that is the America we can create, not just for a precious few, but for everyone.

We have come far and we are not done, but I do believe that we WILL get there yet.

I ask unanimous consent to print an article from the Washington Post written by David Broder entitled "Still Separate and Unequal."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 13, 2004]

STILL SEPARATE AND UNEQUAL

(By David S. Broder)

In his "two Americas" stump speech—the single most powerful message anyone delivered in the Democratic primaries this winter—Sen. John Edwards of North Carolina talked bluntly about the differences between the education, health care, housing and other basics available to the well-off and the working poor in this country.

"We have two different school systems," Edwards said in countless appearances, "one for people in the most affluent communities and another for everyone else." That message—largely dismissed by the Bush White House and de-emphasized by John Kerry in his reach for middle-class votes—is of special relevance as the nation prepares to note the 50th anniversary on Monday of the Supreme Court decision that formally ended racial segregation in our schools.

Brown v. Board of Education was a legal landmark, but the reason that the anniversary is being observed, rather than celebrated, is what Edwards had the courage to point out. In far too many places, the notion of equal opportunity in education is still far from reality.

In "Beyond Brown v. Board: The Final Battle for Excellence in American Education." written for the Rockefeller Foundation and published this week, Ellis Cose of Newsweek cities example after example of the holes that remain in the system. "[B]lacks (and Puerto Ricans and Mexican-Americans) do not, for the most part, go to the same schools, or even the same types of schools, as do the majority of non-Hispanic whites," Cose wrote. "They are more likely to go to schools such as those found in parts of rural South Carolina; schools that, were it not for the American flags proudly flying over the roofs, might have been plucked out of some impoverished country that sees education as a luxury it can barely afford."

The law firm headed by Richard Riley, the former secretary of education in the Clinton Cabinet, represents parents and school officials in several of those poor South Carolina counties in a lawsuit seeking to force the state to provide more funds for those schools. With integration—the original goal for the Brown decision—thwarted in many places by residential segregation, resistance to busing and the growing reluctance of federal courts to impose their orders, Cose points out that the new legal battleground has become state court lawsuits seeking "adequacy" in school funding.

The suits, which have begun to win scattered success in states as diverse as New York, North Carolina, Arizona and Idaho since the first breakthrough in Kentucky in 1989, ask the courts to require that the state determine what it takes to educate a child adequately—in staff, facilities, books and equipment—and come up with the money to provide it.

The movements fits logically with the standards set in President Bush's No Child Left Behind education reform. The 2002 law aims at either rescuing or shuttering low-performing schools and especially at helping students who have been shuffled through grades without really getting an education.

By measuring youngsters' competence in basic skills at regular intervals and requiring adequate progress for all parts of the school population—not just the bright students—NCLB pressures states and districts to take steps to eliminate education failures. And that in turn sets up a demand for better principals and teachers and materials.

But standards by themselves will not end the two-track education system. Resources have to flow to the schools and districts that lack the tools they need. A recently published "Look Inside 33 School Districts" by the Center on Education Policy, an independent advocate for more effective public schools, draws the contrast.

The Romulus, N.Y., school system, a small suburban district between Rochester and Syracuse, has found no difficulty meeting the first two years of NCLB requirements. "The district has taken steps to not only recruit well-qualified teachers for any vacancies that arise, but also retain them," the report says. "Romulus has established an extensive mentoring program that taps the expertise of retired teachers by matching them in mentor relationships with new teachers" that continue for a full year. No surprise, then, that "Romulus students perform at high levels."

A few pages later in the report one finds the Cleveland Municipal School District, whose officials "applaud the spirit of NCLB and agree that schools should be held accountable" but where "implementation has been rocky." The district could not reach its mandated improvement goals, with 27

> schools on a watch list for failing to meet standards. Officials cannot say how many Cleveland teachers rate as "highly qualified." And state budget cuts cost Cleveland schools $33 million in the current biennium.
>
> The Romulus schools are 97 percent white; the Cleveland schools, 80 percent non-white. Fifty years after Brown, John Edwards' description still applies.

Mr. SCHUMER. Mr. President, I commemorate the 50th anniversary of the landmark United States Supreme Court decision, Brown v. Board of Education.

On May 17, 1954, Justice Earl Warren read the unanimous decision of the United States Supreme Court, which stated, "We conclude that, in the field of public education, the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal."

The decision made a statement about the course that this country needed to take to achieve the greatness that we, as a Nation, are capable of achieving. Brown v. Board of Education became the measure of equality—and a platform on which the civil rights era was born.

In December 1955, Rosa Parks refused to give up her seat on a Montgomery, AL, bus to a white person and was arrested. This sparked an outrage in the African American community, who decided to boycott the city's buses as a way to challenge the city's segregation laws. The boycott led to a 1956 Supreme Court decision that banned segregated buses.

In September 1957, the commitment to equality in education was reiterated in Little Rock, AK, when President Eisenhower sent troops to Central High School to uphold the Supreme Court's desegregation order protecting the rights of the "Little Rock Nine."

In 1960, four freshmen from North Carolina Agricultural and Technical College in Greensboro, NC, were refused service at a lunch counter at the F.W. Woolworth Store. They sat quietly, without being served, until the store's closing. The next day, they returned with 25 more students from the college. Peaceful protests at lunch counters across the country were initiated and lasted for weeks. The lunch counter protests resulted in a number of stores integrating prior to the passage of the Civil Rights Act of 1964.

On October 1, 1962, federal officials escorted James Meredith, as he became the first African American to enroll at, and later graduate from, the University of Mississippi.

On August 28, 1963, hundreds of thousands of marchers—of all races—descended on Washington, DC to urge Congress to pass legislation to provide equal access to public facilities, quality education, sufficient employment and housing options for African Americans.

The Brown decision and the events flowing from it were major catalysts that led the way for the passage of the Civil Rights Act of 1964, the Voting Rights Act of 1965, and the Fair Housing Act of 1968.

While we must never lose sight of the benefit and the power of the Brown v. Board of Education decision, we must not believe that the fight for true equality is over and won.

Fifty years later, our country is struggling along the path toward a truly equal society. Unfortunately, today, in many areas, we are still separate and unequal. Individuals come to work in integrated environments and return home to segregated neighborhoods. Parents send their children to schools that seem to be returning to those reminiscent of the days of segregation.

The road to Brown v. Board of Education was not an easy one, nor was it swift. So, on this, the 50th Anniversary of the Brown v. Board of Education decision, it is important that we not only recognize the struggle behind the Civil Rights movement, but that we rededicate ourselves to the goal of providing equal opportunity for all.

VOTE EXPLANATION

Mr. BIDEN. Mr. President, as was announced yesterday, I was not able to be here for the vote on the amendment offered by Senator HUTCHISON, No. 3152, which includes service academy cadets and midshipmen in the military's disability discharge and retirement system and allows ROTC cadets to use TRICARE supplemental health care programs when they are injured during training. This amendment makes an important improvement to the health care of our future military leaders, and I would like the record to reflect that, had I been here, I would have voted for that amendment which passed unanimously.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On January 15, 2001, a man was killed in a ninja-like stabbing in Prospect Park, NY, near a popular area for gay men. The victim was slashed across the throat and stabbed in the chest and back. Because nothing was stolen from the victim, police believe he was killed because he was believed to be gay.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

VOTE EXPLANATION

Mr. BROWNBACK. Mr. President, I regret that I was unable to vote yesterday afternoon on the very significant amendment offered by my colleague from Texas. As my colleagues know, yesterday marked the 50th anniversary of the landmark Supreme Court decision Brown v. Topeka Board of Education. We in Kansas were very pleased that President Bush and Education Secretary Paige joined with us in Topeka to commemorate this important date. While I intended to arrive here in time for the vote following the special events of this day in Kansas, the plane I was riding was, unfortunately, delayed.

Truly, providing for the health needs of our military's cadets and midshipmen when they are placed in harm's way is a duty of this Nation. I am grateful to the Senator from Texas for raising this issue, and I am pleased that the Senate adopted this amendment to S. 2400, the fiscal year 2005 Department of Defense Authorization bill. Mr. President, I ask that the record reflect that, had I been here, I would have voted in favor of Senator HUTCHISON's amendment No. 3152 yesterday afternoon.

100TH BIRTHDAY OF LATE SENATOR JACOB JAVITS

Mr. SCHUMER. Mr. President, I rise today to remember and pay tribute to the late Senator Jacob Javits on what would have been his 100th birthday. I have the honor of currently serving in his Senate seat and I remember Jack with the deepest admiration and affection. We shared many passions, and one true love—New York and its citizens.

Jack did both jobs of Senator so well. He was a big thinker, a compassionate and visionary legislator, an important actor in global affairs. But when an ordinary citizen or a non-profit group or struggling company in New York needed his help, he was there. And that was his legacy; he made all our lives better.

Born in a tenement on the lower east side of Manhattan on May 18, 1904, Jack was the son of Jewish immigrant parents from Galicia and the Turkish Empire. He was educated in New York City's public schools, attended night classes at Columbia University and graduated from New York University Law School in 1926. From there he practiced law in New York City until joining the Army in 1941. Javits served in both Europe and the Pacific during World War II and was discharged as a lieutenant colonel in 1945. After the war, Jack resumed practicing law until he ran for office in 1946.

In 1946, Jack was elected to the U.S. House of Representatives in New York's traditionally Democratic 21st District, which included Manhattan's upper west side, home to Columbia University. He served in the House for 8 years and had a seat on the Foreign Affairs Committee. He then served as New York's attorney general from 1954 to 1956. In 1956, Jack won election to the United States Senate, defeating New York City Mayor Robert F. Wagner, Jr. He would go on to serve 24 years in the Senate, tied with Senator Moynihan for the longest service of any New York Senator.

He served on the Senate Foreign Relations Committee in 1969, later attaining the position of ranking Republican member. His service on that committee would spur a lifelong interest and involvement with foreign affairs and particularly Israel. He also served as ranking member of the Labor and Human Resources Committee and the Committee on Governmental Affairs.

Although he had a long and distinguished Senate career, Jack was most beloved and admired for his courageous efforts in the civil rights struggle. From his very first days in the Senate, Jack was a courageous leader in the fight against segregation and racial discrimination. He campaigned passionately for passage of the 1957 Civil Rights Act and played a major role in the passage of the landmark Civil Rights Act of 1964 and in other civil rights legislation that followed.

During the Vietnam era, Jack became a major critic of the war, and subsequently, one of his major concerns became the question of who has the power to make war. Jack was a primary sponsor of the War Powers Resolution of 1973, which reestablished congressional responsibility, rather than presidential, to commit U.S. armed forces abroad in the absence of a formal declaration of war.

He was deeply troubled that the Congress had in many ways abdicated its proper role during the Vietnam War. I think many of us today share the very same concerns that Jack had some 30 years ago. For Jack cared deeply about the U.S. Senate, its debates, its constitutional authority. Its Members were his best friends. It did not matter whether he agreed with them or if they challenged or even attacked him—they were all his colleagues.

Jack once said of the Senate, "I was stimulated by the ebb and flow of debate and the philosophic tensions of the work we did—balancing lofty principles against sectional or selfish interests, welding together antagonistic human and economic and ideological forces into the coherent schemes of governance that we call laws." Jack respected the Members of the Senate with a full heart and his great affection for them was returned in full measure.

A 1981 New York Times article remarked, "whether or not you agreed with him on a given issue, you always knew that Mr. Javits was one of the brightest, hardest working and most effective elected officials in Washington in our time."

After leaving the Senate in 1980, Jack visited and corresponded with many of his former political colleagues and maintained his interest in foreign affairs. In 1981, he served as special advisor on foreign policy issues of then Secretary of State Alexander M. Haig, Jr. He was a member of the American Jewish Commission on the Holocaust and wrote numerous articles on international matters in publications such as the New York Times, Newsday, and Foreign Affairs.

The last project of his final, heroic years combined those elements that meant most to him. Jack created the concept of the Javits Senate Fellowship, a program that made available to the Senate many of the finest graduate students in public policy that our country could produce.

He asked these students of outstanding academic background to carry out his commitment to excellence in public service, to learn firsthand about the Senate and to bring to their own lives the values and experience which they had gained in the Senate. Many of these young people have gone on to very distinguished careers and accomplishments.

Jack knew that, in truth, the best way to be remembered would be through the accomplishments of the next generation, through those who would carry forward his spirit, his commitment to public service, and his abiding respect for, and love of, the United States Senate.

We remember Jack with deep admiration on what would have been his 100th birthday. His accomplishments for New York and the Nation will long be honored and remembered.

NOMINATION OF MAJOR GENERAL DAVID H. PETRAEUS

Mr. BUNNING. Mr. President, I want to spend a few moments to talk about the nomination of Major General David H. Petraeus to be Lieutenant General in the U.S. Army.

I believe President Bush and Secretary Rumsfeld have made an excellent decision to promote General Petraeus and assign him to chief of the Office of Security Transition in Iraq. I congratulate General Petraeus and wholeheartedly support his nomination.

I am pleased that the Senate has moved so quickly on his nomination. We received it 2 weeks ago and he was confirmed yesterday. This is fitting because last Friday he transferred command of the 101st Airborne Division, Air Assault, to his successor at the helm of the Screaming Eagles.

General Petraeus led the 101st Airborne to stunning success in Iraq. His division performed superbly in combat, and is responsible for bringing Saddam Hussein's two ruthless sons to justice. Unfortunately, the division also suffered the largest number of combat casualties in Operation Iraqi Freedom.

Equally impressive to the combat performance of the division under General Petraeus were the successes in rebuilding the governing structures and the hope of the Iraqi people in a significant portion of the country. Six days after occupying the northern part of Iraq the first meetings were held to set up Province Council elections and those elections were held one week later. The division worked with Iraqis to quickly restore power, water, fuel, transportation, and industry. They set the model for cooperating with the local leaders and population to create a stable and prosperous Iraq. This all happened because of the leadership of General Petraeus.

I visited General Petraeus and the Screaming Eagles in Iraq earlier this year. I saw firsthand the results of his careful preparation and skillful execution of a plan to bring order and governance to the people of northern Iraq. I was, and remain, impressed by what I saw.

Because he was so successful leading the 101st Airborne in Iraq, General Petraeus has been assigned back to Iraq for the transition of power to the interim Iraqi government. I have no doubts that he is the right man for the job and will help the Iraqi transition to self-government proceed smoothly.

Again, I want to congratulate General Petraeus and wish him well in his new assignment. He is blessed with a wonderful family at home who will be eagerly awaiting his return. I thank him for his service.

COMMENDING AUSTRALIA FTA

Mr. SMITH. Mr. President, today, May 18, 2004, is a historic day for U.S.-Australia bilateral relations. A landmark agreement on free trade was reached today between the United States and Australia.

I believe the U.S.-Australia Free Trade Agreement is good for America. An FTA with the world's 15th largest economy will bring substantial benefits to my state of Oregon and to the whole U.S. economy. Australia is an industrialized nation with a high standard of living that is already a large market for U.S. exports valued at over $23 billion annually. The Australia FTA will boost U.S. manufacturing and create U.S. manufacturing jobs by reducing 99 percent of all Australian tariffs to zero. For the first time, the United States will have a significant advantage over European and Japanese competitors in the Australian market. U.S. goods and services will be able to compete fairly with other foreign exports in the lucrative Australian marketplace. This will be worth over $2 billion a year to U.S. manufacturers.

U.S. agricultural exports to Australia will grow by $700 million, as tariffs on all agricultural goods are zeroed out under the FTA; this is money in the bank for U.S. farmers.

Australia is an important market for my home State of Oregon. Australia is the 10th largest export market, and is particularly important for high quality manufactured goods. Western Star—a subsidiary of DaimlerChrysler—located in Portland, OR would save nearly $2 million a year in eliminated tariffs and duties that average $4,000 per truck exported to Australia. This money could be reinvested in expanded production and opportunities for workers in my home State of Oregon.

Trade with Australia also supports numerous other high-paying jobs in areas such as transportation, finance and advertising. Furthermore, Oregon exports over $39 million per year in computers and electronic products. Access to 19 million potential customers is no small deal for Oregon businesses.

Furthermore, Australia is the ideal trading partner for the United States. It is an advanced, efficient high wage economy with dependable legal and financial regimes. It has labor and environment standards comparable to the United States. A free trade agreement with Australia just simply makes good sense.

The FTA will only strengthen our relationship with a close ally. Australia and the United States have been true allies through good times and bad. We have fought together in every major conflict in the last 100 years to defend peace and security. We must stand steadfast with our ally, not only in the defense of peace, but also in the prospect and benefits of free trade.

ADDITIONAL STATEMENTS

JASON METCALFE

• Mr. NELSON of Florida. Mr. President, I rise today to commend an exceptional young Floridian, who is raising money to build an ALS clinic in Jacksonville. Jason Metcalfe may only be a fourth grader at Tynes Elementary school, but his story can teach us all—young and old alike—a lesson in the spirit of giving.

Jason's good friend and confidant, Mr. Chapman, was diagnosed with ALS, a debilitating condition commonly called Lou Gehrig's disease. After learning Mr. Chapman was stricken with the devastating disease, he took action.

Jason made a long-term goal to become a scientist and help find a cure for ALS. He has already improved his grades and is now receiving top marks in school. In addition to his commitment to education, Jason decided to help in the short term by collecting money to support ALS research and treatment facilities. He has been saving his allowance, selling candy and taking donations. And I am proud to report that he has already shattered his original goal of raising $500 and has collected in excess of $11,000.

Mr. Chapman passed away on February 1, 2004, but Jason's dream to become an ALS researcher and to build a clinic in Jacksonville lives on. Jason's hard work, determination and leadership is an example to us all. I am proud of the work he is doing to give back to people like Mr. Chapman, who suffer from ALS.

Thank you, Mr. President, for allowing me to recognize the efforts of an exceptional young Floridian.•

BRAIN INJURY RESEARCH

• Mr. CORZINE. Mr. President, I rise today to pay tribute to the Benigno family of Clinton, NJ, for their tireless efforts to advance the cause of brain injury research.

Nearly 20 years ago, Dennis and Rosalind Benigno's 15-year old son, Dennis John, was struck by a car while walking home from a football physical. Dennis John suffered severe, long-term brain injuries in the accident. Now 34, Dennis John cannot walk or talk. He communicates with his eyes and laughter, and seems to understand when his parents talk to him. Dennis and Rosalind have made a life of caring for their injured son.

Their personal tragedy, however, is not the end of the story. Mr. Benigno has turned tragedy into action. He has been a passionate advocate on behalf of his son, raising awareness and promoting research efforts that offer the prospect of a cure for traumatic brain injury. The Benigno's founded the Coalition for Brain Injury Research, which has donated more than $125,000 in the past 2 years to the study of brain cell repair. They raise funds through walkathons and a lecture series, and Mr. Benigno has traveled throughout the country for research dollars.

Mr. Benigno has also turned to his elected representatives in New Jersey and Washington, DC. His efforts have led to the creation of the Congressional Brain Injury Task Force, co-chaired by my good friend Congressman Bill Pascrell. For the last 6 years, Mr. Benigno has also lobbied local, State, and Federal legislators to support legislation that would create a dedicated source of funding for medical research into traumatic brain injuries.

His work has begun to pay off. On January 2 of this year, Governor McGreevey signed the Brain Injury Research Act into law. With this legislation, New Jersey becomes the first State in the Nation to create a funding stream for researchers devising treatments and cures for brain injuries. The act is expected to raise more than $3 million a year for brain injury research from a $1 surcharge on motor vehicle penalties.

Dennis John is one of more than 5.3 million Americans who currently suffer disabilities from brain injury, according to the Centers for Disease Control, CDC. Every year, 200,000 people sustain brain injuries, a number that exceeds the incidence of HIV/AIDS and breast cancer. Right now, there is no cure. In fact, brain injuries are the only catastrophic illness for which scientists have yet to readily identify a cure as their research goal. The Brain Injury Research Act, finally, offers hope to the hundreds of thousands who suffer from brain injuries that an effective therapy may be in sight.

While religious authorities, ethics scholars, and we here in the halls of government continue to debate the implications of stem and fetal cell research, the Benigno's remain focused on one thing—supporting the research efforts that may find a cure for their son and others like him. As we make decisions that have the power to spark or extinguish the hopes of millions that the cures they pray for may be found, we should keep the Benigno's in mind.

One point is very clear—this new law and the hope it nurtures are a credit to Mr. Benigno's dedication, courage, and perseverance. He is an inspiration to all of us, and a testament to what one determined citizen can achieve in our democracy.•

TRIBUTE TO MR. WILLIAM B. SCHATZ

• Mr. VOINOVICH. Mr. President, I rise today in honor of Mr. William B. Schatz, General Counsel of the Northeast Ohio Regional Sewer District, NEORSD, in Cleveland, OH. Mr. Schatz currently serves as the District's representative to the Association of Metropolitan Sewerage Agencies, AMSA, and on May 24, 2004, will become president of this organization. Mr. Schatz was elected AMSA president based on his exemplary commitment and dedication to the clean water community in Ohio and throughout our Nation.

AMSA's mission is to effectively maintain a strong leadership role in the development and implementation of scientifically sound, cost-effective, and environmentally friendly policies for the protection of public health and the environment. This month, AMSA celebrates 34 years of dedicated service to improving water quality nationwide.

Mr. Schatz has served with distinction at NEORSD since 1979 and for over 20 years has been a leader in the water quality arena, working on many projects on behalf of NEORSD and AMSA. He has served as the ad hoc legal advisor to the Association of Ohio Metropolitan Wastewater Agencies, a member of the Advisory Board of the National Enforcement Training Institute, and a member of the U.S. Environmental Protection Agency's Quality Review Committee on Grant Audits. At AMSA, Mr. Schatz has served as chairman of both the Legal Affairs Committee and Joint AMSA-Association of Metropolitan Water Agencies Insurance Committee, a leader of the Wastewater Infrastructure Funding Task Force, and as a member of AMSA's Board of Directors.

Mr. Schatz was instrumental in establishing NEORSD as a leading agency in the wastewater industry and in helping to guide its capital programs. Mr. Schatz was also an influential leader in convincing Congress to fund the conversion of NEORSD's physical chemical Westerly Plant in Cleveland, Ohio, to a conventional biological process. Throughout his career, Mr. Schatz has played an important role in helping to shape critical national policy issues on infrastructure funding, enforcement, and construction grant audit appeals.

Mr. Schatz has been of great assistance to me in my efforts in the United States Senate to bring attention to our Nation's vital water infrastructure needs. He is a well-known leader and someone who, day in and day out, goes above and beyond the call of duty. William B. Schatz has made a significant contribution to improving water infrastructure programs across America.

On behalf of the people of Ohio, I am pleased to commend William B. Schatz for his extraordinary efforts to improve public health and the environment and I congratulate him on being elected president of the Association of Metropolitan Sewerage Agencies.•

PIONEER HIGH SCHOOL AND ITS AWARD-WINNING MUSIC PROGRAM

• Mr LEVIN. Mr. President, it is my great pleasure to congratulate the staff and students of Pioneer High School in Ann Arbor, Michigan, for the school's designation as a 2004 GRAMMY Signature School. Pioneer is one of 41 high schools nationwide being honored by the GRAMMY Foundation for making an outstanding commitment to music education during the 2003–2004 school year. I am also pleased to note that Pioneer's program was placed in the gold category, making it among the seven best in the Nation.

Established in 1989, the GRAMMY Foundation engages in programs and activities that cultivate the understanding and appreciation of recorded music and its impact on American culture. The GRAMMY Signature School program, with the most enthusiastic support of Dr. Pepper/7 Up, Inc., honors schools that recognize the positive effects that the arts and music have on young people and rewards these schools with a financial grant that assists them in continuing their exemplary music programs into the following school year.

Last fall, the foundation contacted more than 20,000 public high schools to learn more about each school's music program. Competing with large and small institutions situated in rural and urban communities across America, Pioneer High School submitted its application to a panel comprised of top music educators and professionals. Its vocal and instrumental repertoire distinguished Pioneer as a secondary school committed to providing its students with an exceptional music education. As one of the gold category schools, Pioneer will receive a grant of $5,000 that will help the music department preserve and enhance its already remarkable music program.

Providing an excellent music education for students enriches the entire learning experience. It is my honor to thank the staff and administrators at Pioneer who are responsible for supporting a solid foundation of music appreciation. I also wish to thank the young musicians who willingly dedicate their time and energy toward enhancing their own music abilities and urge them to share their love of music with the following generations. I am confident my colleagues will join me in offering our heartfelt congratulations for this outstanding achievement.•

AMERICAN LUNG ASSOCIATION'S TRUDEAU MEDAL WINNER

• Mrs. BOXER. Mr. President, I rise today to offer my congratulations to Dr. Philip C. Hopewell, MD. The American Lung Association has awarded Hopewell the Edward Livingston Trudeau Medal for his life-long achievements in the prevention, research treatment and cure of lung-related diseases. The Trudeau Medal is awarded by the American Lung Association in honor of the distinguished scientist, Edward Livingston Trudeau, founder of the American Lung Association and its first president.

Dr. Hopewell is a world-renowned expert in tuberculosis control. He has literally traveled the globe offering technical advice and hands on practical guidance to tuberculosis control programs in developing nations. Dr. Hopewell has seen extended service in Peru and Nigeria and has worked with the PanAmerican Health Organization and the World Health Organization to advance TB control efforts around the world.

While Dr. Hopewell's work has been a boon to many countries, he has also worked hard to protect the health of Americans. As a leading researcher on the interaction between TB and HIV-AIDS infection, Dr. Hopewell and his colleagues at UCSF are credited with for the dramatic 60 percent reduction in TB cases in San Francisco in the past decade.

Dr. Hopewell is a teacher, a scientist and a healer. But he is also an advocate. Dr. Hopewell is equally at home sharing his expertise with members of Congress, as he is with health-workers in Peru. In part because of his advocacy, the U.S. has significantly increased its commitment to global TB control over the past 5 years.

I am pleased to say that I have played a role in supporting the work of Dr. Hopewell and his colleagues around the globe to identify, treat and prevent TB. As a member of the Senate Foreign Relations Committee, I have worked to increase the U.S. contribution for global TB control by supporting increased funding for TB programs at the US Agency for International Development. Increased support at USAID has lead to the development of a country specific plan to eliminate TB in high burden countries and is achieving results in many high burden TB countries.

While we still have a long way to go to effectively control and prevent TB in the U.S. and around the globe, it is important to recognize and celebrate those individuals who have helped achieve the advances we have made so far. Please join me in honoring Dr. Hopewell for his leadership, passion and tireless work to eliminate tuberculosis.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 2:17 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 2201. An act to authorize the establishment of a national database for purposes of identifying, locating, and cataloging the many memorials and permanent tributes to America's veterans.

H.R. 3505. An act to amend the Bend Pine Nursery Land Conveyance Act to specify the recipients and consideration for conveyance of the Bend Pine Nursery, and for other purposes.

H.R. 3768. An act to expand the Timucuan Ecological and Historic Preserve, Florida.

H.R. 4193. An act to amend the Internal Revenue Code of 1986 to allow for the expansion of areas designated as renewal communities based on 2000 census data and to treat certain census tracts with low populations as low-income communities for purposes of the new markets tax credit.

The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 403. Concurrent resolution condemning the Government of the Republic of the Sudan for its attacks against innocent civilians in the impoverished Darfur region of western Sudan.

H. Con. Res. 420. Concurrent resolution applauding the men and women who keep America moving and recognizing National Transportation Week.

H. Con. Res. 423. Concurrent resolution authorizing the use of the Capitol Grounds for activities associated with the dedication of the National World War II Memorial.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2201. An act to authorize the establishment of a national database for purposes of identifying, locating, and cataloging the many memorials and permanent tributes to America's veterans; to the Committee on Energy and Natural Resources.

H.R. 3768. An act to expand the Timucuan Ecological and Historic Preserve, Florida; to the Committee on Energy and Natural Resources.

H.R. 4193. An act to amend the Internal Revenue Code of 1986 to allow for the expansion of areas designated as renewal communities based on 2000 census data and to treat certain census tracts with low populations as low-income communities for purposes of the new markets tax credit; to the Committee on Finance.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 403. Concurrent resolution condemning the Government of the Republic of the Sudan for its attacks against innocent civilians in the impoverished Darfur region of western Sudan; to the Committee on Foreign Relations.

H. Con. Res. 420. Concurrent resolution applauding the men and women who keep America moving and recognizing National Transportation Week; to the Committee on Commerce, Science, and Transportation.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

H.R. 4275. An act to amend the Internal Revenue Code of 1986 to permanently extend the 10-percent individual income tax rate bracket.

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3505. An act to amend the Bend Pine Nursery Land Conveyance Act to specify the recipients and consideration for conveyance of the Bend Pine Nursery, and for other purposes.

PETITIONS AND MEMORIALS

POM-444. A resolution adopted by the Cleburne Independent School District of the State of Texas relative to the social security system; to the Committee on Finance.

POM-445. A resolution adopted by the Board of Commissioners of the County of Cook of the State of Illinois relative to discrimination against women; to the Committee on Foreign Relations.

POM-446. A joint memorial adopted by the Legislature of the State of Maine relative to the United States Postal Service; to the Committee on Governmental Affairs.

JOINT RESOLUTION

Whereas, the United States Postal Service, founded in 1775, provides a means for commerce and communications and provides postal services to all communities, rich and poor, urban and rural, with uniform postage rates and it has for nearly 230 years provided dependable, affordable mail service. The United States Postal Service remains an important part of our nation's economic infrastructure through which nearly $1 trillion of economic activity is conducted each year and in which 9,000,000 people are employed; and

Whereas, Americans currently enjoy the most extensive postal service at the lowest postage rates of any major industrialized nation in the world, and excessive below-cost postage discounts to large business and advertising mailers unnecessarily drain billions of dollars of revenue from the United States Postal Service and ultimately cause small businesses and ordinary citizens to subsidize those discounts through higher postage rates. Millions of older, disabled and economically disadvantaged Americans do not have easy access to the Internet or to electronic banking and bill paying and therefore are heavily dependent on the United States Postal Service for communication and the conducting of business transactions; and

Whereas, the President created the President's commission on the United States Postal Service, which has recommended far-reaching changes to postal operations and services, including severing postal employees from federal employee health, retirement and workers' compensation programs, and the repeal of certain existing laws, which would pave the way towards reducing rank-and-file wages and benefits while eliminating the current salary cap on executive-level postal positions in order to raise postal executive pay on par with that of corporate CEOs and the commission has recommended a new President-appointed, corporate-style board of directors and the new Postal Regulatory Board that would give these new politically appointed governing bodies broad authority to set rates without prior approval, review and refine the scope of the United States Postal Service's universal service obligation and uniform rate structure and change and restrict the scope of services currently protected under postal monopoly regulations; and

Whereas, this broad authority would allow post offices to be closed without community input and prices to be set with a complicated postage rate structure or would even turn over postal operations to private for-profit enterprises despite a recent survey whose respondents had an overwhelmingly favorable view of the United States Postal Service, with 3 out of 4 saying no major changes are needed and 3 out of 10 saying the United States Postal Service works extremely well as is; and

Whereas, replacing the United States Postal Service's public service obligation with a profit-seeking mandate would undermine the United States Postal Service's historical "universal service" obligation, weaken its national infrastructure and divide our nation politically and economically, and here in the District of Maine, the United States Postal Service has unilaterally implemented a cost-saving reduction of hours and access that restricts customer service by curtailing hours; and

Whereas, this program has reduced hours of service at over 50% of post offices in Maine, severely affecting customer service, without regard to customers' input and complaints. Maine is a rural state and our elderly and disabled citizens depend on postal services: Now, therefore, be it

Resolved, That We, your Memorialists, request that the President of the United States, Congress and the United States Postal Service continue to maintain affordable, dependable mail service at current levels because of its social and economic importance to our nation; and be it further

Resolved, That we oppose any effort to undermine the United States Postal Service's universal service obligation and its uniform rate structure, that the service hours be returned to where they were before the report of the President's Commission on the United States Postal Service and prior to the implementation of the Small Post Office Reviews and Standardization Program and that any recommendation from the presidential commission that curtails public services related to our current postal service be rejected; and be it further

Resolved, That We, your Memorialists, go on record against any changes that would harm the workers of the United States Postal Service, including legislation to close small offices, take away or modify the collective bargaining system of postal workers or change the current bargaining system for employees benefits; and be it further

Resolved, That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable George W. Bush, President of the United States; the Postmaster General, United States Postal Service; the Honorable Richard Cheney, President of the United States Senate; the Honorable Dennis Hastert, Speaker of the United States House of Representatives; and each Member of the Maine Congressional Delegation.

POM-447. A concurrent resolution adopted by the Senate of the Legislature of the State of Louisiana relative to the Louisiana University of Medical Services, Inc., College of Primary Care Medicine; to the Committee on Health, Education, Labor, and Pensions.

SENATE CONCURRENT RESOLUTION NO. 40

Whereas, Louisiana suffers with one of the worst health environments in the country, including a high infant mortality rate, a high rate of low birth weight babies, and an incidence of stroke that is 1.3 times that of the rest of the country, outside of the "stroke belt"; and

Whereas, despite the best efforts of medical education institutions in Louisiana, the deficit of primary care physicians continues; and

Whereas, less than one-half of the 1998 graduates of medical education institutions in Louisiana selected a primary care specialty; and

Whereas, Louisiana University of Medical Services, Inc., College of Primary Care Medicine, is a non-profit organization designed to address the shortage of primary care physicians in small town, rural areas, and underserved areas; and

Whereas, the faculty and staff of the College of Primary Care Medicine are committed to a teaching program that addresses the shortage of primary care physicians both in Louisiana and nationwide; and

Whereas, throughout the educational experience at the College of Primary Care Medicine of the Louisiana University of Medical Services, Inc., the student will be exposed to a wide variety of primary health care settings; and

Whereas, through the program at the College of Primary Care Medicine of the Louisiana University of Medical Services, Inc., the traditional basic medical sciences will be thoroughly presented, and students will be given all the tools necessary to be successful on the United States Medical Licensing Examination: Therefore, be it

Resolved, That the Legislature of Louisiana hereby memorializes the Congress of the United States to provide funding for the Louisiana University of Medical Services, Inc., College of Primary Care Medicine, and be it further

Resolved, That a copy of this Resolution be transmitted to the president of the United States, the secretary of the United States Senate, the clerk of the United States House of Representatives, and each member of the Louisiana delegation to the Congress of the United States.

POM–448. A resolution adopted by the House of Representatives of the Legislature of the State of Michigan relative to the Lifespan Respite Care Act of 2003; to the Committee on Health, Education, Labor, and Pensions.

HOUSE RESOLUTION NO. 113

Whereas, An estimated 26,000 Americans care for one or more adult family members or friends who are disabled, chronically ill, or terminally ill. In addition, almost 25 percent of the nation's elderly experience multiple chronic disabling conditions that make it necessary to rely on others for help in meeting their daily needs; and

Whereas, Every year approximately 600,000 Americans die at home and many of these individuals rely on extensive family caregiving before their deaths. The family caregiver role is personally rewarding, but it can result in substantial emotional, physical, and financial hardship. Of those individuals needing assistance in daily living, nearly 42 percent are under the age of 65; and

Whereas, Current respite care programs are insufficient to meet the needs of this underserved population. Moreover, the limited available respite care programs find it difficult to recruit appropriately trained respite workers; and

Whereas, The Lifespan Respite Care Act of 2003 will encourage the creation of state and local lifespan care programs. It will help improve the coordination and dissemination of respite care information and resources to family caregivers. It will also support evaluative research to identify effective respite care services that alleviate, reduce, or minimize any negative consequences of caregiving. Further, the act will promote innovative, flexible, and comprehensive approaches to respite care delivery and support training programs helping family caregivers to make informed decisions about respite care services; and

Whereas, The Michigan House of Representatives has begun work on legislation that complements the Lifespan Respite Care Act. With its passage, Michigan will be better prepared to assist individuals in caregiving: Now, therefore, be it

Resolved by the House of Representatives, That we urge the United States Congress to support the Lifespan Respite Care Act of 2003; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–449. A resolution adopted by the Senate of the Legislature of the State of Vermont relative to the No Child Left Behind Act; to the Committee on Health, Education, Labor and Pensions.

SENATE RESOLUTION NO. 23

Whereas, Vermont has established high academic standards for its students in the areas of reading, language arts, mathematics, social sciences, science and technology, civics, arts, and health, and

Whereas, Vermont has established and implemented rigorous tests to measure achievement of its standards in reading, language arts, and mathematics and consequences for schools whose students fail to do well on the tests, and

Whereas, as a result of Vermont's insistence on rigorous standards and testing, Vermont students do very well on national tests; for example, Vermont students scored as follows on the National Assessment of Education Progress tests in 2003: 4th grade math—highest average score in the nation, 4th grade reading—second highest average score in the nation, 8th grade math—3rd highest average score in the nation, 8th grade reading—2nd highest average score in the nation, and

Whereas, the federal No Child Left Behind (NCLB) Act of 2001 requires all states to develop high academic standards in reading and math only, and to hold schools accountable for student achievement of only those standards, and

Whereas, Congress has not provided sufficient funds for Vermont schools to successfully implement NCLB, thereby forcing them to direct resources away from Vermont's system of comprehensive standards and assessments, a system which has resulted in some of the highest test scores in the nation, and

Whereas, NCLB represents sweeping federal intrusion into state and local control of education, violating the time-honored American principle of balanced federalism and respect for state and local prerogatives, especially in the crucial area of education: Now therefore be it

Resolved by the Senate, That Congress be asked to amend the No Child Left Behind Act immediately to include a mechanism for a waiver from its provisions for school accountability that shall automatically be granted to states whose systems of standards and accountability result in high student achievement; and be it further

Resolved, That such waiver be available to these states so long as they maintain their successful standards and accountability programs; and be it further

Resolved, That the Secretary of the Senate shall transmit copies of this resolution to the President of the United States Senate, the Speaker of the United States House of Representatives, and the member of the Vermont Congressional Delegation.

POM–450. A resolution adopted by the Senate of the Legislature of the State of Hawaii relative to the Employee Free Choice Act; to the Committee on Health, Education, Labor, and Pensions.

SENATE RESOLUTION NO. 77

Whereas, in 1935, the United States established, by law, that workers must be free to form unions; and

Whereas, the freedom to form or join a union is internationally recognized as a fundamental human right; and

Whereas, union membership provides workers better wages and benefits, and protection from discrimination and unsafe workplaces; and

Whereas, unions benefit communities by strengthening tax bases, promoting equal treatment, and enhancing civic participation; and

Whereas, workers want to organize, but are unable to, since more than forty million United States workers say they would join a union now if they had the opportunity; and

Whereas, even though, on paper, America's workers have the freedom to choose for themselves whether to have a union, in reality, workers across the nation are routinely denied that right; and

Whereas, when the right of workers to form a union is violated, wages fall, race and gender pay gaps widen, workplace discrimination increases, and job safety standards disappear; and

Whereas, many thousands of America's workers are routinely threatened, coerced, or fired each year because they attempt to form a union; and

Whereas, most violations of workers' freedom to choose a union occur behind closed doors and each year millions of dollars are spent to frustrate workers' efforts to form unions; and

Whereas, a worker's fundamental right to choose a union is a public issue that requires public policy solutions, including legislative remedies; and

Whereas, the Employee Free Choice Act (S. 1925 and H.R. 3619) has been introduced in the United States Congress in order to restore workers freedom to join a union; and

Whereas, the Employee Free Choice Act has received broad bipartisan support with over two hundred congressional members as co-sponsors; and

Whereas, at its March 17 meeting, the Hawaii State AFL–CIO Executive Board unanimously endorsed the Employee Free Choice Act: Now, therefore, be it

Resolved by the Senate of the Twenty-second Legislature of the State of Hawaii, Regular Session of 2004, That this body supports the Employee Free Choice Act (S. 1925 and H.R. 3619), which would:

(1) Authorize the National Labor Relations Board to certify a union as the bargaining representative when a majority of employees voluntarily sign authorizations designating that union to represent them;

(2) Provide for first contract mediation and arbitration; and

(3) Establish meaningful penalties for violations of a worker's freedom to choose a union; and be it further

Resolved, That this body urges Hawaii's congressional delegation to support the Employee Free Choice Act and to impel the United States Congress to pass this measure to protect America's workers and preserve their freedom to choose for themselves whether or not to form a union; and be it further

Resolved, That certified copies of this Resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of Hawaii's congressional delegation.

POM-451. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to Christopher Kangas; to the Committee on the Judiciary

HOUSE RESOLUTION NO. 579

Whereas, On September 11, 2002, Hearing Examiner Doug Dodge of the Bureau of Justice Assistance in the Department of Justice determined that Christopher Kangas was not a public safety officer within the meaning of the Public Safety Officers' Benefits Act of 1976; and

Whereas, This ruling denies his survivors benefits under the act and means that Christopher is ineligible to be memorialized on the wall of the National Fallen Firefighter's Memorial in Emmitsburg, Maryland; and

Whereas, The ruling has shocked and dismayed the Brookhaven Fire Department in Delaware County, Pennsylvania, whose fire chief, Rob Montella, has claimed: "He was a firefighter . . . what he was legally allowed to do, Chris did"; and

Whereas, When his last fire alarm sounded, Christopher Kangas, a junior firefighter for Brookhaven and 14 years of age, hopped on his bicycle to answer the call; and

Whereas, When he died of head injuries after being hit by a car while answering that call on May 4, 2002, he received a full hero's send-off and was laid to rest in a Class A fireman's uniform at a funeral steeped in honor and fire service tradition and attended by firemen from as far away as Massachusetts; and

Whereas, Flags at the National Fallen Firefighter's Memorial flew at half-staff in his honor and memory; and

Whereas, Rob Montella himself, State Fire Commissioner Ed Mann and Brookhaven line officers Dave Zamonski and Charles Leslie, first and second assistant chiefs, respectively, began their volunteer firefighting service answering fire calls as junior firefighters on bicycles, and Mr. Montella has said that Christopher was a firefighter who had a full set of gear, attended all training sessions, answered the calls and was in compliance with the Pennsylvania Junior Emergency Service Compliance Manual; and

Whereas, Upon Christopher's death, his mother became eligible for and received State and borough benefits because he had died in the line of duty, but under Hearing Examiner Dodge's September 11, 2002, opinion, he was denied Federal benefits; and

Whereas, This decision has concerned all firefighters who have learned of it, as it narrows the definition of firefighter and restricts their benefits; Therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania memorialize the President of the United States and the Pennsylvania Congressional Delegation to do all in their power to encourage the United States Department of Justice to review its September 11, 2002, refusal to classify Christopher Kangas as a "public safety officer" under the Public Safety Benefits Act of 1976; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States and to each member of Congress from Pennsylvania.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. CLINTON (for herself, Mr. TALENT, and Mr. SCHUMER):

S. 2430. A bill to provide for improved medical readiness of the members of the Armed Forces, and for other purposes; to the Committee on Armed Services.

By Mr. NELSON of Nebraska (for himself and Mrs. HUTCHISON):

S. 2431. A bill to amend title XVIII of the Social Security Act to improve access to diabetes self-management training by designating certified diabetes educators recognized by the National Certification Board of Diabetes Educators as certified providers for purposes of outpatient diabetes education services under part B of the medicare program; to the Committee on Finance.

By Mr. TALENT:

S. 2432. A bill to expand the boundaries of Wilson's Creek Battlefield National Park, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BINGAMAN (for himself and Mr. THOMAS):

S. 2433. A bill to amend the Internal Revenue Code of 1986 to allow self-employed individuals to deduct health insurance costs in computing self-employment taxes; to the Committee on Finance.

By Mr. HATCH (for himself, Mrs. BOXER, Mrs. HUTCHISON, and Mr. BINGAMAN):

S. 2434. A bill to establish the Commission to Study the Potential Creation of a National Museum of the American Latino Community to develop a plan of action for the establishment and maintenance of a National Museum of the American Latino Community in Washington, D.C., and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LEAHY (for himself and Mr. GRASSLEY):

S. 2435. A bill to permit Inspectors General to authorize staff to provide assistance to the National Center for Missing and Exploited Children, and for other purposes; to the Committee on the Judiciary.

By Mr. INOUYE:

S. 2436. A bill to reauthorize the Native American Programs Act of 1974; to the Committee on Indian Affairs.

By Mr. ENSIGN:

S. 2437. A bill to amend the Help America Vote Act of 2002 to require a voter-verified permanent record or hardcopy under title III of such Act, and for other purposes; to the Committee on Rules and Administration.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SCHUMER (for himself, Mr. KENNEDY, Ms. STABENOW, Ms. MIKULSKI, Mr. WYDEN, Mr. DURBIN, Mr. CORZINE, Mrs. BOXER, Mr. LEVIN, Mr. LAUTENBERG, Mr. LEAHY, Mr. HARKIN, Mr. DODD, Mrs. FEINSTEIN, Mrs. CLINTON, Mr. SARBANES, Mr. REED, Mr. DASCHLE, Mrs. MURRAY, Mr. LIEBERMAN, Mr. ROCKEFELLER, Mr. AKAKA, Mr. FEINGOLD, Mr. REID, Mr. JOHNSON, and Mr. DAYTON):

S. Res. 364. A resolution expressing the sense of the Senate concerning oil markets; to the Committee on Energy and Natural Resources.

ADDITIONAL COSPONSORS

S. 98

At the request of Mr. ALLARD, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 98, a bill to amend the Bank Holding Company Act of 1956, and the Revised Statutes of the United States, to prohibit financial holding companies and national banks from engaging, directly or indirectly, in real estate brokerage or real estate management activities, and for other purposes.

S. 333

At the request of Mr. BREAUX, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 333, a bill to promote elder justice, and for other purposes.

S. 623

At the request of Mr. WARNER, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 623, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 646

At the request of Mr. CORZINE, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 646, a bill to amend title XVIII of the Social Security Act to expand and improve coverage of mental health services under the medicare program.

S. 845

At the request of Mr. GRAHAM of Florida, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 845, a bill to amend titles XIX and XXI of the Social Security Act to provide States with the option to cover certain legal immigrants under the medicaid and State children's health insurance programs.

S. 976

At the request of Mr. WARNER, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 976, a bill to provide for the issuance of a coin to commemorate the 400th anniversary of the Jamestown settlement.

S. 979

At the request of Mr. ENSIGN, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 979, a bill to direct the Securities and Exchange Commission to require enhanced disclosures of employee stock options, to require a study on the economic impact of broad-based employee stock option plans, and for other purposes.

S. 1197

At the request of Mr. ENZI, the names of the Senator from Oregon (Mr.

WYDEN), the Senator from North Dakota (Mr. CONRAD) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 1197, a bill to amend the Public Health Service Act to ensure the safety and accuracy of medical imaging examinations and radiation therapy treatments.

S. 1333

At the request of Mr. GRASSLEY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1333, a bill to amend the Internal Revenue Code of 1986 to provide for the treatment of certain expenses of rural letter carriers.

S. 1491

At the request of Mr. CORNYN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1491, a bill to amend the Internal Revenue Code of 1986 to expand workplace health incentives by equalizing the tax consequences of employee athletic facility use.

S. 1509

At the request of Mr. COLEMAN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1509, a bill to amend title 38, United States Code, to provide a gratuity to veterans, their spouses, and children who contract HIV or AIDS as a result of a blood transfusion relating to a service-connected disability, and for other purposes.

S. 1792

At the request of Mr. DOMENICI, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 1792, a bill to amend the Internal Revenue Code of 1986 to provide the same capital gains treatment for art and collectibles as for other investment property and to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literary, musical, artistic, or scholarly compositions created by the donor.

S. 1887

At the request of Mr. HATCH, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1887, a bill to amend the Controlled Substances Act to lift the patient limitation on prescribing drug addiction treatments by medical practitioners in group practices.

S. 1909

At the request of Mr. COCHRAN, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 1909, a bill to amend the Public Health Service Act to improve stroke prevention, diagnosis, treatment, and rehabilitation.

S. 1916

At the request of Ms. LANDRIEU, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 1916, a bill to amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, to provide for a one-year open season under that plan, and for other purposes.

S. 1980

At the request of Mr. GRAHAM of Florida, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1980, a bill to amend the Help America Vote Act of 2002 to require a voter-verified permanent record or hardcopy under title III of such Act, and for other purposes.

S. 2163

At the request of Mr. DURBIN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 2163, a bill to establish a national health program administered by the Office of Personnel Management to offer health benefits plans to individuals who are not Federal employees, and for other purposes.

S. 2262

At the request of Mr. CORNYN, his name was added as a cosponsor of S. 2262, a bill to provide for the establishment of campaign medals to be awarded to members of the Armed Forces who participate in Operation Enduring Freedom or Operation Iraqi Freedom.

S. 2305

At the request of Mr. LIEBERMAN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2305, a bill to authorize programs that support economic and political development in the Greater Middle East and Central Asia and support for three new multilateral institutions, and for other purposes.

S. 2313

At the request of Mr. GRAHAM of Florida, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 2313, a bill to amend the Help America Vote Act of 2002 to require a voter-verified permanent record or hardcopy under title III of such Act, and for other purposes.

S. 2351

At the request of Mr. FEINGOLD, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2351, a bill to establish a Federal Interagency Committee on Emergency Medical Services and a Federal Interagency Committee on Emergency Medical Services Advisory Council, and for other purposes.

S. 2372

At the request of Mr. CORZINE, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 2372, a bill to amend the Trade Act of 1974 regarding identifying trade expansion priorities.

S. 2383

At the request of Mr. COLEMAN, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 2383, a bill to amend title 10, United States Code, to require the registration of contractors' taxpayer identification numbers in the Central Contractor Registry database of the Department of Defense, and for other purposes.

S. 2389

At the request of Mr. ENSIGN, the name of the Senator from Oklahoma (Mr. NICKLES) was added as a cosponsor of S. 2389, a bill to require the withholding of United States contributions to the United Nations until the President certifies that the United Nations is cooperating in the investigation of the United Nations Oil-for-Food Program.

S. 2411

At the request of Mr. DODD, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 2411, a bill to amend the Federal Fire Prevention and Control Act of 1974 to provide financial assistance for the improvement of the health and safety of firefighters, promote the use of life saving technologies, achieve greater equity for departments serving large jurisdictions, and for other purposes.

S.J. RES. 28

At the request of Mr. CAMPBELL, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S.J. Res. 28, a joint resolution recognizing the 60th anniversary of the Allied landing at Normandy during World War II.

S.J. RES. 36

At the request of Mrs. FEINSTEIN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S.J. Res. 36, a joint resolution approving the renewal of import restrictions contained in Burmese Freedom and Democracy Act of 2003.

S.J. RES. 37

At the request of Mr. BROWNBACK, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S.J. Res. 37, a bill to acknowledge a long history of official depredations and ill-conceived policies by the United States Government regarding Indian Tribes and offer an apology to all Native Peoples on behalf of the United States.

S. CON. RES. 81

At the request of Mrs. FEINSTEIN, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. Con. Res. 81, a concurrent resolution expressing the deep concern of Congress regarding the failure of the Islamic Republic of Iran to adhere to its obligations under a safeguards agreement with the International Atomic Energy Agency and the engagement by Iran in activities that appear to be designed to develop nuclear weapons.

S. RES. 221

At the request of Mr. BUNNING, his name was added as a cosponsor of S. Res. 221, a resolution recognizing National Historically Black Colleges and Universities and the importance and accomplishments of historically Black colleges and universities.

AMENDMENT NO. 3154

At the request of Mr. FEINGOLD, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 3154 intended to be proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NELSON of Nebraska (for himself and Mrs. HUTCHINSON):

S. 2431. A bill to amend title XVIII of the Social Security Act to improve access to diabetes self-management training by designating certified diabetes educators recognized by the National Certification Board of Diabetes Educators as certified providers for purposes of outpatient diabetes education services under part B of the medicare program; to the Committee on Finance.

Mr. NELSON of Nebraska. Mr. President, today I introduce an important piece of legislation that will correct an oversight from the Balanced Budget Act of 1997. In 1997, Congress created a new diabetes benefit under Medicare—diabetes self-management training—but did not create a new provider group to deliver it. Congress assumed that the existing diabetes education programs in hospitals would be able provide services to all who were in need.

Certified Diabetes Educators, CDEs, were not given the ability to bill Medicare directly for diabetes self-management training when Congress passed the new benefit in 1997 because they did not feel there was a need to create a new provider since CDEs could work within a hospital setting and receive reimbursement through hospital billing. However, due to changing health care economics, hospital diabetes self-management training programs have been closing at an alarming rate, forcing patients to seek other avenues for obtaining diabetes self-management training, such as clinics and stand-alone programs.

While small in scope, the Diabetes Self-Management Training Act of 2004 will correct this oversight to ensure our Nation's seniors with diabetes have access to this important benefit.

Diabetes education is very important in my State of Nebraska. According to the Nebraska Health and Human Services System, about five percent of Nebraska's adults have diagnosed diabetes—or about 60,000 people. An additional 20,000 Nebraskans probably have diabetes but have not been diagnosed. While diabetes rates continue to grow at an alarming rate, lack of access to diabetes-self management training, which is critical to controlling diabetes and preventing secondary complications, has also become a chronic problem. Despite the fact that twenty percent of Medicare patients have diabetes, and about a quarter of all Medicare spending goes to treat diabetes and diabetes-related conditions, less than one-third of eligible patients are currently receiving the benefit.

Because CDEs are not able to bill Medicare directly for diabetes self-management training, patients have limited options for obtaining the training they need to successfully manage their disease and prevent expensive and debilitating complications. The potential for complications is enormous. If patients with diabetes cannot gain access to diabetes self-management training, serious complications will arise, such as kidney disease, amputations, vision loss, and severe cardiac disease. In fact, half of all Medicare dialysis patients suffer from diabetes.

By improving access to this important benefit, I believe we will take an important step toward helping patients control their diabetes, which will not only save the Medicare program the significant costs associated with the complications from uncontrolled diabetes, but more importantly it will dramatically improve the quality of life for the millions of Medicare beneficiaries with diabetes. That is why I am so proud to introduce this bi-partisan legislation, the Diabetes Self-Management Training Act of 2004, along with my colleague Senator HUTCHISON.

Throughout the Medicare debate last year, one of the top considerations for all Senators was the cost of the legislation and the long-term solvency of the Medicare program. In fact, we passed new programs in that legislation to begin studying new health care delivery models like Medicare that will improve the outcomes for beneficiaries with chronic diseases. While I strongly supported those new demonstration programs, we need not wait to begin helping our seniors.

With diabetes already directly affecting so many seniors, and the baby boomers on the horizon, we cannot afford to deny seniors access to proven programs like diabetes self-management training any longer. I look forward to working to pass this legislation and help those with diabetes.

Mrs. HUTCHISON. Mr. President, I rise today with Senator NELSON to introduce an important piece of legislation that will dramatically improve the quality of diabetes care under the Medicare program.

Diabetes is a serious, debilitating chronic illness that afflicts more than 18 million Americans, including eight million Medicare beneficiaries. An additional eight million seniors suffer from a condition known as "pre-diabetes" that, when left untreated, will develop into diabetes. Diabetes' devastating complications—kidney failure, blindness, lower extremity amputation, heart disease and stroke—result in significant costs to the program. Although beneficiaries with diabetes comprise only 20 percent of the Medicare population, diabetes related complications account for more than 30 percent of medicare expenditures.

This is indeed troubling, and there is much that can be done to reduce the burden of diabetes and prevent these costly complications. Diabetes self-management training, DSMT, helps people with diabetes learn the skills they need to manage the daily regimen of diet, exercise, meal planning, medication and monitoring necessary to keep blood sugar under control. Certified Diabetes Educators, CDEs, are highly trained healthcare professionals—often nurses, pharmacists, or dieticians—who specialize in helping people with diabetes develop these skills. A CDE must be a licensed health care professional, possess a minimum of two years of professional practice experience in DSMT, have provided a minimum of 1,000 hours of DSMT to patients in the past five years, and have passed a rigorous national examination.

The value of DSMT is well documented. The Diabetes Prevention Program study of 2002 demonstrated that participants, all of whom were at increased risk for developing type 2 diabetes, were able to reduce that risk by implementing the lifestyle changes taught as part of DSMT. Additional studies have found that patients with diabetes achieved significantly better outcomes when taking part in comprehensive diabetes management programs.

Congress recognized the value of DSMT when it provided for this benefit under the Balanced Budget Act of 1997. At that time, CDEs were able to provide DSMT through hospital-based programs, billing under the hospital's provider number. Unfortunately, hospital-based DSMT programs are closing at a rate of two to five per month, leaving people with diabetes without access to this life-saving benefit. Our legislation would correct this problem by allowing CDEs to be recognized as providers under the Medicare program for the purposes of providing DSMT. This would provide CDEs with the flexibility they need to ensure that beneficiaries can access these critical services.

As it is, the Centers for Medicaid and Medicare Services, CMS, estimates that only 30 percent of beneficiaries are utilizing the benefit. More must be done to increase access to life-saving DSMT programs. Our legislation will help to accomplish that goal.

Diabetes already poses a serious burden for the Medicare program. As the 76 million baby-boomers age into the

Medicare program, the cost of diabetes related complications could seriously undermine the financial stability of the Medicare program. We must act now to strengthen Medicare to ensure that beneficiaries with diabetes have the tools they need to prevent diabetes complications.

By Mr. BINGAMAN (for himself and Mr. THOMAS):

S. 2433. A bill to amend the Internal Revenue Code of 1986 to allow self-employed individuals to deduct health insurance costs in computing self-employment taxes; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, today my colleague, Senator THOMAS, and I are introducing the "Equity for Our Nation's Self-Employed Act of 2004." This legislation would reduce the cost of health insurance for the self-employed by allowing these workers to exclude the cost of their health insurance from their income for purposes of calculating their payroll taxes. Although the self-employed are now allowed an income tax deduction for the amount they pay for health insurance, they must still calculate their payroll taxes as if they were not allowed this income tax deduction. Essentially, the self-employed are paying payroll taxes on the amount they pay for health insurance. The legislation we are introducing today would stop this inequitable tax treatment and allow the self-employed to deduct the amount they pay for health insurance from their calculation of payroll taxes.

This problem affects all self-employed who provide health insurance to their families. According to the Census Bureau, there are almost 74,000 self-employed workers in New Mexico. While we have no idea how many of these people in New Mexico have health insurance, we do know that roughly 3.6 million working families in the United States paid self-employment tax on their health insurance premiums. Estimates indicate that roughly 60 percent of our Nation's uninsured are either self-employed or work for a small business. According to the Kaiser Family Foundation, self-employed workers spend more than $9,000 per year to provide health insurance for their family. Because they cannot deduct this as an ordinary business expense, those that spend this amount will pay a 15.3 percent payroll tax on their premiums resulting in almost $1,400 of taxes annually.

This problem was identified by the National Taxpayer Advocate in several of her annual reports to Congress and is supported by a variety of groups including the National Association for the Self-employed, the National Small Business Association, the National Federation of Independent Businesses, the U.S. Chamber of Commerce, the U.S. Hispanic Chamber of Commerce, and the Small Business Legislative Council.

I look forward to working with my colleagues to get this important legislation passed.

By Mr. HATCH (for himself, Mrs. BOXER, Mrs. HUTCHISON, and Mr. BINGAMAN):

S. 2434. A bill to establish the Commission to Study the Potential Creation of a National Museum of the American Latino Community to develop a plan of action for the establishment and maintenance of a National Museum of the American Latino Community in Washington, D.C., and for other purposes; to the Committee on Energy and Natural Resources.

Mr. HATCH. Mr. President, today I am introducing legislation to create a national commission to study the potential establishment of a National Museum of the American Latino Community in Washington, D.C.

I am pleased to introduce this measure today, and I am joined by my colleagues Senators BARBARA BOXER, KAY BAILEY HUTCHISON, and JEFF BINGAMAN, all of whom have worked extensively with the Hispanic community on issues of importance.

The Hispanic community is the fastest growing ethnic group in the United States, and in my home State of Utah, Hispanics now account for nearly 10 percent of the population. Utah is a wonderful mosaic, encompassing a diverse number of peoples and cultures, and in fact, the latest census shows that Utah's Hispanic population has nearly doubled since 1990. But this phenomenon is not just happening in Utah.

It is clear we are seeing remarkable growth in our Nation's Hispanic population. And with this growth, we need to recognize and find ways to better highlight the accomplishments of Latinos over their rich history in America. We need to express the importance of diversity, pride, and the sharing of the cultures that contribute to the vibrancy and splendor of our Nation.

Every day we are reminded of the fact that Latinos are among our Nation's largest minorities, and numbers do have meaning. It is my belief that Latinos in America exhibit a strong desire—a commitment to building a nation where people are judged by their actions and not by their accents. They believe in the work ethic, patriotism, the importance of families, the free enterprise system, and the value of faith; they believe in these things and they experience these tenets, as they live them day in and day out here in America.

I believe strongly in preserving the sanctity of the heritage of cultures, and we should treasure these gifts. I believe that all Americans are enriched by learning to view the history of our Nation through the prisms of other cultures and languages.

When American and foreign tourists visit Washington, They expect to gain a better understanding of our collective history and culture. They see exhibits that educate visitors about our Nation's miraculous technological achievements, our military sacrifices and accomplishments, and the documents establishing the most sacred tenets of our democratic traditions. Yet, as demonstrated by the efforts to establish the National Museum of the American Indian and the National Museum of African American History and Culture, the lessons taught by our institutions are incomplete.

Children who visit museums in Washington should have the opportunity to learn the full history of who we are and who we are becoming as Americans. Nearly 40 million U.S. residents share a cultural heritage that is only beginning to be understood as wholly American, yet few of the exhibits in the Smithsonian's and other museums in Washington commemorate American Latino cultural contributions.

This legislation would take the next step toward ensuring that the lessons taught by our premier institutions for the arts and humanities include a better representation of American Latino cultural contributions. I hope that we will soon be able to say that the Nation's Capital truly exhibits America's rich cultural diversity.

I would like to note that Representative XAVIER BECERRA has introduced a companion bill in the House of Representatives, and I am honored to introduce this companion legislation in the Senate. I hope this measure will be approved by the Senate in short order.

By Mr. LEAHY (for himself and Mr. GRASSLEY):

S. 2435. A bill to permit Inspectors General to authorize staff to provide assistance to the National Center for Missing and Exploited Children, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, I rise today to introduce "The Missing Child Cold Case Review Act of 2004," which will allow an Inspector General to authorize his or her staff to provide assistance on and conduct reviews of the inactive case files, or "cold cases," involving children stored at the National Center for Missing & Exploited Children (NCMEC) and to develop recommendations for further investigations.

I am pleased that Senator GRASSLEY joins me as the lead cosponsor of this bipartisan legislation. I thank him for his leadership in this area.

Speed is everything in homicide investigations. As a former prosecutor in Vermont, I know firsthand that speed is of the essence when trying to solve a homicide. This focus on speed, however, has led the law enforcement community to generally believe that any case not solved within the first 72 hours or lacking significant leads and witness participation has little likelihood of being solved, regardless of the expertise and resources deployed. With time, such unsolved cases become "cold," and these are among the most difficult and frustrating cases detectives face because they are, in effect, cases that other investigators, for whatever reason, failed to solve.

Our Nation's law enforcement agencies, regardless of size, are not immune to rising crime rates, staff shortages and budget restrictions. Such obstacles have strained the investigative and administrative resources of all agencies. More crime often means that fewer cases are vigorously pursued, fewer opportunities arise for follow-up and individual caseloads increase for already overworked detectives.

All the obstacles that hamper homicide investigations in their early phases contribute to cold cases. The National Center for Missing and Exploited Children—our Nation's top resource center for child protection—presently retains a backlog of cold cases involving children that law enforcement departments nationwide have stopped investigating primarily due to all these obstacles. NCMEC serves as a clearinghouse for all cold cases in which a child has not been found and/or the suspect has not been identified.

The bill that Senator GRASSLEY and I introduce today would allow an Inspector General to provide staff support to NCMEC for the purpose of conducting reviews of inactive case files to develop recommendations for further investigation and similar activities. The Inspector General community has one of the most diverse and talented criminal investigative cadres in the Federal government. A vast majority of these special agents have come from traditional law enforcement agencies, and are highly-trained and extremely capable of dealing with complex, criminal cases.

Under current law, an Inspector General's duties are limited to activities related to the programs and operations of an agency. Our bill would allow an Inspector General to permit criminal investigators under his or her supervision to review cold case files, so long as doing so would not interfere with normal duties. An Inspector General would not conduct actual investigations, and any Inspector General would only commit staff when the office's mission-related workloads permitted. At no time would these activities be allowed to conflict with or delay the stated missions of an Inspector General.

From time to time a criminal investigator employed by an Inspector General may be between investigations or otherwise available for brief periods of time. This act would also allow those resources to be provided to the National Center for Missing & Exploited Children. Commitment of resources would be at a minimum and would not materially affect the budget of any office.

We have before us the type of bipartisan legislation that should be moved easily through the Senate and House. It is supported by the Department of Justice Office of the Inspector General. I applaud the ongoing work of the National Center for Missing & Exploited Children and hope both the Senate and the House will promptly pass this bill to provide NCMEC with the resources it requires to solve cold cases involving missing children.

I ask unanimous consent that the text of the Missing Child Cold Case Review Act of 2004 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2435

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Missing Child Cold Case Review Act of 2004".

SEC. 2. AUTHORITY OF INSPECTORS GENERAL.

Title XXXVII of the Crime Control Act of 1990 (42 U.S.C. 5779 et seq.) is amended by inserting after section 3701 the following:

"SEC. 3701A. AUTHORITY OF INSPECTORS GENERAL.

"(a) IN GENERAL.—An Inspector General appointed under section 3 or 8G of the Inspector General Act of 1978 (5 U.S.C. App.) may authorize staff to assist the National Center for Missing and Exploited Children—

"(1) by conducting reviews of inactive case files to develop recommendations for further investigations; and

"(2) by engaging in similar activities.

"(b) LIMITATIONS.—

"(1) PRIORITY.—An Inspector General may not permit staff to engage in activities described in subsection (a) if such activities will interfere with the duties of the Inspector General under the Inspector General Act of 1978 (5 U.S.C. App.).

"(2) FUNDING.—No additional funds are authorized to be appropriated to carry out this section.".

By Mr. INOUYE:

S. 2436. A bill to reauthorize the Native American Programs Act of 1974; to the Committee on Indian Affairs.

Mr. INOUYE. Mr. President, I rise to introduce a bill to reauthorize the Native American Programs Act.

This act is administered by the Administration for Native Americans within the Department of Health and Human Services. Funds appropriated for the Administration for Native Americans enable the provision of grants for social and economic development initiatives addressing the needs of Native communities, for Native language preservation, and to provide support for environmental initiatives.

By Mr. ENSIGN:

S. 2437. A bill to amend the Help America Vote Act of 2002 to require a voter-verified permanent record or hardcopy under title III of such Act, and for other purposes; to the Committee on Rules and Administration.

Mr. ENSIGN. Mr. President, I rise today to speak about an issue that is fundamental to our democracy. That issue is the right for each American to know that their vote has been cast and accurately counted. Earlier today, I introduced legislation, the Voting Integrity and Verification Act, which would provide each American with those assurances.

The United States Constitution is sacred to Americans and it is the envy of the free world. It preserves the rights and freedoms that Americans hold so dear. Our Constitution also guarantees the right of each American to vote. Central to the integrity of our democracy is the right for each American to participate in our democracy.

Democracy works best when each eligible voter participates. As a Nation, we learned in 2000 that even a Presidential election can be determined by handfuls of votes. I learned this lesson in my own 1998 U.S. Senate campaign against incumbent Senator HARRY REID. In one of the closest Federal elections that year, a mere 428 votes separated us after all votes had been counted statewide.

After the election I requested a recount in Clark County, the only county at the time using electronic voting machines. The result of the recount was identical to the first count. That is because there was nothing to recount. After rerunning a computer program, the computer produced the same exact tally.

I conceded to Senator REID and was elected to Nevada's other Senate seat in 2000, but I was still troubled by the fact that Clark County voters had no assurance that their votes had been accurately counted. Innocent computer malfunctions or intentional tampering could have altered their votes without anyone ever knowing.

That is why I led the fight for voter verification paper trails in the Help American Vote Act (HAVA) that President Bush signed into law in 2002. A voter-verified paper trail would allow a voter to review a physical printout of their ballot and correct any errors before leaving the voting booth. This printout would be preserved at the polling for use in any recounts.

Unfortunately, the language that is contained in HAVA has not resolved this issue. Now, I am working to address this issue once and for all. By introducing the Voting Integrity and Verification Act, I want to ensure that HAVA is clear—voters must be assured that their votes will be accurate and will be counted properly. A paper trail provides just such an assurance.

A paper trail is not just a hypothetical answer to electronic ballot mishaps that may not ever happen. On January 6, 2004, a special election was held in Broward County, FL, for House District Seat 91. The margin of victory was 12 votes, but the machine failed to record the votes of 134 ballots. The results of this election have to be called into question, because the House seat was the only item on the ballot. It is doubtful that 134 voters would go to the polling place, stand in line, enter the voting booth but leave without casting a vote. Yet that was the explanation offered to explain the failure of the electronic voting machines to record 134 votes. This triggered an automatic recount under Florida law but there were no paper records with which to conduct a recount. Election workers were left to rerun the computer program. Just as happened in my Senate race, rerunning a computer program to conduct a manual "recount" did not change the outcome.

In Maryland on November 5, 2002, and in Fairfax County, VA, on November 4, 2003, voters who used electronic "touch screen" voting machines watched as the "X" they placed on the video screen next to one candidate's name appeared in a box for the other candidate. There were no verified paper ballots, so a recount was not possible. The voters who witnessed such an irregularity, and all voters who used those voting machines, have no assurances that the machine accurately recorded their vote. This calls into question any results determined by these machines and shows that there is no limit as to the number of votes that may have been miscounted.

It's not written in the Constitution this way, but it seems to me quite obvious that the right of citizens of the United States to vote shall not be denied on account of a lack of a paper trail. We must uphold the sanctity of our vote by making sure there is an accurate way to confirm and recount votes. I call on Congress to act swiftly to preserve America's faith in our election process and enact the Voting Integrity and Verification Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 364—EXPRESSING THE SENSE OF THE SENATE CONCERNING OIL MARKETS

Mr. SCHUMER (for himself, Mr. KENNEDY, Ms. STABENOW, Ms. MIKULSKI, Mr. WYDEN, Mr. DURBIN, Mr. CORZINE, Mrs. BOXER, Mr. LEVIN, Mr. LAUTENBERG, Mr. LEAHY, Mr. HARKIN, Mr. DODD, Mrs. FEINSTEIN, Mrs. CLINTON, Mr. SARBANES, Mr. REED, Mr. DASCHLE, Mrs. MURRAY, Mr. LIEBERMAN, Mr. ROCKEFELLER, Mr. AKAKA, Mr. FEINGOLD, Mr. REID, Mr. JOHNSON, and Mr. DAYTON) submitted the following resolution; which was referred to the Committee on Energy and Natural Resources:

S. RES. 364

Whereas the prices of gasoline and crude oil have a direct and substantial impact on the financial well-being of American families, the potential for national economic recovery, and the economic security of the United States;

Whereas on Friday, May 7, 2004, crude oil prices reached a 13-year high of $40 per barrel, the weighted national average retail price of gasoline was $1.96 per gallon, and the average retail price of gasoline has broken all-time record highs for 2 consecutive months;

Whereas despite the fact that crude oil prices were already approaching record highs, the Organization of Petroleum Exporting Countries (OPEC) announced on April 1, 2004, its commitment to reduce oil production by 1,000,000 barrels per day;

Whereas the Strategic Petroleum Reserve (SPR) was created to enhance the physical and economic security of the United States, and the law allows the SPR to be used to provide relief when oil and gasoline supply shortages cause economic hardship;

Whereas the proper management of the resources of the SPR could provide gasoline price relief to American families and provide the United States with a tool to counterbalance OPEC supply management policies;

Whereas it has been reported that the Administration's current policy of filling the SPR at a rate of hundreds of thousands of barrels per day, despite the fact that the SPR is more than 94 percent full, has contributed to record high gasoline contract prices on the New York Mercantile Exchange;

Whereas in order to combat high gasoline prices during the summer and fall of 2000, President Clinton released 30,000,000 barrels of oil from the SPR, stabilizing the retail price of gasoline;

Whereas the Administration has failed to manage the SPR in a manner that would provide gasoline price relief to working families; and

Whereas the Administration has failed to adequately demand that OPEC immediately increase oil production in order to lower crude oil prices and safeguard the world economy: Now, therefore, be it

Resolved,

SECTION 1. SENSE OF THE SENATE CONCERNING OIL MARKETS.

It is the sense of the Senate that—

(1) the President should directly confront OPEC and challenge OPEC to immediately increase oil production;

(2) the President should direct the Federal Trade Commission and Attorney General to exercise vigorous oversight over the oil markets to protect the American people from price gouging and unfair practices at the gasoline pump; and

(3) to lower the burden of gasoline prices on the American economy and to circumvent OPEC's efforts to reap windfall crude oil profits, the President should suspend deliveries of oil to the SPR and release 1,000,000 barrels of oil per day from the SPR for 30 days following the date of adoption of this resolution, and if necessary, for an additional 30 days beyond that.

Mr. KENNEDY. Mr. President, gasoline prices in Massachusetts just passed the two-dollar mark, and are expected to go even higher in the months ahead. A year ago, the average price of regular gas in Massachusetts was $1.53 per gallon. That means that the average two-car middle class family is paying $56 more per month for gasoline than they were last year. That's the same as a $660 middle class pay cut for the year.

In addition, the high price of gasoline is causing the prices of other consumer goods to go up as well, including groceries and other necessities.

But while middle class families are hurting, the Bush Administration stands on the sidelines. They are doing nothing to encourage OPEC nations to increase production to bring down oil prices.

They are doing nothing to prevent price gouging by the Administration's friends in the oil industry. The profits of the top five oil companies jumped 300 percent in just the past year. That's money taken right out of the pockets of middle class America, and the administration is doing nothing about it.

The President has failed the American consumer with his weak gasoline policies and by pandering to the big oil companies.

Today, I stand with my colleagues and demand that President Bush take immediate action to bring down prices at the pump that impose such a heavy burden on consumers. The President should confront OPEC and demand an increase in oil production. And the President should stop filling the Strategic Petroleum Reserve and release a million barrels of oil a day until prices stabilize.

President Clinton released 30 million barrels in 2000 and this was effective in lowering the price of gasoline.

The Reserve was created for times of crisis, and I believe strongly that it should be used sparingly and for true emergencies. Because the Reserve is almost full today, I believe we can draw down on it without jeopardizing our strategic interests. And the law allows it to be used when supply shortages cause economic hardships for the American people.

Finally, the President should direct the Attorney General to intervene with the big oil companies to prevent price gouging.

This is a crisis that is harming middle class families right now. We need action and we need it now. Every day that the White House continues to turn a blind eye to Big Oil, the worse it gets for the pocketbooks of average families. This legislation would call on the White House to reverse course and take immediate steps to provide some relief to American consumers.

Mr. ROCKEFELLER. Mr. President, it is my pleasure today to join with 25 of my colleagues in calling on the President to delay scheduled deposits to our Nation's Strategic Petroleum Reserve (SPR), and to release some of the crude currently there to alleviate our current record-high gasoline prices. It is important for families in West

Virginia and across the country to have affordable gasoline, and it is crucial that our economy not be dragged down further by spiraling inflation fueled by high prices at the pump.

It has been more than a month since I joined with many of the same Senators who have cosponsored this resolution in a letter to the President calling on him to help reduce skyrocketing gasoline prices by putting further deliveries of petroleum into the marketplace instead of the national reserve. Since then, crude oil prices have reached a thirteen-year high of nearly $42 per barrel, which has led to a rise in the price of gasoline to $2.01 a gallon nationally. This is more than 50 cents higher than a year ago. The burden of high gas prices is being felt by all Americans, and is eating away at any "relief" the Bush tax cuts may have promised.

West Virginia has little or no public transportation, so for most West Virginians the family car is the only lifeline to jobs, school, shopping, and healthcare. The relatively long distances and unforgiving topography that West Virginians have to travel in the normal course of their lives makes an increase of just a few cents at the pump a crushing blow to withstand. Today, from Beckley to Martinsburg, West Virginians can expect to pay close to, or in most cases, well over $2 per gallon. In East Lynn, WV they are paying $2.19 a gallon; in Morgantown they're paying $2.11 a gallon; and in Ripley, my constituents are lucky to find gas going for $2.05 a gallon.

In 2003, 56 percent of West Virginians received less than $100 from the 2003 tax bill. This "relief" is offset greatly by the current trend in gas prices. The current price spikes mean that the majority of West Virginians will end up spending at least three times as much buying gasoline than in any tax return they will have received.

And it is not just short-term affects, or the concerns of our constituents that we have to contend with, but long term consequences as well. On May 12, the International Energy Agency (IEA) released a study stating that higher oil prices have hurt the global economy and will further depress economic growth, fuel inflation, and increase unemployment over the next 2 years if the prices stay near current levels.

Knowing all of this, the Bush administration has yet to even address the explosion of high gasoline prices here at home. In fact, Scott McClellan, the White House Press Secretary said today that "We will continue to do what we've been doing that is to stay in close contact with producers around the world to urge them not to take action that would harm our economy or hurt consumers here in America." This means that the administration is content with the status quo and in doing more of the same. That is why I stand with my colleagues in agreement with this resolution on our Nation's oil reserves.

This resolution does three things: one) It asks the President to confront OPEC directly; two) it asks the President to have the Attorney General and the Federal Trade Commission exercise vigorous oversight over the oil markets to protect the American people from price gouging; and three) it asks the President to suspend deliveries of oil to the SPR and release a million barrels of oil per day from the SPR for 30 days following the adoption of this resolution. All of these actions would go a long way in reducing the burden of high gasoline prices on all Americans.

We have faced similar circumstances before and taken action. Four years ago, President Clinton halted deposits to the national reserve and that action lowered the burden of high gasoline prices on the American people without compromising our country's stockpile of oil. The current administration needs to be engaged. It needs to take a role and provide leadership at a time when West Virginians and all Americans are feeling a pinch at that pump.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3157. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table.

SA 3158. Mr. LOTT (for himself, Mr. Dorgan, Ms. Snowe, Mrs. Feinstein, Mr. Cochran, Mr. Daschle, Mr. Conrad, Mrs. Boxer, Mr. Corzine, Ms. Collins, and Mr. Gregg) proposed an amendment to the bill S. 2400, supra.

SA 3159. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3160. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3161. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3162. Mr. DOMENICI (for himself, Mrs. Feinstein, Mr. Lugar, Mr. Biden, Mr. Alexander, Mr. Bingaman, Mr. Reed, and Mr. Akaka) proposed an amendment to the bill S. 2400, supra.

SA 3163. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3164. Mr. GREGG submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3165. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3166. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3167. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3168. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3169. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3170. Mr. GRAHAM, of South Carolina submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3171. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3172. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3173. Mr. ALEXANDER submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3174. Mr. KENNEDY (for himself and Mr. Leahy) submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3175. Mr. REID (for himself, Mr. Daschle, Ms. Collins, and Mr. Dayton) submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3157. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title II, add the following:

SEC. 217. ADVANCED MANUFACTURING TECHNOLOGIES AND RADIATION CASUALTY RESEARCH.

(a) Additional Amount for Advanced Manufacturing Strategies.—Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation, Defense-wide activities, the amount available for Advanced Manufacturing Technologies (PE 0708011S) is hereby increased by $2,000,000.

(b) Amount for Radiation Casualty Research.—Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation, Defense-wide activities, $3,000,000 shall be available for Radiation Casualty Research (PE 0603002D8Z).

(c) Offset.—Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation, Defense-wide activities, the amount available in Program Element PE 0305199D8Z for horizontal fusion is hereby decreased by $5,000,000.

SA 3158. Mr. LOTT (for himself, Mr. DORGAN, Ms. SNOWE, Mrs. FEINSTEIN, Mr. COCHRAN, Mr. DASCHLE, Mr. CONRAD, Mrs. BOXER, Mr. CORZINE, Ms. COLLINS, and Mr. GREGG) proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

At the end of title XXVIII, add the following:

Subtitle E—Defense Base Closure and Realignment

SEC. 2861. MODIFICATION OF 2005 BASE CLOSURE ROUND TO APPLY SOLELY TO MILITARY INSTALLATIONS OUTSIDE THE UNITED STATES.

The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by adding at the end the following new section:

"SEC. 2915. APPLICABILITY OF 2005 ROUND SOLELY TO MILITARY INSTALLATIONS OUTSIDE THE UNITED STATES.

"(a) IN GENERAL.—(1) Notwithstanding any other provision of this part, the military installations covered by activities under this part in 2005 shall consist solely of military installations outside the United States.

"(2) Except as otherwise provided in this section, for purposes of activities under this part in 2005 any reference to military installations inside the United States shall be deemed to be a reference to military installations outside the United States.

"(b) INAPPLICABILITY OF SELECTION CRITERIA FOR 2005.—The final selection criteria prepared under section 2913 shall not be used in making recommendations for the closure or realignment of military installations under this part in 2005.

"(c) RECOMMENDATIONS OF SECRETARY OF DEFENSE.—(1) In lieu of any information otherwise required under paragraph (1) or (2) of subsection (b) of section 2914, the recommendations of the Secretary of Defense under subsection (a) of that section shall include the following:

"(A) A detailed plan for eliminating any physical capacity at military installations outside the United States that requires the unnecessary diversion of scarce resources for operation and maintenance, sustainment, or recapitalization of such capacity.

"(B) A list of the military installations outside the United States that are proposed for closure or realignment under this part, and a schedule for the closure or realignment of such installations.

"(C) A list of the military installations to which personnel or equipment will be relocated from military installations included in the list under subparagraph (B), including for each military installation so listed, the new infrastructure to be required for such personnel or equipment and the cost of such infrastructure.

"(D) An estimate of the cost savings to be achieved by the closure or realignment of military installations under subparagraph (B).

"(E) A certification whether or not a round in 2007 for the closure or realignment of military installations inside the United States is advisable.

"(2) In making recommendations referred to in paragraph (1), the Secretary shall take into account the final report of the Commission on the Review of the Overseas Military Facility Structure of the United States under section 128 of the Military Construction Appropriations Act, 2004 (Public Law 108–132; 117 Stat. 1382; 10 U.S.C. 111 note).

"(d) COMMISSION REVIEW AND RECOMMENDATIONS.—(1) In addition to the requirements specified in section 2914(d), the Commission shall include in its report under paragraph (1) of that section the following:

"(A) An assessment by the Commission of the extent to which the recommendations of the Secretary under subsection (c) take into account the final report referred to in subsection (c)(2).

"(B) An assessment by the Commission whether or not the recommendations of the Secretary under subsection (c) maximize the amount of savings that can be achieved by the United States through the closure or realignment of military installations outside the United States.

"(C) An assessment by the Commission whether or not a round in 2007 for the closure or realignment of military installations inside the United States is advisable.

"(2) Paragraph (5) of section 2914(d) shall not apply to the review and recommendations of the Commission, under such section and this subsection, of the recommendations of the Secretary under subsection (c).

"(e) COMPLETION OF CLOSURE OR REALIGNMENT ACTIONS.—The closure or realignment of military installations outside the United States under this part pursuant to activities under this part in 2005 shall be completed not later than December 31, 2010.".

SEC. 2862. BASE CLOSURE ROUND IN 2007 RELATING TO INSTALLATIONS INSIDE THE UNITED STATES.

(a) TWO-YEAR EXTENSION OF BASE CLOSURE LAW FOR PURPOSES OF ROUND IN 2007.—Section 2909(a) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by striking "April 15, 2006," and inserting "April 15, 2008,".

(b) EXPEDITED CONSIDERATION BY CONGRESS OF ROUND IN 2007.—That Act, as amended by section 2861 of this Act, is further amended by adding at the end the following new section:

"SEC. 2916. REQUIREMENTS AND LIMITATIONS ON BASE CLOSURE ROUND IN 2007 RELATING TO INSTALLATIONS INSIDE THE UNITED STATES.

"(a) EXPEDITED CONSIDERATION BY CONGRESS OF AUTHORIZATION FOR ROUND.—The consideration by Congress of a joint resolution for a round of defense base closure and realignment under this part in 2007 relating to military installations inside the United States shall be governed by the provisions of section 2908.

"(b) JOINT RESOLUTION.—For purposes of this section and the application of section 2908 to the joint resolution referred to in subsection (a), the term 'joint resolution' means a joint resolution which is introduced within the 10-day period beginning on the date in 2005 on which the President transmits to Congress an approval and certification described in paragraph (2) or (4) of section 2903(e) in accordance with section 2914(e), and—

"(1) which does not have a preamble;

"(2) the matter after the resolving clause of which is as follows: 'That a round of defense base closure and realignment is authorized to occur under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) in 2007, with such round to apply to military installations inside the United States'; and

"(3) the title of which is as follows: 'Joint Resolution to authorize a round of defense base closure and realignment in 2007 with respect to military installations inside the United States.'.

"(c) CRITERIA AND SCHEDULE FOR 2007 ROUND.—Not later than 15 days after the date of the enactment of the joint resolution, the Secretary of Defense shall publish in the Federal Register the following:

"(1) The selection criteria to be utilized in the round of defense base closure and realignment under this part in 2007, which criteria shall be the final selection criteria developed under section 2913(e), together with such modifications of such final selection criteria as the Secretary considers appropriate in light of changes in circumstances since March 15, 2004.

"(2) The schedule in 2007 for actions on recommendations and consideration of recommendations in the round of defense base closure and realignment under this part under section 2914, which schedule shall, to the maximum extent practicable, be the schedule for 2005 as specified under that section together with such modifications as the Secretary considers appropriate to take into account changes in the calendar between 2005 and 2007.".

SA 3159. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, add the following:

TITLE —UNEMPLOYMENT COMPENSATION

SEC. 01. EXTENSION OF THE TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 2002.

(a) IN GENERAL.—Section 208 of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 30), as amended by Public Law 108–1 (117 Stat. 3) and the Unemployment Compensation Amendments of 2003 (Public Law 108–26; 117 Stat. 751), is amended—

(1) in subsection (a)(2), by striking "December 31, 2003" and inserting "November 30, 2004";

(2) in subsection (b)(1), by striking "December 31, 2003" and inserting "November 30, 2004";

(3) in subsection (b)(2)—

(A) in the heading, by striking "DECEMBER 31, 2003" and inserting "NOVEMBER 30, 2004"; and

(B) by striking "December 31, 2003" and inserting "November 30, 2004"; and

(4) in subsection (b)(3), by striking "March 31, 2004" and inserting "February 28, 2005".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 21) and shall apply with respect to payments for weeks of unemployment beginning on or after the date of enactment this Act.

SEC. 02. ADDITIONAL REVISION TO CURRENT TEUC-X TRIGGER.

(a) IN GENERAL.—Section 203(c)(2)(B) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 30) is amended to read as follows:

"(B) such a period would then be in effect for such State under such Act if—

"(i) section 203(d) of such Act were applied as if it had been amended by striking '5' each place it appears and inserting '4'; and

"(ii) with respect to weeks of unemployment beginning after December 27, 2003—

"(I) paragraph (1)(A) of such section 203(d) did not apply; and

"(II) clause (ii) of section 203(f)(1)(A) of such Act did not apply.".

(b) APPLICATION.—Section 203(c)(2)(B)(ii) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 30), as added by subsection (a), shall apply with respect to payments for weeks of unemployment beginning on or after the date of enactment this Act.

SEC. 03. TEMPORARY STATE AUTHORITY TO WAIVE APPLICATION OF LOOKBACKS UNDER THE FEDERAL-STATE EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 1970.

For purposes of conforming with the provisions of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note), a State may, during the period beginning on the date of enactment of this Act and ending on November 30, 2004, waive the application of either subsection (d)(1)(A) of section 203 of such Act or subsection (f)(1)(A)(ii) of such section, or both.

SA 3160. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 394, after line 22, insert the following:

SEC. 3122. REPORT ON EFFORTS OF THE NATIONAL NUCLEAR SECURITY ADMINISTRATION TO UNDERSTAND PLUTONIUM AGING.

(a) STUDY.—(1) Not later than 60 days after the date of the enactment of this Act, the Administrator of the National Nuclear Safety Administration shall enter into a contract providing for a study group of scientists to carry out a study to assess the efforts of the National Nuclear Security Administration to understand the aging of plutonium in nuclear weapons. In contracting for the performance of such services, the Administrator shall seek to enter into that contract with the study group of scientists that is affiliated with MITRE Corporation and known as the JASON group.

(2) The Administrator shall make available to the contractor under this subsection all information that is necessary for the contractor to successfully complete a meaningful study on a timely basis.

(b) REPORT REQUIRED.—(1) Not later than one year after the date on which the Administrator enters into the contract required under subsection (a), the Administrator shall submit to Congress a report on the findings of the contractor regarding the efforts of the National Nuclear Security Administration to understand the aging of plutonium in nuclear weapons.

(2) The report shall include the recommendations of the contractor for improving the knowledge, understanding, and application of the fundamental and applied sciences related to the study of plutonium aging.

(3) The report under this subsection shall be submitted in unclassified form, but may include a classified annex.

SA 3161. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 365, between lines 18 and 19, insert the following:

SEC. 2830. LAND CONVEYANCE, LOUISIANA ARMY AMMUNITION PLANT, DOYLINE, LOUISIANA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the State of Louisiana (in this section referred to as the "State") all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 14,949 acres located at the Louisiana Army Ammunition Plant, Doyline, Louisiana, for the purpose of using such property for military training.

(b) CONSIDERATION.—As consideration for the conveyance of property under subsection (a), the State shall—

(1) accommodate the use of such property, at no cost or fee, for meeting the present and future training needs of Armed Forces units, including units of the Louisiana National Guard and the other reserve components of the Armed Forces, on those areas of the Louisiana Army Ammunition Plant that were being used to support such training needs prior to the conveyance under subsection (a);

(2) assume, starting on the date that is five years after the date of the conveyance of such property, responsibility for any monitoring, sampling, or reporting requirements that are associated with the environmental restoration activities of the Army on the Louisiana Army Ammunition Plant, and shall bear such responsibility until such time as such monitoring, sampling, or reporting is no longer required; and

(3) assume responsibility for any obligations of the Army under real estate agreements made by the Army and the facility use contractor with respect to the Louisiana Army Ammunition Plant in accordance with the terms of those agreements in effect at the time of the conveyance.

(c) EXEMPTION FROM FEDERAL SCREENING.—The conveyance under subsection (a) is exempt from the requirement to screen the property for other Federal use under section 2696 of title 10, United States Code, and the authority to make such conveyance shall not be considered to render the property excess or underutilized.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by surveys satisfactory to the Secretary. The cost of each survey shall be borne by the State.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SA 3162. Mr. DOMENICI (for himself, Mrs. FEINSTEIN, Mr. LUGAR, Mr. BIDEN, Mr. ALEXANDER, Mr. BINGAMAN, Mr. REED, and Mr. AKAKA) proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

At the end of subtitle C of title XXXI, add the following:

SEC. 3132. ACCELERATION OF REMOVAL OR SECURITY OF FISSILE MATERIALS, RADIOLOGICAL MATERIALS, AND RELATED EQUIPMENT AT VULNERABLE SITES WORLDWIDE.

(a) SENSE OF CONGRESS.—(1) It is the sense of Congress that the security, including the rapid removal or secure storage, of high-risk, proliferation-attractive fissile materials, radiological materials, and related equipment at vulnerable sites worldwide should be a top priority among the activities to achieve the national security of the United States.

(2) It is the sense of Congress that the President may establish in the Department of Energy a task force to be known as the Task Force on Nuclear Materials to carry out the program authorized by subsection (b).

(b) PROGRAM AUTHORIZED.—The Secretary of Energy may carry out a program to undertake an accelerated, comprehensive worldwide effort to mitigate the threats posed by high-risk, proliferation-attractive fissile materials, radiological materials, and related equipment located at sites potentially vulnerable to theft or diversion.

(c) PROGRAM ELEMENTS.—(1) Activities under the program under subsection (b) may include the following:

(A) Accelerated efforts to secure, remove, or eliminate proliferation-attractive fissile materials or radiological materials in research reactors, other reactors, and other facilities worldwide.

(B) Arrangements for the secure shipment of proliferation-attractive fissile materials, radiological materials, and related equipment to other countries willing to accept such materials and equipment, or to the United States if such countries cannot be identified, and the provision of secure storage or disposition of such materials and equipment following shipment.

(C) The transportation of proliferation-attractive fissile materials, radiological materials, and related equipment from sites identified as proliferation risks to secure facilities in other countries or in the United States.

(D) The processing and packaging of proliferation-attractive fissile materials, radiological materials, and related equipment in accordance with required standards for transport, storage, and disposition.

(E) The provision of interim security upgrades for vulnerable, proliferation-attractive fissile materials and radiological materials and related equipment pending their removal from their current sites.

(F) The utilization of funds to upgrade security and accounting at sites where proliferation-attractive fissile materials or radiological materials will remain for an extended period of time in order to ensure that such materials are secure against plausible potential threats and will remain so in the future.

(G) The management of proliferation-attractive fissile materials, radiological materials, and related equipment at secure facilities.

(H) Actions to ensure that security, including security upgrades at sites and facilities for the storage or disposition of proliferation-attractive fissile materials, radiological materials, and related equipment, continues to function as intended.

(I) The provision of technical support to the International Atomic Energy Agency (IAEA), other countries, and other entities to facilitate removal of, and security upgrades to facilities that contain, proliferation-attractive fissile materials, radiological materials, and related equipment worldwide.

(J) The development of alternative fuels and irradiation targets based on low-enriched uranium to convert research or other reactors fueled by highly-enriched uranium to such alternative fuels, as well as the conversion of reactors and irradiation targets employing highly-enriched uranium to employment of such alternative fuels and targets.

(K) Accelerated actions for the blend down of highly-enriched uranium to low-enriched uranium.

(L) The provision of assistance in the closure and decommissioning of sites identified as presenting risks of proliferation of proliferation-attractive fissile materials, radiological materials, and related equipment.

(M) Programs to—

(i) assist in the placement of employees displaced as a result of actions pursuant to the program in enterprises not representing a proliferation threat; and

(ii) convert sites identified as presenting risks of proliferation regarding proliferation-attractive fissile materials, radiological materials, and related equipment to purposes not representing a proliferation threat to the extent necessary to eliminate the proliferation threat.

(2) The Secretary of Energy shall, in coordination with the Secretary of State, carry out the program in consultation with, and with the assistance of, appropriate departments, agencies, and other entities of the United States Government.

(3) The Secretary of Energy shall, with the concurrence of the Secretary of State, carry out activities under the program in collaboration with such foreign governments, nongovernmental organizations, and other international entities as the Secretary considers appropriate for the program.

(d) REPORTS.—(1) Not later than March 15, 2005, the Secretary shall submit to Congress a classified interim report on the program under subsection (b).

(2) Not later than January 1, 2006, the Secretary shall submit to Congress a classified final report that includes the following:

(A) A survey by the Secretary of the facilities and sites worldwide that contain proliferation-attractive fissile materials, radiological materials, or related equipment.

(B) A list of sites determined by the Secretary to be of the highest priority, taking into account risk of theft from such sites, for removal or security of proliferation-attractive fissile materials, radiological materials, or related equipment, organized by level of priority.

(C) A plan, including activities under the program under this section, for the removal, security, or both of proliferation-attractive fissile materials, radiological materials, or related equipment at vulnerable facilities and sites worldwide, including measurable milestones, metrics, and estimated costs for the implementation of the plan.

(3) A summary of each report under this subsection shall also be submitted to Congress in unclassified form.

(e) FUNDING.—Amounts authorized to be appropriated to the Secretary of Energy for defense nuclear nonproliferation activities shall be available for purposes of the program under this section.

(f) DEFINITIONS.—In this section:

(1) The term "fissile materials" means plutonium, highly-enriched uranium, or other material capable of sustaining an explosive nuclear chain reaction, including irradiated items containing such materials if the radiation field from such items is not sufficient to prevent the theft or misuse of such items.

(2) The term "radiological materials" includes Americium-241, Californium-252, Cesium-137, Cobalt-60, Iridium-192, Plutonium-238, Radium-226 and Strontium-90, Curium-244, Strontium-90, and irradiated items containing such materials, or other materials designated by the Secretary of Energy for purposes of this paragraph.

(3) The term "related equipment" includes equipment useful for enrichment of uranium in the isotope 235 and for extraction of fissile materials from irradiated fuel rods and other equipment designated by the Secretary of Energy for purposes of this section.

(4) The term "highly-enriched uranium" means uranium enriched to or above 20 percent in isotope 235.

(5) The term "low-enriched uranium" means uranium enriched below 20 percent in isotope 235.

(6) The term "proliferation-attractive", in the case of fissile materials and radiological materials, means quantities and types of such materials that are determined by the Secretary of Energy to present a significant risk to the national security of the United States if diverted to a use relating to proliferation.

SA 3163. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 296, between lines 14 and 15, insert the following:

TITLE XIII—MEDICAL READINESS AND TRACKING

SEC. 1300. SHORT TITLE.

This title may be cited as the "Medical Readiness and Tracking Act of 2004".

Subtitle A—Reserve Component Personnel

SEC. 1301. STUDY OF HEALTH OF RESERVES ORDERED TO ACTIVE DUTY FOR OPERATIONS ENDURING FREEDOM AND IRAQI FREEDOM.

(a) REQUIREMENT FOR GAO STUDY.—The Comptroller General of the United States shall carry out a study of the health of the members of the reserve components of the Armed Forces who have been called or ordered to active duty for a period of more than 30 days in support of Operation Enduring Freedom and Operation Iraqi Freedom. The Comptroller General shall commence the study not later than 180 days after the date of the enactment of this Act.

(b) PURPOSES.—The purposes of the study under this section are as follows:

(1) To review the health status and medical fitness of the activated Reserves when they were called or ordered to active duty.

(2) To review the effects, if any, on logistics planning and the deployment schedules for the operations referred to in subsection (a) that resulted from deficiencies in the health or medical fitness of activated Reserves.

(3) To review compliance of the responsible Department of Defense personnel with Department of Defense policies on routine medical and physical fitness examinations that are applicable to the reserve components of the Armed Forces.

(4) To review in the case of activated Reserves deployed to the theater of an operation referred to in subsection (a), the medical care that was provided to such personnel in the theater during the first six months after arrival in the theater.

(c) REPORT.—The Comptroller General shall, not later than 18 months after the date of the enactment of this Act, submit a report on the results of the study under this section to the Committees on Armed Services of the Senate and the House of Representatives. The report shall include the following matters:

(1) With respect to the matters reviewed under paragraph (1) of subsection (b)—

(A) the percentage of activated Reserves who were determined to be medically unfit for deployment, together with an analysis of the medical illnesses or conditions most commonly found among the activated Reserves that were grounds for determinations of medical unfitness for deployment; and

(B) the percentage of the activated Reserves who, before being deployed, needed medical care for health conditions identified when called or ordered to active duty, together with an analysis of the types of care that were provided for such conditions.

(2) With respect to the matters reviewed under paragraph (2) of subsection (b)—

(A) the delays and other disruptions in deployment schedules that resulted from deficiencies in the health status or medical fitness of activated Reserves; and

(B) an analysis of the extent to which it was necessary to merge units or otherwise alter the composition of units, and the extent to which it was necessary to merge or otherwise alter objectives, in order to compensate for limitations on the deployability of activated Reserves resulting from deficiencies in the health status or medical fitness of activated Reserves.

(3) With respect to the matters reviewed under paragraph (3) of subsection (b), an assessment of the extent of the compliance of the responsible Department of Defense personnel with Department of Defense policies on routine medical and physical fitness examinations that are applicable to the reserve components of the Armed Forces.

(4) With respect to the matters reviewed under paragraph (4) of subsection (b), an analysis of the extent to which the medical care provided to activated Reserves in each theater of operations referred to in subsection (a) related to preexisting conditions that were not adequately addressed before the deployment of such personnel to the theater.

(d) DEFINITIONS.—In this section:

(1) The term "activated Reserves" means the members of the Armed Forces referred to in subsection (a).

(2) The term "active duty for a period of more than 30 days" has the meaning given such term in section 101(d) of title 10, United States Code.

(3) The term "health condition" includes a dental condition.

(4) The term "reserve components of the Armed Forces" means the reserve components listed in section 10101 of title 10, United States Code.

SEC. 1302. PHYSICAL EXAMINATIONS.

(a) REQUIREMENT.—Section 10206(a) of title 10, United States Code, is amended by striking "shall—" and all that follows and inserting "shall be examined as to his physical fitness every 30 months, or more often as the Secretary concerned considers necessary.".

(b) EFFECTIVE DATE.—This section and the amendment made by subsection (a) shall take effect on October 1, 2004.

SEC. 1303. RETRAINING OR SEPARATION OF MEDICALLY UNFIT MEMBERS.

(a) REQUIREMENT.—Chapter 1007 of title 10, United States Code, is amended by inserting after section 10206 the following new section:

"§10206a. Required actions for members not medically fit

"(a) IN GENERAL.—The Secretary of a military department shall take action under subsection (b) in the case of each member of a reserve component under the Secretary's jurisdiction who—

"(1) as a result of an examination under section 10206 of this title or any other physical or medical examination performed under regulations prescribed by the Secretary, is determined not medically qualified for the performance of the duties of such member's position; and

"(2) either—

"(A) as of the date that is 180 days after the date of that determination, is not making progress to become medically qualified in accordance with a plan approved under regulations prescribed by the Secretary; or

"(B) does not become medically qualified for the position within the period covered by such a plan.

"(b) REQUIRED ACTIONS.—A member of a reserve component described in subsection (a)—

"(1) shall be reassigned to a position in such reserve component for which the member is medically and otherwise qualified; or

"(2) if there is no position in such reserve component for which the member is medically and otherwise qualified, shall be separated from such reserve component.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 10206 the following new item:

"10206a. Required actions for members not medically fit.".

SEC. 1304. POLICY ON DEFERRAL OF MEDICAL TREATMENT PENDING DEPLOYMENT TO THEATERS OF OPERATION.

(a) REQUIREMENT FOR POLICY.—(1) Chapter 1007 of title 10, United States Code, as amended by section 1303, is further amended by inserting after section 10206a the following new section:

"§10206b. Members ordered to active duty: treatment of medical conditions

"(a) POLICY REQUIRED.—The Secretary of Defense shall prescribe a policy that specifies for members of the reserve components called or ordered to active duty for a period of more than 30 days under a provision of law referred to in section 101(a)(13)(B) of this title—

(1) the circumstances under which treatment for medical conditions may be deferred to be provided within a theater of operations in order to prevent delay or other disruption of a deployment to that theater; and

(2) the circumstances under which medical conditions are to be treated before deployment to that theater.

"(b) FACTORS TO BE CONSIDERED.—The policy under subsection (a) shall specify the factors to be considered in a determination of deferral or initiation of treatment of a medical condition of a member to be deployed to a theater of operations, including the following factors:

"(1) Severity of the condition, including the extent of risk of significant aggravation of the condition if treatment is delayed or inadequate.

"(2) Medical treatment capabilities available to the member for such condition in the theater of operations.

"(3) The cost of treatment of the condition in such theater as compared to the cost of treatment of the condition under chapter 55 of this title at or in the vicinity of the facility or installation from which the member is to be deployed.".

(2) The table of sections at the beginning of such chapter, as amended by section 1303(b), is further amended by inserting after the item relating to section 10206a the following new item:

"10206b. Members ordered to active duty: treatment of medical conditions.".

(b) TIME FOR ISSUANCE OF POLICY.—The Secretary of Defense shall issue the policy required by section 10206b of title 10, United States Code (as added by subsection (a)), not later than 180 days after the date of the enactment of this Act.

Subtitle B—All Armed Forces Personnel

PART I—HEALTH SCREENING

SEC. 1311. RECRUIT ASSESSMENT PROGRAM.

(a) BASELINE HEALTH DATA.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1092 the following new section:

"§1092a. Persons entering the armed forces: baseline health data

"(a) PROGRAM REQUIRED.—The Secretary of Defense shall, for the purposes set forth in subsection (b), carry out a program for—

"(1) the routine collection of baseline health data from all persons entering the armed forces;

"(2) computerized compilation and maintenance of the baseline health data; and

"(3) analysis of the data.

"(b) PURPOSES.—The program under this section shall be designed to achieve the following purposes:

"(1) To facilitate understanding of how exposures related to service in the armed forces affect health.

"(2) To facilitate development of early intervention and prevention programs to protect health and readiness.

"(c) BASELINE HEALTH DATA DEFINED.—In this section, the term 'baseline health data', with respect to a person entering any of the armed forces, means comprehensive information on the health of that person upon entry.

"(d) APPLICABILITY TO COAST GUARD.—(1) The program under this section shall apply to members of the Coast Guard to the extent approved by the Secretary of Homeland Security.

"(2) Nothing in paragraph (1) shall be construed to limit the application of the program under this section to a member of the Coast Guard in that member's capacity as a person entering a reserve component of the Army, Navy, Air Force, or Marine Corps.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1092 the following new item:

"1092a. Persons entering the armed forces: baseline health data.".

(b) TIME FOR IMPLEMENTATION.—The Secretary of Defense shall implement the program required under section 1092a of title 10, United States Code (as added by paragraph (1)), not later than two years after the date of the enactment of this Act.

SEC. 1312. FURTHER REFINEMENT OF MEDICAL TRACKING SYSTEM FOR MEMBERS DEPLOYED OVERSEAS.

(a) ESTABLISHMENT OF ADVISORY WORKING GROUP.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall convene a working group to improve the medical tracking system for members deployed overseas established under section 1074f of title 10, United States Code.

(2) The working group under paragraph (1) shall be composed of any number of members, not less than 12 and not more than 20, that the Secretary of Defense determines appropriate for the working group to carry out its duties effectively, including members appointed by the Secretary as follows:

(A) One or more representatives of the Assistant Secretary of Defense for Health Affairs.

(B) One or more representatives of the Secretary of Veterans Affairs, with the consent of the Secretary.

(C) One or more civilian health professionals who have expertise in public health and epidemiology.

(D) Three or more civilian health professionals who have been involved in military health research or treatment.

(E) Three or more civilian health professionals who have been involved in environmental health research or treatment.

(F) Three or more civilians who are representative of veterans and military health advocacy organizations.

(3) The working group shall—

(A) analyze the strengths and weaknesses of the medical tracking system administered under section 1074f of title 10, United States Code, as a means for detecting—

(i) any health problems (including mental health conditions) of members of the Armed Forces contemporaneous with the performance of the assessment under the system; and

(ii) exposures of the assessed members to environmental hazards that potentially lead to future health problems;

(B) analyze the strengths and weaknesses of such medical tracking system as a means for supporting future research on health issues presenting in the years following the deployment of the members of the Armed Forces assessed under the system; and

(C) identify and develop recommended changes to such medical tracking system that strengthen the system as a means for—

(i) detecting health problems and exposures to environmental hazards as described in subparagraph (A); and

(ii) supporting future research as described in subparagraph (B).

(4) Not later than 180 days after convening, the working group shall submit to the Secretary a report setting forth the analyses and recommendations of the working group.

(b) ACTIONS BY SECRETARY OF DEFENSE.—Not later than 180 days after receipt of the report under subsection (a)(4), the Secretary of Defense shall prescribe regulations to implement the recommendations of the working group to the extent that the Secretary considers appropriate. The regulations shall include policies and standards for drawing blood samples for effective assessment and tracking of the medical conditions of personnel before deployment, upon the end of a deployment, and for a follow-up period of appropriate length.

(c) INTERIM STANDARDS FOR BLOOD SAMPLING.—(1) The Secretary of Defense shall require that, under the medical tracking system administered under section 1074f of title 10, United States Code—

(A) the blood samples necessary for the predeployment medical examination of a member of the Armed Forces required under subsection (b) of such section be drawn not earlier than 30 days before the date of the deployment;

(B) the blood samples necessary for the postdeployment medical examination of a member of the Armed Forces required under such subsection be drawn not later than 30 days after the date on which the deployment ends; and

(C) annually, for the first three years after the deployment of a member ends, blood samples be drawn from that person for the purpose of assessing the medical condition of such person under such system.

(2) In the case of a person who is no longer a member of the Armed Forces when a blood sample is to be drawn from such person under paragraph (1)(C), the blood may be drawn at any medical facility of the uniformed services designated by the Secretary of Defense. The Secretary shall attempt to accommodate the convenience of that person in selecting a facility for the drawing of that person's blood sample.

(3) The requirements of paragraph (1) shall cease to be effective on the date on which the regulations prescribed under subsection (b) take effect.

PART II—MEDICAL CARE IN THEATER OF OPERATIONS

SEC. 1315. MEDICAL SERVICES PROVIDED IN ALLIED HEALTH FACILITIES.

Not later than one year after the date of the enactment of this Act, the Assistant Secretary of Defense for Health Affairs shall submit to the Secretary of Defense and the Committees on Armed Services of the Senate and the House of Representatives a report on the extent and types of medical services that were provided to members of the Armed Forces in facilities of allies of the United States during previous and current deployments of the Armed Forces, including Operations Desert Shield, Desert Storm, Joint Endeavor, Joint Forge, Joint Guardian, Enduring Freedom, and Iraqi Freedom.

SEC. 1316. DEVELOPMENT OF POLICY ON PERSONNEL LOCATION DATA.

(a) REQUIREMENT FOR POLICY.—The Secretary of Defense shall prescribe a Department of Defense policy on the collection and dissemination of in-theater individual personnel location data for the following purposes:

(1) To facilitate health care research and informed health care policy making for the Armed Forces.

(2) To enhance the capabilities of the Armed Forces to recognize and meet the health care needs of members of the Armed Forces returning to home stations from deployment to a theater of operations.

(b) ADVISORY WORKING GROUP.—(1) The Secretary shall establish a working group to advise the Secretary on the development of the policy under subsection (a). The working group shall include the following:

(A) One or more representatives of the Assistant Secretary of Defense for Health Affairs.

(B) One or more representatives of the Secretary of Veterans Affairs, with the consent of the Secretary.

(C) One or more representatives of the program manager for the Global Combat Support System.

(D) One or more representatives of the defense manpower data center.

(E) One or more representatives of the program manager for the Land Warrior System.

(F) One or more civilian health professionals who have been involved in research and treatment of Gulf War Syndrome.

(G) One or more representatives of the Joint Staff.

(2) In developing the policy recommendations, the working group shall take into consideration—

(A) traditional medical requirements for complete and open access to specific, individual personnel location data to provide for—

(i) adequate and independent peer review by all interested parties; and

(ii) an open and transparent process for setting scientifically rigorous health policy and formulating clinical guidelines for care;

(B) traditional operational requirements for securing personnel location data so as to prevent—

(i) compromise of mission objectives; or

(ii) unauthorized disclosure of tactical and logistical planning; and

(C) existing practical limitations on the collection of such data, together with solutions for eliminating such limitations.

SEC. 1317. REPORT ON TRAINING OF FIELD MEDICAL PERSONNEL.

(a) REQUIREMENT FOR REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the training on environmental hazards that is provided by the Armed Forces to medical personnel of the Armed Forces who are deployable to the field in direct support of combat personnel.

(b) CONTENT.—The report under subsection (a) shall include the following:

(1) An assessment of the adequacy of the training regarding—

(A) the identification of—

(i) common environmental hazards; and

(ii) exposures to such hazards; and

(B) the prevention and treatment of adverse health effects of such exposures.

(2) A discussion of the actions taken and to be taken to improve such training.

PART III—MEDICAL CARE AFTER RETURN FROM DEPLOYMENT

SEC. 1321. FINDINGS.

Congress makes the following findings:

(1) One out of every nine members of the Armed Forces returning to home station from a deployment overseas listed on the member's post-deployment self-reported health assessment under the Health Evaluation Assessment Review program of the United States Army Center for Health Promotion and Preventive Medicine a concern about possibly having been exposed to environmental hazards deleterious to the member's health during the deployment, according to an article in the edition of the Medical Surveillance Monthly Report published for July and August 2003 by the Army Medical Surveillance Activity of the Directorate of Epidemiology and Disease Surveillance of the United States Army Center for Health Promotion and Prevention of Disease.

(2) This constitutes a high proportion of members who might have suffered exposure to environmental hazards that potentially lead to immediate or future health problems.

SEC. 1322. REPORT ON RESPONSES TO HEALTH CONCERNS OF MEMBERS.

(a) REQUIREMENT FOR REPORT.—Not later than 180 days after the date of the enactment of this Act, the Assistant Secretary of Defense for Health Affairs shall submit to the Secretary of Defense and the Committees on Armed Services of the Senate and the House of Representatives a report on Department of Defense responses to expressions of concerns made as described in section 221(1).

(b) CONTENT.—The report regarding health concerns submitted under subsection (a) shall include the following:

(1) A discussion of the actions taken by Department of Defense officials to investigate the circumstances underlying such concerns in order to determine the validity of the concerns.

(2) A discussion of the actions taken by Department of Defense officials to evaluate or treat members and former members of the Armed Forces who are confirmed to have been exposed to environmental hazards deleterious to their health during deployments of the Armed Forces.

SEC. 1323. RESPONSIBILITIES OF INSTALLATION COMMANDERS.

(a) PREPARATIONS TO MEET HEALTH CARE NEEDS.—Chapter 55 of title 10, United States Code, is amended by inserting after section 1074k the following new section:

"§ 1074l. Care of members redeploying from overseas deployment

"(a) NEEDS ASSESSMENT.—The Secretary of Defense shall require the commander of each military installation at which members of the armed forces are to be processed upon redeployment from an overseas deployment—

"(1) to identify and analyze the anticipated health care needs of such members before the arrival of such members at that installation; and

"(2) to report such needs to the Secretary.

"(b) DATA SOURCES.—To carry out the duties imposed under subsection (a), the commander of an installation shall obtain the necessary information from the sources available to the commander, including the following information:

"(1) Information on schedules and locations from transportation and logistics personnel.

"(2) Information on disease and nonbattle injuries from the Surgeon General of the armed force concerned.

"(3) Information collected from environmental surveillance of the theater of military operations from which members are redeploying.

"(4) Information on the prevalence of combat and noncombat injuries, to the extent relevant.

"(c) HEALTH CARE TO MEET NEEDS.—The Secretary of Defense shall prescribe in regulations procedures for the commander of each military installation described in subsection (a) to meet the anticipated health care needs that are identified by the commander in the performance of duties under this section. The procedures shall include the following:

"(1) Arrangements for health care provided by the Secretary of Veterans Affairs.

"(2) Procurement of services from local health care providers.

"(3) Temporary employment of health care personnel to provide services at such installation.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1074k the following new item:

"1074l. Care of members redeploying from overseas deployment.".

Subtitle C—Policy Compliance Assurance

SEC. 1331. SERUM REPOSITORY AUDITS.

(a) REQUIREMENT FOR BIENNIAL AUDIT.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1073a the following new section:

"§ 1073b. Serum repository audits

"(a) PERIODIC AUDITS.—The Secretary of Defense shall require the director of the serum repository of the Department of Defense to audit at least twice every two years the records of blood samples stored in such repository to determine the percentage of members of the armed forces who are in compliance with the applicable Department of Defense and military department policies on the collection of blood samples from members of the armed forces. The Secretary may impose any higher minimum number of periodic audits under this section that the Secretary considers appropriate.

"(b) REPORT.—(1) Upon completion of an audit under subsection (a), the director of the serum repository shall submit a report on the audit to the Secretary of Defense. The report shall include the following information:

"(A) The compliance percentage determined under such subsection.

"(B) A discussion of the most common compliance problems identified.

"(C) Any recommendations for actions to improve compliance.

"(2) The Secretary shall transmit the report received under paragraph (1) to the Committees on Armed Services of the Senate and the House of Representatives. The Secretary may include any comments and recommendations that the Secretary considers appropriate.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1073a the following new item:

"1073b. Serum repository audits.".

(b) INITIAL AUDIT.—The first audit under section 1073b of title 10, United States Code (as added by subsection (a)), shall be completed not later than 180 days after the date of the enactment of this Act.

SEC. 1332. DEPLOYMENT-RELATED HEALTH ASSESSMENT AUDITS.

(a) REQUIREMENT FOR BIENNIAL AUDIT.—Section 1074f(d) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(d) QUALITY ASSURANCE.—"; and

(2) by adding at the end the following:

"(2)(A) The Secretary of Defense shall require the director of the Defense Medical Surveillance System to audit, every two years, the predeployment and postdeployment health assessment database maintained by the director in order to determine the percentage of members of the armed forces who are in compliance with the applicable Department of Defense and military department policies on the collection of predeployment and postdeployment health assessment data.

"(B) Upon completion of the biennial audit under subparagraph (A), the director of the Defense Medical Surveillance System shall submit a report on the audit to the Secretary of Defense. The report shall include the following information:

"(i) The compliance percentage determined under such audit.

"(ii) A discussion of the most common compliance problems identified.

"(iii) Any recommendations for actions to improve compliance.

"(C) The Secretary shall transmit the report received under subparagraph (B) to the Committees on Armed Services of the Senate and the House of Representatives. The Secretary may include any comments and recommendations that the Secretary considers appropriate.".

(b) INITIAL AUDIT.—The first audit under section 1074f(d)(2) of title 10, United States Code (as added by subsection (a)), shall be completed not later than 180 days after the date of the enactment of this Act.

SEC. 1333. DECLASSIFICATION OF INFORMATION ON EXPOSURES TO ENVIRONMENTAL HAZARDS.

(a) REQUIREMENT FOR REVIEW.—The Secretary of Defense shall review and, as determined appropriate, revise the classification policies of the Armed Forces Medical Intelligence Center with a view to facilitating the declassification of data that is potentially useful for the monitoring and assessment of the health of members of the Armed Forces who have been exposed to environmental hazards during deployments overseas, including the following data:

(1) In-theater injury rates.

(2) Data derived from environmental surveillance.

(3) Health tracking data.

(b) PARTICIPATION OF DIRECTOR OF ARMED FORCES MEDICAL INTELLIGENCE CENTER.—The Secretary may act through or consult with the Director of the Armed Forces Medical Intelligence Center in carrying out the review and revising policies under subsection (b).

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on any changes to policies described in subsection (a) that have been made as a result of the review under such subsection.

SEC. 1334. ACCESSIBILITY OF HEALTH ASSESSMENT INFORMATION TO ARMY MEMBERS ON THE INTERNET.

Not later than one year after the date of the enactment of this Act, the Chief Information Officer of the Department of the Army shall ensure that the Army Knowledge Online portal website includes the following health-assessment related information:

(1) Information on the Department of Defense policies regarding predeployment and postdeployment health assessments, including policies on the following matters:

(A) Health surveys.

(B) Physical examinations.

(C) Collection of blood samples and other tissue samples.

(2) Procedural information on compliance with such policies, including the following information:

(A) Information for determining whether a member is in compliance.

(B) Information on how to comply.

(3) Health assessment surveys that are either—

(A) web-based; or

(B) accessible (with instructions) in printer-ready form by download.

SEC. 1335. FULL IMPLEMENTATION OF FORCE HEALTH PROTECTION AND READINESS PROGRAM.

(a) IMPLEMENTATION AT ALL LEVELS.—The Secretary of Defense, in conjunction with the Secretaries of the military departments, shall take such actions as are necessary to ensure that each of the Armed Forces fully implements at all levels the Force Health Protection and Readiness Program of the Department of Defense (relating to the prevention of injury and illness and the reduction of disease and noncombat injury threats).

(b) ACTION OFFICIAL.—The Secretary of Defense may act through the Deputy Assistant Secretary of Defense for Force Health Protection and Readiness in carrying out subsection (a).

SA 3164. Mr. GREGG submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 280, after line 22, insert the following:

SEC. 1068. COORDINATION OF USERRA WITH OTHER FEDERAL LAWS.

(a) TREATMENT OF DIFFERENTIAL PAYMENT AS WAGES FOR PURPOSES OF INCOME TAX WITHHOLDING.—Section 4302 of title 38, United States Code, is amended by adding at the end the following:

"(c)(1) For purposes of chapter 24 of the Internal Revenue Code of 1986 (relating to collection of income tax at source on wages), any differential wage payment shall be treated as a payment of wages by the employer to the employee.

"(2) For purposes of paragraph (1), the term 'differential wage payment' means any payment which—

"(A) is made by an employer to an employee with respect to any period during which the employee is performing service in the uniformed services while on active duty for a period of more than 30 days, and

"(B) represents all or a portion of the difference between the wages the employee would have received from the employer if not performing service in the uniformed services and the wages paid for performing such service.".

(b) CONTINUED CONTRIBUTIONS TO PENSION PLANS.—Section 4318 of title 38, United States Code, is amended by adding at the end the following:

"(c) For purposes of the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986, any employer or employee contributor to an employee pension benefit plan to which this section applies with respect to any period during which the employee is performing service in the uniformed services while on active duty for a period of more than 30 days shall be treated as a contribution with respect to a current employee of the employer.".

SA 3165. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 247, between lines 13 and 14, insert the following:

SEC. 1022. STUDY OF ESTABLISHMENT OF MOBILIZATION STATION AT CAMP RIPLEY NATIONAL GUARD TRAINING CENTER, LITTLE FALLS, MINNESOTA.

Not later than 120 days after the date of the enactment of this Act, the Secretary of

Defense shall carry out and complete a study on the feasibility of the use of Camp Ripley National Guard Training Center, Little Falls, Minnesota, as a mobilization station for reserve components ordered to active duty under provisions of law referred to in section 101(a)(13)(B) of title 10, United States Code. The study shall include consideration of the actions necessary to establish such center as a mobilization station.

SA 3166. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 25, between lines 15 and 16, insert the following:

SEC. 142. REPORT ON MATURITY AND EFFECTIVENESS OF THE GLOBAL INFORMATION GRID BANDWIDTH EXPANSION (GIG-BE) NETWORK.

(a) REPORT REQUIRED.—Not later that 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on a test to demonstrate the maturity and effectiveness of the Global Information Grid-Bandwidth Expansion (GIG-BE) network architecture, using end-to-end evaluation capabilities independently monitored by the Director of Operational Test and Evaluation.

(b) CONTENTS OF REPORT.—The report under subsection (a) shall—

(1) certify whether the results of the test described in subsection (a) demonstrate compliance of the GIG-BE architecture with the overall goals of the GIG-BE program;

(2) identify—

(A) the extent to which the GIG-BE architecture does not meet the overall goals of the program; and

(B) the components that are not yet sufficiently developed to achieve the goals required for certification of compliance under paragraph (1);

(3) include a plan and cost estimates for achieving compliance; and

(4) document the equipment and network configuration used to demonstrate real-world scenarios, including the use of mixtures of secure voice, secure video, teleconferencing, and secure high volume data exchanges (at not less than 10 gigabytes per second) between the continental United States and other theaters of operation, including Europe and the Persian Gulf; and

(5) document, with respect to the test—

(A) the number of simulated users and network routers used;

(B) information with respect to network loads; and

(C) the metrics used to test performance, such as quality of service, signal to noise ratios, bit error performance, and data latencies measures.

SA 3167. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title X, add the following:

SEC. 1022. REPORT ON AVAILABILITY OF LAUNCH SITES PERMITTING REALISTIC OVERLAND TEST FLIGHTS FOR DEFENSES AGAINST SHORT-RANGE BALLISTIC MISSILE SYSTEMS.

(a) FINDING.—Congress finds that the testing of defenses against short-range ballistic missile systems require overland flights of such systems of at least 1,000 kilometers in order to accurately simulate realistic environmental conditions that affect such defenses.

(b) REPORT ON AVAILABILITY OF LAUNCH SITES.—The Secretary of Defense shall submit to Congress a report assessing the availability to the Department of Defense of launch sites that permit overland flights of short-range ballistic missile systems of at least 1,000 kilometers in order to accurately simulate realistic environmental conditions that affect such defenses.

SA 3168. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title X, add the following:

SEC. 1022. REPORT ON CENTER FOR JOINT ANALYSIS AND ASSESSMENT OF MILITARY EQUIPMENT BY THE MILITARY DEPARTMENTS.

(a) FINDING.—Congress finds that joint research, development, test, and evaluation on military equipment by the military departments is critical to improving the quality and survivability of such equipment.

(b) REPORT.—The Secretary of Defense shall submit to Congress a report that sets forth the following:

(1) Locations identified by the Secretary as appropriate locations for a center for the joint research, development, test, and evaluation on military equipment by the military departments.

(2) A proposal for an organizational structure of the center described in paragraph (1).

SA 3169. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 3144 and insert the following:

SEC. 3144. SUPPORT FOR PUBLIC EDUCATION IN THE VICINITY OF LOS ALAMOS NATIONAL LABORATORY, NEW MEXICO.

The Secretary of Energy shall require that the primary management and operations contract for Los Alamos National Laboratory, New Mexico, that involves Laboratory operations after September 30, 2005, shall contain terms requiring the contractor under such contract to provide support to the Los Alamos Public School District, New Mexico, for the elementary and secondary education of students by the School District in the amount of $8,000,000 in each fiscal year.

SA 3170. Mr. GRAHAM of South Carolina submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 3119 and insert the following:

SEC. 3119. TREATMENT OF WASTE MATERIAL.

(a) AVAILABILITY OF FUNDS FOR TREATMENT.—Of the amount authorized to be appropriated by section 3102(a)(1) for environmental management for defense site acceleration completion, $350,000,000 shall be available for the following purposes at the sites referred to in subsection (b):

(1) The safe management of tanks or tank farms used to store waste from reprocessing activities.

(2) The on-site treatment and storage of wastes from reprocessing activities and related waste.

(3) The consolidation of tank waste.

(4) The emptying and cleaning of storage tanks.

(5) Actions under section 3116.

(b) SITES.—The sites referred to in this subsection are as follows:

(1) The Idaho National Engineering and Environmental Laboratory, Idaho.

(2) The Savannah River Site, Aiken, South Carolina.

(3) The Hanford Site, Richland, Washington.

SA 3171. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle H of title V, insert the following:

SEC. 574. APPEARANCE OF VETERANS SERVICE ORGANIZATIONS AT PRESEPARATION COUNSELING PROVIDED BY THE DEPARTMENT OF DEFENSE.

(a) APPEARANCE TO COUNSELING FOR DISCHARGE OR RELEASE FROM ACTIVE DUTY.—Section 1142 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) APPEARANCE BY VETERANS SERVICE ORGANIZATIONS.—(1) The Secretary concerned may permit a representative of a veterans service organization to appear at and participate in any preseparation counseling provided to a member of the armed forces under this section.

"(2) For purposes of this subsection, a veterans service organization is any organization recognized by the Secretary of Veterans Affairs for the representation of veterans under section 5902 of title 38.".

(b) Meeting With Reserves Released From Active Duty for Further Service in the Reserves.—(1) A unit of a reserve component on active duty in the Armed Forces may, upon release from active duty in the Armed Forces for further service in the reserve components, meet with a veterans service organization for information and assistance relating to such release if the commander of the unit authorizes the meeting.

(2) The time of a meeting for a unit under paragraph (1) may be scheduled by the commander of the unit for such time after the release of the unit as described in that paragraph as the commander of the unit determines appropriate to maximize the benefit of the meeting to the members of the unit.

(3) For purposes of this subsection, a veterans service organization is any organization recognized by the Secretary of Veterans Affairs for the representation of veterans under section 5902 of title 38, United States Code.

SA 3172. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 48, between lines 7 and 8, insert the following:

SEC. 326. SENSE OF SENATE ON PERCHLORATE CONTAMINATION OF GROUND AND SURFACE WATER.

(a) Findings.—The Senate makes the following findings:

(1) Because finite water sources in the United States are stretched by regional drought conditions and increasing demand for water supplies, there is increased need for safe and dependable supplies of fresh water for drinking and use for agricultural purposes.

(2) Perchlorate, a propellant used in munitions and jet fuels, has contaminated fresh water sources intended for use as drinking water and water necessary for the production of agricultural commodities.

(3) If ingested, perchlorate interferes with thyroid metabolism, and scientific evidence suggests that this effect can impair the normal development of the brain in fetuses, infants, and toddlers, and permanently impairs cognitive abilities and brain function in affected children.

(4) The National Academy of Sciences is conducting an assessment of the state of science regarding the effects on human health of perchlorate ingestion that will aid in understanding the effect of perchlorate exposure on sensitive populations.

(b) Sense of Senate.—It is the sense of the Senate that—

(1) perchlorate has been identified as a contaminant of drinking water sources or in the environment in 34 States and has been used or manufactured in 36 States;

(2) perchlorate exposure at or above a certain level adversely affects public health, particularly the health of vulnerable and sensitive populations; and

(3) to help reduce the risk of perchlorate exposure, the Secretary of Defense should develop and implement a plan to remediate perchlorate contamination of the environment resulting from Department of Defense activities in areas at which levels of perchlorate pose the risk of hazardous exposure to perchlorate.

SA 3173. Mr. ALEXANDER submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 127, between the matter following line 5 and line 6, insert the following:

SEC. 621. TREATMENT OF CERTAIN SPECIAL PAYS AND ALLOWANCES FOR PURPOSES OF CERTAIN FEDERAL ASSISTANCE PROGRAMS.

(a) Receipt Not To Affect Eligibility.—(1) Chapter 17 of title 37, United States Code, is amended by adding at the end the following new section:

"§ 909. Treatment of certain special pays and allowances for purposes of eligibility under certain Federal assistance programs

"(a) Receipt Not To Affect Eligibility.—Receipt of special pays specified in subsection (b) shall not be considered in determining eligibility of members of the uniformed services for benefits under the provisions of law specified in subsection (c).

"(b) Covered Special Pays and Allowances.—The special pays and allowances referred to in subsection (a) are as follows:

"(1) The assignment incentive special pay under section 307a of this title

"(2) The special pay under section 310 of this title, relating to duty subject to hostile fire or imminent danger.

"(3) The family separation allowance under section 427 of this title.

"(c) Federal Assistance Programs.—The benefits referred to in subsection (a) are as follows:

"(1) Benefits under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

"(2) Free lunches under the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

"(3) Assistance under the special supplemental nutrition program for women, infants, and children established by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

"(4) Assistance under the child and adult care food program established under section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766).

"(5) Free breakfasts under the school breakfast program established by section 4 of the Child Nutrition Act of, 1966 (42 U.S.C. 1773).

"(6) Services under the Head Start Act (42 U.S.C. 9831 et seq.).

"(7) Assistance under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.).

"(8) Assistance under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).

"(9) Assistance under section 521 of the Housing Act of 1949 (42 U.S.C. 1490a).

"(10) Assistance under title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.), including assistance under section 8 of such Act (42 U.S.C. 1437f).".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"909. Treatment of certain special pays and allowances for purposes of eligibility under certain Federal assistance programs.".

(b) Sense of Congress.—It is the sense of Congress that pay and allowances other than basic pay under section 204 of title 37, United States Code, and compensation under section 206 of such title should not be taken into account in determinations of eligibility of members of the uniformed services and their families for benefits under general assistance programs administered by States.

(c) Effective Date.—Section 909 of title 37, United States Code (as added by subsection (a)), shall take effect on October 1, 2004.

SA 3174. Mr. KENNEDY (for himself and Mr. Leahy) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 247, between lines 13 and 14, insert the following:

SEC. 1022. REPORT ON THE STABILIZATION OF IRAQ.

Not later than two weeks after the date of the enactment of this Act, the President shall submit to the congressional defense committees an unclassified report (with classified annex, if necessary) on the strategy of the United States for stabilizing Iraq. The report shall contain a detailed explanation of the strategy together with the following information:

(1) A description of the efforts of the President to work with the United Nations and the North Atlantic Treaty Organization to provide relief for the nearly 150,000 members of the Armed Forces of the United States who were serving in Iraq as of May 2004, including efforts to ensure that—

(A) more military forces of other countries are deployed to Iraq;

(B) more police forces of other countries are deployed to Iraq; and

(C) more financial resources of other countries are provided for the stabilization and reconstruction of Iraq.

(2) As a result of such efforts—

(A) a list of the countries that have committed to deploying military and police forces;

(B) with respect to each such country, the schedule and level of such deployments; and

(C) an estimate of the number of members of the Armed Forces that will be able to return to the United States as a result of such deployments.

(3) A description of the efforts of the President to develop the police and military forces of Iraq to provide relief for the nearly 150,000 members of the Armed Forces of the United States who were serving in Iraq as of May 2004.

(4) As a result of such efforts—

(A) the number of members of the police and military forces of Iraq that have been trained;

(B) the number of members of the police and military forces of Iraq that have been deployed; and

(C) an estimate of the number of members of the Armed Forces of the United States that will be able to return to the United States as a result of such training and deployment.

(5) An estimate of—

(A) the number of members of the Armed Forces that will be required to serve in Iraq during each of the first five years following the date of the enactment of this Act; and

(B) the percentage of that force that will be composed of members of the National Guard and Reserves.

SA 3175. Mr. REID (for himself, Mr. DASCHLE, Ms. COLLINS, and Mr. DAYTON) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title VI, add the following:

SEC. 642. CONCURRENT PAYMENT OF BOTH RETIRED PAY AND COMPENSATION TO MILITARY RETIREES WITH ANY SERVICE-CONNECTED DISABILITY.

(a) EXTENSION TO MILITARY RETIREES WITH SERVICE-CONNECTED DISABILITIES RATED LESS THAN 50 PERCENT.—Subsection (a)(2) of section 1414 of title 10, United States Code, is amended by striking "not less than 50 percent disabling" and inserting "zero percent or more disabling".

(b) CONFORMING AND CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§ 1414. Members eligible for retired pay who are also eligible for veterans' disability compensation: concurrent payment of retired pay and veterans' disability compensation".

(2) The table of sections at the beginning of chapter 71 of such title is amended by striking the item relating to section 1414 and inserting the following:

"1414. Members eligible for retired pay who are also eligible for veterans' disability compensation: concurrent payment of retired pay and veterans' disability compensation.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of January 1, 2005, and shall apply to payments for months beginning on or after that date.

SEC. 643. COORDINATION OF ELIGIBILITY UNDER COMBAT-RELATED SPECIAL COMPENSATION AUTHORITY AND DISABLED MILITARY RETIREE COMPENSATION AUTHORITY FOR CHAPTER 61 DISABILITY RETIREES.

(a) COORDINATION OF ELIGIBILITY.—Paragraph (3) of subsection (b) of section 1413a of title 10, United States Code, is amended to read as follows:

"(3) SPECIAL RULES FOR CHAPTER 61 DISABILITY RETIREES.—

"(A) CAREER RETIREES.—In the case of an eligible combat-related disabled uniformed services retiree who is retired under chapter 61 of this title with 20 or more years of service otherwise creditable under section 1405 of this title, or at least 20 years of service computed under section 12732 of this title, the amount of the payment under paragraph (1) for any month shall be reduced by the amount (if any) by which the amount of the member's retired pay under chapter 61 of this title exceeds the amount of retired pay to which the member would have been entitled based upon the member's service in the uniformed services if the member had not been retired under chapter 61 of this title.

"(B) DISABILITY RETIREES WITH LESS THAN 20 YEARS OF SERVICE.—Paragraph (1) does not apply to a member retired under chapter 61 of this title with less than 20 years of service otherwise creditable under section 1405 of this title, or with less than 20 years of service computed under section 12732 of this title, at the time of the member's retirement.".

(b) CONFORMING AMENDMENT.—Subsection (c) of section 1413a is amended by striking "is a member of the uniformed services entitled to retired pay" and all that follows and inserting "is a member of the uniformed services (other than a member described by subsection (b)(3)(B)) entitled to retired pay who has a combat-related disability.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of January 1, 2005, and shall apply to payments for months beginning on or after that date.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, May 19, 2004, at 10 a.m. in room 485 of the Russell Senate Office Building to conduct a business meeting on S.J. Res. 37, a resolution to acknowledge a long history of official depredations and ill-conceived policies by the United States Government regarding Indian tribes and offer an apology to all native Peoples on behalf of the United States, and S. 2277, a bill to amend the act of November 2, 1966 (80 Stat. 1112), to allow binding arbitration clauses to be included in all contracts affecting the land within the Salt River Pima-Maricopa Indian Reservation; to be followed immediately by a hearing on S. 1696, a bill to amend the Indian Self-Determination and Education Assistance Act to provide further self-governance by Indian tribes.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Thursday, May 20, 2004, at 10 a.m. in room 485 of the Russell Senate Office Building to conduct a hearing on S. 2382, the Native American Connectivity Act. Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. CRAIG. Mr. President, I announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources.

The hearing will be held on Wednesday, June 16, at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on: (1) the grounding of multi-engine fire-retardant aircraft, (2) steps the Forest Service and Department of the Interior have taken to provide alternative aerial support for initial attack and extended attack fire fighting operations in the short run, and (3) the feasibility and desirability of designing and implementing an inspection process to allow the use of multi-engine fire-retardant aircraft in the future.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150.

For further information, please contact Frank Gladics at 202–224–2878 or Amy Millet at 202–224–2876.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Banking, Housing and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, May 18, 2004, at 10 a.m., to conduct a hearing on "Oversight of the Terrorism Risk Insurance Program."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, May 18th, at 10 a.m.

The purpose of this hearing is to evaluate implications of a recent change in reporting of small business contracts by the Department of Energy. This change has the effect of increasing the number of small business contracts issued directly by the Department and decreasing the number of contracts issued by the Department's Management and operating contractors.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, May 18, 2004, at 9:30 a.m., to hold a hearing on "Iraq's Transition—The Way Ahead."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, May 18, 2004, at 2 p.m., to hold a Nomination hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Tuesday, May 18, 2004, at 10 a.m., on "Animal Rights: Activism vs. Criminality" in the Dirksen Senate Office Building, Room 226.

Panel I: McGregor W. Scott, U.S. Attorney, Eastern District of California, Sacramento, CA; and John E. Lewis, Deputy Assistant Director, Counterterrorism Division, Federal Bureau of Investigation, Department of Justice, Washington, DC.

Panel II: William Green, Senior Vice President and General Counsel, Chiron Corporation, Emeryville, CA; Jonathan Blum, Senior Vice President, Government Affairs, Yum! Brands Inc., Louisville, KY; and Dr. Stuart Zola, Director, Yerkes Primate Center, Emory University, Atlanta, GA.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. LOTT. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet Tuesday, May 18, 2004, from 10 a.m.–12 p.m., in Dirksen 628 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AVIATION

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, Subcommittee on Aviation be authorized to meet on Tuesday, May 18, 2004, at 9:30 a.m., on FAA Oversight.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. WARNER. Mr. President, I ask unanimous consent that Mr. Rick Stroyan, a military fellow, and Mr. Shay Webster, both of Senator CORNYN's office, be granted floor privileges.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I ask unanimous consent, on behalf of Senator BINGAMAN, that Jonathan Epstein, a fellow in his office, be afforded floor privileges during consideration of this DOD authorization.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I ask unanimous consent that Kate Kaufer, a detailee with the Defense Appropriations Subcommittee, be granted floor privileges during consideration of the fiscal year 2005 Defense Authorization and Defense Appropriations bills.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I ask unanimous consent that a legislative fellow, Marie Lage, from Senator SNOWE's office be granted floor privileges for the remainder of the debate on S. 2400, the fiscal year 2005 Department of Defense Authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I ask unanimous consent that John Ulrich, a military fellow with Senator DOLE, be given floor privileges for the duration of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. I ask unanimous consent our Air Force fellow, Mr. Lee Erickson, be given floor privileges during consideration of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

JUMPSTART OUR BUSINESS STRENGTH (JOBS) ACT

On Tuesday, May 11, 2004, the Senate passed S. 1637, as follows:

S. 1637

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Jumpstart Our Business Strength (JOBS) Act".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—PROVISIONS RELATING TO REPEAL OF EXCLUSION FOR EXTRATERRITORIAL INCOME

Sec. 101. Repeal of exclusion for extraterritorial income.
Sec. 102. Deduction relating to income attributable to United States production activities.
Sec. 103. Deduction for United States production activities includes income related to certain architectural and engineering services.

TITLE II—INTERNATIONAL TAX PROVISIONS

Subtitle A—International Tax Reform

Sec. 201. 20-year foreign tax credit carryover; 1-year foreign tax credit carryback.
Sec. 202. Look-thru rules to apply to dividends from noncontrolled section 902 corporations.
Sec. 203. Foreign tax credit under alternative minimum tax.
Sec. 204. Recharacterization of overall domestic loss.
Sec. 205. Interest expense allocation rules.
Sec. 206. Determination of foreign personal holding company income with respect to transactions in commodities.

Subtitle B—International Tax Simplification

Sec. 211. Repeal of foreign personal holding company rules and foreign investment company rules.
Sec. 212. Expansion of de minimis rule under subpart F.
Sec. 213. Attribution of stock ownership through partnerships to apply in determining section 902 and 960 credits.
Sec. 214. Application of uniform capitalization rules to foreign persons.
Sec. 215. Repeal of withholding tax on dividends from certain foreign corporations.
Sec. 216. Repeal of special capital gains tax on aliens present in the United States for 183 days or more.

Subtitle C—Additional International Tax Provisions

Sec. 221. Active leasing income from aircraft and vessels.
Sec. 222. Look-thru treatment of payments between related controlled foreign corporations under foreign personal holding company income rules.
Sec. 223. Look-thru treatment for sales of partnership interests.
Sec. 224. Election not to use average exchange rate for foreign tax paid other than in functional currency.
Sec. 225. Treatment of income tax base differences.
Sec. 226. Modification of exceptions under subpart F for active financing.
Sec. 227. United States property not to include certain assets of controlled foreign corporation.
Sec. 228. Provide equal treatment for interest paid by foreign partnerships and foreign corporations.
Sec. 229. Clarification of treatment of certain transfers of intangible property.
Sec. 230. Modification of the treatment of certain REIT distributions attributable to gain from sales or exchanges of United States real property interests.
Sec. 231. Toll tax on excess qualified foreign distribution amount.
Sec. 232. Exclusion of income derived from certain wagers on horse races and dog races from gross income of nonresident alien individuals.
Sec. 233. Limitation of withholding tax for Puerto Rico corporations.
Sec. 234. Report on WTO dispute settlement panels and the appellate body.
Sec. 235. Study of impact of international tax laws on taxpayers other than large corporations.
Sec. 236. Delay in effective date of final regulations governing exclusion of income from international operation of ships or aircraft.
Sec. 237. Interest payments deductible where disqualified guarantee has no economic effect.

TITLE III—DOMESTIC MANUFACTURING AND BUSINESS PROVISIONS

Subtitle A—General Provisions

Sec. 301. Expansion of qualified small-issue bond program.
Sec. 302. Expensing of broadband Internet access expenditures.
Sec. 303. Exemption of natural aging process in determination of production period for distilled spirits under section 263A.
Sec. 304. Modification of active business definition under section 355.
Sec. 305. Modified taxation of imported archery products.
Sec. 306. Modification to cooperative marketing rules to include value added processing involving animals.
Sec. 307. Extension of declaratory judgment procedures to farmers' cooperative organizations.
Sec. 308. Temporary suspension of personal holding company tax.
Sec. 309. Increase in section 179 expensing.
Sec. 310. Five-year carryback of net operating losses.
Sec. 311. Extension and modification of research credit.
Sec. 312. Expansion of research credit.
Sec. 313. Manufacturer's jobs credit.
Sec. 314. Brownfields Demonstration Program for qualified green building and sustainable design projects.

Subtitle B—Manufacturing Relating to Films

Sec. 321. Special rules for certain film and television productions.
Sec. 322. Modification of application of income forecast method of depreciation.

Subtitle C—Manufacturing Relating to Timber

Sec. 331. Expensing of certain reforestation expenditures.
Sec. 332. Election to treat cutting of timber as a sale or exchange.
Sec. 333. Capital gain treatment under section 631(b) to apply to outright sales by landowners.
Sec. 334. Modification of safe harbor rules for timber REITS.

TITLE IV—ADDITIONAL PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

Sec. 401. Clarification of economic substance doctrine.
Sec. 402. Penalty for failing to disclose reportable transaction.
Sec. 403. Accuracy-related penalty for listed transactions and other reportable transactions having a significant tax avoidance purpose.
Sec. 404. Penalty for understatements attributable to transactions lacking economic substance, etc.
Sec. 405. Modifications of substantial understatement penalty for nonreportable transactions.
Sec. 406. Tax shelter exception to confidentiality privileges relating to taxpayer communications.
Sec. 407. Disclosure of reportable transactions.
Sec. 408. Modifications to penalty for failure to register tax shelters.
Sec. 409. Modification of penalty for failure to maintain lists of investors.
Sec. 410. Modification of actions to enjoin certain conduct related to tax shelters and reportable transactions.
Sec. 411. Understatement of taxpayer's liability by income tax return preparer.
Sec. 412. Penalty on failure to report interests in foreign financial accounts.
Sec. 413. Frivolous tax submissions.
Sec. 414. Regulation of individuals practicing before the Department of Treasury.
Sec. 415. Penalty for promoting abusive tax shelters.
Sec. 416. Statute of limitations for taxable years for which required listed transactions not reported.
Sec. 417. Denial of deduction for interest on underpayments attributable to nondisclosed reportable and noneconomic substance transactions.
Sec. 418. Authorization of appropriations for tax law enforcement.
Sec. 419. Penalty for aiding and abetting the understatement of tax liability.
Sec. 420. Study on information sharing among law enforcement agencies.

Subtitle B—Other Corporate Governance Provisions

Sec. 421. Affirmation of consolidated return regulation authority.
Sec. 422. Declaration by chief executive officer relating to Federal annual income tax return of a corporation.
Sec. 423. Denial of deduction for certain fines, penalties, and other amounts.
Sec. 424. Disallowance of deduction for punitive damages.
Sec. 425. Increase in criminal monetary penalty limitation for the underpayment or overpayment of tax due to fraud.

Subtitle C—Enron-Related Tax Shelter Provisions

Sec. 431. Limitation on transfer or importation of built-in losses.
Sec. 432. No reduction of basis under section 734 in stock held by partnership in corporate partner.
Sec. 433. Repeal of special rules for FASITs.
Sec. 434. Expanded disallowance of deduction for interest on convertible debt.
Sec. 435. Expanded authority to disallow tax benefits under section 269.
Sec. 436. Modification of interaction between subpart F and passive foreign investment company rules.

Subtitle D—Provisions To Discourage Expatriation

Sec. 441. Tax treatment of inverted corporate entities.
Sec. 442. Imposition of mark-to-market tax on individuals who expatriate.
Sec. 443. Excise tax on stock compensation of insiders of inverted corporations.
Sec. 444. Reinsurance of United States risks in foreign jurisdictions.
Sec. 445. Reporting of taxable mergers and acquisitions.

Subtitle E—International Tax

Sec. 451. Clarification of banking business for purposes of determining investment of earnings in United States property.
Sec. 452. Prohibition on nonrecognition of gain through complete liquidation of holding company.
Sec. 453. Prevention of mismatching of interest and original issue discount deductions and income inclusions in transactions with related foreign persons.
Sec. 454. Effectively connected income to include certain foreign source income.
Sec. 455. Recapture of overall foreign losses on sale of controlled foreign corporation.
Sec. 456. Minimum holding period for foreign tax credit on withholding taxes on income other than dividends.

Subtitle F—Other Revenue Provisions

PART I—FINANCIAL INSTRUMENTS

Sec. 461. Treatment of stripped interests in bond and preferred stock funds, etc.
Sec. 462. Application of earnings stripping rules to partners which are C corporations.
Sec. 463. Recognition of cancellation of indebtedness income realized on satisfaction of debt with partnership interest.
Sec. 464. Modification of straddle rules.
Sec. 465. Denial of installment sale treatment for all readily tradeable debt.

PART II—CORPORATIONS AND PARTNERSHIPS

Sec. 466. Modification of treatment of transfers to creditors in divisive reorganizations.
Sec. 467. Clarification of definition of nonqualified preferred stock.
Sec. 468. Modification of definition of controlled group of corporations.
Sec. 469. Mandatory basis adjustments in connection with partnership distributions and transfers of partnership interests.

PART III—DEPRECIATION AND AMORTIZATION

Sec. 471. Extension of amortization of intangibles to sports franchises.
Sec. 472. Class lives for utility grading costs.
Sec. 473. Expansion of limitation on depreciation of certain passenger automobiles.
Sec. 474. Consistent amortization of periods for intangibles.
Sec. 475. Reform of tax treatment of leasing operations.
Sec. 476. Limitation on deductions allocable to property used by governments or other tax-exempt entities.

PART IV—ADMINISTRATIVE PROVISIONS

Sec. 481. Clarification of rules for payment of estimated tax for certain deemed asset sales.
Sec. 482. Extension of IRS user fees.
Sec. 483. Doubling of certain penalties, fines, and interest on underpayments related to certain offshore financial arrangement.
Sec. 484. Partial payment of tax liability in installment agreements.
Sec. 485 Extension of customs user fees.
Sec. 486. Deposits made to suspend running of interest on potential underpayments.
Sec. 487. Qualified tax collection contracts.
Sec. 488. Whistleblower reforms.
Sec. 489. Protection of overtime pay.
Sec. 490. Protection of overtime pay.

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SEC. 101. REPEAL OF EXCLUSION FOR EXTRATERRITORIAL INCOME.

(a) IN GENERAL.—Section 114 is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1)(A) Subpart E of part III of subchapter N of chapter 1 (relating to qualifying foreign trade income) is hereby repealed.

(B) The table of subparts for such part III is amended by striking the item relating to subpart E.

(2) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 114.

(3) The second sentence of section 56(g)(4)(B)(i) is amended by striking "114 or".

(4) Section 275(a) is amended—

(A) by inserting "or" at the end of paragraph (4)(A), by striking "or" at the end of paragraph (4)(B) and inserting a period, and by striking subparagraph (C), and

(B) by striking the last sentence.

(5) Paragraph (3) of section 864(e) is amended—

(A) by striking:

"(3) TAX-EXEMPT ASSETS NOT TAKEN INTO ACCOUNT.—

"(A) IN GENERAL.—For purposes of"; and inserting:

"(3) TAX-EXEMPT ASSETS NOT TAKEN INTO ACCOUNT.—For purposes of", and

(B) by striking subparagraph (B).

(6) Section 903 is amended by striking "114, 164(a)," and inserting "164(a)".

(7) Section 999(c)(1) is amended by striking "941(a)(5),".

(c) EFFECTIVE DATE.—

(1) In general.—The amendments made by this section shall apply to transactions occurring after the date of the enactment of this Act.

(2) Binding contracts.—The amendments made by this section shall not apply to any transaction in the ordinary course of a trade or business which occurs pursuant to a binding contract—

(A) which is between the taxpayer and a person who is not a related person (as defined in section 943(b)(3) of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act), and

(B) which is in effect on September 17, 2003, and at all times thereafter.

(d) Revocation of Section 943(e) Elections.—

(1) In general.—In the case of a corporation that elected to be treated as a domestic corporation under section 943(e) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act)—

(A) the corporation may, during the 1-year period beginning on the date of the enactment of this Act, revoke such election, effective as of such date of enactment, and

(B) if the corporation does revoke such election—

(i) such corporation shall be treated as a domestic corporation transferring (as of such date of enactment) all of its property to a foreign corporation in connection with an exchange described in section 354 of such Code, and

(ii) no gain or loss shall be recognized on such transfer.

(2) Exception.—Subparagraph (B)(ii) of paragraph (1) shall not apply to gain on any asset held by the revoking corporation if—

(A) the basis of such asset is determined in whole or in part by reference to the basis of such asset in the hands of the person from whom the revoking corporation acquired such asset,

(B) the asset was acquired by transfer (not as a result of the election under section 943(e) of such Code) occurring on or after the 1st day on which its election under section 943(e) of such Code was effective, and

(C) a principal purpose of the acquisition was the reduction or avoidance of tax (other than a reduction in tax under section 114 of such Code, as in effect on the day before the date of the enactment of this Act).

(e) General Transition.—

(1) In general.—In the case of a taxable year ending after the date of the enactment of this Act and beginning before January 1, 2007, for purposes of chapter 1 of such Code, a current FSC/ETI beneficiary shall be allowed a deduction equal to the transition amount determined under this subsection with respect to such beneficiary for such year.

(2) Current FSC/ETI beneficiary.—The term "current FSC/ETI beneficiary" means any corporation which entered into one or more transactions during its taxable year beginning in calendar year 2002 with respect to which FSC/ETI benefits were allowable.

(3) Transition amount.—For purposes of this subsection—

(A) In general.—The transition amount applicable to any current FSC/ETI beneficiary for any taxable year is the phaseout percentage of the base period amount.

(B) Phaseout percentage.—

(i) In general.—In the case of a taxpayer using the calendar year as its taxable year, the phaseout percentage shall be determined under the following table:

Years:	**The phaseout percentage is:**
2005	80
2006	60.

(ii) Special rule for 2004.—The phaseout percentage for 2004 shall be the amount that bears the same ratio to 80 percent as the number of days after the date of the enactment of this Act bears to 366.

(iii) Special rule for fiscal year taxpayers.—In the case of a taxpayer not using the calendar year as its taxable year, the phaseout percentage is the weighted average of the phaseout percentages determined under the preceding provisions of this paragraph with respect to calendar years any portion of which is included in the taxpayer's taxable year. The weighted average shall be determined on the basis of the respective portions of the taxable year in each calendar year.

(C) Short taxable year.—The Secretary shall prescribe guidance for the computation of the transition amount in the case of a short taxable year.

(4) Base period amount.—For purposes of this subsection, the base period amount is the average FSC/ETI benefit for the taxpayer's taxable years beginning in calendar years 2000, 2001, and 2002.

(5) FSC/ETI benefit.—For purposes of this subsection, the term "FSC/ETI benefit" means—

(A) amounts excludable from gross income under section 114 of such Code, and

(B) the exempt foreign trade income of related foreign sales corporations from property acquired from the taxpayer (determined without regard to section 923(a)(5) of such Code (relating to special rule for military property), as in effect on the day before the date of the enactment of the FSC Repeal and Extraterritorial Income Exclusion Act of 2000).

In determining the FSC/ETI benefit there shall be excluded any amount attributable to a transaction with respect to which the taxpayer is the lessor unless the leased property was manufactured or produced in whole or in significant part by the taxpayer.

(6) Special rule for agricultural and horticultural cooperatives.—Determinations under this subsection with respect to an organization described in section 943(g)(1) of such Code, as in effect on the day before the date of the enactment of this Act, shall be made at the cooperative level and the purposes of this subsection shall be carried out in a manner similar to section 199(h)(2) of such Code, as added by this Act. Such determinations shall be in accordance with such requirements and procedures as the Secretary may prescribe.

(7) Certain rules to apply.—Rules similar to the rules of section 41(f) of such Code shall apply for purposes of this subsection.

(8) Coordination with binding contract rule.—The deduction determined under paragraph (1) for any taxable year shall be reduced by the phaseout percentage of any FSC/ETI benefit realized for the taxable year by reason of subsection (c)(2) or section 5(c)(1)(B) of the FSC Repeal and Extraterritorial Income Exclusion Act of 2000, except that for purposes of this paragraph the phaseout percentage for 2004 shall be treated as being equal to 100 percent.

(9) Special rule for taxable year which includes date of enactment.—In the case of a taxable year which includes the date of the enactment of this Act, the deduction allowed under this subsection to any current FSC/ETI beneficiary shall in no event exceed—

(A) 100 percent of such beneficiary's base period amount for calendar year 2004, reduced by

(B) the FSC/ETI benefit of such beneficiary with respect to transactions occurring during the portion of the taxable year ending on the date of the enactment of this Act.

SEC. 102. DEDUCTION RELATING TO INCOME ATTRIBUTABLE TO UNITED STATES PRODUCTION ACTIVITIES.

(a) In General.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end the following new section:

"SEC. 199. INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES.

"(a) Allowance of Deduction.—

"(1) In general.—There shall be allowed as a deduction an amount equal to 9 percent of the qualified production activities income of the taxpayer for the taxable year.

"(2) Phasein.—In the case of taxable years beginning in 2004, 2005, 2006, 2007, or 2008, paragraph (1) shall be applied by substituting for the percentage contained therein the transition percentage determined under the following table:

"Taxable years beginning in:	**The transition percentage is:**
2004, 2005, or 2006	5
2007	6
2008	7.

"(b) Deduction Limited to Wages Paid.—

"(1) In general.—The amount of the deduction allowable under subsection (a) for any taxable year shall not exceed 50 percent of the W–2 wages of the employer for the taxable year.

"(2) W–2 wages.—For purposes of paragraph (1), the term 'W–2 wages' means the sum of the aggregate amounts the taxpayer is required to include on statements under paragraphs (3) and (8) of section 6051(a) with respect to employment of employees of the taxpayer during the taxpayer's taxable year.

"(3) Special rules.—

"(A) Pass-thru entities.—In the case of an S corporation, partnership, estate or trust, or other pass-thru entity, the limitation under this subsection shall apply at the entity level. The preceding sentence shall not apply to any entity all of the ownership interests of which are held directly or indirectly by members of the same expanded affiliated group.

"(B) Acquisitions and dispositions.—The Secretary shall provide for the application of this subsection in cases where the taxpayer acquires, or disposes of, the major portion of a trade or business or the major portion of a separate unit of a trade or business during the taxable year.

"(c) Qualified Production Activities Income.—For purposes of this section—

"(1) In general.—The term 'qualified production activities income' means an amount equal to the portion of the modified taxable income of the taxpayer which is attributable to domestic production activities.

"(2) Reduction for taxable years beginning before 2013.—The amount otherwise determined under paragraph (1) (the 'unreduced amount') shall not exceed—

"(A) in the case of taxable years beginning before 2010, the product of the unreduced amount and the domestic/worldwide fraction, and

"(B) in the case of taxable years beginning in 2010, 2011, or 2012, an amount equal to the sum of—

"(i) the product of the unreduced amount and the domestic/worldwide fraction, plus

"(ii) the applicable percentage of an amount equal to the unreduced amount minus the amount determined under clause (i).

For purposes of subparagraph (B)(ii), the applicable percentage is 25 percent for 2010, 50 percent for 2011, and 75 percent for 2012.

"(d) DETERMINATION OF INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES.—For purposes of this section—

"(1) IN GENERAL.—The portion of the modified taxable income which is attributable to domestic production activities is so much of the modified taxable income for the taxable year as does not exceed—

"(A) the taxpayer's domestic production gross receipts for such taxable year, reduced by

"(B) the sum of—

"(i) the costs of goods sold that are allocable to such receipts,

"(ii) other deductions, expenses, or losses directly allocable to such receipts, and

"(iii) a proper share of other deductions, expenses, and losses that are not directly allocable to such receipts or another class of income.

"(2) ALLOCATION METHOD.—The Secretary shall prescribe rules for the proper allocation of items of income, deduction, expense, and loss for purposes of determining income attributable to domestic production activities.

"(3) SPECIAL RULES FOR DETERMINING COSTS.—

"(A) IN GENERAL.—For purposes of determining costs under clause (i) of paragraph (1)(B), any item or service brought into the United States shall be treated as acquired by purchase, and its cost shall be treated as not less than its fair market value immediately after it entered the United States. A similar rule shall apply in determining the adjusted basis of leased or rented property where the lease or rental gives rise to domestic production gross receipts.

"(B) EXPORTS FOR FURTHER MANUFACTURE.—In the case of any property described in subparagraph (A) that had been exported by the taxpayer for further manufacture, the increase in cost or adjusted basis under subparagraph (A) shall not exceed the difference between the value of the property when exported and the value of the property when brought back into the United States after the further manufacture.

"(4) MODIFIED TAXABLE INCOME.—The term 'modified taxable income' means taxable income computed without regard to the deduction allowable under this section.

"(e) DOMESTIC PRODUCTION GROSS RECEIPTS.—For purposes of this section—

"(1) IN GENERAL.—The term 'domestic production gross receipts' means the gross receipts of the taxpayer which are derived from—

"(A) any sale, exchange, or other disposition of, or

"(B) any lease, rental, or license of,

qualifying production property which was manufactured, produced, grown, or extracted in whole or in significant part by the taxpayer within the United States.

"(2) SPECIAL RULES FOR CERTAIN PROPERTY.—In the case of any qualifying production property described in subsection (f)(1)(C)—

"(A) such property shall be treated for purposes of paragraph (1) as produced in significant part by the taxpayer within the United States if more than 50 percent of the aggregate development and production costs are incurred by the taxpayer within the United States, and

"(B) if a taxpayer acquires such property before such property begins to generate substantial gross receipts, any development or production costs incurred before the acquisition shall be treated as incurred by the taxpayer for purposes of subparagraph (A) and paragraph (1).

"(3) GROSS RECEIPTS FROM USE OF FILMS AND VIDEO TAPE.—In the case of any qualifying production property which is property described in section 168(f)(3) produced in whole or in significant part by the taxpayer within the United States (determined after application of paragraph (2)), domestic production gross receipts shall include gross receipts derived by the taxpayer from the use of the property by the taxpayer.

"(f) QUALIFYING PRODUCTION PROPERTY.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'qualifying production property' means—

"(A) any tangible personal property,

"(B) any computer software, and

"(C) any property described in section 168(f) (3) or (4), including any underlying copyright or trademark.

"(2) EXCLUSIONS FROM QUALIFYING PRODUCTION PROPERTY.—The term 'qualifying production property' shall not include—

"(A) consumable property that is sold, leased, or licensed by the taxpayer as an integral part of the provision of services,

"(B) oil or gas,

"(C) electricity,

"(D) water supplied by pipeline to the consumer,

"(E) utility services, or

"(F) any film, tape, recording, book, magazine, newspaper, or similar property the market for which is primarily topical or otherwise essentially transitory in nature.

Subparagraph (F) shall not apply to property described in section 168(f)(3) to the extent of the gross receipts from the use of the property to which subsection (e)(3) applies (determined after application of this sentence).

"(g) DOMESTIC/WORLDWIDE FRACTION.—For purposes of this section—

"(1) IN GENERAL.—The term 'domestic/worldwide fraction' means a fraction (not greater than 1)—

"(A) the numerator of which is the value of the domestic production of the taxpayer, and

"(B) the denominator of which is the value of the worldwide production of the taxpayer.

"(2) VALUE OF DOMESTIC PRODUCTION.—The value of domestic production is the excess (if any) of—

"(A) the domestic production gross receipts, over

"(B) the cost of purchased inputs allocable to such receipts that are deductible under this chapter for the taxable year.

"(3) PURCHASED INPUTS.—

"(A) IN GENERAL.—Purchased inputs are any of the following items acquired by purchase:

"(i) Services (other than services of employees) used in manufacture, production, growth, or extraction activities.

"(ii) Items consumed in connection with such activities.

"(iii) Items incorporated as part of the property being manufactured, produced, grown, or extracted.

"(B) SPECIAL RULE.—Rules similar to the rules of subsection (d)(3) shall apply for purposes of this subsection.

"(4) VALUE OF WORLDWIDE PRODUCTION.—

"(A) IN GENERAL.—The value of worldwide production shall be determined under the principles of paragraph (2), except that—

"(i) worldwide production gross receipts shall be taken into account, and

"(ii) paragraph (3)(B) shall not apply.

"(B) WORLDWIDE PRODUCTION GROSS RECEIPTS.—The worldwide production gross receipts is the amount that would be determined under subsection (e) if such subsection were applied without any reference to the United States.

"(h) DEFINITIONS AND SPECIAL RULES.—

"(1) APPLICATION OF SECTION TO PASS-THRU ENTITIES.—In the case of an S corporation, partnership, estate or trust, or other pass-thru entity—

"(A) subject to the provisions of paragraph (2) and subsection (b)(3)(A), this section shall be applied at the shareholder, partner, or similar level, and

"(B) the Secretary shall prescribe rules for the application of this section, including rules relating to—

"(i) restrictions on the allocation of the deduction to taxpayers at the partner or similar level, and

"(ii) additional reporting requirements.

"(2) PATRONS OF AGRICULTURAL AND HORTICULTURAL COOPERATIVES.—

"(A) IN GENERAL.—If any amount described in paragraph (1) or (3) of section 1385 (a)—

"(i) is received by a person from an organization to which part I of subchapter T applies which is engaged—

"(I) in the manufacturing, production, growth, or extraction in whole or significant part of any agricultural or horticultural product, or

"(II) in the marketing of agricultural or horticultural products, and

"(ii) is allocable to the portion of the qualified production activities income of the organization which, but for this paragraph, would be deductible under subsection (a) by the organization and is designated as such by the organization in a written notice mailed to its patrons during the payment period described in section 1382(d),

then such person shall be allowed a deduction under subsection (a) with respect to such amount. The taxable income of the organization shall not be reduced under section 1382 by reason of any amount to which the preceding sentence applies.

"(B) SPECIAL RULES.—For purposes of applying subparagraph (A), in determining the qualified production activities income of the organization under this section—

"(i) there shall not be taken into account in computing the organization's modified taxable income any deduction allowable under subsection (b) or (c) of section 1382 (relating to patronage dividends, per-unit retain allocations, and nonpatronage distributions), and

"(ii) in the case of an organization described in subparagraph (A)(i)(II), the organization shall be treated as having manufactured, produced, grown, or extracted in whole or significant part any qualifying production property marketed by the organization which its patrons have so manufactured, produced, grown, or extracted.

"(3) SPECIAL RULE FOR AFFILIATED GROUPS.—

"(A) IN GENERAL.—All members of an expanded affiliated group shall be treated as a single corporation for purposes of this section.

"(B) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a), determined—

"(i) by substituting '50 percent' for '80 percent' each place it appears, and

"(ii) without regard to paragraphs (2) and (4) of section 1504(b).

For purposes of determining the domestic/worldwide fraction under subsection (g), clause (ii) shall be applied by also disregarding paragraphs (3) and (8) of section 1504(b).

"(4) COORDINATION WITH MINIMUM TAX.—The deduction under this section shall be allowed for purposes of the tax imposed by section 55; except that for purposes of section 55, alternative minimum taxable income shall be taken into account in determining the deduction under this section.

"(5) ORDERING RULE.—The amount of any other deduction allowable under this chapter shall be determined as if this section had not been enacted.

"(6) TRADE OR BUSINESS REQUIREMENT.—This section shall be applied by only taking into account items which are attributable to the actual conduct of a trade or business.

"(7) POSSESSIONS, ETC.—

"(A) IN GENERAL.—For purposes of subsections (d) and (e), the term 'United States' includes the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands of the United States.

"(B) SPECIAL RULES FOR APPLYING WAGE LIMITATION.—For purposes of applying the limitation under subsection (b) for any taxable year—

"(i) the determination of W–2 wages of a taxpayer shall be made without regard to any exclusion under section 3401(a)(8) for remuneration paid for services performed in a jurisdiction described in subparagraph (A), and

"(ii) in determining the amount of any credit allowable under section 30A or 936 for the taxable year, there shall not be taken into account any wages which are taken into account in applying such limitation.

"(8) COORDINATION WITH TRANSITION RULES.—For purposes of this section—

"(A) domestic production gross receipts shall not include gross receipts from any transaction if the binding contract transition relief of section 101(c)(2) of the Jumpstart Our Business Strength (JOBS) Act applies to such transaction, and

"(B) any deduction allowed under section 101(e) of such Act shall be disregarded in determining the portion of the taxable income which is attributable to domestic production gross receipts.

"(9) SEPARATE APPLICATION TO FILMS AND VIDEOTAPE.—

"(A) IN GENERAL.—In the case of qualifying production property described in section 168(f)(3), the deduction under this section shall be determined separately with respect to qualified production activities income of the taxpayer allocable to each of the following markets with respect to such property:

"(i) Theatrical.

"(ii) Broadcast television (including cable, foreign, pay-per-view, and syndication).

"(iii) Home video.

"(B) RULES FOR SEPARATE DETERMINATION.—Except as provided in subparagraph (C)—

"(i) any computation required to determine the amount of the deduction with respect to any of the markets described in subparagraph (A) shall be made by only taking into account items properly allocable to such market, including the computation of qualified production activities income, modified taxable income, and the domestic/worldwide fraction, and

"(ii) such items shall not be taken into account in determining the deduction with respect to either of the other 2 markets or with respect to qualified production activities income of the taxpayer not allocable to any of such markets.

"(C) WAGE LIMITATION.—This paragraph shall not apply for purposes of subsection (b) and subsection (b) shall be applied after the application of this paragraph."

(b) MINIMUM TAX.—Section 56(g)(4)(C) (relating to disallowance of items not deductible in computing earnings and profits) is amended by adding at the end the following new clause:

"(v) DEDUCTION FOR DOMESTIC PRODUCTION.—Clause (i) shall not apply to any amount allowable as a deduction under section 199.".

(c) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end the following new item:

"Sec. 199. Income attributable to domestic production activities.".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

(2) APPLICATION OF SECTION 15.—Section 15 of the Internal Revenue Code of 1986 shall apply to the amendments made by this section as if they were changes in a rate of tax.

SEC. 103. DEDUCTION FOR UNITED STATES PRODUCTION ACTIVITIES INCLUDES INCOME RELATED TO CERTAIN ARCHITECTURAL AND ENGINEERING SERVICES.

(a) IN GENERAL.—Paragraph (1) of section 199(e) (relating to domestic production gross receipts), as added by section 102, is amended to read as follows:

"(1) IN GENERAL.—

"(A) RECEIPTS FROM QUALIFYING PRODUCTION PROPERTY.—The term 'domestic production gross receipts' means the gross receipts of the taxpayer which are derived from—

"(i) any sale, exchange, or other disposition of, or

"(ii) any lease, rental, or license of,

qualifying production property which was manufactured, produced, grown, or extracted in whole or in significant part by the taxpayer within the United States.

"(B) RECEIPTS FROM CERTAIN SERVICES.—

"(i) IN GENERAL.—Such term also includes the applicable percentage of gross receipts of the taxpayer which are derived from any engineering or architectural services performed in the United States for construction projects in the United States.

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage shall be determined under the following table:

"In the case of any taxable year beginning in—	**The applicable percentage is—**
2004, 2005, 2006, 2007, or 2008	25
2009, 2010, 2011, or 2012	50
2013 or thereafter	100.

(b) LIMITATION OF EMPLOYER DEDUCTION FOR CERTAIN ENTERTAINMENT EXPENSES WITH RESPECT TO COVERED EMPLOYEES.—Paragraph (2) of section 274(e) (relating to expenses treated as compensation) is amended to read as follows:

"(2) EXPENSES TREATED AS COMPENSATION.—Expenses for goods, services, and facilities—

"(A) in the case of a covered employee (within the meaning of section 162(m)(3)), to the extent that the expenses do not exceed the amount of the expenses treated by the taxpayer, with respect to the recipient of the entertainment, amusement, or recreation, as compensation to such covered employee on the taxpayer's return of tax under this chapter and as wages to such covered employee for purposes of chapter 24 (relating to withholding of income tax at source on wages), and

"(B) in the case of any other employee, to the extent that the expenses are treated by the taxpayer, with respect to the recipient of the entertainment, amusement, or recreation, as compensation to such employee on the taxpayer's return of tax under this chapter and as wages to such employee for purposes of chapter 24 (relating to withholding of income tax at source on wages).".

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxable years ending after the date of the enactment of this Act, and section 15 of the Internal Revenue Code of 1986 shall apply to the amendment made by this subsection as if it were a change in the rate of tax.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to expenses incurred after the date of the enactment of this Act and before January 1, 2006.

TITLE II—INTERNATIONAL TAX PROVISIONS

Subtitle A—International Tax Reform

SEC. 201. 20-YEAR FOREIGN TAX CREDIT CARRYOVER; 1-YEAR FOREIGN TAX CREDIT CARRYBACK.

(a) GENERAL RULE.—Section 904(c) (relating to carryback and carryover of excess tax paid) is amended—

(1) by striking "in the second preceding taxable year,", and

(2) by striking ", and in the first, second, third, fourth, or fifth" and inserting "and in any of the first 20".

(b) EXCESS EXTRACTION TAXES.—Paragraph (1) of section 907(f) is amended—

(1) by striking "in the second preceding taxable year,",

(2) by striking ", and in the first, second, third, fourth, or fifth" and inserting "and in any of the first 20", and

(3) by striking the last sentence.

(c) EFFECTIVE DATE.—

(1) CARRYBACK.—The amendments made by subsections (a)(1) and (b)(1) shall apply to excess foreign taxes arising in taxable years beginning after the date of the enactment of this Act.

(2) CARRYOVER.—The amendments made by subsections (a)(2) and (b)(2) shall apply to excess foreign taxes which (without regard to the amendments made by this section) may be carried to any taxable year ending after the date of the enactment of this Act.

SEC. 202. LOOK-THRU RULES TO APPLY TO DIVIDENDS FROM NONCONTROLLED SECTION 902 CORPORATIONS.

(a) IN GENERAL.—Section 904(d)(4) (relating to look-thru rules apply to dividends from noncontrolled section 902 corporations) is amended to read as follows:

"(4) LOOK-THRU APPLIES TO DIVIDENDS FROM NONCONTROLLED SECTION 902 CORPORATIONS.—

"(A) IN GENERAL.—For purposes of this subsection, any dividend from a noncontrolled section 902 corporation with respect to the taxpayer shall be treated as income described in a subparagraph of paragraph (1) in proportion to the ratio of—

"(i) the portion of earnings and profits attributable to income described in such subparagraph, to

"(ii) the total amount of earnings and profits.

"(B) EARNINGS AND PROFITS OF CONTROLLED FOREIGN CORPORATIONS.—In the case of any distribution from a controlled foreign corporation to a United States shareholder, rules similar to the rules of subparagraph (A) shall apply in determining the extent to which earnings and profits of the controlled foreign corporation which are attributable to dividends received from a noncontrolled section 902 corporation may be treated as income in a separate category.

"(C) Special rules.—For purposes of this paragraph—

"(i) Earnings and profits.—

"(I) In general.—The rules of section 316 shall apply.

"(II) Regulations.—The Secretary may prescribe regulations regarding the treatment of distributions out of earnings and profits for periods before the taxpayer's acquisition of the stock to which the distributions relate.

"(ii) Inadequate substantiation.—If the Secretary determines that the proper subparagraph of paragraph (1) in which a dividend is described has not been substantiated, such dividend shall be treated as income described in paragraph (1)(A).

"(iii) Coordination with high-taxed income provisions.—Rules similar to the rules of paragraph (3)(F) shall apply for purposes of this paragraph.

"(iv) Look-thru with respect to carryover of credit.—Rules similar to subparagraph (A) also shall apply to any carryforward under subsection (c) from a taxable year beginning before January 1, 2003, of tax allocable to a dividend from a noncontrolled section 902 corporation with respect to the taxpayer. The Secretary may by regulations provide for the allocation of any carryback of tax allocable to a dividend from a noncontrolled section 902 corporation to such a taxable year for purposes of allocating such dividend among the separate categories in effect for such taxable year.".

(b) Conforming Amendments.—

(1) Subparagraph (E) of section 904(d)(1) is hereby repealed.

(2) Section 904(d)(2)(C)(iii) is amended by adding "and" at the end of subclause (I), by striking subclause (II), and by redesignating subclause (III) as subclause (II).

(3) The last sentence of section 904(d)(2)(D) is amended to read as follows: "Such term does not include any financial services income.".

(4) Section 904(d)(2)(E) is amended—

(A) by inserting "or (4)" after "paragraph (3)" in clause (i), and

(B) by striking clauses (ii) and (iv) and by redesignating clause (iii) as clause (ii).

(5) Section 904(d)(3)(F) is amended by striking "(D), or (E)" and inserting "or (D)".

(6) Section 864(d)(5)(A)(i) is amended by striking "(C)(iii)(III)" and inserting "(C)(iii)(II)".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 203. FOREIGN TAX CREDIT UNDER ALTERNATIVE MINIMUM TAX.

(a) In General.—

(1) Subsection (a) of section 59 is amended by striking paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(2) Section 53(d)(1)(B)(i)(II) is amended by striking "and if section 59(a)(2) did not apply".

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 204. RECHARACTERIZATION OF OVERALL DOMESTIC LOSS.

(a) General Rule.—Section 904 is amended by redesignating subsections (g), (h), (i), (j), and (k) as subsections (h), (i), (j), (k), and (l) respectively, and by inserting after subsection (f) the following new subsection:

"(g) Recharacterization of Overall Domestic Loss.—

"(1) General rule.—For purposes of this subpart and section 936, in the case of any taxpayer who sustains an overall domestic loss for any taxable year beginning after December 31, 2006, that portion of the taxpayer's taxable income from sources within the United States for each succeeding taxable year which is equal to the lesser of—

"(A) the amount of such loss (to the extent not used under this paragraph in prior taxable years), or

"(B) 50 percent of the taxpayer's taxable income from sources within the United States for such succeeding taxable year,

shall be treated as income from sources without the United States (and not as income from sources within the United States).

"(2) Overall domestic loss defined.—For purposes of this subsection—

"(A) In general.—The term 'overall domestic loss' means any domestic loss to the extent such loss offsets taxable income from sources without the United States for the taxable year or for any preceding taxable year by reason of a carryback. For purposes of the preceding sentence, the term 'domestic loss' means the amount by which the gross income for the taxable year from sources within the United States is exceeded by the sum of the deductions properly apportioned or allocated thereto (determined without regard to any carryback from a subsequent taxable year).

"(B) Taxpayer must have elected foreign tax credit for year of loss.—The term 'overall domestic loss' shall not include any loss for any taxable year unless the taxpayer chose the benefits of this subpart for such taxable year.

"(3) Characterization of subsequent income.—

"(A) In general.—Any income from sources within the United States that is treated as income from sources without the United States under paragraph (1) shall be allocated among and increase the income categories in proportion to the loss from sources within the United States previously allocated to those income categories.

"(B) Income category.—For purposes of this paragraph, the term 'income category' has the meaning given such term by subsection (f)(5)(E)(i).

"(4) Coordination with subsection (f).—The Secretary shall prescribe such regulations as may be necessary to coordinate the provisions of this subsection with the provisions of subsection (f).".

(b) Conforming Amendments.—

(1) Section 535(d)(2) is amended by striking "section 904(g)(6)" and inserting "section 904(h)(6)".

(2) Subparagraph (A) of section 936(a)(2) is amended by striking "section 904(f)" and inserting "subsections (f) and (g) of section 904".

(c) Effective Date.—The amendments made by this section shall apply to losses for taxable years beginning after December 31, 2006.

SEC. 205. INTEREST EXPENSE ALLOCATION RULES.

(a) Election To Allocate on Worldwide Basis.—Section 864 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) Election To Allocate Interest, etc. on Worldwide Basis.—For purposes of this subchapter, at the election of the worldwide affiliated group—

"(1) Allocation and apportionment of interest expense.—

"(A) In general.—The taxable income of each domestic corporation which is a member of a worldwide affiliated group shall be determined by allocating and apportioning interest expense of each member as if all members of such group were a single corporation.

"(B) Treatment of worldwide affiliated group.—The taxable income of the domestic members of a worldwide affiliated group from sources outside the United States shall be determined by allocating and apportioning the interest expense of such domestic members to such income in an amount equal to the excess (if any) of—

"(i) the total interest expense of the worldwide affiliated group multiplied by the ratio which the foreign assets of the worldwide affiliated group bears to all the assets of the worldwide affiliated group, over

"(ii) the interest expense of all foreign corporations which are members of the worldwide affiliated group to the extent such interest expense of such foreign corporations would have been allocated and apportioned to foreign source income if this subsection were applied to a group consisting of all the foreign corporations in such worldwide affiliated group.

"(C) Worldwide affiliated group.—For purposes of this paragraph, the term 'worldwide affiliated group' means a group consisting of—

"(i) the includible members of an affiliated group (as defined in section 1504(a), determined without regard to paragraphs (2) and (4) of section 1504(b)), and

"(ii) all controlled foreign corporations in which such members in the aggregate meet the ownership requirements of section 1504(a)(2) either directly or indirectly through applying paragraph (2) of section 958(a) or through applying rules similar to the rules of such paragraph to stock owned directly or indirectly by domestic partnerships, trusts, or estates.

"(2) Allocation and apportionment of other expenses.—Expenses other than interest which are not directly allocable or apportioned to any specific income producing activity shall be allocated and apportioned as if all members of the affiliated group were a single corporation. For purposes of the preceding sentence, the term 'affiliated group' has the meaning given such term by section 1504 (determined without regard to paragraph (4) of section 1504(b)).

"(3) Treatment of tax-exempt assets; basis of stock in nonaffiliated 10-percent owned corporations.—The rules of paragraphs (3) and (4) of subsection (e) shall apply for purposes of this subsection, except that paragraph (4) shall be applied on a worldwide affiliated group basis.

"(4) Treatment of certain financial institutions.—

"(A) In general.—For purposes of paragraph (1), any corporation described in subparagraph (B) shall be treated as an includible corporation for purposes of section 1504 only for purposes of applying this subsection separately to corporations so described.

"(B) Description.—A corporation is described in this subparagraph if—

"(i) such corporation is a financial institution described in section 581 or 591,

"(ii) the business of such financial institution is predominantly with persons other than related persons (within the meaning of subsection (d)(4)) or their customers, and "(iii) such financial institution is required by State or Federal law to be operated separately from any other entity which is not such an institution.

"(C) Treatment of bank and financial holding companies.—To the extent provided in regulations—

"(i) a bank holding company (within the meaning of section 2(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)),

"(ii) a financial holding company (within the meaning of section 2(p) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(p)), and

"(iii) any subsidiary of a financial institution described in section 581 or 591, or of any such bank or financial holding company, if such subsidiary is predominantly engaged (directly or indirectly) in the active conduct of a banking, financing, or similar business,

shall be treated as a corporation described in subparagraph (B).

"(5) Election to expand financial institution group of worldwide group.—

"(A) In general.—If a worldwide affiliated group elects the application of this subsection, all financial corporations which—

"(i) are members of such worldwide affiliated group, but

"(ii) are not corporations described in paragraph (4)(B),

shall be treated as described in paragraph (4)(B) for purposes of applying paragraph (4)(A). This subsection (other than this paragraph) shall apply to any such group in the same manner as this subsection (other than this paragraph) applies to the pre-election worldwide affiliated group of which such group is a part.

"(B) Financial corporation.—For purposes of this paragraph, the term 'financial corporation' means any corporation if at least 80 percent of its gross income is income described in section 904(d)(2)(C)(ii) and the regulations thereunder which is derived from transactions with persons who are not related (within the meaning of section 267(b) or 707(b)(1)) to the corporation. For purposes of the preceding sentence, there shall be disregarded any item of income or gain from a transaction or series of transactions a principal purpose of which is the qualification of any corporation as a financial corporation.

"(C) Antiabuse rules.—In the case of a corporation which is a member of an electing financial institution group, to the extent that such corporation—

"(i) distributes dividends or makes other distributions with respect to its stock after the date of the enactment of this paragraph to any member of the pre-election worldwide affiliated group (other than to a member of the electing financial institution group) in excess of the greater of—

"(I) its average annual dividend (expressed as a percentage of current earnings and profits) during the 5-taxable-year period ending with the taxable year preceding the taxable year, or

"(II) 25 percent of its average annual earnings and profits for such 5-taxable-year period, or

"(ii) deals with any person in any manner not clearly reflecting the income of the corporation (as determined under principles similar to the principles of section 482),

an amount of indebtedness of the electing financial institution group equal to the excess distribution or the understatement or overstatement of income, as the case may be, shall be recharacterized (for the taxable year and subsequent taxable years) for purposes of this paragraph as indebtedness of the worldwide affiliated group (excluding the electing financial institution group). If a corporation has not been in existence for 5 taxable years, this subparagraph shall be applied with respect to the period it was in existence.

"(D) Election.—An election under this paragraph with respect to any financial institution group may be made only by the common parent of the pre-election worldwide affiliated group and may be made only for the first taxable year beginning after December 31, 2008, in which such affiliated group includes 1 or more financial corporations. Such an election, once made, shall apply to all financial corporations which are members of the electing financial institution group for such taxable year and all subsequent years unless revoked with the consent of the Secretary.

"(E) Definitions relating to groups.—For purposes of this paragraph—

"(i) Pre-election worldwide affiliated group.—The term 'pre-election worldwide affiliated group' means, with respect to a corporation, the worldwide affiliated group of which such corporation would (but for an election under this paragraph) be a member for purposes of applying paragraph (1).

"(ii) Electing financial institution group.—The term 'electing financial institution group' means the group of corporations to which this subsection applies separately by reason of the application of paragraph (4)(A) and which includes financial corporations by reason of an election under subparagraph (A).

"(F) Regulations.—The Secretary shall prescribe such regulations as may be appropriate to carry out this subsection, including regulations—

"(i) providing for the direct allocation of interest expense in other circumstances where such allocation would be appropriate to carry out the purposes of this subsection,

"(ii) preventing assets or interest expense from being taken into account more than once, and

"(iii) dealing with changes in members of any group (through acquisitions or otherwise) treated under this paragraph as an affiliated group for purposes of this subsection.

"(6) Election.—An election to have this subsection apply with respect to any worldwide affiliated group may be made only by the common parent of the domestic affiliated group referred to in paragraph (1)(C) and may be made only for the first taxable year beginning after December 31, 2008, in which a worldwide affiliated group exists which includes such affiliated group and at least 1 foreign corporation. Such an election, once made, shall apply to such common parent and all other corporations which are members of such worldwide affiliated group for such taxable year and all subsequent years unless revoked with the consent of the Secretary.".

(b) Expansion of Regulatory Authority.—Paragraph (7) of section 864(e) is amended—

(1) by inserting before the comma at the end of subparagraph (B) "and in other circumstances where such allocation would be appropriate to carry out the purposes of this subsection", and

(2) by striking "and" at the end of subparagraph (E), by redesignating subparagraph (F) as subparagraph (G), and by inserting after subparagraph (E) the following new subparagraph:

"(F) preventing assets or interest expense from being taken into account more than once, and".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 206. DETERMINATION OF FOREIGN PERSONAL HOLDING COMPANY INCOME WITH RESPECT TO TRANSACTIONS IN COMMODITIES.

(a) In General.—Clauses (i) and (ii) of section 954(c)(1)(C) (relating to commodity transactions) are amended to read as follows:

"(i) arise out of commodity hedging transactions (as defined in paragraph (4)(A)),

"(ii) are active business gains or losses from the sale of commodities, but only if substantially all of the controlled foreign corporation's commodities are property described in paragraph (1), (2), or (8) of section 1221(a), or".

(b) Definition and Special Rules.—Subsection (c) of section 954 is amended by adding after paragraph (3) the following new paragraph:

"(4) Definition and special rules relating to commodity transactions.—

"(A) Commodity hedging transactions.—For purposes of paragraph (1)(C)(i), the term 'commodity hedging transaction' means any transaction with respect to a commodity if such transaction—

"(i) is a hedging transaction as defined in section 1221(b)(2), determined—

"(I) without regard to subparagraph (A)(ii) thereof,

"(II) by applying subparagraph (A)(i) thereof by substituting 'ordinary property or property described in section 1231(b)' for 'ordinary property', and

"(III) by substituting 'controlled foreign corporation' for 'taxpayer' each place it appears, and

"(ii) is clearly identified as such in accordance with section 1221(a)(7).

"(B) Treatment of dealer activities under paragraph (1)(C).—Commodities with respect to which gains and losses are not taken into account under paragraph (2)(C) in computing a controlled foreign corporation's foreign personal holding company income shall not be taken into account in applying the substantially all test under paragraph (1)(C)(ii) to such corporation.

"(C) Regulations.—The Secretary shall prescribe such regulations as are appropriate to carry out the purposes of paragraph (1)(C) in the case of transactions involving related parties.".

(c) Modification of Exception for Dealers.—Clause (i) of section 954(c)(2)(C) is amended by inserting "and transactions involving physical settlement" after "(including hedging transactions".

(d) Effective Date.—The amendments made by this section shall apply to transactions entered into after December 31, 2004.

Subtitle B—International Tax Simplification

SEC. 211. REPEAL OF FOREIGN PERSONAL HOLDING COMPANY RULES AND FOREIGN INVESTMENT COMPANY RULES.

(a) General Rule.—The following provisions are hereby repealed:

(1) Part III of subchapter G of chapter 1 (relating to foreign personal holding companies).

(2) Section 1246 (relating to gain on foreign investment company stock).

(3) Section 1247 (relating to election by foreign investment companies to distribute income currently).

(b) Exemption of Foreign Corporations From Personal Holding Company Rules.—

(1) In general.—Subsection (c) of section 542 (relating to exceptions) is amended—

(A) by striking paragraph (5) and inserting the following:

"(5) a foreign corporation,",

(B) by striking paragraphs (7) and (10) and by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively,

(C) by inserting "and" at the end of paragraph (7) (as so redesignated), and

(D) by striking "; and" at the end of paragraph (8) (as so redesignated) and inserting a period.

(2) TREATMENT OF INCOME FROM PERSONAL SERVICE CONTRACTS.—Paragraph (1) of section 954(c) is amended by adding at the end the following new subparagraph:

"(I) PERSONAL SERVICE CONTRACTS.—

"(i) Amounts received under a contract under which the corporation is to furnish personal services if—

"(I) some person other than the corporation has the right to designate (by name or by description) the individual who is to perform the services, or

"(II) the individual who is to perform the services is designated (by name or by description) in the contract, and

"(ii) amounts received from the sale or other disposition of such a contract.

This subparagraph shall apply with respect to amounts received for services under a particular contract only if at some time during the taxable year 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for the individual who has performed, is to perform, or may be designated (by name or by description) as the one to perform, such services.".

(c) CONFORMING AMENDMENTS.—

(1) Section 1(h) is amended—

(A) in paragraph (10), by inserting "and" at the end of subparagraph (F), by striking subparagraph (G), and by redesignating subparagraph (H) as subparagraph (G), and

(B) by striking "a foreign personal holding company (as defined in section 552), a foreign investment company (as defined in section 1246(b)), or" in paragraph (11)(C)(iii).

(2) Section 163(e)(3)(B), as amended by section 453(a) of this Act, is amended by striking "which is a foreign personal holding company (as defined in section 552), a controlled foreign corporation (as defined in section 957), or" and inserting "which is a controlled foreign corporation (as defined in section 957) or".

(3) Paragraph (2) of section 171(c) is amended—

(A) by striking ", or by a foreign personal holding company, as defined in section 552", and

(B) by striking ", or foreign personal holding company".

(4) Paragraph (2) of section 245(a) is amended by striking "foreign personal holding company or".

(5) Section 267(a)(3)(B), as amended by section 453(a) of this Act, is amended by striking "to a foreign personal holding company (as defined in section 552), a controlled foreign corporation (as defined in section 957), or" and inserting "to a controlled foreign corporation (as defined in section 957) or".

(6) Section 312 is amended by striking subsection (j).

(7) Subsection (m) of section 312 is amended by striking ", a foreign investment company (within the meaning of section 1246(b)), or a foreign personal holding company (within the meaning of section 552)".

(8) Subsection (e) of section 443 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(9) Subparagraph (B) of section 465(c)(7) is amended by adding "or" at the end of clause (i), by striking clause (ii), and by redesignating clause (iii) as clause (ii).

(10) Paragraph (1) of section 543(b) is amended by inserting "and" at the end of subparagraph (A), by striking ", and" at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(11) Paragraph (1) of section 562(b) is amended by striking "or a foreign personal holding company described in section 552".

(12) Section 563 is amended—

(A) by striking subsection (c),

(B) by redesignating subsection (d) as subsection (c), and

(C) by striking "subsection (a), (b), or (c)" in subsection (c) (as so redesignated) and inserting "subsection (a) or (b)".

(13) Subsection (d) of section 751 is amended by adding "and" at the end of paragraph (2), by striking paragraph (3), by redesignating paragraph (4) as paragraph (3), and by striking "paragraph (1), (2), or (3)" in paragraph (3) (as so redesignated) and inserting "paragraph (1) or (2)".

(14) Paragraph (2) of section 864(d) is amended by striking subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(15)(A) Subparagraph (A) of section 898(b)(1) is amended to read as follows:

"(A) which is treated as a controlled foreign corporation for any purpose under subpart F of part III of this subchapter, and".

(B) Subparagraph (B) of section 898(b)(2) is amended by striking "and sections 551(f) and 554, whichever are applicable,".

(C) Paragraph (3) of section 898(b) is amended to read as follows:

"(3) UNITED STATES SHAREHOLDER.—The term 'United States shareholder' has the meaning given to such term by section 951(b), except that, in the case of a foreign corporation having related person insurance income (as defined in section 953(c)(2)), the Secretary may treat any person as a United States shareholder for purposes of this section if such person is treated as a United States shareholder under section 953(c)(1).".

(D) Subsection (c) of section 898 is amended to read as follows:

"(c) DETERMINATION OF REQUIRED YEAR.—

"(1) IN GENERAL.—The required year is—

"(A) the majority U.S. shareholder year, or

"(B) if there is no majority U.S. shareholder year, the taxable year prescribed under regulations.

"(2) 1-MONTH DEFERRAL ALLOWED.—A specified foreign corporation may elect, in lieu of the taxable year under paragraph (1)(A), a taxable year beginning 1 month earlier than the majority U.S. shareholder year.

"(3) MAJORITY U.S. SHAREHOLDER YEAR.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'majority U.S. shareholder year' means the taxable year (if any) which, on each testing day, constituted the taxable year of—

"(i) each United States shareholder described in subsection (b)(2)(A), and

"(ii) each United States shareholder not described in clause (i) whose stock was treated as owned under subsection (b)(2)(B) by any shareholder described in such clause.

"(B) TESTING DAY.—The testing days shall be—

"(i) the first day of the corporation's taxable year (determined without regard to this section), or

"(ii) the days during such representative period as the Secretary may prescribe.".

(16) Clause (ii) of section 904(d)(2)(A) is amended to read as follows:

"(ii) CERTAIN AMOUNTS INCLUDED.—Except as provided in clause (iii), the term 'passive income' includes, except as provided in subparagraph (E)(iii) or paragraph (3)(I), any amount includible in gross income under section 1293 (relating to certain passive foreign investment companies).".

(17)(A) Subparagraph (A) of section 904(g)(1), as redesignated by section 204, is amended by adding "or" at the end of clause (i), by striking clause (ii), and by redesignating clause (iii) as clause (ii).

(B) The paragraph heading of paragraph (2) of section 904(g), as so redesignated, is amended by striking "FOREIGN PERSONAL HOLDING OR".

(18) Section 951 is amended by striking subsections (c) and (d) and by redesignating subsections (e) and (f) as subsections (c) and (d), respectively.

(19) Paragraph (3) of section 989(b) is amended by striking ", 551(a),".

(20) Paragraph (5) of section 1014(b) is amended by inserting "and before January 1, 2005," after "August 26, 1937,".

(21) Subsection (a) of section 1016 is amended by striking paragraph (13).

(22)(A) Paragraph (3) of section 1212(a) is amended to read as follows:

"(3) SPECIAL RULES ON CARRYBACKS.—A net capital loss of a corporation shall not be carried back under paragraph (1)(A) to a taxable year—

"(A) for which it is a regulated investment company (as defined in section 851), or

"(B) for which it is a real estate investment trust (as defined in section 856).".

(B) The amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 2004.

(23) Section 1223 is amended by striking paragraph (10) and by redesignating the following paragraphs accordingly.

(24) Subsection (d) of section 1248 is amended by striking paragraph (5) and by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

(25) Paragraph (2) of section 1260(c) is amended by striking subparagraphs (H) and (I) and by redesignating subparagraph (J) as subparagraph (H).

(26)(A) Subparagraph (F) of section 1291(b)(3) is amended by striking "551(d), 959(a)," and inserting "959(a)".

(B) Subsection (e) of section 1291 is amended by inserting "(as in effect on the day before the date of the enactment of the Jumpstart Our Business Strength (JOBS) Act)" after "section 1246".

(27) Paragraph (2) of section 1294(a) is amended to read as follows:

"(2) ELECTION NOT PERMITTED WHERE AMOUNTS OTHERWISE INCLUDIBLE UNDER SECTION 951.—The taxpayer may not make an election under paragraph (1) with respect to the undistributed PFIC earnings tax liability attributable to a qualified electing fund for the taxable year if any amount is includible in the gross income of the taxpayer under section 951 with respect to such fund for such taxable year.".

(28) Section 6035 is hereby repealed.

(29) Subparagraph (D) of section 6103(e)(1) is amended by striking clause (iv) and redesignating clauses (v) and (vi) as clauses (iv) and (v), respectively.

(30) Subparagraph (B) of section 6501(e)(1) is amended to read as follows:

"(B) CONSTRUCTIVE DIVIDENDS.—If the taxpayer omits from gross income an amount properly includible therein under section 951(a), the tax may be assessed, or a proceeding in court for the collection of such tax may be done without assessing, at any time within 6 years after the return was filed.".

(31) Subsection (a) of section 6679 is amended—

(A) by striking "6035, 6046, and 6046A" in paragraph (1) and inserting "6046 and 6046A", and

(B) by striking paragraph (3).

(32) Sections 170(f)(10)(A), 508(d), 4947, and 4948(c)(4) are each amended by striking "556(b)(2)," each place it appears.

(33) The table of parts for subchapter G of chapter 1 is amended by striking the item relating to part III.

(34) The table of sections for part IV of subchapter P of chapter 1 is amended by striking the items relating to sections 1246 and 1247.

(35) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6035.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

(2) SUBSECTION (c)(29).—The amendments made by subsection (c)(29) shall apply to disclosures of return or return information with respect to taxable years beginning after December 31, 2004.

SEC. 212. EXPANSION OF DE MINIMIS RULE UNDER SUBPART F.

(a) IN GENERAL.—Clause (ii) of section 954(b)(3)(A) (relating to de minimis, etc., rules) is amended by striking "$1,000,000" and inserting "$5,000,000".

(b) TECHNICAL AMENDMENTS.—

(1) Clause (ii) of section 864(d)(5)(A) is amended by striking "$1,000,000" and inserting "$5,000,000".

(2) Clause (i) of section 881(c)(5)(A) is amended by striking "$1,000,000" and inserting "$5,000,000".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

SEC. 213. ATTRIBUTION OF STOCK OWNERSHIP THROUGH PARTNERSHIPS TO APPLY IN DETERMINING SECTION 902 AND 960 CREDITS.

(a) IN GENERAL.—Subsection (c) of section 902 is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

"(7) CONSTRUCTIVE OWNERSHIP THROUGH PARTNERSHIPS.—Stock owned, directly or indirectly, by or for a partnership shall be considered as being owned proportionately by its partners. Stock considered to be owned by a person by reason of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person. The Secretary may prescribe such regulations as may be necessary to carry out the purposes of this paragraph, including rules to account for special partnership allocations of dividends, credits, and other incidents of ownership of stock in determining proportionate ownership.".

(b) CLARIFICATION OF COMPARABLE ATTRIBUTION UNDER SECTION 901(b)(5).—Paragraph (5) of section 901(b) is amended by striking "any individual" and inserting "any person".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxes of foreign corporations for taxable years of such corporations beginning after the date of the enactment of this Act.

SEC. 214. APPLICATION OF UNIFORM CAPITALIZATION RULES TO FOREIGN PERSONS.

(a) IN GENERAL.—Section 263A(c) (relating to exceptions) is amended by adding at the end the following new paragraph:

"(7) FOREIGN PERSONS.—Except for purposes of applying sections 871(b)(1) and 882(a)(1), this section shall not apply to any taxpayer who is not a United States person if such taxpayer capitalizes costs of produced property or property acquired for resale by applying the method used to ascertain the income, profit, or loss for purposes of reports or statements to shareholders, partners, other proprietors, or beneficiaries, or for credit purposes.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2004.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by the amendment made by this section to change its method of accounting for its first taxable year beginning after December 31, 2004—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary of the Treasury, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account in such first year.

SEC. 215. REPEAL OF WITHHOLDING TAX ON DIVIDENDS FROM CERTAIN FOREIGN CORPORATIONS.

(a) IN GENERAL.—Paragraph (2) of section 871(i) (relating to tax not to apply to certain interest and dividends) is amended by adding at the end the following new subparagraph:

"(D) Dividends paid by a foreign corporation which are treated under section 861(a)(2)(B) as income from sources within the United States.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after December 31, 2004.

SEC. 216. REPEAL OF SPECIAL CAPITAL GAINS TAX ON ALIENS PRESENT IN THE UNITED STATES FOR 183 DAYS OR MORE.

(a) IN GENERAL.—Subsection (a) of section 871 is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(b) CONFORMING AMENDMENT.—Section 1441(g) is amended is amended by striking "section 871(a)(3)" and inserting "section 871(a)(2)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

Subtitle C—Additional International Tax Provisions

SEC. 221. ACTIVE LEASING INCOME FROM AIRCRAFT AND VESSELS.

(a) IN GENERAL.—Section 954(c)(2) is amended by adding at the end the following new subparagraph:

"(D) CERTAIN RENTS, ETC.—

"(i) IN GENERAL.—Foreign personal holding company income shall not include qualified leasing income derived from or in connection with the leasing or rental of any aircraft or vessel.

"(ii) QUALIFIED LEASING INCOME.—For purposes of this subparagraph, the term 'qualified leasing income' means rents and gains derived in the active conduct of a trade or business of leasing with respect to which the controlled foreign corporation conducts substantial activity, but only if—

"(I) the leased property is used by the lessee or other end-user in foreign commerce and predominantly outside the United States, and

"(II) the lessee or other end-user is not a related person (as defined in subsection (d)(3)).

Any amount not treated as foreign personal holding income under this subparagraph shall not be treated as foreign base company shipping income.".

(b) CONFORMING AMENDMENT.—Section 954(c)(1)(B) is amended by inserting "or (2)(D)" after "paragraph (2)(A)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2005, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

SEC. 222. LOOK-THRU TREATMENT OF PAYMENTS BETWEEN RELATED CONTROLLED FOREIGN CORPORATIONS UNDER FOREIGN PERSONAL HOLDING COMPANY INCOME RULES.

(a) IN GENERAL.—Subsection (c) of section 954, as amended by this Act, is amended by adding after paragraph (4) the following new paragraph:

"(5) LOOK-THRU IN THE CASE OF RELATED CONTROLLED FOREIGN CORPORATIONS.—For purposes of this subsection, dividends, interest, rents, and royalties received or accrued from a controlled foreign corporation which is a related person (as defined in subsection (b)(9)) shall not be treated as foreign personal holding company income to the extent attributable or properly allocable (determined under rules similar to the rules of subparagraphs (C) and (D) of section 904(d)(3)) to income of the related person which is not subpart F income (as defined in section 952). For purposes of this paragraph, interest shall include factoring income which is treated as income equivalent to interest for purposes of paragraph (1)(E). The Secretary shall prescribe such regulations as may be appropriate to prevent the abuse of the purposes of this paragraph.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

SEC. 223. LOOK-THRU TREATMENT FOR SALES OF PARTNERSHIP INTERESTS.

(a) IN GENERAL.—Section 954(c) (defining foreign personal holding company income), as amended by this Act, is amended by adding after paragraph (5) the following new paragraph:

"(6) LOOK-THRU RULE FOR CERTAIN PARTNERSHIP SALES.—

"(A) IN GENERAL.—In the case of any sale by a controlled foreign corporation of an interest in a partnership with respect to which such corporation is a 25-percent owner, such corporation shall be treated for purposes of this subsection as selling the proportionate share of the assets of the partnership attributable to such interest. The Secretary shall prescribe such regulations as may be appropriate to prevent abuse of the purposes of this paragraph, including regulations providing for coordination of this paragraph with the provisions of subchapter K.

"(B) 25-PERCENT OWNER.—For purposes of this paragraph, the term '25-percent owner' means a controlled foreign corporation which owns directly 25 percent or more of the capital or profits interest in a partnership. For purposes of the preceding sentence, if a controlled foreign corporation is a shareholder or partner of a corporation or partnership, the controlled foreign corporation shall be treated as owning directly its proportionate share of any such capital or profits interest held directly or indirectly by such corporation or partnership".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

SEC. 224. ELECTION NOT TO USE AVERAGE EXCHANGE RATE FOR FOREIGN TAX PAID OTHER THAN IN FUNCTIONAL CURRENCY.

(a) IN GENERAL.—Paragraph (1) of section 986(a) (relating to determination of foreign taxes and foreign corporation's earnings and profits) is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(D) ELECTIVE EXCEPTION FOR TAXES PAID OTHER THAN IN FUNCTIONAL CURRENCY.—

"(i) IN GENERAL.—At the election of the taxpayer, subparagraph (A) shall not apply to any foreign income taxes the liability for which is denominated in any currency other than in the taxpayer's functional currency.

"(ii) APPLICATION TO QUALIFIED BUSINESS UNITS.—An election under this subparagraph may apply to foreign income taxes attributable to a qualified business unit in accordance with regulations prescribed by the Secretary.

"(iii) ELECTION.—Any such election shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 225. TREATMENT OF INCOME TAX BASE DIFFERENCES.

(a) IN GENERAL.—Paragraph (2) of section 904(d) is amended by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively, and by inserting after subparagraph (G) the following new subparagraph:

"(H) TREATMENT OF INCOME TAX BASE DIFFERENCES.—

"(i) IN GENERAL.—A taxpayer may elect to treat tax imposed under the law of a foreign country or possession of the United States on an amount which does not constitute income under United States tax principles as tax imposed on income described in subparagraph (C) or (I) of paragraph (1).

"(ii) ELECTION IRREVOCABLE.—Any such election shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 226. MODIFICATION OF EXCEPTIONS UNDER SUBPART F FOR ACTIVE FINANCING.

(a) IN GENERAL.—Section 954(h)(3) is amended by adding at the end the following:

"(E) DIRECT CONDUCT OF ACTIVITIES.—For purposes of subparagraph (A)(ii)(II), an activity shall be treated as conducted directly by an eligible controlled foreign corporation or qualified business unit in its home country if the activity is performed by employees of a related person and—

"(i) the related person is an eligible controlled foreign corporation the home country of which is the same as the home country of the corporation or unit to which subparagraph (A)(ii)(II) is being applied,

"(ii) the activity is performed in the home country of the related person, and

"(iii) the related person is compensated on an arm's-length basis for the performance of the activity by its employees and such compensation is treated as earned by such person in its home country for purposes of the home country's tax laws.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of such foreign corporations beginning after December 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of such foreign corporations end.

SEC. 227. UNITED STATES PROPERTY NOT TO INCLUDE CERTAIN ASSETS OF CONTROLLED FOREIGN CORPORATION.

(a) IN GENERAL.—Section 956(c)(2) (relating to exceptions from property treated as United States property) is amended by striking "and" at the end of subparagraph (J), by striking the period at the end of subparagraph (K) and inserting a semicolon, and by adding at the end the following new subparagraphs:

"(L) securities acquired and held by a controlled foreign corporation in the ordinary course of its business as a dealer in securities if—

"(i) the dealer accounts for the securities as securities held primarily for sale to customers in the ordinary course of business, and

"(ii) the dealer disposes of the securities (or such securities mature while held by the dealer) within a period consistent with the holding of securities for sale to customers in the ordinary course of business; and

"(M) an obligation of a United States person which—

"(i) is not a domestic corporation, and

"(ii) is not—

"(I) a United States shareholder (as defined in section 951(b)) of the controlled foreign corporation, or

"(II) a partnership, estate, or trust in which the controlled foreign corporation, or any related person (as defined in section 954(d)(3)), is a partner, beneficiary, or trustee immediately after the acquisition of any obligation of such partnership, estate, or trust by the controlled foreign corporation.".

(b) CONFORMING AMENDMENT.—Section 956(c)(2) is amended by striking "and (K)" in the last sentence and inserting ", (K), and (L)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

SEC. 228. PROVIDE EQUAL TREATMENT FOR INTEREST PAID BY FOREIGN PARTNERSHIPS AND FOREIGN CORPORATIONS.

(a) IN GENERAL.—Paragraph (1) of section 861(a) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by adding at the end the following new subparagraph:

"(C) in the case of a foreign partnership, which is predominantly engaged in the active conduct of a trade or business outside the United States, any interest not paid by a trade or business engaged in by the partnership in the United States and not allocable to income which is effectively connected (or treated as effectively connected) with the conduct of a trade or business in the United States.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 229. CLARIFICATION OF TREATMENT OF CERTAIN TRANSFERS OF INTANGIBLE PROPERTY.

(a) IN GENERAL.—Subparagraph (C) of section 367(d)(2) is amended by adding at the end the following new sentence: "For purposes of applying section 904(d), any such amount shall be treated in the same manner as if such amount were a royalty.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts treated as received pursuant to section 367(d)(2) of the Internal Revenue Code of 1986 on or after August 5, 1997.

SEC. 230. MODIFICATION OF THE TREATMENT OF CERTAIN REIT DISTRIBUTIONS ATTRIBUTABLE TO GAIN FROM SALES OR EXCHANGES OF UNITED STATES REAL PROPERTY INTERESTS.

(a) IN GENERAL.—Paragraph (1) of section 897(h) (relating to look-through of distributions) is amended by adding at the end the following new sentence: "Notwithstanding the preceding sentence, any distribution by a REIT with respect to any class of stock which is regularly traded on an established securities market located in the United States shall not be treated as gain recognized from the sale or exchange of a United States real property interest if the shareholder did not own more than 5 percent of such class of stock at any time during the taxable year.".

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 857(b) (relating to capital gains) is amended by adding at the end the following new subparagraph:

"(F) CERTAIN DISTRIBUTIONS.—In the case of a shareholder of a real estate investment trust to whom section 897 does not apply by reason of the second sentence of section 897(h)(1), the amount which would be included in computing long-term capital gains for such shareholder under subparagraph (B) or (D) (without regard to this subparagraph)—

"(i) shall not be included in computing such shareholder's long-term capital gains, and

"(ii) shall be included in such shareholder's gross income as a dividend from the real estate investment trust.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 231. TOLL TAX ON EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.

(a) IN GENERAL.—Subpart F of part III of subchapter N of chapter 1 is amended by adding at the end the following new section:

"SEC. 965. TOLL TAX IMPOSED ON EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.

"(a) TOLL TAX IMPOSED ON EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.—If a corporation elects the application of this section, a tax shall be imposed on the taxpayer in an amount equal to 5.25 percent of—

"(1) the taxpayer's excess qualified foreign distribution amount, and

"(2) the amount determined under section 78 which is attributable to such excess qualified foreign distribution amount.

Such tax shall be imposed in lieu of the tax imposed under section 11 or 55 on the amounts described in paragraphs (1) and (2) for the taxable year.

"(b) EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'excess qualified foreign distribution amount' means the excess (if any) of—

"(A) the aggregate dividends received by the taxpayer during the taxable year which are—

"(i) from 1 or more corporations which are controlled foreign corporations in which the taxpayer is a United States shareholder on the date such dividends are paid, and

"(ii) described in a domestic reinvestment plan which—

"(I) is approved by the taxpayer's president, chief executive officer, or comparable official before the payment of such dividends and subsequently approved by the taxpayer's board of directors, management committee, executive committee, or similar body, and

"(II) provides for the reinvestment of such dividends in the United States (other than as payment for executive compensation), including as a source for the funding of worker hiring and training, infrastructure, research and development, capital investments, or the financial stabilization of the corporation for the purposes of job retention or creation, over

"(B) the base dividend amount.

"(2) BASE DIVIDEND AMOUNT.—The term 'base dividend amount' means an amount designated under subsection (c)(7), but not less than the average amount of dividends received during the fixed base period from 1 or more corporations which are controlled foreign corporations in which the taxpayer is a United States shareholder on the date such dividends are paid.

"(3) FIXED BASE PERIOD.—

"(A) IN GENERAL.—The term 'fixed base period' means each of 3 taxable years which are among the 5 most recent taxable years of the taxpayer ending on or before December 31, 2002, determined by disregarding—

"(i) the 1 taxable year for which the taxpayer had the highest amount of dividends from 1 or more corporations which are controlled foreign corporations relative to the other 4 taxable years, and

"(ii) the 1 taxable year for which the taxpayer had the lowest amount of dividends from such corporations relative to the other 4 taxable years.

"(B) SHORTER PERIOD.—If the taxpayer has fewer than 5 taxable years ending on or before December 31, 2002, then in lieu of applying subparagraph (A), the fixed base period shall include all the taxable years of the taxpayer ending on or before December 31, 2002.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) DIVIDENDS.—The term 'dividend' has the meaning given such term by section 316, except that the term shall include amounts described in section 951(a)(1)(B), but shall not include amounts described in sections 78 and 959.

"(2) CONTROLLED FOREIGN CORPORATIONS AND UNITED STATES SHAREHOLDERS.—The term 'controlled foreign corporation' has the meaning given such term by section 957(a) and the term 'United States shareholder' has the meaning given such term by section 951(b).

"(3) FOREIGN TAX CREDITS.—The amount of any income, war, profits, or excess profit taxes paid (or deemed paid under sections 902 and 960) or accrued by the taxpayer with respect to the excess qualified foreign distribution amount for which a credit would be allowable under section 901 in the absence of this section, shall be reduced by 85 percent. No deduction shall be allowed under this chapter for the portion of any tax for which credit is not allowable by reason of the preceding sentence.

"(4) FOREIGN TAX CREDIT LIMITATION.—For purposes of section 904, there shall be disregarded 85 percent of—

"(A) the excess qualified foreign distribution amount,

"(B) the amount determined under section 78 which is attributable to such excess qualified foreign distribution amount, and

"(C) the amounts (including assets, gross income, and other relevant bases of apportionment) which are attributable to the excess qualified foreign distribution amount which would, determined without regard to this section, be used to apportion the expenses, losses, and deductions of the taxpayer under section 861 and 864 in determining its taxable income from sources without the United States.

For purposes of applying subparagraph (C), the principles of section 864(e)(3)(A) shall apply.

"(5) TREATMENT OF ACQUISITIONS AND DISPOSITIONS.—Rules similar to the rules of section 41(f)(3) shall apply in the case of acquisitions or dispositions of controlled foreign corporations occurring on or after the first day of the earliest taxable year taken into account in determining the fixed base period.

"(6) TREATMENT OF CONSOLIDATED GROUPS.—Members of an affiliated group of corporations filing a consolidated return under section 1501 shall be treated as a single taxpayer for purposes of this section.

"(7) DESIGNATION OF DIVIDENDS.—Subject to subsection (b)(2), the taxpayer shall designate the particular dividends received during the taxable year from 1 or more corporations which are controlled foreign corporations in which it is a United States shareholder which are dividends excluded from the excess qualified foreign distribution amount. The total amount of such designated dividends shall equal the base dividend amount.

"(8) TREATMENT OF EXPENSES, LOSSES, AND DEDUCTIONS.—Any expenses, losses, or deductions of the taxpayer allowable under subchapter B—

"(A) shall not be applied to reduce the amounts described in subsection (a)(1), and

"(B) shall be applied to reduce other income of the taxpayer (determined without regard to the amounts described in subsection (a)(1)).

"(d) ELECTION.—

"(1) IN GENERAL.—An election under this section shall be made on the taxpayer's timely filed income tax return for the first taxable year (determined by taking extensions into account) ending 120 days or more after the date of the enactment of this section, and, once made, may be revoked only with the consent of the Secretary.

"(2) ALL CONTROLLED FOREIGN CORPORATIONS.—The election shall apply to all corporations which are controlled foreign corporations in which the taxpayer is a United States shareholder during the taxable year.

"(3) CONSOLIDATED GROUPS.—If a taxpayer is a member of an affiliated group of corporations filing a consolidated return under section 1501 for the taxable year, an election under this section shall be made by the common parent of the affiliated group which includes the taxpayer and shall apply to all members of the affiliated group.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary and appropriate to carry out the purposes of this section, including regulations under section 55 and regulations addressing corporations which, during the fixed base period or thereafter, join or leave an affiliated group of corporations filing a consolidated return.".

(b) CONFORMING AMENDMENT.—The table of sections for subpart F of part III of subchapter N of chapter 1 is amended by adding at the end the following new item:

"Sec. 965. Toll tax imposed on excess qualified foreign distribution amount.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply only to the first taxable year of the electing taxpayer ending 120 days or more after the date of the enactment of this Act.

SEC. 232. EXCLUSION OF INCOME DERIVED FROM CERTAIN WAGERS ON HORSE RACES AND DOG RACES FROM GROSS INCOME OF NONRESIDENT ALIEN INDIVIDUALS.

(a) IN GENERAL.—Subsection (b) of section 872 (relating to exclusions) is amended by redesignating paragraphs (5), (6), and (7) as paragraphs (6), (7), and (8), respectively, and inserting after paragraph (4) the following new paragraph:

"(5) INCOME DERIVED FROM WAGERING TRANSACTIONS IN CERTAIN PARIMUTUEL POOLS.—Gross income derived by a nonresident alien individual from a legal wagering transaction initiated outside the United States in a parimutuel pool with respect to a live horse race or dog race in the United States.".

(b) CONFORMING AMENDMENT.—Section 883(a)(4) is amended by striking "(5), (6), and (7)" and inserting "(6), (7), and (8)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to wagers made after the date of the enactment of this Act.

SEC. 233. LIMITATION OF WITHHOLDING TAX FOR PUERTO RICO CORPORATIONS.

(a) IN GENERAL.—Subsection (b) of section 881 is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) COMMONWEALTH OF PUERTO RICO.—If dividends are received during a taxable year by a corporation—

"(A) created or organized in, or under the law of, the Commonwealth of Puerto Rico, and

"(B) with respect to which the requirements of subparagraphs (A), (B), and (C) of paragraph (1) are met for the taxable year,

subsection (a) shall be applied for such taxable year by substituting '10 percent' for '30 percent'.".

(b) WITHHOLDING.—Subsection (c) of section 1442 (relating to withholding of tax on foreign corporations) is amended—

(1) by striking "For purposes" and inserting the following:

"(1) GUAM, AMERICAN SAMOA, THE NORTHERN MARIANA ISLANDS, AND THE VIRGIN ISLANDS.—For purposes", and

(2) by adding at the end the following new paragraph:

"(2) COMMONWEALTH OF PUERTO RICO.—If dividends are received during a taxable year by a corporation—

"(A) created or organized in, or under the law of, the Commonwealth of Puerto Rico, and

"(B) with respect to which the requirements of subparagraphs (A), (B), and (C) of section 881(b)(1) are met for the taxable year, subsection (a) shall be applied for such taxable year by substituting '10 percent' for '30 percent'.".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 881 is amended by striking "GUAM AND VIRGIN ISLANDS CORPORATIONS" in the heading and inserting "POSSESSIONS".

(2) Paragraph (1) of section 881(b) is amended by striking "In general" in the heading and inserting "Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands".

(c) Effective Date.—The amendments made by this section shall apply to dividends paid after the date of the enactment of this Act.

SEC. 234. REPORT ON WTO DISPUTE SETTLEMENT PANELS AND THE APPELLATE BODY.

Not later than March 31, 2004, the Secretary of Commerce, in consultation with the United States Trade Representative, shall transmit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, regarding whether dispute settlement panels and the Appellate Body of the World Trade Organization have—

(1) added to or diminished the rights of the United States by imposing obligations or restrictions on the use of antidumping, countervailing, and safeguard measures not agreed to under the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade of 1994, the Agreement on Subsidies and Countervailing Measures, and the Agreement on Safeguards;

(2) appropriately applied the standard of review contained in Article 17.6 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade of 1994; or

(3) exceeded their authority or terms of reference under the Agreements referred to in paragraph (1).

SEC. 235. STUDY OF IMPACT OF INTERNATIONAL TAX LAWS ON TAXPAYERS OTHER THAN LARGE CORPORATIONS.

(a) Study.—The Secretary of the Treasury or the Secretary's delegate shall conduct a study of the impact of Federal international tax rules on taxpayers other than large corporations, including the burdens placed on such taxpayers in complying with such rules.

(b) Report.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives the results of the study conducted under subsection (a), including any recommendations for legislative or administrative changes to reduce the compliance burden on taxpayers other than large corporations and for such other purposes as the Secretary determines appropriate.

SEC. 236. DELAY IN EFFECTIVE DATE OF FINAL REGULATIONS GOVERNING EXCLUSION OF INCOME FROM INTERNATIONAL OPERATION OF SHIPS OR AIRCRAFT.

Notwithstanding the provisions of Treasury regulation §1.883-5, the final regulations issued by the Secretary of the Treasury relating to income derived by foreign corporations from the international operation of ships or aircraft (Treasury regulations §1.883-1 through §1.883-5) shall apply to taxable years of a foreign corporation seeking qualified foreign corporation status beginning after December 31, 2004.

SEC. 237. INTEREST PAYMENTS DEDUCTIBLE WHERE DISQUALIFIED GUARANTEE HAS NO ECONOMIC EFFECT.

(a) In General.—Section 163(j)(6)(D)(ii) (relating to exceptions to disqualified guarantee) is amended—

(1) by striking "or" at the end of subclause (I),

(2) by striking the period at the end of subclause (II) and inserting ", or",

(3) by inserting after subclause (II) the following new subclause:

"(III) in the case of a guarantee by a foreign person, to the extent of the amount that the taxpayer establishes to the satisfaction of the Secretary that the taxpayer could have borrowed from an unrelated person without the guarantee.".

(b) Effective Date.—The amendments made by this section shall apply to guarantees issued on or after the date of the enactment of this Act.

TITLE III—DOMESTIC MANUFACTURING AND BUSINESS PROVISIONS

Subtitle A—General Provisions

SEC. 301. EXPANSION OF QUALIFIED SMALL-ISSUE BOND PROGRAM.

(a) In General.—Subparagraph (F) of section 144(a)(4) (relating to $10,000,000 limit in certain cases) is amended to read as follows:

"(F) Additional capital expenditures not taken into account.—With respect to any issue, in addition to any capital expenditure described in subparagraph (C), capital expenditures of not to exceed $10,000,000 shall not be taken into account for purposes of applying subparagraph (A)(ii).".

(b) Effective Date.—The amendment made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 302. EXPENSING OF BROADBAND INTERNET ACCESS EXPENDITURES.

(a) In General.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 190 the following new section:

"SEC. 191. BROADBAND EXPENDITURES.

"(a) Treatment of Expenditures.—

"(1) In general.—A taxpayer may elect to treat any qualified broadband expenditure which is paid or incurred by the taxpayer as an expense which is not chargeable to capital account. Any expenditure which is so treated shall be allowed as a deduction.

"(2) Election.—An election under paragraph (1) shall be made at such time and in such manner as the Secretary may prescribe by regulation.

"(b) Qualified Broadband Expenditures.—For purposes of this section—

"(1) In general.—The term 'qualified broadband expenditure' means, with respect to any taxable year, any direct or indirect costs incurred and properly taken into account with respect to—

"(A) the purchase or installation of qualified equipment (including any upgrades thereto), and

"(B) the connection of such qualified equipment to any qualified subscriber.

"(2) Certain satellite expenditures excluded.—Such term shall not include any costs incurred with respect to the launching of any satellite equipment.

"(3) Leased equipment.—Such term shall include so much of the purchase price paid by the lessor of qualified equipment subject to a lease described in subsection (c)(2)(B) as is attributable to expenditures incurred by the lessee which would otherwise be described in paragraph (1).

"(c) When Expenditures Taken Into Account.—For purposes of this section—

"(1) In general.—Qualified broadband expenditures with respect to qualified equipment shall be taken into account with respect to the first taxable year in which—

"(A) current generation broadband services are provided through such equipment to qualified subscribers, or

"(B) next generation broadband services are provided through such equipment to qualified subscribers.

"(2) Limitation.—

"(A) In general.—Qualified expenditures shall be taken into account under paragraph (1) only with respect to qualified equipment—

"(i) the original use of which commences with the taxpayer, and

"(ii) which is placed in service, after the date of the enactment of this Act.

"(B) Sale-leasebacks.—For purposes of subparagraph (A), if property—

"(i) is originally placed in service after the date of the enactment of this Act by any person, and

"(ii) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in clause (ii).

"(d) Special Allocation Rules.—

"(1) Current generation broadband services.—For purposes of determining the amount of qualified broadband expenditures under subsection (a)(1) with respect to qualified equipment through which current generation broadband services are provided, if the qualified equipment is capable of serving both qualified subscribers and other subscribers, the qualified broadband expenditures shall be multiplied by a fraction—

"(A) the numerator of which is the sum of the number of potential qualified subscribers within the rural areas and the underserved areas which the equipment is capable of serving with current generation broadband services, and

"(B) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving with current generation broadband services.

"(2) Next generation broadband services.—For purposes of determining the amount of qualified broadband expenditures under subsection (a)(1) with respect to qualified equipment through which next generation broadband services are provided, if the qualified equipment is capable of serving both qualified subscribers and other subscribers, the qualified expenditures shall be multiplied by a fraction—

"(A) the numerator of which is the sum of—

"(i) the number of potential qualified subscribers within the rural areas and underserved areas, plus

"(ii) the number of potential qualified subscribers within the area consisting only of residential subscribers not described in clause (i),

which the equipment is capable of serving with next generation broadband services, and

"(B) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving with next generation broadband services.

"(e) Definitions.—For purposes of this section—

"(1) Antenna.—The term 'antenna' means any device used to transmit or receive signals through the electromagnetic spectrum, including satellite equipment.

"(2) Cable operator.—The term 'cable operator' has the meaning given such term by section 602(5) of the Communications Act of 1934 (47 U.S.C. 522(5)).

"(3) Commercial mobile service carrier.—The term 'commercial mobile service carrier' means any person authorized to provide commercial mobile radio service as defined in section 20.3 of title 47, Code of Federal Regulations.

“(4) CURRENT GENERATION BROADBAND SERVICE.—The term ‘current generation broadband service’ means the transmission of signals at a rate of at least 1,000,000 bits per second to the subscriber and at least 128,000 bits per second from the subscriber.

“(5) MULTIPLEXING OR DEMULTIPLEXING.—The term ‘multiplexing’ means the transmission of 2 or more signals over a single channel, and the term ‘demultiplexing’ means the separation of 2 or more signals previously combined by compatible multiplexing equipment.

“(6) NEXT GENERATION BROADBAND SERVICE.—The term ‘next generation broadband service’ means the transmission of signals at a rate of at least 22,000,000 bits per second to the subscriber and at least 5,000,000 bits per second from the subscriber.

“(7) NONRESIDENTIAL SUBSCRIBER.—The term ‘nonresidential subscriber’ means any person who purchases broadband services which are delivered to the permanent place of business of such person.

“(8) OPEN VIDEO SYSTEM OPERATOR.—The term ‘open video system operator’ means any person authorized to provide service under section 653 of the Communications Act of 1934 (47 U.S.C. 573).

“(9) OTHER WIRELESS CARRIER.—The term ‘other wireless carrier’ means any person (other than a telecommunications carrier, commercial mobile service carrier, cable operator, open video system operator, or satellite carrier) providing current generation broadband services or next generation broadband service to subscribers through the radio transmission of energy.

“(10) PACKET SWITCHING.—The term ‘packet switching’ means controlling or routing the path of any digitized transmission signal which is assembled into packets or cells.

“(11) PROVIDER.—The term ‘provider’ means, with respect to any qualified equipment—

“(A) a cable operator,

“(B) a commercial mobile service carrier,

“(C) an open video system operator,

“(D) a satellite carrier,

“(E) a telecommunications carrier, or

“(F) any other wireless carrier,

providing current generation broadband services or next generation broadband services to subscribers through such qualified equipment.

“(12) PROVISION OF SERVICES.—A provider shall be treated as providing services to 1 or more subscribers if—

“(A) such a subscriber has been passed by the provider's equipment and can be connected to such equipment for a standard connection fee,

“(B) the provider is physically able to deliver current generation broadband services or next generation broadband services, as applicable, to such a subscriber without making more than an insignificant investment with respect to such subscriber,

“(C) the provider has made reasonable efforts to make such subscribers aware of the availability of such services,

“(D) such services have been purchased by 1 or more such subscribers, and

“(E) such services are made available to such subscribers at average prices comparable to those at which the provider makes available similar services in any areas in which the provider makes available such services.

“(13) QUALIFIED EQUIPMENT.—

“(A) IN GENERAL.—The term ‘qualified equipment’ means equipment which provides current generation broadband services or next generation broadband services—

“(i) at least a majority of the time during periods of maximum demand to each subscriber who is utilizing such services, and

“(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no deduction is allowed under subsection (a)(1).

“(B) ONLY CERTAIN INVESTMENT TAKEN INTO ACCOUNT.—Except as provided in subparagraph (C) or (D), equipment shall be taken into account under subparagraph (A) only to the extent it—

“(i) extends from the last point of switching to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a telecommunications carrier,

“(ii) extends from the customer side of the mobile telephone switching office to a transmission/receive antenna (including such antenna) owned or leased by a subscriber in the case of a commercial mobile service carrier,

“(iii) extends from the customer side of the headend to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a cable operator or open video system operator, or

“(iv) extends from a transmission/receive antenna (including such antenna) which transmits and receives signals to or from multiple subscribers, to a transmission/receive antenna (including such antenna) on the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a satellite carrier or other wireless carrier, unless such other wireless carrier is also a telecommunications carrier.

“(C) PACKET SWITCHING EQUIPMENT.—Packet switching equipment, regardless of location, shall be taken into account under subparagraph (A) only if it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of packet switching for current generation broadband services or next generation broadband services, but only if such packet switching is the last in a series of such functions performed in the transmission of a signal to a subscriber or the first in a series of such functions performed in the transmission of a signal from a subscriber.

“(D) MULTIPLEXING AND DEMULTIPLEXING EQUIPMENT.—Multiplexing and demultiplexing equipment shall be taken into account under subparagraph (A) only to the extent it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of multiplexing and demultiplexing packets or cells of data and making associated application adaptions, but only if such multiplexing or demultiplexing equipment is located between packet switching equipment described in subparagraph (C) and the subscriber's premises.

“(14) QUALIFIED SUBSCRIBER.—The term ‘qualified subscriber’ means—

“(A) with respect to the provision of current generation broadband services—

“(i) any nonresidential subscriber maintaining a permanent place of business in a rural area or underserved area, or

“(ii) any residential subscriber residing in a dwelling located in a rural area or underserved area which is not a saturated market, and

“(B) with respect to the provision of next generation broadband services—

“(i) any nonresidential subscriber maintaining a permanent place of business in a rural area or underserved area, or

“(ii) any residential subscriber.

“(15) RESIDENTIAL SUBSCRIBER.—The term ‘residential subscriber’ means any individual who purchases broadband services which are delivered to such individual's dwelling.

“(16) RURAL AREA.—The term ‘rural area’ means any census tract which—

“(A) is not within 10 miles of any incorporated or census designated place containing more than 25,000 people, and

“(B) is not within a county or county equivalent which has an overall population density of more than 500 people per square mile of land.

“(17) RURAL SUBSCRIBER.—The term ‘rural subscriber’ means any residential subscriber residing in a dwelling located in a rural area or nonresidential subscriber maintaining a permanent place of business located in a rural area.

“(18) SATELLITE CARRIER.—The term ‘satellite carrier’ means any person using the facilities of a satellite or satellite service licensed by the Federal Communications Commission and operating in the Fixed-Satellite Service under part 25 of title 47 of the Code of Federal Regulations or the Direct Broadcast Satellite Service under part 100 of title 47 of such Code to establish and operate a channel of communications for distribution of signals, and owning or leasing a capacity or service on a satellite in order to provide such point-to-multipoint distribution.

“(19) SATURATED MARKET.—The term ‘saturated market’ means any census tract in which, as of the date of the enactment of this section—

“(A) current generation broadband services have been provided by a single provider to 85 percent or more of the total number of potential residential subscribers residing in dwellings located within such census tract, and

“(B) such services can be utilized—

“(i) at least a majority of the time during periods of maximum demand by each such subscriber who is utilizing such services, and

“(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no deduction is allowed under subsection (a)(1).

“(20) SUBSCRIBER.—The term ‘subscriber’ means any person who purchases current generation broadband services or next generation broadband services.

“(21) TELECOMMUNICATIONS CARRIER.—The term ‘telecommunications carrier’ has the meaning given such term by section 3(44) of the Communications Act of 1934 (47 U.S.C. 153(44)), but—

“(A) includes all members of an affiliated group of which a telecommunications carrier is a member, and

“(B) does not include a commercial mobile service carrier.

“(22) TOTAL POTENTIAL SUBSCRIBER POPULATION.—The term ‘total potential subscriber population’ means, with respect to any area and based on the most recent census data, the total number of potential residential subscribers residing in dwellings located in such area and potential nonresidential subscribers maintaining permanent places of business located in such area.

“(23) UNDERSERVED AREA.—The term ‘underserved area’ means—

“(A) any census tract which is located in—

“(i) an empowerment zone or enterprise community designated under section 1391, or

“(ii) the District of Columbia Enterprise Zone established under section 1400, or

“(B) any census tract—

“(i) the poverty level of which is at least 30 percent (based on the most recent census data), and "(ii) the median family income of which does not exceed—

"(I) in the case of a census tract located in a metropolitan statistical area, 70 percent of the greater of the metropolitan area median family income or the statewide median family income, and

"(II) in the case of a census tract located in a nonmetropolitan statistical area, 70 percent of the nonmetropolitan statewide median family income.

"(24) UNDERSERVED SUBSCRIBER.—The term 'underserved subscriber' means any residential subscriber residing in a dwelling located in an underserved area or nonresidential subscriber maintaining a permanent place of business located in an underserved area.

"(f) SPECIAL RULES.—

"(1) PROPERTY USED OUTSIDE THE UNITED STATES, ETC., NOT QUALIFIED.—No expenditures shall be taken into account under subsection (a)(1) with respect to the portion of the cost of any property referred to in section 50(b) or with respect to the portion of the cost of any property specified in an election under section 179.

"(2) BASIS REDUCTION.—

"(A) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a)(1).

"(B) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a)(1) with respect to any property which is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.

"(3) COORDINATION WITH SECTION 38.—No credit shall be allowed under section 38 with respect to any amount for which a deduction is allowed under subsection (a)(1).".

(b) SPECIAL RULE FOR MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—Section 512(b) (relating to modifications) is amended by adding at the end the following new paragraph:

"(18) SPECIAL RULE FOR MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—A mutual or cooperative telephone company which for the taxable year satisfies the requirements of section 501(c)(12)(A) may elect to reduce its unrelated business taxable income for such year, if any, by an amount that does not exceed the qualified broadband expenditures which would be taken into account under section 191 for such year by such company if such company was not exempt from taxation. Any amount which is allowed as a deduction under this paragraph shall not be allowed as a deduction under section 191 and the basis of any property to which this paragraph applies shall be reduced under section 1016(a)(29).".

(c) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1) (relating to capital expenditures) is amended by striking "or" at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting ", or", and by adding at the end the following new subparagraph:

"(I) expenditures for which a deduction is allowed under section 191.".

(2) Section 1016(a) of such Code is amended by striking "and" at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting ", and", and by adding at the end the following new paragraph:

"(29) to the extent provided in section 191(f)(2).".

(3) The table of sections for part VI of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 190 the following new item:

"Sec. 191. Broadband expenditures.".

(d) DESIGNATION OF CENSUS TRACTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall, not later than 90 days after the date of the enactment of this Act, designate and publish those census tracts meeting the criteria described in paragraphs (16), (22), and (23) of section 191(e) of the Internal Revenue Code of 1986 (as added by this section). In making such designations, the Secretary of the Treasury shall consult with such other departments and agencies as the Secretary determines appropriate.

(2) SATURATED MARKET.—

(A) IN GENERAL.—For purposes of designating and publishing those census tracts meeting the criteria described in subsection (e)(19) of such section 191—

(i) the Secretary of the Treasury shall prescribe not later than 30 days after the date of the enactment of this Act the form upon which any provider which takes the position that it meets such criteria with respect to any census tract shall submit a list of such census tracts (and any other information required by the Secretary) not later than 60 days after the date of the publication of such form, and

(ii) the Secretary of the Treasury shall publish an aggregate list of such census tracts and the applicable providers not later than 30 days after the last date such submissions are allowed under clause (i).

(B) NO SUBSEQUENT LISTS REQUIRED.—The Secretary of the Treasury shall not be required to publish any list of census tracts meeting such criteria subsequent to the list described in subparagraph (A)(ii).

(e) OTHER REGULATORY MATTERS.—

(1) PROHIBITION.—No Federal or State agency or instrumentality shall adopt regulations or ratemaking procedures that would have the effect of eliminating or reducing any deduction or portion thereof allowed under section 191 of the Internal Revenue Code of 1986 (as added by this section) or otherwise subverting the purpose of this section.

(2) TREASURY REGULATORY AUTHORITY.—It is the intent of Congress in providing the election to deduct qualified broadband expenditures under section 191 of the Internal Revenue Code of 1986 (as added by this section) to provide incentives for the purchase, installation, and connection of equipment and facilities offering expanded broadband access to the Internet for users in certain low income and rural areas of the United States, as well as to residential users nationwide, in a manner that maintains competitive neutrality among the various classes of providers of broadband services. Accordingly, the Secretary of the Treasury shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 191 of such Code, including—

(A) regulations to determine how and when a taxpayer that incurs qualified broadband expenditures satisfies the requirements of section 191 of such Code to provide broadband services, and

(B) regulations describing the information, records, and data taxpayers are required to provide the Secretary to substantiate compliance with the requirements of section 191 of such Code.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures incurred after the date of the enactment of this Act and before the date which is 12 months after the date of the enactment of this Act.

SEC. 303. EXEMPTION OF NATURAL AGING PROCESS IN DETERMINATION OF PRODUCTION PERIOD FOR DISTILLED SPIRITS UNDER SECTION 263A.

(a) IN GENERAL.—Section 263A(f) of the Internal Revenue Code of 1986 (relating to general exceptions) is amended by adding at the end the following new paragraph:

"(5) EXEMPTION OF NATURAL AGING PROCESS IN DETERMINATION OF PRODUCTION PERIOD FOR DISTILLED SPIRITS.—For purposes of this subsection, the production period for distilled spirits shall be determined without regard to any period allocated to the natural aging process.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to production periods beginning after the date of the enactment of this Act.

SEC. 304. MODIFICATION OF ACTIVE BUSINESS DEFINITION UNDER SECTION 355.

(a) IN GENERAL.—Section 355(b) (defining active conduct of a trade or business) is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULES RELATING TO ACTIVE BUSINESS REQUIREMENT.—

"(A) IN GENERAL.—For purposes of determining whether a corporation meets the requirement of paragraph (2)(A), all members of such corporation's separate affiliated group shall be treated as one corporation. For purposes of the preceding sentence, a corporation's separate affiliated group is the affiliated group which would be determined under section 1504(a) if such corporation were the common parent and section 1504(b) did not apply.

"(B) CONTROL.—For purposes of paragraph (2)(D), all distributee corporations which are members of the same affiliated group (as defined in section 1504(a) without regard to section 1504(b)) shall be treated as one distributee corporation.".

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 355(b)(2) is amended to read as follows:

"(A) it is engaged in the active conduct of a trade or business,".

(2) Section 355(b)(2) is amended by striking the last sentence.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply—

(A) to distributions after the date of the enactment of this Act, and

(B) for purposes of determining the continued qualification under section 355(b)(2)(A) of the Internal Revenue Code of 1986 (as amended by subsection (b)(1)) of distributions made before such date, as a result of an acquisition, disposition, or other restructuring after such date.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any distribution pursuant to a transaction which is—

(A) made pursuant to an agreement which was binding on such date of enactment and at all times thereafter,

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(C) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

(3) ELECTION TO HAVE AMENDMENTS APPLY.—Paragraph (2) shall not apply if the distributing corporation elects not to have such paragraph apply to distributions of such corporation. Any such election, once made, shall be irrevocable.

SEC. 305. MODIFIED TAXATION OF IMPORTED ARCHERY PRODUCTS.

(a) Bows.—Paragraph (1) of section 4161(b) (relating to bows) is amended to read as follows:

"(1) Bows.—

"(A) In general.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any bow which has a peak draw weight of 30 pounds or more, a tax equal to 11 percent of the price for which so sold.

"(B) Archery equipment.—There is hereby imposed on the sale by the manufacturer, producer, or importer—

"(i) of any part or accessory suitable for inclusion in or attachment to a bow described in subparagraph (A), and

"(ii) of any quiver or broadhead suitable for use with an arrow described in paragraph (2),

a tax equal to 11 percent of the price for which so sold.".

(b) Arrows.—Subsection (b) of section 4161 (relating to bows and arrows, etc.) is amended by redesignating paragraph (3) as paragraph (4) and inserting after paragraph (2) the following:

"(3) Arrows.—

"(A) In general.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any arrow, a tax equal to 12 percent of the price for which so sold.

"(B) Exception.—In the case of any arrow of which the shaft or any other component has been previously taxed under paragraph (1) or (2)—

"(i) section 6416(b)(3) shall not apply, and

"(ii) the tax imposed by subparagraph (A) shall be an amount equal to the excess (if any) of—

"(I) the amount of tax imposed by this paragraph (determined without regard to this subparagraph), over

"(II) the amount of tax paid with respect to the tax imposed under paragraph (1) or (2) on such shaft or component.

"(C) Arrow.—For purposes of this paragraph, the term 'arrow' means any shaft described in paragraph (2) to which additional components are attached.".

(c) Conforming Amendments.—Section 4161(b)(2) is amended—

(1) by inserting "(other than broadheads)" after "point", and

(2) by striking "Arrows.—" in the heading and inserting "Arrow components.—".

(d) Effective Date.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after the date which is 30 days after the date of the enactment of this Act.

SEC. 306. MODIFICATION TO COOPERATIVE MARKETING RULES TO INCLUDE VALUE ADDED PROCESSING INVOLVING ANIMALS.

(a) In General.—Section 1388 (relating to definitions and special rules) is amended by adding at the end the following new subsection:

"(k) Cooperative Marketing Includes Value-Added Processing Involving Animals.—For purposes of section 521 and this subchapter, the marketing of the products of members or other producers shall include the feeding of such products to cattle, hogs, fish, chickens, or other animals and the sale of the resulting animals or animal products.".

(b) Conforming Amendment.—Section 521(b) is amended by adding at the end the following new paragraph:

"(7) Cross reference.—

"For treatment of value-added processing involving animals, see section 1388(k).".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 307. EXTENSION OF DECLARATORY JUDGMENT PROCEDURES TO FARMERS' COOPERATIVE ORGANIZATIONS.

(a) In General.—Section 7428(a)(1) (relating to declaratory judgments of tax exempt organizations) is amended by striking "or" at the end of subparagraph (B) and by adding at the end the following new subparagraph:

"(D) with respect to the initial classification or continuing classification of a cooperative as an organization described in section 521(b) which is exempt from tax under section 521(a), or".

(b) Effective Date.—The amendments made by this section shall apply with respect to pleadings filed after the date of the enactment of this Act.

SEC. 308. TEMPORARY SUSPENSION OF PERSONAL HOLDING COMPANY TAX.

(a) In General.—Section 541 (relating to imposition of personal holding company tax) is amended by adding at the end the following new sentence: "The preceding sentence shall not apply with respect to any taxable year to which section 1(h)(11) (as in effect on the date of the enactment of this sentence) applies.".

(b) Coordination With Accumulated Earnings Tax.—Section 532(b) is amended by adding at the end the following flush sentence:

"Paragraph (1) shall not apply to any taxable year to which section 541 does not apply."

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 309. INCREASE IN SECTION 179 EXPENSING.

(a) In General.—Section 179(b)(2) (relating to reduction in limitation) is amended by inserting "50 percent of" before "the amount".

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 310. FIVE-YEAR CARRYBACK OF NET OPERATING LOSSES.

(a) In General.—Subparagraph (H) of section 172(b)(1) is amended—

(1) by inserting "5-year carryback of certain losses.—" after "(H)", and

(2) by striking "or 2002" and inserting ", 2002, or 2003".

(b) Rules Relating to Certain Extended Net Operating Losses.—Section 172 is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) Rules Relating to Certain Extended Net Operating Losses.—In the case of a taxpayer which has a net operating loss for any taxable year ending during 2003 and does not make an election under subsection (j), such taxpayer shall be treated as having made an election under paragraphs (4)(E) and (2)(C)(iii) of section 168(k) with respect to all classes of property for such taxable year.

(c) Temporary Suspension of 90 Percent Limit on Certain NOL Carryovers.—Section 56(d)(1)(A)(ii)(I) (relating to general rule defining alternative tax net operating loss deduction) is amended—

(1) by striking "or 2002" and inserting ", 2002, or 2003", and

(2) by striking "and 2002" and inserting ", 2002, and 2003".

(d) Technical Corrections.—

(1) Subparagraph (H) of section 172(b)(1) is amended by striking "a taxpayer which has".

(2) Section 102(c)(2) of the Job Creation and Worker Assistance Act of 2002 (Public Law 107–147) is amended by striking "before January 1, 2003" and inserting "after December 31, 1990".

(3)(A) Subclause (I) of section 56(d)(1)(A)(i) is amended by striking "attributable to carryovers".

(B) Subclause (I) of section 56(d)(1)(A)(ii) is amended—

(i) by striking "for taxable years" and inserting "from taxable years", and

(ii) by striking "carryforwards" and inserting "carryovers".

(e) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to net operating losses for taxable years ending after December 31, 2002.

(2) Technical corrections.—The amendments made by subsection (d) shall take effect as if included in the amendments made by section 102 of the Job Creation and Worker Assistance Act of 2002.

(3) Election.—In the case of a net operating loss for a taxable year ending during 2003—

(A) any election made under section 172(b)(3) of such Code may (notwithstanding such section) be revoked before November 15, 2004, and

(B) any election made under section 172(j) of such Code shall (notwithstanding such section) be treated as timely made if made before November 15, 2004.

(4) Special rule for taxpayers with taxable years ending during January.—Any taxpayer which has a taxable year ending during January may elect under this paragraph to apply section 172(b)(1)(H) of the Internal Revenue Code of 1986 (as amended by this section) to its taxable year ending in 2004 rather than its taxable year ending in 2003. If such election is made, then section 172(k) of such Code (as added by this section) shall be applied to the taxpayer's taxable year ending in 2004. Such election shall be made in such manner and at such time as may be prescribed by the Secretary of the Treasury. Such election, once made, shall be irrevocable.

SEC. 311. EXTENSION AND MODIFICATION OF RESEARCH CREDIT.

(a) Extension.—

(1) In general.—Section 41(h)(1)(B) (relating to termination) is amended by striking "June 30, 2004" and inserting "December 31, 2005".

(2) Conforming amendment.—Section 45C(b)(1)(D) is amended by striking "June 30, 2004" and inserting "December 31, 2005".

(b) Increase in Rates of Alternative Incremental Credit.—Subparagraph (A) of section 41(c)(4) (relating to election of alternative incremental credit) is amended—

(1) by striking "2.65 percent" and inserting "3 percent",

(2) by striking "3.2 percent" and inserting "4 percent", and

(3) by striking "3.75 percent" and inserting "5 percent".

(c) Alternative Simplified Credit for Qualified Research Expenses.—

(1) In general.—Subsection (c) of section 41 (relating to base amount) is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) Election of alternative simplified credit.—

"(A) In general.—At the election of the taxpayer, the credit determined under subsection (a)(1) shall be equal to 12 percent of so much of the qualified research expenses for the taxable year as exceeds 50 percent of the average qualified research expenses for the 3 taxable years preceding the taxable year for which the credit is being determined.

"(B) SPECIAL RULE IN CASE OF NO QUALIFIED RESEARCH EXPENSES IN ANY OF 3 PRECEDING TAXABLE YEARS.—

"(i) TAXPAYERS TO WHICH SUBPARAGRAPH APPLIES.—The credit under this paragraph shall be determined under this subparagraph if the taxpayer has no qualified research expenses in any 1 of the 3 taxable years preceding the taxable year for which the credit is being determined.

"(ii) CREDIT RATE.—The credit determined under this subparagraph shall be equal to 6 percent of the qualified research expenses for the taxable year.

"(C) ELECTION.—An election under this paragraph shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary. An election under this paragraph may not be made for any taxable year to which an election under paragraph (4) applies."

(2) COORDINATION WITH ELECTION OF ALTERNATIVE INCREMENTAL CREDIT.—

(A) IN GENERAL.—Section 41(c)(4)(B) (relating to election) is amended by adding at the end the following: "An election under this paragraph may not be made for any taxable year to which an election under paragraph (5) applies."

(B) TRANSITION RULE.—In the case of an election under section 41(c)(4) of the Internal Revenue Code of 1986 which applies to the taxable year which includes the date of the enactment of this Act, such election shall be treated as revoked with the consent of the Secretary of the Treasury if the taxpayer makes an election under section 41(c)(5) of such Code (as added by paragraph (1)) for such year.

(f) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to amounts paid or incurred after the date of the enactment of this Act.

(2) SUBSECTIONS (b) AND (c).—The amendments made by subsections (b) and (c) shall apply to taxable years beginning after December 31, 2004.

SEC. 312. EXPANSION OF RESEARCH CREDIT.

(a) CREDIT FOR EXPENSES ATTRIBUTABLE TO CERTAIN COLLABORATIVE RESEARCH CONSORTIA.—

(1) IN GENERAL.—Section 41(a) (relating to credit for increasing research activities) is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end the following new paragraph:

"(3) 20 percent of the amounts paid or incurred by the taxpayer in carrying on any trade or business of the taxpayer during the taxable year (including as contributions) to a research consortium.".

(2) RESEARCH CONSORTIUM DEFINED.—Section 41(f) (relating to special rules) is amended by adding at the end the following new paragraph:

"(6) RESEARCH CONSORTIUM.—

"(A) IN GENERAL.—The term 'research consortium' means any organization—

"(i) which is—

"(I) described in section 501(c)(3) or 501(c)(6) and is exempt from tax under section 501(a) and is organized and operated primarily to conduct research, or

"(II) organized and operated primarily to conduct research in the public interest (within the meaning of section 501(c)(3)),

"(ii) which is not a private foundation,

"(iii) to which at least 5 unrelated persons paid or incurred during the calendar year in which the taxable year of the organization begins amounts (including as contributions) to such organization for research, and

"(iv) to which no single person paid or incurred (including as contributions) during such calendar year an amount equal to more than 50 percent of the total amounts received by such organization during such calendar year for research.

"(B) TREATMENT OF PERSONS.—All persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as related persons for purposes of subparagraph (A)(iii) and as a single person for purposes of subparagraph (A)(iv).".

(3) CONFORMING AMENDMENT.—Section 41(b)(3)(C) is amended by inserting "(other than a research consortium)" after "organization".

(b) REPEAL OF LIMITATION ON CONTRACT RESEARCH EXPENSES PAID TO SMALL BUSINESSES, UNIVERSITIES, AND FEDERAL LABORATORIES.—Section 41(b)(3) (relating to contract research expenses) is amended by adding at the end the following new subparagraph:

"(D) AMOUNTS PAID TO ELIGIBLE SMALL BUSINESSES, UNIVERSITIES, AND FEDERAL LABORATORIES.—

"(i) IN GENERAL.—In the case of amounts paid by the taxpayer to—

"(I) an eligible small business,

"(II) an institution of higher education (as defined in section 3304(f)), or

"(III) an organization which is a Federal laboratory,

for qualified research, subparagraph (A) shall be applied by substituting '100 percent' for '65 percent'.

"(ii) ELIGIBLE SMALL BUSINESS.—For purposes of this subparagraph, the term 'eligible small business' means a small business with respect to which the taxpayer does not own (within the meaning of section 318) 50 percent or more of—

"(I) in the case of a corporation, the outstanding stock of the corporation (either by vote or value), and

"(II) in the case of a small business which is not a corporation, the capital and profits interests of the small business.

"(iii) SMALL BUSINESS.—For purposes of this subparagraph—

"(I) IN GENERAL.—The term 'small business' means, with respect to any calendar year, any person if the annual average number of employees employed by such person during either of the 2 preceding calendar years was 500 or fewer. For purposes of the preceding sentence, a preceding calendar year may be taken into account only if the person was in existence throughout the year.

"(II) STARTUPS, CONTROLLED GROUPS, AND PREDECESSORS.—Rules similar to the rules of subparagraphs (B) and (D) of section 220(c)(4) shall apply for purposes of this clause.

"(iv) FEDERAL LABORATORY.—For purposes of this subparagraph, the term 'Federal laboratory' has the meaning given such term by section 4(6) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(6)), as in effect on the date of the enactment of the Jumpstart Our Business Strength (JOBS) Act.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 2004.

SEC. 313. MANUFACTURER'S JOBS CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following:

"SEC. 45S. MANUFACTURER'S JOBS CREDIT.

"(a) GENERAL RULE.—For purposes of section 38, in the case of an eligible taxpayer, the manufacturer's jobs credit determined under this section is an amount equal to 50 percent of the lesser of the following:

"(1) The excess of the W–2 wages paid by the taxpayer during the taxable year over the W–2 wages paid by the taxpayer during the preceding taxable year.

"(2) The W–2 wages paid by the taxpayer during the taxable year to any employee who is an eligible TAA recipient (as defined in section 35(c)(2)) for any month during such taxable year.

"(3) 22.4 percent of the W–2 wages paid by the taxpayer during the taxable year.

"(b) LIMITATION.—

"(1) IN GENERAL.—If there is an excess described in paragraph (2)(A) for any taxable year, the amount of credit determined under subsection (a) (without regard to this subsection)—

"(A) if the value of domestic production determined under section 199(g)(2) for the taxable year does not exceed such value for the preceding taxable year, shall be zero, and

"(B) if subparagraph (A) does not apply, shall be reduced (but not below zero) by the applicable percentage of such amount.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means, with respect to any taxable year, the percentage equal to a fraction—

"(A) the numerator of which is the excess (if any) of the modified value of worldwide production of the taxpayer for the taxable year over such modified value for the preceding taxable year, and

"(B) the denominator of which is the excess (if any) of the value of worldwide production of the taxpayer for the taxable year over such value for the preceding taxable year.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) VALUE OF WORLDWIDE PRODUCTION.—The value of worldwide production for any taxable year shall be determined under section 199(g)(4).

"(B) MODIFIED VALUE.—The term 'modified value of worldwide production' means the value of worldwide production determined by not taking into account any item taken into account in determining the value of domestic production under section 199(g)(2).

"(c) ELIGIBLE TAXPAYER.—For purposes of this section, the term 'eligible taxpayer' means any taxpayer—

"(1) which has domestic production gross receipts for the taxable year and the preceding taxable year, and

"(2) which is not treated at any time during the taxable year as an inverted domestic corporation under section 7874.

"(d) DEFINITIONS AND SPECIAL RULE.—For purposes of this section—

"(1) IN GENERAL.—Any term used in this section which is also used in section 199 shall have the meaning given such term by section 199.

"(2) SPECIAL RULE FOR W–2 WAGES.—Notwithstanding paragraph (1), the amount of W–2 wages taken into account with respect to any employee for any taxable year shall not exceed $50,000.

"(e) CERTAIN RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of section 52 shall apply.

"(f) TERMINATION.—This section shall not apply to any taxable year beginning after December 31, 2005.".

(b) Credit To Be Part of General Business Credit.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (29), by striking the period at the end of paragraph (30) and inserting ", plus", and by adding at the end the following:

"(31) the manufacturer's jobs credit determined under section 45S.".

(c) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following:

"Sec. 45S. Manufacturer's jobs credit.".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 314. BROWNFIELDS DEMONSTRATION PROGRAM FOR QUALIFIED GREEN BUILDING AND SUSTAINABLE DESIGN PROJECTS.

(a) Treatment as Exempt Facility Bond.—Subsection (a) of section 142 (relating to the definition of exempt facility bond) is amended by striking "or" at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting ", or", and by inserting at the end the following new paragraph:

"(14) qualified green building and sustainable design projects.".

(b) Qualified Green Building and Sustainable Design Projects.—Section 142 (relating to exempt facility bonds) is amended by adding at the end thereof the following new subsection:

"(l) Qualified Green Building and Sustainable Design Projects.—

"(1) In general.—For purposes of subsection (a)(14), the term 'qualified green building and sustainable design project' means any project which is designated by the Secretary, after consultation with the Administrator of the Environmental Protection Agency, as a qualified green building and sustainable design project and which meets the requirements of clauses (i), (ii), (iii), and (iv) of paragraph (4)(A).

"(2) Designations.—

"(A) In general.—Within 60 days after the end of the application period described in paragraph (3)(A), the Secretary, after consultation with the Administrator of the Environmental Protection Agency, shall designate qualified green building and sustainable design projects. At least one of the projects designated shall be located in, or within a 10-mile radius of, an empowerment zone as designated pursuant to section 1391, and at least one of the projects designated shall be located in a rural State. No more than one project shall be designated in a State. A project shall not be designated if such project includes a stadium or arena for professional sports exhibitions or games.

"(B) Minimum conservation and technology innovation objectives.—The Secretary, after consultation with the Administrator of the Environmental Protection Agency, shall ensure that, in the aggregate, the projects designated shall—

"(i) reduce electric consumption by more than 150 megawatts annually as compared to conventional generation,

"(ii) reduce daily sulfur dioxide emissions by at least 10 tons compared to coal generation power,

"(iii) expand by 75 percent the domestic solar photovoltaic market in the United States (measured in megawatts) as compared to the expansion of that market from 2001 to 2002, and

"(iv) use at least 25 megawatts of fuel cell energy generation.

"(3) Limited designations.—A project may not be designated under this subsection unless—

"(A) the project is nominated by a State or local government within 180 days of the enactment of this subsection, and

"(B) such State or local government provides written assurances that the project will satisfy the eligibility criteria described in paragraph (4).

"(4) Application.—

"(A) In general.—A project may not be designated under this subsection unless the application for such designation includes a project proposal which describes the energy efficiency, renewable energy, and sustainable design features of the project and demonstrates that the project satisfies the following eligibility criteria:

"(i) Green building and sustainable design.—At least 75 percent of the square footage of commercial buildings which are part of the project is registered for United States Green Building Council's LEED certification and is reasonably expected (at the time of the designation) to receive such certification. For purposes of determining LEED certification as required under this clause, points shall be credited by using the following:

"(I) For wood products, certification under the Sustainable Forestry Initiative Program and the American Tree Farm System.

"(II) For renewable wood products, as credited for recycled content otherwise provided under LEED certification.

"(III) For composite wood products, certification under standards established by the American National Standards Institute, or such other voluntary standards as published in the Federal Register by the Administrator of the Environmental Protection Agency.

"(ii) Brownfield redevelopment.—The project includes a brownfield site as defined by section 101(39) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601), including a site described in subparagraph (D)(ii)(II)(aa) thereof.

"(iii) State and local support.—The project receives specific State or local government resources which will support the project in an amount equal to at least $5,000,000. For purposes of the preceding sentence, the term 'resources' includes tax abatement benefits and contributions in kind.

"(iv) Size.—The project includes at least one of the following:

"(I) At least 1,000,000 square feet of building.

"(II) At least 20 acres.

"(v) Use of tax benefit.—The project proposal includes a description of the net benefit of the tax-exempt financing provided under this subsection which will be allocated for financing of one or more of the following:

"(I) The purchase, construction, integration, or other use of energy efficiency, renewable energy, and sustainable design features of the project.

"(II) Compliance with certification standards cited under clause (i).

"(III) The purchase, remediation, and foundation construction and preparation of the brownfields site.

"(vi) Prohibited facilities.—An issue shall not be treated as an issue described in subsection (a)(14) if any proceeds of such issue are used to provide any facility the principal business of which is the sale of food or alcoholic beverages for consumption on the premises.

"(vii) Employment.—The project is projected to provide permanent employment of at least 1,500 full time equivalents (150 full time equivalents in rural States) when completed and construction employment of at least 1,000 full time equivalents (100 full time equivalents in rural States).

The application shall include an independent analysis which describes the project's economic impact, including the amount of projected employment.

"(B) Project description.—Each application described in subparagraph (A) shall contain for each project a description of—

"(i) the amount of electric consumption reduced as compared to conventional construction,

"(ii) the amount of sulfur dioxide daily emissions reduced compared to coal generation,

"(iii) the amount of the gross installed capacity of the project's solar photovoltaic capacity measured in megawatts, and

"(iv) the amount, in megawatts, of the project's fuel cell energy generation.

"(5) Certification of use of tax benefit.—No later than 30 days after the completion of the project, each project must certify to the Secretary that the net benefit of the tax-exempt financing was used for the purposes described in paragraph (4).

"(6) Definitions.—For purposes of this subsection—

"(A) Rural state.—The term 'rural State' means any State which has—

"(i) a population of less than 4,500,000 according to the 2000 census,

"(ii) a population density of less than 150 people per square mile according to the 2000 census, and

"(iii) increased in population by less than half the rate of the national increase between the 1990 and 2000 censuses.

"(B) Local government.—The term 'local government' has the meaning given such term by section 1393(a)(5).

"(C) Net benefit of tax-exempt financing.—The term 'net benefit of tax-exempt financing' means the present value of the interest savings (determined by a calculation established by the Secretary) which result from the tax-exempt status of the bonds.

"(7) Aggregate face amount of tax-exempt financing.—

"(A) In general.—An issue shall not be treated as an issue described in subsection (a)(14) if the aggregate face amount of bonds issued by the State or local government pursuant thereto for a project (when added to the aggregate face amount of bonds previously so issued for such project) exceeds an amount designated by the Secretary as part of the designation.

"(B) Limitation on amount of bonds.—The Secretary may not allocate authority to issue qualified green building and sustainable design project bonds in an aggregate face amount exceeding $2,000,000,000.

"(8) Termination.—Subsection (a)(14) shall not apply with respect to any bond issued after September 30, 2009.

"(9) Treatment of current refunding bonds.—Paragraphs (7)(B) and (8) shall not apply to any bond (or series of bonds) issued to refund a bond issued under subsection (a)(14) before October 1, 2009, if—

"(A) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,

"(B) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

‘‘(C) the net proceeds of the refunding bond are used to redeem the refunded bond not later than 90 days after the date of the issuance of the refunding bond.

For purposes of subparagraph (A), average maturity shall be determined in accordance with section 147(b)(2)(A).’’.

(c) EXEMPTION FROM GENERAL STATE VOLUME CAPS.—Paragraph (3) of section 146(g) (relating to exception for certain bonds) is amended—

(1) by striking ‘‘or (13)’’ and inserting ‘‘(13), or (14)’’, and

(2) by striking ‘‘and qualified public educational facilities’’ and inserting ‘‘qualified public educational facilities, and qualified green building and sustainable design projects’’.

(d) ACCOUNTABILITY.—Each issuer shall maintain, on behalf of each project, an interest bearing reserve account equal to 1 percent of the net proceeds of any bond issued under this section for such project. Not later than 5 years after the date of issuance, the Secretary of the Treasury, after consultation with the Administrator of the Environmental Protection Agency, shall determine whether the project financed with such bonds has substantially complied with the terms and conditions described in section 142(l)(4) of the Internal Revenue Code of 1986 (as added by this section). If the Secretary, after such consultation, certifies that the project has substantially complied with such terms and conditions and meets the commitments set forth in the application for such project described in section 142(l)(4) of such Code, amounts in the reserve account, including all interest, shall be released to the project. If the Secretary determines that the project has not substantially complied with such terms and conditions, amounts in the reserve account, including all interest, shall be paid to the United States Treasury.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 2004.

Subtitle B—Manufacturing Relating to Films

SEC. 321. SPECIAL RULES FOR CERTAIN FILM AND TELEVISION PRODUCTIONS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 is amended by inserting after section 180 the following new section:

‘‘SEC. 181. TREATMENT OF QUALIFIED FILM AND TELEVISION PRODUCTIONS.

‘‘(a) ELECTION TO TREAT CERTAIN COSTS OF QUALIFIED FILM AND TELEVISION PRODUCTIONS AS EXPENSES.—

‘‘(1) IN GENERAL.—A taxpayer may elect to treat the cost of any qualified film or television production as an expense which is not chargeable to capital account. Any cost so treated shall be allowed as a deduction.

‘‘(2) DOLLAR LIMITATION.—

‘‘(A) IN GENERAL.—The aggregate cost which may be taken into account under paragraph (1) with respect to each qualified film or television production shall not exceed $15,000,000.

‘‘(B) HIGHER DOLLAR LIMITATION FOR PRODUCTIONS IN CERTAIN AREAS.—In the case of any qualified film or television production the aggregate cost of which is significantly incurred in an area eligible for designation as—

‘‘(i) a low-income community under section 45D, or

‘‘(ii) a distressed county or isolated area of distress by the Delta Regional Authority established under section 2009aa–1 of title 7, United States Code,

subparagraph (A) shall be applied by substituting ‘$20,000,000’ for ‘$15,000,000’.

‘‘(b) AMORTIZATION OF REMAINING COSTS.—

‘‘(1) IN GENERAL.—If an election is made under subsection (a) with respect to any qualified film or television production, that portion of the basis of such production in excess of the amount taken into account under subsection (a) shall be allowed as a deduction ratably over the 36-month period beginning with the month in which such production is placed in service.

‘‘(2) NO OTHER DEDUCTION OR AMORTIZATION DEDUCTION ALLOWABLE.—With respect to the basis of any qualified film or television production described in paragraph (1), no other depreciation or amortization deduction shall be allowable.

‘‘(c) ELECTION.—

‘‘(1) IN GENERAL.—An election under subsection (a) with respect to any qualified film or television production shall be made in such manner as prescribed by the Secretary and by the due date (including extensions) for filing the taxpayer's return of tax under this chapter for the taxable year in which costs of the production are first incurred.

‘‘(2) REVOCATION OF ELECTION.—Any election made under subsection (a) may not be revoked without the consent of the Secretary.

‘‘(d) QUALIFIED FILM OR TELEVISION PRODUCTION.—For purposes of this section—

‘‘(1) IN GENERAL.—The term ‘qualified film or television production’ means any production described in paragraph (2) if 75 percent of the total compensation of the production is qualified compensation.

‘‘(2) PRODUCTION.—

‘‘(A) IN GENERAL.—A production is described in this paragraph if such production is property described in section 168(f)(3). For purposes of a television series, only the first 44 episodes of such series may be taken into account.

‘‘(B) EXCEPTION.—A production is not described in this paragraph if records are required under section 2257 of title 18, United States Code, to be maintained with respect to any performer in such production.

‘‘(3) QUALIFIED COMPENSATION.—For purposes of paragraph (1)—

‘‘(A) IN GENERAL.—The term ‘qualified compensation’ means compensation for services performed in the United States by actors, directors, producers, and other relevant production personnel.

‘‘(B) PARTICIPATIONS AND RESIDUALS EXCLUDED.—The term ‘compensation’ does not include participations and residuals (as defined in section 167(g)(7)(B)).

‘‘(e) APPLICATION OF CERTAIN OTHER RULES.—For purposes of this section, rules similar to the rules of subsections (b)(2) and (c)(4) of section 194 shall apply.

‘‘(f) TERMINATION.—This section shall not apply to qualified film and television productions commencing after December 31, 2008.’’.

(b) CONFORMING AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 180 the following new item:

‘‘Sec. 181. Treatment of qualified film and television productions.’’.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified film and television productions (as defined in section 181(d)(1) of the Internal Revenue Code of 1986, as added by this section) commencing after the date of the enactment of this Act.

SEC. 322. MODIFICATION OF APPLICATION OF INCOME FORECAST METHOD OF DEPRECIATION.

(a) IN GENERAL.—Section 167(g) (relating to depreciation under income forecast method) is amended by adding at the end the following new paragraph:

‘‘(7) TREATMENT OF PARTICIPATIONS AND RESIDUALS.—

‘‘(A) IN GENERAL.—For purposes of determining the depreciation deduction allowable with respect to a property under this subsection, the taxpayer may include participations and residuals with respect to such property in the adjusted basis of such property for the taxable year in which the property is placed in service, but only to the extent that such participations and residuals relate to income estimated (for purposes of this subsection) to be earned in connection with the property before the close of the 10th taxable year referred to in paragraph (1)(A).

‘‘(B) PARTICIPATIONS AND RESIDUALS.—For purposes of this paragraph, the term ‘participations and residuals’ means, with respect to any property, costs the amount of which by contract varies with the amount of income earned in connection with such property.

‘‘(C) SPECIAL RULES RELATING TO RECOMPUTATION YEARS.—If the adjusted basis of any property is determined under this paragraph, paragraph (4) shall be applied by substituting ‘for each taxable year in such period’ for ‘for such period’.

‘‘(D) OTHER SPECIAL RULES.—

‘‘(i) PARTICIPATIONS AND RESIDUALS.—Notwithstanding subparagraph (A), the taxpayer may exclude participations and residuals from the adjusted basis of such property and deduct such participations and residuals in the taxable year that such participations and residuals are paid.

‘‘(ii) COORDINATION WITH OTHER RULES.—Deductions computed in accordance with this paragraph shall be allowable notwithstanding paragraph (1)(B) or sections 263, 263A, 404, 419, or 461(h).

‘‘(E) AUTHORITY TO MAKE ADJUSTMENTS.—The Secretary shall prescribe appropriate adjustments to the basis of property and to the look-back method for the additional amounts allowable as a deduction solely by reason of this paragraph.’’.

(b) DETERMINATION OF INCOME.—Section 167(g)(5) (relating to special rules) is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively, and inserting after subparagraph (D) the following new subparagraph:

‘‘(E) TREATMENT OF DISTRIBUTION COSTS.—For purposes of this subsection, the income with respect to any property shall be the taxpayer's gross income from such property.’’.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

Subtitle C—Manufacturing Relating to Timber

SEC. 331. EXPENSING OF CERTAIN REFORESTATION EXPENDITURES.

(a) IN GENERAL.—So much of subsection (b) of section 194 (relating to amortization of reforestation expenditures) as precedes paragraph (2) is amended to read as follows:

‘‘(b) TREATMENT AS EXPENSES.—

‘‘(1) ELECTION TO TREAT CERTAIN REFORESTATION EXPENDITURES AS EXPENSES.—

‘‘(A) IN GENERAL.—In the case of any qualified timber property with respect to which the taxpayer has made (in accordance with regulations prescribed by the Secretary) an election under this subsection, the taxpayer shall treat reforestation expenditures which are paid or incurred during the taxable year with respect to such property as an expense which is not chargeable to capital account. The reforestation expenditures so treated shall be allowed as a deduction.

"(B) DOLLAR LIMITATION.—The aggregate amount of reforestation expenditures which may be taken into account under subparagraph (A) with respect to each qualified timber property for any taxable year shall not exceed $10,000 ($5,000 in the case of a separate return by a married individual (as defined in section 7703)).".

(b) NET AMORTIZABLE BASIS.—Section 194(c)(2) (defining amortizable basis) is amended by inserting "which have not been taken into account under subsection (b)" after "expenditures".

(c) CONFORMING AMENDMENTS.—

(1) Section 194(b) is amended by striking paragraphs (3) and (4).

(2) Section 194(b)(2) is amended by striking "paragraph (1)" both places it appears and inserting "paragraph (1)(B)".

(3) Section 194(c) is amended by striking paragraph (4) and inserting the following new paragraphs:

"(4) TREATMENT OF TRUSTS AND ESTATES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), this section shall not apply to trusts and estates.

"(B) AMORTIZATION DEDUCTION ALLOWED TO ESTATES.—The benefit of the deduction for amortization provided by subsection (a) shall be allowed to estates in the same manner as in the case of an individual. The allowable deduction shall be apportioned between the income beneficiary and the fiduciary under regulations prescribed by the Secretary. Any amount so apportioned to a beneficiary shall be taken into account for purposes of determining the amount allowable as a deduction under subsection (a) to such beneficiary.

"(5) APPLICATION WITH OTHER DEDUCTIONS.—No deduction shall be allowed under any other provision of this chapter with respect to any expenditure with respect to which a deduction is allowed or allowable under this section to the taxpayer.".

(4) The heading for section 194 is amended by striking "**AMORTIZATION**" and inserting "**TREATMENT**".

(5) The item relating to section 194 in the table of sections for part VI of subchapter B of chapter 1 is amended by striking "Amortization" and inserting "Treatment".

(d) REPEAL OF REFORESTATION CREDIT.—

(1) IN GENERAL.—Section 46 (relating to amount of credit) is amended—

(A) by adding "and" at the end of paragraph (1),

(B) by striking ", and" at the end of paragraph (2) and inserting a period, and

(C) by striking paragraph (3).

(2) CONFORMING AMENDMENTS.—

(A) Section 48 is amended—

(i) by striking subsection (b),

(ii) by striking "this subsection" in paragraph (5) of subsection (a) and inserting "subsection (a)", and

(iii) by redesignating such paragraph (5) as subsection (b).

(B) The heading for section 48 is amended by striking "**; REFORESTATION CREDIT**".

(C) The item relating to section 48 in the table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by striking ", reforestation credit".

(D) Section 50(c)(3) is amended by striking "or reforestation credit".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to expenditures paid or incurred after the date of the enactment of this Act.

SEC. 332. ELECTION TO TREAT CUTTING OF TIMBER AS A SALE OR EXCHANGE.

Any election under section 631(a) of the Internal Revenue Code of 1986 made for a taxable year ending on or before the date of the enactment of this Act may be revoked by the taxpayer for any taxable year ending after such date. For purposes of determining whether the taxpayer may make a further election under such section, such election (and any revocation under this section) shall not be taken into account.

SEC. 333. CAPITAL GAIN TREATMENT UNDER SECTION 631(b) TO APPLY TO OUTRIGHT SALES BY LANDOWNERS.

(a) IN GENERAL.—The first sentence of section 631(b) (relating to disposal of timber with a retained economic interest) is amended by striking "retains an economic interest in such timber" and inserting "either retains an economic interest in such timber or makes an outright sale of such timber".

(b) CONFORMING AMENDMENTS.—

(1) The third sentence of section 631(b) is amended by striking "The date of disposal" and inserting "In the case of disposal of timber with a retained economic interest, the date of disposal".

(2) The heading for section 631(b) is amended by striking "WITH A RETAINED ECONOMIC INTEREST".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after the date of the enactment of this Act.

SEC. 334. MODIFICATION OF SAFE HARBOR RULES FOR TIMBER REITS.

(a) EXPANSION OF PROHIBITED TRANSACTION SAFE HARBOR.—Section 857(b)(6) (relating to income from prohibited transactions) is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (C) the following new subparagraph:

"(D) CERTAIN SALES NOT TO CONSTITUTE PROHIBITED TRANSACTIONS.—For purposes of this part, the term 'prohibited transaction' does not include a sale of property which is a real estate asset (as defined in section 856(c)(5)(B)) if—

"(i) the trust held the property for not less than 4 years in connection with the trade or business of producing timber,

"(ii) the aggregate expenditures made by the trust, or a partner of the trust, during the 4-year period preceding the date of sale which—

"(I) are includible in the basis of the property (other than timberland acquisition expenditures), and

"(II) are directly related to operation of the property for the production of timber or for the preservation of the property for use as timberland,

do not exceed 30 percent of the net selling price of the property,

"(iii) the aggregate expenditures made by the trust, or a partner of the trust, during the 4-year period preceding the date of sale which—

"(I) are includible in the basis of the property (other than timberland acquisition expenditures), and

"(II) are not directly related to operation of the property for the production of timber, or for the preservation of the property for use as timberland,

do not exceed 5 percent of the net selling price of the property,

"(iv)(I) during the taxable year the trust does not make more than 7 sales of property (other than sales of foreclosure property or sales to which section 1033 applies), or

"(II) the aggregate adjusted bases (as determined for purposes of computing earnings and profits) of property (other than sales of foreclosure property or sales to which section 1033 applies) sold during the taxable year does not exceed 10 percent of the aggregate bases (as so determined) of all of the assets of the trust as of the beginning of the taxable year,

"(v) in the case that the requirement of clause (iv)(I) is not satisfied, substantially all of the marketing expenditures with respect to the property were made through an independent contractor (as defined in section 856(d)(3)) from whom the trust itself does not derive or receive any income, and

"(vi) the sales price of the property sold by the trust is not based in whole or in part on income or profits, including income or profits derived from the sale or operation of such property.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

TITLE IV—ADDITIONAL PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

SEC. 401. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

"(1) GENERAL RULES.—

"(A) IN GENERAL.—In any case in which a court determines that the economic substance doctrine is relevant for purposes of this title to a transaction (or series of transactions), such transaction (or series of transactions) shall have economic substance only if the requirements of this paragraph are met.

"(B) DEFINITION OF ECONOMIC SUBSTANCE.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—A transaction has economic substance only if—

"(I) the transaction changes in a meaningful way (apart from Federal tax effects) the taxpayer's economic position, and

"(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

In applying subclause (II), a purpose of achieving a financial accounting benefit shall not be taken into account in determining whether a transaction has a substantial nontax purpose if the origin of such financial accounting benefit is a reduction of income tax.

"(ii) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

"(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

"(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

"(C) TREATMENT OF FEES AND FOREIGN TAXES.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B)(ii).

"(2) SPECIAL RULES FOR TRANSACTIONS WITH TAX-INDIFFERENT PARTIES.—

"(A) SPECIAL RULES FOR FINANCING TRANSACTIONS.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction is substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

"(B) Artificial income shifting and basis adjustments.—The form of a transaction with a tax-indifferent party shall not be respected if—

"(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

"(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

"(3) Definitions and special rules.—For purposes of this subsection—

"(A) Economic substance doctrine.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

"(B) Tax-indifferent party.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

"(C) Exception for personal transactions of individuals.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

"(D) Treatment of lessors.—In applying paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease—

"(i) the expected net tax benefits with respect to the leased property shall not include the benefits of—

"(I) depreciation,

"(II) any tax credit, or

"(III) any other deduction as provided in guidance by the Secretary, and

"(ii) subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

"(4) Other common law doctrines not affected.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

"(5) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations may include exemptions from the application of this subsection.".

(b) Effective Date.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 402. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

(a) In General.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

"SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORTABLE TRANSACTION INFORMATION WITH RETURN OR STATEMENT.

"(a) Imposition of Penalty.—Any person who fails to include on any return or statement any information with respect to a reportable transaction which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

"(b) Amount of Penalty.—

"(1) In general.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

"(2) Listed transaction.—The amount of the penalty under subsection (a) with respect to a listed transaction shall be $100,000.

"(3) Increase in penalty for large entities and high net worth individuals.—

"(A) In general.—In the case of a failure under subsection (a) by—

"(i) a large entity, or

"(ii) a high net worth individual,

the penalty under paragraph (1) or (2) shall be twice the amount determined without regard to this paragraph.

"(B) Large entity.—For purposes of subparagraph (A), the term 'large entity' means, with respect to any taxable year, a person (other than a natural person) with gross receipts in excess of $10,000,000 for the taxable year in which the reportable transaction occurs or the preceding taxable year. Rules similar to the rules of paragraph (2) and subparagraphs (B), (C), and (D) of paragraph (3) of section 448(c) shall apply for purposes of this subparagraph.

"(C) High net worth individual.—For purposes of subparagraph (A), the term 'high net worth individual' means, with respect to a reportable transaction, a natural person whose net worth exceeds $2,000,000 immediately before the transaction.

"(c) Definitions.—For purposes of this section—

"(1) Reportable transaction.—The term 'reportable transaction' means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

"(2) Listed transaction.—Except as provided in regulations, the term 'listed transaction' means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

"(d) Authority To Rescind Penalty.—

"(1) In general.—The Commissioner of Internal Revenue may rescind all or any portion of any penalty imposed by this section with respect to any violation if—

"(A) the violation is with respect to a reportable transaction other than a listed transaction,

"(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

"(C) it is shown that the violation is due to an unintentional mistake of fact;

"(D) imposing the penalty would be against equity and good conscience, and

"(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

"(2) Discretion.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

"(3) No appeal.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

"(4) Records.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

"(A) the facts and circumstances of the transaction,

"(B) the reasons for the rescission, and

"(C) the amount of the penalty rescinded.

"(5) Report.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

"(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

"(B) a description of each penalty rescinded under this subsection and the reasons therefor.

"(e) Penalty Reported to SEC.—In the case of a person—

"(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

"(2) which—

"(A) is required to pay a penalty under this section with respect to a listed transaction,

"(B) is required to pay a penalty under section 6662A with respect to any reportable transaction at a rate prescribed under section 6662A(c), or

"(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction,

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

"(f) Coordination With Other Penalties.—The penalty imposed by this section is in addition to any penalty imposed under this title.".

(b) Disclosure by Secretary.—

(1) In general.—Section 6103 is amended by redesignating subsection (q) as subsection (r) and by inserting after subsection (p) the following new subsection:

"(q) Disclosure Relating to Payments of Certain Penalties.—Notwithstanding any other provision of this section, the Secretary shall make public the name of any person required to pay a penalty described in section 6707A(e)(2) and the amount of the penalty.".

(2) Records.—Section 6103(p)(3)(A) is amended by striking "or (n)" and inserting "(n), or (q)".

(c) Conforming Amendment.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

"Sec. 6707A. Penalty for failure to include reportable transaction information with return or statement.".

(d) Effective Date.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

SEC. 403. ACCURACY-RELATED PENALTY FOR LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662 the following new section:

"SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERSTATEMENTS WITH RESPECT TO REPORTABLE TRANSACTIONS.

"(a) IMPOSITION OF PENALTY.—If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of such understatement.

"(b) REPORTABLE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

"(1) IN GENERAL.—The term 'reportable transaction understatement' means the sum of—

"(A) the product of—

"(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of such item (as shown on the taxpayer's return of tax), and

"(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

"(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer's treatment of an item to which this section applies (as shown on the taxpayer's return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

"(2) ITEMS TO WHICH SECTION APPLIES.—This section shall apply to any item which is attributable to—

"(A) any listed transaction, and

"(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

"(c) HIGHER PENALTY FOR NONDISCLOSED LISTED AND OTHER AVOIDANCE TRANSACTIONS.—

"(1) IN GENERAL.—Subsection (a) shall be applied by substituting '30 percent' for '20 percent' with respect to the portion of any reportable transaction understatement with respect to which the requirement of section 6664(d)(2)(A) is not met.

"(2) RULES APPLICABLE TO ASSERTION AND COMPROMISE OF PENALTY.—

"(A) IN GENERAL.—Only upon the approval by the Chief Counsel for the Internal Revenue Service or the Chief Counsel's delegate at the national office of the Internal Revenue Service may a penalty to which paragraph (1) applies be included in a 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals. If such a letter is provided to the taxpayer, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

"(B) APPLICABLE RULES.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of subparagraph (A).

"(d) DEFINITIONS OF REPORTABLE AND LISTED TRANSACTIONS.—For purposes of this section, the terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

"(e) SPECIAL RULES.—

"(1) COORDINATION WITH PENALTIES, ETC., ON OTHER UNDERSTATEMENTS.—In the case of an understatement (as defined in section 6662(d)(2))—

"(A) the amount of such understatement (determined without regard to this paragraph) shall be increased by the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), and

"(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the application of subparagraph (A) over the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements.

"(2) COORDINATION WITH OTHER PENALTIES.—

"(A) APPLICATION OF FRAUD PENALTY.—References to an underpayment in section 6663 shall be treated as including references to a reportable transaction understatement and a noneconomic substance transaction understatement.

"(B) NO DOUBLE PENALTY.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6662B or 6663.

"(3) SPECIAL RULE FOR AMENDED RETURNS.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction understatement or noneconomic substance transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

"(4) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this subsection, the term 'noneconomic substance transaction understatement' has the meaning given such term by section 6662B(c).

"(5) CROSS REFERENCE.—

"For reporting of section 6662A(c) penalty to the Securities and Exchange Commission, see section 6707A(e).".

(b) DETERMINATION OF OTHER UNDERSTATEMENTS.—Subparagraph (A) of section 6662(d)(2) is amended by adding at the end the following flush sentence:

"The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies and without regard to items with respect to which a penalty is imposed by section 6662B.".

(c) REASONABLE CAUSE EXCEPTION.—

(1) IN GENERAL.—Section 6664 is amended by adding at the end the following new subsection:

"(d) REASONABLE CAUSE EXCEPTION FOR REPORTABLE TRANSACTION UNDERSTATEMENTS.—

"(1) IN GENERAL.—No penalty shall be imposed under section 6662A with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

"(2) SPECIAL RULES.—Paragraph (1) shall not apply to any reportable transaction understatement unless—

"(A) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under section 6011,

"(B) there is or was substantial authority for such treatment, and

"(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the requirements of subparagraph (A) if the penalty for such failure was rescinded under section 6707A(d).

"(3) RULES RELATING TO REASONABLE BELIEF.—For purposes of paragraph (2)(C)—

"(A) IN GENERAL.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

"(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

"(ii) relates solely to the taxpayer's chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

"(B) CERTAIN OPINIONS MAY NOT BE RELIED UPON.—

"(i) IN GENERAL.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

"(I) the tax advisor is described in clause (ii), or

"(II) the opinion is described in clause (iii).

"(ii) DISQUALIFIED TAX ADVISORS.—A tax advisor is described in this clause if the tax advisor—

"(I) is a material advisor (within the meaning of section 6111(b)(1)) who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

"(II) is compensated directly or indirectly by a material advisor with respect to the transaction,

"(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained,

"(IV) has an arrangement with respect to the transaction which provides that contractual disputes between the taxpayer and the advisor are to be settled by arbitration or which limits damages by reference to fees paid to the advisor for such transaction, or

"(V) as determined under regulations prescribed by the Secretary, has a disqualifying financial interest with respect to the transaction.

"(iii) DISQUALIFIED OPINIONS.—For purposes of clause (i), an opinion is disqualified if the opinion—

"(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

"(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

"(III) does not identify and consider all relevant facts,

"(IV) is not signed by all individuals who are principal authors of the opinion, or

"(V) fails to meet any other requirement as the Secretary may prescribe.".

(2) CONFORMING AMENDMENT.—The heading for subsection (c) of section 6664 is amended

by inserting "for Underpayments" after "Exception".

(d) Conforming Amendments.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking "(as defined in section 6662(d)(2)(C)(iii))" in subparagraph (B)(i), and

(B) by adding at the end the following new subparagraph:

"(C) Tax shelter.—For purposes of subparagraph (B), the term 'tax shelter' means—

"(i) a partnership or other entity,

"(ii) any investment plan or arrangement, or

"(iii) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.".

(3) Section 6662(d)(2) is amended by striking subparagraphs (C) and (D).

(4) Section 6664(c)(1) is amended by striking "this part" and inserting "section 6662 or 6663".

(5) Subsection (b) of section 7525 is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(6)(A) The heading for section 6662 is amended to read as follows:

"SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERPAYMENTS.".

(B) The table of sections for part II of subchapter A of chapter 68 is amended by striking the item relating to section 6662 and inserting the following new items:

"Sec. 6662. Imposition of accuracy-related penalty on underpayments.

"Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions.".

(e) Effective Date.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 404. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

(a) In General.—Subchapter A of chapter 68 is amended by inserting after section 6662A the following new section:

"SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

"(a) Imposition of Penalty.—If a taxpayer has an noneconomic substance transaction understatement for any taxable year, there shall be added to the tax an amount equal to 40 percent of the amount of such understatement.

"(b) Reduction of Penalty for Disclosed Transactions.—Subsection (a) shall be applied by substituting '20 percent' for '40 percent' with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or a statement attached to the return.

"(c) Noneconomic Substance Transaction Understatement.—For purposes of this section—

"(1) In general.—The term 'noneconomic substance transaction understatement' means any amount which would be an understatement under section 6662A(b)(1) if section 6662A were applied by taking into account items attributable to noneconomic substance transactions rather than items to which section 6662A would apply without regard to this paragraph.

"(2) Noneconomic substance transaction.—The term 'noneconomic substance transaction' means any transaction if—

"(A) there is a lack of economic substance (within the meaning of section 7701(n)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(n)(2), or

"(B) the transaction fails to meet the requirements of any similar rule of law.

"(d) Rules Applicable To Compromise of Penalty.—

"(1) In general.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

"(2) Applicable rules.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of paragraph (1).

"(e) Coordination With Other Penalties.—Except as otherwise provided in this part, the penalty imposed by this section shall be in addition to any other penalty imposed by this title.

"(f) Cross References.—

"(1) For coordination of penalty with understatements under section 6662 and other special rules, see section 6662A(e).

"(2) For reporting of penalty imposed under this section to the Securities and Exchange Commission, see section 6707A(e).".

(b) Clerical Amendment.—The table of sections for part II of subchapter A of chapter 68 is amended by inserting after the item relating to section 6662A the following new item:

"Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc.".

(c) Effective Date.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 405. MODIFICATIONS OF SUBSTANTIAL UNDERSTATEMENT PENALTY FOR NONREPORTABLE TRANSACTIONS.

(a) Substantial Understatement of Corporations.—Section 6662(d)(1)(B) (relating to special rule for corporations) is amended to read as follows:

"(B) Special rule for corporations.—In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

"(i) 10 percent of the tax required to be shown on the return for the taxable year (or, if greater, $10,000), or

"(ii) $10,000,000.".

(b) Reduction for Understatement of Taxpayer Due to Position of Taxpayer or Disclosed Item.—

(1) In general.—Section 6662(d)(2)(B)(i) (relating to substantial authority) is amended to read as follows:

"(i) the tax treatment of any item by the taxpayer if the taxpayer had reasonable belief that the tax treatment was more likely than not the proper treatment, or".

(2) Conforming amendment.—Section 6662(d) is amended by adding at the end the following new paragraph:

"(3) Secretarial list.—For purposes of this subsection, section 6664(d)(2), and section 6694(a)(1), the Secretary may prescribe a list of positions for which the Secretary believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper tax treatment. Such list (and any revisions thereof) shall be published in the Federal Register or the Internal Revenue Bulletin.".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 406. TAX SHELTER EXCEPTION TO CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.

(a) In General.—Section 7525(b) (relating to section not to apply to communications regarding corporate tax shelters) is amended to read as follows:

"(b) Section Not To Apply to Communications Regarding Tax Shelters.—The privilege under subsection (a) shall not apply to any written communication which is—

"(1) between a federally authorized tax practitioner and—

"(A) any person,

"(B) any director, officer, employee, agent, or representative of the person, or

"(C) any other person holding a capital or profits interest in the person, and

"(2) in connection with the promotion of the direct or indirect participation of the person in any tax shelter (as defined in section 1274(b)(3)(C)).".

(b) Effective Date.—The amendment made by this section shall apply to communications made on or after the date of the enactment of this Act.

SEC. 407. DISCLOSURE OF REPORTABLE TRANSACTIONS.

(a) In General.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

"SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.

"(a) In General.—Each material advisor with respect to any reportable transaction shall make a return (in such form as the Secretary may prescribe) setting forth—

"(1) information identifying and describing the transaction,

"(2) information describing any potential tax benefits expected to result from the transaction, and

"(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date specified by the Secretary.

"(b) Definitions.—For purposes of this section—

"(1) Material advisor.—

"(A) In general.—The term 'material advisor' means any person—

"(i) who provides any material aid, assistance, or advice with respect to organizing, managing, promoting, selling, implementing, insuring, or carrying out any reportable transaction, and

"(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

"(B) Threshold amount.—For purposes of subparagraph (A), the threshold amount is—

"(i) $50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons, and

"(ii) $250,000 in any other case.

"(2) Reportable transaction.—The term 'reportable transaction' has the meaning given to such term by section 6707A(c).

"(c) Regulations.—The Secretary may prescribe regulations which provide—

“(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

“(2) exemptions from the requirements of this section, and

“(3) such rules as may be necessary or appropriate to carry out the purposes of this section.”.

(b) Conforming Amendments.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

“Sec. 6111. Disclosure of reportable transactions.”.

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

“SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANSACTIONS MUST KEEP LISTS OF ADVISEES.

“(a) In General.—Each material advisor (as defined in section 6111) with respect to any reportable transaction (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

“(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such transaction, and

“(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction.”.

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting “written” before “request” in paragraph (1)(A), and

(ii) by striking “shall prescribe” in paragraph (2) and inserting “may prescribe”.

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

“Sec. 6112. Material advisors of reportable transactions must keep lists of advisees.”.

(3)(A) The heading for section 6708 is amended to read as follows:

“SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES WITH RESPECT TO REPORTABLE TRANSACTIONS.”.

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

“Sec. 6708. Failure to maintain lists of advisees with respect to reportable transactions.”.

(c) Required Disclosure Not Subject to Claim of Confidentiality.—Subparagraph (A) of section 6112(b)(1), as redesignated by subsection (b)(2)(B), is amended by adding at the end the following new flush sentence:

“For purposes of this section, the identity of any person on such list shall not be privileged.”.

(d) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section) is provided after the date of the enactment of this Act.

(2) No claim of confidentiality against disclosure.—The amendment made by subsection (c) shall take effect as if included in the amendments made by section 142 of the Deficit Reduction Act of 1984.

SEC. 408. MODIFICATIONS TO PENALTY FOR FAILURE TO REGISTER TAX SHELTERS.

(a) In General.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

“SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING REPORTABLE TRANSACTIONS.

“(a) In General.—If a person who is required to file a return under section 6111(a) with respect to any reportable transaction—

“(1) fails to file such return on or before the date prescribed therefor, or

“(2) files false or incomplete information with the Secretary with respect to such transaction,

such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

“(b) Amount of Penalty.—

“(1) In general.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be $50,000.

“(2) Listed transactions.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

“(A) $200,000, or

“(B) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the listed transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting ‘75 percent’ for ‘50 percent’ in the case of an intentional failure or act described in subsection (a).

“(c) Certain Rules To Apply.—The provisions of section 6707A(d) shall apply to any penalty imposed under this section.

“(d) Reportable and Listed Transactions.—The terms ‘reportable transaction’ and ‘listed transaction’ have the respective meanings given to such terms by section 6707A(c).”.

(b) Clerical Amendment.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking “tax shelters” and inserting “reportable transactions”.

(c) Effective Date.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

SEC. 409. MODIFICATION OF PENALTY FOR FAILURE TO MAINTAIN LISTS OF INVESTORS.

(a) In General.—Subsection (a) of section 6708 is amended to read as follows:

“(a) Imposition of Penalty.—

“(1) In general.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day.

“(2) Reasonable cause exception.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if such failure is due to reasonable cause.”.

(b) Effective Date.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 410. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.

(a) In General.—Section 7408 (relating to action to enjoin promoters of abusive tax shelters, etc.) is amended by redesignating subsection (c) as subsection (d) and by striking subsections (a) and (b) and inserting the following new subsections:

“(a) Authority To Seek Injunction.—A civil action in the name of the United States to enjoin any person from further engaging in specified conduct may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in specified conduct. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

“(b) Adjudication and Decree.—In any action under subsection (a), if the court finds—

“(1) that the person has engaged in any specified conduct, and

“(2) that injunctive relief is appropriate to prevent recurrence of such conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under this title.

“(c) Specified Conduct.—For purposes of this section, the term ‘specified conduct’ means any action, or failure to take action, which is—

“(1) subject to penalty under section 6700, 6701, 6707, or 6708, or

“(2) in violation of any requirement under regulations issued under section 320 of title 31, United States Code.”.

(b) Conforming Amendments.—

(1) The heading for section 7408 is amended to read as follows:

“SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.”.

(2) The table of sections for subchapter A of chapter 67 is amended by striking the item relating to section 7408 and inserting the following new item:

“Sec. 7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions.”.

(c) Effective Date.—The amendment made by this section shall take effect on the day after the date of the enactment of this Act.

SEC. 411. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY INCOME TAX RETURN PREPARER.

(a) Standards Conformed to Taxpayer Standards.—Section 6694(a) (relating to understatements due to unrealistic positions) is amended—

(1) by striking “realistic possibility of being sustained on its merits” in paragraph (1) and inserting “reasonable belief that the tax treatment in such position was more likely than not the proper treatment”,

(2) by striking “or was frivolous” in paragraph (3) and inserting “or there was no reasonable basis for the tax treatment of such position”, and

(3) by striking “UNREALISTIC” in the heading and inserting “IMPROPER”.

(b) Amount of Penalty.—Section 6694 is amended—

(1) by striking “$250” in subsection (a) and inserting “$1,000”, and

(2) by striking “$1,000” in subsection (b) and inserting “$5,000”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to documents prepared after the date of the enactment of this Act.

SEC. 412. PENALTY ON FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) IN GENERAL.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

"(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

"(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

"(B) AMOUNT OF PENALTY.—

"(i) IN GENERAL.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $10,000.

"(ii) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

"(I) such violation was due to reasonable cause, and

"(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

"(C) WILLFUL VIOLATIONS.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

"(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

"(I) $100,000, or

"(II) 50 percent of the amount determined under subparagraph (D), and

"(ii) subparagraph (B)(ii) shall not apply.

"(D) AMOUNT.—The amount determined under this subparagraph is—

"(i) in the case of a violation involving a transaction, the amount of the transaction, or

"(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

SEC. 413. FRIVOLOUS TAX SUBMISSIONS.

(a) CIVIL PENALTIES.—Section 6702 is amended to read as follows:

"SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

"(a) CIVIL PENALTY FOR FRIVOLOUS TAX RETURNS.—A person shall pay a penalty of $5,000 if—

"(1) such person files what purports to be a return of a tax imposed by this title but which—

"(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

"(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

"(2) the conduct referred to in paragraph (1)—

"(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(B) reflects a desire to delay or impede the administration of Federal tax laws.

"(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS.—

"(1) IMPOSITION OF PENALTY.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

"(2) SPECIFIED FRIVOLOUS SUBMISSION.—For purposes of this section—

"(A) SPECIFIED FRIVOLOUS SUBMISSION.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

"(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(ii) reflects a desire to delay or impede the administration of Federal tax laws.

"(B) SPECIFIED SUBMISSION.—The term 'specified submission' means—

"(i) a request for a hearing under—

"(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

"(II) section 6330 (relating to notice and opportunity for hearing before levy), and

"(ii) an application under—

"(I) section 6159 (relating to agreements for payment of tax liability in installments),

"(II) section 7122 (relating to compromises), or

"(III) section 7811 (relating to taxpayer assistance orders).

"(3) OPPORTUNITY TO WITHDRAW SUBMISSION.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

"(c) LISTING OF FRIVOLOUS POSITIONS.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

"(d) REDUCTION OF PENALTY.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

"(e) PENALTIES IN ADDITION TO OTHER PENALTIES.—The penalties imposed by this section shall be in addition to any other penalty provided by law.".

(b) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS BEFORE LEVY.—

(1) FRIVOLOUS REQUESTS DISREGARDED.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

"(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.".

(2) PRECLUSION FROM RAISING FRIVOLOUS ISSUES AT HEARING.—Section 6330(c)(4) is amended—

(A) by striking "(A)" and inserting "(A)(i)";

(B) by striking "(B)" and inserting "(ii)";

(C) by striking the period at the end of the first sentence and inserting "; or"; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

"(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).".

(3) STATEMENT OF GROUNDS.—Section 6330(b)(1) is amended by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing".

(c) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS UPON FILING OF NOTICE OF LIEN.—Section 6320 is amended—

(1) in subsection (b)(1), by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing", and

(2) in subsection (c), by striking "and (e)" and inserting "(e), and (g)".

(d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR OFFERS-IN-COMPROMISE AND INSTALLMENT AGREEMENTS.—Section 7122 is amended by adding at the end the following new subsection:

"(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.".

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

"Sec. 6702. Frivolous tax submissions.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 414. REGULATION OF INDIVIDUALS PRACTICING BEFORE THE DEPARTMENT OF TREASURY.

(a) CENSURE; IMPOSITION OF PENALTY.—

(1) IN GENERAL.—Section 330(b) of title 31, United States Code, is amended—

(A) by inserting ", or censure," after "Department", and

(B) by adding at the end the following new flush sentence:

"The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty shall not exceed the gross income derived (or to be derived) from the conduct giving rise to the penalty and may be in addition to, or in lieu of, any suspension, disbarment, or censure of the representative.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to actions taken after the date of the enactment of this Act.

(b) TAX SHELTER OPINIONS, ETC.—Section 330 of such title 31 is amended by adding at the end the following new subsection:

"(d) Nothing in this section or in any other provision of law shall be construed to limit the authority of the Secretary of the Treasury to impose standards applicable to the rendering of written advice with respect to any entity, transaction plan or arrangement, or other plan or arrangement, which is of a type which the Secretary determines as having a potential for tax avoidance or evasion.".

SEC. 415. PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.

(a) Penalty for Promoting Abusive Tax Shelters.—Section 6700 (relating to promoting abusive tax shelters, etc.) is amended—

(1) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively,

(2) by striking "a penalty" and all that follows through the period in the first sentence of subsection (a) and inserting "a penalty determined under subsection (b)", and

(3) by inserting after subsection (a) the following new subsections:

"(b) Amount of Penalty; Calculation of Penalty; Liability for Penalty.—

"(1) Amount of penalty.—The amount of the penalty imposed by subsection (a) shall not exceed 100 percent of the gross income derived (or to be derived) from such activity by the person or persons subject to such penalty.

"(2) Calculation of penalty.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of an activity described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who participated in such an activity.

"(3) Liability for penalty.—If more than 1 person is liable under subsection (a) with respect to such activity, all such persons shall be jointly and severally liable for the penalty under such subsection.

"(c) Penalty Not Deductible.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be deductible by the person who is subject to such penalty or who makes such payment.".

(b) Effective Date.—The amendments made by this section shall apply to activities after the date of the enactment of this Act.

SEC. 416. STATUTE OF LIMITATIONS FOR TAXABLE YEARS FOR WHICH REQUIRED LISTED TRANSACTIONS NOT REPORTED.

(a) In General.—Section 6501(c) (relating to exceptions) is amended by adding at the end the following new paragraph:

"(10) Listed transactions.—If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a listed transaction (as defined in section 6707A(c)(2)) which is required under section 6011 to be included with such return or statement, the time for assessment of any tax imposed by this title with respect to such transaction shall not expire before the date which is 1 year after the earlier of—

"(A) the date on which the Secretary is furnished the information so required; or

"(B) the date that a material advisor (as defined in section 6111) meets the requirements of section 6112 with respect to a request by the Secretary under section 6112(b) relating to such transaction with respect to such taxpayer.".

(b) Effective Date.—The amendment made by this section shall apply to taxable years with respect to which the period for assessing a deficiency did not expire before the date of the enactment of this Act.

SEC. 417. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONDISCLOSED REPORTABLE AND NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) In General.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) Interest on Unpaid Taxes Attributable To Nondisclosed Reportable Transactions and Noneconomic Substance Transactions.—No deduction shall be allowed under this chapter for any interest paid or accrued under section 6601 on any underpayment of tax which is attributable to—

"(1) the portion of any reportable transaction understatement (as defined in section 6662A(b)) with respect to which the requirement of section 6664(d)(2)(A) is not met, or

"(2) any noneconomic substance transaction understatement (as defined in section 6662B(c)).".

(b) Effective Date.—The amendments made by this section shall apply to transactions in taxable years beginning after the date of the enactment of this Act.

SEC. 418. AUTHORIZATION OF APPROPRIATIONS FOR TAX LAW ENFORCEMENT.

There is authorized to be appropriated $300,000,000 for each fiscal year beginning after September 30, 2003, for the purpose of carrying out tax law enforcement to combat tax avoidance transactions and other tax shelters, including the use of offshore financial accounts to conceal taxable income.

SEC. 419. PENALTY FOR AIDING AND ABETTING THE UNDERSTATEMENT OF TAX LIABILITY.

(a) In General.—Section 6701(a) (relating to imposition of penalty) is amended—

(1) by inserting "the tax liability or" after "respect to," in paragraph (1),

(2) by inserting "aid, assistance, procurement, or advice with respect to such" before "portion" both places it appears in paragraphs (2) and (3), and

(3) by inserting "instance of aid, assistance, procurement, or advice or each such" before "document" in the matter following paragraph (3).

(b) Amount of Penalty.—Subsection (b) of section 6701 (relating to penalties for aiding and abetting understatement of tax liability) is amended to read as follows:

"(b) Amount of Penalty; Calculation of Penalty; Liability for Penalty.—

"(1) Amount of penalty.—The amount of the penalty imposed by subsection (a) shall not exceed 100 percent of the gross income derived (or to be derived) from such aid, assistance, procurement, or advice provided by the person or persons subject to such penalty.

"(2) Calculation of penalty.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of aid, assistance, procurement, or advice described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who made such an understatement of the liability for tax.

"(3) Liability for penalty.—If more than 1 person is liable under subsection (a) with respect to providing such aid, assistance, procurement, or advice, all such persons shall be jointly and severally liable for the penalty under such subsection.".

(c) Penalty Not Deductible.—Section 6701 is amended by adding at the end the following new subsection:

"(g) Penalty Not Deductible.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be deductible by the person who is subject to such penalty or who makes such payment.".

(d) Effective Date.—The amendments made by this section shall apply to activities after the date of the enactment of this Act.

SEC. 420. STUDY ON INFORMATION SHARING AMONG LAW ENFORCEMENT AGENCIES.

(a) Study.—The Secretary of the Treasury shall, jointly with the Attorney General, the Securities and Exchange Commission, and the Commissioner of Internal Revenue, study the effectiveness of, and ways to improve, the sharing of information related to the promotion of prohibited tax shelters or tax avoidance schemes and other potential violations of Federal laws.

(b) Report.—The Secretary shall, not later than 1 year after the date of the enactment of this Act, report to the appropriate committees of the Congress the results of the study under subsection (a), including any recommendations for legislation.

Subtitle B—Other Corporate Governance Provisions

SEC. 421. AFFIRMATION OF CONSOLIDATED RETURN REGULATION AUTHORITY.

(a) In General.—Section 1502 (relating to consolidated return regulations) is amended by adding at the end the following new sentence: "In prescribing such regulations, the Secretary may prescribe rules applicable to corporations filing consolidated returns under section 1501 that are different from other provisions of this title that would apply if such corporations filed separate returns.".

(b) Result Not Overturned.—Notwithstanding subsection (a), the Internal Revenue Code of 1986 shall be construed by treating Treasury regulation §1.1502-20(c)(1)(iii) (as in effect on January 1, 2001) as being inapplicable to the type of factual situation in 255 F.3d 1357 (Fed. Cir. 2001).

(c) Effective Date.—The provisions of this section shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

SEC. 422. DECLARATION BY CHIEF EXECUTIVE OFFICER RELATING TO FEDERAL ANNUAL INCOME TAX RETURN OF A CORPORATION.

(a) In General.—The Federal annual tax return of a corporation with respect to income shall also include a declaration signed by the chief executive officer of such corporation (or other such officer of the corporation as the Secretary of the Treasury may designate if the corporation does not have a chief executive officer), under penalties of perjury, that the corporation has in place processes and procedures to ensure that such return complies with the Internal Revenue Code of 1986 and that the chief executive officer was provided reasonable assurance of the accuracy of all material aspects of such return. The preceding sentence shall not apply to any return of a regulated investment company (within the meaning of section 851 of such Code).

(b) Effective Date.—This section shall apply to the Federal annual tax return of a corporation with respect to income for taxable years ending after the date of the enactment of this Act.

SEC. 423. DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

(a) In General.—Subsection (f) of section 162 (relating to trade or business expenses) is amended to read as follows:

"(f) Fines, Penalties, and Other Amounts.—

"(1) In general.—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or entity described in paragraph (4) in relation to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law.

"(2) EXCEPTION FOR AMOUNTS CONSTITUTING RESTITUTION.—Paragraph (1) shall not apply to any amount which the taxpayer establishes constitutes restitution (including remediation of property) for damage or harm caused by or which may be caused by the violation of any law or the potential violation of any law. This paragraph shall not apply to any amount paid or incurred as reimbursement to the government or entity for the costs of any investigation or litigation.

"(3) EXCEPTION FOR AMOUNTS PAID OR INCURRED AS THE RESULT OF CERTAIN COURT ORDERS.—Paragraph (1) shall not apply to any amount paid or incurred by order of a court in a suit in which no government or entity described in paragraph (4) is a party.

"(4) CERTAIN NONGOVERNMENTAL REGULATORY ENTITIES.—An entity is described in this paragraph if it is—

"(A) a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7)), or

"(B) to the extent provided in regulations, a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function.

"(5) EXCEPTION FOR TAXES DUE.—Paragraph (1) shall not apply to any amount paid or incurred as taxes due.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after April 27, 2003, except that such amendment shall not apply to amounts paid or incurred under any binding order or agreement entered into on or before April 27, 2003. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained on or before April 27, 2003.

SEC. 424. DISALLOWANCE OF DEDUCTION FOR PUNITIVE DAMAGES.

(a) DISALLOWANCE OF DEDUCTION.—

(1) IN GENERAL.—Section 162(g) (relating to treble damage payments under the antitrust laws) is amended—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(B) by striking "If" and inserting:

"(1) TREBLE DAMAGES.—If", and

(C) by adding at the end the following new paragraph:

"(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).".

(2) CONFORMING AMENDMENT.—The heading for section 162(g) is amended by inserting "OR PUNITIVE DAMAGES" after "LAWS".

(b) INCLUSION IN INCOME OF PUNITIVE DAMAGES PAID BY INSURER OR OTHERWISE.—

(1) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end the following new section:

"SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSURANCE OR OTHERWISE.

"Gross income shall include any amount paid to or on behalf of a taxpayer as insurance or otherwise by reason of the taxpayer's liability (or agreement) to pay punitive damages.".

(2) REPORTING REQUIREMENTS.—Section 6041 (relating to information at source) is amended by adding at the end the following new subsection:

"(f) SECTION TO APPLY TO PUNITIVE DAMAGES COMPENSATION.—This section shall apply to payments by a person to or on behalf of another person as insurance or otherwise by reason of the other person's liability (or agreement) to pay punitive damages.".

(3) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end the following new item:

"Sec. 91. Punitive damages compensated by insurance or otherwise.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to damages paid or incurred on or after the date of the enactment of this Act.

SEC. 425. INCREASE IN CRIMINAL MONETARY PENALTY LIMITATION FOR THE UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.

(a) IN GENERAL.—Section 7206 (relating to fraud and false statements) is amended—

(1) by striking "Any person who—" and inserting "(a) IN GENERAL.—Any person who—", and

(2) by adding at the end the following new subsection:

"(b) INCREASE IN MONETARY LIMITATION FOR UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.—If any portion of any underpayment (as defined in section 6664(a)) or overpayment (as defined in section 6401(a)) of tax required to be shown on a return is attributable to fraudulent action described in subsection (a), the applicable dollar amount under subsection (a) shall in no event be less than an amount equal to such portion. A rule similar to the rule under section 6663(b) shall apply for purposes of determining the portion so attributable.".

(b) INCREASE IN PENALTIES.—

(1) ATTEMPT TO EVADE OR DEFEAT TAX.—Section 7201 is amended—

(A) by striking "$100,000" and inserting "$250,000",

(B) by striking "$500,000" and inserting "$1,000,000", and

(C) by striking "5 years" and inserting "10 years".

(2) WILLFUL FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR PAY TAX.—Section 7203 is amended—

(A) in the first sentence—

(i) by striking "misdemeanor" and inserting "felony", and

(ii) by striking "1 year" and inserting "10 years", and

(B) by striking the third sentence.

(3) FRAUD AND FALSE STATEMENTS.—Section 7206(a) (as redesignated by subsection (a)) is amended—

(A) by striking "$100,000" and inserting "$250,000",

(B) by striking "$500,000" and inserting "$1,000,000", and

(C) by striking "3 years" and inserting "5 years".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to underpayments and overpayments attributable to actions occurring after the date of the enactment of this Act.

Subtitle C—Enron-Related Tax Shelter Provisions

SEC. 431. LIMITATION ON TRANSFER OR IMPORTATION OF BUILT-IN LOSSES.

(a) IN GENERAL.—Section 362 (relating to basis to corporations) is amended by adding at the end the following new subsection:

"(e) LIMITATIONS ON BUILT-IN LOSSES.—

"(1) LIMITATION ON IMPORTATION OF BUILT-IN LOSSES.—

"(A) IN GENERAL.—If in any transaction described in subsection (a) or (b) there would (but for this subsection) be an importation of a net built-in loss, the basis of each property described in subparagraph (B) which is acquired in such transaction shall (notwithstanding subsections (a) and (b)) be its fair market value immediately after such transaction.

"(B) PROPERTY DESCRIBED.—For purposes of subparagraph (A), property is described in this subparagraph if—

"(i) gain or loss with respect to such property is not subject to tax under this subtitle in the hands of the transferor immediately before the transfer, and

"(ii) gain or loss with respect to such property is subject to such tax in the hands of the transferee immediately after such transfer.

In any case in which the transferor is a partnership, the preceding sentence shall be applied by treating each partner in such partnership as holding such partner's proportionate share of the property of such partnership.

"(C) IMPORTATION OF NET BUILT-IN LOSS.—For purposes of subparagraph (A), there is an importation of a net built-in loss in a transaction if the transferee's aggregate adjusted bases of property described in subparagraph (B) which is transferred in such transaction would (but for this paragraph) exceed the fair market value of such property immediately after such transaction.

"(2) LIMITATION ON TRANSFER OF BUILT-IN LOSSES IN SECTION 351 TRANSACTIONS.—

"(A) IN GENERAL.—If—

"(i) property is transferred by a transferor in any transaction which is described in subsection (a) and which is not described in paragraph (1) of this subsection, and

"(ii) the transferee's aggregate adjusted bases of such property so transferred would (but for this paragraph) exceed the fair market value of such property immediately after such transaction,

then, notwithstanding subsection (a), the transferee's aggregate adjusted bases of the property so transferred shall not exceed the fair market value of such property immediately after such transaction.

"(B) ALLOCATION OF BASIS REDUCTION.—The aggregate reduction in basis by reason of subparagraph (A) shall be allocated among the property so transferred in proportion to their respective built-in losses immediately before the transaction.

"(C) EXCEPTION FOR TRANSFERS WITHIN AFFILIATED GROUP.—Subparagraph (A) shall not apply to any transaction if the transferor owns stock in the transferee meeting the requirements of section 1504(a)(2). In the case of property to which subparagraph (A) does not apply by reason of the preceding sentence, the transferor's basis in the stock received for such property shall not exceed its fair market value immediately after the transfer.".

(b) COMPARABLE TREATMENT WHERE LIQUIDATION.—Paragraph (1) of section 334(b) (relating to liquidation of subsidiary) is amended to read as follows:

"(1) IN GENERAL.—If property is received by a corporate distributee in a distribution in a complete liquidation to which section 332 applies (or in a transfer described in section 337(b)(1)), the basis of such property in the hands of such distributee shall be the same as it would be in the hands of the transferor; except that the basis of such property in the hands of such distributee shall be the fair market value of the property at the time of the distribution—

"(A) in any case in which gain or loss is recognized by the liquidating corporation with respect to such property, or

"(B) in any case in which the liquidating corporation is a foreign corporation, the corporate distributee is a domestic corporation, and the corporate distributee's aggregate adjusted bases of property described in section 362(e)(1)(B) which is distributed in such liquidation would (but for this subparagraph) exceed the fair market value of such property immediately after such liquidation.".

(c) Effective Dates.—

(1) In general.—The amendment made by subsection (a) shall apply to transactions after December 31, 2003.

(2) Liquidations.—The amendment made by subsection (b) shall apply to liquidations after December 31, 2003.

SEC. 432. NO REDUCTION OF BASIS UNDER SECTION 734 IN STOCK HELD BY PARTNERSHIP IN CORPORATE PARTNER.

(a) In General.—Section 755 is amended by adding at the end the following new subsection:

"(c) No Allocation of Basis Decrease to Stock of Corporate Partner.—In making an allocation under subsection (a) of any decrease in the adjusted basis of partnership property under section 734(b)—

"(1) no allocation may be made to stock in a corporation (or any person which is related (within the meaning of section 267(b) or 707(b)(1)) to such corporation) which is a partner in the partnership, and

"(2) any amount not allocable to stock by reason of paragraph (1) shall be allocated under subsection (a) to other partnership property in such manner as the Secretary may prescribe.

Gain shall be recognized to the partnership to the extent that the amount required to be allocated under paragraph (2) to other partnership property exceeds the aggregate adjusted basis of such other property immediately before the allocation required by paragraph (2).".

(b) Effective Date.—The amendment made by this section shall apply to distributions after February 13, 2003.

SEC. 433. REPEAL OF SPECIAL RULES FOR FASITS.

(a) In General.—Part V of subchapter M of chapter 1 (relating to financial asset securitization investment trusts) is hereby repealed.

(b) Conforming Amendments.—

(1) Paragraph (6) of section 56(g) is amended by striking "REMIC, or FASIT" and inserting "or REMIC".

(2) Clause (ii) of section 382(l)(4)(B) is amended by striking "a REMIC to which part IV of subchapter M applies, or a FASIT to which part V of subchapter M applies," and inserting "or a REMIC to which part IV of subchapter M applies,".

(3) Paragraph (1) of section 582(c) is amended by striking ", and any regular interest in a FASIT,".

(4) Subparagraph (E) of section 856(c)(5) is amended by striking the last sentence.

(5)(A) Section 860G(a)(1) is amended by adding at the end the following new sentence: "An interest shall not fail to qualify as a regular interest solely because the specified principal amount of the regular interest (or the amount of interest accrued on the regular interest) can be reduced as a result of the nonoccurrence of 1 or more contingent payments with respect to any reverse mortgage loan held by the REMIC if, on the startup day for the REMIC, the sponsor reasonably believes that all principal and interest due under the regular interest will be paid at or prior to the liquidation of the REMIC.".

(B) The last sentence of section 860G(a)(3) is amended by inserting ", and any reverse mortgage loan (and each balance increase on such loan meeting the requirements of subparagraph (A)(iii)) shall be treated as an obligation secured by an interest in real property" before the period at the end.

(6) Paragraph (3) of section 860G(a) is amended by adding "and" at the end of subparagraph (B), by striking ", and" at the end of subparagraph (C) and inserting a period, and by striking subparagraph (D).

(7) Section 860G(a)(3), as amended by paragraph (6), is amended by adding at the end the following new sentence: "For purposes of subparagraph (A), if more than 50 percent of the obligations transferred to, or purchased by, the REMIC are originated by the United States or any State (or any political subdivision, agency, or instrumentality of the United States or any State) and are principally secured by an interest in real property, then each obligation transferred to, or purchased by, the REMIC shall be treated as secured by an interest in real property.".

(8)(A) Section 860G(a)(3)(A) is amended by striking "or" at the end of clause (i), by inserting "or" at the end of clause (ii), and by inserting after clause (ii) the following new clause:

"(iii) represents an increase in the principal amount under the original terms of an obligation described in clause (i) or (ii) if such increase—

"(I) is attributable to an advance made to the obligor pursuant to the original terms of the obligation,

"(II) occurs after the startup day, and

"(III) is purchased by the REMIC pursuant to a fixed price contract in effect on the startup day.".

(B) Section 860G(a)(7)(B) is amended to read as follows:

"(B) Qualified reserve fund.—For purposes of subparagraph (A), the term 'qualified reserve fund' means any reasonably required reserve to—

"(i) provide for full payment of expenses of the REMIC or amounts due on regular interests in the event of defaults on qualified mortgages or lower than expected returns on cash flow investments, or

"(ii) provide a source of funds for the purchase of obligations described in clause (ii) or (iii) of paragraph (3)(A).

The aggregate fair market value of the assets held in any such reserve shall not exceed 50 percent of the aggregate fair market value of all of the assets of the REMIC on the startup day, and the amount of any such reserve shall be promptly and appropriately reduced to the extent the amount held in such reserve is no longer reasonably required for purposes specified in clause (i) or (ii) of this subparagraph.".

(9) Subparagraph (C) of section 1202(e)(4) is amended by striking "REMIC, or FASIT" and inserting "or REMIC".

(10) Clause (xi) of section 7701(a)(19)(C) is amended—

(A) by striking "and any regular interest in a FASIT,", and

(B) by striking "or FASIT" each place it appears.

(11) Subparagraph (A) of section 7701(i)(2) is amended by striking "or a FASIT".

(12) The table of parts for subchapter M of chapter 1 is amended by striking the item relating to part V.

(c) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall take effect on February 14, 2003.

(2) Exception for existing FASITs.—Paragraph (1) shall not apply to any FASIT in existence on the date of the enactment of this Act to the extent that regular interests issued by the FASIT before such date continue to remain outstanding in accordance with the original terms of issuance.

SEC. 434. EXPANDED DISALLOWANCE OF DEDUCTION FOR INTEREST ON CONVERTIBLE DEBT.

(a) In General.—Paragraph (2) of section 163(l) is amended by inserting "or equity held by the issuer (or any related party) in any other person" after "or a related party".

(b) Capitalization Allowed With Respect to Equity of Persons Other Than Issuer and Related Parties.—Section 163(l) is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6) and by inserting after paragraph (3) the following new paragraph:

"(4) Capitalization allowed with respect to equity of persons other than issuer and related parties.—If the disqualified debt instrument of a corporation is payable in equity held by the issuer (or any related party) in any other person (other than a related party), the basis of such equity shall be increased by the amount not allowed as a deduction by reason of paragraph (1) with respect to the instrument.".

(c) Exception for Certain Instruments Issued by Dealers in Securities.—Section 163(l), as amended by subsection (b), is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7) and by inserting after paragraph (4) the following new paragraph:

"(5) Exception for certain instruments issued by dealers in securities.—For purposes of this subsection, the term 'disqualified debt instrument' does not include indebtedness issued by a dealer in securities (or a related party) which is payable in, or by reference to, equity (other than equity of the issuer or a related party) held by such dealer in its capacity as a dealer in securities. For purposes of this paragraph, the term 'dealer in securities' has the meaning given such term by section 475.".

(d) Conforming Amendments.—Paragraph (3) of section 163(l) is amended—

(1) by striking "or a related party" in the material preceding subparagraph (A) and inserting "or any other person", and

(2) by striking "or interest" each place it appears.

(e) Effective Date.—The amendments made by this section shall apply to debt instruments issued after February 13, 2003.

SEC. 435. EXPANDED AUTHORITY TO DISALLOW TAX BENEFITS UNDER SECTION 269.

(a) In General.—Subsection (a) of section 269 (relating to acquisitions made to evade or avoid income tax) is amended to read as follows:

"(a) In General.—If—

"(1)(A) any person or persons acquire, directly or indirectly, control of a corporation, or

"(B) any corporation acquires, directly or indirectly, property of another corporation and the basis of such property, in the hands of the acquiring corporation, is determined by reference to the basis in the hands of the transferor corporation, and

"(2) the principal purpose for which such acquisition was made is evasion or avoidance of Federal income tax,

then the Secretary may disallow such deduction, credit, or other allowance. For purposes of paragraph (1)(A), control means the ownership of stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote or at least 50 percent of the total value of all shares of all classes of stock of the corporation.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to stock and property acquired after February 13, 2003.

SEC. 436. MODIFICATION OF INTERACTION BETWEEN SUBPART F AND PASSIVE FOREIGN INVESTMENT COMPANY RULES.

(a) LIMITATION ON EXCEPTION FROM PFIC RULES FOR UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS.—Paragraph (2) of section 1297(e) (relating to passive foreign investment company) is amended by adding at the end the following flush sentence:

``Such term shall not include any period if the earning of subpart F income by such corporation during such period would result in only a remote likelihood of an inclusion in gross income under section 951(a)(1)(A)(i).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of controlled foreign corporations beginning after February 13, 2003, and to taxable years of United States shareholders with or within which such taxable years of controlled foreign corporations end.

Subtitle D—Provisions to Discourage Expatriation

SEC. 441. TAX TREATMENT OF INVERTED CORPORATE ENTITIES.

(a) IN GENERAL.—Subchapter C of chapter 80 (relating to provisions affecting more than one subtitle) is amended by adding at the end the following new section:

``SEC. 7874. RULES RELATING TO INVERTED CORPORATE ENTITIES.

``(a) INVERTED CORPORATIONS TREATED AS DOMESTIC CORPORATIONS.—

``(1) IN GENERAL.—If a foreign incorporated entity is treated as an inverted domestic corporation, then, notwithstanding section 7701(a)(4), such entity shall be treated for purposes of this title as a domestic corporation.

``(2) INVERTED DOMESTIC CORPORATION.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

``(A) the entity completes after March 20, 2002, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

``(B) after the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

``(i) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

``(ii) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

``(C) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

Except as provided in regulations, an acquisition of properties of a domestic corporation shall not be treated as described in subparagraph (A) if none of the corporation's stock was readily tradeable on an established securities market at any time during the 4-year period ending on the date of the acquisition.

``(b) PRESERVATION OF DOMESTIC TAX BASE IN CERTAIN INVERSION TRANSACTIONS TO WHICH SUBSECTION (a) DOES NOT APPLY.—

``(1) IN GENERAL.—If a foreign incorporated entity would be treated as an inverted domestic corporation with respect to an acquired entity if either—

``(A) subsection (a)(2)(A) were applied by substituting `after December 31, 1996, and on or before March 20, 2002' for `after March 20, 2002' and subsection (a)(2)(B) were applied by substituting `more than 50 percent' for `at least 80 percent', or

``(B) subsection (a)(2)(B) were applied by substituting `more than 50 percent' for `at least 80 percent',

then the rules of subsection (c) shall apply to any inversion gain of the acquired entity during the applicable period and the rules of subsection (d) shall apply to any related party transaction of the acquired entity during the applicable period. This subsection shall not apply for any taxable year if subsection (a) applies to such foreign incorporated entity for such taxable year.

``(2) ACQUIRED ENTITY.—For purposes of this section—

``(A) IN GENERAL.—The term `acquired entity' means the domestic corporation or partnership substantially all of the properties of which are directly or indirectly acquired in an acquisition described in subsection (a)(2)(A) to which this subsection applies.

``(B) AGGREGATION RULES.—Any domestic person bearing a relationship described in section 267(b) or 707(b) to an acquired entity shall be treated as an acquired entity with respect to the acquisition described in subparagraph (A).

``(3) APPLICABLE PERIOD.—For purposes of this section—

``(A) IN GENERAL.—The term `applicable period' means the period—

``(i) beginning on the first date properties are acquired as part of the acquisition described in subsection (a)(2)(A) to which this subsection applies, and

``(ii) ending on the date which is 10 years after the last date properties are acquired as part of such acquisition.

``(B) SPECIAL RULE FOR INVERSIONS OCCURRING BEFORE MARCH 21, 2002.—In the case of any acquired entity to which paragraph (1)(A) applies, the applicable period shall be the 10-year period beginning on January 1, 2003.

``(c) TAX ON INVERSION GAINS MAY NOT BE OFFSET.—If subsection (b) applies—

``(1) IN GENERAL.—The taxable income of an acquired entity (or any expanded affiliated group which includes such entity) for any taxable year which includes any portion of the applicable period shall in no event be less than the inversion gain of the entity for the taxable year.

``(2) CREDITS NOT ALLOWED AGAINST TAX ON INVERSION GAIN.—Credits shall be allowed against the tax imposed by this chapter on an acquired entity for any taxable year described in paragraph (1) only to the extent such tax exceeds the product of—

``(A) the amount of the inversion gain for the taxable year, and

``(B) the highest rate of tax specified in section 11(b)(1).

For purposes of determining the credit allowed by section 901 inversion gain shall be treated as from sources within the United States.

``(3) SPECIAL RULES FOR PARTNERSHIPS.—In the case of an acquired entity which is a partnership—

``(A) the limitations of this subsection shall apply at the partner rather than the partnership level,

``(B) the inversion gain of any partner for any taxable year shall be equal to the sum of—

``(i) the partner's distributive share of inversion gain of the partnership for such taxable year, plus

``(ii) income or gain required to be recognized for the taxable year by the partner under section 367(a), 741, or 1001, or under any other provision of chapter 1, by reason of the transfer during the applicable period of any partnership interest of the partner in such partnership to the foreign incorporated entity, and

``(C) the highest rate of tax specified in the rate schedule applicable to the partner under chapter 1 shall be substituted for the rate of tax under paragraph (2)(B).

``(4) INVERSION GAIN.—For purposes of this section, the term `inversion gain' means any income or gain required to be recognized under section 304, 311(b), 367, 1001, or 1248, or under any other provision of chapter 1, by reason of the transfer during the applicable period of stock or other properties by an acquired entity—

``(A) as part of the acquisition described in subsection (a)(2)(A) to which subsection (b) applies, or

``(B) after such acquisition to a foreign related person.

The Secretary may provide that income or gain from the sale of inventories or other transactions in the ordinary course of a trade or business shall not be treated as inversion gain under subparagraph (B) to the extent the Secretary determines such treatment would not be inconsistent with the purposes of this section.

``(5) COORDINATION WITH SECTION 172 AND MINIMUM TAX.—Rules similar to the rules of paragraphs (3) and (4) of section 860E(a) shall apply for purposes of this section.

``(6) STATUTE OF LIMITATIONS.—

``(A) IN GENERAL.—The statutory period for the assessment of any deficiency attributable to the inversion gain of any taxpayer for any pre-inversion year shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of the acquisition described in subsection (a)(2)(A) to which such gain relates and such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

``(B) PRE-INVERSION YEAR.—For purposes of subparagraph (A), the term `pre-inversion year' means any taxable year if—

``(i) any portion of the applicable period is included in such taxable year, and

``(ii) such year ends before the taxable year in which the acquisition described in subsection (a)(2)(A) is completed.

``(d) SPECIAL RULES APPLICABLE TO ACQUIRED ENTITIES TO WHICH SUBSECTION (b) APPLIES.—

``(1) INCREASES IN ACCURACY-RELATED PENALTIES.—In the case of any underpayment of tax of an acquired entity to which subsection (b) applies—

``(A) section 6662(a) shall be applied with respect to such underpayment by substituting `30 percent' for `20 percent', and

"(B) if such underpayment is attributable to one or more gross valuation understatements, the increase in the rate of penalty under section 6662(h) shall be to 50 percent rather than 40 percent.

"(2) MODIFICATIONS OF LIMITATION ON INTEREST DEDUCTION.—In the case of an acquired entity to which subsection (b) applies, section 163(j) shall be applied—

"(A) without regard to paragraph (2)(A)(ii) thereof, and

"(B) by substituting '25 percent' for '50 percent' each place it appears in paragraph (2)(B) thereof.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) RULES FOR APPLICATION OF SUBSECTION (a)(2).—In applying subsection (a)(2) for purposes of subsections (a) and (b), the following rules shall apply:

"(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of subsection (a)(2)(B)—

"(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

"(ii) stock of such entity which is sold in a public offering or private placement related to the acquisition described in subsection (a)(2)(A).

"(B) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (a)(2)(B) are met with respect to such domestic corporation or partnership, such actions shall be treated as pursuant to a plan.

"(C) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

"(D) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying subsection (a)(2) to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482) shall be treated as 1 partnership.

"(E) TREATMENT OF CERTAIN RIGHTS.—The Secretary shall prescribe such regulations as may be necessary—

"(i) to treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock, and

"(ii) to treat stock as not stock.

"(2) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a) but without regard to section 1504(b)(3), except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

"(3) FOREIGN INCORPORATED ENTITY.—The term 'foreign incorporated entity' means any entity which is, or but for subsection (a)(1) would be, treated as a foreign corporation for purposes of this title.

"(4) FOREIGN RELATED PERSON.—The term 'foreign related person' means, with respect to any acquired entity, a foreign person which—

"(A) bears a relationship to such entity described in section 267(b) or 707(b), or

"(B) is under the same common control (within the meaning of section 482) as such entity.

"(5) SUBSEQUENT ACQUISITIONS BY UNRELATED DOMESTIC CORPORATIONS.—

"(A) IN GENERAL.—Subject to such conditions, limitations, and exceptions as the Secretary may prescribe, if, after an acquisition described in subsection (a)(2)(A) to which subsection (b) applies, a domestic corporation stock of which is traded on an established securities market acquires directly or indirectly any properties of one or more acquired entities in a transaction with respect to which the requirements of subparagraph (B) are met, this section shall cease to apply to any such acquired entity with respect to which such requirements are met.

"(B) REQUIREMENTS.—The requirements of the subparagraph are met with respect to a transaction involving any acquisition described in subparagraph (A) if—

"(i) before such transaction the domestic corporation did not have a relationship described in section 267(b) or 707(b), and was not under common control (within the meaning of section 482), with the acquired entity, or any member of an expanded affiliated group including such entity, and

"(ii) after such transaction, such acquired entity—

"(I) is a member of the same expanded affiliated group which includes the domestic corporation or has such a relationship or is under such common control with any member of such group, and

"(II) is not a member of, and does not have such a relationship and is not under such common control with any member of, the expanded affiliated group which before such acquisition included such entity.

"(f) REGULATIONS.—The Secretary shall provide such regulations as are necessary to carry out this section, including regulations providing for such adjustments to the application of this section as are necessary to prevent the avoidance of the purposes of this section, including the avoidance of such purposes through—

"(1) the use of related persons, pass-thru or other noncorporate entities, or other intermediaries, or

"(2) transactions designed to have persons cease to be (or not become) members of expanded affiliated groups or related persons.".

(b) INFORMATION REPORTING.—The Secretary of the Treasury shall exercise the Secretary's authority under the Internal Revenue Code of 1986 to require entities involved in transactions to which section 7874 of such Code (as added by subsection (a)) applies to report to the Secretary, shareholders, partners, and such other persons as the Secretary may prescribe such information as is necessary to ensure the proper tax treatment of such transactions.

(c) CONFORMING AMENDMENT.—The table of sections for subchapter C of chapter 80 is amended by adding at the end the following new item:

"Sec. 7874. Rules relating to inverted corporate entities.".

(d) TRANSITION RULE FOR CERTAIN REGULATED INVESTMENT COMPANIES AND UNIT INVESTMENT TRUSTS.—Notwithstanding section 7874 of the Internal Revenue Code of 1986 (as added by subsection (a)), a regulated investment company, or other pooled fund or trust specified by the Secretary of the Treasury, may elect to recognize gain by reason of section 367(a) of such Code with respect to a transaction under which a foreign incorporated entity is treated as an inverted domestic corporation under section 7874(a) of such Code by reason of an acquisition completed after March 20, 2002, and before January 1, 2004.

(e) DISCLOSURE OF CORPORATE EXPATRIATION TRANSACTIONS.—

(1) IN GENERAL.—Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end the following new subsection:

"(i) PROXY SOLICITATIONS IN CONNECTION WITH CORPORATE EXPATRIATION TRANSACTIONS.—

"(1) DISCLOSURE TO SHAREHOLDERS OF EFFECTS OF CORPORATE EXPATRIATION TRANSACTION.—The Commission shall, by rule, require that each domestic issuer shall prominently disclose, not later than 5 business days before any shareholder vote relating to a corporate expatriation transaction, as a separate and distinct document accompanying each proxy statement relating to the transaction—

"(A) the number of employees of the domestic issuer that would be located in the new foreign jurisdiction of incorporation or organization of that issuer upon completion of the corporate expatriation transaction;

"(B) how the rights of holders of the securities of the domestic issuer would be impacted by a completed corporate expatriation transaction, and any differences in such rights before and after a completed corporate expatriation transaction; and

"(C) that, as a result of a completed corporate expatriation transaction, any taxable holder of the securities of the domestic issuer shall be subject to the taxation of any capital gains realized with respect to such securities, and the amount of any such capital gains tax that would apply as a result of the transaction.

"(2) DEFINITIONS.—In this subsection, the following definitions shall apply:

"(A) CORPORATE EXPATRIATION TRANSACTION.—The term 'corporate expatriation transaction' means any transaction, or series of related transactions, described in subsection (a) or (b) of section 7874 of the Internal Revenue Code of 1986.

"(A) DOMESTIC ISSUER.—The term 'domestic issuer' means an issuer created or organized in the United States or under the law of the United States or of any State."

(2) EFFECTIVE DATE.—Section 14(i) of the Securities Exchange Act of 1934 (as added by this subsection) shall apply with respect to corporate expatriation transactions (as defined in that section 14(i)) proposed on and after the date of enactment of this Act.

SEC. 442. IMPOSITION OF MARK-TO-MARKET TAX ON INDIVIDUALS WHO EXPATRIATE.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

"SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

"(a) GENERAL RULES.—For purposes of this subtitle—

"(1) MARK TO MARKET.—Except as provided in subsections (d) and (f), all property of a covered expatriate to whom this section applies shall be treated as sold on the day before the expatriation date for its fair market value.

"(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

"(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale, and

"(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply to any such loss.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence.

"(3) Exclusion for certain gain.—

"(A) In general.—The amount which, but for this paragraph, would be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

"(B) Cost-of-living adjustment.—

"(i) In general.—In the case of an expatriation date occurring in any calendar year after 2004, the $600,000 amount under subparagraph (A) shall be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 2003' for 'calendar year 1992' in subparagraph (B) thereof.

"(ii) Rounding rules.—If any amount after adjustment under clause (i) is not a multiple of $1,000, such amount shall be rounded to the next lower multiple of $1,000.

"(4) Election to continue to be taxed as United States citizen.—

"(A) In general.—If a covered expatriate elects the application of this paragraph—

"(i) this section (other than this paragraph and subsection (i)) shall not apply to the expatriate, but

"(ii) in the case of property to which this section would apply but for such election, the expatriate shall be subject to tax under this title in the same manner as if the individual were a United States citizen.

"(B) Requirements.—Subparagraph (A) shall not apply to an individual unless the individual—

"(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

"(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

"(iii) complies with such other requirements as the Secretary may prescribe.

"(C) Election.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

"(b) Election To Defer Tax.—

"(1) In general.—If the taxpayer elects the application of this subsection with respect to any property treated as sold by reason of subsection (a), the payment of the additional tax attributable to such property shall be postponed until the due date of the return for the taxable year in which such property is disposed of (or, in the case of property disposed of in a transaction in which gain is not recognized in whole or in part, until such other date as the Secretary may prescribe).

"(2) Determination of tax with respect to property.—For purposes of paragraph (1), the additional tax attributable to any property is an amount which bears the same ratio to the additional tax imposed by this chapter for the taxable year solely by reason of subsection (a) as the gain taken into account under subsection (a) with respect to such property bears to the total gain taken into account under subsection (a) with respect to all property to which subsection (a) applies.

"(3) Termination of postponement.—No tax may be postponed under this subsection later than the due date for the return of tax imposed by this chapter for the taxable year which includes the date of death of the expatriate (or, if earlier, the time that the security provided with respect to the property fails to meet the requirements of paragraph (4), unless the taxpayer corrects such failure within the time specified by the Secretary).

"(4) Security.—

"(A) In general.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided to the Secretary with respect to such property.

"(B) Adequate security.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

"(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2) for the property, or

"(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

"(5) Waiver of certain rights.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

"(6) Elections.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be made under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

"(7) Interest.—For purposes of section 6601—

"(A) the last date for the payment of tax shall be determined without regard to the election under this subsection, and

"(B) section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

"(c) Covered Expatriate.—For purposes of this section—

"(1) In general.—Except as provided in paragraph (2), the term 'covered expatriate' means an expatriate.

"(2) Exceptions.—An individual shall not be treated as a covered expatriate if—

"(A) the individual—

"(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

"(ii) has not been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) during the 5 taxable years ending with the taxable year during which the expatriation date occurs, or

"(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

"(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

"(d) Exempt Property; Special Rules for Pension Plans.—

"(1) Exempt property.—This section shall not apply to the following:

"(A) United states real property interests.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the day before the expatriation date, meet the requirements of section 897(c)(2).

"(B) Specified property.—Any property or interest in property not described in subparagraph (A) which the Secretary specifies in regulations.

"(2) Special rules for certain retirement plans.—

"(A) In general.—If a covered expatriate holds on the day before the expatriation date any interest in a retirement plan to which this paragraph applies—

"(i) such interest shall not be treated as sold for purposes of subsection (a)(1), but

"(ii) an amount equal to the present value of the expatriate's nonforfeitable accrued benefit shall be treated as having been received by such individual on such date as a distribution under the plan.

"(B) Treatment of subsequent distributions.—In the case of any distribution on or after the expatriation date to or on behalf of the covered expatriate from a plan from which the expatriate was treated as receiving a distribution under subparagraph (A), the amount otherwise includible in gross income by reason of the subsequent distribution shall be reduced by the excess of the amount includible in gross income under subparagraph (A) over any portion of such amount to which this subparagraph previously applied.

"(C) Treatment of subsequent distributions by plan.—For purposes of this title, a retirement plan to which this paragraph applies, and any person acting on the plan's behalf, shall treat any subsequent distribution described in subparagraph (B) in the same manner as such distribution would be treated without regard to this paragraph.

"(D) Applicable plans.—This paragraph shall apply to—

"(i) any qualified retirement plan (as defined in section 4974(c)),

"(ii) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A), and

"(iii) to the extent provided in regulations, any foreign pension plan or similar retirement arrangements or programs.

"(e) Definitions.—For purposes of this section—

"(1) Expatriate.—The term 'expatriate' means—

"(A) any United States citizen who relinquishes citizenship, and

"(B) any long-term resident of the United States who—

"(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

"(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

"(2) Expatriation date.—The term 'expatriation date' means—

"(A) the date an individual relinquishes United States citizenship, or

"(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

"(3) Relinquishment of citizenship.—A citizen shall be treated as relinquishing United States citizenship on the earliest of—

"(A) the date the individual renounces such individual's United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

"(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

"(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

"(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

"(4) Long-term resident.—The term 'long-term resident' has the meaning given to such term by section 877(e)(2).

"(f) Special Rules Applicable to Beneficiaries' Interests in Trust.—

"(1) In general.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust on the day before the expatriation date—

"(A) the individual shall not be treated as having sold such interest,

"(B) such interest shall be treated as a separate share in the trust, and

"(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

"(ii) the separate trust shall be treated as having sold its assets on the day before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

"(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii). In determining the amount of such distribution, proper adjustments shall be made for liabilities of the trust allocable to an individual's share in the trust.

"(2) Special rules for interests in qualified trusts.—

"(A) In general.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

"(i) paragraph (1) and subsection (a) shall not apply, and

"(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

"(B) Amount of tax.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

"(i) the highest rate of tax imposed by section 1(e) for the taxable year which includes the day before the expatriation date, multiplied by the amount of the distribution, or

"(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

"(C) Deferred tax account.—For purposes of subparagraph (B)(ii)—

"(i) Opening balance.—The opening balance in a deferred tax account with respect to any trust interest is an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

"(ii) Increase for interest.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods, except that section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

"(iii) Decrease for taxes previously paid.—The balance in the tax deferred account shall be reduced—

"(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

"(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

"(D) Allocable expatriation gain.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust is the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

"(E) Tax deducted and withheld.—

"(i) In general.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

"(ii) Exception where failure to waive treaty rights.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

"(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

"(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

"(F) Disposition.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

"(i) the tax determined under paragraph (1) as if the day before the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

"(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

"(G) Definitions and special rules.—For purposes of this paragraph—

"(i) Qualified trust.—The term 'qualified trust' means a trust which is described in section 7701(a)(30)(E).

"(ii) Vested interest.—The term 'vested interest' means any interest which, as of the day before the expatriation date, is vested in the beneficiary.

"(iii) Nonvested interest.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

"(iv) Adjustments.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

"(v) Coordination with retirement plan rules.—This subsection shall not apply to an interest in a trust which is part of a retirement plan to which subsection (d)(2) applies.

"(3) Determination of beneficiaries' interest in trust.—

"(A) Determinations under paragraph (1).—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar adviser.

"(B) Other determinations.—For purposes of this section—

"(i) Constructive ownership.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

"(ii) Taxpayer return position.—A taxpayer shall clearly indicate on its income tax return—

"(I) the methodology used to determine that taxpayer's trust interest under this section, and

"(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

"(g) Termination of Deferrals, etc.—In the case of any covered expatriate, notwithstanding any other provision of this title—

"(1) any period during which recognition of income or gain is deferred shall terminate on the day before the expatriation date, and

"(2) any extension of time for payment of tax shall cease to apply on the day before the expatriation date and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

"(h) Imposition of Tentative Tax.—

"(1) In general.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

"(2) Due date.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

"(3) Treatment of tax.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

"(4) Deferral of tax.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

"(i) Special Liens for Deferred Tax Amounts.—

"(1) Imposition of lien.—

"(A) In general.—If a covered expatriate makes an election under subsection (a)(4) or (b) which results in the deferral of any tax imposed by reason of subsection (a), the deferred amount (including any interest, additional amount, addition to tax, assessable penalty, and costs attributable to the deferred amount) shall be a lien in favor of the United States on all property of the expatriate located in the United States (without regard to whether this section applies to the property).

"(B) Deferred amount.—For purposes of this subsection, the deferred amount is the amount of the increase in the covered expatriate's income tax which, but for the election under subsection (a)(4) or (b), would have occurred by reason of this section for the taxable year including the expatriation date.

"(2) Period of lien.—The lien imposed by this subsection shall arise on the expatriation date and continue until—

"(A) the liability for tax by reason of this section is satisfied or has become unenforceable by reason of lapse of time, or

"(B) it is established to the satisfaction of the Secretary that no further tax liability may arise by reason of this section.

"(3) Certain rules apply.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this subsection as if it were a lien imposed by section 6324A.

"(j) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) Inclusion in Income of Gifts and Bequests Received by United States Citizens and Residents From Expatriates.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

"(d) Gifts and Inheritances From Covered Expatriates.—

"(1) In general.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.

"(2) Exceptions for transfers otherwise subject to estate or gift tax.—Paragraph (1) shall not apply to any property if either—

"(A) the gift, bequest, devise, or inheritance is—

"(i) shown on a timely filed return of tax imposed by chapter 12 as a taxable gift by the covered expatriate, or

"(ii) included in the gross estate of the covered expatriate for purposes of chapter 11 and shown on a timely filed return of tax imposed by chapter 11 of the estate of the covered expatriate, or

"(B) no such return was timely filed but no such return would have been required to be filed even if the covered expatriate were a citizen or long-term resident of the United States.".

(c) Definition of Termination of United States Citizenship.—Section 7701(a) is amended by adding at the end the following new paragraph:

"(48) Termination of united states citizenship.—

"(A) In general.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).

"(B) Dual citizens.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.".

(d) Ineligibility for Visa or Admission to United States.—

(1) In general.—Section 212(a)(10)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(E)) is amended to read as follows:

"(E) Former citizens not in compliance with expatriation revenue provisions.—Any alien who is a former citizen of the United States who relinquishes United States citizenship (within the meaning of section 877A(e)(3) of the Internal Revenue Code of 1986) and who is not in compliance with section 877A of such Code (relating to expatriation).".

(2) Availability of information.—

(A) In general.—Section 6103(l) (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

"(19) Disclosure to deny visa or admission to certain expatriates.—Upon written request of the Attorney General or the Attorney General's delegate, the Secretary shall disclose whether an individual is in compliance with section 877A (and if not in compliance, any items of noncompliance) to officers and employees of the Federal agency responsible for administering section 212(a)(10)(E) of the Immigration and Nationality Act solely for the purpose of, and to the extent necessary in, administering such section 212(a)(10)(E).".

(B) Safeguards.—

(i) Technical amendments.—Paragraph (4) of section 6103(p) of the Internal Revenue Code of 1986, as amended by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107-210; 116 Stat. 961), is amended by striking "or (17)" after "any other person described in subsection (l)(16)" each place it appears and inserting "or (18)".

(ii) Conforming amendments.—Section 6103(p)(4) (relating to safeguards), as amended by clause (i), is amended by striking "or (18)" after "any other person described in subsection (l)(16)" each place it appears and inserting "(18), or (19)".

(3) Effective dates.—

(A) In general.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to individuals who relinquish United States citizenship on or after the date of the enactment of this Act.

(B) Technical amendments.—The amendments made by paragraph (2)(B)(i) shall take effect as if included in the amendments made by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107-210; 116 Stat. 961).

(e) Conforming Amendments.—

(1) Section 877 is amended by adding at the end the following new subsection:

"(g) Application.—This section shall not apply to an expatriate (as defined in section 877A(e)) whose expatriation date (as so defined) occurs on or after January 1, 2004.".

(2) Section 2107 is amended by adding at the end the following new subsection:

"(f) Application.—This section shall not apply to any expatriate subject to section 877A.".

(3) Section 2501(a)(3) is amended by adding at the end the following new subparagraph:

"(F) Application.—This paragraph shall not apply to any expatriate subject to section 877A.".

(4)(A) Paragraph (1) of section 6039G(d) is amended by inserting "or 877A" after "section 877".

(B) The second sentence of section 6039G(e) is amended by inserting "or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))" after "877(a))".

(C) Section 6039G(f) is amended by inserting "or 877A(e)(2)(B)" after "877(e)(1)".

(f) Clerical Amendment.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

"Sec. 877A. Tax responsibilities of expatriation.".

(g) Effective Date.—

(1) In general.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after January 1, 2004.

(2) Gifts and bequests.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to gifts and bequests received on or after January 1, 2004, from an individual or the estate of an individual whose expatriation date (as so defined) occurs after such date.

(3) Due date for tentative tax.—The due date under section 877A(h)(2) of the Internal Revenue Code of 1986, as added by this section, shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 443. EXCISE TAX ON STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

(a) In General.—Subtitle D is amended by adding at the end the following new chapter:

"CHAPTER 48—STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS

"Sec. 5000A. Stock compensation of insiders in inverted corporations entities.

"SEC. 5000A. STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

"(a) Imposition of Tax.—In the case of an individual who is a disqualified individual with respect to any inverted corporation, there is hereby imposed on such person a tax equal to 20 percent of the value (determined under subsection (b)) of the specified stock compensation held (directly or indirectly) by or for the benefit of such individual or a member of such individual's family (as defined in section 267) at any time during the 12-month period beginning on the date which is 6 months before the inversion date.

"(b) Value.—For purposes of subsection (a)—

"(1) In general.—The value of specified stock compensation shall be—

"(A) in the case of a stock option (or other similar right) or any stock appreciation right, the fair value of such option or right, and

"(B) in any other case, the fair market value of such compensation.

"(2) Date for determining value.—The determination of value shall be made—

"(A) in the case of specified stock compensation held on the inversion date, on such date,

"(B) in the case of such compensation which is canceled during the 6 months before the inversion date, on the day before such cancellation, and

"(C) in the case of such compensation which is granted after the inversion date, on the date such compensation is granted.

"(c) Tax To Apply Only if Shareholder Gain Recognized.—Subsection (a) shall apply to any disqualified individual with respect to an inverted corporation only if gain (if any) on any stock in such corporation is recognized in whole or part by any shareholder by reason of the acquisition referred to in section 7874(a)(2)(A) (determined by substituting 'July 10, 2002' for 'March 20, 2002') with respect to such corporation.

"(d) Exception Where Gain Recognized on Compensation.—Subsection (a) shall not apply to—

"(1) any stock option which is exercised on the inversion date or during the 6-month period before such date and to the stock acquired in such exercise, if income is recognized under section 83 on or before the inversion date with respect to the stock acquired pursuant to such exercise, and

"(2) any specified stock compensation which is exercised, sold, exchanged, distributed, cashed out, or otherwise paid during such period in a transaction in which gain or loss is recognized in full.

"(e) Definitions.—For purposes of this section—

"(1) Disqualified individual.—The term 'disqualified individual' means, with respect to a corporation, any individual who, at any time during the 12-month period beginning on the date which is 6 months before the inversion date—

"(A) is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934 with respect to such corporation, or

"(B) would be subject to such requirements if such corporation were an issuer of equity securities referred to in such section.

"(2) Inverted corporation; inversion date.—

"(A) Inverted corporation.—The term 'inverted corporation' means any corporation to which subsection (a) or (b) of section 7874 applies determined—

"(i) by substituting 'July 10, 2002' for 'March 20, 2002' in section 7874(a)(2)(A), and

"(ii) without regard to subsection (b)(1)(A).

Such term includes any predecessor or successor of such a corporation.

"(B) Inversion date.—The term 'inversion date' means, with respect to a corporation, the date on which the corporation first becomes an inverted corporation.

"(3) Specified stock compensation.—

"(A) In general.—The term 'specified stock compensation' means payment (or right to payment) granted by the inverted corporation (or by any member of the expanded affiliated group which includes such corporation) to any person in connection with the performance of services by a disqualified individual for such corporation or member if the value of such payment or right is based on (or determined by reference to) the value (or change in value) of stock in such corporation (or any such member).

"(B) Exceptions.—Such term shall not include—

"(i) any option to which part II of subchapter D of chapter 1 applies, or

"(ii) any payment or right to payment from a plan referred to in section 280G(b)(6).

"(4) Expanded affiliated group.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)(3)); except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

"(f) Special Rules.—For purposes of this section—

"(1) Cancellation of restriction.—The cancellation of a restriction which by its terms will never lapse shall be treated as a grant.

"(2) Payment or reimbursement of tax by corporation treated as specified stock compensation.—Any payment of the tax imposed by this section directly or indirectly by the inverted corporation or by any member of the expanded affiliated group which includes such corporation—

"(A) shall be treated as specified stock compensation, and

"(B) shall not be allowed as a deduction under any provision of chapter 1.

"(3) Certain restrictions ignored.—Whether there is specified stock compensation, and the value thereof, shall be determined without regard to any restriction other than a restriction which by its terms will never lapse.

"(4) Property transfers.—Any transfer of property shall be treated as a payment and any right to a transfer of property shall be treated as a right to a payment.

"(5) Other administrative provisions.—For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.

"(g) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) Denial of Deduction.—

(1) In general.—Paragraph (6) of section 275(a) is amended by inserting "48," after "46,".

(2) $1,000,000 limit on deductible compensation reduced by payment of excise tax on specified stock compensation.—Paragraph (4) of section 162(m) is amended by adding at the end the following new subparagraph:

"(G) Coordination with excise tax on specified stock compensation.—The dollar limitation contained in paragraph (1) with respect to any covered employee shall be reduced (but not below zero) by the amount of any payment (with respect to such employee) of the tax imposed by section 5000A directly or indirectly by the inverted corporation (as defined in such section) or by any member of the expanded affiliated group (as defined in such section) which includes such corporation.".

(c) Conforming Amendments.—

(1) The last sentence of section 3121(v)(2)(A) is amended by inserting before the period "or to any specified stock compensation (as defined in section 5000A) on which tax is imposed by section 5000A".

(2) The table of chapters for subtitle D is amended by adding at the end the following new item:

"Chapter 48. Stock compensation of insiders in inverted corporations.".

(d) Effective Date.—The amendments made by this section shall take effect on July 11, 2002; except that periods before such date shall not be taken into account in applying the periods in subsections (a) and (e)(1) of section 5000A of the Internal Revenue Code of 1986, as added by this section.

SEC. 444. REINSURANCE OF UNITED STATES RISKS IN FOREIGN JURISDICTIONS.

(a) In General.—Section 845(a) (relating to allocation in case of reinsurance agreement involving tax avoidance or evasion) is amended by striking "source and character" and inserting "amount, source, or character".

(b) Effective Date.—The amendments made by this section shall apply to any risk reinsured after April 11, 2002.

SEC. 445. REPORTING OF TAXABLE MERGERS AND ACQUISITIONS.

(a) In General.—Subpart B of part III of subchapter A of chapter 61 is amended by inserting after section 6043 the following new section:

"SEC. 6043A. TAXABLE MERGERS AND ACQUISITIONS.

"(a) In General.—The acquiring corporation in any taxable acquisition shall make a return (according to the forms or regulations prescribed by the Secretary) setting forth—

"(1) a description of the acquisition,

"(2) the name and address of each shareholder of the acquired corporation who is required to recognize gain (if any) as a result of the acquisition,

"(3) the amount of money and the fair market value of other property transferred to each such shareholder as part of such acquisition, and

"(4) such other information as the Secretary may prescribe.

To the extent provided by the Secretary, the requirements of this section applicable to the acquiring corporation shall be applicable to the acquired corporation and not to the acquiring corporation.

"(b) Nominee Reporting.—Any person who holds stock as a nominee for another person shall furnish in the manner prescribed by the Secretary to such other person the information provided by the corporation under subsection (d).

"(c) Taxable Acquisition.—For purposes of this section, the term 'taxable acquisition' means any acquisition by a corporation of stock in or property of another corporation if any shareholder of the acquired corporation is required to recognize gain (if any) as a result of such acquisition.

"(d) Statements To Be Furnished to Shareholders.—Every person required to make a return under subsection (a) shall furnish to each shareholder whose name is required to be set forth in such return a written statement showing—

"(1) the name, address, and phone number of the information contact of the person required to make such return,

"(2) the information required to be shown on such return with respect to such shareholder, and

"(3) such other information as the Secretary may prescribe.

The written statement required under the preceding sentence shall be furnished to the shareholder on or before January 31 of the year following the calendar year during which the taxable acquisition occurred.".

(b) Assessable Penalties.—

(1) Subparagraph (B) of section 6724(d)(1) (defining information return) is amended by redesignating clauses (ii) through (xviii) as clauses (iii) through (xix), respectively, and by inserting after clause (i) the following new clause:

"(ii) section 6043A(a) (relating to returns relating to taxable mergers and acquisitions),".

(2) Paragraph (2) of section 6724(d) (relating to definitions) is amended by redesignating subparagraphs (F) through (BB) as subparagraphs (G) through (CC), respectively, and by inserting after subparagraph (E) the following new subparagraph:

"(F) subsections (b) and (d) of section 6043A (relating to returns relating to taxable mergers and acquisitions).".

(c) Clerical Amendment.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6043 the following new item:

"Sec. 6043A. Returns relating to taxable mergers and acquisitions.".

(d) Effective Date.—The amendments made by this section shall apply to acquisitions after the date of the enactment of this Act.

Subtitle E—International Tax

SEC. 451. CLARIFICATION OF BANKING BUSINESS FOR PURPOSES OF DETERMINING INVESTMENT OF EARNINGS IN UNITED STATES PROPERTY.

(a) IN GENERAL.—Subparagraph (A) of section 956(c)(2) is amended to read as follows:

"(A) obligations of the United States, money, or deposits with persons described in paragraph (4);".

(b) ELIGIBLE PERSONS.—Section 956(c) (relating to exceptions to definition of United States property) is amended by adding at the end the following new paragraph:

"(4) FINANCIAL SERVICES PROVIDERS.—

"(A) IN GENERAL.—For purposes of paragraph (2)(A), a person is described in this paragraph if at least 80 percent of the person's income is income described in section 904(d)(2)(C)(ii) (and the regulations thereunder) which is derived from persons who are not related persons.

"(B) SPECIAL RULES.—For purposes of subparagraph (A)—

"(i) all related persons shall be treated as 1 person in applying the 80-percent test, and

"(ii) there shall be disregarded any item of income or gain from a transaction or series of transactions a principal purpose of which is the qualification of a person as a person described in this paragraph.

"(C) RELATED PERSON.—For purposes of this paragraph, the term 'related person' has the meaning given such term by section 954(d)(3).".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 452. PROHIBITION ON NONRECOGNITION OF GAIN THROUGH COMPLETE LIQUIDATION OF HOLDING COMPANY.

(a) IN GENERAL.—Section 332 is amended by adding at the end the following new subsection:

"(d) RECOGNITION OF GAIN ON LIQUIDATION OF CERTAIN HOLDING COMPANIES.—

"(1) IN GENERAL.—In the case of any distribution to a foreign corporation in complete liquidation of an applicable holding company—

"(A) subsection (a) and section 331 shall not apply to such distribution, and

"(B) such distribution shall be treated as a distribution to which section 301 applies.

"(2) APPLICABLE HOLDING COMPANY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'applicable holding company' means any domestic corporation—

"(i) which is a common parent of an affiliated group,

"(ii) stock of which is directly owned by the distributee foreign corporation,

"(iii) substantially all of the assets of which consist of stock in other members of such affiliated group, and

"(iv) which has not been in existence at all times during the 5 years immediately preceding the date of the liquidation.

"(B) AFFILIATED GROUP.—For purposes of this subsection, the term 'affiliated group' has the meaning given such term by section 1504(a) (without regard to paragraphs (2) and (4) 0f section 1504(b)).

"(3) COORDINATION WITH SUBPART F.—If the distributee of a distribution described in paragraph (1) is a controlled foreign corporation (as defined in section 957), then notwithstanding paragraph (1) or subsection (a), such distribution shall be treated as a distribution to which section 331 applies.

"(4) REGULATIONS.—The Secretary shall provide such regulations as appropriate to prevent the abuse of this subsection, including regulations which provide, for the purposes of clause (iv) of paragraph (2)(A), that a corporation is not in existence for any period unless it is engaged in the active conduct of a trade or business or owns a significant ownership interest in another corporation so engaged.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions in complete liquidation occurring on or after the date of the enactment of this Act.

SEC. 453. PREVENTION OF MISMATCHING OF INTEREST AND ORIGINAL ISSUE DISCOUNT DEDUCTIONS AND INCOME INCLUSIONS IN TRANSACTIONS WITH RELATED FOREIGN PERSONS.

(a) ORIGINAL ISSUE DISCOUNT.—Section 163(e)(3) (relating to special rule for original issue discount on obligation held by related foreign person) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) SPECIAL RULE FOR CERTAIN FOREIGN ENTITIES.—

"(i) IN GENERAL.—In the case of any debt instrument having original issue discount which is held by a related foreign person which is a foreign personal holding company (as defined in section 552), a controlled foreign corporation (as defined in section 957), or a passive foreign investment company (as defined in section 1297), a deduction shall be allowable to the issuer with respect to such original issue discount for any taxable year before the taxable year in which paid only to the extent such original issue discount (reduced by properly allowable deductions and qualified deficits under section 952(c)(1)(B)) is includible during such prior taxable year in the gross income of a United States person who owns (within the meaning of section 958(a)) stock in such corporation.

"(ii) SECRETARIAL AUTHORITY.—The Secretary may by regulation exempt transactions from the application of clause (i), including any transaction which is entered into by a payor in the ordinary course of a trade or business in which the payor is predominantly engaged.".

(b) INTEREST AND OTHER DEDUCTIBLE AMOUNTS.—Section 267(a)(3) is amended—

(1) by striking "The Secretary" and inserting:

"(A) IN GENERAL.—The Secretary", and

(2) by adding at the end the following new subparagraph:

"(B) SPECIAL RULE FOR CERTAIN FOREIGN ENTITIES.—

"(i) IN GENERAL.—Notwithstanding subparagraph (A), in the case of any item payable to a foreign personal holding company (as defined in section 552), a controlled foreign corporation (as defined in section 957), or a passive foreign investment company (as defined in section 1297), a deduction shall be allowable to the payor with respect to such amount for any taxable year before the taxable year in which paid only to the extent that an amount attributable to such item (reduced by properly allowable deductions and qualified deficits under section 952(c)(1)(B)) is includible during such prior taxable year in the gross income of a United States person who owns (within the meaning of section 958(a)) stock in such corporation.

"(ii) SECRETARIAL AUTHORITY.—The Secretary may by regulation exempt transactions from the application of clause (i), including any transaction which is entered into by a payor in the ordinary course of a trade or business in which the payor is predominantly engaged and in which the payment of the accrued amounts occurs within 8½ months after accrual or within such other period as the Secretary may prescribe.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments accrued on or after the date of the enactment of this Act.

SEC. 454. EFFECTIVELY CONNECTED INCOME TO INCLUDE CERTAIN FOREIGN SOURCE INCOME.

(a) IN GENERAL.—Section 864(c)(4)(B) (relating to treatment of income from sources without the United States as effectively connected income) is amended by adding at the end the following new flush sentence:

"Any income or gain which is equivalent to any item of income or gain described in clause (i), (ii), or (iii) shall be treated in the same manner as such item for purposes of this subparagraph.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 455. RECAPTURE OF OVERALL FOREIGN LOSSES ON SALE OF CONTROLLED FOREIGN CORPORATION.

(a) IN GENERAL.—Section 904(f)(3) (relating to dispositions) is amending by adding at the end the following new subparagraph:

"(D) APPLICATION TO CERTAIN DISPOSITIONS OF STOCK IN CONTROLLED FOREIGN CORPORATION.—

"(i) IN GENERAL.—This paragraph shall apply to an applicable disposition in the same manner as if it were a disposition of property described in subparagraph (A), except that the exception contained in subparagraph (C)(i) shall not apply.

"(ii) APPLICABLE DISPOSITION.—For purposes of clause (i), the term 'applicable disposition' means any disposition of any share of stock in a controlled foreign corporation in a transaction or series of transactions if, immediately before such transaction or series of transactions, the taxpayer owned more than 50 percent (by vote or value) of the stock of the controlled foreign corporation.

"(iii) EXCEPTION.—A disposition shall not be treated as an applicable disposition under clause (ii) if it is part of a transaction or series of transactions—

"(I) to which section 351 or 721 applies, or under which the transferor receives stock in a foreign corporation in exchange for the stock in the controlled foreign corporation and the stock received is exchanged basis property (as defined in section 7701(a)(44)), and

"(II) immediately after which, the transferor owns (by vote or value) at least the same percentage of stock in the controlled foreign corporation (or, if the controlled foreign corporation is not in existence after such transaction or series of transactions, in another foreign corporation stock in which was received by the transferor in exchange for stock in the controlled foreign corporation) as the percentage of stock in the controlled foreign corporation which the taxpayer owned immediately before such transaction or series of transactions.

Clause (i) shall apply to any gain recognized on any disposition to which this clause applies.

"(iv) CONTROLLED FOREIGN CORPORATION.—For purposes of this subparagraph, the term 'controlled foreign corporation' has the meaning given such term by section 957.

"(v) STOCK OWNERSHIP.—For purposes of this subparagraph, ownership of stock shall be determined under the rules of subsections (a) and (b) of section 958.

(b) Effective Date.—The amendment made by this section shall apply to dispositions after the date of the enactment of this Act.

SEC. 456. MINIMUM HOLDING PERIOD FOR FOREIGN TAX CREDIT ON WITHHOLDING TAXES ON INCOME OTHER THAN DIVIDENDS.

(a) In General.—Section 901 is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

"(l) Minimum Holding Period for Withholding Taxes on Gain and Income Other Than Dividends etc.—

"(1) In general.—In no event shall a credit be allowed under subsection (a) for any withholding tax (as defined in subsection (k)) on any item of income or gain with respect to any property if—

"(A) such property is held by the recipient of the item for 15 days or less during the 30-day period beginning on the date which is 15 days before the date on which the right to receive payment of such item arises, or

"(B) to the extent that the recipient of the item is under an obligation (whether pursuant to a short sale or otherwise) to make related payments with respect to positions in substantially similar or related property.

This paragraph shall not apply to any dividend to which subsection (k) applies.

"(2) Exception for taxes paid by dealers.—

"(A) In general.—Paragraph (1) shall not apply to any qualified tax with respect to any property held in the active conduct in a foreign country of a business as a dealer in such property.

"(B) Qualified tax.—For purposes of subparagraph (A), the term 'qualified tax' means a tax paid to a foreign country (other than the foreign country referred to in subparagraph (A)) if—

"(i) the item to which such tax is attributable is subject to taxation on a net basis by the country referred to in subparagraph (A), and

"(ii) such country allows a credit against its net basis tax for the full amount of the tax paid to such other foreign country.

"(C) Dealer.—For purposes of subparagraph (A), the term 'dealer' means—

"(i) with respect to a security, any person to whom paragraphs (1) and (2) of subsection (k) would not apply by reason of paragraph (4) thereof if such security were stock, and

"(ii) with respect to any other property, any person with respect to whom such property is described in section 1221(a)(1).

"(D) Regulations.—The Secretary may prescribe such regulations as may be appropriate to carry out this paragraph, including regulations to prevent the abuse of the exception provided by this paragraph and to treat other taxes as qualified taxes.

"(3) Exceptions.—The Secretary may by regulation provide that paragraph (1) shall not apply to property where the Secretary determines that the application of paragraph (1) to such property is not necessary to carry out the purposes of this subsection.

"(4) Certain rules to apply.—Rules similar to the rules of paragraphs (5), (6), and (7) of subsection (k) shall apply for purposes of this subsection.

"(5) Determination of holding period.—Holding periods shall be determined for purposes of this subsection without regard to section 1235 or any similar rule.".

(b) Conforming Amendment.—The heading of subsection (k) of section 901 is amended by inserting "on Dividends" after "Taxes".

(c) Effective Date.—The amendments made by this section shall apply to amounts paid or accrued more than 30 days after the date of the enactment of this Act.

Subtitle F—Other Revenue Provisions

PART I—FINANCIAL INSTRUMENTS

SEC. 461. TREATMENT OF STRIPPED INTERESTS IN BOND AND PREFERRED STOCK FUNDS, ETC.

(a) In General.—Section 1286 (relating to tax treatment of stripped bonds) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) Treatment of Stripped Interests in Bond and Preferred Stock Funds, etc.—In the case of an account or entity substantially all of the assets of which consist of bonds, preferred stock, or a combination thereof, the Secretary may by regulations provide that rules similar to the rules of this section and 305(e), as appropriate, shall apply to interests in such account or entity to which (but for this subsection) this section or section 305(e), as the case may be, would not apply.".

(b) Cross Reference.—Subsection (e) of section 305 is amended by adding at the end the following new paragraph:

"(7) Cross reference.—

"For treatment of stripped interests in certain accounts or entities holding preferred stock, see section 1286(f).".

(c) Effective Date.—The amendments made by this section shall apply to purchases and dispositions after the date of the enactment of this Act.

SEC. 462. APPLICATION OF EARNINGS STRIPPING RULES TO PARTNERS WHICH ARE C CORPORATIONS.

(a) In General.—Section 163(j) (relating to limitation on deduction for interest on certain indebtedness) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

"(8) Allocations to certain corporate partners.—If a C corporation is a partner in a partnership—

"(A) the corporation's allocable share of indebtedness and interest income of the partnership shall be taken into account in applying this subsection to the corporation, and

"(B) if a deduction is not disallowed under this subsection with respect to any interest expense of the partnership, this subsection shall be applied separately in determining whether a deduction is allowable to the corporation with respect to the corporation's allocable share of such interest expense.".

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 463. RECOGNITION OF CANCELLATION OF INDEBTEDNESS INCOME REALIZED ON SATISFACTION OF DEBT WITH PARTNERSHIP INTEREST.

(a) In General.—Paragraph (8) of section 108(e) (relating to general rules for discharge of indebtedness (including discharges not in title 11 cases or insolvency)) is amended to read as follows:

"(8) Indebtedness satisfied by corporate stock or partnership interest.—For purposes of determining income of a debtor from discharge of indebtedness, if—

"(A) a debtor corporation transfers stock, or

"(B) a debtor partnership transfers a capital or profits interest in such partnership,

to a creditor in satisfaction of its recourse or nonrecourse indebtedness, such corporation or partnership shall be treated as having satisfied the indebtedness with an amount of money equal to the fair market value of the stock or interest. In the case of any partnership, any discharge of indebtedness income recognized under this paragraph shall be included in the distributive shares of taxpayers which were the partners in the partnership immediately before such discharge.".

(b) Effective Date.—The amendment made by this section shall apply with respect to cancellations of indebtedness occurring on or after the date of the enactment of this Act.

SEC. 464. MODIFICATION OF STRADDLE RULES.

(a) Rules Relating to Identified Straddles.—

(1) In general.—Subparagraph (A) of section 1092(a)(2) (relating to special rule for identified straddles) is amended to read as follows:

"(A) In general.—In the case of any straddle which is an identified straddle—

"(i) paragraph (1) shall not apply with respect to identified positions comprising the identified straddle,

"(ii) if there is any loss with respect to any identified position of the identified straddle, the basis of each of the identified offsetting positions in the identified straddle shall be increased by an amount which bears the same ratio to the loss as the unrecognized gain with respect to such offsetting position bears to the aggregate unrecognized gain with respect to all such offsetting positions, and

"(iii) any loss described in clause (ii) shall not otherwise be taken into account for purposes of this title.".

(2) Identified straddle.—Section 1092(a)(2)(B) (defining identified straddle) is amended—

(A) by striking clause (ii) and inserting the following:

"(ii) to the extent provided by regulations, the value of each position of which (in the hands of the taxpayer immediately before the creation of the straddle) is not less than the basis of such position in the hands of the taxpayer at the time the straddle is created, and", and

(B) by adding at the end the following new flush sentence:

"The Secretary shall prescribe regulations which specify the proper methods for clearly identifying a straddle as an identified straddle (and the positions comprising such straddle), which specify the rules for the application of this section for a taxpayer which fails to properly identify the positions of an identified straddle, and which specify the ordering rules in cases where a taxpayer disposes of less than an entire position which is part of an identified straddle.".

(3) Unrecognized gain.—Section 1092(a)(3) (defining unrecognized gain) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) Special rule for identified straddles.—For purposes of paragraph (2)(A)(ii), the unrecognized gain with respect to any identified offsetting position shall be the excess of the fair market value of the position at the time of the determination over the fair market value of the position at the time the taxpayer identified the position as a position in an identified straddle.".

(4) Conforming amendment.—Section 1092(c)(2) is amended by striking subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

(b) Physically Settled Positions.—Section 1092(d) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

"(8) SPECIAL RULES FOR PHYSICALLY SETTLED POSITIONS.—For purposes of subsection (a), if a taxpayer settles a position which is part of a straddle by delivering property to which the position relates (and such position, if terminated, would result in a realization of a loss), then such taxpayer shall be treated as if such taxpayer—

"(A) terminated the position for its fair market value immediately before the settlement, and

"(B) sold the property so delivered by the taxpayer at its fair market value.".

(c) REPEAL OF STOCK EXCEPTION.—

(1) IN GENERAL.—Paragraph (3) of section 1092(d) (relating to definitions and special rules) is amended to read as follows:

"(3) SPECIAL RULES FOR STOCK.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The term 'personal property' includes—

"(i) any stock which is a part of a straddle at least 1 of the offsetting positions of which is a position with respect to such stock or substantially similar or related property, or

"(ii) any stock of a corporation formed or availed of to take positions in personal property which offset positions taken by any shareholder.

"(B) RULE FOR APPLICATION.—For purposes of determining whether subsection (e) applies to any transaction with respect to stock described in subparagraph (A)(ii), all includible corporations of an affiliated group (within the meaning of section 1504(a)) shall be treated as 1 taxpayer.".

(2) CONFORMING AMENDMENT.—Section 1258(d)(1) is amended by striking "; except that the term 'personal property' shall include stock".

(d) MODIFICATIONS OF QUALIFIED COVERED CALL EXCEPTION.—

(1) MARKETS ON WHICH OPTIONS MAY BE TRADED.—

(A) IN GENERAL.—Section 1092(c)(4)(B)(i) is amended by striking "or other market which the Secretary determines has rules adequate to carry out the purposes of this paragraph".

(B) REGULATIONS.—Section 1092(c)(4)(H) is amended by adding at the end the following new sentence: "Such regulations shall not add any exchange or market not described in subparagraph (B)(i) to the exchanges or markets on which qualified covered call options may be traded."

(2) HOLDING PERIOD FOR DIVIDEND EXCLUSION.—The last sentence of section 246(c) is amended by inserting: ", other than a qualified covered call option to which section 1092(f) applies" before the period at the end.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to positions established on or after the date of the enactment of this Act.

SEC. 465. DENIAL OF INSTALLMENT SALE TREATMENT FOR ALL READILY TRADEABLE DEBT.

(a) IN GENERAL.—Section 453(f)(4)(B) (relating to purchaser evidences of indebtedness payable on demand or readily tradeable) is amended by striking "is issued by a corporation or a government or political subdivision thereof and".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales occurring on or after the date of the enactment of this Act.

PART II—CORPORATIONS AND PARTNERSHIPS

SEC. 466. MODIFICATION OF TREATMENT OF TRANSFERS TO CREDITORS IN DIVISIVE REORGANIZATIONS.

(a) IN GENERAL.—Section 361(b)(3) (relating to treatment of transfers to creditors) is amended by adding at the end the following new sentence: "In the case of a reorganization described in section 368(a)(1)(D) with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355, this paragraph shall apply only to the extent that the sum of the money and the fair market value of other property transferred to such creditors does not exceed the adjusted bases of such assets transferred.".

(b) LIABILITIES IN EXCESS OF BASIS.—Section 357(c)(1)(B) is amended by inserting "with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355" after "section 368(a)(1)(D)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers of money or other property, or liabilities assumed, in connection with a reorganization occurring on or after the date of the enactment of this Act.

SEC. 467. CLARIFICATION OF DEFINITION OF NONQUALIFIED PREFERRED STOCK.

(a) IN GENERAL.—Section 351(g)(3)(A) is amended by adding at the end the following: "Stock shall not be treated as participating in corporate growth to any significant extent unless there is a real and meaningful likelihood of the shareholder actually participating in the earnings and growth of the corporation.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions after May 14, 2003.

SEC. 468. MODIFICATION OF DEFINITION OF CONTROLLED GROUP OF CORPORATIONS.

(a) IN GENERAL.—Section 1563(a)(2) (relating to brother-sister controlled group) is amended by striking "possessing—" and all that follows through "(B)" and inserting "possessing".

(b) APPLICATION OF EXISTING RULES TO OTHER CODE PROVISIONS.—Section 1563(f) (relating to other definitions and rules) is amended by adding at the end the following new paragraph:

"(5) BROTHER-SISTER CONTROLLED GROUP DEFINITION FOR PROVISIONS OTHER THAN THIS PART.—

"(A) IN GENERAL.—Except as specifically provided in an applicable provision, subsection (a)(2) shall be applied to an applicable provision as if it read as follows:

"'(2) BROTHER-SISTER CONTROLLED GROUP.—Two or more corporations if 5 or fewer persons who are individuals, estates, or trusts own (within the meaning of subsection (d)(2) stock possessing—

"'(A) at least 80 percent of the total combined voting power of all classes of stock entitled to vote, or at least 80 percent of the total value of shares of all classes of stock, of each corporation, and

"'(B) more than 50 percent of the total combined voting power of all classes of stock entitled to vote or more than 50 percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.'

"(B) APPLICABLE PROVISION.—For purposes of this paragraph, an applicable provision is any provision of law (other than this part) which incorporates the definition of controlled group of corporations under subsection (a).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 469. MANDATORY BASIS ADJUSTMENTS IN CONNECTION WITH PARTNERSHIP DISTRIBUTIONS AND TRANSFERS OF PARTNERSHIP INTERESTS.

(a) IN GENERAL.—Section 754 is repealed.

(b) ADJUSTMENT TO BASIS OF UNDISTRIBUTED PARTNERSHIP PROPERTY.—Section 734 is amended—

(1) by striking ", with respect to which the election provided in section 754 is in effect," in the matter preceding paragraph (1) of subsection (b),

(2) by striking "(as adjusted by section 732(d))" both places it appears in subsection (b),

(3) by striking the last sentence of subsection (b),

(4) by striking subsection (a) and by redesignating subsections (b) and (c) as subsections (a) and (b), respectively, and

(5) by striking "**optional**" in the heading.

(c) ADJUSTMENT TO BASIS OF PARTNERSHIP PROPERTY.—Section 743 is amended—

(1) by striking "with respect to which the election provided in section 754 is in effect" in the matter preceding paragraph (1) of subsection (b),

(2) by striking subsection (a) and by redesignating subsections (b) and (c) as subsections (a) and (b), respectively,

(3) by adding at the end the following new subsection:

"(c) ELECTION TO ADJUST BASIS FOR TRANSFERS UPON DEATH OF PARTNER.—Subsection (a) shall not apply and no adjustments shall be made in the case of any transfer of an interest in a partnership upon the death of a partner unless an election to do so is made by the partnership. Such an election shall apply with respect to all such transfers of interests in the partnership. Any election under section 754 in effect on the date of the enactment of this subsection shall constitute an election made under this subsection. Such election may be revoked by the partnership, subject to such limitations as may be provided by regulations prescribed by the Secretary.", and

(4) by striking "**optional**" in the heading.

(d) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 732 is repealed.

(2) Section 755(a) is amended—

(A) by striking "section 734(b) (relating to the optional adjustment" and inserting "section 734(a) (relating to the adjustment", and

(B) by striking "section 743(b) (relating to the optional adjustment" and inserting "section 743(a) (relating to the adjustment".

(3) Section 755(c), as added by this Act, is amended by striking "section 734(b)" and inserting "section 734(a)".

(4) Section 761(e)(2) is amended by striking "optional".

(5) Section 774(a) is amended by striking "743(b)" both places it appears and inserting "743(a)".

(6) The item relating to section 734 in the table of sections for subpart B of part II of subchapter K of chapter 1 is amended by striking "Optional".

(7) The item relating to section 743 in the table of sections for subpart C of part II of subchapter K of chapter 1 is amended by striking "Optional".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transfers and distributions made after the date of the enactment of this Act.

(2) REPEAL OF SECTION 732(d).—The amendments made by subsections (b)(2) and (d)(1) shall apply to—

(A) except as provided in subparagraph (B), transfers made after the date of the enactment of this Act, and

(B) in the case of any transfer made on or before such date to which section 732(d) applies, distributions made after the date which is 2 years after such date of enactment.

PART III—DEPRECIATION AND AMORTIZATION

SEC. 471. EXTENSION OF AMORTIZATION OF INTANGIBLES TO SPORTS FRANCHISES.

(a) In General.—Section 197(e) (relating to exceptions to definition of section 197 intangible) is amended by striking paragraph (6) and by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(b) Conforming Amendments.—

(1)(A) Section 1056 (relating to basis limitation for player contracts transferred in connection with the sale of a franchise) is repealed.

(B) The table of sections for part IV of subchapter O of chapter 1 is amended by striking the item relating to section 1056.

(2) Section 1245(a) (relating to gain from disposition of certain depreciable property) is amended by striking paragraph (4).

(3) Section 1253 (relating to transfers of franchises, trademarks, and trade names) is amended by striking subsection (e).

(c) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to property acquired after the date of the enactment of this Act.

(2) Section 1245.—The amendment made by subsection (b)(2) shall apply to franchises acquired after the date of the enactment of this Act.

SEC. 472. CLASS LIVES FOR UTILITY GRADING COSTS.

(a) Gas Utility Property.—Section 168(e)(3)(E) (defining 15-year property) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) initial clearing and grading land improvements with respect to gas utility property.".

(b) Electric Utility Property.—Section 168(e)(3) is amended by adding at the end the following new subparagraph:

"(F) 20-year property.—The term '20-year property' means initial clearing and grading land improvements with respect to any electric utility transmission and distribution plant.".

(c) Conforming Amendments.—The table contained in section 168(g)(3)(B) is amended—

(1) by inserting "or (E)(iv)" after "(E)(iii)", and

(2) by adding at the end the following new item:

"(F) .... 25".

(d) Effective Date.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 473. EXPANSION OF LIMITATION ON DEPRECIATION OF CERTAIN PASSENGER AUTOMOBILES.

(a) In General.—Section 179(b) of the Internal Revenue Code of 1986 (relating to limitations) is amended by adding at the end the following new paragraph:

"(6) Limitation on cost taken into account for certain passenger vehicles.—

"(A) In general.—The cost of any sport utility vehicle for any taxable year which may be taken into account under this section shall not exceed $25,000.

"(B) Sport utility vehicle.—For purposes of subparagraph (A)—

"(i) In general.—The term 'sport utility vehicle' means any 4-wheeled vehicle—

"(I) which is primarily designed or which can be used to carry passengers over public streets, roads, or highways (except any vehicle operated exclusively on a rail or rails),

"(II) which is not subject to section 280F, and

"(III) which is rated at not more than 14,000 pounds gross vehicle weight.

"(ii) Certain vehicles excluded.—Such term does not include any vehicle which—

"(I) is designed to have a seating capacity of more than 9 persons behind the driver's seat,

"(II) is equipped with a cargo area of at least 6 feet in interior length which is an open area or is designed for use as an open area but is enclosed by a cap and is not readily accessible directly from the passenger compartment, or

"(III) has an integral enclosure, fully enclosing the driver compartment and load carrying device, does not have seating rearward of the driver's seat, and has no body section protruding more than 30 inches ahead of the leading edge of the windshield.".

(b) Effective Date.—The amendment made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 474. CONSISTENT AMORTIZATION OF PERIODS FOR INTANGIBLES.

(a) Start-Up Expenditures.—

(1) Allowance of deduction.—Paragraph (1) of section 195(b) (relating to start-up expenditures) is amended to read as follows:

"(1) Allowance of deduction.—If a taxpayer elects the application of this subsection with respect to any start-up expenditures—

"(A) the taxpayer shall be allowed a deduction for the taxable year in which the active trade or business begins in an amount equal to the lesser of—

"(i) the amount of start-up expenditures with respect to the active trade or business, or

"(ii) $5,000, reduced (but not below zero) by the amount by which such start-up expenditures exceed $50,000, and

"(B) the remainder of such start-up expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the active trade or business begins.".

(2) Conforming amendment.—Subsection (b) of section 195 is amended by striking "Amortize" and inserting "Deduct" in the heading.

(b) Organizational Expenditures.—Subsection (a) of section 248 (relating to organizational expenditures) is amended to read as follows:

"(a) Election To Deduct.—If a corporation elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenditures—

"(1) the corporation shall be allowed a deduction for the taxable year in which the corporation begins business in an amount equal to the lesser of—

"(A) the amount of organizational expenditures with respect to the taxpayer, or

"(B) $5,000, reduced (but not below zero) by the amount by which such organizational expenditures exceed $50,000, and

"(2) the remainder of such organizational expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the corporation begins business.".

(c) Treatment of Organizational and Syndication Fees or Partnerships.—

(1) In general.—Section 709(b) (relating to amortization of organization fees) is amended by redesignating paragraph (2) as paragraph (3) and by amending paragraph (1) to read as follows:

"(1) Allowance of deduction.—If a taxpayer elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenses—

"(A) the taxpayer shall be allowed a deduction for the taxable year in which the partnership begins business in an amount equal to the lesser of—

"(i) the amount of organizational expenses with respect to the partnership, or

"(ii) $5,000, reduced (but not below zero) by the amount by which such organizational expenses exceed $50,000, and

"(B) the remainder of such organizational expenses shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the partnership begins business.

"(2) Dispositions before close of amortization period.—In any case in which a partnership is liquidated before the end of the period to which paragraph (1)(B) applies, any deferred expenses attributable to the partnership which were not allowed as a deduction by reason of this section may be deducted to the extent allowable under section 165.".

(2) Conforming amendment.—Subsection (b) of section 709 is amended by striking "Amortization" and inserting "Deduction" in the heading.

(d) Effective Date.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

SEC. 475. REFORM OF TAX TREATMENT OF LEASING OPERATIONS.

(a) Clarification of Recovery Period for Tax-Exempt Use Property Subject to Lease.—Subparagraph (A) of section 168(g)(3) (relating to special rules for determining class life) is amended by inserting "(notwithstanding any other subparagraph of this paragraph)" after "shall".

(b) Limitation on Depreciation Period for Software Leased to Tax-Exempt Entity.—Paragraph (1) of section 167(f) is amended by adding at the end the following new subparagraph:

"(C) Tax-exempt use property subject to lease.—In the case of computer software which would be tax-exempt use property as defined in subsection (h) of section 168 if such section applied to computer software, the useful life under subparagraph (A) shall not be less than 125 percent of the lease term (within the meaning of section 168(i)(3))."

(c) Lease Term To Include Related Service Contracts.—Subparagraph (A) of section 168(i)(3) (relating to lease term) is amended by striking "and" at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

"(ii) the term of a lease shall include the term of any service contract or similar arrangement (whether or not treated as a lease under section 7701(e))—

"(I) which is part of the same transaction (or series of related transactions) which includes the lease, and

"(II) which is with respect to the property subject to the lease or substantially similar property, and".

(d) Effective Date.—The amendments made by this section shall apply to leases entered into after December 31, 2003.

SEC. 476. LIMITATION ON DEDUCTIONS ALLOCABLE TO PROPERTY USED BY GOVERNMENTS OR OTHER TAX-EXEMPT ENTITIES.

(a) In General.—Subpart C of part II of subchapter E of chapter 1 (relating to taxable year for which deductions taken) is amended by adding at the end the following new section:

“SEC. 470. LIMITATIONS ON LOSSES FROM TAX-EXEMPT USE PROPERTY.

“(a) Limitation on Losses.—Except as otherwise provided in this section, a tax-exempt use loss for any taxable year shall not be allowed.

“(b) Disallowed Loss Carried to Next Year.—Any tax-exempt use loss with respect to any tax-exempt use property which is disallowed under subsection (a) for any taxable year shall be treated as a deduction with respect to such property in the next taxable year.

“(c) Definitions.—For purposes of this section—

“(1) Tax-exempt use loss.—The term ‘tax-exempt use loss’ means, with respect to any taxable year, the amount (if any) by which—

“(A) the sum of—

“(i) the aggregate deductions (other than interest) directly allocable to a tax-exempt use property, plus

“(ii) the aggregate deductions for interest properly allocable to such property, exceed

“(B) the aggregate income from such property.

“(2) Tax-exempt use property.—The term ‘tax-exempt use property’ has the meaning given to such term by section 168(h) (without regard to paragraph (1)(C) or (3) thereof and determined as if property described in section 167(f)(1)(B) were tangible property). Such term shall not include property with respect to which the credit under section 42 is allowed and which, but for this sentence, would be tax-exempt property solely by reason of section 168(h)(6).

“(d) Exception for Certain Leases.—This section shall not apply to any lease of property which meets the requirements of all of the following paragraphs:

“(1) Property not financed with tax-exempt bonds or federal funds.—A lease of property meets the requirements of this paragraph if no part of the property was financed (directly or indirectly) from—

“(A) the proceeds of an obligation the interest on which is exempt from tax under section 103(a) and which (or any refunding bond of which) is outstanding when the lease is entered into, or

“(B) Federal funds.

The Secretary may by regulations provide for a de minimis exception from this paragraph.

“(2) Availability of funds.—

“(A) In general.—A lease of property meets the requirements of this paragraph if (at any time during the lease term) not more than an allowable amount of funds are—

“(i) subject to any arrangement referred to in subparagraph (B), or

“(ii) set aside or expected to be set aside,

to or for the benefit of the lessor or a lender, or to or for the benefit of the lessee to satisfy the lessee's obligations or options under the lease. Funds shall be treated as described in clause (ii) only if a reasonable person would conclude, based on the facts and circumstances, that such funds are so described.

“(B) Arrangements.—The arrangements referred to in this subparagraph are—

“(i) a defeasance arrangement, a loan by the lessee to the lessor or a lender, a deposit arrangement, a letter of credit collateralized with cash or cash equivalents, a payment undertaking agreement, a lease prepayment, a sinking fund arrangement, or any similar arrangement (whether or not such arrangement provides credit support), and

“(ii) any other arrangement identified by the Secretary in regulations.

“(C) Allowable amount.—

“(i) In general.—Except as otherwise provided in this subparagraph, the term ‘allowable amount’ means an amount equal to 20 percent of the lessor's adjusted basis in the property at the time the lease is entered into.

“(ii) Higher amount permitted in certain cases.—To the extent provided in regulations, a higher percentage shall be permitted under clause (i) where necessary because of the credit-worthiness of the lessee. In no event may such regulations permit a percentage of more than 50 percent.

“(iii) Option to purchase.—If under the lease the lessee has the option to purchase the property for a fixed price or for other than the fair market value of the property (determined at the time of exercise), the allowable amount at the time such option may be exercised may not exceed 50 percent of the price at which such option may be exercised.

“(iv) No allowable amount for certain arrangements.—The allowable amount shall be zero in the case of any arrangement which involves—

“(I) a loan from the lessee to the lessor or a lender,

“(II) any deposit, letter of credit, or payment undertaking agreement involving a lender, or

“(III) any credit support made available to the lessor in which a lender (if any) does not have a claim which is senior to the lessor.

For purposes of subclause (I), the term ‘loan’ shall not include any amount treated as a loan under section 467 with respect to a section 467 rental agreement.

“(3) Lessor must make substantial equity investment.—A lease of property meets the requirements of this paragraph if—

“(A) the lessor—

“(i) has at the time the lease is entered into an unconditional at-risk equity investment (as determined by the Secretary) in the property of at least 20 percent of the lessor's adjusted basis in the property as of that time, and

“(ii) maintains such investment throughout the term of the lease, and

“(B) the fair market value of the property at the end of the lease term is reasonably expected to be equal to at least 20 percent of such basis.

Subparagraphs (A)(ii) and (B) shall not apply if the lease term is described in section 168(h)(1)(C)(ii), or in the case of qualified technological equipment, is described in section 168(h)(3). For purposes of subparagraph (B), the fair market value at the end of the lease term shall be reduced to the extent that a person other than the lessor bears a risk of loss in the value of the property.

“(4) Lessee may not bear more than minimal risk of loss.—

“(A) In general.—A lease of property meets the requirements of this paragraph if there is no arrangement under which more than a minimal risk of loss (as determined under regulations) in the value of the property is borne by the lessee.

“(B) Certain arrangements fail requirement.—In no event will the requirements of this paragraph be met if there is any arrangement under which the lessee bears—

“(i) any portion of the loss that would occur if the fair market value of the leased property were 25 percent less than its reasonably expected fair market value at the time the lease is terminated, or

“(ii) more than 50 percent of the loss that would occur if the fair market value of the leased property at the time the lease is terminated were zero.

“(5) Property with more than 7-year class life.—In the case of a lease—

“(A) of property with a class life (as defined in section 168(i)(1)) of more than 7 years, and

“(B) under which the lessee has the option to purchase the property,

the lease meets the requirements of this paragraph only if the purchase price under the option equals the fair market value of the property (determined at the time of exercise).

“(6) Regulatory requirements.—A lease of property meets the requirements of this paragraph if such lease of property meets such requirements as the Secretary may prescribe by regulations.

“(e) Special Rules.—

“(1) Treatment of former tax-exempt use property.—

“(A) In general.—In the case of any former tax-exempt use property—

“(i) any deduction allowable under subsection (b) with respect to such property for any taxable year shall be allowed only to the extent of any net income (without regard to such deduction) from such property for such taxable year, and

“(ii) any portion of such unused deduction remaining after application of clause (i) shall be treated as allowable under subsection (b) with respect to such property in the next taxable year.

“(B) Former tax-exempt use property.—For purposes of this subsection, the term ‘former tax-exempt use property’ means any property which—

“(i) is not tax-exempt use property for the taxable year, but

“(ii) was tax-exempt use property for any prior taxable year.

“(2) Disposition of entire interest in property.—If during the taxable year a taxpayer disposes of the taxpayer's entire interest in tax-exempt use property (or former tax-exempt use property), rules similar to the rules of section 469(g) shall apply for purposes of this section.

“(3) Coordination with section 469.—This section shall be applied before the application of section 469.

“(f) Other Definitions.—For purposes of this section—

“(1) Related parties.—The terms ‘lessor’, ‘lessee’, and ‘lender’ include any related party (within the meaning of section 197(f)(9)(C)(i)).

“(2) Lease term.—The term ‘lease term’ has the meaning given to such term by section 168(i)(3).

“(3) Lender.—The term ‘lender’ means, with respect to any lease, a person that makes a loan to the lessor which is secured (or economically similar to being secured) by the lease or the leased property.

“(4) Loan.—The term ‘loan’ includes any similar arrangement.

“(g) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulation which—

"(1) allow in appropriate cases the aggregation of property subject to the same lease, and

"(2) provide for the determination of the allocation of interest expense for purposes of this section."

(b) Conforming Amendment.—The table of sections for subpart C of part II of subchapter E of chapter 1 is amended by adding at the end the following new item:

"Sec. 470. Limitations on losses from tax-exempt use property."

(c) Effective Dates.—

(1) In general.—The amendments made by this section shall apply to leases entered into after November 18, 2003.

(2) Leases to foreign entities.—In the case of tax-exempt use property leased to a tax-exempt entity which is a foreign person or entity, the amendments made by this section shall apply to taxable years beginning after January 31, 2004, with respect to leases entered into on or before November 18, 2003.

PART IV—ADMINISTRATIVE PROVISIONS

SEC. 481. CLARIFICATION OF RULES FOR PAYMENT OF ESTIMATED TAX FOR CERTAIN DEEMED ASSET SALES.

(a) In General.—Paragraph (13) of section 338(h) (relating to tax on deemed sale not taken into account for estimated tax purposes) is amended by adding at the end the following: "The preceding sentence shall not apply with respect to a qualified stock purchase for which an election is made under paragraph (10).".

(b) Effective Date.—The amendment made by subsection (a) shall apply to transactions occurring after the date of the enactment of this Act.

SEC. 482. EXTENSION OF IRS USER FEES.

(a) In General.—Section 7528(c) (relating to termination) is amended by striking "December 31, 2004" and inserting "September 30, 2013".

(b) Effective Date.—The amendment made by this section shall apply to requests after the date of the enactment of this Act.

SEC. 483. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENT.

(a) Determination of Penalty.—

(1) In general.—Notwithstanding any other provision of law, in the case of an applicable taxpayer—

(A) the determination as to whether any interest or applicable penalty is to be imposed with respect to any arrangement to which any initiative described in paragraph (2) applied, or to any underpayment of Federal income tax attributable to items arising in connection with any arrangement described in paragraph (2), shall be made without regard to section 6664 of the Internal Revenue Code of 1986, and

(B) if any such interest or applicable penalty is imposed, the amount of such interest or penalty shall be equal to twice that determined without regard to this section.

(2) Applicable taxpayer.—For purposes of this subsection, the term "applicable taxpayer" means a taxpayer eligible to participate in—

(A) the Department of the Treasury's Offshore Voluntary Compliance Initiative, or

(B) the Department of the Treasury's voluntary disclosure initiative which applies to the taxpayer by reason of the taxpayer's underreporting of United States income tax liability through financial arrangements which rely on the use of offshore arrangements which were the subject of the initiative described in subparagraph (A).

(b) Definitions and Rules.—For purposes of this section—

(1) Applicable penalty.—The term "applicable penalty" means any penalty, addition to tax, or fine imposed under chapter 68 of the Internal Revenue Code of 1986.

(2) Voluntary offshore compliance initiative.—The term "Voluntary Offshore Compliance Initiative" means the program established by the Department of the Treasury in January of 2003 under which any taxpayer was eligible to voluntarily disclose previously undisclosed income on assets placed in offshore accounts and accessed through credit card and other financial arrangements.

(3) Participation.—A taxpayer shall be treated as having participated in the Voluntary Offshore Compliance Initiative if the taxpayer submitted the request in a timely manner and all information requested by the Secretary of the Treasury or his delegate within a reasonable period of time following the request.

(c) Effective Date.—The provisions of this section shall apply to interest, penalties, additions to tax, and fines with respect to any taxable year if as of the date of the enactment of this Act, the assessment of any tax, penalty, or interest with respect to such taxable year is not prevented by the operation of any law or rule of law.

SEC. 484. PARTIAL PAYMENT OF TAX LIABILITY IN INSTALLMENT AGREEMENTS.

(a) In General.—

(1) Section 6159(a) (relating to authorization of agreements) is amended—

(A) by striking "satisfy liability for payment of" and inserting "make payment on", and

(B) by inserting "full or partial" after "facilitate".

(2) Section 6159(c) (relating to Secretary required to enter into installment agreements in certain cases) is amended in the matter preceding paragraph (1) by inserting "full" before "payment".

(b) Requirement To Review Partial Payment Agreements Every Two Years.—Section 6159, as amended by this Act, is amended by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively, and inserting after subsection (c) the following new subsection:

"(d) Secretary Required To Review Installment Agreements for Partial Collection Every Two Years.—In the case of an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years.".

(c) Effective Date.—The amendments made by this section shall apply to agreements entered into on or after the date of the enactment of this Act.

SEC. 485. EXTENSION OF CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking "March 1, 2005" and inserting "September 30, 2013".

SEC. 486. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS.

(a) In General.—Subchapter A of chapter 67 (relating to interest on underpayments) is amended by adding at the end the following new section:

"SEC. 6603. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS, ETC.

"(a) Authority To Make Deposits Other Than As Payment of Tax.—A taxpayer may make a cash deposit with the Secretary which may be used by the Secretary to pay any tax imposed under subtitle A or B or chapter 41, 42, 43, or 44 which has not been assessed at the time of the deposit. Such a deposit shall be made in such manner as the Secretary shall prescribe.

"(b) No Interest Imposed.—To the extent that such deposit is used by the Secretary to pay tax, for purposes of section 6601 (relating to interest on underpayments), the tax shall be treated as paid when the deposit is made.

"(c) Return of Deposit.—Except in a case where the Secretary determines that collection of tax is in jeopardy, the Secretary shall return to the taxpayer any amount of the deposit (to the extent not used for a payment of tax) which the taxpayer requests in writing.

"(d) Payment of Interest.—

"(1) In general.—For purposes of section 6611 (relating to interest on overpayments), a deposit which is returned to a taxpayer shall be treated as a payment of tax for any period to the extent (and only to the extent) attributable to a disputable tax for such period. Under regulations prescribed by the Secretary, rules similar to the rules of section 6611(b)(2) shall apply.

"(2) Disputable tax.—

"(A) In general.—For purposes of this section, the term 'disputable tax' means the amount of tax specified at the time of the deposit as the taxpayer's reasonable estimate of the maximum amount of any tax attributable to disputable items.

"(B) Safe harbor based on 30-day letter.—In the case of a taxpayer who has been issued a 30-day letter, the maximum amount of tax under subparagraph (A) shall not be less than the amount of the proposed deficiency specified in such letter.

"(3) Other definitions.—For purposes of paragraph (2)—

"(A) Disputable item.—The term 'disputable item' means any item of income, gain, loss, deduction, or credit if the taxpayer—

"(i) has a reasonable basis for its treatment of such item, and

"(ii) reasonably believes that the Secretary also has a reasonable basis for disallowing the taxpayer's treatment of such item.

"(B) 30-day letter.—The term '30-day letter' means the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals.

"(4) Rate of interest.—The rate of interest allowable under this subsection shall be the Federal short-term rate determined under section 6621(b), compounded daily.

"(e) Use of Deposits.—

"(1) Payment of tax.—Except as otherwise provided by the taxpayer, deposits shall be treated as used for the payment of tax in the order deposited.

"(2) Returns of deposits.—Deposits shall be treated as returned to the taxpayer on a last-in, first-out basis.".

(b) Clerical Amendment.—The table of sections for subchapter A of chapter 67 is amended by adding at the end the following new item:

"Sec. 6603. Deposits made to suspend running of interest on potential underpayments, etc.".

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to deposits made after the date of the enactment of this Act.

(2) Coordination with deposits made under revenue procedure 84-58.—In the case of an amount held by the Secretary of the Treasury or his delegate on the date of the

enactment of this Act as a deposit in the nature of a cash bond deposit pursuant to Revenue Procedure 84-58, the date that the taxpayer identifies such amount as a deposit made pursuant to section 6603 of the Internal Revenue Code (as added by this Act) shall be treated as the date such amount is deposited for purposes of such section 6603.

SEC. 487. QUALIFIED TAX COLLECTION CONTRACTS.

(a) Contract Requirements.—

(1) In general.—Subchapter A of chapter 64 (relating to collection) is amended by adding at the end the following new section:

"SEC. 6306. QUALIFIED TAX COLLECTION CONTRACTS.

"(a) In General.—Nothing in any provision of law shall be construed to prevent the Secretary from entering into a qualified tax collection contract.

"(b) Qualified Tax Collection Contract.—For purposes of this section, the term 'qualified tax collection contract' means any contract which—

"(1) is for the services of any person (other than an officer or employee of the Treasury Department)—

"(A) to locate and contact any taxpayer specified by the Secretary,

"(B) to request full payment from such taxpayer of an amount of Federal tax specified by the Secretary and, if such request cannot be met by the taxpayer, to offer the taxpayer an installment agreement providing for full payment of such amount during a period not to exceed 3 years, and

"(C) to obtain financial information specified by the Secretary with respect to such taxpayer,

"(2) prohibits each person providing such services under such contract from committing any act or omission which employees of the Internal Revenue Service are prohibited from committing in the performance of similar services,

"(3) prohibits subcontractors from—

"(A) having contacts with taxpayers,

"(B) providing quality assurance services, and

"(C) composing debt collection notices, and

"(4) permits subcontractors to perform other services only with the approval of the Secretary.

"(c) Fees and Expenses.—The Secretary may retain and use—

"(1) an amount not in excess of 25 percent of the amount collected under any qualified tax collection contract for the costs of services performed under such contract, and

"(2) an amount not in excess of 25 percent of such amount collected for collection enforcement activities of the Internal Revenue Service.

The Secretary shall keep adequate records regarding amounts so retained and used. The amount credited as paid by any taxpayer shall be determined without regard to this subsection.

"(d) No Federal Liability.—The United States shall not be liable for any act or omission of any person performing services under a qualified tax collection contract.

"(e) Application of Fair Debt Collection Practices Act.—The provisions of the Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.) shall apply to any qualified tax collection contract, except to the extent superseded by section 6304, section 7602(c), or by any other provision of this title.

"(f) Application of Section.—In no event may the term of any qualified tax collection contract extend beyond the date which is 5 years after the date of the enactment of this section.

"(g) Cross References.—

"(1) For damages for certain unauthorized collection actions by persons performing services under a qualified tax collection contract, see section 7433A.

"(2) For application of Taxpayer Assistance Orders to persons performing services under a qualified tax collection contract, see section 7811(a)(4).".

(2) Conforming amendments.—

(A) Section 7809(a) is amended by inserting "6306," before "7651".

(B) The table of sections for subchapter A of chapter 64 is amended by adding at the end the following new item:

"Sec. 6306. Qualified Tax Collection Contracts.".

(b) Civil Damages for Certain Unauthorized Collection Actions by Persons Performing Services Under Qualified Tax Collection Contracts.—

(1) In general.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by inserting after section 7433 the following new section:

"SEC. 7433A. CIVIL DAMAGES FOR CERTAIN UNAUTHORIZED COLLECTION ACTIONS BY PERSONS PERFORMING SERVICES UNDER QUALIFIED TAX COLLECTION CONTRACTS.

"(a) In General.—Subject to the modifications provided by subsection (b), section 7433 shall apply to the acts and omissions of any person performing services under a qualified tax collection contract (as defined in section 6306(b)) to the same extent and in the same manner as if such person were an employee of the Internal Revenue Service.

"(b) Modifications.—For purposes of subsection (a)—

"(1) Any civil action brought under section 7433 by reason of this section shall be brought against the person who entered into the qualified tax collection contract with the Secretary and shall not be brought against the United States.

"(2) Such person and not the United States shall be liable for any damages and costs determined in such civil action.

"(3) Such civil action shall not be an exclusive remedy with respect to such person.

"(4) Subsections (c), (d)(1), and (e) of section 7433 shall not apply.".

(2) Clerical amendment.—The table of sections for subchapter B of chapter 76 is amended by inserting after the item relating to section 7433 the following new item:

"Sec. 7433A. Civil damages for certain unauthorized collection actions by persons performing services under a qualified tax collection contract.".

(c) Application of Taxpayer Assistance Orders to Persons Performing Services Under a Qualified Tax Collection Contract.—Section 7811 (relating to taxpayer assistance orders) is amended by adding at the end the following new subsection:

"(g) Application to Persons Performing Services Under a Qualified Tax Collection Contract.—Any order issued or action taken by the National Taxpayer Advocate pursuant to this section shall apply to persons performing services under a qualified tax collection contract (as defined in section 6306(b)) to the same extent and in the same manner as such order or action applies to the Secretary.".

(d) Ineligibility of Individuals Who Commit Misconduct To Perform Under Contract.—Section 1203 of the Internal Revenue Service Restructuring Act of 1998 (relating to termination of employment for misconduct) is amended by adding at the end the following new subsection:

"(e) Individuals Performing Services Under a Qualified Tax Collection Contract.—An individual shall cease to be permitted to perform any services under any qualified tax collection contract (as defined in section 6306(b) of the Internal Revenue Code of 1986) if there is a final determination by the Secretary of the Treasury under such contract that such individual committed any act or omission described under subsection (b) in connection with the performance of such services.".

(e) Biennial Report.—The Secretary of the Treasury shall biennially submit (beginning in 2005) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report with respect to qualified tax collection contracts under section 6306 of the Internal Revenue Code of 1986 (as added by this section) which includes—

(1) a complete cost benefit analysis,

(2) the impact of such contracts on collection enforcement staff levels in the Internal Revenue Service,

(3) the amounts collected and the collection costs incurred (directly and indirectly),

(4) an evaluation of contractor performance,

(5) a disclosure safeguard report in a form similar to that required under section 6103(p)(5) of such Code, and

(6) a measurement plan which includes a comparison of the best practices used by the private collectors with the Internal Revenue Service's own collection techniques) and mechanisms to identify and capture information on successful collection techniques used by the contractors which could be adopted by the Internal Revenue Service.

(f) Effective Date.—The amendments made to this section shall take effect on the date of the enactment of this Act.

SEC. 488. WHISTLEBLOWER REFORMS.

(a) In General.—Section 7623 (relating to expenses of detection of underpayments and fraud, etc.) is amended—

(1) by striking "The Secretary" and inserting "(a) In General.—The Secretary",

(2) by striking "and" at the end of paragraph (1) and inserting "or",

(3) by striking "(other than interest)", and

(4) by adding at the end the following new subsections:

"(b) Awards to Whistleblowers.—

"(1) In general.—If the Secretary proceeds with any administrative or judicial action described in subsection (a) based on information brought to the Secretary's attention by an individual, such individual shall, subject to paragraph (2), receive as an award at least 15 percent but not more than 30 percent of the collected proceeds (including penalties, interest, additions to tax, and additional amounts) resulting from the action (including any related actions) or from any settlement in response to such action. The determination of the amount of such award by the Whistleblower Office shall depend upon the extent to which the individual substantially contributed to such action.

"(2) Award in case of less substantial contribution.—

"(A) In general.—In the event the action described in paragraph (1) is one which the Whistleblower Office determines to be based principally on disclosures of specific allegations (other than information provided by the individual described in paragraph (1)) resulting from a judicial or administrative hearing, from a governmental report, hearing, audit, or investigation, or from the news media, the Whistleblower Office may award such sums as it considers appropriate, but in no case more than 10 percent of the collected proceeds (including penalties, interest, additions to tax, and additional amounts) resulting from the action (including any related actions) or from any settlement in response to such action, taking into account the significance of the individual's information and the role of such individual and any legal representative of such individual in contributing to such action.

“(B) NONAPPLICATION OF PARAGRAPH WHERE INDIVIDUAL IS ORIGINAL SOURCE OF INFORMATION.—Subparagraph (A) shall not apply if the information resulting in the initiation of the action described in paragraph (1) was originally provided by the individual described in paragraph (1).

“(3) APPEAL OF AWARD DETERMINATION.—Any determination regarding an award under paragraph (1) or (2) shall be subject to the filing by the individual described in such paragraph of a petition for review with the Tax Court under rules similar to the rules under section 7463 (without regard to the amount in dispute) and such review shall be subject to the rules under section 7461(b)(1).

“(4) APPLICATION OF THIS SUBSECTION.—This subsection shall apply with respect to any action—

“(A) against any taxpayer, but in the case of any individual, only if such individual's gross income exceeds **$200,000** for any taxable year subject to such action, and

“(B) if the tax, penalties, interest, additions to tax, and additional amounts in dispute exceed **$20,000**.

“(5) ADDITIONAL RULES.—

“(A) NO CONTRACT NECESSARY.—No contract with the Internal Revenue Service is necessary for any individual to receive an award under this subsection.

“(B) REPRESENTATION.—Any individual described in paragraph (1) or (2) may be represented by counsel.

“(C) AWARD NOT SUBJECT TO INDIVIDUAL ALTERNATIVE MINIMUM TAX.—No award received under this subsection shall be included in gross income for purposes of determining alternative minimum taxable income.

“(c) WHISTLEBLOWER OFFICE.—

“(1) IN GENERAL.—There is established in the Internal Revenue Service an office to be known as the ‘Whistleblower Office’ which—

“(A) shall analyze information received from any individual described in subsection (b) and either investigate the matter itself or assign it to the appropriate Internal Revenue Service office,

“(B) shall monitor any action taken with respect to such matter,

“(C) shall inform such individual that it has accepted the individual's information for further review,

“(D) may require such individual and any legal representative of such individual to not disclose any information so provided,

“(E) may ask for additional assistance from such individual or any legal representative of such individual, and

“(F) shall determine the amount to be awarded to such individual under subsection (b).

“(2) FUNDING FOR OFFICE.—From the amounts available for expenditure under subsection (a), the Whistleblower Office shall be credited with an amount equal to the awards made under subsection (b). These funds shall be used to maintain the Whistleblower Office and also to reimburse other Internal Revenue Service offices for related costs, such as costs of investigation and collection.

“(3) REQUEST FOR ASSISTANCE.—

“(A) IN GENERAL.—Any assistance requested under paragraph (1)(E) shall be under the direction and control of the Whistleblower Office or the office assigned to investigate the matter under subparagraph (A). To the extent the disclosure of any returns or return information to the individual or legal representative is required for the performance of such assistance, such disclosure shall be pursuant to a contract entered into between the Secretary and the recipients of such disclosure subject to section 6103(n).

“(B) FUNDING OF ASSISTANCE.—From the funds made available to the Whistleblower Office under paragraph (2), the Whistleblower Office may reimburse the costs incurred by any legal representative in providing assistance described in subparagraph (A).”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to information provided on or after the date of the enactment of this Act.

SEC. 489. PROTECTION OF OVERTIME PAY.

Section 13 of the Fair Labor Standards Act of 1938 (29 U.S.C. 213) is amended by adding at the end the following:

“(k)(1) The Secretary shall not promulgate any rule under subsection (a)(1) that exempts from the overtime pay provisions of section 7 any employee who earns less than **$23,660** per year.

“(2) The Secretary shall not promulgate any rule under subsection (a)(1) concerning the right to overtime pay that is not as protective, or more protective, of the overtime pay rights of employees in the occupations or job classifications described in paragraph (3) as the protections provided for such employees under the regulations in effect under such subsection on March 31, 2003.

“(3) The occupations or job classifications described in this paragraph are as follows:

“(A) Any worker paid on an hourly basis.

“(B) Blue collar workers.

“(C) Any worker provided overtime under a collective bargaining agreement.

“(D) Team leaders.

“(E) Computer programmers.

“(F) Registered nurses.

“(G) Licensed practical nurses.

“(H) Nurse midwives.

“(I) Nursery school teachers.

“(J) Oil and gas pipeline workers.

“(K) Oil and gas field workers.

“(L) Oil and gas platform workers.

“(M) Refinery workers.

“(N) Steel workers.

“(O) Shipyard and ship scrapping workers.

“(P) Teachers.

“(Q) Technicians.

“(R) Journalists.

“(S) Chefs.

“(T) Cooks.

“(U) Police officers.

“(V) Firefighters.

“(W) Fire sergeants.

“(X) Police sergeants.

“(Y) Emergency medical technicians.

“(Z) Paramedics.

“(AA) Waste disposal workers.

“(BB) Day care workers.

“(CC) Maintenance employees.

“(DD) Production line employees.

“(EE) Construction employees.

“(FF) Carpenters.

“(GG) Mechanics.

“(HH) Plumbers.

“(II) Iron workers.

“(JJ) Craftsmen.

“(KK) Operating engineers.

“(LL) Laborers.

“(MM) Painters.

“(NN) Cement masons.

“(OO) Stone and brick masons.

“(PP) Sheet metal workers.

“(QQ) Utility workers.

“(RR) Longshoremen.

“(SS) Stationary engineers.

“(TT) Welders.

“(UU) Boilermakers.

“(VV) Funeral directors.

“(WW) Athletic trainers.

“(XX) Outside sales employees.

“(YY) Inside sales employees.

“(ZZ) Grocery store managers.

“(AAA) Financial services industry workers.

“(BBB) Route drivers.

“(CCC) Assistant retail managers.

“(4) Any portion of a rule promulgated under subsection (a)(1) after March 31, 2003, that modifies the overtime pay provisions of section 7 in a manner that is inconsistent with paragraphs (2) and (3) shall have no force or effect as it relates to the occupation or job classification involved.”.

SEC. 490. PROTECTION OF OVERTIME PAY.

Section 13 of the Fair Labor Standards Act of 1938 (29 U.S.C. 213) is amended by adding at the end the following:

“(k) Notwithstanding the provisions of subchapter II of chapter 5 and chapter 7 of title 5, United States Code (commonly referred to as the Administrative Procedures Act) or any other provision of law, any portion of the final rule promulgated on April 23, 2004, revising part 541 of title 29, Code of Federal Regulations, that exempts from the overtime pay provisions of section 7 any employee who would not otherwise be exempt if the regulations in effect on March 31, 2003 remained in effect, shall have no force or effect and that portion of such regulations (as in effect on March 31, 2003) that would prevent such employee from being exempt shall remain in effect. Notwithstanding the preceding sentence, the increased salary requirements provided for in such final rule at section 541.600 of such title 29, shall remain in effect.”.

PART V—MISCELLANEOUS PROVISIONS

SEC. 491. ADDITION OF VACCINES AGAINST HEPATITIS A TO LIST OF TAXABLE VACCINES.

(a) IN GENERAL.—Section 4132(a)(1) (defining taxable vaccine) is amended by redesignating subparagraphs (I), (J), (K), and (L) as subparagraphs (J), (K), (L), and (M), respectively, and by inserting after subparagraph (H) the following new subparagraph:

“(I) Any vaccine against hepatitis A.”.

(b) CONFORMING AMENDMENT.—Section 9510(c)(1)(A) is amended by striking “October 18, 2000” and inserting “the date of the enactment of the Jumpstart Our Business Strength (JOBS) Act”.

(c) EFFECTIVE DATE.—

(1) SALES, ETC.—The amendments made by this section shall apply to sales and uses on or after the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act.

(2) DELIVERIES.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

SEC. 492. RECOGNITION OF GAIN FROM THE SALE OF A PRINCIPAL RESIDENCE ACQUIRED IN A LIKE-KIND EXCHANGE WITHIN 5 YEARS OF SALE.

(a) IN GENERAL.—Section 121(d) (relating to special rules for exclusion of gain from sale of principal residence) is amended by adding at the end the following new paragraph:

"(10) PROPERTY ACQUIRED IN LIKE-KIND EXCHANGE.—If a taxpayer acquired property in an exchange to which section 1031 applied, subsection (a) shall not apply to the sale or exchange of such property if it occurs during the 5-year period beginning with the date of the acquisition of such property.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales or exchanges after the date of the enactment of this Act.

SEC. 493. MODIFICATION OF EXEMPTION FROM TAX FOR SMALL PROPERTY AND CASUALTY INSURANCE COMPANIES.

(a) PREMIUMS AS PERCENTAGE OF GROSS RECEIPTS INCREASED.—Section 501(c)(15)(A)(i)(II) is amended by striking "50 percent" and inserting "60 percent".

(b) LIMITATION ON NET WRITTEN PREMIUMS INCREASED.—Section 831(b)(2) (relating to companies to which this subsection applies) is amended—

(1) by striking "$1,200,000" and inserting "$1,890,000", and

(2) by adding at the end the following new subparagraph:

"(C) INFLATION ADJUSTMENTS.—

"(i) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2005, the dollar amount in subparagraph (A)(i) shall be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, in which the taxable year begins, by substituting 'calendar year 2004' for 'calendar year 1992' in subparagraph (B) thereof.

"(ii) ROUNDING.—If the amount in subparagraph (A)(i) as increased under clause (i) is not a multiple of $10,000, such amount shall be rounded to the nearest multiple of $10,000.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2004.

(2) TRANSITION RULE FOR COMPANIES IN RECEIVERSHIP OR LIQUIDATION.—In the case of a company or association which—

(A) for the taxable year which includes April 1, 2004, meets the requirements of section 501(c)(15)(A) of the Internal Revenue Code of 1986, as in effect for the last taxable year beginning before January 1, 2004, and

(B) on April 1, 2004, is in a receivership, liquidation, or similar proceeding under the supervision of a State court,

the amendments made by this section shall apply to taxable years beginning after the earlier of the date such proceeding ends (or, if later, December 31, 2004) or December 31, 2007.

SEC. 494. TREATMENT OF CHARITABLE CONTRIBUTIONS OF PATENTS AND SIMILAR PROPERTY.

(a) IN GENERAL.—Section 170(e)(1)(B) (relating to certain contributions of ordinary income and capital gain property) is amended by striking "or" at the end of clause (i), by adding "or" at the end of clause (ii), and by inserting after clause (ii) the following new clause:

"(iii) of any patent, copyright, trademark, trade name, trade secret, know-how, software (other than software described in section 197(e)(3)(A)(i)), or similar property, or applications or registrations of such property,".

(b) ADDITIONAL DEDUCTION FOR CERTAIN CONTRIBUTIONS OF PATENTS AND SIMILAR PROPERTY.—Section 170(e) is amended by adding at the end the following new paragraph:

"(7) ADDITIONAL DEDUCTION FOR CERTAIN CONTRIBUTIONS OF PATENTS AND SIMILAR PROPERTY.—

"(A) IN GENERAL.—In the case of a charitable contribution of any property described in paragraph (1)(B)(iii) (other than copyrights described in section 1221(a)(3) or 1231(b)(1)(C) or property contributed to or for the use of an organization described in paragraph (1)(B)(ii)), if—

"(i) the lesser of—

"(I) 5 percent of the fair market value of such property (determined at the time of such contribution), or

"(II) $1,000,000, exceeds

"(ii) the amount of such contribution as determined under paragraph (1),

then the amount of the charitable contribution of such property otherwise taken into account under this section shall equal the amount determined under clause (i).".

(c) CERTAIN DONEE INCOME FROM INTELLECTUAL PROPERTY TREATED AS AN ADDITIONAL CHARITABLE CONTRIBUTION.—Section 170 is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) CERTAIN DONEE INCOME FROM INTELLECTUAL PROPERTY TREATED AS AN ADDITIONAL CHARITABLE CONTRIBUTION.—

"(1) TREATMENT AS ADDITIONAL CONTRIBUTION.—In the case of a taxpayer who makes a qualified intellectual property contribution, the deduction allowed under subsection (a) for each taxable year of the taxpayer ending on or after the date of such contribution shall be increased (subject to the limitations under subsection (b)) by the applicable percentage of qualified donee income with respect to such contribution which is properly allocable to such year under this subsection.

"(2) QUALIFIED DONEE INCOME.—For purposes of this subsection, the term 'qualified donee income' means any net income received by or accrued to the donee which is properly allocable to the qualified intellectual property.

"(3) ALLOCATION OF QUALIFIED DONEE INCOME TO TAXABLE YEARS OF DONOR.—For purposes of this subsection, qualified donee income shall be treated as properly allocable to a taxable year of the donor if such income is received by or accrued to the donee for the taxable year of the donee which ends within or with such taxable year of the donor.

"(4) 10-YEAR LIMITATION.—Income shall not be treated as properly allocable to qualified intellectual property for purposes of this subsection if such income is received by or accrued to the donee after the 10-year period beginning on the date of the contribution of such property.

"(5) BENEFIT LIMITED TO LIFE OF INTELLECTUAL PROPERTY.—Income shall not be treated as properly allocable to qualified intellectual property for purposes of this subsection if such income is received by or accrued to the donee after the expiration of the legal life of such property.

"(6) APPLICABLE PERCENTAGE.—For purposes of this subsection, the term 'applicable percentage' means the percentage determined under the following table which corresponds to a taxable year of the donor ending on or after the date of the qualified intellectual property contribution:

"Taxable Year of Donor Ending On or After Date of Contribution:	Applicable Percentage:
1st or 2d	100
3rd	90
4th	80
5th	70
6th	60
7th	50
8th	40
9th	30
10th	20
11th or 12th	10.

"(7) QUALIFIED INTELLECTUAL PROPERTY CONTRIBUTION.—For purposes of this subsection, the term 'qualified intellectual property contribution' means any charitable contribution of qualified intellectual property—

"(A) the amount of which taken into account under this section—

"(i) is reduced by reason of subsection (e)(1), or

"(ii) determined under subsection (e)(7), and

"(B) with respect to which the donor informs the donee at the time of such contribution that the donor intends to treat such contribution as a qualified intellectual property contribution for purposes of this subsection and section 6050L.

"(8) QUALIFIED INTELLECTUAL PROPERTY.—For purposes of this subsection, the term 'qualified intellectual property' means property described in subsection (e)(1)(B)(iii) (other than copyrights described in section 1221(a)(3) or 1231(b)(1)(C) or property contributed to or for the use of an organization described in subsection (e)(1)(B)(ii)).

"(9) OTHER SPECIAL RULES.—

"(A) APPLICATION OF LIMITATIONS ON CHARITABLE CONTRIBUTIONS.—Any increase under this subsection of the deduction provided under subparagraph (a) shall be treated for purposes of subsection (b) as a deduction which is attributable to a charitable contribution to the donee to which such increase relates.

"(B) NET INCOME DETERMINED BY DONEE.—The net income taken into account under paragraph (2) shall not exceed the amount of such income reported under section 6050L(b)(1).

"(C) DEDUCTION LIMITED TO 12 TAXABLE YEARS.—Except as may be provided under subparagraph (D)(i), this subsection shall not apply with respect to any qualified intellectual property contribution for any taxable year of the donor after the 12th taxable year of the donor which ends on or after the date of such contribution.

"(D) REGULATIONS.—The Secretary may issue regulations or other guidance to carry out the purposes of this subsection, including regulations or guidance—

"(i) modifying the application of this subsection in the case of a donor or donee with a short taxable year, and

"(ii) providing for the determination of an amount to be treated as net income of the donee which is properly allocable to qualified intellectual property in the case of a donee who uses such property to further a purpose or function constituting the basis of the donee's exemption under section 501 (or, in the case of a governmental unit, any purpose described in section 170(c)) and does not possess a right to receive any payment from a third party with respect to such property.".

(d) REPORTING REQUIREMENTS.—Section 6050L (relating to returns relating to certain dispositions of donated property) is amended to read as follows:

"SEC. 6050L. RETURNS RELATING TO CERTAIN DONATED PROPERTY.

"(a) DISPOSITIONS OF DONATED PROPERTY.—

"(1) In general.—If the donee of any charitable deduction property sells, exchanges, or otherwise disposes of such property within 2 years after its receipt, the donee shall make a return (in accordance with forms and regulations prescribed by the Secretary) showing—

"(A) the name, address, and TIN of the donor,

"(B) a description of the property,

"(C) the date of the contribution,

"(D) the amount received on the disposition, and

"(E) the date of such disposition.

"(2) Definitions.—For purposes of this subsection—

"(A) Charitable deduction property.—The term 'charitable deduction property' means any property (other than publicly traded securities) contributed in a contribution for which a deduction was claimed under section 170 if the claimed value of such property (plus the claimed value of all similar items of property donated by the donor to 1 or more donees) exceeds $5,000.

"(B) Publicly traded securities.—The term 'publicly traded securities' means securities for which (as of the date of the contribution) market quotations are readily available on an established securities market.

"(b) Qualified Intellectual Property Contributions.—

"(1) In general.—Each donee with respect to a qualified intellectual property contribution shall make a return (at such time and in such form and manner as the Secretary may by regulations prescribe) with respect to each specified taxable year of the donee showing—

"(A) the name, address, and TIN of the donor,

"(B) a description of the qualified intellectual property contributed,

"(C) the date of the contribution, and

"(D) the amount of net income of the donee for the taxable year which is properly allocable to the qualified intellectual property (determined without regard to paragraph (9)(B) of section 170(m) and with the modifications described in paragraphs (4) and (5) of such section).

"(2) Definitions.—For purposes of this subsection—

"(A) In general.—Terms used in this subsection which are also used in section 170(m) have the respective meanings given such terms in such section.

"(B) Specified taxable year.—The term 'specified taxable year' means, with respect to any qualified intellectual property contribution, any taxable year of the donee any portion of which is part of the 10-year period beginning on the date of such contribution.

"(c) Statement to Be Furnished to Donors.—Every person making a return under subsection (a) or (b) shall furnish a copy of such return to the donor at such time and in such manner as the Secretary may by regulations prescribe.".

(e) Processing Fee.—Section 170, as amended by subsection (b), is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) Processing Fee.—In the case of a deduction allowed for any taxable year under this section with respect to a charitable contribution of any property described in subsection (e)(1)(B)(iii) (other than copyrights described in section 1221(a)(3) or 1231(b)(1)(C) or property contributed to or for the use of an organization described in subsection (e)(1)(B)(ii)), the taxpayer shall include, with the taxpayer's return of tax including such deduction, a fee equal to 1 percent of the amount of such deduction. Such fee shall be credited by the Secretary to the operations of the Exempt Organizations unit within the Internal Revenue Service.".

(f) Modification of Substantial Valuations Misstatement Penalty for Charitable Contributions of Property.—

(1) Substantial misstatements.—Section 6662(e)(1)(A) (relating to substantial valuation misstatements under chapter 1) is amended by inserting "(50 percent or more in the case of a charitable contribution of any property described in section 170(e)(1)(B)(iii))" after "200 percent or more".

(2) Gross misstatements.—Section 6662(h)(2)(A) (defining gross valuation misstatements) is amended by striking clause (ii) and inserting the following new clauses:

"(ii) '100 percent or more' for '50 percent or more',

"(iii) '25 percent or less' for '50 percent or less', and".

(g) Anti-Abuse Rules.—The Secretary of the Treasury—

(1) may prescribe such regulations or other guidance as may be necessary or appropriate to prevent the avoidance of the purposes of paragraphs (1)(B)(iii) and (7) of section 170(e) of the Internal Revenue Code of 1986 (as added by subsections (a) and (b)), including preventing—

(A) the circumvention of the reduction of the charitable deduction by embedding or bundling the patent or similar property as part of a charitable contribution of property that includes the patent or similar property,

(B) the manipulation of the basis of the property to increase the amount of the charitable deduction through the use of related persons, pass-thru entities, or other intermediaries, or through the use of any provision of law or regulation (including the consolidated return regulations), and

(C) a donor from changing the form of the patent or similar property to property of a form for which different deduction rules would apply, and

(2) shall prescribe guidance on appraisal standards for contributions of property described in section 170(e)(1)(B)(iii) of the Internal Revenue Code of 1986 (as added by this section).

(h) Effective Date.—The amendments made by this section shall apply to contributions made after the date of the enactment of this Act.

SEC. 495. INCREASE IN AGE OF MINOR CHILDREN WHOSE UNEARNED INCOME IS TAXED AS IF PARENT'S INCOME.

(a) In General.—Section 1(g)(2)(A) (relating to child to whom subsection applies) is amended by striking "age 14" and inserting "age 18".

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 496. HOLDING PERIOD FOR PREFERRED STOCK.

(a) In General.—Section 1(h)(11)(B)(iii)(I) is amended to read as follows:

"(I) with respect to which the holding period requirements of section 246(c) are not met, determined by substituting '60 days' for '45' days each place it appears, by substituting '120-day' for '90-day' each place it appears, and by substituting '120 days' for '90 days' and '240-day' for '180-day' in paragraph (2)."

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 497. SUBSTANTIAL PRESENCE TEST REQUIRED TO DETERMINE BONA FIDE RESIDENCE IN UNITED STATES POSSESSIONS.

(a) Substantial Presence Test.—

(1) In General.—Subpart D of part III of subchapter N of chapter 1 (relating to possessions of the United States) is amended by adding at the end the following new section:

"SEC. 937. BONA FIDE RESIDENT.

"For purposes of this subpart, section 865(g)(3), section 876, section 881(b), paragraphs (2) and (3) of section 901(b), section 957(c), section 3401(a)(8)(C), and section 7654(a), the term 'bona fide resident' means a person who satisfies a test, determined by the Secretary, similar to the substantial presence test under section 7701(b)(3) with respect to Guam, American Samoa, the Northern Mariana Islands, Puerto Rico, or the Virgin Islands, as the case may be.".

(2) Conforming amendments.—

(A) The following provisions are amended by striking "during the entire taxable year" and inserting "for the taxable year":

(i) Paragraph (3) of section 865(g).

(ii) Subsection (a) of section 876(a).

(iii) Paragraphs (2) and (3) of section 901(b).

(iv) Subsection (a) of section 931.

(v) Paragraphs (1) and (2) of section 933.

(B) Section 931(d) is amended by striking paragraph (3).

(C) Section 932 is amended by striking "at the close of the taxable year" and inserting "for the taxable year" each place it appears.

(3) Clerical amendment.—The table of sections of subpart D of part III of subchapter N of chapter 1 is amended by adding at the end the following new item:

"Sec. 937. Bona fide resident.".

(b) Reporting Requirements for Bona Fide Residents of the Virgin Islands.—Paragraph (2) of section 932(c) (relating to treatment of Virgin Islands residents) is amended to read as follows:

"(2) Filing requirements.—

"(A) In general.—Notwithstanding paragraph (4), each individual to whom this subsection applies for the taxable year shall file an income tax return for the taxable year with—

"(i) the Virgin Islands, and

"(ii) the United States.

"(B) Filing fee.—The Secretary shall charge a processing fee with respect to the return filed under subparagraph (A)(ii) of an amount appropriate to cover the administrative costs of the requirements of subparagraph (A)(ii) and the enforcement of the purposes of subparagraph (A)(ii).".

(c) Penalties.—

(1) In general.—Part I of subchapter B of chapter 68 is amended by adding at the end the following new section:

"SEC. 6717. FAILURE OF VIRGIN ISLANDS RESIDENTS TO FILE RETURNS WITH THE UNITED STATES.

"(a) Penalty Authorized.—The Secretary may impose a civil money penalty on any person who violates, or causes any violation of, the requirements of section 932(c)(2)(A)(ii).

"(b) Amount of Penalty.—

"(1) In general.—Except as provided in subsection (c), the amount of any civil penalty imposed under subsection (a) shall not exceed $5,000.

"(2) Reasonable cause exception.—No penalty shall be imposed under subsection (a) with respect to any violation if such violation was due to reasonable cause and the taxpayer acted in good faith.

"(c) Willful Violations.—In the case of any person willfully violating, or willfully causing any violation of, any requirement of section 932(c)(2)(A)(ii)—

“(1) the maximum penalty under subsection (b)(1) shall be increased to $25,000 and

“(2) subsection (b)(2) shall not apply.”.

(2) CLERICAL AMENDMENT.—The table of sections for Part I of subchapter B of chapter 68 is amended by adding at the end the following new item:

“Sec. 6717. Failure of Virgin Islands residents to file returns with the United States.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

TITLE V—PROTECTION OF UNITED STATES WORKERS FROM COMPETITION OF FOREIGN WORKFORCES

SEC. 501. LIMITATIONS ON OFF-SHORE PERFORMANCE OF CONTRACTS.

(a) LIMITATIONS.—

(1) IN GENERAL.—The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.) is amended by adding at the end the following new section:

“SEC. 42. LIMITATIONS ON OFF-SHORE PERFORMANCE OF CONTRACTS.

“(a) CONVERSIONS TO CONTRACTOR PERFORMANCE OF FEDERAL ACTIVITIES.—An activity or function of an executive agency that is converted to contractor performance under Office of Management and Budget Circular A–76 may not be performed by the contractor or any subcontractor at a location outside the United States except to the extent that such activity or function was previously performed by Federal Government employees outside the United States.

“(b) OTHER FEDERAL CONTRACTS.—(1) A contract that is entered into by the head of an executive agency may not be performed outside the United States except to meet a requirement of the executive agency for the contract to be performed specifically at a location outside the United States.

“(2) The prohibition in paragraph (1) does not apply in the case of a contract of an executive agency if—

“(A) the President determines in writing that it is necessary in the national security interests of the United States for the contract to be performed outside the United States; or

“(B) the head of such executive agency makes a determination and reports such determination on a timely basis to the Director of the Office of Management and Budget that—

“(i) the property or services needed by the executive agency are available only by means of performance of the contract outside the United States; and

“(ii) no property or services available by means of performance of the contract inside the United States would satisfy the executive agency's need.

“(3) Paragraph (1) does not apply to the performance of a contract outside the United States under the exception provided in subsection (a).

“(c) STATE CONTRACTS.—(1) Except as provided in paragraph (2), funds appropriated for financial assistance for a State may not be disbursed to or for such State during a fiscal year unless the chief executive of that State has transmitted to the Administrator for Federal Procurement Policy, not later than April 1 of the preceding fiscal year, a written certification that none of such funds will be expended for the performance outside the United States of contracts entered into by such State.

“(2) The prohibition on disbursement of funds to or for a State under paragraph (1) does not apply with respect to the performance of a State contract outside the United States if—

“(A) the chief executive of such State—

“(i) determines that the property or services needed by the State are available only by means of performance of the contract outside the United States and no property or services available by means of performance of the contract inside the United States would satisfy the State's need; and

“(ii) transmits a notification of such determination to the head of the executive agency of the United States that administers the authority under which such funds are disbursed to or for the State; and

“(B) the head of the executive agency receiving the notification of such determination—

“(i) confirms that the facts warrant the determination;

“(ii) approves the determination; and

“(iii) transmits a notification of the approval of the determination to the Director of the Office of Management and Budget.

“(3) In this subsection, the term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

“(d) Subsections (b) and (c) shall not apply to procurement covered by the World Trade Organization Government Procurement Agreement.

“(e) NATIONAL SECURITY EXEMPTION.—Subsection (b) shall not apply to any procurement for national security purposes entered into by—

“(1) the Department of Defense or any agency or entity thereof;

“(2) the Department of the Army, the Department of the Navy, the Department of the Air Force, or any agency or entity of any of the military departments;

“(3) the Department of Homeland Security;

“(4) the Department of Energy or any agency or entity thereof, with respect to the national security programs of that Department; or

“(5) any element of the intelligence community.

“(f) RESPONSIBILITIES OF OMB.—The Director of the Office of Management and Budget shall—

“(1) maintain—

“(A) the waivers granted under subsection (b)(2), together with the determinations and certifications on which such waivers were based; and

“(B) the notifications received under subsection (c)(2)(B)(iii); and

“(2) submit to Congress promptly after the end of each quarter of each fiscal year a report that sets forth—

“(A) the waivers that were granted under subsection (b)(2) during such quarter; and

“(B) the notifications that were received under subsection (c)(2)(B)(iii) during such quarter.

“(g) ANNUAL GAO REVIEW.—The Comptroller General shall—

“(1) review, each fiscal year, the waivers granted during such fiscal year under subsection (b)(2) and the disbursements of funds authorized pursuant to the exceptions in subsections (c)(2) and (e); and

“(2) promptly after the end of such fiscal year, transmit to Congress a report containing a list of the contracts covered by such waivers and exception together with a brief description of the performance of each such contract to the maximum extent feasible outside the United States.”.

(2) CLERICAL AMENDMENT.—The table of sections in section 1(b) of such Act is amended by adding at the end the following new item:

“Sec. 42. Limitations on off-shore performance of contracts.”.

(b) INAPPLICABILITY TO STATES DURING FIRST TWO FISCAL YEARS.—Section 42(c) of the Office of Federal Procurement Policy Act (as added by subsection (a)) shall not apply to disbursements of funds to a State during the fiscal year in which this Act is enacted and the next fiscal year.

SEC. 502. REPEAL OF SUPERSEDED LAW.

Section 647 of the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004 (division F of Public Law 108–199) is amended by striking subsection (e).

SEC. 503. EFFECTIVE DATE AND APPLICABILITY.

(a) IN GENERAL.—This title and the amendments made by this title shall take effect 30 days after the Secretary of Commerce certifies that the amendments made by this title will not result in the loss of more jobs than it will protect and will not cause harm to the United States economy. The initial certification shall be made by the Secretary of Commerce no later than 90 days after the enactment of this Act. Such certification must be renewed on or before January 1 of each year in order for the amendments made by this title to be in effect for that year.

(b) CONSISTENCY WITH INTERNATIONAL AGREEMENTS.—The provisions of this title shall not apply to the extent that they may be inconsistent with obligations under international agreements. Within 90 days of this legislation, the Office of Management and Budget, in consultation with the Office of the United States Trade Representative, shall develop guidelines for the implementation of this provision.

TITLE VI—OTHER PROVISIONS

Subtitle A—Provisions Relating to Housing

SEC. 601. TREATMENT OF QUALIFIED MORTGAGE BONDS.

(a) YEAR HOLIDAY.—Section 143(a)(2)(A)(iv) of the Internal Revenue Code of 1986 shall not apply to amounts received during the 1-year period beginning on the date of the enactment of this Act with respect to any bond outstanding on such date.

(b) REPEAL OF REQUIRED USE OF CERTAIN PRINCIPAL REPAYMENTS ON MORTGAGE SUBSIDY BOND FINANCINGS TO REDEEM BONDS.—

(1) IN GENERAL.—Subparagraph (A) of section 143(a)(2) (defining qualified mortgage issue) is amended by adding “and” at the end of clause (ii), by striking “, and” at the end of clause (iii) and inserting a period, and by striking clause (iv) and the last sentence.

(2) CONFORMING AMENDMENT.—Clause (ii) of section 143(a)(2)(D) is amended by striking “(and clause (iv) of subparagraph (A))”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to bonds originally issued after the date of the enactment of this Act.

SEC. 602. PREMIUMS FOR MORTGAGE INSURANCE.

(a) IN GENERAL.—Paragraph (3) of section 163(h) (relating to qualified residence interest) is amended by adding after subparagraph (D) the following new subparagraph:

“(E) MORTGAGE INSURANCE PREMIUMS TREATED AS INTEREST.—

“(i) IN GENERAL.—Premiums paid or accrued for qualified mortgage insurance by a taxpayer during the taxable year in connection with acquisition indebtedness with respect to a qualified residence of the taxpayer shall be treated for purposes of this subsection as qualified residence interest.

"(ii) Phaseout.—The amount otherwise allowable as a deduction under clause (i) shall be reduced (but not below zero) by 10 percent of such amount for each $1,000 ($500 in the case of a married individual filing a separate return) (or fraction thereof) that the taxpayer's adjusted gross income for the taxable year exceeds $100,000 ($50,000 in the case of a married individual filing a separate return).".

(b) Definition and Special Rules.—Paragraph (4) of section 163(h) (relating to other definitions and special rules) is amended by adding at the end the following new subparagraphs:

"(E) Qualified mortgage insurance.—The term 'qualified mortgage insurance' means—

"(i) the Home Loan Guaranty Program of the Department of Veterans Affairs, and mortgage insurance provided by the Federal Housing Administration or the Rural Housing Administration, and

"(ii) private mortgage insurance (as defined by section 2 of the Homeowners Protection Act of 1998 (12 U.S.C. 4901), as in effect on the date of the enactment of this subparagraph).

"(F) Special rules for prepaid qualified mortgage insurance.—Any amount paid by the taxpayer for qualified mortgage insurance that is properly allocable to any mortgage the payment of which extends to periods that are after the close of the taxable year in which such amount is paid shall be chargeable to capital account and shall be treated as paid in such periods to which so allocated. No deduction shall be allowed for the unamortized balance of such account if such mortgage is satisfied before the end of its term. The preceding sentences shall not apply to amounts paid for qualified mortgage insurance provided by the Department of Veterans Affairs or the Rural Housing Administration.".

(c) Information Returns Relating to Mortgage Insurance.—Section 6050H (relating to returns relating to mortgage interest received in trade or business from individuals) is amended by adding at the end the following new subsection:

"(h) Returns Relating to Mortgage Insurance Premiums.—

"(1) In general.—The Secretary may prescribe, by regulations, that any person who, in the course of a trade or business, receives from any individual premiums for mortgage insurance aggregating $600 or more for any calendar year, shall make a return with respect to each such individual. Such return shall be in such form, shall be made at such time, and shall contain such information as the Secretary may prescribe.

"(2) Statement to be furnished to individuals with respect to whom information is required.—Every person required to make a return under paragraph (1) shall furnish to each individual with respect to whom a return is made a written statement showing such information as the Secretary may prescribe. Such written statement shall be furnished on or before January 31 of the year following the calendar year for which the return under paragraph (1) was required to be made.

"(3) Special rules.—For purposes of this subsection—

"(A) rules similar to the rules of subsection (c) shall apply, and

"(B) the term 'mortgage insurance' means—

"(i) the Home Loan Guaranty Program of the Department of Veterans Affairs, and mortgage insurance provided by the Federal Housing Administration or the Rural Housing Administration, and

"(ii) private mortgage insurance (as defined by section 2 of the Homeowners Protection Act of 1998 (12 U.S.C. 4901), as in effect on the date of the enactment of this subparagraph).".

(d) Effective Date.—The amendments made by this section shall apply to amounts paid or accrued in taxable years beginning after December 31, 2004, and ending before January 1, 2006.

SEC. 603. INCREASE IN HISTORIC REHABILITATION CREDIT FOR CERTAIN LOW-INCOME HOUSING FOR THE ELDERLY.

(a) In General.—Section 47 (relating to rehabilitation credit) is amended by adding at the end the following new subsection:

"(e) Special Rule Regarding Certain Historic Structures.—In the case of any qualified rehabilitation expenditure with respect to any certified historic structure—

"(1) which is placed in service after the date of the enactment of this subsection,

"(2) which is part of a qualified low-income building with respect to which a credit under section 42 is allowed, and

"(3) substantially all of the residential rental units of which are used for tenants who have attained the age of 65,

subsection (a)(2) shall be applied by substituting '25 percent' for '20 percent'.".

(b) Application of MACRS.—The Internal Revenue Code of 1986 shall be applied and administered as if paragraph (4)(X) of section 251(d) of the Tax Reform Act of 1986 as applied to the amendments made by section 201 of such Act had not been enacted with respect to any property described in such paragraph and placed in service after the date of the enactment of this Act.

(c) Effective Date.—The amendment made by subsection (a) shall apply to property placed in service after the date of the enactment of this Act.

Subtitle B—Provisions Relating to Bonds

SEC. 611. EXPANSION OF NEW YORK LIBERTY ZONE TAX BENEFITS.

(a) Additional Extension of Tax-Exempt Bond Financing.—Section 1400L(d)(2)(D), as amended by this Act, is amended by striking "2006" and inserting "2010".

(b) Extension of Advance Refundings.—Section 1400L(e)(1) is amended by striking "2005" and inserting "2006".

SEC. 612. MODIFICATIONS OF TREATMENT OF QUALIFIED ZONE ACADEMY BONDS.

(a) Proceeds of Bonds May Be Used for Construction and Land Acquisition.—Paragraph (5) of section 1397E(d) (defining qualified purpose) is amended—

(1) by striking "rehabilitating or repairing" in subparagraph (A) and inserting "constructing, rehabilitating, or repairing", and

(2) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E), respectively, and by inserting after subparagraph (A) the following:

"(B) acquiring the land on which the facility is to be constructed,".

(b) Effective Date.—The amendments made by this section shall apply to obligations issued after December 31, 2003.

SEC. 613. MODIFICATIONS OF AUTHORITY OF INDIAN TRIBAL GOVERNMENTS TO ISSUE TAX-EXEMPT BONDS.

(a) In General.—Paragraph (1) of section 7871(c) (relating to Indian tribal governments treated as States for certain purposes) is amended to read as follows:

"(1) In general.—Subsection (a) of section 103 shall apply to any obligation issued by an Indian tribal government (or subdivision thereof) only if—

"(A) such obligation—

"(i) is part of an issue 95 percent or more of the net proceeds of which are to be used to finance any facility located on an Indian reservation, and

"(ii) is issued before January 1, 2006, or

"(B) such obligation is part of an issue substantially all of the proceeds of which are to be used in the exercise of any essential governmental function.".

(b) Special Rules and Definitions.—Subsection (c) of section 7871 is amended by inserting at the end the following new paragraph:

"(4) Special rules and definitions.—

"(A) Exclusion of gaming.—An obligation described in subparagraph (A) or (B) of paragraph (1) may not be used to finance any portion of a building in which class II or III gaming (as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2702)) is conducted or housed.

"(B) Indian reservation.—For purposes of paragraph (1), the term 'Indian reservation' means—

"(i) a reservation, as defined in section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10)), and

"(ii) lands held under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) by a Native corporation as defined in section 3(m) of such Act (43 U.S.C. 1602(m)).".

(c) Effective Date.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 614. DEFINITION OF MANUFACTURING FACILITY FOR SMALL ISSUE BONDS.

(a) In General.—Section 144(a)(12) (relating to termination dates) is amended by striking subparagraph (C) and inserting the following new subparagraphs:

"(C) Manufacturing facility.—For purposes of this paragraph, the term 'manufacturing facility' means any facility which is used in—

"(i) the manufacture of tangible personal property (including processing which results in a change in the condition of such property),

"(ii) the manufacture or development of any software product or process if—

"(I) it takes more than 6 months to manufacture or develop such product,

"(II) the manufacture or development could not with due diligence be reasonably expected to occur in less than 6 months, and

"(III) the software product or process comprises programs, routines, and attendant documentation developed and maintained for use in computer and telecommunications technology, or

"(iii) the manufacture or development of any biobased product or bioenergy if—

"(I) it takes more than 6 months to manufacture or develop, and

"(II) the manufacture or development could not with due diligence be reasonably expected to occur in less than 6 months.

"(D) Related facilities.—For purposes of subparagraph (C), the term 'manufacturing facility' includes a facility which is directly and functionally related to a manufacturing facility (determined without regard to subparagraph (C)) if—

"(i) such facility, including an office facility and a research and development facility, is located on the same site as the manufacturing facility, and

"(ii) not more than 40 percent of the net proceeds of the issue are used to provide such facility.

"(E) OTHER DEFINITIONS.—For purposes of subparagraph (C)(iii)—

"(i) BIOBASED PRODUCT.—The term 'biobased product' means a commercial or industrial product (other than food or feed) which utilizes biological products or renewable domestic agricultural (plant, animal, and marine) or forestry materials.

"(ii) BIOENERGY.—The term 'bioenergy' means biomass used in the production of energy, including liquid, solid, or gaseous fuels, electricity, and heat.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 615. CONSERVATION BONDS.

(a) TAX-EXEMPT BOND FINANCING.—

(1) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, any qualified forest conservation bond shall be treated as an exempt facility bond under section 142 of such Code.

(2) QUALIFIED FOREST CONSERVATION BOND.—For purposes of this section, the term "qualified forest conservation bond" means any bond issued as part of an issue if—

(A) 95 percent or more of the net proceeds (as defined in section 150(a)(3) of such Code) of such issue are to be used for qualified project costs,

(B) such bond is issued for a qualified organization, and

(C) such bond is issued before December 31, 2006.

(3) LIMITATION ON AGGREGATE AMOUNT ISSUED.—

(A) IN GENERAL.—The maximum aggregate face amount of bonds which may be issued under this subsection shall not exceed $1,500,000,000 for all projects (excluding refunding bonds).

(B) ALLOCATION OF LIMITATION.—The limitation described in subparagraph (A) shall be allocated by the Secretary of the Treasury among qualified organizations based on criteria established by the Secretary not later than 180 days after the date of the enactment of this section, after consultation with the Chief of the Forest Service.

(4) QUALIFIED PROJECT COSTS.—For purposes of this subsection, the term "qualified project costs" means the sum of—

(A) the cost of acquisition by the qualified organization from an unrelated person of forests and forest land which at the time of acquisition or immediately thereafter are subject to a conservation restriction described in subsection (c)(2),

(B) capitalized interest on the qualified forest conservation bonds for the 3-year period beginning on the date of issuance of such bonds, and

(C) credit enhancement fees which constitute qualified guarantee fees (within the meaning of section 148 of such Code).

(5) SPECIAL RULES.—In applying the Internal Revenue Code of 1986 to any qualified forest conservation bond, the following modifications shall apply:

(A) Section 146 of such Code (relating to volume cap) shall not apply.

(B) For purposes of section 147(b) of such Code (relating to maturity may not exceed 120 percent of economic life), the land and standing timber acquired with proceeds of qualified forest conservation bonds shall have an economic life of 35 years.

(C) Subsections (c) and (d) of section 147 of such Code (relating to limitations on acquisition of land and existing property) shall not apply.

(D) Section 57(a)(5) of such Code (relating to tax-exempt interest) shall not apply to interest on qualified forest conservation bonds.

(6) TREATMENT OF CURRENT REFUNDING BONDS.—Paragraphs (2)(C) and (3) shall not apply to any bond (or series of bonds) issued to refund a qualified forest conservation bond issued before December 31, 2006, if—

(A) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,

(B) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

(C) the net proceeds of the refunding bond are used to redeem the refunded bond not later than 90 days after the date of the issuance of the refunding bond.

For purposes of subparagraph (A), average maturity shall be determined in accordance with section 147(b)(2)(A) of such Code.

(7) EFFECTIVE DATE.—This subsection shall apply to obligations issued on or after the date which is 180 days after the enactment of this Act.

(b) ITEMS FROM QUALIFIED HARVESTING ACTIVITIES NOT SUBJECT TO TAX OR TAKEN INTO ACCOUNT.—

(1) IN GENERAL.—Income, gains, deductions, losses, or credits from a qualified harvesting activity conducted by a qualified organization shall not be subject to tax or taken into account under subtitle A of the Internal Revenue Code of 1986.

(2) LIMITATION.—The amount of income excluded from gross income under paragraph (1) for any taxable year shall not exceed the amount used by the qualified organization to make debt service payments during such taxable year for qualified forest conservation bonds.

(3) QUALIFIED HARVESTING ACTIVITY.—For purposes of paragraph (1)—

(A) IN GENERAL.—The term "qualified harvesting activity" means the sale, lease, or harvesting, of standing timber—

(i) on land owned by a qualified organization which was acquired with proceeds of qualified forest conservation bonds,

(ii) with respect to which a written acknowledgement has been obtained by the qualified organization from the State or local governments with jurisdiction over such land that the acquisition lessens the burdens of such government with respect to such land, and

(iii) pursuant to a qualified conservation plan adopted by the qualified organization.

(B) EXCEPTIONS.—

(i) CESSATION AS QUALIFIED ORGANIZATION.—The term "qualified harvesting activity" shall not include any sale, lease, or harvesting for any period during which the organization ceases to qualify as a qualified organization.

(ii) EXCEEDING LIMITS ON HARVESTING.—The term "qualified harvesting activity" shall not include any sale, lease, or harvesting of standing timber on land acquired with proceeds of qualified forest conservation bonds to the extent that—

(I) the average annual area of timber harvested from such land exceeds 2.5 percent of the total area of such land or,

(II) the quantity of timber removed from such land exceeds the quantity which can be removed from such land annually in perpetuity on a sustained-yield basis with respect to such land.

The limitations under subclauses (I) and (II) shall not apply to post-fire restoration and rehabilitation or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow, or other catastrophes, or which are in imminent danger from insect or disease attack.

(4) TERMINATION.—This subsection shall not apply to any qualified harvesting activity of a qualified organization occurring after the date on which there is no outstanding qualified forest conservation bond with respect to such qualified organization or any such bond ceases to be a tax-exempt bond.

(5) PARTIAL RECAPTURE OF BENEFITS IF HARVESTING LIMIT EXCEEDED.—If, as of the date that this subsection ceases to apply under paragraph (3), the average annual area of timber harvested from the land exceeds the requirement of paragraph (3)(B)(ii)(I), the tax imposed by chapter 1 of the Internal Revenue Code of 1986 shall be increased, under rules prescribed by the Secretary of the Treasury, by the sum of the tax benefits attributable to such excess and interest at the underpayment rate under section 6621 of such Code for the period of the underpayment.

(c) DEFINITIONS.—For purposes of this section—

(1) QUALIFIED CONSERVATION PLAN.—The term "qualified conservation plan" means a multiple land use program or plan which—

(A) is designed and administered primarily for the purposes of protecting and enhancing wildlife and fish, timber, scenic attributes, recreation, and soil and water quality of the forest and forest land,

(B) mandates that conservation of forest and forest land is the single-most significant use of the forest and forest land, and

(C) requires that timber harvesting be consistent with—

(i) restoring and maintaining reference conditions for the region's ecotype,

(ii) restoring and maintaining a representative sample of young, mid, and late successional forest age classes,

(iii) maintaining or restoring the resources' ecological health for purposes of preventing damage from fire, insect, or disease,

(iv) maintaining or enhancing wildlife or fish habitat, or

(v) enhancing research opportunities in sustainable renewable resource uses.

(2) CONSERVATION RESTRICTION.—The conservation restriction described in this paragraph is a restriction which—

(A) is granted in perpetuity to an unrelated person which is described in section 170(h)(3) of such Code and which, in the case of a nongovernmental unit, is organized and operated for conservation purposes,

(B) meets the requirements of clause (ii) or (iii)(II) of section 170(h)(4)(A) of such Code,

(C) obligates the qualified organization to pay the costs incurred by the holder of the conservation restriction in monitoring compliance with such restriction, and

(D) requires an increasing level of conservation benefits to be provided whenever circumstances allow it.

(3) QUALIFIED ORGANIZATION.—The term "qualified organization" means an organization—

(A) which is a nonprofit organization substantially all the activities of which are charitable, scientific, or educational, including acquiring, protecting, restoring, managing, and developing forest lands and other renewable resources for the long-term charitable, educational, scientific and public benefit,

(B) more than half of the value of the property of which consists of forests and forest land acquired with the proceeds from qualified forest conservation bonds,

(C) which periodically conducts educational programs designed to inform the public of environmentally sensitive forestry management and conservation techniques,

(D) which has at all times a board of directors—

(i) at least 20 percent of the members of which represent the holders of the conservation restriction described in paragraph (2),

(ii) at least 20 percent of the members of which are public officials, and

(iii) not more than one-third of the members of which are individuals who are or were at any time within 5 years before the beginning of a term of membership on the board, an employee of, independent contractor with respect to, officer of, director of, or held a material financial interest in, a commercial forest products enterprise with which the qualified organization has a contractual or other financial arrangement,

(E) the bylaws of which require at least two-thirds of the members of the board of directors to vote affirmatively to approve the qualified conservation plan and any change thereto, and

(F) upon dissolution, is required to dedicate its assets to—

(i) an organization described in section 501(c)(3) of such Code which is organized and operated for conservation purposes, or

(ii) a governmental unit described in section 170(c)(1) of such Code.

(4) Unrelated person.—The term "unrelated person" means a person who is not a related person.

(5) Related person.—A person shall be treated as related to another person if—

(A) such person bears a relationship to such other person described in section 267(b) (determined without regard to paragraph (9) thereof), or 707(b)(1), of such Code, determined by substituting "25 percent" for "50 percent" each place it appears therein, and

(B) in the case such other person is a nonprofit organization, if such person controls directly or indirectly more than 25 percent of the governing body of such organization.

SEC. 616. INDIAN SCHOOL CONSTRUCTION.

(a) Definitions.—In this section:

(1) Bureau.—The term "Bureau" means the Bureau of Indian Affairs of the Department.

(2) Department.—The term "Department" means the Department of the Interior.

(3) Escrow account.—The term "escrow account" means the tribal school modernization escrow account established under subsection (b)(6)(B)(i).

(4) Indian.—The term "Indian" means any individual who is a member of an Indian tribe.

(5) Indian tribe.—

(A) In general.—The term "Indian tribe" has the meaning given the term "Indian tribal government" by section 7701(a)(40) of the Internal Revenue Code of 1986 (including the application of section 7871(d) of that Code).

(B) Inclusion.—The term "Indian tribe" includes a consortium of Indian tribes approved by the Secretary.

(6) Secretary.—The term "Secretary" means the Secretary of the Interior.

(7) Tribal school.—The term "tribal school" means an elementary school, secondary school, or dormitory that—

(A) is operated by a tribal organization or the Bureau for the education of Indian children; and

(B) under a contract, a grant, or an agreement, or for a Bureau-operated school, receives financial assistance to pay the costs of operation from funds made available under—

(i) section 102, 103(a), or 208 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f, 450h(a), 458d); or

(ii) the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.).

(b) Issuance of Bonds.—

(1) In general.—The Secretary shall establish a pilot program under which eligible Indian tribes may issue qualified tribal school modernization bonds to provide funding for the construction, rehabilitation, or repair of tribal schools (including the advance planning and design of tribal schools).

(2) Eligibility.—

(A) In general.—To be eligible to issue any qualified tribal school modernization bond under the program under paragraph (1), an Indian tribe shall—

(i) prepare and submit to the Secretary a plan of construction that meets the requirements of subparagraph (B);

(ii) provide for quarterly and final inspection of the project by the Bureau; and

(iii) pledge that the facilities financed by the bond will be used primarily for elementary and secondary educational purposes for not less than the period during which the bond remains outstanding.

(B) Plan of construction.—A plan of construction referred to in subparagraph (A)(i) meets the requirements of this subparagraph if the plan—

(i) contains a description of the construction to be carried out with funding provided under a qualified tribal school modernization bond;

(ii) demonstrates that a comprehensive survey has been completed to determine the construction needs of the tribal school involved;

(iii) contains assurances that funding under the bond will be used only for the activities described in the plan;

(iv) contains a response to the evaluation criteria contained in Instructions and Application for Replacement School Construction, Revision 6, dated February 6, 1999; and

(v) contains any other reasonable and related information determined to be appropriate by the Secretary.

(C) Priority.—In determining whether an Indian tribe is eligible to participate in the program under this subsection, the Secretary shall give priority to an Indian tribe that, as demonstrated by the relevant plans of construction, will fund projects—

(i) described in the Education Facilities Replacement Construction Priorities List, as of fiscal year 2000, of the Bureau (65 Fed. Reg. 4623);

(ii) described in any subsequent priorities list published in the Federal Register; or

(iii) that meet the criteria for ranking schools as described in Instructions and Application for Replacement School Construction, Revision 6, dated February 6, 1999.

(D) Advance planning and design funding.—

(i) In general.—An Indian tribe may propose in the plan of construction of the Indian tribe to receive advance planning and design funding from the escrow account.

(ii) Conditions on allocation of funds.—As a condition to the allocation to an Indian tribe of advance planning and design funds from the escrow account under clause (i), the Indian tribe shall agree—

(I) to issue qualified tribal school modernization bonds after the date of receipt of the funds; and

(II) as a condition of each bond issuance, that the Indian tribe will deposit into the escrow account, or a fund managed by the trustee as described in paragraph (4)(C), an amount equal to the amount of funds received from the escrow account.

(3) Permissible activities.—In addition to the use of funds permitted under paragraph (1), an Indian tribe may use amounts received through the issuance of a qualified tribal school modernization bond—

(A) to enter into and make payments under contracts with licensed and bonded architects, engineers, and construction firms—

(i) to determine the needs of the tribal school; and

(ii) for the design and engineering of the tribal school;

(B) enter into and make payments under contracts with financial advisers, underwriters, attorneys, trustees, and other professionals who would be able to provide assistance to the Indian tribe in issuing bonds; and

(C) carry out other activities determined to be appropriate by the Secretary.

(4) Bond trustee.—

(A) In general.—Notwithstanding any other provision of law, any qualified tribal school modernization bond issued by an Indian tribe under this subsection shall be subject to a trust agreement between the Indian tribe and a trustee.

(B) Trustee.—Any bank or trust company that meets requirements established by the Secretary may be designated as a trustee under subparagraph (A).

(C) Content of trust agreement.—A trust agreement entered into by an Indian tribe under this paragraph shall specify that the trustee, with respect to any bond issued under this subsection, shall—

(i) act as a repository for the proceeds of the bond;

(ii) make payments to bondholders;

(iii) receive, as a condition to the issuance of the bond, a transfer of funds from the escrow account, or from other funds furnished by or on behalf of the Indian tribe, in an amount that (including interest earnings from the investment of the funds in obligations of, or fully guaranteed by, the United States, or from other investments authorized by paragraph (10)) will produce funds sufficient to timely pay in full the entire principal amount of the bond on the stated maturity date of the bond;

(iv) invest the funds transferred under clause (iii) in an investment described in that clause; and

(v)(I) hold and invest the funds transferred under clause (iii) in a segregated fund or account under the agreement; and

(II) use the fund or account solely for payment of the costs of items described in paragraph (3).

(D) Requirements for making direct payments.—

(i) Payments.—

(I) In general.—Notwithstanding any other provision of law, the trustee shall make any payment referred to in subparagraph (C)(v) in accordance with such requirements as the Indian tribe shall prescribe in the trust agreement entered into under subparagraph (C).

(II) Inspection.—Before making a payment for a project to a contractor under subparagraph (C)(v), to ensure completion of the project, the trustee shall require an inspection of the project by—

(aa) a local financial institution; or

(bb) an independent inspecting architect or engineer.

(ii) Contracts.—Each contract referred to in paragraph (3) shall specify, or be renegotiated to specify, that payments under the contract shall be made in accordance with this paragraph.

(5) Payments of principal and interest.—

(A) Principal.—

(i) In general.—No principal payment on any qualified tribal school modernization bond shall be required under this subsection until the final, stated date on which the bond reaches maturity.

(ii) Maturity; outstanding principal.—With respect to a qualified tribal school modernization bond issued under this subsection—

(I) the bond shall reach maturity not later than 15 years after the date of issuance of the bond; and

(II) on the date on which the bond reaches maturity, the entire outstanding principal under the bond shall become due and payable.

(B) Interest.—There shall be awarded a tax credit under section 1400M of the Internal Revenue Code of 1986 in lieu of interest on a qualified tribal school modernization bond issued under this subsection.

(6) Bond guarantees.—

(A) In general.—Payment of the principal portion of a qualified tribal school modernization bond issued under this subsection shall be guaranteed solely by amounts deposited with each respective bond trustee as described in paragraph (4)(C)(iii).

(B) Establishment of account.—

(i) In general.—Notwithstanding any other provision of law, the Secretary may—

(I) establish a tribal school modernization escrow account; and

(II) beginning in fiscal year 2005, from amounts made available for school replacement under the construction account of the Bureau, deposit not more than $30,000,000 for each fiscal year into the escrow account.

(ii) Transfers of excess proceeds.—Excess proceeds held under any trust agreement that are not needed for any of the purposes described in clauses (iii) and (v) of paragraph (4)(C) shall be transferred, from time to time, by the trustee for deposit into the escrow account.

(iii) Payments.—The Secretary shall use any amounts deposited in the escrow account under clauses (i) and (ii)—

(I) to make payments to trustees appointed and acting in accordance with paragraph (4); or

(II) to make payments described in paragraph (2)(D).

(7) Limitations.—

(A) Obligation to repay.—

(i) In general.—Notwithstanding any other provision of law, the principal amount on any qualified tribal school modernization bond issued under this subsection shall be repaid only to the extent of any escrowed funds provided under paragraph (4)(C)(iii).

(ii) No guarantee.—No qualified tribal school modernization bond issued by an Indian tribe under this subsection shall be an obligation of, and no payment of the principal of such a bond shall be guaranteed by—

(I) the United States;

(II) the Indian tribe; or

(III) the tribal school for which the bond was issued.

(B) Land and facilities.—No land or facility purchased or improved with amounts derived from a qualified tribal school modernization bond issued under this subsection shall be mortgaged or used as collateral for the bond.

(8) Sale of bonds.—A qualified tribal school modernization bond may be sold at a purchase price equal to, in excess of, or at a discount from, the par amount of the bond.

(9) Treatment of trust agreement earnings.—No amount earned through the investment of funds under the control of a trustee under any trust agreement described in paragraph (4) shall be subject to Federal income taxation.

(10) Investment of sinking funds.—A sinking fund established for the purpose of the payment of principal on a qualified tribal school modernization bond issued under this subsection shall be invested in—

(A) obligations issued by or guaranteed by the United States; or

(B) such other assets as the Secretary of the Treasury may by regulation allow.

(c) Expansion of Incentives for Tribal Schools.—Chapter 1 is amended by adding at the end the following new subchapter:

"Subchapter Z—Tribal School Modernization Provisions

"Sec. 1400M. Credit to holders of qualified tribal school modernization bonds.

"SEC. 1400M. CREDIT TO HOLDERS OF QUALIFIED TRIBAL SCHOOL MODERNIZATION BONDS.

"(a) Allowance of Credit.—In the case of a taxpayer who holds a qualified tribal school modernization bond on a credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

"(b) Amount of Credit.—

"(1) In general.—The amount of the credit determined under this subsection with respect to any credit allowance date for a qualified tribal school modernization bond is 25 percent of the annual credit determined with respect to such bond.

"(2) Annual credit.—The annual credit determined with respect to any qualified tribal school modernization bond is the product of—

"(A) the applicable credit rate, multiplied by

"(B) the outstanding face amount of the bond.

"(3) Applicable credit rate.—For purposes of paragraph (1), the applicable credit rate with respect to an issue is the rate equal to an average market yield (as of the date of sale of the issue) on outstanding long-term corporate obligations (as determined by the Secretary).

"(4) Special rule for issuance and redemption.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed.

"(c) Limitation Based on Amount of Tax.—

"(1) In general.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under part IV of subchapter A (other than subpart C thereof, relating to refundable credits).

"(2) Carryover of unused credit.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

"(d) Qualified Tribal School Modernization Bond; Other Definitions.—For purposes of this section—

"(1) Qualified tribal school modernization bond.—

"(A) In general.—The term 'qualified tribal school modernization bond' means, subject to subparagraph (B), any bond issued as part of an issue under section 616(b) of the Jumpstart Our Business Strength (JOBS) Act, as in effect on the date of the enactment of this section, if—

"(i) 95 percent or more of the proceeds of such issue are to be used for the construction, rehabilitation, or repair of a school facility funded by the Bureau of Indian Affairs of the Department of the Interior or for the acquisition of land on which such a facility is to be constructed with part of the proceeds of such issue,

"(ii) the bond is issued by an Indian tribe,

"(iii) the issuer designates such bond for purposes of this section, and

"(iv) the term of each bond which is part of such issue does not exceed 15 years.

"(B) National limitation on amount of bonds designated.—

"(i) National limitation.—There is a national qualified tribal school modernization bond limitation for each calendar year. Such limitation is—

"(I) $200,000,000 for 2005,

"(II) $200,000,000 for 2006, and

"(III) zero after 2006.

"(ii) Allocation of limitation.—The national qualified tribal school modernization bond limitation shall be allocated to Indian tribes by the Secretary of the Interior subject to the provisions of section 616 of the Jumpstart Our Business Strength (JOBS) Act, as in effect on the date of the enactment of this section.

"(iii) Designation subject to limitation amount.—The maximum aggregate face amount of bonds issued during any calendar year which may be designated under subsection (d)(1) with respect to any Indian tribe shall not exceed the limitation amount allocated to such government under clause (ii) for such calendar year.

"(iv) Carryover of unused limitation.—If for any calendar year—

"(I) the limitation amount under this subparagraph, exceeds

"(II) the amount of qualified tribal school modernization bonds issued during such year,

the limitation amount under this subparagraph for the following calendar year shall be increased by the amount of such excess. The preceding sentence shall not apply if such following calendar year is after 2012.

"(2) Credit allowance date.—The term 'credit allowance date' means—

"(A) March 15,

"(B) June 15,

"(C) September 15, and

"(D) December 15.

Such term includes the last day on which the bond is outstanding.

"(3) Bond.—The term 'bond' includes any obligation.

"(4) Tribe.—The term 'tribe' has the meaning given the term 'Indian tribal government' by section 7701(a)(40), including the application of section 7871(d). Such term includes any consortium of tribes approved by the Secretary of the Interior.

"(e) Credit Included in Gross Income.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

"(f) Bonds Held by Regulated Investment Companies.—If any qualified tribal school modernization bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

"(g) Treatment for Estimated Tax Purposes.—Solely for purposes of sections 6654 and 6655, the credit allowed by this section to a taxpayer by reason of holding a qualified tribal school modernization bonds on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.

"(h) Credit Treated as Allowed Under Part IV of Subchapter A.—For purposes of subtitle F, the credit allowed by this section shall be treated as a credit allowable under part IV of subchapter A of this chapter.

"(i) Reporting.—Issuers of qualified tribal school modernization bonds shall submit reports similar to the reports required under section 149(e).".

(d) Conforming Amendment.—The table of subchapters for chapter 1 is amended by adding at the end the following new item:

"Subchapter Z. Tribal school modernization provisions.".

(e) Additional Provisions.—

(1) Sovereign immunity.—This section and the amendments made by this section shall not be construed to impact, limit, or affect the sovereign immunity of the Federal Government or any State or tribal government.

(2) Application.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act with respect to bonds issued after December 31, 2004, regardless of the status of regulations promulgated thereunder.

Subtitle C—Provisions Relating to Depreciation

SEC. 621. SPECIAL PLACED IN SERVICE RULE FOR BONUS DEPRECIATION PROPERTY.

(a) In General.—Section 168(k)(2)(D) (relating to special rules) is amended by adding at the end the following new clause:

"(iii) Syndication.—For purposes of subparagraph (A)(ii), if—

"(I) property is originally placed in service after September 10, 2001, by the lessor of such property,

"(II) such property is sold by such lessor or any subsequent purchaser within 3 months after the date so placed in service (or, in the case of multiple units of property subject to the same lease, within 3 months after the date the final unit is placed in service, so long as the period between the time the first unit is placed in service and the time the last unit is placed in service does not exceed 12 months), and

"(III) the user of such property after the last sale during such 3-month period remains the same as when such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date of such last sale, so long as no previous owner of such property elects the application of this subsection with respect to such property.".

(b) Effective Date.—The amendment made by this section shall apply to sales after the date of the enactment of this Act.

SEC. 622. MODIFICATION OF DEPRECIATION ALLOWANCE FOR AIRCRAFT.

(a) Aircraft Treated as Qualified Property.—

(1) In general.—Paragraph (2) of section 168(k) is amended by redesignating subparagraphs (C) through (F) as subparagraphs (D) through (G), respectively, and by inserting after subparagraph (B) the following new subparagraph:

"(C) Certain aircraft.—The term 'qualified property' includes property—

"(i) which meets the requirements of clauses (ii) and (iii) of subparagraph (A),

"(ii) which is an aircraft which is not a transportation property (as defined in subparagraph (B)(iii)) other than for agricultural or firefighting purposes,

"(iii) which is purchased and on which such purchaser, at the time of the contract for purchase, has made a nonrefundable deposit of the lesser of—

"(I) 10 percent of the cost, or

"(II) $100,000, and

"(iv) which has—

"(I) an estimated production period exceeding 4 months, and

"(II) a cost exceeding $200,000.".

(2) Placed in service date.—Clause (iv) of section 168(k)(2)(A) is amended by striking "subparagraph (B)" and inserting "subparagraphs (B) and (C)".

(b) Conforming Amendments.—

(1) Section 168(k)(2)(B) is amended by adding at the end the following new clause:

"(iv) Application of subparagraph.—This subparagraph shall not apply to any property which is described in subparagraph (C).".

(2) Section 168(k)(4)(A)(ii) is amended by striking "paragraph (2)(C)" and inserting "paragraph (2)(D)".

(3) Section 168(k)(4)(B)(iii) is amended by inserting "and paragraph (2)(C)" after "of this paragraph)".

(4) Section 168(k)(4)(C) is amended by striking "subparagraphs (B) and (D)" and inserting "subparagraphs (B), (C), and (E)".

(5) Section 168(k)(4)(D) is amended by striking "Paragraph (2)(E)" and inserting "Paragraph (2)(F)".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 623. MODIFICATION OF CLASS LIFE FOR CERTAIN TRACK FACILITIES.

(a) 7-Year Property.—Subparagraph (C) of section 168(e)(3) (relating to classification of certain property) is amended by redesignating clause (ii) as clause (iii) and by inserting after clause (i) the following new clause:

"(ii) any motorsports entertainment complex, and".

(b) Definition.—Section 168(i) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

"(15) Motorsports entertainment complex.—

"(A) In general.—The term 'motorsports entertainment complex' means a racing track facility which—

"(i) is permanently situated on land, and

"(ii) during the 36-month period following the first day of the month in which the asset is placed in service, is scheduled to host 1 or more racing events for automobiles (of any type), trucks, or motorcycles which are open to the public for the price of admission.

"(B) Ancillary and support facilities.—Such term shall include, if owned by the complex and provided for the benefit of patrons of the complex—

"(i) ancillary grounds and facilities and land improvements in support of the complex's activities (including parking lots, sidewalks, waterways, bridges, fences, and landscaping),

"(ii) support facilities (including food and beverage retailing, souvenir vending, and other nonlodging accommodations), and

"(iii) appurtenances associated with such facilities and related attractions and amusements (including ticket booths, race track surfaces, suites and hospitality facilities, grandstands and viewing structures, props, walls, facilities that support the delivery of entertainment services, other special purpose structures, facades, shop interiors, and buildings).

"(C) Exception.—Such term shall not include any transportation equipment, administrative services assets, warehouses, administrative buildings, hotels, or motels.".

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to any property placed in service after the date of the enactment of this Act and before January 1, 2008.

(2) No inference.—Nothing in the amendments made by this section shall be construed to affect the treatment of expenses incurred on or before the date of the enactment of this Act.

SEC. 624. MINIMUM TAX RELIEF FOR CERTAIN TAXPAYERS.

(a) Election to Increase Minimum Tax Credit Limitation in Lieu of Bonus Depreciation.—

(1) In general.—Section 53 (relating to credit for prior year minimum tax liability) is amended by adding at the end the following new subsection:

"(e) Additional Credit in Lieu of Bonus Depreciation.—

"(1) In general.—In the case of a corporation making an election under this subsection for a taxable year, the limitation under subsection (c) shall be increased by an amount equal to 50 percent of the bonus depreciation amount.

"(2) Bonus depreciation amount.—For purposes of paragraph (1), the bonus depreciation amount for any taxable year is an amount (not in excess of $25 000,000) equal to the product of—

"(A) 30 percent, and

"(B) the excess (if any) of—

"(i) the aggregate amount of depreciation which would be determined under section 168 for property placed in service during such taxable year if no election under this subsection were made, over

"(ii) the aggregate allowance for depreciation allowable with respect to such property placed in service for such taxable year.

"(3) Aggregation rule.—All members of the same controlled group of corporations shall be treated as 1 corporation for purposes of this subsection.

"(4) Election.—Sections 168(k) (other than paragraph (2)(F) thereof) shall not apply to any property placed in service during a taxable year by a corporation making an election under this subsection for such taxable year. An election under this subsection may only be revoked with the consent of the Secretary.

"(5) Credit refundable.—The aggregate increase in the credit allowed by this section for any taxable year by reason of this subsection shall for purposes of this title (other than subsection (b)(2) of this section) be treated as a credit allowed to the taxpayer under subpart C.".

(2) Conforming amendments.—Subsection (k) of section 168 is amended by adding at the end the following new paragraph:

"(5) Cross reference.—For an election to claim certain minimum tax credits in lieu of the allowance determined under this subsection, see section 53(e).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years ending after December 31, 2003.

(b) USE OF GENERAL BUSINESS CREDITS AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 38(c) (relating to limitations based on amount of tax) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) SPECIAL RULE FOR 2004.—Notwithstanding the preceding provisions of this paragraph, in the case of any taxable year beginning in 2004, the credit allowed under subsection (a) shall not exceed the greater of—

"(A) the amount determined under this subsection without regard to this paragraph, or

"(B) 50 percent of the lesser of—

"(i) the amount which would be determined under this subsection if the tentative minimum tax were treated as being zero in applying paragraph (1) to such credit, or

"(ii) the amount of the current year business credit.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning in 2004.

Subtitle D—Expansion of Business Credit

SEC. 631. NEW MARKETS TAX CREDIT FOR NATIVE AMERICAN RESERVATIONS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by redesignating sections 45E and 45F as sections 45F and 45G, respectively, and by inserting after section 45D the following new section:

"SEC. 45E. NEW MARKETS TAX CREDIT FOR NATIVE AMERICAN RESERVATIONS.

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—For purposes of section 38, in the case of a taxpayer who holds a qualified equity investment on a credit allowance date of such investment which occurs during the taxable year, the Native American new markets tax credit determined under this section for such taxable year is an amount equal to the applicable percentage of the amount paid to the reservation development entity for such investment at its original issue.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is—

"(A) 5 percent with respect to the first 3 credit allowance dates, and

"(B) 6 percent with respect to the remainder of the credit allowance dates.

"(3) CREDIT ALLOWANCE DATE.—For purposes of paragraph (1), the term 'credit allowance date' means, with respect to any qualified equity investment—

"(A) the date on which such investment is initially made, and

"(B) each of the 6 anniversary dates of such date thereafter.

"(b) QUALIFIED EQUITY INVESTMENT.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified equity investment' means any equity investment in a reservation development entity if—

"(A) such investment is acquired by the taxpayer at its original issue (directly or through an underwriter) solely in exchange for cash,

"(B) substantially all of such cash is used by the reservation development entity to make qualified low-income reservation investments, and

"(C) such investment is designated for purposes of this section by the reservation development entity.

Such term shall not include any equity investment issued by a reservation development entity more than 5 years after the date that such entity receives an allocation under subsection (f). Any allocation not used within such 5-year period may be reallocated by the Secretary under subsection (f).

"(2) LIMITATION.—The maximum amount of equity investments issued by a reservation development entity which may be designated under paragraph (1)(C) by such entity shall not exceed the portion of the limitation amount allocated under subsection (f) to such entity.

"(3) SAFE HARBOR FOR DETERMINING USE OF CASH.—The requirement of paragraph (1)(B) shall be treated as met if at least 85 percent of the aggregate gross assets of the reservation development entity are invested in qualified low-income reservation investments.

"(4) TREATMENT OF SUBSEQUENT PURCHASERS.—The term 'qualified equity investment' includes any equity investment which would (but for paragraph (1)(A)) be a qualified equity investment in the hands of the taxpayer if such investment was a qualified equity investment in the hands of a prior holder.

"(5) REDEMPTIONS.—A rule similar to the rule of section 1202(c)(3) shall apply for purposes of this subsection.

"(6) EQUITY INVESTMENT.—The term 'equity investment' means—

"(A) any stock (other than nonqualified preferred stock as defined in section 351(g)(2)) in an entity which is a corporation, and

"(B) any capital interest in an entity which is a partnership.

"(c) RESERVATION DEVELOPMENT ENTITY.—For purposes of this section—

"(1) IN GENERAL.—The term 'reservation development entity' means any domestic corporation or partnership if—

"(A) the primary mission of the entity is serving, or providing investment capital for, low-income reservations,

"(B) the entity maintains accountability to residents of low-income reservations through their representation on any governing board of the entity or on any advisory board to the entity, and

"(C) the entity is certified by the Secretary for purposes of this section as being a reservation development entity.

"(2) EXCEPTION.—For purposes of subparagraph (C) of paragraph (1), the Secretary shall not certify an entity as a reservation development entity if such entity is also certified as a qualified community development entity under section 45D(c).

"(d) QUALIFIED LOW-INCOME RESERVATION INVESTMENTS.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified low-income reservation investment' means—

"(A) any capital or equity investment in, or loan to, any qualified active low-income reservation business,

"(B) the purchase from another reservation development entity of any loan made by such entity which is a qualified low-income reservation investment,

"(C) financial counseling and other services specified in regulations prescribed by the Secretary to businesses located in, and residents of, low-income reservations, and

"(D) any equity investment in, or loan to, any reservation development entity.

"(2) QUALIFIED ACTIVE LOW-INCOME RESERVATION BUSINESS.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'qualified active low-income reservation business' means, with respect to any taxable year, any corporation (including a nonprofit corporation) or partnership if for such year—

"(i) at least 50 percent of the total gross income of such entity is derived from the active conduct of a qualified business within any low-income reservation,

"(ii) a substantial portion of the use of the tangible property of such entity (whether owned or leased) is within any low-income reservation,

"(iii) a substantial portion of the services performed for such entity by its employees are performed in any low-income reservation,

"(iv) less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to collectibles (as defined in section 408(m)(2)) other than collectibles that are held primarily for sale to customers in the ordinary course of such business, and

"(v) less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to nonqualified financial property (as defined in section 1397C(e)).

"(B) PROPRIETORSHIP.—Such term shall include any business carried on by an individual as a proprietor if such business would meet the requirements of subparagraph (A) were it incorporated.

"(C) PORTIONS OF BUSINESS MAY BE QUALIFIED ACTIVE LOW-INCOME RESERVATION BUSINESS.—The term 'qualified active low-income reservation business' includes any trades or businesses which would qualify as a qualified active low-income reservation business if such trades or businesses were separately incorporated.

"(3) QUALIFIED BUSINESS.—For purposes of this subsection, the term 'qualified business' has the meaning given to such term by section 45D(d)(3).

"(e) LOW-INCOME RESERVATION.—For purposes of this section, the term 'low-income reservation' means any Indian reservation (as defined in section 168(j)(6)) which has a poverty rate of at least 40 percent.

"(f) NATIONAL LIMITATION ON AMOUNT OF INVESTMENTS DESIGNATED.—

"(1) IN GENERAL.—There is a Native American new markets tax credit limitation of $50,000,000 for each of calendar years 2004 through 2007.

"(2) ALLOCATION OF LIMITATION.—The limitation under paragraph (1) shall be allocated by the Secretary among reservation development entities selected by the Secretary. In making allocations under the preceding sentence, the Secretary shall give priority to any entity—

"(A) with a record of having successfully provided capital or technical assistance to disadvantaged businesses or communities, or

"(B) which intends to satisfy the requirement under subsection (b)(1)(B) by making qualified low-income reservation investments in 1 or more businesses in which persons unrelated to such entity (within the meaning of section 267(b) or 707(b)(1)) hold the majority equity interest.

"(3) CARRYOVER OF UNUSED LIMITATION.—If the Native American new markets tax credit limitation for any calendar year exceeds the aggregate amount allocated under paragraph (2) for such year, such limitation for the succeeding calendar year shall be increased by the amount of such excess. No amount may be carried under the preceding sentence to any calendar year after 2014.

"(g) Recapture of Credit in Certain Cases.—

"(1) In general.—If, at any time during the 7-year period beginning on the date of the original issue of a qualified equity investment in a reservation development entity, there is a recapture event with respect to such investment, then the tax imposed by this chapter for the taxable year in which such event occurs shall be increased by the credit recapture amount.

"(2) Credit recapture amount.—For purposes of paragraph (1), the credit recapture amount is an amount equal to the sum of—

"(A) the aggregate decrease in the credits allowed to the taxpayer under section 38 for all prior taxable years which would have resulted if no credit had been determined under this section with respect to such investment, plus

"(B) interest at the underpayment rate established under section 6621 on the amount determined under subparagraph (A) for each prior taxable year for the period beginning on the due date for filing the return for the prior taxable year involved.

No deduction shall be allowed under this chapter for interest described in subparagraph (B).

"(3) Recapture event.—For purposes of paragraph (1), there is a recapture event with respect to an equity investment in a reservation development entity if—

"(A) such entity ceases to be a reservation development entity,

"(B) the proceeds of the investment cease to be used as required of subsection (b)(1)(B), or

"(C) such investment is redeemed by such entity.

"(4) Special rules.—

"(A) Tax benefit rule.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

"(B) No credits against tax.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.

"(h) Basis Reduction.—The basis of any qualified equity investment shall be reduced by the amount of any credit determined under this section with respect to such investment. This subsection shall not apply for purposes of sections 1202, 1400B, and 1400F.

"(i) Regulations.—The Secretary shall prescribe such regulations as may be appropriate to carry out this section, including regulations—

"(1) which limit the credit for investments which are directly or indirectly subsidized by other Federal tax benefits (including the credit under section 42 and the exclusion from gross income under section 103),

"(2) which prevent the abuse of the purposes of this section,

"(3) which provide rules for determining whether the requirement of subsection (b)(1)(B) is treated as met,

"(4) which impose appropriate reporting requirements, and

"(5) which apply the provisions of this section to newly formed entities.".

(b) Credit Made Part of General Business Credit.—

(1) In general.—Subsection (b) of section 38 is amended by redesignating paragraphs (14) and (15) as paragraphs (15) and (16), respectively, and by inserting after paragraph (13) the following new paragraph:

"(14) the Native American new markets tax credit determined under section 45E(a),".

(2) Limitation on carryback.—Subsection (d) of section 39 is amended by redesignating paragraph (10) as paragraph (11) and by inserting after paragraph (9) the following new paragraph:

"(10) No carryback of Native American new markets tax credit before January 1, 2004.—No portion of the unused business credit for any taxable year which is attributable to the credit under section 45E may be carried back to a taxable year ending before January 1, 2004.".

(c) Deduction for Unused Credit.—Subsection (c) of section 196 is amended by redesignating paragraph (10) as paragraph (11), by striking "and" at the end of paragraph (9), and by inserting after paragraph (9) the following new paragraph:

"(10) the Native American new markets tax credit determined under section 45E(a),' and".

(d) Conforming Amendments.—

(1) Section 38(b)(15), as redesignated by subsection (b)(1), is amended—

(A) by striking "45E(c)" and inserting "45F(c)", and

(B) by striking "45E(a)" and inserting "45F(a)".

(2) Section 38(b)(16), as redesignated by subsection (b)(1), is amended by striking "45F(a)" and inserting "45G(a)".

(3) Section 39(d)(11), as redesignated by subsection (b)(2), is amended by striking "section 45E" and inserting "section 45F".

(4) Section 196(c)(11), as redesignated by subsection (c), is amended by striking "45E(a)" and inserting "45F(a)".

(5) Section 1016(a)(28) is amended—

(A) by striking "under section 45F" and inserting "under section 45G", and

(B) by striking "section 45F(f)(1)" and inserting "section 45G(f)(1)".

(e) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by striking the items relating to sections 45E and 45F and inserting the following:

"Sec. 45E. New markets tax credit for Native American reservations.

"Sec. 45F. Small employer pension plan startup costs.

"Sec. 45G. Employer-provided child care credit.".

(e) Effective Date.—The amendments made by this section shall apply to investments made after December 31, 2003.

(f) Guidance on Allocation of National Limitation.—Not later than 120 days after the date of the enactment of this Act, the Secretary of the Treasury or the Secretary's delegate shall issue guidance which specifies—

(1) how entities shall apply for an allocation under section 45E(f)(2) of the Internal Revenue Code of 1986, as added by this section;

(2) the competitive procedure through which such allocations are made; and

(3) the actions that suoh Secretary or delegate shall take to ensure that such allocations are properly made to appropriate entities.

(g) Audit and Report.—Not later than January 31 of 2007 and 2010, the Comptroller General of the United States shall, pursuant to an audit of the Native American new markets tax credit program established under section 45E of the Internal Revenue Code of 1986 (as added by subsection (a)), report to Congress on such program, including all reservation development entities that receive an allocation under the Native American new markets credit under such section.

(h) Grants in Coordination With Credit.—

(1) In general.—The Secretary of the Treasury is authorized to award a grant of not more than $1,000,000 to the First Nations Oweesta Corporation.

(2) Use of funds.—The grant awarded under paragraph (1) may be used—

(A) to enhance the capacity of people living on low-income reservations (within the meaning of section 45E(e) of the Internal Revenue Code of 1986, as added by this section) to access, apply, control, create, leverage, utilize, and retain the financial benefits to such low-income reservations which are attributable to qualified low-income reservation investments (within the meaning of section 45E(d) of such Code), and

(B) to provide access to appropriate financial capital for the development of such low-income reservations.

(3) Authorization of appropriations.—There are authorized to be appropriated $1,000,000 for fiscal years 2004 through 2014 to carry out the provisions of this subsection.

SEC. 632. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT AND READY RESERVE-NATIONAL GUARD REPLACEMENT EMPLOYEE CREDIT.

(a) Ready Reserve-National Guard Credit.—

(1) In general.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following:

"SEC. 45H. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT.

"(a) General Rule.—For purposes of section 38, the Ready Reserve-National Guard employee credit determined under this section for any taxable year with respect to each Ready Reserve-National Guard employee of an employer is an amount equal to 50 percent of the lesser of—

"(1) the actual compensation amount with respect to such employee for such taxable year, or

"(2) $30,000.

"(b) Definition of Actual Compensation Amount.—For purposes of this section, the term 'actual compensation amount' means the amount of compensation paid or incurred by an employer with respect to a Ready Reserve-National Guard employee on any day when the employee was absent from employment for the purpose of performing qualified active duty.

"(c) Limitations.—No credit shall be allowed with respect to any day that a Ready Reserve-National Guard employee who performs qualified active duty was not scheduled to work (for reason other than to participate in qualified active duty).

"(d) Definitions and Special Rules.—For purposes of this section—

"(1) Qualified active duty.—The term 'qualified active duty' means—

"(A) active duty, other than the training duty specified in section 10147 of title 10, United States Code (relating to training requirements for the Ready Reserve), or section 502(a) of title 32, United States Code (relating to required drills and field exercises for the National Guard), in connection with which an employee is entitled to reemployment rights and other benefits or to a leave of absence from employment under chapter 43 of title 38, United States Code, and

"(B) hospitalization incident to such duty.

"(2) COMPENSATION.—The term 'compensation' means any remuneration for employment, whether in cash or in kind, which is paid or incurred by a taxpayer and which is deductible from the taxpayer's gross income under section 162(a)(1).

"(3) READY RESERVE-NATIONAL GUARD EMPLOYEE.—The term 'Ready Reserve-National Guard employee' means an employee who is a member of the Ready Reserve of a reserve component of an Armed Force of the United States as described in sections 10142 and 10101 of title 10, United States Code.

"(4) CERTAIN RULES TO APPLY.—Rules similar to the rules of section 52 shall apply.

"(e) PORTION OF CREDIT REFUNDABLE.—

"(1) IN GENERAL.—In the case of an employer of a qualified first responder, the aggregate credits allowed to a taxpayer under subpart C shall be increased by the lesser of—

"(A) the credit which would be allowed under this section without regard to this subsection and the limitation under section 38(c), or

"(B) the amount by which the aggregate amount of credits allowed by this subpart (determined without regard to this subsection) would increase if the limitation imposed by section 38(c) for any taxable year were increased by the amount of employer payroll taxes imposed on the taxpayer during the calendar year in which the taxable year begins.

The amount of the credit allowed under this subsection shall not be treated as a credit allowed under this subpart and shall reduce the amount of the credit otherwise allowable under subsection (a) without regard to section 38(c).

"(2) EMPLOYER PAYROLL TAXES.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'employer payroll taxes' means the taxes imposed by—

"(i) section 3111(b), and

"(ii) sections 3211(a) and 3221(a) (determined at a rate equal to the rate under section 3111(b)).

"(B) SPECIAL RULE.—A rule similar to the rule of section 24(d)(2)(C) shall apply for purposes of subparagraph (A).

"(3) QUALIFIED FIRST RESPONDER.—For purposes of this subsection, the term 'qualified first responder' means any person who is—

"(A) employed as a law enforcement official, a firefighter, or a paramedic, and

"(B) a Ready Reserve-National Guard employee.".

(2) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to general business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting ", plus", and by adding at the end the following:

"(17) the Ready Reserve-National Guard employee credit determined under section 45H(a).".

(3) DENIAL OF DOUBLE BENEFIT.—Section 280C(a) (relating to rule for employment credits) is amended by inserting "45H(a)," after "45A(a),".

(4) CONFORMING AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 45G the following:

"Sec. 45H. Ready Reserve-National Guard employee credit.".

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts paid or incurred after September 30, 2004, in taxable years ending after such date.

(b) READY RESERVE-NATIONAL GUARD REPLACEMENT EMPLOYEE CREDIT.—

(1) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.), as amended by this Act, is amended by adding after section 30C the following new section:

"SEC. 30D. READY RESERVE-NATIONAL GUARD REPLACEMENT EMPLOYEE CREDIT.

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—In the case of an eligible taxpayer, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year the sum of the employment credits for each qualified replacement employee under this section.

"(2) EMPLOYMENT CREDIT.—The employment credit with respect to a qualified replacement employee of the taxpayer for any taxable year is equal to 50 percent of the lesser of—

"(A) the individual's qualified compensation attributable to service rendered as a qualified replacement employee, or

"(B) $12,000.

"(b) QUALIFIED COMPENSATION.—The term 'qualified compensation' means—

"(1) compensation which is normally contingent on the qualified replacement employee's presence for work and which is deductible from the taxpayer's gross income under section 162(a)(1),

"(2) compensation which is not characterized by the taxpayer as vacation or holiday pay, or as sick leave or pay, or as any other form of pay for a nonspecific leave of absence, and

"(3) group health plan costs (if any) with respect to the qualified replacement employee.

"(c) QUALIFIED REPLACEMENT EMPLOYEE.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified replacement employee' means an individual who is hired to replace a Ready Reserve-National Guard employee or a Ready Reserve-National Guard self-employed taxpayer, but only with respect to the period during which such Ready Reserve-National Guard employee or Ready Reserve-National Guard self-employed taxpayer participates in qualified active duty, including time spent in travel status.

"(2) READY RESERVE-NATIONAL GUARD EMPLOYEE.—The term 'Ready Reserve-National Guard employee' has the meaning given such term by section 45H(d)(3).

"(3) READY RESERVE-NATIONAL GUARD SELF-EMPLOYED TAXPAYER.—The term 'Ready Reserve-National Guard self-employed taxpayer' means a taxpayer who—

"(A) has net earnings from self-employment (as defined in section 1402(a)) for the taxable year, and

"(B) is a member of the Ready Reserve of a reserve component of an Armed Force of the United States as described in section 10142 and 10101 of title 10, United States Code.

"(d) COORDINATION WITH OTHER CREDITS.—The amount of credit otherwise allowable under sections 51(a) and 1396(a) with respect to any employee shall be reduced by the credit allowed by this section with respect to such employee.

"(e) LIMITATIONS.—

"(1) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(A) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

"(B) the tentative minimum tax for the taxable year.

"(2) DISALLOWANCE FOR FAILURE TO COMPLY WITH EMPLOYMENT OR REEMPLOYMENT RIGHTS OF MEMBERS OF THE RESERVE COMPONENTS OF THE ARMED FORCES OF THE UNITED STATES.—No credit shall be allowed under subsection (a) to a taxpayer for—

"(A) any taxable year, beginning after the date of the enactment of this section, in which the taxpayer is under a final order, judgment, or other process issued or required by a district court of the United States under section 4323 of title 38 of the United States Code with respect to a violation of chapter 43 of such title, and

"(B) the 2 succeeding taxable years.

"(f) GENERAL DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ELIGIBLE TAXPAYER.—The term 'eligible taxpayer' means a small business employer or a Ready Reserve-National Guard self-employed taxpayer.

"(2) SMALL BUSINESS EMPLOYER.—

"(A) IN GENERAL.—The term 'small business employer' means, with respect to any taxable year, any employer who employed an average of 50 or fewer employees on business days during such taxable year.

"(B) CONTROLLED GROUPS.—For purposes of subparagraph (A), all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.

"(3) QUALIFIED ACTIVE DUTY.—The term 'qualified active duty' has the meaning given such term by section 45H(d)(1).

"(4) SPECIAL RULES FOR CERTAIN MANUFACTURERS.—

"(A) IN GENERAL.—In the case of any qualified manufacturer—

"(i) subsection (a)(2)(B) shall be applied by substituting '$20,000' for '$12,000', and

"(ii) paragraph (2)(A) of this subsection shall be applied by substituting '100' for '50'.

"(B) QUALIFIED MANUFACTURER.—For purposes of this paragraph, the term 'qualified manufacturer' means any person if—

"(i) the primary business of such person is classified in sector 31, 32, or 33 of the North American Industrial Classification System, and

"(ii) all of such person's facilities which are used for production in such business are located in the United States.

"(5) CARRYBACK AND CARRYFORWARD ALLOWED.—

"(A) IN GENERAL.—If the credit allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e)(1) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be a credit carryback to each of the 3 taxable years preceding the unused credit year and a credit carryforward to each of the 20 taxable years following the unused credit year.

"(B) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).

"(6) CERTAIN RULES TO APPLY.—Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply.".

(2) NO DEDUCTION FOR COMPENSATION TAKEN INTO ACCOUNT FOR CREDIT.—Section 280C(a) (relating to rule for employment credits), as amended by this Act, is amended—

(A) by inserting "or compensation" after "salaries", and

(B) by inserting "30D," before "45A(a),".

(3) CONFORMING AMENDMENT.—Section 55(c)(2), as amended by this Act, is amended by inserting "30D(e)(1)," after "30C(e),".

(4) Clerical amendment.—The table of sections for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding after the item relating to section 30C the following new item:

"Sec. 30D. Credit for replacement of activated military reservists.".

(5) Effective date.—The amendments made by this subsection shall apply to amounts paid or incurred after September 30, 2004, in taxable years ending after such date.

(c) Application of Annual Exclusion Limit Under Section 911 to Housing Costs.—

(1) In general.—Section 911(c) (relating to housing cost amount) is amended by adding at the end the following new paragraph:

"(4) Limit on exclusion for employer provided housing costs.—The housing cost amount for any individual for any taxable year attributable to employer provided amounts shall not exceed the excess (if any) of—

"(A) the product of—

"(i) the exclusion amount determined under subsection (b)(2)(D) for the taxable year, and

"(ii) a fraction equal to the number of days of the taxable year within the applicable period described in subparagraph (A) or (B) of subsection (d)(1) divided by the number of days in the taxable year, over

"(B) the foreign earned income of the individual excluded under subsection (a)(1) for the taxable year."

(2) Conforming amendment.—Section 911(c)(1) is amended by striking "The" and inserting "Except as provided in paragraph (4), the".

(3) Effective date.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2003.

SEC. 633. RURAL INVESTMENT TAX CREDIT.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following:

"SEC. 42A. RURAL INVESTMENT CREDIT.

"(a) In General.—For purposes of section 38, the amount of the rural investment credit determined under this section for any taxable year in the credit period shall be an amount equal to the applicable percentage of the eligible basis of each qualified rural investment building.

"(b) Applicable Percentage: 70 Percent Present Value Credit for New Buildings; 30 Percent Present Value Credit for Existing Buildings.—For purposes of this section—

"(1) In general.—The term 'applicable percentage' means the appropriate percentage prescribed by the Secretary for the earlier of—

"(A) the first month of the credit period with respect to a rural investment building, or

"(B) at the election of the taxpayer, the month in which the taxpayer and the rural investment credit agency enter into an agreement with respect to such building (which is binding on such agency, the taxpayer, and all successors in interest) as to the rural investment credit dollar amount to be allocated to such building.

A month may be elected under subparagraph (B) only if the election is made not later than the 5th day after the close of such month. Such an election, once made, shall be irrevocable.

"(2) Method of prescribing percentages.—The percentages prescribed by the Secretary for any month shall be percentages which will yield over a 10-year period amounts of credit under subsection (a) which have a present value equal to—

"(A) 70 percent of the eligible basis of a new building, and

"(B) 30 percent of the eligible basis of an existing building.

"(3) Method of discounting.—The present value under paragraph (2) shall be determined—

"(A) as of the last day of the 1st year of the 10-year period referred to in paragraph (2),

"(B) by using a discount rate equal to 72 percent of the average of the annual Federal mid-term rate and the annual Federal long-term rate applicable under section 1274(d)(1) to the month applicable under subparagraph (A) or (B) of paragraph (1) and compounded annually, and

"(C) by assuming that the credit allowable under this section for any year is received on the last day of such year.

"(c) Eligible Basis; Qualified Rural Investment Building.—For purposes of this section—

"(1) Eligible basis.—

"(A) In general.—The eligible basis of any qualified rural investment building for any taxable year shall be determined under rules similar to the rules under section 42(d), except that—

"(i) the determination of the adjusted basis of any building shall be made as of the beginning of the credit period, and

"(ii) such basis shall include development costs properly attributable to such building.

"(B) Development costs.—For purposes of subparagraph (A)(ii), the term 'development costs' includes—

"(i) site preparation costs,

"(ii) State and local impact fees,

"(iii) reasonable development costs,

"(iv) professional fees related to basis items,

"(v) construction financing costs related to basis items other than land, and

"(vi) on-site and adjacent improvements required by State and local governments.

"(2) Qualified rural investment building.—The term 'qualified rural investment building' means any building which is part of a qualified rural investment project at all times during the period—

"(A) beginning on the 1st day in the compliance period on which such building is part of such an investment project, and

"(B) ending on the last day of the compliance period with respect to such building.

"(d) Rehabilitation Expenditures Treated as Separate New Building.—Rehabilitation expenditures paid or incurred by the taxpayer with respect to any building shall be treated for purposes of this section as a separate new building under the rules of section 42(e).

"(e) Definition and Special Rules Relating to Credit Period.—

"(1) Credit period defined.—For purposes of this section, the term 'credit period' means, with respect to any building, the period of 10 taxable years beginning with the taxable year in which the building is first placed in service.

"(2) Special rule for 1st year of credit period.—

"(A) In general.—The credit allowable under subsection (a) with respect to any building for the 1st taxable year of the credit period shall be determined by multiplying such credit by the fraction—

"(i) the numerator of which is the number of full months of such year during which such building was in service, and

"(ii) the denominator of which is 12.

"(B) Disallowed 1st year credit allowed in 11th year.—Any reduction by reason of subparagraph (A) in the credit allowable (without regard to subparagraph (A)) for the 1st taxable year of the credit period shall be allowable under subsection (a) for the 1st taxable year following the credit period.

"(3) Credit period for existing buildings not to begin before rehabilitation credit allowed.—The credit period for an existing building shall not begin before the 1st taxable year of the credit period for rehabilitation expenditures with respect to the building.

"(f) Qualified Rural Investment Project; Qualifying County.—For purposes of this section—

"(1) Qualified rural investment project.—The term 'qualified rural investment project' means any investment project of 1 or more qualified rural investment buildings located in a qualifying county (and, if necessary to the project, any contiguous county) and selected by the State according to its qualified rural investment plan.

"(2) Qualifying county.—The term 'qualifying county' means any county which—

"(A) is outside a metropolitan statistical area (defined as such by the Office of Management and Budget), and

"(B) during the 20-year period ending with the year in which the most recent census was conducted, has a net out-migration of inhabitants from the county of at least 10 percent of the population of the county at the beginning of such period.

"(g) Limitation on Aggregate Credit Allowable With Respect to Investment Projects Located in a State.—

"(1) Credit may not exceed credit amount allocated to building.—The amount of the credit determined under this section for any taxable year with respect to any building shall not exceed the rural investment credit dollar amount allocated to such building under rules similar to the rules of section 42(h)(1).

"(2) Allocated credit amount to apply to all taxable years ending during or after credit allocation year.—Any rural investment credit dollar amount allocated to any building for any calendar year—

"(A) shall apply to such building for all taxable years in the credit period ending during or after such calendar year, and

"(B) shall reduce the aggregate rural investment credit dollar amount of the allocating agency only for such calendar year.

"(3) Rural investment credit dollar amount for agencies.—

"(A) In general.—The aggregate rural investment credit dollar amount which a rural investment credit agency may allocate for any calendar year is the portion of the State rural investment credit ceiling allocated under this paragraph for such calendar year to such agency.

"(B) State ceiling initially allocated to State rural investment credit agencies.—Except as provided in subparagraphs (D) and (E), the State rural investment credit ceiling for each calendar year shall be allocated to the rural investment credit agency of such State. If there is more than 1 rural investment credit agency of a State, all such agencies shall be treated as a single agency.

"(C) State rural investment credit ceiling.—The State rural investment credit ceiling applicable to any State and any calendar year shall be an amount equal to the sum of—

"(i) the unused State rural investment credit ceiling (if any) of such State for the preceding calendar year, "(ii) $185,000 for each qualifying county in the State,

"(iii) the amount of State rural investment credit ceiling returned in the calendar year, plus

"(iv) the amount (if any) allocated under subparagraph (D) to such State by the Secretary.

For purposes of clause (i), the unused State rural investment credit ceiling for any calendar year is the excess (if any) of the sum of the amounts described in clauses (ii) through (iv) over the aggregate rural investment credit dollar amount allocated for such year. For purposes of clause (iii), the amount of State rural investment credit ceiling returned in the calendar year equals the rural investment credit dollar amount previously allocated within the State to any investment project which fails to meet the 10 percent test under section 42(h)(1)(E)(ii) on a date after the close of the calendar year in which the allocation was made or which does not become a qualified rural investment project within the period required by this section or the terms of the allocation or to any investment project with respect to which an allocation is canceled by mutual consent of the rural investment credit agency and the allocation recipient.

"(D) UNUSED RURAL INVESTMENT CREDIT CARRYOVERS ALLOCATED AMONG CERTAIN STATES.—

"(i) IN GENERAL.—The unused rural investment credit carryover of a State for any calendar year shall be assigned to the Secretary for allocation among qualified States for the succeeding calendar year.

"(ii) UNUSED RURAL INVESTMENT CREDIT CARRYOVER.—For purposes of this subparagraph, the unused rural investment credit carryover of a State for any calendar year is the excess (if any) of the unused State rural investment credit ceiling for such year (as defined in subparagraph (C)(i)) over the excess (if any) of—

"(I) the unused State rural investment credit ceiling for the year preceding such year, over

"(II) the aggregate rural investment credit dollar amount allocated for such year.

"(iii) FORMULA FOR ALLOCATION OF UNUSED RURAL INVESTMENT CREDIT CARRYOVERS AMONG QUALIFIED STATES.—The amount allocated under this subparagraph to a qualified State for any calendar year shall be the amount determined by the Secretary to bear the same ratio to the aggregate unused rural investment credit carryovers of all States for the preceding calendar year as such State's population for the calendar year bears to the population of all qualified States for the calendar year. For purposes of the preceding sentence, population shall be determined in accordance with section 146(j).

"(iv) QUALIFIED STATE.—For purposes of this subparagraph, the term 'qualified State' means, with respect to a calendar year, any State—

"(I) which allocated its entire State rural investment credit ceiling for the preceding calendar year, and

"(II) for which a request is made (not later than May 1 of the calendar year) to receive an allocation under clause (iii).

"(E) STATE MAY PROVIDE FOR DIFFERENT ALLOCATION.—Rules similar to the rules of section 146(e) (other than paragraph (2)(B) thereof) shall apply for purposes of this paragraph.

"(F) POPULATION.—For purposes of this paragraph, population shall be determined in accordance with section 146(j).

"(G) COST-OF-LIVING ADJUSTMENT.—

"(i) IN GENERAL.—In the case of a calendar year after 2005, the $185,000 amount in subparagraph (C) shall be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 2004' for 'calendar year 1992' in subparagraph (B) thereof.

"(ii) ROUNDING.—Any increase under clause (i) which is not a multiple of $5,000 shall be rounded to the next lowest multiple of $5,000.

"(4) PORTION OF STATE CEILING SET-ASIDE FOR CERTAIN INVESTMENT PROJECTS INVOLVING QUALIFIED NONPROFIT ORGANIZATIONS.—

"(A) IN GENERAL.—At least 10 percent of the State rural investment credit ceiling for any State for any calendar year shall be allocated to qualified rural investment projects described in subparagraph (B).

"(B) INVESTMENT PROJECTS INVOLVING QUALIFIED NONPROFIT ORGANIZATIONS.—For purposes of subparagraph (A), a qualified rural investment project is described in this subparagraph if a qualified nonprofit organization is to materially participate (within the meaning of section 469(h)) in the development and operation of the investment project throughout the compliance period.

"(C) QUALIFIED NONPROFIT ORGANIZATION.—For purposes of this paragraph, the term 'qualified nonprofit organization' means any organization if—

"(i) such organization is described in any paragraph of section 501(c) and is exempt from tax under section 501(a),

"(ii) such organization is determined by the State rural investment credit agency not to be affiliated with or controlled by a for-profit organization; and

"(iii) 1 of the exempt purposes of such organization includes the fostering of rural investment.

"(D) TREATMENT OF CERTAIN SUBSIDIARIES.—

"(i) IN GENERAL.—For purposes of this paragraph, a qualified nonprofit organization shall be treated as satisfying the ownership and material participation test of subparagraph (B) if any qualified corporation in which such organization holds stock satisfies such test.

"(ii) QUALIFIED CORPORATION.—For purposes of clause (i), the term 'qualified corporation' means any corporation if 100 percent of the stock of such corporation is held by 1 or more qualified nonprofit organizations at all times during the period such corporation is in existence.

"(E) STATE MAY NOT OVERRIDE SET-ASIDE.—Nothing in subparagraph (F) of paragraph (3) shall be construed to permit a State not to comply with subparagraph (A) of this paragraph.

"(F) CREDITS FOR QUALIFIED NONPROFIT ORGANIZATIONS.—

"(i) ALLOWANCE OF CREDIT.—Any credit which would be allowable under subsection (a) with respect to a qualified rural investment building of a qualified nonprofit organization if such organization were not exempt from tax under this chapter shall be treated as a credit allowable under subpart C to such organization.

"(ii) USE OF CREDIT.—A qualified nonprofit organization may assign, trade, sell, or otherwise transfer any credit allowable to such organization under subparagraph (A) to any taxpayer.

"(iii) CREDIT NOT INCOME.—A transfer under subparagraph (B) of any credit allowable under subparagraph (A) shall not result in income for purposes of section 511.

"(5) SPECIAL RULES.—

"(A) BUILDING MUST BE LOCATED WITHIN JURISDICTION OF CREDIT AGENCY.—A rural investment credit agency may allocate its aggregate rural investment credit dollar amount only to buildings located in the jurisdiction of the governmental unit of which such agency is a part.

"(B) AGENCY ALLOCATIONS IN EXCESS OF LIMIT.—If the aggregate rural investment credit dollar amounts allocated by a rural investment credit agency for any calendar year exceed the portion of the State rural investment credit ceiling allocated to such agency for such calendar year, the rural investment credit dollar amounts so allocated shall be reduced (to the extent of such excess) for buildings in the reverse of the order in which the allocations of such amounts were made.

"(C) CREDIT REDUCED IF ALLOCATED CREDIT DOLLAR AMOUNT IS LESS THAN CREDIT WHICH WOULD BE ALLOWABLE WITHOUT REGARD TO SALES CONVENTION, ETC.—

"(i) IN GENERAL.—The amount of the credit determined under this section with respect to any building shall not exceed the clause (ii) percentage of the amount of the credit which would (but for this subparagraph) be determined under this section with respect to such building.

"(ii) DETERMINATION OF PERCENTAGE.—For purposes of clause (i), the clause (ii) percentage with respect to any building is the percentage which—

"(I) the rural investment credit dollar amount allocated to such building bears to

"(II) the credit amount determined in accordance with clause (iii).

"(iii) DETERMINATION OF CREDIT AMOUNT.—The credit amount determined in accordance with this clause is the amount of the credit which would (but for this subparagraph) be determined under this section with respect to the building if this section were applied without regard to paragraph (2)(A) of subsection (e).

"(D) RURAL INVESTMENT CREDIT AGENCY TO SPECIFY APPLICABLE PERCENTAGE AND MAXIMUM ELIGIBLE BASIS.—In allocating a rural investment credit dollar amount to any building, the rural investment credit agency shall specify the applicable percentage and the maximum eligible basis which may be taken into account under this section with respect to such building. The applicable percentage and maximum eligible basis so specified shall not exceed the applicable percentage and eligible basis determined under this section without regard to this subsection.

"(6) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) RURAL INVESTMENT CREDIT AGENCY.—The term 'rural investment credit agency' means any agency authorized to carry out this subsection.

"(B) POSSESSIONS TREATED AS STATES.—The term 'State' includes a possession of the United States.

"(7) PORTION OF STATE CEILING SET-ASIDE FOR QUALIFIED RURAL SMALL BUSINESS INVESTMENT CREDITS.—Not more than 10 percent of the State rural investment credit ceiling for any State for any calendar year may be allocated to qualified rural small business investment credits under section 42B.

"(h) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) COMPLIANCE PERIOD.—The term 'compliance period' means, with respect to any building, the period of 10 taxable years beginning with the 1st taxable year of the credit period with respect thereto.

"(2) NEW BUILDING.—The term 'new building' means a building the original use of which begins with the taxpayer.

"(3) EXISTING BUILDING.—The term 'existing building' means any building which is not a new building.

"(4) APPLICATION TO ESTATES AND TRUSTS.—In the case of an estate or trust, the amount of the credit determined under subsection (a) and any increase in tax under subsection (i) shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

"(i) RECAPTURE OF CREDIT.—If—

"(1) as of the close of any taxable year in the compliance period, the amount of the eligible basis of any building with respect to the taxpayer is less than

"(2) the amount of such basis as of the close of the preceding taxable year,

then the taxpayer's tax under this chapter for the taxable year shall be increased by the credit recapture amount determined under rules similar to the rules of section 42(j).

"(j) CERTIFICATIONS AND OTHER REPORTS TO SECRETARY.—

"(1) CERTIFICATION WITH RESPECT TO 1ST YEAR OF CREDIT PERIOD.—Following the close of the 1st taxable year in the credit period with respect to any qualified rural investment building, the taxpayer shall certify to the Secretary (at such time and in such form and in such manner as the Secretary prescribes)—

"(A) the taxable year, and calendar year, in which such building was first placed in service,

"(B) the eligible basis of such building as of the beginning of the credit period,

"(C) the maximum applicable percentage and eligible basis permitted to be taken into account by the appropriate rural investment credit agency under subsection (g),

"(D) the election made under subsection (f) with respect to the qualified rural investment project of which such building is a part, and

"(E) such other information as the Secretary may require.

In the case of a failure to make the certification required by the preceding sentence on the date prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, no credit shall be allowable by reason of subsection (a) with respect to such building for any taxable year ending before such certification is made.

"(2) ANNUAL REPORTS TO THE SECRETARY.—The Secretary may require taxpayers to submit an information return (at such time and in such form and manner as the Secretary prescribes) for each taxable year setting forth—

"(A) the eligible basis for the taxable year of each qualified rural investment building of the taxpayer,

"(B) the information described in paragraph (1)(C) for the taxable year, and

"(C) such other information as the Secretary may require.

The penalty under section 6652(j) shall apply to any failure to submit the return required by the Secretary under the preceding sentence on the date prescribed therefor.

"(3) ANNUAL REPORTS FROM RURAL INVESTMENT CREDIT AGENCIES.—Each agency which allocates any rural investment credit amount to any building for any calendar year shall submit to the Secretary (at such time and in such manner as the Secretary shall prescribe) an annual report specifying—

"(A) the amount of rural investment credit amount allocated to each building for such year,

"(B) sufficient information to identify each such building and the taxpayer with respect thereto, and

"(C) such other information as the Secretary may require.

The penalty under section 6652(j) shall apply to any failure to submit the report required by the preceding sentence on the date prescribed therefor.

"(k) RESPONSIBILITIES OF RURAL INVESTMENT CREDIT AGENCIES.—

"(1) PLANS FOR ALLOCATION OF CREDIT AMONG INVESTMENT PROJECTS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this section, the rural investment credit dollar amount with respect to any building shall be zero unless—

"(i) such amount was allocated pursuant to a qualified rural investment plan of the agency which is approved by the governmental unit (in accordance with rules similar to the rules of section 147(f)(2) (other than subparagraph (B)(ii) thereof)) of which such agency is a part,

"(ii) such agency notifies the chief executive officer (or the equivalent) of the local jurisdiction within which the building is located of such investment project and provides such individual a reasonable opportunity to comment on the investment project,

"(iii) a comprehensive market study of the development needs of individuals in the qualifying county to be served by the investment project is conducted before the credit allocation is made and at the developer's expense by a disinterested party who is approved by such agency, and

"(iv) a written explanation is available to the general public for any allocation of a rural investment credit dollar amount which is not made in accordance with established priorities and selection criteria of the rural investment credit agency.

"(B) QUALIFIED RURAL INVESTMENT PLAN.—For purposes of this section, the term 'qualified rural investment plan' means any plan—

"(i) which sets forth selection criteria to be used to determine priorities of the rural investment credit agency which are appropriate to qualifying counties,

"(ii) which also gives preference in allocating rural investment credit dollar amounts among selected investment projects to—

"(I) investment projects that target those small rural counties with consistently high rates of net out-migration,

"(II) investment projects that link the economic development and job creation efforts of 2 or more small rural counties with high rates of net out-migration, and

"(III) investment projects that link the economic development and job creation efforts of 1 or more small rural counties in the State with high rates of net out-migration to related efforts in regions of such State experiencing economic growth, and

"(iii) which provides a procedure that the agency (or an agent or other private contractor of such agency), will follow in monitoring for noncompliance with the provisions of this section and in notifying the Internal Revenue Service of such noncompliance which such agency becomes aware of and in monitoring for noncompliance through regular site visits.

"(C) CERTAIN SELECTION CRITERIA MUST BE USED.—The selection criteria set forth in a qualified rural investment plan must include—

"(i) investment project location,

"(ii) technology and transportation infrastructure needs, and

"(iii) private development trends.

"(2) CREDIT ALLOCATED TO BUILDING NOT TO EXCEED AMOUNT NECESSARY TO ASSURE INVESTMENT PROJECT FEASIBILITY.—

"(A) IN GENERAL.—The rural investment credit dollar amount allocated to an investment project shall not exceed the amount the rural investment credit agency determines is necessary for the financial feasibility of the investment project and its viability as a qualified rural investment project throughout the compliance period.

"(B) AGENCY EVALUATION.—In making the determination under subparagraph (A), the rural investment credit agency shall consider—

"(i) the sources and uses of funds and the total financing planned for the investment project,

"(ii) any proceeds or receipts expected to be generated by reason of tax benefits,

"(iii) the percentage of the rural investment credit dollar amount used for investment project costs other than the cost of intermediaries, and

"(iv) the reasonableness of the developmental and operational costs of the investment project.

Clause (iii) shall not be applied so as to impede the development of investment projects in hard-to-develop areas.

"(C) DETERMINATION MADE WHEN CREDIT AMOUNT APPLIED FOR AND WHEN BUILDING PLACED IN SERVICE.—

"(i) IN GENERAL.—A determination under subparagraph (A) shall be made as of each of the following times:

"(I) The application for the rural investment credit dollar amount.

"(II) The allocation of the rural investment credit dollar amount.

"(III) The date the building is first placed in service.

"(ii) CERTIFICATION AS TO AMOUNT OF OTHER SUBSIDIES.—Prior to each determination under clause (i), the taxpayer shall certify to the rural investment credit agency the full extent of all Federal, State, and local subsidies which apply (or which the taxpayer expects to apply) with respect to the building.

"(l) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations—

"(1) dealing with—

"(A) investment projects which include more than 1 building or only a portion of a building,

"(B) buildings which are sold in portions,

"(2) providing for the application of this section to short taxable years,

"(3) preventing the avoidance of the rules of this section, and

"(4) providing the opportunity for rural investment credit agencies to correct administrative errors and omissions with respect to allocations and record keeping within a reasonable period after their discovery, taking into account the availability of regulations and other administrative guidance from the Secretary.".

(b) CURRENT YEAR BUSINESS CREDIT CALCULATION.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting ", plus", and by adding at the end the following:

"(18) the rural investment credit determined under section 42A(a).".

(c) Limitation on Carryback.—Subsection (d) of section 39 (relating to carryback and carryforward of unused credits), as amended by this Act, is amended by adding at the end the following:

"(12) No carryback of rural investment credit before effective date.—No portion of the unused business credit for any taxable year which is attributable to the rural investment credit determined under section 42A may be carried back to a taxable year beginning before the date of the enactment of the Jumpstart Our Business Strength (JOBS) Act.".

(d) Conforming Amendments.—

(1) Section 55(c)(1) is amended by inserting "or subsection (i) or (j) of section 42A" after "section 42".

(2) Subsections (i)(c)(3), (i)(c)(6)(B)(i), and (k)(1) of section 469 are each amended by inserting "or 42A" after "section 42".

(3) Section 772(a) is amended by striking "and" at the end of paragraph (10), by redesignating paragraph (11) as paragraph (12), and by inserting after paragraph (10) the following:

"(11) the rural investment credit determined under section 42A, and".

(4) Section 774(b)(4) is amended by inserting ", 42A(i)," after "section 42(j)".

(e) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 42 the following:

"Sec. 42A. Rural investment credit.".

(f) Effective Date.—The amendments made by this section shall apply to expenditures made in taxable years beginning after the date of the enactment of this Act.

SEC. 634. QUALIFIED RURAL SMALL BUSINESS INVESTMENT CREDIT.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following:

"SEC. 42B. QUALIFIED RURAL SMALL BUSINESS INVESTMENT CREDIT.

"(a) In General.—For purposes of section 38, in the case of a qualified rural small business, the amount of the qualified rural small business investment credit determined under this section for any taxable year is equal to 30 percent of the qualified expenditures for the taxable year of such business.

"(b) Dollar Limitation.—

"(1) In general.—The credit allowable under subsection (a) for any taxable year shall not exceed the lesser of—

"(A) $5,000, or

"(B) the amount when added to the aggregate credits allowable to the taxpayer under subsection (a) for all preceding taxable years does not exceed $25,000.

"(2) No double credit allowed.—In the case of any qualified rural small business which places in service a qualified rural investment building with respect to which a rural investment credit is allowed under section 42A for any taxable year, paragraph (1)(A) shall be applied with respect to such taxable year by substituting 'zero' for '$5,000'.

"(c) Qualified Rural Small Business.—For purposes of this section, the term 'qualified rural small business' means any person if such person—

"(1) employed not more than 5 full-time employees during the taxable year,

"(2) materially and substantially participates in management,

"(3) is located in a qualifying county, and

"(4) submitted a qualified business plan with respect to which the rural investment credit agency with jurisdiction over such qualifying county has allocated a portion of the State rural investment ceiling for such taxable year under section 42A(g)(7).

For purposes of paragraph (1), an employee shall be considered full-time if such employee is employed at least 30 hours per week for 20 or more calendar weeks in the taxable year.

"(d) Qualified Expenditures.—For purposes of this section—

"(1) In general.—The term 'qualified expenditures' means expenditures normally associated with starting or expanding a business and included in a qualified business plan, including costs for capital, plant and equipment, inventory expenses, and wages, but not including interest costs.

"(2) Only certain expenditures included for existing businesses.—In the case of a qualified rural small business with respect to which a credit under subsection (a) was allowed for a preceding taxable year, such term shall include only so much of the expenditures described in paragraph (1) for the taxable year as exceed the aggregate of such expenditures for the preceding taxable year.

"(e) Qualified Business Plan.—For purposes of this section, the term 'qualified business plan' means a business plan which—

"(1) has been approved by the rural investment credit agency with jurisdiction over the qualifying county in which the qualified rural small business is located pursuant to such agency's rural investment plan, and

"(2) meets such requirements as the agency may specify.

"(f) Denial of Double Benefit.—In the case of the amount of the credit determined under this section—

"(1) no deduction or credit shall be allowed for such amount under any other provision of this chapter, and

"(2) no increase in the adjusted basis of any property shall result from such amount.

"(g) Definitions and Special Rules.—For purposes of this section—

"(1) any term which is used in this section which is used in section 42A shall have the meaning given such term by section 42A, and

"(2) rules similar to the rules under subsections (j)(2), (j)(3), and (k) of section 42A shall apply.".

(b) Current Year Business Credit Calculation.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting ", plus", and by adding at the end the following:

"(19) the qualified rural small business investment credit determined under section 42B(a).".

(c) Limitation on Carryback.—Subsection (d) of section 39 (relating to carryback and carryforward of unused credits), as amended by this Act, is amended by adding at the end the following:

"(13) No carryback of qualified rural small business investment credit before effective date.—No portion of the unused business credit for any taxable year which is attributable to the qualified rural small business investment credit determined under section 42B may be carried back to a taxable year beginning before the date of the enactment of the Jumpstart Our Business Strength (JOBS) Act.".

(d) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 42A the following:

"Sec. 42B. Qualified rural small business investment credit.".

(e) Effective Date.—The amendments made by this section shall apply to expenditures made in taxable years beginning after the date of the enactment of this Act.

SEC. 635. CREDIT FOR MAINTENANCE OF RAILROAD TRACK.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45I. RAILROAD TRACK MAINTENANCE CREDIT.

"(a) General Rule.—For purposes of section 38, the railroad track maintenance credit determined under this section for the taxable year is an amount equal to 30 percent of the qualified railroad track maintenance expenditures paid or incurred by an eligible taxpayer during the taxable year.

"(b) Limitation.—The credit allowed under subsection (a) for any taxable year shall not exceed the product of—

"(1) $3,500, and

"(2) the number of miles of railroad track owned or leased by the eligible taxpayer as of the close of the taxable year.

"(c) Eligible taxpayer.—For purposes of this section, the term 'eligible taxpayer' means—

"(1) any Class II or Class III railroad, and

"(2) any person who transports property using the rail facilities of a person described in paragraph (1) or who furnishes railroad-related property or services to such a person.

"(d) Qualified Railroad Track Maintenance Expenditures.—For purposes of this section, the term 'qualified railroad track maintenance expenditures' means expenditures (whether or not otherwise chargeable to capital account) for maintaining railroad track (including roadbed, bridges, and related track structures) owned or leased as of January 1, 2005, by a Class II or Class III railroad.

"(e) Other Definitions and Special Rules.—

"(1) Class ii or Class iii railroad.—For purposes of this section, the terms 'Class II railroad' and 'Class III railroad' have the meanings given such terms by the Surface Transportation Board.

"(2) Controlled groups.—Rules similar to the rules of paragraph (1) of section 41(f) shall apply for purposes of this section.

"(3) Basis adjustment.—For purposes of this subtitle, if a credit is allowed under this section with respect to any railroad track, the basis of such track shall be reduced by the amount of the credit so allowed.

"(f) Application of Section.—This section shall apply to qualified railroad track maintenance expenditures paid or incurred during taxable years beginning after December 31, 2004, and before January 1, 2008.".

(b) Limitation on Carryback.—Section 39(d) (relating to transition rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(14) No carryback of railroad track maintenance credit before effective date.—No portion of the unused business credit for any taxable year which is attributable to the railroad track maintenance credit determined under section 45I may be carried to a taxable year beginning before January 1, 2005.".

(c) Conforming Amendments.—

(1) Section 38(b) (relating to general business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (18), by striking the period at the

end of paragraph (19) and inserting ", plus", and by adding at the end the following new paragraph:

"(20) the railroad track maintenance credit determined under section 45I(a).".

(2) Subsection (a) of section 1016, as amended by this Act, is amended by striking "and" at the end of paragraph (28), by striking the period at the end of paragraph (29) and inserting ", and", and by adding at the end the following new paragraph:

"(30) in the case of railroad track with respect to which a credit was allowed under section 45I, to the extent provided in section 45I(e)(3).".

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 45H the following new item:

"Sec. 45I. Railroad track maintenance credit.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 636. RAILROAD REVITALIZATION AND SECURITY INVESTMENT CREDIT.

(a) RAILROAD REVITALIZATION AND SECURITY INVESTMENT CREDIT.—

(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45J. RAILROAD REVITALIZATION AND SECURITY INVESTMENT CREDIT.

"(a) GENERAL RULE.—For purposes of section 38, the railroad revitalization and security investment credit determined under this section for the taxable year is the amount equal to 50 percent of the qualified project expenditures paid or incurred by the taxpayer during the taxable year.

"(b) QUALIFIED PROJECT EXPENDITURES.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified project expenditures' means, with respect to any project for intercity passenger rail transportation (as defined under section 24102 of title 49, United States Code) which is included in a State rail plan, expenditures (whether or not otherwise chargeable to capital account) for—

"(A) planning,

"(B) environmental review and environmental impact mitigation,

"(C) track and track structure rehabilitation, relocation, improvement, and development,

"(D) railroad safety and security improvements,

"(E) communications and signaling improvements,

"(F) intercity passenger rail equipment acquisition, and

"(G) rail station and intermodal facilities development.

"(2) EXCEPTIONS.—An expenditure shall not be treated as a qualified project expenditure unless all persons which conduct rail operations over the infrastructure with respect to which such an expenditure is made—

"(A) are employers for purposes of the Railroad Retirement Act of 1974 and are carriers for purposes of the Railway Labor Act (unless such a person is an operator with respect to commuter rail passenger transportation (as defined in section 24102(4) of title 49, United States Code) of a State or local government authority (as such terms are defined in section 5302 of such title) eligible to receive financial assistance under section 5307 of such title, a contractor performing services in connection with the operations with respect to commuter rail passenger transportation (as so defined), or the Alaska Railroad or its contractors),

"(B) provide assurances to the State that any collective bargaining agreements with such a person's employees (including terms regulating the contracting of work) will remain in full force and effect according to the terms of the agreements for work performed for such a person on the railroad transportation corridor, and

"(C) comply with the protective agreements established under section 504 of the Railroad Revitalization and Regulatory Reform Act of 1976 with respect to employees affected by actions taken in connection with the project.

"(c) LIMITATION.—

"(1) IN GENERAL.—The amount of the credit allowed under subsection (a) for any taxable year with respect to any project for which qualified project expenditures are made shall not exceed the limitation allocated to such project under this subsection for the calendar year in which the taxable year begins.

"(2) STATE LIMITATION.—

"(A) IN GENERAL.—There is a State railroad revitalization and security investment credit limitation for each calendar year. Such limitation is the amount which bears the same ratio to $165,000,000 as the allocation number for such State bears to the allocation number for all States.

"(B) ALLOCATION NUMBER.—For purposes of subparagraph (A), the allocation number is, with respect to any State, the sum of the following:

"(i) The number of railroad and public road at grade crossings on intercity passenger rail routes within the State.

"(ii) The number of intercity passenger train miles within the State.

"(iii) The number of intercity embarkations and disembarkations for each passenger within the State.

"(3) UNUSED CREDIT CARRYOVERS ALLOCATED AMONG CERTAIN STATES.—

"(A) IN GENERAL.—The unused credit carryover for all States for any calendar year shall be reallocated to each qualified State in an amount which bears the same ratio to the unused credit carryover for all States for the calendar as the allocation number for such qualified State bears to the allocation number for all qualified States.

"(B) UNUSED CREDIT CARRYOVER.—For purposes of this paragraph, the term 'unused credit carryover' means, with respect to any State, the excess of the State limitation (determined under paragraph (2)) for the calendar year over the amount allocated by the State under paragraph (4) for such calendar year.

"(C) QUALIFIED STATES.—For purposes of this paragraph, the term 'qualified State' means any State—

"(i) which allocated its entire State limitation amount under paragraph (4) for the calendar year, and

"(ii) for which a request is made to receive an allocation under this paragraph.

"(4) ALLOCATION WITHIN STATES.—Each State shall allocate the limitation amount allocated to such State under paragraphs (2) and (3) to projects for intercity passenger rail transportation which are included in the State rail plan of such State.

"(5) NEW YORK CITY RAIL PROJECTS.—

"(A) IN GENERAL.—In addition to the amounts allocated under paragraph (2), the Secretary shall allocate a limitation of $200,000,000 to New York City, New York, for qualified project expenditures within the New York Liberty Zone (as defined in section 1400L(h)) for the period described in subsection (h).

"(B) ALLOCATION AMONG PROJECTS.—Of the limitation allocated under subparagraph (A)—

"(i) $100,000,000 shall be allocated to projects designated by the Mayor of New York City, New York, and

"(ii) $100,000,000 shall be allocated to projects designated by the Governor of New York.

"(C) SPECIAL RULE REGARDING QUALIFIED PROJECT EXPENDITURES.—For purposes of this paragraph, a qualified project expenditure shall include any expenditure for improvements to subway systems, for commuter rail systems, for rail links to airports, and for public infrastructure improvements in the vicinity of rail or subway stations.

"(d) STATE RAIL PLAN.—For purposes of this section, the term 'State rail plan' means a plan prepared and maintained in accordance with chapter 225 of title 49, United States Code.

"(e) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to any property, the basis of such property shall be reduced by the amount of the credit so allowed.

"(f) NO DOUBLE BENEFIT.—No credit shall be allowed under this section with respect to any expenditures for which a credit is allowed under section 45I.

"(g) CREDIT TRANSFERABILITY.—Any credit allowable under this section may be transferred (but not more than once) if—

"(1) the credit exceeds the tax liability of the taxpayer for the taxable year, or

"(2) the taxpayer is not subject to any tax imposed by this chapter by reason of having a tax-exempt status.

"(h) APPLICATION OF SECTION.—This section shall apply to qualified project expenditures paid or incurred during taxable years beginning after December 31, 2004, and before January 1, 2008.".

(2) LIMITATION ON CARRYBACK.—Section 39(d) (relating to transition rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(15) NO CARRYBACK OF SECTION 45J CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45J(a) may be carried back to any taxable year beginning before January 1, 2005.".

(3) CONFORMING AMENDMENTS.—

(A) Section 38(b) (relating to general business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting ", plus", and by adding at the end the following new paragraph:

"(21) the railroad revitalization and security investment credit determined under section 45J(a).".

(B) Subsection (a) of section 1016, as amended by this Act, is amended by striking "and" at the end of paragraph (29), by striking the period at the end of paragraph (30) and inserting ", and", and by adding at the end the following new paragraph:

"(31) in the case of property with respect to which a credit was allowed under section 45J, to the extent provided in section 45J(e).".

(4) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 45I the following new item:

"Sec. 45J. Railroad revitalization and security investment credit.".

(5) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

(b) STATE RAIL PLANS.—

(1) IN GENERAL.—Part B of subtitle V of title 49, United States Code, is amended by adding at the end the following:

"CHAPTER 225—STATE RAIL PLANS

"Sec.
"22501. Authority.
"22502. Purposes.
"22503. Transparency; coordination.
"22504. Content.
"22505. Approval.
"22506. Definitions.

"§ 22501. Authority

"(a) IN GENERAL.—Each State may prepare and maintain a State rail plan in accordance with the provisions of this chapter.

"(b) REQUIREMENTS.—For the preparation and periodic revision of a State rail plan, a State shall—

"(1) establish or designate a State rail transportation authority to prepare, maintain, coordinate, and administer the plan;

"(2) establish or designate a State rail plan approval authority to approve the plan;

"(3) make the State's approved plan available to the public and transmit a copy to the Secretary of Transportation; and

"(4) revise the plan no less frequently than once every 5 years.

"§ 22502. Purposes

"(a) PURPOSES.—The purposes of a State rail plan are as follows:

"(1) To set forth State policy involving freight and passenger rail transportation, including commuter rail operations, in the State.

"(2) To present priorities and strategies to enhance rail service in the State that benefits the public.

"(3) To serve as the basis for Federal and State rail investments within the State.

"(b) CONTENT.—The State rail plan shall establish the period covered by such plan.

"(c) CONSISTENCY WITH STATE TRANSPORTATION EFFORTS.—A State rail plan shall be consistent with the State transportation planning goals and programs and shall set forth rail transportation's role within the State transportation system.

"§ 22503. Transparency; coordination

"(a) PREPARATION.—A State shall provide adequate and reasonable notice and opportunity for comment and other input on a proposed State rail plan under this chapter to the following:

"(1) The public.

"(2) Rail carriers.

"(3) Commuter and transit authorities operating in, or affected by rail operations within, the State.

"(4) Units of local government.

"(5) Other parties interested in the preparation and review of the State rail plan.

"(b) INTERGOVERNMENTAL COORDINATION.—A State shall review the freight and passenger rail service activities and initiatives of regional planning agencies, regional transportation authorities, and municipalities within the State, or in the region in which the State is located, while preparing the plan, and shall include any recommendations made by such agencies, authorities, and municipalities as deemed appropriate by the State.

"§ 22504. Content

"(a) IN GENERAL.—Each State rail plan shall contain the following:

"(1) An inventory of the existing overall rail transportation system and rail services and facilities within the State and an analysis of the role of rail transportation within the State's surface transportation system.

"(2) A comprehensive review of all rail lines within the State, including proposed high speed rail corridors and significant rail line segments not currently in service.

"(3) A statement of the State's passenger rail service objectives, including minimum service levels, for intercity passenger rail transportation routes in the State.

"(4) A general analysis of rail's transportation, economic, and environmental impacts in the State, including congestion mitigation, trade and economic development, air quality, land-use, energy-use, and community impacts.

"(5) A long-range rail investment program for current and future freight and passenger infrastructure in the State that meets the requirements of subsection (b).

"(6) A statement of public financing issues for rail projects and service in the State, including a list of current and prospective public capital and operating funding resources, public subsidies, State taxation, and other financial policies relating to rail infrastructure development.

"(7) An identification of rail infrastructure issues within the State that reflects consultation with all relevant stake holders.

"(8) A review of major passenger and freight intermodal rail connections and facilities within the State, including seaports, and prioritized options to maximize service integration and efficiency between rail and other modes of transportation within the State.

"(9) A review of publicly funded projects within the State to improve rail transportation safety and security, including all major projects funded under section 130 of title 23.

"(10) A performance evaluation of passenger rail services operating in the State, including possible improvements in those services, and a description of strategies to achieve those improvements.

"(11) A compilation of studies and reports on high-speed rail corridor development within the State not included in a previous plan under this chapter, and a plan for funding any recommended development of such corridors in the State.

"(12) A statement that the State satisfies the conditions set forth in section 22102.

"(b) LONG-RANGE SERVICE AND INVESTMENT PROGRAM.—

"(1) PROGRAM CONTENT.—A long-range rail investment program included in a State rail plan under subsection (a)(5) shall include the following matters:

"(A) Two lists for rail capital projects, 1 list for freight rail capital projects and 1 list for intercity passenger rail capital projects.

"(B) A detailed funding plan for the projects.

"(2) PROJECT LIST CONTENT.—The lists of freight and intercity passenger rail capital projects shall contain—

"(A) a description of the anticipated public and private benefits of each such project; and

"(B) a statement of the correlation between—

"(i) public funding contributions for the projects; and

"(ii) the public benefits.

"(3) CONSIDERATIONS FOR PROJECT LIST.—In preparing the list of freight and intercity passenger rail capital projects, a State rail transportation authority shall take into consideration the following matters:

"(A) Contributions made by non-Federal and non-State sources through user fees, matching funds, or other private capital involvement.

"(B) Rail capacity and congestion effects.

"(C) Effects to highway, aviation, and maritime capacity, congestion, or safety.

"(D) Regional balance.

"(E) Environmental impact.

"(F) Economic and employment impacts.

"(G) Projected ridership and other service measures for passenger rail projects.

"§ 22505. Approval

"The State rail plan approval authority established or designated under section 22501(b)(2) may approve a State rail plan for the purposes of this chapter if—

"(1) the plan meets all of the requirements applicable to State plans under this chapter;

"(2) for each ready-to-commence project listed on the ranked list of freight and intercity passenger rail capital improvement projects under the plan—

"(A) the project meets all safety and environmental requirements, including those prescribed under the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.) that are applicable to the project under law; and

"(B) the State has entered into an agreement with any owner of rail infrastructure or right-of-way directly affected by the project that provides for the State to proceed with the project and includes assurances regarding capacity and compensation for use of such infrastructure or right-of-way, if applicable; and

"(3) the content of the plan is coordinated with State transportation plans developed pursuant to section 135 of title 23.

"§ 22506. Definitions

"In this chapter:

"(1) PRIVATE BENEFIT.—The term 'private benefit'—

"(A) means a benefit accrued to a person or private entity, other than the National Railroad Passenger Corporation, that directly improves the economic and competitive condition of that person or entity through improved assets, cost reductions, service improvements, or other means; and

"(B) shall be determined on a project-by-project basis, based upon an agreement between the State and the affected persons or private entities.

"(2) PUBLIC BENEFIT.—The term 'public benefit'—

"(A) means a benefit accrued to the public in the form of enhanced mobility of people or goods, environmental protection or enhancement, congestion mitigation, enhanced trade and economic development, improved air quality or land use, more efficient energy use, enhanced public safety or security, reduction of public expenditures due to improved transportation efficiency or infrastructure preservation, and other positive community effects; and

"(B) shall be determined on a project-by-project basis, based upon an agreement between the State and the persons or private entities involved in the project.

"(3) STATE.—The term 'State' means any of the 50 States and the District of Columbia.

"(4) STATE RAIL TRANSPORTATION AUTHORITY.—The term 'State rail transportation authority' means the State agency or official responsible under the direction of the Chief Executive of the State or a State law for preparation, maintenance, coordination, and administration of the State rail plan under this chapter.".

(2) CLERICAL AMENDMENT.—The table of chapters at the beginning of subtitle V of

title 49, United States Code, is amended by inserting after the item relating to chapter 223 the following:

"225. STATE RAIL PLANS ....22501.".

SEC. 637. MODIFICATION OF TARGETED AREAS DESIGNATED FOR NEW MARKETS TAX CREDIT.

(a) In General.—Paragraph (2) of section 45D(e) is amended to read as follows:

"(2) Targeted populations.—The Secretary shall prescribe regulations under which 1 or more targeted populations (within the meaning of section 103(20) of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4702(20))) may be treated as low-income communities. Such regulations shall include procedures for determining which entities are qualified active low-income community businesses with respect to such populations.".

(b) Effective Date.—The amendment made by this section shall apply to designations made by the Secretary of the Treasury after the date of the enactment of this Act.

SEC. 638. MODIFICATION OF INCOME REQUIREMENT FOR CENSUS TRACTS WITHIN HIGH MIGRATION RURAL COUNTIES.

(a) In general.—Section 45D(e) (relating to low-income community) is amended by adding at the end the following new paragraph:

"(4) Modification of income requirement for census tracts within high migration rural counties.—

"(A) In general.—In the case of a population census tract located within a high migration rural county, paragraph (1)(B)(i) shall be applied by substituting '85 percent' for '80 percent'.

"(B) High migration rural county.—For purposes of this paragraph, the term 'high migration rural county' means any county which, during the 20-year period ending with the year in which the most recent census was conducted, has a net out-migration of inhabitants from the county of at least 10 percent of the population of the county at the beginning of such period.".

(b) Effective Date.—The amendment made by this section shall take effect as if included in the amendment made by section 121(a) of the Community Renewal Tax Relief Act of 2000.

SEC. 639. CREDIT FOR INVESTMENT IN TECHNOLOGY TO MAKE MOTION PICTURES MORE ACCESSIBLE TO THE DEAF AND HARD OF HEARING.

(a) In General.—

(1) Allowance of credit.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45T. EXPENDITURES TO PROVIDE ACCESS TO MOTION PICTURES FOR THE DEAF AND HARD OF HEARING.

"(a) General Rule.—For purposes of section 38, in the case of an eligible taxpayer, the motion picture accessibility credit for any taxable year shall be an amount equal to 50 percent of the qualified expenditures made by the eligible taxpayer during the taxable year.

"(b) Eligible Taxpayer.—For purposes of this section, the term 'eligible taxpayer' means a taxpayer who is in the business of—

"(1) showing motion pictures to the public in theaters, or

"(2) producing or distributing such motion pictures.

"(c) Qualified Expenditures.—For purposes of this section, the term 'qualified expenditures' means amounts paid or incurred by the taxpayer for the purpose of making motion pictures accessible to individuals who are deaf or hard of hearing through the use of captioning technology.

"(d) Basis Adjustment.—For purposes of this subtitle, if a credit is allowed under this section with respect to any property, the basis of such property shall be reduced by the amount of the credit so allowed.

"(e) No Double Benefit.—In the case of the credit determined under this section, no deduction or credit shall be allowed for such amount under any other provision of this chapter.".

(2) Conforming amendments.—

(A) Section 38(b) (relating to general business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting ", plus", and by adding at the end the following new paragraph:

"(32) the motion picture accessibility credit determined under section 45T(a).".

(B) Subsection (a) of section 1016, as amended by this Act, is amended by striking "and" at the end of paragraph (38), by striking the period at the end of paragraph (39) and inserting ", and", and by adding at the end the following new paragraph:

"(40) in the case of property with respect to which a credit was allowed under section 45T, to the extent provided in section 45T(d).".

(b) Limitation on Carryback.—Section 39(d) (relating to transition rules) is amended by adding at the end the following new paragraph:

"(16) No carryback of motion picture accessibility credit before effective date.—No portion of the unused business credit for any taxable year which is attributable to the motion picture accessibility credit determined under section 45T may be carried to a taxable year beginning before January 1, 2004.".

(c) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 45S the following new item:

"Sec. 45T. Expenditures to provide access to motion pictures for the deaf and hard of hearing.".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

Subtitle E—Miscellaneous Provisions

SEC. 641. EXCLUSION OF GAIN OR LOSS ON SALE OR EXCHANGE OF CERTAIN BROWNFIELD SITES FROM UNRELATED BUSINESS TAXABLE INCOME.

(a) In General.—Subsection (b) of section 512 (relating to unrelated business taxable income), as amended by this Act, is amended by adding at the end the following new paragraph:

"(19) Treatment of gain or loss on sale or exchange of certain brownfield sites.—

"(A) In general.—Notwithstanding paragraph (5)(B), there shall be excluded any gain or loss from the qualified sale, exchange, or other disposition of any qualifying brownfield property by an eligible taxpayer.

"(B) Eligible taxpayer.—For purposes of this paragraph—

"(i) In general.—The term 'eligible taxpayer' means, with respect to a property, any organization exempt from tax under section 501(a) which—

"(I) acquires from an unrelated person a qualifying brownfield property, and

"(II) pays or incurs eligible remediation expenditures with respect to such property in an amount which exceeds the greater of $550,000 or 12 percent of the fair market value of the property at the time such property was acquired by the eligible taxpayer, determined as if there was not a presence of a hazardous substance, pollutant, or contaminant on the property which is complicating the expansion, redevelopment, or reuse of the property.

"(ii) Exception.—Such term shall not include any organization which is—

"(I) potentially liable under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 with respect to the qualifying brownfield property,

"(II) affiliated with any other person which is so potentially liable through any direct or indirect familial relationship or any contractual, corporate, or financial relationship (other than a contractual, corporate, or financial relationship which is created by the instruments by which title to any qualifying brownfield property is conveyed or financed or by a contract of sale of goods or services), or

"(III) the result of a reorganization of a business entity which was so potentially liable.

"(C) Qualifying brownfield property.—For purposes of this paragraph—

"(i) In general.—The term 'qualifying brownfield property' means any real property which is certified, before the taxpayer incurs any eligible remediation expenditures (other than to obtain a Phase I environmental site assessment), by an appropriate State agency (within the meaning of section 198(c)(4)) in the State in which such property is located as a brownfield site within the meaning of section 101(39) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as in effect on the date of the enactment of this paragraph).

"(ii) Request for certification.—Any request by an eligible taxpayer for a certification described in clause (i) shall include a sworn statement by the eligible taxpayer and supporting documentation of the presence of a hazardous substance, pollutant, or contaminant on the property which is complicating the expansion, redevelopment, or reuse of the property given the property's reasonably anticipated future land uses or capacity for uses of the property (including a Phase I environmental site assessment and, if applicable, evidence of the property's presence on a local, State, or Federal list of brownfields or contaminated property) and other environmental assessments prepared or obtained by the taxpayer.

"(D) Qualified sale, exchange, or other disposition.—For purposes of this paragraph—

"(i) In general.—A sale, exchange, or other disposition of property shall be considered as qualified if—

"(I) such property is transferred by the eligible taxpayer to an unrelated person, and

"(II) within 1 year of such transfer the eligible taxpayer has received a certification from the Environmental Protection Agency or an appropriate State agency (within the meaning of section 198(c)(4)) in the State in which such property is located that, as a result of the eligible taxpayer's remediation actions, such property would not be treated as a qualifying brownfield property in the hands of the transferee.

For purposes of subclause (II), before issuing such certification, the Environmental Protection Agency or appropriate State agency shall respond to comments received pursuant to clause (ii)(V) in the same form and manner as required under section 117(b) of the

Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as in effect on the date of the enactment of this paragraph).

“(ii) REQUEST FOR CERTIFICATION.—Any request by an eligible taxpayer for a certification described in clause (i) shall be made not later than the date of the transfer and shall include a sworn statement by the eligible taxpayer certifying the following:

“(I) Remedial actions which comply with all applicable or relevant and appropriate requirements (consistent with section 121(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980) have been substantially completed, such that there are no hazardous substances, pollutants, or contaminants which complicate the expansion, redevelopment, or reuse of the property given the property's reasonably anticipated future land uses or capacity for uses of the property.

“(II) The reasonably anticipated future land uses or capacity for uses of the property are more economically productive or environmentally beneficial than the uses of the property in existence on the date of the certification described in subparagraph (C)(i). For purposes of the preceding sentence, use of property as a landfill or other hazardous waste facility shall not be considered more economically productive or environmentally beneficial.

“(III) A remediation plan has been implemented to bring the property into compliance with all applicable local, State, and Federal environmental laws, regulations, and standards and to ensure that the remediation protects human health and the environment.

“(IV) The remediation plan described in subclause (III), including any physical improvements required to remediate the property, is either complete or substantially complete, and, if substantially complete, sufficient monitoring, funding, institutional controls, and financial assurances have been put in place to ensure the complete remediation of the property in accordance with the remediation plan as soon as is reasonably practicable after the sale, exchange, or other disposition of such property.

“(V) Public notice and the opportunity for comment on the request for certification was completed before the date of such request. Such notice and opportunity for comment shall be in the same form and manner as required for public participation required under section 117(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as in effect on the date of the enactment of this paragraph). For purposes of this subclause, public notice shall include, at a minimum, publication in a major local newspaper of general circulation.

“(iii) ATTACHMENT TO TAX RETURNS.—A copy of each of the requests for certification described in clause (ii) of subparagraph (C) and this subparagraph shall be included in the tax return of the eligible taxpayer (and, where applicable, of the qualifying partnership) for the taxable year during which the transfer occurs.

“(iv) SUBSTANTIAL COMPLETION.—For purposes of this subparagraph, a remedial action is substantially complete when any necessary physical construction is complete, all immediate threats have been eliminated, and all long-term threats are under control.

“(E) ELIGIBLE REMEDIATION EXPENDITURES.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘eligible remediation expenditures’ means, with respect to any qualifying brownfield property, any amount paid or incurred by the eligible taxpayer to an unrelated third person to obtain a Phase I environmental site assessment of the property, and any amount so paid or incurred after the date of the certification described in subparagraph (C)(i) for goods and services necessary to obtain a certification described in subparagraph (D)(i) with respect to such property, including expenditures—

“(I) to manage, remove, control, contain, abate, or otherwise remediate a hazardous substance, pollutant, or contaminant on the property,

“(II) to obtain a Phase II environmental site assessment of the property, including any expenditure to monitor, sample, study, assess, or otherwise evaluate the release, threat of release, or presence of a hazardous substance, pollutant, or contaminant on the property,

“(III) to obtain environmental regulatory certifications and approvals required to manage the remediation and monitoring of the hazardous substance, pollutant, or contaminant on the property, and

“(IV) regardless of whether it is necessary to obtain a certification described in subparagraph (D)(i)(II), to obtain remediation cost-cap or stop-loss coverage, re-opener or regulatory action coverage, or similar coverage under environmental insurance policies, or financial guarantees required to manage such remediation and monitoring.

“(ii) EXCEPTIONS.—Such term shall not include—

“(I) any portion of the purchase price paid or incurred by the eligible taxpayer to acquire the qualifying brownfield property,

“(II) environmental insurance costs paid or incurred to obtain legal defense coverage, owner/operator liability coverage, lender liability coverage, professional liability coverage, or similar types of coverage,

“(III) any amount paid or incurred to the extent such amount is reimbursed, funded, or otherwise subsidized by grants provided by the United States, a State, or a political subdivision of a State for use in connection with the property, proceeds of an issue of State or local government obligations used to provide financing for the property the interest of which is exempt from tax under section 103, or subsidized financing provided (directly or indirectly) under a Federal, State, or local program provided in connection with the property, or

“(IV) any expenditure paid or incurred before the date of the enactment of this paragraph.

For purposes of subclause (III), the Secretary may issue guidance regarding the treatment of government-provided funds for purposes of determining eligible remediation expenditures.

“(F) DETERMINATION OF GAIN OR LOSS.—For purposes of this paragraph, the determination of gain or loss shall not include an amount treated as gain which is ordinary income with respect to section 1245 or section 1250 property, including amounts deducted as section 198 expenses which are subject to the recapture rules of section 198(e), if the taxpayer had deducted such amounts in the computation of its unrelated business taxable income.

“(G) SPECIAL RULES FOR PARTNERSHIPS.—

“(i) IN GENERAL.—In the case of an eligible taxpayer which is a partner of a qualifying partnership which acquires, remediates, and sells, exchanges, or otherwise disposes of a qualifying brownfield property, this paragraph shall apply to the eligible taxpayer's distributive share of the qualifying partnership's gain or loss from the sale, exchange, or other disposition of such property.

“(ii) QUALIFYING PARTNERSHIP.—The term ‘qualifying partnership’ means a partnership which—

“(I) has a partnership agreement which satisfies the requirements of section 514(c)(9)(B)(vi) at all times beginning on the date of the first certification received by the partnership under subparagraph (C)(i),

“(II) satisfies the requirements of subparagraphs (B)(i), (C), (D), and (E), if ‘qualified partnership’ is substituted for ‘eligible taxpayer’ each place it appears therein (except subparagraph (D)(iii)), and

“(III) is not an organization which would be prevented from constituting an eligible taxpayer by reason of subparagraph (B)(ii).

“(iii) REQUIREMENT THAT TAX-EXEMPT PARTNER BE A PARTNER SINCE FIRST CERTIFICATION.—This paragraph shall apply with respect to any eligible taxpayer which is a partner of a partnership which acquires, remediates, and sells, exchanges, or otherwise disposes of a qualifying brownfield property only if such eligible taxpayer was a partner of the qualifying partnership at all times beginning on the date of the first certification received by the partnership under subparagraph (C)(i) and ending on the date of the sale, exchange, or other disposition of the property by the partnership.

“(iv) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to prevent abuse of the requirements of this subparagraph, including abuse through—

“(I) the use of special allocations of gains or losses, or

“(II) changes in ownership of partnership interests held by eligible taxpayers.

“(H) SPECIAL RULES FOR MULTIPLE PROPERTIES.—

“(i) IN GENERAL.—An eligible taxpayer or a qualifying partnership of which the eligible taxpayer is a partner may make a 1-time election to apply this paragraph to more than 1 qualifying brownfield property by averaging the eligible remediation expenditures for all such properties acquired during the election period. If the eligible taxpayer or qualifying partnership makes such an election, the election shall apply to all qualified sales, exchanges, or other dispositions of qualifying brownfield properties the acquisition and transfer of which occur during the period for which the election remains in effect.

“(ii) ELECTION.—An election under clause (i) shall be made with the eligible taxpayer's or qualifying partnership's timely filed tax return (including extensions) for the first taxable year for which the taxpayer or qualifying partnership intends to have the election apply. An election under clause (i) is effective for the period—

“(I) beginning on the date which is the first day of the taxable year of the return in which the election is included or a later day in such taxable year selected by the eligible taxpayer or qualifying partnership, and

“(II) ending on the date which is the earliest of a date of revocation selected by the eligible taxpayer or qualifying partnership, the date which is 8 years after the date described in subclause (I), or, in the case of an election by a qualifying partnership of which the eligible taxpayer is a partner, the date of the termination of the qualifying partnership.

“(iii) REVOCATION.—An eligible taxpayer or qualifying partnership may revoke an election under clause (i)(II) by filing a statement of revocation with a timely filed tax return (including extensions). A revocation is effective as of the first day of the taxable year of the return in which the revocation is included or a later day in such taxable year selected by the eligible taxpayer or qualifying partnership. Once an eligible taxpayer or qualifying partnership revokes the election, the eligible taxpayer or qualifying partnership is ineligible to make another election under clause (i) with respect to any qualifying brownfield property subject to the revoked election.

"(I) Recapture.—If an eligible taxpayer excludes gain or loss from a sale, exchange, or other disposition of property to which an election under subparagraph (H) applies, and such property fails to satisfy the requirements of this paragraph, the unrelated business taxable income of the eligible taxpayer for the taxable year in which such failure occurs shall be determined by including any previously excluded gain or loss from such sale, exchange, or other disposition allocable to such taxpayer, and interest shall be determined at the overpayment rate established under section 6621 on any resulting tax for the period beginning with the due date of the return for the taxable year during which such sale, exchange, or other disposition occurred, and ending on the date of payment of the tax.

"(J) Related persons.—For purposes of this paragraph, a person shall be treated as related to another person if—

"(i) such person bears a relationship to such other person described in section 267(b) (determined without regard to paragraph (9) thereof), or section 707(b)(1), determined by substituting '25 percent' for '50 percent' each place it appears therein, and

"(ii) in the case such other person is a nonprofit organization, if such person controls directly or indirectly more than 25 percent of the governing body of such organization."

(b) Exclusion From Definition of Debt-Financed Property.—Section 514(b)(1) (defining debt-financed property) is amended by striking "or" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting "; or", and by inserting after subparagraph (D) the following new subparagraph:

"(E) any property the gain or loss from the sale, exchange, or other disposition of which would be excluded by reason of the provisions of section 512(b)(19) in computing the gross income of any unrelated trade or business.".

(c) Savings Clause.—Nothing in the amendments made by this section shall affect any duty, liability, or other requirement imposed under any other Federal or State law. Notwithstanding section 128(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, a certification provided by the Environmental Protection Agency or an appropriate State agency (within the meaning of section 198(c)(4) of the Internal Revenue Code of 1986) shall not affect the liability of any person under section 107(a) of such Act.

(d) Effective Date.—The amendments made by this section shall apply to any gain or loss on the sale, exchange, or other disposition of any property acquired by the taxpayer after December 31, 2004.

SEC. 642. MODIFICATION OF UNRELATED BUSINESS INCOME LIMITATION ON INVESTMENT IN CERTAIN DEBT-FINANCED PROPERTIES.

(a) In General.—Section 514(c)(6) (relating to acquisition indebtedness) is amended—

(1) by striking "include an obligation" and inserting "include—

"(A) an obligation",

(2) by striking the period at the end and inserting ", or", and

(3) by adding at the end the following:

"(B) indebtedness incurred by a small business investment company licensed under the Small Business Investment Act of 1958 which is evidenced by a debenture—

"(i) issued by such company under section 303(a) of such Act, and

"(ii) held or guaranteed by the Small Business Administration.".

(b) Effective Date.—The amendments made by this section shall apply to acquisitions made on or after the date of the enactment of this Act.

SEC. 643. CIVIL RIGHTS TAX RELIEF.

(a) Deduction Allowed Whether or Not Taxpayer Itemizes Other Deductions.—Subsection (a) of section 62 (defining adjusted gross income) is amended by inserting after paragraph (18) the following new item:

"(19) Costs involving discrimination suits, etc.—Any deduction allowable under this chapter for attorney fees and court costs paid by, or on behalf of, the taxpayer in connection with any action involving a claim of unlawful discrimination (as defined in subsection (e)) or a claim of a violation of subchapter III of chapter 37 of title 31, United States Code or a claim made under section 1862(b)(3)(A) of the Social Security Act (42 U.S.C. 1395y(b)(3)(A)). The preceding sentence shall not apply to any deduction in excess of the amount includible in the taxpayer's gross income for the taxable year on account of a judgment or settlement (whether by suit or agreement and whether as lump sum or periodic payments) resulting from such claim.".

(b) Unlawful Discrimination Defined.—Section 62 is amended by adding at the end the following new subsection:

"(e) Unlawful discrimination defined.—For purposes of subsection (a)(19), the term 'unlawful discrimination' means an act that is unlawful under any of the following:

"(1) Section 302 of the Civil Rights Act of 1991 (2 U.S.C. 1202).

"(2) Section 201, 202, 203, 204, 205, 206, or 207 of the Congressional Accountability Act of 1995 (2 U.S.C. 1311, 1312, 1313, 1314, 1315, 1316, or 1317).

"(3) The National Labor Relations Act (29 U.S.C. 151 et seq.).

"(4) The Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

"(5) Section 4 or 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623 or 633a).

"(6) Section 501 or 504 of the Rehabilitation Act of 1973 (29 U.S.C. 791 or 794).

"(7) Section 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1140).

"(8) Title IX of the Education Amendments of 1972 (29 U.S.C. 1681 et seq.).

"(9) The Employee Polygraph Protection Act of 1988 (29 U.S.C. 201 et seq.).

"(10) The Worker Adjustment and Retraining Notification Act (29 U.S.C. 2102 et seq.).

"(11) Section 105 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2615).

"(12) Chapter 43 of title 38, United States Code (relating to employment and reemployment rights of members of the uniformed services).

"(13) Section 1977, 1979, or 1980 of the Revised Statutes (42 U.S.C. 1981, 1983, or 1985).

"(14) Section 703, 704, or 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2, 2000e-3, or 2000e-16).

"(15) Section 804, 805, 806, 808, or 818 of the Fair Housing Act (42 U.S.C. 3604, 3605, 3606, 3608, or 3617).

"(16) Section 102, 202, 302, or 503 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112, 12132, 12182, or 12203).

"(17) Any provision of Federal law (popularly known as whistleblower protection provisions) prohibiting the discharge of an employee, the discrimination against an employee, or any other form of retaliation or reprisal against an employee for asserting rights or taking other actions permitted under Federal law.

"(18) Any provision of Fderal, State, or local law, or common law claims permitted under Federal, State, or local law—

"(i) providing for the enforcement of civil rights, or

"(ii) regulating any aspect of the employment relationship, including claims for wages, compensation, or benefits, or prohibiting the discharge of an employee, the discrimination against an employee, or any other form of retaliation or reprisal against an employee for asserting rights or taking other actions permitted by law.".

(c) Effective Date.—The amendments made by this section shall apply to fees and costs paid after December 31, 2002, with respect to any judgment or settlement occurring after such date.

SEC. 644. EXCLUSION FOR PAYMENTS TO INDIVIDUALS UNDER NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENT PROGRAM AND CERTAIN STATE LOAN REPAYMENT PROGRAMS.

(a) In General.—Section 108(f) (relating to student loans) is amended by adding at the end the following new paragraph:

"(4) Payments under national health service corps loan repayment program and certain state loan repayment programs.—In the case of an individual, gross income shall not include any amount received under section 338B(g) of the Public Health Service Act or under a State program described in section 338I of such Act.".

(b) Treatment for Purposes of Employment Taxes.—Each of the following provisions is amended by inserting "108(f)(4)," after "74(c),":

(1) Section 3121(a)(20).

(2) Section 3231(e)(5).

(3) Section 3306(b)(16).

(4) Section 3401(a)(19).

(5) Section 209(a)(17) of the Social Security Act.

(c) Effective Date.—The amendments made by this section shall apply to amounts received by an individual in taxable years beginning after December 31, 2003.

SEC. 645. CERTAIN EXPENSES OF RURAL LETTER CARRIERS.

(a) In General.—Section 162(o) (relating to treatment of certain reimbursed expenses of rural mail carriers) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following:

"(2) Special rule where expenses exceed reimbursements.—Notwithstanding paragraph (1)(A), if the expenses incurred by an employee for the use of a vehicle in performing services described in paragraph (1) exceed the qualified reimbursements for such expenses, such excess shall be taken into account in computing the miscellaneous itemized deductions of the employee under section 67.".

(b) Conforming Amendment.—The heading for section 162(o) is amended by striking "Reimbursed".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 646. METHOD OF ACCOUNTING FOR NAVAL SHIPBUILDERS.

(a) In General.—In the case of a qualified naval ship contract, the taxable income of such contract during the 5-taxable year period beginning with the taxable year in which the contract commencement date occurs shall be determined under a method identical to the method used in the case of a qualified ship contract (as defined in section 10203(b)(2)(B) of the Revenue Act of 1987).

(b) Recapture of Tax Benefit.—In the case of a qualified naval ship contract to which subsection (a) applies, the taxpayer's tax imposed by chapter 1 of the Internal Revenue Code of 1986 for the first taxable year following the 5-taxable year period described in subsection (a) shall be increased by the excess (if any) of—

(1) the amount of tax which would have been imposed during such period if this section had not been enacted, over

(2) the amount of tax so imposed during such period.

(c) Qualified Naval Ship Contract.—For purposes of this section—

(1) In general.—The term "qualified naval ship contract" means any contract or portion thereof that is for the construction in the United States of 1 ship or submarine for the Federal Government if the taxpayer reasonably expects the acceptance date will occur no later than 9 years after the construction commencement date.

(2) Acceptance date.—The term "acceptance date" means the date 1 year after the date on which the Federal Government issues a letter of acceptance or other similar document for the ship or submarine.

(3) Construction commencement date.—The term "construction commencement date" means the date on which the physical fabrication of any section or component of the ship or submarine begins.

(d) Effective Date.—This section shall apply to contracts for ships or submarines with respect to which the construction commencement date occurs after the date of the enactment of this Act.

SEC. 647. SUSPENSION OF POLICYHOLDERS SURPLUS ACCOUNT PROVISIONS.

(a) Distributions To Shareholders From Pre-1984 Policyholders Surplus Account.—Section 815 (relating to distributions to shareholders from pre-1984 policyholders surplus account) is amended by adding at the end the following:

"(g) Special Rules Applicable During 2004 and 2005.—In the case of any taxable year of a stock life insurance company beginning after December 31, 2003, and before January 1, 2006—

"(1) the amount under subsection (a)(2) for such taxable year shall be treated as zero, and

"(2) notwithstanding subsection (b), in determining any subtractions from an account under subsections (c)(3) and (d)(3), any distribution to shareholders during such taxable year shall be treated as made first out of the policyholders surplus account, then out of the shareholders surplus account, and finally out of other accounts.".

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 648. PAYMENT OF DIVIDENDS ON STOCK OF COOPERATIVES WITHOUT REDUCING PATRONAGE DIVIDENDS.

(a) In General.—Subsection (a) of section 1388 (relating to patronage dividend defined) is amended by adding at the end the following new sentence: "For purposes of paragraph (3), net earnings shall not be reduced by amounts paid during the year as dividends on capital stock or other proprietary capital interests of the organization to the extent that the articles of incorporation or bylaws of such organization or other contract with patrons provide that such dividends are in addition to amounts otherwise payable to patrons which are derived from business done with or for patrons during the taxable year.".

(b) Effective Date.—The amendment made by this section shall apply to distributions in taxable years beginning after the date of the enactment of this Act.

SEC. 649. SPECIAL RULES FOR LIVESTOCK SOLD ON ACCOUNT OF WEATHER-RELATED CONDITIONS.

(a) Replacement of Livestock With Other Farm Property.—Subsection (f) of section 1033 (relating to involuntary conversions) is amended—

(1) by inserting "drought, flood, or other weather-related conditions, or" after "because of",

(2) by inserting "in the case of soil contamination or other environmental contamination" after "including real property", and

(3) by striking "Where There Has Been Environmental Contamination" in the heading and inserting "in Certain Cases".

(b) Extension of Replacement Period of Involuntarily Converted Livestock.—Subsection (e) of section 1033 (relating to involuntary conversions) is amended—

(1) by striking "Conditions.—For purposes" and inserting "Conditions.—

"(1) In general.—For purposes", and

(2) by adding at the end the following new paragraph:

"(2) Extension of replacement period.—

"(A) In general.—In the case of drought, flood, or other weather-related conditions described in paragraph (1) which result in the area being designated as eligible for assistance by the Federal Government, subsection (a)(2)(B) shall be applied with respect to any converted property by substituting '4 years' for '2 years'.

"(B) Further extension by secretary.—The Secretary may extend on a regional basis the period for replacement under this section (after the application of subparagraph (A)) for such additional time as the Secretary determines appropriate if the weather-related conditions which resulted in such application continue for more than 3 years.".

(c) Income Inclusion Rules.—Section 451(e) (relating to special rule for proceeds from livestock sold on account of drought, flood, or other weather-related conditions) is amended by adding at the end the following new paragraph:

"(3) Special election rules.—If section 1033(e)(2) applies to a sale or exchange of livestock described in paragraph (1), the election under paragraph (1) shall be deemed valid if made during the replacement period described in such section.".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 650. MOTOR VEHICLE DEALER TRANSITIONAL ASSISTANCE.

(a) In General.—For purposes of subtitle A of the Internal Revenue Code of 1986, in the case of a taxpayer who elects the application of this section and who was a party to a motor vehicle sales and service agreement with a motor vehicle manufacturer who announced in December 2000 that it would phase-out the motor vehicle brand to which such agreement relates—

(1) amounts received by such taxpayer from such manufacturer on account of the termination of such agreement (hereafter in this section referred to as "termination payment") are considered to be received for property used in the trade or business of a motor vehicle retail sales and service dealership, and

(2) to the extent such termination payment is reinvested in property used in a motor vehicle retail sales and service dealership located within the United States, such property shall qualify as like-kind replacement property to which section 1031 of the Internal Revenue Code of 1986 shall apply with the following modifications:

(A) Such section shall be applied without regard to subparagraphs (A) and (B)(ii) of subsection (a)(3).

(B) The period described in section 1031(a)(3)(B) of such Code shall be applied by substituting "2 years" for "180 days".

(b) Rules for Election.—

(1) Form of election.—The taxpayer shall make an election under this section in such form and manner as the Secretary of the Treasury may prescribe and shall include in such election the amount of the termination payment received, the identification of the replacement property purchased, and such other information as the Secretary may prescribe.

(2) Election on amended return.—The Secretary of the Treasury shall permit an election under this section on an amended tax return for taxable years beginning before the date of the enactment of this Act.

(c) Statute of Limitations.—Notwithstanding the provisions of any other law or rule of law, the statutory period for the assessment for any deficiency attributable to any termination payment gain shall be extended until 3 years after the date the Secretary of the Treasury is notified by the taxpayer of the like-kind replacement property or an intention not to replace.

(d) Effective Date.—This section shall apply to amounts received after December 12, 2000, in taxable years ending after such date.

SEC. 651. EXPANSION OF DESIGNATED RENEWAL COMMUNITY AREA BASED ON 2000 CENSUS DATA.

(a) Renewal Communities.—Section 1400E (relating to designation of renewal communities) is amended by adding at the end the following new subsection:

"(g) Expansion of Designated Areas.—

"(1) Expansion based on 2000 Census.—At the request of the nominating entity with respect to a renewal community, the Secretary of Housing and Urban Development may expand the area of a renewal community to include any census tract—

"(A) which, at the time such community was nominated, met the requirements of this section for inclusion in such community but for the failure of such tract to meet 1 or more of the population and poverty rate requirements of this section using 1990 census data, and

"(B) which meets all failed population and poverty rate requirements of this section using 2000 census data.

"(2) Expansion to certain areas which do not meet population requirements.—

"(A) In general.—At the request of 1 or more local governments and the State or States in which an area described in subparagraph (B) is located, the Secretary of Housing and Urban Development may expand a designated area to include such area.

"(B) Area.—An area is described in this subparagraph if—

"(i) the area is adjacent to at least 1 other area designated as a renewal community,

"(ii) the area has a population less than the population required under subsection (c)(2)(C), and

"(iii)(I) the area meets the requirements of subparagraphs (A) and (B) of subsection (c)(2) and subparagraph (A) of subsection (c)(3), or

"(II) the area contains a population of less than 100 people.

"(3) APPLICABILITY.—Any expansion of a renewal community under this section shall take effect as provided in subsection (b).".

(b) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the amendments made by section 101 of the Community Renewal Tax Relief Act of 2000.

SEC. 652. REDUCTION OF HOLDING PERIOD TO 12 MONTHS FOR PURPOSES OF DETERMINING WHETHER HORSES ARE SECTION 1231 ASSETS.

(a) IN GENERAL.—Subparagraph (A) of section 1231(b)(3) (relating to definition of property used in the trade or business) is amended by striking "and horses".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 653. BLUE RIBBON COMMISSION ON COMPREHENSIVE TAX REFORM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established the "Blue Ribbon Commission on Comprehensive Tax Reform" (in this section referred to as the "Commission").

(2) MEMBERSHIP.—

(A) COMPOSITION.—The Commission shall be composed of 17 members of whom—

(i) 3 shall be appointed by the majority leader of the Senate;

(ii) 3 shall be appointed by the minority leader of the Senate;

(iii) 3 shall be appointed by the Speaker of the House of Representatives;

(iv) 3 shall be appointed by the minority leader of the House of Representatives; and

(v) 5 shall be appointed by the President, of which no more than 3 shall be of the same party as the President.

(B) FEDERAL EMPLOYEES.—The members of the Commission may be employees or former employees of the Federal Government.

(C) DATE.—The appointments of the members of the Commission shall be made not later than October 30, 2004.

(3) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(4) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(5) MEETINGS.—The Commission shall meet at the call of the Chairman.

(6) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(7) CHAIRMAN AND VICE CHAIRMAN.—The President shall select a Chairman and Vice Chairman from among its members.

(b) DUTIES OF THE COMMISSION.—

(1) STUDY.—The Commission shall conduct a thorough study of all matters relating to a comprehensive reform of the Federal tax system, including the reform of the Internal Revenue Code of 1986 and the implementation (if appropriate) of other types of tax systems.

(2) RECOMMENDATIONS.—The Commission shall develop recommendations on how to comprehensively reform the Federal tax system in a manner that generates appropriate revenue for the Federal Government.

(3) REPORT.—Not later than 18 months after the date on which all initial members of the commission have been appointed pursuant to subsection (a)(2), the Commission shall submit a report to the President and Congress which shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

(c) POWERS OF THE COMMISSION.—

(1) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act.

(2) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(3) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(4) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(d) COMMISSION PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(3) STAFF.—

(A) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(B) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title. .

(4) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(5) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(e) TERMINATION OF THE COMMISSION.—The Commission shall terminate 90 days after the date on which the Commission submits its report under subsection (b).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to the Commission to carry out this section.

SEC. 654. TREATMENT OF DISTRIBUTIONS BY ESOPS WITH RESPECT TO S CORPORATION STOCK.

(a) IN GENERAL.—Section 4975(d) of the Internal Revenue Code of 1986 is amended by adding at the end the following new flush sentences:

"A plan shall not be treated as violating the requirements of section 401, 409, or subsection (e)(7), or as engaging in a prohibited transaction for purposes of paragraph (3), merely by reason of any distribution described in section 1368(a) with respect to S corporation stock which constitutes qualifying employer securities if the distribution is, in accordance with the plan provisions, used to make payments on a loan described in paragraph (3) the proceeds of which were used to acquire the qualifying employer securities (whether or not allocated to participants). The preceding sentence shall not apply in the case of a distribution which is paid with respect to any employer security which is allocated to a participant unless the plan provides that employer securities with a fair market value of not less than the amount of such distribution are allocated to such participant for the year which (but for the preceding sentence) such distribution would have been allocated to such participant."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on January 1, 1998.

SEC. 655. CLARIFICATION OF WORKING CAPITAL FOR REASONABLY ANTICIPATED NEEDS OF A BUSINESS FOR PURPOSES OF ACCUMULATED EARNINGS TAX.

(a) IN GENERAL.—Section 537(b) (relating to special rules) is amended by adding at the end the following new paragraph:

"(6) WORKING CAPITAL.—The reasonably anticipated needs of a business for any taxable year shall include working capital for the business in an amount which is not less than the sum of the cost of goods, operating expenses, taxes, and interest expense which the business incurred during the preceding taxable year. Any amounts incurred as part of a plan a principal purpose of which is to increase the limitation under this subsection shall not be taken into account.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003, and before January 1, 2009.

SEC. 656. TAX TREATMENT OF STATE OWNERSHIP OF RAILROAD REAL ESTATE INVESTMENT TRUST.

(a) IN GENERAL.—If a State owns all of the outstanding stock of a corporation which is a real estate investment trust, which is a non-operating class III railroad, and substantially all of the activities of which consist of the ownership, leasing, and operation by such corporation of facilities, equipment, and other property used by the corporation or other persons in railroad transportation, then, for purposes of section 115 of the Internal Revenue Code of 1986—

(1) income derived from such activities by the corporation shall be treated as accruing to the State, and

(2) such activities shall be treated as the exercise of an essential governmental function of the State to the extent such activities are of a type which are an essential government function (within the meaning of section 115 of such Code).

(b) Gain or Loss Not Recognized on Conversion.—Notwithstanding section 337(d) of the Internal Revenue Code of 1986—

(1) no gain or loss shall be recognized under section 336 or 337 of such Code, and

(2) no change in basis of the property of such corporation shall occur,

because of any change of status of the corporation to a tax-exempt entity by reason of the application of subsection (a).

(c) Tax-Exempt Financing.—Any obligation issued by an entity described in subsection (a) shall be treated as an obligation of the State for purposes of applying section 103 and part IV of subchapter B of chapter 1 of the Internal Revenue Code of 1986.

(d) Definitions.—For purposes of this section—

(1) Real estate investment trust.—The term "real estate investment trust" has the meaning given such term by section 856(a) of the Internal Revenue Code of 1986.

(2) Non-operating class III railroad.—The term "non-operating class III railroad" has the meaning given such term by part A of subtitle IV of title 49, United States Code (49 U.S.C. 10101 et seq.) and the regulations thereunder.

(3) State.—The term "State" includes—

(A) the District of Columbia and any possession of the United States, and

(B) any authority, agency, or public corporation of a State.

(e) Applicability.—

(1) In general.—Except as provided in paragraph (2), this section shall apply on and after the date on which a State becomes the owner of all of the outstanding stock of a corporation described in subsection (a).

(2) Exception.—This section shall not apply to any State which—

(A) becomes the owner of all of the voting stock of a corporation described in subsection (a) after December 31, 2003, or

(B) becomes the owner of all of the outstanding stock of a corporation described in subsection (a) after December 31, 2005.

SEC. 657. CLARIFICATION OF CONTRIBUTION IN AID OF CONSTRUCTION FOR WATER AND SEWERAGE DISPOSAL UTILITIES.

(a) In General.—Subparagraph (A) of section 118(c)(3) (relating to definitions) is amended to read as follows:

"(A) Contribution in aid of construction.—The term 'contribution in aid of construction' shall be defined by regulations prescribed by the Secretary, except that such term—

"(i) shall include amounts paid as customer connection fees (including amounts paid to connect the customer's water service line or sewer lateral line to the utility's distribution or collection system or extend a main water or sewer line to provide service to a customer), and

"(ii) shall not include amounts paid as service charges for starting or stopping services.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to contributions made after the date of the enactment of this Act.

SEC. 658. CREDIT FOR PURCHASE AND INSTALLATION OF AGRICULTURAL WATER CONSERVATION SYSTEMS.

(a) In General.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

"SEC. 30B. PURCHASE AND INSTALLATION OF AGRICULTURAL WATER CONSERVATION SYSTEMS.

"(a) Allowance of Credit.—In the case of an eligible taxpayer, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 30 percent of the water conservation system expenses paid or incurred by the taxpayer during such year.

"(b) Limitations.—The credit allowed by subsection (a) with respect to any acre of land which is served by a water conservation system shall not exceed the excess of—

"(1) $500, over

"(2) the amount of credit allowed under this section with respect to such acre for all prior taxable years.

"(c) Definitions.—For purposes of this section—

"(1) Eligible taxpayer.—The term 'eligible taxpayer' means any taxpayer if—

"(A) at least 50 percent of such taxpayer's gross income is normally derived from farm land, and

"(B) such taxpayer complies with all Federal, State, and local water rights and environmental laws.

"(2) Water conservation system expenses.—

"(A) In general.—The term 'water conservation system expenses' means expenses for the purchase and installation of a water conservation system but only if—

"(i) the land served by the water conservation system is entirely in a county or county-equivalent area which has received, in the taxable year the expenses were paid or incurred or in any of the 3 preceding taxable years, a primary-county designation due to drought by the Secretary of Agriculture, and

"(ii) such system is certified as saving at least 5 percent more irrigation water than the irrigation system which was used on such land immediately prior to the installation of such water conservation system.

For purposes of clause (ii), irrigation water savings shall be determined and certified under regulations prescribed jointly by the Natural Resources Conservation Service of the Department of Agriculture and the Bureau of Reclamation of the Department of the Interior. Such regulations shall include a list of individuals or organizations qualified to make such certification.

"(B) Water conservation system.—The term 'water conservation system' means, with respect to farm land—

"(i) new or replacement irrigation equipment and machinery, including sprinklers, pipes, siphons, nozzles, pumps, motors, and engines, and

"(ii) computer systems for irrigation and water management.

"(C) Farm land.—The term 'farm land' means land used in a trade or business by the taxpayer or a tenant of the taxpayer for—

"(i) the production of crops, fruits, or other agricultural products,

"(ii) the raising, harvesting, or growing of trees, or

"(iii) the sustenance of livestock.

"(d) Year Expenditure Made.—For purposes of this section, an expenditure with respect to a water conservation system shall be treated as made when the original installation of the system is completed.

"(e) Limitation Based on Amount of Tax.—

"(1) Liability for tax.—The credit allowable under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(A) the regular tax for the taxable year, reduced by the sum of the credits allowable under subpart A and the preceding sections of this subpart, over

"(B) the tentative minimum tax for the taxable year.

"(2) Carryforward of unused credit.—If the amount of the credit allowable under subsection (a) for any taxable year exceeds the limitation under paragraph (1) for the taxable year, the excess shall be carried to the succeeding taxable year and added to the amount allowable as a credit under subsection (a) for such succeeding taxable year.

"(f) Denial of Double Benefit.—No deduction shall be allowed under this chapter with respect to any expense which is taken into account in determining the credit under this section, and any increase in the basis of any property which would (but for this subsection) result from such expense shall be reduced by the amount of credit allowed under this section for such expense.

"(g) Termination.—This section shall not apply to amounts paid or incurred with respect any water conservation system the installation of which is completed after December 31, 2006.".

(b) Technical Amendment.—Subsection (a) of section 1016, as amended by this Act, is amended by striking "and" at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting "; and", and by adding at the end the following new paragraph:

"(32) to the extent provided in section 30B(f), in the case of amounts with respect to which a credit has been allowed under section 30B.".

(c) Clerical Amendment.—The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 30B. Purchase and installation of agricultural water conservation systems.".

(d) Effective Date.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act with respect any water conservation system the installation of which is completed after December 31, 2004.

SEC. 659. MODIFICATION OF INVOLUNTARY CONVERSION RULES FOR BUSINESSES AFFECTED BY THE SEPTEMBER 11TH TERRORIST ATTACKS.

(a) In General.—Subsection (g) of section 1400L is amended to read as follows:

"(g) Modification of Rules Applicable to Nonrecognition of Gain.—In the case of property which is compulsorily or involuntarily converted as a result of the terrorist attacks on September 11, 2001, in the New York Liberty Zone—

"(1) which was held by a corporation which is a member of an affiliated group filing a consolidated return, such corporation shall be treated as satisfying the purchase requirement of section 1033(a)(2) with respect to such property to the extent such requirement is satisfied by another member of the group, and

"(2) notwithstanding subsections (g) and (h) of section 1033, clause (i) of section 1033(a)(2)(B) shall be applied by substituting '5 years' for '2 years' with respect to property which is compulsorily or involuntarily converted as a result of the terrorist attacks on September 11, 2001, in the New York Liberty Zone but only if substantially all of the use of the replacement property is in the City of New York, New York.".

(b) Effective Date.—The amendments made by this Act shall apply to involuntary conversions occurring on or after September 11, 2001.

SEC. 660. REPEAL OF APPLICATION OF BELOW-MARKET LOAN RULES TO AMOUNTS PAID TO CERTAIN CONTINUING CARE FACILITIES.

(a) In General.—Section 7872(c)(1) (relating to below-market loans to which section applies) is amended—

(1) by striking subparagraph (F), and

(2) by striking "(C), or (F)" in subparagraph (E) and inserting "or (C)".

(b) Full Exception.—Section 7872(g) (relating to exception for certain loans to qualified continuing care facilities) is amended—

(1) by striking "made by a lender to a qualified continuing care facility pursuant to a continuing care contract" in paragraph (1) and inserting "owed by a facility which on the last day of such year is a qualified continuing care facility, if such loan was made pursuant to a continuing care contract and",

(2) by striking "increased personal care services or" in paragraph (3)(C),

(3) by adding at the end of paragraph (3) the following new flush sentence:

"The Secretary shall issue guidance which limits such term to contracts which provide to an individual or individual's spouse only facilities, care, and services described in this paragraph which are customarily offered by continuing care facilities.",

(4) by inserting "independent living unit" after "all of the" in paragraph (4)(A)(ii),

(5) by striking paragraphs (2) and (5),

(6) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively, and

(7) by striking "Certain" in the heading thereof.

(c) Effective Date.—The amendments made by this section shall apply to calendar years beginning after 2004.

SEC. 661. GOLD, SILVER, PLATINUM, AND PALLADIUM TREATED IN THE SAME MANNER AS STOCKS AND BONDS FOR MAXIMUM CAPITAL GAINS RATE FOR INDIVIDUALS.

(a) In General.—Section 1(h)(5) (relating to definition of collectibles gain and loss) is amended—

(1) by striking "(as defined in section 408(m) without regard to paragraph (3) thereof)" in subparagraph (A) thereof, and

(2) by adding at the end the following new subparagraph:

"(C) Collectible.—For purposes of this paragraph, the term 'collectible' has the meaning given such term by section 408(m), except that in applying paragraph (3)(B) thereof the determination of whether any bullion is excluded from treatment as a collectible shall be made without regard to the person who is in physical possession of the bullion."

(b) Effective Date.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 2003.

SEC. 662. INCLUSION OF PRIMARY AND SECONDARY MEDICAL STRATEGIES FOR CHILDREN AND ADULTS WITH SICKLE CELL DISEASE AS MEDICAL ASSISTANCE UNDER THE MEDICAID PROGRAM.

(a) Optional Medical Assistance.—

(1) In general.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

(A) in subsection (a)—

(i) by striking "and" at the end of paragraph (26);

(ii) by redesignating paragraph (27) as paragraph (28); and

(iii) by inserting after paragraph (26), the following:

"(27) subject to subsection (x), primary and secondary medical strategies and treatment and services for individuals who have Sickle Cell Disease; and"; and

(B) by adding at the end the following:

"(x) For purposes of subsection (a)(27), the strategies, treatment, and services described in that subsection include the following:

"(1) Chronic blood transfusion (with deferoxamine chelation) to prevent stroke in individuals with Sickle Cell Disease who have been identified as being at high risk for stroke.

"(2) Genetic counseling and testing for individuals with Sickle Cell Disease or the sickle cell trait to allow health care professionals to treat such individuals and to prevent symptoms of Sickle Cell Disease.

"(3) Other treatment and services to prevent individuals who have Sickle Cell Disease and who have had a stroke from having another stroke.".

(2) Rule of Construction.—Nothing in subsections (a)(27) or (x) of section 1905 of the Social Security Act (42 U.S.C. 1396d), as added by paragraph (1), shall be construed as implying that a State medicaid program under title XIX of such Act could not have treated, prior to the date of enactment of this Act, any of the primary and secondary medical strategies and treatment and services described in such subsections as medical assistance under such program, including as early and periodic screening, diagnostic, and treatment services under section 1905(r) of such Act.

(b) Federal Reimbursement for Education and Other Services Related to the Prevention and Treatment of Sickle Cell Disease.—Section 1903(a)(3) of the Social Security Act (42 U.S.C. 1396b(a)(3)) is amended—

(1) in subparagraph (D), by striking "plus" at the end and inserting "and"; and

(2) by adding at the end the following:

"(E) 50 percent of the sums expended with respect to costs incurred during such quarter as are attributable to providing—

"(i) services to identify and educate individuals who are likely to be eligible for medical assistance under this title and who have Sickle Cell Disease or who are carriers of the sickle cell gene, including education regarding how to identify such individuals; or

"(ii) education regarding the risks of stroke and other complications, as well as the prevention of stroke and other complications, in individuals who are likely to be eligible for medical assistance under this title and who have Sickle Cell Disease; plus".

(c) Demonstration Program for the Development and Establishment of Systemic Mechanisms for the Prevention and Treatment of Sickle Cell Disease.—

(1) Authority to conduct demonstration program.—

(A) In general.—The Administrator, through the Bureau of Primary Health Care and the Maternal and Child Health Bureau, shall conduct a demonstration program by making grants to up to 40 eligible entities for each fiscal year in which the program is conducted under this section for the purpose of developing and establishing systemic mechanisms to improve the prevention and treatment of Sickle Cell Disease, including through—

(i) the coordination of service delivery for individuals with Sickle Cell Disease;

(ii) genetic counseling and testing;

(iii) bundling of technical services related to the prevention and treatment of Sickle Cell Disease;

(iv) training of health professionals; and

(v) identifying and establishing other efforts related to the expansion and coordination of education, treatment, and continuity of care programs for individuals with Sickle Cell Disease.

(B) Grant award requirements.—

(i) Geographic diversity.—The Administrator shall, to the extent practicable, award grants under this section to eligible entities located in different regions of the United States.

(ii) Priority.—In awarding grants under this subsection, the Administrator shall give priority to awarding grants to eligible entities that are—

(I) Federally-qualified health centers that have a partnership or other arrangement with a comprehensive Sickle Cell Disease treatment center that does not receive funds from the National Institutes of Health; or

(II) Federally-qualified health centers that intend to develop a partnership or other arrangement with a comprehensive Sickle Cell Disease treatment center that does not receive funds from the National Institutes of Health.

(2) Additional requirements.—An eligible entity awarded a grant under this subsection shall use funds made available under the grant to carry out, in addition to the activities described in paragraph (1)(A), the following activities:

(A) To facilitate and coordinate the delivery of education, treatment, and continuity of care for individuals with Sickle Cell Disease under—

(i) the entity's collaborative agreement with a community-based Sickle Cell Disease organization or a nonprofit entity that works with individuals who have Sickle Cell Disease;

(ii) the Sickle Cell Disease newborn screening program for the State in which the entity is located; and

(iii) the maternal and child health program under title V of the Social Security Act (42 U.S.C. 701 et seq.) for the State in which the entity is located.

(B) To train nursing and other health staff who provide care for individuals with Sickle Cell Disease.

(C) To enter into a partnership with adult or pediatric hematologists in the region and other regional experts in Sickle Cell Disease at tertiary and academic health centers and State and county health offices.

(D) To identify and secure resources for ensuring reimbursement under the medicaid program, State children's health insurance program, and other health programs for the prevention and treatment of Sickle Cell Disease.

(3) National coordinating center.—

(A) Establishment.—The Administrator shall enter into a contract with an entity to serve as the National Coordinating Center for the demonstration program conducted under this subsection.

(B) Activities described.—The National Coordinating Center shall—

(i) collect, coordinate, monitor, and distribute data, best practices, and findings regarding the activities funded under grants made to eligible entities under the demonstration program;

(ii) develop a model protocol for eligible entities with respect to the prevention and treatment of Sickle Cell Disease;

(iii) develop educational materials regarding the prevention and treatment of Sickle Cell Disease; and

(iv) prepare and submit to Congress a final report that includes recommendations regarding the effectiveness of the demonstration program conducted under this subsection and such direct outcome measures as—

(I) the number and type of health care resources utilized (such as emergency room visits, hospital visits, length of stay, and physician visits for individuals with Sickle Cell Disease); and

(II) the number of individuals that were tested and subsequently received genetic counseling for the sickle cell trait.

(4) Application.—An eligible entity desiring a grant under this subsection shall submit an application to the Administrator at such time, in such manner, and containing such information as the Administrator may require.

(5) Definitions.—In this subsection:

(A) Administrator.—The term "Administrator" means the Administrator of the Health Resources and Services Administration.

(B) Eligible entity.—The term "eligible entity" means a Federally-qualified health center, a nonprofit hospital or clinic, or a university health center that provides primary health care, that—

(i) has a collaborative agreement with a community-based Sickle Cell Disease organization or a nonprofit entity with experience in working with individuals who have Sickle Cell Disease; and

(ii) demonstrates to the Administrator that either the Federally-qualified health center, the nonprofit hospital or clinic, the university health center, the organization or entity described in clause (i), or the experts described in paragraph (2)(C), has at least 5 years of experience in working with individuals who have Sickle Cell Disease.

(C) Federally-qualified health center.—The term "Federally-qualified health center" has the meaning given that term in section 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1396d(l)(2)(B)).

(6) Authorization of appropriations.—There is authorized to be appropriated to carry out this subsection, $10,000,000 for each of fiscal years 2005 through 2009.

(d) Effective Date.—The amendments made by subsections (a) and (b) take effect on the date of enactment of this Act and apply to medical assistance and services provided under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) on or after that date.

Subtitle F—Revenue Provisions

PART I—GENERAL REVENUE PROVISIONS

SEC. 661A. TREASURY REGULATIONS ON FOREIGN TAX CREDIT.

Section 901, as amended by this Act, is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) Regulations.—The Secretary may prescribe regulations disallowing a credit under subsection (a) for all or a portion of any foreign tax, or allocating a foreign tax among 2 or more persons, in cases where the foreign tax is imposed on any person in respect of income of another person or in other cases involving the inappropriate separation of the foreign tax from the related foreign income.".

SEC. 662B. FREEZE OF PROVISIONS REGARDING SUSPENSION OF INTEREST WHERE SECRETARY FAILS TO CONTACT TAXPAYER.

(a) In General.—Section 6404(g) (relating to suspension of interest and certain penalties where Secretary fails to contact taxpayer) is amended by striking "1-year period (18-month period in the case of taxable years beginning before January 1, 2004)" both places it appears and inserting "18-month period".

(b) Exception for Gross Misstatement.—Section 6404(g)(2) (relating to exceptions) is amended by striking "or" at the end of subparagraph (C), by redesignating subparagraph (D) as subparagraph (E), and by inserting after subparagraph (C) the following new subparagraph:

"(D) any interest, penalty, addition to tax, or additional amount with respect to any gross misstatement; or".

(c) Exception for Listed and Reportable Transactions.—Section 6404(g)(2) (relating to exceptions), as amended by subsection (b), is amended by striking "or" at the end of subparagraph (D), by redesignating subparagraph (E) as subparagraph (F), and by inserting after subparagraph (D) the following new subparagraph:

"(E) any interest, penalty, addition to tax, or additional amount with respect to any reportable transaction or listed transaction (as defined in 6707A(c)); or".

(d) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2003.

(2) Exception for reportable or listed transactions.—The amendments made by subsection (c) shall apply with respect to interest accruing after May 5, 2004.

PART II—PENSION AND DEFERRED COMPENSATION

SEC. 671. TREATMENT OF NONQUALIFIED DEFERRED COMPENSATION PLANS.

(a) In General.—Subpart A of part I of subchapter D of chapter 1 is amended by adding at the end the following new section:

"SEC. 409A. INCLUSION IN GROSS INCOME OF DEFERRED COMPENSATION UNDER NONQUALIFIED DEFERRED COMPENSATION PLANS.

"(a) Rules Relating to Constructive Receipt.—

"(1) In general.—

"(A) Gross income inclusion.—If at any time during a taxable year a nonqualified deferred compensation plan—

"(i) fails to meet the requirements of paragraphs (2), (3), (4), and (5), or

"(ii) is not operated in accordance with such requirements,

all compensation deferred under the plan for the taxable year and all preceding taxable years shall be includible in gross income for the taxable year to the extent not subject to a substantial risk of forfeiture and not previously included in gross income.

"(B) Interest and additional tax payable with respect to previously deferred compensation.—

"(i) In general.—If compensation is required to be included in gross income under subparagraph (A) for a taxable year, the tax imposed by this chapter for the taxable year of inclusion shall be increased by the sum of—

"(I) the amount of interest determined under clause (ii), and

"(II) an amount equal to 10 percent of the compensation which is required to be included in gross income.

"(ii) Interest.—For purposes of clause (i), the interest determined under this clause for any taxable year is the amount of interest at the underpayment rate on the underpayments that would have occurred had the deferred compensation been includible in gross income for the taxable year in which first deferred or, if later, the first taxable year in which such deferred compensation is not subject to a substantial risk of forfeiture.

"(2) Distributions.—

"(A) In general.—The requirements of this paragraph are met if the plan provides that compensation deferred under the plan may not be distributed earlier than—

"(i) except as provided in subparagraph (B)(i), separation from service (as determined by the Secretary),

"(ii) the date the participant becomes disabled (within the meaning of subparagraph (C)),

"(iii) death,

"(iv) a specified time (or pursuant to a fixed schedule) specified under the plan as of the date of the deferral of such compensation,

"(v) to the extent provided by the Secretary, a change in the ownership or effective control of the corporation, or in the ownership of a substantial portion of the assets of the corporation, or

"(vi) the occurrence of an unforeseeable emergency.

"(B) Special rules.—

"(i) Separation from service of specified employees.—In the case of specified employees, the requirement of subparagraph (A)(i) is met only if distributions may not be made earlier than 6 months after the date of separation from service. For purposes of the preceding sentence, a specified employee is a key employee (as defined in section 416(i)) of a corporation the stock in which is publicly traded on an established securities market or otherwise.

"(ii) Changes in ownership or control.—In the case of a participant who is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934, the requirement of subparagraph (A)(v) is met only if distributions may not be made earlier than 1 year after the date of the change in ownership or effective control.

"(iii) Unforeseeable emergency.—For purposes of subparagraph (A)(vi)—

"(I) In general.—The term 'unforeseeable emergency' means a severe financial hardship to the participant or beneficiary resulting from a sudden and unexpected illness or accident of the participant or beneficiary, the participant's or beneficiary's spouse, or the participant's or beneficiary's dependent (as defined in section 152(a)), loss of the participant's or beneficiary's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant or beneficiary.

"(II) Limitation on distributions.—The requirement of subparagraph (A)(vi) is met only if, as determined under regulations of the Secretary, the amounts distributed with respect to an emergency do not exceed the amounts necessary to satisfy such emergency plus amounts necessary to pay taxes reasonably anticipated as a result of the distribution, after taking into account the extent to which such hardship is or may be relieved through reimbursement or compensation by insurance or otherwise or by liquidation of the participant's or beneficiary's assets (to the extent the liquidation of such assets would not itself cause severe financial hardship).

"(C) Disabled.—For purposes of subparagraph (A)(ii), a participant shall be considered disabled if the participant—

"(i) is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or can be expected to last for a continuous period of not less than 12 months, or

“(ii) is, by reason of any medically determinable physical or mental impairment which can be expected to result in death or can be expected to last for a continuous period of not less than 12 months, receiving income replacement benefits for a period of not less than 3 months under an accident and health plan covering employees of the participant's employer.

“(3) INVESTMENT OPTIONS.—The requirements of this paragraph are met if the plan provides that the investment options a participant may elect under the plan—

“(A) are comparable to the investment options which a participant may elect under the defined contribution plan of the employer which—

“(i) meets the requirement of section 401(a) and includes a trust exempt from taxation under section 501(a), and

“(ii) has the fewest investment options, or

“(B) if there is no such defined contribution plan, meet such requirements as the Secretary may prescribe (including requirements limiting such options to permissible investment options specified by the Secretary).

“(4) ACCELERATION OF BENEFITS.—The requirements of this paragraph are met if the plan does not permit the acceleration of the time or schedule of any payment under the plan, except as provided by the Secretary in regulations.

“(5) ELECTIONS.—

“(A) IN GENERAL.—The requirements of this paragraph are met if the requirements of subparagraphs (B) and (C) are met.

“(B) INITIAL DEFERRAL DECISION.—The requirements of this subparagraph are met if the plan provides that compensation for services performed during a taxable year may be deferred at the participant's election only if the election to defer such compensation is made during the preceding taxable year or at such other time as provided in regulations. In the case of the first year in which a participant becomes eligible to participate in the plan, such election may be made with respect to services to be performed subsequent to the election within 30 days after the date the participant becomes eligible to participate in such plan.

“(C) CHANGES IN TIME AND FORM OF DISTRIBUTION.—The requirements of this subparagraph are met if, in the case of a plan which permits under a subsequent election a delay in a payment or a change in the form of payment—

“(i) the plan requires that such election may not take effect until at least 12 months after the date on which the election is made,

“(ii) in the case an election related to a payment not described in clause (ii), (iii), or (vi) of paragraph (2)(A), the plan requires that the first payment with respect to which such election is made be deferred for a period of not less than 5 years from the date such payment would otherwise have been made, and

“(iii) the plan requires that any election related to a payment described in paragraph (2)(A)(iv) may not be made less than 12 months prior to the date of the first scheduled payment under such paragraph.

A plan shall be treated as failing to meet the requirements of this subparagraph if the plan permits more than 1 subsequent election to delay any payment.

“(b) RULES RELATING TO FUNDING.—

“(1) OFFSHORE PROPERTY IN A TRUST.—In the case of assets set aside (directly or indirectly) in a trust (or other arrangement determined by the Secretary) for purposes of paying deferred compensation under a nonqualified deferred compensation plan, such assets shall be treated for purposes of section 83 as property transferred in connection with the performance of services whether or not such assets are available to satisfy claims of general creditors—

“(A) at the time set aside if such assets are located outside of the United States, or

“(B) at the time transferred if such assets are subsequently transferred outside of the United States.

This paragraph shall not apply to assets located in a foreign jurisdiction if substantially all of the services to which the nonqualified deferred compensation relates are performed in such jurisdiction.

“(2) EMPLOYER'S FINANCIAL HEALTH.—In the case of a nonqualified deferred compensation plan, there is a transfer of property within the meaning of section 83 as of the earlier of—

“(A) the date on which the plan first provides that assets will become restricted to the provision of benefits under the plan in connection with a change in the employer's financial health, or

“(B) the date on which assets are so restricted.

“(3) INCOME INCLUSION FOR OFFSHORE TRUSTS AND EMPLOYER'S FINANCIAL HEALTH.—For each taxable year that assets treated as transferred under this subsection remain set aside in a trust or other arrangement subject to paragraph (1) or (2), any increase in value in, or earnings with respect to, such assets shall be treated as an additional transfer of property under this subsection (to the extent not previously included in income).

“(4) INTEREST ON TAX LIABILITY PAYABLE WITH RESPECT TO TRANSFERRED PROPERTY.—

“(A) IN GENERAL.—If amounts are required to be included in gross income by reason of paragraph (1) or (2) for a taxable year, the tax imposed by this chapter for such taxable year shall be increased by the sum of—

“(i) the amount of interest determined under subparagraph (B), and

“(ii) an amount equal to 10 percent of the amounts required to be included in gross income.

“(B) INTEREST.—For purposes of subparagraph (A), the interest determined under this subparagraph for any taxable year is the amount of interest at the underpayment rate on the underpayments that would have occurred had the amounts so required to be included in gross income by paragraph (1) or (2) been includible in gross income for the taxable year in which first deferred or, if later, the first taxable year in which such amounts are not subject to a substantial risk of forfeiture.

“(c) NO INFERENCE ON EARLIER INCOME INCLUSION.—Nothing in this section shall be construed to prevent the inclusion of amounts in gross income under any other provision of this chapter or any other rule of law earlier than the time provided in this section. Any amount included in gross income under this section shall not be required to be included in gross income under any other provision of this chapter or any other rule of law later than the time provided in this section.

“(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) NONQUALIFIED DEFERRED COMPENSATION PLAN.—The term ‘nonqualified deferred compensation plan’ means any plan that provides for the deferral of compensation, other than—

“(A) a qualified employer plan, and

“(B) any bona fide vacation leave, sick leave, compensatory time, disability pay, or death benefit plan.

“(2) QUALIFIED EMPLOYER PLAN.—The term ‘qualified employer plan’ means—

“(A) any plan, contract, pension, account, or trust described in subparagraph (A) or (B) of section 219(g)(5), and

“(B) any eligible deferred compensation plan (within the meaning of section 457(b)) of an employer described in section 457(e)(1)(A).

“(3) PLAN INCLUDES ARRANGEMENTS, ETC.—The term ‘plan’ includes any agreement or arrangement, including an agreement or arrangement that includes one person.

“(4) SUBSTANTIAL RISK OF FORFEITURE.—The rights of a person to compensation are subject to a substantial risk of forfeiture if such person's rights to such compensation are conditioned upon the future performance of substantial services by any individual.

“(5) TREATMENT OF EARNINGS.—References to deferred compensation shall be treated as including references to income (whether actual or notional) attributable to such compensation or such income.

“(6) EXCEPTION FOR NONELECTIVE DEFERRED COMPENSATION.—This section shall not apply to any nonelective deferred compensation to which section 457 does not apply by reason of section 457(e)(12), but only if such compensation is provided under a nonqualified deferred compensation plan which was in existence on May 1, 2004, and which was providing nonelective deferred compensation described in section 457(e)(12) on such date. If, after May 1, 2004, a plan described in the preceding sentence adopts a plan amemdment which provides a material change in the classes of individuals eligible to participate in the plan, this paragraph shall not apply to any nonelective deferred compensation provided under the plan on or after the date of the adoption of the amendment.

“(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations—

“(1) providing for the determination of amounts of deferral in the case of a nonqualified deferred compensation plan which is a defined benefit plan,

“(2) relating to changes in the ownership and control of a corporation or assets of a corporation for purposes of subsection (a)(2)(A)(v),

“(3) exempting arrangements from the application of subsection (b) if such arrangements will not result in an improper deferral of United States tax and will not result in assets being effectively beyond the reach of creditors,

“(4) defining financial health for purposes of subsection (b)(2), and

“(5) disregarding a substantial risk of forfeiture in cases where necessary to carry out the purposes of this section.”.

(b) APPLICATION OF GOLDEN PARACHUTE PAYMENT PROVISIONS.—Section 280G of such Code (relating to golden parachute payments) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

“(e) SPECIAL RULES FOR CERTAIN PAYMENTS FROM NONQUALIFIED DEFERRED COMPENSATION PLANS.—

“(1) IN GENERAL.—Notwithstanding any other provision of this section, an applicable payment shall be treated as an excess parachute payment for purposes of this section and section 4999.

“(2) COORDINATION WITH OTHER PAYMENTS.—

“(A) APPLICABLE PAYMENTS WHICH ARE PARACHUTE PAYMENTS.—If any applicable payment is a parachute payment (determined without regard to subsection (b)(2)(A)(ii))—

"(i) except as provided in paragraph (4), this section shall be applied to such payment in the same manner as if this subsection had not been enacted, and

"(ii) if such application results in an excess parachute payment, any tax under section 4999 on the excess parachute payment shall be in addition to the tax imposed by reason of paragraph (1).

"(B) Applicable payments which are not parachute payments.—An applicable payment not described in subparagraph (A) shall be taken into account in determining whether any payment described in subparagraph (A) or any payment which is not an applicable payment is a parachute payment under subsection (b)(2).

"(3) Applicable payment.—For purposes of this subsection, the term 'applicable payment' means any distribution (including any distribution treated as a parachute payment without regard to this subsection) from a nonqualified deferred compensation plan (as defined in section 409A(d)) which is made—

"(A) to a participant who is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934, and

"(B) during the 1-year period following a change in the ownership or effective control of the corporation or in the ownership of a substantial portion of the assets of the corporation.

Such terms shall not include any distribution by reason of the death of the participant or the participant becoming disabled (within the meaning of section 409A(a)(2)(C)).

"(4) No double counting.—Under regulations, proper adjustments shall be made in the application of this subsection to prevent a deduction from being disallowed more than once.".

(c) W-2 Forms.—

(1) In general.—Subsection (a) of section 6051 (relating to receipts for employees) is amended by striking "and" at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting ", and", and by inserting after paragraph (12) the following new paragraph:

"(13) the total amount of deferrals under a nonqualified deferred compensation plan (within the meaning of section 409A(d)).".

(2) Threshold.—Subsection (a) of section 6051 is amended by adding at the end the following: "In the case of the amounts required to be shown by paragraph (13), the Secretary may (by regulation) establish a minimum amount of deferrals below which paragraph (13) does not apply.".

(d) Conforming and Clerical Amendments.—

(1) Section 414(b) is amended by inserting "409A," after "408(p),".

(2) Section 414(c) is amended by inserting "409A," after "408(p),".

(3) The table of sections for such subpart A is amended by adding at the end the following new item:

"Sec. 409A. Inclusion in gross income of deferred compensation under nonqualified deferred compensation plans.".

(e) Effective Date.—

(1) In general.—The amendments made by this section shall apply to amounts deferred in taxable years beginning after December 31, 2004.

(2) Earnings attributable to amount previously deferred.—The amendments made by this section shall apply to earnings on deferred compensation only to the extent that such amendments apply to such compensation.

(f) Guidance Relating to Change of Ownership or Control.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury shall issue guidance on what constitutes a change in ownership or effective control for purposes of section 409A of the Internal Revenue Code of 1986, as added by this section.

(g) Guidance Relating to Termination of Certain Existing Arrangements.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury shall issue guidance providing a limited period during which an individual participating in a nonqualified deferred compensation plan adopted on or before December 31, 2004, may, without violating the requirements of paragraphs (2), (3), (4), and (5) of section 409A(a) of the Internal Revenue Code of 1986 (as added by this section), terminate participation or cancel an outstanding deferral election with regard to amounts earned after December 31, 2004, if such amounts are includible in income as earned.

SEC. 672. PROHIBITION ON DEFERRAL OF GAIN FROM THE EXERCISE OF STOCK OPTIONS AND RESTRICTED STOCK GAINS THROUGH DEFERRED COMPENSATION ARRANGEMENTS.

(a) In General.—Section 83 (relating to property transferred in connection with performance of services) is amending by adding at the end the following new subsection:

"(i) Prohibition on Additional Deferral Through Deferred Compensation Arrangements.—If a taxpayer exchanges—

"(1) an option to purchase employer securities—

"(A) to which subsection (a) applies, or

"(B) which is described in subsection (e)(3), or

"(2) employer securities or any other property based on employer securities transferred to the taxpayer,

for a right to receive future payments, then, notwithstanding any other provision of this title, there shall be included in gross income for the taxable year of the exchange an amount equal to the present value of such right (or such other amount as the Secretary may by regulations specify). For purposes of this subsection, the term 'employer securities' includes any security issued by the employer.".

(b) Controlled Group Rules.—Section 414(t)(2) is amended by inserting "83(i)," after "79,".

(c) Effective Date.—The amendments made by this section shall apply to any exchange after December 31, 2004.

SEC. 673. INCREASE IN WITHHOLDING FROM SUPPLEMENTAL WAGE PAYMENTS IN EXCESS OF $1,000,000.

(a) In General.—If an employer elects under Treasury Regulation 31.3402(g)-1 to determine the amount to be deducted and withheld from any supplemental wage payment by using a flat percentage rate, the rate to be used in determining the amount to be so deducted and withheld shall not be less than 28 percent (or the corresponding rate in effect under section 1(i)(2) of the Internal Revenue Code of 1986 for taxable years beginning in the calendar year in which the payment is made).

(b) Special Rule for Large Payments.—

(1) In general.—Notwithstanding subsection (a), if the supplemental wage payment, when added to all such payments previously made by the employer to the employee during the calendar year, exceeds $1,000,000, the rate used with respect to such excess shall be equal to the maximum rate of tax in effect under section 1 of such Code for taxable years beginning in such calendar year.

(2) Aggregation.—All persons treated as a single employer under subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986 shall be treated as a single employer for purposes of this subsection.

(c) Conforming Amendment.—Section 13273 of the Revenue Reconciliation Act of 1993 (Public Law 103-66) is repealed.

(d) Effective Date.—The provisions of, and the amendment made by, this section shall apply to payments made after December 31, 2003.

SEC. 674. TREATMENT OF SALE OF STOCK ACQUIRED PURSUANT TO EXERCISE OF STOCK OPTIONS TO COMPLY WITH CONFLICT-OF-INTEREST REQUIREMENTS.

(a) In General.—Section 421 of the Internal Revenue Code of 1986 (relating to general rules for certain stock options) is amended by adding at the end the following new subsection:

"(d) Certain Sales To Comply With Conflict-of-Interest Requirements.—If—

"(1) a share of stock is transferred to an eligible person (as defined in section 1043(b)(1)) pursuant to such person's exercise of an option to which this part applies, and

"(2) such share is disposed of by such person pursuant to a certificate of divestiture (as defined in section 1043(b)(2)),

such disposition shall be treated as meeting the requirements of section 422(a)(1) or 423(a)(1), whichever is applicable."

(b) Effective Date.—The amendment made by this section shall apply to sales after the date of the enactment of this Act.

SEC. 675. APPLICATION OF BASIS RULES TO EMPLOYER AND EMPLOYEE CONTRIBUTIONS ON BEHALF OF NONRESIDENT ALIENS.

(a) In General.—Section 72 (relating to annuities and certain proceeds of endowment and life insurance contracts) is amended by redesignating subsection (w) as subsection (x) and by inserting after subsection (v) the following new subsection:

"(w) Application of Basis Rules to Employer and Employee Contributions Made on Behalf of Nonresident Aliens.—

"(1) In general.—Notwithstanding any other provision of this section, for purposes of determining the portion of any distribution which is includible in gross income of a distributee who is a citizen or resident of the United States, the investment in the contract shall not include any applicable nontaxable contributions.

"(2) Applicable nontaxable contribution.—For purposes of this subsection, the term 'applicable nontaxable contribution' means any employer or employee contribution—

"(A) which was made with respect to compensation for labor or personal services by an employee who, at the time the services were performed, was a nonresident alien for purposes of the laws of the United States in effect at such time, but only if such compensation is treated as from sources without the United States, and

"(B) which was not subject to income tax under the laws of the United States or any foreign country.

"(3) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this subsection, including regulations treating contributions as not subject to tax under the laws of any foreign country where appropriate to carry out the purposes of this subsection.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions on or after the date of the enactment of this Act.

TITLE VII—EXTENSIONS OF CERTAIN EXPIRING PROVISIONS

Subtitle A—Extensions

SEC. 701. PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS.

(a) IN GENERAL.—Section 9812(f) is amended—

(1) by striking "and" at the end of paragraph (1), and

(2) by striking paragraph (2) and inserting the following new paragraphs:

"(2) on or after January 1, 2004, and before the date of the enactment of the Jumpstart Our Business Strength (JOBS) Act, and

"(3) after December 31, 2005.".

(b) ERISA.—Section 712(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185a(f)) is amended by striking "on or after December 31, 2004" and inserting "after December 31, 2005".

(c) PHSA.—Section 2705(f) of the Public Health Service Act (42 U.S.C. 300gg-5(f)) is amended by striking "on or after December 31, 2004" and inserting "after December 31, 2005".

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to benefits for services furnished on or after December 31, 2003.

(2) SUBSECTIONS (b) AND (c).—The amendments made by subsections (b) and (c) shall apply to benefits for services furnished on or after December 31, 2004.

SEC. 702. MODIFICATIONS TO WORK OPPORTUNITY CREDIT AND WELFARE-TO-WORK CREDIT.

(a) PERMANENT EXTENSION OF CREDIT.—

(1) IN GENERAL.—Section 51(c) is amended by striking paragraph (4).

(2) LONG-TERM FAMILY ASSISTANCE RECIPIENTS.—

(A) IN GENERAL.—Section 51A is amended by striking subsection (f).

(B) CONFORMING AMENDMENTS.—

(i) The heading for section 51A is amended by striking "temporary".

(ii) The item relating to section 51A in the table of sections for subpart F of part IV of subchapter A of chapter 1 is amended by striking "Temporary incentives" and inserting "Incentives".

(b) ELIGIBILITY OF EX-FELONS DETERMINED WITHOUT REGARD TO FAMILY INCOME.—Paragraph (4) of section 51(d) is amended by adding "and" at the end of subparagraph (A), by striking ", and" at the end of subparagraph (B) and inserting a period, and by striking all that follows subparagraph (B).

(c) INCREASE IN MAXIMUM AGE FOR ELIGIBILITY OF FOOD STAMP RECIPIENTS.—Clause (i) of section 51(d)(8)(A) is amended by striking "25" and inserting "40".

(d) INCREASE IN MAXIMUM AGE FOR DESIGNATED COMMUNITY RESIDENTS.—

(1) IN GENERAL.—Paragraph (5) of section 51(d) is amended to read as follows:

"(5) DESIGNATED COMMUNITY RESIDENTS.—

"(A) IN GENERAL.—The term 'designated community resident' means any individual who is certified by the designated local agency—

"(i) as having attained age 18 but not age 40 on the hiring date, and

"(ii) as having his principal place of abode within an empowerment zone, enterprise community, or renewal community.

"(B) INDIVIDUAL MUST CONTINUE TO RESIDE IN ZONE OR COMMUNITY.—In the case of a designated community resident, the term 'qualified wages' shall not include wages paid or incurred for services performed while the individual's principal place of abode is outside an empowerment zone, enterprise community, or renewal community."

(2) CONFORMING AMENDMENT.—Subparagraph (D) of section 51(d)(1) is amended to read as follows:

"(D) a designated community resident,".

(e) EFFECTIVE DATES.—

(1) EXTENSION OF CREDITS.—The amendments made by subsection (a) shall apply to individuals who begin work for the employer after December 31, 2003.

(2) MODIFICATIONS.—The amendments made by subsections (b), (c), and (d) shall apply to individuals who begin work for the employer after December 31, 2004.

SEC. 703. CONSOLIDATION OF WORK OPPORTUNITY CREDIT WITH WELFARE-TO-WORK CREDIT.

(a) IN GENERAL.—Paragraph (1) of section 51(d) is amended by striking "or" at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting ", or", and by adding at the end the following new subparagraph:

"(I) a long-term family assistance recipient."

(b) LONG-TERM FAMILY ASSISTANCE RECIPIENT.—Subsection (d) of section 51 is amended by redesignating paragraphs (10) through (12) as paragraphs (11) through (13), respectively, and by inserting after paragraph (9) the following new paragraph:

"(10) LONG-TERM FAMILY ASSISTANCE RECIPIENT.—The term 'long-term family assistance recipient' means any individual who is certified by the designated local agency—

"(A) as being a member of a family receiving assistance under a IV–A program (as defined in paragraph (2)(B)) for at least the 18-month period ending on the hiring date,

"(B)(i) as being a member of a family receiving such assistance for 18 months beginning after August 5, 1997, and

"(ii) as having a hiring date which is not more than 2 years after the end of the earliest such 18-month period, or

"(C)(i) as being a member of a family which ceased to be eligible for such assistance by reason of any limitation imposed by Federal or State law on the maximum period such assistance is payable to a family, and

"(ii) as having a hiring date which is not more than 2 years after the date of such cessation."

(c) INCREASED CREDIT FOR EMPLOYMENT OF LONG-TERM FAMILY ASSISTANCE RECIPIENTS.—Section 51 is amended by inserting after subsection (d) the following new subsection:

"(e) CREDIT FOR EMPLOYMENT OF LONG-TERM FAMILY ASSISTANCE RECIPIENTS.—

"(1) IN GENERAL.—With respect to the employment of a long-term family assistance recipient—

"(A) the amount of the work opportunity credit determined under this section for the taxable year shall include 50 percent of the qualified second-year wages for such year, and

"(B) in lieu of applying subsection (b)(3), the amount of the qualified first-year wages, and the amount of qualified second-year wages, which may be taken into account with respect to such a recipient shall not exceed $10,000 per year.

"(2) QUALIFIED SECOND-YEAR WAGES.—For purposes of this subsection, the term 'qualified second-year wages' means qualified wages—

"(A) which are paid to a long-term family assistance recipient, and

"(B) which are attributable to service rendered during the 1-year period beginning on the day after the last day of the 1-year period with respect to such recipient determined under subsection (b)(2).

"(3) SPECIAL RULES FOR AGRICULTURAL AND RAILWAY LABOR.—If such recipient is an employee to whom subparagraph (A) or (B) of subsection (h)(1) applies, rules similar to the rules of such subparagraphs shall apply except that—

"(A) such subparagraph (A) shall be applied by substituting '$10,000' for '$6,000', and

"(B) such subparagraph (B) shall be applied by substituting '$833.33' for '$500'."

(d) REPEAL OF SEPARATE WELFARE-TO-WORK CREDIT.—

(1) IN GENERAL.—Section 51A is hereby repealed.

(2) CLERICAL AMENDMENT.—The table of sections for subpart F of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 51A.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after December 31, 2004.

SEC. 704. QUALIFIED ZONE ACADEMY BONDS.

(a) IN GENERAL.—Paragraph (1) of section 1397E(e) is amended by striking "and 2003" and inserting "2003, 2004, and 2005".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations issued after December 31, 2003.

SEC. 705. COVER OVER OF TAX ON DISTILLED SPIRITS.

(a) IN GENERAL.—Paragraph (1) of section 7652(f) is amended by striking "January 1, 2004" and inserting "January 1, 2006".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to articles brought into the United States after December 31, 2003.

SEC. 706. DEDUCTION FOR CORPORATE DONATIONS OF SCIENTIFIC PROPERTY AND COMPUTER TECHNOLOGY.

(a) SCIENTIFIC PROPERTY USED FOR RESEARCH.—

(1) IN GENERAL.—Clause (ii) of section 170(e)(4)(B) (defining qualified research contributions) is amended by inserting "or assembled" after "constructed".

(2) CONFORMING AMENDMENT.—Clause (iii) of section 170(e)(4)(B) is amended by inserting "or assembling" after "construction".

(b) COMPUTER TECHNOLOGY AND EQUIPMENT FOR EDUCATIONAL PURPOSES.—

(1) IN GENERAL.—Clause (ii) of section 170(e)(6)(B) is amended by inserting "or assembled" after "constructed" and "or assembling" after "construction".

(2) SPECIAL RULE EXTENDED.—Section 170(e)(6)(G) is amended by striking "2003" and inserting "2005".

(3) CONFORMING AMENDMENTS.—Subparagraph (D) of section 170(e)(6) is amended by inserting "or assembled" after "constructed" and "or assembling" after "construction".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2003.

SEC. 707. DEDUCTION FOR CERTAIN EXPENSES OF SCHOOL TEACHERS.

(a) IN GENERAL.—Subparagraph (D) of section 62(a)(2) is amended by striking "or 2003" and inserting ", 2003, 2004, or 2005".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to expenses paid or incurred in taxable years beginning after December 31, 2003.

SEC. 708. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

(a) EXTENSION OF TERMINATION DATE.—Subsection (h) of section 198 is amended by striking "December 31, 2003" and inserting "December 31, 2005".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to expenditures paid or incurred after December 31, 2003.

SEC. 709. EXPANSION OF CERTAIN NEW YORK LIBERTY ZONE BENEFITS.

(a) EXTENSION OF TAX-EXEMPT BOND FINANCING.—Subparagraph (D) of section 1400L(d)(2) is amended by striking "2005" and inserting "2006".

(b) CLARIFICATION OF BONDS ELIGIBLE FOR ADVANCE REFUNDING.—Section 1400L(e)(2)(B) (relating to bonds described) is amended by striking ", or" and inserting "or the Municipal Assistance Corporation, or".

(c) ELECTION OUT TECHNICAL AMENDMENT.—Subsection (c) of section 1400L is amended by adding at the end the following new paragraph:

"(5) ELECTION OUT.—For purposes of this subsection, rules similar to the rules of section 168(k)(2)(C)(iii) shall apply.".

(d) EFFECTIVE DATE.—The amendments made by subsections (b) and (c) shall take effect as if included in the amendments made by section 301 of the Job Creation and Worker Assistance Act of 2002.

SEC. 710. REPEAL OF REDUCTION OF DEDUCTIONS FOR MUTUAL LIFE INSURANCE COMPANIES.

(a) IN GENERAL.—Section 809 of the Internal Revenue Code of 1986 (relating to reductions in certain deduction of mutual life insurance companies) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subsections (a)(2)(B) and (b)(1)(B) of section 807 of such Code are each amended by striking "the sum of (i)" and by striking "plus (ii) any excess described in section 809(a)(2) for the taxable year,".

(2)(A) The last sentence of section 807(d)(1) of such Code is amended by striking "section 809(b)(4)(B)" and inserting "paragraph (6)".

(B) Subsection (d) of section 807 of such Code is amended by adding at the end the following new paragraph:

"(6) STATUTORY RESERVES.—The term 'statutory reserves' means the aggregate amount set forth in the annual statement with respect to items described in section 807(c). Such term shall not include any reserve attributable to a deferred and uncollected premium if the establishment of such reserve is not permitted under section 811(c)."

(3) Subsection (c) of section 808 of such Code is amended to read as follows:

"(c) AMOUNT OF DEDUCTION.—The deduction for policyholder dividends for any taxable year shall be an amount equal to the policyholder dividends paid or accrued during the taxable year."

(4) Subparagraph (A) of section 812(b)(3) of such Code is amended by striking "sections 808 and 809" and inserting "section 808".

(5) Subsection (c) of section 817 of such Code is amended by striking "(other than section 809)".

(6) Subsection (c) of section 842 of such Code is amended by striking paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(7) The table of sections for subpart C of part I of subchapter L of chapter 1 of such Code is amended by striking the item relating to section 809.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 711. TAX INCENTIVES FOR INVESTMENT IN THE DISTRICT OF COLUMBIA.

(a) DESIGNATION OF ZONE.—Subsection (f) of section 1400 is amended by striking "December 31, 2003" both places it appears and inserting "December 31, 2005".

(b) TAX-EXEMPT ECONOMIC DEVELOPMENT BONDS.—Subsection (b) of section 1400A is amended by striking "December 31, 2003" and inserting "December 31, 2005".

(c) ZERO PERCENT CAPITAL GAINS RATE.—

(1) IN GENERAL.—Subsection (b) of section 1400B is amended by striking "January 1, 2004" each place it appears and inserting "January 1, 2006".

(2) CONFORMING AMENDMENTS.—

(A) Section 1400B(e)(2) is amended—

(i) by striking "December 31, 2008" and inserting "December 31, 2010", and

(ii) by striking "2008" in the heading and inserting "2010".

(B) Section 1400B(g)(2) is amended by striking "December 31, 2008" and inserting "December 31, 2010".

(C) Section 1400F(d) is amended by striking "December 31, 2008" and inserting "December 31, 2010".

(d) FIRST-TIME HOMEBUYER CREDIT.—Subsection (i) of section 1400C is amended by striking "January 1, 2004" and inserting "January 1, 2006".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on January 1, 2004.

(2) TAX-EXEMPT ECONOMIC DEVELOPMENT BONDS.—The amendment made by subsection (b) shall apply to obligations issued after the date of the enactment of this Act.

SEC. 712. DISCLOSURE OF TAX INFORMATION TO FACILITATE COMBINED EMPLOYMENT TAX REPORTING.

(a) IN GENERAL.—Paragraph (5) of section 6103(d) (relating to disclosure to State tax officials and State and local law enforcement agencies) is amended to read as follows:

"(5) DISCLOSURE FOR COMBINED EMPLOYMENT TAX REPORTING.—The Secretary may disclose taxpayer identity information and signatures to any agency, body, or commission of any State for the purpose of carrying out with such agency, body, or commission a combined Federal and State employment tax reporting program approved by the Secretary. Subsections (a)(2) and (p)(4) and sections 7213 and 7213A shall not apply with respect to disclosures or inspections made pursuant to this paragraph.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 713. ALLOWANCE OF NONREFUNDABLE PERSONAL CREDITS AGAINST REGULAR AND MINIMUM TAX LIABILITY.

(a) IN GENERAL.—Paragraph (2) of section 26(a) is amended—

(1) by striking "RULE FOR 2000, 2001, 2002, AND 2003.—" and inserting "RULE FOR TAXABLE YEARS 2000 THROUGH 2004.—", and

(2) by striking "or 2003" and inserting "2003, or 2004".

(b) CONFORMING PROVISIONS.—

(1) Section 904(i), as redesignated by this Act, is amended by striking "or 2003" and inserting "2003, or 2004".

(2) The amendments made by sections 201(b), 202(f), and 618(b) of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to taxable years beginning during 2004.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 714. CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

(a) IN GENERAL.—Subparagraphs (A), (B), and (C) of section 45(c)(3) are each amended by striking "January 1, 2004" and inserting "January 1, 2005".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to facilities placed in service after December 31, 2003.

SEC. 715. TAXABLE INCOME LIMIT ON PERCENTAGE DEPLETION FOR OIL AND NATURAL GAS PRODUCED FROM MARGINAL PROPERTIES.

(a) IN GENERAL.—Subparagraph (H) of section 613A(c)(6) is amended by striking "January 1, 2004" and inserting "January 1, 2005".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2003.

SEC. 716. INDIAN EMPLOYMENT TAX CREDIT.

Section 45A(f) (relating to termination) is amended by striking "December 31, 2004" and inserting "December 31, 2005".

SEC. 717. ACCELERATED DEPRECIATION FOR BUSINESS PROPERTY ON INDIAN RESERVATION.

Section 168(j)(8) (relating to termination) is amended by striking "December 31, 2004" and inserting "December 31, 2005".

SEC. 718. DISCLOSURE OF RETURN INFORMATION RELATING TO STUDENT LOANS.

Section 6103(l)(13)(D) (relating to termination) is amended by striking "December 31, 2004" and inserting "December 31, 2005".

SEC. 719. EXTENSION OF TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) AMENDMENTS OF ERISA.—

(1) Section 101(e)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(e)(3)) is amended by striking "Pension Funding Equity Act of 2004" and inserting "Jumpstart Our Business Strength (JOBS) Act".

(2) Section 403(c)(1) of such Act (29 U.S.C. 1103(c)(1)) is amended by striking "Pension Funding Equity Act of 2004" and inserting "Jumpstart Our Business Strength (JOBS) Act".

(3) Paragraph (13) of section 408(b) of such Act (29 U.S.C. 1108(b)(3)) is amended by striking "Pension Funding Equity Act of 2004" and inserting "Jumpstart Our Business Strength (JOBS) Act".

(b) MINIMUM COST REQUIREMENTS.—

(1) IN GENERAL.—Section 420(c)(3)(E) is amended by adding at the end the following new clause:

"(ii) INSIGNIFICANT COST REDUCTIONS PERMITTED.—

"(I) IN GENERAL.—An eligible employer shall not be treated as failing to meet the requirements of this paragraph for any taxable year if, in lieu of any reduction of retiree health coverage permitted under the regulations prescribed under clause (i), the employer reduces applicable employer cost by an amount not in excess of the reduction in costs which would have occurred if the employer had made the maximum permissible reduction in retiree health coverage under such regulations. In applying such regulations to any subsequent taxable year, any reduction in applicable employer cost under this clause shall be treated as if it were an equivalent reduction in retiree health coverage.

"(II) ELIGIBLE EMPLOYER.—For purposes of subclause (I), an employer shall be treated as an eligible employer for any taxable year if, for the preceding taxable year, the qualified current retiree health liabilities of the employer were at least 5 percent of the gross receipts of the employer. For purposes of this subclause, the rules of paragraphs (2), (3)(B), and (3)(C) of section 448(c) shall apply in determining the amount of an employer's gross receipts.''.

(2) Conforming amendment.—Section 420(c)(3)(E) is amended by striking ''The Secretary'' and inserting:

''(i) In general.—The Secretary''.

(3) Effective date.—The amendments made by this subsection shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 720. ELIMINATION OF PHASEOUT OF CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

(a) In General.—Section 30(b) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(b) Conforming Amendments.—

(1) Section 53(d)(1)(B)(iii) is amended by striking ''section 30(b)(3)(B)'' and inserting ''section 30(b)(2)(B)''.

(2) Section 55(c)(2) is amended by striking ''30(b)(3)'' and inserting ''30(b)(2)''.

(c) Effective Date.—The amendments made by this section shall apply to property placed in service after December 31, 2003.

SEC. 721. ELIMINATION OF PHASEOUT FOR DEDUCTION FOR CLEAN-FUEL VEHICLE PROPERTY.

(a) In General.—Paragraph (1) of section 179A(b) is amended to read as follows:

''(1) Qualified clean-fuel vehicle property.—The cost which may be taken into account under subsection (a)(1)(A) with respect to any motor vehicle shall not exceed—

''(A) in the case of a motor vehicle not described in subparagraph (B) or (C), $2,000,

''(B) in the case of any truck or van with a gross vehicle weight rating greater than 10,000 pounds but not greater than 26,000 pounds, $5,000, or

''(C) $50,000 in the case of—

''(i) a truck or van with a gross vehicle weight rating greater than 26,000 pounds, or

''(ii) any bus which has a seating capacity of at least 20 adults (not including the driver).''.

(b) Effective Date.—The amendment made by subsection (a) shall apply to property placed in service after December 31, 2003.

Subtitle B—Revenue Provisions

SEC. 731. DONATIONS OF MOTOR VEHICLES, BOATS, AND AIRPLANES.

(a) In General.—Subsection (f) of section 170 (relating to disallowance of deduction in certain cases and special rules) is amended by adding at the end the following new paragraph:

''(11) Contributions of used motor vehicles, boats, and airplanes.—

''(A) In general.—In the case of a contribution of a qualified vehicle in excess of $500—

''(i) paragraph (8) shall not apply and no deduction shall be allowed under subsection (a) for such contribution unless the taxpayer substantiates the contribution by a contemporaneous written acknowledgement of the contribution by the donee organization that meets the requirements of subparagraph (B) and includes the acknowledgement with the taxpayer's return of tax which includes the deduction, and

''(ii) if the organization sells the vehicle without any significant intervening use or material improvement of such vehicle by the organization, the amount of the deduction allowed under subsection (a) shall not exceed the gross proceeds received from such sale.

''(B) Content of acknowledgement.—An acknowledgement meets the requirements of this subparagraph if it includes the following information:

''(i) The name and taxpayer identification number of the donor.

''(ii) The vehicle identification number or similar number.

''(iii) In the case of a qualified vehicle to which subparagraph (A)(ii) applies and which is sold by the donee organization—

''(I) a certification that the vehicle was sold in an arm's length transaction between unrelated parties,

''(II) the gross proceeds from the sale, and

''(III) that the deductible amount may not exceed the amount of such gross proceeds.

''(iv) In the case of a qualified vehicle to which subparagraph (A)(ii) does not apply—

''(I) a certification of the intended use or material improvement of the vehicle and the intended duration of such use, and

''(II) a certification that the vehicle would not be transferred in exchange for money, other property, or services before completion of such use or improvement.

''(C) Contemporaneous.—For purposes of subparagraph (A), an acknowledgement shall be considered to be contemporaneous if the donee organization provides it within 30 days of—

''(i) the sale of the qualified vehicle, or

''(ii) in the case of an acknowledgement including a certification described in subparagraph (B)(iv), the contribution of the qualified vehicle.

''(D) Information to secretary.—A donee organization required to provide an acknowledgement under this paragraph shall provide to the Secretary the information contained in the acknowledgement. Such information shall be provided at such time and in such manner as the Secretary may prescribe.

''(E) Qualified vehicle.—For purposes of this paragraph, the term 'qualified vehicle' means any—

''(i) self-propelled vehicle manufactured primarily for use on public streets, roads, and highways,

''(ii) boat, or

''(iii) airplane.

Such term shall not include any property which is described in section 1221(a)(1).

''(F) Regulations or other guidance.—The Secretary shall prescribe such regulations or other guidance as may be necessary to carry out the purposes of this paragraph.''.

(b) Penalty for Fraudulent Acknowledgments.—

(1) In general.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 882(c) of this Act, is amended adding at the end the following new section:

''SEC. 6720A. FRAUDULENT ACKNOWLEDGMENTS WITH RESPECT TO DONATIONS OF MOTOR VEHICLES, BOATS, AND AIRPLANES.

''Any donee organization required under section 170(f)(11)(A) to furnish a contemporaneous written acknowledgment to a donor which knowingly furnishes a false or fraudulent acknowledgment, or which knowingly fails to furnish such acknowledgment in the manner, at the time, and showing the information required under section 170(f)(11), or regulations prescribed thereunder, shall for each such act, or for each such failure, be subject to a penalty equal to—

''(1) in the case of an acknowledgment with respect to a qualified vehicle to which section 170(f)(11)(A)(ii) applies, the greater of the value of the tax benefit to the donor or the gross proceeds from the sale of such vehicle, and

''(2) in the case of an acknowledgment with respect to any other qualified vehicle to which section 170(f)(11) applies, the greater of the value of the tax benefit to the donor or $5,000.''.

(2) Conforming amendment.—The table of sections for part I of subchapter B of chapter 68, as amended by section 882(c) of this Act, is amended by adding at the end the following new item:

''Sec. 6720A. Fraudulent acknowledgments with respect to donations of motor vehicles, boats, and airplanes.''.

(c) Effective Date.—The amendments made by this section shall apply to contributions after June 30, 2004.

SEC. 732. ADDITION OF VACCINES AGAINST INFLUENZA TO LIST OF TAXABLE VACCINES.

(a) In General.—Section 4132(a)(1) (defining taxable vaccine), as amended by this Act, is amended adding at the end the following new subparagraph:

''(N) Any trivalent vaccine against influenza.''.

(b) Effective Date.—

(1) Sales, etc.—The amendment made by this section shall apply to sales and uses on or after the later of—

(A) the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act, or

(B) the date on which the Secretary of Health and Human Services lists any vaccine against influenza for purposes of compensation for any vaccine-related injury or death through the Vaccine Injury Compensation Trust Fund.

(2) Deliveries.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

SEC. 733. TREATMENT OF CONTINGENT PAYMENT CONVERTIBLE DEBT INSTRUMENTS.

(a) In General.—Section 1275(d) (relating to regulation authority) is amended—

(1) by striking ''The Secretary'' and inserting the following:

''(1) In general.—The Secretary'', and

(2) by adding at the end the following new paragraph:

''(2) Treatment of contingent payment convertible debt.—

''(A) In general.—In the case of a debt instrument which—

''(i) is convertible into stock of the issuing corporation, into stock or debt of a related party (within the meaning of section 267(b) or 707(b)(1)), or into cash or other property in an amount equal to the approximate value of such stock or debt, and

''(ii) provides for contingent payments,

any regulations which require original issue discount to be determined by reference to the comparable yield of a noncontingent fixed rate debt instrument shall be applied as requiring that such comparable yield be determined by reference to a noncontingent fixed rate debt instrument which is convertible into stock.

''(B) Special rule.—For purposes of subparagraph (A), the comparable yield shall be determined without taking into account the yield resulting from the conversion of a debt instrument into stock.''.

(b) Cross Reference.—Section 163(e)(6) (relating to cross references) is amended by adding at the end the following:

''For the treatment of contingent payment convertible debt, see section 1275(d)(2).''.

(c) Effective Date.—The amendments made by this section shall apply to debt instruments issued after the date of the enactment of this Act.

SEC. 734. MODIFICATION OF CONTINUING LEVY ON PAYMENTS TO FEDERAL VENDERS.

(a) In General.—Section 6331(h) (relating to continuing levy on certain payments) is amended by adding at the end the following new paragraph:

"(3) Increase in levy for certain payments.—Paragraph (1) shall be applied by substituting '100 percent' for '15 percent' in the case of any specified payment due to a vendor of goods or services sold or leased to the Federal Government.".

(b) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act.

TITLE VIII—ENERGY TAX INCENTIVES

SEC. 800. SHORT TITLE.

This title may be cited as the "Energy Tax Incentives Act".

Subtitle A—Renewable Electricity Production Tax Credit

SEC. 801. EXTENSION AND EXPANSION OF CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

(a) Expansion of Qualified Energy Resources.—Subsection (c) of section 45 (relating to electricity produced from certain renewable resources) is amended to read as follows:

"(c) Qualified Energy Resources.—For purposes of this section—

"(1) In general.—The term 'qualified energy resources' means—

"(A) wind,

"(B) closed-loop biomass,

"(C) open-loop biomass,

"(D) geothermal energy,

"(E) solar energy,

"(F) small irrigation power,

"(G) biosolids and sludge, and

"(H) municipal solid waste.

"(2) Closed-loop biomass.—The term 'closed-loop biomass' means any organic material from a plant which is planted exclusively for purposes of being used at a qualified facility to produce electricity.

"(3) Open-loop biomass.—

"(A) In general.—The term 'open-loop biomass' means—

"(i) any agricultural livestock waste nutrients, or

"(ii) any solid, nonhazardous, cellulosic waste material which is segregated from other waste materials and which is derived from—

"(I) any of the following forest-related resources: mill and harvesting residues, precommercial thinnings, slash, and brush; but not including spent chemicals from pulp manufacturing,

"(II) solid wood waste materials, including waste pallets, crates, dunnage, manufacturing and construction wood wastes (other than pressure-treated, chemically-treated, or painted wood wastes), and landscape or right-of-way tree trimmings, but not including municipal solid waste, gas derived from the biodegradation of solid waste, or paper which is commonly recycled, or

"(III) agriculture sources, including orchard tree crops, vineyard, grain, legumes, sugar, and other crop by-products or residues.

"(B) Agricultural livestock waste nutrients.—

"(i) In general.—The term 'agricultural livestock waste nutrients' means agricultural livestock manure and litter, including wood shavings, straw, rice hulls, and other bedding material for the disposition of manure.

"(ii) Agricultural livestock.—The term 'agricultural livestock' includes bovine, swine, poultry, and sheep.

"(C) Exceptions.—The term 'open-loop biomass' does not include—

"(i) closed-loop biomass, or

"(ii) biomass burned in conjunction with fossil fuel (cofiring) beyond such fossil fuel required for startup and flame stabilization.

"(4) Geothermal energy.—The term 'geothermal energy' means energy derived from a geothermal deposit (within the meaning of section 613(e)(2)).

"(5) Small irrigation power.—The term 'small irrigation power' means power—

"(A) generated without any dam or impoundment of water through an irrigation system canal or ditch, and

"(B) the installed capacity of which is less than 5 megawatts.

"(6) Biosolids and sludge.—The term 'biosolids and sludge' means the residue or solids removed in the treatment of commercial, industrial, or municipal wastewater.

"(7) Municipal solid waste.—The term 'municipal solid waste' has the meaning given the term 'solid waste' under section 2(27) of the Solid Waste Disposal Act (42 U.S.C. 6903).".

(b) Extension and Expansion of Qualified Facilities.—

(1) In general.—Section 45 is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) Qualified Facilities.—For purposes of this section—

"(1) Wind facility.—In the case of a facility using wind to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 1993, and before January 1, 2007.

"(2) Closed-loop biomass facility.—

"(A) In general.—In the case of a facility using closed-loop biomass to produce electricity, the term 'qualified facility' means any facility—

"(i) owned by the taxpayer which is originally placed in service after December 31, 1992, and before January 1, 2007, or

"(ii) owned by the taxpayer which before January 1, 2007, is originally placed in service and modified to use closed-loop biomass to co-fire with coal, with other biomass, or with both, but only if the modification is approved under the Biomass Power for Rural Development Programs or is part of a pilot project of the Commodity Credit Corporation as described in 65 Fed. Reg. 63052.

"(B) Special rules.—In the case of a qualified facility described in subparagraph (A)(ii)—

"(i) the 10-year period referred to in subsection (a) shall be treated as beginning no earlier than January 1, 2005,

"(ii) the amount of the credit determined under subsection (a) with respect to the facility shall be an amount equal to the amount determined without regard to this clause multiplied by the ratio of the thermal content of the closed-loop biomass used in such facility to the thermal content of all fuels used in such facility, and

"(iii) if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) shall be the lessee or the operator of such facility.

"(3) Open-loop biomass facility.—

"(A) In general.—In the case of a facility using open-loop biomass to produce electricity for grid sale in excess of its internal requirements, the term 'qualified facility' means any facility owned by the taxpayer which—

"(i) in the case of a facility using agricultural livestock waste nutrients, is originally placed in service after December 31, 2004, and before January 1, 2007, and

"(ii) in the case of any other facility, is originally placed in service before January 1, 2005.

"(B) Special rules for preeffective date facilities.—In the case of any facility described in subparagraph (A)(ii) which is placed in service before January 1, 2005—

"(i) subsection (a)(1) shall be applied by substituting '1.2 cents' for '1.5 cents', and

"(ii) the 5-year period beginning on January 1, 2005, shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).

"(C) Credit eligibility.—In the case of any facility described in subparagraph (A), if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) shall be the lessee or the operator of such facility.

"(4) Geothermal or solar energy facility.—In the case of a facility using geothermal or solar energy to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 2004, and before January 1, 2007. Such term shall not include any property described in section 48(a)(3) the basis of which is taken into account by the taxpayer for purposes of determining the energy credit under section 48.

"(5) Small irrigation power facility.—In the case of a facility using small irrigation power to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 2004, and before January 1, 2007.

"(6) Biosolids and sludge facility.—In the case of a facility using waste heat from the incineration of biosolids and sludge to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 2004, and before January 1, 2007. Such term shall not include any property described in section 48(a)(3) the basis of which is taken into account for purposes of the energy credit under section 46.

"(7) Municipal solid waste facility.—

"(A) In general.—In the case of a facility or unit incinerating municipal solid waste to produce electricity, the term 'qualified facility' means any facility or unit owned by the taxpayer which is originally placed in service after December 31, 2004, and before January 1, 2007.

"(B) Special rule.—In the case of any facility or unit described in subparagraph (A), the 5-year period beginning on the date the facility or unit was originally placed in service shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).

"(C) Credit eligibility.—In the case of any qualified facility described in subparagraph (A), if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) shall be the lessee or the operator of such facility.".

(2) No credit for certain production.—Section 45(e) (relating to definitions and special rules), as redesignated by paragraph (1), is amended by striking paragraph (6) and inserting the following new paragraph:

"(6) Operations inconsistent with solid waste disposal act.—In the case of a qualified facility described in subsection (d)(6)(A), subsection (a) shall not apply to electricity produced at such facility during any taxable year if, during a portion of such year, there is a certification in effect by the Administrator of the Environmental Protection Agency that such facility was permitted to operate in a manner inconsistent with section 4003(d) of the Solid Waste Disposal Act (42 U.S.C. 6943(d)).".

(3) Conforming amendment.—Section 45(e), as so redesignated, is amended by striking "subsection (c)(3)(A)" in paragraph (7)(A)(i) and inserting "subsection (d)(1)".

(c) Credit Rate for Electricity Produced From New Facilities.—

(1) In general.—Section 45(a) is amended by adding at the end the following new flush sentence:

"In the case of electricity produced after December 31, 2004, at any qualified facility originally placed in service after such date, paragraph (1) shall be applied by substituting '1.8 cents' for '1.5 cents'.".

(2) New rate not subject to inflation adjustment.—Section 45(b)(2) (relating to credit and phaseout adjustment based on inflation) is amended by adding at the end the following new sentence: "This paragraph shall not apply to any amount which is substituted for the 1.5 cent amount in subsection (a) by reason of any provision of this section.".

(d) Elimination of Certain Credit Reductions.—Section 45(b)(3)(A) (relating to credit reduced for grants, tax-exempt bonds, subsidized energy financing, and other credits) is amended—

(1) by striking clause (ii),

(2) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii),

(3) by inserting "(other than proceeds of an issue of State or local government obligations the interest on which is exempt from tax under section 103, or any loan, debt, or other obligation incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of the Energy Tax Incentives Act)" after "project" in clause (ii) (as so redesignated),

(4) by adding at the end the following new sentence: "This paragraph shall not apply with respect to any facility described in subsection (d)(2)(A)(ii).", and

(5) by striking "tax-exempt bonds," in the heading and inserting "certain".

(e) Treatment of Persons Not Able To Use Entire Credit.—Section 45(e) (relating to definitions and special rules), as redesignated by subsection (b)(1), is amended by adding at the end the following new paragraph:

"(8) Treatment of persons not able to use entire credit.—

"(A) Allowance of credit.—

"(i) In general.—Except as otherwise provided in this subsection—

"(I) any credit allowable under subsection (a) with respect to a qualified facility owned by a person described in clause (ii) may be transferred or used as provided in this paragraph, and

"(II) the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the person.

"(ii) Persons described.—A person is described in this clause if the person is—

"(I) an organization described in section 501(c)(12)(C) and exempt from tax under section 501(a),

"(II) an organization described in section 1381(a)(2)(C),

"(III) a public utility (as defined in section 136(c)(2)(B)), which is exempt from income tax under this subtitle,

"(IV) any State or political subdivision thereof, the District of Columbia, any possession of the United States, or any agency or instrumentality of any of the foregoing,

"(V) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof, or

"(VI) the Tennessee Valley Authority.

"(B) Transfer of credit.—

"(i) In general.—A person described in subclause (I), (II), (III), (IV), or (V) of subparagraph (A)(ii) may transfer any credit to which subparagraph (A)(i) applies through an assignment to any other person not described in subparagraph (A)(ii). Such transfer may be revoked only with the consent of the Secretary.

"(ii) Regulations.—The Secretary shall prescribe such regulations as necessary to ensure that any credit described in clause (i) is assigned once and not reassigned by such other person.

"(iii) Transfer proceeds treated as arising from essential government function.—Any proceeds derived by a person described in subclause (III), (IV), or (V) of subparagraph (A)(ii) from the transfer of any credit under clause (i) shall be treated as arising from the exercise of an essential government function.

"(C) Use of credit as an offset.—Notwithstanding any other provision of law, in the case of a person described in subclause (I), (II), or (V) of subparagraph (A)(ii), any credit to which subparagraph (A)(i) applies may be applied by such person, to the extent provided by the Secretary of Agriculture, as a prepayment of any loan, debt, or other obligation the entity has incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of the Energy Tax Incentives Act.

"(D) Use by TVA.—

"(i) In general.—Notwithstanding any other provision of law, in the case of a person described in subparagraph (A)(ii)(VI), any credit to which subparagraph (A)(i) applies may be applied as a credit against the payments required to be made in any fiscal year under section 15d(e) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831n-4(e)) as an annual return on the appropriations investment and an annual repayment sum.

"(ii) Treatment of credits.—The aggregate amount of credits described in subparagraph (A)(i) with respect to such person shall be treated in the same manner and to the same extent as if such credits were a payment in cash and shall be applied first against the annual return on the appropriations investment.

"(iii) Credit carryover.—With respect to any fiscal year, if the aggregate amount of credits described subparagraph (A)(i) with respect to such person exceeds the aggregate amount of payment obligations described in clause (i), the excess amount shall remain available for application as credits against the amounts of such payment obligations in succeeding fiscal years in the same manner as described in this subparagraph.

"(E) Credit not income.—Any transfer under subparagraph (B) or use under subparagraph (C) of any credit to which subparagraph (A)(i) applies shall not be treated as income for purposes of section 501(c)(12).

"(F) Treatment of unrelated persons.—For purposes of subsection (a)(2)(B), sales of electricity among and between persons described in subparagraph (A)(ii) shall be treated as sales between unrelated parties.".

(f) Effective Dates.—

(1) In general.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to electricity produced and sold after December 31, 2004, in taxable years ending after such date.

(2) Certain biomass facilities.—With respect to any facility described in section 45(d)(3)(A)(ii) of the Internal Revenue Code of 1986, as added by subsection (b)(1), which is placed in service before the date of the enactment of this Act, the amendments made by this section shall apply to electricity produced and sold after December 31, 2004, in taxable years ending after such date.

(3) Credit rate for new facilities.—The amendments made by subsection (c) shall apply to electricity produced and sold after December 31, 2004, in taxable years ending after such date.

(4) Nonapplication of amendments to preeffective date poultry waste facilities.—The amendments made by this section shall not apply with respect to any poultry 'waste facility (within the meaning of section 45(c)(3)(C), as in effect on December 31, 2004) placed in service on or before such date.

Subtitle B—Alternative Motor Vehicles and Fuels Incentives

SEC. 811. ALTERNATIVE MOTOR VEHICLE CREDIT.

(a) In General.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 30C. ALTERNATIVE MOTOR VEHICLE CREDIT.

"(a) Allowance of Credit.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) the new qualified fuel cell motor vehicle credit determined under subsection (b),

"(2) the new qualified hybrid motor vehicle credit determined under subsection (c), and

"(3) the new qualified alternative fuel motor vehicle credit determined under subsection (d).

"(b) New Qualified Fuel Cell Motor Vehicle Credit.—

"(1) In general.—For purposes of subsection (a), the new qualified fuel cell motor vehicle credit determined under this subsection with respect to a new qualified fuel cell motor vehicle placed in service by the taxpayer during the taxable year is—

"(A) $4,000, if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,

"(B) $10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds,

"(C) $20,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

"(D) $40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

"(2) Increase for fuel efficiency.—

"(A) In general.—The amount determined under paragraph (1)(A) with respect to a new qualified fuel cell motor vehicle which is a passenger automobile or light truck shall be increased by—

"(i) $1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2002 model year city fuel economy,

"(ii) $1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2002 model year city fuel economy,

"(iii) $2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2002 model year city fuel economy, “(iv) $2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2002 model year city fuel economy,

“(v) $3,000, if such vehicle achieves at least 250 percent but less than 275 percent of the 2002 model year city fuel economy,

“(vi) $3,500, if such vehicle achieves at least 275 percent but less than 300 percent of the 2002 model year city fuel economy, and

“(vii) $4,000, if such vehicle achieves at least 300 percent of the 2002 model year city fuel economy.

“(B) 2002 MODEL YEAR CITY FUEL ECONOMY.—For purposes of subparagraph (A), the 2002 model year city fuel economy with respect to a vehicle shall be determined in accordance with the following tables:

“(i) In the case of a passenger automobile:

“If vehicle inertia weight class is:	**The 2002 model year city fuel economy is:**
1,500 or 1,750 lbs	45.2 mpg
2,000 lbs	39.6 mpg
2,250 lbs	35.2 mpg
2,500 lbs	31.7 mpg
2,750 lbs	28.8 mpg
3,000 lbs	26.4 mpg
3,500 lbs	22.6 mpg
4,000 lbs	19.8 mpg
4,500 lbs	17.6 mpg
5,000 lbs	15.9 mpg
5,500 lbs	14.4 mpg
6,000 lbs	13.2 mpg
6,500 lbs	12.2 mpg
7,000 to 8,500 lbs	11.3 mpg.

“(ii) In the case of a light truck:

“If vehicle inertia weight class is:	**The 2002 model year city fuel economy is:**
1,500 or 1,750 lbs	39.4 mpg
2,000 lbs	35.2 mpg
2,250 lbs	31.8 mpg
2,500 lbs	29.0 mpg
2,750 lbs	26.8 mpg
3,000 lbs	24.9 mpg
3,500 lbs	21.8 mpg
4,000 lbs	19.4 mpg
4,500 lbs	17.6 mpg
5,000 lbs	16.1 mpg
5,500 lbs	14.8 mpg
6,000 lbs	13.7 mpg
6,500 lbs	12.8 mpg
7,000 to 8,500 lbs	12.1 mpg.

“(C) VEHICLE INERTIA WEIGHT CLASS.—For purposes of subparagraph (B), the term ‘vehicle inertia weight class’ has the same meaning as when defined in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

“(3) NEW QUALIFIED FUEL CELL MOTOR VEHICLE.—For purposes of this subsection, the term ‘new qualified fuel cell motor vehicle’ means a motor vehicle—

“(A) which is propelled by power derived from 1 or more cells which convert chemical energy directly into electricity by combining oxygen with hydrogen fuel which is stored on board the vehicle in any form and may or may not require reformation prior to use,

“(B) which, in the case of a passenger automobile or light truck—

“(i) for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

“(ii) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

“(C) the original use of which commences with the taxpayer,

“(D) which is acquired for use or lease by the taxpayer and not for resale, and

“(E) which is made by a manufacturer.

“(c) NEW QUALIFIED HYBRID MOTOR VEHICLE CREDIT.—

“(1) IN GENERAL.—For purposes of subsection (a), the new qualified hybrid motor vehicle credit determined under this subsection with respect to a new qualified hybrid motor vehicle placed in service by the taxpayer during the taxable year is the credit amount determined under paragraph (2).

“(2) CREDIT AMOUNT.—

“(A) IN GENERAL.—The credit amount determined under this paragraph shall be determined in accordance with the following tables:

“(i) In the case of a new qualified hybrid motor vehicle which is a passenger automobile, medium duty passenger vehicle, or light truck and which provides the following percentage of the maximum available power:

“If percentage of the maximum available power is:	**The credit amount is:**
At least 4 percent but less than 10 percent	$250
At least 10 percent but less than 20 percent	$500
At least 20 percent but less than 30 percent	$750
At least 30 percent	$1,000.

“(ii) In the case of a new qualified hybrid motor vehicle which is a heavy duty hybrid motor vehicle and which provides the following percentage of the maximum available power:

“(I) If such vehicle has a gross vehicle weight rating of not more than 14,000 pounds:

“If percentage of the maximum available power is:	**The credit amount is:**
At least 20 percent but less than 30 percent	$1,000
At least 30 percent but less than 40 percent	$1,750
At least 40 percent but less than 50 percent	$2,000
At least 50 percent but less than 60 percent	$2,250
At least 60 percent	$2,500.

“(II) If such vehicle has a gross vehicle weight rating of more than 14,000 but not more than 26,000 pounds:

“If percentage of the maximum available power is:	**The credit amount is:**
At least 20 percent but less than 30 percent	$4,000
At least 30 percent but less than 40 percent	$4,500
At least 40 percent but less than 50 percent	$5,000
At least 50 percent but less than 60 percent	$5,500
At least 60 percent	$6,000.

“(III) If such vehicle has a gross vehicle weight rating of more than 26,000 pounds:

“If percentage of the maximum available power is:	**The credit amount is:**
At least 20 percent but less than 30 percent	$6,000
At least 30 percent but less than 40 percent	$7,000
At least 40 percent but less than 50 percent	$8,000
At least 50 percent but less than 60 percent	$9,000
At least 60 percent	$10,000.

“(B) INCREASE FOR FUEL EFFICIENCY.—

“(i) AMOUNT.—The amount determined under subparagraph (A)(i) with respect to a new qualified hybrid motor vehicle which is a passenger automobile or light truck shall be increased by—

“(I) $500, if such vehicle achieves at least 125 percent but less than 150 percent of the 2002 model year city fuel economy,

“(II) $1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2002 model year city fuel economy,

“(III) $1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2002 model year city fuel economy,

“(IV) $2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2002 model year city fuel economy,

“(V) $2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2002 model year city fuel economy, and

“(VI) $3,000, if such vehicle achieves at least 250 percent of the 2002 model year city fuel economy.

“(ii) 2002 MODEL YEAR CITY FUEL ECONOMY.—For purposes of clause (i), the 2002 model year city fuel economy with respect to a vehicle shall be determined on a gasoline gallon equivalent basis as determined by the Administrator of the Environmental Protection Agency using the tables provided in subsection (b)(2)(B) with respect to such vehicle.

“(C) INCREASE FOR ACCELERATED EMISSIONS PERFORMANCE.—The amount determined under subparagraph (A)(ii) with respect to an applicable heavy duty hybrid motor vehicle shall be increased by the increased credit amount determined in accordance with the following tables:

“(i) In the case of a vehicle which has a gross vehicle weight rating of not more than 14,000 pounds:

“If the model year is:	**The increased credit amount is:**
2004	$2,500
2005	$2,000
2006	$1,500.

“(ii) In the case of a vehicle which has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds:

“If the model year is:	**The increased credit amount is:**
2004	$6,500
2005	$5,250
2006	$4,000.

“(iii) In the case of a vehicle which has a gross vehicle weight rating of more than 26,000 pounds:

“If the model year is:	**The increased credit amount is:**
2004	$10,000
2005	$8,000
2006	$6,000.

“(D) DEFINITIONS RELATING TO CREDIT AMOUNT.—

“(i) APPLICABLE HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of subparagraph (C), the term ‘applicable heavy duty hybrid motor vehicle’ means a heavy duty hybrid motor vehicle which is powered by an internal combustion or heat engine which is certified as meeting the emission standards set in the regulations prescribed by the Administrator of the Environmental Protection

Agency for 2007 and later model year diesel heavy duty engines, or for 2008 and later model year ottocycle heavy duty engines, as applicable.

“(ii) Maximum available power.—

“(I) Passenger automobile, medium duty passenger vehicle, or light truck.—For purposes of subparagraph (A)(i), the term ‘maximum available power’ means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by such maximum power and the SAE net power of the heat engine.

“(II) Heavy duty hybrid motor vehicle.—For purposes of subparagraph (A)(ii), the term ‘maximum available power’ means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by the vehicle's total traction power. The term ‘total traction power’ means the sum of the peak power from the rechargeable energy storage system and the heat engine peak power of the vehicle, except that if such storage system is the sole means by which the vehicle can be driven, the total traction power is the peak power of such storage system.

“(3) New qualified hybrid motor vehicle.—For purposes of this subsection—

“(A) In general.—The term ‘new qualified hybrid motor vehicle’ means a motor vehicle—

“(i) which draws propulsion energy from onboard sources of stored energy which are both—

“(I) an internal combustion or heat engine using consumable fuel, and

“(II) a rechargeable energy storage system,

“(ii) which, in the case of a passenger automobile, medium duty passenger vehicle, or light truck—

“(I) for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

“(II) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

“(iii) which, in the case of a heavy duty hybrid motor vehicle, has an internal combustion or heat engine which has received a certificate of conformity under the Clean Air Act as meeting the emission standards set in the regulations prescribed by the Administrator of the Environmental Protection Agency for 2004 through 2007 model year diesel heavy duty engines or ottocycle heavy duty engines, as applicable,

“(iv) the original use of which commences with the taxpayer,

“(v) which is acquired for use or lease by the taxpayer and not for resale, and

“(vi) which is made by a manufacturer.

“(B) Consumable fuel.—For purposes of subparagraph (A)(i)(I), the term ‘consumable fuel’ means any solid, liquid, or gaseous matter which releases energy when consumed by an auxiliary power unit.

“(4) Heavy duty hybrid motor vehicle.—For purposes of this subsection, the term ‘heavy duty hybrid motor vehicle’ means a new qualified hybrid motor vehicle which has a gross vehicle weight rating of more than 8,500 pounds. Such term does not include a medium duty passenger vehicle.

“(d) New Qualified Alternative Fuel Motor Vehicle Credit.—

“(1) Allowance of credit.—Except as provided in paragraph (5), the new qualified alternative fuel motor vehicle credit determined under this subsection is an amount equal to the applicable percentage of the incremental cost of any new qualified alternative fuel motor vehicle placed in service by the taxpayer during the taxable year.

“(2) Applicable percentage.—For purposes of paragraph (1), the applicable percentage with respect to any new qualified alternative fuel motor vehicle is—

“(A) 40 percent, plus

“(B) 30 percent, if such vehicle—

“(i) has received a certificate of conformity under the Clean Air Act and meets or exceeds the most stringent standard available for certification under the Clean Air Act for that make and model year vehicle (other than a zero emission standard), or

“(ii) has received an order certifying the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds the most stringent standard available for certification under the State laws of California (enacted in accordance with a waiver granted under section 209(b) of the Clean Air Act) for that make and model year vehicle (other than a zero emission standard).

For purposes of the preceding sentence, in the case of any new qualified alternative fuel motor vehicle which weighs more than 14,000 pounds gross vehicle weight rating, the most stringent standard available shall be such standard available for certification on the date of the enactment of the Energy Tax Incentives Act.

“(3) Incremental cost.—For purposes of this subsection, the incremental cost of any new qualified alternative fuel motor vehicle is equal to the amount of the excess of the manufacturer's suggested retail price for such vehicle over such price for a gasoline or diesel fuel motor vehicle of the same model, to the extent such amount does not exceed—

“(A) $5,000, if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,

“(B) $10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds,

“(C) $25,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

“(D) $40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

“(4) New qualified alternative fuel motor vehicle.—For purposes of this subsection—

“(A) In general.—The term ‘new qualified alternative fuel motor vehicle’ means any motor vehicle—

“(i) which is only capable of operating on an alternative fuel,

“(ii) the original use of which commences with the taxpayer,

“(iii) which is acquired by the taxpayer for use or lease, but not for resale, and

“(iv) which is made by a manufacturer.

“(B) Alternative fuel.—The term ‘alternative fuel’ means compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid at least 85 percent of the volume of which consists of methanol.

“(5) Credit for mixed-fuel vehicles.—

“(A) In general.—In the case of a mixed-fuel vehicle placed in service by the taxpayer during the taxable year, the credit determined under this subsection is an amount equal to—

“(i) in the case of a 75/25 mixed-fuel vehicle, 70 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle, and

“(ii) in the case of a 90/10 mixed-fuel vehicle, 90 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle.

“(B) Mixed-fuel vehicle.—For purposes of this subsection, the term ‘mixed-fuel vehicle’ means any motor vehicle described in subparagraph (C) or (D) of paragraph (3), which—

“(i) is certified by the manufacturer as being able to perform efficiently in normal operation on a combination of an alternative fuel and a petroleum-based fuel,

“(ii) either—

“(I) has received a certificate of conformity under the Clean Air Act, or

“(II) has received an order certifying the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds the low emission vehicle standard under section 88.105–94 of title 40, Code of Federal Regulations, for that make and model year vehicle,

“(iii) the original use of which commences with the taxpayer,

“(iv) which is acquired by the taxpayer for use or lease, but not for resale, and

“(v) which is made by a manufacturer.

“(C) 75/25 mixed-fuel vehicle.—For purposes of this subsection, the term ‘75/25 mixed-fuel vehicle’ means a mixed-fuel vehicle which operates using at least 75 percent alternative fuel and not more than 25 percent petroleum-based fuel.

“(D) 90/10 mixed-fuel vehicle.—For purposes of this subsection, the term ‘90/10 mixed-fuel vehicle’ means a mixed-fuel vehicle which operates using at least 90 percent alternative fuel and not more than 10 percent petroleum-based fuel.

“(e) Application With Other Credits.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

“(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

“(2) the tentative minimum tax for the taxable year.

“(f) Other Definitions and Special Rules.—For purposes of this section—

“(1) Motor vehicle.—The term ‘motor vehicle’ has the meaning given such term by section 30(c)(2).

“(2) City fuel economy.—The city fuel economy with respect to any vehicle shall be measured in a manner which is substantially similar to the manner city fuel economy is measured in accordance with procedures under part 600 of subchapter Q of chapter I of title 40, Code of Federal Regulations, as in effect on the date of the enactment of this section.

“(3) Other terms.—The terms ‘automobile’, ‘passenger automobile’, ‘medium duty passenger vehicle’, ‘light truck’, and ‘manufacturer’ have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

“(4) Reduction in basis.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection

(a) shall be reduced by the amount of such credit so allowed (determined without regard to subsection (e)).

"(5) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter—

"(A) for any incremental cost taken into account in computing the amount of the credit determined under subsection (d) shall be reduced by the amount of such credit attributable to such cost, and

"(B) with respect to a vehicle described under subsection (b) or (c), shall be reduced by the amount of credit allowed under subsection (a) for such vehicle for the taxable year.

"(6) PROPERTY USED BY TAX-EXEMPT ENTITIES.—In the case of a credit amount which is allowable with respect to a motor vehicle which is acquired by an entity exempt from tax under this chapter, the person which sells or leases such vehicle to the entity shall be treated as the taxpayer with respect to the vehicle for purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of any sale or lease the specific amount of any credit otherwise allowable to the entity under this section.

"(7) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit (including recapture in the case of a lease period of less than the economic life of a vehicle).

"(8) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowed under subsection (a) with respect to any property referred to in section 50(b) or with respect to the portion of the cost of any property taken into account under section 179.

"(9) ELECTION TO NOT TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

"(10) CARRYBACK AND CARRYFORWARD ALLOWED.—

"(A) IN GENERAL.—If the credit allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be a credit carryback to each of the 3 taxable years preceding the unused credit year and a credit carryforward to each of the 20 taxable years following the unused credit year, except that no excess may be carried to a taxable year beginning before January 1, 2005.

"(B) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).

"(11) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Unless otherwise provided in this section, a motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

"(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

"(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

"(g) REGULATIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

"(2) COORDINATION IN PRESCRIPTION OF CERTAIN REGULATIONS.—The Secretary of the Treasury, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether a motor vehicle meets the requirements to be eligible for a credit under this section.

"(h) TERMINATION.—This section shall not apply to any property purchased after—

"(1) in the case of a new qualified fuel cell motor vehicle (as described in subsection (b)), December 31, 2011, and

"(2) in the case of any other property, December 31, 2006.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking "and" at the end of paragraph (31), by striking the period at the end of paragraph (32) and inserting ", and", and by adding at the end the following new paragraph:

"(33) to the extent provided in section 30C(f)(4).".

(2) Section 55(c)(2), as amended by this Act, is amended by inserting "30C(e)," after "30(b)(2),".

(3) Section 6501(m) is amended by inserting "30C(f)(9)," after "30(d)(4),".

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 30B the following new item:

"Sec. 30C. Alternative motor vehicle credit.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2004, in taxable years ending after such date.

SEC. 812. MODIFICATION OF CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

(a) AMOUNT OF CREDIT.—

(1) IN GENERAL.—Section 30(a) (relating to allowance of credit) is amended by striking "10 percent of".

(2) LIMITATION OF CREDIT ACCORDING TO TYPE OF VEHICLE.—Paragraph (1) of section 30(b) (relating to limitations) is amended to read as follows:

"(1) LIMITATION ACCORDING TO TYPE OF VEHICLE.—The amount of the credit allowed under subsection (a) for any vehicle shall not exceed the greatest of the following amounts applicable to such vehicle:

"(A) In the case of a vehicle with a gross vehicle weight rating not exceeding 8,500 pounds—

"(i) except as provided in clause (ii) or (iii), $3,500,

"(ii) $6,000, if such vehicle is—

"(I) capable of a driving range of at least 100 miles on a single charge of the vehicle's rechargeable batteries as measured pursuant to the urban dynamometer schedules under appendix I to part 86 of title 40, Code of Federal Regulations, or

"(II) capable of a payload capacity of at least 1,000 pounds, and

"(iii) if such vehicle is a low-speed vehicle which conforms to Standard 500 prescribed by the Secretary of Transportation (49 C.F.R. 571.500), as in effect on the date of the enactment of the Energy Tax Incentives Act, the lesser of—

"(I) 10 percent of the manufacturer's suggested retail price of the vehicle, or

"(II) $1,500.

"(B) In the case of a vehicle with a gross vehicle weight rating exceeding 8,500 but not exceeding 14,000 pounds, $10,000.

"(C) In the case of a vehicle with a gross vehicle weight rating exceeding 14,000 but not exceeding 26,000 pounds, $20,000.

"(D) In the case of a vehicle with a gross vehicle weight rating exceeding 26,000 pounds, $40,000.".

(b) QUALIFIED BATTERY ELECTRIC VEHICLE.—

(1) IN GENERAL.—Section 30(c)(1)(A) (defining qualified electric vehicle) is amended to read as follows:

"(A) which is—

"(i) operated solely by use of a battery or battery pack, or

"(ii) powered primarily through the use of an electric battery or battery pack using a flywheel or capacitor which stores energy produced by an electric motor through regenerative braking to assist in vehicle operation,".

(2) LEASED VEHICLES.—Section 30(c)(1)(C) is amended by inserting "or lease" after "use".

(3) CONFORMING AMENDMENTS.—

(A) Subsections (a), (b)(2), and (c) of section 30 are each amended by inserting "battery" after "qualified" each place it appears.

(B) The heading of subsection (c) of section 30 is amended by inserting "BATTERY" after "QUALIFIED".

(C) The heading of section 30 is amended by inserting "**BATTERY**" after "**QUALIFIED**".

(D) The item relating to section 30 in the table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting "battery" after "qualified".

(E) Section 179A(c)(3) is amended by inserting "battery" before "electric".

(F) The heading of paragraph (3) of section 179A(c) is amended by inserting "BATTERY" before "ELECTRIC".

(c) ADDITIONAL SPECIAL RULES.—Section 30(d) (relating to special rules) is amended by adding at the end the following new paragraphs:

"(5) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for any cost taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such cost.

"(6) PROPERTY USED BY TAX-EXEMPT ENTITIES.—In the case of a credit amount which is allowable with respect to a vehicle which is acquired by an entity exempt from tax under this chapter, the person which sells or leases such vehicle to the entity shall be treated as the taxpayer with respect to the vehicle for purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of any sale or lease the specific amount of any credit otherwise allowable to the entity under this section.

"(7) CARRYBACK AND CARRYFORWARD ALLOWED.—

"(A) IN GENERAL.—If the credit allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (b)(2) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be a credit carryback to each of the 3 taxable years preceding the unused credit year and a credit carryforward to each of the 20 taxable years following the unused credit year, except that no excess may be carried to a taxable year beginning before January 1, 2005.

"(B) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2004, in taxable years ending after such date.

SEC. 813. CREDIT FOR INSTALLATION OF ALTERNATIVE FUELING STATIONS.

(a) In General.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 30D. CLEAN-FUEL VEHICLE REFUELING PROPERTY CREDIT.

"(a) Credit Allowed.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the amount paid or incurred by the taxpayer during the taxable year for the installation of qualified clean-fuel vehicle refueling property.

"(b) Limitation.—The credit allowed under subsection (a)—

"(1) with respect to any retail clean-fuel vehicle refueling property, shall not exceed $30,000, and

"(2) with respect to any residential clean-fuel vehicle refueling property, shall not exceed $1,000.

"(c) Year Credit Allowed.—Notwithstanding subsection (a), no credit shall be allowed under subsection (a) with respect to any qualified clean-fuel vehicle refueling property before the taxable year in which the property is placed in service by the taxpayer.

"(d) Definitions.—For purposes of this section—

"(1) Qualified clean-fuel vehicle refueling property.—The term 'qualified clean-fuel vehicle refueling property' has the same meaning given such term by section 179A(d).

"(2) Residential clean-fuel vehicle refueling property.—The term 'residential clean-fuel vehicle refueling property' means qualified clean-fuel vehicle refueling property which is installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer.

"(3) Retail clean-fuel vehicle refueling property.—The term 'retail clean-fuel vehicle refueling property' means qualified clean-fuel vehicle refueling property which is installed on property (other than property described in paragraph (2)) used in a trade or business of the taxpayer.

"(e) Application With Other Credits.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, 30, and 30C, over

"(2) the tentative minimum tax for the taxable year.

"(f) Basis Reduction.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

"(g) No Double Benefit.—

"(1) Coordination with other deductions and credits.—Except as provided in paragraph (2), the amount of any deduction or other credit allowable under this chapter for any cost taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such cost.

"(2) No deduction allowed under section 179A.—No deduction shall be allowed under section 179A with respect to any property with respect to which a credit is allowed under subsection (a).

"(h) Refueling Property Installed for Tax-Exempt Entities.—In the case of qualified clean-fuel vehicle refueling property installed on property owned or used by an entity exempt from tax under this chapter, the person which installs such refueling property for the entity shall be treated as the taxpayer with respect to the refueling property for purposes of this section (and such refueling property shall be treated as retail clean-fuel vehicle refueling property) and the credit shall be allowed to such person, but only if the person clearly discloses to the entity in any installation contract the specific amount of the credit allowable under this section.

"(i) Carryforward Allowed.—

"(1) In general.—If the credit allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year, such excess shall be a credit carryforward to each of the 20 taxable years following such taxable year.

"(2) Rules.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

"(j) Special Rules.—Rules similar to the rules of paragraphs (4) and (5) of section 179A(e) shall apply.

"(k) Regulations.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

"(l) Termination.—This section shall not apply to any property placed in service—

"(1) in the case of property relating to hydrogen, after December 31, 2011, and

"(2) in the case of any other property, after December 31, 2007.".

(b) Modifications to Extension of Deduction for Certain Refueling Property.—Subsection (f) of section 179A is amended to read as follows:

"(f) Termination.—This section shall not apply to any property placed in service—

"(1) in the case of property relating to hydrogen, after December 31, 2011, and

"(2) in the case of any other property, after December 31, 2007.".

(c) Incentive for Production of Hydrogen at Qualified Clean-Fuel Vehicle Refueling Property.—Section 179A(d) (defining qualified clean-fuel vehicle refueling property) is amended by adding at the end the following new flush sentence:

"In the case of clean-burning fuel which is hydrogen produced from another clean-burning fuel, paragraph (3)(A) shall be applied by substituting 'production, storage, or dispensing' for 'storage or dispensing' both places it appears.".

(d) Conforming Amendments.—

(1) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting ", and", and by adding at the end the following new paragraph:

"(34) to the extent provided in section 30D(f).".

(2) Section 55(c)(2), as amended by this Act, is amended by inserting "30D(e)," after "30C(e),".

(3) The table of sections for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 30C the following new item:

"Sec. 30D. Clean-fuel vehicle refueling property credit.".

(e) Effective Date.—The amendments made by this section shall apply to property placed in service after December 31, 2004, in taxable years ending after such date.

SEC. 814. CREDIT FOR RETAIL SALE OF ALTERNATIVE FUELS AS MOTOR VEHICLE FUEL.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by inserting after section 40 the following new section:

"SEC. 40A. CREDIT FOR RETAIL SALE OF ALTERNATIVE FUELS AS MOTOR VEHICLE FUEL.

"(a) General Rule.—For purposes of section 38, the alternative fuel retail sales credit for any taxable year is the applicable amount for each gasoline gallon equivalent of alternative fuel sold at retail by the taxpayer during such year as a fuel to propel any qualified motor vehicle.

"(b) Definitions.—For purposes of this section—

"(1) Applicable amount.—The term 'applicable amount' means the amount determined in accordance with the following table:

"In the case of any taxable year ending in—	The applicable amount is—
2005 and 2006	50 cents.

"(2) Alternative fuel.—The term 'alternative fuel' means compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, or any liquid at least 85 percent of the volume of which consists of methanol or ethanol.

"(3) Gasoline gallon equivalent.—The term 'gasoline gallon equivalent' means, with respect to any alternative fuel, the amount (determined by the Secretary) of such fuel having a Btu content of 114,000.

"(4) Qualified motor vehicle.—The term 'qualified motor vehicle' means any motor vehicle (as defined in section 30(c)(2)) which meets any applicable Federal or State emissions standards with respect to each fuel by which such vehicle is designed to be propelled.

"(5) Sold at retail.—

"(A) In general.—The term 'sold at retail' means the sale, for a purpose other than resale, after manufacture, production, or importation.

"(B) Use treated as sale.—If any person uses alternative fuel (including any use after importation) as a fuel to propel any new qualified alternative fuel motor vehicle (as defined in section 30C(d)(4)) before such fuel is sold at retail, then such use shall be treated in the same manner as if such fuel were sold at retail as a fuel to propel such a vehicle by such person.

"(c) No Double Benefit.—The amount of any deduction or other credit allowable under this chapter for any fuel taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such fuel.

"(d) Pass-Thru in the Case of Estates and Trusts.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(e) Termination.—This section shall not apply to any fuel sold at retail after December 31, 2006.".

(b) Credit Treated as Business Credit.—Section 38(b) (relating to current year business credit) is amended by striking "plus" at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting ", plus", and by adding at the end the following new paragraph:

"(22) the alternative fuel retail sales credit determined under section 40A(a).".

(c) Limitation on Carryback.—

(1) In general.—Subsection (d) of section 39, as amended by this Act, is amended to read as follows:

"(d) TRANSITIONAL RULE.—No portion of the unused business credit for any taxable year which is attributable to a credit specified in section 38(b) may be carried back to any taxable year before the first taxable year for which such specified credit is allowable.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to taxable years beginning after December 31, 2003.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 40 the following new item:

"Sec. 40A. Credit for retail sale of alternative fuels as motor vehicle fuel.".

(e) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall apply to fuel sold at retail after December 31, 2004, in taxable years ending after such date.

SEC. 815. SMALL ETHANOL PRODUCER CREDIT.

(a) ALLOCATION OF ALCOHOL FUELS CREDIT TO PATRONS OF A COOPERATIVE.—Section 40(g) (relating to definitions and special rules for eligible small ethanol producer credit) is amended by adding at the end the following new paragraph:

"(6) ALLOCATION OF SMALL ETHANOL PRODUCER CREDIT TO PATRONS OF COOPERATIVE.—

"(A) ELECTION TO ALLOCATE.—

"(i) IN GENERAL.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a)(3) for the taxable year may, at the election of the organization, be apportioned pro rata among patrons of the organization on the basis of the quantity or value of business done with or for such patrons for the taxable year.

"(ii) FORM AND EFFECT OF ELECTION.—An election under clause (i) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year.

"(B) TREATMENT OF ORGANIZATIONS AND PATRONS.—The amount of the credit apportioned to patrons under subparagraph (A)—

"(i) shall not be included in the amount determined under subsection (a) with respect to the organization for the taxable year, and

"(ii) shall be included in the amount determined under subsection (a) for the taxable year of each patron for which the patronage dividends for the taxable year described in subparagraph (A) are included in gross income.

"(C) SPECIAL RULES FOR DECREASE IN CREDITS FOR TAXABLE YEAR.—If the amount of the credit of a cooperative organization determined under subsection (a)(3) for a taxable year is less than the amount of such credit shown on the return of the cooperative organization for such year, an amount equal to the excess of—

"(i) such reduction, over

"(ii) the amount not apportioned to such patrons under subparagraph (A) for the taxable year,

shall be treated as an increase in tax imposed by this chapter on the organization. Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.".

(b) IMPROVEMENTS TO SMALL ETHANOL PRODUCER CREDIT.—

(1) DEFINITION OF SMALL ETHANOL PRODUCER.—Section 40(g) (relating to definitions and special rules for eligible small ethanol producer credit) is amended by striking "30,000,000" each place it appears and inserting "60,000,000".

(2) SMALL ETHANOL PRODUCER CREDIT NOT A PASSIVE ACTIVITY CREDIT.—Clause (i) of section 469(d)(2)(A) is amended by striking "subpart D" and inserting "subpart D, other than section 40(a)(3),".

(3) SMALL ETHANOL PRODUCER CREDIT NOT ADDED BACK TO INCOME UNDER SECTION 87.—Section 87 (relating to income inclusion of alcohol fuel credit) is amended to read as follows:

"SEC. 87. ALCOHOL FUEL CREDIT.

"Gross income includes an amount equal to the sum of—

"(1) the amount of the alcohol mixture credit determined with respect to the taxpayer for the taxable year under section 40(a)(1), and

"(2) the alcohol credit determined with respect to the taxpayer for the taxable year under section 40(a)(2).".

(c) CONFORMING AMENDMENT.—Section 1388 (relating to definitions and special rules for cooperative organizations), as amended by this Act, is amended by adding at the end the following new subsection:

"(l) CROSS REFERENCE.—For provisions relating to the apportionment of the alcohol fuels credit between cooperative organizations and their patrons, see section 40(g)(6).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

Subtitle C—Conservation and Energy Efficiency Provisions

SEC. 821. CREDIT FOR CONSTRUCTION OF NEW ENERGY EFFICIENT HOME.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45K. NEW ENERGY EFFICIENT HOME CREDIT.

"(a) IN GENERAL.—For purposes of section 38, in the case of an eligible contractor, the credit determined under this section for the taxable year is an amount equal to the aggregate adjusted bases of all energy efficient property installed in a qualifying new home during construction of such home.

"(b) LIMITATIONS.—

"(1) MAXIMUM CREDIT.—

"(A) IN GENERAL.—The credit allowed by this section with respect to a qualifying new home shall not exceed—

"(i) in the case of a 30-percent home, $1,000, and

"(ii) in the case of a 50-percent home, $2,000.

"(B) 30- OR 50-PERCENT HOME.—For purposes of subparagraph (A)—

"(i) 30-PERCENT HOME.—The term '30-percent home' means—

"(I) a qualifying new home which is certified to have a projected level of annual heating and cooling energy consumption, measured in terms of average annual energy cost to the homeowner, which is at least 30 percent less than the annual level of heating and cooling energy consumption of a qualifying new home constructed in accordance with the latest standards of chapter 4 of the International Energy Conservation Code approved by the Department of Energy before the construction of such qualifying new home and any applicable Federal minimum efficiency standards for equipment, or

"(II) in the case of a qualifying new home which is a manufactured home, a home which meets the applicable standards required by the Administrator of the Environmental Protection Agency under the Energy Star Labeled Homes program.

"(ii) 50-PERCENT HOME.—The term '50-percent home' means a qualifying new home which would be described in clause (i)(I) if 50 percent were substituted for 30 percent.

"(C) PRIOR CREDIT AMOUNTS ON SAME HOME TAKEN INTO ACCOUNT.—The amount of the credit otherwise allowable for the taxable year with respect to a qualifying new home under clause (i) or (ii) of subparagraph (A) shall be reduced by the sum of the credits allowed under subsection (a) to any taxpayer with respect to the home for all preceding taxable years.

"(2) COORDINATION WITH CERTAIN CREDITS.—For purposes of this section—

"(A) the basis of any property referred to in subsection (a) shall be reduced by that portion of the basis of any property which is attributable to the rehabilitation credit (as determined under section 47(a)) or to the energy credit (as determined under section 48(a)), and

"(B) expenditures taken into account under section 25D, 47, or 48(a) shall not be taken into account under this section.

"(3) PROVIDER LIMITATION.—Any eligible contractor who directly or indirectly provides the guarantee of energy savings under a guarantee-based method of certification described in subsection (d)(1)(D) shall not be eligible to receive the credit allowed by this section.

"(c) DEFINITIONS.—For purposes of this section—

"(1) ELIGIBLE CONTRACTOR.—The term 'eligible contractor' means—

"(A) the person who constructed the qualifying new home, or

"(B) in the case of a qualifying new home which is a manufactured home, the manufactured home producer of such home.

If more than 1 person is described in subparagraph (A) or (B) with respect to any qualifying new home, such term means the person designated as such by the owner of such home.

"(2) ENERGY EFFICIENT PROPERTY.—The term 'energy efficient property' means any energy efficient building envelope component, and any energy efficient heating or cooling equipment or system which can, individually or in combination with other components, meet the requirements of this section.

"(3) QUALIFYING NEW HOME.—

"(A) IN GENERAL.—The term 'qualifying new home' means a dwelling—

"(i) located in the United States,

"(ii) the construction of which is substantially completed after December 31, 2004, and

"(iii) the first use of which after construction is as a principal residence (within the meaning of section 121).

"(B) MANUFACTURED HOME INCLUDED.—The term 'qualifying new home' includes a manufactured home conforming to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

"(4) CONSTRUCTION.—The term 'construction' includes reconstruction and rehabilitation.

"(5) BUILDING ENVELOPE COMPONENT.—The term 'building envelope component' means—

"(A) any insulation material or system which is specifically and primarily designed to reduce the heat loss or gain of a qualifying new home when installed in or on such home,

"(B) exterior windows (including skylights), and

"(C) exterior doors.

"(d) CERTIFICATION.—

"(1) METHOD OF CERTIFICATION.—

"(A) IN GENERAL.—A certification described in subsection (b)(1)(B) shall be determined either by a component-based method, a performance-based method, or a guarantee-based method, or, in the case of a qualifying new home which is a manufactured home, by a method prescribed by the Administrator of the Environmental Protection Agency under the Energy Star Labeled Homes program.

"(B) COMPONENT-BASED METHOD.—A component-based method is a method which uses the applicable technical energy efficiency specifications or ratings (including product labeling requirements) for the energy efficient building envelope component or energy efficient heating or cooling equipment. The Secretary shall, in consultation with the Administrator of the Environmental Protection Agency, develop prescriptive component-based packages which are equivalent in energy performance to properties which qualify under subparagraph (C).

"(C) PERFORMANCE-BASED METHOD.—

"(i) IN GENERAL.—A performance-based method is a method which calculates projected energy usage and cost reductions in the qualifying new home in relation to a new home—

"(I) heated by the same fuel type, and

"(II) constructed in accordance with the latest standards of chapter 4 of the International Energy Conservation Code approved by the Department of Energy before the construction of such qualifying new home and any applicable Federal minimum efficiency standards for equipment.

"(ii) COMPUTER SOFTWARE.—Computer software shall be used in support of a performance-based method certification under clause (i). Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy.

"(D) GUARANTEE-BASED METHOD.—

"(i) IN GENERAL.—A guarantee-based method is a method which guarantees in writing to the homeowner energy savings of either 30 percent or 50 percent over the 2000 International Energy Conservation Code for heating and cooling costs. The guarantee shall be provided for a minimum of 2 years and shall fully reimburse the homeowner any heating and cooling costs in excess of the guaranteed amount.

"(ii) COMPUTER SOFTWARE.—Computer software shall be selected by the provider to support the guarantee-based method certification under clause (i). Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy.

"(2) PROVIDER.—A certification described in subsection (b)(1)(B) shall be provided by—

"(A) in the case of a component-based method, a local building regulatory authority, a utility, or a home energy rating organization,

"(B) in the case of a performance-based method or a guarantee-based method, an individual recognized by an organization designated by the Secretary for such purposes, or

"(C) in the case of a qualifying new home which is a manufactured home, a manufactured home primary inspection agency.

"(3) FORM.—

"(A) IN GENERAL.—A certification described in subsection (b)(1)(B) shall be made in writing in a manner which specifies in readily verifiable fashion the energy efficient building envelope components and energy efficient heating or cooling equipment installed and their respective rated energy efficiency performance, and

"(i) in the case of a performance-based method, accompanied by a written analysis documenting the proper application of a permissible energy performance calculation method to the specific circumstances of such qualifying new home, and

"(ii) in the case of a qualifying new home which is a manufactured home, accompanied by such documentation as required by the Administrator of the Environmental Protection Agency under the Energy Star Labeled Homes program.

"(B) FORM PROVIDED TO BUYER.—A form documenting the energy efficient building envelope components and energy efficient heating or cooling equipment installed and their rated energy efficiency performance shall be provided to the buyer of the qualifying new home. The form shall include labeled R-value for insulation products, NFRC-labeled U-factor and solar heat gain coefficient for windows, skylights, and doors, labeled annual fuel utilization efficiency (AFUE) ratings for furnaces and boilers, labeled heating seasonal performance factor (HSPF) ratings for electric heat pumps, and labeled seasonal energy efficiency ratio (SEER) ratings for air conditioners.

"(C) RATINGS LABEL AFFIXED IN DWELLING.—A permanent label documenting the ratings in subparagraph (B) shall be affixed to the front of the electrical distribution panel of the qualifying new home, or shall be otherwise permanently displayed in a readily inspectable location in such home.

"(4) REGULATIONS.—

"(A) IN GENERAL.—In prescribing regulations under this subsection for performance-based and guarantee-based certification methods, the Secretary shall prescribe procedures for calculating annual energy usage and cost reductions for heating and cooling and for the reporting of the results. Such regulations shall—

"(i) provide that any calculation procedures be fuel neutral such that the same energy efficiency measures allow a qualifying new home to be eligible for the credit under this section regardless of whether such home uses a gas or oil furnace or boiler or an electric heat pump, and

"(ii) require that any computer software allow for the printing of the Federal tax forms necessary for the credit under this section and for the printing of forms for disclosure to the homebuyer.

"(B) PROVIDERS.—For purposes of paragraph (2)(B), the Secretary shall establish requirements for the designation of individuals based on the requirements for energy consultants and home energy raters specified by the Mortgage Industry National Home Energy Rating Standards.

"(e) APPLICATION.—Subsection (a) shall apply to qualifying new homes the construction of which is substantially completed after December 31, 2004, and purchased during the period beginning on such date and ending on—

"(1) in the case of any 30-percent home, December 31, 2005, and

"(2) in the case of any 50-percent home, December 31, 2007.".

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (21), by striking the period at the end of paragraph (22) and inserting ", plus", and by adding at the end the following new paragraph:

"(23) the new energy efficient home credit determined under section 45K(a).".

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C (relating to certain expenses for which credits are allowable) is amended by adding at the end the following new subsection:

"(d) NEW ENERGY EFFICIENT HOME EXPENSES.—No deduction shall be allowed for that portion of expenses for a qualifying new home otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for such taxable year under section 45K(a).".

(d) DEDUCTION FOR CERTAIN UNUSED BUSINESS CREDITS.—Section 196(c) (defining qualified business credits), as amended by this Act, is amended by striking "and" at the end of paragraph (10), by striking the period at the end of paragraph (11) and inserting ", and", and by adding after paragraph (11) the following new paragraph:

"(12) the new energy efficient home credit determined under section 45K(a).".

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45K. New energy efficient home credit.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to homes the construction of which is substantially completed after December 31, 2004.

SEC. 822. CREDIT FOR ENERGY EFFICIENT APPLIANCES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45L. ENERGY EFFICIENT APPLIANCE CREDIT.

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—For purposes of section 38, the energy efficient appliance credit determined under this section for the taxable year is an amount equal to the sum of the amounts determined under paragraph (2) for qualified energy efficient appliances produced by the taxpayer during the calendar year ending with or within the taxable year.

"(2) AMOUNT.—The amount determined under this paragraph for any category described in subsection (b)(2)(B) shall be the product of the applicable amount for appliances in the category and the eligible production for the category.

"(b) APPLICABLE AMOUNT; ELIGIBLE PRODUCTION.—For purposes of subsection (a)—

"(1) APPLICABLE AMOUNT.—The applicable amount is—

"(A) $50, in the case of—

"(i) a clothes washer which is manufactured with at least a 1.42 MEF, or

"(ii) a refrigerator which consumes at least 10 percent less kilowatt hours per year than the energy conservation standards for refrigerators promulgated by the Department of Energy and effective on July 1, 2001,

"(B) $100, in the case of—

"(i) a clothes washer which is manufactured with at least a 1.50 MEF, or

"(ii) a refrigerator which consumes at least 15 percent (20 percent in the case of a refrigerator manufactured after 2006) less kilowatt hours per year than such energy conservation standards, and

"(C) $150, in the case of a refrigerator manufactured before 2007 which consumes at least 20 percent less kilowatt hours per year than such energy conservation standards.

"(2) ELIGIBLE PRODUCTION.—

"(A) IN GENERAL.—The eligible production of each category of qualified energy efficient appliances is the excess of—

"(i) the number of appliances in such category which are produced by the taxpayer during such calendar year, over

"(ii) the average number of appliances in such category which were produced by the taxpayer during calendar years 2001, 2002, and 2003.

"(B) Categories.—For purposes of subparagraph (A), the categories are—

"(i) clothes washers described in paragraph (1)(A)(i),

"(ii) clothes washers described in paragraph (1)(B)(i),

"(iii) refrigerators described in paragraph (1)(A)(ii),

"(iv) refrigerators described in paragraph (1)(B)(ii), and

"(v) refrigerators described in paragraph (1)(C).

"(c) Limitation on Maximum Credit.—

"(1) In general.—The amount of credit allowed under subsection (a) with respect to a taxpayer for all taxable years shall not exceed $60,000,000, of which not more than $30,000,000 may be allowed with respect to the credit determined by using the applicable amount under subsection (b)(1)(A).

"(2) Limitation based on gross receipts.—The credit allowed under subsection (a) with respect to a taxpayer for the taxable year shall not exceed an amount equal to 2 percent of the average annual gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the credit is determined.

"(3) Gross receipts.—For purposes of this subsection, the rules of paragraphs (2) and (3) of section 448(c) shall apply.

"(d) Definitions.—For purposes of this section—

"(1) Qualified energy efficient appliance.—The term 'qualified energy efficient appliance' means—

"(A) a clothes washer described in subparagraph (A)(i) or (B)(i) of subsection (b)(1), or

"(B) a refrigerator described in subparagraph (A)(ii), (B)(ii), or (C) of subsection (b)(1).

"(2) Clothes washer.—The term 'clothes washer' means a residential clothes washer, including a residential style coin operated washer.

"(3) Refrigerator.—The term 'refrigerator' means an automatic defrost refrigerator-freezer which has an internal volume of at least 16.5 cubic feet.

"(4) MEF.—The term 'MEF' means Modified Energy Factor (as determined by the Secretary of Energy).

"(e) Special Rules.—

"(1) In general.—Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply for purposes of this section.

"(2) Aggregation rules.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as 1 person for purposes of subsection (a).

"(f) Verification.—The taxpayer shall submit such information or certification as the Secretary, in consultation with the Secretary of Energy, determines necessary to claim the credit amount under subsection (a).

"(g) Termination.—This section shall not apply—

"(1) with respect to refrigerators described in subsection (b)(1)(A)(ii) produced after December 31, 2005, and

"(2) with respect to all other qualified energy efficient appliances produced after December 31, 2007.".

(b) Credit Made Part of General Business Credit.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (22), by striking the period at the end of paragraph (23) and inserting ", plus", and by adding at the end the following new paragraph:

"(24) the energy efficient appliance credit determined under section 45L(a).".

(c) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45L. Energy efficient appliance credit.".

(d) Effective Date.—The amendments made by this section shall apply to appliances produced after December 31, 2004, in taxable years ending after such date.

SEC. 823. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25B the following new section:

"SEC. 25C. RESIDENTIAL ENERGY EFFICIENT PROPERTY.

"(a) Allowance of Credit.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) 15 percent of the qualified photovoltaic property expenditures made by the taxpayer during such year,

"(2) 15 percent of the qualified solar water heating property expenditures made by the taxpayer during such year,

"(3) 30 percent of the qualified fuel cell property expenditures made by the taxpayer during such year,

"(4) 30 percent of the qualified wind energy property expenditures made by the taxpayer during such year, and

"(5) the sum of the qualified Tier 2 energy efficient building property expenditures made by the taxpayer during such year.

"(b) Limitations.—

"(1) Maximum credit.—The credit allowed under subsection (a) shall not exceed—

"(A) $2,000 for property described in paragraph (1), (2), or (5) of subsection (d),

"(B) $500 for each 0.5 kilowatt of capacity of property described in subsection (d)(4), and

"(C) for property described in subsection (d)(6)—

"(i) $150 for each electric heat pump water heater,

"(ii) $125 for each advanced natural gas, oil, propane furnace, or hot water boiler,

"(iii) $150 for each advanced natural gas, oil, or propane water heater,

"(iv) $50 for each natural gas, oil, or propane water heater,

"(v) $50 for an advanced main air circulating fan,

"(vi) $150 for each advanced combination space and water heating system,

"(vii) $50 for each combination space and water heating system, and

"(viii) $250 for each geothermal heat pump.

"(2) Safety certifications.—No credit shall be allowed under this section for an item of property unless—

"(A) in the case of solar water heating property, such property is certified for performance and safety by the non-profit Solar Rating Certification Corporation or a comparable entity endorsed by the government of the State in which such property is installed,

"(B) in the case of a photovoltaic property, a fuel cell property, or a wind energy property, such property meets appropriate fire and electric code requirements, and

"(C) in the case of property described in subsection (d)(6), such property meets the performance and quality standards, and the certification requirements (if any), which—

"(i) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy or the Administrator of the Environmental Protection Agency, as appropriate),

"(ii) in the case of the energy efficiency ratio (EER) for property described in subsection (d)(6)(B)(viii)—

"(I) require measurements to be based on published data which is tested by manufacturers at 95 degrees Fahrenheit, and

"(II) do not require ratings to be based on certified data of the Air Conditioning and Refrigeration Institute, and

"(iii) are in effect at the time of the acquisition of the property.

"(c) Carryforward of Unused Credit.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and section 25D), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

"(d) Definitions.—For purposes of this section—

"(1) Qualified solar water heating property expenditure.—The term 'qualified solar water heating property expenditure' means an expenditure for property to heat water for use in a dwelling unit located in the United States and used as a residence by the taxpayer if at least half of the energy used by such property for such purpose is derived from the sun.

"(2) Qualified photovoltaic property expenditure.—The term 'qualified photovoltaic property expenditure' means an expenditure for property which uses solar energy to generate electricity for use in a dwelling unit located in the United States and used as a residence by the taxpayer.

"(3) Solar panels.—No expenditure relating to a solar panel or other property installed as a roof (or portion thereof) shall fail to be treated as property described in paragraph (1) or (2) solely because it constitutes a structural component of the structure on which it is installed.

"(4) Qualified fuel cell property expenditure.—The term 'qualified fuel cell property expenditure' means an expenditure for qualified fuel cell property (as defined in section 48(a)(4)) installed on or in connection with a dwelling unit located in the United States and used as a principal residence (within the meaning of section 121) by the taxpayer.

"(5) Qualified wind energy property expenditure.—The term 'qualified wind energy property expenditure' means an expenditure for property which uses wind energy to generate electricity for use in a dwelling unit located in the United States and used as a residence by the taxpayer.

"(6) Qualified Tier 2 energy efficient building property expenditure.—

"(A) In general.—The term 'qualified Tier 2 energy efficient building property expenditure' means an expenditure for any Tier 2 energy efficient building property.

"(B) Tier 2 energy efficient building property.—The term 'Tier 2 energy efficient building property' means—

"(i) an electric heat pump water heater which yields an energy factor of at least 1.7 in the standard Department of Energy test procedure,

"(ii) an advanced natural gas, oil, propane furnace, or hot water boiler which achieves at least 95 percent annual fuel utilization efficiency (AFUE),

"(iii) an advanced natural gas, oil, or propane water heater which has an energy factor of at least 0.80 in the standard Department of Energy test procedure,

"(iv) a natural gas, oil, or propane water heater which has an energy factor of at least 0.65 but less than 0.80 in the standard Department of Energy test procedure,

"(v) an advanced main air circulating fan used in a new natural gas, propane, or oil-fired furnace, including main air circulating fans that use a brushless permanent magnet motor or another type of motor which achieves similar or higher efficiency at half and full speed, as determined by the Secretary,

"(vi) an advanced combination space and water heating system which has a combined energy factor of at least 0.80 and a combined annual fuel utilization efficiency (AFUE) of at least 78 percent in the standard Department of Energy test procedure,

"(vii) a combination space and water heating system which has a combined energy factor of at least 0.65 but less than 0.80 and a combined annual fuel utilization efficiency (AFUE) of at least 78 percent in the standard Department of Energy test procedure, and

"(viii) a geothermal heat pump which has an energy efficiency ratio (EER) of at least 21.

"(7) LABOR COSTS.—Expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property described in paragraph (1), (2), (4), (5), or (6) and for piping or wiring to interconnect such property to the dwelling unit shall be taken into account for purposes of this section.

"(8) SWIMMING POOLS, ETC., USED AS STORAGE MEDIUM.—Expenditures which are properly allocable to a swimming pool, hot tub, or any other energy storage medium which has a function other than the function of such storage shall not be taken into account for purposes of this section.

"(e) SPECIAL RULES.—For purposes of this section—

"(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals the following rules shall apply:

"(A) The amount of the credit allowable, under subsection (a) by reason of expenditures (as the case may be) made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

"(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

"(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

"(3) CONDOMINIUMS.—

"(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which the individual owns, such individual shall be treated as having made the individual's proportionate share of any expenditures of such association.

"(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

"(4) ALLOCATION IN CERTAIN CASES.—Except in the case of qualified wind energy property expenditures, if less than 80 percent of the use of an item is for nonbusiness purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness purposes shall be taken into account.

"(5) WHEN EXPENDITURE MADE; AMOUNT OF EXPENDITURE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when the original installation of the item is completed.

"(B) EXPENDITURES PART OF BUILDING CONSTRUCTION.—In the case of an expenditure in connection with the construction or reconstruction of a structure, such expenditure shall be treated as made when the original use of the constructed or reconstructed structure by the taxpayer begins.

"(C) AMOUNT.—The amount of any expenditure shall be the cost thereof.

"(6) PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—For purposes of determining the amount of expenditures made by any individual with respect to any dwelling unit, there shall not be taken into account expenditures which are made from subsidized energy financing (as defined in section 48(a)(5)(C)).

"(f) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(g) TERMINATION.—The credit allowed under this section shall not apply to expenditures after December 31, 2007.".

(b) CREDIT ALLOWED AGAINST REGULAR TAX AND ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 25C(b), as added by subsection (a), is amended by adding at the end the following new paragraph:

"(3) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under this subpart (other than this section and section 25D) and section 27 for the taxable year.".

(2) CONFORMING AMENDMENTS.—

(A) Section 25C(c), as added by subsection (a), is amended by striking "section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and section 25D)" and inserting "subsection (b)(3)".

(B) Section 23(b)(4)(B) is amended by inserting "and section 25C" after "this section".

(C) Section 24(b)(3)(B) is amended by striking "23 and 25B" and inserting "23, 25B, and 25C".

(D) Section 25(e)(1)(C) is amended by inserting "25C," after "25B,".

(E) Section 25B(g)(2) is amended by striking "section 23" and inserting "sections 23 and 25C".

(F) Section 26(a)(1) is amended by striking "and 25B" and inserting "25B, and 25C".

(G) Section 904(i), as redesignated and amended by this Act, is amended by striking "and 25B" and inserting "25B, and 25C".

(H) Section 1400C(d) is amended by striking "and 25B" and inserting "25B, and 25C".

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (33), by striking the period at the end of paragraph (34) and inserting ", and", and by adding at the end the following new paragraph:

"(35) to the extent provided in section 25C(f), in the case of amounts with respect to which a credit has been allowed under section 25C.".

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25B the following new item:

"Sec. 25C. Residential energy efficient property.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall apply to expenditures after December 31, 2004, in taxable years ending after such date.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2004.

SEC. 824. CREDIT FOR BUSINESS INSTALLATION OF QUALIFIED FUEL CELLS AND STATIONARY MICROTURBINE POWER PLANTS.

(a) IN GENERAL.—Section 48(a)(3)(A) (defining energy property) is amended by striking "or" at the end of clause (i), by adding "or" at the end of clause (ii), and by inserting after clause (ii) the following new clause:

"(iii) qualified fuel cell property or qualified microturbine property,".

(b) QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.—Section 48(a) (relating to energy credit) is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.—For purposes of this subsection—

"(A) QUALIFIED FUEL CELL PROPERTY.—

"(i) IN GENERAL.—The term 'qualified fuel cell property' means a fuel cell power plant which—

"(I) generates at least 0.5 kilowatt of electricity using an electrochemical process, and

"(II) has an electricity-only generation efficiency greater than 30 percent.

"(ii) LIMITATION.—In the case of qualified fuel cell property placed in service during the taxable year, the credit otherwise determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to $500 for each 0.5 kilowatt of capacity of such property.

"(iii) Fuel cell power plant.—The term 'fuel cell power plant' means an integrated system comprised of a fuel cell stack assembly and associated balance of plant components which converts a fuel into electricity using electrochemical means.

"(iv) Termination.—The term 'qualified fuel cell property' shall not include any property placed in service after December 31, 2007.

"(B) Qualified microturbine property.—

"(i) In general.—The term 'qualified microturbine property' means a stationary microturbine power plant which—

"(I) has a capacity of less than 2,000 kilowatts, and

"(II) has an electricity-only generation efficiency of not less than 26 percent at International Standard Organization conditions.

"(ii) Limitation.—In the case of qualified microturbine property placed in service during the taxable year, the credit otherwise determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal $200 for each kilowatt of capacity of such property.

"(iii) Stationary microturbine power plant.—The term 'stationary microturbine power plant' means an integrated system comprised of a gas turbine engine, a combustor, a recuperator or regenerator, a generator or alternator, and associated balance of plant components which converts a fuel into electricity and thermal energy. Such term also includes all secondary components located between the existing infrastructure for fuel delivery and the existing infrastructure for power distribution, including equipment and controls for meeting relevant power standards, such as voltage, frequency, and power factors.

"(iv) Termination.—The term 'qualified microturbine property' shall not include any property placed in service after December 31, 2006.".

(c) Energy Percentage.—Section 48(a)(2)(A) (relating to energy percentage) is amended to read as follows:

"(A) In general.—The energy percentage is—

"(i) in the case of qualified fuel cell property, 30 percent, and

"(ii) in the case of any other energy property, 10 percent.".

(d) Conforming Amendments.—

(A) Section 29(b)(3)(A)(i)(III) is amended by striking "section 48(a)(4)(C)" and inserting "section 48(a)(5)(C)".

(B) Section 48(a)(1) is amended by inserting "except as provided in subparagraph (A)(ii) or (B)(ii) of paragraph (4)," before "the energy".

(e) Effective Date.—The amendments made by this section shall apply to property placed in service after December 31, 2004, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 825. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

(a) In General.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 179A the following new section:

"SEC. 179B. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

"(a) In General.—There shall be allowed as a deduction for the taxable year in which a building is placed in service by a taxpayer, an amount equal to the energy efficient commercial building property expenditures made by such taxpayer with respect to the construction or reconstruction of such building for the taxable year or any preceding taxable year.

"(b) Maximum Amount of Deduction.—The amount of energy efficient commercial building property expenditures taken into account under subsection (a) shall not exceed an amount equal to the product of—

"(1) $2.25, and

"(2) the square footage of the building with respect to which the expenditures are made.

"(c) Energy Efficient Commercial Building Property Expenditures.—For purposes of this section—

"(1) In general.—The term 'energy efficient commercial building property expenditures' means amounts paid or incurred for energy efficient property installed on or in connection with the construction or reconstruction of a building—

"(A) for which depreciation is allowable under section 167,

"(B) which is located in the United States, and

"(C) which is the type of structure to which the Standard 90.1–2001 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America is applicable.

Such term includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property.

"(2) Energy efficient property.—For purposes of paragraph (1)—

"(A) In general.—The term 'energy efficient property' means any property which reduces total annual energy and power costs with respect to the lighting, heating, cooling, ventilation, and hot water supply systems of the building by 50 percent or more in comparison to a building which meets the minimum requirements of Standard 90.1–2001 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America, using methods of calculation described in subparagraph (B) and certified by qualified individuals as provided under paragraph (5).

"(B) Methods of calculation.—The Secretary, in consultation with the Secretary of Energy, shall promulgate regulations which describe in detail methods for calculating and verifying energy and power costs.

"(C) Computer software.—

"(i) In general.—Any calculation described in subparagraph (B) shall be prepared by qualified computer software.

"(ii) Qualified computer software.—For purposes of this subparagraph, the term 'qualified computer software' means software—

"(I) for which the software designer has certified that the software meets all procedures and detailed methods for calculating energy and power costs as required by the Secretary,

"(II) which provides such forms as required to be filed by the Secretary in connection with energy efficiency of property and the deduction allowed under this section, and

"(III) which provides a notice form which summarizes the energy efficiency features of the building and its projected annual energy costs.

"(3) Allocation of deduction for public property.—In the case of energy efficient commercial building property expenditures made by a public entity with respect to the construction or reconstruction of a public building, the Secretary shall promulgate regulations under which the value of the deduction with respect to such expenditures which would be allowable to the public entity under this section (determined without regard to the tax-exempt status of such entity) may be allocated to the person primarily responsible for designing the energy efficient property. Such person shall be treated as the taxpayer for purposes of this section.

"(4) Notice to owner.—Any qualified individual providing a certification under paragraph (5) shall provide an explanation to the owner of the building regarding the energy efficiency features of the building and its projected annual energy costs as provided in the notice under paragraph (2)(C)(ii)(III).

"(5) Certification.—

"(A) In general.—The Secretary shall prescribe procedures for the inspection and testing for compliance of buildings by qualified individuals described in subparagraph (B). Such procedures shall be—

"(i) comparable, given the difference between commercial and residential buildings, to the requirements in the Mortgage Industry National Home Energy Rating Standards, and

"(ii) fuel neutral such that the same energy efficiency measures allow a building to be eligible for the credit under this section regardless of whether such building uses a gas or oil furnace or boiler or an electric heat pump.

"(B) Qualified individuals.—Individuals qualified to determine compliance shall be only those individuals who are recognized by an organization certified by the Secretary for such purposes. The Secretary may qualify a home energy ratings organization, a local building regulatory authority, a State or local energy office, a utility, or any other organization which meets the requirements prescribed under this paragraph.

"(C) Proficiency of qualified individuals.—The Secretary shall consult with nonprofit organizations and State agencies with expertise in energy efficiency calculations and inspections to develop proficiency tests and training programs to qualify individuals to determine compliance.

"(d) Basis Reduction.—For purposes of this subtitle, if a deduction is allowed under this section with respect to any energy efficient property, the basis of such property shall be reduced by the amount of the deduction so allowed.

"(e) Interim Rules for Lighting Systems.—Until such time as the Secretary issues final regulations under subsection (c)(2)(B) with respect to property which is part of a lighting system—

"(1) In general.—The lighting system target under subsection (d)(1)(A)(ii) shall be a reduction in lighting power density of 25 percent (50 percent in the case of a warehouse) of the minimum requirements in Table 9.3.1.1 or Table 9.3.1.2 (not including additional interior lighting power allowances) of Standard 90.1–2001.

"(2) Reduction in credit if reduction less than 40 percent.—

"(A) In general.—If, with respect to the lighting system of any building other than a warehouse, the reduction of lighting power density of the lighting system is not at least 40 percent, only the applicable percentage of the amount of credit otherwise allowable under this section with respect to such property shall be allowed.

"(B) Applicable percentage.—For purposes of subparagraph (A), the applicable percentage is the number of percentage points (not greater than 100) equal to the sum of—

"(i) 50, and

"(ii) the amount which bears the same ratio to 50 as the excess of the reduction of lighting power density of the lighting system over 25 percentage points bears to 15.

"(C) Exceptions.—This subsection shall not apply to any system—

"(i) the controls and circuiting of which do not comply fully with the mandatory and prescriptive requirements of Standard 90.1–2001 and which do not include provision for bilevel switching in all occupancies except hotel and motel guest rooms, store rooms, restrooms, and public lobbies, or

"(ii) which does not meet the minimum requirements for calculated lighting levels as set forth in the Illuminating Engineering Society of North America Lighting Handbook, Performance and Application, Ninth Edition, 2000.

"(f) Regulations.—The Secretary shall promulgate such regulations as necessary to take into account new technologies regarding energy efficiency and renewable energy for purposes of determining energy efficiency and savings under this section.

"(g) Termination.—This section shall not apply with respect to any energy efficient commercial building property expenditures in connection with a building the construction of which is not completed on or before December 31, 2009.".

(b) Conforming Amendments.—

(1) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (34), by striking the period at the end of paragraph (35) and inserting ", and", and by adding at the end the following new paragraph:

"(36) to the extent provided in section 179B(d).".

(2) Section 1245(a) is amended by inserting "179B," after "179A," both places it appears in paragraphs (2)(C) and (3)(C).

(3) Section 1250(b)(3) is amended by inserting before the period at the end of the first sentence "or by section 179B".

(4) Section 263(a)(1), as amended by this Act, is amended by striking "or" at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting ", or", and by inserting after subparagraph (I) the following new subparagraph:

"(J) expenditures for which a deduction is allowed under section 179B.".

(5) Section 312(k)(3)(B) is amended by striking "or 179A" each place it appears in the heading and text and inserting ", 179A, or 179B".

(c) Clerical Amendment.—The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after section 179A the following new item:

"Sec. 179B. Energy efficient commercial buildings deduction.".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 826. THREE-YEAR APPLICABLE RECOVERY PERIOD FOR DEPRECIATION OF QUALIFIED ENERGY MANAGEMENT DEVICES.

(a) In General.—Section 168(e)(3)(A) (defining 3-year property) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) any qualified energy management device.".

(b) Definition of Qualified Energy Management Device.—Section 168(i) (relating to definitions and special rules), as amended by this Act, is amended by inserting at the end the following new paragraph:

"(17) Qualified energy management device.—

"(A) In general.—The term 'qualified energy management device' means any energy management device which is placed in service before January 1, 2008, by a taxpayer who is a supplier of electric energy or a provider of electric energy services.

"(B) Energy management device.—For purposes of subparagraph (A), the term 'energy management device' means any meter or metering device which is used by the taxpayer—

"(i) to measure and record electricity usage data on a time-differentiated basis in at least 4 separate time segments per day, and

"(ii) to provide such data on at least a monthly basis to both consumers and the taxpayer.".

(c) Alternative System.—The table contained in section 168(g)(3)(B) is amended by inserting after the item relating to subparagraph (A)(iii) the following:

"(A)(iv) .... 20".

(d) Effective Date.—The amendments made by this section shall apply to property placed in service after December 31, 2004, in taxable years ending after such date.

SEC. 827. THREE-YEAR APPLICABLE RECOVERY PERIOD FOR DEPRECIATION OF QUALIFIED WATER SUBMETERING DEVICES.

(a) In General.—Section 168(e)(3)(A) (defining 3-year property), as amended by this Act, is amended by striking "and" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", and", and by adding at the end the following new clause:

"(v) any qualified water submetering device.".

(b) Definition of Qualified Water Submetering Device.—Section 168(i) (relating to definitions and special rules), as amended by this Act, is amended by inserting at the end the following new paragraph:

"(16) Qualified water submetering device.—

"(A) In general.—The term 'qualified water submetering device' means any water submetering device which is placed in service before January 1, 2008, by a taxpayer who is an eligible resupplier with respect to the unit for which the device is placed in service.

"(B) Water submetering device.—For purposes of this paragraph, the term 'water submetering device' means any submetering device which is used by the taxpayer—

"(i) to measure and record water usage data, and

"(ii) to provide such data on at least a monthly basis to both consumers and the taxpayer.

"(C) Eligible resupplier.—For purposes of subparagraph (A), the term 'eligible resupplier' means any taxpayer who purchases and installs qualified water submetering devices in every unit in any multi-unit property.".

(c) Alternative System.—The table contained in section 168(g)(3)(B), as amended by this Act, is amended by inserting after the item relating to subparagraph (A)(iv) the following:

"(A)(v) .... 20".

(d) Effective Date.—The amendments made by this section shall apply to property placed in service after December 31, 2004, in taxable years ending after such date.

SEC. 828. ENERGY CREDIT FOR COMBINED HEAT AND POWER SYSTEM PROPERTY.

(a) In General.—Section 48(a)(3)(A) (defining energy property), as amended by this Act, is amended by striking "or" at the end of clause (ii), by adding "or" at the end of clause (iii), and by inserting after clause (iii) the following new clause:

"(iv) combined heat and power system property,".

(b) Combined Heat and Power System Property.—Section 48 (relating to energy credit; reforestation credit), as amended by this Act, is amended by adding at the end the following new subsection:

"(d) Combined Heat and Power System Property.—For purposes of subsection (a)(3)(A)(iv)—

"(1) Combined heat and power system property.—The term 'combined heat and power system property' means property comprising a system—

"(A) which uses the same energy source for the simultaneous or sequential generation of electrical power, mechanical shaft power, or both, in combination with the generation of steam or other forms of useful thermal energy (including heating and cooling applications),

"(B) which has an electrical capacity of not more than 15 megawatts or a mechanical energy capacity of not more than 2,000 horsepower or an equivalent combination of electrical and mechanical energy capacities,

"(C) which produces—

"(i) at least 20 percent of its total useful energy in the form of thermal energy which is not used to produce electrical or mechanical power (or combination thereof), and

"(ii) at least 20 percent of its total useful energy in the form of electrical or mechanical power (or combination thereof),

"(D) the energy efficiency percentage of which exceeds 60 percent, and

"(E) which is placed in service before January 1, 2007.

"(2) Special rules.—

"(A) Energy efficiency percentage.—For purposes of this subsection, the energy efficiency percentage of a system is the fraction—

"(i) the numerator of which is the total useful electrical, thermal, and mechanical power produced by the system at normal operating rates, and expected to be consumed in its normal application, and

"(ii) the denominator of which is the lower heating value of the fuel sources for the system.

"(B) Determinations made on Btu basis.—The energy efficiency percentage and the percentages under paragraph (1)(C) shall be determined on a Btu basis.

"(C) Input and output property not included.—The term 'combined heat and power system property' does not include property used to transport the energy source to the facility or to distribute energy produced by the facility.

"(D) Public utility property.—

"(i) Accounting rule for public utility property.—If the combined heat and power system property is public utility property (as defined in section 168(i)(10)), the taxpayer may only claim the credit under subsection (a) if, with respect to such property, the taxpayer uses a normalization method of accounting.

"(ii) Certain exception not to apply.—The matter in subsection (a)(3) which follows subparagraph (D) thereof shall not apply to combined heat and power system property.

"(3) Systems using bagasse.—If a system is designed to use bagasse for at least 90 percent of the energy source—

"(A) paragraph (1)(D) shall not apply, but

"(B) the amount of credit determined under subsection (a) with respect to such system shall not exceed the amount which bears the same ratio to such amount of credit (determined without regard to this paragraph) as the energy efficiency percentage of such system bears to 60 percent.".

(c) Effective Date.—The amendments made by this subsection shall apply to periods after December 31, 2004, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 829. CREDIT FOR ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by this Act, is amended by inserting after section 25C the following new section:

"SEC. 25D. ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

"(a) Allowance of Credit.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 10 percent of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements installed during such taxable year.

"(b) Limitation.—The credit allowed by this section with respect to a dwelling for any taxable year shall not exceed $300, reduced (but not below zero) by the sum of the credits allowed under subsection (a) to the taxpayer with respect to the dwelling for all preceding taxable years.

"(c) Carryforward of Unused Credit.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

"(d) Qualified Energy Efficiency Improvements.—For purposes of this section, the term 'qualified energy efficiency improvements' means any energy efficient building envelope component which is certified to meet or exceed the latest prescriptive criteria for such component in the International Energy Conservation Code approved by the Department of Energy before the installation of such component, or any combination of energy efficiency measures which are certified as achieving at least a 30 percent reduction in heating and cooling energy usage for the dwelling (as measured in terms of energy cost to the taxpayer), if—

"(1) such component or combination of measures is installed in or on a dwelling which—

"(A) is located in the United States,

"(B) has not been treated as a qualifying new home for purposes of any credit allowed under section 45K, and

"(C) is owned and used by the taxpayer as the taxpayer's principal residence (within the meaning of section 121),

"(2) the original use of such component or combination of measures commences with the taxpayer, and

"(3) such component or combination of measures reasonably can be expected to remain in use for at least 5 years.

"(e) Certification.—

"(1) Methods of certification.—

"(A) Component-based method.—The certification described in subsection (d) for any component described in such subsection shall be determined on the basis of applicable energy efficiency ratings (including product labeling requirements) for affected building envelope components.

"(B) Performance-based method.—

"(i) In general.—The certification described in subsection (d) for any combination of measures described in such subsection shall be—

"(I) determined by comparing the projected heating and cooling energy usage for the dwelling to such usage for such dwelling in its original condition, and

"(II) accompanied by a written analysis documenting the proper application of a permissible energy performance calculation method to the specific circumstances of such dwelling.

"(ii) Computer software.—Computer software shall be used in support of a performance-based method certification under clause (i). Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy.

"(2) Provider.—A certification described in subsection (d) shall be provided by—

"(A) in the case of the method described in paragraph (1)(A), a third party, such as a local building regulatory authority, a utility, a manufactured home primary inspection agency, or a home energy rating organization, or

"(B) in the case of the method described in paragraph (1)(B), an individual recognized by an organization designated by the Secretary for such purposes.

"(3) Form.—A certification described in subsection (d) shall be made in writing on forms which specify in readily inspectable fashion the energy efficient components and other measures and their respective efficiency ratings, and which include a permanent label affixed to the electrical distribution panel of the dwelling.

"(4) Regulations.—

"(A) In general.—In prescribing regulations under this subsection for certification methods described in paragraph (1)(B), the Secretary, after examining the requirements for energy consultants and home energy ratings providers specified by the Mortgage Industry National Home Energy Rating Standards, shall prescribe procedures for calculating annual energy usage and cost reductions for heating and cooling and for the reporting of the results. Such regulations shall—

"(i) provide that any calculation procedures be fuel neutral such that the same energy efficiency measures allow a dwelling to be eligible for the credit under this section regardless of whether such dwelling uses a gas or oil furnace or boiler or an electric heat pump, and

"(ii) require that any computer software allow for the printing of the Federal tax forms necessary for the credit under this section and for the printing of forms for disclosure to the owner of the dwelling.

"(B) Providers.—For purposes of paragraph (2)(B), the Secretary shall establish requirements for the designation of individuals based on the requirements for energy consultants and home energy raters specified by the Mortgage Industry National Home Energy Rating Standards.

"(f) Definitions and Special Rules.—For purposes of this section—

"(1) Dollar amounts in case of joint occupancy.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals the following rules shall apply:

"(A) The amount of the credit allowable under subsection (a) by reason of expenditures for the qualified energy efficiency improvements made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

"(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

"(2) Tenant-stockholder in cooperative housing corporation.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having paid his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of the cost of qualified energy efficiency improvements made by such corporation.

"(3) Condominiums.—

"(A) In general.—In the case of an individual who is a member of a condominium management association with respect to a condominium which the individual owns, such individual shall be treated as having paid the individual's proportionate share of the cost of qualified energy efficiency improvements made by such association.

"(B) Condominium management association.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

"(4) Building envelope component.—The term 'building envelope component' means—

"(A) any insulation material or system which is specifically and primarily designed to reduce the heat loss or gain or a dwelling when installed in or on such dwelling,

"(B) exterior windows (including skylights), and

"(C) exterior doors.

"(5) Manufactured homes included.—For purposes of this section, the term 'dwelling' includes a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

"(g) Basis Adjustment.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(h) Termination.—Subsection (a) shall not apply to qualified energy efficiency improvements installed after December 31, 2006.".

(b) Credit Allowed Against Regular Tax and Alternative Minimum Tax.—

(1) In general.—Section 25D(b), as added by subsection (a), is amended—

(A) by striking "The credit" and inserting the following:

"(1) Dollar amount.—The credit", and

(B) by adding at the end the following new paragraph:

"(2) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxable year.".

(2) CONFORMING AMENDMENTS.—

(A) Section 25D(c), as added by subsection (a), is amended by striking "section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section)" and inserting "subsection (b)(2)".

(B) Section 23(b)(4)(B), as amended by this Act, is amended by striking "section 25C" and inserting "sections 25C and 25D".

(C) Section 24(b)(3)(B), as amended by this Act, is amended by striking "and 25C" and inserting "25C, and 25D".

(D) Section 25(e)(1)(C), as amended by this Act, is amended by inserting "25D," after "25C,".

(E) Section 25B(g)(2), as amended by this Act, is amended by striking "23 and 25C" and inserting "23, 25C, and 25D".

(F) Section 26(a)(1), as amended by this Act, is amended by striking "and 25C" and inserting "25C, and 25D".

(G) Section 904(i), as redesignated and amended by this Act, is amended by striking "and 25C" and inserting "25C, and 25D".

(H) Section 1400C(d), as amended by this Act, is amended by striking "and 25C" and inserting "25C, and 25D".

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (35), by striking the period at the end of paragraph (36) and inserting "; and", and by adding at the end the following new paragraph:

"(37) to the extent provided in section 25D(g), in the case of amounts with respect to which a credit has been allowed under section 25D.".

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 25C the following new item:

"Sec. 25D. Energy efficiency improvements to existing homes.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall apply to property installed after December 31, 2004, in taxable years ending after such date.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2004.

Subtitle D—Clean Coal Incentives

PART I—CREDIT FOR EMISSION REDUCTIONS AND EFFICIENCY IMPROVEMENTS IN EXISTING COAL-BASED ELECTRICITY GENERATION FACILITIES

SEC. 831. CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.

(a) CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45M. CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.

"(a) GENERAL RULE.—For purposes of section 38, the qualifying clean coal technology production credit of any taxpayer for any taxable year is equal to—

"(1) the applicable amount of clean coal technology production credit, multiplied by

"(2) the applicable percentage of the sum of—

"(A) the kilowatt hours of electricity, plus

"(B) each 3,413 Btu of fuels or chemicals,

produced by the taxpayer during such taxable year at a qualifying clean coal technology unit, but only if such production occurs during the 10-year period beginning on the date the unit was returned to service after becoming a qualifying clean coal technology unit.

"(b) APPLICABLE AMOUNT.—

"(1) IN GENERAL.—For purposes of this section, the applicable amount of clean coal technology production credit is equal to $0.0034.

"(2) INFLATION ADJUSTMENT.—For calendar years after 2005, the applicable amount of clean coal technology production credit shall be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the amount is applied. If any amount as increased under the preceding sentence is not a multiple of 0.01 cent, such amount shall be rounded to the nearest multiple of 0.01 cent.

"(c) APPLICABLE PERCENTAGE.—For purposes of this section, with respect to any qualifying clean coal technology unit, the applicable percentage is the percentage equal to the ratio which the portion of the national megawatt capacity limitation allocated to the taxpayer with respect to such unit under subsection (e) bears to the total megawatt capacity of such unit.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFYING CLEAN COAL TECHNOLOGY UNIT.—The term 'qualifying clean coal technology unit' means a clean coal technology unit of the taxpayer which—

"(A) on January 1, 2005—

"(i) was a coal-based electricity generating steam generator-turbine unit which was not a clean coal technology unit, and

"(ii) had a nameplate capacity rating of not more than 300 megawatts,

"(B) becomes a clean coal technology unit as the result of the retrofitting, repowering, or replacement of the unit with clean coal technology during the 10-year period beginning on January 1, 2005,

"(C) is not receiving nor is scheduled to receive funding under the Clean Coal Technology Program, the Power Plant Improvement Initiative, or the Clean Coal Power Initiative administered by the Secretary of Energy, and

"(D) receives an allocation of a portion of the national megawatt capacity limitation under subsection (e).

"(2) CLEAN COAL TECHNOLOGY UNIT.—The term 'clean coal technology unit' means a unit which—

"(A) uses clean coal technology, including advanced pulverized coal or atmospheric fluidized bed combustion, pressurized fluidized bed combustion, integrated gasification combined cycle, or any other technology, for the production of electricity,

"(B) uses an input of at least 75 percent coal to produce at least 50 percent of its thermal output as electricity,

"(C) has a design net heat rate of at least 500 less than that of such unit as described in paragraph (1)(A),

"(D) has a maximum design net heat rate of not more than 9,500, and

"(E) meets the pollution control requirements of paragraph (3).

"(3) POLLUTION CONTROL REQUIREMENTS.—

"(A) IN GENERAL.—A unit meets the requirements of this paragraph if—

"(i) its emissions of sulfur dioxide, nitrogen oxide, or particulates meet the lower of the emission levels for each such emission specified in—

"(I) subparagraph (B), or

"(II) the new source performance standards of the Clean Air Act (42 U.S.C. 7411) which are in effect for the category of source at the time of the retrofitting, repowering, or replacement of the unit, and

"(ii) its emissions do not exceed any relevant emission level specified by regulation pursuant to the hazardous air pollutant requirements of the Clean Air Act (42 U.S.C. 7412) in effect at the time of the retrofitting, repowering, or replacement.

"(B) SPECIFIC LEVELS.—The levels specified in this subparagraph are—

"(i) in the case of sulfur dioxide emissions, 50 percent of the sulfur dioxide emission levels specified in the new source performance standards of the Clean Air Act (42 U.S.C. 7411) in effect on the date of the enactment of this section for the category of source,

"(ii) in the case of nitrogen oxide emissions—

"(I) 0.1 pound per million Btu of heat input if the unit is not a cyclone-fired boiler, and

"(II) if the unit is a cyclone-fired boiler, 15 percent of the uncontrolled nitrogen oxide emissions from such boilers, and

"(iii) in the case of particulate emissions, 0.02 pound per million Btu of heat input.

"(4) DESIGN NET HEAT RATE.—The design net heat rate with respect to any unit, measured in Btu per kilowatt hour (HHV)—

"(A) shall be based on the design annual heat input to and the design annual net electrical power, fuels, and chemicals output from such unit (determined without regard to such unit's co-generation of steam),

"(B) shall be adjusted for the heat content of the design coal to be used by the unit if it is less than 12,000 Btu per pound according to the following formula:

Design net heat rate = Unit net heat rate [1 – {((12,000-design coal heat content, Btu per pound)/1,000) 0.013}],

"(C) shall be corrected for the site reference conditions of—

"(i) elevation above sea level of 500 feet,

"(ii) air pressure of 14.4 pounds per square inch absolute (psia),

"(iii) temperature, dry bulb of 63°F,

"(iv) temperature, wet bulb of 54°F, and

"(v) relative humidity of 55 percent, and

"(D) if carbon capture controls have been installed with respect to any qualifying unit and such controls remove at least 50 percent of the unit's carbon dioxide emissions, shall be adjusted up to the design heat rate level which would have resulted without the installation of such controls.

"(5) HHV.—The term 'HHV' means higher heating value.

"(6) APPLICATION OF CERTAIN RULES.—The rules of paragraphs (3), (4), and (5) of section 45(e) shall apply.

"(7) INFLATION ADJUSTMENT FACTOR.—

"(A) IN GENERAL.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 2003.

"(B) GDP IMPLICIT PRICE DEFLATOR.—The term 'GDP implicit price deflator' means, for any calendar year, the most recent revision of the implicit price deflator for the gross domestic product as of June 30 of such calendar year as computed by the Department of Commerce before October 1 of such calendar year.

"(8) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of this section, a unit which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualifying clean coal technology unit during such period.

"(e) NATIONAL LIMITATION ON THE AGGREGATE CAPACITY OF QUALIFYING CLEAN COAL TECHNOLOGY UNITS.—

"(1) IN GENERAL.—For purposes of this section, the national megawatt capacity limitation for qualifying clean coal technology units is 4,000 megawatts.

"(2) ALLOCATION OF LIMITATION.—The Secretary shall allocate the national megawatt capacity limitation for qualifying clean coal technology units in such manner as the Secretary may prescribe under the regulations under paragraph (3).

"(3) REGULATIONS.—Not later than 6 months after the date of the enactment of this section, the Secretary shall prescribe such regulations as may be necessary or appropriate—

"(A) to carry out the purposes of this subsection,

"(B) to limit the capacity of any qualifying clean coal technology unit to which this section applies so that the megawatt capacity allocated to any unit under this subsection does not exceed 300 megawatts and the combined megawatt capacity allocated to all such units when all such units are placed in service during the 10-year period described in subsection (d)(1)(B), does not exceed 4,000 megawatts,

"(C) to provide a certification process under which the Secretary, in consultation with the Secretary of Energy, shall approve and allocate the national megawatt capacity limitation—

"(i) to encourage that units with the highest thermal efficiencies, when adjusted for the heat content of the design coal and site reference conditions described in subsection (d)(4)(C), and environmental performance, be placed in service as soon as possible, and

"(ii) to allocate capacity to taxpayers which have a definite and credible plan for placing into commercial operation a qualifying clean coal technology unit, including—

"(I) a site,

"(II) contractual commitments for procurement and construction or, in the case of regulated utilities, the agreement of the State utility commission,

"(III) filings for all necessary preconstruction approvals,

"(IV) a demonstrated record of having successfully completed comparable projects on a timely basis, and

"(V) such other factors that the Secretary determines are appropriate,

"(D) to allocate the national megawatt capacity limitation to a portion of the capacity of a qualifying clean coal technology unit if the Secretary determines that such an allocation would maximize the amount of efficient production encouraged with the available tax credits,

"(E) to set progress requirements and conditional approvals so that capacity allocations for clean coal technology units which become unlikely to meet the necessary conditions for qualifying can be reallocated by the Secretary to other clean coal technology units, and

"(F) to provide taxpayers with opportunities to correct administrative errors and omissions with respect to allocations and record keeping within a reasonable period after discovery, taking into account the availability of regulations and other administrative guidance from the Secretary.".

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (23), by striking the period at the end of paragraph (24) and inserting ", plus", and by adding at the end the following new paragraph:

"(25) the qualifying clean coal technology production credit determined under section 45M(a).".

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45M. Credit for production from a qualifying clean coal technology unit.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to production after December 31, 2004, in taxable years ending after such date.

PART II—INCENTIVES FOR EARLY COMMERCIAL APPLICATIONS OF ADVANCED CLEAN COAL TECHNOLOGIES

SEC. 832. CREDIT FOR INVESTMENT IN QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY.

(a) ALLOWANCE OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT CREDIT.—Section 46 (relating to amount of credit), as amended by this Act, is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end the following new paragraph:

"(3) the qualifying advanced clean coal technology unit credit.".

(b) AMOUNT OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT CREDIT.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit) is amended by inserting after section 48 the following new section:

"SEC. 48A. QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT CREDIT.

"(a) IN GENERAL.—For purposes of section 46, the qualifying advanced clean coal technology unit credit for any taxable year is an amount equal to 10 percent of the applicable percentage of the qualified investment in a qualifying advanced clean coal technology unit for such taxable year.

"(b) QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.—

"(1) IN GENERAL.—For purposes of subsection (a), the term 'qualifying advanced clean coal technology unit' means an advanced clean coal technology unit of the taxpayer—

"(A)(i) in the case of a unit first placed in service after December 31, 2004, the original use of which commences with the taxpayer, or

"(ii) in the case of the retrofitting or repowering of a unit first placed in service before January 1, 2005, the retrofitting or repowering of which is completed by the taxpayer after such date, or

"(B) which is depreciable under section 167,

"(C) which has a useful life of not less than 4 years,

"(D) which is located in the United States,

"(E) which is not receiving nor is scheduled to receive funding under the Clean Coal Technology Program, the Power Plant Improvement Initiative, or the Clean Coal Power Initiative administered by the Secretary of Energy,

"(F) which is not a qualifying clean coal technology unit, and

"(G) which receives an allocation of a portion of the national megawatt capacity limitation under subsection (f).

"(2) SPECIAL RULE FOR SALE-LEASEBACKS.—For purposes of subparagraph (A) of paragraph (1), in the case of a unit which—

"(A) is originally placed in service by a person, and

"(B) is sold and leased back by such person, or is leased to such person, within 3 months after the date such unit was originally placed in service, for a period of not less than 12 years,

such unit shall be treated as originally placed in service not earlier than the date on which such unit is used under the leaseback (or lease) referred to in subparagraph (B). The preceding sentence shall not apply to any property if the lessee and lessor of such property make an election under this sentence. Such an election, once made, may be revoked only with the consent of the Secretary.

"(3) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of this subsection, a unit which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualifying advanced clean coal technology unit during such period.

"(c) APPLICABLE PERCENTAGE.—For purposes of this section, with respect to any qualifying advanced clean coal technology unit, the applicable percentage is the percentage equal to the ratio which the portion of the national megawatt capacity limitation allocated to the taxpayer with respect to such unit under subsection (f) bears to the total megawatt capacity of such unit.

"(d) ADVANCED CLEAN COAL TECHNOLOGY UNIT.—For purposes of this section—

"(1) IN GENERAL.—The term 'advanced clean coal technology unit' means a new, retrofit, or repowering unit of the taxpayer which—

"(A) is—

"(i) an eligible advanced pulverized coal or atmospheric fluidized bed combustion technology unit,

"(ii) an eligible pressurized fluidized bed combustion technology unit,

"(iii) an eligible integrated gasification combined cycle technology unit, or

"(iv) an eligible other technology unit, and

"(B) meets the carbon emission rate requirements of paragraph (6).

"(2) ELIGIBLE ADVANCED PULVERIZED COAL OR ATMOSPHERIC FLUIDIZED BED COMBUSTION TECHNOLOGY UNIT.—The term 'eligible advanced pulverized coal or atmospheric fluidized bed combustion technology unit' means a clean coal technology unit using advanced pulverized coal or atmospheric fluidized bed combustion technology which—

"(A) is placed in service after December 31, 2004, and before January 1, 2013, and

"(B) has a design net heat rate of not more than 8,500 (8,900 in the case of units placed in service before 2009).

"(3) ELIGIBLE PRESSURIZED FLUIDIZED BED COMBUSTION TECHNOLOGY UNIT.—The term 'eligible pressurized fluidized bed combustion technology unit' means a clean coal technology unit using pressurized fluidized bed combustion technology which—

"(A) is placed in service after December 31, 2004, and before January 1, 2017, and

"(B) has a design net heat rate of not more than 7,720 (8,900 in the case of units placed in service before 2009, and 8,500 in the case of units placed in service after 2008 and before 2013).

"(4) ELIGIBLE INTEGRATED GASIFICATION COMBINED CYCLE TECHNOLOGY UNIT.—The term 'eligible integrated gasification combined cycle technology unit' means a clean coal technology unit using integrated gasification combined cycle technology, with or without fuel or chemical co-production, which—

"(A) is placed in service after December 31, 2004, and before January 1, 2017,

"(B) has a design net heat rate of not more than 7,720 (8,900 in the case of units placed in service before 2009, and 8,500 in the case of units placed in service after 2008 and before 2013), and

"(C) has a net thermal efficiency (HHV) using coal with fuel or chemical co-production of not less than 44.2 percent (38.4 percent in the case of units placed in service before 2009, and 40.2 percent in the case of units placed in service after 2008 and before 2013).

"(5) ELIGIBLE OTHER TECHNOLOGY UNIT.—The term 'eligible other technology unit' means a clean coal technology unit using any other technology for the production of electricity which is placed in service after December 31, 2004, and before January 1, 2017.

"(6) CARBON EMISSION RATE REQUIREMENTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a unit meets the requirements of this paragraph if—

"(i) in the case of a unit using design coal with a heat content of not more than 9,000 Btu per pound, the carbon emission rate is less than 0.60 pound of carbon per kilowatt hour, and

"(ii) in the case of a unit using design coal with a heat content of more than 9,000 Btu per pound, the carbon emission rate is less than 0.54 pound of carbon per kilowatt hour.

"(B) ELIGIBLE OTHER TECHNOLOGY UNIT.—In the case of an eligible other technology unit, subparagraph (A) shall be applied by substituting '0.51' and '0.459' for '0.60' and '0.54', respectively.

"(e) GENERAL DEFINITIONS.—Any term used in this section which is also used in section 45M shall have the meaning given such term in section 45M.

"(f) NATIONAL LIMITATION ON THE AGGREGATE CAPACITY OF ADVANCED CLEAN COAL TECHNOLOGY UNITS.—

"(1) IN GENERAL.—For purposes of subsection (b)(1)(G), the national megawatt capacity limitation is—

"(A) for qualifying advanced clean coal technology units using advanced pulverized coal or atmospheric fluidized bed combustion technology, not more than 1,000 megawatts (not more than 500 megawatts in the case of units placed in service before 2009),

"(B) for such units using pressurized fluidized bed combustion technology, not more than 500 megawatts (not more than 250 megawatts in the case of units placed in service before 2009),

"(C) for such units using integrated gasification combined cycle technology, with or without fuel or chemical co-production, not more than 2,000 megawatts (not more than 1,000 megawatts in the case of units placed in service before 2009), and

"(D) for such units using other technology for the production of electricity, not more than 500 megawatts (not more than 250 megawatts in the case of units placed in service before 2009).

"(2) ALLOCATION OF LIMITATION.—The Secretary shall allocate the national megawatt capacity limitation for qualifying advanced clean coal technology units in such manner as the Secretary may prescribe under the regulations under paragraph (3).

"(3) REGULATIONS.—Not later than 6 months after the date of the enactment of this section, the Secretary shall prescribe such regulations as may be necessary or appropriate—

"(A) to carry out the purposes of this subsection and section 45N,

"(B) to limit the capacity of any qualifying advanced clean coal technology unit to which this section applies so that the combined megawatt capacity of all such units to which this section applies does not exceed 4,000 megawatts,

"(C) to provide a certification process described in section 45M(e)(3)(C),

"(D) to carry out the purposes described in subparagraphs (D), (E), and (F) of section 45M(e)(3), and

"(E) to reallocate capacity which is not allocated to any technology described in subparagraphs (A) through (D) of paragraph (1) because an insufficient number of qualifying units request an allocation for such technology, to another technology described in such subparagraphs in order to maximize the amount of energy efficient production encouraged with the available tax credits.

"(4) SELECTION CRITERIA.—For purposes of this subsection, the selection criteria for allocating the national megawatt capacity limitation to qualifying advanced clean coal technology units—

"(A) shall be established by the Secretary of Energy as part of a competitive solicitation,

"(B) shall include primary criteria of minimum design net heat rate, maximum design thermal efficiency, environmental performance, and lowest cost to the Government, and

"(C) shall include supplemental criteria as determined appropriate by the Secretary of Energy.

"(g) QUALIFIED INVESTMENT.—For purposes of subsection (a), the term 'qualified investment' means, with respect to any taxable year, the basis of a qualifying advanced clean coal technology unit placed in service by the taxpayer during such taxable year (in the case of a unit described in subsection (b)(1)(A)(ii), only that portion of the basis of such unit which is properly attributable to the retrofitting or repowering of such unit).

"(h) QUALIFIED PROGRESS EXPENDITURES.—

"(1) INCREASE IN QUALIFIED INVESTMENT.—In the case of a taxpayer who has made an election under paragraph (5), the amount of the qualified investment of such taxpayer for the taxable year (determined under subsection (g) without regard to this subsection) shall be increased by an amount equal to the aggregate of each qualified progress expenditure for the taxable year with respect to progress expenditure property.

"(2) PROGRESS EXPENDITURE PROPERTY DEFINED.—For purposes of this subsection, the term 'progress expenditure property' means any property being constructed by or for the taxpayer and which it is reasonable to believe will qualify as a qualifying advanced clean coal technology unit which is being constructed by or for the taxpayer when it is placed in service.

"(3) QUALIFIED PROGRESS EXPENDITURES DEFINED.—For purposes of this subsection—

"(A) SELF-CONSTRUCTED PROPERTY.—In the case of any self-constructed property, the term 'qualified progress expenditures' means the amount which, for purposes of this subpart, is properly chargeable (during such taxable year) to capital account with respect to such property.

"(B) NONSELF-CONSTRUCTED PROPERTY.—In the case of nonself-constructed property, the term 'qualified progress expenditures' means the amount paid during the taxable year to another person for the construction of such property.

"(4) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) SELF-CONSTRUCTED PROPERTY.—The term 'self-constructed property' means property for which it is reasonable to believe that more than half of the construction expenditures will be made directly by the taxpayer.

"(B) NONSELF-CONSTRUCTED PROPERTY.—The term 'nonself-constructed property' means property which is not self-constructed property.

"(C) CONSTRUCTION, ETC.—The term 'construction' includes reconstruction and erection, and the term 'constructed' includes reconstructed and erected.

"(D) ONLY CONSTRUCTION OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT TO BE TAKEN INTO ACCOUNT.—Construction shall be taken into account only if, for purposes of this subpart, expenditures therefor are properly chargeable to capital account with respect to the property.

"(5) ELECTION.—An election under this subsection may be made at such time and in such manner as the Secretary may by regulations prescribe. Such an election shall apply to the taxable year for which made and to all subsequent taxable years. Such an election, once made, may not be revoked except with the consent of the Secretary.

"(i) COORDINATION WITH OTHER CREDITS.—This section shall not apply to any property with respect to which the rehabilitation credit under section 47 or the energy credit under section 48 is allowed unless the taxpayer elects to waive the application of such credit to such property.".

(c) RECAPTURE.—Section 50(a) (relating to other special rules) is amended by adding at the end the following new paragraph:

"(6) SPECIAL RULES RELATING TO QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.—For purposes of applying this subsection in the case of any credit allowable by reason of section 48A, the following rules shall apply:

"(A) GENERAL RULE.—In lieu of the amount of the increase in tax under paragraph (1), the increase in tax shall be an amount equal to the investment tax credit allowed under section 38 for all prior taxable years with respect to a qualifying advanced clean coal technology unit (as defined by section 48A(b)(1)) multiplied by a fraction the numerator of which is the number of years remaining to fully depreciate under this title the qualifying advanced clean coal technology unit disposed of, and the denominator of which is the total number of years over which such unit would otherwise have been subject to depreciation. For purposes of the preceding sentence, the year of disposition of the qualifying advanced clean coal technology unit shall be treated as a year of remaining depreciation.

"(B) PROPERTY CEASES TO QUALIFY FOR PROGRESS EXPENDITURES.—Rules similar to the rules of paragraph (2) shall apply in the case of qualified progress expenditures for a qualifying advanced clean coal technology unit under section 48A, except that the amount of the increase in tax under subparagraph (A) of this paragraph shall be substituted for the amount described in such paragraph (2).

"(C) APPLICATION OF PARAGRAPH.—This paragraph shall be applied separately with respect to the credit allowed under section 38 regarding a qualifying advanced clean coal technology unit.".

(d) TECHNICAL AMENDMENTS.—

(1) Section 49(a)(1)(C) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) the portion of the basis of any qualifying advanced clean coal technology unit attributable to any qualified investment (as defined by section 48A(g)).".

(2) Section 50(a)(4) is amended by striking "and (2)" and inserting ", (2), and (6)".

(3) Section 50(c) is amended by adding at the end the following new paragraph:

"(6) NONAPPLICATION.—Paragraphs (1) and (2) shall not apply to any qualifying advanced clean coal technology unit credit under section 48A.".

(4) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 48 the following new item:

"Sec. 48A. Qualifying advanced clean coal technology unit credit.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 2004, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 833. CREDIT FOR PRODUCTION FROM A QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45N. CREDIT FOR PRODUCTION FROM A QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.

"(a) GENERAL RULE.—For purposes of section 38, the qualifying advanced clean coal technology production credit of any taxpayer for any taxable year is equal to—

"(1) the applicable amount of advanced clean coal technology production credit, multiplied by

"(2) the applicable percentage (as determined under section 48A(c)) of the sum of—

"(A) the kilowatt hours of electricity, plus

"(B) each 3,413 Btu of fuels or chemicals,

produced by the taxpayer during such taxable year at a qualifying advanced clean coal technology unit, but only if such production occurs during the 10-year period beginning on the date the unit was originally placed in service (or returned to service after becoming a qualifying advanced clean coal technology unit).

"(b) APPLICABLE AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), the applicable amount of advanced clean coal technology production credit with respect to production from a qualifying advanced clean coal technology unit shall be determined as follows:

"(A) If the qualifying advanced clean coal technology unit is producing electricity only:

"(i) In the case of a unit originally placed in service before 2009, if—

"The design net heat rate is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 8,500	$.0060	$.0038
More than 8,500 but not more than 8,750	$.0025	$.0010
More than 8,750 but less than 8,900	$.0010	$.0010.

"(ii) In the case of a unit originally placed in service after 2008 and before 2013, if—

"The design net heat rate is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,770	$.0105	$.0090
More than 7,770 but not more than 8,125	$.0085	$.0068
More than 8,125 but less than 8,500	$.0075	$.0055.

"(iii) In the case of a unit originally placed in service after 2012 and before 2017, if—

"The design net heat rate is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,380	$.0140	$.0115
More than 7,380 but not more than 7,720	$.0120	$.0090.

"(B) If the qualifying advanced clean coal technology unit is producing fuel or chemicals:

"(i) In the case of a unit originally placed in service before 2009, if—

"The unit design net thermal efficiency (HHV) is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 40.2 percent	$.0060	$.0038
Less than 40.2 but not less than 39 percent	$.0025	$.0010
Less than 39 but not less than 38.4 percent	$.0010	$.0010.

"(ii) In the case of a unit originally placed in service after 2008 and before 2013, if—

"The unit design net thermal efficiency (HHV) is:	The applicable amount is: For 1st 5 years of such service	The applicable amount is: For 2d 5 years of such service
Not less than 43.9 percent	$.0105	$.0090
Less than 43.9 but not less than 42 percent	$.0085	$.0068
Less than 42 but not less than 40.2 percent	$.0075	$.0055.

"(iii) In the case of a unit originally placed in service after 2012 and before 2017, if—

"The unit design net thermal efficiency (HHV) is:	The applicable amount is: For 1st 5 years of such service	The applicable amount is: For 2d 5 years of such service
Not less than 46.3 percent	$.0140	$.0115
Less than 46.3 but not less than 44.2 percent	$.0120	$.0090.

"(2) SPECIAL RULE FOR UNITS QUALIFYING FOR GREATER APPLICABLE AMOUNT WHEN PLACED IN SERVICE.—If, at the time a qualifying advanced clean coal technology unit is placed in service, production from the unit would be entitled to a greater applicable amount if such unit had been placed in service at a later date, the applicable amount for such unit shall be such greater amount.

"(c) INFLATION ADJUSTMENT.—For calendar years after 2005, each dollar amount in subsection (b)(1) shall be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the amount is applied. If any amount as increased under the preceding sentence is not a multiple of 0.01 cent, such amount shall be rounded to the nearest multiple of 0.01 cent.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) IN GENERAL.—Any term used in this section which is also used in section 45M or 48A shall have the meaning given such term in such section.

"(2) APPLICABLE RULES.—The rules of paragraphs (3), (4), and (5) of section 45(e) shall apply.".

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (24), by striking the period at the end of paragraph (25) and inserting ", plus", and by adding at the end the following new paragraph:

"(26) the qualifying advanced clean coal technology production credit determined under section 45N(a).".

(c) DENIAL OF DOUBLE BENEFIT.—Section 29(d) (relating to other definitions and special rules) is amended by adding at the end the following new paragraph:

"(9) DENIAL OF DOUBLE BENEFIT.—This section shall not apply with respect to any qualified fuel the production of which may be taken into account for purposes of determining the credit under section 45N.".

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45N. Credit for production from a qualifying advanced clean coal technology unit.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to production after December 31, 2004, in taxable years ending after such date.

PART III—TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT

SEC. 834. TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.

(a) IN GENERAL.—Section 45M, as added by this Act, is amended by adding at the end the following new subsection:

"(f) TREATMENT OF PERSON NOT ABLE TO USE ENTIRE CREDIT.—

"(1) ALLOWANCE OF CREDITS.—

"(A) IN GENERAL.—Any credit allowable under this section, section 45N, or section 48A with respect to a facility owned by a person described in subparagraph (B) may be transferred or used as provided in this subsection, and the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the person.

"(B) PERSONS DESCRIBED.—A person is described in this subparagraph if the person is—

"(i) an organization described in section 501(c)(12)(C) and exempt from tax under section 501(a),

"(ii) an organization described in section 1381(a)(2)(C),

"(iii) a public utility (as defined in section 136(c)(2)(B)),

"(iv) any State or political subdivision thereof, the District of Columbia, or any agency or instrumentality of any of the foregoing,

"(v) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof, or

"(vi) the Tennessee Valley Authority.

"(2) TRANSFER OF CREDIT.—

"(A) IN GENERAL.—A person described in clause (i), (ii), (iii), (iv), or (v) of paragraph (1)(B) may transfer any credit to which paragraph (1)(A) applies through an assignment to any other person not described in paragraph (1)(B). Such transfer may be revoked only with the consent of the Secretary.

"(B) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to ensure that any credit described in subparagraph (A) is claimed once and not reassigned by such other person.

"(C) TRANSFER PROCEEDS TREATED AS ARISING FROM ESSENTIAL GOVERNMENT FUNCTION.—Any proceeds derived by a person described in clause (iii), (iv), or (v) of paragraph (1)(B) from the transfer of any credit under subparagraph (A) shall be treated as arising from the exercise of an essential government function.

"(3) USE OF CREDIT AS AN OFFSET.—Notwithstanding any other provision of law, in the case of a person described in clause (i), (ii), or (v) of paragraph (1)(B), any credit to which paragraph (1)(A) applies may be applied by such person, to the extent provided by the Secretary of Agriculture, as a prepayment of any loan, debt, or other obligation the entity has incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of this section.

"(4) USE BY TVA.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, in the case of a person described in paragraph (1)(B)(vi), any credit to which paragraph (1)(A) applies may be applied as a credit against the payments required to be made in any fiscal year under section 15d(e) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831n-4(e)) as an annual return on the appropriations investment and an annual repayment sum.

"(B) TREATMENT OF CREDITS.—The aggregate amount of credits described in paragraph (1)(A) with respect to such person shall be treated in the same manner and to the same extent as if such credits were a payment in cash and shall be applied first against the annual return on the appropriations investment.

"(C) CREDIT CARRYOVER.—With respect to any fiscal year, if the aggregate amount of credits described paragraph (1)(A) with respect to such person exceeds the aggregate amount of payment obligations described in subparagraph (A), the excess amount shall remain available for application as credits against the amounts of such payment obligations in succeeding fiscal years in the same manner as described in this paragraph.

"(5) CREDIT NOT INCOME.—Any transfer under paragraph (2) or use under paragraph (3) of any credit to which paragraph (1)(A) applies shall not be treated as income for purposes of section 501(c)(12).

"(6) TREATMENT OF UNRELATED PERSONS.—For purposes of this subsection, transfers among and between persons described in clauses (i), (ii), (iii), (iv), and (v) of paragraph (1)(B) shall be treated as transfers between unrelated parties.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to production after December 31, 2004, in taxable years ending after such date.

Subtitle E—Oil and Gas Provisions

SEC. 841. OIL AND GAS FROM MARGINAL WELLS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45O. CREDIT FOR PRODUCING OIL AND GAS FROM MARGINAL WELLS.

"(a) General Rule.—For purposes of section 38, the marginal well production credit for any taxable year is an amount equal to the product of—

"(1) the credit amount, and

"(2) the qualified crude oil production and the qualified natural gas production which is attributable to the taxpayer.

"(b) Credit Amount.—For purposes of this section—

"(1) In general.—The credit amount is—

"(A) $3 per barrel of qualified crude oil production, and

"(B) 50 cents per 1,000 cubic feet of qualified natural gas production.

"(2) Reduction as oil and gas prices increase.—

"(A) In general.—The $3 and 50 cents amounts under paragraph (1) shall each be reduced (but not below zero) by an amount which bears the same ratio to such amount (determined without regard to this paragraph) as—

"(i) the excess (if any) of the applicable reference price over $15 ($1.67 for qualified natural gas production), bears to

"(ii) $3 ($0.33 for qualified natural gas production).

The applicable reference price for a taxable year is the reference price of the calendar year preceding the calendar year in which the taxable year begins.

"(B) Inflation adjustment.—

"(i) In general.—In the case of any taxable year beginning in a calendar year after 2005, each of the dollar amounts contained in subparagraph (A) shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year.

"(ii) Inflation adjustment factor.—For purposes of clause (i)—

"(I) In general.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 2004.

"(II) GDP implicit price deflator.—The term 'GDP implicit price deflator' means, for any calendar year, the most recent revision of the implicit price deflator for the gross domestic product as of June 30 of such calendar year as computed by the Department of Commerce before October 1 of such calendar year.

"(C) Reference price.—For purposes of this paragraph, the term 'reference price' means, with respect to any calendar year—

"(i) in the case of qualified crude oil production, the reference price determined under section 29(d)(2)(C), and

"(ii) in the case of qualified natural gas production, the Secretary's estimate of the annual average wellhead price per 1,000 cubic feet for all domestic natural gas.

"(c) Qualified Crude Oil and Natural Gas Production.—For purposes of this section—

"(1) In general.—The terms 'qualified crude oil production' and 'qualified natural gas production' mean domestic crude oil or domestic natural gas which is produced from a qualified marginal well.

"(2) Limitation on amount of production which may qualify.—

"(A) In general.—Crude oil or natural gas produced during any taxable year from any well shall not be treated as qualified crude oil production or qualified natural gas production to the extent production from the well during the taxable year exceeds 1,095 barrels or barrel equivalents.

"(B) Proportionate reductions.—

"(i) Short taxable years.—In the case of a short taxable year, the limitations under this paragraph shall be proportionately reduced to reflect the ratio which the number of days in such taxable year bears to 365.

"(ii) Wells not in production entire year.—In the case of a well which is not capable of production during each day of a taxable year, the limitations under this paragraph applicable to the well shall be proportionately reduced to reflect the ratio which the number of days of production bears to the total number of days in the taxable year.

"(3) Noncompliance with pollution laws.—Production from any well during any period in which such well is not in compliance with applicable Federal pollution prevention, control, and permit requirements shall not be treated as qualified crude oil production or qualified natural gas production.

"(4) Definitions.—

"(A) Qualified marginal well.—The term 'qualified marginal well' means a domestic well—

"(i) the production from which during the taxable year is treated as marginal production under section 613A(c)(6), or

"(ii) which, during the taxable year—

"(I) has average daily production of not more than 25 barrel equivalents, and

"(II) produces water at a rate not less than 95 percent of total well effluent.

"(B) Crude oil, etc.—The terms 'crude oil', 'natural gas', 'domestic', and 'barrel' have the meanings given such terms by section 613A(e).

"(C) Barrel equivalent.—The term 'barrel equivalent' means, with respect to natural gas, a conversation ratio of 6,000 cubic feet of natural gas to 1 barrel of crude oil.

"(D) Domestic natural gas.—The term 'domestic natural gas' does not include Alaska natural gas (as defined in section 45Q(c)(1)).

"(d) Other Rules.—

"(1) Production attributable to the taxpayer.—In the case of a qualified marginal well in which there is more than 1 owner of operating interests in the well and the crude oil or natural gas production exceeds the limitation under subsection (c)(2), qualifying crude oil production or qualifying natural gas production attributable to the taxpayer shall be determined on the basis of the ratio which taxpayer's revenue interest in the production bears to the aggregate of the revenue interests of all operating interest owners in the production.

"(2) Operating interest required.—Any credit under this section may be claimed only on production which is attributable to the holder of an operating interest.

"(3) Production from nonconventional sources excluded.—In the case of production from a qualified marginal well which is eligible for the credit allowed under section 29 for the taxable year, no credit shall be allowable under this section unless the taxpayer elects not to claim the credit under section 29 with respect to the well.".

(b) Credit Treated as Business Credit.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (25), by striking the period at the end of paragraph (26) and inserting ", plus", and by adding at the end the following new paragraph:

"(27) the marginal oil and gas well production credit determined under section 45O(a).".

(c) Coordination With Section 29.—Section 29(a) (relating to allowance of credit) is amended by striking "There" and inserting "At the election of the taxpayer, there".

(d) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45O. Credit for producing oil and gas from marginal wells.".

(e) Effective Date.—The amendments made by this section shall apply to production in taxable years beginning after December 31, 2004.

SEC. 842. NATURAL GAS GATHERING LINES TREATED AS 7-YEAR PROPERTY.

(a) In General.—Section 168(e)(3)(C) (defining 7-year property), as amended by this Act, is amended by striking "and" at the end of clause (ii), by redesignating clause (iii) as clause (iv), and by inserting after clause (ii) the following new clause:

"(iii) any natural gas gathering line, and".

(b) Natural Gas Gathering Line.—Section 168(i) (relating to definitions and special rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(18) Natural gas gathering line.—The term 'natural gas gathering line' means—

"(A) the pipe, equipment, and appurtenances used to deliver natural gas from the wellhead or a commonpoint to the point at which such gas first reaches—

"(i) a gas processing plant,

"(ii) an interconnection with a transmission pipeline certificated by the Federal Energy Regulatory Commission as an interstate transmission pipeline,

"(iii) an interconnection with an intrastate transmission pipeline, or

"(iv) a direct interconnection with a local distribution company, a gas storage facility, or an industrial consumer, or

"(B) any other pipe, equipment, or appurtenances determined to be a gathering line by the Federal Energy Regulatory Commission.

(c) Alternative System.—The table contained in section 168(g)(3)(B) (relating to special rule for certain property assigned to classes) is amended by inserting after the item relating to subparagraph (C)(i) the following new item:

"(C)(iii) .... 14".

(d) Effective Date.—The amendments made by this section shall apply to property placed in service after December 31, 2004, in taxable years ending after such date.

SEC. 843. EXPENSING OF CAPITAL COSTS INCURRED IN COMPLYING WITH ENVIRONMENTAL PROTECTION AGENCY SULFUR REGULATIONS.

(a) In General.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by inserting after section 179B the following new section:

"SEC. 179C. DEDUCTION FOR CAPITAL COSTS INCURRED IN COMPLYING WITH ENVIRONMENTAL PROTECTION AGENCY SULFUR REGULATIONS.

"(a) Treatment as Expenses.—A small business refiner (as defined in section 45I(c)(1)) may elect to treat 75 percent of qualified capital costs (as defined in section 45I(c)(2)) which are paid or incurred by the taxpayer during the taxable year as expenses which are not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which paid or incurred.

"(b) Reduced Percentage.—In the case of a small business refiner with average daily domestic refinery runs for the 1-year period ending on December 31, 2002, in excess of 155,000 barrels, the number of percentage points described in subsection (a) shall be reduced (not below zero) by the product of such number (before the application of this subsection) and the ratio of such excess to 50,000 barrels. For purposes of calculating such average daily domestic refinery runs, only refineries of the refiner or a related person (within the meaning of section 613A(d)(3)) on April 1, 2003, shall be taken into account.

"(c) Basis Reduction.—

"(1) In general.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

"(2) Ordinary income recapture.—For purposes of section 1245, the amount of the deduction allowable under subsection (a) with respect to any property which is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.

"(d) Coordination With Other Provisions.—Section 280B shall not apply to amounts which are treated as expenses under this section.".

(b) Conforming Amendments.—

(1) Section 263(a)(1), as amended by this Act, is amended by striking "or" at the end of subparagraph (I), by striking the period at the end of subparagraph (J) and inserting "; or", and by adding at the end the following new subparagraph:

"(K) expenditures for which a deduction is allowed under section 179C.".

(2) Section 263A(c)(3) is amended by inserting "179C," after "section".

(3) Section 312(k)(3)(B), as amended by this Act, is amended by striking "or 179B" each place it appears in the heading and text and inserting "179B, or 179C".

(4) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting ", and", and by adding at the end the following new paragraph:

"(38) to the extent provided in section 179C(c)."

(5) Paragraphs (2)(C) and (3)(C) of section 1245(a), as amended by this Act, are each amended by inserting "179C," after "179B,".

(6) The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 179B the following new item:

"Sec. 179C. Deduction for capital costs incurred in complying with Environmental Protection Agency sulfur regulations.".

(c) Effective Date.—The amendment made by this section shall apply to expenses paid or incurred after December 31, 2002, in taxable years ending after such date.

SEC. 844. CREDIT FOR PRODUCTION OF LOW SULFUR DIESEL FUEL.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45P. CREDIT FOR PRODUCTION OF LOW SULFUR DIESEL FUEL.

"(a) In General.—For purposes of section 38, the amount of the low sulfur diesel fuel production credit determined under this section with respect to any facility of a small business refiner is an amount equal to 5 cents for each gallon of low sulfur diesel fuel produced during the taxable year by such small business refiner at such facility.

"(b) Maximum Credit.—

"(1) In general.—The aggregate credit determined under subsection (a) for any taxable year with respect to any facility shall not exceed—

"(A) 25 percent of the qualified capital costs incurred by the small business refiner with respect to such facility, reduced by

"(B) the aggregate credits determined under this section for all prior taxable years with respect to such facility.

"(2) Reduced percentage.—In the case of a small business refiner with average daily domestic refinery runs for the 1-year period ending on December 31, 2002, in excess of 155,000 barrels, the number of percentage points described in paragraph (1) shall be reduced (not below zero) by the product of such number (before the application of this paragraph) and the ratio of such excess to 50,000 barrels. For purposes of calculating such average daily domestic refinery runs, only refineries of the refiner or a related person (within the meaning of section 613A(d)(3)) on April 1, 2003, shall be taken into account.

"(c) Definitions and Special Rule.—For purposes of this section—

"(1) Small business refiner.—The term 'small business refiner' means, with respect to any taxable year, a refiner of crude oil—

"(A) with respect to which not more than 1,500 individuals are engaged in the refinery operations of the business on any day during such taxable year, and

"(B) the average daily domestic refinery run or average retained production of which for all facilities of the taxpayer for the 1-year period ending on December 31, 2002, did not exceed 205,000 barrels.

For purposes of calculating such average daily domestic refinery run or retained production, only refineries of the refiner or a related person (within the meaning of section 613A(d)(3)) on April 1, 2003, shall be taken into account.

"(2) Qualified capital costs.—The term 'qualified capital costs' means, with respect to any facility, those costs paid or incurred during the applicable period for compliance with the applicable EPA regulations with respect to such facility, including expenditures for the construction of new process operation units or the dismantling and reconstruction of existing process units to be used in the production of low sulfur diesel fuel, associated adjacent or offsite equipment (including tankage, catalyst, and power supply), engineering, construction period interest, and sitework.

"(3) Applicable EPA regulations.—The term 'applicable EPA regulations' means the Highway Diesel Fuel Sulfur Control Requirements of the Environmental Protection Agency.

"(4) Applicable period.—The term 'applicable period' means, with respect to any facility, the period beginning on January 1, 2003, and ending on the earlier of the date which is 1 year after the date on which the taxpayer must comply with the applicable EPA regulations with respect to such facility or December 31, 2009.

"(5) Low sulfur diesel fuel.—The term 'low sulfur diesel fuel' means diesel fuel with a sulfur content of 15 parts per million or less.

"(6) Special rule for determination of refinery runs.—Refinery runs shall be determined under rules similar to the rules under section 613A(d)(4).

"(d) Reduction in Basis.—For purposes of this subtitle, if a credit is determined under this section for any expenditure with respect to any property, the increase in basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so determined.

"(e) Certification.—

"(1) Required.—No credit shall be allowed unless, not later than the date which is 30 months after the first day of the first taxable year in which the low sulfur diesel fuel production credit is allowed with respect to a facility, the small business refiner obtains certification from the Secretary, after consultation with the Administrator of the Environmental Protection Agency, that the taxpayer's qualified capital costs with respect to such facility will result in compliance with the applicable EPA regulations.

"(2) Contents of application.—An application for certification shall include relevant information regarding unit capacities and operating characteristics sufficient for the Secretary, after consultation with the Administrator of the Environmental Protection Agency, to determine that such qualified capital costs are necessary for compliance with the applicable EPA regulations.

"(3) Review period.—Any application shall be reviewed and notice of certification, if applicable, shall be made within 60 days of receipt of such application. In the event the Secretary does not notify the taxpayer of the results of such certification within such period, the taxpayer may presume the certification to be issued until so notified.

"(4) Statute of limitations.—With respect to the credit allowed under this section—

"(A) the statutory period for the assessment of any deficiency attributable to such credit shall not expire before the end of the 3-year period ending on the date that the review period described in paragraph (3) ends with respect to the taxpayer, and

"(B) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

"(f) Cooperative Organizations.—

"(1) Apportionment of credit.—

"(A) In general.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a) for the taxable year may, at the election of the organization, be apportioned among patrons eligible to share in patronage dividends on the basis of the quantity or value of business done with or for such patrons for the taxable year.

"(B) Form and effect of election.—An election under subparagraph (A) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year.

"(2) Treatment of organizations and patrons.—

"(A) Organizations.—The amount of the credit not apportioned to patrons pursuant to paragraph (1) shall be included in the amount determined under subsection (a) for the taxable year of the organization.

"(B) Patrons.—The amount of the credit apportioned to patrons pursuant to paragraph (1) shall be included in the amount determined under subsection (a) for the first taxable year of each patron ending on or after the last day of the payment period (as defined in section 1382(d)) for the taxable year of the organization or, if earlier, for the taxable year of each patron ending on or after the date on which the patron receives notice from the cooperative of the apportionment.

"(3) Special rule.—If for any reason the tax imposed with respect to any patron of a cooperative organization would, but for this paragraph, be increased by any amount by reason of a credit apportioned to such patron under this subsection—

"(A) the amount of such increase in tax shall not be imposed on such patron, and

"(B) the tax imposed by this chapter on such organization shall be increased by such amount.

The increase under subparagraph (B) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.".

(b) Credit Made Part of General Business Credit.—Subsection (b) of section 38 (relating to general business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (26), by striking the period at the end of paragraph (27) and inserting ", plus", and by adding at the end the following new paragraph:

"(28) in the case of a small business refiner, the low sulfur diesel fuel production credit determined under section 45P(a).".

(c) Denial of Double Benefit.—Section 280C (relating to certain expenses for which credits are allowable) is amended by adding after subsection (d) the following new subsection:

"(e) Low Sulfur Diesel Fuel Production Credit.—No deduction shall be allowed for that portion of the expenses otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for the taxable year under section 45P(a).".

(d) Basis Adjustment.—Section 1016(a) (relating to adjustments to basis), as amended by this Act, is amended by striking "and" at the end of paragraph (37), by striking the period at the end of paragraph (38) and inserting ", and", and by adding at the end the following new paragraph:

"(39) in the case of a facility with respect to which a credit was allowed under section 45P, to the extent provided in section 45P(d).".

(e) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45P. Credit for production of low sulfur diesel fuel.".

(f) Effective Date.—The amendments made by this section shall apply to expenses paid or incurred after December 31, 2002, in taxable years ending after such date.

SEC. 845. DETERMINATION OF SMALL REFINER EXCEPTION TO OIL DEPLETION DEDUCTION.

(a) In General.—Paragraph (4) of section 613A(d) (relating to limitations on application of subsection (c)) is amended to read as follows:

"(4) Certain refiners excluded.—If the taxpayer or 1 or more related persons engages in the refining of crude oil, subsection (c) shall not apply to the taxpayer for a taxable year if the average daily refinery runs of the taxpayer and such persons for the taxable year exceed 60,000 barrels. For purposes of this paragraph, the average daily refinery runs for any taxable year shall be determined by dividing the aggregate refinery runs for the taxable year by the number of days in the taxable year.".

(b) Effective Date.—The amendment made by this section shall apply to taxable years ending after December 31, 2004.

SEC. 846. MARGINAL PRODUCTION INCOME LIMIT EXTENSION.

Section 613A(c)(6)(H) (relating to temporary suspension of taxable income limit with respect to marginal production), as amended by this Act, is amended by striking "2005" and inserting "2007".

SEC. 847. AMORTIZATION OF DELAY RENTAL PAYMENTS.

(a) In General.—Section 167 (relating to depreciation) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) Amortization of Delay Rental Payments for Domestic Oil and Gas Wells.—

"(1) In general.—Any delay rental payment paid or incurred in connection with the development of oil or gas wells within the United States (as defined in section 638) shall be allowed as a deduction ratably over the 24-month period beginning on the date that such payment was paid or incurred.

"(2) Half-year convention.—For purposes of paragraph (1), any payment paid or incurred during the taxable year shall be treated as paid or incurred on the mid-point of such taxable year.

"(3) Exclusive method.—Except as provided in this subsection, no depreciation or amortization deduction shall be allowed with respect to such payments.

"(4) Treatment upon abandonment.—If any property to which a delay rental payment relates is retired or abandoned during the 24-month period described in paragraph (1), no deduction shall be allowed on account of such retirement or abandonment and the amortization deduction under this subsection shall continue with respect to such payment.

"(5) Delay rental payments.—For purposes of this subsection, the term 'delay rental payment' means an amount paid for the privilege of deferring development of an oil or gas well under an oil or gas lease.".

(b) Effective Date.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2004.

SEC. 848. AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.

(a) In General.—Section 167 (relating to depreciation), as amended by this Act, is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) Amortization of Geological and Geophysical Expenditures.—

"(1) In general.—Any geological and geophysical expenses paid or incurred in connection with the exploration for, or development of, oil or gas within the United States (as defined in section 638) shall be allowed as a deduction ratably over the 24-month period beginning on the date that such expense was paid or incurred.

"(2) Special rules.—For purposes of this subsection, rules similar to the rules of paragraphs (2), (3), and (4) of subsection (h) shall apply.".

(b) Conforming Amendment.—Section 263A(c)(3) is amended by inserting "167(h), 167(i)," after "under section".

(c) Effective Date.—The amendments made by this section shall apply to costs paid or incurred in taxable years beginning after December 31, 2004.

SEC. 849. EXTENSION AND MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) In General.—Section 29 (relating to credit for producing fuel from a nonconventional source) is amended by adding at the end the following new subsection:

"(h) Extension for Other Facilities.—

"(1) Oil and gas.—In the case of a well or facility for producing qualified fuels described in subparagraph (A) or (B) of subsection (c)(1) which was drilled or placed in service after December 31, 2004, and before January 1, 2007, notwithstanding subsection (f), this section shall apply with respect to such fuels produced at such well or facility before the close of the 3-year period beginning on the date that such well is drilled or such facility is placed in service.

"(2) Facilities producing fuels from agricultural and animal waste.—

"(A) In general.—In the case of a facility for producing liquid, gaseous, or solid fuels from qualified agricultural and animal wastes, including such fuels when used as feedstocks, which was placed in service after December 31, 2004, and before January 1, 2007, this section shall apply with respect to fuel produced at such facility before the close of the 3-year period beginning on the date such facility is placed in service.

"(B) Qualified agricultural and animal waste.—For purposes of this paragraph, the term 'qualified agricultural and animal waste' means agriculture and animal waste, including by-products, packaging, and any materials associated with the processing, feeding, selling, transporting, or disposal of agricultural or animal products or wastes.

"(3) Wells producing viscous oil.—

"(A) In general.—In the case of a well for producing viscous oil which was placed in service after December 31, 2004, and before January 1, 2007, this section shall apply with respect to fuel produced at such well before the close of the 3-year period beginning on the date such well is placed in service.

"(B) Viscous oil.—The term 'viscous oil' means heavy oil, as defined in section 613A(c)(6), except that—

"(i) '22 degrees' shall be substituted for '20 degrees' in applying subparagraph (F) thereof, and

"(ii) in all cases, the oil gravity shall be measured from the initial well-head samples, drill cuttings, or down hole samples.

"(C) Waiver of unrelated person requirement.—In the case of viscous oil, the requirement under subsection (a)(2)(A) of a sale to an unrelated person shall not apply to any sale to the extent that the viscous oil is not consumed in the immediate vicinity of the wellhead.

"(4) Facilities producing refined coal.—

"(A) In general.—In the case of a facility described in subparagraph (C) for producing refined coal which was placed in service after December 31, 2004, and before January 1, 2007, this section shall apply with respect to fuel produced at such facility before the close of the 5-year period beginning on the date such facility is placed in service.

"(B) Refined coal.—For purposes of this paragraph, the term 'refined coal' means a fuel which is a liquid, gaseous, or solid synthetic fuel produced from coal (including lignite) or high carbon fly ash, including such fuel used as a feedstock.

"(C) Covered facilities.—

"(i) In general.—A facility is described in this subparagraph if such facility produces refined coal using a technology which results in—

"(I) a qualified emission reduction, and

"(II) a qualified enhanced value.

"(ii) Qualified emission reduction.—For purposes of this subparagraph, the term 'qualified emission reduction' means a reduction of at least 20 percent of the emissions of nitrogen oxide and either sulfur dioxide or mercury released when burning the refined coal (excluding any dilution caused by materials combined or added during the production process), as compared to the emissions released when burning the feedstock coal or comparable coal predominantly available in the marketplace as of January 1, 2004.

"(iii) QUALIFIED ENHANCED VALUE.—For purposes of this subparagraph, the term 'qualified enhanced value' means an increase of at least 50 percent in the market value of the refined coal (excluding any increase caused by materials combined or added during the production process), as compared to the value of the feedstock coal.

"(iv) QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNITS EXCLUDED.—A facility described in this subparagraph shall not include a qualifying advanced clean coal technology unit (as defined in section 48A(b)).

"(5) COALMINE GAS.—

"(A) IN GENERAL.—This section shall apply to coalmine gas—

"(i) captured or extracted by the taxpayer during the period beginning after December 31, 2004, and ending before January 1, 2007, and

"(ii) utilized as a fuel source or sold by or on behalf of the taxpayer to an unrelated person during such period.

"(B) COALMINE GAS.—For purposes of this paragraph, the term 'coalmine gas' means any methane gas which is—

"(i) liberated during or as a result of coal mining operations, or

"(ii) extracted up to 10 years in advance of coal mining operations as part of a specific plan to mine a coal deposit.

"(C) SPECIAL RULE FOR ADVANCED EXTRACTION.—In the case of coalmine gas which is captured in advance of coal mining operations, the credit under subsection (a) shall be allowed only after the date the coal extraction occurs in the immediate area where the coalmine gas was removed.

"(D) NONCOMPLIANCE WITH POLLUTION LAWS.—This paragraph shall not apply to the capture or extraction of coalmine gas from coal mining operations with respect to any period in which such coal mining operations are not in compliance with applicable State and Federal pollution prevention, control, and permit requirements.

"(6) SPECIAL RULES.—In determining the amount of credit allowable under this section solely by reason of this subsection—

"(A) FUELS TREATED AS QUALIFIED FUELS.—Any fuel described in paragraph (2), (3), (4), or (5) shall be treated as a qualified fuel for purposes of this section.

"(B) DAILY LIMIT.—The amount of qualified fuels described in subparagraph (A) or (B)(i) of subsection (c)(1) sold during any taxable year which may be taken into account by reason of this subsection with respect to any project shall not exceed an average barrel-of-oil equivalent of 200,000 cubic feet of natural gas per day. Days before the date the project is placed in service shall not be taken into account in determining such average.

"(C) EXTENSION PERIOD TO COMMENCE WITH UNADJUSTED CREDIT AMOUNT AND NEW PHASE-OUT ADJUSTMENT.—For purposes of applying subsection (b)(2), in the case of fuels sold after 2003—

"(i) paragraphs (1)(A) and (2) of subsection (b) shall be applied by subtituting '$35.00' for '$23.50', and

"(ii) subparagraph (B) of subsection (d)(2) shall be applied by substituting '2002' for '1979' in determining such dollar amounts.".

(b) EXTENSION FOR CERTAIN FUEL PRODUCED AT EXISTING FACILITIES.—

(1) EXTENSION.—Section 29(f)(2) (relating to application of section) is amended by inserting "(January 1, 2006, in the case of any coke, coke gas, or natural gas and byproducts produced by coal gasification from lignite in a facility described in paragraph (1)(B))" after "January 1, 2003".

(2) USE OF CREDIT AS AN OFFSET.—Section 29, as amended by subsection (a), is amended by adding the end the following new subsection:

"(i) USE OF CREDIT AS AN OFFSET.—

"(1) IN GENERAL.—Any credit allowable under subsection (a) with respect to any natural gas and byproducts produced by coal gasification from lignite in a facility described in paragraph (1)(B) of subsection (f) owned by a person described in section 1381(a)(2)(C) or subsidiaries of such person may be used as provided in paragraph (2).

"(2) USE OF CREDIT AS AN OFFSET.—Notwithstanding any other provision of law, in the case of a person described in paragraph (1), any credit to which paragraph (1) applies may be applied by such person—

"(A) to the extent provided by the Secretary of Agriculture, as a prepayment of any loan, debt, or other obligation the entity has incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003, and

"(B) to the extent provided by the Secretary of Energy, as a prepayment not to exceed 50 percent of any obligation the person has incurred pursuant to an asset purchase agreement entered into with the Secretary and dated October 7, 1988.

"(3) CREDIT NOT INCOME.—Any use under paragraph (2) of any credit to which paragraph (1) applies shall not be treated as income for purposes of this title.

"(4) TREATMENT OF UNRELATED PERSONS.—For purposes of subsection (a)(2)(A), sales of qualified fuels among and between persons described in paragraph (1) shall be treated as sales between unrelated parties.".

(c) TREATMENT AS BUSINESS CREDIT.—

(1) CREDIT MOVED TO SUBPART RELATING TO BUSINESS RELATED CREDITS.—The Internal Revenue Code of 1986, as amended by this Act, is amended by redesignating section 29, as amended by this Act, as section 45R and by moving section 45R (as so redesignated) from subpart B of part IV of subchapter A of chapter 1 to the end of subpart D of part IV of subchapter A of chapter 1.

(2) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking "plus" at the end of paragraph (29), by striking the period at the end of paragraph (30) and inserting ", plus", and by adding at the end the following:

"(31) the nonconventional source production credit determined under section 45R(a).".

(3) CONFORMING AMENDMENTS.—

(A) Section 30(b)(2)(A), as redesignated by this Act, is amended by striking "sections 27 and 29" and inserting "section 27".

(B) Sections 43(b)(2) and 613A(c)(6)(C) are each amended by striking "section 29(d)(2)(C)" and inserting "section 45R(d)(2)(C)".

(C) Section 45R(a), as redesignated by paragraph (1), is amended by striking "At the election of the taxpayer, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year" and inserting "For purposes of section 38, if the taxpayer elects to have this section apply, the nonconventional source production credit determined under this section for the taxable year is".

(D) Section 45R(b), as so redesignated, is amended by striking paragraph (6).

(E) Section 53(d)(1)(B)(iii) is amended by striking "under section 29" and all that follows through "or not allowed".

(F) Section 55(c)(2) is amended by striking "29(b)(6),".

(G) Subsection (a) of section 772, as amended by this Act, is amended by striking paragraph (10) and by redesignating paragraphs (11) and (12) as paragraphs (10) and (11), respectively.

(H) Paragraph (5) of section 772(d) is amended by striking "the foreign tax credit, and the credit allowable under section 29" and inserting "and the foreign tax credit".

(I) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 29.

(J) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 45Q the following new item:

"Sec. 45R. Credit for producing fuel from a nonconventional source.".

(d) STUDY OF COALBED METHANE.—

(1) IN GENERAL.—The Secretary of the Treasury shall conduct a study regarding the effect of section 45R of the Internal Revenue Code of 1986 on the production of coalbed methane.

(2) CONTENTS OF STUDY.—The study under paragraph (1) shall estimate the total amount of credits under section 45R of the Internal Revenue Code of 1986 claimed annually and in the aggregate which are related to the production of coalbed methane since the date of the enactment of such section 45R. Such study shall report the annual value of such credits allowable for coalbed methane compared to the average annual wellhead price of natural gas (per thousand cubic feet of natural gas). Such study shall also estimate the incremental increase in production of coalbed methane which has resulted from the enactment of such section 45R, and the cost to the Federal Government, in terms of the net tax benefits claimed, per thousand cubic feet of incremental coalbed methane produced annually and in the aggregate since such enactment.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to fuel sold after December 31, 2004, in taxable years ending after such date.

(2) EXISTING FACILITIES.—The amendments made by subsection (b) shall apply to fuel sold after December 31, 2002, in taxable years ending after such date.

(3) TREATMENT AS BUSINESS CREDIT.—The amendments made by subsection (c) shall apply to taxable years ending after December 31, 2003.

SEC. 850. NATURAL GAS DISTRIBUTION LINES TREATED AS 15-YEAR PROPERTY.

(a) IN GENERAL.—Section 168(e)(3)(E) (defining 15-year property), as amended by this Act, is amended by striking "and" at the end of clause (iii), by striking the period at the end of clause (iv) and by inserting ", and", and by adding at the end the following new clause:

"(v) any natural gas distribution line.".

(b) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) (relating to special rule for certain property assigned to classes), as amended by this Act, is amended by adding after the item relating to subparagraph (E)(iii) the following new item:

"(E)(v) .... 35".

(c) Effective Date.—The amendments made by this section shall apply to property placed in service after December 31, 2004, in taxable years ending after such date.

SEC. 851. CREDIT FOR ALASKA NATURAL GAS.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45Q. ALASKA NATURAL GAS.

"(a) In General.—For purposes of section 38, the Alaska natural gas credit for any taxable year is an amount equal to the product of—

"(1) the credit amount, and

"(2) Alaska natural gas the production of which is attributable to the taxpayer.

"(b) Credit Amount.—For purposes of this section—

"(1) In general.—The credit amount is $0.52 per 1,000,000 Btu of Alaska natural gas.

"(2) Reduction as gas prices increase.—

"(A) In general.—The dollar amount under paragraph (1) shall be reduced (but not below zero) by an amount which bears the same ratio to such amount (determined without regard to this paragraph) as—

"(i) the excess (if any) of the applicable reference price over $0.83, bears to

"(ii) $0.52.

"(B) Applicable reference price.—For purposes of this paragraph—

"(i) In general.—The applicable reference price for any calendar month in a taxable year is the reference price for the calendar month in which production occurs.

"(ii) Reference price.—The term 'reference price' means, with respect to any calendar month, a published market price for natural gas in United States dollars per 1,000,000 Btu (reduced by any gas transportation costs and gas processing costs as determined by the appropriate national regulatory body for natural gas transportation) as determined under regulations by the Secretary.

"(C) Inflation adjustment.—

"(i) In general.—In the case of any taxable year beginning in a calendar year after 2005, each of the dollar amounts contained in paragraph (1) and subparagraph (A) of this paragraph shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year.

"(ii) Inflation adjustment factor.—For purposes of clause (i)—

"(I) In general.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 2004.

"(II) GDP implicit price deflator.—The term 'GDP implicit price deflator' means, for any calendar year, the most recent revision of the implicit price deflator for the gross domestic product as of June 30 of such calendar year as computed by the Department of Commerce before October 1 of such calendar year.

"(c) Alaska Natural Gas.—For purposes of this section—

"(1) In general.—The term 'Alaska natural gas' means natural gas entering the Alaska natural gas pipeline (as defined in section 168(i)(19) (determined without regard to subparagraph (B) thereof)) which is produced from a well—

"(A) located in the area of the State of Alaska lying north of 64 degrees North latitude, determined by excluding the area of the Alaska National Wildlife Refuge (including the continental shelf thereof within the meaning of section 638(1)), and

"(B) pursuant to the applicable State and Federal pollution prevention, control, and permit requirements from such area (including the continental shelf thereof within the meaning of section 638(1)).

"(2) Natural gas.—The term 'natural gas' has the meaning given such term by section 613A(e)(2).

"(d) Special Rules.—For purposes of this section—

"(1) Production attributable to the taxpayer.—

"(A) In general.—In the case of a well in which there is more than 1 person or entity—

"(i) entitled to production of Alaska natural gas, or

"(ii) at the election of such person or entity, entitled to the value of production as either an operating interest owner or a royalty interest owner,

the portion of such production attributable to such person or entity shall be determined on the basis of the ratio which the person's or entity's interest in the production or the value of production bears to the aggregate of the interests of all such persons or entities. Production otherwise attributable to a United States tax-exempt person or entity by reason of a royalty interest shall be attributable to such person or entity with respect to whom royalty-in-value production remains or to whom royalty-in-kind production is sold.

"(B) Partnership properties.—In the case of a partnership, for purposes of applying subparagraph (A), production shall be attributable to its partners based on each partner's distributive share of Alaska natural gas which is produced from partnership properties and attributable to the partnership or its partners under subparagraph (A).

"(2) Pass-thru in the Case of Estates and Trusts.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(e) Application of Section.—This section shall apply to Alaska natural gas during the period—

"(1) beginning with the later of—

"(A) January 1, 2010, or

"(B) the initial date for the interstate transportation of such Alaska natural gas, and

"(2) ending with the date which is 25 years after the date described in paragraph (1).".

(b) Credit Treated as Business Credit.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting ", plus", and by adding at the end the following new paragraph:

"(29) The Alaska natural gas credit determined under section 45Q(a).".

(c) Allowing Credit Against Entire Regular Tax and Minimum Tax.—

(1) In general.—Section 38(c) (relating to limitation based on amount of tax), as amended by this Act, is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) Special rules for Alaska natural gas credit.—

"(A) In general.—In the case of the Alaska natural gas credit—

"(i) this section and section 39 shall be applied separately with respect to the credit, and

"(ii) in applying paragraph (1) to the credit—

"(I) the amounts in subparagraphs (A) and (B) thereof shall be treated as being zero, and

"(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the Alaska natural gas credit).

"(B) Alaska Natural Gas Credit.—For purposes of this subsection, the term 'Alaska natural gas credit' means the credit allowable under subsection (a) by reason of section 45Q(a).".

(2) Conforming amendments.—Subclause (II) of section 38(c)(2)(A)(ii), as amended by this Act, subclause (II) of section 38(c)(3)(A)(ii), as amended by this Act, and subclause (II) of section 38(c)(4)(A)(ii), as added by this Act, are each amended by inserting "or the Alaska natural gas credit" after "specified credits".

(d) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45Q. Alaska natural gas.".

SEC. 852. CERTAIN ALASKA NATURAL GAS PIPELINE PROPERTY TREATED AS 7-YEAR PROPERTY.

(a) In General.—Section 168(e)(3)(C) (defining 7-year property), as amended by this Act, is amended by striking "and" at the end of clause (iii), by redesignating clause (iv) as clause (v), and by inserting after clause (iii) the following new clause:

"(iv) any Alaska natural gas pipeline, and".

(b) Alaska Natural Gas Pipeline.—Section 168(i) (relating to definitions and special rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(19) Alaska natural gas pipeline.—The term 'Alaska natural gas pipeline' means the natural gas pipeline system located in the State of Alaska which—

"(A) has a capacity of more than 500,000,000,000 Btu of natural gas per day, and

"(B) is—

"(i) placed in service after December 31, 2012, or

"(ii) treated as placed in service on January 1, 2013, if the taxpayer who places such system in service before January 1, 2013, elects such treatment.

Such term includes the pipe, trunk lines, related equipment, and appurtenances used to carry natural gas, but does not include any gas processing plant.".

(c) Alternative System.—The table contained in section 168(g)(3)(B) (relating to special rule for certain property assigned to classes), as amended by this Act, is amended by inserting after the item relating to subparagraph (C)(iii) the following new item:

"(C)(iv) .... 22".

(d) Effective Date.—The amendments made by this section shall apply to property placed in service after December 31, 2004.

SEC. 853. EXTENSION OF ENHANCED OIL RECOVERY CREDIT TO CERTAIN ALASKA FACILITIES.

(a) In General.—Section 43(c)(1) (defining qualified enhanced oil recovery costs) is amended by adding at the end the following new subparagraph:

"(D) Any amount which is paid or incurred during the taxable year to construct a gas treatment plant which—

"(i) is located in the area of the United States (within the meaning of section 638(1)) lying north of 64 degrees North latitude, “(ii) prepares Alaska natural gas (as defined in section 45Q(c)(1)) for transportation through a pipeline with a capacity of at least 2,000,000,000,000 Btu of natural gas per day, and

“(iii) produces carbon dioxide which is injected into hydrocarbon-bearing geological formations.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to costs paid or incurred in taxable years beginning after December 31, 2004.

SEC. 854. ARBITRAGE RULES NOT TO APPLY TO PREPAYMENTS FOR NATURAL GAS.

(a) IN GENERAL.—Section 148(b) (relating to higher yielding investments) is amended by adding at the end the following new paragraph:

“(4) SAFE HARBOR FOR PREPAID NATURAL GAS.—

“(A) IN GENERAL.—The term ‘investment-type property’ does not include a prepayment under a qualified natural gas supply contract.

“(B) QUALIFIED NATURAL GAS SUPPLY CONTRACT.—For purposes of this paragraph, the term ‘qualified natural gas supply contract’ means any contract to acquire natural gas for resale by or for a utility owned by a governmental unit if the amount of gas permitted to be acquired under the contract for the utility during any year does not exceed the sum of—

“(i) the annual average amount during the testing period of natural gas purchased (other than for resale) by customers of such utility who are located within the service area of such utility, and

“(ii) the amount of natural gas to be used to transport the prepaid natural gas to the utility during such year.

“(C) NATURAL GAS USED TO GENERATE ELECTRICITY.—Natural gas used to generate electricity shall be taken into account in determining the average under subparagraph (B)(i)—

“(i) only if the electricity is generated by a utility owned by a governmental unit, and

“(ii) only to the extent that the electricity is sold (other than for resale) to customers of such utility who are located within the service area of such utility.

“(D) ADJUSTMENTS FOR CHANGES IN CUSTOMER BASE.—

“(i) NEW BUSINESS CUSTOMERS.—If—

“(I) after the close of the testing period and before the date of issuance of the issue, the utility owned by a governmental unit enters into a contract to supply natural gas (other than for resale) for use by a business at a property within the service area of such utility, and

“(II) the utility did not supply natural gas to such property during the testing period or the ratable amount of natural gas to be supplied under the contract is significantly greater than the ratable amount of gas supplied to such property during the testing period,

then a contract shall not fail to be treated as a qualified natural gas supply contract by reason of supplying the additional natural gas under the contract referred to in subclause (I).

“(ii) OVERALL LIMITATION.—The average under subparagraph (B)(i) shall not exceed the annual amount of natural gas reasonably expected to be purchased (other than for resale) by persons who are located within the service area of such utility and who, as of the date of issuance of the issue, are customers of such utility.

“(E) RULING REQUESTS.—The Secretary may increase the average under subparagraph (B)(i) for any period if the utility owned by the governmental unit establishes to the satisfaction of the Secretary that, based on objective evidence of growth in natural gas consumption or population, such average would otherwise be insufficient for such period.

“(F) ADJUSTMENT FOR NATURAL GAS OTHERWISE ON HAND.—

“(i) IN GENERAL.—The amount otherwise permitted to be acquired under the contract for any period shall be reduced by—

“(I) the applicable share of natural gas held by the utility on the date of issuance of the issue, and

“(II) the natural gas (not taken into account under subclause (I)) which the utility has a right to acquire during such period (determined as of the date of issuance of the issue).

“(ii) APPLICABLE SHARE.—For purposes of clause (i), the term ‘applicable share’ means, with respect to any period, the natural gas allocable to such period if the gas were allocated ratably over the period to which the prepayment relates.

“(G) INTENTIONAL ACTS.—Subparagraph (A) shall cease to apply to any issue if the utility owned by the governmental unit engages in any intentional act to render the volume of natural gas acquired by such prepayment to be in excess of the sum of—

“(i) the amount of natural gas needed (other than for resale) by customers of such utility who are located within the service area of such utility, and

“(ii) the amount of natural gas used to transport such natural gas to the utility.

“(H) TESTING PERIOD.—For purposes of this paragraph, the term ‘testing period’ means, with respect to an issue, the most recent 5 calendar years ending before the date of issuance of the issue.

“(I) SERVICE AREA.—For purposes of this paragraph, the service area of a utility owned by a governmental unit shall be comprised of—

“(i) any area throughout which such utility provided at all times during the testing period—

“(I) in the case of a natural gas utility, natural gas transmission or distribution services, and

“(II) in the case of an electric utility, electricity distribution services,

“(ii) any area within a county contiguous to the area described in clause (i) in which retail customers of such utility are located if such area is not also served by another utility providing natural gas or electricity services, as the case may be, and

“(iii) any area recognized as the service area of such utility under State or Federal law.”.

(b) PRIVATE LOAN FINANCING TEST NOT TO APPLY TO PREPAYMENTS FOR NATURAL GAS.—Section 141(c)(2) (providing exceptions to the private loan financing test) is amended by striking “or” at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting “, or”, and by adding at the end the following new subparagraph:

“(C) is a qualified natural gas supply contract (as defined in section 148(b)(4)).”.

(c) CONFORMING AMENDMENT.—Section 141(d) is amended by adding at the end the following new paragraph:

“(7) EXCEPTION FOR QUALIFIED ELECTRIC AND NATURAL GAS SUPPLY CONTRACTS.—The term ‘nongovernmental output property’ shall not include any contract for the prepayment of electricity or natural gas which is not investment property under section 148(b)(2).”.

(d) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after December 31, 2004.

Subtitle F—Electric Utility Restructuring Provisions

SEC. 855. MODIFICATIONS TO SPECIAL RULES FOR NUCLEAR DECOMMISSIONING COSTS.

(a) REPEAL OF LIMITATION ON DEPOSITS INTO FUND BASED ON COST OF SERVICE; CONTRIBUTIONS AFTER FUNDING PERIOD.—Subsection (b) of section 468A (relating to special rules for nuclear decommissioning costs) is amended to read as follows:

“(b) LIMITATION ON AMOUNTS PAID INTO FUND.—The amount which a taxpayer may pay into the Fund for any taxable year shall not exceed the ruling amount applicable to such taxable year.”.

(b) CLARIFICATION OF TREATMENT OF FUND TRANSFERS.—Section 468A(e) (relating to Nuclear Decommissioning Reserve Fund) is amended by adding at the end the following new paragraph:

“(8) TREATMENT OF FUND TRANSFERS.—If, in connection with the transfer of the taxpayer's interest in a nuclear power plant, the taxpayer transfers the Fund with respect to such power plant to the transferee of such interest and the transferee elects to continue the application of this section to such Fund—

“(A) the transfer of such Fund shall not cause such Fund to be disqualified from the application of this section, and

“(B) no amount shall be treated as distributed from such Fund, or be includable in gross income, by reason of such transfer.”.

(c) TREATMENT OF CERTAIN DECOMMISSIONING COSTS.—

(1) IN GENERAL.—Section 468A is amended by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and by inserting after subsection (e) the following new subsection:

“(f) TRANSFERS INTO QUALIFIED FUNDS.—

“(1) IN GENERAL.—Notwithstanding subsection (b), any taxpayer maintaining a Fund to which this section applies with respect to a nuclear power plant may transfer into such Fund not more than an amount equal to the present value of the excess of the total nuclear decommissioning costs with respect to such nuclear power plant over the portion of such costs taken into account in determining the ruling amount in effect immediately before the transfer.

“(2) DEDUCTION FOR AMOUNTS TRANSFERRED.—

“(A) IN GENERAL.—Except as provided in subparagraph (C), the deduction allowed by subsection (a) for any transfer permitted by this subsection shall be allowed ratably over the remaining estimated useful life (within the meaning of subsection (d)(2)(A)) of the nuclear power plant beginning with the taxable year during which the transfer is made.

“(B) DENIAL OF DEDUCTION FOR PREVIOUSLY DEDUCTED AMOUNTS.—No deduction shall be allowed for any transfer under this subsection of an amount for which a deduction was previously allowed or a corresponding amount was not included in gross income. For purposes of the preceding sentence, a ratable portion of each transfer shall be treated as being from previously deducted or excluded amounts to the extent thereof.

“(C) TRANSFERS OF QUALIFIED FUNDS.—If—

“(i) any transfer permitted by this subsection is made to any Fund to which this section applies, and

“(ii) such Fund is transferred thereafter,

any deduction under this subsection for taxable years ending after the date that such

Fund is transferred shall be allowed to the transferee and not the transferor. The preceding sentence shall not apply if the transferor is an entity exempt from tax under this chapter.

"(D) Special rules.—

"(i) Gain or loss not recognized.—No gain or loss shall be recognized on any transfer permitted by this subsection.

"(ii) Transfers of appreciated property.—If appreciated property is transferred in a transfer permitted by this subsection, the amount of the deduction shall not exceed the adjusted basis of such property.

"(3) New ruling amount required.—Paragraph (1) shall not apply to any transfer unless the taxpayer requests from the Secretary a new schedule of ruling amounts in connection with such transfer.

"(4) No basis in qualified funds.—Notwithstanding any other provision of law, the taxpayer's basis in any Fund to which this section applies shall not be increased by reason of any transfer permitted by this subsection.".

(2) New ruling amount to take into account total costs.—Subparagraph (A) of section 468A(d)(2) (defining ruling amount) is amended to read as follows:

"(A) fund the total nuclear decommissioning costs with respect to such power plant over the estimated useful life of such power plant, and".

(d) Technical Amendment.—Section 468A(e)(2) (relating to taxation of Fund) is amended—

(1) by striking "rate set forth in subparagraph (B)" in subparagraph (A) and inserting "rate of 20 percent",

(2) by striking subparagraph (B), and

(3) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(e) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 856. TREATMENT OF CERTAIN INCOME OF COOPERATIVES.

(a) Income From Open Access and Nuclear Decommissioning Transactions.—

(1) In general.—Section 501(c)(12)(C) (relating to list of exempt organizations) is amended by striking "or" at the end of clause (i), by striking clause (ii), and by adding at the end the following new clauses:

"(ii) from any open access transaction (other than income received or accrued directly or indirectly from a member),

"(iii) from any nuclear decommissioning transaction,

"(iv) from any asset exchange or conversion transaction, or

"(v) from the prepayment of any loan, debt, or obligation made, insured, or guaranteed under the Rural Electrification Act of 1936.".

(2) Definitions and special rules.—Section 501(c)(12) is amended by adding at the end the following new subparagraphs:

"(E) For purposes of subparagraph (C)(ii)—

"(i) The term 'open access transaction' means any transaction meeting the open access requirements of any of the following subclauses with respect to a mutual or cooperative electric company:

"(I) The provision or sale of electric transmission service or ancillary services meets the open access requirements of this subclause only if such services are provided on a nondiscriminatory open access basis pursuant to an open access transmission tariff filed with and approved by FERC, including an acceptable reciprocity tariff, or under a regional transmission organization agreement approved by FERC.

"(II) The provision or sale of electric energy distribution services or ancillary services meets the open access requirements of this subclause only if such services are provided on a nondiscriminatory open access basis to end-users served by distribution facilities owned by the mutual or cooperative electric company (or its members).

"(III) The delivery or sale of electric energy generated by a generation facility meets the open access requirements of this subclause only if such facility is directly connected to distribution facilities owned by the mutual or cooperative electric company (or its members) which owns the generation facility, and such distribution facilities meet the open access requirements of subclause (II).

"(ii) Clause (i)(I) shall apply in the case of a voluntarily filed tariff only if the mutual or cooperative electric company files a report with FERC within 90 days after the date of the enactment of this subparagraph relating to whether or not such company will join a regional transmission organization.

"(iii) A mutual or cooperative electric company shall be treated as meeting the open access requirements of clause (i)(I) if a regional transmission organization controls the transmission facilities.

"(iv) References to FERC in this subparagraph shall be treated as including references to the Public Utility Commission of Texas with respect to any ERCOT utility (as defined in section 212(k)(2)(B) of the Federal Power Act (16 U.S.C. 824k(k)(2)(B))) or references to the Rural Utilities Service with respect to any other facility not subject to FERC jurisdiction.

"(v) For purposes of this subparagraph—

"(I) The term 'transmission facility' means an electric output facility (other than a generation facility) which operates at an electric voltage of 69 kilovolts or greater. To the extent provided in regulations, such term includes any output facility which FERC determines is a transmission facility under standards applied by FERC under the Federal Power Act (as in effect on the date of the enactment of the Energy Tax Incentives Act).

"(II) The term 'regional transmission organization' includes an independent system operator.

"(III) The term 'FERC' means the Federal Energy Regulatory Commission.

"(F) The term 'nuclear decommissioning transaction' means—

"(i) any transfer into a trust, fund, or instrument established to pay any nuclear decommissioning costs if the transfer is in connection with the transfer of the mutual or cooperative electric company's interest in a nuclear power plant or nuclear power plant unit,

"(ii) any distribution from any trust, fund, or instrument established to pay any nuclear decommissioning costs, or

"(iii) any earnings from any trust, fund, or instrument established to pay any nuclear decommissioning costs.

"(G) The term 'asset exchange or conversion transaction' means any voluntary exchange or involuntary conversion of any property related to generating, transmitting, distributing, or selling electric energy by a mutual or cooperative electric company, the gain from which qualifies for deferred recognition under section 1031 or 1033, but only if the replacement property acquired by such company pursuant to such section constitutes property which is used, or to be used, for—

"(i) generating, transmitting, distributing, or selling electric energy, or

"(ii) producing, transmitting, distributing, or selling natural gas.".

(b) Treatment of Income From Load Loss Transactions.—Section 501(c)(12), as amended by subsection (a)(2), is amended by adding after subparagraph (G) the following new subparagraph:

"(H)(i) In the case of a mutual or cooperative electric company described in this paragraph or an organization described in section 1381(a)(2)(C), income received or accrued from a load loss transaction shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.

"(ii) For purposes of clause (i), the term 'load loss transaction' means any wholesale or retail sale of electric energy (other than to members) to the extent that the aggregate sales during the recovery period do not exceed the load loss mitigation sales limit for such period.

"(iii) For purposes of clause (ii), the load loss mitigation sales limit for the recovery period is the sum of the annual load losses for each year of such period.

"(iv) For purposes of clause (iii), a mutual or cooperative electric company's annual load loss for each year of the recovery period is the amount (if any) by which—

"(I) the megawatt hours of electric energy sold during such year to members of such electric company are less than

"(II) the megawatt hours of electric energy sold during the base year to such members.

"(v) For purposes of clause (iv)(II), the term 'base year' means—

"(I) the calendar year preceding the start-up year, or

"(II) at the election of the electric company, the second or third calendar years preceding the start-up year.

"(vi) For purposes of this subparagraph, the recovery period is the 7-year period beginning with the start-up year.

"(vii) For purposes of this subparagraph, the start-up year is the calendar year which includes January 1, 2005, or, if later, at the election of the mutual or cooperative electric company—

"(I) the first year that such electric company offers nondiscriminatory open access, or

"(II) the first year in which at least 10 percent of such electric company's sales are not to members of such electric company.

"(viii) A company shall not fail to be treated as a mutual or cooperative company for purposes of this paragraph or as a corporation operating on a cooperative basis for purposes of section 1381(a)(2)(C) by reason of the treatment under clause (i).

"(ix) In the case of a mutual or cooperative electric company, income from any open access transaction received, or accrued, indirectly from a member shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.".

(c) Exception From Unrelated Business Taxable Income.—Section 512(b) (relating to modifications), as amended by this Act, is amended by adding at the end the following new paragraph:

"(20) Treatment of mutual or cooperative electric companies.—In the case of a mutual or cooperative electric company described in section 501(c)(12), there shall be excluded income which is treated as member income under subparagraph (H) thereof.".

(d) Cross Reference.—Section 1381 is amended by adding at the end the following new subsection:

"(c) Cross Reference.—

"For treatment of income from load loss transactions of organizations described in subsection (a)(2)(C), see section 501(c)(12)(H).".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 857. SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.

(a) IN GENERAL.—Section 451 (relating to general rule for taxable year of inclusion) is amended by adding at the end the following new subsection:

"(i) SPECIAL RULE FOR SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.—

"(1) IN GENERAL.—For purposes of this subtitle, if a taxpayer elects the application of this subsection to a qualifying electric transmission transaction in any taxable year—

"(A) any ordinary income derived from such transaction which would be required to be recognized under section 1245 or 1250 for such taxable year (determined without regard to this subsection), and

"(B) any income derived from such transaction in excess of such ordinary income which is required to be included in gross income for such taxable year (determined without regard to this subsection),

shall be so recognized and included ratably over the 8-taxable year period beginning with such taxable year.

"(2) QUALIFYING ELECTRIC TRANSMISSION TRANSACTION.—For purposes of this subsection, the term 'qualifying electric transmission transaction' means any sale or other disposition before January 1, 2008, of—

"(A) property used by the taxpayer in the trade or business of providing electric transmission services, or

"(B) any stock or partnership interest in a corporation or partnership, as the case may be, whose principal trade or business consists of providing electric transmission services,

but only if such sale or disposition is to an independent transmission company.

"(3) INDEPENDENT TRANSMISSION COMPANY.—For purposes of this subsection, the term 'independent transmission company' means—

"(A) a regional transmission organization approved by the Federal Energy Regulatory Commission.

"(B) a person—

"(i) who the Federal Energy Regulatory Commission determines in its authorization of the transaction under section 203 of the Federal Power Act (16 U.S.C. 824b) is not a market participant within the meaning of such Commission's rules applicable to regional transmission organizations, and

"(ii) whose transmission facilities to which the election under this subsection applies are under the operational control of a Federal Energy Regulatory Commission-approved regional transmission organization before the close of the period specified in such authorization, but not later than January 1, 2008, or

"(C) in the case of facilities subject to the exclusive jurisdiction of the Public Utility Commission of Texas, a person which is approved by that Commission as consistent with Texas State law regarding an independent transmission organization.

"(4) ELECTION.—An election under paragraph (1), once made, shall be irrevocable.

"(5) NONAPPLICATION OF INSTALLMENT SALES TREATMENT.—Section 453 shall not apply to any qualifying electric transmission transaction with respect to which an election to apply this subsection is made.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions occurring after December 31, 2004.

Subtitle G—Volumetric Ethanol Excise Tax Credit

SEC. 860. SHORT TITLE.

This subtitle may be cited as the "Volumetric Ethanol Excise Tax Credit (VEETC) Act of 2004".

SEC. 861. ALCOHOL AND BIODIESEL EXCISE TAX CREDIT AND EXTENSION OF ALCOHOL FUELS INCOME TAX CREDIT.

(a) IN GENERAL.—Subchapter B of chapter 65 (relating to rules of special application) is amended by inserting after section 6425 the following new section:

"SEC. 6426. CREDIT FOR ALCOHOL FUEL AND BIODIESEL MIXTURES.

"(a) ALLOWANCE OF CREDITS.—There shall be allowed as a credit against the tax imposed by section 4081 an amount equal to the sum of—

"(1) the alcohol fuel mixture credit, plus

"(2) the biodiesel mixture credit.

"(b) ALCOHOL FUEL MIXTURE CREDIT.—

"(1) IN GENERAL.—For purposes of this section, the alcohol fuel mixture credit is the product of the applicable amount and the number of gallons of alcohol used by the taxpayer in producing any alcohol fuel mixture for sale or use in a trade or business of the taxpayer.

"(2) APPLICABLE AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable amount is 52 cents (51 cents in the case of any sale or use after 2004).

"(B) MIXTURES NOT CONTAINING ETHANOL.—In the case of an alcohol fuel mixture in which none of the alcohol consists of ethanol, the applicable amount is 60 cents.

"(3) ALCOHOL FUEL MIXTURE.—For purposes of this subsection, the term 'alcohol fuel mixture' means a mixture of alcohol and a taxable fuel which—

"(A) is sold by the taxpayer producing such mixture to any person for use as a fuel,

"(B) is used as a fuel by the taxpayer producing such mixture, or

"(C) is removed from the refinery by a person producing such mixture.

"(4) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) ALCOHOL.—The term 'alcohol' includes methanol and ethanol but does not include—

"(i) alcohol produced from petroleum, natural gas, or coal (including peat), or

"(ii) alcohol with a proof of less than 190 (determined without regard to any added denaturants).

Such term also includes an alcohol gallon equivalent of ethyl tertiary butyl ether or other ethers produced from such alcohol.

"(B) TAXABLE FUEL.—The term 'taxable fuel' has the meaning given such term by section 4083(a)(1).

"(5) TERMINATION.—This subsection shall not apply to any sale, use, or removal for any period after December 31, 2010.

"(c) BIODIESEL MIXTURE CREDIT.—

"(1) IN GENERAL.—For purposes of this section, the biodiesel mixture credit is the product of the applicable amount and the number of gallons of biodiesel used by the taxpayer in producing any biodiesel mixture for sale or use in a trade or business of the taxpayer.

"(2) APPLICABLE AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable amount is 50 cents.

"(B) AMOUNT FOR AGRI-BIODIESEL.—In the case of any biodiesel which is agri-biodiesel, the applicable amount is $1.00.

"(3) BIODIESEL MIXTURE.—For purposes of this section, the term 'biodiesel mixture' means a mixture of biodiesel and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene, which—

"(A) is sold by the taxpayer producing such mixture to any person for use as a fuel,

"(B) is used as a fuel by the taxpayer producing such mixture, or

"(C) is removed from the refinery by a person producing such mixture.

"(4) CERTIFICATION FOR BIODIESEL.—No credit shall be allowed under this section unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer of the biodiesel which identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

"(5) OTHER DEFINITIONS.—Any term used in this subsection which is also used in section 40A shall have the meaning given such term by section 40A.

"(6) TERMINATION.—This subsection shall not apply to any sale, use, or removal for any period after December 31, 2006.

"(d) MIXTURE NOT USED AS A FUEL, ETC.—

"(1) IMPOSITION OF TAX.—If—

"(A) any credit was determined under this section with respect to alcohol or biodiesel used in the production of any alcohol fuel mixture or biodiesel mixture, respectively, and

"(B) any person—

"(i) separates the alcohol or biodiesel from the mixture, or

"(ii) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the applicable amount and the number of gallons of such alcohol or biodiesel.

"(2) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under paragraph (1) as if such tax were imposed by section 4081 and not by this section.

"(e) COORDINATION WITH EXEMPTION FROM EXCISE TAX.—Rules similar to the rules under section 40(c) shall apply for purposes of this section.".

(b) REGISTRATION REQUIREMENT.—Section 4101(a)(1) (relating to registration), as amended by sections 871 and 880 of this Act, is amended by inserting "and every person producing or importing biodiesel (as defined in section 40A(d)(1)) or alcohol (as defined in section 6426(b)(4)(A))" after "4081".

(c) ADDITIONAL AMENDMENTS.—

(1) Section 40(c) is amended by striking "subsection (b)(2), (k), or (m) of section 4041, section 4081(c), or section 4091(c)" and inserting "section 4041(b)(2), section 6426, or section 6427(e)".

(2) Paragraph (4) of section 40(d) is amended to read as follows:

"(4) VOLUME OF ALCOHOL.—For purposes of determining under subsection (a) the number of gallons of alcohol with respect to which a credit is allowable under subsection (a), the volume of alcohol shall include the volume of any denaturant (including gasoline) which is added under any formulas approved by the Secretary to the extent that such denaturants do not exceed 5 percent of the volume of such alcohol (including denaturants).".

(3) Section 40(e)(1) is amended—

(A) by striking "2007" in subparagraph (A) and inserting "2010", and

(B) by striking "2008" in subparagraph (B) and inserting "2011".

(4) Section 40(h) is amended—

(A) by striking "2007" in paragraph (1) and inserting "2010", and

(B) by striking ", 2006, or 2007" in the table contained in paragraph (2) and inserting "through 2010".

(5) Section 4041(b)(2)(B) is amended by striking "a substance other than petroleum or natural gas" and inserting "coal (including peat)".

(6) Section 4041 is amended by striking subsection (k).

(7) Section 4081 is amended by striking subsection (c).

(8) Paragraph (2) of section 4083(a) is amended to read as follows:

"(2) Gasoline.—The term 'gasoline'—

"(A) includes any gasoline blend, other than qualified methanol or ethanol fuel (as defined in section 4041(b)(2)(B)), partially exempt methanol or ethanol fuel (as defined in section 4041(m)(2)), or a denatured alcohol, and

"(B) includes, to the extent prescribed in regulations—

"(i) any gasoline blend stock, and

"(ii) any product commonly used as an additive in gasoline (other than alcohol).

For purposes of subparagraph (B)(i), the term 'gasoline blend stock' means any petroleum product component of gasoline.".

(9) Section 6427 is amended by inserting after subsection (d) the following new subsection:

"(e) Alcohol or Biodiesel Used To Produce Alcohol Fuel and Biodiesel Mixtures or Used as Fuels.—Except as provided in subsection (k)—

"(1) Used to produce a mixture.—If any person produces a mixture described in section 6426 in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the alcohol fuel mixture credit or the biodiesel mixture credit with respect to such mixture.

"(2) Used as fuel.—If alcohol (as defined in section 40(d)(1)) or biodiesel (as defined in section 40A(d)(1)) or agri-biodiesel (as defined in section 40A(d)(2)) which is not in a mixture described in section 6426—

"(A) is used by any person as a fuel in a trade or business, or

"(B) is sold by any person at retail to another person and placed in the fuel tank of such person's vehicle,

the Secretary shall pay (without interest) to such person an amount equal to the alcohol credit (as determined under section 40(b)(2)) or the biodiesel credit (as determined under section 40A(b)(2)) with respect to such fuel.

"(3) Coordination with other repayment provisions.—No amount shall be payable under paragraph (1) with respect to any mixture with respect to which an amount is allowed as a credit under section 6426.

"(4) Termination.—This subsection shall not apply with respect to—

"(A) any alcohol fuel mixture (as defined in section 6426(b)(3)) or alcohol (as so defined) sold or used after December 31, 2010, and

"(B) any biodiesel mixture (as defined in section 6426(c)(3)) or biodiesel (as so defined) or agri-biodiesel (as so defined) sold or used after December 31, 2006.".

(10) Section 6427(i)(3) is amended—

(A) by striking "subsection (f)" both places it appears in subparagraph (A) and inserting "subsection (e)(1)",

(B) by striking "gasoline, diesel fuel, or kerosene used to produce a qualified alcohol mixture (as defined in section 4081(c)(3))" in subparagraph (A) and inserting "a mixture described in section 6426",

(C) by adding at the end of subparagraph (A) the following new flush sentence:

"In the case of an electronic claim, this subparagraph shall be applied without regard to clause (i).",

(D) by striking "subsection (f)(1)" in subparagraph (B) and inserting "subsection (e)(1)",

(E) by striking "20 days of the date of the filing of such claim" in subparagraph (B) and inserting "45 days of the date of the filing of such claim (20 days in the case of an electronic claim)", and

(F) by striking "ALCOHOL MIXTURE" in the heading and inserting "ALCOHOL FUEL AND BIODIESEL MIXTURE".

(11) Section 9503(b)(1) is amended by adding at the end the following new flush sentence:

"For purposes of this paragraph, taxes received under sections 4041 and 4081 shall be determined without reduction for credits under section 6426.".

(12) Section 9503(b)(4) is amended—

(A) by adding "or" at the end of subparagraph (C),

(B) by striking the comma at the end of subparagraph (D)(iii) and inserting a period, and

(C) by striking subparagraphs (E) and (F).

(13) The table of sections for subchapter B of chapter 65 is amended by inserting after the item relating to section 6425 the following new item:

"Sec. 6426. Credit for alcohol fuel and biodiesel mixtures.".

(14) Tariff schedule.—Headings 9901.00.50 and 9901.00.52 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) are each amended in the effective period column by striking "10/1/2007" each place it appears and inserting "1/1/2011".

(d) Effective Dates.—

(1) In general.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to fuel sold or used after September 30, 2004.

(2) Registration requirement.—The amendment made by subsection (b) shall take effect on April 1, 2005.

(3) Extension of alcohol fuels credit.—The amendments made by paragraphs (3), (4), and (14) of subsection (c) shall take effect on the date of the enactment of this Act.

(4) Repeal of general fund retention of certain alcohol fuels taxes.—The amendments made by subsection (c)(12) shall apply to fuel sold or used after September 30, 2003.

(e) Format for Filing.—The Secretary of the Treasury shall describe the electronic format for filing claims described in section 6427(i)(3)(B) of the Internal Revenue Code of 1986 (as amended by subsection (c)(10)(C)) not later than September 30, 2004.

SEC. 862. BIODIESEL INCOME TAX CREDIT.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by inserting after section 40A the following new section:

"SEC. 40B. BIODIESEL USED AS FUEL.

"(a) General Rule.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the sum of—

"(1) the biodiesel mixture credit, plus

"(2) the biodiesel credit.

"(b) Definition of Biodiesel Mixture Credit and Biodiesel Credit.—For purposes of this section—

"(1) Biodiesel mixture credit.—

"(A) In general.—The biodiesel mixture credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel used by the taxpayer in the production of a qualified biodiesel mixture.

"(B) Qualified biodiesel mixture.—The term 'qualified biodiesel mixture' means a mixture of biodiesel and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene, which—

"(i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

"(ii) is used as a fuel by the taxpayer producing such mixture.

"(C) Sale or use must be in trade or business, etc.—Biodiesel used in the production of a qualified biodiesel mixture shall be taken into account—

"(i) only if the sale or use described in subparagraph (B) is in a trade or business of the taxpayer, and

"(ii) for the taxable year in which such sale or use occurs.

"(D) Casual off-farm production not eligible.—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified biodiesel mixture.

"(2) Biodiesel credit.—

"(A) In general.—The biodiesel credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel which is not in a mixture with diesel fuel and which during the taxable year—

"(i) is used by the taxpayer as a fuel in a trade or business, or

"(ii) is sold by the taxpayer at retail to a person and placed in the fuel tank of such person's vehicle.

"(B) User credit not to apply to biodiesel sold at retail.—No credit shall be allowed under subparagraph (A)(i) with respect to any biodiesel which was sold in a retail sale described in subparagraph (A)(ii).

"(3) Credit for agri-biodiesel.—In the case of any biodiesel which is agri-biodiesel, paragraphs (1)(A) and (2)(A) shall be applied by substituting '$1.00' for '50 cents'.

"(4) Certification for biodiesel.—No credit shall be allowed under this section unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer or importer of the biodiesel which identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

"(c) Coordination With Credit Against Excise Tax.—The amount of the credit determined under this section with respect to any biodiesel shall be properly reduced to take into account any benefit provided with respect to such biodiesel solely by reason of the application of section 6426 or 6427(e).

"(d) Definitions and Special Rules.—For purposes of this section—

"(1) Biodiesel.—The term 'biodiesel' means the monoalkyl esters of long chain fatty acids derived from plant or animal matter which meet—

"(A) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

"(B) the requirements of the American Society of Testing and Materials D6751.

"(2) Agri-biodiesel.—The term 'agri-biodiesel' means biodiesel derived solely from virgin oils, including esters derived from virgin vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, and mustard seeds, and from animal fats.

"(3) Mixture or biodiesel not used as a fuel, etc.—

"(A) Mixtures.—If—

"(i) any credit was determined under this section with respect to biodiesel used in the production of any qualified biodiesel mixture, and

"(ii) any person—

"(I) separates the biodiesel from the mixture, or

"(II) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(1)(A) and the number of gallons of such biodiesel in such mixture.

"(B) Biodiesel.—If—

"(i) any credit was determined under this section with respect to the retail sale of any biodiesel, and

"(ii) any person mixes such biodiesel or uses such biodiesel other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(2)(A) and the number of gallons of such biodiesel.

"(C) Applicable laws.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) or (B) as if such tax were imposed by section 4081 and not by this chapter.

"(4) Pass-thru in the case of estates and trusts.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(e) Termination.—This section shall not apply to any sale or use after December 31, 2006.".

(b) Credit Treated as Part of General Business Credit.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (28), by striking the period at the end of paragraph (29) and inserting ", plus", and by adding at the end the following new paragraph:

"(30) the biodiesel fuels credit determined under section 40B(a).".

(c) Conforming Amendments.—

(1)(A) Section 87, as amended by this Act, is amended—

(i) by striking "and" at the end of paragraph (1),

(ii) by striking the period at the end of paragraph (2) and inserting ", and",

(iii) by adding at the end the following new paragraph:

"(3) the biodiesel fuels credit determined with respect to the taxpayer for the taxable year under section 40B(a).", and

(iv) by striking "**FUEL CREDIT**" in the heading and inserting "**AND BIODIESEL FUELS CREDITS**".

(B) The item relating to section 87 in the table of sections for part II of subchapter B of chapter 1 is amended by striking "fuel credit" and inserting "and biodiesel fuels credits".

(2) Section 196(c), as amended by this Act, is amended by striking "and" at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting ", and", and by adding at the end the following new paragraph:

"(13) the biodiesel fuels credit determined under section 40B(a).".

(3) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding after the item relating to section 40 the following new item:

"Sec. 40B. Biodiesel used as fuel.".

(d) Effective Date.—The amendments made by this section shall apply to fuel produced, and sold or used, after September 30, 2004, in taxable years ending after such date.

Subtitle H—Fuel Fraud Prevention

SEC. 870. SHORT TITLE.

This subtitle may be cited as the "Fuel Fraud Prevention Act of 2004".

PART I—AVIATION JET FUEL

SEC. 871. TAXATION OF AVIATION-GRADE KEROSENE.

(a) Rate of Tax.—

(1) In general.—Subparagraph (A) of section 4081(a)(2) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) in the case of aviation-grade kerosene, 21.8 cents per gallon.".

(2) Commercial aviation.—Paragraph (2) of section 4081(a) is amended by adding at the end the following new subparagraph:

"(C) Taxes imposed on fuel used in commercial aviation.—In the case of aviation-grade kerosene which is removed from any refinery or terminal directly into the fuel tank of an aircraft for use in commercial aviation, the rate of tax under subparagraph (A)(iv) shall be 4.3 cents per gallon.".

(3) Nontaxable uses.—

(A) In general.—Section 4082 is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

"(e) Aviation-Grade Kerosene.—In the case of aviation-grade kerosene which is exempt from the tax imposed by section 4041(c) (other than by reason of a prior imposition of tax) and which is removed from any refinery or terminal directly into the fuel tank of an aircraft, the rate of tax under section 4081(a)(2)(A)(iv) shall be zero.".

(B) Conforming amendments.—

(i) Subsection (b) of section 4082 is amended by adding at the end the following new flush sentence: "The term 'nontaxable use' does not include the use of aviation-grade kerosene in an aircraft.".

(ii) Section 4082(d) is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(4) Nonaircraft use of aviation-grade kerosene.—

(A) In general.—Subparagraph (B) of section 4041(a)(1) is amended by adding at the end the following new sentence: "This subparagraph shall not apply to aviation-grade kerosene.".

(B) Conforming amendment.—The heading for paragraph (1) of section 4041(a) is amended by inserting "and kerosene" after "diesel fuel".

(b) Commercial Aviation.—Section 4083 is amended redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

"(b) Commercial Aviation.—For purposes of this subpart, the term 'commercial aviation' means any use of an aircraft in a business of transporting persons or property for compensation or hire by air, unless properly allocable to any transportation exempt from the taxes imposed by section 4261 and 4271 by reason of section 4281 or 4282 or by reason of section 4261(h).".

(c) Refunds.—

(1) In general.—Paragraph (4) of section 6427(l) is amended to read as follows:

"(4) Refunds for aviation-grade kerosene.—

"(A) No refund of certain taxes on fuel used in commercial aviation.—In the case of aviation-grade kerosene used in commercial aviation (as defined in section 4083(b)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4081 as is attributable to—

"(i) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

"(ii) so much of the rate of tax specified in section 4081(a)(2)(A)(iv) as does not exceed 4.3 cents per gallon.

"(B) Payment to ultimate, registered vendor.—With respect to aviation-grade kerosene, if the ultimate purchaser of such kerosene waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

"(i) is registered under section 4101, and

"(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).".

(2) Time for filing claims.—Subparagraph (A) of section 6427(i)(4) is amended—

(A) by striking "subsection (l)(5)" both places it appears and inserting "paragraph (4)(B) or (5) of subsection (l)", and

(B) by striking "the preceding sentence" and inserting "subsection (l)(5)".

(3) Conforming amendment.—Subparagraph (B) of section 6427(l)(2) is amended to read as follows:

"(B) in the case of aviation-grade kerosene—

"(i) any use which is exempt from the tax imposed by section 4041(c) other than by reason of a prior imposition of tax, or

"(ii) any use in commercial aviation (within the meaning of section 4083(b)).".

(d) Repeal of Prior Taxation of Aviation Fuel.—

(1) In general.—Part III of subchapter A of chapter 32 is amended by striking subpart B and by redesignating subpart C as subpart B.

(2) Conforming amendments.—

(A) Section 4041(c) is amended to read as follows:

"(c) Aviation-Grade Kerosene.—

"(1) In general.—There is hereby imposed a tax upon aviation-grade kerosene—

"(A) sold by any person to an owner, lessee, or other operator of an aircraft for use in such aircraft, or

"(B) used by any person in an aircraft unless there was a taxable sale of such fuel under subparagraph (A).

"(2) Exemption for previously taxed fuel.—No tax shall be imposed by this subsection on the sale or use of any aviation-grade kerosene if tax was imposed on such liquid under section 4081 and the tax thereon was not credited or refunded.

"(3) Rate of tax.—The rate of tax imposed by this subsection shall be the rate of tax specified in section 4081(a)(2)(A)(iv) which is in effect at the time of such sale or use.".

(B) Section 4041(d)(2) is amended by striking "section 4091" and inserting "section 4081".

(C) Section 4041 is amended by striking subsection (e).

(D) Section 4041 is amended by striking subsection (i).

(E) Section 4041(m)(1) is amended to read as follows:

"(1) In general.—In the case of the sale or use of any partially exempt methanol or ethanol fuel, the rate of the tax imposed by subsection (a)(2) shall be—

"(A) after September 30, 1997, and before September 30, 2009—

"(i) in the case of fuel none of the alcohol in which consists of ethanol, 9.15 cents per gallon, and

"(ii) in any other case, 11.3 cents per gallon, and

"(B) after September 30, 2009—

"(i) in the case of fuel none of the alcohol in which consists of ethanol, 2.15 cents per gallon, and

"(ii) in any other case, 4.3 cents per gallon.".

(F) Sections 4101(a), 4103, 4221(a), and 6206 are each amended by striking ", 4081, or 4091" and inserting "or 4081".

(G) Section 6416(b)(2) is amended by striking "4091 or".

(H) Section 6416(b)(3) is amended by striking "or 4091" each place it appears.

(I) Section 6416(d) is amended by striking "or to the tax imposed by section 4091 in the case of refunds described in section 4091(d)".

(J) Section 6427 is amended by striking subsection (f).

(K) Section 6427(j)(1) is amended by striking ", 4081, and 4091" and inserting "and 4081".

(L)(i) Section 6427(l)(1) is amended to read as follows:

"(1) IN GENERAL.—Except as otherwise provided in this subsection and in subsection (k), if any diesel fuel or kerosene on which tax has been imposed by section 4041 or 4081 is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4041 or 4081, as the case may be, reduced by any refund paid to the ultimate vendor under paragraph (4)(B).".

(ii) Paragraph (5)(B) of section 6427(l) is amended by striking "Paragraph (1)(A) shall not apply to kerosene" and inserting "Paragraph (1) shall not apply to kerosene (other than aviation-grade kerosene)".

(M) Subparagraph (B) of section 6724(d)(1), as amended by this Act, is amended by striking clause (xvi) and by redesignating clauses (xvii), (xviii), and (xix) as clauses (xvi), (xvii), and (xviii), respectively.

(N) Paragraph (2) of section 6724(d), as amended by this Act, is amended by striking subparagraph (X) and by redesignating subparagraphs (Y), (Z), (AA), (BB), and (CC) as subparagraphs (X), (Y), (Z), (AA), and (BB), respectively.

(O) Paragraph (1) of section 9502(b) is amended by adding "and" at the end of subparagraph (B) and by striking subparagraphs (C) and (D) and inserting the following new subparagraph:

"(C) section 4081 with respect to aviation gasoline and aviation-grade kerosene, and".

(P) The last sentence of section 9502(b) is amended to read as follows:

"There shall not be taken into account under paragraph (1) so much of the taxes imposed by section 4081 as are determined at the rate specified in section 4081(a)(2)(B).".

(Q) Subsection (b) of section 9508 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(R) Section 9508(c)(2)(A) is amended by striking "sections 4081 and 4091" and inserting "section 4081".

(S) The table of subparts for part III of subchapter A of chapter 32 is amended to read as follows:

"Subpart A. Motor and aviation fuels.

"Subpart B. Special provisions applicable to fuels tax.".

(T) The heading for subpart A of part III of subchapter A of chapter 32 is amended to read as follows:

"Subpart A—Motor and Aviation Fuels".

(U) The heading for subpart B of part III of subchapter A of chapter 32 is amended to read as follows:

"Subpart B—Special Provisions Applicable to Fuels Tax".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to aviation-grade kerosene removed, entered, or sold after September 30, 2004.

(f) FLOOR STOCKS TAX.—

(1) IN GENERAL.—There is hereby imposed on aviation-grade kerosene held on October 1, 2004, by any person a tax equal to—

(A) the tax which would have been imposed before such date on such kerosene had the amendments made by this section been in effect at all times before such date, reduced by

(B) the tax imposed before such date under section 4091 of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—The person holding the kerosene on October 1, 2004, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD AND TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid at such time and in such manner as the Secretary of the Treasury shall prescribe, including the nonapplication of such tax on de minimis amounts of kerosene.

(3) TRANSFER OF FLOOR STOCK TAX REVENUES TO TRUST FUNDS.—For purposes of determining the amount transferred to any trust fund, the tax imposed by this subsection shall be treated as imposed by section 4081 of the Internal Revenue Code of 1986—

(A) at the Leaking Underground Storage Tank Trust Fund financing rate under such section to the extent of 0.1 cents per gallon, and

(B) at the rate under section 4081(a)(2)(A)(iv) to the extent of the remainder.

(4) HELD BY A PERSON.—For purposes of this section, kerosene shall be considered as held by a person if title thereto has passed to such person (whether or not delivery to the person has been made).

(5) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the tax imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock tax imposed by paragraph (1) to the same extent as if such tax were imposed by such section.

SEC. 872. TRANSFER OF CERTAIN AMOUNTS FROM THE AIRPORT AND AIRWAY TRUST FUND TO THE HIGHWAY TRUST FUND TO REFLECT HIGHWAY USE OF JET FUEL.

(a) IN GENERAL.—Section 9502(d) is amended by adding at the end the following new paragraph:

"(7) TRANSFERS FROM THE TRUST FUND TO THE HIGHWAY TRUST FUND.—

"(A) IN GENERAL.—The Secretary shall pay annually from the Airport and Airway Trust Fund into the Highway Trust Fund an amount (as determined by him) equivalent to amounts received in the Airport and Airway Trust Fund which are attributable to fuel that is used primarily for highway transportation purposes.

"(B) AMOUNTS TRANSFERRED TO MASS TRANSIT ACCOUNT.—The Secretary shall transfer 11 percent of the amounts paid into the Highway Trust Fund under subparagraph (A) to the Mass Transit Account established under section 9503(e).".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 9503 is amended—

(A) by striking "appropriated or credited" and inserting "paid, appropriated, or credited", and

(B) by striking "or section 9602(b)" and inserting ", section 9502(d)(7), or section 9602(b)".

(2) Subsection (e)(1) of section 9503 is amended by striking "or section 9602(b)" and inserting ", section 9502(d)(7), or section 9602(b)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART II—DYED FUEL

SEC. 873. DYE INJECTION EQUIPMENT.

(a) IN GENERAL.—Section 4082(a)(2) (relating to exemptions for diesel fuel and kerosene) is amended by inserting "by mechanical injection" after "indelibly dyed".

(b) DYE INJECTOR SECURITY.—Not later than June 30, 2004, the Secretary of the Treasury shall issue regulations regarding mechanical dye injection systems described in the amendment made by subsection (a), and such regulations shall include standards for making such systems tamper resistant.

(c) PENALTY FOR TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding after section 6715 the following new section:

"SEC. 6715A. TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.

"(a) IMPOSITION OF PENALTY.—

"(1) TAMPERING.—If any person tampers with a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082, then such person shall pay a penalty in addition to the tax (if any).

"(2) FAILURE TO MAINTAIN SECURITY REQUIREMENTS.—If any operator of a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082 fails to maintain the security standards for such system as established by the Secretary, then such operator shall pay a penalty.

"(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) shall be—

"(1) for each violation described in paragraph (1), the greater of—

"(A) $25,000, or

"(B) $10 for each gallon of fuel involved, and

"(2) for each—

"(A) failure to maintain security standards described in paragraph (2), $1,000, and

"(B) failure to correct a violation described in paragraph (2), $1,000 per day for each day after which such violation was discovered or such person should have reasonably known of such violation.

"(c) JOINT AND SEVERAL LIABILITY.—

"(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

"(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.".

(2) Clerical amendment.—The table of sections for part I of subchapter B of chapter 68 is amended by adding after the item related to section 6715 the following new item:

"Sec. 6715A. Tampering with or failing to maintain security requirements for mechanical dye injection systems.".

(d) Effective Date.—The amendments made by subsections (a) and (c) shall take effect 180 days after the date on which the Secretary issues the regulations described in subsection (b).

SEC. 874. ELIMINATION OF ADMINISTRATIVE REVIEW FOR TAXABLE USE OF DYED FUEL.

(a) In General.—Section 6715 is amended by inserting at the end the following new subsection:

"(e) No Administrative Appeal for Third and Subsequent Violations.—In the case of any person who is found to be subject to the penalty under this section after a chemical analysis of such fuel and who has been penalized under this section at least twice after the date of the enactment of this subsection, no administrative appeal or review shall be allowed with respect to such finding except in the case of a claim regarding—

"(1) fraud or mistake in the chemical analysis, or

"(2) mathematical calculation of the amount of the penalty.".

(b) Effective Date.—The amendment made by this section shall apply to penalties assessed after the date of the enactment of this Act.

SEC. 875. PENALTY ON UNTAXED CHEMICALLY ALTERED DYED FUEL MIXTURES.

(a) In General.—Section 6715(a) (relating to dyed fuel sold for use or used in taxable use, etc.) is amended by striking "or" in paragraph (2), by inserting "or" at the end of paragraph (3), and by inserting after paragraph (3) the following new paragraph:

"(4) any person who has knowledge that a dyed fuel which has been altered as described in paragraph (3) sells or holds for sale such fuel for any use which the person knows or has reason to know is not a nontaxable use of such fuel,".

(b) Conforming Amendment.—Section 6715(a)(3) is amended by striking "alters, or attempts to alter," and inserting "alters, chemically or otherwise, or attempts to so alter,".

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 876. TERMINATION OF DYED DIESEL USE BY INTERCITY BUSES.

(a) In General.—Paragraph (3) of section 4082(b) (relating to nontaxable use) is amended to read as follows:

"(3) any use described in section 4041(a)(1)(C)(iii)(II).".

(b) Ultimate Vendor Refund.—Subsection (b) of section 6427 is amended by adding at the end the following new paragraph:

"(4) Refunds for use of diesel fuel in certain intercity buses.—

"(A) In general.—With respect to any fuel to which paragraph (2)(A) applies, if the ultimate purchaser of such fuel waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

"(i) is registered under section 4101, and

"(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

"(B) Credit cards.—For purposes of this paragraph, if the sale of such fuel is made by means of a credit card, the person extending credit to the ultimate purchaser shall be deemed to be the ultimate vendor.".

(c) Payment of Refunds.—Subparagraph (A) of section 6427(i)(4), as amended by this Act, is amended by inserting "subsections (b)(4) and" after "filed under".

(d) Effective Date.—The amendments made by this section shall apply to fuel sold after September 30, 2004.

PART III—MODIFICATION OF INSPECTION OF RECORDS PROVISIONS

SEC. 877. AUTHORITY TO INSPECT ON-SITE RECORDS.

(a) In General.—Section 4083(d)(1)(A) (relating to administrative authority), as amended by this Act, is amended by striking "and" at the end of clause (i) and by inserting after clause (ii) the following new clause:

"(iii) inspecting any books and records and any shipping papers pertaining to such fuel, and".

(b) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 878. ASSESSABLE PENALTY FOR REFUSAL OF ENTRY.

(a) In General.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 6717. REFUSAL OF ENTRY.

"(a) In General.—In addition to any other penalty provided by law, any person who refuses to admit entry or refuses to permit any other action by the Secretary authorized by section 4083(d)(1) shall pay a penalty of $1,000 for such refusal.

"(b) Joint and Several Liability.—

"(1) In general.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

"(2) Affiliated groups.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

"(c) Reasonable Cause Exception.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(b) Conforming Amendments.—

(1) Section 4083(d)(3), as amended by this Act, is amended—

(A) by striking "entry.—The penalty" and inserting: "entry.—

"(A) Forfeiture.—The penalty", and

(B) by adding at the end the following new subparagraph:

"(B) Assessable penalty.—For additional assessable penalty for the refusal to admit entry or other refusal to permit an action by the Secretary authorized by paragraph (1), see section 6717.".

(2) The table of sections for part I of subchapter B of chapter 68, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 6717. Refusal of entry.".

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 2004.

PART IV—REGISTRATION AND REPORTING REQUIREMENTS

SEC. 879. REGISTRATION OF PIPELINE OR VESSEL OPERATORS REQUIRED FOR EXEMPTION OF BULK TRANSFERS TO REGISTERED TERMINALS OR REFINERIES.

(a) In General.—Section 4081(a)(1)(B) (relating to exemption for bulk transfers to registered terminals or refineries) is amended—

(1) by inserting "by pipeline or vessel" after "transferred in bulk", and

(2) by inserting ", the operator of such pipeline or vessel," after "the taxable fuel".

(b) Civil Penalty for Carrying Taxable Fuels by Nonregistered Pipelines or Vessels.—

(1) In general.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 6718. CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.

"(a) Imposition of Penalty.—If any person knowingly transfers any taxable fuel (as defined in section 4083(a)(1)) in bulk pursuant to section 4081(a)(1)(B) to an unregistered, such person shall pay a penalty in addition to the tax (if any).

"(b) Amount of Penalty.—

"(1) In general.—Except as provided in paragraph (2), the amount of the penalty under subsection (a) on each act shall be an amount equal to the greater of—

"(A) $10,000, or

"(B) $1 per gallon.

"(2) Multiple violations.—In determining the penalty under subsection (a) on any person, paragraph (1) shall be applied by increasing the amount in paragraph (1) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

"(c) Joint and Several Liability.—

"(1) In general.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

"(2) Affiliated groups.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

"(d) Reasonable Cause Exception.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) Clerical amendment.—The table of sections for part I of subchapter B of chapter 68, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 6718. Carrying taxable fuels by nonregistered pipelines or vessels.".

(c) Publication of Registered Persons.—Not later than June 30, 2004, the Secretary of the Treasury shall publish a list of persons required to be registered under section 4101 of the Internal Revenue Code of 1986.

(d) Effective Date.—The amendments made by subsections (a) and (b) shall take effect on October 1, 2004.

SEC. 880. DISPLAY OF REGISTRATION.

(a) In General.—Subsection (a) of section 4101 (relating to registration) is amended—

(1) by striking "Every" and inserting the following:

"(1) In general.—Every", and

(2) by adding at the end the following new paragraph:

"(2) Display of registration.—Every operator of a vessel required by the Secretary to register under this section shall display proof of registration through an electronic identification device prescribed by the Secretary on each vessel used by such operator to transport any taxable fuel.".

(b) Civil Penalty for Failure to Display Registration.—

(1) In general.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 6719. FAILURE TO DISPLAY REGISTRATION OF VESSEL.

"(a) Failure to Display Registration.—Every operator of a vessel who fails to display proof of registration pursuant to section 4101(a)(2) shall pay a penalty of $500 for each such failure. With respect to any vessel, only one penalty shall be imposed by this section during any calendar month.

"(b) Multiple Violations.—In determining the penalty under subsection (a) on any person, subsection (a) shall be applied by increasing the amount in subsection (a) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

"(c) Reasonable Cause Exception.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) Clerical amendment.—The table of sections for part I of subchapter B of chapter 68, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 6719. Failure to display registration of vessel.".

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 881. REGISTRATION OF PERSONS WITHIN FOREIGN TRADE ZONES, ETC.

(a) In General.—Section 4101(a), as amended by this Act, is amended by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

"(2) Registration of persons within foreign trade zones, etc.—The Secretary shall require registration by any person which—

"(A) operates a terminal or refinery within a foreign trade zone or within a customs bonded storage facility, or

"(B) holds an inventory position with respect to a taxable fuel in such a terminal.".

(b) Effective Date.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 882. PENALTIES FOR FAILURE TO REGISTER AND FAILURE TO REPORT.

(a) Increased Penalty.—Subsection (a) of section 7272 (relating to penalty for failure to register) is amended by inserting "($10,000 in the case of a failure to register under section 4101)" after "$50".

(b) Increased Criminal Penalty.—Section 7232 (relating to failure to register under section 4101, false representations of registration status, etc.) is amended by striking "$5,000" and inserting "$10,000".

(c) Assessable Penalty for Failure to Register.—

(1) In general.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 6720. FAILURE TO REGISTER.

"(a) Failure to Register.—Every person who is required to register under section 4101 and fails to do so shall pay a penalty in addition to the tax (if any).

"(b) Amount of Penalty.—The amount of the penalty under subsection (a) shall be—

"(1) $10,000 for each initial failure to register, and

"(2) $1,000 for each day thereafter such person fails to register.

"(c) Reasonable Cause Exception.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) Clerical amendment.—The table of sections for part I of subchapter B of chapter 68, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 6720. Failure to register.".

(d) Assessable Penalty for Failure to Report.—

(1) In general.—Part II of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end the following new section:

"SEC. 6725. FAILURE TO REPORT INFORMATION UNDER SECTION 4101.

"(a) In General.—In the case of each failure described in subsection (b) by any person with respect to a vessel or facility, such person shall pay a penalty of $10,000 in addition to the tax (if any).

"(b) Failures Subject to Penalty.—For purposes of subsection (a), the failures described in this subsection are—

"(1) any failure to make a report under section 4101(d) on or before the date prescribed therefor, and

"(2) any failure to include all of the information required to be shown on such report or the inclusion of incorrect information.

"(c) Reasonable Cause Exception.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) Clerical amendment.—The table of sections for part II of subchapter B of chapter 68 is amended by adding at the end the following new item:

"Sec. 6725. Failure to report information under section 4101.".

(e) Effective Date.—The amendments made by this section shall apply to failures pending or occurring after September 30, 2004.

SEC. 883. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

(a) In General.—Subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new section:

"SEC. 4104. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

"(a) In General.—The Secretary shall require any person claiming tax benefits—

"(1) under the provisions of section 34, 40, and 40B to file a return at the time such person claims such benefits (in such manner as the Secretary may prescribe), and

"(2) under the provisions of section 4041(b)(2), 6426, or 6427(e) to file a monthly return (in such manner as the Secretary may prescribe).

"(b) Contents of Return.—Any return filed under this section shall provide such information relating to such benefits and the coordination of such benefits as the Secretary may require to ensure the proper administration and use of such benefits.

"(c) Enforcement.—With respect to any person described in subsection (a) and subject to registration requirements under this title, rules similar to rules of section 4222(c) shall apply with respect to any requirement under this section.".

(b) Conforming Amendment.—The table of sections for subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new item:

"Sec. 4104. Information reporting for persons claiming certain tax benefits.".

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 2004.

PART V—IMPORTS

SEC. 884. TAX AT POINT OF ENTRY WHERE IMPORTER NOT REGISTERED.

(a) Tax at Point of Entry Where Importer Not Registered.—

(1) In general.—Subpart C of part III of subchapter A of chapter 31, as amended by this Act, is amended by adding at the end the following new section:

"SEC. 4105. TAX AT ENTRY WHERE IMPORTER NOT REGISTERED.

"(a) In General.—Any tax imposed under this part on any person not registered under section 4101 for the entry of a fuel into the United States shall be imposed at the time and point of entry.

"(b) Enforcement of Assessment.—If any person liable for any tax described under subsection (a) has not paid the tax or posted a bond, the Secretary may—

"(1) seize the fuel on which the tax is due, or

"(2) detain any vehicle transporting such fuel,

until such tax is paid or such bond is filed.

"(c) Levy of Fuel.—If no tax has been paid or no bond has been filed within 5 days from the date the Secretary seized fuel pursuant to subsection (b), the Secretary may sell such fuel as provided under section 6336.".

(2) Conforming amendment.—The table of sections for subpart C of part III of subchapter A of chapter 31 of the Internal Revenue Code of 1986, as amended by section 5245 of this Act, is amended by adding after the last item the following new item:

"Sec. 4105. Tax at entry where importer not registered.".

(b) Denial of Entry Where Tax Not Paid.—The Secretary of Homeland Security is authorized to deny entry into the United States of any shipment of a fuel which is taxable under section 4081 of the Internal Revenue Code of 1986 if the person entering such shipment fails to pay the tax imposed under such section or post a bond in accordance with the provisions of section 4105 of such Code.

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 885. RECONCILIATION OF ON-LOADED CARGO TO ENTERED CARGO.

(a) In General.—Subsection (a) of section 343 of the Trade Act of 2002 is amended by inserting at the end the following new paragraph:

"(4) In General.—Subject to paragraphs (2) and (3), not later than 1 year after the enactment of this paragraph, the Secretary of Homeland Security, together with the Secretary of the Treasury, shall promulgate regulations providing for the transmission to the Internal Revenue Service, through an electronic data interchange system, of information pertaining to cargo of taxable fuels (as defined in section 4083 of the Internal Revenue Code of 1986) destined for importation into the United States prior to such importation.".

(b) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act.

PART VI—MISCELLANEOUS PROVISIONS

SEC. 886. TAX ON SALE OF DIESEL FUEL WHETHER SUITABLE FOR USE OR NOT IN A DIESEL-POWERED VEHICLE OR TRAIN.

(a) In General.—Section 4083(a)(3) is amended—

(1) by striking "The term" and inserting the following:

"(A) In general.—The term", and

(2) by inserting at the end the following new subparagraph:

"(B) Liquid sold as diesel fuel.—The term 'diesel fuel' includes any liquid which is sold as or offered for sale as a fuel in a diesel-powered highway vehicle or a diesel-powered train.".

(b) Conforming Amendments.—

(1) Section 40B(b)(1)(B), as added by this Act, is amended by striking "4083(a)(3)" and inserting "4083(a)(3)(A)".

(2) Section 6426(c)(3), as added by this Act, is amended by striking "4083(a)(3)" and inserting "4083(a)(3)(A)".

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 887. MODIFICATION OF ULTIMATE VENDOR REFUND CLAIMS WITH RESPECT TO FARMING.

(a) In General.—

(1) Refunds.—Section 6427(l) is amended by adding at the end the following new paragraph:

"(6) Registered vendors permitted to administer certain claims for refund of diesel fuel and kerosene sold to farmers.—

"(A) In general.—In the case of diesel fuel or kerosene used on a farm for farming purposes (within the meaning of section 6420(c)), paragraph (1) shall not apply to the aggregate amount of such diesel fuel or kerosene if such amount does not exceed 500 gallons (as determined under subsection (i)(5)(A)(iii)).

"(B) Payment to ultimate vendor.—The amount which would (but for subparagraph (A)) have been paid under paragraph (1) with respect to any fuel shall be paid to the ultimate vendor of such fuel, if such vendor—

"(i) is registered under section 4101, and

"(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).".

(2) Filing of claims.—Section 6427(i) is amended by inserting at the end the following new paragraph:

"(5) Special rule for vendor refunds with respect to farmers.—

"(A) In general.—A claim may be filed under subsection (l)(6) by any person with respect to fuel sold by such person for any period—

"(i) for which $200 or more ($100 or more in the case of kerosene) is payable under subsection (l)(6),

"(ii) which is not less than 1 week, and

"(iii) which is for not more than 500 gallons for each farmer for which there is a claim.

Notwithstanding subsection (l)(1), paragraph (3)(B) shall apply to claims filed under the preceding sentence.

"(B) Time for filing claim.—No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim.".

(3) Conforming amendments.—

(A) Section 6427(l)(5)(A) is amended to read as follows:

"(A) In general.—Paragraph (1) shall not apply to diesel fuel or kerosene used by a State or local government.".

(B) The heading for section 6427(l)(5) is amended by striking "FARMERS AND".

(b) Effective Date.—The amendment made by this section shall apply to fuels sold for nontaxable use after the date of the enactment of this Act.

SEC. 888. TAXABLE FUEL REFUNDS FOR CERTAIN ULTIMATE VENDORS.

(a) In General.—Paragraph (4) of section 6416(a) (relating to abatements, credits, and refunds) is amended to read as follows:

"(4) Registered ultimate vendor to administer credits and refunds of gasoline tax.—

"(A) In general.—For purposes of this subsection, if an ultimate vendor purchases any gasoline on which tax imposed by section 4081 has been paid and sells such gasoline to an ultimate purchaser described in subparagraph (C) or (D) of subsection (b)(2) (and such gasoline is for a use described in such subparagraph), such ultimate vendor shall be treated as the person (and the only person) who paid such tax, but only if such ultimate vendor is registered under section 4101. For purposes of this subparagraph, if the sale of gasoline is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.

"(B) Timing of claims.—The procedure and timing of any claim under subparagraph (A) shall be the same as for claims under section 6427(i)(4), except that the rules of section 6427(i)(3)(B) regarding electronic claims shall not apply unless the ultimate vendor has certified to the Secretary for the most recent quarter of the taxable year that all ultimate purchasers of the vendor are certified and entitled to a refund under subparagraph (C) or (D) of subsection (b)(2).".

(b) Credit Card Purchases of Diesel Fuel or Kerosene by State and Local Governments.—Section 6427(l)(5)(C) (relating to nontaxable uses of diesel fuel, kerosene, and aviation fuel), as amended by this Act, is amended by adding at the end the following new sentence: "For purposes of this subparagraph, if the sale of diesel fuel or kerosene is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.".

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 889. TWO-PARTY EXCHANGES.

(a) In General.—Subpart C of part III of subchapter A of chapter 32, as amended by this Act, is amended by adding at the end the following new section:

"SEC. 4106. TWO-PARTY EXCHANGES.

"(a) In General.—In a two-party exchange, the delivering person shall not be liable for the tax imposed under of section 4081(a)(1)(A)(ii).

"(b) Two-Party Exchange.—The term 'two-party exchange' means a transaction, other than a sale, in which taxable fuel is transferred from a delivering person registered under section 4101 as a taxable fuel registrant to a receiving person who is so registered where all of the following occur:

"(1) The transaction includes a transfer from the delivering person, who holds the inventory position for taxable fuel in the terminal as reflected in the records of the terminal operator.

"(2) The exchange transaction occurs before or contemporaneous with completion of removal across the rack from the terminal by the receiving person.

"(3) The terminal operator in its books and records treats the receiving person as the person that removes the product across the terminal rack for purposes of reporting the transaction to the Secretary.

"(4) The transaction is the subject of a written contract.".

(b) Conforming Amendment.—The table of sections for subpart C of part III of subchapter A of chapter 32, as amended by of this Act, is amended by adding after the last item the following new item:

"Sec. 4106. Two-party exchanges.".

(c) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 890. MODIFICATIONS OF TAX ON USE OF CERTAIN VEHICLES.

(a) No Proration of Tax Unless Vehicle Is Destroyed or Stolen.—

(1) In general.—Section 4481(c) (relating to proration of tax) is amended to read as follows:

"(c) Proration of Tax Where Vehicle Sold, Destroyed, or Stolen.—

"(1) In general.—If in any taxable period a highway motor vehicle is sold, destroyed, or stolen before the first day of the last month in such period and not subsequently used during such taxable period, the tax shall be reckoned proportionately from the first day of the month in such period in which the first use of such highway motor vehicle occurs to and including the last day of the month in which such highway motor vehicle was sold, destroyed, or stolen.

"(2) Destroyed.—For purposes of paragraph (1), a highway motor vehicle is destroyed if such vehicle is damaged by reason of an accident or other casualty to such an extent that it is not economic to rebuild.".

(2) Conforming amendments.—

(A) Section 6156 (relating to installment payment of tax on use of highway motor vehicles) is repealed.

(B) The table of sections for subchapter A of chapter 62 is amended by striking the item relating to section 6156.

(b) Display of Tax Certificate.—Paragraph (2) of section 4481(d) (relating to one tax liability for period) is amended to read as follows:

"(2) Display of tax certificate.—Under regulations by the Secretary, every taxpayer which pays the tax imposed under this section with respect to a highway motor vehicle shall, not later than 1 month after the due date of the return of tax with respect to each taxable period, receive and display on such vehicle an electronic identification device prescribed by the Secretary.".

(c) Electronic filing.—Section 4481, is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) Electronic filing.—Any taxpayer who files a return under this section with respect to 25 or more vehicles for any taxable period shall file such return electronically.".

(d) Repeal of reduction in tax for certain trucks.—Section 4483 of the Internal Revenue Code of 1986 is amended by striking subsection (f).

(e) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable periods beginning after the date of the enactment of this Act.

(2) REGULATIONS REGARDING DISPLAY OF TAX CERTIFICATE.—The Secretary of the Treasury shall issue regulations required under section 4481(d)(2) of the Internal Revenue Code of 1986 (as added by subsection (b)) not later than October 1, 2005.

SEC. 891. DEDICATION OF REVENUES FROM CERTAIN PENALTIES TO THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—Subsection (b) of section 9503 (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes), is amended by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following new paragraph:

"(5) CERTAIN PENALTIES.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to the penalties assessed under sections 6715, 6715A, 6717, 6718, 6719, 6720, 6725, 7232, and 7272 (but only with regard to penalties under such section related to failure to register under section 4101).".

(b) CONFORMING AMENDMENTS.—

(1) The heading of subsection (b) of section 9503 is amended by inserting "AND PENALTIES" after "TAXES".

(2) The heading of paragraph (1) of section 9503(b) is amended by striking "IN GENERAL" and inserting "CERTAIN TAXES".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to penalties assessed after October 1, 2004.

SEC. 892. NONAPPLICATION OF EXPORT EXEMPTION TO DELIVERY OF FUEL TO MOTOR VEHICLES REMOVED FROM UNITED STATES.

(a) IN GENERAL.—Section 4221(d)(2) (defining export) is amended by adding at the end the following new sentence: "Such term does not include the delivery of a taxable fuel (as defined in section 4083(a)(1)) into a fuel tank of a motor vehicle which is shipped or driven out of the United States.".

(b) CONFORMING AMENDMENTS.—

(1) Section 4041(g) (relating to other exemptions) is amended by adding at the end the following new sentence: "Paragraph (3) shall not apply to the sale for delivery of a liquid into a fuel tank of a motor vehicle which is shipped or driven out of the United States.".

(2) Clause (iv) of section 4081(a)(1)(A) (relating to tax on removal, entry, or sale) is amended by inserting "or at a duty-free sales enterprise (as defined in section 555(b)(8) of the Tariff Act of 1930)" after "section 4101".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or deliveries made after the date of the enactment of this Act.

PART VII—TOTAL ACCOUNTABILITY

SEC. 893. TOTAL ACCOUNTABILITY.

(a) TAXATION OF REPORTABLE LIQUIDS.—

(1) IN GENERAL.—Section 4081(a), as amended by this Act, is amended—

(A) by inserting "or reportable liquid" after "taxable fuel" each place it appears, and

(B) by inserting "such liquid" after "such fuel" in paragraph (1)(A)(iv).

(2) RATE OF TAX.—Subparagraph (A) of section 4081(a)(2), as amended by this Act, is amended by striking "and" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", and", and by adding at the end the following new clause:

"(v) in the case of reportable liquids, the rate determined under section 4083(c)(2).".

(3) EXEMPTION.—Section 4081(a)(1) is amended by adding at the end the following new subparagraph:

"(C) EXEMPTION FOR REGISTERED TRANSFERS OF REPORTABLE LIQUIDS.—The tax imposed by this paragraph shall not apply to any removal, entry, or sale of a reportable liquid if—

"(i) such removal, entry, or sale is to a registered person who certifies that such liquid will not be used as a fuel or in the production of a fuel, or

"(ii) the sale is to the ultimate purchaser of such liquid.".

(4) REPORTABLE LIQUIDS.—Section 4083, as amended by this Act, is amended by redesignating subsections (c) and (d) (as redesignated by this Act) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new section:

"(c) REPORTABLE LIQUID.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'reportable liquid' means any petroleum-based liquid other than a taxable fuel.

"(2) TAXATION.—

"(A) GASOLINE BLEND STOCKS AND ADDITIVES.—Gasoline blend stocks and additives which are reportable liquids (as defined in paragraph (1)) shall be subject to the rate of tax under clause (i) of section 4081(a)(2)(A).

"(B) OTHER REPORTABLE LIQUIDS.—Any reportable liquid (as defined in paragraph (1)) not described in subparagraph (A) shall be subject to the rate of tax under clause (iii) of section 4081(a)(2)(A).".

(5) CONFORMING AMENDMENTS.—

(A) Section 4081(e) is amended by inserting "or reportable liquid" after "taxable fuel".

(B) Section 4083(d) (relating to certain use defined as removal), as redesignated by paragraph (4), is amended by inserting "or reportable liquid" after "taxable fuel".

(C) Section 4083(e)(1) (relating to administrative authority), as redesignated by paragraph (4), is amended—

(i) in subparagraph (A)—

(I) by inserting "or reportable liquid" after "taxable fuel", and

(II) by inserting "or such liquid" after "such fuel" each place it appears, and

(ii) in subparagraph (B), by inserting "or any reportable liquid" after "any taxable fuel".

(D) Section 4101(a)(2), as added by this Act, is amended by inserting "or a reportable liquid" after "taxable fuel".

(E) Section 4101(a)(3), as added and redesignated by this Act, is amended by inserting "or any reportable liquid" before the period at the end.

(F) Section 4102 is amended by inserting "or any reportable liquid" before the period at the end.

(G)(i) Section 6718, as added by this Act, is amended—

(I) in subsection (a), by inserting "or any reportable liquid (as defined in section 4083(c)(1))" after "section 4083(a)(1))", and

(II) in the heading, by inserting "OR REPORTABLE LIQUIDS" after "TAXABLE FUEL".

(ii) The item relating to section 6718 in table of sections for part I of subchapter B of chapter 68, as added by this Act, is amended by inserting "or reportable liquids" after "taxable fuels".

(H) Section 6427(h) is amended to read as follows:

"(h) GASOLINE BLEND STOCKS OR ADDITIVES AND REPORTABLE LIQUIDS.—Except as provided in subsection (k)—

"(1) if any gasoline blend stock or additive (within the meaning of section 4083(a)(2)) is not used by any person to produce gasoline and such person establishes that the ultimate use of such gasoline blend stock or additive is not to produce gasoline, or

"(2) if any reportable liquid (within the meaning of section 4083(c)(1)) is not used by any person to produce a taxable fuel and such person establishes that the ultimate use of such reportable liquid is not to produce a taxable fuel,

then the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of the tax imposed on such person with respect to such gasoline blend stock or additive or such reportable liquid.".

(I) Section 7232, as amended by this Act, is amended by inserting "or reportable liquid (within the meaning of section 4083(c)(1))" after "section 4083)".

(J) Section 343 of the Trade Act of 2002, as amended by this Act, is amended by inserting "and reportable liquids (as defined in section 4083(c)(1) of such Code)" after "Internal Revenue Code of 1986)".

(b) DYED DIESEL.—Section 4082(a) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting "and", and by inserting after paragraph (3) the following new paragraph:

"(4) which is removed, entered, or sold by a person registered under section 4101.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to reportable liquids (as defined in section 4083(c) of the Internal Revenue Code) and fuel sold or used after September 30, 2004.

SEC. 894. EXCISE TAX REPORTING.

(a) IN GENERAL.—Part II of subchapter A of chapter 61 is amended by adding at the end the following new subpart:

"SUBPART E—EXCISE TAX REPORTING

"SEC. 6025. RETURNS RELATING TO FUEL TAXES.

"(a) IN GENERAL.—The Secretary shall require any person liable for the tax imposed under Part III of subchapter A of chapter 32 to file a return of such tax on a monthly basis. Not earlier than January 1, 2005, such filings shall be in electronic form as prescribed by the Secretary.

"(b) INFORMATION INCLUDED WITH RETURN.—The Secretary shall require any person filing a return under subsection (a) to provide information regarding any refined product (whether or not such product is taxable under this title) removed from a terminal during the period for which such return applies.".

(b) CONFORMING AMENDMENT.—The table of parts for subchapter A of chapter 61 is amended by adding at the end the following new item:

"Subpart E—Excise Tax Reporting".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after September 30, 2004.

SEC. 895. INFORMATION REPORTING.

(a) IN GENERAL.—Section 4101(d) is amended by adding at the end the following new flush sentence:

"The Secretary shall require reporting under the previous sentence with respect to taxable fuels removed, entered, or transferred from any refinery, pipeline, or vessel which is registered under this section. Any person who is required to report under this subsection and who has 25 or more reportable transactions in a month shall file such report in electronic format.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply on October 1, 2004.

Subtitle I—Mobile Machinery

SEC. 896. TREATMENT OF MOBILE MACHINERY.

(a) TREATMENT OF MOBILE MACHINERY AS HIGHWAY VEHICLE.—

(1) IN GENERAL.—Section 7701(a) (relating to definitions) is amended by adding at the end the following new paragraph:

"(48) Treatment of mobile machinery as highway vehicle.—

"(A) In general.—A vehicle described in subparagraph (B) shall be treated as a highway vehicle.

"(B) Mobile machinery.—A vehicle is described in this subparagraph if such vehicle consists of a chassis—

"(i) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,

"(ii) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

"(iii) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.".

(2) Effective date.—The amendment made by this subsection shall take effect on the day after the date of the enactment of this Act.

(b) Eligibility for Refund in Case of Limited Use of Vehicle on Highways.—

(1) Retail sales and tire taxes.—

(A) In general.—Section 6416(b) (relating to special cases in which tax payments considered overpayments) is amended by adding at the end the following new paragraph:

"(7) Mobile machinery.—

"(A) In general.—If the tax imposed by section 4051 or 4071 has been paid with respect to any vehicle described in section 7701(a)(48)(B) which meets the use-based test for each of the first 2 12-month periods after such payment, 50 percent of such tax shall be considered an overpayment for each such period.

"(B) Use-based test.—For purposes of subparagraph (A), the use-based test is met if the use of the vehicle on public highways was less than 5,000 miles during any 12-month period.

"(C) Special rule for use by certain tax-exempt organizations.—For purposes of subparagraph (A), the use-based test shall be determined without regard to any use in a vehicle by an organization which is described in section 501(c) and exempt from tax under section 501(a).".

(B) Effective date.—The amendment made by this paragraph shall take effect on the day after the date of the enactment of this Act.

(2) Fuel Taxes.—

(A) In general.—Section 6421(e)(2) (defining off-highway business use) is amended by adding at the end the following new subparagraph:

"(C) Uses in mobile machinery.—

"(i) In general.—The term 'off-highway business use' shall include any use in a vehicle described in section 7701(a)(48)(B) which meets the use-based test.

"(ii) Use-based test.—For purposes of clause (i), the use-based test is met if the use of the vehicle on public highways was less than 5,000 miles during the taxpayer's taxable year.

"(iii) Special rule for use by certain tax-exempt organizations.—For purposes of clause (i), the use-based test shall be determined without regard to any use in a vehicle by an organization which is described in section 501(c) and exempt from tax under section 501(a).".

(B) Annual refund of tax paid.—Section 6427(i)(2) (relating to exceptions) is amended by adding at the end the following new subparagraph:

"(C) Nonapplication of paragraph.—This paragraph shall not apply to any fuel used in any off-highway business use described in section 6421(e)(2)(C).".

(C) Effective date.—The amendments made by this paragraph shall apply to taxable years beginning after the date of the enactment of this Act.

(3) Conforming amendment for tax-exempt users with respect to use tax.—

(A) In general.—Section 4483(d)(1) (relating to suspension of tax) is amended by adding at the end the following new subparagraph:

"(C) Special rule for use by certain tax-exempt organizations.—Subparagraph (A) shall be determined without regard to any use in a vehicle by an organization which is described in section 501(c) and exempt from tax under section 501(a).".

(B) Effective date.—The amendment made by this paragraph shall take effect on the day after the date of the enactment of this Act.

Subtitle J—Additional Provisions

SEC. 897. STUDY OF EFFECTIVENESS OF CERTAIN PROVISIONS BY GAO.

(a) Study.—The Comptroller General of the United States shall undertake an ongoing analysis of—

(1) the effectiveness of the alternative motor vehicles and fuel incentives provisions under subtitle B and the conservation and energy efficiency provisions under subtitle C, and

(2) the recipients of the tax benefits contained in such provisions, including an identification of such recipients by income and other appropriate measurements.

Such analysis shall quantify the effectiveness of such provisions by examining and comparing the Federal Government's forgone revenue to the aggregate amount of energy actually conserved and tangible environmental benefits gained as a result of such provisions.

(b) Reports.—The Comptroller General of the United States shall report the analysis required under subsection (a) to Congress not later than December 31, 2004, and annually thereafter.

SEC. 898. REPEAL OF 4.3-CENT MOTOR FUEL EXCISE TAXES ON RAILROADS AND INLAND WATERWAY TRANSPORTATION WHICH REMAIN IN GENERAL FUND.

(a) Taxes on Trains.—

(1) In general.—Subparagraph (A) of section 4041(a)(1) is amended by striking "or a diesel-powered train" each place it appears and by striking "or train".

(2) Conforming amendments.—

(A) Subparagraph (C) of section 4041(a)(1) is amended by striking clause (ii) and by redesignating clause (iii) as clause (ii).

(B) Subparagraph (C) of section 4041(b)(1) is amended by striking all that follows "section 6421(e)(2)" and inserting a period.

(C) Subsection (d) of section 4041 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) Diesel fuel used in trains.—There is hereby imposed a tax of 0.1 cent per gallon on any liquid other than gasoline (as defined in section 4083)—

"(A) sold by any person to an owner, lessee, or other operator of a diesel-powered train for use as a fuel in such train, or

"(B) used by any person as a fuel in a diesel-powered train unless there was a taxable sale of such fuel under subparagraph (A).

No tax shall be imposed by this paragraph on the sale or use of any liquid if tax was imposed on such liquid under section 4081."

(D) Subsection (f) of section 4082 is amended by striking "section 4041(a)(1)" and inserting "subsections (d)(3) and (a)(1) of section 4041, respectively".

(E) Paragraph (3) of section 4083(a) is amended by striking "or a diesel-powered train".

(F) Paragraph (3) of section 6421(f) is amended to read as follows:

"(3) Gasoline used in trains.—In the case of gasoline used as a fuel in a train, this section shall not apply with respect to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081."

(G) Paragraph (3) of section 6427(l) is amended to read as follows:

"(3) Refund of certain taxes on fuel used in diesel-powered trains.—For purposes of this subsection, the term 'nontaxable use' includes fuel used in a diesel-powered train. The preceding sentence shall not apply to the tax imposed by section 4041(d) and the Leaking Underground Storage Tank Trust Fund financing rate under section 4081 except with respect to fuel sold for exclusive use by a State or any political subdivision thereof."

(b) Fuel Used on Inland Waterways.—

(1) In general.—Paragraph (1) of section 4042(b) is amended by adding "and" at the end of subparagraph (A), by striking ", and" at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(2) Conforming amendment.—Paragraph (2) of section 4042(b) is amended by striking subparagraph (C).

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 899. DISTRIBUTIONS FROM PUBLICLY TRADED PARTNERSHIPS TREATED AS QUALIFYING INCOME OF REGULATED INVESTMENT COMPANIES.

(a) In General.—Paragraph (2) of section 851(b) (defining regulated investment company) is amended to read as follows:

"(2) at least 90 percent of its gross income is derived from—

"(A) dividends, interest, payments with respect to securities loans (as defined in section 512(a)(5)), and gains from the sale or other disposition of stock or securities (as defined in section 2(a)(36) of the Investment Company Act of 1940, as amended) or foreign currencies, or other income (including but not limited to gains from options, futures or forward contracts) derived with respect to its business of investing in such stock, securities, or currencies, and

"(B) distributions or other income derived from an interest in a qualified publicly traded partnership (as defined in subsection (h)); and"

(b) Source Flow-Through Rule Not To Apply.—The last sentence of section 851(b) is amended by inserting "(other than a qualified publicly traded partnership as defined in subsection (h))" after "derived from a partnership".

(c) Limitation on Ownership.—Subsection (c) of section 851 is amended by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following new paragraph:

"(5) The term 'outstanding voting securities of such issuer' shall include the equity securities of a qualified publicly traded partnership (as defined in subsection (h)).”.

(d) Definition of Qualified Publicly Traded Partnership.—Section 851 is amended by adding at the end the following new subsection:

“(h) Qualified Publicly Traded Partnership.—For purposes of this section, the term ‘qualified publicly traded partnership’ means a publicly traded partnership described in section 7704(b) other than a partnership which would satisfy the gross income requirements of section 7704(c)(2) if qualifying income included only income described in subsection (b)(2)(A).”.

(e) Definition of Qualifying Income.—Section 7704(d)(4) is amended by striking “section 851(b)(2)” and inserting “section 851(b)(2)(A)”.

(f) Limitation on Composition of Assets.—Subparagraph (B) of section 851(b)(3) is amended to read as follows:

“(B) not more than 25 percent of the value of its total assets is invested in—

“(i) the securities (other than Government securities or the securities of other regulated investment companies) of any one issuer,

“(ii) the securities (other than the securities of other regulated investment companies) of two or more issuers which the taxpayer controls and which are determined, under regulations prescribed by the Secretary, to be engaged in the same or similar trades or businesses or related trades or businesses, or

“(iii) the securities of one or more qualified publicly traded partnerships (as defined in subsection (h)).”.

(g) Application of Special Passive Activity Rule to Regulated Investment Companies.—Subsection (k) of section 469 (relating to separate application of section in case of publicly traded partnerships) is amended by adding at the end the following new paragraph:

“(4) Application to regulated investment companies.—For purposes of this section, a regulated investment company (as defined in section 851) holding an interest in a qualified publicly traded partnership (as defined in section 851(h)) shall be treated as a taxpayer described in subsection (a)(2) with respect to items attributable to such interest.”.

(h) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 899A. CERTAIN BUSINESS RELATED CREDITS ALLOWED AGAINST REGULAR AND MINIMUM TAX.

(a) In General.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

“(4) Special rules for specified credits.—

“(A) In general.—In the case of specified credits—

“(i) this section and section 39 shall be applied separately with respect to such credits, and

“(ii) in applying paragraph (1) to such credits—

“(I) the tentative minimum tax shall be treated as being zero, and

“(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the specified credits).

“(B) Specified credits.—For purposes of this subsection, the term ‘specified credits’ includes—

“(i) for taxable years beginning after December 31, 2004, the credit determined under section 40, and

“(ii) the credit determined under section 45 to the extent that such credit is attributable to electricity produced—

“(I) at a facility which is originally placed in service after the date of the enactment of this paragraph, and

“(II) during the 4-year period beginning on the date that such facility was originally placed in service.”.

(b) Conforming Amendments.—Paragraph (2)(A)(ii)(II) and (3)(A)(ii)(II) of section 38(c) are each amended by inserting “or the specified credits” after “employee credit”.

(c) Effective Date.—Except as otherwise provided, the amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 899B. CREDIT FOR QUALIFYING POLLUTION CONTROL EQUIPMENT.

(a) Allowance of Qualifying Pollution Control Equipment Credit.—Section 46 (relating to amount of credit), as amended by this Act, is amended by striking “and” at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting “, and”, and by adding at the end the following new paragraph:

“(4) the qualifying pollution control equipment credit.”.

(b) Amount of Qualifying Pollution Control Equipment Credit.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit), as amended by this Act, is amended by inserting after section 48A the following new section:

“SEC. 48B. QUALIFYING POLLUTION CONTROL EQUIPMENT CREDIT.

“(a) In General.—For purposes of section 46, the qualifying pollution control equipment credit for any taxable year is an amount equal to 15 percent of the basis of the qualifying pollution control equipment placed in service at a qualifying facility during such taxable year.

“(b) Qualifying Pollution Control Equipment.—For purposes of this section, the term ‘qualifying pollution control equipment’ means any technology installed in or on a qualifying facility to reduce air emissions of any pollutant regulated by the Environmental Protection Agency under the Clean Air Act, including thermal oxidizers, regenerative thermal oxidizers, scrubber systems, evaporative control systems, vapor recovery systems, flair systems, bag houses, cyclones, continuous emissions monitoring systems, and low nitric oxide burners.

“(c) Qualifying Facility.—For purposes of this section, the term ‘qualifying facility’ means any facility which produces not less than 1,000,000 gallons of ethanol during the taxable year.

“(d) Special Rule for Certain Subsidized Property.—Rules similar to section 48(a)(4) shall apply for purposes of this section.

“(e) Certain Qualified Progress Expenditures Rules Made Applicable.—Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this subsection.”.

(c) Recapture of Credit Where Emissions Reduction Offset is Sold.—Paragraph (1) of section 50(a) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

“(B) Special rule for qualifying pollution control equipment.—For purposes of subparagraph (A), any investment property which is qualifying pollution control equipment (as defined in section 48B(b)) shall cease to be investment credit property with respect to a taxpayer if such taxpayer receives a payment in exchange for a credit for emission reductions attributable to such qualifying pollution control equipment for purposes of an offset requirement under part D of title I of the Clean Air Act.”.

(d) Special Rule for Basis Reduction; Recapture of Credit.—Paragraph (3) of section 50(c) (relating to basis adjustment to investment credit property), as amended by this Act, is amended by inserting “or qualifying pollution control equipment credit” after “energy credit”.

(e) Effective Date.—The amendments made by this section shall apply to property placed in service after December 31, 2003, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 899C. ELECTRIC TRANSMISSION PROPERTY TREATED AS 15-YEAR PROPERTY.

(a) In General.—Subparagraph (E) of section 168(e)(3) (relating to classification of certain property), as amended by this Act, is amended by striking “and” at the end of clause (iii), by striking the period at the end of clause (iv) and by inserting “, and”, and by adding at the end the following new clause:

“(v) any section 1245 property (as defined in section 1245(a)(3)) used in the transmission at 69 or more kilovolts of electricity for sale the original use of which commences with the taxpayer after the date of the enactment of this clause.”.

(b) Alternative System.—The table contained in section 168(g)(3)(B) is amended by inserting after the item relating to subparagraph (E)(iv) the following:

“(E)(v) .... 30”.

(c) Effective Date.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, and prior to July 1, 2006.

TITLE IX—HOMESTEAD PRESERVATION ACT

SEC. 901. SHORT TITLE.

This title may be cited as the “Homestead Preservation Act”.

SEC. 902. MORTGAGE PAYMENT ASSISTANCE.

(a) Establishment of Program.—The Secretary of Housing and Urban Development (referred to in this section as the “Secretary”) shall establish a program under which the Secretary shall award low-interest loans to eligible individuals to enable such individuals to continue to make mortgage payments with respect to the primary residences of such individuals.

(b) Eligibility.—To be eligible to receive a loan under the program established under subsection (a), an individual shall be—

(1) an individual that is a worker adversely affected by international economic activity, as determined by the Secretary;

(2) a borrower under a loan which requires the individual to make monthly mortgage payments with respect to the primary place of residence of the individual; and

(3) enrolled in a training or assistance program.

(c) Loan Requirements.—

(1) In general.—A loan provided to an eligible individual under this section shall—

(A) be for a period of not to exceed 12 months;

(B) be for an amount that does not exceed the sum of—

(i) the amount of the monthly mortgage payment owed by the individual; and

(ii) the number of months for which the loan is provided;

(C) have an applicable rate of interest that equals 4 percent;

(D) require repayment as provided for in subsection (d); and

(E) be subject to such other terms and conditions as the Secretary determines appropriate.

(2) ACCOUNT.—A loan awarded to an individual under this section shall be deposited into an account from which a monthly mortgage payment will be made in accordance with the terms and conditions of such loan.

(d) REPAYMENT.—

(1) IN GENERAL.—An individual to which a loan has been awarded under this section shall be required to begin making repayments on the loan on the earlier of—

(A) the date on which the individual has been employed on a full-time basis for 6 consecutive months; or

(B) the date that is 1 year after the date on which the loan has been approved under this section.

(2) REPAYMENT PERIOD AND AMOUNT.—

(A) REPAYMENT PERIOD.—A loan awarded under this section shall be repaid on a monthly basis over the 5-year period beginning on the date determined under paragraph (1).

(B) AMOUNT.—The amount of the monthly payment described in subparagraph (A) shall be determined by dividing the total amount provided under the loan (plus interest) by 60.

(C) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to prohibit an individual from—

(i) paying off a loan awarded under this section in less than 5 years; or

(ii) from paying a monthly amount under such loan in excess of the monthly amount determined under subparagraph (B) with respect to the loan.

(e) REGULATIONS.—Not later than 6 weeks after the date of enactment of this section, the Secretary shall promulgate regulations necessary to carry out this section, including regulations that permit an individual to certify that the individual is an eligible individual under subsection (b).

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $10,000,000 for each of fiscal years 2005 through 2009.

TITLE X—OFFICE OF FEDERAL PROCUREMENT POLICY ACT IMPROVEMENTS

SEC. 1001. REPORT ON ACQUISITIONS OF GOODS FROM FOREIGN SOURCES.

(a) REPORT.—The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 43. REPORT ON ACQUISITIONS OF GOODS FROM FOREIGN SOURCES.

"(a) Not later than 60 days after the end of each fiscal year, the head of each executive agency shall submit to Congress a report on the acquisitions that were made of articles, materials, or supplies by such executive agency in that fiscal year from entities that manufacture the articles, materials, or supplies outside the United States.

"(b) The report for a fiscal year under subsection (a) shall separately indicate the following information:

"(1) The dollar value of any articles, materials, or supplies that were manufactured outside the United States.

"(2) An itemized list of all waivers granted with respect to such articles, materials, or supplies under the Buy American Act (41 U.S.C. 10a et seq.).

"(3) A summary of—

"(A) the total procurement funds expended on articles, materials, and supplies manufactured inside the United States; and

"(B) the total procurement funds expended on articles, materials, and supplies manufactured outside the United States.

"(c) The head of each executive agency submitting a report under subsection (a) shall make the report publicly available by posting on an Internet website.

"(d) Subsection (a) shall not apply to any procurement for national security purposes entered into by—

"(1) the Department of Defense or any agency or entity thereof;

"(2) the Department of the Army, the Department of the Navy, the Department of the Air Force, or any agency or entity of any of the military departments;

"(3) the Department of Homeland Security;

"(4) the Department of Energy or any agency or entity thereof, with respect to the national security programs of that Department; or

"(5) any element of the intelligence community.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Office of Federal Procurement Policy Act is amended by adding at the end the following new item:

"Sec. 43. Report on acquisitions of goods from foreign sources.".

(c) COMMERCE DEPARTMENT REPORT.—Not later than 60 days after the end of each fiscal year ending after the date of the enactment of this Act, the Secretary of Commerce shall submit to Congress and make publicly available by posting on an Internet website a report on the acquisitions by foreign governments of articles, materials, or supplies that were manufactured or extracted in the United States in that fiscal year. Such report shall indicate the dollar value of such articles, materials, or supplies.

UNANIMOUS CONSENT AGREEMENT—S. 15

Mr. FRIST. Mr. President, I ask unanimous consent that on Wednesday, May 19, at a time to be determined by the majority leader, in consultation with the minority leader, the Senate proceed to the consideration of Calendar No. 53, S. 15, the bioshield legislation. I further ask consent that the only amendment in order be a Gregg-Kennedy substitute; provided that there be 2 hours of debate equally divided between the chairman and ranking member of the HELP Committee, and upon the use or yielding back of the time, the substitute amendment be agreed to, the committee amendment, as amended, be agreed to, the bill, as amended, be read a third time, and the Senate proceed to a vote on passage, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDING THE SMALL BUSINESS INVESTMENT ACT OF 1958

Mr. FRIST. Mr. President, I ask unanimous consent that the Small Business Committee be discharged from further consideration of H.R. 923 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 923) to amend the Small Business Investment Act of 1958 to allow certain premier certified lenders to elect to maintain an alternative loss reserve.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 923) was read the third time and passed.

MEASURE PLACED ON THE CALENDAR—H.R. 4275

Mr. FRIST. Mr. President, I understand there is a bill at the desk that is due for a second reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for the second time.

The legislative clerk read as follows:

A bill (H.R. 4275) to amend the Internal Revenue Code of 1986 to permanently extend the 10-percent individual income tax rate bracket.

Mr. FRIST. In order to place the bill on the calendar under the provisions of rule XIV, I object to further proceeding.

The PRESIDING OFFICER. Objection is heard.

The bill will be placed on the calendar.

ORDERS FOR WEDNESDAY, MAY 19, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Wednesday, May 19. I further ask consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business for up to 90 minutes, with the Democratic leader or his designee in control of the first 45 minutes, and the majority leader or his designee in control of the final 45 minutes; provided that following morning business, the Senate resume consideration of Calendar No. 503, S. 2400, the Department of Defense authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Tomorrow, following morning business, the Senate will resume debate on the Department of Defense authorization bill. We will continue the amendment process tomorrow morning. The chairman and ranking member will be here throughout the day to receive amendments, and I encourage all Members who have amendments to contact them at the earliest possible time. We would like to complete the Defense bill this week. We will need everyone's cooperation to conclude this bill before the recess. Therefore, rollcall votes should be anticipated throughout the day, and Senators will be notified when the first vote is scheduled.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:44 p.m., adjourned until Wednesday, May 19, 2004, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 18, 2004:

FEDERAL RESERVE SYSTEM

ALAN GREENSPAN, OF NEW YORK, TO BE CHAIRMAN OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR A TERM OF FOUR YEARS. (REAPPOINTMENT)

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

CAPTAIN SAMUEL P. DE BOW, JR., NOAA FOR APPOINTMENT TO THE GRADE OF REAR ADMIRAL (O-8), WHILE SERVING IN A POSITION OF IMPORTANCE AND RESPONSIBILITY AS DIRECTOR, NOAA CORPS AND DIRECTOR, OFFICE OF MARINE AND AVIATION OPERATIONS, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, UNDER THE PROVISIONS OF TITLE 33, UNITED STATES CODE, SECTION 3028(D)(1).

CAPTIAN RICHARD R. BEHN, NOAA FOR APPOINTMENT TO THE GRADE OF REAR ADMIRAL (O-7), WHILE SERVING IN A POSITION OF IMPORTANCE AND RESPONSIBILITY AS DIRECTOR, MARINE AND AVIATION OPERATIONS CENTERS, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, UNDER THE PROVISIONS OF TITLE 33, UNITED STATES CODE, SECTION 3028(D)(1).

FOREIGN SERVICE

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASS STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH: FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS THREE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF AGRICULTURE

ROBERT H. HANSON, OF FLORIDA

THE FOLLOWING NAMED MEMBERS OF THE FOREIGN SERVICE TO THE DEPARTMENT OF STATE TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED: CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF COMMERCE

MARY F. BOSCIA, OF VIRGINIA
BRYAN D. LARSON, OF COLORADO
ROBERT A. PEASLEE, OF COLORADO
SHERYL A. PINCKNEY-MAAS, OF SOUTH CAROLINA
CAMERON S. WERKER, OF VIRGINIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS FOUR, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF COMMERCE

IREAS C. COOK, OF TEXAS
JASON R. FIELD, OF WASHINGTON
JASON M. HANCOCK, OF MINNESOTA
DAVID E. KNUTI, OF VIRGINIA
MARK A. RUSSELL, OF CALIFORNIA

THE FOLLOWING NAMED MEMBERS OF THE FOREIGN SERVICE TO THE DEPARTMENT OF STATE TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED: CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF COMMERCE

LORA A. BAKER, OF CALIFORNIA

DEPARTMENT OF STATE

JEAN ELIZABETH AKERS, OF NEW YORK
SYED NAUSHER M ALI, OF CALIFORNIA
CATHY J. ARMSTRONG, OF VIRGINIA
KERA K. ARONSON, OF VIRGINIA
CHRISTOPHER CHARLES ASHE, OF THE DISTRICT OF COLUMBIA
CLAUDIA L. BAKER, OF CALIFORNIA
CHERYL R. BALTZER, OF SOUTH DAKOTA
GREGORY J. BANASZAK, OF VIRGINIA
PETER R. BARTE, OF MINNESOTA
LYNN K. BATALDEN, OF THE DISTRICT OF COLUMBIA
MICHAEL W. BENNETT, OF VIRGINIA
MICHAEL L. BENTON, OF MARYLAND
EDWARD MARTIN BOGAN, OF THE DISTRICT OF COLUMBIA
DAVID J. BOUMAN, OF WASHINGTON
THOMAS S. BOYDEN, OF VIRGINIA
JESSICA L. BROWN, OF THE DISTRICT OF COLUMBIA
DEBORAH L. CAMPBELL, OF FLORIDA
HEATHER L. CAMPBELL, OF VIRGINIA
DANA LYNN CANDELL, OF VIRGINIA
LANDRY JOSEPH CARR, OF LOUISIANA
PHILIP MICHAEL CINNAMON, OF VIRGINIA
JAYMIE D. COOK, OF VIRGINIA
DANIELLE A. COOTE, OF VIRGINIA
JOHN C. CORRAO, OF INDIANA
CHARLOTTE ANN CROUCH, OF ARIZONA
JENNIFER DENISE CROW, OF CALIFORNIA
JOANNE HELD CUMMINGS, OF TEXAS
BRIAN SEAN DARIN, OF INDIANA
JANET E. DEUTSCH, OF ILLINOIS
GARY L. DEWEY, OF ARIZONA
MARGARET ROSE DONAKOWSKI, OF VIRGINIA
JEFFREY T. DUBIEL, OF VIRGINIA
SARAH A. DUFFY, OF ILLINOIS
ALLISON D. DYESS, OF TEXAS
ERIC SHERIDAN EASLEY, OF THE DISTRICT OF COLUMBIA
KARL R. EHLERS, OF VIRGINIA
THARNTHIP T. FAIST, OF VIRGINIA
CHARLES FINFROCK, OF THE DISTRICT OF COLUMBIA
LAURA K. FOREST, OF VIRGINIA
JOY L. FULTON, OF THE DISTRICT OF COLUMBIA
CARSON GARNER, OF MARYLAND
ALAN K. GIBBS, OF FLORIDA
CARLA A. GONNEVILLE, OF CALIFORNIA
JOHN R. GROCH, OF PENNSYLVANIA
MARC E. GRUZENSKI, OF MARYLAND
PHAEDRA MARIE GWYN, OF TEXAS
GAYLE JO HALLMAN, OF VIRGINIA
KERRY HALPIN, OF VIRGINIA
JOHN C. HANSEN, OF VIRGINIA
KELLY A. HAPKA, OF TEXAS
GENE DOUGLAS HARREL, OF CALIFORNIA
JOHN CHARLES HARTMAN, OF KENTUCKY
KEVIN A. HERRERA, OF VIRGINIA
ANGELA L. HICKS, OF PENNSYLVANIA
LESLIE AYN HILBERT, OF VIRGINIA
ROBERT L. HOOPER, OF MASSACHUSETTS
DAVID J. HUGHEY, OF VIRGINIA
JASON T. INGRAM, OF VIRGINIA
THEODORE EVAN JASIK, OF NEW YORK
DENISE JOBIN-WELCH, OF PENNSYLVANIA
ALMA MUSANOVIC JOHNSON, OF NEW HAMPSHIRE
CHRISTOPHER KEITH JOHNSON, OF VIRGINIA
DANIEL B. JOHNSON, OF ILLINOIS
TIMOTHY RAY JOHNSON, OF VIRGINIA
BARBARA S. KEARY, OF THE DISTRICT OF COLUMBIA
SHERYL HOPE KLEE, OF FLORIDA
WENDY A. KOLLS, OF CALIFORNIA
KIRSTEN M. KRAWCZYK, OF VIRGINIA
MELINDA H. LAMONT-HAVERS, OF VIRGINIA
PAULA I. L'ECUYER, OF VIRGINIA
SEUNGHYE S. LIM, OF FLORIDA
KENNETH G. LIMPARIS, OF MARYLAND
SARA L. LITKE, OF WASHINGTON
KEVIN M. LLOYD, OF MARYLAND
KARA E. LOEFFLER, OF VIRGINIA
PAUL LOH, OF VIRGINIA
JERRY BUENO LOPEZ, OF CALIFORNIA
STEPHEN E. LYNAGH, OF NEW YORK
JOSLYN G. MACK, OF THE DISTRICT OF COLUMBIA
JONATHAN F. MALTMAN, OF VIRGINIA
GUY MARGALITH, OF NEW YORK
BERENICE MARISCAL, OF TEXAS
CRISTINA MARIE MARKO, OF ARIZONA
BRETON H. MARSH, OF VIRGINIA
WILLIAM J. MARSHALL, OF VIRGINIA
RYAN D. MATHENY, OF CALIFORNIA
P. CHRISTOPHER MCCABE, OF COLORADO
CATHERINE E. MCGEARY, OF VIRGINIA
ALEXANDER MCLAREN, OF NEW YORK
ANN MECEDA, OF CALIFORNIA
JOSEPH J. MELE, OF MARYLAND
GWENDOLYN S. MELICH, OF VIRGINIA
CHRISTOPHER S. MERKLE, OF VIRGINIA
CHRISTINE ELIZABETH MEYER, OF TEXAS
MICHELINE J. MEYERS, OF VIRGINIA
AMY M. MOSER, OF MISSOURI
E. WILLIAM MURAD, OF VIRGINIA
KEVIN THOMAS MURAKAMI, OF CALIFORNIA
JENIFER LYNN NEIDHART DE ORTIZ, OF MARYLAND
ERIC OWENS, OF ILLINOIS
SARAH HALE PALAIA, OF WASHINGTON
JAMES R. PASQUALINI, OF VIRGINIA
CONEY PATTERSON, OF VIRGINIA
TIMOTHY EUGENE PELTIER, OF VIRGINIA
STEVEN J. PERRY, OF VIRGINIA
BRIAN R. PETERSON, OF WASHINGTON
ERIC A. PLUES, OF VIRGINIA
ANDREW POSNER, OF CALIFORNIA
RONA R. RATHOD, OF CALIFORNIA
GARY L. REX, OF FLORIDA
MICHELLE L. RIEBELING, OF MISSOURI
RICHARD W. ROESING III, OF PENNSYLVANIA
AUDREY JANE ROY, OF VIRGINIA
MEREDITH RUBIN, OF VIRGINIA
TRINA D. SAHA, OF CALIFORNIA
ANNE LEE SESHADRI, OF MARYLAND
CHARLES H. SEWALL, OF FLORIDA
PREETI VIKAS SHAH, OF MICHIGAN
KIM SHAW, OF CALIFORNIA
DAVID S. SHEKMER, OF VIRGINIA
CARRIE ANNA SHIRTZ, OF WISCONSIN
RUSSELL SINGER NY, OF NEW YORK
ANNE R. SIPPEL, OF GEORGIA
HELEN SMITH, OF THE DISTRICT OF COLUMBIA
JENNIFER E. SMITH, OF VIRGINIA
STEVEN TAYLOR SMITH, OF NEW HAMPSHIRE
DAVID B. SNIDER, OF VIRGINIA
G. MICHAEL SNYDER, OF THE DISTRICT OF COLUMBIA
MADALYN N. SNYDER, OF COLORADO
MICHAEL G. SPRING, OF ILLINOIS
DEBRA A. STEIGERWALT, OF VIRGINIA
JASON A. STOCK, OF UTAH
ANDREA V. STRANO, OF NEW YORK
DEBRA TAYLOR, OF ILLINOIS
ROY THERRIEN, OF CONNECTICUT
MATTHEW F. THOMAS, OF VIRGINIA
CHAD A. THORNBERRY, OF THE DISTRICT OF COLUMBIA
CHRISTOPHER L. TURNER, OF FLORIDA
CAROLYN L. TURPIN, OF FLORIDA
ANN-JANETTE TWOMBLY, OF VIRGINIA
CRAIG MICHAEL UHL MD, OF THE DISTRICT OF COLUMBIA
THOMAS LOGAN WAIT, OF VIRGINIA
CHARLENE SHIAU-NING WANG, OF CALIFORNIA
RUDDY KERFUN WANG, OF CALIFORNIA
JENNIFER L. B. WARF, OF VIRGINIA
BRIAN ELSON WATENPAUGH, OF MARYLAND
SAMUEL WERBERG, OF NEW YORK
LILIETH R. WHYTE, OF COLORADO
SEAN P. WILKINS, OF VIRGINIA
PATRICK RANDALL WINGATE, OF TEXAS
DANIELLE K. WOOD, OF OHIO
JEAN THOMAS WOYNICKI, OF PENNSYLVANIA
DANIELA ZADROZNY, OF TEXAS

THE FOLLOWING-NAMED CAREER MEMBERS OF FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED: CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER COUNSELOR, IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF COMMERCE

BARRY I. FRIEDMAN, OF NEW YORK
BOBETTE K. ORR, OF VIRGINIA

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF COMMERCE

BERYL C. BLECHER, OF FLORIDA
WILLIAM N. CENTER, OF FLORIDA
KEITH M. CURTIS, OF VIRGINIA
DANIEL L. THOMPSON, OF HAWAII

DEPARTMENT OF STATE

LESLIE ANN BASSETT, OF CALIFORNIA
DONNA M. BLAIR, OF LOUISIANA

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

SUBJECT TO QUALIFICATIONS PROVIDED BY LAW, THE FOLLOWING FOR PERMANENT APPOINTMENT TO THE GRADES INDICATED IN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.

To be captain

JOHN C. CLARY III
ROBERT X. MCCANN JR.
SAMUEL P. DE BOW JR.
ROBERT W. MAXSON
GARY D. PETRAE
MARK S. FINKE

JAMES C. GARDNER JR.
RICHARD R. BEHN
DANIEL R. HERLIHY
GARY P. BULMER
GEORGE E. WHITE

To be commander

SEAN R. WHITE
TIMOTHY D. TISCH
STEPHEN A. KOZAK
STEVEN A. THOMPSON
WILLIAM E. SITES
KENNETH W. BARTON
JOHN W. HUMPHREY JR.
TIMOTHY J. CLANCY
PHILIP R. KENNEDY
JOHN E. LOWELL JR.
MARK P. ABLONDI
FREDERICK W. ROSSMANN
CRAIG L. BAILEY
EMILY B. CHRISTMAN
MICHAEL S. ABBOTT
SCOTT E. KUESTER
TODD C. STILES
FRANK A. WOOD
WADE J. BLAKE
ROBERT W. POSTON
BRIAN K. TAGGART
MICHAEL S. GALLAGHER
MICHELE G. BULLOCK
GREGG LAMONTAGNE
GERD F. GLANG

To be lieutenant commander

THOMAS G. CALLAHAN
JEFFREY K. BROWN
DONALD W. HAINES
RICHARD A. FLETCHER
MICHELE A. FINN
PAUL L. SCHATTGEN
PHILIP A. GRUCCIO
HARRIS B. HALVERSON II
BARRY K. CHOY
MICHAEL D. FRANCISCO
RALPH R. ROGERS
MARK P. MORAN
ALAN C. HILTON
RICHARD R. WINGROVE
DOUGLAS D. BAIRD JR.
DANIEL S. MORRIS JR.
DAVID A. SCORE
STEPHEN F. BECKWITH
RANDALL J. TEBEEST
JOHN J. ADLER
GEOFFREY S. SANDORF
MICHAEL S. WEAVER

To be lieutenant

MICHAEL J. HOSHLYK
JAMES A. BUNN II
GREGORY G. GLOVER
JAMES A. ILLG
RICHARD T. BRENNAN
ADAM D. DUNBAR
PETER C. FISCHEL
JEREMY M. ADAMS
DAVID J. DEMERS
LOUIS E. NOVAK
JOEL T. MICHALSKI
PAULENE O. ROBERTS
KURT A. ZEGOWITZ
MICHAEL J. SILAH
SCOTT M. SIROIS
DEVIN R. BRAKOB
DEMIAN A. BAILEY
SARAH L. SCHERER
JENNIFER N. DOWLING
DAVID J. ZEZULA
MICHAEL F. ELLIS
GEORGE M. MILLER
BRADLEY H. FRITZLER
DANIEL K. KARLSON
NANCY L. ASH
ELIZABETH I. JONES
ARTHUR J. STARK
KEVIN V. WERNER

To be lieutenant (junior grade)

THOMAS J. PELTZER
MARK S. MOSER
JASON M. SEIFERT
KEVIN J. SLOVER
HOLLY A. DEHART
JASON A. APPLER
KRISTIE J. TWINING
FRANK K. DREFLAK
ANGELIKA G. MESSER
BENJAMIN K. EVANS
JEREMY B. WEIRICH
WILLIAM P. MOWITT
DOUGLAS J. KRAUSE
NICOLE M. CABANA
RUSSELL G. HANER
JONATHAN B. NEUHAUS
NICHOLAS J. TOTH
ANDREW A. HALL
CATHERINE A. MARTIN
JEFFREY R. JUDAS
STEPHANIE A. KOES
DANIEL M. SIMON
JEFFREY D. KELLEY
JOHN A. CROFTS
MARK VAN WAES
WILLIAM W. PIERCE III
RICHARD E. HESTER JR.
JEFFREY C. TAYLOR
NOAH LAWRENCE-SLAVAS
STEPHEN A. KROENING
NICHOLAS J. CHROBAK
ERIK M. EILERS
JESSICA S. KONDEL
SHANNON M. RISTAU
NICOLE S. LAMBERT
CHADWICK A. BROWN
SUENG H. SUK
NICOLE D. COLASACCO
MICHAEL S. SNOW
CHAD M. CARY
JENNIFER E. PRALGO
SEAN D. CIMILLUCA
CHARLES J. YOOS III
KEITH A. GOLDEN
SHAWN MADDOCK

To be ensign

WILLIAM D. WHITMORE
DOUGLAS E. MACINTYRE
SARAH L. DUNSFORD
SARAH K. MROZEK
JOSHUA D. BAUMAN
KATHERINE R. PEET
MICHAEL G. LEVINE
BRYAN R. WAGONSELLER
NICOLE M. MANNING
ALLISON B. MELICHAREK
JESSICA M. FUTCH
EARL M. SPENCER
JEFFREY D. SHOUP
HECTOR L. CASANOVA
AMANDA M. BITTINGER
ERIC T. JOHNSON
JASPER D. SCHAER
JESSICA E. DAUM
AMANDA M. MIDDLEMISS
NATASHA R. DAVIS
LUKE J. SPENCE
JOHN J. LOMNICKY
LUNDY E. PIXTON
MATTHEW R. RINGEL
ERICH J. BOHABOY
LINDSAY R. KURELJA
PATRICK D. DIDIER
AMY M. DANIEL
MISTY M. WATSON
KELLY E. STROUD
RICHARD A. EDMUNDSON
ANDREW P. SEAMAN

CONFIRMATION

Executive nomination confirmed by the Senate May 18, 2004:

THE JUDICIARY

MARCIA G. COOKE, OF FLORIDA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA.

HOUSE OF REPRESENTATIVES—*Tuesday, May 18, 2004*

The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mr. BISHOP of Utah).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 18, 2004.

I hereby appoint the Honorable ROB BISHOP to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 25 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes, but in no event shall debate extend beyond 9:50 a.m.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 10 a.m.

Accordingly (at 9 o'clock and 1 minute a.m.), the House stood in recess until 10 a.m.

☐ 1000

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BASS) at 10 a.m.

PRAYER

The Reverend Maury Davis, Pastor, Cornerstone Church, Madison, Tennessee, offered the following prayer:

Dear Heavenly Father, I come to You in the matchless Name of Jesus Christ on behalf of our United States House of Representatives.

The men and the women who serve in this House have been entrusted with a divine and eternal responsibility to make decisions directing the greatest Nation that has ever been developed on the face of the Earth. This Nation, born by men and women of faith, needs Your help in this generation. I pray that You will speak to every heart in this room about Your love for them, as well as Your hopes and desires for greatness in each individual.

I pray in this House that there will be godly wisdom and spiritual insight into the circumstances that seem to be just happenstance. I pray for the people in this room that they will live their lives in such a way that the youth of this Nation can model themselves after them, that the laws they pass will help to perpetuate our national Christian heritage, and that their lives will leave a legacy of good, not of evil.

I pray for their families that, as they serve our country, their children will not be left out or left behind. I pray that You will use this body for Your glory and for the glory of the kingdom of God.

In Jesus' name, Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Tennessee (Mr. DAVIS) come forward and lead the House in the Pledge of Allegiance.

Mr. DAVIS of Tennessee led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed a concurrent resolution of the following title in which the concurrence of the House is requested:

> S. Con. Res. 103. Concurrent resolution honoring the contributions of the women, symbolized by "Rosie the Riveter", who served on the homefront during World War II, and for other purposes.

WELCOMING THE REVEREND MAURY DAVIS

(Mr. COOPER asked and was given permission to address the House for 1 minute.)

Mr. COOPER. Mr. Speaker, we welcome today Pastor Maury Davis, who delivered our prayer.

Pastor Davis was arrested at age 18 for the crime of first-degree murder. Following his trial and conviction, he served 8½ years in the Texas Department of Corrections. During his incarceration, Maury found his Savior in Jesus Christ and led a revival among his fellow prisoners.

Following his unexpected release from prison, Maury served on the pastoral staff of Calvary Temple in Irving, Texas, under the leadership of Dr. J. Don George where he served as the Youth Pastor. There he met and married his wife, Gail, and in 1986 they became the parents of triplets, Gabrielle, Danielle and Galen. In 1994 their son, Dillon, was added to their family.

After 5 years at Calvary Temple, Maury answered the call to full-time evangelism and the young family traveled across the United States preaching in churches, youth camps, Bible schools and speaking to teens in public schools.

In 1991, after preaching one Sunday at the 250-member Cornerstone Church in Madison, Tennessee, Maury was offered the position of Senior Pastor. He accepted that appointment and has led Cornerstone to its current average attendance of 2,200 people every Sunday. He is also serving as an Executive Presbyter of the Tennessee District of the Assemblies of God.

We welcome Pastor Maury Davis to the House of Representatives today.

TAXATION'S EVIL TWIN

(Mr. DELAY asked and was given permission to address the House for 1 minute.)

Mr. DELAY. Mr. Speaker, this week the House will take up the second component of our careers initiative to unshackle the national economy and unleash the potential of the American people on the global market.

Last week, we passed three major bills to help doctors, patients and consumers retake control of the American health care system from government bureaucrats and trial lawyers. This week we are setting our sights on an even bigger target, the invisible monster of the Federal regulatory state.

Today, in America, Federal regulations cost American consumers and companies more than $800 billion a year, about $8,000 for an average American family every year. That is more than that family spends on food. Those

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

$800 billion could be saved, invested, used to train employees or create millions of new jobs.

We in the Republican majority think it is about time that that money was put toward those better uses than being swallowed up by Beltway bureaucrats and outdated rules and regulations. That is why we will take up legislation this week that reforms four aspects of the Occupational Safety and Health Act of 1970, to bring parity and common sense back to the regulatory review and citation process.

We will also take up major legislation specifically targeting the massive amounts of paperwork that consume not only hundreds of thousands of man-hours and millions of trees every year, but upwards of $320 billion as well. Because when you think about this kind of job-killing, career-stagnating menace, Mr. Speaker, you realize that regulation is just taxation's evil twin. All you have to do is imagine the Internal Revenue Code dressed in black with an eye-patch and you have got the Federal Register.

For decades, layer upon layer of rules and regulations, many of them duplicative and many more of them self-contradictory, have been foisted upon the American people, their employers and their employees. The time has come for Congress to begin moving toward universal regulatory reform and looking for new ways to reduce and eliminate bureaucratic red tape.

This week, we will begin that process and allow the American people to go back to work for their customers and clients instead of their Federal overseers in Washington, D.C.

PARLIAMENTARY INQUIRY

Mr. McDERMOTT. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. McDERMOTT. Are we in the 1-minute section of the calendar?

The SPEAKER pro tempore. The Chair is recognizing Members for 1-minute speeches.

Mr. McDERMOTT. And the Chair is keeping time?

The SPEAKER pro tempore. The Chair accords traditional treatment to the party leaders.

911 EMERGENCY COMMUNICATIONS

(Ms. ESHOO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ESHOO. Mr. Speaker, every day in America there are over 150,000 911 calls made from a cell phone. This represents more than 25 percent of all 911 calls made in our country. Each one of these calls is singly one of the most important ones that an individual will make. Yet most Americans would be shocked to learn that the majority of our country's Public Safety Answering Points still do not have Enhanced 911, or E-911, technology needed to track the location of the emergency caller on their mobile phone. This is unacceptable. Most, if not all, mobile phone users buy them for the added security of knowing that if they need to make a 911 call, help will be on the way shortly.

I am proud that the House, supported by the E-911 Caucus, passed legislation providing Federal grants to enhance our emergency communications system and make E-911 a reality. Now it is time for the other body to act. With so much weighing on these calls, we have to do everything we can to accelerate the deployment of this lifesaving technology.

ARE YOU BETTER OFF?

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, I rise today to ask the question that President-to-be Ronald Reagan made famous in the debate in 1980: "Are you better off today than you were 4 years ago?"

The answer, of course, for most Americans is "no." Under President Bush and the Republican Congress, most Americans have suffered. If you are a taxpayer, you are not better off. We went from a budget that was in balance in 1999, the deficit was zero, and on a path to a $5.6 trillion surplus to one now that is half a trillion dollars in debt this year alone.

If you are a senior, you are not better off because prescription drug costs for seniors have skyrocketed 44 percent in the last 4 years. And what do they get but a hoax of a prescription drug bill.

If you are a student, you are not better off because the Bush administration has underfunded the No Child Left Behind Act by $27 billion since 2001 and wants to cut funding for higher education by $1.3 billion while college tuition has increased by 28 percent.

If you are a worker, you are not better off because 2.2 million jobs have been lost and the unemployment rate is 5.6 percent, one-third higher than the 4.2 percent when President Bush took office. And workers are not better off because wages have failed to keep pace with inflation. Wages rose a mere nickel between March and April.

If you are a consumer, you are not better off because gas prices have increased from $1.26 to a record $2.01 a gallon since President Bush took office.

In the next few days, we will be offering further lists of grievances of the reckless policies of the Bush administration and the Republican Congress. Clearly, we are not better off since President Bush took office.

COMMUNICATION FROM SOLDIER STATIONED IN IRAQ

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, this weekend we celebrate the greatest generation, our World War II veterans. I am here to say that I think we have the next greatest generation, and that is our men and women serving today around the world. This is an e-mail from one of them:

"Thank you, sir, for the note. I appreciate your concern for the troops stationed in Iraq. I am flying Blackhawks based in Balad, Iraq. I am currently working with another West Point graduate, a very capable infantry officer from the class of 2001, in developing an Air QRF team to respond to mortar and rocket attacks on the air base. We have been operational for about 10 days and are still refining our tactics and writing SOPs, but it is going well. I am impressed with the commitment the Army has made to good food, hot showers and decent living conditions.

"I have spent 16 years training, burned countless gallons of jet fuel and have flown over 1,800 hours in preparation for this deployment, and I am proud to serve and give the country something back for all it has invested in me.

"I have a wife and two young boys. I miss them very much. We are blessed with close family and friends, and it is a comfort to know that they are well cared for in my absence. My mom has always been a special source of comfort in difficult times. I speak with her often and just today received a box of her homemade cookies.

"Thanks for taking the time to offer your support. I believe our task here is a difficult one. I hope we will stay the course."

To this young man, I say, we will.

ARE YOU BETTER OFF?

(Ms. SCHAKOWSKY asked and was given permission to address the House for 1 minute.)

Ms. SCHAKOWSKY. Yes, it was a famous American who once asked, "Are you better off today than you were 4 years ago?" To most Americans, the answer is "no." That is not just me saying it. A Gallup poll found that 62 percent of Americans are dissatisfied with the way things are going here at home.

There is a reason why a majority of Americans believe that our country is headed in the wrong direction under the leadership of President Bush. Median income has dropped 3.3 percent since President Bush was elected.

Two million Americans have lost their jobs since President Bush got his.

Three-and-a-half million people have moved onto the poverty rolls since

President Bush moved into the White House.

Four million more people are uninsured since President Bush was sworn in.

Our constituents are being gouged at the gas pump while President Bush fills his campaign coffers with checks from big oil and big gas.

Consumer confidence, which was at 115.7 in January 2001, was at 92.9 last month.

College tuition, up 14 percent in 1 year.

We are not better off.

ARE YOU BETTER OFF?

(Mr. NUSSLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NUSSLE. It is hard to believe that the Democrats are coming to the floor today and trying to spread fear and make sure that people feel that they are not better off. They ask the question, Are you better off than 4 years ago? They hope you are not. Republicans not only hope you are, but will work to make sure you are.

The Democrats have no plan to balance the budget. All they offer from their nominee is higher taxes and bigger government. The seniors, for the first time since the Medicare plan was put into place in 1965, have choices as a result of a Republican Congress and President Bush.

Students have received two times the increase of education funding since Republicans took office, three times for special education alone.

We have more workers working in this country than at any time in American history.

We had the strongest growth in the last 6 months. In the last 20 years we have not seen this kind of growth.

Interest rates are at the lowest ever.

The other side has stopped an energy plan going on now 6 years, and now they stand at the gas pump and wring their hands and wonder why gas prices are as high as they are.

Democrats hope you are not better off. Republicans will work to make sure you are better off.

□ 1015

THE BUSH ADMINISTRATION'S RECORD

(Mr. MEEKS of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MEEKS of New York. Mr. Speaker, a description of the Bush administration record of the last 3¼ years is something like this:

Not fully funding No Child Left Behind, unintelligent. Not providing a real benefit to seniors for prescription drug purposes, shameful. Not putting forth a real solution to significantly decrease the 44 million uninsured, bad medicine. Weapons of mass destruction, a lie. No-bid contracts for the Vice President's former company Halliburton, scandalous. Revealing the name of a covert CIA operative, traitorous. The Abu Ghraib fiasco, passing the buck. The management of the Iraq War, bumbling. The promise of no nation-building, forgotten. Being a uniter as opposed to a divider, hilarious.

The promise of a less arrogant foreign policy, you have got to be kidding me.

H.R. 3722, THE UNDOCUMENTED ALIEN EMERGENCY MEDICAL ASSISTANCE AMENDMENTS OF 2004

(Mr. DREIER asked and was given permission to address the House for 1 minute.)

Mr. DREIER. Mr. Speaker, Congress has consistently approved the eligibility of undocumented immigrants to receive emergency services, and I firmly believe that providing emergency health care is not inconsistent with curbing illegal immigration, which continues to be a high priority for me and others here.

H.R. 3722, which we discussed yesterday and will be voting on today, would require hospitals to gather information on patients in emergency care situations, including a biometric indicator to be retained in hospital records for a minimum of 5 years. This data would be transmitted to the Department of Homeland Security to initiate the removal proceedings for undocumented immigrants.

Hospitals oppose H.R. 3722 because it will, in fact, compromise public safety. The American Hospital Association states: "H.R. 3722 could pose a significant public health threat for entire communities because the fear of deportation would inevitably preclude undocumented immigrants from seeking care for communicable diseases until these individuals are extremely ill."

Mr. Speaker, we need to do everything we can to ensure that we do not pass H.R. 3722.

THE STATE OF THE U.S. ECONOMY

(Ms. EDDIE BERNICE JOHNSON asked and was given permission to address the House for 1 minute.)

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise to speak about the declining state of the economy. When President Bush took office, we had a $236 billion budget surplus and the Nation had created 22 million jobs in the previous 8 years. The country was experiencing the biggest drop in child poverty in a generation and the lowest poverty rate in 20 years.

Today, 8.2 million Americans are looking for work and the unemployment rate is 30 percent higher. 2.2 million private sector jobs and 2.7 million manufacturing jobs have been lost. Household income has decreased by almost $1,500 per family. The number of the uninsured has increased by 3.8 million. College tuition is up 28 percent.

As busy as we are and as important as the effort on foreign policy is, I hope this administration would dedicate some of its time to economic security as well. The American people have suffered much from terrorism. They do not need to suffer any more from President Bush's faltering and failed economic policies.

HONORING SISTER JEANNE O'LAUGHLIN

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, Sister Jeanne O'Laughlin is a name synonymous with compassion, love, and energy.

As the President of Barry University for the past 23 years in my hometown of Miami, Sister Jeanne has brought hope not only to our South Florida community but also to the international community. Sister Jeanne is known and loved by all of our South Florida residents. She is a dynamic and energetic champion for education and has worked tirelessly to ensure that Barry University far exceeded its goals. She has dedicated her entire life to education and to the improvement of the human condition. Sister Jeanne's concern for others and her willingness to fight for justice makes her an irreplaceable part of our South Florida family.

We have been blessed to have Sister Jeanne in our community. We love her, we thank her, and we wish her much success and happiness in all of her future endeavors.

ARE WE BETTER OFF NOW?

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, I often ask the question, Are we better off than we were? And I think that that question needs to be posed today and for the next few months with regard to the Bush administration and the Republican majority here in the Congress.

If we think about 4 years ago, we were in a surplus situation. Now we have a huge deficit. If we think about 4 years ago, we were basically at peace. Now in the midst of a war, a war which I think most people realize was essentially fought for the wrong reasons and which is costing us a tremendous amount of resources as well as costing us lives and wounded soldiers. And if we also think about 4 years ago, the economy was doing very well. Jobs were being created. Four years later under the Bush administration and the Republican majority, we have a situation where something like 2.5 million jobs have been lost and many Americans are having a hard time making ends meet.

So when the Republicans say to us, or anybody says to us, Are we better off than we were 4 years ago under this administration, the answer is clearly, no.

REPORT ILLEGAL ALIENS

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, last year illegal aliens cost taxpayers more than $1 billion in hospital costs.

I support H.R. 3722, introduced by the gentleman from California (Mr. ROHRABACHER), which requires hospitals to report the immigration status of the individuals they treat. This bill also makes employers responsible for these medical costs if they employ the illegal alien.

Hospitals already collect information from patients. Reporting immigration status as a condition for receiving Federal funds is not overly burdensome.

We cannot afford to ignore the growing costs associated with illegal immigration. In my home State of Texas, health care for illegal immigrants costs taxpayers at least $170 million every year.

If we are serious about reducing illegal immigration, we need to support this legislation.

QUESTIONING THE HOUSE SCHEDULE

(Mr. EMANUEL asked and was given permission to address the House for 1 minute.)

Mr. EMANUEL. Mr. Speaker, this is, since April 1, the 16th day the House has been in session. And here is a sample of what we have done: we have named 11 post offices, recognized the Garden Club of America, recognized the importance of music education in America, and authorized the use of the Capitol grounds for the Soap Box Derby.

What has happened to our troops in Iraq in that time? We lost 184 Americans, our loved ones, bringing the total to 785. As we name post offices, our constituents are asking questions of the whys and hows of Iraq and want us to get the answers.

This week how are we handling the controversies in Iraq? We are going to name three more post offices; authorize the use of the Capitol grounds, appropriately, for the World War II memorial services; and consider the Paperwork Reduction Act. Then we are going on recess.

This House has surrendered its oversight role, which is constitutionally enacted and guaranteed, by rubberstamping the policy in Iraq without asking the questions our constituents are asking and not seeking the answers they need.

As President Kennedy once said, "To govern is to choose." We need to make choices here.

WEAPONS OF MASS DESTRUCTION IN IRAQ

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, for months we have heard opponents of the war in Iraq come to the floor of this Congress and ask the question again and again,' where are the weapons of mass destruction?

And yesterday the answer came in part, and the silence on the left is deafening. Yesterday the Coalition Provisional Authority announced the discovery of two separate Iraqi munitions wired by terrorists to serve as IEDs in Baghdad which date to the regime of Saddam Hussein and contain weapons of mass destruction, sarin and mustard gas.

Where are the weapons of mass destruction? Mr. Speaker, the answer is becoming more clear by the hour. The weapons of mass destruction are where they have always been, hidden in Baghdad, within the reach of terrorists, a threat to U.S. troops, the region, and the wider world, and more than enough justification for our deeds and the courage of our troops in that region.

THE BUDGET DEFICIT AND THE NEXT ELECTION

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, my remarks are 1 minute long. During this minute, the economic policies put into place by the President and Republican leaders will force America to spend almost $1 million more than it takes in. That is right. We are free-spending $1 million a minute we do not have.

This President has created the worst budget deficit in history and the worst economic climate since the Depression. The administration keeps rewarding its friends with seven-figure incomes. They are doing it by mortgaging America's future.

There is a payment coming due this November, and America has saved up. It is called an election. Soon a new President and Democratic leadership will restore fiscal sanity to this house of cards. It is not soon enough to send George Bush back to Crawford, Texas.

IN SUPPORT OF MAJOR MEDICAL LIABILITY REFORM

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Mr. Speaker, this week is a good week. The American College of Surgeons is in town visiting us in our offices on Capitol Hill, and so it is of some note that we passed again a measure for liability reform last week in this House. We did that a year ago and unfortunately got stalled over somewhere by the rotunda. I hope this year it can indeed go forward because, Mr. Speaker, it is so important for people to realize and for my friends at the American College of Surgeons to realize that right now we have got a President who will sign major medical liability reform. We have a candidate running for that office who has either voted "no" or been absent when that vote has been taken in the other body.

We can no longer afford the crippling costs of defensive medicine that are layered upon our existing health care system. Mr. Speaker, it is time for Americans to sit up and take notice of this problem. Our professional people and our patients are indeed in peril.

SENIORS WILL NOT BE SCARED BY PARTISAN RHETORIC

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, after years of rhetoric and empty promises on improving health care, on June 1 seniors will finally be able to save money on their prescription drugs by choosing a drug discount card that best suits them. This is only possible because the Republican Congress and President Bush passed bipartisan legislation that modernizes Medicare and provided a real prescription drug benefit that means immediate savings for seniors across the Nation.

While some Members are engaging in partisan scare tactics in an election year, they cannot stop seniors from discovering true savings through the discount cards in less than a month. Seniors can choose with confidence because each card program will be monitored by the Department of Health and Human Services and can expect savings from 10 to 25 percent on drug costs.

Seniors who want more information on the drug discount cards can log into www.medicare.gov or call 1-800-MEDICARE.

In conclusion, God bless our troops and we will never forget September 11.

SUPPORT H.R. 3722

(Mr. ROHRABACHER asked and was given permission to address the House

for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, today we will vote on H.R. 3722, and we have heard a lot of bogus arguments that are based on just total misrepresentations of this bill. I would hope the people go to the basics of this.

We cannot be the HMO of the world and expect to take care of our own people. And if Congress does not act, if H.R. 3722 is not passed, illegal immigrants will have priority in America's emergency rooms because the Federal Government will be picking up the tab for illegals, but not for U.S. citizens. That is a travesty.

Furthermore, we all know we have limited dollars here to take care of our seniors and our children. Those limited dollars should not be squandered on illegal immigrants.

People have come here illegally and thumbed their noses at our law. Why are we spending billions of dollars to take care of their health care while we cannot provide any medicine to our seniors? This is a travesty.

H.R. 3722 will help correct the situation, at least get us back to going in the right direction rather than allocating more and more resources to the care of illegal immigrants. Vote for H.R. 3722.

□ 1030

PROVIDING FOR CONSIDERATION OF H.R. 2728, OCCUPATIONAL SAFETY AND HEALTH SMALL BUSINESS DAY IN COURT ACT OF 2004, H.R. 2729, OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION EFFICIENCY ACT OF 2004, H.R. 2730, OCCUPATIONAL SAFETY AND HEALTH INDEPENDENT REVIEW OF OSHA CITATIONS ACT OF 2004, H.R. 2731, OCCUPATIONAL SAFETY AND HEALTH SMALL EMPLOYER ACCESS TO JUSTICE ACT OF 2004, AND H.R. 2432, PAPERWORK AND REGULATORY IMPROVEMENTS ACT OF 2004

Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 645 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 645

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 2728) to amend the Occupational Safety and Health Act of 1970 to provide for adjudicative flexibility with regard to an employer filing of a notice of contest following the issuance of a citation by the Occupational Safety and Health Administration. The bill shall be considered as read for amendment. The amendment recommended by the Committee on Education and the Workforce now printed in the bill shall be considered as adopted. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) one hour of debate on the bill, as amended, equally divided and controlled by the chairman and ranking minority member of the Committee on Education and the Workforce; and (2) one motion to recommit with or without instructions.

SEC. 2. Upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 2729) to amend the Occupational Safety and Health Act of 1970 to provide for greater efficiency at the Occupational Safety and Health Review Commission. The bill shall be considered as read for amendment. The amendment in the nature of a substitute recommended by the Committee on Education and the Workforce now printed in the bill, modified by the amendment printed in part A of the report of the Committee on Rules accompanying this resolution, shall be considered as adopted. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) one hour of debate on the bill, as amended, equally divided and controlled by the chairman and ranking minority member of the Committee on Education and the Workforce; and (2) one motion to recommit with or without instructions.

SEC. 3. Upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 2730) to amend the Occupational Safety and Health Act of 1970 to provide for an independent review of citations issued by the Occupational Safety and Health Administration. The bill shall be considered as read for amendment. The amendment recommended by the Committee on Education and the Workforce now printed in the bill, modified by the amendment printed in part B of the report of the Committee on Rules accompanying this resolution, shall be considered as adopted. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) one hour of debate on the bill, as amended, equally divided and controlled by the chairman and ranking minority member of the Committee on Education and the Workforce; and (2) one motion to recommit with or without instructions.

SEC. 4. Upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 2731) to amend the Occupational Safety and Health Act of 1970 to provide for the award of attorney's fees and costs to very small employers when they prevail in litigation prompted by the issuance of citations by the Occupational Safety and Health Administration. The bill shall be considered as read for amendment. The amendment in the nature of a substitute recommended by the Committee on Education and the Workforce now printed in the bill, modified by the amendment printed in part C of the report of the Committee on Rules accompanying this resolution, shall be considered as adopted. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) one hour of debate on the bill, as amended, equally divided and controlled by the chairman and ranking minority member of the Committee on Education and the Workforce; and (2) one motion to recommit with or without instructions.

SEC. 5. At any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2432) to amend the Paperwork Reduction Act and titles 5 and 31, United States Code, to reform Federal paperwork and regulatory processes. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with clause 4(a) of rule XIII are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Government Reform. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Government Reform now printed in the bill. The committee amendment in the nature of a substitute shall be consider as read. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in part D of the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 6. (a) In the engrossment of H.R. 2728, the Clerk shall—

(1) await the disposition of all the bills contemplated in sections 2–5;

(2) add the respective texts of all the bills contemplated in sections 2–5, as passed by the House, as new matter at the end of H.R. 2728;

(3) conform the title of H.R. 2728 to reflect the addition to the engrossment of the text of all the bills contemplated in sections 2–5 that have passed the House;

(4) assign appropriate designations to provisions within the engrossment; and

(5) conform provisions for short titles within the engrossment.

(b) Upon the addition to the engrossment of H.R. 2728 of the text of the bills contemplated in sections 2–5 that have passed the House, such bills shall be laid on the table.

(c) If H.R. 2728 is disposed of without reaching the stage on engrossment as contemplated in subsection (a), the bill that first passes the House as contemplated in section 2–5 shall be treated in the manner specified for H.R. 2728 in subsections (a) and (b), and only the other bills contemplated in sections 2–5 that have passed the House shall be laid on the table.

The SPEAKER pro tempore (Mr. BASS). The gentleman from Texas (Mr. SESSIONS) is recognized for 1 hour.

Mr. SESSIONS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to my friend, the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, the resolution before us is a rule for consideration of a package of bills, H.R. 2728, H.R. 2729, H.R. 2730, H.R. 2731 and H.R. 2432, which are all being brought to the floor today by the House Republican leadership, that will help to cut the cost of burdensome regulations for American small businesses and help create new jobs in America.

H. Res. 645 provides for the separate consideration of each of these five measures. Each bill covered under this rule will have its own debate time and the opportunity to be voted on by this body.

Finally, the rule also provides, at the close of consideration of these measures, the Clerk of the House will be directed to combine the text of each of these bills that passes the House under this rule as one engrossed bill and send it to the other body.

Mr. Speaker, we are here today to consider a rule for a number of common-sense bills that will eliminate unnecessary paperwork and bring some much-needed flexibility to the regulatory process for American small business. This legislation will also improve worker safety by making it easier for employers to work voluntarily and proactively with OSHA to ensure safe and secure workplaces.

While this may seem like a complicated rule, its effect is quite simple: It will help to cut down on wasteful costs that many small businesses face as a result of burdensome, one-size-fits-all government regulations.

The bills brought up for consideration under this rule will allow small businesses to focus more of their time and energy on competing in the marketplace, providing their customers with better goods and services and creating new jobs all across America, rather than spending their time filling out forms or arguing with some distant, nameless, faceless bureaucrat.

One of the Republican Party's top priorities is to create an environment that empowers small businesses and their employees to succeed, which has been proved by the House's agenda over the last few weeks. Last week, the House took up and overwhelmingly passed legislation to allow low- and middle-income Americans to keep more of what they earn by permanently extending the 10 percent tax bracket created by President Bush's 2001 tax relief plan.

The House also took up the opportunity to pass legislation that improves upon and strengthens Flexible Spending Accounts, addresses the skyrocketing cost of medical liability insurance and allows small businesses to join together to provide their employees with health insurance through Association Health Plans.

This week, the House will be considering yet another tax relief bill on behalf of working families and will expand and make permanent the child tax credit. And we will also be considering these five bills to make it easier for our Nation's small businesses to create jobs that will help sustain our economy's growth.

H.R. 2728, the Occupational Safety and Health Small Business Day in Court Act, amends the Occupational Safety and Health Act of 1970 to provide flexibility to employers filling out responses to OSHA citations. Currently, the law sets a strict and arbitrary deadline of 15 days for businesses to respond to an OSHA citation, despite the fact that since the 1980s, a Federal rule of procedure has granted employers relief in cases where an employer filed a late notice of contest because of "mistake, inadvertence, surprise or excusable neglect." H.R. 2728 would simply codify this common-sense practice in law and give OSHA some direction in handling cases where a business misses its 15-day window.

H.R. 2729, the Occupational Safety and Health Review Commission Efficiency Act, would create greater efficiency at the Occupational Safety and Health Review Commission by adding two additional members to this board so that it may complete its work in a more timely fashion on behalf of employers and employees all across the United States.

Under current law, the membership of the Commission is set at three appointed members. Two members are required to constitute a quorum, and the Commission can only take action on an affirmative vote of two members, regardless of whether these seats are vacant or filled.

For over two-thirds of its existence, the Commission has been paralyzed by frequent vacancies that have resulted in several critical and well-documented inefficiencies, rendering the entire regulatory scheme devised by Congress for resolving OSHA disputes unworkable.

By creating two new seats on the Commission, Congress can protect against the chance that an extended vacancy on the Commission will prevent this body from resolving disputes in a timely fashion.

H.R. 2730, the Occupational Safety and Health Independent Review of OSHA Citations Act, will provide for the fair and independent review of citations issued by OSHA. Legislative history and practice have made it clear that while OSHA is responsible for rule-making, enforcement and adjudication of issues pertinent to workplace safety, the Occupational Safety and Health Review Commission is intended to provide an independent review of OSHA's functions and act as a check on any prosecutorial excess.

This bill would simply restore responsible checks and balances to the current system by making it clear that the Commission's legal interpretations are given the proper judicial deference.

H.R. 2731, the Occupational Safety and Health Small Employer Access to Justice Act, provides for the payment of attorney's fees and costs to very small employers when they prevail in legislation prompted by the issuance of citations by OSHA.

The reason for this legislation is simple: The government should not be able to intimidate small businesses into blindly following their mandates simply because the business thinks it cannot afford to fight in a case where it might otherwise prevail.

This bill will put American small businesses on a more level playing field with large and powerful government bureaucracies and give them the courage to speak up for themselves when they are right by removing the financial penalties that currently exist for defending themselves.

Finally, H.R. 2432, the Paperwork and Regulatory Improvement Act, reduces Federal regulatory paperwork and red tape by requiring OMB to devote more effort to identifying ways to simplify Federal laws. This bill would also make permanent GAO's authorization to analyze major rules proposed by Federal agencies and require OMB to integrate its regulatory accounting reports with its annual budget report, so that lawmakers can compare the on-budget and off-budget costs associated with each agency requiring paperwork by the public.

□ 1045

Like all the other bills being considered on this rule today, it would help create jobs and allow America's business men and women to spend less of their own time on resources, on complicated regulatory and taxes paperwork that hurts the economy, instead of running their own businesses.

Mr. Speaker, I am proud of this legislation that Congress has passed and will continue to pass to promote the Republican competitiveness agenda. I think it is important that we come to the floor today with a full discussion on legislation that will give Americans more time to spend running their businesses or with their families or however they choose to spend it.

I think it is important to remember that every single time that we pass one-size-fits-all legislation giving a great deal of authority to the Washington-based bureaucracies, our small businesses bear the brunt of this inefficiency.

OMB recently report to Congress that the annual cost of major Federal regulations issued between 1992 and 2002 are estimated to cost between $38 billion and $44 billion. This means that Americans spend about $1.50 in compliance cost for every one dollar in tax cost devoted to regulation. Moreover, it means that every dollar of direct budget expenditure devoted to regulatory activity, the private sector spends $45 dollars in compliance. This overregulation of businesses puts us at a competitive disadvantage with the rest of the world and places an unnecessary limit on our economy.

Finally, Mr. Speaker, the code of Federal regulations extends 19 feet, and from 1991 to 2000 the number of pages in the CFR increased by 28.1 percent. I am glad Congress is looking at ways to pare back this overwhelming bureaucracy, and I urge all of my colleagues to support this rule for these five bills to keep American businesses competitive in the global marketplace and to keep American jobs here at home. I urge all of my colleagues to support this rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume, and I thank the gentleman from Texas (Mr. SESSIONS) for yielding me time.

Mr. Speaker, just as a very brief response to my colleague from Texas, I find it strange that he would use the term that the regulatory measures that are set in place to protect American workers puts us at some competitive disadvantage; and I would just wonder, are we at a competitive disadvantage with countries that have children as young as 9 and 10, 11 years old working? Are we at a competitive disadvantage with countries that have no concern for their workers who die in substantial numbers in plants and mines? That is what separates us from the rest of the world. We are better than that.

Mr. Speaker, I rise today in strong opposition to this closed rule and all five of the underlying pieces of legislation that it encompasses. For those who did not hear me the first time, I said five pieces of legislation under one rule.

This is sort of the blue light special or the supersized rule, Mr. Speaker, five for the price of one. When we look at the number of amendments made in order under this rule, they total five as well and only one is from a Democrat. Republicans have taken their sheer wrong-headedness to a whole new level with this rule. My outrage and the outrage of all in the minority is as much about process as it is about policy. Pure partisan politics never produces sound public policy, and election year politics and messaging have no place in the people's House. Yet that is all the majority seems interested in.

The political score Republicans are seeking to settle with their barrage of anti-working class legislation is not going to be fulfilled by stifling debate and blocking Democrats out of the process. Republicans are calling this the "OSHA Fairness Package." Fair for whom? The only victims I see here are not only the Democratic Party; it is the American worker that it is unfair to.

For the last 3 weeks, Republicans have come to the floor to pass what they call middle-class tax relief. They said they were the party of the middle class and they stand for working-class values. They said they care about the well-being of America's working families. How disingenuous they are, Mr. Speaker.

Four of the five underlying pieces of legislation represent a buffet of rollbacks in our laws governing working conditions. To quote the United Auto Workers on just one of the four bills: "This legislation would give unprecedented and unwarranted authority to the Occupational Safety and Health Review Council to take away workers workplace health and safety."

Mr. Speaker, do we have an overwhelming epidemic in this country of unfair workplace lawsuits that I do not know about? The judicial process for violations in workplace health and safety standards has been in place in this country of ours for nearly 30 years. It is fair and most importantly it protects the rights of workers. Yet two of the four underlying bills affecting OSHA standards are coming as a direct result of recent court rulings that Republicans and their corporate friends do not agree with. The other two are aimed at stacking the OSHA commission with anti-worker commissioners and creating a system where only those who can afford legal representation will be permitted to file a complaint with the workplace safety and health board. A direct attack on American juris prudence is one of the measures that would allow that, if OSHA brings a complaint, OSHA must pay if it loses. I think that is also the American taxpayer.

Apparently, Republicans' new policy is when the courts rule against you, legislate against the courts. When one of the senior Democrats of the Committee on Education and the Workforce, my good friend, the gentleman from Michigan (Mr. KILDEE), came before this body, and he has served here for 30 years and is known throughout the country as a champion of working-class Americans, he came to the Committee on Rules yesterday on behalf of the gentleman from California (Mr. GEORGE MILLER), the ranking member, and Republicans denied him the opportunity to offer a substitute to legislate what came out of his committee.

The majority protects their chairman's amendment, but they fail to extend the same courtesy and respect to the ranking member. Had the majority made the Miller substitute in order or the Kildee substitute in order, the House could have done something today that would have actually benefited working-class Americans. We could have had a real debate about the minimum wage, and we could have taken a vote and found out where Members really stand on the issue on whether workers in this country ought to get incrementally over a period of time $7 an hour instead of the current $5.15 cents an hour.

It is kind of hard to make ends meet with gasoline being $2 a gallon and a person is being paid $5.15, while we here in the House have raised our wages six times since people that work at the minimum wage have had an increase. Perhaps the majority is blocking what it knows it cannot defeat; or better yet, perhaps the majority is just protecting its Members from taking a vote that will show their true colors. Shame on them and shame on this body if it allows this assault on American workers to continue.

Some may suggest that it is just class warfare. Mr. Speaker, I simply point out that Democrats do not rule in this town, and we certainly did not start the fight. But if the majority thinks that we are going to sit idly by and allow this barrage of attacks on America's working class, then they have another thought coming to them. We are just not quite ready to give up on our country yet and certainly not ready to give up on our workers and the least among us who are working-class Americans, many of whom, 33 million or 44 million uninsured people in this country, are working Americans and here we are taking measures that are likely to impact all of them.

I urge my colleagues to oppose this closed rule. And this is the 25th of our rules with only one being open, and I ask my colleagues to reject the underlying piece of legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate the gentleman talking about the true colors that the Republican Party presents not only today but every single day that we are on this floor of the House of Representatives, because our special interest is our taxpayers and the working men and women of this country who keep it going and will continue to work for the special interests of the Republican Party to ensure that America has not only a sound economy but opportunities to where people can live the American dream.

Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. BOEHNER), the gentleman that leads our party in this effort, the gentleman who is the chairman of the Committee on Education and the Workforce.

Mr. BOEHNER. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I thank my colleagues for the opportunity today to have this debate on how to bring some more equitable regulations over at OSHA.

Small employers are the engine of job creation in America and for employers of 100 or less, they create about 70 percent of the new jobs that we see in our country each and every day. Yet these same employers are the ones that are dealing with the ever-rapidly rising cost of health insurance premiums for their employees, the cost of government regulations. They see competition not only from their neighbors down the street but competition from far beyond our seas. And if we want this engine of economic growth to continue to create jobs in America, we as Members of Congress ought to be looking at laws and regulations that affect their ability to compete both at home and abroad.

I want to congratulate my colleague from Georgia (Mr. NORWOOD), the chairman of the Subcommittee on Workforce Protections. He and the members of his subcommittee did a marvelous job in looking at OSHA.

Now, we have made great strides at OSHA over the last 5 or 6 years in terms of OSHA, a government agency, charged with protecting worker health and safety, working in a more cooperative way with employers all across the country. And what has happened? We have seen workplace injuries and accidents decrease. And this voluntary cooperation that we have under way, we believe can be enhanced by the four underlying bills that we bring to the floor today, whether it is giving the review commission a little more flexibility in looking at some regulations; whether it is expanding the review commission so they can speed up the adjudication of disputes between employers and OSHA; or whether it is to say to OSHA, before you bring a lawsuit against a small employer, you ought to consider the impact on it and what it does to the small employer, because if you bring this suit against a small employer and you lose, you ought to pay the legal costs for the employer.

A lot of small employers do not want to take on the Federal Government, do not want to take on the U.S. Treasury or OSHA even if they think they are right because of the giant expense involved. Most of these businesses do not have the kind of capital that big businesses have; and as a result, they are reluctant to really adjudicate what they think is a legitimate claim. And we believe that if OSHA would have to pay those fees if they lose, it would bring more balance to this relationship between OSHA and the employers and maintain the cooperative spirit that we have seen grow over the last 5 or 6 years.

So the four bills that we have before us I think will enhance worker safety, will enhance competitiveness for small companies. We ought to have a debate today, and I think the rule outlines a very fair process for the consideration of these four bills; and I would urge my colleagues not only to support the rule today but to support the four underlying bills that we are bringing to the floor under it.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before I yield to my friend, I will just respond to the chairman that if this is such a great worker-protection measure, why is it that no group that is a proponent of worker protection favors this measure? I just find that passing strange. I yield to the chairman to answer me if there is any worker group that I do not know about.

Mr. BOEHNER. Mr. Speaker, will the gentleman yield?

Mr. HASTINGS of Florida. I yield to the gentleman from Ohio.

Mr. BOEHNER. Mr. Speaker, I think the gentleman realizes that here in Washington we do two things every day: We do public policy which represents the work we are bringing to the floor today; and, unfortunately, we also do politics.

□ 1100

This being a presidential election year, much less a congressional election year, means there is an awful lot of politics being played by some of the opponents of political opponents that we might have; but I think if my colleagues were to look at the four underlying bills, my colleagues will see today that we will have broad bipartisan support for all four of these bills. Why? Because they are merely money sense.

Mr. HASTINGS of Florida. Mr. Speaker, reclaiming my time, the gentleman did not answer my question. Is there a group of proponents of workers' rights that support these measures? Is the answer yes or no?

Mr. BOEHNER. Mr. Speaker, if the gentleman will continue to yield, the bigger proponent of protecting workers' rights are employers, because American employers understand that the single greatest asset they have are the men and women who work for them each and every day.

Mr. HASTINGS of Florida. Mr. Speaker, I think I know the answer. The answer is "no," and I thank the gentleman.

Mr. Speaker, I yield 7 minutes to the gentleman from New York (Mr. OWENS), who does know something about this measure as the ranking member of the Subcommittee on Workforce Protections, my good friend.

Mr. OWENS. Mr. Speaker, I am here to protest, first of all, the package, the packaging process, the rules process. Lumping five bills together, four of them dealing with OSHA matters, there is an effort to trivialize, to minimize and to make invisible this particular, very serious action being taken against working families and organized labor.

Working families need the protection of the government in the workplace. They are vulnerable and they are often victimized. The overwhelming number of business people in America are fair-minded, the small business people as well as corporations, but there is a percentage, which is far too large, that is greedy, selfish and always seeking to get more profits by exploiting workers.

The highest cost of most of these businesses is the labor costs. To drive down the labor costs they will do almost anything. It is not enlightened self-interest, because they are really making profits, but they want more and more.

This package that is being presented on OSHA I call the "more injuries and more deaths package" because the end product of chipping away at OSHA provisions is to create a situation where more workers out there are left vulnerable to injuries and to death.

This majority party started its offensive against the working class or working families with a very brutal and obvious attack. The first big action of this majority party when the administration was changed in the White House was to repeal the ergonomics standards that it had taken 10 years to put in place. Ergonomics standards in OSHA dealt with injuries suffered by large numbers of workers in a new environment, a high-tech environment, with different kinds of injuries being generated, but they wiped that out overnight. That was an obvious, brutal, in-your-face attack on working families and organized labor.

Since then, they have sought to chip away, in every way possible, in a long history from 1995, when the change in the majority took place, a steady history of trying to pass bills to cripple OSHA; and they have become less and less strident as time goes on. We have beat back a number of them, but they have come back in other forms, and what we have in this package is the elephant which has been knocked to his knees.

The repeal of the ergonomics standards knocked OSHA to its knees. That elephant is now being fed spoonfuls of poison. These are spoonfuls of poison. They seem common-sensical, they seem trivial, but it is just one way to poison the animal. It will die just the same.

OSHA is made weaker and weaker. The budget has gotten smaller. The number of inspectors, which always was inadequate has been cut. We never intended to cover inspections adequately, but we did do a better job before this present majority took over.

So the cornerstone of the majority Republican Party policy is being enumerated here in terms of workers—we really want them to be more vulnerable; we really want them to have lower costs. We are not going to talk about minimum wage. We are not going to deal with these things which benefit workers. We are going to continue to encourage outsourcing so that more and more jobs are going overseas, and employers can threaten the workers with outsourcing if they act up.

We are going to continue to foster policies which make corporations more and more profitable despite this recession ending, which shows that profits are going up. Corporations, while there is unemployment, remain the same. Wages are not going up. We are making a clear statement, we want more of the same and we are going to reduce the labor force even further to peasants and serfs who are unable to take care of themselves in the workplace.

The greatest increase in jobs inside this economy, inside America, is going to take place and is taking place in the construction industry; and what they are doing is having large companies subcontract to smaller companies, and the smaller companies become the protectorate of the set of bills that we have here. They have less than 100 employees. They can then proceed to get away with the kinds of violations that we would never allow a larger company because it has different responsibilities.

So this effort, in the name of small businesses, is also an effort which goes after the most vulnerable workers. Construction, the dirtiest work, the most dangerous work, has taken place with immigrant workers and with people who are at the very lowest levels, unable to get any kind of job anywhere else. The number of deaths and injuries that have taken place in the last few years has increased dramatically in this area while the overall number might have gone down a little.

This area is an area where we have had a series of articles appearing in the New York Times which highlight the fact that the OSHA regulations, at present, are minimal. They do not deal with the serious situation that the workplace has in terms of safety and even in terms of death.

We had a hearing just last Wednesday, and I am going to later on read some testimony from those people, but I want to conclude by saying we have a Democratic package for working families in this Nation which includes ending the current tax incentives for shipping jobs overseas, enacting a robust highway bill that would create over 1.8 million good-paying jobs, providing a tax credit for small businesses so small businesses can lower their health care costs, extending Federal unemployment benefits for 2.5 million out-of-work Americans, raising the minimum wage, ensuring that individuals develop the skills that the employers need by increasing job training.

That, in contrast, to a package which is seeking to drive down the working conditions and place the workers in a more vulnerable position so that profits for unscrupulous small businesses can be greatly increased. This package does that. We ought to pay a lot of attention to it and not rush it through this process today.

Mr. SESSIONS. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia Beach, Virginia (Mr. SCHROCK).

Mr. SCHROCK. Mr. Speaker, I rise in support of the rule for H.R. 2432, the Paperwork and Regulatory Improvements Act.

Last June, with bipartisan cooperation, the gentleman from California (Mr. OSE) introduced this good government bill that improved the existing processes governing paperwork and regulations. The bill makes incremental improvements instead of changing the role of Congress in its oversight of agency rules.

The overall burden of Federal paperwork and regulatory requirements is staggering and is a real drain on job growth, productivity and American competitiveness. In fact, Federal paperwork and regulatory burdens have increased in each of the last 8 years.

H.R. 2432 includes legislative changes to ensure reduction in tax paperwork burdens on small business, assist Congress in its review of agency regulatory proposals and improve public and congressional understanding of the true costs and benefits of regulations.

Since 1942, the Office of Management and Budget has had statutory responsibility to review and approve each new, revised or continuing paperwork imposition on the public. Currently, the IRS accounts for over 80 percent of all the federally imposed paperwork burden on the public. H.R. 2432 requires OMB to conduct a systematic review and then submit a report on specific actions the rest can take to reduce tax paperwork on small business.

To assist Congress in its review of agency regulatory reforms, H.R. 2432 permanently establishes a regulatory analysis function in the General Accounting Office. In 2000, Congress authorized a 3-year pilot test for this regulatory analysis function, but it was never funded. This was partly because GAO intended to use contractors instead of in-house expert staff during the test period. H.R. 2432 would require GAO's having in-house expertise comparable to OMB's expertise.

With GAO's help, Congress will be better equipped to review final agency rules under the Congressional Review Act and to submit timely and knowledgeable comments on proposed rules during the public comment period.

Current law requires OMB to submit an annual regulatory accounting statement and associated report on impacts, such as on small business, with the President's fiscal budget. To date, all six of OMB's final regulatory accounting reports have been incomplete, and none have been submitted in final form with the fiscal budget. As a consequence, their utility in the decisionmaking process has been hindered.

To improve OMB's regulatory accounting reports, this bill requires OMB to seek agency input annually, as it does for its information collection budget and the fiscal budget. The bill also requires OMB to conduct a study of regulatory budgeting to determine if agencies can better manage regulatory burdens on the public.

This bill has been endorsed by many organizations such as the U.S. Chamber of Commerce, the National Association of Manufacturers, National Federation of Independent Business, National Small Business Association and the Small Business Survival Committee.

The Congressional Budget Office provided a preliminary estimate of the budgetary impact of this bill, saying the bill would cost about $10 million a year and would not affect direct spending or revenues. CBO's estimate includes $8 million for GAO and $2 million for OMB.

The current budget for OMB's Office of Information and Regulatory Affairs is $7 million. OIRA has multiple functions besides paperwork and regulatory reviews, such as government-wide statistical policy and information policy.

As a consequence, the gentleman from California (Mr. OSE) and I will be introducing a substitute today authorizing $5 million for GAO's permanent regulatory analysis function. This amount is based on the proportionate share of OIRA's budget for its paperwork and regulatory reviews.

I support the rule with 1 hour of general debate, equally divided, and which makes in order the only two amendments submitted to the Committee on Rules, one from the gentleman from California (Mr. WAXMAN) and the gentleman from Massachusetts (Mr. TIERNEY) and one submitted by the gentleman from California (Mr. OSE). I urge my colleagues to support the rule.

H.R. 2432 should result in needed paperwork and regulatory relief, especially for small businesses, and help Congress fulfill its constitutional role as a coequal branch of government.

Mr. HASTINGS of Florida. Mr. Speaker, at this time I have no further speakers that have come to the floor, and I reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Speaker, I thank my friend from Texas for the time, and frankly, I am quite pleased to have the opportunity today, Mr. Speaker, to address four very important measures that I have had the honor, along with the gentleman from Ohio (Chairman BOEHNER), to sponsor.

Before addressing the mechanics of each of these important bills, and I will as they are considered, I would like to provide a little useful background.

If performance outcomes are what truly counts in government programs, performance outcomes, how well is that government program doing, my colleagues should know that the relevant indicators suggest that OSHA, under President Bush, is performing better than at any time in the agency's history.

Now, if we can spend just a little time looking at the facts, and I hate to confuse anybody with facts, but looking at the facts, we should look at the GAO report.

□ 1115

It is saying very clearly that the voluntary compliance strategies are showing very good results. In fact, they are saying this may actually be working because the performance outcomes are better than they have ever been in the history of OSHA.

I have a couple of graphs, so you do not have to believe me, and they are put out by the Department of Labor statistics. It is indicating that workplace injuries as of 2002 and workplace fatalities as of 2002 are the lowest; they are the lowest they have ever been in the history of OSHA. Injury and illness rates and a number of workplace fatalities are down and are declining. And I believe, I firmly believe that one of the major reasons for this performance improvement is a new and improved vision for OSHA.

I know people do not like to change laws once they are passed, but they do need to be measured against performance outcomes, and sometimes you need to change laws when you know you are on the wrong track. OSHA has a vision that rejects the blunt confrontation and embraces the idea of cooperation between employers and government, between business and government. Let us come together to work together to make this a safer and a healthier workplace.

The simple truth is we can achieve much better results working together than working against each other, and that seems to be what GAO is saying. It seems to be what the numbers are saying. Or as we say where I come from, you are likely to attract more bees with honey.

Now, this does not mean, in our opinion, that you should let the fox guard the hen house. Far from it. It simply means that we will have a better balance to our regulatory approach at OSHA if it includes two useful components: one, a more effective targeting of enforcement resources to where they are most needed. That is just common sense. And, two, strong encouragement for employers to cooperate toward the performance improvements.

Why would they not? If they feel they can work with this government and try to improve the health and the safety of their workplace, why in the world would they not? Obviously, they are. The GAO studies keep pointing to the fact that that is working. Targeting focuses on a few bad actors in the business community, while cooperation focuses on the vast majority of employers who very much want a healthier and a safer workplace.

I would suggest this: performance improvements at OSHA simply did not come about by accident. In fact, by 1993, OSHA was strongly heading in the other direction of not using the carrot but using the hammer. Almost one of the worst OSHA bills that could ever have become law, in my opinion, occurred in 1994 with the Ford-Kennedy bill. Thank God that did not pass. It would not have improved workplace safety. And the GAO recently reported that one reason might be the exciting results reported by those employers who have already cooperated with OSHA. They are working together. What they are really trying to do is get where they can trust each other, where the employer feels he can call the government and ask for help and not be fearful that he will be tricked and drug into court.

What was most exciting about GAO's findings is that the word is getting out among the business community that safety pays. What relevance does all this have to the bills that we are going to consider today? The answer is a great deal of relevance, because each of these measures is directly tied to the general idea of a working formula to promote cooperation and trust.

I would like to explain that. I would suggest in the course of our debate over the next few hours that we will repeatedly hear several themes. These themes are: justice, flexibility, efficiency, elimination of waste, and a government that plays fairly and within the rules. Each of these words accurately describes one or more of the purposes of the four measures we will consider today.

I will describe the mechanics of these measures and relate how each fits into this larger picture of positive performance results for OSHA as each is considered.

I would like to urge each of our Members to support this rule and allow this very important discussion to begin. Obviously, I urge each of my colleagues to vote for the underlying bills.

I hear over and over again the term "working families." That is used most frequently, I think, by the minority. And what they generally mean by working families is the 8 percent of our population that are in unions. Well, I like the words working families too. And when it comes to having protection from the government, the other 92 percent of the working families deserve that just as well. The baker with three employees, the florist with two, the local filling station guy who has two employees, they deserve protection equally as do the 8 percent that are in the unions.

So I would say to my colleagues that it is as simple as this: if you have no small businesses in your district, then you ought to vote "no" on this rule. But if you do have small businesses in your district, you better give this some consideration, because this is fairness for the little guy who happens not to be in a union, who has no way on Earth to stand up to the Labor Department or the finances of the Federal Government.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume. I have great respect and admiration for my friend, the chairman of the Subcommittee on Workforce Protections, and I speak often about working families. I am mindful that many of those working families are members of labor organizations, and I am supportive of them.

The statistic the gentleman quoted was somewhere in the neighborhood of 6 to 8 percent. But that leaves us a whole lot of other people who are working at the minimum wage who are also working families who may be injured, who may be killed in these workplaces. And I rather suspect, as one who has the third largest number of small businesses among the 435 of us in the House of Representatives, that I am certainly interested in those businesses flourishing and continuing to provide for the workers.

I can assure my colleague that one thing we could be doing here that would help everybody would be to incentivize those small businesses with the necessary funds for tax protection that would allow them to be able to provide insurance for their workers, and I cite several of them that I visited recently that say that is particularly important. It is also particularly important to them that the regulatory measures be reduced, and there is some currency in our being able to do that. But at the expense of people who are likely to be injured, and at the expense of people who are likely to be killed on their jobs, I simply do not believe that any business wishes to be in a position of not having the necessary regulation to protect their workers.

We do not do a very good job here in Congress, and I suggest we might want to look at the atmosphere that some of these people work in and the kinds of injuries they receive right here on Capitol Hill; the kind of long hours the people that transcribe our words here on the House floor work; the people that protect us in law enforcement and the helter-skelter schedules they are confronted with. There are a lot of workers that do not have fair protection. And for us to cut back on opportunities to protect them, in my view, is unwarranted, unsound, bad policy, and bad politics.

Mr. Speaker, I yield back the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we began this debate today by talking about doing the things the Republican Party has as an idea and a vision, about making businesses more efficient and effective and working closer on the things that will encourage not only us to be more productive but to employ more people. The gentleman from Florida earlier asked a very simple question: Who would possibly support this bill? Who are they? Well, I provided the gentleman a list of some 38.

Mr. HASTINGS of Florida. Mr. Speaker, will the gentleman yield?

Mr. SESSIONS. I yield to the gentleman from Florida.

Mr. HASTINGS of Florida. I did not say who; I said which of the worker proponent organizations supported the bill. And I thank the gentleman for providing me this list of outstanding organizations that support this measure. But name me the work proponent organizations that support this measure, and I do not think any are on the gentleman's list.

Mr. SESSIONS. Mr. Speaker, I thank the gentleman for his clarification and accept that.

I would like to run through very quickly the organizations that do support this commonsense OSHA reform, and I am just going to run through a few:

The National Center For Assisted Living, National Council on Chain Restaurants, National Federation of Independent Businesses, United States Chamber, National Restaurant Association, National Retail Federation, National Soft Drink Association.

And, Mr. Speaker, I will submit this list at this point for the RECORD.

COMMITTEE ON EDUCATION AND THE WORKFORCE, HOUSE OF REPRESENTATIVES,
May 18, 2004.

ORGANIZATIONS SUPPORTING COMMON SENSE OSHA REFORMS

DEAR COLLEAGUE: The House today will consider four common sense OSHA reform measures (H.R. 2728, H.R. 2729, H.R. 2730, and H.R. 2731) to ensure OSHA enforcement efforts are fair for small businesses that make good faith efforts to comply with all health and safety laws. These reforms will improve worker safety by making it easier for employers to work voluntarily and proactively with OSHA to ensure safe and secure workplaces. Following are a list of organizations supporting these reforms:

Air Conditioning Contractors of America
American Bakers Association
American Hotel & Lodging Association
American Farm Bureau Federation
American Furniture Manufacturers
Associated Builders & Contractors
Associated General Contractors of America
American Health Care Association
American Trucking Associations
Food Marketing Institute
Independent Electrical Contractors
International Foodservice Distributors Association
IPC—The Association Connecting Electronics Industries
Management Advisers, LLC
Mason Contractors Association
National Association of Home Builders
National Association of Manufacturers
National Beer Wholesalers Association
National Center for Assisted Living
National Council of Aagricultural Employers
National Council of Chain Restaurants
National Electrical Contractors Association
National Federation of Independent Business
National Funeral Directors Association
National Oilseed Processors Association
National Ready Mixed Concrete Association
National Restaurant Association
National Retail Federation
National Roofing Contractors Association
National Small Business Association
National Soft Drink Association
Printing Industries of America Inc.
Retail Industry Leaders Association
Society of American Florists
Society for Human Resource Management
The American Coke and Coal Chemicals Institute
The Brick Industry Association
U.S. Chamber of Commerce

Developing better cooperation between OSHA and employers will improve workplace safety, enhance business competitiveness, and foster more job creation to spur the economy. We encourage you to help improve workplace safety and enhance small business competitiveness by voting YES on these important OSHA reform measures. For more information, please contact the Education & the Workforce Committee at x5-4527.

Sincerely,

JOHN BOEHNER (R–OH),
Chairman, Education & the Workforce Committee.
CHARLIE NORWOOD (R–GA),
Chairman, Workforce Protections Subcommittee.

Mr. Speaker, I would say to my colleagues who are listening to this debate, who want to do the right thing for small businesses, that it is always interesting to me that as we enter debates on the floor of the House of Representatives, and one of the biggest debates we have had has been about manufacturing, yet almost every single time as the Republican Party stands up for those organizations that are engaged in manufacturing, about jobs in this country, we vote for those bills and our colleagues on the other side vote against them. Yet all we hear about is loss of jobs.

I would like to say that today this vote is about small business and the ability for small business to compete effectively, efficiently, and to give them more fair footing. I support this rule and I support this underlying legislation.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HASTINGS of Florida. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 219, nays 195, not voting 19, as follows:

[Roll No. 180]

YEAS—219

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NAYS—195

Abercrombie
Ackerman
Alexander
Allen
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boyd
Brady (PA)
Brown (OH)
Capps
Capuano

Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lipinski
Lofgren
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Woolsey
Wu
Wynn

NOT VOTING—19

Andrews
Berman
Boucher
Brown, Corrine
DeMint
Deutsch
Dunn
Forbes
Istook
Leach
Lewis (GA)
Lowey
Oberstar
Rangel
Shays
Tauzin
Towns
Wexler
Young (AK)

□ 1154

Mr. CAPUANO, Mrs. TAUSCHER, Mr. ROTHMAN, Mrs. JONES of Ohio, Ms. DEGETTE, and Mr. MORAN of Virginia changed their vote from "yea" to "nay."

Mr. PETERSON of Pennsylvania changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MOTION TO INSTRUCT CONFEREES ON H.R. 2660, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

Mr. GEORGE MILLER of California. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore (Mr. BASS). The Clerk will report the motion.

The Clerk read as follows:

Mr. George Miller of California moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 2660 be instructed to insist on reporting an amendment to prohibit the Department of Labor from using funds under the Act to implement any portion of a regulation that would make any employee ineligible for overtime pay who would otherwise qualify for overtime pay under regulations under section 13 of the Fair Labor Standards Act in effect September 3, 2003, except that nothing in the amendment shall affect the increased salary requirements provided in such regulations as specified in section 541 of title 29 of the Code of Federal Regulations, as promulgated on April 23, 2004.

MOTION TO TABLE OFFERED BY MR. DE LAY

Mr. DELAY. Mr. Speaker, I offer a preferential motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. DELAY moves that the motion to instruct be laid on the table.

PARLIAMENTARY INQUIRY

Mr. GEORGE MILLER of California. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. GEORGE MILLER of California. If a motion to table this motion on overtime pay prevails, will it have the effect of denying the Members any debate on this issue?

The SPEAKER pro tempore. As the Chair indicated in the same circumstances on May 12, 2004, if the motion to table were adopted, the motion of the gentleman from California would not be before the House.

Mr. GEORGE MILLER of California. Further parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. GEORGE MILLER of California. Then to be clear, let me understand that this means that we will not have the hour of debate on the Department of Labor's efforts to deny millions of workers currently eligible for overtime from receiving overtime in the future?

The SPEAKER pro tempore. The motion of the gentleman from California will not be before the House.

The question is on the motion offered by the gentleman from Texas (Mr. DELAY).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GEORGE MILLER of California. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on tabling the motion to instruct will be followed by a 5-minute vote on suspending the rules and passing H.R. 3722.

The vote was taken by electronic device, and there were—ayes 216, noes 199, not voting 18, as follows:

[Roll No. 181]

AYES—216

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Fossella
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Jenkins
Johnson (CT)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NOES—199

Abercrombie
Ackerman
Alexander
Allen
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Woolsey
Wu
Wynn

NOT VOTING—18

Andrews
Berman
Brown, Corrine
DeMint
Deutsch
Forbes
Franks (AZ)
Istook
Leach
Oberstar
Peterson (PA)
Rangel
Shays
Smith (MI)
Tauzin
Towns
Wexler
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BASS) (during the vote). Members are advised there are 2 minutes remaining in this vote.

☐ 1214

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

UNDOCUMENTED ALIEN EMERGENCY MEDICAL ASSISTANCE AMENDMENTS OF 2004

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 3722.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BARTON) that the House suspend the rules and pass the bill, H.R. 3722, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 88, nays 331, not voting 14, as follows:

[Roll No. 182]

YEAS—88

Aderholt
Akin
Bachus
Barrett (SC)
Bass
Bereuter
Bishop (UT)
Blackburn
Boozman
Boucher
Bradley (NH)
Burton (IN)
Buyer
Carter
Coble
Collins
Cox
Culberson
Cunningham
Deal (GA)
Doolittle
Duncan
Everett
Feeney
Franks (AZ)
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gingrey
Goode
Goodlatte
Gutknecht
Hall
Hayes
Hayworth
Hefley
Hoekstra
Hostettler
Hulshof
Hunter
Isakson
Jenkins
Johnson, Sam
Jones (NC)
Keller
Kelly
King (IA)
Kingston
Kline
Manzullo
McCotter
McCrery
Mica
Miller (FL)
Miller, Gary
Musgrave
Myrick
Norwood
Otter
Paul
Pence
Pitts
Platts
Radanovich
Ramstad
Rehberg
Rogers (AL)
Rohrabacher
Royce
Schrock
Sensenbrenner
Shimkus
Shuster
Simpson
Smith (TX)
Stearns
Sullivan
Tancredo
Taylor (MS)
Taylor (NC)
Toomey
Vitter
Wamp
Weldon (FL)
Whitfield
Wicker
Wilson (SC)

NAYS—331

Abercrombie
Ackerman
Alexander
Allen
Baca
Baird
Baker
Baldwin
Ballance
Ballenger
Bartlett (MD)
Barton (TX)
Beauprez
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boswell
Boyd
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Cole
Conyers
Cooper
Costello
Cramer
Crane
Crenshaw
Crowley
Cubin
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Dreier
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Flake
Foley
Ford
Fossella
Frank (MA)
Frelinghuysen
Frost
Gephardt
Gilchrest
Gillmor
Gonzalez
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hensarling
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Houghton
Hoyer
Hyde
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (NY)
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Nunes
Nussle
Obey
Olver
Ortiz
Osborne
Ose
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Rahall
Regula
Renzi
Reyes
Reynolds
Rodriguez
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sessions
Shadegg
Shaw
Sherman
Sherwood
Simmons
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stenholm
Strickland
Stupak
Sweeney
Tanner
Tauscher
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Weller
Wilson (NM)
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—14

Andrews
Brown, Corrine
DeMint
Deutsch
Forbes
Herger
Istook
Leach
Oberstar
Rangel
Shays
Tauzin
Wexler
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BASS) (during the vote). There are 2 minutes remaining in this vote.

☐ 1224

Mrs. JOHNSON of Connecticut, Mr. FOSSELLA, and Mr. BURNS changed their vote from "yea" to "nay."

Messrs. WHITFIELD, TAYLOR of North Carolina, and TANCREDO changed their vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANAATION

Ms. CORRINE BROWN of Florida. Mr. Speaker, on rollcall Nos. 180, 181, and 182, I was unavoidably detained and unable to make the vote.

Had I been present, I would have voted: "No" on No. 180, joint rule for consideration of H.R. 2728, 2729, 2730, 2731; "No" on No. 181, tabling Miller motion to instruct conferees on overtime; "No" on No. 182, H.R. 3722, Undocumented Alien Emergency Assistance Amendments of 2004.

OCCUPATIONAL SAFETY AND HEALTH SMALL BUSINESS DAY IN COURT ACT OF 2004

Mr. BOEHNER. Mr. Speaker, pursuant to House Resolution 645, I call up the bill (H.R. 2728) to amend the Occupational Safety and Health Act of 1970 to provide for adjudicative flexibility with regard to an employer filing of a notice of contest following the issuance of a citation by the Occupational Safety and Health Administration, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. TERRY). Pursuant to House Resolution 645, the bill is considered read for amendment.

The text of H.R. 2728 is as follows:

H.R. 2728

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Occupational Safety and Health Small Business Day in Court Act of 2003".

SEC. 2. CONTESTING CITATIONS UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT.

(a) CITATION.—The second sentence of section 10(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 659(a)) is amended by inserting "(unless such failure results from mistake, inadvertence, surprise, or excusable neglect)" after "assessment of penalty".

(b) FAILURE TO CORRECT.—The second sentence of section 10(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 659(b)) is amended by inserting "(unless such failure results from mistake, inadvertence, surprise, or excusable neglect)" after "assessment of penalty".

The SPEAKER pro tempore. Pursuant to House Resolution 645, the amendment printed in the bill is adopted.

The text of H.R. 2728, as amended, is as follows:

H.R. 2728

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Occupational Safety and Health Small Business Day in Court Act of *2004*".

SEC. 2. CONTESTING CITATIONS UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT.

(a) CITATION.—The second sentence of section 10(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 659(a)) is amended by inserting "(unless such failure results from mistake, inadvertence, surprise, or excusable neglect)" after "assessment of penalty".

(b) FAILURE TO CORRECT.—The second sentence of section 10(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 659(b)) is amended by inserting "(unless such failure results from mistake, inadvertence, surprise, or excusable neglect)" after "assessment of penalty".

The SPEAKER pro tempore. The gentleman from Ohio (Mr. BOEHNER) and the gentleman from New York (Mr. OWENS) each will control 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. BOEHNER).

GENERAL LEAVE

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2728.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BOEHNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we will debate four important bills that make modest reforms to the Occupational Safety and Health Act. These measures ensure that small business owners who make good-faith efforts to comply with health and safety laws are dealt with fairly and equitably by the Occupational Safety and Health Administration.

Nearly every employer today recognizes that improving workplace safety is good for business and it is good for workers. Employers face relentless competition, both at home and from abroad, and they must compete in the face of high taxes, rising health care insurance costs and burdensome government regulations. These four OSHA reform bills are designed to improve worker safety and enhance the competitiveness of small businesses that are the real engine of job growth in this country today.

The U.S. economy is improving and more and more employers are hiring workers each month. Earlier this month, the Labor Department reported that 1.1 million new jobs had been created over the last 8 months, including 625,000 in the last 2 months alone. Eight consecutive months of positive job growth show that the Republican plan for economic prosperity is working. But we want to make sure onerous government regulations do not hamstring the ability of small businesses to continue to hire new workers and to compete in our economy. That is why these bills are important.

Mr. Speaker, since the Republicans won control of Congress 10 years ago, we have undertaken considerable efforts to make bureaucracy more responsive and more accountable to workers and taxpayers. Let me just give you a few examples.

We stopped unwarranted and invasive OSHA regulations proposed by the Clinton administration that would have held employers liable for the safety of their employees who work from home.

We stopped one of the most overreaching attempts at regulation in our Nation's history by repealing an irresponsible and unworkable ergonomics regulation that would have cost employers billions of dollars and killed millions of jobs.

We have dealt with the problem of costly unfunded mandates by ensuring that Congress does not pass expensive legislation and then pass the buck to State and local governments.

This decade of progress on regulatory reform should give Americans confidence that Congress is making positive steps every year to improve government accountability. Today, we take one more positive step, to improve workplace safety, I think a goal that we all share.

OSHA under the Bush administration has made significant efforts to supplement traditional enforcement programs with cooperative partnerships between the agency and employers across the country. I am pleased to report these voluntary programs have proven successful in reducing workplace injuries and illnesses. In fact, workplace injuries and illnesses have declined significantly during the Bush administration.

If we look at these facts on this chart, I think we will see that over the last 3 years, injuries in the workplace have, in fact, declined significantly to their lowest point in history, to a rate of just 5.3 injuries or illnesses per 100 workers. I think that is significant progress.

Moving on to the next chart, we can see that workplace fatalities have made similar declines, again to the lowest amount in history. In fact, the 6.6 percent reduction in workplace fatalities in 2002 is the single largest annual decline ever.

Why have we made such significant progress? It is because under this administration, OSHA and employers have started to work together more cooperatively and more proactively to solve workplace safety problems before injuries and fatalities occur. A GAO report released on March 30 said voluntary partnerships between OSHA and employers "have considerably reduced their rates of injury and illness and have fostered better working relationships with OSHA, improved productivity and decreased worker compensation costs."

Now, we strongly support OSHA targeting bad actors that defy the law and compromise the safety of their workers, but we also need to recognize that most employers are good actors who work hard to address job safety concerns. No employer wants to deal with unnecessary OSHA-related litigation and escalating attorneys' fees that result. Most employers want to comply with the law, and the offer of assistance from OSHA is enough to provide the incentive they need to make the investment. Employers will use these resources because safety pays.

Employers in America know that their number one asset is their employees, and every employer, I know, wants to do everything to protect the health and welfare of their employees.

The reform measures we will consider today are proposals that, while fairly modest in substance, are important to small business owners who struggle every day to comply with complex OSHA laws and provide a safe working environment for their workers while facing increasing competitiveness from the worldwide economy. Employers who make good-faith efforts to comply with OSHA standards deserve to be treated fairly and have their day in court, and these common-sense bills will help ensure that they receive that opportunity.

The first reform bill on tap today, the Occupational Safety and Health Small Business Day in Court, gives the Occupational Safety and Health Review Commission additional flexibility to make exceptions to the arbitrary 15-day deadline for employers to file responses to OSHA citations when a small business misses the deadline either by a mistake or for good reason. This change ensures that appropriate disputes are resolved based on merit, rather than legal technicalities. I think it is a common-sense proposal and deserves every Member's support.

Mr. Speaker, I reserve the balance of my time.

Mr. OWENS. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. GEORGE MILLER), the ranking member of the Committee on Education and the Workforce, for an opening statement.

□ 1230

Mr. GEORGE MILLER of California. Mr. Speaker, I thank the gentleman from New York (Mr. OWENS) for yielding me time and for all of his involvement over many years on the issues affecting OSHA and the workplace safety of American workers.

The Occupational Safety and Health Act has substantially improved the safety of the American workplace to the benefit of the American worker. Far fewer workers are killed or injured today than was the case before the law was enacted. Despite this progress, too many Americans continue to be sick or injured or killed in workplace accidents that could have been or should have been avoided. Fifteen Americans were killed and more than 12,800 were injured each day in 2002. This does not include the 50,000 and 60,000 deaths that occur every year as a result of occupational diseases.

None of the bills before this committee today will do anything to improve the occupational safety or health of Americans. H.R. 2728 unnecessarily and indefinitely delays the abatement of safety and health hazards in compliance with the Occupational Safety and Health Administration citations.

H.R. 2729 unnecessarily expands the size of the Occupational Safety and Health Review Commission, and H.R. 2730 weakens the fundamental responsibilities of the Secretary of Labor. It contorts the law and confuses the enforcement responsibilities of both the Secretary and the review commission.

H.R. 2731 significantly diminishes the protections of Occupational Safety and Health by discouraging OSHA from even enforcing the Occupational Health and Safety Act and punishing tax payers unless the agency, like Perry Mason, can win every case. That is not going to happen. These bills do no good, and some of them do substantial harm. The House should not waste time considering them. If the House truly wants to address the economic needs of the American people, why not spend time on legislation raising the subpoverty minimum wage or extending unemployment benefits to the 90,000 workers a month who are losing that benefit because of the inaction of Congress or stopping the Labor Department from issuing overtime regulations that will cost middle-class workers critical amounts of their income?

Why do we not spend our time on those bills instead of this meaningless and political agenda?

Rather than hurting workers, we should be raising the minimum wage. The minimum wage has not been increased since 1997, and the real value of the minimum wage is approaching all-time historic lows. It is worth noting that the Republican Congress has increased Members' salaries six times since the minimum wage was last increased. It is time for Congress to do for others what we have repeatedly done for ourselves. Instead, we are considering bad bills to undermine worker safety and health. If we cannot do good for workers, we should at least avoid doing them harm.

We should not be encouraging employers to litigate OSHA complaints instead of correcting health and safety hazards; but two of the bills, H.R. 2728 and H.R. 2731 have exactly that effect. Tax payers should not be paying the legal expenses of employers who endanger their workers, but, again, that is what H.R. 2731 requires. It is nonsense to contend that the Occupational Safety and Health Review Commission knows better what the Secretary of Labor intended than the Secretary herself, but that is not exactly the premise that underlies H.R. 2730.

Finally, our Republican colleagues argue that we should expand the size of the commission with no commensurate expansion in its responsibilities. In effect, the taxpayers should go on the hook to put two more lawyers to work for no good reason. This is the effect of H.R. 2729. This is bad legislation. It is unfortunate that we have spent time considering these bills when there is so much we could be doing to help workers and their families in this country. Let us not compound the error by foisting these bills on the other body.

Mr. BOEHNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia (Mr. NORWOOD), the chairman of the Subcommittee on Workforce Protections of the Committee on Education and the Workforce.

Mr. NORWOOD. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, so we do not get confused, this hour is devoted to H.R. 2728, not all four bills, The Occupational Safety and Health Small Business Day in Court.

My good friend from California (Mr. GEORGE MILLER) speaks as a gentleman who really truly never has been in small business and it is pretty clear to me does not have any small businesses in his district because this is very important; and, in fact, nobody must be unemployed there because that is what this is all about. Small employers ought to be devoting more of their time and attention, in my opinion, to creating the new jobs our Nation needs and much less time on dealing with government lawyers that are intent on manipulating legal technicalities. That is precisely and that is all what H.R. 2728 does. That is what we are trying to accomplish here. Nothing more, nothing less. It is not complex. It is an 11-word bill.

The measure adds only 11 words, Mr. Speaker, to the OSHA act, but those 11 words will add fairness. And I know this body is interested in fairness and in removing potential injustice which has happened before because these 11 words are not in the OSHA act. Here is why.

In almost every other court of this Nation, in almost every other court of this Nation a party that acts in good faith but nonetheless misses a deadline that results in a legal default can ask the court to have the case heard on the legal merits. Why not OSHA? That is a good idea. That is a fair idea because we are after justice here.

The principle of justice is as old as our common law, and it was crafted to add equity and fairness to the justice system. Why is this not a good idea? We are adding equity and fairness to the justice system that almost every other court in the land can use. Yet we cannot use it with OSHA.

Simply stated, everyone should have a right to be heard on the merits of their case before being penalized by their own government. Legal technicalities should not be allowed to get in the way, hear this, as a general rule. Legal technicalities should not be allowed to get in the way as a general rule. Do we say that an employer should respond in 15 days? Sure, that is appropriate. And, actually, employers want to because they do not like this citation hanging over their heads. They want it to move too. But occasionally an honest mistake happens. Can you deal with that in all the other courts in this country? Yes. Can you deal with it when you are dealing with OSHA? No. Why not? Why is this so terrible to put a little fairness and justice into the system?

Right now, regrettably, there is doubt over whether the Occupational Safety and Health Review Commission, or OSHRC, the agency specifically created by Congress to hear each legal dispute between an employer and OSHA, has the statutory authority to grant this type of just relief. And by the way, just for those who do not remember their history, there would be no OSHA act passed by Republicans, signed by a Republican President, had not a review commission been put in the bill. It was a very, very simple reason. Parties who sit in judgment should not be the Labor Department as the plaintiff. It ought to be independent people on the review commission looking at what OSHA says is a violation and what the small businessman says, no, this is not a violation.

This agency was created by Congress and allowed OSHA to pass in 1970 to hear each legal dispute between the employer and OSHA. It has the statutory authority to grant this just type of relief. Well, it is not clear, we do not think, so we were not sure they do. While most every other court in the Nation can do what is right, employers facing OSHA standards can be victimized by legal technicalities that would deprive them of the right to be heard and to hear the merits of their case. That is dead wrong. I do not care whose side of this you are on. All H.R. 2728 does is conclusively give OSHRC the authority to make sure that our laws are fairly administered. Who can be against that? We want fair administration of our laws. What is going on now is not necessarily fair in some cases. And using 11 words, that is all this bill is, we have done this as narrowly, Mr. Speaker, as we possibly could have. We have used legal terminology that is time tested and proven to ensure just results without possible abuse.

This is because we use identical terminology to that used in the Federal Rules of Civil Procedure that is known as rule 60(b), a rule that has a very long history of use in nearly every other court of the Nation. Why in the world is it wrong to have that rule take effect when you are dealing with cases with OSHA?

I have a feeling about that, but we will not go there. Under this measure, results will only change when the totality of the circumstances concerning a missed deadline, totality of the circumstances concerning a missed deadline indicates that an employer acted in good faith but nevertheless missed a deadline because of a mistake, an inadvertence or an acceptable excuse. This is reasonable. This is to be judged by OSHRC. This is to be judged by independent reviewers. This measure therefore removes a legal trap that has led to unfair results in the past.

Mr. Speaker, H.R. 2728 simply provides a day in court to parties who believe that they are without legal fault. It is nothing more than that. It is not a lot of what we have heard already. It is simply that it provides a day in court to parties who believe they are without legal fault. Nothing more.

I urge my colleagues to vote for passage of this bill. I frankly cannot imagine why every Member of this Congress would not vote for this bill, because every Member of this Congress has a lot of hard-working small business people in their communities that need this very simple, basic protection. About 92 percent of America is made up of the florists with three employees and the butcher with two. They have no way on Earth to take on the Federal Government. Let us just put a little fairness in the OSHA Act with 11 words that do not hurt anybody, but helps the people in your district.

Mr. OWENS. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. KILDEE).

Mr. KILDEE. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise in opposition to H.R. 2728 and also refer to the other three bills, H.R. 2729, 2730, and 2731.

Mr. Speaker, OSHA came into being to protect the worker and give that protection with the force of the Federal Government because in so many instances the employer was not protecting these workers. These bills individually and collectively will weaken that protection.

I can recall the days before OSHA, the lack of protection, the lack of sometimes even a concern among many employers about the safety of their workers. My father was almost killed in plant because he was being pulled into the machine and was unable to control his own machine. He could not control the power for their own machine. And he had to keep shouting down the line to turn off the power. And that is how things were before OSHA.

In my State about 8 or 9 years ago, a young lady trying to pull herself out of poverty took a job in a small plant. She was working on a press. She put her hands in to remove the product and the press came down. It did not amputate her hands. It obliterated, disintegrated her hands. Failure to abate can lead to such tragedies. And there was certainly failure to abate in that plant. Most of the workers knew that that machine had difficulties; but she was allowed to work on that machine which destroyed, obliterated, disintegrated her hands.

We have so many values in our life but she, in talking to us, held out her arms and was telling the great loss she had suffered. This is what we have to be concerned about.

□ 1245

"Among my losses," she said, "I will never be able to pet my kitten again." These are real people. This was a woman who sought a job at very low wages and had her hands destroyed. Let us think of those people. Give them some relief.

Mr. BOEHNER. Mr. Speaker, I yield myself such time as I may consume.

I think all of us in the Chamber and all of my colleagues understand that OSHA has been a good agency and very good law that helps to protect the health and safety of American workers. No employer and, certainly, none of us in the Congress want to see workers placed in a position where their health or safety is questioned.

As I said before, I think employers, by and large, across the country understand that their greatest asset, their greatest value in their business is the value of the good men and women who work for them.

Certainly, what we are doing today in no way denigrates OSHA. As a matter of fact, I would argue that it will enhance OSHA's ability to work with employers in a voluntary way to increase the health and safety of American workers.

The underlying bill that we have before us is real simple. It says that the arbitrary 15-day response time to an OSHA citation can be reviewed by the Review Commission and make a decision about whether the company needed more time, whether there was a mistake made and the deadline was missed. That is all it does. It does not denigrate the law in any way, shape or form. I believe it creates more voluntary cooperation between the employer community with OSHA.

Mr. Speaker, I am pleased to yield as much time as he may consume to the gentleman from North Carolina (Mr. BALLENGER), one of our senior colleagues on the Committee on Education and the Workforce.

Mr. BALLENGER. Mr. Speaker, I would like to thank the gentleman for yielding me the time.

For the edification of the people that are watching, I may be the only Member of this body who has enjoyed the possible penalties of that lovely group called "OSHA."

Mr. Speaker, I want to take a moment to refresh everyone's memory. As the former chairman of the Subcommittee on Workforce Protections, I cannot help but remember the testimony that our committee took from small business owners several years ago.

I recall very clearly what we heard, that despite a genuine desire to provide workers with a safe work environment, OSHA seemed more interested in confrontation than problem solving. For years, OSHA acted more like a policeman handing out fines and penalties for every little infraction of the law than an agency that would be willing to help employers improve worker health and safety.

Actually, surprisingly, and I do not want to put my friend from Georgia down, but the pay increases for OSHA worker inspectors were based on the number of fines that they turned in. We used to say that is why, going through south Georgia, you have to watch out. Sorry about that. Anyhow, that is how they got their pay increases.

That is why we worked to refocus OSHA, making it more of a partner with business. The idea was simple, if an employer in good faith wants to bring a workplace into compliance, let us do everything we can within the law to assist.

I am proud to stand here today and say that the simple reforms that we enacted a few years ago helped to bring balance to OSHA. Businesses, especially small businesses, are now able to receive the expert advice they need to comply with OSHA standards, without the fear and adversarial temper often associated with OSHA inspections.

In fact, in a recent GAO study, it seemed to point out that voluntary compliance programs have reduced workplace injuries, improved worker productivity, lowered worker compensation costs, and provided other intangible benefits. When OSHA partners with business and helps them comply, everyone benefits.

The four bills we have before us today are built on our original reforms. Compliance is what is really desired, and it is all that really counts.

These are common-sense bills that would help give small businesses more equitable treatment in dealing with OSHA, while letting employers know that the government is truly interested in helping to achieve a safer and healthier workplace. These bills take small, yet significant, steps in bringing about change to the way OSHA operates.

I want to thank the gentleman from Georgia (Mr. NORWOOD) for his hard work on these four important bills that will benefit both employers and employees alike, and I urge my colleagues to support these bills.

H.R. 2728, it is the Small Business Day in Court that gives relief on time to react to charges. Let me give my colleagues an example. On an inspection in my plant, there were seven changes that OSHA said needed to be made. Six were made in less than 1 week, and the last one took an unknown length of time. We did not know how long it would be, and it was to repair a platform that was 20 feet in the air. It took more than a month, but luckily, OSHA allowed us the extra time, not limited to 15 days. All this was done without penalty, and our partnership with OSHA made my plant a safer place to work.

I would ask all of the people to vote in favor of H.R. 2728.

Mr. OWENS. Mr. Speaker, may I inquire as to the amount of time left?

The SPEAKER pro tempore (Mr. TERRY). The gentleman from New York (Mr. OWENS) has 23 minutes remaining.

Mr. OWENS. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I rise in strong opposition to this particular bill, H.R. 2728, and the other three bills to be considered in succession, H.R. 2729, H.R. 2730 and H.R. 2731. As I said earlier in the debate on the rule, this package I would label as a "more injuries and more deaths package." This package I would label as "a spoon feeding of poison" to OSHA.

If we compare OSHA to a giant elephant, as has just been boasted by a couple of Members, they knock the elephant to its knees immediately by repealing the ergonomic standards, and now they want to slowly kill the elephant with spoonsful of poison.

Deliberately, it is made to appear these are trivial bills, common-sense bills, they have no real value; but why are they on the floor? I think they are significant only if we take this within the context of what the majority party has been trying to do with OSHA since it took control of the House, if we take it in the context of how the protection of owners and businessmen is the obsession of the majority party. We never get any bills from them which seek to protect workers.

There are quite a number, 14, of significant bills that have been offered since the 104th Congress, starting with the gentleman that just spoke before. The gentleman from North Carolina (Mr. BALLENGER) has offered more than anyone else, and each one of those bills seeks to, in some way, weaken OSHA and to favor law-breaking employers.

These bills will do nothing to strengthen the occupational safety and health standards for American workers. Rather, they will do quite the reverse, by undermining, sometimes suddenly and other times blatantly, the overall effectiveness of the Occupational Safety and Health Administration.

I would like to remind my colleagues on the other side of the aisle that Congress passed the Occupational Safety and Health Act in 1970 to assure "every working man and woman in the United States safe and healthful work conditions." I believe that bears repeating.

OSHA's founding and fundamental purpose, as spelled out in the statute, is to ensure that each and every individual working in the United States carries out his or her work in safe and healthy circumstances.

The bill was not written to overburden business. It has never overburdened business. Every attempt has been made to bend over backwards to limit the burden on business and no attempt is made to protect workers.

This is the yardstick by which we must measure the likely outcomes of each of the bills before us today. Let us briefly review such outcomes.

H.R. 2728: By extending the customary 15-day period for an employer to appeal an OSHA citation, this bill would encourage litigation, and litigation is on the side of the employer not the employee. It would delay the correction or the abatement of whatever hazards have occurred in the workplace related to that citation. As such, it can only place workers at greater risk of unsafe and unhealthy working conditions, which runs expressly counter to the purpose of the OSHA Act originally.

H.R. 2729, and I want to talk about all these bills in context first before I deal specifically with each one: By expanding the size of the Occupational Safety and Health Review Commission from three to five members, this bill simply creates a bigger bureaucracy in search of a mission. Moreover, the bill adds legal training as a qualification for appointment to the commission. It makes OSHA less effective, not more effective.

It diminishes the chances that candidates considered for selection will have the requisite expertise in occupational safety and health. They have got to have legal expertise but they do not have to have expertise and experience directly in relation to occupational safety and health. That expertise is critical to further the assurance of safe conditions for America's working men and women.

H.R. 2730: By extending deference to the Occupational Safety and Health Review Commission over the Secretary of Labor, this bill contorts and confuses enforcement responsibilities of both the Secretary and the Review Commission. Such confusion will only hinder efforts to fulfill the statutory guarantee of safe and healthy conditions for all workers in this country.

It seems like a small matter, but it is another spoonful of poison which, in the end, can be very effective in killing the elephant.

H.R. 2731: By requiring OSHA to pay attorney fees for any employer with 100 or fewer workers and a net worth of under $7 million, that prevails, even partially, upon appeal, this bill would have a chilling effect on OSHA enforcement efforts. It would almost freeze those efforts. Given that worker death rates are much higher in such firms in comparison to those with more than 100 workers, this bill would encourage litigation and seriously jeopardize progress towards improving the safety and health conditions of American workers.

Moreover, the bill would freeze safety enforcement efforts in the lion's share of private companies in light of the fact that more than 97 percent of all private employers have fewer than 100 employees on the payroll.

I might add that the practice now is for larger employers who are subject to other kinds of regulations and other OSHA standards often to subcontract to small employers and avoid being regulated in the proper way for health and safety.

These bills run counter to the real interests of working Americans, and I urge my colleagues to oppose it. As the senior Democrat on the Subcommittee on Workforce Protections, I have heard firsthand from workers around the country about very real and pressing safety and health concerns many face on the job on a daily basis. If neglected or unaddressed, these risks can have severe, and even fatal, consequences.

H.R. 2731: Requiring OSHA to pay attorney fees for any employer with 100 or fewer workers is one of those bills that certainly would create a situation where the likelihood is that less regulation would take place and more workers would be at risk.

In a May 12th forum, which we entitled "A Job to Die For: Inadequate Enforcement of U.S. Safety Standards," I heard from witnesses on the front lines of an epidemic with fatal consequences. Worldwide, this epidemic is deadlier than war. From Brazil to Bangladesh, it claims 6,000 lives a day, which means four lives a minute. In this country, it claims 6,000 lives a year, which computes to one life every 90 minutes.

This epidemic takes a devastating toll on American families and communities. I think my colleagues can see from the arithmetic, we lose more workers per day from deaths in the workplace than we are losing in Iraq. I think that later on we are going to talk about how this phenomenon must be brought to the attention of the American people, starting with the Members of this body in both parties.

This is not a trivial discussion today. This is not a discussion to be quickly passed over. It is at the core of an effort to make the workplace safe and to create better conditions for working, and better respect for working families.

Working families are expected to produce the soldiers that go off to fight our wars. Ninety percent of those in Iraq are from working families, but yet we have an attempt to oppress working families with many measures. We will not even consider a minimum wage increase. We are constantly trying to change workplace safety conditions through these various measures for those members of our society who also shoulder the burden when it is time to go off and fight for the country and defend the country.

□ 1300

I am referring to wrongful deaths in the workplace when I talk about the 6,000 lives lost in this country per year. Individual worker deaths are not random, isolated events. Rather, they are often tragic certainties that are almost always preventable. Unlike a disease that is triggered by a mysterious or elusive virus, this outbreak is caused by the willful and reckless safety violations of certain employers. Let me repeat, the willful and reckless safety violations of certain employers.

Much has been said about the fact that most employers care about their employees. And that may be true, but there is a large, large percentage that care only about the profits, and they are constantly squeezing the workers and jeopardizing the safety and health of workers in an attempt to increase their profits. Such business owners pursue profits and their own economic interests at the expense of basic safety practices, and all too often this comes at the actual expense of workers' lives.

We have learned that for Latino workers the risk of workplace fatalities keeps rising. They right now happen to be the most vulnerable. Recent immigrants are forced to take the dirtiest and most dangerous jobs. As highlighted in the recent investigative series by the Associated Press, immigrant workers born in Mexico are now 80 percent more likely to be killed on the job than their U.S.-born peers. This is almost three times greater than the disproportionate risk of workplace fatalities for the rest of the population. Even by conservative estimates, a Mexican worker is killed on the job every day in this country.

The Federal Government is astonishingly ineffectual at combating this epidemic of wrongful deaths, both with respect to immigrant workers born in Mexico and all other workers. The current administration is replacing standard OSHA inspections with voluntary compliance programs that ignore the work sites where deaths are most likely to occur.

And much is being made by the majority party of volunteering and trusting employers. The OSHA was developed by legislation because it was clear that employers could not be trusted to safeguard the health and safety of workers. The current administration is replacing standard OSHA inspections with voluntary compliance that ignores the work sites where deaths are most likely to occur. You can find that the majority of American employers do care about their employees and safety, but that minority is the problem; and they are not being properly scrutinized.

Moreover, OSHA has increased the percentage of its budget dedicated to voluntary efforts by 8 percent. These discussions and negotiations of voluntary efforts have run off with the slight increases that have been made in the OSHA budget while they have reduced the funds devoted to safety enforcement by 6 percent.

At the same time, the U.S. continues to lag behind other Western nations in preventing workplace deaths. A construction worker in the U.S. is four times more likely to be killed on the job than a worker in Belgium. In comparison with their British counterparts, American construction workers are twice as likely to be killed on the work site.

These are critical health and safety issues we should be addressing today as opposed to the four bills that would further undermine OSHA's effectiveness in protecting American workers. We have the most productive workers in the world. We ought to appreciate that and try to protect those workers, not squeeze them more, not make them sweat more, and not endanger their lives more.

I urge my colleagues to vote against H.R. 2728, H.R. 2729, H.R. 2730 and H.R. 2731.

Mr. Speaker, I reserve the balance of my time.

Mr. BOEHNER. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Virginia (Mr. SCHROCK).

Mr. SCHROCK. Mr. Speaker, I rise in support of all the commonsense reforms to the OSHA enforcement process. Mr. Speaker, I serve as chairman of the Subcommittee on Regulatory Reform and Oversight of the House Committee on Small Business. Believe me, I hear regularly from small businesses about the horror stories with OSHA enforcement.

The Department of Labor and OSHA suggest their first mission is to provide compliance assistance and not play "gotcha" with businesses they oversee. OSHA needs to educate our businessmen and women about what they should be doing before they show up and slap them with a fine. In a system where our agencies promulgate over 4,000 rules a year, we cannot expect small businesses to know how to comply unless we help them.

In 1996, Congress passed the Small Business Regulatory Enforcement Fairness Act requiring agencies to develop small business policies to reduce or waive civil penalties for first-time violators. We want our regulators to help businesses come into compliance.

I have been reviewing enforcement statistics as a result of some of the hearings I have held. The Department of Labor had 143,000 enforcement actions against businesses last year, 45 percent of them against small businesses. I have also looked at the numbers in OSHA. It had 24,000 enforcement actions, half of which were against small businesses. We need to restore fairness to the OSHA adjudication system.

Unfortunately, the present system stacks the deck against businesses, particularly small ones, so unfairly that many people settle even frivolous OSHA complaints rather than challenge them. OSHA paperwork requires over 100 million hours a year to comply with. That is 100 million hours that our citizens and small business men and women could be spending with their families or helping to grow their businesses. That does not even include the amount of time a small business has to spend if it is fighting what it believes to be an unfair OSHA fine.

Mr. Speaker, it is time for us to restore fairness and balance to this process. It is time for us to give small businesses the tools to fully exercise their rights in this process. It is time for us to get out of the way of the businesses that are creating jobs in this economy, providing health care to their workers, and giving back to their communities. Mr. Speaker, it is time for us to pass this legislation.

I urge my colleagues to support this package of commonsense OSHA reform bills; and I urge my colleagues to support the bill we are now considering, H.R. 2728, which will give the Occupational Safety and Health Review Commission the flexibility to make exceptions to arbitrary deadlines for employers to file responses to OSHA citations when a small business misses the deadline by mistake or, frankly, for a darned good reason.

Mr. OWENS. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, today is a very sad day in the history of the workers of the United States. The Republican Party is bringing out here onto the floor of Congress an all-out assault on the protection of the rights of people who work in the fields of our country, in the factories of our country, in the offices of our country. What they are saying is that they are going to try to tie the hands of OSHA to protect the rights of workers to be living and working in safe and healthy environments.

And how do they do it? Well, the way they do it is they make it possible for there to be a wholesale delay in the implementation of improvements in health and safety protections in the workplace. They make it very difficult for the Secretary of Labor to exercise the authority of that agency to move in and to protect our workers. And they make it almost impossible to even bring a case unless the agency is 100 percent sure it is going to win the case. As a result, the hands of this agency are going to be tied by the Republican legislation out here on the floor.

GOP. It used to stand for Grand Old Party. Now it stands for "gut OSHA protections" for ordinary workers in our country. And it is all part of a pattern. The same thing happened with overtime pay. With overtime pay they want to make it very difficult for workers to be able to collect that bonus that helps their families across our country.

GOP. It used to stand for Grand Old Party. Now it stands for "gut overtime pay, "or "gut OSHA protections."

And on the minimum wage, you know, Harry Truman used to say about the Republican Party, "Oh, the Republican Party believes in the minimum wage. The lower the minimum, the better." And here we are, year after year trying to improve the lot of working people by giving them that increase that they need in the minimum wage; and, like OSHA, and like overtime pay, it is all part of a deliberate assault upon the working men and women in our country, in their workplace, for their families, that makes it difficult to protect them.

And when it comes to unemployment benefits as well, they also stand in the way of helping those families have the protections when they need it with unemployment benefits.

So it is all part of a pattern. And, today, on the House floor, with four separate bills all aimed at a different part of OSHA, they continue this assault upon the progress that was made to improve the lives of working people in the workplace.

I remember when I was a boy, my father used to walk around without one of his fingers that he lost in an accident in the workplace. And I think of how far we have come in terms of the protections which we give to families, because so many thousands, hundreds of thousands, millions of workers were just constantly subjected to the risk of being injured in ways that would forever alter their lives, and because of OSHA that has changed.

But when the Republicans control the House, the Senate, the Presidency, and the Supreme Court, you can see this lingering resentment of the laws which were put on the books to protect these ordinary people, these laws which they voted against when they were originally proposed. And what we are seeing here today is that continuing assault to turn into a relic an agency which has so dramatically changed the lives of ordinary people.

Oppose each and every one of these Republican assaults upon the working men and women in our country.

Mr. BOEHNER. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Georgia (Mr. NORWOOD), the chairman of the Subcommittee on Workforce Protections.

Mr. NORWOOD. Mr. Speaker, I always welcome one of the members from our Committee on Energy and Commerce to join us. I know on the Committee on Energy and Commerce we have a lot of political dialogue, but we try not to posture on the Committee on Education and the Workforce and just stay on policy. And that certainly was a lot of posturing the gentleman did very well with that, but a lot of it is just simply not true.

Let me remind the body what we are doing this hour. We are dealing with one bill, H.R. 2728, that helps working families in this country. I know it is confusing for some people, but working families also include small business owners and their employees, which make up about 92 percent of the working families.

Now, this little piece of legislation helps those working families, and I have yet to hear a good explanation why that did not include the 92 percent. Everybody wants to talk about the 8 percent that happen to be unionized. What about those that are not?

This is not very difficult legislation. We are giving the rights to 92 percent of the working families in this country that every court, almost every court in the Nation gives. Who said 15 days was right? Who made that up? It is arbitrary. It could have been 8; it could have been 16. All we are saying is occasionally a small business owner needs to have his case relooked at by the review commission and given his right and day in court.

Mr. OWENS. Mr. Speaker, I yield 4 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I want to take a moment of personal privilege to thank the gentleman from New York (Mr. OWENS) for the work that he has done in this area, particularly a very important briefing that he held just last week on this very issue, bringing together experts trying to educate people on the value of OSHA.

Now, in this body we are always inclined to give acronyms, and most people would not know what we are talking about. But both the gentleman from New York (Mr. OWENS) and the gentleman from California (Mr. GEORGE MILLER), who has been an enormous leader on issues dealing with working Americans, realize it does not matter about what acronym you are talking about. The bottom line should be are you going to stand with the workers, or are you going to stand with a club beating them to death by taking away established protections!

Now, I come from Houston, which is a city that is very fond of its small businesses, and we are much like a chauvinist, if I can use that terminology, in advocating for small businesses. In fact, just this last week I joined with a number of my colleagues to support the associated health plans that would allow small businesses to get health plans at a lower rate.

But let us clear away the misrepresentations and all of the clouding about how we are standing up for one these bills to help people who are in need.

□ 1315

Mr. Speaker, that is not what we are doing. We are frankly dismantling the very agency, OSHA, which provides the umbrella of protection for workers on the job, whether working in the local laundromat or local cleaner with chemicals or working in the local refinery. That is what OSHA is all about.

Unfortunately, we have done a coup d'etat today by managing to throw all of these bills, four bills, into 1 hour. What do we have here? We have one bill, H.R. 2728, that diminishes the ability for the company to mitigate the problem, to fix the problem. So if you are dying because you are working at this particular job, they can say OSHA, we do not want to comply right now, give us a couple more years, see how many more people will die.

H.R. 2729 expands the OSHA board to put more people on who can vote "no" so that the workers do not have a right when they come before the board.

H.R. 2730 weakens the enforcement capabilities of the Secretary of Labor. That sounds very good. We have the Secretary of Labor who is responsible for protecting the rights of working Americans; and what do we do, we dismantle their authority.

H.R. 2731 is one that diminishes the protection of Occupational Safety and Health by discouraging OSHA from even enforcing the Occupational Safety and Health Act and punishing taxpayers under the agency.

Let me give an example why we need to have OSHA as strong as it possibly can be. We have a citation in Houston of a particular company, and I will not say its name, but here is the quote: "'The employer knew about the unsafe working conditions, but continued to place people at risk,' said John Lawson, OSHA Houston North area director. 'A similar incident happened 2 years ago when two employees fell to their death from a storage tank.'" This company's continued failure to protect the workers from falls is simply unacceptable.

This is what the collective body of these bills will do, just open the door, open the door, the random trap, and allow employees to fall through.

Mr. Speaker, if we had come to this floor in a bipartisan manner and addressed this question of dealing with the concerns of small businesses, there would be a great deal of support because we do believe that small businesses are the backbone of America in terms of their job creation; but what we have here is a runaway train allowing workers to fall through the cracks. I do not want to see any more workers fall to their deaths. I ask my colleagues to vote "no" on all of these bills because I am standing and we should be standing with the working people of America who are already suffering from this horrible economy.

Mr. Speaker, I rise in opposition to this bill. H.R. 2728, the "Occupational Safety and Health Small Business Day in Court Act of 2004." The underlying bill would amend Sections 10(a) and (b) of the Occupational Safety and Health Act (OSHA) to provide that an employer who has failed to contest a citation and proposed penalty (Section 10(a)) or has failed to contest a notification of failure to correct a violation (Section 10(b)) in a timely manner (within 15 working days of receiving the notice) may still contest the citation (or failure to correct the notice) if the failure to contest in a timely manner was due to a "mistake, inadvertence, surprise, or excusable neglect."

Mr. Speaker, the relief granted in this bill has nothing to do with "small businesses" as its title purports. It addresses a single situation by overturning a case out of the Second Circuit, Chao v. Russell P. Le Frois Builder, Inc. (Second Circuit, May 10, 2002) to allow the employer to contest an OSHA citation with a ridiculous amount of latitude.

Instead of focusing on helping small businesses, this bill effectively hurts employees. The backbone of the employer is the employee, and this legislation fails to consider that.

The legislation seeks to enable the Occupational Safety and Health Review Commission (OSHRC) to waive a statute of limitations for employers to contest a citation in a manner that parallels the Federal Rules of Civil Procedure—Rule 60(b). Despite the fact that a citation has been properly served by an agency and that the employer cited has failed to timely challenge the citation, this legislation will allow them to escape the commitment to safety and healthy workplaces by allowing relief if the failure to respond was due to "mistake, inadvertence, surprise, or excusable neglect."

Employers should be held to a high standard and should not be given this kind of latitude at the expense of the injured or dead employee. The regulations are in place to create a safe work environment. This bill seeks to permit lackadaisical maintenance of such a safe environment. Put simply, this bill is bad policy and does not help the people who really need help.

In Houston, OSHA proposed fines of $258,000 against the Pasadena Tank Corporation for an August 23, 2001 accident that killed a worker at a construction site. The company had 15 days in which to contest or pay the fines. The Houston-based firm received a citation of six willful and serious safety violations for failing to protect workers by providing an inadequate fall protection system. The employee repairing a rooftop of a storage tank fell 56 feet to the ground when the rooftop collapsed. An OSHA employee said of the situation, "The employer knew about the unsafe working conditions, but continued to place workers at risk . . . A similar incident happened two years ago when two employees fell to their deaths from a storage tank. This company's continued failure to protect its workers from falls is simply unacceptable." This failure to act when there is sufficient knowledge to mitigate an unsafe condition is what H.R. 2728 will sanction and permit.

Our innocent employers should not be punished from a piece of legislation that attacks from the "back door" by weakening a procedural standard that has been set in place to protect them. We should follow the motto, "if it isn't broken, don't fix it."

Mr. Speaker, I oppose this legislation and I strongly urge my colleagues to do the same.

Mr. NORWOOD. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I remind Members that we are on H.R. 2728. It is hard to tell because we are all over the board here. This is simply about small business owners having a fair day in court.

Mr. Speaker, I reserve the balance of my time.

Mr. OWENS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I take issue with the last statement. We are on the first quarter of a four-bill marathon. They have been put together by the majority. We choose to discuss them as we see fit.

Mr. Speaker, I yield the balance of my time to the gentleman from New Jersey (Mr. Payne) to close out this first quarter of this four-bill marathon.

Mr. PAYNE. Mr. Speaker, let me say this is a day when we will be talking about four quarters, and this is the first quarter of a four-quarter tragedy.

H.R. 2728 weakens enforcement of OSHA by allowing employers to drag out the imposition of penalties and the date for taking corrective action, or to buy safety officials. The principal purpose of the Occupational Safety and Health Act is to ensure, so far as possible, every working man and woman in the Nation safe and healthy working conditions and to encourage the prompt abatement of safety and health hazards.

The time frames in the act are intended to reduce the occurrence of occupational injury by ensuring that hazards are redressed in a timely fashion. H.R. 2728 creates an exception to these time frames where an employer fails to contest an OSHA citation or fails to abate a hazard in a timely manner, pursuant to section 10(b) of the Occupational Safety and Health Act.

H.R. 2728 also encourages employers to litigate citations rather than to promptly correct health and safety hazards. Allowing an employer to belatedly challenge a complaint also allows an employer to delay when he or she must correct a health or safety hazard. Under this legislation, the responsibility to correct a health hazard may be indefinitely delayed by virtue of litigation, and I always thought my friends on the other side of the aisle were opposed to litigation, even though the employer has failed to challenge a citation or a failure to abate notice in a timely manner. If that failure is due to mistake, inadvertence, surprise, or excusable neglect, the employer can nevertheless challenge the citation, does not have to abate the hazard during the challenge period, and is not liable for having failed to abate in the interim period.

The majority appears to equate an Occupational Safety and Health Act proceeding with any other typical proceeding. In fact, however, much more is at stake. What is at stake is not merely whether an employer will pay a monetary fine, but whether workers will have a safe and healthy workplace, or to be subject to injury, illness or death. It is very clear that this bill does not assist the employee. Therefore, Mr. Speaker, I urge my colleagues to vote "no" on H.R. 2728. It should be rejected.

Mr. BOEHNER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, as I said earlier, occupational workplace injuries and illnesses have in fact been coming down in a rather dramatic way over the last few years, and this is because we continue to see more cooperation between employers and with the agency charged with enforcing these laws, OSHA.

Looking at this chart here, over the last 4 years, voluntary programs have reduced injuries. If we look at injury and illnesses over the last 4 years, Members will see that the rates per 100 workers have in fact continued to decline, and we believe that is because of the voluntary nature of these agreements between OSHA and the employer community.

Looking at workplace fatalities on the next chart, Members will see that they continue to come down rather dramatically. Today, we are trying to increase the cooperation between OSHA and employers.

The bill that we have before us, I think we need to understand that almost every other court in the Nation has the authority to excuse understandable procedural mistakes when those mistakes would take away someone's right to be heard in court. While most courts have this authority and use this authority, disputes at OSHA are an exception. There seems to be no flexibility in the OSHA Act. The OSHA Act has a 15-day deadline for filing a legal dispute against OSHA after it issues a citation. This is inflexible; 15 days, no changes.

The bill before us is to provide authority for the agency specifically created by Congress to hear OSHA disputes, the Occupational Safety and Health Review Commission, to make exceptions in appropriate cases.

Now, appropriate cases for excusing a missed deadline are only those under which the totality of the circumstances surrounding the conduct indicates a good-faith effort to comply, but an inadvertent effort to do so. The bill before us accomplishes that using the time-tested legal language with clear, long-standing legal precedent, the same language used in the Federal Rules of Civil Procedure.

So the bill before us would have no negative impact on the current safety and health protections in place. All it does is permit a case to be heard on the merits rather than being decided on a legal technicality. It does not change the outcome in any way, shape or form. The review commission is there to act as the court in these cases. We ought to give them the flexibility that every other court in the land has. We believe that this small change, this 11-word change in the law, would provide more cooperation between OSHA and employers and assist in protecting the health and safety of American workers.

Mr. Speaker, I ask my colleagues to support H.R. 2728.

Ms. WOOLSEY. Mr. Speaker, I rise in opposition of H.R. 2728 because it appears to be another way for this administration to distract from real needs facing our nation's workers. What employees deserve is a safe working environment that protects them from harm and allows their families peace of mind.

Yet, with this legislation, we put the company's bottom line above the safety of American Workers.

With the narrowing definition of "Willful Violations," we will make it easier for employers to avoid responsibility after disregarding a safety standard requirement. This bill would allow companies to receive filing extensions even if they lost track of a citation due to their own negligence.

Why should any worker be forced to suffer in unhealthy conditions or even worse, lose their life, because of inefficiencies within a company's system or blatant lies to avoid penalties?

That's why I support real workplace reform not favors to business like H.R. 2728 provides. I support strengthening worker protections and forcing employers to face real consequences when their poor safety standards cause a wrongful death.

You cannot put a price tag on life, and injury, and we can all agree every workers' life is more precious than a profit. That's why I encourage my colleagues to join me in opposing this H.R. 2728.

Mr. HOLT. Mr. Speaker, I rise in opposition to H.R. 2728. The bill amends the section 10(a) and (b) of the Occupational Safety and Health Act to provide that an employer who has failed to contest a citation and proposed penalty (section 10(a)) or has failed to contest a notification of failure to correct a violation (section 10(b)) in a timely manner (within 15 working days of receiving the notice) may still contest the citation (or failure to correct notice) if the failure to contest in a timely manner was due to a "mistake, inadvertence, surprise, or excusable neglect."

The bill's authors have used the title "Occupational Safety and Health Small Business Day in Court Act." Once again, they have provided that you can name a bill anything you want, regardless of what it actually does. That is why it is critical to look at what is in the bill and not just the title—it covers more than just small businesses. In fact, H.R. 2728 applies equally to all employers regardless of size. However, because small businesses often get more sympathy, the bill's authors used the title to mischaracterize the substance of the legislation.

One of the principal purposes of the OSH Act is "to assure so far as possible every working man and woman in the Nation safe and healthful working conditions" and to encourage the prompt abatement of safety and health hazards. The timeframes in the OSH Act are intended to ensure that hazards are redressed in a timely manner.

H.R. 2728 creates an exemption to the act's timeframes on the basis of one case. The bill seeks to overturn the 2002 decision of the Second Circuit in Chao v. Russell P. Le Frois Builder, Inc. However, to date no other circuit has ruled similarly and Le Frois Builders is in direct conflict with a Third Circuit decision. Indeed, it is the position of the Occupational Safety and Review Commission that it may grant an excusable neglect waiver in any circuit except the second.

The bill amends subsection 10(a) and (b) to afford an excusable neglect remedy to an employer who fails to contest an OSHA citation in a timely manner or who fails to timely challenge an allegation that he or she has failed to correct a hazard within the abatement period. Not surprisingly, H.R. 2728 does not amend subsection 10(c), which affords workers the right to challenge the abatement period.

Mr. Speaker, I ask my colleagues to oppose a bill that has been given a deceptive title. This legislation will not help small business but instead will hurt employees. What we really should be passing is legislation that will empower small business by increasing funding for education and training programs to help workers gain the job skills that small business is looking for and that will help America remain competitive.

Mr. BOEHNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TERRY). All time for debate has expired.

Pursuant to House Resolution 645, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OWENS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question are postponed.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION EFFICIENCY ACT OF 2004

Mr. BOEHNER. Mr. Speaker, pursuant to House Resolution 645, I call up the bill (H.R. 2729) to amend the Occupational Safety and Health Act of 1970 to provide for greater efficiency at the Occupational Safety and Health Review Commission, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 645, the bill is considered read for amendment.

The text of H.R. 2729 is as follows:

H.R. 2729

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Occupational Safety and Health Review Commission Efficiency Act of 2003".

SEC. 2. OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

(a) AMENDMENTS.—Section 12 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 661) is amended as follows:

(1) In subsection (a), by striking the word "three" and inserting in lieu thereof, the word "five;" and inserting before the word "training" the word "legal".

(2) In subsection (b) by striking all after the words "except that" and inserting in lieu thereof, "the President may extend the term of a member to allow a continuation in service at the pleasure of the President after the expiration of that member's term until a successor nominated by the President has been confirmed to serve. Any vacancy caused by the death, resignation, or removal of a member before the expiration of a term, for which he or she was appointed shall be filled only for the remainder of such expired term. A member of the Commission may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

(3) Subsection (f) is amended to read as follows:

"(f) The Chairman of the Commission is authorized to delegate to any panel of three or more members any or all of the powers of the Commission. For the purpose of carrying out its functions under this chapter, 3 members of the Commission shall constitute a quorum, except that 2 members shall constitute a quorum for any sub-panel designated by the Chairman under this subsection.".

(b) NEW POSITIONS.—Of the two vacancies for membership on the Commission created by this section, one shall be filled by the President for a term expiring on April 27, 2006, and the other shall be filled by the President for a term expiring on April 27, 2008.

The SPEAKER pro tempore. Pursuant to House Resolution 645, the amendment printed in the bill, modified by the amendment printed in part A of House Report 108–497 is adopted.

The text of H.R. 2729, as amended, as modified, is as follows:

H.R. 2729

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Occupational Safety and Health Review Commission Efficiency Act of 2004".

SEC. 2. OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

(a) AMENDMENTS.—Section 12 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 661) is amended as follows:

(1) In subsection (a), by striking the word "three" and inserting in lieu thereof, the word "five" and by inserting the word "legal" before the word "training".

(2) In subsection (b) by striking all after the words "except that" and inserting in lieu thereof: "the President may extend the term of a member for no more than 365 consecutive days to allow a continuation in service at the pleasure of the President after the expiration of that member's term until a successor nominated by the President has been confirmed to serve. Any vacancy caused by the death, resignation, or removal of a member before the expiration of a term, for which he or she was appointed shall be filled only for the remainder of such expired term. A member of the Commission may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.".

(3) In subsection (f), by striking "two" the first place it appears and inserting "three".

(b) NEW POSITIONS.—Of the two vacancies for membership on the Commission created by this section, one shall be filled by the President for a term expiring on April 27, 2006, and the other shall be filled by the President for a term expiring on April 27, 2008.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. BOEHNER) and the gentleman from New York (Mr. OWENS) each will control 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. BOEHNER).

GENERAL LEAVE

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2729.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BOEHNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the second bill we will debate today is another narrowly crafted bill that addresses a specific problem which we find in the OSHA law.

The Occupational Safety and Health Review Commission Efficiency Act, H.R. 2729, increases the membership of the Occupational Safety and Health Review Commission from three to five members to ensure that cases are heard in a timely fashion.

Because a quorum of two out of the current three commissioners is needed for timely decision-making, the commission has in the past been unable to act simply because a quorum was not present. There are a number of reasons for this. The appointment process is sometimes controversial, leading to vacancies, and sometimes commissioners must recuse themselves from consideration of cases, meaning a situation is created where even if there is only one seat open, there is often no working quorum.

For some 20 percent of its history, the commission has been unable to gain a working quorum, and as a result is simply unable to function despite being otherwise fully staffed. Increasing the membership to five commissioners will ensure that cases are reviewed in a more timely fashion, improving the current system of judicial inactivity that only results in government waste.

In short, it will allow the commission to complete the job it was created to do by reducing case backlogs that are as much as 8 years old.

The commission's sister agency, the Federal Mine Safety and Health Review Commission, has five panelists, and we found it has worked well in reviewing cases more efficiently.

□ 1330

Lastly, the bill permits incumbent members whose terms have expired to stay on until a replacement can be confirmed by the Senate. Most vacancies occur during these turnovers.

We want small businesses hiring more workers and contributing to our economy, not facing years of OSHA-related litigation that they cannot resolve simply because the commission has an endless backlog of cases. This bill simply ensures that OSHA cases are resolved in a timely and efficient manner, a goal that I think we all support.

Employers who make good-faith efforts to comply with OSHA standards deserve to be treated fairly and have their day in court. This measure will help ensure that they receive that opportunity.

Nearly every employer today recognizes that improving workplace safety is good for business and it is good for workers. Employers face relentless competition both at home and abroad and they must compete in the face of high taxes, rising health insurance premiums and burdensome government regulations. All of these OSHA reform bills are designed to improve worker safety and enhance the competitiveness of small businesses that are the real engine of job growth in this country.

The U.S. economy is improving. More and more employers are hiring workers every month. Earlier this month, the Labor Department reported that over the last 8 months, 1.1 million net new jobs were created, 625,000 in just the last 2 months. But we want to make sure that government regulations, and especially onerous government regulations, do not stand in the way of small businesses hiring more workers and getting our economy back on its feet.

This bill is narrowly crafted and addresses a specific problem in the OSHA law. I believe it deserves our Members' support and would ask our Members and encourage them to support it today.

Mr. Speaker, I reserve the balance of my time.

Mr. OWENS. Mr. Speaker, I yield myself such time as I may consume.

First, I would like to comment on voluntary compliance. It has been mentioned here several times. Voluntary compliance programs are usually directed at large employers, not small. This is not where the deaths are occurring. In construction, half of all deaths occur among small firms in construction, many with fewer than 10 workers. Big corporations have understood for some time now that it is to their advantage to have a workplace that is safe, with maximum benefits and working conditions. And big corporations are seldom guilty of willful violations; it is the small employers. I must say that an attempt has been made here to make it appear that small employers have some special virtues, but small employers can be demons often.

I recall my father working in a mill where the straw boss, they called him, told the workers if they would go to the toilet, which was pretty much in the middle of the floor anyhow, a cubicle that you could see the feet and it was open at the top, if you go to the toilet and he does not smell anything, come on out.

I can recall working at a restaurant when I was in college where the employer, the owner of this small business, felt he had a right to pat any woman on the behind regularly, and they were too afraid to complain because they wanted to keep their jobs.

You might say that those were extreme conditions, that is all over; that happened when you were in college many years ago. But in New York we have sweatshops which are as bad as any sweatshops the city has ever known in the 1930s, the 1920s or any other time. It is just that the people in the sweatshops now happen to be Asians mostly, Asian workers who are being exploited.

There is no great virtue in small businesses automatically. Yes, the majority comply, but there are too many who still do not comply, too many who, as I said before, are interested only in squeezing the maximum profits from the situation; and their biggest cost is the labor cost, labor cost in terms of wages, labor cost in terms of conditions that must be established by law for workers.

We refuse to discuss the minimum wage on this floor. We refuse to discuss it in the context of a bill to increase the minimum wage. But today if we are going to talk about workers and worker safety, I think we ought to point out that it is the workers who are making the least amount of money whose safety is jeopardized most. They are the vulnerable ones in conditions that nobody else wants to work in, immigrant workers who take the lowest pay and working conditions where no one else will work.

This is the second quarter of a four-quarter marathon, as I said before. I have heard it called the More Injuries and More Death Marathon Act. It is a covert approach to what the majority Republicans tried when they first took power in 1995. This is covert. This is guerilla warfare, one might say, undermining OSHA from the back, undermining OSHA with sweet words.

Back on June 14, 1995, we had the first taste of what the majority Republicans really wanted to do about OSHA. The gentleman from North Carolina (Mr. BALLENGER) introduced H.R. 1834, and that was a massive overhaul of OSHA to weaken the law and favor law-breaking employers. If you were to go back and retrieve that bill, you could see that most of it was put there in one bill, and it was a frontal assault. It had the same objectives that today's assault has.

There have been 14 of these significant bills introduced since the 104th Congress, I think half of which have been introduced by the gentleman from North Carolina (Mr. BALLENGER) which are significant in terms of looking at the record of how OSHA has been under attack. Since this House went under the leadership of the Republicans, OSHA has been the target, it has been an obsession, and none of these bills are in favor of increasing any measures to protect workers.

We cannot review and view these bills today in the context of just one bill at a time or even the four bills. The four bills have to be reviewed in the context of the overall policy of the Republican majority toward working families, the overall assault against working families.

We have to have this in context. We have to look at the figure of the 6,000 Americans per year. That figure has been there for some time, averaging about 6,000 per year who die every year on the job.

The little display up front is an example of a centerpiece for a quilt we want to make as a memorial to these workers. We do not want either party to forget what is happening to working families in this country. In many respects, the failure to increase the minimum wage is one of them, but certainly with respect to health and safety, we must do more to make it known and to put it on the front burner in the minds of Americans as evidence of what is happening in the workplace.

This is not unrelated to other developments like outsourcing, a major development which goes after workers at higher levels, technicians, computer people, scientists, engineers. Their salaries and their working conditions are such that they are found to be offensive and not producing ample profits, so their jobs are going to be taken away completely and contracted out to other nations.

There are a large number of businesses that cannot be contracted out and most of them are small businesses. Construction is one. We can never take construction overseas; that has to happen here. The construction industry, in particular, needs the protection of people who want to weaken OSHA. The construction industry, in particular, is a culprit in employing and exploiting workers at the very bottom.

We must keep this package in context. We must understand that the covert warfare taking place here, what I call the poisoning of OSHA, the slow draining of power from OSHA, is accelerated by these seemingly harmless four bills. The Labor Secretary in this administration is openly hostile to labor and to working families. We have a situation where traditionally the Department of Labor has always been considered the advocate for working families and for workers, but this particular Department of Labor, this Secretary, is just the opposite and this administration has no place for labor to have their grievances aired. So we bring them here today at this time and take advantage of the fact that there is at least time to discuss conditions under which people work.

The policy of denigration, intimidation and oppression of the workforce is a policy which yields high productivity. That high productivity has already been achieved, but they want to go beyond that and get higher levels of exploitation and squeeze more from workers to increase the profits. As I said before, all small business owners are not model Americans. They do not seek to protect and take care of their workers in the best possible way.

We are going to have a monument. This is going to be part of an overall quilt which gives you the number of workers per State, gives you the number each year, since 1993 to the present. Like the Vietnam Wall memorial, it dramatically brings home in an individual way the fact that life is sacred. The lives of workers are as sacred as the lives of anyone else.

I said before, we are losing more workers per day than we are losing on the battlefields of Iraq. I do not want the Iraq battlefield casualties to increase. We would like the casualties in both places to decrease. But the life of a worker who is killed in a situation which has willful violations and the death is totally unnecessary, that life must be given more concern by both parties here in this House.

Workers and their families are under attack. We must come to their defense. One way to defend them is to recognize these four bills for what they are worth. They are the very destructive poisoning of the effectiveness of OSHA.

Mr. Speaker, I submit for printing in the CONGRESSIONAL RECORD the opinions and the statements by four groups: The AFL-CIO, the UAW, the Teamsters and the National COSH Network. These groups oppose this bill. I submit for the RECORD their statements in opposition.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, DC, May 14, 2004.

DEAR REPRESENTATIVE: I am writing to express the strong opposition of the AFL–CIO to H.R. 2728, H.R. 2729, H.R. 2730 and H.R. 2731, four bills that would erode worker protections under the Occupational Safety and Health Act. These bills, which are scheduled for a floor vote the week of May 17, 2004, would change established law and procedures to benefit employers and stifle OSHA enforcement. They would do nothing to enhance workers' safety and health protection, while weakening the OSH Act.

H.R. 2731, Occupational Safety and Health Small Employer Access to Justice Act—This bill requires taxpayers to pay the legal costs of small employers (defined as employers with 100 or fewer employees and up to $7 million net worth) who prevail in any administrative or enforcement case brought by OSHA or any challenge to an OSHA standard brought by the small employer against OSHA, regardless of whether the action was substantially justified.

Under the Equal Access to Justice Act, small businesses are already able to recover litigation costs where the government position was not substantially justified. There is no reason to expand these provisions and create new and broader rules for purposes of the OSH Act. The bill will drain resources away from an agency that has perpetually struggled to do its job with the limited resources available to it. If enacted into law, H.R. 2731 would have a chilling effect on both OSHA enforcement and OSHA standard setting, because attorneys' fees would be available to prevailing employers in both types of actions. OSHA would be hesitant to cite small employers for violations of the OSH Act unless there is absolute certainty that the enforcement action will be upheld in its entirety. No rational public policy would be furthered by discouraging OSHA from issuing citations that are substantially justified, but as to which the government ultimately is unable to carry its burden of proof of every issue. Rather, the inevitable result of such a rule, which would penalize the government every time it loses, would be to chill the issuance of meritorious citations in close cases on behalf of employees exposed to unsafe working conditions. Similarly, unless OSHA is certain that a standard will not be challenged (which they are routinely for any number of reasons), it would be very reluctant to development and issue rules any hazard no matter how grave the threat of the hazard to workers. This bill would further weaken OSHA enforcement efforts and standard setting to the detriment of American workers.

Establishments with fewer than 100 employees make up 97.7 percent of all private sector establishments. These businesses have a higher rate of fatal occupational injury than do establishments with 100 or more workers. Hampering OSHA's enforcement ability in these small establishments would be devastating to workers, resulting in even higher rates of worker fatalities, injury and illness.

Also significant is the fact that under H.R. 2731, employers will be able to recover partial attorneys fees if they partially prevail in an OSHA proceeding. So, for example, the notorious Eric Ho, who exposed his employees to asbestos and made them work at night behind locked gates without providing them any sort of respirators or training, would be able to recover attorneys fees under this bill, because the OSHA Review Commission dismissed two of Ho's corporations as defendants and dismissed 10 of 11 willful violations of OSHA's respirator and training standards. Secretary of Labor v. Ho, Nos. 98-1645 & 98-1646 (OSHRC, Sept. 29, 2003).

OSHA needs more, not fewer, resources available to deal with employers like Eric Ho and to enforce the OSH Act's protections. H.R. 2731 should be rejected.

H.R. 2730. Occupational Safety and Health Independent Review of OSHA Citations Act—This bill would work a radical change in the implementation and enforcement of the OSH Act, and would undermine the Secretary of Labor's authority to interpret and enforce the law. The bill would overturn a 1991 Supreme Court decision and say that deference should be given to the OSHA Review Commission, and not the Secretary of Labor, in interpreting OSHA standards. The AFL-CIO vigorously opposes this bill and urges its defeat.

In Martin v. OSHRC (CF & I Steel Corp.), 499 U.S. 144 (1991), the Supreme Court made clear that the Secretary of Labor, and not the Review Commission, should be given deference when interpreting OSHA standards and regulations. In the Court's view, the Secretary of Labor should receive deference because Congress, when enacting the OSH Act, designated the Secretary as the policymaking official, and gave the Secretary the authority and responsibility to implement and enforce the law. Thus, because the Secretary of Labor is the person who adopts standards and brings enforcement actions against employers, she has a much broader and deeper understanding of OSHA's rules as compared to the Review Commission, which sees only a small fraction of OSHA's enforcement cases.

Policymaking, and interpretation of OSHA policies, should stay with the Secretary. The Commission should not be able to undo by fiat the Secretary's reasonable interpretations of her rules. H.R. 2730 should be rejected.

H.R. 2729. Occupational Safety and Health Review Commission Efficiency Act—H.R. 2729 expands the number of members on the OSHA Review Commission from three to five, and mandates that all members have legal training. Another provision, removed during the Committee markup on May 5, 2004, authorized the Chairman of the Commission to delegate to any panel of three or more members any or all powers of the Commission and allowed two members to constitute a quorum on such sub-panels.

The Review Commission has operated with three Commissioners since it was first formed in 1970. There is no need to expand the Commission beyond its current membership, and no need to exclude individuals with relevant training, but not legal training, from eligibility for these positions. Moreover, it is no coincidence that Republican members are pushing to expand the number of seats on the Commission at a time when a Republican president would fill the seats.

Proponents say the bill is needed to address the problem of the Commission at times lacking a quorum to do business. But with the removal of the provision on subpanels during the Committee markup, it is difficult to see how H.R. 2729 would solve the quorum problem. Three Commissioners would still be required to have a working quorum. There is no reason to think that the Commission will be able to retain three active Commissioners any better than it has been able to retain two.

H.R. 2729 is a solution in search of a problem. It should be defeated.

H.R. 2728, Occupational Safety and Health Small Business Day in Court Act—This bill would excuse employers from the fifteen-day deadline for contesting OSHA citations and "failure to abate" notices if they can show "mistake, inadvertence, surprise, or excusable neglect" as the reason. The bill's practical effect would be to make numerous excuses into legal reasons for missing the fifteen-day deadline by which employers currently must respond to OSHA citations. This action will only encourage more litigation. The idea of the fifteen-day requirement is to give all parties a reasonable timeframe in which to take action, and to ensure that the case is moved along as quickly as possible so the cited hazards will be corrected in as timely a manner as possible.

It is also important to note that the bill excuses employers from missing their 15-day deadline but does not extent these same provisions to employees or their representatives who challenge the period for abatement in a citation. The one-sided nature of this legislation shows that it is about benefiting employers, not protecting employees.

Proponents of the bill have pointed to one court case as justification for this legislation. In fact, the Commission has a longstanding practice of reviewing any missed deadlines on a case-by-case basis. H.R. 2728 is another solution in search of a problem, and it should be defeated.

As demonstrated above, these bills undermine the intent of the Congress when it enacted the OSHAct more than 30 years ago. Generally speaking, these policies and procedures have been serving workers well for over 30 years. American workers deserve a safe and healthy workplace and the full protection the OSHAct can offer. These bills would surely diminish the protections provided to workers by the OSHAct. For these reasons, the AFL–CIO opposes these four bills, and we strongly urge you to vote against each of them.

Sincerely,

WILLIAM SAMUEL,
Director,
Department of Legislation.

INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA—UAW,
Washington, DC, May 17, 2004.

DEAR REPRESENTATIVE: This week the House is scheduled to take up four bills to amend the Occupational Safety and Health Act of 1970. The UAW opposes each of these anti-worker bills and urges you to vote against them.

The first three bills relate to the Occupational Safety and Health Review Commission (Commission or OSHRC). In considering these bills, the UAW urges you to bear in mind that OSHRC functions as an intermediate appeal for employers, between decisions of the Occupational Safety and Health Administration (OSHA) and the U.S. Courts of Appeal. During the time a case is on appeal to OSHRC, employers do not have to pay any assessed penalties, nor do they have to abate the violations for which they were cited. Thus, procedural delays at OSHRC serve only to postpone justice and to delay the correction of workplace safety and health violations.

H.R. 2728, despite being mislabeled the "Occupational Safety and Health Small Business Day in Court Act," is not limited to small businesses. Instead, it would effectively eliminate the statutory time period within which all employers—not just small employers—must contest an OSHA citation or assessment before it becomes a final order of the Commission. Under the statute, an employer contests by simply mailing a letter to the OSHA office. Therefore, contestation is not burdensome, and the statutory time period should be retained.

Moreover, the federal courts already provide relief, pursuant to Rule 60(b) of the Federal Rules of Civil Procedure, for employers who can show that their failure to meet filing deadlines was due to mistake, inadvertence, surprise, excusable neglect, fraud, misrepresentation or misconduct by an adverse party, so long as the employer can show the existence of a meritorious defense. There is a body of established case law pursuant to Rule 60(b) that would be subject to wasteful relitigation if H.R. 2728 were enacted.

H.R. 2729, the "Occupational Safety and Health Review Commission Efficiency Act," would expand the number of OSHRC commissioners to five from three and authorize subpanels of three members to exercise all of the powers of the Commission. It would also authorize commissioners to hold their position at the expiration of their six-year term, until a successor has been nominated by the President and confirmed by the Senate. Finally, it would add a new requirement that Commissioners must have legal training.

The UAW submits that the only good to come from adding two commissioners to OSHRC would be the creation of two more jobs to an economy that has lost over two million jobs since January 2004. Otherwise, it is wasteful and unnecessary to expand OSHRC, which has been composed of three members since it was established in 1970.

Indeed, the UAW believes that Congress should give consideration to abolishing all of the OSHRC commissioners' positions, allowing appeals to go directly from the decision of the Commission's Administrative Law Judges to the Courts of Appeals, as is done with Social Security Administration appeals.

We object to the legal training requirement because it would work against persons with workplace health and safety expertise. And we object to the provision allowing commissioners to retain their position after the expiration of their term because it deprives the Senate of its Constitutional advice and consent role.

H.R. 2730, the "Occupational Safety and Health Independent Review of OSHA Citations Act," would overturn a 1991 Supreme Court decision holding that OSHRC's Interpretation of a health or safety standard may not be substituted for the interpretation of the Secretary of Labor. The bill explicitly provides, "The conclusions of the Commission with respect to all questions of law shall be given deference if reasonable." Because it is for all practical purposes only employers who appeal cases to OSHRC, there is never an instance when the Commission would be expanding workers' right by substituting its interpretation for the Secretary's. In other words, H.R. 2730 would give unprecedented and unwarranted authority to the OSHRC to take away workers' workplace health and safety.

The fourth bill, H.R. 2731, the "Occupational Safety and Health Small Business Day in Court Act," would permit small employers to collect attorney fees and court costs when they contest OSHA citations and prevail in litigation with OSHA. This bill would reverse the time-honored rule of American jurisprudence that requires litigants to bear their own costs and fees. There is no need for such legislation because the Equal Access to Justice Act adequately protects parties from administrative overreaching by compensating them in cases where the government is not "substantially justified" in bringing a law enforcement action, or under other "special circumstances."

For the foregoing reasons, the UAW strongly urges you to oppose H.R. 2728, H.R. 2729, H.R. 2730, and H.R. 2731. Thank you for considering our views on these important issues.

Sincerely,

ALAN REUTHER,
Legislative Director.

INTERNATIONAL BROTHERHOOD OF TEAMSTERS, AFL-CIO,
Washington, DC, May 14, 2004.

DEAR REPRESENTATIVE: On behalf of the more than 1.4 million members of the International Brotherhood of Teamsters, I am writing to express our strong opposition to four bills that would amend the Occupational Safety and Health Act: H.R. 2728, H.R. 2729, H.R. 2730, and H.R. 2731. These bills do nothing to enhance safety and health protections for workers. Rather they would change established law and procedures to benefit employers (at the expense of workers), and they would make OSHA enforcement more difficult. Instead of weakening the intent of the OSH Act, Congress should take steps to strengthen safety and health protections for workers, and improve enforcement.

H.R. 2728, the Occupational Safety and Health Small Business Day in Court Act, seeks to excuse employers who miss the current fifteen-day timeframe to contest citations and failure to abate notices. We believe this proposal does noting more than create "artificial" legal reasons for failing to respond in a timely fashion. It is an about face from ensuring that an OSHA case is moved along as expeditiously as possible to ensure that workplace hazards are addresses in as timely a manner as possible, thus improving worker safety and health. The current practice of a case-by-case review is the most appropriate way to ensure that hazards are addressed as quickly as possible and to reinforce the importance of workplace safety.

H.R. 2729, the Occupational Safety and Health Review Commission Efficiency Act, would require that the number of commission members be increased from three to five, that all members be attorneys, and that members be able to serve until a successor is confirmed. We see no justification, or need, for these changes—unless one wishes to tilt the "playing field" against workers. First, the level of enforcement does not warrant five commissioners. Further, increasing the number of commissioners would enable the Administration to stack the review commission with pro-business appointees. There is no reason to limit the pool of talented people for consideration. Further, the current system helps ensure that all parties work together to select qualified people to serve, and to do so in a timely manner.

H.R. 2730, the Occupational Safety and Health Independent Review of OSHA Citations Act, would, we believe, turn the OSH Act on its ear, by giving deference to the commission. Presently, the Secretary of Labor is given deference as the official responsible for enforcing the OSH Act. The bill would take away the authority held by the Secretary in bringing cases to the Court of Appeals and the Supreme Court, an important avenue of redress to protect workers from dangerous and unhealthy workplaces.

Finally, we oppose H.R. 2731, the Occupational Safety and Health Small Employer Access to Justice Act, which would require that OSHA (i.e. the taxpayer) pay the legal costs when it loses a case against a small business that prevails in administrative or judicial proceedings, regardless of whether the government's position was substantially justified. We view this as another effort to impede OSHA's and the Department's efforts to enforce the law and provide an avenue for workers to seek redress.

We see no justification for such an arbitrary departure from the current practice of each party paying for its own litigation costs for only one class of public prosecutions. We know of no other agency, charged by statute to enforce the law, which is impeded from fulfilling its responsibility with respect to a meritorious complaint because it cannot guarantee the outcome.

In effect, H.R. 2371 says that unless the agency is absolutely certain that it can prevail—that it is absolutely certain that its enforcement action will not be challenged, will be upheld, or no modification will occur in terms of action—it will be penalized (budgetarily) for fulfilling its statutory obligation to protect the safety and health of all workers (union and non-union) and to provide an avenue for redress.

Furthermore, H.R. 2371 would effectively gut OSHA's statutory authority to promulgate safety and health standards. Unless certain that a standard will not be challenged (and many routinely are for a number of reasons), OSHA would not dare (or be extremely reluctant, at best) to begin a rulemaking on any hazard no matter how serious. We believe that H.R. 2371 is tantamount to a stealth repeal of OSHA's statutory authority to issue workplace safety and health standards.

Each of these bills will undermine, subtly in some instances and egregiously in the case of H.R. 2371, workplace protections and the protection that the OSH Act was designed to provide workers. We urge you to stand up for the safety and health of working men and women, and reject each of these bills.

Sincerely,

MICHAEL E. MATHIS,
Director,
Government Affairs Department.

RESOLUTION IN SUPPORT OF THE NATIONAL CAMPAIGN TO STOP CORPORATE KILLERS

Whereas, approximately 170,000 workers have been killed on the job since 1982; and

Whereas, many of these workers were killed due to reckless disregard for worker safety on the part of the employer; and

Whereas, the Occupational Safety and Health Administration (OSHA) has the authority under the Occupational Safety and Health Act to refer such cases of employer misconduct to the U.S. Department of Justice for criminal prosecution; and

Whereas, only 81 out of 170,000 workplace deaths since 1982 have resulted in convictions, only 16 of which involved jail time; and

Whereas, the Occupational Safety and Health Act defines an employer's reckless disregard for safety resulting in the death of a worker as a misdemeanor, punishable by only a maximum of six months in jail; and

Whereas, legislation has been introduced into the U.S. Congress increasing criminal penalties for reckless disregard for safety resulting in the death of a worker: therefore be it

Resolved, That we, the ______, support the national Campaign to Stop Corporate Killers with the following goals:

1. To pass federal legislation increasing criminal penalties for willful violations of OSHA standards leading to worker death;
2. To urge OSHA to refer such cases for prosecution;
3. To urge increased civil fines for serious violations of OSHA standards; and
4. To urge local District Attorneys to prosecute employers whose actions result in workers' deaths to the fullest extent possible under state and local criminal law.

I also submit for printing in the RECORD as a reminder the 14 bills that have been proposed by the Republican majority since the 104th Congress to the present, 14 bills related to OSHA, which I think will verify the fact that these four bills today are part of a larger effort, a larger assault. Despite the fact that they look small, they are very devastating in terms of the effectiveness of OSHA.

108TH CONGRESS

April 3, 2003—Norwood—H.R. 1583—Makes it more difficult to prove willful OSHA violations, increases Commission from 3 to 5 members, awards attorneys' fees to small employers who prevail in proceedings, creates new factors to consider in penalty assessment (with an eye to reducing penalties)

107TH CONGRESS

June 19, 2001—Petri—H.R. 2235—Authorizes Secretary to create voluntary protection program.

106TH CONGRESS

April 15, 1999—Ballenger—H.R. 1434—Allows employers, notwithstanding NLRA Section 8a2, to meet with employees directly to discuss, review, etc. safety and health issues.

May 27, 1999—Goodling—H.R. 1987—Allows employers to recover attorneys fees and costs if they prevail in proceedings brought by OSHA. Ballenger also reintroduced his string of 105th Congress bills during the 106th (see below).

105TH CONGRESS

November 7, 1997—Ballenger—H.R. 2864—Encourages "voluntary" compliance for employers.

November 7, 1997—Ballenger—H.R. 2869—Changes law so that records of audits and inspection done by and for the employer need not be disclosed to OSHA inspectors.

November 7, 1997—Ballenger—H.R. 2871—Requiers Secretary to create advisory panel of experts each time she wants to create a new rule, advisory panel to review all scientific, economic data.

November 7, 1997—Ballenger—H.R. 2873—Requires Secretary to provide individualized assessment of risks to workers and costs to employers for industry to which a rule is to be applied.

November 7, 1997—Ballenger—H.R. 2875—Changes language dealing with "alternative methods of protection."

November 7, 1997—Ballenger—H.R. 2877—Forbids Secretary from establishing any performance methods for subordinates based on number of inspections conducted, citations issued, or penalties assessed.

November 7, 1997—Ballenger—H.R. 2879—Hold that employer may not be liable for a violation if workers were not actually exposed to the violation or if the employer did not create the conditions that cause the violation.

November 7, 1997—Ballenger—H.R. 2881—Allows Secretary to waive up to 100 percent of penalty on small businesses which correct their violation within the period of abatement or up to 100 percent of penalty to the extent that employer uses money that would have been paid as penalty for correcting the violation.

September 8, 1997—H. Amdt. 326 to H.R. 2264—Norwood—Seeks to transfer $11.2 million from OSHA to fund the Individuals with Disability Education Act.

104TH CONGRESS

June 14, 1995—Ballenger—H.R. 1834—Massive overhaul of OSHA to weaken the law and favor lawbreaking employers.

Mr. Speaker, I reserve the balance of my time.

Mr. NORWOOD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in case any Members just came in in the last few minutes or little while or are watching on the monitor, let me remind us what we are doing. This particular hour we are giving consideration to H.R. 2729, the Occupational Safety and Health Review Commission Efficiency Act. That is what we are discussing. That is what is under debate and that is what we are going to vote on.

Mr. Speaker, in the report on H.R. 2729, the Committee on Education and the Workforce observed that once Congress has created a government agency, it must continue to monitor the government agency for its performance on behalf of the taxpayers. Surely nobody can disagree with that. When the performance of that agency is found to be unsatisfactory, Congress must seek to identify the reasons for this failure and then make the needed corrections. It is that simple. That is all this bill is about.

We are trying to make the needed corrections on behalf of the taxpayer. That is what this is about, regardless of what we previously have heard.

Mr. Speaker, we are all tasked with performing this oversight that Congress has mandated since the inception of the OSHA law. That process describes what H.R. 2729 seeks to accomplish in a narrow, surgically targeted measure. In correcting clearly identified problems, this measure will improve the agency's performance, increase efficiency and eliminate unnecessary government waste. Who can disagree with that?

Let me use this visual aid behind me to explain why it will do that. I am sure the blue and pink areas are seen prominently by all. These shaded areas represent the time periods when the agency specifically created by Congress to hear all disputes between OSHA and employers have not been able to meet. The shaded areas are an indication of a time when the review commission at OSHA was nonfunctional. It did not work. They were getting paid, of course, but it did not work.

This is since 1970. Half of the time since 1970 the review agency did nothing. That is not good for anybody, especially the American taxpayer, but more importantly, the worker or the employer.

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They found it impossible or at least very difficult to perform the functions that the Congress said to them this is their job, this is what they must do.

This agency, the Occupational Safety and Health Review Commission, or OSHRC, was created by Congress for one single purpose; and, incidentally, had it not been created, there never would have been an OSHA Act. It would never have passed in 1970 had it not been for at the last minute OSHRC being put in.

Their job is hearing disputes between OSHA and the regulated community. They are the court. OSHA is the plaintiff. The small business person is the defendant. They are supposed to be totally independent of the Labor Department. To serve this important purpose, OSHRC, by statute, was given three members, or judges. Two members constituted a working quorum. That is, without an agreement between two judges on all issues of law, no decision can be issued. Without this agreement, OSHRC cannot perform its congressional mandate, and the review commission established by Congress is instead forced to shut down or come to a stalemate where waste and efficiency rule the day. Guess who gets to pay? The same old folks, the taxpayers.

Here is the problem. Stalemate and waste have been the rule over the history of this agency since 1970 rather than the exception. I am telling the Members they have been out of business half the time since 1970. As the visual I pointed to earlier, this one indicates the time of trouble highlighted by the shaded areas seems to overrun this timeline and it seems to signal a problem. And as one witness testified, these legal stalemates produce cases as long as 8 years old that sit on a court docket. That is not what Congress intended and it is not fair to anybody, 8 years of stalemate and waste.

Now we are trying to remedy that. It may be hard for Members to tell we are trying to remedy that with some of the demagoguery, but that is all we are trying to remedy. A simple remedy can be found by looking at OSHRC's sister agency, the Federal Mine Safety and Health Review Commission. There, Congress placed five members on their review panel; and since the mine safety law was passed 7 years after the OSHA Act, most believe this represents a lesson learned. With five commissioners, are they doing better than OSHA is with three? It is not hard. And the answer is, yes, they are.

A second remedial step is necessary to maximize efficiency, however; and H.R. 2729 accomplishes this by enabling the President to use what we call a "hold-over" provision to improve effectiveness and efficiency, which is what the taxpayers want, what we all should want. Simply stated, this provision would permit the President to ask incumbent members of OSHRC whose terms have expired to remain seated, listen to this now, remain seated no longer than 365 days, until the Senate can confirm a replacement. That lets this agency keep working.

Lastly, because the case is decided that OSHRC go on appeal directly to a United States court of appeals, we have inserted the word "legal" before the word "training" and subsection 12(a) of the OSHA Act. This directs the President to select qualified candidates, but it in no way prevents the appointments of individuals who are nonlawyers to serve on OSHRC because there is a threefold criteria for selections. It includes training, that is one of them; it includes education; and it includes experience.

Mr. Speaker, H.R. 2729 represents a very narrow change to the current law. It will have positive and sweeping consequences in terms of improving the performance and the efficiency of OSHRC while eliminating unnecessary government waste. Who can be against that?

I urge the passage of this bill. And I conclude by saying that the demagoguery earlier that says that this bill should be called More Injury and Death Marathon Act is shameful, it is embarrassing, and it is out of line.

Mr. Speaker, I reserve the balance of my time.

Mr. OWENS. Mr. Speaker, I ask unanimous consent that the gentleman from New Jersey (Mr. PAYNE), my colleague on the Workforce Protections Subcommittee, be allowed to control the balance of my time.

The SPEAKER pro tempore (Mr. TERRY). Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. PAYNE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to H.R. 2729, the second quarter of the four terrible bills before us, which amends section 12 of the Occupational Safety and Health Act of 1970 to expand the Occupational Safety and Health Review Commission from three members to five members. They tell me that logically they are having a difficult time moving forward with three members; so, therefore, let us make it larger and we can move faster. That is a pretty good analogy. It is kind of the first time that larger is better. I always heard that they said lean and mean, that is where our government should be, cut down, reduce, get people out of our government.

So here we have kind of a, once again, making things convenient. There we go again. So as I look at these bills, H.R. 2728, H.R. 2729, H.R. 2730, H.R. 2731, they all go into the same sort of stealth kind of quiet killing. And I remember we talked now H.R. 1 was the top bill in our committee, Leave No Child Behind, education, our current President was going to be the educational President, he wanted to be known as. However, 4, 5, 6, 7 years ago, the Republican Party was out to eliminate the Department of Education. When Secretary Bennett took his job, he said, My job is to eliminate this Department, we do not need a Department of Education; I hope that I can dismantle it, when education now becomes a number one issue.

So I have problems trying to figure them out because one day it is there and the next day it is over here. This bill is just similar to that. This bill appears to require that commission members have legal training and provides that the President may extend the term of a member until the Senate has confirmed a successor, and that is pretty good because they can simply put up someone they know will not get confirmed and they can keep hold-overs forever. The commission has functioned with three members since its establishment in 1970.

The authors of the Occupational Safety and Health Act did not feel that there was sufficient work to justify five members and experience does not demonstrate otherwise. That is the reason, in their judgment, they decided to have three members to this commission rather than five. The majority states: "While there are similarities between the mission of the Mine Safety and Health Administration and the Occupational Safety and Health Administration, there is one significant difference: the composition of the adjudicative commission tasked with adjudicating disputes between employers and the agency," that it is a difference.

It is true that the Mine Safety and Health Review Commission has five members, while the Occupational Safety and Health Review Commission has only three. However, it is also true that the Mine Safety and Health Review Commission has broader responsibilities, including responsibility for resolving whistleblowing complaints, than does the Occupational Safety and Health Review Commission. There is a difference in what they do and in their jurisdiction.

The majority wants to expand the size of the Occupational Safety and Health Review Commission to make it commensurate with the Mine Safety and Health Review Commission, but is unwilling to give the Occupational Safety and Health Review Commission commensurate duties. In other words, they use that as the model, but do not give it the same power.

Mr. Speaker, I believe also that the addition of the word "legal" as a modifier to training is also problematic. As a matter of fact, to me it is nonsensical. The Occupational Safety and Health Act requires that the President consider currently the "training, education, and experience" of potential review commission nominees. If enacted, H.R. 2729 would require the President to consider the "legal" training, education, and experience of potential nominees. Why is this necessary for its inclusion? It has been functioning well up to now.

The majority states that "the requirement that training be legal in character will not prevent the selection of any other qualified individual whose experience and/or education is of a nature to qualify him or her for service," that it is not necessary; however, it is put in. And the question is, Why?

In other words, the addition of the word "legal" does not restrict the President to only appointing those with legal training. The President may still appoint individuals exclusively on the basis of their experience or education even if they do not have legal training. The effect then of adding the word "legal" as a modifier of "training" is only to limit the kind of training that the President may consider. This, of course, makes no sense whatsoever.

Current law, which does not preclude the President from considering legal training or even legal education among other types of training or education, seems preferable to H.R. 2729, which arbitrarily links the kind of training the President may consider.

Health and safety experts who may not have legal training, but may nevertheless be very knowledgeable about the Occupational Safety and Health Act, and agency and commission procedures may be unfairly and unwisely excluded from consideration for the position of the commission since people would question that it must be important if the term legal now is put into the bill, and, therefore, they would not put it in and therefore ignore it. I think that it has taken a wrong turn. I do not think it is necessary.

I believe that the commission and workers' health and safety would suffer from such an arbitrary exclusion of nonlawyer talent and expertise.

Another point brought up by the movers of this bill is that this bill, in my opinion, does not improve the efficiency of the commission as the proponents said it does because there is an argument that if there is one vacancy, then there is no decision because there is a tie. My fellow colleagues on the other side have recommended we add two people. Now what happens if one person is still absent? One and one is a tie if we only have two. With five, two and two is a tie if one is vacant. So if one is vacant under three, I am still trying to see what the difference is if there is one vacant under five.

One difference is that taxpayers certainly would have to be paying more money because we would have more people to tend with, we would have more folks, and we are once again making bigger government. We are just expanding, which, once again, confuses me because I have always been told that the other side wanted to reduce the size of government.

So I would just like to certainly urge the defeat of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. NORWOOD. Mr. Speaker, I yield myself such time as I may consume.

I want to sincerely and honestly thank the gentleman from New Jersey (Mr. PAYNE) for staying on the subject matter. We are indeed dealing with this bill. He and I may not agree, but at least we are having a discussion about the bill, and there may be just a couple of things that I want to make sure we have clear.

□ 1400

The gentleman indicated that should the President make an appointment, that that could be forever. That is simply not true. It is 365 days. The bill clearly states that. If the President makes an appointment, it is for 365 days, not forever.

Secondly, the word "legal," that is an interesting thing. I tended to not want to do that too. I understand that. But the problem is, OSHRC is an adjudicative agency, and appeals from OSHRC go straight to the U.S. Court of Appeals. That strongly indicates, perhaps, some need for legal training, and this training could be a very useful tool for a member of this commission in light of the role that they play before it goes to the Court of Appeals.

Secondly, I am very concerned that the courts have been giving deference to the plaintiff. The plaintiff in this case is OSHA. The court should be the review commission. The courts have been giving deference to the plaintiff, rather than the court, and perhaps this will stop some of this.

In terms of efficiency and going from three members to five and the gentleman's indication that he is really against growing government, Congress has a very difficult time saying, you know, this is not working. We need to do something about this. This agency is not efficient. This agency is not getting done what Congress asked it to do.

I pointed out earlier that this agency has almost been out of work half of the time since 1970. What could possibly be done to make it much more inefficient than that? For some 20 percent of the agency's history, it has not had a statutory working quorum in place, and despite otherwise fully staffed people in the agency, they could not act. That is wasteful and that is inefficient.

Will five do better than three? Let us pray, is all I can tell you. It certainly has worked better for MSHA, and we hope that it will for OSHRC.

Mr. Speaker, I reserve the balance of my time.

Mr. PAYNE. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. WOOLSEY), the ranking member of the Subcommittee on Education Reform of the Committee on Education and the Workforce.

Ms. WOOLSEY. Mr. Speaker, I rise in opposition to H.R. 2729 because our workers deserve to know that their interests will be represented on the Occupational Safety and Health Review Commission and they need to know this will be an unbiased judgment.

But first, let me be clear that these four bills we are talking about now are not a worry to any of us up here when we are looking at the employers who actually take care of their workers, the employers who know that workers have families and they are very concerned when they put their policies for safety and health in place. They are concerned about these families. They are concerned about these workers.

But those are not our worries. Our worry is about the employer that does not do that.

This legislation, I believe, will threaten one of the only hopes a family has for justice when a loved one is harmed at work. By increasing the membership of the commission from three to five, the administration could play politics with the commission with anti-employee-safety employees and requiring quorums for a meeting, which could delay a decision indefinitely, ultimately making good decision-making almost impossible through the inefficiency of gathering a group. If you cannot gather a group of three, how will you gather a group of five?

Since Bush took office, it has been clear that he intends to use OSHA to protect big business rather than worker safety. First, he signed legislation overturning workplace safety rules to prevent ergonomic standards. Then he advocated budget cuts for job safety agencies such as OSHA and NIOSH. He went even further by suspending 23 important job safety regulations.

The list goes on and on, and it is my opinion that this legislation is just another way for the anti-OSHA weakening that the administration is hoping for.

Employees need to know they are considered to be as important as business interests. They deserve to know that they matter as much as the bottom line.

Mr. Speaker, this legislation is not what workers need or what workers want. They want to know that their voice will be represented on the commission; they want to know that their grievances will be taken seriously and handled efficiently, and for that very reason, I urge my colleagues to oppose H.R. 2729.

Mr. NORWOOD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I need to remind everybody that this hour is devoted to H.R. 2729, that it is about the Occupational Safety and Health Review Commission Efficiency Act. That is exactly what we are talking about.

I want to remind everyone that a President, a President of either party, is going to appoint somebody to the commission that they agree with. That makes sense, whether it be President Clinton or President Bush. But all of these confirmations have to be confirmed in the Senate, so there is a check and a balance on it no matter which party is in the White House.

The comment earlier about President Bush is more concerned about big business than worker safety , I would simply say this bill is about small business. It has not got anything to do with big business. It is about helping small business.

To simply say, well, this is not what workers want, is very presumptive. There are 92 percent of the population out there that are working families who own businesses, who work every day, and they do want some relief in the regulatory element, particularly, particularly, when the setup at OSHA is so unfair and the deck is stacked against them.

So I will tell you that a lot of small businesses and a lot of working families do want this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. PAYNE. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. ANDREWS), the ranking member on the Subcommittee on Employer-Employee Relations of the Committee on Education and the Workforce, who does an outstanding job in that capacity.

Mr. ANDREWS. Mr. Speaker, I thank my friend from New Jersey for his generous compliment and for yielding me time.

Mr. Speaker, I very much appreciate the motives of my friend from Georgia who brought this legislation to the floor. I know he does everything he does out of goodness of spirit and intention, and my remarks are not meant to be critical of his intention. I do oppose his bill, however, for three important reasons.

The first is the bill is reminiscent, to me, of American history from the 1930s, when President Franklin Roosevelt was unhappy with some of the results he was getting from the U.S. Supreme Court, so he decided to try to change the number of people on the U.S. Supreme Court. The history books called this a "court-packing" scheme.

I have to wonder if what this legislation is really about is about changing some of the results on this commission by changing the number of commissioners. I have heard the concerns about quorums. I think that is something that is a problem that could be cited in a number of different Federal agencies.

I would say to my friends on the other side, Mr. Speaker, if you want to change the substance of what the commission is doing, then change the statute. Bring it to this floor and let us have an open and fair debate. But changing the number of commissioners, I think is an inappropriate way to do that.

The second concern that I have about the emphasis, as my friend, the gentleman from New Jersey (Mr. PAYNE) talked about, on people with legal training serving on this commission, I actually think that the President of either party ought to have the broadest discretion to determine what is a suitable background for service on this commission.

I would raise a question as to this point. Since many people who are active in the labor movement do not have a legal background, I only have to wonder if one of the ideas behind this provision is to make it more difficult for a President to appoint a labor leader to this commission, which would be unfortunate.

The third reason I oppose this, frankly, goes to the relatively narrow nature of this bill at a time when there are so many other major problems the country is facing. The country is embroiled in a very serious policy problem. I know a lot of tomorrow is going to be devoted to that debate. I am not sure we are going to have enough time for all of the Members to come to this floor and express their concerns about what is happening in the Middle East to our country right now.

There are 45 million Americans without health insurance. We had a bill on the floor last week that purported to speak to that. There are a lot of other ideas we could be debating on this floor that we are not.

Hundreds of thousands of Americans have seen their unemployment insurance expire in the last few months, and we have yet to see brought to the floor a bill that would give us a chance to debate and vote on the extension of unemployment benefits.

I think when there are such immense questions facing the country, to be taking up the time of the House on the very narrow question of whether there should be five members on this commission or three is an unfortunate allocation of time.

Mr. Speaker, I would urge opposition to the bill.

Mr. NORWOOD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first, I would like to say to the gentleman from New Jersey (Mr. ANDREWS) that I have great admiration for him, that I always listen to him very carefully, and when he speaks, it is usually well thought out and there is some wisdom behind it. I appreciate that.

I do not necessarily agree with his remarks, but I am thankful he stayed on the subject, generally speaking, of the bill that is before us. I suppose actually we could sit down and probably have some long nights of discussion as to whether there should be three members, four members, five members. But both of us know that the commission is simply not working.

My suggestion is to vote for this bill and let us give a chance for something else to work, particularly when we know that the commission is working pretty well over at MSHA.

I do not know anything sinister about the appointments by the President. It is pretty simple. Frankly, what we need to do is have this commission operate. You cannot operate if it is going to take 8 years producing its findings, and that happens occasionally simply because there is no one there that can get confirmed in the Senate. We need to give Democrat or Republican Presidents an opportunity to put somebody in.

Mr. ANDREWS. Mr. Speaker, will the gentleman yield?

Mr. NORWOOD. I yield to the gentleman from New Jersey.

Mr. ANDREWS. Mr. Speaker, I appreciate the gentleman's kind remarks. I did want to make one follow-up point about the legal requirement to be appointed.

My understanding is that to be a commissioner on the Securities and Exchange Commission, which certainly involves tremendous issues of adjudication, you do not need to have, necessarily, a legal background to do that. I would just ask the gentleman to reconsider that important point, that directing any President to appoint a person only with a legal background here, I think, is a serious mistake that we did not make on the Securities and Exchange Commission.

Mr. NORWOOD. Mr. Speaker, reclaiming my time, as the gentleman knows, the legal training simply is not the only criteria. There are other criteria, such as education and experience, and I do not necessarily think that it has to be a lawyer.

Speaking of the AFL–CIO, they have as many lawyers in this town as anybody in Washington. I am not worried about them not getting somebody on the commission.

We have probably said enough. It is time to vote.

Mr. Speaker, I reserve the balance of my time.

Mr. PAYNE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would indicate that the gentleman, putting this "legal" terminology in here, I hear him passionately argue this bill and bring his points up. If the new appointing authorities would look at him, he would probably not be one who would be considered because he is medical and not legal. I think that he would probably serve well on that commission, but his legislation would probably discriminate against him.

Mr. Speaker, I yield 2½ minutes to the gentleman from Texas (Mr. HINOJOSA)

Mr. HINOJOSA. Mr. Speaker, I rise in opposition to H.R. 2729 and the other OSHA bills under consideration today.

Let us not fool ourselves. Today, we are considering legislation that will weaken the enforcement of our Occupational Safety and Health laws. The bills before us will delay the abatement of unsafe working conditions, weaken the Secretary of Labor's authority to regulate workplace safety and discourage the filing of complaints for unsafe working conditions.

☐ 1415

A safe working environment should be the right of every worker. Sadly, in the United States of America, the world's lone superpower, the wealthiest Nation on the planet, it is not. The workplace is particularly dangerous for the Hispanic workers.

The Associated Press recently reported that Mexican-born workers are more likely to die on the job than any other group, and the disparity is increasing. Mexican migrants take the most dangerous jobs. Many of them are afforded no safety equipment and no training. They are killed in the fields, or they fall from construction sites.

Listen to these staggering statistics. Mexican workers represent one in 24 workers in the United States and are victims of one in 14 workplace deaths.

Training and workplace safety must be a part of our workforce development. Employers must be held accountable for meeting basic occupational health and safety standards. No one should lose a husband, a wife, a mother, a father, a son or a daughter because of a lack of training or safety equipment. Workers are not disposable. Yet when OSHA fails to seek criminal prosecution for 93 percent of the companies that have willfully and flagrantly violated workplace safety laws at the cost of workers' lives, that is the message that is sent.

We have a responsibility to send a different message. Our workers are a firm's most valuable resource, and that should be our bottom line. Unfortunately, today we will not send this message. Today some of the majority in the House will vote to weaken workplace safety without a thought or concern for those whose lives are at risk. I urge my colleagues to oppose H.R. 2729. In fact, it seems to me we should oppose all four OSHA bills.

Mr. BOEHNER. Mr. Speaker, I reserve the balance of my time.

Mr. PAYNE. Mr. Speaker, I yield the balance of my time to the gentleman from New York (Mr. OWENS), the ranking member of the Subcommittee on Workforce Protections, who has done an outstanding job for working people.

Mr. OWENS. Mr. Speaker, I rise to close for the opposition on H.R. 2729.

As I stated at the outset, neither H.R. 2729 nor any other of these four bills before us addresses the important health and safety concerns of American working men and women. In essence, H.R. 2729 gives us the worst of both worlds, a bigger government bureaucracy designed to accomplish less on behalf of the American worker. Moreover, this bill would mandate legal training as a qualification for appointment to the commission. This diminishes what ought to be a primary qualification as a commissioner and that is expertise in the field of occupational safety and health.

Having stated these clear reasons for opposition to this bill, which I urge my colleagues to follow, I would like to turn my attention once more to the urgent concern about the safety of American workers. That concern is over the protection of workers' lives on the job. At present, OSHA does little more than slap the wrists of employers that are egregious safety offenders. As the New York Times noted in its compelling series on worker deaths, OSHA has a 20-year track record of failing to seek criminal prosecution in a staggering 93 percent of cases they investigated where willful and flagrant safety violations by employers killed workers.

And after you institute this proposal for H.R. 2729, it is just one more little reason why they would have less vigor in prosecuting anybody.

Congress has an important role to play in holding both OSHA and unscrupulous employers accountable. One problem is that under the current statute, OSHA can only issue a misdemeanor penalty for an employer who has willfully caused the death of a worker. A misdemeanor has no deterrent value whatsoever. If you harass a wild burro on Federal lands, you face a stiffer penalty than if you kill an American worker. What signal does this send to a small number of unscrupulous employers who actually build up a history of willfully causing worker deaths? Are we saying to these wrongdoers, do not worry about protecting the lives of your workers because Congress cares more about wild burros than about the men and women in your employ? Pestering a wild burro in a national park can send you to prison for an entire year, but killing a worker only lands you there for 6 months.

More importantly, what signal does that send to grieving family members who are left behind? You cannot receive any justice because Congress does not have a fundamental respect for the lives of your loved ones.

Along with Senator JON CORZINE, I have introduced a bill to make killing a worker a felony offense. I tried to get this bill included in one of these four bills because it is germane, in my opinion; but it was ruled out of order. Rather than a radical departure from current law, this bill is just a moderate adjustment that is long overdue. H.R. 4270 and S. 1272 correct a glaring oversight in Federal policy, and I will describe it in more detail later on.

Mr. BOEHNER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, the bill before us, H.R. 2729, makes two very small changes in the OSHA law. One, it says that the OSHA Occupational Safety and Health Review Commission panel be expanded from three to five members. We have gone through the various reasons why that is important. We believe that having virtually 8 years without a quorum and these cases languishing there for some time are really unfair to the employers and to the agency. And by expanding the commission from three to five members, we believe we will speed up the efficiency of that review commission.

The second issue in the bill outlines the type of background of people who belong on this review commission. These are commonsense bills that we believe will help worker safety, help improve the cooperation between OSHA and the employer community. Again, commonsense bills that deserve our support.

Mr. HOLT. Mr. Speaker, I rise in opposition to H.R. 2729, the Occupational Safety and Health Review Commission Efficiency Act. The bill expands the size of the Occupational Safety and Health Review Commission, which hears disputes between OSHA and employers, from three to five members, and permits the President to extend the term of a commission member until the Senate confirms a successor.

This is a transparent effort to stack the Commission with two new members appointed by the Bush administration. There has been no demonstrated need to increase the Commission from three to five members. The Commission has had three members since it was established in 1970.

Proponents of this bill argue that the Mine Safety and Health Review Commission has five members. The responsibilities of the Occupational Safety and Health Review Commission responsibilities, however, are not as broad as those of the Mine Safety and Health Review Commission. For example, unlike the mine safety panel, the Occupational Safety and Health Act Commission does not have the responsibility to resolve whistle-blower complaints.

Further, since the bill does not change the statutory definition that two members constitute a quorum, expanding the membership to five would mean that a minority of the commission would constitute a quorum—allowing the two members appointed by the Bush administration to make unilateral decisions.

Finally, the bill permits members to continue to serve until a new member is confirmed, which may result in an individual serving for years without being subject to reappointment and confirmation, encourages filibusters, and diminishes the incentive to develop consensus between labor and management and Republicans and Democrats with regard to Commission appointments.

Mr. Speaker, for all these reasons I must ask my colleagues to oppose this bill. I hope that in the future the majority leadership will help America's workers with legislation that will increase the minimum wage and protecting overtime rights and not undermine those protections.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. REHBERG). All time for debate has expired.

Pursuant to House Resolution 645, the previous question is ordered on the bill, as amended.

The question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read a third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. PAYNE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion are postponed.

OCCUPATIONAL SAFETY AND HEALTH INDEPENDENT REVIEW OF OSHA CITATIONS ACT OF 2004

Mr. BOEHNER. Mr. Speaker, pursuant to House Resolution 645, I call up the bill (H.R. 2730) to amend the Occupational Safety and Health Act of 1970 to provide for an independent review of citations issued by the Occupational Safety and Health Administration, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 645, the bill is considered read for amendment.

The text of H.R. 2730 is as follows:

H.R. 2730

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Occupational Safety and Health Independent Review of OSHA Citations Act of 2003".

SEC. 2. INDEPENDENT REVIEW.

Section 11(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 660) is amended by adding the following at the end thereof: "The conclusions of the Commission with respect to all questions of law shall be given deference if reasonable.".

The SPEAKER pro tempore: Pursuant to House Resolution 645, the amendment printed in the bill, modified by the amendment printed in part B of House Report 108–497, is adopted.

The text of H.R. 2730, as amended, as modified, is as follows:

H.R. 2730

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Occupational Safety and Health Independent Review of OSHA Citations Act of 2004".

SEC. 2. INDEPENDENT REVIEW.

Section 11(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 660) is amended by adding the following at the end thereof: "The conclusions of the Commission with respect to all questions of law that are subject to agency deference under governing court precedent shall be given deference if reasonable.".

The SPEAKER pro tempore. The gentleman from Ohio (Mr. BOEHNER) and the gentleman from New York (Mr. OWENS) each will control 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. BOEHNER).

GENERAL LEAVE

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2730.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BOEHNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the third bill that we will debate today in this series of four is another narrowly craft bill that addresses a specific problem that we found in the OSHA law. The Occupational Safety and Health Independent Review of OSHA Citations Act restores independent review of OSHA citations by clarifying that the Occupational Safety and Health Review Commission is an independent judicial entity given deference by courts that review OSHA issues.

In 1970 when they created OSHA, Congress also created this commission to independently review all OSHA citations. The commission was intended to hold OSHA in check and ensure that it did not abuse its authority. Congress passed the OSHA law only after being assured that judicial review would be conducted by "an autonomous independent commission which, without regard to the Secretary, can find for or against him on the basis of individual complaint."

Congress even separated the commission in the Department of Labor. It was truly meant to be independent. The bill before us restores the original system of checks and balances intended by Congress when it enacted the OSHA law and ensures that the commission, in other words, the court, and not OSHA or, in other words, the prosecutor, would be the party who interprets the law and provides an independent review of OSHA citations.

Now, let me put this in simpler terms for everybody. If you are stopped by a police officer and you are issued a citation for speeding, would you want the same officer who gave you the ticket to be your judge and jury and decide whether you are guilty or not? Well, of course you would not. And, unfortunately, for small businesses today the law is ambiguous and vague.

Since 1970 the separation of power between OSHA and the review commission has become increasingly clouded because of legal interpretations mostly argued by OSHA in an effort to expand its own authority. Congress intended there to be a truly independent review of the disputes between OSHA and employers; and when this dispute centers on OSHA's interpretations of its authority, Congress intended the independent review commission, not the prosecuting agency, OSHA, to be the final arbiter.

H.R. 2730 restores this commonsense system of checks and balances. Employers are facing enough competition in the workplace. They are facing high taxes, rising health care costs, burdensome government regulations. All of these bills that we have brought to the floor today are intended to help small businesses that are the engine of economic growth in America be all that they can be and to survive in this very difficult economic climate. I would encourage my colleagues today to support this measure.

It is another commonsense bill that would help increase the amount of worker safety and health safety that we see in the workplace each day.

Mr. Speaker, I include the following letters for the RECORD:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, May 17, 2004.

Hon. JOHN BOEHNER,
Chairman, Committee on Education and the Workforce, House of Representatives, Washington, DC.

DEAR CHAIRMAN BOEHNER: On May 13, 2004, the Committee on the Judiciary received a sequential referral of H.R. 2730, the "Occupational Safety and Health Independent Review of OSHA Citations Act of 2003" through May 17, 2004. In recognition of the desire to expedite floor consideration of H.R. 2730, the Committee on the Judiciary hereby waives further consideration of the bill with the following understanding.

I believe the bill as introduced might have been read to change the standard of appeals court review of Occupational Health and Safety Review Commission decisions, a matter that would fall with the Rule X jurisdiction of the Committee on the Judiciary. I understand, however, that the intent of the drafters was simply to make the policy choice that courts should, in exercising normal agency deference under established precedent, defer to the Commission rather than the Occupational Safety and Health Administration itself—not to change the standard of review. I understand that you are willing, during floor consideration of H.R. 2730, to add the following language to the bill: Insert after "all questions of law" the following: "that are subject to agency deference under governing court precedent" and that you will offer an amendment to do so. With that understanding, I will not seek to extend the sequential referral of the bill for a further period of time.

The Committee on the Judiciary takes this action with the understanding that the Committee's jurisdiction over these provisions is in no way diminished or altered. I would appreciate your including this letter and your response in the Congressional Record during its consideration on the House floor.

Sincerely,
F. JAMES SENSENBRENNER, Jr.,
Chairman.

COMMITTEE ON EDUCATION AND THE WORKFORCE, HOUSE OF REPRESENTATIVES,
Washington, DC, May 17, 2004.

Hon. JAMES SENSENBRENNER, Jr.,
Chairman, Committee on the Judiciary, Rayburn HOB, Washington, DC.

DEAR CHAIRMAN SENSENBRENNER: Thank you for your letter regarding our mutual understanding of the intent and purpose of H.R. 2730, the Occupational Safety and Health Independent Review of OSHA Citations Act of 2004 and process for considering this bill. I agree that our intent was simply to make the policy choice that courts should, in exercising normal agency deference under established precedent, defer to the Commission rather than the Occupational Safety and Health Administration itself—not to change the standard of review. Had the language of the reported bill been clear on this point, the Committee on the Judiciary would have had no jurisdictional interest in the bill. I have submitted an amendment to the Committee on Rules that would make the change as outlined in your letter to me, which clarifies the bill and which I have requested be made part of the rule.

With this understanding, I agree that these actions in no way diminish or alter the jurisdictional interest of the Committee on the Judiciary. I will include our exchange of letters in the Congressional Record during the bill's consideration on the House floor.

Sincerely,
JOHN A. BOEHNER,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, May 13, 2004.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: I am writing to request a sequential referral of H.R. 2730, the "Occupational Safety and Health Independent Review of OSHA Citations Act of 2003."

H.R. 2730 contains matters that fall within the Committee on the Judiciary's Rule X jurisdiction. The bill amends the judicial review provisions of the Occupational Safety and Health Act. The amendment as currently drafted would require the federal courts of appeals to defer to the decisions of the Occupational Safety and Health Review Commission on all questions of law if those decisions are reasonable. This is an explicit direction to the courts as to how to review cases and would change the standard of review for questions of law that are not subject to normal agency deference under governing court precedents. In short, these provisions fall within the judicial and administrative procedure jurisdiction of the Committee on the Judiciary under rule X(1)(k)(1)&(2) ("The judiciary and judicial proceedings, civil and criminal", "Administrative practice and procedure").

Because of this Committee's strong jurisdictional interest in this legislation, I respectfully request that you sequentially refer this legislation to the Committee on the Judiciary. Thank you for your attention to this matter.

Sincerely,

F. JAMES SENSENBRENNER, Jr.,
Chairman.

Mr. Speaker, I reserve the balance of my time.

Mr. OWENS. Mr. Speaker, I yield myself such time as I may consume.

I rise in opposition to H.R. 2730. This bill does no more than any of the others before us today to address any critical safety and health needs of American workers.

H.R. 2730 gives the Occupational Safety Review Commission policymaking authority by permitting courts to give deference to the commission with respect to interpretations of OSHA standards. In this way H.R. 2730 weakens the fundamental powers of the Secretary of Labor. Those of us on this side of the aisle maintain that the Secretary of Labor is best able to regulate and enforce safety standards.

We asked the question, and never got any answer, as to whether the current administration supports H.R. 2730 given its stated purpose. Having stated this clear reason for my opposition to the bill, which I urge my colleagues to follow, I would like to turn my attention once more to another urgent safety concern. This pertains to the highly disproportionate death rate of Latino workers in this country.

As I referenced in my opening statement, a recent series of articles by the Associated Press documented the toll this rising death rate is taking in the Latino community. I would like to relate several egregious cases of Latino worker deaths and put a human face on this alarming social problem.

Case number one, Miguel Victor Canales. Miguel Canales was killed 4 years ago while securing shingles to the roof of a new luxury home being built in Arlington, Virginia. Miguel fell off the roof because another employee had failed to install a safety brace. Miguel's stepson was a coworker who witnessed the fatal accident. Miguel's death so traumatized the stepson that he was unable to speak for the following 6 months.

The employer, Octavio Estevez, was an unlicensed subcontractor without workers compensation insurance. Octavio Estevez had routinely failed to pay his employees their rightfully earned wages. After his death, Estevez refused to pay Miguel's prior earned wages to the surviving family members. The employer relies on day laborers and refuses to provide them with any safety equipment or training.

The second case is Joel Bajorques. Joel was a 21-year-old from Guatemala who was killed when he fell off a roofing job in Rockville, Maryland, into a vat of hot tar.

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This took place on a commercial project undertaken by a roofing company. Joel died from severe third degree burns over his entire body. As unbelievable as it may seem, Joel's death was ruled to be the result of natural causes.

Joel's surviving parents and siblings in Guatemala had depended upon his wages to help support the entire family. Since Joel's death in 2002, another worker at the same company has been killed in the exact same way.

Case number three: Juan Vasquez, a Guatemalan worker, was killed using a jackhammer during his first day on the job. He was working at a private home in Bethesda, Maryland, when a brick wall collapsed on him. He had not been given even a hard hat. His employer refused to cover any of the funeral expenses or to provide any compensation to his surviving wife and two young sons. As a result, Juan's family had to borrow more than $6,000 to pay for shipping the body home and burial expenses.

Case number four: Urbano Ramirez was a Mexican farm worker killed by heatstroke while harvesting cucumbers in North Carolina. The exact circumstances of his death are as follows. Urbano felt faint and was told by a foreman to go sit under a tree. Neither he nor any of the other workers had been provided with water. When the foreman had the workers change fields that day, Urbano was left behind and forgotten. His body was not found until 10 days later. Failure to provide workers with water violates an OSHA standard. In the end, the grower was only fined $1,800 for this OSHA violation that caused the death of Urbano Ramirez.

Let me also review how OSHA is faring in addressing the skyrocketing rate of Latino worker deaths. To date, OSHA has limited its efforts to creating a Spanish language Web page and distributing Spanish language pamphlets to Mexican consulates. Yet very few vulnerable immigrant workers are likely to be reached in this manner. OSHA's Hispanic Task Force is mainly comprised of regional administration with no prior knowledge of issues confronting Latino workers. In fact, for the past 3 years, the Bush administration's budget has zero-funded the only OSHA program, called Susan Harwood Grants, to provide union and community-based outreach on safety issues to immigrant workers. Members on this side of the aisle successfully opposed these cuts.

Clearly, OSHA needs to step up to the plate on this issue and take serious, concerted steps to address the crisis posed by Latino worker deaths.

Mr. Speaker, I reserve the balance of my time.

Mr. NORWOOD. Mr. Speaker, I yield myself such time as I may consume.

It is probably appropriate to remind everyone that we are on the third of four bills, H.R. 2730. It is about the independence review of OSHA's citations. That really is what we are discussing this hour.

Mr. Speaker, it gives me great pleasure to yield 5 minutes to the gentleman from Indiana (Mr. PENCE), my friend.

Mr. PENCE. Mr. Speaker, I rise today with great enthusiasm for the work of my friend and colleague, the gentleman from Georgia (Mr. NORWOOD), in not only the legislation before us this hour, H.R. 2730, but also the companion legislation, which I truly believe will develop, in sum total, better cooperation between OSHA and employers.

I also believe that these reforms and the predictability that they will encourage will improve workplace safety as they enhance business competitiveness and, at the end of the day, more jobs.

In east central Indiana, small business America has one thing on their mind, and that is looking after employees, but doing that in such a way that we can create jobs and opportunities for Hoosiers. This legislation authored by the gentleman from Georgia (Mr. NORWOOD) and passed by the Committee on Education and the Workforce, companion to the other three bills, will be about that.

First, a word on the Occupational Safety and Health Independent Review of OSHA Citations Act; I know it is a long name, but a simple concept. Mr. Speaker, by simply reasserting the proper role of the courts and the proper role of the independent review panel, what we will do today on the floor of the Congress is, we will affirm that the original intent expressed in the act is renewed and encouraged, and this, in and of itself, will result in greater predictability for businesses, small and large.

Beyond that, I come to the floor today with a great passion for this issue. During the 107th Congress, Mr. Speaker, I served as the chairman of the Committee on Small Business Subcommittee on Regulatory Reform and Oversight; and in hearing after hearing that I chaired I heard of the extraordinary burden that regulatory red tape places on small businesses across America.

A couple of statistics that are informative: For every dollar of direct budget spending devoted to regulatory activity, according to the Office of Management and Budget, the private sector spends $45 in compliance, and these regulatory burdens are, of course, most harmful for small businesses.

According to the Small Business Administration, firms employing fewer than 20 employees had a regulatory burden in the year 2000 of $6,975 per employee which is nearly 60 percent higher than the $4,400 estimated for firms of more than 500 employees. Considering that the U.S. Census Bureau says that small businesses have accounted for 60 to 80 percent of net new jobs in the United States economy over the past decade, this should obviously be a subject of enormous urgency in this Congress, and I commend my colleague for bringing these measures forward to address it.

There has been talk today about an erosion of safety in the workplace. The truth is, though, that under the present administration, according to the U.S. Bureau of Labor Statistics, there has actually been a 1 percent reduction in workplace injuries between 1999 and 2002, and even more happy news, worker fatalities have been reduced by over 500 annually during the present administration.

This administration and this Congress and this majority are committed to workplace safety, to renewing that pact between American business and the American worker and commonsense regulation in Washington, DC, but as H.R. 2730 proposes to do today, along with the companion legislation, we must do that in a way that is consistent with a free market economy, that understands the proper role of the courts and the Congress and of regulatory agencies, as H.R. 2730 confirms.

So this bill is about reaffirming the original intent of Congress, which well we should do. It is about improving worker safety and reducing Federal red tape; but at the end of the day, Mr. Speaker, it is about jobs, and let us make no mistake about that.

As my friend and colleague, the gentleman from Georgia (Mr. NORWOOD), has said on several occasions in the last several days in various venues on Capitol Hill, maybe you are not for this legislation, maybe you do not have small businesses in your district. Well, we do in eastern Indiana, and cutting Federal regulatory red tape is as urgent a business of this Congress as cutting the onerous burden of taxes on small business owners for revitalizing that small-town, small-business economy that makes my district great and makes America great.

I thank the Speaker and I thank the gentleman for yielding the time.

Mr. OWENS. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey (Mr. PAYNE).

Mr. PAYNE. Mr. Speaker, I certainly rise in opposition to H.R. 2730.

My good friend, the gentleman from Ohio (Mr. BOEHNER), talked about the fact that he would not want a policeman who wrote the ticket to be the jury also, and therefore, it is better to take this out of the hands of the policeman writing the ticket and put it in the hands of the commissioner.

However, I might just tell the gentleman from Ohio (Mr. BOEHNER), I am glad that he does not have much contact, nor do I, with law enforcement, but the only difference is the policeman does not set the speed limit. The policeman does not create the offense. He simply writes the tickets. So, just a small point. I think he had an interesting example, but I do not think it was too legitimate.

But he is a good friend of mine. I will get a chance to talk to him about that analogy of the policeman writing the ticket and being the judge at the same time; therefore, saying it should be in the hands of another commission, not the Secretary.

I rise in opposition to H.R. 2730, a bill that would give the Occupational Safety and Review Commission policymaking authority by allowing courts to give deference to the commission regarding the interpretation of the Occupational Safety and Health Commission standards.

This change would undermine the Department's enforcement function by encouraging challenges to the Secretary's rules and interpretations if it is given to another body. Then it would be open season; every time the Secretary makes a determination, there would be a challenge to it, then put it to the other body which, once again, this commission would be a stalling tactic, simply once again making it more bureaucratic.

It makes government, to me, more cumbersome, not making it lean and mean and effective, as this legislation calls this particular bill, the Efficiency Act. But anyway, this does not make it more efficient in my estimation.

Mr. Speaker, I believe that the Secretary is in a much better position to interpret regulations than the commission. Beyond the obvious fact that the Secretary issued the regulations in the first instance, as noted by the court, it is the Secretary who has broader contact and, consequently, greater expertise with both the regulated community and with the impact of regulations on the community.

Further, viewing the commission's authority as being similar to those of a court fully achieves the purpose of protecting the regulated community from biased interpretation of the Secretary's authority.

Finally, contending that the commission should have both adjudicatory and rule-making authority, as the majority does, creates unnecessary and unwanted confusion by leaving two agencies responsible for determining policy. For all of these reasons, we conclude that the court's view of the act is more reasoned and more sensible than these changes.

I think that we are adding, in my opinion, more confusion by trying to come up with rulings, and so it is not consistent with the OSHA act's legislative history and does not reflect sensible policy. I cannot understand why it is being offered, and for that reason, I respectfully urge my colleagues to vote against this legislation.

Mr. NORWOOD. Mr. Speaker, I yield myself whatever time I may consume.

Mr. Speaker, H.R. 2730 squarely focuses on the needs to reestablish Congress' intent and the needs to have an effective system of checks and balances on agencies like OSHA when they are given so much latitude to interpret the scope of their own authority.

Mr. Speaker, Congress gave OSHA an unprecedented level of authority to enter the workplace in 1970, and it knew that with this unprecedented level of authority ran the possibilities of abuse, and there are more than a few occasions of that over the last 35 years. As with all matters under American law, there is a fine line between implementing needed protections and overintrusiveness by a government agency. That is very important stuff.

With this in mind, Congress devised a system of checks simply to keep OSHA within the boundaries of the playing field established by Congress. Let me provide a good example.

Many of my colleagues will recall the front page of the Washington Post on January 4, 2000. The headline in the upper right-hand corner of the Post read, "OSHA Covers At-Home Workers." I use this example not to rub salt in old wounds left over from the Clinton administration, but simply to say that OSHA has a rather checkered past, shall I say, when it comes to interpreting the limits of its authority under the OSH act.

Left to its own devices, OSHA has a history of crossing the line and going out of bounds. I am not making that up. There are examples after examples. While OSHA may think they break the rules for the right reasons, others see these attempts to expand the agency's reach as an intrusive, unauthorized government act.

Funny, but the legislative history behind the OSH act seems to suggest that Congress envisioned these power grabs.

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You have to be rather proud of the Congress in 1970. And let me call my colleagues' attention to the visual I will now point to as proof.

This visual clearly indicates how the systems of checks that Congress placed on OSHA was intended to work. What you see is lifted directly from the CONGRESSIONAL RECORD of November 17, 1970. That was the very day that a compromise was struck that removed the threat of a Presidential veto, and it calmed the resistance that had prevented the passage of the OSH Act for years. As Senator Javitz noted at the time, the future of the OSH Act depended on the establishment of OSHRC. Without this system of checks being put in place, the OSH Act might not have passed in 1970, perhaps not at all.

That compromise, without question, structured an independent judicial review agency which, and I quote, "without regard to the Secretary of Labor can find for or against him on the basis of individual complaints.'' I submit that what Senator Javitz said on the floor of the Senate November 17, 1970, has a direct and clear application to H.R. 2730. That is, under the OSH Act, Congress intended there to be a truly independent review of the disputes between OSHA and employers, and when this dispute centered on OSHA's interpretation of its authority, that OSHRC and not the prosecuting agency, OSHA, was to be the final arbiter.

The review commission is the court. The Labor Department is the prosecutor and the small business owner, generally, is the defendant. And that is quite simply all H.R. 2730 does. In one sentence, this legislation restores the systems of checks and balances that Congress truly did intend 34 years ago. This measure could not be crafted more narrowly to serve a more direct purpose.

Now, my colleagues may not agree with what Congress said in 1970, but the fact remains they did say it. It is only common sense to have an entity that can review unfettered interpretations; and it happens every day, like OSHA's jurisdiction over individual homes. That is why OSHRC was created and why Congress broke with the administrative tradition in 1970.

I want to refer back to the chairman's analogy, because, I say to the gentleman from New Jersey (Mr. PAYNE), I happen to like it. A police officer writing a citation for a speeding violation does not and should not get the chance to serve as an impartial judge or jury. He simply has a biased opinion on the matter. OSHA should not have that right either.

I urge my colleagues to vote ''yes'' on passage of H.R. 2730 because it restores congressional intent as it reinstitutes a system of checks and balances and just may prevent the kinds of interpretations that have drastically, drastically expanded OSHA's reach into the workplace in the past.

Mr. Speaker, I reserve the balance of my time.

Mr. OWENS. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I rise in opposition to H.R. 2730 because instead of working to strengthen OSHA, my Republican colleagues have again presented us with another piece of legislation aimed at weakening it.

For the record, Mr. Speaker, before being elected to the House of Representatives, I spent 20 years as a human resources professional, and I was also a small business owner. I can speak with authority when I say that workers do a better job for their employer if they are protected and if their health and safety is of concern to that employer.

When there is an accident resulting in injury and/or death, workers and their families, I can tell you absolutely, want any resolution to be handled fairly and efficiently and with their best interests in mind. They need to trust in the review. They need to trust in the final decision that results. And the Secretary of Labor is, obviously, the best final authority on how OSHA law is interpreted.

This bill, H.R. 2730, works to undermine the Secretary's authority, giving the commission too much latitude in how law is interpreted. The Secretary of Labor needs an unbiased group of peers to turn to for appeals. And if the commission's authority on the interpretation of the law trumps the Secretary of Labor, what legal basis would the Secretary have to appeal a decision with which he or she disagrees?

The commission's role is to fact find and review the case with the Secretary of Labor as the enforcer. If the commission becomes both the fact finder and the enforcer, the employee cannot be assured protection from bias, bias which undermines the entire appeals process. It is unnecessary, and it is not in the best interest of the employer or the employee.

If the administration were truly interested in helping workers, Mr. Speaker, it would not be focusing on these unnecessary changes in the law, but instead it would be granting workers what they really need. They need an increased minimum wage, they need to know they are protected, their health and their safety at their workplace, and they know that increased penalties for employers that ignore safety regulations would help in that direction.

Mr. Speaker, I urge my colleagues to join me in supporting real worker reforms and voting against H.R. 2730.

Mr. OWENS. Mr. Speaker, may I inquire as to the number of minutes remaining for this debate.

The SPEAKER pro tempore (Mr. REHBERG). The gentleman from New York (Mr. OWENS) has 18 minutes remaining, and the gentleman from Ohio (Mr. BOEHNER) has 15½ minutes remaining.

Mr. OWENS. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey (Mr. HOLT).

Mr. HOLT. Mr. Speaker, I thank my friend from New York for yielding me this time; and I rise in opposition to H.R. 2730 and also in opposition to H.R. 2728, in opposition to H.R. 2729, and in opposition to H.R. 2731, which we will be considering shortly.

Mr. Speaker, H.R. 2730 would grant deference to the commission, not OSHA, in interpreting questions of law. Now, this, as in this collection of the other three bills, only serves to weaken the protection of workers. OSHA really is a proud chapter in American history, and we are pleased that a prominent New Jerseyan, Senator Harrison Williams, had a large role in writing this. There are millions of Americans who have their limbs, their eyesight, even their lives because of OSHA; and they do not even know who they are. This protection is critically important, and we need to keep it strong.

This cluster of bills today, in every instance, weakens the protection for workers. One of the pieces of legislation would grant the employer more time to contest, contest the findings. It does not restore the balance, as the gentleman speaking in support of this bill earlier said. No, it tips the balance. It tips the balance against the worker. It puts workers and the enforcers who protect them at a disadvantage. It would allow the employer more time but would not allow any new advantages for the enforcer or the worker.

H.R. 2729 would create a larger, slower, more cumbersome commission, again reducing the protection to workers. And 2731, the Occupational Safety and Health Small Employer Access to Justice Act, would encourage employers to contest and simply delay. So all four of these reduce protections that are critically important.

H.R. 2730 would divide the power to make and enforce standards from the authority to interpret them; and it would result in two different actors, the Secretary and the commission, being responsible for implementing the act's policy objectives. That is inefficient and undesirable, and it may substantially alter the manner in which the OSH Act is enforced by calling into question the authority and the ability of the Secretary to bring OSHA cases before the courts of appeal. If the commission's interpretations are to be given deference, then on what basis may the Secretary appeal a decision with which the Secretary disagrees?

Mr. Speaker, this bill presents more questions than it answers, and it creates conflicts that will only weaken worker protections. I ask my colleagues to oppose this bill and the other three bills in this family. In this globalized economy, and with the threat of outsourcing and cheap labor overseas, it is a mystery to me why the other side would want to risk reducing American workers' rights, wages, and working conditions.

I rise in opposition to H.R. 2730, the Occupational Safety and Health Independent Review of OSHA Citations Act. This bill specifies that the conclusions of the Occupational Safety and Health Review Commission "with respect to all questions of law shall be given deference if reasonable." The bill requires reviewing courts to grant deference to the Commission, not OSHA, in interpreting questions of law, as long as the commission's interpretation is reasonable.

H.R. 2730 fundamentally weakens the powers of the Secretary of Labor. In 1991, the Supreme Court held unanimously in Martin v. OSHRC that the Secretary, not the Commission, should be given deference with regard to interpreting regulations because interpreting the regulation is a necessary adjunct of the

Secretary's rulemaking and enforcement powers.

The Secretary of Labor is best able to regulate and enforce safety standards. As the promulgator of any given standard, the Secretary is better positioned to reconstruct the purpose of the standard. As enforcer, the Secretary comes in contact with a much greater number of regulatory problems than the Commission and is more likely to develop expertise in assessing the effect of a particular regulatory interpretation.

Dividing the power to make and enforce standards from the authority to interpret them results in two different actors, the Secretary and the Commission, being responsible for implementing the Act's policy objectives—an inefficient and undesirable result.

The commission is akin to a judicial body, not a regulatory one. Because of the OSH Act's unusual split enforcement structure, the Commission's adjudicatory authority is more aptly compared to that exercised by a court in an agency-review context, than to a unitary agency interpreting the regulations that it had promulgated. Conferring authoritative fact-finding and review powers in the Commission (and ultimately the courts), a body that is wholly independent of the administrative enforcer, ensures employers are protected from prosecutorial bias. H.R. 2730, by granting administrative powers to the Commission, confuses its role.

Finally, H.R. 2730 may substantially alter the manner in which the OSH Act is enforced by calling into question the authority and ability of the Secretary to bring OSHA cases before the courts of appeal. If the Commission's interpretations are to be given deference, then on what basis may the Secretary appeal a decision with which the Secretary disagrees?

Mr. Speaker, this bill present more questions than it answers and creates conflicts that will only weaken worker protections. I ask my colleagues to oppose this bill. In the globalized economy, with the threat of outsourcing and cheap overseas labor, it is a mystery to me why the Republicans want to risk reducing American workers' rights, wages, and working conditions.

Mr. BOEHNER. Mr. Speaker, I reserve the balance of my time.

Mr. OWENS. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Speaker, I thank my friend from New York for yielding me this time and for his leadership in pointing out the flaws in these bills that are on the floor today. It is a thankless and sometimes tedious job, but the gentleman from New York (Mr. OWENS) does it exceedingly well, and we thank him for his hard work.

I rise in opposition to this bill, Mr. Speaker, because I believe it does result in a structure that the Administrative Procedures Act has set in place that works. And although OSHA is not a perfect agency, it is a functional agency that has done much to protect many, as my friend, the gentleman from New Jersey (Mr. HOLT), just talked about.

The Administrative Procedures Act sets up a balance where when this Congress creates a law and delegates to an administrator in the executive branch the responsibility of enforcing that law, the courts give that administrator significant deference in studying what the law means and how it should be enforced. That is a principle that should apply, and I believe does apply, to OSHA. This bill would create an exception to that principle that I believe is nothing more than a fifth wheel.

The bill purports to set up two centers of decision-making within the Department of Labor, one is the Secretary of Labor herself, and the other is the commission that oversees OSHA. It falsely and artificially divides responsibility for understanding and interpreting OSHA standards on the one hand and then enforcing them on the other hand. This just does not make any sense to me.

When Congress legislates in an area of policy importance, whether it is transportation or health or the environment, we frequently create an executive branch person to oversee the enforcement of that law. We then vest that executive branch person with the responsibility of learning about that substantive area and writing the rules that govern that substantive area. The Administrative Procedures Act requires that the courts give significant deference to the decisions made by that executive branch officer.

This works with the EPA, it works in the financial services industry, it works with respect to transportation, and I believe it works in the field of worker safety.

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This bill upsets that balance by directing the courts to give deference in two areas. One area is the Secretary of Labor when it comes to writing the rules, but the other is to the commission when it comes to interpreting the rules.

Putting aside for a minute the confusion over what writing the rules means versus what interpreting the rules means and how the court would have to sort that out, I believe what we will be passing today, should this bill pass, will be a breeder of litigation that would call every standard and every regulation of OSHA into question, very often for the purpose of prolonging the period of time before the regulation is enforced.

The Administrative Procedures Act is, frankly, a work of legal genius in this country. It properly balances the scales among the Congress, the executive branch, and the courts. By creating a fourth scale to be balanced by saying that there are two administrative agencies within the Department of Labor that must be taken into account, I believe we create a disruption.

This is more than just a theoretical problem. The ultimate result of this bill would be to delay and dilute worker safety standards from being enforced, to delay them because there would be one more litigation hurdle that would have to be jumped over before the law could be enforced, and dilute them because it, frankly, is the nature of things that the longer a process takes, the more compromise there is. Compromise is sometimes a good thing, but when we are compromising an important value like worker safety, it is not a good thing.

I would urge Members to oppose this bill because it defers and dilutes worker safety standards that the workers of this country so strongly need.

I thank the gentleman from New York (Mr. OWENS) for his leadership in fighting against these bills.

Mr. BOEHNER. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina (Mr. WILSON), a member of the Committee on Education and the Workforce.

Mr. WILSON of South Carolina. Mr. Speaker, it is an honor for me to be here today to speak on behalf of H.R. 2730, the Occupational Safety and Health Independent Review of OSHA Citations Act. I congratulate the gentleman from Ohio (Mr. BOEHNER) who has taken a lead in assisting in regard to education issues and also worker safety. I also thank the gentleman from Georgia (Mr. NORWOOD), who is chairman of the Subcommittee on Workforce Protections.

Indeed, the particular initiatives and reforms that we are considering today are ones that I think would lead greatly to improving worker safety. The way it would yield for greater worker safety is it would encourage voluntary compliance and proactive activity by small businesses with OSHA.

In the congressional district that I represent, I am grateful that we have large employers such as Blue Cross/Blue Shield, such as the Michelin Tire factory company. We have three different plants in the district I represent. But the real basis of our economy, in working with the Chambers of Commerce and the National Federation of Independent Businesses is the small businesses, and that is who would be helped by the reforms we will be voting on today. These are businesses with 100 employees or less.

In the district that I represent, 99 percent of the businesses have 100 employees or less, and 85 percent of the persons who have employment in jobs are working for these small businesses. That is why it would be so helpful to pass these bills which provide for promotion of workplace safety, and in particular, this specific bill restores the original system of checks and balances intended by Congress when it was enacted as the OSHA law, that it ensure that the commission, which in effect is the court, and not OSHA, which is the prosecutor, would be the party to interpret the law and provide an independent review of OSHA citations.

This could not come at a better time as the economy is improving, as jobs are improving. With the recent tax cuts we have had, with bonus depreciation to encourage companies to buy new equipment, we also need to have these reforms. I urge Members to support the bill.

Mr. OWENS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I mentioned before that I wanted to make an amendment to any one of these four bills because they are all about OSHA, and I thought my amendment was germane. I would like to describe what that amendment would have been.

It is a bill now, H.R. 4270, and it would amend the OSHA Act in three ways. First, it would strengthen sanctions for a worker's death or deaths caused by an employer's willful violations of basic OSHA safety standards. The current sanction is a mere misdemeanor with no more than 6 months in prison and a fine of up to $10,000. Some jurisdictions seek stiffer penalties for failure to return a library book. My bill would change this penalty to a felony with up to, but no more than, 10 years in prison.

Second, my amendment would increase the penalty for illicitly warning of an OSHA inspection, from up to 6 months imprisonment to up to 2 years.

Third, my amendment would increase the penalty for lying to or misleading OSHA, from up to 6 months imprisonment to no more than 1 year imprisonment. In all instances, fines would be decided upon in the same way judges decide other fines, in accordance with title 18 of the criminal code.

This bill, H.R. 4270, and in the Senate it is S. 1272, sponsored by Senator CORZINE; this bill corrects a glaring oversight in Federal law and policy: the inability to pursue a felony conviction of an employer who willfully causes the death of workers. To quote a New York State supreme court justice, a felony sentence would serve as a warning to other employers; employers who, in pursuit of their own economic interests, care to be cavalier about the lives of others.

When sentencing a man responsible for the collapse of an illegally conducted scaffold that killed five immigrant workers in Manhattan, this same supreme court justice remarked, "The collapse of this scaffold was not a tragic accident; rather, it was a tragic certainty." She went on to say that the case had given her an education as to how "astonishingly ineffectual" the Federal Government has been in protecting the workers' lives.

This judge, Rena Uviller, emphasized that OSHA penalties for willful safety violations that result in worker deaths merely amount to a $10,000 fine and a misdemeanor sentence of no more than 6 months' imprisonment upon the first conviction. The maximum penalty for a second-time offender is a $20,000 and no more than 1 year imprisonment.

In concluding her sentencing, Judge Uviller sent a message to us on this floor today by observing, "Why Congress has adopted such a spineless response to industrial malfeasance is best left to the voters to assess."

Why has Congress adopted such a spineless response to industrial malfeasance, to owners, managers, bosses who willfully violate the regulations and thus cause the death of a worker?

I think this would have been a germane amendment. I am sorry that in the committee it was dismissed. My amendment addresses the needs of workers. Every other one of these four bills focuses on the needs of employers, ways in which you might frustrate the efforts, dilute the efforts of OSHA so that employers and small business owners would benefit greatly while workers suffer more.

I think it is very important that we note that we have failed in a four-bill marathon of more than 4 hours to allow the minority to address any of the interests and concerns of the working families of America. This is a clear indication of exactly where the majority stands with respect to working families.

They have other programs that they offered, one called HOW, H-O-W, Hire Our Workers, which runs counter to the kinds of activities they have conducted over the last 10 years with respect to the dilution of the powers of OSHA and, at the same time, the dilution of the powers of the organization process of unions.

I think it is important to note that the business of today has to be the business of being concerned about workers. It cannot be merely the four bills which seek to make OSHA safer for employers.

Mr. Speaker, I yield back the balance of my time.

Mr. NORWOOD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just point out, we are talking about H.R. 2730. That is on the review commission and OSHA. That is the subject of this hour's debate and this bill.

I once again remind Members, we are talking about working families, ninety-two percent of the working families who own businesses who have friends work for them. They are the working families that we are talking about.

Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. ISAKSON).

Mr. ISAKSON. Mr. Speaker, I rise to address, in part, what was just spoken of by the minority in terms of the amendment they would like to have proposed and the reasons they would like to have proposed it, because it illustrates the difference in the two sides today.

It would be wrong for any American worker who listens to this debate to think for a minute that if anything happened to them on the work site that they do not have immediate access to the criminal courts of this country. They do. That is what makes the United States of America great.

It would also be wrong, I think, to assume that this is an employer versus employee argument. It is not. Go out today in Washington, D.C. to any project, building any building. After you see the sign at the front that shows who is building the building and who the contractor is, the next sign posted will be the safety regulations the employer and the employees are committed to.

Go into a facility in America today, go into UPS, go into Coca-Cola, go onto a construction site, and what do you see, you see safety first. OSHA has done what it was supposed to do, and American employers and employees have done what they are supposed to do.

Are there mistakes? From time to time, there are. Is there a route of grievance? There always is.

The gentleman from Georgia (Mr. NORWOOD) is trying to make that an expedited process where you get a hearing fast, you get a result fast, and the purpose of America can continue. And that is for American business to employ employees who work for a company to make products and services and build buildings. But let no one watching this debate think this is about whether or not someone does not have access to our courts if they are aggrieved. They do, and they do instantaneously.

What this debate is about is the great partnership that exists today in America between the worker and the employer, which is what makes this country great.

I appreciate the diligent work of the chairman of the subcommittee and his effort today to work on behalf of working families and what makes America great, the free enterprise system.

Mr. NORWOOD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, frequently I watch debates and the point has been made. Everybody has said what they have to say; it is frequently repeated many times, but we never seem to yield back the time and get to the vote. Mr. Speaker, I think it is time to vote.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GILLMOR). All time for debate has expired.

Pursuant to House Resolution 645, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OWEN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

☐ 1515

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GILLMOR). Pursuant to clause 8 of rule XX, and the Chair's prior announcement, the Chair will now put each question on which further proceedings were postponed earlier today in the following order:

H.R. 2728, by the yeas and nays;

H.R. 2729, by the yeas and nays.

PARLIAMENTARY INQUIRY

Mr. OWENS. Mr. Speaker, point of information.

The SPEAKER pro tempore. The Chair recognizes the gentleman from New York.

Mr. OWENS. Mr. Speaker, there is one remaining bill that we have not discussed.

The SPEAKER pro tempore. The House is going to vote on the first three bills and then vote on the motion to suspend the rules on H.R. 3740.

Mr. OWENS. Are you wiping one bill from the calendar?

Point of inquiry. Will somebody explain what happens to the remaining bill?

The SPEAKER pro tempore. At this point the Chair will put the question on those measures on which a vote has previously been postponed.

Mr. NORWOOD. Mr. Speaker, will the gentleman yield?

Mr. OWENS. I yield to the gentleman from Georgia.

Mr. NORWOOD. We are going to have the votes on these three bills, then there are a couple of other votes, and then we go back to the final bill and its debate, and we will vote it.

Mr. OWENS. I thank the gentleman.

The SPEAKER pro tempore. The Chair will put the questions in the following order:

H.R. 2728, by the yeas and nays;

H.R. 2729, by the yeas and nays;

H.R. 2730, by the yeas and nays; and the motion to suspend the rules on H.R. 3740.

The Chair will reduce to 5 minutes the time for electronic votes after the first such vote in this series.

OCCUPATIONAL SAFETY AND HEALTH SMALL BUSINESS DAY IN COURT ACT OF 2004

The SPEAKER pro tempore. The pending business is the question of the passage of the bill, H.R. 2728, on which further proceedings were postponed earlier today.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the passage of the bill on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 251, nays 177, not voting 5, as follows:

[Roll No. 183]

YEAS—251

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardin
Carter
Case
Castle
Chabot
Chocola
Coble
Cole
Collins
Cooper
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spratt
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NAYS—177

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (NY)
Blumenauer
Boswell
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardoza
Carson (IN)
Carson (OK)
Chandler
Clay
Clyburn
Conyers
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Green (TX)
Grijalva
Gutierrez
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Slaughter
Smith (WA)
Snyder
Solis
Stark
Strickland
Stupak
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu

NOT VOTING—5

DeMint
Deutsch
Gephardt
Leach
Tauzin

☐ 1542

Mr. VAN HOLLEN and Ms. SLAUGHTER changed their vote from "yea" to "nay."

Messrs. BOEHNER, WYNN, and LoBIONDO changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION EFFICIENCY ACT OF 2004

The SPEAKER pro tempore (Mr. GILLMOR). The pending business is the question of the passage of the bill, H.R. 2729, on which further proceedings were postponed earlier today.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the passage of the bill on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 228, nays 199, not voting 6, as follows:

[Roll No. 184]

YEAS—228

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Matheson
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—199

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Marshall
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—6

Burton (IN)
DeMint
Deutsch
Leach
Pitts
Tauzin

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GILLMOR) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1550

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

OCCUPATIONAL SAFETY AND HEALTH INDEPENDENT REVIEW OF OSHA CITATIONS ACT OF 2004

The SPEAKER pro tempore. The pending business is the vote on the passage of the bill, H.R. 2730, on which further proceedings were postponed earlier today.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the passage of the bill on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 224, nays 204, not voting 5, as follows:

[Roll No. 185]

YEAS—224

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Case
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lucas (KY)
Lucas (OK)
Manzullo
Marshall
Matheson
McCotter
McCrery
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Schrock
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Tancredo
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)

Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—204

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boehlert
Boswell
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (NY)
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sherman
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Sweeney
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—5

DeMint
Deutsch
Hayes
Leach
Tauzin

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

☐ 1558

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

OSCAR SCOTT WOODY POST OFFICE BUILDING

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 3740.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. MURPHY) that the House suspend the rules and pass the bill, H.R. 3740, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 422, nays 0, not voting 11, as follows:

[Roll No. 186]

YEAS—422

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (PA)
Petri
Pickering
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—11

DeMint
Deutsch
Evans
Hensarling
Kennedy (RI)
Leach
Lucas (OK)
Murphy
Peterson (MN)
Pitts
Tauzin

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GILLMOR) (during the vote). Members are advised that there are 2 minutes remaining in this vote.

☐ 1607

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

OCCUPATIONAL SAFETY AND HEALTH SMALL EMPLOYER ACCESS TO JUSTICE ACT OF 2004

Mr. BOEHNER. Mr. Speaker, pursuant to House Resolution 645, I call up the bill (H.R. 2731) to amend the Occupational Safety and Health Act of 1970 to provide for the award of attorney's fees and costs to very small employers when they prevail in litigation prompted by the issuance of citations by the Occupational Safety and Health Administration, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. QUINN). Pursuant to House Resolution 645, the bill is considered read for amendment.

The text of H.R. 2731 is as follows:

H.R. 2731

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Occupational Safety and Health Small Employer Access to Justice Act of 2003".

SEC. 2. AWARD OF ATTORNEY'S FEES AND COSTS.

The Occupational Safety and Health Act of 1970 (29 U.S.C. 651 and following) is amended by redesignating section 32 through 34 as 33 through 35 and inserting the following new section after section 31:

"SEC. 32. AWARD OF ATTORNEYS' FEES AND COSTS.

"(a) ADMINISTRATIVE PROCEEDINGS.—An employer who—

"(1) is the prevailing party in any adversary adjudication instituted under this Act, and

"(2) had not more than 100 employees and a net worth of not more than $1,500,000 at the time of the adversary adjudication was initiated,

shall be awarded fees and other expenses as a prevailing party under section 504 of title 5, United States Code, in accordance with the provisions of that section, but without regard to whether the position of the Secretary was substantially justified or special circumstances make an award unjust. For purposes of this section the term 'adversary adjudication' has the meaning given that term in section 504(b)(1)(C) of title 5, United States Code.

"(b) PROCEEDINGS.—An employer who—

"(1) is the prevailing party in any proceeding for judicial review of any action instituted under this Act, and

"(2) had not more than 100 employees and a net worth of not more than $1,500,000 at the time the action addressed under subsection (1) was filed,

shall be awarded fees and other expenses as a prevailing party under section 2412(d) of title 28, United States Code, in accordance with the provisions of that section, but without regard to whether the position of the United States was substantially justified or special circumstances make an award unjust. Any appeal of a determination of fees pursuant to subsection (a) of this subsection shall be determined without regard to whether the position of the United States was substantially justified or special circumstances make an award unjust.

"(c) APPLICABILITY.—

"(1) COMMISSION PROCEEDINGS.—Subsection (a) of this section applies to proceedings commenced on or after the date of enactment of this Act.

"(2) COURT PROCEEDINGS.—Subsection (b) of this section applies to proceedings for judicial review commenced on or after the date of enactment of this Act.".

The SPEAKER pro tempore. The amendment printed in the bill, modified by the amendment printed in part C of House Report 108–497, is adopted.

The text of H.R. 2731, as amended, as modified, is as follows:

H.R. 2731

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE.

This Act may be cited as the "Occupational Safety and Health Small Employer Access to Justice Act of 2004".

SEC. 2. AWARD OF ATTORNEY'S FEES AND COSTS.

The Occupational Safety and Health Act of 1970 (29 U.S.C. 651 and following) is amended by redesignating sections 32 through 34 as sections 33 through 35 and inserting the following new section after section 31:

"SEC. 32 AWARD OF ATTORNEYS' FEES AND COSTS.

"(a) ADMINISTRATIVE PROCEEDINGS.—An employer who—

"(1) is the prevailing party in any adversary adjudication instituted under this Act, and

"(2) had not more than 100 employees and a net worth of not more than $7,000,000 at the time of the adversary adjudication was initiated,

shall be awarded fees and other expenses as a prevailing party under section 504 of title 5, United States Code, in accordance with the provisions of that section, but without regard to whether the position of the Secretary was substantially justified or special circumstances make an award unjust. For purposes of this section the term 'adversary adjudication' has the meaning given that term in section 504(b)(1)(C) of title 5, United States Code.

"(b) PROCEEDINGS.—An employer who—

"(1) is the prevailing party in any proceeding for judicial review of any action instituted under this Act, and

"(2) had not more than 100 employees and a net worth of not more than $7,000,000 at the time the action addressed under subsection (1) was filed,

shall be awarded fees and other expenses as a prevailing party under section 2412(d) of title 28, United States Code, in accordance with the provisions of that section, but without regard to whether the position of the United States was substantially justified or special circumstances make an award unjust. Any appeal of a determination of fees pursuant to subsection (a) of this subsection shall be determined without regard to whether the position of the United States was substantially justified or special circumstances make an award unjust.

"(c) APPLICABILITY.—

"(1) COMMISSION PROCEEDINGS.—Subsection (a) of this section applies to proceedings commenced on or after the date of enactment of this section.

"(2) COURT PROCEEDINGS.—Subsection (b) of this section applies to proceedings for judicial review commenced on or after the date of enactment of this section.".

The SPEAKER pro tempore. The gentleman from Ohio (Mr. BOEHNER) and the gentleman from New York (Mr. OWENS) each will control 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. BOEHNER).

GENERAL LEAVE

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2731.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BOEHNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker the fourth bill we will debate today in this series of votes is another narrowly crafted bill that addresses a specific problem that we found in the OSHA law. In short, we strongly believe that small businesses that face meritless OSHA enforcement actions should not be prevented from defending themselves simply because they cannot afford it.

The Occupational Safety And Health Small Employer Access to Justice Act levels the playing field for small businesses and encourages OSHA to better assess the merits of the case before it brings unnecessary enforcement actions to court against small businesses.

Under current law, the Equal Access to Justice Act allows small business owners to recover attorney's fees if the owner successfully challenges a citation. However, if OSHA can establish that its enforcement action was "substantially justified" or the result of "special circumstances," small businesses can be refused attorney fees even if OSHA loses the case in court.

Historically, the law's "substantially justified" and "special circumstances" standards have made it easy for OSHA to prevent recovery under this broad standard, so attempts by small business owners to recover costs often merely exacerbate the financial harm caused by OSHA's dubious enforcement actions. In fact, let us look at some of the records here.

In 2002, OSHA cited 83,760 violations based on its approximately 40,000 workplace inspections. Yet, how many applications were filed for attorney's fees against OSHA in 2002? That number is eight. How many were granted? One. Moreover, for the last 25 years, only 1 year has seen more than 10 applications filed for attorney's fees against OSHA. When you compare that number to the approximately 80,000 violations cited every year, you begin to wonder.

We have heard testimony in our committee on this issue, and what we have found is that the law's "substantially justified" and "special circumstances" standards have made it easy for OSHA to deny small businesses the ability to recovery attorney's fees.

What these numbers tell us is that small businesses can already see the writing on the wall. They know OSHA has the upper hand; and if the prospect of recovering attorney's fees is as bleak as it appears, then why fight the citations at all?

Small employers should not be forced to knuckle under OSHA's citations and settle up front when they believe they are innocent. This measure simply forces OSHA to carefully evaluate the merits of its case against small employers before they bring its case. If OSHA's case is weak and they bring the case anyway, then the agency is going to have to pay the attorney's fees if in fact they lose the case.

Employers face relentless competition every day in the face of high taxes, rising health care costs, and burdensome government regulations. The last thing they need is a meritless OSHA-related litigation that could take years to resolve. As we have said earlier today, over the last 8 months our economy has created 1.1 million net new jobs; 625,000 net new jobs in just the last two months.

We might want to make sure onerous government regulations do not hamstring small businesses' ability to continue to hire new workers and compete in our economy. Frivolous litigation kills jobs, and this measure will help ensure OSHA carefully considers the merits of the case before they bring enforcement action.

The measure before us is a narrowly crafted commonsense bill that addresses a specific problem in OSHA, and it deserves the support of all of our colleagues.

Mr. Speaker, I reserve the balance of my time.

Mr. OWENS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong opposition to H.R. 2731. This bill is the most alarming of the four before us today. By mandating that OSHA pay the attorney fees of any employer with a total net value of under $7 million and no more than 100 workers if they prevail upon appeal, H.R. 2731 would drastically undermine the enforcement of OSHA's mission.

As I stressed in my opening statement, more than 90 percent of all private firms in the U.S. would qualify for attorney fees upon successfully prevailing in an appeal. What could be more universal than that? H.R. 2731 would have an incredibly chilling effect on implementation of the act.

What would this bill mean for American workers? It would mean that unscrupulous employers could risk workers lives with impunity. Focusing on the issue of worker protection, again, I would like to relate some very personal testimony delivered at a forum I held on May 12 on worker deaths, and some of the photos of the people who testified are in front of us.

Patrick J. Walters, whose photo is on the top row, was 22 years old, a plumber's apprentice who was literally buried alive in a trench collapse in June 2002. Patrick had been sent down into a 10-foot deep, rain soaked trench without any training or safety equipment. Moeves Plumbing, a Cincinnati-based employer, had been repeatedly cited already by OSHA over the years for failure to follow basic safety standards for trench work. Although cited and fined for trench safety lapses in 1983, 1984, 1985, Moeves Plumbing took no remedial steps.

Clint Daley, another Moeves employee had been buried in 1989 in circumstances identical to Patrick's. In Daley's case, OSHA agreed to a settlement based on a promise by Moeves to take required safety action, an example of that voluntary compliance business. Two weeks before his death, an OSHA inspector found Patrick and another Moeves employee working in an unstable, unsafe trench that was 15 feet steep. Again, OSHA warnings went unheeded by Moeves and this caused certain, but tragic, results.

After Patrick's death, an attorney for Moeves Plumbing negotiated down the citation from a willful violation to an unclassified. OSHA also reduced the fine down to $30,000 to be paid over 4 years.

At the May 12 forum, Patrick's mother, Michelle Marts, wondered aloud, "What is it going to take to stop Moeves Plumbing from sending another boy like our son to his death? Patrick did not have to die this way. This absolutely could and should have been prevented. We do not want this to happen to any other family."

□ 1615

Joey Israel was a 22-year-old laborer who fell eight stories to his death from Philadelphia's Victory Building on December 31, 2003. Employed by Hydro-Proof Systems, he had been promoted from entry-level employee to laborer only 2 weeks prior to his death. All that is known for certain is that before careening to his death, Joey had been told to pull up a 23½ pound electrical cord hanging from the window. After repeated phone calls to OSHA to ascertain the status report on Joey's case, OSHA responded by stating that HydroProof had not violated any safety rules.

Joey's twin sister, Jaime, insisted upon a personal meeting with the OSHA investigator. She was told that not one of the eight men who were on the job the day her brother was killed had been questioned by OSHA nor had the employer been questioned about the incident. When Jaime questioned how her brother could have been sent alone some 25 feet up in the air on this job, without any prior training or interview, she was told, "That's the beauty of America."

Jaime responded at the May 12 forum with the following quote: "What an awful thing to be told to a mother who just lost her son and a sister who just lost her brother. I believe this is the downfall of America, where, daily, employers risk the lives of untrained men and women who are doing what they have to do to support their families, to make a quick buck and, in a sense, kill for profit. My brother lost his life for a lousy $60 a day, is that what the lives of our loved ones are worth to their employers?"

Scott Shaw was a 38-year-old husband and father of two young sons who was killed on September 7, 2002. Scott died when he fell into the Schuylkill River, moving from the Hopper Barge to the Work Barge. OSHA investigated and found that Scott's company had committed six serious violations. One of these violations focused on the fact that one barge was 8 feet higher than the other. Also, workers had to climb on rubber tires while jumping from barge to barge. However, OSHA combined these violations into one citation with six items. OSHA's total fine for these violations was only $4,950.

His wife, Holly, testified that "Scott didn't have a life jacket on. He wasn't required by his company to wear one. There were no life preservers on the barge. Scott's death was needless. The company Scott was working for neglected to follow safety regulations.

"As a teacher and as a parent, I know that it is important that a child understand there are consequences to their actions, and they must accept responsibility for what they have done. Adults must face their responsibility, and must be held accountable for their actions. Please don't let another family suffer as we have. The more that companies are actually punished, the more they realize they must practice workplace safety, and must protect their workers."

I urge my colleagues on both sides of the aisle to understand the seriousness of these discussions today.

This is the final quarter of the marathon four bills today. I hope that the fact that they have been packaged together has not caused anybody not to listen. I hope that they understand that we are talking about life-and-death matters.

I urge my colleagues to oppose the needless deaths of Americans by opposing H.R. 2731.

Mr. Speaker, I reserve the balance of my time.

Mr. NORWOOD. Mr. Speaker, I yield myself such time as I may consume.

I will remind us that we are on H.R. 2731, the employer access to justice. That is what we are going to be debating and voting on for the next hour.

Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from Michigan (Mr. SMITH), my friend.

Mr. SMITH of Michigan. Mr. Speaker, I thank the gentleman very much for the recognition.

I think it is important to recognize, first, that safe working conditions are primarily the result of efforts by employers and employees working together. Safety consciousness probably is the best key to worker safety.

When we add OSHA, and I was one of Michigan's OSHA commissioners for

4½ years, I can guarantee my colleagues that OSHA regulations are some of the most onerous, the most complex legal mandates on business and very difficult to understand. So, in many cases, low wage inspector can go out and, trying to read and enforce the regulation, will cite an employer. If you are a large business, if you are GM or Ford or Chrysler, you have the legal staff to review and understand that kind of allegation and maybe come to terms even before it goes to court.

H.R. 2731 levels the playing field for small businesses and encourages OSHA to have greater fairness, and to provide better access to examine the merits of the case. This legislation simply says that OSHA and, therefore, States that adopt OSHA, such as MIOSHA in Michigan, can arbitrally make the determination that if a case was "substantially justified" or the "result of special circumstances", then you do not have to reimburse that small company for attorneys' fees.

The fairness that was tried to be reached in the first place from OSHA was saying if it is a frivolous lawsuit, in effect, then OSHA has a responsibility to reimburse the legal attorneys' fees for that business. This is especially important to small business.

I would encourage my colleagues to support 2731. Small business is the key to our economic success in this country, and this simply levels the playing field to make it fair in a challenge by OSHA to that small business and the ability of that small business to react.

Mr. OWENS. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Speaker, I think it is clear that the effect of this bill, if it were to become law, would be to stall enforcement of workplace safety measures. It is a back-handed attempt to weaken OSHA's enforcement and standards-setting efforts. It would require the American taxpayer to pick up the entire tab if a company successfully challenged even one of the citations that OSHA gave, regardless of whether OSHA's actions were substantially justified.

It is important to note that current law already allows companies to receive payment if the government's position had no substantial justification. Think of it this way: If you had 50 citations and one of the 50 was found wanting, the costs would be shifted over to OSHA, and so we would be punishing the government every time it loses even a small part of an overall enforcement effort. This will deter the agency from enforcing the law.

What is next? Are we going to pay a criminal defendant's legal costs every time there is an acquittal? I know of no other agency that is punished for failing to guarantee the outcome of its good-faith attempts to enforce the law.

OSHA's mission is to protect the safety and health of American workers. We should not tie its hands and drain its resources as H.R. 2731 does.

I recall several years ago there was a ballot measure in California to severely impair the ability of California OSHA to enforce California OSHA regulations. After a very short while, do my colleagues know who the biggest opponent was of that measure to hurt Cal/OSHA? It was the Chamber of Commerce in California because they figured out we will pay more in insurance costs than we will save on compliance costs. It is a mistake for workers and it is a mistake for business to impair OSHA enforcement of safety acts.

I urge colleagues to think carefully about this ill-advised scheme and vote "no" on H.R. 2731.

Mr. NORWOOD. Mr. Speaker, I yield to myself whatever time I may consume.

Mr. Speaker, H.R. 2731 is, once again, a narrow measure with a clearly targeted and very specific goal to ensure very small employers the ability to defend themselves against OSHA's superior litigation position when the small employer believes they are right.

When dealing with OSHA, we now know many small employers are forced to just simply fold their tent, give up because they simply cannot afford the price of justice. As we all know, OSHA has a vastly superior ability to play the litigation game. OSHA has a team of highly skilled, well-seasoned lawyers at its disposal to pressure a small employer and a fully stocked staff to support their efforts.

Maybe even more importantly, they do not have to give any consideration to what the cost of this legal activity may be because they know that the taxpayers of America will pick up all of their costs. That is not even a consideration when they determine to take a small business employer to court, and that is the only determination for a small businessman to defend himself.

A small employer, in contrast, has to open up his own personal checkbook, go out and hire legal help, help that most of the time, the kind of employers we are talking about, they simply cannot afford.

What is more, OSHA litigation is complex, as demonstrated by the thousands of pages of standards, rules and regulations that OSHA has on the books. That means small employers are wise to hire an attorney who specializes in this area of law, adding to the cost that most folks and small business simply cannot afford. They just say, I will pay the fine, I plead guilty, I cannot defend myself.

In sum, it all comes down to the most cost-effective alternative. Can a small employer afford to fight or is it a cheaper business decision to simply knuckle under and pay the fine, despite believing that OSHA is as wrong as they possibly could be?

Obviously, Mr. Speaker, we know that the EAJA just does not work when it comes to the OSHA law. For instance, we know that since the enactment of EAJA, in only 1 year have more than 10 applications for attorneys' fees been filed in an OSHA context. In 2003, OSHA collected over $782 million in penalties, but in 12 of the last 19 years, OSHA's total EAJA awards have been less than $10,000.

I think, fairly clearly that demonstrates that it does not work. This does not add up in light of the many complaints Members of Congress hear from our small business constituents every year; and basically it is, I have to plead guilty, I am not guilty, but I cannot afford to go to court; and the cost of going to court is going to be so much more than the fine, I just give in.

In some 180 other statutes, Congress has supplemented the coverage offered by EAJA with other fee-shifting statutory arrangements for attorneys' fees. So we are not suggesting some radical departure from what has been the norm in Congress. What we are offering instead, Mr. Speaker, is a small opportunity to level the playing field for small employers who need all the help they can get, 100 employees or less with a net worth of $7 million or less.

Mr. Speaker, I said this was a narrow measure, and that is exactly what it is. In fact, it reduces the coverage of what is considered a small business under EAJA. Under H.R. 2731, eligibility for coverage is one-fifth the size of EAJA. This measure could only cover employers with 100 or fewer employees and those with a net worth not exceeding $7 million. No other employees are even eligible for recovery. So this is truly a measure for small employers who are the most vulnerable to OSHA's litigation squeeze.

Mr. Speaker, no one wants OSHA to use taxpayer money to pay attorneys' fees instead of enforcing the law. That is not our goal. That is not the purpose of this measure, and that is not what would result from its passage.

The purpose of H.R. 2731 is simply to force OSHA to think twice before pursuing expensive and time-consuming litigation where they do not have to pay anything, but the taxpayers do, in cases of dubious merit, when it is against very small employers who simply cannot afford to defend themselves.

Under H.R. 2731, if OSHA does bring these actions and loses, it does pay attorneys' fees. There is no increased cost. It comes out of OSHA, and it should come out of OSHA. They should think twice before they take cases to court knowing that all they have to do is say, we are going to court and the small business employer has to give in; that is all.

And as I have said before, if OSHA brings only cases with merit against small employers, this bill is not going to cost them one red cent. All they need to do is better evaluate the merits of their actions and stop using litigation as a way to force employers to say, I give in.

□ 1630

I do not believe you, I think I am right, I give in. I just do not have the money to fight you in court.

I urge my colleagues to vote for passage of H.R. 2731.

Mr. Speaker, I reserve the balance of my time.

Mr. OWENS. Mr. Speaker, I yield 4 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, first of all I wish to thank the gentleman from New York (Mr. OWENS) for what he has been doing on worker safety issues all these years. If we would just listen to every word he says, we would all learn every day from his wisdom. And I thank him also for the hearings that he held last week. Anybody that sat in those hearings and listened to those families who had lost a family member to a work-site tragedy, it would have strengthened their resolve absolutely that our goal is to strengthen OSHA.

Mr. Speaker, I rise today in opposition to H.R. 2731 because workers deserve to know that their interests will be represented and represented fairly by OSHA. As I said earlier today on another bill, we are not the least bit worried about employers who manage in good faith. We are worried about the ones that ignore near misses and important safety standards, employers who know they have a major problem after the experience of an employee's death or severe injury, but ignore the problem and carry on business as usual until another fatality or another severe injury occurs. Those are the employers we are concerned about.

When workers and their families suffer due to poor safety at the workplace, they feel angry and they feel betrayed. They are not protected and they know it. They do not need to feel betrayed further by their government when they are seeking justice for their original betrayal. This bill threatens the lives of thousands of workers because it forces OSHA to consider costs of attorney's fees before deciding whether or not to take action. Putting this unique burden on OSHA may take away the only recourse many, many employees have to stand up for their safety or for their families in demanding redress.

Since President Bush took office, it has been clear that he intends to use OSHA to protect business interests rather than workers' health and safety. First, he signed legislation overturning workplace safety rules to prevent ergonomic standards; then he advocated budget cuts for job safety agencies, such as OSHA and NIOSH. He went further by suspending 23 important job safety regulations, and the list goes on and on. This legislation is one more way to weaken OSHA, and it will make it that much easier for business to avoid OSHA regulations.

If my colleagues really wanted to help workers, they would raise the minimum wage, and they would do it now; they would extend unemployment benefits; they would also increase penalties for employers that ignore safety regulations; and ensure that workers and their families have the support they need and deserve to address faulty employer practices.

Mr. Speaker, this administration has lost sight of what workers really need, a safe working environment, a fair wage, and meaningful reforms in the workplace. I urge my colleagues to join me in opposing H.R. 2731, which is an unnecessary attack on worker protections.

Mr. NORWOOD. Mr. Speaker, I yield myself such time as I may consume to point out that probably every Member in here should read the GAO report put out in March 2004. Frankly, President Bush has done an excellent job in workplace health and safety. The numbers have been coming down. As the GAO says, and others, they are at historically low levels. I would say that is probably going in the right direction.

And I say it is going in the right direction because we finally understand the way you get a healthier and safer workplace is having cooperation between the employer and the employee and the OSHA. But when OSHA uses the litigation tactic to force a small employer to admit to something they do not believe they are guilty of, that does not promote cooperation.

This is simply about justice and fairness to small business owners. They are workers too, and they do want to see this legislation passed. In fact, they involve most of the workers in America today and the people that work for them. So I would like for us not to sit here and say that workers do not want to see this legislation passed. That is simply not true. The majority of workers, the 92 percent that are not in the unions today, yes, they do want to see this passed. It is unfair to say they do not. They are working families as much as anybody that is organized.

Mr. Speaker, I reserve the balance of my time.

Mr. OWENS. Mr. Speaker, may I inquire as to how much time is left.

The SPEAKER pro tempore (Mr. QUINN). The gentleman from New York (Mr. OWENS) has 19 minutes remaining, and the gentleman from Georgia (Mr. NORWOOD) has 17 minutes remaining.

Mr. OWENS. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey (Mr. PAYNE).

Mr. PAYNE. Mr. Speaker, I rise in opposition to H.R. 2731 because I believe that H.R. 2731 is a blatant attempt to chill OSHA's exercise in statutory responsibility to enforce the Occupational Safety and Health Act by penalizing the agency for every instance in which it attempts to do the right thing, but perhaps is unsuccessful. I think that this would certainly dampen people's interest in seeking justice.

Let me just say that as I look at this fourth quarter of these bills that have come here today, this is just another example of weakening OSHA from the inside. My colleagues would probably just like to eliminate it from the outside, but this is the stealth approach.

I think one thing that the other side does well is to give very good names to these bills. For example, this H.R. 2731, Occupational Safety and Health Small Employer Access to Justice of 2004. Now, who could be opposed to the access of justice? However, what does the bill do? It creates a hindrance for people pursuing justice.

Let us just take a look at the other three. H.R. 2728, Occupational Safety and Health Small Business Day in Court Act of 2004. Nothing is better than your day in court. It is the American way. But what does it do? It delays and weakens enforcement. It does not do the right thing.

Then H.R. 2729, once again, sounds great, Occupational Safety and Health Review Commission Efficiency Act of 2004. And what does 2729 do? It makes it more difficult. It enlarges the commission. It creates legal preference. It makes it a little more complicated.

And let us take a look at H.R. 2730, Occupational Safety and Health Independent Review of OSHA Citations Act of 2004. Sounds good. What does it do? It creates conflict with the Secretary. It creates another board that has the right to interpret the Secretary's rulings. We might as well eliminate the Secretary. I'll bet my colleagues would, if they could, because they really want to eliminate OSHA.

And this is not new because this is the way these bills go. Remember the Workers Paycheck Protection Act? Everyone loves to have their paycheck protected, but what did it do? It made it more difficult for people who wanted to pay union dues.

Let us look at the TEAM Act. That is the way we move ahead. Companies that have employees that work in teams together, we move forward, we are more productive, we are going to make the best product. But what does the bill do? It has the employer select the negotiating team for benefits.

Take a look at the Family Time Flexibility Act. Fantastic. Everyone likes flexibility and likes to be with their family. What does it really do? It replaces overtime with comp time when the employer wants to give it to the employee.

The Truth in Employment Act. We all love truth in employment. What does it do? An employer can fire or refuse to hire people if they think they have union sympathies.

The Fairness for Small Business and Employees Act. Since 85 percent of our businesses are small businesses, we certainly want fairness for small businesses and employees. But what does the act do? It requires the NLRB and OSHA to pay fines. It is sort of the forerunner of H.R. 2731 that we are here for today.

The Sales Incentive Compensation Act. That is why people work hard, because they want to be compensated. They work hard, they are doing it the American way, but what does it do? It takes overtime pay away from inside workers.

Rewarding Performance in Compensation. We all want to be rewarded for our performance. Once again, a beautiful title. What does it do? It merely reduces overtime because it excludes bonuses in the calculation and makes it more difficult.

So as we listen to these great apple pie-named bills, it seems like the nicer they sound, the worse they are. Please do not do a Greatness to Donald Payne bill, because I would hate to hear what it would really do at the end of the day.

So I would just like to say, I urge my colleagues to reject this H.R. 2731, because once again, in my opinion, it is going in the wrong direction.

Mr. NORWOOD. Mr. Speaker, I yield myself such time as I may consume.

I think it is time again to remind the body we are discussing H.R. 2731, the Small Employer Access to Justice Act. What that means is that working families, the majority of the working families in my colleagues' districts that happen to be in small businesses deserve access to justice.

It is clear to everyone that OSHA's attorneys know well when they have a weak case. Nobody has to tell them. They know it. And they know under current law they might as well pursue the case and push the employer into settlement, even if they know they may lose the case in court. So what they are basically saying to that working family who owns a small business is, you either pay this fine and say you are guilty, or we are going to make sure you pay a lot more in defense fees, regardless of who wins in court.

Mr. Speaker, only in these cases and only when an employer is very small does H.R. 2731 suggest that OSHA use some degree of discretion before instituting litigation.

Mr. Speaker, I reserve the balance of my time.

Mr. OWENS. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York (Mrs. MCCARTHY).

Mrs. MCCARTHY of New York. Mr. Speaker, I rise in strong opposition to H.R. 2731.

Mr. Speaker, no one should be fooled by what my colleagues on the other side of the aisle have named this bill. This is not a bill about safety and health or access to justice. This bill is about turning Federal law on its head and restricting an employee's due process and access to justice.

This misguided bill would require OSHA to pay attorney's fees and costs in any case in which it did not prevail, regardless of why the agency did not prevail, and even if OSHA is justified in bringing the action.

Normally, fees and costs are awarded to the prevailing party defending against a frivolous claim. This bill awards fees to employers, even if the claims of their failure to protect their employees has merit. I think this, personally, is disgraceful.

Placing the burden on OSHA to pay attorney's fees for any case they lose would be a great incentive for OSHA to stop bringing claims all together. We see now the reason the other side brought this bill up. Do you see, Mr. Speaker? This means OSHA will be paralyzed to do its job.

American workers will be the ones to suffer, through injuries on the job or even through death. In the year 2000, the last year we had these statistics, 4.7 million injuries happened in this country. We had over 5,500 deaths. And these are added to that.

This bill places a higher priority on the compensation of employees than protecting American workers. In Federal law, we normally award fees and costs to those defending against frivolous lawsuits.

□ 1645

The reason is we want to discourage cases without merit from having a day in court. This bill aims to discourage cases with merit from having their day in court. This is an assault on not just the American worker but the American system of due process and justice as well.

Those on the other side want to eliminate OSHA's enforcement powers by making them pay fees and costs. What is next, Mr. Speaker? Will the other side create a private right of action and ask injured employees to pay fees and costs in valid claims themselves?

Mr. Speaker, will it be, Congratulations, you were right, here is your award for your injury, but you have to pay the employer who injured you for the costs of showing up? I worry about even saying this, out of concern the other side will take me up on it.

This is a bad bill. It ties OSHA's hands and American's workers lose their due process and day in court. This is not limited to small businesses. H.R. 2731, despite its stated intent to apply to small businesses, achieves broad coverage in employer requirements. The Bureau of Statistics data for the first quarter of 1998 showed that there were over 6.5 million private sector establishments with 99 or fewer employees, employing 55 million workers, 54 percent of the private sector workforce. So even though we are saying we are doing this for small businesses, it is over 54 percent of our workforce.

Mr. Speaker, we can do better. We must do better. We have to make sure that our workers of this country are protected. We care about our small businesses. Everyone cares about small businesses, but going the way we are going now on tying OSHA's hands to prosecute those that are, in my opinion, having unsafe workplaces is not right. We should defeat this bill. I ask for a "no" vote on H.R. 2731.

Mr. NORWOOD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my opinion is it is shameful that there would be anyone in here who would not want to support working families who happen to be small business owners, which are the majority of people in our districts, so they can have equal access to justice when the big arm of the Federal Government slams down on them.

Mr. Speaker, I reserve the balance of my time.

Mr. OWENS. Mr. Speaker, I yield 4 minutes to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Speaker, I say to the gentleman from Georgia (Mr. NORWOOD) who said that any Member here who does not support the working families who run small businesses should be ashamed of themselves, the gentleman is right. We all should support such individuals, and that is what the law does now.

The law says if someone owns a business and OSHA brings a specious or frivolous claim, that they can recover their attorney's fees now. That is the law. What this bill does is go far beyond the law, and it says to OSHA, if you are not sure you are going to win the case, you better not bring it. If you are not certain you are going to win the case, you are going to have to pay the attorney's fees of the person you are suing.

So if I were the person running OSHA, Mr. Speaker, and my personnel came to me and said there is a claim we want to file against a company that digs trenches that are sometimes unsafe and there was a collapse of a trench last year and a guy died, I would ask them, Are you sure you are going to win the case? And if they are competent and honest attorneys, their answer would be we are not sure because it may be the defense that the trench was constructed properly, or it may be a defense that the worker acted in a fashion that contributed to the accident, or there may be some other defense.

The law today says if OSHA brings a frivolous and unsubstantiated claim and loses, then OSHA must pay the counsel fees of the company that they sue.

Now the majority has said that law is insufficient to get the job done because very few claims have been paid out. I wonder if the reason very few claims have been paid out is because the huge majority of claims that OSHA has brought have been justified, have been heard by a court and have been determined not to be substantially unjustified.

I would respectfully suggest to the majority that if the majority wishes to make the standard easier for a business that is sued to get over, they should look at amending that statute or perhaps look at the definition of "substantially unjustified." What this says is if OSHA sues and loses, it pays. So the only cases that OSHA is going to bring are the ones that they are certain they are going to win. This is effectively and functionally a repeal of the OSHA statute because if the agency brings a claim that it is not sure that it is going to win and if it loses that claim, it has to pay fees that will eventually dwarf and overwhelm its budget, and it will not pursue the claims at all.

The twisted logic of this bill is if OSHA makes a misjudgment and files a case that it loses on a close call, it loses not only the case, but it loses its ability to go after dozens or hundreds of other cases because the resources that it would have devoted to investigating and prosecuting those cases would be otherwise spent.

If OSHA brings a frivolous or unjustified case against a small business, it should pay the counsel fees of the small business. That is the law today. This bill goes far beyond that and says to OSHA you can only bring the cases you are sure you are going to win. That will radically cut back on the ability of this agency to protect the American worker. I fear that is what the bill is intended to do, and that is why we ought to oppose it.

Mr. BOEHNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from New Jersey (Mr. ANDREWS) talks about how employers can recover the cost of their legal fees if in fact they win. But the fact is, and the gentleman knows and we well know, in the last 23 years, 23 years, exactly 37 employers had their attorney's fees returned to them.

I will tell Members why that is the case, and that is because under the Equal Justice Act and the law around OSHA, unless OSHA was completely out of bounds, employers tend to lose. So here is what happens: employers do not even try.

To give another example of why employers are not seeking legal fees from OSHA, it goes to the fact that if I am a small employer, which I was, am I going to put my capital, my assets, on the line, even if I think I am right, to take on the Federal Treasury and the Federal Government? I am probably just going to suck it up, go to court, pay the fine, and go on because I am not going to put my company at risk. I am not going to put all of my employees at risk, which is exactly what most small employers in America face today. That is why over the last 23 years only 37 employers ever got any attorney's fees from OSHA.

Members can put themselves in the position of that small employer looking up at the Federal Government and the Federal Treasury and mountains of lawyers. I would not take that risk. I do not blame them for not taking the risk.

All we say in this bill is if OSHA brings litigation against a small employer of 100 employees or less with a capital of less than $7 million, and OSHA loses, the small employer ought to have his attorney's fees covered.

I do not believe that this will reduce the enforcement of OSHA in any way, shape or form; but I do believe it will cause OSHA to consider the strength of that agency, the power of the Federal Government, consider all of that before they come down on some poor small employer who is trying to do his best to protect the health and safety of his employees.

But I do not think it is fair under the current system and the current structure that we have to look up, and to take 2002, for example, one employer, one employer in all of America got his attorney's fees returned to him. One. There were 80,000 citations issued by OSHA, one employer got some attorney's fees returned to him. It is not fair.

Mr. Speaker, I reserve the balance of my time.

Mr. OWENS. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. KUCINICH), the distinguished candidate for President.

Mr. KUCINICH. Mr. Speaker, I rise today in strong opposition to H.R. 2731, the misnamed and ill-considered Occupational Safety and Health Small Business Access to Justice Act. In 2002, 5,524 workers were killed on the job because of dramatic injuries. In 2002, almost 60,000 workers died from occupational diseases. And in 2002, over 5 million workers were injured or fell ill on the job.

For some perspective, approximately 56,000 Americans died between 1958 and 1975 in the Vietnam War. The American workplace leads to the same number of deaths in a single year. With this in the background, it is mystifying to me that today we are considering a bill to significantly weaken OSHA and to make the workplace less safe, as H.R. 2731 would do by requiring OSHA to pay attorney's fees in any case in which it does not prevail.

The effect of this bill would be to discourage OSHA from bringing enforcement actions against dangerous workplaces. OSHA would have to calculate the odds of winning against the cost to its budget if it loses. That would render the Federal cop on the workplace safety beat timid.

Let us be clear, no one would suggest the government should pay the attorney's fees of criminal defendants merely because they have been acquitted. So just as the concept underlying this bill would make our streets more dangerous if applied to the criminal code, something no one in this House would support, it would make our workplaces more dangerous if applied to the OSHA law.

I ask my colleagues, should the level of protection the law provides Americans vanish the moment the workers walk from the street to the shop room floor? That is the concept promoted by this bill. And make no mistake, although current law may not consider deaths resulting from willful disregard of basic safety procedures a criminal matter, such shameful instances are absolutely criminal.

I think it is clear this bill is designed to weaken enforcement of workplace safety laws, to further distance exploited workers from the justice they and their families deserve under the law, and it will severely handicap OSHA by discouraging it to cite employers unless the agency is utterly certain it will win.

Given the importance of OSHA's core mission of protecting workers and workers' lives, and that workers have no private right of action under OSHA, a fact that again mirrors the criminal code that rejects the rationale underlying this bad bill, there is every reason to be more, not less, cautious with fundamentally altering the nature of OSHA enforcement. But H.R. 2731 does not make a cautious change. It will severely endanger the safety of American workers; and as such, it should be defeated.

Mr. NORWOOD. Mr. Speaker, I yield myself such time as I may consume.

As usual, when the gentleman from New Jersey (Mr. ANDREWS) takes the floor, he gives Members pause to think a moment. I have wondered if he is asking the right question, however. When this bill becomes law, it seems to me the question that OSHA should ask is not will we win the case, but are we right. Do we actually have a case where a citizen violated the law, and do we actually have substantial proof to take into court whether that citizen violated the law?

□ 1700

I would hope that when this bill becomes law that OSHA will take cases that they deem meritorious, cases in which they think and believe strongly that they are right. What we are after is having them think carefully about cases that do not have a lot of merit but it is just a good way to win.

Mr. Speaker, I reserve the balance of my time.

Mr. OWENS. Mr. Speaker, I yield myself such time as I may consume.

I want to thank the members of the minority on the committee for their work on this bill. I want to thank the majority for giving us an opportunity to talk about the very real problems that are faced by workers in the workplace.

Mr. Speaker, I submit for the RECORD an item titled Summary of the AFL–CIO Death on the Job Report, and the second item for the record, Profile of Workplace Safety and Health in the United States.

SUMMARY OF THE AFL–CIO DEATH ON THE JOB REPORT

The report is a national and state-by-state profile of worker safety and health in the United States. A combination of too few OSHA inspectors and low penalties makes the threat of an OSHA inspection hollow for too many employers. Millions of workers are still left with no OSHA coverage.

Here are some of the "highlights" of the report:

15 workers were fatally injured and more than 12,800 workers were injured or made ill each day during 2002. These statistics do not include deaths from occupational diseases, which claim the lives of an estimated 50,000 to 60,000 workers each year.

A 62 percent increase in the number of trench fatalities, from 33 in 2002 to 53 in 2003.

Fatal injuries among Hispanic or Latino workers decreased about 6 percent, although the 840 fatalities recorded for Hispanic workers is the second-highest annual total for the population. States that saw an increase in the number of Hispanic worker fatalities in 2002 include Alabama, Arkansas, Florida, Idaho, Indiana, Maine, Maryland, Nebraska, New Jersey, North Carolina, Pennsylvania, Tennessee, Virginia, Washington and Wyoming.

The number of fatal work injuries among foreign-born Hispanic workers increased to 577 in 2002 from 527 in 2001.

Musculoskeletal Disorders continue to account for more than one-third of all injuries and illnesses involving days away from work and remain the biggest category of injury and illness. The occupations that reported the highest number of MSDs involving days away from work in 2002 were nursing aides and orderlies (44,421); truck drivers (36,814); and laborers, nonconstruction (24,862).

As documented in a December 2003 New York Times series, prosecutions of recklessly negligent employers are extremely rare. Of the 170,000 workplace deaths since 1982, only 16 convictions involving jail time have resulted—although 1,242 cases involving work deaths were determined by OSHA to involve "willful" violations by employers (violations in which the employer knew that workers' lives were at risk).

Penalties for significant violations of the law remain low. In fiscal year 2003, serious violations of the OSH Act carried an average penalty of only $871 ($856 for federal OSHA, $885 for state OSHA plans).

2,240 federal and state OSHA inspectors responsible for enforcing the law at 8.1 million workplaces. At its current staffing and inspection levels, it would take federal OSHA 106 years to inspect each workplace under its jurisdiction just once.

Between FY 1999 and FY 2003 the number of employees who work in workplaces inspected by federal OSHA inspections decreased by nearly 12%. The average number of hours spent per inspection also decreased between FY 1999 and FY 2003, from 22 to 18.8 hours per safety inspection and from 40 to 34.7 hours per health inspection. The number of citations for willful violations decreased from 607 in FY 1999 to 391 in FY 2003. The average penalty per violation and per willful violation increased in FY 2003 from the FY 2002 level, while the average penalty per serious violation decreased to its lowest level since 1999.

After three and a half years under the Bush administration, rulemaking at OSHA and MSHA has virtually ground to a halt. In December 2003, the administration published its latest semiannual regulatory agenda, which sets forth its regulatory priorities and plans for the coming year. Having already withdrawn 22 pending OSHA regulatory actions from its regulatory agenda, in its May 2003 regulatory agenda the Bush administration withdrew the glycol ethers standard and the tuberculosis standard, leaving few major initiatives on the regulatory schedule.

OSHA still has taken no action on the Employer Payment for Personal Protective Equipment standard, which has been through the rulemaking process and is ready for final action.

The only major regulations still on the regulatory agenda are for silica, beryllium and hearing conservation for construction workers. But there is no commitment for OSHA to propose these rules. This will be the only administration in history not to issue a major safety and health regulation during its four years in office.

17 MSHA standards to improve safety and health for miners have been withdrawn, including the Air Quality, Chemical Substances and Respiratory standard.

Adjusting for inflation, the FY 2005 proposed OSHA budget represents a $6.5 million cut over FY 2004 appropriations.

The FY 2005 OSHA budget proposes increasing programs for voluntary compliance with employer assistance while cutting training and outreach programs for workers and freezing standard-setting and enforcement programs. At OSHA, the president proposes to cut worker safety training programs by 65 percent and to shift these funds to employer assistance programs.

Since we have had a running commentary here about staying on the point, I would like to comment directly on H.R. 2731 by quoting from the Brotherhood of Teamsters objections:

"Finally, we oppose H.R. 2731, the Occupational Safety and Health Small Employer Access to Justice Act, which would require that OSHA, the taxpayer, pay the legal costs when it loses a case against a small business that prevails in administrative or judicial proceedings, regardless of whether the government's position was substantially justified. We view this as another effort to impede OSHA's and the Department's efforts to enforce the law and provide an avenue for workers to seek redress.

"We see no justification for such an arbitrary departure from the current practice of each party paying for its own litigation costs for only one class of public prosecutions. We know of no other agency, charged by statute to enforce the law, which is impeded from fulfilling its responsibility with respect to a meritorious complaint because it cannot guarantee the outcome."

If OSHA is forced to guarantee the outcome, it ties OSHA's hands and will rob workers of protections by discouraging OSHA from executing its required responsibilities. Like all of the other items in this marathon package, which I call the More Injuries and More Death Marathon, it stacks the deck against the workers and in favor of the employers.

Mr. Speaker, I yield back the balance of my time.

Mr. NORWOOD. Mr. Speaker, I yield myself such time as I may consume.

I think it is probably important at this time to remind the Members that this debate and this bill is very narrowly tailored. It is H.R. 2731, the Occupational Safety and Health Small Employer Access to Justice Act.

It is just this simple: If you have working families in your district that are running small businesses, we are trying to give them an equal playing field, a level playing field with the Federal Government. If you have a district where there is no small business, then you do not have to worry about this. It will not matter how you vote. But I ask all of my colleagues to level the playing field so little people have a little chance against the Federal Government and OSHA when they come down with all their battery of lawyers.

Mr. BLUMENAUER. Mr. Speaker, unfortunately, this Congress has repeatedly undermined protections for the American workforce, shifting emphasis from employees to employers. The four bills brought to the House floor today are the most recent examples that hinder the efficacy of the Occupational Safety and Health Administration (OSHA), taking away protections from the workers that need them most, and shielding businesses from government oversight.

Taken together these bills:

Allow businesses to indefinitely delay the reparation of health and safety violations.

Needlessly expand the Occupational Safety and Health Review Commission, allowing the administration to stack it with partisans who may work to undermine basic worker protections.

Strip OSHA of the power to issue authoritative interpretation of regulations, enabling more companies to violate safety and health hazards without facing repercussions.

Require OSHA to pay attorney fees and costs even in cases in which the federal government was found to be "substantially justified" in pursuing the action. This will create a deterrent for complaints against employers.

Rather than "reform," these four pieces of legislation weaken OSHA and undermine Congress's original intent when OSHA was enacted in 1970. These bills were introduced under the guise of creating economic competitiveness. Undermining the health and safety standards does not make Americans more competitive. Americans pride themselves in having the greatest workforce in the world. How can we enhance working conditions of workers abroad in trade agreements and other international pacts when we erode basic health and safety protections for our own workforce? Americans deserve a safe and healthy workplace. Limiting OSHA, the agency created to ensure workers receive these basic rights, will do nothing to advance the cause.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in opposition to this bill, H.R. 2731, the "Occupational Safety and Health Review Commission Efficiency Act of 2004."

First, I would like to point out a misconception that has been propagated by our friends on the other side of the aisle. Mistakenly, the Occupational Health and Safety Review Commission under the Act (OSHRC under OSHA) has been likened to the "plaintiff" in a safety and health citation proceeding.

The reason why our friends on the other side of the aisle have brought this package of four bad proposals to the floor is because they hold true this misconception—that OSHA, in adjudicating the citations that it issues for violations by employers, is a plaintiff. The technical definition of a "plaintiff," for procedural purposes, is the party that initiates a lawsuit, and a "complainant" refers to one who makes the complaint in a legal action or proceeding. However, because OSHA is the agency responsible for enforcing regulations that relate to occupational health and safety, for making our workplaces safe, and for making businesses—regardless of the size or net worth—accountable for the conditions in which they place their workers, OSHA is a conduit and the worker is the real Plaintiff, Mr. Speaker. The worker is the party that has relied upon her employer to comply with the law to their detriment and loss. The worker is the party that has lost wages, life, or a limb. The worker is the party without which the employer ceases to do business. Finally, the worker is the party for whom the OSHA regulations were drafted, passed, and promulgated. Therefore, it is our duty as legislators to do everything in our power to protect them without creating a substantial or unreasonable hardship for the employers.

Again, I oppose H.R. 2731, the "Occupational Safety and Health Small Business Day in Court Act of 2004." This bill would amend the Occupational Safety and Health Act of 1970 to provide for the award of attorney's fees and costs to employers who prevail in adversary adjudication arising from a citation issued under OSHA. Under the guise of protecting businesses that have 10 or fewer employees and up to $7 million in net worth—i.e., smaller businesses, this legislation irrationally slaps OSHA on the hand every time it loses in court. Let us not forget, OSHA is a regulatory and an enforcement agency; it is in the business of adjudicating citations of health and safety violations.

By imposing such a burden on the agency responsible for keeping our worker safe, we will discourage it from bringing the smaller cases to court and from bringing the cases about which it feels comfortable but not certain to court for fear of having to pay the employer who prevails. One of the baneful effects of this legislation will be to chill the issuance of meritorious health and safety citations in close cases no matter how grave the injury or loss was to the employee, substantially weakening OSHA's enforcement functions.

Finally, because businesses with no more than 100 employees comprise 97.7 percent of all private sector businesses, a great deal of these entities have a higher rate of fatal occupational injury than do those that have 100 or more workers. Passage of H.R. 2731 will make numerous workers around the nation vulnerable to unsafe or potentially unsafe health and safety conditions.

The U.S. Chemical Safety and Hazard Investigation Board (CSB), that makes recommendations to OSHA and EPA, cited several tragic accidents that were caused by uncontrolled reactive hazards because it is one of the largest petrochemical industry center. Since 1980, there have been more than 28 serious reactive chemical accidents in Texas. For example, on July 5, 1990, 17 workers were killed when a 900,000-gallon chemical waste tank exploded at a plant east of Houston. Furthermore, three of the five costliest reactive accidents occurred in Texas or Louisiana with combined property damages in excess of $210 million.

Dangerous conditions exist that threaten the lives of people who simply want to make a living. The policy that is proposed in H.R. 2731 ignores the need to hold employers to a commitment to achieve and maintain a safe and healthy workplace.

Mr. Speaker, again, I oppose this bill and urge my colleagues to support our workers.

Mr. BACA. Mr. Speaker, I rise in opposition of all four of the OSHA bills under consideration today. Republicans are trying to say that our country's laws are the cause for the offshoring of American jobs. This is not only untrue, but it's shameless to accuse the few protections that exist for our nation's workers as the cause for their jobs being shipped overseas.

While the Republican Chairman of the Ways and Means Committee is busy writing an FSC/ETI tax cut bill that will give tax breaks to companies that move to China or India, his Republican colleagues try to confuse people on the reasons why jobs are leaving main street and being sent to mainland China. The face is that we are losing jobs because of the failed policies of this administration. The compassionate conservatism of this administration has cost us 3 million jobs. Please end the compassion!

President Bush's top economic advisor has even proudly said that sending American jobs overseas is a good thing. Well, I for one will not let them confuse the issue. We cannot let Republicans say that the way to ease the competitive disadvantage to third world countries like China or Brazil is to adopt their labor standards. That type of thinking would take boys and girls out of the classroom and into the coal mine.

These four anti-worker safety bills would substantially weaken worker health and safety laws and hurt our workers. H.R. 2728 weakens enforcement of workplace health and safety regulations by dragging out the date for imposing penalties. It also drags out the date by which corrective action must be taken to mitigate the health or safety hazard.

H.R. 2729 weakens worker protections by expanding the membership of the commission and flooding it with partisan appointees that agree with the President's anti-worker agenda. This commission has had three members since it was established in 1970. There is no reason to expand it or to allow a minority of the commission to make decisions. Both these changes make no sense whatsoever.

H.R. 2730 would undermine the OSHA enforcement functions by encouraging challenges to Labor Department rules and interpretations.

H.R. 2731 would put the health and safety of thousands of workers at risk by encouraging lawbreakers to fight any worker safety violations in court. OSHA settles or wins the vast majority of its enforcement cases; there is no reason to assume employers need to be protected from an overzealous agency. The bill is one-sided. If OSHA wins, the employer does not have to pay OSHA's expenses. The real loser under this legislation is the taxpayer and American workers.

As you can see, all four bills are anti-worker laws. The only way they can justify them is to trump up charges that it is these worker protection laws that are costing us jobs. This is false and worse yet, it is a lie.

Mr. Speaker, I urge my colleagues to oppose all four of the anti-OSHA bills.

Mr. HOLT. Mr. Speaker, I rise in opposition to H.R. 2731, Occupational Safety and Health Small Employer Access to Justice Act. This bill changes current law to permit the awarding of attorney's fees and expenses to a small employer who prevails in an administrative or judicial proceeding against the Occupational Safety and Health Administration (OSHA), regardless of whether the position of OSHA was "substantially justified."

This bill treats OSHA differently than all other federal agencies. The bill holds OSHA to higher standard with regard to the payment of the opposing party's attorney's fees than any other agency.

Like most Federal agencies, OSHA is subject to the Equal Access to Justice Act (EAJA). Under EAJA, if the government's position is not "substantially justified," the government must pay the prevailing party's fees and costs. According to information provided to then-Chairman Goodling in 1999, from FY 1981 through FY 1998, there were 68 applications for fees under EAJA by employers involving OSHA complaints. 41 of those applications were denied and 27 were granted.

In FY 1999, there were 12 applications filed, of which 2 had been denied, 3 had been granted, and 7 were still pending at the time the information was provided. There is no evidence that OSHA has engaged in reckless prosecutions or that it should be singled out for a higher standard than all other Federal agencies.

The likely consequences of this change is that OSHA would be less likely to issue complaints against those employers, more safety and health violations will go uncorrected, and, consequentially, more workers may be injured or killed.

This bill places employers' convenience over the safety and health of workers. There is no private right of action under the OSH Act—if OSHA fails to enforce the law, workers have no other recourse. In effect, H.R. 2731 places a higher priority on compensating employers for legal fees than on protecting the safety and health of workers.

Mr. Speaker, today we should be talking about how to protect our workers not endanger them. 15 workers were fatally injured and more than 12,800 workers were injured or made ill each day during 2002. These statistics do not include deaths from occupational diseases, which claim the lives of an estimated 50,000 to 60,000 workers each year. This bill will cause the number of worker deaths to go up, not down.

We should be discussing giving OSHA the proper funding to do its job. Between FY 1999 and FY 2003, the number of employees who work in workplaces inspected by federal OSHA inspections decreased by nearly 12%. The average number of hours spent per inspection also decreased between FY 1999 and FY 2003, from 22 to 18.8 hours per safety inspection and from 40 to 34.7 hours per health inspection. Adjusting for inflation, the FY 2005 proposed OSHA budget represents a $6.5 million cut over FY 2004 appropriations.

The FY 2005 OSHA budget proposed increasing programs for voluntary compliance and employer assistance while cutting training and outreach programs for workers and freezing standard-setting and enforcement programs. At OSHA, the president proposes to cut worker safety training programs by 65 percent and to shift these funds to employer assistance programs. These are the problems we should be addressing today, rather than debating H.R. 2731. I ask my colleagues to oppose this bill.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I would like to express my support for the legislation introduced today by my colleague from Georgia.

I think that all 4 of Mr. NORWOOD's bills on the floor today will improve workplace safety, level the playing field for small businesses, and ensure that employees and employers are treated fairly.

H.R. 2731 encourages OSHA to really look at the merits of a case before it brings unnecessary enforcement actions to court against small businesses.

Current law does allow small business owners to recover attorney's fees if they successfully challenge a citation

But in the real world of OSHA, this simply does not work for small businesses. In the last 23 years, small business employers have been able to recover costs from OSHA only 37 times!

Last year alone, only one employer was awarded attorney's fees, despite more than 80,000 citations issued by OSHA.

H.R. 2731 limits its scope to small businesses with 100 employees or less and less than $7 million in net worth, thereby assuring targeted and meaningful relief to those businesses that are least able to cope with these hefty and ongoing litigation costs. This reform is necessary for the vitality of America's small businesses and the job security of America's workers.

Again, I applaud my colleague from Georgia for introducing this much needed legislation and I look forward to seeing it pass today.

Mr. NORWOOD. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. QUINN). All time for debate has expired.

Pursuant to House Resolution 645, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. NORWOOD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question are postponed.

GENERAL LEAVE

Mr. TOM DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2432 and to include extraneous material thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

PAPERWORK AND REGULATORY IMPROVEMENTS ACT OF 2004

The SPEAKER pro tempore. Pursuant to House Resolution 645 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2432.

□ 1705

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2432) to amend the Paperwork Reduction Act and titles 5 and 31, United States Code, to reform Federal paperwork and regulatory processes, with Mr. ADERHOLT in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Virginia (Mr. TOM DAVIS) and the gentleman from Ohio (Mr. BROWN) each will control 30 minutes.

The Chair recognizes the gentleman from Virginia (Mr. TOM DAVIS).

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield myself such time as I may consume.

There can be little question that sometime in the last decade, the United States entered a new and very different phase of its economic history. In this new phase of global competitiveness, this Nation is being challenged to step up once again and set new standards for innovation and efficiency. At the outset, it should be said that this country welcomes this challenge and we are confident that we have the tools necessary to succeed in this new economy that was largely created at our insistence.

The Paperwork and Regulatory Improvements Act of 2004 is designed to give Congress the tools it needs to respond to the challenge of a global open economy. This bill was originally sponsored by the gentleman from California (Mr. OSE) and is the result of 4 years of ongoing and consistent oversight by his Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs under the leadership of the gentleman from California. Oftentimes this work has been done with little fanfare, but his consistent hard work has borne great fruit. So before I say anything about the bill, I want to commend the gentleman from California for his commitment and dedication to great legislative oversight.

There is no doubt that the Nation's regulatory regime can achieve a great deal of good in the areas of environmental protection and worker health and safety. Beyond that, government has a legitimate need to know a great deal about the corporate and, to a degree, even the personal financial activity of the Nation. Consequently, there will always be paperwork and regulatory demands.

However, when we look at the vast system of paperwork and regulatory demands that exist today, we see that this system is biased in favor of the good we hope to achieve and against the cost of achieving that good to society. Every rule or reporting requirement has a cost, but Congress is severely hampered in its efforts to understand these costs.

We in the Congress have grown comfortable throwing around huge statistics listing millions of hours to describe the paperwork burden government places on the Nation. But we seem to forget that these hours are spent one by one. It is as if we cannot see the forest for the regulatory trees. We may be numb to the burden we have created, but individuals and businesses are not.

When an American businesswoman spends several hours filling out a tax form, that is time she is not spending on her family or her clients. When a business has to hire an environmental specialist to complete an overly complicated, required report, that revenue is not spent in research and development or expansion of the business and hiring more people. These millions of hours are not just hours taken out of the business day; they are hours taken out of people's lives, and the loss of these hours should be taken seriously.

In the decades before the open global economy, Congress could lay these new burdens, one over the other, on the American worker with little concern about what the overall effect would be. But those days are gone. As the world has gradually opened its markets, this country has asked our workers to compete head to head on a global basis with highly skilled and motivated workers from all around the world.

This is a good thing. This competition will require our corporate community to be as efficient and as competitive as ever. But global competition requires our government to be more efficient as well. If we are going to ask the workers of this Nation to compete globally, then we must free them to be as competitive as possible.

Congress has an obligation to do the hard work to understand the costs of regulation as realistically as possible. This bill will give us some of the tools we need to make better decisions on the paperwork and regulatory burdens we place on our workers and businesses.

The bill requires the Office of Management and Budget, OMB, to submit a report to Congress identifying specific actions that the Internal Revenue Service can take to reduce the tax paperwork burden on small businesses. It assists Congress in its review of agency rules by establishing a permanent analytical function in the General Accounting Office to review proposed and final rules for consistency with congressional intent and to ensure the accuracy and completeness of agency accompanying analyses.

Lastly, the bill requires a study to determine the feasibility of regulatory budgeting as a better way to manage regulatory burdens on the public.

The gentleman from California, the subcommittee chairman, has put in many years working on this important issue.

Mr. Chairman, I yield the balance of my time to the gentleman from California (Mr. OSE) and ask unanimous consent that he be permitted to manage that time.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. BROWN of Ohio. Mr. Chairman, I yield my time to the gentleman from Massachusetts (Mr. TIERNEY) and ask unanimous consent that he be permitted to control the time.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TIERNEY. Mr. Chairman, I yield myself such time as I may consume.

I rise to address H.R. 2432, the Paperwork and Regulatory Improvements Act of 2004. We are talking about this bill today because House Republicans are concerned that they are being criticized for the millions of jobs that have been lost under this administration.

House Republicans have decided that instead of taking action to create jobs, they would make a plan to talk about taking action to create jobs. Each week they have a different theme. This week they are talking about cutting red tape. The bill we are considering, however, does nothing to cut red tape.

As we will hear later from the gentleman from California (Mr. WAXMAN), this bill does nothing to reduce the hours that Americans spend filling out paperwork. In fact, the hours Americans must spend filling out paperwork has increased dramatically under the Bush administration.

This bill will also do nothing to improve the regulations issued by the Bush administration. In fact, some provisions of the bill will actually make the regulatory process worse.

I have a letter that I would like to enter into the RECORD to appear after my statement, Mr. Chairman, from the League of Conservation Voters opposing this bill. This letter states, "At best, this bill would result in a waste of money at a time when Federal resources are shrinking; at worst, it would contribute to a loss of vital protections for millions of Americans."

The League of Conservation Voters also expresses in their letter support for an amendment the gentleman from California (Mr. WAXMAN) and I are offering that would establish an independent commission of distinguished experts to investigate the politicization of science in the regulatory process. The League of Conservation Voters thinks this is such an important issue that Members may find their votes in the League of Conservation Voters scorecard.

Leading scientists, including 20 Nobel Laureates, have said the political and ideological distortion of science is a major block to effective government action on a wide range of health and environmental issues. This administration is injecting itself into the regulatory process to manipulate science and to manipulate agency regulations to suit industry.

Over and over we hear about agency proposals that are rewritten by the Office of Management and Budget to fit the needs of industry without regard to the expertise of agency scientists and other experts. The administration's proposal on mercury pollution is one recent example. The gentleman from Maine (Mr. ALLEN) will describe these particular problems in more detail at a later time.

We should not be here just talking about cutting red tape, Mr. Chairman. We should not be passing legislation that will weaken important regulatory protections that aim to ensure a safe and healthy environment for our children. What we should be doing is taking positive steps to make the regulatory process better for all Americans.

LEAGUE OF CONSERVATION VOTERS,
May 18, 2004.

Re: Oppose H.R. 2342, Support the Waxman (D-CA)/Tierney (D-MA) Amendment

U.S. HOUSE OF REPRESENTATIVES,
Washington, DC.

DEAR REPRESENTATIVES: The League of Conservation Voters (LCV) is the political voice of the national environmental community. Each year, LCV publishes the National Environmental Scorecard, which details the voting records of Members of Congress on environmental legislation. The Scorecard is distributed to LCV members, concerned voters nationwide, and the press.

LCV urges you to oppose H.R. 2432, which would require the Office of Management and Budget (OMB) to assess the feasibility of imposing regulatory budgeting on major agencies. Regulatory budgeting is a misguided concept that elevates the interests of regulated industries over all other considerations. At best, this bill would result in a waste of money at a time when federal resources are shrinking; at worst, it would contribute to a loss of vital protections for millions of Americans.

Regulatory budgeting caps the costs that government can impose on the private sector each year, regardless of the need for public protections. Under this system, once the "budgeted" cap has been reached, agencies must cease fulfilling their mandates—polluters get a free pass, workplaces go unprotected, and hazardous foods move into commerce.

OMB should be directed to account for actions that have taken place over the past three years as scores of critical safeguards have been weakened, rescinded, or abandoned in progress. LCV has noted with alarm the accumulating threat to public health and the environment caused by the rollback of regulations intended, to prevent destruction of the ozone layer, reduce air pollution, prevent neurological harm to children, reduce public exposure to toxins and contaminants, preserve crucial habitat for endangered species, ensure clean drinking water.

LCV supports the Waxman-Tierney Amendment to create a Commission on Politicization of Science in the Regulatory Process. The Commission would evaluate regulatory activities to determine the extent to which political considerations have undermined the quality and use of the science, and report within 18 months. This commission will address concerns among scientists and government professionals that political considerations are unduly influencing regulatory decisions.

Americans expect that the science used in development of regulations is not colored by politics. Please oppose H.R. 2432 and support the Waxman Amendment. LCV's Political Advisory Committee may consider including votes on this issue in compiling LCV's 2003 Scorecard. If you need more information, please call Betsy Loyless in my office at (202) 785-8683.

Sincerely,

DEB CALLAHAN,
President.

Mr. Chairman, I reserve the balance of my time.

Mr. OSE. Mr. Chairman, I yield myself such time as I may consume.

I want to start by expressing my thanks to Chairman DAVIS for his kind remarks and for his generosity in allowing us to proceed on this work. I want to add the compliments to my good friend and ranking member from Massachusetts, who has endured the past number of years through hearing after hearing and whose insights and suggestions have been most helpful. I am grateful to Chairman DAVIS for his becoming an original cosponsor of this bill.

As I mentioned in my support for today's rule, last June, with bipartisan cosponsorship, I introduced this bill. It makes incremental improvements in the existing processes governing paperwork and regulations instead of fundamentally changing the role of Congress in its oversight of agency rules.

As to the bill itself, it includes the following legislative changes. First, it seeks to ensure reduction in tax paperwork burdens on small business. It seeks to assist Congress in its review of agency regulatory proposals. And it seeks to improve public and congressional understanding of the true costs and benefits of regulations. My manager's amendment makes no changes to sections 1, 2, 3 and 4 of the reported bill.

□ 1715

I will discuss the changes to sections 5 and 6, which I included based on specific requests from the General Accounting Office and the Office of Management and Budget.

As to section 3, let me offer that the overall burden of Federal paperwork and regulatory requirements is staggering and it is a real drain on job growth, productivity, and American competitiveness. Incredibly, Federal paperwork and regulatory burdens have increased, not decreased, in each of the last 8 years. This occurs irrespective of who is in the White House and who is in control of Congress. Currently, the Internal Revenue Service accounts for 80 percent of the total government-wide paperwork burden on the public of over 8 billion hours; that is billion with a "b." To reduce paperwork, section 3 requires that OMB, after consultation with the IRS and two other identified Federal offices, review and report to Congress on actions that the IRS can take to reduce the paperwork burden imposed on small business. For example, the IRS could introduce thresholds below which reporting is not required, they change existing threshold levels, or they could change the reporting frequency, the periodicity at which reports must be submitted.

Section 5 provides for assistance to Congress in its review of agency regulatory proposals. It permanently establishes a regulatory analysis function in the General Accounting Office. In the Truth in Regulating Act of 2000, Congress authorized a 3-year pilot test for this regulatory analysis function, but unfortunately it was never funded. This was partly due to the fact that GAO intended to use contractors instead of in-house expert staff during the test period, which is understandable. They did not want to tool up and then have the pilot test not be funded in the future; so they chose, frankly, a more prudent manner in doing it. The problem is the work never got done because it never got funded. This bill would ensure that the GAO has the inhouse expertise comparable to the expertise in the OMB's Office of Information and Regulatory Affairs and that such services can be provided to Congress as proposals come forward.

On the eve of last Wednesday's full committee markup, GAO submitted a letter requesting various changes in the bill. I did not include these changes in my manager's amendment during the markup because GAO had not provided certain information that my subcommittee had previously requested and which was important to the bill.

OMB's current line item budget for OIRA is $7 million. That is an annual budget. But OIRA has multiple functions besides review of agency paperwork and regulatory proposals and analyses. For example, OIRA is responsible for government-wide statistical policy, information policy, and information technology policy. Since GAO had not provided information about the share of OIRA's budget devoted to regulatory analysis activities, after the full committee markup I asked OMB what proportion of its budget is devoted to review of agency paperwork and regulatory proposals and the related regulatory analyses. The estimate came back at 65 to 70 percent.

As a consequence, my manager's amendment authorizes $5 million in fiscal year 2005 and each year thereafter for GAO to perform its independent evaluations at the request of Congress of certain economically significant rules. GAO will be reviewing the various agency analyses such as its regulatory impact analysis and its regulatory flexibility analysis, the regulatory alternatives considered by the agency, and the legislative history to ensure that the proposed and final agency rules are consistent with congressional intent.

In addition, GAO asked me to include a delayed effective date of 90 days after enactment, and this provision is included in a new section 5(b).

Section 6 requires certain changes to improve regulatory accounting. In 1996 Congress required OMB to submit its first regulatory accounting report. In 1998 and 2000, Congress enacted additional legislation to make OMB's regulatory accounting reports more useful. Currently, OMB is required to estimate the total annual costs and benefits for all Federal rules and paperwork in the aggregate, by agency, by agency program, and by major rule, and to prepare an associated report on the impacts of Federal rules and paperwork on certain groups such as small business.

To date, OMB has issued six final and a seventh draft regulatory accounting report. Each of the seven did not meet one or more of the content requirements under current statute. Part of the reason for this incompleteness is that OMB has not requested agency estimates, as it does annually for its Information Collection Budget for paperwork and for the President's budget, the fiscal budget of the United States. Section 6(a) requires Federal agencies to annually submit estimates of the costs and benefits associated with the Federal rules and paperwork for each of their agency programs. The caveat for agency input to be provided "to the extent feasible" was added to ensure that no further burden on or cost to the agencies occurred.

Currently, the economic impacts of Federal regulation receive much less scrutiny than programs in the fiscal budget. Both the introduced and reported bill versions of H.R. 2432 required OMB to integrate its annual regulatory accounting statement into the fiscal budget so that Congress can review simultaneously both the on-budget and off-budget costs associated with each Federal agency imposing regulatory or paperwork burdens on the public.

Current law requires OMB to submit its regulatory accounting report "with" the budget instead of "as part of" the budget. However, OMB has never submitted its final accounting statement with the budget. In fact, only once has OMB even published its draft in the Federal Register on the same day as the budget was submitted to Congress. Not submitting the regulatory accounting statement at the same time as the budget or publishing it separately from the budget in the Federal Register has precluded a timely side-by-side comparison for analytic purposes of the on-budget and off-budget costs associated with each major regulatory agency and each of its regulatory programs.

Last July, OMB's OIRA administrator testified that "OMB believes it could be feasible to issue a separate volume with the budget that contains the final regulatory accounting report and perhaps some related budget information for comparison purposes."

Nonetheless, at the insistence of OMB, in a letter submitted yesterday to the gentleman from Virginia (Chairman TOM DAVIS), my manager's amendment reluctantly removes the integration requirement, taking from it the "as part of" language and leaving it as the "with" language. Congress still expects OMB to comply with the law, that is, to issue its final regulatory accounting statement and associated report at the same time as and in a document that accompanies the fiscal budget documents. The House report accompanying H.R. 2432, which is this legislation, provides ample justification for integration, including witness testimony in support of integration and my 9-page April 22, 2004, comment letter to OMB on its draft seventh regulatory accounting report.

Section 6(b) requires OMB to designate not less than three agencies, or perhaps offices within an agency, to participate in a study of regulatory accounting for fiscal years 2006 and 2007 and then report to Congress on this study. These test will determine if agencies can better manage regulatory burdens on the public. My manager's amendment ensures that OMB will consult with key congressional committees, the Committee on the Budget and the Committee on Government Reform in the House and the Committees on the Budget and Governmental Affairs in the Senate.

H.R. 2432 focuses on process and should result in needed paperwork and regulatory relief especially for small business, and it will help Congress fulfill its constitutional role as a co-equal branch of government.

Mr. Chairman, I reserve the balance of my time.

Mr. TIERNEY. Mr. Chairman, I yield 4 minutes to the gentleman from California (Mr. WAXMAN), the ranking member of the full committee.

Mr. WAXMAN. Mr. Chairman, today we are debating a bill that claims to improve Federal regulations, reduce red tape and paperwork. Unfortunately, the substance and the timing of this bill make it clear that we are engaged not in public policy but in public relations.

This bill is part of the congressional Republicans' Hire Our Workers plan, also called the HOW plan. This is a public relations strategy designed to make the public think that Republicans in Congress have a plan to increase jobs and revive the economy, but in reality the plan is all show and no substance.

My Republican colleagues are going to spend a lot of time today talking about their opposition to paperwork, but here is what they will not tell us. The Bush administration and the Republican Congress have presided over record increases in paperwork. President Bush consistently rails against paperwork. He urged paperwork reductions as a Presidential candidate, as President-elect, in every year of his administration, and on at least seven separate occasions thus far this year. Just 2 months ago, President Bush said: "We need to stop harassing small business owners and entrepreneurs with endless amounts of regulation and paperwork."

So how do his policies match up? Last year Americans spent 700 million more hours filling out government forms than they did during the last year of the Clinton administration. This was not an accident, and it was not the product of an out-of-control bureaucracy. Most of the increase came from legislation supported by the administration and passed by the Republican majority in the Congress. In fact, the major culprits are the tax bills that President Bush promoted and Congress passed.

The administration and the Republican leadership are putting this bill before the Congress so they proclaim they are doing something about governmental red tape. They are doing something. They are increasing record levels of the amount of paperwork that we have to deal with.

The gentleman from Massachusetts (Mr. TIERNEY) and I released a reported today that documents how paperwork has increased under the Bush administration, and I am going to insert this report with my comments today. What is happening on paperwork is just like what has happened on so many other issues. The President says he is a fiscal conservative, but he has driven our Nation deep into debt. The President says he is behind education, he is the Education President, but he will not fund the No Child Left Behind Act.

And with this bill we see that when the President says he will cut paperwork, what actually happens is that he increases paperwork.

This public relations campaign on paperwork is especially distressing because there are real regulatory problems this Congress is ignoring. These include the increased politicization of science and the undue influence of special interests. But unless we adopt the amendment that the gentleman from Massachusetts (Mr. TIERNEY) and I will be offering, this bill will do nothing to address these fundamental problems. This legislation will not improve the economy, reduce paperwork, or enhance the well-being of this country. It will only make it harder for agencies to carry out their mandates to protect public health, the environment, and other values. This Congress should be taking real action to address real problems.

I urge my colleagues to vote for our amendment when we offer it later in the debate.

House of Representatives, Committee on Government Reform—Minority Staff, Special Investigations Division, Revised May 2004

Government Paperwork Burdens Have Increased Substantially Under the Bush Administration

(Prepared for Representative John F. Tierney, Representative Henry A. Waxman)

EXECUTIVE SUMMARY

President Bush has made reducing the burdens of completing government paperwork a key item in his economic agenda. In speech after speech, he emphasizes that "we must reduce unnecessary government regulation and red tape so businesses can focus on consumers and customers, not paperwork."

Contrary to the President's rhetoric, however, total government paperwork has increased substantially under the Bush Administration to an estimated 8.1 billion hours in fiscal year 2003. Last year, Americans spent over 700 million more hours filing out government paperwork than in the last year of the Clinton Administration. The largest annual increase in paperwork burden ever measured occurred under the Bush Administration in fiscal year 2002.

Government paperwork increased again in fiscal year 2003. In its most recent data on paperwork burdens, the Bush Administration relies on "adjustments" to show a nominal reduction in the federal paperwork burden in fiscal year 2003. However, adjustments in agency paperwork estimates do not necessarily reflect any actual reduction in the number of hours that Americans spend filling out paperwork. Focusing on the real impacts on Americans, GAO reports that "[d]uring fiscal year 2003, the total paperwork burden, exclusive of adjustments, increased again by about 72 million burden hours."

Statutory changes promoted by President Bush and enacted by Congress, particularly to the tax code, are among the largest sources of the increased paperwork burden. The Administration is also pursuing new regulatory changes that will impose additional paperwork burdens on Americans, including increased paperwork requirements for low-income families.

I. PRESIDENT BUSH'S PROMISES TO REDUCE PAPERWORK

President George W. Bush has frequently criticized the amount of "paperwork" required by the federal government. From the very outset of his campaign for the presidency, President Bush emphasized his commitment to reduce government paperwork. In an address in Los Angeles in September 1999, for example, President Bush said:

"The only thing we know for sure is that federal money comes with a lot of regulations and paperwork. By one estimate, this consumes about 50 million hours each year—the equivalent of 25,000 full-time employees just to process the forms. . . . New layers of federal mandates and procedures have been added to the old until their original purpose is long forgotten. It is a sad story of high hopes, how achievement, grand plans, and unmet goals. My administration will do things differently."

Since being elected, President Bush has continued to promise to reduce government paperwork burdens. He argues that paperwork "stifle[s] innovation and the entrepreneurial spirit," and he has said that "we must reduce unnecessary government regulation and red tape so businesses can focus on consumers and customers, not paperwork."

In a speech last December, President Bush stated:

"And a lot of times government has a tendency to over-regulate, which is a non-productive cost to these small business owners who would rather be employing people and making it easier for somebody to find work, than filling out reams of paperwork that probably doesn't get read anyway."

President Bush has repeatedly stated his commitment to reducing federal paperwork requirements and he made doing so a key element of his "Six-Point Plan for the Economy." In September 2003, President Bush stated: "We need to continue to work for regulatory relief on small and large businesses, so that instead of filing needless paperwork, you're working to make your work force more productive and to meet the needs of your customers." In November 2003, he stated: "We've got to cut useless government regulations. We need to do it at the federal level. . . . We need to make sure our entrepreneurs are focused on job creation, not filling out needless paperwork." In March 2004, President Bush reiterated these points:

I bet you spend a lot of time filling out paperwork. I bet not much of your paperwork is ever read. The government needs to let you focus on your business, on developing goods and services. It needs to let you focus on hiring people, rather than spending hours filling out paperwork. In order for us to keep jobs here at home and expand the job base, we need better regulatory policy at the federal, state, and local level.

Just over a month ago, President Bush said: "We need to stop harassing small business owners and entrepreneurs with endless amounts of regulation and paperwork."

President Bush has also touted actions he has taken to reduce paperwork. In May 2003, he highlighted the establishment of a task force on reducing paperwork:

> To enhance economic security for working people throughout the economy we must reduce the burden of regulation and litigation on small businesses as well. Employers don't want to spend their time and resources filling out forms or fighting junk lawsuits. They want to be out on the shop floor or behind the cash register creating profits and jobs. And that is why this administration has launched a task force to find ways to reduce paperwork and small-business owners in America. We must enact regulatory and lawsuit reforms so that our business owners can do what they do best: create jobs.

"In June 2003, President Bush took credit for an executive order that purported to reduce paperwork burdens, stating: "I'm concerned and mindful about what paperwork and regulations do to small businesses. So I put down an executive order that requires all federal regulatory agencies to minimize the burden on our small businesses."

II. PAPERWORK INCREASE UNDER THE BUSH ADMINISTRATION

There is a large gap between President Bush's rhetoric about the need for paperwork reduction and the performance of his Administration. According to data from the General Accounting Office and the Office of Management and Budget, the burden of government paperwork on American citizens has actually increased substantially under the Bush Administration. At the same time as President Bush has been promising to reduce paperwork burdens, Americans are actually spending more time doing paperwork than ever before.

A. The Requirements of the Paperwork Reduction Act

The primary tool for measuring and controlling paperwork requirements imposed by federal law and regulations is the Paperwork Reduction Act. Collecting information is essential for the government to collect taxes, administer programs, and enforce laws. The Paperwork Reduction Act aims to make these information collections as efficient as possible. It requires agencies to estimate the time it will take to fill out a form or otherwise provide information to the government, obtain approvals of larger information collection requests from the Office of Management and Budget, and reduce the overall hours of paperwork by a given percent each year.

Each agency is required to submit a report each year providing the number of paperwork burden hours that the agency imposed during the previous year. The annual PRA reports from each federal agency provide a picture of the total hours of paperwork required by the federal government. For the past several years, GAO has analyzed these reports annually at Congress' request. This report relies on the analyses provided by GAO, as well as data provided to Congress from the Office of Management and Budget.

B. Total Paperwork Burdens

The annual paperwork burden today is over 700 million burden hours higher than it was when President Bush took office. In fiscal year 2000, the annual paperwork burden imposed by the federal government was measured at about 7.4 billion hours. By the end of fiscal year 2003, the annual paperwork burden stood at 8.1 billion burden hours. This is an increase of nearly 10%.

The Internal Revenue Service (IRS) accounts for more paperwork than any other federal agency, with 81% of the total paperwork hours. In contrast, EPA currently accounts for only 1.8% of federal paperwork burden, and the Department of Labor, including OSHA, accounts for only 2.0% of federal paperwork burden.

C. A Record Increase in Paperwork Burdens in Fiscal Year 2002

The first two years of the Bush Administration saw large increases in the number of hours of paperwork burden. In fiscal year 2001, the federal government required 7.6 billion hours of paperwork, an increase of 290 million hours from the year before.

In fiscal year 2002, the increase in the paperwork burden was approximately 570 million hours. Almost 300 million hours of this increase was due to program changes that added or reinstated paperwork obligations. This was the largest increase in paperwork since the Paperwork Reduction Act was amended in 1995. The total paperwork burden for fiscal year 2002 was 8.2 billion hours.

D. Increases in Paperwork Burdens in Fiscal Year 2003

This year, the Administration is reporting a small decline in the overall number of reported paperwork burden hours from last year's record high of 8.2 billion hours to 8.1 billion hours.

According to the General Accounting Office, however, "[t]his year, the story, while on the surface may appear encouraging, is not." GAO's analysis reveals that the purported drop in government paperwork is entirely due to "adjustments" that "are not the result of direct federal government action but rather are caused by factors such as . . . agency reestimates of the burden associated with a collection of information." GAO concludes that "[d]uring fiscal year 2003 the total paperwork burden, exclusive of adjustments, increased again by about 72 million burden hours."

E. Causes of the Paperwork Increases

Much of the increases in paperwork burden since fiscal year 2000 has been driven by statutory changes proposed by the Administration and passed by Congress.

The largest sources of statutory increases in paperwork have been the recent tax law changes, which have introduced substantial additional complexity and burden for individuals and small businesses in filling out their tax forms. For example, Americans spent an additional 330 million hours filling out tax paperwork in fiscal year 2002, with the implementation of the Economic Growth and Tax Relief Reconciliation Act of 2001 and other IRS regulations.

Similarly, the IRS reports that its implementation of the Jobs and Growth Tax Relief Reconciliation Act of 2003 "generated an estimated 113.9 million additional hours of burden."

One example of the increased paperwork is the changes to the taxation of capital gains in the Jobs and Growth Tax Relief Reconciliation Act of 2003. To implement these provisions, the IRS made numerous changes to Form 1040, Form 1040A, and associated schedules. Among other changes, the IRS added 13 extra lines to Schedule D, which taxpayers must file to report their capital gains and losses. Overall, just this portion of the paperwork changes driven by the Jobs and Growth Tax Relief Reconciliation Act of 2003 increased the paperwork burden for individual taxpayers by over 16 million hours in fiscal year 2003. For families with modest incomes and few capital gains, the increased paperwork burdens significantly offset any benefit from the capital gains tax reductions.

The paperwork increases have also hit small businesses. Together the Jobs and Growth Tax Relief Reconciliation Act of 2003 and the 2000 Community Renewal Act added complexity to Form 1120S and its associated schedules. These forms are used by S corporations, which are often small businesses or the self-employed. Due to these added complexities, S corporation filers spent almost 12 million additional hours filling out tax forms in fiscal year 2003.

F. Increases in Future Paperwork Burdens

Additional paperwork increases are likely in fiscal year 2004 and future years under policies being pursued by the Bush Administration. For example, the Bush Administration will require labor unions to report extensive new financial information starting in fiscal year 2004. Under the new rule, all unions with annual receipts of at least $250,000 will be required to report almost all of their receipts and disbursements. It is estimated that roughly 4,500 labor organizations will have to comply with this requirement, only 65 of which are large international unions. One union, the Airline Pilots Association, estimates that the required reports will produce 15,863 pages, or about five-and-a-half feet of paper, each year.

Based on a survey of unions, the new reporting requirements were estimated to cost unions somewhere in the range of $700 million to $1.1 billion per year. The same report estimated that fullfilling the new reporting requirements would require on average, roughly 353 hours per union employee, per year.

The Bush Administration is also currently testing new paperwork requirements for low- and moderate-income families to demonstrate their eligibility for the Child Tax Credit portion of the Earned Income Tax Credit. This is an important tax credit for workers in low wage jobs and the recently unemployed who have children to support.

Under the pilot program that applies to 50,000 individuals, persons seeking the credit must supply proof from a third party that the child they are claiming under the Earned Income Tax Credit lived with them for more than six months in that year. The individual must produce official records meeting the proof requirements, an affidavit from a third party, signed under penalty of perjury, or a letter on official letterhead from a third party, such as a landlord or social service agency employee. The IRS estimates that this new requirement imposes an additional 40 minutes of paperwork burden for each person filling out these forms.

III. CONCLUSION

As a candidate, George Bush railed against government paperwork burdens and promised that "[m]y administration will do things differently." As President, Mr. Bush continues to urge reductions in government paperwork burdens. But in practice, the Bush Administration has actually increased paperwork burdens. Today, Americans are filling out far more paperwork under the Bush Administration than ever before.

Mr. OSE. Mr. Chairman, I yield 5 minutes to the gentleman from Missouri (Mr. BLUNT).

Mr. BLUNT. Mr. Chairman, I thank the gentleman for yielding me this time and for bringing this bill to the floor.

As we look at our efforts to be more competitive as a society, we clearly have to look at the regulations imposed by government and be sure that any of those regulations, any of that paperwork, is justified.

The cost of paperwork and regulatory constraints have been steadily increasing in America. America's small business owners are feeling the pinch; and they believe, along with those who support this bill, it is time to do something about it.

Tax relief is not the problem; but we do need a simpler, fairer tax system because all of these things we put into law do require different levels of compliance.

What this bill attempts to do is find out what those compliant costs are. Paperwork and regulatory burdens cost small business of fewer than 20 employees $6,975 per employee just to fill out the paperwork and comply with federally imposed regulatory burdens. That is nearly 60 percent more per employee than if they have more than 500 employees in their business. So the burden is disproportionate on small business though it is not insignificant on all of our businesses as we create jobs and make an effort to compete in a world economy.

Mr. Chairman, we can loosen the chokehold of paperwork and regulation. To do so, we need to be fully informed on the true cost of these regulations.

□ 1730

H.R. 2432 would require the Office of Management and Budget to seek agency input on the cost and benefits of agency regulatory programs when creating the annual regulatory accounting report.

The bill offered by the gentleman from California (Mr. OSE) authorizes that the Office of Management and Budget designate not less than three agencies or offices within an agency to participate in a 2-year regulatory budgeting study and report the results to Congress. We can then use that information to determine if regulatory budgeting is a useful tool for managing regulatory burdens on the public.

Mr. Chairman, I urge all my colleagues to support the Ose bill, the Paperwork and Regulatory Improvements Act. It is an excellent and important first step in reducing the hidden job tax, levied on small businesses particularly, and consumers across the country.

Mr. TIERNEY. Mr. Chairman, I yield 3½ minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, I thank my friend for yielding me time.

Mr. Chairman, I rise in opposition to the bill, but more specifically I want to speak in support of the Waxman-Tierney amendment. The amendment should garner the support of every Member of this body, because this body authorizes and funds the activities of CDC, of EPA, of FDA and every other Federal agency.

We have an oversight role, and under our watch, science is being subverted to promote political and ideological goals. Advisory goals are being stripped of scientific experts and seeded with industry representatives and ideologues. Reports are being censored and data is being manipulated to promote the administration's political and ideological objectives.

This is a dangerous, dangerous precedent. This did not happen with President Bush, Sr., it did not happen with President Clinton, it did not happen with President Reagan, it did not happen with Republican or Democratic Presidents the way that it is happening today under this very politicized, very partisan, very ideologically driven White House.

The Federal Government has no business hiding from the facts, much less suppressing them. That means the Federal Government should not turn over science, real science, to ideology, to industry representatives, to corporate interests.

In February of this year, 20 Nobel Laureates and dozens of other leading U.S. scientists issued an unprecedented statement of concern about the misuse of science by the Bush administration. This is not a Democrat on the House floor saying this, this is 20 Nobel Prize-winning scientists and dozens of other leading scientists.

"When scientific knowledge has been found to be in conflict with the political goals, the Bush administration has manipulated the process through which science enters into its decisions."

These are Nobel Laureates and other scientists talking.

"This has been done in the Bush administration by placing people who are professionally unqualified or who have clear conflicts of interest in official posts and on scientific advisory committees, by disbanding existing advisory committees, by censoring and suppressing reports by the government's own scientists, and by simply not seeking independent scientific advice." That is from 20 Nobel Laureates, not from a bunch of Democrats complaining about it.

To prove the point that these are not our words, the Director of the National Bureau of Standards in the Nixon administration, another Republican who played it straight, did not have this ideologically driven agenda, Dr. Lewis Branscomb of the Nixon administration, said, "I am not aware that President Nixon ever hand-picked ideologues to serve on advisory committees or dismissed from advisory committees well-qualified people if he didn't like their views. I don't think we have had this kind of cynicism that we see today with respect to objective scientific advice since I have been watching government, which is quite a long time."

The Bush administration is manufacturing reality to fit its beliefs, and then they have the nerve, they have the gall, to call it sound science. That is not science, it is censorship. This Nation cannot afford it, this body should not abide it. I urge my colleagues to pass this amendment. Regardless of our political affiliation, we should not be afraid of the truth, nor should we permit its subversion.

Mr. OSE. Mr. Chairman, I yield 2 minutes to the gentlewoman from Illinois (Mrs. BIGGERT).

Mrs. BIGGERT. I thank the gentleman for yielding me time, and I congratulate him for bringing this important legislation to the floor today.

Mr. Chairman, I rise to express my strong support for H.R. 2432, the Paperwork and Regulatory Improvements Act. Today, Federal paperwork and regulations are stifling American business. The Small Business Administration estimates that Americans spend over 8 billion hours a year on Federal paperwork, costing our economy an estimated $843 billion, an amount far exceeding Canada's GDP and even the pretax profits of all U.S. corporations.

Small businesses are especially hard hit. Those businesses employing 20 people or less face regulatory costs of almost $7,000 per employee, compared to $4,500 for larger companies, SBA data shows.

In 2002, the Federal Register topped 80,000 pages, one of the highest totals ever, leading the Cato Institute to affectionately refer to these regulations as the 10,000 commandments.

Instead of making it easier for our economy to create and sustain good paying jobs, burdensome Federal regulations are an incentive for U.S. companies, large and small, to find other ways to do business, including relocating to places with less burdensome regulations. This wasted time and money is hurting America's ability to compete in the global marketplace.

Mr. Chairman, let us make sure Federal agencies are not placing an unnecessary burden on workers and businesses. Let us make sure Congress has the tools and information it needs to hold regulatory agencies accountable.

This Congress has a responsibility to get the Federal Government out of the way of private enterprise and let it do what it does best, create jobs. Let us pass the Paperwork and Regulatory Improvements Act.

Mr. TIERNEY. Mr. Chairman, I yield 3½ minutes to the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, today our Republican colleagues are talking about reforming government regulation. There is a big problem with government regulation, and especially environmental regulation under the Bush administration.

This administration has turned regulatory decision-making over to big campaign donors with polluting industries. We all know what happens to public health and the environment when industry writes rules.

I want to mention three areas: the utility industry, the livestock industry and industrial laundries.

Consider the EPA's recently proposed rule on mercury pollution from power plants. A few years ago, EPA set up a process to involve all of the interested parties, States and localities, public health representatives, fish and wildlife advocates, power plant owners and others. These stakeholders worked for over a year. They gave EPA a set of regulatory recommendations, and they were working on other technical recommendations.

Then last spring, EPA halted the process and went behind closed doors. Nine months later, EPA emerged with an entirely new proposal based on another section of the Clean Air Act, and it allows many power plants to do nothing to control mercury emissions, perhaps for years, perhaps even for decades.

Now, as we now know, key parts of this deregulatory proposal were actually written by the power industry, which is one of President Bush's largest donors. The EPA Inspector General is now looking into the proposal and the new administrator has promised to go back to do further analysis. This is simply not the way agencies are supposed to do regulation.

Yesterday, we learned from the Chicago Tribune that livestock industry lobbyists are also setting environmental policy. The livestock industry sold the EPA on a proposal to let factory farms off the hook for air pollution violations. In exchange, the industry would conduct some monitoring, and monitoring only. Livestock lobbyists did not just come up with the idea; they also worked on all the details. EPA then publicly presented the proposal using, as EPA materials, slides that had been prepared by the lobbyists. The livestock industry is also an important source of campaign contributions to Republicans.

On the same day as the Chicago Tribune story, the Washington Post detailed how industrial laundry lobbyists influenced an EPA rule on hazardous waste disposal. The key company in this industry is owned by a Bush Pioneer who had raised at least $100,000 for the President's 2000 campaign.

The Post reports that EPA gave industrial laundry lobbyists an advance copy of a portion of the proposed rule, the lobbyist edited the rule and EPA adopted the changes. EPA did not grant such access to any other interested parties, which included environmental advocates, a labor union, hazardous waste landfill operators and competitive industries.

These are not accidents or isolated incidents. The Bush administration defends these proposals. Apparently, the administration sees nothing wrong with providing special access to large donors who own or represent polluting industries. But when industry buys the regulatory process, all Americans pay the bills. The prices are health, polluted air, dirty water, poisoned land, tainted fish and dying forests.

We do need regulatory reform, but this bill would only make the real problems worse.

Mr. OSE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just remind Members that this bill does not speak to any agency in specificity, but only to process.

Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. SCHROCK), who also happens to be the distinguished vice chairman of the Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs.

Mr. SCHROCK. Mr. Chairman, I rise in strong support of H.R. 2432, and I am glad to be a cosponsor of the very sensible bill offered by the gentleman from California (Mr. OSE).

Mr. Chairman, small businesses and the public need relief from the burdensome and costly impact of Federal rules and paperwork. In 2001, the Small Business Administration found that firms employing fewer than 20 employees face an annual regulatory burden of $6,975 per employee. The SBA also found that Federal regulations and paperwork compose $843 billion in compliance costs on small businesses.

As the chairman of the Committee on Small Business Subcommittee on Regulatory Affairs and Oversight and as a member of the Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs chaired by the gentleman from California (Mr. OSE), I have heard on numerous occasions the testimony of small business owners about how regulations cost our small businesses time and money.

This bill will provide relief to small businesses by reducing the tax paperwork for small business. It will improve the completeness and timeliness of the Office of Management and Budget's regulatory accounting reports, and it provides for a study of the feasibility of regulatory budgeting that is desperately needed to better manage the huge regulatory burdens on the public, especially small business.

Mr. Chairman, I urge my colleagues to support this bill because, in the end, it will free up more time and money for small businesses that, in turn, can reinvest in new technologies, new research and additional development.

Most importantly, this bill will also allow businesses to create more jobs for America's families.

Mr. TIERNEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as I noted, under this administration, we have had the largest increases in the number of hours of paperwork burden ever.

Mr. Chairman, I yield 3 minutes to the gentlewoman from Texas (Mrs. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I thank the gentleman for yielding me time.

I rise in support of the Waxman-Tierney amendment to establish a Commission on Politicization of Science in the Regulatory Process. We need this commission because Congress and the administration have failed to do their jobs adequately. We also need this commission because scientific information has become politicized more and more recently, and this really has to change.

We have all read and heard of the allegations that politics has been used as a litmus test for the appointment of scientists to the Federal science advisory panels and that interpretation of scientific information has been skewed to emphasize uncertainties and justify inaction.

When 20 Nobel Laureates sign a letter stating that their belief is in the existence of a problem, we should take notice and examine the allegations. Yet Congress has failed to hold any hearings on this issue.

Dr. Marburger, the President's chief science advisor, does little more than issue a rebuttal to the Union of Concerned Scientist's report, denying that any problem exists.

It is true that the plural of anecdote is not data. However, at some point a series of anecdotes begins to look like a pattern. The pattern is disturbing and threatens to undermine our ability to rely on scientific and technical information as we weigh alternative policies.

□ 1745

At a minimum, the number of cases and the range of scientific issues they encompass create the perception that the Federal science advisory process has been undermined by politics. The perception alone is damaging. Policymakers and the public must have confidence in scientific information and scientific advice provided by experts.

Policy and regulatory decisions are political. Science can inform our decisions and help us to understand the likely outcomes associated with different policy choices. However, science does not determine policy choices. This is our job.

We must examine the processes we use to incorporate scientific information into our policy decisions, and we need constructive suggestions about how to ensure that political influence over the development of scientific information is minimized. It appears the current system is ripe for manipulation, and reform is needed. There are steps we can and should take to make it more difficult to politicize science. The commission can help us to identify these steps.

I urge support of this amendment. It is too costly and too misleading for us to depend on hearsay and ideology to substitute for the truth in scientific findings.

Mr. OSE. Mr. Chairman, how much time remains?

The CHAIRMAN. The gentleman from California (Mr. OSE) has 8 minutes remaining. The gentleman from Massachusetts (Mr. TIERNEY) has 13 minutes remaining.

Mr. OSE. Mr. Chairman, I yield 3 minutes to the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Mr. Chairman, I rise today in strong support for H.R. 2432, the Paperwork and Regulatory Improvement Act, of which I am a cosponsor. This important legislation will enable Congress to take responsibility for the laws and regulations imposed on this Nation.

Over the past 20 years, the costs and impacts of regulations have increased dramatically. We routinely authorize executive branch agencies to issue rules implementing the laws we pass in Congress. Just as Congress needs a Congressional Budget Office to check and balance the executive branch in the budget process, it also needs an analytic capability to check and balance the executive branch in the regulatory process. Our delegation of authority to the agencies does not relieve us of our duty to ensure the responsiveness and effectiveness of those agency regulations. Agency rules and regulations have the force and effect of law. They spew forth from the agencies more than 3 or 4,000 rules and regulations every 2 years, and Congress rightly should have better oversight.

Since the 104th Congress, I have led the fight for a Congressional Office of Regulatory Analysis resulting in the passage of the Truth in Regulating Act of 2000. That statute authorized a 3-year pilot project, adding a function at the General Accounting Office to respond to Congress' request for an independent evaluation of selective economically significant proposed rules, including an evaluation of the proposals that are consistent with congressional intent. Instead of using their own experts, GAO planned to hire outside contractor experts for the 3-year pilot test. As a consequence Congress did not fund this approach.

Today it is regrettable that despite the passage of TIRA, we still do not have an independent analysis of the various agencies regulatory analyses required by law or by executive order. H.R. 2432 would permanently authorize this function within GAO, ensuring full-time agency expertise within GAO. More importantly, the GAO's analysis would allow us to submit more informed and more influential comments on the cost, scope, and content of proposed rules during the public comment period.

Clearly it is time to increase the transparency of important regulatory decisions, promote effective congressional oversight,and increase the accountability of agencies. The government is accountable to the people and must take responsibilities for the rules established under the laws Congress passes.

Passage of H.R. 2432 would be one step toward Congress meeting its regulatory responsibilities. It is long past time for us to stop trying to change the subject and politicizing good public policy for small businesses. I urge my colleagues to vote for this bill, which is a small step towards giving some agencies the oversight they require.

Mr. TIERNEY. Mr. Chairman, I urge my colleague to stay around for the amendment that the gentleman from California (Mr. WAXMAN) and I will present to talk about politicization of particular projects and policies.

Mr. Chairman, I yield 3 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Chairman, I rise in strong support of the Waxman-Tierney amendment, which would create an expert commission to study the politicization of science and make recommendations on how to protect science from political interference in the decision-making process.

This is an extremely important bill. It should have bipartisan support. We need our decisions to be based on science, not politics. Yet too often the decisions that are coming forward really overrule the recommendations of the scientists for a political goal or a certain ideology. For one example, 2 weeks ago, the FDA denied an application to allow the sale of Plan B emergency contraception and give it over-the-counter status. In this case, the science was very, very clear; and the FDA's own advisory panel voted 27 to zero that Plan B could be safely sold as an over-the-counter medication.

It then voted 23 to 4 to recommend that the FDA approve the application to make it available over the counter, but the FDA's commissioner ignored this determination and overruled the opinion of his own expert panelists. He was in conflict with the science and the experts.

I must say that according to the New England Journal of Medicine, the FDA's decision has no scientific basis. Editors wrote that "a treatment for any other condition, from hangnail to headache to heart disease, with a similar record of safety would be approved quickly and immediately."

So this really is a horrific decision. It flies in the face of science.

Mr. Chairman, the following are several news articles that have appeared in major newspapers and letters of support from Planned Parenthood and NARAL in support of the Waxman-Tierney amendment.

PLANNED PARENTHOOD
FEDERATION OF AMERICA, INC.,
Washington, DC, May 18, 2004.

DEAR REPRESENTATIVE: Today, Representatives Waxman and Tierney will offer an amendment to H.R. 2432, the Paperwork and Regulatory Improvements Act. The amendment would create an expert commission to study the politicization of science and make recommendations on how to protect science from political and ideological manipulation and interference. Planned Parenthood Federation of America strongly urges you to support this amendment.

Over the past few years an alarming amount of decisions that should have been decided on scientific merits have been politicized. Ideology has crept into all aspects of the government's decision-making on science. Some of the most egregious offenses have affected women's health and well-being. The most recent example is the Food and Drug Administration's (FDA), the gold-standard for scientific integrity, denial of Plan B emergency contraception's (EC) over-the-counter status. This major public health setback was politics at its worst. There is no scientific reason to restrict access to this safe, effective backup method of contraception. This decision flied in the face of a joint hearing of the FDA Nonprescription Drugs and Reproductive Health Drugs Advisory Committees recommendation of 23 to 4 that the FDA make EC available over the counter. Virtually all major medical and health care organizations, including the American College of Obstetricians and Gynecologists, support making EC available without a prescription.

In addition, in October 2002 Department of Health and Human Services web sites removed medically accurate information about condom effectiveness and the lack of a proven link between abortion and breast cancer. Then in November 2002, the National Cancer Institute (NCI) Web site posts a "revised" that suggests an unproved link between abortion and breast cancer, a link that has been soundly refuted.

These attempts to replace science with ideology deserve investigation and Representatives Waxman and Tierney's amendment to set-up an expert commission to do just that deserves your support.

Thank you for your time and attention to this issue. Please do not hesitate to contact us with any questions you may have.

Sincerely,

GLORIA FELDT,
President.

NARAL PRO-CHOICE AMERICA,
Washington, DC, May 18, 2004.

HOUSE OF REPRESENTATIVES,
Washington, DC.

DEAR REPRESENTATIVE: Later today, when the House considers H.R. 2432, the Paperwork and Regulatory Improvements Act, an important public-health issue is expected to arise. Reps. Henry Waxman and John Tierney will offer an amendment to establish an independent, bi-partisan commission to study whether political considerations have undermined the quality and use of science in the executive branch, and to make suggestions for how science can be protected from politicization. NARAL Pro-Choice America strongly supports the Waxman-Tierney amendment and urges lawmakers' support.

Since the first days of the Bush administration, public health and sciences have been politicized and subverted in favor of an ideological agenda:

Federal funding for embryonic stem-cell research has been slowed to a trickle because of severe restrictions imposed for ideological reasons—bringing potentially life-saving science to a virtual standstill;

The Food and Drug Administration two weeks ago refused an application allowing over-the-counter sale of Plan B®, an emergency contraceptive pill—overriding the recommendations of its own hand-picked advisory panels, its own scientist-experts, and scores of medical and public-health organizations;

Respected federal agencies, including the National Cancer Institute and the centers for Disease Control and Prevention, have censored public-health information and scientific research from their Web sites in order to satisfy the demands of fringe anti-choice activists;

Risky and unproven "abstinence-only" programs have been promoted at the expense of proven-effective approaches to teen-pregnancy reduction like traditional sex-education programs and better funding for contraceptive services through the Title X program;

Individuals with questionable scientific credentials but robust anti-choice and political connections have been appointed to key federal panels that make recommendations on public-health policy;

Federal health-care reports have been "edited" to remove mention of information that could be potentially embarrassing to the administration;

Federally funded researchers who study contraception and related topics have been added to a "hit list," triggering the National Institutes of Health to warn the scientists that they could be subjected to special political scrutiny; and

Financial support for a long-standing, nonpartisan public-health conference was rescinded because the diverse list of speakers and audience members included representatives from groups that do not share the Bush administration's choice views.

These are only some of the examples in which science has appeared to be subverted for political purposes. The American public deserves a federal government that does not censor, rewrite, or hide important health information, and one that makes policy decisions based on sound science—not ideology. This issue bears very close examination, and the Waxman-Tierney amendment is an important step in the right direction.

Attached is more information about the troubling pattern of politics overriding science in the Bush administration. As always, thank you for your consideration.

Sincerely,

ELIZABETH A. CAVENDISH,
Interim President.

This commission, this independent commission would look at these decisions and make sure that they are based on science. I am very disturbed because over the past year an alarming number of decisions that should have been decided on scientific merit have been politicized. I cite the one 2 weeks ago.

Mr. Chairman, the following are a series of other decisions that are very, very questionable and do not rely on science.

[From USA TODAY, May 10, 2004]

PLAN B DECISION CALLED POLITICAL

(By Rita Rubin)

Now that the Food and Drug Administration has disregarded their recommendation to make emergency contraception available without a prescription, some members of two FDA advisory committees say they've thought about resigning over what they view as a political decision.

"E-mails suggesting mass resignations are already flying around among people who were on this committee," says Michael Greene, a Harvard OB-GYN who serves on the Reproductive Health Drugs Advisory Committee. "People are just hopping mad. The decision is blatantly contrary to the science and the facts, and so blatantly politicized."

In December, Greene's panel and the Non-Prescription Drugs Advisory Committee voted 23 to 4 in favor of selling Plan B, a "morning-after pill," over the counter. The FDA almost always follows its outside experts' advice.

But Steven Galson, acting director of the FDA's Center for Drug Evaluation and Research, last week rejected Barr Laboratories' plan to make Plan B a non-prescription drug. He cited a lack of data about whether the drug can be safely used by girls ages 11 to 15 without a doctor's supervision.

Critics of Galson's decision say that information, which the FDA never previously required for a non-prescription drug, is unnecessary and nearly impossible to get.

"There are no data that would convince this White House to take this product over the counter," says James Trussell, head of Princeton's Office of Population Research and a voting consultant to the reproductive health drugs panel. "The only way that this drug is going to be approved is if we get a new administration."

Vanderbilt drug expert Alastair Wood, of the non-prescription panel, says, "What's disturbing is that the science was overwhelming here, and the FDA is supposed to make decisions on science."

In a news conference, Galson acknowledged that he overrode the opinion of his staff as well as that of the advisory committees but denied that anyone outside the FDA influenced his decision. "As is the case with a lot of these difficult decisions, there may not be agreement among people who are experts in data analysis," Galson said.

Frank Davidoff, who sits on the non-prescription drugs advisory panel, calls Galson's comments "disingenuous." Davidoff, editor emeritus of the Annals of Internal Medicine, notes that 44 members of Congress wrote panel members to urge them to reject Barr's plan.

Opponents of selling Plan B over the counter argue that emergency contraceptive pills cause abortions and that easier access will lead to increased promiscuity.

"The morning-after pill is a pedophile's best friend," Wendy Wright, senior policy director for Concerned Women of America, a public policy organization, said in a statement after learning of Galson's decision. "Morning-after pill proponents treat women like sex machines."

Proponents of non-prescription sales of Plan B, most effective when taken within 24 hours of unprotected intercourse, say there is no evidence that it would increase promiscuity. "In fact, the evidence is to the contrary," says Davidoff. And Galson says the FDA believes Plan B primarily prevents pregnancies rather than ends them.

Davidoff says he has thought about resigning from the committee. "But I don't think I will. There's always an issue: Can you do more good by hanging in there?"

Barr spokeswoman Carol Cox says her company was encouraged that the FDA left the door open. Barr has proposed selling Plan B without a prescription to those over 15 and with one to younger girls. That would be unprecedented, and Galson has asked Barr how it would meet prescription and non-prescription labeling requirements in one package.

Mr. Chairman, over 40 Nobel laureates have supported the idea of an independent commission that makes sure that these decisions are not based on politics, but on the merits.

We cannot afford to have our decisions, our scientific decisions based on political manipulation which has certainly happened in these cases. This is a tremendously important amendment, and I hope that my colleagues on both sides of the aisle will support the Waxman-Tierney amendment.

Mr. OSE. Mr. Chairman, I yield 2 minutes to the gentlewoman from Florida (Ms. GINNY BROWN-WAITE).

Ms. GINNY BROWN-WAITE of Florida. Mr. Chairman, I certainly want to commend the gentleman from California (Mr. OSE) and the gentleman from Virginia (Mr. TOM DAVIS) for taking this very bold step on regulatory reform.

There is no question that we need regulatory reform. It has been estimated that Americans pay more than $800 billion a year to comply with regulatory burdens, and that amounts to about $8,000 per household. I am talking to you, Mr. and Mrs. Taxpayer out there.

The IRS alone accounts for about 80 percent of the paperwork burden on the public. In the House budget language, and I serve on the Committee on the Budget, I inserted some language on regulatory reform, and I would like to read just part of it: "It is the sense of this House that Congress should establish a mechanism for reviewing Federal agencies and their regulations with the express purpose of making recommendations to Congress when agencies prove to be inefficient, duplicative, outdated, irrelevant, or fail to accomplish their intended purpose."

Clearly, this will be the result of the gentleman from California's (Mr. OSE) very fine bill. Obviously, in accordance with the language in the House budget resolution, some of the provisions I would like to detail are that they strengthen the Congressional Review Act by providing Congress with more information much earlier in the process. It also provides Congress with inhouse expertise comparable to the administration's experts at the Office of Information and Regulatory Affairs.

Certainly, additional reforms are necessary. We need regulatory reform that goes even further than this very fine bill. And I am sure we will be seeing that later this year or next year.

We must remember that the Constitutional responsibility in article 1, section 8 "to make all laws which are necessary and proper" rests with us.

Congress is elected by the people, for the people and is held accountable to the people. Having a regulatory system that reflects these principles are not only outlined in the Constitution but are reflected in this bill.

Mr. TIERNEY. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I continue to be amused by the railing on the other side of all this paperwork burden as if they did not understand that the cause of that was their own administration. The President ran on a platform of cutting back the regulatory burden on businesses; and if you go back in history during that period of time before 2000, you can see speech after speech telling us how terrible the paperwork burden was and what he was going to do to improve it. But the fact of the matter is if you look at the report done for the gentleman from California (Mr. WAXMAN) and for me, it states clearly, "The annual paperwork hours today is over 700 million burden hours higher than it was when President Bush took office." In the year 2000, it increased by 7.4 billion hours. In 2003 it went up to 8.1 billion hours. It is an increase of over 10 percent.

The Internal Revenue Service accounts for more paperwork than any other Federal agency with 81 percent of the total paperwork burden hours. Yet that is exactly where most of the increases came. The largest sources of statutory increases in paperwork have been the recent tax law changes. They have been introduced and made a substantial additional complexity and burden for individuals and small businesses in filling out their tax forms.

And that, Mr. Chairman, is the reason for the increase.

Mr. Chairman, I reserve the balance of my time.

Mr. OSE. Mr. Chairman, how much time remains on our side?

The CHAIRMAN. The gentleman from California (Mr. OSE) has 3 minutes remaining.

Mr. OSE. Mr. Chairman, may I inquire of the gentleman from Massachusetts (Mr. TIERNEY) as to whether he has additional speakers.

Mr. TIERNEY. Yes, I have additional speakers coming.

Mr. OSE. Mr. Chairman, we are down to 3 minutes on our side.

Mr. TIERNEY. Mr. Chairman, I have two more speakers on their way over.

Mr. OSE. Mr. Chairman, I would ask unanimous consent for an additional 5 minutes for each side for the purpose of debate on this bill.

The CHAIRMAN. That unanimous consent request is not in order in the Committee of the Whole.

PARLIAMENTARY INQUIRY

Mr. OSE. Parliamentary inquiry, Mr. Chairman. Under the general rules of debate within the Committee of the Whole, how might we address a shortage of time here treating each side equally?

The CHAIRMAN. The Committee of the Whole does not have authority to extend general debate time established by the House.

Mr. TIERNEY. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Massachusetts (Mr. TIERNEY) has 9 minutes remaining.

Mr. TIERNEY. Mr. Chairman, I yield myself 1¼ minutes.

Mr. Chairman, let me reiterate some of the things I may have touched on earlier and maybe one new point. The bill that we are talking about here today really does not reduce paperwork or improve the regulatory process. One of the problems it has, it talks about a study on regulatory budgeting, but yet it does not define the term "regulatory budget."

In prior hearings, the subcommittee chairman indicated he thought this was going to set a cap on the cost that an agency's combined regulations could impose on the public. An agency with a regulatory budget would then face an arbitrarily set cap on how much its regulations could cost industry in any given year; and under that system, no consideration whatsoever would be given to why the regulation was needed. Once the agency hit that cost cap, it cannot issue any more regulations even if another regulation is needed to save lives, prevent injuries, protect our environment, or improve homeland security.

□ 1800

One good example of this is the EPA recently announced its new clean air, nonroad diesel rule that, according to the EPA, will cut emissions from industrial and other diesel-powered equipment by over 90 percent. If the EPA had a regulatory budget and had reached its cap for the year, it would not have been able to issue that rule, no matter how necessary the rule or how much pollution it would have cleaned up. That essentially is one of the major problems with this bill.

Mr. Chairman, I think that we cannot allow that type of a study to even start down that path. We do not want to be measuring things just on costs, without factoring in safety obligations and other improvements in homeland security, our environment and preventing injuries.

Mr. Chairman, I reserve the balance of my time.

Mr. OSE. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. MANZULLO).

Mr. MANZULLO. Mr. Chairman, as the Chairman of the Committee on Small Business, we have held close to 60 hearings on the issue of the loss of our manufacturing base in America, and much of that is centered on the fact that we have a tremendous burden of regulations. These regulations come from the people and agencies that issued the regulations, regardless of who is in the White House.

What we are trying to do here today is to have a bipartisan approach to cut away at these regulations and not concern ourselves as to who is responsible for the promulgation.

H.R. 2432 permanently authorizes the General Accounting Office to perform analyses of major rules proposed or issued by the Federal agencies. This would have proven invaluable in responding to the Department of Housing and Urban Development's proposed regulations on modifying real estate closing procedures.

HUD's analysis was woefully inadequate. An independent analysis by GAO that accurately estimated the costs of the proposal on small business would have been helpful to the Committee on Small Business and other Members of Congress as we considered actions needed to avert a potential disaster for thousands of small businesses involved in residential real estate settlement.

H.R. 2432 also addresses the problems of paperwork burdens imposed by the IRS on small businesses. Our committee held a hearing on the IRS compliance with the Regulatory Flexibility Act. At that hearing, the IRS contended that many of its paperwork burdens are imposed by statute. In reality, the Service imposes the reporting and record-keeping requirements under various broad rule-making authorities contained in the Internal Revenue Code. Leaving it up to the IRS to determine how to reduce paperwork burdens it imposes on taxpayers is akin to the fox guarding the hen house.

We would urge the House to adopt H.R. 2432.

Mr. TIERNEY. Mr. Chairman, I yield 2 minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Chairman, I thank the gentleman for the work he has done on this bill and the work to point out the real problems with this bill.

I must tell my colleagues, I would be in the corner of those who want to control the regulatory process. I chaired the EEOC, completely reformed the agency to reduce regulations, and one of the reasons I am for controlling the regulatory process is because overregulation makes people hate government. I do not hate government. I think government does many good things.

I come to the floor to tell my colleagues one of the reasons why I oppose this bill. During hearings we discussed so-called regulatory budgeting. That is not defined in this bill, as it should be, but it was clear during the hearings that the point was to set a limit on the total costs of regulations. This limit is based on the gross costs, not the net costs, which would account for benefits from social legislation or regulations.

For example, we have seen lead in the water in D.C., and now we think it is all over the United States. Who would not believe that in trying to control lead in the water, even if it proved costly, we would not know more if we knew what the benefits were.

Assuming we could ascertain that, let us look at how inconsistent my good friends on the other side of the aisle are.

When it comes to tax cuts, they insist upon something called dynamic scoring. I know of no reputable economist who believes in dynamic scoring, but they say what we should count are the benefits from the tax cuts as well as the expenditures or the costs to the government. Well, if this is the case with tax cuts, why are we not counting the benefits of regulations as well as their costs to get a fair estimate? That is only one of the problems with this bill.

Mr. OSE. Mr. Chairman, might I inquire, I believe I have but 1 minute left?

The CHAIRMAN pro tempore (Mr. BEREUTER). The gentleman from California (Mr. OSE) has 1 minute remaining. The gentleman from Massachusetts (Mr. TIERNEY) has 5½ minutes remaining.

Mr. OSE. Mr. Chairman, I reserve the balance of my time.

Mr. TIERNEY. Mr. Chairman, I yield 2½ minutes to the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Chairman, today I rise in support of the Waxman-Tierney amendment. This week we are debating regulatory reform. However, I believe that the greatest threat facing our regulatory system is the political manipulation of the scientific process.

Repeatedly, the Bush administration has been caught with their hands in the cookie jar, removing, manipulating or ignoring findings of credible scientists on the environment so we can promote the regulations it believes makes political campaign donors and the conservative right wing happy.

The pattern is there, and it is disturbing.

First, in August of 2002, the Department of Health and Human Services replaced 15 of the 18 members on the advisory committee at the National Center For Environmental Health. These scientific advisory positions were filled with a number of people who were very closely related to the industry that they were supposed to be regulating.

Can my colleagues imagine that political appointees at the Department of Health and Human Services were also caught tampering and removing information about the disparities that exist between racial and ethnic minorities in health care?

Then, secondly, in June of 2003, the EPA published a comprehensive report on the environment, while omitting information on global warming. The threat to the community I represent is extraordinary, longer droughts, more water shortages, tougher fire seasons. Last year, our fire season was vicious, but in the EPA's report, no one would know that those threats exist because the White House refuses to let the EPA publish what the scientists consider to be the best available science.

Most recently, on April 29, 2004, EPA experts called attention to a new Bush policy that will hamper accurate modeling of the effects of power plants.

These examples are just a few of many the administration has done in terms of removing, manipulating and ignoring the findings of credible scientists. More than 20 Nobel Laureates, dozens of scholars, credible scientific journals and many scientific organizations have expressed concern about the impact this manipulation could have on the U.S.'s role in the world as a leader in science.

We cannot create effective policy without the free input of qualified scientific experts. We need to stop the manipulation of science and restore integrity to the scientific process. Support this amendment.

Mr. TIERNEY. Mr. Chairman, I yield 2¼ minutes to the gentleman from Maryland (Mr. CUMMINGS).

Mr. CUMMINGS. Mr. Chairman, I rise in strong support of the Waxman-Tierney amendment.

The biggest threat facing the regulatory system today is political interference with the scientific process. The interference threatens the integrity of the science-based agencies and hampers their ability to apply the best possible information and expertise to regulatory problems.

There is a rising concern in the scientific community and among former agency administrators about the unprecedented political interference with science occurring today.

In one egregious example, HHS released a heavily edited version of the National Health Care Disparities Report, a major report requested by Congress. This document hardly mentioned the word "disparities," did not state that the disparities were a problem, and even said that racial and ethnic groups had health advantages compared to the general population.

Members of Congress then obtained a June 2003 copy of this same report that was prepared by HHS scientists. The scientists had actually found that racial and ethnic disparities in health care are "national problems" that are "pervasive in our health care system" and carry a significant "personal and societal price." These important conclusions had been censored from the final version by the political appointees at HHS.

I, along with other Members of the Congress, wrote HHS Secretary Thompson to protest the manipulation of science on health care disparities and to request copies of all drafts and comments on the disparities report. HHS initially defended its report saying that it was just trying to show that the glass was half full. Deleting scientists' conclusions about racial and ethnic disparities is not public relations; it is the manipulation of science for political ends.

A month later HHS Secretary Thompson admitted that there was a mistake made and released the scientists' version of the report, but we still do not know what went wrong and never received any further explanation for this false information.

An independent, bipartisan Commission on the Politicization of Science is urgently needed to protect the public health from incidents like this.

The Waxman-Tierney amendment will establish an independent, bipartisan commission to investigate the politicization of science in the regulatory process and make recommendations to restore scientific integrity.

The CHAIRMAN pro tempore. The gentleman from Massachusetts (Mr. TIERNEY) has 45 seconds remaining. The gentleman from California (Mr. OSE) has 1 minute remaining.

Mr. OSE. Mr. Chairman, it is my understanding that I have the right to close?

The CHAIRMAN pro tempore. The gentleman is correct.

Mr. TIERNEY. Mr. Chairman, I yield myself the balance of the time.

I just say, Mr. Chairman, I think we have heard adequate reasons here why this bill comes up short in what would be a help in any sense in types of burden relief. It does have to be a situation where we are concerned about who is responsible.

One of the colleagues on the other side of the aisle raised that issue that we should not be, but hopefully, we need to enlist the support of this administration and a majority here to help get the burden down, and this administration has had record increases in paperwork burdens, mostly because of the Internal Revenue Code changes that they have made, which have substantially added to that situation.

Not only did it not address the recession and not address the job losses, which have been historic, it also failed to do anything about reducing paperwork burdens and, in fact, increased that substantially.

So I think that this debate has made that clear, Mr. Chairman. I would advise folks to please read the report the gentleman from California (Mr. WAXMAN) and I had done and introduced in the RECORD and vote against this bill.

Mr. OSE. Mr. Chairman, I yield the balance of the time to the gentleman from Wisconsin (Mr. RYAN) for the purpose of closing.

Mr. RYAN of Wisconsin. Mr. Chairman, I thank the gentleman for yielding me the time. I also thank the gentleman from California (Mr. OSE) for his leadership on this issue. It is really a great tribute to all the work that he has done.

Mr. Chairman, one of the things that we are talking about these days is, how do we stop pushing jobs overseas? One of the problems we have is, we are in the time of global competition, and our manufacturers and our small businesses are really struggling to compete in the global marketplace.

One of the ways in which we push jobs overseas is by making it more expensive to do business in America and to hire people to build things in America is the cost of regulations.

This bill, the Paperwork and Regulatory Improvements Act, helps make good on the promise that Congress is giving to the American people that we are going to reduce the cost of regulations. Getting the essential information on how the costs and benefits accumulate on our regulations is a critical component to our agenda to reduce the cost that our government imposes on businesses so they can be more competitive in the global marketplace so that we can keep jobs in America.

This is about jobs. It is about common sense. I urge adoption of this bill.

Mrs. BLACKBURN. Mr. Chairman, I want to thank our chairman for his work on H.R. 2432, the Paperwork and Regulatory Improvements Act, and I rise today in support of this overdue legislation. I came to Congress to support small businesses, and this is a step in the right direction.

We have all heard the saying—the road to ruin is paved with good intentions. This is an appropriate statement to consider as we discuss the purpose of the original Paperwork Reduction Act. In 1980 this legislation was passed to ensure that government didn't place an undue repetitive and duplicative paperwork burden on the Nation's businesses. In 1995, Congress again took up the issue and amended PRA by establishing additional paperwork reduction goals. Unfortunately, the result has not been less paperwork.

Since 1995, the paperwork burden has consistently increased. In a 2002 report to Congress, OMB found that the Department of Labor alone imposed over 181 million hours of paperwork in FY 2001. And OMB estimated that processing the paperwork costs business $30 an hour—the Labor Department's regulations alone, at that rate, are costing American businesses $5.43 billion. And the total per-employee cost of regulation can be as much as 60 percent greater for small businesses.

Mr. Chairman, time and again, at town halls and business roundtables across my district, I'm hearing from business owners, small and large, that they are frustrated and, quite frankly, they are tired of the government costing them time and money for purposeless paperwork.

H.R. 2432 gives Congress tha tools needed to effectively study and gauge the value of particular regulations and make informed, cost-benefit judgments on their worth. I urge my colleagues to support this commonsense legislation today.

Mrs. CHRISTENSEN. Mr. Chairman, I rise today in support of the Waxman/Tierney amendment to establish an independent commission on the politicization of science in the regulatory process. As a family physician and Chair of the Congressional Black Caucus Health Braintrust, I have made numerous appearances on this floor to remind my congressional colleagues and this Nation about the gaping deficiencies in our healthcare system. With these deficiencies being most salient in minority communities, members have introduced and passed a number of legislative proposals geared towards eliminating racial and ethnic health disparities. Public Law 106–129 was one of these proposals and required the Agency for Health care Quality and Research to produce annual reports on the existing disparities in this Nation.

But the Bush administration, who seeks to evangelize individual responsibility as the sole mechanism for redressing health disparities and improving health care for the underserved, have produced policy directives sought to downgrade proven programmatic efforts to eliminate health disparities, and overtly question the reality of the health care system's failings in the requested report entitled National Health Care Disparities Report (NHDR).

The NHDR was published by Department of Health and Human Services' Agency for Health Care Quality and Research in December of 2003 and took the position that racial and ethnic minorities are in better health than the general population. After an investigation was launched at the request of Congressman HENRY A. WAXMAN (D–CA) and members of the Congressional Minority Caucuses, it became apparent that there were two starkly different versions of the report.

The June version of the report found "significant inequality" in health care in the United States, referred to health care disparities as "national problems," emphasized that these disparities are "pervasive in our health care system," and found that the disparities carry a significant "personal and societal price." The December version of the report that was released, however, contains none of these conclusions. Furthermore, the June versions of NHDR defined "disparity" as the condition or fact of being unequal, as in age, rank, or degree, and included the term over the 30 times in the "key findings" section of the executive summary. By contrast, the December version leaves "disparity" undefined and deletes the uses of the "disparity" throughout the report.

After much political pressure and public embarrassment, the Secretary of Health and Human Services retracted the December report and released the June version. But after three months of aggressively defending and justifying the December report it was clear the Administration's understanding of death from health disparities and unequal treatment of the underserved by the health care system based on ideological perspective rather than science. Perspective-based policy making in health care is problematic because its solutions hinge on its biases. With over a century of science-based evidence available, such policy-making appears not just partisan before activity harmful.

Mr. Chairman, we do not have time to allow political ideology to take precedent over science. I urge my colleagues to support the Waxman/Tierney amendment and put an end to politicization of science.

Mr. TOM DAVIS of Virginia. Mr. Chairman, please include the attached exchange of letters between Chairman BOB GOODLATTE of the Committee on Agriculture, Chairman JIM NUSSLE of the Committee on the Budget and myself in the CONGRESSIONAL RECORD at the end of the debate on H.R. 2432 under general leave.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
Washington, DC, May 14, 2004.

Hon. TOM DAVIS,
Chairman, House Committee on Government Reform, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: This correspondence is in regard to H.R. 2432, the Paperwork and Regulatory Improvements Act of 2003. As you are aware, the Committee on Agriculture was granted a sequential referral of H.R. 2432 because of its jurisdictional interest in agriculture commodity programs created and reauthorized in the Farm Security and Rural Investment Act of 2002.

Section 4 of H.R. 2432 amends the Farm Security and Rural Investment Act of 2002 (Public Law 107–171) by eliminating provisions that were inserted to ensure the farm bill programs and payments would apply to the crops of the 2002 crop year.

Knowing of your interest in expediting this legislation, I will discharge H.R. 2432 from further consideration by the Committee on Agriculture. I do so with the understanding that by discharging the bill the Committee on Agriculture does not waive any future jurisdictional claim over this or similar measures. In addition, in the event a conference with the Senate is requested on this matter, the Committee on Agriculture reserves the right to seek appointment of conferees, if one should become necessary.

Thank you very much for your courtesy in this matter and I look forward to continued cooperation between our Committees as we deal with these issues in the future.

Sincerely,

BOB GOODLATTE,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC, May 14, 2004.

Hon. BOB GOODLATTE,
Chairman, Committee on Agriculture, Longworth House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent letter regarding the Agriculture Committee's jurisdictional interest in H.R. 2432, the Paperwork and Regulatory Improvements Act. Section 4 of H.R. 2432 repeals eight provisions within the Farm Security and Rural Investment Act of 2002 (P.L. 107–171). Those eight provisions exempted certain farm programs from the requirements of the Paperwork Reduction Act.

I agree that the Committee on Agriculture does not waive its jurisdiction over H.R. 2432 or P.L. 107–171 by waiving further consideration of the bill. In addition, I will support your request for conferees from the Agriculture Committee should a House-Senate conference on this or similar legislation be convened.

I will include a copy of your letter and this response as part of the Government Reform Committee's report and the Congressional

Record during consideration of the legislation on the House floor. Thank you for your cooperation as we work towards the enactment of H.R. 2432.

Sincerely,

TOM DAVIS,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, May 18, 2004.

Hon. TOM DAVIS,
Chairman, Committee on Government Reform, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN: On May 10, 2004, the Committee on Government Reform ordered reported H.R. 2432, the Paperwork and Regulatory Improvements Act of 2004. As you know, the Committee on the Budget was granted an additional referral upon the bill's introduction pursuant to the Committee's jurisdiction under Rule X of the Rules of the House of Representatives.

Because of your willingness to consult with this Committee, and because of your desire to move this legislation expeditiously as an individual bill, I have agreed that the Committee will be discharged of the bill. However, the Committee does not waive any part of its current jurisdiction. In addition, the Committee reserves its authority to seek conferees on any provisions of the bill that are within its jurisdiction during any House-Senate conference that may be convened on this legislation. I ask your commitment to support any request for conferees by the Committee on H.R. 2432 or similar legislation.

I request that you include this letter and your response in your Committee Report and in the Congressional Record during consideration of the legislation on the House Floor. Thank you for your attention to these matters.

Sincerely,

JIM NUSSLE,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC, May 18, 2004.

Hon. JIM NUSSLE,
Chairman, Committee on the Budget, Cannon House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent letter regarding the Budget Committee's jurisdictional interest in H.R. 2432, the Paperwork and Regulatory Improvements act. The bill was primarily referred to the Committee on Government Reform and additionally to the Committee on the Budget. Section 6 of H.R. 2432 requires the Office of Management and Budget to study the feasibility of integrating of the regulatory accounting statement into the President's budget. The contents of the President's budget is within the Budget Committee's rule X jurisdiction, and accordingly, the Speaker additionally referred H.R. 2432 to your Committee.

I agree that the Committee on the Budget does not waive its jurisdiction over H.R. 2432 by waiving further consideration of the bill. In addition, I will support your request for conferees from the Budget Committee should a House-Senate conference on this or similar legislation be convened.

As you have requested, I will include a copy of your letter and in the Congressional Record during consideration of the legislation on the House floor. Thank you for your cooperation as we work towards the enactment of H.R. 2432.

Sincerely,

TOM DAVIS,
Chairman.

The CHAIRMAN pro tempore. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 2432

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Paperwork and Regulatory Improvements Act of 2004".

SEC. 2. FINDINGS.

Congress finds the following:

(1) In 1980, in the Paperwork Reduction Act, Congress established the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget. OIRA's principal responsibility is to reduce the paperwork burden on the public that results from the collection of information by or for the Federal Government. In 2002, OIRA estimated that the paperwork burden imposed on the public was 7.7 billion hours, at a cost of $230 billion. The Internal Revenue Service accounted for 83 percent of the paperwork burden.

(2) In 1995, Congress amended the Paperwork Reduction Act and established annual governmentwide paperwork reduction goals of 10 percent for each of fiscal years 1996 and 1997, and 5 percent for each of fiscal years 1998 through 2001, but the paperwork burden increased, rather than decreased, in each of those fiscal years and fiscal year 2002. Both the Office of Management and Budget and the Internal Revenue Service need to devote additional attention to paperwork reduction.

(3) In 2002, the House Report accompanying the Treasury and General Government Appropriations Act, 2003 (House Report 107–575) stated, "The Office of Management and Budget has reported that paperwork burdens on Americans have increased in each of the last six years. Since the Internal Revenue Service imposes over 80 percent of these paperwork burdens, the Committee believes that OMB should work to identify and review proposed and existing IRS paperwork.".

(4) One key to success in paperwork reduction is the Office of Management and Budget's systematic review of every new and revised agency paperwork proposal. Recent statutory exemptions from that office's review responsibility, especially those without any stated justification, should be removed.

(5) In 2000, researchers Mark Crain of George Mason University and Thomas Hopkins of the Rochester Institute of Technology, in their October 2001 publication titled "The Impact of Regulatory Costs on Small Firms", estimated that Americans spend $843 billion annually to comply with Federal regulations. Congress has a responsibility to review major rules (as defined by section 804 of title 5, United States Code) proposed by agencies, especially regulatory alternatives and the costs and benefits associated with each of them. In 2000, in the Truth in Regulating Act, Congress established new responsibility within the General Accounting Office to assist Congress with this responsibility.

(6) In 1996, because of the increasing costs and incompletely estimated benefits of Federal rules and paperwork, Congress required the Office of Management and Budget for the first time to submit an annual report to Congress on the total costs and benefits to the public of Federal rules and paperwork requirements, including an assessment of the effects of Federal rules on the private sector and State and local governments. In 1998, Congress changed the annual report's due date to coincide with the due date of the President's budget, so that Congress and the public could be given an opportunity to simultaneously review both the on-budget and off-budget costs associated with the regulatory and paperwork requirements of each Federal agency. In 2000, Congress made this a permanent annual reporting requirement.

(7) The Office of Management and Budget requires agencies to submit annual budget and paperwork burden estimates in order to prepare certain required reports for Congress, but it does not require agencies to submit estimates on costs and benefits of agency rules and paperwork. The Office of Management and Budget needs to require agencies to submit such estimates on costs and benefits to help prepare the annual accounting statement and associated report required under section 624 of the Treasury and General Government Appropriations Act, 2001.

SEC. 3. REDUCTION OF TAX PAPERWORK.

Section 3504 of title 44, United States Code, is amended by adding at the end the following new subsection:

"(i) In carrying out subsection (c)(3), the Director shall (in consultation with the Internal Revenue Service and the Office of Tax Policy of the Department of the Treasury and the Office of Advocacy of the Small Business Administration) conduct a review of the collections of information conducted by the Internal Revenue Service to identify actions that the Internal Revenue Service can take to reduce the information collection burden imposed on small business concerns, consistent with section 3520(c)(1) of this chapter. The Director shall include the results of the review in the annual report that the Director submits under section 3514 of this chapter for fiscal year 2006.".

SEC. 4. REPEAL OF EXEMPTIONS FROM PAPERWORK REDUCTION ACT, ETC.

(a) REPEALS.—The following provisions of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171) are repealed:

(1) Subparagraphs (A) and (C) of section 1601(c)(2).

(2) Section 1601(c)(3).

(3) Section 2702(b)(1)(A).

(4) Section 2702(b)(2)(A).

(5) Section 2702(c).

(6) Subparagraphs (A) and (C) of section 6103(b)(2).

(7) Section 6103(b)(3).

(8) Subparagraphs (A) and (C) of section 10105(d)(2).

(9) Section 10105(d)(3).

(b) EFFECTIVE DATE.—The repeals of the provisions listed in subsection (a) shall take effect 180 days after the date of the enactment of this Act.

SEC. 5. AMENDMENT OF TRUTH IN REGULATING ACT TO MAKE PERMANENT PILOT PROJECT FOR REPORT ON RULES.

The purpose of this section is to make permanent the authority to request the performance of regulatory analysis to enhance Congressional responsibility for regulatory decisions developed under the laws enacted by Congress. The Truth in Regulating Act of 2000 (Public Law 106–312; 5 U.S.C. 801 note) is amended—

*(1) in the heading for section 4, by striking "**PILOT PROJECT FOR**",*

(2) by striking section 5 and redesignating section 6 as section 5; and

(3) in section 5 (as redesignated by paragraph (2))—

(A) in the heading, by striking "AND DURATION OF PILOT PROJECT";

(B) in subsection (a), by striking "(a) EFFECTIVE DATE.—"; and

(C) by striking subsections (b) and (c).

SEC. 6. IMPROVED REGULATORY ACCOUNTING.

(a) REQUIREMENT FOR AGENCIES TO SUBMIT INFORMATION ON REGULATIONS AND PAPERWORK TO OMB.—Section 624 of the Treasury and General Government Appropriations Act, 2001 (as enacted into law by Public Law 106–554; 114 Stat. 2763A–161), is amended

(1) by redesignating subsections (b), (c), and (d) as subsection (c), (d), and (e), respectively, and

(2) by inserting after subsection (a) the following new subsection:

"(b) AGENCY SUBMISSIONS TO OMB.—To carry out subsection (a), the Director of the Office of Management and Budget shall require each agency annually to submit to the Office of Management and Budget an estimate of the total annual costs and benefits of Federal rules and paperwork, to the extent feasible—

"(1) for the agency in the aggregate; and

"(2) for each agency program.".

(b) INTEGRATION OF OMB ACCOUNTING STATEMENT AND REPORT INTO PRESIDENT'S BUDGET.—Section 624 of the Treasury and General Government Appropriations Act, 2001 (as enacted into law by Public Law 106–554; 114 Stat. 2763A–161) is further amended in subsection (a), by striking "with the budget" and inserting "as part of the budget".

(c) REGULATORY BUDGETING.—(1) Chapter 11 of title 31, United States Code, is amended by adding at the end the following new section:

"§ 1120. Regulatory budgeting

"(a) The Director of the Office of Management and Budget, after consultation with the head of each agency, shall designate not less than three agencies (or offices within an agency) to participate in a study on regulatory budgeting for fiscal years 2006 and 2007. The designated agencies shall include three regulatory agencies or offices from among the following: the Department of Labor, the Department of Transportation, the Department of Health and Human Services, and the Environmental Protection Agency.

"(b) The study shall address the preparation of regulatory budgets. Such budgets shall include the presentation of the varying estimated levels of benefits that would be associated with the different estimated levels of costs with respect to the regulatory alternatives under consideration by the agency (or office within the agency).

"(c) The Director of the Office of Management and Budget shall include, in the accounting statement and associated report submitted to Congress for calendar year 2006 under section 624 of the Treasury and General Government Appropriations Act, 2001 (as enacted into law by Public Law 106–554; 114 Stat. 2763A–161), a presentation of the different levels of estimated regulatory benefits and costs with respect to the regulatory alternatives under consideration for one or more of the major regulatory programs of each of the agencies designated under subsection (a).

"(d) In the accounting statement and associated report submitted to Congress for calendar year 2009 under section 624 of the Treasury and General Government Appropriations Act, 2001 (as so enacted), the Director of the Office of Management and Budget shall include a report on the study on regulatory budgeting. The report shall—

"(1) assess the feasibility and advisability of including a regulatory budget as part of the annual budget submitted under section 1105;

"(2) describe any difficulties encountered by the Office of Management and Budget and the participating agencies in conducting the study; and

"(3) recommend, to the extent the President considers necessary or expedient, proposed legislation regarding regulatory budgets.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1120. Regulatory budgeting.".

The CHAIRMAN pro tempore. No amendment to the committee amendment is in order except those printed in part D of House Report 108–497. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

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It is now in order to consider amendment No. 1 printed in part D of House Report 108–497.

AMENDMENT NO. 1 OFFERED BY MR. OSE

Mr. OSE. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore (Mr. BEREUTER). The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. OSE:

In section 5, insert "(a) PERMANENT AUTHORITY.—" before "The purpose".

In section 5, strike paragraph (2) and the matter preceding subparagraph (A) of paragraph (3) and insert the following:

(2) in section 5, by striking "$5,200,000 for each of fiscal years 2000 through 2002" and inserting "$5,000,000 for each fiscal year beginning after September 30, 2004"; and

(3) in section 6—

Add at the end of section 5 the following:

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 90 days after the date of the enactment of this Act.

In section 6, strike subsection (b) and redesignate subsection (c) as subsection (b).

In section 1120(d) of title 31, United States Code, as proposed to be added by section 6(b) (as so redesignated), in the matter preceding paragraph (1), insert after "Management and Budget" the following: ", after consultation with the Committees on the Budget and on Government Reform of the House of Representatives and the Committees on the Budget and on Governmental Affairs of the Senate,".

In section 1120 of title 31, United States Code, as proposed to be added by section 6(b) (as so redesignated), strike the closing quotation marks and second period at the end and insert the following:

"(e) The report on the study on regulatory budgeting required under subsection (d) shall also be submitted directly to the Committees on the Budget and on Government Reform of the House of Representatives and the Committees on the Budget and on Governmental Affairs of the Senate.".

The CHAIRMAN pro tempore. Pursuant to House Resolution 645, the gentleman from California (Mr. OSE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California (Mr. OSE).

Mr. OSE. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, this particular amendment is technical in nature. It conforms the text that was sent over from the committee to the expectations of everybody here on the floor. Specifically, it changes the applicable dates. In section 5, it changes the effective date of the GAO requirement to 90 days after the date of enactment. It deletes the integration requirement of the budget and regulatory accounting statement, and it includes consultation with the Committee on the Budget and the Committee on Government Reform of the House and the Budget and Governmental Affairs Committees in the Senate.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore. Does anyone claim the time in opposition to the amendment?

Mr. TIERNEY. Mr. Chairman, I claim the time in opposition; and though I rise to claim the time in opposition, we do not oppose the amendment.

The CHAIRMAN pro tempore. Without objection, the gentleman from Massachusetts (Mr. TIERNEY) will control the time in oppostion.

There was no objection.

Mr. TIERNEY. Mr. Chairman, Congress did create a 3-year pilot program in the Truth in Regulating Act, the so-called TIRA act, of 2000. That required the General Accounting Office to report on economically significant rules, if asked by the chairman or the ranking minority member. Authorization for funding was included in the bill; but, unfortunately, during the entire 3-year pilot program, Congress never appropriated any money to fund the project. Because of this, the pilot program never happened.

The bill before us today would make this pilot project permanent, oddly enough. The amendment of the gentleman from California (Mr. OSE) would provide authorization of $5 million each year to fund the project; but the General Accounting Office has said it would need $8 million in actual funds, not just promised funds, in order to perform the extra work required in this provision.

What the General Accounting Office really supports is making this provision a pilot project instead of making it permanent, which seems to make eminent sense, given the fact that the original pilot program was not able to be conducted. We should fund the pilot program and find out whether it even works before we make it permanent.

Mr. Chairman, I submit for the RECORD a May 11, 2004, letter from the General Accounting Office comptroller, David Walker, to the ranking member, the gentleman from California (Mr. WAXMAN). In this letter, Mr. Walker writes, and I quote, "If Congress wants TIRA to continue, we believe it should do so as a pilot project rather than as permanent authority."

The entire letter is as follows, Mr. Chairman:

UNITED STATES GENERAL
ACCOUNTING OFFICE,
Washington, DC, May 11, 2004.

Hon. TOM DAVIS,
Chairman, Committee on Government Reform, House of Representatives.

DEAR MR. CHAIRMAN: The Truth in Regulating Act of 2000 (TIRA), Pub. L. No. 106–312, 114 Stat. 1248 (Oct. 17, 2000), became effective on January 15, 2001. (Codified at 5 U.S.C. §801 note.) TIRA contemplated a 3-year pilot project, during which GAO would perform independent evaluations of "economically significant" agency rules when requested by a chairman or ranking member of a committee of jurisdiction of either House of Congress. The independent evaluation would include an evaluation of the agency's analysis of the potential benefits, potential costs, and alternative approaches considered during the rulemaking proceeding. Under TIRA, GAO was required to report on our evaluations within 180 calendar days after we received a committee request.

Section 6(b) of the Act, however, provided that the pilot project would continue only if, in each fiscal year, "a specific annual appropriation not less than $5,200,000 or the prorated equivalent thereof shall have been made for the pilot project." Section 6(c) of the Act directed GAO to submit to Congress, before the conclusion of the 3-year period, "a report reviewing the effectiveness of the pilot project and recommending whether or not Congress should permanently authorize the pilot project." During the 3-year period contemplated for the pilot project, Congress did not enact any specific appropriation to cover TIRA evaluations. The authority for the 3-year pilot project expired on January 15, 2004.

On June 11, 2003, Congressman Ose introduced H.R. 2432 that, in section 5, would make TIRA's pilot permanent. In August 2003, GAO provided staff of Congressman Ose with amendments to H.R. 2432 to make clear that the same limitation enacted in TIRA would continue if H.R. 2432 was enacted, that is, GAO could not conduct any TIRA evaluations without a specific appropriation enacted by Congress. (GAO's proposed amendment enclosed.)

The GAO has conducted no TIRA evaluation. Therefore, in our view, if Congress wants TIRA to continue, we believe it should do so as a pilot project rather than as a permanent authority. Moreover, we cannot support any proposal to make TIRA permanent, such as H.R. 2432, without the inclusion of language that makes clear that a specific appropriation must be enacted before GAO can conduct TIRA reviews. In a recent GAO report, we noted that the Office of Information and Regulatory Analysis within the Office of Management and Budget (OMB) has reviewed approximately 600 "economically significant" rules a year since 1994. While realistically GAO would only be asked to review selected rules, any expansion of GAO's scope without additional dedicated resources would pose a serious problem for us, especially in light of what will likely be increasing budgetary constraints. It would also likely serve to adversely affect our ability to provide the same level of service to the Congress in connection with our existing statutory authorities. TIRA evaluations will require a significant amount of resources that cannot be absorbed within, for example, GAO's fiscal year 2004 appropriation, given the substantial present workload at GAO, our current backlog of pending requests, and the anticipated need for contracting for specialized expertise to assist us in our evaluations of particular rules. Accordingly, we respectfully request that H.R. 24321 be amended to condition GAO's obligation to conduct independent evaluations on the enactment of a separate and specific annual appropriation. To cover the cost of such work we propose an amendment to H.R. 2432 authorizing an annual appropriation of $8,000,000 for fiscal year 2005.

Thank you for your consideration of this important matter.

Sincerely yours,
DAVID M. WALKER,
Comptroller General of the United States.

Enclosure.

AMENDMENTS TO THE TRUTH IN LENDING REGULATING ACT

Section 5 of Public Law 106–312 is amending by striking everything after the heading and inserting the following:

(a) There are authorized to be appropriated to the General Accounting Office to carry out this Act $8,000,000 for fiscal year 2005.

(b) For each fiscal year thereafter, there are authorized to be appropriated an amount equal to the prior fiscal year's authorization plus an amount calculated by multiplying the prior year's authorization by the change in the Consumer Price Index as prepared by the Department of Labor for that fiscal year.

Section 6 of Public Law 106–312 is amended by striking subsection (b) and inserting the following new subsection (b):

(b)(1) Absent a specific annual line item appropriation in the General Accounting Office's appropriation for fiscal year 2005 of not less than $8,000,000 for this purpose, the General Accounting Office shall not conduct in fiscal year 2005 any independent evaluations as authorized by this Act.

(2) Absent a specific annual line item appropriation in the General Accounting Office's appropriation for each fiscal year thereafter of not less than the amount authorized for that fiscal year by section 5(b) for that purpose, the General Accounting Office shall not conduct in that fiscal year any independent evaluations as authorized by this Act.

The underlying bill that we are considering has other problems also, Mr. Chairman, and I will mention those briefly.

One is the provision that would require targeted agencies to participate in a study on regulatory budgeting. And I talked a little about this in the last session we had. An agency with a regulatory budget faces an arbitrary cap on how much its regulations can cost industry. The benefits of regulation, such as saving lives or preventing injuries, are not even considered under such a regulatory budget.

A study of regulatory budgeting may seem harmless enough, but it actually is not. It is one step down the path of regulatory budgeting that would be a step too far. The underlying bill requires every agency to submit every year to the Office of Management and Budget the annual costs and benefits of all rules and paperwork, to the extent feasible, for the entire agency and every program.

Mr. Chairman, I am concerned the committee report states this provision, and I quote, "requires Federal agencies to submit annual estimates of the costs and benefits associated with the Federal rules and paperwork for each of their agency programs."

We have not offered an amendment to strike this provision because the committee majority informed us before we considered the bill that this provision is not intended to require agencies to conduct any extra cost-benefit evaluation beyond that which they already prepare. Expanding the use of cost-benefit analysis would divert resources from the work that agencies are supposed to be doing to carry out their core missions, and it would not add value or improve the quality of decision-making in the regulatory process.

I could go on, Mr. Chairman, with the problems in this bill; but the bottom line is this bill does nothing to improve the regulatory process and could, in fact, result in a worsening of the regulatory process.

Mr. Chairman, I reserve the balance of my time.

Mr. OSE. Mr. Chairman, I yield 2½ minutes to the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Chairman, I rise today in support of the amendment of the gentleman from California (Mr. OSE) and his bill, the Paperwork and Regulatory Improvements Act, and thank his staff as well for the fine work they have done. This legislation is a needed addition and an improvement of existing law. H.R. 2432 would increase the transparency and effectiveness of government and lessen the burden associated with taxation-related paperwork for small businesses.

In 1980, the Congress passed the Paperwork Reduction Act, which established the Office of Information and Regulatory Affairs. The principal responsibility of this office is to reduce the paperwork burden from Federal regulations on the American public. The burden is considerable.

According to a 2001 study, Americans spend an estimated $843 billion annually to comply with Federal regulations. It is our responsibility as Members of Congress to review the new agency rules and regulations. Most importantly, it is our duty to find ways to reduce red tape. In order to fulfill this responsibility, Congress needs detailed information on the costs and benefits associated with each regulation. The Paperwork and Regulatory Improvements Act would ensure this information is provided to Congress.

H.R. 2432 would do three things. It would require the Office of Management and Budget to seek agency input for its annual regulatory accounting report to Congress; permanently fund an independent regulatory analysis function within the General Accounting Office; and authorize OMB to designate at least three agencies to conduct a 2-year study on regulatory budgeting.

Based on the results of this study, OMB will report to Congress on the feasibility of regulatory budgeting. We can then determine if it is a useful tool for managing regulatory burdens on the public.

Finally, this legislation addresses the challenges small businesses face with regard to the paperwork burden. Small businesses spend an extremely disproportionate amount of resources, time, and money on compliance with regulations. The largest share, almost 80 percent of the paperwork, is taxation-related paperwork.

H.R. 2432 would require the OMB and the Internal Revenue Service to jointly develop specific solutions to reduce the paperwork burden on small businesses. It is time Congress paid attention to this pressing problem.

Mr. Chairman, I would like to urge all of my colleagues here today to support this sound piece of legislation.

Mr. OSE. Mr. Chairman, might I inquire how much time remains.

The CHAIRMAN pro tempore. The gentleman from California (Mr. OSE) has 1½ minutes remaining, and the gentleman from Massachusetts (Mr. TIERNEY) has 2 minutes remaining.

Mr. OSE. If I understand correctly, the gentleman from Massachusetts has the right to close on this? It is my amendment.

The CHAIRMAN pro tempore. The gentleman from California, as the proponent of the amendment for which there is no opposition, has the right to close.

Mr. TIERNEY. Mr. Chairman, I yield myself such time as I may consume, and I will just use the couple of remaining moments to talk about something that both of the last speakers raised.

I think it is important to note that while we are all concerned about paperwork burdens, especially on small businesses, the Internal Revenue Service accounts for more paperwork than any other Federal agency. It is 81 percent of the total paperwork hours. In contrast, the Environmental Protection Agency only accounts for 1.8 percent of Federal paperwork burden; the Department of Labor, including OSHA, only accounts for 2 percent of the Federal paperwork burden. So, again, we get back to the point that if we really want to do something about this, we could look at the tax bills that were passed by this administration which increased the paperwork burden 290 million hours in one year and 570 million in another year and continue to be going at a record pace.

We should be concerned about that, and we should be concerned again about the regulatory budget aspect that is being suggested in this bill. Again, it does not do enough to take care of the issue of regulations needing to be in place to save lives, to prevent injuries, to protect our environment, or to improve homeland security. All of those things must be factored in every bit as much as the dollar cost. And this whole idea of regulatory budgeting would not allow for that. It would in that sense be counterproductive and against the interests of the American people.

Mr. Chairman, I yield back the balance of my time.

Mr. OSE. Mr. Chairman, I yield myself the balance of my time.

Regarding the amendment at the desk, it is a technical amendment. It conforms to the actual writing of the bill reported from the committee to the representations we have made here on the floor.

I thank the gentleman from Massachusetts for his kind remarks on the amendment, and I urge its passage.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. OSE).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 2 printed in part D of House Report 108–497.

AMENDMENT NO. 2 OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. WAXMAN: Add at the end the following new title:

TITLE II—COMMISSION ON POLITICIZATION OF SCIENCE IN THE REGULATORY PROCESS

SEC. 201. ESTABLISHMENT OF COMMISSION.

There is established in the legislative branch the Independent Commission on Politicization of Science in the Regulatory Process (in this Act referred to as the "Commission").

SEC. 202. DUTIES.

The Commission shall carry out the following duties:

(1) Examine and evaluate executive branch regulatory activities and associated decisions to determine the extent to which political considerations have undermined the quality and use of science. As part of this examination and evaluation, the Commission shall consider the regulatory activities and associated decisions listed in—

(A) "Politics and Science in the Bush Administration," an August 2003 report prepared by the minority staff of the Committee on Government Reform of the House of Representatives; and

(B) "Scientific Integrity in Policymaking," a March 2004 report prepared by the Union of Concerned Scientists, which was accompanied by a statement of concern signed by 20 Nobel Laureates and other distinguished scientists.

(2) Report to Congress and the President on its findings and conclusions, as well as make recommendations to Congress and the President on measures that can be taken to enhance the integrity of science in executive branch regulatory activities and associated decisions.

SEC. 203. COMPOSITION OF COMMISSION.

(a) MEMBERS.—The Commission shall be composed of 10 members, of whom—

(1) 1 member shall be appointed by the President, who shall serve as chairman of the Commission;

(2) 1 member shall be jointly appointed by the minority leader of the Senate and the minority leader of the House of Representatives, who shall serve as vice chairman of the Commission;

(3) 2 members shall be appointed by the majority leader of the Senate;

(4) 2 members shall be appointed by the Speaker of the House of Representatives;

(5) 2 members shall be appointed by the minority leader of the Senate; and

(6) 2 members shall be appointed by the minority leader of the House of Representatives.

(b) QUALIFICATIONS; INITIAL MEETING.—

(1) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Commission may not be an officer or employee of the Federal Government or any State or local government.

(2) OTHER QUALIFICATIONS.—Individuals that shall be appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience in scientific professions, governmental service, and public administration.

(3) DEADLINE FOR APPOINTMENT.—All members of the Commission shall be appointed within 45 days following the enactment of this Act.

(4) MEETINGS.—The Commission shall meet and begin the operations of the Commission as soon as practicable. After its initial meeting, the Commission shall meet upon the call of the chairman or a majority of its members.

(c) QUORUM; VACANCIES.—Six members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(d) CONFLICTS OF INTEREST.—Each member appointed to the Commission shall submit a financial disclosure report pursuant to the Ethics in Government Act of 1978, notwithstanding the minimum required rate of compensation or time period employed.

SEC. 204. POWERS OF COMMISSION.

(a) HEARINGS AND EVIDENCE.—The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this title, hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, and administer such oaths as the Commission or such designated subcommittee or designated member may determine advisable.

(b) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties of this Act.

(c) INFORMATION FROM FEDERAL AGENCIES.—

(1) In General.—The Commission may secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Federal Government, information, suggestions, estimates, and statistics for the purposes of this Act. Each department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the chairman, the chairman of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission.

(2) Receipt, handling, storage, and dissemination.—Information shall only be received, handled, stored, and disseminated by members of the Commission and its staff consistent with all applicable statutes, regulations, and Executive Orders.

(d) Assistance From Federal Agencies.—

(1) General services administration.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) Other departments and agencies.—In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States may provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(e) Gifts.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(f) Postal Services.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

SEC. 205. STAFF OF COMMISSION.

(a) In General.—

(1) Appointment and compensation.—The chairman, in consultation with vice chairman, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) Personnel as federal employees.—

(A) In general.—The staff director and any personnel of the Commission who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(B) Members of commission.—Subparagraph (A) shall not be construed to apply to members of the Commission.

(b) Detailees.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(c) Consultant Services.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. 206. COMPENSATION AND TRAVEL EXPENSES.

(a) Compensation.—Each member of the Commission may be compensated at a rate not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(b) Travel Expenses.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. 207. REPORTS OF COMMISSION; TERMINATION.

(a) Interim Reports.—The Commission may submit to Congress and the President interim reports containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(b) Final Report.—Not later than 18 months after the date of the enactment of this Act, the Commission shall submit to Congress and the President a final report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

SEC. 208. TERMINATION.

(a) In General.—The Commission, and all the authorities of this Act, shall terminate 60 days after the date on which the final report is submitted under subsection (b).

(b) Administrative Activities Before Termination.—The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating the final report.

SEC. 209. FUNDING.

(a) Authorization of Appropriations.—There is authorized to be appropriated funds not to exceed $5,000,000 for purposes of the activities of the Commission under this Act.

(b) Duration of Availability.—Amounts made available to the Commission under subsection (a) shall remain available until the termination of the Commission.

At the end of section 2, insert the following:

TITLE I—AMENDMENTS RELATING TO PAPERWORK REDUCTION

Redesignate sections 3, 4, 5, and 6 as sections 101, 102, 103, and 104, respectively.

The CHAIRMAN pro tempore. Pursuant to House Resolution 645, the gentleman from California (Mr. WAXMAN) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, I yield myself 4 minutes of debate time.

H.R. 2432, the bill that is before us today, is intended to improve the way that Federal agencies create and implement regulations, but in its current form this legislation will do nothing to address the most serious threat to the integrity of the regulatory process: political interference with science.

Without good science for policymakers, we cannot make the best policy judgments. We as policymakers or the regulatory agencies need good science, science that has not been interfered with by politicians. That is why the gentleman from Massachusetts (Mr. TIERNEY) and I are offering this amendment to establish an independent commission to investigate whether science is being politicized and to make recommendations to Congress to protect scientific integrity.

This amendment responds to the concerns of the scientific community. Twenty Nobel Laureates, major scientific organizations, and leading scientific and medical journals have protested a pattern of political interference with science by the Bush administration. This pattern has involved gagging scientists, suppressing research, and rewriting reports to eliminate scientific answers that conflict with the administration's political or ideological agenda. It has also involved misleading the public and Congress on key scientific facts, manipulating performance measures for ideologically favored programs, and stacking advisory committees, scientific advisory committees stacked with people who will come up with the right political answer.

The Bush administration's interference with science has undermined efforts to protect the public's health, safeguard the environment, and even provide accurate information about the war on terrorism. We have a report that we have prepared called "Politics and Science in the Bush Administration," and it goes through a whole pattern of interference with scientific decisions.

We have heard about the interference with scientific research at the National Institutes of Health. We have heard about suppression of information where the environmental scientist wanted to talk about the global warming issue, but their report was taken out of the overall category of information about environmental problems in this country. We know that this administration favors the kinds of programs that would talk about abstinence for sex for teenagers, and they do not want to really talk about some of the other programs that have a broader perspective, including family planning.

But even in the last couple of days, we have another example where we even are seeing that accurate information that is needed for us to have about the war on terrorism is being stopped. The State Department did a report on patterns of global terrorism; and according to the report, terrorist attacks fell to a record low in 2003. At the press conference releasing the report, Deputy

Secretary Armitage said: "You will find in these pages clear evidence that we are prevailing in the fight."

□ 1830

But this is a fabrication resulting from manipulation of the data. In fact, significant terrorist attacks reached a 20-year high in 2003. It is deplorable that this administration would manipulate data to make it seem like terrorism is less a threat than ever when, in reality, the very opposite is true.

I ask my colleagues today to join me in supporting this amendment. It is supported by a wide range of groups, including the League of Conservation Voters, Planned Parenthood, and the Union of Concerned Scientists.

Respect for evidence and the scientific process is not a partisan issue. I urge that we take the responsible step of supporting an independent bipartisan commission to investigate the politicization of science and restore scientific integrity across the Federal Government.

Mr. Chairman, I reserve the balance of my time.

Mr. OSE. Mr. Chairman, I claim the time in opposition to the amendment.

The CHAIRMAN pro tempore (Mr. BEREUTER). The Chair recognizes the gentleman from California (Mr. OSE) for 10 minutes.

Mr. OSE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is not the first iteration of this amendment we have seen. We also saw this in committee. While I would describe its purpose as well-meaning and well-intended, my position in the committee and my position today are the same, and that is that this piece of legislation dealing with regulatory processes and paperwork burden is not the proper vehicle to establish a commission dealing with the quality of science that this or any other administration might otherwise wish to entertain.

I would ask the gentleman from California (Mr. WAXMAN) just for clarification. The amendment mentions a report dated August 2003, and yet I have a copy here that is updated November 13. Might I inquire as to which report we are working off of?

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. OSE. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, the August report was updated on November 13, 2003. They are practically identical reports.

Mr. OSE. Mr. Chairman, are we working off the August report or the November report?

Mr. WAXMAN. Whatever the amendment provides. It does not make too much difference. It is the same report with the same substance outlining the political interference with science by the Bush administration.

Mr. OSE. Mr. Chairman, reclaiming my time, regardless of the date, I would still register my opposition on the basis that this regulatory process and paperwork reduction legislation is not the vehicle by which we should properly discuss the quality of science that this or any other administration might wish to use in the deliberative decisions that they make.

Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. SMITH).

Mr. SMITH of Michigan. Mr. Chairman, I would suggest this kind of partisan language would not be appropriate in any legislation.

I assume the goal of the gentleman from California (Mr. WAXMAN) is not to politicize science and research, yet I respectfully suggest that is what this amendment does. And the comments of the gentleman on the floor were sort of blasting the Bush administration for some of the things that they have done.

I am chairman of the Subcommittee on Research, and the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) is the ranking member of that subcommittee. In fact, all of the members on that committee, Republicans and Democrats, and on the full Committee on Science work very diligently to not politicize what we are doing in science and research in this country.

This amendment requires that a commission be created to study the politicization of science by the Bush administration. What we all sort of agree is, politicizing this is what we are doing with this amendment. I urge my colleagues, I urge the Democrats not to start, even though it is an election year and we are approaching the election, not to start politicizing.

We have references to the Committee on Government Reform. Regardless of whether it is an August or November date, it is a minority staff report that the majority had nothing to do with, and it is directing the commission in this amendment. And by the way, this amendment, as I count the pages, a 10-page amendment in a 9-page bill, otherwise directs this new commission to take the minority report and study that report that bashes the Bush administration.

The sponsor references the Union of Concerned Scientists and their report; and the Union of Concerned Scientists, with all due respect, is a left-wing organization which has been bashing the Bush administration for the last 2 years.

So I think we need to be very careful of not politicizing what we are doing in science and research in this country and in this Congress.

On the Union of Concerned Scientists, Mr. Marburger, the scientific adviser for the President, informs me that they have studied and reacted to every point of suggested criticism in that report. If there is additional review of the gentleman's minority report, I would be glad to instigate it in our Subcommittee on Research because I think it is important that we do not politicize. But it seems to me, and I would respectfully and humbly suggest that passing this amendment does just that, it politicizes by creating a commission that bashes the Bush administration.

Mr. WAXMAN. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I would like to point out that science has already been politicized by the Bush administration, and that is what our report has pointed out. This report was favorably received in the leading scientific journal Nature. It was cited dozens of times in scientific and medical literature, including the New England Journal of Medicine and Science.

The issue that we pointed out is named the fifth most important story of 2003 by Discover magazine. When we point out how the Bush administration has politicized science, we are accused of being supporters of left-wing organizations and we should not politicize science.

Let us get an independent, bipartisan commission to review whether science has been manipulated and distorted and otherwise subjected to political pressures by this administration.

Mr. OSE. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Chairman, I have in my hand this "Dear Colleague" letter, one of several, actually, from the gentleman from California (Mr. WAXMAN). This one is titled "Keep Science Out of the 'Political and Ideological Shredder.'" It goes on to quote articles in several newspapers, including my own, the Atlanta Journal-Constitution.

This is what the Atlanta Journal-Constitution said about this President. On the political censoring of a report on health care disparities, the Atlanta Journal-Constitution concluded that, to paraphrase rhythm and blues legend Sam Cooke, top aides in the Bush administration do not know much biology, and I am old enough to remember that song, I did not know much about trigonometry, or the French he took, but he did know that 1 and 1 is 2. The Atlanta Journal-Constitution very conveniently left that part of the verse out, that he did know 1 and 1 is 2.

That cuts right to the matter. All of these rules and regulations and all of this science they are talking about and the politicization of it, what we are talking about is having rules and regulations based on good science that makes sense. We hear from the other side and some of the Members who are supporting this amendment this whole spring, talking about outsourcing of jobs and all of the jobs that are lost by this administration over the last 3 years; and they conveniently forget that we are losing a lot of jobs because of these burdensome rules and regulations, many of which, as Sam Cooke knew years ago when he wrote that song, could be a little bit nonsensical.

But he did know 1 and 1 is 2, and that is what this President and this administration knows, and that is why this bill, H.R. 2432, is a good one and that is why this Waxman-Tierney amendment is a bad one.

The Waxman amendment would not result in paperwork reduction or regulatory improvement. The amendment is purely a political attack on the Bush administration and asserts that political considerations have undermined the quality and use of science.

Listen to what President Bush's science adviser, Dr. Marburger, recently stated, "The President believes that policies should be made with the best and most complete information possible and expects his administration to conduct its business with integrity and in a way that fulfills that belief."

Mr. Chairman, this is a good bill and it is a bad amendment. I stand to oppose the amendment and support the bill.

Mr. WAXMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts (Mr. TIERNEY).

Mr. TIERNEY. Mr. Chairman, I am always amazed to see how frightening it is for our colleagues to be confronted with a nonpartisan study, and that would be by a commission that was appointed by the President and by members of that party and members of this party.

One of the speakers talked about this being political and partisan. Basically, we are in an atmosphere here that is political by nature. It is our obligation, if the President is putting a twist onto different regulations and either avoiding their implementation or manipulating them and missing science altogether, our obligation is to make sure this is set right; and a commission should look at it to make sure that all regulations are either enforced or implemented based on good, hard science and not ideology and politics, as many are accusing the President of doing.

We should not stop with the Atlanta Journal-Constitution. We should go on to the New York Times that editorialized that "the administration belittled, misrepresented, altered, or quashed multiple reports suggesting a clear link between greenhouse gas emissions and the burning of fossil fuels like coal and oil."

The Chattanooga Free Press wrote that "the Bush administration has elevated its political agenda, ideology and vested interests over substantive scientific concerns about the environmental and health consequences of its policies."

Citing the manipulation of data on caribou in the ANWR and the firing of qualified experts from a lead poisoning advisory committee, the Boston Globe concluded "at a time when so many issues are grounded in laboratory or field work, this corrupting of scientific evidence misinforms lawmakers and the public and could make scientists unwilling to work for the government."

And the Philadelphia Inquirer concluded that "the Bush administration is risking public trust in vital government agencies by putting scientific findings through a political and ideological shredder."

The Kansas City Star declared that "it is time for a thorough review."

So it is not just the Democratic Party over here. I would assume there are members in the Republican Party who are sensible enough to want to have a good analysis of this done, and want to put aside all of the political shenanigans of this administration.

Across the country, editorial page after editorial page acknowledges this is the most political White House we have ever had on these issues; and everybody wants it to stop, stop taking these regulations and manipulating them to say something that is not true or accurate. Let us get the science right.

This is the perfect bill for this to be brought forward in. We are talking about regulations, and it is imperative that regulations are implemented in a proper way based on scientific evidence and not politics.

This White House has politicized this, not this party. I would think my colleagues on the other side of the aisle, if they have a shred of desire to see the integrity of this institution maintained, would join us and vote for this amendment.

Mr. OSE. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina (Mr. HAYES).

Mr. HAYES. Mr. Chairman, I thank the gentleman from California (Mr. OSE) for this vital legislation, and I rise in support of the gentleman's effort to reduce the paperwork and the regulatory costs that do not provide health, protection and safety for people in America today.

There is $843 billion that could be used to grow this economy, to create jobs, to do the things that our workers need. We have to get this study out of the way so we can do the right thing and make sure that the regulations we have are transparent, they can be seen by the people that write them, that are impacted by them, and make sure that these regulations do what they are intended to do, not sap the economy, not cut jobs.

I support the bill.

□ 1845

Mr. WAXMAN. Mr. Chairman, I yield myself the balance of my time.

There is no transparency when this administration appoints people to a lead poisoning scientific committee and puts a person on who represents the industry point of view, comes right from the industry, and then comes in and recommends a level of lead that is harmful to kids.

It is not transparency when references to global warming are taken out at the insistence of the White House, the EPA administrator is forced to drop it out of his or her analysis of overall problems.

It is not transparency when we have Web sites that say to women, you should worry about having an abortion because it could lead to breast cancer when there is no scientific basis for it.

What we have is continuous interference in scientific decisions by the political people in this administration.

We need to respond to the concerns that have been raised by 20 Nobel laureates, by Science Magazine, Nature Magazine, New England Journal of Medicine, leading scientific organizations, including the American Academy For the Advancement of Science, by making sure that we have good scientific data, not politicized scientific data.

We are calling for a bipartisan commission to examine this politicization of science that we are now seeing so frequently by this administration, so that we can stop it and let the policymakers make the decision based on good science.

Our country is losing its edge as a leader in science because scientists do not want to work in an atmosphere where an administration wants to just do favors for the right-wing religious extremists who want to stop science that might offend their notions of what they think is appropriate. And they do not want to work for an administration in the scientific area where industry groups that reward this administration with campaign contributions are rewarded by having the science distorted to suit their needs.

I ask for support for the amendment.

Mr. OSE. Mr. Chairman, I yield myself the balance of my time.

I just want to reiterate my rationale for not supporting the amendment. If my colleagues look at the amendment, it refers to a report put out by the minority staff entitled "Politics and Science in the Bush Administration." We have not had that report vetted. It was issued by the minority staff. There has been no input by the majority staff or review.

I daresay that that would be a very, very dangerous template to set for this Congress, because who knows what other committees might adopt majority or minority reports and then just jam them down the other side's throat.

I would urge my colleagues to oppose this amendment and instead seek to have it discussed under the purview of the Committee on Science. This particular piece of legislation dealing with regulatory process and paperwork reduction is not the vehicle that should properly deal with this issue. This may well be a very serious issue, but this is not the vehicle where it should properly be discussed.

I urge my colleagues to vote "no" on the amendment.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I rise in opposition to this amendment. We had a very similar measure at the committee markup and defeated it there.

The amendment is supposed to create an expert commission to study the politicization of science and make recommendations for how to protect science in the regulatory process from political and ideological manipulation and interference.

The problem with a commission like this is it is designed to find a problem and highlight it. Whether the problem is real or serious the commission fails if it finds nothing at all.

This is the kind of unfair fishing expedition that can only harm and destroy public faith in the Federal rulemaking process.

Even worse than being unnecessary, the commission is expensive and duplicative, and its powers are questionable. It will cost $5 million. The commission will also duplicate the work of the permanent congressional office of regulatory affairs the base bill creates. And, the commission would have the authority to enter into contracts, but it is unclear if such contracts could be awarded without any competition. Certainly my colleague didn't intend to provide sole source authority to the commission.

There is no question that the Bush administration is surpassing previous administrations in its commitment to good science. Under this administration, OMB has issued the first information quality guidelines that establish rigorous quality standards for using science when developing regulations.

Mr. Chairman, it does not make sense to fund an unneeded commission with a predetermined finding that will misrepresent the good work of this administration. I'm opposed to this amendment and I ask that all Members vote to defeat it.

Mr. MARKEY. Mr. Chairman, I rise in support of the gentlemen's amendment.

Knowledge is power, or as Francis Bacon used to say "Nam et ipsa scientia potestas est." Bacon inspired both this observation and what we have come to know as the scientific method, the underpinning of modern science. Whatever the inspiration for his famous quote, it appears that from the very beginning, science and politics mixed.

Here in Congress we rely on scientists to inform policy, since the term congressional "expert" is really an oxymoron—like "Jumbo Shrimp" or "Jobless Recovery." Scientists tell us whether Yucca Mountain can be used to safely store nuclear waste for a hundred thousand years, how fast global warming is occurring, and whether therapeutic cloning is possible.

Unfortunately, the Bush administration has taken its relentless drive to weaken the environmental regulations of this country to a whole new level, and it has politicized the scientific process in a way we haven't seen since Galileo was tried and jailed by the Inquisition.

Lead is one of the most dangerous and potent toxins to the brains of young children. A year and a half ago, I learned that the Bush administration had rejected the CDC staff nominations of three renowned scientists to its Advisory Panel on Preventing Childhood Lead Poisoning. In their place, individuals with clear ties to the lead industry were nominated—including one who had actually been nominated by the lead industry, and another who was an expert witness for the lead industry, testifying that lead posed very little health risk in lawsuits brought against it. Clearly, the lead industry was unhappy with the CDC panel, which was considering revising the safe blood lead levels downward. So it decided to perform a little policy alchemy by compromising the advisory committee process. I tried to head it off by issuing a report entitled "Turning Lead into Gold: How the Bush Administration is Poisoning the Lead Advisory Committee at the CDC." While one of the nominees admitted her conflict of interest and bowed out, the other industry nominees serve on that panel today.

The lead industry seems to have gotten its way for now. This same committee just recently decided not to lower the lead level of concern, despite a clear finding by a CDC working group that there are adverse health effects at the lower level.

To add insult to injury, the President is proposing a $35 million cut in funds for lead abatement in low-income homes. In the face of significant national drinking water needs—illustrated by the shocking revelations of extremely high lead levels in the Washington, DC, water—the President's budget also proposes to cut water quality funding by $822 million. This all adds up to a policy that counts politics more than all of the science on the adverse effects of lead on young children.

Vote "yes" on the Waxman-Tierney amendment to restore integrity to the government's scientific process.

The CHAIRMAN pro tempore (Mr. BEREUTER). The question is on the amendment offered by the gentleman from California (Mr. WAXMAN).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. WAXMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 201, noes 226, not voting 6, as follows:

[Roll No. 187]

AYES—201

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—226

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham

LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—6

DeMint
Deutsch
Hayworth
Hunter
Leach
Tauzin

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. BEREUTER) (during the vote). Members are advised 2 minutes are remaining in this vote.

□ 1911

Mr. GARRETT of New Jersey and Mr. GARY G. MILLER of California changed their vote from "aye" to "no."

Ms. DEGETTE changed her vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BONNER) having assumed the chair, Mr. BEREUTER, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2432) to amend the Paperwork Reduction Act and titles 5 and 31, United States Code, to reform Federal paperwork and regulatory processes, pursuant to House Resolution 645, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OSE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on passage will be followed by 5-minute votes on H.R. 2731, by the yeas and nays; and the motion to suspend the rules on H.R. 4176, by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 373, nays 54, not voting 6, as follows:

[Roll No. 188]

YEAS—373

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Baca
Bachus
Baird
Baker
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeGette
Delahunt
DeLauro
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Flake
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hefley
Hensarling
Herger
Hill
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCotter
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Obey
Ortiz
Osborne
Ose
Otter
Oxley
Pascrell
Paul
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watt
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—54

Allen
Andrews
Baldwin
Berman
Blumenauer
Brady (PA)
Brown (OH)
Capps
Capuano
Conyers
Davis (IL)
DeFazio
Dingell
Engel
Filner
Frank (MA)
Grijalva
Hastings (FL)
Hinchey
Holt
Honda
Jackson (IL)
Jones (OH)
Kleczka
Kucinich
Lee
Lewis (GA)
Markey
McCollum
McDermott
Meehan
Miller, George
Mollohan
Nadler
Oberstar
Olver
Owens
Pallone
Pastor
Payne
Rothman
Rush
Sabo
Sánchez, Linda T.
Schakowsky
Sherman
Slaughter
Solis
Stark
Tierney
Van Hollen
Watson
Waxman
Woolsey

NOT VOTING—6

DeMint
Deutsch
Hayworth
Leach
Smith (MI)
Tauzin

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. Bonner) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1931

Mrs. JONES of Ohio, Mr. RUSH and Mr. ENGEL changed their vote from "yea" to "nay."

Mr. BECERRA changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

OCCUPATIONAL SAFETY AND HEALTH SMALL EMPLOYER ACCESS TO JUSTICE ACT OF 2004

The SPEAKER pro tempore. The pending business is the question of the passage of the bill, H.R. 2731, on which further proceedings were postponed earlier today.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on passage of the bill on which the yeas and nays are ordered.

This will be a 5 minute vote.

The vote was taken by electronic device, and there were—yeas 233, nays 194, not voting 6, as follows:

[Roll No. 189]

YEAS—233

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cooper
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
Lewis (CA)
Lewis (KY)
Linder
Lucas (KY)
Lucas (OK)
Manzullo
Matheson
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Sandlin
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NAYS—194

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (NY)
Blumenauer
Boswell
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Conyers
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Marshall
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu

NOT VOTING—6

DeMint
Deutsch
Hayworth
Leach
Pryce (OH)
Tauzin

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. Bonner) (during the vote). Members are advised that there are 2 minutes remaining in this vote.

□ 1939

Mr. SHAYS changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to section 6 of House Resolution 645, the text of H.R. 2729, H.R. 2730, H.R. 2731, and H.R. 2432 will be appended to the engrossment of H.R. 2728; and H.R. 2729, H.R. 2730, and H.R. 2731, and H.R. 2432 shall be laid on the table.

BOBBY MARSHALL GENTRY POST OFFICE BUILDING

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4176.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. Murphy) that the House suspend the rules and pass the bill, H.R. 4176, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 421, nays 0, not voting 12, as follows:

[Roll No. 190]

YEAS—421

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley

Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hayes
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—12

Brady (TX)
Davis (AL)
DeMint
Deutsch
Gephardt
Hastings (WA)
Hayworth
Larson (CT)
Leach
Moran (VA)
Pearce
Tauzin

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that there are 2 minutes remaining in this vote.

□ 1947

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON S. CON. RES. 95, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2005

Mr. PRICE of North Carolina. Mr. Speaker, subject to rule XXII, clause 7(c), I hereby announce my intention to offer a motion to instruct on S. Con. Res. 95, Concurrent Resolution on the Budget for Fiscal Year 2005.

The form of the motion is as follows:

Mr. Price of North Carolina moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the House amendment to the concurrent resolution S. Con. Res. 95 be instructed to agree to the pay-as-you-go enforcement provisions within the scope of the conference regarding direct spending increases and tax cuts in the House and Senate. In complying with this instruction, such managers shall be instructed to recede to the Senate on the provisions contained in section 408 of the Senate concurrent resolution (relating to the pay-as-you-go point of order regarding all legislation increasing the deficit as a result of direct spending increases and tax cuts).

MOTION TO INSTRUCT CONFEREES ON S. CON. RES. 95, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2005

Mr. STENHOLM. Mr. Speaker, I offer a motion to instruct.

The SPEAKER pro tempore (Mr. BONNER). The Clerk will report the motion.

The Clerk read as follows:

Mr. Stenholm of Texas moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the House amendment to the concurrent resolution S. Con. Res. 95 be instructed, within the scope of the conference, to reject provisions that provide for an increase in the statutory debt limit.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. STENHOLM) and the gentleman from Iowa (Mr. NUSSLE) each will control 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Speaker, I yield myself such time as I may consume.

This instruction is pretty simple. The effect of this motion would be to call on the House and the Senate to have a full and open debate and vote on increasing the debt limit, instead of using the budget resolution to avoid a debate on increasing our Nation's debt limit.

Under House rules, passage of the budget resolution conference report would deem that the House had passed separate legislation increasing the debt limit upon passage of the budget resolution, without a separate vote or opportunity for debate or amendments on the issue. Republicans were highly critical of this rule when the House of Representatives was under Democratic control and repealed it in 1997, but have revised it now that the national debt is growing at a record pace.

As a result of the Hastert rule, passage of the budget resolution conference report in the House and Senate would automatically approve a $700 billion increase in the debt limit to increase our Nation's debt limit to more than $8 trillion, without a separate vote and at least discussion, which we at least will have tonight.

Last year, the Republican leadership slipped through a $984 billion increase in the debt limit, the largest increase in the debt limit in the history of our country without an up-and-down vote. This came less than 8 months after we raised the Federal debt ceiling by a whopping $450 billion, and now the House leadership is trying to slip through another $700 billion increase in the debt limit without any debate.

That is wrong. In this, the people's House, the House of Representatives, we should be discussing and debating this issue of major significance.

The national debt has increased by $670 billion over the last 12 months and $1.5 trillion over the last 3 years. The Congressional Budget Office projects that the national debt will exceed $10 trillion in just over 4 years under our current budget policies, which the majority in this body say we will not change.

Congress should have a full and open debate and vote, up or down, on increasing our national debt limit above $8 trillion. It would be irresponsible to use parliamentary maneuvers to slip an increase in the debt limit into law without addressing the fiscal problems highlighted by the need to increase the debt limit.

If my Republican colleagues honestly believe that tax cuts with borrowed money is good economic policy, if my Republican colleagues believe that three wars and three tax cuts, soon to be four, is good economic policy, then my colleagues should have the courage to stand up and vote and tell the American people, We are going to increase our credit card limit in order to make room for that economic policy.

Just like credit card spending limits serve as tools to force families to examine their household budgets, the debt limit reminds Congress and the President to evaluate and sometimes reevaluate our budget policies.

It has been very frustrating for me, constantly and consistently with my majority friends, seeing no willingness to take another look at the economic policy we are under. Just borrow the money and keep on trucking and explain it away.

Any farmer or small businessman who needs an extension of their credit must work with the bank to reestablish a financial plan in order to get approval from the bank. We should be following that principle by working on putting our budget back in order before we vote to raise our credit limit.

One of the things Congress should consider as part of the full and open debate we are calling for when we increase the debt limit is reinstating budget enforcement rules which make it harder to pass legislation which puts us further into debt; and tonight, my hat is off to our fiscally responsible Senators, the "fiscal four" in the other body that are holding forth, that are saying to the Senate and to this House, who are not listening, we will not vote for a budget that does not reinstate pay-as-you-go rules.

Pay-as-you-go was good in 1990 when I worked with the then-minority in passing it. Pay-as-you-go was good in 1997 when the Republicans had taken over this body and some of us voted with my colleagues. In fact, without us, they could not have passed it. We said pay-as-you-go was a good budget enforcement tactic.

I see the chairman of the Committee on the Budget is here tonight, and I will ask him right now, what is it about today that is different from 1997? Why does my colleague believe that putting some little persuasion into this body to, in fact, be a little bit more restrained on our fiscal policy, rather than just borrowing and spending at the rate we are going, what is it that has changed?

Again, my hat is off to our friends in the Senate, the courageous four, Senator SNOWE, Senator COLLINS, Senator MCCAIN and Senator NELSON. This is one House Member that appreciates them continuing to hold out for fiscal responsibility.

They were agreed to by a majority of this House in 1997, but for some strange reason, the leadership in this House today says, what we did in 1997 does not count. It is what we are doing today that counts.

But we hope they hold forth, and I appreciate very much the opportunity to at least discuss tonight and not trying to hide it in some budget resolution that we are going to increase our debt ceiling to $8 trillion, almost $100 billion. And we are going to hide it instead of discussing it and debating it, but we will tonight, we will discuss and debate it.

Mr. Speaker, I reserve the balance of my time.

Mr. NUSSLE. Mr. Speaker, I rise in opposition to the motion to instruct, and I yield myself as much time as I may consume.

Mr. Speaker, let me, through the Speaker, make it very clear to the people who are watching around the United States and around the world that maintaining the credit of the United States is one of the most important leadership and governing principles that must be adhered to.

I certainly understand why there will be Members who come to the floor who want to shake the markets, who want to suggest to people that maybe our credit is not good, who want to talk down the economy, want to provide some fear in the marketplace about what exactly will happen to our debt, but I just want to make it very clear that that will not be the principle of the governing party and the majority. There has never been a doubt that the United States will pay its debts when they are due. We have never defaulted on our loans, regardless of who was the party in control.

As a result, our creditworthiness is second to none. We have a very low borrowing cost, and as a result, we waste very little tax dollars on interest now, particularly compared to historic highs.

Without increasing the debt limit in a timely manner, the Department of Treasury would have to jump through a myriad of hoops to reallocate funds to ensure debts are paid. This is a completely unnecessary and ridiculous waste of their resources, and it is an unnecessary signal to the markets.

So there will be people who come to the floor, and they unfortunately did it all day today. I heard friends of mine from the other side who came to the floor today with hope in their voice that the economy was going to get worse, that the marketplace was going to be shaken, that there was going to be negativity out there about the economy. They may want to talk it down. They may want to try and scare people about the future, but as I say and make it clear, our country has never defaulted. We will not at this time.

No one is trying to hide anything. I mean, my gosh, it is 8 o'clock on the East Coast. My constituents are watching, 7 o'clock in Iowa and in Texas. I believe that makes it Mountain Time; it is 6 o'clock, and 5 o'clock in California. No one is hiding. We are all here talking about the debt. So no one is hiding.

The Gephardt rule, as it is called, kind of an interesting name, does not hide anything. It makes it very clear that when we pass a budget, we extend the debt in order to cover that fiscal policy; and I want to make that sure to our marketplace and to the people that are watching. Our credit is secure; The full faith and credit of the United States is secure.

So while tonight, for approximately an hour, we will hear negativity, we will hear talking down the economy, we will hear hoping that things get worse, let me just suggest to my colleagues that things are actually getting a little better, and that is good news.

We are better off than we were 4 years ago. That will continue as we continue to climb out of the Clinton recession that was inherited in the year 2000.

We did exactly the right thing at the right time to get the economy back on its feet, and we have seen the strongest growth in our economy over 20 years as a result. People are going back to work. There are now more people working in our country than at any time in American history.

Sure, more people need to go back to work. Sure, we want to create more jobs. Yes, we want more entrepreneurs, but please do not allow those who are talking down the economy, wringing their hands, hoping people will be negative, we believe, toward the future, for probably some political purpose.

Do not allow that to shake your confidence in the United States, because what we are doing here is far more important than the unfortunate politics that seem to be taking over the floor these days as we move closer and closer to November.

So maintaining our credit has always been first and foremost for a fiscal policy, and we will do that again as a governing majority.

Mr. Speaker, I reserve the balance of my time.

Mr. STENHOLM. Mr. Speaker, I yield myself, again, such time as I may consume.

I am very disappointed in my friend from Iowa for once again taking the political line. I was not talking down the economy of the United States. Nothing that I said had anything to do with what my colleague just said.

All we are saying is, we ought to have a legitimate discussion as to the effect of the economic policies that we are, in fact, enforcing with the gentleman's vote time after time.

I am not here tonight to talk down anything. I hope the economy booms as a result of my colleague's policy, and we are seeing signs that it is making progress. That is good and I rejoice in that.

All we are suggesting, though, is, and if my colleague would agree and join with me in putting PAYGO back as he did in 1997, we could have a budget agreement, bipartisanly supported at the drop of hat. But for some strange reason, the majority is saying no, we will not do it, even less than what we did in 1997 in putting in some enforcement.

□ 2000

Because you blindly believe that we can fight three wars and have a tax cut a week and that somehow, some way, we are going to be able to borrow this money into infinity. I respect your right to believe that. I do not. I do not.

And I believe very strongly we should put some rules back that we used to have bipartisan support on, and which the chairman, the gentleman from Iowa (Mr. NUSSLE), and I used to vote together on but tonight we seem to be apart on. That is what is puzzling to me.

Mr. Speaker, I yield such time as he may consume to the gentleman from Tennessee (Mr. TANNER).

Mr. TANNER. Mr. Speaker, I thank the gentleman for yielding me this time.

As I said last week, when we were debating yet another unpaid-for bill here on the floor, I do not believe the people of this country realize just how bad things are financially. My friend from Iowa said things are getting better. The governing majority here in the House took credit for balancing the budget when President Clinton was in the White House, and since the time that President Bush took the oath of office, they have set out on a fiscal plan that has so far borrowed $1.1 billion a day every day that we have had a one-party government in this country. With this debt increase, that figure is going to move to $1.7 billion a day.

So far this fiscal year, the government, the governing majority here, has borrowed and we have paid interest on, or so far this year we have paid interest of $100 billion in the 7 months of this fiscal year. That is $14 billion a month, $475 million a day, and $20 million an hour. We will have paid interest, by the time this debate is over, of $20 million. We, me, them, him, our children, our grandchildren are paying $330,000 a minute in interest just now. Right now, since I started talking, we have been writing checks of almost $330,000, or $5,500 a second. The United States Treasury each day prints currency with a total face value of about $696 million. At that rate it would take 10,201 days, or 28 years, just to print enough money to pay off the national debt.

The gentleman was talking about the United States' full faith and credit. That is true. And I, to my knowledge, have, although protesting, have voted for this country not to renege on its credit. That would be a worldwide financial catastrophe. But we cannot continue on the path we are going. Most economists now say that we are in a structural deficit. This has nothing to do with recession. That is a cyclical deficit, and one that gets one by when things go bad. We are now in a structural deficit.

The reason we are in a structural deficit is because we have simply done this: we have cut revenue, increased spending, albeit most of it necessary, and borrowed it all. If it were not for the fact that this is a structural deficit, one might make an argument that this is good economic policy. But if one believes, as most reputable economists do, that we are in a situation that we are going to borrow into perpetuity, as a famous economist, Herbert Stein, said, "What can't go on forever won't."

There will be a day, and I do not know who the poor souls will be that will have to face it, but there will come a day when we cannot continue to borrow money because people will not buy our paper when they do not have the confidence in our economy and do not have the confidence in this Nation to make good on their borrowings.

Last year, we borrowed $370 billion. That was the deficit. This year, it is expected to be $500 billion. Nobody in this country has been asked to do anything in order to address this issue except the men and women in uniform who we sent overseas to fight for us. And what we are doing here in Congress is borrowing all the money and giving them the bill for it, plus interest. Now, if that is good financial policy, well, I have a different view.

If it was only borrowing money that we owed to each other, one, again, might make an argument that this is a matter of bookkeeping, but that is not the case. I just have the most recent figures about how much of our national deficit, how much of our borrowings are being financed by foreign interests. The Japanese, just last month, increased their holdings of our paper by $32 billion. Said another way, we borrowed $32 billion from the Japanese last month to finance this deficit that these young people are going to have to pay, and they are going to have to pay it with interest. The Japanese now own over $639 billion worth of our paper.

The United Kingdom increased their holding of our debt by some $16 billion just in 1 month. Mainland China increased their holding of our paper by $4 billion. They now own almost $150 billion. And you put that with Hong Kong, another 60, they own over $200 billion.

This list, Mr. Speaker, is mammoth. It goes on and on. We are putting this country in hock to the rest of the world by allowing these deficits to continue to run amuck.

I contend that this is a national security issue, and the reason I say that is because of something my grandfather told me many years ago when he was in the banking business. He said it is easier to foreclose on a man's house than it is to shoot your way in the front door.

We do not have to worry as much as we did because we have spent a lot of money in a bipartisan manner on our national defense. But we have to worry about our financial future, I contend, because with this unbelievable increase in the holdings of our debt by foreign countries, now 37 percent of the full $1 trillion or so that we owe, foreign interests own 37 percent of that. Of the $1.7 trillion that is owned by foreigners, central banks, that is governments and other public entities abroad, hold almost $1 trillion of that.

Now, there will come a day, and again I hate to talk about this but this is a national security matter, there will come a day when they do not see things as we do in the world, and there will come a day when they will either threaten to call their note when it comes due and insist on payment of this principal amount or threaten to dump it on the market. In either case, we are faced with severe consequences as a Nation.

I contend that if this keeps going like it is going, that there will be a time in the near future, not the long-term future, that we will be unable to act in the best interest of this country if we are so beholding to a foreign government, be it an Asian government or the OPEC countries. OPEC, for example, owns $45 billion worth of our debt. If they insisted on being paid when their notes come due, we would have to borrow that. And in order to borrow that, we will have to pay more and more interest as we continue to put the financial balance sheet of this country in less and less of a favorable light in the international financial community.

I was reading the London Financial Times the other day about it, and the people in Europe are very concerned about what we are doing in America. They are concerned because they know that we, as the leading economic power in the world, or were, that we cannot continue on this course. And this business of deeming the debt increase by a budget resolution is really a sleight of hand. It is a way for us to avoid facing up to the fact that we are continuing to go in debt, we are continuing to borrow money that we do not have, and that we do not have the intestinal fortitude to either raise money by asking people to pay taxes or cut spending. One has to do one or the other.

What my friend from Texas was talking about with regard to PAYGO is nothing more than saying, look, if you are going to spend money or reduce revenue, find some way to offset it. It is as simple as that. And all of us who have budgets in our family households know that when we get either a pay cut or our expenses are outrunning what our income is, we have to do one or the other. We have to get either more income or we have to cut our expenses, wherever we may find a place to cut them. This Congress is not facing that.

This Congress is not leveling with the American people to the extent that I believe is just not only good public policy but is the moral thing to do, and that is to tell people we cannot continue to borrow money in the name of the American people and borrow it not only from ourselves but now from foreign governments. That is a recipe for disaster. There is going to be a financial Armageddon if we do not figure out a better way to do things around here than to deem the debt ceiling raised by some budget resolution.

Nobody is talking about the economy. I am with the gentleman from Texas (Mr. STENHOLM). I hope our economy booms. But most reputable economists now say that we are borrowing money so fast, with this underlying debt that is so huge, that no matter what we do the economy cannot catch up to the amount of debt that we are piling on it. Said another way, our debt acceleration curve is going up faster than the economy can expand to catch it.

That is not a hard concept to figure. And once one gets that in one's mind, one realizes very quickly that if we were in an airplane, we would be in a death spiral. We have to do something different, or we are going to hit the ground. This is nothing more than common sense, and I just wish that the chairman of the Committee on the Budget would join us and say forthrightly to his colleagues and to anyone who will listen that we cannot continue down this path that is only going to get worse with the baby boomers coming on and with the things we know we have to face with regard to national defense and the war in Afghanistan, the war in Iraq, and the war on terrorism.

We simply cannot continue to borrow like we have been borrowing. This $1.1 billion a day every day is going to go, if this passes, to $1.7 billion a day, in the last 4 years. Look, let me just say that in July of 2002, the debt ceiling in this country was raised some $400-plus billion. We ran through that in less than 1 year. On Memorial Day weekend last year, 2003, we raised the debt ceiling $980 billion. It is estimated that we will hit that ceiling sometime in August or the September time frame.

Now, when one is borrowing $1 trillion in a little over a year, that is an unsustainable financial course for this country. Our economy is not infinite. Our economy can only stand so much debt, just like my household can only stand so much debt for my house or my cars or for whatever I choose to buy. And once we get past a certain point, we are unable, credit card debt, whatever, we are unable to do anything more than the minimum.

When we reach that point, and any of these foreign interests call on us for payment, then we are going to have to go to the world community and refinance it. And when we do, it is going to be a financial calamity for this country and for all of us who live in it.

□ 2015

That is why we are here tonight, not because of any politics. I was talking about this, as was the gentleman from Texas (Mr. STENHOLM), when the Democrats had the House and Senate, when the Democrats had the White House; it does not matter. There is only one financial balance sheet in this country, and that financial balance sheet is hemorrhaging every day over a billion dollars, and somebody has to face up to it. The fact of the matter is that this is a one-government town, and if they do not face up to it, it will not be addressed. Every day that goes by, it only gets worse, not better.

If we do this, we are going to go from an average borrowing of $1.1 billion a day since 2001 to an average borrowing of $1.7 billion a day. The interest we are paying is going to consume all of the available revenue coming in, so there will not be moneys available for health care in this country, there will not be moneys available for an investment in human capital called education, there will not be moneys available for anything except writing interest checks to people all over the world.

That is really a tragedy for this country, if it comes to that.

I would just plead tonight that using this budget, and I know it has been done before, but using that to raise the debt ceiling without an honest debate on our economic policy with respect to revenue and expenditures of the Federal Government is really a dodge. I do not think that is something we ought to be doing, I do not think, certainly, in the short term and, God forbid, the long-term interests of our country.

Mr. NUSSLE. Mr. Speaker, I yield myself such time as I may consume.

I just ask the question: What is your solution?

It is an interesting speech. So does that mean we do not increase the debt limit? I understand that the other side does not want me to comment on the fact that someone is talking down the economy or talking about fiscal calamity or things like that to scare the marketplace, but the gentleman said all those things. I assume the gentleman means, do not pass a debt limit, or maybe the gentleman has another solution.

Mr. TANNER. Mr. Speaker, will the gentleman yield?

Mr. NUSSLE. I yield to the gentleman from Tennessee.

Mr, TANNER. No, Mr. Speaker, I did not say, do not pass a debt limit. I said it would be a financial calamity if we did not.

Mr. NUSSLE. I would continue to yield to the gentleman if he has a solution as to what we should do.

Mr. TANNER. We had a Blue Dog budget.

Mr. NUSSLE. Mr. Speaker, reclaiming my time, so the Blue Dog budget is your solution?

Mr. TANNER. It is one of them. It is not "the" solution. There is not "a" solution tonight that we can do. But I can say this: What we are doing is unsustainable financially.

It does not do any good to question me. I do not have any votes. When the gentleman talks about spending, the Democrats have not spent any money in this place for 10 years because we do not have any votes.

Mr. NUSSLE. Mr. Speaker, reclaiming my time, and to correct the record, I would just get the CONGRESSIONAL RECORD out and show all of the votes and show the bipartisan support for a number of spending bills over the last 10 years, huge bipartisan support for all 13 appropriations bills, for the emergency supplementals, for the war with Iraq, to support our troops, which press release after press release after press release goes out claiming credit for the spending on the other side.

My guess is even the gentleman from Tennessee (Mr. TANNER) probably has put out one or two of those press releases, as most Members do.

Having said that, this is not the same as a family budget during periods of relative calm where dad and mom are working and there is no particular problem within the family. What we have here is a situation where the roof collapsed and where dad lost his job, and what you are telling that family is they cannot go borrow money?

Everybody knows in an emergency situation like that, when a family faces that kind of financial difficulty, one of their options has to be to be able to go borrow money.

Let us review the bidding here. We had a balanced budget on September 10, 2001. Remember those good old days. We had a balanced budget. Everybody took credit for it. Trust me, it was not just the Republican side of the aisle that took credit for it. I remember all sorts of credit that was being taken.

But what did that balanced budget get us? Did it protect our country that day? Did it keep us out of a recession? Did it make sure that we had good intelligence about what was coming the very next day? No, it did not. We had a deficit for our defense, we had a deficit for our intelligence, we had a deficit in homeland security, we had a deficit for growth in our economy. And, yes, we had a balanced budget, but we were running deficits all across the board in a number of areas. That was the legacy that Bill Clinton, the President, left us after he left office. That was the legacy of deficits even though, yes, the books balanced.

Well, the Soviet Union had a balanced budget, and it did not mean they were doing very well with regard to their future.

A balanced budget is an important indicator, and it is one that the gentleman and I support, but it is not the only indicator, particularly when we know within 24 hours of celebrating a balanced budget on September 10, we were hit with one of the worst attacks this country has ever seen, and where that was a gut punch to the economy that took us just till now to recover, and we are still recovering and hope to continue to recover.

That is the exact wrong time to ask those people who are working hard for more tax money. Instead, it is time to limit spending, which is exactly what our budget did. Unfortunately, the other side, in a number of budgets, offered a different approach. Most of them offered spending increases. Yours did not, but all of them offered major tax increases at a time that we felt was not the right time for our economic situation.

It was not the time to ask those families, those small businesses, those parents with children, those married couples, to dig deeper in their pockets, but rather we should find the fortitude here to freeze the budget; and that is exactly what we are going to propose in the budget as it comes to the floor. We believe that it takes more than just rhetoric to solve this problem.

I understand the other side of the aisle has the right to come to the floor and to offer motions to instruct. But again the solution is not found within this motion. The solution is found within a budget that gets majority support and actually does the job of controlling spending, growing the economy, and protecting our country. That is the reason we have chosen the budget that we have; and we believe, as a result, we will get back on good footing and get back to a balanced budget in near time.

Mr. STENHOLM. Mr. Speaker, I yield 1 minute to the gentleman from Tennessee (Mr. TANNER) for purposes of a response.

Mr. TANNER. Mr. Speaker, maybe I did not make myself clear. What the gentleman from Iowa (Mr. NUSSLE) is talking about is a situational budget deficit. What most economists are saying now is we are in a structural deficit. That is a huge difference.

If the roof falls in, sure you have to borrow money, but that is a temporary thing. We are not in a temporary deficit situation. We are in a perpetual deficit situation, a structural deficit situation.

I might tell the gentleman, after September 11, there has not been one single adjustment, as far as I know, in your economic game plan that you put in place in April of 2001. In fact, you made it worse. You started in April 2001, because we had a surplus, with, Let us give the people their money back. That was fine, except it was all based on a projection of surplus, and the money was not yet here. And you have not changed anything.

Circumstances have changed dramatically. We are spending money now that we had no idea we were going to have to spend on September 10, but we have to spend it now because circumstances are changed. What you are talking about is, you have not changed your economic plan to adjust to a change of circumstances, and God knows, there was one.

We are saying we need to adjust our game plan to circumstances that have changed dramatically since September 10.

Mr. NUSSLE. Mr. Speaker, I yield myself 30 seconds to respond to the gentleman.

I would say, yes, we did adjust our plan and the gentleman voted for it. We had a stimulus plan in 2002 that was bipartisan that the gentleman joined in. We did adjust in order to not only deal with September 11, but to deal with the economic gut punch that the already inherited recession that we received took as a result of the downturn in the economy caused by September 11.

There have been adjustments in the game plan throughout these budgets, and the gentleman has supported some of those.

Mr. Speaker, I yield 8 minutes to the gentleman from Ohio (Mr. PORTMAN).

Mr. PORTMAN. Mr. Speaker, I thank the gentleman for yielding me this time.

I would say to the gentleman from Tennessee (Mr. TANNER), I appreciate the fact that over the years the gentleman has been willing to stand in this well and support fiscal discipline in the area of spending restraint; and you have done it frankly against your own party's wishes many times.

The difference that I have with the presentation, at least of the Blue Dog budget this year and I think what you are saying ought to be our economic plan, is that we believe that tax cuts, the right tax cuts, lead to economic growth. The fiscal condition you talk about, either the short-term budget deficit or the long-term structural deficit, can be handled by only one thing, and that is restraining spending and growing the economy through smart policy.

That is why we are for tax relief. Since the gentleman from Iowa (Mr. NUSSLE), chairman of the Committee on the Budget, has put together some incredible charts that have not been used yet tonight, I would like to go through the charts and talk about how we differ on this.

Again, to give you credit for being able in the past to stand up against your own party on spending, to be able to talk about fiscal discipline in those ways, but to focus on the fact that after September 11, and indeed as you say before September 11, we were focused not just on spending, but on growing the economy and being sure that we had the opportunity out there to increase revenues and give people that slice of the American dream which we are now seeing.

The first slide has to do with how we got into the deficits in the first place. Tonight and through the process here, and I would say to the gentleman from Texas (Mr. STENHOLM) and the gentleman from Tennessee (Mr. TANNER), we have had this debate for the last 6 months. We have had it over the economic policy in the context of the budget. We had it in the committee, on the floor, but I have heard time and time again, and again tonight, if we did not have those tax cuts, we would not have these deficits. Here are the numbers.

The reason we got into a deficit was twofold. One, as the chairman of the Committee on the Budget said, we had a poor economy. President Bush inherited that economy. The economy started to weaken back to 2000, and in March 2001, we went into a recession, technically into a recession. The shallowest recession we have had in our Nation's history, we believe, and I think that is because of the tax relief we put through in 2001, but the fact is that the economy was spiraling into a recession.

The weak economy in 2002 and 2003 was 68 percent and 50 percent of our deficit. Right there is the single biggest reason.

The second reason, the second biggest reason was spending. As the gentleman from Tennessee (Mr. TANNER) say earlier, we had some spending needs including, as he said, increases in our defense spending, which he supported; including being able to respond to the terrorist threat here at home, homeland security spending; and including just responding to September 11. Over $100 billion alone was in responding to September 11, although that pales in comparison to loss of capital gains revenue and income tax revenue because of the worsening economy.

So what do we do in response to that? We put tax cuts in place in 2001 and 2002 and 2003. To say we did not change our economic game plan, my gosh, in 2002 we specifically put a stimulus package together because of the weakening economy that was further hit by

September 11, and in 2003 did the same thing. Again, tax cuts did not cause the deficit, tax cuts grew the economy.

This is another way to look at an earlier chart showing with a combination of the weaker economy and spending increases, we got ourselves into a deficit situation.

On the spending side, we have to recognize again, as some of my Blue Dog friends have recognized through the years, that if we do not get control of spending, we are never going to get out of these deficits and into a strong financial situation because we will continue to spend and spend and spend.

This chart shows between 1990 and 1996, we actually had some improvements in terms of the spending picture, but look at 2003, up and up and up. Noninterest outlays increased 3.6 percent faster than inflation each year since 1997. Again, some of spending was necessary and the roof did cave in and we had to fix the roof. Frankly, we had to pick up, as the chairman said, a defense deficit. In other words we had not invested in our defense as we should have over the previous 8 years, and we had to do that, as well as responding to the war on terrorism.

□ 2030

Another part of spending in terms of the long-term structural deficit of course and the concerns that have been talked about tonight is on the mandatory side, the so-called entitlement spending, a bigger and bigger part of our budget. And the reason we put in our budget the PAYGO provision, yes, pay-as-you-go provision, on mandatory spending and entitlement spending is if we do not do that, we will never be able to get our spending under control. It has averaged 5.4 percent each year despite declines in net interest costs. So interest costs have gone down, and yet our entitlement spending has gone up and up.

So back to the tax cuts and why we did them. Here is an analysis that I find really interesting. We had job loss over the last few years. If we had not put the tax cuts in place, this is what would have happened: two million additional jobs would have been lost over the last 3 years.

Finally, what have the tax cuts resulted in? Only the best economy in 20 years. I mean, we are pulling ourselves out of the deficit because the economy is growing. This year, as a percentage of our economy, our deficit will be 4.2 percent. The year I ran for Congress, 1992, it was 4.7 percent; 4.2 percent is nothing to be proud of, but it has been worse. In fact, in 1983 it was 6 percent. And it is the percentage of our GDP, all the economists agree, which is the appropriate measurement of our deficit and its impact on our economy.

But here is what is interesting. If the Members will look at our budget, because we restrain spending, because we put the tax cuts in place that are causing this growth, that will go down to 3.1 percent, 2.1 percent, 1.8 percent, 1.7 percent, and 1.6 percent over the next 5 and 6 years.

That is the point. We are doing the right thing. The economic policy is working. Faster economic growth than we have had in 20 years, over 1 million new jobs added in the last 8 months. Last month alone 288,000 new jobs were added to our economy; the month previous, over 300,000 new jobs. We are not only turning the economy around in terms of higher productivity, keeping interest rates in check, low inflation, but we are actually adding jobs with higher productivity.

We are the envy of every industrialized economy in the world. We have the best economy in the world of any of the industrialized countries. This notion that Japan or other countries will not believe in the U.S. economy, my gosh, we have turned the corner. And at this point, as we are getting jobs back, as we are getting the economy on track, as we have turned the corner, to increase taxes would be exactly the wrong thing to do.

And, again, this is where we disagree. We do not disagree on the need to restrain spending, but we do disagree on the impact of tax relief and the need to grow the economy rather than put new taxes in place, which will hurt exactly what we are trying to do, which is to get the economy moving, get jobs back, and begin to increase those revenues.

Those income tax revenues, capital gains revenues are going up. Guess what, the Congressional Budget Office has already told us they will be up, they think, 30 or $40 billion this year alone, and that is just after a month or two.

I guess the final thing I will say is that I am glad we are having this debate tonight, and it is about economic policy, and it is in the context of whether we raise the debt limit or not. And as the gentleman said, we need to raise the debt limit. We do not want to have the credit of the United States be questioned. And we will. We will do the right thing. But in doing so, we also have to recognize that the economic picture is brighter. We have turned the corner. We are doing better. We have made strides in this budget in terms of keeping the spending under control. Basically flat spending in domestic discretionary spending except for homeland security and defense. Everything else is pretty much flat. The tax relief is working to grow the economy. That is the combination that we know works. That is time-honored. Historically that is how we have been able to get out of our deficits. That is how we deal with the long-term structural deficit the gentleman talked about earlier.

And I applaud the chairman for being here tonight to talk about that economic policy, and I applaud the gentleman for raising his motion tonight.

Mr. NUSSLE. Mr. Speaker, I yield myself such time as I may consume.

Let me just say to the gentleman from Texas, and we have, as the gentleman from Ohio said, been on the same side of the issues over the years often, thankfully more often than it appears sometimes we have been against each other of late. And I am not sure it is necessarily against each other as much as it is a difference of opinion, particularly with regard to the benefit of taxes at this point in time in our economic situation.

And I want to provide some information at this point. We really do believe that the tax relief that we have passed is beginning to work, and certainly it is in combination with a good fiscal policy, with a good Fed policy, low interest rates, a number of things that are helping us. But let me just go through these.

I think it is important to understand that the tax cuts are working. They are working. Allowing people to keep their money and to spend that money on their own behalf we believe is a much wiser way of proceeding than to take that money to spend it in Washington, and the result of that we believe are some of these numbers: real gross domestic product growth is at its highest pace in 20 years, 20 years since we have seen this high a growth in the gross domestic product. Over the last 6 months of 2000, real GDP growth was at a rate less than 1 percent. So that is why we talk about the fact that we had a growth deficit. The economy was not growing. We had to get that moving. Even before September 11, we recognized that. And after September 11, we made adjustments because we knew the gut punch the economy took was something that no one was prepared for and we had to make fiscal adjustments, which we did and even received bipartisan support for.

Net household income reached a record high at the end of 2003, which was $2.5 trillion higher than at the end of 2000. Housing markets are the strongest in 20 years. The unemployment rate is now falling down .7 percentage points from June of last year to April of this year. In contrast, 4 years ago, January 2000 to 2001, the unemployment rate rose during that period of time by three-tenths of a percentage point. Payroll unemployment is growing strongly now, over 1.1 million jobs just over the last 8 months, up by 867,000 over the first 4 months of this year. And as I said, we have the most people working in this country that we have ever had in our history.

Manufacturing jobs are increasing. Manufacturing industrial production is growing strongly. Real disposable income. Unemployment insurance claims are falling. All of the signals are there to suggest that not only is the tax relief package working, that Americans are going back to work, that their economy that they have to deal with around their kitchen table is finally working, and when their budgets work, when their economies work, when their families are prosperous, when they are working, when they are making an income, when they are paying taxes as a result of that growth in their income and having a job, it impacts the receipts that are coming in here. And we know that that is happening because we have already heard Treasury suggest that the receipts that are coming in are making our fiscal situation much better.

Will that in and of itself be enough? No. We are not betting that growth alone will balance the budget. No one is ever suggesting that, and that is why we believe we have to protect the country. That is going to cost money. And, thankfully, I believe we stand in a bipartisan support most of the time for those kinds of prospects and projects in homeland security and national defense. But it also means holding the line in those other areas; and that is why, as the gentleman from Ohio said, we do believe in pay-as-you-go, particularly for those new entitlements, particularly for those automatic spending programs that have not had the kind of oversight that they have needed over the years.

Our budget is going to provide that. We are not only going to do this without a tax increase, but we are going to start to go through and weed the garden, looking for waste, fraud, and abuse in those areas of mandatory spending. We are going to go through and look for ways for us to cut out wasteful programs within our appropriation accounts and freeze those nondefense and nonhomeland security accounts. We are going to do the tough work that that requires.

We hope that Members on the other side will join us; but my guess, different than the chorus that we have heard tonight, which I commend my friend from Texas for bringing to our attention, but different than the chorus we are hearing tonight, which is concern about that spending; it will be different. My guess is most of the amendments that we hear about during the appropriation season coming up in June and July will be about increasing spending. My guess is that we will hear about the fact that children are not getting enough money and that seniors are not getting enough money and that States are not getting enough money and that health programs are not getting enough money. My guess is that that is the chorus that we will hear. It will be the unfortunate and consistent wringing of hands that Washington is not spending enough money.

And when we see more discipline from both sides, but particularly from my friends on the other side, with all my friends, not just the gentleman from Texas, who usually joins us with that kind of fiscal restraint, but when I see that kind of restraint from all my friends on the other side of the aisle, it will be easier for us to come to bipartisan agreement with regard to the budget. If all we ever hang our hats on do not allow the tax cuts to be made permanent, do not allow for the predictability of these tax relief packages, do not allow this fiscal policy to work, do not allow for these jobs to be created, then I think it is going to be much more difficult for the two sides to come together and to come to an agreement. And with that we will have to have a vote. We will have to have a budget. The majority will rule. Sometimes we will win; sometimes we will not. But right now we have the votes, we believe, in order to continue to steer a course back toward a balanced budget, but to do it in a way that respects the need to protect our country, to make sure that we are able to prosecute successfully the wars that we are involved in, to make sure that we can get our economy back on its feet and growing again, and that we can create opportunities far into the future for our kids and our grandkids. Those are things that we hope to be able to accomplish in this budget.

The interesting thing I would just say in closing is that the Blue Dog budget that the gentleman from Tennessee is advocating raises the debt ceiling. It is kind of interesting that it is not without its flaws. It raises the debt ceiling. In fact, over the period of time of the budget, almost as much, not quite as much, but almost as much as the budget that we will be presenting here on the floor hopefully by the end of this week, the interesting thing about it is that the debt ceiling will go up under the exact budget that the gentleman from Tennessee was advocating.

I respect the fact that the budget came forward, but it is one thing to say that our budget will require the debt ceiling to be increased. It is another thing to look inward and to say, guess what, we are doing the exact same thing. And why? Because the choices are pretty tough at this particular time. We have got to make sure that we fund our defense and homeland security. We have to make sure that we fund those important programs such as making sure that our seniors have a prescription drug benefit. And we have to make sure that at that same time we are able to keep the economy growing and providing opportunities for the future. If we assume those few things, there are very few choices left except to raise taxes; and as I say, that is where there is a departure on both sides.

We will not raise taxes. That is not what we are going to do in this budget. That is not what we are advocating at this time in our economic history. And that is the reason that we oppose this particular motion to instruct. We believe that we should manage our economy, which includes our debt ceiling, in a responsible way. And we believe our budget does that.

Mr. Speaker, I yield back the balance of my time.

Mr. STENHOLM. Mr. Speaker, I yield myself the balance of my time.

I think it is important, in light of the chairman's closing comments, to restate that I will vote to increase the debt ceiling because to do otherwise would be irresponsible. But I think it is critical for us to seriously consider changing a little bit the game plan that we are under and that is reinstate pay-as-you-go. The chairman and the gentleman from Ohio made eloquent defenses of their economic game plan, and that is all past. I am worried about today forward. We keep talking about everything we have done in the past. We keep talking about 9-11-01. And, yes, this country was thrown into a crisis and, yes, we had to make some additional investments, all of which are very true. But what about today forward? Why continue blindly because of a philosophical belief that the perfect plan that we put into effect 3 years ago, 2 years ago, 1 year ago is still good, when, in spite of the gentlemen's eloquent arguments, the structural deficit of this country is a major problem that will not be cured by growth, will not, based on an overwhelming consensus of economists?

□ 2045

Mr. Speaker, the gentleman tonight has made an eloquent argument for his philosophy. But it is interesting when you look at the last 44 years, under Democrats, the economy grew 5.7 percent faster than debt. For 24 years of Republican leadership, the debt grew 6.8 percent faster than the economy. And when we look at the current 4 years, the debt is going to increase 10 percent greater than the economy.

Yes, we rejoice at the good things that are happening in jobs, and we hope they continue. But should we get that kind of economic recovery by borrowing $2.3 trillion on the future of this country?

The gentleman continues to want to talk about tax cuts, and the Blue Dog budget supported tax cuts for purposes of getting the economy going again. But we also believe in pay-as-you-go.

We are fighting three wars. I would defy anyone in this body to find any time in the history of our country in which we have fought a war by cutting the amount of revenue available to fight the war. With all due respect, that does not make sense to me, and I believe, as the gentleman from Tennessee said, that is morally wrong. That is not a philosophical difference. That is not something we come out here and vote about. That is passing on a debt to our children and grandchildren that we should not be doing today.

Now, I appreciate the opportunity tonight to debate, and all we are saying is, we should have a vote on it. I will vote to increase the debt ceiling. I will vote for it tomorrow, provided we put pay-as-you-go back into place so that it forces this body to make tough decisions on spending and on revenues.

The gentleman from Iowa voted with us in 1997 when we had a tougher pay-as-you-go rule. We said we would sequester if the revenue did not magically appear. I do not want to get into these chart arguments, but revenue has collapsed under the economic program the gentleman is defending here tonight. It has collapsed. We have less revenue to spend and we are fighting a war.

So what are we doing? We are borrowing on our children's future.

Let me remind everyone, the baby boomers are about to begin retiring, and I suspect that the people of America pretty soon are going to be wondering, what the heck are we doing here having the philosophical arguments we are talking about tonight and ignoring the pressure on the economy of the United States that is going to occur when the baby boomers begin to retire in 2011?

The largest single economic pressure on this country is going to occur, and all we are doing tonight is digging the hole deeper and deeper and deeper, and it is structurally going down. No matter how eloquently my friends on the other side come on the floor and talk about it, the deficits are going to continue to go up, because the economic game plan we are under cannot work.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. KLINE). All time for debate has expired.

Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Texas (Mr. STENHOLM).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. NUSSLE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

KEEP ROOSEVELT ON THE DIME AND HAVE A NATIONAL HEALTH CARE SYSTEM

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Speaker, I received a letter in the mail from a young friend.

"Dear Congressman BROWN:

"I'm happy to be writing to you.

"I have an issue I think is important. I don't want the FDR dime to be changed to the Reagan dime because FDR has a real story. The story is when FDR tried to find a cure for polio, he asked children and grown-ups all over the United States to send dimes to the White House. By the end of the year, they had collected more than $1,000 in dimes.

"There would be no particular reason to have Mr. Reagan on the dime, but there is a reason that FDR should be on the dime. It is almost like having a monument to FDR in your pocket.

"I think another very important issue is health care. I believe we should have a national health care system. If people don't have health care and they get sick, they could die. If I get a very bad disease, I might get very good antibiotics and live. I would get those antibiotics because I have health care. But other people couldn't get antibiotics if they didn't have health care and couldn't afford them.

"Thank you for letting me write to you."

It is signed Alex Friedman.

"P.S. I am an 8-year-old in the third grade."

SPECIAL ORDERS

The SPEAKER pro tempore Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

CREATING A SMART SECURITY PLATFORM FOR THE 21ST CENTURY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, stopping the spread of weapons of mass destruction and keeping the American people safe must be our highest priority. On that point, President Bush and I agree. Where we differ is how to avoid equating our security with aggression and military force.

I have introduced legislation to create a SMART Security Platform for the 21st century. SMART stands for Sensible, Multilateral American Response to Terrorism.

SMART Security calls for aggressive diplomacy, a commitment to nuclear nonproliferation, strong regional security arrangements and vigorous inspection regimes.

SMART Security would maintain the United States commitment to existing international treaties, like the treaty on the nonproliferation of nuclear weapons, which the United States became a state party to in 1970, and the Comprehensive Test Ban Treaty, which the U.S. signed in 1996, but never ratified. Both treaties are vital to international security interests.

The Nuclear Nonproliferation Treaty is the only binding commitment to disarm nuclear weapons by states that possess them. The goal of the Comprehensive Test Ban Treaty is simple: to ban all testing of nuclear weapons.

Earlier today, I offered amendments to the defense authorization bill that would express the sense of Congress that the United States Government should fully implement and observe all commitments and obligations to the Nuclear Nonproliferation Treaty and should work towards the ratification of the Comprehensive Test Ban Treaty. By expressing the sense of Congress to support both of these important international treaties, the United States can once again assume the role of global leader in the area of nuclear weapons.

Let us send a message that you do not need nuclear weapons to be a world power.

SMART Security also means supporting and adequately funding programs like the Cooperative Threat Reduction Program, CTR, which works with the Russian Federation to dismantle nuclear warheads, reduce nuclear stockpiles and secure nuclear weapons in the former Soviet Union. This program is crucial to nonproliferation efforts.

In 1991, an estimated 30,000 nuclear weapons existed throughout the former Soviet Union. These conditions led to the serious concern that nuclear materials could be smuggled beyond the borders of the former Soviet Union or that Soviet nuclear scientists might be able to export their expertise or actual nuclear materials to rogue nations or terrorist groups.

CTR enlists the Department of Defense to dismantle nuclear warheads, reduce nuclear stockpiles and secure nuclear weapons and materials in the former Soviet Union. Under CTR, more than 20,000 Russian scientists, formally tasked to create nuclear weapons, have now worked to dismantle nearly 6,000 nuclear warheads, 479 ballistic missiles, 435 ballistic missile silos, 97 bombers, 336 submarine-launched missiles, 396 submarine missile launchers and 24 strategic missile submarines.

That is why today I offered an amendment to the defense authorization bill that would replicate this program in Iran, to help rid that country of the nuclear materials that inspectors from the International Atomic Energy Agency are discovering every day.

The United States and Iran need to work together toward the common goal of reducing the world's supply of nuclear weapons because, in the long run, negotiating with other countries will keep us much safer than scaring them into submission.

The Bush doctrine has been tried and it has failed. There has to be a better way, and there is, one that emphasizes brains instead of brawn, one that is consistent with American values. SMART Security defends America by relying on the very best of America, our commitment to peace and freedom, our compassion for the people of the world, and our capacity for multilateral leadership.

Let us be smart about our future. SMART Security is tough, it is pragmatic, it is patriotic, and it will keep America safe.

HOUSE SHOULD INVESTIGATE ABUSES AT ABU GHRAIB PRISON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. MCDERMOTT) is recognized for 5 minutes.

Mr. MCDERMOTT. Mr. Speaker, where is the investigation of the House of Representatives into the abuses at the Abu Ghraib prison? Why are the Republican leaders dragging their feet? What are the administration and the war department afraid of?

Every day, the American people face new revelations, new allegations and more damage control by the administration. It is time to get it all out in the open. It is time to figure out how high up the chain of command this scandal goes. It is not credible for military commanders and the Secretary to claim justice will be served, when they themselves may be deeply involved in the scandal.

Is the new definition of justice in America to have those under suspicion serve as judge, jury, defense and prosecution? Today, top civilian and military leaders are again portrayed at the center of the scandal by mainstream media around the world. Is it true? We need to know.

Today's New York Times carries a story entitled "Military Police Receive Orders to Strip Iraqi Detainees." For the first time, a story places a senior military commander, a colonel, in the midst of the scandal. The revelation comes from a source reading a transcript of the military investigation to Times reporters.

Today's Christian Science Monitor carries the story, "Military lawyers advised Pentagon two years ago to protect prisoners, but JAGs said Pentagon political appointees had a harsher agenda." JAG stands for Judge Advocate General. They are military lawyers. It contains a quote given to ABC News by a general in charge of the JAG Corps from 2000 to 2002.

Rear Admiral Don Guter told ABC News "If we, 'we' being the uniformed lawyers, had been listened to and what we had said put into practice, then these abuses would not have occurred. That's about as clear-cut as it gets."

Our own military lawyers were on the record, and ignored by the civilians in charge.

Here is another insight the American people need to hear. United Press International today is running a story with the headline, "Army, CIA Want Torture Truths Exposed."

Why? Because they fear being made scapegoats by the administration and civilian Pentagon leaders.

□ 2100

Quoting this story, it says, "Indeed, intelligence and regular Army sources have told UPI that senior officers and officials in both communities are sickened and outraged by the revelations of mass torture and abuse and also by the incompetency involved."

The most serious allegations are contained in the report by Pulitzer Prize-winning journalist Seymour Hersh in the current issue of The New Yorker magazine. Let me read the first paragraph.

> The roots of the Abu Ghraib prison scandal lie not in the criminal inclinations of a few Army reservists, but in a decisions approved last year by Secretary of War Donald Rumsfeld to expand a highly secret operation which has been focused on the hunt for al Qaeda . . .

He wanted to move it over to Iraq.

> "Rumsfeld's decision embittered the American intelligence community, damaged the effectiveness of the elite combat units, and hurt America's prospect in the war on terror.

This one paragraph alone ought to be enough to have the Republicans on their feet demanding an investigation. Instead, Republican leaders in this House remained silent as each new revelation damages U.S. credibility around the world, not to mention the morale of our soldiers.

The stories place Rumsfeld, Under Secretary Stephen Cambone, and Deputy Secretary Paul Wolfowitz in the decision-making roles in the scandal. Is that true? The American people and the world need to know.

Denials by Rumsfeld's spokesman will not silence the calls for truth. Indeed, if Secretary Rumsfeld has no prior knowledge, he ought to be the first person demanding an impartial inquiry by the House of Representatives. The time has come for full disclosure, not carefully orchestrated photo ops.

I call on the Republican leadership in the House of Representatives to begin an impartial and open investigation into the atrocities that occurred in Iraq. The American people are resilient. They are resilient enough to face the truth. So is everyone else who has nothing to hide.

ARE YOU BETTER OFF NOW THAN YOU WERE FOUR YEARS AGO?

The SPEAKER pro tempore (Mr. MARIO DIAZ-BALART of Florida). Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, between now and the end of this session of Congress I will continue to ask the question, Are you better off than you were 4 years ago? And I think whether you answer that question by reference to war and peace or education or access to health care or any number of topics, the answer is clearly no. But tonight I would like to answer that question specifically by reference to the economy.

Mr. Speaker, when President Bush took office, he inherited a $236 billion budget surplus and an economy that had created 22 million jobs during the 8 years of the Clinton administration, 1.6 million jobs in the half-year alone.

When President Bush took office the projected budget surpluses were enough to cover the costs of Social Security during the baby boomers' retirement years, and the country was experiencing the biggest drop in child poverty in a generation and the lowest poverty rate in 20 years. Four years later under President Bush, the President is looking to create his first net job. Meanwhile, 8.2 million Americans are looking for work. The unemployment rate is 30 percent higher than it was when President Clinton left office; 2.2 million private sector jobs have been cut on President Bush's watch; and 2.7 million manufacturing jobs have been shed.

One of the major reasons for the current jobs recession is the increased exporting of high-paying white and blue collar jobs overseas. Consider several examples from the township of Edison, the largest town in my congressional district. Earlier this year the Ford plant closed leaving more than 900 New Jersey employees without jobs. Last year the Frigidaire air conditioner plant closed in Edison and shifted production to Brazil leaving 1,600 unemployed residents in Edison.

You would think the Bush administration would be concerned about these job losses; however, President Bush and his economic advisers view the movement of American factory jobs and white collar work to other countries as a positive transformation that will in the end enrich our economy. And for those Americans who have jobs, many have seen their household incomes decrease over the last 4 years by an average of almost $1,500.

These cuts in income coupled with skyrocketing increases in insurance, health care, gas prices at a 23-year high, and college tuition increases averaging 28 percent have made it extremely difficult for middle-class Americans to make ends meet. And yet the President tours around the Nation touting his accomplishments. Based on these numbers, how can President Bush say America's middle class is better off now than it was 4 years ago? He simply cannot.

Consider, Mr. Speaker, also the government spends $900,000 more each minute than it takes in thanks to a historic reversal in fortune during the last 4 years. Under President Bush's guidance and the policies of the Republican Congress, we have gone from historic surpluses to historic deficits, numbering in the $400 billion range this year alone.

My friends on the other side of the aisle say it is not their fault that a war, a recession and a terrorist attack are to blame. I have actually heard them call it the perfect storm. But those excuses, in my opinion, ring hollow. Republicans are in charge of the White House and both Houses of Congress. So what are they doing about the challenges facing Americans? Absolutely nothing.

Do Republicans have a plan to create jobs or to reduce the deficit? No. Do they have a plan to stop the outsourcing of American jobs like those at the Ford and Frigidaire plants in my district? No. The only thing they seem to have a plan for is giving tax cuts to those who need them least.

Americans are facing record job losses, record deficits and record debt, and yet President Bush's only economic answer seems to be more tax cuts.

Mr. Speaker, in my opinion it is time the Bush administration realizes that shipping jobs overseas and cutting taxes for the wealthiest elite in our country will not create jobs. President Bush and Congressional Republicans have had 4 years to turn this jobs recession around, and they have failed.

Democrats, on the other hand, are fighting to create economic opportunity for all Americans. Republicans are just standing in the way. So I ask once again, are we better off than we were 4 years ago? The answer certainly with regard to the economy is a resounding no. And I think we can say that for so many other aspects of what we have experienced here in the last 4 years.

JUSTIFIABLE COMPENSATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STRICKLAND) is recognized for 5 minutes.

Mr. STRICKLAND. Mr. Speaker, I probably will not take the full 5 minutes because I am going to be joining my friend, the gentleman from Ohio (Mr. BROWN), a little later for a Special Order. But there was something that I wanted to point out that I think is relevant to every one of us who serves in this body.

Following the exposure of the prisoner abuse in the prison in Baghdad, our Secretary of Defense, Donald Rumsfeld, has said that he believes that the prisoners who were abused should be compensated by our government.

Now, I do not have any real problem with that if in fact the abuse can be verified. But what puzzles me greatly is the fact that there have been other prisoners held in captivity in that part of the world, and I am talking about American prisoners, American POWs, who were held during the first Gulf War by the Iraqi regime and some 16 of those ex-prisoners who were held by the Iraqi regime and treated terribly. They have described the abuse they endured while they were being held during that first Gulf War, and following that they brought suit against the Iraqi Government. And they laid claim on the right to compensation, and it has been reported that our government had some $1 billion, perhaps even more than $1 billion which we had frozen. These were Iraqi Government assets which had been frozen, and these American ex-POWs having been tortured at the hands of the Iraqi regime asked the courts to grant them compensation. And lo and behold the courts, my understanding is, made the right decision and said that they were entitled to compensation. And they were hoping to be compensated from these frozen Iraqi funds. And lo and behold, and this is almost shocking, I believe, the Bush administration opposed these ex-POW American veterans from receiving compensation from the Iraqi Government, although we had the funds that could have been used to compensate them.

Those funds, it is reported in the press, those funds have now been sent back to Iraq for the rebuilding of Iraq. Now, the question that I would ask the President is why would this administration support the compensating of Iraqi prisoners who were held in an American prison and were subject to abuse and would oppose compensation for American soldiers who were held in an Iraqi prison and abused? It just seems like a double standard that is difficult to explain. And so I believe the American people should be aware of this. And they should hold this administration accountable.

If the Iraqi prisoners who were abused should be compensated, then certainly the American prisoners who were held by the Iraqi Government and subjected to terrible abuse, they should be compensated as well.

I think this is a stark contradiction, but I do not think it is inconsistent with the way this administration has treated veterans when it comes to other benefits, and we will be talking about that a little later. But I felt like this situation was egregious enough, the contrast was stark enough that the American people should be aware of it.

CARING FOR OUR VETERANS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Ohio (Mr. BROWN) is recognized for 60 minutes as the designee of the minority leader.

Mr. BROWN of Ohio. Mr. Speaker, I rise tonight with my two friends, the gentleman from Ohio (Mr. RYAN) from Niles in northeast Ohio and the gentleman from Ohio (Mr. STRICKLAND) from a district that runs from Portsmouth, along south from the Ohio River, up east including parts of Mahoning County near Youngstown. We will talk about the treatment of veterans in this country and the problems that we have seen, and the strength of the veterans administration, the good things it has done but how it really has fallen short, a Federal agency that has done remarkably good work for so many, but fallen woefully short in the last couple of years.

I want to continue the theme that the gentleman from New Jersey (Mr. PALLONE) mentioned, the gentleman from Washington (Mr. MCDERMOTT), others, the gentlewoman from California (Ms. PELOSI) earlier this week, Are you better off today than you were 4 years ago? And I think this theme particularly is reinforced when asking about veterans. Are veterans in this country today better off today than they were 4 years ago?

And I think we will see as the evening goes on in the next 30, 40, 50 minutes or an hour, how the veterans really have been shortchanged by this administration, how the Veterans Administration does not work as well as it did. Our benefits to veterans are not nearly as adequate, never really generous, as they used to be. I want to talk about that, whether veterans are better off today than they were 4 years ago.

As I said, I am joined by the gentleman from Ohio (Mr. RYAN) and the gentleman from Ohio (Mr. STRICKLAND). Last week Secretary Principi and President Bush announced that they would close three Veterans Administration hospitals in the United States: one in Mississippi; one in Pittsburgh, Pennsylvania area; and one in Brecksville, Ohio in northeast Ohio. The Ohio facility serves 48,000 veterans in our region of northeast Ohio.

I find it ironic and a little sorrowful that as we head into Memorial Day next week, as we prepare to dedicate the World War II memorial, that the President and Secretary Principi and his administration announce plans to close VA hospitals. Prior to Secretary Principi's announcement, I, along with the gentleman from Ohio (Mr. STRICKLAND) and the gentleman from Ohio (Mr. RYAN) sent a letter to the Secretary asking him not to close the Brecksville hospital.

Our letter echoed the sentiment of more than 5,000 veterans who signed petitions; it echoed the sentiment of several thousand more who came to rallies and meetings and wrote us letters and made phone calls to us saying this VA hospital in Brecksville, one of the best in the country, treating homeless veterans, a model for the country in treating veterans with mental illness, protesting that this hospital be closed.

I met with hundreds of local veterans who voiced their opposition, as has the gentleman from Ohio (Mr. STRICKLAND) and as has the gentleman from Ohio (Mr. RYAN). Instead of listening to the men and women who served this Nation, the administration is foisting upon American veterans a plan that will force them to travel further and wait longer for health services they depend on.

□ 2115

In the case of Brecksville, they are closing a facility with a leading reputation for mental health services, and for the last 43 years Brecksville has pioneered innovative, nationally recognized programs and services for homeless vets and veterans with mental illnesses.

Since 1971, Brecksville has offered inpatient mental health services, including acute substance abuse treatment and acute and long-term psychiatric care, to veterans from all 50 States.

We are creating new veterans. The irony of closing these three hospitals, the irony of cutting veterans benefits, health and education benefits, which has happened in this House of Representatives on this floor and with this President, the irony of doing that, the irony of closing these hospitals that lead up to Memorial Day is every day we are creating more veterans in this country as soldiers return from Iraq, sometimes with scars, emotional scars, physical scars, mental scars, where they really do need treatment.

Approximately one-third of the adult homeless population served their country in the armed services. On any given day, as many as a quarter million male and female veterans are living on the streets or in shelters, and perhaps twice as many experience homelessness at some point during the course of the year.

For many homeless and mentally ill veterans who struggle with local public transportation, closing Brecksville will double, even triple, the number of miles they will be forced to travel.

The administration made big promises to American veterans. George Bush can hardly go anywhere without singing the praises of our men and women in uniform, even though, as the gentleman from Ohio (Mr. STRICKLAND) has pointed out many times on the floor, they sing their praises but do not provide them with safe drinking water, did not provide our soldiers with body armor, do not outfit our Humvees with metal plate armor underneath the Humvees and on the door of the Humvees, so that they are much more dangerous.

There is hardly a day goes by that the President does not in one of his fund-raising speeches around the country, which are almost daily, that he does not, the President, sing the praises of our veterans.

At the same time, this administration has cut veterans benefits, cut education and health care benefits, raised the price of prescription drugs, and now, strike three, is closing these three hospitals which are serving hundreds of thousands of veterans.

When I think about a veteran in my district who originally was paying a relatively small copayment per drug per month, that copayment has tripled, and now the administration wants to double that copayment again. It is just amazing to me the President of the United States would do that in a time of war.

It is especially amazing when you look at the price of drugs in Canada, the price of drugs in France, in Germany and around the world, how much less drugs cost in those countries. In fact, every once in a while I have taken, over the last 6 years, busloads of seniors to Canada to buy less expensive drugs, but how can you look a veteran in the eye and say, Hey, you ought to go to Canada and buy your prescription drugs? How can you tell a veteran he or she should go to Canada and buy their prescription drugs because they are cheap?

Under this administration, a third of America's veterans have unprocessed claims, and 130,000 veterans are waiting for appeals decisions.

New enrollment fees and increased costs of prescription drugs will cost veterans $2 billion over the next 5 years.

This administration is opposed to the renewal of imminent danger pay for families of active duty soldiers in Iraq and Afghanistan. Think of that. The administration and the Secretary of the VA sing the praise of American soldiers, and then oppose giving those soldiers a little extra money when they are in the face of danger in Iraq and Afghanistan.

We are spending $1.5 billion a week in Iraq turning our young men and women into veterans. We ought to be able to ensure when they come home that they receive the best health care. Our veterans deserve better.

It begs the question earlier, are veterans better off than they were 4 years ago? I think when you look at what this administration has done with soldiers and with veterans, it is a decided no.

I yield to my friend from Ohio (Mr. STRICKLAND).

Mr. STRICKLAND. Mr. Speaker, I want to thank my friend, the gentleman from Ohio (Mr. BROWN), and I look forward to hearing in a moment from another gentleman from Ohio (Mr. RYAN), but the gentleman from Ohio (Mr. BROWN) said something that triggered a recollection that I want to share with him.

I had said earlier here on the floor that this administration apparently wants to compensate Iraqi prisoners who were abused in the prison in Baghdad, and I understand why Secretary Rumsfeld has reached that conclusion, but I also pointed out that I was puzzled that the administration, on the other hand, was opposing American ex-POWs who had been held in captivity in Iraq during the first Gulf War getting compensation from the Iraqi Government. So there seems to be a double standard.

On the one hand, the administration is willing to compensate the Iraqi prisoners who were abused and opposes the American prisoners who were abused from getting compensation. But there is a second contradiction, a second example of where this administration seems to favor people in Iraq versus the good old, homegrown American.

An example is the fact that just last week it was reported that, back in December, Paul Bremer, who is our point man in Iraq, had gone to the Department of Labor and secured $5 million, and this was $5 million that the Congress had no awareness of, in order to pay unemployment compensation to former Iraqi soldiers. These were Iraqi soldiers who were no longer working as soldiers.

And so this administration got $5 million in order to pay them unemployment compensation at the very same time that the administration, for months now, has been fighting extending unemployment compensation to unemployed Americans.

Mr. BROWN of Ohio. Mr. Speaker, reclaiming my time, I would add that there are 50,000 Ohioans alone who have seen their unemployment benefits expire in the last 6 months, 1 million Americans. These are people looking for a job, playing by the rules, but cannot find a job.

The President said the economy is growing. We heard our friend from Iowa and the gentleman from Ohio (Mr. PORTMAN) saying things are great, jobs are coming back, the economy is great. Well, 50,000 Ohioans cannot get their unemployment benefits.

Mr. STRICKLAND. Mr. Speaker, one other point I pointed to throughout was a discrepancy between the administration's wanting to compensate abused Iraqi prisoners and not compensate America's abused prisoners; and then I pointed out that it sought money to pay unemployment compensation to unemployed Iraqis while fighting extending unemployment benefits to Americans.

There is a third example of how the administration is favoring the Iraqis over Americans, and that is the fact that in Iraq we have promised Iraqi citizens health care. We have said that we are going to provide universal health care to the Iraqi citizens, while we have got millions, some 44 million Americans, with no health coverage, and we have got Americans who are losing their health coverage on a daily basis, and yet this administration seems to not care about that at all.

So here are three clear-cut examples of where this administration has a double standard and where this administration is willing to put resources into Iraqis and into Iraq, while refusing to help the people right here at home who are in desperate need of help.

Mr. BROWN of Ohio. I thank my friend, the gentleman from Ohio (Mr. STRICKLAND), for his comments, and I yield to the gentleman from Ohio (Mr. RYAN).

Mr. RYAN of Ohio. Mr. Speaker, if people were just watching this and just tuned in and they hear us talk about some of these issues, I mean we go back to our districts every week and we talk to people who are not engaged in the day-to-day debates that we have here.

You would think we are making this up, because it goes on and on and on and on, and you would think that the Democrats are just playing partisan politics. But if you just clearly look at the facts, you will find that we are not making this up, and you may come to understand as you listen to a lot of the special orders, you listen to the 1-minute speeches, you listen to the debate on the House floor, why some of us are so outraged at what is happening here.

With the veterans' issues that we are talking about and closing down of the facility in Brecksville, Ohio, which many of the veterans in my district go to for service; and they are moving it into downtown Cleveland into Wade Park. We are asked to support this move because the administration has told us that there will be no decline in the service, there will be more services. There will be more services; it will be better for everybody.

I hate to be the guy to spoil the party, but this administration does not have a very good track record on keeping their promises, and whether you go to Iraq, whether you go to their economic policy, the domestic policy, No Child Left Behind, promises to veterans, promises for Pell Grants, whatever it has been, they have not lived up to the promises they have made.

So why should the gentleman from Ohio (Mr. BROWN), the gentleman from Ohio (Mr. RYAN), the gentleman from Ohio (Mr. STRICKLAND), the Congressman down in Mississippi, the gentleman from Pennsylvania (Mr. DOYLE), why should we take this administration at their word that they are going to take care of our veterans? Because they have not; they have not with our soldiers, they have not with our Reservists. And so we are here tonight, I think in part, to hold their feet to the fire and to question the kind of leadership that they are getting.

One or two points that I just want to make: The Secretary of Veterans Affairs has said that the budget that is coming out of this, that the budget, not that the President recommended, is $1.5 billion short, billion with a "B", short of what is needed. The veterans organizations have said that the President's request is $3 billion short of what they need.

Now, is the veterans organization too high and the Democrats too high? I do not think so, but at the very least, the administration should at least follow the lead of the Secretary of Veterans Affairs, who says $1.5 billion more to meet the needs.

For this administration to continue its shortsighted approach, along with all of its domestic policies, this one is what kills me, and especially because the gentleman from Ohio (Mr. BROWN) has spent so much in the health care field in understanding the needs for investment.

There is a $50 million cut in the award-winning VA medical prosthetic research and development program. Now, here is an award-winning program that is developing prosthetics for amputees, the best around; and we have soldiers in Iraq right now that are losing arms and legs as we speak, and we are cutting funding for the research and development of better prosthetics.

It continues, it continues, it continues; and it is just the shortsightedness that this administration has. To do it for young kids, to do it for the poor, to do it for the uninsured is shameful, but to do it to the veterans who have given us this system that we have here today, I think it is especially shameful.

I am glad to join you here tonight to continue this conversation.

Mr. BROWN of Ohio. The gentleman from Ohio (Mr. RYAN), my friend, was mentioning that people watching this at home just sometimes might think it is almost like we are making this up, this could not be like this. Why would people do these kinds of things?

Why would President Bush talk such a good game about the military? He was in the military, and remember when he landed on the ship and was in his flight suit, and he certainly showed the American people that he was one of the military, but why would he then turn around and make these cuts? But these are political choices.

I mean, we sit in this body, the 435 of us, we come down to the House floor with this little plastic card and we vote "yes" or "no" on issues. This is a question. Government is about making choices. We decide. What do we do about prescription drugs, what do we do about Medicare, and what do we do about the environment?

Well, the Congress has made a series of choices about tax cuts and the budget and expenditure of money, and this Congress and this President who has pushed this Congress, and the Congress pretty much rubber-stamps, the gentleman from Texas (Mr. DELAY) pretty much rubber-stamps what the President wants. This Congress made a choice.

If you make $1 million a year, you get a $123,000 tax cut. If you are worth $100 million and you pass away, rather than $30 or $40 million of that going to the government, now, under Republican plans, even though that is only one-half of 1 percent of the public that would pay this tax, that has been eliminated.

So when somebody that makes $1 million pays a tax of $123,000 and no longer pays it, then that money has got to come from somewhere. So what happens is Congress makes a choice. Do you give that millionaire, the guy making a million, do you give them the $123,000 tax cut, and when you do it, it means you have got to cut veterans benefit? Or do you not give him the tax cut and fund these veterans' programs?

Clearly, my Republican friends have made the decision, as has President Bush, to give the millionaire the $123,000 tax cut and to deny veterans health care benefits, education benefits, raised their prescription drug costs, closed the Brecksville Hospital and Pittsburgh Hospital and Mississippi Hospital.

These are choices that people make. That is why we hold elections. The voters will say, Yeah, we like it that George Bush gives a millionaire a $123,000 tax cut and cuts veterans benefits; or they will say, We should not give these tax cuts to the super-wealthy. Instead we should meet our commitments on health care and education.

I had a group of people come into my office today, and it is a little off the subject, not much, a group of people with Lou Gehrig's disease, ALS, and this government has refused to fund research the way we have been funding it the last 4 or 5 years.

□ 2130

And the question, again, is: Do you give a millionaire a tax cut of $123,000 or do you fund programs in research and development that really are going to make wonderful scientific discoveries and save lives?

To me, the answer is pretty clear. To my friends on the other side of the aisle it is equally clear, but they have a different viewpoint. I am not saying they are immoral or sleazy. I am just saying they made the choice that they would rather give a millionaire a tax cut than to fund veterans benefits, than to keep Brecksville open. They would rather give a tax cut to the wealthiest 5 percent. Not somebody making $50,000 or $100,000. I am talking about people making $1 million a year, to give tax cuts to them; and when they do, we end up closing VA hospitals, we end up cutting veterans health care benefits, we end up cutting veterans education programs, and we end up with State university tuitions going up through the roof, at Ohio State, at Kent State, and Akron U and all over.

Mr. Speaker, I yield to the gentleman from Ohio.

Mr. STRICKLAND. I thank my friend for yielding, Mr. Speaker, and I think the most important thing we do is to make choices. That is the most important function of a legislator is to make choices, to decide how we are going to use the people's resources, what is going to get supported and what will not get supported.

The gentleman from Ohio (Mr. RYAN) said earlier that folks watching may think we are making this up because it sounds so outlandish, why would an administration favor Iraqi prisoners over American prisoners, and why would some of these terrible decisions be made. And it is almost as if it is so bad it must not be true.

But I want to share a letter here which each Member of this Chamber received from four veteran service organizations. I am talking about the AMVETS, the Paralyzed Veterans of America, the National Legislative Director for the Disabled American Veterans, and the Veterans of Foreign Wars. They sent to us this letter. Every Member in this Chamber got this letter as we were considering the budget resolution, which laid out how much we were going to be willing to spend for our veterans. I just want to read a passage from that letter, which we all received:

"On behalf of the coauthors of the independent budget," and the independent budget was created by these veteran organizations, so, "On behalf of the coauthors of the independent budget, the AMVETS, the Disabled American Veterans, the Paralyzed Veterans of America, and the Veterans of Foreign Wars of the United States, we are writing to urge you to oppose and vote against H. Con. Res. 393, the House budget resolution for fiscal year 2005."

And then they continue: "Passage of the budget resolution as presented would be a disservice to those men and women who have served this country and are currently serving in Iraq, Afghanistan, and around the world in our fight against terrorism."

Now, those words did not come from the gentleman from Ohio (Mr. RYAN) or the gentleman from Ohio (Mr. BROWN), or the gentleman from Ohio (Mr. STRICKLAND). Those words came from these veteran service organizations, these organizations whose sole purpose is to look out for what is right for the veterans of this country.

And so this administration has a credibility problem. And it is fine to salute the flag, it is fine to walk around on an aircraft carrier, it is fine to stand and get your picture made with veterans; but what really counts here is how we spend our resources. And the fact is that our veterans are being shortchanged by this President and by this administration. It is as simple as that. They are not putting resources into veterans health care, the resources that are needed even to maintain the current level of services.

I think we should be expanding services. I think we should get rid of this prohibition on priority 8 veterans being excluded from VA health care. But that is not what I am talking about here. I am talking about just having enough money to maintain our current level of services. And even with the President's budget, he was asking in that budget that additional financial burdens be placed upon the backs of our veterans. The President actually sent us a budget that said that veterans should have to pay $15 a prescription rather than $7 a prescription.

Mr. RYAN of Ohio. Mr. Speaker, if the gentleman will yield on that point, because this is an important point to make.

Mr. STRICKLAND. I certainly will.

Mr. RYAN of Ohio. Everyone who in some way receives some kind of public assistance, whether it is the veterans, or No Child Left Behind, or people going to school, everyone, Medicare, all the social programs that we have been asked to make some kind of sacrifice. The only people who have not been asked to make any sacrifice at all are the wealthiest people in our society.

Mr. STRICKLAND. Absolutely.

Mr. RYAN of Ohio. They have been asked to make no sacrifice at all, and these gentlemen were talking before we got up here, about an hour ago, and they said, quote, and I wrote it down, "Republicans will not raise taxes." And I think there were two words left out of that. Republicans will not raise taxes, well, maybe three words, on the rich.

Mr. STRICKLAND. On the rich, that is right. Excuse me, but they are raising taxes or causing taxes to be raised on the working folks of this country.

Mr. RYAN of Ohio. Absolutely.

Mr. STRICKLAND. Mr. Speaker, if you go to Ohio, we now pay more taxes in Ohio in part because of the cuts that have been made at the Federal Government level. And across this country working people are paying more in property taxes, they are paying more in excise taxes, they are just paying more in taxes in general while the folks at the very top, and as my friend, the gentleman from Ohio (Mr. BROWN), said, we are talking about millionaires, we are not talking about the family that makes a couple hundred thousand dollars a year. We are talking about the millionaires.

Tonight, in Iraq, we have soldiers sacrificing and their families back here at home are sacrificing. And I want to tell you, they are about the only ones sacrificing, because this President is not asking anything from anybody except our soldiers and their families. In wars past, we have paid for those wars. What we are doing is passing the cost of this war on to the next generation. It is a rather shameful set of circumstances that our country faces today.

Mr. RYAN of Ohio. If the gentleman will yield, Mr. Speaker, the ultimate irony of this whole deal, and this job provides a lot of opportunities to have some very great moments, very sentimental moments, and one I remember distinctly is when we walked into the Cannon caucus room and we were having a veterans' hearing for their budget. All the veteran organizations were there and filled this huge, beautiful room. They were in wheelchairs, on crutches, bent, amputees, just sacrifice written all over their face. Those are the veterans who have created and protected the system, the democratic and capitalistic system that we have right now and that allows people to create wealth for themselves.

The fundamental aspect of this system is to have a strong economic and democratic system which has been given to us by these veterans. And these people who are benefiting from this system have not been asked to sacrifice. I just wanted to make that point.

Mr. BROWN of Ohio. Reclaiming my time, Mr. Speaker, I think we have established pretty well tonight why Republican leaders and George Bush do this, why they have made these cuts in veterans benefits, why they made cuts to close the Brecksville Hospital. It is a question of choices they have made between giving a $123,000 tax cut to a millionaire or funding these programs.

The second question to ask, as we examine the whole question of are we better off, are veterans better off today or the American people better off today than they were 4 years ago, is to the look at how all this happened.

The three of us, joined by 400 of our colleagues, sat in this Chamber in the middle of the night, month after month after month, passing some of the worst legislation, legislation that my friends in the Republican leadership do not want people to see, so we passed these bills literally in the middle of the night, after midnight; and I want to talk about a couple of them.

Starting a year ago, starting literally 14 months ago, at 2:54 a.m. on a Friday in March, the House cut veterans benefits by three votes. At 2:39 a.m. on a Friday in April the House slashed education and welfare by five votes. At 1:56 a.m. on a Friday in May, the House passed the leave-no-millionaire-behind tax cut by a handful of votes. At 2:33 on a Friday in June, Republicans boarded the midnight express and passed the Medicare privatization prescription drug bill by one vote. At 12:57 a.m. on a Friday in July, the Republicans again boarded the midnight express and eviscerated Head Start by one vote. Then, after returning from summer recess, after the August recess, at 12:12 a.m. on a Friday in October, the GOP again boarded the midnight express and voted $87 billion for Iraq. Two months later, again in the middle of the night, the Medicare bill passed. The debate started at midnight, the vote started at 3 a.m. Normally, the vote takes 20 or 30 minutes. The roll call stayed open until 6 a.m. It was a 3-hour vote.

In every single case, these bills were passed after the press had gone home and people had turned their television sets off, those watching C–SPAN, and the country had gone to bed. So not only are they passing legislation that cuts veterans benefits, legislation that discriminates against veterans, proposals that shut down hospitals and cut back drug benefits and reduce education benefits for veterans, they are doing it, and again this is not made up, it is documented in the CONGRESSIONAL RECORD, they are doing this in the middle of the night, under the cover of darkness, as they board the midnight express.

So the public does not see this. By the time it gets in the paper on Saturday, it is old news. It is a couple of days later. It is never on the front page, and the public only learns about it when they realize their veterans' benefits have been cut again by the Bush administration.

Mr. STRICKLAND. If my friend will yield, Mr. Speaker.

Mr. BROWN of Ohio. I yield to my friend from Ohio.

Mr. STRICKLAND. The gentleman is absolutely correct that much of this is being done in this Chamber well after midnight, when most Americans are asleep and the press is not here, with the hope that the American people will not really fully understand what has been done.

But I am encouraged, because as I go back to my district and I talk to my veterans, as I travel across Ohio and I talk to veterans, I think the veterans get it. They understand. They understand their efforts to raise the cost of their prescription drugs; they understand that the President wants to impose a user fee, an annual user fee of $250 on many of our veterans; they understand that if they are a priority 8 veteran, they may even be a combat-decorated veteran, but if they are a priority 8 veteran and this administration thinks they receive a high income, of course that could be about $24,000. You know, we make about $155,000 in this Chamber and the American people need to know that, when this administration is trying to imply that if you make about $24,000 or $25,000 and you are a veteran, you are high income and so you are no longer able to participate in the VA health care. I want to tell you that is quite shameful, and the veterans know it.

They also know that this disabled veterans tax, which basically says that if you retire from the military and you have earned your pension and you are disabled as a result of your military service and you are entitled to disability compensation, you cannot get both. For every dollar of disability pay you get, $1 is deducted from your military pension. We have been trying to get rid of that discrimination against veterans. And, guess what? The President has said if we do it, he will veto the bill. He will veto the bill.

Here is a letter from Secretary Rumsfeld to the gentleman from California (Mr. HUNTER) indicating that if the bill authorizes concurrent receipt of military retirement pay and veterans disability compensation benefits, then he would advise the President to veto the bill. So what did we do? We half fixed it. We took a baby step, and there are veterans in this country tonight who deserve their pensions and they deserve their disability compensation, and we are nickel and diming them, depriving them, discriminating against them. It is absolutely wrong, and I believe the veterans are coming to understand what is being done to them.

Mr. Speaker, I yield to my friend.

Mr. RYAN of Ohio. Well, I just wanted to say that that is a letter sent from the head of the Department of Defense, the Republican-controlled administration sent to this Congress saying that if you pass a benefit for the veterans, we will veto the bill. It is that clear. It is black and white.

Mr. STRICKLAND. If my friend would yield.

Mr. RYAN of Ohio. I would be happy to yield.

Mr. STRICKLAND. It is not really passing a benefit. It is a bill to try to keep this government from taking something away from the veterans that they have earned. If they have served their time in the military and they are entitled to receive a pension, they should get it. And if they have been disabled and qualify for disability benefits, they should get the disability benefits, and there should be no offset.

If you worked in any other part of the Federal Government, you would not be subjected to this discrimination. It is only the veteran that is being subjected to this kind of discrimination.

□ 2145

Mr. BROWN of Ohio. Mr. Speaker, the gentleman from Ohio (Mr. STRICKLAND) filed a lawsuit some time ago.

Mr. STRICKLAND. Yes.

Mr. BROWN of Ohio. The lawsuit was basically to force the VA to do what it is charged by this Congress to do, and he will explain. But it was not just a question of policy decisions that the Congress and the President have made to cut benefits, to fail to take care of the soldiers with body armor; it was not just bad decisions by Congress and the President. It also was incompetence by the VA and underfunding by the VA to take care of many of the people who were in their charge. I would ask the gentleman from Ohio to explain that.

Mr. STRICKLAND. It is quite simple. I was shocked many months ago when the VA put out a memo, and I am paraphrasing, but I am true to the spirit of the memo, which basically said, too many veterans are coming in for services and it is costing us too much money. We do not have enough money to provide those services. So henceforth, all of you who are health care providers are forbidden to market VA services to veterans. And it got quite specific.

These health care providers were told they could not participate in community health fairs in their local communities. They were told they could not send out newsletters.

Mr. BROWN of Ohio. Mr. Speaker, reclaiming my time, so President Bush and the Secretary of the VA have decided the VA should offer services to American veterans, but they are not allowed to tell anybody that they are offering these services?

Mr. STRICKLAND. I call it the "If they do not ask, we will not tell policy." If the veteran does not ask what they are entitled to receive, the VA will not proactively provide that information.

I tried to work this out. I went to Secretary Principi, a man that I know and admire, as a matter of fact, and we tried to work this out. I tried to get them to rescind this gag order, because it is a gag order. It is a gag order placed upon the health care providers. We just could not get them to budge.

Finally, I decided to initiate legal action and I got the Vietnam Veterans of America to join me. We filed a suit. That suit is currently before the court. It is my hope that the court will decide that this policy of the VA is, in fact, contrary to the law and will require them to rescind this terrible policy.

It is a terrible policy because there are veterans out there, for example, if I can just give an example, veterans out there who may have been exposed to Agent Orange while serving in Vietnam. We now know that exposure to Agent Orange, even all of these years later, can lead to serious health consequences. For example, certain cancers are more likely to be found in those soldiers who were exposed to Agent Orange, such as prostate cancer, for example.

There may be veterans out there who have been so exposed and are not aware that they are at risk, that they should come into the VA facilities for an examination, and if they are found to have one of these illnesses, that they are entitled to receive medical care from the VA.

That is just an example of why this outreach to veterans is so important and why it is so really quite pathetic that an administration that says it cares about veterans would take this action to limit the information that is disseminated to veterans who are in need of this kind of information.

This is a matter of health, and it can be a matter of life and death. That is why I think it is so shameful that we would have a policy, and as the gentleman says, at the same time we are giving tax cuts to millionaires, to millionaires, we are taking steps to limit the dissemination of information to our veterans because if they come in, it may cost too much money to provide them the care they need.

Mr. BROWN of Ohio. Mr. Speaker, just before I wrap up, this is all very puzzling. I understand why President Bush is hostile to good environmental policy, because environmentalists do not vote for him. He does not seem to care.

I understand that President Bush pushes legislation that kind of restricts the rights of minorities because minorities do not vote for him. I understand why he is hostile to organized labor because he does not get many labor union votes from steelworkers or auto workers or food and commercial workers.

But I do not understand why he is so hostile to veterans. That really puzzles me because a lot of veterans voted for President Bush. They liked the fact that his father was a decorated veteran. They liked the fact that he served this country through the National Guard honorably and fully, at least before the news broke they thought he did, and they voted for him because they thought he was sort of a stand-up tough guy and would stand up for American interests.

It astounds me that this President would change our policy and military doctrine, would attack Afghanistan, attack Iraq, make noises about Iran and other places such as North Korea, but when the veterans come home, not treat them any better than he treats them.

The only answer I can figure is, he is so wedded and focused on his tax policy, on cutting taxes for the very wealthy, saving literally over a trillion dollars in taxes for the richest 1 percent, that everybody else suffers, veterans suffer, school kids get shortchanged, seniors through the Medicare program get shortchanged, environmental enforcement gets shortchanged, food safety enforcement, research for the NIH get shortchanged; and that is the only explanation I can come up with.

Mr. Speaker, I yield to the gentleman from Ohio.

Mr. RYAN of Ohio. Mr. Speaker, I think it is appropriate for us to talk about what the Democrats' plan is and what we would do. I think it is important not just to criticize, although there is plenty of room for criticism in this administration.

The Democratic budget that we want for veterans would increase the tax for those who make more than a million dollars a year, not all of it. As the gentleman from Ohio (Mr. BROWN) said, they get $123,000 back from the Bush tax plan. We would say they would only get $100,000 back. They would have to give around $20,000 of their tax cut back.

Part of that money we would use, $2 billion of it, to restore the full survivor benefits to families of military retirees. $2.5 billion we would put in veterans health care. We would improve military housing for 50,000 military families.

So if anyone is at home asking, what is the Democratic plan, this is our plan: $2.5 billion for health care, 50,000 families for military housing, $2 billion to restore full survivor benefits. And our legislation, if we were controlling this Chamber, the other Chamber and possibly the White House, would permanently permit Reservists to buy military health care through the TRICARE program.

Many of the Reservists, almost 2,000 of them, and I hear often about the health care issues, our plan would allow them to buy permanently into the TRICARE program. We would give them pay raises, things the gentleman from Ohio (Mr. BROWN) talked about, the combat pay, et cetera; our future veterans would be taken care of.

So the Democrats have a plan. Let the millionaire keep $100,000, we are going to take a few thousand away and invest it into our veterans and into the research and development for our amputees that will be coming back, so they have the best possible health care that the United States of America, the wealthiest superpower ever in the history of world, can at the very least take care of its veterans.

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentleman from Ohio (Mr. STRICKLAND) and the gentleman from Ohio (Mr. RYAN), and I look forward to the comments of the gentleman from Michigan (Mr. SMITH).

PAYING FUTURE BENEFITS

The SPEAKER pro tempore (Mr. MARIO DIAZ-BALART of Florida). Under the Speaker's announced policy of January 7, 2003, the gentleman from Michigan (Mr. SMITH) is recognized for 60 minutes as the designee of the majority leader.

Mr. SMITH of Michigan. Mr. Speaker, the challenge is unending, and one thing I am nervous about in terms of Washington sometime in the future is paying the Social Security benefits, the Medicare and Medicaid benefits that we have promised, because what we have done over the last 30 years is promise more than we have money to pay for in those promises for Social Security and Medicare and Medicaid.

In the next 2 days, we are going to take up the budget. There has been a compromise reached between the House and the Senate for a budget resolution, and that is how we plan to spend our appropriations and money for the 2005 fiscal year which starts the end of September 2004 and goes through 2005.

We spend most of the year or a lot of the year dealing with the appropriations bills that are discretionary, so-called discretionary. A little less than half of the appropriations total spending of the Federal Government is discretionary spending, a little more than half of the total government spending is entitlement spending.

I started out with a pie chart showing how we are spending money in the 2004 year, this year, about $2.2 trillion dollars; and as Members see by this pie chart, the largest piece of this pie of Federal spending is Social Security. The Federal Government will spend about $500 billion on Social Security this year in 2004.

Interest, as we go around the pie chart, interest is at 14 percent of total spending. That is about $300 billion that we are paying in interest.

As we have heard over the last several days, interest rates are going up. I suspect Mr. Greenspan and the Federal Reserve are going to decide to increase the discount rate, increase the interest rate, and so we can expect to see interest rates go up. At the same time, we are increasing the total debt that we have to pay interest on, and that means that this 14 percent over the next 15 to 20 years can go to 25 percent, instead of 25 percent of the total budget paid in interest on the debt. So it should concern us.

Actually, what we are doing, and I am a farmer from Michigan, and on the farm we try to pay down the mortgage of the farm so our kids will have a little better chance and a little better success in their living standards maybe than their parents, but in this Chamber and in the Senate and in the White House over the last 30–40 years, what we are doing is increasing the debt that we are passing on to our kids.

Defense spending, 19 percent last year and now 20 percent; domestic discretionary spending, 16 percent; other entitlement spending, 10 percent; Medicaid, 6 percent, growing very quickly; Medicare, 12 percent. Medicare is projected to overtake the size of the total pie in the next 20 years.

Medicare will overtake Social Security in the next 15–20 years. So what that means in terms of entitlement spending, if you reach a certain age, you are entitled to Medicare benefits; if you are at a certain level of poverty, you can get food stamps. If you are a certain age, also you get Social Security, if you are at a certain poverty level, you can get Medicaid.

Medicaid is the medical coverage for low income; Medicare is the government's health care program for seniors.

This chart, a very colorful chart, shows what is happening to the increase in spending of entitlement programs, increasing at about 5.5 percent a year. So total Federal Government is growing two and three and, in 1 year, almost four times the rate of inflation.

A lot of that problem is the increased cost of entitlement spending. Of course, the question is, will this Chamber have the intestinal fortitude, along with the Senate and the White House, will this Chamber have the intestinal fortitude to control spending? Will we have the willingness to cut down on some of the increase in discretionary spending?

Today in my office, like I suspect in other Members' offices, there were people suggesting there was a need for more government spending. We heard in the previous hour that government should spend more, and it was unfair for the government not to spend more on different programs. The situation that this country is facing is an increased demand for Federal spending matched with a situation where 50 percent of the adult population in this country paid less than 1 percent of the income tax. Think about it.

We have now divided the wealth through government programs and taxation to the extent where 50 percent of the adult population in this country pay 1 percent of the income tax.

□ 2200

So we can understand why some people are saying give us more government, it does not cost us much.

Look at this next chart on what we have done in what I call unfunded liabilities, the promises that we have made in excess of what money we have to pay for them. On the top line we have got Medicare part A as an unfunded liability of $21.8 trillion.

Let me stop here and give my definition of unfunded liability. Unfunded liability is today's dollars that we would have to put in a savings account that is going to earn the rate of inflation plus the time value of money. This is the money we would have to put in an account today to accommodate the needs of these programs over the next 75 years: Medicare part A, $21.8 trillion; Medicare part B, $23.2 trillion; Medicare part D, the drug program that we just passed recently. Will we have the willingness to reduce these other programs? We did not have the willingness not to increase the prescription drug program. So what we are borrowing from our kids is $16.6 trillion of unfunded liabilities, that we have, in effect, decided that our problems are so great today that it justifies taking that money away from our kids, suggesting that maybe they are not going to have their own problems to deal with, but we are leaving them this unfunded liability in addition to a huge debt. It totals up to $73.5 trillion, unimaginable in terms of what we are leaving as far as a legacy to our kids and our grandkids.

This is another chart that says it in a different way. If we are going to accommodate Medicare, Medicaid, and Social Security and take the money out of the general fund to pay for the money that is going to be needed for these programs over and above what is coming in from the FICA tax, what is coming in from the taxes to pay for these programs, by 2020, in 16 years, it is going to be 28 percent of the budget that is required to make up the difference between the money coming in for Social Security and Medicare and Medicaid and the additional money that is going to be needed. Simply, by 2030 it is going to take 52 percent of the general fund budget to accommodate these programs.

We know we cannot do that. Is that going to mean a drastic reduction of some of these programs? Is it going to mean a drastic increase in what we are going to have to borrow in future years? The challenge now before us is we are increasing debt at the same time that interest rates are going up. So as the Members recall, the pie chart today, spending $300 billion a year, 14 percent of the total Federal spending on interest costs, that could double in the next 20 years.

This is a quick snapshot of the red and the green, if you will, of what is happening in Social Security. In 1983 the Greenspan Commission dramatically increased Social Security taxes and at the same time dramatically reduced benefits. But even so, the short-time surplus coming in is going to run out in 2017, and then we are looking at a future of huge deficits that somehow is going to have to be made up if we are going to continue this program.

As I go around my southern district of Michigan, a lot of people wonder more exactly how Social Security works. This is just a very brief way of how this highly progressive program started. We started it in 1934; and at that time, the provisions were that once people reached 65, they were entitled to benefits and they would have to pay in all those years. But in a pay-as-you-go program, we found out that the money coming in from Social Security was very ample and that most people died before they reached the age of 65. So another way to say that is most people paid in their benefits but never collected much of anything and the program worked very well.

From the beginning program, the benefits have been highly progressive and based on earnings. At retirement all of the workers' wages up to the tax ceiling are indexed to present value using wage inflation. Let me say that a different way. If one had a $20,000 job 15 years ago, that $20,000 job today might be $40,000 with wage inflation. So Social Security puts down $40,000 income for that $20,000 job they were earning maybe 16 years ago. So everything is indexed based on what that kind of job would pay today. And then they take the best 35 years of earnings and average them together and decide what that person's benefits are going to be. So they take the best 35 years. Maybe they did not work 5 years. So 5 years would be entered as zero, and then they would take the 30 years of pay and divide by 35. So, in effect, if they did not have those working years, they would be indexed as zero. If someone works 40 years, then they would take the best 35 years.

The annual benefit for those retiring in 2004, this is where it is progressive in terms of the payout: 90 percent of earnings up to $7,344; 32 percent of the earnings between that amount, $7,344 and $44,268; and then 15 percent of the earnings above $44,268. Early retirees receive adjusted benefits.

A question that is often asked on complaints of abuses for SSI of families down the road is that maybe some people think they do not deserve the supplemental security income, and people are concerned that this comes out of Social Security. Actually it does not come out of Social Security. SSI comes out of the general fund even though it is administered by the Social Security Administration.

Going back up to this 15 percent of earnings above $44,268, one way that I have structured my legislation that results in solvency for Social Security is I add another ben point of 5 percent. That has the effect, Mr. Speaker, of slowing down the increase in benefits for high-income retirees. So it is going to cost money. Either we reduce benefits or we increase the income. I do a little of both in my legislation. But one way I do it, breaking off from this chart, is I add another ben point of 5 percent that has the result of slowing down the increase in benefits for the high-income retirees.

We have talked a lot about personal savings accounts. The Democrats and a lot of the news media refer to it as privatization of Social Security. Let me just say, Mr. Speaker, that there is no legislation that privatizes Social Security. The most that any of the legislation that I have seen does is take a portion of what people are paying in for Social Security, 12.4 percent of earnings, and my bill is as high I think as any legislation I have seen, and what I do in my legislation is take 2.5 percent of earnings and allow that amount or that percentage of one's earnings to go into one's own individual retirement account that becomes their property, that unlike Social Security, if one dies, they can pass it on to their heirs. It is part of their estate.

When Franklin Roosevelt created Social Security back in 1933 and 1934, he wanted to feature a private sector component to build retirement income. I mean, this was a time after the Depression with people going to the poor house, and the Congress and the White House and FDR said, look, there is a better way. Let us have a law that forces savings while people are working to make sure they save some of that money to increase or guarantee a little bit more of Social Security so they do not have to go over the hill to the poor house when they retire. So we passed that law and said here is mandated savings. But Franklin Roosevelt said let us do it in privately owned accounts and simply say they have got to set aside this much of their earnings, they cannot take it out until they retire.

In fact, when the Senate passed their Social Security bill in 1933, they said let us do it the way the President suggested and have private savings accounts owned by the individual with limitations on where they could invest the money, but it was owned by the worker. This House passed a bill that said, no, let us have the Federal Government take it all in and pay it out when these people retired, and we will have a system where people that are working pay in their money today and that way we can start paying benefits out right away.

So we charged workers to pay into the Social Security, and immediately we started paying benefits to senior citizens, older people. So that was very good for some of those older people to immediately receive that benefit, but what it does on this kind of a pay-as-you-go program is it depends on more and more workers paying in more and more of their earnings into Social Security taxes to accommodate a growing senior population.

Now we are faced with 78 million baby boomers that are going to begin retiring in another 4 years. That means 78 million individuals that are at the height of their earnings, paying in maximum Social Security benefits, and are going to be going on to the system, taking out maximum benefits. And that is where the demographics start hitting us.

The Social Security actuaries last month suggested that we are in a very bad situation in terms of the insolvency of Social Security with an unfunded liability of $12 trillion for Social Security, that we would have to put that $12 trillion in a savings account today to accommodate the additional money that is going to be needed over and above what is coming in payroll taxes, FICA taxes.

Social Security spending exceeds tax revenues in 2017, is what the actuaries said. The Social Security trust fund goes broke in 2037. That is a little bit of a pretend figure because when we really run out of money in 2017, this government, this Congress, House and Senate and the White House, have already spent all of the extra money coming in from Social Security. They spent it on other programs. So there has never been a savings account with any individual worker's name on it. In fact, Mr. Speaker, what really should concern all of the people, the electors in this country, is that they are not entitled to any Social Security benefits. The Supreme Court now in two rulings has said that Social Security taxes are simply another tax, Social Security benefits are simply another benefit, and there is not an entitlement just because one pays Social Security taxes all their life.

Insolvency of Social Security is certain. We know how many people there are and when they are going to retire. We know that people will live longer in retirement. We know how much they are going to pay in and how much they will take out. Payroll taxes will not cover benefits starting in 2017, and the shortfalls will add up to $120 trillion between 2017 and 2075. $120 trillion between 2017 and 2075, and the one way to define unfunded liability is how much money would have to go in a savings account today to accommodate that $120 trillion; and what that is, is about $12 trillion today in a savings account that is at least going to draw the interest at the rate of inflation and a time value for the money.

□ 2215

On the demographics, here is what happened as to how many people are working, paying in their Social Security tax. In 1940, there were 28 people working and paying in their Social Security tax for every one retiree. In 2000, three people were working in the United States paying in their Social Security tax for every one retiree. The estimate by the actuaries at Social Security is that in 2025 there will only be two people working paying in their Social Security tax. That means, again, we are faced with a dilemma of not having enough money and possibly increasing taxes.

The Social Security trust fund, I was Chairman of the bipartisan Social Security Task Force. In fact, when the Democrats and Republicans met for about a year hearing witnesses and understanding the dilemma of what Social Security is facing, what we found out is we had unanimous agreement that we have got to do something to fix Social Security, and the longer we put off a decision, the more drastic the solution is going to have to be.

This chart reacts to what a lot of people have asked me, that if government would just keep their hands off the surplus coming in for Social Security and pay back what we borrowed, everything would be all right.

The little stack on the left represents what is in the trust fund, including the interest that has accumulated by IOUs of what government has, and I put it in quotes, "borrowed" from the trust fund. That is $1.4 billion that the government owes the trust fund to pay back what it has borrowed and spent on other programs. But the shortfall in Social Security, $120 trillion in future dollars, $12 trillion today, is what is needed to accommodate and keep Social Security solvent.

There needs to be a fix. It is unconscionable that we simply tend to look the other way and not face up to the problem of Social Security.

In campaigns, I have been in Congress for the last 12 years and I started my first Social Security bill in 1993 when I first came to Congress. In that first election, and every election, there has been the charge by my opponent that "Nick Smith wants to take away your Social Security."

It is sort of effective, because so many of our seniors today depend on Social Security for their livelihood that it scares the dickens out of them to think that maybe somebody is messing around with the program and is going to take away their Social Security benefits. So politically, some people call it the third rail of politics, it has been difficult for politicians to try to explain the program.

In the 8 years of the Clinton administration, President Clinton originally was dedicated to doing something to fix Social Security. Because once you talk to the people that understand the program, that know its insolvency and know the hugeness, the dramatic trillions of dollars that are needed to fix this program and the importance of this program to so many seniors, President Clinton wanted to fix it.

He had several task forces. I served on those task forces. I went to the White House. We talked about the problems with Social Security. But it ended up that the President and most of the Members of the House and most of the Members of the Senate did not want to talk about it. "Let us put it off until the next election."

President Bush was brave in the campaign, and he talked about it. Senator LINDSEY GRAHAM and others, including myself, every year talked about the need to fix Social Security. So we are coming closer. There is a greater understanding by more and more people that there needs to be something done to save this program.

So I call, Mr. Speaker, on voters in this election coming up this year to size up your Congressional candidate. Ask them which Social Security bill that they have cosponsored is going to save Social Security. And do not let them get by with this rhetoric that, "Look, I am going to do everything necessary to save Social Security." You need a plan, you need action, you need forward, in-advance thinking. It cannot be a crash program. It has to be gradual.

What I have learned over the last 12 years, and I have introduced this Social Security bill every 2-year session over the last six sessions, every 2 years it had to be a little more dramatic in terms of reaching solvency, because you have lost the surplus over those past years that has been coming in.

As we said, Social Security has a total unfunded liability of over $12 trillion. The Social Security trust fund contains nothing but IOUs. To keep paying promised Social Security benefits, the payroll tax will have to be increased by nearly 50 percent or benefits will have to be cut by 30 percent, and we do not want that to happen.

Here is another chart that I made up trying to show that Social Security is not a good investment. The average retiree gets a return on the money that they have sent in for Social Security of 1.7 percent on that investment.

If you happen to be a minority, a young black man that dies on the average at age 62, as we originally started back in the 1934-35-36 period, you did not live quite long enough to draw benefits. So there is actually a negative return for minorities.

The average return is 1.7 percent. I put in this column, it is representing the Wilshire 5000, and if you were invested in that index of stocks over the last 10 years what you earned is 11.86 percent after inflation, over the decade ending January 31, 2004.

So that is why in my bill we can guarantee if you decide to go into a retirement savings account, where 2.5 percent of your earnings is transferred by government into an account owned by you and managed by the government, with limited investments, we can guarantee, if you choose that option, you will get as good or better a return than you would staying under the Social Security traditional program. But we still leave it optional in my bill, that you can stay with the current Social Security program if you want to.

Another way of saying it is not a good investment, if you retired in 1980, you had to live 4 years after retirement to break even. If you retire next year, in 2005, you have to live 23 years after retirement to break even, collecting those Social Security benefits. After that, it goes up to 26 years that you have got to live after retirement to break even on your Social Security.

The next charts, please.

Our pages are so great. They are going to finish up I think in 2 weeks. These are the full-year pages. They get up about 5:30 every morning, if they want to eat something before they go to school, and then they are ready to work for Members of Congress and the U.S. House of Representatives. There are also pages in the Senate.

Back to Social Security.

Mr. Speaker, 76 percent of families pay more in payroll taxes than income taxes. I say that and I show that because I think it would be very unfair to say that we are going to solve Social Security by again raising the payroll tax. Of course, that is what we have done over the years.

Every time we have run out of money, because what we have done over the years too is continued to increase benefits. Actually, Medicare in 1965 was an amendment to the Social Security bill, to add Medicare privileges or health care coverage for seniors. So we have continually increased the benefits in Social Security, and in so doing we have simply increased the taxes to pay for those extra benefits and the increased costs.

In 1940, we increased from 1 percent to 2 percent the rate on the first $3,000 as the total maximum payment of taxes. The maximum was $60 dollars. In 1960, we tripled it and raised it to 6 percent and increased the base to the first $4,800. In 1980, it was over 10 percent of the first $26,000. By 2000, we raised it to 12.4 percent of the first $76,000. Today, in 2004, it is 12.4 percent of actually now $89,000.

So we have continued to increase taxes to cover benefits, in a situation where the birth rate has gone down, so there are fewer workers in relation to an increased number of seniors, because seniors, number one, are living longer.

In the Social Security Task Force, the bipartisan Social Security Task Force that I chaired, we had medical futurists suggesting that within 20 years, anybody that wanted to live to be 100 would have the medical technology to allow them to be 100 years old, and within the next 30 years, anybody that wanted to live to be 120 years old, it was their projection that people could live to be 120 years old. Of course, that means a tremendous increase in the amount that the would be paid out from Social Security compared to the amount coming in to Social Security.

These are six principles that I thought were reasonable in developing any Social Security changes to keep it solvent: Protect current and future beneficiaries; allow freedom of choice; preserve the safety net.

What I do in my bill is I leave half of the money in the trust fund and only use half of the money in the trust fund to accommodate the transition to personal savings accounts.

What I think we also have to do is make Americans better off, and not worse off. That means, to me, in addition to some other provisions of a Social Security bill, that we do not solve it by increasing taxes; that we do not simply say, well, we will increase taxes on the rich.

Some people have suggested, well, why not make Social Security into a welfare program and only pay out Social Security benefits to people that really need it? It is interesting, both Democrats and Republicans, labor unions and others have said, well, that is going to take away the support for Social Security, because, now in America we have a system where you can start out poor and end up one of the richest people in the country.

We have a system where saving a little bit early on and continuously, with the magic of compound interest, can make an average-earning individual the equivalent of a millionaire when they retire. So my suggestion to parents and grandparents and to young people is to encourage that savings in young workers, because if they save now, it can secure their retirement, and who knows what future Congresses are going to do to Social Security in terms of cutting benefits, if we continue to put off the solution to this problem?

Lastly, it creates a fully-funded system and no tax increases.

I am going to just briefly run through, Mr. Speaker, my Social Security bill.

The Social Security trust fund voluntary accounts would start at 2.5 percent of your earnings and would reach 8 percent of income by 2075. In every case, the benefits you would receive would be more than if you stay with the current Social Security system. Investments would be safe, widely diversified, and investment providers would be subject to government oversight. The government would supplement the accounts of workers' earnings that earn less than $35,000.

Actually, this was a suggestion, I think it was maybe the Golden Savings Account that President Clinton suggested, where we start putting in a little extra money for low income workers in their savings accounts so that the magic of compound interest can increase the benefits for them. So that is what I do in my bill. I say that workers earning less than $35,000 would have additional money put into their personal retirement accounts to ensure that they build up significant savings for retirement.

My bill has been scored by the Social Security Administration actuaries to restore long-term solvency to Social Security. As I mentioned earlier, all of my bills that I have introduced have been scored to make Social Security solvent.

What I am concerned about, and what I am nervous about, and this is my last year in Congress, is that the tendency is going to maybe just to go a little ways in terms of solving the problem, and to put off what is needed for a long-term solution until later on.

□ 2230

And so we mess around with the edges a little bit and we say, well, this means that we are not going to face the real dilemma, the real problem, the real catastrophe for another 10 years. So let us fix it a little bit. I think that would be a huge mistake. In my bill, no increases in the retirement age. No changes in the COLA; that is the annual increase based on inflation that is given. And no changes in benefits for seniors or near-term seniors.

Solvency is achieved through higher returns from worker accounts and slowing the increase in benefits for the highest earning retirees. On worker accounts, accounts are voluntary and participants would receive benefits directly from the government along with their accounts. So you still have Social Security. It is not privatizing Social Security. There is still a structure for Social Security. In fact, this bill does nothing with the insurance provisions of the Social Security legislation. So the disability insurance, the accident insurance is still totally a government insurance program ensuring workers that if they get hurt on the job and they are eligible under Social Security, they will get disability benefits under Social Security until they reach the age of 62 or 65.

Government benefits would be offset based on the money in their account, not on the money earned. In other words, if you earn more than the 1.7 percent, you can be guaranteed that you are going to have benefits that exceed current Social Security. Workers could expect to earn more from their accounts than from the traditional Social Security. And, again, as I mentioned earlier in my bill, we guarantee that the benefits that you earn, if you take the option of a personally owned account, the benefits that you earn would be greater than staying in the traditional Social Security.

All workers accounts would be earned by the work and invested through pools supervised by the government. Regulations would be instituted to prevent people from taking undue risk in investments, and workers have to have a choice of three safe indexed funds to start with, with more option after their balance reaches $2,500. Not so tough, right? Not so tough. We can do it. And this is scored by the Social Security Administration to keep Social Security solvent.

Here is a provision that I call "fairness for women." It might not be politically correct. Maybe I should say fairness for spouses, but what I provide in my legislation for married couples, account contributions would be pooled and then divided equally between husband and wife. In other words, Mr. Speaker, the man and the wife each would have their separately owned accounts and they would have identical amounts of money. So if one spouse is earning 80,000 and the other spouse is earning 10,000, you would add those together and each spouse would be credited based on 2.5 percent that increases every year of that 45,000. So man and wife would have the same money going into their each separately owned accounts.

It would increase surviving spouse benefits to 110 percent of the higher earning spouse's benefits. So if your husband dies and he has the higher Social Security benefit, my legislation provides that the continuing Social Security check would be 110 percent of the highest Social Security benefit received by either the husband or wife.

I do this because a tremendous increase in cost of the government is nursing homes. At roughly $50,000 a year for nursing home costs, people that assume that they were going to die at 80 or 85 now are living to 90 or 95. They run out of their savings and when they do that, they have no estate and they end up taking the Medicaid provisions that are for low income, or in this case non-income, that have now spent all their money. But if we can encourage these people to stay in their homes longer rather than going into the expensive nursing homes, it is going to reduce the overall cost for government. That is why I increased the amount from 100 percent to 110 percent to encourage staying in your own home after one spouse dies.

The third provision is stay-at-home mothers with kids under five would receive retirement credit. I mean, they are probably working harder quite often than maybe their husband's work or the other way around, whoever stays home. But to encourage a parent to stay home with those young kids, I put a provision in where they are going to earn credits for those years that they stay home with kids under five years old up to a certain limit.

Here is some additional provisions that I put in my legislation to encourage additional savings. Increased contribution limits for IRAs and 401(k)s and pension benefits, so I increased that; a 33 percent tax credit for purchases of long-term care insurance up to $1,000 a year, $2,000 for a couple; low-income seniors would be eligible for $1,000 tax credit for expenses related to living in their own home and that is in addition to the 110 percent of Social Security benefits, and households caring for dependent parents would also be eligible for $1,000 credit for expenses.

Social Security at $12 trillion unfunded liability is what we have not been willing to deal with; and yet that is the lowest of the insolvency figures. Again, the insolvency of Social Security is $12 trillion going into an investment fund today; but for the rest of Medicare and Medicaid, it is an additional $60 trillion that would have to go into a fund.

So Social Security is what I have been working on, but we are going to also have to deal with Medicare and Medicaid provisions to somehow encourage logical, good decisions reducing the cost of health care.

The whole thing of our future in America, we are a country that was originally created under our Constitution to have the kind of incentive that provides the people that work hard and save hard and go to school and use their education are better off than those who do not. But over the last 30 years we have sort of evolved into a divide-the-wealth philosophy where today 50 percent of the adult population pays about 1 percent of the income tax and the other 50 percent pays 99 percent of the income tax. So more and more people are electing legislators that promise them more government benefits and that is the danger.

This is the 195th birthday of Abraham Lincoln. And he said in his famous Gettysburg address, Can a nation of the people and for the people long survive. At least he implied that. I think it can, but I think it is going to take some leadership, some willingness to face up to some of these challenges, less partisanship, more bipartisan cooperation in terms of trying to solve and deal with some of these problems that are facing this country.

We have got to have the kind of education, we have got to give education the kind of priority it needs. We have got to continue to invest in research to make sure that we develop the kinds of products and an efficient way to produce products that the world wants to buy to make sure that we continue to be competitive in this country.

We are the greatest country on Earth, militarily, economically; but now we are moving into a dangerous situation where we are overspending every year, going deeper into debt, where we are making promises that our kids and our grandkids are going to find very difficult to pay for. And so the challenge is not just in our Republic, with Members of Congress. The challenge is also in this election year and every election year to size up the candidates that you think are going to be willing to make the tough decisions, to solve some challenges that this country is facing.

With that, Mr. Speaker, I would ask all of my colleagues to examine the Social Security bills that have been introduced, to consider sponsoring some of that legislation or writing their own legislation to solve and keep Social Security solvent.

30-SOMETHING DEMOCRATS

The SPEAKER pro tempore (Mr. CARTER). Under the Speaker's announced policy of January 7, 2003, the gentleman from Florida (Mr. MEEK) is recognized for 60 minutes.

Mr. MEEK of Florida. Mr. Speaker, once again it is a pleasure to come before the Members of the House and the

American people to talk about issues that are facing all Americans.

As you know, week after week we come to the floor, the gentleman from Ohio (Mr. RYAN) and myself and other members of the 30-something Group to talk about things that are facing young Americans, which also I think have a lot to do with the bottom line of American families, as they start to work on their finances, work on their future, and I am glad to do that.

The first week we came we started talking about the issues of student loans, the fact that more Americans are graduating from college in debt, unable to purchase a home or take part in the American dream. We also talked about the issues that were facing students in America here with the price of text books, which then also has an issue that is placed on the table of their parents are trying to make sure they come up with the in some cases $800 to $1,500 for text books on top of exploding tuition costs, which I must say is a student tax and a tax on the American people.

Last week, we talked about the cost of health care as it pertains to the young people having an opportunity to have adequate health care outside of going to the emergency room, for that level of health care that they so desperately need and is so very, very important that we have a health care plan here in the United States versus some sort of health care savings plan that the average American, that the administration is pushing that does not make as much sense as it should make to the average American.

We talked about voter suppression also last week, voter suppression on college campus, and we want to make sure we get the word out that it is important that students and parents of students, where your children are going to be on a college campus this fall, that they can register to vote there in that city, that town, wherever they go to school, because we had an issue and we still do to this day, individuals that are supervisors of elections that are saying, or the Secretary of State that is saying, well, you are a resident of Indiana, but you cannot register to vote at the University of Georgia. Well, you can.

The Supreme Court has already spoken to this issue, and so it is important that we get that out and we encourage many people who want to learn more about voter suppression to contact the Rock the Vote organization. On their Web site they have information pertaining to that issue.

We also want to continue to encourage people to e-mail us. We have received quite a few e-mails. I know we both will talk about it tonight. I am so excited about the fact that we are getting such a great response from the American people, young and old. And I will say some of these e-mails are really going to help us direct hopefully this House, if given the opportunity to lead in this House in the majority, to make sure that average Americans are heard. And I will talk a little bit about our Web site; I hope the gentleman would.

I also want to, as we did last week, I want to thank the gentlewoman from California (Ms. PELOSI), who is the Democratic leader in this House, for pulling us together, helping us realize the importance of young Americans, that we have a voice in this process, in this democracy and allowing us to be on the floor once a week to not only respond to e-mails but also share with the American people about what is going on.

Mr. RYAN of Ohio. Mr. Speaker, I thank the gentleman for taking a lead on this. He is quarterbacking tonight.

I think there are some great issues. Just so we know, we wonder sometimes when we stand on the floor how many people are out there watching. And I just got off the phone with my wife and she is changing from "Law and Order" to C-SPAN so that they can watch us here tonight. So we know we have a little bit of an audience out there. But, again, it is the Thirtysomething Democrats@mail.house.gov. And I have a stack of e-mails here that we have received since we started doing this, and it is amazing the response we are getting.

I think as we have talked about this, and it was not too long ago that we were in college and participating in a variety of activities there, and we felt that the political leadership was not engaging us. And I think that is something that the gentlewoman from California (Ms. PELOSI) has made it a point that as a Democratic Caucus we are going to go out and we are going to pay attention to what the needs of the students are. We recognize that they are the future of the country. We do not just want to pay them lip service. We want to make sure that we are there for them with the issues that they care about and on the issues they need us to be there for them.

□ 2245

If we are going to continue to thrive as a democracy and country we are going to need to invest in our young people, and we cannot just say we are only going to take care of senior citizens. I think there is a responsibility there and we have a commitment there, but at the same time, we need to make sure that we let these young people know that we are committed to the issues they care about, we are committed to them, we want to see them get educated and see them recognize their own dreams, their own aspirations. In many instances, that is through a college education, period, end of story.

It is not the only thing you need but for a good many Americans, if you want to succeed, you have to do it by going and furthering your education.

So the question that we have here tonight is, are young people better off today, are students better off today than they were 4 years ago? I think if you look at the chart that we will put up and some of the statistics that we will talk about here today, it is clear that young people are not better off today than they were just 4 years ago.

In the past 4 years, the unemployment rate for people ages 16 to 24 has gone up 3.7 percent through the Department of Labor statistics. So there are thousands of kids who are young people who are out there trying to get jobs, trying to find work, and they cannot find work.

Then this is not so much off the subject, but I found this article today that I wanted to talk about and bring up today.

This is from San Jose, California, and the title of the article is Offshoring of U.S. Jobs Accelerating. We talk about how we have to educate our young kids. In every single trade agreement that we have passed, the commitment was we are going to continue to invest in education, K through 12, No Child Left Behind, Pell grants, consolidation of student loans, investment in our young people. We are going to move the country forward by investing in our young people, and if you get an education, the promise was, then you have work in this country.

So this study that was done roughly, and that is a quote, roughly 830,000 U.S. service sector jobs ranging from telemarketing and accountants to software engineers and chief technology officers will move abroad by the end of 2005. Eight-hundred-and-thirty-thousand jobs will move offshore, high-tech jobs, by 2005.

This same outfit did a study a couple of years ago, and they said it was only going to be 588,000. Now it is 830,000.

So the question is, do you have the opportunity that you had if you would have graduated in 1999 or 2000 and the kind of job market that a Democratic Congress and a Democratic President created through balancing the budget and being fiscally responsible and leading an enormous economic growth and creating the kind of jobs needed?

Mr. MEEK of Florida. Mr. Speaker, can I say, without one Republican vote. Democrats did that on behalf of our future, balancing the budget.

Mr. RYAN of Ohio. Many Democrats lost their job over it because they made the sacrifice.

Mr. MEEK of Florida. And did the right thing.

Mr. RYAN of Ohio. To do it right and to create long-term and probably really what we have, and I think young people sense this when I talk to them because they have grown up in the culture of where we are talking about stocks and politics, and they are a little more sophisticated than even we were just a few years ago, but a lot of those young people recognize that the decisions that are made in this body and the political decisions that are made are made for short-term political advantage, not long-term prosperity for the country.

I think you have seen it over the past few years that the decisions that are made about how can we win the next election, and I am from the school of thought that if you do right when you are in power, when you do right by leading, that the electorate will take care of itself and the people will vote for candidates who support issues that make the country better, make the country stronger, economically, politically and whatever.

But I think it is important for us to realize that the kind of atmosphere that we are creating here, the lack of investment in education, the lack of investment in K through 12, the lack of investment for our college kids is coming home to roost, and we are not creating any kind of new jobs. We are losing jobs.

But what is the next industry? If you are not investing in the young people, you are not going to be able to create the next industry.

I am going to share one statistic with you and then I am going to kick it back over to the quarterback here tonight.

Some of the major technology hubs over the past few years, Silicon Valley, famous; Seattle, booming; Austin, Texas, everything was great. Those areas now have a higher unemployment rate than the Nation at large, and I think when we are talking here tonight about what is the future prospects of the young people who are hopefully out there tonight watching this, if not studying and going to school and trying to make themselves better, what are the future prospects, and think when you hear statistics like that where great areas of concentration of high-tech wealth and job creation have higher unemployment rates than the Nation at large, I think that there is a lot of things that need to be done, and I think the answer to that is investment into education.

So I am hoping that through raising the awareness for the young people here that we have an opportunity to hopefully engage these young people like the gentlewoman from California (Ms. PELOSI) wants to do, reach out to these students and 20 somethings and 30 somethings and engage them in the process and let them know that they have a right to stand up and they have a right to be involved in this process.

Mr. MEEK of Florida. Well, the only way we are going to see the shift that we need, and I am so glad that you are referring to studies that were not only done recently but were done 4 years ago, and also having a backdrop of reading articles that are in daily publications and the facts from the Department of Labor, U.S. Department of Labor of what the reality is, because many times people may turn on C-SPAN, Members may be sitting in their offices listening to us right now, and they are saying, oh, well, that is just the 30 Something Democrats, upset because they are not in the majority right now; so they will say and do anything, and we will tell the American people anything.

I just wanted to say this is not the gentleman from Ohio (Mr. RYAN) report or the gentleman from Florida (Mr. MEEK) report. This is the report of the reality of what is going on in this government that we serve in and what is happening to the American people.

The rubber meets the road when one has to go into the emergency room for health care services. I must say if we cough or our throat feels a little funny today, we walk down to the clinic. We have good health care. Fine, not a big long wait. We are not told what veterans are told; we will see you in a couple of months. If we need to see an ophthalmologist or optometrist or whatever the case may be, oh, sure, in a matter of hours, not days, not weeks.

Folks did not elect us to Congress nor any Member to Congress to say I want you to have better health care; we love you so much we want you to have better health care than what I have. No, they elected us to make sure they have life better for them. That is our purpose, and I am pretty sure that a lot of Members come to this body thinking that that is what they would do eventually.

We have impediments of allowing us to be able to provide a better way of life, and so the question that you mentioned earlier, are you better off than you were 4 years ago, well, looking at the numbers, it does not necessarily look that way.

In the past 4 years, the unemployment rate for 16 to 24-year-olds have gone up 3.7 percent, and I think it is also important, in the past 4 years a number of unemployed college grads have doubled from 600,000 in 2000, a whopping 1.2 million in 2004 and this is the Economic Policy Institute in case someone wants to check that out.

Goodness, I do not want to talk about gas prices. Have you filled your car up lately?

Mr. RYAN of Ohio. I am not sure we want to talk about it because it is painful.

Mr. MEEK of Florida. Well, I do.

Mr. RYAN of Ohio. I drive back and forth from Ohio to Washington, and it is just, to try to get it on the turnpike or in a big city like Washington, shameful.

Mr. MEEK of Florida. Last night, I filled up, and you have to have a credit car when you fill up. No more of that, oh, I will just take 20 bucks out and make it happen. You may get a quarter of a tank in some gas stations.

So when you look at these issues it is not within our control. It is not our control. That is the reason, well, we do not necessarily set the agenda here in this House. We had a great debate today on the issue of overtime pay. Please, tell me that we are not arguing about taking away overtime from Americans. Please tell me that. Please tell me that what you are saying, I wish it was untrue about American jobs that are going overseas. Guess what, when they fire you, they do not come and ask you are you a Democrat or Republican or Independent. You are fired because your job is now overseas.

So the only way I think that we are going to change that is that the American people help people like yourself, myself, the gentlewoman from California (Ms. PELOSI) and some Republicans who want to do something about it, and I think it is important. So the only way that is going to happen is that we can bring it here to this floor. We do not have to talk about it in a special order after legislative business. We can actually take action towards making life better on behalf of every American.

Mr. RYAN of Ohio. I think when you ask and we talk about what do you do, and I think there is ample evidence for criticism of what has been happening, not only in this chamber but the leadership throughout our government, the lack of leadership, I guess I should say, throughout our government, and the variety of issues that have not been touched upon here tonight and a lot more that we have, but what are we going to do? What should we do? What is the answer? It is one thing I think to criticize and critique, but what is the answer?

I think part of the answer is all we have to do is look back throughout the history of this country from its inception, and many people like to say, well, the government is not worth anything, the government cannot initiate anything. If you look at all of the major advancements that have been made in the country from the post office, to land grant colleges, to the railroads, to the interstate highway, Medicare, Medicaid, civil rights, Social Security, the GI Bill, the Pell grants, Federal housing, all of these initiatives have, in one way or another, moved the country forward. Who was it that moved the country forward? It was always the government who was leading the way to move the country forward.

The research on the Internet was government investment. The research for diseases now at NIH, government investment, and now I just heard Secretary Abraham, Secretary of Energy, he wants $50 million for a new super high-tech fast supercomputer to give our country a competitive advantage. Who is the Secretary of Energy? Who does it belong to? Where does the money come from? It comes from here. It comes from the government.

The government always has had a role to play. It will continue to have a role to play, and I think the philosophy that people are trying to push down the American people's throats now of here is your 300 bucks, while tuition and fees has increased by 28 percent under this current administration; tuition and fees at 4-year public institutions increased by 35 percent; tuition and fee increases at public 2-year institutions increased by 60 percent; tuition and fees increased in 49 of the 50 States in 2003.

You and I come here at eleven o'clock at night. Our wives are watching and hopefully trying to engage some young people.

□ 2300

But why do it? Because we need to establish a program in this country that will move the country forward.

Now, after 9–11, we had opportunities for energy efficiency, or another GI bill, or you could have asked the American people to ride to work on bikes and they would have gone out and done it because they were committed to moving the country forward and committed to doing whatever it takes. And yet look at the inaction, look at the one solution for every problem. This is a one-trick pony. Tax cuts, tax cuts, tax cuts. And they are not going to the people in my district.

Fifty percent of the people in my district in Youngstown, Ohio; in Niles, Ohio; in Warren, Ohio; and in Akron, Ohio, 50 percent of the people got a tax cut, but 50 percent did not.

Mr. MEEK of Florida. Mr. Speaker, it is also important for my colleague to identify that the majority of the tax cut is going to the individuals with the most money, the individuals that are making over $1 million a year. A lot of my constituents are not. If I had to go out and run the election saying I am only concerned in my district with those who are making over $1 million, I would be surprised if I received 50 votes out of the number that I need.

Mr. Speaker, my colleague and I have been very, very on target as it relates to sharing with the American people, with not just pointing out and describing the inequities of leadership or the inequities of our so-called health care plan, because we do not have one right now, but I just want to share this with our listeners here.

The amount of young adults 18 to 29 years old who are uninsured has gone up 8 percent since 2000, and in 2000 only 22 percent of all young adults were uninsured. Now 30 percent of the uninsured Americans are young adults, despite the fact that their age group represents just 15 percent of the population. These are uninsured numbers, I just want to add and correct myself.

I think it is important that there is a piece of legislation authored by one of the members of our caucus, the gentleman from Arkansas (Mr. SNYDER). He has a bill, House bill 3192, that aims to help young adults without health insurance.

I want to also share with the American people that the Federal Government, we in the Congress are supposed to be in the business of not only helping the people that we represent, especially this Congress, but also assisting States. Now, we have the benefit up here, and here I have my credit card here. I do not have any money in my wallet, but I can go back in and pull a credit card out, I pulled my credit union credit card out, and we have the ability here to just swipe the card and add it to the deficit. Swipe the card and add it to the deficit to the point that we are borrowing money by knocking on the bank of China, saying, hey, can you help us pay down our debt. But we are not doing it on behalf of everyday Americans. We are doing it on behalf of making sure that we can provide tax cuts to people who are not asking for it.

For the middle-class individual, we support some of these tax cuts. We support the family tax cut as it relates to child tax credit and things of that nature. But when we start talking about tax cuts for billionaires, fundamentally, I believe, especially in this deficit time, in this time when States are running deficits because they cannot take a credit card out and swipe it and say I will put it on the card, they have to balance their budgets. So they balance their budgets on behalf of who? The people in their State. Those people are who? Americans that we represent. And what do they do at the State level? They then in turn pass it on to the county government. Well, county, sorry, but you have to let us know how you are cutting costs. We are going to get down to the bottom of this.

What is important is that we start getting to the top of the whole situation, and the top is in the White House, the top is here in this House of Representatives, the top is over in the other body where we have the kind of leadership that we have that is allowing this legislation to pass. This is what some academics call devolution of taxation. We will cut it here, but we will raise it there.

I can tell you right now, for the Americans listening to us and Members of Congress and mayors and council members, or city commissioners, school board members, they know exactly what we are talking about. They get it. They know.

Tell me if this sounds familiar in a community near you or as to Members of this House or people that are watching us now. Has there been a referendum for a bond issue or something to help pay for schools? Of course there has been. Has there been an extra penny for transportation or something of that level, or a gas tax increase on the local level to try to make up some kind of shortfall in revenue? Of course there has been. It is going on now. To seniors, are you getting the same service that you were receiving as relates to an activity program or a good-will program in your neighborhood or in your community? Of course there have been cuts.

The reason why there have been cuts is not the fact that we have not been able to provide the level of service that we have been providing in the past. And I have great concern about being in the Congress and standing over the largest, or be taking part in the largest deficit in the history of the Republic.

One would assume, listening to some of our colleagues in the majority, if we were to believe what they are saying, it is those liberal Democrats that brought us here. Oh no, it has been a long time. And they cannot say that. I challenge the other side constantly. I wonder where the deficit hawks are, those individuals that came to this floor, just like we are here on this floor talking about how they cannot believe the deficit is where it is. I cannot believe this. How did we allow the deficit to get out of control?

Guess what? Democrats delivered a balanced budget. They got what they asked for. Then they turn around and flip the script and try to make it seem as though the Democrats did something fundamentally wrong. Now we have a deficit that people do not understand how we are going to get it down. I guarantee people are going to suffer. Student loans? Forget about it. The banking community is here, and they are trying to make the situation even worse for students that are trying to pay their loans back. They will never pay them. They will always be in debt to the banks for getting an education.

Mr. Speaker, the gentleman from Ohio (Mr. RYAN) gave some great statistics that even when individuals graduate from college, where will they go? Where will the jobs be? Back when President Clinton was President, there were jobs looking for people. Now there are people looking for jobs. And the President says, well, for anyone who is willing to work. Well, I do not have a lot of constituents saying, Congressman, I am not willing to work. They want to have a job. They need that job. It is very, very important that we help them.

Mr. Speaker, I just want to share this one point with my colleague, but I have to say I love to hear my friend when he is sharing these statistics and everything. I just sit right here, and I say this is amazing, look at this guy. The way my colleague deploys the information, it is just so informative. And this is good because we are addressing folks who know what it means for someone to call your house and say are you going to pay this bill or this student loan that you have, or what have you? These are what real people go through, receiving a letter in the mail that you do not know how they are going to pay it.

For the individuals that own credit cards, because they do not have a job and they are trying to make ends meet, they are paying what the bank or the credit card is asking for, $23 versus paying to the principal because they cannot afford to do so because they are in debt. So it is important for us to share this information.

The government spends $900,000 a minute. Every minute, $900,000. That is a lot of money. And it borrows $1.1 billion a day. That is an awful lot of money, $1.1 billion, to pay down on this deficit that is in the trillions. And people talk about our children are going to pay. My colleague, we are going to pay it, and seniors are going to pay it. Because Social Security is not going to be what it should be and how it should be.

So when my colleague started talking about are we better off today than we were 4 years ago, and I know my colleague wants to say something. He is ready to get back on the mike, and I am going to give him a chance in just a minute, but I think it is important for us to share this. We shared about a piece of legislation that one of our colleagues has sponsored now to help young Americans without health insurance. I am 37. Individuals such as myself, the 50-somethings, the 60-somethings can say, well, we have health care needs. Of course, we do. But guess what? When that young person, that grandson or that son or daughter finds him or herself in a health crisis, who is going to pay for it? Nine times out of 10 they will mortgage their homes to pay for the health care costs for their children and grandchildren.

So this is not an issue; this is interconnected. It is all together, and it is going to be the reality of America, or it is the reality of America.

□ 2310

Mr. RYAN of Ohio. Mr. Speaker, I think the gentleman from Florida (Mr. MEEK) makes some great points. I believe this is a good opportunity for us to try to communicate some of these points.

To continue on a point that the gentleman was making, the gentleman was talking about the devolution of taxes and going from the Feds cut their taxes and they push it off onto the States. And the States, in many instances, cut their taxes too and have reduced revenue, and they are passing it on to the county. And we see the local school boards, we see the university raise its tuition prices, we see mental health levies, transportation levies, disability levies, and senior citizen levies for senior programs, parks; we see levies for just about everything.

We have the devolution down until it gets to the local level, and the reason why we have a Federal Government to pass money along is because a lot of those areas are poor. They do not have the money to treat people with mental health problems in their county. They do not have the money. We need the Federal Government and the States to come in and help those poor communities.

A lot of the school districts, and this is something that is going on in Ohio, some of the school districts, they do not have the local tax base to be able to fund an adequate education for their kids. So you need the State to be involved or you need the Federal Government to be involved in order to help them.

That is one stream that comes down, and it is pushing down on the poor citizens in our communities all across the country regardless of the State.

Then, as you reduce the Federal revenues and, as you said, you borrow the money, you reduce the Federal revenues; but then you have to figure out what you are going to give back because the revenues are not there to give back. It is not like we are returning surplus money to the millionaires, it is not like when Clinton left office, and we had billions of dollars to give back. There is no surplus to give back, and we keep giving back. So where do we get the money? We pull out the credit card. We borrow the money to give it to the top 1 percent.

So we are cutting services on this end. We are pushing the burden down to the local level, and then we are borrowing money to give to rich people; and then in this other area here, we are pushing the burden off on the next generation. It is a tax shift off onto your kids, to your grandkids some day, my kids and my grandkids.

So we are going to have a higher rate of taxes for your grandkids because of this indulgence, this binge that we have been on, the binge that this administration has been on; and we are pushing it down to these kids at the same time that the baby boomers are moving into our systems, our Medicare system and our Social Security system.

What are we thinking? This makes no sense to do what we are doing. It is mind-boggling.

I was on the floor a couple of hours ago with the gentleman from Ohio (Mr. BROWN) and the other gentleman from Ohio (Mr. STRICKLAND) and we were talking about veterans. When you listen to this, if you are home just listening this, Law and Order is over, now you are turning on C-SPAN, watching us, you think those are two partisans down there talking, and a few hours ago there were three, just trying to score political points, just blatant politics. But then you look at the facts and you look at what is going on with our country and the lack of investment in people, the lack of investment in all of the programs that we have believed in for years, you begin to recognize it is an issue of priorities. It is an issue of we would rather give these tax cuts because we think in the long run it will help us win an election as opposed to what is best for the country.

Mr. MEEK of Florida. Mr. Speaker, we are in our districts working next week, but the week after next what we should have, we need to get a nice credit card. Just write the deficit in, expiration date unknown, put the credit card there. You know how they have the pictures now with the football teams, we need to talk about that, and I think that is something that we need to talk about over the break.

Mr. RYAN of Ohio. Over the break, maybe we can get away from here and open up and let the creative juices roll, and we can come up with something.

Mr. MEEK of Florida. Yes, and I have a couple of credit cards. None with any substantial balance, but there was once upon a time that was the case. We know better now. I think it is important to understand that young people make youthful indiscretions, and some of those indiscretions are financial.

Another thing is, when we set the deck, when we cut Pell Grants and cut opportunities, low-interest student loans to students that need them, and these are Democrat, Republican, Independent kids that are trying to educate themselves, that is another thing. That is indiscretion based on this Congress knowingly doing this. That is a fundamental problem when we have more young people coming out.

Are you better off? I am looking at this chart that is next to the gentleman, and you can see it better than I can. The gentleman and I are both Letterman guys. He is coming on in a few moments on another station, and I always like to hear his top 10. We have more than 10 here.

When we look at those that are employed, January 2001, 132.4 million were employed. Now we have 130.9 million, and there are more people in the United States of America than there were 3 to 4 years ago.

Unemployment, January 2001, was 5.6 million. Now unemployed is 8.2 million. We are going in the wrong direction.

Not in the labor force, but want a job, 4.6 million then; 4.7 million now. You would assume these numbers would be heading higher rather than going lower.

Mr. RYAN of Ohio. Absolutely. I think an amazing number here, and I know viewers cannot see these at home, but these are official statistics.

Household debt in January 2001 was $6.6 trillion. Household debt today, $8.8 trillion; $2.2 trillion more of household debt. And that is the issue that we keep talking about because the debt tax, the tax per household from this reckless binge that we have been on over the past 3 years is ultimately going to cost your kids and your grandkids enormous amounts of money to pay for that debt.

Mr. MEEK of Florida. There is one thing coming out at me, like 3–D, 15 gallons of regular gasoline, January 2001, was $18.90. Now, May 2004, is $26.33.

Let me just say this, it is one thing to talk the talk, and it is another thing to walk the walk. We have a lot of guys down on Pennsylvania Avenue at the White House. They have the bully pulpit. They are members of the administration talking about what the indicators said, and we believe that the indicator is going to indicate. But when it comes down in the final analysis, the American people more is coming out of their pockets than they are getting in their pockets, if they are getting anything.

So when we start talking about young people, once again, I go back to the parents and grandparents. I think the goal of every parent and grandparent or even aunt or uncle is to see their kids or grandkids do better than what they have done. That is their goal.

What we are seeing now, and this information can be found if Members want to find it. You can check onto the Web site, this information is there at housedemocrat.gov/areyoubetteroff. It is amazing, people come up with these Web sites.

□ 2320

Mr. MEEK of Florida. It is just amazing what we are finding and what we are seeing and what is actually happening out there.

One other thing I wanted to mention. I want to talk about a broken promise. President Bush said 4 years ago that he promised to increase Pell grants to $5,100. For the past 4 years the President and congressional Republicans have frozen or cut the maximum Pell grant award. The Pell grant stands at $4,050 today. That is $1,000 off the mark. But meanwhile we are here on this floor to make permanent tax cuts for the most affluent individuals in this country. The only way that this is going to change, not if we do the 30-Something hour every week. We can only inform the American people. They are going to have to act.

They are going to have to make sure that we have the kind of leadership that is willing to stand up to special interests and say, no, it is not going to happen. We have a constitutional right to make sure that we watch out for the future of this country and to stand here on this floor today not because of our doing, and we voted against a lot of the stuff that has put us in this situation now, laws or legislation passed. I always say this is the biggest cake and ice cream administration I have ever seen. It is almost like sitting one's kid down at the table and say, hey, do not worry about the veggies, do not worry about eating your baked chicken. Turn those plates around and eat that cake and ice cream, go ahead, all you want. But what happens eventually? Either obesity, diabetes, or something. And that is what we are finding ourselves in.

Well, we are down in the polls; so let us see what kind of tax we can come up with today. We will give maybe 30 percent to average Americans and the other we will give to friends and individuals that have money. So I think it is important that we look at that.

I wanted to just hit one more Web site because I think it is important we pay attention to this. It is rockthevote.com on voter suppression, to make sure that young people can vote. And, Mr. Speaker, I want to tell the gentleman from Ohio that I am telling school districts in Florida to tell the kids in school to send notes home to their parents to remind them to vote in the general election. Now, those kids have Republican moms and dads, Democrat moms and dads, Independent moms and dads. But anyone who is paying attention to what is going on with their child in school, they are going to have an issue of what is happening here. So if those parents were to go out and vote, it would be a different conversation. We would be on the floor talking about, what, under the gentlewoman from California (Ms. PELOSI) as Speaker, we passed on behalf of the American people, not just Democratic kids, not just Democratic 30-somethings, not just senior Democrats, but on behalf of all Americans, and it will be fair. It will be fair to the business community. It will be fair to the other everyday Americans.

I am going to let the gentleman go ahead because, like I said, he has a way of being able to supply that information; but once again we as Democrats are looking to make sure that we have opportunities to provide opportunities for young Americans. During the Clinton administration, more than 10 million people were able to take advantage of the New Hope Scholarship tax credit and other scholarships. Students saved $8 billion through the direct college loan program. JOHN KERRY is talking about the same. He is talking about $4,000, not once in the college experience but per semester, per year, credit to be able to allow young people to attend college even though student loans have gone up. That will allow them to be able to receive a college education.

Let me share this, Mr. Speaker, before I yield. During the Bush administration, college tuition has increased by 28 percent. That is that devolution of taxation we talked about earlier, when we cut it up here and we hand it down to State governments. They have to find it somewhere. So where do they go for it? The weak prey, seniors and students and young children, cutting back and saying that public schools need to suck it up and do better. 400,000 qualified high school graduates will not attend a 4-year college this year because of financial barriers; 200,000 will not attend college at all. This is not because they do not want to. It is because they cannot afford to. So I think it is important that if we are going to have a workforce that will be able to take those jobs under a new administration, hopefully under a new leadership here in this House of Representatives, that they will be able to get through school to be able to provide the kind of skilled worker that we need versus what we are experiencing now, more and more jobs going offshore than right here in our own communities, State, and country.

Mr. RYAN of Ohio. Mr. Speaker, I think the gentleman from Florida is absolutely right, and he is as articulate as anyone is around here.

A couple of issues that I want to talk about. And we are going to wrap up here in a few minutes. The hour is getting late, but I think it is important to just say that what we want this Congress to do, what we want this President to do is to take a strong leadership role in creating a new economy for the young people of this country. And I come from an old steel town, very strong during the industrial age; and what I hear from the retirees, I hear from people who have been working in a lot of these mills over the years and are coming close to retirement, is, What are our kids going to do? And when we look back at how we succeeded during the industrial age, the GI bill, the investments in infrastructure, the investments in the interstate highway systems, and I think needs to be duplicated, not in the same, but look at the space program, the national priority to educate people. It was not just about going to the Moon, which was a great national priority; it was about getting people, young people and the country engaged in math and science and engineering and physics because that administration understood that that would spin off into the economy, and those engineers who were getting educated were not just working in the space program. They were working in a lot of other industries. So I think it is important for us to do that. That is one.

And, two, I have heard the President say the economy is turning around. I cannot help, as we are wrapping it up here in the final couple of minutes, but to just acknowledge the fact that just a few miles outside of my district in Canton, Ohio, Timken, which was a staple in Canton and Massillon, some of the greatest high school football in the country, the Timken Company is going to close up shop, 1,300 jobs in this community. Howard Fineman just wrote a great article about Timken and its potential effect on the election, but

1,300 jobs in Ohio were bleeding. And the President and others want to say that the economy is turning around, and I cannot help but say, where? Where? Maybe if they have a little bit of stock, and the stock market is not even doing all that well. And gas prices are going up. I mean, where is it getting better? It is not. It is getting progressively worse. We have the financial albatross around our neck with the current war, and we are having a number of problems. So these are some things where we have to make education a national priority for us.

Mr. MEEK of Florida. Are you better off now than you were 4 years ago? Mr. Speaker, I just want to, if we can, share just a few of our e-mails that we received, and I am going to start off. From Melanie B. of Maryland, and I will just leave it at that. She is a political and science and social worker major at the University of Maryland, Baltimore campus, will be 30 years old this year. And she goes on to say that "I have noticed over the past 2 years how tuition costs have gone up and continue to go up. Just over the past year, I have gotten really interested in the workings of the Congress. I tune into C–SPAN quite often now, and I was so happy to listen to the 30-Something Group talk Tuesday night. It almost brought me to tears."

□ 2330

It almost brought me to tears.

"I started my education late at 25. I am working full-time for an attorney to put myself through school. My parents were unable to help me. I live on my own, which leaves me no choice but to work full-time, or I wouldn't be able to support myself. It is going to take me 6 years to complete both degrees. I started at the community college and transferred.

"I received a scholarship from the National Honor Society, but lost the scholarship after the first semester. In order to keep the scholarship you are required to go to school full-time, 12 credit hours, and keep a GPA of 3.5. I was not able to do so, and just by dropping down to 9 credit hours I lost the little bit of money I had for access to school.

"I make too much money to qualify for a Pell Grant, which means that by the time I finish school, I will be in a mountain of debt. I hope to go to grad school, but right now I am not sure that that will be an option. I can't imagine the cost of grad school adding to my already outstanding debt."

That is a reality of what is going on out there. Community college, had a scholarship, have to work full-time, lost scholarship because she has to work to support herself, had to go to 9 hours, she lost it. She wants to continue her education, but cannot; not because it is not offered, but because she cannot afford it, and also because she will be in so much debt.

If you will read one.

Mr. RYAN of Ohio. I will read a couple here and start wrapping things up here. Alan T, a senior at Oklahoma State University, sent us an e-mail.

"I am spending over $300 a semester for textbooks that have been used four or five times already by previous students. My best friend was unable to be the first in his family to graduate from a major university due to the fact that he was unable to pay for textbooks, parking permits and other student fees that are burdening students more and more," also probably a few parking tickets, if I remember college well. Those are also a cost that students must endure.

"I can either pay my bursar, or I can pay my rent. Next year, I won't buy my textbooks, so I can pay both."

The fact that we have people making this decision, it sounds eerily similar to the decision that a lot of our senior citizens have to make between food and prescription drugs.

Joseph Oliver from North Dakota, a 20-year-old chemical engineering student:

"Full disclosure, I do want to tell you that I am historically, even though I am only 20, a conservative voting citizen. The investigation into textbooks," for those of you at home, we have a bill that is going to investigate the high cost of textbooks, also provide a $1,000 tax credit for you to be able to deduct that, or credit that, for your textbooks, up to $1,000 a year, or your parents up to $1,000 a year.

"The investigation into textbooks is long past due. I spent nearly $600 for three classes of books, then was unable to sell any of them back because the new editions were released."

If anything gets you more upset in college, than you would drop hundreds of dollars for a textbook, and then you would go back at the end of the semester to get hopefully 10 or 20 bucks back, and they say, "We are not buying these back any more." I mean, that was ridiculous.

Mr. MEEK of Florida. Mr. Speaker, I still have some of my textbooks from college at home, because I was so upset, I was appalled by the fact they would not even give me even one-tenth of what I spent for them, and I did not even give them the privilege of giving me $5 for the textbook. I kept the textbook, even though maybe Bush 41 was the last President of the United States in it.

Go ahead. That is just a personal issue.

Mr. RYAN of Ohio. He goes on to say, "That was the biggest unseen cost of college." He also goes on to talk about the variable interest rate for student loans. "I have a fixed rate of nearly 3.4 percent right now. If that were to change, the light at the end of the tunnel would get a little less bright. I work 18 hour days in the summer to afford the opportunity of continuing school. I get upset every year, because I get penalized for working hard, among other factors, when it comes to receiving financial aid."

I am going to wrap up here and just, again it is an honor to be here with the gentleman from Florida (Mr. MEEK) to talk about these issues. I think it is important, if you are there, please send us your e-mail to us, find the rockthevote about voter suppression. But continue to send us these, because it is important for us to know exactly what your issues are.

I do want to take this opportunity, since we are not going to be here next week and this is my first term in Congress, to wish my mother a happy birthday. She is 60-years-old, so I wanted to wish her a happy birthday. Also my cousin, Phil Guerra who is also turning 60 this year.

I wanted to take this as an opportunity to wish them a happy birthday before we take off for our Memorial Day break. And just to say again, we got to keep plugging away. We got a long road here. But you establish what you stand for, you take it to these young students, these young kids, and I think you have an opportunity to change the way the country is run, and I think that is a great opportunity that we have here.

Mr. MEEK of Florida. Congratulations to the young people in your family. They are still young, and they still have a lot to do. 30somethingdems@mail.house.gov, 30somethingdems@mail.house.gov.

I want to thank the gentleman from Ohio (Mr. RYAN), for this evening. I look forward to coming back in another 2 weeks to talk about other issues that are facing young Americans.

RECESS

The SPEAKER pro tempore (Mr. CARTER). Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 11 o'clock and 36 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 0608

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SHAYS) at 6 o'clock and 8 minutes a.m.

CONFERENCE REPORT ON S. CON. RES. 95, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2005

Mr. NUSSLE submitted the following conference report and statement on the Senate concurrent resolution (S. Con.

Res. 95) setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009:

CONFERENCE REPORT (H. REPT. 108–498)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the concurrent resolution (S. Con. Res. 95), setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2005.

(a) DECLARATION.—Congress declares that this resolution is the concurrent resolution on the budget for fiscal year 2005 as authorized by section 301 of the Congressional Budget Act of 1974 (2 U.S.C. 632).

(b) TABLE OF CONTENTS.—The table of contents for this concurrent resolution is as follows:

Sec. 1. Concurrent resolution on the budget for fiscal year 2005.

TITLE I—LEVELS AND AMOUNTS

Sec. 101. Recommended levels and amounts for the budget year.
Sec. 102. Social security.
Sec. 103. Major functional categories.

TITLE II—RECONCILIATION

Subtitle A—Senate

Sec. 201. Reconciliation in the Senate.

Subtitle B—House of Representatives

Sec. 211. Reconciliation in the House of Representatives.

TITLE III—RESERVE FUNDS AND ADJUSTMENTS

Subtitle A—Reserve Funds

Sec. 301. Deficit neutral reserve fund for health insurance for the uninsured.
Sec. 302. Deficit neutral reserve fund for higher education.
Sec. 303. Deficit neutral reserve fund for Montgomery GI Bill benefits.
Sec. 304. Deficit neutral reserve fund for Postal Service reform.
Sec. 305. Deficit neutral reserve fund for the Family Opportunity Act.
Sec. 306. Deficit neutral reserve fund for eliminating survivor benefit plan-social security offset.
Sec. 307. Reserve fund for pending legislation.

Subtitle B—Adjustments With Respect to Discretionary Spending

Sec. 311. Adjustment for surface transportation.
Sec. 312. Adjustment for wildland fire suppression.
Sec. 313. Mechanism for adjusting appropriate discretionary levels.

TITLE IV—BUDGET ENFORCEMENT

Subtitle A—Enforcement

Sec. 401. Restrictions on advance appropriations.
Sec. 402. Emergency legislation.
Sec. 403. Exemption of overseas contingency operations.
Sec. 404. Discretionary spending limits in the Senate.
Sec. 405. Adjustments to reflect changes in concepts and definitions.
Sec. 406. Application and effect of changes in allocations and aggregates.
Sec. 407. Pay-as-you-go point of order in the Senate.
Sec. 408. Compliance with section 13301 of the Budget Enforcement Act of 1990.

Subtitle B—Report Submissions

Sec. 411. Submission of report on defense savings.
Sec. 412. Submission of report on homeland security.

Subtitle C—Exercise of Rulemaking Powers

Sec. 421. Exercise of rulemaking powers.

TITLE V—REQUIRED LEVELS AND AMOUNTS FOR OUTYEARS.

Sec. 501. Recommended levels and amounts.
Sec. 502. Social security.
Sec. 503. Major functional categories.

TITLE VI—SENSE OF THE SENATE AND SENSE OF THE HOUSE

Subtitle A—Sense of the Senate

Sec. 601. Sense of the Senate on budget process reform.
Sec. 602. Sense of the Senate on budget process reform with regard to the creation of bipartisan commissions to combat waste, fraud, and abuse and to promote spending efficiency.
Sec. 603. Sense of the Senate on the relationship between annual deficit spending and increases in debt service costs.
Sec. 604. Sense of the senate regarding the costs of the medicare prescription drug program.
Sec. 605. Sense of the Senate on returning stability to payments under medicare physician fee schedule.
Sec. 606. Sense of the Senate supporting funding restoration for agriculture research and extension.
Sec. 607. Sense of the Senate concerning a national animal identification program.
Sec. 608. Sense of the Senate regarding contributions to the global fund to fight aids, tuberculosis, and malaria.
Sec. 609. Sense of the Senate concerning child nutrition funding.
Sec. 610. Sense of the Senate regarding compensation for exposure to toxic substances at the Department of Energy.
Sec. 611. Sense of the Senate regarding tax incentives for certain rural communities.
Sec. 612. Sense of the Senate concerning summer food pilot projects.
Sec. 613. Sense of the Senate regarding closing the "tax gap".

Subtitle B—Sense of the House

Sec. 621. Sense of the House on entitlement reform.

Subtitle C—Sense of Congress

Sec. 631. Sense of Congress on spending accountability.

TITLE I—LEVELS AND AMOUNTS

SEC. 101. RECOMMENDED LEVELS AND AMOUNTS FOR THE BUDGET YEAR.

The following budgetary levels are appropriate for fiscal year 2005:

(1) FEDERAL REVENUES.—For purposes of the enforcement of this resolution—

(A) The recommended level of Federal revenue for fiscal year 2005 is $1,454,637,000,000.

(B) The amount by which the aggregate level of Federal revenues should be changed for fiscal year 2005 is −$28,194,000,000.

(2) NEW BUDGET AUTHORITY.—For purposes of the enforcement of this resolution, the appropriate level of total new budget authority for fiscal year 2005 is $2,005,068,000,000.

(3) BUDGET OUTLAYS.—For purposes of the enforcement of this resolution, the appropriate level of total budget outlays for fiscal year 2005 is $1,996,028,000,000.

(4) DEFICIT.—For purposes of the enforcement of this resolution, the amount of the deficit for fiscal year 2005 is $541,391,000,000.

(5) DEBT SUBJECT TO LIMIT.—Pursuant to section 301(a)(5) of the Congressional Budget Act of 1974, the appropriate level of the public debt for fiscal year 2005 is $8,073,946,000,000.

(6) DEBT HELD BY THE PUBLIC.—The appropriate level of the debt held by the public for fiscal year 2005 is $4,762,355,000,000.

SEC. 102. SOCIAL SECURITY.

(a) SOCIAL SECURITY REVENUES.—For purposes of Senate enforcement under sections 302 and 311 of the Congressional Budget Act of 1974, the amount of revenues of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for fiscal year 2005 is $572,309,000,000.

(b) SOCIAL SECURITY OUTLAYS.—For purposes of Senate enforcement under sections 302 and 311 of the Congressional Budget Act of 1974, the amount of outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for fiscal year 2005 is $396,157,000,000.

(c) SOCIAL SECURITY ADMINISTRATIVE EXPENSES.—In the Senate, the amounts of new budget authority and budget outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for administrative expenses for fiscal year 2005 are $4,249,000,000 in new budget authority and $4,264,000,000 in outlays.

SEC. 103. MAJOR FUNCTIONAL CATEGORIES.

Congress determines and declares that the appropriate levels of new budget authority and budget outlays for fiscal year 2005 for each major functional category are:

(1) National Defense (050): $472,157,000,000 in new budget authority and $474,298,000,000 in outlays.

(2) International Affairs (150): $28,920,000,000 in new budget authority and $32,795,000,000 in outlays.

(3) General Science, Space, and Technology (250): $23,928,000,000 in new budget authority and $23,278,000,000 in outlays.

(4) Energy (270): $3,027,000,000 in new budget authority and $1,380,000,000 in outlays.

(5) Natural Resources and Environment (300): $32,128,000,000 in new budget authority and $31,418,000,000 in outlays.

(6) Agriculture (350): $21,797,000,000 in new budget authority and $21,035,000,000 in outlays.

(7) Commerce and Housing Credit (370): $9,284,000,000 in new budget authority and $3,258,000,000 in outlays.

(8) Transportation (400): $71,789,000,000 in new budget authority and $68,560,000,000 in outlays.

(9) Community and Regional Development (450): $13,612,000,000 in new budget authority and $17,386,000,000 in outlays.

(10) Education, Training, Employment, and Social Services (500): $92,818,000,000 in new budget authority and $90,716,000,000 in outlays.

(11) Health (550): $252,426,000,000 in new budget authority and $250,025,000,000 in outlays.

(12) Medicare (570): $287,878,000,000 in new budget authority and $288,987,000,000 in outlays.

(13) Income Security (600): $339,157,000,000 in new budget authority and $345,660,000,000 in outlays.

(14) Social Security (650): $15,214,000,000 in new budget authority and $15,214,000,000 in outlays.

(15) Veterans Benefits and Services (700): $70,832,000,000 in new budget authority and $68,855,000,000 in outlays.

(16) Administration of Justice (750): $41,945,000,000 in new budget authority and $41,773,000,000 in outlays.

(17) General Government (800): $17,383,000,000 in new budget authority and $17,975,000,000 in outlays.

(18) Net Interest (900): $270,436,000,000 in new budget authority and $270,436,000,000 in outlays.

(19) Allowances (920): −$7,158,000,000 in new budget authority and −$14,516,000,000 in outlays.

(20) Undistributed Offsetting Receipts (950): −$52,505,000,000 in new budget authority and −$52,505,000,000 in outlays.

TITLE II—RECONCILIATION

Subtitle A—Senate

SEC. 201. RECONCILIATION IN THE SENATE.

(a) TAX RELIEF.—The Committee on Finance of the Senate shall report a reconciliation bill not later than September 30, 2004, that consists of changes in laws within its jurisdiction sufficient to reduce revenues by not more than $22,900,000,000 and to increase outlays by not more than $4,600,000,000 for the period of fiscal years 2005 through 2009.

(b) INCREASE IN STATUTORY DEBT LIMIT.—The Committee on Finance of the Senate shall report a reconciliation bill not later than September 10, 2004, that consists solely of changes in laws within its jurisdiction to increase the statutory debt limit by $689,946,000,000.

Subtitle B—House of Representatives

SEC. 211. RECONCILIATION IN THE HOUSE OF REPRESENTATIVES.

(a) TAX RELIEF.—The Committee on Ways and Means of the House shall report a reconciliation bill not later than September 30, 2004, that consists of changes in laws within its jurisdiction sufficient to reduce revenues by not more than $22,900,000,000 and to increase outlays by not more than $4,600,000,000 for the period of fiscal years 2005 through 2009.

(b) CONFORMING ADJUSTMENT.—Upon the reporting of a recommendation pursuant to section 211(a), or an amendment thereto, that shall be deemed to have complied with the directions under section 211 of this resolution by virtue of section 310(c) of the Congressional Budget Act of 1974, the chairman of the Committee on the Budget of the House may file with the House appropriately revised allocations, functional levels, and aggregates to carry out this subsection.

TITLE III—RESERVE FUNDS AND ADJUSTMENTS

Subtitle A—Reserve Funds

SEC. 301. DEFICIT NEUTRAL RESERVE FUND FOR HEALTH INSURANCE FOR THE UNINSURED.

(a) SENATE.—If the Committee on Finance or the Committee on Health, Education, Labor, and Pensions of the Senate reports a bill or joint resolution, or an amendment thereto is offered or a conference report thereon is submitted, that provides health insurance or expands access to care for the uninsured (including a measure providing for tax deductions for the purchase of health insurance or other measures and including legislation to reallocate and maintain expiring SCHIP funds rather than allowing such funds to revert to the Treasury), increases access to health insurance through lowering costs, and does not increase the costs of current health insurance coverage, the chairman of the Committee on the Budget of the Senate may revise allocations of new budget authority and outlays, the revenue aggregates, and other appropriate aggregates to reflect such legislation, to the extent that such legislation would not increase the deficit for fiscal year 2005 and for the period of fiscal years 2005 through 2009.

(b) HOUSE.—In the House, if legislation is reported, or if an amendment thereto is offered or a conference report thereon is submitted, that provides health insurance for the uninsured, the chairman of the Committee on the Budget may revise the allocations for that committee and appropriate aggregates to take into account the budgetary effects of such measure for that purpose, to the extent the measure would not increase the deficit for fiscal year 2005 and for the period of fiscal years 2005 through 2009.

SEC. 302. DEFICIT NEUTRAL RESERVE FUND FOR HIGHER EDUCATION.

(a) IN GENERAL.—If the Committee on Health, Education, Labor, and Pensions of the Senate or the Committee on Education and Workforce in the House reports a bill or joint resolution, or if an amendment thereto is offered or a conference report thereon is submitted, that reauthorizes the Higher Education Act of 1965, the appropriate chairman of the Committee on the Budget may revise the allocations for that committee and appropriate aggregates to take into account the budgetary effects of such measure for that purpose, to the extent the measure would not increase the deficit for fiscal year 2005 and for the period of fiscal years 2005 through 2009.

(b) SENSE OF SENATE.—It is the sense of the Senate that this resolution contemplates that—

(1) the provisions necessary to achieve the deficit neutrality in subsection (a) may be offered as amendments on the Senate floor;

(2) the Committee on Health, Education, Labor, and Pensions will not be limited to spending reductions within its committee's jurisdiction to satisfy the requirements in subsection (a) in such an amendment; and

(3) the committee may report a bill with up to $5,000,000,000 in new spending for higher education programs provided that provisions necessary to achieve deficit neutrality may be offered as amendments on the Senate floor.

SEC. 303. DEFICIT NEUTRAL RESERVE FUND FOR MONTGOMERY GI BILL BENEFITS.

If the Committee on Armed Services of the Senate or the appropriate committee of the House reports a bill or joint resolution, or an amendment thereto is offered or a conference report thereon is submitted, that increases benefit levels under the Montgomery GI Bill for members of the Selected Reserves, the appropriate chairman of the Committee on the Budget may revise the allocations for that committee and appropriate aggregates to take into account the budgetary effects of such measure for that purpose, to the extent the measure would not increase the deficit for fiscal year 2005 and for the period of fiscal years 2005 through 2009.

SEC. 304. DEFICIT NEUTRAL RESERVE FUND FOR POSTAL SERVICE REFORM.

If the Committee on Governmental Affairs of the Senate or the Committee on Government Reform of the House reports a bill or joint resolution, or an amendment thereto is offered or a conference report thereon is submitted, that reforms the United States Postal Service to improve its long-term economic viability and provides for increased financial transparency, the appropriate chairman of the Committee on the Budget may revise the allocations for that committee and appropriate aggregates to take into account the budgetary effects of such measure for that purpose, to the extent the measure would not increase the deficit for fiscal year 2005 and for the period of fiscal years 2005 through 2009.

SEC. 305. DEFICIT NEUTRAL RESERVE FUND FOR THE FAMILY OPPORTUNITY ACT.

If the Committee on Energy and Commerce of the House or the Committee on Finance of the Senate reports legislation, or if an amendment thereto is offered or a conference report thereon is submitted, that provides medicaid coverage for children with special needs (the Family Opportunity Act), the appropriate chairman of the Committee on the Budget may revise the allocations for that committee and appropriate aggregates to take into account the budgetary effects of such measure for that purpose, to the extent the measure would not increase the deficit for fiscal year 2005 and for the period of fiscal years 2005 through 2009.

SEC. 306. DEFICIT NEUTRAL RESERVE FUND FOR ELIMINATING SURVIVOR BENEFIT PLAN-SOCIAL SECURITY OFFSET.

If the Committee on Armed Services of the House or Senate reports a bill or joint resolution, or an amendment thereto is offered or a conference report thereon is submitted, that increases the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, the appropriate chairman of the Committee on the Budget may revise the allocations for that committee and appropriate aggregates to take into account the budgetary effects of such measure for that purpose, to the extent the measure would not increase the deficit for fiscal year 2005 and for the period of fiscal years 2005 through 2009.

SEC. 307. RESERVE FUND FOR PENDING LEGISLATION.

In the House, for any bill that provides for the safe importation of FDA-approved prescription drugs or places limits on medical malpractice litigation, that has passed the House in the first session of the 108th Congress and, after the date of adoption of this concurrent resolution, is enacted into law, the chairman of the Committee on the Budget may make the appropriate adjustments in the allocations and aggregates to reflect any resulting savings from any such measure.

Subtitle B—Adjustments With Respect to Discretionary Spending

SEC. 311. ADJUSTMENT FOR SURFACE TRANSPORTATION.

(a) IN GENERAL.—If the Committee on Transportation and Infrastructure of the House or the Committee on Environment and Public Works, the Committee on Banking, Housing, and Urban Affairs, or the Committee on Commerce, Science, and Transportation of the Senate reports a bill or joint resolution, or if an amendment thereto is offered or a conference report thereon is submitted, that provides new budget authority for the budget accounts or portions thereof in the highway and transit categories as defined in subparagraphs (B) and (C) of section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 in excess of—

(1) for fiscal year 2005: $42,657,000,000;

(2) for fiscal year 2006: $43,635,000,000;

(3) for fiscal year 2007: $45,709,000,000;

(4) for fiscal year 2008: $46,945,000,000; or

(5) for fiscal year 2009: $47,732,000,000;

the appropriate chairman of the Committee on the Budget may revise the appropriate budget aggregates and increase the allocation of new budget authority to such committee for fiscal year 2005 and for the period of fiscal years 2005 through 2009 to the extent such excess is offset by a reduction in mandatory outlays from the Highway Trust Fund or an increase in receipts appropriated to such fund (for the applicable fiscal year) caused by such legislation or any previously enacted legislation. In the Senate, any increase in receipts shall be reported from the Committee on Finance.

(b) ADJUSTMENT FOR OUTLAYS.—For fiscal year 2005, in the House and the Senate, if a bill or joint resolution is reported, or if an amendment thereto is offered or a conference report thereon is submitted, that changes obligation limitations such that the total limitations are in

excess of $41,204,000,000 for fiscal year 2005 for programs, projects, and activities within the highway and transit categories as defined in subparagraphs (B) and (C) of sections 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985, and if legislation has been enacted that satisfies the conditions set forth in subsection (a) for such fiscal year, the appropriate chairman of the Committee on the Budget may increase the allocation of outlays and appropriate aggregates for such fiscal year for the committee reporting such measure by the amount of outlays that corresponds to such excess obligation limitations, but not to exceed the amount of such excess that was offset pursuant to subsection (a).

SEC. 312. ADJUSTMENT FOR WILDLAND FIRE SUPPRESSION.

(a) FINDINGS.—Congress makes the following findings:

(1) Due to the expansion of the wildland urban interface, severe drought conditions in many regions of the country, and the poor health of the Nation's forests and rangelands, the Forest Service and the Department of the Interior regularly spend more than the amount appropriated for fire suppression, and then borrow from other accounts to pay for fire suppression.

(2) This borrowing has a negative effect on many Forest Service and Department of the Interior programs.

(3) This resolution provides an amount equal to the 10-year average for fire suppression in fiscal year 2005.

(4) The Forest Service and the Department of the Interior should address cost containment within the fire suppression account, and report to Congress regarding how funds appropriated pursuant to this section are used.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the adjustment authorized by this section shall only be made if—

(1) the wildland fire suppression accounts in the Interior Appropriations bill are funded at the 10-year average;

(2) there are insufficient funds in such accounts; and

(3) the current fire season is of sufficient severity to require appropriations in excess of the base amount.

(c) CAP ADJUSTMENT.—

(1) DEFINITION.—For this subsection, the term "base amount" refers to the average of the obligations of the 10 fiscal years preceding the current year for wildfire suppression in the Forest Service and in the Department of the Interior, calculated by the Director of the Congressional Budget Office in consultation with the chairmen of the Committees on the Budget and Appropriations. The Director of the Congressional Budget Office shall provide such information for fiscal year 2005 in a letter to the chairmen of such committees.

(2) ADJUSTMENTS FOR FISCAL YEAR 2005.—If any bill, joint resolution, amendment, or conference report provides new budget authority for wildland fire suppression in fiscal year 2005 that would cause the level of total new budget authority for wildland fire suppression to exceed the base amount for such fiscal year, then the chairman of the Committee on the Budget may adjust the appropriate allocations and other budgetary levels by the amount of excess new budget authority provided by that measure for that purpose (and the outlays flowing therefrom), but the adjustment for new budget authority may not exceed—

(A) for the Forest Service for fiscal year 2005, $400,000,000; and

(B) for the Department of the Interior for fiscal year 2005, $100,000,000.

(3) FISCAL YEAR 2004.—

(A) SENATE.—In the Senate, if any bill, joint resolution, amendment, or conference report provides new budget authority for wildland fire suppression in fiscal year 2004, then the chairman of the Committee on the Budget may determine that such amount of new budget authority (and outlays flowing therefrom) shall not be counted for the purposes of the Congressional Budget Act of 1974 and this resolution, if such amounts for that fiscal year do not exceed the following levels of new budget authority—

(i) for the Forest Service, $400,000,000; and

(ii) for the Department of the Interior, $100,000,000.

(B) HOUSE.—In the House, if any bill, joint resolution, amendment, or conference report provides new budget authority for wildland fire suppression in fiscal year 2004, then the chairman of the Committee on the Budget may adjust the appropriate allocations and other budgetary levels by the amount of new budget authority provided by that measure for that purpose (and the outlays flowing therefrom), but the adjustment for new budget authority may not exceed—

(i) for the Forest Service, $400,000,000; and

(ii) for the Department of the Interior, $100,000,000.

SEC. 313. MECHANISM FOR ADJUSTING APPROPRIATE DISCRETIONARY LEVELS.

(a) SECTION 504 COMPLIANCE.—In the House and the Senate, whenever the Committee on Appropriations reports the first bill or joint resolution making regular appropriations for fiscal year 2005, the appropriate chairman of the Committee on the Budget may revise the committee's allocation in this resolution by $4,630,000,000 in new budget authority and $14,240,000,000 in outlays and make conforming adjustments to other levels in this resolution.

(b) FUNDING FOR PROJECT BIOSHIELD.—In the House and the Senate, on the same day that the Committee on Appropriations reports as provided in subsection (a), the appropriate chairman of the Committee on the Budget may also revise the allocations to the Committee on Appropriations, discretionary spending limits, and other appropriate levels and limits in this resolution by $2,528,000,000 in new budget authority and $276,000,000 in outlays for Project Bioshield for fiscal year 2005.

TITLE IV—BUDGET ENFORCEMENT

Subtitle A—Enforcement

SEC. 401. RESTRICTIONS ON ADVANCE APPROPRIATIONS.

(a) SENATE.—

(1) POINT OF ORDER.—Except as provided in paragraph (2), it shall not be in order in the Senate to consider any bill, joint resolution, motion, amendment, or conference report that would provide an advance appropriation.

(2) EXCEPTION.—An advance appropriation may be provided for fiscal year 2006 for programs, projects, activities, or accounts identified in the joint explanatory statement of managers accompanying this resolution under the heading "Accounts Identified for Advance Appropriations" in an aggregate amount not to exceed $23,158,000,000 in new budget authority.

(3) WAIVER AND APPEALS.—

(A) WAIVER.—In the Senate, paragraph (1) may be waived or suspended only by an affirmative vote of three-fifths of the Members, duly chosen and sworn. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under paragraph (1).

(B) PROCEDURE.—A point of order under paragraph (1) may be raised by a Senator as provided in section 313(e) of the Congressional Budget Act of 1974.

(C) CONFERENCE REPORT.—If a point of order is sustained under paragraph (1) against a conference report in the Senate, the report shall be disposed of as provided in section 313(d) of the Congressional Budget Act of 1974.

(4) ADVANCE APPROPRIATION.—In this subsection, the term "advance appropriation" means any discretionary new budget authority in a bill or joint resolution making general appropriations or continuing appropriations for fiscal year 2005 that first becomes available for any fiscal year after 2005.

(5) REPEAL.—Section 501 of H. Con. Res. 95 (108th Congress) is repealed.

(b) HOUSE.—

(1) IN GENERAL.—(A) In the House, except as provided in paragraph (2), an advance appropriation may not be reported in a bill or joint resolution making a general appropriation or continuing appropriation, and may not be in order as an amendment thereto.

(B) Managers on the part of the House may not agree to a Senate amendment that would violate subparagraph (A) unless specific authority to agree to the amendment first is given by the House by a separate vote with respect thereto.

(2) LIMITATION.—In the House, an advance appropriation may be provided for fiscal year 2006 for programs, projects, activities or accounts identified in the joint explanatory statement of managers accompanying this resolution under the heading "Accounts Identified for Advance Appropriations, Part A" in an aggregate amount not to exceed $23,158,000,000 in new budget authority, and an advance appropriation may be provided for fiscal year 2007 for any program identified in such statement under the heading "Accounts Identified for Advance Appropriations, Part B".

(3) DEFINITION.—In this subsection, the term "advance appropriation" means any discretionary new budget authority in a bill or joint resolution making general appropriations or continuing appropriations for fiscal year 2005 that first becomes available for any fiscal year after 2005.

SEC. 402. EMERGENCY LEGISLATION.

(a) EXEMPTION OF EMERGENCY PROVISIONS.—

(1) IN GENERAL.—In the House and Senate, if a bill, joint resolution, amendment, or conference report designates a provision as an emergency requirement pursuant to this section, then the new budget authority, new entitlement authority, outlays, and receipts resulting therefrom shall not count for purposes of sections 302, 303, 311, and 401 of the Congressional Budget Act of 1974 or any concurrent resolution on the budget and, in the Senate only, shall not count for the purpose of sections 404 (relating to discretionary spending limits in the Senate) and 407 (relating to the pay-go requirement) of this resolution.

(2) DESIGNATIONS.—

(A) GUIDANCE.—If a provision of legislation is designated as an emergency requirement under paragraph (1), the committee report and any joint explanatory statement of managers accompanying that legislation shall include an explanation of the manner in which the provision meets the criteria in subparagraph (B). If such legislation is to be considered by the House without being reported, then the committee shall cause the explanation to be published in the Congressional Record in advance of floor consideration.

(B) CRITERIA.—

(i) IN GENERAL.—Any such provision is an emergency requirement if the underlying situation poses a threat to life, property, or national security and is—

(I) sudden, quickly coming into being, and not building up over time;

(II) an urgent, pressing, and compelling need requiring immediate action;

(III) subject to clause (ii), unforeseen, unpredictable, and unanticipated; and

(IV) not permanent, temporary in nature.

(ii) UNFORESEEN.—An emergency that is part of an aggregate level of anticipated emergencies, *particularly when normally estimated in advance, is not unforeseen.*

(b) Point of Order in the Senate.—

(1) Definitions.—In this subsection, the terms "direct spending", "receipts", and "appropriations for discretionary accounts" means any provision of a bill, joint resolution, amendment, motion, or conference report that affects direct spending, receipts, or appropriations as those terms have been defined and interpreted for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

(2) Point of order.—When the Senate is considering a bill, resolution, amendment, motion, or conference report, if a point of order is made by a Senator against an emergency designation in that measure, that provision making such a designation shall be stricken from the measure and may not be offered as an amendment from the floor.

(3) Waiver and appeal.—Paragraph (2) may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members, duly chosen and sworn. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(4) Definition of an emergency designation.—For purposes of paragraph (2), a provision shall be considered an emergency designation if it designates any item as an emergency requirement pursuant to this section.

(5) Form of the point of order.—A point of order under paragraph (2) may be raised by a Senator as provided in section 313(e) of the Congressional Budget Act of 1974.

(6) Conference reports.—If a point of order is sustained under paragraph (2) against a conference report, the report shall be disposed of as provided in section 313(d) of the Congressional Budget Act of 1974.

(7) Exception for defense spending.—Paragraph (2) shall not apply against an emergency designation for a provision making discretionary appropriations in the defense category.

(c) Repeal.—Section 502 of H. Con. Res. 95 (108th Congress) is repealed.

SEC. 403. EXEMPTION OF OVERSEAS CONTINGENCY OPERATIONS.

In the House and Senate, if a bill, joint resolution, amendment, or a conference report makes supplemental appropriations for fiscal year 2005 for overseas contingency operations related to the global war on terrorism, then the new budget authority, new entitlement authority, and outlays resulting from the provisions of such measure that are designated pursuant to this section as making appropriations for such contingency operations shall not count for purposes of sections 302, 303, and 401 of the Congressional Budget Act of 1974 and, in the Senate only, shall not count for the purpose of section 404 (relating to discretionary spending limits in the Senate and 407 (relating to the pay-go requirement) of this resolution, except that the amounts that are not counted for purposes of this section shall not exceed $50,000,000,000 in new budget authority.

SEC. 404. DISCRETIONARY SPENDING LIMITS IN THE SENATE.

(a) Discretionary Spending Limits.—In the Senate and as used in this section, the term "discretionary spending limit" means for fiscal year 2005—

(1) $812,773,000,000 in new budget authority and $818,285,000,000 in outlays for the discretionary category;

(2) for the highway category, $33,393,000,000 in outlays; and

(3) for the mass transit category, $1,488,000,000 in new budget authority, and $6,726,000,000 in outlays.

(b) Discretionary Spending Point of Order in the Senate.—

(1) In general.—Except as otherwise provided in this subsection, it shall not be in order in the Senate to consider any bill or joint resolution or amendment, motion, or conference report thereon that would exceed any of the discretionary spending limits in this section.

(2) Waiver.—This subsection may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(3) Appeals.—Appeals in the Senate from the decisions of the Chair relating to any provision of this subsection shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this subsection.

(c) Adjustments.—

(1) In general.—

(A) Chairman.—After the reporting of a bill or joint resolution, or the offering of an amendment thereto or the submission of a conference report thereon, the chairman of the Committee on the Budget may make the adjustments set forth in subparagraph (B) for the amount of new budget authority in that measure (if that measure meets the requirements set forth in paragraph (2)) and the outlays flowing from that budget authority.

(B) Matters to be adjusted.—The adjustments referred to in subparagraph (A) are to be made to—

(i) the discretionary spending limits, if any, set forth in the appropriate concurrent resolution on the budget;

(ii) the allocations made pursuant to the appropriate concurrent resolution on the budget pursuant to section 302(a) of the Congressional Budget Act of 1974; and

(iii) the budgetary aggregates as set forth in the appropriate concurrent resolution on the budget.

(2) Amounts of adjustments.—The adjustment referred to in paragraph (1) shall be—

(A) an amount provided for transportation under section 311;

(B) an amount provided for fire suppression pursuant to section 312; and

(C) the amounts provided in section 313.

(3) Reporting revised suballocations.—Following any adjustment made under paragraph (1), the Committee on Appropriations of the Senate shall report appropriately revised suballocations under section 302(b) to carry out this subsection.

(d) Repeal.—Section 504 of H. Con. Res. 95 (108th Congress) is repealed.

SEC. 405. ADJUSTMENTS TO REFLECT CHANGES IN CONCEPTS AND DEFINITIONS.

(a) Changes in Concepts and Definitions.—In the House and Senate, upon the enactment of a bill or joint resolution providing for a change in concepts or definitions, the chairman of the Committee on the Budget shall make adjustments to the levels and allocations in this resolution in accordance with section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (as in effect prior to September 30, 2002).

(b) Miscellaneous Adjustments.—

(1) Senate.—In the Senate, for fiscal year 2005, if a bill is reported, or an amendment thereto is offered or a conference report thereon is submitted, that changes offsetting receipts collected from the Power Marketing Administration into offsetting collections credited against the allocation of the Committee on Appropriations, the chairman of the Committee on the Budget may adjust the appropriate allocations and levels by the amount of new budget authority provided by that measure (and outlays flowing therefrom) for the Army Corps of Engineers and the Pick-Sloan Missouri Basin Project within the Bureau of Reclamation, but not to exceed the amount of forgone offsetting receipts.

(2) House.—In the House, the chairman of the Committee on the Budget may reduce the revenue aggregates and increase the allocations to the Committee on Ways and Means and other appropriate spending aggregates for legislation that extends the child tax credit, other than measures considered pursuant to section 211, to the extent such adjustments are deficit neutral for fiscal year 2005 and for the period covered by this resolution.

SEC. 406. APPLICATION AND EFFECT OF CHANGES IN ALLOCATIONS AND AGGREGATES.

(a) Application.—Any adjustments of allocations and aggregates made pursuant to this resolution shall—

(1) apply while that measure is under consideration;

(2) take effect upon the enactment of that measure; and

(3) be published in the Congressional Record as soon as practicable.

(b) Effect of Changed Allocations and Aggregates.—Revised allocations and aggregates resulting from these adjustments shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations and aggregates contained in this resolution.

(c) Budget Committee Determinations.—For purposes of this resolution—

(1) the levels of new budget authority, outlays, direct spending, new entitlement authority, revenues, deficits, and surpluses for a fiscal year or period of fiscal years shall be determined on the basis of estimates made by the appropriate Committee on the Budget; and

(2) such chairman may make any other necessary adjustments to such levels to carry out this resolution.

(d) Amendment in the House.—In the House, for purposes of titles II and III, the term "amendment" or "amendment thereto" means an amendment offered or an amendment made in order as original text, or considered as adopted by special order of the House.

(e) Allocations.—The allocations set forth in the joint explanatory statement accompanying this resolution made under section 302(a)(1) of the Congressional Budget Act of 1974 shall be for fiscal year 2005 and (except in the case of the Committee on Appropriations) for the period of fiscal years covered by this resolution.

SEC. 407. PAY-AS-YOU-GO POINT OF ORDER IN THE SENATE.

(a) Point of Order.—

(1) In general.—It shall not be in order in the Senate to consider any direct spending or revenue legislation that would increase the on-budget deficit or cause an on-budget deficit for any one of the three applicable time periods as measured in paragraphs (5) and (6).

(2) Applicable time periods.—For purposes of this subsection, the term "applicable time period" means any 1 of the 3 following periods:

(A) The first year covered by the most recently adopted concurrent resolution on the budget.

(B) The period of the first 5 fiscal years covered by the most recently adopted concurrent resolution on the budget.

(C) The period of the 5 fiscal years following the first 5 fiscal years covered in the most recently adopted concurrent resolution on the budget.

(3) Direct-spending legislation.—For purposes of this subsection and except as provided in paragraph (4), the term "direct-spending legislation" means any bill, joint resolution, amendment, motion, or conference report that affects direct spending as that term is defined by, and interpreted for purposes of, the Balanced Budget and Emergency Deficit Control Act of 1985.

(4) EXCLUSION.—For purposes of this subsection, the terms "direct-spending legislation" and "revenue legislation" do not include—

(A) any concurrent resolution on the budget;

(B) any provision of legislation that affects the full funding of, and continuation of, the deposit insurance guarantee commitment in effect on the date of enactment of the Budget Enforcement Act of 1990; or

(C) any legislation considered pursuant to title II of this resolution.

(5) BASELINE.—Estimates prepared pursuant to this section shall—

(A) use the baseline surplus or deficit used for the most recently adopted concurrent resolution on the budget; and

(B) be calculated under the requirements of subsections (b) through (d) of section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 for fiscal years beyond those covered by that concurrent resolution on the budget.

(6) PRIOR SURPLUS.—If direct spending or revenue legislation increases the on-budget deficit or causes an on-budget deficit when taken individually, it must also increase the on-budget deficit or cause an on-budget deficit when taken together with all direct spending and revenue legislation enacted since the beginning of the calendar year not accounted for in the baseline under paragraph (5)(A), except that direct spending or revenue effects resulting in net deficit reduction enacted pursuant to reconciliation instructions since the beginning of that same calendar year shall not be available.

(b) WAIVER.—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(c) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(d) DETERMINATION OF BUDGET LEVELS.—For purposes of this section, the levels of new budget authority, outlays, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

(e) REPEAL.—Section 505 of H. Con. Res. 95 (108th Congress) is repealed.

(f) SUNSET.—This section shall expire on April 15, 2005.

SEC. 408. COMPLIANCE WITH SECTION 13301 OF THE BUDGET ENFORCEMENT ACT OF 1990.

(a) IN GENERAL.—In the House, notwithstanding section 302(a)(1) of the Congressional Budget Act of 1974 and section 13301 of the Budget Enforcement Act of 1990, the joint explanatory statement accompanying the conference report on any concurrent resolution on the budget shall include in its allocation under section 302(a) of the Congressional Budget Act of 1974 to the Committee on Appropriations amounts for the discretionary administrative expenses of the Social Security Administration.

(b) SPECIAL RULE.—In the House, for purposes of applying section 302(f) of the Congressional Budget Act of 1974, estimates of the level of total new budget authority and total outlays provided by a measure shall include any discretionary amounts provided for the Social Security Administration.

Subtitle B—Report Submissions

SEC. 411. SUBMISSION OF REPORT ON DEFENSE SAVINGS.

Not later than June 25, 2004, the Committees on Armed Services of the House and the Senate shall submit to the relevant Committee on the Budget (and publish in the Congressional Record) its findings that identify $2,000,000,000 in savings from (1) activities that are determined to be of a low priority to the successful execution of current military operations; and (2) activities that are determined to be wasteful or unnecessary to national defense. Funds identified should be reallocated to programs and activities that directly contribute to enhancing the combat capabilities of the U.S. military forces with an emphasis on force protection, munitions and surveillance capabilities.

SEC. 412. SUBMISSION OF REPORT ON HOMELAND SECURITY.

In the House and Senate, not later than June 25, 2004, the Select Committee on Homeland Security and the Committee on Governmental Affairs respectively, shall submit to the corresponding Committees on the Budget (and publish in the Congressional Record) a report identifying no less than $150,000,000 in savings from—

(1) activities that are determined to be of low priority to the successful execution of current domestic homeland security operations; and

(2) activities that are determined to be wasteful or unnecessary to homeland security.

Funds identified should be accompanied by recommendations on reallocation to programs and activities that are considered top priority activities or directly contribute to enhancing the defense of our homeland.

Subtitle C—Exercise of Rulemaking Powers

SEC. 421. EXERCISE OF RULEMAKING POWERS.

Congress adopts the provisions of this title—

(1) as an exercise of the rulemaking power of the Senate and the House, respectively, and as such they shall be considered as part of the rules of each House, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change those rules (so far as they relate to that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

TITLE V—REQUIRED LEVELS AND AMOUNTS FOR OUTYEARS.

SEC. 501. RECOMMENDED LEVELS AND AMOUNTS.

In accordance with section 301(a) of the Congressional Budget Act of 1974 (requiring levels for at least 4 years following the budget year), the following budgetary levels are appropriate for the fiscal years 2006 through 2009:

(1) FEDERAL REVENUES.—For purposes of the enforcement of this resolution—

(A) The recommended levels of Federal revenues are as follows:

Fiscal year 2006: $1,634,152,000,000.

Fiscal year 2007: $1,753,744,000,000.

Fiscal year 2008: $1,844,828,000,000.

Fiscal year 2009: $1,950,926,000,000.

(B) The amounts by which the aggregate levels of Federal revenues should be changed are as follows:

Fiscal year 2006: −$21,416,000,000.

Fiscal year 2007: $0.

Fiscal year 2008: $0.

Fiscal year 2009: $0.

(2) NEW BUDGET AUTHORITY.—For purposes of the enforcement of this resolution, the appropriate levels of total new budget authority are as follows:

Fiscal year 2006: $2,068,452,000,000.

Fiscal year 2007: $2,178,188,000,000.

Fiscal year 2008: $2,287,795,000,000.

Fiscal year 2009: $2,398,895,000,000.

(3) BUDGET OUTLAYS.—For purposes of the enforcement of this resolution, the appropriate levels of total budget outlays are as follows:

Fiscal year 2006: $2,082,187,000,000.

Fiscal year 2007: $2,155,801,000,000.

Fiscal year 2008: $2,254,981,000,000.

Fiscal year 2009: $2,363,019,000,000.

(4) DEFICITS.—For purposes of the enforcement of this resolution, the amounts of the deficits are as follows:

Fiscal year 2006: $448,035,000,000.

Fiscal year 2007: $402,057,000,000.

Fiscal year 2008: $410,153,000,000.

Fiscal year 2009: $412,093,000,000.

(5) DEBT SUBJECT TO LIMIT.—Pursuant to section 301(a)(5) of the Congressional Budget Act of 1974, the appropriate levels of the public debt are as follows:

Fiscal year 2006: $8,645,824,000,000.

Fiscal year 2007: $9,168,812,000,000.

Fiscal year 2008: $9,699,909,000,000.

Fiscal year 2009: $10,235,831,000,000.

(6) DEBT HELD BY THE PUBLIC.—The appropriate levels of the debt held by the public are as follows:

Fiscal year 2006: $5,030,718,000,000.

Fiscal year 2007: $5,237,335,000,000.

Fiscal year 2008: $5,436,448,000,000.

Fiscal year 2009: $5,623,726,000,000.

SEC. 502. SOCIAL SECURITY.

(a) SOCIAL SECURITY REVENUES.—For purposes of Senate enforcement under sections 302 and 311 of the Congressional Budget Act of 1974, the amounts of revenues of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:

Fiscal year 2006: $600,872,000,000.

Fiscal year 2007: $629,263,000,000.

Fiscal year 2008: $658,631,000,000.

Fiscal year 2009: $689,510,000,000.

(b) SOCIAL SECURITY OUTLAYS.—For purposes of Senate enforcement under sections 302 and 311 of the Congressional Budget Act of 1974, the amounts of outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:

Fiscal year 2006: $406,380,000,000.

Fiscal year 2007: $419,538,000,000.

Fiscal year 2008: $433,728,000,000.

Fiscal year 2009: $450,526,000,000.

(c) SOCIAL SECURITY ADMINISTRATIVE EXPENSES.—In the Senate, the amounts of new budget authority and budget outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for administrative expenses are as follows:

Fiscal year 2006:

(A) New budget authority, $4,334,000,000.

(B) Outlays, $4,273,000,000.

Fiscal year 2007:

(A) New budget authority, $4,429,000,000.

(B) Outlays, $4,361,000,000.

Fiscal year 2008:

(A) New budget authority, $4,526,000,000.

(B) Outlays, $4,455,000,000.

Fiscal year 2009:

(A) New budget authority, $4,626,000,000.

(B) Outlays, $4,552,000,000.

SEC. 503. MAJOR FUNCTIONAL CATEGORIES.

Congress determines and declares that the appropriate levels of new budget authority and budget outlays for fiscal years 2006 through 2009 for each major functional category are:

(1) National Defense (050):

Fiscal year 2006:

(A) New budget authority, $432,366,000,000.

(B) Outlays, $452,218,00,000.

Fiscal year 2007:

(A) New budget authority, $442,103,000,000.

(B) Outlays, $434,750,000,000.

Fiscal year 2008:

(A) New budget authority, $452,073,000,000.

(B) Outlays, $438,532,000,000.

Fiscal year 2009:

(A) New budget authority, $462,069,000,000.

(B) Outlays, $447,384,000,000.

(2) International Affairs (150):

Fiscal year 2006:

(A) New budget authority, $30,619,000,000.

(B) Outlays, $32,248,000,000.

Fiscal year 2007:

(A) New budget authority, $31,291,000,000.

(B) Outlays, $29,599,000,000.

Fiscal year 2008:

(A) New budget authority, $31,977,000,000.

(B) Outlays, $28,793,000,000.

Fiscal year 2009:

(A) New budget authority, $32,677,000,000.

(B) Outlays, $29,123,000,000.

(3) General Science, Space, and Technology (250):

Fiscal year 2006:

(A) New budget authority, $24,406,000,000.

(B) Outlays, $23,864,000,000.

Fiscal year 2007:

(A) New budget authority, $24,943,000,000.

(B) Outlays, $24,316,000,000.

Fiscal year 2008:

(A) New budget authority, $25,491,000,000.

(B) Outlays, $24,755,000,000.

Fiscal year 2009:

(A) New budget authority, $26,052,000,000.

(B) Outlays, $25,287,000,000.

(4) Energy (270):

Fiscal year 2006:

(A) New budget authority, $3,122,000,000.

(B) Outlays, $1,866,000,000.

Fiscal year 2007:

(A) New budget authority, $3,253,000,000.

(B) Outlays, $1,619,000,000.

Fiscal year 2008:

(A) New budget authority, $3,090,000,000.

(B) Outlays, $1,113,000,000.

Fiscal year 2009:

(A) New budget authority, $2,730,000,000.

(B) Outlays, $1,318,000,000.

(5) Natural Resources and Environment (300):

Fiscal year 2006:

(A) New budget authority, $32,942,000,000.

(B) Outlays, $32,931,000,000.

Fiscal year 2007:

(A) New budget authority, $33,755,000,000.

(B) Outlays, $33,655,000,000.

Fiscal year 2008:

(A) New budget authority, $34,443,000,000.

(B) Outlays, $34,118,000,000.

Fiscal year 2009:

(A) New budget authority, $35,923,000,000.

(B) Outlays, $35,413,000,000.

(6) Agriculture (350):

Fiscal year 2006:

(A) New budget authority, $23,914,000,000.

(B) Outlays, $22,748,000,000.

Fiscal year 2007:

(A) New budget authority, $24,920,000,000.

(B) Outlays, $23,758,000,000.

Fiscal year 2008:

(A) New budget authority, $24,865,000,000.

(B) Outlays, $23,735,000,000.

Fiscal year 2009:

(A) New budget authority, $25,928,000,000.

(B) Outlays, $24,917,000,000.

(7) Commerce and Housing Credit (370):

Fiscal year 2006:

(A) New budget authority, $8,720,000,000.

(B) Outlays, $4,292,000,000.

Fiscal year 2007:

(A) New budget authority, $8,191,000,000.

(B) Outlays, $2,744,000,000.

Fiscal year 2008:

(A) New budget authority, $8,154,000,000.

(B) Outlays, $1,485,000,000.

Fiscal year 2009:

(A) New budget authority, $8,014,000,000.

(B) Outlays, $1,202,000,000.

(8) Transportation (400):

Fiscal year 2006:

(A) New budget authority, $73,253,000,000.

(B) Outlays, $71,302,000,000.

Fiscal year 2007:

(A) New budget authority, $75,911,000,000.

(B) Outlays, $73,633,000,000.

Fiscal year 2008:

(A) New budget authority, $77,709,000,000.

(B) Outlays, $75,611,000,000.

Fiscal year 2009:

(A) New budget authority, $79,072,000,000.

(B) Outlays, $77,027,000,000.

(9) Community and Regional Development (450):

Fiscal year 2006:

(A) New budget authority, $13,607,000,000.

(B) Outlays, $14,457,000,000.

Fiscal year 2007:

(A) New budget authority, $13,905,000,000.

(B) Outlays, $14,231,000,000.

Fiscal year 2008:

(A) New budget authority, $14,127,000,000.

(B) Outlays, $14,032,000,000.

Fiscal year 2009:

(A) New budget authority, $14,439,000,000.

(B) Outlays, $14,318,000,000.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 2006:

(A) New budget authority, $95,108,000,000.

(B) Outlays, $93,772,000,000.

Fiscal year 2007:

(A) New budget authority, $97,167,000,000.

(B) Outlays, $95,389,000,000.

Fiscal year 2008:

(A) New budget authority, $99,113,000,000.

(B) Outlays, $97,331,000,000.

Fiscal year 2009:

(A) New budget authority, $101,229,000,000.

(B) Outlays, $99,469,000,000.

(11) Health (550):

Fiscal year 2006:

(A) New budget authority, $257,888,000,000.

(B) Outlays, $257,875,000,000.

Fiscal year 2007:

(A) New budget authority, $272,290,000,000.

(B) Outlays, $271,481,000,000.

Fiscal year 2008:

(A) New budget authority, $292,081,000,000.

(B) Outlays, $291,298,000,000.

Fiscal year 2009:

(A) New budget authority, $314,270,000,000.

(B) Outlays, $311,345,000,000.

(12) Medicare (570):

Fiscal year 2006:

(A) New budget authority, $322,742,000,000.

(B) Outlays, $322,339,000,000.

Fiscal year 2007:

(A) New budget authority, $362,593,000,000.

(B) Outlays, $362,827,000,000.

Fiscal year 2008:

(A) New budget authority, $387,739,000,000.

(B) Outlays, $387,718,000,000.

Fiscal year 2009:

(A) New budget authority, $414,248,000,000.

(B) Outlays, $413,776,000,000.

(13) Income Security (600):

Fiscal year 2006:

(A) New budget authority, $342,290,000,000.

(B) Outlays, $345,570,000,000.

Fiscal year 2007:

(A) New budget authority, $343,329,000,000.

(B) Outlays, $345,588,000,000.

Fiscal year 2008:

(A) New budget authority, $356,872,000,000.

(B) Outlays, $358,513,000,000.

Fiscal year 2009:

(A) New budget authority, $366,779,000,000.

(B) Outlays, $367,788,000,000.

(14) Social Security (650):

Fiscal year 2006:

(A) New budget authority, $16,779,000,000.

(B) Outlays, $16,779,000,000.

Fiscal year 2007:

(A) New budget authority, $18,269,000,000.

(B) Outlays, $18,269,000,000.

Fiscal year 2008:

(A) New budget authority, $20,218,000,000.

(B) Outlays, $20,218,000,000.

Fiscal year 2009:

(A) New budget authority, $22,229,000,000.

(B) Outlays, $22,229,000,000.

(15) Veterans Benefits and Services (700):

Fiscal year 2006:

(A) New budget authority, $69,263,000,000.

(B) Outlays, $68,135,000,000.

Fiscal year 2007:

(A) New budget authority, $67,925,000,000.

(B) Outlays, $66,976,000,000.

Fiscal year 2008:

(A) New budget authority, $71,702,000,000.

(B) Outlays, $70,938,000,000.

Fiscal year 2009:

(A) New budget authority, $72,937,000,000.

(B) Outlays, $72,132,000,000.

(16) Administration of Justice (750):

Fiscal year 2006:

(A) New budget authority, $40,338,000,000.

(B) Outlays, $40,851,000,000.

Fiscal year 2007:

(A) New budget authority, $41,111,000,000.

(B) Outlays, $41,209,000,000.

Fiscal year 2008:

(A) New budget authority, $41,990,000,000.

(B) Outlays, $41,682,000,000.

Fiscal year 2009:

(A) New budget authority, $42,889,000,000.

(B) Outlays, $42,492,000,000.

(17) General Government (800):

Fiscal year 2006:

(A) New budget authority, $17,840,000,000.

(B) Outlays, $17,685,000,000.

Fiscal year 2007:

(A) New budget authority, $18,267,000,000.

(B) Outlays, $17,917,000,000.

Fiscal year 2008:

(A) New budget authority, $18,204,000,000.

(B) Outlays, $17,849,000,000.

Fiscal year 2009:

(A) New budget authority, $18,645,000,000.

(B) Outlays, $18,096,000,000.

(18) Net Interest (900):

Fiscal year 2006:

(A) New budget authority, $318,053,000,000.

(B) Outlays, $318,053,000,000.

Fiscal year 2007:

(A) New budget authority, $362,002,000,000.

(B) Outlays, $362,002,000,000.

Fiscal year 2008:

(A) New budget authority, $393,729,000,000.

(B) Outlays, $393,729,000,000.

Fiscal year 2009:

(A) New budget authority, $419,915,000,000.

(B) Outlays, $419,915,000,000.

(19) Allowances (920):

Fiscal year 2006:

(A) New budget authority, $0.

(B) Outlays, $0.

Fiscal year 2007:

(A) New budget authority, $0.

(B) Outlays, $0.

Fiscal year 2008:

(A) New budget authority, $0.

(B) Outlays, $0.

Fiscal year 2009:

(A) New budget authority, $0.

(B) Outlays, $0.

(20) Undistributed Offsetting Receipts (950):

Fiscal year 2006:

(A) New budget authority, −$54,798,000,000.

(B) Outlays, −$54,798,000,000.

Fiscal year 2007:

(A) New budget authority, −$63,037,000,000.

(B) Outlays, −$64,162,000,000.

Fiscal year 2008:

(A) New budget authority, −$65,782,000,000.

(B) Outlays, −$66,469,000,000.

Fiscal year 2009:

(A) New budget authority, −$61,150,000,000.

(B) Outlays, −$60,212,000,000.

TITLE VI—SENSE OF THE SENATE AND SENSE OF THE HOUSE

Subtitle A—Sense of the Senate

SEC. 601. SENSE OF THE SENATE ON BUDGET PROCESS REFORM.

It is the sense of the Senate that Congress and the President should work together to enact *budget process reform legislation that would include mechanisms to restrain Government spending. Such legislation may include—*

(1) deficit targets that, when exceeded, would result in across-the-board reductions in Federal spending except Social Security, Medicare, and Veterans' benefits;

(2) revision of the content of budget resolutions to increase their focus on aggregate levels, and to include easily understood enforcement tools such as—

(A) discretionary spending limits;

(B) pay-as-you-go; and

(C) explicit committee allocations;

(3) emergency spending procedures which budget for emergency needs;

(4) pay-as-you-go limitations which apply to non-budget expenditures;

(5) limitations on unauthorized appropriations; and

(6) enhanced rescission or constitutional line-item veto authority for the President.

SEC. 602. SENSE OF THE SENATE ON BUDGET PROCESS REFORM WITH REGARD TO THE CREATION OF BIPARTISAN COMMISSIONS TO COMBAT WASTE, FRAUD, AND ABUSE AND TO PROMOTE SPENDING EFFICIENCY.

(a) WASTE, FRAUD, AND ABUSE.—It is the sense of the Senate that legislation should be enacted that would create a bipartisan commission for the purpose of—

(1) submitting recommendations on ways to eliminate waste, fraud, and abuse; and

(2) to provide recommendations on ways in which to achieve cost savings through enhancing program efficiencies in all discretionary and entitlement programs.

The findings of the commission should be made on an annual basis, and should be presented in conjunction with the submission of the President's budget request to Congress.

(b) EFFICIENCY.—It is the sense of the Senate that a bipartisan commission should be established to—

(1) audit Federal domestic agencies, and programs within such agencies, with the express purpose of providing Congress with recommendations, and legislation;

(2) implement those recommendations; and

(3) realign or eliminate government agencies and programs that are duplicative, inefficient, outdated, irrelevant, or have failed to accomplish their intended purpose.

The findings of the commission should be made on an annual basis, and should be presented in conjunction with the submission of the President's budget request to Congress.

SEC. 603. SENSE OF THE SENATE ON THE RELATIONSHIP BETWEEN ANNUAL DEFICIT SPENDING AND INCREASES IN DEBT SERVICE COSTS.

It is the sense of the Senate that the Congressional Budget Office shall consult with the Committee on the Budget of the Senate in order to prepare a report containing a discussion of—

(1) the relationship between annual deficit spending and increases in debt service costs;

(2) the relationship between incremental increases in discretionary spending and debt service costs; and

(3) the feasibility of providing estimates of debt service costs in the cost estimates prepared pursuant to section 308 of the Congressional Budget Act of 1974.

SEC. 604. SENSE OF THE SENATE REGARDING THE COSTS OF THE MEDICARE PRESCRIPTION DRUG PROGRAM.

It is the sense of the Senate that the Committee on Finance of the Senate should report a bill that consists of changes in laws within its jurisdiction sufficient to ensure that spending within part D of the Medicare Prescription Drug Benefit program in fiscal years 2005 through 2013 does not exceed the total of $409,000,000,000 as estimated by the Congressional Budget Office.

SEC. 605. SENSE OF THE SENATE ON RETURNING STABILITY TO PAYMENTS UNDER MEDICARE PHYSICIAN FEE SCHEDULE.

It is the sense of the Senate that, while recent actions by Congress have helped address the immediate reductions in reimbursement, further action by Congress is urgently needed to put in place a new formula or mechanism for updating Medicare physician fees in 2006 and thereafter, in order to ensure—

(1) the long-term stability of the Medicare payment system for physicians and other health care professionals, such that payment rates keep pace with practice cost increases; and

(2) future access to physicians' services for Medicare beneficiaries.

SEC. 606. SENSE OF THE SENATE SUPPORTING FUNDING RESTORATION FOR AGRICULTURE RESEARCH AND EXTENSION.

It is the sense of the Senate that in making appropriations and revenue decisions, the Senate supports—

(1) the restoration of the 33 accounts of the Cooperative State Research, Education, and Extension Service;

(2) the fiscal year 2005 funding of the National Research Initiative; and

(3) the fiscal year 2005 funding of competitive research programs of the Cooperative State Research, Education, and Extension Service in an amount that is adequate to—

(A) fight obesity and stave off chronic diseases;

(B) combat insects and animal and plant diseases;

(C) establish new crops, improved livestock, and economic opportunities for producers; and

(D) keep pathogens and other dangers out of the air, water, soil, plants, and animals.

SEC. 607. SENSE OF THE SENATE CONCERNING A NATIONAL ANIMAL IDENTIFICATION PROGRAM.

It is the sense of the Senate that in making appropriations and revenue decisions, the Senate supports—

(1) the development and implementation of a national animal identification program recognizing the need for resources to carry out the implementation of the plan;

(2) the provision by the Secretary of Agriculture of a time-line for the development and implementation of the program as soon as practicable after the date of approval of this concurrent resolution;

(3) the provision by the Secretary of Agriculture to ensure the Animal and Plant Health Inspection Service, State animal health agencies, and agricultural producers are provided funds necessary to implement a national animal identification program; and

(4) the establishment of a program that is not overly burdensome to agricultural producers and ensures the privacy of information of agricultural producers.

SEC. 608. SENSE OF THE SENATE REGARDING CONTRIBUTIONS TO THE GLOBAL FUND TO FIGHT AIDS, TUBERCULOSIS, AND MALARIA.

It is the sense of the Senate that appropriations Acts should provide sufficient funds to continue matching contributions from other sources to The Global Fund to Fight AIDS, Tuberculosis, and Malaria on a 1 to 2 basis.

SEC. 609. SENSE OF THE SENATE CONCERNING CHILD NUTRITION FUNDING.

It is the sense of the Senate that the levels in this concurrent resolution assume additional funds for the reauthorization of Federal child nutrition programs.

SEC. 610. SENSE OF THE SENATE REGARDING COMPENSATION FOR EXPOSURE TO TOXIC SUBSTANCES AT THE DEPARTMENT OF ENERGY.

It is the sense of the Senate that—

(1) claims for occupational illness, which are determined to be caused by exposure to toxic substances at Department of Energy facilities under subtitle D of the EEOICPA, should be promptly, equitably, and efficiently compensated;

(2) administrative and technical changes should be made to the EEOICPA to—

(A) improve claims processing and review by physicians panels to ensure cost-effective and efficient consideration and determination of workers' claims;

(B) provide for membership in additional special exposure cohorts; and

(C) address eligibility issues at facilities with residual radiation; and

(3) the President and Congress should work together at the earliest opportunity to develop a plan that effectively resolves the issue of a lack of a willing payor for many claims that are determined under subtitle D of the EEOICPA to be related to exposure to a toxic substance at Department of Energy facilities.

SEC. 611. SENSE OF THE SENATE REGARDING TAX INCENTIVES FOR CERTAIN RURAL COMMUNITIES.

It is the sense of the Senate that if tax relief measures are enacted in accordance with the assumptions in the budget resolution in this session of Congress, such legislation should include incentives to help rural communities attract individuals to live and work and start and grow a business in those communities.

SEC. 612. SENSE OF THE SENATE CONCERNING SUMMER FOOD PILOT PROJECTS.

It is the sense of the Senate that sufficient funds should be provided to the Food and Nutrition Service and other appropriate agencies within the Department of Agriculture to enable those agencies to expand the summer food pilot projects established under section 18(f) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769(f)) to all States of the United States and to all service institutions (including service institutions described in section 13(a)(7) of that Act).

SEC. 613. SENSE OF THE SENATE REGARDING CLOSING THE "TAX GAP".

It is the sense of the Senate that the Internal Revenue Service should be provided the resources necessary to increase enforcement activities that would be concentrated on efforts to reduce the tax gap substantially by the end of fiscal year 2009.

Subtitle B—Sense of the House

SEC. 621. SENSE OF THE HOUSE ON ENTITLEMENT REFORM.

(a) FINDINGS.—The House finds that welfare was successfully reformed through the application of work requirements, education and training opportunity, and time limits on eligibility.

(b) SENSE OF THE HOUSE.—It is the sense of the House that authorizing committees should—

(1) systematically review all means-tested entitlement programs and track beneficiary participation across programs and time;

(2) enact legislation to develop common eligibility requirements for means-tested entitlement programs;

(3) enact legislation to accurately rename means-tested entitlement programs;

(4) enact legislation to coordinate program benefits in order to limit to a reasonable period of time the Government dependency of means-tested entitlement program participants;

(5) evaluate the costs of, and justifications for, nonmeans-tested, nonretirement-related entitlement programs; and

(6) identify and utilize resources that have conducted cost-benefit analyses of participants

in multiple means- and nonmeans-tested entitlement programs to understand their cumulative costs and collective benefits.

Subtitle C—Sense of Congress

SEC. 631. SENSE OF CONGRESS ON SPENDING ACCOUNTABILITY.

It is the sense of Congress that—

(1) authorizing committees should actively engage in oversight utilizing—

(A) the plans and goals submitted by executive agencies pursuant to the Government Performance and Results Act of 1993; and

(B) the performance evaluations submitted by such agencies (that are based upon the Program Assessment Rating Tool which is designed to improve agency performance);

in order to enact legislation to eliminate waste, fraud, and abuse to ensure the efficient use of taxpayer dollars;

(2) all Federal programs should be periodically reauthorized and funding for unauthorized programs should be level-funded in fiscal year 2005 unless there is a compelling justification;

(3) committees should submit written justifications for earmarks and should consider not funding those most egregiously inconsistent with national policy;

(4) the fiscal year 2005 budget resolution should be vigorously enforced and legislation should be enacted establishing statutory limits on appropriations and a pay-as-you-go rule for new and expanded entitlement programs; and

(5) Congress should make every effort to offset nonwar-related supplemental appropriations.

And the House agree to the same.

JIM NUSSLE,
ROB PORTMAN,
Managers on the Part of the House.

DON NICKLES,
PETE DOMENICI,
CHUCK GRASSLEY,
JUDD GREGG,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the concurrent resolution (S. Con. Res. 95) setting forth the congressional budget for the United States Government for fiscal year 2005 and setting forth appropriate budgetary levels for fiscal years 2006 through 2009, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck all out of the Senate resolution after the resolving clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment that is a substitute for the Senate resolution and the House amendment. The differences between the Senate resolution, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

DISPLAYS AND AMOUNTS

The contents of concurrent budget resolutions are set forth in section 301(a) of the Congressional Budget Act of 1974. The years in this document are fiscal years unless otherwise noted.

Senate Resolution

The Senate resolution includes all of the items required as part of a concurrent budget resolution under section 301(a) of the Congressional Budget Act. The Senate resolution included the traditional function categories and set out levels for fiscal year 2005.

House Amendment

The House amendment includes all of the items required as part of a concurrent budget resolution under section 301(a) of the Congressional Budget Act. It also included a new separate functional category, function 100, for Homeland Security. As permitted under section 301(b) of the Congressional Budget Act, Section 101(6) of the House amendment includes advisory levels on debt held by the public. The House Amendment revised the levels for the current year, fiscal year 2004.

Conference Agreement

The conference agreement includes all of the items required as part of a concurrent budget resolution under section 301(a) of the Congressional Budget Act. As permitted under section 301(b) of the Congressional Budget Act, Section 101(6) of the conference agreement includes advisory levels on debt held by the public. The conference agreement does not include a function 100.

AGGREGATE AND FUNCTION LEVELS

The following tables are included in this section:

Conference Report on the Fiscal Year 2005 Budget Resolution: Aggregate and Function Levels
Senate-Passed Fiscal Year 2005 Budget Resolution: Aggregate and Function Levels
House-Passed Fiscal Year 2005 Amendment: Total Spending and Revenues
House-Passed Fiscal Year 2005 Amendment: Discretionary Spending
House-Passed Fiscal Year 2005 Amendment: Mandatory Spending

CONFERENCE RESOLUTION FOR FY 2005: AGGREGATE AND FUNCTION LEVELS
($ billions)

Function		2004	2005	2006	2007	2008	2009	2005-09
050 - National Defense	BA	463.617	472.157	432.366	442.103	452.073	462.069	2260.768
	OT	452.953	474.298	452.218	434.750	438.532	447.384	2247.182
Discretionary total	BA	459.098	470.794	429.210	438.653	448.303	458.166	2245.126
	OT	451.844	471.917	448.933	431.193	434.885	443.492	2230.420
Discretionary regular	BA	459.098	420.794	429.210	438.653	448.303	458.166	2195.126
	OT	451.844	447.067	430.333	426.093	433.885	443.242	2180.620
Discretionary overseas contingency operations	BA	0.000	50.000	0.000	0.000	0.000	0.000	50.000
	OT	0.000	24.850	18.600	5.100	1.000	0.250	49.800
Mandatory	BA	4.519	1.363	3.156	3.450	3.770	3.903	15.642
	OT	1.109	2.381	3.285	3.557	3.647	3.892	16.762
150 - International Affairs	BA	43.657	28.920	30.619	31.291	31.977	32.677	155.484
	OT	29.317	32.795	32.248	29.599	28.793	29.123	152.558
Discretionary	BA	48.653	29.277	29.863	30.520	31.191	31.877	152.728
	OT	34.122	35.791	34.691	32.169	31.278	31.593	165.522
Mandatory	BA	-4.996	-0.357	0.756	0.771	0.786	0.800	2.756
	OT	-4.805	-2.996	-2.443	-2.570	-2.485	-2.470	-12.964
250 - General Science, Space and Technology	BA	23.377	23.928	24.406	24.943	25.491	26.052	124.820
	OT	22.310	23.278	23.864	24.316	24.755	25.287	121.500
Discretionary	BA	23.338	23.898	24.376	24.912	25.460	26.020	124.666
	OT	22.221	23.167	23.756	24.276	24.724	25.256	121.179
Mandatory	BA	0.039	0.030	0.030	0.031	0.031	0.032	0.154
	OT	0.089	0.111	0.108	0.040	0.031	0.031	0.321
270 - Energy	BA	2.353	3.027	3.122	3.253	3.090	2.730	15.222
	OT	0.084	1.380	1.866	1.619	1.113	1.318	7.296
Discretionary	BA	3.597	3.626	3.699	3.780	3.863	3.948	18.916
	OT	3.345	3.761	3.787	3.780	3.843	3.889	19.060
Mandatory	BA	-1.244	-0.599	-0.577	-0.527	-0.773	-1.218	-3.694
	OT	-3.261	-2.381	-1.921	-2.161	-2.730	-2.571	-11.764
300 - Natural Resources and Environment	BA	32.340	32.128	32.942	33.755	34.443	35.923	169.191
	OT	30.462	31.418	32.931	33.655	34.118	35.413	167.535
Discretionary	BA	30.276	29.346	29.933	30.592	31.265	31.953	153.089
	OT	29.624	29.653	29.899	30.323	30.814	31.385	152.074
Mandatory	BA	2.064	2.782	3.009	3.163	3.178	3.970	16.102
	OT	0.838	1.765	3.032	3.332	3.304	4.028	15.461
350 - Agriculture	BA	20.221	21.797	23.914	24.920	24.865	25.928	121.424
	OT	18.772	21.035	22.748	23.758	23.735	24.917	116.193
Discretionary	BA	5.595	5.321	5.427	5.546	5.668	5.793	27.755
	OT	5.460	5.516	5.385	5.466	5.546	5.663	27.576
Mandatory	BA	14.626	16.476	18.487	19.374	19.197	20.135	93.669
	OT	13.312	15.519	17.363	18.292	18.189	19.254	88.617
370 - Commerce and Housing Credit	BA	14.673	7.184	5.920	5.291	4.854	4.514	27.763
	OT	10.340	1.158	1.492	-0.156	-1.815	-2.298	-1.619
Discretionary	BA	-0.773	-0.391	-0.399	-0.408	-0.417	-0.426	-2.041
	OT	-0.676	-0.193	-0.108	-0.112	-0.409	-0.486	-1.308
Mandatory	BA	15.446	7.575	6.319	5.699	5.271	4.940	29.804
	OT	11.016	1.351	1.600	-0.044	-1.406	-1.812	-0.311
370 on-budget	**BA**	**17.173**	**9.264**	**8.720**	**8.191**	**8.154**	**8.014**	**42.363**
	OT	**12.840**	**3.258**	**4.292**	**2.744**	**1.485**	**1.202**	**12.981**
Discretionary	**BA**	**-0.773**	**-0.391**	**-0.399**	**-0.408**	**-0.417**	**-0.426**	**-2.041**
	OT	**-0.676**	**-0.193**	**-0.108**	**-0.112**	**-0.409**	**-0.486**	**-1.308**
Mandatory	**BA**	**17.946**	**9.675**	**9.119**	**8.599**	**8.571**	**8.440**	**44.404**
	OT	**13.516**	**3.451**	**4.400**	**2.856**	**1.894**	**1.688**	**14.289**
400 - Transportation	BA	69.197	71.789	73.253	75.911	77.709	79.072	377.734
	OT	65.741	68.560	71.302	73.633	75.611	77.027	366.133
Discretionary	BA	23.713	24.126	24.609	25.150	25.703	26.268	125.856
	OT	63.888	66.378	69.049	71.457	73.327	74.957	355.168
Mandatory	BA	45.484	47.663	48.644	50.761	52.006	52.804	251.878
	OT	1.853	2.182	2.253	2.176	2.284	2.070	10.965
450 - Community and Regional Development	BA	16.732	13.612	13.607	13.905	14.127	14.439	69.690
	OT	16.673	17.386	14.457	14.231	14.032	14.318	74.424
Discretionary	BA	15.622	13.210	13.474	13.770	14.073	14.383	68.910
	OT	16.183	17.569	14.661	14.421	14.191	14.506	75.348
Mandatory	BA	1.110	0.402	0.133	0.135	0.054	0.056	0.780

Function		2004	2005	2006	2007	2008	2009	2005-09
	OT	0.490	-0.183	-0.204	-0.190	-0.159	-0.188	-0.924
500 - Education, Training, Employment and Social Services	BA	89.519	92.818	95.108	97.167	99.113	101.229	485.435
	OT	86.478	90.716	93.772	95.389	97.331	99.469	476.677
Discretionary	BA	78.008	80.999	82.619	84.437	86.295	88.193	422.543
	OT	77.048	80.700	82.739	84.156	85.916	87.774	421.285
Mandatory	BA	11.511	11.819	12.489	12.730	12.818	13.036	62.892
	OT	9.430	10.016	11.033	11.233	11.415	11.695	55.392
550 - Health	BA	241.824	252.426	257.888	272.290	292.081	314.270	1388.955
	OT	239.620	250.025	257.875	271.481	291.298	311.345	1382.024
Discretionary	BA	51.847	53.286	51.773	52.912	54.076	57.441	269.488
	OT	49.216	50.798	51.127	52.181	53.224	54.259	261.589
Mandatory	BA	189.977	199.140	206.115	219.378	238.005	256.829	1119.467
	OT	190.404	199.227	206.748	219.300	238.074	257.086	1120.435
570 - Medicare	BA	269.580	287.878	322.742	362.593	387.739	414.248	1775.200
	OT	268.771	288.987	322.339	362.827	387.718	413.776	1775.647
Discretionary	BA	3.849	3.850	3.927	4.013	4.101	4.191	20.082
	OT	3.826	3.874	3.899	3.958	4.039	4.126	19.896
Mandatory	BA	265.731	284.028	318.815	358.580	383.638	410.057	1755.118
	OT	264.945	285.113	318.440	358.869	383.679	409.650	1755.751
600 - Income Security	BA	329.307	339.157	342.290	343.329	356.872	366.779	1748.427
	OT	336.062	345.660	345.570	345.588	358.513	367.788	1763.119
Discretionary	BA	44.594	46.381	47.309	48.350	49.414	50.501	241.955
	OT	53.008	54.103	51.111	51.247	52.075	52.616	261.152
Mandatory	BA	284.713	292.776	294.981	294.979	307.458	316.278	1506.472
	OT	283.054	291.557	294.459	294.341	306.438	315.172	1501.967
650 - Social Security	BA	498.229	518.927	539.950	565.348	593.597	625.457	2843.279
	OT	496.549	517.162	537.719	562.930	590.896	622.463	2831.170
Discretionary	BA	4.134	4.249	4.334	4.429	4.526	4.626	22.164
	OT	4.154	4.264	4.273	4.361	4.455	4.552	21.905
Mandatory	BA	494.095	514.678	535.616	560.919	589.071	620.831	2821.115
	OT	492.395	512.898	533.446	558.569	586.441	617.911	2809.265
650 on-budget	**BA**	**13.396**	**15.214**	**16.779**	**18.269**	**20.218**	**22.229**	**92.709**
	OT	**13.396**	**15.214**	**16.779**	**18.269**	**20.218**	**22.229**	**92.709**
Discretionary	**BA**	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**
	OT	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**
Mandatory	**BA**	**13.396**	**15.214**	**16.779**	**18.269**	**20.218**	**22.229**	**92.709**
	OT	**13.396**	**15.214**	**16.779**	**18.269**	**20.218**	**22.229**	**92.709**
700 - Veterans Benefits and Services	BA	61.450	70.832	69.263	67.925	71.702	72.937	352.659
	OT	60.113	68.855	68.135	66.976	70.938	72.132	347.036
Discretionary	BA	29.252	31.007	31.627	32.323	33.034	33.761	161.752
	OT	28.049	29.362	30.554	31.428	32.330	32.997	156.671
Mandatory	BA	32.198	39.825	37.636	35.602	38.668	39.176	190.907
	OT	32.064	39.493	37.581	35.548	38.608	39.135	190.365
750 - Administration of Justice	BA	41.191	41.945	40.338	41.111	41.990	42.889	208.273
	OT	39.612	41.773	40.851	41.209	41.682	42.492	208.007
Discretionary	BA	37.071	36.814	37.550	38.376	39.220	40.083	192.043
	OT	35.537	37.270	37.679	38.247	38.972	39.740	191.908
Mandatory	BA	4.120	5.131	2.788	2.735	2.770	2.806	16.230
	OT	4.075	4.503	3.172	2.962	2.710	2.752	16.099
800 - General Government	BA	23.938	17.383	17.840	18.267	18.204	18.645	90.339
	OT	24.651	17.975	17.685	17.917	17.849	18.096	89.522
Discretionary	BA	17.613	15.626	15.939	16.290	16.648	17.014	81.517
	OT	18.198	16.248	15.835	15.954	16.146	16.477	80.660
Mandatory	BA	6.325	1.757	1.901	1.977	1.556	1.631	8.822
	OT	6.453	1.727	1.850	1.963	1.703	1.619	8.862
900 - Net Interest	BA	154.836	180.277	219.857	254.047	274.973	289.398	1218.552
	OT	154.836	180.277	219.857	254.047	274.973	289.398	1218.552
Discretionary	BA	0.000	0.000	0.000	0.000	0.000	0.000	0.000
	OT	0.000	0.000	0.000	0.000	0.000	0.000	0.000
Mandatory	BA	154.836	180.277	219.857	254.047	274.973	289.398	1218.552
	OT	154.836	180.277	219.857	254.047	274.973	289.398	1218.552
900 on-budget	**BA**	**240.449**	**270.436**	**318.053**	**362.002**	**393.729**	**419.915**	**1764.135**
	OT	**240.449**	**270.436**	**318.053**	**362.002**	**393.729**	**419.915**	**1764.135**
Discretionary	**BA**	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**
	OT	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**

Function		2004	2005	2006	2007	2008	2009	2005-09
Mandatory	**BA**	**240.449**	**270.436**	**318.053**	**362.002**	**393.729**	**419.915**	**1764.135**
	OT	**240.449**	**270.436**	**318.053**	**362.002**	**393.729**	**419.915**	**1764.135**
920 - Allowances	BA	0.000	-7.158	0.000	0.000	0.000	0.000	-7.158
	OT	0.000	-14.516	0.000	0.000	0.000	0.000	-14.516
Discretionary	BA	0.000	-7.158	0.000	0.000	0.000	0.000	-7.158
	OT	0.000	-14.516	0.000	0.000	0.000	0.000	-14.516
Mandatory	BA	0.000	0.000	0.000	0.000	0.000	0.000	0.000
	OT	0.000	0.000	0.000	0.000	0.000	0.000	0.000
950 - Undistributed Offsetting Receipts	BA	-58.497	-63.873	-66.888	-75.844	-79.522	-75.789	-361.916
	OT	-58.497	-63.873	-66.888	-76.969	-80.209	-74.851	-362.790
Discretionary	BA	0.000	0.000	0.000	0.000	0.000	0.000	0.000
	OT	0.000	0.000	0.000	0.000	0.000	0.000	0.000
Mandatory	BA	-58.497	-63.873	-66.888	-75.844	-79.522	-75.789	-361.916
	OT	-58.497	-63.873	-66.888	-76.969	-80.209	-74.851	-362.790
950 on-budget	**BA**	**-47.233**	**-52.505**	**-54.798**	**-63.037**	**-65.782**	**-61.150**	**-297.272**
	OT	**-47.233**	**-52.505**	**-54.798**	**-64.162**	**-66.469**	**-60.212**	**-298.146**
Discretionary	**BA**	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**
	OT	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**
Mandatory	**BA**	**-47.233**	**-52.505**	**-54.798**	**-63.037**	**-65.782**	**-61.150**	**-297.272**
	OT	**-47.233**	**-52.505**	**-54.798**	**-64.162**	**-66.469**	**-60.212**	**-298.146**
Total	BA	2337.544	2405.154	2478.537	2601.605	2725.378	2853.467	13064.141
	OT	2294.847	2394.349	2490.041	2576.800	2689.863	2814.597	12965.650
Discretionary	BA	875.487	864.261	835.270	853.645	872.423	893.792	4319.391
	OT	895.047	915.662	907.270	894.505	905.356	922.796	4545.589
Mandatory	BA	1462.057	1540.893	1643.267	1747.960	1852.955	1959.675	8744.750
	OT	1399.800	1478.687	1582.771	1682.295	1784.507	1891.801	8420.061
Total on-budget	**BA**	**1952.088**	**2005.068**	**2068.452**	**2178.188**	**2287.795**	**2398.895**	**10938.398**
	OT	**1911.071**	**1996.028**	**2082.187**	**2155.801**	**2254.981**	**2363.019**	**10852.017**
Discretionary	**BA**	**871.353**	**860.012**	**830.936**	**849.216**	**867.897**	**889.166**	**4297.227**
	OT	**890.893**	**911.398**	**902.997**	**890.144**	**900.901**	**918.244**	**4523.684**
Mandatory	**BA**	**1080.735**	**1145.056**	**1237.516**	**1328.972**	**1419.898**	**1509.729**	**6641.171**
	OT	**1020.178**	**1084.630**	**1179.190**	**1265.657**	**1354.080**	**1444.775**	**6328.332**
Revenues		1820.722	2026.946	2235.024	2383.007	2503.459	2640.436	11788.872
Revenues on-budget		**1276.150**	**1454.637**	**1634.152**	**1753.744**	**1844.828**	**1950.926**	**8638.287**
Surplus/Deficit (-)		-474.125	-367.403	-255.017	-193.793	-186.404	-174.161	-1176.778
On-budget		*-634.921*	*-541.391*	*-448.035*	*-402.057*	*-410.153*	*-412.093*	*-2213.730*
Off-budget		*160.796*	*173.988*	*193.019*	*208.264*	*223.748*	*237.932*	*1036.952*
Debt Held by the Public		4,382.007	4,762.355	5,030.718	5,237.335	5,436.448	5,623.726	
Debt Subject to Limit		7,432.349	8,073.946	8,645.824	9,168.812	9,699.909	10,235.831	

SENATE PASSED RESOLUTION FOR FY 2005: AGGREGATE AND FUNCTION LEVELS
($ billions)

Function		2004	2005	2006	2007	2008	2009	2005-09
050 - National Defense	BA	463.604	422.157	445.708	456.148	467.182	479.494	2270.989
	OT	452.946	449.442	442.157	441.732	451.564	463.106	2248.001
Discretionary	BA	459.098	420.794	442.552	452.698	463.712	475.591	2255.347
	OT	451.844	447.067	438.872	438.175	447.917	459.214	2231.245
Mandatory	BA	4.506	1.363	3.156	3.450	3.770	3.903	15.642
	OT	1.102	2.375	3.285	3.557	3.647	3.892	16.756
150 - International Affairs	BA	43.657	31.970	34.855	35.499	35.856	35.912	174.092
	OT	29.317	34.032	33.192	31.746	31.640	32.059	162.669
Discretionary	BA	48.653	32.327	34.099	34.728	35.070	35.112	171.336
	OT	34.122	37.028	35.635	34.316	34.125	34.529	175.633
Mandatory	BA	-4.996	-0.357	0.756	0.771	0.786	0.800	2.756
	OT	-4.805	-2.996	-2.443	-2.570	-2.485	-2.470	-12.964
250 - General Science, Space and Technology	BA	23.377	24.278	25.412	26.269	26.499	26.547	129.005
	OT	22.310	23.752	24.863	25.613	25.914	26.095	126.238
Discretionary	BA	23.338	24.248	25.382	26.238	26.468	26.515	128.851
	OT	22.221	23.641	24.755	25.573	25.883	26.064	125.917
Mandatory	BA	0.039	0.030	0.030	0.031	0.031	0.032	0.154
	OT	0.089	0.111	0.108	0.040	0.031	0.031	0.321
270 - Energy	BA	2.353	1.093	2.762	2.781	2.501	2.082	11.219
	OT	0.084	-0.546	1.653	1.214	0.601	0.718	3.640
Discretionary	BA	3.597	2.007	3.736	3.698	3.640	3.607	16.688
	OT	3.345	2.097	3.905	3.761	3.694	3.627	17.084
Mandatory	BA	-1.244	-0.914	-0.974	-0.917	-1.139	-1.525	-5.469
	OT	-3.261	-2.643	-2.252	-2.547	-3.093	-2.909	-13.444
300 - Natural Resources and Environment	BA	32.340	36.160	32.909	32.895	32.825	33.523	168.311
	OT	30.462	31.191	33.529	34.099	33.879	33.974	166.671
Discretionary	BA	30.276	33.342	29.760	29.581	29.519	29.489	151.690
	OT	29.624	29.391	30.358	30.616	30.447	29.882	150.693
Mandatory	BA	2.064	2.818	3.149	3.314	3.306	4.034	16.621
	OT	0.838	1.800	3.171	3.483	3.432	4.092	15.978
350 - Agriculture	BA	20.221	21.746	23.806	24.698	24.604	25.563	120.417
	OT	18.772	20.976	22.574	23.509	23.483	24.623	115.165
Discretionary	BA	5.595	5.371	5.603	5.629	5.667	5.699	27.969
	OT	5.460	5.558	5.495	5.522	5.554	5.640	27.769
Mandatory	BA	14.626	16.375	18.203	19.069	18.937	19.864	92.448
	OT	13.312	15.418	17.079	17.987	17.929	18.983	87.396
370 - Commerce and Housing Credit	BA	14.673	5.764	5.241	6.241	6.036	6.326	29.608
	OT	10.340	0.835	-0.207	0.506	-0.750	-0.734	-0.350
Discretionary	BA	-0.773	-1.810	-1.077	0.549	0.772	1.387	-0.179
	OT	-0.676	-0.515	-1.806	0.557	0.663	1.079	-0.022
Mandatory	BA	15.446	7.574	6.318	5.692	5.264	4.939	29.787
	OT	11.016	1.350	1.599	-0.051	-1.413	-1.813	-0.328
370 on-budget	**BA**	**17.173**	**7.864**	**8.041**	**9.141**	**9.336**	**9.826**	**44.208**
	OT	**12.840**	**2.935**	**2.593**	**3.406**	**2.550**	**2.766**	**14.250**
Discretionary	**BA**	**-0.773**	**-1.810**	**-1.077**	**0.549**	**0.772**	**1.387**	**-0.179**
	OT	**-0.676**	**-0.515**	**-1.806**	**0.557**	**0.663**	**1.079**	**-0.022**
Mandatory	**BA**	**17.946**	**9.674**	**9.118**	**8.592**	**8.564**	**8.439**	**44.387**
	OT	**13.516**	**3.450**	**4.399**	**2.849**	**1.887**	**1.687**	**14.272**
400 - Transportation	BA	69.197	69.985	70.923	71.428	71.760	72.241	356.337
	OT	65.741	68.390	70.998	72.207	72.571	72.597	356.763
Discretionary	BA	23.713	23.826	24.740	25.178	25.476	25.919	125.139
	OT	63.888	66.208	68.745	70.031	70.287	70.527	345.798
Mandatory	BA	45.484	46.159	46.183	46.250	46.284	46.322	231.198
	OT	1.853	2.182	2.253	2.176	2.284	2.070	10.965
450 - Community and Regional Development	BA	16.732	13.897	13.682	13.851	13.979	14.150	69.559
	OT	16.673	14.986	15.220	14.321	13.818	13.913	72.258
Discretionary	BA	15.622	13.470	13.549	13.716	13.925	14.094	68.754
	OT	16.183	15.237	15.603	14.725	14.207	14.348	74.120
Mandatory	BA	1.110	0.427	0.133	0.135	0.054	0.056	0.805
	OT	0.490	-0.251	-0.383	-0.404	-0.389	-0.435	-1.862
500 - Education, Training, Employment and Social Services	BA	89.519	100.414	95.314	95.628	95.858	96.168	483.381
	OT	86.478	89.304	94.577	93.799	94.262	94.684	466.627
Discretionary	BA	78.008	83.895	81.825	81.898	82.040	82.132	411.789
	OT	77.048	78.288	82.544	81.566	81.847	81.989	406.235
Mandatory	BA	11.511	16.519	13.489	13.730	13.818	14.036	71.592
	OT	9.430	11.016	12.033	12.233	12.415	12.695	60.392

Function		2004	2005	2006	2007	2008	2009	2005-09
550 - Health	BA	241.824	252.299	254.677	267.998	286.815	307.860	1369.649
	OT	239.620	247.712	255.618	267.754	286.525	305.533	1363.142
Discretionary	BA	51.847	55.082	50.534	50.833	51.283	53.774	261.506
	OT	49.216	50.350	50.822	50.661	50.922	51.192	253.947
Mandatory	BA	189.977	197.217	204.143	217.165	235.532	254.086	1108.143
	OT	190.404	197.362	204.796	217.093	235.603	254.341	1109.195
570 - Medicare	BA	269.580	287.513	322.517	361.999	386.753	412.922	1771.704
	OT	268.771	288.654	322.035	362.277	386.795	412.515	1772.276
Discretionary	BA	3.849	3.690	4.245	4.185	4.211	4.231	20.562
	OT	3.826	3.746	4.138	4.174	4.212	4.231	20.501
Mandatory	BA	265.731	283.823	318.272	357.814	382.542	408.691	1751.142
	OT	264.945	284.908	317.897	358.103	382.583	408.284	1751.775
600 - Income Security	BA	329.194	337.868	343.354	348.271	361.670	371.602	1762.765
	OT	335.998	342.111	346.782	350.920	363.674	373.123	1776.610
Discretionary	BA	44.594	46.381	49.047	49.733	50.551	51.415	247.127
	OT	53.008	51.353	53.033	53.246	53.721	54.019	265.372
Mandatory	BA	284.600	291.487	294.307	298.538	311.119	320.187	1515.638
	OT	282.990	290.758	293.749	297.674	309.953	319.104	1511.238
650 - Social Security	BA	498.229	518.927	539.968	565.261	593.413	625.303	2842.872
	OT	496.549	517.162	537.781	562.891	590.760	622.359	2830.953
Discretionary	BA	4.134	4.249	4.352	4.477	4.617	4.762	22.457
	OT	4.154	4.264	4.335	4.457	4.594	4.738	22.388
Mandatory	BA	494.095	514.678	535.616	560.784	588.796	620.541	2820.415
	OT	492.395	512.898	533.446	558.434	586.166	617.621	2808.565
650 on-budget	**BA**	**13.396**	**15.214**	**16.779**	**18.269**	**20.218**	**22.229**	**92.709**
	OT	**13.396**	**15.214**	**16.779**	**18.269**	**20.218**	**22.229**	**92.709**
Discretionary	**BA**	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**
	OT	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**
Mandatory	**BA**	**13.396**	**15.214**	**16.779**	**18.269**	**20.218**	**22.229**	**92.709**
	OT	**13.396**	**15.214**	**16.779**	**18.269**	**20.218**	**22.229**	**92.709**
700 - Veterans Benefits and Services	BA	61.450	71.546	68.196	66.209	69.326	69.888	345.166
	OT	60.113	70.159	67.731	65.834	69.132	69.660	342.516
Discretionary	BA	29.252	31.729	30.573	30.625	30.681	30.740	154.349
	OT	28.049	30.674	30.163	30.304	30.547	30.553	152.241
Mandatory	BA	32.198	39.817	37.623	35.584	38.645	39.148	190.817
	OT	32.064	39.485	37.568	35.530	38.585	39.107	190.275
750 - Administration of Justice	BA	41.191	41.841	39.490	40.099	40.870	41.206	203.506
	OT	39.612	40.727	40.336	40.462	40.873	41.228	203.626
Discretionary	BA	37.071	37.509	38.272	39.025	39.856	40.258	194.920
	OT	35.537	37.023	38.734	39.161	39.919	40.334	195.171
Mandatory	BA	4.120	4.332	1.218	1.074	1.014	0.948	8.586
	OT	4.075	3.704	1.602	1.301	0.954	0.894	8.455
800 - General Government	BA	23.938	16.182	17.503	17.611	17.190	17.256	85.742
	OT	24.651	16.742	17.110	17.245	16.878	16.763	84.738
Discretionary	BA	17.613	14.426	15.582	15.585	15.589	15.585	76.767
	OT	18.198	15.016	15.240	15.233	15.130	15.104	75.723
Mandatory	BA	6.325	1.756	1.921	2.026	1.601	1.671	8.975
	OT	6.453	1.726	1.870	2.012	1.748	1.659	9.015
900 - Net Interest	BA	154.858	179.911	218.877	253.600	275.954	291.792	1220.135
	OT	154.858	179.911	218.877	253.600	275.954	291.792	1220.135
Discretionary	BA	0.000	0.000	0.000	0.000	0.000	0.000	0.000
	OT	0.000	0.000	0.000	0.000	0.000	0.000	0.000
Mandatory	BA	154.858	179.911	218.877	253.600	275.954	291.792	1220.135
	OT	154.858	179.911	218.877	253.600	275.954	291.792	1220.135
900 on-budget	**BA**	**240.471**	**270.068**	**317.064**	**361.534**	**394.676**	**422.257**	**1765.599**
	OT	**240.471**	**270.068**	**317.064**	**361.534**	**394.676**	**422.257**	**1765.599**
Discretionary	**BA**	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**
	OT	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**
Mandatory	**BA**	**240.471**	**270.068**	**317.064**	**361.534**	**394.676**	**422.257**	**1765.599**
	OT	**240.471**	**270.068**	**317.064**	**361.534**	**394.676**	**422.257**	**1765.599**
920 - Allowances	BA	0.000	-11.486	-0.779	-0.987	-0.993	-0.998	-15.243
	OT	0.000	-4.584	-3.627	-2.329	-2.091	-1.542	-14.173
Discretionary	BA	0.000	-11.230	-0.517	-0.518	-0.518	-0.518	-13.301
	OT	0.000	-4.349	-3.367	-1.859	-1.616	-1.062	-12.253
Mandatory	BA	0.000	-0.256	-0.262	-0.469	-0.475	-0.480	-1.942
	OT	0.000	-0.235	-0.260	-0.470	-0.475	-0.480	-1.920

Function		2004	2005	2006	2007	2008	2009	2005-09
950 - Undistributed Offsetting Receipts	BA	-58.497	-63.873	-71.938	-75.244	-77.222	-77.364	-365.641
	OT	-58.497	-63.873	-71.938	-75.244	-77.222	-77.364	-365.641
Discretionary	BA	0.000	0.000	0.000	0.000	0.000	0.000	0.000
	OT	0.000	0.000	0.000	0.000	0.000	0.000	0.000
Mandatory	BA	-58.497	-63.873	-71.938	-75.244	-77.222	-77.364	-365.641
	OT	-58.497	-63.873	-71.938	-75.244	-77.222	-77.364	-365.641
950 on-budget	**BA**	**-47.233**	**-52.505**	**-59.848**	**-62.437**	**-63.482**	**-62.725**	**-300.997**
	OT	**-47.233**	**-52.505**	**-59.848**	**-62.437**	**-63.482**	**-62.725**	**-300.997**
Discretionary	**BA**	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**
	OT	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**	**0.000**
Mandatory	**BA**	**-47.233**	**-52.505**	**-59.848**	**-62.437**	**-63.482**	**-62.725**	**-300.997**
	OT	**-47.233**	**-52.505**	**-59.848**	**-62.437**	**-63.482**	**-62.725**	**-300.997**
Total	BA	2337.440	2358.192	2482.477	2610.256	2731.175	2851.473	13033.573
	OT	2294.798	2367.083	2469.261	2582.157	2698.260	2815.103	12931.864
Discretionary	BA	875.487	819.306	852.257	867.859	882.558	899.792	4321.771
	OT	895.047	892.077	897.204	900.220	912.053	926.009	4527.562
Mandatory	BA	1461.953	1538.886	1630.220	1742.397	1848.617	1951.681	8711.802
	OT	1399.751	1475.006	1572.057	1681.937	1786.207	1889.094	8404.302
Total on-budget	**BA**	**1951.984**	**1958.104**	**2072.365**	**2186.904**	**2293.742**	**2397.003**	**10908.118**
	OT	**1911.022**	**1968.760**	**2061.336**	**2161.175**	**2263.480**	**2363.577**	**10818.329**
Discretionary	**BA**	**871.353**	**815.057**	**847.905**	**863.382**	**877.941**	**895.030**	**4299.314**
	OT	**890.893**	**887.813**	**892.869**	**895.763**	**907.459**	**921.271**	**4505.174**
Mandatory	**BA**	**1080.631**	**1143.047**	**1224.460**	**1323.523**	**1415.801**	**1501.973**	**6608.804**
	OT	**1020.129**	**1080.947**	**1168.467**	**1265.413**	**1356.021**	**1442.306**	**6313.154**
Revenues		1817.359	2026.028	2216.557	2359.452	2481.247	2614.774	11698.058
Revenues on-budget		**1272.787**	**1453.714**	**1615.655**	**1730.119**	**1822.516**	**1925.154**	**8547.158**
Surplus/Deficit (-)		-477.439	-341.055	-252.704	-222.705	-217.013	-200.329	-1233.806
On-budget		*-638.235*	*-515.046*	*-445.681*	*-431.056*	*-440.964*	*-438.423*	*-2271.171*
Off-budget		*160.796*	*173.991*	*192.977*	*208.352*	*223.950*	*238.094*	*1037.364*
2005 Iraq/Afghanistan Reserve	BA		30.000					30.000
	OT		14.904	11.169	3.048	0.585	0.135	29.841
Unified Surplus/Deficit (-) incl. Reserve		-477.439	-355.959	-263.873	-225.753	-217.598	-200.464	-1263.647

Fiscal Year 2005 Budget Resolution
As Passed by the House
Total Spending and Revenues
(In billions of dollars)

Fiscal year			2004	2005	2006	2007	2008	2009	2005-2009
Summary									
Spending	Total	BA	2,338.156	2,410.838	2,481.700	2,617.210	2,749.696	2,886.638	13,146.082
		OT	2,295.011	2,406.471	2,492.176	2,590.871	2,712.342	2,845.861	13,047.721
	On-Budget	BA	1,952.700	2,010.338	2,071.186	2,193.395	2,311.770	2,431.782	11,018.471
		OT	1,911.235	2,007.926	2,083.910	2,169.446	2,277.071	2,393.946	10,932.299
	Off-Budget	BA	385.456	400.500	410.514	423.815	437.926	454.856	2,127.611
		OT	383.776	398.545	408.266	421.425	435.271	451.915	2,115.422
Revenues	Total		1,817.538	2,029.644	2,220.897	2,351.051	2,477.420	2,611.883	11,690.895
	On-budget		1,272.966	1,457.215	1,619.835	1,721.568	1,818.559	1,922.133	8,539.310
	Off-budget		544.572	572.429	601.062	629.483	658.861	689.750	3,151.585
Deficit (-)	Total		-477.473	-376.827	-271.279	-239.820	-234.922	-233.978	-1,356.826
	On-budget		-638.269	-550.711	-464.075	-447.878	-458.512	-471.813	-2,392.989
	Off-budget		160.796	173.884	192.796	208.058	223.590	237.835	1,036.163
Debt Held by the Public (end of year)			4,385	4,775	5,060	5,312	5,560	5,807	na
Debt Subject to Limit (end of year)			7,436	8,087	8,675	9,244	9,823	10,419	na
By Function									
National Defense (050)		BA	461.544	419.634	442.400	464.000	486.149	508.369	2,320.552
		OT	451.125	447.114	439.098	445.927	465.542	487.186	2,284.867
Homeland Security (100)		BA	29.559	34.102	33.548	35.160	36.520	40.420	179.750
		OT	24.834	29.997	33.298	35.635	36.979	38.401	174.310
International Affairs (150)		BA	43.604	26.529	27.776	27.927	28.077	28.228	138.537
		OT	29.281	32.848	30.017	26.714	25.323	25.099	140.001
General Science, Space, and Technology (250)		BA	22.822	22.813	22.927	23.042	23.157	23.274	115.213
		OT	21.897	22.453	22.683	22.743	22.763	22.863	113.505
Energy (270)		BA	2.323	2.863	2.604	2.583	2.629	2.285	12.964
		OT	0.059	1.201	1.397	1.040	0.662	0.891	5.191
Natural Resources and Environment (300)		BA	32.021	31.212	31.568	31.897	32.101	32.777	159.555
		OT	30.210	30.868	31.911	32.153	32.128	32.804	159.864
Agriculture (350)		BA	19.908	21.087	23.374	24.278	24.042	24.903	117.684
		OT	18.434	20.501	22.310	23.199	22.957	23.956	112.923
Commerce and Housing Credit (370)	Total	BA	14.577	8.692	7.442	6.827	6.405	6.080	35.446
		OT	10.248	3.682	4.042	1.869	-0.110	-0.760	8.723
	On-budget	BA	17.077	10.792	10.242	9.727	9.705	9.580	50.046
		OT	12.748	5.782	6.842	4.769	3.190	2.740	23.323
	Off-budget	BA	-2.500	-2.100	-2.800	-2.900	-3.300	-3.500	-14.600
		OT	-2.500	-2.100	-2.800	-2.900	-3.300	-3.500	-14.600

Fiscal Year 2005 Budget Resolution
As Passed by the House
Total Spending and Revenues
(In billions of dollars)

Fiscal year			2004	2005	2006	2007	2008	2009	2005-2009
Transportation (400)		BA	62.937	65.021	66.075	68.263	69.578	70.445	339.382
		OT	59.280	61.988	64.204	66.131	67.545	68.452	328.320
Community and Regional Development (450)		BA	13.758	11.867	11.655	11.715	11.692	11.752	58.681
		OT	15.443	14.233	12.484	11.616	11.392	11.510	61.235
Education, Training, Employment and Social Services (500)		BA	89.463	92.523	93.596	94.243	94.738	95.366	470.466
		OT	86.405	90.492	92.878	93.365	93.975	94.685	465.395
Health (550)		BA	236.822	245.095	252.639	266.117	284.970	304.034	1,352.855
		OT	235.551	244.936	252.495	265.196	284.222	303.460	1,350.309
Medicare (570)		BA	269.567	288.166	322.974	362.759	387.838	414.278	1,776.015
		OT	268.759	289.126	322.549	363.016	387.858	413.853	1,776.402
Income Security (600)		BA	329.744	337.318	335.387	340.140	352.809	361.830	1,727.484
		OT	336.074	341.716	339.098	342.945	355.046	363.465	1,742.270
Social Security (650)	Total	BA	498.229	519.219	540.180	565.506	593.680	625.464	2,844.049
		OT	496.549	517.264	537.932	563.116	591.025	622.523	2,831.860
	On-budget	BA	13.396	15.094	16.589	18.049	19.988	21.989	91.709
		OT	13.396	15.094	16.589	18.049	19.988	21.989	91.709
	Off-budget	BA	484.833	504.125	523.591	547.457	573.692	603.475	2,752.340
		OT	483.153	502.170	521.343	545.067	571.037	600.534	2,740.151
Veterans Benefits and Services (700)		BA	61.179	70.536	68.501	66.621	69.842	70.506	346.006
		OT	59.858	68.563	67.597	66.007	69.459	70.106	341.732
Administration of Justice (750)		BA	29.932	30.139	27.430	27.480	27.616	27.755	140.420
		OT	30.103	30.025	28.036	27.744	27.540	27.621	140.966
General Government (800)		BA	23.806	17.198	17.419	17.573	17.230	17.383	86.803
		OT	24.540	17.916	17.392	17.401	17.075	17.044	86.828
Net Interest (900)	Total	BA	154.858	180.541	220.722	256.528	279.848	296.984	1,234.623
		OT	154.858	180.541	220.722	256.528	279.848	296.984	1,234.623
	On-budget	BA	240.471	270.698	318.909	364.463	398.574	427.464	1,780.108
		OT	240.471	270.698	318.909	364.463	398.574	427.464	1,780.108
	Off-budget	BA	-85.613	-90.157	-98.187	-107.935	-118.726	-130.480	-545.485
		OT	-85.613	-90.157	-98.187	-107.935	-118.726	-130.480	-545.485
Allowances (920)		BA	--	50.000	--	--	--	--	50.000
		OT	--	24.850	18.600	5.100	1.000	0.250	49.800
Undistributed Offsetting Receipts (950)	Total	BA	-58.497	-63.717	-66.517	-75.449	-79.225	-75.495	-360.403
		OT	-58.497	-63.843	-66.567	-76.574	-79.887	-74.532	-361.403
	On-budget	BA	-47.233	-52.349	-54.427	-62.642	-65.485	-60.856	-295.759
		OT	-47.233	-52.475	-54.477	-63.767	-66.147	-59.893	-296.759
	Off-budget	BA	-11.264	-11.368	-12.090	-12.807	-13.740	-14.639	-64.644
		OT	-11.264	-11.368	-12.090	-12.807	-13.740	-14.639	-64.644

Fiscal Year 2005 Budget Resolution
As Passed by the House
Discretionary Spending
(In billions of dollars)

Fiscal year			2004	2005	2006	2007	2008	2009	2005-2009
Summary									
Total Spending		BA	875.487	871.264	843.020	867.691	892.746	920.612	4,395.333
		OT	895.047	927.262	912.721	906.430	923.705	947.555	4,617.673
Defense		BA	457.025	418.261	439.204	460.450	482.329	504.466	2,304.710
		OT	450.010	444.736	435.794	442.319	461.835	483.256	2,267.940
Homeland Security		BA	29.234	33.368	32.333	33.901	35.211	39.063	173.876
		OT	24.581	29.463	32.183	34.425	35.487	36.953	168.511
Other Functions of Government		BA	389.228	419.635	371.483	373.340	375.206	377.083	1,916.747
		OT	420.456	453.063	444.744	429.686	426.383	427.346	2,181.222
By Function									
National Defense (050)		BA	457.025	418.261	439.204	460.450	482.329	504.466	2,304.710
		OT	450.010	444.736	435.794	442.319	461.835	483.256	2,267.940
Homeland Security (100)		BA	29.234	33.368	32.333	33.901	35.211	39.063	173.876
		OT	24.581	29.463	32.183	34.425	35.487	36.953	168.511
International Affairs (150)		BA	48.600	26.886	27.020	27.156	27.291	27.428	135.781
		OT	34.086	35.844	32.460	29.284	27.808	27.569	152.965
General Science, Space, and Technology (250)		BA	22.783	22.783	22.897	23.011	23.126	23.242	115.059
		OT	21.808	22.342	22.575	22.703	22.732	22.832	113.184
Energy (270)		BA	3.567	3.489	3.506	3.524	3.542	3.559	17.620
		OT	3.331	3.541	3.639	3.571	3.570	3.550	17.871
Natural Resources and Environment (300)		BA	29.957	28.489	28.631	28.775	28.918	29.063	143.876
		OT	29.372	29.077	28.904	28.863	28.849	28.895	144.588
Agriculture (350)		BA	5.415	4.804	4.828	4.852	4.876	4.901	24.261
		OT	5.254	5.114	4.898	4.861	4.830	4.848	24.551
Commerce and Housing Credit (370)	Total	BA	-0.869	1.117	1.123	1.128	1.134	1.140	5.642
		OT	-0.768	1.031	1.142	1.313	1.096	1.052	5.634
	On-budget	BA	-0.869	1.117	1.123	1.128	1.134	1.140	5.642
		OT	-0.768	1.031	1.142	1.313	1.096	1.052	5.634
	Off-budget	BA	--	--	--	--	--	--	--
		OT	--	--	--	--	--	--	--
Transportation (400)		BA	17.944	17.775	17.864	17.953	18.043	18.133	89.768
		OT	57.836	60.013	62.280	64.357	65.915	66.965	319.530
Community and Regional Development (450)		BA	12.648	11.465	11.522	11.580	11.638	11.696	57.901
		OT	14.953	14.416	12.688	11.806	11.551	11.698	62.159

Fiscal Year 2005 Budget Resolution
As Passed by the House
Discretionary Spending

(In billions of dollars)

Fiscal year			2004	2005	2006	2007	2008	2009	2005-2009
Education, Training, Employment and Social Services (500)		BA	77.872	80.679	81.082	81.488	81.895	82.305	407.449
		OT	76.905	80.451	81.820	82.107	82.535	82.965	409.878
Health (550)		BA	46.780	46.317	46.549	46.781	47.015	47.250	233.912
		OT	45.101	46.052	45.772	45.938	46.198	46.419	230.379
Medicare (570)		BA	3.836	4.138	4.159	4.179	4.200	4.221	20.897
		OT	3.814	4.013	4.109	4.147	4.179	4.203	20.651
Income Security (600)		BA	44.591	45.826	46.055	46.285	46.517	46.749	231.432
		OT	53.005	51.006	50.291	49.729	49.775	49.491	250.292
Social Security (650)	Total	BA	4.134	4.541	4.564	4.587	4.609	4.633	22.934
		OT	4.154	4.366	4.486	4.547	4.584	4.612	22.595
	On-budget	BA	--	--	--	--	--	--	--
		OT	--	--	--	--	--	--	--
	Off-budget	BA	4.134	4.541	4.564	4.587	4.609	4.633	22.934
		OT	4.154	4.366	4.486	4.547	4.584	4.612	22.595
Veterans Benefits and Services (700)		BA	28.981	30.711	30.865	31.019	31.174	31.330	155.099
		OT	27.794	29.070	30.016	30.459	30.851	30.971	151.367
Administration of Justice (750)		BA	25.513	25.185	25.311	25.437	25.565	25.692	127.190
		OT	25.729	25.699	25.533	25.474	25.549	25.612	127.867
General Government (800)		BA	17.476	15.430	15.507	15.585	15.663	15.741	77.926
		OT	18.082	16.178	15.531	15.427	15.361	15.414	77.911
Allowances (920)		BA	--	50.000	--	--	--	--	50.000
		OT	–	24.850	18.600	5.100	1.000	0.250	49.800

Fiscal Year 2005 Budget Resolution
As Passed by the House
Mandatory Spending

(In billions of dollars)

Fiscal year			2004	2005	2006	2007	2008	2009	2005-2009
Summary									
Spending	Total	BA	1,462.669	1,539.574	1,638.680	1,749.519	1,856.950	1,966.026	8,750.749
		OT	1,399.964	1,479.209	1,579.455	1,684.441	1,788.637	1,898.306	8,430.048
	On-budget	BA	1,081.347	1,143.615	1,232.730	1,330.291	1,423.633	1,515.803	6,646.072
		OT	1,020.342	1,085.030	1,175.675	1,267.563	1,357.950	1,451.003	6,337.221
	Off-budget	BA	381.322	395.959	405.950	419.228	433.317	450.223	2,104.677
		OT	379.622	394.179	403.780	416.878	430.687	447.303	2,092.827
By Function									
National Defense (050)		BA	4.519	1.373	3.196	3.550	3.820	3.903	15.842
		OT	1.115	2.378	3.304	3.608	3.707	3.930	16.927
Homeland Security (100)		BA	0.325	0.734	1.215	1.259	1.309	1.357	5.874
		OT	0.253	0.534	1.115	1.210	1.492	1.448	5.799
International Affairs (150)		BA	-4.996	-0.357	0.756	0.771	0.786	0.800	2.756
		OT	-4.805	-2.996	-2.443	-2.570	-2.485	-2.470	-12.964
General Science, Space, and Technology (250)		BA	0.039	0.030	0.030	0.031	0.031	0.032	0.154
		OT	0.089	0.111	0.108	0.040	0.031	0.031	0.321
Energy (270)		BA	-1.244	-0.626	-0.902	-0.941	-0.913	-1.274	-4.656
		OT	-3.272	-2.340	-2.242	-2.531	-2.908	-2.659	-12.680
Natural Resources and Environment (300)		BA	2.064	2.723	2.937	3.122	3.183	3.714	15.679
		OT	0.838	1.791	3.007	3.290	3.279	3.909	15.276
Agriculture (350)		BA	14.493	16.283	18.546	19.426	19.166	20.002	93.423
		OT	13.180	15.387	17.412	18.338	18.127	19.108	88.372
Commerce and Housing Credit (370)	Total	BA	15.446	7.575	6.319	5.699	5.271	4.940	29.804
		OT	11.016	2.651	2.900	0.556	-1.206	-1.812	3.089
	On-budget	BA	17.946	9.675	9.119	8.599	8.571	8.440	44.404
		OT	13.516	4.751	5.700	3.456	2.094	1.688	17.689
	Off-budget	BA	-2.500	-2.100	-2.800	-2.900	-3.300	-3.500	-14.600
		OT	-2.500	-2.100	-2.800	-2.900	-3.300	-3.500	-14.600
Transportation (400)		BA	44.993	47.246	48.211	50.310	51.535	52.312	249.614
		OT	1.444	1.975	1.924	1.774	1.630	1.487	8.790
Community and Regional Development (450)		BA	1.110	0.402	0.133	0.135	0.054	0.056	0.780
		OT	0.490	-0.183	-0.204	-0.190	-0.159	-0.188	-0.924
Education, Training, Employment and Social Services (500)		BA	11.591	11.844	12.514	12.755	12.843	13.061	63.017
		OT	9.500	10.041	11.058	11.258	11.440	11.720	55.517
Health (550)		BA	190.042	198.778	206.090	219.336	237.955	256.784	1,118.943
		OT	190.450	198.884	206.723	219.258	238.024	257.041	1,119.930

Fiscal Year 2005 Budget Resolution
As Passed by the House
Mandatory Spending

(In billions of dollars)

Fiscal year			2004	2005	2006	2007	2008	2009	2005-2009
Medicare (570)		BA	265.731	284.028	318.815	358.580	383.638	410.057	1,755.118
		OT	264.945	285.113	318.440	358.869	383.679	409.650	1,755.751
Income Security (600)		BA	285.153	291.492	289.332	293.855	306.292	315.081	1,496.052
		OT	283.069	290.710	288.807	293.216	305.271	313.974	1,491.978
Social Security (650)	Total	BA	494.095	514.678	535.616	560.919	589.071	620.831	2,821.115
		OT	492.395	512.898	533.446	558.569	586.441	617.911	2,809.265
	On-budget	BA	13.396	15.094	16.589	18.049	19.988	21.989	91.709
		OT	13.396	15.094	16.589	18.049	19.988	21.989	91.709
	Off-budget	BA	480.699	499.584	519.027	542.870	569.083	598.842	2,729.406
		OT	478.999	497.804	516.857	540.520	566.453	595.922	2,717.556
Veterans Benefits and Services (700)		BA	32.198	39.825	37.636	35.602	38.668	39.176	190.907
		OT	32.064	39.493	37.581	35.548	38.608	39.135	190.365
Administration of Justice (750)		BA	4.419	4.954	2.119	2.043	2.051	2.063	13.230
		OT	4.374	4.326	2.503	2.270	1.991	2.009	13.099
General Government (800)		BA	6.330	1.768	1.912	1.988	1.567	1.642	8.877
		OT	6.458	1.738	1.861	1.974	1.714	1.630	8.917
Net Interest (900)	Total	BA	154.858	180.541	220.722	256.528	279.848	296.984	1,234.623
		OT	154.858	180.541	220.722	256.528	279.848	296.984	1,234.623
	On-budget	BA	240.471	270.698	318.909	364.463	398.574	427.464	1,780.108
		OT	240.471	270.698	318.909	364.463	398.574	427.464	1,780.108
	Off-budget	BA	-85.613	-90.157	-98.187	-107.935	-118.726	-130.480	-545.485
		OT	-85.613	-90.157	-98.187	-107.935	-118.726	-130.480	-545.485
Allowances (920)		BA	--	--	--	--	--	--	--
		OT	--	--	--	--	--	--	--
Undistributed Offsetting Receipts (950)	Total	BA	-58.497	-63.717	-66.517	-75.449	-79.225	-75.495	-360.403
		OT	-58.497	-63.843	-66.567	-76.574	-79.887	-74.532	-361.403
	On-budget	BA	-47.233	-52.349	-54.427	-62.642	-65.485	-60.856	-295.759
		OT	-47.233	-52.475	-54.477	-63.767	-66.147	-59.893	-296.759
	Off-budget	BA	-11.264	-11.368	-12.090	-12.807	-13.740	-14.639	-64.644
		OT	-11.264	-11.368	-12.090	-12.807	-13.740	-14.639	-64.644

FUNCTIONS AND REVENUES

Pursuant to section 301(a)(4) of the Budget Act, the budget resolution must set appropriate levels for each major functional category based on the 302(a) allocations and the budgetary totals.

The respective levels of the Senate resolution, the House amendment, and the conference agreement for each major budget function and revenue totals are discussed in the following section.

Note: In the House amendment as passed, funding amounts for certain homeland security activities were moved out of their customary functions and into a separate category, Function 100—Homeland Security. Therefore, the House-passed totals in these functions do not precisely correspond with those in the Senate-passed resolution. The functions affected are Function 050 (nonmilitary activities only), Function 150, Function 250, Function 270, Function 300, Function 350, Function 370, Function 400, Function 450, Function 500, Function 550, Function 570, Function 600, Function 700, Function 750, and Function 800. The customary correspondence was restored in the process of developing the conference agreement.

The conference agreement provides aggregate discretionary spending in 2005 of $814.261 billion in budget authority and $890.812 billion in outlays including outlays flowing from prior-year emergencies. These two aggregate numbers are allocated to the Appropriations Committees to be suballocated to their .13 individual appropriations subcommittees as required by section 302 of the Budget Act.

REVENUES

Federal revenues are taxes and other collections from the public that result from the government's sovereign or governmental powers. Revenues contained in the budget resolution reflect all of the Federal government's various tax receipts that are classified as "on budget." This includes individual income taxes, corporate income taxes, excise taxes, estate and gift taxes, customs duties and miscellaneous receipts (which include deposits of earnings by the Federal Reserve System, fines, penalties, fees for regulatory services, and others). The component of social insurance taxes that is collected for the Social Security system—the Old Age and Survivors and Disability Insurance [OASDI] payroll tax—is "off budget." The remaining social insurance taxes (the Hospital Insurance [HI] payroll tax portion of Medicare, the Federal Unemployment Tax Act [FUTA] payroll tax, railroad retirement and other retirement systems) are all on budget. Pursuant to the Congressional Budget Act of 1974 and the Budget Enforcement Act of 1990, Social Security payroll taxes, which constitute slightly more than a quarter of all Federal receipts, are not included in the budget resolution.

Under current law, federal tax collections are projected to total $11.8 trillion over the next five years. For 2004, total revenues are projected to be 15.9 percent of gross domestic product [GDP], far below the post-World War II average of 17.9 percent. Over the period covered by the budget resolution, 2005–2009, total baseline revenues are projected to average 17.8 percent of GDP (nearly back to the long-term historical average). Even though this conference agreement assumes policies producing a net reduction in tax revenues, total federal taxes are still projected to rise from 16.8 percent of GDP in 2005 to 18.2 percent of GDP in 2009—above the historical average. The increase in Federal taxes relative to GDP occurs because of provisions in the tax code that are not indexed fully for inflation and real, inflation-adjusted, income growth. The tendency for taxes to increase relative to the size of the economy due to inflation and a growing economy highlights the need to regularly adjust tax policies to avoid an ever-increasing tax burden on our economy.

Senate Resolution

The Senate resolution assumes total revenues of $11.7 trillion over the next five years, $0.1 trillion less than baseline, climbing from 15.9 percent of GDP this year to 18.0 percent of GDP by 2009.

The Senate resolution assumes that the accelerated tax relief provisions in the 2003 Jobs and Growth Tax Relief Reconciliation Act [JGTRRA] that expire at the end of 2004 ($1,000 child credit, marriage penalty relief and a one-year extension of the 10-percent income tax bracket expansion) are permanently extended. The resolution assumes that the repeal of the death tax is accelerated by one year to 2009. The resolution reconciles the Finance Committee for a reduction in revenues consistent with these changes through 2009 (the scope of the budget resolution). The Finance Committee is instructed to report legislation to reduce revenues by $80.6 billion over the 2005–2009 period.

The Senate resolution assumes, but does not reconcile, another $22.7 billion in tax relief over five years; this reflects making permanent: the JGTRRA dividends and capital gains tax rate structures, the 2001 Economic Growth and Tax Relief Reconciliation Act marginal rate reductions, estate tax repeal, education incentives, modifications of pension plans, and other incentives for families and children (adoption tax credit, employer-provided child care tax credit, and dependent care tax credit).

The Senate resolution assumes $23.1 billion in tax relief for the President's proposal for a one-year extension of the alternative minimum tax exemption amount and the treatment of personal credits under the AMT. The resolution assumes $15 billion in tax relief related to energy policy legislation. The resolution also assumes the revenue impact of medical malpractice reform.

The Senate resolution assumes that Congress will act to close tax loopholes identified by the President and by the tax-writing committees. For example, the Senate resolution assumes revenue from the President's proposal to increase disclosure of tax shelters and increase penalties for failure to disclose those shelter arrangements, from the President's proposal to shut down abusive leasing transactions between U.S. corporations and tax-exempt entities (so-called "SILO" transactions), and from the Finance Committee's proposal to shut down Enron-related tax shelters. The Senate resolution assumes that the revenue raised by closing loopholes and reducing fraud (such as in the Earned Income Credit, see function 600) is available to offset tax relief provisions that have been recommended by the President and supported by the Committee, such as the proposal to allow individuals to deduct the cost of high-deductible health plans, as well as many proposals that are being considered by Congress.

During Senate consideration of the 2005 budget resolution, the Senate adopted by voice vote a Landrieu amendment (S.A. 2775) that increased revenues by $876 million in 2005 and by $5.5 billion over the 2005–2009 period.

House Amendment

The House amendment calls for $1.457 trillion in on-budget revenue for fiscal year 2005, and $8.539 trillion over 2005–2009. Total revenue in the House amendment is $2.030 trillion for fiscal year 2005 and $11.691 trillion over 2005–2009. The House amendment assumes policies with a revenue impact of $19.919 billion for fiscal year 2005 and $145.799 billion over 2005–2009. These effects are principally the result of preventing automatic tax increases that would otherwise occur.

Although the House amendment does not explicitly define specific changes in tax policy, the revenue levels of the amendment are consistent with a general policy of not increasing taxes compared to policies currently in place. In particular, the amendment includes adjustments to revenue of sufficient size to accommodate continuation of specific provisions that are set to expire, including:

No tax increase for those claiming the child tax credit. The amendment provides for retaining the current credit level of $1,000 per child. It assumes Congress will act to prevent a reduction in the credit, to $700 per child, scheduled to occur in 2005. In other words, the House amendment accommodates changes to prevent a potential tax increase of $600 on a family with two children—from that provision alone—that would otherwise occur.

No increase in the marriage penalty. The amendment accommodates changes to prevent a scheduled reduction in the upper bound of the 15-percent bracket and standard deduction for a married couple.

No increase in taxes resulting from a reduction in the upper threshold for the 10-percent income tax bracket (e.g., scheduled to decline from $14,000 adjusted for inflation in 2004 for joint filers to $12,000 in 2005 if not extended).

The House amendment accommodates extending the small business expensing limits (the expensing of business equipment and computer software spending is scheduled to fall back to a limit of $25,000 in 2005, from the inflation-indexed level of $100,000 for 2003). Extension of bonus depreciation for corporate investment spending is not accommodated, reflecting the original intent of it serving as a temporary, short-run stimulus at the time of its adoption in 2002 and its extension in 2003.

The House amendment sets the on-budget revenue level of the Federal government for 2004 and the next five years, but it is the responsibility of the Committee on Ways and Means to make the specific adjustments in law to implement these levels.

The House amendment directs the Committee on Ways and Means to report legislation to the House floor by October 1, 2004, making adjustments in current law to prevent tax increases of $13.182 billion in fiscal year 2005 and $137.580 billion for fiscal year 2005–2009. These reconciled tax adjustments provide the full amount necessary to prevent tax increases from the provisions of law enacted in 2001 and 2003. The President's budget proposals assumed these amounts as a baseline adjustment.

Conference Agreement

The conference agreement for revenues assumes a level sufficient to accommodate the extension of the $1,000 child credit, marriage penalty relief, and the expansion of the 10-percent individual income tax bracket, all of which are scheduled to expire at the end of 2004. The conference agreement includes a reconciliation instruction to the House Ways and Means Committee and the Senate Finance Committee to report legislation by September 30, 2004, that reduces revenues by $22.9 billion and that increases related outlays by $4.6 billion, which is sufficient to accommodate a one-year extension of certain expiring tax cuts. The reconciled amounts provide an amount sufficient to prevent the tax increases that would occur if these provisions were allowed to expire.

The conference agreement also can accommodate, but does not reconcile, $27.7 billion (over five years) of tax relief.

FUNCTION 050: NATIONAL DEFENSE

Function Summary

Function 050 includes funds to develop, maintain, and equip the military forces of the United States. More than 95 percent of the funding in this function goes to Function 051—Department of Defense [DOD] military activities; the remaining funding in the function applies to atomic energy defense activities of the Department of Energy (Function 053), and other defense-related activities (Function 054).

Function 050 budget authority rose from $292.3 billion in fiscal year 1999 to $463.6 billion in fiscal year 2004, a 9.7-percent average annual growth rate. During the same time period, outlays rose from $274.9 billion to $453.0 billion, a 10.5 percent average annual growth rate (these figures include the effects of supplemental spending). The largest component of this was the budget of the Department of Defense, whose budget authority grew from $278.5 billion in fiscal year 1999 to $443.8 billion in 2004, a 9.8 percent average annual increase.

Senate Resolution

Discretionary

The Senate resolution assumes discretionary spending in this function would total $420.8 billion in budget authority and $447.1 billion in outlays for 2005. This represents a decrease of $38.3 billion in budget authority (−8.3 percent) and $4.8 billion in outlays (−1.1 percent) from the 2004 level, factoring in $65.1 billion in budget authority provided in the 2004 Emergency Supplemental for military operations in Iraq and Afghanistan. When the Emergency funding is excluded the Senate resolution for 2005 represents an increase of $26.8 billion in budget authority (6.8 percent) above the 2004 level.

To address the ongoing costs of military operations in Iraq and Afghanistan, the Senate resolution includes a $30 billion reserve for supplemental appropriations. This "war reserve" is described in the enforcement title. When the war reserve is included, the Senate resolution for function 050 represents an increase of $56.8 billion in budget authority (14.4 percent) above the 2004 level.

The Senate resolution reflects the President's request for defense. Ultimately, the conference report on the 2005 budget resolution will allocate one discretionary level to the Appropriations Committee (302(a) allocation), and it is in the jurisdiction of the Appropriations Committee, not the Budget Committee, to set appropriation levels for 2005 for all discretionary programs. In light of that reality, the Senate resolution encourages the Appropriations Committee to give careful consideration to the President's $72 million requested increase for the Radiation Exposure Compensation Act to ensure adequate resources will be available to pay all claimants through 2005.

House Amendment

Note: In the House amendment as passed, funding amounts for certain homeland security activities were moved out of this function into a separate category, Function 100—Homeland Security. The effect applied only to non-military, non-Department of Defense activities. Accordingly, the House-passed totals in these functions do not precisely correspond with those in the Senate-passed resolution. The customary correspondence was restored in the process of developing the conference agreement.

The amendment calls for $419.6 billion in budget authority and $447.1 billion in outlays in fiscal year 2005. The function totals are $2.321 trillion in budget authority and $2.285 trillion in outlays over 5 years. Mandatory spending is $1.4 billion in budget authority and $2.4 billion in outlays in fiscal year 2005, and totals $15.8 billion in budget authority and $16.9 billion in outlays over 5 years. Discretionary spending is $418.3 billion in budget authority and $444.7 billion in outlays in fiscal year 2005; and over 5 years, it is $2.305 trillion in budget authority and $2.268 trillion in outlays.

Mandatory

Function 050 contains numerous small mandatory accounts such as stock funds, trust funds, and gift funds whose receipts vary from year to year. The resolution assumes 2005 mandatory spending that matches the President's request. For 2004, the amendment accommodates $13 million to retroactively compensate service members for purchase of domestic airline tickets used for travel from the Iraqi theater of war to their final destination. The Supplemental Appropriations Act for Fiscal Year 2004 (Public Law 108–106) specified that funds be used to reimburse service members, but DOD did not authorize disbursement until 19 December 2003. Under current government compensation rules, no decision can be implemented retroactively; hence there is a need to allocate direct spending to fund a provision that would specifically reimburse service members not compensated under the supplemental appropriation.

Discretionary

Figures show a recommended increase of 7 percent (excluding the 2004 supplemental), fully accommodating the President's request. Department of Defense discretionary funding, at $401.8 billion, matches the President's request. The national defense budget presented here is part of a multiyear plan enabling the military to fight the war against terrorism now, and to transform to counter unconventional threats in the future. Elsewhere (in Function 920) the resolution includes $50 billion to anticipate additional needs in the Afghanistan and Iraq theaters. This is a mid-range estimate for anticipated annual costs. It is not an attempt to predetermine the scope of operations or which weapons and supplies DOD will need, but rather an effort to make the budget reflect a likely future outlay.

A special procedure provided for in the budget resolution would exempt appropriations related to the global war on terrorism, and hence a supplemental appropriation toward this end will not trigger a point of order.

A saving of $199 million from the request in Functions 053 and 054 is assumed for efficiencies; it should be noted, however, that the 2005 resolution total (including Homeland Security accounts) for these functions is $543 million more than the previous year's appropriations. This modest adjustment does not affect Department of Defense funding or ongoing contingency operations.

Conference Agreement

The conference agreement assumes the President's requested levels for national defense plus $50 billion for supplemental appropriations for operations in the Afghan and Iraqi theaters. The conference agreement for this function reflects total spending of $472.2 billion in budget authority and $474.3 billion in outlays for fiscal year 2005. Mandatory spending for this function is $1.4 billion in budget authority and $2.4 billion in outlays in fiscal year 2005. Discretionary spending for this function is $470.8 billion in budget authority and $471.9 billion in outlays in fiscal year 2005.

During the conference on the budget resolution, conferees received information that the Department of Defense is likely to reach the current statutory limit on the number of military housing projects allowed under the Military Housing Privatization Initiative [MHPI] sometime during fiscal year 2005. The administration and the General Accounting Office are reviewing the program. The conferees understand the importance of improved military housing for the quality of life of service personnel and their families and are committed to working with the committees of jurisdiction to address procedural issues that could apply to legislation allowing a temporary extension of military family housing improvements.

FUNCTION 150: INTERNATIONAL AFFAIRS

Function Summary

Function 150 includes international development and humanitarian assistance; international security assistance; the conduct of foreign affairs; foreign information and exchange activities; and international financial programs. Function 150 supports the Department of State and related international affairs organizations including the U.S. Agency for International Development [USAID].

Function 150 budget authority rose from $37.9 billion in fiscal year 1999 to $43.7 billion in fiscal year 2004, a 2.9 percent average annual growth rate. During the same time period, outlays rose from $15.2 billion to $29.3 billion, a 14.0 percent average annual growth rate. The largest component of this was the budget of the Department of State, whose budget authority grew from $8.8 billion in 1999 to $10.6 billion in fiscal year 2004, a 3.7 percent average annual increase.

Senate Resolution

Discretionary

The Senate resolution assumes discretionary spending in this function of $32.3 billion in budget authority and $37.0 billion in outlays for 2005. This represents a decrease of $16.3 billion in budget authority (−33.6 percent) and an increase of $2.9 billion in outlays (8.5 percent) from the 2004 level, factoring in $21.8 billion in budget authority provided in the 2004 Emergency Supplemental for international affairs activities (including $19.4 billion for international relief and reconstruction activities in Iraq). When this funding is excluded the resolution for 2005 represents an increase of $5.5 billion in budget authority (20.3 percent).

The Senate resolution reflects the President's request for international affairs (Lugar Amendment 2845) plus $730 million in additional funding. The Senate resolution assumes $330 million would be added to the requested level for the Child Survival and Health program (DeWine Amendment 2697), $300 million would be added to the requested level for fighting global HIV/AIDS (Lugar Amendment 2845), and $100 million would be added for Haiti reconstruction (DeWine Amendment 2715). The amendments adopted by the Senate included corresponding negative entries for function 920 to result in no net effect on the overall budget.

The Senate resolution supports the use of United States contributions to the Global Fund to Fight AIDS, Tuberculosis and Malaria as leverage for increasing the amount of international financial support in this battle. However, the Senate is concerned by recent reports that suggest the Fund has been making grants to finance the purchase of ineffective malaria drugs, contrary to preferred World Health Organization policy on malaria treatment. The reports have called into question whether the nascent Fund has the necessary mechanisms in place to guarantee the effective use of United States and international contributions to the Fund. Because continued support for the Fund depends upon transparency and accountability in the Fund's grant-making process, the Senate believes the United States should work with foreign governments and international organizations to ensure that the Fund has the necessary capabilities to use its contributions most effectively.

Mandatory

The resolution assumes no mandatory increases or decreases in this function.

House Amendment

The amendment calls for $26.5 billion in budget authority and $32.8 billion in outlays in fiscal year 2005. The function totals are $138.5 billion in budget authority and $140.0 billion in outlays over 5 years. Mandatory spending is −$0.4 billion in budget authority and −$3.0 billion in outlays in fiscal year 2005, and totals $2.8 billion in budget authority and −$13.0 billion in outlays over 5 years. Discretionary spending is $26.9 billion in budget authority and $35.8 billion in outlays in fiscal year 2005; and over 5 years, it is $135.8 billion in budget authority and $153.0 billion in outlays.

The negative budget authority and outlay levels in mandatory spending reflect receipts of the Foreign Military Sales Trust Fund, interest income earned on U.S. Government securities held by the Exchange Stabilization Fund, and the liquidation of economic assistance loans, foreign military financing loans, Export-Import Bank loans, loans to the United Kingdom, and loan guarantees to Israel.

Mandatory

There are no specific mandatory assumptions in this function. In fiscal year 2005, the mandatory budget authority and outlay levels are negative, reflecting receipts of the Foreign Military Sales Trust Fund, and the liquidation of economic assistance loans, foreign military financing loans, Export-Import Bank loans, loans to the United Kingdom, and loan guarantees to Israel.

Discretionary

Specific programs will be increased or decreased when the Appropriations subcommittees write their respective bills. Outyear levels result from applying a simple computation of modest growth, consistent with the President's budget. Outyear levels are not binding and will be revisited in subsequent years.

Conference Agreement

The conference agreement for this function reflects total spending of $28.9 billion in budget authority and $32.8 billion in outlays for fiscal year 2005. Mandatory spending for this function is −$357 million in budget authority and −$3.0 billion in outlays in fiscal year 2005. Discretionary spending for this function is $29.3 billion in budget authority and $35.8 billion in outlays in fiscal year 2005. The conference agreement for International Affairs is sufficient to support an historic level of funding for HIV/AIDS.

FUNCTION 250: GENERAL SCIENCE, SPACE, AND TECHNOLOGY

Function Summary

Function 250 consists of General Science, Space and Technology programs. The largest component of this function—about two-thirds of total spending—is for the space flight, research, and supporting activities of the National Aeronautics and Space Administration [NASA]. The function also contains general science funding, including the budgets for the National Science Foundation [NSF], and the fundamental science programs of the Department of Energy [DOE].

Function 250 budget authority rose from $18.9 billion in fiscal year 1999 to $23.4 billion in fiscal year 2004, a 4.4 percent average annual growth rate. During the same period, outlays rose from $18.1 billion to $22.3 billion, a 4.2 percent average annual growth rate.

Senate Resolution

Discretionary

The Senate resolution assumes discretionary spending in this function of $24.2 billion in budget authority and $23.6 billion in outlays for 2005. This represents an increase of $0.9 billion in budget authority and $1.4 billion in outlays from the 2004 level. The resolution includes the following specific assumptions:

For NASA (including function 250 and 400 accounts), $16.2 billion is assumed, a 5.6 percent increase over 2004. The Senate resolution assumes fully funding the President's request for NASA in 2005 and the outyears. The Committee-reported resolution did not assume fully funding the President's request in 2005, but an amendment (SA 2733) offered by Senator Sessions and adopted by the Senate increased NASA by $600 million in 2005 and reduced function 800 by a like amount, resulting in no net effect on the overall budget.

For the Department of Energy Office of Science, the resolution rejects the President's requested cut, and instead assumes an additional $38 million (1.1 percent) above the 2004 level.

Mandatory

The Senate resolution assumes no mandatory increases or decreases for this function.

House Amendment

The amendment calls for $22.6 billion in budget authority and $22.5 billion in outlays in fiscal year 2005. The function totals are $115.2 billion in budget authority and $113.5 billion in outlays over five years. Mandatory spending is $30 million in budget authority and $111 million in outlays in fiscal year 2005, and totals $154 million in budget authority and $321 million in outlays over five years. Discretionary spending is $22.8 billion in budget authority and $22.3 billion in outlays in fiscal year 2005; and over five years, it is $115.1 billion in budget authority and $113.2 billion in outlays.

Mandatory

There are no specific mandatory assumptions in this function.

Discretionary

Specific programs will be increased or decreased when the Appropriations subcommittees write their respective bills. Outyear levels result from applying a simple computation of modest growth, consistent with the President's budget. Outyear levels are not binding and will be revisited in subsequent years.

Conference Agreement

The conference agreement for this function reflects total spending of $23.9 billion in budget authority and $23.3 billion in outlays for fiscal year 2005. Mandatory spending for this function is $30 million in budget authority and $111 million in outlays in fiscal year 2005. Discretionary spending for this function is $23.9 billion in budget authority and $23.2 billion in outlays in fiscal year 2005.

The conferees support the President's Vision for Exploration and believe the fiscal year 2005 funding for Function 250 should provide sufficient funding to initiate the process. Additionally, the bulk of the requested increase for fiscal year 2005 is for return to flight of the Space Shuttle and continued assembly and operations for the International Space Station. The Conferees hope that these two must-fund requirements will be taken into account during their consideration of the NASA appropriation. The conferees also recognize the importance of the research and education initiatives of the Department of Energy's Office of Science and the National Science Foundation.

FUNCTION 270: ENERGY

Function Summary

Function 270 includes civilian energy and environmental programs of the Department of Energy [DOE] (it does not include DOE's national security activities—the National Nuclear Security Administration—which are in Function 050, or its basic research and science activities, which are in Function 250). Function 270 also includes the Rural Utilities Service of the Department of Agriculture, the Tennessee Valley Authority [TVA], the U.S. Enrichment Corporation, the Federal Energy Regulatory Commission, and the Nuclear Regulatory Commission.

Function 270 budget authority rose from $979 million in fiscal year 1999 to $2.4 billion in fiscal year 2004, a 19.2 percent average annual growth rate. During the same time period, outlays dropped from $911 million to $84 million, a 37.9 percent average annual reduction rate. Receipts, repayments, and electricity sales (negative spending) result in negative budget authority and are the primary causes for the drop in outlays.

Senate Resolution

Discretionary

The Senate resolution assumes discretionary spending in this function of $2.0 billion in budget authority and $2.1 billion in outlays for 2005. The Senate resolution includes the following specific assumptions:

The Senate resolution includes $1 billion for non-defense Environmental Management, which is $86 million more than last year. There is also $7.0 billion for Defense Environmental Management, which is the same as the President's request and $365 million more than last year in function 050. This resolution does not assume that any of this funding will be delayed until legal uncertainties regarding high level nuclear waste are resolved.

The resolution does not assume the President's cuts to Fossil Energy Research and Development, and instead funds the program at $673 million which is the same as last year.

The resolution assumes $834 million for Energy supply which is the same level as the President's request and $81 million more than last year's level. The resolution assumes that $55 million of this increase will be for Nuclear Energy, Science, and Technology, and will support the Generation IV Nuclear Energy Systems Initiative, Nuclear Hydrogen Initiative, and Advanced Fuel Cycle Initiative.

During floor debate on the Senate resolution, the Levin amendment (SA 2817) was accepted on a roll call vote. This amendment reduced spending in this function by $1.7 billion by canceling the royalty in kind program for the Strategic Petroleum Reserve, $1.5 billion of this amount was then redirected towards Homeland Security activities in a reserve fund.

Mandatory

The Senate resolution includes a reserve fund for an energy bill totaling $261 million in fiscal year 2005 and $1.5 billion over five years. This includes provisions dealing with renewable energy, oil and gas, coal, electricity, energy tax incentives, and ethanol.

House Amendment

The amendment calls for $2.9 billion in budget authority and $1.2 billion in outlays in fiscal year 2005. The function totals are $13.0 billion in budget authority and $5.2 billion in outlays over five years. Mandatory spending is −$0.6 billion in budget authority and −$2.3 billion in outlays in fiscal year 2005. Over the 2005–2009 period, mandatory spending is −$4.7 billion in budget authority and −$12.7 billion in outlays due to increasing offsetting receipts from various loan repayments and liquidations, electricity sales, and fees. Discretionary spending is $3.5 billion in budget authority and $3.5 billion in outlays in fiscal year 2005; and over five years, it is $17.6 billion in budget authority and $17.9 billion in outlays.

Mandatory

As noted, the negative figures in mandatory spending result from increasing offsetting receipts from various loan repayments and liquidations, electricity sales, and fees.

The amendment accommodates the conference version of the H.R. 6, the Energy Policy Act of 2003, which passed the House on 18 November 2003, but has not been passed by the Senate. The assumption is reflected in the allocation to the Committee on Energy and Commerce. The authorizing committee is free to determine its own policies within the allocation limits.

Discretionary

Specific programs will be increased or decreased when the Appropriations subcommittees write their respective bills. Outyear levels are not binding and will be revisited in subsequent years.

Conference Agreement

The conference agreement for this function reflects total spending of $3.0 billion in budget authority and $1.4 billion in outlays for fiscal year 2005. Mandatory spending for this function is −$0.6 billion in budget authority and −$2.4 billion in outlays in fiscal year 2005. Discretionary spending for this function is $3.6 billion in budget authority and $3.8 billion in outlays in fiscal year 2005.

FUNCTION 300: NATURAL RESOURCES AND ENVIRONMENT

Function Summary

Function 300 consists of water resources, conservation, land management, pollution control and abatement, and recreational resources. Major departments and agencies in this function are the Department of Interior, including the National Park Service [NPS], the Bureau of Land Management [BLM], the Bureau of Reclamation, and the Fish and Wildlife Service [FWS]; conservation-oriented and land management agencies within the Department of Agriculture [USDA] including the Forest Service; the National Oceanic and Atmospheric Administration [NOAA] in the Department of Commerce; the Army Corps of Engineers; and the Environmental Protection Agency [EPA].

Function 300 budget authority rose from $24.4 billion in 1999 to $32.3 billion in 2004, a 5.8 percent average annual growth rate. During the same period, outlays increased from $24.0 billion to $30.5 billion, a 4.9 percent average annual increase.

Senate Resolution

Discretionary

The Senate resolution assumes discretionary spending in this function of $33.3 billion in budget authority and $29.4 billion in outlays for 2005. The Senate passed resolution includes the following specific assumptions:

The resolution does not accept the Administration's cuts to the Corps of Engineers and instead assumes $4.4 billion, which is the same level of funding as last year. This includes $1.4 billion for operation and maintenance and $1.6 billion for construction.

The resolution assumes $11.6 billion for the Environmental Protection Agency. This includes $7.0 billion for State and Tribal Assistance Grants plus an additional $65 million for the new clean school bus program. This level also includes the President's request of $1.4 billion for Superfund, which is an increase of $138 million or 11 percent from last year. This level also assumes $3 million within the EPA budget to fund the establishment of an independent Office of Ombudsman, pending enactment of authorizing legislation.

The Senate resolution assumes $907 million for fire suppression within the Forest Service and Department of the Interior. This is the same as the President's request and $117 million more than was spent last year after adjusting emergency funding out of the 2004 level. In addition, the resolution includes language that will allow up to $500 million in additional funds for wildfire suppression to be appropriated without penalty if the 10-year average is appropriated in the Interior Appropriations bill. In addition the Senate resolution supports the establishment of cost containment measures for fire suppression.

The resolution does not accept the Administration's cuts to State and Private Forestry, and instead assumes $429 million, the same level of funding as last year. The Committee recognizes the important role that these programs play in order to implement cooperative forestry across federal, state and private lands.

The resolution assumes $5 million will be spent within the Bureau of Land Management on wilderness proposals resulting from the collaborative process.

The resolution supports payments of $53 million in 2005 and $265 million over 5 years from the Abandoned Mine Reclamation Fund to the certified public lands states.

The resolution supports continued funding of programs within the expired Conservation Spending Caps.

The resolution assumes $100 million for Pacific Coastal Salmon Recovery. This is an $11 million increase over last year's level and the same as the President's request.

The resolution assumes that $410 million from mandatory Farm Bill conservation programs will be used as discretionary offsets in 2005.

During floor debate on the Senate resolution, the Senate accepted a Wyden amendment (SA 2717) by voice vote which added $343 million in 2005 to this function for hazardous fuels reduction and reduced function 920 by the same amount. In addition, the Senate accepted a Crapo amendment (SA 2784) by voice vote that added $3 billion in 2005 to this function for the EPA clean and safe drinking water revolving funds and was offset in function 920.

Mandatory

The Senate passed resolution assumes the President's proposal allowing the Park Service to change rental payments to the city of San Francisco for the Hetch Hetchy Dam in Yosemite National Park.

The resolution assumes a technical correction to the baseline that will allow technical assistance for the Conservation Reserve Program and the Wetlands Reserve Program to come out of mandatory Agriculture funds as was intended in 2002 Farm Bill.

The Committee adopted an amendment by Senator Grassley during the Committee markup that added $531 million over five years to this function to support farm conservation programs.

House Amendment

The amendment calls for $31.2 billion in budget authority and $30.9 billion in outlays in fiscal year 2005. The function totals are $159.6 billion in budget authority and $159.9 billion in outlays over five years. Mandatory spending is $2.7 billion in budget authority and $1.8 billion in outlays in fiscal year 2005. Over the 2005–2009 period, mandatory spending increases by $15.7 billion in budget authority and $15.3 billion in outlays. Discretionary spending is $28.5 billion in budget authority and $29.1 billion in outlays in fiscal year 2005; and over five years, it is $143.9 billion in budget authority and $144.6 billion in outlays.

Mandatory

The assumptions accommodate legislation, H.R. 313, to assist the United Mine Workers of America Combined Benefit Fund in averting financial crisis by transferring to it any additional interest from the Abandoned Mine Land Reclamation Fund. The measure was reported by the Committee on Resources on 1 October 2003. The resolution also accommodates legislation that passed the House last year and is awaiting Senate action to increase the waiver requirement for certain local matching requirements for grants provided to American Samoa, Guam, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands. These assumptions are reflected in the allocation to the Committee on Resources, which is free to determine its own policies within the allocation limits. The accommodation is necessary to allow for a potential conference agreement.

Discretionary

The amendment can accommodate full funding for the Healthy Forests Initiative legislation (H.R. 1904) signed into law last year. The Healthy Forests Initiative is a critical tool for reducing the threat of severe wildfire and insect infestation in heavily forested communities.

The amendment also can accommodate full funding for numerous other Federal agencies and programs, including the Army Corps of Engineers, the Superfund program, and reducing the Operations and Maintenance backlog within the National Park Service.

Outyear levels are not binding and will be revisited in subsequent years.

Conference Agreement

The conference agreement for this function reflects total spending of $32.1 billion in budget authority and $31.4 billion in outlays for fiscal year 2005. Mandatory spending for this function is $2.8 billion in budget authority and $1.8 billion in outlays in fiscal year 2005. Discretionary spending for this function is $29.3 billion in budget authority and $29.7 billion in outlays in fiscal year 2005.

The agreement assumes a technical correction to the baseline that will allow technical assistance for the Conservation Reserve Program and the Wetlands Reserve Program to come out of mandatory agriculture spending.

The funding levels in this agreement assume funding levels equal to the 10 year average for wildland fire suppression within the Forest Service and Department of Interior.

The agreement can accommodate level funding for the Army Corps of Engineers.

The conferees support restoring funding for beach renourishment projects for local communities with contractual agreements with the Army Corps of Engineers. These projects are critical for combating erosion caused by the federal government's coastal navigation construction projects.

FUNCTION 350: AGRICULTURE

Function Summary

Function 350 includes funds for direct assistance and loans to food and fiber producers, export assistance, market information, inspection services, and agricultural research. Farm policy is driven by the Farm Security and Rural Investment Act of 2002, which provides producers with continued planting flexibility while protecting them against unique uncertainties such as poor weather conditions and unfavorable market conditions.

Function 350 budget authority fell from $23.9 billion in 1999 to $20.2 billion in 2004, a 3.3 percent average annual reduction rate. During the same time period, outlays dropped from $22.9 billion to $18.8 billion, a 3.9 percent average annual reduction rate. The primary reason for this reduction is more favorable overall commodity prices. Commodity prices often fluctuate from year to year. This has a significant impact on mandatory programs, which account for the vast majority of spending within Function 350.

Senate Resolution

Discretionary

The resolution assumes discretionary spending in this function of $5.4 billion in budget authority and $5.6 billion in outlays for 2005. This represents a decrease of $0.2 billion in budget authority and an increase of $0.1 billion in outlays from the 2004 level. The Committee-reported resolution includes the following specific assumptions:

The resolution assumes an increase of $294 million in budget authority from last year's level for activities related to homeland security, a 94 percent increase over last year. This includes a $115 million increase for the Agriculture Research Service to provide for the acceleration of the completion of the animal research lab in Ames, Iowa.

The resolution assumes an increase of $85 million over last year for activities to respond to the discovery of Bovine Spongiform Encephalopathy [BSE] in the United States and Canada. Of this increase, $50 million is in this function for the Animal and Plant Health Inspection Service. The remaining $35 million increase is for the Food Safety Inspection Service and appears in function 550.

The resolution assumes $105 million for PL 480 Title I funding. This is the same as last year, but $15 million over the President's request.

The resolution did not accept any of the Administration's proposed user fees for this function.

The resolution assumes $260 million in discretionary savings by blocking funding for the Initiative for Future Agriculture and Food Systems. This proposal was enacted in the 2004 Agriculture Appropriations Bill.

Mandatory

The resolution includes an amendment (by Senator Grassley) adopted during mark-up to reduce farm program payments in this function and provide additional funds for agriculture conservation programs, food nutrition programs and rural development programs in functions 300, 450 and 600.

House Amendment

The amendment calls for $21.1 billion in budget authority and $20.5 billion in outlays in fiscal year 2005. The function totals are $117.7 billion in budget authority and $112.9 billion in outlays over five years. Mandatory spending is $16.3 billion in budget authority and $15.4 billion in outlays in fiscal year 2005. Over the 2005–2009 period, mandatory spending increases by $93.4 billion in budget authority and $88.4 billion in outlays. Discretionary spending is $4.8 billion in budget authority and $5.1 billion in outlays in fiscal year 2005; and over five years, it is $24.3 billion in budget authority and $24.6 billion in outlays.

Mandatory

The amendment assumes no new mandatory spending proposals.

Discretionary

The amendment can accommodate full funding for enhanced efforts to protect the food supply from Bovine Spongiform Encephalopathy [BSE], or Mad Cow Disease, as well as other important food safety and agricultural research programs within function 350. Outyear levels are not binding and will be revisited in subsequent years.

Conference Agreement

The conference agreement for this function reflects total spending of $21.8 billion in budget authority and $21.0 billion in outlays for fiscal year 2005. Mandatory spending for this function is $16.5 billion in budget authority and $15.5 billion in outlays in fiscal year 2005. Discretionary spending for this function is $5.3 billion in budget authority and $5.5 billion in outlays in fiscal year 2005.

The conference agreement assumes funding for agriculture related homeland security activities that could accommodate a substantial increase in Agriculture Research Service.

FUNCTION 370: COMMERCE AND HOUSING CREDIT

Function Summary

Function 370 includes four components: mortgage credit (usually negative budget authority because receipts tend to exceed the losses from defaulted mortgages); the Postal Service (mostly off budget); deposit insurance (negative outlays resulting from payment of deposit insurance premiums currently more than outweigh low outlays for losses); and other advancement of commerce (the majority of the discretionary and mandatory spending in this function). This last component includes most of the Commerce Department, including the International Trade Administration, Bureau of Economic Analysis, Patent and Trademark Office, National Institute of Standards and Technology, National Telecommunications and Information Administration, and the Bureau of the Census; as well as independent agencies such as the Securities and Exchange Commission, the Commodity Futures Trading Commission, the Federal Trade Commission, the Federal Communications Commission, and all the activities of the Small Business Administration that are not related to disaster assistance.

About $7 billion of the spending in function 370 is out of the FCC's Universal Service Fund, which subsidizes service to rural and low-income users, high-cost areas, and public institutions such as schools and libraries. This spending has no net impact on the deficit because it is offset on the revenue side of the budget by fees collected by providers of telecommunications services from their customers.

Senate Resolution

Discretionary

The Senate resolution assumes discretionary spending in this function of $1.8 billion in budget authority and −$0.5 billion in outlays for 2005 (several activities in this function are funded by offsetting collections that exceed the level of spending). The Senate resolution includes the following specific assumptions:

The President's requested increases in 2005 (compared to 2004) for conducting the decennial census (45 percent), for strengthening the Securities and Exchange Commission (12.4 percent), and for making homeland security investments in the Department of Commerce (4.6 percent).

The President's budget proposes to eliminate the Advanced Technology Program [ATP] in the Department of Commerce because private investors are better able than the federal government to decide which research efforts should be funded. The U.S. venture-capital markets are the best developed in the world, do an effective job of funding new ideas, and focus on many of the same research areas as the ATP. Venture-capital funds have grown enormously since the ATP was conceived. Therefore, this proposal is reflected in the Senate resolution.

The President's budget proposes to terminate payments of tariffs (collected under antidumping or countervailing duty orders) over to affected industries. Before 2001, these tariffs were deposited in and retained by the Treasury. Since then, the tariffs have become mandatory payments. The World Trade Organization has ruled that such payments violate international trade agreements. On March 2, 2004, CBO released an analysis of these payments that said the following:

> The Continued Dumping and Subsidy Offset Act [CDSOA] of 2000 can be expected to result in more antidumping and countervailing-duty petitions and more support for those petitions by import-competing industries. That, in turn, would lead to the initiation of more AD/CVD cases, the imposition of more duties, and greater consequent harm to the economy as a whole . . . Under CDSOA, the firm sees a lower cost than the true cost to the economy of its output. As a result, the firm increases its output beyond the point where the unsubsidized cost to the firm—and thus to the economy—is balanced by the price. Since the price or value is less than the cost to the economy of that additional output, the economic welfare of the country is reduced . . . Consequently, U.S. gross domestic product and gross national product decline.

This proposal is assumed in the Senate resolution, saving $1.45 billion in budget authority in 2005.

The Senate resolution reflects the Snowe amendment (SA 2839) adopted by a voice vote in the Senate to increase the level in this function by $121 million in budget authority in 2005 for programs of the Small Business Administration. The amendment included a corresponding negative entry for function 920 to result in no net effect on the overall budget.

Mandatory

The Senate resolution assumes no mandatory increases or decreases in this function.

House Amendment

For on-budget amounts, the House amendment calls for $10.8 billion in budget authority and $5.8 billion in outlays in fiscal year 2005. The function totals are $50.0 billion in budget authority and $23.3 billion in outlays over five years. Mandatory spending is $9.7 billion in budget authority and $4.8 billion in outlays in fiscal year 2005, and totals $44.4 billion in budget authority and $17.7 billion in outlays over five years. Discretionary spending is $1.1 billion in budget authority and $1.0 billion in outlays in fiscal year 2005; and over five years, it is $5.6 billion in budget authority and $5.6 billion in outlays.

Discretionary

The Committee on Appropriations will determine how funds will be apportioned among the various discretionary programs. Specific programs will be increased or decreased when the Appropriations subcommittees write their respective bills. Outyear levels result from applying a simple computation of modest growth, consistent with the President's budget. Outyear levels are not binding and will be revisited in subsequent years.

Mandatory

The House amendment accommodates the following measures: H.R. 758, the Business Checking Freedom Act, which passed the House on 1 April 2003; H.R. 522, the Federal Deposit Insurance Reform Act of 2003, which passed the House on 2 April 2003; and H.R. 1375, the Financial Services Regulatory Relief Act of 2003, which passed the House on 18 March 2004. All three bills are awaiting action in the Senate. The assumptions are reflected in the allocation to the Committee on Financial Services.

Conference Agreement

For on-budget spending, the conference agreement for this function reflects $9.3 billion in budget authority and $3.3 billion in outlays for fiscal year 2005. Discretionary spending for this function is −$0.4 billion in budget authority and −$0.2 billion in outlays in fiscal year 2005. On-budget mandatory spending for this function is $9.7 billion in budget authority and $3.5 billion in outlays in fiscal year 2005.

Including on- and off-budget spending, the conference agreement for this function reflects total spending of $7.2 billion in budget authority and $1.2 billion in outlays for fiscal year 2005. Discretionary spending for this function is −$0.4 billion in budget authority and −$0.2 billion in outlays in fiscal year 2005. Mandatory spending for this function is $7.6 billion in budget authority and $1.4 billion in outlays in fiscal year 2005.

FUNCTION 400: TRANSPORTATION

Function Summary

Function 400 includes the Federal Highway Administration; the Federal Transit Administration; the National Rail Passenger Corporation [Amtrak]; highway, motor carrier and rail safety programs; the Federal Aviation Administration; the aeronautical activities of the National Aeronautics and Space Administration; the Coast Guard; and the Maritime Administration.

Function 400 budget authority rose from $51.6 billion in 1999 to $69.2 billion in fiscal year 2004, a 6.1 percent average annual growth rate. During the same time period, outlays rose from $42.5 billion to $65.7 billion, a 9.1 percent average annual growth rate.

Senate Resolution

Discretionary

The Senate resolution assumes discretionary spending in this function of $23.8 billion in budget authority and $66.2 billion in outlays for 2005. This represents an increase of $0.1 billion in budget authority and $2.3 billion in outlays from the 2004 level.

The Senate resolution reflects the President's full request for the homeland security activities in this function (a 13.2 percent increase over 2004).

Discretionary and Mandatory

The budgetary presentation of federal transportation programs is complicated by the fact that most of the budget authority for the programs is (because of committee jurisdictions) classified as mandatory while the related outlays are considered discretionary. The Senate-passed surface transportation bill for highways and transit (S. 1072—SAFETEA) exceeded the level allowed by the fiscal year 2004 budget resolution by $41 billion in contract authority over 2004–2009. In addition, the bill would increase the deficit by spending a net of $30 billion (over the next six years) more than the highway trust fund revenues that would be collected under current law (estimated to be $228 billion over 2004–2009, only a 14.6 percent increase over the $199 billion in highway trust fund receipts that were collected over 1998–2003 during TEA–21.)

The Administration has informed Congress that the President's senior advisors would recommend that he veto S. 1072 as passed by the Senate. In light of this veto threat, the Senate resolution reflects the President's request for surface transportation mandatory contract authority (with related outlays on the discretionary side of the budget) for the next five years. As in the 2004 budget resolution, the Senate resolution for 2005 includes a mechanism by which these initial levels could be increased if legislation is considered by the Senate that would levy and deposit net new transportation user fee revenues (which are not already being collected by the federal government under current law) into the Highway Trust Fund.

The President's proposal for the transportation reauthorization bill is $256 billion (in terms of the figures usually discussed, this includes both contract authority as well as an authorization of $8 billion in discretionary budget authority for transit programs for 2004–2009). This is a 17 percent increase over the total level enacted in the previous authorization bill [TEA–21], which was $218 billion for 1998–2003. In contrast, according to the CBO estimate of the bill as passed by the Senate, S. 1072 totals $322 billion (including discretionary budget authority for transit), which is a 48 percent increase over TEA–21 and is 26 percent more than the President's request.

House Amendment

The House amendment calls for $65.0 billion in budget authority and $62.0 billion in outlays in fiscal year 2005. The function totals are $339.4 billion in budget authority and $328.3 billion in outlays over five years. Mandatory spending is $47.2 billion in budget authority and $2.0 billion in outlays in fiscal year 2005, and totals $249.6 billion in budget authority and $8.8 billion in outlays over five years. Discretionary spending is $17.8 billion in budget authority and $60.0 billion in outlays in fiscal year 2005; and over five years, it is $89.8 billion in budget authority and $319.5 billion in outlays. Homeland security components formerly found in Function 400—including the Transportation Security Administration, the United States Coast Guard, and the Federal Air Marshals—are recorded in Function 100: Homeland Security, and are consistent with the President's request.

Discretionary

Specific programs will be increased or decreased when the Appropriations subcommittees write their respective bills. Outyear levels are not binding and will be revisited in subsequent years.

Mandatory

The House amendment creates a reserve fund that allows the chairman of the House Budget Committee to adjust the allocation of budget authority to the Committee on Transportation and Infrastructure for any measure that reauthorizes surface transportation programs and provides new budget authority for highway and transit spending. The adjustment may only be made if it is offset by changes in law, either included in the same measure or by previously enacted legislation. The language in the House amendment regarding this contingency measure is identical to that included in the budget resolution for fiscal year 2004.

The House amendment assumes a stream of mandatory budget authority for a reauthorization of surface transportation programs. It also creates a reserve fund to provide additional budget authority for such a bill to the extent that it is offset in the same or other legislation.

Conference Agreement

The conference agreement for this function reflects total spending of $71.8 billion in budget authority and $68.6 billion in outlays for fiscal year 2005. Discretionary spending for this function is $24.1 billion in budget authority and $66.4 billion in outlays in fiscal year 2005. Mandatory spending for this function is $47.7 billion in budget authority and $2.2 billion in outlays in fiscal year 2005.

Regarding the levels for the reauthorization of the highway bill, the Senate recedes to the House. The conference agreement includes an adjustment mechanism (section 311) to accommodate higher spending than the levels assumed in the conference agreement to the extent the additional spending is offset through reduced outlays from, or additional receipts to, the Highway Trust Fund.

FUNCTION 450: COMMUNITY AND REGIONAL DEVELOPMENT

Function Summary

Function 450 includes programs that provide Federal funding for economic and community development in both urban and rural areas, including: Community Development Block Grants [CDBGs]; the non-power activities of the Tennessee Valley Authority; the non-roads activities of the Appalachian Regional Commission; the Economic Development Administration [EDA]; and partial funding for the Bureau of Indian Affairs. Funding for disaster relief and insurance—including the Federal Emergency Management Agency [FEMA], now part of the Department of Homeland Security [DHS]—also appear here.

Function 450 budget authority rose from $11.3 billion in fiscal year 1999 to $16.7 billion in fiscal year 2004, an 8.2 percent average annual growth rate. During the same time period, outlays rose from $11.9 billion to $16.7 billion, a 7 percent average annual growth rate.

A factor in this growth was the presence of Federal Emergency Management Agency [FEMA] funding for first responders and one-time New York City recovery funds in the wake of the events of 9–11.

Senate Resolution

Discretionary

The Senate resolution assumes discretionary spending in this function of $13.5 billion in budget authority and $15.2 billion in outlays for 2005, a decrease of $2.2 billion in budget authority and $0.9 billion in outlays from the 2004 level. The Senate resolution includes the following specific assumptions:

For the Office of Domestic Preparedness, the Senate resolution fully supports the President's proposal for first responders and assumes $3.6 billion to ensure that they are properly trained and equipped. This includes $500 million for assistance to firefighters and $500 million for state and local law enforcement antiterrorism activities. Since 2001, Congress has appropriated close to $15 billion (or $20 billion if programs outside the Department of Homeland Security are included) for state and local first responders. The Senate notes with concern reports about misuse of money provided to states and localities under this program and supports policies to ensure these funds are being properly spent.

The Senate resolution assumes $3.0 billion in 2005 for disaster relief activities. This level is consistent with the average annual cost of (non-terrorist) disaster events over the past five years. This includes $2.2 billion in new budget authority, as well as money left over from prior years. This $2.2 billion in new money represents an increase of $384 million, or 21.7 percent, over the 2004 level.

The Senate resolution supports the pre-disaster mitigation grant program that helps communities prevent, rather than react to, disasters. The Senate resolution assumes $169 million for the program, an amount equal to last year's level.

The Senate resolution assumes continuation of the Community Development Block Grant Program, but proposes to target CDBG entitlement grants to lower income communities.

The Senate resolution reflects a Dorgan amendment, (SA 2850) adding $260 million in budget authority in 2005 (and in each year thereafter through 2009) for a new Homestead Venture Capital Fund.

Mandatory

The Senate resolution assumes a savings proposal that would deny federal flood insurance for certain repeatedly flooded properties. The National Flood Insurance Program [NFIP] currently insures roughly 45,000 repeatedly flooded properties, representing about 1 percent of all policies in force but accounting for a much larger share of annual flood losses.

House Amendment

The House amendment calls for $11.9 billion in budget authority and $14.2 billion in outlays in fiscal year 2005. The function totals are $58.7 billion in budget authority and $61.2 billion in outlays over five years. Mandatory spending is $402 million in budget authority and −$183 million in outlays in fiscal year 2005, and totals $780 million in budget authority and −$924 million in outlays over five years. The negative figures appear because of receipts to revolving loan funds. Discretionary spending is $11.5 billion in budget authority and $14.4 billion in outlays in fiscal year 2005; and over five years, it is $57.9 billion in budget authority and $62.2 billion in outlays.

Mandatory

The House amendment assumes no new mandatory spending proposals.

Discretionary

The House amendment does not assume specific levels for individual discretionary programs within Function 450. Instead, $11.5 billion in budget authority and $14.4 billion in outlays in fiscal year 2005 is assumed for overall discretionary spending within the function. The Committee on Appropriations will determine how these funds will be apportioned among the various discretionary Community and Regional Development programs. Outyear levels are not binding and will be revisited in subsequent years.

Conference Agreement

The conference agreement for this function reflects total spending of $13.6 billion in budget authority and $17.4 billion in outlays. Mandatory spending for this function is $0.4 billion in budget authority and −$0.2 billion in outlays in fiscal year 2005. Discretionary spending for this function is $13.2 billion in budget authority and $17.6 billion in outlays in fiscal year 2005.

Function 500: Education, Training, Employment, and Social Services

Function Summary

Function 500 primarily covers federal spending within the Departments of Education, Labor, and Health and Human Services for programs that directly provide—or assist states and localities in providing—services to young people and adults. Its activities provide developmental services to low-income children; help fund programs for disadvantaged and other elementary and secondary school students, make grants and loans to post secondary students, and fund job-training and employment services for people of all ages.

Function 500 budget authority rose from $55.5 billion in 1999 to $89.5 billion in 2004, a 10 percent average annual growth rate. During the same period, outlays rose from $50.6 billion to $86.5 billion, an 11.3 percent average annual growth rate.

Senate Resolution

Discretionary

The Senate resolution assumes discretionary spending in this function of $83.9 billion in budget authority and $78.3 billion in outlays for 2005. This represents an increase of $5.9 billion (7.5 percent) in budget authority and $1.2 billion in outlays from the 2004 level. The resolution includes the following specific assumptions:

Consistent with the President's proposals, the increases assumed in the Senate resolution would bring our Nation's overall investment in elementary and secondary education to nearly $500 billion, surpassing spending on our national defense and exceeding per-pupil education spending of every other nation except Switzerland.

The Senate resolution includes $13.3 billion in 2005 for Title I grants to Local Education Agencies [LEAs]—the largest component of the No Child Left Behind Act. The $1.0 billion (8.1 percent) increase over 2004 would fund services to disadvantaged students and improvements for low-performing schools. At this level, funding for Title I grants would be $4.6 billion (52 percent) greater than in 2001.

The Senate resolution would increase funding for Part B Grants to States for individuals with disabilities by $1.0 billion in each of the next two years. This is the fourth in a series of consecutive $1.0 billion annual increases, which cumulatively have raised the Federal share of average per pupil expenditures to nearly 20 percent, the highest level of Federal support ever provided to disabled children. With 2005 funding at $11.1 billion, funding for Part B Grants would reflect an increase of $4.7 billion (75 percent) since 2001.

The Senate resolution does not incorporate any of the President's program terminations. However, the resolution supports the President's effort to eliminate duplicative and unproductive programs and encourage the Appropriations Committees to carefully examine these proposals to maximize efficient use of taxpayer dollars during this challenging budget cycle.

For Pell Grants, the Senate resolution assumes a $2.7 billion increase over 2004, which provides a total of $14.7 billion to fully fund a $4,500 maximum award. This level reflects the Senate's adoption of the Coleman amendment (SA 2821), which increased the level assumed for Pell Grants by $1.9 billion. The amendment included a corresponding negative entry for function 920 to result in no net effect on the overall budget. In recent years, the shortfall in the Pell Grant program has grown dramatically due to insufficient appropriations. The program may not continue to be financially viable unless this shortfall is addressed.

The resolution also incorporates the $0.9 billion cost of Senators Dorgan and Brownback's American Heartland amendment (SA 2850), which provides 50% loan forgiveness to recent graduates who live and work in out migration counties. In addition, the resolution incorporates the cost of the Enzi-Cantwell amendment (SA 2832), which added $250 million in 2005 for job training funding under the Workforce Investment Act.

Currently, the administrative expenses of the Federal Direct Student Loan Program receive a permanent mandatory appropriation. No other federal credit program has such a mandatory appropriation for administrative expenses. Instead, they are subject to annual review by the Appropriations committee. The Senate resolution, consistent with the President's proposal, assumes shifting the $795 million in mandatory spending for these administrative expenses (Sec. 458) to an annual discretionary appropriation.

The resolution recognizes how important the Impact Aid Program is for school districts serving the needs of federally connected children throughout the country especially the emotional and family needs of military dependent children during this time of conflict in Iraq. The resolution urges that sufficient resources be provided allowing school districts to maintain the same level of service as what they were able to provide in fiscal year 2004.

Mandatory

The Senate resolution provides a reserve fund to facilitate consideration of the Higher Education Reauthorization. This fund provides a total of $5 billion to the Health, Education, Labor and Pensions [HELP] Committee for the 2005–2009 period. These funds may be used to increase student loan limits, reduce borrower origination fees or maintain the existing variable rate interest structure for Stafford loans after 2006.

House Amendment

The amendment calls for $92.5 billion in budget authority and $90.5 billion in outlays in fiscal year 2005. The function totals are $470.5 billion in budget authority and $465.4 billion in outlays over 5 years. Mandatory spending is $11.8 billion in budget authority and $10.0 billion in outlays in fiscal year 2005, and totals $63.0 billion in budget authority and $55.5 billion in outlays over 5 years. Discretionary spending is $80.7 billion in budget authority and $80.5 billion in outlays in fiscal year 2005, and totals $407.4 billion in budget authority and $409.9 billion in outlays over 5 years.

Mandatory

The assumptions accommodate H.R. 438, the Teacher Recruitment and Retention Act of 2003, which passed the House on 9 July 2003 and is awaiting action in the Senate. The assumption is reflected in the allocation to the Committee on Education and the Workforce, which is free to determine its own policies within the allocation limits.

Discretionary

The amendment gives Function 500 priority status within the overall framework of level funding for fiscal year 2005 in non-defense, non-homeland-security spending. The resolution calls for an increase from level funding of $2.8 billion in budget authority and $3.6 billion in outlays. This increase is intended to accommodate increases in the funding levels for priority programs, such as special education state grants, Title I grants to local education agencies, and Pell Grants for low-income college students. Outyear levels are not binding and will be revisited in subsequent years.

Conference Agreement

The conference agreement for this function reflects total spending of $92.8 billion in budget authority and $90.7 billion in outlays for fiscal year 2005. Mandatory spending for this function is $11.8 billion in budget authority and $10.0 billion in outlays in fiscal year 2005. Discretionary spending for this function is $81.0 billion in budget authority and $80.7 billion in outlays in fiscal year 2005.

The conference agreement provides sufficient funding to accommodate increases consistent with the President's budget for Title I grants to local education agencies and state grants for special education. In addition, the conference agreement recognizes the importance of Pell Grants for low-income undergraduates and will continue to work with the Appropriations Committee and other interested parties to ensure it is a financially sound and robust program.

While the conferees support the Federal student loan programs, the conference is concerned that the Ford Direct Loan Program's subsidy estimates do not reflect the program's true cost to the Federal Government. Therefore the conferees support the Department of Education's continuing efforts to refine and improve its cost estimating techniques.

The conference agreement assumes additional funding for the Workforce Investment Act (this could accommodate additional funding for WIA consistent with the Enzi amendment # 2832.)

FUNCTION 550: HEALTH

Function Summary

Function 550 consists of health care services, including Medicaid, the Nation's major program covering medical and long-term care costs for low-income persons; the State Children's Health Insurance Program [SCHIP], health research and training, including the National Institutes of Health [NIH] and substance abuse prevention and treatment; and consumer and occupational health and safety, including the Occupational Safety and Health Administration. Medicaid represents about 72 percent of the spending in this function.

Function 550 budget authority rose from $142.2 billion in 1999 to $241.8 billion in 2004, an 11.2 percent average annual growth rate. During the same time period, outlays rose from $141.1 billion to $239.6 billion, an 11.2 percent average annual growth rate. The largest component of this was the budget of the Medicaid, for which federal payments grew from $108.0 billion in 1999 to $173.9 billion in fiscal year 2004, a 10 percent average annual increase.

Senate Resolution

Discretionary

The Senate resolution assumes discretionary spending in this function of 55.1 billion in budget authority and $50.4 billion in outlays for 2005. The resolution includes the following specific assumptions:

The Omnibus Appropriations Bill of 2003 completed the planned five-year doubling of the NIH budget from $13.7 billion in 1998 to $27.2 billion in 2003. The Senate resolution includes an additional increase in 2005, bringing the total NIH funding to $28.7 billion. As part of this, the resolution assumes $1.7 billion for NIH biodefense efforts, an increase of 7.5 percent over 2004.

The resolution also assumes a $35 million increase in food safety and inspections at USDA. These funds will help USDA detect and prevent BSE (mad cow disease) as well as help detect bioterrrorism.

The resolution also includes two one-year changes in Medicaid to offset 2005 discretionary spending. The first is a reduction in the federal medical assistance percentage [FMAP] for information systems from a 90 percent to 75 percent federal share. The second is a reduction in federal reimbursement for the administrative costs of Medicaid to reflect the share assumed in the Temporary Assistance for Needy Families [TANF] block grant and prohibit states from using TANF funds to pay those costs in 2005.

The Senate adopted an amendment (SA 2780) by Senator Clinton creating a deficit-neutral reserve fund for appropriations addressing minority health disparities.

The Senate adopted an amendment (SA 2741) by Senator Specter to increase the level in this function by $1.3 billion in budget authority in 2005 for the National Institutes of Health. The amendment included a corresponding negative entry for function 920 to result in no net effect on the overall budget.

The Senate adopted an amendment (SA 2822) by Senator Murkowski to increase the level in this function by $282 million in budget authority in 2005 for Indian Health Services. The amendment included a corresponding negative entry for function 920 to result in no net effect on the overall budget.

The Senate adopted an amendment (SA 2794) by Senator Thomas to increase the level in this function by $100 million in budget authority in 2005 for rural health programs. The amendment included a corresponding negative entry for function 920 to result in no net effect on the overall budget.

Mandatory

The Senate-passed resolution provides for a one-year extension of the QI–1 program, under which Medicaid pays the Medicare Part B premium for low-income beneficiaries.

The Senate recognizes that the Temporary Assistance for Needy Families [TANF] reauthorization is likely this year, and that the reauthorization will be paid for with spending reductions and not increase the deficit.

The Senate also notes that there is great potential for savings in the Medicaid program due to waste and abuse in the system. The Senate points out that many states are using Medicaid funds to provide health care to low-income individuals and understands the need to balance all issues when addressing this issue.

The resolution also includes a deficit-neutral reserve fund for legislation that addresses access to health-care services and health insurance for the uninsured. This reserve fund allows the chairman of the Budget Committee to adjust applicable allocations and aggregates to accommodate this legislation if the Committee on Finance or the Committee on Health, Education, Labor, and Pensions reports a bill that provides health insurance for the uninsured or that increases access to health insurance through lowering costs—provided that any such measure does not increase the costs of current health coverage.

The Senate understands that protecting patients' access to quality and affordable health care by reducing the effects of excessive liability costs is important to improve access to health-care providers and reduce health-care costs. The Senate encourages the committees of jurisdiction to examine such concepts as sensible limits on non-economic damages and reserving punitive damages for case that justify them.

Public and private health plans and employers pay the medical expenses of insured individuals when they are injured by a third party, but in these circumstances public and private health plans and employers are entitled under federal law to be repaid if the individual later recovers damages from the third party causing the injury. The right of recovery is an important means to restore federal revenue, to contain private health plan and employer costs and to reduce health care premiums for individuals. The Senate understands the recovery rights of federal health programs (Medicare, FEHPB and M+C) and private health plans have been eroded by recent court decisions. The result is higher federal and private health plan costs. Last year, Congress acted to shore up the Medicare program's recovery right. The Senate encourages the committees of jurisdiction to examine proposals that will strengthen the right of recovery for federal programs and private health plans and employers.

The Senate adopted an amendment (SA 2699) by Senator Kennedy that allows legislation that maintained expiring SCHIP funds to be included in the reserve fund for the uninsured.

The Senate adopted an amendment (SA 2833) by Senator Bingaman that establishes a deficit-neutral reserve fund for legislation reforming the vaccines for children program.

House Amendment

The House amendment calls for $245.1 billion in budget authority and $244.9 billion in outlays in fiscal year 2005. The function totals are $1.353 trillion in budget authority and $1.350 trillion in outlays over 5 years. Mandatory spending is $198.8 billion in budget authority and $198.9 billion in outlays in fiscal year 2005, and totals $1.119 trillion in budget authority and $1.120 trillion in outlays over 5 years. Discretionary spending is $46.3 billion in budget authority and $46.1 billion in outlays in fiscal year 2005; and over 5 years, it is $233.9 billion in budget authority and $230.4 billion in outlays.

Mandatory

The assumptions accommodate H.R. 4, the Personal Responsibility, Work, and Family Promotion Act of 2003, which passed the House on 13 February 2003, and is awaiting action in the Senate. The assumption is necessary to allow for a potential conference agreement. The assumption is reflected in the allocation to the Committee on Energy and Commerce.

Discretionary

The Committee on Appropriations will determine how funds will be apportioned among the various discretionary programs.

Specific programs will be increased or decreased when the Appropriations subcommittees write their respective bills. Outyear levels are not binding and will be revisited in subsequent years.

Reserve Fund

The House amendment provides a reserve fund to reflect the savings from legislation that has passed the House of Representatives and is pending in the Senate "that provides for the safe importation of FDA-approved prescription drugs or places limits on medical malpractice litigation." This reserve fund affects Function 570 as well as Function 550.

The adjustment will be made by the chairman of the Committee on the Budget to the allocations and aggregates to reflect any resulting savings from any such measure. The effect of any adjustment would be to lock in the savings for deficit reduction. The chairman of the Budget Committee will consult with the committees of jurisdiction before making any adjustments pursuant to this section.

The House amendment also provides a deficit-neutral reserve fund for the period of fiscal years 2005–2009 for legislation that addresses access to health care services and health insurance for the uninsured. The reserve fund is needed to allow an initiative for the uninsured to come to the floor as long as it is deficit neutral in the first year and over the 5-year period.

The House amendment also provides a reserve fund for the Family Opportunity Act. If legislation is reported by the Energy and Commerce Committee that provides Medicaid coverage for children with special needs (the Family Opportunity Act), the chairman of the Budget Committee may adjust the levels in the allocations and aggregates to the extent such legislation is deficit neutral in fiscal year 2005, and the period of fiscal years 2005–2009. The reserve fund would allow these initiatives to come to the floor with offsets, as long as that initiative is deficit neutral in the first year and over the 5-year period.

Conference Agreement

The conference agreement for this function reflects total spending of $252.4 billion in budget authority and $250.0 billion in outlays for fiscal year 2005. Mandatory spending for this function is $199.1 billion in budget authority and $199.2 billion in outlays in fiscal year 2005. Discretionary spending for this function is $53.3 billion in budget authority and $50.8 billion in outlays in fiscal year 2005.

The conference agreement can accommodate a 1-year extension of the QI–1 program. It also includes a deficit-neutral reserve fund for the enactment of the Family Opportunity Act for both the House and the Senate. Finally, the agreement recognizes the importance of addressing the problem of the uninsured and includes two separate reserve funds, one for the House and one for the Senate.

FUNCTION 570: MEDICARE

Function Summary

Function 570 reflects the Medicare Part A Hospital Insurance [HI] Program, Part B Supplementary Medical Insurance [SMI] Program, and premiums paid by qualified aged and disabled beneficiaries. In addition, with the enactment of H.R. 1 last year, the Medicare Advantage Program replaced Medicare+Choice under Part C and a new Voluntary Prescription Drug Benefit Program was established under Part D of Medicare. Prior to implementation of the new drug benefit in 2006, certain low-income seniors will be eligible for transitional low-income drug assistance of up to $600 in conjunction with their prescription drug discount card.

Function 570 budget authority rose from $190.6 billion in 1999 to $269.6 billion in 2004, a 7.2 percent average annual growth rate. During the same time period, outlays rose from $190.4 billion to $268.8 billion, a 7.1 percent average annual growth rate. This function consists entirely of the Medicare program.

Senate Resolution

Discretionary

The Senate resolution assumes discretionary spending in this function of $3.7 billion in budget authority and $3.7 billion in outlays for 2005. This represents a decrease of $0.2 billion in budget authority and $0.1 billion in outlays from the 2004 level. The resolution includes the following specific assumptions:

The resolution assumes three relatively minor changes proposed by the President to offset discretionary spending. These are user fees relating to claims, a change to the Medicare secondary payer [MSP], and a change in durable medical equipment. These proposals would save approximately $1 billion over the next five years.

The Senate resolution recognizes the importance of the proper and timely implementation of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, P.L. 108–173 and assumes increased funding for administering this new program in 2005 and beyond.

The Senate resolution also recognizes the importance of the administrative funding for the Social Security Administration included in this function, and assumes the increased funding proposed by the President.

House Amendment

The House amendment calls for $288.2 billion in budget authority and $289.1 billion in outlays in fiscal year 2005. The function totals are $1.776 trillion in budget authority and $1.776 trillion in outlays over 5 years. Mandatory spending is $284.0 billion in budget authority and $285.1 billion in outlays in fiscal year 2005, and totals $1.755 trillion in budget authority and $1.756 trillion in outlays over 5 years. Discretionary spending is $4.1 billion in budget authority and $4.0 billion in outlays in fiscal year 2005; and over 5 years, it is $20.9 billion in budget authority and $20.7 billion in outlays.

Mandatory

The House amendment assumes growth in mandatory spending to accommodate projected caseloads, inflation, and other normal factors. It also provides for the continuation of the new modernization of Medicare with prescription drug coverage that was enacted by the President and Congress last year. The assumptions appear in the allocations of the respective committees of jurisdiction, which limit the amount that programs can be increased. The authorizing committees are free to determine their own policies, so long as they stay within the allocation limits.

Discretionary

The House amendment gives Function 570 priority status within the overall framework of level funding for fiscal year 2005 in non-defense, non-homeland-security spending. Consequently, the amendment calls for an increase from level funding of $302 million in budget authority and $199 million in outlays. This amount accommodates the President's request for Function 570 discretionary—including the President's $100-million request for additional funds for prescription drug administrative costs—without including any of the President's offsets. Outyear levels are not binding and will be revisited in subsequent years.

Reserve Fund

The House amendment provides a reserve fund to reflect the savings from legislation that has passed the House of Representatives and is pending in the Senate "that provides for the safe importation of FDA-approved prescription drugs or places limits on medical malpractice litigation." This reserve fund affects Function 550 as well as Function 570.

The adjustment will be made by the chairman of the Committee on the Budget to the allocations and aggregates to reflect any resulting savings from any such measure. The effect of any adjustment would be to lock in the savings for deficit reduction. The chairman of the Budget Committee will consult with the committees of jurisdiction before making any adjustments pursuant to this section.

Conference Agreement

The conference agreement for this function reflects total spending of $287.9 billion in budget authority and $289.0 billion in outlays for fiscal year 2005. Mandatory spending for this function is $284.0 billion in budget authority and $285.1 billion in outlays in fiscal year 2005. Discretionary spending for this function is $3.9 billion in budget authority and $3.9 billion in outlays in fiscal year 2005. The conference agreement assumes the QI–1 program will be extended for one year.

FUNCTION 600: INCOME SECURITY

Function Summary

Function 600 includes most of the Federal Government's income support programs. These include: general retirement and disability insurance (excluding Social Security)—mainly through the Pension Benefit Guaranty Corporation—and benefits to railroad retirees. Other components are Federal employee retirement and disability benefits (including military retirees); unemployment compensation; low-income housing assistance, including section 8 housing; food and nutrition assistance, including food stamps and school lunch subsidies; and other income security programs.

This last category includes: Temporary Assistance for Needy Families [TANF]; Supplemental Security Income [SSI]; spending for the refundable portion of the Earned Income Credit [EIC]; and the Low Income Home Energy Assistance Program [LIHEAP]. Agencies involved in these programs include the Departments of Agriculture, Health and Human Services, Housing and Urban Development, the Social Security Administration (for SSI), and the Office of Personnel Management (for Federal retirement benefits).

Function 600 budget authority rose from $243.5 billion in 1999 to $329.3 billion in 2004, a 6.2 percent average annual growth rate. During the same period, outlays rose from $242.4 billion to $336.1 billion, a 6.8 percent average annual growth rate.

Senate Resolution

Discretionary

The Senate resolution assumes discretionary spending in this function of $46.4 billion in budget authority and $51.4 billion in outlays for 2005. This represents an increase of $1.8 billion in budget authority and a decrease of $1.7 billion in outlays from the 2004 level. The Senate resolution includes the following specific assumptions:

The Senate resolution incorporates the President's funding proposal for the Special

Supplemental Nutrition Program for Women, Infants and Children [WIC]. The resolution provides $4.8 billion in 2005, an increase of $175 million from 2004, or 3.8 percent.

The Senate resolution assumes the President's funding level for the Low Income Home Energy Assistance Program. The resolution assumes $2 billion in 2005, a $112 million (6 percent) increase.

The Senate resolution assumes the President's proposed funding level of $2.1 billion for discretionary payments to the States for the Child Care Development and Block Grant Program. This represents a $13 million increase from 2004.

Under the Senate resolution, sufficient budget authority and outlays are provided to renew all utilized section 8 housing contracts. The resolution does not reflect the Administration's block grant proposal (consistent with Congressional action in 2004 appropriations on a similar proposal in 2004 budget request). The Senate resolution assumes the President's proposal to complete the phase-out of funding for revitalization of severely distressed public housing [HOPE VI] because the program has achieved its goal of demolishing 100,000 severely distressed public housing units by 2003.

Mandatory

The Senate resolution assumes $18 billion in additional outlays (over five years) that are related to the President's proposal to extend the $1,000 child credit and marriage penalty relief.

The Senate resolution recognizes that TANF reauthorization is likely this year and assumes that the reauthorization will be paid for with spending cuts and will not increase the deficit. The Senate is supportive of efforts to recognize and develop the role of self-sustainable social services, such as Goodwill, which are critical in the success of moving welfare recipients to work.

The Senate resolution also assumes aspects of the President's proposal to enhance Child Support Enforcement collections. These efforts will increase collections and direct more of the support collected to children and families.

The Senate resolution recognizes that the Child Nutrition program is likely to be reauthorized this year, and assumes $11.7 billion for these programs in 2005. The Senate resolution also assumes $232 million for fiscal years 2005–2009 for the continued cost of excluding certain military housing allowances from income when determining eligibility for free and reduced-price school meals, and allowing for-profit child care centers to participate in the Child and Adult Care Food Program [CACFP]. By voice vote, the Senate adopted an amendment (SA 2844, offered by Senator Dole) to increase the level in this function by $842 million in budget authority from 2005–2009 for Child Nutrition Programs. The amendment included a corresponding reduction for function 920 to result in no net effect on the overall budget.

The Senate resolution assumes the President's proposal for an administrative fee for non-TANF child support collections of at least $500, saving $199 million over 5 years.

The Senate resolution assumes the President's funding level of $28.3 billion for the Food Stamp program in 2005.

The Senate resolution incorporates the Administration's plan to change the Federal Employee Compensation [FECA] benefit structure and reform proposal.

The Senate resolution assumes savings from reform of the Earned Income Credit. The cost of the EIC has skyrocketed in recent years due to program expansions, fraud, and errors, with total program costs growing from $6.6 billion in 1990 to nearly $36 billion in 2003. IRS and GAO estimate that overclaim rates on 1999 tax returns were about 30 percent.

The Senate resolution assumes $665 million over five years in new mandatory spending for Food and Nutrition Programs.

House Amendment

The House amendment calls for $337.3 billion in budget authority and $341.7 billion in outlays in fiscal year 2005. The function totals are $1.728 trillion in budget authority and $1.742 trillion in outlays over 5 years. Mandatory spending is $291.5 billion in budget authority and $290.7 billion in outlays in fiscal year 2005, and totals $1.496 trillion in budget authority and $1.492 trillion in outlays over 5 years. Discretionary spending is $45.8 billion in budget authority and $51.0 billion in outlays in fiscal year 2005; and over 5 years, it is $231.4 billion in budget authority and $250.3 billion in outlays.

Discretionary

The Committee on Appropriations will determine how these funds will be apportioned among the various discretionary income security programs. Outyear levels are not binding and will be revisited in subsequent years.

Mandatory

The assumptions accommodate H.R. 4, the Personal Responsibility, Work, and Family Promotion Act of 2003, which passed the House on 13 February 2003; H.R. 7, the Charitable Giving Act of 2003, which passed the House on 17 September 2003; and H.R. 1000, the Pension Security Act of 2003, which passed the House on 14 May 2003. All three measures are awaiting action in the Senate. The assumptions also accommodate H.R. 3108, the Pension Funding Equity Act of 2003, which passed the House on 8 October 2003 and was in conference with the Senate at the time the House considered the budget resolution. These accommodations are necessary to allow for potential conference agreements.

The assumptions are reflected in the allocations to the respective committees of jurisdiction, which limit the amount that programs can be increased.

Conference Agreement

The conference agreement for this function reflects total spending of $339.2 billion in budget authority and $345.7 billion in outlays for fiscal year 2005. Mandatory spending for this function is $292.8 billion in budget authority and $291.6 billion in outlays in fiscal year 2005. Discretionary spending for this function is $46.4 billion in budget authority and $54.1 billion in outlays in fiscal year 2005.

Discretionary

The level of discretionary spending in the conference agreement could allow for the President's funding proposal for the Special Supplemental Nutrition Program for Women, Infants, and Children [WIC] and for the Low Income Home Energy Assistance Program. The conference agreement also provides a level that could allow for the President's proposal for discretionary payments to the states for the Child Care and Development Grant Program.

Mandatory

The conference agreement assumptions accommodate H.R. 4, the Personal Responsibility, Work, and Family Promotion Act of 2003, which passed the House in February 2003. The conference agreement also accommodates assumptions in H.R. 3873, which continues the cost of excluding certain military housing allowances from income when determining eligibility for free and reduced-price school meals, and allowing for-profit child care centers to participate in the Child and Adult Care Food Program, but could also be used to fund other Child Nutrition programs, such as funding additional school lunches.

FUNCTION 650: SOCIAL SECURITY

Function Summary

Function 650 consists of the Social Security program, or Old-Age, Survivors, and Disability Insurance, the Government's largest entitlement program. Social Security consists of two parts, each tied to a trust fund. The Old-Age and Survivors Insurance program provides monthly benefits to eligible retired workers and their families and survivors. The Disability Insurance program provides monthly benefits to eligible disabled workers and their families.

Under provisions of the Budget Enforcement Act, Social Security trust funds are off budget.

Senate Resolution

Discretionary

The Senate resolution assumes discretionary spending in this function of $4.2 billion in budget authority and $4.3 billion in outlays for 2005. This represents an increase of 2.8 percent, or $0.1 billion, in budget authority compared to 2004.

Mandatory

The Senate resolution assumes the President's proposal to close an existing loophole that allows former state and local employees to receive their public pension and Social Security benefits even though they did not pay Social Security taxes. The resolution assumes the President's proposal to improve the reporting of non-covered pension income through pension administrators for state and local pensions sharing information with the Social Security Administration.

House Amendment

The amendment calls for $15.1 billion in budget authority and $15.1 billion in outlays in fiscal year 2005. The function totals are $91.7 billion in budget authority and $91.7 billion in outlays over five years. All of this spending is mandatory; all discretionary spending in function 650 is off budget, but is included in the section 302(a) allocation to the Committee on Appropriations.

Mandatory

There are no specific mandatory assumptions in this function.

Discretionary

The Committee on Appropriations will determine how funds in this function are apportioned. Outyear levels are not binding and will be revisited in subsequent years.

Conference Agreement

For on-budget spending, the conference agreement for this function reflects $15.2 billion in budget authority and outlays for fiscal year 2005. Mandatory spending for this function is $15.2 billion in budget authority and outlays in fiscal year 2005. There is no on-budget discretionary spending for this function.

Including on- and off-budget spending, the conference agreement reflects a total of $518.9 billion in budget authority and $517.2 billion in outlays for fiscal year 2005. Mandatory spending for this function is $514.7 billion in budget authority and $512.9 billion in outlays in fiscal year 2005. Discretionary spending for this function is $4.2 billion in budget authority and $4.3 billion in outlays in fiscal year 2005.

FUNCTION 700: VETERANS BENEFITS AND SERVICES

Function Summary

Function 700 includes funding for the Department of Veterans Affairs [VA], which provides benefits to veterans who meet various eligibility rules. Benefits range from income security for veterans, principal disability compensation and pensions; veterans education, training, and rehabilitation services; hospital and medical care for veterans; and other veterans benefits and services, such as home loan guarantees. There are about 25 million veterans.

Function 700 budget authority rose from $44.2 billion in 1999 to $61.5 billion in 2004, a 6.8 percent average annual growth rate. During the same time period, outlays rose from $43.2 billion to $60.1 billion, a 6.8 percent average annual growth rate. The two largest components of this growth were veterans medical care, whose budget authority grew from $17.8 billion in 1999 to $28.0 billion in 2004, a 9.4 percent average annual increase, and disability compensation, whose budget authority grew from $18.7 billion in 1999 to $30.7 billion in 2004, a 10.4 percent average annual increase.

Senate Resolution

Discretionary

The Senate resolution assumes discretionary spending in this function of $31.7 billion in budget authority and $30.7 billion in outlays for 2005.

The Senate resolution assumes $30.3 billion in total funding for VA medical programs. This reflects a Murkowski amendment (SA 2846) to increase Veterans medical care by $1.2 billion. The Murkowski amendment included a corresponding reduction to function 920 to result in no net effect on the overall budget. This includes $28.3 billion in budget authority and $2 billion in offsetting collections from the Medical Care Collections Fund [MCCF]. This is an increase of 9.4 percent, or $2.6 billion, over the 2004 enacted level. VA Medical Care spending has grown by 100 percent since 1993 and 42 percent since 2001.

The Senate resolution does not assume the President's proposal to establish a new $250 enrollment fee for priority level 7 and 8 veterans or to increase the insurance and prescription drug co-payments for Priority 7 and 8 veterans from $7 to $15.

Mandatory

The Senate resolution assumes a 1.3 percent cost of living adjustment for compensation benefits that is due in 2005 under current law. After the adjustment, total mandatory spending in this function is projected to be $39.8 billion in 2005, an increase of 23.6 percent or $7.6 billion over the 2004 enacted level. Mandatory spending includes funding for veterans compensation, pensions, insurance funds and readjustment programs.

The Senate resolution assumes the President's proposal to restore the original interpretation of section 1110 of title 38 of the U.S. Code. This section prohibits veterans from receiving disability compensation for alcohol or drug abuse which arises secondarily from a service connected disability. In February 2001, the U.S. Court of Appeals decided that section 1110 did not preclude compensation for alcohol or drug abuse arising secondarily from a service-connected disability. If this legislation were enacted it would save $9 million in fiscal year 2005 and $95 million for fiscal years 2005—2009 period.

House Amendment

Note: In the House amendment as passed, funding amounts for certain homeland security activities were moved out of this function into a separate category, Function 100—Homeland Security. Accordingly, the House-passed totals in these functions do not precisely correspond with those in the Senate-passed resolution, and the figures in the House-passed and Senate-passed measures cannot be compared at face value. The customary correspondence was restored in the process of developing the conference agreement.

The House amendment calls for $70.5 billion in budget authority and $68.6 billion in outlays in fiscal year 2005. The function totals are $346.0 billion in budget authority and $341.7 billion in outlays over five years. Mandatory spending is $39.8 billion in budget authority and $39.5 billion in outlays in fiscal year 2005, and totals $190.9 billion in budget authority and $190.4 billion in outlays over five years. Discretionary spending is $30.7 billion in budget authority and $29.1 billion in outlays in fiscal year 2005; and over five years, it is $155.1 billion in budget authority and $151.4 billion in outlays.

Mandatory

There are no specific mandatory assumptions in this function.

Discretionary

During markup, the Budget Committee adopted an amendment offered by Representative Brown-Waite adding $200 million to the Chairman's Mark in veterans benefits and services. As a result, the amendment includes an increase in total veterans budget authority of $1.2 billion in fiscal year 2005 over the President's request with none of the fees in the President's budget. Outyear levels are not binding and will be revisited in subsequent years.

Conference Agreement

The conference agreement for this function reflects total spending of $70.8 billion in budget authority and $68.9 billion in outlays for fiscal year 2005. Mandatory spending for this function is $39.8 billion in budget authority and $39.5 billion in outlays in fiscal year 2005. Discretionary spending for this function is $31.0 billion in budget authority and $29.4 billion in outlays in fiscal year 2005. The conference agreement includes $1.2 billion more than the President's request, consistent with the funding need identified by Secretary of Veterans Affairs Anthony J. Principi.

FUNCTION 750: ADMINISTRATION OF JUSTICE

Function Summary

Function 750 supports the majority of Federal justice and law enforcement programs and activities. This includes funding for the Department of Justice, a large portion of the Department of Homeland Security [DHS], as well as the financial law enforcement activities of the Department of the Treasury, Federal courts and prisons, and criminal justice assistance to State and local governments.

Function 750 budget authority rose from $28.1 billion in 1999 to $41.2 billion in 2004, an 8.0 percent average annual growth rate. During the same time period, outlays rose from $26.5 billion to $39.6 billion, an 8.3 percent average annual growth rate. The largest component of this growth was for Federal law enforcement activities, with budget authority growing from $11.9 billion in 1999 to $19.0 billion in 2004, a 9.9 percent average annual increase.

Senate Resolution

Discretionary

The Senate resolution assumes discretionary spending in this function of $37.5 billion in budget authority and $37.0 billion in outlays for 2005, an increase of $0.4 billion in budget authority and an increase of $1.5 billion in outlays from the 2004 level. The Senate resolution includes the following specific assumptions:

The Senate resolution assumes a total of $4.6 billion for the Federal Bureau of Investigation [FBI], an increase of $0.5 billion or 12.8 percent over the 2004 level. Another $0.5 billion is assumed for the FBI in the defense function of the federal budget. Overall, the budget for the FBI is $5.1 billion. The Senate resolution concurs with the President's proposal to dramatically increase the agency's funding in order to fulfill the FBI's primary mission of preventing further terrorist attacks in America. A large portion of the funding increases will go to improve the FBI's intelligence capabilities, counterterrorism investigations, and combating cybercrime.

The Senate resolution includes $1.7 billion for a restructured account entitled Justice Assistance. The Senate resolution concurs with the President's proposal to consolidate many duplicative grant programs within the Department of Justice in order to achieve better effectiveness. Programs from the State and Local Law Enforcement Assistance account, the Juvenile Justice account, and the Community Oriented Policing Services [COPS] account are combined under Justice Assistance in the Committee-reported resolution. Some highlights of this new Justice Assistance account include a $509 million Justice Assistance Grant Program, the $176 million DNA Initiative, the Southwest Border Prosecution Initiative, and funding for bulletproof vests.

For the Bureau of Alcohol, Tobacco, Firearms and Explosives, the Senate resolution assumes a level of $868 million, which represents an increase of $41 million or 5 percent above the 2004 level.

The Senate resolution assumes $4.6 billion for the salaries and expenses of the Bureau of Customs and Border Protection, an increase of $207 million or 4.7 percent above the 2004 level. The increase in funding will enhance border patrol surveillance and technology, continue the Container Security Initiative, and support the purchase of radiation detection equipment.

The Senate resolution assumes $4.0 billion for the salaries and expenses of the Federal Courts of Appeals, District Courts, and other judicial services. This matches the President's request for 2005 and represents an increase of $357 million or 9.7 percent above the 2004 level.

The Senate is concerned about efficiency and cost-effectiveness of first responder spending and training. Therefore, the Senate resolution encourages the use of homeland security funds to examine and possibly expand upon the Federal Law Enforcement Training Center's Distributed Learning Program for the purpose of secure, encrypted, geographically dispersed first responder e-learning.

The Senate resolution reflects a Hatch amendment (SA 2843) adding $600 million in 2005 for various law enforcement grant programs.

Mandatory

The Senate resolution assumes the extension of two types of Customs User Fees, yielding $784 million in 2005, $7.6 billion over 5 years, and $18.6 billion over 10 years.

The Senate resolution does not assume any funding for the creation of a government-administered trust fund intended to resolve the claims of victims for bodily injury caused by asbestos exposure. Although the Senate recognizes the urgent need for litigation reform designed to expedite justice for legitimate victims of asbestos exposure and to halt the corrosive effect that litigation abuse has on the economy, it is concerned that the creation of a new uncapped government entitlement, during a period requiring austere budget discipline, would be imprudent and inconsistent with fiscal responsibility. The proposed use of mandatory contributions from defendant companies and insurers does not alleviate those concerns if the private contributions are capped at a finite level and the fund is not expected to meet the total liability of anticipated asbestos claims. The Senate does not believe it would be prudent to rely upon "sunset" provisions that would be triggered upon fund insolvency, thus returning potentially large numbers of unpaid claimants to the federal tort system. Past experience with government administered trust funds designed to mandate a "no-fault" solution for liability claimants demonstrate that, even with specific legislative language to the contrary, there is a low probability of an actual return to the tort system. Political resistance to implementing such a reversion will likely be insurmountable. In essence, the Senate is concerned that under such a scenario there is a possibility that a massive taxpayer bail-out could occur if Congress is forced to step in and sustain the fund.

House Amendment

The amendment calls for $30.1 billion in budget authority and $30.0 billion in outlays in fiscal year 2005. The function totals are $140.4 billion in budget authority and $141.0 billion in outlays over five years. Mandatory spending is $5.0 billion in budget authority and $4.3 billion in outlays in fiscal year 2005, and totals $13.2 billion in budget authority and $13.1 billion in outlays over five years. Discretionary spending is $25.2 billion in budget authority and $25.7 billion in outlays in fiscal year 2005; and over five years, it is $127.2 billion in budget authority and $127.9 billion in outlays. Homeland security components formerly found in Function 750 are recorded in Function 100: Homeland Security.

Mandatory

The assumptions accommodate H.R. 975, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2003, which passed the House on 19 March 2003 and is awaiting action in the Senate. The accommodation is needed to allow for a potential conference agreement. The assumption is reflected in the allocation to the Committee on the Judiciary, which is free to determine its own policies within the allocation limits.

Discretionary

The Committee on Appropriations will determine how these funds will be apportioned among the various discretionary programs. Outyear levels are not binding and will be revisited in subsequent years.

Conference Agreement

The conference agreement for this function reflects total spending of $41.9 billion in budget authority and $41.8 billion in outlays for fiscal year 2005. Mandatory spending for this function is $5.1 billion in budget authority and $4.5 billion in outlays in fiscal year 2005. Discretionary spending for this function is $36.8 billion in budget authority and $37.3 billion in outlays in fiscal year 2005.

FUNCTION 800: GENERAL GOVERNMENT

Function Summary

Function 800 consists of the activities of the Legislative Branch; the Executive Office of the President; general tax collection and fiscal operations of the Department of Treasury (including the Internal Revenue Service); the Office of Personnel Management; the property and personnel costs of the General Services Administration; general purpose fiscal assistance to States, localities, the District of Columbia, and U.S. territories; and other general Government activities.

Function 800 budget authority rose from $16.7 billion in 1999 to $23.9 billion in 2004, a 7.5 percent average annual growth rate. During the same time period, outlays rose from $15.3 billion to $24.7 billion, a 10.0 percent average annual growth rate.

Senate Resolution

Discretionary

The Senate resolution assumes discretionary spending in this function of $14.4 billion in budget authority and $15.0 billion in outlays for 2005. The Senate resolution includes the following specific assumptions:

The Senate resolution assumes that $1.4 billion provided for election reform programs in 2004 is not continued in the budget. To date, appropriations for election reform have been essentially at the level recommended by the authorizing bill, totaling just over $3.0 billion. The disbursement of these funds has been significantly delayed while awaiting the formation of the Election Assistance Commission [EAC], which is responsible for the oversight and disbursement of the federal grants to the states. The EAC was formed earlier this year and it is attempting to distribute these funds before the fall elections. The Senate resolution does assume $40 million for the Election Assistance Commission.

The Senate resolution reflects two amendments, a Dorgan amendment (SA 2850) and a Hatch amendment (SA 2843), that reduced the general government function by $1.2 billion in 2005 to pay for other discretionary spending.

Mandatory

Under current law, there is a significant drop in mandatory spending from 2004 to 2005. This decrease is due to $5.0 billion in state assistance provided as one-time funds for 2004 by the Jobs and Growth Tax Relief and Reconciliation Act of 2003.

The Senate resolution assumes an adjustment to the current fee structure for the National Indian Gaming Commission, which regulates and monitors gaming operations on Indian lands. Since 1998, the Commission has been prevented from collecting additional annual fees from gaming operations to cover the costs of its oversight responsibilities. The assumed restructuring of fees would allow the Commission to adjust its activities to the growth in the Indian gaming industry.

House Amendment

The amendment calls for $17.2 billion in budget authority and $17.9 billion in outlays in fiscal year 2005. The function totals are $86.8 billion in budget authority and $86.8 billion in outlays over five years. Mandatory spending is $1.8 billion in budget authority and $1.7 billion in outlays in fiscal year 2005, and totals $8.9 billion in budget authority and $8.9 billion in outlays over five years. Discretionary spending is $15.4 billion in budget authority and $16.2 billion in outlays in fiscal year 2005; and over five years, it is $77.9 billion in budget authority and $77.9 billion in outlays. Homeland security components formerly found in Function 800—including the Federal Protective Service—are recorded in Function 100: Homeland Security, and are consistent with the President's request.

Mandatory

Mandatory totals allow for inclusion of H.R. 2751, the GAO Human Capital Reform Act of 2003, as passed by the House last year. The accommodation is needed to allow for a potential conference agreement. The amendment assumes growth in mandatory spending to accommodate projected inflation, and other normal factors. The assumptions appear in the allocations of the respective committees of jurisdiction, which are free to determine their own policies within the allocation limits.

Discretionary

The amendment can accommodate funding for the Payment in Lieu of Taxes [PILT] program at the fully authorized level. Specific programmatic decisions will be made by the Committee on Appropriations. Outyear levels are not binding and will be revisited in subsequent years.

Conference Agreement

The conference agreement for this function reflects total spending of $17.4 billion in budget authority and $18.0 billion in outlays for fiscal year 2005. Mandatory spending for this function is $1.8 billion in budget authority and $1.7 billion in outlays in fiscal year 2005. Discretionary spending for this function is $15.6 billion in budget authority and $16.2 billion in outlays in fiscal year 2005.

FUNCTION 900: NET INTEREST

Function Summary

Function 900 includes net interest, which is the interest paid for the Federal Government's borrowing less the interest received by the Federal Government from trust fund investments and loans to the public. It is a mandatory payment, with no discretionary components.

Net interest spending declined from $229.8 billion in 1999 to $154.8 billion in 2004, an average annual reduction of 7.6 percent. This decline was caused by lower interest paid to finance the debt, as well as higher interest received by the continued build-up of off-budget trust funds.

Senate Resolution

The Senate resolution sets forth $179.9 billion in budget authority and outlays for fiscal year 2005 and $1.220 trillion in budget authority and outlays over 5 years. On-budget net interest is $270.1 billion in budget authority and outlays in 2005 and $1,766 trillion in budget authority and outlays over 5 years. Off-budget interest collections are $90.2 billion in budget authority and outlays in 2005 and $545.5 billion in budget authority and outlays over 5 years.

House Amendment

The House amendment calls for $180.5 billion in budget authority and outlays in fiscal year 2005. The function totals are $1.235 trillion in budget authority and outlays over 5 years. On-budget spending is $270.7 billion in budget authority and outlays in fiscal year 2005, and totals $1.780 trillion in budget authority and outlays over 5 years. Off-budget interest collections are $90.2 billion in budget authority and outlays in fiscal year 2005; and over 5 years, $545.5 billion in budget authority and outlays. There are no specific mandatory assumptions in this function.

Conference Agreement

For on-budget spending, the conference agreement for this function reflects $270.4

billion in budget authority and outlays for fiscal year 2005. Total on- and off-budget spending is $180.3 billion in budget authority and outlays for fiscal year 2005.

FUNCTION 920: ALLOWANCES

Function Summary

Function 920, Allowances, is used for planning purposes to address the budgetary effects of proposals or assumptions that cross various other budget functions. Once such changes are enacted, the budgetary effects are distributed to the appropriate budget functions.

Senate Resolution

Discretionary

This function includes −$11.2 billion in discretionary budget authority and −$4.3 billion in outlays for 2005. This is the result of amendments adopted during consideration of the resolution on the Senate floor that were "offset" in function 920.

Mandatory

This function includes −$256 million in mandatory budget authority and −$235 million in outlays for 2005. This reflects the Dole child nutrition amendment that was adopted during Senate consideration of the committee-reported resolution and the total combined impact of the Committee-adopted amendment by Senator STABENOW to allow drug reimportation, rather than reflecting the effects across the various federal health programs (e.g. Medicaid, Medicare, FEHBP, military health) as they would occur in their respective functions.

House Amendment

The amendment calls for $50.0 billion in budget authority and $24.9 billion in outlays in fiscal year 2005. This provides for an expected supplemental spending bill to address operations in Afghanistan and Iraq. The function totals are $50.0 billion in budget authority and $49.8 billion in outlays over 5 years. Discretionary spending is $50.0 billion in budget authority and $24.9 billion in outlays in fiscal year 2005; and over 5 years, it is $50.0 billion in budget authority and $49.8 billion in outlays.

Mandatory

There is no mandatory spending in this function.

Conference Agreement

The conference agreement for this function reflects total spending of −$7.2 billion in budget authority and −$14.5 billion in outlays for fiscal year 2005. There is no mandatory spending in this function. These amounts will be restored via cap adjustments when certain conditions are met.

FUNCTION 950: UNDISTRIBUTED OFFSETTING RECEIPTS

Function Summary

Function 950 consists of receipts to the Treasury. Receipts recorded in this function are either intrabudgetary (a payment from one Federal agency to another, such as agency payments to the retirement trust funds) or proprietary (a payment from the public for some kind of business transaction with the Government). The main types of receipts recorded in this function are: the payments Federal employees and agencies make to employee retirement trust funds; and payments by those who bid for the right to buy or use public property or resources, such as licenses to use the electromagnetic spectrum or the right to explore and produce oil and gas on the Outer Continental Shelf. By convention, these receipts are treated as negative spending, with budget authority and outlays matching exactly for each account. There is no discretionary spending in this function.

Senate Resolution

Mandatory

The Senate resolution assumes the President's proposal to extend the authority of the Federal Communications Commission to auction spectrum, which would otherwise expire at the end of 2007.

House Amendment

The House amendment calls for −$63.7 billion in budget authority and −$63.8 billion in outlays in fiscal year 2005. (The minus signs indicate receipts into the Treasury.) The function totals are −$360.4 billion in budget authority and −$361.4 billion in outlays over 5 years.

Mandatory

The assumptions accommodate H.R. 1320, which passed the House on 11 June 2003, and is awaiting action in the Senate. Although H.R. 1320 has budgetary effect in Function 950 (Undistributed Offsetting Receipts) because it is a receipt against spending, it is within the scope of the Federal Communications Commission. The accommodation is needed to allow for a potential conference agreement.

Conference Agreement

For on-budget offsetting receipts, the conference agreement for this function reflects −$52.5 billion in budget authority and outlays for fiscal year 2005.

The combined on- and off-budget offsetting receipts, the conference agreement for this function reflects −$63.9 billion in budget authority and outlays for fiscal year 2005.

RECONCILIATION INSTRUCTIONS

Under section 310(a) of the Congressional Budget Act, the budget resolution may include directives to the committees of jurisdiction to make revisions in law necessary to accomplish a specified change in spending or revenues. If the resolution includes a reconciliation directive to only one committee of the House or Senate, then that committee is required to directly report to its House the legislative language that would implement the spending or revenue changes provided for in the resolution. If the resolution includes an instruction with directives to more than one committee, the reporting committees submit their recommendations to the Budget Committee, which then packages them together and votes to report one bill, without substantive change, to its respective House. Under either scenario, the committees have discretion as to how they meet the targets, as long as the targets are met within the respective committees' jurisdictions. Any bill considered pursuant to a reconciliation instruction is subject to special procedures set forth in section 310 and, in the Senate, section 313 of the Budget Act.

TITLE II: RECONCILIATION

Senate Resolution

Section 201: Reconciliation in the Senate

Section 201 includes two reconciliation directives to the Finance Committee (with a reporting date not later than September 30, 2004). The Finance Committee is instructed to report legislation to reduce revenues by not more than $12.3 billion in 2005 and $80.6 billion for the period 2005–2009 and to increase outlays by not more than $2 billion for the period 2005–2009. The Finance Committee is free to satisfy this instruction with legislation of its choosing, but the Senate resolution assumes the 2005–2009 revenue effects of extending the $1,000 child tax credit, extending marriage penalty relief, extending the expanded 10 percent individual income tax bracket, and accelerating the repeal of the death tax to 2009. The outlay increase instruction was added with the adoption of an amendment (SA 2837) which the Senate accepted by voice vote.

The second instruction directs the Finance Committee to report legislation to increase the statutory debt limit by $664.028 billion. The current statutory debt ceiling is $7.384 trillion; under the Senate resolution, the debt subject to limit is projected to be $8.051 trillion at the end of fiscal year 2005.

By a vote of 53–43, the Senate agreed to the Baucus amendment (SA 2751), which struck the reconciliation instruction to the Finance Committee to reduce outlays by $2.9 billion in 2005 and by $3.4 billion over the period 2005–2009.

House Amendment

Section 201: Reconciliation in the House

The House amendment provides instructions for two reconciliation bills. The first instructs five authorizing committees to report changes in current law to achieve specified level of deficit reduction on the assumption that the savings will come from the elimination of waste, fraud and abuse in specific programs in their jurisdictions. The committees may make whatever changes in the law they deem appropriate to achieve the specified amount of savings for fiscal year 2005 and for the period of fiscal years 2005 through 2009. The Agriculture Committee is instructed to save $110 million in 2005 and $371 million for fiscal years 2005–2009; the Education and Workforce Committee is instructed to save $5 million in fiscal year 2005 and $43 million for fiscal years 2005–2009, under the assumption such savings will be achieved through changes in the Federal Employees Compensation Act; the Energy and Commerce Committee is instructed to save $410 million in fiscal year 2005 and $2.185 billion for fiscal years 2005–2009; the Government Reform Committee is instructed to save $170 million in fiscal year 2005 and $2.365 billion for fiscal years 2005–2009; and, the Committee on Ways and Means is instructed to reduce the deficit by $1.126 billion in fiscal year 2005 and by $8.269 billion for fiscal years 2005–2009. The first reconciliation bill has a reporting deadline of July 15, 2004.

The second reconciliation bill directs the Committee on Ways and Means to report a measure that would reduce taxes by $13.182 billion in 2005 and by $137.580 billion for fiscal years 2005–2009. These amounts are sufficient to accommodate an extension of certain expiring tax provisions from the 2001 Economic Growth and Tax Relief Reconciliation and the 2003 Jobs and Growth Tax Relief Reconciliation Acts.

While the resolution only reconciles changes in revenue for the second reconciliation bill, it includes authority for the Budget Committee chairman to adjust the reconciliation instructions, the Committee on Ways and Means' allocations and other appropriate levels to accommodate outlays (largely related to certain refundable tax provisions). The authority may only be exercised for a reconciliation bill that does not cost more in total outlay increases and revenue reductions than the underlying reconciliation instruction. The second reconciliation bill has a reporting deadline of October 1, 2004.

Section 202: Submission of report on defense savings

This section requires the House Armed Services Committee to submit to the Budget Committee a set of findings that identify $2 billion dollars in savings from activities that are determined to be of low priority or wasteful or unnecessary to national defense. These savings then can be used to accommodate other priorities such as force protection, munitions and surveillance capabilities. The report must be submitted by May 15, 2004. Its submission would not be considered under reconciliation procedures and it is assumed the savings would be discretionary. The Budget Committee chairman is then required to submit the report for inclusion in the Congressional Record by no later than May 21, 2004.

Conference Agreement

Section 201: Reconciliation in the Senate

The conference agreement contains two instructions for reconciliation in the Senate. Section 201(a) instructs the Finance Committee to report a reconciliation bill (not later than September 30, 2004) that reduces revenues by not more than $22.9 billion and that increases outlays by not more than $4.6 billion. This is an amount sufficient to accommodate a permanent extension of the $1,000 child credit, the marriage penalty relief, and the 10 percent marginal tax rate bracket. The outlay instruction is included to allow for a fungibility adjustment between outlays and revenues, so that the Finance Committee may include legislation affecting refundable credits in the legislation they report.

Section 201(b) instructs the Finance Committee to report a reconciliation bill (not later than September 10, 2004) that increases the statutory debt limit by $689.946 billion.

Section 211: Reconciliation in the House

The conference agreement contains one instruction for reconciliation in the House. Section 211(a) instructs the House Committee on Ways and Means to report a measure by September 30, 2004 that will reduce taxes by $22.9 billion and increase outlays by $4.6 billion.

Section 211(b) also authorizes the chairman of the House Committee on the Budget to make deficit-neutral adjustments in the allocations and aggregates for a reconciliation bill that complies with the so-called 20 percent fungibility rule under section 310 of the Congressional Budget Act. This authority is consistent with section 310(c)(2) of the Budget Act, which allows the chairman of the Senate Committee on the Budget to conform the budget resolution to a reconciliation bill that satisfies the 20 percent rule under section 310(c) in the Senate.

RESERVE FUNDS AND ADJUSTMENTS

A budget resolution does not become law and cannot amend law. However, pursuant to section 301(b)(4) of the Congressional Budget Act, some provisions in the resolution may affect the consideration of legislation in order to implement and enforce the policy assumptions underlying such resolution. The conference agreement contains a number of provisions which may affect the consideration of legislation implementing the policies assumed in this resolution.

TITLE III: RESERVE FUNDS AND ADJUSTMENTS

In general, a reserve fund (or discretionary adjustment) permits the chairman of the Committee on the Budget to increase the section 302 allocation and other appropriate levels set out in this resolution (including, in the Senate, the discretionary spending limits) once certain conditions have been met. The authority to make these adjustments is solely within the discretion of the chairman and may be made when the committee of jurisdiction reports a measure that satisfies all the conditions set in the reserve funds.

Senate Resolution

During Senate consideration of the Committee-reported resolution, six additional deficit-neutral reserve funds were adopted in the Senate by voice vote. All envision the committee of jurisdiction reporting a specific measure (or in the case of three of the reserve funds, the Committee on Appropriations reporting an appropriations measure) for which the chairman of the Committee on the Budget may then make appropriate budgetary adjustments. These six are discussed below:

Subtitle A: Reserve Funds

Section 301: Reserve fund for health insurance for the uninsured

The Senate resolution provides a deficit-neutral reserve fund for the period of fiscal years 2005 through 2009 for legislation that addresses access to health care services and health insurance for the uninsured. The chairman of the Committee on the Budget may adjust the applicable allocations and aggregates to accommodate this legislation so long as the total cost of the legislation does not increase the deficit for fiscal year 2005 or for the sum of fiscal year 2005 through 2009. The adjustment may be made only if the Committee on Finance or the Committee on Health, Education, Labor and Pensions reports a bill that provides health insurance for the uninsured (including a measure providing for tax deductions for the purchase of health insurance or other measures) or that increases access to health insurance through lowering costs; provided that any such measure does not increase the costs of current health insurance coverage.

An amendment (SA 2699) offered by Senator Kennedy was adopted by voice vote that expands the purposes of the reserve fund to include "legislation to reallocate and maintain expiring SCHIP funds rather than allowing such funds to revert to the Treasury."

Section 302: Reserve fund for higher education

The Senate resolution provides additional resources to the Committee on Health, Education, Labor and Pensions for reauthorization of the Higher Education Act. The mechanism will make available an additional $1 billion for fiscal year 2005 and $5 billion for fiscal years 2005 through 2009 for reauthorization of the Higher Education Act of 1965. This section also makes available an additional $3.7 billion for fiscal year 2005 in budget authority only in order to permit the authorizing committee to rectify an accumulated short fall in the federal Pell Grant account.

Section 303: Reserve fund for energy legislation

The Senate resolution provides a mechanism to make additional resources available for a measure setting out a national energy policy (including a bill, joint resolution, amendment, motion, or conference report), that is predominately within the jurisdiction of the Committee on Energy and Natural Resources. Such measure may also include revenue reductions. Unlike most reserve funds, this one is not dependent upon the committee of jurisdiction reporting new legislation. Section 303 is intended to facilitate the consideration of S. 2095, the Energy Policy Act, or a similar measure in any number of different procedural situations.

Regardless of the procedural posture in which such a measure comes before the Senate, the chairman of the Committee on the Budget may make adjustments to committee allocations and relevant budgetary aggregates provided that the cost of the measure does not exceed $261 million in new budget authority and $221 million in outlays for fiscal year 2005 and $1.5 billion in new budget authority and $1.5 billion in outlays for fiscal year 2005 through 2009 and the revenue reductions do not exceed $1.8 billion for fiscal year 2005 and $15.1 billion for fiscal year 2005 through 2009. Note that these revenue reductions are assumed in the Senate resolution and thus section 303 does not provide any authority for changing the revenue aggregate. Rather, it makes not exceeding the maximum revenue reduction a condition of making the spending-related adjustments.

Section 304: Reserve fund for Guard and Reserve health care

An amendment (SA 2731) offered by Senators GRAHAM (of South Carolina) and BUNNING was adopted by voice vote that would make additional resources (not to exceed $5.6 billion for the period fiscal year 2005 through 2009) available to either the Committee on Armed Services or the Committee on Appropriations to expand access to health care for members of the reserve component.

Section 305: Reserve fund for Montgomery GI bill benefits

An amendment (SA 2731) offered by Senators GRAHAM (of South Carolina) and BUNNING was adopted by voice vote that would make additional resources (not to exceed $1.2 billion for the period fiscal year 2005 through 2009) available to either the Committee on Armed Services or the Committee on Appropriations to increase benefit levels under the Montgomery GI bill for members of the Selected Reserves.

Section 306: Reserve for funding of Hope Credit

An amendment (SA 2820) offered by Senator MIKULSKI was adopted by voice vote that would make additional resources available to the Committee on Finance to increase the Hope Credit to $4,000, makes the Credit available for 4 years, and make the Credit refundable.

Section 307: Reserve fund for expansion of pediatric vaccine distribution program

An amendment (SA 2833) offered by Senator BINGAMAN was adopted by voice vote that would make additional resources available to the Committee on Finance to expand the pediatric vaccine distribution program established under section 1928 of the Social Security Act to include coverage for children administered a vaccine at a public health clinic or Indian clinic and repels the price cap for pre–1993 vaccines.

Section 308: Reserve fund for addressing minority health disparities

An amendment (SA 2780) offered by Senator CLINTON was adopted by voice vote that would make additional resources (not to exceed $400 million for fiscal year 2005) available to the Committee on Appropriations for legislation that addresses minority health disparities through activities including those at the HHS Office of Minority Health, the Office of Civil Rights, the National Center on Minority Health and Health Disparities, the Minority HIV/AIDS initiative, health professions training, and through the Racial and Ethnic Approaches to Community Health at the Centers for Disease Control. This amendment would more properly be classified as an adjustment to the discretionary spending limits rather than a reserve fund for additional mandatory spending.

Section 309: Reserve for Postal Service reform

An amendment (SA 2852) offered by Senator COLLINS was adopted by voice vote that would make additional resources available to the Committee on Governmental Affairs for legislation that reforms the United States Postal Service to improve its economic viability.

Subtitle B: Adjustments With Respect to Discretionary Spending

Section 311: Adjustment for surface transportation

The Senate resolution provides a mechanism (reinforcing the intent of a comparable mechanism in the 2004 budget resolution) to make additional contract authority and outlay allocations available to the relevant committees for highway and transit programs for the reauthorization of and appropriation for surface transportation programs, provided that the reauthorization (by virtue of a title reported by the Committee on Finance) makes available new net resources for the highway trust fund that offset the resulting outlays—without increasing the deficit.

Section 312: Adjustment for supplemental appropriations for activities in Afghanistan and Iraq

The Senate resolution provides a mechanism to make available to the Committee on Appropriations additional resources for supplemental appropriations for military activities in Iraq and Afghanistan. This mechanism requires that the President transmit a budget request for such funds and limits the adjustment to $30 billion in new budget authority for fiscal year 2005 or the President's request—whichever is lower. This mechanism is intended to accommodate incremental expenditures associated with ongoing military operations in Iraq and Afghanistan.

Section 313: Adjustment for emergency fire suppression activities

The Senate resolution provides a mechanism to make available up to $500 million per year in additional resources to the Committee on Appropriations for supplemental appropriations for fire suppression activities for fiscal years 2004 through 2006. Such additional resources will only be made available if the regular appropriation for that year has been enacted and is not less than the 10-year average for those accounts and the severity of the fire season necessitates providing additional funding in a timely manner.

The resolution permits the chairman of the Committee on the Budget to adjust the discretionary spending limits, the committee allocation and other appropriate budgetary aggregates by not more than $400 million each year for fiscal years 2005 and 2006 for the Forest Service and not more than $100 million each year for fiscal years 2005 and 2006 for the Department of the Interior. With respect to fiscal year 2004, the 10-year average has already been appropriated in the regular 2004 appropriations bills. If additional resources are required for fire suppression in fiscal year 2004, rather than making an adjustment to the fiscal year 2004 levels, the chairman has the authority to hold harmless a measure that provides up to $400 million for the Forest Service and up to $100 million for the Department of the Interior for fire suppression activities.

These funds can be made available on any appropriations bill, amendment, joint resolution or conference report, and are only available for fire suppression. The Senate resolution anticipates that the Forest Service and Department of Interior will work with Congress to develop cost containment measures for fire suppression operation and encourages the Forest Service and Department of the Interior to report to Congress how the funds above the 10-year average were used.

Section 314: Reserve fund for eliminating survivor benefit plan-Social Security offset

During Senate consideration of the Committee-reported resolution, an amendment (SA 2775) offered by Senator LANDRIEU was adopted by voice vote that would make additional resources (not to exceed $2.757 billion for the period of fiscal years 2005 through 2009) available to either the Committee on Armed Service or the Committee on Appropriations to provide an increase to the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 or older. The amendment does not require that the increased spending be deficit-neutral.

Section 514: Reserve fund for homeland security grant program, assistance to firefighter grants and port security grants

During Senate consideration of the Committee-reported resolution, an amendment (SA 2817) offered by Senators LEVIN and COLLINS was adopted by a vote of 52 to 43 that would make additional resources (not to exceed $1.545 billion for fiscal year 2005) for programs at the Department of Homeland Security. A sense of the Senate provision that was also part of this amendment stated that this increase in funding is to come from the cancellation of planned future deliveries of oil to the Strategic Petroleum Reserve.

House Amendment

Subtitle A: Reserve Funds for Legislation Assumed in the Budget Aggregates

Section 301: Deficit-neutral reserve fund for health insurance for the uninsured

This section of the House Amendment allows adjustments to be made in the allocations and aggregates for certain deficit-neutral legislation. If a committee reports legislation that provides health insurance for the uninsured, the chairman of the Budget Committee may adjust the levels in the allocations and aggregates to the extent such legislation is deficit-neutral in fiscal year 2005, and the period of fiscal years 2005 through 2009.

Section 302: Deficit-neutral reserve fund for the Family Opportunity Act

This section of the House Amendment allows adjustments to be made in the allocations and aggregates for certain deficit-neutral legislation. If the Energy and Commerce Committee reports legislation that provides Medicaid coverage for children with special needs (the Family Opportunity Act), the chairman of the Budget Committee may adjust the levels in the allocations and aggregates to the extent such legislation is deficit-neutral in fiscal year 2005, and the period of fiscal years 2005 through 2009. This section allows these initiatives to come to the floor with offsets, as long as that initiative is deficit-neutral in the first year and over the 5-year period.

Section 303: Deficit-neutral reserve fund for the Military Survivors Benefit Plan

This section of the House Amendment establishes a deficit-neutral reserve fund should legislation be reported, an amendment offered, or conference report submitted which increases military survivor's benefits. The purpose of this section is to encourage an examination of existing mandatory spending accounts so that appropriate reductions may be used to offset a potential survivor benefit expansion.

Section 304: Reserve fund for pending legislation

This section of the House Amendment allows an adjustment to be made for any bill, including a bill that provides for the safe importation of FDA-approved prescription drugs or places limits on medical malpractice litigation, that has been adopted by the House in the first session of the 108th Congress and enacted into law. The adjustment may be made by the chairman of the Committee on the Budget to the allocations and aggregates to reflect any resulting savings from any such measure. The effect of any adjustment would be to lock in the savings for deficit reduction. The chairman of the Budget Committee would consult with the committees of jurisdiction before making any adjustments pursuant to this section.

Subtitle B: Contingency Procedure

Section 311: Contingency procedure for surface transportation

This section of the House Amendment permits the chairman of the Committee on the Budget to adjust the appropriate levels in the budget resolution to accommodate legislation increasing spending for highway and transit programs above the levels in the budget resolution to the extent there are offsets for the additional spending. This contingency is essentially identical to that included in the conference report on the budget resolution for fiscal year 2004.

Subsection (a) permits the chairman of the Committee on the Budget to increase the Committee on Transportation and Infrastructure's allocation for legislation that increases mandatory contract authority for highway and transit programs financed out of the Highway Trust Fund. In order to make the adjustment, the additional spending must be offset by a reduction in mandatory outlays out of the Fund or receipts appropriated to the Fund.

Since any additional contract authority provided pursuant to subsection (b) would be made available for obligation through a change in obligation limitations, subsection (c) permits the chairman of the Committee on the Budget to increase the appropriate committee's allocation of discretionary outlays to the extent legislation increases the obligation limits for the highway and transit programs above the levels assumed in the budget resolution. In order to make the adjustment, legislation must first be enacted in compliance with subsection (a).

Conference Agreement

Subtitle A: Reserve Funds

In general, the reserve funds set out in subtitle A of title III of the Conference Report permit the appropriate chairman of the Committee on the Budget to adjust committee allocations for the named authorizing committees, the spending and revenue aggregates and functional levels in the budget resolution if legislation is considered that satisfies the conditions set out in each particular reserve fund. Adjustments may only be made for reported bills, amendments thereto (including motions to recommit with amendment) and conference reports thereon.

Note that, in the Senate, this language is not intended to permit revisions or adjustments to the pay-as-you-go scorecard. In both the House and Senate, to the extent a reserve fund for an authorizing committee is required to be deficit-neutral and it is offset through a reduction in spending, such reduction within the committee's jurisdiction to achieve deficit neutrality must be in mandatory outlays. These "reserve funds" are not intended to accommodate floor amendments offered to unrelated measures. All (except for section 307) are required to be deficit-neutral in order for any adjustments to be made.

Section 301: Deficit-neutral reserve fund for health insurance for the uninsured

The conference agreement retains both the Senate (section 301(a)) and House (section 301(b)) reserve funds for legislation relating to health insurance for the uninsured. There are modest differences between the House and Senate with respect to the policies required for any adjustments. Both reserve funds are deficit-neutral.

Section 302: Deficit-neutral reserve fund for higher education

The conference agreement includes a reserve fund for both the Committee on Health, Education, Labor and Pensions in the Senate and the Committee on Education and the Workforce in the House for legislation reauthorizing the Higher Education Act. Similar language was contained in section 302 of the Senate resolution.

Section 303: Deficit-neutral reserve fund for Montgomery GI benefits

The conference agreement includes a deficit-neutral reserve fund for the committees of jurisdiction for legislation that increases benefits under the Montgomery GI bill for members of the Selected Reserves. Substantially similar language was contained in section 305 of the Senate resolution.

Section 304: Deficit-neutral reserve fund for Postal Service reform

The conference agreement includes a deficit-neutral reserve fund for the Senate Governmental Affairs Committee and the House Committee on Government Reform for legislation that reforms the U.S. Postal Service. Substantially similar language was contained in section 309 of the Senate resolution.

Section 305: Deficit-neutral reserve fund for the Family Opportunity Act

The conference agreement includes a deficit-neutral reserve fund for the Senate Finance Committee and the House Energy and Commerce Committee for legislation that provides Medicaid coverage for children with special needs. Substantially similar language was contained in section 302 of the House amendment.

Section 306: Deficit-neutral reserve fund for eliminating survivor benefit plan—Social Security offset

The conference agreement includes a deficit-neutral reserve fund for both the Senate and the House Armed Services Committees for legislation that increases the minimum Survivor Benefit Plan basis annuity for surviving spouses age 62 and older. Substantially similar language was contained in section 314 of the Senate resolution.

Section 307: Reserve fund for pending legislation

The conference agreement includes a reserve fund for certain House-passed legislation, with modifications. It permits the House Budget Committee chairman to ensure that the savings resulting from the enactment of certain measures would go to deficit reduction. The reserve fund allows the chairman to make adjustments in the budget resolution aggregates and allocations upon the enactment of legislation providing for the safe importation of FDA-approved prescription drugs and legislation imposing limits on medical malpractice litigation.

Subtitle B: Adjustments With Respect to Discretionary Spending

In general, the adjustments set out in subtitle B of title III of the Conference Report permit the appropriate chairman of the Committee on the Budget to adjust committee allocations for the Committees on Appropriations and the spending aggregates and functional levels in the budget resolution if the particular requirements of each section are satisfied. In the Senate, this includes the discretionary spending limits set out in section 404. Note that no adjustment made under this subtitle is intended to permit resources or adjustments to the pay-go-you-go scorecard for the Senate's paygo point of order.

Section 311: Adjustment for surface transportation

Section 311 of the conference agreement is similar to section 311 of the House amendment and section 311 of the Senate resolution. However, the chairmen of the Budget Committees will not make any adjustment for fiscal year 2004, which is not revised in this conference agreement.

Section 312: Adjustment for wildland fire suppression

The conference agreement retains the language from section 313 of the Senate resolution, extends it to the House, and makes a number of minor modifications. Subsection (a) states that the intent of this section is to accommodate additional appropriations for wildland fire suppression if such activities are funded at the 10-year average, there are insufficient funds available in the wildland fire suppression account, and the fire season is of sufficient severity to merit additional appropriations.

Subsection (b)(1) clarifies that CBO will calculate the ten-year average of obligations for wildland fire suppression, defined as the "base amount", in consultation with the Committees on the Budget and on Appropriations.

Under subsection (b)(2) the chairmen of the Committees on the Budget of the House and the Senate would accommodate additional spending by the Committees on Appropriations for any appropriation for wildland fire suppression above the base amount by increasing the Committees' allocation and other appropriate aggregates for fiscal year 2005.

Under subsection (b)(3) there is a special rule for fiscal year 2004 that allows the chairman of the Committee on the Budget of the House to accommodate additional spending by the Committee on Appropriations for additional appropriations for wildland fire suppression by increasing the Committee's allocation and other appropriate aggregates, but not to exceed $500 million. In the Senate, for fiscal year 2004, the chairman of the Committee on the Budget may hold the Committee on Appropriations harmless (by not scoring) for any additional appropriations for wildland fire suppression, only to the extent such amounts do not to exceed $500 million.

Section 313: Mechanism for adjusting appropriate discretionary levels

Subsection (a) establishes a mechanism to increase the discretionary levels from the discretionary limits that are binding in the Senate (by virtue of section 504 of the fiscal year 2004 budget resolution) to the levels envisioned by this conference agreement. It is similar to the mechanism set out in section 203 of the fiscal year 2002 budget resolution (H. Con. Res. 83, 107th Cong.).

Subsection (a) provides the chairmen of the Committees on the Budget the authority to increase the section 302(a) allocation to the Committees on Appropriations (as well as the discretionary spending limits set out in section 404 and other levels in this conference agreement) when the first regular appropriations bill for fiscal year 2005 is reported in its respective House. The conference agreement will provide an additional $4.630 billion in new budget authority and $14.240 billion in outlays to the Committee on Appropriations. The functional levels in this conference agreement, including a necessary adjustment in function 920 envision an ultimate level of discretionary spending of $821.419 billion in new budget authority and $905.328 billion in outlays for fiscal year 2005.

Subsection (b) establishes a procedure to adjust the allocation to the Committees on Appropriations by the amount of the advance appropriation for fiscal year 2005 for Project Bioshield (already enacted in the fiscal year 2004 bill making appropriations for the Department of Homeland Security). It would provide $2.528 billion in budget authority and $0.276 billion in outlays. This adjustment is necessary to achieve comparability between the President's budget request and this conference agreement with respect to the budgetary treatment of Project Bioshield. This adjustment will be made at the same time as the adjustment made pursuant to subsection (a).

ITEMS DROPPED FROM THE SENATE RESOLUTION

The following provisions from the Senate resolution were not retained in any form in the conference agreement:

Section 303—Reserve Fund for Energy Legislation
Section 304—Reserve Fund for Guard and Reserve Health Care
Section 306—Reserve Fund for Funding of Hope Credit
Section 307—Reserve Fund for Expansion of Pediatric Vaccine Distribution Program
Section 308—Reserve Fund for Addressing Minority Health Disparities
Section 514—Reserve Fund for Homeland Security Grants

BUDGET ENFORCEMENT

Under section 301 of the Budget Act, the budget resolution may include special procedures to enforce the spending and revenue levels contained in the resolution and the allocations found in the accompanying joint statement of managers.

TITLE IV: BUDGET ENFORCEMENT

Senate Resolution

Section 401: Restriction on advance appropriations in the Senate

The Senate resolution includes language limiting the use of advance appropriations. This restriction was first included in the fiscal year 2001 budget resolution and was included and revised in the fiscal year 2002 and fiscal year 2004 resolutions as well. The Senate resolution continues to restrict advance appropriations to an annual limit of $23.158 billion with respect to both the fiscal years 2005 and 2006 appropriations bills and to those programs that are listed in the statement of managers accompanying the conference report on the budget resolution. The resolution also continues the exception for advances with respect to the Corporation for Public Broadcasting.

The list of permissible advances in the respective appropriations bill is as follows:

Accounts Identified for Advance Appropriations

Interior: Elk Hills

Labor, HHS:
  Corporation for Public Broadcasting
  Employment and Training Administration
  Education for the Disadvantaged
  School Improvement

Children and Family Services (Head Start)
Special Education
Vocational and Adult Education

Transportation, Treasury: Payment to Postal Service

Veterans, HUD: Section 8 Renewals

Section 402: Emergency legislation

In general, the Senate's emergency rule addresses two issues with respect to emergency spending: the ability to designate spending as an emergency and the restatement of the Senate point of order with respect to the use of that designation.

Section 402 of the Senate resolution is virtually identical to section 502(c) of the 2004 resolution, which sets out the Senate's rule with respect to emergency legislation. Subsection (a) states the general purpose for the rule, and subsection (b) sets out the rule as it is applied in the House of Representatives and thus is appropriately not addressed in the Senate-passed 2005 resolution. The only change to the current Senate rule (set out in section 502(c) of the 2004 resolution) is of a technical nature and makes clear that the adjustment authority provided in section 402 of the 2005 resolution is applicable to all future budget resolutions as well. The following is a review of the history of this provision.

The authority to designate spending as an "emergency" existed as a part of the statutory discretionary spending limits and the pay-as-you-go rules set out in sections 251 and 252 of the Balanced Budget and Emergency Deficit Control Act of 1985. The purpose of the designation was to create a "safety valve" for unexpected, emergency expenditures that would be exempt from sequestration, which served as the enforcement mechanism for the caps and PAYGO. With the expiration of section 251 on September 30, 2002 and the de facto expiration of section 252 (by virtue of setting the scorecard to zero for all fiscal years), section 502 of the 2004 resolution reestablished the authority of the Senate to designate spending and revenue changes as an emergency. In doing so, section 502 codified the criteria used in the definition of an emergency and required committee reports and statements of managers to justify the use of emergency designations with these criteria. The criteria are as set out in subsection (c)(3)(B).

If an item of discretionary spending is accompanied by an emergency designation, the discretionary spending limit and the allocation to the Committee on Appropriations (as well as all other levels in the most recently adopted budget resolution) is held harmless for the costs associated with that spending. If a revenue reduction or mandatory spending increase is accompanied by an emergency designation, then the committee allocation and the Senate's pay-go scorecard is also be held harmless accordingly (again, as well as all other appropriate levels in the resolution).

Section 402 of the 2005 Senate resolution restates (with a technical correction) the Senate's emergency designation point of order. This point of order was first included in the fiscal year 2000 budget resolution. This point of order allows any member to question the use of an emergency designation while the bill, amendment or conference report containing the designation is before the Senate (except for defense appropriations). Once the point of order is made, it requires 60 votes to waive the point of order and retain the designation. If the motion to waive is not successful, the designation would be removed from the measure, and the spending item would remain, in all likelihood making the bill (or amendment) subject to a Budget Act point of order, which would also require 60 votes to overcome. The removal of the designation is accomplished by the same method as provided for in the Byrd Rule (section 313 of the Congressional Budget Act of 1974).

Section 403: Discretionary spending limits in the Senate

Section 504 of the 2004 budget resolution set out discretionary spending limits for fiscal years 2003, 2004, and 2005. These limits are enforced in the Senate with a 60–vote point of order. The limits set out with respect to fiscal year 2005 are applicable during consideration of the budget resolution in the Senate. Therefore, any amendment that would increase the level of discretionary spending over the level set out in the 2004 resolution would also be subject to a 60–vote point of order.

Section 402 of the Senate resolution sets out congressional discretionary spending limits for the first two years covered by the 2005 budget resolution (fiscal years 2005 and 2006) with respect to both budget authority and outlays. Since the advent of statutory discretionary spending limits in 1990, a majority of budget resolution conference reports have included language dealing with "congressional caps."[1]

During debate of the Committee-reported resolution, an amendment (SA 2742, offered by Senator Warner) to increase discretionary spending for fiscal year 2005 through 2009 in order to provide full funding of the President's request for national defense was adopted by a vote of 95 to 4. The amendment also called for an explicit increase to the discretionary limits set out in the Committee-reported resolution of $6.900 billion in budget authority and $5.409 billion in outlays for 2005 and $1.594 billion in outlays for 2006. No point of order was raised during consideration of this amendment. As passed, the Senate resolution sets the following amounts as the discretionary spending limits:

For fiscal year 2005: $819.673 billion in new budget authority and $823.694 billion in outlays for the discretionary category; $33.393 billion in outlays for the highway category, and $1.488 billion in new budget authority and $6.726 billion in outlays for the transit category, for a total of $821.161 billion in new budget authority and $863.813 billion in outlays.

For fiscal year 2006: $852.257 billion in new budget authority and $885.860 billion in outlays for the discretionary category. The Senate resolution sets out only one unified category for 2006.

The Senate resolution also provides for a number of so-called cap adjustments. The cap adjustments permit the chairman of the Committee on the Budget to increase the discretionary spending limit, the section 302(a) allocation to the Committee on Appropriations, and any other appropriate levels in the resolution if an appropriations bill provides additional resources for the programs specified in the adjustment. These are set out in title III of the resolution.

These discretionary spending limits would continue to be enforced by a 60–vote point of order on two fronts: (1) there would be a point of order against the fiscal year 2006 budget resolution if it exceeds the limits for that year set in the 2005 resolution (or against any revision to the fiscal year 2005 resolution that does so) and (2) there would be a point of order against any appropriations bill that causes any of the discretionary limits to be exceeded.

Section 404: Scoring rules

Section 404 of the Senate resolution includes a number of "scorekeeping rules." Pursuant to section 312(a) of the Congressional Budget Act, the chairmen of the Committees on the Budget of the House and Senate are responsible for determining the costs of legislative proposals in their respective chambers. From time to time, new scoring issues arise as Congress responds to various fiscal needs. The rules set forth in this section will serve as guidance to the chairman of the Committee on the Budget, and the Senate as a whole, in evaluating the cost of legislative proposals and applying the budgetary discipline set out in budget resolutions and the Congressional Budget Act of 1974.

As originally reported from the Committee on the Budget, section 404(a) had set out a scoring rule (similar to the President's proposal) intended to equalize the scoring treatment of budget authority and outlays for the Pell Grant program. Amendment 2851 was adopted by voice vote that eliminated this provision in its entirety.

Subsection (a)—Bioshield. As reported from the Committee on the Budget, section 404(b) had set out a scoring rule with respect to possible changes in the availability of funding already provided for Project Bioshield. The Bioshield program was proposed in the President's fiscal year 2004 budget as a new mandatory program. The fiscal year 2004 budget resolution contained a "reserve fund" in the Senate in order to accommodate the spending for this new proposal. In the absence of authorization language, the Bioshield program was funded, in its entirety, in the fiscal year 2004 appropriations act for the Department of Homeland Security. Full funding (for the period requested by the President) was accomplished by means of an advance appropriation. This provision provided budget authority as follows: $0.890 billion in new budget authority for fiscal year 2004, $2.528 billion in new budget authority for fiscal year 2005 and $2.175 billion in new budget authority for fiscal year 2009. The amounts for 2005 and 2009 are advance appropriations and, when combined with all the usual advance appropriations, exceeded the cap on advance appropriations set by section 501 of the 2004 budget resolution. Section 501 contains both a dollar limit for fiscal year 2005 and an exclusive list of programs for which permissible advances may be made. The Bioshield advance also violated the program list. This new scoring rule, proposed under section 404(b) of the Committee reported-resolution, provided that any legislative change in the availability of these funds (such as a recission) would not be scored for the purposes of budgetary enforcement. Consequently, recissions of budget authority would not be available as an offset for spending on other programs.

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[1] See: section 12(b) of H. Con. Res. 64 (103rd Cong.) the fiscal year 1994 Concurrent Resolution on the Budget; section 24 of H. Con. Res. 218 (103rd Cong.) the fiscal year 1995 Concurrent Resolution on the Budget; Section 201 of H. Con. Res. 67 (104th Cong.) the fiscal year 1996 Concurrent Resolution on the Budget; Section 301 of H. Con. Res. 178 (104th Cong.) the fiscal year 1997 Concurrent Resolution on the Budget; Section 201 of H. Con. Res. 84 (105th Cong.) the fiscal year 1998 Concurrent Resolution on the Budget (all establishing multiyear caps); Section 206 of H. Con. Res. 290 (106th Cong.) the fiscal year 2001 Concurrent Resolution on the Budget; Section 203 of H. Con. Res. 83 (107th Cong.) the fiscal year 2002 Concurrent Resolution on the Budget (both providing a mechanism to accommodate an increase to the current year's statutory cap); section 504 of H. Con. Res. 95 (108th Cong.) the fiscal year 2004 Concurrent Resolution on the Budget.

The Senate adopted an amendment (SA 2848 offered by Senator Byrd, adopted by voice vote), that deleted the Committee-reported Bioshield rule and replaced it with an entirely new rule. The new rule, (now found in subsection (a)) requires the chairman of the Committee on the Budget to revise the allocations and other budgetary aggregates by $2.528 billion (the amount of the advance appropriation already enacted for Project Bioshield for fiscal year 2005) when the 2005 Homeland Security appropriations bill is reported. This would hold the Committee on Appropriations harmless with respect to the discretionary caps and the Committee's section 302(a) allocation for the cost of the 2005 advance appropriation for Bioshield that was made in the 2004 appropriations bill.

Subsection (b)—Energy Savings Performance Contracts. The Senate also adopted an amendment (SA 2823 offered by Senator Inhofe, adopted by voice vote) that provides a directed-scoring rule with respect to energy savings performance contracts [ESPCs]. This new rule is now found in subsection (b) of section 404. The rule would permit ESPCs to be reauthorized without recognizing (scoring) the costs. Current authority of federal agencies to enter into obligations for ESPCs has expired (their cost has recently been about $250 million per year). The conference report on the Energy bill (H.R. 6) included a provision to reauthorize ESPCs, which CBO estimated would cost $267 million in 2005 and $1.4 billion over 10 years.

Section 405: Adjustments to reflect changes in concepts and definitions

Section 405(a) of the Senate resolution is virtually identical to section 508 of the 2004 budget resolution. It provides that upon enactment of legislation that changes funding of an existing program from discretionary to mandatory (or vice versa) the chairman of the Committee on the Budget will adjust the levels in this budget resolution (including the discretionary spending limits) to reflect such a change.

Section 405(b) of the Senate resolution provides a similar rule for reported legislation that addresses changes in the nature of offsetting receipts from the Power Marketing Administration.

Section 406: Application and effect of changes in allocations and aggregates

The Senate resolution retains language from previous resolutions clarifying the process for implementing any adjustment made pursuant to the reserve funds and discretionary adjustments and the status of these adjusted levels. It also clarifies that the Budget Committee determines scoring for purposes of points of order.

Section 407: Rulemaking authority

The Senate resolution includes language identical to section 222 of the fiscal year 2002 budget resolution, which simply states Congress' authority to legislate rules of procedure for either chamber.

Section 408: Pay as you go point of order in the Senate

The Committee-reported resolution did not contain any language with respect to the pay-as-you-go rule because the current rule (set out in section 505 of H. Con. Res. 95, the fiscal year 2004 budget resolution) would not have expired until September 30, 2008. The original Senate pay-as-you-go point of order first appeared in the fiscal year 1994 budget resolution. The previous version expired in its entirety on September 30, 2002. The point of order was revised and extended through April 15, 2003 when the Senate adopted S. Res. 304 (107th Congress) on October 16, 2002. S. Res. 304 included a new provision of the pay-as-you-go rule making the rule applicable to mandatory spending in appropriations bills in order to prevent the exploitation of the fact that there were no limits on discretionary spending for fiscal year 2003 due to the expiration of the discretionary spending limits and the lack of a fiscal year 2003 budget resolution.

The section 505 pay-as-you-go rule did not retain the expanded application temporarily applied to appropriation bills in S. Res. 304. Rather it resembles the previous versions of the rule with one change: it applies on a post-budget resolution policy basis. To accomplish this, a scorecard is maintained by the chairman of the Committee on the Budget that sets out the total level of change to the deficit assumed by the most recently adopted budget resolution. Subsequent legislation is to be measured against these balances.

But the current section 505 paygo rule was replaced by an amendment to the 2005 budget resolution (SA 2748 offered by Senator Feingold; adopted by a vote of 51 to 48). The amendment reinstates the Senate's pay-as-you-go rule as it was in effect prior to its expiration on September 30, 2002: any increases in mandatory spending or reductions in revenues must be fully offset (i.e. deficit-neutral) for the 1st year, the sum of years 1 through 5, and the sum of years 6 through 10 with respect to the most recently agreed to concurrent resolution on the budget. The Feingold rule would remain in effect through September 30, 2009.

House Amendment

Section 401: Restrictions on advance appropriations

Section 401 imposes a limitation on advance appropriations similar to a provision included in the last several budget resolutions. It effectively limits which programs may receive an advance appropriation and establishes an overall amount of advanced appropriations. The section includes a general restriction that limits the programs that may receive an advance appropriation and the total level of such appropriations. Advance appropriations may be provided for the accounts in appropriation bills identified under the section "Accounts Identified for Advanced Appropriations" in the Joint Statement of Managers on the Conference Report on the Budget Resolution. The list is expected to be the same as that which appears in this report in the section "Additional Report Language" and with the same heading. Total advance appropriations for these accounts may not exceed $23.568 billion in budget authority. The amount is essentially the same as provided in previous budget resolutions, but it was adjusted to reflect total advance appropriations provided for fiscal years 2006 and 2007 (and any subsequent fiscal years, if applicable). The section defines an "advance appropriation" as any new discretionary budget authority making general appropriations or continuing appropriations for fiscal year 2005 that first becomes available for any fiscal year after 2005.

The limitation may be enforced by any member making a point of order at the appropriate time against any advance appropriations not falling within an exception or exceeding the overall limit. The effect of a point of order under this section, if sustained by the Chair, is to cause the appropriation(s) to be stricken from the bill or joint resolution. The bill itself, however, would still be considered in the House.

Section 402: Emergency legislation

Section 402 provides the House with the authority to designate spending provisions as "emergencies." It adopts criteria for evaluating emergency spending. It also exempts from Congressional budgetary controls supplemental appropriations for the Department of Defense for contingency operations related to the global war on terrorism.

Subsection (a) provides a special exemption from budget controls for a supplemental spending measure for the Department of Defense for "contingency operations related to the global war on terrorism." Though $50 billion has been budgeted for fiscal year 2005 in the budget resolution for this purpose, the exact final amount has yet to be determined. The final level of the supplemental will depend on the President's request and the response of the Appropriations Committees of the House and the Senate.

In order to trigger the exemption, the House must specifically designate the appropriations as "contingency operations" under section 402(a) of H. Con. Res. 393. As in an emergency designation, such designated amounts will not be counted in the determination of the cost of measures and hence will not trigger a point of order under sections 302, 303, and 401 of the Congressional Budget Act.

Subsection (b) exempts spending designated as an emergency under this section from the budget resolution and, as such, spending would not trigger a point of order. This is largely the same procedure as was included in the budget resolution from fiscal year 2004, H. Con. Res. 95. Instead of adjusting the allocations and budget aggregates by the amount designated as an emergency, as was the case prior to the expiration of the emergency designation at the end of fiscal year 2002, subsection (b) provides that the spending (or receipts) resulting from such a provision will not be counted for purposes of determining whether a measure complies with the budget resolution. This is consistent with the congressional scoring conventions prior to the Balanced Budget Act of 1997. Assuming a measure that includes this emergency designation is otherwise in compliance with the budget resolution, it would not be subject to a point of order under sections 302(f), 303(a), 311(a) or 401 of the Congressional Budget Act of 1974.

Committees reporting a measure that designates spending as an emergency should include in the accompanying report, or the conference committee in the joint statement of managers, a statement justifying the emergency designation on the basis of certain criteria. The criteria for designating a legitimate emergency is that the underlying situation to which the provision applies must pose a threat to life, property, or national security and is also: sudden, quickly coming into being, and not building up over time; an urgent, pressing, and compelling need requiring immediate action; unforeseen, unpredictable, unanticipated, and not permanent.

This definition was adapted from criteria developed by previous administrations as part of an OMB Circular (A–11) on the preparation and submission of budget estimates. The subsection continues the practice of allowing the provisions designated as emergencies to be exempt from the budget controls and points of orders of the Congressional Budget Act.

Section 403: Compliance with section 13301 of the Budget Enforcement Act of 1990

This section provides authority to include the administrative expenses related to Social Security in the allocation to the Appropriations Committee. This language is necessary to ensure that the Appropriations Committee retains control of administrative expenses through the Congressional budget process. In the 106th Congress, the joint Leadership of the House and Senate Budget Committees decided to discontinue the practice of including administrative expenses in the budget resolution. This change was intended to make the budget resolution consistent with the Congressional Budget Office's baseline which does not include administrative expenses for Social Security. At the same time, the House Budget Committee believed that these expenses should continue to be reflected in the 302(a) allocations to the Appropriations Committee. Absent a waiver of section 302(a) of the Budget Act, the inclusion of these expenses in the allocation is construed as violating 302(a) of the Budget Act which states that the allocations must reflect the discretionary amounts in the budget resolution (and arguably, section 13301 of the Budget Enforcement Act, which states that Social Security benefits and revenues are off-budget).

Section 404: Application and effects of changes in allocations and aggregates

This section sets forth the procedures for making adjustments for the reserve funds included in this resolution. Subsection (a)(1) and (2) provide that the adjustments may only be made during the interval that the legislation is under consideration and do not take effect until the legislation is actually enacted. This is consistent with the procedures for making adjustments for various initiatives under section 314 of the Congressional Budget Act.

Subsection (a)(3) directs the chairman of the House Budget Committee to insert the adjustments authorized by the various reserve funds in the Congressional Record.

Subsection (b) clarifies that any adjustments made under any of the reserve funds in the resolution have the same effect as if they were part of the original levels set forth in section 101. Therefore the adjusted levels are used to enforce points of order against legislation inconsistent with the allocations and aggregates included in the concurrent resolution on the budget. Spending and tax measures are compared to these adjusted levels to determine if they are consistent with the budget resolution.

Subsection (c) clarifies that the House Budget Committee determines the levels and estimates used to enforce points of order, as is the case for enforcing budget-related points of order. This section of the Budget Act provides the chairman of the Budget Committee with the authority to advise the chairman of the Committee of the Whole House on the appropriate levels and estimates related to legislation being considered on the floor.

Conference Agreement

Section 401: Restriction on advance appropriations

Section 401 reflects the Senate resolution's overall limit on advance appropriations of $23.158 billion in fiscal year 2006 as opposed to the House amendment, which limited total advance appropriations to $23.568 billion over a two-year (fiscal years 2006 and 2007) period. For the House, the language is identical to section 501 in the Fiscal Year 2004 budget resolution, H. Con. Res. 95.

The list of permissible advances is as follows:

Accounts Identified for Advance Appropriations in the Senate

Interior: Elk Hills.

Labor, HHS:
- Corporation for Public Broadcasting
- Employment and Training Administration
- Education for the Disadvantaged
- School Improvement
- Children and Family Services (Head Start)
- Special Education
- Vocational and Adult Education

Transportation, Treasury: Payment to Postal Service

Veterans, HUD: Section 8 Renewals

Accounts Identified for Advance Appropriations in the House

PART A: ADVANCE APPROPRIATIONS FOR FISCAL YEAR 2006

Interior Appropriations: Elk Hills

Labor, Health and Human Services, Education Appropriations:
- Employment and Training Administration
- Education for the Disadvantaged
- School Improvement
- Child and Family Services [Head Start]
- Special Education
- Vocational and Adult Education

Treasury, General Government Appropriations: Payment to Postal Service

Veterans, Housing and Urban Development Appropriations: Section 8 Renewals

PART B: ADVANCE APPROPRIATIONS FOR FISCAL YEAR 2007

Labor, Health and Human Services, Education Appropriations: Corporation for Public Broadcasting

Section 402: Emergency legislation

The conference agreement adopts section 402 of the House amendment with respect to the rule on emergency spending. The major difference between the House and Senate language was the Senate requirement that the President explicitly agree to a "contingent" designation by the Congress (i.e., a spending item with an emergency designation that originated in the Congress and that was not originally requested by the President). There were also minor differences in the criteria used to evaluate the appropriate use of the emergency designation. In addition, the conference agreement retains, for the Senate only, the current Senate point of order regarding the use of the emergency designation. The conference agreement also adopts the House approach regarding the treatment of supplemental appropriations for Iraq, but includes a level of $50 billion for this purpose. The conference agreement sets out this language in section 403—Exemption of Overseas Contingency Operations.

Section 403: Exemption of overseas contingency operations

Section 403 of the conference agreement adopts language from section 402(a) of the House amendment with a modification reflecting the $50 billion assumed for overseas contingency operations in the global war on terrorism to be provided in a supplemental appropriations bill. In order to trigger the exemption, funds must be "designated by the Congress to be contingency operations pursuant to section 403 of S. Con. Res. 95." As in an emergency designation, such designated amounts will not be counted in the determination of the cost of measures and hence will not trigger a point of order under sections 302, 303, and 401 of the Congressional Budget Act or sections 404 and 407 of the conference agreement. Provisions exempted under this section may be included in any number of measures provided the cumulative total does not exceed $50 billion.

Section 404: Discretionary spending limits in the Senate

Section 404 of the conference agreement retains the language from section 403 (except the conference agreement contains no 2006 limit) of the Senate resolution. Virtually identical language was included in section 504 of last year's budget resolution (H. Con. Res. 95, 108th Cong.). Section 403 sets out congressional discretionary spending limits for fiscal year 2005 with respect to both budget authority and outlays. Since the advent of statutory discretionary spending limits in 1990, a majority of budget resolution conference reports have included language dealing with "congressional caps" (see detailed discussion accompanying description of the Senate resolution). These limits are enforced in the Senate with a 60-vote point of order.

The limits set out in the conference agreement are as follows:

With respect to fiscal year 2005: Because the language in section 504 of the fiscal year 2004 resolution still governs the consideration of this conference agreement, the limits for fiscal year 2005 are the same as those set out in that section (as subsequently modified by permissible adjustments). Although an amendment was adopted during consideration in the Senate that increased this level, a waiver was not sought or obtained.

Section 404 provides the chairman of the Committee on the Budget with the authority to make adjustments to these discretionary limits and the committee allocations for: (A) transportation, (B) wildland fire suppression, and (C) compliance with section 504 of H. Con. Res. 95 and the advance appropriation provided in fiscal year 2004 for Project Bioshield.

Section 405: Adjustments to reflect changes in concepts and definitions

The House recedes to the Senate on section 405 of the Senate resolution with an amendment. Subsection (a) authorizes the chairmen of the Committees on the Budget of the House and the Senate to adjust the resolution to take into account changes in budgetary concepts and definitions upon enactment of such legislation.

Subsection (b)(1) reflects the language from section 405(b) of the Senate resolution permitting the chairman of the Committee on the Budget in the Senate to adjust the budget resolution to accommodate legislation converting Power Marketing Administration customer receipts, which are currently treated as mandatory offsetting receipts, to offsetting collections, which would then be credited against spending in an appropriations measure. The language specifies the intent of the Conferees that the proceeds from these customer receipts would be available only to the Corps of Engineers and the Pick-Sloan Missouri Basin project within the Bureau of Reclamation.

Subsection (b)(2) permits the House Budget Committee chairman to make deficit neutral adjustments in the appropriate spending and revenue levels in the budget resolution to permit the consideration of legislation (other than reconciliation) that extends the child tax credit.

Section 406: Application of changes in allocations and aggregates

Section 406 of the conference agreement retains the language of section 406 of the Senate Resolution (which is similar to section 404 of the House amendment) clarifying both the process for making adjustments under the reserve funds and the status of the adjusted levels. It also determines scoring for purposes of enforcing budget related points of order.

Section 407: Pay-as-you-go point of order in the Senate

The conference agreement retains the Senate's pay-as-you-go provision, with an exemption for legislation considered pursuant to Title II of this resolution. The Senate point of order expires on April 15, 2005.

Section 408: Compliance with section 13301 of the Budget Enforcement Act of 1990

Section 408 of the conference agreement retains the language of section 402 of the House amendment regarding the budgetary treatment in the House of discretionary spending for the Social Security Administration.

Subtitle B: Report Submissions

Section 411: Submission of report on defense savings

Section 411 of the conference agreement retains the language of section 202 of the House amendment, which requires the House Armed Services Committee to submit a set of findings to the House Budget Committee. Section 411 adds a comparable requirement for the Senate Armed Services Committee to submit findings to the Senate Budget Committee. The findings must identify $2 billion dollars in savings from activities that are determined to be of low priority or wasteful or unnecessary to national defense. These savings can be used to accommodate other priorities such as force protection, munitions and surveillance capabilities. The report must be submitted to the respective Budget Committees by June 25, 2004, and included in the Congressional Record.

Section 412: Submission of report on homeland security

Section 412 of the conference agreement includes a requirement that, the Senate Governmental Affairs Committee and the House Select Homeland Security Committee submit to the relevant Budget Committees findings that identify $150 million dollars in savings from activities that are determined to be of low priority, wasteful or unnecessary to homeland security. The findings must also include recommendations on how to reallocate the savings to programs and activities considered top priority or which directly contribute to enhancing homeland defense. The report must be submitted to the respective Budget Committees by June 25, 2004 and included in the Congressional Record.

Subtitle C: Exercise of Rulemaking Powers

Section 421: Exercise of rulemaking powers

The House recedes to section 425 of the Senate resolution, which affirms that the budget resolution is an act of congressional rulemaking and subject to revisions by either House. Section 421 of the conference agreement states the authority by which Congress adopts the various budgetary enforcement rules and procedures for the consideration of certain legislation set out in the budget resolution.

Other Provisions

Senate Resolution

With respect to section 404 of the Senate resolution ("Scoring Rules"), the conference agreement retains language with respect to Project Bioshield which was set out in 404(a) with some modifications which are discussed in section 313 of the conference agreement. The language of section 404(b) with respect to energy savings performance contracts has not been retained in any form.

TITLE V: REQUIRED LEVELS AND AMOUNTS FOR OUTYEARS

This title reflects budgetary aggregates and function totals for fiscal years 2006–2009, to comply with section 301 of the Congressional Budget Act.

TITLE VI: SENSE OF THE SENATE AND SENSE OF THE HOUSE

Senate Resolution

The Senate resolution contains twenty-two sections dealing with "Sense of the Senate" provisions that were adopted either during the markup or during consideration on the Senate floor.

House Amendment

The House amendment contains two sections dealing with "Sense of the House" provisions.

Conference Agreement

The conference agreement contains the following provisions:

Subtitle A: Sense of the Senate

Section 601: Sense of the Senate on budget process reform.

Section 602: Sense of the Senate on budget process reform with regard to the creation of bipartisan commissions to combat waste, fraud, and abuse and to promote spending efficiency.

Section 603: Sense of the Senate on the relationship between annual deficit spending and increases in debt service costs.

Section 604: Sense of the Senate regarding the costs of the medicare prescription drug program.

Section 605: Sense of the Senate on returning stability to payments under medicare physician fee schedule.

Section 606: Sense of the Senate supporting funding restoration for agriculture re-search and extension.

Section 607: Sense of the Senate concerning a national animal identification program.

Section 608: Sense of the Senate regarding contributions to The Global Fund to Fight AIDS, Tuberculosis, and Malaria.

Section 609: Sense of the Senate concerning child nutrition funding.

Section 610: Sense of the Senate regarding compensation for exposure to toxic substances at the Department of Energy.

Section 611: Sense of the Senate regarding tax incentives for certain rural communities.

Section 612: Sense of the Senate concerning summer food pilot projects.

Section 613: Sense of the Senate regarding closing the "tax gap".

Subtitle B: Sense of the House

Section 621: Sense of the House on entitlement reform.

Subtitle C: Sense of Congress

Section 631: Sense of Congress on spending accountability.

ADDITIONAL BUDGET PROCESS AND ENFORCEMENT ITEMS IN THE SENATE

The Senate resolution was considered with the acknowledgement that a number of provisions from previous budget resolutions remain in effect. For the convenience of the Senate, they are set out below.

I. Sense of the Senate amendments not germane on floor

One provision (section 204) of the fiscal year 2001 resolution (H. Con. Res. 290 106th Cong., 2nd Sess.) remains in effect. It is discussed and set out below:

Section 204: Mechanisms for Strengthening Budgetary Integrity (see subsection (g) regarding precatory amendments)

The intent of subsection (g) was discussed on page 74 of the conference report—explaining the Senate amendment—for the fiscal year 2001 resolution. The conference adopted the Senate language with a minor modification. Page 74 provides in pertinent part:

> Section 210(g) of the Senate amendment provides guidance for interpreting the germaneness requirement found in section 305(b)(2) of the Budget Act. Section 305 requires that all amendments offered on the floor to a budget resolution or a reconciliation bill must be germane to the underlying legislation and is enforced by a 60-vote point of order in the Senate. The Senate amendment states that an amendment will be considered not germane if it contains only precatory (non-binding) language. This is designed to place a 60-vote hurdle with respect to what is commonly referred to as a "sense of the Senate" amendment. Note that it is not meant to preclude the inclusion of "purpose" or "findings" language that is part of an otherwise substantive amendment.

The minor modification adopted by the conferees was the addition of the word "predominately" before "precatory" to make clear that otherwise substantive provisions would not be subject to 60-vote discipline. The text of subsection (g) is set out below:

SEC. 204 MECHANISMS FOR STRENGTHENING BUDGETARY INTEGRITY.

* * * * *

(g) PRECATORY AMENDMENTS.—For purposes of interpreting section 305(b)(2) of the Congressional Budget Act of 1974, an amendment is not germane if it contains predominately precatory language.

Two provisions (sections 503 and 505) from the fiscal year 2004 resolution (H. Con. Res. 95, 108th Cong. 1st Sess.) remain in effect in the Senate. They are set out or described below.

II. 60-vote points of order through the end of fiscal year 2008

Section 503: Extension of supermajority enforcement

This section of the 2004 resolution extended for 5 years (until September 30, 2008) the 60-vote requirement for waivers and appeals with respect to those Budget Act points of order. This requirement expired on September 30, 2002 (and was temporarily extended through April 15, 2003 in S. Res. 304, 106th Congress).

ALLOCATIONS

As required in section 302 of the Congressional Budget Act, the joint statement of managers includes an allocation, based on the conference agreement, of total budget authority and total budget outlays to each of the appropriate committees. The allocations are as follows:

SENATE COMMITTEE BUDGET AUTHORITY AND OUTLAY ALLOCATIONS PURSUANT TO SECTION 302 OF THE CONGRESSIONAL BUDGET ACT, BUDGET YEAR TOTAL 2005

[In millions of dollars]

Committee	Direct spending jurisdiction		Entitlements funded in annual appropriations acts	
	Budget authority	Outlays	Budget authority	Outlays
Appropriations:				
General Purpose Discretionary	812,773	850,693	0	0
On-budget, regular	808,524	814,021	0	0
Off-budget, regular	4,249	4,264	0	0
Subtotal, regular	812,773	818,285	0	0
On-budget, emergency	0	32,408	0	0
Highways	0	33,393	0	0
Mass Transit	1,488	6,726	0	0
Mandatory	460,008	445,525	0	0
Total	1,274,269	1,336,337	0	0
Agriculture, Nutrition, and Forestry	4,148	17,218	58,312	44,305
Armed Services	85,814	86,744	41	61
Banking, Housing and Urban Affairs	14,425	2,646	175	107
Commerce, Science, and Transportation	11,487	6,618	864	860
Energy and Natural Resources	4,633	3,541	54	59
Environment and Public Works	35,818	2,279	0	0
Finance	810,529	811,603	339,533	339,450
Foreign Relations	11,352	11,619	176	176
Governmental Affairs	70,453	68,764	18,048	18,048
Judiciary	9,232	8,665	574	575
Health, Education, Labor, and Pensions	11,028	10,192	2,966	2,928
Rules and Administration	77	35	113	112
Intelligence	0	0	239	239
Veterans' Affairs	1,247	1,266	38,913	38,605
Indian Affairs	674	668	0	0
Small Business	0	0	0	0
Unassigned to Committee	– 385,673	– 392,557	0	0
Total	1,959,513	1,975,638	460,008	445,525

SENATE COMMITTEE BUDGET AUTHORITY AND OUTLAY ALLOCATIONS PURSUANT TO SECTION 302 OF THE CONGRESSIONAL BUDGET ACT, 5-YEAR TOTAL: 2005–2009

[In millions of dollars]

Committee	Direct spending jurisdiction		Entitlements funded in annual appropriations acts	
	Budget authority	Outlays	Budget authority	Outlays
Agriculture, Nutrition, and Forestry	29,045	101,509	297,690	224,223
Armed Services	470,311	470,952	201	278
Banking, Housing and Urban Affairs	77,878	12,531	875	476
Commerce, Science, and Transportation	47,046	20,708	4,692	4,671
Energy and Natural Resources	19,198	17,286	270	281
Environment and Public Works	187,471	10,026	0	0
Finance	4,700,524	4,708,257	2,179,994	2,179,013
Foreign Relations	62,368	59,526	870	870
Governmental Affairs	378,764	370,008	97,537	97,537
Judiciary	33,945	33,977	2,856	2,856
Health, Education, Labor, and Pensions	59,206	55,352	15,521	15,315
Rules and Administration	374	359	605	604
Intelligence	0	0	1,275	1,275
Veterans' Affairs	6,225	6,500	186,134	185,440
Indian Affairs	3,290	3,381	0	0
Small Business	0	0	0	0

ALLOCATION OF SPENDING AUTHORITY TO HOUSE COMMITTEES FOR BUDGET YEAR 2005—COMMITTEE ON APPROPRIATIONS

[Millions of dollars]

	2005
Discretionary Action:	
General Purpose:	
BA	814,261
OT	890,812
Section 313 Adjustments*:	
BA	7,158
OT	14,516
Total Discretionary Action: BA	821,419
After Section 313 Adjustments: OT	905,328
Current Law Mandatory:	
BA	459,142
OT	444,662

* To be released by the Chairman of the Committee on the Budget upon reporting by the Committee on Appropriations of the first bill or joint resolution making regular appropriations for fiscal year 2005.

ALLOCATIONS OF SPENDING AUTHORITY TO HOUSE COMMITTEES FOR BUDGET YEAR 2005 AND FUTURE FISCAL YEARS—COMMITTEES OTHER THAN APPROPRIATIONS

[Millions of dollars]

	2005	Total 2005–2009
Agriculture Committee:		
Current Law:		
BA	18,219	86,778
OT	17,297	86,272
Reauthorizations:		
BA	....	71,905
OT	....	70,494
Total:		
BA	18,219	158,683
OT	17,297	156,766
Armed Services Committee		
Current Law:		
BA	85,817	470,326
OT	86,748	470,968
Committee on Education and the Workforce		
Current Law:		
BA	7,097	39,185
OT	6,105	34,962
Discretionary Action:		
BA	68	236
OT	56	230
Reauthorizations:		
BA	399	10,479
OT	397	8,201
Total:		
BA	7,564	49,900
OT	6,558	43,393

ALLOCATIONS OF SPENDING AUTHORITY TO HOUSE COMMITTEES FOR BUDGET YEAR 2005 AND FUTURE FISCAL YEARS—COMMITTEES OTHER THAN APPROPRIATIONS—Continued

[Millions of dollars]

	2005	Total 2005–2009
Energy and Commerce Committee		
Current Law:		
BA	154,932	1,129,671
OT	155,872	1,134,400
Discretionary Action:		
BA	576	4,350
OT	483	3,381
Reauthorizations:		
BA	....	10,080
OT	....	4,814
Total:		
BA	155,508	1,144,101
OT	156,355	1,142,595
Financial Services Committee		
Current Law:		
BA	3,855	17,997
OT	– 361	– 4,931
Discretionary Action:		
BA	1	17
OT	1	17
Total:		
BA	3,856	18,014
OT	– 360	– 4,914

ALLOCATIONS OF SPENDING AUTHORITY TO HOUSE COMMITTEES FOR BUDGET YEAR 2005 AND FUTURE FISCAL YEARS—COMMITTEES OTHER THAN APPROPRIATIONS—Continued

[Millions of dollars]

	2005	Total 2005–2009
Government Reform Committee		
Current Law:		
BA	69,443	374,624
OT	67,754	365,868
Discretionary Action:		
BA	1	19
OT	1	19
Total:		
BA	69,444	374,643
OT	67,755	365,887
Committee on House Administration		
Current Law:		
BA	77	374
OT	35	359
International Relations committee		
Current Law:		
BA	11,425	62,733
OT	11,712	59,925
Resources Committee		
Current Law:		
BA	4,788	20,522
OT	3,792	18,794
Discretionary Action:		
BA	2	10
OT	2	10
Total:		
BA	4,790	20,532
OT	3,794	18,804
Judiciary Committee		
Current Law:		
BA	9,357	34,610
OT	8,790	34,642
Discretionary Action:		
BA	15	35
OT	15	35
Total:		
BA	9,372	34,645
OT	8,805	34,677
Transportation and Infrastructure Committee		
Current Law:		
BA	16,755	77,995
OT	13,788	68,720
Discretionary Action:		
BA	1,737	22,070
OT	4	12
Reauthorizations:		
BA	41,010	212,450
OT	330	2,630
Total:		
BA	59,502	312,515
OT	14,122	71,362
Science Committee		
Current Law:		
BA	31	159
OT	112	326
Small Business Committee		
Current Law:		
BA	....	....
OT	....	....
Veterans' Affairs Committee		
Current Law:		
BA	1,247	6,225
OT	1,266	6,500
Reauthorizations:		
BA	467	7,530
OT	466	7,388
Total:		
BA	1,714	13,755
OT	1,732	13,888
Ways and Means Committee		
Current Law:		
BA	641,589	3,782,374
OT	643,106	3,788,443
Discretionary Action:		
BA	1,368	3,470
OT	804	3,244
Reconciliation:		
BA	....	4,600
OT	....	4,600
Reauthorizations:		
BA	19,606	100,666
OT	18,606	100,069
Total:		
BA	662,563	3,891,110
OT	662,516	3,896,356

ECONOMIC ASSUMPTIONS

Section 301(g)(2) of the Congressional Budget Act requires that the joint explanatory statement accompanying a conference report on a budget resolution set forth the common economic assumptions upon which the joint statement and conference report are based. The conference agreement is built upon the economic forecasts developed by the Congressional Budget Office [CBO] and presented in CBO's "The Budget and Economic Outlook: Fiscal Years 2005–2014" (January 2004).

Senate Resolution.—CBO's economic assumptions were used.

House Amendment.—CBO's economic assumptions were used.

Conference Agreement.—CBO's economic assumptions were used.

ECONOMIC ASSUMPTIONS OF BUDGET RESOLUTION

[Calendar Years 2004–2009]

	2004	2005	2006	2007	2008	2009
Percent Change (Year to Year):						
Real GDP	4.8	4.2	3.2	2.7	2.8	2.8
GDP Price Index	1.1	1.1	1.5	1.8	1.9	1.9
Consumer Price Index	1.6	1.7	2.0	2.2	2.2	2.2
Annual Rate:.						
Unemployment	5.8	5.3	5.0	5.1	5.2	5.2
Three-Month T-Bill	1.3	3.0	4.0	4.6	4.6	4.6
Ten-Year T-Note	4.6	5.4	5.5	5.5	5.5	5.5

Source: CBO.

PUBLIC DEBT: AMENDING THE STATUTORY LIMIT PURSUANT TO HOUSE RULE XXVII

The adoption of this conference agreement by the two Houses would result in the engrossment of a House Joint Resolution adjusting the level of the statutory limit on the public debt pursuant to House Rule XXVII. In consonance with clause 3 of that rule, the conferees contemplate a joint resolution of the following form:

Resolved, by the Senate and the House of Representatives of the United States of America in Congress assembled, That subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection and inserting in lieu thereof $8,074,000,000,000.

If the joint resolution is enacted to raise the debt limit to the level contemplated by this conference agreement, the limit will be increased from $7.384 trillion to $8.074 trillion.

Legislative jurisdiction over the public debt remains with the Finance Committee in the Senate and the Committee on Ways and Means in the House.

General Considerations

Rule XXVII in the House, related to amending the statutory public debt level, does not preclude the committees of jurisdiction from originating public debt limit bills whenever necessary. The Senate resolution includes a reconciliation instruction to the Finance Committee to report a bill increasing the statutory limit on the public debt; the House amendment contains no debt limit reconciliation language. The conference agreement contains instructions to the Finance Committee in the Senate to report a bill to increase the statutory debt limit by $690 billion.

JIM NUSSLE,
ROB PORTMAN,
Managers on the Part of the House.

DON NICKLES,
PETE DOMENICI,
CHUCK GRASSLEY,
JUDD GREGG,
Managers on the Part of the Senate.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 6 o'clock and 9 minutes a.m.), the House stood in recess subject to the call of the Chair.

□ 0954

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. DREIER) at 9 o'clock and 54 minutes a.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4200, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

Mr. HASTINGS of Washington, from the Committee on Rules, submitted a privileged report (Rept. No. 108–499) on the resolution (H. Res. 648) providing for consideration of the bill (H.R. 4200) to authorize appropriations for fiscal year 2005 for military activities of the

Department of Defense, to prescribe military personnel strengths for fiscal year 2005, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT ON S. CON. RES. 95, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2005

Mr. HASTINGS of Washington, from the Committee on Rules, submitted a privileged report (Rept. No. 108–500) on the resolution (H. Res. 649) providing for consideration of the conference report to accompany the Senate concurrent resolution (S. Con. Res. 95) setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009, which was referred to the House Calendar and ordered to be printed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HAYWORTH (at the request of Mr. DELAY) for today after 5:00 p.m. and May 19 on account of family reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCDERMOTT) to revise and extend their remarks and include extraneous material:)

Ms. WOOLSEY, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

(The following Members (at the request of Mr. NUSSLE) to revise and extend their remarks and include extraneous material:)

Mr. FEENEY, for 5 minutes, May 19.

Mr. BILIRAKIS, for 5 minutes, May 20.

Mr. HUNTER, for 5 minutes, today.

SENATE CONCURRENT RESOLUTION

A concurrent resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. Con. Res. 103. Concurrent resolution honoring the contributions of the women, symbolized by "Rosie the Riveter", who served on the homefront during World War II, and for other purposes; to the Committee on Education and the Workforce.

ADJOURNMENT

Mr. HASTINGS of Washington. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 55 minutes a.m.), legislative day of Tuesday, May 18, 2004, the House adjourned until today, Wednesday, May 19, 2004, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

8178. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Phosphomannose Isomerase and the Genetic Material Necessary for Its Production in All Plants; Exemption from the Requirement of a Tolerance [OPP-2004-0135; FRL-7358-9] received May 13, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8179. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's "Major" final rule — Control of Emissions of Air Pollution from Nonroad Diesel Engines and Fuel [OAR-2003-0012; FRL-7662-4] (RIN: 2060-AK27) received May 13, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8180. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the California State Implementation Plan; San Joaquin Valley Unified Air Pollution Control District [CA 280-0444; FRL-7657-3] received May 13, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8181. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; State of Missouri [R07-OAR-2004-MO-0001 FRL-7661-4] received May 13, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8182. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District [CA269-0452; FRL-7659-8] received May 13, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8183. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Maryland; Revisions to the 2005 ROP Plan for the Cecil County Portion of the Philadelphia-Wilmington-Trenton 1-Hour Ozone Nonattainment Area to Reflect the Use of MOBILE6 [MD161-3110a; FRL-7648-3] received April 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8184. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval of Section 112(l) Authority for Hazardous Air Pollutants; Equivalency by Permit Provisions; National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry; Commonwealth of Virginia [VA001-1001a; FRL-7648-4] received April 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8185. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Clean Air Act Reclassification, San Joaquin Valley Nonattainment Area; California; Ozone [CA 112-RECLAS, FRL-7648-8] received April 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8186. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Conditional Approval and Promulgation of Implementation Plans: Michigan: Oxides of Nitrogen Rules [MI84-02; FRL-7647-6] received April 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8187. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Interim Final Determination that State Has Corrected a Deficiency in the Arizona State Implementation Plan, Arizona Department of Environmental Quality [AZ 126-0074b; FRL-7650-3] received April 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8188. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Environmental Performance Track Program [OA-2004-0001; FRL-7650-6] (RIN: 2090-AA13) received April 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Filed on May 19, (legislative day of May 18), 2004]

Mr. NUSSLE: Committee of Conference. Conference report on S. Con. Res. 95. A resolution setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009 (Rept. 108–498). Ordered to be printed.

Mrs. MYRICK: Committee on Rules. House Resolution 648. Resolution providing for consideration of the bill (H.R. 4200) to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2005, and for other purposes (Rept. 108–499). Referred to the House Calendar.

Mr. HASTINGS of Washington: Committee on Rules. House Resolution 649. Resolution providing for the consideration of the conference report to accompany the concurrent resolution (S. Con. Res. 95) setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009, and for other purposes (Rept. 108–500). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mrs. MALONEY (for herself, Mr. King of New York, Mr. Hinchey, Mr. Towns, Mr. Walsh, Mr. Nadler, Mr. Serrano, Mr. Weiner, Mrs. McCarthy of New York, and Mr. Israel):

H.R. 4378. A bill to amend title 10, United States Code, to provide that members of the National Guards who served in the counties declared disasters in response to the September 11, 2001, terrorist attacks, and who served under State duty so that they could immediately assist in the response to the terrorist attacks should have that service counted as Federal active duty for purposes of military retirement credit; to the Committee on Armed Services.

By Ms. BALDWIN:

H.R. 4379. A bill to amend the Internal Revenue Code of 1986 to increase the amount which may be excluded from the gross income of an employee for dependent care assistance with respect to dependent care services provided during a taxable year, to adjust such amount each year by the rate of inflation for such year, and for other purposes; to the Committee on Ways and Means.

By Mr. BILIRAKIS:

H.R. 4380. A bill to designate the facility of the United States Postal Service located at 4737 Mile Stretch Drive in Holiday, Florida, as the "Sergeant First Class Paul Ray Smith Post Office Building"; to the Committee on Government Reform.

By Mr. BOOZMAN (for himself, Mr. Snyder, Mr. Berry, and Mr. Ross):

H.R. 4381. A bill to designate the facility of the United States Postal Service located at 2811 Springdale Avenue in Springdale, Arkansas, as the "Harvey and Bernice Jones Post Office Building"; to the Committee on Government Reform.

By Ms. CORRINE BROWN of Florida (for herself and Mr. Crenshaw):

H.R. 4382. A bill to designate the United States courthouse at 300 North Hogan Street, Jacksonville, Florida, as the "Judge Bryan Simpson United States Courthouse"; to the Committee on Transportation and Infrastructure.

By Mr. DEAL of Georgia (for himself and Mr. Norwood):

H.R. 4383. A bill to ensure the continuation of successful fish mitigation programs; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ENGLISH (for himself and Mr. Greenwood):

H.R. 4384. A bill to amend the Internal Revenue Code of 1986 to provide parity in reporting requirements for national party committees and unregulated political organizations, and for other purposes; to the Committee on Ways and Means.

By Mr. LYNCH:

H.R. 4385. A bill to provide for the suspension from Federal procurement and nonprocurement activities of persons that have not paid a fine resulting from a violation of the Occupational Safety and Health Act of 1970 that causes the death of an employee; to the Committee on Education and the Workforce, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MALONEY (for herself, Mr. Shays, Mr. Rangel, Mr. Nadler, and Mr. McNulty):

H.R. 4386. A bill to direct the Secretary of Homeland Security to procure the development and provision of improved and up-to-date communications equipment for the New York City Fire Department, including radios; to the Committee on Energy and Commerce.

By Mr. MEEHAN:

H.R. 4387. A bill to extend military extraterritorial jurisdiction to cover not only personnel and contractor personnel of the Department of Defense, but also personnel and contractor personnel of any Federal agency or provisional authority supporting the mission of the Department of Defense overseas, and for other purposes; to the Committee on the Judiciary.

By Mr. UDALL of New Mexico:

H.R. 4388. A bill to amend the Energy Employees Occupational Illness Compensation Program Act of 2000 to include certain nuclear weapons program workers in the Special Exposure Cohort under the compensation program established by that Act; to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LaTOURETTE (for himself, Mr. Case, Mr. Hoekstra, Mr. Brown of South Carolina, and Mr. Pickering):

H. Con. Res. 429. Concurrent resolution recognizing the sacrifices of individuals working in Iraq under United States Government contracts, expressing sympathy to those individuals injured or taken captive in Iraq, and expressing condolences to the families of those individuals killed in Iraq; to the Committee on Government Reform.

By Mr. YOUNG of Florida:

H. Con. Res. 430. Concurrent resolution recognizing the importance of early diagnosis, proper treatment, and enhanced public awareness of Tourette Syndrome and supporting the goals and ideals of National Tourette Syndrome Awareness Month; to the Committee on Energy and Commerce.

By Mr. DAVIS of Illinois (for himself, Mr. Bilirakis, Mr. Capuano, Mr. Bonilla, Mr. Ross, Mr. Owens, Ms. Corrine Brown of Florida, Mr. Matsui, Mr. Thompson of California, Mr. Ballance, Mr. Lynch, Mr. Abercrombie, Mr. Case, Ms. Bordallo, Mr. John, Mr. Meehan, Mr. Serrano, Mr. McNulty, Mr. Towns, Mr. Stenholm, Mr. Waxman, Mr. Bishop of Georgia, Mr. Rodriguez, Mr. McIntyre, Mr. McGovern, Mr. Bell, Mr. Conyers, Ms. Slaughter, Mr. Cardoza, Mr. Sanders, Mr. Scott of Virginia, Ms. Lofgren, Mr. Bereuter, and Mr. Thompson of Mississippi):

H. Res. 646. A resolution expressing the sense of the House of Representatives that there should be established a National Community Health Center Week to raise awareness of health services provided by community, migrant, public housing, and homeless health centers; to the Committee on Government Reform.

By Mr. DEAL of Georgia:

H. Res. 647. A resolution supporting the goals of National Marina Day and urging marinas to continue providing environmentally friendly gateways to boating; to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 141: Mr. Lewis of Kentucky.

H.R. 218: Mr. Grijalva.

H.R. 290: Mr. Rush.

H.R. 296: Mr. Boucher.

H.R. 371: Mr. Brady of Pennsylvania, Mr. Kucinich, and Mr. Berman.

H.R. 491: Mr. Marshall.

H.R. 571: Mr. Burr.

H.R. 687: Mr. Sweeney.

H.R. 713: Mr. Gerlach and Mr. Thompson of California.

H.R. 857: Mr. Graves, Ms. Ginny Brown-Waite of Florida, and Mr. Gonzalez.

H.R. 974: Mr. Marshall.

H.R. 1043: Mr. Bilirakis.

H.R. 1097: Ms. Millender-McDonald.

H.R. 1117: Mr. Owens.

H.R. 1155: Mr. Davis of Alabama and Mr. Schiff.

H.R. 1222: Mr. Baird.

H.R. 1310: Mr. Marshall.

H.R. 1534: Ms. Watson.

H.R. 1567: Mr. Garrett of New Jersey.

H.R. 1700: Ms. DeLauro and Mr. Menendez.

H.R. 1735: Mr. Ryan of Ohio.

H.R. 1811: Mr. Simmons.

H.R. 1838: Ms. Linda T. Sánchez of California.

H.R. 1906: Mr. Rodriguez.

H.R. 2118: Mr. Schiff.

H.R. 2203: Ms. Ros-Lehtinen.

H.R. 2296: Mrs. Johnson of Connecticut.

H.R. 2387: Mr. Kildee, Mr. Lampson, and Ms. Majette.

H.R. 2494: Mr. Osborne.

H.R. 2527: Ms. Norton, Ms. Loretta Sanchez of California, Mr. Wynn, Mr. DeFazio, and Ms. Majette.

H.R. 2536: Mr. Simmons.

H.R. 2709: Mrs. Lowey.

H.R. 2807: Mr. Hinojosa.

H.R. 2824: Ms. DeLauro and Mr. Terry.

H.R. 3000: Mr. Rangel.

H.R. 3014: Mr. Price of North Carolina.

H.R. 3015: Mr. Hoekstra.

H.R. 3058: Mr. Berry.

H.R. 3099: Mr. Rangel.

H.R. 3184: Mr. Oberstar.

H.R. 3292: Mr. Dooley of California and Mr. Berman.

H.R. 3307: Mr. Peterson of Minnesota.

H.R. 3323: Mr. McNulty.

H.R. 3386: Mr. Stark.

H.R. 3420: Mr. Nadler, Mr. Sherman, Mr. Holt, and Mr. Payne.

H.R. 3470: Mr. King of New York.

H.R. 3474: Ms. Roybal-Allard, Mr. LoBiondo, Ms. Lofgren, and Mr. Burton of Indiana.

H.R. 3480: Mr. Conyers and Mr. Frank of Massachusetts.

H.R. 3482: Mr. Oberstar.

H.R. 3558: Mrs. Bono and Mr. Stark.

H.R. 3579: Mr. Rodriguez.

H.R. 3716: Mr. Neal of Massachusetts.

H.R. 3779: Mr. English and Mr. Baird.

H.R. 3799: Mr. Stearns and Mr. Collins.

H.R. 3803: Mr. Israel.

H.R. 3924: Mrs. Wilson of New Mexico.

H.R. 3927: Mr. Van Hollen.

H.R. 3951: Mr. Baird and Mr. Camp.

H.R. 3965: Mr. McDermott.

H.R. 3974: Mr. Rush and Mr. Sanders.

H.R. 4063: Mr. ALLEN.

H.R. 4065: Mr. BURGESS.

H.R. 4113: Mr. ENGLISH.

H.R. 4125: Mr. PAYNE.

H.R. 4126: Mr. BARRETT of South Carolina, Mr. BOUCHER, Mr. CALVERT, Mr. CHANDLER, and Mr. NEUGEBAUER.

H.R. 4155: Mr. MCHUGH and Mr. OWENS.

H.R. 4203: Mr. GILLMOR.

H.R. 4217: Mr. COSTELLO and Mr. CALVERT.

H.R. 4235: Mr. BERMAN.

H.R. 4260: Mr. OWENS.

H.R. 4270: Mr. GEORGE MILLER of California, Ms. DELAURO, Mr. ANDREWS, Mr. PAYNE, Ms. WOOLSEY, and Mr. KUCINICH.

H.R. 4290: Ms. LEE.

H.R. 4307: Mrs. MILLER of Michigan, Mr. MANZULLO, Mr. FROST, Mr. NEUGEBAUER, Mr. SULLIVAN, and Mr. SESSIONS.

H.R. 4334: Mr. KIRK and Mr. MCNULTY.

H.R. 4341: Mr. WELDON of Pennsylvania, Mrs. EMERSON, and Mr. LANTOS.

H.R. 4346: Mr. STENHOLM, Mr. JOHN, Mr. NADLER, Mr. RYAN of Ohio, Mr. SCOTT of Virginia, Mr. SCOTT of Georgia, Mr. MEEK of Florida, Mrs. CHRISTENSEN, Mr. GREEN of Texas, Ms. BALDWIN, Mr. VAN HOLLEN, Ms. BORDALLO, Mr. BROWN of Ohio, Mr. DAVIS of Illinois, Mr. DEFAZIO, Mrs. DAVIS of California, Mr. FARR, Ms. BERKLEY, Mr. HONDA, Mr. HOLDEN, Mr. KILDEE, Mr. FATTAH, Ms. KAPTUR, Mr. KUCINICH, Ms. MCCARTHY of Missouri, Ms. KILPATRICK, Mr. MCINTYRE, Ms. MILLENDER-MCDONALD, and Mr. MORAN of Kansas.

H.R. 4347: Mr. PAYNE, Mr. CRAMER, Mr. ACKERMAN, Mrs. JOHNSON of Connecticut, and Mr. ENGLISH.

H.R. 4349: Mrs. MCCARTHY of New York.

H.R. 4363: Mr. GRIJALVA and Mr. ETHERIDGE.

H.R. 4370: Ms. MAJETTE and Mr. CROWLEY.

H.J. Res. 56: Mr. BILIRAKIS.

H.J. Res. 93: Mrs. MILLER of Michigan and Mr. PICKERING.

H. Con. Res. 163: Mr. OWENS.

H. Con. Res. 257: Ms. LOFGREN, Mr. GRIJALVA, and Mr. BILIRAKIS.

H. Con. Res. 330: Mr. MOORE.

H. Con. Res. 371: Mr. BONNER, Mr. UDALL of Colorado, Mr. BOYD, and Mr. CAMP.

H. Con. Res. 384: Mr. GRIJALVA, Mr. MORAN of Virginia, Mr. PALLONE, Ms. WOOLSEY, and Ms. KAPTUR.

H. Con. Res. 391: Ms. SCHAKOWSKY.

H. Con. Res. 400: Mr. BISHOP of New York, Mr. COOPER, Mr. STENHOLM, Mr. HILL, Mr. ROSS, Mr. BISHOP of Georgia, Mr. CARDOZA, Mr. WOLF, Mr. WAMP, Mr. JENKINS, Mr. GRIJALVA, Mr. FROST, Mrs. BLACKBURN, Mr. MICHAUD, Mr. TURNER of Texas, Mr. BERRY, Mr. CASE, Mr. MCINTYRE, Mr. ALEXANDER, Mr. CRAMER, Mr. MOORE, Mr. ISRAEL, Mr. THOMPSON of California, Mr. POMEROY, Mr. BOSWELL, Mr. LUCAS of Kentucky, Mr. TANNER, Mr. SCHIFF, Mr. BACHUS, Mr. VITTER, Mr. ACEVEDO-VILÁ, Mr. PASTOR, Mr. MATHESON, Mr. GORDON, Mr. UDALL of Colorado, Mr. SCOTT of Virginia, Ms. HARRIS, and Mr. CHOCOLA.

H. Con. Res. 405: Mr. PETERSON of Minnesota and Mr. DUNCAN.

H. Con. Res. 406: Mr. GRIJALVA, Mr. HONDA, and Mr. SANDERS.

H. Con. Res. 427: Mr. MEEKS of New York.

H. Res. 60: Mr. MILLER of North Carolina.

H. Res. 514: Mr. CASE.

H. Res. 570: Mr. KUCINICH.

H. Res. 611: Mr. PETERSON of Minnesota, Mr. BOYD, Mr. RYAN of Ohio, Mr. ETHERIDGE, Mr. KILDEE, Mr. LANGEVIN, Ms. KILPATRICK, Mr. HOLDEN, Mr. ENGEL, and Mr. MICHAUD.

H. Res. 621: Mr. MCHUGH, Mr. MCNULTY, and Mr. MCDERMOTT.

H. Res. 640: Mr. RANGEL.

H. Res. 642: Mr. LANTOS.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 4200,

OFFERED BY: MR. EMANUEL

AMENDMENT NO. 1: At the end of title V (page 200, after line 24), insert the following new section:

SEC. __. PERSONNEL POLICIES.

(a) The Secretary of Defense may not assign a member of the Armed Forces, and a private sector organization may not solicit the assignment of a member of the Armed Forces, currently deployed as part of Operation Iraqi Freedom or Operation Enduring Freedom to a private sector contractor unless the commanding officer of the unit from which the military member is designated authorizes such assignment and certifies that the assignment is necessary to save American lives or to accommodate the short-term dictates of the combat zone.

(b) In the case of National Guard units currently mobilized for deployment in support of either of those operations, those units are deployed and mobilized to perform the mission specified on their Table of Organization and Equipment for which they were federally recognized to support the Combatant Commander and are to be used in a manner in which they have been organized and trained, not to supply labor for a civilian contractor or any activity that violates the traditional employment of military personnel in a manner that disregards the risks to their lives.

EXTENSIONS OF REMARKS

PAYING TRIBUTE TO NEWLY ELECTED CASTLE ROCK, COLORADO COUNCILMEMBERS

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mr. TANCREDO. Mr. Speaker, it is not an easy undertaking to answer the call to public service and run for local City Councils. Often the job of City Councilmember is thankless; it is with the highest regard for the services our elected officials do for our communities that I wish to pay tribute to the newly elected Castle Rock, Colorado City Council.

In April, returning Councilmembers Ray Waterman and Jay Richards and new City Councilmembers Ed Rusch (District 4) and Randy Reed (District 2) were sworn in by Judge Louis Gresh. The new council's first order of business was the unanimous election of City Councilmember Ray Waterman as Mayor.

Mr. Speaker, the newly elected council should be dedicated to improving their community. It is not only their devotion, but also their passion for contributing to the betterment of the Colorado community that I wish to recognize before this body. It is my distinct pleasure to honor the new and returning councilmembers here today, and wish them all the best in their future endeavors.

UNDOCUMENTED ALIEN EMERGENCY MEDICAL ASSISTANCE AMENDMENTS OF 2004

SPEECH OF

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 17, 2004

Mr. GREEN of Texas. Mr. Speaker, I rise in opposition to H.R. 3722, the Alien Emergency Medical Assistance Amendments of 2004. This bill would prohibit the federal government from reimbursing hospitals for the emergency care they provide to undocumented immigrants. Under the bill, hospitals could only receive federal reimbursement if they provide the Department of Homeland Security with the patient's immigration status, financial data and employer information. The bill makes the immigrant's employer responsible for hospital costs and directs the Secretary of Homeland Security to initiate deportation proceedings against the immigrant.

Mr. Speaker, this bill flies in the face of the medical profession's mission. A hospital's job is to help any individual in need of health care, regardless of the patient's immigration status. We need to let our health care professionals do their jobs, not burden them with additional administrative details that, if imposed, will discourage immigrants from seeking care.

We already know the tremendous problems associated with the 44 million Americans who are uninsured. It goes without saying that the uninsured are less likely to seek preventive health care and, as a result, get care at the hospital only when their health problems have reached emergency proportions. This bill would only exacerbate this problem and discourage our immigrant population from seeking health care at all, for fear of being reported to DHS. This would increase the health risk for citizens and immigrants, legal or not.

It is unconscionable to me that we would consider denying necessary health care services to individuals solely based on their immigration status. This is a wrong-headed approach to addressing our health care problems and would only serve to decrease access to care.

As such, I would urge my colleagues to vote against this bill and, instead, co-sponsor legislation that I have introduced to increase undocumented immigrants' access to quality health care. My legislation, H.R. 3273, would allow state and locally-funded programs to provide preventive and primary health care to undocumented aliens. H.R. 3273 addresses our health care problems at the source and would allow our local hospitals to see that their health care dollars are spent more wisely by preventing emergencies—not treating them.

Mr. Speaker, illnesses know no residency. Medical care shouldn't either. I urge my colleagues to reject the misguided Rohrabacher bill and address our health care problems—both in terms of access and funding—at the source by focusing their efforts on prevention.

EXPRESSING SENSE OF CONGRESS THAT ALL AMERICANS OBSERVE THE 50TH ANNIVERSARY OF BROWN v. BOARD OF EDUCATION WITH A COMMITMENT TO CONTINUING AND BUILDING ON THE LEGACY OF BROWN

SPEECH OF

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 2004

Mr. SERRANO. Mr. Speaker, I rise today to celebrate the anniversary of one of the most important Supreme Court decisions handed down in our nation's history. On May 17, 1954 the United States Supreme Court ended federally sanctioned segregation in the case Brown v. Board of Education by unanimously ruling that "separate but equal" was unconstitutional. This landmark case, which overturned Plessy v. Ferguson, the 1896 Supreme Court Case in which the doctrine of "separate but equal" was declared constitutional, provided the legal foundation for the civil rights movement in this country.

In his decision which challenged the conscience of the nation, Chief Justice Earl Warren argued:

> To separate [black children] from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone . . . We conclude that in the field of public education the doctrine of "separate but equal" has no place. Separate educational facilities are inherently unequal.

These powerful words began the slow process of integration and sparked the campaign for social justice in America.

Fifty years later, we have come a long way in realizing the promise of Brown but still have much work to do. While Brown broke down the barriers of segregation, many of our schools remain separate and unequal. This has occurred primarily because minority students are concentrated in urban settings where schools continue to fall short of providing adequate education. While many whites are able to leave the inner city for the suburbs where they can receive a better education, minorities remain trapped in failing urban schools simply because their parents lack the financial resources to secure a better education for their children. As a result, minority students continue to lag behind in reading, math, writing, geography and science and have a much higher dropout rate than whites, according to a recent Department of Education report.

Mr. Speaker, as we celebrate the groundbreaking case of Brown v. Board of Education, it is imperative that we continue to work to fulfill its promise to provide equal education for all Americans regardless of their race, religion, sex or socio-economic status. Fifty years ago, the Supreme Court laid out its vision for our nation's schools. It is now time for Congress to ensure that that vision becomes reality.

In this year in which Congress will reauthorize the Higher Education Act, we as a body need to take bold steps to provide poor and minority students at the primary and secondary levels with adequate resources to ensure that the door to higher education is open to all. We must fully fund the No Child Left Behind Act, protect Head Start, provide adequate funding for after school programs and make college more affordable for everyone. Doing so will help fulfill the promise of Brown, a promise that we as a nation cannot afford to break.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

WORLD WAR II MEMORIAL

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mr. RAHALL. Mr. Speaker, as we remember those who sacrificed their lives for our Nation on this Memorial Day, let us remember that daily we reap the benefits of the bravery of America's veterans. They have been our liberties' steadfast defenders.

Soon hundreds of thousands of World War II veterans will gather on the National Mall to help dedicate the newest Memorial commemorating their heroic service to our country and honoring their fellow soldiers who gave their lives defending our freedom. The WWII Memorial recognizes and celebrates the sacrifices and unfailing loyalty that veterans demonstrated for America.

However, it has been more than sixty years since the United States joined the war efforts, yet the promises that our government initially made to the brave men and women who put their lives on the line in fighting in the Second World War are being endangered by the hacking away at the veterans' budget. They were promised health care. Most of all, they were guaranteed that their Nation would not turn a blind eye to their future needs. However, these promises have been dulled and slowed, and more and more of our World War II veterans are quietly slipping away, never to know what could have been if their government had fulfilled their promise.

We still have time to correct this injustice and to take care of our World War II veterans before it is too late. Our Nation needs to move further in a direction that allows us to reward our veterans for their sacrifices they have made, wherever and whenever they made it. Our veterans and our soldiers today remain foremost in the thoughts and minds of Americans, and along with our devoted attention given to those who wear America's uniform. Without our veterans, there would be no America, and time and time again, our veterans put the life of their country before their own. It is time that their country finally rewards them for the unfailing dedication each has demonstrated throughout their lifetime.

PAYING TRIBUTE TO SMOKY HILL HIGH SCHOOL NATIONAL SCIENCE BOWL TEAM

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mr. TANCREDO. Mr. Speaker, I would also like to applaud the accomplishments of a group of Aurora, Colorado students. The National Science Bowl team from Smoky Hill High School—Nathan Artz, Chris Krueger, Anthony Eskridge, Andrew Scacco, Jessa Forthofer and their coach, Mary Bartholomew—won their regional tournament, and will be here in Washington, DC to compete in the U.S. Department of Energy National Science Bowl Competition.

The National Science Bowl is a 4-day event, in which students attend science seminars and workshops and participate in the Hydrogen Fuel Cell Model Car Challenge. The last two days of the event, teams from across the nation are pitted against each other in a verbal competition covering every branch of science and mathematics from algebra to zoology.

The Smoky Hill team has worked diligently throughout the year to prepare for this competition and have demonstrated their academic domination in their regional successes. It is my pleasure to honor their commitment to scholastic excellence, and to wish them all the best at the competition and in their future endeavors.

IN RECOGNITION OF DR. BOB PETERSON: TEXAS OPTOMETRIST OF THE YEAR 2004

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mr. GREEN of Texas. Mr. Speaker, I rise today to recognize an outstanding constituent, Dr. Bob Peterson. Dr. Peterson was recently named Optometrist of the Year by the Texas Optometric Association. He has also been awarded the prestigious William D. Pittman Leadership Award by the University of Houston's College of Optometry, which recognized Dr. Peterson's leadership in the Northshore community.

Both of these honors represent the culmination of Dr. Peterson's thirty years of leadership in our community. A fellow graduate of the University of Houston, Dr. Peterson knows the true meaning of service. During his day job as an optometrist, Dr. Peterson works to ensure the healthy vision of his Northshore patients. However, his work day rarely ends at 5 o'clock. He has been a trusted volunteer for Lord of the Streets, working to help Houston's homeless population obtain prescription glasses. He is also a member of the Northshore Rotary Club and the Northshore Chamber of Commerce.

Dr. Peterson also recognizes the tremendous importance of education. Having served on the Galena Park School Board and currently a member of the Harris County Board of Education, Dr. Peterson knows the importance of a good education for our children, who are the future of our country. His work on area school boards and for the Education Foundation of Harris County is a testament to his dedication to our children and our future.

The Texas Optometric Association and the University of Houston couldn't have chosen a more dedicated, service-oriented optometrist to honor. Dr. Peterson deserves these honors and more for his tireless efforts, both in and out of the doctor's office, to keep our community healthy, strong and productive. I am honored to have him as a constituent and congratulate him on these awards and his outstanding achievements.

TRIBUTE TO SISTER MIRIAM THOMAS, S.C.

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mr. SERRANO. Mr. Speaker, I proudly rise today to once again pay tribute to Sister Miriam Thomas S.C., a phenomenal individual who has devoted her life to enhancing the lives of others. On Saturday, May 15, 2004, the College of Mount Saint Vincent will award Sister Thomas with the Seton Medal. Named for Saint Elizabeth Seton, this rarely given medal celebrates the virtues of hard work and service and is the highest award the college confers.

Sister Thomas was born and received her early education in South Brooklyn. Upon graduation from high school, she answered the calling to devote her life to God. At age 18 she entered Sisters of Charity where she received an invaluable theological education as well as a degree from Mount Saint Vincent College in the Bronx. Once she professed her vows, Sister Thomas brought her newly-honed ministry skills to Ascension Grammar School in Manhattan, where she remained for 8 years. She then relocated to Ponce, Puerto Rico where her education was enriched at Catholic University. After years of study she was finally ready for the South Bronx. There, she was assigned to St. Athanasius Parish where she has shared her gift of easing souls and invoking smiles for the past 42 years.

In 1972, Sister Thomas, along with her neighbors, heard that a woman who served as the administrator of Simpson Street Development Association was murdered while on the job. Courage and an unfaltering sense of devotion allowed Sister Thomas to stand up and fill this important position. There, with a tireless and supportive staff, Sister Thomas works miracles daily by providing social services and emotional guidance to people in need. Beyond these commitments, Sister Thomas also sits on the South Bronx Community Board 2 as chairperson. Her involvements in other community-based organizations are too numerous too mention. She says that her ceaseless community involvement was inspired by Father Louis Gigante, a visionary and dear friend.

Mr. Speaker, throughout her many years of service Sister Thomas has helped countless people change their outlook on life using her remarkable gift of translating the gospel into terms that lay individuals can understand. She is truly an extraordinary woman who is very much deserving of this prestigious award.

For her many years of service, I ask that my colleagues join me in honoring this incredible woman as the College of Mount Saint Vincent honors her with the Seton Medal.

PERSONAL EXPLANATION

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mr. NEY. Mr. Speaker, on May 17, 2003, I was unable to be present for rollcall votes 177 on H. Con. Res. 420, recognizing National Transportation Week, 178 on H. Con. Res. 423, authorizing Capitol Grounds for the dedication of World War II Memorial, and 179 on H. Con Res. 403 condemning the Sudan for civilian attacks in the Darfur region, due to transportation problems in getting to Washington, DC. Had I been present I would have voted "aye" on all three resolutions.

150TH ANNIVERSARY OF THE SALEM TIMES-REGISTER

HON. BOB GOODLATTE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mr. GOODLATTE. Mr. Speaker, it is with great honor that I recognize the Salem Times-Register, the community newspaper that has served the good people of Salem, Virginia, for the past 150 years.

While big city daily newspapers and television stations jostle to see how many stories they can cover about war, murder, mayhem and people who have done things they shouldn't, community newspapers such as the Salem Times-Register put on their front pages articles about a hometown student who scored a perfect 1600 on the Scholastic Aptitude Test; what the family of an autistic child is doing at home to help him be as much of a regular kid as possible and Air Force Capt. Matt Stephens' visit while home from Iraq to West Salem Elementary School where he was a fourth-grader and met his future wife.

And so it has been since The Salem Weekly Register was founded in 1854.

Today there are eight papers in the chain, all printed on the company's press in the plant at 1633 W. Main Street in Salem.

Wilson Koeppel and Jeff Stumb purchased the Salem Times-Register and its then-three sister papers in March 2001. The two men had already bought the Christiansburg News Messenger and the Radford News Journal in November 2000. Koeppel's son, Lawson Koeppel, is the bright young general manager of the Salem paper and the five others in Main Street Newspapers that serve communities in the Roanoke Valley.

Today the Salem Times-Register continues as "The only paper that puts Salem first," concentrating on news of Salem and Salem people. In addition, in 2004 the Times-Register went online, along with its sister papers, giving former Salem residents across the world a way to keep up with their hometown news.

In 2003 the Times-Register distinguished itself by winning the Virginia Press Association's Sweepstakes Award as the best newspaper out of all the newspapers its circulation size in the state.

The staff continues to bring the people of the Salem area the best in local news, sports coverage, photographs, items about accomplishments by Salem students and adults, business news and advertisements.

Koeppel and Stumb purchased the Salem paper, The Fincastle Herald, The Vinton Messenger and The New Castle Record from Ray and Jeanne Robinson.

For more than 30 years, Ray Robinson, who remains as publisher emeritus, never missed being there when the newspaper rolled off the presses each Wednesday. Because there were only five people in the early years, everybody had to do a little bit of everything.

"The delivery boy was me. The photographer was me. The design and makeup of the papers was me. The assistant pressman was me," Robinson recalled.

Shortly after the Times-Register was founded, like many others it was a casualty of the Civil War and quit publishing in 1861. It was reincarnated as the Roanoke Times, a weekly, in 1866. The paper's name changed with subsequent owners, with more than 14 different publishers and editors over the next few years.

The Register officially merged with the Roanoke Times weekly in 1883. Salem wasn't a one-newspaper town, though. The Salem Sentinel was founded the following year, and according to author Woody Middleton, the two were intensely competitive. "The Times-Register was published each Friday in a two-story frame building on College Avenue adjacent to the Town Hall. The Sentinel came off the press each Tuesday."

Like most small newspapers in the early 1900s, front pages of both papers were filled with national and international news. Readers had to look inside, where coverage of social events and who visited whom got equal space with community developments.

Subscribers paid $1 a year for their papers.

The Sentinel merged with the Times-Register in 1903 after about six months of the respective editors sniping at each other through their columns.

For 33 years the name of the paper was The Salem Times-Register and Sentinel. Sentinel was dropped from the masthead in 1936 and since then, it has been the Salem Times-Register.

It is with great pride that I congratulate the talented staff that puts out the Salem Times-Register on reaching this milestone and I wish them continued success.

PERSONAL EXPLANATION

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mr. SHAYS. Mr. Speaker, on May 17, I was participating in the World Economic Forum in Amman, Jordan and, therefore, missed three recorded votes.

I take my voting responsibility very seriously and would like the CONGRESSIONAL RECORD to reflect that, had I been present, I would have voted "yes" on recorded vote No. 177, "yes" on recorded vote No. 178, and "yes" on recorded vote No. 179.

SMALL BUSINESS HEALTH FAIRNESS ACT OF 2004

SPEECH OF

HON. HOWARD P. "BUCK" McKEON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 2004

Mr. MCKEON. Mr. Speaker, I rise today in strong support of H.R. 4281, the Small Business Health Fairness Act, which will allow small business to join together to better provide their hardworking employees with health care coverage. This important legislation will solve the serious problem with the growing number of uninsured American workers.

It is reported that as many as 60 percent of America's 43.6 million uninsured are employed in small businesses throughout the country. Over the last few years, small business employers have become unable to provide their workers with affordable health care as a result of the rapid and unjust rise in the cost of health insurance.

As a former small business owner, I understand the plight felt by employers, who want nothing more than to provide employees and their families with quality health care.

The Small Business Health Fairness Act will afford these smaller businesses the same rights that large corporations and unions have and enable their representative associations to form Association Health Plans (AHPs), which will offer health care nationwide to member businesses. AHPs will be crucial in closing the gap the small business community is facing with the increase of uninsured American workers.

It is imperative that we act now by passing this legislation so that our nation's small business employees can immediately begin receiving health care for their families.

Last year, the House passed a virtually identical bill with strong bipartisan support, but it unfortunately never saw the light of day in the Senate. I am hopeful that this body will pass this measure today, and quickly send it to the Senate for consideration. We can no longer allow these dedicated employees to live and work without health insurance.

I thank the Chairman for giving me time to talk about my strong support of H.R. 4281.

UNDOCUMENTED ALIEN EMERGENCY MEDICAL ASSISTANCE AMENDMENTS OF 2004

SPEECH OF

HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, May 17, 2004

Mr. BLUMENAUER. Mr. Speaker, I oppose H.R. 3722, the "Undocumented Alien Emergency Medical Assistance Amendments of 2004," because it would establish an unfunded mandate on an already overburdened and under-funded medical care system. Hospital workers would be required to gather several pieces of information from their patients to prove their citizenship, including their fingerprints. This information would then be shared with the Department of Homeland Security, which would be required to monitor the information with a currently non-existent tracking system. This bill aims to create a costly burden on an already stressed medical system.

H.R. 3722 also poses a serious public health threat. The bill would create fear and confusion amongst both documented and undocumented immigrant families, discouraging them from seeking urgent medical care, possibly resulting in severe complications, the spread of infectious diseases and epidemics, and even death. I stand firmly opposed to this troubling legislation which poses a serious risk to public health and creates unnecessary monetary burdens upon hospitals and taxpayers.

PERSONAL EXPLANATION

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mr. OWENS. Mr. Speaker, because of an emergency in my district, I missed rollcall votes No. 177, No. 178 and No. 179. If present I would have voted "yea."

PERSONAL EXPLANATION

HON. JIM DeMINT

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mr. DEMINT. Mr. Speaker, I was absent during rollcall votes 169, 170, 171, 172, 173, 174, 175, and 176. Had I been present, I would have voted "yea" on rollcall votes 170, 174, 175, and 176. I would have voted "nay" on rollcall votes 169, 171, 172, and 173.

HONORING THOMAS J. McMAHON

HON. THOMAS M. REYNOLDS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mr. REYNOLDS. Mr. Speaker, it is with great pleasure that I rise to pay tribute to Mr. Thomas J. McMahon of Williamsville, New York, for his fifty years of active service as a volunteer firefighter.

For the past fifty-plus years, Thomas McMahon served the Williamsville community as a volunteer firefighter in the Hutchinson Hose Company of the Williamsville Fire Department.

Tom graduated from Bennett High school in 1939, and went on to complete a two-year course at the Chown School of Business. He was drafted into military service in 1942, and served our country as an Army Air Corps aircraft photographer. After the war, Tom and his wife Mary returned to the Buffalo area, settling in Williamsville in 1952. Shortly thereafter, in 1953, he joined the volunteer fire service, and still serves today.

Anytime a citizen volunteers his or her time for the betterment of the community, it is commendable. For one man to have given fifty years to volunteer firefighting is nothing short of remarkable. His commitment to his fellow citizens and dedication to his community truly exemplify the ideals of public service. Through his dedication, Tom has made a considerable and lasting contribution to our community, and for that he deserves our deepest gratitude.

Mr. Speaker, I ask that this Congress join me in honoring Mr. Thomas J. McMahon of Williamsville, New York, and thank him for his fifty years of active service as a volunteer firefighter.

HONORING NEVADA'S 2004 MOTHER OF THE YEAR

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mr. PORTER. Mr. Speaker, I rise today to congratulate Mrs. Susan Wallace Leavitt, who has been awarded the 2004 Nevada Mother of the Year Award. The Mother of the Year Award honors women who are committed to strengthening the moral and spiritual foundations of the family and home.

As a mother of four, Mrs. Leavitt has demonstrated the great responsibility of motherhood and dedication to living and teaching her children outstanding qualities, such as love, understanding, courage, service, and compassion. As a recipient of this award, Mrs. Leavitt will help deliver this message about motherhood to community organizations in Southern Nevada. I wish her all the best in her future endeavors and congratulate her on this well-deserved award.

TRIBUTE TO THE TOWN OF WEBSTER

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mr. WALSH. Mr. Speaker, I rise today to pay tribute to the selection of the town of Webster as Sports Illustrated 50th Anniversary Sportstown for the state of New York. Jim Donahue, president of the National Recreation and Parks Association and David S. Morris, publisher of Sports Illustrated, presented the award to the Webster Parks and Recreation Department in conjunction with Webster Community Partnership on May 15, 2004.

Criteria for the selection was based upon the implementation of philosophy, policy/procedures, education and training strategies, youth development strategies, community commitment to parks and recreation resources, innovations for community development, and scope of the programming.

The Town of Webster shows a unique ability in combining resources with the Central School District and Youth Sports council to facilitate sports programs for the benefit of the entire community. Mr. Speaker, I commend the Town of Webster for its hard work, dedication to community development and thank all volunteers and officials who make the program a success.

HONORING THE 100TH ANNIVERSARY OF THE AMERICAN LUNG ASSOCIATION

HON. MARK GREEN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mr. GREEN of Wisconsin. Mr. Speaker, it is my honor and pleasure to recognize before this House the American Lung Association on this, its 100th anniversary.

Since 1904, the American Lung Association has been leading the fight against lung disease in all its forms. Although it began as a network of community-based organizations dedicated to eradicating tuberculosis, over the past 100 years the Association has dramatically expanded its research, education and advocacy programs to address the growing problem of chronic lung disease. With nearly 200 offices across the nation, the Association has grown to become one of America's most prominent health-related organizations.

Today, more than 35 million Americans are living with chronic lung disease. Every year, close to 344,000 Americans die of lung disease, making it the nation's number three killer. These are some frightening statistics, but without the American Lung Association, one can only imagine just how high these numbers could soar.

Mr. Speaker, I feel honored and privileged to be able to thank the American Lung Association for all its hard work and determination in fighting lung disease. There's no question, this remarkable organization is living out its mission of "improving life, one breath at a time." One hundred years is an incredible accomplishment, and on behalf of the citizens of Wisconsin's Eighth Congressional District, and a grateful nation, I say congratulations.

CONGRATULATING THE VIRGINIA DINER ON THEIR 75TH ANNIVERSARY

HON. J. RANDY FORBES

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mr. FORBES. Mr. Speaker, I rise today to congratulate the Virginia Diner in Wakefield, Virginia, on the marking of their 75th Anniversary. Located in southeastern Sussex County, the Virginia Diner represents the best of homestyle cooking the Commonwealth of Virginia has to offer.

Over the past 75 years, few have been able to travel through Wakefield, down U.S. Route 460, without stopping to sample the southern cuisine this Virginia landmark has to offer.

In 1929, Mrs. D'Earcy Davis started serving hungry customers her now famous hot biscuits in a refurbished Sussex, Surry and Southampton Railroad car. With a bit of southern charm, some hard work and a loyal following, the Virginia Diner started to make its mark on

Virginia. Since 1929, the Virginia Diner has continued to prosper and has grown with the times while never forgetting its rich history.

Today, the Virginia Diner is a culturally and culinary landmark. Wakefield is not only home to some of America's finest peanuts but it is also the address of home-style cooking.

Mr. Speaker, I urge you and all of my colleagues to join me in congratulating the Virginia Diner and the Galloway family on this special occasion and I hope you will join me in wishing them well on the next 75 years.

STATEMENT OF THE NATIONAL VOLUNTEER FIRE COUNCIL CHAIRMAN PHILIP C. STITTLEBURG, REMARKS ON THE CIGARETTE FIRE SAFETY ACT OF 2004

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mr. MARKEY. Mr. Speaker, I submit the following statement for the RECORD:

> On behalf of the National Volunteer Fire Council and the more than 800,000 members of America's volunteer fire and emergency services, I would like to thank Representative Ed Markey (MA) and Peter King (NY) for their steadfast leadership and long-time commitment to the implementation of fire safety standards for cigarettes.
>
> H.R. 4155 is bipartisan legislation which will set a reasonable ignition standard for cigarettes and help to prevent an estimated 800 deaths, 2,200 injuries and nearly $560 million dollars in damages caused by cigarette ignited fires every year. Cigarettes are the leading cause of fatal fires and children and firefighters themselves are at extremely high risk for burn and fire injuries from these fires. That is why this issue resonates so strongly for us and continues to be a priority of our organization.
>
> As everyone is aware, both New York State and Canada have passed cigarette fire safety standards that are due to go into effect this summer. This legislation will require that the CPSC adopt the New York cigarette fire safety standard as the national standard.
>
> On April 30, a 69-year-old Portland, Oregon woman died after a cigarette she was smoking in bed ignited a fire. On April 28, a 64-year-old Pensacola, Florida woman was killed in a house fire that was started by a lit cigarette. On April 27, a Kingsbury, New York man died in a fire at his home when he fell asleep while smoking. We need to pass this legislation immediately to put an end to the seemingly endless list of tragedies caused by cigarette-related fires.
>
> I would like to again thank Representatives Markey and King and the bipartisan group of Members of Congress who are cosponsors of this bill for their leadership on this lifesaving piece of legislation. The volunteer fire service in America stands behind you and we stand ready to assist you in anyway possible to pass the Cigarette Fire Safety Act. Thank you.

IN RECOGNITION OF ARMED FORCES DAY, MAY 15, 2004

HON. TODD TIAHRT

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mr. TIAHRT. Mr. Speaker, news articles record that the first Armed Forces Day in 1950 was celebrated by parades, open houses, receptions, and air shows. Here in Washington, DC, 10,000 troops of all branches of the military, cadets, and veterans marched pass the President and his party.

In Berlin, more than a thousand U.S. soldiers paraded for the German citizens at Templehof Airfield.

In New York City, an estimated 33,000 participants initiated Armed Forces Day "under an air cover of 250 military planes of all types." In harbors across the country, famed mothballed "battlewagons" of World War II such as the Missouri, the New Jersey, the North Carolina, and the Iowa, were opened for the public.

All across our land, the American people joined together to honor the Armed Forces.

I hope that today all Americans will show the same respect and honor to the men and women that are serving and have served this nation in our military. As President Dwight D. Eisenhower said in 1953, "It is fitting and proper that we devote one day each year to paying special tribute to those whose constancy and courage constitute one of the bulwarks guarding the freedom of this nation and the peace of the free world."

So let us honor the soldier, the sailor, the Airman, and the Marine who has put his or her life on the line to preserve freedom. It is their valor that gives renewed hope to Americans, the world and especially the citizens of Afghanistan and Iraq, that by perseverance and faith the ideals of freedom and justice will prevail.

Their efforts will once again allow the world to believe that a life without terrorism is possible. Their actions will once again allow the world to understand our resolve to fight for freedom and peace.

For more than 225 years, the men and women of America's Armed Forces have answered a nation's call to duty. As a Congress we affirm our resolve that the Armed Forces of the United States of America will remain the best in the world. The only place for America is first place.

God Bless our Troops.

PERSONAL EXPLANATION

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mrs. LOWEY. Mr. Speaker, during an absence yesterday, I regrettably missed rollcall votes 177–179. Had I been present, I would have voted in the following manner: rollcall No. 177: "Yea," rollcall No. 178: "Yea," and rollcall No. 179: "Yea".

HONORING DOROTHY MARIE KORZYM

HON. THADDEUS G. McCOTTER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mr. MCCOTTER. Mr. Speaker, I rise today in honor of Dorothy Marie Korzym upon her retirement after 25 years of teaching the children of our community.

After receiving her masters degree from the University of Michigan in 1984, Ms. Korzym taught at various schools, including Our Lady Gate of Heaven in Detroit, St. Fabian in Farmington Hills, and Marygrove College.

In 1995, Ms. Korzym began teaching at St. Edith in Livonia.There is no doubt, her wisdom and guidance were a great asset to our community. Although she will be sorely missed at the school, she will continue to have a presence at St. Edith as she has been a member of the parish for the past 20 years.

Mr. Speaker, I extend my sincere appreciation to Dorothy Marie Korzym, upon her retirement after 25 years of teaching, for her fine service to our community and our country.

CO-SPONSORSHIP OF H.R. 4061

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Ms. LEE. Mr. Speaker, I rise today in regards to H.R. 4061, the Assistance for Orphans and Vulnerable Children Act of 2004, which passed the House International Relations Committee by unanimous consent on March 31.

On May 5 the International Relations Committee filed House Report 108–479.

Because House rules prohibit the addition of cosponsors to a bill once the committee report has been filed, I am not able to formally add three Members of Congress as cosponsors of this legislation.

I ask that the RECORD show that Mr. CALVERT of California, Mr. BACHUS of Alabama, and Mr. GERLACH of Pennsylvania are in support of my bill and should be considered by this body as cosponsors of H.R. 4061.

PERSONAL EXPLANATION

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mr. OBERSTAR. Mr. Speaker, I hosted an important conference on retirement security issues last night in Hibbing, MN, as part of my Hometown Values Forum series, and I missed several votes last night and this morning.

Had I been present, I would have voted "aye" on rollcall vote 177, I would have voted "aye" on rollcall vote 178; I would have voted "aye" on rollcall 179; I would have voted "nay" on rollcall vote 180; I would have voted "nay" on rollcall vote 181; and I would have voted "nay" on rollcall vote 182.

IN MEMORY OF MR. PATRICK MICHAEL McGRADY, JR.

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mr. PALLONE. Mr. Speaker, I rise to honor the memory of Patrick Michael McGrady. Mr. McGrady was a great American who devoted his life to helping people with cancer, including a great number of people from New Jersey's Sixth Congressional District.

Born in 1932 in a rural village in Washington's Olympic Peninsula, Mr. McGrady attended Yale University on a scholarship, excelling in German, Russian, and Yiddish. After graduating from Yale in 1954, Mr. McGrady served a stint at the Chicago-Sun Times, and subsequently moved on to write for the Associated Press and United Press International. He later served as bureau chief in Moscow for Newsweek magazine before becoming an author of books about health and medicine.

Mr. McGrady later became founder and director of CANHELP, an information service for cancer patients operating out of Port Ludlow, WA. He subsequently devoted 20 years of his life to this organization that provided a lifeline for people caught in what he deemed "The Cancer Patient's Quandary."

According to Mr. McGrady, many cancer patients find themselves in a quandary because, "You don't know how long you'll live, you don't know what it is like to die and you haven't the vaguest notion of where to turn for a cure." Things can rapidly become tragic, he noted, "because the patient has so little time to make a series of decisions, all of which simply have to be correct. Just one misstep can spell a premature and ugly death."

Mr. McGrady came to understand this quandary too well when his father, a science editor of the American Cancer Society, suffered an "ugly death" from colon cancer in 1979. Appalled by the needless pain and misery that his father endured, Mr. McGrady remarked, "This treatment, these manners, this attitude, are not exceptional, they are commonplace. I know this from the atrocities cancer patients tell me everyday. It is the rule in a society where the practice of medicine has become a commodity like pork bellies and soy beans and where human beings are viewed as pigeons to be plucked."

Determined not to let another cancer patient endure such maltreatment, Mr. McGrady spent his time as director of CANHELP, focusing on helping patients navigate the cancer care maze and understand its complexities. Unfortunately, Mr. McGrady passed away on December 12, 2003, ending a long life devoted to helping others.

Mr. Speaker, as the 6-month anniversary of Mr. McGrady's death approaches, I wanted to share his story with my colleagues, and pay tribute to this remarkable man. Accordingly, I ask that my colleagues join me in honoring the distinguished Mr. Patrick Michael McGrady, Jr., and all of his remarkable contributions.

UNDOCUMENTED ALIEN EMERGENCY MEDICAL ASSISTANCE AMENDMENTS OF 2004

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mr. FARR. Mr. Speaker, today the House considered H.R. 3722, the Undocumented Alien Emergency Medical Assistance Amendments. As you know, I voted against this bill.

Frankly, at a time when tuberculosis is on the rise in America, when STDs and AIDS continue to plague our population, and when biological health threats are no longer strictly the realm of science fiction. I am embarrassed that we had to debate legislation to erect barriers to health care rather than debating ways to encourage early intervention whenever someone falls ill.

Communicable diseases still do exist, even in a techno-world like ours. And they are very real threats to public health and safety. Just one "Typhoid Mary" can cause health emergencies of epidemic proportions.

Intrusive identification programs like the one proposed in H.R. 3722 create a near police-state environment in the emergency room. Suddenly the fear of not having one's proper documentation becomes more important than the prospect of getting treatment. Not getting treatment leads to risks for all of us and believe me, disease does not respect green cards. This bill is mean-spirited in its targeting of hard-working, albeit undocumented persons, but it is reckless in its exposing the greater community to potential health threats.

The better answer to this problem is to enforce the current immigration laws, which do not allow for the hiring of undocumented workers, to provide the necessary resources to protect the border from illegal crossings, and above all, to work with our international neighbors to build a world economy that encourages citizens to remain in their homeland and build their lives there.

IN HONOR OF MS. DEBRA BROWN STEINBERG

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mr. NADLER. Mr. Speaker, I rise today to pay tribute to Ms. Debra Brown Steinberg on the occasion of her 50th birthday. Ms. Steinberg, a Lead Attorney for 9/11 families and victims, gave of herself for 2½ years to help those in need. She worked tirelessly to ensure that 9/11 victims and their families received good legal advice and representation, and provided compassion and human understanding.

Ms. Steinberg is a partner at the New York offices of Cadwalader, Wickersham and Taft located near the site of the World Trade Center. After the attacks, while many New Yorkers became extensions of their television sets and wrote checks to charities, Ms. Steinberg quickly understood how she could best help those whose lives were devastated by this horrific attack. It was clear to her that there would be a need for pro bono legal assistance, especially for the survivors and families of low-income workers whose problems would include immigration, housing, finance, language, education and job training.

The challenges to these families, many of whom were neither citizens nor legal aliens, were overwhelming. Ms. Steinberg responded by organizing and training lawyers and law students, working with nonprofit organizations and unions to learn the challenges and suggest solutions, meeting with elected officials and government agencies to explore ways to overcome bureaucratic obstacles. Moreover, she shared her knowledge and motivated others to volunteer their time and expertise.

Ms. Steinberg has earned the respect, admiration and affection of colleagues, friends and those she shepherded through these most difficult times. Her efforts have inspired those around her and enabled the partners and families of those killed on September 11 to begin to plan for their futures.

All of us in New York, as well as all Americans, have a special place in our hearts for people whose selfless acts make this a better world. Debra Steinberg is one of those very special people and I am proud to know her.

For her commitment to her community, her State, and this Country, it is my privilege to wish Ms. Steinberg a very happy 50th birthday.

PERSONAL EXPLANATION

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mrs. MALONEY. Mr. Speaker, on May 17, 2004, I missed rollcall vote No. 177. Rollcall vote No. 177 was on the motion to suspend the rules and agree to H. Con. Res. 420, a resolution applauding the men and women who keep America moving and recognizing National Transportation Week.

Had I been present I would have voted "yea" on rollcall vote No. 177.

GENOCIDE IN DARFUR, WESTERN SUDAN

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Ms. LEE. Mr. Speaker, today I rise because as we speak genocide is occurring in Darfur. The international community, particularly the United States, has yet to learn from the Rwandan tragedy; ironically, we commemorate its 10th anniversary this year.

Like Rwanda, the warning signs in Darfur were obvious but we did nothing—and now the international community is watching, once again, with indifference as millions of Black Africans are wiped out of western Sudan. The Bush administration has raised concerns, and the U.N. has denounced the "ethnic cleansing" executed by the Sudanese government's militias, but this is beyond ethnic cleansing, this is systematic and calculated genocide.

Prevent Genocide International defines genocide as the "intent to destroy, in whole or in part, a national, ethnical, racial or religious group, and the five punishable forms of the crime of genocide include: genocide; conspiracy; incitement; attempt; and complicity. All of the five punishable forms of genocide are occurring in Darfur. Hundreds of thousands are fleeing Darfur; fearing that they will become yet another statistic in Khartoum's plan to rape, torture and ultimately wipe out all Blacks in the southwestern region of Sudan.

The number of refugees and internally displaced persons on the Chadian border continues to rise. In just the last 12 months, the National Islamic Front government of Sudan and its allied militia, the Janjaweed, displaced more than 1 million people, forced over 110,000 people into Chad, and killed more than 10,000 innocent civilians.

As in other conflicts designed deliberately to humiliate and eliminate people because of their identity, we have seen women and girls targeted for rape in Darfur. Government troops and their allied militia have raped, tortured, maimed and burned entire villages in a deliberate and systematic manner to cleanse the area of all Blacks, regardless of religion. USAID estimates that at least 3.5 million people will die if no one in the international community stops this massacre and delivers emergency humanitarian assistance before the rainy season begins in June.

As was the case in 1994 in Rwanda when our government and the international community refused to use the word genocide—we are once again witness to the same duplicity and lies about the tragedy in Darfur. The people who are speaking out loudest regarding the tragedies in Darfur are the humanitarian organizations, who to this day, are still limited by the Khartoum government in their quest to save lives. Humanitarian NGOs have complained of Khartoum's delaying tactics—stalling on visa applications, and denying travel and work permits, preventing NGOs from getting to camps for the internally displaced.

Mr. Speaker, how can we allow this travesty to continue and not be outraged? The government of Sudan in not our partner in peace. We must stop pushing a false "Sudan peace process" and really deal with this genocide.

I call on the Bush administration to call this attack on the people of Darfur what it is: genocide. I ask that the United Nation's meet and commission an emergency humanitarian and peacekeeping mission for the people of Darfur. And lastly, I call on our global community—particularly the leaders of the African Union—use their regional leadership to save the lives of millions in Darfur. Without our express concern and emergency assistance the killing will continue.

In the words of Gandhi, "Destruction is not the law of humans. . . . Every murder or other injury, no matter for what cause, committed or inflicted on another is a crime against humanity." We must stop the genocide in Darfur now because every death, every rape, every displaced person reflects our disregard for their justice and their right to life.

HONORING GERALDINE CATHERINE MURPHY

HON. THADDEUS G. McCOTTER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mr. McCOTTER. Mr. Speaker, I rise today in honor of Geraldine Catherine Murphy upon her retirement after 40 years of teaching the children of our community.

After graduating from Marygrove College in 1964, Ms. Murphy taught the students of SS. Peter and Paul School in Detroit until 1998. During this time, she served on many educational committees, including the committee which wrote the Language Arts/English curriculum for the Archdiocese of Detroit.

In 1998, Ms. Murphy came to the educational community at St. Edith in Livonia. There is no doubt, her wisdom and guidance were a great asset to our community. The impact she had upon St. Edith will be felt for many years to come, as she will be sorely missed.

Mr. Speaker, I extend my sincere appreciation to Geraldine Catherine Murphy, upon her retirement after 40 years of teaching, for her fine service to our community and our country.

HONORING MARK EARL OF SPRING HILL, FLORIDA

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to honor my constituent, Mark Earl of Spring Hill, Florida.

Mr. Earl will be recognized this evening at the Hope Awards Benefit for his work on finding missing children. He will receive the Charles B. Wang International Children's Award, given annually by the National Center for Missing and Exploited Children.

In 1994, Mark's concern and vision prompted him to establish a Missing Children's Board in the Walmart store where he worked. Two years later, Walmart expanded on his initiative and installed Missing Children's Boards nation-wide. He was promoted to District Loss Prevention Supervisor, and his efforts have resulted in the recovery of over 100 children.

On behalf of these children, their families, and my entire constituency, I would like to formally praise Mark Earl on the floor of this House. His initiative and dedication to his community are to be commended. I am proud to call him my constituent and eager to honor him in person this evening.

VILLAGE OF WESTERN SPRINGS: A TRIBUTE TO ARBOR DAY

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute to the Village of Western Springs, a township located in the Third Congressional District of Illinois. The Village of Western Springs officially proclaimed April 30, 2004 as Arbor Day, a special day to set aside for the planting of trees.

This year, Western Springs was recognized and awarded the prestigious title of Tree City USA by the Arbor Day Foundation. It is certainly an occasion worthy of special recognition, as Western Springs has shown a commitment and dedication to Arbor Day by planting trees and caring for their woodlands.

Village President John Kravcik publicly declared April 30 as the official Arbor Day for the Village of Western Springs. I was privileged to take part in the Western Springs Arbor Day ceremony with the students of McClure Junior High School, Principal John Chick, Vice Principal Matt Castle and the citizens of Western Springs. We were honored with the presence of the Western Springs Garden Club, including Ann Gindorf and President Mary Kubalanza, Fred Rodriguez and Jack Lund of the Western Springs Memorial V.F.W. Post 10778, and Father Tom Bernas of St. Richard's Parish who offered the ceremony's prayer.

I would like to pay special tribute to the Arbor Day essay winners Jenni Breslin, Schuyler Hilton, and Nicky Galvez, who shared their literary works to commemorate this day. It is essential for children to learn the importance and value of trees to the environment and our community, in order to ensure future generations will enjoy greener, healthier, and more beautiful places. The students of McClure Junior High School displayed their commitment to protecting and promoting the community's natural beauty by planting a tree on school grounds during the ceremony.

In the 128 years since its founding, Arbor Day has become a holiday celebrated in cities across America and nations throughout the world. Arbor Day draws particular attention to the part trees play in our lives and in the significant ways they beautify and enrich our communities.

Mr. Speaker, I am pleased that the people of Western Springs are taking the time to celebrate Arbor Day. I wish them the best of success in their tree-planting efforts and I strongly hope that more Americans will follow their positive example.

SALUTE TO JOHN RYAN, SR.

HON. SHERWOOD BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mr. BOEHLERT. Mr. Speaker, I would like to take this opportunity to congratulate one of my constituents from Cortland County, New York, John Ryan, Sr., for 51 exceptional years of service to the Homer Fire Department. Mr. Ryan joined the Homer Fire Department in 1953, upon his return from service in the Korean War. His commitment to public service for his country and his community is unmatched.

His father was a volunteer firefighter and served as fire chief in the 1940's. Mr. Ryan also served as fire chief for four years beginning in 1970. He has presided over the

Cortland County Fire Chiefs Association and the County Fire Advisory Board. The love of firefighting has been passed down to his children and grandchildren, as his son, John Ryan, Jr., serves as the current fire chief and his other sons, Steve and Mike, also serve as firefighters. His granddaughter was the fourth generation Ryan to belong to the fire department before she moved from the area.

It is this kind of dedication and commitment to community that makes John Ryan, Sr. such a legacy in Homer, NY. Not only has he answered the call to community service, but he has also instilled that same spirit in his children and grandchildren. I thank Mr. Ryan for his years of service, and I know the town of Homer thanks him as well.

IN HONOR OF COACH RICK ORTEGA'S ELECTION INTO THE NATIONAL WRESTLING HALL OF FAME

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mr. SESSIONS. Mr. Speaker, I rise today to honor Coach Rick Ortega of St. Mark's School of Texas. I am pleased to represent St. Mark's in Congress, and have been impressed with the quality of education produced by the school. My oldest son Bill currently attends St. Mark's, and one of the staffers in my Washington office is an alumnus of this college preparatory school.

Coach Ortega has been a valued member of the faculty since coming to St. Mark's in 1982. Now in his third decade of service to St. Mark's, Coach Ortega has been elected as a member of the Class of 2004 for the National Wrestling Hall of Fame in Stillwater, Oklahoma. I am very proud of Coach Ortega's election, and I know firsthand the quality of the wrestling program at St. Mark's. My son Bill is currently in the middle school wrestling program and the results of the wrestling program speak volumes to Coach Ortega's dedication to the young men that he educates.

Wrestling is one of the few sports that a small school such as St. Mark's can compete in against larger high schools in Texas that have thousands of students. From 1992 to 1994, St. Mark's "three-peated" as Texas High School Wrestling Champions. St. Mark's three straight championships could not have been possible without the leadership and dedication of Coach Ortega and the many wrestlers that he inspires on a daily basis.

During his time at St. Mark's and his prior stint as the Head Wrestling Coach at Burges High School in El Paso, Texas, Coach Ortega has amassed an impressive winning record. In his 32 years of coaching, he has an overall dual meet record of 532 wins compared with only 80 losses. He won seven Texas State Championships, and five Prep State Championships. This is in addition to being Texas State Runner's up six times. During his time at St. Mark's, Coach Ortega has won 18 Southwest Preparatory Championships in 22 seasons, a very impressive record in the conference. On the individual level, Rick Ortega has coached 59 state champion wrestlers, and 53 prep all-Americans.

Coach Ortega himself was a State Wrestling Champion in New Mexico in 1966. He has a natural love for wrestling and for those that pursue the sport. Coach Ortega inspires discipline on the mats, and an emphasis on nutritional wellness off of the mats. His personal commitment to scholarship, sportsmanship, and excellence has served the school well throughout his career. I congratulate Coach Ortega on this important accomplishment, and I wish him all the best for continued success at St. Mark's.

COMMEMORATING THE 50TH ANNIVERSARY OF BROWN v. BOARD OF EDUCATION

HON. DIANE E. WATSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Ms. WATSON. Mr. Speaker, I rise today to commemorate the 50th anniversary of the Brown versus Board of Education Supreme Court decision and to call on this administration and Congress to further renew the goals and visions laid out by this monumental case.

On May 17, 1954, the United States Supreme Court announced in Brown versus Board of Education that "in the field of education, the doctrine of 'separate but equal' has no place." In the half century that followed, This pivotal decision ushered in a new era, leading to the gradual elimination of State-sponsored racism. Specifically, it established the legal and moral framework for the civil and voting rights legislation of the 1960s that drastically expanded the Constitution's promise of "equal protection" to all spheres of public life.

However, few people today would claim that the promises of Brown have been fulfilled. There is no doubt that the disturbing phenomenon of "white flight" in the North and "segacademies" in the South following efforts at integration created new forms of segregation along economic, and all too often, racial lines. As a recent study by the Harvard Civil Rights Project indicates, 70 percent of African-American children today attend schools that are predominately African-American, roughly the same level as 40 years ago.

Throughout the country today and this week, many will gather to celebrate and commemorate the legacy of Brown. But it is also an occasion for observance. We cannot ignore how, across America today, Black and White students still go to separate schools in the same town, divided by neighborhoods and segregated by wealth. We cannot ignore the disparity in resources that continue to plague many of our school systems, especially those serving predominantly inner-city minority and impoverished children.

Today is an occasion to recommit ourselves to the vision of Brown, to redouble our efforts in working toward an America that treats everyone equally and empowers everyone economically. Congress passed the No Child Left Behind Act to establish a framework for States and districts to address and eventually eliminate education failures. I once again issue a call to action. First this administration and this Congress must fully fund No Child Left Behind to demonstrate our commitment to educational equity. Second, we must increase funding for Pell grants so that low- and moderate-income students can have access to higher education. This 50th anniversary commemoration of Brown versus Board of Education, like the decision itself, calls for action, not just words. Justice deferred is justice denied.

CONGRATULATING THE PEOPLE OF TAIWAN AND PRESIDENT CHEN SHUI-BIAN

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to send my best wishes and warm congratulations to the people of Taiwan for having successfully concluded their most recent presidential election.

As the people of Taiwan prepare to inaugurate their incumbent President, Mr. Chen Shui-bian, I salute them and the democratic endeavor that we have recently witnessed.

In the last 4 years, under the leadership of President Chen Shui-bian, Taiwan has continued to prosper.

It has one of the strongest economies in the world and its people enjoy unprecedented prosperity. Taiwan has solid schools, a good transportation system, and sound medical care for its citizens. Furthermore, the people of Taiwan enjoy political freedoms, such as direct elections, a free press, and human rights.

Mr. Speaker, the people of Taiwan have every right to be proud of their presidential election.

I look forward to working with Mr. Chen's new administrative team in the next 4 years and beyond. Taiwan and the United States are truly friends and this relationship is stronger now than at any other time.

Americans and the people of Taiwan are also allies in the war on terrorism. Moreover, we share an abiding concern about peace and stability in the Taiwan Strait and Taiwan's participation in world organizations, such as the World Health Organization.

Congratulations again to the people of Taiwan and President Chen Shui-bian.

A TRIBUTE TO MRS. ALICE NICKENS

HON. FRANK W. BALLANCE, JR.

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mr. BALLANCE. Mr. Speaker, I rise to honor Mrs. Alice Nickens, one of my most senior constituents on the occasion of the recent celebration of her 100th birthday. Mrs. Nickens has had the good fortune to witness all of the remarkable events and changes that shaped our country during the 20th century.

Mr. Speaker, Mrs. Nickens is a retired educator who taught at every school in Hertford

County. She began by teaching history as a senior at Waters Normal Institute before beginning her formal career as an educator in 1922.

Mr. Speaker, Mrs. Nickens indicated that, "in those days", a person didn't have to go to college in order to teach. Mrs. Nickens was considered bright in her subjects and she acknowledges that she was fortunate to have gotten a teaching position. She earned an undergraduate degree from Hampton Institute in Virginia and a masters degree from the University of Pennsylvania, and she never looked for another job.

Mr. Speaker, for 95 long years, Mrs. Nickens has been a dedicated member of Pleasant Plains Baptist Church. She taught Sunday school for 50 years, emphasizing the power of prayers and the providence of the Lord.

Mr. Speaker, Mrs. Nickens acknowledges the fact that she is very blessed to have lived such a long and productive life. She realizes that many people take their health for granted and neglect to go to the doctor for regular visits. She warns that some of the diseases with which we suffer today could be prevented if folks would simply commit to take care of themselves and make regular visits to the doctor whether in good or poor health.

Mr. Speaker, I ask my colleagues to join me in paying tribute to Mrs. Alice Nickens, an exemplary citizen as she celebrates her 100th birthday.

RECOGNIZING THE IMPORTANCE OF INCREASING AWARENESS OF AUTISM (H. RES. 605)

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mr. EMANUEL. Mr. Speaker, today I am proud to rise in strong support and as a cosponsor of H. Res. 605, recognizing the importance of increasing awareness of autism. Autism spectrum disorders and related developmental disabilities affect one in every 166 children—a dramatic increase from a decade ago when the prevalence was thought to be one in every 10,000. Prevalence is thought to be increasing by 10–17 percent annually, yet there remains little public awareness and understanding regarding these conditions.

Autism is a brain disorder, affecting a child's ability to communicate and interact socially. Parents of children with autism require a great deal of patience and support to properly care for these children. Congress must raise awareness of these conditions so that these parents receive the support of their communities and the expert assistance of trained medical professionals and teachers, regardless of income level.

It is not enough, however, to simply recognize the needs of people living with autism. As Members of Congress, we have a responsibility to follow through on commitments we have already made to the parents and teachers of these children. The Individuals With Disabilities Education Act requires the Federal Government to allocate funding for 40 percent of the cost of educating children with disabilities. Since this law was passed in 1991, Congress has never appropriated sufficient resources to meet this requirement. States are left to cover the costs of funding-intensive programs, such as special education programs for children with autism. As a result of insufficient funding, special education programs are chronically plagued by insufficient staffing, resources and training.

Congress must also provide resources to diagnose and treat children with autism before they reach school age, through training programs for medical professionals and initiatives designed to reach and treat autistic children during the crucial early stages of development. Medical professionals need to be educated so that they are aware of and recognize autism and its related disorders. Too often parents are told not to worry if their child is slower than same age peers, especially if that child is a boy. Precious time is lost waiting for children to "grow out" of their symptoms when that time could be spent receiving early intervention services.

It is important to recognize scientifically valid methods that are effective in working with people with autism. At this time, there is no cure for autism. There are, however, many effective methodologies that can improve the lives of children with autism, and Congress has a responsibility to recognize and fund practitioners and trainers of these methodologies, while also educating parents on the limitations of current treatment so that they do not fall victim to unscrupulous individuals promising easy cures.

Teachers, therapists and doctors who treat children with autism are true American heroes and deserve the best training, support and recognition we can provide. I would also like to take this opportunity to recognize some of the leading organizations in the fight for proper treatment, care and research, such as the Autism Society of America, Cure Autism Now, the National Alliance for Autism Research and Unlocking Autism.

I thank the gentleman from Massachusetts for introducing this important resolution, and I urge my colleagues to vote for it. I also urge my colleagues to promote sufficient funding this year to address the critical needs this condition presents to people living with autism nationwide.

SPECIAL EXPOSURE COHORT FAIRNESS ACT OF 2004

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to introduce the Special Exposure Cohort Fairness Act of 2004.

On October 30, 2000, the Energy Employees Occupational Illness Compensation Program Act (EEOICPA) was enacted into law. The purpose of this law was to provide for timely, uniform, and adequate compensation of covered employees suffering from illnesses incurred as a result of their work at Department of Energy facilities. While this law's enactment was welcome and past due, serious flaws in the program have been apparent during the years since its passage, and delays in getting compensation to workers have been numerous.

The language in Subtitle B of the EEOICPA clearly states that where it is not feasible to estimate with sufficient accuracy the radiation dose of a class of workers, and if there is a reasonable likelihood that the radiation dose may have endangered the health of the members of the group, that class of workers may petition to be included in a Special Exposure Cohort. Special Exposure Cohort status provides an automatic presumption of causation for 22 radiation-related cancers. When the law was passed, Special Exposure Cohorts were designated by Congress at four facilities.

The men and women who were exposed to harmful doses of radiation while working at the Los Alamos National Laboratory have waited years for the Secretary of Health and Human Services to issue a rule designating the process for classes of workers to petition to be in a Special Exposure Cohort. As a result of this unfair delay, workers have been unable to file petitions to become members of a Cohort. Four years after the bill was passed in Congress, a Special Exposure Cohort rule will finally be issued next week. But workers cannot wait any longer for their compensation—it is simply unfair to ask them to do so. Moreover, a report issued on May 5, 2004 by the National Institute for Occupational Safety and Health (NIOSH) of the CDC stated that some facilities are not consistently providing adequate responses to data requests for dose reconstruction. The report details the Los Alamos National Laboratory's (LANL) lack of full compliance. Data issued in the report shows that of the 548 dose reconstruction cases pending with LANL on January 15 of this year, 499 had been pending for over 150 days.

The bill I am introducing today is a step in the right direction to help many of my constituents who have suffered because of their having worked at Los Alamos National Laboratory. I continue to hear from constituents who were exposed to harmful doses of radiation and who are wondering why they have had to wait years to receive their compensation. Workers cannot wait any longer for a flawed bureaucratic process to start working.

My bill allows energy employees who were employed for at least 250 days between 1945 and 2000 at the Los Alamos National Laboratory Area G, linear accelerator, or who were security guards or construction workers, to be considered as members of a Special Exposure Cohort. In addition, the bill will allow employees who worked anywhere at Los Alamos National Laboratory, and whose records have not been received by NIOSH from the Lab within 200 days of receipt, to qualify under the Special Cohort. It is worth noting that the enactment of the legislation would not preclude additional groups of workers in New Mexico from seeking to become part of the Special Exposure Cohort.

Subtitle B is unfortunately only one component of the original EEOICPA law that needs amending. There are many outstanding issues that I will continue to work on with my colleagues, including fixing physicians panels, speeding up dose reconstructions, and locating a willing payer for all meritorious claims.

This bill represents just one step in the larger fight to ensure that energy workers get the compensation they deserve.

Since enactment of the EEOICPA in 2000, the New Mexico legislature has passed two House Joint Memorials calling for the creation of a Special Exposure Cohort for the facilities listed in this bill. Hearings have been conducted; reports have been issued. Meanwhile, many of the claimants in this program are so ill that they may never see the compensation check that they deserve—a small source of comfort for them and their families in return for the harmful exposures they suffered. It is time for action.

STATEMENT OF KATHY MARTINEZ, MEMBER OF THE NATIONAL COUNCIL ON DISABILITIES (NCD), ON INTERNATIONAL DISABILITY RIGHTS: THE PROPOSED UN CONVENTION

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mr. LANTOS. Mr. Speaker, on March 30th, the Congressional Human Rights Caucus held a groundbreaking Members' Briefing entitled, "International Disability Rights: The Proposed UN Convention." This discussion of the global situation of people with disabilities was intended to help establish disability rights issues as an integral part of the general human rights discourse. The briefing brought together the human rights community and the disability rights community, and it raised awareness in Congress of the need to protect disability rights under international law to the same extent as other human rights through a binding UN convention on the rights of people with disabilities.

Our expert witnesses included Deputy Assistant Secretary of State Mark P. Lagon; the Permanent Representative of the Republic of Ecuador to the United Nations, Ambassador Luis Gallegos; the United Nations Director of the Division for Social Policy and Development in the Department of Economic and Social Affairs, Johan Scholvinck; the distinguished former Attorney General of the United States, former Under-Secretary General of the United Nations and former Governor of Pennsylvania, the Honorable Dick Thornburgh; the President of the National Organization on Disability (NOD), Alan A. Reich; Kathy Martinez, a member of the National Council on Disabilities (NCD); and a representative of the United States International Council on Disabilities (USCID) and Executive Director of Mental Disability Rights International, Eric Rosenthal.

As I had announced earlier, I intend to place the important statements of our witnesses in the Congressional Record, so that all of my colleagues may profit from their expertise, and I ask that the statement of Cathy Martinez be placed at this point in the Congressional Record.

"International Disability Rights: The Proposed United Nations Convention," March 30, 2004, Washington, DC

NCD is an independent federal agency whose members are appointed by the President to advise the President, the Administration and Congress on disability policy issues. NCD supports House Concurrent Resolution 169, which expresses the Sense of Congress that the U.S. should support a UN Convention on the rights of people with disabilities.

As a group composed of some 600 million people worldwide, people with disabilities are a sizable global population. More compelling, however, than the sheer magnitude of this population, is the appalling history regarding the denial of even the most basic human rights of people with disabilities in both the developed and the developing countries. Even in the 21st century, the Department of State Country Reports has revealed that people in psychiatric facilities are restrained in cages and are subjected to serious human rights abuses. In the late 1990s, governments in many countries in Europe, Asia, and North America acknowledged long histories of the sterilization of people with disabilities. Additionally, there is evidence of denial of the right to vote and conscious utilization of inaccessible polling places constituting an abrogation of the democratic rights of people with disabilities in all regions of the world. As more and more countries face aging societies the public dialogue is becoming more and more critical about whether people, as they age, will be allowed to stay in their community.

Within the last thirty years the United States Congress has led the way in adopting law after law which mandate a range of choices for American citizens with disabilities equivalent to that for American citizens without disabilities: education, transportation, employment, and communication. With the passage of the proposed MICASSA legislation, this range of choices would be extended to include the right of people with disabilities to choose where they receive personal assistance services and care. The UN Convention is one way for the US to share its technical expertise and legislative achievements, provide technical assistance and the exchange of knowledge, skills, and experience to help reduce the learning curve for countries that are ready to implement new solutions. Something I've observed through my years of experience in international development is how powerful it is when the disability leadership from other countries understands how people with disabilities in the US have been able to organize themselves into an influential constituency. Disability leaders from all over the world come to this country and marvel at things we now take for granted. For example, I hosted disability leaders from Russia a few years ago. They spent a lot of time taking pictures of each other in elevators, on ramps, on bus lifts, on the accessible Metro, reading Braille menus in restaurants, and using our telephone relay services. In other words, we have a lot to share.

NCD believes the people of the United States would be well served by being involved in the historic process of drafting a Convention, and by ensuring that this Convention benefits from the American experience in implementing the Americans with Disabilities Act. U.S. disability legislation, with its core principles of choice, independence, and integration, is one of America's greatest democratic achievements. The U.S. must continue to show its leadership through its support of and involvement in the proposed Convention, in order to protect, preserve, and enforce the rights of people with disabilities everywhere. The passage of Resolution 169 will be an important step in helping to ensure that people with disabilities in other countries have the same opportunity to attain equality.

The U.S. cannot afford to ignore the burgeoning momentum for the development of an international disability Convention. The United States has plenty to gain by constructive participation in the effort to fully integrate disability fully into the international human rights agenda. United States interests abroad, such as our foreign assistance work, can only be bolstered by a UN Convention. The economic cost to society of excluding people with disabilities is enormous. No nation in the world will achieve its full potential for economic development while it leaves out people with disabilities.

US government support for a strong UN convention will be a validation of this country's commitment to include disability issues as a meaningful priority of US foreign policy.

Effective international collaboration in the drafting process will require consultation with and full participation by disability leaders and their allies in the United States and abroad. By supporting a strong Resolution, by consulting with disability groups, and by the inclusion of people with disabilities in the drafting process, the US will establish its role as a leader in international disability rights consistent with its commitments to citizens with disabilities at home.

HONORING SENIOR CHIEF STOREKEEPER CORZETTA "COZY" CALLOWAY

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Ms. SLAUGHTER. Mr. Speaker, I rise today on behalf of myself, Congresswoman Capito and the entire Congressional Caucus for Women's Issues to recognize the 7th Annual Women in the Military Wreath Laying Ceremony hosted by the Caucus at Arlington National Cemetery. The purpose of this event is to honor our nation's servicewomen and female veterans for their courage and achievements, and to remember women who have died in service to the United States.

Today, we have the opportunity to recognize five outstanding female servicewomen, one selected from each branch of the military. These women serve their respective branches with honor, dignity, and courage. These highly decorated leaders chose to defend our freedom and embody the spirit of those that served before them.

From the U.S. Coast Guard, we will honor Senior Chief Storekeeper Corzetta "Cozy" Calloway, who is currently assigned to the Coast Guard Recruiting Command (CGRC), Coast Guard Personnel Command in Arlington, Virginia. In her position as a supervisor and a Coast Guard recruiter, SCSK Calloway helps to manage the online recruiting program and provides guidance to prospective applicants via the Coast Guard website.

Senior Chief Calloway also acts as assistant to the chief of the Recruiting Command's leasing department for all Coast Guard recruiting offices. In this capacity, SCSK Calloway performs essential duties in selecting qualified individuals and subsequently in the development of Coast Guard servicemen and women. She has shown incredible commitment to enhancing the diversity of the Coast Guard workforce. SCSK Calloway distinguishes herself as a leader in both recruiting qualified individuals and applying her specialty in supply organization and logistics. Her impressive awards that she has received include the Coast Guard Achievement Medal for serving on the Women's Advisory Council, the Coast Guard Letter of Commendation for recruiting, the Good Conduct Medal, and the Humanitarian Service Medal.

Senior Chief Calloway plans to retire soon from the Coast Guard with 30 years of service, and she will be remembered for her commitment to improving the Coast Guard and her dedication to service. She continues to distinguish herself as an invaluable leader in the Coast Guard, and it is an honor for each member of the Congressional Caucus for Women's Issues to recognize the courage and commitment of SCSK Calloway and all women in the military.

IN HONOR OF DR. CAROLYN G. BUKHAIR'S RETIREMENT FROM THE RICHARDSON INDEPENDENT SCHOOL DISTRICT

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mr. SESSIONS. Mr. Speaker, I rise today to pay special tribute to Carolyn G. Bukhair, Ed.D., in honor of her retirement from the Richardson Independent School District. Dr. Bukhair is leaving her post as the Superintendent after serving 36 years as an educator and 28 years with Richardson I.S.D.

Not only admired by her own district, she commands the respect of her peers throughout the state. In 1999 she was distinguished as the Texas Association of School Librarians' Administrator of the Year. She also was the Region 10 Superintendent of the Year for 1999, and was one of five finalists for the State Superintendent of the Year award in both 1999 and 2003.

Dr. Bukhair has left her impression on the school district that she has so ably served. In recognition for her continued efforts, the RISD Board of Trustees voted to name the district's newest elementary school as "Carolyn G. Bukhair Elementary". Dr. Bukhair presided over many years of improvement and progress for the district. Under her leadership, the district maintained a 22:1 student/teacher ratio in grades k–4 for six consecutive years. It is so critical to provide in-depth and personal attention to our younger students, and by maintaining small class sizes; the Richardson I.S.D. has been able to better accomplish that mission. Small class sizes alone will not increase the education for students, however, when coupled with accountability in the classroom, our children greatly benefit. Dr. Bukhair instituted a strong accountability model based on continuous improvement of student performance and achievement.

I have had the honor and privilege of working with Dr. Bukhair over the last several years, and I will greatly miss her at the helm of Richardson I.S.D. I wish her, and her family, all the very best as she retires from Richardson I.S.D.

PERSONAL EXPLANATION

HON. JIM RYUN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mr. RYUN of Kansas. Mr. Speaker, unfortunately, I missed three votes in the House of Representatives on May 17, 2004 due to my attendance at events marking the 50th anniversary of the Brown vs. Board of Education decision. Had I been in attendance I would have made the following votes:

Vote on Passage of H. Con. Res. 420—Recognizing National Transportation Week. Had I been in attendance, I would have voted "yea."

Vote on Passage of H. Con. Res. 423—Authorizing Capitol Grounds for the Dedication of WWII Memorial. Had I been in attendance, I would have voted "yea."

Vote on Passage of H. Con. Res. 403—Condemning the Sudan for civilian attacks in the Darfur region. Had I been in attendance, I would have voted "yea."

HONORING JACQUELINE Z. DAVIS, EXECUTIVE DIRECTOR OF THE NEW YORK PUBLIC LIBRARY FOR THE PERFORMING ARTS

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Ms. MCCARTHY of Missouri. Mr. Speaker, I rise today to recognize a champion of the arts, Jacqueline Z. Davis, who will receive the insignia of Chevalier dans l'Ordre des Arts et des Lettres from Jean-René Gehan, Cultural Counselor of the French Embassy, in a ceremony this evening at the New York Public Library for the Performing Arts, where she has served with distinction as Executive Director for the past four years. Ms. Davis' vision for the performing arts has made a global impact. The Chevalier recognizes her outstanding career and her contribution to the culture of our two great nations.

The Chevalier is a distinguished honor reserved for a select few deemed by the French Minister of Culture and Communication to have made groundbreaking contributions to the arts in France and throughout the world. For nearly 25 years, Ms. Davis has been a devoted advocate of the performing arts and a leader in her field. As Executive Director of the New York Public Library for the Performing Arts, she has launched compelling exhibitions and performances representing cultures around the world and has been instrumental in the renovation of the Library's new building at Lincoln Center, a project that included the creation of a grand, light filled reading room, several loft exhibition galleries and state of the art audiovisual stations that have revolutionized the educational experience.

Ms. Davis has a profound understanding of the history, art and culture of France influenced by her numerous visits and her time spent there as a student at L' Institut Catholique in Paris, where she received a Certificats Des Etudes De La Langue Francaise. Her passion for the arts is visible in the many performances and exhibits produced under her leadership, earning her the respect of her colleagues by her unwavering dedication to preservation of the performing arts. Upon Ms. Davis' appointment to the position of Executive Director of the Performing Arts Library, Library President Paul LeClerc noted "After an exhaustive national search, I am delighted that . . . Jacqueline Davis will head one of the New York Public Library's greatest collections. She has had a brilliant career to date in performing arts administration, and she will be a superb addition to the Library's leadership." Tonight the world of arts and letters will acknowledge her contributions to the arts and to the Library as she is awarded The Chevalier.

Prior to her appointment at the Library of the Performing Arts, Jacqueline served as Executive Director of the Lied Center at the University of Kansas, one of the leading university arts presenters in the nation. In 1994, she received the Governor's Arts Award for "outstanding contribution to the excellence, growth, support and availability of the arts in Kansas." Ms. Davis has served on the boards of Chamber Music America, Dance USA and the American Arts Alliance, as President of the Association of Performing Arts Presenters and been a frequent panelist for the National Endowment for the Arts and Arts International. She was named one of 11 Outstanding Presenters in the United States through a study commissioned by Pew Charitable Trusts. She currently serves on the American Theatre Wing's Tony Awards Nominating Committee.

Mr. Speaker, please join me in paying tribute to Jacqueline Davis, recipient of the 2004 Chevalier dans l'Ordre des Arts et des Lettres. Her lifelong passion for the arts (des arts) and letters (et des lettres) has made an impact on her family, her friends, and all those whose lives she has touched and those whose future will be enhanced by her lifelong commitment to furthering artistic excellence recognized by the Chevalier. Merci beaucoup, Jacqueline.

HONORING MASTER CHIEF KELLY D. WILLIAMS OF THE U.S. NAVY

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Ms. SLAUGHTER. Mr. Speaker, I rise today on behalf of myself, Congresswoman CAPITO and the entire Congressional Caucus for Women's Issues to recognize the 7th Annual Women in the Military Wreath Laying Ceremony hosted by the Caucus at Arlington National Cemetery. The purpose of this event is to honor our Nation's servicewomen and female veterans for their courage and achievements, and to remember women who have died in service to the United States.

Today, we have the opportunity to recognize 5 outstanding female servicewomen, one selected from each branch of the military. These women serve their respective branches with honor, dignity, and courage. These highly decorated leaders chose to defend our freedom and embody the spirit of those that served before them.

From the U.S. Navy, we will honor Master Chief Kelly D. Williams. A native of Texas, Master Chief Williams has an Associate in Arts with Honors degree from City Colleges of Chicago. She began her career in the Navy in Meridian, Mississippi, where she attend Storekeeper Class "A" School. She successfully completed Instructor Training, Storekeeper Independent Duty Afloat and Command Career Counselor training in 1991, and also graduated from training in Shipboard Uniform Automated Data Processing Systems.

Serving the U.S. Navy at a variety of stations and duties, Master Chief Williams should be especially recognized for her commitment during her time assigned to the staff of the Commander, Naval Surface Group Mediterranean, in Naples, Italy. Her diligence and dedication as Assistant Replenishment Officer earned her the Navy Achievement Medal for her direct contribution to assuring Sixth Fleet combat effectiveness and readiness during Operations Noble Anvil/Allied Force. She is currently assigned as the Assistant Head to the Navy Uniform Board and has been a vital contributor to the Navy's first-ever Navy Uniform Task Force.

Among her many achievements, Master Chief Williams has been awarded the Meritorious Service Medal, Navy and Marine Corps Commendation Medal (4 awards), Navy Achievement Medal (3 awards) and various service and campaign awards. Master Chief Kelly D. Williams continues to distinguish herself as an invaluable leader in the Navy, and it is an honor for each member of the Congressional Caucus for Women's Issues to recognize the courage and commitment of Master Chief Williams and all women in the military.

THEY SAVED CIVILIZATION—A TRIBUTE TO THE VETERANS OF WORLD WAR II

HON. VITO FOSSELLA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mr. FOSSELLA. Mr. Speaker, today we pay tribute to the men who made up the greatest fighting force ever assembled. Their cause was just, and they carried the banner of freedom against the most fearsome and vicious enemy the world has ever seen. All the while, the courage of these American heroes never failed.

They were soldiers, sailors, marines—others served with great distinction in the Air Force, the Coast Guard and the Merchant Marine. We owe them all a great debt. Over 400,000 Americans died during the conflict. Today, roughly 4,300,000 veterans are still with us.

To understand the importance of what these men did, one must realize the magnitude of what they were up against. In the space of a few years, a great evil had swept across much of the world. It was the hand of several governments—all dictatorships—who had formed a bloodthirsty pact to swallow their neighbors whole.

The aggressors struck quickly and with ferocity impossible to resist. Many strong nations fell under their control.

The occupation was focused, deadly and vicious, and executed millions of the conquered peoples. One of the aggressor states in particular had developed an ideology so disturbed it led them to murder millions more of their own citizens, including many loyal ones. So perverse were the nature and scope of the deeds committed by Germany that, decades later, the mere name of its ruling political party is a curse word for the most vile—the Nazi party.

Meanwhile, Japan captured the Chinese city of Nanking in December, 1937, and the four months that followed have become known as the Rape of Nanking. It is estimated that the occupiers executed between 250,000 and 300,000 of the city's inhabitants, merely the most outrageous of a series of atrocities committed in the Pacific Theater.

Who could stand against these savage marauders? Who could stop them, as they savaged their way across the continents?

The answer came on December 7th, 1941. Japan attacked the U.S. naval base at Pearl Harbor, killing 2,409 Americans. The devastating attack, which nearly crippled the battlefleet and destroyed equipment and facilities, shocked the nation.

Americans, still groggy from the Great Depression, were jolted awake by the empires expanding across the oceans both to our east and west, and by the grim realization that it was going to take America to do something about it.

We were fortunate to have strong leaders: President Franklin Roosevelt knew that a full-scale mobilization was needed, and that it was going to take the entire country pitching in to properly prepare our military for war. Army Chief of Staff George Marshall revamped the military and crafted overall strategy.

One who was watching the American reaction and knew what it meant was British Prime Minister Winston Churchill: "To have the United States at our side was to me the greatest joy. Now at this very moment I knew the United States was in the war, up to the neck and in to the death. So we had won after all! . . . Hitler's fate was sealed. Mussolini's fate was sealed. As for the Japanese, they would be ground to powder."

Thousands upon thousands of Americans answered the call to arms, flooding into enlistment centers. They knew the danger; news reports out of Europe and Asia made the mounting death tolls clear. Japan's assault on Pearl Harbor was of a piece with its strategy to dominate the Pacific, capturing nearly every outpost of significance. As they became entrenched, dislodging them would only be more difficult and cost even more lives.

American courage and commitment would prove superior to the great evil it confronted. Our sailors, marines and soldiers battled every step of the way, first at the Battle of Midway on June 6th, 1942, and then through the long slog of the Guadalcanal campaign (August 1942–February 1943).

Meanwhile, the American fighting men joined the European front, and our allies from Britain, Poland and many other nations. First in North Africa the German armies were confronted under Operation Torch in November 1942, which culminated in the defeat of Germany's greatest general, Erwin Rommel, by early 1943.

The war then moved to Sicily, then Italy—at each step our men giving better than they got. The Battle of Monte Cassino during the first half of 1944 led to the liberation of Rome.

The greatest single act of courage came on D-Day, the largest one-day offensive in history, on June 6th, 1944. Over 10,000 allies were killed that day in breaching Fortress Europe, and another 200,000 would die over the next two months during the Battle of Normandy. American fighting men, in concert with men from Britain and many other nations, stormed the beaches of northern France. They charged through a hail of machine-gun fire to gain the foothold they would use to liberate all of Europe.

The last major German offensive was the Battle of the Bulge, December 1944–January 1945, trying one last time to keep the war outside of Germany. American supply lines had been stretched since D-Day, and the 101st Airborne Division found themselves surrounded at Bastogne. A hundred miles from their nearest fellow units, the situation was grim, and the German commander demanded they surrender. The American attitude, here and throughout the war, was summed up by the response: "Nuts."

While many persevered in the belief that liberty would prevail, educated opinion was cynical. Many believed that the captured lands could never be freed, even assuming that the aggressors could be forced into a stalemate. What force could possibly stop them?

It was up to the American GIs to dispel the doubts and charge into the fire. Every step of the way they knew that many of them would never be coming home again. But they knew the importance of their task—as Dwight Eisenhower said: "History does not long entrust the care of freedom to the weak or the timid." Our fighting men were neither.

Today, at long last, we unveil the monument to those who saved civilization in World War II. We thank them for their sacrifice and pray that no struggle so titantic ever again need take place.

PERSONAL EXPLANATION

HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mr. KNOLLENBERG. Mr. Speaker, regretfully, my plane was unavoidably delayed yesterday and I was unable to record my vote in the House of Representatives. Had I been here, I would have voted "yea" on rollcalls 177, 178, and 179.

MAINE VOICE OF DEMOCRACY SCHOLARSHIP WINNER

HON. THOMAS H. ALLEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mr. ALLEN. Mr. Speaker, I would like to share with my colleagues an essay titled "My Commitment to America's Future," by Joseph B. Faucher of Augusta, Maine. Mr. Faucher is a winner of the 2004 Voice of Democracy broadcast scriptwriting contest. Each year the Veterans of Foreign Wars of the United States and its Ladies Auxiliary hold a Voice of Democracy audio essay competition for high school students. This year's theme was "My Commitment to America's Future." I congratulate all of this year's 59 Voice of Democracy Scholarship winners.

It is vitally important that we encourage our young people in their understanding of and commitment to civic virtue. The life and health of our democracy are dependent on citizen engagement. Democracy must be constantly re-created. In Mr. Faucher's words, a commitment to America is "a commitment to protect the freedoms, liberties, and rights that this country was founded on . . . to make this country an even better place for the next generation . . . to put time, effort, and thought into being American." The rest of his essay speaks for itself.

"MY COMMITMENT TO AMERICA'S FUTURE"

(By Joseph Faucher)

I Pledge Allegiance to the Flag of the United States of America. . . . By the time I was four, I could recite the Pledge of Allegiance verbatim. I would stand straight, place my hand over my heart, and say those words without much thought. Pledging allegiance to one's country should never be taken lightly.

It was not until I was in the fifth grade and learning about American history that I began to understand and appreciate the Pledge of Allegiance. And, I can honestly say, each year my depth of understanding for those words increases as does my commitment to this great country.

"I pledge allegiance," what does it truly mean? To me, it is promising my commitment to America. A commitment to protect the freedoms, liberties, and rights that his country was founded upon. A commitment to make this country an even better place for the next generation. A commitment to put time, effort, and thought into being an American!

The founding fathers provided America with a very solid foundation, the Constitution, the living, written backbone of our country. Imagine, in less than 100 working days, in a document of just 4543 words, fifty-five men with many conflicting and diverse ideas drafted a constitution that has served this country for over 216 years. In all that time, in spite of all the advances in science and technology, changes in culture and society, and influences from other countries and peoples, there have only been 17 revisions in the form of amendments.

It is important to note that people in the 18th century were not all that different than people in the 21st century. There have always been differences in philosophy, political ideology, and priorities. But in spite of these differences, the founding fathers were able to produce a document that has survived the test of time and has influenced all countries that have developed constitutions since then.

We should not let our differences in political ideologies impact negatively on America. Differences can spawn creativity. Differences should not divide a country but make it stronger. America, not a person, not a group, not a people, but a united nation. A united nation as a whole has one mind set and one set of goals. We should not let our differences affect our allegiance. My commitment to America will not waver regardless of whether I agree or disagree with a particular person or group whether it be my neighbor, the mayor of my city, the governor of my state, my Representatives in the House and Senate, or even the President.

After September 11th, American flags were flown everywhere in our country. They were on houses, cars, pins, and other items. Where are all those flags now? My commitment to America cannot come just at times of great tragedy and trauma. It is not enough to remember that I am an American when tragedy strikes. Our commitment must be consistent, every day, every minute, every second. It simply does not take long to do something to remind myself, and others that we are Americans, and that everyone has the responsibility to make a tangible, visible commitment to America.

Commitment is not just enjoying all of the freedoms, rights, and liberties America has to offer. Commitment is not just taking a stand when I think one of my freedoms or rights has been violated. My commitment to America must include getting involved; to be active in civic organizations, to communicate and give input to my representatives, to voice my opinion without putting anyone else's down, from the time of my 18th birthday onward to vote in every election no matter how small, and to take the time to truly understand the issues, to encourage others to become involved, and to cherish and never take for granted all that America provides.

As part of my commitment to America, I will not take for granted what it means to pledge allegiance to the flag. I will take my commitment seriously and work toward fulfilling it every day for the rest of my life. I will stand straight, place my hand over my heart, and say the words with great pride, strength, and meaning; I pledge allegiance to the flag of the United States of America and what it stands for and what it means to me.

HONORING SERGEANT MAJOR BARBARA J. TITUS FROM THE U,S. MARINES

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Ms. SLAUGHTER. Mr. Speaker, I rise today on behalf of myself, Congresswoman CAPITO and the entire Congressional Caucus for Women's Issues to recognize the 7th Annual Women in the Military Wreath Laying Ceremony hosted by the Caucus at Arlington National Cemetery. The purpose of this event is to honor our nation's servicewomen and female veterans for their courage and achievements, and to remember women who have died in service to the United States.

Today, we have the opportunity to recognize five outstanding female servicewomen, one selected from each branch of the military. These women serve their respective branches with honor, dignity, and courage. These highly decorated leaders chose to defend our freedom and embody the spirit of those that served before them.

From the U.S. Marine Corps, we will honor Sergeant Major Barbara J. Titus, who enlisted in the Marine Corps Reserves on March 3, 1978, and graduated from the Women Recruit Training Command, Company "L" at Parris Island, South Carolina. She has distinguished herself through her commitment and dedication to the Marine Corps. Sergeant Titus reported on active duty to the Headquarters & Headquarters Squadron 90, Marine Air Traffic Support Group (MATSG) 90, Naval Air Station (NAS), in Millington, Tennessee. She successfully attended the Aviation Electronics and Air Traffic Control Maintenance Schools, where she dedicated her training to becoming an Air Traffic Control Navigational Aids Repairman.

Among other achievements, Sergeant Titus has distinguished herself by her commitment to enhancing her education and training. She graduated from Drill Instructor School at Marine Corps Recruit Depot (MCRD), Parris Island, South Carolina, where she quickly excelled from Drill Instructor to Senior Drill Instructor and ultimately Chief Drill Instructor. She returned to Millington, Tennessee in August of 1991 as an instructor at the Air Traffic Control Maintenance School, where she clearly demonstrated her leadership skills.

Having served the U.S. Marine Corps in various capacities here in the U.S. as well as abroad in countries like Japan, Sergeant Major Barbara J. Titus continues to dedicate herself to the Marine Corps and to protecting our nation. She is an invaluable leader in the Marine Corps, and it is an honor for each member of the Congressional Caucus for Women's Issues to recognize the courage and commitment of Sergeant Titus and all women in the military.

IN SUPPORT OF THE SAFE FOR AMERICA ACT H.R. 775

HON. DONALD A. MANZULLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mr. MANZULLO. Mr. Speaker, I rise today in support of H.R. 775, the Security and Fairness Enhancement for America Act of 2003, or SAFE for America Act. I am proud to be a cosponsor of this important piece of legislation, which eliminates the visa lottery program from the Immigration and Nationality Act.

Family connections play an overwhelming role in current immigration law. As a result of most immigrants coming from a few areas of the world, Congress established the visa lottery in the Immigration Act of 1990 to diversify the immigration pool. Approximately 50,000 foreign nationals per year are randomly selected and awarded visas to come and live permanently in the United States under this visa lottery program.

Immigrant visas are typically issued to individuals who already have some existing connection with a family member lawfully residing in the United States or with a U.S. employer. Millions of people apply for these visas through the lottery program, and the program requirements do nothing to ensure that the applicants have the skills they will need to participate in our modern economy. The recipients of these visas are selected based on luck, not by merit or existing ties with the U.S.

This visa program is also problematic because it is unfair to those immigrants who have patiently waited and complied with our immigration laws. Most family-sponsored immigrants currently wait years to obtain a visa, yet the visa lottery program allows 50,000 random immigrants to pass ahead of these family-sponsored immigrants each year with relatively no wait.

Finally, and what is perhaps most troubling are the numerous cases reported by the State Department that show that lottery winners often file fraudulent visa information. Because the lottery accepts visa applications from a variety of individuals and only requires credentials after selection, there is often a rush to find false documents once the winners are notified. False documentation is bad enough when applicants lie about education or work experience. With the amount of terrorist threats against our country, these immigration loopholes can create devastating consequences.

Mr. Speaker, in this atmosphere of ambiguity, it would be wise to closely examine the flow of legal immigration into the United States in order to implement more comprehensive screening and naturalization measures.

INTRODUCTION OF H. CON. RES. 428

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Ms. HARMAN. Mr. Speaker, yesterday I introduced a Concurrent Resolution that calls on Congress to clarify our national security spending priorities and regain a sense of fiscal responsibility. Specifically, my resolution recommends that Congress not provide funds for fiscal year 2005 for the deployment of ground-based, strategic, mid-course, ballistic missile defense system components that have not met operational testing requirements and, instead, provide needed funding for programs designed to keep America's ports secure from terrorist attacks.

The Defense Authorization bill as reported by the House Armed Services Committee authorizes increased funding for ballistic missile defense and the deployment of ground-based interceptors without additional testing. I think this is a mistake from both a budgeting and a national security standpoint.

Let me be clear that I am a strong supporter of missile defense. As a member of the Armed Services Committee from 1992–98, I urged increases in BMD R&D accounts. I support the Patriot Missile Defense System. I am a principal supporter of the Arrow Anti-Missile system, the first Member of Congress to have seen it deployed at Palmerchim AFB in Israel, and a strong proponent of the Third Arrow battery.

However, I do not support rushing to deploy a new U.S. system that has neither received adequate testing, nor been proven effective.

In August of 2003, the General Accounting Office issued a report stating that only two out of the ten critical technologies needed for the successful implementation of a ground-based missile defense system, or GMD, have been proven reliable. That report also indicated the administration's intent to deploy ground-based interceptors before all the critical technology has matured.

Before we deploy such a system, we should be absolutely sure that it is effective and sustainable. The expected five-year cost of the ballistic missile defense system is $53 billion. In this budget environment, the last thing we need is a $53 billion weapons program that plays no substantial role in our protection.

The resolution I introduced yesterday would authorize funding for ballistic missile defense programs for fiscal year 2005 at fiscal year 2004 levels, and require the administration to determine that all technologies are operational before moving to deploy ground-based interceptors. My resolution also calls on Congress to bolster homeland security by agreeing that we should authorize at least $500,000,000 for port security programs for fiscal year 2005.

From a national security standpoint, we have higher priorities than deploying an untested missile defense system. America's seaports remain vulnerable to terrorist attack and infiltration. Cargo containers are susceptible to being used to smuggle terrorists or dangerous materials into the United States, or as a delivery vehicle for a weapon of mass destruction.

The Intelligence Community has warned that the United States is more likely to be attacked with a weapon of mass destruction delivered by ship, truck, or airplane than by a ballistic missile.

I am not alone in my assessment of the GMD program and the importance of port security. In March of this year, 49 retired generals and admirals—including Ret. Adm. William J. Crowe—sent a letter to President Bush asking that he postpone operational deployment of an untested GMD system, and transfer the associated funds to securing our nation's ports and borders from terrorist attack.

I support strong, sensible and effective homeland security. Any strong national security strategy must include both effective ballistic missile defense and strong port security measures. I am also an advocate of fiscal responsibility. This resolution calls on Congress to take a step toward fiscal responsibility while providing much-needed funding for port security programs, and still allowing for the development of an effective ground-based missile defense system.

For these reasons, I ask my colleagues to support H. Con. Res. 428, and ask unanimous consent to attach the letter I referred to to my remarks.

WAGING PEACE.ORG,
March 26, 2004.

President GEORGE W. BUSH,
The White House, Pennsylvania Avenue, Washington, DC.

49 GENERALS AND ADMIRALS CALL FOR MISSILE DEFENSE POSTPONEMENT

DEAR MR. PRESIDENT: In December 2002, you ordered the deployment of a ground-based strategic mid-course ballistic missile defense (GMD) capability, now scheduled to become operational before the end of September 2004. You explained that its purpose is to defend our nation against rogue states that may attack us with a single or a limited number of ballistic missiles armed with weapons of mass destruction.

To meet this deployment deadline, the Pentagon has waived the operational testing requirements that are essential to determining whether or not this highly complex system of systems is effective and suitable. The Defense Department's Director of Operational Test and Evaluation stated on March 11, 2004, that operational testing is not in the plan "for the foreseeable future." Moreover, the General Accounting Office pointed out in a recent report that only two of 10 critical technologies of the GMD system components have been verified as workable by adequate developmental testing.

Another important consideration is balancing the high costs of missile defense with funding allocated to other national security programs. Since President Reagan's strategic defense initiative speech in March 1983, a conservative estimate of about $130 billion, not adjusted upward for inflation, has been spent on missile defense, much of it on GMD. Your Fiscal Year 2005 budget for missile defense is $10.2 billion, with $3.7 billion allocated to GMD. Some $53 billion is programmed for missile defense over the next five years, with much more to follow. Deploying a highly complex weapons system prior to testing it adequately can increase costs significantly.

U.S. technology, already deployed, can pinpoint the source of a ballistic missile launch. It is, therefore, highly unlikely that any state would dare to attack the U.S. or allow a terrorist to do so from its territory with a missile armed with a weapon of mass destruction, thereby risking annihilation from a devastating U.S. retaliatory strike.

As you have said, Mr. President, our highest priority is to prevent terrorists from acquiring and employing weapons of mass destruction. We agree. We therefore recommend, as the militarily responsible course of action, that you postpone operational deployment of the expensive and untested GMD system and transfer the associated funding to accelerated programs to secure the multitude of facilities containing nuclear weapons and materials and to protect our ports and borders against terrorists who may attempt to smuggle weapons of mass destruction into the United States.

Signed:

Admiral William J. Crowe (USN, ret.), General Alfred G. Hansen (USAF, ret.), General Joseph P. Hoar (USMC, ret.).

Lt. General Henry E. Emerson (USA, ret.), Lt. General Robert G. Gard, Jr. (USA, ret.). Vice Admiral Carl T. Hanson (USN, ret.), Lt. General James F. Hollingsworth (USA, ret.), Lt. General Arlen D. Jameson (USAF, ret.), Lt. General Robert E. Kelley, (USAF, ret.), Lt. General John A. Kjellstrom (USA, ret.), Lt. General Dennis P. McAuliffe (USA, ret.), Lt. General Charles P. Otstott (USA, ret.), Lt. General Thomas M. Rienzi (USA, ret.), Vice Admiral John J. Shanahan (USN, ret.), Lt. General Dewitt C. Smith, Jr. (USA, ret.), Lt. General Horace G. Taylor (USA, ret.), Lt. General James M. Thompson (USA, ret.), Lt. General Alexander M. Weyand (USA, ret.).

Major General Robert H. Appleby (AUS, ret.), Major General James G. Boatner (USA, ret.), Major General Jack O. Bradshaw (USA, ret.), Major General Morris J. Brady (USA, ret.), Major General Williams F. Burns (USA, ret.), Rear Admiral William D. Center (USN, ret.), Major General Albert B. Crawford (USA, ret.), Major General Maurice O. Edmonds (USA, ret.), Rear Admiral Robert C. Elliott, (USN, ret.), Major General John C. Faith (USA, ret.), Rear Admiral Robert H. Gormley (USN, ret.), Major General Richard B. Griffitts (USA, ret.), Rear Admiral Charles D. Grojean (USN, ret.), Major General Raymond E. Haddock (USA, ret.), Major General Jack R. Holbein, Jr. (USAF, ret.), Major General Stanley H. Hyman (USA, ret.), Major General Wayne P. Jackson (USA, ret.), Major General Frederick H. Lawson (AUS, ret.), Major General Vincent P. Luchsinger, Jr. (USAF, ret.), Major General James J. LeCleir (AUS, ret.), Major General William F. Willoughby (USAF, ret.).

Brig. General George C. Cannon, Jr. (USAF, ret.), Brig. General John J. Costa (USA, ret.), Brig. General Alvin E. Cowan (USA, ret.), Brig. General Lee Denson (USAF, ret.), Brig. General Evelyn P. Foote (USA, ret.), Brig. General Leslie R. Forney, Jr. (USA, ret.), Brig. General John H. Grubbs (USA, ret.), Brig. General James E. Hastings (USA, ret.), Brig. General John H. Johns (USA, ret.), Brig. General Maurice D. Roush (USA, ret.).

VA HOSPITAL CLOSINGS

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mr. RAHALL. Mr. Speaker, without our veterans, there would be no America. As we remember those who sacrificed their lives for our Nation, let us remember that daily we reap the benefits of the bravery of America's veterans.

However, despite these sacrifices, our veterans continue to fight against this Administration for the benefits that they were initially promised every day. At the same time, we have continuously seen the VA budget slashed, giving fewer and fewer veterans the ability to receive the much needed assistance they were once guaranteed.

At the very least, our veterans, the brave men and women who put the life of their country before their own, should have access to health care facilities that meet their needs. However, we are now seeing critical hospitals closed, and often times they are the only option that our veterans have, especially in rural areas such as my district in Southern West Virginia. The Beckley VAMC in my district was fortunately spared from closing, however, others were not so lucky, and if current trend continues, it will only be time until the real possibility of closing looms near again.

Instead of closing these much needed facilities and cutting benefits once promised to our veterans, we should be modernizing hospitals, expanding benefits currently offered to our service men and women, and continuing to ensure that we show these brave Americans our gratitude for their service every single day. Our Nation needs to move further in a direction that allows us to reward our veterans for their sacrifices they have made, wherever and whenever they made it.

Our veterans and soldiers today remain foremost in the thoughts and minds and Americans, and along with our devoted attention given to those who wear America's uniform. If we continue to create more and more veterans everyday, especially through recent conflicts in Iraq and Afghanistan, then this government needs to be prepared to follow through on the promise that their government will be there to take care of them. Each life is invaluable; let's ensure that we demonstrate our support and appreciation for what our veterans have done for America.

HONORING COMMAND SERGEANT MAJOR DEBRA L. STRICKLAND FROM THE U.S. ARMY

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Ms. SLAUGHTER. Mr. Speaker, I rise today on behalf of myself, Congresswoman Capito and the entire Congressional Caucus for Women's Issues to recognize the 7th Annual Women in the Military Wreath Laying Ceremony hosted by the Caucus at Arlington National Cemetery. The purpose of this event is to honor our nation's servicewomen and female veterans for their courage and achievements, and to remember women who have died in service to the United States.

Today, we have the opportunity to recognize five outstanding female servicewomen, one elected from each branch of the military. These women serve their respective branches with honor, dignity, and courage. These highly decorated leaders chose to defend our freedom and embody the spirit of those that served before them.

From the U.S. Army, we will honor Command Sergeant Major Debra L. Strickland, who first entered the Army in 1973 from Coral Gables, Florida. Command Sergeant Major Strickland has served the Army at a variety of duty stations and capacities. Among other accomplishments, she distinguished herself early in her career by becoming the first female reserve advisor for the Readiness Group in the Fort Sill, Oklahoma, readiness region and assumed responsibilities over a three state area. She also utilized her experience working at the USAREUR Headquarters in Heidelberg, Germany, and in the office of Leadership to effectively manage the USAREUR Sergeant Morales Program. CSM Strickland has also been a strong MACOM proponent for uniform regulation. One of her many achievements includes an assignment at the Pentagon from 1988–1989, where she was one of few enlisted proponent action officers for an army publication, AR 670–1, the Army Uniform Regulation.

CSM Strickland has successfully completed Sergeants Major Academy and the Command Sergeants Major course. She is Drill Sergeant qualified, a member of the USAREUR Sergeant Morales Club, and is completing a degree in management. She is also the recipient of The Legion of Merit, Defense Meritorious Service Medal (First Oak Leaf), Meritorious Service Medal (6th Oak Leaf) and Humanitarian Service Medal.

Command Sergeant Major Debra L. Strickland continues to distinguish herself as an invaluable leader in the U.S. Army, and it is an honor for each member of the Congressional Caucus for Women's Issues to recognize the courage and commitment of CSM Strickland and all women in the military.

DISAPPOINTED BY DECISION TO CLOSE INPATIENT CARE AT VA HOSPITAL IN SAGINAW

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mr. KILDEE. Mr. Speaker, I rise today to express my disappointment in the Secretary of Veteran Affairs decision to eliminate the inpatient care services at the Aleda E. Lutz Veterans Medical Center in Saginaw, Michigan. This decision will have a devastating impact on the quality and accessibility of medical care for over 60,000 veterans in Mid-Michigan.

In Michigan, 130,000 veterans rely on the services and benefits of the Veteran Affairs' health care system. Every one of those veterans, regardless of location, deserves immediate and convenient access to the best medical care services available. Removing the inpatient beds at the Lutz Medical Center will hinder the delivery and accessibility of medical care to veterans in our area.

We can not allow the Bush Administration to turn its back on our veterans and disrupt access to health services that they are entitled to receive. None of our nation's 26 million veterans should ever be denied or stripped of essential medical services. It is unconscionable and unacceptable that our local veterans will be forced to travel more than two hours to the nearest Veteran Medical Center for inpatient care.

I urge my colleagues to fight against the Secretary of Veteran Affairs' decision to realign or eliminate medical care services from VA hospitals across this country. We owe it to our veterans to fight this decision to show our gratitude for their service and sacrifice to our country. We must continue to work together to make sure that America's heroes receive the best medical care available.

HONORING THE AMERICAN LUNG ASSOCIATION CELEBRATING ITS 100TH ANNIVERSARY

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Ms. DELAURO. Mr. Speaker, it is with great pleasure that I rise today to extend my sincere congratulations to the American Lung Association on its 100th anniversary. The American people have no better ally in the fight against lung disease, and I am proud to join with the American Lung Association as it commemorates this special occasion.

In 1904, a dedicated group of physicians, nurses and volunteers came together and founded the American Lung Association in order to fight for the eradication of tuberculosis. Over the years, the Lung Association has expanded its research, education and advocacy program to address chronic lung disease.

Programs like Open Airways For Schools, which is an elementary-school education program that teaches children with asthma how to manage their disease, is just one example of the many ways the American Lung Association has improved the lives of individuals afflicted with lung disease.

The Lung Association has also been a strong advocate for pollution control and environmental health. Air pollution can be particularly harmful to individuals who suffer from lung disease, and the Lung Association's annual State of the Air report is nationally recognized for providing an indepth study of air quality across the country.

The people of the American Lung Association deserve to be recognized for their invaluable public service. I wish them all the best as they celebrate their first 100 years.

MILLER MOTION TO INSTRUCT CONFEREES ON FY04 LABOR-HHS BILL, H.R. 2660

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Ms. WOOLSEY. Mr. Speaker, I support the Miller motion to instruct conferees because it ensures that those making as little as $23,660 a year are able to retain the overtime privileges they currently receive.

Mr. Speaker, I was a human resources professional for ten years in a manufacturing company, and then for ten more years, I had my own company, advising high tech companies on their personnel policies and practices . . . including wage and salary structures. I know a thing or two about work structures.

Under the new overtime rules a "team leader" would be ineligible for overtime. I'm going to tell you what a team leader is: first of all, a team leader is not a professional that has a whole group of professional people working as a team negotiating for some grand project in some community. That team leader is a professional period, not a person paid on an hourly rate or a salaried nonexempt person.

In reality a team leader is a senior employee who has the background and the experience to earn the top of their pay rate. And because they've been around, because they know something, they've been asked to show more junior workers how to do the work, and to give them confidence and to give them guidance.

But they're doing the work right alongside of the worker they are mentoring. Today this person earns the top of their pay grade plus overtime. Under the new rules, without that overtime, that "Team Leader" is probably going to earn less than the person that they're working and guiding. The person the "Team Leader" guides will still qualify for overtime for the same hours worked.

So what are we talking about here? We're talking about people at the top of their pay grade getting less because they happen to have institutional knowledge, even though they are doing the same job. And I just don't see how anybody here in this chamber believes that any new rules that impact workers like these are good for most Americans.

These rules help big business plain and simple, such as the newspaper publishers who were standing up and cheering Secretary Chao when she announced how these rules would allow them to stop paying overtime to journalists. They knew they were going to save money, lots of money.

Well, a rule that works for a handful of business owners and against most of the workers can't be the rule that works for the people of this country.

That's why I urge my colleagues to support the Miller motion to instruct conferees and prevent our hard working Americans from losing the overtime they have come to depend on.

HONORING THE VISITING NURSE ASSOCIATION OF SOMERSET HILLS, NEW JERSEY

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to honor the Visiting Nurse Association of Somerset Hills, Somerset County, New Jersey in my Congressional District. The Visiting Nurse Association of Somerset Hills is celebrating one hundred years of providing excellence in community health care.

Despite its humble beginnings, the Association's history is a proud one. The Visiting Nurse Association began as the vision of Miss Lillian Nichols, a parish nurse connected to St. Bernards Episcopal Church who attended to the ailing and meager in 1903. In 1904, a group was fashioned and be accountable for her assistance to the people of Somerset Hills consisting of the towns of Basking Ridge, Bernardsville, Chester Borough, Gladstone, and Mendham Borough, to name a few. And so began the Visiting Nurse Association, one of the original 100 groups in the United States. Soon, as more and more of her thankful patients availed themselves of its services, it became clear that the Association was desperately needed in this fast-growing area in Northern New Jersey.

The founding committee was incorporated in 1906 as the Visiting Nurse Association and transferred into a habitat built by the friends of the Association on Olcott Avenue in Bernardsville. In 1910 the VNA started educational programs on sanitation and preventative health procedures that carry on in the present day. In 1933 the Great Depression forced the VNA to increase its efforts at social work. They provided milk, cod liver oil and coal to reduce poverty and malnutrition, and 708 patients visited that year, an increase of six-fold in one year!

By 1937 the new VNA Constitution and bylaws increased the number of Board of Trustees members to 40. In 1970 the 'Year of Vaccination for the VNA' nurses attempted to eliminate Rubella, or German measles, through the vaccination of 4,435 children. Soon after, diabetes screening by the VNA started. And in 1984, the treatment of the incurably sick at home, was started by the VNA and their Hospice Program flourished. Five years later, the Somerset Hills Adult Day Care Center opened, a VNA affiliate that offers a social day care program to the elderly and disabled.

Today, with the same careful attention and dedicated service Lillian Nichols provided a century ago, the nurses of the Visiting Nurse Association of Somerset Hills are helping to heal the sick, the injured, the elderly and the needy of Somerset County.

Mr. Speaker, I ask that you and my colleagues in the House of Representatives join with me in congratulating the Visiting Nurse Association of Somerset Hills, and all of the association's outstanding staff, employees and volunteers, upon celebrating its 100th Anniversary.

HONORING CHIEF MASTER SERGEANT MARGARET C. BURGESS FROM THE U.S. AIR FORCE

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Ms. SLAUGHTER. Mr. Speaker, I rise today on behalf of myself, Congresswoman CAPITO and that entire Congressional Caucus for Women's Issues to recognize the 7th Annual Women in the Military Wreath Laying Ceremony hosted by the Caucus at Arlington National Cemetery. The purpose of this event is to honor our Nation's servicewomen and female veterans for their courage and achievements, and to remember women who have died in service to the United States.

Today, we have the opportunity to recognize 5 outstanding female servicewomen, one selected from each branch of the military. These women serve their respective branches with honor, dignity, and courage. These highly decorated leaders chose to defend our freedom and embody the spirit of those that served before them.

From the U.S. Air Force, we will honor Chief Master Sergeant Margaret C. Burgess, who is currently serving as the Superintendent, Intelligence, 920th Rescue Wing, Patrick Air Force Base, Florida. Sergeant Burgess has served the Air Force at a variety of duty stations and capacities. She distinguished herself early in her career by meritorious service during her first assignment as Target Intelligence Specialist at the Royal Air Force Bentwaters, England, where she made outstanding contributions to the wing's combat mission folder program, significantly contributing to the wing's combat readiness. Her thorough understanding of United States Air Forces in Europe and North Atlantic Treaty Organization war plans, and her in-depth knowledge of A–10 combat deployment, made her a key member of the intelligence team during exercises and evaluations.

Sergeant Burgess has repeatedly demonstrated outstanding performance, leadership and devotion to the U.S. Air Force. Of note, Sergeant Burgess engineered the intelligence repatriation process of returned isolated personnel to Ahmed Al Jaber Airbase, Kuwait, and operated successfully during the repatriation of an F–14 aircrew that had ejected over southern Iraq. She demonstrated superb organizational skills by developing comprehensive, all-source ground order battle files of Iraq that were later adopted as the standard by other theater intelligence assets, which resulted in the successful completion of 5 combat rescues, 4 combat recoveries and more than 16 combat support sorties. Among her many achievements, Sergeant Burgess was also awarded the Bronze Star for her work during Operation Iraqi Freedom.

Chief Master Sergeant Margaret C. Burgess continues to distinguish herself as an invaluable leader in the Air Force, and it is an honor for each member of the Congressional Caucus for Women's Issues to recognize the courage and commitment of Sergeant Burgess and all women in the military.

COMMEMORATING 50TH ANNIVERSARY OF BROWN VS. BOARD OF EDUCATION

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Ms. LEE. Mr. Speaker, this is an enormously important day in the lives of African Americans and in the history of this country.

Brown vs. Board of Education, almost without question, is the most important Supreme Court case of the twentieth century. With Brown, the Court threw out decades of doctrine and centuries of racist practice in this country in their conclusion that "Separate educational facilities are inherently unequal." By making this just assertion, they forced this nation to begin to live up to its own promises and its own ideals. In the words of Dr. Martin Luther King, Jr., Brown represented a "joyous daybreak to end the long night of enforced segregation."

Brown was a transforming moment in the life of this country. Sadly, it was not immediately transformative, nor is the metamorphosis complete, even today. It took years—even decades in many cities and states—for the mandate of the Court to be carried out. In many places, it was met with fervent political opposition and violent resistance.

In Virginia, for instance, the Governor closed the public school system rather than allow it to be integrated. And in 1957, National Guard troops had to be sent in to guard school children in Little Rock, Arkansas when they tried to begin their studies at Central High School.

In the years after Brown, many, heroic people risked and sometimes lost their lives in the fight to desegregate schools, universities, stores and lunch counters, the workplace. And they risked their well-being in the fight to ensure that they enjoyed that fundamental American right of being able to vote.

But in the end, the forces of racism did not prevail because of the Thurgood Marshalls of the world, the Medger Evers, the Rosa Parks, the Fannie Lou Hamers, the Martin Luther King Jrs, and the Malcolm X's. They ensured that this nation would live up to its own promises, the guarantees that were laid out in Brown.

The Civil Rights Act of 1964, for instance, came about because brave men and women demanded it through bus boycotts and sit-ins and marches on Washington and a thousand other battles.

The Voting Rights Act of 1965 came about because people like Fannie Lou Hamer dared to fight to register to vote, dared to form the Mississippi Freedom Democratic Party, dared to take on the Democratic Party and the establishment, and dared to win.

The Civil Rights Act of 1968, which established the principles of fair access to housing, came about because African Americans demanded the full rights of citizenship and because they knew that housing is a human right. Unfortunately, there are some people in Washington today who still need to recognize that fact.

Thanks to their efforts, Brown became the reality of the nation, not just the law of the land.

Today, on this 50th anniversary, Brown is still the law of the land, but it is no longer a national reality. Legal walls of segregation have been replaced in many areas by de facto separation by neighborhood and community. Our schools are becoming less integrated by the year, and in too many cases, integration has vanished entirely from some schools.

Across the country, efforts have been made—some of which have been successful, unfortunately—to undo the affirmative action programs, whose goal has been to create the fully diverse and integrated justice that the Supreme Court envisioned.

In my home state of California, an African American, Ward Connerly, led the Proposition 209 initiative in 1996, which eliminated affirmative action programs for women and people of color run by state or local governments in the areas of public employment, contracting, and education.

As chair of the California Black Legislature at the time, I fought against it, as did many, many Californians of all races.

In what was a giant setback for Brown and racial equality, Proposition 209 passed, and in one fell swoop, it wiped out a very significant program that was intended to level an extremely uneven playing field. The results have been devastating. African American and Latino enrollments at far too many of our state's universities are in serious decline.

As a recent story in the San Francisco Chronicle indicated, African American admissions at UC–Berkeley, which is in my district, are down 29 percent this year. In this year's freshman class, fewer than two and a half percent of the students accepted were African American. Two and a half percent. And compounding this serious injustice, Governor Schwarzenegger is cutting the budget for the outreach efforts of our universities.

These numbers are an embarrassment. They are an embarrassment for our students, ourselves, and for the promise of Brown. These shameful statistics have profound economic, political, and cultural meaning.

Do these bleak numbers that I have cited mean that Brown vs. Board of Education failed? No, but it means that our revolution is not over yet. It means that our revolution is still incomplete.

On this 50th anniversary of this enormous Supreme Court victory, we must rededicate ourselves to carry out that opinion whose words rang out clear as a bell when Earl Warren, the former California governor and Oakland resident, read them, "Separate educational facilities are inherently unequal."

We can not—we will not—let the victories that were won so hard 50 years ago by Thurgood Marshall, Linda Brown, and so many others be reversed.

Tonight we celebrate that moment, and we rededicate ourselves to ensuring that justice thrives in this country.

HOUSE OF REPRESENTATIVES—*Wednesday, May 19, 2004*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. LATHAM).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 19, 2004.

I hereby appoint the Honorable TOM LATHAM to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Reverend Pete Wall, Pastor, Jackson Baptist Church, Sylvania, Georgia, offered the following prayer:

Lord, I thank You that You allow me the great privilege and opportunity to speak to You, the King of Kings and the Lord of Lords.

Lord, I know based on Your word that You respond favorably to those who obey You. Therefore, Lord, I ask that even now You might deal with all those in this House on the urgency of that obedience. Lord, we as a Nation face challenges in the days ahead, problems we have brought on ourselves because many have forgotten whose Nation we are.

Lord, help all to understand that the Earth does not just quake, that fires do not just burn, that the storms do not just show up, but that all are under the control of You, an awesome God who will be heard. Lord, that we might understand that it is not knowledge which is the opinion of man but wisdom which is the gift of God that needs to prevail here in this place this day and every day. Convict those who so foolishly overlook the guidance that You so wonderfully and generously offer. Deal with us now individually and collectively, that our hearts' desire might be Your desire, that our will might be given over to do Your will, that we would only think and say and do those things that we are led to do by You. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Texas (Mr. BRADY) come forward and lead the House in the Pledge of Allegiance.

Mr. BRADY of Texas led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment bills of the House of the following titles:

H.R. 923. An act to amend the Small Business Investment Act of 1958 to allow certain premier certified lenders to elect to maintain an alternative loss reserve.

H.R. 3104. An act to provide for the establishment of separate campaign medals to be awarded to members of the uniformed services who participate in Operation Enduring Freedom and to members of the uniformed services who participate in Operation Iraqi Freedom.

WELCOMING THE REVEREND PETE WALL

(Mr. BURNS asked and was given permission to address the House for 1 minute.)

Mr. BURNS. Mr. Speaker, I rise to recognize the guest chaplain for today. The Reverend Pete Wall is the pastor of Jackson Baptist Church in rural Screven County, Georgia. It is my home church in my home community. It was the church of my father and my grandfather. It is just across the road from our family farm. As my colleagues might imagine, this church and the community that surrounds it has been a guiding force in my life and is dear to my heart.

We rarely call him "Reverend" at home. It is just "Brother Pete." Pete Wall is a shepherd, both literally and figuratively. He is widely known for his knowledge of livestock, especially sheep. But he is more widely known and loved for his ministry to others. Pete has a shepherd's heart. He cares for his flock. His homespun wisdom and amazing storytelling ability easily wins friends and disarms those who might be put off by a more formal religion or a typical preacher. He has a deep and abiding faith in Jesus Christ, and he lives it every day. Pete readily shares his faith with those who wish to learn about a Christ-centered life, yet he never forces his views on others.

Pete has been a blessing to our church and our community for 7 years. It has been a great joy in my life to know him, his wife, Gina, and their family.

Mr. Speaker, it is a great honor and privilege to have the Reverend Pete Wall as our guest chaplain today. He is my pastor, he is my friend, but most importantly he is my brother in Christ.

COURT MARTIAL OF SPECIALIST JEREMY SIVITS

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, today the United States proved that we are a Nation of laws and a Nation of justice. In Baghdad, Army Specialist Jeremy Sivits pleaded guilty to three charges surrounding his mistreatment of prisoners in Abu Ghraib prison. The judge in the case sentenced him to confinement for 1 year, reduced his rank to private, and gave him a dishonorable discharge from the Army. Three other soldiers have appeared for arraignment of charges regarding their roles in these incidents.

While the outrage over the abuses at the prison are justified, I am hopeful, Mr. Speaker, that we will see greater justice for those murderers who committed the disgusting, vile act in the killing of American civilian Nick Berg. I hope the Iraqis and the Arab world realize that law and justice are universal values for all nations.

THE HEALTH OF THE AMERICAN PEOPLE AND ECONOMY: WORSE OFF UNDER BUSH

(Mr. GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREEN of Texas. Mr. Speaker, I look back to the year 2000 and I see a different country from the one we live in today. In 2000, we entered a new century having enjoyed a decade of unprecedented economic growth. During the 1990s we got our priorities together, erased the Federal budget deficit, and put in place the fiscal discipline that created a $5.6 trillion surplus. That $5.6 trillion surplus gave us the ability to tackle problems and ensure the solvency of Social Security and Medicare.

The election of President Bush, however, ushered in a new era of misguided priorities that have failed. Without a doubt, our country is worse off now than it was 4 years ago. We stand now, this administration has taken that $5.6 trillion surplus and turned it into $4 trillion of red ink. Their insistence on tax cuts we cannot afford has starved our States, forcing them to cut countless services. We have lost 2.8 million jobs, most of them in manufacturing. Today, 44 million Americans are uninsured. We have an administration that cuts people from overtime pay and prohibits lifesaving stem cell research.

Mr. Speaker, this administration's track record shows a derailment. The American people deserve a stable economy and a reliable health care system.

SENIORS BENEFIT FROM MEDICARE PRESCRIPTION DRUG DISCOUNT CARD

(Mr. GINGREY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGREY. Mr. Speaker, since May 3, the first day that seniors could sign up for a Medicare prescription drug discount card, I have had the opportunity to hold workshops at senior centers in Smyrna, Cedartown, Rome, Cartersville, Talbotton, and Thomaston, all cities in Georgia's 11th Congressional District.

Here is what I tell the people at these town hall meetings: call 1-800-Medicare, everybody can do that, or visit www.medicare.gov on the Web and find out which card will save you the most money and sign up ASAP. It is that simple. All the naysayers want to convince seniors that signing up for the card is too confusing or will not save them any money. I cannot think of any reason why any senior should not sign up for the card.

Beneficiaries with incomes of less than $12,000 for an individual or $16,000 for a couple, they get $600 in addition to the discount on the card. That is a total of almost $20 million in additional help for 16,500 seniors in Georgia's 11th District for 2004 and 2005.

Yes, we have already seen the power of market forces at work. The prices are coming down, and it is not by government price controls. For seniors who have struggled to buy drugs, they certainly are better off now than they were 4 years ago.

ARE WE BETTER OFF TODAY THAN WE WERE 4 YEARS AGO?

(Mr. ROSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROSS. Mr. Speaker, are we better off today than we were 4 years ago? Let us look at the facts.

Three years ago, our country was thriving. We were running on a $236 billion budget surplus and 22 million jobs were created between 1992 and 2000. However, today 9 million Americans are out of work and 44 million Americans are without health insurance. Gas prices are at a 23-year high, and household income has decreased by almost $1,500. We have the largest budget deficit ever for the second year in a row in our Nation's history. Our government spends $900,000 more a minute than it takes in, and it borrows $1.1 billion a day. Corporate profits are up, but wages for working families are down. It is the most anemic growth since World War II.

So are we better off today than we were 4 years ago? I think it is easy to see the answer is clearly "no."

KERRY'S NEW SLOGAN—ARE YOU BETTER OFF NOW THAN 4 YEARS AGO?

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, here they go again. Candidate KERRY and the Democrats are trying to take a page out of President Reagan's handbook. Unfortunately, for the taxpayers, it is not a page dealing with tax relief. KERRY's consultants are telling Democrats to ask this question: Are you better off now than you were 4 years ago?

Four years ago under a different administration, this Nation slept while al Qaeda plotted. We were deceived by a hollow technology bubble. Our seniors had no assistance with prescription drugs. And 4 years ago, Americans paid a marriage tax, a death tax, an estate tax, and across the board Americans paid higher income taxes.

President Bush has led us through some of the most challenging times in our Nation's history. Our economy is growing hundreds of thousands of jobs each month. More Americans are working than ever. More Americans own a home than ever. Our Armed Forces have terrorists on the run.

In Candidate KERRY's world, we would treat terrorism as a law enforcement issue. Mr. Speaker, I think those advisers need to go back to the drawing board.

ECONOMIC INDICATOR?

(Mr. EMANUEL asked and was given permission to address the House for 1 minute.)

Mr. EMANUEL. Mr. Speaker, on April 24, President Bush visited the Timken Company, a plant in Canton, Ohio. He touted there his economic program and his tax cuts. Just the other day in Timken, Ohio, they closed the plant, firing 1,300 employees.

The President went on to say on his visit that his tax cut would end the double taxation of stock dividends which would mean, and I quote the President, "companies like Timken have got a better capacity to expand, more jobs." He went on to say, "We can do whatever it takes to overcome the obstacles in our way. I know you're optimistic about the future of this company."

Three tax cuts, $3 trillion in debt, 3 more million Americans without jobs, 3 more million Americans in poverty since he has been President, and 43 million uninsured Americans. I am not sure we can afford this much progress in America. After announcing his tax cut in Timken, Ohio, the other day, just 2 days ago, the executive closed the plant firing 1,300 workers.

We can do better. There is a new direction in America that puts working families at the center of our economic policies rather than dividend tax cuts for contributors who support the President's reelection.

MESSAGE TO TROOPS: WE ARE WITH YOU

(Mr. BRADY of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRADY of Texas. Mr. Speaker, the Abu Ghraib prison guards in Iraq betrayed their fellow soldiers and our Nation with their indefensible acts. But this past week in Washington watching some Members of the House and Senate exploit this behavior to degrade our entire military and just score political points, I believe they betray our troops as well.

It is never wrong to seek the truth, and we will find it in Abu Ghraib. But let us not make a bad situation worse with ill-chosen words and broad accusations. I reject the claim that "Saddam's torture chambers reopened under new management, U.S. management." I reject those who malign the character of our entire military. And I reject those around the world who clamor that the prison guards reform the values of America, our soldiers, or our President. They are wrong.

The real truth is that over 130,000 American fighting men and women endanger their own lives in Iraq each day. They serve far from the comfort of their families for long periods of time. The rest of the world should be down on its knees every night thanking them for it. We are.

I have a message for our troops: Ignore the blowhards in Washington. Do not listen to the national media. You are good and decent people fighting for our freedom and security. Your friends and families know this. America knows this. We are with you.

□ 1015

LOWER GAS PRICES NOW

(Mr. ETHERIDGE asked and was given permission to address the House

for 1 minute and to revise and extend his remarks.)

Mr. ETHERIDGE. Mr. Speaker, I rise today to call on this administration to take action now to reduce the price of gasoline in this country. Across my district folks are suffering painfully from the skyrocketing fuel costs to record levels. Yet this administration has failed to provide relief.

Last month, OPEC cut production of crude oil by 2 million barrels, and the national average price for a gallon of gasoline has risen to more than $2 a gallon. Yet the administration has done nothing to get OPEC to open the spigots back up.

North Carolina's economy is hurting. A truck driver approached me at church on Sunday and complained that his business is suffering because of the record high fuel prices. These gas prices will make the administration's record on job growth even worse while the big oil companies laugh all the way to the bank.

First quarter profits for Conoco-Phillips went up 44 percent. Exxon-Mobil reported a 125 percent increase. Chevron-Texaco hit a gusher with a 294 percent increase.

Mr. Speaker, I call on the White House and the administration to get to work, to get OPEC and the big oil companies to lower gas prices now.

BIPARTISAN PROBLEM SOLVING NEEDED

(Mr. SHAW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAW. Mr. Speaker, I have to address the previous speaker regarding the price of energy and the shortage of energy that is claimed throughout the world. I think it is important that all of us realize that for the gentleman from Massachusetts, the candidate for President of the United States in the other party, to go and complain about fuel prices is like the kids that kill their parents and then claim that they are orphans and should be given special treatment. That is absolutely absurd.

When the Senate blocked the energy bill, it blocked the administration's plan to have an energy bill, an energy bill for this country. It is time that we stop the rhetoric, we stop the bipartisan quibbling. Republicans and Democrats are paying too much for fuel. We need an energy policy in this country, and the first step was the energy bill that stalled over in the other body. It is time for us to work together to solve problems instead of just creating them.

HEALTH CARE IS NOT BETTER OFF

(Mr. WAXMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WAXMAN. Mr. Speaker, I have a question for the audience here today.

Are we better off now than when President Bush took office? When you look at health care it certainly does not look like it.

Since President Bush took office an additional 3.8 million Americans are uninsured, and for Americans lucky enough to have health insurance, their premiums have increased by almost 50 percent since President Bush took office. In fact, total family premiums have risen more than $2,700 in 4 years, a rate four times as fast as workers' salaries. This is basically a tax increase on the middle class. It is hard to be healthy when you have to choose between paying rent and going to the doctor.

This is a real crisis. It has real consequence. Eighteen thousand people die prematurely each year because they do not have health insurance. And how do the administration and the Republicans running the Congress respond? With special interest proposals like tort reform, health savings account and association health plans.

These proposals will not lower health care costs. We are not better off in these last 4 years.

USER FRIENDLY MEDICARE DRUG CARD

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Mr. Speaker, there is no question in my mind that the availability of the Medicare prescription drug discount card this June is going to have a dramatic influence on the cost of prescription drugs in this country. For the first time, seniors are going to have an open and transparent market; and we have seen in the last 3 weeks how this has brought the price of medications down with people being able to be compare for the first time, go to a database on the Internet and compare drug prices for themselves.

1–800–Medicare, that the gentleman from Georgia pointed out, or www.Medicare.gov can take you through the process. I have done it myself. It is easy. It is simple. It is self-explanatory. Simplicity and efficiency are the keys to bringing the cost down in this market.

Liability reform is not a special interest reform. It affects everyone in this country. The embedded costs of liability in the medical justice system in this country and the results of defensive medicine that we all pay for cost the Medicare system $50 billion a year.

BROKEN PROMISES TO STUDENTS

(Mr. GEORGE MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEORGE MILLER of California. Mr. Speaker, are families and college students better off than they were 4 years ago? Not when it comes to being able to afford a higher education.

In the year 2000, when candidate George Bush said we should make the path to college open for all, that was his promise. Four years later that path is covered in weeds and broken promises, and President Bush and the Republicans must accept responsibility for their failed leadership in this area.

Since 2001 a 4-year public college tuition has increased by almost 30 percent. How has President Bush responded? Each year, he broke his promise to provide a $5,100 maximum Pell grant to all first-year college students. In fact, the Pell grant this year is worth $500 less than it was 30 years ago, and the President's 2005 budget eliminates Pell grants from 95,000 deserving students who need that money to pursue a higher education.

Now the Republicans are rubber-stamping the President's legislation that would force the typical student borrower to pay $5,500 more for their student loan than they currently do. I do not think those students believe they are better off than they were 4 years ago.

HONORING MARO K. ROGERS

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, this week, one of South Carolina's most beloved educators will retire after 41 years. Maro K. Rogers has been teaching at the Little Red Schoolhouse kindergarten since 1963, and has personally taught around 1,500 students in the community of Lexington, South Carolina. Maro and her husband, Hugh Rogers, a former mayor of Lexington, built the schoolhouse in their own back yard where it stands today.

Maro has taught the essentials of learning to three generations of children. Students learned their ABCs, sang songs, listened to Mrs. Rogers read stories, and took fields trips throughout the midlands of South Carolina for first-hand education.

Maro Rogers, a native of Baghdad, Iraq, of Armenian heritage, stands as a shining example of how one dedicated teacher can make a dramatic impact in the lives of our children. I ask all of my colleagues to join me in thanking Maro Rogers for her service to South Carolina's youngest students.

In conclusion, may God bless our troops and we will never forget September 11.

REFORM HEALTH CARE

(Mr. McDERMOTT asked and was given permission to address the House

for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, like the economy the war and the United States' credibility around the world, health care is another casualty of the Bush administration.

Today, nearly 44 million Americans are without health insurance. The vast majority of those people live in households where someone is working full time. The cost to cover the uninsured is about 5 months' worth of the war in Iraq. Meanwhile, Americans who have health insurance are being forced to pay more than ever before. And the administration wants to shift even more of the burden to every American under the guise of reform.

A new study by researchers at Oregon Health and Science University put it bluntly, "We spend much more than any other industrialized country in the world on a per capita basis and we get much less in return."

Health care is a crisis that demands real leadership and real solutions. So health care will remain a crisis as long as the administration remains in office. The 2nd of November cannot come soon enough for Americans without health insurance.

BE HONEST TO OUR SENIORS

(Mr. BEAUPREZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEAUPREZ. Mr. Speaker, it has been 6 months since President Bush signed the historic Medicare prescription drug bill into law, and although the ink is hardly dry, there has been a steady campaign of misinformation by our colleagues on the other side of the aisle.

They say that these cards will not work, that they are too confusing, that they will not actually save seniors money. Mr. Speaker, the verdict is in. Medicare's new drug discount cards will save seniors money. In many instances, seniors will save hundreds, if not thousands of dollars.

For example, a senior living in Wheat Ridge, Colorado, my district, who takes three commonly prescribed drugs for seniors, Zocor, Nexium, and Fosamax, can save $1,365 per year on their prescription drugs. I have done the math. That is money you can take to the bank, pay the rent or give to the grandkids.

The false accusations and scare tactics used by the political opponents of the prescription drug cards reminds me of something my mother used to say, "If ifs and buts were candy and nuts, we would all have a merry Christmas."

Well, Mr. Speaker, these seniors do not deserve to be lied to. They deserve the truth and they deserve a prescription drug card that will save them money.

LOAD THE WAGON

(Mr. BERRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BERRY. Mr. Speaker, as I listen to the retorts from the other side, I think they must have adopted that great Republican philosophy that has kind of come back here recently, "Do not worry about the mule going blind, just load the wagon." And that sure is what we are doing right now: loading the wagon for our children and grandchildren.

I hear them talking about drug cards. You just call that 800 number and see what happens. Nothing. It is just like the drug card. You get nothing. It is another way to trick people.

We are going to be asked this week to raise the debt ceiling again, by $700 billion, and to put our children again deeper and deeper and deeper in debt. It is insane to continue to do this to the next generations. If we are doing so frazzling good, then how come we are broke? I just do not understand that.

I hear them get up here every day and talk about how good things are. It is time to do the right thing.

MEDICARE CARD PROVIDES GREAT SAVINGS

(Mrs. CAPITO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CAPITO. Mr. Speaker, seniors throughout West Virginia are learning about potential savings on their prescriptions because of recent reforms to Medicare. No matter what critics may say, it is very easy to find out information about the new prescription drug card. Just ask Ann Brown, one of my constituents.

I worked with Ann. We went on line together. And she was able to see very easily what her savings would be by going onto the Medicare.gov website.

But Ann is not alone. A senior living in Charleston, West Virginia in a 25304 zip code who takes Fosamax for osteoporosis, Zocor for cholesterol, and Nexium for acid reflux can save $170 a month by using a Medicare-endorsed cards, which is a savings of over $2,000 a year. That is a real savings.

Why are they saving? Because the competition and buying power of over 40 million seniors across the country is driving down the cost of prescriptions.

Beginning on June 1, seniors will begin to realize these significant savings, and through the Medicare-endorsed prescription drug card, they will see that this benefit is significant, meaningful and hits the bottom line.

WE NEED A POLICY CHANGE

(Mr. HINCHEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HINCHEY. Mr. Speaker, when the national Republican Party took us to war in Iraq, the average price of gasoline across the country was $1.40 cents a gallon, and we were told that the cost of the war in Iraq would be negligible because it would be paid for by the oil in Iraq.

Now, 14 months later, the price of gasoline in America is more than $2 a gallon and the war in Iraq is costing us $200 billion. The Republican energy plan is to increase our dependence on foreign oil. Their plan for Iraq is more of the same.

With, now, almost 800 American servicemen and -women dead, 4,000 injured, it is quite obvious we need a different policy and a different leadership. It is time for a change.

PRESCRIPTION DRUG CARD A BENEFIT

(Mr. BROWN of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of South Carolina. On May 3, 2004, constituents of the First Congressional District of South Carolina began signing up for their new Medicare discount card. The enrollment fee for the discount card will range from zero to $30 per eligible person.

The discount card will save the seniors and disabled Medicare beneficiaries of my district between 10 and 25 percent off the retail price of most drugs. In addition to the discounts, seniors whose income is below $12,569 for individuals and $16,862 for married couples may qualify for an additional $600 credit to cover the full cost of their prescription.

Military retirees can now enroll in Medicare Part B without a late enrollment penalty through December 31, 2004.

Many seniors and disabled Medicare recipients have been waiting a long time for Medicare prescription drug coverage. I am proud that this Congress has answered their call.

□ 1030

This discount card is just the beginning of more health care options and a greater quality of life for our seniors.

SECRETARY OF DEFENSE SHOULD HOLD HIMSELF ACCOUNTABLE

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, this morning one of the military personnel whose actions were considered part of the horrific acts in the Iraqi prison stands for his court-martial. The words offered were a deep apology as members of his community indicated his service to his community, the kind of human being he was and to them still remains.

The reason why I rise is because his indictment and court-martial today does not in any way take away the ultimate responsibility all the way to the Secretary of Defense. Nothing I have heard from the Secretary of Defense commends me to believe that he should not go, and he frankly should hold himself accountable for the lack of procedures and lack of training and the lack of training given to these enlisted National Guard and others who came there without training, without resources, despite the fact that we all should know right from wrong.

Today, with the Defense authorization bill, nothing in the bill speaks to this issue; and this bill is wracked with problems because it does not address the tragedy in Iraq.

WE ARE BETTER OFF NOW THAN FOUR YEARS AGO

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, it really is a very good question posed frequently on the House floor today, Are we better off today than we were 4 years ago? Let us think.

Four years ago, we had a morally disgraced President in the United States of America in the Oval Office. Today we have a man of integrity, of virtue, of principle, of purpose.

Four years ago, the terrorists planned their attacks against America and our allies. Today, America attacks the terrorists while they cower in the mountains of Pakistan.

Four years ago, Saddam Hussein amassed weapons of mass destruction, the Taliban was in power, and Libya had a WMD program. Today, the Taliban is gone. Saddam Hussein is in a cell. We have found pieces of his WMDs, and Libya has ended its program.

Four years ago, the Clinton recession took hold. Today, last month, 300,000 new jobs.

Four years ago, partial birth abortion was legal in America. Today, that moral horror has ended.

We are better off today than we were 4 years ago.

PEOPLE IN THE 32ND CONGRESSIONAL DISTRICT ARE NOT BETTER OFF THAN FOUR YEARS AGO

(Ms. SOLIS asked and was given permission to address the House for 1 minute.)

Ms. SOLIS. Mr. Speaker, I ask, Are we better off now than we were 4 years ago? Unfortunately, for people that I represent in the 32nd Congressional District, including the San Gabriel Valley in East Los Angeles, it is a resounding "no."

Nearly 20,000 people have lost jobs in my district. Unemployment has hovered from 9 to 10 percent for 3 chronic years. Thirty-three percent of the people I represent have no health insurance, and a good number of those people are young children under the age of six.

Yet the House Republican leadership continues to push for wealthy families' tax breaks.

This week, the House will vote on a bill that would provide new tax breaks to rich families earning over $309,000 a year. Most of the people in my district do not make that much. They actually make anywhere around 20 and $10,000 a year. People making $10,000 a year would get nothing in this tax break, $150 at the most, compared to those at the very wealthy end who will get more money.

We need to do better, and our folks are not better off now. Four years ago they were.

LAW ENFORCEMENT AGENCIES ACT TO STAMP OUT PEER-TO-PEER CHILD PORN

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, on Friday several Federal agencies announced a national law enforcement initiative aimed at combating the growing volume of illegal child pornography distributed through peer-to-peer file trading networks.

Since last fall, the effort has resulted in hundreds of searches nationwide, the identification of thousands of computers used to traffic in child pornography, and the arrest of more than 65 individuals.

This action should be commended and further action encouraged, but Friday's announcement is a disturbing confirmation that peer-to-peer programs are being manipulated. They are becoming an ever-more dangerous platform used by child predators, some convicted child molesters, to attack kids.

Parents need the ability to protect their kids before they are harmed by cyberpredators using peer-to-peer software. H.R. 2885 would give parents the tools and help parents prevent this from happening in the first place. I urge support.

DISCOUNT DRUG CARD IS A FARCE

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, I listened to my colleagues on the Republican side talk about the discount drug card, so-called, that goes into effect June 1. It is such a farce.

First of all, there is no drug benefit. We all know that. They have postponed that to sometime 2 years from now, in 2006, when you will actually have to put out more money than the benefit you would get, so nobody would sign up for it anyway. But what a farce these cards are.

In my district in New Jersey, you can already get most of these cards. You do not even need to go through the Federal Government.

In addition to that, if you look on this Web site and it shows you that there is a lower price, well, if you look and compare with other Internet sites, the prices are usually lower in other Internet sites. You do not even need the drug card.

In addition to that, the price can change. Whatever price is on that Web site, a week later they can change the price and simply raise it.

In addition, my constituents have been complaining about how they go to a particular pharmacy, they will not even take the card.

I have never seen so much chaos. Seniors are disgusted by this proposal. It is just a bureaucratic nightmare. It gives them no discount whatsoever and no benefit.

REGULATORY BURDEN ON SMALL BUSINESSES

(Mr. HENSARLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HENSARLING. Mr. Speaker, as a former small businessman, I rise today in support of Republican efforts this week to reduce the regulatory burden on small businesses, the job engine of this country.

I know firsthand that the Federal regulatory burden strangles small business in America and keeps American-owned businesses from creating more jobs. In the year 2000, the estimated total regulatory burden in America was a job-crushing $843 billion. Along with high rates of taxation, which Democrats want to raise even further, nothing stifles job creation in America like the heavy hand of bureaucratic regulation.

Small businesses that employ fewer than 20 employees pay almost $7,000 a year in regulatory costs per employee. Instead of using these funds to create new jobs, pay higher salaries or fund new or expanded health care benefits, small business owners are forced to pay to comply with too many inflexible and Draconian Federal regulations.

Democrats are working hard to make bureaucrats more powerful. Mr. Speaker, Republicans are working hard to make American companies more competitive.

CALLING FOR RESIGNATION OF SECRETARY RUMSFELD

(Mr. CONYERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONYERS. Mr. Speaker, I regret to come here this morning to again call for the resignation of the Secretary of Defense, Donald Rumsfeld. The pictures, the videos that continue of our troops humiliating prisoners in Abu Ghraib and the acts of retaliation by Iraqi militants, the graphic accounts of sexual and physical abuse that go on and on and on, this is not about the failure of some rogue elements in the military. Quite the contrary.

It is a part of the total failure of leadership at our highest levels, and I refer my colleagues to The New Yorker magazine article by the distinguished investigative journalist Seymour Hersh.

MEDICARE PRESCRIPTION DRUGS

(Mr. ROGERS of Alabama asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGERS of Alabama. Mr. Speaker, relief from skyrocketing prescription drug prices is finally on its way.

Beginning in June, Alabama seniors previously without prescription drug coverage should begin to see savings of between 10 and 25 percent on their medications. For example, seniors who previously paid $100 per month for one prescription could now pay as little as $75 per month under this new 100 percent voluntary plan. These same seniors could now see savings of up to $300 per year just on this one medication; and for low-income seniors, even more help is on the way.

Thanks to a $600-per-month credit, 21,400 seniors in my congressional district should see an additional assistance with their drug bills. What is more, Alabama seniors will soon be eligible for important new features like diabetes screening and a free welcome-to-Medicare physical.

The legislation makes important new investments in our rural hospitals and clinics as well. These investments will help improve the health for all of our seniors, as well as all of our families and children.

TIME TO HELP SENIORS FIGURE OUT WHAT BENEFIT IS BEST FOR THEM

(Mrs. WILSON of New Mexico asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. WILSON of New Mexico. Mr. Speaker, on the first day that seniors could sign up for prescription drug cards, the discount cards, I went to the Barelas Senior Center, and I sat down at one of the tables at lunchtime and chatted with a little lady and started talking about this new card that would be available.

She said, oh, I already know; I talked to AARP and I already have my card. She pulled it out of her wallet and she showed me, and it had the Medicare sign on it. She said, I asked the lady and I tried to use it, and I did on Saturday, and they let me use it, and I saved $7.

It is not too hard for people to understand what these prescription drug cards will do for them; and when I talked to more people at the Barelas Senior Center, they were very interested in the $600 that can be added to that debit-like card to help them with the cost of their drugs.

It is time to put aside the bickering and help seniors figure out which benefit is the best for them so that they can afford their prescription drugs.

BETTER HEARING AND SPEECH MONTH

(Mr. RYUN of Kansas asked and was given permission to address the House for 1 minute.)

Mr. RYUN of Kansas. Mr. Speaker, I rise today to recognize the month of May as Better Hearing and Speech Month.

I am one of 2 million Americans who have experienced a hearing loss personally, but my hearing loss was the result of a birth defect as an illness that took place early in my life, and there are many who need help as a result of this.

Today, we are exposed to harmful levels of toxic noise in our environment and must be aware of these harmful sounds and do our best to protect ourselves from them so that we can avoid problems in the future.

One-third of our seniors have hearing loss. Eighty percent of these seniors have not sought treatment, and 75 percent of those needing hearing aids do not have them.

Left untreated, hearing loss leads to isolation, depression, and dangerous situations.

I introduced the Hearing Health Accessibility Act, H.R. 2821, to give seniors direct access to audiologists under Medicare. This would provide effective care for our seniors with hearing loss because hearing aids are expensive, and most insurance companies do not cover them.

I have also introduced the Hearing Aid Assistance Tax Credit, H.R. 3103. This $500 tax credit would be available once every 5 years to children and those over 55.

I encourage my colleagues to cosponsor these initiatives.

PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT ON S. CON. RES. 95, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2005

Mr. HASTINGS of Washington. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 649 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 649

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the concurrent resolution (S. Con. Res. 95) setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read. The conference report shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget.

SEC. 2. (a) Upon adoption in the House of the conference report to accompany Senate Concurrent Resolution 95, and until a concurrent resolution on the budget for fiscal year 2005 has been adopted by the Congress—

(1) the provisions of the conference report and its joint explanatory statement shall have force and effect in the House; and

(2) for purposes of title III of the Congressional Budget Act of 1974, the conference report shall be considered adopted by the Congress.

(b) Nothing in this section may be construed to engage rule XXVII.

SEC. 3. The House being in possession of the official papers, the managers on the part of the House at the conference on the disagreeing votes of the two Houses on H.R. 2660 shall be, and they are hereby, discharged to the end that H.R. 2660 and its accompanying papers, be, and they are hereby, laid on the table.

The SPEAKER pro tempore (Mr. LATHAM). The gentleman from Washington (Mr. HASTINGS) is recognized for 1 hour.

□ 1045

Mr. HASTINGS of Washington. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 649 waives all points of order against the conference report to accompany S. Con. Res. 95, the concurrent resolution on the budget for fiscal year 2005, and its consideration. The rule provides that the conference report shall be considered read and provides 1 hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget.

Section 2 of the rule provides that upon adoption in the House of the conference report, and until a concurrent resolution on the budget for fiscal year 2005 has been adopted by Congress, the provisions of the conference report and its joint explanatory statement shall have force and effect in the House.

The rule provides that for the purposes of title III of the Congressional Budget Act of 1974, the conference report shall be considered for the purposes of the House to have been adopted by the Congress. The rule provides that nothing in section 2 may be construed to engage rule XXVII.

Section 3 of the rule provides that the conferees of the House on H.R. 2660, shall be, and they are hereby, discharged and that H.R. 2660 and its accompanying papers be, and are hereby, laid upon the table.

This conference report adheres to the principal goals of the House-passed budget, Mr. Speaker, strengthening America, growing our economy, and continuing our Nation's long history as a land of opportunity. This budget provides for increased funding to help secure America's borders, defend against biological attacks, protect our critical infrastructure, and to prepare first responders. It takes a comprehensive and responsible approach to protecting our Nation, winning the war on terror, and preparing us for future security needs and challenges.

Mr. Speaker, our economy is growing. It is headed in the right direction. By avoiding tax increases and protecting the child tax credit, relief from the marriage penalty, and tax relief for lower-income workers, this budget continues the policies that are helping to grow our economy. The budget also provides for full funding of Medicare so that seniors can get help paying for their prescription drugs for the first time ever.

It also includes a $3.3 billion increase in budget authority for education to accommodate increases in programs like Pell Grants, special education, and Title I. And it provides for the full funding of No Child Left Behind.

Mr. Speaker, it helps us keep promises to our veterans by providing an additional $1.2 billion over the President's requested increase for veterans' health care.

The budget provides for these priorities and puts us on track to cut the deficit in 4 years, with deficits declining each and every year, and this is accomplished without raising taxes on the American people.

Mr. Speaker, as a member of the Committee on the Budget, I would like to congratulate the chairman of that committee, the gentleman from Iowa (Mr. NUSSLE), and the conferees for producing a budget that is focused on securing America, creating jobs, and responsibly planning for the future. I encourage, therefore, my colleagues to support both the rule, H.R. 649, and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield myself 5 minutes, and I want to thank the gentleman from Washington (Mr. HASTINGS) for yielding me the customary 30 minutes.

Mr. MCGOVERN. Mr. Speaker, since this mammoth budget was made available to Members of this House only a couple of hours ago, it is difficult to know exactly what goodies and gimmicks are hidden inside of it. We know enough, however, to know that this Republican budget is bad for the economy, bad for American working families, and bad for the future of this country.

Two months ago, the Republican leadership proposed a budget resolution that had tax cuts that were not paid for and slashed Medicaid by $2 billion. On top of that, that budget did not include any legitimate plan for bringing our country out of the skyrocketing, record deficits, deficits made worse by the policies of this President and this Republican Congress. That budget resolution passed by only three votes.

And now the Republican leadership wants the House to consider a conference report that they claim is very similar to that bill.

Mr. Speaker, that budget was bad then and it is bad now.

This conference report continues the Republican pattern of fiscal mismanagement. Contrary to their claims, this conference report is only a 1-year budget.

Now, we used to consider 10-year budgets so we could fully assess the consequences of our fiscal actions. Then the Republican leadership changed the budgets to 5 years, so they could better mask the long-term impact of their misguided policies. And now we are considering 1-year budgets. What is next, 6-month budgets? 1-week budgets? How about a budget for the next 5 minutes?

This is the worst kind of shell game. It is a gimmick, a smoke screen that the American people will see right through.

It is time the Republicans in this body face the facts. They squandered a $6 trillion surplus, turning it into an almost $3 trillion deficit. This is the most fiscally irresponsible congressional leadership and administration in the history of the United States of America, and now they are seeking to make it worse by continuing to extend tax cuts that are not paid for.

Now, my grandfather always told me, you cannot dig your way out of a hole, and that is exactly where we are today, in a fiscal hole. Extending these various tax cuts without paying for them may make for good press releases, but it is lousy fiscal policy.

And I do not know if my colleagues are aware of the inclusion of the Hastert Rule in this conference report. The Hastert Rule allows this body to raise the debt limit, also known as the national debt, without a direct vote by the Members of this House. In other words, Mr. Speaker, we busted our credit limit and we are giving ourselves an increase without even having the decency of taking responsibility for it. And guess what? We are sending the bill to our kids and our grandkids. That is wrong.

It is important for my colleagues on both sides of the aisle to know that a vote for this conference report is a vote to increase the debt. A "yes" vote will raise the debt over the $8 trillion level for the first time in American history. Now, I hope Members will think long and hard about what kind of future we are creating for our kids and grandkids.

I believe that we have a responsibility to vote up or down on increasing the debt. Burying this debt increase in the conference report shirks the responsibility of the Members of this House.

You know, my Republican friends always complain about protectionists, but this conference report is one of the most protectionist things I have ever seen. But instead of protecting jobs, it protects politically vulnerable Republicans from being forced to vote up or down on increasing the national debt. It protects the Republicans from having to pay for their tax cuts.

And one other thing: As if the policies in this conference report were not bad enough, the Republican leadership added a provision to this rule that closes the conference on the fiscal year 2004 Labor, HHS, and Education bill. My colleagues and many Americans may be asking themselves, is that bill not already law?

Well, the truth is, the provisions that make up the FY 2004 Labor, HHS, and Education appropriations bill were included in the omnibus appropriations bill signed into law early this year. But the conference report on that bill was never formally closed. Under the rules of the House, Members of the majority and minority can still offer motions to instruct. My good friend, the gentleman from California (Mr. GEORGE MILLER), has attempted to do just that several times over the past couple of weeks.

Now, adoption of this rule today will formally close the conference, meaning that no Member can instruct conferees on any issue. The motions to instruct by the gentleman from California have focused on the administration's overtime policies. It is clear that the Republican leadership is scared to death of talking about the Bush administration's misguided plan to take away overtime pay for millions of American workers. The purpose of this section in the rule is to muzzle the gentleman from California (Mr. GEORGE MILLER) and any other Members who attempt to bring this important issue to the attention of the House and to the American people.

Why is this leadership so afraid of open and fair debate?

Mr. Speaker, this is a bad rule and it is a bad conference report, and I urge my colleagues to vote "no" on the rule.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield myself 1 minute to respond to a couple of points.

The gentleman correctly pointed out that within this rule there is the provision that the debt limit will be raised. I think most people in this body recognize that.

I mean, after all, we inherited 4 years ago a recession, then 9/11 happened, and we certainly had to fund the war on terror and all of those efforts, and that took more money than we had. In fact, in every budget that we considered on the floor, the other side acknowledged that we had to raise the debt limit.

So, yes, if this is passed, and if the Senate passes this conference report, the debt limit will have been raised. However, if the Senate does not act on this, then we will have another opportunity to look at that debt limit in a different manner.

I just wanted to make that clarification.

Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield 6 minutes to the gentleman from South Carolina (Mr. SPRATT), the ranking Democrat on the Committee on the Budget.

Mr. SPRATT. Mr. Speaker, at 6:20 a.m. this morning, this budget resolution, the conference report, so-called, was filed. At 7:15 a.m., it was before the Committee on Rules. No one outside the actual drafters of the legislation had had any time to look at its contents.

It only applies to $2.3 trillion of spending authority. Some way to run a railroad.

And now, when the bill comes before the House, it comes because the rules of the House require a 1-day layover for a rule, so that we have a little time at least and not get surprised with provisions that we did not see on quick notice. That was overturned by meeting early this morning, adjourning and meeting again and deeming 1 day to have expired. So this budget resolution comes to us under sham circumstances.

You have to ask why? Why should something of this gravity, of this importance to the fiscal policy of this country come to us under these circumstances? And there is only one answer I can give you. It will not stand scrutiny. It simply will not stand scrutiny.

The Budget Act calls for spending in major functions of the budget, about 19 all together, and it calls for revenues, and it calls for those expenditures and revenues to be taken function by function and spread out, projected out over a period of 5 years. This budget resolution has real numbers for only 1 year. It is not extended out with real numbers. It has plugged numbers, but not real numbers. For only 1 year are there real numbers.

For the first time in 20 years, we will take up today, if this rule passes, a budget resolution that does not contain a 5-year run-out of the spending levels that we are approving.

In addition, when we set out with this budget, it was recognized that there were some budget process rules we adopted in the 1990s that worked and had a profound effect on our ability to move the budget from a deficit of $290 billion to a surplus of $236 billion in the year 2000. One of those rules was the so-called PAYGO rule which says, if you want to cut taxes and you have a deficit, you have to offset the cut in taxes with an increase elsewhere, or at least with a cut in entitlement spending that is commensurate to your tax revenue cut.

That rule no longer applies because it has legislatively expired. We have tried and tried to restore that rule so that we can put some discipline, some starch into the process here in the House, and we have not succeeded because of opposition on the other side.

What we now get in this so-called budget resolution is an extension of the PAYGO bill, the PAYGO rule for 1 year that applies in one House. It will not apply here in the House of Representatives. That means all sorts of tax cuts can still originate in the House of Representatives, will not be subject to a PAYGO point of order, can be sent to the Senate; there they may be defeated on 60-vote PAYGO point of order, but otherwise we have a crippled, broken-down PAYGO rule that applies for only 1 year.

When you read this bill, this resolution, and see what little it contains, you have to ask yourself, why bring it up at all? If you are not going to comply with the Budget Act, if you are not going to give 5-year extensions, if you are not going to use real numbers, if you are not going to extend PAYGO, why bring it up at all? Well, it does a couple of things. It allows you to claim that you are doing a budget resolution without doing the single most important objective in a budget resolution, and that is laying down a plan for erasing this huge deficit we have.

□ 1100

Members should understand that if they vote for this budget resolution, they will be voting to have a deficit next year of $367 billion by the calculation of my colleagues on the other side of the aisle. That includes an offset in Social Security. If they wipe out the offset in Social Security, the total deficit would be $541 billion.

And guess what, because of deficits we have sustained every year, we are right up against the statutory ceiling for the national debt. It has to be raised and raised soon, or we will bump the ceiling again. And guess what, if Members vote for this resolution, buried under all of these plug numbers, these phony numbers, buried under them is a critically important feature and that is it will indirectly trigger an increase in the debt ceiling. At least with respect to the House of Representatives, we will be deemed to have voted for an increase in the debt ceiling of $690 billion. I am putting Members on notice of that.

So Members who vote for this resolution should know there is a critical working component of it and Members will vote to raise the debt ceiling by $690 billion to $8.1 trillion.

So in a thumbnail, here is what you will be voting for when you vote for this sham resolution: First, Members will vote to raise the deficit to $541 billion without Social Security, for $367 billion including Social Security, add $25 billion more in supplementals for defense, and we are right back up to a $400 billion deficit.

Members will not be voting for any plan in process, any solution to the deficit, but will be putting us on a path, according to the Congressional Budget Office, of accumulating, and this is their number, $5.132 trillion over the next 10 fiscal years.

That is what Members will be voting for if they vote for this resolution. It would be better that we vote down this resolution, send the conferees back to conference and tell them to do what the Budget Act requires them to do and tell them to get a handle on the deficit and put our fiscal house in order. Vote against the rule.

Mr. HASTINGS of Washington. Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Mr. Speaker, for all of the reasons mentioned by the gentleman from Massachusetts (Mr. McGOVERN) and the gentleman from South Carolina (Mr. SPRATT), not only does this budget resolution graphically demonstrate the incompetency of the Republicans to deal with the budget of this country and the budget resolution in this House, but it does something much more sinister than that.

Buried in this resolution is the prohibition against any votes to be taken in the House of Representatives against the provisions offered by the administration, the rules that they put forth to deny millions of working people in this country the right to overtime. When these rules go into effect, if we cannot vote against them as the Senate has voted against them, when these rules go into effect, millions of Americans will be required to work overtime in the future; they just will not get overtime pay.

That means for millions of America's families, families that use overtime that is so important to them to qualify for the mortgages on their house, to qualify to buy an automobile, to put their kids through school, they are not going to have that in their paycheck in the future because they are going to be excluded from being eligible for overtime.

Now the Senate addressed this rule, and they voted against it. They voted to change it. We fought hard against the original rule because the original rule would have excluded maybe 11 million Americans from the right to have overtime pay when they work overtime. Americans understand why they get overtime pay, because when their employer comes and says they have to work late on Thursday night or Friday night, that means they have to rearrange their child care, that means they have to rearrange their ability to spend time with their family, that may mean they have to rearrange their doctor's appointments, and you have to change your life around for the convenience of the employer. So you get overtime pay.

Now when the employer comes to the worker and says he or she has to work overtime, there will be no overtime pay. That is why this House and the Senate defeated those rules on a bipartisan basis, and the administration now has come up with a new rule. And we find out that even the new rule excludes millions of hard-working Americans from overtime pay, people struggling to hold onto a middle-class lifestyle and standard of living for their families. That is about to evaporate. That is about to evaporate because this House will not allow us, the Republican leadership will not allow us to have an up-or-down vote.

We are fighting so hard for democracy in Iraq, but we cannot have an up-or-down vote in the House of Representatives. We cannot have an up-or-down vote. We cannot have an up-or-down vote because the majority, on a bipartisan basis, will vote to overturn these rules. By a vote of 99–0, the Senate voted to change these rules and exclude from the impact of these rules, to try to save these middle-class families, computer programmers, licensed practical nurses, nurse midwives, oil and gas pipeline workers, oil and gas field workers, oil platform workers, refinery workers. Get the message here?

Millions of hard-working Americans, the Senate voted 99–0 to exclude steelworkers, shipyard workers, teachers, technicians, journalists, chefs, cooks, police officers, firefighters, fire sergeants, police sergeants, emergency medical technicians; 99 to nothing the Senate voted, that means bipartisan. That means all of the Republicans and all of the Democrats voted to protect these workers and their families. In the House of Representatives, the Republicans will not let Members have a vote on this.

We tried twice in the last week to have a vote, and they voted on a partisan straight party line to subject these workers to these rules that will cut their pay this year.

When workers are faced with outsourcing, plant closings, no wage growth, higher health care premiums, now the Republicans have decided to cut their overtime pay. Not only do they show no concern for people who are unemployed; but if you have a job, the Republican's initiative is to cut your pay. But what are they going to do, they are going to continue the cover-up because buried in this rule they have denied the ability of this House to vote on this rule.

Again, the Senate, 99–0, voted to protect construction employees, production line employees, carpenters, mechanics, plumbers, ironworkers, craftsmen, anybody earning an hourly wage because the rule does not protect hourly wage earners. It helps painters, cement masons, stationary engineers, longshoremen, utility workers, welders. Does this sound like Members' constituency? Does this sound like the people who work in our congressional districts every day? Yes, it does.

Mr. Speaker, these are the people who built America, they built the middle class; and now the Republicans are taking away their overtime. But Members will not get to have a vote on that because the Republicans are afraid of the vote. They are afraid of democracy. They are afraid of the people's House working its will so they have shut down the debate and shut down the ability to have a vote.

The Senate had a vote, and they even voted on a bipartisan basis to exclude anybody who has overtime today.

The SPEAKER pro tempore (Mr. LATHAM). The gentleman's time has expired.

Mr. GEORGE MILLER of California. So apparently the Senate can have bipartisan representation, apparently the Senate can have democracy, but this House cannot have democracy.

The SPEAKER pro tempore. The gentleman's time has expired. The gentleman will suspend.

Mr. GEORGE MILLER of California. * * *

The SPEAKER pro tempore. The gentleman will suspend.

Mr. GEORGE MILLER of California. * * *

The SPEAKER pro tempore. The gentleman will suspend.

Mr. GEORGE MILLER of California. * * *

The SPEAKER pro tempore. The gentleman will suspend.

Mr. GEORGE MILLER of California. * * *

The SPEAKER pro tempore. The gentleman will suspend.

POINT OF ORDER

Mr. HASTINGS of Washington. Mr. Speaker, point of order.

The SPEAKER pro tempore. The gentleman from Washington will state his point of order.

Mr. HASTINGS of Washington. My point of order is when a Member yields time to another Member, does that Member have responsibility to abide by the time he was yielded to speak?

The SPEAKER pro tempore. The gentleman's point of order is sustained. All Members are reminded to heed the gavel.

Mr. HASTINGS of Washington. Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield 3½ minutes to the gentleman from New Jersey (Mr. MENENDEZ), the chairman of the Democratic Caucus.

Mr. MENENDEZ. Mr. Speaker, we would not have Members who feel they are oppressed if we had rules that permitted full and free debate in the greatest democracy in the world. We go abroad, sending our troops to promote democracy, but we cannot seem to have a modicum of comity and democracy here in the House of Representatives.

This conference report on the budget was filed this morning at 6:20 a.m., less than 5 hours ago. The Nation's budget, multi-trillion dollar budget filed 5 hours ago, and we do not even have a chance to review it.

Under the Republican leadership, this budget resolution is, and the entire budget process has become, a complete fraud on the American people. Just like the way they have covered up the cost of the Iraq war and the Medicare prescription drug bill, with this budget congressional Republicans are trying to hide not only the true costs of making the tax cuts permanent, but also the huge size of the rapidly exploding deficit.

And instead of giving us an opportunity to debate and vote separately on raising the Nation's debt limit for the third straight year by almost $700 billion this year alone, the Republicans have included that increase under the cover of all of these other shenanigans in this budget resolution.

So let us be clear so when Members come to the floor representing their constituencies, they understand a vote for this budget resolution is a vote to increase the debt ceiling of the United States to over $8 trillion. Yes, I said $8 trillion. Now, this will ensure that our tax dollars go not to shoring up Social Security and Medicare, or investing in our people, in their health care, education, or taking care of our veterans so that their widows do not get taxed, but to simply paying interest on this debt that Republicans continue to raise and just do not seem to care how far they continue to go.

Republicans talk all the time about fiscal responsibility, but by restoring the budget enforcement rules, the rules that say you have to pay for the expenditures of the Nation as you go, they do that for only 1 year, and they do that where? Not in the House. They impose that upon the Senate. So they continue to spend wildly here in the House, have all of the tax cuts proposals in the world, keep driving us into deficit, but we have no budget enforcement rules here.

Mr. Speaker, these priorities are making the wealthy tax cuts permanent regardless of the damage that will be caused not only to the citizens of this country, but to the Nation's economic well-being. Vote "no" against the rule and against the resolution. It is ultimately the last opportunity to preserve America's future and the intergenerational responsibility this Republican majority has forfeited.

Mr. McGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. NEAL), a member of the Committee on Ways and Means.

Mr. NEAL of Massachusetts. Mr. Speaker, I want to thank the gentleman for yielding me this time.

Mr. Speaker, remember that old commercial, when E.F. Hutton talks, people listen? Well, I hope no one on Wall Street is listening today, and I certainly hope that Alan Greenspan is not listening or watching because this Republican budget is $8 trillion of debt. Yes, Members heard me correctly.

If this budget passes for the third time in as many years on a Republican rule, we are not bringing down the national debt. What we did so successfully under the years of Clinton and Rubin, we are undoing during this administration's time. No, our vote today increases yet again the debt of this Nation. How we could have gone from $5 trillion in budget surpluses under Clinton-Rubin to $8 trillion in debt ought to be shocking to all.

Surpluses as far as the eye could see, we were suggesting just a few years ago. Today, $2 trillion in revenue cuts; and now 4 years later, surpluses are but a memory, and we have debt as far as the eye can see.

Well, here is the simple strategy: we will have two wars with three tax cuts. A billion dollars a week for Iraq, do not worry about it, we need a tax cut.

□ 1115

A billion dollars a month in Afghanistan. Do not worry about it. We need a tax cut.

Troops to Haiti? Let us have a tax cut.

That is government by declaration. Things are always getting better even though we do not see any evidence of that. And then we hear from the party that built its base in American history on fiscal responsibility, increased spending and cut taxes. The evidence is there for all to see.

Then we are told on this floor that they inherited a recession. Everybody in America knows they inherited the best economy in the history of America, all due, I believe, to what at that time was bipartisan relationships in this House. They are nonexistent now. These Members on the other side come to the floor day after day and insist on tax cuts while fighting two wars at the same time.

Mr. McGOVERN. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Speaker, a vote for this budget resolution conference report is a vote to automatically approve a $690 billion increase in the national debt. Under the Hastert rule, passage of the budget resolution conference report would deem that the House had passed separate legislation.

My friends on the other side of the aisle used to criticize this rule when the House of Representatives was under Democratic control and repealed it in 1997. But when the national debt started growing at a record pace, they reinstated it. I agreed with them when they criticized it in the past. Why have they changed?

A vote against the previous question would require the House and Senate to have a full and open debate and vote on increasing the debt limit instead of using the budget resolution to avoid a debate on increasing the debt limit. Last year the leadership slipped through a $984 billion increase in the debt limit, the largest increase in the history of our country, without an up-and-down vote. This came less than 8 months after we raised the Federal debt ceiling by a whopping $450 billion. Now the House leadership is trying to slip through another $690 billion increase in the debt ceiling without a debate.

The national debt has increased by $670 billion over the last 12 months and $1.5 trillion over the last 3 years. Approximately 70 percent of our borrowing from the public last year came from foreign investors. At the end of March, foreign investors held $1.7 trillion of our national debt. The $323 billion we spent last year for interest on our $7 trillion national debt represents a debt tax that must be paid by all future generations. Continuing to run up debt as we are doing will guarantee our children and grandchildren are overtaxed for the rest of their lives.

If my Republican colleagues honestly believe that tax cuts with borrowed money is good economic policy, they should be willing to stand up and take credit for the increase in the national debt that is necessary to pay for these tax cuts. Just like credit card spending limits serve as tools to force families to examine their household budgets, the debt limit reminds Congress and the President from time to time to reevaluate our budget policies.

Before we vote to increase our national debt by another $690 billion, Congress should sit down and figure out how to stop running up this debt rather than just bringing us a continued reinstatement of what we are doing. I would say to my friends on the other side again, I would gladly join them and will to increase the debt ceiling if they would agree to add budget enforcement rules that they supported in 1997. I hope the four Senators will stay fast in the other body that they will do those things that they said they are going to do to send this budget right back to us until we at least get serious about restoring fiscal discipline.

Put PAYGO into this and we have got a deal. But, no, I read where the majority leader said recently the only thing he cares about in the budget is making it easier to pass tax cuts and that everything else in the budget really does not matter to him. Increasing the debt limit over $8 trillion matters to me. I think it matters to a lot of other Members on both sides of the aisle. The decision on whether or not we make it harder for Congress and the President to pass legislation that puts us deeper into debt matters a great lot to me.

If cutting taxes with borrowed money is all that matters to you, then vote for this rule and vote for this budget. But if you are concerned about a national debt approaching $8 trillion, if you are concerned about deficits of several hundred billion dollars structural as far as the eye can see, vote against the rule and against this budget.

Vote against the previous question. The vote on the previous question will be a clear up-and-down vote as to whether or not we should have at least 1 hour to discuss increasing our debt ceiling, at least 1 hour in which we would have an honest discussion between both sides as to whether or not we should continue in the path that we are on believing that that is the best for our country. Vote against the previous question.

Mr. McGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina (Mr. SPRATT).

Mr. SPRATT. Mr. Speaker, let me just make Members painfully aware of what this rule will entail, since they have only had minutes to even acquaint themselves with the fact that it was coming before them today.

If Members vote for this rule, they will vote to make in order a budget resolution with the following consequences for our deficit and our national debt. Per the calculation in this budget resolution, the deficit for 2005 will be $367 billion. That is probably the best dated sum they can come up with. There will undoubtedly be some more defense supplementals, probably another $25 billion, before 2005 is out. That will take the deficit to $392 billion. If we take Social Security out of the calculation, as we should, we should not include it, the non-Social Security deficit, the deficit in the basic accounts of the Federal budget in 2005 if Members vote for this resolution will be $566 billion, which will necessitate another increase in the debt ceiling.

If Members vote for this resolution, they will, make no mistake about it, be voting to raise the statutory debt ceiling by $690 billion. That is the first in a series of raises, because if you read CBO's report on the President's budget which is essentially embodied in this resolution and run that budget out over 10 years between 2005 and 2014, according to CBO, we will cumulatively incur a debt of $5.132 trillion.

Vote for this rule and you will be voting against any plan or any process to come to terms with this enormous, record-breaking deficit. There is no plan. There is no solution. Do not fool yourself in this resolution. Vote for it and you vote to tread water while the problem gets worse. You vote to kick the can down the road. If you want to deal with the deficit, deal with this debt, vote against this resolution, and send the conferees back to the conference. If you want to dodge the issue for another year while it gets worse, vote for this resolution. I would suggest we vote against it.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

I will be urging Members to vote "no" on the previous question in order to expose a part of this budget resolution that my Republican colleagues would rather not talk about. When Members vote for this budget conference report, they will be voting to increase the statutory debt limit by almost $700 billion for the next fiscal year. An uncomfortable fact they would rather not talk about today is that this budget raises our national statutory debt limit to the highest level in our history, to more than $8 trillion. This comes on top of the fact that last year Republicans used the budget resolution to slip through a $984 billion increase in the debt limit, the largest increase in the debt limit in the history of the United States of America without an up-or-down vote in this House.

Mr. Speaker, there is an honest disagreement in this House over our Nation's fiscal priorities. Many of us think that with large deficits and the growing costs of the war in Iraq, we need to rethink our budget priorities and figure out how to make our revenues match up better with our spending needs. My Republican colleagues do not seem to think there is a problem. They think it is just fine to continue on with the spending and the tax policies that have led us into this current fiscal mess. They seem to think it is fine to keep building up our national debt and leave it to our kids and our grandkids to figure out how to pay for it.

I would say to my Republican colleagues, if they honestly believe that tax cuts with borrowed money is good economic policy, they should be willing to stand up in this House and vote to increase the national debt to pay for their tax cuts instead of relying on undercover parliamentary tricks. Republicans used to criticize Democrats for using House rules to slip through increases in the national debt without a separate vote. That is exactly what they are doing here today. If they believe in the fiscal policies that are sending the national debt through the roof, they should be willing to stand up on the floor of this House and vote for them.

I want to emphasize that a "no" vote will not stop the House from taking up the budget conference report. All it does is require Republicans to take responsibility for a fiscal policy that by the end of this year will cost our kids and our grandkids $8 trillion.

I ask unanimous consent, Mr. Speaker, to insert the text of the amendment immediately prior to the vote on the previous question.

The SPEAKER pro tempore (Mr. LATHAM). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. McGOVERN. Again I would urge a "no" vote on the previous question.

Mr. Speaker, I yield back the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a very important document. It is an important document because this sets the parameters of congressional spending to fund the government for 2005. We have heard a great deal from the other side in this debate about the debt limit. I addressed that earlier. I acknowledge that because we inherited a recession 4 years ago and we were attacked by terrorists and now we are engaged in an international war on terrorism, yes, we have spent more than we have taken in, and we do have to address this issue of raising the debt limit. But if we do not pass a budget resolution, that means we will not have any discipline on the appropriation process as we go through appropriating dollars for fiscal year 2005. That means if we have no discipline that the debt limit will increase higher because that is the way this body has always worked. Passing this budget is very important to put that discipline in place.

I would also make the observation, as I made earlier, every budget substitute amendment that was presented earlier when we were debating the House version of the budget, every one of those budgets acknowledged that we were going to have to address raising the debt limit in the future. Every one of them. They had it in different ways, different opportunities. Nevertheless, everyone acknowledged the fact that we have to address the debt limit problem.

Finally, Mr. Speaker, let me just suggest this, and I have learned this in the time that you and I have been here in this body. We will go through the appropriation process one way or the other. I think it is better to have the discipline of having a budget. But if we do not have the discipline of having a budget agreed to by both Houses, I suspect that what we will see when we go through the appropriation process from the other side, we will see, continually, amendments offered to raise more spending, which, of course, if it followed what they would be suggesting, we will have to raise the debt limit even higher. Sometimes I wonder what the debate is when I hear their rhetoric as we go through this process.

I would urge my colleagues to vote for the previous question, vote for the rule and the underlying resolution.

The material previously referred to by Mr. McGOVERN is as follows:

PREVIOUS QUESTION FOR H. RES. 649

H. CON. RES. 95, THE CONFERENCE REPORT ON THE BUDGET 2004

AMENDMENT TO H. RES. 649 OFFERED BY REPRESENTATIVE McGOVERN

At the end of the resolution, add the following:

SEC. 4. Upon the adoption of this resolution rule XXVII shall not apply to the conference report to accompany S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009.

Mr. HASTINGS of Washington. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. McGOVERN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

PROVIDING FOR CONSIDERATION OF H.R. 4200, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 648 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 648

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the

House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 4200) to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2005, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and the amendments made in order by this resolution and shall not exceed two hours equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services. After general debate the bill shall be considered for amendment under the five-minute rule.

SEC. 2. (a) It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Armed Services now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived.

(b) No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution and amendments en bloc described in section 3 of this resolution.

(c) Each amendment printed in the report of the Committee on Rules shall be considered only in the order printed in the report (except as specified in section 4 of this resolution), may be offered only by a Member designated in the report, shall be considered as read, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. Each amendment printed in the report shall be debatable for 10 minutes (unless otherwise specified in the report) equally divided and controlled by the proponent and an opponent and shall not be subject to amendment (except that the chairman and ranking minority member of the Committee on Armed Services each may offer one pro forma amendment for the purpose of further debate on any pending amendment).

(d) All points of order against amendments printed in the report of the Committee on Rules or amendments en bloc described in section 3 of this resolution are waived.

SEC. 3. It shall be in order at any time for the chairman of the Committee on Armed Services or his designee to offer amendments en bloc consisting of amendments printed in the report of the Committee on Rules accompanying this resolution not earlier disposed of. Amendments en bloc offered pursuant to this section shall be considered as read, shall be debatable for 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services or their designees, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The original proponent of an amendment included in such amendments en bloc may insert a statement in the Congressional Record immediately before the disposition of the amendments en bloc.

SEC. 4. The Chairman of the Committee of the Whole may recognize for consideration of any amendment printed in the report of the Committee on Rules accompanying this resolution out of the order printed, but not sooner than one hour after the chairman of the Committee on Armed Services or a designee announces from the floor a request to that effect.

SEC. 5. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

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The SPEAKER pro tempore (Mr. LATHAM). The gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate only.

Yesterday, the Committee on Rules met and granted a structured rule for H.R. 4200, the National Defense Authorization Act for Fiscal Year 2005. The rule provides for 2 hours of general debate equally divided between the chairman and ranking minority member of the Committee on Armed Services. The rule waives all points of order against consideration of the bill. Finally, the rule allows that the Chairman of the Committee of the Whole may recognize for consideration any amendment printed in the report of the Committee on Rules out of the order printed, but not sooner than 1 hour after the chairman of the Committee on Armed Services or a designee announces from the floor a request to that effect.

H.R. 4200 comes at a particularly crucial time for our Nation's Armed Forces. The Iraqi conflict and our continuing war on terrorism have brought a renewed and proper focus to national defense. This legislation addresses the needs of a Nation at war on multiple fronts. It contains $422.2 billion for the Department of Defense, DOD, and the national security programs of the Department of Energy, DOE. It also provides an additional $25 billion in emergency budget authority to partially cover the projected costs of continuing operations in Iraq and Afghanistan.

The primary focus of this legislation is protecting our troops on the battlefield. Our men and women in uniform depend on having the necessary systems and equipment to be successful in accomplishing their mission. Many of us have been concerned about the lack of armor available for our Humvees and other trucks. This bill addresses that concern by providing $829.6 million for production of up-armored Humvees. This improved ballistic Humvee will protect our soldiers from anti-personnel, armor-piercing munitions and improvised explosive devices. These are most commonly referred to as IEDs when we hear news reports.

It also provides $358.2 million for vehicle add-on armor kits for the Army's truck fleet. Most importantly, it gives the military new authorities to speed critical weapons and equipment to the troops in the battlefield.

In the near future, the outcome of our war against terror depends on the courage of our personnel who are on the front lines. We owe so much to our men and women in uniform, and their success in Iraq and Afghanistan is a testimony to their bravery, training, and equipment and their commitment to defend our freedoms. It is the means by which we meet our commitment to provide them a decent quality of life with an across-the-board 3.5 percent pay increase for military personnel.

We need pay to sustain the commitment and professionalism of America's all-volunteer armed services and the families that support them. It increases the limit on hardship duty pay from $300 to $750 per month. It makes permanent the increased rate for imminent danger pay from $150 to $225 a month and more than doubles the rate for the family separation allowance from $100 to $250 per month.

Our soldiers also need to know that while they are deployed, we are praying for them and their safe return. I was told by a soldier in my district that the most important thing to a soldier who is serving overseas was knowing that their family is being taken care of and supported and they are safe at home. If these men and women are willing to lay down their lives for us, then the least we can do for them is to pray for them and to take care of their families while they are gone.

For this purpose, I have created a Web site. It is Honoring Heroes.com. It is a one-stop-shopping resource where folks can go to learn about supporting our troops and their families at home. On the site visitors will find links and resources to help support the families of our men and women who are overseas. And as we approach Memorial Day, one can also find on the Web site a list of those who have given the ultimate sacrifice during the war in Iraq. We must always remember them.

I commend the gentleman from California (Chairman HUNTER) and the gentleman from Missouri (Mr. SKELTON), the ranking member, for crafting this legislation that will really, truly strengthen America's military. It proposes the largest increase in military end strength in decades by increasing the active duty Army by 30,000 personnel and the Marine Corps by 9,000.

Even before Operation Iraqi Freedom, the global war on terrorism, and the commitment to homeland security, the Armed Forces had insufficient manpower for existing wartime and peacetime requirements.

Now more than anytime in our Nation's history, we are relying on these men and women who so faithfully serve our country in the National Guard. H.R. 4200 contains language that will help us to continue to provide strong support for our National Guard.

In my State of North Carolina, universities and community organizations will be coming together to help develop a comprehensive program to effectively support these soldiers. The bill recognizes the importance of this program and provides language to help integrate the National Program for Citizen Soldier support with the Defense Department's ongoing effort to support our men and women in uniform.

The bill also recognizes the importance of our Nation's continued development of advanced weaponry and technology. Included in this bill is the support of further exploration of the use of lithium batteries on the battlefield.

Finding a safe, cost-effective, and portable energy source for our men and women in the Armed Forces should be a top priority of the Department of Defense. I am pleased to see this year's bill addresses the need for our military to develop new and powerful alternative energy sources.

However, there is one amendment the Committee on Rules made in order that I strongly oppose, the Davis of California amendment. It would allow abortions on our military bases overseas. Military treatment centers, which are dedicated to healing and nurturing life, should not be forced to facilitate the taking of the most innocent human life, the child in the womb. For the past 7 years, the House has voted to keep abortion on demand out of military medical facilities, and I urge my colleagues to stay on this course and vote against this amendment.

That said, this is a fair rule. So let us pass the rule and pass the underlying defense authorization bill. At the end of the day, we will be making our homeland safer and we will be supporting our sons and daughters who are serving us in the military. We will be preparing for war, thereby ensuring victory. And at this crucial time in our history, this bill is most important.

Mr. Speaker, I reserve the balance of my time.

Mr. Speaker, I yield myself such time as I may consume.

Mr. FROST. Mr. Speaker, the annual defense authorization bill is always one of the most important bills this Congress considers. Having spent my last 25 years in Congress working hard to ensure a strong national defense, it is a bill that I have always supported, and this year the defense authorization bill is more important than ever.

This past December, I spent several days in Iraq where I had the opportunity to meet with rank-and-file soldiers on the front lines and thank them personally for their distinguished service and personal sacrifice. And I was reminded of this enormous sacrifice upon my return. The cargo plane that took us out of Baghdad carried the coffins of two American soldiers who had been killed just 3 days before Christmas.

It seems like almost every night, Americans turn on the news at home and see nothing but reports of the violence in Iraq and hear comments from politicians and pundits debating decisions made here in Washington. But when I turn on NBC News or CNN or any of the other networks, I cannot help but recall the selflessness and courage that I saw in our soldiers, and the mix of pride and sorrow I felt on that flight home.

America's sons and daughters in Iraq represent our country well, but their job continues to be very difficult and very dangerous, and it will not be over anytime soon. It is clear that American troops will be based in Iraq for at least the next year and possibly longer.

And that is why the bill before us today is so important. Before anything else, the defense authorization bill is a bill to support our troops. The funding in the bill today will keep our service men and women in Iraq and around the world safe, provide them with the tools they need to fight the war on terror, and give them and their families a better quality of life.

First and foremost, we provide $25 billion in supplemental funding for the wars in Iraq and Afghanistan to ensure that our troops have everything they need to conduct the war on terror and return home to their families safely. We provide over $1 billion for armored Humvees and body armor. We help ensure the strength of our military by adding 39,000 more Army and Marine Corps troops.

We make sure that our troops experience a good quality of life by giving them a 3.5 percent pay raise, and we help ensure that all of our fighting men and women receive health care by expanding TRICARE coverage to Reservists and their dependents.

The bill also helps those who have served our country so honorably over the years by making sure that those who are left behind when a soldier falls receive the full benefits that they deserve through the Survivor Benefit Plan.

And while there are a great many provisions here we can take pride in, Mr. Speaker, the bill before us today is by no means perfect. There remain a number of serious issues that we must resolve.

This morning, in the Committee on Rules, my colleagues and I tried to offer an amendment to the rule which would have more than doubled the amount authorized for the wars in Iraq and Afghanistan in the supplemental. Similarly, we tried to provide $414 million to provide fair pay and benefits for our troops.

There are a great many Members who support these provisions, Mr. Speaker. They have broad support throughout the House, but they were, like dozens of other important amendments offered in the Committee on Rules, denied a vote on the floor by the Republican leadership. That is a shame, Mr. Speaker, because we all want what is best for our troops.

Because this House was denied the opportunity to consider a great many important amendments, I will be voting "no" on today's rule. I will also be urging a "no" vote on the previous question so that we may consider one of the amendments that was denied, the amendment of the gentleman from South Carolina (Mr. SPRATT) to provide fair pay and benefits for the troops.

That said, despite what happened at the Committee on Rules this morning, I stand in strong support of the underlying bill and our troops. There has never been any doubt that this House, this Nation, and its people stand 100 percent behind our men and women in uniform, fighting to secure peace the world over.

I hope we can soon continue the discussion on how best to provide for our service men and women and keep our Nation safe. And although I will be voting against the rule today, I will be voting for the underlying bill. It is the right thing to do, and I urge my colleagues to join me in voting "yes" on the authorization bill today.

I only wish that the majority leadership, in the spirit of bipartisanship that normally surrounds defense measures, had permitted some very important amendments to be offered. And we will be hearing from some of my colleagues in the rest of the debate on this rule about how strongly they feel about their rights being denied here on the floor today.

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When we are trying to promote our military and trying to do the right thing around the world, we should promote democracy here on the floor of the House and not stifle it.

Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield 4 minutes to the gentleman from Georgia (Mr. LINDER), a member of the Committee on Rules.

Mr. LINDER. Mr. Speaker, I thank the gentlewoman from North Carolina for yielding me the time.

Mr. Speaker, I rise in strong support of this rule for the defense authorization bill. In total, this rule provides 9½ hours of debate on a number of key issues affecting our military and our national defense. The underlying legislation, H.R. 4200, passed the Committee on Armed Services by a vote of 60 to 0, and it meets the challenges of a Nation whose soldiers are at work in Afghanistan, Iraq, and across the globe in the fight against terror.

Following almost 5 hours of hearings yesterday in the Committee on Rules, we have provided the opportunity for further debate by making in order 28 amendments, including 10 Democrat amendments, 15 Republican amendments, and three bipartisan.

This is a fair and traditional rule for a DoD authorization bill that will permit the House to support our Nation's men and women in uniform and ensure that our defense capabilities remain second to none while having excellent debate later today on a wide array of amendments.

Mr. Speaker, this important bill falls well in line with what the Founders envisioned when they crafted article I, section 8 of the U.S. Constitution, which states that Congress shall have the power to "raise and support Armies," as well as to "provide and maintain a Navy."

Mr. Speaker, on September 11, 2001, our Nation bore witness to one of the most horrific crimes in history. Today, our Nation's servicemen and -women are fighting for freedom in the civilized world on multiple fronts across the globe. Our commitment to these ideals depends on our military and our military personnel, and this bill is a statement that we will continue to defend freedom and ensure that our homeland remains safe.

First, this legislation provides the funding needed to continue the U.S. military's transition into the 21st century. H.R. 4200 authorizes nearly $2 billion for the U.S. Army to procure weapons-tracked combat vehicles; $10 billion for the U.S. Navy for shipbuilding and conversion; and over $13.5 billion for the U.S. Air force to procure additional aircraft. The authorization for these and other programs will help ensure that the U.S. military remains the most efficient, most lethal, and most effective fighting force in the world.

But, Mr. Speaker, we cannot possibly hope to maintain the level of excellence obtained by the U.S. military without the achievements of the men and women who proudly wear the uniform. I am continually impressed by the resolve, patriotism, and commitment exhibited by these heroes day in and day out. As such, this Congress must work to reinforce this strength, and H.R. 4200 makes good progress towards that end.

I am pleased that the underlying legislation contains a 3.5 percent pay increase in base pay for military personnel. H.R. 4200 also recommends the elimination of out-of-pocket expenses military personnel must contribute toward housing costs. Both of these provisions will not only help ease the burden placed on military personnel and their families but should also help to ensure that the U.S. military is able to retain these highly trained personnel.

Mr. Speaker, it is undoubtedly true that not everyone will be satisfied with this measure. What we must remember, however, is that the primary responsibility of this government is to provide for the common defense of this country. As one of the Founders put it, wise and free people direct their attentions first to their own safety.

As such, I urge my colleagues to support both this rule and the underlying measure, H.R. 4200, to not only uphold the obligations of the Congress and the Federal Government, but also to show our men and women in uniform that their service to this Nation and their fellow Americans does not now nor will it ever go unappreciated.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Missouri (Mr. SKELTON), the ranking member of the Committee on Armed Services, who was denied the opportunity to offer key amendments.

Mr. SKELTON. Mr. Speaker, I thank my friend from Texas for yielding me time.

Mr. Speaker, I rise in strong opposition to the rule; I rise in strong opposition to the previous question.

Mr. Speaker, I am sorely distressed over this rule. The base bill that our Committee on Armed Services worked on and put out is a pretty good bill. We have done some good things, particularly for the troops. But I raise the question as to why in the world the Committee on Rules, at my request to have 6 hours of debate, 3 hours on each side on a $422 billion bill, has limited it to 2 hours, 1 hour on each side. Is the Committee on Rules majority afraid of debate?

Specifically, there are several issues we need to debate. This is the crucible of democracy; young men, young women in uniform, all across this world, all across the globe, standing firm for democracy and decency and what we stand for. And we are limited in our debate time?

Mr. Speaker, I am sorry that they limit us. We should discuss the cost of the war in Iraq; the cost of the war in Afghanistan; the role of contractors. This is a serious role that has arisen recently and that needs to be discussed on the floor of this House.

The issue of the Iraqi prisoner detainee abuse, which has flooded the world news media, needs to be talked about from both sides of the aisle; and the transition to a new government in Iraq, on June 30, which we really have no idea what it will look like, needs a discussion and a thorough airing here in this Chamber. These are important issues, and we are limited to 1 hour on each side to discuss them.

I am sorry that has happened. Two hours is not nearly enough. It does the young men and young women in uniform a disservice, it does democracy in this Chamber a disservice.

Mr. Speaker, I also pointed out four amendments that I wished to be made in order, and only one was approved by the Committee on Rules. I studied the amendments; and, as ranking member of the Committee on Armed Services, I thought I spoke with some knowledge.

These are serious, thoughtful amendments which, I believe, deserve full and extended debate on the House floor. These issue areas and the amendments to which I refer are:

Sanchez amendment to modify the Uniform Code of Military Justice to bring it into conformity with modern criminal sexual assault statutes;

Cooper/Ryan amendment authorizing a total of $67 billion for operations in Iraq and Afghanistan;

Spratt amendment on increasing pay for our troops and their quality of life by making targeted cuts in missile defense programs; and

Tauscher amendment on Department of Energy nuclear weapons policy.

Only one of these, the Tauscher amendment, was made in order. This is simply unacceptable. These are serious amendments that try to deal responsibly with complex issues. They reflect broadly held views by members on this side. A meaningful debate on these issues would reflect well on the House and would serve the country well. The failure to make them in order is disappointing, unfair and reflects badly on the House. It is an outrage!

If the previous question is defeated, the House will have the chance to at least partially redress this wrong by considering the Spratt amendment, which will directly benefit the troops.

I strongly urge my colleagues to defeat the previous question and to vote "no" on the rule.

Mrs. MYRICK. Mr. Speaker, I yield 2½ minutes to the gentleman from Nebraska (Mr. OSBORNE).

Mr. OSBORNE. Mr. Speaker, I rise to support the 2005 National Defense Authorization Act and the rule. This bill contains tremendous support for our military. Among those items that I think are particularly noteworthy is increased housing benefits for our troops; a pay raise, including an increased pay raise for hardship duty; additional health care benefits for Reservists; additional armor for Humvees; body armor; better survivor benefits; an increase of 30,000 troops, which I think at the present time we very badly need; and the most efficient weapons system available.

A few months ago, Mr. Speaker, I visited Landstuhl Hospital in Germany, Afghanistan, Kuwait, Iraq, and talked to an awful lot of our troops over there; and I was singularly impressed with the quality, the commitment, and the expertise of the troops that I met. This was one week before Christmas, and yet I did not hear one complaint from any one of the soldiers that I talked to. They seemed to have a tremendously strong sense of mission.

A young captain from my home State of Nebraska who had been away from his wife and infant child for 1 year made two comments that stuck with me that I think are worth repeating.

First of all, he said that it is better that we fight terrorists here in the Middle East than we fight them at home. I think that all of us realize we are not completely immune from terrorism on these shores. However, we would also have to recognize the fact that terrorism has certainly been crippled. It has had to focus its attacks primarily in the Middle East. It certainly has made the United States a safer place over the last year and a half.

Then the second comment that he made I think is particularly important. He said it is really important that the American people not lose patience, and I would say that includes Congress as well, because the captain was proud of the accomplishments that our military had accomplished in that area.

What he was pointing out, simply, was the improvement in the infrastructure; the increase in commerce in that part of the world; the improvement in health care; the fact that infants, young people, about 90 percent of them had been vaccinated in Iraq; the improvement in government, at least the potential for a representative government to be formed.

So we certainly believe that the quality of people we have over there is exceptional, they deserve our support, and this bill does that.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from South Carolina (Mr. SPRATT).

Mr. SPRATT. Mr. Speaker, I have served here for 22 years and served all those years on the House Committee on Armed Services, and today I am the recognize second ranking Democrat on that committee; and if there is any comity left in this institution, surely I should have the right to offer one well-considered, carefully crafted, very serious amendment. That is what I proposed. That is what I offered.

I knew that the Committee on Rules had been narrowing down the debate for years and years, so I went prepared to the Committee on Rules and asked for simply one amendment.

Now, I do not stand here in personal pique because my amendment has not been made in order. Far from it. It is not that this rule shuts me out or shuts out the people I represent in South Carolina. It shuts out our troops. It shuts out our sergeants and warrant officers. It denies every trooper who goes into combat the opportunity to have $250,000 of group life insurance at Uncle Sam's expense. That is what it does.

The amendment that I proposed would take $414 million out of ballistic missile defense and move it, first of all, $300 million for targeted pay increases for noncommissioned officers, NCOs, who bear the burden of fighting, who are the backbone of our military in Iraq and Afghanistan. These personnel, grades E–5 through E–9, are the troops we need most to keep. If they vote with their feet and leave the Army, we will have a broken Army.

What I proposed is what the Quadrennial Review proposed 3 years ago, what we have voted up twice in the last 2 fiscal years, but do not in this budget, is a targeted increase for these troops.

In addition, I proposed we take 25 to $50 million and say to every soldier, sailor, airman, and Marine going into harm's way, into combat, once you draw imminent danger pay, the Government of the United States of America will pick up the premium, we will provide you with $250,000 in group life insurance, SGLI, a great idea.

It is the least we can do for these troops. After all, we did, and I think rightly, $1.4 million in average benefits for the victims of 9/11. Can we not guarantee our troops in combat at least $250,000 in light of that?

So what they have denied me with this rule is the opportunity to have a hearty, healthy debate on our priorities. Can we take a little bit out of a program that is slated to increase by $1.2 billion, take $400 million out of it and move it around, put it into a pay raise for our NCOs and our warrant officers, put it into a life insurance premium for our troops? And then take a little bit of it and deal with some problems in ballistic missile defense, which this budget, for all it does for BMD, does not do, for example to Patriot-3s. It took out a Tornado, it took out an F/A–18. We need to put more money into IFF, Identification Friend Or Foe.

□ 1200

Roadside bombs, IEDs, we need to put more money in that. Look at the Marine Corps' unfunded requirement list. You will find it at the top of their list.

These are the things that I, if I had the opportunity, would propose that we do with cuts that would not impede or in any way affect the progress of ballistic missile defense.

Give me that opportunity. Vote down the previous question. Vote down the rule. And let us have a full fair and serious debate on national defense.

Mrs. MYRICK. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. SAXTON).

Mr. SAXTON. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, I rise in strong support of this rule. Our country is at war, Mr. Speaker, and this rule and the underlying bill reflect the needs of a country at war.

We have addressed in this bill in particular the needs of the soldier. In fact, the bill is entitled The Year of the Soldier, and to support our soldiers we have addressed issues that have to do with technology. We have addressed issues that have to do with armor, both body and vehicle. We have addressed additional needs that our Special Operations Command has, and we have addressed the need to defend ourselves in terms of chemical and biological protection.

But one of the most important provisions of the bill, Mr. Speaker, is a provision that addresses a need in terms of our military's transformation. Our committee found during a hearing on April 21, 2004, that the DOD acquisition process would not respond in an expeditious manner to the urgent force protection equipment needs of our troops in Iraq and Afghanistan. This is something that the bill seeks to change.

At the hearing, the HASC found that it required 6 months from the time a combatant commander made his request to the time that the production for such equipment commenced, 6 months from the time the combatant commander said he needed a device and the time we began to produce it; not when it got to the field, but when we began to produce it.

This provision would authorize the Secretary of Defense to publish a streamlined acquisition process for use when combatant fatalities have occurred. The combatant commander has an urgent need for equipment and the delay would cause the continuation of combat fatalities. This rapid acquisition authority will allow a rapid response to emergency combat situations.

This rapid acquisition authority would allow a rapid response to emergency combat situations, would allow a rapid response to changes in our opponents' battlefield tactics and, most important, this provision would help minimize combat fatalities.

This is a process to be used as a quick-start bridge to the normal acquisition process. The provision is limited, however, limited to $100 million per fiscal year.

Mr. FROST. Mr. Speaker, I yield 3½ minutes to the gentleman from California (Mr. LANTOS).

Mr. LANTOS. Mr. Speaker, when a country is at war, rule number one is that the sacrifice must be shared. Congress must support our citizen soldiers who answer the call of duty, but who face ongoing financial obligations in their civilian lives. Our Reserves and our National Guard are doing a superb job, but thousands of them are suffering significant hardships due to the discrepancy between their civilian and military pay.

Abandoning them financially is unacceptable. Yet, for the second time in 2 years, the Committee on Rules has rejected my amendment which would have immediately eliminated the pay gap for Federal employees and provided significant incentive for State and municipal governments to do the same. Instead of delaying financial assistance for 1 year, as the bill we are considering proposes, my amendment would have wiped out the pay gap for Reservists and National Guardsmen immediately.

Mr. Speaker, for the soldiers who suffer from the pay gap, the proposal in the legislation we are considering is too little and too late. In a time of war, it is unconscionable to impose all of the sacrifice on one segment of society. Yet, the administration and the Republicans in this House continue to back massive tax cuts for the wealthiest, placing financial burdens on other groups, including the Reservists and members of the National Guard who are already sacrificing so much for all of us.

It is an outrage that this body is not allowed to vote, not allowed to vote on providing members of our National Guard and our Reserves some financial relief. My amendment, which would provide immediate help to the tens of thousands of Reservists and members of the National Guard, was ruled out of order. Why? Because the Republican leadership is convinced that were we to debate my amendment freely on this floor, it would pass overwhelmingly.

It is an outrage to the Reservists and members of the National Guard that we are denied that opportunity. I urge all of my colleagues to oppose this unfair, unequitable and undemocratic rule.

PARLIAMENTARY INQUIRY

Mr. SNYDER. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore (Mr. ISAKSON). The gentleman will state his inquiry.

Mr. SNYDER. Mr. Speaker, I believe under the rules, procedures and etiquette of the House, that the press is to have access to the gallery here in the House. I am concerned that the doors may be locked. I see only one person in the press gallery today.

I think people all over the country have a right to know that the press has access to the Chamber to cover the travesty of democracy and the arrogance of power that is going on here today.

I would ask the Parliamentarian and the Sergeant at Arms to be sure that the press gallery doors are unlocked so that the press might have access to these terrible proceedings wrought on the House floor by the majority.

The SPEAKER pro tempore. The gentleman is not stating a parliamentary inquiry. Accessibility to the House is being observed.

Mr. SNYDER. Parliamentary inquiry, Mr. Speaker. Do the rules of the House provide for the press to have access to the gallery of the House?

The SPEAKER pro tempore. The House is in open session. Anybody has access that meets the standards of security.

Mr. SNYDER. Thank you. And that was a correct parliamentary inquiry.

Mrs. MYRICK. Mr. Speaker, I would just like to note for clarification, there have been press people coming and going ever since we have been doing this rule.

Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. HUNTER), the distinguished chairman of this committee, who has done a phenomenal job in putting this bill together.

Mr. HUNTER. Mr. Speaker, I want to thank the gentlewoman for yielding me time.

I want to talk about this bill that was put together in the Committee on Armed Services, which was voted out with a 60 to zero vote, put together and shaped by Democrats and Republicans. I want to thank my friend, the gentleman from Missouri (Mr. SKELTON), my partner on the committee, for all the great work that he has put into it, as well as the subcommittee chairmen, ranking members and all the folks who fill those seats in the Committee on Armed Services who really care about our troops.

In keeping with that, this is the Year of the Troops. We have endeavored to focus on those troops, and in doing that, we have got this 3.5 percent pay raise across the board. We have not increased money for hazardous duty pay. We have increased money for separation pay for folks that are away from their families. And beyond that we try to give our troops the tools that they need to get the job done.

The gentlewoman has mentioned armor, up-armoring of Humvees and trucks, and munitions and surveillance, in all the things that those folks need. those 135,000-plus folks in Iraq and thousands in the Afghanistan theater who are out there fighting right now, braving enemy fire, increasingly oppressive heat, difficult living conditions. And they are doing that for us. They are doing that all as volunteers, and it is our job to give them what they need to get the job done. That is what we do in this bill.

And appended to all of the great things that we have done, and I really applaud the gentleman who just spoke on this rapid acquisition initiative for a battlefield commander. When he is taking casualties, he can say, I want a system and I want it now. And you either have a system within contract of 15 days or you explain to the people in the field or to the Congress why that is not possible. That is very important.

Troops are important. And right now we have put into this bill an additional 10,000 Army troops each year for 3 years for a total of 30,000 troops. We have also put in an additional 3,000 Marines each year for a total of 9,000 additional Marines. And for everybody that hears from their Guard and Reserve and active forces, from the members of their family who say, you know, it looks like it is another Christmas that I will not be home, having more troops helps to alleviate that pressure because the more people you have, the less time an individual has to spend in theater, on duty, in rotation. So that takes a little bit of pressure off these troops.

Additionally, I think we looked at this thing as a committee and said, having additional forces available that are not obligated in the field, that are available for deployment, are insurance for our country. And we decided as a matter of policy that we wanted to have more insurance. So we have those additional forces.

Now, additional to the base bill this year, this $422 billion bill, we have got another thing, and that is this $25 billion authorization for a supplemental that we have bolted onto our bill. And we put that money in because we want to make sure we have plenty of money for operations in the closing months of this year, plenty of money for surveillance.

We have lots of surveillance platforms in here. We want to be able to see the bad guys when they are putting out those IEDs or putting up ambushes or other things. And we want to leverage our technology to do that so we have that additional surveillance money.

We have additional munitions money to put in so the troops have everything from the large rounds right down to M-16 ammunition, and we put in a lot of money for that.

Additionally, we have given the money to the Chief of Staff of the Army, to General Schumacher, to reshape his forces. And I would commend any Member of the House, and all of our members of the Committee on Armed Services have seen this, to have a sit-down with General Schumacher and listen to his blueprint for reshaping our force. He feels, under his blueprint, he can increase the Army from 33 active brigades to an additional three this year, three more next year and four more the next year. And we are helping him do that by putting in this supplemental for equipment for this reset.

I notice the ranking member had stood up to speak, and I just want to recognize him if he had anything to say. Then I know also the gentleman from South Carolina also had a position.

Mr. SKELTON. Mr. Speaker, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Speaker, I thank the gentleman for yielding.

I just learned I can address the Chamber an additional 2 minutes a few minutes from now.

Let me, say on a positive side, I think it is a good thing we are doing, adding to the end strength of the troops. I am not sure if America fully knows, the understanding that we have some 4,000 coming out of Korea toward the Iraqi situation.

Mrs. MYRICK. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Tennessee (Mr. COOPER).

Mr. COOPER. Mr. Speaker, every fair-minded Member of this House should be outraged at the rule we are being forced to debate under today. Two hours, a giant piece of legislation will be rammed through this House in 2 hours, less than 15 seconds per Member of this body; less than 15 seconds for each 700,000 group of constituents that we have the honor of representing; less than 15 seconds each to talk about over one-half of all the domestic discretionary spending of the United States of America; less than 15 seconds per Member to talk about the defense budget of the United States at a time of war; less than 15 seconds per Member to talk about a defense budget that is larger than every other defense budget in the world put together; less than 15 seconds per Member to talk about the needs of our troops in the field while they are fighting a war.

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There will be no real debate allowed under this rule for properly funding our troops. It is true, thank goodness, that finally under pressure that the Republicans have put in $25 billion to fund our troops in kind of an emergency supplemental, but the truth is our troops need more money than that. They are running out of money now. Let me repeat, our troops in Iraq and Afghanistan are running out of money now.

The Pentagon is already having to raid every cookie jar in the building to try to fund their needs. We should do better by our troops. We should fully fund their needs. We should tell the truth to the American people about the real cost of this war, which is a lot closer to $200 billion than any other number.

I had an amendment that we wanted to debate and discuss that would have put in $67 billion for our troops so that funding would not just start in October, as intended by the Republican majority and, as they put it, end in December and January. They are fully funding about 3 or 4 months of this war to disguise the true cost of it. We should fund the needs of our troops for an entire year, and we should be proud of it.

With all the life-threatening risks that our men and women face in uniform overseas, financial uncertainties should not be an additional risk; yet that is what is being imposed on them by this body with this simplistic rule which is 2 hours of debate, less than 15 seconds per Member to talk about the true needs of our troops.

The gentlewoman from North Carolina, unfortunately, was absent from the Committee on Rules when I testified. There were only two Members there. They are hurrying through this so quickly in a rubber-stamp fashion that we are not able to properly discuss one of the most important bills of the year and perhaps of the decade.

Mr. Speaker, our committee has been rated by CSIS, the Center For Strategic and International Studies, as one of the worst Committee on the Armed Services in decades. Why? This is one of the reasons, inability to do our job correctly.

Mrs. MYRICK. Mr. Speaker, I yield myself such time as I may consume.

I would just like to respond to the gentleman that I am not sure when he testified, but other than having a lunch appointment and voting on the floor, I was in that hearing the whole time; and I would also like to say, there is a total of 9½ hours of debate on this bill. It is not just 2 hours.

Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. SAXTON).

Mr. SAXTON. Mr. Speaker, the last speaker from the minority I think misrepresented the situation. This process started in January. We have been through the subcommittee process. The gentleman went through the subcommittee process, had ample time to make his arguments, went through the full committee process.

We forged a document through that process where everybody had ample time, including a debate that started at 10 o'clock in the morning last week and ended at midnight, to make our points; and following that debate, this bill was reported by a unanimous vote. So those who are crying foul today because of this rule are the same people who have worked since January to make their points, 12 hours last week to make their points, and a 9-hour debate today. It seems pretty fair to me.

Mr. FROST. Mr. Speaker, I would ask the time remaining on each side.

The SPEAKER pro tempore (Mr. ISAKSON). The gentleman from Texas (Mr. FROST) has 13 minutes remaining. The gentlewoman from North Carolina (Mrs. MYRICK) has 8¼ minutes remaining.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Speaker, my friend from New Jersey makes reference to 9 hours of debate when, in truth, in fact, we have 2 hours of general debate on this issue.

I recommended to the Committee on Rules four major amendments. I stated the amendments from our committee, and I do not make recommendations lightly; and when I do, I hope the Committee on Rules would take them seriously. Most important is one that deals with quality of life for the soldiers and the troops and their families.

The gentleman from South Carolina (Mr. SPRATT) had a proposed amendment that would increase pay, increase quality of life. It targeted cuts towards the missile defense program which is being boosted up by well over $1 billion. What more can be said.

The gentlewoman from California (Ms. LORETTA SANCHEZ) had a proposed amendment to modify the Uniform Code of Military Justice, bringing this law into conformity with the Federal criminal sexual assault statutes. That was passed 18 years ago by this Congress. Now there are some 18 years of appellate history that can be used, and yet that was denied.

The gentleman from Tennessee (Mr. COOPER) and the gentleman from Ohio (Mr. RYAN) had an amendment authorizing a total of $67 billion for operations in Iraq and Afghanistan, when in truth and fact, the Committee on Rules set aside a reserve sum of some $50 billion meeting the Cooper/Ryan proposal by more than half.

The gentlewoman from California (Mrs. TAUSCHER), thank goodness they allowed an amendment that she has on the Department of Energy nuclear weapons policy.

These are important amendments, important not just to the future of our country, not just important to our policy, important to those who wear the uniform, important to their families, where we are going. It is important, I think, that we vote down this rule and come back with a better one.

Mrs. MYRICK. Mr. Speaker, I reserve my time.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, it is unfortunate that the House Republican leadership has allowed more time to debate the renaming of post offices from the floor this year than time to debate the Defense authorization bill during a time of war. It is sad. It is sad that the muzzling of democracy continues here in the United States, even as American citizens die and try to bring democracy to Iraq.

Mr. Speaker, this rule is unfair. I would say that the bill itself has many positive things to it, and I do salute much of the bipartisan effort that went into shaping the Defense authorization bill itself. Let me discuss two specific parts of the bill, one positive and one of great concern to me.

On a positive note, the bill finally improves benefits for pensions for widows of servicemen and -women. This had been long overdue to change this unfair treatment of military widows. The sergeant's wife, for example, that served 20 years in the Army, only receiving a $7,000 a year pension. I salute the Republicans who supported it in committee, and I want to thank the veterans organizations and the 200 Democrats who joined in my petition to pressure a vote on this long overdue consideration.

Second, it is unfortunate that this bill does not take action to continue this next year the largest, most important housing improvement program in our Nation's military history; and it is really sad when we consider tomorrow the House Republican leadership will push a tax cut bill that will provide self-serving tax cuts for Members of Congress; but today, we are saying to 24,000 military families, we cannot afford to improve the housing that they live in, even if their loved one is someone serving in Iraq or Afghanistan. Self-serving tax cuts for Members of Congress being more important than improving military housing for those servicemen and -women sacrificing and serving our Nation in Iraq? It is wrong.

This rule is wrong. Vote "no" and let us reconsider this bill under new regulations and rules.

Mrs. MYRICK. Mr. Speaker, I yield 30 seconds to the gentleman from California (Mr. HUNTER), the chairman of the committee.

Mr. HUNTER. Mr. Speaker, I wanted to just correct my friend because he may have missed it, but we did lift the housing cap for privatization of housing. That was done pursuant to the Miller amendment in the committee. So we did two things, both the survivor benefits and the housing cap.

Mr. EDWARDS. Mr. Speaker, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Texas.

Mr. EDWARDS. Mr. Speaker, if I can ask the gentleman a question, the staff of the committee has told me, and I have asked repeatedly, that it addresses the housing cap for fiscal year 2006, but does not solve the problem for 2005; and as a consequence, 24,000 military families will have their housing improvements put on hold.

Mr. HUNTER. I just say to the gentleman, it is permanent removal of the housing cap.

Mr. EDWARDS. Mr. Speaker, I thank the gentleman.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. JOHN).

Mr. JOHN. Mr. Speaker, I rise today to strongly oppose this rule.

Yesterday, in the Committee on Rules, I offered an amendment to the defense authorization bill whose needs were proven and whose costs was fully offset, and it was sadly rejected.

The Air Force's Joint Surveillance Target Radar System, or the JSTARS, is a program vital to our Nation's security in a time of war and is crucial to the jobs of hard-working men in Louisiana. My amendment would have ensured the continuation of this program in order to build the number of planes that the military requested.

The next generation of JSTARS, the E–10A program, has been delayed twice and will not provide the needs of our military in sufficient time.

Without my amendment made in order, resources will be cut for our troops, plain and simple. Short-changing the military on their order for planes sells short this vital program and endangers valuable military support jobs in Louisiana.

The delay of the E–10A will disrupt our military industrial base and will affect our Nation's responsiveness to production needs.

The need is real, Mr. Speaker. The workforce is in place and our troops deserve the best we can provide. The JSTARS program merits funding and continuation. We will be continuing to discuss this, and it is a shame that we have not had this opportunity on the floor of the House to fully discuss this. The workers in my district deserve consideration to complete their mission, just as we have asked our troops to complete their mission.

I strongly oppose this rule.

Mrs. MYRICK. Mr. Speaker, I am pleased to yield 3½ minutes to the gentleman from Florida (Mr. GOSS), the chairman of the Permanent Select Committee on Intelligence.

Mr. GOSS. Mr. Speaker, I thank the distinguished gentlewoman from North Carolina for her kindness in yielding me the time.

Mr. Speaker, in consideration of the fiscal year 2005 Defense Authorization Act, this comes at a benchmark moment for the United States of America, if not the world, in terms of our history.

Our Nation and our allies are engaged in a global war against terrorism, we all know that, a war that began long before September 11, 2001, and is obviously going to continue well into the future. It is a war fanatics declared on America and its friends. It is a war that we cannot avoid. It is a war that must be fought, and it is a war that will be won.

President Bush understood early on that this sustained conflict would be difficult, and he told us so; and the truth of his words becomes more evident as time goes by, and it is our job to step up and provide for the challenge.

Our Nation's brave men and women in uniform and out face danger every day, not only in countries like Iraq and Afghanistan but actually around the whole world. We have sustained casualties. The inevitability of losses in dangerous work has not deterred us, nor has it diminished, of course, our heartfelt gratitude for the sacrifices made by some of the best our Nation has to offer, some from my home State, Florida, some from my district, as they fought in service of our country, for ideals that we all believe in, ideals that will endure, will prosper, and will better the lives of fellow human beings everywhere.

These people bring credit and honor to us all. They must be remembered and cherished, and I have no doubt they will; and this legislation goes in that direction.

The legislation we consider today provides the resources needed to continue the fight that we are in. H.R. 4200 allows America's military to function at a superior level. It includes programs that look forward, anticipating needs so that they can be met quickly and with precision when and wherever future threats arise.

In addition, the Defense Authorization Act maintains the oversight ability of the Congress. The limited, but nonetheless damaging, instances of prisoner abuse at Abu Ghraib will be dealt with transparently and fairly to show the world that free societies respect civilized standards and enforce them.

As chairman of the House Permanent Select Committee on Intelligence, I appreciate that H.R. 4200 includes a strong intelligence component that ensures American war fighters on the ground or in whatever mode are provided with the best possible information; and I am most grateful to the gentleman from California (Mr. HUNTER), the distinguished chairman of the Committee on Armed Services, for understanding this and providing for it.

Timely, accurate information is a vital weapon in the war on terrorism, both for force protection, as the gentleman from California (Mr. HUNTER) well knows, and for mission success. Yes, we can expect more violence in Iraq as the June 30 transfer of sovereignty approaches.

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And, yes, unfortunately we can expect terrorists to target other events, including elections in free countries this year. But with the passage this year and maintaining levels of support for our military and intelligence capabilities, we can supply our soldiers and intelligence people with the resources and information they need to win.

This rule considered a lot of things. The committee got a good bill together, and I do not think there is any reason not to go forward with the debate. I urge support for the rule, I urge support for the bill, and I urge a vigorous debate on the information herein.

Mr. FROST. Mr. Speaker, I yield 30 seconds to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, I want to clarify the record.

The committee dealt with the housing cap to allow improved military housing starting in fiscal year 2006, but it only adds $1 for the cap in 2005. So that means 24,452 military families will have their housing improvement plans put on hold even as their loved ones are fighting in Iraq or Afghanistan.

Thirteen military bases will have their housing programs basically frozen, even though tomorrow we are going to vote to provide a tax cut for Members of Congress.

Mrs. MYRICK. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. HUNTER), the chairman of the committee.

Mr. HUNTER. Mr. Speaker, I thank the gentlewoman for yielding me this time.

The gentleman concurs, as I think our common ground here is that we have permanently lifted this cap, with the lift starting in 2006. However, the housing program can continue under the current cap for the time being. And it is not a certain thing that we are definitely going to run out of money.

I would just say to the gentleman that I would be happy to work with the gentleman and the Committee on the Budget to attempt to accommodate 2005 and make sure there is not a seam between 2005 and 2006.

Mr. EDWARDS. Mr. Speaker, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Texas.

Mr. EDWARDS. Mr. Speaker, I understand we will hit the cap as early as this November.

Mr. HUNTER. Mr. Speaker, reclaiming my time, that is not a certain thing. So telling all the families that they absolutely will not have housing is not a certain thing at this point.

I think the gentleman and I and others can work to make sure there is not a seam between 2005 and 2006.

Mr. EDWARDS. Mr. Speaker, I thank the gentleman.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. HARMAN), the ranking member on the Permanent Select Committee on Intelligence.

Ms. HARMAN. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in strong support of the defense authorization bill, but strong opposition to this rule.

Let me point out, Mr. Speaker, that the rule we are considering leaves out many important amendments which many on our side had hoped to offer. I had one which would have postponed additional expenditures for a ground-based missile system in Alaska which has not met operational testing requirements, and would have put those funds into port security. My amendment reflects the views of 49 Admirals and Generals whose letter to the President is dated March 26.

In my view, as ranking member of the House Permanent Select Committee on Intelligence, the potential damage from a radiological device coming in through our ports is a much greater risk than the risk of a missile attack from North Korea.

There are, however, some good amendments put in order, one of which I strongly support. The Davis-Sanchez-Harman amendment, which we have offered every year for the last decade, would treat military servicewomen as women in America are treated, by allowing them their constitutional right to the full range of legal reproductive health care in foreign military hospitals, provided they pay for it. Current law prohibits this and requires servicewomen who put their lives on the line on austere fronts in the war on terror to seek approval from their commanding officer in order to travel elsewhere in order to obtain an abortion, as medical facilities may be inadequate or unavailable.

I view current law as unconstitutional. I think it is ridiculous at a time when military women are performing incredible service around the world that they still are treated differently from women in America. So I urge strong support of the Davis-Sanchez-Harman amendment.

Mr. Speaker, I submit herewith for the RECORD the March 26, 2004 letter to President Bush from 49 Admirals and Generals:

49 GENERALS AND ADMIRALS CALL FOR MISSILE DEFENSE POSTPONEMENT

MARCH 26, 2004.

President GEORGE W. BUSH,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: In December 2002, you ordered the deployment of a ground-based strategic mid-course ballistic missile defense (GMD) capability, now scheduled to become operational before the end of September 2004. You explained that its purpose is to defend our nation against rogue states that may attack us with a single or a limited number of ballistic missiles armed with weapons of mass destruction.

To meet this deployment deadline, the Pentagon has waived the operational testing requirements that are essential to determining whether or not this highly complex system of systems is effective and suitable. The Defense Department's Director of Operational Test and Evaluation stated on March 11, 2004, that operational testing is not in the plan "for the foreseeable future." Moreover, the General Accounting Office pointed out in a recent report that only two of 10 critical technologies of the GMD system components have been verified as workable by adequate developmental testing.

Another important consideration is balancing the high costs of missile defense with funding allocated to other national security programs. Since President Reagan's strategic defense initiative speech in March 1983, a conservative estimate of about $130 billion, not adjusted upward for inflation, has been spent on missile defense, much of it on GMD. Your Fiscal Year 2005 budget for missile defense is $10.2 billion, with $3.7 billion allocated to GMD. Some $53 billion is programmed for missile defense over the next five years, with much more to follow. Deploying a highly complex weapons system prior to testing it adequately can increase costs significantly.

U.S. technology, already deployed, can pinpoint the source of a ballistic missile launch. It is, therefore, highly unlikely that any state would dare to attack the U.S. or allow a terrorist to do so from its territory with a missile armed with a weapon of mass destruction, thereby risking annihilation from a devastating U.S. retaliatory strike.

As you have said, Mr. President, our highest priority is to prevent terrorists from acquiring and employing weapons of mass destruction. We agree. We therefore recommend, as the militarily responsible course of action, that you postpone operational deployment of the expensive and untested GMD system and transfer the associated funding to accelerated programs to secure the multitude of facilities containing nuclear weapons and materials and to protect our ports and borders against terrorists who may attempt to smuggle weapons of mass destruction into the United States.

Signed:

Admiral William J. Crowe (USN, ret.), General Alfred G. Hansen (USAF, ret.), General Joseph P. Hoar (USMC, ret.).

Lt. General Henry E. Emerson (USA, ret.), Lt. General Robert G. Gard, Jr. (USA, ret.), Vice Admiral Carl T. Hanson (USN, ret.), Lt. General James F. Hollinsworth (USA, ret.), Lt. General Arlen D. Jameson (USAF, ret.), Lt. General Robert E. Kelley, (USAF, ret.), Lt. General John A. Kjellstrom (USA, ret.), Lt. General Dennis P. McAuliffe (USA, ret.), Lt. General Charles P. Otstott (USA, ret.), Lt. General Thomas M. Rienze (USA, ret.), Vice Admiral John J. Shanahan (USN, ret.), Lt. General Dewitt C. Smith, Jr. (USA, ret.), Lt. General Horace G. Taylor (USA, ret.), Lt. General James M. Thompson (USA, ret.), Lt. General Alexander M. Weyand (USA, ret.).

Major General Robert H. Appleby (AUS, ret.), Major General James G. Boatner (USA, ret.), Major General Jack O. Bradshaw (USA, ret.), Major General Morris J. Brady (USA, ret.), Major General William F. Burns (USA, ret.), Rear Admiral William D. Center (USN, ret.), Major General Albert B. Crawford (USA, ret.), Major General Maurice O. Edmonds (USA, ret.), Rear Admiral Robert C. Elliott, (USN, ret.), Major General John C. Faith (USA, ret.), Rear Admiral Robert H. Gormley (USN, ret.), Major General Richard B. Griffitts (USA, ret.), Rear Admiral Charles D. Grojean (USN, ret.), Major General Raymond E. Haddock (USA, ret.), Major General Jack R. Holbein, Jr. (USAF, ret.), Major General Stanley H. Hyman (USA, ret.), Major General Wayne P. Jackson (USA, ret.), Major General Frederick H. Lawson (AUS, ret.), Major General Vincent P. Luchsinger, Jr. (USAF, ret.), Major General James J. LeCleir (AUS, ret.), Major General William F. Willoughby (USAF, ret.).

Brig. General George C. Cannon, Jr. (USAF, ret.), Brig. General John J. Costa (USA, ret.), Brig. General Alvan E. Cowan (USA, ret.), Brig. General Lee Denson (USAF, ret.), Brig. General Evelyn P. Foote (USA, ret.), Brig. General Leslie R. Forney, Jr. (USA, ret.), Brig. General John H. Grubbs (USA, ret.), Brig. General James E. Hastings (USA, ret.), Brig. General John H. Johns (USA, ret.), Brig. General Maurice D. Roush (USA, ret.).

Mrs. MYRICK. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Utah (Mr. MATHESON).

Mr. MATHESON. Mr. Speaker, I rise today because several worthy amendments to this bill were not ruled in order for consideration, including my own amendment that I offered, which was an amendment that was very simple. It said, if this country is going to resume the testing of nuclear weapons, it would first have to be authorized to do so by Congress.

I think Congress, the people's Representatives, ought to be involved in such a significant decision. This is not a partisan issue. It is an issue about having the people's Representatives involved.

The United States did conduct over 900 nuclear weapons tests at the Nevada test site from 1951 until 1992, and during most of this time, people who lived downwind of the test site were not warned about the adverse health effects associated with radiation exposure.

What is not widely known is that the fallout from weapons testing traveled across the entire country. Studies by the National Cancer Institute concluded that people in every single county in the lower 48 States were exposed to fallout.

A moratorium on nuclear weapons testing was instituted in 1992, but recent funding decisions in the appropriations process by Congress are leading us down the path to renewed nuclear testing and, therefore, as far as I am concerned, it is important that the people's Representatives, the United States Congress, ought to be asked to come up for a vote on whether or not we should resume nuclear testing.

This amendment was not ruled in order and, therefore, I encourage all my colleagues to oppose this rule.

Mr. FROST. Mr. Speaker, how much time remains on our side?

The SPEAKER pro tempore (Mr. ISAKSON). The gentleman from Texas (Mr. FROST) has 3 minutes remaining, and the gentlewoman from North Carolina (Mrs. MYRICK) has 3¼ minutes remaining.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from South Carolina (Mr. SPRATT).

Mr. SPRATT. Mr. Speaker, I think it should be obvious to everybody that we have a huge agenda of meritorious issues that will not be brought to the well of the House. We will not have today a free market of ideas as we deal with and debate one of the most important bills we will bring up.

So when I emphasize to every Member that if you want to have a free and full and serious debate, then you should vote against this rule and you should vote first against the motion to move the previous question. That will open up the process so that we can offer amendments.

And before concluding, I would like to ask the gentlewoman, given the amendment I am proposing that would deal with the needs of our NCOs and an incipient problem, and that is retention and recruitment, will the gentlewoman allow me to make a unanimous consent request to put in order amendment No. 89, which would increase the targeted pay increase for senior enlisted personnel and warrant officers and use, as an offset, a partial reduction in the big increase in the ballistic missile program.

Mr. Speaker, I ask unanimous consent for the approval of my amendment, amendment No. 89.

The SPEAKER pro tempore. The gentleman from South Carolina asks unanimous consent that his amendment, which is not proposed to be made in order by the Committee on Rules, be permitted to be in order. Does the gentlewoman from North Carolina object to the request of the gentleman from South Carolina?

Mrs. MYRICK. Yes, I do object.

The SPEAKER pro tempore. Objection is heard.

Mr. FROST. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I urge Members to vote "no" on the previous question and on the rule. If the previous question is defeated, I will offer an amendment to the rule that will make in order the amendment offered by the gentleman from South Carolina (Mr. SPRATT), which the Committee on Rules defeated on a straight party-line vote early this morning and for which unanimous consent was just denied.

Mr. Speaker, this is the second year in a row the Republican leadership has chosen to throw away the long-standing tradition of bipartisan cooperation in shaping our national defense policies. Nearly 100 amendments, most of them by Democratic Members, were shut out of the rule, including the Spratt amendment. It is a very sad day for the American people and particularly for those serving in the military.

Partisan politics have absolutely no place when it comes to protecting the brave American men and women who are serving in our military in harm's way. The Spratt amendment would provide $300 million additional dollars to give well-deserved pay raises to the sergeants and warrant officers who train and lead enlisted personnel. His amendment also guarantees military personnel serving in combat zones will have life insurance.

Mr. Speaker, I ask unanimous consent that the text of the amendment and extraneous materials be inserted in the RECORD immediately prior to the vote on the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. FROST. Mr. Speaker, I urge a "no" vote on the previous question and a "no" vote on the rule.

Ms. LEE. Mr. Speaker, I rise today in opposition to this rule, which silenced all three of my amendments.

My first amendment called for the creation of an international commission, with Iraqi, U.S., and U.N. participation, to monitor prison conditions in Iraq. The Geneva Convention is neither quaint nor obsolete, and this amendment would have ensured compliance and help to restore badly damaged U.S. credibility.

My second amendment would have created a database of those who have been detained.

My third amendment prohibited the use of U.S. funds in the overthrow of democratically elected governments. Given the allegations of this government's involvement in the overthrow of President Aristide in Haiti, this amendment would have restored confidence in the protection of democracy.

Once again debate was stifled on many critical issues. The Republican majority continues to abuse its power.

Oppose this rule.

The material previously referred to by Mr. FROST is as follows:

Previous Question for H. Res.—Rule on H.R. 4200 National Defense Authorization Act For Fiscal Year 2005

At the end of the resolution, add the following:

SEC. 6. Notwithstanding any other provision of this resolution, the amendment printed in section 7 shall be in order as though printed as the first amendment in the report of the Committee on Rules if offered by Representative Spratt of South Carolina or a designee. That amendment shall be debatable for 60 minutes equally divided and controlled by the proponent and an opponent.

SEC. 7. The amendment referred to in section 6 is as follows:

Amendment to H.R. 4200, as Reported

Offered by Mr. Spratt of South Carolina

In section 421, add after the dollar amount (page 94, line 16) the following: "(increased by $300,000,000)".

At the end of subtitle A of title VI (page 209, after line 3), insert the following new section:

SEC. 6 . TARGETED PAY RAISE FOR SENIOR ENLISTED PERSONNEL AND JUNIOR WARRANT OFFICERS.

(a) INCREASE IN BASIC PAY.—The Secretary of Defense shall use $300,000,000 of the amount appropriated pursuant to the authorization of appropriations in section 421 to increase the rates of monthly basic pay for enlisted members of the Armed Forces in the pay grades E–5 through E–9 and warrant officers in the pay grades W–1, W–2, and W–3.

(b) RELATION TO OTHER PAY RAISE AUTHORITY.—Pay increases provided members of the Armed Forces pursuant to subsection (a) are in addition to the increase in the rates of monthly basic pay for members required by section 601.

At the end of subtitle B of title VI (page 230, after line 4), insert the following new section:

SEC. 6 . INCREASE IN AMOUNT OF IMMINENT DANGER PAY TO COVER DEDUCTIONS FROM BASIC PAY FOR SERVICEMEMBERS' GROUP LIFE INSURANCE COVERAGE.

Section 310 of title 37, United States Code, is amended by adding at the end the following new subsection:

"(f) ADDITIONAL INCREASE TO COVER DEDUCTIONS FOR SERVICEMEMBERS' GROUP LIFE INSURANCE COVERAGE.—(1) During the period specified in paragraph (3), in addition to the rate of pay authorized by subsection (a) or (e) for a month, a member who is eligible for special pay under this section for a month and who is insured during that month under Servicemembers' Group Life Insurance shall also receive an amount equal to the amount of the deduction from basic pay prescribed for the level of Servicemembers' Group Life Insurance coverage obtained by the member under section 1967 of title 38.

"(2) To the maximum extent practicable, the Secretary concerned shall give members who will be assigned to duty under circumstances or in an area for which special pay is provided under this section notice, in advance of the deployment, of the following:

"(A) The availability of additional pay under this subsection for members insured under Servicemembers' Group Life Insurance.

"(B) The ability of members who elected not to be insured under Servicemembers' Group Life Insurance, or elected less than the authorized maximum coverage, to obtain additional coverage as provided in section 1967(c) of title 38.

"(3) Additional pay under paragraph (1) shall be available only during the period beginning October 1, 2004, and ending December 31, 2005. The total amount expended under such paragraph may not exceed $50,000,000.".

At the end of subtitle A of title II (page 28, after line 14), insert the following new section:

SEC. 2___. ADDITIONAL MATTERS RELATING TO AMOUNTS FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION.

(a) INCREASE FOR NAVY RDT&E.—The amount in section 201(2) for research, development, test, and evaluation, Navy, is hereby increased by $14,700,000, of which—

(1) $6,400,000 shall be available for the Non-lethal Weapons program element (PE 0603851M); and

(2) $8,300,000 shall be available for the Marine Corps Communications System program element (PE 0206313M), of which—

(A) $3,800,000 shall be available within that element for the Communication Emitter Sensing and Attacking System project; and

(B) $4,500,000 shall be available within that element for the Marine Aviation Command and Control System Sustainment project.

(b) INCREASE FOR ARMY RDT&E.—The amount in section 201(1) for research, development, test, and evaluation, Army, is hereby increased by $49,700,000, to be available for the Patriot PAC–3 Theater Missile Defense program element (PE 0604865A).

(c) REDUCTION IN DEFENSE-WIDE RDT&E.—The amount in section 201(4) for research, development, test, and evaluation, Defense-wide, is hereby reduced by $414,400,000, of which—

(1) $77,000,000 shall be derived from the Ballistic Missile Defense System Interceptor program element (PE 0603886C);

(2) $289,400,000 shall be derived, within the Ballistic Missile Defense Midcourse Defense Segment program element (PE 0603882C), from the Ground-based Midcourse Defense Block 2006 program, to be derived by eliminating funding for—

(A) construction of silos;

(B) a second In-flight Interceptor Communications Systems Data Terminal at Fort Greely, Alaska; and

(C) construction of a second launch complex at Fort Greely, Alaska;

(3) $25,000,000 shall be derived from the Ballistic Missile Defense Technology program element (PE 0603175C); and

(4) $23,000,000 shall be derived from the Ballistic Missile Defense Products program element (PE 0603889C).

(d) PROHIBITION ON SPACE-BASED INTERCEPTOR.—None of the amounts authorized to be appropriated or otherwise made available for fiscal year 2005 or any prior fiscal year for the ballistic missile defense may be used to develop the space-based interceptor that is part of the Block 2012 element of the Ballistic Missile Defense System Interceptor program element (PE 0603886C).

(e) LIMITATION ON NUMBER OF SILOS.—None of the amounts authorized to be appropriated or otherwise made available for fiscal year 2005 or any prior fiscal year for the Ballistic Missile Defense Midcourse Defense Segment program element may be obligated for construction of a missile defense interceptor silo at Fort Greely, Alaska, if construction of that silo would result in the total number of such silos at Fort Greely being a number in excess of 16.

Mr. FROST. Mr. Speaker, I yield back the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FROST. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on the motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any record vote on the postponed question will be taken later today.

HONORING PAST AND CURRENT MEMBERS OF THE ARMED FORCES OF THE UNITED STATES AND ENCOURAGING AMERICANS TO WEAR RED POPPIES ON MEMORIAL DAY

Mr. SCHROCK. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 424) honoring past and current members of the Armed Forces of the United States and encouraging Americans to wear red poppies on Memorial Day.

The Clerk read as follows:

H. CON. RES. 424

Whereas the red poppy was the first living plant that sprouted in the battlefields devastated by fighting during World War I;

Whereas red poppies grew abundantly in the trenches and craters of the war-torn battlefields in Northern France and Belgium;

Whereas during World War I, the bloom of red poppies each year and the coming of the warm weather brought hope to those still fighting in the trenches of France and Belgium;

Whereas in 1915, the red poppy inspired Canadian Colonel John McCrae to write the poem "In Flanders Fields" in remembrance of the thousands of soldiers who perished during the three battles of Ypres in Belgium;

Whereas in 1918, John McCrae's poem inspired Moina Belle Michael of Athens, Georgia, to write her own poem entitled "We Shall Keep the Faith", in which she promised to wear a red poppy to memorialize American soldiers killed in World War I, and later to raise millions of dollars to support and employ disabled American veterans of all wars;

Whereas on November 11, 1921, the first Poppy Day was held in the United Kingdom and was a national success;

Whereas the red poppy is a symbol of sacrifice throughout the world;

Whereas the red poppy has been worn in the United States for more than 80 years as a way to remember those individuals who died fighting for freedom and democracy around the world and to raise money to help disabled veterans; and

Whereas in 2004, wearing a red poppy on Memorial Day is especially timely considering the sacrifices United States soldiers are making in Iraq and Afghanistan for freedom, democracy, and security: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress honors past and current members of the Armed Forces of the United States and their families by encouraging every American to wear a red poppy on Memorial Day as a sign of admiration and thanks to those individuals who died to preserve freedom and democracy in the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. SCHROCK) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. SCHROCK).

GENERAL LEAVE

Mr. SCHROCK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Con. Res. 424, the concurrent resolution currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. SCHROCK. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona (Mr. SHADEGG).

Mr. SHADEGG. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in strong support of H. Con. Res. 424.

Mr. Speaker, many of those watching today's proceedings may notice that many of us here on the floor are wearing the red poppy. It is, in fact, a symbol of Memorial Day and an acknowledgment of the sacrifice made by armed services personnel fighting for our freedom throughout the world.

Next weekend, our Nation will celebrate Memorial Day. All too often we forget the purposes of these celebrations, but Memorial Day is a very important day set aside to honor and acknowledge the sacrifice of all of those who have served our Nation and died in their service to our Nation. It is a day, as we will hear during this debate, with a long and important history.

It is a day which began as Decoration Day, following the deaths during the

Civil War of so many soldiers, a day, as we will hear in this debate, civilians went to the fields to decorate the graves of soldiers who had died in battle and decorated the graves of all soldiers, both Confederate and Union,

Mr. Speaker, it is most fitting that this year, in this resolution, we would call upon the American people to make a special point of wearing a red poppy and of acknowledging the ultimate sacrifice made by our troops. Because this year, on Memorial Day, we will have troops in the field in both Iraq and Afghanistan, and throughout the world, who are serving our Nation and who themselves have been joined by soldiers who have made the ultimate sacrifice.

This resolution acknowledges the importance of the red poppy, which has been adopted by the American Legion and by the Auxiliary of the American Legion as the official flower honoring the sacrifice of those who have died in our Nation's service.

☐ 1245

It seems to me, as Members will hear in this debate, there was a time in our Nation when all Americans on Memorial Day wore a red poppy to acknowledge sacrifices made by our Armed Forces personnel. It has now become a worldwide tradition.

I commend the gentleman for offering the resolution, and I encourage my colleagues to join in this debate, and I thank them for wearing the red poppy today.

Some 535 red poppies were donated to Congress, and every Member of the House and Senate has a red poppy to wear today and on Memorial Day in recognition of this grand tradition and in recognition of the sacrifice paid by our soldiers, including those who have lost their lives in the recent battles in Afghanistan and Iraq, one of those soldiers being Pat Tillman from my State whose life was tragically lost within the last month.

Mr. Speaker, I urge adoption of this resolution.

Ms. BORDALLO. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of H. Con. Res. 424, introduced by the gentleman from Arizona (Mr. SHADEGG). This timely resolution honors the men and women who serve in uniform and calls on all Americans to recognize the sacrifices of those who have given their lives to protect our freedom by wearing a red poppy on Memorial Day, May 30.

In 2 weeks, our Nation will observe Memorial Day. Sadly, the true meaning of Memorial Day seems to have faded over the years, and for many young Americans, Memorial Day is often seen as just another holiday or the beginning of summer. This is sad and unfortunate as Memorial Day is a time to remember and honor those who have died in service, defending our Nation.

The resolution before us honors those who have given their lives in service to their country and encourages Americans to wear a red poppy on Memorial Day.

A number of people have asked, "Why wear a red poppy?" The red poppy grew abundantly in the battlefields of World War I, and it was the inspiration for several poems at the time, including such notable poems as "Flanders Fields," written by John McCrae in May, 1915, and a poem by Moina Michael, entitled "We Shall Keep the Faith," written in November, 1918.

The first Poppy Day was held in England on November 11, 1921, and since that time, the red poppy has been a symbol of sacrifice. For over 80 years, the red poppy has been worn to honor those who have made the ultimate sacrifice for our country and to raise money to help our disabled veterans.

A poem attributed to Don Crawford entitled, "Why Wear a Poppy" captures the significance of this special flower, and I would like to read the poem for the RECORD.

WHY WEAR A POPPY

"Please wear a poppy," the lady said
And held one forth, but I shook my head.
Then I stopped and watched as she offered them there,
And her face was old and lined with care,
But beneath the scars the years had made
There remained a smile that refused to fade.
A boy came whistling down the street,
Bouncing along on care-free feet.
His smile was full of joy and fun,
"Lady," said he "May I have one?"
When she pinned it on he turned to say,
"Why do we wear a poppy, today?"
The lady smiled in her wistful way,
And answered "This is Remembrance Day,
And the poppy there is the symbol for
The gallant men and women who died in war,
And because they did, you and I are free,
That's why we wear a poppy, you see.
I had a boy about your size,
With golden hair and big blue eyes.
He loved to play and jump and shout,
Free as a bird he would race about.
As the years went by he learned and grew
And became a man—as you will too.
He was fine and strong with a boyish smile,
But he'd seemed with us such a little while
When war broke out and he went away.
I still remember his face that day.
When he smiled at me and said 'Good-bye,
I'll soon be back, Mom, so please don't cry.'
But the war went on and he had to stay,
All I could do was wait and pray.
His letters told of the awful fight,
(I can see it still in my dreams at night.)
With the tanks and guns and the cruel barbed wire,
And the mines and bullets, the bombs and fire.
Till at last, the war was won,
And that's why we wear a poppy, son."
The small boy turned as if to go,
Then said, "Thanks, lady, I'm glad to know.
That sure did sound like an awful fight.
But your son, did he come back all right?"
A tear rolled down each faded cheek,
She shook her head, but didn't speak.
I slunk away in a sort of shame,
And if you were me you'd have done the same,
For our thanks in giving, is oft delayed,
Though our freedom was bought, and thousands paid,
And so when we see a poppy worn,
Let us reflect on the burden borne
By those who gave their very all
And asked to answer their country's call,
That we at home in peace might live.
Then wear a poppy. Remember—and give!"

Mr. Speaker, this Memorial Day each hometown across America will pause to remember the heroes of this generation as well as those of the past. Let us honor and pay tribute to the over 900 American service members who have given their lives in Iraq and Afghanistan, along with all those who die in service to their Nation.

On Guam, we have lost three young men in Iraq: Specialist Christopher Wesley, Lieutenant Michael Vega, and Sergeant Eddie Chen. One officer, two enlisted men. Wesley, Vega and Chen, these three, are a microcosm of the American people, one Western name, one Hispanic name, and one Asian name.

In these troubled times, it is worth reflecting on Memorial Day who we are as a Nation and what values we stand for. We are a Nation of immigrants whose parents and grandparents have come to these shores seeking individual liberty, prosperity and human dignity. The Nation we call our own is a Nation of compassion and justice. It is a Nation worth dying for. It is a Nation of opportunity and freedom.

We on Guam know what freedom is all about because we also know what occupation is. We celebrate Liberation Day on Guam every year as the day of deliverance of enemy occupation and the return of freedom after 32 months of enemy subjugation. We know what it means to thank Marines, soldiers, airmen and sailors for their sacrifices because it was not all that long ago that we were an occupied land.

Tomorrow, I will be accompanying former Congressman General Ben Blaz, the veterans of the 5th Field Service Depot of the United States Marine Corps to Arlington National Cemetery. We will lay a wreath at the Tomb of the Unknown Soldier to express our deep appreciation to all those who serve and have served our Nation in uniform. We thank them, honor them, and will never forget them.

I urge my colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. SCHROCK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all, let me thank the gentleman from Arizona (Mr. SHADEGG) for introducing this resolution. I want to thank my very good friend of nearly 3 decades, the gentlewoman from Guam (Ms. BORDALLO), for that wonderful poem. I know the sacrifices the folks on Guam made. I was privileged to serve in Guam during my Navy career, and I know what a great place that is and what a wonderful woman the gentlewoman is.

Mr. Speaker, as our Nation struggles to answer threats to our security in this global war on terror, it is appropriate that we both remember and seek inspiration from the sacrifices of the generations that have gone before in defending our freedoms, our way of life and the ideals on which our Nation is founded. Their sacrifices changed the world in which we live and made possible the freedoms we enjoy in today's world. Ours is a continuation of their struggle.

The red poppy is a symbol that even on the tortured soil of a war-torn battlefield, our soldiers can be reminded that despite the death and violence which surrounds them, the world for which they are fighting is vibrant and future beautiful. This remains an important symbol for every American, both in and out of uniform, who may feel overwhelmed by the death and violence of today's world.

It is important that we stop and consider the sacrifices of our men and women in uniform. Their service is an honorable one, and our Nation owes them a debt we can never fully repay. That our Nation takes a day to contemplate and remember their sacrifice is an appropriate tribute to their efforts.

Mr. Speaker, I reserve the balance of my time.

Ms. BORDALLO. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. ISRAEL), but first thank the gentleman from Virginia (Mr. SCHROCK) for his very kind words.

Mr. ISRAEL. Mr. Speaker, I rise in support of this bill, and we should wear poppies to honor the sacrifices of our troops, but we should express our support not only on our lapels, but in our budgets.

It is somewhat ironic to me that we would consider this bill, as important as it is, only a few moments after we had a rule on this floor on our defense budget, a rule that excluded an amendment that the gentleman from South Carolina (Mr. SPRATT) and I advanced that would pay for our troops' life insurance.

I have lost four constituents from my district in Afghanistan and Iraq: Raheen Tyson Heighter, Michael Esposito, Jacob Fletcher, and Nate Bruckenthal.

Raheen Tyson Heighter was 19 years old when he joined the Army. And when he was told that he needed life insurance, this young man, being a fearless young man, chose the least expensive life insurance policy because the premium was all that he could afford, and the policy was all that he believed he needed because he believed he would be coming back home.

He did not come back home alive; he was killed on July 24, 2003. His casualty officer called his mother and said, Your son's life insurance policy was $10,000.

Mr. Speaker, $10,000 is not adequate. And what is even worse is while Mr. Heighter was taking bullets in Iraq, Uncle Sam was taking 80 cents a month from his gross monthly pay of $1,987, including hazard duty pay, for his life insurance.

Mr. Speaker, I know that we all agree, when we send troops into combat to protect our national security, they should not have to worry about their family's financial security in the event they do not return.

I know that all of my colleagues on both sides of the aisle agree that we have an obligation to honor those who have made the eternal sacrifice every single day, that we must display our commitment and our reverence to them, display it; but also pay for what we owe them as well, not simply display, but pay to help their families.

That would be the true mark of how we honor our heroes, the men and women who have made such heroic sacrifices, with poppies, but also with dollars.

I, of course, will support and proudly vote for this bill, but I hope that my colleagues in this Congress and that the President of the United States will understand that it is more than just poppies and it is more than just words, it is budgets that count ultimately.

Mr. SCHROCK. Mr. Speaker, I yield 3 minutes to the gentleman from Mississippi (Mr. WICKER) to refocus our attention on what this bill is really about.

Mr. WICKER. Mr. Speaker, I can remember as a young boy, going to downtown Pontotoc, Mississippi, with my parents on Memorial Day to hand out poppies.

I thought Members might be interested in a little history lesson about the origin of Memorial Day which began as Decoration Day. The facts, as I have come to understand them, are that in 1866 a group of Columbus, Mississippi, women met to decide on a way to honor the Confederate war dead in the local Friendship Cemetery.

Once the ladies arrived at the cemetery, one of the women began placing flowers on the graves of Union soldiers, too, because they also had given their lives for their beliefs.

□ 1300

Other women followed suit and soon all of the graves, Confederate and Union, had flowers. This generous gesture was told and retold and finally made its way to the New York Tribune where the short article was seen by a young attorney named Francis Miles Finch. He was so moved by the generosity of the Southern ladies and their Decoration Day that he wrote the poem "The Blue and the Gray" and it was published in the Atlantic Monthly in September of 1867.

Mr. Speaker, other towns may claim Decoration Day or Memorial Day perhaps earlier than the one in Columbus, but Columbus, Mississippi, was the first to honor former enemies. Here is what the Library of Congress said:

"Columbus, Mississippi, thus can rightly claim to be not only one day ahead of Columbus, Georgia, in its observance of Memorial Day but more generous in its distribution of the tributes of honor and mourning."

Mr. Speaker, I am proud to represent Columbus, Mississippi, in the Congress, the place where Memorial Day first began.

Ms. BORDALLO. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina (Mr. SPRATT).

Mr. SPRATT. Mr. Speaker, I humbly suggest that if we want to make the poppy in our lapels more than a mere gesture, we should vote "no" on the previous question on the rule that will make in order the defense authorization bill. Because by voting "no," we will make in order the consideration of an amendment that I have offered which contains two key elements that go to the very heart of what it is we are discussing here right now.

We would take a little bit of money out of a huge increase in ballistic missile defense and put it in a place where it will do a lot of good, namely, in targeted pay increases to our enlisted personnel, particularly our NCOs and our junior warrant officers. It costs $300 million. It is not something I pulled out of the air. It was recommended 3 years ago by the last quadrennial review. For 2 fiscal years we have done it; this year we have not in the bill before us. We can rectify that by voting "no" and then voting for the amendment.

In addition, we do something else in the amendment that I would offer, that is, we say to every soldier, sailor, airman and Marine going into combat, into harm's way, Uncle Sam is going to see to it that you get the maximum in servicemen's life insurance, group life insurance, $250,000. The premium will be paid by an increase in your imminent danger pay, two things that will say volumes to our soldiers about how much we appreciate what they are doing for today, the risks they are taking; two things that we can say that will make more than just this mere gesture a sincere commitment to those who have gone in harm's way and laid their life on the line to make this the home of the free and the land of the brave.

Mr. SCHROCK. Mr. Speaker, we really have had time to debate what the last gentleman has discussed. It is too bad we are saddening the debate on this for that kind of discussion. There was certainly plenty of time for that.

Mr. Speaker, it is my privilege to yield 2½ minutes to the gentleman from North Carolina (Mr. JONES), one of the strongest advocates of the military that I have ever known.

Mr. JONES of North Carolina. Mr. Speaker, I want to thank the gentleman from Virginia and the gentlewoman from Guam, and I want to thank my friend from Arizona for bringing this resolution to the floor.

Mr. Speaker, it is important, whether we agree or disagree on whether our troops should be in Iraq or not, the fact is they are there. They have families that live in my district, the home of Camp Lejeune, Cherry Point, Seymour Johnson Air Force Base; and I think that probably this year as much as ever if not even more than ever that on Memorial Day we the American people wear the red poppy to show our appreciation and our allegiance to the men and women in uniform and those who have given their sons and their daughters to die for freedom.

I brought with me today on the floor for my couple of minutes the faces of the real. To my left, Mr. Speaker, is a young man whose name is Tyler Jordan. Tyler's father was a gunny sergeant, Phillip Jordan, who was killed last year in Iraq. I bring this to the floor, Mr. Speaker, because this photograph speaks much better than I could ever speak. It shows a young man who is looking at the casket of his father. It is showing a young man who has a folded flag under his arm. These are the faces of the families who have given loved ones from the beginning of this great Nation through and including today.

The other poster, Mr. Speaker, I have outside of my office, 12 of these posters that say "May We Never Forget." The reason for that is why we are here today speaking on behalf of this resolution. The red poppy is a reminder of past wars, of past gifts, of a husband, a wife, a son, or a daughter. This Nation does owe those who have worn the uniform and their families. We should never forget those who wore the uniform for this Nation. We should never forget those who gave their lives.

It so happens that this past Saturday night in my home district, a Reservist, Rodney Murray who died in Iraq 2 weeks ago, I went to visit and I had the chance to speak to the wife, a 24-year-old lady, whose husband, 28, died in Iraq 2 weeks ago. I said, Amanda, on behalf of the United States House of Representatives, I extend to you my deepest sympathy and my gratitude on behalf of my colleagues. Mr. Speaker, tears came to my eyes. I could not even complete the statement.

I close today by saying to my colleagues on both sides of the aisle, please support this resolution, as we will do, and let us not forget as we begin to debate the needs of our retired military and those who have served and their families. God bless America and God bless our men and women in uniform.

Ms. BORDALLO. Mr. Speaker, I would like to go on record to thank the gentleman from North Carolina. I pass those posters every day on my way to my office. I think it is a wonderful tribute that he is paying to the men and women in service who have lost their lives.

Mr. Speaker, I yield 3 minutes to the gentleman from Missouri (Mr. SKELTON), ranking member of the Committee on Armed Services.

Mr. SKELTON. Mr. Speaker, I thank the gentlewoman for yielding me this time, and let me compliment my friend and colleague from Arizona for offering this resolution.

It was November 11, 1941. My father, another Ike Skelton, was the best known orator in Lafayette County, and he was invited to speak to the Odessa, Missouri, High School assembly on Armistice Day. By prearrangement with my teacher, he took me out of grade school and we drove to Odessa. I sat in the back of the Odessa student body while I watched the program. The students put on a skit in Army uniform with the leggings and the drill sergeant hat and bass drums simulating artillery, and then my father spoke.

Being a Navy veteran of the First World War, he spoke as a veteran. He said to that student body audience, November 11, 1941, that there are those in this audience that may well have to fight for our freedoms once again. How prophetic he was, because not long thereafter, less than a month, the Japanese bombed Pearl Harbor, and Adolf Hitler the following day declared war on our country. Two of the young men graduating from that high school class of May 1942 gave their lives in Germany on the battlefield.

In the closing part of my father's speech to those students that day, he recited the poem that came out of the Great War written by a Major John McCrae:

In Flanders fields the poppies blow
Between the crosses, row on row
That mark our place; and in the sky
The larks, still bravely singing, fly
Scarce heard amid the guns below.
We are the Dead. Short days ago
We lived, felt dawn, saw sunset glow,
Loved and were loved, and now we lie
In Flanders fields.

Take up our quarrel with the foe:
To you from failing hands we throw
Our torch; be yours to hold it high.
If ye break faith with us who die
We shall not sleep, though poppies grow
In Flanders fields.

Mr. Speaker, it is appropriate that we pass this resolution and that we pay honor to those in uniform of yesteryear and that we express appreciation and gratitude for those who defend the freedoms of our country today.

Mr. SCHROCK. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. RENZI).

Mr. RENZI. Mr. Speaker, I was privileged to grow up the son of Major General Gene Renzi out of Fort Huachuca, Arizona. I grew up in a home where our house was filled with veterans and troops who came back with great life stories of the sacrifices and the contributions that they made to our Nation.

And so it is a great honor for me to stand before you and pay tribute today to those who have given their full measure, who have contributed so much to our society and who have allowed me to breathe free and to stand in the halls of Congress and to try and serve and give a little back.

I am privileged to serve on the Committee on Veterans' Affairs where it is our obligation to hold and to care for the surviving families, the wives, the spouses, the husbands and the kids who have seen their moms and dads go off and who may have lost their loved ones in defense of our Nation.

We are at a time of patriotism in our country, a real crossroads where our resolve is being tested, with the rise of patriotism and the showing of American flags. The wearing of the poppy flower symbolizes a remembrance of past days where we loved our Nation. That time is welcomed.

Each year I have the great honor to walk in parades all around rural Arizona, small towns like Payson, Arizona. I love to stand behind and walk behind our veterans and our troops. It is so moving each year to see the moms and dads along the parade route rise up out of their lawn chairs and show great respect and deference to our flag by removing their hats, putting their hands over their hearts, and calling out to those veterans the great job, the love that they have for them. Again we breathe free because of the sacrifice our veterans have made.

On this Memorial Day, I ask that we raise the flag, that we wear the poppy, and I give thanks and ask God's grace for our troops and our veterans.

Ms. BORDALLO. Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, let me thank the distinguished gentlewoman from Guam for her leadership and also her eloquence. I have heard her often speak of the military personnel in her area, not only speak for them, but advocate for them; and I thank her for her leadership in this issue and many other issues. I thank the gentleman from Arizona (Mr. SHADEGG) for his leadership as well, bringing us together on this day, because I believe it is important to announce to the world that there is not one moment of divide amongst us as it relates to the honor and commemoration of those who honor us by giving the ultimate sacrifice, but also taking the oath to serve in the United States military.

Might I say to you that I come with a heavy heart, for I pay tribute today to a young private by the name of Sotelo. I visited with his family as they learned the tragic news just last year of this young, almost 21-year-old in my congressional district who lost his life on the front lines of Iraq.

□ 1315

His mother cried, his father cried, his family members cried, not because they did not recognize his willingness to give the ultimate sacrifice but because not only was it his sacrifice, but as the family looked into the future of his future, they knew that this bright light would be extinguished forever.

We funeralized him at his beloved high school, Reagan High School, the wishes of his parents, on a very hot, very hot and solemn day in June; and then we looked to honor him on this coming Memorial Day. But also we honored him as his mother was able to spend Mother's Day together with other mothers, the Gold Star Mothers, who lost young people in this terrible thing called war.

I was in Flanders Field, in the burial place of thousands of those from World War I, the graveyards near that area. And I simply want to say that death is a horrible experience for those families left longing, but it is for those brave souls who are willing to give their lives that we must stand together and fight for what is right.

This is a day of honor, and I hope on Memorial Day we will honor them by wearing poppies. But I do believe it is important to bring honor today.

I would have hoped that we would have had a bipartisan rule. I think we must also respect the living by keeping veterans' hospitals open and access to health care available, and by providing for the Spratt amendment to provide $414 million to be able to give an increase in salary. And, yes, I think it is important, even on this day as we raise this wonderful resolution up, to give honor to those who are in the armed services.

We must recognize that accountability is important. As our line officers today are being prosecuted, this does not taint the entire military, for we respect them, but it does say that we hold those responsible at the top, for they are responsible too.

Mr. SCHROCK. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I thank the gentleman from Virginia for yielding me this time.

What a fantastic way to recognize the veterans of all of our wars, but of course this, as we know, the wearing of the poppy, it all started after World War I, and it is talked about in the resolution.

But it was a physician from Canada, Dr. John McCrae, who had a friend who was killed in Belgium and was buried at Flanders Fields, and Dr. McCrae himself, later on, in that war to end all wars, died of pneumonia on the battlefield and never made it back to his practice in Canada. But before he died, of course, he wrote that great poem that we will know today "In Flanders Field," and the last stanza of that poem I think went something like:

"To you from failing hands we throw
The torch; be it yours to hold it high.
If ye break faith with us who die
We shall not sleep, though poppies grow
In Flanders fields."

And what Dr. McCrae was saying to us and to future generations and to all generations was, never forget, no matter what battle it was, whether it was the Civil War or Operation Iraqi Freedom today, these young men and women are dying for a cause; and whether one agrees with them or not, they had no choice.

In many cases, they were conscripted. Today, we have an all-volunteer military, but they are there defending our freedom, and many of them are paying the ultimate sacrifice.

So that is what this poppy says. And for me to have a little opportunity today just before Memorial Day to talk about this and to support H. Con. Res. 424, I am very proud to do that. What a wonderful way to honor our men and women in the military.

Ms. BORDALLO. Mr. Speaker, I reserve the balance of my time.

Mr. SCHROCK. Mr. Speaker, I yield 1 minute to the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Speaker, I thank the gentleman for yielding me this time.

I want to recognize two Fourth Congressional District members of our military, Wilfredo Perez, Jr., from Norwalk, Connecticut; and Tyanna Avery Felder from Bridgeport, Connecticut; both lost their lives in Iraq fighting for freedom and fighting for justice and fighting for the United States of America on behalf of a better world.

We have lost 773 in Iraq. We have lost 122 men and women in Afghanistan. And I think it is just absolutely essential we recognize all who have lost their lives by wearing this red poppy on Memorial Day and asking all Americans do that. I thank the sponsors of this legislation for advocating that kind of recognition.

I close by saluting one community, in the 4th Congressional District, Greenwich, Connecticut. In Old Greenwich the community rings a bell for every American who has lost his or her life fighting for America, and that goes back before the Revolutionary War.

We are a great Nation, with an extraordinary history. We must never forget those who served in battle and came home draped in an American flag.

Mr. SCHROCK. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. GARRETT).

Mr. GARRETT of New Jersey. Mr. Speaker, I rise in strong support of this resolution as we honor both the past and current members of the armed services, and also their families, as we encourage every member of the American public to wear the red poppy on Memorial Day.

To many people, especially the Nation's thousands of combat veterans on this day, history that goes back all the way to the Civil War, it is an important reminder of all those who died in service to their Nation, the brave, the proud, the strong who gave their lives so that so many of us today can have the freedoms that we have.

And it is proper that we honor this today in light of all those men and women who find themselves in harm's way as we speak, risking their lives over in the Middle East. And it is proper also that this House does all that we can do as we continue to work on this side to provide services for our veterans, services of better health care, enhanced housing access, job opportunities, and benefits for their loved ones at home.

So I encourage all Members and the constituency back in the district in the great State of New Jersey to wear a poppy on this day, and also to honor those men and women by going to the cemeteries, visiting memorials, and also by participating in the National Moment of Remembrance at 3 p.m. to pause and think on the true meaning of this day.

Mr. SCHROCK. Mr. Speaker, I reserve the balance of my time.

Ms. BORDALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to thank all of my colleagues who spoke in support of this resolution. Each of us will have a chance to spend some time with veterans from our districts on Memorial Day.

We know we owe them more than words for their service, but the words spoken here today came from the heart. And I would like to express my heartfelt thanks to the liberators of Guam and all of our cherished veterans and outstanding servicemen and women in uniform.

I want to thank the gentleman from Arizona (Mr. SHADEGG), the author; the gentleman from Virginia (Mr. SCHROCK); and I urge all of my colleagues to support this resolution.

Mr. Speaker, I yield back the balance of my time.

Mr. SCHROCK. Mr. Speaker, I yield the balance of my time to the gentleman from Arizona (Mr. SHADEGG), who introduced this resolution.

Mr. SHADEGG. Mr. Speaker, I thank the gentleman for yielding me this time.

I want to close by thanking all of those who participated in this debate and who discussed the issue of this resolution. The issue of this resolution is not legislation we debated the last hour regarding the defense appropriation bill. The issue of this resolution is honoring those American armed services personnel who have died in our Nation's service and of the great tradition of Memorial Day.

We heard here today in this discussion that there is indeed a great tradition surrounding Memorial Day that all Americans should be reminded of and should remember; a tradition that, as the gentleman from Mississippi (Mr. WICKER) reminds us, began as far as back as 1866 where veterans who had died, soldiers who had died in the Civil War, both Union and Confederate, had their graves decorated by the wives of Confederate soldiers who had died; a tradition that carried itself forward all the way to this day, a tradition that inspired the poem "In Flanders Fields," recited so eloquently by the gentleman from Missouri (Mr. SKELTON), the ranking member of the Committee on Armed Services.

There are indeed many poems that commemorate this great day in our history. One of them, "We Shall Keep the Faith," written by Ms. Moina Michael of Athens, Georgia, the second city that supported and recognized Memorial Day, says:

We cherish too, the poppy red
That grows on fields where valor led,
It seems to signal to the skies
That blood of heroes never dies.

We have heard in this debate a discussion of the heroes who serve our Nation today, those who have tragically died in combat both in Afghanistan and in Iraq. I think it is indeed fitting that this year all Americans would acquire a red paper poppy and would acknowledge the sacrifice of those who have died.

As I indicated earlier, the red poppy is the national symbol of sacrifice all over the world, not just here in America. That was a tradition inspired by the fact that the red poppy was the first living plant to sprout from the devastation of the battlefields of northern France and Belgium during World War I; and its bright, vibrant color of red brought life and hope and reassurance to those still fighting and was the inspiration for the poem "In Flanders Fields," which I would at this point like to insert in the RECORD, as well as the "Poppy Poem" by Doris Theiss, an American Legion member from Arizona, who brought this issue to my office.

It seems to me that it is fitting that this year with so many Americans still engaged in battle and the risk that today or tomorrow or the day after tomorrow or indeed when we celebrate Memorial Day next weekend itself, some American soldier may lose his or her life in the service of our country.

For our colleagues who are watching and for those around the Nation, this four-petaled crepe paper poppy became the official memorial flower of the American Legion and the American Legion Auxiliary in 1923; and in 1927, at the Paris Convention, it was decided that only veteran-made poppies would be distributed by the American Legion Auxiliary. All of the poppies we see here on the floor today, and I would assume through the balance of this week are handmade by veterans.

I think it is most fitting that we honor our veterans, most fitting in particular that we honor those who paid the ultimate sacrifice. And I would hope that by this debate and by this memorial, Americans across the Nation would remember once again the significance and the meaning of Memorial Day they would hopefully acquire from the American Legion or from the VFW, which also recognizes the red poppy, a red, four-petaled poppy like this one, and this coming Memorial Day weekend recognize and honor the tremendous sacrifice made by all those who have died in our Nation's service.

IN FLANDERS FIELDS

(By Lieutenant Colonel John McCrae, MD (1872–1918) Canadian Army)

IN FLANDERS FIELDS the poppies blow
Between the crosses, row on row,
That mark our place, and in the sky
The larks, still bravely singing, fly
Scarce heard amid the guns below.

We are the Dead. Short days ago
We lived, felt dawn, saw sunset glow,
Loved and were loved, and now we lie
In Flanders fields.

Take up our quarrel with the foe:
To you from failing hands we throw
The torch; be yours to hold it high.
If ye break faith with us who die
We shall not sleep, though poppies grow
In Flanders fields.

POPPY POEM

A man walked down the street the other day.
The ladies of the Auxiliary came his way.
He took the poppy and gave them a dime.
He mumbled "Why do they take up my time?"
He put the poppy in the bottom hole of his coat;
Next to some pencils and other notes.
When he went home, he placed the poppy on the table;
The red paper flower with the little white label.
As he looked at the flower, as if inspired;
He wondered "Who put this flower in this wire?"
He's probably a man who once stood tall;
And for his country he gave his all.
Now gave his all just to walk with a cane.
His strong hand were a sense of power,
Now he makes this little red flower.
In our world, we are busy with money and power,
While this man's job is this little red flower,
He still takes pride in what he has to do;
Petal by petal he makes this flower for you.
Next year when it comes to Poppy Day,
I'll be glad to see the Auxiliary come my way.
I'll cheerfully give them generously;
For the veterans making this flower could have been me.

May God Bless You,
Doris Theiss.

Ms. EDDIE BERNICE JOHNSON. Mr. Speaker, as this country will shortly celebrate Memorial Day, we pay tribute to the veterans who have honored us with their service, and their sacrifice.

As a Nation, we are united in honoring our war dead, we also need to be as united in honoring our living veterans.

In the last paragraph of his second inaugural address, Abraham Lincoln uttered the words that would ultimately comfort untold numbers of veterans and their families for generations to come. Lincoln challenged the divided nation to "Bind up the Nation's wounds; to care for him who shall have borne the battle, and for his widow, and his orphan."

Mr. Speaker, the promise of lifelong health care that this country made to our men and women in uniform is being threatened, not by the aggression of a foreign power, but by inadequate funding. As our veterans grow older, they require increased dependence on health care services.

Before elected for public office, I served as the chief psychiatric nurse at the Veterans Administration Hospital in Dallas during the 70's. I was privileged to serve in the day care and rehabilitation center of that facility for 15 years. I know firsthand that caring for America's veterans is the ongoing cost of war.

The Dallas Veterans Affairs Medical Center is an excellent example of how our nation can repay some of the debt it owes our brave veterans. The DVAMC operates 216 internal medicine beds, including a 28-bed pulmonary service. Moreover, a number of small VA hospitals and outlying community hospitals refer patients to the DVAMC for the diagnosis and treatment of complicated and unusual problems.

Mr. Speaker, I am worried that the proposed cuts will adversely affect over 70,000 Texas veterans. This number includes more than 18,000 veterans in the Dallas-Fort Worth area. It is estimated that 5,200 active patients in the Dallas-Fort Worth area will drop out of the VA Health Care System.

Mr. Speaker, how can Congress and this administration even consider slashing benefits at a time when our young men and women are still in harm's way in Iraq, Afghanistan and Southwest Asia.

Veterans should not be expected to wait in long lines, and travel farther for health care services at a diminished level. If we fail our obligation to veterans, how can we justify sending more and more young service into harm's way?

As we salute our veterans, we must also recognize the medical care provided by VA medical centers, clinics, and nursing home facilities. I applaud the efforts of the hundreds of compassionate men and women who have dedicated themselves professionally to our veterans. Let us say to them: We salute you and we thank you.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The question is on the motion offered by the gentleman from Virginia (Mr. SCHROCK) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 424.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SHADEGG. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will now put each question on which further proceedings were postponed earlier today in the following order:

Previous question on H. Res. 649, by the yeas and nays; if ordered, adoption of H. Res. 649; previous question on H. Res. 648, by the yeas and nays; if ordered, adoption of H. Res. 648; and motion to suspend the rules on H. Con. Res. 424, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT ON S. CON. RES. 95, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2005

The SPEAKER pro tempore. The pending business is the question on ordering the previous question on House Resolution 649 on which further proceedings were postponed earlier today.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 220, nays 204, not voting 9, as follows:

[Roll No. 191]

YEAS—220

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—204

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—9

Davis (AL)
Deutsch
Hayworth
Johnson, Sam
Leach
Norwood
Simmons
Tauzin
Weldon (PA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HASTINGS of Washington) (during the vote). Members are advised that there are 2 minutes remaining in this vote.

□ 1356

Mr. JACKSON of Illinois and Mr. HOEFFEL changed their vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. MILLER of Florida). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. FROST. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be 5-minute vote.

The vote was taken by electronic device, and there were—ayes 220, noes 204, not voting 9, as follows:

[Roll No. 192]

AYES—220

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger

Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—204

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—9

Davis (AL)
Deutsch
Hayworth
Johnson, Sam
Leach
Norwood
Peterson (PA)
Tauzin
Weldon (PA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MILLER of Florida) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1406

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 4200, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

The SPEAKER pro tempore. The pending business is the question on ordering the previous question on House Resolution 648, on which further proceedings were postponed earlier today.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 220, nays 204, not voting 9, as follows:

[Roll No. 193]

YEAS—220

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—204

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre

McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)

Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder

Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor.(MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—9

Davis (AL)
Deutsch
Emerson

Hayworth
Johnson, Sam
Leach

Norwood
Tauzin
Weldon (PA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

☐ 1413

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. FROST. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 220, noes 205, not voting 8, as follows:

[Roll No. 194]

AYES—220

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns

Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle

Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood

Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis

McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce

Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—205

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks

Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hefley
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick

Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver

Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo

Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner

Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—8

Davis (AL)
Deutsch
Hayworth

Johnson, Sam
Leach
Norwood

Tauzin
Weldon (PA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MILLER of Florida) (during the vote). There are 2 minutes remaining in this vote.

☐ 1425

Mrs. JONES of Ohio changed her vote from "aye" to "no."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

HONORING PAST AND CURRENT MEMBERS OF THE ARMED FORCES OF THE UNITED STATES AND ENCOURAGING AMERICANS TO WEAR RED POPPIES ON MEMORIAL DAY

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 424.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. SCHROCK) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 424, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 419, nays 0, not voting 14, as follows:

[Roll No. 195]

YEAS—419

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)

Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt

Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine

Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Nunes
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—14

Baird
Conyers
Davis (AL)
Deutsch
Hayworth
Johnson, Sam
Kingston
Leach
Norwood
Nussle
Radanovich
Reynolds
Tauzin
Weldon (PA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1433

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. WELDON of Pennsylvania. Mr. Speaker, on rollcall Nos. 191, 192, 193, 194 and 195 I was speaking to 400 WWII veterans from my district. Had I been present, I would have voted "aye" on all 5 rollcalls.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MILLER of Florida). Under clause 7(c) of rule XXII, the filing of the conference report on S. Con. Res. 95 has vitiated the following two motions to instruct conferees on that measure:

1. The motion to instruct offered by the gentleman from Texas (Mr. STENHOLM) which was debated yesterday and on which further proceedings were postponed under clause 8 of rule XX; and

2. The motion to instruct on which the gentleman from North Carolina (Mr. PRICE) provided notice yesterday.

COMMUNICATION FROM THE HONORABLE NANCY PELOSI, DEMOCRATIC LEADER

The SPEAKER pro tempore laid before the House the following communication from the Honorable NANCY PELOSI, Democratic Leader:

HOUSE OF REPRESENTATIVES,
OFFICE OF THE DEMOCRATIC LEADER,
Washington, DC, May 19, 2004.

Hon. J. DENNIS HASTERT,
Speaker of the House, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to section 211 of the Older Americans Act Amendments of 2000 (42 U.S.C. 3001 note), I hereby appoint Barbara Kennelly of Connecticut and Robert B. Blancato of Virginia, to the Policy Committee of the White House Conference on Aging.

Best regards,

NANCY PELOSI.

GENERAL LEAVE

Mr. HUNTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4200.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

The SPEAKER pro tempore. Pursuant to House Resolution 648 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4200.

□ 1433

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4200) to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2005, and for other purposes, with Mr. HASTINGS of Washington in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from California (Mr. HUNTER) and the gentleman from Missouri (Mr. SKELTON) each will control 60 minutes.

The Chair recognizes the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is a bill that was put together with the bipartisan work of all members of the House Committee on Armed Services, the defense bill for the United States. It was engaged in with a great deal of detail by Republicans and Democrats to try to do the very best we could for the people that wear the uniform of the United States.

Beyond that, Mr. Chairman, we have had enormous publicity the last number of days about the mess at Abu Ghraib. I estimated we have probably devoted as much media attention to that mess involving now, as identified, some seven personnel, as we did to the Normandy invasion, and that is an imbalance. It is time to refocus.

The subjects of the refocus should be the 135,000 great personnel doing their job in Iraq and the tens of thousands doing their job in Afghanistan and around the world in this war against terrorism. So I just thought I might start out, Mr. Chairman, by reminding my colleagues that while that much-publicized mess was taking place with just a few people at Abu Ghraib Prison, Master Sergeant Tony Prior was taking on an enemy position in Afghanistan and was single-handedly taking out four insurgents, the last one in hand-to-hand combat to win the Silver Star.

Jeffrey Bohr, Gunnery Sergeant Jeffrey Bohr was over in Iraq laying down a field of fire to protect his wounded Marines who otherwise would have been killed, and he laid down that field of fire until he himself was killed.

I have dozens of such citations, Mr. Chairman, on the leadership desk, and I would hope that Members walk down. And if their heads are filled with all of the publicity about a few bad apples at Abu Ghraib Prison, I want them to pick up those citations and read about the good apples, the great Americans who fill out this 2.5-million-person force that wear the uniform of the United States, active, Guard and Reserve.

This bill is a big bill, and my great partner, the gentleman from Missouri (Mr. SKELTON), the ranking member, have worked on it along with all of the members of the committee. Almost all of our members have gone to Iraq now. A lot of them have also gone to Afghanistan, some of them multiple times. We have visited troops, held extensive hearings, and we put together a bill that we think supplies the wherewithal, the equipment for our troops to get the job done.

Let me go over a couple of those things, and then I want to listen to my colleagues on the Democrat side of the aisle who have been such great partners in this endeavor.

First, we have tried to focus on this theater in Iraq because our people need equipment, they need to have the very best equipment. They are over there in the heat and in enemy fire with oppressive living conditions. We have devoted and focused our dollars on that theater, so we pulled some money out of some areas that are not right now relevant, closely relevant, to that warfighting theater, more long-range things, things that are peripheral.

We focused that money on things like force protection, up-armored Humvees, steel for the trucks, the 5-ton trucks for the Army, 7-ton trucks for the Marine Corps, replenishment of ammunition, surveillance capability so we can see the bad guys and engage them before they can get in tight to our troops. All of the leverage we can give them with high technology, we give them in this bill.

We also look to their families. We have this 3.5 percent pay raise across the board, we have an expansion of the amount of money that our troops now get for hazardous duty and for separation from their family. We have also put in a survivor benefit for the widows of our military people and for the widowers of our military people so they will not have this offset against Social Security.

We have tried to do a lot of things on the people's side. We have a great bill with our military housing, our MILCON projects. We have privatization, the cap removed from 2006 on, and we are going to work to make sure there is no seam between 2005 and 2006.

Beyond that, the ranking member and I and a number of other folks have been working and looking at force levels. We now have 10 Army divisions; we used to have 18 in 1991. We have a relatively small Marine Corps, roughly 177,000. We realize we are going to need more people.

And for families who say, How come Joe is not here again for Christmas, whether he is Guard, Reserve, or active, one answer is, we have such a small force that the people have to go more often. And so we have increased in strength by some 10,000 this year, 10,000 next year and 10,000 the next year, and that coincides with Chief of Staff of the Army Schumacher's plan to increase the fighting strength of the U.S. Army by three brigades this year, three brigades next year, and four brigades the year after to add 10 new fighting brigades to the Army for a total of 43. We have also increased the U.S. Marines Corps by 3,000 personnel per year for the next 3 years.

To do that and to do a lot of the other things that we are flowing to the troops, we have also bolted onto this package a supplemental for $25 billion. That supplemental will handle the closing months of this year to make sure that our troops do not run thin on supplies or replenishment or new capabilities in the last few months of this year. It also helps General Schumacher to stand up this new modular force that he is putting into effect and reshaping the Army.

So we have that $25 billion bolted on, and that has lots of good stuff for the troops. It helps to sustain us through any tough things that we may see in the last several months of this year.

Now, we are going to need a new supplemental. We all know that. The chairman of the Committee on the Budget, the gentleman from Iowa (Mr. NUSSLE) talked about that and put a $50 billion wedge in the budget, acknowledging that fact; and we are going to have to come around at some point and have a new supplemental to get through 2005. It all depends on how far we can reasonably project. We think this $25 billion bolt-on that we are doing will do the right things for the troops.

We have gone right down through the unfunded requirements list, things that our Army, Navy, Marine Corps, and our Air Force sent to us, things that they said we need, Congress, we do not have the money for them. And we went in and paid for those things so we can pull them out and deliver them to the troops in this supplemental we have bolted on.

So this is a great bill. I want to commend the ranking member and all of the great members of the Armed Services Committee. We have great subcommittee chairmen who have worked some very tough issues; their ranking members have worked them hard, and we have brought this bill, in what is a contentious political season, we brought this bill out on a 60–0 vote. It was a 60–0 vote because we have common ground, and that common ground is the Armed Forces of the United States and their well-being.

Mr. Chairman, I reserve the balance of my time.

Mr. SKELTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to urge my colleagues to support this national defense authorization bill. I will leave aside my disappointment on the rule. We are past that, and we are now discussing the bill in general debate.

This bill is a good bill. It is a solid bill, and I wish first to thank the chairman, the gentleman from California (Mr. HUNTER) for his work, for his collegial markup, and for his leadership on the bill, as it was in the committee and reported to the House. We thank the gentleman for that.

This bill is an important one because it funds the military for a year, which is good news for the United States military. For those in uniform at the individual level, it makes a number of improvements on how our soldiers live. Most significantly, it raises the cap on family housing construction. Military service can weigh heavy on a family, and I believe it is much easier for a deployed soldier to know that the family back home is living in decent conditions.

The 3.5 percent larger paycheck, of course, helps. The bill also increases the end strength, that is, the troop strength of the Army and Marine Corps. Since 1995, I have been urging this and as a result in the supplemental part, the $25 billion part of this bill, which is something which should have been done and is done, we are increasing the Army in strength by 10,000, 30,000 over 3 years; and the Marine Corps by 3,000, 9,000 over 3 years.

More broadly, the bill provides funding for the next few months of operations in Iraq and Afghanistan. I was disappointed to receive a budget request that pretended we could not foresee at least some of the level of military activity. I recently wrote that, based on historical precedent, U.S. forces may be in Iraq for the next 50 years.

□ 1445

Whether that is true or not, we can be sure they will be there for more than 3 months.

We are in a war. Neither the country nor this Congress was united in initiating the conflict, but we stand now as one with the soldiers, sailors, airmen and Marines fighting it. I expect that much of the debate over the next 2 days will concern Iraq, and rightly so. Let me mention two points, if I may.

First, events of recent weeks, from open questions relating to the transition of sovereignty, to real questions about the role of private military contractors providing security services, to the disturbing events at Abu Ghraib prison highlight the Congress's need to get better information and to take our oversight role more seriously. These are issues critical to our country's security and to our role in the world. This bill makes some steps in those directions.

Second, though, it is important that we not let a focus on the current conflict blind us to the needs of the future. This bill says fiscal year 2005; but the force structures, platforms and policies addressed in it will shape the military for 40 years or more. We have to be prepared for the full range of threats to our Nation and its interests.

We have learned lessons from the past. We have learned some real-life lessons from attempting to rapidly acquire equipment to protect our forces in Iraq. Those lessons have been incorporated into this bill where there is streamlining acquisition language to help protect those who are in harm's way.

I am disappointed in the bill's approach to nuclear weapons development and not going further to fund the foreseeable costs of our current operations. I was disappointed, too, that the amendment of the gentlewoman from California (Ms. LINDA SÁNCHEZ) to conform the Uniform Code of Military Justice was not allowed to be on this floor.

But, Mr. Chairman, we are at war. A few moments ago, we paid tribute to those who have served and do serve in uniform on a resolution involving the poppy, which we all wear. But the best thing we can do for those currently serving is to pass this bill to make sure they have the wherewithal to continue fighting and keeping the peace and stability in those far corners of the world. It is one way to say thank you, we support you, not just in words but by our votes today.

Mr. Chairman, I reserve the balance of my time.

Mr. HUNTER. Mr. Chairman, I yield 3 minutes to the very distinguished gentleman from Colorado (Mr. HEFLEY), chairman of the Subcommittee on Readiness, the subcommittee which oversees the biggest increment of the defense budget, all operations, maintenance and military construction.

Mr. HEFLEY. Mr. Chairman, today the U.S. military is deployed around the world in support of the war against terrorism, the efforts to rebuild Afghanistan and Iraq, and defense of the American homeland and U.S. interests abroad. H.R. 4200, the National Defense Authorization Act For Fiscal Year 2005, provides the resources necessary to keep the U.S. military ready to overcome any challenge.

H.R. 4200 includes operations and maintenance funds for training, peacetime operational tempo and depot maintenance, as well as resources to support the troops in Iraq and Afghanistan for the first months of fiscal year 2005. Of the $25 billion included in the bill for Operation Iraqi Freedom and Operation Enduring Freedom, $16 billion is directly dedicated to maintaining or improving our military readiness.

H.R. 4200 fully funds the President's environmental programs, including $3.8 billion for pollution prevention, conservation, compliance, and cleanup activities of the Department of Defense. The bill also recognizes and rewards the civilian personnel who support the global war on terror by authorizing additional pay for civilians who are proficient in foreign languages and extending health benefits to government employees who are mobilized Reservists.

In keeping with the theme of this year's bill, The Year of the Soldier, H.R. 4200 contains additional funds for soldier equipment and protective gear, authorizes the Secretary of Defense to reimburse those soldiers who needed protective body armor, but had to buy it themselves, and provides $9.9 billion for military construction and family housing. The bill also contains a provision to eliminate the cap on military housing privatization program as of October 1, 2005, saving this successful program which has improved housing for tens of thousands of military families from termination.

Finally, H.R. 4200 contains a provision that would delay the next base closure round until 2007, pending DoD reports to Congress on a number of absolutely critical, yet still unresolved, infrastructure-related issues. This provision is neither an election-year stunt nor an effort to kill BRAC forever. To the contrary, it is reflective of deep bipartisan concern that the U.S. military is undergoing too much turbulence to allow the 2005 BRAC round to be a fully informed, effective process.

We are a Nation at war against terrorism. Our military is rebuilding Afghanistan and Iraq. The Department of Defense is contemplating the most significant overseas basing changes since World War II. The military requirements to defend the homeland continue to evolve and military transformation continues to change the basic training and operational requirements of our Nation's forces. Each of these issues is a significant factor in determining the domestic basing needs of our Nation's military, and each of these issues is not yet resolved. Until the Department resolves these issues and Congress has the opportunity to review and approve these decisions, a base closure round is premature and is sure to result in poor closure and realignment decisions. As a Nation, we simply cannot afford to close a military installation in the 2005 BRAC round only to discover in 2010 that the assets at that base were both irreplaceable and now lost forever.

Mr. Chairman, this is a good bill. I encourage the support of everyone for this piece of legislation.

Mr. SKELTON. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. ORTIZ), the ranking member on the Subcommittee on Readiness.

Mr. ORTIZ. Mr. Chairman, I want to thank the gentleman from California and the gentleman from Missouri for the fine work that they have done in putting this bill together; and, of course, as the ranking member of the Subcommittee on Readiness, I am pleased to join the gentleman from Colorado in commending H.R. 4200 to my colleagues' attention and urge them to vote for this great bill because we have worked together as a nonpartisan group. We have every reason to be proud of this bill as a whole and the readiness-related portions in particular. It reflects fair and thoughtful leadership and a lot of hard, bipartisan work on the part of the committee. Again I thank the gentleman from Colorado for that. Also I want to say thank you to our staff because it is not easy when you are working on a $400 billion bill to be able to put everything together and bring it to the floor. So to the staff, thank you for a great job.

I would first like to say how proud I am of our military forces and of the thousands of civilian workers who work night and day to support our military. We owe them a debt of gratitude for their service.

Mr. Chairman, we are a Nation at war. This bill that we have put together is a prudent way to approach the difficult balancing of competing demands to assure that our troops have what they need for success. To that end, we have authorized nearly $120 billion for their peacetime operating and maintenance requirements. But, of course, we are not in a peacetime environment. For example, the Army testified that coming into this fiscal year it had $1.2 billion of unfunded maintenance requirements as it began bringing its equipment back from Iraq and Afghanistan.

Not only that, we are now depending a little too much on the Reserves and the National Guard. It has come to my attention that sometimes this equipment stays behind. They do not bring it back with them. The gentlemen who serve as National Guardsmen and Reserves are first responders in our communities. When they come back, they might not even have the equipment to train with because it is left behind. H.R. 4200 makes some progress on those concerns, but we know that we can expect a significant bill to come due when we begin to reset the force, repair the equipment as it returns from the war, and restock our prepositioned assets. That bill will be billions of dollars.

Today I ask my colleagues to support this bill. It is a good bill. It is a bipartisan bill. This is exactly what our troops need.

Mr. HUNTER. Mr. Chairman, I want to thank the gentleman from Colorado and the gentleman from Texas for their great work.

Mr. Chairman, I yield 5 minutes to the gentleman from New Jersey (Mr. SAXTON), who chairs the Subcommittee on Terrorism which oversees all of our special operators and who has spent a ton of his time this last year going to some very inconvenient places to make sure that our troops get what they need.

Mr. SAXTON. Mr. Chairman, let me begin by thanking and congratulating the chairman and the ranking member for the great leadership that they have each shown in bringing us through this process beginning in January, working through February, March and April; and here we are on May 20 taking another step forward in this process of making sure that we provide the resources that are needed by our troops in this, The Year of the Troops, which is what this bill is named after.

I rise in strong support of the bill, the National Defense Authorization Act for Fiscal Year 2005. Last week the Committee on Armed Services approved this bill unanimously, continuing the committee's tradition of bipartisanship in addressing the defense needs for our Nation. The bill contains several initiatives that will aid the armed services and the Federal Government as a whole in the ongoing war against terrorism and contains several promising provisions that will help to transform the military services.

At the request of the gentleman from California (Mr. HUNTER), we adopted the theme The Year of the Soldier and emphasized initiatives that would directly assist our deployed forces. We are aware of the challenges they face in Iraq and Afghanistan and want to do everything we can to make conditions safer for them and to make it possible for them to be ever so effective. An important element in the committee's Year of the Soldier theme is force protection, and that is a concern that influenced all we did this year.

We have taken a number of actions in this bill to provide the resources and direction to better equip our men and women who are serving selflessly in dangerous conditions overseas. In this bill, we provide for our valiant warriors in the Special Operations Command. We have authorized funds, for example, for several items in the SOCOM commander's unfunded requirements priority list and have authorized additional funding that would provide some necessary operational flexibility for special operations forces on the ground.

We continue to believe that the best way to fight terrorism is to keep terrorists far from our shores. I continue to believe that the Special Operations Command is one of our most effective weapons in this mission. This bill bolsters the command's capabilities in several ways.

Next, the bill provides increased funding to accelerate the development and fielding of advanced technologies for emerging critical operations needs, including projection of our forces against improvised explosive devices and rocket and mortar attack and to provide real-time surveillance of suspected enemy activities.

I could add here, Mr. Chairman, there is a very strong provision which we added late in the game because at a hearing on April 21 it became apparent that it took just too long to field new kinds of technologies. We have provided a special program to provide capabilities for the chief of staff of the Army and his staff to provide in a more quick fashion the capabilities that are needed by our soldiers.

In addition, this bill provides increased funding for combating terrorism in terms of technological support to accelerate the development and fielding of advanced technologies for the fight against terrorism.

Finally, we continue to expand our successful initiative of last year to develop chemical and biological defense countermeasures.

Mr. Chairman, I would be remiss if I did not say a word about something that we are doing for those who have fought in previous wars. We have found the resources this year to add $7 billion over a 10-year period to bolster and bring up to date the survivors benefit program that retired individuals and their spouses are able to avail themselves of.

□ 1500

We move the percentage of survivors benefits, that is, generally widows, from a 35 percent level to a 55 percent level.

This SBP program is an extremely important program because what happened was that in the past, when a member who served in the military passed away, his surviving spouse, usually, of course, his widow, would receive 55 percent of his retired pay up until she turned 62 and then that percentage would drop to 35 percent.

We have fixed that in providing $7 billion over 10 years to bring that 35 percent back up over a 4-year period to the 55 percent level. This is important. It is a way of saying thank you to those who have served our country and is a very important part of our bill.

In closing, I just want to express my appreciation to the members of the Terrorism, Unconventional Threats and Capabilities Subcommittee, who contributed so mightily to this bill, and particularly thank the gentleman from Massachusetts (Mr. MEEHAN), the ranking member, with whom I have worked closely over the years.

This is an excellent bill. I congratulate the chairman for bringing it here. I urge all Members to vote "yes" on this bill.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. ISRAEL), a member of the committee.

Mr. ISRAEL. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise in strong support of this authorization. And, of course, we have to give credit where credit is due, and that is to the gentleman from California (Mr. HUNTER), chairman, and to the gentleman from Missouri (Mr. SKELTON), ranking member.

This bill includes funding for transformational weapons systems that will help our military meet the challenges of the 21st century, billions of dollars for new naval destroyers, Army combat systems, and fighter aircraft programs.

These programs may be worthwhile, but I remember back in January when I was on a C–130 traveling from Kuwait to Baghdad, a member of the 1st Armored Division looked at me and said, Congressman, you have got to do something about these improvised explosive devices, these roadside bombs. They are the biggest threat that we face.

There has been a lot of talk in Washington about countering these threats with hardware, with systems that are lighter and leaner and faster, more precise, more agile, more lethal; and I understand the need for that hardware transformation, but we also need a software transformation. Our committee had Major General Robert

Scales before us, he is the former Commandant of the U.S. Army War College; and he talked about the fact that our troops have exquisite situational awareness, but we need to invest them with more cultural awareness.

They know where every tank is, their speed, their direction, their firepower, how they are arrayed. What we need to make sure of is that they know who is in the tank, what language they are speaking, not just their firepower but their willpower. And that is why I want to thank our chairman and ranking member for including in this authorization two amendments that I offered which will establish a Defense Language Office within the Department of Defense and require the Secretary of Defense to assess the military's foreign language and cultural awareness capabilities. Those skills are just essential to success in the future.

Mr. Chairman, it is indisputable to us that our current forces are doing an extraordinary job of adapting to challenges on the ground. They deserve defense budgets that anticipate 21st century changes, not Cold War challenges. They deserve defense budgets that value their minds as well as their arms. And I want to again thank the gentleman from California (Chairman HUNTER) and the gentleman from Missouri (Mr. SKELTON), ranking member, for including the amendments that I proposed in this authorization; and I urge the other body to accept those amendments.

Mr. HUNTER. Mr. Chairman, I yield 2 minutes to the very distinguished gentlewoman from Texas (Ms. GRANGER), who has great expertise in the area of defense.

Ms. GRANGER. Mr. Chairman, I rise in strong support of the National Defense Authorization Act for Fiscal Year 2005. I want to commend the gentleman from California (Chairman HUNTER); the gentleman from Missouri (Mr. SKELTON), ranking member; and the entire committee for bringing this bill to the House floor at this crucial time for America's Armed Forces. The committee had to balance many difficult needs and did a great job.

The last several months have been very difficult for our men and women serving in the United States military. The actions of a few at Abu Ghraib Prison in Iraq must not reflect badly on their fellow soldiers, sailors, Marines and airmen serving so bravely in the war on terrorism. The barbaric murder of an American civilian captured on videotape has reminded us of the true nature of our enemy and why we must win this war. Our troops are on the front lines fighting this war for each and every one of us, and they deserve our full support and gratitude.

By passing the defense authorization bill this week, the House of Representatives will send a strong message of support to our troops and a resolve to friends and enemies across the globe. We must stand firm and continue our fight against terrorism. There is no more important battle today.

The bill authorizes over $420 billion for the Department of Defense and the national security programs at the Department of Energy. It includes many important provisions for our troops, their families, and America's veterans.

The bill also authorizes an additional $25 billion in supplemental funding to ensure that our men and women fighting in Iraq and Afghanistan will have all the resources they need.

Finally, the bill funds many important weapons programs that will ensure our military strength for decades to come. I want to focus on some of those critical weapons programs: the F–34 Joint Strike Fighter, the F/A–22 Raptor, and the V–22 Osprey.

The F–35 Joint Strike Fighter, or JSF as we call it, will be the prime multirole fighter for the Air Force, Navy, and Marine Corps for the 21st century. The defense authorization bill fully funds the President's budget request for continued development of the JSF.

The basic JSF design, with several modifications to meet each service's needs, will be used for all three services. The aircraft will have the best next-generation avionics, weapons systems, and stealth capabilities. It will also have dramatically increased range over our current fighters. We simply must continue to develop the Joint Strike Fighter, and the underlying bill fully supports the program.

The F/A–22 Raptor is the Air Force's state-of-the-art, next-generation fighter aircraft. As with the JSF, the committee has fully funded the President's request for the F/A–22. Specifically, the bill includes funding to build 24 new F/A–22s over the next fiscal year.

Mr. SKELTON. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. REYES), ranking member on the Strategic Forces Subcommittee.

Mr. REYES. Mr. Chairman, I thank the ranking member for yielding me this time, and I thank our chairman for always working together in a very strong bipartisan manner on this very important committee as it involves the national security of our country.

Mr. Chairman, the Strategic Forces Subcommittee has jurisdiction over some of the most contentious and controversial issues considered by the overall committee, including ballistic missile defense and nuclear weapon development programs. While we did not reach complete bipartisan accord on these two issues, the subcommittee and the committee generally had substantive and cordial debates on all of these matters.

I am somewhat disappointed, Mr. Chairman, that even though the bill contains $10 billion for various ballistic missile defense programs, no amendment was made in order to allow for legitimate debate and a vote on important policy issues related to those programs.

I am, however, pleased that we will have an opportunity to debate the wisdom of developing new nuclear weapons. The mark contains the President's budget request for both the Robust Nuclear Earth Penetrator and an initiative to study new nuclear weapons designs called Advanced Concepts. I will encourage my colleagues to vote in favor of the Tauscher amendment which would transfer these funds to a more realistic and conventional alternative to "bunker busting."

Our committee reached bipartisan agreement on the space programs within this mark. We reduced funding for the Transformational Satellite Communications program by $100 million and prevent the Air Force from downselecting a prime contractor on space-based radar until they provide a report to Congress. Members on both sides of the aisle are concerned about the affordability and the technological readiness of these programs.

Overall, the mark of the Strategic Forces Subcommittee is one that I support. I am especially pleased that we were able to reach a bipartisan agreement to add funding for THAAD, which is critical and important to better protecting our troops in the field of theater-range ballistic missiles. I want to thank the gentleman from Alabama (Mr. EVERETT), my partner and my chairman, for his leadership on this issue and our subcommittee in general. Even on those areas where we disagree, he has always been a straightforward and fair individual, and it has been a pleasure to work with him.

I also want to state today my concern about the number of troops in our armed services. I am pleased that the bill increases the end-strength levels for the Army and Marine Corps over the next 3 years, but I remain concerned that this surely is not enough. Simply put, we do not have enough troops to sustain our commitments around the world, facing the current challenge. We are starting to crack around the end-strength issue, and this may be an indicator that we may have to reevaluate and reprioritize the various theaters.

Mr. HUNTER. Mr. Chairman, I yield myself such time as I may consume.

I want to thank the gentleman for his hard work and the fact that he has been in Iraq and Afghanistan more than any other member, which is very important to this committee.

Mr. Chairman, I yield 4 minutes to the gentleman from Maryland (Mr. BARTLETT), the very thoughtful chairman of the Projection Forces Subcommittee.

Mr. BARTLETT of Maryland. Mr. Chairman, before proceeding, as chairman of the Projection Forces Subcommittee, I believe it appropriate to first underscore the magnificent service rendered the Nation by the men and women serving in our Armed Forces around the world. We have called upon them and continue to call upon them to be ready to make the ultimate sacrifice in their service to the Nation. They continue to meet every challenge with true dedication and commitment. We thank each and every one of them for their service, and we thank all Americans for their unwavering support of our servicemen and women.

History has repeatedly taught us that peace is only achieved through strength. We have sought to apply the lessons learned from the ongoing war on terrorism and operations in Iraq and Afghanistan to the committee markup of the National Defense Authorization Act for Fiscal Year 2005, in order to strengthen our Armed Forces.

Oceans cover three-fourths of the Earth's surface. The vast majority of the world's population lives within 2 miles of a seacoast. Seventy percent of our trade moves by sea. Clearly, maintaining America's naval superiority is an imperative, not an option.

I am pleased to report that the National Defense Authorization Act that we will consider increases the requested authorization for Department of Defense programs within the jurisdiction of the Projection Forces Subcommittee by $890 million; $296 million of the additional authorization is for programs on the military service chiefs' unfunded requirements list.

Authorization is included for the administration's request of one Virginia Class submarine, three DDG–51 destroyers, one LPD–17 amphibious assault ship, and two cargo and ammunition ships.

We have also taken several initiatives to begin to address shortfalls in important requirements of the Department of Defense. All of these programs are viewed as critical enablers for operations in Iraq and Afghanistan.

These programs include $150 million additional authorization to begin development of the amphibious assault ship replacement; $96 million as the fiscal year 2005 increment to begin the regeneration process to restore 10 additional B–1s to combat-ready condition; $98 million to upgrade the fleet of B–2 bombers; $100 million to continue a next-generation bomber program to replace the now 42-year-old B–52 bomber fleet; $95 million to begin the recapitalization of the Air Force's aging aerial refueling tanker fleet; and $23 million to complete development and evaluation of the Affordable Weapon System, a low-cost cruise missile that is the successful result of an Office of Naval Research advanced technology initiative to demonstrate the ability to design, develop, and build a capable and affordable precision-guided weapons system at a cost that would be an order of magnitude cheaper than comparable weapons systems; and increased authorization for several procurement and research and development programs of the services.

In addition, the recommended mark includes important legislative proposals: to accelerate the DDG–51 Aegis guided missile destroyer modernization program; and to establish an independent body of manufacturing experts to find ways to again make the United States shipbuilding industry competitive. Ad hoc government policy and business management adjustments to reductions in the fleet from 600 to less than 300 are not adequate or acceptable to make the necessary short-term and long-term decisions to maintain the capacity and capability of this critical and complex industrial base. Once lost, that industrial base cannot be easily reconstituted.

This study will rigorously analyze all of the relevant factors and make recommendations to ensure the capability of America's shipyards to build the ships for our Navy and to be competitive against other shipyards in the global marketplace.

While there is much more to do, the National Defense Authorization Act for Fiscal Year 2005 is an important step in making our country more secure. I urge all of my colleagues to support this bill.

I would like to thank the gentleman from Mississippi (Mr. TAYLOR), the ranking member of our subcommittee, for his extraordinary partnership, dedication, and support in completing this bill. I would like to thank all of my other colleagues on the subcommittee for their diligence, commitment, and hard work.

I would also like to thank the gentleman from California (Mr. HUNTER), our chairman, for his leadership; and the gentleman from Missouri (Mr. SKELTON), our ranking member.

In conclusion, I would especially like to thank and recognize the contributions of the many staff members for their invaluable assistance in preparing H.R. 4200.

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Mr. SKELTON. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. TURNER), the ranking member of the Select Committee on Homeland Security and a member of the Committee on Armed Services.

Mr. TURNER of Texas. Mr. Chairman, I would like to thank the chairman and ranking member of the Committee on Armed Services for their leadership on this bill today.

Mr. Chairman, I rise in support of our troops and in support of this defense authorization bill, but I urge my colleagues to be up front with the American people about the true cost of our operations in Iraq. The supplemental $25 billion included in this bill for operations is not enough. We all know that at the rate we are spending money in Iraq, this will only last a few more months.

Democrats on the Committee on Armed Services unanimously supported a $67 billion authorization to ensure we can do what is necessary to provide stability in Iraq, and we have been denied the opportunity to have a vote on this issue on the floor by the Committee on Rules.

To accomplish our goal in Iraq, we need additional troop strength; we must commit whatever is necessary to force protection; we need to increase recruiting and training for the Iraqi military and police forces; and, finally, we need a bold and urgent plan that gives the Iraqi people the opportunity to determine their own destiny.

We have set a June 30 deadline for the handover of political authority to the interim Iraqi Government. The President has correctly said we must keep this deadline. Deadlines are important motivators; they give purpose and direction and urgency to both planning and execution. The Iraqi people must also keep the deadline to adopt a permanent constitution on or before October 15, 2005.

It is equally clear that we should also establish a clear and unambiguous deadline of December 31, 2005, to turn over complete responsibility for peacekeeping to the Iraqi civilian police and the Iraqi military. Thereafter, we should commit, if invited by the new government to participate in an international advisory group, to assist the Iraqi people in a successful transition to stability and democracy.

The Iraqi people are capable, resourceful, and educated; and we know that stability can be achieved with hard work and strong commitment. We can and should encourage and support democracy in Iraq; but in the final analysis, the Iraqi people must choose democracy and a form of government fashioned by their own history, their own values, and their own initiatives.

Our brave soldiers and the American people have already and will continue to pay in blood and treasure to achieve this goal. A clear timetable will more likely achieve a successful outcome. Both the people of America and the people of Iraq deserve no less.

Mr. HUNTER. Mr. Chairman, I yield 4 minutes to the gentleman from Alabama (Mr. EVERETT), the chairman of our Subcommittee on Strategic Forces which oversees our nuclear component, space assets, and many critical aspects of national security.

Mr. EVERETT. Mr. Chairman, first of all, let me say how much I enjoy being on this great committee. There is not a member of this committee that is not interested in serving the American fighting man and woman. We owe much of our attitude to our great leadership from our full committee chairman, the gentleman from California (Mr.

HUNTER), and our ranking member, the gentleman from Missouri (Mr. SKELTON). I would be remiss if I did not also note it is a pleasure for me to work with my ranking member and partner, the gentleman from Texas (Mr. REYES). He has made great contributions to this markup.

Mr. Chairman, ongoing operations in Iraq and against terrorism at large call for a fresh look at military requirements. These lessons learned illustrate that today's defense forces must be powerful, versatile, and be able to deploy globally with great speed.

Moreover, our national security investment must continue the development of transformational capabilities of future systems. Given that, this bill supports the administration's objectives while making significant improvements to the budget request and incorporating the chairman's theme of supporting the war fighter.

Mr. Chairman, the Subcommittee on Strategic Forces' effort continues to fund missile defense, military space and atomic energy programs. As we quickly approach the deployment of the Nation's first national missile defense capability later this summer, this bill fully funds the GMD system.

In the area of military space, the bill shifts funds from longer-term follow-on systems to more near-term capabilities, including the Operationally Responsive Satellite and the Advanced EHF Satellite. The bill adds funding for the SBIRS High program and ensures sufficient technological maturity for the Space Based Radar and the TSAT program.

Within Atomic Energy Defense Activities, the bill funds the National Nuclear Security Administration at the budget request. The bill includes modest reductions for directed stockpile work and campaigns while adding $50 million for infrastructure upgrades that are badly needed. The committee recommends $5.88 billion for defense site acceleration completion, an increase of $62 million over fiscal year 2004.

Mr. Chairman, the committee's recommendation addresses the administration's objectives, many of DoD's unfunded requirements, and Member priorities. I urge my colleagues to support this important legislation.

Mr. SKELTON. Mr. Chairman, I yield 5 minutes to the gentleman from South Carolina (Mr. SPRATT), the ranking member on the Committee on the Budget and also a distinguished member of the Committee on Armed Services.

Mr. SPRATT. Mr. Chairman, first of all, I commend my good friend, the chairman. We do not agree about everything; nevertheless, I hope that is not a sign of what is about to come. He does a wonderful job of chairing the committee, and he has brought to the floor a good piece of legislation. We thought it could be better. I wish there were more amendments in order, but I do not want to diminish the significance of what is in the bill.

Mr. Chairman, with troops in the field being bombed and shot at, we cannot be stinting about what we provide our troops. We have got to give them the resources they need to do the tough tasks that they have taken on. But with the defense bill before us running at a level of $422 billion, that is an increase of $125 billion in 3 years, and with the costs of our operations in Iraq alone approaching $200 billion by the end of next year, military and economic reconstruction, Congress also cannot relax its oversight responsibilities and we should not rubber-stamp what the administration sends us.

That is why I thought more of the 100-odd amendments we offered should have been made in order. We could have a good, full debate on the House floor about priorities. That is why I wanted to take the ballistic missile defense account, which the administration wants to increase by $1.2 billion, to make it twice as big as any other program in the procurement and R&D accounts; why I wanted to take just a little bit, $400 million off the top of that, leaving an increase of $800 million; take a little off the top of that and then spread it to someplace else in the budget where I think it would do a lot more good, and that is in compensating the backbone of our military services, our NCOs and warrant officers, with a pay raise above the level provided other troops, at least in the rate of increase.

In addition, I wanted to provide $25 million to $50 million, that is all, so we could say to every troop we send into combat, Uncle Sam will pick up the premium and we will see to it that every one of you has $250,000 of group life insurance.

Now, there are some good things in this bill, as I said. I want to congratulate the chairman for leaning on DoD to send us a supplemental, because we were sailing into the next year under the artificial representation that we had enough money and we could move it around and we could get to the next calendar year. We cannot do it.

But I do not think we should give the administration a blank check, and, to a great extent, we have not done that; and I commend the chairman for that. We have provided some line item specificity in title 15 of this bill. We have also, in response to the administration's request for transfer authority, we said to them you can have transfer authority for $3 billion, but not for $25 billion. All of that is an improvement over the request.

But nobody should think that $25 billion is going to get us through the year. We will be lucky if it takes us to March. That is because we are spending $4 billion to $5 billion easily every month in Iraq; it is not likely to go down. We are spending $700 million to $900 million every month in Afghanistan; it is not likely to go down. We are spending $500 million a month for Noble Eagle, United States air defense and other things like that. It is close to $6 billion a month.

The arithmetic is easy, even on the back of an envelope. $6 billion times 12 months is $72 billion. We have only provided $25 billion of it. We could easily have another supplemental coming in 2005 of $50 billion.

That is why I want to remind everybody of the budget. It just so happens we are going to have the defense bill back to back with the budget; and let us keep in mind when the administration talks about runaway spending, the increase in spending in the budget, that much of it is occurring in the defense accounts. That is not to diminish or damn the amount of money that is being spent there; it is essential. But it also gets added into the calculation, and it is having an impact.

If you look at current services for everything in the discretionary budget and look at the spikes that are really standing out, what you will find is that 90 to 95 percent of the increase in discretionary spending over the last 4 fiscal years, every year has either been defense, homeland security, and our response to 9/11.

Quickly, let me show you a chart that is almost too much to read from this perspective. Basically, what we show here is the FYDP, the Future Years Defense Program, run out of 10 years, when Mr. Bush came to office was about $3.6 trillion in 2001. If you include what he has added, plus the costs just through this year of Iraq, it is about $4.6 trillion. If you go back and make some reasonable adjustments for policy changes in procurement and also add in the cost of Iraq and Afghanistan after 2005, you are easily up to a $1.5 trillion increase in spending.

Mr. Chairman, what I am saying is that we cannot forget the budget; we cannot forget the deficit. It has a huge impact on the economy. The economy is the first instrument of our national defense.

Secondly, sooner or later, if these costs keep running at this level, we have got to turn to the American people and ask more than our troops to share the sacrifice; we have to ask the American people to pick up some of the costs that we are running here for our defense and homeland security. The bill has to be paid sooner or later, the day of reckoning is coming, and we are only postponing it with the budget we will take up after this bill is considered today.

Mr. HUNTER. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. MCKEON), a very distinguished member of the committee.

Mr. MCKEON. Mr. Chairman, I rise today in strong support of H.R. 4200, the National Defense Authorization Act For Fiscal Year 2005.

First, I would like to commend the gentleman from California (Chairman HUNTER) and the ranking member, the gentleman from Missouri (Mr. SKELTON), for their leadership in bringing this good bill to the floor. The gentleman from California (Mr. HUNTER) was referred to this morning in our conference as the troop's chairman, and I think that is exactly what he is; and he has brought a bill that is great for the troops.

Mr. Chairman, hundreds of thousands of brave American soldiers, including mothers, fathers, sisters and brothers, are fighting to protect our freedom and liberty throughout the world; and we owe it to them and to their families to pass this bill today.

The cornerstone of H.R. 4200 is the $2 billion plan to equip our troops with the latest and most state-of-the-art safety equipment, including body armor, armored Humvees, and armor add-on kits for thin-skinned vehicles.

Many times the best and most innovative of these technologies are developed by our Nation's small businesses who are able to produce cutting-edge military equipment at a lower cost. That is why we have included language in the bill to encourage the Department of Defense to provide greater consideration to the advantages and innovations offered by small business.

The bill also directs the Department to award more contracts to small businesses through broader utilization of phase 3 of the Small Business Innovative Research Program. I thank the gentleman from California (Chairman HUNTER), the gentleman from Pennsylvania (Chairman WELDON), and the committee staff for working with me to include this language in the bill.

I cannot overstate the strong impact that small businesses have on the Department of Defense. Our country's small businesses are the engines of American technological innovation, and they will significantly enhance the ability of the American war fighter and help save many lives.

Mr. Chairman, H.R. 4200 is a solid bill which focuses on protecting our troops on the battlefield and strengthening our support for them at home. It contains several other provisions that I support, including a solid pay raise for our troops, increases in their hardship pay, and elimination of their out-of-pocket expenses for housing, among other things.

□ 1530

This package is the least we could do for our brave men and women of the Armed Forces who risk their lives every day to protect America and our freedoms around the world. I urge all of my colleagues to vote "yes" on H.R. 4200.

Mr. SKELTON. Mr. Chairman, I yield 3½ minutes to the gentleman from Mississippi (Mr. TAYLOR), the ranking member of the Subcommittee on Projection Forces.

Mr. TAYLOR of Mississippi. Mr. Chairman, the young men and women who serve in our Nation's Armed Forces are not Democrats, they are not Republicans; they are Americans. And I am happy to say that I feel like the package that was put together was not put together by Democrats or Republicans, but by Americans who care about our Nation's defense. And I think it does some very good things.

First and foremost, I would like to commend my colleague, the gentleman from Colorado (Mr. HEFLEY) for his efforts in working with us to delay the next round of base closures. As we have pointed out, we are growing the Army. Almost everyone in the Army is spoken for. They are either in Iraq, just got home from Iraq or getting ready to go to Iraq.

This is a time of great uncertainty, and we do not need to further complicate that uncertainty by closing bases with a number that was artificially picked prior to September 11.

It is my understanding that there will be efforts to put the next round of base closures back into the bill. I would encourage my colleagues to vote against that. We have come to a very fair compromise when people like me, who would just as soon do away with BRAC entirely, and a level head like the gentleman from Colorado (Mr. HEFLEY) said, we should delay it. And I support that delay.

We should continue to work and we continue to work on programs that protect our troops. With things like up-armored Humvees, with things like jammers to prevent improvised explosive devices from unnecessarily taking the lives of young Americans. We have worked to provide hazardous duty pay for those people whose primary military mission is fire-fighting.

As my great colleague from Maryland has said, we have taken several significant steps to help our Nation's Navy and shipbuilding programs with three destroyers, a submarine, an amphibious cargo ship, an amphibious assault ship for the Marine Corps, and the LHD, which is also an amphibious assault ship for the Marine Corps.

We have taken steps to limit the amount of foreign flag vessels that can be leased by our Nation's Navy. Again, my chairman, the gentleman from Maryland (Mr. BARTLETT) is doing a great job of trying to revitalize American shipbuilding. We do not help that one bit when we go out and lease foreign-flag vessels. They should be made here in our country, instead of being built and leased from overseas.

We have worked, and again, I want to compliment all of my colleagues, I think this passed unanimously, to fix the problem with the survivor benefits program where the widows of the people who served in our Nation's military were not given what they were promised. Their retirement benefit was reduced by their Social Security. That should not be the case and I commend everyone who worked on that, in particular, my friend from Pensacola, Florida (Mr. MILLER), who is a sponsor of that amendment.

The last thing I would like to mention to my colleagues is, we are indeed at war. Over 700 young Americans have lost their lives in Iraq. More, including a great football player, have lost their lives in Afghanistan; and we are truly blessed by every single person who chooses to serve our Nation in its Armed Forces.

I would point out that in just a little while we will be having a vote on the conference report to our Nation's budget. And I would like to ask my colleagues, in addition to supporting this bill, to keep in mind that those who are fortunate enough not to have to fight in this war ought to, at the very least, be willing to pay for it now, not with borrowed money and not with sticking future generations of Americans with a bill that we are not willing to pay.

So I would encourage Members to vote for the defense authorization bill. I would encourage Members to vote against bringing BRAC back into this bill; and I would encourage Members to vote against the budget that does not pay for this bill with today's dollars, but pays for this bill with borrowed money that our children will have to pay.

Mr. HUNTER. Mr. Chairman, I want to thank the gentleman who just spoke for his hard work on this bill.

Mr. Chairman, I yield 2 minutes to the gentleman from Indiana (Mr. CHOCOLA).

Mr. CHOCOLA. Mr. Chairman, I want to thank the chairman for yielding me time and for his leadership on bringing this very important legislation to the floor.

This legislation supports our American men and women in uniform and it helps give them the tools to defend the freedoms that we all hold so dear and to keep our country safe. Specifically, I want to thank the chairman for his wisdom in investing $830 million approximately in Humvee production.

Humvees are manufactured in my district in Mishawaka, Indiana, by AM General. The men and women at AM General certainly do a tremendous job in manufacturing this very effective tool in the war on terror. And the investment in this production is certainly good for the 2,500 employees at AM General, it is good for our local economy, but most importantly, it provides a force protection tool for our soldiers that saves American lives.

As an example, about a year ago I went to Bethesda Naval Hospital and I met with a young Marine who had been injured in combat in Iraq. He told the story of the Navy corpsman, after he was hit, that dragged him to safety between two Humvees that were strategically placed in the battlefield.

Just 2 weeks ago I met another Marine that had lost his right arm in combat in Iraq. I flew to my district with the President, and as the President stepped off the plane, the Marine shook his hand and told him the story about how he owed his life to the fact that he was in an up-armored Humvee when he was injured.

It is because of thousands of stories like this that I urge my colleagues to support H.R. 4200, because it does exactly what it should do. It provides our troops with the tools they need to win the war on terror and supports them in their efforts so they can be successful.

Mr. SKELTON. Mr. Chairman, I yield 3 minutes to the gentleman from Arkansas (Mr. SNYDER), the ranking member on the Subcommittee on Total Force.

Mr. SNYDER. Mr. Chairman, I rise in support of this good bill. This is a bill that will help the quality of life for both our service members and their families. It is a bill for the troops. It is a bill for their families.

I know that as a Nation and as a Congress we have ongoing disagreements and discussions about our national security policy, about Iraq, about issues all around the world; but while we are having that debate and in this discussion, this bill was put together that I think accounts for the unanimous support of the committee, 60 to zero, with people who are on different sides of these many issues, because it is a bill for the troops and their families.

I wish it could have been a better bill, and I think it could have been a better process had we, as a House, today voted to let more than 100 Members have amendments on the floor that were denied the right to be heard. But I do appreciate the work of the chairman of the Subcommittee on Total Force, the gentleman from New York (Mr. MCHUGH) as well as the gentleman from California (Mr. HUNTER), the chairman of the committee.

I know it is a good process when the chairman of the committee does not win all of his amendments during the committee process this year. I think we had a full and vigorous debate. Of course, I appreciate the work of the gentleman from Missouri (Mr. SKELTON), our ranking member.

It is a bill for the troops. It will provide a 3.5 percent pay raise for the troops, which is a half percent more than the average private sector pay increase. It also eliminates out-of-pocket housing costs for service members and their families. It provides a permanent increase in imminent danger pay and family separation allowance, as well as increases the hardship duty pay from $300 to $750.

It includes providing active duty tuition assistance to Reservists who are mobilized, and it also makes permanent the TRICARE coverage for mobilized Reservists 90 days prior to activation and 180 days of transitional assistance following their separation from service.

I was also glad to see the great work done by the committee on the survivors benefits program. I would like to acknowledge two Members who are not members of our committee, the gentleman from Florida (Mr. MILLER) who had the bill's sponsor to change the survivors benefit program, and the gentleman from Texas (Mr. EDWARDS), a former member of the committee, who also did good work on advocating on behalf of changing that program. I think that will help a lot of spouses of military retirees who have lost their mate. It is a very important issue.

Finally, I want to say in conclusion, I do support this bill; however, I think we should have allowed more time and had more amendments. It is particularly distressing on a committee in which we talk about our bipartisanship, that some of the most senior and experienced members, such as the gentleman from South Carolina (Mr. SPRATT) and the gentleman from Missouri (Mr. SKELTON) and his recommendations for amendments were denied an opportunity.

We had a bipartisan amendment. The gentleman from North Carolina (Mr. PRICE) and the gentleman from Connecticut (Mr. SHAYS), who had an amendment, both senior Members, not of the committee but of this Congress, were denied a right to be heard on the House floor today and tomorrow on their amendment. It would have been a better process and a better bill if that had gone forward.

But I do support the bill and urge other Members to do so also.

Mr. HUNTER. Mr. Chairman, I thank the gentleman from Arkansas (Mr. SNYDER) for his hard work on the bill.

Mr. Chairman, I yield 3½ minutes to the gentleman from North Carolina (Mr. HAYES), a gentleman with a real heart for our soldiers.

Mr. HAYES. Mr. Chairman, I want to recognize my good friend, the soldiers' chairman, the gentleman from California (Mr. HUNTER) for everything he has done to bring this bill together that supports our troops.

I rise today in support of H.R. 4200, legislation we have crafted in the Committee on Armed Services that focuses on force protection and personnel benefits, designating 2005 as the Year of the Troops. For the soldiers and airmen in my district at Fort Bragg and Pope Air Force Base, the ability to adequately execute the mission for which they are called and care for their families are the two issues that are second to none.

I believe this legislation makes significant progress in these areas and will enable our men and women in uniform to continue successfully prosecuting the war on terrorism.

A trip to Iraq this past March, the second I have made, did nothing but reinforce my pride in our Nation's warfighters. These brave men and women served with honor and distinction as they liberated a nation. Troops from the 8th district of North Carolina have been at the very tip of the spear that ended the dark reign of Saddam Hussein and continued to lead the way in postconflict resolution in Iraq and Afghanistan.

This legislation, first and foremost, takes care of our most vital asset, our military, our people. It provides every service member an across-the-board 3.5 percent pay raise and increases the force structure of the Army and Marine Corps. It also boosts the maximum amount of hardship duty pay and eliminates out-of-pocket housing expenses. Furthermore, it closes the gap that some deployed Reservists and members of the National Guard face when their military pay is less than their civilian pay.

It is the first time in history that steps have been taken to replace income loss while Reservists are away from their civilian jobs. Currently, about 3,500 members of the North Carolina Guard are deployed in support of Operation Iraqi Freedom, the largest deployment in our State's history. It is vital that we take every measure to care for their families while they are away.

I am also happy the committee is urging the Department of Defense to consider programs being proposed at the University of North Carolina and others to help ease the hardship of these families and what they face.

Additionally, I would like to mention the direct effect this legislation will have for men and women at Fort Bragg and Pope. There is almost $200 million for infrastructure and housing improvements at these two installations. It includes $10 million more than was in the President's request for a barracks complex at Fort Bragg. I worked hard to secure this funding, along with others, because it will help improve the living conditions of the 16th MP brigade, the unit that spent many months in Iraq.

The National Defense Authorization Act addresses other critical issues, fortifying the defense industrial base, ensuring the Department of Defense purchases products that are made in America. My top two priorities are national security and economic security. There is seldom, if ever, a reason that these two goals should be considered mutually exclusive. I have vowed to always work to protect and promote the U.S. manufacturing industry, and we must develop transparency within the DOD procurement process.

Providing visibility on the Berry amendment, which stipulates domestic sourcing requirements, is crucial and is in this bill. This is vital to protect our workers and our soldiers and our national security, and it is just as important to protect our economic security here at home.

The gentleman from California (Mr. HUNTER) has worked so hard to provide this, and I thank him again.

Mr. Chairman, this is a great bill. It supports our wonderful men and women in uniform. I urge our most enthusiastic support.

Mr. SKELTON. Mr. Chairman, I yield 3 minutes to the gentlewoman from California (Ms. LORETTA SANCHEZ), a member of the Committee on Armed Services.

Ms. LORETTA SANCHEZ of California. Tailhook, Aberdeen, Air Force Academy rapes, rapes in the Pacific theater, rapes in the Iraqi theater.

Mr. Chairman, I rise today to talk about what is not in this bill. A sensible, conservative legislative initiative that would have made it easier for the military to prosecute sexual assault offenses in the armed services.

The majority prohibited me from offering an amendment that would have made this vital change to the Uniform Code of Military Justice. It would have replaced a woefully outdated statute currently being used by the military to prosecute sexual assault with a version we use at the Federal level, title 18, used also in 37 other States, that was approved by this body 18 years ago.

The current military mechanism for prosecuting sexual assault was written in the 1950s, and it really does not reflect today's reality. My bill would have emphasized the acts of the perpetrator, rather than the reaction of the victim during an assault, which is an all-too-common complaint within the military justice system.

□ 1545

It would have expressly provided for cases involving voluntary and involuntary intoxication of the victim, which are common fact patterns in military sexual assault cases.

It would have expanded the definition of sexual abuse to include a broader scope of sex acts.

It would have also included a provision which specifically relates to the sexual abuse of a prisoner, unlike the current UCMJ. This provision is particularly timely given the tragic incidents which have occurred in Abu Ghraib prison.

We are facing a sexual assault crisis within our armed services. Our women and our men are being raped in Iraq. The Army currently has investigations of 110 counts of sexual abuse in Iraq and Afghanistan.

Some say this is combat-related stress. Well, in March of this year, the Air Force reported that it is investigating 92 reports of rape in the Pacific. Those troops are not in combat.

In a report released by the Department of Defense just this week, it was reported that across the Department of Defense there were 901 reported cases of rape in 2002 and over 1,000 in 2003. Now, I think that is a problem, and the Pentagon obviously thinks it is a problem, also.

So this would be an opportunity to make some positive changes on this issue because it is our job as Members of Congress to provide oversight of the executive departments of this Nation. It is our responsibility to provide assurances to men and women in uniform that they are safe and that when crimes are committed, our laws assure that justice will be served.

I am disappointed that my amendment is not being considered today. I think it is a disservice to the military men and women of our Nation.

Mr. HUNTER. Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. MILLER), the gentleman who is the author, the father of this great benefit package for military survivors that was embedded in this bill and is good news for hundreds of thousands of families.

Mr. MILLER of Florida. Mr. Chairman, I thank my chairman of the full committee for the time; and, Mr. Chairman, I proudly rise today in support of H.R. 4200, our National Defense Authorization Act of 2005.

As the chairman said, this legislation fully restores the survivor benefit plan annuity to what was promised to America's surviving spouses, and I applaud my Committee on Armed Services colleagues for bringing a quarter of a million military widows and widowers one step closer to seeing increases in their monthly checks next year. This is a Defense authorization measure which this entire body can be proud of.

Since coming to Congress, I have been working on this issue of particular interest, restoration of the minimum survivor benefit plan basic annuity to 55 percent for those survivors aged 62 years of age and older. Under present law, surviving spouses are subject to a reduction to 35 percent as part of the initial SBP law that was enacted in 1972, but this critical piece of information did not find its way into military retirement briefings and to the SBP election forms until many years later.

Here is a 1982 election form. Nowhere will my colleagues find in this form the offset mentioned. Survivors have felt betrayed by this bait-and-switch; and at 35 percent, SBP provides only a poverty-level or lower annuity to most survivors, even those of relatively senior officers.

For nearly 3 years, we have worked with members of the committee, my colleagues on the Committee on Veterans' Affairs and numerous VSOs, to introduce SBP bills that will bring the needed equity. Both bills that I have introduced in Congress have received strong bipartisan support with over 300 Members sponsoring one or both measures, and I am proud that this committee has produced SBP reform that exceeds even my greatest expectation.

H.R. 4200 will fully eliminate the so-called "widow's tax" by April 1, 2008, in under 5 years. I thank the gentleman from California (Mr. HUNTER) and the first rate Committee on Armed Services staff who literally worked round the clock to make this happen.

Once again, our Nation is calling upon the members of the U.S. Armed Forces to defend democracy and freedom. We have no doubt that these brave men and women will rise to the challenge. However, for those who have selected to make their career the U.S. military, they face an unknown risk.

This giant leap forward sends a clear message to the men and women who have provided our national defense. Today, we are a grateful Nation, and this Congress is making good on our promises to our Armed Forces. This battle has been hard fought, and its victory is shared by so many whose efforts have been tireless and unrelenting.

I thank my colleagues who have stood by me to realize this victory.

Mr. SKELTON. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Tennessee (Mr. COOPER), a member of our Committee on Armed Services.

Mr. COOPER. Mr. Chairman, I thank my friend, the gentleman from Missouri, for yielding me the time.

Mr. Chairman, unfortunately, we will not be allowed to debate the true cost of this war. That is ironic because I think most Americans, whether they are for or against the conflict, at least want honest answers from this body. They want to know what the real casualty rate is, something that, unfortunately, Secretary Wolfowitz could not recall in a hearing the other day. They also want to know about the dollars and cents.

In the first Iraq war, which I proudly supported, the American taxpayer really did not have to pay even $10 billion for that war. This cost is already approaching $200 billion. That is not necessarily a bad thing because I think most Americans not only support the war; they want us to win and bring our troops home safely.

Here with this bill, despite the many fine things that are in the legislation, most every Member of this House, Republican or Democrat, has already voted for a budget which contained $50 billion for our troops, $50 billion, five zero billion dollars. But what is in this bill? $25 billion dollars for the troops. Why the difference? Why the difference?

Actually, the $25 billion is a partial victory, and I congratulate the chairman because, before, the White House did not want any money in the bill for the troops in Iraq or Afghanistan. They wanted that to be handled entirely separately. So, finally, we have an acknowledgment of $25 billion.

But is Iraq safer than it was a few months ago? Is that why the number is less than the $50 billion that we have all already supported? No. Iraq is more dangerous than it was before.

I am worried a false impression is being created here. There are many good things in this legislation, but when it comes to funding Iraq and Afghanistan, we are pretending with this bill, and we are allowing no amendments to this section, we are pretending that the cost is $25 billion.

This $25 billion is pretty curious because it really does not kick in until October 1 of this fall, the new fiscal year; and then it will last us a whopping 3 or 4 months, so that our men and women in uniform in Iraq and Afghanistan are going to have to start worrying about Christmastime whether the new Congress and a possible new White House is going to be as supportive of their efforts. We know our troops are going to be there. We know our troops are going to be there in large numbers. Why do we not go ahead and properly fund them?

The current policy in this bill is as silly as knowing you are running out of gas when you are on a long car trip, refusing to buy any new gas until way down the road somewhere, about October, and then when you finally get to the pump, you are buying $25 worth of gas when you should be filling up the tank.

Mr. Chairman, this bill refuses to fill up the tank. It refuses to fully fund our troops in Iraq and Afghanistan. It does fund them for 3 or 4 months; but that is a piecemeal, shortsighted funding scheme that does a disservice to our men and women in uniform.

Mr. SKELTON. Mr. Chairman, may I inquire of the time remaining, please.

The CHAIRMAN pro tempore (Mr. CAMP). The gentleman from Missouri (Mr. SKELTON) has 27 minutes remaining. The gentleman from California (Mr. HUNTER) has 25 minutes remaining.

Mr. HUNTER. Mr. Chairman, I yield myself 2 minutes.

Let me just say in response to my colleague who has just spoken that we did something that was unprecedented in this bill, which was look into the future, into the last several months of this year, and decide that, even though we all agreed and the budget chairman announced on the floor and to the world that we were going to need supplementals of $50 billion this next year, we decided that we did not want to have any strain on the troops in the closing months of this year before Congress, after the election, could put together another supplemental.

So we provided this bridge, which even the gentleman will admit carries us well into the next year, into the next calendar year; and we did fully provide for the additional forces that we have in the field, the 1st Armored Division, which is going to be an additional $750,000. For all of the armor upgrades, we have got roughly $1 billion for armor upgrades in Humvees and trucks, for all of the modernization that the chief of staff of the Army needs for modularity, that is, building this new brigade centric force for the U.S. Army.

The reason we do not go off into the new year and say, okay, should it be $50 billion, should it be $75 billion is very simple. We cannot see the future. We do not know how much weight this new Iraqi military is going to be able to take on their shoulders, how fast we are going to be able to make this handoff; and all of those things drive the costs of operation. But this takes good care of the troops for a long period of time during this bridge period; and that is the reason we did it, to give the troops confidence.

It is above and beyond the $422 billion bill that we have. I think, Mr. Chairman, it does a good job in looking out for the troops.

Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania (Mr. WELDON), the chairman of the Subcommittee on Tactical Air and Land Forces, whose subcommittee oversees the most massive part of modernization and our biggest programs for aircraft and land systems, who has done a great job working this issue.

Mr. WELDON of Pennsylvania. Mr. Chairman, I want to thank our chairman of the committee for an outstanding bill. I think it is one of the best Defense bills since I have been in Washington in 18 years, and I want to also thank the distinguished ranking member who is one of the finest gentlemen in this Congress and someone that both the chairman and I are proud to serve with.

I tell my colleagues that the chairman is correct. This bill is for the soldier. It directly deals with the issues that our soldiers are experiencing and the problems and challenges they are experiencing in the Iraq and Afghan theater, and it provides an aggressive and appropriate response.

In fact, we are proud of the fact that under our chairman's leadership we have had almost every member of the committee visit Iraq and Afghanistan to interact with our troops so that we did not base our own decisions in a vacuum on what was told to us by our military leaders; but rather, we went over and we talked to the troops. We interacted with them in a firsthand way and then came to terms with the President's budget request and what we thought was needed.

We increased funding just within my subcommittee's jurisdiction by $4.3 billion for additional programs and modernization. That includes $700 million of additional money for up-armored Humvees. It includes additional money for improvised explosive devices, for UAVs, for personal protection, for surveillance, for the Predator and the Shadow, for the Bradley fighting vehicle modernization, for Hellfire missiles; and across the board we provide the funding that we know our troops need.

The gentleman referred to a shortfall. I can tell my colleagues, after we got the President's budget, we asked the services, what are your unfunded priorities. The total amount of unfunded priorities, as given to us by the service chiefs, was $12 billion. We more than compensated for the unfunded priorities and look forward to what the costs are going to be to continue our presence in Iraq and Afghanistan, and we took care of that because of the vision of our chairman and our ranking member in working together.

Now, we are going to have to come back and ask for additional dollars, yes; but this bill does a more than adequate job to take care of the needs that we have identified and that our service chiefs have identified, but it goes beyond that.

We specify in this bill that any modernization must also be given to our Guard and Reserve units based on their being deployed in the theater. So the new equipment we buy will not just go to our active duty forces; but under this legislation, it will go to Guard and Reserve units who have been serving over there and who need the latest state-of-the-art equipment. But we even go further than this.

We deal with some tough issues. We deal with the issue of outsourcing. Under the chairman's leadership, starting last year, we put money into a fund to come up with innovative ways to have manufacturing components done here in the U.S. as opposed to overseas.

□ 1600

This year, we added $50 million of additional money to that pot. And we have challenged our companies to work with labor unions so that when they contemplate outsourcing 10 or more jobs, we have a financial mechanism in place to bring labor and management together to find common solutions that will allow that company to reduce costs and keep those potential outsourced jobs right here in America.

So this bill covers a lot of territory. It is good legislation, and I encourage my colleagues to accept it and vote for it.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, the evidence of the unity of the Committee on Armed Services presents itself in unanimous support of this committee on this bill. I thank the gentleman from Missouri (Mr. SKELTON) and the chairman, the gentleman from California (Mr. HUNTER), as well, for collaborating at that level. And I guess I rise today simply to be united behind our troops, but I do offer my concerns.

I had an amendment that would direct the Department of Defense to award a contract to an independent phone bank for tending to rape and sexual assault victims in a confidential manner within 3 months of enactment of this bill. It was needed and not made in order.

My second amendment would have directed the Department of Defense to conduct a full review into the situations women are placed in within the Armed Forces. The review would specifically focus on the intimidation many women feel they may face in the Armed Forces in relation to higher-ranking male officers, who often place female subordinates in compromising situations. But, likewise, it would discuss, of course, some of the issues that we see in Iraq.

But today I rise to say singularly that my vote will be offered to provide the kind of funding that we see in this bill for the troops, the $705 million for up-armored Humvees, the $332 million for ballistic armor for other Humvees, and, yes, the over $104 billion for military personnel, in particular the dollars that we will have for Iraq and Afghanistan. There is a great need.

America, however, needs to be told the truth. And as I stand here, united with our troops, I demand and call for the accountability of those who are responsible for the incidents and the activities in the Iraqi prison and the other collapse of the Iraqi effort.

I want victory in Iraq and in Afghanistan as well. I want democracy and security in Afghanistan and Iraq. And I want our troops to be safe, I want other veterans to be safe, I want their widows and families to be safe. We are unified behind that.

But I see no reason to continue with the leadership of Secretary Rumsfeld. We must hold the higher ranking accountable.

Today, I stand with the troops in support of this legislation.

I rise today with grave concerns in regards to the deficiencies of this National Defense Authorization Act. It is truly unfortunate that the brave men and women of our Armed Forces are fighting around the world while the Department of Defense is in the current state it is in. Leadership must be accountable for the actions of the Armed Forces; the unfortunate events taking place in Iraq have caused our Nation irreparable harm.

CONGRESSWOMAN JACKSON-LEE'S AMENDMENTS

I am most disappointed with the decision of the Rules Committee not to make my amendments in order. I can find no real substantive or procedural reason why my two Amendments would be ruled out of order. Unfortunately, there is no substitute to this National Defense Authorization Act; therefore there is a greater need for appropriate amendments. My two amendments would have addressed two glaring issues that continue to trouble members of our Armed Forces.

My first amendment would direct the Department of Defense to award a contract to an independent phone bank for tending to rape and sexual assault victims in a confidential manner within 3 months of its enactment. That phone bank would be required to have the expertise and training programs in place to allow operators to cope with unique situations arising from sexual abuse in the military context. This phone bank would be open to members of the Armed Forces and their families. I hope we all understand the devastation caused by rape and sexual assault. However, what we fail to recognize is the fact that members of the Armed Forces and their families are in a unique situation that is not faced by other Americans. Because of this fact it is imperative members of the Armed Forces and their families have an outlet to receive counseling and advice for issues related to rape and sexual assault without the fear that their report might be sent to their superiors in the Armed Forces without their consent.

My second amendment would have directed the Department of Defense to conduct a full review into the situations women are placed in within the Armed Forces. This review would specifically focus on the intimidation many women in the Armed Forces may face in relation to higher ranking male officers who often place female subordinates in compromising situations. Also, to have been addressed specifically by the review are the delicate situations women in the Armed Forces are placed in when stationed abroad especially when in relation to direct contact with enemy combatants and prisoners. The Department of Defense would then report the full findings of this review and appropriate remedies to the problem within 6 months to the Senate and House Armed Services Committees. I feel strongly that such a review is necessary after the recent torture scandal that took place in Iraq. It has become obvious that women stationed abroad in Iraq were not placed in proper situations. Pfc. Lynndie England, who is accused of being involved in the torture and humiliation of Iraqi prisoners, says that her actions were forced by her superiors in the military. I will not pass judgment on Pfc. England until her court-martial has taken place, but what I do know is that it is entirely possible that she was intimidated. Furthermore, why were female soldiers guarding Iraqis in a prison when we know that it would be deeply offensive to the Iraqi public to do so? I am not saying that women should not be serving in Iraq, what I am stating is that women in Iraq shouldn't be placed in precarious situations which are not advantageous to them or to the mission we are hoping to accomplish in Iraq. The Department of Defense needs to conduct this review because no member of the Armed Forces should be intimidated into taking actions that they know to be wrong. It must be clear to everyone in this body that this review is necessary in light of recent events that have unfortunately placed women in the Armed Forces in a bad light.

IRAQ TORTURE SCANDAL

I have great consternation with the fact that this Defense Authorization does nothing to address the prison situation that led to the Iraq torture scandal. The court-martial of a few enlisted soldiers will not solve a problem that is endemic. There are many steps to be taken to make sure that our men and women of the Armed Forces are not being put in uncertain situations. It must be obvious to all Members of this body that we need a proper system of jails to hold Iraqi prisoners and appropriate training of our soldiers to guard these prisoners.

I was pleased to see that Representative ABERCROMBIE's language on independent contractors was added to this Authorization. It has become painstakingly clear that the Pentagon has no control on the number of activities of independent contractors in Iraq. Apart from their own safety, which we cannot guarantee, independent contractors have been involved in a number of dubious situations which have placed further undue burden on our Armed Forces.

The recent events in Iraq have made it even more painfully clear to me that this Administration has no real exit plan from Iraq. The truth is that this war was poorly planned from the start and the recent torture scandal has only furthered that thought. This authorization addresses a number of issues affecting our Armed Forces, but it does not properly address the needs of our Armed Forces who are still stationed in Iraq.

MISSILE DEFENSE

It is truly unfortunate to that this Defense Authorization continues this Administration's policy of having misplaced priorities. Instead of directing more money for proper planning in Iraq, or for greater protection equipment for our troops, or maybe for greater pay raises for our troops; this Administration has decided to budget $10.2 billion for missile defense next year—twice the request for any other weapons system. Missile defense systems are not new, in fact they have been discussed for decades. The truth is that missile defense systems have proven to be overly complex, unreliable, and often been little more than pipe dreams. Why in good conscience, in this time of budget constraints and increased need, would we allocate even more money for failed programs? There are more responsible ways to budget this money. Money from the Defense Authorization should go to our men and women in the Armed Forces who actually defend our Nation instead of into programs that just waste needed funds.

SPRATT AMENDMENT

It is sad to see that so many relevant and necessary amendments to this Defense Authorization were not ruled in order. Perhaps the most relevant amendment was that submitted by my distinguished colleague, Representative SPRATT. His amendment would have provided $414.4 million for targeted pay raises, reimbursement of life insurance premiums for service members that are in imminent danger, 3 Marine Corps' troop protection unfunded requirements, and improvements to the PAC–3 ballistic missile defense system. These necessary defense budget items would have been offset by targeted cuts to 4 ballistic missile defense program elements, the Ground-based Midcourse Defense system, BMD Products, BMD Technology, and the BMD Systems Interceptor. Representative

SPRATT has found a very reasonable compromise that still results in Ballistic Missile Defense programs receiving an increase in funding over the 2004 level. It is truly unfortunate that such a pertinent amendment was not ruled in order and debated by this entire body. When the amendment process is compromised like it has been here then the legislative process suffers and unfortunately that means our Armed Forces will suffer as a result of this Defense Authorization.

I hope in the future that such significant legislation as this will involve the debate and full consideration of all necessary and relevant amendments. The men and women of our Armed Forces and indeed the American people as a whole deserve as much.

AMENDMENT TO H.R. 4200, AS REPORTED OFFERED BY MS. JACKSON-LEE OF TEXAS

At the end of title V (page 200, after line 24), insert the following new section:

SEC. ___. CONTRACT FOR INDEPENDENT TELEPHONE BANK FOR TENDING TO RAPE AND SEXUAL ASSAULT VICTIMS IN THE MILITARY CONTEXT.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall award a contract for the establishment of a telephone bank, operated independently from the Department of Defense, for counseling of members of the Armed Forces, and family members of members of Armed Forces, who are victims of rape, sexual assault, or other forms of sexual abuse. The contract shall require that such counseling be provided on a confidential basis and that the entity awarded the contract have expertise and training programs in place to allow operators to cope with unique situations arising from sexual abuse in the military context.

AMENDMENT TO H.R. 4200, AS REPORTED OFFERED BY MS. JACKSON-LEE OF TEXAS

At the end of title V (page 200, after line 24), insert the following new section:

SEC. ___. REVIEW OF SITUATIONS IN WHICH WOMEN IN THE ARMED FORCES ARE PLACED WHILE SERVING IN THE ARMED FORCES.

(a) REVIEW.—The Secretary of Defense shall conduct a full review into the situations women in the Armed Forces are placed in within the Armed Forces. The review shall specifically address—

(1) the intimidation many women in the Armed Forces face in relation to higher ranking male officers who often place female subordinates in compromising situations; and

(2) the delicate situations women in the Armed Forces are placed in when stationed abroad, especially in relation to direct contact with enemy combatants and prisoners.

(b) REPORT.—The Secretary of Defense shall submit a report on the review under subsection (a) to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives not later than 180 days after the date of the enactment of this Act. The report shall set forth the full findings of the review and appropriate remedies to problems identified in the review.

Mr. HUNTER. Mr. Chairman, I yield 4 minutes to the gentleman from New York (Mr. MCHUGH), who chairs the Subcommittee on Total Force, which oversees the 2.5 million Americans in uniform.

Mr. MCHUGH. Mr. Chairman, I thank the gentleman, the distinguished chairman of the committee, for yielding me this time, and it is with great honor and pride that I rise today.

Mr. Chairman, as always, I express my deep appreciation to the chairman, the gentleman from California (Mr. HUNTER), and of course to the ranking member, my dear friend for whom I hold so much respect, the gentleman from Missouri (Mr. SKELTON), and also my partner on the Subcommittee on Total Force, the gentleman from Arkansas (Mr. SNYDER), for their support, their great leadership in this effort.

As we have heard, Mr. Chairman, time and time again, the chairman of the full committee challenged all of us to make this the Year of the Soldier. Those of us on the Subcommittee on Total Force try to make every day the Year of the Soldier, but I think even by that normal standard this subcommittee has done an outstanding job on both sides of the aisle of bringing together a package of benefits and of responses to the challenges facing our men and women in uniform that go that extra step further, as they are for us.

The chairman spoke earlier about that 30,000 increase in total end strength for the Army and 9,000 for the Marines, placing valuable, much-needed troops on the ground in those places like Afghanistan, like Iraq, and, in turn, lessening the burden on the troops back home awaiting their next rotation or on the Reserve component.

We talked about the 3.5 percent pay increase. This is now the sixth consecutive year in which we have provided a pay increase. This particular 3.5 percent exceeds that of the private sector and reduces the gap that we have been struggling to close between the private sector and military from 5.5 to 5.1 percent. We increased the wartime pay, the imminent danger pay, and family separation allowances that our brave men and women in those theaters of war deserve. We added to those.

The Reserve component is not left behind either. It is very, very valuable. I heard my dear friend and colleague, the gentleman from California (Mr. LANTOS), earlier speak about the need to ensure that those Reservists who find themselves financially stressed are in a position to have their incomes supplemented. In this bill, Mr. Chairman, for the first time in history, we propose and, in fact, do that, from $50,000 to $3,000 a month in added income to those Guards and Reservists who are deployed repeatedly and for extended periods of time. It is the right thing to do and the right time to do it.

I would like to address the comments of the gentlewoman from California (Ms. LORETTA SANCHEZ), and she has been a leader on this subcommittee and a leader in the House with respect to issues of sexual harassment, sexual abuse and rape; and I commend her for her leadership. But we want most of all to be sure that any change in the Uniform Code of Military Justice is done appropriately and done in a way that ensures better not fewer protections for the victim.

And in this bill we require a report from the Department of Defense. We are going to move on that issue. Yesterday, I met with the Deputy Secretary for Personnel, Dr. David Chu, on this very issue. I told him that this subcommittee, Democrat and Republican alike, is committed to reforming and updating the rules and regulations in the UCMJ with respect to sexual harassment and rape, and told him that we wanted him to be a partner.

But with him or without him, with or without the Department and the services, we were going to make the changes that the gentlewoman has discussed. This is far too important an issue to do in a hurried manner, and I certainly look forward to the gentlewoman's being a continued leader in that effort.

In short, Mr. Chairman, I would just say that this Subcommittee on Total Force has worked magnificently to respond to probably the greatest asset this Nation has today in the war on terror. And, without question, the greatest asset this Nation has ever had, since our founding back in 1776, is our men and women in uniform.

This is a great bill, and I urge all my colleagues to support its passage.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from North Carolina (Mr. PRICE).

Mr. PRICE of North Carolina. Mr. Chairman, I want to thank the ranking member for yielding me this time, and to commend him and the chairman for the hard work they have done on this legislation.

I fear, however, Mr. Chairman, that my brief contribution to this debate today must concern one of the bill's serious omissions. The gentleman from Connecticut (Mr. SHAYS) and I drafted a bipartisan amendment that would have addressed the fact that, because of loopholes in current law, contractors in Iraq are operating in a legal fog where they are not accountable to Iraqi laws, to U.S. laws, or to laws governing our troops. The contractors working in Iraq are not comfortable with this, and we should not be comfortable with it either.

Our amendment would have fixed this problem by closing loopholes in the Military Extraterritorial Jurisdiction Act, MEJA, so that contractors and subcontractors in Iraq and elsewhere would be accountable under the law, and the Department of Defense would have a clear responsibility to place violators of the law before the appropriate bar of justice.

Our amendment had the support of the contractors themselves. The Parliamentarian had ruled it germane. It had strong bipartisan support and would have almost certainly passed, and yet we were not allowed to present this amendment before this body today for a vote.

Mr. Chairman, this issue is too important for this Congress to do nothing. The gentleman from Connecticut and I have just introduced our amendment as a stand-alone bill. We welcome the support of colleagues, and we hope that the House leadership will not pass up this second chance to do the right thing.

Mr. HUNTER. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. NEUGEBAUER).

Mr. NEUGEBAUER. Mr. Chairman, I want to thank the chairman for working with me in adding $100 million to add 10 additional B–1 bombers. As my colleagues know, the B–1 played a very major role in Iraq and Afghanistan, and the B–1s from Dyess Air Force Base were an integral part of that mission.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. NEUGEBAUER. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I want to thank the gentleman for his hard work and his urging that we try to retrieve an additional 10 B–1 bombers. We now have 67.

The Air Force was going to cut that down to 60. We moved it back up where we retrieved seven of the bombers that were going basically into the bone yard, and the gentleman worked hard with myself and other members of the committee to make sure we retrieved an additional 10 bombers. So we are taking the B–1 up to 77 bombers.

That B–1 has been a great asset for the projection of power for the United States. It has got great speed, it can hold a tremendous payload, and it can literally put a precision munition right through a goalpost. In fact, we went after Saddam Hussein early on in the war in Iraq with the B–1 bomber.

So the gentleman has been a champion of the B–1. I want to thank him for that, and I hope he is here with me when we roll out those additional 10 that we are bringing back from retirement.

Mr. NEUGEBAUER. Reclaiming my time, Mr. Chairman, I look forward to that day.

Mr. SKELTON. Mr. Chairman, I yield 3 minutes to the gentlewoman from California (Mrs. DAVIS), a member of the Committee on Armed Services.

Mrs. DAVIS of California. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in support of this bill.

This bill contains important provisions for our troops, including a well-deserved pay raise and additional force protection equipment. I would like to thank my colleague from San Diego, the distinguished chairman of the committee, for resisting calls from the Defense Department to grant further relief from important environmental laws.

Despite the great provisions in this legislation, some serious questions remain, and I will address one.

If you ask the Defense Department today to tell you the number of contractor personnel serving in Iraq, you will get a shrug. That represents a fundamental area of concern. The events in Fallujah and the images of Abu Ghraib remind us of the role that contractor personnel play and how their actions can affect the military mission.

We must come to terms with contractor participation and performance on the battlefield. The questions that must be answered include: Why are so many contractors being used in Iraq and other places? Does anyone really know how many are present? Who is responsible for ensuring contractors are properly trained and qualified? And to whom are the various contractors accountable? Are they providing security for the military, or is it the other way around?

This bill authorizes an additional $25 billion for operations in fiscal year 2005, a figure that should have been included in the President's budget request. So before this Congress approves additional funding, we must come to terms with money being spent on contractor personnel.

Mr. Chairman, lives are at stake.

Mr. HUNTER. Mr. Chairman, I yield myself 1 minute to thank the gentlewoman who just spoke, my seatmate in California, to say something about contractors.

God bless our contractors. The last figure I saw was that the contractors for Halliburton, who have to run Ambush Alley, bringing our convoys, bringing food to the troops up through the heart of the insurgency country in Iraq, have now lost 34 of their personnel, killed in action supplying American troops.

We have always had lots of contractors for the very simple reason that for every troop you have out there with a rifle, you need roughly 10 people to support him down the supply line; and a lot of those people have always been contractors. We have had them in all theaters of the war in this last century and, obviously, in Afghanistan and Iraq.

The four individuals who were killed in Fallujah were American heroes, and they were trying to advance the American cause with every bit as pure a heart and sense of honor, in fact, as mostly former military personnel, as any of our people in the United States Marine Corps or Army in that area of operation.

So I think that we should appreciate our contractors perhaps more than has been noted on the House floor.

Mr. Chairman, I yield 2 minutes to the distinguished gentleman from South Carolina (Mr. WILSON), a very good member of the committee.

□ 1615

Mr. WILSON of South Carolina. Mr. Chairman, I would like to thank the gentleman from California for his leadership, and the ranking member, the gentleman from Missouri (Mr. SKELTON), for his participation in crafting a wonderful bill, H.R. 4200.

I had an opportunity last fall to accompany the gentleman from Missouri (Mr. SKELTON) to Iraq, and I saw firsthand the courage of our troops and the difference they are making in winning the war against terror and protecting American families.

I also had an opportunity last year of concluding 31 years' service with the Army National Guard, and I now have two sons serving in the Army National Guard, including one son deployed in Iraq; so this bill has a great deal of meaning to me because of the improvements of the statutes providing for benefits for those who serve in the Guard and Reserves.

These benefits are going to be so meaningful for troops who are protecting our country and are mobilized at this time. First of all, there is the provision for new reenlistment and retention bonuses. As we face future crises, the Guard and Reserve will have that increased protection.

Income supplement is an issue I worked very hard on for 25 years, premobilization and legal counseling; and the greatest concern I saw were the sacrifices that many of our young people made where they had a reduction in income. This will be addressed in this bill. It will be so beneficial to families.

Finally, there is the provision for TRICARE health benefits to be provided for National Guard members and Reservists, and I also thank the chairman for including wording that will provide for the establishment of State defense forces. In South Carolina, we have the South Carolina State Guard. These are volunteers, unpaid like civil defense forces, who stand in to protect our people when there has been deployment of National Guard troops.

Mr. Chairman, I thank the gentleman from California (Mr. HUNTER) for ensuring our troops have the resources needed to fight the war on terror to protect American families. I urge my colleagues to support H.R. 4200.

Mr. SKELTON. Mr. Chairman, I yield 5 minutes to the gentleman from Massachusetts (Mr. MEEHAN), the ranking member on the Subcommittee on Terrorism and Unconventional Threats and Capabilities.

Mr. MEEHAN. Mr. Chairman, I thank the gentleman for yielding me this time and for his service on this committee. I also recognize the gentleman from California (Mr. HUNTER) for his service and the way that he conducted the hearings on this mark in a very bipartisan way, affording an opportunity for all Members to speak out. In fact, my recollection is the chairman even came down on the shortened of a vote which I have not seen in quite some time. I am sure the gentleman will fix that in the other body. I thank the gentleman for his service.

As a ranking member of the Subcommittee on Terrorism and Unconventional Threats, I believe the product before us today is, on the whole, a solid proposal. This committee pledged to make this year the Year of the Soldier, and I think we made great strides in achieving that goal. We have a well-deserved pay raise for our troops. I am pleased that this legislation authorizes critical force protection resources, including $329 million for up-armoring Humvees, $358 million for add-on armor kits, and $421 million for interceptor body armor.

This fulfills all of the shortfalls, including on the Army's unfunded requirements list, which I am disappointed that the administration failed to request. The committee has also included language that I put forward requiring the Department of Defense to report to Congress on the lessons learned from its failure to expeditiously field protective equipment to our troops in Iraq. And we have expressed a sense of Congress urging the Department to release all appropriated funds to armor thin-skinned Humvees as soon as possible.

We are a Nation at war, and we cannot shortchange our troops by leaving them defenseless in the theater. I am proud that this committee has stepped forward and authorized important resources to support our ongoing military operations in Iraq and Afghanistan, despite the administration's failure to include much of this funding in its annual budget. But I also strongly support efforts to authorize $67 billion to take us through the end of fiscal year 2005 instead of the end of this calendar year.

Additionally, I am pleased that my colleagues recognized the need to address the gaping holes in the oversight of civilian contractors hired by the Department of Defense in the face of human rights abuses in Abu Ghraib prison.

Our committee approved an amendment offered by the gentleman from Hawaii (Mr. ABERCROMBIE) to require the Department to report to Congress on the activities of contractors in Iraq. We also included my proposal on directing the Department to issue guidance for training contractors in the Geneva Conventions and international laws of war.

Finally, the bill makes important quality-of-life improvements for our troops and for our veterans. I applaud the committee for finally ending the survivors benefit penalty. I am also encouraged that the bill addresses many of the inequities in benefits for our Reserve component, from eliminating the $5,000 cap on reenlistment bonuses, to removing restrictions on Reservists from accessing tuition assistance, as included in an amendment which I offered.

With respect to the terrorism subcommittee's mark, several of the provisions in this portion of the bill deserve praise. First, I am pleased we included a number of recommendations to streamline and accelerate the development and acquisition of technologies to combat terrorism. Additional resources are provided in a number of areas, including chemical and biological research and important detection initiatives.

The committee also honored a request by the gentleman from Texas (Mr. TURNER) and me to improve the manner in which we develop and acquire medical countermeasures against biological warfare agents.

Finally, I cannot say I support every provision in this authorization bill. I remain concerned about cuts to DARPA and several information technology programs, as well as the committee's failure to include several important nonproliferation provisions which I believe are key to winning the global war on terrorism.

I hope that we can at least have an honest debate on these issues another day. With that said, legislating is the art of compromise, and I believe the product before us will boost our troops and our war-fighting capabilities. Therefore, Mr. Chairman, I ask my colleagues to join me in supporting its final approval.

Mr. SKELTON. Mr. Chairman, I yield 3 minutes to the gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Mr. Chairman, I thank the gentleman for yielding me this time and applaud the gentleman for all the good work he is doing for the United States.

Mr. Chairman, no Member in this body disagrees that so long as our troops remain in Iraq, they should have the resources they need in order to protect their lives. We have not done well in this area up to this point, and we must do better.

Further, in my judgment, the Bush administration has done a terrible job in keeping faith with our veterans. This bill makes a start in improving that situation, but we have a very long way to go in that area, especially with regard to veterans health care.

Mr. Chairman, there are a lot of good things in this bill, and there are in my view portions of this bill that are not good and that are very wasteful of taxpayer money.

Most importantly, however, is what is lacking in this legislation, and that is there is no demand in this bill for the President to provide us with an exit strategy from Iraq, a timetable as to how we can get out. Since the war in Iraq began, we have lost 790 men and women, over 4,500 have been wounded; and we are spending billions every month.

Meanwhile, anti-American feelings are growing throughout the Muslim world, breeding more potential terrorists, and we are becoming increasingly isolated from our long-term allies. Significantly, in a recent U.S. Government-sponsored poll, 82 percent of the Iraqi people indicated that they now disapprove of the U.S. and allied military being in their country; 82 percent disapprove. The war in Iraq, in my view, is not helping us in the very difficult struggle against international terrorism. In many ways, it is making a bad situation worse.

The time is long overdue for President Bush to develop an exit strategy as to when the Iraqi people will really be allowed to govern themselves. It is not good enough for the U.S. to install Iraqi figureheads who do not have the support or confidence of the Iraqi people. The President must also tell us when the U.N. and the international community will be helping rebuild Iraq. That should not only be the burden of our soldiers and our taxpayers. President Bush must do all that he can to internationalize the transition situation.

Lastly, Mr. Chairman, and most importantly, the President must begin to tell us when American troops will begin coming home. We have lost 790 men and women already, 4,500 have been wounded, many thousands of Iraqi men, women and children are dead. We need an exit strategy to get our troops home as soon as feasible.

Mr. HUNTER. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana (Mr. PENCE), who has worked so hard on the chem-bio protection issues.

Mr. PENCE. Mr. Chairman, I thank the gentleman for yielding me this time.

To provide for the common defense is the first object of the Federal Government. I rise today in strong support of the National Defense Authorization Act because it meets that objective.

This legislation with its principal focus on the American soldier earns the gentleman from California (Mr. HUNTER) the well-deserved title Soldier's Chairman, which I believe will stick.

American soldiers with the help of coalition forces have accomplished extraordinary things in recent days, liberated 50 million people in Iraq and Afghanistan, captured and imprisoned a brutal dictator, deposed an evil regime, and American soldiers have carried out hundreds of raids, seizing caches of enemy weapons and munitions, including ominously this week, weapons of mass destruction that were found in Iraq in the form of munitions containing mustard gas and sarin gas.

It is precisely this discovery, as the chairman attests, that concerns me and most Members of Congress most deeply, for the well-being of our men and women in uniform in the theater of operation in Iraq.

I am pleased to say that H.R. 4200 provides an extraordinary amount of resources in the form of force protection: $1.5 billion for chemical and biological defense programs, individual protection, decontamination equipment, chemical and biological protective shelters, just to name a few.

We have most certainly now found weapons of mass destruction in Iraq, and the nature of the munitions we have found suggest there are more stockpiles yet to be uncovered. And putting a primacy on achieving our objective of securing the peace in Iraq must remain our fervent goal; but beyond that, protecting our forces in that theater of operation from exposure to these weapons of mass destruction is key, and the new National Defense Authorization Act achieves that goal. I am grateful for the chairman; I am grateful for every member of the committee on both sides of the aisle for creating this extraordinary legislation.

Mr. SKELTON. Mr. Chairman, I yield 3 minutes to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Chairman, there are many good parts of this bill, such as those that relate to pay and benefits, particularly a quality for National Guard reenlistees and others. There are some necessary, long-overdue basics for the troops, armored Humvees among others. But I rise to raise another issue which is of extraordinary importance, and hopefully I can get some agreement to resolve this problem.

□ 1630

We do not have a draft in the United States of America. We have a great all-volunteer military. Unfortunately, there are two aspects to that. One I tried to address with an amendment which was not allowed which is what are called "stop-loss orders." Many people in the military today are being forced to serve beyond the terms of their contract under stop-loss orders with no compensation. I think minimally they should be compensated. But today in the Portland Oregonian, page one, we have a story which is now breaking that faulty orders were sent out by the Army last month which told people in the Individual Ready Reserve if they did not choose a branch and reenlist that the military would choose soon a branch and mandatorily reenlist them. They now admit that this order was a mistake. Here is a quote from one veteran: "I started crying and said, 'I'm not doing this,'" said Carissa Jenkins, 22, of Keizer who was discharged from active Army duty in January 2003. "I have a baby, a husband. All my values have changed." She said she joined the National Guard last week to keep from going back into the regular Army. It is reported that in Oregon alone, enlistments were up by a factor of 1,000 percent for the month. Nothing else explains it except that these people were being told they were about to be drafted back into the military. And nationally, over 1,063 inactive Army Reservists signed up under these false pretenses.

I would ask that these reenlistments, which were done under color of faulty orders, be abrogated by the Secretary of Defense. I would hope that the two gentlemen on the floor here would join me. If these soldiers want to sign up of their own free will without a draft, without faulty orders, then certainly they should be allowed to do that. But this woman and a number of others are saying, no, they did not want to go back onto active duty, they did not want to go back into active guard status, but they did it because they were told if they did not do that that the Army was going to do it to them.

Is the chairman of the committee familiar with this situation?

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. DEFAZIO. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I would just say to the gentleman, no, I am not familiar with that situation.

Mr. DEFAZIO. Is the ranking member familiar? I understand he is trying to get some information on this.

Mr. SKELTON. If the gentleman will yield, I am familiar with the article and I have asked my staff to make official inquiry with the Reserve component of the United States Army to answer this.

Mr. DEFAZIO. If soldiers like this woman, Carissa Jenkins, were forced against their own better judgment and their own life circumstances to reup because they felt they were about to be compelled without their own volition back into active duty, would the gentleman agree that perhaps we could look at voiding these contracts and allowing them to decide without coercion whether or not they want to go back into active duty?

Mr. SKELTON. I think coercion is certainly absolutely wrong. I would say to the gentleman that we would do everything we could to correct the mistake. I am certainly positive that the military would stand behind a mistake that they made.

Mr. DEFAZIO. I thank the gentleman, and I hope that we can get this rectified. As I said previously, there are many good parts to this bill. I believe in the all-volunteer military; I believe in the pay and benefits enhancements; and I believe in providing better equipment, which the bill does. I intend to support it.

Mr. HUNTER. Mr. Chairman, I would just say to the gentleman that I will be happy to work with the gentleman from Missouri on this issue.

Mr. DEFAZIO. I thank the gentleman.

Mr. HUNTER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New Jersey (Mr. SMITH), chairman of that very important committee, the Committee on Veterans' Affairs.

Mr. SMITH of New Jersey. Mr. Chairman, I rise to engage in a colloquy with the gentleman from California, chairman of the Committee on Armed Services. I want to thank the gentleman for his support and leadership on a significant matter affecting the security of our Nation's military installations. Last year scores of undocumented workers were arrested at several DoD installations across the country, including New Jersey. In the post-9/11 world, we simply cannot afford to allow our contractors to hire undocumented and unskilled workers to work on military bases.

As the gentleman knows, the gentleman from New Jersey (Mr. SAXTON), the gentleman from New Jersey (Mr. LOBIONDO), and I have worked together with him to address this problem. Section 822 of H.R. 4200 authorizes a demonstration project intended to provide incentives to contractors who have a meaningful and comprehensive skilled worker staffing plan to ensure all workers are properly documented. The provision, however, does not state the size or the location of the demonstration project.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New Jersey. I yield to the gentleman from California.

Mr. HUNTER. The gentleman is correct. The size and location of the demonstration project have been left to the discretion of the Secretary of Defense. I will add, however, the whole point of doing a demonstration project is to test whether a legislative idea will produce the results that its proponents intend. The Secretary should conduct a thorough and complete demonstration program.

Mr. SMITH of New Jersey. It is my hope and expectation that the Secretary performs at least part of the demonstration project with contractors in New Jersey. The legislative text of section 822 leaves this choice up to the discretion of the Department of Defense, but can we count on the chairman's support to help us persuade DoD to include New Jersey in the demonstration project based on the fact that an investigation by our own U.S. attorney, Christopher Christie, resulted in the discovery of security violations and the arrests of illegal aliens who had access to several of our New Jersey bases?

Mr. HUNTER. I would just say to my good friend that he and his colleagues from New Jersey and others can certainly count on my support.

Mr. SMITH of New Jersey. I thank the gentleman. I urge my colleagues to support this provision and to vote "yes" on H.R. 4200.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Chairman, I appreciate the work done by the gentleman from California and the gentleman from Missouri on this legislation. There are some important pieces to this bill, equipment for our troops and the like. There are matters of concern, for example, the new nuclear program that I have opposition to. But there is an obscure provision of the bill that I want to make sure Members know about and that is section 1404 which would require U.S. companies to get a license before they export any goods listed on the military critical technologies list. According to a copy of the list I found on the Department of Defense Technical Information Center Web site, that includes computers that exceed 1,500 MTOPS. That would be considered military critical. So under this bill, computers, laptops, Sony PlayStations that exceed 1,500 MTOPS would require an export license. That would be to export it anywhere. If you want to sell a Sony PlayStation to Europe, to England, you would need a Defense Department export license. I think that that is a problem.

The outdated metric of 190,000 MTOPS needs to be changed, but to go down to 1,500 MTOPS as a metric is literally the stone age of computing. I believe that if there are specific military critical technologies that are not sufficiently controlled under existing export regulations, say, night vision or surveillance devices, then let us draft something that controls those technologies. But to say that we cannot sell a laptop to somebody in London, that the Ipods cannot be exported to France, that the Sony PlayStations cannot be sold to Japan, I think is a mistake. I know that this is about war. I did not know it was about war on the American economy.

Mr. HUNTER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New Jersey (Mr. FERGUSON).

Mr. FERGUSON. Mr. Chairman, I thank the chairman of the full committee for his great work on this bill. I rise in support of H.R. 4200. Today we address the needs of a Nation at war on multiple fronts and sustain our commitment to our troops, providing them with the best technology and equipment in support of our ongoing mission in Iraq and in Afghanistan and in the war on terror all around the world. This bill will improve living and working conditions for U.S. military personnel and their families. It recognizes the critical contribution of our National Guard and Reserve and increases authorization for their modernization programs. It protects and supports our military retirees and their survivors. Most important, it gives our troops the resources and equipment that they need to keep themselves safe and America free.

The Committee on Armed Services has deemed this the Year of the Soldier. I can think of no better way to honor and serve those who are giving of themselves, making extraordinary sacrifices, putting their lives on the line in defense of this country than by supporting H.R. 4200, the national defense authorization bill. I thank the chairman and the ranking member for their great work on this.

The CHAIRMAN pro tempore (Mr. CAMP). Without objection, the gentleman from Texas (Mr. REYES) may control the time of the gentleman from Missouri (Mr. SKELTON).

There was no objection.

Mr. HUNTER. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia (Mr. GINGREY), who has done so much great work on this committee.

Mr. GINGREY. Mr. Chairman, I rise in strong support of H.R. 4200, and I would like to commend the gentleman from California and the gentleman from Missouri for their tireless efforts in support of our soldiers, our sailors, airmen and Marines who are bravely defending us at home and abroad.

Mr. Chairman, this is the Year of the Soldier. The bill before us clearly reflects that objective. The bill does a remarkable job of covering a wide scope of issues that are vitally important to our armed services. From survivor benefit improvements to the 3.5 percent across-the-board pay raise that H.R. 4200 authorizes, this bill addresses the most pressing needs of our troops in a very trying time for this country. For our Reservists who experience a reduction in their income while away from their civilian jobs, there are income replacement payments. For our deployed soldiers, H.R. 4200 contains almost $830 million for up-armored Humvees and $358 million for vehicle add-on armor kits.

I am also grateful for the work that the Committee on Armed Services has done to fully fund the F/A-22 program this year. In particular, I want to thank the gentleman from California (Mr. HUNTER) and the gentleman from Pennsylvania (Mr. WELDON), my subcommittee chairman, for doing this and making sure that we got this vitally important program fully funded.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. GINGREY. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, first, let me just say that this is a program that shares support on our committee among Democrats and Republicans. This aircraft capability is something that is very important to our country. We just did a briefing on the emerging aerospace industrial base in China, their new high-performance aircraft, which at some point may threaten American interests. This aircraft is vital, it is needed, and it is an important follow-on. We will keep working on it. I thank the gentleman for his hard work on it.

Mr. GINGREY. I thank the gentleman from California for the full funding for these 24 planes. It will go a long way toward providing stability for that program and ensuring that America maintains air dominance for the next 30 years.

In closing, Mr. Chairman, I want to thank the gentleman from California and the gentleman from Missouri for their hard work on this bill.

Mr. REYES. Mr. Chairman, it is my pleasure to yield 2½ minutes to the gentlewoman from California (Ms. LEE), a fellow Texan.

Ms. LEE. Mr. Chairman, let me thank the gentleman from my home city of El Paso, Texas, for yielding me this time and for his commitment to our young men and women in uniform. My father served many, many years at Fort Bliss, Texas.

I rise today to discuss the three amendments that I would have offered had the Republican leadership allowed genuine debate on our Nation's defense policy. Of course, instead we heard earlier a rule was crafted which silenced probably over 95 amendments.

Let me talk about my three amendments for a minute. The first amendment which I offered called for the creation of an international commission to monitor prison conditions in Iraq. This commission would be made up of representatives from the Iraqi Government and Iraqi civil society, the International Red Cross, the International Red Crescent, the United Nations, the United States and Coalition Armed Forces. Contrary to what the President's lawyers apparently think, the Geneva Conventions is neither quaint nor is it obsolete. This amendment would have ensured compliance to help restore badly damaged United States credibility. We have all seen the pictures. The whole world has seen the pictures. We need to take action to correct the situation and to convince the Iraqi people and the world that we are abiding by international law.

My second amendment would have created a database of those who have been detained. Family members should not have to wonder if their loved ones have simply disappeared. We have learned that over 70 percent of the detainees probably are individuals who should not be detained. We cannot condone the policy and practice of holding ghost prisoners who just vanish into United States custody. This is simply wrong. But this amendment also was rejected.

Finally, my third amendment prohibited the use of United States funds in the overthrow of democratically elected governments. That is a simple democratic principle that I thought we held. Given the allegations of this government's involvement in the overthrow of President Aristide's government in Haiti, this amendment would have restored confidence in the protection of democracy. It was born out of the Bush administration's alleged involvement in the recent coup in Haiti.

□ 1645

First of all, this is a similar amendment that was instituted under Representative Edward Boland, who prohibited the Reagan administration from using money to fund the Nicaraguan contras. It is shocking and totally shameful that we even need an amendment saying that our government is not in the business of overthrowing its democratically elected counterparts throughout the world; but history, including our very recent history, teaches us that we do.

This amendment also was rejected, along with many others offered by my colleagues. Some would have called for an exit strategy from Iraq; others would have reined in the uncontrolled and unmonitored use of private contractors, and that would have prevented the escalation, of course, of the arms race. These are, again, some other amendments that would have been allowed had we been allowed to debate them.

I say that the Republican majority continues to abuse its power.

Mr. HUNTER. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. CUNNINGHAM), a very distinguished American from San Diego, the Navy Top Gun who was nominated for the Congressional Medal of Honor for actions over the skies of North Vietnam and who has a real heart for the servicemen.

Mr. CUNNINGHAM. Mr. Chairman, the gentleman from Missouri (Mr. SKELTON) is a descendant of Daniel Boone. He is like a brother. The gentleman from Texas (Mr. REYES), or Silver, as we call him, would rather work in a bipartisan manner than anything and is a very close friend.

I heard this morning in our conference the words "a soldier's chairman," and I cannot think of a better fitting for this bill and the chairman that presents it. The gentleman from California's (Mr. HUNTER) dad, R.O. Hunter, was in the Marine Corps. The gentleman from California (Mr. HUNTER) served in Vietnam. His son is in the Marine Corps and a lieutenant today.

But I think even more important, the people in this Chamber who know the gentleman from California (Mr. HUNTER), know he has given his life to this Nation, to our military, and our veterans.

We go out to Walter Reed and we see these kids that have lost a foot or an arm, and do the Members know what they ask me? I talked to the gentleman from Pennsylvania (Mr. MURTHA), and they talk to him the same way; they say, Do not let them kick us out of the service, let us go back to our units. These kids that are wounded multiple times and they fight to stay with their units because they believe in it.

And I think what a fitting bill that takes care of our families, that takes care of our troops, and is supported in such a bipartisan way. I think this Nation is proud, and I think this Nation supports not only this bill, but the actions of Members on both sides of the aisle.

Mr. SKELTON. Mr. Chairman, I yield myself such time as I may consume.

May I respond to the gentleman from California (Mr. CUNNINGHAM), my friend. I am most appreciative of his kind words.

This is a very important bill, Mr. Chairman. We are at war. Needless to say, a lot of legislative work went into this bill, and of course there are some disappointments that go along with it. But the bottom line is, it is going to be very helpful in both the anti-guerrilla effort in Iraq and the antiterrorism effort in Afghanistan as well as supporting the troops all over the globe.

Cicero once said that gratitude is the greatest of all virtues, and through this legislation, in our own way, Mr. Chairman, we are expressing our gratitude to the young men and young women who wear the uniform of our country. We thank them for doing their duty, for understanding what their duty is, for being professionals at what they are, and bottom line, being patriotic.

So we thank them in so many ways, in the amendments and in the paragraphs and the figures, as well as in the speeches in this Chamber, the gentleman from California (Mr. HUNTER), my friend, our chairman, and Members on both sides of the aisle.

So, Mr. Chairman, I fully support the bill. And at the end of this debate, I say thank you to the troops and I thank the majority, especially our chairman, for the cooperation that we have had.

Mr. Chairman, I reserve the balance of my time.

Mr. HUNTER. Mr. Chairman, I yield myself such time as I may consume.

Having heard the eloquence of my great colleague, the gentleman from Missouri (Mr. SKELTON) and preceded by the gentleman from California (Mr. CUNNINGHAM), my old compadre, I do not think I can add anything to what they said.

Ms. SLAUGHTER. Mr. Chairman, I rise in strong support of H.R. 4200, Fiscal Year 2005 Defense Authorization. The House Armed Services Committee deserves recognition for producing a bill that addresses the critical needs of our Armed Forces at a time when we are engaged in major military campaigns in both Iraq and Afghanistan. The bill also makes provisions to ensure the long-term strength of our military readiness and improve the livelihood of our military families.

Specifically, I am pleased that this measure eliminates the Survivor Benefit Penalty to spouses of deceased members of the Armed Forces. Not only is this annuity essential to the livelihood of many surviving spouses, but it provides much-needed peace of mind to our dedicated military personnel.

Additionally, I am pleased that this bill contains $400 million for individual body armor. I have long been concerned about this issue since receiving several phone calls and heartfelt letters from parents in my district whose children serving in Iraq have no body armor. There is no excuse for us to send our soldiers into harm's way without this most basic protection. H.R. 4200 commits substantial resources to ensure that our troops have the body armor they need.

Next week, we will commemorate Memorial Day and remember the courageous men and women who made the ultimate sacrifice for our freedom. Regrettably, since the beginning of the campaign in Iraq, we have added 793 to their ranks. More troubling is that potentially one in four of these fatalities could have been avoided if our troops had had the armored equipment they needed.

This bill makes a commitment not only to the memory of the soldiers we have lost but also the ones that continue to be in harm's way in Iraq. We owe it to their memory and those who answer the call to service to do everything in our power to minimize the risk of loss of life.

I also want to rise in opposition to H. Res. 648, the rule for consideration of this bill. In Rules Committee, I offered three amendments that would have substantially improved the underlying bill. Regrettably, the Committee decided to deny this body the opportunity to consider two of my amendments.

My first amendment would have ensured that the Department of Defense had a steady stream of domestically produced electronic equipment. These components are vital to the maintenance of some of our most sophisticated weapons and communications systems.

My second amendment would have allowed individuals to apply for benefits under the Energy Employees Occupational Illness Compensation Act if they developed diseases from their work at facilities that had residual contamination, after the Manhattan Project had been completed. It is long overdue to do right by this aging and ill population.

Our men and women in uniform are bravely serving all over the world because their country has called on them. In return, we must ensure that we are doing everything within our power to provide them with what they need. This bill makes great progress toward meeting the needs of our soldiers and their families.

For this reason, Mr. Chairman, I rise in strong support for H.R. 4200.

Mr. STARK. Mr. Chairman, I rise today in strong opposition to S. Con. Res. 95, the "Concurrent resolution on the budget for fiscal year 2005." In these times of economic uncertainty it is unthinkable to pass a budget that will leave this country over $8 trillion in debt at year's end.

I have often quoted my friend, Princeton economist Uwe Reinhardt, when talking about the Federal budget. He explains the budget as a Memo to God, outlining our highest priorities as a Nation. In tune with the Republicans' faith-based initiative, I give you this year's memo to God, and ask everyone to think if this is the message we really want to send to God and the American people.

To: God.
From: Republicans in Congress and the Bush Administration.
Re: FY 2005 Budget Priorities.
Date: May 19, 2004

God, it has been a really tough year. We are on track to have the worst jobs growth record since the great depression, we have lost nearly 800 of our bravest young men and women in Iraq, and 43.6 million Americans have no health insurance. With this in mind, we have proposed a budget that is both fiscally and compassionately conservative, which we have outlined below.

We feel it is absolutely necessary to have a $690 billion deficit in FY 2005, which will raise the national debt to over $8 trillion dollars. We are raising the debt limit under the Hastert rule, thereby precluding the House from ever debating whether the coming years' budget should be allowed to increase the Federal debt by such an alarming amount. Every man, woman, and child will have over $26,000 in national debt to call their very own by the end of FY 2005.

God, we know it's a sin, but we haven't been very good at telling the truth lately; first it was weapons of mass destructions, and now it is Medicare. Our own experts have told us that the Medicare prescription drug bill we passed last year will cost $534 billion dollars over 10 years. However, we didn't tell anybody before we voted, so there is no reason to pretend it is reality now. The budget resolution assumes this legislation will only cost $409 billion over ten years, meaning we have purposely underestimated the $609 billion deficit to further cover up previous mistakes.

Since we have been so dedicated to healthcare this year with Medicare, we have no choice but to make broad cuts in the Medicaid program. Over the next five years we promise to cut mandatory Medicaid spending by nearly $900 million dollars. We are aware that many low-income children and mothers may lose access to affordable healthcare services, but this is the price we have to pay for continuing huge tax cuts for corporations and wealthy Americans.

Racking up an over $600 billion deficit also requires large doses of fiscal irresponsibility. As the party of fiscal conservatism we are dedicated to paying for our increased spending—unless that spending is earmarked for the war on terrorism—but not the decreased revenues caused by our tax cuts. Pay-as-you-go rules worked to balance the budget during the Clinton Administration, so we cannot possibly use them to balance our budget. Yes, we did pretend to require new spending and tax cut offsets for one year, but that has no real effect on our agenda because we exempted three major tax cuts that we plan to enact this year that will cost $551 billion over the next ten years.

Finally, we have further endangered Social Security and Medicare by increasing the debt, thereby increasing the amount that must be borrowed each year from the trust funds. With the baby boomers approaching retirement, we know we can't continue to pilfer these trust funds, but we do it anyway. In the end, the only plausible option will be to cut Social Security and Medicare to continue paying for our unjustified wars and irresponsible tax cuts for the upper class.

God, we know you will understand why it is necessary to continue tax cuts for the wealthiest Americans while we cut vital services for the elderly, people with disabilities and the poor. This memo is about our priorities, and upon close analysis of this budget I think you will see what true compassion and fiscal conservatism is really all about.

That is the message that House Republicans are sending to God and to the American public. It's not a message I agree with and that is why I urge my colleagues to join me in voting "no" on this misguided priority list for our Nation.

Mr. SCHIFF. Mr. Chairman, throughout the last year there have been numerous reports, some issued by government agencies, others emanating from news organizations, that have detailed critical shortages of equipment needed to protect our young men and women serving in Iraq.

I visited Iraq last year and spoke with our troops serving there about the shortages of armored Humvees and body armor. I know that many of my colleagues who have visited Iraq have raised similar concerns. I have pressed this issue during consideration of the Iraq supplemental and on numerous other occasions. Many of our troops who have been killed in Iraq in the past months were riding in unarmored Humvees that were hit by small arms fire, rocket-propelled grenades, or improvised explosive devices. Doubtless, some were lost because they were not protected.

I was deeply disappointed by the length of time that it has taken to provide our soldiers with this life-saving equipment, and I am pleased that Chairman HUNTER and Ranking Member SKELTON wisely increased funding for these programs by several orders of magnitude. Because of these increases, I will add my voice of support for the bill.

I am also pleased that the Committee has increased the end strength of the Army and Marine Corps over the next three years. Our active duty forces, our Reserves, and our Guard have been overstretched by operations in the War on Terrorism and the war in Iraq. I have been strongly supportive of increasing the size of the military, and by authorizing additional forces, we will enable our troops to get the training and time for rest and re-fit that they need and deserve.

I am less pleased by the provisions relating to the rush to deploy a National Missile Defense system that I believe is not ready for deployment. I support additional research and testing of ballistic missile defense systems, but the imminent deployment of the first interceptors is premature and diverts taxpayer money that is more immediately needed to provide basic security for our troops.

I am most concerned by the ill-conceived decision to authorize more than $36 million for research into the Robust Nuclear Earth Penetrator, as well as a new generation of advanced nuclear weapons. At a time when we are asking other nations to forswear the development of nuclear weapons, when we invaded Iraq because we thought that Saddam was developing nuclear weapons, when Osama bin-Laden has exhorted his followers to use nuclear weapons against the United States, and when our own State Department has compiled a Top Secret list of sites around the world that contain unsecured fissile material, we should be focusing on non-proliferation, counter-proliferation, and cleanout activities. Funding for a new generation of nuclear weapons enhances neither our security, nor our credibility.

Mr. MCGOVERN. Mr. Chairman, I want to express my appreciation to Chairman HUNTER and Ranking Member SKELTON for their leadership in bringing this bill before the House. I honor after dedication to our uniformed men and women, and their families and dependents.

I have often criticized our military budget. There is simply too much waste, too much duplication, too much fraud and abuse. We fund weapon systems that don't work, or contribute to a new arms race, or both. On these matters, I will support the amendment to be offered later today by Congresswoman TAUSCHER and my Massachusetts colleague Congressman MARKEY.

I believe, however, that this bill makes important contributions to protecting our troops in the field and to the welfare of their families.

H.R. 4200 fixes the long-standing problem of the Social Security offset for our military retirees and their survivors, which is a top priority for my constituents. The Survivor Benefit Plan currently penalizes over 225,000 aging survivors, mostly widows of our nation's veterans. These survivors are forced to give up more than one-third of their retirement benefit when they become eligible for Social Security. Mr. Chairman, this is simply wrong.

Bipartisan legislation to fix the Survivor Benefit Plan was introduced over a year ago by our colleague form Florida, Congressman MILLER, and despite having 336 cosponsors, was left to languish. So, I salute the Committee for ending this injustice by providing a five-year phase-out of the Social Security offset.

I strongly support the increased funding for Armored Humvees, to outfit currently deployed Humvees with ballistic armor, and for Interceptor body armor. This bill also reimburses military personnel who had to purchase their own body armor because the Pentagon failed to provide them with protection.

I also want to thank the Committee for including an initiative for income replacement payments to Reservists who experience a reduction to income from their civilian life. I believe this is an important step that should be extended to National Guard members, especially for those who have experienced extended deployments. The financial stress faced by the families of our active-duty Reserve and Guard is well-known to every Member of this House, and I believe we must respond in a far more comprehensive way if we expect to honor their service and sacrifice, retain current personnel, and attract future candidates for service. I am deeply disappointed that the Republican majority will not allow Congressman LANTOS to offer his amendment, which would help equalize the difference in income for federal workers who have been called to active-duty in the Reserves. I am an original cosponsor on Congressional LANTOS' legislation that would provide such funding, and I am very proud that the Commonwealth of Massachusetts has already implemented such a program for state employees who have been activated. I simply do not see why we cannot do the same for federal employees nation-wide.

I also want to thank the Committee for its strong bipartisan support for keeping in place the limits on the number of U.S. military troops and contractors in Colombia, and I thank our colleagues from Mississippi, GENE TAYLOR, for his leadership on this issue.

Mr. Chairman, I want to be clear: Even though I support this bill I have serious concerns about U.S. Policy in Iraq and Afghanistan. This bill cannot be a blank check. Our policies are in serious trouble in both countries. The Bush Administration must, I believe, change course if we are to have any hope of brining security, stability and representative government to the region.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I rise in support of H.R. 4200, "The National Defense Authorization Act for Fiscal Year 2005".

I would like to start off by commending Chairman DUNCAN HUNTER and the entire Committee on Armed Services for all of the hard work on this legislation. A bill of this magnitude requires an enormous bi-partisan effort. The result here is legislation that will provide the resources necessary for U.S. military forces to protect and defend this country both at home and abroad.

I am concerned, however, with several provisions in this bill affecting the acquisition system. The first provisions interfere with the Department of Defense's competitive sourcing program. The second group of provisions represent an ill-considered attempt to protect domestic jobs. We can all agree that the Federal government should do as much as it can to support jobs in America. However, tacking on onerous provisions to the acquisition system to protect a handful of jobs is not the right approach. It costs money—taxpayers' money. The acquisition system's purpose is to procure the best value goods and services with taxpayers' dollars, not to protect jobs. Most important, we have learned time and time again that provisions restricting our ability to tap the resources of the global market in the name of saving jobs result in retaliation from our trading partners, costing us more jobs in the long run.

First, we have the provisions of the Langevin amendment included in the Committee mark. These provisions, if enacted, would require sweeping changes to the Administration's critical competitive sourcing program and hamstring the Defense Department's ability to manage its programs and workforce.

Our economy is based on a free market system where competition is essential to maintaining vibrancy and productivity. Who can argue with the idea that a little competition is needed to spur efficiency in Government? The problem is that, despite having considerable input into the revised OMB Circular A–76 that provides the procedural framework for the competitive sourcing program, its opponents have mounted an attack on competitive sourcing. They equate "competitive sourcing" with "outsourcing" or "privatization," or at least they say they do. But words matter, and competitive sourcing is simply not the same as outsourcing or privatization. Outsourcing assumes up front that the private sector can perform activities better, cheaper, and/or faster than a government organization. Competitive sourcing does not assume the private sector is the preferred provider. Its purpose is not to downsize the government workforce. It uses competition to decide. Opponents argue that competitive sourcing takes jobs away from Federal employees. This is simply untrue. In most cases, the Federal employees involved in the competition either retain their jobs if the agency team wins or are rehired if the private sector wins. In fact, according to agency data from a recent GAO report, in-house teams win most of the competitions, retaining almost 76 percent of the positions competed. The key point is, public-private competitions result in substantial savings in the activity competed, regardless of who wins the competition.

The Langevin language would cripple the competitive sourcing program at the Department of Defense. It would, for example, prevent the Department from making reasoned management decisions for the benefit of our Armed Forces and the American taxpayer by prohibiting the Defense Department from making any reorganization of a function so that it would be performed by 10 or fewer employees unless it conducts a public/private competition. Think about this: under this provision, the Secretary of Defense is prohibited from paring his office staff from 12 people to 9.

Further, the Langevin amendment unfairly tilts public-private competitions toward the Federal employees and introduces into private businesses' right to offer their employees a total compensation package by prohibiting the A–76 cost comparison from including any savings that could be attributable to a businesses' use of a worker health plan that is different than that provided to Federal government employees. This would establish a Federal mandate to private industry and cripple the ability of small businesses to participate in this program. That, Mr. Chairman, is not good government.

The Langevin provision also would require the Department of Defense to establish a pilot program to conduct an arbitrary number of public/private competitions for new work and work currently performed by contractors. This would mandate that the Department expend resources so that Federal workers can compete with the private sector to perform new commercial work. Don't our Federal workers have enough to do in fulfilling their current responsibilities? Interestingly, the requirements would not extend to any work to be performed by a contractor whose workers are represented by a private-sector labor union.

Finally, the Langevin amendment imposes a mass of reporting and tracking requirements, which in a number of cases duplicate requirements that are currently in chapter 146 of title 10. The only point of these is to gum up the competitive sourcing program. A number of these mandates would apply whenever a service contract is awarded by the agency, whether or not as the result of a competitive sourcing study. So not only are the Langevin supporters interested in hamstringing the competitive sourcing program but also in reversing the recently passed reforms in service contracting.

Secondly, section 811 of the bill, titled Defense Trade Reciprocity, would prohibit DoD from purchasing any defense article or service from any company in a country (including our NATO allies, our coalition partners, and Israel) that within one year does not have an offset policy toward U.S. companies that is comparable to U.S. offset policy. This provision is ill advised, would severly limit the ability of the Department of Defense to cooperate with our allies and operate overseas, and would undercut the ability of our defense industry to compete in selling to our allies.

Last fall, the Congress passed two provisions dealing with offsets. In the extension of the Defense Production Act, we asked the Commerce Department to complete a study by this August on the impact of offsets on the supplier base and required the Administration to discuss with our trading partners ways to reduce the "adverse" impacts of offsets. Congress is to receive periodic reports on how such discussions are progressing.

In last year's Defense Appropriations Act, we required the Department of Defense to prepare a report by March 1 on the impact of offsets on the defense industrial base and make any appropriate recommendations. We ought to at least wait for the results of the actions we demanded of the Executive Branch only a few months ago before taking premature actions on offsets.

In fact, while offsets distort international defense trade, concern about the impact of offsets is overblown. The annual Commerce Department review of offsets that is required by a provision of the Defense Production Act consistently concludes that defense sales that have associated offset provisions produce approximately 30,000 U.S. jobs, and the offsets reduce that figure by about 9,000 jobs, for a net gain to the U.S. of 21,000 jobs. Any actions that jeopardized those sales could result in a net loss of jobs and an erosion of the U.S. defense industrial base.

The U.S. currently enjoys a trade balance in defense exports of 6–1 in its favor with respect to Europe and around 12–1 with respect to the world. In a time when we worry about ballooning trade deficits, the U.S. aerospace industry delivers the largest export surplus of any sector in the economy with over a $25 billion trade surplus in 2003. Policies that restrict the ability of U.S. companies to continue making such sales will hinder interoperability with our allies, reduce U.S. jobs, and undercut the supplier base.

The simple fact is that restrictive provisions such as this are self-defeating, Cold War anachronisms that cripple our participation in the Global Market and jeopardize defense exports—one of the major sectors of our economy.

Finally, the Manzullo amendment, to be considered on the floor, would add the creation of jobs in the U.S. as one of the instances that the Secretary of Defense could use in a determination under 10 U.S.C. 2304(b)(1) to exclude a source to establish or maintain alternative sources of supply. The 10 U.S.C. 2304(b)(1) is seldom used and it is discretionary, but it could be used to justify a sole-source contract award under the guise that it created jobs.

Moreover, the amendment would add "the creation of jobs" to the list of required evaluation factors for all negotiated acquisitions under 10 U.S.C. 2305(a)(3)(A). This would mandate that the creation of jobs be a factor in the selection of the winning offeror in a competitive acquisition. The problem here is that we would be requiring the consideration of a factor that has nothing whatever to do with the merits or cost of the proposal. Again we are burdening our acquisition system with a requirement that is not related to the acquisition of best value goods and services for the government.

Additionally, I am concerned with Chairman HUNTER's amendment that adds money for the Patriot missile and uses a $48 million cut to the KEI program as one of the offsets. The KEI program will play a crucial role in our Nation's security by providing enemy ballistic missile defense. Any cut in funding will hinder this program's advances in the area of anti-ballistic missiles.

I also want to offer my support to the Wamp amendment, which makes improvements to the Energy Employees Occupational Illness Compensation Act. The amendment addresses statutory problems that have created significant bottlenecks for thousands of claims being made under this important DOE program.

Mr. Chairman, in closing, I want to again commend Chairman HUNTER for this bill in its entirety, despite my opposition to some of its specifics.

Mr. SIMMONS. Mr. Chairman, I rise today in strong support for H.R. 4200, the National Defense Authorization Act for fiscal year 2005.

As a Member of the Armed Services Committee, I wish to thank Chairman HUNTER and Ranking Member SKELTON, as well as our subcommittee chairmen and ranking members for their tireless work in crafting this fine piece of legislation.

These are not easy times for the Department of Defense. The brave men and women of the Army, Navy, Air Force and Marines are serving us proudly around the globe. They are daily putting their lives on the line to defend the liberties we take for granted. In the last 2 years these men and women have overthrown two terrorist regimes and liberated over 50 million people in Afghanistan and Iraq.

The least we can do for our troops is provide good wages, adequate armor and ammunition, and new aircraft, ships and fighting vehicles. This legislation meets and exceeds these goals. I am pleased that this bill will provide a 3.5 percent across-the-board pay raise, eliminating out-of-pocket housing expenses and increasing retention incentives and hazard duty pay.

Hearing of inadequacies in body armor and up-armored HMMWVs from family members of soldiers in the field, I made force protection my number one priority. Earlier this year I traveled to Ohio to see first-hand the manufacturing process and capabilities of up-armored HMMWVs.

I thank the chairman and ranking member for fulfilling their commitment by providing $704.7 million to increase and sustain production of the vehicles at a rate of 450 per month.

I also applaud their forward vision in providing $358.2 million for add-on armor kits for the Army's truck fleet. The add-on armor provides critical protection against anti-personnel projectiles and improvised explosive devices (IEDs).

Earlier this year the 1109th AVCRAD, a Connecticut National Guard aviation repair unit, returned from a year deployment in Kuwait and Iraq. Conversations with the CO made clear to me that the Blackhawk helicopters in theater are wearing out rapidly.

Therefore, I am pleased to see that many of the funds originally authorized in the Comanche program have been redirected to the procurement of much needed Blackhawk Helicopters. The eight helicopters added by the committee brings the grand total in the bill to 63. Our soldiers specifically asked for more Blackhawks, a workhorse helicopter for our Army and Navy, and this is now provided in this bill.

For our sailors, this bill provides funding for the next Virginia Class submarine. Virginia Class will also be seeing critical research and development funding for both payloads and sensors and the critical Multi-Mission Modules.

Additionally, I am pleased that this legislation addresses the security needs of Naval Submarine Base New London, in Groton, Connecticut, by providing $4.42 million for security enhancements and upgrades to entry gates 3 and 5. These upgrades are necessary to protect the submariners stationed at Subase New London, as well as protecting our investment in the submarine fleet, including the new USS *Virginia* that will soon call the Subase home.

Mr. Chairman, in December 2003, Time magazine named their "Person of the Year" as the American Soldier. This year's defense authorization bill has been named "The Year of the Troops." We praise the men and women of the Armed Forces for their service. I am pleased to support a piece of legislation that sends a clear message from this Congress that we support their service and sacrifice.

Mr. LARSON of Connecticut. Mr. Chairman, I rise today in support of H.R. 4200, the National Defense Authorization Act for Fiscal Year 2005. I'd like to thank Chairman HUNTER, Ranking Member SKELTON, and my Subcommittee leaders Chairman WELDON and Ranking Member ABERCROMBIE and Chairman HEFLEY and Ranking Member ORTIZ for all their hard work and efforts to put together a great and bipartisan bill.

The bill we are taking up on the floor today contains a number of very important provisions beyond its routine function of providing for the yearly defense budget.

Specifically, Section 304 includes language that provides authority to the Secretary of Defense to reimburse a member of the Armed Forces for the cost of protective body armor purchased between September 11, 2001 and December 31, 2003 by the member, or by another person on behalf of the member, for use by the member while deployed in connection with Operation Noble Eagle, Operation Enduring Freedom, or Operation Iraqi Freedom if the member was so deployed and was not issued protective body armor before the member became engaged in operations or situations described in 37USC310(a)(2), regarding "Special pay: duty subject to hostile fire or imminent danger".

This language is a direct result of both the effort and sacrifice of my constituent Pene Palifka of East Hartford, whose son, Bill, was serving in the Army National Guard's 248th Engineer Company in Iraq. On Monday night, October 13, 2003, I held a public forum about the FY04 Iraq supplemental appropriation request in my District where I first met Pene Palifka and heard her story. When her son Bill was deployed, he was deployed without the Army's new Interceptor body armor, because as it had been reported and as I heard directly from soldiers serving in Iraq when I visited there in August 2003, there was a shortage of roughly 40,000 of these vests at that time.

Out of concern for her son's safety, she came forward and provided the money herself, about $1,100, to purchase body armor for her son. Many other families and soldiers have had to do the same, and that is simply wrong.

Congress appropriated funding in the FY03 Emergency Wartime Supplemental that was signed into law in April 2003 to procure and distribute additional vests. But, as became evident by the time the Iraq Supplemental Appropriation bill was before Congress last October, there were various manufacturing and procurement issues preventing these vests from making it to the front, and this shortage continued to exist through the early part of this year, prompting many soldiers or their families to take matters into their own hands.

While the Congress and the Department of Defense have worked to address these shortfalls since then, this bill fulfills the government's responsibility to reimburse the people who stepped in and spent money out of their own pocket to equip the soldiers serving in the Global War on Terrorism with equipment that Congress intended the Department of Defense to provide.

The next issue I would like to point out and commend our Committee leaders for is working with all of us to find the resources to make eliminating the so-called "widows tax" possible. This bill eliminates the social security offset under the SBP by increasing the annuities paid to survivors of military retirees who are 62 or older from 35 percent of retired pay to 55 percent by March 2008. The surviving spouses of our military servicemen and women deserve their full benefits.

Finally, this bill includes a 2-year BRAC delay, an important pause at a time when we must all reassess the priorities of the military and its requirements to provide for the national security of this country in a post 9/11 environment.

Mr. MILLER of Florida. Mr. Chairman, I proudly rise today in wholehearted support of H.R. 4200, the National Defense Authorization Act of 2005. This legislation fully restores the Survivor Benefit Plan annuity to what was promised America's surviving spouses. I applaud my Armed Services Committee colleagues for bringing a quarter of a million military widows and widowers one step closer to seeing increases in their monthly checks next year. This is a Defense Authorization measure of which this body can be proud.

Since coming to Congress, I have been working this issue of particular interest—restoration of the minimum Survivor Benefit Plan basic annuity to fifty-five percent (55%) for survivors age sixty-two (62) and older.

Under present law, surviving spouses are subject to a reduction to thirty-five percent (35%) as part of the initial SBP law enacted in 1972. But this critical piece of information didn't find its way into military retirement briefings and SBP election forms until many years later.

Here's a 1982 election form. Nowhere will you find the offset mentioned. Survivors feel betrayed by this bait and switch. And at 35 percent, SBP provides only a poverty-level-or lower-annuity for most survivors, even those of relatively senior officers.

For nearly three years, I have worked with members of this Committee, my colleagues on the Veterans Affairs Committee, and numerous service organizations to introduce SBP bills that will bring the needed equity. Both bills I have introduced in this Congress have received strong bipartisan support with over three hundred (300) Members sponsoring one or both. I am proud that this Committee has produced SBP reform that exceeds even my greatest expectations. H.R. 4200 will fully eliminate the so-called "Widow's Tax" by April 1, 2008—in under five years.

Again, what we're doing today exceeds all expectations. It's what we set our sights upon when I introduced H.R. 548. I thank Chairman DUNCAN HUNTER and the first-rate Armed Services Committee staff, who literally worked around the clock to make this work.

Mr. Chairman, I urge this entire body to support these provisions we have worked tirelessly hard fought, and its victory is shared by so many whose efforts have been tireless and unrelenting. I thank my colleagues who have stood by me to realize this victory.

Ms. ESHOO. Mr. Chairman, the export control amendments in H.R. 4200 will limit Presidential authority to effectively promote U.S. national security and will hobble the U.S. information technology industry by preventing it from selling commodity commercial products to our allies.

This bill requires an export license for all exports of goods and technologies on the Military Critical Technologies List to all countries.

This legislation would roll back export controls on computers below the levels implemented five years ago—thus preventing our technology industry from exporting computing products that are a few generations old.

This amendment is so broad that it would immediately require export licenses for exports of things such as laptop and desktop computers, which can't possibly serve any national security interest.

By passing this amendment, we are immediately cutting off American manufacturers from customers around the world, including key export markets such as Canada, Mexico, Europe, and Asia.

The amendment is so arbitrary, and the list so outdated, that it bears no rational relation to U.S. national security, and threatens to derail America's economic recovery.

Mr. Chairman, I urge my colleagues to protect our critical technology industry and vote against H.R. 4200.

Mr. TERRY. Mr. Chairman, I rise in strong support of H.R. 4200, the National Defense Authorization Act for Fiscal Year 2005.

This legislation supports our troops with $422 billion for national defense and an additional $25 billion for operations in Iraq. Funding for national missile defense and combat capability would increase. Special emphasis on protective equipment such as body armor and heavily-armored Humvees would also help our soldiers return safely to their families.

We must care for our soldiers' families here at home. I am proud to support the well-earned 3.5 percent pay raise and boost in hardship pay from $300 to $750. As a co-chair of the House Impact Aid Coalition, I also commend Chairman Hunter for including $50 million for the education of military children. This would send an additional $20 million to school districts across the country that serve military families. I thank the Chairman for his hard work and strong support of this critical funding.

While I appreciate the emphasis the Air Force has placed on quality of life improvements, I am deeply concerned that mission readiness be funded at adequate levels to support our troops. For example, Offutt Air Force Base in Nebraska has a mission critical runway repair requiring urgent attention. The safety of airmen flying in and out of Offutt depends upon the condition of this runway, which the Air Force has labeled a critical safety hazard.

Although the repair is the top priority of the Air Combat Command that oversees 38 major installations, the Pentagon has given funding priority to dormitories and fitness centers. I thank Chairman Hunter for at least funding design of the needed runway, and urge him to reexamine the Air Force's priorities in conference. We must ensure mission critical repairs are completed for the safety of our airmen. Military bases that consistently and efficiently perform should also be rewarded for their success.

The War on Terror has been costly in both blood and treasure. More than 750 American soldiers have given the ultimate sacrifice of their lives. Our troops who patrol the streets of Iraq, scour the towns and mountains of Afghanistan, and root out terrorist cells worldwide, know the price of freedom. Their service to protect our nation honors their fallen comrades and dignifies the United States, and should not be demeaned by the cowardly actions of soldiers in the Abu Ghraib prison.

Mr. Chairman, I urge my colleagues to join me in supporting H.R. 4200 to aid our valiant troops.

Mr. ALEXANDER. Mr. Chairman, I rise today to express my strong support for the passage of the National Defense Authorization Act for Fiscal Year 2005. This legislation will continue to ensure that our military services are provided with the personnel, equipment and capabilities that they need to protect our national security.

Section 815 of the pending National Defense Authorization Act will ensure that American freight-forwarding companies in Louisiana, Texas, California, Tennessee and other states are properly utilized in the efforts by the United States to provide cargo shipments for military operations, humanitarian relief aid, or postwar reconstruction in Iraq and Afghanistan. American freight forwarders should be used to the greatest extent possible to process, dispatch or otherwise handle government-sponsored cargoes for shipment overseas.

The Congress continues to see to it that American companies and their hard-working labor force benefit from the procurement of goods and services by the United States government. Specifically, the Congress has required that the American work force be provided with a fair opportunity to compete for federal government contracts. Similarly, cargo preference laws ensure that government-generated cargoes are shipped aboard United States-flag vessels. However, no such protections exist for American freight forwarders. As a result, significant government shipments of cargoes for military operations, international assistance and other purposes are handled today by foreign-owned and controlled freight forwarders without any consideration for the use of American companies to provide freight forwarding services.

Mr. Chairman, the legislation before us will provide appropriate protections for American freight forwarding companies and U.S. government-sponsored cargoes. The bill establishes a preference for the participation of U.S. freight forwarding companies as prime or subcontractors in the shipment of government-sponsored cargoes, provided that the freight forwarding services are offered at fair and reasonable rates. Furthermore, this initiative will further protect the chain-of-custody of critical and sensitive project and other U.S. government-sponsored cargoes destined for Iraq and Afghanistan.

Mr. Chairman, I thank Chairman HUNTER, Congressman SKELTON and other members of the House Armed Services Committee for their support in this matter, and I look forward to working with them on the passage of this vital legislation.

Mr. KUCINICH. Mr. Chairman, I rise in strong opposition to the FY 2005 Defense Authorization bill. The bill continues to fund an ineffective and wasteful defense strategy based on the Cold War. The bill authorizes $422.2 billion for the Department of Defense and the nuclear weapons activities of the Department of Energy. However, the 2001 Defense Authorization bill was $310 billion, revealing that we have increased nominal defense spending 36 percent in just four short years.

The FY 2005 bill also authorizes $25 billion for combat operations in Iraq and Afghanistan. This increases the total funding to $447.2 billion. The running total for emergency supplementals has now reached $191 billion for the wars in Iraq and Afghanistan. Unfortunately the Republican led Congress continues to refuse its Constitutional role of oversight.

The bill funds several weapons systems as well as a war in Iraq that will provide little additional security for Americans. For example, the Ballistic Missile Defense is slated to receive $9 billion for a system that does not work, but will be implemented this year as an election year boost for the President.

The F/A–22 "Raptor" Fighter is a cold war fighter plane without an enemy to fight. Yet, the bill will spend $4.5 billion to purchase 24 aircraft. The bill authorizes the purchase of 11 V–22 "Osprey" Tilt rotor for $1.6 billion, yet the plane is terribly unsafe. The bill also authorizes more research dollars for the DD(X) Destroyer, wasting $1.2 billion on a boat the Navy does not need. I also object to the Boeing airborne tankers lease/purchase program. This is a classic example of corporate welfare.

I am greatly disappointed that the Republicans have sought to block consideration of two amendments I would have offered. These amendments would have provided the House of Representatives the opportunity to help bring resolution to the ongoing crisis in Iraq.

My first amendment would require that the President develop criteria for troop withdrawal from Iraq.

The war that we are fighting in Iraq at this time is an unconventional war. We have already deposed the leader of the country, and now we now fight both an unknown enemy and a new enemy that was not there before we invaded. There is no exit strategy and every six months or so the American people are faced with a new bill. The leaders of our country have given them no indication that they even know how to get out of Iraq, much less an idea of when their sons and daughters will come home.

The amendment that I would have offered today would require the Administration to provide Congress with a list of criteria for the withdrawal of combat troops in Iraq.

This amendment is useful because it provides America and the world with the answers to the question: What are we still doing in Iraq and what must happen so that we can leave?

These questions are simple and they are necessary.

After all, what are the goals that this Administration hopes to achieve before the withdrawal of troops can commence?

At the very beginning of the war, the ultimate goal was to disarm Iraq from weapons of mass destruction. But there weren't any weapons of mass destruction in Iraq, and our troops are still there.

At another point, the goal was to remove Saddam Hussein from power. Well, that's been done too, and our troops are still there.

So now what? What are the next criteria?

Will troops come home after we've established the largest embassy in the world inside Iraq? Or will they come home after the oil starts flowing in to the right pockets? Or will it be when the defense contractors get billion more of American taxpayer dollars? Or when there are permanent military bases in Iraq so that we can extend an American empire to the Middle East?

Or is it when we've brought "democracy" to the people of Iraq? But what constitutes a democracy? An interim government was set up and a constitution was drafted, but we're still there. Will we pull out after an election, or two elections, or three? What happens if the Iraqis elect a leader that we don't like? Will we stay inside until the person of our choosing is running the country?

Is the criterion for leaving Iraq complete "pacification", in that we won't leave Iraq until all the fighting has stopped and the country is secure? What will that mean? Will it mean a slow down to one attack per day or week or month?

My amendment is a modest amendment because it requires the Administration to think about all these questions and then tell the American people what exactly it will take to bring the troops home.

And we should all want the answers to these questions. I know that my constituents elected me to ask these questions. After all, it's their money that we're committing.

My feelings about the war are known here. I have been against the war and the occupation. But since it appears as if the Administration does not care to volunteer the details of their objectives in Iraq, we should then ask them.

My second amendment would offer a sense of Congress that would disavow any intention for permanent United States military presence in Iraq. As we all know, many people across the globe have accused the United States of imperial thoughts and actions. To ensure the global community we have no such notions; we must publicly declare our intentions not to establish permanent military bases.

A month after the United States began military operations in Iraq, the New York Times (April, 21, 2003) printed a story indicating that the United States was considering the establishment of four permanent military installations in Iraq. The bases identified are the Baghdad international airport; the Talil airbase near Nasariyah; a base known as H–1 in the western desert near Syria; and Bashur airfield in the Kurdish region near the convergence of the borders of Turkey, Iran and Iraq. On the very next day the Secretary of Defense denied that the United States was seeking permanent military installations in Iraq.

But, neoconservatives are openly talking about the benefits of such permanent bases.

> Given that the Turks had been truculent about access by ground before Operation Iraqi Freedom, that the use of Saudi Arabia has been a delicate matter for the past decade, and that Iraq is ideally situated for operations throughout the region, there is a compelling case for siting U.S. bases in Iraq. (There's No Place Like Iraq . . . For U.S. military bases. Tom Donnelly Weekly Standard 05/05/2003)

More recently in the Inter Press Service News Agency:

> But Qatar and even Kuwait, which has acted as a de facto military base for Washington since 1990, could not substitute for the kind of strategic depth and flexibility offered by the four bases identified by the Times as those to which the administration wants permanent access. (Jim Lobe, Nov. 28, 2003)

I believe the Arab world would take great comfort in hearing a declaration by the United States to disavow permanent military bases in Iraq. The United States must state without exception that it does not seek to maintain a long-term military presence in Iraq. Such a declaration will reduce anti-American sentiment in the region and, I believe reduce the attacks upon our troops.

So it is greatly unfortunate that the leadership of the House has not seen fit to debate these amendments.

Mr. BEREUTER. Mr. Chairman, this Member certainly is pleased that H.R. 4200 provides authorization for funding for a very important project in Nebraska's 1st Congressional District. The bill includes $614,000 for a national guard and reserve center headquarters building at Lincoln Airbase, Nebraska. This is the second year that this Member has requested this funding for this necessary project. This Member would like to thank the distinguished Chairman of the House Armed Services Committee (Mr. HUNTER), the distinguished Ranking Member (Mr. SKELTON), the distinguished gentleman from Colorado (Mr. HEFLEY) who serves as Chairman of the Readiness Subcommittee, and the Ranking Member, the distinguished gentleman from Texas (Mr. ORTIZ) for their assistance in this important matter.

These funds will be used to complete the design process associated with the construction of a new headquarters and emergency operating center for the Nebraska Army National Guard. The existing headquarters facility must be relocated due to the new Antelope Valley highway/flood control infrastructure project in the City of Lincoln, Nebraska.

While this project was included in the Department of Defense's (DoD) FY2009 Future Year Defense Plan (FYDP), it needs to be accelerated due to the unanticipatedly expeditious progress on the Antelope Valley Freeway and Flood Control project which will very soon necessitate the abandonment of the current headquarters. It appears that the National Guard Bureau agrees since initial design funding was allocated last year from existing funds, even though it was not authorized or appropriated.

The new facility will house the Joint Forces Headquarters, the Army National Guard Emergency Operating Center, the 24th Medical Company, the 105th Personnel Service Detachment, the Nebraska State Patrol dispatch and communications systems and the Nebraska Emergency Management Agency. Building a multipurpose facility on an existing military installation increases security for all of the components. Furthermore, housing several Federal, state and local agencies in one facility allows the Department of Defense to save scarce military construction funds. Also, bringing those various components within close proximity would facilitate better coordination among the agencies on issues of national and homeland security. Indeed, it is critically important to enhance these relationships in the current post-September 11th environment. The authorization included in H.R. 4200 will allow this important project to move forward.

In addition, this Member is pleased that $497,000 in design funds is authorized in H.R. 4200 for a critically important runway repair at Offutt Air Force Base which is immediately contiguous to the 1st Congressional District of Nebraska. This repair project has been championed by the distinguished gentleman from Nebraska (Mr. TERRY), who represents Offutt, with this Member, and the two U.S. Senators from Nebraska.

Mr. Chairman, in closing, this Member urges his colleagues to support H.R. 4200.

Mr. HUNTER. Mr. Chairman, I yield back the balance of my time.

Mr. SKELTON. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. CAMP). All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment and is considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 4200

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 2005".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; findings.
Sec. 2. Organization of Act into divisions; table of contents.
Sec. 3. Congressional defense committees.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

Sec. 101. Army.
Sec. 102. Navy and Marine Corps.
Sec. 103. Air Force.
Sec. 104. Defense-wide activities.

Subtitle B—Program Matters

Sec. 111. Multiyear procurement authority for the light-weight 155-millimeter howitzer program.
Sec. 112. DDG–51 modernization program.
Sec. 113. Repeal of authority for pilot program for flexible funding of cruiser conversions and overhauls.
Sec. 114. Force protection for asymmetric threat environment.
Sec. 115. Allocation of equipment authorized by this title to be made on basis of units deployed or preparing to deploy.
Sec. 116. Multiyear procurement authority for KC–767 tanker aircraft acquisition program.
Sec. 117. Other matters relating to KC–767 tanker aircraft acquisition program.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

Sec. 201. Authorization of appropriations.
Sec. 202. Amount for defense science and technology.

Subtitle B—Program Requirements, Restrictions, and Limitations

Sec. 211. Future Combat Systems program strategy.
Sec. 212. Collaborative program for research and development of vacuum electronics technologies.
Sec. 213. Annual Comptroller General report on Joint Strike Fighter program.
Sec. 214. Amounts for United States Joint Forces Command to be derived only from Defense-wide amounts.
Sec. 215. Authority of Director of Defense Research and Engineering to award prizes for advanced technology achievements.
Sec. 216. Space Based Radar.
Sec. 217. Mark–54 Torpedo Product Improvement Program.

Subtitle C—Missile Defense

Sec. 221. Fielding of ballistic missile defense capabilities.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

Sec. 301. Operation and Maintenance funding.
Sec. 302. Working capital funds.
Sec. 303. Other Department of Defense programs.
Sec. 304. Reimbursement of members of the Armed Forces who purchased protective body armor during shortage of defense stocks of body armor.

Subtitle B—Environmental Provisions

Sec. 311. Report regarding encroachment issues affecting Utah Test and Training Range, Utah.

Subtitle C—Workplace and Depot Issues

Sec. 321. Simplification of annual reporting requirements concerning funds expended for depot maintenance and repair workloads.
Sec. 322. Repeal of annual reporting requirement concerning management of depot employees.
Sec. 323. Public-private competition for work performed by civilian employees of Department of Defense.
Sec. 324. Public-private competition pilot program.
Sec. 325. Sense of Congress on equitable legal standing for civilian employees.
Sec. 326. Competitive sourcing reporting requirement.

Subtitle D—Information Technology

Sec. 331. Preparation of Department of Defense plan for transition to Internet Protocol version 6.
Sec. 332. Defense business enterprise architecture, system accountability, and conditions for obligation of funds for defense business system modernization.
Sec. 333. Establishment of joint program office to improve interoperability of battlefield management command and control systems.

Subtitle E—Readiness Reporting Requirements

Sec. 341. Annual report on Department of Defense operation and financial support for military museums.
Sec. 342. Report on Department of Defense programs for prepositioning of material and equipment.

Subtitle F—Other Matters

Sec. 351. Extension of Arsenal Support Program Initiative.
Sec. 352. Limitation on preparation or implementation of Mid-Range Financial Improvement Plan.
Sec. 353. Procurement of follow-on contracts for the operation of five Champion-class T-5 tank vessels.
Sec. 354. Sense of Congress on America's National World War I Museum.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

Sec. 401. End strengths for active forces.
Sec. 402. Revision in permanent active duty end strength minimum levels.
Sec. 403. Maximum number of reserve personnel authorized to be on active duty for operational support.
Sec. 404. Accounting and management of reserve component personnel performing active duty or full-time National Guard duty for operational support.

Subtitle B—Reserve Forces

Sec. 411. End strengths for Selected Reserve.
Sec. 412. End strengths for Reserves on active duty in support of the reserves.
Sec. 413. End strengths for military technicians (dual status).
Sec. 414. Fiscal year 2005 limitation on number of non-dual status technicians.

Subtitle C—Authorizations of Appropriations

Sec. 421. Military personnel.
Sec. 422. Armed Forces Retirement Home.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—General and Flag Officer Matters

Sec. 501. Length of service for service chiefs.
Sec. 502. Repeal of requirement that Deputy Chiefs and Assistant Chiefs of Naval Operations be selected from officers in the line of the Navy.
Sec. 503. Increase in age limit for deferral of mandatory retirement for up to 10 senior general and flag officers.
Sec. 504. Increased flexibility for voluntary retirement for military officers.
Sec. 505. Repeal of requirement that no more than 50 percent of active duty general and flag officers be in grades above brigadier general and rear admiral (lower half).
Sec. 506. Revision to terms for assistants to the Chairman of the Joint Chiefs of Staff for National Guard and Reserve matters.
Sec. 507. Succession for position of Chief, National Guard Bureau.
Sec. 508. Title of Vice Chief of the National Guard Bureau changed to Director of the Joint Staff of the National Guard Bureau.
Sec. 509. Two-year extension of authority to waive requirement that Reserve chiefs and National Guard Directors have significant joint duty experience.
Sec. 510. Repeal of distribution requirements for Naval Reserve flag officers.

Subtitle B—Other Officer Personnel Policy Matters

Sec. 511. Transition of active-duty list officer force to all regular status.
Sec. 512. Mandatory retention on active duty to qualify for retirement pay.
Sec. 513. Distribution in grade of Marine Corps Reserve officers in an active status in grades below brigadier general
Sec. 514. Tuition assistance for officers.

Subtitle C—Reserve Component Matters

Sec. 521. Revision to statutory purpose of the reserve components.
Sec. 522. Improved access to reserve component members for enhanced training.
Sec. 523. Status under disability retirement system for reserve members released from active duty due to inability to perform within 30 days of call to active duty.
Sec. 524. Federal civil service military leave for Reserve and National Guard civilian technicians.
Sec. 525. Expanded educational assistance authority for officers commissioned through ROTC program at military junior colleges.
Sec. 526. Effect of appointment or commission as officer on eligibility for Selected Reserve education loan repayment program for enlisted members.
Sec. 527. Number of Starbase academies in a State.
Sec. 528. Comptroller General assessment of integration of active and reserve components of the Navy.
Sec. 529. Operational activities conducted by the National Guard under authority of title 32.
Sec. 530. Army program for assignment of active component advisers to units of the Selected Reserve.

Subtitle D—Joint Officer Management

Sec. 531. Strategic plan to link joint officer development to overall missions and goals of Department of Defense.

Sec. 532. Joint requirements for promotion to flag or general officer grade.

Sec. 533. Clarification of tours of duty qualifying as a joint duty assignment.

Sec. 534. Reserve joint special officer qualification requirements.

Subtitle E—Professional Military Education

Sec. 541. Improvement to professional military education in the Department of Defense.

Sec. 542. Ribbons to recognize completion of joint professional military education.

Sec. 543. Increase in number of private-sector civilians who may be enrolled for instruction at National Defense University.

Sec. 544. Requirement for completion of Phase I joint professional military education before promotion to colonel or Navy captain.

Subtitle F—Other Education and Training Matters

Sec. 551. College First delayed enlistment program.

Sec. 552. Standardization of authority to confer degrees on graduates of Community College of the Air Force with authority for other schools of Air University.

Sec. 553. Change in titles of heads of the Naval Postgraduate School.

Sec. 554. Increase from two years to three years in period for which educational leave of absence may be authorized.

Sec. 555. Correction to disparate treatment of disabilities sustained during accession training.

Sec. 556. Prayer at military service academy activities.

Sec. 557. Revision to conditions on service of officers as service academy superintendents.

Sec. 558. Codification of prohibition on imposition of certain charges and fees at the service academies.

Sec. 559. Qualifications of the dean of the faculty of United States Air Force Academy.

Subtitle G—Medals and Decorations and Special Promotions and Appointments

Sec. 561. Separate military campaign medals to recognize service in Operation Enduring Freedom and service in Operation Iraqi Freedom.

Sec. 562. Eligibility of all uniformed services personnel for National Defense Service Medal.

Sec. 563. Authority to appoint Brigadier General Charles E. Yeager, United States Air Force (retired), to the grade of major general on the retired list.

Sec. 564. Posthumous commission of William Mitchell in the grade of major general in the Army.

Subtitle H—Military Justice Matters

Sec. 571. Review on how sexual offenses are covered by Uniform Code of Military Justice.

Sec. 572. Service time not lost when confined in connection with trial if confinement excused as unavoidable.

Sec. 573. Clarification of authority of military legal assistance counsel to provide military legal assistance without regard to licensing requirements.

Subtitle I—Administrative and Management Matters

Sec. 581. Three-year extension of limitation on reductions of personnel of agencies responsible for review and correction of military records.

Sec. 582. Staffing and funding for Defense Prisoner of War/Missing Personnel office (DPMO).

Sec. 583. Permanent ID cards for retiree dependents age 70 and older.

Sec. 584. Authority to provide civilian clothing to members traveling in connection with medical evacuation.

Sec. 585. Authority to accept donation of frequent traveler miles, credits, and tickets to facilitate rest and recuperation travel of deployed members of the Armed Forces and their families.

Sec. 586. Limitation on amendment or cancellation of Department of Defense directive relating to reasonable access to military installations for certain personal commercial solicitation.

Sec. 587. Annual identification of reasons for discharges from the Armed Forces during preceding fiscal year.

Sec. 588. Authority for Federal recognition of National Guard commissioned officers appointed from former Coast Guard personnel.

Sec. 589. Study of blended wing concept for the Air Force.

Sec. 590. Continuation of impact aid assistance on behalf of dependents of certain members despite change in status of member.

Subtitle J—Other Matters

Sec. 591. Employment preferences for spouses of certain Department of Defense civilian employees subject to relocation agreements.

Sec. 592. Repeal of requirement to conduct electronic voting demonstration project for the Federal election to be held in November 2004.

Sec. 593. Examination of sexual assault in the Armed Forces by the defense task force established to examine sexual harassment and violence at the military service academies.

Sec. 594. Renewal of pilot program for treating GED and home school diploma recipients as high school graduates for determinations of eligibility for enlistment.

Sec. 595. Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.

Sec. 596. Senior Reserve Officer Training Corps and recruiter access at institutions of higher education.

Sec. 597. Reports on transformation milestones.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

Sec. 601. Increase in basic pay for fiscal year 2005.

Sec. 602. Authority to provide family separation basic allowance for housing.

Sec. 603. Geographic basis for basic allowance for housing during short changes of station for professional military education or training.

Sec. 604. Immediate lump-sum reimbursement for unusual nonrecurring expenses incurred by members serving outside continental United States.

Sec. 605. Income replacement payments for Reserves experiencing extended and frequent mobilization for active duty service.

Sec. 606. Authority for certain members deployed in combat zones to receive limited advances on their future basic pay.

Subtitle B—Bonuses and Special and Incentive Pays

Sec. 611. One-year extension of bonus and special pay authorities.

Sec. 612. Reduction in required service commitment to receive accession bonus for registered nurses.

Sec. 613. Increase in maximum monthly rate authorized for hardship duty pay.

Sec. 614. Termination of assignment incentive pay for members placed on terminal leave.

Sec. 615. Consolidation of reenlistment and enlistment bonus authorities for regular and reserve components.

Sec. 616. Revision of authority to provide foreign language proficiency pay.

Sec. 617. Eligibility of reserve component members for critical skills retention bonus and expansion of authority to provide bonus.

Sec. 618. Eligibility of new reserve component officers for accession or affiliation bonus for officers in critical skills.

Sec. 619. Eligibility of reserve component members for incentive bonus for conversion to military occupational specialty to ease personnel shortage.

Sec. 620. Availability of hazardous duty incentive pay for military firefighters.

Subtitle C—Travel and Transportation Allowances

Sec. 631. Expansion of travel and transportation allowances to assist survivors of a deceased member to attend burial ceremony of the member.

Sec. 632. Transportation of family members incident to the serious illness or injury of members of the uniformed services.

Sec. 633. Reimbursement of members for certain lodging costs incurred in connection with student dependent travel.

Subtitle D—Retired Pay and Survivor Benefits

Sec. 641. Computation of benefits under Survivor Benefit Plan for surviving spouses over age 62.

Sec. 642. Open enrollment period for Survivor Benefit Plan commencing October 1, 2005.

Sec. 643. Source of funds for Survivor Benefit Plan annuities for Department of Defense beneficiaries over age 62.

Subtitle E—Commissary and Nonappropriated Fund Instrumentality Benefits

Sec. 651. Consolidation and reorganization of legislative provisions regarding defense commissary system and exchanges and other morale, welfare, and recreation activities.

Sec. 652. Consistent State treatment of Department of Defense Nonappropriated Fund Health Benefits Program.

Sec. 653. Cooperation and assistance for qualified scouting organizations serving dependents of members of the Armed Forces and civilian employees overseas.

Subtitle F—Other Matters

Sec. 661. Repeal of requirement that members entitled to basic allowance for subsistence pay subsistence charges while hospitalized.

Sec. 662. Clarification of education loans qualifying for education loan repayment program for reserve component health professions officers.
Sec. 663. Survey and analysis of effect of extended and frequent mobilization of Reservists for active duty service on Reservist income.

TITLE VII—HEALTH CARE PROVISIONS

Subtitle A—Enhanced Benefits for Reserves

Sec. 701. Demonstration project for TRICARE coverage for Ready Reserve members.
Sec. 702. Comptroller General report on the cost and feasibility of providing private health insurance stipends for members of the Ready Reserves.
Sec. 703. Improvement of medical services for activated members of the Ready Reserve and their families.
Sec. 704. Modification of waiver of certain deductibles under TRICARE program.
Sec. 705. Authority for payment by United States of additional amounts billed by health care providers to activated Reserve members.
Sec. 706. Extension of transitional health care benefits after separation from active duty.

Subtitle B—Other Benefits Improvements

Sec. 711. Coverage of certain young children under TRICARE dental program.
Sec. 712. Comptroller General report on provision of health and support services for exceptional family member program enrollees.
Sec. 713. Exceptional eligibility for TRICARE prime remote.
Sec. 714. Transition to home health care benefit under sub-acute care program.
Sec. 715. Requirement relating to prescription drug benefits for medicare-eligible enrollees under defense health care plans.
Sec. 716. Professional accreditation of military dentists.
Sec. 717. Addition of certain unremarried former spouses to persons eligible for dental insurance plan of retirees of the uniformed services.
Sec. 718. Waiver of collection of payments due from certain persons unaware of loss of CHAMPUS eligibility.

Subtitle C—Planning, Programming, and Management

Sec. 721. Pilot program for transformation of health care delivery.
Sec. 722. Study of provision of travel reimbursement to hospitals for certain military disability retirees.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Subtitle A—Amendments to General Contracting Authorities, Procedures, and Limitations

Sec. 801. Rapid acquisition authority to respond to combat emergencies.
Sec. 802. Defense acquisition workforce changes.
Sec. 803. Limitation on task and delivery order contracts.
Sec. 804. Funding for contract cancellation ceilings for certain multiyear procurement contracts.
Sec. 805. Increased threshold for requiring contractors to provide specified employee information to cooperative agreement holders.
Sec. 806. Extension of authority for use of simplified acquisition procedures.
Sec. 807. Authority to adjust acquisition-related dollar thresholds for inflation.

Subtitle B—United States Defense Industrial Base Provisions

Sec. 811. Defense trade reciprocity.
Sec. 812. Amendments to domestic source requirements.
Sec. 813. Three-year extension of restriction on acquisition of polyacrylonitrile (PAN) carbon fiber from foreign sources.
Sec. 814. Grant program for defense contractors to implement strategies to avoid outsourcing of jobs.
Sec. 815. Preference for domestic freight forwarding services.

Subtitle C—Other Acquisition Matters

Sec. 821. Sustainment and modernization plans for existing systems while replacement systems are under development.
Sec. 822. Review and demonstration project relating to contractor employees.
Sec. 823. Defense acquisition workforce limitation and reports.
Sec. 824. Provision of information to Congress to enhance transparency in contracting.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Sec. 901. Change in title of Secretary of the Navy to Secretary of the Navy and Marine Corps.
Sec. 902. Transfer of Center for the Study of Chinese Military Affairs from National Defense University to United States-China Economic and Security Review Commission.
Sec. 903. Transfer to Secretary of the Army of responsibility for Assembled Chemical Weapons Alternatives Program.
Sec. 904. Modification of obligated service requirements under National Security Education Program.
Sec. 905. Change of membership of certain councils.
Sec. 906. Actions to prevent the abuse of detainees.
Sec. 907. Responses to congressional inquiries.

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

Sec. 1001. Transfer authority.
Sec. 1002. Budget justification documents for operation and maintenance.
Sec. 1003. Retention of fees from intellectual property licenses.
Sec. 1004. Authority to waive claims of the United States when amounts recoverable are less than costs of collection.
Sec. 1005. Repeal of funding restrictions concerning development of medical countermeasures against biological warfare threats.
Sec. 1006. Report on budgeting for exchange rates for foreign currency fluctuations.

Subtitle B—Naval Vessels and Shipyards

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DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

Sec. 2001. Short title.

TITLE XXI—ARMY

Sec. 2101. Authorized Army construction and land acquisition projects.
Sec. 2102. Family housing.
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TITLE XXII—NAVY

Sec. 2201. Authorized Navy construction and land acquisition projects.
Sec. 2202. Family housing.
Sec. 2203. Improvements to military family housing units.
Sec. 2204. Authorization of appropriations, Navy.

TITLE XXIII—AIR FORCE

Sec. 2301. Authorized Air Force construction and land acquisition projects.
Sec. 2302. Family housing.
Sec. 2303. Improvements to military family housing units.
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TITLE XXIV—DEFENSE AGENCIES

Sec. 2401. Authorized Defense Agencies construction and land acquisition projects.
Sec. 2402. Improvements to military family housing units.
Sec. 2403. Energy conservation projects.
Sec. 2404. Authorization of appropriations, Defense Agencies.

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION SECURITY, INVESTMENT PROGRAM

Sec. 2501. Authorized NATO construction and land acquisition projects.
Sec. 2502. Authorization of appropriations, NATO.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

Sec. 2601. Authorized Guard and Reserve construction and land acquisition projects.

TITLE XXVII—EXPIRATION AND EXTENSION OF AUTHORIZATIONS

Sec. 2701. Expiration of authorizations and amounts required to be specified by law.
Sec. 2702. Extension of authorizations of certain fiscal year 2002 projects.
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TITLE XXVIII—GENERAL PROVISIONS

Subtitle A—Military Construction Program and Military Family Housing Changes

Sec. 2801. Increase in certain thresholds for carrying out unspecified minor military construction projects.
Sec. 2802. Assessment of vulnerability of military installations to terrorist attack and annual report on military construction requirements related to antiterrorism and force protection.
Sec. 2803. Change in threshold for congressional notification regarding use of operation and maintenance funds for facility repair.
Sec. 2804. Reporting requirements regarding military family housing requirements for general officers and flag officers.
Sec. 2805. Congressional notification of deviations from authorized cost variations for military construction projects and military family housing projects.
Sec. 2806. Repeal of limitation on use of alternative authority for acquisition and improvement of military family housing.
Sec. 2807. Temporary authority to accelerate design efforts for military construction projects carried out using design-build selection procedures.
Sec. 2808. Exchange or sale of reserve component facilities to acquire replacement facilities.
Sec. 2809. One-year extension of temporary, limited authority to use operation and maintenance funds for construction projects outside the United States.

Subtitle B—Real Property and Facilities Administration

Sec. 2811. Increase in certain thresholds for reporting real property transactions.
Sec. 2812. Reorganization of existing administrative provisions relating to real property transactions.
Sec. 2813. Treatment of money rentals from golf course at Rock Island Arsenal, Illinois.
Sec. 2814. Number of contracts authorized department-wide under demonstration program on reduction in long-term facility maintenance costs.
Sec. 2815. Repeal of Commission on Review of Overseas Military Facility Structure of the United States.
Sec. 2816. Designation of Airmen Leadership School at Luke Air Force Base, Arizona, in honor of John J. Rhodes, a former minority leader of the House of Representatives.
Sec. 2817. Elimination of reversionary interests clouding United States title to property used as Navy homeports.
Sec. 2818. Report on real property disposal at Marine Corps Air Station, El Toro, California.

Subtitle C—Base Closure and Realignment
Sec. 2821. Two-year postponement of 2005 base closure and realignment round and submission of reports regarding future infrastructure requirements for the armed forces.
Sec. 2822. Establishment of specific deadline for submission of revisions to force-structure plan and infrastructure inventory for next base closure round.
Sec. 2823. Specification of final selection criteria for next base closure round.
Sec. 2824. Requirement for unanimous vote of Defense Base Closure and Realignment Commission to add to or otherwise expand closure and realignment recommendations made by Secretary of Defense.
Sec. 2825. Adherence to certain authorities on preservation of military depot capabilities during any subsequent round of base closures and realignments.
Subtitle D—Land Conveyances
PART I—ARMY CONVEYANCES
Sec. 2831. Transfer of administrative jurisdiction, Defense Supply Center, Columbus, Ohio.
Sec. 2832. Land conveyance, Fort Hood, Texas.
Sec. 2833. Land conveyance, Army National Guard Facility, Seattle, Washington.
PART II—NAVY CONVEYANCES
Sec. 2841. Transfer of jurisdiction, Nebraska Avenue Naval Complex, District of Columbia.
Sec. 2842. Land conveyance, Navy property, former Fort Sheridan, Illinois.
Sec. 2843. Land exchange, Naval Air Station, Patuxent River, Maryland.
PART III—AIR FORCE CONVEYANCES
Sec. 2851. Land exchange, Maxwell Air Force Base, Alabama.
DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS
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Sec. 3101. National Nuclear Security Administration.
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Sec. 3111. Extension of authority for appointment of certain scientific, engineering, and technical personnel.
Sec. 3112. Requirements for baseline of projects under Facilities and Infrastructure Recapitalization Program.
Subtitle C—Other Matters
Sec. 3131. Transfers and reprogrammings of National Nuclear Security Administration funds.
Sec. 3132. National Academy of Sciences study on management by Department of Energy of high-level radioactive waste.
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TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD
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Sec. 3301. Authorized uses of National Defense Stockpile funds.
Sec. 3302. Relaxation of quantity restrictions on disposal of manganese ferro in National Defense Stockpile.
Sec. 3303. Revision of earlier authority to dispose of certain materials in National Defense Stockpile.
TITLE XXXIV—NAVAL PETROLEUM RESERVES
Sec. 3401. Authorization of appropriations.
TITLE XXXV—MARITIME ADMINISTRATION
Sec. 3501. Authorization of appropriations for Maritime Administration.
Sec. 3502. Extension of authority to provide war risk insurance for merchant marine vessels.

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES.

For purposes of this Act, the term "congressional defense committees" has the meaning given that term in section 101(a)(16) of title 10, United States Code.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

SEC. 101. ARMY.

Funds are hereby authorized to be appropriated for fiscal year 2005 for procurement for the Army as follows:

(1) For aircraft, $2,805,941,000.

(2) For missiles, $1,414,321,000.

(3) For weapons and tracked combat vehicles, $1,739,695,000.

(4) For ammunition, $1,729,402,000.

(5) For other procurement, $4,313,640,000.

SEC. 102. NAVY AND MARINE CORPS.

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 2005 for procurement for the Navy as follows:

(1) For aircraft, $8,912,667,000.

(2) For weapons, including missiles and torpedoes, $2,253,454,000.

(3) For ammunition, $870,840,000.

(4) For shipbuilding and conversion, $10,120,027,000.

(5) For other procurement, $4,876,725,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 2005 for procurement for the Marine Corps in the amount of $1,315,103,000.

SEC. 103. AIR FORCE.

Funds are hereby authorized to be appropriated for fiscal year 2005 for procurement for the Air Force as follows:

(1) For aircraft, $13,649,174,000.

(2) For ammunition, $1,396,457,000.

(3) For missiles, $4,638,313,000.

(4) For other procurement, $13,229,257,000.

SEC. 104. DEFENSE-WIDE ACTIVITIES.

Funds are hereby authorized to be appropriated for fiscal year 2005 for Defense-wide procurement in the amount of $2,950,702,000.

Subtitle B—Program Matters

SEC. 111. MULTIYEAR PROCUREMENT AUTHORITY FOR THE LIGHT-WEIGHT 155-MILLIMETER HOWITZER PROGRAM.

The Secretary of the Army and the Secretary of the Navy may, in accordance with section 2306b of title 10, United States Code, jointly enter into a multiyear contract, beginning with the fiscal year 2005 program year, for procurement of the light-weight 155-millimeter howitzer.

SEC. 112. DDG–51 MODERNIZATION PROGRAM.

(a) ACCELERATION OF MODERNIZATION PROGRAM.—The Secretary of the Navy shall accelerate the program for in-service modernization of the DDG–51 class of destroyers. As part of that modernization program, the Secretary shall include additional emphasis on determining a means to reduce crew size from approximately 300 to about 200.

(b) REPORT.—Not later than March 31, 2005, the Secretary of the Navy shall submit to the congressional defense committees a report on the steps taken as of that date to carry out subsection (a).

SEC. 113. REPEAL OF AUTHORITY FOR PILOT PROGRAM FOR FLEXIBLE FUNDING OF CRUISER CONVERSIONS AND OVERHAULS.

Section 126 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1410; 10 U.S.C. 7291 note) is repealed.

SEC. 114. FORCE PROTECTION FOR ASYMMETRIC THREAT ENVIRONMENT.

(a) REQUIREMENT FOR ASYMMETRIC THREAT ASSESSMENT.—(1) The Secretary of Defense shall require the Secretary of each military department to perform an assessment of the survivability and suitability against asymmetrical threats of each of the following military systems under the jurisdiction of that Secretary:

(A) Each manned ground system or war-fighter survivability system that may be required to deploy in an asymmetrical threat environment.

(B) Each manned airborne system that may be required to deploy in an asymmetrical threat environment.

(2) For each system covered by paragraph (1), the Secretary concerned shall establish the key performance parameters for survivability and suitability against asymmetric threats.

(3) The assessments under paragraph (1) shall be completed not later than July 1, 2005.

(4) The Secretary of each military department shall review annually the assessments under paragraph (1) conducted by that Secretary to ensure that the assessments remains relevant to the asymmetric threat environment.

(b) REQUIREMENT FOR FORCE PROTECTION.—(1) The Secretary of Defense shall require the Secretary of each military department, for each system covered by subsection (a)(1) under that Secretary's jurisdiction, either to—

(A) take each of the force protection or survivability steps specified in paragraph (2); or

(B) restrict the system from deployment to an asymmetrical threat environment.

(2) The force protection or survivability steps for a system covered by subsection (a)(1) are the following:

(A) Development of force protection or survivability enhancements for the system that meet the key performance parameters established for that system under subsection (a)(2).

(B) Budgeting for in-service modification programs for the system to provide force protection and survivability enhancements developed under subparagraph (A).

(C) Development of tactics, techniques, and procedures for the system to maximize force protection and survivability.

(c) WAIVER.—The Secretary of Defense may waive the applicability of subsection (b) to a system covered by subsection (a)(1) if the Secretary determines that, but for such a waiver, the Department would be unable to meet national security objectives. Whenever the Secretary makes such a determination and authorizes such a waiver, the Secretary shall submit notice of such waiver and of the Secretary's determination and the reasons therefor in writing to the congressional defense committees.

(d) REQUIREMENT FOR NEW DEVELOPMENT MILITARY ACQUISITION PROGRAMS.—The Secretary of Defense shall require the Secretary of each military department, for each military acquisition program that has not entered low-rate initial production as of the date of the enactment of this Act, to include in the development of that program—

(1) as part of the system requirements development, assessments of war-fighter survivability and of system suitability against asymmetrical threats; and

(2) as part of the documentation of system requirements, requirements for key performance

parameters for force protection and survivability.

(e) Asymmetrical Threat Environment.—For purposes of this section, the term "asymmetrical threat environment", with respect to a manned system, means a security, stability, or peacekeeping operation in which the system is deployed or any other such environment in which an asymmetrical threat may exist (or, in the case of a manned airborne system, another such environment in which airborne operations would subject the system to a ground-based asymmetrical threat).

SEC. 115. ALLOCATION OF EQUIPMENT AUTHORIZED BY THIS TITLE TO BE MADE ON BASIS OF UNITS DEPLOYED OR PREPARING TO DEPLOY.

The Secretary of Defense shall provide that, in the allocation to operational units of equipment acquired using funds authorized to be appropriated by this title, priority shall be given to units that are deployed to, or preparing to deploy to, Operation Iraqi Freedom or Operation Enduring Freedom, regardless of the status of those units as active, Guard, or reserve component units.

SEC. 116. MULTIYEAR PROCUREMENT AUTHORITY FOR KC–767 TANKER AIRCRAFT ACQUISITION PROGRAM.

(a) Multiyear Procurement Authority.—(1) The Secretary of the Air Force may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear contract, beginning with the fiscal year 2005 program year, for procurement of 80 KC–767 tanker aircraft.

(2) Notwithstanding subsection (k) of section 2306b of title 10, United States Code, a contract under this subsection may be for any period not in excess of eight program years.

(b) Limitation.—Subsection (b) of section 135 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1413; 10 U.S.C. 2401a note) is repealed.

(c) Relationship to Previous Law.—The multiyear procurement authority in subsection (a) may not be executed under section 135 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1413; 10 U.S.C. 2401a note) or under section 8159 of the Department of Defense Appropriations Act, 2002 (division A of Public Law 107–117).

SEC. 117. OTHER MATTERS RELATING TO KC–767 TANKER AIRCRAFT ACQUISITION PROGRAM.

(a) Sense of Congress.—It is the sense of Congress that—

(1) aerial refueling capability for the Armed Forces is a critical combat force multiplier;

(2) the Nation must expeditiously proceed with a program to replace the Air Force's aging fleet of aerial refueling tankers;

(3) in pursuing an aerial refueling tanker program, the Department of Defense should take full advantage of the United States commercial aircraft production base; and

(4) anyone suspected of involvement in improper or illegal activities associated with such a program should be investigated and, if warranted, prosecuted to the fullest extent of the law.

(b) Requirement for Renegotiation of Contract.—The Secretary of the Air Force shall enter into one or more contracts for the Air Force multiyear tanker aircraft program, provided that any such contract is negotiated after June 1, 2004.

(c) Review by Outside Panel.—(1) The Secretary of Defense shall establish a panel of experts from outside the Department of Defense to review any proposed contract for the multiyear tanker aircraft program. The panel shall be comprised of individuals who, by reason of education, training, or experience, have expertise relevant to the evaluation of a proposed contract for the lease or procurement of aircraft under that program.

(2) The panel shall review any proposed contract for the multiyear tanker aircraft program to assess, and assist the Secretary of the Air Force in determining, whether the Air Force would under that contract obtain the best value for funds expended. The panel shall serve in whatever manner the Secretary of Defense determines is appropriate to provide an independent review of any such proposed contract. The Secretary shall provide for the panel to make a determination of, and to advise the Secretary of the Air Force on, what would constitute a fair and reasonable contract for that program.

(d) Report.—The Secretary of Defense shall provide for the panel established under subsection (c) to submit a report providing the results of its review to the Secretary of the Air Force and the congressional defense committees.

(e) Multiyear Tanker Aircraft Program Defined.—In this section, the term "multiyear tanker aircraft program" means the program for—

(1) lease of no more than 20 aerial refueling aircraft for the Air Force authorized under section 8159 of the Department of Defense Appropriations Act, 2002 (division A of Public Law 107–117; 115 Stat. 2284), subject to section 135(a) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1413); and

(2) procurement of no more than 80 KC–767 tanker aircraft for which a multiyear procurement contract is authorized by section 116(a) of this Act.

(f) Interpretation.—Section 134 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1412) is amended by adding at the end the following new subsection:

"(c) Interpretation.—Nothing in subsection (b) or section 1111 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1215) is intended to prohibit the Secretary of the Air Force from executing the program described in section 135(a) of this Act and section 116 of the National Defense Authorization Act for Fiscal Year 2005.".

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 2005 for the use of the Department of Defense for research, development, test, and evaluation as follows:

(1) For the Army, $9,478,164,000.

(2) For the Navy, $16,047,841,000.

(3) For the Air Force, $21,527,967,000.

(4) For Defense-wide activities, $21,074,389,000, of which $305,135,000 is authorized for the Director of Operational Test and Evaluation.

SEC. 202. AMOUNT FOR DEFENSE SCIENCE AND TECHNOLOGY.

(a) Fiscal Year 2005.—Of the amounts authorized to be appropriated by section 201, $11,067,698,000 shall be available for the Defense Science and Technology Program, including basic research, applied research, and advanced technology development projects.

(b) Basic Research, Applied Research, and Advanced Technology Development Defined.—For purposes of this section, the term "basic research, applied research, and advanced technology development" means work funded in program elements for defense research and development under Department of Defense category 6.1, 6.2, or 6.3.

Subtitle B—Program Requirements, Restrictions, and Limitations

SEC. 211. FUTURE COMBAT SYSTEMS PROGRAM STRATEGY.

(a) Program Strategy Required.—The Secretary of the Army shall establish and implement a program strategy for the Future Combat Systems acquisition program of the Army. The purpose of the program strategy shall be to provide an effective, affordable, producible, and supportable military capability with a realistic schedule and a robust cost estimate.

(b) Elements of Program Strategy.—The program strategy shall—

(1) require the release, at the design readiness review, of not less than 90 percent of engineering drawings for the building of prototypes;

(2) require, before facilitating production or contracting for items with long lead times, that an acceptable demonstration be carried out of the performance of the information network, including the performance of the Joint Tactical Radio System and the Warfighter Information Network-Tactical; and

(3) require, before the initial production decision, that an acceptable demonstration be carried out of the collective capability of each system to meet system-of-systems requirements when integrated with the information network.

(c) Required Submissions to Congress.—Before convening the Milestone B update for the Future Combat Systems acquisition program required by the Future Combat Systems acquisition decision memorandum, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to Congress each of the following documents:

(1) The independent cost estimate with respect to the program prepared by the cost analysis improvement group of the Office of the Secretary of Defense.

(2) A report, prepared by an independent panel, on the maturity levels of the critical technologies with respect to the program, including an assessment of those technologies that are likely to require a decision to use an alternative approach.

(3) A report, prepared by the chief information officer of the Army, describing—

(A) the status of the development and integration of the network and the command, control, computers, communications, intelligence, surveillance, and reconnaissance components; and

(B) the progress made toward meeting the requirements for network-centric capabilities as set forth by such officer.

(4) A report identifying the key performance parameters with respect to the program, with all objectives and thresholds quantified, together with the supporting analytical rationale.

(d) Limitation on Funding.—(1) Except as provided in paragraph (2), the Secretary of the Army may not obligate, from amounts made available for fiscal year 2005, more than $2,200,000,000 for the Future Combat Systems acquisition program.

(2) The limitation in paragraph (1) shall not apply after the Secretary of the Army submits to Congress the Secretary's certification that the Secretary has established and implemented the program strategy required by subsection (a).

SEC. 212. COLLABORATIVE PROGRAM FOR RESEARCH AND DEVELOPMENT OF VACUUM ELECTRONICS TECHNOLOGIES.

(a) Program Required.—The Secretary of Defense shall establish a program for research and development in advanced vacuum electronics to meet the requirements of the Department of Defense electromagnetic systems.

(b) Description of Program.—The program under subsection (a) shall be carried out collaboratively by the Director of Defense Research and Engineering, the Secretary of the Navy, the

Secretary of the Air Force, the Secretary of the Army, and other appropriate elements of the Department of Defense. The program shall include the following activities:

(1) Activities needed for development and maturation of advanced vacuum electronics technologies needed to meet the requirements of the Department of Defense.

(2) Identification of legacy and developmental electromagnetic systems for use of advanced vacuum electronics under the program.

(c) Report.—Not later than January 31, 2005, the Director of Defense Research and Engineering shall submit to the congressional defense committees a report on the implementation of the program under subsection (a). The report shall include the following:

(1) Identification of the officer to have lead responsibility for carrying out the program.

(2) A description of the management plan for the program and any agreements relating to that plan.

(3) A schedule for the program.

(4) Identification of the funding required for fiscal year 2006 and for the future-years defense program to carry out the program.

(5) A list of program capability goals and objectives.

(d) Funding.—Of the funds authorized to be appropriated in section 201—

(1) $13,500,000 shall be available in program element 62771N for applied research in vacuum electronics; and

(2) $5,000,000 shall be available in program element 63771N for advanced technology development in vacuum electronics.

SEC. 213. ANNUAL COMPTROLLER GENERAL REPORT ON JOINT STRIKE FIGHTER PROGRAM.

(a) Annual GAO Review.—The Comptroller General shall conduct an annual review of the Joint Strike Fighter aircraft program and shall, not later than March 15 of each year, submit to Congress a report on the results of the most recent review. With each such report, the Comptroller General shall submit a certification as to whether the Comptroller General has had access to sufficient information to enable the Comptroller General to make informed judgments on the matters covered by the report.

(b) Matters to Be Included.—Each report on the Joint Strike Fighter aircraft program under subsection (a) shall include the following with respect to system development and demonstration under the program:

(1) The extent to which such system development and demonstration is meeting established goals, including the goals established for performance, cost, and schedule.

(2) The plan for such system development and demonstration (leading to production) for the fiscal year that begins in the year in which the report is submitted.

(3) The Comptroller General's conclusion regarding whether such system development and demonstration (leading to production) is likely to be completed at a total cost not in excess of the amount specified (or to be specified) for such purpose in the Selected Acquisition report for the Joint Strike Fighter aircraft program under section 2432 of title 10, United States Code, for the first quarter of the fiscal year during which the report of the Comptroller General is submitted.

(c) Requirement to Support Annual GAO Review.—The Secretary of Defense and the prime contractor for the Joint Strike Fighter aircraft program shall provide to the Comptroller General such information on that program as the Comptroller General considers necessary to carry out the responsibilities of the Comptroller General under this section, including such information as is necessary for the purposes of subsection (b)(3).

(d) Termination.—No report is required under this section after the report that, under subsection (a), is required to be submitted not later than March 15, 2009.

SEC. 214. AMOUNTS FOR UNITED STATES JOINT FORCES COMMAND TO BE DERIVED ONLY FROM DEFENSE-WIDE AMOUNTS.

(a) In General.—Chapter 9 of title 10, United States Code, is amended by adding at the end the following new section:

"§232. United States Joint Forces Command: amounts for research, development, test, and evaluation to be derived only from Defense-wide amounts

"(a) Requirement.—Amounts for research, development, test, and evaluation for the United States Joint Forces Command shall be derived only from amounts made available to the Department of Defense for Defense-wide research, development, test, and evaluation.

"(b) Separate Display in Budget.—Any amount in the budget submitted to Congress under section 1105 of title 31 for any fiscal year for research, development, test, and evaluation for the United States Joint Forces Command shall be set forth under the account of the Department of Defense for Defense-wide research, development, test, and evaluation.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"232. United States Joint Forces Command: amounts for research, development, test, and evaluation to be derived only from Defense-wide amounts.".

SEC. 215. AUTHORITY OF DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING TO AWARD PRIZES FOR ADVANCED TECHNOLOGY ACHIEVEMENTS.

Section 2374a(a) of title 10, United States Code, is amended by striking "acting through the Director of the Defense Advanced Research Projects Agency" and inserting "acting through the Director of Defense Research and Engineering".

SEC. 216. SPACE BASED RADAR.

(a) Limitation.—In carrying out the Space Based Radar program, the Secretary of Defense may not authorize that program to proceed into the system development and procurement phase referred to as Milestone B until the Secretary—

(1) submits to the congressional defense committees, the Permanent Select Committee on Intelligence of the House of Representatives, and the Select Committee on Intelligence of the Senate a report described in subsection (b); and

(2) a period of 30 days has elapsed after the date on which such report is submitted.

(b) Report.—A report under this subsection is a report on the Space Based Radar program in which the Secretary of Defense sets forth the following with respect to that program:

(1) A description of the technical system concept selected.

(2) A description of the concept of operations associated with the technical system concept selected.

(3) An independent cost estimate for development and procurement under the program.

(4) The acquisition strategy for the program.

SEC. 217. MARK-54 TORPEDO PRODUCT IMPROVEMENT PROGRAM.

Of the amount provided in section 201 for research, development, test, and evaluation for the Navy, $2,000,000 within the budget line designated as line 120 shall be available for the Mark-54 Torpedo Product Improvement Program.

Subtitle C—Ballistic Missile Defense

SEC. 221. FIELDING OF BALLISTIC MISSILE DEFENSE CAPABILITIES.

(a) Authority.—Funds described in subsection (b) may, upon approval by the Secretary of Defense, be used for the development and fielding of ballistic missile defense capabilities.

(b) Covered Funds.—Subsection (a) applies to funds appropriated for fiscal year 2005 or fiscal year 2006 for research, development, test, and evaluation for the Missile Defense Agency.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

SECTION 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 2005 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1) For the Army, $25,838,611,000.

(2) For the Navy, $29,523,490,000.

(3) For the Marine Corps, $3,637,615,000.

(4) For the Air Force, $27,143,566,000.

(5) For Defense-wide activities, $17,317,406,000.

(6) For the Army Reserve, $2,003,728,000.

(7) For the Naval Reserve, $1,240,038,000.

(8) For the Marine Corps Reserve, $188,696,000

(9) For the Air Force Reserve, $2,226,790,000

(10) For the Army National Guard, $4,425,686,000.

(11) For the Air National Guard, $4,448,938,000.

(12) For the United States Court of Appeals for the Armed Forces, $10,825,000.

(13) For Environmental Restoration, Army, $400,948,000.

(14) For Environmental Restoration, Navy, $266,820,000.

(15) For Environmental Restoration, Air Force, $397,368,000.

(16) For Environmental Restoration, Defense-wide, $23,684,000

(17) For Environmental Restoration, Formerly Used Defense Sites, $216,516,000.

(18) For Overseas Humanitarian, Disaster, and Civic Aid programs, $59,000,000.

(19) For Cooperative Threat Reduction programs, $409,200,000.

(20) For the Overseas Contingency Operations Transfer Fund, $5,000,000.

(21) For the Defense Industrial Base Capabilities Fund, $50,000,000

SEC. 302. WORKING CAPITAL FUNDS.

Funds are hereby authorized to be appropriated for fiscal year 2005 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working capital and revolving funds in amounts as follows:

(1) For the Defense Working Capital Funds, $372,886,000.

(2) For the National Defense Sealift Fund, $1,219,252,000.

(3) For the Defense Working Capital Fund, Defense Commissary, $1,175,000,000

SEC. 303. OTHER DEPARTMENT OF DEFENSE PROGRAMS.

(a) Defense Health Program.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2005 for expenses, not otherwise provided for, for the Defense Health Program, $17,811,586,000, of which—

(1) $17,374,544,000 is for Operation and Maintenance;

(2) $72,407,000 is for Research, Development, Test, and Evaluation; and

(3) $364,635,000 is for Procurement.

(b) Chemical Agents and Munitions Destruction, Defense.—(1) Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2005 for expenses, not otherwise provided for, for Chemical Agents and Munitions Destruction, Defense, $1,371,990,000, of which—

(A) $1,138,801,000 is for Operation and Maintenance;

(B) $154,209,000 is for Research, Development, Test, and Evaluation; and

(C) $78,980,000 is for Procurement.

(2) Amounts authorized to be appropriated under paragraph (1) are authorized for—

(A) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and

(B) the destruction of chemical warfare materiel of the United States that is not covered by section 1412 of such Act.

(c) DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE-WIDE.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2005 for expenses, not otherwise provided for, for Drug Interdiction and Counter-Drug Activities, Defense-wide, $852,697,000.

(d) DEFENSE INSPECTOR GENERAL.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2005 for expenses, not otherwise provided for, for the Office of the Inspector General of the Department of Defense, $193,562,000, of which—

(1) $191,362,000 is for Operation and Maintenance;

(2) $2,100,000 is for Research, Development, Test, and Evaluation; and

(3) $100,000 is for Procurement.

SEC. 304. REIMBURSEMENT OF MEMBERS OF THE ARMED FORCES WHO PURCHASED PROTECTIVE BODY ARMOR DURING SHORTAGE OF DEFENSE STOCKS OF BODY ARMOR.

(a) REIMBURSEMENT AUTHORIZED.—The Secretary of Defense may reimburse a member of the Armed Forces for the cost of protective body armor purchased by the member, or by another person on behalf of the member, for use by the member while deployed in connection with Operation Noble Eagle, Operation Enduring Freedom, or Operation Iraqi Freedom if the member was not issued protective body armor before the member became engaged in operations in areas or situations described in section 310(a)(2) of title 37, United States Code.

(b) DURATION OF AUTHORITY.—Reimbursement may be provided under subsection (a) for protective body armor purchased during the period beginning on September 11, 2001, and ending on December 31, 2003. Not later than 60 days after the date of the enactment of this Act, the Secretary shall implement regulations to expedite the provision of such reimbursement.

Subtitle B—Environmental Provisions

SEC. 311. REPORT REGARDING ENCROACHMENT ISSUES AFFECTING UTAH TEST AND TRAINING RANGE, UTAH.

(a) REPORT REQUIRED.—The Secretary of the Air Force shall prepare a report that outlines current and anticipated encroachments on the use and utility of the special use airspace of the Utah Test and Training Range in the State of Utah, including encroachments brought about through actions of other Federal agencies. The Secretary shall include such recommendations as the Secretary considers appropriate regarding any legislative initiatives necessary to address encroachment problems identified by the Secretary in the report.

(b) SUBMISSION OF REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit the report to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate.

Subtitle C—Workplace and Depot Issues

SEC. 321. SIMPLIFICATION OF ANNUAL REPORTING REQUIREMENTS CONCERNING FUNDS EXPENDED FOR DEPOT MAINTENANCE AND REPAIR WORKLOADS.

Subsection (d) of section 2466 of title 10, United States Code, is amended to read as follows:

"(d) ANNUAL REPORT AND REVIEW.—(1) Not later than April 1 of each year, the Secretary of Defense shall submit to Congress a report identifying, for each of the armed forces (other than the Coast Guard) and each Defense Agency, the percentage of the funds referred to in subsection (a) that was expended during the preceding fiscal year, and are projected to be expended in the current fiscal year and next fiscal year, for performance of depot-level maintenance and repair workloads by the public and private sectors.

"(2) Not later than 60 days after the date on which the Secretary submits a report under paragraph (1), the Comptroller General shall submit to Congress the Comptroller General's views on whether—

"(A) the Department of Defense has complied with the requirements of subsection (a) during the preceding fiscal year covered by the report; and

"(B) the expenditure projections for the current fiscal year and next fiscal year are reasonable.".

SEC. 322. REPEAL OF ANNUAL REPORTING REQUIREMENT CONCERNING MANAGEMENT OF DEPOT EMPLOYEES.

(a) REPEAL.—Section 2472 of title 10, United States Code, is amended—

(1) by striking "(a) PROHIBITION ON MANAGEMENT BY END STRENGTH.—"; and

(2) by striking subsection (b).

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§2472. Prohibition on management of depot employees by end strength".

(2) The table of sections at the beginning of chapter 146 of such title is amended by striking the item relating to section 2472 and inserting the following new item:

"2472. Prohibition on management of depot employees by end strength.".

SEC. 323. PUBLIC-PRIVATE COMPETITION FOR WORK PERFORMED BY CIVILIAN EMPLOYEES OF DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—Section 2461(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5)(A) A function of the Department of Defense performed by 10 or more civilian employees may not be converted, in whole or in part, to performance by a contractor unless, the conversion is based on the results of a public-private competition process that—

"(i) formally compares the cost of civilian employee. performance of the function with the costs of performance by a contractor;

"(ii) creates an agency tender, including a most efficient organization plan, in accordance with Office of Management and Budget Circular A–76, as implemented on May 29, 2003;

"(iii) determines whether the submitted offers meet the needs of the Department of Defense with respect to factors other than cost, including quality and reliability;

"(iv) requires continued performance of the function by civilian employees if the cost of performance of the function by a contractor would, over all performance periods required by the solicitation, cost less than—

"(I) 10 percent of the personnel-related costs for performance of that activity or function in the agency tender; or

"(II) $10,000,000; and

"(v) provides no advantage to an offeror for a proposal to reduce costs for the Department of Defense by—

"(I) not making an employer-sponsored health insurance plan available to the workers who are to be employed in the performance of such function under a contract; or

"(II) offering to such workers an employer-sponsored health benefits plan that requires the employer to contribute less towards the premium or subscription share than that which is paid by the Department of Defense for health benefits for civilian employees under chapter 89 of title 5.

"(B) Any modification, reorganization, division, or other change in the organization of a function of the Department of Defense so that is performed by less than 10 civilian employees of the Department of Defense and, therefore, excluded from subparagraph (A), is prohibited.

"(C) Any function that is performed by civilian employees of the Department of Defense and is proposed to be reengineered, reorganized, modernized, upgraded, expanded, or changed in order to become more efficient, but the civilian employees would still provide essentially the same service, is subject to the competition requirement in subparagraph (A).

"(D) The cost savings requirement specified in subparagraph (A) does not apply to any contracts for special studies and analyses, construction services, architectural services, medical services, scientific and technical services related to (but not in support of) research and development, and depot-level maintenance and repair services.

"(E) The Secretary of Defense may waive the competition requirement in specific instances if—

"(i) the written waiver is prepared by the Secretary of Defense, or the relevant Assistant Secretary or agency head;

"(ii) the written waiver is accompanied by a detailed determination that national security interests are so compelling as to preclude compliance with the requirement for a public-private competition; and

"(iii) a copy of the waiver is published in the Federal Register within 10 working days after the date on which the waiver is invoked, although use of the waiver need not be delayed until its publication.".

(b) RELATION TO PILOT PROGRAM.—Paragraph (5) of section 2461(b) of title 10, United States Code, as added by subsection (a) shall not apply with respect to the pilot program for best-value source selection for performance of information technology services authorized by section 336 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1444; 10 U.S.C. 2461 note).

SEC. 324. PUBLIC-PRIVATE COMPETITION PILOT PROGRAM.

(a) PURPOSE.—The Secretary of Defense shall establish a pilot program to examine the use of the public-private competition process of Office of Management and Budget Circular A–76 on new requirements, as defined by such Circular, and functions currently being performed by contractors that could be performed by civilian employees.

(b) DURATION.—The Secretary of Defense shall carry out the pilot program during fiscal years 2005 and 2006.

(c) REQUIREMENT FOR PUBLIC-PRIVATE COMPETITION FOR NEW WORK.—(1) By the end of the pilot project, the Secretary of Defense shall have allowed civilian employees to compete through the standard competition process of Office of Management and Budget Circular A–76 for new requirements, as defined by such Circular, that are approximately one-tenth in value of the funds spent by the Department of Defense during the two fiscal years of the pilot project on all functions that are considered new requirements, as defined by such Circular.

(2) The Department of Defense shall not receive credit towards compliance with the pilot

program for subjecting to public-private competition—

(A) any contract to be awarded to small business concerns that meet the requirements under section 3(a) of the Small Business Act (15 U.S.C. 632(a)) and regulations under that section;

(B) any contract to be performed by contractor employees who are represented by a private sector labor union; or

(C) any contract related to special studies and analyses, construction services, architectural services, medical services, scientific and technical services related to (but not in support of) research and development, and depot-level maintenance and repair services.

(d) FUNCTIONS PERFORMED BY CONTRACTORS.—(1) By the end of the pilot project, the Secretary of Defense shall have subjected a number of contractor employees to public-private competition through the standard competition process of Office of Management and Budget Circular A–76 that is approximately one-tenth of the number of civilian employees subject to public-private competition during the two fiscal years of the pilot project.

(2) The Department of Defense shall, to the extent possible, subject to public-private competition those positions held by contractor employees that are associated with functions that are or have been performed at least in part by Federal employees at any time on or after October 1, 1980; and

(3) Subsection (c)(2) shall also apply to this subsection.

(e) WAIVER.—The implementation of the pilot project may be waived if—

(1) the written waiver is prepared by the Secretary of Defense;

(2) the written waiver is accompanied by a detailed determination that national security interests are so compelling as to preclude compliance with the competition requirement; and

(3) a copy of the waiver is published in the Federal Register within 10 working days after the date on which the waiver is invoked, although use of the waiver need not be delayed until its publication.

(f) REPORT.—At the end of each fiscal year of the pilot program, the Inspector General of the Department of Defense shall submit to Congress a report on the results of the pilot program, including the extent to which the Department of Defense complied with the requirements of this section.

SEC. 325. SENSE OF CONGRESS ON EQUITABLE LEGAL STANDING FOR CIVILIAN EMPLOYEES.

It is the sense of Congress that, in order to ensure that, when public-private competitions are held, they are conducted as fairly, effectively, and efficiently as possible, competing parties, both Department of Defense civilian employees (or their representatives) and contractors (or their representatives) should receive comparable treatment throughout the competition regarding access to relevant information and legal standing to challenge the way a competition has been conducted at all appropriate forums, including the General Accounting Office and the United States Court of Federal Claims.

SEC. 326. COMPETITIVE SOURCING REPORTING REQUIREMENT.

(a) REPORT REQUIRED.—Not later than February 1, 2005, the Inspector General of the Department of Defense shall submit to Congress a report addressing whether the Department of Defense—

(1) employs a sufficient number of adequately trained civilian employees to conduct satisfactorily, taking into account equity, efficiency and expeditiousness, all of the public-private competitions that are scheduled to be undertaken by the Department of Defense during the next fiscal year (including a sufficient number of employees to formulate satisfactorily the performance work statements and most efficient organization plans for the purposes of such competitions) and to administer any resulting contracts; and

(2) has implemented a comprehensive and reliable system to track and assess the cost and quality of the performance of functions of the Department of Defense by service contractors, to update the records of such costs and the assessments each fiscal quarter, and to make such information available in reports to Congress and the public, including through the use of electronic means, except that proprietary information and information to which section 552(b)(1) of title 5, United States Code, applies shall be excised from information published or reports made available.

(b) ELEMENTS OF TRACKING SYSTEM.—The system of the Department of Defense for tracking cost and quality of performance of a function under a service contract shall include at least the following data elements:

(1) The contract number and the applicable Federal supply class or service code.

(2) The name, business address, and business telephone of the agency official who supervises the service contract.

(3) The statutory, regulatory, or other authority for entering into the service contract and, if a public-private competition was not used in the determination of whether to provide for performance of the activity or function by a contractor, an explanation of the reasons for not doing so.

(4) The cost to the Department of Defense of conducting the public-private competition under Office of Management and Budget Circular A–76, if one was undertaken, including the cost of consultants as well as civilian employees.

(5) In the case of a function formerly performed by civilian employees, the actual cost of the performance by such employees.

(6) The cost to the Department of Defense of civilian employee performance of the function under the most efficient organization plan.

(7) The anticipated cost of contractor performance, based on the award.

(8) The cost to the Department of Defense for performance of the function by the contractor.

(9) A description of the quality control process used by the agency in connection with monitoring the contract performance (including the applicable quality control standards and the frequency of the quality control reports), together with an assessment of whether the contractor achieved, exceeded, or failed to achieve the quality control standards.

(c) ASSESSMENT OF TRACKING SYSTEM.—The Inspector General of the Department of Defense shall include in the report required by subsection (a) an assessment of the comprehensiveness and reliability of the Department of Defense system for tracking cost and quality of performance of a function under a service contract, including compliance with each of the requirements specified in subsection (b). The Inspector General shall base the assessment on an audit of a representative sample of service contracts. The report shall also include recommendations by the Inspector General regarding how weaknesses identified in the Department of Defense infrastructure for competitive sourcing can be rectified, whether through the use of different processes or the availability of additional employees, additional training, or additional resources.

Subtitle D—Information Technology

SEC. 331. PREPARATION OF DEPARTMENT OF DEFENSE PLAN FOR TRANSITION TO INTERNET PROTOCOL VERSION 6.

(a) TRANSITION PLAN.—The Secretary of Defense shall prepare a plan to provide for the transition of Department of Defense information technology systems to Internet Protocol version 6 from the present use of Internet Protocol version 4 and other network protocols. The plan shall outline the networking and security system equipment that will need to be replaced, including the timing and costs of such replacement, address how the current and new networks and security systems will be managed, and assess the potential impact of the transition, include any proposed measures to alleviate any adverse affects. In preparing the transition plan, the Secretary shall compare private industry plans for the transition to Internet Protocol version 6.

(b) TESTING AND EVALUATION FOR INTERNET PROTOCOL.—To determine whether a change to the use of Internet Protocol version 6 will support Department of Defense requirements, the Secretary of Defense shall provide for a rigorous, real-world end-to-end testing of Internet Protocol version 6, as proposed for use by the Department, to evaluate the following:

(1) The ability of Internet Protocol version 6, with its "best effort" quality of service, to satisfactory support the Department's multiple applications and other information technology systems, including the use of Internet Protocol version 6 over bandwidth-constrained tactical circuits.

(2) The ability of the Department's networks using Internet Protocol version 6 to respond to, and perform under, heavy loading of the core networks.

(c) SUBMISSION OF PLAN AND RESULTS.—Not later than March 31, 2005, the Secretary of Defense shall submit to the congressional defense committees a report containing the transition plan prepared under subsection (a) and the results of the tests conducted under subsection (b).

SEC. 332. DEFENSE BUSINESS ENTERPRISE ARCHITECTURE, SYSTEM ACCOUNTABILITY, AND CONDITIONS FOR OBLIGATION OF FUNDS FOR DEFENSE BUSINESS SYSTEM MODERNIZATION.

(a) IN GENERAL.—(1) Chapter 131 of title 10, United States Code, is amended by inserting before section 2223 the following new section:

"§2222. Defense business systems: architecture, accountability, and modernization

"(a) CONDITIONS FOR OBLIGATION OF FUNDS FOR DEFENSE BUSINESS SYSTEM MODERNIZATION.—Effective January 1, 2005, funds appropriated to the Department of Defense may not be obligated for a defense business system modernization that will have a total cost in excess of $1,000,000 unless—

"(1) the approval authority designated for the defense business system certifies to the Defense Business Systems Management Committee established by section 186 of this title that the defense business system modernization—

"(A) is in compliance with the enterprise architecture developed under subsection (b), or such compliance is waived in writing by the approval authority as a result of the investment review process conducted under subsection (d) for the defense business system modernization; and

"(B) will be acquired or developed in a manner consistent with the system acquisition regulations and instructions of the Department of Defense; and

"(2) the Defense Business Systems Management Committee approves the certification by the approval authority.

"(b) ENTERPRISE ARCHITECTURE FOR DEFENSE BUSINESS SYSTEMS.—Not later than September 30, 2005, the Secretary of Defense, acting through the Defense Business Systems Management Committee, shall develop—

"(1) an enterprise architecture to cover all defense business systems, and the functions and activities supported by defense business systems, which shall be sufficiently defined to effectively guide, constrain, and permit implementation of

interoperable defense business system solutions and consistent with the policies and procedures established by the Director of the Office of Management and Budget, and

"(2) a transition plan for implementing the enterprise architecture for defense business systems.

"(c) APPROVAL AUTHORITIES AND ACCOUNTABILITY FOR DEFENSE BUSINESS SYSTEMS.—The Secretary of Defense shall delegate responsibility for the planning, design, acquisition, deployment, operation, maintenance, modernization, and oversight of defense business systems as follows:

"(1) The Under Secretary of Defense for Acquisition, Technology and Logistics shall be responsible and accountable for any defense business system the primary purpose of which is to support acquisition activities, logistics activities, or installations and environment activities of the Department of Defense.

"(2) The Under Secretary of Defense (Comptroller) shall be responsible and accountable for any defense business system the primary purpose of which is to support financial management activities or strategic planning and budgeting activities of the Department of Defense.

"(3) The Under Secretary of Defense for Personnel and Readiness shall be responsible and accountable for any defense business system the primary purpose of which is to support human resource management activities of the Department of Defense.

"(4) The Assistant Secretary of Defense for Networks and Information Integration and the Chief Information Officer of the Department of Defense shall be responsible and accountable for any defense business system the primary purpose of which is to support information technology infrastructure or information assurance activities of the Department of Defense.

"(5) The Deputy Secretary of Defense or an Under Secretary of Defense, as designated by the Secretary of Defense, shall be responsible for any defense business system the primary purpose of which is to support any activity of the Department of Defense not covered by paragraphs (1) through (4).

"(d) DEFENSE BUSINESS SYSTEM INVESTMENT REVIEW.—(1) The Secretary of Defense shall require each approval authority designated under subsection (c) to establish, not later than March 15, 2005, an investment review process, consistent with section 11312 of title 40, to review the planning, design, acquisition, development, deployment, operation, maintenance, modernization, and project cost benefits and risks of all defense business systems for which the approval authority is responsible. The investment review process so established shall specifically address the responsibilities of approval authorities under subsection (a).

"(2) The review of defense business systems under the investment review process shall include the following:

"(A) Review and approval by an investment review board of each defense business system as an investment before the obligation of funds on the system.

"(B) Periodic review, but not less than annually, of every defense business system investment.

"(C) Representation on each investment review board by appropriate officials from among the armed forces, combatant commands, the Joint Chiefs of Staff, and Defense Agencies.

"(D) Use of threshold criteria to ensure an appropriate level of review within the Department of Defense of, and accountability for, defense business system investments depending on scope, complexity, and cost.

"(e) BUDGET INFORMATION.—In the materials that the Secretary submits to Congress in support of the budget submitted by the President to Congress under section 1105 of title 31 for fiscal year 2006 and fiscal years thereafter, the Secretary of Defense shall—

"(1) identify the approval authority for each defense business system; and

"(2) for each defense business system for which funding is proposed in the budget—

"(A) certify that the defense business system complies with the defense business enterprise architecture; or

"(B) explain why funds for such system are necessary to maintain a mission critical or mission essential system of the Department of Defense, notwithstanding its noncompliance with the defense business enterprise architecture.

"(f) CONGRESSIONAL REPORTS.—Not later than March 15 of each year from 2005 through 2009, the Secretary of Defense shall submit to the congressional defense committees a report on Department of Defense compliance with the requirements of this section. The first report shall define plans and commitments for meeting the requirements of subsection (a), including specific milestones and performance measures. Subsequent reports shall—

"(1) describe actions taken and planned for meeting the requirements of subsection (a), including—

"(A) specific milestones and actual performance against specified performance measures, and any revision of such milestones and performance measures; and

"(B) specific actions on the defense business system modernizations submitted for certification under such subsection;

"(2) identify the number of defense business system modernizations so certified;

"(3) identify any defense business system modernization with an obligation in excess of $1,000,000 during the preceding fiscal year that was not certified under subsection (a), and the reasons for the waiver; and

"(4) discuss specific improvements in business operations and cost savings resulting from successful defense business systems modernization efforts.

"(g) DEFINITIONS.—In this section:

"(1) The term 'approval authority', with respect to a defense business system, means the Department of Defense official responsible for the defense business system, as designated by subsection (c).

"(2) The term 'defense business system' means an information system, other than a national security system, operated by, for, or on behalf of the Department of Defense, including financial systems, mixed systems, financial data feeder systems, and information technology and information assurance infrastructure, used to support business activities, such as acquisition, financial management, logistics, strategic planning and budgeting, installations and environment, and human resource management.

"(3) The term 'defense business system modernization' means—

"(A) the acquisition or development of a new defense business system; or

"(B) any significant modification or enhancement of an existing defense business system (other than necessary to maintain current services).

"(4) The term 'enterprise architecture' has the meaning given that term in section 3601(4) of title 44.

"(5) The terms 'information system' and 'information technology' have the meanings given those terms in section 11101 of title 40.

"(6) The term 'national security system' has the meaning given that term in section 2315 of this title.".

(2) The table of sections at the beginning of such chapter is amended by inserting before the item relating to section 2223 the following new item:

"2222. Defense business systems: architecture, accountability, and modernization.".

(b) DEFENSE BUSINESS SYSTEM MANAGEMENT COMMITTEE.—Chapter 7 of such title is amended by adding at the end the following new section:

"§ 186. Defense business system management Committee

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish a Defense Business Systems Management Committee, to be composed of the following persons:

"(1) The Deputy Secretary of Defense, who shall serve as the chairman of the Committee.

"(2) The Under Secretary of Defense for Acquisition, Logistics, and Technology.

"(3) The Under Secretary of Defense for Personnel and Readiness.

"(4) The Under Secretary of Defense (Comptroller).

"(5) The Assistant Secretary of Defense for Networks and Information Integration.

"(6) The Secretaries of the military departments and the heads of the Defense Agencies.

"(7) Such additional personnel of the Department of Defense (including personnel assigned to the Joint Chiefs of Staff and combatant commands) as are designated by the Secretary of Defense.

"(b) DUTIES.—(1) In addition to any other matters assigned to the Committee by the Secretary of Defense, the Committee shall—

"(A) recommend to the Secretary of Defense policies and procedures necessary to effectively integrate the requirements of section 2222 of this title into all business activities and any transformation, reform, reorganization, or process improvement initiatives undertaken within the Department of Defense; and

"(B) review and approve any major update of the defense business enterprise architecture developed under subsection (b) of section 2222 of this title, including evolving the architecture, and of defense business systems modernization plans.

"(2) The Committee shall be responsible for coordinating defense business system modernization initiatives to maximize benefits and minimize costs for the Department of Defense and periodically report to the Secretary on the status of defense business system modernization efforts.

"(3) The Committee shall ensure that funds are obligated for defense business system modernization in a manner consistent with section 2222 of this title.

"(c) DEFINITIONS.—In this section, the terms 'defense business system' and 'defense business system modernization' have the meanings given such terms in section 2222 of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"186. Defense Business System Management Committee.".

(c) DELEGATION OF ADMINISTRATIVE RESPONSIBILITY.—The delegation of responsibility for the planning, design, acquisition, deployment, operation, maintenance, modernization, and oversight of defense business systems required by subsection (c) of section 2222 of title 10, United States Code, as added by subsection (a)(1), shall be completed not later than 60 days after the date of the enactment of this Act.

(d) RELATION TO ANNUAL REGISTRATION REQUIREMENTS.—Nothing in sections 186 and 2222 of title 10, United States Code, as added by this section, shall be construed to alter the requirements of section 8084 of the Department of Defense Appropriations Act, 2004 (Public Law 108–87; 117 Stat. 1091), with regard to information technology systems (as defined in subsection (d) of such section).

(e) REPEAL OF OBSOLETE FINANCIAL MANAGEMENT ENTERPRISE ARCHITECTURE REQUIREMENTS.—Section 1004 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 10 U.S.C. 113 note) is repealed.

SEC. 333. ESTABLISHMENT OF JOINT PROGRAM OFFICE TO IMPROVE INTEROPERABILITY OF BATTLEFIELD MANAGEMENT COMMAND AND CONTROL SYSTEMS.

(a) OFFICE FOR FAMILY OF INTEROPERABLE PICTURES.—The Secretary of Defense shall designate a single joint program office in the Department of Defense for the management of battlefield management command and control systems of the Armed Forces, known as the "Family of Interoperable Pictures", to improve the interoperability of such systems so that members of the Armed Forces may access a common operational picture of the battlefield. The office shall include at a minimum the Single Integrated Air Picture, the Single Integrated Ground Picture, the Single Integrated Maritime Picture, the Special Operations Forces Picture, and the Single Integrated Space Picture. The Secretary shall provide for the head of the office to be selected on a rotating basis among related offices of the Army, Navy, Air Force, and Marine Corps.

(b) COMMON SYSTEMS ARCHITECTURE.—The Secretary of Defense shall develop, implement, and maintain a common systems architecture for all battlefield management command and control systems included in the Family of Interoperable Pictures.

(c) CONSOLIDATED PROGRAM ELEMENTS.—All funds for development and procurement related to the Family of Interoperable Pictures shall be consolidated under the office designated under subsection (a).

(d) PROGRAM DEVELOPMENT.—The head of the office designated under subsection (a), subject to the authority, direction, and control of the Secretary of Defense, shall—

(1) establish and control the performance specifications for the battlefield management command and control systems included in the Family of Interoperable Pictures;

(2) establish and control the standards for development of the software and equipment for the Family of Interoperable Pictures;

(3) establish and control the standards for operation of the Family of Interoperable Pictures; and

(4) develop a single, unified concept of operations for all users of the Family of Interoperable Pictures.

Subtitle E—Readiness Reporting Requirements

SEC. 341. ANNUAL REPORT ON DEPARTMENT OF DEFENSE OPERATION AND FINANCIAL SUPPORT FOR MILITARY MUSEUMS.

(a) REPORT REQUIRED.—Chapter 23 of title 10, United States Code, is amended by adding at the end the following new section:

"§489. Annual report on Department of Defense operation and financial support for military museums

"(a) REPORT REQUIRED.—As part of the budget materials submitted to Congress in connection with the submission of the budget for a fiscal year pursuant to section 1105 of title 31, but in no case later than March 15 of each year, the Secretary of Defense shall submit a report identifying all museums that, during the preceding fiscal year—

"(1) were operated by the Department of Defense or a military department; or

"(2) were otherwise supported using funds appropriated to the Department of Defense.

"(b) CONTENT OF REPORT.—For each museum identified in a report under this section, the Secretary of Defense shall include in the report the following:

"(1) The purpose and functions of the museum and the justification for the museum

"(2) A description of the facilities dedicated to the museum.

"(3) An itemized listing of the funds appropriated to the Department of Defense that were obligated to support the museum during the fiscal year covered by the report, as well as any other Federal funds, funds from a non-appropriated fund instrumentality account of the Department of Defense, and non-Federal funds obligated to support the museum.

"(4) The number of civilian employees of the Department of Defense who serve full-time or part-time at the museum.

"(5) The number of members of the armed forces who serve full-time or part-time at the museum.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"489. Annual report on Department of Defense operation and financial support for military museums.".

SEC. 342. REPORT ON DEPARTMENT OF DEFENSE PROGRAMS FOR PREPOSITIONING OF MATERIAL AND EQUIPMENT.

(a) SECRETARY OF DEFENSE ASSESSMENT AND REPORT.—(1) The Secretary of Defense shall conduct an assessment of the programs of the Department of Defense for the prepositioning of material and equipment. Such assessment shall particularly focus on how those programs will be incorporated into achievement of the goals of the Secretary of Defense (referred to as the "10–30–30" goals) for the Armed Forces to have the capability, from the onset of a contingency situation, of deploying forces to a distant theater within 10 days, defeating an enemy within 30 days, and being ready for an additional conflict within another 30 days.

(2) The Secretary shall submit to Congress a report on such assessment not later than October 1, 2005.

(b) MATTERS TO BE INCLUDED.—The assessment under subsection (a) shall include the prepositioning programs of each of the Armed Forces and of the United States Special Operations Command as well as assessment of each of the following:

(1) Use of prepositioned equipment as part of Operation Iraqi Freedom and Operation Enduring Freedom and potential solutions to identified challenges.

(2) Changes to doctrine, strategy, and transportation plans to support the goals of the Secretary described in subsection (a) and referred to as the 10–30–30 goals in light of the current lift constraints facing both land and sea components of lift as well as the emerging mobility requirements.

(3) Modifications of the prepositioning programs of the Armed Forces in order to adapt to pending modularity concepts, future force structure changes, and new sea basing concepts in relation to current and potential areas of instability.

(4) Joint operations and training that include theater opening requirements at potential aerial and sea ports of debarkation, joint force reception capabilities, joint theater distribution operations, and use of joint prepositioned stocks and systems.

Subtitle F—Other Matters

SEC. 351. EXTENSION OF ARSENAL SUPPORT PROGRAM INITIATIVE.

(a) DURATION OF PROGRAM.—Subsection (a) of section 343 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 10 U.S.C. 4551 note) is amended by striking "2004" and inserting "2008".

(b) ADDITIONAL REPORT REQUIRED.—Subsection (g) of such section is amended—

(1) in paragraph (1), by striking "2004" and inserting "2008"; and

(2) in paragraph (2), by striking "2003" and inserting "2007".

SEC. 352. LIMITATION ON PREPARATION OR IMPLEMENTATION OF MID-RANGE FINANCIAL IMPROVEMENT PLAN.

Amounts appropriated to the Department of Defense for fiscal year 2005 for operation and maintenance may not be obligated for the purpose of preparing or implementing the Mid-Range Financial Improvement Plan until the Secretary of Defense submits a report to the congressional defense committees containing, for each of the military departments and the Defense Agencies—

(1) an explanation of the manner in which funds will be used for such purpose during that fiscal year; and

(2) an estimate of the costs for future fiscal years to prepare and implement the plan.

SEC. 353. PROCUREMENT OF FOLLOW-ON CONTRACTS FOR THE OPERATION OF FIVE CHAMPION-CLASS T–5 TANK VESSELS.

The Secretary of the Navy may consider bids or proposals for the follow-on contracts for the Department of the Navy contracts for the operation of five Champion-class T–5 tank vessels only from an entity that is a citizen under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802).

SEC. 354. SENSE OF CONGRESS ON AMERICA'S NATIONAL WORLD WAR I MUSEUM.

(a) FINDINGS.—The Congress finds as follows:

(1) The Liberty Memorial Museum in Kansas City, Missouri, was built in 1926 in honor of those individuals who served in World War I in defense of liberty and the Nation.

(2) The Liberty Memorial Association, a nonprofit organization which originally built the Liberty Memorial Museum, is responsible for the finances, operations, and collections management of the Liberty Memorial Museum.

(3) The Liberty Memorial Museum is the only public museum in the Nation that exists for the exclusive purpose of interpreting the experiences of the United States and its allies in the World War I years (1914–1918), both on the battlefield and on the home front.

(4) The Liberty Memorial Museum project began after the 1918 Armistice through the efforts of a large-scale, grass-roots civic and fundraising effort by the citizens and veterans of the Kansas City metropolitan area. After the conclusion of a national architectural design competition, ground was broken in 1921, construction began in 1923, and the Liberty Memorial Museum was opened to the public in 1926.

(5) In 1994, the Liberty Memorial Museum closed for a massive restoration and expansion project. The restored museum reopened to the public on Memorial Day, 2002, during a gala rededication ceremony.

(6) Exhibits prepared for the original museum buildings presaged the dramatic, underground expansion of core exhibition gallery space, with over 30,000 square feet of new interpretive and educational exhibits currently in development. The new exhibits, along with an expanded research library and archives, will more fully utilize the many thousands of historical objects, books, maps, posters, photographs, diaries, letters, and reminiscences of World War I participants that are preserved for posterity in the Liberty Memorial Museum's collections. The new core exhibition is scheduled to open on Veterans Day, 2006.

(7) The City of Kansas City, the State of Missouri, and thousands of private donors and philanthropic foundations have contributed millions of dollars to build and later to restore this

national treasure. The Liberty Memorial Museum continues to receive the strong support of residents from the States of Missouri and Kansas and across the Nation.

(8) Since the restoration and rededication of 2002, the Liberty Memorial Museum has attracted thousands of visitors from across the United States and many foreign countries.

(9) There remains a need to preserve in a museum setting evidence of the honor, courage, patriotism, and sacrifice of those Americans who offered their services and who gave their lives in defense of liberty during World War I, evidence of the roles of women and African Americans during World War I, and evidence of other relevant subjects.

(10) The Liberty Memorial Museum seeks to educate a diverse group of audiences through its comprehensive collection of historical materials, emphasizing eyewitness accounts of the participants on the battlefield and the home front and the impact of World War I on individuals, then and now. The Liberty Memorial Museum continues to actively acquire and preserve such materials.

(11) A great opportunity exists to use the invaluable resources of the Liberty Memorial Museum to teach the "Lessons of Liberty" to the Nation's schoolchildren through on-site visits, classroom curriculum development, distance learning, and other educational initiatives.

(12) The Liberty Memorial Museum should always be the Nation's museum of the national experience in the World War I years (1914–1918), where people go to learn about this critical period and where the Nation's history of this monumental struggle will be preserved so that generations of the 21st century may understand the role played by the United States in the preservation and advancement of democracy, freedom, and liberty in the early 20th century.

(13) This initiative to recognize and preserve the history of the Nation's sacrifices in World War I will take on added significance as the Nation approaches the centennial observance of this event.

(14) It is fitting and proper to refer to the Liberty Memorial Museum as "America's National World War I Museum".

(b) SENSE OF CONGRESS.—The Congress—

(1) recognizes the Liberty Memorial Museum in Kansas City, Missouri, including the museum's future and expanded exhibits, collections, library, archives, and educational programs, as "America's National World War I Museum";

(2) recognizes that the continuing collection, preservation, and interpretation of the historical objects and other historical materials held by the Liberty Memorial Museum enhance the knowledge and understanding of the Nation's people of the American and allied experience during the World War I years (1914–1918), both on the battlefield and on the home front;

(3) commends the ongoing development and visibility of "Lessons of Liberty" educational outreach programs for teachers and students throughout the Nation; and

(4) encourages the need for present generations to understand the magnitude of World War I, how it shaped the Nation, other countries, and later world events, and how the sacrifices made then helped preserve liberty, democracy, and other founding principles for generations to come.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

SEC. 401. END STRENGTHS FOR ACTIVE FORCES.

The Armed Forces are authorized strengths for active duty personnel as of September 30, 2005, as follows:

(1) The Army, 482,400.

(2) The Navy, 365,900.

(3) The Marine Corps, 175,000.

(4) The Air Force, 359,700.

SEC. 402. REVISION IN PERMANENT ACTIVE DUTY END STRENGTH MINIMUM LEVELS.

Effective October 1, 2004, section 691(b) of title 10, United States Code, is amended as follows:

(1) NAVY.—Paragraph (2) is amended by striking "373,800" and inserting "365,900".

(2) AIR FORCE.—Paragraph (4) is amended by striking "359,300" and inserting "359,700".

SEC. 403. MAXIMUM NUMBER OF RESERVE PERSONNEL AUTHORIZED TO BE ON ACTIVE DUTY FOR OPERATIONAL SUPPORT.

During fiscal year 2005, the maximum number of members of the reserve components of the Armed Forces who may be serving at any time on full-time operational support duty under section 115(b) of title 10, United States Code, is the following:

(1) The Army National Guard of the United States, 10,300.

(2) The Army Reserve, 5,000.

(3) The Naval Reserve, 6,200.

(4) The Marine Corps Reserve, 2,500.

(5) The Air National Guard of the United States, 10,100.

(6) The Air Force Reserve, 3,600.

SEC. 404. ACCOUNTING AND MANAGEMENT OF RESERVE COMPONENT PERSONNEL PERFORMING ACTIVE DUTY OR FULL-TIME NATIONAL GUARD DUTY FOR OPERATIONAL SUPPORT.

(a) STRENGTH AUTHORIZATIONS.—Section 115 of title 10, United States Code, is amended—

(1) in subsection (a)(1)(A), by inserting "unless on active duty pursuant to subsection (b)" after "active-duty personnel";

(2) in subsection (a)(1)(B), by inserting "unless on active duty or full-time National Guard duty pursuant to subsection (b)" after "reserve personnel";

(3) by redesignating subsections (b), (c), (d), (e), (f), (g) and (h) as subsections (c), (d), (e), (f), (g), (h) and (i), respectively; and

(4) by inserting after subsection (a) the following new subsection (b):

"(b) CERTAIN RESERVES ON ACTIVE DUTY TO BE AUTHORIZED BY LAW.—(1) Congress shall annually authorize the maximum number of members of a reserve component permitted to be on active duty or full-time National Guard duty at any given time who are called or ordered to—

"(A) active duty under section 12301(d) of this title for the purpose of providing operational support, as prescribed in regulation issued by the Secretary of Defense;

"(B) full-time National Guard duty under section 502(f)(2) of title 32 for the purpose of providing operational support when authorized by the Secretary of Defense;

"(C) active duty under section 12301(d) of this title or full-time National Guard duty under section 502(f) of title 32 for the purpose of preparing for and performing funeral honors functions for funerals of veterans under section 1491 of this title;

"(D) active duty or retained on active duty under sections 12301(g) of this title while in a captive status; or

"(E) active duty or retained on active duty under 12301(h) or 12322 of this title for the purpose of medical evaluation or treatment.

"(2) A member of a reserve component who exceeds either of the following limits shall be included in the strength authorized under subparagraph (A) or subparagraph (B), as appropriate, of subsection (a)(1):

"(A) A call or order to active duty or full-time National Guard duty that specifies a period greater than three years.

"(B) The cumulative periods of active duty and full-time National Guard duty performed by the member exceed 1095 days in the previous 1460 days.

"(3) In determining the period of active service under paragraph (2), the following periods of active service performed by a member shall not be included:

"(A) All periods of active duty performed by a member who has not previously served in the Selected Reserve of the Ready Reserve.

"(B) All periods of active duty or full-time National Guard duty for which the member is exempt from strength accounting under paragraphs (1) through (7) of subsection (i).".

(b) LIMITATION ON APPROPRIATIONS.—Subsection (c) of such section (as redesignated by subsection (a)(3)) is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting "; or"; and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) the use of reserve component personnel to perform active duty or full-time National Guard duty under subsection (b) unless the strength for such personnel for that reserve component for that fiscal year has been authorized by law.".

(c) AUTHORITY FOR SECRETARY OF DEFENSE VARIANCES IN MAXIMUM STRENGTHS.—Subsection (f) of such section (as redesignated by subsection (a)(2)) is amended—

(1) by striking "END" in the heading;

(2) by striking "and" at the end of paragraph (2);

(3) by striking the period at the end of paragraph (3) and inserting "; and"; and

(4) by adding at the end the following new paragraph:

"(4) increase the maximum strength authorized pursuant to subsection (b)(1) for a fiscal year for certain reserves on active duty for any of the reserve components by a number equal to not more than 10 percent of that strength.".

(d) CONFORMING AMENDMENTS TO SECTION 115.— Such section is further amended as follows:

(1) Subsection (e) (as redesignated by subsection (a)(3)) is amended—

(A) in paragraph (1), by striking "subsection (a) or (c)" and inserting "subsection (a) or (d)"; and

(B) in paragraph (2)—

(i) by striking "subsections (a) and (c)"; and inserting "subsections (a) and (d)";

(ii) by striking "pursuant to subsection (e)) and subsection (c)" and inserting "pursuant to subsection (f)) and subsection (d)" each place it appears.

(2) Subsection (g) (as redesignated by subsection (a)(3)) is amended by striking "subsection (e)(1)" in paragraph (2) and inserting "subsection (f)(1)".

(3) Subsection (i) (as redesignated by subsection (a)(3)) is amended to read as follows:

"(i) CERTAIN PERSONNEL EXCLUDED FROM COUNTING FOR ACTIVE-DUTY END STRENGTHS.— In counting personnel for the purpose of the end strengths authorized pursuant to subsection (a)(1), persons in the following categories shall be excluded:

"(1) Members of a reserve component ordered to active duty under section 12301(a) of this title.

"(2) Members of a reserve component in an active status ordered to active duty under section 12301(b) of this title.

"(3) Members of the Ready Reserve ordered to active duty under section 12302 of this title.

"(4) Members of the Selected Reserve of the Ready Reserve or members of the Individual Ready Reserve mobilization category described in section 10144(b) of this title ordered to active duty under section 12304 of this title.

"(5) Members of the National Guard called into Federal service under section 12406 of this title.

"(6) Members of the militia called into Federal service under chapter 15 of this title.

"(7) Members of reserve components on active duty for training.

"(8) Members of the Selected Reserve of the Ready Reserve on active duty to support programs described in section 1203(b) of the Cooperative Threat Reduction Act of 1993 (22 U.S.C. 5952(b)).

"(9) Members of the National Guard on active duty or full-time National Guard duty for the purpose of carrying out drug interdiction and counter-drug activities under section 112 of title 32.

"(10) Members of a reserve component on active duty under section 10(b)(2) of the Military Selective Service Act (50 U.S.C. App. 460(b)(2)) for the administration of the Selective Service System.

"(11) Members of the National Guard on full-time National Guard duty for the purpose of providing command, administrative, training, or support services for the National Guard Challenge Program authorized by section 509 of title 32.".

(e) MILITARY TO MILITARY CONTACT STRENGTH ACCOUNTING.—Subsection (f) of section 168 of such title is amended to read as follows:

"(f) ACTIVE DUTY END STRENGTHS.—A member of a reserve component who is engaged in activities authorized under this section shall not be counted for purposes of the following personnel strength limitations:

"(1) The end strength for active-duty personnel authorized pursuant to section 115(a)(1) of this title for the fiscal year in which the member carries out the activities referred to under this section.

"(2) The authorized daily average for members in pay grades E–8 and E–9 under section 517 of this title for the calendar year in which the member carries out such activities.

(3) The authorized strengths for commissioned officers under section 523 of this title for the fiscal year in which the member carries out such activities.

(f) E–8 AND E–9 STRENGTH ACCOUNTING.—Subsection (a) of section 517 of such title is amended by striking "(other than for training) in connection with organizing, administering, recruiting, instructing, or training the reserve component of an armed force." and inserting "as authorized under section 115(a)(1)(B) or 115(b) of this title, or excluded from counting for active duty end strengths under section 115(i) of this title.".

(g) FIELD GRADE OFFICER STRENGTH ACCOUNTING.—(1) Paragraph (1) of section 523(b) of such title is amended to read as follows:

"(A) on active duty as authorized under section 115(a)(1)(B) or 115(b)(1) of this title, or excluded from counting for active duty end strengths under section 115(i) of this title;

"(B) on active duty under section 10211, 10302 through 10305, or 12402 of this title or under section 708 of title 32; or

"(C) on full-time National Guard duty."; and

(2) Paragraph (7) of section 523(b) is amended by striking "Reserve or retired officers" and inserting "Retired officers".

(h) ACTIVE GUARD AND RESERVE FIELD GRADE OFFICER STRENGTH ACCOUNTING.—Paragraph (2) of section 12011(e) of such title is amended to read as follows:

"(2) Full-time National Guard duty (other than for training) under section 502(f) of title 32, except for duty under section 115(b)(1)(B) and (C) of this title and section 115(i)(9) of this title.".

(i) WARRANT OFFICER ACTIVE-DUTY LIST EXCLUSION.—Paragraph (1) of section 582 of such title is amended to read as follows:

"(1) Reserve warrant officers—

"(A) on active duty as authorized under section 115(a)(1)(B) or 115(b)(1) of this title, or excluded from counting for active duty end strengths under section 115(i) of this title; or

"(B) on full-time National Guard duty.".

(j) OFFICER ACTIVE-DUTY LIST, APPLICABILITY OF CHAPTER.—Paragraph (1) of section 641 of such is amended to read as follows:

"(1) Reserve officers—

"(A) on active duty authorized under section 115(a)(1)(B) or 115(b)(1) of this title, or excluded from counting for active duty end strengths under section 115(i) of this title;

"(B) on active duty under section 3038, 5143, 5144, 8038, 10211, 10301 through 10305, 10502, 10505, 10506(a), 10506(b), 10507, or 12402 of this title or section 708 of title 32; or

"(C) on full-time National Guard duty.".

(k) STRENGTH ACCOUNTING FOR MEMBERS PERFORMING DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES.—Section 112 of title 32, United States Code, is amended—

(1) by striking subsection (e);

(2) by redesignating subsections (f), (g), (h) and (i) as subsections (e), (f), (g) and (h) respectively; and

(3) in paragraph (1) of subsection (e), as redesignated by paragraph (2), by striking "for a period of more than 180 days" each place it appears.

(l) REPORT.—Not later than June 1, 2005, the Secretary of Defense shall report to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives the Secretary's recommendations regarding the exemptions provided in paragraphs (8) through (11) by section 115(i) of title 10, United States Code, as amended by this section. The recommendations shall address the manner in personnel covered by those exemptions shall be accounted for in authorizations provided by section 115 of such title. The objective of the analysis should be to terminate the need for such exemptions after September 30, 2006.

(m) REGULATIONS.—The Secretary of Defense shall prescribe by regulation the meaning of the term "operational support" for purposes of paragraph (1) of subsection (b) of section 115 of title 10, United States Code, as added by subsection (a).

Subtitle B—Reserve Forces

SEC. 411. END STRENGTHS FOR SELECTED RESERVE.

(a) IN GENERAL.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 2005, as follows:

(1) The Army National Guard of the United States, 350,000.

(2) The Army Reserve, 205,000.

(3) The Naval Reserve, 83,400.

(4) The Marine Corps Reserve, 39,600.

(5) The Air National Guard of the United States, 106,800.

(6) The Air Force Reserve, 76,100.

(7) The Coast Guard Reserve, 10,000.

(b) ADJUSTMENTS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year; and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be increased proportionately by the total authorized strengths of such units and by the total number of such individual members.

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.

Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 2005, the following number of Reserves to be serving on full-time active duty or full-time duty, in the case of members of the National Guard, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 26,476.

(2) The Army Reserve, 14,970.

(3) The Naval Reserve, 14,152.

(4) The Marine Corps Reserve, 2,261.

(5) The Air National Guard of the United States, 12,225.

(6) The Air Force Reserve, 1,900.

SEC. 413. END STRENGTHS FOR MILITARY TECHNICIANS (DUAL STATUS).

The minimum number of military technicians (dual status) as of the last day of fiscal year 2005 for the reserve components of the Army and the Air Force (notwithstanding section 129 of title 10, United States Code) shall be the following:

(1) For the Army Reserve, 7,299.

(2) For the Army National Guard of the United States, 25,076.

(3) For the Air Force Reserve, 9,954.

(4) For the Air National Guard of the United States, 22,956.

SEC. 414. FISCAL YEAR 2005 LIMITATION ON NUMBER OF NON-DUAL STATUS TECHNICIANS.

(a) LIMITATIONS.—(1) Within the limitation provided in section 10217(c)(2) of title 10, United States Code, the number of non-dual status technicians employed by the National Guard as of September 30, 2005, may not exceed the following:

(A) For the Army National Guard of the United States, 1,600.

(B) For the Air National Guard of the United States, 350.

(2) The number of non-dual status technicians employed by the Army Reserve as of September 30, 2005, may not exceed 795.

(3) The number of non-dual status technicians employed by the Air Force Reserve as of September 30, 2005, may not exceed 90.

(b) NON-DUAL STATUS TECHNICIANS DEFINED.—In this section, the term "non-dual status technician" has the meaning given that term in section 10217(a) of title 10, United States Code.

Subtitle C—Authorizations of Appropriations

SEC. 421. MILITARY PERSONNEL.

There is hereby authorized to be appropriated to the Department of Defense for military personnel for fiscal year 2005 a total of $104,647,558,000. The authorization in the preceding sentence supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 2005.

SEC. 422. ARMED FORCES RETIREMENT HOME.

There is hereby authorized to be appropriated for fiscal year 2005 from the Armed Forces Retirement Home Trust Fund the sum of $61,195,000 for the operation of the Armed Forces Retirement Home.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—General and Flag Officer Matters

SEC. 501. LENGTH OF SERVICE FOR SERVICE CHIEFS.

(a) CHIEF OF STAFF OF THE ARMY.—Paragraph (1) of section 3033(a) of title 10, United States Code, is amended—

(1) by striking "for a period of four years" in the first sentence; and

(2) by striking the second and third sentences and inserting the following: "The Chief of Staff serves at the pleasure of the President for a term of four years. The President may extend the service of an officer as Chief of Staff for an additional period of not to exceed two years. In time of war or during a national emergency declared by Congress, the President may extend the service of an officer as Chief of Staff for such additional periods as the President determines necessary, except that the total period of an officer's service as Chief of Staff may not exceed eight years.".

(b) CHIEF OF NAVAL OPERATIONS.—Paragraph (1) of section 5033(a) of such title is amended by striking the third and fourth sentences and inserting the following: "The Chief of Naval Operations serves at the pleasure of the President. The President may extend the service of an officer as Chief of Naval Operations for an additional period of not to exceed two years. In time of war or during a national emergency declared by Congress, the President may extend the service of an officer as Chief of Naval Operations for such additional periods as the President determines necessary, except that the total period of an officer's service as Chief of Naval Operations may not exceed eight years.".

(c) COMMANDANT OF THE MARINE CORPS.—Paragraph (1) of section 5043(a) of such title is amended by striking the third and fourth sentences and inserting the following: "The Commandant serves at the pleasure of the President. The President may extend the service of an officer as Commandant for an additional period of not to exceed two years. In time of war or during a national emergency declared by Congress, the President may extend the service of an officer as Commandant for such additional periods as the President determines necessary, except that the total period of an officer's service as Commandant may not exceed eight years.".

(d) CHIEF OF STAFF OF THE AIR FORCE.—Paragraph (1) of section 8033(a) of such title is amended to read as follows:

(1) by striking "for a period of four years" in the first sentence; and

(2) by striking the second and third sentences and inserting the following: "The Chief of Staff serves at the pleasure of the President for a period of four years. The President may extend the service of an officer as Chief of Staff for an additional period of not to exceed two years. In time of war or during a national emergency declared by Congress, the President may extend the service of an officer as Chief of Staff for such additional periods as the President determines necessary, except that the total period of an officer's service as Chief of Staff may not exceed eight years.".

SEC. 502. REPEAL OF REQUIREMENT THAT DEPUTY CHIEFS AND ASSISTANT CHIEFS OF NAVAL OPERATIONS BE SELECTED FROM OFFICERS IN THE LINE OF THE NAVY.

(a) DEPUTY CHIEFS OF NAVAL OPERATIONS.—Section 5036(a) of title 10, United States Code, is amended by striking "in the line".

(b) ASSISTANT CHIEFS OF NAVAL OPERATIONS.—Section 5037(a) of such title is amended by striking "in the line".

SEC. 503. INCREASE IN AGE LIMIT FOR DEFERRAL OF MANDATORY RETIREMENT FOR UP TO 10 SENIOR GENERAL AND FLAG OFFICERS.

Section 1251(b) of title 10, United States Code, is amended by striking "64 years of age" and inserting "66 years of age".

SEC. 504. INCREASED FLEXIBILITY FOR VOLUNTARY RETIREMENT FOR MILITARY OFFICERS.

(a) IN GENERAL.—Section 1370 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "except as provided in paragraph (2)" and inserting "subject to paragraphs (2) and (3)"; and

(ii) by striking ", for not less than six months";

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by striking paragraph (2) and inserting the following:

"(2) In order to be eligible for voluntary retirement under this title in a grade below the grade of lieutenant colonel or commander, a commissioned officer of the Army, Navy, Air Force, or Marine Corps covered by paragraph (1) must have served on active duty in that grade for not less than six months.

"(3)(A) In order to be eligible for voluntary retirement in a grade above major or lieutenant commander and below brigadier general or rear admiral (lower half), a commissioned officer of the Army, Navy, Air Force, or Marine Corps covered by paragraph (1) must have served on active duty in that grade for not less than three years, except that the Secretary of Defense may authorize the Secretary of the military department concerned to reduce such period to a period not less than two years.

"(B) In order to be eligible for voluntary retirement in a grade above colonel or captain, in the case of the Navy, a commissioned officer of the Army, Navy, Air Force, or Marine Corps covered by paragraph (1) must have served on active duty in that grade for not less than one year.

"(C) An officer in a grade above major general or rear admiral may be retired in the highest grade in which the officer served on active duty satisfactorily for not less than one year, upon approval by the Secretary of the military department concerned and concurrence by the Secretary of Defense. The function of the Secretary of Defense under the preceding sentence may only be delegated to a civilian official in the Office of the Secretary of Defense appointed by the President, by and with the advice and consent of the Senate.

"(D) The President may waive subparagraph (A), (B) or (C) in individual cases involving extreme hardship or exceptional or unusual circumstances. The authority of the President under the preceding sentence may not be delegated.";

(2) in subsection (b), by inserting "or whose service on active duty in that grade was not determined to be satisfactory by the Secretary of the military department concerned" after "specified in subsection (a)";

(3) by striking subsection (c); and

(4) by redesignating subsection (d) as subsection (c) and in that subsection—

(A) in paragraph (3)—

(i) in subparagraph (A)—

(I) by inserting "(i)" after "(3)(A)";

(II) by inserting "and below brigadier general or rear admiral (lower half)" after "lieutenant commander";

(III) by inserting ", except that the Secretary of Defense may authorize the Secretary of the military department concerned to reduce such period to a period not less than two years" after "three years"; and

(IV) by adding at the end the following new clauses:

"(ii) In order to be credited with satisfactory service in a grade above colonel or captain, in the case of the Navy, a person covered by paragraph (1) must have served satisfactorily in that grade (as determined by the Secretary of the military department concerned) as a reserve commissioned officer in active status, or in a retired status on active duty, for not less than one year.

"(iii) An officer covered by paragraph (1) who is in a grade above the grade of major general or rear admiral may be retired in the highest grade in which the officer served satisfactorily for not less than one year, upon approval by the Secretary of the military department concerned and concurrence by the Secretary of Defense. The function of the Secretary of Defense under the preceding sentence may only be delegated to a civilian official in the Office of the Secretary of Defense appointed by the president, by and with the advice and consent of the Senate.";

(ii) in subparagraphs (D) and (E), by striking subparagraph (A)" and inserting "subparagraph (A)(i)"; and

(iii) by striking subparagraph (F); and

(B) by striking paragraphs (5) and (6); and

(5) by striking subsection (e).

(b) CONFORMING AMENDMENTS.—Section 1406(i)(2) of such title is amended—

(1) in the paragraph heading, by striking "MEMBERS" and all that follows through "SATISFACTORILY" and inserting "ENLISTED MEMBERS REDUCED IN GRADE";

(2) by striking "a member" and inserting "an enlisted member";

(3) by striking "1998—" and all that follows through "is reduced in" and inserting "1998, is reduced in";

(4) by striking "; or" and inserting a period; and

(5) by striking subparagraph (B).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the determination of the retired grade of members of the Armed Forces retiring on or after the date of the enactment of this Act.

SEC. 505. REPEAL OF REQUIREMENT THAT NO MORE THAN 50 PERCENT OF ACTIVE DUTY GENERAL AND FLAG OFFICERS BE IN GRADES ABOVE BRIGADIER GENERAL AND REAR ADMIRAL (LOWER HALF).

(a) REPEAL OF DISTRIBUTION REQUIREMENT.—Subsection (a) of section 525 of title 10, United States Code, is repealed.

(b) REORGANIZATION OF SECTION.—Such section is further amended—

(1) by striking "(b)(1) No appointment" and inserting "(a) LIMITATION ON NUMBER OF GENERAL AND FLAG OFFICERS IN SENIOR GRADES.—(1) No appointment"; and

(2) by striking "(3) An officer" and inserting "(b) SPECIAL RULES AND EXCEPTIONS.—(1) An officer"; and

(3) by redesignating paragraphs (4), (5), (6), (7), and (8) as paragraphs (2), (3), (4), (5), and (6), respectively.

(c) CONFORMING AMENDMENTS.—(1) Subsection (b) of such section (as designated by subsection (a)(2)) is amended as follows:

(A) Paragraph (1) (as redesignated by subsection (a)(2)), paragraph (2)(A) (as redesignated by subsection (a)(3)), and paragraph (6) (as redesignated by subsection (a)(3)) are amended by striking "paragraph (1) or (2)" and inserting "subsection (a)".

(B) Paragraph (3)(A) (as so redesignated) is amended by striking "under the first sentence of paragraph (1) or (2), as applicable" and inserting "under subsection (a)".

(C) Paragraph (4) (as so redesignated) and the first and third sentences of paragraph (5) (as so redesignated) are amended by striking "paragraph (1)" and inserting "subsection (a)(1)".

(D) The second sentence of paragraph (5) (as so redesignated) is amended by striking "paragraph (1) or (2)" and inserting "subsection (a)(2)".

(2) Subsection (c) of such section is amended—

(A) by striking "(c)(1)" and inserting '(c) 'REALLOCATION AUTHORITY.—(1)";

(B) in paragraph (1)(A), by striking "subsection (b)(1)" and inserting "subsection (a)(1)";

(C) in paragraph (1)(B), by striking "subsection (b)(2)" and inserting "subsection (a)(2)"; and

(D) in paragraph (3)(A), by striking "subsection (b)" and inserting "subsections (a) and (b)".

(3) Subsection (d) of such section is amended by inserting "SPECIAL RULE FOR OFFICERS FORMERLY ON JOINT CHIEFS OF STAFF.—" after "(d)".

(d) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§ 525. Distribution in grade: general and flag officers on active duty".

(2) The item relating to such section in the table of sections at the beginning of chapter 32 of such title is amended to read as follows:

"525. Distribution in grade: general and flag officers on active duty.".

SEC. 506. REVISION TO TERMS FOR ASSISTANTS TO THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF FOR NATIONAL GUARD AND RESERVE MATTERS.

(a) CODIFICATION AND REVISION.—Chapter 5 of title 10, United States Code, is amended by adding at the end a new section 156 consisting of—

(1) the following section heading:

"§ 156. Assistants to the Chairman for National Guard matters and for Reserve matters";

and

(2) a text consisting of the text of subsections (a) through (f)(1) of section 901 of the National Defense Authorization Act for Fiscal Year 1998 (10 U.S.C. 155 note), revised—

(A) in subsection (c), by deleting "two years" and inserting "four years"; and

(B) in subsection (f), by deleting "(1)".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"156. Assistants to the Chairman for National Guard members and for Reserve matters.".

(c) CONFORMING REPEAL.—Section 901 of the National Defense Authorization Act for Fiscal Year 1998 (10 U.S.C. 155 note) is repealed.

SEC. 507. SUCCESSION FOR POSITION OF CHIEF, NATIONAL GUARD BUREAU.

(a) DESIGNATION OF SENIOR OFFICER IN NATIONAL GUARD BUREAU.—Section 10502 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) SUCCESSION.—(1) Unless otherwise directed by the President or Secretary of Defense, when there is a vacancy in the office of the Chief of the National Guard Bureau or in the event the Chief of the National Guard Bureau is unable to perform the duties of that office, the senior of the officers specified in paragraph (2) shall serve as the acting Chief until a successor is appointed or the Chief once again is able to perform the duties of that office.

"(2) The officers specified in this paragraph are the following:

"(A) The senior officer of the Army National Guard of the United States on duty with the National Guard Bureau.

"(B) The senior officer of the Air National Guard of the United States on duty with the National Guard Bureau.".

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§ 10502. Chief of the National Guard Bureau: appointment; adviser on National Guard matters; grade; succession".

(2) The item relating to such section in the table of sections at the beginning of chapter 1011 of such title is amended to read as follows:

"10502. Chief of the National Guard Bureau: appointment; adviser on National Guard matters; grade; succession.".

(c) REPEALER.—Subsections (d) and (e) of section 10505 of such title are repealed.

SEC. 508. TITLE OF VICE CHIEF OF THE NATIONAL GUARD BUREAU CHANGED TO DIRECTOR OF THE JOINT STAFF OF THE NATIONAL GUARD BUREAU.

(a) IN GENERAL.—Section 10505 of title 10, United States Code, as amended by section 507(c), is amended by striking "Vice Chief of the National Guard Bureau" each place it appears in subsections (a), (b), and (c) and inserting "Director of the Joint Staff of the National Guard Bureau".

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§ 10505. Director of the Joint Staff of the National Guard Bureau".

(2) The item relating to such section in the table of sections at the beginning of chapter 1011 of such title is amended to read as follows:

"10505. Director of the Joint Staff of the National Guard Bureau.".

SEC. 509. TWO-YEAR EXTENSION OF AUTHORITY TO WAIVE REQUIREMENT THAT RESERVE CHIEFS AND NATIONAL GUARD DIRECTORS HAVE SIGNIFICANT JOINT DUTY EXPERIENCE.

(a) EXTENSION.—Sections 3038(b)(4), 5143(b)(4), 5144(b)(4), 8038(b)(4), and 10506(a)(3)(D) of title 10, United States Code, are amended by striking "December 31, 2004," and inserting "December 31, 2006,".

(b) FUTURE COMPLIANCE.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate a plan for ensuring that all officers selected after December 31, 2006, for recommendation for appointment as a Reserve chief or National Guard director have significant joint duty experience, as required by law, and may be so recommended without requirement for a wavier of such requirement. Such plan shall be developed in coordination with the Chairman of the Joint Chiefs of Staff.

SEC. 510. REPEAL OF DISTRIBUTION REQUIREMENTS FOR NAVAL RESERVE FLAG OFFICERS.

Subsection (c) of 12004 of title 10, United States Code, is amended—

(1) by striking "(1)" after "(c)"; and

(2) by striking the second sentence and all that follows through the end of the subsection.

Subtitle B—Other Officer Personnel Policy Matters

SEC. 511. TRANSITION OF ACTIVE-DUTY LIST OFFICER FORCE TO ALL REGULAR STATUS.

(a) REPEAL OF REQUIREMENT THAT ACTIVE-DUTY OFFICERS SERVE IN A RESERVE COMPONENT FOR AT LEAST ONE YEAR BEFORE RECEIVING A REGULAR COMMISSION.—Section 532 of title 10, United States Code, is amended by striking subsection (e).

(b) REVISION TO QUALIFICATIONS FOR ORIGINAL APPOINTMENT AS A COMMISSIONED OFFICER.—(1) Section 532 of such title is further amended by adding at the end the following new subsection:

"(f) The Secretary of Defense may waive the requirement of paragraph (1) of subsection (a) with respect to a person who has been lawfully admitted to the United States for permanent residence when the Secretary determines that the national security so requires, but only for an original appointment in a grade below the grade of major or lieutenant commander.".

(2) Section 619(d) of such title is amended by adding at the end the following new paragraph:

"(5) An officer of the Army, Air Force, or Marine Corps in the grade of captain, or of the Navy in the grade of lieutenant, who is not a citizen of the United States.".

(c) REPEAL OF LIMITATIONS ON TOTAL STRENGTH OF REGULAR COMMISSIONED OFFICERS ON ACTIVE-DUTY.—Section 522 of such title is repealed. The table of sections at the beginning of chapter 31 of such title is amended by striking the item relating to that section.

(d) AUTHORITY FOR ORIGINAL APPOINTMENT OF REGULAR OFFICERS IN JUNIOR GRADES TO BE MADE BY PRESIDENT ALONE.—Section 531(a) of such title is amended to read as follows:

"(a)(1) Original appointments in the grades of second lieutenant, first lieutenant, and captain in the Regular Army, Regular Air Force, and Regular Marine Corps and in the grades of ensign, lieutenant (junior grade), and lieutenant in the Regular Navy shall be made by the President alone.

"(2) Original appointments in the grades of major, lieutenant colonel, and colonel in the Regular Army, Regular Air Force, and Regular Marine Corps and in the grades of lieutenant commander, commander, and captain in the Regular Navy shall be made by the President, by and with the advice and consent of the Senate.".

(e) TERMINATION OF REQUIREMENT OF 6 YEARS SERVICE IN A RESERVE COMPONENT FOR NONREGULAR SERVICE RETIREMENT ELIGIBILITY.—(1) Section 12731(a)(3) of such title is amended by inserting after "(3)" the following: "in the case of a person who completed the service requirements of paragraph (2) before the date of the enactment of the National Defense Authorization Act for Fiscal Year 2005,".

(f) ALL REGULAR OFFICER APPOINTMENTS FOR STUDENTS ATTENDING UNIVERSITY OF HEALTH SCIENCES.—Section 2114(b) of such title is amended by striking the first two sentences and inserting the following: "They shall be appointed in a regular component of the uniformed services and shall serve on active duty as a second lieutenant or ensign (or the equivalent).".

SEC. 512. MANDATORY RETENTION ON ACTIVE DUTY TO QUALIFY FOR RETIREMENT PAY.

Section 12686(a) of title 10, United States Code, is amended by inserting "(other than the retirement system under chapter 1223 of this title)" after "retirement system".

SEC. 513. DISTRIBUTION IN GRADE OF MARINE CORPS RESERVE OFFICERS IN AN ACTIVE STATUS IN GRADES BELOW BRIGADIER GENERAL

The table in section 12005(c)(1) of title 10, United States Code, is amended to read as follows:

"Colonel	2 percent
Lieutenant colonel	8 percent
Major	16 percent
Captain	39 percent
First lieutenant and second lieutenant (when combined with the number authorized for general officer grades under section 12004 of this title)	35 percent.".

SEC. 514. TUITION ASSISTANCE FOR OFFICERS.

(a) AUTHORITY TO REDUCE OR WAIVE ACTIVE DUTY SERVICE OBLIGATION.—Subsection (b) of section 2007 of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) by inserting "or full-time National Guard duty" after "active duty" each place it appears; and

(2) by adding at the end the following new paragraph:

"(2) Notwithstanding paragraph (1), the Secretary of the military department may reduce or waive the active duty service obligation—

"(A) in the case of a commissioned officer who is subject to mandatory separation;

"(B) in the case of a commissioned officer who has completed the period of active duty service in support of a contingency operation; or

"(C) in other exigent circumstances as determined by the Secretary.'.

(b). INCREASE IN TUITION ASSISTANCE AUTHORIZED FOR ARMY OFFICERS IN THE SELECTED RESERVE.—Paragraph (1) of section 2007(c) of title 10, United States Code, is amended to read as follows:

"(1) Subject to paragraphs (2) and (3), the Secretary of the Army may pay the charges of an educational institution for the tuition or expenses of an officer in the Selected Reserve of the Army National Guard or the Army Reserve for education or training of such officer.".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) may, at the discretion of the Secretary concerned, be applied to a service obligation incurred by an officer serving on active duty as of the date of the enactment of this Act.

Subtitle C—Reserve Component Matters

SEC. 521. REVISION TO STATUTORY PURPOSE OF THE RESERVE COMPONENTS.

Subsection 10102 of title 10, United States Code, is amended by striking ", during" and all that follows through "planned mobilization,".

SEC. 522. IMPROVED ACCESS TO RESERVE COMPONENT MEMBERS FOR ENHANCED TRAINING.

(a) RESERVE COMPONENTS GENERALLY.— Section 12301 of title 10, United States Code, is amended—

(1) in subsection (a), by striking "(other than for training)";

(2) in subsection (c)—

(A) in the first sentence, by striking "(other than for training)" and inserting "as provided in subsection (a)"; and

(B) in the second sentence, by striking "ordered to active duty (other than for training)" and inserting "so ordered to active duty"; and

(3) in subsection (e), by striking "(other than for training)" and inserting "as provided in subsection (a)".

(b) READY RESERVE.—Section 12302 of such title is amended by striking "(other than for training)" in subsections (a) and (c).

(c) ORDER TO ACTIVE DUTY OTHER THAN DURING WAR OR NATIONAL EMERGENCY.—Section 12304(a) of such title is amended by striking "(other than for training)".

(d) STANDBY RESERVE.—Section 12306 of such title is amended—

(1) in subsection (a), by striking "(other than for training) only"; and

(2) in subsection (b), by striking "(other than for training)" in paragraphs (1) and (2) and inserting "as provided in section 12301(a) of this title".

(d) STANDBY RESERVE.—Section 12306 of such title is amended by striking "(other than for training)" each place it appears and inserting "as provided in section 12301(a)".

SEC. 523. STATUS UNDER DISABILITY RETIREMENT SYSTEM FOR RESERVE MEMBERS RELEASED FROM ACTIVE DUTY DUE TO INABILITY TO PERFORM WITHIN 30 DAYS OF CALL TO ACTIVE DUTY.

(a) IN GENERAL.—Chapter 61 of title 10, United States Code, is amended by inserting after section 1206 the following new section:

"§ 1206a. Reserve component members unable to perform duties when ordered to active duty: disability system processing

"(a) MEMBERS RELEASED FROM ACTIVE DUTY WITHIN 30 DAYS.—A member of a reserve component who is ordered to active duty for a period of more than 30 days and is released from active duty within 30 days of commencing such period of active duty for a reason stated in subsection (b) shall be considered for all purposes under this chapter to have been serving under an order to active duty for a period of 30 days or less.

"(b) APPLICABLE REASONS FOR RELEASE.—Subsection (a) applies in the case of a member released from active duty because of a failure to meet—

"(1) physical standards for retention; or

"(2) medical or dental standards for deployment due to a preexisting condition not aggravated during the period of active duty.

"(c) SAVINGS PROVISION FOR MEDICAL CARE PROVIDED WHILE ON ACTIVE DUTY.—Notwithstanding subsection (a), any benefit under chapter 55 of this title received by a member described in subsection (a) or a dependent of such member before or during the period of active duty shall not be subject to recoupment or otherwise affected.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1206 the following new item:

"1206a. Reserve component members unable to perform duties when ordered to active duty: disability system processing.".

SEC. 524. FEDERAL CIVIL SERVICE MILITARY LEAVE FOR RESERVE AND NATIONAL GUARD CIVILIAN TECHNICIANS.

Section 6323(d)(1) of title 5, United States Code is amended by striking "(other than active duty during a war or national emergency declared by the President or Congress)".

SEC. 525. EXPANDED EDUCATIONAL ASSISTANCE AUTHORITY FOR OFFICERS COMMISSIONED THROUGH ROTC PROGRAM AT MILITARY JUNIOR COLLEGES.

(a) FINANCIAL ASSISTANCE PROGRAM FOR SERVICE ON ACTIVE DUTY.—Section 2107(c) of title 10, United States Code, is amended by adding at the end the following new paragraphs:

"(5)(A) The Secretary of the Army may provide an individual who received a commission as a Reserve officer in the Army from a military junior college through a program under this chapter and who does not have a baccalaureate degree with financial assistance for pursuit of a baccalaureate degree.

"(B) Such assistance is in addition to any financial assistance provided under paragraph (1), (3), or (4).

"(C) The agreement and reimbursement requirements established in section 2005 of this title are applicable to financial assistance under this paragraph.

"(D) An officer receiving financial assistance under this paragraph shall be attached to the unit of the Army at the educational institution at which the officer is pursuing a baccalaureate degree and shall be considered to be a member of the Senior Reserve Officers' Training Corps on inactive duty for training, as defined in section 101(23) of title 38.

"(E) A qualified officer who did not previously receive financial assistance under this section is eligible to receive educational assistance under this paragraph.

"(F) A Reserve officer may not be called or ordered to active duty for a deployment while participating in the program under this paragraph.

"(G) Any service obligation incurred by an officer under an agreement entered into under this paragraph shall be in addition to any service obligation incurred by that officer under any other provision of law or agreement.

"(H) The amount obligated during any fiscal year under this paragraph and paragraph (4) of section 2107a(c) of this title may not exceed a total of $1,500,000.".

(b) FINANCIAL ASSISTANCE PROGRAM FOR SERVICE IN TROOP PROGRAM UNITS.—Section 2107a(c) of such title is amended by adding at the end the following new paragraphs:

"(4)(A) The Secretary of the Army may provide an individual who received a commission as a Reserve officer in the Army from a military junior college through a program under this chapter and who does not have a baccalaureate degree with financial assistance for pursuit of a baccalaureate degree.

"(B) Such assistance is in addition to any provided under paragraph (1) or (2).

"(C) The agreement and reimbursement requirements established in section 2005 of this title are applicable to financial assistance under this paragraph.

"(D) An officer receiving financial assistance under this paragraph shall be attached to the unit of the Army at the educational institution at which the officer is pursuing a baccalaureate degree and shall be considered to be a member of the Senior Reserve Officers' Training Corps on inactive duty for training, as defined in section 101(23) of title 38.

"(E) A qualified officer who did not previously receive financial assistance under this section is eligible to receive educational assistance under this paragraph.

"(F) A Reserve officer may not be called or ordered to active duty for a deployment while participating in the program under this paragraph.

"(G) Any service obligation incurred by an officer under an agreement entered into under this paragraph shall be in addition to any service obligation incurred by that officer under any other provision of law or agreement.".

"(H) As provided in subparagraph (H) of section 2107(c)(5) of this title, the amount obligated during any fiscal year under this paragraph and paragraph (5) of section 2107(c) of this title may not exceed a total of $1,500,000.".

(c) REPEAL OF SUNSET PROVISION FOR FINANCIAL ASSISTANCE PROGRAM FOR STUDENTS NOT ELIGIBLE FOR ADVANCED TRAINING.—Section 2103a of such title is amended by striking subsection (d).

(d) ANNUAL IMPLEMENTATION REPORT.—The Secretary of the Army shall submit to the Committees on Armed Services of the Senate and House of Representatives an annual report, for each of the next six years after the enactment of this Act, providing information on the experience of the Department of Defense during the preceding year under paragraph (5) of section 2107(c) of title 10, United States Code, as added by subsection (a), and under paragraph (4) of section 2107a(c) of title 10, United States Code, as added by subsection (b). The report for with respect to any year shall be submitted not later March 31 of the following year.

SEC. 526. EFFECT OF APPOINTMENT OR COMMISSION AS OFFICER ON ELIGIBILITY FOR SELECTED RESERVE EDUCATION LOAN REPAYMENT PROGRAM FOR ENLISTED MEMBERS.

(a) CONTINUATION OF LOAN REPAYMENT.—Section 16301(a) of title 10, United States Code, is amended—

(1) in paragraph (2), by striking "The Secretary" in the first sentence and inserting "Except as provided in paragraph (3), the Secretary of Defense"; and

(2) by adding at the end the following new paragraph:

"(3) In the case of a commitment made by the Secretary of Defense after the date of the enactment of this paragraph to repay a loan under paragraph (1) conditioned upon the performance by the borrower of service as an enlisted member under paragraph (2), the Secretary shall repay the loan for service performed by the borrower as an officer (rather than as an enlisted member) in the case of a borrower who, after such commitment is entered into and while performing service as an enlisted member, accepts an appointment or commission as a warrant officer or commissioned officer of the Selected Reserve.".

(b) LIMITATION ON FISCAL YEAR 2005 OBLIGATIONS.—During fiscal year 2005, obligations incurred under section 16301 of title 10, United States Code, as amended by subsection (a), to make loan repayments on behalf of members of

the reserve components who accept an appointment or commission as a warrant officer or commissioned officer of the Selected Reserve may not exceed $1,000,000.

SEC. 527. NUMBER OF STARBASE ACADEMIES IN A STATE.

Paragraph (3) of section 2193b(c) of title 10, United States Code, is amended to read as follows:

"(3)(A) Subject to subparagraph (B), the Secretary may not support the establishment in any State of more than two academies.

"(B) The Secretary may waive the limitation in subparagraph (A). Any such waiver shall be made under criteria to be prescribed by the Secretary.".

SEC. 528. COMPTROLLER GENERAL ASSESSMENT OF INTEGRATION OF ACTIVE AND RESERVE COMPONENTS OF THE NAVY.

(a) ASSESSMENT.—The Comptroller General shall review the plan of the Secretary of the Navy for, and implementation by the Secretary of, initiatives undertaken within the Navy to improve the integration of the active and reserve components of the Navy in peacetime and wartime operations resulting from—

(1) the Naval Reserve Redesign Study carried out by the Navy: and

(2) the zero-based review of reserve component force structure undertaken by the commander of the Fleet Forces Command of the Navy during fiscal year 2004.

(b) REPORT.—No later than March 31, 2005, the Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the results of the review under subsection (a). The Comptroller General shall include in the report recommendations for improved active and reserve component integration in the Navy.

(c) LIMITATION.—No funds appropriated or otherwise made available by this Act may be obligated or expended to decommission a Naval Reserve or Marine Corps Reserve aviation squadron until 90 days after the date on which the report required by subsection (b) is submitted to the Committees on Armed Services of the Senate and House of Representatives.

(d) MATTERS TO BE EXAMINED.—In conducting the review, the Comptroller General shall examine the following:

(1) The criteria the Navy used to determine the following with respect to integration of the active and reserve components of the Navy:

(A) The future mix of active and reserve component force structure.

(B) Organization of command and control elements.

(C) Manpower levels.

(D) Basing changes.

(2) The extent to which the plans of the Navy for improving the integration of the active and reserve components of the Navy considered each of the following:

(A) The new Fleet Response Plan of the Navy.

(B) The flexible deployment concept.

(C) Global operations.

(D) Emerging mission requirements.

(E) Other evolving initiatives.

(3) The manner in which the timing of the execution of planned active and reserve integration initiatives will correlate with the funding of those initiatives, including consideration of an evaluation of the adequacy of the funding allocated to those integration initiatives.

(4) For naval aviation forces, the extent to which the active and reserve component integration plans of the Navy will affect factors such as—

(A) common training and readiness standards for active and reserve forces;

(B) reserve component access to the same equipment as the active component;

(C) relationships between command and headquarters elements of active and reserve forces; and

(D) trends in the use by the Navy of units referred to as "associate" units or "blended" units.

(E) Basing of future aviation forces.

(F) Employment of Naval Reserve aviation forces and personnel in peacetime and wartime operations.

SEC. 529. OPERATIONAL ACTIVITIES CONDUCTED BY THE NATIONAL GUARD UNDER AUTHORITY OF TITLE 32.

(a) IN GENERAL.—Title 32, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 9—OPERATIONS OF A NATIONAL OR FEDERAL INTEREST

"Sec.
"901. Operational activities.
"902. Operational duty.
"903. Funding assistance.
"904. Operations requests.

"§ 901. Operational activities

"The Secretary of Defense may provide funds in advance or on a reimbursable basis to a Governor to employ National Guard units and individuals to conduct operational activities that the Secretary determines to be in the national interest. The Secretary of Defense shall prescribe regulations to implement this chapter.

"§ 902. Operational duty

"All duty performed under this chapter shall be considered to be full-time National Guard duty under section 502(f) of this title. Members of the National Guard performing full-time National Guard duty in the Active Guard and Reserve Program may support or execute operational activities performed by the National Guard under this chapter.

"§ 903. Funding assistance

"When the Secretary of Defense determines that certain operational activities of the National Guard are in the national interest under section 901 of this title, the Secretary shall provide funds to a State in an amount that the Secretary determines is appropriate for the following costs of the operational activities from funds available to the Department for related purposes:

"(1) The pay, allowances, clothing, subsistence, gratuities, travel, and related expenses of personnel of the National Guard of that State.

"(2) The operation and maintenance of the equipment and facilities of the National Guard of that State.

"(3) The procurement of services and equipment, and the leasing of equipment, for the National Guard of that State.

"§ 904. Operations requests

"(a) REQUESTS.—A Governor of a State may request funding assistance for the operational activities of the National Guard of that State from the Secretary of Defense. Any such request shall include the following:

"(1) The specific intended operational activities of the National Guard of that State.

"(2) An explanation of why the operational activities are in the national interest.

"(3) A certification that operational activities are to be conducted at a time when the personnel involved are not in Federal service.

"(4) A certification that participation by National Guard personnel in the operational activities is service in addition to training required under section 502 of this title.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of such title is amended by adding at the end the following new item:

"9. Operations of a National or Federal Interest .... 901".

(c) CONFORMING AMENDMENT.—Section 115(h) of title 10, United States Code, is amended by adding at the end the following new subsection:

"(i) CERTAIN FULL-TIME NATIONAL GUARD DUTY PERSONNEL EXCLUDED FROM COUNTING FOR FULL-TIME NATIONAL GUARD DUTY END STRENGTHS.—In counting full-time National Guard duty personnel for the purpose of end-strengths authorized pursuant to subsection (a)(1), , persons involuntarily performing operational activities under chapter 9 of title 32 shall be excluded.".

SEC. 530. ARMY PROGRAM FOR ASSIGNMENT OF ACTIVE COMPONENT ADVISERS TO UNITS OF THE SELECTED RESERVE.

(a) CHANGE IN MINIMUM NUMBER REQUIRED TO BE ASSIGNED.—Section 414(c)(1) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 10 U.S.C. 12001 note) is amended by striking "5,000" and inserting "3,500".

(b) LIMITATION ON REDUCTIONS.—Notwithstanding the amendment made by subsection (a), the Secretary of the Army may not reduce the number of active component Reserve support personnel below the number of such personnel as of the date of the enactment of this Act until the report required by subsection (c) has been submitted.

(c) REPORT.—Not later than March 31, 2005, the Secretary of the Army shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the support by active components of the Army for training and readiness of the Army National Guard and Army Reserve. The report shall include an evaluation and determination of each of the following:

(1) The effect on the ability of the Army to improve such training and readiness resulting from the reduction under the amendment made by subsection (a) in the minimum number of active component Reserve support personnel.

(2) The adequacy of having 3,500 members of the Army (the minimum number required under the law as so amended) assigned as active component Reserve support personnel in order to meet emerging training requirements in the Army reserve components in connection with unit and force structure conversions and preparations for wartime deployment

(3) The nature and effectiveness of efforts by the Army to reallocate the 3,500 personnel assigned as active component Reserve support personnel to higher priority requirements and to expand the use of reservists on active duty to meet reserve component training needs.

(4) Whether the Army is planning further reductions in the number of active component Reserve support personnel and, if so, the scope and rationale for those reductions.

(5) Whether an increase in Army reserve component full-time support personnel will be required to replace the loss of active component Reserve support personnel.

(d) DEFINITION.—In this section, the term "active component Reserve support personnel" means the active component Army personnel assigned as advisers to units of the Selected Reserve of the Ready Reserve of the Army pursuant to section 414 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 10 U.S.C. 12001 note).

Subtitle D—Joint Officer Management

SEC. 531. STRATEGIC PLAN TO LINK JOINT OFFICER DEVELOPMENT TO OVERALL MISSIONS AND GOALS OF DEPARTMENT OF DEFENSE.

(a) PLAN REQUIRED.—(1) The Secretary of Defense shall develop a strategic plan for joint officer management and joint professional military education that links joint officer development to the accomplishment of the overall missions and goals of the Department of Defense, as set forth in the most recent national military strategy under section 153(d) of title 10, United States Code. Such plan shall be developed for *the purpose of ensuring that sufficient numbers of qualified officers are available as necessary to meet the needs of the Department for qualified officers who are operationally effective in the joint environment.*

(2) The Secretary shall develop the strategic plan with the advice of the Chairman of the Joint Chiefs of Staff.

(b) Matters to be Included.—As part of the strategic plan under subsection (a), the Secretary shall include the following:

(1) A statement of the levels of joint officer resources needed to be available to properly support the overall missions of the Department of Defense, with such resources to be specified by the number of officers with the joint specialty, the number of officers required for service in joint duty assignment positions, and the training and education resources required.

(2) An assessment of the available and projected joint officer development resources (including officers, educational and training resources, and availability of joint duty assignment positions and tours of duty) necessary to achieve the levels specified under paragraph (1).

(3) Identification of any problems or issues arising from linking resources for joint officer development to accomplishment of the objective of meeting the levels specified under paragraph (1) to resolve those problems and issues and plans.

(4) A description of the process for identification of the requirement for joint specialty officers.

(5) A description of the career development and management of joint specialty officers and of any changes to be made to facilitate achievement of the levels of resources specified in paragraph (1), including additional education requirements, promotion opportunities, and assignments to fill joint assignments.

(c) Inclusion of Reserve Component Officers.—In developing the strategic plan required by subsection (a), the Secretary shall include joint officer development for officers on the reserve active-status list in the plan.

(d) Report.—The Secretary shall submit the plan developed under this section to the Committees on Armed Services of the Senate and House of Representatives not later than January 15, 2006.

(e) Additional Assessment.—Not later than January 15, 2007, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives, as a follow-on to the report under subsection (d), a report providing an assessment of, and initiatives to improve, the performance in joint matters of the following:

(1) Senior civilian officers and employees in the Office of the Secretary of Defense, the Defense Agencies, and the military departments.

(2) Senior noncommissioned officers.

(3) Senior leadership in the reserve components.

SEC. 532. JOINT REQUIREMENTS FOR PROMOTION TO FLAG OR GENERAL OFFICER GRADE.

(a) Effective Date for Joint Specialty Officer Requirement.—Subsection (a)(2) of section 619a of title 10, United States Code, is amended by striking "September 30, 2007" and inserting "September 30, 2008".

(b) Exception to Joint Duty Requirement for Officers Serving in Joint Duty Assignment When Considered for Promotion.—Subsection (b)(4) of such section is amended by striking "if—" and all that follows through "(B) the officer's" and inserting "if the officer's".

SEC. 533. CLARIFICATION OF TOURS OF DUTY QUALIFYING AS A JOINT DUTY ASSIGNMENT.

(a) Consecutive Tours of Duty in Joint Duty Assignments.—Section 668(c) of title 10, United States Code, is amended by striking "within the same organization".

(b) Effective Date.—The amendment made by subsection (a) shall not apply in the case of a joint duty assignment completed by an officer before the date of the enactment of this Act, except in the case of an officer has continued in joint duty assignments, without a break in service in such assignments, between the end of such assignment and the date of the enactment of this Act.

SEC. 534. AUTHORITY FOR RESERVE OFFICERS TO QUALIFY AS JOINT SPECIAL OFFICERS.

(a) Authority.—Subsection (a) of section 661 of title 10, United States Code, is amended by striking "on the active-duty list".

(b) Nominations for Selection.—Subsection (b) of such section is amended in the second sentence—

(1) by striking "and" after "military department,"; and

(2) by inserting after "such date," the following: ", and each reserve component officer in an active status who is not on the active-duty list,".

(c) Conforming Amendments.—(1) Section 662 of such title is amended—

(A) in subsection (a), by inserting "on the active-duty list" after "qualifications of officers" in the matter preceding paragraph (1); and

(B) in subsection (b), by inserting "on the active-duty list" after "preceding fiscal year of officers" in the first sentence.

(2)(A) The heading of such section is amended to read as follows:

"§ 662. Promotion policy objectives for joint officers on the active-duty list".

(B) The item relating to such section in the table of sections at the beginning of chapter 38 of such title is amended to read as follows:

"662. Promotion policy objectives for joint officers on the active-duty list.".

(d) Annual Report to Congress.—(1) Section 667 of such title is amended—

(A) by redesignating paragraph (18) as paragraph (19); and

(B) by inserting after paragraph (17) the following new paragraph (18):

"(18) The implementation of authority under section 661 of this title to certify reserve component officers as joint specialty officers, together with the number of reserve component officers who were so certified during the reporting period.".

(2) The Secretary of Defense shall include in the annual report of the Secretary to Congress for fiscal year 2005, as part of the material included in that report pursuant to paragraph (18) of section 667 of title 10, United States Code, a summary of the joint officer management policies adopted for reserve component officers pursuant to the amendments made by subsections (a) and (b).

Subtitle E—Professional Military Education

SEC. 541. IMPROVEMENT TO PROFESSIONAL MILITARY EDUCATION IN THE DEPARTMENT OF DEFENSE.

(a) In General.—Part III of subtitle A of title 10, United States Code, is amended—

(1) by redesignating chapter 107 as chapter 106A; and

(2) by inserting before chapter 108 the following new chapter:

"CHAPTER 107—PROFESSIONAL MILITARY EDUCATION

"Sec.
"2151. Definitions
"2152. Professional military education: general requirements.
"2153. Capstone course: newly selected general and flag officers.
"2154. Joint professional military education: three-phase approach.
"2155. Intermediate level service colleges: written examination for selection for attendance.
"2156. Joint professional military education phase II program of instruction.
"2157. Intermediate and senior level service colleges; Joint Forces Staff College: duration of principle course of instruction.
"2158. Annual report to Congress.

"§2151. Definitions

(a) Joint Professional Military Education.—Joint professional military education consists of the rigorous and thorough instruction and examination of officers of the armed forces in an environment designed to promote a theoretical and practical in-depth understanding of joint matters and, specifically, of the subject matter covered. The subject matter to be covered by joint professional military education shall include at least the following:

"(1) Integrated employment of land, sea, and air forces.

"(2) National military strategy.

"(3) Strategic planning.

"(4) Contingency planning.

"(5) Command and control of combat operations under unified command.

"(6) Joint and combined operations.

"(7) Joint doctrine.

"(8) Joint logistics.

"(9) Joint communications.

"(10) Joint intelligence.

"(11) Campaign planning.

"(12) Joint military command and control systems and the interface of those systems with national command systems.

"(13) Joint force development, including mobilization.

"(14) Joint requirements development.

"(15) Military history.

"(16) Awareness of cultures in areas outside of the United States where United States forces may operate or of forces of foreign countries with whom United States forces may operate.

"(b) Other Definitions.—In this chapter:

"(1) The term 'senior level service school' means any of the following:

"(A) The Army War College.

"(B) The College of Naval Warfare.

"(C) The Air War College.

"(D) The Marine Corps University.

"(2) The term 'intermediate level service school' means any of the following:

"(A) The United States Army Command and General Staff College.

"(B) The College of Naval Command and Staff.

"(C) The Air Command and Staff College.

"(D) The Marine Corps Command and Staff College.

"§2152. Joint professional military education: general requirements

"(a) In General.—The Secretary of Defense shall implement a coherent and comprehensive framework for the joint professional military education of officers, including officers nominated under section 661 of this title for the joint specialty.

"§2153. Capstone course: newly selected general and flag officers

"(a) Requirement.—Each officer selected for promotion to the grade of brigadier general or, in the case of the Navy, rear admiral (lower half) shall be required, after such selection, to attend a military education course designed specifically to prepare new general and flag officers to work with the other armed forces.

"(b) Waiver Authority.—(1) Subject to paragraph (2), the Secretary of Defense may waive subsection (a)—

"(A) in the case of an officer whose immediately previous assignment was in a joint duty assignment and who is thoroughly familiar with joint matters;

"(B) when necessary for the good of the service;

"(C) in the case of an officer whose proposed selection for promotion is based primarily upon scientific and technical qualifications for which joint requirements do not exist (as determined under regulations prescribed under section 619(e)(4) of this title); and

"(D) in the case of a medical officer, dental officer, veterinary officer, medical service officer, nurse, biomedical science officer, or chaplain.

"(2) The authority of the Secretary of Defense to grant a waiver under paragraph (1) may only be delegated to the Deputy Secretary of Defense, an Under Secretary of Defense, or an Assistant Secretary of Defense. Such a waiver may be granted only on a case-by-case basis in the case of an individual officer.

"§2154. Joint professional military education: three-phase approach

"(a) THREE-PHASE APPROACH.—The Secretary of Defense shall implement a three-phase approach to joint professional military education, as follows:

"(1) There shall be a course of instruction, designated and certified by the Secretary of Defense as Phase I instruction, consisting all the elements of a joint professional military education (as specified in section 2151(a) of this title), in addition to the principal curriculum taught to all officers at an intermediate level service school.

"(2) There shall be a course of instruction, designated and certified by the Secretary of Defense as Phase II instruction, consisting of a joint professional military education curriculum taught in residence at—

"(A) the Joint Forces Staff College; or

"(B) a senior level service school that has been designated and certified by the Secretary of Defense as a joint professional military education institution.

"(3) There shall be a course of instruction, designated and certified by the Secretary of Defense as the Capstone course, for officers selected for promotion to the grade of brigadier general or, in the case of the Navy, rear admiral (lower half) and offered in accordance with section 2153 of this title.

"(b) SEQUENCED APPROACH.—The Secretary shall require the sequencing of joint professional military education so that the standard sequence of assignments for such education requires an officer to complete Phase I instruction before proceeding to Phase II instruction, as provided in section 2156(a) of this title.

"§2155. Intermediate level service school: written examination for selection for attendance

"(a) REQUIREMENT.—The Secretary of each military department shall require that performance on a comprehensive written examination shall constitute not less than 20 percent of the evaluation criteria for selection of any officer for full-time attendance at an intermediate level service school under the jurisdiction of the Secretary. Such an examination shall be designed so as to require substantive knowledge of military history, national military strategy, service and joint doctrine, and such other subjects as the Secretary may require. Such an examination shall be required for each class entering an intermediate level service school after September 30, 2007.

"(b) SELECTION FROM DIFFERENT SERVICE.—The Secretary of a military department, in considering candidates for full-time attendance at an intermediate level service school under the jurisdiction of the Secretary who are officers of an armed force other than the armed force that administers that service school, shall consider such an officer to be qualified for selection for such attendance if the officer has met all the requirements for attendance at the equivalent intermediate level service school of that officer's own armed force.

"§2156. Joint professional military education phase II program of instruction

"(a) PREREQUISITE OF COMPLETION OF JOINT PROFESSIONAL MILITARY EDUCATION I PROGRAM OF INSTRUCTION.—(1) After September 30, 2009, an officer of the armed forces may not be accepted for, or assigned to, a program of instruction designated by the Secretary of Defense as joint professional military education Phase II unless the officer has successfully completed a program of instruction designated by the Secretary of Defense as joint professional military education Phase I.

"(2) The Chairman of the Joint Chiefs of Staff may grant exceptions to the requirement under paragraph (1). Such an exception may be granted only on a case-by-case basis for compelling cause, as determined by the Chairman. An officer selected to receive such an exception shall be required to demonstrate a knowledge of joint matters and other aspects of the Phase I curriculum that, to the satisfaction of the Chairman, qualifies the officer to meet the minimum requirements established for entry into Phase II instruction without first completing Phase I instruction. The number of officers selected to attend an offering of the principal course of instruction at the Joint Forces Staff College or a senior level service school designated by the Secretary of Defense as a joint professional military education institution who have not completed Phase I instruction should comprise no more than 10 percent of the total number of officers selected.

"(b) PHASE II REQUIREMENTS.—The Secretary shall require that the curriculum for Phase II joint professional military education at any school—

"(1) focus on developing joint attitudes and perspectives and honing joint warfighting skills; and

"(2) be structured —

"(A) so as to adequately prepare students to perform effectively in an assignment to a joint, multiservice organization; and

"(B) so that students progress from a basic knowledge of joint matters learned in Phase I instruction to the level of expertise necessary for successful performãnce in the joint arena.

"(c) CURRICULUM CONTENT.—In addition to the subjects specified in section 2151(a) of this title, the curriculum for Phase II joint professional military education shall include the following:

"(1) National security strategy.

"(2) Theater strategy and campaigning.

"(3) Joint planning processes and systems.

"(4) Joint, interagency, and multinational capabilities and the integration of those capabilities.

"(d) STUDENT RATIO; FACULTY RATIO.—(1) For courses of instruction in a Phase II program of instruction that is offered at senior level service school that has been designated by the Secretary of Defense as a joint professional military education institution—

"(1) the percentage of students enrolled in any such course who are officers of the armed force that administers the school may not exceed 60 percent, with the remaining services proportionally represented; and

"(2) of the faculty at the school who are active-duty officers who provide instruction in such courses, the percentage who are officers of the armed force that administers the school may not exceed 60 percent, with the remaining services proportionally represented.

"§2157. Intermediate and senior level service schools; Joint Forces Staff College: duration of principle course of instruction

"(a) SERVICE SCHOOLS.—The duration of the principal course of instruction offered at each intermediate level service school and each senior level service school may not be less than 10 months of resident instruction. The Secretary of Defense may waive the requirement in the preceding sentence during a period of war or during a national emergency declared by the President or the Congress.

"(b) JOINT FORCES STAFF COLLEGE.—(1) The duration of the principal course of instruction offered at the Joint Forces Staff College may not be less than 10 weeks of resident instruction.

"(2) In this subsection, the term 'principal course of instruction' means any course of instruction offered at the Joint Forces Staff College as Phase II joint professional military education.

"§2158. Annual report to Congress

"The Secretary of Defense shall include in the annual report of the Secretary to Congress under section 113(c) of this title, for the period covered by the report, the following information (which shall be shown for the Department of Defense as a whole and separately for the Army, Navy, Air Force, and Marine Corps and each reserve component):

"(1) The number of officers who successfully completed a joint professional military education phase II course and were not selected for promotion.

"(2) The number of officer students and faculty members assigned by each service to the professional military schools of the other services and to the joint schools.".

(b) TRANSFER OF OTHER PROVISIONS.—Subsections (b) and (c) of section 663 of title 10, United States Code, are transferred to section 2151 of such title, as added by subsection (a), and added at the end thereof.

(c) CONFORMING AMENDMENTS.—(1) Section 663 of such title, as amended by subsection (b), is further amended—

(A) by striking subsections (a) and (e); and

(B) by striking "(d) POST-EDUCATION JOINT DUTY ASSIGNMENTS.—(1) The" and inserting "(a) JOINT SPECIALTY OFFICERS.—The";

(C) by striking "(2)(A) The Secretary" and inserting "(b) OTHER OFFICERS.—(1) The Secretary";

(D) by striking "in subparagraph (B)' and inserting "in paragraph (2)";

(E) by striking "(B) The Secretary" and inserting "(2) The Secretary"; and

(F) by striking "in subparagraph (B)' and inserting "in paragraph (1)".

(2)(A) The heading of such section is amended to read as follows:

"§633. Joint duty assignments after completion of joint professional military education".

(B) The item relating to that section in the table of sections at the beginning of chapter 38 of such title is amended to read as follows:

"633. Joint duty assignments after completion of joint professional military education.".

(d) CONFORMING REPEAL.—Section 1123(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1556) is repealed.

(e) CLERICAL AMENDMENT.—The tables of chapters at the beginning of subtitle A, and at the beginning of part III of subtitle A, of title 10, United States Code, are amended by striking the item relating to chapter 107 and inserting the following:

"106A. Educational Assistance for Persons Enlisting for Active Duty 2141
"107. Professional Military Education .... 2151".

SEC. 542. RIBBONS TO RECOGNIZE COMPLETION OF JOINT PROFESSIONAL MILITARY EDUCATION.

(a) IN GENERAL.—(1) Chapter 57 of title 10, United States Code, is amended by adding at the end the following new section:

"§1134. Joint professional military education ribbon: award

"(a) JPME I.—The Secretary of Defense may award a ribbon, of appropriate design, as approved by the Secretary, to any person who successfully completes a program of instruction approved by the Secretary as qualifying for credit as the Joint Professional Military Education Phase I program of instruction.

"(b) JPME II.—The Secretary of Defense may award a device, of appropriate design, as approved by the Secretary, for wear with the ribbon awarded under subsection (a), to any person who successfully completes a program of instruction approved by the Secretary as qualifying for credit as the Joint Professional Military Education Phase II course of instruction.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1134. Joint professional military education ribbon: award.".

(b) EFFECTIVE DATE.—Section 1134 of title 10, United States Code, as added by subsection (a), shall apply with respect to the successful completion of a joint professional military education program of instruction after November 29, 1989.

SEC. 543. INCREASE IN NUMBER OF PRIVATE-SECTOR CIVILIANS WHO MAY BE ENROLLED FOR INSTRUCTION AT NATIONAL DEFENSE UNIVERSITY.

Section 2167(a) of title 10, United States Code, is amended by striking "10" and inserting "20".

SEC. 544. REQUIREMENT FOR COMPLETION OF PHASE I JOINT PROFESSIONAL MILITARY EDUCATION BEFORE PROMOTION TO COLONEL OR NAVY CAPTAIN.

(a) IN GENERAL.—Chapter 36 of title 10, United States Code, is amended by inserting after section 619a the following new section:

"§619b. Eligibility for consideration for promotion: joint professional military education required before promotion to colonel or Navy captain; exceptions

"(a) GENERAL RULE.—After September 30, 2007, an officer on the active-duty list of the Army, Air Force, or Marine Corps may not be appointed to the grade of colonel, and an officer on the active-duty list of the Navy may not be appointed to the grade of captain, unless the officer has successfully completed a program of instruction approved by the Secretary as qualifying for credit as the Joint Professional Military Education Phase I or Phase II program of instruction.

"(b) EXCEPTIONS.—Subject to subsection (c), the Secretary of Defense may waive subsection (a) in the following circumstances:

"(1) When necessary for the good of the service.

"(2) In the case of an officer whose proposed selection for promotion is based primarily upon scientific and technical qualifications for which joint requirements do not exist.

"(3) In the case of—

"(A) a medical officer, dental officer, veterinary officer, medical service officer, nurse, or biomedical science officer;

"(B) a chaplain; or

"(C) a judge advocate.

"(c) WAIVER TO BE INDIVIDUAL.—A waiver may be granted under subsection (b) only on a case-by-case basis in the case of an individual officer.

"(d) SPECIAL RULE FOR GOOD-OF-THE-SERVICE WAIVER.—In the case of a waiver under subsection (b)(1), the Secretary shall provide that the first duty assignment as a colonel or Navy captain of the officer for whom the waiver is granted shall be to a program of joint professional military education.

"(e) LIMITATION ON DELEGATION OF WAIVER AUTHORITY.—The authority of the Secretary of Defense to grant a waiver under subsection (b) (other than under paragraph (1) of that subsection) may be delegated only to the Deputy Secretary of Defense, an Under Secretary of Defense, or an Assistant Secretary of Defense.

"(f) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section. The regulations shall specifically identify for purposes of subsection (b)(2) those categories of officers for which selection for promotion to colonel or, in the case of the Navy, captain is based primarily upon scientific and technical qualifications for which joint requirements do not exist.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"619b. Eligibility for consideration for promotion: joint professional military education required before promotion to colonel or Navy captain; exceptions.".

Subtitle F—Other Education and Training Matters

SEC. 551. COLLEGE FIRST DELAYED ENLISTMENT PROGRAM.

(a) CODIFICATION AND EXTENSION OF ARMY PROGRAM.—(1) Chapter 31 of title 10, United States Code, is amended by inserting after section 510 the following new section:

"§511. College First Program

"(a) PROGRAM AUTHORITY.—The Secretary of each military department may establish a program to increase the number of, and the level of the qualifications of, persons entering the armed forces as enlisted members by encouraging recruits to pursue higher education or vocational or technical training before entry into active service.

"(b) DELAYED ENTRY WITH ALLOWANCE FOR HIGHER EDUCATION.—The Secretary concerned may—

"(1) exercise the authority under section 513 of this title—

"(A) to accept the enlistment of a person as a Reserve for service in the Selected Reserve or Individual Ready Reserve of a reserve component, notwithstanding the scope of the authority under subsection (a) of that section, in the case of the Army National Guard of the United States or Air National Guard of the United States; and

"(B) to authorize, notwithstanding the period limitation in subsection (b) of that section, a delay of the enlistment of any such person in a regular component under that subsection for the period during which the person is enrolled in, and pursuing a program of education at, an institution of higher education, or a program of vocational or technical training, on a full-time basis that is to be completed within the maximum period of delay determined for that person under subsection (c); and

"(2) subject to paragraph (2) of subsection (d) and except as provided in paragraph (3) of that subsection, pay an allowance to a person accepted for enlistment under paragraph (1)(A) for each month of the period during which that person is enrolled in and pursuing a program described in paragraph (1)(B).

"(c) MAXIMUM PERIOD OF DELAY.—The period of delay authorized a person under paragraph (1)(B) of subsection (b) may not exceed the 30-month period beginning on the date of the person's enlistment accepted under paragraph (1)(A) of such subsection.

"(d) ALLOWANCE.—(1) The monthly allowance paid under subsection (b)(2) shall be equal to the amount of the subsistence allowance provided for certain members of the Senior Reserve Officers' Training Corps with the corresponding number of years of participation under section 209(a) of title 37. The Secretary concerned may supplement that stipend by an amount not to exceed $225 per month.

"(2) An allowance may not be paid to a person under this section for more than 24 months.

"(3) A member of the Selected Reserve of a reserve component may be paid an allowance under this section only for months during which the member performs satisfactorily as a member of a unit of the reserve component that trains as prescribed in section 10147(a)(1) of this title or section 502(a) of title 32. Satisfactory performance shall be determined under regulations prescribed by the Secretary concerned.

"(4) An allowance under this section is in addition to any other pay or allowance to which a member of a reserve component is entitled by reason of participation in the Ready Reserve of that component.

"(e) RECOUPMENT OF ALLOWANCE.—(1) A person who, after receiving an allowance under this section, fails to complete the total period of service required of that person in connection with delayed entry authorized for the person under section 513 shall repay the United States the amount which bears the same ratio to the total amount of that allowance paid to the person as the unserved part of the total required period of service bears to the total period.

"(2) An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

"(3) A discharge of a person in bankruptcy under title 11 that is entered less than five years after the date on which the person was, or was to be, enlisted in the regular Army pursuant to the delayed entry authority under section 513 does not discharge that person from a debt arising under paragraph (1).

"(4) The Secretary concerned may waive, in whole or in part, a debt arising under paragraph (1) in any case for which the Secretary determines that recovery would be against equity and good conscience or would be contrary to the best interests of the United States.

"(f) SPECIAL PAY AND BONUSES.—Upon enlisting in the regular component of the member's armed force, a person who initially enlisted as a Reserve under this section may, at the discretion of the Secretary concerned, be eligible for all regular special pays, bonuses, education benefits, and loan repayment programs.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 510 the following new item:

"511. College First Program".

(b) REPEAL OF ARMY COLLEGE FIRST PROGRAM.—Section 573 of the National Defense Authorization Act for Fiscal Year 2000 (10 U.S.C. 513 note) is repealed. The Secretary of the Army shall treat the program under section 511 of title 10, United States Code, as added by subsection (a), as a continuation of the program under the section repealed by the preceding sentence.

(c) EFFECTIVE DATE.—Section 511 of title 10, United States Code, as added by subsection (a), and the repeal made by subsection (b) shall take effect on October 1, 2004.

(d) LIMITATION ON FISCAL YEAR 2005 OBLIGATIONS.—During fiscal year 2005, obligations incurred under section 511 of title 10, United States Code, as added by subsection (a), to pay allowances to persons accepted for enlistment as a Reserve for service in the Selected Reserve or Individual Ready Reserve of a reserve component using the expanded authority provided by the amendment made by subsection (a) may not exceed $5,000,000. The authority to pay allowances under such section shall not be considered to be an expanded authority to the extent that the authority to pay such allowances was available under section 573 of the National Defense Authorization Act for Fiscal Year 2000 (10 U.S.C. 513 note), before the repeal of such section by subsection (b).

SEC. 552. STANDARDIZATION OF AUTHORITY TO CONFER DEGREES ON GRADUATES OF COMMUNITY COLLEGE OF THE AIR FORCE WITH AUTHORITY FOR OTHER SCHOOLS OF AIR UNIVERSITY.

(a) CHANGE IN DEGREE CONFERRING AUTHORITY.—Section 9315(c) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking "Air Education and Training Command of the Air Force" and inserting "Air University"; and

(2) in paragraph (2), by striking "Air Education and Training Command of the Air Force" and inserting "Air University".

(b) CONFORMING AND STYLISTIC AMENDMENTS.—(1) Subsection (a) of section 9317 of such title is amended—

(1) by striking "may confer—" and inserting "may confer degrees as follows:";

(2) by striking "the" in paragraphs (1), (2), and (3) after the paragraph designation and inserting "The";

(3) by striking the semicolon at the end of paragraph (1) and inserting a period;

(4) by striking "; and" at the end of paragraph (2) and inserting a period; and

(5) by adding at the end the following new paragraph:

"(4) An associate level degree upon graduates of the Community College of the Air Force.".

(c) CLERICAL AMENDMENTS.—The heading for such section, and the item relating to such section in the table of sections at the beginning of chapter 901 of such title, are amended by striking the matter between the colon and the last word.

SEC. 553. CHANGE IN TITLES OF HEADS OF THE NAVAL POSTGRADUATE SCHOOL.

(a) PRESIDENT OF THE SCHOOL.—(1)(A) Section 7042 of title 10, United States Code, is amended by striking "Superintendent" each place it appears in the text and inserting "President".

(B) The heading of such section is amended to read as follows:

"§ 7042. President; assistants".

(2)(A) Section 7044 of such title is amended by striking "Superintendent" and inserting "President of the school";

(B) Sections 7048(a) and 7049(e) of such title are amended by striking "Superintendent" and inserting "President";

(b) PROVOST AND ACADEMIC DEAN.—(1)(A) Subsection (a) of section 7043 of title 10, United States Code, is amended to read as follows:

"(a) There is at the Naval Postgraduate School the civilian position of Provost and Academic Dean. The Provost and Academic Dean shall be appointed, to serve for periods of not more than five years, by the Secretary of the Navy after consultation with the Naval Postgraduate School Board of Advisors and consideration of the recommendation of the leadership and faculty of the Naval Postgraduate School.".

(B) Subsection (b) of such section is amended by striking "Academic Dean" and inserting "Provost and Academic Dean".

(C) The heading of such section is amended to read as follows:

"§ 7043. Provost and Academic Dean".

(2) Section 5102(c)(10) of title 5, United States Code, is amended by striking "Academic Dean" and inserting "Provost and Academic Dean".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 605 of such title is amended by striking the items related to sections 7042 and 7043 and inserting the following new items:

"7042. President; assistants.
"7043. Provost and Academic Dean.".

SEC. 554. INCREASE FROM TWO YEARS TO THREE YEARS IN PERIOD FOR WHICH EDUCATIONAL LEAVE OF ABSENCE MAY BE AUTHORIZED.

Section 708(a) of title 10, United States Code, is amended by striking "two years" and inserting "three years".

SEC. 555. CORRECTION TO DISPARATE TREATMENT OF DISABILITIES SUSTAINED DURING ACCESSION TRAINING.

(a) ELIGIBILITY OF ACADEMY CADETS AND MIDSHIPMEN FOR DISABILITY RETIRED PAY.—(1) Section 1217 of title 10, United States Code, is amended to read as follows:

"§ 1217. Cadets, midshipmen, and aviation cadets: applicability of chapter

"(a) This chapter applies to cadets at the United States Military Academy, the United States Air Force Academy, and the United States Coast Guard Academy and midshipmen of the Navy, but only with respect to physical disabilities incurred after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2005.

"(b) Monthly cadet pay and monthly midshipman pay under section 203(c) of title 37 shall be considered to be basic pay for purposes of this chapter and the computation of retired pay and severance and separation pay to which entitlement is established under this chapter.".

(2) The item related to section 1217 in the table of sections at the beginning of chapter 61 of such title is amended to read as follows:

"1217. Cadets, midshipmen, and aviation cadets: applicability of chapter.".

(b) MEDICAL AND DENTAL CARE FOR SENIOR ROTC MEMBERS AND APPLICANTS.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1074a the following new section:

"§ 1074b. Medical and dental care: members of, and designated applicants for membership in, Senior ROTC

"(a) Under joint regulations prescribed by the administering Secretaries, the following persons are entitled to the benefits described in subsection (b):

"(1) A member of, and a designated applicant for membership in, Senior ROTC who incurs or aggravates an injury, illness, or disease in the line of duty while performing duties pursuant to section 2109 of this title.

"(2) A member of, and a designated applicant for membership in, Senior ROTC who incurs or aggravates an injury, illness, or disease while traveling directly to or from the place at which that member or applicant is to perform or has performed duties pursuant to section 2109 of this title.

"(3) Each member of, and each designated applicant for membership in, Senior ROTC who incurs or aggravates an injury, illness, or disease in the line of duty while remaining overnight immediately before the commencement of duties performed pursuant to section 2109 of this title or, while remaining overnight, between successive periods of performing duties pursuant to section 2109 of this title, at or in the vicinity of the site of the duties performed pursuant to section 2109 of this title, if the site is outside reasonable commuting distance from the residence of the member or designated applicant.

"(b) A person described in subsection (a) is entitled to—

"(1) the medical and dental care appropriate for the treatment of the injury, illness, or disease of that person until the resulting disability cannot be materially improved by further hospitalization or treatment; and

"(2) subsistence during hospitalization.

"(c) A member of, and each designated applicant for membership in, Senior ROTC is not entitled to benefits under subsection (b) if the injury, illness, or disease or aggravation of an injury, illness, or disease of that person described in subsection (a)(2) is the result of the gross negligence or the misconduct of the member or applicant for membership in Senior ROTC.

"(d) In this section, the term 'Senior ROTC' means a program under chapter 103 of this title.".

(2) Section 1074b of title 10, United States Code, as added by paragraph (1), shall apply with respect to injuries, illnesses, and diseases incurred or aggravated on or after the date of the enactment of this Act.

(3) The table of sections at the beginning of chapter 55 of such title is amended by inserting after the item relating to section 1074a the following new item:

"1074b. Medical and dental care: members of, and designated applicants for membership in, Senior ROTC.".

SEC. 556. PRAYER AT MILITARY SERVICE ACADEMY ACTIVITIES.

(a) AUTHORITY OF SUPERINTENDENT.—The Superintendent of a service academy may have in effect such policy as the Superintendent considers appropriate with respect to the offering of a voluntary, nondenominational prayer at an otherwise authorized activity of the academy, subject to such limitations as the President may prescribe.

(b) SERVICE ACADEMIES.—For purposes of this section, the term "service academy" means any of the following:

(1) The United States Military Academy.

(2) The United States Naval Academy.

(3) The United States Air Force Academy.

SEC. 557. REVISION TO CONDITIONS ON SERVICE OF OFFICERS AS SERVICE ACADEMY SUPERINTENDENTS.

(a) REPEAL OF REQUIREMENT THAT OFFICERS RETIRE AFTER SERVICE AS SUPERINTENDENT.—Sections 3921, 6371, and 8921 of title 10, United States Code, are repealed.

(b) MINIMUM THREE-YEAR TOUR OF DUTY AS SUPERINTENDENT.—

(1) MILITARY ACADEMY.—Section 4333a of such title is amended to read as follows:

"§ 4333a. Superintendent: length of assignment

"An officer who is detailed to the position of Superintendent of the Academy shall be so detailed for a period of not less than three years. In any case in which an officer serving as Superintendent is reassigned or retires before having completed three years service as Superintendent, or otherwise leaves that position (other than due to death) without having completed three years service in that position, the Secretary of the Army shall submit to Congress notice that such officer left the position of Superintendent without having completed three years service in that position, together with a statement of the reasons why that officer did not complete three years service in that position.".

(2) NAVAL ACADEMY.—Section 6951a of such title is amended—

(A) by striking the second sentence of subsection (b); and

(B) by adding at the end the following new subsection:

"(c) An officer who is detailed to the position of Superintendent shall be so detailed for a period of not less than three years. In any case in which an officer serving as Superintendent is reassigned or retires before having completed three years service as Superintendent, or otherwise leaves that position (other than due to death) without having completed three years service in that position, the Secretary of the Navy shall submit to Congress notice that such officer left the position of Superintendent without having completed three years service in that position, together with a statement of the reasons why that officer did not complete three years service in that position.".

(3) AIR FORCE ACADEMY.—Section 9333a of such title is amended to read as follows:

"§9333a. Superintendent: length of assignment

"An officer who is detailed to the position of Superintendent of the Academy shall be so detailed for a period of not less than three years. In any case in which an officer serving as Superintendent is reassigned or retires before having completed three years service as Superintendent, or otherwise leaves that position (other than due to death) without having completed three years service in that position, the Secretary of the Air Force shall submit to Congress notice that such officer left the position of Superintendent without having completed three years service in that position, together with a statement of the reasons why that officer did not complete three years service in that position.".

(b) CLERICAL AMENDMENTS.—

(1) The table of sections at the beginning of chapter 367 of such title is amended by striking the item relating to section 3921.

(2) The table of sections at the beginning of chapter 403 of such title is amended to read as follows:

"4333a. Superintendent: length of assignment."

(3) The table of sections at the beginning of chapter 573 of such title is amended by striking the item relating to section 6371.

(4) The table of sections at the beginning of chapter 867 of such title is amended by striking the item relating to section 8921.

(5) The table of sections at the beginning of chapter 903 of such title is amended to read as follows:

"9333a. Superintendent: length of assignment."

SEC. 558. CODIFICATION OF PROHIBITION ON IMPOSITION OF CERTAIN CHARGES AND FEES AT THE SERVICE ACADEMIES.

(a) UNITED STATES MILITARY ACADEMY.—(1) Chapter 403 of title 10, United States Code, is amended by adding at the end the following new section:

"§4359. Cadets: charges and fees for attendance; limitation

"(a) PROHIBITION.—Except as provided in subsection (b), no charge or fee for tuition, room, or board for attendance at the Academy may be imposed unless the charge or fee is specifically authorized by a law enacted after October 5, 1994.

"(b) EXCEPTION.—The prohibition specified in subsection (a) does not apply with respect to any item or service provided to cadets for which a charge or fee is imposed as of October 5, 1994. The Secretary of Defense shall notify Congress of any change made by the Academy in the amount of a charge or fee authorized under this subsection.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4359. Cadets: charges and fees for attendance; limitation.".

(b) UNITED STATES NAVAL ACADEMY.—(1) Chapter 603 of title 10, United States Code, is amended by adding at the end the following new section:

"§6978. Midshipmen: charges and fees for attendance; limitation

"(a) PROHIBITION.—Except as provided in subsection (b), no charge or fee for tuition, room, or board for attendance at the Naval Academy may be imposed unless the charge or fee is specifically authorized by a law enacted after October 5, 1994.

"(b) EXCEPTION.—The prohibition specified in subsection (a) does not apply with respect to any item or service provided to midshipmen for which a charge or fee is imposed as of October 5, 1994. The Secretary of Defense shall notify Congress of any change made by the Naval Academy in the amount of a charge or fee authorized under this subsection.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4359. Midshipmen: charges and fees for attendance; limitation.".

(c) UNITED STATES AIR FORCE ACADEMY.—(1) Chapter 903 of title 10, United States Code, is amended by adding at the end the following new section:

"§9359. Cadets: charges and fees for attendance; limitation

"(a) PROHIBITION.—Except as provided in subsection (b), no charge or fee for tuition, room, or board for attendance at the Academy may be imposed unless the charge or fee is specifically authorized by a law enacted after October 5, 1994.

"(b) EXCEPTION.—The prohibition specified in subsection (a) does not apply with respect to any item or service provided to cadets for which a charge or fee is imposed as of October 5, 1994. The Secretary of Defense shall notify Congress of any change made by the Academy in the amount of a charge or fee authorized under this subsection.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"9359. Cadets: charges and fees for attendance; limitation.".

(d) UNITED STATES COAST GUARD ACADEMY.—(1) Chapter 9 of title 14, United States Code, is amended by adding at the end the following new section:

"§197. Cadets: charges and fees for attendance; limitation

"(a) PROHIBITION.—Except as provided in subsection (b), no charge or fee for tuition, room, or board for attendance at the Academy may be imposed unless the charge or fee is specifically authorized by a law enacted after October 5, 1994.

"(b) EXCEPTION.—The prohibition specified in subsection (a) does not apply with respect to any item or service provided to cadets for which a charge or fee is imposed as of October 5, 1994. The Secretary of Homeland Security shall notify Congress of any change made by the Academy in the amount of a charge or fee authorized under this subsection.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"197. Cadets: charges and fees for attendance; limitation.".

(e) UNITED STATES MERCHANT MARINE ACADEMY.—Section 1303 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1295b), is amended by adding at the end the following new subsection:

"(j) LIMITATION ON CHARGES AND FEES FOR ATTENDANCE.—

"(1) Except as provided in paragraph (2), no charge or fee for tuition, room, or board for attendance at the Academy may be imposed unless the charge or fee is specifically authorized by a law enacted after October 5, 1994.

"(2)The prohibition specified in paragraph (1) does not apply with respect to any item or service provided to cadets for which a charge or fee is imposed as of October 5, 1994. The Secretary of Transportation shall notify Congress of any change made by the Academy in the amount of a charge or fee authorized under this paragraph.".

(f) REPEAL OF CODIFIED PROVISION.—Section 553 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 10 U.S.C. 4331 note) is repealed.

SEC. 559. QUALIFICATIONS OF THE DEAN OF THE FACULTY OF UNITED STATES AIR FORCE ACADEMY.

Section 9335(a) of title 10, United States Code, is amended by inserting before the period at the end of the second sentence the following: ", except that, if the Dean is not an officer on active duty, the Dean shall be a retired officer or former officer, and a person may not be appointed or assigned as Dean unless that person holds the highest academic degree in that person's academic field".

Subtitle G—Medals and Decorations and Special Promotions and Appointments

SEC. 561. SEPARATE MILITARY CAMPAIGN MEDALS TO RECOGNIZE SERVICE IN OPERATION ENDURING FREEDOM AND SERVICE IN OPERATION IRAQI FREEDOM.

(a) REQUIREMENT.—The President shall establish a campaign medal specifically to recognize service by members of the uniformed services in Operation Enduring Freedom and a separate campaign medal specifically to recognize service by members of the uniformed services in Operation Iraqi Freedom.

(b) ELIGIBILITY.—Subject to such limitations as may be prescribed by the President, eligibility for a campaign medal established pursuant to subsection (a) shall be set forth in regulations to be prescribed by the Secretary concerned (as defined in section 101 of title 10, United States Code). In the case of regulations prescribed by the Secretaries of the military departments, the regulations shall be subject to approval by the Secretary of Defense and shall be uniform throughout the Department of Defense.

SEC. 562. ELIGIBILITY OF ALL UNIFORMED SERVICES PERSONNEL FOR NATIONAL DEFENSE SERVICE MEDAL.

The President shall revise the criteria for eligibility for the decoration known as the National Defense Service Medal so as to extend such eligibility, with respect to service on or after September 11, 2001, to members of all of the uniformed services.

SEC. 563. AUTHORITY TO APPOINT BRIGADIER GENERAL CHARLES E. YEAGER, UNITED STATES AIR FORCE (RETIRED), TO THE GRADE OF MAJOR GENERAL ON THE RETIRED LIST.

The President is authorized to appoint, by and with the advice and consent of the Senate, Brigadier General Charles E. Yeager, United States Air Force (retired), to the grade of major general on the retired list of the Air Force. Any such appointment shall not affect the retired pay or other benefits of Charles E. Yeager or any benefits to which any other person is or may become entitled based upon his service.

SEC. 564. POSTHUMOUS COMMISSION OF WILLIAM MITCHELL IN THE GRADE OF MAJOR GENERAL IN THE ARMY.

(a) AUTHORITY.—The President, by and with the advice and consent of the Senate, may issue posthumously a commission as major general, United States Army, in the name of the late William Mitchell, formerly a colonel, United States Army, who resigned his commission on February 1, 1926.

(b) DATE OF COMMISSION.—A commission issued under subsection (a) shall issue as of the date of the death of William Mitchell on February 19, 1936.

(c) PROHIBITION OF BENEFITS.—No person is entitled to receive any bonus, gratuity, pay, allowance, or other financial benefit by reason of the enactment of this section.

Subtitle H—Military Justice Matters

SEC. 571. REVIEW ON HOW SEXUAL OFFENSES ARE COVERED BY UNIFORM CODE OF MILITARY JUSTICE.

(a) REVIEW REQUIRED.—The Secretary of Defense shall review the Uniform Code of Military Justice and the Manual for Courts-Martial with the objective of determining what changes are required to improve the ability of the military justice system to address issues relating to sexual assault and to conform the Uniform Code of Military Justice and the Manual for Courts-Martial more closely to other Federal laws and regulations that address such issues.

(b) REPORT.—Not later than March 1, 2005, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the review carried out under subsection (a). The report shall include the recommendations of the Secretary for revisions to the Uniform Code of Military Justice and, for each such revision, the rationale behind that revision.

SEC. 572. SERVICE TIME NOT LOST WHEN CONFINED IN CONNECTION WITH TRIAL IF CONFINEMENT EXCUSED AS UNAVOIDABLE.

Section 972 of title 10, United States Code, is amended in each of subsections (a)(3) and (b)(3) by inserting after "the trial" the following: ", unless such confinement is excused as unavoidable".

SEC. 573. CLARIFICATION OF AUTHORITY OF MILITARY LEGAL ASSISTANCE COUNSEL TO PROVIDE MILITARY LEGAL ASSISTANCE WITHOUT REGARD TO LICENSING REQUIREMENTS.

Section 1044 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e)(1) Notwithstanding any law regarding the licensure of attorneys, a judge advocate or civilian attorney who is authorized to provide military legal assistance is authorized to provide that assistance in any jurisdiction, subject to such regulations as may be prescribed by the Secretary concerned.

"(2) In this subsection, the term 'military legal assistance' includes—

"(A) legal assistance provided under this section; and

"(B) legal assistance contemplated by sections 1044a, 1044b, 1044c, and 1044d of this title.".

Subtitle I—Management and Administrative Matters

SEC. 581. THREE-YEAR EXTENSION OF LIMITATION ON REDUCTIONS OF PERSONNEL OF AGENCIES RESPONSIBLE FOR REVIEW AND CORRECTION OF MILITARY RECORDS.

Section 1559(a) of title 10, United States Code, is amended by striking "During fiscal years 2003, 2004, and 2005," and inserting "Before October 1, 2008,".

SEC. 582. STAFFING AND FUNDING FOR DEFENSE PRISONER OF WAR/MISSING PERSONNEL OFFICE (DPMO).

(a) MINIMUM LEVEL OF STAFFING.—Subparagraph (B) of section 1501(a)(5) of title 10, United States Code, is amended to read as follows:

"(B)(i) For any fiscal year—

"(I) the number of full-time Department of Defense personnel permanently assigned or detailed to the office shall be not less than 46 members of the armed forces and not less than 69 civilian employees of the Department of Defense; and

"(II) the number of permanent positions authorized for the office shall be not less than 46 positions for members of the armed forces and not less than 69 positions for civilian employees.

"(ii) No reductions below the numbers assigned or authorized under clause (i) may be made unless expressly authorized by law.

"(iii) If for any reason the number of military or civilian personnel assigned to the office should fall below the required level under clause (i)(I), the Secretary of Defense shall promptly notify the Committees on Armed Services of the Senate and House of Representatives of the number of personnel so assigned and of the Secretary's plan to restore the staffing levels of the office to at least the required minimums under clause (i). The Secretary shall publish such notice and plan in the Federal Register.".

(b) MINIMUM LEVEL OF FUNDING.—Subparagraph (C) of such section is amended to read as follows:

"(C) For any fiscal year, the level of funding allocated to the office shall be not less than $16,000,000 unless a lower level of funding is expressly required by law.".

SEC. 583. PERMANENT ID CARDS FOR RETIREE DEPENDENTS AGE 70 AND OLDER.

(a) IN GENERAL.—(1) Chapter 53 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1060b. Military ID cards: dependents and survivors of retirees; issuance of permanent ID card after attaining 70 years of age

"(a) PERMANENT ID CARD AFTER AGE 70.—In issuing military ID cards to retiree dependents, the Secretary concerned shall issue a permanent ID card (not subject to renewal) to any such retiree dependent who has attained 70 years of age. Such a permanent ID card shall be issued upon the expiration, after the retiree dependent attains 70 years of age, of any earlier, renewable military ID card or, if earlier, upon the request of such a retiree dependent after attaining age 70.

"(b) DEFINITIONS.—In this section:

"(1) The term 'military ID card' means a card or other form of identification used for purposes of demonstrating eligibility for any benefit from the Department of Defense.

"(2) The term "retiree dependent" means a person who is a dependent of a retired member of the uniformed services, or a survivor of a deceased retired member of the uniformed services, who is eligible for any benefit from the Department of Defense.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1060b. Military ID cards: dependents and survivors of retirees; issuance of permanent ID card after attaining 70 years of age.".

(b) EFFECTIVE DATE.—Section 1060b of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 2004.

SEC. 584. AUTHORITY TO PROVIDE CIVILIAN CLOTHING TO MEMBERS TRAVELING IN CONNECTION WITH MEDICAL EVACUATION.

(a) AUTHORITY.—Section 1047 of title 10, United States Code, is amended—

(1) by inserting "(b) CERTAIN ENLISTED MEMBERS.—" before "The Secretary"; and

(2) by inserting after the section heading the following:

"(a) MEMBERS TRAVELING IN CONNECTION WITH MEDICAL EVACUATION.—The Secretary of the military department concerned may furnish civilian clothing to a member at a cost not to exceed $250, or reimburse a member for the purchase of civilian clothing in an amount not to exceed $250, in the case of a member who—

"(1) is medically evacuated for treatment in a medical facility by reason of an illness or injury incurred or aggravated while on active duty; or

"(2) after being medically evacuated as described in paragraph (1), is in an authorized travel status from a medical facility to another location approved by the Secretary.".

(b) EFFECTIVE DATE.—Subsection (a) of section 1047 of title 10, United States Code, as added by subsection (a) shall take effect on October 1, 2004.

SEC. 585. AUTHORITY TO ACCEPT DONATION OF FREQUENT TRAVELER MILES, CREDITS, AND TICKETS TO FACILITATE REST AND RECUPERATION TRAVEL OF DEPLOYED MEMBERS OF THE ARMED FORCES AND THEIR FAMILIES.

(a) OPERATION HERO MILES.—Chapter 155 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2613. Acceptance of frequent traveler miles, credits, and tickets; use to facilitate rest and recuperation travel of deployed members and their families

"(a) AUTHORITY TO ACCEPT DONATION OF TRAVEL BENEFITS.—Subject to subsection (c), the Secretary of Defense may accept from any person or government agency the donation of travel benefits for the purposes of use under subsection (d).

"(b) TRAVEL BENEFIT DEFINED.—In the section, the term "travel benefit" means frequent traveler miles, credits for tickets, or tickets for air or surface transportation issued by an air carrier or a surface carrier, respectively, that serves the public.

"(c) CONDITION ON AUTHORITY TO ACCEPT DONATION.—The Secretary may accept a donation of a travel benefit under this section only if the air or surface carrier that is the source of the benefit consents to such donation. Any such donation shall be under such terms and conditions as the surface carrier may specify, and the travel benefit so donated may be used only in accordance with the rules established by the carrier.

"(d) USE OF DONATED TRAVEL BENEFITS.—A travel benefit accepted under this section may be used only for the purpose of—

"(1) facilitating the travel of a member of the armed forces who—

"(A) is deployed on active duty away from the permanent duty station of the member; and

"(B) is granted, during such deployment, rest and recuperative leave, emergency leave, convalescent leave, or another form of leave authorized for the member; or

"(2) facilitating the travel of family members of a member described in paragraph (1) in order to be reunited with the member.

"(e) ADMINISTRATION.—The Secretary shall designate a single office in the Department of Defense to carry out this section. That office shall be responsible for developing rules and procedures to facilitate the acceptance and distribution of travel benefit under this section.

"(f) STATUS OF BENEFITS RECEIVED.—A member of the armed forces, or a family member of a member of the armed forces, who receives a travel benefit under this section is deemed to recognize no income from the receipt or use of such benefit. A donors of a travel benefit under this section is deemed to obtain no tax benefit from such donation.

"(g) FAMILY MEMBER DEFINED.—In this section, the term 'family member' has the meaning given that term in section 411h(b)(1) of title 37.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2613. Acceptance of frequent traveler miles, credits, and tickets; use to facilitate rest and recuperation travel of deployed members and their families.".

SEC. 586. LIMITATION ON AMENDMENT OR CANCELLATION OF DEPARTMENT OF DEFENSE DIRECTIVE RELATING TO REASONABLE ACCESS TO MILITARY INSTALLATIONS FOR CERTAIN PERSONAL COMMERCIAL SOLICITATION.

An amendment to Department of Defense Directive 1344.7, "Personal Commercial Solicitation on DoD Installations", or cancellation of that directive, shall not take effect until after the end of the one-year period beginning on the date on which a report containing the results of the investigation regarding insurance premium allotment processing, which is underway as of the date of the enactment of this Act, is submitted to the Committee on Armed Services and the Committee on Government Reform of the House of Representatives and the Committee on Armed Services and the Committee on Governmental Affairs of the Senate.

SEC. 587. ANNUAL IDENTIFICATION OF REASONS FOR DISCHARGES FROM THE ARMED FORCES DURING PRECEDING FISCAL YEAR.

Not later than January 1 each year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on discharges from the Army, Navy, Air Force, and Marine Corps during the preceding fiscal year. Each such report shall show, in the aggregate and for each of those Armed Forces, the following:

(1) The total number of persons discharged during the preceding fiscal year.

(2) For each separation code, and for each reenlistment eligibility code, used by the Armed Forces, the number of those discharged persons assigned that code.

(3) For the persons assigned each such separation code, classification of discharges by age, by sex, by race, by military rank or grade, by time in service, by unit (shown at the small unit level), by military occupational specialty (or the equivalent), and by reenlistment eligibility code.

SEC. 588. AUTHORITY FOR FEDERAL RECOGNITION OF NATIONAL GUARD COMMISSIONED OFFICERS APPOINTED FROM FORMER COAST GUARD PERSONNEL.

Section 305(a) of title 32, United States Code, is amended—

(1) by striking "Army, Navy, Air Force, or Marine Corps" in paragraphs (2), (3), and (4) and inserting "armed forces"; and

(2) by striking "or the United States Air Force Academy" in paragraph (5) and inserting "the United States Air Force Academy, or the United States Coast Guard Academy".

SEC. 589. STUDY OF BLENDED WING CONCEPT FOR THE AIR FORCE.

(a) STUDY REQUIRED.—Not later than March 1, 2005, the Secretary of the Air Force shall submit to Congress a report on the blended wing concept for the Air Force. The report shall include the Secretary's findings as to the characteristics and locations that are considered favorable for a blended wing, a description of the manner in which current blended wings are functioning, and a statement of the current and future plans of the Air Force to implement the blended wing concept.

(b) SELECTION CRITERIA.—The report shall include a description of the criteria and attributes that the Secretary requires when choosing units to become blended wings.

SEC. 590. CONTINUATION OF IMPACT AID ASSISTANCE ON BEHALF OF DEPENDENTS OF CERTAIN MEMBERS DESPITE CHANGE IN STATUS OF MEMBER.

(a) SPECIAL RULE.—For purposes of computing the amount of a payment for an eligible local educational agency under subsection (a) of section 8003 of the Elementary and Secondary Education Act (20 U.S.C. 7703) for school year 2004–2005, the Secretary of Education shall continue to count as a child enrolled in a school of such agency under such subsection any child who—

(1) would be counted under paragraph (1)(B) of such subsection to determine the number of children who were in average daily attendance in the school; but

(2) due to the deployment of both parents or legal guardians of the child, the deployment of a parent or legal guardian having sole custody of the child, or the death of a military parent or legal guardian while on active duty (so long as the child resides on Federal property (as defined in section 8013(5) of such Act (7 U.S.C. 7713(5))), is not eligible to be so counted.

(b) TERMINATION.—The special rule provided under subsection (a) applies only so long as the children covered by such subsection remain in average daily attendance at a school in the same local educational agency they attended before their change in eligibility status.

Subtitle J—Other Matters

SEC. 591. EMPLOYMENT PREFERENCES FOR SPOUSES OF CERTAIN DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES SUBJECT TO RELOCATION AGREEMENTS.

(a) SPOUSES OF CERTAIN CIVILIAN EMPLOYEES.—(1) Section 1784 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(h) INCLUSION OF SPOUSES OF CERTAIN DOD CIVILIAN EMPLOYEES SUBJECT TO RELOCATION AGREEMENTS.—(1) For the purposes of this section, the spouse of a civilian employee described in paragraph (2) shall be considered to be the spouse of a member of the armed forces.

"(2) An employee described in this paragraph is a Department of Defense employee who, pursuant to a mandatory mobility agreement executed as a condition of employment or pursuant to another civilian mobility program of the Department of Defense, has had a change of permanent duty assignment (A) that was based on the needs of the Government, and (B) that required a relocation of the employee's residence.".

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§1784. Employment opportunities: military spouses; certain Department of Defense civilian spouses subject to relocation agreements".

(2) The item relating to such section in the table of sections at the beginning of subchapter I of chapter 88 of such title is amended to read as follows:

"1784. Employment opportunities: military spouses; certain Department of Defense civilian spouses subject to relocation agreements.".

(c) EFFECTIVE DATE.—Subsection (h) of section 1784 of title 10, United States Code, as added by subsection (a), shall apply only with respect to spouses of employees described in paragraph (2) of that subsection who relocate their residence as a result of a permanent duty assignment specified in that paragraph that is effective on or after the date of the enactment of this Act.

SEC. 592. REPEAL OF REQUIREMENT TO CONDUCT ELECTRONIC VOTING DEMONSTRATION PROJECT FOR THE FEDERAL ELECTION TO BE HELD IN NOVEMBER 2004.

Section 1604 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1277; 42 U.S.C. 1977ff note) is repealed.

SEC. 593. EXAMINATION OF SEXUAL ASSAULT IN THE ARMED FORCES BY THE DEFENSE TASK FORCE ESTABLISHED TO EXAMINE SEXUAL HARASSMENT AND VIOLENCE AT THE MILITARY SERVICE ACADEMIES.

(a) EXTENSION OF TASK FORCE.—(1) The task force in the Department of Defense established by the Secretary of Defense pursuant to section 526 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1466) to examine matters relating to sexual harassment and violence at the United States Military Academy and United States Naval Academy shall continue in existence for a period of at least 18 months after the date as of which the task force would otherwise be terminated pursuant to subsection (i) of that section.

(2) Upon the completion of the functions of the task force referred to in paragraph (1) pursuant to section 526 of the National Defense Authorization Act for Fiscal Year 2004, the name of the task force shall be changed to the Defense Task Force on Sexual Assault in the Military Services, and the task force shall then carry out the functions specified in this section. The task force shall not begin to carry out the functions specified in this section until it has completed its functions under such section 526.

(b) EXAMINATION OF MATTERS RELATING TO SEXUAL ASSAULT IN THE ARMED FORCES.—The task force shall conduct an examination of matters relating to sexual assault in cases in which members of the Armed Forces are either victims or commit acts of sexual assault.

(c) RECOMMENDATIONS.—The Task Force shall include in its report under subsection (e) recommendations of ways by which civilian officials within the Department of Defense and leadership within the Armed Forces may more effectively address matters relating to sexual assault. That report shall include an assessment of, and recommendations (including any recommendations for changes in law) for measures to improve, with respect to sexual assault, the following:

(1) Victim care and advocacy programs.

(2) Effective prevention.

(3) Collaboration among military investigative organizations with responsibility or jurisdiction.

(4) Coordination between military and civilian communities, including local support organizations.

(5) Reporting procedures, data collection, and tracking.

(6) Oversight of sexual assault programs.

(7) Military justice issues.

(8) Other issues identified by the task force relating to sexual assault.

(d) METHODOLOGY.—In carrying out its examination under subsection (b) and in formulating its recommendations under subsection (c), the task force shall consider the findings and recommendations of previous reviews and investigations of sexual assault conducted by the Department of Defense and the Armed Forces.

(e) REPORT.—(1) Not later than one year after the initiation of its examination under subsection (b), the task force shall submit to the Secretary of Defense and the Secretaries of the Army, Navy, and Air Force a report on the activities of the task force and on the activities of the Department of Defense and the Armed Forces to respond to sexual assault.

(2) The report shall include the following:

(A) A description of any barrier to implementation of improvements as a result of previous efforts to address sexual assault.

(B) Other areas of concern not previously addressed in prior reports

(C) The findings and conclusions of the task force.

(D) Any recommendations for changes to policy and law that the task force considers appropriate.

(3) Within 90 days after receipt of the report under paragraph (1), the Secretary of Defense shall submit the report, together with the Secretary's evaluation of the report, to the Committees on Armed Services of the Senate and House of Representatives.

(f) TERMINATION.—The task force shall terminate 90 days after the date on which the report of the task force is submitted to the Committees on Armed Services of the Senate and House of Representatives pursuant to subsection (e)(3).

SEC. 594. RENEWAL OF PILOT PROGRAM FOR TREATING GED AND HOME SCHOOL DIPLOMA RECIPIENTS AS HIGH SCHOOL GRADUATES FOR DETERMINATIONS OF ELIGIBILITY FOR ENLISTMENT.

Section 571(e) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (10 U.S.C. 520 note) is amended to read as follows:

"(e) Duration of Pilot Program.—The pilot program shall be in effect during the period beginning on October 1, 2004, and ending on September 30, 2005.".

SEC. 595. ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.

(a) Continuation of Department of Defense Program for Fiscal Year 2005.—Of the amount authorized to be appropriated pursuant to section 301(5) for operation and maintenance for Defense-wide activities, $50,000,000 shall be available only for the purpose of providing educational agencies assistance to local educational agencies.

(b) Notification.—Not later than June 30, 2005, the Secretary of Defense shall notify each local educational agency that is eligible for educational agencies assistance for fiscal year 2005 of—

(1) that agency's eligibility for the assistance; and

(2) the amount of the assistance for which that agency is eligible.

(c) Disbursement of Funds.—The Secretary of Defense shall disburse funds made available under subsection (a) not later than 30 days after the date on which notification to the eligible local educational agencies is provided pursuant to subsection (b).

(d) Definitions.—In this section:

(1) The term "educational agencies assistance" means assistance authorized under section 386(b) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 20 U.S.C. 7703 note).

(2) The term "local educational agency" has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

SEC. 596. SENIOR RESERVE OFFICER TRAINING CORPS AND RECRUITER ACCESS AT INSTITUTIONS OF HIGHER EDUCATION.

(a) Certification of Compliance With ROTC Access Provisions.—Subsection (a) of section 983 of title 10, United States Code, is amended—

(1) by inserting "(1)" before "No funds";

(2) by striking "prevents—" and inserting "prevents, either (or both) of the following:";

(3) by striking "(1) the" and inserting "(A) The";

(4) by striking "; or" and inserting a period;

(5) by striking "(2) a" and inserting "(B) A"; and

(6) by adding at the end the following:

"(2)(A) Not later than 180 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2005 and annually thereafter, the Secretary of Defense shall request from each institution of higher education that has students participating in a Senior Reserve Officer Training Corps program during the then-current academic year of that institution a certification that such institution, during the next academic year of the institution, will—

"(i) permit the Secretary of each military department to maintain a unit of the Senior Officer Training Corps (in accordance with subsection (a)) at that institution (or any subelement of that institution), should such Secretary elect to maintain such a unit; and

"(ii) if the Secretary of the military department concerned elects not to establish or maintain a unit of the Senior Reserve Officer Training Corps at that institution, permit a student of that institution (or any subelement of that institution) to enroll in a unit of the Senior Reserve Officer Training Corps at another institution of higher education.

"(B) Any certification under subparagraph (A) shall be made by the president of the institution (or equivalent highest ranking administrative official) and shall be submitted to the Secretary of Defense no later than 90 days after receipt of the request from the Secretary.

"(C) In the case of any institution from which a certification is requested under subparagraph (A), if the Secretary of Defense does not receive a certification in accordance with subparagraph (B), or if the certification does not state that the university will comply with both clauses (i) and (ii) of subparagraph (A) during its next academic year, the Secretary shall make a determination under paragraph (1) as to whether the institution has a policy or practice described in that paragraph.".

(b) Equal Treatment of Military Recruiters With Other Recruiters.—Subsection (b)(1) of such section is amended—

(1) by striking "entry to campuses" and inserting "access to campuses"; and

(2) by inserting before the semicolon at the end the following: "in a manner that is at least equal in quality and scope to the access to campuses and to students that is provided to any other employer".

(c) Prohibition of Funding for Post-Secondary Schools That Prevent ROTC Access or Military Recruiting.—(1) Subsection (d) of such section is amended—

(A) in paragraph (1)—

(i) by striking "limitation established in subsection (a) applies" and inserting "limitations established in subsections (a) and (b) apply";

(ii) in subparagraph (B), by inserting "for any department or agency for which regular appropriations are made" after "made available"; and

(iii) by adding at the end the following new subparagraphs:

"(C) Any funds made available for the Department of Homeland Security.

"(D) Any funds made available for the National Nuclear Security Administration of the Department of Energy.

"(E) Any funds made available for the Department of Transportation.

"(F) Any funds made available for the Central Intelligence Agency."; and

(B) by striking paragraph (2).

(2)(A) Subsection (b) of such section is amended by striking "subsection (d)(2)" and inserting "subsection (d)(1)".

(B) Subsection (e) of such section is amended by inserting ", to the head of each other department and agency the funds of which are subject to the determination," after "Secretary of Education".

(d) Codification and Extension of Exclusion Of Amounts to Cover Individual Payments.—Subsection (d) of such section, as amended by subsection (c)(1), is further amended—

(1) by striking "The" after "(1)" and inserting "Except as provided in paragraph (2), the"; and

(2) by adding at the end the following new paragraph:

"(2) Any Federal funding specified in paragraph (1) that is provided to an institution of higher education, or to an individual, to be available solely for student financial assistance, related administrative costs, or costs associated with attendance, may be used for the purpose for which the funding is provided.".

(e) Conforming Amendments.—Subsections (a) and (b) of such section are amended by striking "(including a grant of funds to be available for student aid)".

(f) Conforming Repeal of Codified Provision.—Section 8120 of the Department of Defense Appropriations Act, 2000 (Public Law 106–79; 10 U.S.C. 983 note), is repealed

(g) Effective Date.—The amendments made by this section shall apply with respect to funds appropriated for fiscal year 2005 and thereafter.

SEC. 597. REPORTS ON TRANSFORMATION MILESTONES.

(a) Military to Civilian Conversions.—Not later than January 31, 2005, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report providing information as to the number of positions in the Department of Defense converted during the previous fiscal year from performance by military personnel to performance by civilian personnel. The report shall include—

(1) a description of the skill set of the positions converted;

(2) specification of the total cost of such conversions and how that cost is being paid for; and

(3) the number of positions in the Department of Defense projected for such conversion during the period from March 1, 2005, to January 31, 2006.

(b) Civilian Skills Corps Feasibility Study.—(1) The Secretary of Defense shall conduct an Armed Forces-wide study of how a system to embed certain civilian expertise skill sets within the military on a temporary basis could be implemented. The study shall include consideration of all skills sets in which, as determined by the Secretary of Defense, there is a significant shortfall within the Armed Forces or which are high value, but of uncertain need. The study shall examine the feasibility of implementing a personnel system that expands the capability of the Armed Forces to rapidly access civilian volunteers with needed expertise outside of the reserve components.

(2) The Secretary shall submit to the congressional defense committees a report on the results of the study under paragraph (1) not later than March 31, 2005.

(c) Military-to-Military Conversions.—Not later than March 31 of each of 2005, 2006, and 2007, the Secretary of Defense shall submit to the congressional defense committees a report on the milestones within the multiyear transformation for internal military-to-military transitions. Each such report shall include—

(1) the number of units and personnel transferred and retrained within the previous fiscal year and what their new unit designations are; and

(2) a description of the transformation goals for the upcoming fiscal year and whether the previous years goals were met and why or why not.

(d) Transformation to Brigade Structure for the Army.—No later than March 31 of each year, the Secretary of Defense shall submit to the congressional defense committees a report on the status of the internal transformation of the Army from a division-orientated system to a brigade-orientated one. Such a report shall be submitted for each year until the Secretary of the Army certifies to those committees that the transformation of the Army to brigade level units has been completed.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

SECTION 601. INCREASE IN BASIC PAY FOR FISCAL YEAR 2005.

(a) Waiver of Section 1009 Adjustment.—The adjustment to become effective during fiscal

year 2005 required by section 1009 of title 37, United States Code, in the rates of monthly basic pay authorized members of the uniformed services shall not be made.

(b) INCREASE IN BASIC PAY.—Effective on January 1, 2005, the rates of monthly basic pay for members of the uniformed services are increased by 3.5 percent.

SEC. 602. AUTHORITY TO PROVIDE FAMILY SEPARATION BASIC ALLOWANCE FOR HOUSING.

Section 403(d) of title 37, United States Code, is amended—

(1) in paragraph (1), by striking "is entitled to" and inserting "may be paid"; and

(2) in paragraph (4), by striking the first sentence and inserting the following new sentence: "A family separation basic allowance for housing paid to a member under this subsection is in addition to any other allowance or per diem that the member receives under this title."

SEC. 603. GEOGRAPHIC BASIS FOR BASIC ALLOWANCE FOR HOUSING DURING SHORT CHANGES OF STATION FOR PROFESSIONAL MILITARY EDUCATION OR TRAINING.

Section 403(d)(3) of title 37, United States Code, is amended by adding at the end the following new subparagraph:

"(C) If the member is reassigned for a permanent change of station or permanent change of assignment from a duty station in the continental United States to another duty station in the continental United States for a period of not more than one year for the purpose of participating in professional military education or training classes, the Secretary concerned may base the amount of the basic allowance for housing for the member on the duty station to which the member is reassigned or the area in which the dependents reside, whichever the Secretary concerned determines to be most equitable.".

SEC. 604. IMMEDIATE LUMP-SUM REIMBURSEMENT FOR UNUSUAL NONRECURRING EXPENSES INCURRED BY MEMBERS SERVING OUTSIDE CONTINENTAL UNITED STATES.

(a) ELIGIBILITY FOR REIMBURSEMENT.—Section 405 of title 37, United States Code, is amended by adding at the end the following new subsection:

"(d) LUMP-SUM REIMBURSEMENT FOR NONRECURRING EXPENSES.—In addition to providing a per diem under this section, the Secretary concerned may reimburse a member for actual expenses of a nonrecurring nature that the member incurs incident to serving on duty outside of the continental United States. The types of expenses for which reimbursement may be provided under this paragraph shall be limited to those expenses directly related to the conditions or location of the duty outside of the continental United States and either of a nature or a magnitude not normally incurred by members assigned to duty inside the continental United States. In determining the per diem to be paid under this section, the Secretary concerned shall not consider expenses for which reimbursement is provided under this paragraph.".

(b) USE OF DEFINED TERM CONTINENTAL UNITED STATES.—(1) Subsection (a) of such section is amended by striking "outside of the United States or in Hawaii or Alaska" and inserting "outside of the continental United States".

(2) The heading of such section is amended to read as follows:

"§405. Travel and transportation allowances: per diem while on duty outside the continental United States".

(3) The table of sections at the beginning of chapter 7 of such title is amended by striking the item relating to section 405 and inserting the following new item:

"405. Travel and transportation allowances: per diem while on duty outside the continental United States.".

SEC. 605. INCOME REPLACEMENT PAYMENTS FOR RESERVES EXPERIENCING EXTENDED AND FREQUENT MOBILIZATION FOR ACTIVE DUTY SERVICE.

(a) IN GENERAL.—(1) Chapter 19 of title 37, United States Code, is amended by adding at the end the following new section:

"§910. Replacement of lost income: involuntarily mobilized reserve component members subject to extended and frequent active duty service

"(a) PAYMENT REQUIRED.—The Secretary concerned shall pay to an eligible member of a reserve component of the armed forces an amount equal to the monthly active-duty income differential of the member, as determined by the Secretary. The payments shall be made on a monthly basis.

"(b) ELIGIBILITY.—Subject to subsection (c), a reserve component member is entitled to a payment under this section for any full month of active duty of the member, while on active duty under an involuntary mobilization order, following the date on which the member—

"(1) completes 12 continuous months of service on active duty under such an order;

"(2) completes 18 months on active duty during the previous 60 months under such an order; or

"(3) is involuntarily mobilized for service on active duty six months or less following the member's separation from the member's previous period of active duty.

"(c) MINIMUM AND MAXIMUM PAYMENT AMOUNTS.—(1) A payment under this section shall be made to a member for a month only if the amount of the monthly active-duty income differential for the month is greater than $50.

"(2) Notwithstanding the amount determined under subsection (d) for a member for a month, the monthly payment to a member under this section may not exceed $3,000.

"(d) MONTHLY ACTIVE-DUTY INCOME DIFFERENTIAL.—For purposes of this section, the monthly active-duty income differential of a member is the difference between—

"(1) the average monthly civilian income of the member; and

"(2) the member's total monthly military compensation.

"(e) DEFINITIONS.—In this section:

"(1) The term 'average monthly civilian income', with respect to a member of a reserve component, means the amount, determined by the Secretary concerned, of the earned income of the member for either the 12 months preceding the member's mobilization or the 12 months covered by the member's most recent Federal income tax filing, divided by 12.

"(2) The term 'total monthly military compensation' means the amount, computed on a monthly basis, of the sum of—

"(A) the amount of the regular military compensation (RMC) of the member; and

"(B) any amount of special pay or incentive pay and any allowance (other than an allowance included in regular military compensation) that is paid to the member on a monthly basis.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"910. Replacement of lost income: involuntarily mobilized reserve component members subject to extended and frequent active duty service.".

(b) EFFECTIVE DATE.—Section 910 of title 37, United States Code, as added by subsection (a), shall apply for months after December 2004.

SEC. 606. AUTHORITY FOR CERTAIN MEMBERS DEPLOYED IN COMBAT ZONES TO RECEIVE LIMITED ADVANCES ON THEIR FUTURE BASIC PAY.

(a) ADVANCEMENT OF BASIC PAY.—(1) Chapter 3 of title 37, United States Code, is amended by adding at the end the following new section:

"§212. Advancement of basic pay: members deployed in combat zones for more than one year

"(a) ELIGIBILITY; AMOUNT ADVANCED.—(1) If a member of the armed forces is assigned to duty in an area for which special pay under section 310 of this title is available and the assignment is pursuant to orders specifying an assignment of one year or more (or the assignment is otherwise extended beyond one year), the member may request, during the period of the assignment, the advanced payment of not more than three months of the basic pay of the member.

"(2) A request by a member described in paragraph (1) for the advanced payment of a single month of basic pay shall be granted. The Secretary concerned may grant a request for a second or third month of advanced basic pay during the assignment for the member upon a showing of financial hardship.

"(b) RECOUPMENT OF ADVANCED PAY.—The Secretary concerned shall recoup an advance made on the basic pay of a member under this section in equal installments over a one-year period beginning as provided in subsection (c). If the member is serving on active duty for any month during the recoupment period, the amount of the installment for the month shall be deducted from the basic pay of the member for that month. The estate of a deceased member shall not be required to repay an advance made to the member under this section.

"(c) COMMENCEMENT OF RECOUPMENT.—(1) Except as provided in paragraph (2), the recoupment of basic pay advanced to a member under this section shall commence beginning with the first month that begins after the end of the assignment of the member to duty in an area for which special pay under section 310 of this title is available

"(2) A member of a reserve component who receives an advancement of basic pay under this section shall commence repayment of the advance beginning with the first month that begins after the the advanced pay is received.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"212. Advancement of basic pay: members deployed in combat zones for more than one year.".

(b) EFFECTIVE DATE.—Section 212 of title 37, United States Code, as added by subsection (a), shall take effect October 1, 2004.

Subtitle B—Bonuses and Special and Incentive Pays

SEC. 611. ONE-YEAR EXTENSION OF BONUS AND SPECIAL PAY AUTHORITIES.

(a) NURSE OFFICER CANDIDATE ACCESSION PROGRAM.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking "December 31, 2004" and inserting "December 31, 2005".

(b) REPAYMENT OF EDUCATION LOANS FOR CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE.—Section 16302(d) of such title is amended by striking "January 1, 2005" and inserting "January 1, 2006".

(c) AVIATION OFFICER RETENTION BONUS.—Section 301b(a) of title 37, United States Code, is amended by striking "December 31, 2004" and inserting "December 31, 2005".

(d) ACCESSION BONUS FOR REGISTERED NURSES.—Section 302d(a)(1) of such title is amended by striking "December 31, 2004" and inserting "December 31, 2005".

(e) INCENTIVE SPECIAL PAY FOR NURSE ANESTHETISTS.—Section 302e(a)(1) of such title is

amended by striking "December 31, 2004" and inserting "December 31, 2005".

(f) ACCESSION BONUS FOR DENTAL OFFICERS.—Section 302h(a)(1) of such title is amended by striking "December 31, 2004" and inserting "December 31, 2005".

(g) ACCESSION BONUS FOR PHARMACY OFFICERS.—Section 302j(a) of such title is amended by striking "the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 and ending on September 30, 2004" and inserting "October 30, 2000, and ending on December 31, 2005".

(h) REENLISTMENT BONUS FOR ACTIVE AND RESERVE MEMBERS.—Section 308(g) of such title is amended by striking "December 31, 2004" and inserting "December 31, 2005".

(i) ENLISTMENT BONUS FOR ACTIVE AND RESERVE MEMBERS.—Section 309(e) of such title is amended by striking "December 31, 2004" and inserting "December 31, 2005".

(j) SPECIAL PAY FOR NUCLEAR-QUALIFIED OFFICERS EXTENDING PERIOD OF ACTIVE SERVICE.—Section 312(e) of such title is amended by striking "December 31, 2004" and inserting "December 31, 2005".

(k) NUCLEAR CAREER ACCESSION BONUS.—Section 312b(c) of such title is amended by striking "December 31, 2004" and inserting "December 31, 2005".

(l) NUCLEAR CAREER ANNUAL INCENTIVE BONUS.—Section 312c(d) of such title is amended by striking "December 31, 2004" and inserting "December 31, 2005".

(m) RETENTION BONUS FOR MEMBERS WHO HAVE CRITICAL MILITARY SKILLS OR MEET OTHER CRITERIA.—Section 323(i) of such title is amended by striking "December 31, 2004" and inserting "December 31, 2005".

(n) ACCESSION OR AFFILIATION BONUS FOR NEW OFFICERS IN CRITICAL SKILLS.—Section 324(g) of such title is amended by striking "December 31, 2004" and inserting "December 31, 2005".

SEC. 612. REDUCTION IN REQUIRED SERVICE COMMITMENT TO RECEIVE ACCESSION BONUS FOR REGISTERED NURSES.

(a) REDUCTION.—Section 302d(a)(1) of title 37, United States Code, is amended by striking "four years" and inserting "three years".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect October 1, 2004, and apply with respect to written agreements referred to in section 302d(a)(1) of title 37, United States Code, entered into on or after that date.

SEC. 613. INCREASE IN MAXIMUM MONTHLY RATE AUTHORIZED FOR HARDSHIP DUTY PAY.

(a) INCREASE.—Section 305(a) of title 37, United States Code, is amended by striking "$300" and inserting "$750".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect October 1, 2004.

SEC. 614. TERMINATION OF ASSIGNMENT INCENTIVE PAY FOR MEMBERS PLACED ON TERMINAL LEAVE.

(a) TERMINATION.—Subsection (e) of section 307a of title 37, United States Code, is amended to read as follows:

"(e) STATUS NOT AFFECTED BY TEMPORARY DUTY OR LEAVE.—The service of a member in an assignment referred to in subsection (a) shall not be considered discontinued during any period that the member is not performing service in the assignment by reason of—

"(1) the performance by the member of temporary duty pursuant to orders; or

"(2) the absence of the member for authorized leave, unless the member is placed on terminal leave and will not be returning to the assignment.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to agreements under section 307a(b) of title 37, United States Code, entered into on or after the date of the enactment of this Act.

SEC. 615. CONSOLIDATION OF REENLISTMENT AND ENLISTMENT BONUS AUTHORITIES FOR REGULAR AND RESERVE COMPONENTS.

(a) CONSOLIDATED REENLISTMENT BONUS AUTHORITY; ELIGIBILITY CRITERIA.—(1) Paragraph (1) of subsection (a) of section 308 of title 37, United States Code, is amended—

(A) by striking the matter preceding subparagraph (A) and inserting "The Secretary concerned may pay a bonus under paragraph (2) to a member of the armed forces serving in a regular component or reserve component of the armed force if the member—";

(B) by striking subparagraph (A) and inserting the following new subparagraph:

"(A) has completed at least 17 months of service in a regular or reserve component of the armed forces, but not more than 18 years of total military service;"; and

(C) by striking subparagraph (D) and all that follows through the period at the end of such paragraph and inserting the following:

"(D) reenlists or voluntarily extends the member's enlistment for a period of at least three years in a regular component or reserve component of the armed forces.".

(2) Paragraph (3) of such subsection is amended by striking "16 years" and inserting "20 years".

(3) Paragraph (5) of such subsection is amended to read as follows:

"(5) The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, may waive all or part of the eligibility requirements specified in paragraph (1) in time of war or national emergency.".

(4) Subsection (b) of such section is amended—

(A) by inserting "(1)" after "(b)"; and

(B) by adding at the end the following new paragraph:

"(2) Notwithstanding the schedule established for making partial bonus payments under paragraph (1), a member of a reserve component entitled to a bonus under this section who is called or ordered to active duty shall be paid, during that period of active duty, any amount of the bonus that becomes payable to the member during that period of active duty.".

(5) Subsection (g) of such section is amended by striking "an active-duty reenlistment" and inserting "a reenlistment".

(b) CONSOLIDATED ENLISTMENT BONUS AUTHORITY.—Section 309(a) of such title is amended—

(1) by striking the first sentence and inserting the following: "(1) The Secretary concerned may pay a bonus this section to a person who enlists in a regular component or reserve component of the armed forces for a period of at least two years."; and

(2) by inserting after the first sentence, as so amended, the following new paragraph:

"(2) The amount of a bonus under this section may not exceed $20,000.".

(c) REPEAL OF SEPARATE REENLISTMENT AND ENLISTMENT BONUS AUTHORITY FOR RESERVE COMPONENTS.—(1) Sections 308b, 308c, 308g, 308h, and 308i of such title are repealed.

(2) The table of sections at the beginning of chapter 5 of such title is amended by striking the items relating to sections 308b, 308c, 308h, and 308i.

(d) EFFECTIVE DATE.—(1) Except as provided by paragraphs (2) and (3), the amendments made by this section shall take effect October 1, 2004, and the amendments made by subsections (a) and (b) shall apply to reenlistments, the voluntary extension of enlistments, and enlistments referred to in section 308(a)(1) or 309(a) of title 37, United States Code, entered into on or after that date.

(2) The amendments made by subsection (c) shall take effect December 31, 2004, except that the repeal of section 308g of title 37, United States Code, shall take effect on the date of the enactment of this Act.

(3) In the case of a member of the Armed Forces who, on or before December 31, 2004, reenlisted, voluntarily extended the enlistment of the member, or enlisted in a reserve component of the Armed Forces, section 308b, 308c, 308h, or 308i of title 37, United States Code, whichever applies to the member, and as in effect on December 31, 2004, shall continue to apply with respect to the payment of a bonus under such section to the member.

(e) LIMITATION ON FISCAL YEAR 2005 OBLIGATIONS.—During fiscal year 2005, obligations incurred under sections 308 and 309 of title 37, United States Code, to provide reenlistment and enlistment bonuses to members of the uniformed services using the expanded authority provided by the amendments made by subsections (a) and (b) may not exceed $20,000,000. The bonus authority available under such sections shall not be considered to be an expanded authority to the extent that the authority was available under a provision of law specified in subsection (c), before the repeal of the provision by such subsection.

SEC. 616. REVISION OF AUTHORITY TO PROVIDE FOREIGN LANGUAGE PROFICIENCY PAY.

(a) IN GENERAL.—(1) Section 316 of title 37, United States Code, is amended to read as follows:

"§316. Special pay: bonus for members with foreign language proficiency

"(a) BONUS AUTHORIZED.—The Secretary concerned may pay an annual bonus under this section to a member of the uniformed services who—

"(1) is qualified in a uniformed services specialty requiring proficiency in a foreign language identified by the Secretary concerned as a foreign language in which it is necessary to have personnel proficient because of national defense or public health considerations;

"(2) received training, under regulations prescribed by the Secretary concerned, designed to develop a proficiency in such a foreign language;

"(3) is assigned to duties requiring a proficiency in such a foreign language; or

"(4) is proficient in a foreign language for which the uniformed service may have a critical need, as determined by the Secretary concerned.

"(b) CERTIFICATION OF PROFICIENCY.—Except as provided in subsection (e), for a member described in subsection (a) to be eligible to receive or retain a bonus under this section, the Secretary concerned shall certify the member as being proficient in the foreign language for which bonus is offered.

"(c) DURATION OF CERTIFICATION.—Except as provided in subsection (e), the certification of a member as being proficient in a foreign language for purposes of receipt of a bonus under this section shall expire at the end of the 12-month period beginning on the first day of the first month beginning on or after the certification date.

"(d) BONUS AMOUNT; PAYMENT METHOD.—The maximum amount of the bonus paid under this section to a member may not exceed $12,000 for the 12-month period covered by the certification of the member. The Secretary concerned may pay the bonus in a single lump sum at the beginning of the certification period or in installments.

"(e) CERTIFICATION INTERRUPTED BY CONTINGENCY OPERATION.—(1) The Secretary concerned may waive the certification requirement under subsection (b) and pay a bonus under this section to a member described in subsection (a) who

was previously certified in a foreign language, but whose certification expired under subsection (c), if—

"(A) the member is assigned to duty in connection with a contingency operation; and

"(B) the Secretary concerned determines that the member is unable to schedule or complete the certification required by subsection (b) because of that assignment.

"(2) For purposes of determining the amount of a bonus to be paid to a member under the authority of this subsection, the Secretary concerned shall treat the date on which the member was assigned to duty in connection with the contingency operation as equivalent to a certification date. In the case of a member whose certification expires during such duty assignment, the Secretary shall commence the next 12-month period effective as of the date on which the prior certification period expired.

"(3) A member who receives a bonus under the authority of this subsection shall complete the certification required by subsection (b) for the foreign language for which the bonus was paid not later than the end of the 180-day period beginning on the date on which the member is released from the assignment in connection with the contingency operation. The Secretary concerned may extend that period for a member in accordance with regulations prescribed under subsection (h). If the member fails to obtain the required certification before the end of the authorized period, the Secretary concerned may require the member to repay all or a portion of the bonus, in the manner provided in subsection (g).

"(f) Relationship to Other Pay or Allowance.—A bonus under this section is in addition to any other pay or allowance payable to a member under any other provision of law.

"(g) Repayment of Bonus.—(1) The Secretary concerned may require a member who receives a bonus under this section, but who does not satisfy an eligibility requirement specified in subsection (a) for the entire certification period, to repay to the United States an amount which bears the same ratio to the total amount of the bonus paid to the member as the unsatisfied portion of the certification period bears to the entire certification period.

"(2) An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States. A discharge in bankruptcy under title 11 that is entered for the member less than five years after the expiration of the certification period does not discharge the member from a debt arising under this paragraph. This paragraph applies to any case commenced under title 11 after the date of the enactment of this section.

"(h) Regulations.—This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under the jurisdiction of the Secretary, by the Secretary of Homeland Security for the Coast Guard when the Coast Guard is not operating as a service in the Navy, by the Secretary of Health and Human Services for the Commissioned Corps of the Public Health Service, and by the Secretary of Commerce for the National Oceanic and Atmospheric Administration.".

(2) The table of sections at the beginning of chapter 5 of such title is amended by striking the item relating to section 316 and inserting the following new item:

"316. Special pay: bonus for members with foreign language proficiency.".

(b) Conforming Amendments.—(1) Section 316a of title 37, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 5 of such title is amended by striking the item relating to section 316a.

SEC. 617. ELIGIBILITY OF RESERVE COMPONENT MEMBERS FOR CRITICAL SKILLS RETENTION BONUS AND EXPANSION OF AUTHORITY TO PROVIDE BONUS.

(a) Inclusion of Reserve Component Members.—Section 323 of title 37, United States Code, is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking "who is serving on active duty and" by inserting "who is serving on active duty in a regular component or in an active status in a reserve component and who"; and

(B) in paragraph (1), by inserting ", or remain in an active status in a reserve component," after "remain on active duty";

(2) in subsection (e)(2), by inserting "or service in a reserve component" after "period of active duty"; and

(3) in subsection (g), by striking "active duty" and inserting "service".

(b) Inclusion of Members Serving Pursuant to Indefinite Reenlistment.—Subsection (a) of such section is further amended—

(1) by striking "or" at the end of paragraph (1);

(2) in paragraph (2)—

(A) by inserting "other than an enlisted member referred to in paragraph (3)," after "enlisted member,"; and

(B) by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(3) in the case of an enlisted member serving pursuant to an indefinite reenlistment, the member executes a written agreement to remain on active duty, or remain in an active status in a reserve component, for a period of at least one year.".

(c) Additional Criteria for Bonus.—Such section is further amended—

(1) in subsection (a), by striking "designated critical military skill" and inserting "critical military skill designated under subsection (b) or satisfies such other criteria for the bonus established under such subsection";

(2) in subsection (b)—

(A) by striking "Designation of Critical Skills.—" and inserting "Basis for Bonus.—(1)"; and

(B) by adding at the end the following new paragraph:

"(2) The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, may establish such other criteria as the Secretary considers appropriate under which a retention bonus will be provided to an officer or enlisted member of the armed forces under subsection (a)."; and

(3) in subsection (h)(1), by striking "qualified in the critical military skills for which the bonuses were offered" and inserting "who were offered the bonuses".

(d) Repeal of Separate Special and Incentive Pay Authorities for Reserve Components.—(1) Sections 302g, 308d, and 308e of such title are repealed.

(2) In the case of a member of the Armed Forces who, on or before December 31, 2004, entered into a written agreement under section 302g or 308e of title 37, United States Code, such section 302g or 308e, whichever applies to the member, and as in effect on December 31, 2004, shall continue to apply after that date with respect to the payment of special pay under such section to the member during the term of the agreement.

(e) Clerical Amendments.—(1) The heading of section 323 of such title is amended to read as follows:

"§ 323 Special pay: retention incentives for members qualified in a critical military skill or who satisfy other eligibility criteria".

(2) The table of sections at the beginning of chapter 5 of such title is amended—

(A) by striking the items relating to sections 302g, 308d, and 308e; and

(B) by striking the item relating to section 323 and inserting the following new item:

"323. Special pay: retention incentives for members qualified in a critical military skill or who satisfy other eligibility criteria.".

(f) Effective Date.—(1) Except as provided by paragraph (2), the amendments made by this section shall take effect October 1, 2004, and the amendments made by subsections (a), (b), and (c) shall apply to agreements, reenlistments, and the voluntary extension of enlistments referred to in section 323(a) of title 37, United States Code, entered into on or after that date.

(2) The amendments made by subsections (d)(1) and (e)(2)(A) shall take effect December 31, 2004.

(g) Limitation on Fiscal Year 2005 Obligations.—During fiscal year 2005, obligations incurred under section 323 of title 37, United States Code, to provide retention bonuses to members of the uniformed services using the expanded authority provided by the amendments made by subsections (a), (b), and (c) may not exceed $10,000,000. The bonus authority available under such section shall not be considered to be an expanded authority to the extent that the authority was available under a provision of law specified in subsection (d), before the repeal of the provision by such subsection.

SEC. 618. ELIGIBILITY OF NEW RESERVE COMPONENT OFFICERS FOR ACCESSION OR AFFILIATION BONUS FOR OFFICERS IN CRITICAL SKILLS.

(a) Eligibility.—Subsection (a) of section 324 of title 37, United States Code, is amended to read as follows:

"(a) Bonus Authorized.—(1) The Secretary concerned may pay a bonus under this section—

"(A) to a person who executes a written agreement to accept a commission or an appointment as an officer of armed forces and serve on active duty in a designated critical officer skill or serve in a reserve component of an armed force in a designated critical officer skill; or

"(B) to an officer of an armed force, including a warrant officer, but excluding an officer who has previously served in the Selected Reserve or an officer who is entitled to retired pay, who executes a written agreement to serve in a reserve component of an armed force in a designated critical officer skill after being discharged or released from active duty under honorable conditions, once the officer affiliates with a unit or position in the reserve component.

"(2) The written agreement under paragraph (1) between the Secretary concerned and a person or officer shall specify the period during which the person or officer will be required to serve in a designated critical officer skill to maintain entitlement to the bonus payment.".

(b) Amount of Bonus.—Subsection (c) of such section is amended to read as follows:

"(c) Amount of Bonus.—The Secretary concerned shall determine the amount of a bonus to be paid under subsection (a), except that a person may not receive a total of more than $60,000 in payments under this section".

(c) Conforming Amendments.—Such section is further amended—

(1) in subsection (d), by striking "accession" both places it appears;

(2) in subsection (e)—

(A) in the subsection heading, by striking "ACCESSION"; and

(B) by striking "an accession bonus" and inserting "a bonus"; and

(3) in subsection (f), by striking "active duty" and "accession" each place it appears.

(d) CLERICAL AMENDMENTS.—(1) The heading of section 324 of such title is amended to read as follows:

"§324. Special pay: accession or affiliation bonus for officers in designated critical skills".

(2) The table of sections at the beginning of chapter 5 of such title is amended by striking the item relating to section 324 and inserting the following new item:

"324. Special pay: accession or affiliation bonus for officers in designated critical skills.".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect October 1, 2004, and apply to agreements referred to in section 324(a) of title 37, United States Code entered into on or after that date.

(f) LIMITATION ON FISCAL YEAR 2005 OBLIGATIONS.—During fiscal year 2005, obligations incurred under section 324 of title 37, United States Code, as amended by subsections (a) and (b), to provide accession and affilliation bonuses to members of the Armed Forces not previously eligible for such a bonus under such section may not exceed $5,000,000.

SEC. 619. ELIGIBILITY OF RESERVE COMPONENT MEMBERS FOR INCENTIVE BONUS FOR CONVERSION TO MILITARY OCCUPATIONAL SPECIALTY TO EASE PERSONNEL SHORTAGE.

(a) ELIGIBILITY.—Section 326 of title 37, United States Code, is amended—

(1) in subsection (a), by inserting "of a regular or reserve component" after "an eligible member";

(2) in subsection (b)—

(A) by striking "if—" and all that follows through "at the time" and inserting "if, at the time"; and

(B) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(3) in subsection (c)(2), by inserting "regular or reserve component of the" after "chief personnel officer of the".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect October 1, 2004, and apply to agreements referred to in section 326(a) of title 37, United States Code, entered into on or after that date.

(c) LIMITATION ON FISCAL YEAR 2005 OBLIGATIONS.—During fiscal year 2005, obligations incurred under section 326 of title 37, United States Code, as amended by subsection (a), to provide incentive bonuses to members of a reserve component of the Armed Forces may not exceed $3,000,000.

SEC. 620. AVAILABILITY OF HAZARDOUS DUTY INCENTIVE PAY FOR MILITARY FIREFIGHTERS.

(a) ADDITIONAL TYPE OF DUTY ENTITLED TO PAY.—Subsection (a) of section 301 of title 37, United States Code, is amended—

(1) by striking "or" at the end of paragraph (12);

(2) by redesignating paragraph (13) as paragraph (14); and

(3) by inserting after paragraph (12) the following new paragraph:

"(13) involving regular participating as a firefighting crew member, as determined by the Secretary concerned; or".".

(b) MONTHLY AMOUNT OF PAY.—Subsection (c) of such section is amended—

(1) in paragraph (1), by striking "(12)" and inserting "(13)"; and

(2) in paragraph (2)(A), by striking "(13)" and inserting "(14)".

(c) EFFECTIVE DATE.—The amendments made by subsection (a) and (b) shall take effect October 1, 2004.

Subtitle C—Travel and Transportation Allowances

SEC. 631. EXPANSION OF TRAVEL AND TRANSPORTATION ALLOWANCES TO ASSIST SURVIVORS OF A DECEASED MEMBER TO ATTEND BURIAL CEREMONY OF THE MEMBER.

(a) AUTHORIZED TRAVEL LOCATIONS.—Subsection (b) of section 411f of title 37, United States Code, is amended to read as follows:

"(b) AUTHORIZED LOCATIONS FOR TRAVEL; DURATION AND RATES.—(1) The allowances under subsection (a) may be provided for travel and transportation by eligible relatives of the deceased member to the place selected pursuant to section 1482(a)(8) of title 10 for disposition of the remains of the deceased member.

"(2) The allowances may not exceed the rates for two days and the time necessary for the travel.".

(b) ELIGIBLE RELATIVES.—Subsection (c)(1)(C) of such section is amended by striking "If no person described in subparagraph (A) or (B) is provided travel and transportation allowances under subsection (a)(1), the" and inserting "The".

(c) LIMITATION ON FISCAL YEAR 2005 OBLIGATIONS.—During fiscal year 2005, obligations incurred under section 411f of title 37, United States Code, as amended by subsections (a) and (b), to provide travel and transportation allowances, not previously available under such section, to survivors of deceased members of the uniformed services, and to provide such allowances to persons not previously eligible for such allowances, may not exceed $2,000,000.

SEC. 632. TRANSPORTATION OF FAMILY MEMBERS INCIDENT TO THE SERIOUS ILLNESS OR INJURY OF MEMBERS OF THE UNIFORMED SERVICES.

(a) REMOVAL OF LIMITATION ON NUMBER OF FAMILY MEMBERS.—Subsection (a)(1) of section 411h of title 37, United States Code, is amended by striking "not more than two family members" and inserting "a family member".

(b) FAMILY MEMBERS DESCRIBED.—Subsection (b)(1) of such section is amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(E) other persons approved by the Secretary concerned.".

(c) AVAILABILITY OF PER DIEM.—Such section is further amended—

(1) in subsection (a)(1), by inserting "travel and" before "transportation"; and

(2) in subsection (c)—

(A) by inserting "(1)" after "(c)" ; and

(B) by adding at the end the following new paragraph:

"(2) In addition to the transportation authorized by subsection (a), the Secretary concerned may provide a per diem allowance or reimbursement for the actual and necessary expenses of the travel, or a combination thereof, but not to exceed the rates established under section 404(d) of this title.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004, and apply to transportation described in section 411h of title 37, United States Code, provided on or after that date.

(e) LIMITATION ON FISCAL YEAR 2005 OBLIGATIONS.—During fiscal year 2005, obligations incurred under section 411h of title 37, United States Code, as amended by subsections (a) and (b), to provide travel and transportation allowances, not previously available under such section, to family members of seriously ill or injured members of the uniformed services, and to provide such allowances to persons not previously eligible for such allowances, may not exceed $3,000,000.

SEC. 633. REIMBURSEMENT OF MEMBERS FOR CERTAIN LODGING COSTS INCURRED IN CONNECTION WITH STUDENT DEPENDENT TRAVEL.

Section 430(b) of title 37, United States Code, is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) The transportation allowance paid to a member under paragraph (1) may include reimbursement, at a rate prescribed by the Secretaries concerned, for lodging costs incurred during the annual trip for which the allowance is paid when, for reasons beyond the control of the dependent child of the member, the child is required to procure accommodations while en route between the child's school and the member's duty station.".

Subtitle D—Retired Pay and Survivor Benefits

SEC. 641. COMPUTATION OF BENEFITS UNDER SURVIVOR BENEFIT PLAN FOR SURVIVING SPOUSES OVER AGE 62.

(a) PHASED INCREASE IN BASIC ANNUITY.—

(1) STANDARD ANNUITY.—

(A) INCREASE TO 55 PERCENT.—Clause (i) of subsection (a)(1)(B) of section 1451 of title 10, United States Code, is amended by striking "35 percent of the base amount." and inserting "the product of the base amount and the percent applicable to the month, as follows:

"(I) For a month before October 2005, the applicable percent is 35 percent.

"(II) For months after September 2005 and before April 2006, the applicable percent is 40 percent.

"(III) For months after March 2006 and before April 2007, the applicable percent is 45 percent.

"(IV) For months after March 2007 and before April 2008, the applicable percent is 50 percent.

"(V) For months after March 2008, the applicable percent is 55 percent.".

(B) COORDINATION WITH SAVINGS PROVISION UNDER PRIOR LAW.—Clause (ii) of such subsection is amended by striking ", at the time the beneficiary becomes entitled to the annuity,".

(2) RESERVE-COMPONENT ANNUITY.—Subsection (a)(2)(B)(i)(I) of such section is amended by striking "35 percent" and inserting "the percent specified under subsection (a)(1)(B)(i) as being applicable for the month".

(3) SURVIVORS OF ELIGIBLE PERSONS DYING ON ACTIVE DUTY, ETC.—

(A) INCREASE TO 55 PERCENT.—Clause (i) of subsection (c)(1)(B) of such section is amended—

(i) by striking "35 percent" and inserting "the applicable percent"; and

(ii) by adding at the end the following: "The percent applicable for a month under the preceding sentence is the percent specified under subsection (a)(1)(B)(i) as being applicable for that month.".

(B) COORDINATION WITH SAVINGS PROVISION UNDER PRIOR LAW.—Clause (ii) of such subsection is amended by striking ", at the time the beneficiary becomes entitled to the annuity,".

(4) CLERICAL AMENDMENT.—The heading for subsection (d)(2)(A) of such section is amended to read as follows: "COMPUTATION OF ANNUITY.—".

(b) CORRESPONDING PHASED ELIMINATION OF SUPPLEMENTAL ANNUITY.—

(1) PHASED REDUCTION OF SUPPLEMENTAL ANNUITY.—Section 1457(b) of title 10, United States Code, is amended—

(A) by striking "5, 10, 15, or 20 percent" and inserting "the applicable percent"; and

(B) by inserting after the first sentence the following: "The percent used for the computation shall be an even multiple of 5 percent and, whatever the percent specified in the election, may not exceed 20 percent for months before October 2005, 15 percent for months after September 2005 and before April 2006, 10 percent for

months after March 2006 and before April 2007, and 5 percent for months after March 2007 and before April 2008.''.

(2) REPEAL UPON IMPLEMENTATION OF 55 PERCENT SBP ANNUITY.—Effective on April 1, 2008, chapter 73 of such title is amended—

(A) by striking subchapter III; and

(B) by striking the item relating to subchapter III in the table of subchapters at the beginning of that chapter.

(c) RECOMPUTATION OF ANNUITIES.—

(1) PERIODIC RECOMPUTATION REQUIRED.—Effective on the first day of each month specified in paragraph (2)—

(A) each annuity under section 1450 of title 10, United States Code, that commenced before that month, is computed under a provision of section 1451 of that title amended by subsection (a), and is payable for that month shall be recomputed so as to be equal to the amount that would be in effect if the percent applicable for that month under that provision, as so amended, had been used for the initial computation of the annuity; and

(B) each supplemental survivor annuity under section 1457 of such title that commenced before that month and is payable for that month shall be recomputed so as to be equal to the amount that would be in effect if the percent applicable for that month under that section, as amended by this section, had been used for the initial computation of the supplemental survivor annuity.

(2) TIME FOR RECOMPUTATION.—The requirement under paragraph (1) for recomputation of certain annuities applies with respect to the following months:

(A) October 2005.

(B) April 2006.

(C) April 2007.

(D) April 2008.

(d) RECOMPUTATION OF RETIRED PAY REDUCTIONS FOR SUPPLEMENTAL SURVIVOR ANNUITIES.—The Secretary of Defense shall take such actions as are necessitated by the amendments made by subsection (b) and the requirements of subsection (c)(1)(B) to ensure that the reductions in retired pay under section 1460 of title 10, United States Code, are adjusted to achieve the objectives set forth in subsection (b) of that section.

SEC. 642. OPEN ENROLLMENT PERIOD FOR SURVIVOR BENEFIT PLAN COMMENCING OCTOBER 1, 2005.

(a) PERSONS NOT CURRENTLY PARTICIPATING IN SURVIVOR BENEFIT PLAN.—

(1) ELECTION OF SBP COVERAGE.—An eligible retired or former member may elect to participate in the Survivor Benefit Plan under subchapter II of chapter 73 of title 10, United States Code, during the open enrollment period specified in subsection (f).

(2) ELECTION OF SUPPLEMENTAL ANNUITY COVERAGE.—An eligible retired or former member who elects under paragraph (1) to participate in the Survivor Benefit Plan at the maximum level may also elect during the open enrollment period to participate in the Supplemental Survivor Benefit Plan established under subchapter III of chapter 73 of title 10, United States Code.

(3) ELIGIBLE RETIRED OR FORMER MEMBER.—For purposes of paragraphs (1) and (2), an eligible retired or former member is a member or former member of the uniformed services who on the day before the first day of the open enrollment period is not a participant in the Survivor Benefit Plan and—

(A) is entitled to retired pay; or

(B) would be entitled to retired pay under chapter 1223 of title 10, United States Code, but for the fact that such member or former member is under 60 years of age.

(4) STATUS UNDER SBP OF PERSONS MAKING ELECTIONS.—

(A) STANDARD ANNUITY.—A person making an election under paragraph (1) by reason of eligibility under paragraph (3)(A) shall be treated for all purposes as providing a standard annuity under the Survivor Benefit Plan.

(B) RESERVE-COMPONENT ANNUITY.—A person making an election under paragraph (1) by reason of eligibility under paragraph (3)(B) shall be treated for all purposes as providing a reserve-component annuity under the Survivor Benefit Plan.

(b) ELECTION TO INCREASE COVERAGE UNDER SBP.—A person who on the day before the first day of the open enrollment period is a participant in the Survivor Benefit Plan but is not participating at the maximum base amount or is providing coverage under the Plan for a dependent child and not for the person's spouse or former spouse may, during the open enrollment period, elect to—

(1) participate in the Plan at a higher base amount (not in excess of the participant's retired pay); or

(2) provide annuity coverage under the Plan for the person's spouse or former spouse at a base amount not less than the base amount provided for the dependent child.

(c) ELECTION FOR CURRENT SBP PARTICIPANTS TO PARTICIPATE IN SUPPLEMENTAL SBP.—

(1) ELECTION.—A person who is eligible to make an election under this paragraph may elect during the open enrollment period to participate in the Supplemental Survivor Benefit Plan established under subchapter III of chapter 73 of title 10, United States Code.

(2) PERSONS ELIGIBLE.—Except as provided in paragraph (3), a person is eligible to make an election under paragraph (1) if on the day before the first day of the open enrollment period the person is a participant in the Survivor Benefit Plan at the maximum level, or during the open enrollment period the person increases the level of such participation to the maximum level under subsection (b) of this section, and under that Plan is providing annuity coverage for the person's spouse or a former spouse.

(3) LIMITATION ON ELIGIBILITY FOR CERTAIN SBP PARTICIPANTS NOT AFFECTED BY TWO-TIER ANNUITY COMPUTATION.—A person is not eligible to make an election under paragraph (1) if (as determined by the Secretary concerned) the annuity of a spouse or former spouse beneficiary of that person under the Survivor Benefit Plan will be computed under section 1451(e) of title 10, United States Code. However, such a person may during the open enrollment period waive the right to have that annuity computed under such section. Any such election is irrevocable. A person making such a waiver may make an election under paragraph (1) as in the case of any other participant in the Survivor Benefit Plan.

(d) MANNER OF MAKING ELECTIONS.—An election under this section must be made in writing, signed by the person making the election, and received by the Secretary concerned before the end of the open enrollment period. Any such election shall be made subject to the same conditions, and with the same opportunities for designation of beneficiaries and specification of base amount, that apply under the Survivor Benefit Plan or the Supplemental Survivor Benefit Plan, as the case may be. A person making an election under subsection (a) to provide a reserve-component annuity shall make a designation described in section 1448(e) of title 10, United States Code.

(e) EFFECTIVE DATE FOR ELECTIONS.—Any such election shall be effective as of the first day of the first calendar month following the month in which the election is received by the Secretary concerned.

(f) OPEN ENROLLMENT PERIOD DEFINED.—The open enrollment period is the two-year period beginning on October 1, 2005.

(g) EFFECT OF DEATH OF PERSON MAKING ELECTION WITHIN TWO YEARS OF MAKING ELECTION.—If a person making an election under this section dies before the end of the two-year period beginning on the effective date of the election, the election is void and the amount of any reduction in retired pay of the person that is attributable to the election shall be paid in a lump sum to the person who would have been the deceased person's beneficiary under the voided election if the deceased person had died after the end of such two-year period.

(h) APPLICABILITY OF CERTAIN PROVISIONS OF LAW.—The provisions of sections 1449, 1453, and 1454 of title 10, United States Code, are applicable to a person making an election, and to an election, under this section in the same manner as if the election were made under the Survivor Benefit Plan or the Supplemental Survivor Benefit Plan, as the case may be.

(i) ADDITIONAL PREMIUM.—The Secretary of Defense may require that the premium for a person making an election under subsection (a)(1) or (b) include, in addition to the amount required under section 1452(a) of title 10, United States Code, an amount determined under regulations prescribed by the Secretary of Defense for the purposes of this subsection. Any such amount shall be stated as a percentage of the base amount of the person making the election and shall reflect the number of years that have elapsed since the person retired, but may not exceed 4.5 percent of that person's base amount.

(j) REPORT CONCERNING OPEN SEASON.—Not later than July 1, 2005, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the open season authorized by this section for the Survivor Benefit Plan. The report shall include the following:

(1) A description of the Secretary's plans for implementation of the open season.

(2) The Secretary's estimates of the costs associated with the open season, including any anticipated effect of the open season on the actuarial status of the Department of Defense Military Retirement Fund.

(3) Any recommendation by the Secretary for further legislative action.

SEC. 643. SOURCE OF FUNDS FOR SURVIVOR BENEFIT PLAN ANNUITIES FOR DEPARTMENT OF DEFENSE BENEFICIARIES OVER AGE 62.

(a) IN GENERAL.—Chapter 74 of title 10, United States Code, is amended as follows:

(1) Section 1465(b) of such title is amended by adding at the end the following new paragraph:

''(4) At the same time that the Secretary of Defense makes the determination required by paragraph (1) for any fiscal year, the Secretary shall determine the amount of the Treasury contribution to be made to the Fund for the next fiscal year under section 1466(b)(2)(E) of this title. That amount shall be determined in the same manner as the determination under paragraph (1) of the total amount of Department of Defense contributions to be made to the Fund during that fiscal year under section 1466(a) of this title, except that for purposes of this paragraph the Secretary, in making the calculations required by subparagraphs (A) and (B) of that paragraph, shall use the single level percentages determined under subsection (c)(5), rather than those determined under subsection (c)(1).''.

(4) Section 1465(c) of such title is amended—

(A) in paragraph (1)—

(i) in subparagraph (A), by inserting before the semicolon at the end the following: ''and as if benefits under subchpater II of chapter 73 of this title for beneficiaries 62 years of age and older were computed for any fiscal year on the basis of the percentage of 35 percent, rather than any percentage otherwise applicable for that computation for that fiscal year''; and

(ii) in subparagraph (B), by inserting before the period at the end the following: "and as if benefits under subchapter II of chapter 73 of this title for beneficiaries 62 years of age and older were computed for any fiscal year on the basis of the percentage of 35 percent, rather than any percentage otherwise applicable for that computation for that fiscal year";

(B) by redesignating paragraph (5) as paragraph (6); and

(C) by inserting after paragraph (4) the following new paragraph (5):

"(5) Whenever the Secretary carries out an actuarial valuation under paragraph (1), the Secretary shall include as part of such valuation the following:

"(A) A determination of a single level percentage determined in the same manner as applies under subparagraph (A) of paragraph (1), but determined as if benefits under subchapter II of chapter 73 of this title for beneficiaries 62 years of age and older were computed for any fiscal year on the basis of the percentage of 35 percent, rather than any percentage otherwise applicable for that computation for that fiscal year.

"(B) A determination of a single level percentage determined in the same manner as applies under subparagraph (B) of paragraph (1), but determined as if benefits under subchapter II of chapter 73 of this title for beneficiaries 62 years of age and older were computed for any fiscal year on the basis of the percentage of 35 percent, rather than any percentage otherwise applicable for that computation for that fiscal year.

Such single level percentages shall be used for the purposes of subsection (b)(4).".

(5) Section 1466(b) of such title is amended—

(A) in paragraph (1), by inserting "1465(b)(4)," after "1465(b)(3),"; and

(B) by adding at the end of paragraph (2) the following new subparagraph:

"(E) The amount for that year determined by the Secretary of Defense under section 1465(b)(4) of this title for the cost to the Fund arising from increased amounts payable from the Fund by reason of benefits under subchapter II of chapter 73 of this title for beneficiaries 62 years of age and older being computed for any fiscal year on the basis of the percentage greater than 35 percent.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as of October 1, 2004. If this Act is enacted after that date, the Secretary of Defense shall provide for such administrative adjustments as necessary to provide for payments made for any period during fiscal year 2005 before the date of the enactment of this Act to be treated as having been made in accordance with such amendments and for the provisions of those amendments to be implemented as if enacted as of September 30, 2004.

Subtitle E—Commissary and Nonappropriated Fund Instrumentality Benefits

SEC. 651. CONSOLIDATION AND REORGANIZATION OF LEGISLATIVE PROVISIONS REGARDING DEFENSE COMMISSARY SYSTEM AND EXCHANGES AND OTHER MORALE, WELFARE, AND RECREATION ACTIVITIES.

(a) PROVISIONS RELATED TO COMMISSARY STORES.—Chapter 147 of title 10, United States Code, is amended—

(1) by striking the table of sections at the beginning of the chapter and sections 2481, 2483, 2485, and 2487;

(2) by redesignating sections 2482, 2484, and 2486 as sections 2485, 2483 and 2484, respectively;

(3) by inserting after the chapter heading the following:

"Subchapter	Sec.
"I. Defense Commissary System	2481
"II. Relationship, Continuation, and Common Policies of Defense Commissary and Exchange Systems	2487
"III. Morale, Welfare, and Recreation Programs and Nonappropriated Fund Instrumentalities	2491

"SUBCHAPTER I—DEFENSE COMMISSARY SYSTEM

"Sec.
"2481. Existence and purpose of defense commissary system.
"2482. Commissary stores: criteria for establishment or closure; store size.
"2483. Commissary stores: use of appropriated funds to cover operating expenses.
"2484. Commissary stores: merchandise that may be sold; uniform surcharges and pricing.
"2485. Commissary stores: operation.

"§2481. Existence and purpose of defense commissary system

"(a) EXISTENCE OF SYSTEM.—The Secretary of the Defense shall operate, using funds appropriated to the Department of Defense, a worldwide system of commissary stores that sell, at reduced prices, food and other merchandise consistent with societal norms for product selection in commercial large-scale grocery stores in the United States to members of the uniformed services on active duty, members of the uniformed services entitled to retired pay, dependents of such members, and patrons authorized to use the system under chapter 54 of this title.

"(b) PURPOSE OF SYSTEM.—The purpose of the defense commissary system is to enhance the quality of life of members of the uniformed services, retired members, dependents of such members, and other authorized patrons and to provide such members with an additional nonmonetary compensation in recognition of their service to the United States.

"(c) REDUCED PRICES DEFINED.—In this section, the term 'reduced prices' means prices for food and other merchandise determined using the price setting process specified in section 2484 of this title.

"§2482. Commissary stores: criteria for establishment or closure; store size

"(a) PRIMARY CONSIDERATION FOR ESTABLISHMENT.—The needs of members of the uniformed services on active duty and their dependents shall be the primary consideration whenever the Secretary of Defense—

"(1) assesses the need to establish a commissary store; and

"(2) selects the actual location for the store.

"(b) STORE SIZE.—In determining the size of a commissary store, the Secretary of Defense shall take into consideration the number of all authorized patrons of the defense commissary system who are likely to use the store.

"(c) CLOSURE CONSIDERATIONS.—(1) Whenever assessing whether to close a commissary store, the effect of the closure on the quality of life of members of the uniformed services and their dependents using the store and on the welfare and security of the military community in which the commissary is located shall be the primary consideration. In all cases, the quality of life for military patrons shall take priority over any consideration of economic criteria relative to store financial performance.

"(2) The Secretary of Defense shall give the quality of life for members of a reserve component the same priority as the quality of life for active duty members whenever assessing whether to close a commissary store, including when the assessment is undertaken as a result of the closure or realignment of a military installation under a base closure law.

"(d) CONGRESSIONAL NOTIFICATION.—The closure of a commissary store shall not take effect until the end of the 90-day period beginning on the date on which the Secretary of Defense submits to Congress written notice of the reasons supporting the closure. The written notice shall include an assessment of the impact closure will have on the quality of life for military patrons and the welfare and security of the military community in which the commissary is located.";

(4) by inserting sections 2483 and 2484, as redesignated by paragraph (2), after section 2482, as added by paragraph (3);

(5) in section 2484, as redesignated by paragraph (2)—

(A) by striking subsections (a), (b), (c), and (g);

(B) by redesignating subsections (d), (e), and (f) as subsections (f), (g), and (h), respectively;

(C) by inserting before subsection (f), as so redesignated, the following new subsections:

"(a) IN GENERAL.—As provided in section 2481(a) of this title, commissary stores are intended to be similar to commercial grocery stores and may sell merchandise similar to that sold in commercial grocery stores. The Secretary of Defense shall ensure that the design and format of commissary stores are consistent with modern grocery store stockage and format.

"(b) REQUIRED COMMISSARY MERCHANDISE CATEGORIES.—Merchandise sold in, at, or by commissary stores shall include items in the following categories:

"(1) Meat, poultry, and seafood.

"(2) Nonalcoholic beverages.

"(3) Produce.

"(4) Grocery food, whether stored chilled, frozen, or at room temperature.

"(5) Dairy products.

"(6) Bakery and delicatessen items.

"(7) Nonfood grocery items.

"(8) Health and beauty aids.

"(9) Magazines and periodicals.

"(10) Telephone cards, greeting cards, and film and one-time use cameras.

"(c) INCLUSION OF GENERAL MERCHANDISE ITEMS.—(1) Among the various defense retail systems—

"(A) commissary stores shall be the primary Department of Defense-operated store for the sale of items described in paragraphs (1) through (7) of subsection (b); and

"(B) exchange stores shall continue to maintain the exclusive right to operate convenience stores, shopettes, and troop stores, including such stores established to support contingency operations.

"(2) Merchandise sold in commissary stores may include such general merchandise items as the Secretary of Defense may prescribe, except that the Secretary may not exclude seasonal items, tobacco products, pet supplies, batteries, potted plants and floral bouquets, women's hosiery, and school supplies, to the extent such products have been available in commissary stores before June 1, 2004, unless the Secretary determines that space or other considerations preclude the sale of all or some of the specified items. The Secretary shall provide notice to Congress of any reduction in the availability of such items at least 30 days before the reduction takes effect.

"(3) A military exchange may be considered as the vendor for the purchase of tobacco products, greeting cards, and film and one-time use cameras and shall serve as the vendor for telephone cards. Subsections (e) and (f) shall not apply to the pricing of such an item when a military exchange serves as the vendor of the item. Commissary store and exchange prices shall be comparable for such an item.

"(4) During the two-year period ending March 31, 2007, the Secretary shall maintain sales data for commissary stores and exchange stores regarding the items identified in subsection (b)(10). Not later than August 1, 2007, the Secretary shall submit to Congress a report containing such sales data.

"(d) EXCLUDED GOODS OR SERVICES.—Commissary stores shall not offer film development services.

"(e) UNIFORM SALES PRICE SURCHARGE.—The Secretary of Defense shall apply a uniform surcharge equal to not more than five percent on the sales prices established under subsection (f) for each item of merchandise sold in, at, or by commissary stores.";

(D) in subsection (f), as so redesignated, by striking "(consistent with this section and section 2685 of this title)" in paragraph (1);

(E) in subsection (h), as so redesignated, by striking "Subsections (c) and (d)" and inserting "Subsections (e) and (f)"; and

(F) by adding at the end the following new subsection:

"(i) USE OF SURCHARGE FOR CONSTRUCTION, REPAIR, IMPROVEMENT, AND MAINTENANCE.—(1)(A) The Secretary of Defense may use the proceeds from the surcharges imposed under subsection (e) only—

"(i) to acquire (including acquisition by lease), construct, convert, expand, improve, repair, maintain, and equip the physical infrastructure of commissary stores and central product processing facilities of the defense commissary system; and

"(ii) to cover environmental evaluation and construction costs related to activities described in clause (i), including costs for surveys, administration, overhead, planning, and design.

"(B) In subparagraph (A), the term 'physical infrastructure' includes real property, utilities, and equipment (installed and free standing and including computer equipment), necessary to provide a complete and usable commissary store or central product processing facility.

"(2)(A) The Secretary of Defense may authorize a nonappropriated fund instrumentality of the United States to enter into a contract for construction of a shopping mall or similar facility for a commissary store and one or more nonappropriated fund instrumentality activities. The Secretary may use the proceeds of surcharges under subsection (e) to reimburse the nonappropriated fund instrumentality for the portion of the cost of the contract that is attributable to construction of the commissary store or to pay the contractor directly for that portion of such cost.

"(B) In subparagraph (A), the term 'construction', with respect to a facility, includes acquisition, conversion, expansion, installation, or other improvement of the facility.

"(3) The Secretary of Defense, with the approval of the Director of the Office of Management and Budget, may obligate anticipated proceeds from the surcharges under subsection (e) for any use specified in paragraph (1) or (2), without regard to fiscal year limitations, if the Secretary determines that such obligation is necessary to carry out any use of such adjustments or surcharges specified in such paragraph.

"(4) Revenues received by the Secretary of Defense from the following sources or activities of commissary store facilities shall be available for the purposes set forth in paragraphs (1), (2), and (3):

"(A) Sale of recyclable materials.

"(B) Sale of excess and surplus property.

"(C) License fees.

"(D) Royalties.

"(E) Fees paid by sources of products in order to obtain favorable display of the products for resale, known as business related management fees.";

(6) by inserting section 2485, as redesignated by paragraph (2), after section 2484, as amended by paragraph (5); and

(7) in section 2485, as redesignated by paragraph (2)—

(A) in subsection (a)(2), by adding at the end the following new sentence: "Until December 31, 2009, the Defense Commissary Agency is not required to conduct any cost-comparison study under the policies and procedures of Office of Management and Budget Circular A-76 relating to the possible contracting out of commissary store functions.";

(B) in subsection (b)(2), by striking "section 2484" and inserting "section 2483";

(C) in subsection (c)(2), by adding at the end the following new sentences: "The chairman of the governing board shall be a commissioned officer or member of the senior executive service who has demonstrated experience or knowledge relevant to the management of the defense commissary system. In selecting other members of the governing board, the Secretary shall give priority to persons with experience related to logistics, military personnel, military entitlements or other experiences of value of management of commissaries."; and

(D) by adding at the end the following new subsections:

"(d) ASSIGNMENT OF ACTIVE DUTY MEMBERS.—(1) Except as provided in paragraph (2), members of the armed forces on active duty may not be assigned to the operation of a commissary store.

"(2)(A) The Secretary of Defense may assign an officer on the active-duty list to serve as the Director of the Defense Commissary Agency.

"(B) Not more than 18 members (in addition to the officer referred to in subparagraph (A)) of the armed forces on active duty may be assigned to the Defense Commissary Agency. Members who may be assigned under this subparagraph to regional headquarters of the agency shall be limited to enlisted members assigned to duty as advisers in the regional headquarters responsible for overseas commissaries and to veterinary specialists.

"(e) REIMBURSEMENT FOR USE OF COMMISSARY FACILITIES BY MILITARY DEPARTMENTS.—(1) The Secretary of a military department shall pay the Defense Commissary Agency the amount determined under paragraph (2) for any use of a commissary facility by the military department for a purpose other than commissary sales or operations in support of commissary sales.

"(2) The amount payable under paragraph (1) for use of a commissary facility by a military department shall be equal to the share of depreciation of the facility that is attributable to that use, as determined under regulations prescribed by the Secretary of Defense.

"(3) The Director of the Defense Commissary Agency shall credit amounts paid under paragraph (1) for use of a facility to an appropriate account to which proceeds of a surcharge applied under section 2484(e) of this title are credited.

"(4) This subsection applies with respect to a commissary facility that is acquired, constructed, converted, expanded, installed, or otherwise improved (in whole or in part) with the proceeds of a surcharge applied under section 2484(e) of this title.

"(f) DONATION OF UNUSABLE FOOD.—(1) The Secretary of Defense may donate food described in paragraph (2) to any of the following entities:

"(A) A charitable nonprofit food bank that is designated by the Secretary of Defense or the Secretary of Health and Human Services as authorized to receive such donations.

"(B) A State or local agency that is designated by the Secretary of Defense or the Secretary of Health and Human Services as authorized to receive such donations.

"(C) A chapter or other local unit of a recognized national veterans organization that provides services to persons without adequate shelter and is designated by the Secretary of Veterans Affairs as authorized to receive such donations.

"(D) A not-for-profit organization that provides care for homeless veterans and is designated by the Secretary of Veterans Affairs as authorized to receive such donations.

"(2) Food that may be donated under this subsection is commissary store food, mess food, meals ready-to-eat (MREs), rations known as humanitarian daily rations (HDRs), and other food available to the Secretary of Defense that—

"(A) is certified as edible by appropriate food inspection technicians;

"(B) would otherwise be destroyed as unusable; and

"(C) in the case of commissary store food, is unmarketable and unsaleable.

"(3) In the case of commissary store food, a donation under this subsection shall take place at the site of the commissary store that is donating the food.

"(4) This subsection does not authorize any service (including transportation) to be provided in connection with a donation under this subsection.

"(g) COLLECTION OF DISHONORED CHECKS.—(1) The Secretary of Defense may impose a charge for the collection of a check accepted at a commissary store that is not honored by the financial institution on which the check is drawn. The imposition and amounts of charges shall be consistent with practices of commercial grocery stores regarding dishonored checks.

"(2)(A) The following persons are liable to the United States for the amount of a check referred to in paragraph (1) that is returned unpaid to the United States, together with any charge imposed under that paragraph:

"(i) The person who presented the check.

"(ii) Any person whose status and relationship to the person who presented the check provide the basis for that person's eligibility to make purchases at a commissary store.

"(B) Any amount for which a person is liable under subparagraph (A) may be collected by deducting and withholding such amount from any amounts payable to that person by the United States.

"(3) Amounts collected as charges imposed under paragraph (1) shall be credited to the commissary trust revolving fund.

"(4) Appropriated funds may be used to pay any costs incurred in the collection of checks and charges referred to in paragraph (1). An appropriation account charged a cost under the preceding sentence shall be reimbursed the amount of that cost out of funds in the commissary trust revolving fund.

"(5) In this subsection, the term 'commissary trust revolving fund' means the trust revolving fund maintained by the Department of Defense for surcharge collections and proceeds of sales of commissary stores.

"(h) RELEASE OF CERTAIN COMMERCIALLY VALUABLE INFORMATION TO PUBLIC.—(1) The Secretary of Defense may limit the release to the public of any information described in paragraph (2) if the Secretary determines that it is in the best interest of the Department of Defense to limit the release of such information. If the Secretary determines to limit the release of any such information, the Secretary may provide for limited release of such information in accordance with paragraph (3).

"(2) Paragraph (1) applies to the following:

"(A) Information contained in the computerized business systems of commissary stores or the Defense Commissary Agency that is collected through or in connection with the use of electronic scanners in commissary stores, including the following information:

"(i) Data relating to sales of goods or services.

"(ii) Demographic information on customers.

"(iii) Any other information pertaining to commissary transactions and operations.

"(B) Business programs, systems, and applications (including software) relating to commissary operations that were developed with funding derived from commissary surcharges.

"(3)(A) The Secretary of Defense may, using competitive procedures, enter into a contract to sell information described in paragraph (2).

"(B) The Secretary of Defense may release, without charge, information on an item sold in commissary stores to the manufacturer or producer of that item or an agent of the manufacturer or producer.

"(C) The Secretary of Defense may, by contract entered into with a business, grant to the business a license to use business programs referred to in paragraph (2)(B), including software used in or comprising any such program. The fee charged for the license shall be based on the costs of similar programs developed and marketed by businesses in the private sector, determined by means of surveys.

"(D) Each contract entered into under this paragraph shall specify the amount to be paid for information released or a license granted under the contract, as the case may be.

"(4) Information described in paragraph (2) may not be released, under paragraph (3) or otherwise, in a form that identifies any customer or that provides information making it possible to identify any customer.

"(5) Amounts received by the Secretary under this section shall be credited to funds derived from commissary surcharges applied under section 2484(e) of this title, shall be merged with those funds, and shall be available for the same purposes as the funds with which merged.".

(b) RELATION BETWEEN DEFENSE COMMISSARY AND EXCHANGE SYSTEMS.—Chapter 147 of title 10, United States Code, is further amended—

(1) by inserting after section 2485, as amended by subsection (a)(7), the following:

"SUBCHAPTER II—RELATIONSHIP, CONTINUATION, AND COMMON POLICIES OF DEFENSE COMMISSARY AND EXCHANGE SYSTEMS

"Sec.
"2487. Existence and purpose of defense commissary system.
"2488. Combined exchange and commissary stores.
"2489. Overseas commissary and exchange stores: access and purchase restrictions.

"§2487. Relationship between defense commissary system and exchange stores system

"(a) SEPARATE SYSTEMS.—(1) Except as provided in paragraph (2), the defense commissary system and the exchange stores system shall be operated as separate systems of the Department of Defense.

"(2) Paragraph (1) does not apply to the following:

"(A) Combined exchange and commissary stores operated under the authority provided by section 2489 of this title.

"(B) NEXMART stores of the Navy Exchange Service Command established before October 1, 2003.

"(b) CONSOLIDATION OR OTHER ORGANIZATIONAL CHANGES OF DEFENSE RETAIL SYSTEMS.—(1) The operation and administration of the defense retail systems may not be consolidated or otherwise merged unless the consolidation or merger is specifically authorized by an Act of Congress.

"(2) In this subsection, the term 'defense retail systems' means the defense commissary system and exchange stores system and other revenue-generating facilities operated by nonappropriated fund instrumentalities of the Department of Defense for the morale, welfare, and recreation of members of the armed forces";

(2) by redesignating sections 2488, 2489, 2489a as sections 2495, 2495a, and 2495b, respectively; and

(3) by redesignating sections 2490a and 2492 as sections 2488 and 2489, respectively, and inserting such sections after section 2487, as added by paragraph (1).

(c) MWR PROGRAMS AND NONAPPROPRIATED FUND INSTRUMENTALITIES.—Chapter 147 of title 10, United States Code, is further amended—

(1) by inserting after section 2489, as redesignated and moved by subsection (b)(3), the following:

"SUBCHAPTER III—MORALE, WELFARE, AND RECREATION PROGRAMS AND NONAPPROPRIATED FUND INSTRUMENTALITIES

"Sec.
"2491. Uniform funding and management of morale, welfare, and recreation programs.
"2491a. Department of Defense golf courses: limitation on use of appropriated funds.
"2491b. Use of appropriated funds for operation of Armed Forces Recreation Center, Europe: limitation.
"2491c. Retention of morale, welfare, and recreation funds by military installations: limitation.
"2492. Nonappropriated fund instrumentalities: contracts with other agencies and instrumentalities to provide and obtain goods and services.
"2493. Fisher Houses: administration as nonappropriated fund instrumentality.
"2494. Nonappropriated fund instrumentalities: furnishing utility services for morale, welfare, and recreation purposes.
"2495. Nonappropriated fund instrumentalities: purchase of alcoholic beverages.
"2495a. Overseas package stores: treatment of United States wines.
"2495b. Sale or rental of sexually explicit material prohibited.";

(2) by redesignating section 2494 as section 2491 and inserting such section after the table of sections at the beginning of subchapter III, as added by paragraph (1);

(3) by redesignating section 2482a as section 2492 and inserting such section before section 2493;

(4) by inserting after section 2493 the following new section:

"§2494. Nonappropriated fund instrumentalities: furnishing utility services for morale, welfare, and recreation purposes

"Appropriations for the Department of Defense may be used to provide utility services for—

"(1) buildings on military installations authorized by regulation to be used for morale, welfare, and recreation purposes; and

"(2) other morale, welfare, and recreation activities for members of the armed forces."; and

(5) by inserting sections 2495, 2495a, and 2495b, as redesignated by subsection (b)(2), after section 2494, as added by paragraph (4).

(d) INCLUSION OF OTHER TITLE 10 PROVISIONS.—Sections 2246, 2247, and 2219 of title 10, United States Code, are—

(1) transferred to chapter 147 of such title;

(2) inserted after section 2491, as redesignated and moved by subsection (c)(2); and

(3) redesignated as sections 2491a, 2491b, and 2491c, respectively.

(e) CONFORMING AMENDMENTS.—(1) Section 977 of title 10, United States Code, is repealed.

(2) Section 2868 of such title is amended by striking "for—" and all that follows through the period at the end and inserting "for buildings constructed at private cost, as authorized by law.".

(3) Section 367 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 1987; 10 U.S.C. 2482 note) is repealed.

(f) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of chapter 49 of title 10, United States Code, is amended by striking the item relating to section 977.

(2) The table of sections at the beginning of chapter 132 of such title is amended by striking the item relating to section 2219.

(3) The table of sections at the beginning of subchapter I of chapter 134 of such title is amended by striking the items relating to sections 2246 and 2247.

SEC. 652. CONSISTENT STATE TREATMENT OF DEPARTMENT OF DEFENSE NONAPPROPRIATED FUND HEALTH BENEFITS PROGRAM.

Section 349 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2727) is amended by adding at the end the following new subsection:

"(c) TREATMENT OF PROGRAM AS FEDERAL HEALTH BENEFIT PROGRAM.—(1) No State tax, fee, other monetary payment, or State health plan requirement, may be imposed, directly or indirectly, on the Nonappropriated Fund Uniform Health Benefits Program of the Department of Defense, or on a carrier or an underwriting or plan administration contractor of the Program, to the same extent as such prohibition applies to the health insurance program authorized by chapter 89 of title 5, United States Code, under section 8909(f) of such title.

"(2) Paragraph (1) shall not be construed to exempt the Nonappropriated Fund Uniform Health Benefits Program of the Department of Defense, or any carrier or underwriting or plan administration contractor of the Program from the imposition, payment, or collection of a tax, fee, or other monetary payment on the net income or profit accruing to, or realized by, the Program or by such carrier or contractor from business conducted under the Program, so long as the tax, fee, or payment is applicable to a broad range of business activity.

"(3) In this section, the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and any political subdivision or other non-Federal authority thereof.".

SEC. 653. COOPERATION AND ASSISTANCE FOR QUALIFIED SCOUTING ORGANIZATIONS SERVING DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND CIVILIAN EMPLOYEES OVERSEAS.

(a) AUTHORITY TO COOPERATE AND PROVIDE ASSISTANCE.—Subsection (a) of section 2606 of title 10, United States Code, is amended—

(1) in subsection (a), by striking "Subject to subsection (b)" and inserting "In the interest of promoting the recognized morale, welfare, and recreation of members of the armed forces"; and

(2) in subsection (b), by striking "and may" and all that follows through "armed forces".

(b) TREATMENT OF ORGANIZATIONS AND EMPLOYEES.—Such section is further amended—

(1) by striking subsections (e) and (f);

(2) by redesignating subsections (c) and (d) as subsections (e) and (f), respectively; and

(3) by inserting after subsection (b) the following new subsections:

"(c) TREATMENT AS NONAPPROPRIATED FUND INSTRUMENTALITIES.—(1) Subject to paragraphs (2) and (3), to the extent a qualified scouting organization is providing services for members of the armed forces and their dependents, or civilian employees of the Department of Defense and their dependents, at a location outside the United States consistent with the regulations prescribed under subsection (b), the qualified scouting organization shall be a nonappropriated fund instrumentality of the Department of Defense.

"(2) Notwithstanding treatment as a nonappropriated fund instrumentality of the Department of Defense, personnel of the qualified scouting organization who are performing duties in connection with cooperation and assistance *provided under subsection (a) may continue such policies and procedures related to personnel management and such other policies or procedures established by the qualified scouting organization as the personnel consider appropriate, subject to the approval of the qualified scouting organization.*

"(3) A qualified scouting organization operating outside the United States may operate as a private association overseas for the purpose of raising funds. Any funds so raised may not be commingled with amounts retained in a nonappropriated morale, welfare, and recreation account of the Department of Defense.

"(d) Treatment as Nonappropriated Fund Instrumentality Employees.—(1) Personnel of a qualified scouting organization who are performing duties in connection with cooperation and assistance provided under subsection (a) for members of the armed forces and their dependents, or civilian employees of the Department of Defense and their dependents, shall be nonappropriated fund instrumentality employees of the United States for any period during which the personnel perform such duties.

"(2) Such personnel of a qualified scouting organization shall receive the same benefits, entitlements, and logistical support as other nonappropriated fund instrumentality employees, except that such personnel—

"(A) shall be allowed to decline to participate in retirement programs or other personnel management policies or procedures available to other nonappropriated fund instrumentality employees and elect to continue the programs, policies or procedures made available by the qualified scouting organization; and

"(B) shall not receive nonappropriated fund instrumentality employment credit nor rehire priority.

"(3) In the regulations prescribed under subsection (b), the Secretary of Defense may authorize the use of funds appropriated to the Department of Defense to pay costs of such personnel of a qualified scouting organization, including reimbursement of the personnel or the qualified scouting organization, in the case of those retirement, personnel management, and other compensation programs regarding which the personnel have elected to continue the programs made available to them by the qualified scouting organization.".

(c) Conforming and Clerical Amendments.—Such section is further amended—

(1) in subsection (a), by inserting "Authority to Cooperate and Provide Assistance.—" after "(a)";

(2) in subsection (c), by inserting "Basis for Cooperation and Assistance.—";

(3) in subsection (e), as redesignated by subsection (b)(2)—

(A) by inserting "Provision of Transportation, Space, and Services.—" after "(e)"; and

(B) in the matter preceding paragraph (1), by inserting ", using the authority of subsection (d)(3)" after "furnished";

(4) in subsection (f), as redesignated by subsection (b)(2), by inserting "Transportation of Supplies.—" after "(f)"; and

(5) in subsection (g), by inserting "Definition.—" after "(g)".

Subtitle F—Other Matters

SEC. 661. REPEAL OF REQUIREMENT THAT MEMBERS ENTITLED TO BASIC ALLOWANCE FOR SUBSISTENCE PAY SUBSISTENCE CHARGES WHILE HOSPITALIZED.

(a) Repeal.—(1) Section 1075 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 55 of such title is amended by striking the item relating to section 1075.

(b) Conforming Amendment Regarding Military-Civilian Health Services Partnership Program.—Section 1096(c) of such title is amended—

(1) by inserting "who is a dependent" after "covered beneficiary"; and

(2) by striking "shall pay" and all that follows through the period at the end of paragraph (2) and inserting "shall pay the charges prescribed by section 1078 of this title.".

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 662. CLARIFICATION OF EDUCATION LOANS QUALIFYING FOR EDUCATION LOAN REPAYMENT PROGRAM FOR RESERVE COMPONENT HEALTH PROFESSIONS OFFICERS.

Section 16302(a)(5) of title 10, United States Code, is amended by inserting "a basic professional qualifying degree (as determined under regulations prescribed by the Secretary of Defense) or graduate education in" after "regarding".

SEC. 663. SURVEY AND ANALYSIS OF EFFECT OF EXTENDED AND FREQUENT MOBILIZATION OF RESERVISTS FOR ACTIVE DUTY SERVICE ON RESERVIST INCOME.

(a) Survey of Mobilized Reservists to Determine Differential Between Private Sector Income and Military Compensation.—(1) The Secretary of Defense shall conduct a survey involving members of the reserve components who serve, or have served, on active duty in support of a contingency operation at any time during the period beginning on September 11, 2001, and ending on September 30, 2005, to determine the extent to which such members sustained a reduction in monthly income during the period of the active duty service compared to the average monthly civilian income of the members during the 12 months preceding their mobilization.

(2) At least 50 percent of the total number of members of the reserve components who have served on active duty in support of a contingency operation at any time during the period specified in paragraph (1) shall be included in the survey.

(b) Calculation of Income Differential.—For each member surveyed under subsection (a) who reports that total monthly military compensation during the active duty service of the member was less, or appeared to be less, than the average monthly civilian income of the member, the Secretary of Defense, in cooperation with the member, shall calculate the monthly active-duty income differential for the member.

(c) Definitions Used in Conducting Survey and Calculations.—In this section:

(1) The term "monthly active-duty income differential", with respect to a member of a reserve component surveyed under subsection (a), means the difference between—

(A) the average monthly civilian income of the member; and

(B) the total monthly military compensation of the member.

(2) The term "average monthly civilian income", with respect to a member of a reserve component surveyed under subsection (a), means the amount, determined by the Secretary of Defense, of the earned income of the member for the 12 months preceding the first mobilization of the member during the period specified in subsection (a)(1), divided by 12.

(3) The term "total monthly military compensation", with respect to a member of a reserve component surveyed under subsection (a), means the amount, computed on a monthly basis, of the sum of—

(A) the amount of the regular military compensation (RMC), as defined in section 101(25) of title 37, United States Code, of the member during the period specified in subsection (a)(1); and

(B) any amount of special pay or incentive pay and any allowance (other than an allowance included in regular military compensation) that is paid to the member on a monthly basis during the period specified in subsection (a)(1).

(d) Collection of Demographic Data.—The Secretary of Defense shall collect demographic data regarding each member of a reserve component surveyed under subsection (a), including, at a minimum, data on the following:

(1) Reserve component.

(2) Unit of assignment.

(3) Grade.

(4) Age.

(5) Years of service.

(6) Sex.

(7) Marital status.

(8) Number of dependents.

(9) General category of private-sector employment, as determined by the Secretary, but to include an employment category to cover members who are self-employed.

(10) Military occupational specialty, including specifying all surveyed members who are serving in a critical wartime specialty.

(11) Length of service on active duty during the most recent mobilization.

(12) Number of times mobilized since September 11, 2001.

(e) Effect of Income Loss on Retention.—The Secretary of Defense shall include in the survey a question to solicit information from each member of a reserve component surveyed under subsection (a) regarding the likely effect of a reoccurring monthly active-duty income differential for the member while serving on active duty on the decision of the member to remain in the reserve component.

(f) Analysis of Survey Data.—(1) At a minimum, the Secretary of Defense shall determine, for each variable listed in paragraphs (2) through (12) of subsection (d), the number of members of the reserve components surveyed under subsection (a) who sustained a monthly active-duty income differential for any month during their active duty service and compare and contrast that number with the number of members who did not experience a monthly active-duty income differential.

(2) The Secretary shall also determine the average amount of the active-duty income differential by reserve component for each variable within the characteristics listed in paragraphs (2) through (12) of subsection (d).

(g) Submission of Survey Results and Recommendations.—Not later than January 31, 2006, the Secretary of Defense shall submit to Congress and the Comptroller General a report containing the results of the surveys conducted under subsection (a), including the results of the analysis of survey data required by subsection (e). The Secretary shall include such recommendations as the Secretary considers appropriate regarding alternatives for restoring income lost by members of the reserve components who sustained a monthly active-duty income differential during their active duty service.

(h) Comptroller General Evaluation.—Not later than March 31, 2006, the Comptroller General shall submit to Congress an assessment of the findings and recommendations contained in the report of the Secretary of Defense submitted under subsection (g).

TITLE VII—HEALTH CARE PROVISIONS

Subtitle A—Enhanced Benefits for Reserves

SEC. 701. DEMONSTRATION PROJECT FOR TRICARE COVERAGE FOR READY RESERVE MEMBERS.

(a) Demonstration Program.—Section 1076b of title 10, United States Code, is amended to read as follows:

"§ 1076b. TRICARE demonstration project: coverage for members of the Ready Reserve

"(a) In General.—(1) The Secretary of Defense shall conduct a demonstration project beginning in fiscal year 2005 to test whether

TRICARE coverage for certain Ready Reserve members and their families enhances medical readiness and retention of such members.

"(2) Under the demonstration project required by paragraph (1), within the scope of the project, as established by the Secretary, members of the Ready Reserve may be allowed to enroll for coverage under the TRICARE Standard option of the TRICARE program and receive benefits under such enrollment for any period that the member—

"(A) is not eligible for health care benefits under an employer-sponsored health benefits plan; and

"(B) either—

"(i) is not on active duty; or

"(ii) is on active duty but under a call or order to active duty for a period of 30 days or less.

"(3) A member allowed to enroll in TRICARE Standard under the demonstration project may enroll for self-only coverage or self and family coverage.

"(b) SCOPE OF COVERAGE .—A member and the dependents of a member enrolled in TRICARE Standard under this section shall be entitled to the same benefits and shall pay the same charges as are provided under section 1079 of this title.

"(c) PREMIUMS.—(1) The Secretary of Defense shall charge premiums for coverage pursuant to enrollments under this section. The Secretary shall prescribe a premium for self only coverage and a premium for self and family coverage.

"(2) The monthly amount of the premium in effect for a month for a type of coverage under this section shall be the amount equal to 28 percent of the total amount determined by the Secretary on an appropriate actuarial basis as being reasonable for the coverage.

"(3) The premiums payable by a member under this subsection may be deducted and withheld from basic pay payable to the member under section 204 of title 37 or from compensation payable to the member under section 206 of such title. The Secretary shall prescribe the requirements and procedures applicable to the payment of premiums by members not entitled to such basic pay or compensation.

"(4) Amounts collected as premiums under this subsection shall be credited to the appropriation available for the Defense Health Program Account under section 1100 of this title, shall be merged with sums in such Account that are available for the fiscal year in which collected, and shall be available under subparagraph (B) of such section for such fiscal year.

"(d) CONDITIONS OF ELIGIBILITY.—(1) The Secretary of Defense may establish other conditions of eligibility, including requiring a member to submit any certification that the Secretary considers appropriate to substantiate the member's assertion that the member is not eligible for health care benefits under any other health benefits plan.

"(2) In the case of any member who is self-employed and not eligible for coverage under any other employer-sponsored health benefits plan, the member shall not be considered eligible to enroll under this section if the member's income in the prior calendar year exceeded $40,000.

"(e) SCOPE AND TERMS OF DEMONSTRATION PROJECT.—The geographic scope and priorities for enrollment under the demonstration program, if any, shall be established by the Secretary of Defense. The Secretary may establish such other terms and conditions for the demonstration project required by subsection (a) as the Secretary determines appropriate to accomplish its purposes.

"(f) TERMINATION OF AUTHORITY.—An enrollment in TRICARE under this section may not continue after December 31, 2007.

"(g) EVALUATION OF DEMONSTRATION AND REPORT TO CONGRESS.—Not later than March 1, 2007, the Secretary shall provide to Congress a report on the results of the demonstration project required by this section. Such report shall include an analysis of the impact of the demonstration on medical readiness and retention of the members who enrolled, an assessment of the costs and benefits of any improvements in medical readiness or retention, and recommendations concerning TRICARE Standard coverage for Ready Reserve members.

"(h) DEFINITION.—In this section, the term 'TRICARE Standard' means the option of the TRICARE program that is also known as the Civilian Health and Medical Program of the Uniformed Services, as defined in section 1072(4) of this title.".

(b) TERMINATION OF COVERAGE UNDER SUPERSEDED PROVISION OF LAW.—An enrollment in TRICARE under section 1076b of title 10, United States Code, as in effect before the date of the enactment of this Act may not continue after such date.

(c) SITE IDENTIFICATION.—(1) Not later than 60 days after the date of enactment of this Act, the Secretary of Defense, in consultation with the Committees on Armed Services of the Senate and the House of Representatives, shall identify not less than 10 sites that meet the criteria specified in paragraph (2) for the conduct of the demonstration project required under section 1076b of title 10, United States Code, as amended by this section.

(2) For purposes of paragraph (1), the sites selected for the conduct of the demonstration project shall be areas of the United States that include a substantial number of personnel expected to be ordered to active duty for a period of more than 30 days.

(d) INDEPENDENT EVALUATION AND REPORTS.—(1) The Comptroller General shall conduct an evaluation of the demonstration project required under section 1076b of title 10, United States Code (as amended by this section) The evaluation shall include an assessment of the following:

(A) Compliance by the Department of Defense with the requirements under section 1076b of title 10, United States Code (as amended by this section).

(B) A description of the effects of the demonstration project on medical readiness and retention of the participants compared to nonparticipants.

(C) The number of Ready Reserve members and their dependents opting to participate in the demonstration project.

(D) An analysis of how the demonstration project affects the overall accessibility of care in the direct and purchased care systems and a description of the unintended effects (if any) upon the normal treatment priority system.

(E) A description of the difficulties (if any) experienced by the Department of Defense in managing the demonstration project.

(F) Any impact of the demonstration project on employers, including causing them to discontinue health care insurance benefits for employees who are members of the reserves.

(G) A recommendation whether to extend the demonstration project or make the project permanent.

(H) A determination of whether the terms and conditions of the demonstration project should be continued or modified if the project is extended or expanded.

(I) Implications on cost, medical readiness, recruitment, and retention if the demonstration project was made available to all reservists meeting the enrollment criteria throughout the United States and its territories.

(J) Any additional elements that the Comptroller General determines are appropriate to assess the demonstration project.

(2) The Comptroller General shall submit to the Committees on Armed Services of the Senate and the House of Representatives—

(A) an interim report on the evaluation under this section not later than 12 months after the date on which the demonstration project begins operation; and

(B) a final report on the evaluation under this section not later than March 1, 2007.

SEC. 702. COMPTROLLER GENERAL REPORT ON THE COST AND FEASIBILITY OF PROVIDING PRIVATE HEALTH INSURANCE STIPENDS FOR MEMBERS OF THE READY RESERVES.

(a) STUDY REQUIRED.—The Comptroller General shall conduct a study on the cost and feasibility of providing a stipend to members of the Ready Reserves to offset the cost of continuing private health insurance coverage for the member's dependents when the member is on active duty for a period of more than 30 days, with the dependents being ineligible to enroll in the TRICARE program and payment of the stipend ending when the member is no longer on active duty.

(b) MATTERS COVERED.—The study shall include the following matters:

(1) Recommendation for a benefit amount and cost to the Department of Defense.

(2) Potential effects on medical readiness, recruitment, and retention.

(3) The extent to which the Reserves and members of their families might participate under the stipend program.

(4) Administrative and management considerations for the Department of Defense.

(5) Impact of pre-existing conditions on continuity of care for dependents.

(6) Possible implications for employers.

(c) REPORT.—Not later than March 31, 2005, the Comptroller General shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report containing the results of the study under this section.

SEC. 703. IMPROVEMENT OF MEDICAL SERVICES FOR ACTIVATED MEMBERS OF THE READY RESERVE AND THEIR FAMILIES.

(a) REQUIREMENT FOR TRICARE COVERAGE FOR DEPENDENTS OF MEMBERS OF RESERVE COMPONENTS CALLED TO ACTIVE DUTY.—Paragraph (1) of section 1074(d) of title 10, United States Code, is amended—

(1) by inserting "a dependent of" after "chapter,";

(2) by inserting "a dependent of a member" after "treated as being"; and

(3) by striking "the later of" and all that follows through the period at the end of subparagraph (B) and inserting "the date described in paragraph (3).".

(b) AUTHORITY FOR TRICARE COVERAGE FOR MEMBERS OF RESERVE COMPONENTS CALLED TO ACTIVE DUTY.—Section 1074(d) of such title is further amended—

(1) by striking paragraph (3);

(2) by redesignating paragraph (2) as paragraph (4); and

(3) by inserting after paragraph (1) the following new paragraphs:

"(2) The Secretary of Defense may, beginning on the date described in paragraph (3), provide a member of a reserve component of the armed forces who is issued a delayed-effective-date active-duty order, or is covered by such an order, such medical and dental care (in addition to care for which the member is eligible under section 1074a(f) of this title or other provisions of law) the Secretary determines appropriate.

"(3) The date referred to in paragraphs (1) and (2) with respect to a member is the later of the date that is—

"(A) the date of the issuance of the delayed-effective-date active-duty order; or

"(B) 90 days before the date on which the period of active duty is to commence under such order for that member.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2005.

SEC. 704. MODIFICATION OF WAIVER OF CERTAIN DEDUCTIBLES UNDER TRICARE PROGRAM.

Section 1095d(a) of title 10, United States Code, is amended in paragraphs (1) and (2) by striking "less than one year" each place it appears and inserting "more than 30 days".

SEC. 705. AUTHORITY FOR PAYMENT BY UNITED STATES OF ADDITIONAL AMOUNTS BILLED BY HEALTH CARE PROVIDERS TO ACTIVATED RESERVE MEMBERS.

Section 1079(h) of title 10, United States Code, is amended by adding at the end of paragraph (4) the following new subparagraph:

"(C) In the case of services billed to a dependent referred to in subsection (a) of a member of a reserve component who is ordered to active duty for a period of more than 30 days in support of a contingency operation under a provision of law referred to in section 101(a)(13)(B) of this title, the regulations shall provide that, in addition to amounts otherwise payable by the United States, the Secretary may pay the amount referred to in subparagraph (B)(i) for the services.".

SEC. 706. EXTENSION OF TRANSITIONAL HEALTH CARE BENEFITS AFTER SEPARATION FROM ACTIVE DUTY.

(a) EXTENSION OF TRANSITIONAL HEALTH CARE BENEFITS.—Paragraph (3) of section 1145(a) of title 10, United States Code, is amended to read as follows:

"(3) Transitional health care shall be available under this subsection for a period beginning on the date on which the member is separated from active duty and ending on the earlier of—

"(A) 180 days after the date on which the member is separated from active duty; or

"(B) the date on which the member and dependents of the member are covered by a health plan sponsored by an employer.".

(b) LIMITATION.—During the period beginning on January 1, 2005, and ending on September 30, 2005, not more than $170,000,000 of the amount appropriated pursuant to the authorization for operations and maintenance for the Defense Health Program in section 303(a) may be used for transitional health care under section 1145(a) of title 10, United States Code, as amended by this section.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to separations from active duty that take effect on or after January 1, 2005.

Subtitle B—Other Benefits Improvements

SEC. 711. COVERAGE OF CERTAIN YOUNG CHILDREN UNDER TRICARE DENTAL PROGRAM.

(a) COVERAGE OF CERTAIN YOUNG CHILDREN.—Section 1076a(k)(2) of title 10, United States Code, is amended by inserting after "by reason of" the following: "the dependent's young age on the date of death of the member of".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 712. COMPTROLLER GENERAL REPORT ON PROVISION OF HEALTH AND SUPPORT SERVICES FOR EXCEPTIONAL FAMILY MEMBER PROGRAM ENROLLEES.

(a) EVALUATION REQUIREMENT.—The Comptroller General shall evaluate the effect of the Exceptional Family Member Program (in this section referred to as "EFMP") on health and support services in selected civilian communities near military installations with a high concentration of EFMP enrollees.

(b) MATTERS COVERED.—The evaluation under subsection (a) shall include a discussion of the following:

(1) Communities that have high concentrations of EFMP enrollees that use State and local health and support services.

(2) Needs of EFMP enrollees, if any, that are not met by State and local health and support services.

(3) The burdens, financial and otherwise, placed on State and local health and support services by EFMP enrollees and their families.

(4) The ability of the TRICARE program to meet the needs of EFMP enrollees and their families.

(5) Reasons for any limitations of the TRICARE program, the EFMP, and State and local health and support services in providing assistance to EFMP enrollees and their families.

(6) Recommendations for more effectively meeting the needs of EFMP enrollees and their families.

(c) COMMUNITIES COVERED.—The evaluation under subsection (a) shall examine no fewer than four civilian communities, as determined by the Comptroller General, that have high concentrations of EFMP enrollees and that are near several military installations, including at least two military installations with tenants from more than one of the Armed Forces.

(d) DEFINITIONS.—In this section:

(1) The term "health and support services" means services provided to children and other dependents with special needs, including specialized day care, mental health day treatment services, respite services, counseling, and other such services provided for children and other dependents with special needs.

(2) The term "TRICARE program" has the meaning given that term in section 1072(7) of title 10, United States Code.

(e) REPORT.—Not later than March 31, 2005, the Comptroller General shall submit to the Armed Services Committees of the Senate and the House of Representatives a report on the results of the evaluation required under subsection (a), with findings and recommendations.

SEC. 713. EXCEPTIONAL ELIGIBILITY FOR TRICARE PRIME REMOTE.

Section 1079(p) of title 10, United States Code, is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph:

"(4) The Secretary of Defense may provide for coverage of a dependent referred to in subsection (a) who is not described in paragraph (3) if the Secretary determines that exceptional circumstances warrant such coverage.".

SEC. 714. TRANSITION TO HOME HEALTH CARE BENEFIT UNDER SUB-ACUTE CARE PROGRAM.

Section 1074j of title 10, United States Code, is amended in subsection (b)(3)—

(1) by inserting "(A)" after "(3)"; and

(2) by adding at the end the following:

"(B) The Secretary of Defense shall establish procedures for the transition to and implementation of the home health care benefit required by subparagraph (A). The Secretary may provide in such procedures that covered beneficiaries who, before the implementation of such benefit, received home health care under this chapter in excess of such benefit, may continue to receive such care for such time as the Secretary considers appropriate.".

SEC. 715. REQUIREMENT RELATING TO PRESCRIPTION DRUG BENEFITS FOR MEDICARE-ELIGIBLE ENROLLEES UNDER DEFENSE HEALTH CARE PLANS.

Section 1074g(a)(6) of title 10, United States Code, is amended—

(1) by inserting "(A)" after "(6)"; and

(2) by adding at the end the following:

"(B) For a medicare-eligible beneficiary, the cost-sharing requirements may not be in excess of the cost-sharing requirements applicable to all other beneficiaries covered by section 1086 of this title. For purposes of the preceding sentence, a medicare-eligible beneficiary is a beneficiary eligible for health benefits under section 1086 of this title pursuant to subsection (d)(2) of such section.".

SEC. 716. PROFESSIONAL ACCREDITATION OF MILITARY DENTISTS.

Section 1077(c) of title 10, United States Code, is amended—

(1) by striking "A" and inserting "(1) Except as provided in paragraph (2), a"; and

(2) by adding at the end the following new paragraph:

"(2)(A) Dependents who have not attained age 13 and who are participating under a dental plan established under section 1076a of this title may be treated by post-graduate dental students in eligible dental treatment facilities if—

"(i)(I) treatment of pediatric dental patients is required to comply with American Dental Association accreditation standards; or

"(II) pediatric dental training is required to enable post-graduate dental students to provide dental care for such dependents outside the United States; and

"(ii) there are insufficient numbers of children eligible to be provided dental care under section 1076(a) of this title to meet such standards or training requirements.

"(B) The total number of dependents who may be treated under this paragraph may not exceed 2,000 in any fiscal year.

"(C) In this paragraph, an eligible dental treatment facility is a dental treatment facility with a post-graduate dental education program accredited by the American Dental Association.".

SEC. 717. ADDITION OF CERTAIN UNREMARRIED FORMER SPOUSES TO PERSONS ELIGIBLE FOR DENTAL INSURANCE PLAN OF RETIREES OF THE UNIFORMED SERVICES.

(a) ELIGIBILITY OF CERTAIN FORMER SPOUSES FOR DENTAL COVERAGE.—(1) Section 1076c(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(6) A person who—

"(i) is an unremarried former spouse of a member described in paragraph (1) or (2);

"(i) is described in section 1072(2)(F)(i) of this title; and

"(ii) does not have dental coverage under an employer-sponsored health plan.".

(b) EFFECTIVE DATE.—Section 1076c(b)(6) of title 10, United States Code, as added by subsection (a), shall take effect on the date of the enactment of this Act.

SEC. 718. WAIVER OF COLLECTION OF PAYMENTS DUE FROM CERTAIN PERSONS UNAWARE OF LOSS OF CHAMPUS ELIGIBILITY.

(a) AUTHORITY TO WAIVE COLLECTION.—The Secretary of Defense may waive (in whole or in part) the collection of payments otherwise due from a person described in subsection (b) as a result of the receipt by the person of health benefits under section 1086 of title 10, United States Code, after the termination of the person's eligibility for such benefits and may also authorize continued coverage of benefits under section 1086 of such title for such person for the period described in subsection (c).

(b) PERSONS ELIGIBLE.—A person shall be eligible for relief under subsection (a) if the person—

(1) is a person described in paragraph (1) of subsection (d) of section 1086, of title 10, United States Code;

(2) in the absence of such paragraph, would have been eligible for health benefits under such section;

(3) at the time of the receipt of such benefits, satisfies the criteria specified in subparagraph (B) of paragraph (2) of such subsection; and

(4) was unaware of the loss of eligibility to receive health benefits at the time they were received.

(c) EXTENT OF AUTHORITY.—The authority to waive the collection of payments and to continue coverage of benefits under this section shall apply during the period beginning on July 1, 1999, and ending on December 31, 2004, under terms established by the Secretary of Defense.

(d) QUARTERLY REPORTS.—(1) The Secretary of Defense shall provide quarterly reports to the Committees on Armed Services of the Senate and House of Representatives regarding—

(A) efforts by the Department of Defense to identify persons who satisfy the criteria specified in subparagraph (B) of subsection (d)(2) of section 1086 of title 10, United States Code, and would be eligible for health benefits under such section if the criteria specified in subparagrpah (A) were also satisfied; and

(B) actions taken by the Department with respect to persons identified under subparagraph (B) of this paragraph.

(2) The first report under paragraph (1) shall be submitted not later than 30 days after the end of the first quarter of fiscal year 2005.

Subtitle C—Planning, Programming, and Management

SEC. 721. PILOT PROGRAM FOR TRANSFORMATION OF HEALTH CARE DELIVERY.

(a) FINDINGS.—(1) Congress finds the following:

(A) Historically, providing military health care to military beneficiaries has centered on building a military medical treatment facility and providing a full range of services on a military installation.

(B) Traditionally, in many locations the majority of military personnel and their dependents who are eligible beneficiaries of the military health care system do not live on military installations.

(C) As the cost of repairing, replacing, recapitalizing, or expanding aging military treatment facilities and maintaining adequate health care services on military installations increases, the Department of Defense will be challenged to find new, more cost-effective ways of providing enhanced health care for military and civilian beneficiaries of the Department of Defense health care system.

(2) In view of these findings, the Secretary of Defense is directed to examine feasible and cost-effective methods for leveraging and expanding non-military health care resources to provide health care to military beneficiaries. Furthermore, the Secretary of Defense shall conduct a pilot program in accordance with this section.

(b) PILOT PROGRAM PURPOSES.—The Secretary of Defense shall conduct a pilot program at one or more military installations for purposes of testing—

(1) the feasibility and cost effectiveness of expanding use of non-military health care resources, particularly in cases in which such use would reduce or eliminate the need for military medical construction projects;

(2) initiatives that build cooperative health care arrangements and agreements between military installations and local and regional non-military health care systems; and

(3) development of an integrated, long range business plan for the delivery of health care services for military beneficiaries, incorporating present and potential future capabilities in the non-military health care sector.

(c) REQUIREMENTS OF PILOT PROGRAM.—In conducting the pilot program, the Secretary of Defense shall—

(1) identify and analyze health care delivery options that range from outsourcing all health care delivery services to the private sector to providing some health care services in military facilities located on the installation;

(2) determine the cost avoidance or savings resulting from innovative partnerships between the Department of Defense and the private sector and limiting recapitalization costs in military facilities;

(3) study the potential, viability, cost efficiency, and health care effectiveness of Department of Defense health care providers delivering health care in civilian community hospitals;

(4) determine the opportunities for and barriers to coordinating and leveraging the use of existing health care resources, including Federal, State, local, and contractor assets; and

(5) develop recommendations for a model health care delivery system that may be used at other military installations.

(d) CONSULTATION REQUIREMENTS.—The Secretary of Defense shall develop the pilot program in consultation with the Secretaries of the military departments, representatives from the military installation selected for the pilot program, Federal, State, and local entities, and the TRICARE managed care support contractor with responsibility for that installation.

(e) SELECTION OF MILITARY INSTALLATION.—The pilot program shall be implemented at one or more military installations selected by the Secretary of Defense. At least one of the selected military installations shall meet the following criteria:

(1) The military installation is an Army installation located in a rural area.

(2) The military installation has members of the Armed Forces on active duty and members of reserve components of the Armed Forces that use the installation as a training and operational base, with members routinely deploying in support of the global war on terrorism.

(3) The number of members of the Armed Forces on active duty permanently assigned to the military installation is expected to increase over the next five years.

(4) One or more partnerships exist at the military installation with civilian health care entities in the form of limited specialty care services in the military medical treatment facility on the installation.

(5) There is a military treatment facility on the installation that does not have inpatient or trauma center care capabilities.

(6) There is a civilian community hospital within 15 miles of the military installation with limited capability to expand inpatient care beds, intensive care, and specialty services.

(7) There is no civilian hospital with a trauma center within 50 miles from the military installation.

(f) DURATION OF PILOT PROGRAM.—Implementation of the pilot program developed under this subsection shall begin not later than May 1, 2005, and shall be conducted during fiscal years 2005, 2006, and 2007.

(g) FUNDS.—For fiscal year 2005, not more than $5,000,000 of the amount appropriated pursuant to the authorization for operations and maintenance for the Defense Health Program in section 303(a) may be used to conduct the pilot program under this section.

(h) REPORTS.—Not later than July 1, 2005, the Secretary of Defense shall submit an interim report to the Committees on Armed Services of the Senate and of the House of Representatives describing the details of the pilot program. Not later than July 1, 2007, the Secretary of Defense shall submit to such committees a final report describing the results of the pilot program with recommendations for a model health care delivery system for other military installations.

SEC. 722. STUDY OF PROVISION OF TRAVEL REIMBURSEMENT TO HOSPITALS FOR CERTAIN MILITARY DISABILITY RETIREES.

(a) STUDY.—The Secretary of Defense shall conduct a study of the feasibility, and of the desirability, of providing that a member of the uniformed services retired under chapter 61 of title 10, United States Code, for a combat-related disability (as defined in section 1413a(e) of that title) shall be provided reimbursement for the travel expenses of such member for travel, during the two-year period beginning on the date of the retirement of the member, to a military treatment facility for medical care. The Secretary shall include in that study consideration of whether reimbursement under such a plan should, as nearly as practicable, be under the same terms and conditions, and at the same rate, as apply to beneficiary travel reimbursement provided by the Secretary of Veterans Affairs under section 111 of title 38, United States Code.

(b) REPORT.—The Secretary of Defense shall submit to the congressional defense committees a report providing the results of the study under subsection (a). Such report shall be submitted not later than March 1, 2005.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Subtitle A—Amendments to General Contracting Authorities, Procedures, and Limitations

SEC. 801. RAPID ACQUISITION AUTHORITY TO RESPOND TO COMBAT EMERGENCIES.

(a) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§2410p. Rapid acquisition authority to respond to combat emergencies

"(a) RAPID ACQUISITION AUTHORITY.—The Secretary of Defense may rapidly acquire, in accordance with this section, equipment needed by a combatant commander to eliminate a combat capability deficiency that has resulted in combat fatalities.

"(b) PROCESS FOR RAPID ACQUISITION.—Not later than 30 days after the date of the enactment of this section, the Secretary of Defense shall develop a process for the rapid acquisition authority provided by subsection (a) and submit to Congress a detailed explanation of the process, including procedures to be followed in carrying out the process. The process shall provide for the following:

"(1) A requirement that the process may be used only to acquire the minimum amount of equipment needed until the needs of the combatant commander can be fulfilled under existing acquisition statutes, policies, directives, and regulations.

"(2) A goal of awarding a contract for the equipment within 15 days after receipt of a request from a commander.

"(3) In a case in which the equipment cannot be acquired without an extensive delay, a requirement for an interim solution to minimize the combat capability deficiency and combat fatalities until the equipment can be acquired.

"(4) Waiver of the applicability of all policies, directives, and regulations related to—

"(A) the establishment of the requirement for the equipment;

"(B) the research, development, test, and evaluation of the equipment; and

"(C) the solicitation and selection of sources, and the award of the contract, for procurement of the equipment.

"(5) Such other procedures or requirements as the Secretary considers appropriate.

"(c) WAIVER OF CERTAIN STATUTES.—For purposes of exercising the authority provided by subsection (a) with respect to equipment, laws relating to the following shall not apply:

"(A) The establishment of the requirement for the equipment.

"(B) The research, development, test, and evaluation of the equipment.

"(C) The solicitation and selection of sources, and the award of the contract, for procurement of the equipment.

"(d) Limitations.—The rapid acquisition authority provided by subsection (a) may be used only—

"(1) after the Secretary of Defense, without delegation, determines in writing that there exists a combat capability deficiency that has resulted in combat fatalities; and

"(2) to acquire equipment in an amount aggregating not more than $100,000,000 during a fiscal year.

"(e) Source of Funds.—For acquisitions under this section to be made during any fiscal year, the Secretary may use any funds made available to the Department of Defense for that fiscal year.

"(f) Notification to Congress After Each Use of Authority.—The Secretary of Defense shall notify the congressional defense committees within 15 days after each use of the authority provided by subsection (a). Each such notice shall identify the equipment to be acquired, the amount to be expended for such acquisition, and the source of funds for such acquisition.

"(g) Combatant Commander.—In this section, the term 'combatant commander' means the commander of a unified combatant command with authority for the conduct of operations in a specific area of responsibility or who otherwise has authority to conduct operations at the direction of the President or Secretary of Defense.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2410p. Rapid acquisition authority to respond to combat emergencies.".

SEC. 802. DEFENSE ACQUISITION WORKFORCE CHANGES.

(a) Selection Criteria and Procedures.—Section 1732(b)(1)(A) of title 10, United States Code, is amended by striking "within grade GS–13 or above of the General Schedule" and inserting "in any position designated by the Secretary of Defense".

(b) Critical Acquisition Positions.—Section 1733 of such title is amended by striking subsection (b) and inserting the following:

"(b) Designation of Critical Acquisition.—(1) The Secretary of Defense shall designate the acquisition positions in the Department of Defense that are critical acquisition positions. Such positions shall include the following:

"(A) Program executive officer.

"(B) Program manager of a major defense acquisition program (as defined in section 2430 of this title) or of a significant nonmajor defense acquisition program (as defined in section 1737(a)(3) of this title).

"(C) Deputy program manager of a major defense acquisition program.

"(D) Any other acquisition position of significant responsibility determined by the Secretary to be critical.

"(2) The Secretary shall annually publish a list of the positions designated under this subsection.".

(c) Scholarship Programs.—Section 1742 of such title is amended—

(1) by inserting "(a) Programs.—" at the beginning of the text; and

(2) by adding at the end the following new subsection:

"(b) Scholarship Program Requirements.—With respect to any scholarship program conducted under this section, the Secretary of Defense and the participant shall agree in writing to the terms of the scholarship. The agreement shall include the obligations of the Secretary and the participant, as well as actions available for either party to take if there is a failure to meet the obligations under the agreement.".

SEC. 803. LIMITATION ON TASK AND DELIVERY ORDER CONTRACTS.

Subsection 2304a(f) of title 10, United States Code, is amended to read as follows:

"(f) Contract Period.—The head of an agency entering into a task or delivery order contract under this section may provide for the contract to cover any base period up to five years and may extend the contract period for one or more successive periods pursuant to an option provided in the contract or a modification to the contract.".

SEC. 804. FUNDING FOR CONTRACT CEILINGS FOR CERTAIN MULTIYEAR PROCUREMENT CONTRACTS.

(a) Multiyear Contracts Relating to Property.—Section 2306b(g) of title 10, United States Code, is amended—

(1) by inserting "(1)" before "Before any";

(2) by striking "Committee" through "House of Representatives" and inserting "congressional defense committees"; and

(3) by adding at the end the following new paragraph:

"(2) In the case of a contract described in subsection (a) with a cancellation ceiling described in paragraph (1), if the budget for the contract does not include proposed funding for the costs of contract cancellation up to the cancellation ceiling established in the contract, the head of the agency concerned shall, as part of the certification required by subsection (i)(1)(A), give written notification to the congressional defense committees of—

"(A) the cancellation ceiling amounts planned for each program year in the proposed multiyear procurement contract, together with the reasons for the amounts planned;

"(B) the extent to which costs of contract cancellation are not included in the budget for the contract; and

"(C) a financial risk assessment of not including budgeting for costs of contract cancellation, including proposed funding sources to meet such cancellation costs if the contract is canceled.".

(b) Multiyear Contracts Relating to Services.—Section 2306c(d) of title 10, United States Code, is amended—

(1) in paragraphs (1), (3), and (4), by striking "committees of Congress named in paragraph (5)" and inserting "congressional defense committees" each place it appears; and

(2) by amending paragraph (5) to read as follows:

"(5) In the case of a contract described in subsection (a) with a cancellation ceiling described in paragraph (4), if the budget for the contract does not include proposed funding for the costs of contract cancellation up to the cancellation ceiling established in the contract, the head of the agency concerned shall give written notification to the congressional defense committees of—

"(A) the cancellation ceiling amounts planned for each program year in the proposed multiyear procurement contract, together with the reasons for the amounts planned;

"(B) the extent to which costs of contract cancellation are not included in the budget for the contract; and

"(C) a financial risk assessment of not including budgeting for costs of contract cancellation, including proposed funding sources to meet such cancellation costs if the contract is canceled."

SEC. 805. INCREASED THRESHOLD FOR REQUIRING CONTRACTORS TO PROVIDE SPECIFIED EMPLOYEE INFORMATION TO COOPERATIVE AGREEMENT HOLDERS.

Section 2416(d) of title 10, United States Code, is amended by striking "$500,000" and inserting "$1,000,000".

SEC. 806. EXTENSION OF AUTHORITY FOR USE OF SIMPLIFIED ACQUISITION PROCEDURES.

Section 4202(e) of the Clinger-Cohen Act (division D of Public Law 104–106; 110 Stat. 652; 10 U.S.C. 2304 note) is amended by striking "January 1, 2006" and inserting "October 1, 2009".

SEC. 807. AUTHORITY TO ADJUST ACQUISITION-RELATED DOLLAR THRESHOLDS FOR INFLATION.

(a) Inflation Adjustment Authority.—The FAR Council and the heads of executive agencies may adjust the dollar thresholds in procurement laws in order to maintain the constant dollar value of the threshold, taking into account the effect of inflation on the threshold.

(b) Limitation on Exercise of Authority.—Adjustments of dollar thresholds under subsection (a) may be carried out—

(1) by the FAR Council only with respect to procurement laws that apply to executive agencies generally; and

(2) by the head of an executive agency only with respect to procurement laws that apply to that agency exclusively.

(c) Additional Requirements.—In adjusting a threshold under subsection (a), the FAR Council and the head of an agency shall—

(2) consult with the Director of the Office of Management and Budget;

(3) round the threshold, to facilitate implementation; and

(4) publish the adjusted threshold in the Federal Register.

(d) Exclusions.—This section does not apply to—

(1) dollar thresholds in sections 3141 through 3144, 3146, and 3147 of title 40, United States Code;

(2) dollar thresholds in the Service Contract Act of 1965 (41 U.S.C. 351, et seq.); or

(3) dollar thresholds established by the United States Trade Representative pursuant to title III of the Trade Agreements Act of 1979 (19 U.S.C. 2511 et seq.).

(e) Definitions.—In this section:

(1) The term "procurement law" means any provision of law that sets forth policies, procedures, requirements, or restrictions for the procurement of property or services by the Federal Government.

(2) The terms "executive agency" and "procurement" have the meanings provided by section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1))

(3) The term "FAR Council" means the Federal Acquisition Regulatory Council established under section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421)).

Subtitle B—United States Defense Industrial Base Provisions

SEC. 811. DEFENSE TRADE RECIPROCITY.

(a) In General.—Chapter 148 of title 10, United States Code, is amended by inserting after section 2532 the following new section:

"§2532a. Defense trade reciprocity

"(a) Policy.—(1) It is the policy of Congress that procurement regulations used in the conduct of trade in defense articles and defense services shall be based on the principle of fair trade and reciprocity consistent with United States national security, including the need to ensure comprehensive manufacturing capability in the United States defense industrial base for military system essential items.

"(2) The Secretary of Defense shall make every effort to ensure that the policies and practices of the Department of Defense reflect the goal of establishing an equitable trading relationship between the United States and its foreign defense trade partners, including ensuring that United States firms and United States employment in the defense sector are not disadvantaged by unilateral procurement practices by foreign governments, such as the imposition of offset agreements or similar requirements in defense procurements by those governments. In pursuing this goal, the Secretary shall—

"(A) develop a comprehensive defense acquisition trade policy that provides the necessary guidance and incentives for the elimination of offset agreements as an accepted practice in defense trade; and

"(B) review and make necessary modifications to existing acquisition policies and strategies, and review and seek to make necessary modifications to existing memoranda of understanding, cooperative project agreements, or related agreements with foreign defense trade partners, to reflect this goal.

"(b) REQUIREMENT.—The Secretary of Defense may not enter into a contract, or approve or permit any subcontract under a contract entered into by the Department of Defense, for the procurement of any defense article or defense service from a foreign firm unless the country in which the foreign firm performs substantially all of its manufacturing, production, and research and development activities in the performance of the contract (or subcontract) agrees to apply offset agreements to the procurement of defense articles and defense services from the United States firms in the same manner and to the same degree as such agreements are applied by the Department of Defense to the procurement of defense articles and defense services from that country.

"(c) EXCEPTION.—Subsection (b) does not apply to a contract or subcontract for the procurement of a defense article or defense service from a foreign firm if the Secretary of Defense determines in writing, with respect to the specific contract or subcontract, that an exception to subsection (b) is necessary for the Department to be able to meet national security objectives.

"(d) NOTIFICATION REQUIRED WHEN EXCEPTION APPLIED.—The Secretary of Defense may not apply an exception under subsection (c) until—

"(1) a notification of the intent to apply such exception is submitted to the congressional defense committees and published in the Federal Register; and

"(2) a period of 30 days has expired after the date on which such notification is so submitted and published.

"(e) AUTHORITY TO APPLY EXCEPTION NOT DELEGABLE.—The authority of the Secretary to apply the exception under subsection (c) may not be delegated to any officer or employee in a position at a level lower than the position of the Under Secretary of Defense for Acquisition, Technology, and Logistics.-

"(f) REGULATIONS.—The Secretary shall prescribe regulations to implement this section in the Department of Defense supplement to the Federal Acquisition Regulation.

"(g) EFFECTIVE DATE.—This section and the regulations prescribed under this section shall apply to contracts and subcontracts entered into on and after the date occurring one year after the date of the enactment of this Act.

"(h) DEFINITIONS.—In this section:

"(1) The term 'foreign firm' means a business entity that performs substantially all of its manufacturing, production, and research and development activities outside of the United States.

"(2) The term 'United States firm' means a business entity that performs substantially all of its manufacturing, production, and research and development activities in the United States.

"(3) The term 'foreign defense trade partner' means a foreign country with respect to which there is—

"(A) a memorandum of understanding or related agreement described in section 2531(a) of title 10, United States Code; or

"(B) a cooperative project agreement described in section 27 of the Arms Export Control Act (22 U.S.C. 2767).

"(4) The term 'offset agreement' has the meaning provided that term by section 36(e) of the Arms Export Control Act (22 U.S.C. 2776(e)).

"(5) The terms 'defense article' and 'defense service' have the meanings provided those terms by section 47(7) of the Arms Export Control Act (22 U.S.C. 2794(7)).

"(6) The term 'military system essential item' means an item on the military system essential item breakout list produced pursuant to section 813(b) of the National Defense Authorization Act for Fiscal Year 2004 (P.L. 108–136; 117 Stat. 1544).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2532a. Defense trade reciprocity.".

SEC. 812. AMENDMENTS TO DOMESTIC SOURCE REQUIREMENTS.

(a) NOTICE.—Section 2533a of title 10, United States Code, is amended by adding at the end the following new subsection:

"(k) NOTIFICATION REQUIRED WHEN CERTAIN EXCEPTIONS APPLIED.—(1) Funds appropriated or otherwise available to the Department of Defense may not be used to enter into a contract to procure an item described in subsection (b) pursuant to an exception set forth in subsection (c) or (e) until—

"(A) a notification of the intent to apply such exception is submitted to Congress and posted on the website maintained by the General Services Administration known as FedBizOpps.gov (or any successor site); and

"(B) a period of 15 days has expired after the date on which such notification is so submitted and published.

"(2) In any case in which the Secretary of Defense or the Secretary of the military department concerned intends to apply or applies the exception set forth in subsection (d)(1), the Secretary concerned shall submit to Congress a notification of such intent or such application during the period beginning six months before the date of application of such exception and ending six months after the date of application of such exception.".

(b) CLOTHING MATERIALS AND COMPONENTS COVERED.—Subsection (b) of section 2533a of title 10, United States Code, is amended in paragraph (1)(B) by inserting before the semicolon the following: "and the materials and components thereof, other than sensors, electronics, or other items added to, and not normally associated with, clothing (and the materials and components thereof)".

SEC. 813. THREE-YEAR EXTENSION OF RESTRICTION ON ACQUISITION OF POLYACRYLONITRILE (PAN) CARBON FIBER FROM FOREIGN SOURCES.

The Secretary of Defense shall delay by three years the phase-out of the restriction on acquisition of polyacrylonitrile (PAN) carbon fiber from foreign sources (described in subpart 225.7103 of the Department of Defense supplement to the Federal Acquisition Regulation). In implementing such delay, the Secretary shall revise the appplicable regulations to ensure that such restriction applies to—

(1) solicitations and contracts issued on or before May 31, 2006, for major systems that are not yet in production; and

(2) solicitations and contracts issued during the period beginning June 1, 2006, and ending May 31, 2008, for major systems that are not yet in engineering and manufacturing development.

SEC. 814. GRANT PROGRAM FOR DEFENSE CONTRACTORS TO IMPLEMENT STRATEGIES TO AVOID OUTSOURCING OF JOBS.

(a) GRANT PROGRAM AUTHORIZED.—The Secretary of Defense may make grants under this section for fiscal year 2005 to qualified defense contractor groups for the purposes described in subsection (b).

(b) GRANT PURPOSES.—A grant may be made under this section for the purpose of implementing a strategy to avoid the outsourcing of jobs by a defense contractor, including the following strategies:

(1) Cost-cutting measures.

(2) Retraining programs.

(3) Technology development.

(4) Plant upgrades.

(c) APPLICATION.—A grant may not be awarded under this section unless an application is submitted to, and approved by, the Secretary. Such an application—

(1) shall be submitted by a qualified defense contractor group in such form and manner as the Secretary may require; and

(2) shall contain—

(A) a description of the strategy proposed for avoiding the outsourcing of at least 10 jobs in the performance of a defense contract by the defense contractor concerned; and

(B) such other information as the Secretary may require.

(d) DEFINITIONS.—In this section:

(1) The term "qualified defense contractor group", with respect to a defense contractor, is a group or person representing—

(A) management of the contractor;

(B) a labor organization that represents employees of the contractor; or

(C) employees of the contractor.

(2) The term "outsourcing", with respect to a defense contract, includes the performance outside the United States of work under the contract.

(e) FEDERAL SHARE.—The Federal share of the costs of the strategy carried out with a grant under this section may not exceed 50 percent.

(f) USE OF DEFENSE INDUSTRIAL CAPABILITIES FUND FOR GRANTS.—(1) Notwithstanding section 814(c) of the National Defense Authorization Act for Fiscal Year 2004 (P.L. 108–136; 117 Stat. 1545), amounts in the Defense Industrial Base Capabilities Fund may be used for grants under this section.

(2) For fiscal year 2005, up to $50,000,000 of amounts available in such Fund may be used to carry out this section.

(g) AUTHORIZATION OF FUNDS.—There are authorized to be appropriated to the Defense Industrial Base Capabilities Fund $50,000,000 for purposes of providing grants under this section.

SEC. 815. PREFERENCE FOR DOMESTIC FREIGHT FORWARDING SERVICES.

(a) PREFERENCE.—In the procurement of transportation services described in subsection (b), the Secretary of Defense shall give preference to any freight forwarder that—

(1) certifies to the Department of Defense that it is owned and controlled by citizens of the United States; and

(2) offers services at fair and reasonable rates.

(b) SERVICES COVERED.—Subsection (a) applies to transportation services to, from, or within Iraq or Afghanistan, and warehousing, logistics, or other similar services performed within Iraq or Afghanistan.

Subtitle C—Other Acquisition Matters

SEC. 821. SUSTAINMENT AND MODERNIZATION PLANS FOR EXISTING SYSTEMS WHILE REPLACEMENT SYSTEMS ARE UNDER DEVELOPMENT.

(a) EXISTING SYSTEMS TO BE MAINTAINED WHILE REPLACEMENT SYSTEMS ARE UNDER DEVELOPMENT.—(1) Chapter 144 of title 10, United States Code, is amended by inserting after section 2436 the following new section:

"§2437. Development of major defense acquisition programs: sustainment and modernization of system to be replaced

"(a) REQUIREMENT FOR SUSTAINING AND MODERNIZING EXISTING FORCES.—(1) The Secretary of Defense shall require that, whenever a new major defense acquisition program begins development, the defense acquisition authority responsible for that program shall develop a plan *(to be known as a sustainment and modernization plan) for the existing system that the system under development is intended to replace. Any such sustainment and modernization plan shall provide for budgeting, sustaining, and modernizing the existing system until the replacement system to be developed under the major defense acquisition program is fielded and assumes the majority responsibility for the mission of the existing system. This section does not apply to a major defense acquisition that reaches initial operational capability before October 1, 2008.*

"(2) In this section, the term "defense acquisition authority" means the Secretary of a military department or the commander of the United States Special Operations Command.

"(b) Sustainment and Modernization Plan.—The Secretary of Defense shall require that each sustainment and modernization plan under this section include, at a minimum, the following:

"(1) The milestone schedule for the development of the major defense acquisition program, including low-rate initial production, initial operational capability, full-rate production, full operational capability, and the date when the replacement system assumes the majority responsibility for the mission of the existing system.

"(2) An analysis of the existing system to determine the following:

"(A) A sustainment plan and budget requirements necessary to provide service life extension to the existing system at acceptable reliability and availability rates.

"(B) A modernization plan and budget requirements necessary to maintain mission capability against the relevant threats.

"(C) A modernization plan and budget requirements necessary—

"(i) to transfer mature technologies from the new system or other systems so that the mission capability of the existing system is enhanced against relevant threats; and

"(ii) to provide interoperability with the new system during the period from initial fielding until the new system assumes the majority of responsibility for the mission of the existing system.

"(c) Annual Review.—Each fiscal year, before the submission to Congress of the President's budget for the next fiscal year, the Secretary of Defense shall review the schedule performance of each replacement major defense acquisition program for which a sustainment and modernization plan has been developed under this section to compare that performance with the schedule set forth under subsection (b)(1). If the schedule for the program has changed, then the Secretary shall notify the congressional defense committees of such change.

"(d) Exceptions.—Subsection (a) shall not apply to a major defense acquisition program if the Secretary of Defense determines that—

"(1) the existing system is no longer relevant to the mission;

"(2) the mission has been eliminated;

"(3) the mission has been consolidated with another mission in such a manner that another existing system can adequately meet the mission requirements; or

"(4) the duration of time until the new system assumes the majority of responsibility for the existing system's mission is sufficiently short so that mission availability, capability, interoperability, and force protection requirements are maintained.

"(e) Waiver.—The Secretary of Defense may waive the applicability of subsection (a) to a major defense acquisition program if the Secretary determines that, but for such a waiver, the Department would be unable to meet national security objectives. Whenever the Secretary makes such a determination and authorizes such a waiver, the Secretary shall submit notice of such waiver and of the Secretary's determination and the reasons therefor in writing to the congressional defense committees.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2436 the following new item:

"2437. Development of major defense acquisition programs: sustainment and modernization of system to be replaced .".

(b) Application to Existing Programs in Development.—Section 2437 of title 10, United States Code, as added by subsection (a), shall apply with respect to a major defense acquisition program that is under development as of the date of the enactment of this Act and is not expected to reach initial operational capability before October 1, 2008. The Secretary of Defense shall require that a sustainment and modernization plan under that section be developed not later than one year after the date of the enactment of this Act for the existing system that the system under development is intended to replace.

SEC. 822. REVIEW AND DEMONSTRATION PROJECT RELATING TO CONTRACTOR EMPLOYEES.

(a) General Review.—(1) The Secretary of Defense shall conduct a review of policies, procedures, practices, and penalties of the Department of Defense relating to employees of defense contractors for purposes of ensuring that the Department of Defense is in compliance with Executive Order No. 12989 (relating to a prohibition on entering into contracts with contractors that are not in compliance with the Immigration and Nationality Act).

(2) In conducting the review, the Secretary shall—

(A) identify potential weaknesses and areas for improvement in existing policies, procedures, practices, and penalties;

(B) develop and implement reforms to strengthen, upgrade, and improve policies, procedures, practices, and penalties of the Department of Defense and its contractors; and

(C) review and analyze reforms developed pursuant to this paragraph to identify for purposes of national implementation those which are most efficient and effective.

(3) The review under this subsection shall be completed not later than 180 days after the date of the enactment of this Act.

(b) Demonstration Project.—The Secretary of Defense shall conduct a demonstration project in accordance with this section, in one or more regions selected by the Secretary, for purposes of promoting greater contracting opportunities for contractors offering effective, reliable staffing plans to perform defense contracts that ensure all contract personnel employed for such projects, including management employees, professional employees, craft labor personnel, and administrative personnel, are lawful residents or persons properly authorized to be employed in the United States and properly qualified to perform services required under the contract. The demonstration project shall focus on contracts for construction, renovation, maintenance, and repair services for military installations.

(c) Demonstration Project Procurement Procedures.—As part of the demonstration project under subsection (b), the Secretary of Defense shall conduct a competition in which there is a provision in contract solicitations and request for proposal documents to require significant weight or credit be allocated to—

(1) reliable, effective workforce programs offered by prospective contractors that provide background checks and other measures to ensure the contractor is in compliance with the Immigration and Nationality Act; and

(2) reliable, effective project staffing plans offered by prospective contractors that specify for all contract employees (including management employees, professionals, and craft labor personnel) the skills, training, and qualifications of such persons and the labor supply sources and hiring plans or procedures used for employing such persons.

(d) Implementation of Demonstration Project.—The Secretary of Defense shall begin operation of the demonstration project required under this section after completion of the review under subsection (a), but in no event later than 270 days after the date of the enactment of this Act.

(e) Report on Demonstration Project.—Not later than six months after award of a contract under the demonstration project, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report setting forth a review of the demonstration project and recommendations on the actions, if any, that can be implemented to ensure compliance by the Department of Defense with Executive Order No. 12989.

(f) Definition.—In this section, the term "military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility, which is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, or Guam. Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

SEC. 823. DEFENSE ACQUISITION WORKFORCE LIMITATION AND REPORTS.

(a) Defense Acquisition and Support Personnel Limitation.—(1) Effective October 1, 2005, the number of defense acquisition and support personnel in the Department of Defense may not exceed 95 percent of the baseline number.

(2) For purposes of paragraph (1), the baseline number is the number of defense acquisition and support personnel as of October 1, 2004.

(3) All determinations of personnel strengths for purposes of this section shall be on the basis of full-time equivalent positions.

(b) GAO Study and Report on Defense Acquisition and Support Personnel.—(1) The Comptroller General shall conduct a study of Department of Defense management of defense acquisition and support personnel. The study shall include—

(A) an analysis of the number and structure of defense acquisition and support personnel; and

(B) an assessment of the size, mission, composition, and projected workload requirements of defense acquisition and support personnel.

(2) The Comptroller General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of the study conducted under this subsection not later than March 1, 2005.

(c) Defense Acquisition University Study and Report on Defense Acquisition and Support Personnel.—(1) The Defense Acquisition University shall conduct a study of all the training programs offered to defense acquisition and support personnel.

(2) The Defense Acquisition University shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of the study conducted under this subsection not later than March 1, 2005. The report shall include—

(A) the number of individuals currently certified within the field they are working in; and

(B) recommendations on how to improve education and productivity for defense acquisition and support personnel, including recommendations for additional training program requirements.

(d) DEFINITION.—In this section, the term "defense acquisition and support personnel" means members of the Armed Forces and civilian personnel (other than civilian personnel who are employed at a maintenance depot) who are assigned to, or employed in, acquisition organizations of the Department of Defense (as specified in Department of Defense Instruction numbered 5000.58, dated January 14, 1992), and any other organization that, as determined by the Secretary, has acquisition as its predominant mission.

SEC. 824. PROVISION OF INFORMATION TO CONGRESS TO ENHANCE TRANSPARENCY IN CONTRACTING.

Upon request of the chairman or ranking member of the Committee on Armed Services of the Senate or House of Representatives, the Secretary of Defense shall provide, with respect to any contract or task or delivery order under a task or delivery order contract entered into by the Department of Defense, within 14 days after receipt of the request, unredacted copies of any documents required to be maintained in the contracting office contract file, the contract administration office contract file, and the paying office contract file pursuant to subpart 4.8 of the Federal Acquisition Regulation, including—

(1) copies of the contract and all modifications;

(2) orders issued under the contract;

(3) justifications and approvals;

(4) any government estimate of contract price;

(5) source selection documentation;

(6) cost or price analysis;

(7) audit reports;

(8) justification for type of contract;

(9) authority for deviations from regulations, statutory requirements, or other restrictions;

(10) bills, invoices, vouchers, and supporting documents; and

(11) records of payments or receipts.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

SEC. 901. CHANGE IN TITLE OF SECRETARY OF THE NAVY TO SECRETARY OF THE NAVY AND MARINE CORPS.

(a) CHANGE IN TITLE.—The position of the Secretary of the Navy is hereby redesignated as the Secretary of the Navy and Marine Corps.

(b) REFERENCES.—Any reference to the Secretary of the Navy in any law, regulation, document, record, or other paper of the United States shall be considered to be a reference to the Secretary of the Navy and Marine Corps.

SEC. 902. TRANSFER OF CENTER FOR THE STUDY OF CHINESE MILITARY AFFAIRS FROM NATIONAL DEFENSE UNIVERSITY TO UNITED STATES-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION.

(a) TRANSFER.—The Center for the Study of Chinese Military Affairs established by section 914 of the National Defense Authorization Act for Fiscal Year 2000 (10 U.S.C. 2165 note) is transferred from the National Defense University of the Department of Defense to the United States-China Economic and Security Review Commission.

(b) CONFORMING AMENDMENT.—Subsection (a) of section 914 of the National Defense Authorization Act for 2000 (10 U.S.C. 2165 note) is amended to read as follows:

"(a) ESTABLISHMENT.—There shall be a Center for the Study of Chinese Military Affairs organized under the United States-China Economic and Security Review Commission established by section 1238 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (22 U.S.C. 7002).".

(c) REPEAL OF OBSOLETE PROVISIONS.—Such section is further amended by striking subsections (d) and (e).

(d) TECHNICAL AMENDMENTS TO COMMISSION CHARTER.—(1) Section 1238(c) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (22 U.S.C. 7002) is amended—

(1) in paragraph (1)—

(A) by striking "(beginning in 2002)"; and

(B) by adding at the end the following new sentence: "The report shall include a full discussion of the activities of the Commission under each of the subparagraphs of paragraph (2)."; and

(2) in paragraph (2)—

(A) by striking the matter preceding subparagraph (A) and inserting the following:

"(2) AREAS OF FOCUS.—The Commission shall focus, in lieu of any other area of work or study, on the following:"; and

(B) by replacing subparagraphs (A) through (J) with the text of subparagraphs (A) through (I) of section 2(c)(2) of division P of Public Law 108–7 (22 U.S.C. 7002 note).

(2) Section 2(c)(2) of division P of Public Law 108–7 (22 U.S.C. 7002 note) is repealed.

(e) EFFECTIVE DATE.—Subsection (a) and the amendment made by subsection (b) shall take effect at the end of the 90-day period beginning on the date of the enactment of this Act.

SEC. 903. TRANSFER TO SECRETARY OF THE ARMY OF RESPONSIBILITY FOR ASSEMBLED CHEMICAL WEAPONS ALTERNATIVES PROGRAM.

Effective January 1, 2005, the text of section 142 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 50 U.S.C. 1521 note) is amended to read as follows:

"(a) PROGRAM MANAGEMENT.—(1) The program manager for the Assembled Chemical Weapons Alternatives program shall report to the Secretary of the Army.

"(2) The Secretary of the Army shall provide for that program to be managed as part of the management organization within the Department of the Army specified in section 1412(e) of Public Law 99–145 (50 U.S.C. 1521(e)).

"(b) CONTINUED IMPLEMENTATION OF PREVIOUSLY SELECTED ALTERNATIVE TECHNOLOGIES.—(1) In carrying out the destruction of lethal chemical munitions at Pueblo Chemical Depot, Colorado, the Secretary of the Army shall continue to implement fully the alternative technology for such destruction at that depot selected by the Under Secretary of Defense for Acquisition, Technology, and Logistics on July 16, 2002.

"(2) In carrying out the destruction of lethal chemical munitions at Blue Grass Army Depot, Kentucky, the Secretary of the Army shall continue to implement fully the alternative technology for such destruction at that depot selected by the Under Secretary of Defense for Acquisition, Technology, and Logistics on February 3, 2003.".

SEC. 904. MODIFICATION OF OBLIGATED SERVICE REQUIREMENTS UNDER NATIONAL SECURITY EDUCATION PROGRAM.

(a) IN GENERAL.—Subsection (b)(2) of section 802 of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902) is amended by striking subparagraphs (A) and (B), as added by section 925(a) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1578), and inserting the following:

"(A) in the case of a recipient of a scholarship, as soon as practicable but in no case later than three years after the completion by the recipient of the study for which scholarship assistance was provided under the program, the recipient shall work for a period of one year—

"(i) in a national security position that the Secretary certifies is appropriate to use the unique language and region expertise acquired by the recipient pursuant to such study in the Department of Defense, in any element of the intelligence community, in the Department of Homeland Security, or in the Department of State; or

"(ii) in such a position in any other Federal department or agency not referred to in clause (i) if the recipient demonstrates to the Secretary that no position is available in a Federal department or agency specified in clause (i); or

"(B) in the case of a recipient of a fellowship, as soon as practicable but in no case later than two years after the completion by the recipient of the study for which fellowship assistance was provided under the program, the recipient shall work for a period equal to the duration of assistance provided under the program, but in no case less than one year—

"(i) in a position described in subparagraph (A)(i) that the Secretary certifies is appropriate to use the unique language and region expertise acquired by the recipient pursuant to such study; or

"(ii) in such a position in any other Federal department or agency not referred to in clause (i) if the recipient demonstrates to the Secretary that no position is available in a Federal department or agency specified in clause (i); and".

(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out the amendment made by subsection (a). In prescribing such regulations, the Secretary shall establish standards that recipients of scholarship and fellowship assistance under the program under such section 802 are required to demonstrate to satisfy the requirement of a good faith effort to gain employment as required under subparagraphs (A) and (B) of subsection (b)(2) of such section.

(c) APPLICABILITY.—(1) The amendment made by subsection (a) shall apply with respect to service agreements entered into under the David L. Boren National Security Education Act of 1991 on or after the date of the enactment of this Act.

(2) The amendment made by subsection (a) shall not affect the force, validity, or terms of any service agreement entered into under the David L. Boren National Security Education Act of 1991 before the date of the enactment of this Act that is in force as of that date.

SEC. 905. CHANGE OF MEMBERSHIP OF CERTAIN COUNCILS.

(a) MEMBERSHIP OF ARMED FORCES POLICY COUNCIL.—Section 171(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(14) The Commandant of the Coast Guard, for discussion of matters pertaining to the Coast Guard.".

(b) MEMBERSHIP OF COUNCIL UNDER SECTION 179.—Subsection (a) of section 179 of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) The Under Secretary of Defense for Policy.".

(b) CONFORMING AND CLARIFYING AMENDMENTS.—Such subsection is further amended in the matter preceding paragraph (1)—

(1) by striking "Joint"; and

(2) by striking "composed of three members as follows:" and inserting "operated as a joint activity of the Department of Defense and the Department of Energy. The membership of the Council is comprised of the following officers of those departments:".

(c) OTHER TECHNICAL AND CLARIFYING AMENDMENTS.—Such section is further amended as follows:

(1) Subsection (c)(3)(B) is amended by striking "appointed" and inserting "designated".

(2) Subsection (e) is amended by striking "In addition" and all that follows through "also" and inserting "The Council shall".

(3) Subsection (f) is amended by striking "Committee on" the first place it appears and all that follows through "Representatives" and inserting "congressional defense committees".

(d) STYLISTIC AMENDMENTS.—Such section is further amended as follows:

(1) Subsection (a) is amended by inserting "ESTABLISHMENT; MEMBERSHIP.—" after "(a)".

(2) Subsection (b) is amended by inserting "CHAIRMAN; MEETINGS.—" after "(b)".

(3) Subsection (c) is amended by inserting "STAFF AND ADMINISTRATIVE SERVICES; STAFF DIRECTOR.—" after "(c)".

(4) Subsection (d) is amended by inserting "RESPONSIBILITIES.—" after "(d)".

(5) Subsection (e) is amended by inserting "REPORT ON DIFFICULTIES RELATING TO SAFETY OR RELIABILITY.—" after "(e)".

(6) Subsection (f) is amended by inserting "ANNUAL REPORT.—" after "(f)".

(e) FURTHER CONFORMING AMENDMENT.—Section 3212(e) of the National Nuclear Security Administration Act (50 U.S.C. 2402(e)) is amended—

(1) by striking "JOINT" in the subsection heading; and

(2) by striking "Joint".

SEC. 906. ACTIONS TO PREVENT THE ABUSE OF DETAINEES.

(a) POLICIES REQUIRED.—The Secretary of Defense shall prescribe policies regarding procedures for the Armed Forces and other elements of the Department of Defense and contractor personnel of the Department of Defense intended to prevent the conditions leading to acts of abuse of detainees who are held by the United States as part of the Global War on Terrorism. Policies under this subsection shall be prescribed not later than 120 days after the date of the enactment of this Act.

(b) MATTERS TO BE INCLUDED.—In order to achieve the objective stated in subsection (a), the policies on the prevention of abuse of detainees under that subsection shall specify, at a minimum, procedures for the following:

(1) Ensuring that commanders of detention facilities and commanders of interrogation facilities provide all assigned personnel (including contractor personnel) with training, and documented acknowledgement of receiving training, regarding the Geneva Convention Relative to the Treatment of Prisoners of War and established Standing Operating Procedures for the treatment of detainees. Training provided under this paragraph to contractor personnel shall be at least comparable in degree to that provided to members of the Armed Forces.

(2) Providing all detainees with information, in their own language, of the protections afforded under the Geneva Convention Relative to the Treatment of Prisoners of War.

(3) Conducting periodic unannounced and announced inspections of prisons and other areas where detainees are held in order to provide continued oversight of interrogation and detention operations.

(4) Prohibiting contact between male guards and female detainees and between female guards and male detainees, except under exigent circumstances.

(c) REPORTS TO CONGRESS.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives—

(1) a copy of the policies prescribed pursuant to subsection (a), immediately after those policies are prescribed; and

(2) a report on the implementation of those policies, not later than one year after the date on which those policies are prescribed.

SEC. 907. RESPONSES TO CONGRESSIONAL INQUIRIES.

(a) IN GENERAL.—(1) Chapter 3 of title 10, United States Code, is amended by inserting after section 113a the following new section:

"§ 113b. Response to congressional inquiries

"Whenever the Secretary of Defense or any other official of the Department of Defense is requested by the chairman of the Committee on Armed Services of the Senate or the chairman of the Committee on Armed Services of the House of Representatives to respond to a question or inquiry submitted by the chairman or another member of that committee pursuant to a committee hearing or other activity, the Secretary (or other official) shall respond to the request, in writing, within 21 days of the date on which the request is transmitted to the Secretary (or other official).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 113a the following new item:

"113b. Response to congressional inquiries.".

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

SEC. 1001. TRANSFER AUTHORITY.

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 2005 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary may transfer under the authority of this section may not exceed $3,000,000,000. Of such amount, $500,000,000 may be used only for a transfer from an account for an active component to an account for a reserve component, or from an account of a reserve component to an account of an active component, of the same Armed Force.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred;

(2) may not be used to provide authority for an item that has been denied authorization by Congress; and

(3) may not be combined with the authority provided under section 1522.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) NOTICE TO CONGRESS.—The Secretary shall promptly notify Congress of each transfer made under subsection (a).

SEC. 1002. BUDGET JUSTIFICATION DOCUMENTS FOR OPERATION AND MAINTENANCE.

(a) IN GENERAL.—(1) Chapter 9 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 232. Operations and maintenance budget presentation

"(a) IN GENERAL.—In this section

"(1) The term 'O&M justification documents' means Department of Defense budget justification documents with respect to accounts for operation and maintenance submitted to the congressional defense committees in support of the Department of Defense component of the President's budget for any fiscal year.

"(2) The term 'President's budget' means the budget of the President submitted to Congress under section 1105 of title 31 for any fiscal year.

"(3) The term 'current year' means the fiscal year during which the President's budget is submitted in any year.

"(b) IDENTIFICATION OF BASELINE AMOUNTS IN O&M JUSTIFICATION DOCUMENTS.—In any case in which the amount requested in the President's budget for a fiscal year for a Department of Defense operations and maintenance program, project, or activity is different from the amount appropriated for that program, project, or activity for the current year, the O&M justification documents supporting that budget shall identify that appropriated amount and the difference between that amount and the amount requested in the budget, stated as an amount and as a percentage.

"(c) PERSONAL SERVICE CONTRACTS.—In the O&M justification documents for any fiscal year, costs programmed in the budget for that fiscal year for Department of Defense for personal service contracts, and the number of personal service contractors to be used by the Department of Defense during that fiscal year who will be compensated at an annual rate in excess of the annual rate of salary of the Vice President under section 104 of title 3, shall be separately set forth and identified.

"(d) NAVY SUBACTIVITIES FOR SHIP DEPOT MAINTENANCE AND FOR INTERMEDIATE SHIP MAINTENANCE.—In the O&M justification documents for the Navy for any fiscal year, amounts requested for ship depot maintenance and amounts requested for intermediate ship maintenance shall be set forth as separate budget subactivity groups.

"(e) CIVILIAN AVERAGE SALARY COSTS.—In the O&M justification documents for any fiscal year, average civilian salary costs, shown by subactivity group, shall be set forth as a component of the personnel summary exhibit.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"232. Operations and maintenance budget presentation.".

(b) COMPONENTS OF LINE ITEMS FOR OTHER COSTS AND OTHER CONTRACTS.—Not later than March 1, 2005, the Secretary of Defense shall submit to the congressional defense committees a report setting forth the component elements of the line items identified as "Other Costs" and "Other Contracts" in the exhibit identified as "Summary of Price and Program Changes" in the budget justification materials submitted to those committees in support of the budget for fiscal year 2006.

SEC. 1003. RETENTION OF FEES FROM INTELLECTUAL PROPERTY LICENSES.

(a) IN GENERAL.—Chapter 165 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2788. Licensing of intellectual property of the military departments; authority to charge and retain fees

"(a) AUTHORITY TO RETAIN FEES.—(1) Under regulations prescribed by the Secretary of Defense, the Secretary concerned may license trademarks, service marks, certification marks, and collective marks owned by a military department and may retain and expend fees received from such licensing in accordance with subsection (b).

"(2) In this section, the terms 'trademark', 'service mark', 'certification mark', 'collective mark', and 'mark' have the meanings given those terms in section 45 of the Trademark Act of 1946 (15 U.S.C. 1127).

"(b) USE OF LICENSING FEES.—(1) Funds received by a military department from licensing under subsection (a)(1) shall be used for the expenses incurred by the department in securing the registration of marks owned by the department and in licensing those marks.

"(2) If the amount of fees received by a military department during any fiscal year from the licensing of marks exceeds the anticipated expenses under paragraph (1) during that year, *the Secretary concerned may designate those funds as excess and expend them as provided in paragraph (3).*

"(3) Not more than 50 percent of any such excess funds shall be available for military personnel recruiting and retention activities of the department. The remainder of such funds shall be available for morale, welfare, and recreation activities of the department.

"(4) Funds received pursuant to subsection (a)(1) shall remain available for two years after the end of the fiscal year during which the funds are received.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2788. Licensing of intellectual property of the military departments; authority to charge and retain fees.".

SEC. 1004. AUTHORITY TO WAIVE CLAIMS OF THE UNITED STATES WHEN AMOUNTS RECOVERABLE ARE LESS THAN COSTS OF COLLECTION.

(a) Authority.—Chapter 165 of title 10, United States Code, is amended by inserting after section 2780 the following new section:

"§2780a. Debt collection: general waiver authority for small amounts owed the United States

"(a) Authority.—In the case of an indebtedness to the United States described in subsection (b) that is for an amount that is less than the threshold amount specified in subsection (c), the Secretary of Defense may, under regulations prescribed under this section, cancel the indebtedness and waive recovery of the amount owed. Such authority may be used only when, based on a cost-benefit analysis, the Secretary determines that the costs of collection are expected to exceed the amount recoverable.

"(b) Covered Debts.—(1) Except as provided in paragraph (2), this section applies with respect to amounts owed to the United States that arise out of the activities of, or that are referred to, the Department of Defense (including amounts owed by members of the armed forces and Department of Defense civilian personnel).

"(2) The authority under this section does not apply to amounts owed to the United States arising out of activities of the Department of Defense that have been referred to another executive agency for collection action or that are otherwise within the purview of another executive agency.

"(c) Maximum Amount Waivable.—The threshold amount referred to in subsection (a) is the micropurchase threshold amount in effect under section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428).

"(d) Regulations.—The Secretary of Defense shall prescribe regulations for the purposes of this section.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2780 the following new item:

"2780a. Debt collection: general waiver authority for small amounts owed the United States.".

SEC. 1005. REPEAL OF FUNDING RESTRICTIONS CONCERNING DEVELOPMENT OF MEDICAL COUNTERMEASURES AGAINST BIOLOGICAL WARFARE THREATS.

(a) Repeal.—Section 2370a of title 10, United States Code, is repealed.

(b) Clerical Amendment.—The table of sections at the beginning of chapter 139 of such title is amended by striking the item relating to that section.

SEC. 1006. REPORT ON BUDGETING FOR EXCHANGE RATES FOR FOREIGN CURRENCY FLUCTUATIONS.

(a) Secretary of Defense Report.—(1) Not later than December 1, 2004, the Secretary Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the foreign currency exchange rate projection used in annual Department of Defense budget presentations.

(2) In the report under paragraph (1), the Secretary shall—

(A) identify alternative approaches for selecting foreign currency exchange rates that would produce more realistic estimates of amounts required to be appropriated or otherwise made available for the Department of Defense to accommodate foreign currency exchange rate fluctuations;

(B) address the advantages and disadvantages of each approach identified pursuant to subparagraph (A);

(C) identify the Secretary's preferred approach among the alternatives identified pursuant to subparagraph (A) and provide the Secretary's rationale for preferring that approach.

(3) In identifying alternative approaches pursuant to paragraph (2)(A), the Secretary shall examine—

(A) approaches used by other Federal departments and agencies; and

(B) the feasibility of using private economic forecasting.

(b) Comptroller General Review and Report.—The Comptroller General of the United States shall review the report under subsection (a), including the basis for the Secretary's conclusions stated in the report, and shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the Comptroller General's conclusions with respect to that report. Such report shall be submitted not later than January 15, 2005.

Subtitle B—Naval Vessels and Shipyards

SEC. 1011. AUTHORITY FOR AWARD OF CONTRACTS FOR SHIP DISMANTLING ON NET-COST BASIS.

(a) In General.—Chapter 633 of title 10, United States Code, is amended by inserting after section 7305 the following new section:

"§7305a. Vessels stricken from Naval Vessel Register: contracts for dismantling on net-cost basis

"(a) Authority for Net-Cost Basis Contracts.—When the Secretary of the Navy awards a contract for the dismantling of a vessel stricken from the Naval Vessel Register, the Secretary may award the contract on a net-cost basis.

"(b) Retention by Contractor of Proceeds of Sale of Scrap and Reusable Items.—When the Secretary awards a contract on a net-cost basis under subsection (a), the Secretary shall provide in the contract that the contractor may retain the proceeds from the sale of scrap and reusable items removed from the vessel dismantled under the contract.

"(c) Definitions.—In this section:

"(1) The term 'net-cost basis', with respect to a contract for the dismantling of a vessel, means that the amount to be paid to the contractor under the contract for dismantling and for removal and disposal of hazardous waste material is discounted by the offeror's estimate of the value of scrap and reusable items that the contractor will remove from the vessel during performance of the contract.

"(2) The term 'scrap' means personal property that has no value except for its basic material content.

"(3) The term 'reusable item' means a demilitarized component or a removable portion of a vessel or equipment that the Secretary of the Navy has identified as excess to the needs of the Navy but which has potential resale value on the open market.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7305 the following new item:

"7305a. Vessels stricken from Naval Vessel Register: contracts for dismantling on net-cost basis.".

SEC. 1012. INDEPENDENT STUDY TO ASSESS COST EFFECTIVENESS OF THE NAVY SHIP CONSTRUCTION PROGRAM.

(a) Study.—The Secretary of Defense shall provide for a study, to be conducted by an entity independent of the Department of Defense, of the cost effectiveness of the ship construction program of the Navy. The purpose of the study shall be to examine both—

(1) a variety of approaches by which the Navy ship construction program could be made more efficient in the near term; and

(2) a variety of approaches by which, with a nationally integrated effort over the next decade, the United States shipbuilding industry might be made competitive globally.

(b) Near Term Improvements in Efficiency.—With respect to the examination under subsection (a)(1) of approaches by which the Navy ship construction program could be made more efficient in the near term, the Secretary shall provide for the entity conducting the study—

(1) to determine, with respect to each approach so examined, the cost savings that could result from implementation of that approach over each of the next 10 years;

(2) to recommend one or more of the approaches examined under subsection (a)(1) for implementation; and

(3) for each approach recommended under paragraph (2) for implementation, to develop a concept and implementation plan by which the recommended improvements could best be phased into the naval ship construction program.

(c) Global Competitiveness of United States Shipbuilding Industry.—With respect to the examination under subsection (a)(2) of approaches by which, with a nationally integrated effort over the next decade, the United States shipbuilding industry might be made competitive globally, the Secretary shall provide for the entity conducting the study—

(1) to develop a plan to modernize the United States shipbuilding infrastructure within the next decade in order to make the United States shipbuilding industry more competitive globally; and

(2) to estimate the resources required to carry out a modernization plan developed under paragraph (1).

(d) Report.—Not later than June 1, 2005, the Secretary of Defense shall submit to the congressional defense committees a report providing the results of the study under subsection (a). The report shall include the matters specified in subsections (b) and (c).

SEC. 1013. AUTHORITY TO TRANSFER SPECIFIED FORMER NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES.

(a) Authority to Transfer by Grant.—The Prsident is authorized to transfer vessels to foreign countries on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j), as follows:

(1) Chile.—The "SPRUANCE" class destroyer O'BANNON (DD–987) to the Government of Chile.

(2) Portugal.—The "OLIVER HAZARD PERRY" class guided missile frigate GEORGE PHILIP (FFG–12) to the Government of Portugal.

(b) Authority to Transfer by Sale.—The President is authorized to transfer on a sale basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761) the "ANCHORAGE" class dock landing ship ANCHORAGE (LSD–36) to the Taipei Economic and Cultural Representative Office in the United States (which is the Taiwan instrumentality designated pursuant to section 10(a) of the Taiwan Relations Act).

(c) Grants Not Counted in Annual Total of Transferred Excess Defense Articles.—The value of a vessel transferred to another country on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) pursuant to authority provided by subsection (a) shall not be counted for the purposes of subsection (g) of that section in the aggregate value of excess defense articles transferred to countries under that section in any fiscal year.

(d) Costs of Transfers.—Any expense incurred by the United States in connection with a transfer authorized by this section shall be charged to the recipient (notwithstanding section 516(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j (e)) in the case of a transfer authorized to be made on a grant basis under subsection (a)).

(e) Repair and Refurbishment in United States Shipyards.—To the maximum extent practicable, the President shall require, as a condition of the transfer of a vessel under this section, that the country to which the vessel is transferred have such repair or refurbishment of the vessel as is needed, before the vessel joins the naval forces of that country, performed at a shipyard located in the United States, including a United States Navy shipyard.

(f) Expiration of Authority.—The authority to transfer a vessel under this section shall expire at the end of the two-year period beginning on the date of the enactment of this Act.

SEC. 1014. LIMITATION ON LEASING OF FOREIGN-BUILT VESSELS.

(a) In General.—(1) Chapter 141 of title 10, United States Code, is amended by inserting after section 2401a the following new section:

"§2401b. Limitation on lease of foreign-built vessels

"(a) Limitation.—The Secretary of a military department may not make a contract for a lease or charter of a vessel for a term of more than 12 months (including all options to renew or extend the contract) if the hull, a major component of the hull, or superstructure of the vessel is constructed in a foreign shipyard.

"(b) Presidential Waiver for National Security Interest.—(1) The President may authorize exceptions to the limitation in subsection (a) when the President determines that it is in the national security interest of the United States to do so.

"(2) The President shall transmit notice to Congress of any such determination, and no contract may be made pursuant to the exception authorized until the end of the 30-day period beginning on the date on which the notice of the determination is received by Congress.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2401a the following new item:

"2401b. Limitation on lease of foreign-built vessels.".

(b) Effective Date.—Section 2401b of title 10, United States Code, as added by subsection (a), shall apply with respect to contracts entered into after the date of the enactment of this Act.

Subtitle C—Sunken Military Craft

SEC. 1021. PRESERVATION OF TITLE TO SUNKEN MILITARY CRAFT AND ASSOCIATED CONTENTS.

Right, title, and interest of the United States in and to any United States sunken military craft shall not be extinguished by the passage of time, regardless of when the sunken military craft sank.

SEC. 1022. PROHIBITIONS.

(a) Unauthorized Activities Directed at Sunken Military Craft.—No person shall engage in or attempt to engage in any activity directed at a sunken military craft that disturbs, removes, or injures any sunken military craft, except—

(1) as authorized by a permit under this subtitle;

(2) as authorized by regulations issued under this subtitle; or

(3) as otherwise authorized by law.

(b) Possession of Sunken Military Craft.—No person may possess, disturb, remove, or injure any sunken military craft in violation of—

(1) this section; or

(2) any prohibition, rule, regulation, ordinance, or permit that applies under any other applicable Federal, foreign, or other law.

(c) Limitations on Application.—

(1) Actions by United States.—This section shall not apply to actions taken by, or at the direction of, the United States.

(2) Foreign persons.—This section shall not apply to any action by a person who is not a citizen, national, or resident alien of the United States, except in accordance with—

(A) generally recognized principles of international law;

(B) an agreement between the United States and the foreign country of which the person is a citizen; or

(C) in the case of an individual who is a crew member or other individual on a foreign vessel or foreign aircraft, an agreement between the United States and the flag State of the foreign vessel or aircraft that applies to the individual.

(3) Loan of sunken military craft.—This section does not prohibit the loan of United States sunken military craft in accordance with regulations issued by the Secretary concerned.

SEC. 1023. PERMITS.

(a) In General.—The Secretary concerned may issue a permit authorizing a person to engage in an activity otherwise prohibited by section 1022 with respect to a United States military craft, for archaeological, historical, or educational purposes, in accordance with regulations issued by such Secretary that implement this section.

(b) Consistency With Other Laws.—The Secretary concerned shall require that any activity carried out under a permit issued by such Secretary under this section must be consistent with all requirements and restrictions that apply under any other provision of Federal law.

(c) Consultation.—In carrying out this section (including the issuance after the date of the enactment of this Act of regulations implementing this section), the Secretary concerned shall consult with the head of each Federal agency having authority under Federal law with respect to activities directed at sunken military craft or the locations of such craft.

SEC. 1024. PENALTIES.

(a) In General.—Any person who violates this subtitle, or any regulation or permit issued under this subtitle, shall be liable to the United States for a civil penalty under this section.

(b) Assessment and Amount.—The Secretary concerned may assess a civil penalty under this section, after notice and an opportunity for a hearing, of not more than $100,000 for each violation.

(c) Continuing Violations.—Each day of a continued violation of this subtitle or a regulation or permit issued under this subtitle shall constitute a separate violation for purposes of this section.

SEC. 1025. LIABILITY FOR DAMAGES.

(a) In General.—Any person who engages in an activity in violation of section 1022 or any regulation or permit issued under this subtitle that disturbs, removes, or injures any United States sunken military craft shall pay the United States enforcement costs and damages resulting from such disturbance, removal, or injury.

(b) Included Damages.—Damages referred to in subsection (a) may include—

(1) the reasonable costs incurred in storage, restoration, care, maintenance, conservation, and curation of any sunken military craft that is disturbed, removed, or injured in violation of section 1022 or any regulation or permit issued under this subtitle; and

(2) the cost of retrieving, from the site where the sunken military craft was disturbed, removed, or injured, any information of an archaeological, historical, or cultural nature.

SEC. 1026. RELATIONSHIP TO OTHER LAWS.

(a) In General.—Except to the extent that an activity is undertaken as a subterfuge for activities prohibited by this subtitle, nothing in this subtitle is intended to affect—

(1) any activity that is not directed at a sunken military craft; or

(2) the traditional high seas freedoms of navigation, including—

(A) the laying of submarine cables and pipelines;

(B) operation of vessels;

(C) fishing; or

(D) other internationally lawful uses of the sea related to such freedoms.

(b) International Law.—This subtitle and any regulations implementing this subtitle shall be applied in accordance with generally recognized principles of international law and in accordance with the treaties, conventions, and other agreements to which the United States is a party.

(c) Law of Finds.—The law of finds shall not apply to any United States sunken military craft, wherever located.

(d) Law of Salvage.—No salvage rights or awards shall be granted with respect to any sunken military craft without the express permission of the United States.

(e) Law of Capture or Prize.—Nothing in this subtitle is intended to alter the international law of capture or prize with respect to sunken military craft.

(f) Limitation of Liability.—Nothing in sections 4281 through 4287 and 4289 of the Revised Statutes (46 U.S.C. App. 181 et seq.) or section 3 of the Act of February 13, 1893 (chapter 105; 27 Stat. 445; 46 U.S.C. App. 192), shall limit the liability of any person under this section.

(g) Authorities of the Commandant of the Coast Guard.—Nothing in this subtitle is intended to preclude or limit the application of any other law enforcement authorities of the Commandant of the Coast Guard.

(h) Prior Delegations, Authorizations, and Related Regulations.—Nothing in this subtitle shall invalidate any prior delegation, authorization, or related regulation that is consistent with this subtitle.

(i) Criminal Law.—Nothing in this subtitle is intended to prevent the United States from pursuing criminal sanctions for plundering of wrecks, larceny of Government property, or violation of any applicable criminal law.

SEC. 1027. ENCOURAGEMENT OF AGREEMENTS WITH FOREIGN COUNTRIES.

The Secretary of State, in consultation with the Secretary of Defense, is encouraged to negotiate and conclude bilateral and multilateral agreements with foreign countries with regard to sunken military craft consistent with this subtitle.

SEC. 1028. DEFINITIONS.

In this subtitle:

(1) Associated contents.—The term "associated contents" means—

(A) the equipment, cargo, and contents of a sunken military craft that are within its debris field; and

(B) the remains and personal effects of the crew and passengers of a sunken military craft that are within its debris field.

(2) Secretary.—The term "Secretary" means the Secretary of a military department.

(3) Sunken military aircraft.—The term "sunken military aircraft" means any sunken

military aircraft that was owned or operated by the United States when it sank.

(4) SUNKEN MILITARY CRAFT.—The term "sunken military craft" means any sunken military vessel, sunken military aircraft, or associated contents, or any portion thereof, the title to which has not been abandoned or transferred in a manner prescribed by the United States.

(5) SUNKEN MILITARY VESSEL.—The term "sunken military vessel" means any sunken warship or naval auxiliary of the United States that is a public vessel as that term is used in the Act of March 3, 1925 (chapter 428; 46 U.S.C. App. 781 et seq.), popularly known as the Public Vessels Act.

(6) UNITED STATES CONTIGUOUS ZONE.—The term "United States contiguous zone" means the contiguous zone of the United States under Presidential Proclamation 7219, dated September 2, 1999.

(7) UNITED STATES INTERNAL WATERS.—The term "United States internal waters" means all waters of the United States on the landward side of the baseline from which the breadth of the United States territorial sea is measured.

(8) UNITED STATES TERRITORIAL SEA.—The term "United States territorial sea" means the waters of the United States territorial sea under Presidential Proclamation 5928, dated December 27, 1988.

(9) UNITED STATES WATERS.—The term "United States waters" means United States internal waters, the United States territorial sea, and the United States contiguous zone.

Subtitle D—Counter-Drug Activities

SEC. 1031. CONTINUATION OF AUTHORITY TO USE DEPARTMENT OF DEFENSE FUNDS FOR UNIFIED COUNTERDRUG AND COUNTERTERRORISM CAMPAIGN IN COLOMBIA.

(a) AUTHORITY TO PROVIDE ASSISTANCE.—During fiscal years 2005 and 2006, the Secretary of Defense may use funds made available to the Department of Defense for drug interdiction and counter-drug activities to provide assistance to the Government of Colombia—

(1) to support a unified campaign against narcotics trafficking in Colombia;

(2) to support a unified campaign against activities by designated terrorist organizations, such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC); and

(3) to take actions to protect human health and welfare in emergency circumstances, including undertaking rescue operations.

(b) RELATION TO OTHER ASSISTANCE AUTHORITY.—The authority provided by subsection (a) is in addition to other provisions of law authorizing the provision of assistance to the Government of Colombia.

SEC. 1032. LIMITATION ON NUMBER OF UNITED STATES MILITARY PERSONNEL IN COLOMBIA.

(a) LIMITATION.—None of the funds available to the Department of Defense for any fiscal year may be used to support or maintain more than 500 members of the Armed Forces on duty in the Republic of Colombia at any time.

(b) EXCLUSION OF CERTAIN MEMBERS.—For purposes of determining compliance with the limitation in subsection (a), the Secretary of Defense may exclude the following military personnel:

(1) A member of the Armed Forces in the Republic of Colombia for the purpose of rescuing or retrieving United States military or civilian Government personnel, except that the period for which such a member may be so excluded may not exceed 30 days unless expressly authorized by law.

(2) A member of the Armed Forces assigned to the United States Embassy in Colombia as an attaché, as a member of the security assistance office, or as a member of the Marine Corps security contingent.

(3) A member of the Armed Forces in Colombia to participate in relief efforts in responding to a natural disaster.

(4) Nonoperational transient military personnel.

(5) A member of the Armed Forces making a port call from a military vessel in Colombia.

Subtitle E—Reports

SEC. 1041. STUDY OF CONTINUED REQUIREMENT FOR TWO-CREW MANNING FOR BALLISTIC MISSILE SUBMARINES.

(a) STUDY AND DETERMINATION.—The Secretary of Defense shall conduct a study of whether the practice of using two alternating crews (referred to as the "Gold Crew" and the "Blue Crew") for manning of ballistic missile submarines (SSBNs) continues to be justified under the changed circumstances since the end of the Cold War and, based on that study, shall make a determination of whether that two-crew manning practice should be continued or should be modified or terminated.

(b) REPORT.—Not later than six months after the date of the enactment of this Act, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report providing notice of the Secretary's determination under subsection (a) and the reasons for that determination.

SEC. 1042. STUDY OF EFFECT ON DEFENSE INDUSTRIAL BASE OF ELIMINATION OF UNITED STATES DOMESTIC FIREARMS MANUFACTURING BASE.

Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report describing in detail the effect on both military readiness and the defense industrial base that would result from the elimination of the United States domestic firearms manufacturing base.

SEC. 1043. STUDY OF EXTENT AND QUALITY OF TRAINING PROVIDED TO MEMBERS OF THE ARMED SERVICES TO PREPARE FOR POST-CONFLICT OPERATIONS.

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study to determine the extent to which members of the Armed Forces assigned to duty in support of contingency operations receive training in preparation for post-conflict operations and to evaluate the quality of such training

(b) MATTERS INCLUDED IN STUDY.—As part of the study under subsection (a), the Secretary shall specifically evaluate the following:

(1) The doctrine, training, and leader-development system necessary to enable members of the Armed Forces to successfully operate in post-conflict operations.

(2) The adequacy of curricula at military educational facilities to ensure that the Armed Forces has a cadre of members skilled in post-conflict duties, foreign languages, and foreign cultures.

(3) The training time and resources available to members and units to develop cultural awareness about ethnic backgrounds, religious beliefs, and political loyalties of the people living in areas in which the Armed Forces operate.

(4) The organization of the combatant commands to conduct post-conflict operations.

(c) SUBMISSION OF STUDY RESULTS.—Not later than March 15, 2005, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report containing the results of the study conducted under this section.

Subtitle F—Security Matters

SEC. 1051. USE OF NATIONAL DRIVER REGISTER FOR PERSONNEL SECURITY INVESTIGATIONS AND DETERMINATIONS.

Section 30305(b) of title 49, United States Code, is amended—

(1) by redesignating paragraphs (9) through (11) as paragraphs (10) through (12), respectively; and

(2) by inserting after paragraph (8) the following new paragraph:

"(9) An individual who has or is seeking access to national security information for purposes of Executive Order 12968, or any successor Executive order, or an individual who is being investigated for Federal employment under authority of Executive Order 10450, or any successor Executive order, may request the chief driver licensing official of a State to provide information about the individual pursuant to subsection (a) of this section to a Federal department or agency that is authorized to investigate the individual for the purpose of assisting in the determination of the eligibility of the individual for access to national security information or for Federal employment. A Federal department or agency that receives such information about an individual may use it in accordance with applicable law.".

SEC. 1052. STANDARDS FOR DISQUALIFICATION FROM ELIGIBILITY FOR DEPARTMENT OF DEFENSE SECURITY CLEARANCE.

(a) DISQUALIFIED PERSONS.—Subsection (c)(1) of section 986 of title 10, United States Code, is amended—

(1) by striking "and" and inserting ", was"; and

(2) and inserting before the period at the end the following: ", and was incarcerated as a result of that sentence for not less than one year".

(b) WAIVER AUTHORITY.—Subsection (d) of such section is amended to read as follows:

"(d) WAIVER AUTHORITY.—In a meritorious case, an exception to the prohibition in subsection (a) may be authorized for a person described in paragraph (1) or (4) of subsection (c) if there are mitigating factors. Any such waiver may be authorized only in accordance with standards and procedures prescribed by, or under the authority of, an Executive order or other guidance issued by the President.".

Subtitle G—Transportation-Related Matters

SEC. 1061. USE OF MILITARY AIRCRAFT TO TRANSPORT MAIL TO AND FROM OVERSEAS LOCATIONS.

(a) AUTHORITY FOR USE OF MILITARY AIRCRAFT.—Section 3401 of title 39, United States Code, is amended—

(1) in subsection (b)—

(A) in the matter preceding paragraph (1)(A), by striking "title 49," and inserting "title 49, or on military aircraft at rates not to exceed those so fixed and determined for scheduled United States air carriers,"; and

(B) in the sentence following paragraph (3), by striking "carriers" each place it appears and inserting "carriers and military aircraft"; and

(2) in subsection (c)—

(A) in the first sentence, by striking "title 49," and inserting "title 49, or on military aircraft at rates not to exceed those so fixed and determined for scheduled United States air carriers,"; and

(B) in the second sentence—

(i) by inserting "and military aircraft" after "carriers" the first place it appears; and

(ii) by striking "by air carriers other than scheduled United States air carriers" and inserting "by other than scheduled United States air carriers and military aircraft".

(b) DEFINITION.—Such section is further amended by adding at the end the following new subsection:

"(g) In this section, the term 'military aircraft' means an aircraft owned, operated, or chartered by the Department of Defense.".

SEC. 1062. REORGANIZATION AND CLARIFICATION OF CERTAIN PROVISIONS RELATING TO CONTROL AND SUPERVISION OF TRANSPORTATION WITHIN THE DEPARTMENT OF DEFENSE.

(a) TRANSFER OF CERTAIN TRANSPORTATION AUTHORITIES.—Sections 4744, 4745, 4746, and 4747 of title 10, United States Code, are transferred to chapter 157 of such title, inserted (in that order) at the end of such chapter, and redesignated as sections 2648, 2649, 2650, and 2651, respectively.

(b) CLARIFICATION OF APPLICABILITY OF TRANSFERRED AUTHORITIES THROUGHOUT THE DEPARTMENT OF DEFENSE.—(1) Section 2648 of such title, as transferred and redesignated by subsection (a), is amended—

(A) by striking "Secretary of the Army" in the matter preceding paragraph (1) and inserting "Secretary of Defense";

(B) by striking "Army transport agencies" in the matter preceding paragraph (1) and all that follows through "military transport agency of"; and

(C) by striking paragraphs (1), (2), and (3);

(D) by redesignating paragraph (4), (5), (6), and (7) as paragraphs (1), (2), (3), and (4), respectively;

(E) by redesignating paragraph (8) as paragraph (5) and in that paragraph striking "persons described in clauses (1), (2), (4), (5), and (7)" and inserting "members of the armed forces, officers and employees of the Department of Defense or the Coast Guard, and persons described i paragraphs (1), (2), and (4)"; and

(F) by striking "clause (7) or (8)" in the last sentence and inserting "paragraph (4) or (5)".

(2) Section 2649 of such title, as transferred and redesignated by subsection (a), is amended—

(A) by striking the section heading and inserting the following:

"§2649. Civilian passengers and commercial cargoes: transportation on Department of Defense vessels";

(B) by striking "(1) on vessels" and all that follows through "Department of the Army";

(C) by striking "any transport agency of"; and

(D) by striking "Secretary of the Army" and all that follows through "be transported" and inserting "Secretary of Defense, be transported".

(3) Section 2650 of such title, as transferred and redesignated by subsection (a), is amended—

(A) in the matter preceding paragraph (1), by striking "Army transport agencies" and all that follows through "military transport agency of";

(B) in paragraph (1), by striking "Secretary of the Army" and inserting "Secretary of Defense"; and

(C) in paragraph (4), by striking "by air—" and all that follows through "the transportation cannot" and inserting "by air, the transportation cannot".

(4) Section 2651 of such title, as transferred and redesignated by subsection (a), is amended by striking "Army transport agencies" and all that follows and inserting "the Department of Defense, under regulations and at rates to be prescribed by the Secretary of Defense.".

(c) REPEAL OF SUPERSEDED AND OBSOLETE PROVISIONS.—The following sections of such title are repealed: sections 4741, 4743, 9741, 9743, and 9746.

(d) CLERICAL AMENDMENTS.—

(1) The table of sections at the beginning of chapter 157 of such title is amended by adding at the end the following new items:

"2648. Persons and supplies: sea transportation.
"2649. Civilian passengers and commercial cargoes: transportation on Department of Defense vessels.
"2650. Civilian personnel in Alaska.
"2651. Passengers and merchandise to Guam: sea transport.".

(2) The table of sections at the beginning of chapter 447 of such title is amended by striking the items relating to sections 4741, 4743, 4744, 4745, 4746, and 4747.

(3) The table of sections at the beginning of chapter 947 of such title is amended by striking the items relating to sections 9741, 9743, and 9746.

SEC. 1063. DETERMINATION OF WHETHER PRIVATE AIR CARRIERS ARE CONTROLLED BY UNITED STATES CITIZENS FOR PURPOSES OF ELIGIBILITY FOR GOVERNMENT CONTRACTS FOR TRANSPORTATION OF PASSENGERS OR SUPPLIES.

Section 2710 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 601), is amended by adding at the end the following new sentence: "Any determination for purposes of this section of whether (in accordance with the first proviso of this section) an air carrier is effectively controlled by citizens of the United States shall be made by, or shall be based on determinations made by, the Secretary of Transportation.".

SEC. 1064. EVALUATION OF WHETHER TO PROHIBIT CERTAIN OFFERS FOR TRANSPORTATION OF SECURITY-SENSITIVE CARGO.

(a) EVALUATION REQUIREMENT.—The Secretary of Defense shall evaluate whether, and under what circumstances, in the award of service contracts for domestic freight transportation for security-sensitive cargo (such as arms, ammunitions, explosive, and classified material), the Secretary should not consider an offer or tender from more than one motor carrier that is part of a group of motor carriers under common financial or administrative control. In conducting the evaluation, the Secretary shall seek industry comment.

(b) REPORT.—Not later than January 1, 2005, the Secretary of Defense shall submit to the Committees on Armed Services of the House of Representatives and the Senate a report on the results of the evaluation conducted under subsection (a).

Subtitle H—Other Matters

SEC. 1071. TWO-YEAR EXTENSION OF AUTHORITY OF THE SECRETARY OF DEFENSE TO ENGAGE IN COMMERCIAL ACTIVITIES AS SECURITY FOR INTELLIGENCE COLLECTION ACTIVITIES ABROAD.

Section 431(a) of title 10, United States Code, is amended by striking "December 31, 2004" and inserting "December 31, 2006".

SEC. 1072. ASSISTANCE FOR STUDY OF FEASIBILITY OF BIENNIAL INTERNATIONAL AIR TRADE SHOW IN THE UNITED STATES AND FOR INITIAL IMPLEMENTATION.

(a) ASSISTANCE FOR COMMUNITY FEASIBILITY STUDY.—(1) The Secretary of Defense shall provide assistance to a community selected under subsection (d) for expenses of a study by that community of the feasibility of the establishment and operation of a biennial international air trade show in the area of that community.

(2) The Secretary shall provide for the community to submit to the Secretary a report containing the results of the study not later than September 30, 2005. The Secretary shall promptly submit the report to Congress, together with such comments on the report as the Secretary considers appropriate.

(b) ASSISTANCE FOR IMPLEMENTATION.—If the community conducting the study under subsection (a) determines that the establishment and operation of such an air show is feasible and should be implemented, the Secretary shall provide assistance to the community for the initial expenses of implementing such an air show in the selected community.

(c) AMOUNT OF ASSISTANCE.—The amount of assistance provided by the Secretary under subsections (a) and (b)—

(1) may not exceed a total of $1,000,000, to be derived from amounts available for operation and maintenance for the Air Force for fiscal year 2005 or later fiscal years; and

(2) may not exceed one-half of the cost of the study and may not exceed one-half the cost of such initial implementation.

(d) SELECTION OF COMMUNITY.—The Secretary shall select a community for purposes of subsection (a) through the use of competitive procedures. In making such selection, the Secretary shall give preference to those communities that already sponsor an air show, have demonstrated a history of supporting air shows with local resources, and have a significant role in the aerospace community. The community shall be selected not later than March 1, 2005.

SEC. 1073. TECHNICAL AND CLERICAL AMENDMENTS.

(a) CLARIFICATION OF DEFINITION OF "OPERATIONAL RANGE".—Section 101(e)(3) of title 10, United States Code, is amended by striking "Secretary of Defense" and inserting "Secretary of a military department".

(b) AMENDMENTS RELATING TO DEFINITION OF CONGRESSIONAL DEFENSE COMMITTEES.—

(1) Chapter 169 of such title is amended as follows:

(A) Paragraph (4) of section 2801(c) is amended to read as follows:

"(4) The term 'congressional defense committees' includes, with respect to any project to be carried out by, or for the use of, an intelligence component of the Department of Defense—

"(A) the Permanent Select Committee on Intelligence of the House of Representatives; and

"(B) the Select Committee on Intelligence of the Senate.".

(B) The following sections are amended by striking "appropriate committees of Congress" each place it appears and inserting "congressional defense committees": sections 2803(b), 2804(b), 2805(b)(2), 2806(c)(2), 2807(b), 2807(c), 2808(b), 2809(f)(1), 2811(d), 2812(c)(1)(A), 2813(c), 2814(a)(2)(A), 2814(g)(1), 2825(b)(1), 2827(b), 2828(f), 2835(g), 2835(f), 2837(c)(2), 2853(c)(2), 2854(b), 2854a(c)(1), 2865(e)(2), 2866(c)(2), 2875(e), 2881a(d)(2), 2881a(e), 2883(f), and 2884(a).

(2) Section 2215 is amended—

(A) by striking "(a) CERTIFICATION REQUIRED.—";

(B) by striking "congressional committees specified in subsection (b)" and inserting "congressional defense committees"; and

(C) by striking subsection (b).

(3) Section 2306b(g) is amended by striking "Committee on" the first place it appears and all that follows through "House of Representatives" and inserting "congressional defense committees".

(4) Section 2515(d) is amended—

(A) by striking "(1)" before "The Secretary";

(B) by striking "congressional committees specified in paragraph (2)" and inserting "congressional defense committees"; and

(C) by striking paragraph (2).

(5) Section 2676(d) is amended by striking "appropriate committees of Congress" at the end of the first sentence and inserting "congressional defense committees".

(6) Section 2694a is amended by striking "appropriate committees of Congress" in subsections (e) and (i)(1) and inserting "congressional defense committees".

(c) AMENDMENTS RELATING TO DEFINITION OF BASE CLOSURE LAWS.—

(1) Section 2694a(i) of title 10, United States Code, is amended by striking paragraph (2).

(2) Paragraph (1) of section 1333(i) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 2701 note) is amended to read as follows:

"(1) BASE CLOSURE LAW.—The term 'base closure law' has the meaning given such term in section 101(a)(17) of title 10, United States Code.".

(3) Subsection (b) of section 2814 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337; 10 U.S.C. 2687 note) is amended to read as follows:

"(b) BASE CLOSURE LAW DEFINED.—In this section, the term 'base closure law' has the meaning given such term in section 101(a)(17) of title 10, United States Code.".

(4) Subsection (c) of section 3341 of title 5, United States Code, is amended to read as follows:

"(c) For purposes of this section, the term 'base closure law' has the meaning given such term in section 101(a)(17) of title 10.".

(5)(A) Paragraph (1) of section 554(a) of title 40, United States Code, is amended to read as follows:

"(1) BASE CLOSURE LAW.—The term 'base closure law' has the meaning given that term in section 101(a)(17) of title 10.".

(B) Subparagraph (B) of section 572(b)(1) of title 40 is amended to read as follows:

"(B) BASE CLOSURE LAW.—The term 'base closure law' has the meaning given that term in section 101(a)(17) of title 10.".

(d) DEFINITION OF STATE FOR PURPOSES OF SECTION 2694A.—Subsection (i) of section 2694a of title 10, United States Code, as amended by subsections (b)(6) and (c)(1), is further amended—

(1) by inserting after paragraph (1) the following new paragraph (2):

"(2) The term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, and American Samoa."; and

(2) by striking paragraph (4).

(e) MISCELLANEOUS AMENDMENTS TO TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

(1) The tables of chapters at the beginning of subtitle A, and at the beginning of part I of subtitle A, are amended by striking "481" in the item relating to chapter 23 and inserting "480".

(2) Section 130a is amended—

(A) by striking "Effective October 1, 2002, the" in subsection (a) and inserting "The";

(B) by striking "baseline number" in subsection (a) and all that follows through "means the" in subsection (c);

(C) by transferring subsection (e) so as to appear before subsection (d) and redesignating that subsection as subsection (b);

(D) by redesignating subsections (d) and (f) as subsection (c) and (d), respectively; and

(E) by striking subsection (g).

(3) Section 437(c) is amended by inserting "(50 U.S.C. 415b)" after "National Security Act of 1947".

(4) Section 487(d) is amended by striking "OTHER DEFINITIONS" and inserting "INAPPLICABILITY TO COAST GUARD".

(5) Section 503(c)(1)(B) is amended by striking "education" in the second sentence and inserting "educational".

(6) Section 632(c)(1) is amended—

(A) by striking "paragraph (2)" and inserting "paragraph (3)"; and

(B) by striking "under that paragraph" and inserting "under that subsection".

(7) The item relating to section 1076b in the table of sections at the beginning of chapter 55 is amended to read as follows:

"1076b. TRICARE program: coverage for members of the Ready Reserve.".

(8) Section 1108(e) is amended by striking "heath" and inserting "health".

(9) Section 1406(g) is amended—

(A) by striking "section 305" and inserting "section 245"; and

(B) by inserting "(33 U.S.C. 3045)" after "of 2002".

(10) Sections 1448(b)(1)(F), 1448(d)(2)(B), 1448(d)(6)(A), and 1458(j) are amended by striking "on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2004" and inserting "after November 23, 2003,".

(11) Sections 1463(a), 1465(c)(1)(A), 1465(c)(1)(B), 1465(c)(4)(A), 1465(c)(4)(B), and 1466(b)(2)(D) are amended by striking "1413, 1413a," and inserting "1413a".

(12) Section 1557(b) is amended "Effective October 1, 2002, final" and inserting "Final".

(13) Section 1566 is amended—

(A) in subsection (g)(2), by striking "the date that is 6 months after the date of the enactment of the Help America Vote Act of 2002" in the last sentence and inserting "April 29, 2003"; and

(B) in subsections (h), (i)(1), and (i)(3), by striking "Armed Forces" and inserting "armed forces".

(14) Sections 1724(d) and 1732(d)(1) are amended by striking "its decision" in the second sentence and inserting "the decision of the Secretary".

(15) Section 1761(b) is amended—

(A) in the matter preceding paragraph (1), by striking "provide for—" and inserting "provide for the following:";

(B) in paragraphs (1), (2), and (3), by capitalizing the first letter of the first word;

(C) at the end of paragraphs (1) and (2), by striking the semicolon and inserting a period;

(D) at the end of paragraph (3), by striking "; and" and inserting a period; and

(E) by striking paragraph (4).

(16) Section 2193b(c)(2) is amended by striking "the date of the enactment of this section" and inserting "October 5, 1999".

(17) Section 2224(c) is amended in the matter preceding paragraph (1) by striking "subtitle II of chapter 35" and inserting "subchapter II of chapter 35".

(18) Section 2349(d) is amended by striking "section 2350a(i)(3)" and inserting "section 2350a(i)(2)".

(19) Section 2350b(g) is amended—

(A) in the matter preceding paragraph (1), by inserting "the Secretary of Defense" after "authorizing"; and

(B) in paragraph (1), by striking "the Secretary of Defense".

(20) Section 2540(b)(2) is amended by inserting ", as in effect on that date" before the period at the end.

(21) Section 2662(a)(2) is amended—

(A) in the first sentence, by striking "must include a summarization" and inserting "shall include a summary"; and

(B) in the second sentence, by inserting "of paragraph (1)" after "in subparagraph (E)".

(22) Section 2672a(a) is amended—

(A) in the matter preceding paragraph (1), by inserting "in any case in which the Secretary determines" after "in land";

(B) in paragraph (1), by striking "the Secretary determines" and inserting "the acquisition"; and

(C) in paragraph (2), by inserting "the acquisition" after "(2)".

(23) Section 2701 is amended—

(A) in subsection (a)(2), by inserting "(42 U.S.C. 9620)" before the period at the end;

(B) in subsection (c)(2), by striking "of CERCLA (relating to settlements)" and inserting "(relating to settlements) of CERCLA (42 U.S.C. 9622)";

(C) in subsection (e), by inserting "(42 U.S.C. 9619)" after "CERCLA"; and

(D) in subsection (j)(2), by striking "the Comprehensive" and all the follows through "of 1980" and inserting "CERCLA".

(24) Section 2702 is amended by inserting "(42 U.S.C. 9660(a)(5))" in the second sentence of subsection (a) before the period at the end.

(25) Section 2703(b) is amended by striking "The terms" at the beginning of the second sentence and inserting "For purposes of the preceding sentence, the terms".

(26) Section 2704 is amended by inserting "(42 U.S.C. 9604(i))" in subsections (c), (e), and (f) after "CERCLA".

(27) The second section 3755, added by section 543(b)(1) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2549), is redesignated as section 3756, and the item relating to that section in the table of sections at the beginning of chapter 357 is revised to reflect such redesignation.

(28) Section 4689 is amended by striking "Building" after "Capitol".

(29) The second section 6257, added by section 543(c)(1) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2549), is redesignated as section 6258, and the item relating to that section in the table of sections at the beginning of chapter 567 is revised to reflect such redesignation.

(30) Section 7102 is amended—

(A) by striking "AUTHORITY" at the beginning of subsection (a) and inserting "MASTER OF MILITARY STUDIES";

(B) by striking "MARINE CORPS WAR COLLEGE" at the beginning of subsection (b) and inserting "MASTER OF STRATEGIC STUDIES";

(C) by striking "COMMAND AND STAFF COLLEGE OF THE MARINE CORPS UNIVERSITY" at the beginning of subsection (c) and inserting "MASTER OF OPERATIONAL STUDIES"; and

(D) by striking "subsections (a) and (b)" in subsection (d) and inserting "this section".

(31) Section 8084 is amended by striking "capabilty" and inserting "capability".

(32) The second section 8755, added by section 543(d)(1) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2550), is redesignated as section 8756, and the item relating to that section in the table of sections at the beginning of chapter 857 is revised to reflect such redesignation.

(33) The table in section 12012(a) is amended by inserting a colon after "Air National Guard".

(f) TITLE 37, UNITED STATES CODE.—Section 323(h) of title 37, United States Code, is amended by striking "Secretary of Transportation" and inserting "Secretary of Homeland Security".

(g) PUBLIC LAW 108–136.—Effective as of November 24, 2003, and as if included therein as enacted, the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136) is amended as follows:

(1) Sections 832(a) and 834(a) (117 Stat. 1550) are each amended by striking "such title" and inserting "title 10, United States Code,"

(2) Section 931(a)(1) (117 Stat. 1580) is amended by striking "and donations" in the first quoted matter and inserting "or donations".

(3) Section 2204(b) (117 Stat. 1706) is amended by striking "section 2101(a)" each place it appears and inserting "section 2201(a)".

(h) PUBLIC LAW 107–314.—Effective as of December 2, 2002, and as if included therein as enacted, section 1064(a)(2) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2654) is amended by inserting "the item relating to" after "is amended by inserting after".

(i) PUBLIC LAW 101–510.—Section 2902(e)(2)(B) of the Defense Base Closure and Realignment

Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended—

(1) in clause (i), by striking "Subcommittee on Readiness, Sustainability, and Support" and inserting "Subcommittee on Readiness and Management Support"; and

(2) in clause (ii), by striking "Subcommittee on Military Installations and Facilities" and inserting "Subcommittee on Readiness".

(j) NATIONAL SECURITY ACT OF 1947.—Sections 702(a)(6)(B)(iv)(I), 703(a)(6)(B)(iv)(I), and 704(f)(2)(D)(i) of the National Security Act of 1947 are amended by striking "responsible records" and inserting "responsive records".

(k) CODIFICATION RELATING TO LEAVE FOR ATTENDANCE AT CERTAIN HEARINGS.—Subsection (b) of section 363 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (10 U.S.C. 704 note) is—

(1) transferred to section 704 of title 10, United States Code;

(2) inserted at the end of that section;

(3) redesignated as subsection (c); and

(4) amended—

(A) by striking "Armed Forces" each place it appears and inserting "armed forces";

(B) in paragraph (1)—

(i) by striking "Secretary of each" and all that follows through "in the Navy," and inserting "Secretary concerned"; and

(ii) by striking "(as defined in section 101 of title 10, United States Code)"; and

(C) in paragraph (3)—

(i) by striking "For purposes of this subsection—" and inserting "In this subsection:";

(ii) in subparagraph (A), by striking "title 10, United States Code" and inserting "this title"; and

(iii) in subparagraph (B), by striking "such term" and inserting "that term".

SEC. 1074. COMMISSION ON THE LONG-TERM IMPLEMENTATION OF THE NEW STRATEGIC POSTURE OF THE UNITED STATES.

(a) ESTABLISHMENT OF COMMISSION.—

(1) ESTABLISHMENT.—There is hereby established a commission to be known as the "Commission on the Long-Term Implementation of the New Strategic Posture of the United States". The Secretary of Defense shall enter into a contract with a federally funded research and development center to provide for the organization, management, and support of the Commission. Such contract shall be entered into in consultation with the Secretary of Energy.

(2) COMPOSITION.—(A) The Commission shall be composed of 12 members who shall be appointed by the Secretary of Defense. In selecting individuals for appointment to the Commission, the Secretary of Defense shall consult with the chairman and ranking minority member of the Committee on Armed Services of the Senate and the chairman and ranking minority member of the Committee on Armed Services of the House of Representatives.

(B) Members of the Commission shall be appointed from among private United States citizens with knowledge and expertise in the political, military, operational, and technical aspects of nuclear strategy.

(3) CHAIRMAN OF THE COMMISSION.—The Secretary of Defense shall designate one of the members of the Commission to serve as chairman of the Commission.

(4) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(5) SECURITY CLEARANCES.—All members of the Commission shall hold appropriate security clearances.

(b) DUTIES OF COMMISSION.—

(1) REVIEW OF LONG-TERM IMPLEMENTATION OF THE NUCLEAR POSTURE REVIEW.—The Commission shall examine long-term programmatic requirements to achieve the goals set forth in the report of the Secretary of Defense submitted to Congress on December 31, 2001, providing the results of the Nuclear Posture Review conducted pursuant to section 1041 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654, 1654A–262) and results of periodic assessments of the Nuclear Posture Review. Matters examined by the Commission shall include the following:

(A) The process of establishing requirements for strategic forces and how that process accommodates employment of nonnuclear strike platforms and munitions in a strategic role.

(B) How strategic intelligence, reconnaissance, and surveillance requirements differ from nuclear intelligence, reconnaissance, and surveillance requirements.

(C) The ability of a limited number of strategic platforms to carry out a growing range of nonnuclear strategic strike missions.

(D) The limits of tactical systems to perform nonnuclear global strategic missions in a prompt manner.

(E) An assessment of the ability of the current nuclear stockpile to address the evolving strategic threat environment through 2025.

(2) RECOMMENDATIONS.—The Commission shall include in its report recommendations with respect to the following:

(A) Changes to the requirements process to employ nonnuclear strike platforms and munitions in a strategic role.

(B) Changes to the nuclear stockpile and infrastructure required to preserve a nuclear capability commensurate with the changes to the strategic threat environment through 2025.

(C) Actions the Secretary of Defense and the Secretary of Energy can take to preserve flexibility of the defense nuclear comples while reducing the cost of a Cold War strategic infrastructure.

(D) Identify shortfalls in the strategic modernization programs of the United States that would undermine the ability of the United States to develop new nonnuclear strategic strike capabilities.

(3) COOPERATION FROM GOVERNMENT OFFICIALS.—(A) In carrying out its duties, the Commission shall receive the full and timely cooperation of the Secretary of Defense, the Secretary of Energy, and any other United States Government official in providing the Commission with analyses, briefings, and other information necessary for the fulfillment of its responsibilities.

(B) The Secretary of Energy and the Secretary of Defense shall each designate at least one officer or employee of the Department of Energy and the Department of Defense, respectively, to serve as a liaison officer between the department and the Commission.

(c) REPORTS.—

(1) COMMISSION REPORT.—The Commission shall submit to the Secretary of Defense and the Committees on Armed Services of the Senate and House of Representatives a report on the Commission's findings and conclusions. Such report shall be submitted not later that 28 months after the date of the first meeting of the Commission.

(2) SECRETARY OF DEFENSE RESPONSE.—Not later than one year after the date on which the Commission submits its report under paragraph (1), the Secretary of Defense shall submit to Congress a report—

(A) commenting on the Commission's findings and conclusions; and

(B) explaining what actions, if any, the Secretary intends to take to implement the recommendations of the Commission and, with respect to each such recommendation, the Secretary's reasons for implementing, or not implementing, the recommendation.

(d) HEARINGS AND PROCEDURES.—

(1) HEARINGS.—The Commission may, for the purpose of carrying out the purposes of this section, hold hearings and take testimony.

(2) PROCEDURES.—The federally funded research and development center with which a contract is entered into under subsection (a)(1) shall be responsible for establishing appropriate procedures for the Commission.

(3) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the chairman of the Commission, the head of any Federal department or agency may detail, on a nonreimbursable basis, personnel of that department or agency to the Commission to assist it in carrying out its duties.

(e) FUNDING.—Funds for activities of the Commission shall be provided from amounts appropriated for the Department of Defense.

(f) TERMINATION OF COMMISSION.—The Commission shall terminate 60 days after the date of the submission of its report under subsection (c)(1).

(g) IMPLEMENTATION.—

(1) FFRDC CONTRACT.—The Secretary of Defense shall enter into the contract required under subsection (a)(1) not later that 60 days after the date of the enactment of this Act.

(2) FIRST MEETING.—The Commission shall convene its first meeting not later than 60 days after the date as of which all members of the Commission have been appointed.

SEC. 1075. LIABILITY PROTECTION FOR CERTAIN DEPARTMENT OF DEFENSE VOLUNTEERS WORKING IN THE MARITIME ENVIRONMENT.

(a) AUTHORITY TO ACCEPT CERTAIN VOLUNTEER SERVICES.—Subsection (a) of section 1588 of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(8) Voluntary services provided to the United States Military Academy, United States Naval Academy, and United States Air Force Academy for the training of cadets and midshipmen.".

(b) LIABILITY PROTECTION FOR VOLUNTEERS IN MARITIME ENVIRONMENT.—Subparagraph (D) of subsection (d)(1) of such section is amended—

(1) by striking "and" after "this title" and inserting a comma; and

(2) by inserting before the period at the end the following: ", and chapters 20 and 22 of title 46 (relating to claims for damages or loss on navigable waters)".

SEC. 1076. TRANSFER OF HISTORIC F3A-1 BREWSTER CORSAIR AIRCRAFT.

(a) AUTHORITY TO CONVEY.—The Secretary of the Navy may convey, without consideration, to Lex Cralley, of Princeton Minnesota (in this section referred to as "transferee"), all right, title and interest of the United States in and to a F3A-1 Brewster Corsair aircraft (Bureau Number 04634). The conveyance shall be made by means of a deed of gift.

(b) CONDITION OF AIRCRAFT.—The aircraft shall be conveyed under subsection (a) in its current unflyable, "as is" condition. The Secretary is not required to repair or alter the condition of the aircraft before conveying ownership of the aircraft.

(c) CONVEYANCE AT NO COST TO THE UNITED STATES.—The conveyance of the aircraft under subsection (a) shall be made at no cost to the United States. Any costs associated with the conveyance and costs of operation and maintenance of the aircraft conveyed shall be borne by the transferee.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with a conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

TITLE XI—DEPARTMENT OF DEFENSE CIVILIAN PERSONNEL

SEC. 1101. PAYMENT OF FEDERAL EMPLOYEE HEALTH BENEFIT PREMIUMS FOR MOBILIZED FEDERAL EMPLOYEES.

(a) AUTHORITY TO CONTINUE BENEFIT COVERAGE.—Section 8905a of title 5, United States Code is amended—

(1) in subsection (a), by striking "paragraph (1) or (2) of";

(2) in subsection (b)—

(A) in paragraph (1)(B), by striking "and" at the end;

(B) in paragraph (2)(C), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(3) any employee who—

"(A) is enrolled in a health benefits plan under this chapter;

"(B) is a member of a Reserve component of the armed forces;

"(C) is called or ordered to active duty in support of a contingency operation (as defined in section 101(a)(13) of title 10);

"(D) is placed on leave without pay or separated from service to perform active duty; and

"(E) serves on active duty for a period of more than 30 consecutive days."; and

(4) in subsection (e)(1)—

(A) in subparagraph (A), by striking "or" at the end;

(B) in subparagraph (B), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following new subparagraph:

"(C) in the case of an employee described in subsection (b)(3), the date which is 24 months after the employee is placed on leave without pay or separated from service to perform active duty.".

(b) AUTHORITY FOR AGENCIES TO PAY PREMIUMS.—Subparagraph (C) of section 8906(e)(3) of such title is amended by striking "18 months" and inserting "24 months".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to Federal employees called or ordered to active duty on or after September 14, 2001.

SEC. 1102. FOREIGN LANGUAGE PROFICIENCY PAY.

Section 1596a of title 10, United States Code, is amended—

(1) in subsection (a)(2), by striking "during a contingency operation supported by the armed forces"; and

(2) in subsection (c), by inserting before the period at the end the following: "and shall not be considered base pay for any purpose".

SEC. 1103. PAY PARITY FOR CIVILIAN INTELLIGENCE PERSONNEL.

Section 1602 of title 10, United States Code, is amended—

(1) in subsection (a), by striking "in relation to the rates of pay provided in subpart D of part III of title 5 for positions subject to that subpart which have corresponding levels of duties and responsibilities" and inserting "in relation to the rates of pay provided for Department of Defense Senior Executive, Senior Level, and other comparable positions"; and

(2) by amending subsection (b) to read as follows:

"(b) PERFORMANCE APPRAISAL SYSTEM.—The positions referred to in subsection (a) shall be subject to a performance appraisal system which, as designed and applied, is certified by the Secretary of Defense as making meaningful distinctions based on relative performance and may be the same performance appraisal system established and implemented within the Department for members of the Senior Executive Service.".

SEC. 1104. PAY PARITY FOR SENIOR EXECUTIVES IN NONAPPROPRIATED FUND INSTRUMENTALITIES.

(a) IN GENERAL.—Chapter 81 of title 10, United States Code, is amended by adding at the end the following new section:

"§1599e. Senior executive compensation for nonappropriated fund instrumentalities

"Notwithstanding any provisions of title 5, the Secretary of Defense may regulate the amount of total compensation, including the rate of basic pay, of senior executives employed by Department of Defense nonappropriated fund instrumentalities, to provide for parity with the total compensation, including basic pay, of Department of Defense employees in the Senior Executive Service and other similar senior executive positions.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1599d the following new item:

"1599e. Senior executive compensation for nonappropriated fund instrumentalities.".

SEC. 1105. PROHIBITION OF UNAUTHORIZED WEARING OR USE OF CIVILIAN MEDALS OR DECORATIONS.

Chapter 57 of title 10, United States Code, is amended by adding at the end the following new section:

"§1134. Civilian medals or decorations of the Department of Defense

"(a) PROHIBITION.—Except with the written permission of the Secretary of Defense or when authorized by regulations, no person may knowingly—

"(1) wear; or

"(2) use, in connection with any merchandise, retail product, impersonation, solicitation, or commercial activity;

medals, decorations, or other insignia awarded by the Secretary of Defense to recognize Department of Defense civilian employees and other individuals who render service to the Department of Defense.

"(b) AUTHORITY TO ENJOIN VIOLATIONS.—Whenever it appears to the Attorney General that any person is engaged or is about to engage in an act or practice which constitutes or will constitute conduct prohibited by subsection (a), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court shall proceed as soon as practicable to the hearing and determination of such action and may, at any time before final determination, enter such restraining orders or prohibitions, or take such other actions as is warranted, including imposing a civil penalty not to exceed $25,000 for each violation, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1134. Civilian medals or decorations of the Department of Defense."

TITLE XII—MATTERS RELATING TO OTHER NATIONS

Subtitle A—Matters Relating to Iraq, Afghanistan, and Global War on Terrorism

SEC. 1201. DOCUMENTATION OF CONDITIONS IN IRAQ UNDER FORMER DICTATORIAL GOVERNMENT AS PART OF TRANSITION TO POST-DICTATORIAL GOVERNMENT.

(a) FINDINGS.—The Congress makes the following findings:

(1) The regime of Saddam Hussein in Iraq was a dictatorial regime prone to secrecy in the maintenance of its hold on power.

(2) The people of Iraq all suffered as a result of Saddam Hussein's dictatorial control.

(3) Efforts in other post-dictatorial states to document the crimes and abuses of their predecessor dictatorial governments have contributed to the process of national reconciliation and have served as a reminder about the importance of protecting individual rights.

(b) TRANSFER OF CERTAIN DOCUMENTS AND RECORDS.—The Secretary of Defense shall, to the extent practicable, establish a process for expeditiously transferring to indigenous Iraqi entities committed to documenting publicly the nature of the Saddam Hussein regime any documents and records described in subsection (c) that are obtained by United States military forces in Iraq.

(c) COVERED DOCUMENTS AND RECORDS.—The documents and records referred to in subsection (b) are documents and records—

(1) that were created by—

(A) the Government of Iraq between 1968 and May 1, 2003; or

(B) the Ba'ath Socialist Party in Iraq after 1968; and

(2) that provide insight into—

(A) the functioning of the Government of Iraq or the Ba'ath Socialist Party in Iraq; or

(B) the crimes, atrocities, and brutal practices of the Iraqi government towards the people of Iraq during the period between 1968 and May 1, 2003.

SEC. 1202. SUPPORT OF MILITARY OPERATIONS TO COMBAT TERRORISM.

(a) AUTHORITY.—The Secretary of Defense may expend up to $25,000,000 during any fiscal year during which this subsection is in effect to provide support to foreign forces, irregular forces, groups, or individuals engaged in supporting or facilitating ongoing military operations by United States special operations forces to combat terrorism.

(b) INTELLIGENCE ACTIVITIES.—This section does not constitute authority to conduct a covert action, as such term is defined in section 503(e) of the National Security Act of 1947 (50 U.S.C. 413b(e)).

(c) ANNUAL REPORT.—Not later than 30 days after the close of each fiscal year during which subsection (a) is in effect, the Secretary of Defense shall submit to the congressional defense committees a report on support provided under this section during that fiscal year. Each such report shall describe the support provided, including a statement of the recipient of the support and the amount obligated to provide the support.

(d) FISCAL YEAR 2005 LIMITATION.—Support may be provided under subsection (a) during fiscal year 2005 only from funds made available for operations and maintenance pursuant to title XV of this Act.

(e) PERIOD OF AUTHORITY.—The authority under subsection (a) is in effect during each of fiscal years 2005 through 2007.

SEC. 1203. COMMANDERS' EMERGENCY RESPONSE PROGRAM.

(a) FISCAL YEAR 2005 AUTHORITY.—During fiscal year 2005, from funds made available to the Department of Defense for operation and maintenance pursuant to title XV of this Act, not to exceed $300,000,000 may be used, notwithstanding any other provision of law, to provide funds for the Commanders' Emergency Response Program, established by the Administrator of the Coalition Provisional Authority for the purpose of enabling military commanders in Iraq to respond to urgent humanitarian relief and reconstruction requirements within their areas of responsibility by carrying out programs that will immediately assist the Iraqi people, and to provide funds for a similar program to assist the people of Afghanistan.

(b) QUARTERLY REPORTS.—The Secretary of Defense shall submit to the congressional defense committees a quarterly report, beginning

on January 15, 2005, regarding the source of funds and the allocation and use of funds made available pursuant to the authorityprovided in this section.

SEC. 1204. STATUS OF IRAQI SECURITY FORCES.

(a) STRATEGIC PLAN.—No later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a strategic plan setting forth the manner in which the United States will achieve the goal of establishing viable and professional Iraqi security forces able to provide for the long-term security of the Iraqi people.

(b) COMPONENTS.—The strategic plan established under subsection (a) shall include at least the following:

(1) Recruiting and retention goals, shown for each service of the Iraqi security forces.

(2) Training plans for each service of the Iraqi security forces.

(3) A description of metrics by which progress toward the goal of Iraqi provision for its own security can be measured.

(4) A description of equipment needs, shown for each service of the Iraqi security forces.

(5) A resourcing plan for achieving the goals of the strategic plan.

(6) Personnel plans in terms of United States military and contractor personnel to be used in training each such service.

(7) A description of challenges faced and opportunities presented in particular regions of Iraq and a plan for addressing those challenges.

(8) A discussion of training and deployment successes and failures to the date of the report and how lessons from those successes and failures will be incorporated into the strategic plan.

(c) SUBSEQUENT REPORTS.—Ninety days following the submission of the strategic plan to Congress under subsection (a) and every 90 days thereafter, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on progress toward meeting the goals established in the strategic plan. Each such report shall address the following:

(1) The number of forces recruited, currently serving, and that have left (along with a breakdown of the reasons for leaving) by service over the period in question.

(2) Progress in meeting training goals.

(3) Progress in achieving other metrics as identified in the strategic plan.

(4) A description and analysis of any training incidents and deployment successes and failures, with a discussion of how those incidents and successes will affect future efforts to achieve the goals of the strategic plan.

(d) IRAQI SECURITY FORCES DEFINED.—In this section, the term "Iraqi security forces" means the Iraqi Armed Forces (IAF), the Iraqi Civil Defense Corps (ICDC), the Iraqi Police Service (IPS), the Department of Border Enforcement (DBE), and the Facilities Protection Services (FCS).

SEC. 1205. GUIDANCE AND REPORT REQUIRED ON CONTRACTORS SUPPORTING DEPLOYED FORCES IN IRAQ.

(a) GUIDANCE.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall issue guidance on how to manage contractors that support deployed forces and shall direct the Secretaries of the military departments to develop procedures to ensure implementation of the guidance. The guidance shall—

(1) establish policies for the use of contractors to support deployed forces;

(2) delineate the roles and responsibilities of commanders regarding the management and oversight of contractors that support deployed forces; and

(3) integrate into a single document other guidance and doctrine that may affect Department of Defense responsibilities to contractors in locations where members of the Armed Forces are deployed.

(b) REPORT.—Not later than 30 days after issuing the guidance required under subsection (a), the Secretary of Defense shall submit to the Committees on Armed Services of the House of Representatives and the Senate a report containing a discussion of the following:

(1) A description of the process used by the Department of Defense for deciding which security functions in Iraq will be performed by military personnel and which by private security companies.

(2) A discussion of the overall chain of command and oversight mechanisms that are in place to ensure adequate command and supervision of contractor personnel in critical security roles.

(3) An explanation of the rules of engagement for private security personnel throughout Iraq, along with how training in these rules of engagement is being carried out.

(4) A description of mechanisms that exist or that are under consideration to share intelligence and standardize communications procedures among private security companies.

(5) Casualty and fatality figures for each contractor in Iraq supporting deployed forces over the period beginning on May 1, 2003, and ending on the date of the issuance of the guidance.

(6) Disciplinary or criminal actions brought against such contractors during the period covered by the report.

(7) Any incidents of note in Iraq regarding such contractors during the period covered by the report.

(8) A plan for establishing and implementing a process for collecting data on individual contractors, the value of the contracts, and the number of personnel in Iraq performing the following services:

(A) Personal security details.

(B) Non-military site security.

(C) Non-military convoy security.

(D) Interrogation services at interrogation centers operated by the Department of Defense.

SEC. 1206. FINDINGS AND SENSE OF CONGRESS CONCERNING ARMY SPECIALIST JOSEPH DARBY.

(a) FINDINGS.—Congress makes the following findings:

(1) The need to act in accord with one's conscience, risking one's career and even the esteem of one's colleagues by pursuing what is right is especially important today.

(2) While the Department of Defense investigate the horrific abuses in American detention facilities in Iraq, the Nation should bear in mind that the abuses were only brought to light because of the courage of an American soldier.

(3) By alerting his superiors to abuses at Abu Ghraib prison in Iraq, Army Specialist Joseph Darby demonstrated the courage to speak out and do what is right for his country.

(4) Such an action is especially important in light of the many challenges facing the country.

(5) Specialist Darby deserves the Nation's thanks for speaking up and for standing up for what is right.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Secretary of Defense should make every protection available to Army Specialist Joseph Darby and others who demonstrate such courage; and

(2) Specialist Darby should be commended appropriately by the Secretary of the Army.

Subtitle B—Other Matters

SEC. 1211. ASSIGNMENT OF ALLIED NAVAL PERSONNEL TO SUBMARINE SAFETY PROGRAMS.

(a) IN GENERAL.—Chapter 631 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 7234. Submarine safety programs: participation of allied naval personnel

"(a) ACCEPTANCE OF ASSIGNMENT OF FOREIGN NAVAL PERSONNEL.—In order to facilitate the development, standardization, and interoperability of submarine vessel safety and rescue systems and procedures, the Secretary of the Navy may conduct a program under which members of the naval service of any of the member nations of the North Atlantic Treaty Organization and Australia, Japan, the Republic of Korea, and Sweden may be assigned to United States commands to work on such systems and procedures.

"(b) COSTS FOR FOREIGN PERSONNEL.—(1) The United States may not pay the following costs for a member of a foreign naval service sent to the United States under the program authorized by this section:

"(A) Salary.

"(B) Per diem.

"(C) Cost of living.

"(D) Travel costs.

"(E) Cost of language or other training.

"(F) Other costs.

"(2) Paragraph (1) does not apply to the following costs, which may be paid by the United States:

"(A) The cost of temporary duty directed by the United States Navy.

"(B) The cost of training programs conducted to familiarize, orient, or certify members of foreign naval services regarding unique aspects of their assignments.

"(C) Costs incident to the use of the facilities of the United States Navy in the performance of assigned duties.

"(d) APPLICABILITY TO AUTHORITY TO ENTER INTO AGREEMENTS.—The requirements of this section shall apply in the exercise of any authority of the Secretary of the Navy to enter into an agreement with the government of a foreign country, subject to the concurrence of the Secretary of State, to provide for the assignment of members of the naval service of the foreign country to a United States Navy submarine safety program.

"(e) REGULATIONS.—The Secretary of the Navy may prescribe regulations for the application of this section in the exercise of authority referred to in subsection (d).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"7234. Submarine safety programs: participation of allied naval personnel.".

SEC. 1212. EXPANSION OF ENTITIES OF THE PEOPLE'S REPUBLIC OF CHINA SUBJECT TO CERTAIN PRESIDENTIAL AUTHORITIES WHEN OPERATING IN THE UNITED STATES.

Section 1237(b)(4)(B)(i) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (50 U.S.C. 1701 note) is amended by inserting after "the People's Liberation Army" the following: ", by a ministry of the government of the People's Republic of China, or by an entity affiliated with the defense industrial base of the People's Republic of China".

SEC. 1213. REPORT BY PRESIDENT ON GLOBAL PEACE OPERATIONS INITIATIVE.

Not later than one year after the date of the enactment of this Act, the President shall submit to the Congress a report on the Global Peace Operations Initiative. The report shall include the following elements:

(1) A summary of the goals of the Global Peace Operations Initiative and the timetable for achieving those goals.

(2) An examination of the mechanisms by which the United States will ensure that foreign countries acquiring new capabilities as a result of that Initiative will use those capabilities to

the national security benefit of the United States.

(3) An examination of the mechanisms by which the United States will ensure that training and equipment provided under that Initiative are used solely for the purposes of peacekeeping and peace enforcement operations.

(4) An examination of the human rights practices of potential recipients under that Initiative, to include a discussion of each potential recipient's commitment to representative government.

(5) As assessment of the financial resources required to carry out that Initiative during fiscal years 2005 through 2009.

(6) An assessment of the effectiveness of the program of the Department of State referred to as the African Contingency Operations and Training Assistance program and the capacity of that program to be expanded.

(7) A review that compares and contrasts the basic military skills required of warfighters and the skills needed for peacekeeping and peace enforcement operations.

(8) An assessment of the ability of military forces in the developing world to absorb, retain, and use the advanced skills and capabilities needed for effective peacekeeping and peace enforcement operations.

(9) A proposal for providing sufficient resources to the Department of State to conduct the Global Peace Operations Initiative without significant financial contributions from the Department of Defense.

(10) An explanation of the reasons of the Administration for proposing to exempt the Global Peace Operations Initiative from existing law related to the type of military and police training the United States may provide to foreign countries.

(11) An examination of the costs and benefits of transferring responsibility for the training and equipping of foreign military and security forces from the Department of State to the Department of Defense, including an identification of any increased resources that will be provided to the Department of Defense should the Department of Defense become responsible for that activity.

SEC. 1214. PROCUREMENT SANCTIONS AGAINST FOREIGN PERSONS THAT TRANSFER CERTAIN DEFENSE ARTICLES AND SERVICES TO THE PEOPLE'S REPUBLIC OF CHINA.

(a) DECLARATION OF POLICY.—Congress declares that it is the policy of the United States to deny the People's Republic of China such defense goods and defense technology that could be used to threaten the United States or undermine the security of Taiwan or the stability of the Western Pacific region.

(b) PROCUREMENT SANCTION.—(1) The Secretary of Defense may not procure, by contract or otherwise, any goods or services from—

(A) any foreign person the Secretary of Defense determines has, with actual knowledge, on or after the date of the enactment of this Act, exported, transferred, or otherwise provided to governmental or nongovernmental entities of the People's Republic of China any item or class of items on the United States Munitions List (or any item or class of items that are identical, substantially identical, or directly competitive to an item or class of items on the United States Munitions List); and

(B) any foreign person the Secretary of Defense determines—

(i) is a successor entity to a person referred to in paragraph (1);

(ii) is a parent or subsidiary of a person referred to in paragraph (1); or

(iii) is an affiliate of a person referred to in paragraph (1) if that affiliate is controlled in fact by such person.

(2) The prohibition under paragraph (1) with respect to a foreign person shall last for a period of five years after a determination is made by the Secretary of Defense with respect to that person under paragraph (1)(A).

(c) PUBLIC AVAILABILITY OF LIST OF SANCTIONED PERSONS.—(1) The Secretary of Defense shall annually publish in the Federal Register a current list of any foreign persons sanctioned under subsection (b). The removal of foreign persons from, and the addition of foreign persons to, the list shall also be so published.

(2) The Secretary shall maintain the list published under paragraph (1) on the Internet website of the Department of Defense.

(d) REMOVAL FROM LIST OF SANCTIONED PERSONS.—The Secretary of Defense may remove a person from the list of sanctioned persons referred to in subsection (c) only after the five-year prohibition period imposed under subsection (b) with respect to the person has expired.

(e) EXCEPTIONS.—(1) Subsection (b) shall not apply—

(A) to contracts, or subcontracts under such contracts, in existence on the date of the enactment of this Act, including options under such contracts;

(B) if the Secretary of Defense determines in writing that the person to which the sanctions would otherwise be applied is a sole source supplier of the goods or services being procured, that the goods or services are essential, and that alternative sources are not readily or reasonably available;

(C) in the case of a contract for routine servicing and maintenance, if the Secretary of Defense determines in writing alternative sources for performing the contract are not readily or reasonably available; or

(D) if the Secretary of Defense determines in writing that goods or services proposed to be procured under the contract are essential to the national security of the United States.

(2) Determinations under paragraph (1) shall be published in the Federal Register.

(f) DEFINITIONS.—In this section:

(1) The term "foreign person" has the meaning given the term in section 14 of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701).

(2) The term "United States Munitions List" means the list referred to in section 38(a)(1) of the Arms Export Control Act (22 U.S.C. 2778(a)(1)).

TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION

SEC. 1301. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS AND FUNDS.

(a) SPECIFICATION OF CTR PROGRAMS.—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2731; 50 U.S.C. 2362 note).

(b) FISCAL YEAR 2005 COOPERATIVE THREAT REDUCTION FUNDS DEFINED.—As used in this title, the term "fiscal year 2005 Cooperative Threat Reduction funds" means the funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs.

(c) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs shall be available for obligation for three fiscal years.

SEC. 1302. FUNDING ALLOCATIONS.

(a) FUNDING FOR SPECIFIC PURPOSES.—Of the amount authorized to be appropriated to the Department of Defense for fiscal year 2005 in section 301(19) for Cooperative Threat Reduction programs, the following amounts may be obligated for the purposes specified:

(1) For strategic offensive arms elimination in Russia, $58,522,000.

(2) For nuclear weapons transportation security in Russia, $26,284,000.

(3) For nuclear weapons storage security in Russia, $48,720,000.

(4) For activities designated as Other Assessments/Administrative Support, $14,267,000.

(5) For defense and military contacts, $8,000,000.

(6) For chemical weapons destruction in Russia, $158,400,000.

(7) For biological weapons proliferation prevention in the former Soviet Union, $55,013,000.

(8) For weapons of mass destruction proliferation prevention in the states of the former Soviet Union, $40,030,000.

(b) REPORT ON OBLIGATION OR EXPENDITURE OF FUNDS FOR OTHER PURPOSES.—No fiscal year 2005 Cooperative Threat Reduction funds may be obligated or expended for a purpose other than a purpose listed in paragraphs (1) through (8) of subsection (a) until 30 days after the date that the Secretary of Defense submits to Congress a report on the purpose for which the funds will be obligated or expended and the amount of funds to be obligated or expended. Nothing in the preceding sentence shall be construed as authorizing the obligation or expenditure of fiscal year 2005 Cooperative Threat Reduction funds for a purpose for which the obligation or expenditure of such funds is specifically prohibited under this title or any other provision of law.

(c) LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.—(1) Subject to paragraphs (2) and (3), in any case in which the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may obligate amounts appropriated for fiscal year 2005 for a purpose listed in any of the paragraphs in subsection (a) in excess of the specific amount authorized for that purpose.

(2) An obligation of funds for a purpose stated in any of the paragraphs in subsection (a) in excess of the specific amount authorized for such purpose may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

(3) The Secretary may not, under the authority provided in paragraph (1), obligate amounts for a purpose stated in any of paragraphs (5) through (8) of subsection (a) in excess of 125 percent of the specific amount authorized for such purpose.

SEC. 1303. TEMPORARY AUTHORITY TO WAIVE LIMITATION ON FUNDING FOR CHEMICAL WEAPONS DESTRUCTION FACILITY IN RUSSIA.

(a) TEMPORARY AUTHORITY.—Section 1305 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 22 U.S.C. 5952 note) shall not apply if the President submits to Congress a written certification that includes—

(1) a statement as to why a waiver of the conditions described in such section 1305 is important to the national security interests of the United States;

(2) a full and complete justification for the waiver of the conditions; and

(3) a plan to promote a full and accurate disclosure by Russia regarding the size, content, status, and location of its chemical weapons stockpile.

(b) EXPIRATION.—The authority in subsection (a) shall expire on September 30, 2005.

TITLE XIV—EXPORT CONTROLS AND COUNTERPROLIFERATION MATTERS

Subtitle A—Export Control Matters

SEC. 1401. DEFINITIONS UNDER ARMS EXPORT CONTROL ACT.

Section 47 of the Arms Export Control Act (22 U.S.C. 2794) is amended—

(1) in paragraph (10)—

(A) by moving the margin two ems to the left; and

(B) by striking "and" at the end;

(2) in paragraph (11)—

(A) by moving the margin two ems to the left; and

(B) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(12) 'license' means a document bearing the word license issued by the United States Government agency charged with implementing section 38 of this Act, which permits the export or import of a defense article or defense service;

"(13) 'agent' means a representative or emissary of a government other than an officer or employee of the government; and

"(14) 'exporting agent' means a freight forwarder or other consignee designated on a license application who is authorized to act on behalf of and the control of the license applicant.".

SEC. 1402. EXEMPTION FROM LICENSING REQUIREMENTS FOR EXPORT OF SIGNIFICANT MILITARY EQUIPMENT.

Section 38(b)(2) of the Arms Export Control Act (22 U.S.C. 2778(b)(2)) is amended—

(1) by striking "(2) Except" and inserting "(2)(A) Except";

(2) by striking "(A) for official" and inserting "(i) for official" and further by striking "(B) for carrying out" and inserting "(ii) for carrying out"; and

(3) by adding at the end the following:

"(B) The President may not establish an exemption in regulation or otherwise from the license requirements of this section for the export of a defense article that is significant military equipment (other than a firearm that is intended for personal use).".

SEC. 1403. COOPERATIVE PROJECTS WITH FRIENDLY FOREIGN COUNTRIES.

Section 27 of the Arms Export Control Act (22 U.S.C. 2767) is amended—

(1) in subsection (g) to read as follows:

"(g) Unless the President states in his certification that an emergency exists which requires the immediate approval of the cooperative agreement in the national security interests of the United States (in which case the President shall set forth in the certification a justification for this determination), an agreement shall not be signed if, within the 30-day period specified in subsection (f), a joint resolution prohibiting the agreement is enacted into law."; and

(2) by adding at the end the following:

"(k) A license shall be required for the export of defense articles or defense services relating to a cooperative project by any person required to be registered under section 38(b)(1)(A)(i) whenever such export is made pursuant to, or in furtherance of, a private contract, purchase order, or similar commercial arrangement with a foreign corporation.".

SEC. 1404. LICENSING REQUIREMENT FOR EXPORT OF MILITARILY CRITICAL TECHNOLOGIES.

(a) Licensing Requirement.—The President shall require a license under the Export Administration Regulations of the Department of Commerce (15 C.F.R. part 730 et seq.) or the International Traffic in Arms Regulations (22 C.F.R. part 120 et seq.), as the case may be, for the export of goods or technologies included on the Militarily Critical Technologies List.

(b) Definition.—In this section, the term "Militarily Critical Technologies List" means the list required to be developed by the Secretary of Defense pursuant to section 5(d)(2) of the Export Administration Act of 1979 (50 U.S.C. App. 2404(d)(2)), as such list was effect on January 20, 2004, and includes any goods or technologies that have been added to the list after that date.

SEC. 1405. CONTROL OF EXPORTS OF UNITED STATES WEAPONS TECHNOLOGY TO THE PEOPLE'S REPUBLIC OF CHINA.

A dual use good or technology subject to the jurisdiction of the Export Administration Regulations of the Department of Commerce (15 C.F.R. part 730 et seq.) and a defense article or defense service subject to the jurisdiction of the International Traffic in Arms Regulations (22 C.F.R. part 120 et seq.) may be exported to a foreign person or a foreign country that has previously exported any such item to the military, intelligence, police, or internal security services of the Government of the People's Republic of China that would be prohibited for export to China if subject to United States export control laws only if—

(1) a license for such export is approved under the Export Administration Regulations or the International Traffic in Arms Regulations and the Secretary of Defense concurs in the approval of such license; and

(2) the foreign person or foreign country agrees in writing not to transfer title to or possession of, or otherwise provide access to, the licensed items, unless the President provides written consent thereto.

SEC. 1406. STRENGTHENING INTERNATIONAL EXPORT CONTROLS.

(a) Finding.—The Congress recognizes that the international export control system, as currently constituted, is insufficient to achieve the national security interests of the United States.

(b) National Export Control Policy.—It is the policy of the United States to seek continued negotiations of a strengthened international export control system for the control of arms and militarily-sensitive goods and technology to countries of concern.

(c) Presidential Reporting Requirement.—(1) Not later than 180 days after the date of the enactment of this Act, and every six months thereafter, the President shall submit to the committees referred to in subsection (d) a report setting forth the President's plan for effecting a strengthened international export control system capable of achieving the national security interests of the United States.

(2) The report shall include—

(A) an evaluation of the effectiveness of the current international export control system;

(B) a plan for negotiating and implementing a strengthened international export control system capable of achieving the national security interests of the United States; and

(C) challenges to and progress in negotiating and implementing that plan.

(d) Committees; Classification of Report.—(1) The report required by subsection (c) shall be submitted to—

(A) the Committee on Armed Services, the Committee on International Relations, and the Permanent Select Committee on Intelligence of the House of Representatives; and

(B) the Committee on Armed Services, the Committee on Banking, Housing and Urban Affairs, and the Select Committee on Intelligence of the Senate.

(2) The report shall be submitted in unclassified form and, as necessary, in classified form.

Subtitle B—Counterproliferation Matters

SEC. 1411. DEFENSE INTERNATIONAL COUNTERPRO-LIFERATION PROGRAMS.

(a) International Security Program to Prevent Unauthorized Transfer and Transportation of WMDs.—Subsection (b) of section 1424 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2333) is amended to read as follows:

"(b) Other Countries.—The Secretary of Defense may carry out programs under subsection (a) in a country other than a country specified in that subsection if the Secretary determines that there exists in that country a significant threat of the unauthorized transfer and transportation of nuclear, biological, or chemical weapons or related materials.".

(b) International Training Program to Deter WMD Proliferation.—Section 1504(e)(3)(A) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2918) is amended—

(1) by striking "The training program referred to in paragraph (1)(B) is a" and inserting 'The Secretary of Defense may participate in a";

(2) by inserting "of" after "acquisition";

(3) by striking "and" after "countries"; and

(4) by inserting before the period at the end the following: ", and in other countries in which, as determined by the Secretary of Defense, there exists a significant threat of such proliferation and acquisition".

SEC. 1412. DEFENSE COUNTERPROLIFERATION FELLOWSHIP PROGRAM.

(a) Program Authorized.—Chapter 101 of title 10, United States Code, is amended by adding at the end the following new section:

"§2015. Defense counterproliferation fellowship program

"(a) Program Authority.—The Secretary of Defense may carry out a program under which foreign military defense personnel are selected to attend Department of Defense courses and programs in counterproliferation and nonproliferation matters in order to improve the ability of the foreign military defense personnel to contribute to halting the illicit acquisition or transportation of weapons of mass destruction or of materials that support the development or use of such weapons.

"(b) Authority to Pay for Costs of Participants.—The Secretary of Defense may pay for all costs (including transportation, travel, and subsistence costs) associated with the attendance by a participant at courses and programs in the program under this section.

"(c) Participants.—(1) The following persons may be selected for participation in the program under this section:

"(A) Foreign military officers.

"(B) Foreign ministry of defense officials.

"(2) Participants in the program shall be selected by the Secretary of Defense based upon recommendations made by the commanders of the regional unified combatant commands.

"(d) Authorized Program Activities.—Participants in the program may be selected for attendance at, and may be authorize to attend, any of the following:

"(1) Department of Defense professional military educational institutions.

"(2) Regional centers for security studies of the Department of Defense.

"(e) Regulations.—The Secretary of Defense shall prescribe regulations for the administration of the program under this section.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2015. Defense counterproliferation fellowship program.".

Subtitle C—Initiatives Relating to Countries of Former Soviet Union

SEC. 1421. SILK ROAD INITIATIVE.

(a) Findings.—Congress makes the following findings:

(1) A number of independent states of the former Soviet Union have been helpful to the United States in the war on terrorism.

(2) Such states are new and struggling democracies and would benefit considerably from assistance to create sustainable jobs for their underemployed or unemployed scientists, engineers, and technicians who were formerly engaged in activities to develop and produce weapons of mass destruction for the Russian Federation or other such state.

(b) POLICIES.—(1) It is the policy of the United States to seek to establish and promote programs to prevent the proliferation, from scientists, engineers, and technicians of the Russian Federation and other independent states of the former Soviet Union to countries of proliferation concern, of expertise to develop and produce weapons of mass destruction.

(2) It is also the policy of the United States to seek to assist independent states of the former Soviet Union that have been helpful to the United States in the war on terrorism so as to promote the creation of jobs that foster economic stability and democracy.

(c) PROGRAM AUTHORIZED.—(1) The Secretary of Energy may carry out a program, to be known as the Silk Road Initiative, to promote non-weapons-related employment opportunities in the United States and in Silk Road nations for scientists, engineers, and technicians formerly engaged in activities to develop and produce weapons of mass destruction in Silk Road nations. The program should—

(A) incorporate best practices under the former Initiatives for Proliferation Prevention program; and

(B) facilitate commercial partnerships between private entities in the United States and scientists, engineers, and technicians in the Silk Road nations.

(2) Before implementing the program with respect to multiple Silk Road nations, the Secretary of Energy shall carry out a pilot program with respect to one Silk Road nation selected by the Secretary. It is the sense of Congress that the Secretary should select the Republic of Georgia.

(d) SILK ROAD NATIONS DEFINED.—In this section, the Silk Road nations are Armenia, Azerbaijan, the Republic of Georgia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan.

(e) FUNDING.—Of the funds authorized to be appropriated to the Department of Energy for nonproliferation and international security for fiscal year 2005, $10,000,000 may be used to carry out this section.

SEC. 1422. TELLER-KURCHATOV NONPROLIFERATION FELLOWSHIPS.

(a) IN GENERAL.—(1) From amounts made available to carry out this section, the Administrator for Nuclear Security may carry out a program under which the Administrator awards, to scientists employed at the Kurchatov Institute of the Russian Federation and scientists employed at Lawrence Livermore National Laboratory, international exchange fellowships, to be known as Teller-Kurchatov Nonproliferation Fellowships, in the nuclear nonproliferation sciences.

(2) The purpose of the program shall be to provide opportunities for advancement in the field of nuclear nonproliferation to scientists who, as demonstrated by their academic or professional achievements, show particular promise of making significant contributions in that field.

(3) A fellowship awarded to a scientist under the program shall be for study and training at (and, where appropriate, at an institution of higher education in the vicinity of)—

(A) the Kurchatov Institute, in the case of a scientist employed at Lawrence Livermore National Laboratory; and

(B) Lawrence Livermore National Laboratory, in the case of a scientist employed at the Kurchatov Institute.

(4) The duration of a fellowship under the program may not exceed two years, except that the Administrator may provide for a longer duration in an individual case to the extent warranted by extraordinary circumstances, as determined by the Administrator.

(5) In a calendar year, the Administrator may not award more than—

(A) one fellowship to a scientist employed at the Kurchatov Institute; and

(B) one fellowship to a scientist employed at Lawrence Livermore National Laboratory.

(6) A fellowship under the program shall include—

(A) travel expenses;

(B) any tuition and fees at an institution of higher education for study or training under the fellowship; and

(C) any other expenses that the Administrator considers appropriate, such as room and board.

(b) DEFINITIONS.—In this section:

(1) The term "institution of higher education" means a college, university, or other educational institution that is empowered by an appropriate authority, as determined by the Administrator, to award degrees higher than the baccalaureate level.

(2) The term "nuclear nonproliferation sciences" means bodies of scientific knowledge relevant to developing or advancing the means to prevent or impede the proliferation of nuclear weaponry.

(3) The term "scientist" means an individual who has a degree from an institution of higher education in a science that has practical application in the field of nuclear nonproliferation.

(c) FUNDING.—Of the funds authorized to be appropriated to the Department of Energy for nonproliferation and international security for fiscal year 2005, $10,000,000 may be used to carry out this section.

SEC. 1423. COLLABORATION TO REDUCE THE RISKS OF A LAUNCH OF RUSSIAN NUCLEAR WEAPONS.

(a) FINDINGS.—Congress finds that, despite the ending of the Cold War more than a decade ago, the nuclear postures and strategic command and control systems of the Russian Federation pose risks that a nuclear ballistic missile could be launched as the result of an accident, misinformation, miscalculation, or unauthorized use. Such risks are posed as a result of factors including the following:

(1) The high state of readiness of the Russian Federation's nuclear forces.

(2) The remote locations of much of the Russian Federation's nuclear forces.

(3) The inadequacy of the Russian Federation's early-warning information.

(4) The very short time that would be available to the President of the Russian Federation if the President were informed that a nuclear ballistic missile attack was or might be underway.

(5) The possibility that the Russian Federation, because of concerns that much of its nuclear forces would not survive a nuclear attack, may have a nuclear deterrence posture reliant upon launching a retaliatory nuclear strike when it believes a nuclear ballistic missile attack against it is or might be underway.

(6) Deficiencies in the security and control of the nuclear forces of the Russian Federation that could result in unauthorized personnel gaining control of a nuclear-armed missile or warhead.

(7) The susceptibility of nuclear strategic command and control systems and early-warning systems to an intrusion or accident that could create the false appearance that a nuclear ballistic missile attack is or might be underway.

(b) REPORT.—(1) Not later than November 1, 2005, the Secretary of Defense shall submit to Congress a report on the collaborative measures that the United States and the Russian Federation could take to reduce the risks that a nuclear ballistic missile could be launched as the result of an accident, misinformation, miscalculation, or unauthorized use. For each such measure, the report shall provide—

(A) specific comments on the advisability of the measure in terms of the potential contribution of the measure to the national security interests of the United States, including the potential contribution of the measure in improving relations between the United States and the Russian Federation; and

(B) a description of the obstacles and opportunities associated with pursuing the measure.

(2) In addition to any other measure that the Secretary considers appropriate, the report required by paragraph (1) shall cover the following measures:

(A) The future of the Joint Data Exchange Center.

(B) Potential topics for discussion between high-level military leaders of the United States and of the Russian Federation on reducing the risk that a nuclear ballistic missile could be launched as the result of an accident, misinformation, miscalculation, or unauthorized use.

TITLE XV—AUTHORIZATION FOR INCREASED COSTS DUE TO OPERATION IRAQI FREEDOM AND OPERATION ENDURING FREEDOM

SEC. 1501. PURPOSE.

The purpose of this title is to authorize appropriations for the Department of Defense for fiscal year 2005, in addition to amounts otherwise authorized by this Act, to provide funds for additional costs due to Operation Iraqi Freedom and Operation Enduring Freedom.

Subtitle A—Authorization of Appropriations

SEC. 1511. ARMY PROCUREMENT.

Funds are hereby authorized to be appropriated for fiscal year 2005 for procurement accounts of the Army in amounts as follows:

(1) For aircraft, $498,300,000.

(2) For missiles, $42,800,000.

(3) For weapons and tracked combat vehicles, $201,900,000.

(4) For ammunition, $78,750,000.

(5) For other procurement, $1,567,410,000.

(6) For National Guard and Reserve equipment, $50,000,000.

SEC. 1512. NAVY AND MARINE CORPS PROCUREMENT.

(a) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 2005 for the procurement account for the Marine Corps in the amount of $98,190,000.

(b) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for fiscal year 2005 for the procurement account for ammunition for the Navy and the Marine Corps in the amount of $38,402,000.

SEC. 1513. AIR FORCE PROCUREMENT.

Funds are hereby authorized to be appropriated for fiscal year 2005 for the procurement account for aircraft for the Air Force in amount of $99,000,000.

SEC. 1514. DEFENSE-WIDE ACTIVITIES PROCUREMENT.

Funds are hereby authorized to be appropriated for fiscal year 2005 for the procurement account for Defense-wide procurement in the amount of $720,000,000.

SEC. 1515. OPERATION AND MAINTENANCE.

Funds are hereby authorized to be appropriated for fiscal year 2005 for the use of the Armed Forces for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1) For the Army, $9,607,113,000.

(2) For the Navy, $256,500,000.

(3) For the Marine Corps, $2,398,735,000.

(4) For the Air Force, $1,635,000,000.

(5) For Defense-wide, $2,327,900,000.

SEC. 1516. DEFENSE HEALTH PROGRAM.

Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2005 for expenses, not otherwise provided for, for the Defense Health Program, in the amount of $75,000,000, for Operation and Maintenance.

SEC. 1517. MILITARY PERSONNEL.

There is hereby authorized to be appropriated to the Department of Defense for military personnel accounts for fiscal year 2005 a total of $5,305,000,000.

SEC. 1518. TREATMENT AS ADDITIONAL AUTHORIZATIONS.

The amounts authorized to be appropriated by this title are in addition to amounts otherwise authorized to be appropriated by this Act.

SEC. 1519. TRANSFER AUTHORITY.

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this title for fiscal year 2005 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary may transfer under the authority of this section may not exceed $2,500,000,000. The transfer authority provided in this section is in addition to any other transfer authority available to the Secretary of Defense.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred;

(2) may not be used to provide authority for an item that has been denied authorization by Congress; and

(3) may not be combined with the authority under section 1001.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) NOTICE TO CONGRESS.—The Secretary shall promptly notify Congress of each transfer made under subsection (a).

SEC. 1520. DESIGNATION OF EMERGENCY AUTHORIZATIONS.

The amounts authorized to be appropriated by this title are designated for emergency contingency operations related to the global war on terrorism.

Subtitle B—Personnel Provisions

SEC. 1531. THREE-YEAR INCREASE IN ACTIVE ARMY STRENGTH LEVELS.

(a) AUTHORIZED END STRENGTHS.—(1) The end strength level authorized for the Army for fiscal year 2005 under section 401 is hereby increased by 10,000.

(2) For fiscal years 2006 and 2007, the Army is authorized strengths for active duty personnel as follows:

(A) As of September 30, 2006, 502,400.

(B) As of September 30, 2007, 512,400.

(b) STATUTORY MINIMUM ACTIVE STRENGTH LEVEL.—The minimum strength for the Army under section 691(b) of title 10, United States Code (notwithstanding the number specified in paragraph (1) of that section)—

(1) for the period beginning on October 1, 2004, and ending on September 30, 2005, shall be the number specified in section 401(1) of this Act, increased by 10,000;

(2) for the period beginning on October 1, 2005, and ending on September 30, 2006, shall be 502,400; and

(3) for the period beginning on October 1, 2006, and ending on September 30, 2007, shall be 512,400.

(c) NOTICE TO CONGRESS.—If the Secretary of Defense, in consultation with the Secretary of the Army, determines that adjustments are necessary to the minimum end-strength level for the Army in effect at any time pursuant to subsection (b), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report providing the Secretary's recommendations and rationale for such an adjustment. Such a report must be submitted before the submission of the budget request for the fiscal year for which the change would be effective.

SEC. 1532. THREE-YEAR INCREASE IN ACTIVE MARINE CORPS STRENGTH LEVELS.

(a) AUTHORIZED END STRENGTHS.—(1) The end strength level authorized for the Marine Corps for fiscal year 2005 under section 401 is hereby increased by 3,000.

(2) For fiscal years 2006 and 2007, the Marine Corps is authorized strengths for active duty personnel as follows:

(A) As of September 30, 2006, 181,000.

(B) As of September 30, 2007, 184,000.

(b) STATUTORY MINIMUM ACTIVE STRENGTH LEVEL.—The minimum strength for the Marine Corps under section 691(b) of title 10, United States Code (notwithstanding the number specified in paragraph (3) of that section)—

(1) for the period beginning on October 1, 2004, and ending on September 30, 2005, shall be the number specified in section 401(3) of this Act, increased by 3,000;

(2) for the period beginning on October 1, 2005, and ending on September 30, 2006, shall be 181,000; and

(3) for the period beginning on October 1, 2006, and ending on September 30, 2007, shall be 184,000.

(c) NOTICE TO CONGRESS.—If the Secretary of Defense, in consultation with the Secretary of the Navy, determines that adjustments are necessary to the minimum end-strength level for the Marine Corps in effect at any time pursuant to subsection (b), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report providing the Secretary's recommendations and rationale for such an adjustment. Such a report must be submitted before the submission of the budget request for the fiscal year for which the change would be effective.

SEC. 1533. EXTENSION OF INCREASED RATES FOR IMMINENT DANGER PAY AND FAMILY SEPARATION ALLOWANCE.

(a) IMMINENT DANGER PAY.—(1) Subsection (e) of section 310 of title 37, United States Code, is amended by striking "December 31, 2004" and inserting "December 31, 2005".

(2) Effective January 1, 2006, such section is further amended—

(A) in subsection (a), by striking "$150" and inserting "$225"; and

(B) by striking subsection (e).

(b) FAMILY SEPARATION ALLOWANCE.—(1) Subsection (e) of section 427 of such title is amended by striking "December 31, 2004" and inserting "December 31, 2005".

(2) Effective January 1, 2006, such section is further amended—

(A) in subsection (a)(1), by striking "$100" and inserting "$250"; and

(B) by striking subsection (e).

Subtitle C—Financial Management Matters

SEC. 1541. REVISED FUNDING METHODOLOGY FOR MILITARY RETIREE HEALTH CARE BENEFITS.

(a) REVISION.—Section 1116 of title 10, United States Code, is amended to read as follows:

"§ 1116. Payments into the Fund

"(a) At the beginning of each fiscal year after September 30, 2005, the Secretary of the Treasury shall promptly pay into the Fund from the General Fund of the Treasury—

"(1) the amount certified to the Secretary by the Secretary of Defense under subsection (c), which shall be the contribution to the Fund for that fiscal year required by section 1115; and

"(2) the amount determined by each administering Secretary under section 1111(c) as the contribution to the Fund on behalf of the members of the uniformed services under the jurisdiction of that Secretary.

"(b) At the beginning of each fiscal year, the Secretary of Defense shall determine the sum of the following:

"(1) The amount of the payment for that year under the amortization schedule determined by the Board of Actuaries under section 1115(a) of this title for the amortization of the original unfunded liability of the Fund.

"(2) The amount (including any negative amount) of the Department of Defense contribution for that year as determined by the Secretary of Defense under section 1115(b) of this title.

"(3) The amount (including any negative amount) for that year under the most recent amortization schedule determined by the Secretary of Defense under section 1115(c)(2) of this title for the amortization of any cumulative unfunded liability (or any gain) to the Fund resulting from changes in benefits.

"(4) The amount (including any negative amount) for that year under the most recent amortization schedule determined by the Secretary of Defense under section 1115(c)(3) of this title for the amortization of any cumulative actuarial gain or loss to the Fund resulting from actuarial assumption changes.

"(5) The amount (including any negative amount) for that year under the most recent amortization schedule determined by the Secretary of Defense under section 1115(c)(4) of this title for the amortization of any cumulative actuarial gain or loss to the Fund resulting from actuarial experience.

"(c) The Secretary of Defense shall promptly certify the amount determined under subsection (b) each year to the Secretary of the Treasury.".

(b) CONFORMING AMENDMENTS.—(1) Section 1111(c) of title 10, United States Code, is amended in the last sentence by striking "1116" and all that follows through the end of the sentence and inserting "1115(b) of this title, and such contributions shall be paid into the Fund as provided in section 1116(a).".

(2) Section 1115(a) of such title is amended by striking "1116(c)" and inserting "1116".

(3) Section 1115(b) of such title is amended—

(A) by striking "(1) The Secretary of Defense" and all that follows through "of this title." and inserting "The Secretary of Defense shall determine, before the beginning of each fiscal year after September 30, 2005, the total amount of the Department of Defense contribution to be made to the Fund for that fiscal year for purposes of section 1116(b)(2).";

(B) by striking paragraph (2);

(C) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively;

(D) in each of paragraphs (1) and (2), as so redesignated, by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively; and

(E) in paragraph (2)(B), as so redesignated, by striking "subparagraph (A)(ii)" and inserting "paragraph (1)(B)".

(4) Section 1115(c)(1) of such title is amended by striking "and section 1116(a) of this title".

(5) Section 1115(c)(5) of such title is amended by striking "1116(c)" and inserting "1116".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2005.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

SECTION 2001. SHORT TITLE.

This division may be cited as the "Military Construction Authorization Act for Fiscal Year 2005".

TITLE XXI—ARMY

SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(1), the Secretary of the Army may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

Army: Inside the United States

State	*Installation or Location*	*Amount*
Alabama	*Anniston Army Depot*	*$23,690,000*
Alaska	*Fort Richardson*	*$24,300,000*
	Fort Wainwright	*$92,459,000*
California	*Fort Irwin*	*$38,100,000*
Colorado	*Fort Carson*	*$59,508,000*
Georgia	*Fort Benning*	*$73,627,000*
	Fort Gillem	*$5,800,000*
	Fort McPherson	*$4,900,000*
	Fort Stewart/Hunter Army Air Field	*$65,495,000*
Hawaii	*Helemano Military Reservation*	*$75,300,000*
	Hickam Air Force	*$11,200,000*
	Schofield Barracks	*$241,792,000*
Kansas	*Fort Riley*	*$44,050,000*
Kentucky	*Fort Campbell*	*$89,600,000*
	Fort Knox	*$73,850,000*
Louisiana	*Fort Polk*	*$70,953,000*
Maryland	*Fort Detrick*	*$4,000,000*
Missouri	*Fort Leonard Wood*	*$21,450,000*
New Jersey	*Picatinny Arsenal*	*$9,900,000*
New Mexico	*White Sands Missile Range*	*$33,000,000*
New York	*Fort Drum*	*$13,650,000*
	Fort Hamilton	*$7,600,000*
	Hancock Field	*$6,000,000*
	Military Entrance Processing Station, Buffalo	*$6,200,000*
	United States Military Academy, West Point	*$60,000,000*
North Carolina	*Fort Bragg*	*$111,687,000*
Oklahoma	*Fort Sill*	*$17,800,000*
Texas	*Camp Bullis*	*$5,300,000*
	Fort Bliss	*$19,400,000*
	Fort Hood	*$88,888,000*
Virginia	*Fort A.P. Hill*	*$3,975,000*
	Fort Lee	*$4,250,000*
	Fort Myer	*$49,526,000*
Washington	*Fort Lewis*	*$48,000,000*
	Total	*$1,505,250,000*

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(2), the Secretary of the Army may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

Army: Outside the United States

Country	*Installation or Location*	*Amount*
Germany	*Grafenwoehr*	*$77,200,000*
Italy	*Livorno*	*$26,000,000*
Korea	*Camp Humphreys*	*$12,000,000*
	Total	*$115,200,000*

SEC. 2102. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations or locations, for the purposes and in the amounts, set forth in the following table:

Army: Family Housing

State	*Installation or Location*	*Purpose*	*Amount*
Alaska	*Fort Richardson*	*92 Units*	*$42,000,000*
	Fort Wainwright	*246 Units*	*$124,000,000*
Arizona	*Fort Huachuca*	*205 Units*	*$41,000,000*
	Yuma Proving Ground	*55 Units*	*$14,900,000*
Kansas	*Fort Riley*	*126 Units*	*$33,000,000*
New Mexico	*White Sands Missile Range*	*156 Units*	*$31,000,000*
Oklahoma	*Fort Sill*	*247 Units*	*$47,000,000*
Virginia	*Fort Lee*	*218 Units*	*$46,000,000*
	Fort Monroe	*68 Units*	*$16,000,000*
	Total		*$394,900,000*

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed $29,209,000.

SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may improve existing military family housing units in an amount not to exceed $211,990,000.

SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2004, for military construction, land acquisition and military family housing functions of the Department of the Army in the total amount of $3,428,815,000 as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $1,335,750,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $115,200,000.

(3) For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, $20,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $161,209,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $636,099,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $926,507,000.

(6) For the construction of phase 2 of a barracks complex, 5th & 16th Street, at Fort Stewart/Hunter Army Air Field, Georgia, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1697), $32,950,000.

(7) For the construction of phase 3 of a barracks complex renewal, Capron Road, at Schofield Barracks, Hawaii, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1283) and as amended by section 2105 of the Military Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1697), $48,000,000.

(8) For the construction of phase 2 of the Lewis & Clark instructional facility at Fort Leavenworth, Kansas, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2681), $44,000,000.

(9) For the construction of phase 2 of a barracks complex at Wheeler Sack Army Air Field at Fort Drum, New York, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1697), $48,000,000.

(10) For the construction of phase 2 of a barracks complex, Bastogne Drive, Fort Bragg, North Carolina, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1697), $48,000,000.

(11) For the construction of phase 3 of a maintenance complex at Fort Sill, Oklahoma, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2681), $13,100,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

(2) $41,000,000 (the balance of the amount authorized under section 2101(a) to upgrade Drum Road, Helemano Military Reservation, Hawaii).

(3) $25,000,000 (the balance of the amount authorized under section 2101(a) for construction of a vehicle maintenance facility, Schofield Barracks, Hawaii).

(3) $25,000,000 (the balance of the amount authorized under section 2101(a) for construction of a barracks complex, Fort Campbell, Kentucky).

(4) $22,000,000 (the balance of the amount authorized under section 2101(a) for construction of trainee barracks, Basic Training Complex 1, Fort Knox, Kentucky).

(5) $25,500,000 (the balance of the amount authorized under section 2101(a) for construction of a library and learning facility, United States Military Academy, West Point, New York).

(6) $31,000,000 (the balance of the amount authorized under section 2101(a) for a barracks complex renewal project, Fort Bragg, North Carolina).

SEC. 2105. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2004 PROJECTS.

(a) MODIFICATION OF INSIDE THE UNITED STATES PROJECTS.—The table in section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1697) is amended—

(1) in the item relating to Fort Stewart/Hunter Army Air Field, Georgia, by striking "$113,500,000" in the amount column and inserting "$114,450,000";

(2) in the item relating to Fort Drum, New York, by striking "$130,700,000" in the amount column and inserting "$135,700,000"; and

(3) by striking the amount identified as the total in the amount column and inserting "$1,043,150,000".

(b) CONFORMING AMENDMENTS.—Section 2104(b) of that Act (117 Stat. 1700) is amended—

(1) in paragraph (2), by striking "$32,000,000" and inserting "$32,950,000"; and

(2) in paragraph (4), by striking "$43,000,000" and inserting "$48,000,000".

SEC. 2106. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2003 PROJECT.

(a) MODIFICATION OF INSIDE THE UNITED STATES PROJECT.—The table in section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2681), as amended by section 2105(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1700), is further amended—

(1) in the item relating to Fort Sill, Oklahoma, by striking "$39,652,000" in the amount column and inserting "$40,752,000"; and

(2) by striking the amount identified as the total in the amount column and inserting "$1,157,267,000".

(b) CONFORMING AMENDMENT.—Section 2104(b)(6) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2684) is amended by striking "$25,000,000" and inserting "$26,100,000".

TITLE XXII—NAVY

SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

Navy: Inside the United States

State	Installation or Location	Amount
Arizona	Marine Corps Air Station, Yuma	$26,670,000
California	Marine Corps Air-Ground Task Force Training Center, Twentynine Palms	$15,700,000
	Marine Corps Air Station, Camp Pendleton	$11,540,000
	Marine Corps Base, Camp Pendleton	$26,915,000
	Marine Corps Logistics Base, Barstow	$4,930,000
	Naval Air Facility, El Centro	$54,331,000
	Naval Air Station, North Island	$10,180,000
	Naval Surface Warfare Center, Division Corona	$9,850,000
Connecticut	Naval Submarine Base, New London	$50,302,000
District of Columbia	Naval Observatory, Washington	$3,239,000
Florida	Eglin Air Force Base	$2,060,000
	Naval Station, Mayport	$6,200,000
Georgia	Strategic Weapons Facility Atlantic, Kings Bay	$16,000,000
Hawaii	Naval Shipyard, Pearl Harbor	$5,100,000
Illinois	Naval Training Center, Great Lakes	$74,781,000
Indiana	Naval Surface Warfare Center, Crane	$10,580,000
Louisiana	Joint Reserve Base/Naval Air Station, New Orleans	$6,030,000
Maryland	Naval Surface Warfare Center, Indian Head	$23,000,000
North Carolina	Marine Corps Air Station, New River	$35,140,000
	Marine Corps Base, Camp Lejeune	$11,030,000
Nevada	Naval Air Station, Fallon	$4,980,000
South Carolina	Marine Corps Air Station, Beaufort	$5,480,000
Virginia	Camp Elmore Marine Corps Detachment	$13,500,000
	Marine Corps Air Facility, Quantico	$21,180,000
	Marine Corps Combat Development Command, Quantico	$24,140,000
	Naval Air Station, Oceana	$2,770,000
	Naval Amphibious Base, Little Creek	$9,550,000
	Naval Station, Norfolk	$4,330,000
	Naval Weapons Station, Yorktown	$9,870,000
Washington	Naval Air Station, Whidbey Island	$1,990,000
	Naval Shipyard, Puget Sound	$23,455,000
	Naval Station, Bremerton	$74,125,000
	Strategic Weapons Facility Pacific, Bangor	$131,090,000
	Total	$730,038,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(2), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

Navy: Outside the United States

Country	Installation or Location	Amount
Bahamas	Naval Undersea Warfare Center, Andros Islands	$20,750,000
Diego Garcia	Naval Support Facility, Diego Garcia	$17,500,000
Guam	Naval Public Works Center, Guam	$20,700,000
	Naval Station, Guam	$12,500,000
Italy	Sigonella	$22,550,000
Spain	Naval Station, Rota	$32,700,000
	Total	$126,700,000

(c) UNSPECIFIED WORLDWIDE.—Using the amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(3), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations or locations and in the amount, set forth in the following table:

Navy: Unspecified Worldwide

Location	Installation or Location	Amount
	Unspecified Worldwide	$148,640,000
	Total	$148,640,000

SEC. 2202. FAMILY HOUSING.

Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(6)(A), the Secretary of the Navy may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations or locations, for the purposes and in the amounts, set forth in the following table:

Navy: Family Housing

State	Installation or Location	Purpose	Amount
North Carolina	Marine Corps Air Station, Cherry Point	198 Units	$27,002,000
	Total		$27,002,000

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(6)(A), the Secretary of the Navy may improve existing military family housing units in an amount not to exceed $112,105,000.

SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2004, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $1,913,273,000, as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $631,908,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $126,700,000.

(3) For the military construction projects at unspecified worldwide locations authorized by section 2201(c), $98,560,000.

(4) For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, $12,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $93,804,000.

(6) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $139,107,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $696,304,000.

(7) For the construction of increment 2 of the tertiary sewage treatment plant at Marine Corps Base, Camp Pendleton, California, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1703), $25,690,000.

(8) For the construction of increment 2 of the general purpose berthing pier at Naval Weapons Station, Earle, New Jersey, authorized by section 2201(a) of the Military Construction Authorization Act of Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1704), $49,200,000.

(9) For the construction of increment 2 of pier 11 replacement at Naval Station, Norfolk, Virginia, authorized by section 2201(a) of the Military Construction Authorization Act of Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1704), $40,000,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under paragraphs (1), (2) and (3) of subsection (a).

(2) $21,000,000 (the balance of the amount authorized under section 2201(a) for apron and hangar recapitalization, Naval Air Facility, El Centro, California).

(3) $40,000,000 (the balance of the amount authorized under section 2201(a) for construction of bachelor enlisted quarters, Naval Station, Bremerton, Washington).

(4) $95,320,000 (the balance of the amount authorized under section 2201(a) for construction of a limited area processing and storage complex, Strategic Weapons Facility Pacific, Bangor, Washington).

(5) $34,098,000 (the balance of the amount authorized under section 2201(c) for construction of a White Side complex at an unspecified location worldwide).

(6) $15,982,000 (the balance of the amount authorized under section 2201(c) for construction of a presidential helicopter programs support facility at an unspecified location).

TITLE XXIII—AIR FORCE

SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(1), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

Air Force: Inside the United States

State	Installation or Location	Amount
Alaska	Elmendorf Air Force Base	$26,057,000
Arizona	Davis-Monthan Air Force Base	$17,029,000
	Luke Air Force Base	$17,900,000
Arkansas	Little Rock Air Force Base	$8,931,000
California	Beale Air Force Base	$10,186,000
	Edwards Air Force Base	$9,965,000
	Travis Air Force Base	$18,894,000
Colorado	Buckley Air Force Base	$12,247,000
Florida	Tyndall Air Force Base	$29,162,000
Georgia	Moody Air Force Base	$9,600,000
	Robins Air Force Base	$15,000,000
Hawaii	Hickam Air Force Base	$25,900,000
Louisiana	Barksdale Air Force Base	$13,800,000
Maryland	Andrews Air Force Base	$17,100,000
Mississippi	Columbus Air Force Base	$7,700,000
Missouri	Whiteman Air Force Base	$7,600,000
New Mexico	Kirtland Air Force Base	$9,200,000
North Carolina	Pope Air Force Base	$15,150,000
Ohio	Wright-Patterson Air Force Base	$9,200,000
South Carolina	Shaw Air Force Base	$7,000,000
Tennessee	Arnold Air Force Base	$24,500,000
Texas	Dyess Air Force Base	$3,300,000
	Lackland Air Force Base	$2,596,000
	Laughlin Air Force Base	$6,900,000
	Sheppard Air Force Base	$50,284,000
Utah	Hill Air Force Base	$18,013,000
Wyoming	F.E. Warren Air Force Base	$5,500,000
	Total	$398,714,000

(b) OUTSIDE THE UNITED STATES.—*Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(2), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:*

Air Force: Outside the United States

Country	Installation or Location	Amount
Germany	Ramstein Air Base	$25,404,000
Greenland	Thule Air Base	$19,800,000
Guam	Andersen Air Force Base	$19,593,000
Italy	Aviano Air Base	$6,760,000
Japan	Misawa Air Base	$6,700,000
Korea	Kunsan Air Base	$37,100,000
	Osan Air Base	$18,600,000
Portugal	Lajes Field, Azores	$5,689,000
Spain	Naval Station, Rota	$14,153,000
United Kingdom	Royal Air Force Lakenheath	$5,500,000
	Total	$159,299,000

(c) UNSPECIFIED WORLDWIDE.—*Using the amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(3), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations or locations, and in the amount, set forth in the following table:*

Air Force: Unspecified Worldwide

Location	Installation or Location	Amount
	Classified Locations	$26,121,000
	Unspecified Worldwide	$28,794,000
	Total	$54,915,000

SEC. 2302. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—*Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations or locations, for the purposes and in the amounts, set forth in the following table:*

Air Force: Family Housing

State	Installation or Location	Purpose	Amount
Arizona	Davis-Monthan Air Force Base	250 Units	$48,500,000
California	Edwards Air Force Base	218 Units	$41,202,000
	Vandenberg Air Force Base	120 Units	$30,906,000
Florida	MacDill Air Force Base	61 Units	$21,723,000
	MacDill Air Force Base	Housing Maintenance Facility	$1,250,000
Idaho	Mountain Home Air Force Base	147 Units	$39,333,000
Mississippi	Columbus Air Force Base	Housing Management Facility	$711,000
Missouri	Whiteman Air Force Base	160 Units	$37,087,000
Montana	Malmstrom Air Force Base	115 Units	$29,910,000
North Carolina	Seymour Johnson Air Force Base	167 Units	$32,693,000
North Dakota	Grand Forks Air Force Base	90 Units	$26,169,000
	Minot Air Force Base	142 Units	$37,087,000
South Carolina	Charleston Air Force Base	Fire Station	$1,976,000
South Dakota	Ellsworth Air Force Base	75 Units	$21,482,000
Texas	Dyess Air Force Base	127 Units	$28,664,000
	Goodfellow Air Force Base	127 Units	$20,604,000
Germany	Ramstein Air Base	144 Units	$57,691,000
Italy	Aviano Air Base	Housing Office	$2,542,000
Korea	Osan Air Base	117 Units	$46,834,000
United Kingdom	Royal Air Force Lakenheath	154 Units	$43,976,000
	Total		$570,340,000

(b) PLANNING AND DESIGN.—*Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $38,266,000.*

SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed $238,353,000.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2004, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $2,493,679,000, as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $398,714,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $159,299,000.

(3) For the military construction projects at unspecified worldwide locations authorized by section 2301(c), $54,915,000.

(4) For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, $13,000,000.

(5) For architectural and engineering services and construction design, under section 2807 of title 10, United States Code, $166,126,000.

(6) For military family housing functions:

(A) For construction and acquisition, planning and design and improvement of military family housing and facilities, $846,959,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $854,666,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1), (2), and (3) of subsection (a).

TITLE XXIV—DEFENSE AGENCIES

SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(1), the Secretary of Defense may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

Defense Agencies: Inside the United States

Agency	Installation or Location	Amount
Defense Intelligence Agency	Bolling Air Force Base, District of Columbia	$6,000,000
Defense Logistics Agency	Defense Distribution Depot, New Cumberland, Pennsylvania	$22,300,000
	Defense Distribution Depot, Richmond, Virginia	$10,100,000
	Defense Fuel Support Point, Naval Air Station, Oceana, Virginia	$3,589,000
	Defense Supply Center, Columbus, Ohio	$5,500,000
	Marina Corps Air Station, Cherry Point, North Carolina	$22,700,000
	Naval Air Station, Kingsville, Texas	$3,900,000
	Naval Station, Pearl Harbor, Hawaii	$3,500,000
	Tinker Air Force Base, Oklahoma	$5,400,000
	Travis Air Force Base, California	$15,100,000
Missile Defense Agency	Huntsville, Alabama	$19,560,000
National Security Agency	Fort Meade, Maryland	$15,007,000
Special Operations Command	Corona, California	$13,600,000
	Fleet Combat Training Center, Dam Neck, Virginia	$5,700,000
	Fort A.P. Hill, Virginia	$1,500,000
	Fort Bragg, North Carolina	$42,888,000
	Fort Stewart/Hunter Army Air Field, Georgia	$17,600,000
	Hurlburt Field, Florida	$2,500,000
	Naval Amphibious Base, Little Creek, Virginia	$33,200,000
	Naval Air Station, North Island, California	$1,000,000
TRICARE Management Activity	Buckley Air Force Base, Colorado	$2,100,000
	Defense Language Institute, Presidio, Monterey	$6,700,000
	Fort Belvoir, Virginia	$100,000,000
	Fort Benning, Georgia	$7,100,000
	Langley Air Force Base, Virginia	$50,800,000
	Marine Corps Recruit Depot, Parris Island, South Carolina	$25,000,000
	Naval Air Station, Jacksonville, Florida	$28,438,000
	Total	$470,782,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(2), the Secretary of Defense may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

Defense Agencies: Outside the United States

Agency	Installation or Location	Amount
Defense Education Activity	Grafenwoehr, Germany	$36,247,000
	Naval Station, Guam	$26,964,000
	Vilseck, Germany	$9,011,000
Defense Logistics Agency	Defense Fuel Support Point, Lajes Field, Portugal	$19,113,000
	Misawa Air Base, Japan	$19,900,000
Special Operations Command	Naval Station, Guam, Marianas Islands	$2,200,000
	Royal Air Force Mildenhall, United Kingdom	$10,200,000
TRICARE Management Activity	Diego Garcia	$3,800,000
	Grafenwoehr, Germany	$13,000,000
	Total	$140,435,000

(c) UNSPECIFIED WORLDWIDE.—Using the amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(3), the Secretary of Defense may acquire real property and carry out military construction projects for the installations or locations, and in the amount, set forth in the following table:

Defense Agencies: Unspecified Worldwide

Location	Installation or Location	Amount
Special Operations Command	Classified Locations	$7,400,000
	Unspecified Worldwide	$2,900,000
	Total	$10,300,000

SEC. 2402. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(9)(A), the Secretary of Defense may improve existing military family housing units in an amount not to exceed $49,000.

SEC. 2403. ENERGY CONSERVATION PROJECTS.

Using amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(7), the Secretary of Defense may carry out energy conservation projects under section 2865 of title 10, United States Code, in the amount of $50,000,000.

SEC. 2404. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.

(a) Modification of Inside the United States Projects.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2004, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments) in the total amount of $1,089,063,000, as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $413,782,000.

(2) For military construction projects outside the United States authorized by section 2401(b), $140,435,000.

(3) For the military construction projects at unspecified worldwide locations authorized by section 2401(c), $10,300,000.

(4) For unspecified minor military construction projects under section 2805 of title 10, United States Code, $20,938,000.

(5) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $10,000,000.

(6) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $63,482,000.

(7) For Energy Conservation projects authorized by section 2404 of this Act, $50,000,000.

(8) For base closure and realignment activities as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), $246,116,000.

(9) For military family housing functions:

(A) For improvement of military family housing and facilities, $49,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $49,575,000.

(C) For credit to the Department of Defense Family Housing Improvement Fund established by section 2883(a)(1) of title 10, United States Code, $2,500,000.

(10) For the construction of phase 6 of an ammunition demilitarization facility at Pueblo Depot Activity, Colorado, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1997 (division B of Public Law 104–201; 110 Stat. 2775), as amended by section 2406 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 839), and section 2407 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2698), $44,792,000.

(11) For the construction of phase 5 of an ammunition demilitarization facility at Blue Grass Army Depot, Kentucky, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 835), as amended by section 2405 of the Military Construction Authorization Act of 2002 (division B of Public Law 107–107; 115 Stat. 1298), and section 2405 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2698), $37,094,000.

(b) Limitation on Total Cost of Construction Projects.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2401 of this Act may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under paragraphs (1), (2) and (3) of subsection (a).

(2) $57,000,000 (the balance of the amount authorized under section 2401(a) for hospital replacement, Fort Belvoir, Virginia).

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Security Investment Program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2004, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Security Investment Program authorized by section 2501, in the amount of $165,800,000.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2004, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 1803 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $393,225,000; and

(B) for the Army Reserve, $116,955,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, $30,955,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $184,620,000; and

(B) for the Air Force Reserve, $114,090,000.

TITLE XXVII—EXPIRATION AND EXTENSION OF AUTHORIZATIONS

SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW.

(a) Expiration of Authorizations After Three Years.—Except as provided in subsection (b), all authorizations contained in titles XXI through XXVI for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment Program (and authorizations of appropriations therefor) shall expire on the later of—

(1) October 1, 2007; or

(2) the date of the enactment of an Act authorizing funds for military construction for fiscal year 2008.

(b) Exception.—Subsection (a) shall not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before the later of—

(1) October 1, 2007; or

(2) the date of the enactment of an Act authorizing funds for fiscal year 2008 for military construction projects, land acquisition, family housing projects and facilities, or contributions to the North Atlantic Treaty Organization Security Investment program.

SEC. 2702. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 2002 PROJECTS.

(a) Extension.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1301), authorizations set forth in the tables in subsection (b), as provided in section 2101 or 2302 of that Act, shall remain in effect until October 1, 2005, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2006, whichever is later.

(b) Tables.—The tables referred to in subsection (a) are as follows:

Army: Extension of 2002 Project Authorizations

State	Installation or Location	Project	Amount
Alaska	Fort Wainwright	Power plant cooling tower	$23,000,000
Hawaii	Pohakuloa Training Area	Parker Ranch land acquisition	$1,500,000

Air Force: Extension of 2002 Project Authorizations

State	Installation or Location	Project	Amount
Colorado	Buckley Air Force Base	Family housing (55 Units)	$11,400,000

Air Force: Extension of 2002 Project Authorizations—Continued

State	Installation or Location	Project	Amount
Louisiana	Barksdale Air Force Base	Family housing (56 Units)	$7,300,000

SEC. 2703. EXTENSION AND RENEWAL OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 2001 PROJECTS.

(a) EXTENSION AND RENEWAL.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–407)), authorizations set forth in the tables in subsection (b), as provided in section 2102 or 2401 of that Act and, in the case of the authorization set forth in the first table in subsection (b), extended by section 2702 of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1716), shall remain in effect until October 1, 2005, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2006, whichever is later.

(b) TABLES.—The tables referred to in subsection (a) are as follows:

Army: Extension of 2001 Project Authorization

State	Installation or Location	Project	Amount
South Carolina	Fort Jackson	Family housing (1 unit)	$250,000

Defense Agencies: Extension of 2001 Project Authorizations

Agency	Installation or Location	Project	Amount
Defense Finance and Accounting Service	Kleber Kaserne, Germany	Building renovation	$7,400,000
Defense Education Activity	Osan Air Base, Korea	Osan Elementary School addition	$843,000

SEC. 2704. EFFECTIVE DATE.

Titles XXI, XXII, XXIII, XXIV, XXV, and XXVI of this Act shall take effect on the later of—

(1) October 1, 2004; or

(2) the date of the enactment of this Act.

TITLE XXVIII—GENERAL PROVISIONS

Subtitle A—Military Construction Program and Military Family Housing Changes

SECTION 2801. INCREASE IN CERTAIN THRESHOLDS FOR CARRYING OUT UNSPECIFIED MINOR MILITARY CONSTRUCTION PROJECTS.

(a) ADVANCE APPROVAL AND CONGRESSIONAL NOTIFICATION THRESHOLD.—Subsection (b)(1) of section 2805 of title 10, United States Code, is amended by striking "$750,000" and inserting "$1,000,000".

(b) USE OF OPERATION AND MAINTENANCE FUNDS THRESHOLD.—Subsection (c) of such section is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) Except as provided in paragraphs (2) and (3), the Secretary concerned may spend from appropriations available for operation and maintenance amounts necessary to carry out an unspecified minor military construction project costing not more than $1,500,000."; and

(2) in paragraph (3), by striking "limitations" and inserting "limitation".

SEC. 2802. ASSESSMENT OF VULNERABILITY OF MILITARY INSTALLATIONS TO TERRORIST ATTACK AND ANNUAL REPORT ON MILITARY CONSTRUCTION REQUIREMENTS RELATED TO ANTITERRORISM AND FORCE PROTECTION.

(a) ANNUAL ASSESSMENT AND REPORT.—Section 2808 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) ANTITERRORISM AND FORCE PROTECTION ASSESSMENTS AND MILITARY CONSTRUCTION REQUIREMENTS.—(1) The Secretary of Defense shall develop common guidance and criteria to be used by the Secretary concerned—

"(A) to assess the vulnerability of military installations located inside and outside of the United States to terrorist attack;

"(B) to develop construction standards designed to reduce the vulnerability of structures to terrorist attack and improve the security of the occupants of such structures;

"(C) to prepare and carry out military construction projects, such as gate and fenceline construction, to improve the physical security of military installations; and

"(D) to assist in prioritizing such projects within the military construction budget of each of the armed forces.

"(2) The Secretary of Defense shall require vulnerability assessments of military installations to be conducted, at regular intervals, using the criteria developed under paragraph (1).

"(3) As part of the budget materials submitted to Congress in connection with the submission of the budget for a fiscal year pursuant to section 1105 of title 31, but in no case later than March 15 of each year, the Secretary of Defense shall submit a report describing—

"(A) the location and results of the vulnerability assessments conducted during the preceding fiscal year;

"(B) the military construction requirements anticipated to be necessary during the next three fiscal years to improve the physical security of military installations; and

"(C) the extent to which funds are not requested in the Department of Defense budget for the next fiscal year to meet those requirements.

"(4) In the case of the report required under paragraph (3) to be submitted in 2006, the Secretary of Defense shall include a certification by the Secretary that since September 11, 2001, vulnerability assessments have been undertaken at all major military installations. The Secretary shall indicate the basis by which the Secretary differentiated between major and nonmajor military installations for purposes of making the certification.".

(b) STYLISTIC AND CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§2808. Construction authority related to declaration of war or national emergency; construction requirements related to antiterrorism and force protection".

(2) Such section is further amended—

(A) in subsection (a), by inserting "CONSTRUCTION AUTHORITY; LIMITATION.—" after "(a)";

(B) in subsection (b), by inserting "CONGRESSIONAL NOTIFICATION.—" after "(b)"; and

(C) in subsection (c), by inserting "TERMINATION.—" after "(c)".

(3) The table of sections at the beginning of chapter 169 of such title is amended by striking the item relating to section 2808 and inserting the following new item:

"2808. Construction authority related to declaration of war or national emergency; construction requirements related to antiterrorism and force protection.".

SEC. 2803. CHANGE IN THRESHOLD FOR CONGRESSIONAL NOTIFICATION REGARDING USE OF OPERATION AND MAINTENANCE FUNDS FOR FACILITY REPAIR.

Section 2811(d) of title 10, United States Code, is amended by striking "$10,000,000" and inserting "$7,500,000".

SEC. 2804. REPORTING REQUIREMENTS REGARDING MILITARY FAMILY HOUSING REQUIREMENTS FOR GENERAL OFFICERS AND FLAG OFFICERS.

(a) ANNUAL REPORT ON COST OF GENERAL AND FLAG OFFICERS QUARTERS.—Section 2831 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) ANNUAL REPORT OF COST OF GENERAL OFFICERS AND FLAG OFFICERS QUARTERS.—As part of the budget materials submitted to Congress in connection with the submission of the budget for a fiscal year pursuant to section 1105 of title 31, but in no case later than March 30 of each year, the Secretary of Defense shall submit a report—

"(1) identifying family housing units used, or intended for use, as quarters for general officers or flag officers for which the total operation and maintenance costs, utility costs, and repair costs are anticipated to exceed $20,000 in the next fiscal year; and

"(2) specifying the total of such costs for each unit of family housing identified under paragraph (1).".

(b) REPORT ON NEED FOR SUCH QUARTERS IN NATIONAL CAPITAL REGION.—The Secretary of Defense shall prepare a report analyzing anticipated needs in the National Capital Region for family housing units for general officers and flag officers. In conducting the analysis, the Secretary shall consider the extent of available housing in the National Capital Region and the necessity of providing housing for general officers and flag officers in secure locations.

(c) REPORT ON WORLD-WIDE INVENTORY OF SUCH QUARTERS.—The Secretary of Defense shall prepare a report containing a worldwide inventory of family housing units for general officers and flag officers and identifying annual *expenditures for each such unit for operation and maintenance, utilities, and repair for each for the fiscal years 2000 through 2004.*

(d) SUBMISSION OF REPORTS.—The reports required by subsections (b) and (c) shall be submitted to the congressional defense committees not later than March 30, 2005.

(e) DEFINITIONS.—In this section:

(1) The terms "general officer" and "flag officer" have the meanings given such terms in section 101(b) of title 10, United States Code.

(2) The term "National Capital Region" has the meaning given such term in section 2674(f) of such title.

SEC. 2805. CONGRESSIONAL NOTIFICATION OF DEVIATIONS FROM AUTHORIZED COST VARIATIONS FOR MILITARY CONSTRUCTION PROJECTS AND MILITARY FAMILY HOUSING PROJECTS.

Section 2853(c)(3) of title 10, United States Code, is amended by inserting before the period at the end the following: "or, if over sooner, a period of 14 days has elapsed after the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title".

SEC. 2806. REPEAL OF LIMITATION ON USE OF ALTERNATIVE AUTHORITY FOR ACQUISITION AND IMPROVEMENT OF MILITARY FAMILY HOUSING.

Effective October 1, 2005, subsection (g) of section 2883 of title 10, United States Code, is amended to read as follows:

"(g) LIMITATION ON USE OF AUTHORITY TO ACQUIRE OR CONSTRUCT MILITARY UNACCOMPANIED HOUSING.—The total value in budget authority of all contracts and investments undertaken using the authorities provided in this subchapter for the acquisition or construction of military unaccompanied housing shall not exceed $150,000,000.".

SEC. 2807. TEMPORARY AUTHORITY TO ACCELERATE DESIGN EFFORTS FOR MILITARY CONSTRUCTION PROJECTS CARRIED OUT USING DESIGN-BUILD SELECTION PROCEDURES.

Section 2305a of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f) SPECIAL AUTHORITY FOR MILITARY CONSTRUCTION PROJECTS.—(1) The Secretary of a military department, and the Secretary of Defense with respect to matters concerning the Defense Agencies, may use funds available to the Secretary under section 2807(a) or 18233(e) of this title to accelerate the design effort in connection with a military construction project for which the two-phase selection procedures described in subsection (c) are used to select the contractor for both the design and construction portion of the project before the project is specifically authorized by law and before funds are appropriated for the construction portion of the project. Notwithstanding the limitations contained in such sections, use of such funds for the design portion of a military construction project may continue despite the subsequent authorization of the project. The advance notice requirement of section 2807(b) of this title shall continue to apply whenever the estimated cost of the design portion of the project exceeds the amount specified in such section.

"(2) Any military construction contract that provides for an accelerated design effort, as authorized by paragraph (1), shall include as a condition of the contract that the liability of the United States in a termination for convenience may not exceed costs above the costs attributable to the final design of the project.

"(3) Not more than 36 military construction projects containing the accelerated design effort authorized by paragraph (1) may be carried out.

"(4) Not later than March 1, 2007, the Secretary of Defense shall submit to the congressional defense committees a report evaluating the usefulness of the authority provided by this subsection in expediting the design and construction of military construction projects. The authority provided by this subsection expires September 30, 2008, except that, if the report required by this paragraph is not submitted by March 1, 2007, the authority shall expire on that date.".

SEC. 2808. EXCHANGE OR SALE OF RESERVE COMPONENT FACILITIES TO ACQUIRE REPLACEMENT FACILITIES.

Section 18233 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(g)(1) The Secretary of Defense may convey, by exchange or sale, an existing facility of a reserve component of the armed forces for the purpose of acquiring a replacement facility under this section or using the proceeds from the sale to acquire a replacement facility under this section, if the Secretary determines it is in the best interests of the United States to acquire the replacement facility by such exchange or sale. The United States shall receive funds or a replacement facility, or a combination of both, having a total value at least equal to the fair market value of the conveyed facility.

"(2) Acquisition of a replacement facility under this subsection may be accomplished by construction, expansion, rehabilitation, or conversion and must result in a fully equipped and operational replacement facility. Nothing in this subsection prohibits the Secretary of Defense from contributing additional funds, in accordance with this section, to obtain a fully equipped and operational replacement facility.

"(3) Funds received under this subsection shall be deposited in a separate account and remain available to the Secretary of Defense, without appropriation, for use in accordance with this subsection. Any funds received under this subsection in connection with a conveyance in excess of the funds required to obtain a fully equipped and operational replacement facility for the conveyed facility may be used by the Secretary for the purposes of subsection (a).".

SEC. 2809. ONE-YEAR EXTENSION OF TEMPORARY, LIMITED AUTHORITY TO USE OPERATION AND MAINTENANCE FUNDS FOR CONSTRUCTION PROJECTS OUTSIDE THE UNITED STATES.

Section 2808 of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1723) is amended—

(1) in subsections (a) and (d), by striking "fiscal year 2004" both places it appears and inserting "fiscal years 2004 and 2005"; and

(2) in subsection (c)(1), by striking "in fiscal year 2004" and inserting "in a fiscal year".

Subtitle B—Real Property and Facilities Administration

SEC. 2811. INCREASE IN CERTAIN THRESHOLDS FOR REPORTING REAL PROPERTY TRANSACTIONS.

(a) GENERAL NOTICE AND WAIT THRESHOLD.—Subsection (a) of section 2662 of title 10, United States Code, is amended by striking "$750,000" each place it appears and inserting "$1,500,000".

(b) ANNUAL REPORT ON MINOR TRANSACTIONS THRESHOLD.—Subsection (b) of such section is amended by striking "subsection (a) that involve an estimated value of more than $250,000, but not more than $750,000" and inserting "such subsection that involve an estimated value of more than $500,000, but not more than the amount specified in such subsection".

(c) NOTICE AND WAIT THRESHOLD FOR CERTAIN GSA LEASES.—Subsection (e) of such section is amended by striking "$750,000" and inserting "$1,500,000".

(d) THRESHOLD FOR ACQUISITION OF LOW-COST INTERESTS IN LAND.—Subsection (a) of section 2672 of such title is amended to read as follows:

"(a) ACQUISITION AUTHORITY.—The Secretary of a military department may acquire any interest in land that—

"(1) the Secretary determines is needed in the interest of national defense; and

"(2) does not cost more than $1,500,000, exclusive of administrative costs and the amounts of any deficiency judgments.".

(e) TREATMENT MULTIPLE PARCELS UNDER LOW-COST ACQUISITION AUTHORITY.—Subsection (b) of such section is amended to read as follows:

"(b) TREATMENT OF MULTIPLE PARCELS.—This section does not authorize the acquisition, as a part of the same project, of more than one parcel of land unless—

"(1) the parcels are noncontiguous; or

"(2) if contiguous, the total cost for the acquisition of all of the contiguous parcels does not cost more than the amount specified in subsection (a)(2).".

SEC. 2812. REORGANIZATION OF EXISTING ADMINISTRATIVE PROVISIONS RELATING TO REAL PROPERTY TRANSACTIONS.

(a) LIMITATION ON COMMISSIONS.—(1) Section 2661 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) COMMISSIONS ON LAND PURCHASE CONTRACTS.—The maximum amount payable as a commission on a contract for the purchase of land from funds appropriated for the Department of Defense is two percent of the purchase price.".

(2) Section 2666 of such title is repealed.

(b) REPEAL OF OBSOLETE AUTHORITY TO ACQUIRE LAND FOR TIMBER PRODUCTION.—Section 2664 of such title is repealed.

(c) AVAILABILITY OF FUNDS FOR ACQUISITION OF CERTAIN INTERESTS IN REAL PROPERTY.—(1) Section 2672 of such title is amended by adding at the end the following new subsection:

"(d) AVAILABILITY OF FUNDS.—Appropriations available to the Department of Defense for operation and maintenance or construction may be used for the acquisition of land or interests in land under this section.".

(2) Section 2673 of such title is repealed.

(3) Section 2675 of such title is amended—

(A) by inserting before "The Secretary" the following "(a) LEASE AUTHORITY; DURATION.—"; and

(B) by adding at the end the following new subsection:

"(b) AVAILABILITY OF FUNDS.—Appropriations available to the Department of Defense for operation and maintenance or construction may be used for the acquisition of interests in land under this section.".

(d) STYLISTIC AND CLERICAL AMENDMENTS.—(1) Section 2661 of such title is further amended—

(A) in subsection (a), by inserting "AVAILABILITY OF OPERATION AND MAINTENANCE FUNDS.—" after "(a)" ; and

(B) in subsection (b), by inserting "LEASING AND ROAD MAINTENANCE AUTHORITY.—" after "(b)".

(2) The table of sections at the beginning of chapter 159 of such title is amended by striking the items relating to sections 2664, 2666, and 2673.

SEC. 2813. TREATMENT OF MONEY RENTALS FROM GOLF COURSE AT ROCK ISLAND ARSENAL, ILLINOIS.

(a) SUPPORT OF MWR ACTIVITIES.—Section 2667(d) of title 10, United States Code, is amended—

(1) in paragraph (1)(B)—

(A) by redesignating clause (ii) as clause (iii); and

(B) by inserting after clause (i) the following new clause:

"(ii) Money rentals deposited in a nonappropriated morale, welfare, and recreation account under paragraph (3)."; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) The Secretary of the Army may deposit up to 50 percent of the money rentals received by the United States from a lease involving the golf course at Rock Island Arsenal, Illinois, in the nonappropriated morale, welfare, and recreation account for that installation, to be used for quality-of-life programs at that installation.".

(b) EFFECTIVE DATE.—Paragraph (3) of section 2667(d) of title 10, United States Code, as added by subsection (a), shall apply to money rentals referred to in such paragraph received by the United States after September 30, 2004.

SEC. 2814. NUMBER OF CONTRACTS AUTHORIZED DEPARTMENT-WIDE UNDER DEMONSTRATION PROGRAM ON REDUCTION IN LONG-TERM FACILITY MAINTENANCE COSTS.

Section 2814 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 10 U.S.C. 2809 note) is amended—

(1) in subsection (a), by striking "or the Secretary of a military department" and inserting "and the Secretaries of the military departments";

(2) in subsection (b)(1), by striking "12 contracts per military department" and inserting "36 contracts"; and

(3) in subsection (b)(2), by striking "the date of the enactment of the Bob Stump National Defense Authorization Act for Fiscal Year 2003" and inserting "December 2, 2002".

SEC. 2815. REPEAL OF COMMISSION ON REVIEW OF OVERSEAS MILITARY FACILITY STRUCTURE OF THE UNITED STATES.

Section 128 of the Military Construction Appropriations Act, 2004 (Public Law 108–132; 117 Stat. 1382; 10 U.S.C. 111 note), is repealed.

SEC. 2816. DESIGNATION OF AIRMEN LEADERSHIP SCHOOL AT LUKE AIR FORCE BASE, ARIZONA, IN HONOR OF JOHN J. RHODES, A FORMER MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES.

The Airmen Leadership School at Luke Air Force Base, Arizona, building 156, shall be known and designated as the "John J. Rhodes Airmen Leadership School". Any reference to such facility in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the John J. Rhodes Airmen Leadership School.

SEC. 2817. ELIMINATION OF REVERSIONARY INTERESTS CLOUDING UNITED STATES TITLE TO PROPERTY USED AS NAVY HOMEPORTS.

(a) AUTHORITY TO ACQUIRE COMPLETE TITLE.—If real property owned by the United States and used as a Navy homeport is subject to a reversionary interest of any kind, the Secretary of the Navy may enter into an agreement with the holder of the reversionary interest to acquire the reversionary interest and thereby secure for the United States all right, title, and interest in and to the property.

(b) CONSIDERATION.—(1) As consideration for the acquisition of a reversionary interest under subsection (a), the Secretary shall provide the holder of the reversionary interest with in-kind consideration, to be determined pursuant to negotiations between the Secretary and the holder of the reversionary interest. In determining the type and value of any in-kind consideration to be provided for the acquisition of a reversionary interest under subsection (a), the Secretary shall take into account the nature of the reversionary interest, including whether it would require the holder of the reversionary interest to pay for any improvements acquired by the holder as part of the reversion of the real property, and the long-term use and ultimate disposition of the real property if the United States were to acquire all right, title, and interest in and to the real property subject to the reversionary interest.

(2) Cash payments are not authorized as consideration for the acquisition of reversionary interests under subsection (a).

SEC. 2818. REPORT ON REAL PROPERTY DISPOSAL AT MARINE CORPS AIR STATION, EL TORO, CALIFORNIA.

Not later than 180 days after the date of the enactment of this Act, the Secretary of the Navy shall submit to Congress a report describing—

(1) the progress being made with regard to the disposal of real property at Marine Corps Air Station, El Toro, California, including any challenges arising from plans to dispose of property at the installation by auction;

(2) the anticipated future uses of the property; and

(3) the requests received from other Federal agencies (including other military departments) for property at the installation.

Subtitle C—Base Closure and Realignment

SEC. 2821. TWO-YEAR POSTPONEMENT OF 2005 BASE CLOSURE AND REALIGNMENT ROUND AND SUBMISSION OF REPORTS REGARDING FUTURE INFRASTRUCTURE REQUIREMENTS FOR THE ARMED FORCES.

(a) TWO-YEAR POSTPONEMENT IN SUBMITTAL OF BASE CLOSURE AND REALIGNMENT RECOMMENDATIONS.—Section 2914 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), as added by section 3003 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1345), is amended—

*(1) in the section heading, by striking "**2005**" and inserting "**2007**"; and*

(2) in subsection (a), by striking "May 16, 2005," and inserting "May 16, 2007,".

(b) COMMISSION REVIEW AND RECOMMENDATIONS.—Subsection (d) of section 2914 of the Defense Base Closure and Realignment Act of 1990 is amended—

(1) in paragraphs (1) and (2), by striking "September 8, 2005" both places it appears and inserting "September 8, 2007"; and

(2) in paragraph (6)—

(A) by striking "in 2005" and inserting "under this section"; and

(B) by striking "July 1, 2005" and inserting "July 1, 2007".

(c) REVIEW BY PRESIDENT AND TRANSMITTAL TO CONGRESS.—Subsection (e) of section 2914 of the Defense Base Closure and Realignment Act of 1990 is amended—

(1) in paragraph (1)—

(A) by striking "in 2005" and inserting "under this section"; and

(B) by striking "September 23, 2005" and inserting "September 23, 2007";

(2) in paragraph (2), by striking "October 20, 2005" and inserting "October 20, 2007"; and

(3) in paragraph (3)—

(A) by striking "November 7, 2005" and inserting "November 7, 2007"; and

(B) by striking "in 2005" and inserting "in 2007".

(d) NEW FORCE STRUCTURE PLAN AND INFRASTRUCTURE INVENTORY; RECERTIFICATION OF NEED FOR ADDITIONAL ROUND.—Section 2912 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), as added by section 3001 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1342), is amended—

*(1) in the section heading, by striking "**2005**" and inserting "**2007**";*

(2) by striking "fiscal year 2005" each place it appears and inserting "fiscal year 2007";

(3) in subsection (b)(1), by inserting "for fiscal year 2007" after "subsection (a)";

(4) in subsections (b)(2) and (d), by striking "in 2005" each place it appears and inserting "under section 2914";

(5) in subsection (d), by striking "March 15, 2005" both places it appears and inserting "March 15, 2007";

(6) in subsection (d)(4), by striking "calendar year 2005 and shall terminate on April 15, 2006" and inserting "calendar year 2007 and shall terminate on April 15, 2008"; and

(7) in subsection (d)(5), by striking "second session of the 108th Congress for the activities of the Commission in 2005" and inserting "second session of the 109th Congress for the activities of the Commission under section 2914".

(e) INFRASTRUCTURE-RELATED REPORTING REQUIREMENTS; TERMINATION OF BASE CLOSURE ROUND.—Section 2912 of the Defense Base Closure and Realignment Act of 1990 is further amended by adding at the end the following new subsection:

"(e) INFRASTRUCTURE-RELATED REPORTS.—

"(1) REQUIRED REPORTS.—The Secretary shall prepare the following reports related to infrastructure requirements for the Armed Forces:

"(A) A report containing the Integrated Global Presence and Basing Strategy of the Department of Defense, including the location of long-term overseas installations, installations to be used for rotational purposes, and forward operating locations, anticipated rotational plans and policies, and domestic and overseas infrastructure requirements associated with the strategy.

"(B) A report describing the anticipated infrastructure requirements associated with the probable end-strength levels and major military force units (including land force divisions, carrier and other major combatant vessels, air wings, and other comparable units) for each of the Armed Forces resulting from force transformation.

"(C) A report describing the anticipated infrastructure requirements related to expected changes in the active component versus reserve component personnel mix of the Armed Forces.

"(D) A report describing the anticipated infrastructure requirements associated with the so-called '10–30–30 objective' of the Secretary to ensure that military forces are capable of deployment overseas within 10 days in sufficient strength to defeat an enemy within 30 days and be ready for redeployment within 30 days after the end of combat operations.

"(E) A report containing the results of a complete reassessment of the infrastructure necessary to support the force structure described in the force-structure plan prepared under paragraph (1) of subsection (a) and describing any resulting excess infrastructure and infrastructure capacity, which were previously required by paragraph (2) of such subsection. The reassessment shall be based on actual infrastructure, facility, and space requirements for the Armed Forces rather than a comparative study between 1989 and 2003.

"(F) A report describing the anticipated infrastructure requirements associated with the assessment prepared by the Secretary pursuant to section 2822 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1726), in which Congress required the Secretary to assess the probable threats to national security and determine the potential, prudent, surge requirements for the Armed Forces and military installations to meet those threats.

"(2) TIME FOR SUBMISSION OF REPORTS.—The reports required by paragraph (1) shall be submitted to the congressional defense committees

only during the period beginning on January 1, 2006, and ending on March 15, 2006.

"(3) TERMINATION OF ROUND FOR FAILURE TO SUBMIT REPORTS AS REQUIRED.—If the reports required by paragraph (1) are not submitted during the period specified in paragraph (2), the process for the making of recommendations to the Congress for the closure or realignment of military installations and the selection of installations for closure or realignment under this part in 2007 shall be terminated.".

(f) CONFORMING AMENDMENTS.—(1) Section 2904(a)(3) of the Defense Base Closure and Realignment Act of 1990 is amended by striking "in the 2005 report" and inserting "in a report submitted after 2001".

(2) Section 2906(e) of such Act is amended by striking "2005" and inserting "2007".

(3) Section 2906A of such Act is amended—

(A) in the section heading, by striking "**2005**" and inserting "**2007**"; and

(B) by striking "2005" each place it appears and inserting "2007".

(4) Section 2909(a) of such Act is amended by striking "2006" and inserting "2008".

SEC. 2822. ESTABLISHMENT OF SPECIFIC DEADLINE FOR SUBMISSION OF REVISIONS TO FORCE-STRUCTURE PLAN AND INFRASTRUCTURE INVENTORY FOR NEXT BASE CLOSURE ROUND.

Section 2912(a)(4) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by striking "as part of the budget justification document submitted to Congress for fiscal year 2006." and inserting "not later than March 15 of the year in which the Secretary will submit, consistent with subsection (e) of this section, the list of the military installations inside the United States that the Secretary recommends for closure or realignment. No revision of the force-structure plan or infrastructure inventory is authorized after that March 15 date.".

SEC. 2823. SPECIFICATION OF FINAL SELECTION CRITERIA FOR NEXT BASE CLOSURE ROUND.

(a) FINDINGS.—Congress finds the following:

(1) Title XXX of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1342) amended the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) to authorize the Secretary of Defense to conduct an additional round of base realignments and closures.

(2) In section 2822 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1726), approved November 24, 2003, Congress required the Secretary of Defense to assess the probable threats to national security and determine the potential, prudent, surge requirements for the Armed Forces and military installations to meet those threats. Such section specifically requires the Secretary of Defense to use the determination of surge requirements in exercising the authority of the Secretary to conduct the next round of base realignments and closures.

(3) Section 2913 of the Defense Base Closure and Realignment Act of 1990, as added by title XXX of the National Defense Authorization Act for Fiscal Year 2002, specified the process by which the Secretary of Defense was to prepare the criteria to be used by the Secretary in making recommendations for the next round of base realignments and closures and listed certain requirements the Secretary had to comply with as part of the process, including the advance publication of the proposed criteria and the solicitation and consideration of public comments.

(4) In subsection (e) of such section, Congress required the Secretary of Defense to publish in the Federal Register and transmit to Congress not later than February 16, 2004, the final criteria intended to be used by the Secretary in making recommendations for the next round of base realignments and closures. Pursuant to such subsection, the Secretary of Defense published the final selection criteria in the Federal Register on February 12, 2004 (69 Fed. Reg. 6948).

(5) In addition to specifically reserving its right to disapprove the final selection criteria, Congress may modify or otherwise amend the criteria by Act of Congress.

(b) CONGRESSIONAL SPECIFICATION OF FINAL BRAC SELECTION CRITERIA.—Section 2913 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), as added by section 3002 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1344), is amended to read as follows:

"SEC. 2913. FINAL SELECTION CRITERIA FOR ADDITIONAL ROUND OF BASE CLOSURES AND REALIGNMENTS.

"(a) FINAL SELECTION CRITERIA.—The final criteria to be used by the Secretary in making recommendations for the closure or realignment of military installations inside the United States under this part in any additional round of base closures and realignments are as follows:

"(1) The current and future mission requirements and the impact on operational readiness of the total force of the Department of Defense, including the impact on joint warfighting, training, readiness, and research, development, test, and evaluation of weapons systems and equipment.

"(2) The availability and condition of land, facilities, infrastructure, and associated air and water space (including preservation of training areas suitable for maneuver by ground, naval, or air forces throughout a diversity of climate and terrain areas, the preservation of testing ranges able to accommodate current or future military weapons systems and equipment, and the preservation of staging areas for the use of the Armed Forces in homeland defense missions) at both existing and potential receiving locations.

"(3) The ability to accommodate contingency, mobilization, and future total force requirements at both existing and potential receiving locations to support operations, training, maintenance, and repair.

"(4) Preservation of land, air, and water space, facilities, and infrastructure necessary to support training and operations of military forces determined to be surge requirements by the Secretary of Defense, as required by section 2822 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1726).

"(5) The extent and timing of potential costs and savings of base realignment and closure actions on the entire Federal budget, as well as the Department of Defense, including the number of years, beginning with the date of completion of the closure or realignment, for the savings to exceed the costs. Costs shall include those costs related to potential environmental restoration, waste management, and environmental compliance activities.

"(6) The economic impact on existing communities in the vicinity of military installations.

"(7) The ability of the infrastructure of both the existing and potential receiving communities to support forces, missions, and personnel, including quality of living standards for members of the Armed Forces and their dependents.

"(8) The environmental impact on receiving locations.

"(b) PRIORITY GIVEN TO MILITARY VALUE.—In recommending military installations for closure or realignment, the Secretary shall give priority consideration to the first four criteria specified in subsection (a).

"(c) RELATION TO OTHER MATERIALS.—The final selection criteria specified in subsection (a) shall be the only criteria to be used, along with the force-structure plan and infrastructure inventory referred to in section 2912, in making recommendations for the closure or realignment of military installations inside the United States under this part after December 31, 2003.

"(d) RELATION TO CRITERIA FOR EARLIER ROUNDS.—Section 2903(b), and the selection criteria prepared under such section, shall not apply with respect to the process of making recommendations for the closure or realignment of military installations after December 31, 2003.".

(c) CONFORMING AMENDMENTS.—The Defense Base Closure and Realignment Act of 1990 is amended—

(1) in section 2912(c)(1)(A), by striking "criteria prepared under section 2913" and inserting "criteria specified in section 2913"; and

(2) in section 2914(a), by striking "criteria prepared by the Secretary under section 2913" and inserting "criteria specified in section 2913".

SEC. 2824. REQUIREMENT FOR UNANIMOUS VOTE OF DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION TO ADD TO OR OTHERWISE EXPAND CLOSURE AND REALIGNMENT RECOMMENDATIONS MADE BY SECRETARY OF DEFENSE.

Section 2914(d) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), as added by section 3003 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 155 Stat. 1346) and amended by section 2854 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2728), is amended—

(1) in paragraph (3), by striking "TO ADD" and inserting "TO CONSIDER ADDITIONS"; and

(2) by striking paragraph (5) and inserting the following new paragraph:

"(5) REQUIREMENTS TO EXPAND CLOSURE OR REALIGNMENT RECOMMENDATIONS.—In the report required under section 2903(d)(2)(A) that is to be transmitted under paragraph (1), the Commission may not make a change in the recommendations of the Secretary that would close a military installation not recommended for closure by the Secretary, would realign a military installation not recommended for closure or realignment by the Secretary, or would expand the extent of the realignment of a military installation recommended for realignment by the Secretary unless—

"(A) at least two members of the Commission visit the military installation before the date of the transmittal of the report; and

"(B) the decision of the Commission to make the change to recommend the closure of the military installation, the realignment of the installation, or the expanded realignment of the installation is unanimous.".

SEC. 2825. ADHERENCE TO CERTAIN AUTHORITIES ON PRESERVATION OF MILITARY DEPOT CAPABILITIES DURING ANY SUBSEQUENT ROUND OF BASE CLOSURES AND REALIGNMENTS.

The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by adding at the end the following new section:

"SEC. 2915. ADHERENCE TO CERTAIN AUTHORITIES ON PRESERVATION OF MILITARY DEPOT CAPABILITIES DURING ANY SUBSEQUENT ROUND OF BASE CLOSURES AND REALIGNMENTS.

"(a) ADHERENCE REQUIRED.—(1) Any base closure and realignment actions under section 2914 or subsequent round of base closure and realignment, and any actions to carry out the closure or realignment of military installations as a result of such actions, shall reflect a strict adherence to the provisions of title 10, United States

Code, for the maintenance of government-owned, government-operated depot-level maintenance, repair, and logistics capabilities within the Department of Defense, including the provisions of chapter 146 of such title and other applicable provisions.

"(2) No action to carry out the closure or realignment of military installations in any base closures and realignments under this part after the date of the enactment of this section may include a waiver authorized by paragraph (2) or (3) of section 2464(b) or section 2466(b) of title 10, United States Code.

"(b) BASE CLOSURE AND REALIGNMENT ACTIONS DEFINED.—In this section, the term 'base closure and realignment actions' means the following:

"(1) The preparation by the Secretary of Defense of recommendations on installations for closure or realignment under this part or any subsequent base closure law.

"(2) The review by the Commission of the recommendations referred to in paragraph (1).

"(3) The review by the President of the recommendations referred to in paragraphs (1) and (2).".

Subtitle D—Land Conveyances

PART I—ARMY CONVEYANCES

SEC. 2831. TRANSFER OF ADMINISTRATIVE JURISDICTION, DEFENSE SUPPLY CENTER, COLUMBUS, OHIO.

(a) TRANSFER REQUIRED.—As soon as practicable after the date of the enactment of this Act, the Secretary of the Army shall transfer, without reimbursement, to the administrative jurisdiction of the Secretary of Veterans Affairs a parcel of real property consisting of approximately 20 acres and comprising a portion of the Defense Supply Center in Columbus, Ohio, for the purpose of permitting the Secretary of Veterans Affairs to use the property as the site for an outpatient clinic.

(b) PAYMENT OF COSTS OF CONVEYANCE.—(1) The Secretary of the Army shall require the Secretary of Veterans Affairs to cover costs to be incurred by the Secretary of the Army, or to reimburse the Secretary of the Army for costs incurred by the Secretary of the Army, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the Secretary of Veterans Affairs in advance of the Secretary of the Army incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary of the Army to carry out the conveyance, the Secretary of the Army shall refund the excess amount to the Secretary of Veterans Affairs.

(2) Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary of the Army in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(c) DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal description of the real property to be transferred under subsection (a) shall be determined by a survey satisfactory to the Secretary of the Army.

SEC. 2832. LAND CONVEYANCE, FORT HOOD, TEXAS.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the Texas A&M University System of the State of Texas (in this section referred to as the "University System"), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 662 acres at Fort Hood, Texas, for the sole purpose of permitting the University System to establish on the property an upper level (junior, senior and graduate) university that will be State-supported, separate from other universities of the University System, and designated as Texas A&M University, Central Texas.

(b) CONSIDERATION.—(1) As consideration for the conveyance under subsection (a), the University System shall pay to the United States an amount equal to the fair market value of the conveyed property, as determined pursuant to an appraisal acceptable to the Secretary.

(2) In lieu of all or a portion of the cash consideration required by paragraph (1), the Secretary may accept in-kind consideration, including the conveyance by the University System of real property acceptable to the Secretary.

(c) CONDITION OF CONVEYANCE.—The conveyance under subsection (a) shall be subject to the condition that the Secretary determine that the conveyance of the property and the establishment of a university on the property will not adversely impact the operation of Robert Grey Army Airfield, which is located on Fort Hood approximately one mile from the property authorized for conveyance.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the University System.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2833. LAND CONVEYANCE, ARMY NATIONAL GUARD FACILITY, SEATTLE, WASHINGTON.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the State of Washington (in this section referred to as the "State") all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 9.747 acres in Seattle, Washington, and comprising a portion of the National Guard Facility, Pier 91, for the purpose of permitting the State to convey the facility unencumbered for economic development purposes.

(b) ADMINISTRATIVE EXPENSES.—(1) The State shall reimburse the Secretary for the administrative expenses incurred by the Secretary in carrying out the conveyance under subsection (a), including expenses related to surveys and legal descriptions, boundary monumentation, environmental surveys, necessary documentation, travel, and deed preparation.

(2) Section 2695(c) of title 10, United States Code, shall apply to any amounts received by the Secretary as reimbursement under this subsection.

(c) EXEMPTION FROM FEDERAL SCREENING.—The conveyance authorized by subsection (a) is exempt from the requirement to screen the property for other Federal use pursuant to sections 2693 and 2696 of title 10, United States Code.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the United States, subject to the requirement for reimbursement under subsection (b).

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

PART II—NAVY CONVEYANCES

SEC. 2841. TRANSFER OF JURISDICTION, NEBRASKA AVENUE NAVAL COMPLEX, DISTRICT OF COLUMBIA.

(a) TRANSFER REQUIRED.—Except as provided in subsection (b), the Secretary of the Navy shall transfer to the administrative jurisdiction of the Administrator of General Services the parcel of Department of the Navy real property in the District of Columbia known as the Nebraska Avenue Complex for the purpose of permitting the Administrator to use the Complex to accommodate the Department of Homeland Security. The Complex shall be transferred in its existing condition.

(b) AUTHORITY TO RETAIN MILITARY FAMILY HOUSING.—At the option of the Secretary of the Navy, the Secretary may retain administrative jurisdiction over that portion of the Complex that, as of the date of the enactment of this Act, is being used to provide Navy family housing.

(c) TIME FOR TRANSFER.—Not later than January 1, 2005, the Secretary of the Navy shall complete the transfer of administrative jurisdiction over the portion of the Complex required to be transferred under subsection (a).

(d) RELOCATION OF NAVY ACTIVITIES.—As part of the transfer of the Complex under subsection (a), the Secretary of the Navy shall relocate Department of the Navy activities at the Complex to other locations.

(e) PAYMENT OF INITIAL RELOCATION COSTS.—Subject to the availability of appropriations for this purpose, the Secretary of the Department of Homeland Security shall be responsible for the payment of—

(1) all reasonable costs, including costs to move furnishings and equipment, related to the initial relocation of Department of the Navy activities from the Complex under subsection (d); and

(2) all reasonable costs incident to the initial occupancy by such activities of interim leased space, including rental costs for the first year.

(f) PAYMENT OF LONG-TERM RELOCATION COSTS.—

(1) SENSE OF CONGRESS REGARDING PAYMENT.—It is the sense of the Congress that the Secretary of the Navy should receive, from Federal agencies other than the Department of Defense, funds authorized and appropriated for the purpose of covering all reasonable costs, not paid under subsection (e), that are incurred or will be incurred by the Secretary to permanently relocate Department of the Navy activities from the Complex under subsection (d).

(2) SUBMISSION OF COST ESTIMATES.—As soon as practicable after the date of the enactment of this Act , the Secretary of the Navy shall submit to the Director of the Office of Management and Budget and the Congress an initial estimate of the amounts that will be necessary to cover the costs to permanently relocate Department of the Navy activities from the portion of the Complex to be transferred under subsection (a). The Secretary shall include in the estimate anticipated land acquisition and construction costs. The Secretary shall revise the estimate as necessary whenever information regarding the actual costs for the relocation is obtained.

(g) TREATMENT OF FUNDS.—(1) Funds received by the Secretary of the Navy, from sources outside the Department of Defense, to relocate Department of the Navy activities from the Complex shall be used to pay the costs incurred by the Secretary to permanently relocate Department of the Navy activities from the Complex. A military construction project carried out using such funds is deemed to be an authorized military construction project for purposes of section 2802 of title 10, United States Code. Section 2822 of such title shall continue to apply to any military family housing unit proposed to be constructed or acquired using such funds.

(2) When a decision is made to carry out a military construction project using such funds, the Secretary of the Navy shall notify Congress in writing of that decision, including the justification for the project and the current estimate of the cost of the project. The project may then be carried out only after the end of the 21-day period beginning on the date the notification is received by Congress or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of title 10, United States Code.

(h) EFFECT OF FAILURE TO RECEIVE SUFFICIENT FUNDS FOR RELOCATION COSTS.—

(1) CONGRESSIONAL NOTIFICATION.—At the end of the three-year period beginning on the date of the transfer of the Complex under subsection (a), the Secretary of the Navy shall submit to Congress a report—

(A) specifying the total amount needed to cover both the initial and permanent costs of relocating Department of the Navy activities from the portion of the Complex transferred under subsection (a);

(B) specifying the total amount of the initial relocation costs paid by the Secretary of the Department of Homeland Security under subsection (e); and

(C) specifying the total amount of appropriated funds received by the Secretary of the Navy, from sources outside the Department of Defense, to cover the permanent relocation costs.

(2) ROLE OF OMB.—The Secretary of the Navy shall obtain the assistance and concurrence of the Director of the Office of Management and Budget in determining the total amount needed to cover both the initial and permanent costs of relocating Department of the Navy activities from the portion of the Complex transferred under subsection (a), as required by paragraph (1)(A).

(3) CERTIFICATION REGARDING RELOCATION COSTS.—Not later than 30 days after the date on which the report under paragraph (1) is required to be submitted to Congress, the President shall certify to Congress whether the amounts specified in the report pursuant to subparagraphs (B) and (C) of such paragraph are sufficient to cover both the initial and permanent costs of relocating Department of the Navy activities from the portion of the Complex transferred under subsection (a). The President shall make this certification only after consultation with the Chairman and ranking minority member of the Committee on Armed Services and the Committee on Appropriations of the House of Representatives and the Chairman and ranking minority member of the Committee on Armed Services and the Committee on Appropriations of the Senate.

(4) RESTORATION OF COMPLEX TO NAVY.—If the President certifies under paragraph (3) that amounts referred to in subparagraphs (B) and (C) of paragraph (1) are insufficient to cover Navy relocation costs, the Administrator of General Services, at the request of the Secretary of the Navy, shall restore the Complex to the administrative jurisdiction of the Secretary of the Navy.

(5) NAVY SALE OF COMPLEX.—If administrative jurisdiction over the Complex is restored to the Secretary of the Navy, the Secretary shall convey the Complex by competitive sale. Amounts received by the United States as consideration from any sale under this paragraph shall be deposited in the special account in the Treasury established pursuant to section 572(b) of title 40, United States Code.

SEC. 2842. LAND CONVEYANCE, NAVY PROPERTY, FORMER FORT SHERIDAN, ILLINOIS.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey, without consideration, to the State of Illinois, a political subdivision of the State, or a nonprofit land conservation organization (in this section collectively referred to as the "grantee"), all right, title, and interest of the United States in and to certain environmentally sensitive land at the former Fort Sheridan, Illinois, consisting of mostly bluffs and ravines, for the purpose of ensuring the permanent protection of the lands.

(b) REVERSIONARY INTEREST.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used or maintained in accordance with the purpose of the conveyance specified in such subsection, all right, title, and interest in and to all or any portion of the property shall revert, at the option of the Secretary, to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(c) RECONVEYANCE AUTHORIZED.—The Secretary may permit the grantee to convey the real property conveyed under subsection (a) to another eligible entity described in such subsection, subject to the same covenants and terms and conditions as provided in the deed from the United States.

(d) PAYMENT OF COSTS OF CONVEYANCE.—(1) The Secretary shall require the grantee to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the grantee in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the grantee.

(2) Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(e) EXEMPTION FROM FEDERAL SCREENING.—The conveyance authorized by subsection (a) is exempt from the requirement to screen the property for other Federal use pursuant to sections 2693 and 2696 of title 10, United States Code.

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

(h) USE OF ALTERNATE CONVEYANCE AUTHORITY.—In lieu of using the authority provided by this section to convey the real property described in subsection (a), the Secretary may elect to include the property in a conveyance authorized by section 2878 of title 10, United States Code, subject to such terms, reservations, restrictions, and conditions as may be necessary to ensure the permanent protection of the property, if the Secretary determines that a conveyance under such section is advantageous to the interests of the United States.

SEC. 2843. LAND EXCHANGE, NAVAL AIR STATION, PATUXENT RIVER, MARYLAND.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey to the State of Maryland (in this section referred to as "State"), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately five acres at Naval Air Station, Patuxent River, Maryland, and containing the Point Lookout Lighthouse, other structures related to the lighthouse, and an archaeological site pertaining to the military hospital that was located on the property during the Civil War. The conveyance shall include artifacts pertaining to the military hospital recovered by the Navy and held at the installation.

(b) PROPERTY RECEIVED IN EXCHANGE.—As consideration for the conveyance of the real property under subsection (a), the State shall convey to the United States a parcel of real property consisting of approximately five acres located in Point Lookout State Park, St. Mary's County, Maryland.

(c) PAYMENT OF COSTS OF CONVEYANCE.—(1) The Secretary may require the State to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, relocation expenses incurred under subsection (b), and other administrative costs related to the conveyance. If amounts are collected from the State in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to State.

(2) Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the properties to be conveyed under this section shall be determined by surveys satisfactory to the Secretary.

(e) EXEMPTION FROM FEDERAL SCREENING.—The conveyance authorized by subsection (a) is exempt from the requirement to screen the property for other Federal use pursuant to sections 2693 and 2696 of title 10, United States Code.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

PART III—AIR FORCE CONVEYANCES

SEC. 2851. LAND EXCHANGE, MAXWELL AIR FORCE BASE, ALABAMA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey to the City of Montgomery, Alabama (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of all of the Maxwell Heights Housing site at Maxwell Air Force Base, Alabama.

(b) CONSIDERATION.—(1) As consideration for the conveyance of the real property under subsection (a), the City shall convey to the United States a parcel of real property, including improvements thereon, consisting of approximately 35 acres designated as project AL 6-4 that is owned by the City and is contiguous to Maxwell Air Force Base. The Secretary shall have jurisdiction over the real property received under this paragraph.

(2) If the fair market value of the real property received under paragraph (1) is less than the fair market value of the real property conveyed under subsection (a), the Secretary may

require the City to make up the difference through the payment of cash, the provision of in-kind consideration, or a combination thereof, to be determined pursuant to negotiations between the Secretary and the City.

(3) The fair market values of the real property to be exchanged under this section shall be determined by appraisals acceptable to the Secretary and the City.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under this section shall be determined by surveys satisfactory to the Secretary.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Subtitle A—National Security Programs Authorizations

SEC. 3101. NATIONAL NUCLEAR SECURITY ADMINISTRATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2005 for the activities of the National Nuclear Security Administration in carrying out programs necessary for national security in the amount of $9,047,700,000, to be allocated as follows:

(1) For weapons activities, $6,577,953,000.

(2) For defense nuclear nonproliferation activities, $1,338,147,000.

(3) For naval reactors, $797,900,000.

(4) For the Office of the Administrator for Nuclear Security, $333,700,000.

(b) AUTHORIZATION OF NEW PLANT PROJECTS.—From funds referred to in subsection (a) that are available for carrying out plant projects, the Secretary of Energy may carry out, for weapons activities, the following new plant projects:

Project 05–D–140, project engineering and design, various locations, $11,600,000.

Project 05–D–160, facilities and infrastructure recapitalization program, project engineering and design, various locations, $8,700,000.

Project 05–D–170, project engineering and design, safeguards and security, various locations, $17,000,000.

Project 05–D–401, production bays upgrade, Pantex Plant, Amarillo, Texas, $25,100,000.

Project 05–D–402, beryllium capability project, Y–12 national security complex, Oak Ridge, Tennessee, $3,627,000.

Project 05–D–601, compressed air upgrades project, Y–12 national security complex, Oak Ridge, Tennessee, $4,400,000.

Project 05–D–602, power grid infrastructure upgrade, Los Alamos National Laboratory, Los Alamos, New Mexico, $10,000,000.

Project 05–D 603, new master substation, Sandia National Laboratories, Albuquerque, New Mexico, $600,000.

Project 05–D–701, security perimeter, Los Alamos National Laboratory, Los Alamos, New Mexico, $20,000,000.

SEC. 3102. DEFENSE ENVIRONMENTAL MANAGEMENT.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2005 for environmental management activities in carrying out programs necessary for national security in the amount of $6,863,307,000, to be allocated as follows:

(1) For defense site acceleration completion, $5,876,837,000.

(2) For defense environmental services, $986,470,000.

SEC. 3103. OTHER DEFENSE ACTIVITIES.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2005 for other defense activities in carrying out programs necessary for national security in the amount of $658,618,000.

SEC. 3104. DEFENSE NUCLEAR WASTE DISPOSAL.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2005 for defense nuclear waste disposal for payment to the Nuclear Waste Fund established in section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) in the amount of $131,000,000.

Subtitle B—Program Authorizations, Restrictions, and Limitations

SEC. 3111. EXTENSION OF AUTHORITY FOR APPOINTMENT OF CERTAIN SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL.

Section 4601 of the Atomic Energy Defense Act (50 U.S.C. 2701) is amended by striking "September 30, 2004" and inserting "September 30, 2006".

SEC. 3112. REQUIREMENTS FOR BASELINE OF PROJECTS UNDER FACILITIES AND INFRASTRUCTURE RECAPITALIZATION PROGRAM.

Subsection (a) of section 3114 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136; 117 Stat. 1744; 50 U.S.C. 2453 note) is amended—

(1) in paragraph (1) by inserting "of a baseline" after "selection"; and

(2) by amending paragraph (2) to read as follows:

"(2)(A) After December 31, 2004, a project may be added to or removed from the Facilities and Infrastructure Recapitalization Program only after the Administrator submits to the congressional defense committees a notice that the Administrator has identified such project for addition or removal and has approved such addition or removal as a modification to the baseline for that program.

"(B) The Administrator may not obligate funds for any project added under subparagraph (A) until a period of 60 days has elapsed after the date on which such committees receive the notice under subparagraph (A) with respect to that project.

"(C) The authority of the Administrator to identify and approve under subparagraph (A) may not be delegated.".

Subtitle C—Other Matters

SEC. 3131. TRANSFERS AND REPROGRAMMINGS OF NATIONAL NUCLEAR SECURITY ADMINISTRATION FUNDS.

Section 3252 of the National Nuclear Security Administration Act (50 U.S.C. 2452) is amended by adding at the end the following new subsection:

"(d) TRANSFER AND REPROGRAMMING PROCESS.—(1) The Administrator shall have sole jurisdiction within the Department of Energy to submit to Congress or the appropriate congressional committees a notice of, or request for, a transfer or reprogramming of funds of the Administration.

"(2) The functions of the Chief Financial Officer of the Department of Energy shall not apply to a notice or request described in paragraph (1), except to certify whether the funds covered by such notice or request are available.".

SEC. 3132. NATIONAL ACADEMY OF SCIENCES STUDY ON MANAGEMENT BY DEPARTMENT OF ENERGY OF HIGH-LEVEL RADIOACTIVE WASTE.

(a) REVIEW REQUIRED.—The Secretary of Energy shall enter into an arrangement with the National Research Council of the National Academy of Sciences to carry out a study of the plans of the Department of Energy to manage the waste streams specified in subsection (b) that are not currently planned for disposal in a high-level repository.

(b) COVERED WASTE STREAMS.—The waste streams referred to in subsection (a) are the streams of high-level radioactive waste at—

(1) the Savannah River Site, South Carolina;

(2) the Idaho National Engineering Laboratory, Idaho; and

(3) the Hanford Reservation, Washington.

(c) MATTERS INCLUDED.—The study required by subsection (a) shall evaluate—

(1) the physical, chemical, and radiological characteristics of the waste referred to in subsection (b), including specifically the waste proposed to be left indefinitely in storage tanks;

(2) the probability that such waste, if left indefinitely in storage tanks, will leak into the environment and the range of potential dangers such leakage would represent;

(3) the plans of the Department for the disposal of the high-level radioactive waste that the Department had planned, before certain litigation in Federal district court in 2003 on "Waste Incidental to Reprocessing", to reclassify as low-level waste;

(4) treatment and disposal alternatives to the plans referred to in paragraph (3), including, for each such alternative, assessments of the technology approaches and of the implications with respect to cost, worker safety, and long-term environmental and human health;

(5) the adequacy of the plans referred to in subsection (a), including Department of Energy Order No. 435.1, to protect, for the long term, the environment and population surrounding each site referred to in subsection (b); and

(6) any other matters that the National Research Council considers appropriate and directly related to the subject matter of the study.

(d) RECOMMENDATIONS REQUIRED.—In carrying out the study, the National Research Council shall develop recommendations relating to the subject matter of the study. The recommendations shall include—

(1) recommendations for improving the scientific basis for managing the waste covered by the study, including alternative criteria for determining what waste should be managed as "Waste Incidental to Reprocessing"; and

(2) any other recommendations that the National Research Council considers appropriate and directly related to the subject matter of the study.

(e) REPORTS.—The National Research Council shall submit to the Secretary of Energy and the congressional defense committees—

(1) not later than six months after entering into the arrangement required by subsection (a), an interim report on the study with respect to the waste proposed to be left indefinitely in storage tanks, including the tentative findings, conclusions, and recommendations with respect to such waste; and

(2) not later than one year after entering into the arrangement required by subsection (a), a final report on the study, including all findings, conclusions, and recommendations.

(f) PROVISION OF INFORMATION.—The Secretary shall make available to the National Research Council all information that the National Research Council considers necessary to carry out, in a timely manner, its responsibilities under this section.

(g) FUNDING.—Of the amounts authorized to be appropriated to the Department of Energy by section 3102, $1,500,000 shall be available only for carrying out the study required by this section.

SEC. 3133. CONTRACT TO REVIEW WASTE ISOLATION PILOT PLANT, NEW MEXICO.

The Secretary of Energy shall enter into a contract to conduct independent reviews and evaluations of the design, construction, and operations of the Waste Isolation Pilot Plant in

New Mexico as they relate to the protection of the public health and safety and the environment. The contract shall be for a period of one year and shall be renewable for four additional one-year periods, subject to the authorization and appropriation of funds for such purpose.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SEC. 3201. AUTHORIZATION.

There are authorized to be appropriated for fiscal year 2005, $21,268,000 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

SEC. 3301. AUTHORIZED USES OF NATIONAL DEFENSE STOCKPILE FUNDS.

(a) OBLIGATION OF STOCKPILE FUNDS.—During fiscal year 2005, the National Defense Stockpile Manager may obligate up to $59,700,000 of the funds in the National Defense Stockpile Transaction Fund established under subsection (a) of section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) for the authorized uses of such funds under subsection (b)(2) of such section, including the disposal of hazardous materials that are environmentally sensitive.

(b) ADDITIONAL OBLIGATIONS.—The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) LIMITATIONS.—The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

SEC. 3302. RELAXATION OF QUANTITY RESTRICTIONS ON DISPOSAL OF MANGANESE FERRO IN NATIONAL DEFENSE STOCKPILE.

Section 3306(a) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1391; 50 U.S.C. 98d note) is amended—

(1) in paragraph (3), by striking "each of the fiscal years 2004 and 2005" and inserting "fiscal year 2004"; and

(2) by adding at the end the following new paragraph:

"(4) During fiscal year 2005, 100,000 short tons of high carbon manganese ferro of the highest grade.

SEC. 3303. REVISION OF EARLIER AUTHORITY TO DISPOSE OF CERTAIN MATERIALS IN NATIONAL DEFENSE STOCKPILE.

Section 3303(a) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 50 U.S.C. 98d note) is amended by striking paragraphs (4) and (5) and inserting the following new paragraphs:

"(4) $785,000,000 by the end of fiscal year 2005; and

"(5) $870,000,000 by the end of fiscal year 2009.".

TITLE XXXIV—NAVAL PETROLEUM RESERVES

SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated to the Secretary of Energy $20,000,000 for fiscal year 2005 for the purpose of carrying out activities under chapter 641 of title 10, United States Code, relating to the naval petroleum reserves.

(b) PERIOD OF AVAILABILITY.—Funds appropriated pursuant to the authorization of appropriations in subsection (a) shall remain available until expended.

TITLE XXXV—MARITIME ADMINISTRATION

SEC. 3501. AUTHORIZATION OF APPROPRIATIONS FOR MARITIME ADMINISTRATION.

There are authorized to be appropriated to the Secretary of Transportation for the Maritime Administration for fiscal year 2005 (in lieu of amounts authorized for the same purposes by section 3511 of the National Defense Authorization Act for Fiscal Year 2004)—

(1) for expenses necessary for operations and training activities, $109,300,000;

(2) for administrative expenses under the loan guarantee program authorized by title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.), $4,764,000; and

(3) for ship disposal,. $35,000,000, of which $2,000,000 shall be for decommissioning, removal, and disposal of the nuclear reactor and hazardous materials on board the vessel SAVANNAH.

SEC. 3502. EXTENSION OF AUTHORITY TO PROVIDE WAR RISK INSURANCE FOR MERCHANT MARINE VESSELS.

(a) EXTENSION.— Section 1214 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1294), is amended by striking "June 30, 2005" and inserting "December 31, 2010".

(b) INVESTMENT OF ASSETS IN INSURANCE FUND.—Section 1208(a) of such Act (46 U.S.C. App. 1288), is amended by striking the third sentence and inserting the following: "The Secretary of Transportation may request the Secretary of the Treasury to invest such portion of the Fund as is not, in the judgment of the Secretary of Transportation, required to meet the current needs of the fund. Such investments shall be made by the Secretary of the Treasury in public debt securities of the United States, with maturities suitable to the needs of the fund, and bearing interest rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity.".

The CHAIRMAN pro tempore. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in House Report 108–499 and amendments en bloc described in Section 3 of House Resolution 648.

Each amendment printed in the report shall be offered only in the order printed, except as specified in Section 4 of the resolution, may be offered only by a Member designated in the report, shall be considered read, and shall not be subject to a demand for division of the question. Each amendment shall be debatable for 10 minutes, unless otherwise specified in the report, equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment, except that the chairman and ranking minority member of the Committee on Armed Services each may offer one pro forma amendment for the purpose of further debate on any pending amendment.

It shall be in order at any time for the chairman of the Committee on Armed Services or his designee to offer amendments en bloc consisting of amendments printed in the report not earlier disposed of. Amendments en bloc shall be considered read, shall be debatable for 20 minutes, equally divided and controlled by the chairman and ranking minority member or their designees, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

The original proponent of an amendment included in amendments en bloc may insert a statement in the CONGRESSIONAL RECORD immediately before disposition of the amendments en bloc.

The Chairman of the Committee of the Whole may recognize for consideration any amendment printed in the report out of the order printed, but not sooner than 1 hour after the chairman of the Committee on Armed Services or a designee announces from the floor a request to that effect.

It is now in order to consider amendment No. 1 printed in House Report 108–499.

AMENDMENT NO. 1 OFFERED BY MR. GOODE

Mr. GOODE. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. GOODE:

At the end of title X, insert the following new section:

SEC. . ASSIGNMENT OF MEMBERS TO ASSIST BUREAU OF BORDER SECURITY AND BUREAU OF CITIZENSHIP AND IMMIGRATION SERVICES OF THE DEPARTMENT OF HOMELAND SECURITY.

(a) ASSIGNMENT AUTHORITY OF SECRETARY OF DEFENSE.—Chapter 18 of title 10, United States Code, is amended by inserting after section 374 the following new section:

"§ 374a. Assignment of members to assist border patrol and control

"(a) ASSIGNMENT AUTHORIZED.—Upon submission of a request consistent with subsection (b), the Secretary of Defense may assign members of the Army, Navy, Air Force, and Marine Corps to assist—

"(1) the Bureau of Border Security of the Department of Homeland Security in preventing the entry of terrorists, drug traffickers, and illegal aliens into the United States; and

"(2) the United States Customs Service of the Department of Homeland Security in the inspection of cargo, vehicles, and aircraft at points of entry into the United States to prevent the entry of weapons of mass destruction, components of weapons of mass destruction, prohibited narcotics or drugs, or other terrorist or drug trafficking items.

"(b) REQUEST FOR ASSIGNMENT.—The assignment of members under subsection (a) may occur only if—

"(1) the assignment is at the request of the Secretary of Homeland Security; and

"(2) the request is accompanied by a certification by the Secretary of Homeland Security that the assignment of members pursuant to the request is necessary to respond to a threat to national security posed by the entry into the United States of terrorists, drug traffickers, or illegal aliens.

"(c) TRAINING PROGRAM REQUIRED.—The Secretary of Homeland Security and the Secretary of Defense, shall establish a training program to ensure that members receive general instruction regarding issues affecting law enforcement in the border areas in which the members may perform duties under an assignment under subsection (a). A member may not be deployed at a border location pursuant to an assignment under subsection (a) until the member has successfully completed the training program.

"(d) CONDITIONS OF USE.—(1) Whenever a member who is assigned under subsection (a) to assist the Bureau of Border Security or the United States Customs Service is performing duties at a border location pursuant to the assignment, a civilian law enforcement officer from the agency concerned shall accompany the member.

"(2) Nothing in this section shall be construed to—

"(A) authorize a member assigned under subsection (a) to conduct a search, seizure, or other similar law enforcement activity or to make an arrest; and

"(B) supersede section 1385 of title 18 (popularly known as the 'Posse Comitatus Act').

"(e) ESTABLISHMENT OF ONGOING JOINT TASK FORCES.—(1) The Secretary of Homeland Security may establish ongoing joint task forces if the Secretary of Homeland Security determines that the joint task force, and the assignment of members to the joint task force, is necessary to respond to a threat to national security posed by the entry into the United States of terrorists, drug traffickers, or illegal aliens.

"(2) If established, the joint task force shall fully comply with the standards as set forth in this section.

"(f) NOTIFICATION REQUIREMENTS.—The Secretary of Homeland Security shall provide to the Governor of the State in which members are to be deployed pursuant to an assignment under subsection (a) and to local governments in the deployment area notification of the deployment of the members to assist the Department of Homeland Security under this section and the types of tasks to be performed by the members.

"(g) REIMBURSEMENT REQUIREMENT.—Section 377 of this title shall apply in the case of members assigned under subsection (a).

"(h) TERMINATION OF AUTHORITY.—No assignment may be made or continued under subsection (a) after September 30, 2006.".

(b) COMMENCEMENT OF TRAINING PROGRAM.—The training program required by subsection (c) of section 374a of title 10, United States Code, as added by subsection (a), shall be established as soon as practicable after the date of the enactment of this Act.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 374 the following new item:

"374a. Assignment of members to assist border patrol and control.".

The CHAIRMAN pro tempore. Pursuant to House Resolution 648, the gentleman from Virginia (Mr. GOODE) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Virginia (Mr. GOODE).

Mr. GOODE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of this amendment. This amendment is a very simple amendment that would authorize the Secretary of Defense to assign members of our Armed Forces to assist the Department of Homeland Security in controlling and patrolling our borders. If troops were needed, they could be of significant assistance to prevent the infiltration of terrorists, drug traffickers, and illegal aliens, and could prevent the entry of weapons of mass destruction into our country.

I emphasize that this is optional, but it would be available with this amendment and would put to rest any case law or any arguments to the contrary about the ability of the executive branch to utilize troops on our border.

Mr. Chairman, I reserve the balance of my time.

Mr. REYES. Mr. Chairman, I rise to claim the time in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Texas (Mr. REYES) is recognized for 10 minutes.

Mr. REYES. Mr. Chairman, I yield myself such time as I may consume.

I am opposed to the amendment offered by the gentleman from Virginia (Mr. GOODE), my good friend and colleague. In fact, we came to Congress together, and as my colleague knows, I spent more than 26 years in Federal law enforcement on the border between the United States and Mexico.

I was on the front lines of our Nation's war on drugs and against terrorism. I know how difficult it is to patrol and to secure our Nation's borders. And I know the need for additional resources and I surely understand the realities of the gentleman from Virginia's (Mr. GOODE) concerns.

As a combat veteran and as a member of the Committee on Armed Services and as an experienced Border Patrol agent, I understand and I appreciate the concerns of the gentleman from Virginia. However, I rise in opposition to this amendment because it is simply the wrong solution to our current problems along the border.

This amendment will send our military personnel to our borders at a time when they are already stretched thin in places like Iraq, Afghanistan, Korea, Kosovo, Bosnia, and over 100 other countries around the world. We cannot and we should not ask our military personnel to patrol our borders.

If this Congress wants to secure our borders, then let us deploy additional law enforcement officers to the border, but let us do it the right way. Let us make a commitment to hire and train 20,000 Border Patrol agents or 1,000 agents a year to be deployed along our borders until we fully staff our ports of entry and in between our ports of entry with Border Patrol agents and Customs personnel.

We should not use military personnel for these kinds of jobs. We need our military to be at their best. Patrolling our borders against illegal immigration and against drug trafficking has very minimal military value and detracts from the training with our warfighting equipment for our warfighting missions. It will also lead to decreased military training, which reduces unit readiness and overall combat effectiveness of our armed services.

We in Congress are very concerned about protecting our men and women in uniform from threats such as the improvised explosive devices. I submit that this amendment is an improvised explosive device except that instead of an IED, it is ill-advised, expensive, and detrimental to border communities in particular.

The Department of Defense, as we all know, is opposed to this amendment, has been opposed to this amendment year after year, every time it comes on this floor. Currently, requests for DOD support can be made to the Secretary of Defense either directly by a Cabinet member or through the President. The Department of Defense already plays a significant role in supporting the defense of our border, if not through armed personnel, then through activities in technology.

UAVs supporting border security are based at Fort Wachuka, Arizona. Other support comes from essential units such as the Joint Task Force 6 headquarters based in my district. It provides critical training to law enforcement personnel along the border, including engineering, barrier fencing, and lighting.

And while today, Mr. Chairman, I may not agree with the gentleman from Virginia, I do know that what he wants to do is the right thing for our country. I would, therefore, ask him now to join with me and find a way to place additional professional law enforcement personnel on the border and not military personnel that are already stretched so thin throughout the world.

Mr. Chairman, I reserve the balance of my time.

Mr. GOODE. Mr. Chairman, I yield 2½ minutes to the distinguished gentleman from North Carolina (Mr. JONES), a fighter for veterans and soldiers.

Mr. JONES of North Carolina. Mr. Chairman, I appreciate the gentleman's amendment. And to the gentleman from Texas (Mr. REYES), and he is a friend of mine, I just happen to disagree on this issue because as the gentleman from Virginia (Mr. GOODE) explained, this amendment would not require the use of the troops on the border. It would just give an option to the Department of Defense and Homeland Security.

So this is not mandating that troops be on the border. It is just saying that this is an option.

And in fairness to the gentleman from Virginia (Mr. GOODE), I must say that this is of great concern to the people of this country. In fact, 85 percent of Americans think illegal immigration is a serious problem.

□ 1700

That is why the gentleman from Virginia (Mr. GOODE) has offered this amendment. We only have, and the gentleman from Texas (Mr. REYES) spoke to this, about 11,000 Border Patrol that patrol the Mexican border and the Canadian border, the 1,100 agents on the Canadian border and 9,900 agents on the Mexican border. There are a total of 7,000 miles, about 2,000 Mexican miles and 5,000 Canadian miles.

This, again, is not an amendment that people should see as an amendment that is trying to do anything but help the national security of this Nation. This has nothing to do with people that want to come to this country legally. They will be welcome, as always. This has to do with people that want to come, either through the Canadian or Mexican border, to this country illegally.

I must say that this is a time when we are at war with terrorists over in Afghanistan, Iraq and other parts of the world. We know that there is a presence of terrorists down in Central and South America. We know this for a fact.

So I think, if anything, this amendment should be seen as it is: it is an option for the Secretary of Defense and the Secretary of Homeland Security, should they come together and decide it is necessary to help secure the boarders, so we can protect the American people from possible threats from terrorists or narco-terrorists or anyone that might want to come to this country illegally.

Again, as I close, I want to say that this is an amendment that gives an option, it does not mandate, it gives an option to those who are required to help protect the national security of the American people.

Mr. Chairman, I hope my colleagues on both sides of the aisle will look at this amendment for what it is.

Mr. REYES. Mr. Chairman, I yield 1 minute to the gentleman from Missouri (Mr. SKELTON), our distinguished ranking member from the Committee on Armed Services.

Mr. SKELTON. Mr. Chairman, all one has to do is listen to the debate that we have had on this floor today. We are short of troops in the United States Army. We help correct that in this bill by authorizing, through the supplemental, 10,000 additional Army troops, 3,000 additional Marine troops; and, hopefully, this will continue for the next 3 years.

We are short of troops. Go anywhere you can and talk to our soldiers, whether it be here within the continental United States, Fort Leonard Wood, or wherever, Fort Jackson, you pick it, or go somewhere overseas; go to Iraq, Afghanistan, and talk to those young folks in uniform. They are stretched, and they are strained. As a matter of fact, we brought it up on the floor earlier today; 4,000 Army soldiers are being transferred out of South Korea, a brigade, into Iraq.

This is exhibit A. It is not a good idea to do this. This is for Border Patrol and police work.

Mr. GOODE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Georgia (Mr. DEAL).

Mr. DEAL of Georgia. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, for almost the past 3 years, this Congress and this Nation have been intent on what do we do to protect our homeland. In that same period of time, we have sent military forces to protect the boarders of Kuwait, Afghanistan, Iraq, the Balkans and you name it. And the great irony that persists in the minds of the American people is, why can we not secure our own borders?

I have been to JADF-6 with the gentleman from Texas (Mr. REYES), and what the military told me there was that some of the most valuable training that the helicopter pilots and others had was when they worked in cooperation at JADF-6, because the terrain and the training they received in trying to patrol the borders, in cooperation with the Border Patrol and other civilian police, was the most valuable training they had.

Right now, when we train our military forces, we divide them up into those who are going to be the aggressors to see if they can penetrate the lines in a training exercise. Every day we have thousands of aggressors who penetrate our border. Every year we have hundreds of thousands who penetrate our border. The American people want to know why are we allowing that to happen.

The greatest training we could give to our Reserve and National Guard, and even our active duty forces in some instances, would be to work in cooperation with our civilian law enforcement to try to make sure that our borders are secure.

Now, what is wrong with that? That is the question the American people are asking. We have a chance to answer it by saying we are going to do something about it by passing this amendment.

Mr. REYES. Mr. Chairman, I yield 1 minute to my good friend, the gentleman from California (Mr. CUNNINGHAM), who knows and understands the issues that border communities have to face.

Mr. CUNNINGHAM. Mr. Chairman, I come from a border area, San Diego, California; and we have thousands come across our border, not just from Mexico, from other places as well.

I used to think this was a good amendment, until you start thinking about it. You just do not send a Marine or someone in the Army to the border. You have to provide bivouacs, food, transportation, hospitals, training; and by the time you look at the cost, we are much better off to put additional money into trained Border Patrol, in my opinion.

There is a need for border security. That is real, and that is why my friends, I am sure out of frustration, are offering this amendment, and it is a good-intentioned amendment. But when you take a look at what it actually does, with our military so thin today and so drawn out, it would be disastrous, I think, for our men and women in the service itself.

I have heard people say that people coming across the border illegally do not have rights. They do. And you need people that are trained in that manner to know what those rights are, to be able to say "alto" when necessary, and to understand the people that are coming across.

Mr. GOODE. Mr. Chairman, I yield 2½ minutes to the gentleman from Colorado (Mr. TANCREDO).

Mr. TANCREDO. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I would like to relate an incident that I think is very helpful in understanding this situation and also the effectiveness of an amendment of this nature. A little over a year and a half ago, I had the opportunity to observe an exercise on the northern border, our northern border with Canada. It was in a place about 10 miles north of a place called Bonner's Ferry, Idaho.

This exercise was 2 weeks in duration, and it was trying to determine to what extent we could use the military, in this case 100 Marines, for the purpose of trying to defend about 100 miles of border. They were not just 100 Marines. There were three UAVs, three unmanned aerial vehicles they used, and also two radar stations.

While I was there, I observed the UAVs picking up four people coming across on all-terrain vehicles carrying 400 pounds of drugs. A little bit later they caught a plane trying to come in under the radar; but it could not, and we interdicted it.

Let me explain what this meant. The Marines themselves did no interdictions. They had nothing to do with stopping the actual people who were coming across. But they were working in concert with the Forest Service and the Border Patrol. So when they identified the problem, they simply radioed for help from the Border Patrol, the Border Patrol got in a helicopter, came down where they were supposed to, and interdicted the people. That is the way it worked.

At the end of the 2 weeks, I have the distinct feeling, and I guess you have to believe what I observed there, that nothing came across that 100 miles of border without us knowing about it.

At the end of the 2 weeks, as we were leaving, the commandant of that Marine detachment of 100 Marines said to me, this is the best exercise we have ever, ever had. This is the best training we have ever done, because, he said, number one, it is real-time; number two, we are trying to stop real bad guys from coming into our country;

and, he said, number three, it is in the most difficult terrain in the world.

If you have been close to Bonner's Ferry, Idaho, it is beautiful; but it is absolutely the most difficult terrain you can imagine. No roads.

So we can do it. The question is whether or not we have the will to do it. That is what a vote on this amendment will establish.

Mr. REYES. Mr. Chairman, I yield myself such time as I may consume.

It appears to me, Mr. Chairman, we are talking on one level, and my colleagues are talking on another level. We are saying that we do not have the military resources and do not have the luxury of doing exactly what my colleague from Colorado just talked about.

Mr. Chairman, I yield 1 minute to the distinguished gentleman from Texas (Mr. ORTIZ), a former sheriff who knows and understands and lives in a border community.

Mr. ORTIZ. Mr. Chairman, with all my respect to my good friend from Virginia, I understand about our borders; but there is a right way to do it and a wrong way to do it.

To begin with, I think that my ranking member just stated that we are moving 3,600 troops from Korea to Iraq because we do not have enough troops. Can you imagine what kind of signal this is sending to our friends in South Korea, what kind of signal it is sending to our friends in the Pacific Ring, that we are removing those troops because we do not have enough now?

I have been on both sides. I have been a law enforcement official, and I have been in the military. The Border Patrol has an extensive training school to deal with human beings. As a military guy, when I was in the military, they trained me how to kill people, especially the enemy.

So I do not think this is the way to do it, with all due respect. If we think we need to protect our borders more, the answer is hire more Border Patrol personnel or immigration.

Mr. GOODE. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. SAXTON), the chairman of the Committee on Armed Services Subcommittee on Terrorism, Unconventional Threats and Capabilities.

Mr. SAXTON. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I rise in support of the amendment being offered by the gentleman from Virginia (Mr. GOODE).

Mr. Chairman, during the 1980s, and during the 1990s, there were many of us who warned that some day terrorism would be an issue that we would have to deal with in this country. Today, reports indicate that terrorist groups are functioning in parts of South America, as well as Mexico, in an effort to cross through the U.S.-Mexican border. It is clear that all possible steps must be taken in order to prevent this.

I would point out that both in Colombia and in the tri-border area, which is an area where the borders of Argentina, Paraguay and Brazil meet, there are large numbers of people who offer the potential to become a serious problem in our country. If anyone doubts that, there are two books that have recently been published by the Rand Corporation: "Arms Trafficking and Colombia," and "Colombian Labyrinth: The Synergy of Drugs and Insurgency and Its Implications for Regional Stability."

These are serious issues. This amendment will accomplish the desired goal by providing the Department of Defense and our Commander in Chief the option of using military force to secure the border if it becomes necessary.

This amendment does not require the use of troops on the border, and will, most importantly, not affect force-readiness or overburden our military. Instead, it will enable the Secretary of Defense to respond to a request by the Secretary of Homeland Security to allow the use of military personnel to defend against this national security threat.

Just as many people did not want to hear it in the 1980s and people did not want to hear it in the 1990s, and then 2001 occurred, this is a new area of concern which must be dealt with.

The Secretary will also have the ability to authorize assistance for the U.S. Customs Service to prevent entry of weapons of mass destruction, drugs and other terrorist items.

Finally, this amendment is a commonsense approach which will give the highest levels of our government an important tool necessary to combat threats against our national security here at home.

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I commend the gentleman from Virginia (Mr. GOODE) for bringing it forward, and I urge my colleagues to support it.

Mr. REYES. Mr. Chairman, I yield myself such time as I may consume. I would just say to my colleague, the argument is made here that the effort in Iraq is part of homeland security and extending protection of our homeland there. Now we are hearing comments that this proposal retracts that to the homeland security border. We cannot have it both ways.

Mr. Chairman, I yield 1 minute to the gentlewoman from Houston, Texas (Ms. JACKSON-LEE), who has made repeated trips to the border and knows and understands what these issues mean to border communities.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished gentleman.

We have spent a number of hours, days, months and years focusing on the border issues, both north and south. I thank the distinguished gentleman from Texas (Mr. REYES) for his leadership.

Let me say what the issues are to the American public and to my colleagues. We already have the authority for the civilian government to call in the United States military in times of danger or in need.

Secondarily, we are undermining the very fine Border Patrol agents and law enforcement agents who are prepared to defend our borders with the necessary resources and the necessary equipment.

Listening to the deputy chief of Border Patrol in our testimony yesterday in the Committee on the Judiciary, in a hearing, he is prepared and equipped. We just need the resources.

Lastly, this is not a Nation that wants to have a standing military at our border and to jeopardize both the lives of our military and others at these borders. We are able to handle this matter with the civilian forces we have, adding more resources. And I would frankly say, this is both bad policy and bad judgment, and it is frankly un-American.

I would ask my colleagues to vote against this amendment and I appreciate the interest that is given to this particular topic.

Mr. REYES. Mr. Chairman, I am prepared to close.

The CHAIRMAN pro tempore (Mr. SWEENEY). The gentleman is recognized for a 1½ minutes.

Mr. REYES. Mr. Chairman, who has the right to close?

The CHAIRMAN pro tempore. The other side has closed. The gentleman from Texas (Mr. REYES) has the right to close.

Mr. REYES. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, this bill before us provides for cooperation between our Armed Forces and Federal law enforcement agencies to combat terrorism, drug trafficking, and illegal immigration.

Recent history shows us that there is no impediment to cooperation between the Department of Defense, that is opposed to this amendment, and our border law enforcement agencies.

It is also worth remembering and reiterating that in the event of a crisis, the President already has the authority. Let me repeat, the President today already has the authority to place our military assets or whatever assets he deems necessary and move them to protect the homeland. It is for these reasons that the Department of Defense has always opposed this amendment whenever it has been presented here on the House floor.

Essentially, the amendment grants the Secretary of Defense any authority that he already has under title 10 of the U.S. Code.

For that reason, Mr. Chairman, it is imperative that we understand that we cannot continue to debate an issue that further stresses and further puts military personnel in a situation that compounds and exacerbates the already evident pressure of our armed services. It is important that our colleagues understand that a vote for this amendment is a vote that may feel good, that may seem right, that may be politically expedient, but it is not the right thing to do.

I urge all of my colleagues to vote against the Goode amendment.

The CHAIRMAN pro tempore. All time has expired on this amendment.

The question is on the amendment offered by the gentleman from Virginia (Mr. GOODE).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. GOODE. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Virginia (Mr. GOODE) will be postponed.

AMENDMENT NO. 2 OFFERED BY MRS. DAVIS of CALIFORNIA

Mrs. DAVIS of California. Mr. Chairman, I offer an amendment.

The Chairman pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mrs. DAVIS of California:

Add at the end of title VII the following new section:

SEC. 723. LIMITING RESTRICTION OF USE OF DEPARTMENT OF DEFENSE MEDICAL FACILITIES TO PERFORM ABORTIONS TO FACILITIES IN THE UNITED STATES.

Section 1093(b) of title 10, United States Code, is amended by inserting "in the United States" after "Defense".

The CHAIRMAN pro tempore. Pursuant to House Resolution 648, the gentlewoman from California (Mrs. DAVIS) and the gentleman from Kansas (Mr. RYUN) each will control 10 minutes.

The Chair recognizes the gentlewoman from California (Mrs. DAVIS).

Mrs. DAVIS of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment allows military personnel and their family members serving overseas to use their own funds to obtain safe, legal abortion service in overseas U.S. military hospitals.

As a former military spouse who lived overseas, I understand what this amendment means for the more than 100,000 women who presently reside on overseas military bases.

Current law leaves our servicewomen with two grim options. They can go home after they receive authorization and find space on a military transport or they can seek an abortion in an unsafe, unsanitary foreign hospital. Any way you look at it, both options force them to gamble their health.

These women, who have already sacrificed so much, must also forfeit their privacy, their health and the very liberties they are fighting to protect. I believe, Mr. Chairman, that they deserve better.

So let me clarify a few points about this amendment. No Federal funds would be used. This amendment affects only U.S. military facilities overseas and it does not violate host country laws. It does not compel any doctor who opposes abortion on principle to perform one. It will, however, open up reproductive services at bases in countries where abortion is legal.

I hope Members will support our servicewomen by supporting the Davis-Sanchez-Harmon amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. RYUN of Kansas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I stand in strong opposition to the Davis amendment. This amendment would simply turn our military hospitals overseas into abortion clinics by allowing self-funded abortions. Currently, self-funded abortions are already available in these institutions when the life of the mother is in danger and when the pregnancy is as a result of rape or incest.

There is no demonstrated need for expanding abortion access. This amendment does not seek to address an operational requirement or ensure access to an entitlement. It is simply aimed at introducing this very contentious and divisive issue into the defense authorization process.

Proponents of this amendment often claim that female service members and dependents overseas are denied equal access to health care, effectively putting their life and health in harm's way. Simply wrong. If a woman chooses to have an abortion at an abortion clinic, they are accessible overseas. If a woman prefers to have an abortion in the United States, that is available to her under current law.

Although this amendment is presented by the other side as providing for solely self-funded abortions, the fact is the American taxpayer will be forced to pay for the use of the military facility, the procurement of additional equipment needed to perform abortions, and the use of military personnel to perform abortions.

Military doctors did not sign up to end a baby's life. They joined up to save the lives of servicemen and women. It would be wrong for Congress to force these doctors to perform a procedure that many may feel morally objectionable.

I ask my colleagues to vote against the turning of our military hospitals into abortion clinics and to vote against the Davis amendment.

Mr. Chairman, I reserve the balance of my time.

Mrs. DAVIS of California. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. LORETTA SANCHEZ), who has championed this issue for many years.

Ms. LORETTA SANCHEZ of California. Mr. Chairman, I thank the gentlewoman from California (Mrs. DAVIS) for introducing this important and very necessary amendment.

Members of the Armed Forces are entitled to a quality of life equal to that of the Nation they are pledged to defend. Whether you are prochoice or pro-life, agree or disagree with the merits of reproductive freedom, the fact remains, women of the United States have a constitutional right to these services.

I want to read a little excerpt from a letter I received from a general in the Army who goes on to say, "One day, a noncommissioned officer, an NCO, who was one of the battalion's senior women, came into my office and asked for permission to take a day off later in the week and to have the same take-off for a young soldier in the battalion. She said the soldier was pregnant and wanted an abortion and yet had no way to get an abortion at the U.S. Army medical facility in Germany where they were stationed.

"She had got information about a German clinic in another city, and they were going there for the procedure. The soldier did not have enough money to return to the U.S., saved for the abortion, nor did she want to talk to her chain of command about this issue. I told the NCO to go with her and to let me know what happened.

"Later, the NCO told me that the experience had been both mortifying and painful. No painkiller of any sort was administered for the procedure. The modesty of this soldier and the other women at the clinic had been violated due to cultural differences, and neither she nor the soldier understood German."

It was a problem. It was a bad experience for all that, at a very vulnerable time, this American who was serving her country overseas could not count on the Army to give her the care that she needed.

What makes the situation of a soldier different from that of a civilian woman? She is subject to the orders of the officers appointed over here. Every hour of the day belongs to the U.S. Army and she must have her seniors' permission to leave her place of duty. She makes very low pay and so relies on the help of friends and family to pay for travel for medical care that is not given by the Army.

I urge my colleagues to vote for this amendment.

Mr. RYUN of Kansas. Mr. Chairman, I yield 1 minute to the gentleman from Missouri (Mr. AKIN).

Mr. AKIN. Mr. Chairman, once again, we come to the floor of this body to debate the issue of abortion in overseas military hospitals, and once again, we must do honor to the consciences of military caregivers and to the taxpayers who fund these facilities. Young men and women entering the medical divisions of the armed services are dedicated to protecting life. To ask them to take the lives of unborn children is simply wrong.

In fact, when the Clinton administration overturned the DOD policy against abortion in military facilities between 1993 and 1996, military physicians refused to perform or assist in elective abortions, thus forcing the administration to spend additional tax dollars on recruiting and hiring civilians who were willing to do the abortions.

In a country where 56 percent of Americans oppose abortion and where military physicians have refused to do elective abortions, it is unconscionable for our government to condone abortion by turning military hospitals into abortion clinics.

The language before us today has been debated and rejected year after year since 1996. I urge my colleagues again to defeat the Davis amendment.

Mrs. DAVIS of California. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. Mr. Chairman, I would like to express my support for the Davis amendment. This amendment would provide fairness and equity to women in the military who are serving overseas.

Currently, women who have volunteered to serve our country and female military dependents are barred from exercising their legally guaranteed right to choose simply because they are stationed overseas.

Military women should be able to depend on their base hospitals for all of their health care needs. A repeal of the current ban on privately funded abortions would allow military women and dependents based overseas the same range and quality of medical care available to women in the United States. No Federal funds would be used to perform these procedures and no undue burden is placed on military physicians overseas.

Finally, Mr. Chairman, this amendment simply repeals the statutory prohibition on abortions in overseas military hospitals.

I hope we can all support this amendment and ensure that American women overseas are afforded access to quality reproductive services, as they would be if they were home in the United States.

I urge my colleagues to support this amendment.

Mr. RYUN of Kansas. Mr. Chairman, how much time remains on both sides and who has the right to close?

The CHAIRMAN pro tempore. The gentleman from Kansas (Mr. RYUN) has 7 minutes remaining. The gentlewoman from California (Mrs. DAVIS) has 5 minutes remaining. The gentleman from Kansas has the right to close.

Mr. RYUN of Kansas. Mr. Chairman, I yield 1 minute to the gentleman from Arizona (Mr. RENZI).

Mr. RENZI. Mr. Chairman, I urge my colleagues to oppose this amendment that would turn overseas military hospitals into abortion clinics.

The amendment corrupts the mission of our military hospitals which are dedicated to healing and nurturing life by turning military hospitals and doctors and nurses into on-demand abortion providers.

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Again, when President Clinton allowed abortions in military facilities during the mid-1990s, military physicians, nurses and other health care professionals refused to perform these abortions. They were clear in their message. They serve America to save lives, not take unborn American lives.

This amendment, which the House has rejected every year since 1996, is a misguided attempt by abortion activists to insert a harmful provision into this vital legislation designed to authorize funds for the defense of our Nation.

I urge my colleagues to reject this attempt to alter the purpose of our overseas military hospitals, which provide life-saving care to the men and women in our military and their families.

Reject this amendment and allow our military doctors and nurses to continue to save lives, rather than abort them.

Mrs. DAVIS of California. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Chairman, I thank the gentlewoman for her leadership on this issue.

This commonsense amendment would simply allow military women and their dependents that are stationed overseas to exercise the same rights as women in this country, the right to comprehensive family planning, including access to a safe, legal abortion.

It is important to point out that this amendment would not allow one cent of taxpayer money to fund these procedures. It simply allows women to use their own money, mind you, their own money to pay for this procedure in an overseas military facility.

It makes no sense that we have asked these soldiers to serve our country, and yet we cannot serve them with basic, comprehensive health care.

Let us reject this administration's ongoing, politically motivated war on women; and let us start by adopting this important, commonsense amendment. Let us stop discriminating against women in the military. I urge a "yes" vote.

Mr. RYUN of Kansas. Mr. Chairman, I am pleased to yield 1 minute to the gentlewoman from Virginia (Mrs. JO ANN DAVIS), my colleague on the Committee on Armed Services.

Mrs. JO ANN DAVIS of Virginia. Mr. Chairman, for the last 8 years, without fail, this body has voted against funding abortions in DoD medical treatment facilities, and I trust today that we will make that 9.

Mr. Chairman, American taxpayer dollars should not be used to pay for abortions directly or indirectly, wherever they occur. Supporters of this amendment claim that taxpayer dollars would not actually pay for abortions. However, I want to point out that this is simply not true. Taxpayers would be paying for these abortions by subsidizing the cost of the physician services and the abortion equipment. Our current law protects against this, and I urge my colleagues to keep this commonsense policy intact.

As a member of the House Committee on Armed Services, I am strongly committed to our national defense. I am also strongly committed to preserving life in all its stages.

I urge my colleagues to choose life and oppose the Davis amendment.

Mr. Chairman, I rise today in opposition to the amendment offered by my colleague from California. For the last 8 years, without fail, this body has voted against funding abortions in DOD medical treatment facilities. I trust that today we will make that 9.

Military physicians and personnel are tasked to provide life saving and nurturing care to our men and women of the armed services. By requiring them to conduct elective abortions, we are asking them to facilitate in the exact opposite of their mission.

Particularly at a time when their resources are devoted to addressing the needs of service members suffering from wounds and trauma sustained in Operations Iraqi Freedom and Enduring Freedom, we must continue to support the doctors and nurses of the military in their effort to save and sustain life.

Mr. Chairman, American taxpayer dollars should not be used to pay for abortions, directly or indirectly, wherever they occur. Supporters of this amendment claim that taxpayer dollars would not actually pay for abortions, however I would point out that this is simply not true. Taxpayers would be paying for these abortions by subsidizing the costs of the physician services and the abortion equipment. Our current law protects against this, and I urge my colleagues to keep this common sense policy intact.

As a member of the House Committee on Armed Services, I am strongly committed to our national defense. I am also strongly committed to preserving life in all its stages. I urge my colleagues to choose life and oppose the Davis amendment.

Mrs. DAVIS of California. Mr. Chairman, I am pleased to yield 1 minute to the gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Mr. Chairman, I rise in support of the Davis amendment authored by the distinguished gentlewoman from San Diego, the Pacific home of the United States Navy.

When I put on the uniform, I did it to defend the Constitution and the rights it protects for Americans. I must say that I have an emotional attachment to the rights of Americans in uniform. Our current law denies reproductive rights for women in uniform, just when they need it most, when they are deployed overseas.

I was stationed at Incirlik Air Base in Turkey for part of Operation Northern Watch against Iraq. The thought of forcing my fellow women in uniform to seek care in some Turkish clinic when we have a perfectly good U.S. military hospital on base is a tragedy. Imagine when you need care most being forced to communicate in Turkish or Korean or Arabic to get care guaranteed to you by the United States Supreme Court.

Women in uniform should have equal rights. No, no. Women in uniform should have more than equal rights, especially when they are on the frontier of freedom.

Mr. RYUN of Kansas. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from New Jersey (Mr. SMITH), the chairman of the Committee on Veterans' Affairs.

Mr. SMITH of New Jersey. Mr. Chairman, I thank the gentleman for yielding the time.

Mr. Chairman, recently, Dr. Alveda King, niece of the late Dr. Martin Luther King, said about abortion, "How can the dream survive if we murder the children?"

Dr. King, who has had an abortion herself but is now pro-life and bravely speaks out, went on to say, "We can no longer sit idly by and allow this horrible spirit of murder to cut down, yes cut out and away our unborn. This is the day to choose life," she went on to say. "We must live and allow our babies to live. If the dream of Dr. Martin Luther King is to live," Dr. King went on to say, "our babies must live."

Mr. Chairman, the Davis amendment turns Dr. Alveda King's dream, our babies must live, into a nightmare. The Davis amendment will force pro-life Americans to facilitate abortion and subsidize the slaughter of innocent children. Women deserve better than abortion, Mr. Chairman. The Davis amendment turns overseas military hospitals into abortion mills.

This amendment comes on the heels of a new Zogby poll, I would just point out to my colleagues, that clearly shows a significant majority of Americans now reject abortion in most circumstances including women, 56 percent; African Americans, 62 percent; Hispanics, 79 percent; and young adults, 61 percent. Americans, Mr. Chairman, in ever growing numbers are finally, at long last coming to understand that abortion is violence against children and that abortion exploits and harms women.

Americans, at long last, are shocked to learn that abortion methods dismember, mutilate, decapitate, and chemically poison the child. The debate on the violence of the partial-birth abortion has exposed the truth that abortion is child abuse in the extreme.

Mr. Chairman, faced with the numbing reality of an abortionist jamming scissors into the brain of a partially born child so the brains could be sucked out, Americans have begun to connect the dots. They are now seeing that all abortion methods, not just partial-birth abortion, are cruel and all-too-common punishment against helpless and innocent babies.

Mr. Chairman, reject this amendment, the Davis amendment, so that babies and their mothers will live.

Mrs. DAVIS of California. Mr. Chairman, I am pleased to yield 1 minute to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Chairman, I just hope that none of my colleagues on the other side of the aisle ever are faced with a daughter or a granddaughter or a daughter-in-law or a niece serving overseas or as a military wife that needs an abortion and finds themselves in a hospital in Turkey.

Over the last 2 years, we have all stood here and voiced our support for our troops over and over again. We cast resolutions of support. We are demanding that our troops have adequate training and equipment, and there is no better way to show them how we support them than finally giving women in our Armed Forces and the wives and daughters of the men in our military the ability to exercise their constitutional right to obtain a free, no, not a free, a paid-for by-the-person out-of-their-own-pocket safe abortion using the money that they have, but in a military hospital.

We routinely ask our servicewomen to put their lives on the line in defense of our country and our country's ideals. That is why we must continue to require that this country provide them with what could save their lives, and that would be an abortion in a military hospital.

Mr. RYUN of Kansas. Mr. Chairman, I am pleased to yield 30 seconds to the gentleman from the great State of Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Chairman, I thank the gentleman for yielding the time.

I rise in opposition to this amendment. I was on active duty in the Army medical corps when this policy was put in place by the Reagan administration, and it was very well received by the medical personnel in the corps.

The reason it was very well received is because most medical professionals do not want to have anything to do with abortion procedures. They recognize them for what they are. They are very brutal acts. Even those who are pro-choice will say, I am pro-choice, but I would never do an abortion.

When I was on active duty, this was very well received by the troops in the medical department, and I think it would be a mistake to overturn this policy. Vote against the amendment.

Mrs. DAVIS of California. Mr. Chairman, I yield for a unanimous consent request to the gentleman from Florida (Mr. HASTINGS)

Mr. HASTINGS of Florida. Mr. Chairman, I rise in strong support of the measure offered by the gentlewoman from California (Mrs. DAVIS).

A woman's right to choose what happens to her body has been reaffirmed as constitutional time after time by the Supreme Court. The Majority's decision to insert an anti-choice provision into a bill funding our Armed Services is troubling, and quite frankly, offensive.

If a servicewoman or female dependent of someone in our military chooses to have a procedure done to her body with her own funds, regardless of her occupation or where she is stationed, then she ought to be permitted to do so. And she ought to be able to have it done by a U.S. military doctor. It's her body. It's her money. It's just that simple.

It's unfortunate that Representative DAVIS' amendment is even needed. It's just shameful that the conservative wing of the Republican Caucus is trying to invoke controversy into a bill that all of us want to support. I cannot stand idly by while some attempt to demagogue those of us who believe in a woman's right to choose. No one is going to tell me what I can or cannot do with my body, so I certainly am not going to start telling women what they can do with theirs.

Mrs. DAVIS of California. Mr. Chairman, I yield 1 minute to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Chairman, I thank the gentlewoman for the time.

There are currently over 20,000 women serving overseas. Each one of these women deserves the best available health care services; but under current law, women serving overseas effectively lose their constitutional right to choose at U.S. military bases where they literally cannot even pay for this medical procedure with their own money.

This amendment reverses a discriminatory policy against women. While women are bravely serving this country overseas, some Members of this body, many of whom have never served in the military, are voting to take away the constitutional rights that they enjoy in this country. It is wrong to take away their rights merely because they are in the military service.

Let us put this vote in perspective. It is one of over 200 anti-choice, anti-woman votes that have passed this Congress since the Republican majority took control in 1994.

Mr. RYUN of Kansas. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN pro tempore (Mr. SWEENEY). The gentleman from Kansas (Mr. RYUN) has 2½ minutes remaining. The gentlewoman from California (Mrs.

DAVIS) has 1 minute remaining. The gentleman from Kansas has the right to close.

Mr. RYUN of Kansas. Mr. Chairman, I yield 2 minutes to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Mr. Chairman, I rise in opposition to this amendment. In fact, the House has rejected this same amendment for the last, oh, I do not know, about 8 years or 9 years, 2003 back to 1996.

The Committee on Armed Services rejected this amendment over and over again. In fact, it was not even offered in committee this year.

President Clinton signed the current provision into law on February 10, 1996. The National Defense Authorization Act was signed into law to prevent the DoD medical treatment facilities from being used to perform abortions except where the life of the mother is endangered or in cases of rape or incest.

The Davis amendment would repeal that provision. It reopens the issue and attempts to turn DoD facilities into abortion clinics. These facilities are not abortion clinics; they are for healing the sick and the wounded.

Supporters of this amendment act as those pregnancy is a disease. That is certainly not the case. Ask any mother.

Support of this amendment would change the nature of our medical facilities. Our military is overseas for a reason, to support and defend people's lives. Our military treatment centers should do the same, and we should retain this life provision for our military treatment centers and forbid them from taking innocent human life.

Mrs. DAVIS of California. Mr. Chairman, I yield 1 minute to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Chairman, how often in the last year have we heard the phrase in this country saying we support our troops? I have heard it a lot on this floor, but those who oppose this amendment have a new slogan. We support our troops except for their constitutional rights.

The women of this country are in the streets of Baghdad and Nasiriyah and Fallujah today trying to install the concept of individual liberty and individually, constitutionally protected rights in Iraq while their Members of the U.S. Congress are trying to deny it back here in Washington, D.C.

Do not deny this amendment. Do not send the proud women in our armed services to the back streets of Baghdad. They are serving to establish liberty in Baghdad, not back-street abortions. Do not go back to those old days while we fight new battles trying to establish liberties overseas. Pass this amendment.

Mr. RYUN of Kansas. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN pro tempore. The gentleman from Kansas (Mr. RYUN) has 1 minute remaining.

Mr. RYUN of Kansas. Mr. Chairman, I yield 45 seconds to the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Mr. Chairman, I rise in opposition to this amendment.

The Davis amendment would force military medical personnel to be complicit in the taking of innocent human life. It would divert precious medical resources such as staff, time, equipment, and facilities away from the front lines of battle.

Let us not forget, abortion is violence. It is the most violent form of death known to mankind. It is violence against women and children. We should not be subsidizing it.

The American working family should not be forced to fund the extremists' health care agenda of this amendment. Our military should not sacrifice what it needs on the front lines.

I urge my colleagues to vote "no" on the Davis amendment.

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Mr. RYUN of Kansas. Mr. Chairman, I yield myself the balance of my time, and in conclusion, I urge my colleagues to oppose this amendment. Our military installations should be there to save lives. Doctors have signed up to save lives, not take lives, and I urge a "no" vote on the Davis amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, thousand of brave women are serving overseas, fighting to protect and defend the liberties Americans enjoy every day. These brave women should not be denied their fundamental rights simply because they are serving abroad.

This Amendment allows military women and military dependents stationed overseas to exercise the same rights as women in this country to access a safe, legal abortion.

This Amendment ensures equal access to comprehensive reproductive health care for all U.S. servicewomen and dependents, regardless of where they are stationed.

Current law limits the range of reproductive-health services provided to servicewomen and military dependents serving overseas, even when they pay for these services with their own money.

This amendment does not require the Department of Defense to pay for abortion services; it would simply repeal the current ban on privately funded abortion care at overseas U.S. military facilities.

Women serving in the military overseas need to be able to depend on their base hospitals for medical care, especially when stationed in areas where local health care facilities are inadequate. The current ban may cause a woman seeking abortion services to delay the procedure while she looks for a safe provider, or may force a woman to seek an illegal, unsafe procedure locally.

Women would use their own money to pay for an abortion in an overseas military facility. No taxpayer dollars would pay for an abortion under this amendment.

The current language in the Department of Defense Authorization language degrades women serving our country overseas. It also jeopardizes servicewomen and dependents health by forcing them to wait until they can return to the U.S.—which can often be medically dangerous—or to seek an abortion in an unsafe, unsanitary foreign hospital.

DOD language penalizes service women and military dependents service abroad by prohibiting them from exercising their constitutional right to choose.

Roe v. Wade eliminated back alley abortions in this country. This amendment ensures our service women are not forced into the same dangerous procedures as they serve overseas.

This is not a debate about whether abortion is right or wrong. Abortion is legal. If it is legal for a woman here in America to exercise her right to choose, then it should be legal for an American woman serving her country overseas.

Mr. FARR. Mr. Chairman, I rise today to support the Davis Amendment and our servicewomen stationed around the world. These brave soldiers, sailors, and air women have dedicated themselves to serving our country, and the least we should do is give them access to the highest quality healthcare available. Currently, servicewomen and female military dependents are prohibited from using their own funds for abortions at overseas military hospitals. Military women should be able to depend on their base hospitals for all their health-care services, but instead they are forced to compromise their medical privacy and wait for space on a military transport, or to seek an abortion in a foreign hospital. It is unacceptable to endanger the health of our servicewomen by denying them safe and timely medical care.

The Davis amendment would allow military women and military dependents stationed overseas to exercise the reproductive rights they are entitled to as Americans. This amendment would not require the government to pay for abortions, and it would not force medical providers to perform abortions. All branches of the military have provisions that permit medical personnel who have moral, religious, or ethical objections to abortion not to participate in the procedure; this amendment would not change this.

We can't violate the rights and liberties of our troops who are fighting to protect our rights and liberties. I urge my colleagues to support this amendment.

Mr. COLLINS. Mr. Chairman, I rise to state my strong opposition to the Davis Amendment to H.R. 4200, which would allow abortions to be performed at our overseas military hospitals.

Throughout my years in Congress, I have consistently opposed efforts to allow abortions to take place in taxpayer funded military hospitals, and a majority in Congress has consistently opposed these efforts as well. The Davis amendment would repeal the current ban on abortions in our military hospitals, which was signed into law in 1996, and would seek to turn our military medical facilities into abortion clinics. If the Davis amendment is adopted, not only could taxpayer funded facilities be used to support abortion on demand, but resources could be used to search for, hire, and transport new personnel simply so that abortions could be performed. These facilities which are dedicated to the save the lives of the men and women in our Armed Forces should not be used to take the lives of innocent, unborn children.

I urge all of my colleagues in the House to vote to support life and to oppose the Davis amendment.

Mr. STARK. Mr. Chairman, I rise today to support Representative SUSAN DAVIS' amendment to the Defense Authorization bill to repeal the complete abortion ban for women in the military. This amendment is a reasonable compromise. It would not require the U.S. Government to fund abortions at military facilities around the world. It would simply allow U.S. servicewomen, or military dependents, to use their own funds for abortion care at overseas military hospitals.

Our brave servicewomen enroll in the military to protect the civil liberties of American citizens. Unfortunately, under existing law the very liberties they are trying to protect are being taken away from them through this draconian policy.

As a result, our servicewomen must sometimes resort to illegal, unsafe procedures to get an abortion. In the military, pregnancy is often cited as an attribute that makes women less desirable as soldiers, but at the same time the military institution denies women safe and reasonable access to terminate a pregnancy if she chooses.

Servicewomen should have comprehensive reproductive healthcare regardless of where they reside. I urge my colleagues to show support for our servicewomen, and vote yes to repeal this overreaching abortion ban for women in the military.

Mrs. LOWEY. Mr. Chairman, I rise in strong support of the Davis amendment, which would allow military women and dependents stationed overseas to obtain abortion services with their own money. I want to thank my colleague SUSAN DAVIS for her fine work on this important issue.

More than 100,000 women live on American military bases abroad. These women risk their lives and security to protect our great and powerful Nation and deserve the freedoms of our country. And yet, these women—for the past 8 years—have been denied the very Constitutional rights they fight to protect.

My colleagues, this restriction is un-American, undemocratic, and would be unconstitutional on U.S. soil. How can this body deny constitutional liberties to the very women who toil to preserve them? Mr. Speaker, as we work to promote and ensure democracy worldwide we have an obligation to ensure that our own citizens are free while serving abroad. Our military bases should serve as models of democracy at work, rather than examples of freedom suppressed.

This amendment is not about taxpayer dollars funding abortions because no Federal funds would be used for these services. This amendment is not about health care professionals performing procedures to which they are opposed because they are protected by a broad exemption. This amendment is about ensuring that all American women have the ability to exercise their Constitutional right to privacy and access safe and legal abortion services.

As our Nation works to preserve our freedom and democracy, now is not the time to put barriers in the path of our troops overseas. We know that the restriction on abortion does nothing to make abortion less necessary—it simply makes abortion more difficult and dangerous.

It is time to lift this ban, and ensure the fair treatment of our military personnel. I urge passage of the Davis amendment.

Mr. RYUN of Kansas. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. SWEENEY). The question is on the amendment offered by the gentlewoman from California (Mrs. DAVIS).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mrs. DAVIS of California. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from California (Mrs. DAVIS) will be postponed.

It is now in order to consider amendment No. 3 printed in House Report 108–499.

AMENDMENT NO. 3 OFFERED BY MR. HUNTER

Mr. HUNTER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. HUNTER:

At the end of subtitle A of title XII (page 424, after line 12), insert the following new section:

SEC. . SENSE OF CONGRESS CONCERNING THE ABUSE OF PERSONS IN CUSTODY IN IRAQ.

It is the sense of Congress that—

(1) the abuses inflicted upon detainees at the Abu Ghraib prison in Baghdad, Iraq, are offensive to the principles and values of the American people and the United States military, are incompatible with the professionalism, dedication, standards and training required of individuals who serve in the United States military, and contradict the policies, orders, and laws of the United States and the United States military and undermine the ability of the United States military to achieve its mission in Iraq.

(2) the vast majority of members of the Armed Forces have upheld the highest possible standards of professionalism and morality in the face of illegal tactics and terrorist attacks and attempts on their lives.

(3) the abuse of persons in United States custody in Iraq is appropriately condemned and deplored by the American people;

(4) the Armed Forces are moving swiftly and decisively to identify, try, and punish persons who were responsible or culpable for such abuse;

(5) the Secretary of the Army must continue to conduct a full and thorough investigation into any and all allegations of mistreatment or abuse of detainees in Iraq;

(6) the Secretary of the Army and appropriate military authorities must continue to undertake corrective action to address chain of command deficiencies and the systemic deficiencies identified in the incidents in question;

(7) the American principle and tradition of affording proper and humane treatment to persons under the custody of the United States Armed Forces must be reaffirmed;

(8) the alleged crimes of a handful of individuals should not detract from the commendable sacrifices of over 300,000 members of the United States Armed Forces who have served, or who are serving, in Operation Iraqi Freedom; and

(9) the United States expresses its continuing solidarity and support for its partnership with the Iraqi people in building a viable Iraqi government and a secure nation.

The CHAIRMAN pro tempore. Pursuant to House Resolution 648, the gentleman from California (Mr. HUNTER) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is an attempt to once more state the strong position of this House against the abuses at Abu Ghraib. I have noticed that the first conviction under the court-martial system has taken place today.

This is also an attempt to say good things about the hundreds of thousands of men and women who are serving in uniform, the 141,000 or so in Iraq who are serving honorably, and to put us solidly on record in support of the prosecution of wrongdoers and the continuing strong support, Mr. Chairman, of our forces who are locked in combat in the Iraq theater, in the Afghanistan theater, and let them know we do not support them any less because of the publicity of the last several weeks.

I think it is pretty consistent with what my great friend and colleague, the gentleman from Missouri (Mr. SKELTON) and I have said over and over in the full committee hearings that we have had on this issue and the briefings that we had, and I would hope that all Members could support this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. SKELTON. Mr. Chairman, I claim time.

The CHAIRMAN pro tempore. Is the gentleman in opposition to the amendment?

Mr. SKELTON. I will support the amendment, but I claim the time to speak.

The CHAIRMAN pro tempore. Without objection, the gentleman from Missouri (Mr. SKELTON) is recognized for 10 minutes.

There was no objection.

Mr. SKELTON. Mr. Chairman, I yield myself such time as I may consume, and I do support the amendment; however, if I may, I wish to point out a couple of things.

The Hunter-Meehan language that is in the base bill takes a major step towards this whole matter of the Abu Ghraib Prison situation, which of course is deplorable, and I think it is a good provision that is already in the bill.

I wish, however, that four Democratic amendments had been made in order on the prisoner abuse situation: one by the gentleman from Washington (Mr. DICKS) that specifically lists prohibited interrogation techniques, which makes them very clear; one by the gentleman from New York (Mr. ISRAEL) that requires very detailed reporting on the role of contractors as interrogators; one by the gentleman from North Carolina (Mr. PRICE) that would close loopholes in existing law on how contractors who commit crimes can be prosecuted; and one by the gentlewoman from California (Ms. LEE), which would make a database of detainee names available to families and create an international commission to monitor detainee treatment.

Each one of those, individually and collectively, I think, would have made this bill all the better.

But I must express my position in support of this amendment, because we do know that there are major steps to be taken, and we further know that there are so many young men and young women doing positive work in Iraq and Afghanistan; and we hope that the terrible and deplorable situation in that prison that has dominated the news now for a good number of days does not detract from their excellent work.

Mr. Chairman, I reserve the balance of my time.

Mr. HUNTER. Mr. Chairman, I yield myself such time as I may consume to thank the gentleman for his important work in this area, and also mention that the gentleman from Massachusetts (Mr. MEEHAN) and I worked up a provision that is in the base bill also, that I think, after reading the Taguba report, very much follows the Taguba report in terms of clarifying policy.

Let me go over a couple of things that we require to be done.

Ensuring that commanders of detention facilities and commanders of interrogation facilities provide all assigned personnel, including contractor personnel, with training, and documented acknowledgment of receiving training, regarding the Geneva Convention relative to the treatment of prisoners; and establish SOPs, standard operating procedures, for the treatment of detainees.

We also provide that periodic unannounced and announced inspections be made by officers, something that was sadly lacking in the research and investigation that we have done and the review of the Taguba report. Also prohibiting contact between male guards and female detainees and between female guards and male detainees, except in exigent circumstances.

Clearly, there are many dimensions of a prison that are akin, in ways, to locker rooms, and it makes no sense to have substantial contact between male guards and female detainees or female guards and male detainees. So we have spelled that out.

So we have put in, working this in a bipartisan way, we have put in a number of new clarifications, which, while they are manifested into standard operating procedure, represent the emphasis that we would like to place on them in light of the Taguba report and the hearings and briefings that we have received in this matter.

Having said that, I want to thank the gentleman from Missouri and the gentleman from Massachusetts for working on this language also, and all the Members that worked on it.

Mr. Chairman, I yield back the balance of my time.

Mr. SKELTON. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. WAXMAN), as the ranking member of the Committee on Government Reform.

Mr. WAXMAN. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I agree that the appalling abuse and torture of Iraqi detainees by U.S. military personnel at the Abu Ghraib Prison is completely unacceptable. Congress should condemn this illegal and inhumane misconduct in the strongest possible terms. But condemnation alone is not enough. Congress also has the responsibility to fully investigate this terrible episode.

Unfortunately, this amendment ignores the constitutional role of Congress to provide oversight over the activities of the administration and military. Without a thorough congressional investigation, the amendment simply assumes that only a handful of individuals were involved in the abuse. Despite General Taguba's conclusion that civilian contractors were either directly or indirectly responsible for the abuse, this amendment is silent on the role of private contractors in interrogating and abusing Iraqis at Abu Ghraib.

I do not understand how the House of Representatives can express its sense of the facts when it has made no meaningful effort to determine what the facts are. This amendment fails to acknowledge that Congress has a fundamental responsibility to investigate the allegations and to conduct oversight over the military campaign in Iraq. We cannot, as this amendment assumes, ignore our responsibility and rely on the administration to oversee itself. This amendment should call for House investigations into the abuse at Abu Ghraib.

The Committee on Government Reform, for example, should examine the role of private contractors in interrogations and prisoner abuse. Congress should be asking whether it is appropriate for the Defense Department to turn to private contractors to assist in the interrogation of prisoners. We should also determine what sanctions apply when private contractors operating in Iraq engage in outrageous abuse.

Time and time again the majority has demonstrated that it has no interest in performing any serious oversight of this administration. The majority has refused to investigate the alleged White House's outing of a CIA agent, Valerie Plame. The majority has declined to investigate allegations that administration officials threatened to fire the Health and Human Services chief actuary if he disclosed unfavorable cost projections for the Medicare prescription drug benefit in his presentation to Congress.

Now, the House majority wants to do as little oversight as possible when it comes to the abuse of detainees. One Republican leader objected to "jerking these battlefield commanders" out of Iraq for hearings. Another suggested that congressional investigations would inflame hatred of the U.S. "by providing fodder and sound bites for our enemies." The majority seems to think it is unpatriotic to ask tough questions and demand answers.

Mr. Chairman, oversight is not unpatriotic. Oversight is our constitutional duty. Congress must not abdicate its responsibility for holding the administration accountable. We owe it to the Iraqi people, we owe it to the American people and especially to the U.S. troops that have served with honor to learn the whole story and to take steps to ensure that this kind of abuse never again occurs.

Mr. HUNTER. Mr. Chairman, I ask unanimous consent that I be allowed to reclaim the balance of my time.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HUNTER. Mr. Chairman, I yield myself such time as I may consume, and let me just say something briefly in response to my colleague who just spoke.

We are not abdicating any oversight on this issue. In fact, we have had as much congressional hearing time as we have had in the past going to war, sending the entire Nation to war. We have had massive hearings on this issue. We have had briefings.

In fact, we finished a briefing yesterday, with the majority of the House, with the Secretary of Defense and experts on this issue that carried well until after 6:30. The majority of the House Members, by my count, appeared. The Secretary did not leave until the last question was answered.

In my estimation, we have given as much publicity to this as we did to the invasion of Normandy, looking over the old stacks of publicity that attended that fairly important event.

Now, I would say this to my dear colleague, the gentleman from California (Mr. WAXMAN). We have 141,000 people whose lives are in danger. They need their leadership. Their battlefield leadership is now back here rehashing this issue. The first conviction was made today on this issue. Does the gentleman think we need to have congressional oversight overlooking the court-martial that just concluded in a conviction and a punishment being meted out?

And I would say to my friend that the punishments in the military system are meted out much swifter and much more surely than they are on the domestic side. We have already had a conviction. So your statement to the effect that there is no oversight, your implication there is no oversight is not true. It is false. There is massive oversight.

And in looking at the Taguba report and embedding many of those recommendations in this law, we have actually made changes that are a function or have arisen from that oversight. So the question is one of balance.

We have 141,000 people who need leadership in their operations. We need to make sure they have all the equipment that they need. We need to make sure they have their operational leadership.

So does the gentleman want another 15 hearings? Maybe we should cancel every piece of congressional business for the entire year so that the issue at Abu Ghraib can be milked until the election. I do not think that is good for either side of the aisle.

We have given an enormous amount of publicity to those seven people. I have a stack of Bronze Stars on my desk. Those people will never get any publicity. They certainly will not hear the gentleman from California talking about them, and probably not me, because we will not have a chance to get to them because we will be concentrating on those seven bad apples ad infinitum.

Judgment and balance are important in this business. And for that reason, I think after massive hearings on both sides of the Capitol, after enormous publicity, with six full investigations now attending these seven people, separate investigations, and prosecutions and court-martials going forward, I think we need to lead our troops and we need to provide them what they need; and that means we need to refocus on this war, and we need to win this war.

Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey (Mr. SAXTON).

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Mr. SAXTON. Mr. Chairman, I take some exception to the polite assertion of the gentleman from California (Mr. WAXMAN) that the Congress of the United States perhaps in his view has not done enough or is not on a track to do enough; but at some point we have to decide to come to a conclusion that a few people committed some very horrendous, bad acts.

The events that have occurred since then, and I would remind Members this occurred in late December or January, or became evident in January, and immediate actions were taken by our trusted military leaders, and I am not talking about our civilian leaders necessarily, I am talking about our military leaders, people who swore to protect and defend the Constitution of the United States while carrying out their military duties. Since then, General Taguba and his staff have carried out a very extensive investigation.

I saw a copy of the report. It was that high with a 50-page executive summary. While it is classified, somehow or another it happened to appear on the Internet so anyone that wants to know what is in it can click on the Internet and look at it, and you will have to fairly conclude that there was nothing in that report that would suggest that we need a broader investigation.

But in spite of that, there are currently seven ongoing investigations being carried out by our military leadership, trying to find out if there is anything else that ought to be looked at, any other criminal investigations that ought to be entered into, any other processes to clean this mess up.

Now, we have 140,000 people doing good work, protecting the national security of our country while trying to put that country back together, positive work supporting the Provisional Coalition Authority, positive work working with Iraqi families, positive work monitoring caucuses where Iraqis are electing their own local leaders, controlling traffic, positive work securing ammo dumps that are sometimes miles square.

Our Special Forces are there operating, 140,000 people doing good works; and we are asked by the gentleman from California (Mr. WAXMAN) to concentrate on the bad acts, throw Congress into an oversight overdrive, concentrating on the bad acts of a handful of people.

I do not buy into the notion that we should do this, and I think the chairman's amendment is exactly what we need to do. I would hope the gentleman from California (Mr. WAXMAN) would rethink his position.

Mr. SKELTON. Mr. Chairman, I yield myself such time as I may consume.

In line with my responsibility for oversight, I made a request a good number of days ago in a letter to the President asking when the White House, when the Defense Department, when the State Department received the International Red Cross report that was provided to me just recently, but dated back in February of this year.

In line with that, I am expecting to hear from the White House day by day, and I call them day by day. That is part of my oversight responsibility, to find out these matters as to when they received that International Red Cross document concerning the prison abuse.

Hopefully, they will get an answer to me to help me fulfill my oversight responsibility.

Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, we have had several gentlemen on the other side of the aisle take a great deal of time attacking the idea that they should hold public hearings. They act as if they held a public oversight hearing, we could not support our troops in the war.

Let me say, having private briefings and having classified meetings is not enough when our country's credibility and our reputation for human rights and democracy has been tarnished all around the world and our troops are in greater danger because of it. We need to know the facts.

We have heard people say a couple of times, seven bad apples. We do not know if it is only seven bad apples. I hope that is true. But we do not know how far up the chain of command some of these ideas were put forward in terms of how to treat the detainment of Iraqi prisoners.

The gentleman's Committee on Armed Services has had one public hearing with the Chairman of the Joint Chiefs of Staff and the Secretary of Defense. What about others to testify? I attended the classified briefing with Secretary Rumsfeld and other military people yesterday. I do not think I am violating any rules to tell Members that when the question of the Abu Ghraib prisoners came up, the Secretary said, We will find out the answers when we find out the answers. That is not a direct quote, but that is pretty much what I got out of that meeting.

I think we need to do more, and the best example of somebody doing more in a responsible way is Senator WARNER as the chairman of the committee on the other side of this building who has held hearings. Have we had any hearings for the public to hear on the House side? Have we heard from General Taguba in a public hearing?

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from California for an answer to that one question.

Mr. HUNTER. No, the gentleman has not heard from every single officer in the U.S. Army on this subject.

Mr. WAXMAN. Have we heard from General Taguba who prepared the report?

Mr. HUNTER. We have heard from the Secretary of Defense, who is responsible for delivering the Taguba report to us.

Mr. WAXMAN. Mr. Chairman, reclaiming my time, my point is that what we are hearing from the Republican leadership in this House over and over again is, We will trust the administration to investigate themselves.

We heard that when it came to the outing of the CIA agent, endangering our national security, from somebody at the White House who leaked the information.

We have heard it when it came from the Medicare estimates being withheld from the Congress.

And we are hearing it now on this issue of how Iraqi prisoners were treated.

I think we have more of a responsibility than just to say we trust this administration because, after all, we have a war going on. I would hope the House of Representatives could chew gum and walk at the same time, and that means support our troops, but also support America's standing in the world by doing our own investigation and hearing from other people than the Secretary of Defense in public meetings and in private meetings not tell us much of anything because they are still investigating it.

My argument to Members is, I will support anything that says we want to do something about the abuse, but we are not doing something about the abuse unless we exercise our oversight responsibilities and hold public hearings.

The CHAIRMAN pro tempore (Mr. SWEENEY). The Chair would advise Members that the gentleman from California (Mr. HUNTER) has the right to close, and has 1 minute remaining. The gentleman from Missouri (Mr. SKELTON) has 30 seconds remaining.

Mr. SKELTON. Mr. Chairman, I yield myself the balance of my time.

I have made my statement regarding my request to the White House for the information, and I hope I do not have to make another phone call tomorrow to receive the letter.

Mr. Chairman, I yield back the balance of my time.

Mr. HUNTER. Mr. Chairman, I yield myself the balance of my time.

Apparently, the gentleman from California (Mr. WAXMAN) did not understand. Let me be clear: We had a major public hearing on this issue. It was a full-blown hearing, and the briefing that the gentleman from California (Mr. WAXMAN) attended is one that the gentleman attends perhaps on an infrequent basis, but one that we have on a regular basis, and have ever since the operation in Iraq started, to let Members of the House know what is happening. That is why the gentleman was invited.

And I am not going to yield to the gentleman because I have a point to make. I have listened to the gentleman's point, and I am going to close. I am going to talk about some things that are important to the gentleman from California (Mr. WAXMAN).

Let me tell Members why it is important to have General Sanchez back leading his troops and not here when you have massive operations and you have conflict and you have people being taken, casualties being killed and wounded in that theater.

General Sanchez, who is in charge of that theater, who is a combat leader in that theater, has issues stacking up on his desk, and he has challenges; and a lot of those challenges affect our constituents.

I presume that the gentleman from California (Mr. WAXMAN) has young men and women in the Armed Forces in the gentleman's constituency, who are stationed in Iraq, whose very safety depends on General Sanchez making good decisions. He has to be there to make those decisions. He has to make convoy decisions, IED decisions, operational decisions, and that is why we need him back there leading his troops, not being pulled back here for political theater.

The CHAIRMAN pro tempore. All time has expired. The question is on the amendment offered by the gentleman from California (Mr. HUNTER).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. HUNTER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from California (Mr. HUNTER) will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed, in the following order: Amendment No. 1 by the gentleman from Virginia (Mr. GOODE); and amendment No. 2 by the gentlewoman from California (Mrs. DAVIS).

The first electronic vote will be conducted as a 15-minute vote. The remaining electronic vote will be conducted as a 5-minute vote.

AMENDMENT NO. 1 OFFERED BY MR. GOODE

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Virginia (Mr. GOODE) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 231, noes 191, not voting 11, as follows:

[Roll No. 196]

AYES—231

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown-Waite, Ginny
Burns
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clyburn
Coble
Cole
Collins
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Davis (TN)
Davis, Jo Ann
Deal (GA)
DeFazio
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doolittle
Duncan
Dunn
Emerson
English
Etheridge
Everett
Feeney
Ferguson
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hooley (OR)
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Jones (NC)
Kaptur
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kirk
Kline
Knollenberg
LaHood
Latham
LaTourette
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lowey
Lucas (KY)
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Spratt
Stearns
Sullivan
Sweeney
Tancredo
Tanner
Taylor (NC)
Thomas
Tiahrt
Tiberi
Toomey
Turner (OH)
Udall (CO)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Wicker
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—191

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Bishop (GA)
Blumenauer
Brady (PA)
Brown, Corrine
Burgess
Burr
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Chandler
Clay
Conyers
Cooper
Crowley
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)

Davis, Tom
DeGette
DeLauro
Deutsch
Dicks
Doggett
Dooley (CA)
Doyle
Dreier
Edwards
Ehlers
Emanuel
Engel
Eshoo
Evans
Farr
Filner
Flake
Frank (MA)
Frost
Gephardt
Gonzalez
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Kanjorski
Kennedy (RI)
Kildee
Kilpatrick
Kleczka
Kolbe
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Lewis (GA)
Lofgren
Lucas (OK)
Lynch
Majette
Maloney
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Price (NC)
Putnam
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Simmons
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Souder
Stark
Stenholm
Strickland
Stupak
Tauscher
Taylor (MS)
Terry
Thompson (CA)
Thompson (MS)
Thornberry
Tierney
Towns
Turner (TX)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Weller
Wexler
Whitfield
Wilson (NM)
Woolsey
Wu
Wynn

NOT VOTING—11

Delahunt
Fattah
Ford
Hayworth
Johnson, Sam
Jones (OH)
Kingston
Leach
Norwood
Portman
Tauzin

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. SWEENEY) (during the vote). Members are advised that 2 minutes are remaining in this vote.

□ 1837

Messrs. TERRY, FARR, BISHOP of Georgia, Ms. CORRINE BROWN of Florida, and Ms. MAJETTE changed their vote from "aye" to "no."

Messrs. UDALL of Colorado, LIPINSKI, SMITH of Michigan, LATHAM, and Ms. HART changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 2 OFFERED BY MRS. DAVIS OF CALIFORNIA

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from California (Mrs. DAVIS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 202, noes 221, not voting 10, as follows:

[Roll No. 197]

AYES—202

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Bass
Becerra
Bell
Berkley
Berman
Biggert
Bishop (GA)
Bishop (NY)
Blumenauer
Boehlert
Bono
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown, Corrine
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Chandler
Clay
Clyburn
Conyers
Cooper
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Dunn
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Filner
Foley
Frank (MA)
Frelinghuysen
Frost
Gephardt
Gilchrest
Gonzalez
Gordon
Green (TX)
Greenwood
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley (OR)
Houghton
Hoyer
Inslee
Isakson
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kaptur
Kelly
Kennedy (RI)
Kilpatrick
Kind
Kirk
Kleczka
Kolbe
Kucinich
Lampson
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Majette
Maloney
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (NC)
Miller, George
Moore
Moran (VA)
Nadler
Napolitano
Neal (MA)
Obey
Olver
Ose
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Pryce (OH)
Ramstad
Rangel
Reyes
Rodriguez
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shaw
Shays
Sherman
Simmons
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Tanner
Tauscher
Thomas
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walden (OR)
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—221

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Bereuter
Berry
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Boozman
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Carter
Chabot
Chocola
Coble
Cole
Collins
Costello
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Doyle
Dreier
Duncan
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Forbes
Fossella
Franks (AZ)
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hefley
Hensarling
Herger
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hyde
Issa
Istook
Jenkins
John
Johnson (IL)
Jones (NC)
Kanjorski
Keller
Kennedy (MN)
Kildee
King (IA)
King (NY)
Kline
Knollenberg
LaHood
Langevin
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Lynch
Manzullo
Marshall
McCotter
McCrery
McInnis
McIntyre
McKeon
McNulty
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Ortiz
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Putnam
Quinn
Radanovich
Rahall
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Sherwood
Shimkus
Shuster
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Stupak
Sullivan
Sweeney
Tancredo
Taylor (MS)
Taylor (NC)
Terry
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—10

Delahunt
Fattah
Ford
Hayworth
Johnson, Sam
Kingston
Leach
Norwood
Portman
Tauzin

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. SWEENEY) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1853

Mr. ORTIZ changed his vote from "aye" to "no."

Mr. BASS changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. MCHUGH. Mr. Chairman, today on rollcall No. 197 Davis of California amendment to the defense authorization bill for fiscal year 2005, I was inadvertently recorded as having voted aye and should have been recorded as voted nay. I respectfully request the record reflect that I have voted in the negative on such amendments in previous years.

Mr. HUNTER. Mr. Chairman, pursuant to section 4 of House Resolution 648, I hereby request that the following amendment be considered out of the order printed in House Report 108–499: amendment No. 14.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SIMPSON) having assumed the chair, Mr. SWEENEY, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4200) to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2005, and for other purposes, had come to no resolution thereon.

CONFERENCE REPORT ON S. CON. RES. 95, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2005

Mr. NUSSLE. Mr. Speaker, pursuant to House Resolution 649, I call up the conference report on the Senate concurrent resolution (S. Con. Res. 95) setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Pursuant to House Resolution 649, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Tuesday, May 18, 2004.)

The SPEAKER pro tempore. The gentleman from Iowa (Mr. NUSSLE) and the gentleman from South Carolina (Mr. SPRATT) each will control 30 minutes.

The Chair recognizes the gentleman from Iowa (Mr. NUSSLE).

GENERAL LEAVE

Mr. NUSSLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. Con. Res. 95.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. NUSSLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first I would like to thank members of the Committee on the Budget on both sides of the aisle that have worked throughout the process this year. I wish to thank my ranking member and friend, the gentleman from South Carolina (Mr. SPRATT).

We will embark today on a vigorous debate. I have a feeling that we will differ quite a lot on the policy and the issues before us faced in the budget, but we do so in a cheerful manner, one that is with full respect; and I have enormous respect for my very able friend and colleague, the gentleman from South Carolina (Mr. SPRATT).

I also want to thank our staff. Rich Meade and the entire Committee on the Budget staff, they have worked very, very diligently on the majority side; and Tom Kahn and the minority staff have also done that. They prepare Members, not only on the committee but throughout our conferences and caucuses, so we are prepared for this debate today and throughout the year, and they deserve our support as we move forward and our appreciation.

As we started crafting the budget this year, there was certainly really no lack of naysayers who said that getting a budget passed this year would probably be next to impossible. There were way too many challenges, people said, facing our country, too many conflicting interests, too much pressure because of the upcoming elections.

All of those things are certainly true. It is true we are dealing with a number of other challenging issues, such as the ongoing conflicts in Afghanistan and Iraq, and the war against terrorism in general on a global basis.

But we will prevail as a Nation. Regardless of the debate that we have today on budgets and taxes and pay-as-you-go and the national debt, we will prevail as a Nation, because it is not about budgets in the end. It is not about taxes in the end. It is about an American spirit that will not die, because we believe in freedom, and that is freedom that is given to us as a little seed planted in our hearts when we are born and something that blossoms throughout our lives. We want to share that with the world, and we believe that by sharing it with the world, we will have a safer place in which to live.

I am also happy to report that we have prevailed, despite a myriad of critics who said it could not be done, that we would not even get a conference report agreement between the House and the Senate. We were able to do that. So today in the House we will complete the first step of what are some of our most fundamental duties.

I am extremely proud of this budget and what it stands for. I would like to particularly thank our leadership, our Speaker, the gentleman from Illinois (Mr. HASTERT); our majority leader, the gentleman from Texas (Mr. DELAY); our deputy whip, the gentleman from Virginia (Mr. CANTOR); and our whip, the gentleman from Missouri (Mr. BLUNT); as well as the gentlewoman from Ohio (Ms. PRYCE). All of the leadership team worked hard, standing our ground for the budget principles that we knew must be done.

And what was that must-do list for this year's budget? Clearly, this budget had to provide for the defense and homeland security of our Nation. That is job one. There is no excuse not to complete the most important job that this country requires of a Nation in order for it to be free, and that is the defense of our country.

Second, this budget had to continue to support a program of economic growth for our country, as well as continue our commitment to a host of critical domestic programs, such as veterans benefits, education, health care, and prescription drugs for seniors. And we had to do all of this while reining in our spending and working to reduce the deficits we incurred while responding to extraordinary circumstances over the past few years.

Getting a consensus on what was exactly right or correct was not easy. It has been very difficult. Every single person has their own idea of what a perfect budget would look like. This is not a perfect budget, and I dare say my friends on the other side will remind me of that time and time again today; but it is what is doable at a time of extreme circumstances in our Nation's history.

I have heard people say at time of war we ought to do this; at time of economic challenge we ought to do that; we ought to fund priorities. All of those are true. But we have never faced all of them at the exact same time: to have a downturn in the economy, be faced with two wars, a global response to terrorism, the most unbelievable tragic event of terrorism facing our Nation. All of this happening at the exact same time is something that has never happened to our Nation.

□ 1900

So these are extraordinary circumstances and we will respond. Let me tell you the guiding principles of this budget of how we are going to respond.

First is strength. We are free as a Nation as long as we are able to defend our freedom at home and abroad. And so the first principle is strength.

Second is growth. We must continue to grow. Our policies are helping to boost the economy. We do not want to grow government. We want to grow the earning capacity of people. We want to grow the ability to create jobs. We want to grow the entrepreneurial spirit in our country. That is what we want to grow. And we have already seen, the last 6 months have been the fastest growth in 20 years as a result of the policies put forward by our President and by this Congress. And we believe that must continue.

Business investment is up. Unemployment is falling, and it is lower now than it was on average for the 1970s, the 1980s or the 1990s. And most important, we are seeing jobs being created.

More Americans are working today than at any time in American history; 1.1 million jobs have been created over the last 8 months alone. So to remain the most prosperous superpower, our economy must be able to continue to grow.

Finally, opportunity. Strength, growth and, finally, opportunity. America's continued greatness comes from the unlimited opportunities that our American freedom provides. We are all for that. And we must continue to encourage those opportunities for a better life for every American citizen. Government certainly has a role in that.

Those were the guiding principles of our budget that we passed here in the House, and they remain the guiding principles as we work through this conference agreement.

I also want to talk to you about a few principles with regard to this budget that were included in the final conference agreement. First, there will be no tax increase. And let me be clear: If you vote "yes" on this budget, you are saying we do not need a tax increase. We do not want an automatic tax increase to happen, and we do not believe that this is a time for Americans to dig deeper in their pockets in order to deal with challenges we should be facing here in Washington.

Tax increases should not be the solution. And so if you vote "no" on this budget, be aware you are voting to automatically allow tax increases to occur this year.

That is what this budget will do. It will prevent an automatic tax increase. So by voting against it, an automatic tax increase will occur.

Second, on spending, our constituents have told us time and time again that we have got to rein in spending. We have got to control the waste, fraud and abuse in Washington. And certainly that is often in the eye of the beholder; but we believe that it is time to go through our departments, through our categories and look at ways to rein in spending. We cannot begin to address reducing the budget deficit without holding the current rate of spending growth.

This is what our spending growth has looked like in the past few years, a lot of growth. Most of that from necessary demands, but we cannot sustain that spending growth. So we have looked for ways to control spending throughout the budget. This budget calls for holding the line on nondefense, nonhomeland security discretionary spending. For the first time, this Congress, certainly in my tenure here and I daresay in the tenure of all Members of this body, this will be the first opportunity for you to vote to freeze or hold the line on nonsecurity spending in Congress.

Let us talk about the war. The President did not, when he submitted his budget back in February, contemplate the true cost of war because they were unknown at that time. Our budget has taken that into account.

We know, without question, that there will be costs for the ongoing war and that this budget will have an effect as a result. Do we know the exact amount? No. That is not known right now to the Congress, to the Defense Department, to the President.

We can speculate, and we have put into this budget a placeholder that says $50 billion, based on the estimate that we have for this year, is an appropriate figure to begin planning for the 2005 costs of the war.

And thank goodness we did that, because right after we passed our budget, we found out that at least $25 billion will be necessary to fund the ongoing conflict during 2005. So it is not with precision that we know this amount, but it is something we need to plan for in this, and this budget accomplishes that.

This budget does all of this, if we follow it, to get us back to balanced budgets and fiscal responsibility. We have to start somewhere.

There will be people who come to the floor today who say, you know, this is only a 1-year budget. Well, yeah, that is what we always pass. Last year we passed a budget; it had a lot of years on it, but we only followed it for a year. Then we renegotiated it this year. We will to the same next year and the year after. In fact, every year I have been here we have gone year to year to year with regard to taxes, spending, rules, appropriations, all of the different issues that face us today.

And so we are coming forward to present to you today a 1-year budget. It complies with the Budget Act. You will see 5 years' worth of projections for the amounts of money, but this is a 1-year budget. And we believe if we can get this right and if we can hold the House and the other body and the President to this plan, it puts us on a path to not only controlling the deficit, but getting us back to a balanced budget.

This budget is the first step in accomplishing that but it only works if we stick to it. This is our next major challenge, I daresay, to begin to get past all of the excuses of the last few years, although they are appropriate, certainly important rationale for how we have gotten here.

But we need to move forward. This allows us to do that today. So we need to vote "yes" in order to move this plan forward. But let me be clear: If you vote no, as I said before, you vote for an automatic tax increase, you vote to cut veterans' spending because we increased veterans' spending here over the President's amount by $1.2 billion; you are not supporting the troops to the tune of $50 billion contemplating the war costs.

Sure, you can say we will vote for the appropriations bill, but this plans for it in a budget. And I also suggest, you are not doing what you need to do to plan for defense and homeland security of our Nation.

This puts us on a track to fiscal responsibility. It meet our needs and the strengths of our country and growth for the economy and opportunity for the future. And I ask my colleagues to support the conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. SPRATT. Mr. Speaker I yield myself 4½ minutes.

Mr. Speaker, my good friend, the gentleman from Iowa (Mr. NUSSLE) and I work together well, and I have the greatest regard for him, but let me put it the way it is. He is trying to put the best face on a bad situation.

What we have got here is a new high for the budget deficit and a new low for the budget process. For the first time in 20 years, for the first time since the 1980s we have a budget that only goes out 1 year. Ever since the Budget Act was adopted, the principle has been that you will run out your numbers 5 years so that we can see the implications of tax cuts and tax increases, spending cuts and spending increases, spread over a reasonable period of time. Not in this budget: 1 year for the first time in 20 years.

Now, what does that allow you to do? It allows you to dodge the deficit. It keeps you from having to show on a multiyear basis how you will get from a $300–$400 billion deficit to something that is half that size to a respectable, sustainable number.

If you only take it out 1 year, there is no way in the world that we will ever get our arms around the deficit in that period of time. So it exonerates you from presenting any kind of process or plan to get where we all know where we have got to go, and that is to a much lower deficit.

Another thing: When you do not put real numbers in the outyears, in 2006, 2007, 2008, it allows you to reduce the President's request and not acknowledge what you are actually doing. By our calculations, when we look at the numbers that are on the chart contained in this budget resolution, this budget resolution provides $122 billion less for defense than the President requests or projects for himself over that same period of time.

This much is clear: Vote for this and you are voting for a huge deficit by the acknowledgment of the drastic $367 billion. And while they have included $50 billion for supplemental spending in Iraq and Afghanistan next year, I think that is at least $25 billion short of where we will really be. Add that 25 to the 367; you get to 392. Take out the Social Security surplus because it should not be included, and the deficit in the basic budget is $552 billion.

That is what you are voting for if you vote for this budget resolution, a deficit of $552 billion.

Now, when you run a deficit like that, you stack up debt, and once again we will have to raise the debt ceiling; and one of the key provisions of this bill buried beneath all of the line items is a provision which would automatically spin off an increase in the debt ceiling of $690 million—$690 billion. It will take the debt of the United States up to $8.1 trillion.

It is hard to get my tongue around those numbers.

When Mr. Bush came to office, the statutory debt ceiling of the United States was $5.9 trillion. Adopt this budget resolution and we will raise that ceiling by $2.2 trillion to $8.1 trillion. That is how much we have had to increase the debt ceiling, $2 trillion in order to accommodate the fiscal policies of the Bush administration.

Now, we have got record deficits. We have record debt. That is bad enough, but even worse, even worse in this budget resolution, there is no plan, no process and no prospect, not even a PAYGO rule for balancing the budget or anyone issuing the deficit over a period of time. All we have here, after a lot of huffing and puffing, is a puny version of the PAYGO rule that House Democrats and House Republican on two occasions in the 1990s adopted to apply to both tax cuts and spending increases on the entitlement side. All we have got here is a 1-year extension that applies only in the Senate, no application whatsoever in the House. That is all we have got.

The gentleman says if you do not vote for this, it could impair the recovery. Well, let me say, Mr. Greenspan warned us only a week or two ago that this recovery we are beginning to enjoy may be short lived unless we come to grips with this critical problem, and that is mounting, never-ending deficits that these budgets are producing.

So the thing that is incumbent upon us now is not to kick the can down the road, is not just to pass something for the sake of saying we passed the budget resolution, we fixed the 302(a) number. We can go ahead with our appropriation bills. We need a plan; we need a process. We need to deal with this deficit now, and this budget resolution does not do it. That is why we should defeat it, send it back to conference and do it right.

Mr. Speaker, I reserve the balance of my time.

Mr. NUSSLE. Mr. Speaker, I yield myself such time as I may consume.

Let me just respond quickly and say, and I forgot this part, we are reducing the budget deficit by $100 billion. So I understand there is concern out there. We are taking $100 billion off the top as a result of this budget because we are planning our work and we are sticking to our plan, and it is a good plan.

Mr. TOM DAVIS of Virginia. Mr. Speaker, will the gentleman yield?

Mr. NUSSLE. I yield to the gentleman from Virginia.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I thank the gentleman.

I ask this question for myself and my colleagues, the gentleman from Virginia (Mr. WOLF), the gentleman from Virginia (Mr. MORAN) and the gentleman from Maryland (Mr. HOYER).

I note on Wednesday, March 31, with 299 votes, the House passed House Resolution 581 regarding pay comparability for Federal employees. That language is not included in the resolution.

Is it the gentleman's understanding that the language of that resolution is the position of the House?

Mr. NUSSLE. It is my understanding. The gentleman is correct.

Mr. TOM DAVIS of Virginia. I thank the gentleman.

Mr. NUSSLE. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. THORNBERRY), a very valued member of the committees.

Mr. THORNBERRY. Mr. Speaker, I thank the gentleman for yielding me time and commend him on his patience and persistence that was required to have this conference report.

Mr. Speaker, I rise in support of this conference report. In my view, the first job of the Federal government is to defend the country, and there is certainly no greater priority in this budget than protecting America.

When it comes to helping make the country strong, we in Congress have an important role to play. Part of our role involves the other major bill we are working on this week, the defense authorization bill. But I believe that passing this budget today also puts in place an essential building block that helps make sure we do our job in keeping and improving on a strong America.

This budget fully funds the President's request for military and homeland security. It allocates $420 billion for the national security function. Included in that is $402 billion for the military, and on top of that is $50 billion that the chairman just talked about for the ongoing operations in Iraq and Afghanistan.

Once that allocation is translated into the various programs, we will have increased basic pay for soldiers in the military, 21 percent over the past 3 years.

☐ 1915

We will have increased personnel funding 59 percent since 2001. Operation and maintenance will have increased 55 percent; procurement up 43 percent; R&D funding up 76 percent over the past 3 years.

In short, Mr. Speaker, we will have provided everything the Pentagon has asked for the troops in Iraq and Afghanistan and then some.

On homeland security, this budget allocates $33.4 billion, including $31 billion for the Department of Homeland Security. This is nearly double what those agencies were receiving in 2001, nearly double. The budget carves out $2.5 billion in advance funding for Bioshield, the effort to deal with that threat which many people view as the most dangerous to us, biological warfare.

But as I said when the House first considered this budget, we could slap a homeland security label on the whole Federal budget and still not be perfectly safe; but passing this budget today allows the other committees to do their work on the detailed programs and make sure that in Congress we stand up and do our job on homeland security and defense, supporting the men and women who are on the front lines every day protecting our lives and our freedom. It deserves our support.

Mr. SPRATT. Mr. Speaker, I yield 1½ minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Speaker, I thank the gentleman for yielding me time.

This is not a serious attempt to deal with a serious problem. This is a chart that shows the mess we have gotten ourselves into. It is the deficit since the Vietnam War, Reagan, and Bush. The Clinton administration cleaned up the mess, and here we are now with a huge deficit.

If you run up deficits, you have got to pay out interest on the national debt. This is the interest on the national debt we were projected to pay when this administration came in. This is the interest on the national debt we are going to have to pay for messing up the deficit, $300 billion additional interest on the national debt. $300 billion at $30,000 each, that is enough to hire every unemployed person in the country, over 10 million people.

The bill presented today is $367 billion more in debt. The chairman is right, we are not digging into our pockets. We are digging into our grandchildren's pockets.

This bill ignores the PAYGO rules of fiscal responsibility. It is a 1-year budget rather than the traditional 5- or 10-year budget. So a lot of the problems are hidden. It is not a serious attempt to deal with a serious problem.

We should reject the conference report.

Mr. NUSSLE. Mr. Speaker, could I inquire how much time is remaining on both sides.

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Iowa (Mr. NUSSLE) has 13½ minutes remaining, and the gentleman from South Carolina (Mr. SPRATT) has 24 minutes remaining.

Mr. NUSSLE. Mr. Speaker, we will reserve our time and let the other side catch up a little bit.

Mr. SPRATT. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Speaker, I rise in opposition to this conference report.

In the 2000 campaign, President Bush declared that he was opposed to nation-building. Well, he has succeeded in keeping his commitment. When you leave $3 trillion of debt, a budget with $500 billion in deficit, 3 million Americans who have lost their jobs, 44 million Americans without health care, two more million Americans in poverty, George Bush can say he has kept his commitment against nation-building. Who knew it was America he was talking about.

This budget shows that you cannot finance three wars with three tax cuts and get a different result and continue the same policies by putting your foot on the accelerator on the same policy. You will get the same result: 3 million Americans without jobs, $3 trillion added to the Nation's debt, $500 billion in additional debt on top of that, and no ability to deal with the health care crisis and the college tuition crisis that middle-class families are facing.

We need new direction, a new set of policies to put middle-class families and their economic interests and the interests of their families at the heart of our economic policy. We need to break with the policies that continue to literally reward wealth at the expense of work.

Mr. SPRATT. Mr. Speaker, I yield to the gentlewoman from New York (Mrs. MALONEY) for the purposes of a unanimous consent request.

Mrs. MALONEY. Mr. Speaker, I rise in opposition to the budget.

Mr. Speaker, over the past three years, fiscal recklessness has reigned over this House. Record surpluses have been molded into record deficits. Sensible spending has been overtaken by a bloated budget. Discipline and prosperity have been shoved aside for irresponsibility and mismanagement. Now comes today's budget conference report—an opportunity to acknowledge Federal misspending by establishing budget enforcement rules for, at the very least, the next 5 years. Instead, "pay-as-you-go" has been adopted for 1 year only, but there is no way to untangle this fiscal mess in 1 year. Perhaps our friends on the other side of the aisle realized that the voting public, in fact, embraces fiscal discipline. Perhaps they want to give the appearance of a balanced budget to score points in November. Unfortunately for our country, mere appearances won't fix this mess, and they won't create jobs. This thinly-veiled attempt at election-year discipline is far too little and far too late. Is our government's budget better off today than it was 4 years ago? Not by a long shot, and this conference reports is not going to do anything to change that any time soon. And that's why I am voting "no."

Mr. SPRATT. Mr. Speaker, I yield 1½ minutes to the gentleman from Minnesota (Mr. OBERSTAR), the ranking member of the Committee on Transportation and Infrastructure.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding time.

Mr. Speaker, this budget conference report is another step backward in the action in reverse the Republican leadership and the White House have been conducting on transportation funding over the last 6 months.

Last fall, the Committee on Transportation and Infrastructure introduced a bipartisan bill at $375 billion over 6 years, but to appease the Bush administration, the House leadership jawboned that number down to $350 billion, then 325, then 300, finally $284 billion, the number which the House passed by an overwhelming vote; but that was not low enough for the White House.

Now the conference report cuts $11 billion from the will of the House to $273 billion. The White House still insists on its $256 billion figure. That means not one dollar more for highway and transit, not one new job compared to the current TEA-21 law. That is a formula for gridlock, congestion, and economic stagnation. We should reject this conference report.

Mr. Speaker, I rise in strong opposition to S. Con. Res. 95, the Budget Resolution Conference Report for FY2005. Mr. Speaker, let me briefly focus on the highway and transit funding assumed in the Republican Budget.

Last November, 73 Members of the Committee on Transportation and Infrastructure introduced a bipartisan bill to authorize $375 billion for the highway, transit, and transportation safety programs for the next 6 years. We developed these program funding levels based upon the Department of Transportation's report assessing the highway and transit needs of our Nation. In March, the Committee unanimously approved that bill. That bill would have stemmed the tide of crippling congestion that is overcoming our metropolitan areas.

However, the Bush Administration adamantly opposes additional infrastructure investment, and the House Republican Leadership made clear that the bill would never see the light of day. We have seen a Republican "auction in reverse" ever since.

In February, the Senate, by a vote of 76–21, passed its bill authorizing $318 billion for surface transportation infrastructure. The White House threatened a veto.

To further appease the Bush Administration, the House Republican Leadership forced the Transportation Committee to cut this infrastructure investment even more—to $284 billion. In April, the House considered that downsized bill and it passed overwhelmingly, by a vote of 357–65. It still wasn't good enough for the White House and it again threatened a veto.

Now, the Republican Leadership, pursuant to the Budget Resolution Conference Report, cuts this critical infrastructure investment even further—to $273 billion. The Republican Budget assumes $273 billion for TEA-21 reauthorization, which is $11 billion less than the $284 billion provided by H.R. 3550 (TEA LU) as passed by the House just last month. The Republican Budget is $45 billion less than the Senate-passed funding level.

The reverse auction continues and I fear it will not end until infrastructure investment is cut to President Bush's proposal. The Administration is adamantly insisting that total investment be no more than $256 billion over 6 years. And let me be clear on what the Bush Administration bill provides: not one more dollar for highway and transit infrastructure, not one new job. Compared to where we are today, the Administration's bill provides no increase for highway funding and no increase for transit funding for the next five years—not a single additional dollar. As a result, not one additional job will be created by this zero-growth investment.

The result of the White House's absolute intransigence on its entirely unacceptable proposal is traffic gridlock in our communities and legislative deadlock in Congress.

Mr. Speaker, our country has worked too hard to put the current transportation system in place to allow this administration to squander previous investments made over generations and allow that system to deteriorate.

I urge my colleagues to vote "no" on S. Con. Res. 95.

Mr. SPRATT. Mr. Speaker, I yield 1½ minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, I thank my friend and ranking member of the Committee on the Budget from South Carolina for the time.

Mr. Chairman, every minute, the Bush administration spends $991,000 more than it takes in, basically $1 million in deficit every single minute. We have lost control of the budget; and this is not going to give us control, even though this purportedly is what it is supposed to do.

One of the things that it does, and the American people need to know this, is that it increases the debt limit by $690 billion to over $8 trillion. We were told that the last time we increased the debt limit to $6.9 trillion that we would not have to do it again until 2008 because of the President's tax cuts, and here we are right back again increasing the debt limit to the $8.1 trillion. This is a bad budget resolution.

It used to be that we had a 10-year window. We could look out to see what this budget was going to do over 10 years; and then to hide the real deficit creative aspect of this budget, we reduced that to 5 years. Now none of us could have imagined that we would actually bring a budget resolution to the floor limited to one single year.

This is a bad budget resolution. There is no provision for the future. It digs the deficit even deeper, and then we do not even have PAYGO rules that apply. This budget is out of control and deserves to be defeated, Mr. Speaker.

Mr. NUSSLE. Mr. Speaker, I yield myself 15 seconds, and then I will let them continue.

But I want people to listen. Listen. We have got half the speakers on that side saying, worry about the deficit and debt, and the other half coming like the gentleman from Minnesota saying we are not spending enough, we are not spending enough, we are not spending enough. So is it the deficit or is it spending? My goodness, my colleagues need to get their message straight.

Mr. SPRATT. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, what we have before us today is not a serious document. Putting together a budget should be a reflection of the Nation's priorities. It should be a long-term road map for where we want this country to go and how we expect to get there.

This budget shows that we are not taking this process seriously. This is a 1-year budget providing no commitments or details after the first year. A failure to detail future plans masks the consequences of these policy decisions in future years.

This budget shows that the majority is not taking the deficit seriously, and the results of this budget will seriously tax our children and grandchildren.

Deficits do matter. We cannot just continue to run up massive deficits and add billions to the national debt.

This budget shows that we have no commitment to our future generations. In addition to passing on massive deficits, this budget underfunds education programs and cuts investments in our future, like scientific and medical research.

I urge my colleagues to take their jobs seriously. We have to have a road map for the future. Please vote "no" on this budget resolution.

Mr. SPRATT. Mr. Speaker, I yield 1½ minutes to the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, these are budgets with pay-as-you-go rules. These are budgets that do not have pay-as-you-go rules, from 4 years of budget surpluses to record setting budget deficit. What is hard to understand here?

Mr. Speaker, this Congress and the legacy of this administration cannot be historically large budget deficits and rising anti-Americanism throughout the globe. Yet that is exactly what is taking place here this evening.

We have an obligation to do better. As the father of two little boys, I did not come to this Congress to leave a legacy of debt for our children and grandchildren to inherit. This will not make us more prosperous, nor will it make us more secure at the end of the day.

We can do better, and by applying pay-as-you-go rules just to the United States Senate and not to the House of Representatives is the height of deceit and double-speak that we have before us this evening.

I encourage my colleagues to reject this budget resolution. We can and must do better.

Mr. SPRATT. Mr. Speaker, could I inquire of the Chair how much time is left on this side.

The SPEAKER pro tempore. The gentleman from South Carolina (Mr. SPRATT) has 17 minutes remaining. The gentleman from Iowa (Mr. NUSSLE) has 13¼ minutes remaining.

Mr. SPRATT. Mr. Speaker, I yield 1½ minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, this Republican budget reminds me of Saint Augustine's famous prayer, "Lord, make me chaste but not just yet."

The budget resolution covers only 1 year, not the 5 years normally covered, in order to hide the true scope of the deficits their tax cuts have created.

Its pay-as-you-go provisions do not apply to all of the Republican tax cuts.

Oh, Lord, our Republican friends pray, make us fiscally chaste, but not just yet, and only for a year when it comes to the tax cuts we have given to our wealthy friends.

Since taking office, President Bush's reckless tax cutting policy has drilled a massive fiscal hole in our economy. Today, the Republican budget resolution drills even deeper.

Republicans are giving us Energizer Bunny deficits. They keep growing and growing and growing.

But the Republican paradox is that they hate the government, but they have to run for office in order to make sure that the government does not work, and the perfect form of that is when they control the House, the Senate, the White House, the Supreme Court because then they can take the notion of benign neglect which does not harm, it does not hurt, and turn it into designed neglect where the tax cuts are so massive that cuts in Medicare and Social Security and Medicaid and education and the environment and every other program that has been put on the books over the last 60 years, as each year goes by, has a meat cleaver that has to be applied to it in order to make sure that tax cuts for the wealthiest 2 percentile is preserved.

Mr. Speaker, this Republican budget reminds me of Saint Augustine's famous prayer, "Lord make me chaste, but not just yet."

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Since taking office, President Bush's reckless tax cutting policy has drilled a massive fiscal hole in our economy. Today, the Republican budget resolution drills even deeper.

Republicans are giving us Energizer Bunny deficits—they keep growing, and growing, and growing. . . .

Just 3½ years ago, CBO projected a $5.6 billion surplus over the next 10 years. Today, we're looking at a whopping $4.4 trillion deficit through 2014.

The Republican budget on the Floor today reinforces this astonishing reversal of fortune. It is a stunning, self-inflicted fiscal wound that will fester for generations yet to come. The Congressional Budget Office estimates that the budget deficit in 2004 will top last year's all-time high deficit and reach $600 billion when current borrowing from the Medicare and Social Security Trust Funds are included.

This resolution before us today will essentially freeze non-defense, non-homeland discretionary programs. Its budget proposes $13 billion in mandatory cuts over 5 years under the guise of reducing waste, fraud and abuse. But in reality these cuts could slash veterans' health care, Medicaid, unemployment assistance and other domestic programs that Americans depend on.

The Republican budget scheme calls not for benign neglect of Social Security, Medicare, health care, education and other domestic programs, but designed neglect, in order to siphon away the money the federal government needs to meet its obligations under critical programs that benefit seniors, veterans, the environment and our children.

Former Treasury Secretary Paul O'Neill reported that during cabinet meetings early in the Bush Administration, Vice President CHENEY brushed off concerns about tax cuts causing huge deficits by saying "Reagan proved that deficits don't matter."

The Republican paradox is that Conservatives hate government, but they have to run for office to make sure it doesn't work.

With this budget resolution, they will have succeeded—but their success spells disaster for all of those Americans who depend on the Federal government to help them, and for the future generations who will be stuck with the tab for the tax cuts the Republicans have given to the wealthy.

Mr. Speaker, Vice President CHENEY is wrong. Deficits do matter. Defeat this wrongheaded budget resolution, so that we can stop digging the deficit hole deeper.

Mr. SPRATT. Mr. Speaker, I yield 1½ minutes to the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, what has happened to the heart and soul of the Republican Party? I used to have a lot of respect for my friends on the other side of the aisle when they called themselves fiscal conservatives. The Republicans can never again call themselves fiscal conservatives.

The American people are not foolish. Each person, each household in America understands that in a budget you only spend as much as you have. If you keep overspending year after year, if you spend more money than you take in time and time again, bad things happen; and that is what is happening here.

We are having an orgy of tax cuts, and we have an unbalanced budget, and we are passing on a legacy of debt to our children and our grandchildren.

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Shame on us.

We fought long and hard in this Chamber to balance the budget during the Clinton Presidency. We succeeded by making hard choices. Yet today we are presented with an easy choice, borrow and spend. The borrow-and-spend Republicans have hit once again. Shame on the majority for this sham budget.

When the House debated the budget resolution earlier this year, I rose in opposition to it because it is a big fat IOU to our children and grandchildren. It is unfair. Shame on the majority for abandoning PAYGO for spending and tax cuts.

We should vote down this quick and easy fix. Let us make the hard choices that we were elected to make. Let us pass a budget that balances soon, not one that never balances, and not a phony one that is only 1 year because we want to masquerade the sham that we are causing.

Mr. SPRATT. Mr. Speaker, I yield 1½ minutes to the gentleman from Florida (Mr. DAVIS).

Mr. DAVIS of Florida. Mr. Speaker, I thank the gentleman from South Carolina (Mr. SPRATT) for yielding me this time.

One of the statistics that I think is beyond dispute here is the Federal debt now totals $7 trillion. And if you break that down by every person living in the United States, it is $24,000 a person.

A few brave, moderate Republicans in the House stood for a central proposition that the American people expect us to live by, that is, Democrats, Republicans and Independents, and it is pay as you go. Do not cut taxes, do not spend, do not drive this massive Federal debt up further unless you can find a way to offset the tax cut or spending.

Tonight, the Republican majority in this House entirely repudiates that proposition over the objections of independent-minded Republicans in the House and Senate. There will be no pay-as-you-go. Instead, we will be adopting an historic debt ceiling in excess of $7 trillion. How abysmal. What reckless fiscal responsibility.

It is the Democrats standing on the floor of the House tonight fighting for fiscal responsibility. This is what taxpayers and citizens throughout the country expect. And I would urge the moderate Republicans in the U.S. House to reject this budget resolution. Join your comrades in the Senate and let us restore fiscal responsibility.

Mr. NUSSLE. Mr. Speaker, I continue to reserve the balance of my time.

Mr. SPRATT. Mr. Speaker, could the Chair tell me how much time is left?

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from South Carolina (Mr. SPRATT) has 12½ minutes remaining, and the gentleman from Iowa (Mr. NUSSLE) has 13¼ minutes remaining.

Mr. SPRATT. Mr. Speaker, I yield 1 minute to the gentleman from Tennessee (Mr. COOPER).

Mr. COOPER. Mr. Speaker, I thank the gentleman from South Carolina for yielding me this time.

Mr. Speaker, this is a sad night for this House. The budget of the United States of America should be a blueprint for our Nation, but this budget only extends 1 year. We used to make 10-year budgets, and then our friends on the other side of the aisle got more modest in their expectations. It was reduced to 5 years because they were afraid for the American people to see what lay in the 5 years beyond. Now, they are apparently afraid for the American people to see what lies beyond 1 year.

We should be preparing for the future. We should be living within our means. And for all the good things that have been said about this budget, it hides the largest budget deficit in American history.

Now, if that were temporary, that would be one thing. But what we are looking at are permanent structural deficits that will burden this economy and burden our children and grandchildren for generations. They are doing irreparable harm to our Nation.

There were some good reasons for a temporary deficit, but not for a permanent structural deficit. My Republican colleagues on the other side of the aisle are good people, but they have been misled by ideology into abandoning principles like pay-as-you-go, which helped rescue our Nation before from a sea of debt. They have abandoned the principle of fiscal responsibility that used to be the lodestar for the Republican Party.

It is so important that we pull together and live within our means, spend responsibly, and tax responsibly so that we can have a stronger Nation.

Mr. NUSSLE. Mr. Speaker, I yield myself such time as I may consume to respond to the gentleman that that is why our budget reduces the deficit next year, $100 billion alone, and that is without raising taxes.

Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. PORTMAN), a very valued member of the committee.

Mr. PORTMAN. Mr. Speaker, I thank the gentleman for yielding me this time, and I find it interesting to come to the floor tonight and hear from my friends on the other side of the aisle that we need to have less spending and more fiscal discipline.

Having been on the Committee on the Budget and gone through the process of a markup where we heard again and again how we were not spending enough on education, we were not spending enough on the environment, we were not spending enough on health care, we were not spending enough on labor issues, we were not spending enough. And amendments were offered and amendments were voted down that would spend more and more and more.

And, yes, the Democrats offered an alternative, and I applaud them for that, on the floor of the House, although we did not have one in committee. And it offered more spending, and that is fine, that is fine. But then to come to the floor and say somehow this budget has too much spending in it just does not make too much sense.

The Democrat alternative also offered higher taxes and increasing taxes, and we disagree with that. We think this economy has finally turned. We now see not only the best growth we have had in 20 years, but jobs coming back. We think it is the wrong time to raise taxes.

So I just hope for those listening, my colleagues and others out there, that they realize the budget that is before us, that the chairman of the Committee on the Budget has put together, is a fair budget that provides for spending restraint. It does provide for increases in spending on homeland security and on defense, which are necessary right now, but for the rest of the budget it is pretty much flat.

And, unfortunately, given our budget deficit situation, we cannot make additional investments right now in some high-priority areas and other areas. We have to make, as someone said earlier, some tough choices, and we are making them in this budget.

I want to be clear why we believe that it is important to continue to allow the tax relief to work and not to increase taxes. We believe that because we have seen the impact of tax relief. We did not do it because we just like tax relief for tax relief itself. We did it because we thought it would grow the economy. And it has worked.

This chart shows that the growth of our economy is the greatest growth we have had in 20 years in this country. In the third quarter of last year, we actually had 8.2 percent growth. We had 4.2 percent growth in the last quarter. When you combine the last three quarters together, it is the best growth we have had since the 1980s, and we want to continue that.

The forecast for the future, in fact, is for much higher growth than we even thought was possible only a year ago. Why? Because the economy is really turning.

Along with that growing economy, we are seeing housing starts and permits at record highs. Home ownership in the country is at record highs right now. Minority home ownership is at record highs. This is what is happening out there in the real world, but it is good news about our economy that we want to continue.

We are also seeing here again that it is not just a growing economy and the fastest growth in 20 years, but the jobs are coming back. Unemployment in this country right now is 5.6 percent. That is lower unemployment, my colleagues, than we had in the 1970s, in the 1980s, or in the 1990s. The average unemployment in those three decades was higher than 5.6 percent. We are seeing unemployment at low levels, and we are seeing jobs coming back. There were 1.1 million jobs created in this country in the last 8 months. That is a million, 1.1 million, jobs in the last 8 months.

But let us talk about those jobs. Perhaps the gentleman would like to tell me what is wrong with 288,000 new jobs being added last month, 300,000 jobs in the month of March. We are seeing the jobs coming back big time, and this is not the time to change our direction and raise taxes on the American people and on small businesses and on our families. It is a time to continue to see this economy grow and prosper. That is what this budget provides.

It is a fair budget. It makes tough choices, but it also ensures that we continue to have the kind of economic growth that all of us hope to see.

Mr. SPRATT. Mr. Speaker, I yield myself 15 seconds to respond to the gentleman.

The gentleman said jobs are coming back, and the recent job growth is a welcome development, but, Mr. Speaker, we are still 2.2 million jobs below the level of jobs existing in the economy in March of 2001 when the last recession began. We have never seen such a jobless recovery as we have seen now.

Mr. Speaker, I yield 1½ minutes to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, this budget does not just deepen the fiscal deficit, it deepens the moral deficit of cynicism that Americans feel increasingly towards this government, because this budget is built upon a misrepresentation. It is built upon the misrepresentation that we can have it all and never make a tough choice. It says you can keep raising what you spend, you can continue to reduce taxes, you can continue to borrow massive sums of money, and nothing bad will ever happen.

Something very bad is going to happen if this budget should become law. We are going to borrow more money, drive up interest rates, dry up capital for the private sector, and kill jobs in this country for many, many years to come.

Mr. Speaker, I think the majority has a point when they put forward a 1-year budget resolution. Maybe there is intuitive wisdom in that, because if they follow this policy next year, they will not be writing the budget resolution, a new President and a new majority will.

We welcome and look forward to that day.

Mr. SPRATT. Mr. Speaker, I yield 4 minutes to the gentleman from Maryland (Mr. HOYER), the minority whip.

Mr. HOYER. Mr. Speaker, there has been a lot of talk about the economy on that side of the aisle. I do not blame them. I would not talk about this budget either. I, frankly, would not talk much about the economy either. A net loss of jobs to this date. Does anybody want to dispute that? Apparently not.

Let none of us be mistaken about what we are witnessing here on the floor today. Mr. Speaker, as important as the budget debate is at a time of record deficits, at a time of exploding debt, at a time of war, this debate is about far more than the budget. This debate marks the death, in time and place, of the so-called Republican revolution.

Ten years ago, the Republican Party recaptured the majority on a pledge of reform and a wave of hot rhetoric. Today, with this, and I use this word advisedly, dishonest, phony, political Band-Aid that the majority wants to call a budget, they, for all intents and purposes, are raising the white flag of surrender and announcing to all of America: We Republicans simply cannot govern. We Republicans simply cannot fulfill one of our most basic responsibilities, to pass a real, honest budget. We Republicans have been so blinded by our tax cut ideology, that we do not recognize the irresponsibility and, yes, the immorality of policies that force our children and grandchildren to pay our bills.

Mr. Speaker, this 1-year Republican budget is simply not credible. It brazenly attempts to conceal the record deficits that Republican policies have created and the fact that they have no plan to rein in those deficits. In fact, for the 1 year it does cover, it projects a deficit of $367 billion.

It conceals the fact that Republicans are robbing the Social Security trust fund to pay for Republican tax cuts skewed toward the highest-income taxpayers.

It conceals the fact they would freeze domestic priorities, such as health care and the environment, and cut them drastically in the future.

And it conceals the fact that this conference report would increase the statutory debt limit by $690 billion.

And not one of my colleagues on that side of the aisle has the courage to stand up and vote for that increase. Not one.

I have been here long enough to hear my colleagues railing about increasing the debt. Last year, my colleagues increased it even more, without a vote. It was increased to almost as much as the entire debt from 1789 to 1981 at the time I came to Congress. It was $981 billion then, and my Republican colleagues increased it $940-plus billion last year and another $670 in this budget.

So, Republicans, my friends, when you vote on this budget, know that you are voting to increase the debt by $670 billion.

This budget also conceals the fact that this conference report would lead us into further debt of $8 trillion.

☐ 1945

Yet under the Hastert rule, there will be no debate and no vote on that action.

Mr. Speaker, with this conference report, the majority demonstrates its inability to govern and refuses to address the problems that its own policies have created. This is the last gasp of the revolution. I do not think that they will accept it on the other side, certainly they should not; and I do not think they will. I urge my colleagues to vote against this conference report.

Mr. NUSSLE. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida (Ms. GINNY BROWN-WAITE).

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I am pleased to be here this evening to discuss how well we treated the veterans in this budget.

Since Republicans took control of Congress in 1995, we have made great strides in improving the benefits for our Nation's veterans. During that period, total spending on veterans has increased from $38 billion to $60 billion. That is a 58 percent increase compared with only a 36 percent increase during the previous 10 years when the Democrats were in control.

And since 1995, payments per veteran have actually risen by 79 percent. Let us take a moment to review some of the most important improvements. For example, in veterans medical care, the Republican Congress has expanded eligibility for medical care in 1996 and 1999. As a result, the number of veterans using the VA medical care has increased from 2.5 million in 1995 to almost 4.7 million today.

Since 1995, the total spending on veterans medical care has increased from $16.2 billion to $28.3 billion this year alone. That is a 75 percent increase. In veterans educational benefits, since 1995 monthly education benefit levels under the Montgomery-GI bill increased from $405 to $985, a 143 percent increase. This compares with only a 35 percent increase during the time that the Democrats had control.

And under the 40 years of Democrat control prior to us taking control, there was no progress made whatsoever on concurrent receipt. We are very fortunate now that military retirees who are injured in combat or while training for combat or who are 50 percent or greater service disabled are eligible for the first time to receive retirement benefits concurrent with their veterans disability compensation. There is no doubt that the Republicans have helped the veterans in this budget.

Mr. SPRATT. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, let me make a couple of points clear because they have been brought up repeatedly throughout this debate.

First of all, how much have we reaped in the way of jobs as a result of these enormous tax cuts mainly benefiting wealthy Americans? What has been the pay-off in jobs?

This economy went into a recession in March 2001. If we take the level of jobs in the private sector at that point in time and compare it to today, we are short. There are 2.2 million fewer jobs today, notwithstanding the enormous stimulus of all these tax cuts, 2.2 million fewer jobs. For the first time since President Hoover, we have a recovery where we have not recovered the jobs even though we are 15 months, 18 months out from the trough of the recession. Actually, it is longer than that.

It has also been said that revenues have been rising, and they have taken an up-tick recently; but this chart shows when President Bush proposed his tax cuts, and we said, Mr. Bush, you are betting the budget on a blue-sky forecast; you are betting it for everything it may be able to sustain, this was the course of revenues that he projected, OMB projected with the tax cuts. With the $3.5 trillion worth of tax cuts that was enacted in 2001, the Bush administration nevertheless projected that revenues would rise and stabilize at that level.

Here is the actual level. The broken blue line is the projected level, the red line which descends precipitously is the actual level of revenues, and the difference between these revenues here, which is about $1.1 trillion and this level here, which is below $750 billion, is at least $250 billion. Revenues have not risen; taxes have not rebounded. We have not had the supply-side phenomenon now, as we did not have in 1981. This is the actual record.

Let me show Members the situation we find ourselves in which makes it absolutely essential for us to use the budget resolution, the one tool that we have which deals in the aggregate with everything we have spent and everything we take in by way of taxes.

This is the curve on which we were proceeding in 2001 when Mr. Bush came to office. He inherited an advantage that no President in modern times has had, a budget in surplus. He was in surplus by $236 billion in fiscal year 2000, and this was the course that was projected by his economists at the Office of Management and Budget. This is the course that we have determined we are on today. If you are just for what Iraq is likely to cost and what Afghanistan is likely to cost, if you assume that all of the tax cuts are going to be renewed, which is a politically likely assumption, this is where we are. We get a little up-tick from the economy, but the bottom line shows that having risen a bit from a projected deficit of $521 billion this year, we go up a little bit over $324 billion, but 10 years from now we are right where we started: $502 billion. We tread water. We do nothing. We accumulate debt, and that is why we are having in this resolution to raise the debt ceiling by $690 billion, because year after year we are stacking debt on top of debt. That is the result of this budget, and this resolution does nothing on the revenue side or the spending side.

We have heard a lot of talk about how we have this runaway spending, but let me show where the spending is occurring. If we look at all of the spending in the Federal budget and you take these spikes in the budget where spending in certain accounts is faster than current services, guess what those accounts are: defense, homeland security, the response to 9/11, accounts for 4 fiscal years accounts for 90 to 95 percent of all of the increase in spending over and above current services.

There are two points Members can draw from this. First of all, the President has requested this. We provided it. We had to spend it.

Secondly, the likelihood this is going to be reined in significantly, defense, it goes up to $422 billion. That is without including the supplementals. This is not going to be reined in significantly. So to talk about accounts where spending is growing, we cannot expect in the near term any significant cuts in that area.

What we continually hear talk about is the sector of the budget called domestic nonhomeland security, domestic discretionary spending. That is it right there. That is one-sixth of the budget. It is about $384 billion. The budget deficit is bigger than that. Clearly, this has the FBI, the National Park Service, the court service, the whole operation of the government in it. Clearly, we cannot squeeze enough blood out of that turnip to begin to get rid of this enormous deficit.

Let me show Members one final chart just to show it can be done. This budget resolution does not do it, but it can be done. When President Clinton came to office in January 1992, we had just recorded our biggest deficit in history, $290 billion at the end of fiscal year 1992. He came into office in 1993. Spending was at 22.5 percent of GDP. We did it by lowering spending and raising revenues. It can be done again, but this budget resolution does not do it. Let us vote it down and send them back to conference and start over again.

Mr. NUSSLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. NEUGEBAUER) for the purpose of a colloquy between myself and the gentleman from Texas, and ask the gentleman to summarize.

Mr. NEUGEBAUER. Mr. Speaker, in the Senate Budget Committee, they adopted a provision which would have reduced the maximum payments farmers can receive under the 2002 farm bill, and I asked the gentleman to address that during the conference. Is that provision still in the budget?

Earlier this year, the Senate Budget Committee adopted a provision in its budget resolution which assumes enactment of legislation reducing the maximum payments farmers can receive from commodity support programs. As the Chairman knows, the 2002 Farm Bill addressed this issue through a delicate compromise acceptable to rural members across different regions of the country. Any erosion of this compromise would penalize producers in my West Texas district who would be punished for the efficiencies they have achieved. To clarify for my constituents who strongly oppose the Senate provision, I would like to ask the distinguished Chairman of the Budget Committee if the Senate payment limit provision was dropped in conference?

Mr. NUSSLE. Mr. Speaker, will the gentleman yield?

Mr. NEUGEBAUER. I yield to the gentleman from Iowa.

Mr. NUSSLE. Mr. Speaker, that provision is still in the budget. We worked to preserve that. I appreciate the gentleman's leadership on that. The provision in the Senate-passed budget resolution concerning the farm payment limitation is not included in the conference version. I thank the gentleman for his leadership and his continued efforts in this regard.

The gentleman is correct and I appreciate his leadership on this issue and work to ensure that we keep the promises of the Farm Bill. The provision in the Senate passed budget resolution concerning farm payment limitations is not included in this conference version. Any major changes to farm payment limits or any other agricultural policies should be addressed by the Agriculture Committee which has jurisdiction over these issues.

While the House passed budget resolution, H. Con. Res. 393, included $371 million over five years in reconciliation instructions for the Agriculture Committee, these instructions, which were never intended to reduce critical farm commodity support programs, are not included in the conference agreement.

Mr. NEUGEBAUER. Mr. Speaker, I thank the chairman for his efforts on behalf of my constituents in West Texas.

My constituents will be most pleased and relieved by the decision to remove the Senate's farm payment limit proposal in the conference version of the budget resolution and the Chairman's continued affirmation that neither this budget, nor the House version, will reduce any Farm Bill program payments.

The SPEAKER pro tempore (Mr. SIMPSON). Without objection, Members will be allowed to revise and extend their remarks.

There was no objection.

Mr. NUSSLE. Mr. Speaker, I yield 3½ minutes to the gentleman from Connecticut (Mr. SHAYS), a very valued Member and the vice chairman of the committee.

Mr. SHAYS. Mr. Speaker, as we have developed this fiscal year 2005 budget resolution, I have listened carefully to my colleagues on both sides of the aisle. The one common theme for the many budget alternatives offered by the Congressional Black Caucus, the Blue Dogs, and the distinguished ranking member of the Committee on the Budget on behalf of the Democratic Caucus has been higher taxes and more spending.

I have also heard too frequently that my side of the aisle is cutting spending for important programs, like education, veterans, and health care. The fact is when you look at Federal spending for the last few years, you will see few programs that have not received significant increases, in most cases very significant increases. Only in Washington do we call a spending increase a cut.

I think our budget can be summed up in one word: responsible.

We think it is responsible to control spending at a time of mounting budget deficits. By freezing nondefense, nonhomeland security spending for 1 year, we are taking a painful, but necessary, step towards fiscal responsibility. I strongly support many of these programs, but I also know being fiscally responsible requires tough choices, like we made in the late 1990s, including Members saying no to increases to many popular programs.

We think it is responsible to not raise taxes during a period of economic recovery. The tax relief we passed in 2001 and 2003 fueled the economy to 8.2 percent growth in the third quarter of 2003, the highest growth rate in 20 years; 4.1 percent growth in the fourth quarter of last year; and 4.2 percent growth in the first quarter of 2004. Additionally, the unemployment rate declined from 6.3 percent in June 2003 to 5.6 percent in April 2004. While this substantial growth in the economy is welcome news, we know there is still work to do, particularly with employment. We think it is important to continue the policies that have led to the current economic recovery. The fact is there are more jobs today than ever before, but there are more people looking for work.

We also think it is responsible to plan for ongoing military operations around the world. All of us, on both sides of the aisles, want to make sure we provide whatever resources are necessary for the men and women of our Armed Forces who are risking their lives as we speak. I look at the gentleman from California (Mr. LANTOS) as a good example. For this reason, we have provided $50 billion for fiscal year 2005 for the additional cost associated with our operations in Iraq and Afghanistan.

I would just add it is absolutely critical we give this budget the force of law. The Committee on the Budget has marked up legislation that would reinstate discretionary spending caps and pay-as-you-go on mandatory spending. I appreciate the leadership's willingness to consider this legislation soon after we return in June.

Mr. Speaker, from 1997 until 2001, the books of the Federal budget showed that we were running a surplus. For the 40 years prior to that, the country was running deficits. I was grateful that we played a significant role in crafting the budget in the 1990s that not only got us to balance, but got us there ahead of time. We did it by cutting taxes, controlling the growth of spending, and growing the economy.

□ 2000

This budget begins to use that model to address the deficit and get our country's financial house in order.

Mr. NUSSLE. Mr. Speaker, I yield myself the balance of my time.

It is often asked at a time, is America better off than it was 4 years ago? Is it better off at all?

Well, it is.

Homeland security. Since 2000, we have greatly strengthened our homeland security, in part because of the budgets that we have passed to make sure that our homeland is protected through strength. We have created the Department of Homeland Security and more than doubled the funding for homeland security since September 11. With the improved resources, we have increased presence in key ports, the Bio Watch program now on many large U.S. cities, and over 500,000 first responders have been trained. America's homeland security is better off.

Defense. Over the past 3 years, we have made great strides in correcting the defense deficit done in the early 1990s, including increasing the Department of Defense's annual budget by over $110 billion to prosecute the global war on terrorism, greatly improving the military quality of life. Our defense is better off than it was 4 years ago, and it is better off under this budget.

Our economy. The economy is growing now in 2004, the best in 20 years, not on the verge of a recession the way it was when President Clinton left office. Real gross domestic product growth is at its highest pace in 20 years. Payroll employment is growing strongly now. We have had 1.1 million jobs added to this economy just since last August. Manufacturing jobs are increasing, the unemployment rate is falling, and housing markets are the strongest in 20 years. The economy is much better off than it was 4 years ago and it will be better if we continue the policies of this budget.

Our budget is the blueprint that allows these policies to continue, and we will all be better off if we adopt that budget here today. We need to adopt it to provide the strength of this country, the growth for our economy, and the opportunity for our future. And we can do it without a tax increase and reduce the deficit by over $100 billion next year alone. That is what this budget accomplishes. The other side offers nothing but fear and trying to talk down the economy and trying to scare people about our future. That is not an agenda. Fear and anger is not an agenda.

The agenda we need to adopt today is a positive one of strength, growth, and opportunity for our future; and we can do it if we adopt this conference report on the budget. I ask for the adoption of the conference report.

Mr. HASTERT. Mr. Speaker, I rise today in support of this Budget Conference Report and I urge my colleagues on both sides of the aisle to support.

I want to thank Budget Chairman JIM NUSSLE for his yeoman's work under difficult circumstances.

My friends, this is a war-time budget.

We are at war, a war started on September 11, 2001.

This is world war, stretching from Afghanistan to Iraq, to almost every other continent on the globe.

This war has two battlefields.

One is the foreign theater, where our troops are fighting a more conventional war, fought by our brave soldiers in Afghanistan and Iraq. The Department of Defense is coordinating this fight.

The other battlefield is here at home, where we are fighting against unknown terrorists. Our Department of Homeland Security is coordinating that fight.

This budget includes responsible increases for both Departments. It also includes 50 billion dollars for possible additional expenditures on the war. Everything else is kept at a freeze level.

To those who don't like this budget, I say this is the most fiscally responsible budget conference report we have considered on the House floor since I have been in the Congress.

Now some of our friends on the other side of the aisle don't like the modest number we include for tax relief in this budget. But they won't be satisfied until we raise taxes on every man, woman and child in America.

We keep the tax cuts in place because the tax cuts keep the economy growing. In fact, since we last met on the floor to talk about the budget, the economy has grown so quickly, that the estimates of the 10-year budget deficit have dropped by a hundred billion dollars. That is why we want to keep the tax cuts in place. To keep more people working, to keep the economy growing, to keep America strong, and to win this war. That is why we need to pass this budget.

Mr. Speaker, let's pass this budget and start the process of getting our work done for the rest of the year.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in this distinguished body wanting more for the American public we were sworn to represent. It was my sincere hope that after 7 weeks in a Conference with Members of the Senate, that Republicans would find a way to make this budget better than it was; instead they somehow found a way to make it worse. Not only does this conference report maintain the prior insufficient funding for vital issues like education, veterans funding, and Homeland Security; but this conference report may very well be the most irresponsible piece of budget legislation to ever come before this body.

The fact that this conference report only truly provides budget figures for 1 year goes beyond being irresponsible, but is in fact cowardly. It is cowardly because the Republicans are putting out a 1-year budget to hide from the long term effects of their own reckless fiscal policies. The truth about this conference report is the same truth that was evident from President Bush's budget and then the House version of the budget; the truth is that Republicans will go to any length to permanently extend tax cuts that benefit the rich.

No longer can Republicans in either body of Congress claim that Democrats are the ones who hold irresponsible fiscal policies. It has been in fact the Democrats who time after time have argued for a lower deficit and more reasonable planning. It has been Democrats who have been working tirelessly to get our budget back into balance. Instead of embracing these goals, goals that the American people clearly care about, the Republicans have decided instead to pursue an extreme agenda that only truly benefits upper-class Americans.

The last time Congress provided a one-year budget was 1979. Any reasonable person can tell you why that is true, because you need to know that the decisions we make today will still make sense in the future. The sad truth is that this conference report is bad now and getting exponentially worse in the future; and the Republicans know it's true.

A vote for this conference report is also a vote to increase the debt limit by $690 billion, to a new limit of $8.1 trillion. When in the history of this Nation or any other nation in fact, has it been in the best interest to incur more debt? Again, the truth is clear, Republicans have used this budget for one reason and one reason alone, to make permanent their tax cuts for the wealthy. In fact, their oneyear budget provides $122 billion less in defense funding than the President has requested for 2006 through 2009. Instead of making a reasonable compromise, Republicans in both chambers of Congress have found a way to increase the debt while still under-funding vital national priorities.

This conference report may also be classified as cowardly because not only does it shy away from budget enforcement rules, but it runs and hides. Once again, the truth is open and known; Republicans refuse to have any reasonable constraint on their reckless tax policies.

The most disturbing aspect of this conference report is the way it avoids practical Pay-As-You-Go (PAYGO) budget enforcement rules. For years, the calls for fiscal responsibility were deafening from the Republicans in this body and yet when they have the opportunity to truly be responsible they decide to take the course of recklessness. When Democrats wanted to increase funding for necessary programs in education, veterans funding, and Homeland Security we were told that increasing spending would harm the economy. Yet, when Republicans themselves present wholesale changes in tax policy that have only been proven to benefit the wealthy, they are unprepared and unwilling to offer any offsets. This conference report will make these drastic tax cuts permanent with having any offsets to help bring our budget in to balance. Revenues coming in to the Federal Government are at an all-time low and yet this nation's needs are increasing.

This conference report represents the kind of irresponsible budget policies that have failed this Nation before. Republicans have not lived up to the promises they have made in the past. Unfortunately our children will be the ones forced to live with the consequences if we allow this conference report to pass today.

Mr. BARRETT of South Carolina. Mr. Speaker, as we know, the policies we've put in place to support economic growth are working.

But in addition to getting and keeping the economy going, we must also control spending. It matters. If you're going to say that deficits matter, you'd better believe that spending matters. All spending must be paid for, either through taxes or borrowing—and both are burdens on the economy. And for that simple reason alone, controlling spending is itself a policy for sustaining stronger economic growth.

This budget calls for several measures to help us get our hands around what has become an unsustainable rate of spending growth. This includes holding the line on all nondefense, nonhomeland security spending.

As Chairman NUSSLE mentioned earlier, this won't be easy. Many of us here in Congress have gotten pretty comfortable signing off on huge spending increases, and free-flowing new spending.

But success at keeping taxes and spending down will mean a stronger economy and better standards of living for our Nation. If we don't control spending the result will be higher borrowing or higher taxes.

Federal Reserve Chairman Greenspan has agreed that we need to control spending, not raise taxes, if we want to make sure that we don't harm our economy and our standards of living.

Here is his quote:

> Tax rate increases of sufficient dimension to deal with our looming fiscal problems arguably pose significant risks to economic growth and the revenue base. The exact magnitude of such risks are very difficult to estimate, but they are of enough concern, in my judgment, to warrant aiming to close the fiscal gap primarily, if not wholly, from outlay restraint.

The simple translation of what he said is that we need to restrain spending because the economy would be hurt by higher taxes. Our budget resolution does just that: it restrains spending and keeps taxes from increasing. That's good for our economy, and it's good for our Nation.

Mr. SPRATT. Mr. Speaker, the Budget Resolution Conference Report marks the end of a long, arduous process, during which our staff do most of the work and get little of the credit they are due. I would like to thank my excellent staff for their expertise and energy and tireless work. They are as follows: Tom Kahn, Sarah Abernathy, Arthur Burris, Linda Bywaters, Dan Ezrow, Jennifer Friedman, Jason Lumia, Sheila McDowell, Diana Meredith, Joe Minarik, Kimberly Overbeek, Scott Russell, Andy Smullian, Lisa Venus, Andrea Weathers, and Jesse Contario.

Ms. WATSON. Mr. Speaker, I rise to oppose the Republican budget that we are being asked to vote on today. For several years now, responsible Members of this body have been speaking out against a budgeting process that has been getting more absurd and undemocratic by the year.

But I believe this year that the Republican leadership has outdone itself. Again this year, Republicans have given us a budget that fails to pay for health care, fails to pay for schools, fails to pay for veterans, and fails to pay for roads. Again this year, they have given us a budget that increases the debt that our children will have to pay, tying a thousand-pound weight around the neck of our economy.

But this year, the Republican leadership has added a new twist. This budget is structured so that it cannot even be passed by the other body and become law.

For those Americans outside of Washington who are watching this tonight, you deserve to know something about the cynical exercise we are engaged in here. The vote we will cast tonight will be purely symbolic. It will only be symbolic because some Republicans on the other side of the Capitol Building are finally saying enough is enough—that we cannot continue to rack up debt and force it onto our children. I regret that the Republican leadership in this House has not yet reached the same conclusion and decided to get our fiscal house in order.

Mr. EVANS. Mr. Speaker, I rise in opposition to S. Con. Res. 95. As too many of us in this body know, this budget is a sham. It fails to account for the real costs of waging the war in Iraq and Afghanistan. At least on the House side, it allows tax cuts for the wealthiest Americans to go forward unchecked, while spending for important domestic programs is laid to waste.

Among those high priorities that will be severely underfunded is veterans' health care. Committee on Veterans Affairs Chairman CHRISTOPHER H. SMITH and I submitted Views and Estimates to the Budget Committee requesting that it add $2.5 billion to VA's budget for fiscal year 2004. This was not a "pie in the sky" request, but rather, focused on maintaining current services, restoring funds from the administration's failed proposals to increase copayments and introduce new enrollment fees, and slightly enhancing some services that will have to respond to the needs of demobilizing troops. The resolution we are voting on today will make less than half of these funds available to VA's discretionary programs.

Mr. Speaker, sadly, I realize VA programs are among those considered "protected" in this budget fiasco. Many social programs will fare worse. Unfortunately, that's not good enough for our veterans, especially during a time of war when we should be most sensitive toward keeping our promises to the men and women who have borne the battle.

Many of the major veterans' organizations have expressed great concern about the budget. As underfunded as the budget was by the Committee's reckoning, it is even more so according to the Independent Budget. The four major veterans service organizations who prepare this document estimate that VA requires almost $4 billion to maintain its services in fiscal year 2005. And that's not the worst of it—budget process bills that may be put forth in the near future may use the projections of future years spending to bind us to even more inadequate budgets. So as bad as fiscal year 2005 looks, the outlook for future years could be even bleaker.

Mr. Speaker, we must do better by the veterans who have served us. We must do better by the American people. Vote "no" on accepting this Conference Report.

Mr. DINGELL. Mr. Speaker, once again I rise in opposition to the irresponsible budget conference report before us today.

This conference report, for the first time in over twenty years, only provides us with a one-year budget plan. In the first version of the bill, my colleagues attempted to use a five-year budget instead of a ten-year budget to hide the massive fiscal irresponsibility of their plan. Now, because even a five-year plan was too much, they have reduced it even further to merely one year. There is no plan to reduce the deficit or to provide funding for this Nation's most important domestic programs, for our veterans, our seniors and our children. This rascality on the part of my Republican colleagues is unacceptable. The American people deserve to know the outrageous bills the Bush Administration is racking up in their name and with our children's credit.

Further, this bill included $55.2 billion in additional tax giveaways which will only add to the already ballooning deficit. My Republican colleagues will not even apply the "pay-as-you-go" (PAYGO) method to these tax giveaways because they know we cannot afford them. The PAYGO enforcement rule is a mere common sense attempt to steer clear of unnecessary excessive spending. This is especially necessary to afford the tremendous costs of war which we face today. In this budget, the PAYGO rule is only applied to entitlement spending for one year, and in reality would only apply to legislation in the Senate.

If this budget passes, we will also be agreeing to increase the debt limit by $690 billion, to $8.1 trillion. Including this measure in the budget and not as stand-alone legislation, is merely an attempt to conceal the catastrophic costs incurred by the fiscal policy of this Administration and Congress.

On the Medicare side, Republicans offer no proposals to improve the insufficient Medicare drug benefit enacted last year. Also absent from this budget are other proposals that could improve the Medicare program such as funding for increased nursing home staffing and quality improvement or fixing the flawed payment system for doctors. Nor are there any proposals to protect the Medicare program from being overcharged and defrauded by private insurance companies and Health Maintenance Organizations. And of course, there is the similarly outrageous effort of this White House to hide from both Democrats and Republicans the true cost of their Medicare privatization bill, which truly makes me wonder whether any of their budget numbers can even be trusted.

This budget continues the Republican war on the environment. The President and Republicans will try to sound like they are environmentalists, but the truth is in this budget which contains drastic cuts to major environmental protection programs. This budget cuts discretionary environmental spending by $900 billion below 2004 levels. My Republican colleagues would rather give tax breaks to their fat cat friends than invest in clean water and cleaning up toxic waste sites.

In addition, this budget does nothing to protect the Social Security trust fund, five years from when the first of the baby boomer generation reach retirement age. These Republicans' fiscal mismanagement will squander the entire $1 trillion Social Security surplus, adding to the ballooning deficit and throwing the long term economic security of millions of Americans into doubt.

For education, No Child Left Behind is already dramatically under funded and this budget will continue this disgrace. We cannot leave the states to pick up the tab for this federally mandated program. Special education, after school programs, teacher training, Pell grants, Perkins loans, and vocational education are all either frozen or cut under this draconian budget. I wonder if my colleagues on the other side of the aisle are trying to ensure that public schools fail so they can privatize the entire system?

We need to get back to fiscal responsibility and get the nation's economy back on track before this economic crisis gets even further out of control. We need to take care of our veterans, our children and our environment. We need to ensure that our citizens have healthcare and education and opportunities. This conference report is nothing but a sham and I urge my colleagues to reject it.

Mr. LANGEVIN. Mr. Speaker, today I rise in opposition to the conference report on S. Con. Res. 95, the Republican budget.

Rhode Islanders are facing challenges on many fronts, and the budget resolution gave us an opportunity to address many of them, including education, health care, and housing shortfalls. Instead, Republicans chose to continue borrowing money from future generations to pay for their failed fiscal policies that have left the economy more than two million jobs lighter since the beginning of the current Administration. Under the Republican budget, the obstacles we face today will only grow in the coming years.

Although I did not believe it possible, the conference report before us today is actually less fiscally responsible than the budget which barely passed this House in March by a razor thin margin of 215–212. As a member of the Select Committee on Homeland Security and the Armed Services Committee, I understand the unprecedented challenges our nation is facing at home and abroad. All of us want to ensure that our troops have all the resources needed to protect us and themselves at home and abroad. Both the physical and economic security of our families are at stake. Working within this framework, the Republican leadership could have negotiated a bipartisan compromise that both parties could support, but instead continued down an ideological path without reaching out to Democrats.

This budget has too many shortfalls to list, so I will just cite a few of the most egregious problems. For the first time in more than two decades, the budget conference report fails to specify multi-year policy numbers. By providing the costs for only a single year of programs and policies, the budget provides no plan to reduce the deficit and no commitment that critical resources for defense, homeland security, education, health care, veterans, and other priorities will be available in future years. The absence of meaningful numbers beyond the first year masks the true consequences of Republican priorities.

In addition, this budget automatically raises the debt limit by nearly $700 billion, to $8.1 trillion. There will be no further debate or votes on this crucial issue that affects the pocketbooks of every American. At a time when the CBO anticipates a budget deficit of more than $400 billion, Congress must make the difficult decisions to return our budget to balance, but the Republicans failed to do so.

Finally, the budget rejects legitimate Pay-As-You-Go enforcement rules to keep the budget deficit in check. The PAYGO rules would ensure that the government does not increase spending or cut taxes unless these changes would not add to the deficit. PAYGO rules fueled the unprecedented economic and job growth during the 1990s, but the budget before us chooses irresponsible deficits over fiscal restraint.

Deficit spending has stymied job growth and is plaguing our economy. We are facing a record deficit with no plan to return the budget to balance. No Rhode Islander would write a check without sufficient funds to cash that check. Neither should the government.

I urge my colleagues to join me in opposing the Republican budget and working towards a bipartisan, fiscally responsible plan.

Mr. NUSSLE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SIMPSON). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 216, nays 213, not voting 5, as follows:

[Roll No. 198]

YEAS—216

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley

Forbes
Fossella
Frelinghuysen
Gallegly
Garrett (NJ)
Gibbons
Gilchrest
Gillmor
Gingrey
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hensarling
Herger
Hobson
Hoekstra
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Smith (MI)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—213

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Franks (AZ)
Frost
Gephardt
Gerlach
Gonzalez
Goode
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hefley
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hostettler
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Simmons
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—5

Ballance
Delahunt
Hayworth
Leach
Tauzin

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 2028

Mr. SERRANO and Mr. GERLACH changed their vote from "yea" to "nay."

Mr. HOBSON and Mr. BACHUS changed their vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3473

Mr. CAMP. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 3473.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Michigan?

There was no objection.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

The SPEAKER pro tempore. Pursuant to House Resolution 648 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4200.

□ 2028

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4200) to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2005, and for other purposes, with Mr. SWEENEY (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose earlier today, amendment No. 2 printed in House Report 108–499 offered by the gentlewoman from California (Mrs. DAVIS) had been disposed of.

AMENDMENT NO. 3 OFFERED BY MR. HUNTER

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. HUNTER) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 416, noes 4, not voting 13, as follows:

[Roll No. 199]

AYES—416

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hefley
Hensarling
Herger

Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NOES—4

Conyers
Kucinich
Lee
Woolsey

NOT VOTING—13

Baird
Ballance
Burr
Delahunt
Dooley (CA)
Emerson
Gephardt
Hayworth
Jones (NC)
Leach
Murtha
Smith (WA)
Tauzin

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. SWEENEY) (during the vote). Members are advised 2 minutes remain in this vote.

☐ 2045

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated for:

Mr. BAIRD. Mr. Chairman, on rollcall No. 199, the Hunter amendment, had I been present, I would have voted "aye."

The CHAIRMAN pro tempore (Mr. SIMPSON). It is now in order to consider amendment No. 4 printed in House Report 108–499.

AMENDMENT NO. 4 OFFERED BY MR. WELDON OF PENNSYLVANIA

Mr. WELDON of Pennsylvania. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. WELDON of Pennsylvania:

At the end of subtitle A of title XII (page 424, after line 12), insert the following new section:

SEC. 12 . SENSE OF CONGRESS ON DESTRUCTION OF ABU GHRAIB PRISON IN IRAQ.

(a) FINDINGS.—Congress makes the following findings:

(1) Under the regime of Saddam Hussein, the Abu Ghraib prison in Iraq was one of the world's most notorious prisons.

(2) Under that regime, as many as 50,000 men and women were jammed into the prison at one time in 12 feet by 12 feet cells.

(3) Under that regime, many people were tortured and executed in the Abu Ghraib prison.

(4) Recent activities have further highlighted the horrible memories that Abu Ghraib stands for.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the Secretary of Defense should assist the Iraqi Government, with the approval of that government, in destroying the Abu Ghraib prison and replacing it with a modern detention facility.

The CHAIRMAN pro tempore. Pursuant to House Resolution 648, the gentleman from Pennsylvania (Mr. WELDON) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. WELDON).

☐ 2045

Mr. WELDON of Pennsylvania. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I offer this amendment with my good friend and colleague, the gentleman from Pennsylvania (Mr. MURTHA).

This amendment is a sense of Congress that gives the authority to the administration and the Pentagon with the appropriate approval of the new government of Iraq to dismantle the Abu Ghraib Prison that has been the site of so much torture under Saddam's rule and the most recent embarrassment we have had with our troops that have been administering that prison.

In the era of Saddam Hussein, Mr. Chairman, Abu Ghraib, 20 miles west of Baghdad, was one of the world's most notorious prisons with tortures, weekly executions, and vile living conditions. As many as 50,000 men and women were jammed into Abu Ghraib at one time in 12-by-12-foot cells that were little more than human holding pits.

Under Saddam Hussein, there were 4,000 prisoners executed in this prison in 1984. In December of 1997 more than 800 prisoners were executed, including 30 members of the Iraqi National Congress in an effort to clean the prison. On April 27, 1998, between 6 a.m. and 9 p.m. 2,000 inmates were executed in mass firing squads and hanging halls in an ongoing cleaning of the prison.

On December 13, 1998, there was an execution of 81 political detainees, including 18 members of the armed services.

Between October and December of 2000, Qusay Hussein executed 1,000 prisoners at this site. The closed wing of the prison housed only Shiite prisoners who were kept in 12-by-12-foot cells containing an average of 40 prisoners each.

Many of the Kurdish prisoners who were held in this prison and were out of sight were subjected to experimental chemical and biological programs. If we look at the studies by Amnesty International and other U.N. groups, under Saddam Hussein, torture victims in Iraq in this prison were blindfolded, stripped, suspended from their wrists for long hours. Electric shocks and probes were used, including areas of the genitals, ears, the tongue and fingers. They were beaten and whipped. Every type of treatment that was inhumane and unimaginable was done in this prison.

It should have been closed down and it should have been torn down when we liberated Iraq, and it was not done. Unfortunately, for several months last year a small number of our soldiers, as yet to be determined, were involved in embarrassing situations with Iraqi prisoners that we detained.

Now, our justice system works very quickly. And I am proud to report to our colleagues today that within 2 hours, the first soldier that was involved in committing acts that many would call in violation of the Geneva Final Accord was convicted, having pled guilty to crimes against prisoners. This will follow very quickly a justice system that will not drag out for months or years, but within a matter of weeks will hold our American service personnel, a very small number of them, accountable for acts that they committed at this same prison.

What we are saying in this amendment very simply, Mr. Chairman, is assuming the new Iraqi Government, which will take place on July 1, agrees, and it will be their decision because it will be their country, then we are encouraging our Defense Department to work with that government in tearing down this symbol of terrorism, in tearing down this symbol of torture and hatred, to send a clear signal to the Iraqi people that this era of terrible atrocities has really ended; and a new prison will be constructed either at that site or some other site, to allow Iraq to house the prisoners that they have to hold for proper trial and for jurisprudence.

It is the sense of the Congress that the Secretary should assist the Iraqi Government, with the approval of that government, in destroying the prison and replacing it with a modern detention facility.

Mr. Chairman, I reserve the balance of my time.

Mr. McCOTTER. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore (Mr. SIMPSON). The gentleman is recognized for 10 minutes.

Mr. McCOTTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, while I strongly support the underlying bill and fully respect the intent of the esteemed Member's amendment, I reluctantly rise in opposition to it, which I believe at present could potentially result in the alacritous demolition of Iraq's Abu Ghraib Prison.

In so rising, I site the present disposition of another notorious site of murder and repression, Ireland's Kilmainham Jail. Built in Dublin by the British, from 1796 until the release of its last prisoner and future Irish president, Eamon de Valera, in 1924, Kilmainham Jail played a grim host to the incarceration, repression, and execution of Irish prisoners by both the English and then, most tragically, by the Irish themselves.

After initially falling into disrepair and dilapidation, the jail's restoration was commenced in 1960 and eventually concluded in the 1980s by the Irish Republic's Office of Public Works. Today, over 150,000 visitors a year come from all over the world to view Kilmainham Jail, for it constitutes a historical mirror into the torturous times which culminated in Irish independence.

In its present state, Kilmainham Jail has been wrested from its inhuman captors' use as a paradigm of oppression and death, and has instead been presented to humanity as an enduring testament to the transcendence and ultimate triumph of the human spirit in the face of evil.

Mr. Chairman, so too must stand Abu Ghraib Prison. For decades, Abu Ghraib Prison housed the murder, torture and rape of Iraqi citizens at the hands of a butcher, Saddam Hussein, and most tragically has seen the inhumane treatment of Iraqi prisoners by an unrepresentative smattering of despicable captors.

Thus, just as Irish suffering secured Irish ownership of Kilmainham Jail's fate, Iraqi suffering has secured Iraqi ownership over Abu Ghraib Prison's fate.

Abu Ghraib is not America's to obliterate as a site of evil. It is Iraq's to elevate as a testament to history and a caution of the future.

Yet, this is but my opinion, for not being an Iraqi, such is not my decision to make. Nor, I caution, is this a decision to be made by the Coalition Provisional Authority or the Iraqi Governing Council. The CPA and IGC are transitory stewards of Iraqi sovereignty. They are not the sovereign government comprised of the Iraqi people. Thus, if the CPA and/or the IGC makes a determination on Abu Ghraib's future, especially its demolition, such an action will be viewed by many Iraqis as having been done at the behest of the U.S. and our allies and not on behalf of the Iraqi people by the Iraqi people.

In a country and a time teeming with missed opportunities and impending deadlines, let us not miss this chance to act presciently, not precipitously.

I make then the following proposal: Immediately upon the transfer of sovereignty from the Coalition Provisional Authority to the Iraqi people on July 1, the United States must formally tender to the Iraqi government Abu Ghraib Prison. Then the Iraqi people and their new sovereign government, without external pressure and through free speech, debate, assembly, petition and all lawful political processes, the very political freedoms we are trying to impart to them, can justly make their final determination upon Abu Ghraib's final fate.

Nothing could more clearly and fully exhibit our true and sustained commitment to our own democratic principles and to the Iraqi people that our manifest comprehension of a few depraved captors' shame does not eclipse thousands of Iraqis' pain.

This is the sovereign Iraqis' decision to make. It is not ours to insist upon or suggest but only to abide.

Mr. Chairman, I reserve the balance of my time.

Mr. WELDON of Pennsylvania. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Chairman, I happen to think the gentleman has a good amendment. In my opening statement on the bill in the committee, if the gentleman will recall, I suggested this very, very strongly. And without going into great detail, I will just reiterate what I said then and I will agree with the amendment of the gentleman.

Mr. WELDON of Pennsylvania. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank the distinguished ranking member and good friend for his comments.

Just for the record, I would remind my good friend and colleague, the gentleman from Michigan (Mr. McCOTTER) that there will no provisional authority when this bill becomes law. The fact that we vote on this tomorrow does nothing because this bill has to go through the process of working with the other body and being signed by the President. That cannot happen and will not happen until probably October or November of this year.

By October or November of this year, there will be no more provisional authority; it will not exist. There will be an Iraqi Government. And that is what this amendment says; it says only if the Iraqi Government suggests and approves that this action be taken is our Defense Department encouraged to cooperate in that effort.

I would say to my friend and colleague, in the institution he cited in Ireland, there was no U.S. involvement that I am aware of in committing atrocities at that Irish prison. And so perhaps that prison stands to the atrocities caused by those people in Ireland who committed them.

In this case, as all Arabs know, there were in fact very serious incidents caused by Americans. I do not want that prison to be a testament to American atrocities when the greater symbol for the Iraqi people should be the liberation of that country so that they can take care of their own jurisprudence as we have called for and allow them to move forward without the stigma of what was accomplished by a very small number of American soldiers in that prison.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. WELDON of Pennsylvania. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I just want to join the gentleman and join the gentleman from Pennsylvania (Mr. MURTHA) for what I think is a smart amendment that really brings all of us together on this floor.

We just got through voting almost unanimously on a resolution, or a sense of Congress, that we condemn the acts that occurred. The gentleman just noted that procedures occurred earlier this morning that addressed the question of some of those Reservists and National Guard.

Sometimes we disagree on how far up the chain this accountability should be held, but we do not disagree, if you will, on the symbol that that prison now represents; and as well, we do not disagree on the fact that so many men and women are on the front lines, honorably serving, whether it is in Iraq, whether it is in Bosnia or whether it is in Afghanistan.

I believe this is a solid statement. We know, putting aside the tragedies that happened, that we do not discard, I find them horrific, that this is a place that Saddam Hussein used to cut off fingers, to mutilate, to dehumanize, if you will, over the decades. And now, of course, we have these horrific acts by soldiers which we do not uphold.

This is a forward step. And I would think that if we are moving to a democracy, we do not need any more of the hanging prisons located in Iraq, a new democracy that we are all trying to get to. So I would argue beyond my plea for accountability at the very highest levels for these terrible incidents.

I would say this is a very smart amendment. I ask my colleague to support it.

Mr. WELDON of Pennsylvania. Reclaiming my time, I thank the gentlewoman for her comments.

I would say in closing, Mr. Chairman, this does not mandate one thing. This does not require one action. This amendment simply says to the Department of Defense, if the new Iraqi legitimate government decides they want to proceed, we should assist in tearing down this prison. If the new Iraqi regime and government decides they do not want to proceed, then this amendment has no bearing.

I think it makes sense and I think it lets the new Iraqi Government know that we will be there if they decide to destroy this symbol of terrorism. That should be their decision. And if they make that decision, we should authorize our Defense Department to assist them in removing this symbol of terrorism and torture that has been there for so long.

Mr. Chairman, I yield back the balance of my time.

Mr. McCOTTER. Mr. Chairman, I yield myself such time as I may consume.

First, I am aware of America's not having a role in Kilmainham Jail or grandpa would not have come here in the first place, quite likely. I never implied that. It was never stated.

I think the fact that we are having this debate is a worthwhile debate, but it is not what is reflected in the amendment. If the new Iraqi Government applies, if the Iraqi Government referenced in the amendment on line 17 applies to the new sovereign Iraqi Government, it should say so. And since this seems to be the age of deadlines or timelines, put July 1 or later.

It also should not suggest only one course of action. It should suggest that after a new sovereign Iraqi Government decides what they want to do with that facility, I cannot use that word, that evil site, then we should be able to assist them in whatever decision they make.

I was talking to another Member today, it was kind of ironic, about this situation, and he mentioned he had been to Dachau. And there are two testaments to evil that I can right off think of, Dachau and Auschwitz where America liberated.

Auschwitz, which is in Poland, still stands intact. Dachau is a fence with pictures; Dachau is in Germany.

This is an intensely personal decision for the Iraqi people. It should be done through their sovereign government. There should be no external pressure or suggestions as to what they should do.

I believe that a better amendment would have been that we will assist them and the new sovereign government after July 1 in whatever disposition of that prison that they sought and saw fit, based upon the suffering on that site.

Mr. WELDON of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. McCOTTER. I yield to the gentleman from Pennsylvania.

Mr. WELDON of Pennsylvania. Mr. Chairman, this legislation will pass after July 1, so there is no way that this legislation can apply to a government that exists today because, by the time this legislation is completed, it will be the time frame of October or November or later this year. So by the time this bill is signed into law, there will be no provisional authority. There will be a legitimate Iraqi Government duly elected by the Iraq people under their constitution.

So to reference a date is a moot point because by the time this legislation is passed, that date will far have been over.

□ 2100

Mr. McCOTTER. Mr. Chairman, reclaiming my time, in a time of war events often lead legislation and precede it.

I have the utmost respect for the sponsors of this amendment and their intent. I believe him about the legislative process. It is my concern that come July 1 Abu Ghraib prison may not stand anymore and may not be there for a new sovereign Iraqi Government to make that determination. That is my concern; and the drafting of the amendment, as such, could arguably allow that to happen with the implicit consent of a House that passed this amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. SIMPSON). The question is on the amendment offered by the gentleman from Pennsylvania (Mr. WELDON).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. WELDON of Pennsylvania. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Pennsylvania (Mr. WELDON) will be postponed.

It is now in order to consider amendment No. 5 printed in House report 108–499.

AMENDMENT NO. 5 OFFERED BY MR. MEEK OF FLORIDA

Mr. MEEK of Florida. Mr. Chairman, I offer an amendment.

The Chairman pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. MEEK of Florida:

At the end of title IX (page 348, after the matter following line 21), insert the following new section:

SEC. 9___. SECRETARY OF DEFENSE GUIDANCE ON IDENTIFICATION AND INTERNAL TRANSMISSION OF CRITICAL INFORMATION.

(a) DEFENSE GUIDANCE.—The Secretary of Defense shall establish criteria for determining the types of critical information required to be made known expeditiously to senior decision makers in the Department of Defense. The types of information specified should be matters of extraordinary significance and potential strategic impact and should be immediately necessary to facilitate timely information management in the high-level, decision-making process affecting successful mission accomplishment. The Secretary may from time to time modify the list to suit the current strategic situation, as necessary. The Secretary should provide to the Secretaries of the military departments, the commanders of deployed forces, and other elements of the Department of Defense guidance for the purposes of identifying those critical information requirements.

(b) MATTERS TO BE INCLUDED.—The guidance under subsection (a) shall include, at a minimum, requirement for identification of the following:

(1) Any incident that may require a military contingency based on the incident's nature, gravity, or potential for significant adverse consequences to United States citizens, military personnel, or assets, including an incident that provides opportunities for significant adverse publicity of a nature that could have a strategic impact.

(2) Any event, development, or situation that can be reasonably assumed to escalate into a significant adverse incident described in paragraph (1).

(3) Any deficiency or error in policy, standards, or training that can be reasonably assumed to foster significant adverse incidents described in paragraph (1).

(c) POLICY FOR TRANSMISSION OF INFORMATION TO OSD.—The Secretary of Defense shall establish a policy for the transmission from any element of the Department of Defense as expeditiously as possible to the Secretary of Defense and the Joint Chiefs of Staff of any report, assessment, or evaluation commissioned from any level within the Department of Defense that results in the identification of any of the items on the list required by subsection (a). As part of that policy, the Secretary should establish a timetable for transmission of any such report, assessment, or evaluation to the responsible major command upon receipt of the final document by the commissioning authority.

(d) TIME FOR ISSUANCE OF GUIDANCE.—The Secretary of Defense shall establish the list required by subsection (a) and issue the guidance required by that subsection not later than 90 days after the date of the enactment of this Act.

The CHAIRMAN pro tempore. Pursuant to House Resolution 648, the gentleman from Florida (Mr. MEEK) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Florida (Mr. MEEK).

Mr. MEEK of Florida. Mr. Chairman, I yield myself as much time as I may consume.

First of all, I am so appreciative here tonight. I want to thank the gentleman from California (Chairman HUNTER) and also the gentleman from Missouri (Ranking Member SKELTON) for the work that both their staffs have put on this amendment.

In the Committee on Armed Services we had great discussions about some of the testimony we heard from Joint Chief of Staff Myers and also from Secretary of Defense Donald Rumsfeld about some of the issues that happened in Iraq that did not necessarily make it to the top of the chain of command, but they were committed to making sure that we correct those inequities within the DoD chain of command.

What this amendment does that I am offering today is making sure that the critical information from the theater moves up to the Pentagon when that information warrants.

It requires the Secretary to make sure that he identifies what kind of information he needs to know to determine the information that is critical to the strategic plan in theater, giving instructions to personnel on how to identify that information when they see it, and allow it to make it to the Secretary for them to determine how to deal with it in a timely manner.

The Secretary will also deem what is important information and what is not important information. This is basically giving some level of direction and a great deal of discretion to the Secretary, but making sure that this information can get to the Secretary's desk as soon as possible.

Mr. Chairman, I yield 1 minute to the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Chairman, let me take a moment. I rise in support of this amendment offered by my good friend from Florida.

When the Secretary of Defense appeared before the House Committee on Armed Services testifying about the prison abuses, he stated he could not possibly monitor each of the thousands of ongoing cases which might be important enough to warrant his needed attention. He does not need to do that. He needs to monitor only those ones that have potential strategic impact; and during that hearing and in subsequent discussions and investigations, it has become apparent that he has no mechanism to lift those sorts of matters to his attention expeditiously.

The gentleman from Florida's (Mr. MEEK) amendment does just that, and I support it.

Mr. MEEK of Florida. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Chairman, I want to say I do not think we need to take time on this side except to just say I think we have got a good work product here, and I think this reflects some pretty good bipartisan work in what are fairly useful sessions where we have briefings by SEC DEF and the other relevant leadership in DoD.

He brought up the fact, and we talked about the fact, that in the Abu Ghraib prison situation you had General Sanchez starting an investigation immediately after the soldier came forward, and the investigation proceeded apace; and under the UCMJ, the prosecutions proceeded apace; but nobody flagged this as something of particularly extraordinary or explosive impact. So we did not have a system that flagged something.

In this age of television and instant communications, these pictures were out in the press before SEC DEF knew about it or we knew about it or other people knew about it.

So I think this is a good result of the gentleman understanding that, talking it back and forth with DoD. The gentleman from Missouri (Mr. SKELTON) worked on it, and we looked at it and worked on it; and I think the gentleman has a good work product here. It is a way in which they can do essentially what I understand the Air Force has right now, which is when you have something that could have enormous impact, it is flagged up the line so the Secretary and the other leadership can act on it.

I think the gentleman has done a good job, and I appreciate his thoughtfulness and his hard work on the committee; and I think this is a good amendment.

Mr. MEEK of Florida. Mr. Chairman, I yield myself such time as I may consume.

I just want to say, Mr. Chairman, that I appreciate the insight, also the insight from the gentleman's staff and the Democratic staff here. This is working towards definitely troop protection in theater and making sure that at the highest levels of the Pentagon that there are some criteria of what is critical to strategic planning and troops in theater.

So I want to thank the Chairman for his help.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. Does any Member claim time in opposition to the amendment?

The question is on the amendment offered by the gentleman from Florida (Mr. MEEK).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 6 printed in House Report 108–499.

AMENDMENT NO. 6 OFFERED BY MR. HASTINGS OF FLORIDA

Mr. HASTINGS of Florida. Mr. Chairman, I offer an amendment.

The Chairman pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. HASTINGS of Florida:

At the end of subtitle A of title XII (page 424, after line 12), insert the following new section:

SEC. . SENSE OF CONGRESS REGARDING LIMITATION ON USE OF FUNDS FOR THE RECONSTRUCTION OF IRAQ.

It is the sense of Congress that—

No funds available to any department or agency of the United States Government may be used to provide assistance for the reconstruction of Iraq unless the President certifies to Congress that the United States Government has entered into an agreement with the Iraqi Governing Council or a transitional government in Iraq under which Iraq agrees that it will expend a significant portion of its revenues generated from oil production for reconstruction activities in Iraq.

The CHAIRMAN pro tempore. Pursuant to House Resolution 648, the gentleman from Florida (Mr. HASTINGS) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Florida (Mr. HASTINGS).

Mr. HASTINGS of Florida. Mr. Chairman, I yield myself such time as I may consume.

I thank the gentleman from California (Mr. DREIER), the chairman of the Committee on Rules, for working with me to make this amendment in order; and I commend the gentleman from California (Mr. HUNTER), the chairman of the Committee on Armed Services; and the gentleman from Missouri (Mr. SKELTON), the distinguished ranking member, my very good friend, for the work that they have done on this entire bill.

Mr. Chairman, we can all agree wholeheartedly that supporting our soldiers and providing them what they need to get the job done is our highest priority. However, there are some other important matters that must also be addressed regarding the National Defense Authorization Act, issues that the American people want to hear about.

From the President on down to many of us, we have the view that Iraq could fund its own reconstruction. Prior to the war, the Secretary of Defense and his deputy testified to Congress that a war in Iraq and subsequent reconstruction costs could be financed by oil profits in Iraq.

This was reconfirmed on March 27 when Deputy Secretary of Defense Mr. Wolfowitz suggested that Iraqi oil revenues could pay for the cost of reconstituting Iraq. To date, Congress has already appropriated $148 billion to fund the war and reconstruction efforts, and the President is requesting an additional $25 billion for fiscal year 2005.

Moreover, Deputy Secretary Wolfowitz has suggested that between 50 and $60 billion is actually needed, and I, for one, agree with that; but this funding has yet to be supplemented by Iraqi oil revenue.

My amendment expresses the sense of Congress that no funds available for Iraqi reconstruction purposes may be used unless the President certifies to Congress that the United States Government has entered into an agreement with Iraq that it will expend a significant portion of its revenues generated from oil production on its own reconstruction.

This amendment is not intended to use Iraqi oil money to finance the broader U.S. military campaign. Instead, it states that the United States ought to share the cost of Iraqi reconstruction with the free government of Iraq for the benefit of the Iraqi people.

The United States has a responsibility to finish what we are involved in in Iraq. Iraq is an integral and critical ingredient in our recipe for success in the entire region. Nevertheless, the American people should not be expected to bear the full burden of these costs. American tax dollars are building roads in Mosul, but not in my hometown of Miramar.

We are building schools in Baghdad, but not in Boston; and we are funding hospitals in Basra, but not Baltimore. I find this troubling, especially in light of Iraq's vast natural resources and some of the comments that have been made regarding the funding reconstruction efforts with Iraqi oil revenue.

The fact is that if that is unhealthy for Iraq, it should not be healthy for the United States. After all, we are not the ones sitting on a $7 trillion oil reserve. At the very least, Iraqis should share this economic burden. To finance this huge effort, we need partners; and Iraq should be our first and foremost partner in the rebuilding of their country. We cannot afford these efforts any other way, and I ask for my colleagues' support for my amendment.

Mr. SKELTON. Mr. Chairman, will the gentleman yield?

Mr. HASTINGS of Florida. I yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Chairman, I think this is a good amendment, and I join the gentleman; and I urge its adoption.

We support the Iraqis. Everyone in America knows that, and we are supporting them with nearly 140,000 troops, $87 billion-plus in reconstruction funds, and I think the Americans expect this oil-rich country to help pay for reconstruction. This is not unreasonable to expect that they start investing in their own future as well.

As their oil sector recovers, they should be reinvesting those revenues in their own future. I think all across our country people will say why not, what is wrong with the Iraqis paying for their very own reconstruction and helping us in the process.

So I congratulate the gentleman, and I urge the adoption of this.

Mr. HASTINGS of Florida. Mr. Chairman, I thank the ranking member for his comments.

Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. HUNTER), the chairman.

Mr. HUNTER. Mr. Chairman, I thank the gentleman for the time, and let me just add to the remarks made by my colleague, the gentleman from Missouri (Mr. SKELTON). I think it is absolutely appropriate that Iraqi resources be used to rebuild Iraq, and we have no objection to this amendment.

Mr. HASTINGS of Florida. Mr. Chairman, I am pleased to yield back the balance of my time.

The CHAIRMAN pro tempore. Who seeks time in opposition?

The question is on the amendment offered by the gentleman from Florida (Mr. HASTINGS).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 14 printed in House Report 108–499.

AMENDMENT NO. 14 OFFERED BY MR. SKELTON

Mr. SKELTON. Mr. Chairman, as the designee of the gentlewoman from New York (Ms. SLAUGHTER), I offer an amendment.

The Chairman pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 14 offered by Mr. SKELTON:

At the end of title V (page 200, after line 24), insert the following new section:

SEC. 598. DEPARTMENT OF DEFENSE POLICY AND PROCEDURES ON PREVENTION AND RESPONSE TO SEXUAL ASSAULTS INVOLVING MEMBERS OF THE ARMED FORCES.

(a) COMPREHENSIVE POLICY ON PREVENTION AND RESPONSE TO SEXUAL ASSAULTS.—(1) Not later than January 1, 2005, the Secretary of Defense shall develop a comprehensive policy for the Department of Defense on the prevention of and response to sexual assaults involving members of the Armed Forces.

(2) The policy shall be based on the recommendations of the Department of Defense Task Force on Care for Victims of Sexual Assaults and on such other matters as the Secretary considers appropriate.

(b) ELEMENTS OF COMPREHENSIVE POLICY.—The policy developed under subsection (a) shall address the following matters:

(1) Prevention measures.

(2) Education and training on prevention and response.

(3) Investigation of complaints by command and law enforcement personnel.

(4) Medical treatment of victims.

(5) Confidential reporting of incidents.

(6) Victim advocacy and intervention.

(7) Oversight by commanders of administrative and disciplinary actions in response to substantiated incidents of sexual assault.

(8) Disposition of victims of sexual assault, including review by appropriate authority of administrative separation actions involving victims of sexual assault.

(9) Disposition of members of the Armed Forces accused of sexual assault.

(10) Liaison and collaboration with civilian agencies on the provision of services to victims of sexual assault.

(11) Uniform collection of data on the incidence of sexual assaults and on disciplinary actions taken in substantiated cases of sexual assault.

(c) REPORT ON IMPROVEMENT OF CAPABILITY TO RESPOND TO SEXUAL ASSAULTS.—Not later than March 1, 2005, the Secretary of Defense shall submit to Congress a proposal for such legislation as the Secretary considers necessary to enhance the capability of the Department of Defense to address matters relating to sexual assaults involving members of the Armed Forces.

(d) APPLICATION OF COMPREHENSIVE POLICY TO MILITARY DEPARTMENTS.—The Secretary shall ensure that, to the maximum extent practicable, the policy developed under subsection (a) is implemented uniformly by the military departments.

(e) POLICIES AND PROCEDURES OF MILITARY DEPARTMENTS.—(1) Not later than March 1, 2005, the Secretaries of the military departments shall prescribe regulations, or modify current regulations, on the policies and procedures of the military departments on the prevention of and response to sexual assaults involving members of the Armed Forces in order—

(A) to conform such policies and procedures to the policy developed under subsection (a); and

(B) to ensure that such policies and procedures include the elements specified in paragraph (2).

(2) The elements specified in this paragraph are as follows:

(A) A program to promote awareness of the incidence of sexual assaults involving members of the Armed Forces.

(B) A program to provide victim advocacy and intervention for members of the Armed Force concerned who are victims of sexual assault, which program shall make available, at home stations and in deployed locations, trained advocates who are readily available to intervene on behalf of such victims.

(C) Procedures for members of the Armed Force concerned to follow in the case of an incident of sexual assault involving a member of such Armed Force, including—

(i) specification of the person or persons to whom the alleged offense should be reported;

(ii) specification of any other person whom the victim should contact;

(iii) procedures for the preservation of evidence; and

(iv) procedures for confidential reporting and for contacting victim advocates.

(D) Procedures for disciplinary action in cases of sexual assault by members of the Armed Force concerned.

(E) Other sanctions authorized to be imposed in substantiated cases of sexual assault, whether forcible or nonforcible, by members of the Armed Force concerned.

(F) Training on the policies and procedures for all members of the Armed Force concerned, including specific training for members of the Armed Force concerned who process allegations of sexual assault against members of such Armed Force.

(G) Any other matters that the Secretary of Defense considers appropriate.

(f) ANNUAL ASSESSMENT OF POLICIES AND PROCEDURES.—Not later than January 15, 2006, and each year thereafter, each Secretary of a military department shall conduct an assessment of the implementation during the preceding fiscal year of the policies and procedures of such department on the prevention of and response to sexual assaults involving members of the Armed Forces in order to determine the effectiveness of such policies and procedures during such fiscal year in providing an appropriate response to such sexual assaults.

(g) ANNUAL REPORTS.—(1) Not later than April 1, 2005, and January 15 of each year thereafter, each Secretary of a military department shall submit to the Secretary of Defense a report on the sexual assaults involving members of the Armed Force concerned during the preceding year.

(2) Each report on an Armed Force under paragraph (1) shall contain the following:

(A) The number of sexual assaults against members of the Armed Force, and the number of sexual assaults by members of the Armed Force, that were reported to military officials during the year covered by such report, and the number of the cases so reported cases that were substantiated.

(B) A synopsis of and the disciplinary action taken in each substantiated case.

(C) The policies, procedures, and processes implemented by the Secretary concerned during the year covered by such report in response to incidents of sexual assault involving members of the Armed Force concerned.

(D) A plan for the actions that are to be taken in the year following the year covered by such report on the prevention of and response to sexual assault involving members of the Armed Forces concerned.

(3) Each report under paragraph (1) in 2006, 2007, and 2008 shall also include the assessment conducted by the Secretary concerned under subsection (f).

(4) The Secretary of Defense shall transmit to the Committees on Armed Services of the Senate and the House of Representatives each report submitted to the Secretary under this subsection, together with the comments of the Secretary on each such report. The Secretary shall transmit the report on 2004 not later than May 1, 2005, and shall transmit the report on any year after 2004 not later than March 15 of the year following such year.

(h) REQUIREMENT TO DEVELOP DEFINITION OF SEXUAL ASSAULT.—Prior to developing policies and programs on the prevention of and response to sexual assaults, the Department of Defense, in consultation with the Service Secretaries, shall develop a definition of sexual assault that is uniform for all the Armed Forces, including but not limited to rape, acquaintance rape, sexual assault, and other criminal offenses.

The CHAIRMAN pro tempore. Pursuant to House Resolution 648, the gentleman from Missouri (Mr. SKELTON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Chairman, I yield myself such time as I may consume.

I urge the adoption of this amendment.

Mr. Chairman, I reserve the balance of my time at this moment.

The CHAIRMAN pro tempore. Who seeks time in opposition to the amendment?

Mrs. CAPITO. Mr. Chairman, I ask unanimous consent to claim the time in opposition, but I am not in opposition.

The CHAIRMAN pro tempore. Without objection, the gentlewoman from West Virginia (Mrs. CAPITO) is recognized for 5 minutes.

There was no objection.

□ 2115

Mrs. CAPITO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, Americans are concerned about the welfare of the men and women we send to defend our country. The American people understand that war is violent. What the American people will not tolerate is the assault or rape of a female soldier by a fellow soldier. Simply put, this is unacceptable.

Recent reports of sexual assaults of female soldiers serving abroad, along with numerous cases of assaults in or around military bases, clearly demonstrate the need for the Department of Defense to change their approach to this problem.

Women are serving in the military, and we are mighty proud of them. Along with my colleagues today, the gentlewoman from New York (Ms. SLAUGHTER), the gentlewoman from California (Ms. SOLIS) and the gentlewoman from Florida (Ms. GINNY BROWN-WAITE), we offer this amendment to help the military work through this problem, understand its causes, and put in place measures that will prevent it from happening.

The amendment calls for the Secretary of Defense to increase training for officers so they are better equipped to deal with sexual assaults. The amendment calls for a clear and precise protocol that protects privacy and ensures safety and which women can follow to report an attack. The amendment ensures access to the appropriate medical treatment and counseling for women at all times during their service, no matter where they are in the world. This policy is to be put in place by January 1, 2005.

Members of both the House and Senate, including my colleagues on the Congressional Caucus for Women's Issues, have examined this issue, along with the Department of Defense's Task Force on Care For Victims of Sexual Assault. We agree that the action called for in this amendment is beyond necessary to deal with the multiple incidents of sexual assaults in the military.

These steps, which are being mirrored in the Senate's version of the legislation, will help the Armed Forces prevent attacks from happening, as well as put proper procedures in place that bring aid and comfort to those who have survived attacks.

I am hopeful the action by this Congress will help bring a change in the attitude in the U.S. military. It needs to be made perfectly clear that it is unacceptable to sexually assault a female soldier; and if you choose to make that mistake, you will be held accountable for your actions, no matter who you are, what your rank is, or what condition you serve under. I am in full and hardy support of this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. SKELTON. Mr. Chairman, I ask unanimous consent to yield the balance of my time to the gentlewoman from New York (Ms. SLAUGHTER), the principal author of this amendment, and that she be allowed to control that time.

The CHAIRMAN pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Missouri?

There was no objection.

Ms. SLAUGHTER. Mr. Chairman, I yield myself such time as I may consume, and I thank the gentleman from Missouri very much for his leadership.

Mr. Chairman, I rise in support of an amendment to the fiscal year 2005 DOD authorization bill which I am offering with the leadership of the Congressional Caucus for Women's Issues and my good friend, the gentlewoman from West Virginia (Mrs. CAPITO).

This bipartisan amendment will help us take a first step in addressing the problems of sexual assault within the military. Last Thursday, the DOD Task Force on Care For Victims of Sexual Assault released its report and recommendations concerning the problem based on a 90-day study. The Slaughter/Capito/Solis/Brown-Waite amendment is based on the report findings and will help to implement several of the recommendations made by the DOD task force.

Specifically, it would require the Secretary of Defense to develop a comprehensive policy for DOD on the prevention of and response to sexual assaults involving members of the Armed Forces. This comprehensive policy would be based on the recommendations of the task force. In addition, the amendment would require the DOD to take related measures to address sexual assaults in the military, such as reporting the improvement of DOD's capability to respond to sexual assaults, applying the comprehensive policy to all military departments instead of each branch having its own, modifying the policies and procedures of the military departments, annually assessing the policies and procedures, and issuing reports to the Senate and the House Committee on Armed Services.

On March 31 of this year, the Congressional Caucus for Women's Issues held a forum on sexual assaults in the military and submitted its report from the caucus to the Secretary. The Congressional Caucus for Women's Issues has committed to continuing to take a leadership role in addressing this issue.

Mr. Chairman, 120 women have already come back from Iraq saying they have been sexually assaulted by their fellow soldiers. Only 20 of them reported it in the military because of the fact it would end their career. We want to change this attitude and this culture.

Now, a similar version of this amendment has already been included in the Senate version of the fiscal year 2005 DOD authorization bill and has good bipartisan support in the Senate. It has been developed in consultation with the Pentagon and is intended to help the Pentagon start implementing the concrete proactive measures that are outlined in the task force's report.

We want to help, because the Pentagon, in previous reports, has stated over and over again the problem; but very few solutions have come from it. It is by no means intended to be a quick fix to the problem of sexual assault, but, instead, is intended to be a positive first step towards remedying this terrible problem.

Along with my colleagues on the Congressional Caucus for Women's Issues, I also plan to introduce a comprehensive legislation package to deal with other aspects of this issue based on the findings from the Congressional Caucus for Women's Issues hearing, additional research and information that we have been gathering, as well as the task force report.

We look forward to continuing to work together in a productive manner to eliminate sexual assaults of our United States servicewomen. Again, it is a first step, and I encourage my colleagues to approve this amendment to the fiscal year 2005 DOD authorization bill.

Mr. Chairman, I reserve the balance of my time.

Mrs. CAPITO. Mr. Chairman, I yield myself 1 minute. Mr. Chairman, I want to take this time to thank the members of the Congressional Caucus for Women's Issues, and my co-chairwoman, the gentlewoman from New York (Ms. SLAUGHTER). Her work on this issue has been very valuable, and she has been very aggressive; and I think the result of our hearings are bearing fruit here in this amendment.

I would also like to thank the chairman of the committee and the ranking member for their letting us offer this amendment and also, hopefully, making it a part of the bill.

Mr. Chairman, I yield back the balance of my time.

Ms. SLAUGHTER. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. SOLIS), the vice chair of the Congressional Caucus for Women's Issues on the Democratic side.

Ms. SOLIS. Mr. Chairman, today I rise in support of the amendment as vice chair of the Congressional Caucus for Women's Issues. As we all know, our dedicated military servicemen and -women dedicate and risk their lives in order to protect our great Nation. We stand united on both sides of the aisle today as the Congressional Caucus for Women's Issues to bring awareness to an alarming trend of sexual assaults against women in all branches of the military.

The Pentagon itself has reported more than 100 cases of sexual assaults amongst troops deployed in Iraq and Afghanistan over the past 14 months. These numbers are not necessarily reflective of the actual situation, because women are discouraged from seeking help or reporting their assaults because of our military system, which has no comprehensive policy to address sexual assaults.

We are in the midst of a growing problem of violence against women that will not be tolerated. In March, the Congressional Caucus for Women's Issues held a hearing on sexual assaults in the military, where we heard directly from a courageous survivor, Captain Machmer. Her message was very powerful and clear: the military has a pervasive culture that needs to be aggressively addressed. She said, and I quote, "My assailant received a reduction in rank to specialist, forfeited $826 for 2 months, and had extra duty for 30 days. And, still, this person works on the base I worked on."

In fact, studies estimate that 75 to 84 percent of alleged offenders are honorably discharged. What type of message are we sending to women serving in our country, and, more importantly, the next generation of women interested in joining the Armed Forces?

Last week, the DOD Task Force on Care For Victims of Sexual Assault released a report with recommendations. In line with these recommendations, this amendment that we are presenting here tonight would require the Secretary of Defense to develop a comprehensive policy to prevent and respond to sexual assaults in the Armed Forces.

This amendment would also require the Secretary to take steps to improve the Defense Department's capacity to respond to sexual assaults and restructure procedures on how assaults against women are to be handled.

What we need is a commitment to taking action. At this time, when our troops are valiantly committed to our country, I urge my colleagues on both sides of the aisle to support this bipartisan effort.

The CHAIRMAN pro tempore. All time for debate on the amendment has expired.

The question is on the amendment offered by the gentleman from Missouri (Mr. SKELTON).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Missouri (Mr. SKELTON) will be postponed.

Mr. HUNTER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. FEENEY) having assumed the chair, Mr. SIMPSON, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4200) to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2005, and for other purposes, had come to no resolution thereon.

MAKING IN ORDER ADDITIONAL AMENDMENTS AND MODIFICATION TO AMENDMENT 13 DURING FURTHER CONSIDERATION OF H.R. 4200, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

Mr. HUNTER. Mr. Speaker, first I just want to commend the chairman pro tempore, the gentleman from Idaho (Mr. SIMPSON), who has presided over the last several hours of debate. I thank him for a great job.

Mr. Speaker, I ask unanimous consent that during further consideration of H.R. 4200, pursuant to House Resolution 648, the amendments I have placed at the desk shall be in order as though printed in House Report 108–499 and numbered 29, 30, 31, and 32; and

amendment No. 13 in that report be modified in the form that I have placed at the desk; and

the amendments and the modification that I have placed at the desk shall be considered as read for purposes of this unanimous consent request.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. SKELTON. Mr. Speaker, reserving the right to object, and I shall not object at this point, but I wish to offer a brief explanation to one aspect of one of the amendments addressed by this request offered by the gentleman from California, and I do so on behalf of my colleague, the gentleman from Georgia (Mr. MARSHALL).

Mr. Speaker, if you read the text of the amendment, it is very difficult to decipher, so the unanimous consent request makes in order this amendment to correct a mistake in the drafting of the bill. The amendment proposes to add a military construction project to replace the fire crash/rescue station for Warner Robins Air Force Base, Georgia. The amendment offsets this addition by deleting another military construction project, the Visitors Quarters at Homestead Air Reserve Base in Florida.

With that explanation, Mr. Speaker, I agree with the chairman in his request.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The text of the amendments and the modification are as follows:

AMENDMENT NO. 29

At the end of title X (page 409, after line 13), insert the following new section:

SEC. 1077. PLACEMENT OF MEMORIAL IN ARLINGTON NATIONAL CEMETERY HONORING NONCITIZENS KILLED IN THE LINE OF DUTY WHILE SERVING IN THE ARMED FORCES OF THE UNITED STATES.

(a) IN GENERAL.—The Secretary of the Army shall place in Arlington National Cemetery a memorial marker honoring the service and sacrifice of noncitizens killed in the line of duty while serving in the Armed Forces of the United States.

(b) APPROVAL OF DESIGN AND SITE.—The Secretary of the Army, in consultation with Secretary of Veterans Affairs, shall approve an appropriate design and site within Arlington National Cemetery for the memorial marker provided for under subsection (a).

(c) USE OF FEDERAL FUNDS.—Federal funds shall not be required or permitted to be used for the design and construction of the memorial marker provided for under subsection (a).

(d) AUTHORITY TO ACCEPT DONATIONS.—(1) The Secretary of the Army may accept gifts and donations of services, money, and property (including personal, tangible, or intangible property) for the design and construction of the memorial marker provided for under subsection (a).

(2) The authority of the Secretary of the Army to accept gifts and donations under paragraph (1) shall expire on the date that is five years after the date of the enactment of this Act.

AMENDMENT NO. 30

Page 479, in the table following line 9—

(1) in the item for Robins Air Force Base, strike "$15,000,000" and insert "$21,570,000"; and

(2) in the total at the bottom of the table, strike "$398,714,000" and insert "$405,284,000".

Page 483, line 2, strike "$2,493,679,000" and insert "$2,500,249,000".

Page 483, line 5, strike "$398,714,000" and insert "$405,284,000".

Page 492, line 7, strike "$114,090,000" and insert "$107,520,000".

AMENDMENT NO. 31

At the end of title I (page 27, after line 10), insert the following new section:

SEC. . TRANSFER OF CERTAIN ARMY PROCUREMENT FUNDS.

(a) INCREASE FOR CERTAIN HELICOPTER ITEMS.—The amount provided in section 101(1) for procurement of aircraft for the Army is hereby increased by $4,000,000, of which—

(1) $2,000,000 shall be available for procurement of the Aircraft Wireless Intercom System; and

(2) $2,000,000 shall be available for procurement of bladefold kits for Apache Helicopters.

(b) OFFSET.—The amount provided in section 101(5) for Other Procurement, Army, is hereby reduced by $4,000,000, to be derived from amounts for Information Systems.

AMENDMENT NO. 32

At the end of subtitle F of title V (page 172, after line 9), insert the following new section:

SEC. 5 . ESTABLISHMENT OF COLLEGE FINANCIAL ASSISTANCE PROGRAM FOR DISTRICT OF COLUMBIA NATIONAL GUARD.

(a) AUTHORITY.—Under regulations prescribed by the Secretary of Defense, the Secretary concerned may, in recognition of the unique position of the District of Columbia in the Federal system, provide financial assistance to eligible members of the National Guard of the District of Columbia for expenses of such a member while enrolled in an approved institution of higher education in a degree, certificate, or other program (including a program of study abroad approved for credit by the institution of higher education) leading to a recognized educational credential at the institution of higher education. Any such assistance may be provided only during the program applicability period specified in subsection (i).

(b) AUTHORITY SUBJECT TO AVAILABILITY OF APPROPRIATIONS.—The authority provided in subsection (a) is subject to the availability of appropriations for that purpose.

(c) ELIGIBILITY.—To be eligible for financial assistance under this section, a member of the National Guard of the District of Columbia must—

(1) be a member of the National Guard of the District of Columbia for not less than the 12 consecutive months preceding the commencement of the tuition assistance and continue to be such a member while receiving such assistance;

(2) agree to serve one year in the National Guard of the District of Columbia for each academic year of assistance provided;

(3) be enrolled or accepted for enrollment in a program of education referred to in subsection (a) at an institution of higher education; and

(4) if already enrolled, maintain satisfactory progress in the course of study the member is pursuing in accordance with section 484(c) of the Higher Education Act of 1965 (20 U.S.C. 1091(c)).

(d) COVERED EXPENSES.—Expenses for which financial assistance may be provided under this section are the following:

(1) Tuition and fees charged by an approved institution of higher education involved.

(2) The cost of books.

(3) Laboratory expenses.

(e) AMOUNT.—(1) The amount of financial assistance provided to a member of the National Guard of the District of Columbia under this section shall be prescribed by the Secretary concerned, but may not exceed $2,500 for any academic year. The Secretary concerned shall prorate assistance under this section for members who pursue a program of education on less than a full-time basis.

(2) A member may not receive more than $12,500 under this section.

(f) CONSTRUCTION.—Nothing in this section shall be construed to require an institution of higher education to alter the institution's admissions policies or standards in any manner to enable a member of the National Guard of the District of Columbia to enroll in the institution.

(g) DEFINITIONS.—In this section:

(1) The term "approved institution of higher education" means an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) that—

(A) is eligible to participate in the student financial assistance programs under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.); and

(B) has entered into an agreement with the Secretary concerned containing such conditions as the Secretary may specify, including a requirement that the institution use the funds made available under this section to supplement and not supplant assistance that otherwise would be provided to eligible students from the District of Columbia National Guard.

(2) SECRETARY CONCERNED.—The term "Secretary concerned" means—

(A) the Secretary of the Army, in the case of the Army National Guard of the District of Columbia; and

(B) the Secretary of the Air Force, in the case of the Air National Guard of the District of Columbia.

(h) ANNUAL REPORT.—At the close of each year during which the program under this section is in effect, the Secretary of Defense shall submit to the congressional defense committees a report on the effectiveness of the program in improving recruiting and retention for the District of Columbia National Guard. Each such report shall include such recommendations for changes in law or policy as the Secretary considers appropriate. In the first such report, the Secretary shall include an analysis of means for improving the effectiveness as a recruitment and retention incentive of any program providing tuition assistance for members of the District of Columbia National Guard in existence as of the date of the enactment of this Act.

(i) PROGRAM APPLICABILITY PERIOD.—Financial assistance may be provided under this section to eligible members of the National Guard of the District of Columbia for periods of instruction that begin during the three-year period beginning on the date of the enactment of this Act.

AMENDMENT NO. 13, AS MODIFIED

At the end of title XXXI (page 556, after line 10), insert the following new section:

SEC. 31 . ADDITIONAL AMOUNT FOR DEFENSE SITE ACCELERATION COMPLETION.

(a) ADDITIONAL AMOUNT.—The amount in section 3102 is hereby increased by $50,000,000, to be available under section 3102(1) for defense site acceleration completion.

(b) OFFSET.—The amount in section 301(4), operation and maintenance, Air Force, is hereby reduced by $50,000,000, to be derived from the transportation capital fund.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to section 3 of House Resolution 649, the managers on the part of the House on H.R. 2660 are discharged and the bill is laid upon the table.

TRIBUTE TO TWO FALLEN VIRGINIA SOLDIERS

(Mr. GOODE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. Speaker, as we approach Memorial Day 2004, I rise today to salute two members of the military from the Fifth District of Virginia who gave their lives in service to the United States in the war on terrorism.

Lieutenant Colonel William R. Watkins III, lived in Halifax County; and Sergeant Michael Dooley lived in Bedford County. Both of these men loved this Nation and served bravely in Iraq in the war on terrorism. Their untimely death in the spring of 2003 came as they defended the freedoms that we cherish.

Because Lieutenant Colonel Watkins and Sergeant Dooley joined their fellow soldiers in removing the Taliban and Saddam Hussein from power, the terrorists no longer have Afghanistan and no longer have Iraq from which they can operate with impunity and with state-sponsored support to plot, plan, and mastermind another event like September 11 in our country.

Because of the bravery of Lieutenant Colonel Watkins, Sergeant Dooley, and the other hundreds of men and women who have given their lives, the United States and much of the world is safer. And we thank you.

☐ 2130

BUSH RHETORIC DOES NOT MATCH RECORD

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Speaker, it has happened again. The Timken Company of Canton, Ohio, owned by one of the President's biggest fund-raisers, a place where the President a year ago said his tax cut policies were working, look at the prosperity of this company, the Timken Corporation closed its doors in Canton, Ohio, laying off 1,300 people.

The Bush economic record in Ohio: One out of six manufacturing jobs has disappeared, 177,000 manufacturing jobs in the State are gone, 200 jobs a day have been lost since President Bush took office.

The Timken Company sent out a press release 3 weeks ago, bragging about its quarterly sales of $1.1 billion, saying it set some kind of record.

The Bush administration economic record over the last 4 years has been to ship jobs overseas, give tax cuts to large corporations; those large corporations have huge profits, then they lay off American workers. It is the same old story.

This economic policy is not working for my State of Ohio. It is not working for manufacturing. It is not working for working Americans. It is not working for our communities.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. FEENEY). Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

ORDER OF BUSINESS

MR. BROWN of Ohio. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

TIME FOR ACTION ON PRESCRIPTION DRUG IMPORTATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, it is time for Congress to act on legislation to permit prescription drug importation.

Drug companies are the most profitable businesses in America. The drug companies earn profit margins of over 18 percent. That is three times the average of Fortune 500 firms.

These companies are huge multinational juggernauts. In 2001, the 10 biggest U.S. drug companies reported profits of $37 billion. That is more than the Federal Government spends each year on VA health care. It is more than the entire U.S. Department of Housing and Urban Development budget. It is a full billion dollars more than the combined gross domestic product of Lebanon, Panama, and Yemen. That is not total revenue of the drug company; that is its profits.

So how is it the drug companies are able to do so well, even as other manufacturers and companies around this country are having trouble in many cases with staying afloat? By gouging American consumers, that is how.

Drug companies routinely charge American consumers, two, three, four, five, sometimes even ten times what they charge their customers in Canada and other wealthy countries. Medicine sold in Canada is the same safe, effective medicine, same manufacturer, same packaging, same drug, the same ones that our constituents buy at a neighborhood grocery store or drugstore in Elyria, Ohio, but it costs a fraction of the price.

Price data collected last fall by the Alliance for Retired Americans tells the story. Drugmakers charged Americans $89 for Celebrex, an arthritis medicine; Canadians paid $44. The drug industry charged Americans $108 for the cholesterol medicine Lipitor, which happens to be made in Ireland; Canadians paid $61 for Lipitor. Drug companies charged American women $246 for Tamoxifen, the breast cancer drug; Canadian women paid $44.

Our constituents paid 500 percent more for cancer medicine than Canadians paid, same manufacturer, same drug, same dosage. In fact, U.S. taxpayers helped develop that drug. But because the U.S. Government allows drug companies to charge any price they want for essential medicine, that is why these drugs cost so much more.

The best response would be for the American Government to stand up to the drug industry, but Republican leadership and President Bush have already rejected that common-sense policy. In fact, the Medicare prescription drug bill, written by the drug companies for the drug companies, and enacted last year and signed by the President, explicitly prohibits the Federal Government from negotiating on behalf of American consumers for fair prices for prescription drugs.

Think about that. Forty million Medicare beneficiaries ought to be able to get a get a great price because of the number of people that Medicare represents. Yet the Congress has prohibited negotiated prices. Since this Congress, the Republican leadership, will not allow the government to stand up to the drug industry, we should at least allow our constituents to benefit from the tough stance taken by other nations.

A bipartisan majority in this House on this, both sides of the aisle, solidly supported legislation last year that would give our constituents access to prescription drugs imported from Canada and other nations. That vote was a declaration of independence from the powerful drug lobby and a real step forward for our constituents.

Two big drugstore chains in America have announced their support for importation of safe, effective drugs and affordable medicine. They see the tough choices that their customers in this country make every day. We should heed that call. Four States have already established drug importation Web sites, five local governments have set up importation programs, 20 additional States are considering importation as a way to respond to their constituents.

These public officials, Democrats and Republicans alike, are doing what they can because Republican leadership in this body and President Bush have failed to act, and continue to do the bidding of the drug companies.

Seniors in Ohio and throughout the country continue to go to Canada for a better deal on prescription drugs. They know a full deck of discount cards does not offer a discount comparable to the fair prices charged to our neighbor country to the north. Their continued grass-roots fight against the drug companies is a cry for help.

We should answer that call. This Congress should send to the President's desk a responsible, bipartisan drug importation bill before the Fourth of July recess. The President should wean himself of drug company money and influence and sign that bill. America needs a declaration of independence from the drug companies. Let us get it to the President's desk before July 4.

ORDER OF BUSINESS

Ms. WOOLSEY. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

SMART SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, I am here to express my opposition to H.R. 4200, the fiscal year 2005 Defense Authorization Act. Among other things, the bill would approve an additional $25 billion for the war in Iraq. For those that may have forgotten, let me refresh your memory.

Last November, that was a mere 6 months ago, Congress approved $87 billion to fund military operations and reconstruction efforts in Iraq and Afghanistan. At that time, President Bush misleadingly declared that no additional funds would be needed until the year 2005. Since then, funds allocated for Iraq appear to have been misused, misspent and in some cases downright stolen by the companies assigned the tasks of rebuilding Iraq's infrastructure.

It would be totally irresponsible to provide another blank check to this administration, which still has not accounted for how the last $87 billion was spent. But the last $87 billion and the $78 billion before that is just the tip of the iceberg.

The cost of maintaining our forces in Iraq alone costs the United States taxpayers $5 billion a month, and that does not take into consideration the vast reconstruction costs, and more importantly, the tremendous human costs that we are occurring every single day. That is $60 billion a year just to continue our military operations in that one country, assuming nothing goes wrong.

And as events in the streets of Fallujah and the abuses within the walls of the Abu Ghraib Prison have shown with this administration in charge, inevitably there will be more things going wrong. In fact, some estimates suggest that the cost of the war in Iraq could approach a total of $400 billion by 2006.

There are programs in H.R. 4200 that I support, including extending coverage under TRICARE, the military's health care system, to the National Guard and the Reserve forces and their families who lack health insurance.

H.R. 4200 also provides an across-the-board pay increase for military personnel, and it authorizes permanent increases to the imminent danger pay and the family separation allowance.

And finally, H.R. 4200 eliminates the widow's tax which veterans' spouses currently face by improving the existing survivor benefit plan.

I support all of these measures, and I have been working for their passage because each is an important step in keeping our promise to our Nation's servicemen and women, those who have sacrificed so much for their country. But to my great disappointment, in order to support these important measures for our troops and veterans, I would also have to support the development of new nuclear weapons and a gigantic missile defense system, which has never been proven effective, not to mention another gigantic $25 billion spending bill for the war in Iraq.

An open check for the President, despite the fact that, one, we have no idea why we are in Iraq in the first place; two, we have no idea how our money is being spent; and three, we have no exit strategy.

There has to be a better way, Mr. Speaker, because the Bush doctrine of spending without accountability has been tried in Iraq and it is failing.

But there is another way. I have introduced legislation to create a SMART security platform for the 21st century. SMART stands for sensible, multilateral American response to terrorism.

Instead of spending billions on new bunker-buster nuclear weapons and the President's beloved missile defense system, which would not provide an effective defense against a full frontal missile attack, SMART security calls for stronger and smarter investments at home, on homeland security and first responders, and abroad on peacekeeping and conflict-prevention programs.

SMART security defends America by relying on the very best of America: our commitment to peace and freedom, our compassion for the people of the world, and our capacity for multilateral leadership.

Let us be smart, let us be smart about our future. SMART security is tough, SMART security is pragmatic and patriotic, and SMART security will keep America safe.

☐ 2145

EXCHANGE OF SPECIAL ORDER TIME

Mr. GINGREY. Mr. Speaker, I ask to claim the time of the gentleman from Indiana (Mr. SOUDER).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

HAPPY 102ND BIRTHDAY TO MRS. MAE BELL CARTER OF WOODLAND, GEORGIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. GINGREY) is recognized for 5 minutes.

Mr. GINGREY. Mr. Speaker, I rise today to pay tribute to a great Georgian who has lived to witness almost half our State's history. Born in 1902, Mrs. Mae Bell Carter of Woodland, Georgia, will turn 102 years young on May 29.

Mrs. Carter was born in Woodland, married in Woodland, and raised her family in Woodland. Needless to say, she is a fixture in that community and the mother of the mayor and a member of the city council. Mrs. Carter obviously instilled in her children the heart for public service that she has personified for her entire life.

Mr. Speaker, she was long a member of the "Mothers Board" that performed missionary work for the people of Talbot County, nursing the sick and bringing food to the less fortunate. Perhaps her enthusiasm for mission work springs from her long affiliation with the aptly named Friendship Baptist Church in Woodland where she has been a member for at least 90 years.

Her family says in all her years she has been as fashionable as she has been charitable. She is always finely attired and actually walked every day to the post office wearing high-heel shoes. I can attest to this, Mr. Speaker. I met with her recently during a Medicare prescription drug card town hall meeting down in Talbot County. What a fine, distinguished lady she is and a credit to my district, to the State of Georgia, and to the Nation.

Mr. Speaker, I ask my fellow House Members on behalf of the people of Talbot County and Georgia's 11th Congressional District, the district that I am so privileged to represent in west Georgia, to join me tonight in wishing Mrs. Mae Bell Carter a happy and a blessed 102nd birthday.

ARMENIA-AZERBAIJAN MILITARY DISPARITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I rise tonight to address recent reports that I believe signal a conflict in Azeri President Ilham Aliyev's interest in promoting a peaceful resolution to the Nagorno-Karabagh conflict between Armenia and Azerbaijan.

I am particularly troubled by reports from the BBC last week that President Aliyev said that, while he would continue to try to resolve the Nagorno-Karabagh conflict by peaceful means, the Azeri army is able at any moment to free what he called "our territory." The article continues that President Aliyev stated, "We have every right to do that, to restore our territorial integrity."

Such statements, Mr. Speaker, are unsettling and send a message to Armenia as well as to all those involved in working towards a peaceful resolution to the conflict that Azerbaijan is prepared to undertake a military approach to addressing the conflict should recommendations by the Minsk Group not agree with Azerbaijan's position. In fact, such statements, I believe, Mr. Speaker, send the wrong message to the Minsk Group and undermine ongoing efforts regarding stabilization of the South Caucasus region.

Ten years after a mutually signed cease-fire in the region and 3 years after President Kocharian and former President Aliyev came together at Key West, current Azeri President Aliyev has warned that if no concrete issues remain on the agenda regarding a peaceful resolution to Nagorno-Karabagh, then it is "not right to continue and imitate negotiations." President Aliyev's actions and statements do not signal a willingness to negotiate and, in fact, I think they illustrate the opposite. If there is any chance that the parties can move in the direction of a peaceful resolution, President Aliyev must show that he is willing to consider options developed by the Minsk Group without threatening military actions.

In this regard, I would like to highlight from the BBC article that Mr. Aliyev added that the Azeri government's expenditure on Azerbaijan's military was increasing each year and "it will keep increasing in the future." I am discouraged by this, Mr. Speaker, and I would like to address this issue in light of the U.S.'s role in providing military assistance in the region.

I strongly believe we must do everything in our power here in Congress to signal that we will not support the use of military force to address this conflict. Specifically, I call upon Congress and congressional appropriators to restore the military aid parity between Armenia and Azerbaijan.

Earlier this year, President Bush's budget proposed including unequal military aid spending to Armenia and Azerbaijan. This request was contrary to a policy agreement between the Congress and the administration that there would be military parity between the two countries. While the administration believes that the unequal funding will not destroy the balance between Azerbaijan and Armenia, I point to President Aliyev's recent statements and question the Bush administration's recent assurances to Congress before the other Chamber's Foreign Relations Committee.

I would like to point out that waiver language included in section 907 of the Freedom Support Act specifically states that any assistance to Azerbaijan should not be used to undermine or hamper the Karabakh peace process or be used for offensive purposes against Armenia or the Armenian communities in the South Caucasus. President Aliyev's comments regarding current and future increases in Azerbaijan's military funding do not put me at ease that funding from the U.S. either directly or indirectly will not be used to unleash a military campaign against the people of Nagorno-Karabagh.

Amid rising tension and animosity in the region, it is more important today than ever for the United States to be sure that no signal is sent suggesting that one side is being provided a military advantage over the other. Our strength in fostering a diplomatic and peaceful solution is our balanced approach to and for each nation of the South Caucasus. At this time the U.S. should not be providing resources to Azerbaijan that can in any measure be turned into military efforts against Armenia to reclaim Nagorno-Karabagh.

Parity in this regard will help to restore a sense of stability in the region and hopefully add to the U.S.'s evenhandedness in its presence and support for the establishment of a peaceful resolution to the Nagorno-Karabagh conflict.

THE WAR ON TERRORISM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Michigan (Mr. HOEKSTRA) is recognized for 60 minutes as the designee of the majority leader.

Mr. HOEKSTRA. Mr. Speaker, I am glad to be joined by my colleague from Georgia this evening. What we would like to do is to talk a little bit about the war on terrorism, the situation in Iraq, the situation in Afghanistan. We want to start off by providing an answer to some of our colleagues from the other side of the aisle who have been asking the question, In 2004, are we better off than we were 4 years ago? In many ways as we have talked about this issue, we need to recognize and put it in the context of September 11, 2001. For the first time, America has a real and serious response to the war on terrorism. During the 1990s, were we better off in the 1990s as we were attacked in the World Trade Centers in the early 1990s? As our embassies were attacked in Africa? As our barracks were attacked in Saudi Arabia? And as the USS *Cole* was attacked in Yemen, but America did not respond? Was that a good position for us to be in? We found out the cost of neglecting the threat, the emerging threat of global terrorism on September 11. We found out what it would cost us not to have responded during the 1990s.

As this threat emerged, an administration, perhaps even we in Congress, said, this is not a threat that needs a serious focus. We now have an administration, a President, and a Congress that were united in our response to September 11. We said we do face a real threat. We face a global war on terrorism. We face a global war on terrorism that had been emerging throughout the 1990s, but had never been responded to. Now is the time to respond because it is a real threat and it is a threat that we need to take seriously and it is a threat that we need to respond to by taking the war to the terrorists.

The question may not be, Is America better off? We know that America is probably safer than what we were on September 11 or on September 12, 2001. We know that America is much safer than what we were before September 11. We also recognize that we may be safer, but we are still not safe. But there are other questions that can be asked: Are the Afghan people better off today than they were 4 years ago? Are the people of Iraq better off than they were 4 years ago? Are the people in Libya facing a brighter future because of the decisions that have been made over the last few months than they were 4 years ago?

Tonight I do not claim that we have solved all of these problems or all of these issues. I think that we recognize that there is still a tremendous amount of work to do in each of these areas. But Afghanistan does have a new government. Afghanistan does have a new constitution. The Taliban is gone from power. They still exist in various forms of resistance. Al Qaeda no longer has a safe haven in Afghanistan to plan additional attacks against the United States and the rest of the free world. They are still planning those attacks, but the first thing that they have to plan each and every day is how they are going to get through that day. They no longer have the luxury of believing, and during the 1990s knowing, that America would not strike them, even though we knew where they were and we maybe had some idea of their overall intentions and that they had declared war on the United States that we would leave them alone.

So Afghanistan is freer and better off than they were. Saddam Hussein is no longer in power. As ugly as the abuses have been in the prisons by American troops, by a limited number of American troops, we cannot lose the perspective that probably over 300,000 Iraqis were driven to their graves through the brutality of the regime of Saddam Hussein.

Libya is now in the process of disarming. A couple of months ago, I had the opportunity to meet with Muammar Qaddafi in Libya. We tried to understand exactly why Qaddafi had made this switch in strategy, why from being on a list of terrorist states he had evolved to a position where now he was disclaiming any terrorist intent, working with the United States and working with the European Union to disarm, but not only to disarm from weapons of mass destruction but to disclose to the United States and others the capabilities that he had in his nuclear weapons program, which is a step forward, to also not only describe what his program was and to give us many of the materials but also to give us an understanding as to how he had acquired those materials and what was the network of suppliers that facilitated the development of his nuclear weapons program.

As we better understand that network, we also get a clearer picture of what maybe exists today in Iran, what may exist in North Korea as they were on the market shopping for nuclear weapons programs.

So are these three countries and the people in these countries better off? The 50 million people alone in Afghanistan and Iraq that have been liberated from terrorist regimes, are they better off than what they were 4 years ago? Are the people of Libya better off in the new course that their leader has embarked on? I think the answer is very, very clear. The answer is absolutely yes. Is America safer because of a change in regimes in Afghanistan, Libya, and Iraq? I think the answer is clear. It is an absolute yes.

Again I am not saying that the work is done. As we see in the media, as we get in our briefings each and every day, there is still a tremendous amount of work that needs to be done. But we cannot forget the unity that this Nation had after September 11, a unity that said we need to stare terrorism in its face and we need to stare it down and we need to take the battle to the terrorists. That was the message that came from the White House. But that was also the message that was embraced by this Congress and supported by this Congress.

□ 2200

What we need to recognize is that going to war and rebuilding or building representative government or new governments in each of these countries is not an easy process. We maybe had a quick major conflict, a McDonald's war, but when we get done with it, we recognize that building a new Iraq and a new Afghanistan is going to take a tremendous amount of time. And that is the process that we are embarking on today.

But take a look at what has happened. It is progress. Afghanistan is free. Libya has disarmed. Saddam Hussein is no longer in power. Iraq is becoming a free country, making the heart of the Middle East more stable and, therefore, making America more secure. We are more secure because we now have a Department of Homeland Security. Is all the work in the Department of Homeland Security complete? Absolutely not. We do not create that type of an agency and give them that type of a mission and believe in 12 to 18 months that all of that work is going to be completed.

But we now have a Department of Homeland Security that is focused on making sure that our airports are more secure, making sure that our ports are more secure, making sure that our local communities are more secure, because we are developing an infrastructure, a database that allows information-sharing across all levels of government so that we will be more prepared to identify the threats that we face and hopefully to respond to those threats in such a way that a threat never becomes a successful attack on America.

All of our border activities have been consolidated into the Department of Homeland Security, a single agency, doing away with a multitude of different organizations that allowed in some cases the opportunities for some of the 9/11 hijackers to slip through our borders, to rent apartments, to find employment and to train in flight schools, only to have their visas approved by INS after they carried out the attacks on the Twin Towers.

So we are facing the issues that have been identified and moving forward, moving forward in a very difficult process because America is still a free country. And that is exactly what we want to maintain. We want to maintain a free society, but we want to maintain a society that is free and safe. Those are the two paths that we are continuing to try to balance.

I do not know if the gentleman from Georgia (Mr. GINGREY) has any comments. There are lots of things we want to talk about, but I think this is kind of set in context to answer that first question: Are we better off? Absolutely. We recognize the threat that this Nation faces. We are addressing that threat, and we are working and focusing on that real threat each and every day. We do not claim absolute security and safety, but we do now recognize the threat and continue to work to try to make sure that we will not have another terrorist attack in the United States.

I yield to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I certainly thank the gentleman from Michigan (Mr. HOEKSTRA) for organizing this Special Order tonight.

Mr. Speaker, we are here to pay tribute really to the courage, the commitment, and the endurance of our service men and women. And specifically I would like to spend a few moments kind of reflecting on the tremendous job that our troops have been doing in Iraq.

We must never forget that our American forces are primarily responsible for one of the most complex and awesome military successes in history. And the overwhelming majority of our troops did it with compassion, with care for the dignity and the basic human rights of the Iraqi people.

Remember that our military, our military, liberated 25 million Iraqi citizens in just over 3 short weeks. And when we include Afghanistan, American troops have now liberated over 50 million people from oppressive regimes.

Yet despite this military success story, Mr. Speaker, I cannot think of another time in which so much precious time and treasure have been invested in the reconstruction of another country. An international coalition led by America is now building new, modern power plants, a totally new phone system, and nearly 2,500 schools.

Mr. Speaker, the gentleman from Michigan I know has been to Iraq several times, has been to Afghanistan, been to Libya. He has seen what I saw the one opportunity that I had to visit Iraq just before Christmas of 2003, and at that time Fallujah was a little more peaceful than it is today. And I remember General Swanick took us on a patrol. We were in a situation where things were relatively stable. We obviously could not do that today, but we went in those Humvees with those soldiers of the 101st, and we visited a school, which by our standards, Mr. Speaker, one probably would not want their child in a building that has no air conditioning and no heat. It is lighted, but there is not a nice playground or anything like that. But, by golly, there is a chalkboard, and those kids were there and not only little male children but of course for the first time probably in 30 years little precious female children were able to get an education. They were sitting there. They were bright eyed, and they were hopeful. And that is what we were doing in Fallujah before Sadr and all of these terrorist thugs started killing everybody just wantonly and the mass destruction that is going on there right now.

But, I mean, this is the kind of thing that we were doing. More than 8.7 million textbooks have been printed and distributed throughout Iraq; 32,000 secondary school teachers and administrative staff have been trained to teach Iraqi children; 240 hospitals; 1,200 health clinics. Health care spending in Iraq has increased 30 times over its prewar. Five million children have been immunized for measles, mumps, and rubella. That is because of the liberation and the compassion that this country has brought to Iraq.

And I know the gentleman from Michigan has seen so much of that and agrees with me that the good stories are not being told. All of us are appalled with the activity of a miscreant few in that Abu Ghraib prison there in Baghdad and what they did is unforgivable. There is no excuse for that, and they will pay the price.

But it is a shame that we have got 165,000 brave men and women serving in Iraq and Afghanistan and 25,000 coalition forces that are laying it on the line and indeed sometimes paying the ultimate sacrifice to do the right thing, and that is the message that of course does not get the soundbites on this 24-hour news that we have to literally put up with every day in this country. But we are here tonight, and I am just so pleased to have an opportunity. I thank the gentleman from Michigan for allowing me to join with him and talk about the good things that we are doing, and at the end of the day we will succeed in this mission.

Mr. HOEKSTRA. Mr. Speaker, I thank my colleague for his comments.

I want to again talk a little bit about the war that we are in. The Under Secretary of Defense for Intelligence, Steve Cambone, gave a speech back in January that I think kind of describes the challenges that we face as a Nation. And as we talk about the progress that we make in Iraq, as we talk about the progress that we make in Afghanistan, we cannot lose context of the total situation that we face as a Nation. And here is how the Under Secretary described it: "We are a Nation at war. We do not know how long it will last, but it is unlikely to be short. We cannot know where or against whom all of its battles will be fought. There are multiple fronts in this war, and there is no single theatre of operations. We do know that we are all at risk, at home and abroad, civilians and military alike. We do know that battles and campaigns will both be conventional and unconventional in their conduct. Some of those battles and campaigns will be fought in the open, and others will be fought in secret where our victories will be known to only a few."

Going on in his speech he says: "We are facing a turbulent and volatile world populated by a number of highly adaptive state and nonstate actors. Some of these are weighing whether, to what extent, or how they might oppose the interests of the United States and its friends. Others such as the terrorist organizations responsible for attacks on the United States, Turkey, Indonesia, Morocco, Saudi Arabia, Israel, Kenya, the Philippines, Afghanistan, Pakistan, Iraq, and other places have committed themselves to war."

I think this gives us some idea as to the full context of the threat that we face and the number of different places that we face that threat.

He also goes on to say: "It is impossible to predict with confidence what nation or entity will pose a threat in 5, 10, or 20 years to the United States or to our friends and allies."

His speech goes on: "But not everything that unfolds in the coming years should be a surprise." Here is what we can expect: "We can expect that an adversary will continuously search for effective means to attack our people, our economy, military and political power, and the people in power of our friends and allies. We can also expect that an adversary will have access to a range of modern technologies and will be prepared to use them to magnify the destructiveness of their attacks, using truck bombs and improvised explosives, cyberintrusions to attack the computer systems upon which we rely, radio transmitters to jam our space assets, small laboratories to develop new and biological or genetically altered agents, and chemical and nuclear technology materials delivered by missile, plane, boat, or backpack to poison our environment and destroy human lives."

Here is what candidate Bush said in 1999, perhaps better understanding that threat than the administration at that point: "Now our President reminded his audience of an earlier time when a free people confronted what he called 'rapid change and momentous choices.' That time was the 1930s. Nazi Germany was rearming, and the British Government was reluctant to take forceful steps to stave off war. To give voice to his own concerns, candidate Bush quoted Winston Churchill, who repeatedly called upon his countrymen to respond to the gathering storm."

Here is what candidate Bush said and quoted from Winston Churchill: "'The era of procrastination, of half-measures, of soothing and baffling expedients, of delays, is coming to a close,' Churchill said. 'In its place we are entering a period of consequences.' That period of consequences arrived not only for the military but for those who practiced intelligence just 2 years after the President's Citadel speech on September 11, 2001. Like our colleagues in the military forces, we will be judged by our successors on our response to this period of consequences. We face few substantial impediments to transforming intelligence. We are led by individuals at the Department of Defense and agencies who embrace the need for and who likewise are committed to this effort. Congress has provided the resources."

What we see is a true response. "There is an urgency to transform intelligence, defining and achieving operational goals." But what we will not see and what we have not seen from this President, what we perhaps saw during the 1990s and what the folks in Great Britain saw in the 1930s, what they saw and what we perhaps saw, the British Government, the U.S. Government in the 1990s was reluctant to take forceful steps to stave off war. Again: "The era of procrastination, of half measures, of soothing and baffling expedients, of delays, is coming to a close. In its place we are entering a period of consequences."

That was the end of the quote from Winston Churchill. It was the end of an era where we had delays and baffling expediency.

What this President has provided us is an era of leadership, strategically. There can be differences on the tactics. We have done things wrong. Mistakes have been made. It is always great in hindsight to identify a mistake, 20/20 vision, saying we should have done that 2 years ago or we should have done that 3 months ago, and we are second guessing our military commanders in the field, but what we do have is we have a clear sense of vision and commitment to move forward and to get this done. That is what this President has provided. Strategically we are headed in the right direction. Tactically we have got some work to do.

I yield to the gentleman from Georgia.

□ 2015

Mr. GINGREY. Mr. Speaker, I thank the gentleman for yielding, and I want to thank him, too, I really appreciate the historical perspective that he brings to this debate, because we learn from our history. God help us if we do not learn from our history. We repeat the same mistakes.

But the bottom line here is, as the gentleman from Michigan was explaining at the top of the hour, we had 10 years, we had a lot of time, where the gentleman mentioned the USS *Cole*, the Marine barracks in Lebanon, the embassies, and it goes on and on. What did we do? It was a series of drawing a line in the sand, and let me suggest not a very deep one, and a series of double-dog-dare-you.

And what happened? The Twin Towers attack on September 11, 2001. I want to remind, Mr. Speaker, all of my colleagues, that that indeed was not the first attack. It happened in 1993. And what did we do? It is just like, you bomb an aspirin factory?

The gentleman from Michigan put it in such great perspective. We are hearing from the other side, and you are going to hear it for the next 6 months of this presidential election year, we know it, we have heard it, we have heard all about campaign rhetoric, are you better off than you were 4 years ago? They are trying to borrow a phrase from a great president, President Reagan. And what a wonderful job he did, probably one of the greatest presidents we ever had.

I will tell you, like the gentleman from Michigan said, we are better off than we were 4 years ago. But it is not so much important are we better off, but the world is better off. The world is a better place. It is kind of like borrowing from Charles Dickens in the Tale of Two Cities, on that first page, the first paragraph, when he said, It is the worst of times, it is the best of times.

Well, in many ways it is the worst of times. It is always a bad time, a very bad time when we are losing men and women who are paying the ultimate sacrifice defending this country. Even though we agree with Thomas Jefferson when he said that every now and then the Tree of Liberty has to be nourished again by the blood of patriots.

That is what is going on today. Those are the worst of times, but they are the best of times, because we, by the grace of God, have a Commander-in-Chief, a leader of this country, that is a man of faith, a God-fearing President with resolute determination, and he will lead this country out of the morass that we find ourselves in, because it is the right thing to do.

I am so appreciative for having an opportunity to share a little time with the gentleman from Michigan, because the story needs to be told.

Mr. HOEKSTRA. Reclaiming my time, we talk about are we better off. Think about it. It is 1995–1996. We have been attacked a few different times in a few different places around the globe. We know that the organization that is attacking us is a terrorist organization. It is not a nation state, so it does not have a defined boundary. It does not have buildings that you could go and occupy or you could declare war on.

So, what is the response that we have in the intelligence community in 1995–1996? We may have talked about this the last time we had an opportunity to do a special order. It is the called the Deutch Doctrine. Deutch was the head of the CIA during that time.

Are we better off? Well, the response to terrorist organizations, to the uncertainty in Iraq, Saddam was in there. A few years later he kicked out the UN inspectors and continued to flaunt the different resolutions that came out of the UN.

What was the response in the intelligence community to what was a growing and emerging threat? It was the Deutch Doctrine, which says, well, if you are in the field in the CIA and you are thinking about recruiting spies, if they have any human rights violations or they have a criminal record, they really need to go through a special screening process. And, by the way, we do not really want to do business with those kinds of folks. So if you want a career-ending move, send us a bunch of folks that have questionable backgrounds and tell us you would like to recruit them to be spies. In effect, we closed down our human intelligence.

We took a look at what was going on in Iraq prior to the war and what was going on there the last few years. We have excellent imagery from space. We can see buildings and we can see trucks and people moving around, but we do not know what is actually in the building. We can guess. We do not know exactly what is on the minds of the people. Are they stockpiling and producing weapons of mass destruction, or have they decided that they will put the facilities in place that once the UN is out? Do they think, we can produce the stuff in massive quantities in a very short period of time, a just-in-time inventory? We could not understand their strategy, because we went blind on the human intelligence side.

We went worse than that. We went through a process in the CIA that scrubbed the folks that were working for the CIA. What does that mean? Not only were we not going to recruit any more of these folks, but we also said, let us go through and see if we have any kind of these people working for us, and, if we do have these people working for us, it is time to cut them off.

My colleague and I, we know enough about al Qaeda, we know about the other kinds of terrorist organizations, we know enough about Saddam Hussein. The question is, what do you think the profile is? How many of the Eagle Scouts that we said we would only recruit to work for the CIA were in the tent with bin Laden or in one of the palaces with Saddam?

Mr. GINGREY. That is exactly right. As the gentleman said, back in the previous administration, they scrubbed it to the extent that if you had ever had a history of spitting on the sidewalk or jaywalking, you were ineligible to work for the CIA or work in our intelligence.

You have got to fight fire with fire. These are bad guys. When you think of somebody in retaliation, as they might say, or retribution, because we had a few miscreants mistreating, horribly mistreating, and we do not condone that, in one cell block in Abu Ghraib prison in Baghdad, so, tit-for-tat, you chop off the head of a 26-year-old young man who is in Baghdad, who has a history of being compassionate and wanting to help people and do the right thing and maybe restore some communication networks in Iraq. That is what we are dealing with.

So, it is absolutely right. We fell asleep at the switch. But not in this administration. Not on this watch and this president. He immediately responded after 9/11 and told us, and reminded us, this war against terrorism, this is not going to end with the capture of Osama bin Laden. This does not end because we have found Saddam Hussein. He told us 2½ years ago that this war on terrorism is a global war, and it is something that is going to be with us for a long time.

These oceans no longer protect us. It is easy for people to forget.

I want to make one other point, if the gentleman from Michigan will allow me a little bit more time. You know, somebody told me today, I did not realize this, but I went to a movie recently, the premier of "Ike," starring Tom Selleck, a great movie about the lead-up to Normandy, Operation Overlord, and the agony, of course, they went through in trying to time that mission and train the troops on the coast of England.

I did not realize that they actually practiced the invasion of Normandy there on the beaches in England. Of course, a lot of live fire was used practicing that invasion to make sure they got it just right, and over 700 of our soldiers were killed practicing for Normandy, for D-Day, because they were using live fire. There were some accidents that occurred, but we lost over 700 soldiers in the preparation for Normandy.

What if the our Greatest Generation, what if we were in a digital world back then and all that news got out to the 24 hour news network, and, oh my God, what would have happened? Maybe D-Day never would have occurred.

I realize, of course, we have lost over 700 by comparison, maybe 800 now in Iraq and Afghanistan, but we need to put it in perspective. If you ask the Greatest Generation, what should be our exit strategy in Iraq, they would quickly tell you the exit strategy is to win; to win. You do not pull your team off in the fourth quarter because the going gets tough. That is when the tough get going. That is with what made that generation the Greatest Generation.

I think today we may have an even greater generation with these young men and women, these 135,000, 140,000 active component, Guard and Reserve over there laying it on the line for us, spilling their blood to nourish that Tree of Liberty. It makes me very proud of them, and humble as a Member of Congress.

But we have got to stay the course. We have got to continue to, as the gentleman from Michigan has said, to let the American people understand, to know, to put this in the right perspective.

Mr. HOEKSTRA. Reclaiming my time, one of the things we wanted to do tonight, we wanted to talk a little bit about the young men and women who are serving in Iraq. We have a list of many who have received the Distinguished Service Cross or the Bronze Star and those types of things. Maybe we will read some of those citations.

But today in USA Today there was a story entitled "A Marine sees what defeatists do not." This is a young man who is now serving his third deployment with the 1st Marine Division in the Middle East, Ben Connable.

Here is one of the things he talked about when he first went in 1991. "Waiting for war in the Saudi Arabian desert as a young corporal in 1991, I recall reading news clippings portending massive tank battles, fiery death from Saddam Hussein's "flame trenches" and bitter defeat at the hands of the fourth largest army in the world. My platoon was told to expect 75 percent casualties. Being Marines and, therefore, naturally cocky, we still felt pretty good about our abilities.

"The panicky predictions failed to come true. The flame trenches sputtered. Nobody from my platoon died. Strength, ingenuity and willpower won the day. Crushing the fourth largest army in the world in four days seemed to crush the doubts back home.

"Twelve years passed, during which time America was faced with frustrating actions in Somalia and the Balkans. Doubt had begun to creep back into public debate.

"In the spring of last year, I was a Marine captain, back with the division for Operation Iraqi Freedom. As I waited for war in the desert just 100 miles to the north from our stepping-off point in 1991, I was again subjected to the panicky analysis of talking heads. There weren't enough troops to do the job, the oil fields would be destroyed, we could not fight in urban terrain, our offensive would grind to a halt, and we should expect more than 10,000 casualties.

"Remembering my experience in Desert Storm, I took these assessments with a grain of salt. As a staff officer in the division command post, I was able to follow the larger battle as we moved forwards. I knew that our tempo was keeping the enemy on his heels and that our plan would lead us to victory.

"But war is never clean and simple. Mourning our losses quietly, the Marines drove to Baghdad, then to Tikrit, liberating the Iraqi people while losing fewer men than were lost in Desert Storm."

Then he talks about on March 30 he was reading a U.S. newspaper that was in one of the packages that he had received. The stories in the paper: "Horror in Nassariyah, faltering supply lines and demonstrations in Cairo. The mood of the paper was impenetrably gloomy, and predictions of disaster abounded. The offensive was stalled; everyone was running out of supplies; we would be forced to withdraw.

"The Arab world was about to ignite into a fireball of rage, and the Middle East was on the verge of collapse. If I read those stories on March 30, I would have had a tough time either restraining my laughter or, conversely, falling into a funk. I was concerned about the bizarre kaleidoscope image of Iraq presented to the American people by writers viewing the world through a soda straw," not taking a look at the total picture.

He now says, "As I write this, the supply lines are open, there is plenty of ammunition and food, the Sunni Triangle is back to status quo, and Sadr is marginalized in Najaf. Once again, dire predictions of failure and disaster have been dismissed by America's willpower and military professionalism.

"War is inherently ugly and dramatic. I do not blame reporters for focusing on the burning vehicles, the mutilated bodies or the personal tragedies. These things sell news and remind us of the sober reality of our commitment to the Iraqi people. The actions of our armed forces are rightfully subject to scrutiny.

"As a professional, I have the luxury of putting politics aside and focusing on the task at hand. Protecting people from terrorists and criminals while building schools and lasting friendships is a good mission, no matter what brush it is tarred with."

□ 2230

Think about it. This is what one of our soldiers said there. And I have heard this story over and over and over, if you talk to our troops when they are coming back, whether you are in your district or they are in the airport, and you go up to them and say, Thank you.

Here is why they are, I think, overwhelmingly positive because this is what they see their mission as, and they know that when they are doing this mission, they are also doing a mission which protects you and I and our constituents.

Here is how he described it: "Protecting people from terrorists and criminals while building schools and lasting friendships is a good mission no matter what brush it is tarred with. Nothing any talking head will say can deter me or my fellow Marines from caring about the people of Iraq or take away from the sacrifices of our comrades. Fear in the face of adversity is human nature, and many people who take counsel with their fears speak today. We are not deaf to their cries. Neither do we take heed."

His closing two sentences are absolutely awesome. This is one of our young men who is over there with the Iraq people each and every day. He is not talking about in Iraq where the people, as we sometimes perceive in the media, where all the Iraqis and all the people of Islam, hate Americans. Here is what he says, and think about this; this is a soldier who is representing the troops that are putting their lives on the line each and every day. "All we ask is that Americans stand by us by supporting not just the troops, but also the mission." And then I guess as any Marine would say, Here is how he closes. "We will take care of the rest."

Mr. GINGREY. The gentleman is wearing a poppy in his lapel as most of us did today. He continues to wear his, and I am proud of him for that.

Memorial Day is coming up pretty soon, and we all know the symbol of the poppy. And we passed a resolution today honoring those who have served. Our country is almost 230 years old. We have had a lot of conflicts, and that poppy represents our tribute to the fallen many in multiple conflicts.

I cannot help but think about that poem at a time like this that was written by a physician, a surgeon, a Canadian, Doc McCrae, when his best friend was killed in Flanders, Belgium, and buried on their hallowed ground where those poppies grow. It was inspiration to Dr. McCrae to write that poem that we all know so well today.

Mr. Speaker, I am not sure my memory reciting poetry is that good, but I do remember that last stanza is, a short poem, a very short poem. It went something like:

"Take up our quarrel with the foe, to you from failing hands we pass the torch, be yours to hold it high, for if you break faith with us who die, we shall not sleep, though poppies grow in Flanders Field."

Mr. Speaker, it says it all. It is just what the gentleman from Michigan (Mr. HOEKSTRA) was referring to. We owe such a debt of gratitude to these brave men and women who have paid it, an ultimate sacrifice, to those soldiers at Walter Reed or at Bethesda who are over there trying to rehabilitate and get used to wearing those prostheses because they have lost a limb or maybe multiple limbs.

It is very easy to stand here in the House, and sometimes some of our colleagues are awfully critical in talking again about the exit strategy, and we will probably hear some of that later on tonight from the other side. But I think that is absolutely despicable when these men and women, no matter what the cause, have paid that price.

You go back and you talk about the Civil War, you talk about the Korean conflict, you talk about Vietnam where we lost 58,000 men and some women in that conflict. But let me, if I can, just to kind of put it in perspective to bring some reality to it.

Yeah, we had some thugs running that cell block in Abu Ghraib that no matter how much training they may have received, there is no excuse, because what they did, it does not take $50,000 worth of military training to teach them that it is wrong. Any Boy Scout or Girl Scout that follows the creed and knows the Scout oath would never, would never do a thing like that.

But let me just talk a little bit about one, just one of the brave many who serve and, in this particular instance, paid the ultimate sacrifice for his country and does it the right way. Listen to this, Mr. Speaker.

"The President of the United States takes pride in presenting the Silver Star posthumously to Gunnery Sergeant Jeffrey E. Bohr, Jr., United States Marine Corps, for service as set forth in the following citation:

"For conspicuous gallantry and intrepidity in action against the enemy while serving as Company Gunnery Sergeant, Company A, 1st Battalion, 5th Marine Regiment, Regimental Combat Team 5, 1st Marine Division, I Marine Expeditionary Force in support of Operation Iraqi Freedom on 10 April 2003. With his company assigned the dangerous mission of seizing a presidential palace in Baghdad and concerned that logistical resupply might be slow in reaching his comrades once they reached the objective, Gunnery Sergeant Bohr selflessly volunteered to move in his two soft-skinned vehicles with the company's main armored convoy. While moving through narrow streets toward the main objective, the convoy took intense small arms and rocket-propelled grenade fire. Throughout this movement, Gunnery Sergeant Bohr delivered accurate, effective fires on the enemy, while encouraging his Marines and supplying critical information to his company commander.

"When the lead vehicles of the convoy reached a dead end and were subjected to enemy fire, Gunnery Sergeant Bohr continued to boldly engage the enemy while calmly maneuvering his Marines to safety. Upon learning of a wounded Marine in a forward vehicle, Gunnery Sergent Bohr immediately coordinated medical treatment and evacuation. Moving to the position of the injured Marine, Gunnery Sergeant Bohr continued to lay down a high volume of suppressive fire, while simultaneously guiding the medical evacuation vehicle, until he was mortally wounded by enemy fire.

"By his bold leadership, wise judgment, and complete dedication to duty, Gunnery Sergeant Bohr reflected great credit upon himself and upheld the highest tradition of the Marine Corps and the United States Naval Service."

God bless him, Mr. Speaker. We all need to remember people like Gunnery Sergeant Jeffrey Bohr.

Mr. HOEKSTRA. I thank my colleague. We have a long list of folks who have served heroically in Iraq and Afghanistan. In my own district I have had two young men who were killed in Iraq, Steve Hewlett and Todd Robbins.

Again, I want the folks in the district and in the country to recognize that, as was described in USA Today, the work that Steve and Todd were engaged in was protecting people from terrorists and criminals while building schools and lasting friendships, a good mission no matter what brush it is tarred with and no matter how other people try to paint that picture.

Ridding the world of Saddam Hussein was the right thing to do, just as they are protecting people from terrorists in Iraq and Afghanistan and other places. As we eliminate terrorists in Iraq and Afghanistan and other places, we also have to remember that the larger goal and objective of these terrorist organizations is not to terrorize the people of Iraq, not to terrorize the people of Afghanistan. They were already doing that. Their larger goal was to build a network to terrorize the rest of the world.

We felt on September 11 that the terrorists that were based in Afghanistan attacked the United States. The people in Israel and other parts of the Middle East have felt it for years, as Saddam Hussein exported terrorism and paid bounties and cash bonuses to the families of suicide bombers in Israel. There is no doubt that these nations and the leadership in these countries were actively engaged in a global war on terrorism.

For them, it was only a matter of time before they would have taken those resources and expanded that to continue to attack U.S. interests in the Middle East, in Europe and other parts of the world, but also to take that battle to the United States.

When we talk about some of the other things that have happened in Iraq, Jim Hoffman, an individual from my district, served 8 or 9 months in Iraq, served as the Minister of Health; on April 1 the Ministry of Health was turned over to the Iraqis. Today, health care is not being provided by the coalition. Health care is now being provided by Iraqis.

There is a Ministry of Education, teachers' salaries $120 a month; entry level salaries have gone from $5 a month to $66 a month. The Minister of Public Works and Municipalities established programs to rehabilitate 14 water treatment plants.

The Ministry of Science and Technology has taken the lead in establishing the foundation for E-government in Iraq. The Ministry of Culture has revitalized the national symphony orchestra, begun clearing Iraq's library collection.

The Ministry of Agriculture is rehabilitating Iraq's agriculture colleges to carry forward Iraq's long agricultural history of displacement and migration. The Ministry of Water Resources cleared over 17,000 kilometers of irrigation canals.

So there is a tremendous amount of work, and as I talk to our troops that come back, one of the things that frustrates them is that the bad news is what is focused on here. Many of the troops that I talk to say they do not even watch the news anymore when they come home. They do not watch it when they are in Iraq because what they see on the news they say is not reflective of what they see while they are on the ground in Iraq. These are the kinds of things that are not talked about.

I think my colleague and I, we are not denying that the bad things, they are happening, but again I think as Ben Conable pointed out in his article in USA Today, and this is a person that is there in his third tour, he says, the media is looking at Iraq through a straw, not giving the total picture.

Mr. GINGREY. The gentleman is so right. He referred earlier about the McDonald's mentality. Of course, meaning no disrespect to a great company. Just suggesting at that time "quick fix," the fast delivery which that company is so well respected for, that is just not what happens in a situation like we are in in Iraq. And in the 24-hour news networks, of course, it is one sound bite after another.

And as the gentleman said, and I asked when I was in Iraq, I asked some of the soldiers, and unfortunately, when they get a break from those patrols or they are in those Humvees, whether they are up-armored or after-market armored or unarmored and they are on those dangerous missions. They probably go 12, 14-hour, 16-hour shifts and they get back to the billet and maybe they have access to relax, knowing that they have to go back out the next day and do it all over again and every day their lives are at risk. So sure they watch television. And it is just unbelievable what they are seeing and the discouragement.

God forbid if they are tuning into some of the coverage of what they hear here in the halls of Congress; you would think that they would get a little bit discouraged. It is funny how sometimes you hear the opposition say, Oh, we support the troops. The troops we love. They are brave men and women. We support the troops, but, hey, you know, the coach sucks.

You just put it in perspective of a high school football team. If the booster club says, We want the boys to go out there. We love them. They are doing a great job, but we do not like the coach. We question all the plays. Pretty soon it gets down to the players and they are not going to win too many games that season and that is what you are seeing here, that sort of thing.

The Iraqi people, they were not as fortunate as we were in this great country called the United States of America. We were born to freedom.

☐ 2245

Our Forefathers bought and paid for that, and certainly all of us today never knew anything different. We have freedom of press, freedom of religion, freedom of speech. We take it for granted, unfortunately.

These people, the Iraqi people, the 25 million most of whom are good people. They have never known that. So it is going to take a long time, Mr. Speaker, for them to understand, to get the feel of that, and yet we hear from the other side, well, Mr. President, what is your exit strategy. Indeed, indeed.

Mr. HOEKSTRA. Mr. Speaker, reclaiming my time, there was an editorial today by William Safire in the New York Times, and it is kind of an interesting thing because what he talks about today, "In this rush to misjudgment, we can see an example of the 'Four Noes' that have become the defeatists' platform."

"The first 'no' is no stockpiles of WMD, used to justify the war, were found." He goes on to say what we may find is "the successful concealment of

WMD, as well as pre-war shipments thereof to Syria," I think what most likely happened is that Saddam moved away from stockpiling weapons of mass destruction to putting in place plans "for production and missile delivery," but that is my own conjecture, "by Saddam's Special Republican Guard and Fedayeen, as part of his planned guerrilla war."

This is what Safire goes on to say. "The present story line of 'Saddam was stupid, fooled by his generals' would then be replaced by 'Saddam was shrewder than we thought.'"

"Defeatism's second 'no' is no connection was made between Saddam and al Qaeda or any of its terrorist affiliates. This is asserted as revealed truth with great fervor."

Now we see, going on in the article that he wrote today, "most damning is the rise to terror's top rank of Abu Musab al-Zarqawi, who escaped Afghanistan to receive medical treatment in Baghdad. He joined Ansar al-Islam, a Qaeda offshoot whose presence in Iraq to murder Kurds at Saddam's behest was noted in this space in the weeks after 9/11. His activity in Iraq was cited by President Bush 6 months before our invasion. Osama's disciple Zarqawi is now thought to be the televised beheading of a captive American.

"The third 'no' is no human-rights high ground can be claimed by us regarding Saddam's torture chambers because we mistreated Iraqi prisoners. This equates sleep deprivation with life deprivation, illegal individual humiliation with official mass murder. We flagellate ourselves for mistreatment by a few of our guards, who will be punished; he delightedly oversaw the shoveling of 300,000 innocent Iraqis into unmarked graves." He goes on to say, "Iraqis know the difference.

"The fourth 'no' is no Arab nature is culturally ready for political freedom and our attempt to impose democracy in Iraq is arrogant Wilsonian idealism.

"In coming years, this will be blasted by revisionist supporters as an ignoble ethnic-racist slur. Iraqis will gain the power, with our help, to put down the terrorists and find their own brand of political equilibrium.

"Will today's defeatists then admit they were wrong?" Safire goes on to say, he answers that question with, "That's a fifth 'no.'"

Once a defeatist always a defeatist. I yield to my colleague.

Mr. GINGREY. Mr. Speaker, I just want to thank the gentleman for bringing this hour to our colleagues in the House on both sides of the aisle and for giving me an opportunity to share with him this time because it is so important.

Mr. Speaker, it is so important for not just American people but for those men and women who are over there in harm's way defending our freedom and liberty and allowing us to sleep well at night and to hopefully bring in peace, democracy, liberty, freedom that we enjoy, that we take for granted, to the people in the Middle East.

I think that we just need to remember that our every waking hour and never forget what they are doing for us and we are doing the right thing, and I thank the gentleman from Michigan for being courageous to bring this time to the American people, but especially to those men and women who maybe, yes, they just came off patrol from Fallujah or the Sunni triangle or hottest of the hot spots in Iraq, and they take that backpack off and that body armor off and they take off their boots and they relax a little bit and they turn on the television and hopefully maybe they are watching what we are saying tonight, and I hope they are because they need to know that people like the gentleman from Michigan, a distinct leader in this 108th Congress, we believe in them and we are going to support them, and we are going to stick with them, and we are going to see them to the end, and we are going to have victory for the world, not just for the United States of America.

Mr. HOEKSTRA. Mr. Speaker, reclaiming my time, I want to just close again by going back to the article that was written by Ben Connable from Ramadi, Iraq. Remember, this is his third deployment, and when we talk about the voices of defeatism, as Safire talks about it in the New York Times today, these guys hear that message.

He says doubt had begun to creep back into the public debate. He sees and hears that now. He saw it when they were talking what about was going on in the Sunni triangle and what really is going on. He knows and admits that war is inherently ugly and dramatic, but here is again what he said.

"But as a professional, I have the luxury of putting politics aside and focusing on the task at hand. Protecting people from terrorists and criminals while building schools and lasting friendships is a good mission, no matter what brush it's tarred with.

"Nothing any talking head will say can deter me or my fellow Marines from caring about the people of Iraq," and I would say they are there because they know that by caring for the people of Iraq or Afghanistan, they know that they are caring for the people of the United States, "or take away from the sacrifices of our comrades. Fear in the face of adversity is human nature, and many people who take the counsel of their fears speak today. We are not deaf to their cries; neither do we take heed."

A simple request from Major Ben Connable is this. "All we ask is that Americans stand by us by supporting not just the troops, but also the mission. We'll take care of the rest."

WHO INVESTIGATES THE INVESTIGATORS?

The SPEAKER pro tempore (Mr. BRADLEY of New Hampshire). Under the Speaker's announced policy of January 7, 2003, the gentleman from Washington (Mr. McDERMOTT) is recognized for 60 minutes as the designee of the minority leader.

Mr. McDERMOTT. Mr. Speaker, today a 24-year-old Army Reserve specialist was sentenced to do a year in jail, reduction in rank and dishonorable discharge for his role in the Abu Ghraib prison scandal. What would his sentence have been if this soldier had served as judge, jury, prosecution and defense? Indeed, would there have been any charges filed at all if the 24-year-old soldier had investigated himself? Of course not. It would be justice denied.

Yet that is exactly what the military commanders and civilian leaders at the Pentagon are trying to pull off.

Yesterday, before a Senate committee, Lieutenant General Ricardo Sanchez, the top military commander in Iraq, vowed that the scandal would be investigated up the chain of command, including himself.

At a time when the world must see that no one in the U.S. is above the law, the Pentagon arrogantly acts as if it answers only to itself. The first low-ranking soldier was thrown overboard today. Other low-ranking soldiers will soon follow.

This is how Secretary Rumsfeld, Lieutenant General Sanchez and all of their minions define justice. Do as I say, not as I do. The world is watching, and the world is not buying the Pentagon justice charade.

Outside the courtroom today, an Iraqi civilian told the Associate Press, "Those who are executing the laws and orders are not the problem. Punishment of the officials who gave the orders is what matters."

More than anything else, these court-martials may just reinforce the mistrust and resentment against the United States throughout the Arab world.

The way the proceedings are being handled is under fire. The Pentagon allowed media to attend the court-martial but television cameras were barred, even as representatives from Middle East networks demanded access.

Apparently, it is okay for the President to go on Arab television but it is not okay for the Arab world to see an example of justice in the United States military. Why not?

What is more, the U.S. refused to allow either Iraqi or international human rights groups to attend and observe the court-martial. U.S. military brass cited unspecified "security" issues for denying the request. Human Rights Watch could not even get the name of a U.S. military leader in order to lodge a complaint.

The leader of the human rights organization in the Middle East called the U.S. military's refusal "a bad decision in its own right. It also sends a terrible signal to the Iraqis and others deeply concerned about what transpired in Abu Ghraib."

America's credibility is on the line around the world, but U.S. military commanders deny access to a courtroom by credible, independent human rights organizations. What will it take for Secretary Rumsfeld and the military commanders to get it?

Another soldier at the prison told ABC News today, "There's definitely a cover-up," and the soldier said military commanders authorized the abuse.

Several soldiers may be on trial in a military court in Iraq, but America is on trial in the world court. Denying access to human rights organizations will be seen round the world as a cover-up. Claiming this scandal begins and ends with a few low-ranking soldiers will be seen around the world as a cover-up. Claiming the military can investigate itself all the way up the chain of command will be seen as what it is, an end run around justice.

If there is nothing to hide, then get it out in the open. For the sake of every good and decent American soldier in harm's way in Iraq, this Congress must show the world that no one is above the law in America.

Every day, there are new allegations of abuses in Iraq and Guantanamo Bay. The Observer, which is a London newspaper, is reporting that a British prisoner just released from Guantanamo claims there are organized American punishment units called Extreme Reaction Forces or ERFs. Prisoners fear being ERF'd. They have created a new word for this kind of abuse. There are rumors, in fact, that a member of each ERF team takes a videotape and they are there. We need to see those ERF tapes.

A woman in Iraq claimed U.S. military forces took her husband and is holding him without charges because her father was not in the house. They said, well, if your father is not here, we are going to take your husband.

The International Red Cross quoted military intelligence officers as saying between 70 and 90 percent of the Iraqis in prison were arrested by mistake.

□ 2300

Iraq is spinning out of control. This war has gone from crisis to calamity to catastrophe. If the President will not lead the Nation, the Congress must. We need an investigation now. We need to remove Rumsfeld and Wolfowitz and Cambone and Feith, for that matter. We need to do it now. Some low-ranking U.S. soldiers are not the only ones on trial. America is on trial as well.

What is fascinating about reading the American press today is that if that is all you watch, if you watch Fox TV, which is a Republican body, I mean, the guy who runs it used to be the PR director, or the National Committee Chairman for the Republican Party. Or if you read the newspapers, there is a tight control on the news that you and I get in the United States.

Now, if you pick up a foreign newspaper, you find some very interesting things. In the Guardian, on May 18, there is an article by a man named Crispin Blunt. He says, "I voted for intervention in Iraq. Not because of the threat of weapons of mass destruction, but because of the failure to ensure the removal of Saddam Hussein in 1991 and its consequences." Meaning the effects of sanctions. Now, he says, I have changed my mind. We need to get out. We must get out.

"The reason for the failed policy is simple: When the British occupied Iraq following the first world war, they were greeted initially as liberators of Iraqis from the Ottoman Empire. But over time, the British came to be seen as occupiers. Iraq experts and historians predict that after 9 months or so, the American and British forces that came to liberate Iraq from the Ba'athists rule would be seen as foreign occupiers."

My colleagues, we are there today. We are there today. We are just like the British were in 1923 or whatever.

"The insurgents in Iraq cannot be written off as a small minority led by foreign jihadis. The silent majority of Iraqis increasingly side with the insurgents, who are viewed as part of the Iraqi nation waging resistance against the foreign occupiers. However nasty their tactics, the insurgents are viewed as the 'us' in this new battle to expunge the occupiers. However noble and rational the goals of the coalition, U.S. and Britain, they are perceived as the alien 'them.'"

It goes on to say "an exit strategy is needed above all to preserve and restore in Arab eyes the moral authority of our liberal democratic values, which have been under intense assault most recently with the emergence of Abu Ghraib."

Another article in the Guardian dated May 19, is entitled "Former Guantanamo Chief Clashed with Army Interrogators. General's Sacking Cleared Way for Pentagon to Rewrite Rules."

What we are seeing in those pictures that have been on the front pages of the newspapers of this country are the result of decisions made a long time ago, not by six or seven soldiers, but by people at the very top, beginning with Mr. Rumsfeld. This article reports on the sacking of a General Rick Baccus. He is the commander of the Rhode Island National Guard. He was sacked amid charges from the Pentagon that he was too soft on the detainees at Guantanamo Bay.

Now, "General Baccus was removed in October of 2002. That is a long time ago. Apparently, after frustrating military intelligence officers by granting detainees such privileges as distributing copies of the Koran and adjusting meal times for Ramadan. He also disciplined prison guards for screaming at inmates."

This is why he was sacked. He was too soft on the prisoners. This goes on to say "General Baccus' unceremonious departure offers a rare insight as to how the Pentagon rewrote the rules of warfare to suit the Bush administration's view of a radically changed world following the attacks of September 11. It also suggests what happens to military personnel slow to sign up to the Pentagon's changed view of the world.

"Eighteen months after being removed from Guantanamo, General Baccus, aged 51, and commander of the National Guard in Rhode Island, is still waiting for a new military assignment."

Do you think he will get one in this administration? I doubt it.

Now, the connection between Guantanamo and Abu Ghraib grew clearer this month when General Baccus' successor at the camp, guess who, Major General Geoffrey Miller, was put in charge of the U.S. prisons in Iraq. He was in Guantanamo, and they said, come on over here and fix up what is going on in Iraq.

"General Miller's recommendations for Abu Ghraib, merging the functions of prison guard and interrogator, as he did at Guantanamo, was cited in the Pentagon's internal report on abuse at the now notorious prison."

This is the Pentagon's report on abuse. They said that was wrong, to merge the guards and the interrogators. You had guards who had no training whatsoever in interrogation being put in the position of being interrogators. It is no wonder we had this problem.

There is an article that talks about what happened after the Second World War and how long they trained the people before they went to Nuremberg to question the Nazis, how long it took them to prepare the interrogators to do it in a humane and professional way.

This administration, run by the Secretary of War, Mr. Rumsfeld, had no time to wait, to plan. They had to go right now. It was a war of choice. It was not a war where there was any impending danger to us. It is very clear now. But they wanted to get in and get it done as quick as possible before anybody figured out what they were up to. So they rushed in, totally ill prepared, and put these young people that they are now convicting and throwing out of the military.

I was a psychiatrist during the Vietnam era, and I saw these people coming back from Vietnam. A lot of them wound up in the brig, and I would see them. And let me tell my colleagues something. Giving somebody a bad conduct discharge really scars them for life. Every time you go for a job, you are asked, do you have an honorable discharge? Well, no, I do not, I got a bad conduct discharge. They are going to have trouble getting jobs the rest of their lives on the basis of orders given to them by somebody who will take his very generous Federal pension and go off in real luxury for the rest of his life.

Those six or seven people that are being dumped out on their ear or will be dumped out in the near future are being treated unfairly, and everybody should know that, and everybody should be able to see it.

Now, today, there was also a story in the Los Angeles Times, because you have to read widely in this country. You cannot just read the papers here in Washington, DC. The L.A. Times carries a story by Richard Serrano entitled "3 Witnesses at Iraq Abuse Hearing Refuse to Testify."

"Three key witnesses, including a senior officer in charge of interrogations, refused to testify during a secret hearing against an alleged ringleader of the Abu Ghraib prison abuse scandal on the grounds that they might incriminate themselves."

They took the 5th. An officer of the United States military took the 5th, and this House does not have an investigation. We do not think it is worthwhile to find out what is going on here.

"The witnesses appeared on April 26 at a preliminary hearing behind closed doors for Corporal Charles A. Graner, who has been identified in court-martial documents as the leader of a band of military police guards who humiliated and abused Iraqi detainees and compiled a bizarre photographic record of their activities. The prospective witnesses' refusal to testify is described in court-martial documents obtained by the Times on Tuesday.

"That all of the prospective witnesses called up by prosecutors invoked the military equivalent of the Fifth Amendment right against self-incrimination indicates the key players in the abuse scandal may be closing ranks to save themselves and one another."

So here comes the coverup. And if the House of Representatives, with the responsibility for oversight given to us by the Constitution, shirks their duty on this issue, they are participating in the coverup as well.

□ 2310

There is no way the House can excuse itself from investigating this, and our leadership just laughs and says it is a frat house prank. This was no frat house prank. This has ruined our reputation in the world. It has taken away our moral authority to deal because not only did we do it, but we will not own up to it and talk about how it happened.

Just a week after the hearing on May 3, the judge, Major Dewayne McOsker, Jr., ruled there was enough evidence to proceed. He cited a CD-ROM containing photographs and videos taken inside the prison showing detainees being abused and humiliated, along with written statements from four of the other six guards implicated in the scandal. "I believe there is enough credible evidence to establish reasonable grounds" that Graner is guilty, McOsker concluded.

Now he went ahead and did it anyway in spite of the fact that a senior officer said I cannot talk about this because I might incriminate myself. The New York Times, May 19, "Two Generals Deny Issuing Orders to Allow Prison Abuse in Iraq." Big surprise, right.

"The two generals in charge of the occupation of Iraq took responsibility today for the prison abuse scandal there, but they also denied having issued or approved any orders that they say could have been interpreted to allow humiliation or mistreatment of prisoners."

Now if there is nothing to hide, we should have an investigation. Why do we not bring it out? That is the question that this House must face. Members cannot go out with a straight face and talk to the friends and the families and the loved ones of people who have died in Iraq and say that you have done your job as a U.S. Congressman if you have not participated in demanding an investigation.

To say that this will be handled by the Army, the Army will handle it, I guess they will.

ABC News, May 18, "Definitely a Cover-Up. Former Abu Ghraib Intel Staffer Says Army Concealed Involvement in Abuse Scandal."

"'There is definitely a cover-up,' the witness, Sergeant Samuel Provance said. 'People are either telling themselves or being told to be quiet.'

"Provance, 30, was part of the 302nd Military Intelligence Battalion stationed at Abu Ghraib last September. He spoke to ABC despite orders from his commanders not to.

"'What I am surprised at was the silence,' says Provance. 'The collective silence by so many people that had to be involved, that had to have seen something or heard something.'

"Provance, now stationed in Germany, ran the top secret computer network used by military intelligence at the prison."

This is not just some guy who heard scuttlebutt around someplace. He was in the unit doing the intelligence work. He said while he did not see the actual abuses, the interrogators with whom he worked freely admitted they directed the MP's rough treatment of prisoners.

I do not know, it sounds like a smoking gun if somebody wanted to look at it. Anybody who has been in a military organization realizes there is something called the Uniform Code of Military Justice, the UCMJ. And as an enlisted person at the bottom, you are responsible to carry out the orders of your superior. Privates carry out the orders of corporals, sergeants and lieutenants and captains and major and so forth up the line. Failure to do so leads to a court-martial or to an article 15 or some kind of punishment, and everybody knows it.

So the fact that they threw this poor guy out today with a bad conduct discharge, and we will see if anything more happens. If by the end of a few weeks all we see are seven people that they threw out as rogue soldiers, the injustice and the cover-up started by the people in the Department of Defense will be clear as it is in the sunshine.

This House cannot allow that to happen. The New York Times again, "Officers Say U.S. Colonel at Abu Ghraib Prison Felt Intense Pressure to Get Inmates to Talk."

When they sent Colonel Thomas Pappas over there as the head of military intelligence, he was under enormous pressure from his superiors to extract more information from prisoners there, according to senior Army officers.

People knew this. This is not something that was not known, it is just that the House of Representatives does not want to ask. They do not want to look. They want to close their eyes and hope it will go away. This is not going to go away because the world is watching and looking and reacting to it. Maybe you can close your eyes until after the election is over, but you will not be able to close your eyes to the impact that it has on the United States and to our troops.

These pictures have stirred up the opposition, the people out there. All they have to do is show those pictures around, and people will say, yes, I will get them, which makes it more dangerous for our people every single day.

Being out there in a guerilla warfare is awful. I heard about it from the soldiers and sailors that I dealt with in Vietnam. I did not experience it myself. I did not have to. I know it was awful. We are making their job tougher by not saying we committed a mistake, we were wrong, we are going to right it. It is not just going to be the folks down at the bottom.

There is a wonderful movie that everybody in the House of Representatives ought to have to see, "Paths of Glory." It is a story from the First World War about French troops who did not want to get up out of the trenches and charge into the fire because as they got to the top of the ladder, they were getting their heads shot off, so they failed to charge. The general called a court-martial and picked three guys at random. They shot them in firing squads, and the movie is about how they were selected, who they were, and why they were picked. These six or seven people will be those same sorts of people, while the generals sit in the back, have a steak, drink a glass of wine, take their pension and go off with their life.

This issue is too big for this House to ignore.

Mr. Speaker, as the third-ranking person in the United States of America, ahead of you is only the President and the Vice President, you are the Speaker, the one who controls the House of the people, for you to allow this to go uninvestigated is absolutely unacceptable. In this next election, the American people ought to turn out the Republicans wholesale if they do not deal with this issue because what it has cost us, never mind the money, the $200 billion we have already spent and $25 billion more they are going to ask for in a few days; the money is important, of course, but what we have done to our reputation and our ability to lead the free world may be irreparable. I hope not.

If we act quickly and decisively, I think we can change it, but it cannot be dragged along and acted as though this is all right. It is not all right, and it will not be solved by throwing seven people out of the United States Army.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BROWN of Ohio) to revise and extend their remarks and include extraneous material:)

Mr. HOYER, for 5 minutes, today.

Mr. BLUMENAUER, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

Ms. MILLENDER-MCDONALD, for 5 minutes, today.

(The following Members (at the request of Mrs. CAPITO) to revise and extend their remarks and include extraneous material:)

Mr. SOUDER, for 5 minutes, today.

Mr. MCCOTTER, for 5 minutes, today.

Mr. PENCE, for 5 minutes, today.

Mr. DREIER, for 5 minutes, today.

Mr. GINGREY, for 5 minutes, today.

Mr. SMITH of New Jersey, for 5 minutes, May 20.

ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 923. An act to amend the Small Business Investment Act of 1958 to allow certain premier certified lenders to elect to maintain an alternative loss reserve.

H.R. 3104. An act to provide for the establishment of separate campaign medals to be awarded to members of the uniformed services who participate in Operation Enduring Freedom and to members of the uniformed services who participate in Operation Iraqi Freedom.

ADJOURNMENT

Mr. MCDERMOTT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 20 minutes p.m.), the House adjourned until tomorrow, Thursday, May 20, 2004, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

8189. A letter from the Deputy Chief of Naval Operations (Manpower and Personnel), Department of Defense, transmitting notification of a decision to implement performance by the Most Efficient Organization (MEO) for the Public Works Center Norfolk, VA, Detachments Philadelphia and Mechanicsburg, PA, and Earle, NJ (initiative number NC20010758); to the Committee on Armed Services.

8190. A letter from the Under Secretary, Department of Defense, transmitting a letter on the approved retirement of Admiral James O. Ellis, Jr., United States Navy, and his advancement to the grade of admiral on the retired list; to the Committee on Armed Services.

8191. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General Richard E. Brown III, United States Air Force, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

8192. A letter from the Chairman and President, Export-Import Bank, transmitting a report on transactions involving U.S. exports to Algeria pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

8193. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of Navy's Proposed Letter(s) of Offer and Acceptance (LOA) to Japan for defense articles and services (Transmittal No. 04-06), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

8194. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of major defense equipment and defense articles to Poland (Transmittal No. DDTC 005-04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8195. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of major defense equipment and defense articles to Israel (Transmittal No. DDTC 026-04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8196. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed transfer of major defense equipment from the Government of Switzerland (GOS) (Transmittal RSAT-3-04), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

8197. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's annual report on entitled, "Patterns of Global Terrorism: 2003," pursuant to 22 U.S.C. 2656f; to the Committee on International Relations.

8198. A letter from the Deputy Secretary, Department of the Treasury, transmitting as required by section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and pursuant to Executive Order 13313 of July 31, 2003, a six-month periodic report on the national emergency with respect to Iran that was declared in Executive Order 12170 of November 14, 1979; to the Committee on International Relations.

8199. A letter from the Under Secretary for Industry and Security, Department of Commerce, transmitting the Department's report entitled, "Imposition of Foreign Policy Controls on Protective and Detection Equipment and Components, not Specially Designed for Military Use," pursuant to Section 6 of the Export Administration Act of 1979, as amended; to the Committee on International Relations.

8200. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on "Overseas Surplus Property," pursuant to Public Law 105-277, section 2215; to the Committee on International Relations.

8201. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Secretary's determination that five countries are not cooperating fully with U.S. antiterrorism efforts: Cuba, Iran, Libya, North Korea, and Syria, pursuant to 22 U.S.C. 2781; to the Committee on International Relations.

8202. A letter from the Archivist of the United States, National Archives and Records Administration, transmitting a report on a proposed archival depository for the Presidential records and other historical materials of the Clinton administration, pursuant to 44 U.S.C. 2112; to the Committee on Government Reform.

8203. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specifications and Management Measures; Inseason Adjustments; Corrections [Docket No. 031216314-3314-01; I.D. 041904C] received May 17, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8204. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specifications and Management Measures; Inseason Adjustments; Pacific Halibut Fisheries; Corrections [Docket No. 031216314-3314-01; I.D. 042604D] (RIN: 0648-AR54) received May 12, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8205. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Species in the Rock Sole/Flathead Sole/"Other flatfish" Fishery Category by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands Management Area [Docket No. 031124287-4060-02; I.D. 041404B] received May 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8206. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Economic Exclusive Zone Off Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska [Docket No. 031125292-4061-02; I.D. 042304C] received May 11, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8207. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Extension of Marine Reserves [Docket No. 0312173020-4126-02; I.D. 112403D] (RIN: 0648-AR66) received May 11, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8208. A letter from the Deputy Assistant Administrator for Operations, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast (NE) Multispecies Fishery; Amendment [Docket No. 040112010-4114-02; I.D. 122203A] (RIN: 0648-AN17) received May 11, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8209. A letter from the Assistant Secretary of the Army for Civil Works, Department of Defense, transmitting Final Feasibility Report and Final Environmental Impact Statement, dated September 2000, discussing the construction of ecosystem restoration and recreation improvements along the Wolf River, Memphis, Tennessee, as authorized by Section 101(b)(25) of the Water Resources Development Act of 2000; to the Committee on Transportation and Infrastructure.

8210. A letter from the Administrator, General Services Administration, transmitting an informational copy of the General Services Administration's Fiscal Year 2005 Capital Investment and Leasing Program, pursuant to 40 U.S.C. 606(a); to the Committee on Transportation and Infrastructure.

8211. A letter from the Secretary, Department of Labor, transmitting the Department's report entitled, "2003 Findings on the Worst Forms of Child Labor," pursuant to 19 U.S.C. 2464; to the Committee on Ways and Means.

8212. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Reduction of Tax Attributes Due to Discharge of Indebtedness [TD 9127] (RIN: 1545-BC47) received May 13, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8213. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Last-in, First-out Inventories (Rev. Rul. 2004-48) received May 13, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8214. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability. (Rev. Proc. 2004-26) received May 12, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8215. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Changes in accounting periods and in methods of accounting. (Rev. Proc. 2004-32) received May 12, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8216. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Examination of returns and claims for refund, credit or abatement; determination of correct tax liability. (Rev. Proc. 2004-29) received May 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8217. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Losses Reported from Inflated Basis Assets from Lease Stripping Transactions — received May 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8218. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Expenses and interest relating to tax-exempt income (Rev. Rul. 2004-47) received May 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8219. A letter from the Acting Chief, Publication and Reg. Branch, Internal Revenue Service, transmitting the Service's final rule — Qualified Amended Returns [Notice 2004-38] received May 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8220. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Deduction for Interest on Qualified Education Loans [TD 9125] (RIN: 1545-AW01) received May 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8221. A letter from the Acting Chief, Publications and Reg. Branch, Internal Revenue Service, transmitting the Service's final rule — Son of Boss Settlement Iniative (Announcement 2004-46) received May 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8222. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Section 704(b) and Capital Account Revaluations [TD 9126] (RIN: 1545-BB10) received May 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8223. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Capital Gains Dividends of RICs and REITs [Notice 2004-39] received May 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8224. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Health Savings Accounts — Interaction with Other Health Arrangements (Rev. Rul. 2004-45) received May 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8225. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Weighted Average Interest Rates Update [Notice 2004-40] received May 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. THOMAS: Committee on Ways and Means. H.R. 4103. A bill to extend and modify the trade benefits under the African Growth and Opportunity Act; with an amendment (Rept. 108–501). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 2912. A bill to reaffirm the inherent sovereign rights of the Osage Tribe to determine its membership and form of government (Rept. 108–502). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. House Joint Resolution 83. Resolution proposing an amendment to the Constitution of the United States regarding the appointment of individuals to fill vacancies in the House of Representatives; adversely (Rept. 108–503). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. ISSA:

H.R. 4389. A bill to authorize the Secretary of the Interior to construct facilities to provide water for irrigation, municipal, domestic, military, and other uses from the Santa Margarita River, California, and for other purposes; to the Committee on Resources, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PRICE of North Carolina (for himself and Mr. Shays):

H.R. 4390. A bill to extend the Military Extraterritorial Jurisdiction Act (MEJA) to provide for the arrest and commitment of contractor personnel who commit Federal offenses or war crimes while supporting the mission of the Department of Defense overseas; to the Committee on the Judiciary, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BRADY of Texas (for himself, Mr. Shaw, Mr. Berman, Mr. McKeon, Mr. Sam Johnson of Texas, and Mr. Michaud):

H.R. 4391. A bill to amend title II of the Social Security Act to repeal the windfall elimination provision and protect the retirement of public servants; to the Committee on Ways and Means.

By Mr. WELLER (for himself, Mrs. Biggert, Mr. Tom Davis of Virginia, Mr. Honda, Mrs. Johnson of Connecticut, and Mr. Manzullo):

H.R. 4392. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income for certain education and training expenses, and for other purposes; to the Committee on Ways and Means.

By Mr. CASE:

H.R. 4393. A bill to direct the Secretary of the Interior to study the suitability and feasibility of designating certain lands along the northern coast of Maui, Hawaii, as a unit of the National Park System; to the Committee on Resources.

By Mr. BROWN of Ohio (for himself, Mr. NEAL of Massachusetts, Ms. DELAURO, and Mr. WAXMAN):

H.R. 4394. A bill to make ineligible for Federal contract awards any expatriated corporations and any companies that do business with, or own foreign subsidiaries that do business with, state sponsors of terrorism or foreign terrorist organizations; to the Committee on Government Reform.

By Mr. CARSON of Oklahoma (for himself and Mr. SULLIVAN):

H.R. 4395. A bill to amend the Controlled Substances Act with respect to the regulation of ephedrine alkaloids, including ephedrine and pseudoesphedrine; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DEMINT (for himself, Mr. NORWOOD, and Mrs. MUSGRAVE):

H.R. 4396. A bill to amend the Fair Labor Standards Act of 1938 to clarify the exemption from the minimum wage and overtime compensation requirements of that Act for certain construction engineering and design professionals; to the Committee on Education and the Workforce.

By Mr. ENGLISH:

H.R. 4397. A bill to temporarily exempt scrapping of naval vessels and Maritime Administration vessels from certain environmental statutes governing handling of hazardous materials; to the Committee on Energy and Commerce, and in addition to the Committees on Armed Services, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HONDA (for himself, Ms. ESHOO, and Mr. CARDOZA):

H.R. 4398. A bill to amend the Harmonized Tariff Schedule of the United States to provide that the calculation of the duty imposed on imported cherries that are provisionally preserved does not include the weight of the preservative materials of the cherries; to the Committee on Ways and Means.

By Mrs. KELLY:

H.R. 4399. A bill to establish certain conditions on the Secretary of Veterans Affairs implementing any recommendation of the CARES Commission that would have the effect of eliminating or severely reducing any medical service provided to veterans throughout the United States at Department of Veterans Affairs medical facilities; to the Committee on Veterans' Affairs.

By Mrs. LOWEY (for herself, Mr. TURNER of Texas, Ms. LORETTA SANCHEZ of California, Mr. DICKS, Ms. SLAUGHTER, Mr. DEFAZIO, Mr. ANDREWS, Ms. NORTON, Ms. MCCARTHY of Missouri, Ms. JACKSON-LEE of Texas, Mr. ETHERIDGE, Mr. LANGEVIN, Mr. SANDLIN, Mr. GRIJALVA, Mr. TOWNS, Ms. LEE, Mr. REYES, Mr. GUTIERREZ, Mrs. MALONEY, Mr. LANTOS, Mr. MATSUI, Mr. DELAHUNT, Mr. CARDOZA, Mr. HOEFFEL, Mr. CASE, Mr. FROST, Mr. SKELTON, Mr. HASTINGS of Florida, Mr. GREEN of Texas, Mr. MOORE, Mrs. CAPPS, Mr. NADLER, Ms. ROYBAL-ALLARD, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. WYNN, Ms. KILPATRICK, Mr. TIERNEY, Mr. ACEVEDO-VILÁ, and Mr. LUCAS of Kentucky):

H.R. 4400. A bill to establish the Office of Wireless Public Safety Interoperable Communications, to provide grants and other support to achieve communications interoperability in the United States, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Homeland Security (Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MYRICK:

H.R. 4401. A bill to suspend temporarily the duty on 9,10-Anthracenedione, 1,8-dihydroxy-4-nitro-5-(phenylamino)-; 9,10-Anthracenedione, 1,5-dihydroxy-4-nitro-8-(phenylamino)-; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 4402. A bill to suspend temporarily the duty on 2-Naphthalenesulfonic acid, 6-[(2,4-diaminophenyl)azo]-3-[[4-[[4-[[7-[(2,4-diaminophenyl azo]-1-hydroxy-3-sulfo-2-naphthalenyl]azo]phenyl]amino]-3-sulfophenyl]azo]-4-hydroxy-, trisodium salt; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 4403. A bill to suspend temporarily the duty on Bis-Ethylhexyloxyphenol Methoxyphenol Triazine; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 4404. A bill to suspend temporarily the duty on Benzamide, 3-amino-N-[2-[[2-(sulfooxy)ethyl]sulfonyl]ethyl]-; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 4405. A bill to suspend temporarily the duty on Methylene Bis-Benzotriazolyl Tetramethylbutylphenol; to the Committee on Ways and Means.

By Mr. SENSENBRENNER (for himself and Mr. HOSTETTLER):

H.R. 4406. A bill to reform the judicial review process of orders of removal for purposes of the Immigration and Nationality Act; to the Committee on the Judiciary.

By Mr. UDALL of Colorado:

H.R. 4407. A bill to authorize appropriations for the National Institute of Standards and Technology for fiscal years 2005, 2006, 2007, and 2008, and for other purposes; to the Committee on Science.

By Mr. COLLINS:

H. Con. Res. 431. Concurrent resolution urging the Government of Vietnam to provide to the United States all information in the possession of Vietnam regarding Americans unaccounted for from the Vietnam War, and for other purposes; to the Committee on International Relations.

By Mr. SULLIVAN:

H. Res. 650. A resolution expressing the sense of the House with respect to the life and work of Tony Randall; to the Committee on Government Reform.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

330. The SPEAKER presented a memorial of the Senate of the State of Hawaii, relative to Senate Resolution No. 63 memorializing the President and Congress of the United States to pass legislation to allow prescription drugs to be imported from Canada; to the Committee on Energy and Commerce.

331. Also, a memorial of the Senate of the State of Hawaii, relative to Senate Resolution No. 64 expressing diappointment in the lack of support the current administration has shown toward veterans of the armed forces, and memorializing Congress to increase funding for the continuation and expansion of veterans benefits and services; to the Committee on Veterans' Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Ms. JACKSON-LEE of Texas introduced a bill (H.R. 4408) for the relief of Jen-Hui Tsai; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 82: Mr. OWENS.
H.R. 83: Mr. OWENS.
H.R. 85: Mr. OWENS.
H.R. 163: Mrs. CHRISTENSEN.
H.R. 284: Mr. GARY G. MILLER of California and Mr. LANTOS.
H.R. 333: Ms. NORTON.
H.R. 527: Mr. CHANDLER.
H.R. 716: Mr. CHANDLER.
H.R. 742: Mr. COLLINS and Mr. LANGEVIN.
H.R. 806: Mrs. TAUSCHER and Mr. WICKER.
H.R. 843: Mr. TIERNEY.
H.R. 1043: Mr. PAYNE.
H.R. 1105: Mr. CHANDLER.
H.R. 1155: Mr. MEEHAN, Mr. WEINER, and Mr. ALLEN.
H.R. 1310: Mr. ISAKSON.
H.R. 1322: Mr. RODRIGUEZ.
H.R. 1477: Ms. WOOLSEY.
H.R. 1638: Mr. LARSON of Connecticut and Mr. CHANDLER.
H.R. 1639: Mr. MILLER of North Carolina, Mr. STARK, and Mr. RANGEL.
H.R. 1716: Mr. BILIRAKIS.
H.R. 1735: Mr. PETERSON of Minnesota.
H.R. 1746: Mr. SWEENEY and Mr. GOODE.
H.R. 1782: Mr. WATT.
H.R. 1793: Mr. KLINE.
H.R. 1805: Mr. CHANDLER.
H.R. 1824: Mr. SANDLIN.
H.R. 1830: Mr. OWENS.
H.R. 1884: Mr. WATT.
H.R. 1935: Mrs. LOWEY and Mr. UDALL of Colorado.
H.R. 1993: Mr. TOWNS.
H.R. 2133: Mr. RYAN of Wisconsin and Mr. WHITFIELD.
H.R. 2217: Mr. MCDERMOTT and Mr. BOUCHER.
H.R. 2293: Mr. BARTLETT of Maryland.
H.R. 2366: Mr. CHANDLER.
H.R. 2387: Mr. WEXLER.
H.R. 2394: Mr. MCINTYRE and Mr. DOGGETT.
H.R. 2402: Mr. VAN HOLLEN and Mr. FORD.
H.R. 2527: Ms. WATSON and Mr. LARSEN of Washington.
H.R. 2568: Mr. CHANDLER.
H.R. 2621: Mr. LYNCH and Ms. LEE.
H.R. 2627: Mrs. MUSGRAVE.
H.R. 2674: Mr. DOGGETT, Mr. FROST, Mr. MCDERMOTT, Mr. OWENS, and Mr. GORDON.
H.R. 2699: Mr. WAMP, Mr. HILL, Mr. ALEXANDER, Mr. STENHOLM, and Mr. LUCAS of Kentucky.

H.R. 2863: Mr. LARSEN of Washington.

H.R. 2956: Mr. CHANDLER.

H.R. 3066: Mr. COOPER.

H.R. 3069: Mr. WILSON of South Carolina and Mr. NEY.

H.R. 3078: Mr. BAIRD.

H.R. 3111: Mr. BOEHLERT, Mr. BILIRAKIS, Mr. PLATTS, Mr. UDALL of Colorado, and Mr. ANDREWS.

H.R. 3192: Mr. CHANDLER.

H.R. 3306: Mr. OWENS.

H.R. 3313: Mr. COLLINS, Mr. CUNNINGHAM, and Mr. RYUN of Kansas.

H.R. 3412: Ms. NORTON.

H.R. 3422: Mr. BAIRD.

H.R. 3441: Ms. DELAURO.

H.R. 3474: Mr. LANGEVIN.

H.R. 3574: Mr. CASE, Mr. SCHIFF, Mr. POMBO, and Mr. ROGERS of Michigan.

H.R. 3596: Mr. EMANUEL, Mrs. LOWEY, Ms. GRANGER, Mr. ISAKSON, and Mr. WILSON of South Carolina.

H.R. 3619: Mr. CASE and Mr. THOMPSON of Mississippi.

H.R. 3716: Mr. DINGELL.

H.R. 3737: Mr. MORAN of Virginia.

H.R. 3743: Mr. CHANDLER.

H.R. 3779: Mrs. LOWEY.

H.R. 3798: Mr. MARSHALL.

H.R. 3801: Mr. BRADLEY of New Hampshire and Mr. SESSIONS.

H.R. 3803: Mr. BOUCHER and Mr. BISHOP of Georgia.

H.R. 3810: Mr. ALLEN.

H.R. 3831: Mr. FRANK of Massachusetts.

H.R. 3936: Mr. BILIRAKIS.

H.R. 3950: Mr. SESSIONS.

H.R. 3953: Mr. SOUDER and Mr. GRIJALVA.

H.R. 3960: Mr. EVANS.

H.R. 3968: Ms. LINDA T. SÁNCHEZ of California and Mrs. MCCARTHY of New York.

H.R. 3988: Mr. LAMPSON, Ms. LINDA T. SÁNCHEZ of California, Mr. MENENDEZ, Mr. LANTOS, and Mr. SCOTT of Virginia.

H.R. 4032: Mr. PETERSON of Minnesota.

H.R. 4043: Mr. RUSH and Ms. MILLENDER-MCDONALD.

H.R. 4057: Ms. CARSON of Indiana and Mr. ENGLISH.

H.R. 4097: Mr. BOEHLERT, Mr. MCNULTY, Mr. SERRANO, Mr. WALSH, Mr. FROST, and Mr. DOGGETT.

H.R. 4103: Mr. OWENS.

H.R. 4108: Mr. LEVIN, Mr. ACEVEDO-VILÁ, Mr. RODRIGUEZ, Mr. SHAW, Mr. HASTINGS of Florida, Mr. FROST, Mr. PRICE of North Carolina, Mr. ROTHMAN, Mrs. MCCARTHY of New York, and Ms. DELAURO.

H.R. 4175: Mr. BILIRAKIS.

H.R. 4191: Ms. LEE, Mr. MEEKS of New York, Ms. JACKSON-LEE of Texas, Ms. NORTON, Mr. PAYNE, and Mr. LEWIS of Georgia.

H.R. 4212: Mr. BERMAN and Mr. STARK.

H.R. 4248: Mr. BILIRAKIS.

H.R. 4255: Mr. SERRANO, Mr. BAIRD, Mr. LARSEN of Washington, and Mr. HOLT.

H.R. 4256: Mrs. NAPOLITANO and Mr. RUSH.

H.R. 4257: Mrs. EMERSON, Mr. OSBORNE, Mr. ROGERS of Kentucky, and Mr. COSTELLO.

H.R. 4263: Mr. BLUMENAUER, Mr. LARSON of Connecticut, Mr. GORDON, Mr. ROSS, Mr. THOMPSON of Mississippi, Mr. MOORE, Mr. OWENS, Mr. HASTINGS of Florida, Mr. INSLEE, Mr. NETHERCUTT, Ms. DELAURO, and Mr. DEUTSCH.

H.R. 4264: Mr. VITTER.

H.R. 4312: Mr. FROST, Mr. MATSUI, Mr. MCNULTY, Mr. SKELTON, Ms. HASTINGS of Florida, Mr. MOORE, Mrs. CAPPS, Mr. NADLER, Ms. ROYAL-ALLARD, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. MALONEY, and Mr. WYNN.

H.R. 4341: Mr. RUSH, Mr. FORD, Ms. MCCARTHY of Missouri, Mr. BOUCHER, and Mr. MCINTYRE.

H.R. 4343: Mr. PITTS.

H.R. 4346: Mr. COOPER, Mr. LAMPSON, Mr. FROST, Mr. MORAN of Virginia, Mr. LUCAS of Kentucky, Mr. OWENS, Mr. ROSS, Mr. GUTIERREZ, Mr. FILNER, Ms. DELAURO, Mr. THOMPSON of California, Mr. PALLONE, Ms. WATERS, Mrs. MCCARTHY of New York, Mr. STRICKLAND, Mr. FRANK of Massachusetts, Mr. TURNER of Texas, Mr. ROTHMAN, Mr. MEEKS of New York, Mr. BELL, Mr. JACKSON of Illinois, Mr. SANDERS, Mr. DAVIS of Tennessee, Mr. TAYLOR of Mississippi, Mr. FALEOMAVAEGA, Mr. THOMPSON of Mississippi, Ms. CORRINE BROWN of Florida, and Mr. CUMMINGS.

H.R. 4359: Mr. COLE, Mr. CHOCOLA, Mr. KLINE, Mr. FEENEY, Mr. NEUGEBAUER, Mr. BURGESS, Ms. HARRIS, Mr. TERRY, Mr. JOHNSON of Illinois, and Mrs. BLACKBURN.

H.R. 4363: Mr. SOUDER.

H.R. 4370: Mr. MCDERMOTT, Mr. MCNULTY, Mr. STARK, Mr. KUCINICH, Mr. DOGGETT, and Mr. GRIJALVA.

H.R. 4377: Mr. BELL.

H.R. 4378: Mrs. LOWEY and Mr. MCNULTY.

H.R. 4384: Mr. SHAW.

H.J. Res. 56: Mrs. MILLER of Michigan.

H.J. Res. 94: Mr. CULBERSON.

H. Con. Res. 298: Ms. HARRIS, Mr. SAM JOHNSON of Texas, and Mr. COLLINS.

H. Con. Res. 366: Mr. GONZALEZ.

H. Con. Res. 399: Ms. BORDALLO and Mr. DAVIS of Illinois.

H. Con. Res. 416: Mr. BOOZMAN, Mr. PASTOR, Mr. ETHERIDGE, and Mr. MARSHALL.

H. Con. Res. 422: Mr. EMANUEL, Mr. CAPUANO, Mr. NEAL of Massachusetts, Mr. FRANK of Massachusetts, and Mr. MEEHAN.

H. Res. 550: Mrs. LOWEY, Mr. HOEFFEL, and Mr. WEXLER.

H. Res. 604: Mrs. LOWEY.

H. Res. 642: Mr. UDALL of Colorado.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3473: Mr. CAMP.

SENATE—*Wednesday, May 19, 2004*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Immortal, invisible, God only wise, great are the works of Your hands and of Your heart. Teach us to live to please You. As we labor, may our focus be on Your priorities and Your providence. During moments of confusion, help us to whisper a prayer for wisdom. Remind us to set our affection on the things above that will live beyond time into eternity.

Give our Senators and all who serve You on Capitol Hill the awareness of their accountability to You. Help us to remember that we are accountable for every idle word. Empower us to weigh our faults, to measure our words, and to labor in a way that will bring You pleasure. Increase Your presence in our lives and in this Chamber that Your power may be felt by all who need Your touch.

We pray today for those who mourn, particularly for the family of Bob Bean. Sustain them in their grief. We pray this in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning the first 90 minutes will be devoted to a period of morning business, the first 45 minutes controlled by the minority leader or his designee, with the final 45 minutes controlled by the majority side of the aisle. Following morning business, we will consider S. 15, the bioshield bill. Last night we reached agreement to allow for up to 2 hours of debate and a vote on passage of this important piece of legislation. We have been working on bringing the bioshield bill to the Senate floor for quite some time. I am pleased we are finally able to vote on passage on this measure.

Following passage of Project Bioshield, we will resume consideration of the Department of Defense authorization. Pending is the Lautenberg amendment on sanctions. That amendment has been under review, and Members may well want to speak on that issue.

Yesterday Chairman WARNER indicated it was his desire to reach agreement for an amendment filing deadline. I hope that is possible. We should set a time certain for Senators to file their defense amendments to the bill so the two managers may begin to try to clear amendments on both sides of the aisle.

Finally, I remind everyone we will be scheduling votes on judicial nominations as we go forward, and rollcall votes will be anticipated throughout the day.

ORDER OF PROCEDURE

Mr. FRIST. Mr. President, I ask unanimous consent that the morning business period be extended until 11:30 this morning with the additional time equally divided; further, that at 11:30 the Senate begin S. 15 as under the order.

The PRESIDENT pro tempore. Without objection, it is so ordered.

PRISONER ABUSE AT ABU GHRAIB

Mr. FRIST. Mr. President, very briefly, I want to comment on what has been a real focus for the Senate and our various committees; that is, the revelations of abuse at the Abu Ghraib prison in Iraq. It has been a shock to the Nation and indeed to the world. The photographs we reviewed last week are appalling to all of us. America is clearly outraged at the scandal, ashamed, as we all should be. But it all centers on the fact that a very few have tarnished the reputations and the honor of a great many people representing the United States of America.

That is why this body, the Senate, has and must continue to act swiftly and fully investigate, to the best of our ability, the incidents of abuse at the Abu Ghraib prison and hold accountable those responsible and take bold corrective actions where necessary to ensure that those incidents never occur again.

This body has acted in a quick and deliberate manner to get to the bottom of this matter. Over the past 2 weeks, we have had a series of hearings. There is a hearing going on in Armed Services now, the second day the Senate Armed Services Committee has held a meeting. The Intelligence Committee held their hearings. The Appropriations Committee has continued to hear from the Defense Department and other agencies on the matter. Our committees are working aggressively in terms of oversight, taking very appropriate action. We have received hours of testimony from administration officials and senior military officers. Members have had the opportunity to review the photos that depict some of the offensive acts.

This morning, for the last hour, the Armed Services Committee has been holding a hearing. The witnesses include General Abizaid, Commander of Central Command; Lieutenant General Sanchez, Commander of the coalition forces in Iraq; and Major General Miller, who is now in charge of the Abu Ghraib prison.

I mention all of this because we are aggressively investigating and the Defense Department is cooperating fully in these inquiries and has been responsive to all of our requests. I am confident the Defense Department is investigating this matter thoroughly, both within and its relationships to other agencies as well. I am confident they are taking actions to ensure these acts never occur again. This is all essential if we will be successful, which I know we can be, in bringing democracy and the rule of law to Iraq and restoring the respect and confidence many people have historically had in our military.

Last week Secretary Rumsfeld's trip with General Myers occurred. That was a very important trip. It was a boost to the morale of the thousands and thousands of Americans who are serving so nobly in Iraq, our men and women who are fighting for democracy and freedom. I commend the Secretary and General Myers for making the trip.

Secretary Rumsfeld has demonstrated tremendous leadership throughout the last several weeks and months and tremendous character in his presentations, helping us to understand what happened there so we can all take corrective action. I commend Secretary Rumsfeld for his tremendous leadership and courage in addressing this matter of prisoner abuse, but also his leadership in the global war on terrorism. He has been a superb Secretary of Defense who really deserves the thanks of a grateful Nation, and we are thankful for his leadership in these very difficult times.

While I know there are going to be many more difficult days ahead on the prisoner abuse scandal, I am confident

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

the Senate will continue to do what is right and necessary to ensure that justice prevails and such terrible acts never happen again.

I yield the floor.

RECOGNITION OF THE DEMOCRATIC LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

Mr. DASCHLE. Mr. President, first, I wish to indicate that I share much of the sentiment expressed by the distinguished majority leader about the importance of the oversight responsibilities that we hold to be very critical in this difficult and challenging time. I want to single out, in particular, the chairman of the Armed Services Committee for his valiant effort in trying to establish just what went wrong, why it went wrong, and how we can prevent it from occurring again. He has been criticized, in some cases, by members of his own party. I think that is very unfortunate. I think we have a role and that role ought not to be minimized at times of crises.

I think we ought to take these investigations where the facts lead us. I do believe other committees ought to be involved as well, and in some cases they are.

I also compliment the distinguished chairman of the Foreign Relations Committee, Senator LUGAR, who always seems to be as engaged, in a constructive way, as anyone can be given his responsibilities. I think he ought to be recognized as well.

There is work that should be done on the Judiciary Committee, Governmental Affairs Committee, and other committees that I think have yet to pursue the responsibilities they have for oversight as fully and completely as perhaps they should. But certainly one would not have to look beyond the Armed Services Committee and Foreign Relations Committee for models. We can all be very proud and appreciative of the job they currently are doing.

WELLSTONE MENTAL HEALTH EQUITABLE TREATMENT ACT

Mr. DASCHLE. Mr. President, this past Saturday, thousands of people in Sioux Falls, SD, and 35 other cities across America, took part in walks to raise public awareness of mental health. The walks were sponsored by the National Alliance for the Mentally Ill.

In Sioux Falls, more than 300 people dodged rain showers to walk through Falls Park. They were different ages, with different backgrounds. But most shared at least one important distinction: They, or someone close to them, has a mental illness.

The same is true of nearly all Americans. A 1999 report by the Surgeon General found that more than 50 million Americans—one in five—suffer from mental illness each year. Many Members of this Senate—Republicans and Democrats—have spoken bravely and movingly about how mental illness has devastated their own parents, children or siblings.

No Senator who is with us today has demonstrated greater leadership on issues involving mental health than our distinguished colleague from New Mexico, Senator DOMENICI. He knows—from watching a daughter he loves very much struggle with schizophrenia—that mental illnesses don't affect just one person; they affect whole families.

Senator DOMENICI also knows about the stigma attached to mental illness, and the discrimination and suffering that people with mental health problems suffer as a result of that stigma.

Almost a decade ago, this proud conservative Republican found a proud liberal Democratic ally in the Senate. Like PETE DOMENICI, Paul Wellstone had seen someone he loved battle a serious mental illness. In Paul's case, it was his older brother. PETE DOMENICI and Paul Wellstone were an "odd couple." But they were fiercely united in their determination to end discrimination against people with mental illness.

In 1996—thanks to their leadership—Congress passed the Mental Health Parity Act. The law—for the first time—prevented private health insurance plans that offer mental health coverage from setting annual or lifetime limits that are lower than those set for other illnesses. It was an important step forward. But it left a loophole. It allowed companies to set much higher deductibles and co-payments for mental health coverage. It also allowed insurers to set lower limits for outpatient visits or the number of days of inpatient treatment for mental illness. As a result, effective, affordable mental health treatment remains unaffordable for millions of Americans who need it.

The General Accounting Office estimates that nearly 90 percent of the Nation's health plans engage in legal discrimination based on mental health diagnoses. The results can be devastating: unemployment, broken homes, shattered lives, poverty, poor school performance—even suicide.

In 2000, Senator DOMENICI and Senator Wellstone introduced a new bill—the Mental Health Equitable Treatment Act—to close the loopholes. It is a modest proposal. It does not require employers to provide health insurance. It does not require employers that provide health insurance to offer mental health coverage. It simply says that, for employers that choose to offer mental health benefits, insurers cannot provide more restrictive coverage for mental health benefits than they do for other medical and surgical benefits.

In late Fall 2001, the Mental Health Equitable Treatment Act was unanimously added to the Senate version of the FY 2002 Labor HHS Appropriations bill. But it was stripped out of the final conference report at the insistence of the White House and the House Republican leadership.

More than two years ago, in April 2002, President Bush traveled to New Mexico with Senator DOMENICI and announced that he supports "full mental health parity." After listening to families talk about their mental health horror stories, the President said, "Americans with mental illness deserve our understanding and they deserve excellent care. They deserve a health care system that treats their illness with the same urgency as physical illness."

Months later, in late October 2002, Paul Wellstone died in a plane crash, along with his wife, Sheila, their daughter, Marcia, and four others. At a memorial service for them in Washington, Senator DOMENICI delivered a beautiful eulogy to his friend; he announced that he was renaming the bill "The Senator Paul Wellstone Mental Health Equitable Treatment Act," and vowed to pass it.

Despite having 69 Senate co-sponsors, more than a year-and-a-half after it was re-introduced in this Congress, the Wellstone bill—S. 486—remains stuck in the HELP Committee.

Wellstone Action, the grassroots organization frmed by Paul and Sheila Wellstone's two sons to continue their parents' work, has set passage of the Wellstone mental health bill as its only legislative goal this year. Over the last several months, Wellstone Action members have sent more than 32,000 faxes and letters to Congress asking us to pass the Wellstone bill.

Bernie Cameron is one of these letter writers. She lives in Deerfield, NH. Her brother Joe was diagnosed with schizophrenia 50 years ago, when he was just 12. By the age of 14, Joe was living in a State hospital for children. He has spent a total of only about 5 years outside of institutions since then.

Bernie Cameron's parents were both Portuguese immigrants who came to this country when they were 16 years old. Her father worked as a furniture refinisher. Her mother worked at a shoe store. They had 6 children and never had much money. They visited Joe at least three times a week.

"Can you imagine visiting your child in a place that smells of urine, where people are screaming," Bernie asks. "It was so frustrating to them that they couldn't afford a better place for Joe."

The powerful medications Joe was prescribed gave him tremors and other health problems.

In 1983, after Joe's father died, his mother sold the family home. With the proceeds of the sale, the family sent Joe to McLean's, a very good private psychiatric hospital in Boston. He was then in his late 40s. The hospital changed Joe's medication, which finally brought his seizures under control. But, after a year, they told his family there was nothing else they could do that would make a real difference in the quality of his life; too much time had been lost.

Before Joe got sick, he was a straight A student. Today, he lives in a sheltered halfway house. He still has flashes of unusual intellect and wit. When that happens, his sister wonders, "If we could have gotten him into a place like McLean's early on, would it have made a difference?"

Bernie Cameron calls her brother's story "a perfect illustration of the 2-tier health care system in this country." If you have insurance and your illness involves a part of your body other than your brain, you get health care. But if your brain is affected—even if you have insurance—there's a good chance you won't get the health care you need.

A new poll by the Coalition for Fairness in Mental Health Coverage shows that 83 percent of Americans surveyed support mental health parity in insurance. When asked whether they would support parity if it raised the premiums one percent—the high-end cost estimated for the Wellstone bill—66 percent of Americans continued to say yes.

The Wellstone bill, as I said, has 69 co-sponsors in the Senate, and 245 cosponsors in the House. It is also supported by more than 360 national organizations.

Mr. President, I ask unanimous consent that the complete list be printed in the RECORD at the close of my remarks.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DASCHLE. Yet the Wellstone bill remains stuck in the HELP Committee because of fierce opposition from the insurance industry and its allies.

Opponents of mental health parity claim it will drive up the cost of health coverage, which will result in more people losing their insurance.

Let me be clear. Their claims are not true. They are scare tactics. We have heard them all before.

To begin with, small businesses with fewer than 50 employees would be totally exempt.

In addition, two highly respected organizations have analyzed the Wellstone bill. The private accounting firm of PricewaterhouseCoopers predicts it would increase health insurance premiums by 1 percent. That is it, 1 percent. That works out to $1.32 per month.

The Congressional Budget Office predicts an even smaller average increase, nine-tenths of 1 percent. I think most families would think that is a pretty good deal.

Senators DOMENICI and Wellstone modeled their bill on the mental health parity provisions in the Federal Employees Health Benefits Program. According to the Office of Personnel Management, those provisions have increased FEHB premiums only 1.3 percent, and that includes treatment for substance abuse which is not part of the Wellstone bill.

Even these very small cost estimates are probably high because they do not factor in the cost savings resulting from parity.

The National Institute of Mental Health estimates the cost of untreated mental illness, including criminal justice and social welfare costs, at about $300 billion a year.

A 1999 Surgeon General report on mental illness estimates the direct business costs of lack of parity at $70 billion a year, mostly in reduced productivity and increased use of sick leave.

By comparison, when workers with depression were treated with prescription medications, medical costs declined by $882 per employee per year, and absenteeism dropped by 9 days, according to a study published in the Health Economics journal.

Why single out people with mental illness to hold down health care costs? Why not deny treatment for heart disease or diabetes or cancer? Psychiatric treatment does cost money, but so do heart surgeries, kidney dialysis, and chemotherapy.

Health insurers are using incorrect and outdated ideas about the nature and causes of mental illness to deny millions of Americans essential health care and maximize their profits.

Thirty-four States already have mental health parity laws on the books, but the laws vary widely. Many cover only a handful of illnesses, and they cannot cover large, multistate employers or employers who self-insure. Only a Federal law can guarantee real mental health parity for all Americans.

Last October, on the first anniversary of the plane crash that killed Paul and Sheila, their daughter Marcia and four others, I asked unanimous consent that the Senate take up and pass the Wellstone Mental Health Equitable Treatment Act. It would have been a perfect tribute to Paul.

The Republican leadership blocked that request, but they gave us their word that the Senate would consider the Wellstone mental health bill early this year. We are now closing in on the Memorial Day recess. Time is fast running out on this Congress, too. We have been waiting months now to see a proposed amendment from Senator GREGG and the scope of the bill.

On June 10, people are coming to Washington from all over America for a mental health rally to urge passage of the Wellstone bill.

Two years ago in New Mexico, the President said he would work with Congress to help press a mental health parity bill. The true test of the President's leadership is not what the President says; it is his ability to convince Republican leaders in the House and Senate to allow votes on the bill.

Congress can pass this bill quickly, if the President will help. We cannot do this alone; we need his help. What we cannot do is allow mental health benefits to be a luxury only for the very wealthy or the very fortunate.

I yield the floor.

Mr. REID. Mr. President, before the Senator yields the floor, I would like to ask him a question through the Chair.

I am happy to hear the statement of the Senator from South Dakota about the need for mental health parity. One part of me is sad because when he mentions the name of Paul Wellstone, that presents to me a void in my life because it seems only yesterday he was back here walking around with his microphone.

He was a champion of many causes. He worked so hard because he knew I was interested in the subject of suicide and what causes it and how we can prevent it.

Even though I know how important this issue is, and we have to do something about it, I feel—like, I am sure, a lot of his friends who served in the Senate with him—a real void whenever his name is mentioned because he truly was one of the most remarkable people I have met in my life.

I applaud and compliment the leader for his statement on mental health parity. For this man, it is long overdue to recognize him being a great Senator.

Mr. DASCHLE. Mr. President, I thank the Senator from Nevada for his eloquent comments regarding our deceased colleague. I share his admiration for our departed colleague. He was a man who had passion, conviction, and yet a good sense of humor that allowed that passion and conviction to be embraced by even those who may not have agreed with him on every issue. But his passion about mental health, his conviction that it was the right thing for us to do, to pass mental health parity, lasts way beyond his life. It is not only in tribute to Paul, but I think in recognition of the appropriateness of his conviction and his passion that we remind our colleagues of the debt we owe to him and to our country in passing meaningful legislation at long last to address this embarrassment and this extraordinary deficiency in society today.

I again thank the Senator from Nevada and yield the floor.

EXHIBIT 1

366 ORGANIZATIONS SUPPORTING THE PAUL WELLSTONE MENTAL HEALTH EQUITABLE TREATMENT ACT

Advocates for Youth, Alaska State Medical Association, Alliance for Aging Research, Alliance for Children and Families, Alliance For Mental Health Consumers Rights, Alzheimer's Association, American Academy of

Child and Adolescent Psychiatry, American Academy of Cosmetic Surgery, American Academy of Family Physicians, American Academy of Neurology, American Academy of Ophthalmology, American Academy of Otolaryngology-Head and Neck Surgery, American Academy of Pediatrics, American Academy of Physical Medicine and Rehabilitation, American Academy of Physician Assistants, American Academy of Psyciatry and the Law, American Academy of Sleep Medicine, American Association for Geriatric Psychiatry, American Association for Marriage and Family Therapy, American Association for Psychosocial Rehabilitation.

American Association for Thoracic Surgery, American Association of Children's Residential Centers, American Association of Clinical Endocrinologists, American Association of Pastoral Counselors, American Association of Practicing Psychiatrists, American Association of School Administrators, American Association of Suicidology, American Association on Mental Retardation, American Board of Examiners in Clinical Social Work, American College of Cardiology, American College of Chest Physicians, American College of Emergency Physicians, American College of Medical Genetics, American College of Mental Health Administration, American College of Nurse-Midwives, American College of Obstetricians and Gynecologists, American College of Occupational and Environmental Medicine, American College of Osteopathic Family Physicians, American College of Osteopathic Surgeons, American College of Physicians.

American College of Preventive Medicine, American College of Radiology Association, American College of Surgeons, American Congress of Community Supports and Employment Services (ACCSES), American Counseling Association, American Diabetes Association, American Family Foundation, American Federation of State, County and Municipal Employees, American Federation of Teachers, American Foundation for Suicide Prevention, American Gastroenterological Association, American Geriatrics Society, American Group Psychotherapy Association, American Heart Association, American Hospice Foundation, American Hospital Association, American Humane Association, American Jail Association, American Managed Behavioral Healthcare Association (AMBHA), American Medical Association.

American Medical Directors Association, American Medical Group Association, American Medical Rehabilitation Providers Association, American Medical Student Association, American Mental Health Counselors Association, American Music Therapy Association, American Network of Community Options and Resources, American Nurses Association, American Occupational Therapy Association, American Orthopaedic Foot and Ankle Society, American Orthopsychiatric Association, American Osteopathic Academy of Orthopedics, American Osteopathic Association, American Pediatric Society, American Political Science Association, American Psychiatric Association, American Psychiatric Nurses Association, American Psychoanalytic Association, American Psychological Association, American Psychotherapy Association.

American Public Health Association, American School Counselor Association, American School Health Association, American Society for Adolescent Psychiatry, American Society for Clinical Pathology, American Society of Addiction Medicine, American Society of Anesthesiologists, American Society of Clinical Oncology, American Society of Clinical Pharmacology, American Society of Plastic Surgeons, American Therapeutic Recreation Association, American Thoracic Society, America's Health Together, Anna Westin Foundation, Anorexia Nervosa and Related Eating Disorders, Inc., Anxiety Disorders Association of America, Arizona Medical Association, Arkansas Medical Society, Association for the Advancement of Psychology, Association for Ambulatory Behavioral Healthcare.

Association for Clinical Pastoral Education, Inc., Association for Science in Autism Treatment, Association of American Medical Colleges, Association of Asian Pacific Community Health Organizations, Association of Jewish Aging Services of North America, Association of Jewish Family & Children's Agencies, Association of Maternal and Child Health Programs, Association of Medical School Pediatric Department Chairs, Association of Orthopaedic Foot and Ankle Surgeons, Association of University Centers on Disabilities, Association to Benefit Children, Attention Deficit Disorders Association, Autism Society of America, Barbara Schneider Foundation, Bazelon Center for Mental Health Law, Brain Injury Association of America, Inc., California Medical Association, Camp Fire USA, The Carter Center, Catholic Charities USA.

Center for the Advancement of Health, Center for Women Policy Studies, Center on Disability and Health, Center on Juvenile and Criminal Justice, Central Conference of American Rabbis, Chicago Public Schools, Child & Adolescent Bipolar Foundation, Child Neurology Society, Children and Adults with Attention-Deficit/Hyperactivity Disorder, Children's Defense Fund, Children's Healthcare Is a Legal Duty, Children's Hospital Boston, Child Welfare League of America, Christopher Reeve Paralysis Foundation, Church of the Brethren Washington Office, Clinical Social Work Federation, Coalition for Juvenile Justice, College of Psychiatric and Neurologic Pharmacists, Colorado Medical Society, Commission on Social Action of Reform Judaism.

Connecticut State Medical Society, Corporation for the Advancement of Psychiatry, Council for Exceptional Children, Council of State Administrators of Vocational Rehabilitation, Council on Social Work Education, County of Santa Clara, CA, Cure Autism Now, Dads and Daughters, Depression and Bipolar Support Alliance, Disability Rights Education and Defense Fund, Inc., Disability Service Providers of America, Disabled American Veterans, Division for Learning Disabilities (DLD) of the Council for Exceptional Children, Easter Seals, Eating Disorders Coalition for Research, Policy & Action, Employee Assistance Professionals Association, Epilepsy Foundation, Families For Depression Awareness, Families USA, Family Violence Prevention Fund, Family Voices, Federation of American Hospitals.

Federation of Behavioral, Psychological & Cognitive Sciences, Federation of Families for Children's Mental Health, Florida Medical Association, Freedom From Fear, Friends Committee on National Legislation (Quaker), Harvard Eating Disorders Center, Hawaii Medical Association, Human Rights Campaign, Idaho Medical Association, Illinois State Medical Society, Inclusion Research Institute, Indiana State Medical Association, Institute for the Advancement of Social Work Research, International Association of Jewish Vocational Services, International Association of Psychosocial Rehabilitation Services, International Community Corrections Association, International Dyslexia Association, International Society of Psychiatric-Mental Health Nurses, International Spinal Injection Society, Iowa Medical Society.

Iris Alliance Fund, Jewish Federation of Metropolitan Chicago, Johnson Institute, Joint Council of Allergy, Asthma and Immunology, Kentucky Medical Association, Kids Project, Kristen Watt Foundation for Eating Disorder Awareness, Latino Behavioral Health Association, Learning Disabilities Association of America, Legal Action Center, Louisiana State Medical Society, Lutheran Ofc. for Governmental Affairs, Evangelical Lutheran Church in America, Lutheran Services in America, Maine Medical Association, Massachusetts Medical Society, MedChi, the Maryland State Medical Society, Medical Association of Georgia, Medical Association of the State of Alabama, Medical Group Management Association, Medical Society of Delaware.

Medical Society of the District of Columbia, Medical Society of New Jersey, Medical Society of the State of New York, Medical Society of Virginia, Medicare Rights Center, MentalHealth AMERICA, Inc., Michigan State Medical Society, Minnesota Medical Association, Mississippi State Medical Association, Missouri State Medical Association, Montana Medical Association, NAADAC, The Association for Addiction Professionals, National Advocacy Center of the Sisters of the Good Shepherd, National Alliance for Austism Research, National Alliance for the Mentally Ill, National Alliance for Research on Schizophrenia and Affective Disorders, National Alliance to End Homelessness, National Asian American Pacific Islander Mental Health Association, National Asian Women's Health Organizations, National Assembly of Health and Human Service Organizations.

National Association for the Advancement of Colored People (NAACP), National Association for the Advancement of Orthotics & Prosthetics, National Association for Children's Behavioral Health, National Association for the Dually Diagnosed, National Association for Medical Direction of Respiratory Care, National Association for Rural Mental Health, National Association of Anorexia Nervosa and Associated Disorders—ANAD, National Association of Case Management, National Association of Children's Hospitals, National Association of Community Health Centers, National Association of Counties, National Association of County Behavioral Health Directors, National Association of County and City Health Officials, National Association of Development Disabilities Councils, National Association of Mental Health Planning & Advisory Councils, National Association of Pediatric Nurse Practitioners, National Association of Protection and Advocacy Systems, National Association of Psychiatric Health Systems, National Association of School Nurses, National Association of School Psychologists.

National Association of Social Workers, National Association of State Directors of Special Education, National Association of State Mental Health Program Directors, National Center for Policy Research for Women & Families, National Center on Institutions and Alternatives, National Coalition Against Domestic Violence, National Coalition for the Homeless, National Coalition of Mental Health Consumers and Professionals, National Committee to Preserve Social Security and Medicare, National Council for Community Behavioral Healthcare, National

Council of Jewish Women, National Council of La Raza, National Council on the Aging, National Council on Alcoholism and Drug Dependence, National Council on Family Relations, National Council on Problem Gambling, National Council on Suicide Prevention, National Down Syndrome Congress, National Down Syndrome Society, National Eating Disorders Association.

National Educational Alliance for Borderline Personality Disorder, National Education Association, National Exchange Club Foundation, National Foundation for Depressive Illness, National Health Council, National Health Law Program, National Hispanic Medical Association, National Hopeline Network, National Housing Conference, National Latino Behavioral Health Association, National Law Center on Homelessness & Poverty, National Leadership on African American Behavioral Health, National League of Cities, National Medical Association, National Mental Health Association, National Mental Health Awareness Campaign, National Mental Health Consumers' Self-Help Clearinghouse, National Multiple Sclerosis Society, National Network for Youth, National Organization for Rare Disorders.

National Organization of People of Color Against Suicide, National Organization on Fetal Alcohol Syndrome, National Osteoporosis Foundation, National Partnership for Women and Families, National PTA, National Recreation and Park Association, National Rural Health Association, National Schizophrenia Foundation, National Senior Citizens Law Center, National Therapeutic Recreation Society, National Treatment and Research Advancements Association for Personality Disorder, Native American Counseling Inc., Nebraska Medical Association, NETWORK, a Catholic Social Justice Lobby, Nevada State Medical Association, New Hampshire Medical Society, New Mexico Medical Society, NISH (National Industries for the Severely Handicapped), North american Association of Masters in Psychology, North Carolina Medical Society.

North Dakota Medical Association, Obsessive Compulsive Foundation, Office & Professional Employees International Union, Ohio State Medical Association, Oklahoma State Medical Association, Older Adult Consumer Mental Health Alliance, Oregon Medical Association, Organization of Student Social Workers, Partnership for Recovery, Pennsylvania Medical Society, People For the American Way, People With Disabilities Foundation, Physicians for Social Responsibility, Presbyterian Church (USA), Washington Office, Prevent Child Abuse America, Rebecca Project for Human Rights, Renfrew Center Foundation, Rhode Island Medical Society, Samaritans Suicide Prevention Center, School Social Work Association of America.

Screening for Mental Health, Inc., Service Employees International Union, Shaken Baby Alliance, Sjogren's Syndrome Foundation, Society for Adolescent Medicine, Society for Pediatric Research, Society for Personality Assessment, Society for Public Health Education, Society for Research on Child Development, Society for Social Work Research, Society for Women's Health Research, Society of American Gastrointestinal Endoscopic Surgeons, Society of Medical Consultants to Armed Forces, Society of Professors of Child and Adolescent Psychiatry, Society of Thoracic Surgeons, South Carolina Medical Association, South Dakota State Medical Association, STOP IT NOW!, Suicide Awareness Voice of Education, Suicide Prevention Action Network USA, Tennessee Medical Association.

Texas Medical Association, The Arc of the United States, Title II Community AIDS National Network, Tourette Syndrome Association, Treatment and Research Advancements Association for Personality Disorder, Union of American Hebrew Congregations, Unitarian Universalist Association of Congregations, United Cerebral Palsy Association, United Church of Christ, Justice and Witness Ministry, United Jewish Communities, United Methodist General Board of Church and Society, Utah Medical Association, Vermont Medical Society, Volunteers of America, Washington State Medical Association, Wellstone Action, West Virginia State Medical Association, Wisconsin Medical Society, Working Assets, Women of Reform Judaism, Wyoming Medical Society, Yellow Ribbon Suicide Prevention Program, Youth Law Center.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business up to the hour of 11:30 a.m., with the first half of the time under the control of the Democratic leader or his designee, and the second half of the time under the control of the majority leader or his designee.

Mr. REID. Mr. President, on behalf of Senator DASCHLE, I yield 10 minutes to Senator STABENOW, 10 minutes to Senator MURRAY, 10 minutes to Senator DURBIN, and 10 minutes to Senator WYDEN.

The PRESIDING OFFICER (Mr. THOMAS). Without objection, it is so ordered. The Senator from Michigan is recognized.

MENTAL HEALTH PARITY

Ms. STABENOW. Mr. President, I first wish to commend our leader, Senator DASCHLE, for his wonderful words regarding the need for mental health parity, and also join with both leaders in remembering Senator Paul Wellstone and his advocacy.

Nothing would be more fitting than to pass this long overdue legislation and dedicate it in his name.

HEALTH CARE

Ms. STABENOW. Mr. President, 24 years ago, Ronald Reagan was running for President and he asked each of us as Americans a question: Are you better off than you were 4 years ago?

It was the right question then, and it is the right question now. Are we better off than we were 4 years ago? This is a very important question. Unfortunately, for most middle-income Americans in 2004, the answer is clearly no.

What has happened in the last 4 years while wages have been flat, gas prices, college tuition, health care costs have skyrocketed, millions of jobs have been lost, poverty is on the rise, the budget surplus has been squandered, the Social Security trust fund has been raided, State taxes have risen, household debt has gone way up, consumer confidence has dropped, and the stock market has gone down.

We can look at a few of these areas with average weekly earnings flat at slightly over 1 percent; gas prices certainly in Michigan and around the country skyrocketing, going up and up; college tuition; family health care premiums—these are just three measures of what is happening to our families and what is commonly called the middle-class squeeze where families are not seeing their incomes go up, and yet all of the costs of providing opportunity for their children, of being able to meet the daily costs of living are going up and up.

Today I want to talk specifically about just one of those, and that is the family health care premiums. Since President Bush took office, family health care premiums have risen more than $2,700. The average cost of a family plan is now above $9,000. Workers have to pay about $2,400 of that premium out of their own pockets, in addition to paying deductibles and copays.

That is a tremendous amount of money for most families, especially at a time when they are facing higher costs in so many other areas. Much of this increase has to do with the soaring cost of prescription drugs, which I have come to the Senate floor to speak about on many occasions. The cost of prescription drugs—and this is brand-name drugs—is rising at about three and a half times the rate of inflation. In fact, we know that for some of the top name- brand drugs we see advertised on television every day, they are actually rising anywhere from 8 to 10 to 12 percent faster than the rate of inflation, which is extraordinary.

The health care system and the business community paying the costs of health care premiums cannot continue to absorb that, and the Medicare prescription drug benefit does next to nothing to rein in escalating costs. In fact, researchers have suggested that the new Medicare law will actually result in new profits for the drug companies of $139 billion over the next 8 years.

So here we are supposedly passing a bill to help seniors that one would hope would lower prices, but instead, because it does not allow Medicare to negotiate group discounts, it locks in up to 40 million people forced to pay the highest possible prices in the country, resulting in $139 billion in new profits over the next 8 years for the pharmaceutical industries and continual struggles for our seniors who literally are choosing between food and medicine.

When President Bush took office, the number of uninsured Americans had actually decreased for 2 straight years. The number of uninsured Americans had actually gone down for 2 straight years. But the dramatic increase in premiums during the Bush administration, combined with the loss of so many jobs, has left 3.8 million more Americans without health insurance. There are now nearly 44 million uninsured Americans, and the consequences are dire for these families and, I would argue, for communities and for businesses as well that end up seeing their health care premium dollars go up every time someone walks into the emergency room sicker than they should be, receiving inappropriate care and having the community hospital have to absorb and transfer that to the folks with insurance.

People without health insurance do not receive the care they need, as I indicated, to prevent or detect or treat serious medical problems. As a result, they are forced to live their lives in poorer health and die younger. Approximately 18,000 people die prematurely each year because they do not have health insurance.

We are the greatest country in the world. Shame on us if we cannot fix this. And we can fix it. It is just a matter of will. It is a matter of values and priorities. We need to turn things around and get this right.

So we come back again to President Reagan's famous question: Are you better off than you were 4 years ago? What has happened in the last 4 years? Again, wages have been flat, if not going down. In my State many folks are losing their jobs, and wages that are being replaced are actually lower. Gas prices are skyrocketing out of sight. College tuition, access to college and the American dream that we all want for our children, has gone up tremendously. Health care costs have skyrocketed, as I mentioned. As a result, our middle-income families are feeling squeezed more and more every day, and Americans are not better off. But we can be better off. We are the United States of America. We are the can-do country, and I know we can get back on track. With a few changes, with the right priorities, with the right values, we can turn this around. We have done it before and we can do it again.

With strong leadership and a real commitment to confronting the problems that families face, we can do better. We can provide our schools and teachers with the support they deserve. We can ensure that every qualified student has the opportunity to attend college. We can build a stronger America so every worker has access to health care and our seniors and the disabled truly have access to their prescription drugs that they need at the lowest possible prices. We can restore the confidence of Americans that our better days are still ahead.

We have much to do. All of these facts, all of these issues, relate to choices, the choices we make as we govern about who we want to make sure is doing better in this country. We can choose between focusing on those things that help Americans, help the public to do better, or the special interests of this country. We need to turn it around so we are putting people first and we are addressing those things that allow each of us to have the opportunity for the great American dream. We are all about working hard, playing by the rules, and being able to go as far as one can possibly go in this great country if they are willing to do the work.

Too many folks are working hard and finding themselves more and more with costs and burdens that are stopping them from being able to fully obtain the American dream for themselves and their families. We are not better off right now, but we can be, and I am hopeful with the right kind of changes that we will be.

The PRESIDING OFFICER. The Senator from Washington.

STATE OF EDUCATION

Mrs. MURRAY. Mr. President, I thank my colleague from Michigan for her excellent statement. I rise today to talk about the state of education in America today, and I want to pose a simple question, as my colleague from Michigan did: Are we better off than we were 4 years ago?

Let us look at the facts. Four years ago, we were making record investments in education. We were giving students, parents, and teachers the tools they needed to succeed. We focused on results and we got them. We focused on our classrooms and improved them. We focused on our students and we helped them on a path to lifetime learning.

Today, we find ourselves in very different circumstances. Today, the focus is on process, not on results. Today, the focus is on centralizing authority instead of the classroom. Instead of focusing on our students, the current administration is simply passing the buck.

During the Clinton administration, we focused on improving the economy and giving every American the tools they needed to succeed. We recorded the longest uninterrupted growth period in our Nation's history, and we helped the American people by getting the education, training, skills, and experience they needed to compete in a global economy. We created 26 million American jobs.

Today, it is a very different story. We are facing dismal budgets, unfunded mandates for our schools, and constant attacks on the programs that disadvantaged families rely on. Instead of helping students, the administration has broken promises and failed to pay the Federal share for education. Let us start by looking at how this administration has underfunded the No Child Left Behind Act and the Individuals with Disabilities Education Act.

We have seen programs that help students turn into unfunded mandates that burden our States. Over the past 4 years, States spent $72 billion to cover the unfunded mandates in IDEA and No Child Left Behind. In my home State of Washington, IDEA is underfunded by $746 million. No Child Left Behind is underfunded by $408 million. That makes a difference in every classroom and in every child's life.

Two years ago, when we passed the No Child Left Behind Act, I voted for it. Most of us in Congress agreed that accountability is important and that we need to make sure our kids are learning the things they need to succeed, like reading, math, writing, and science. But the No Child Left Behind Act said in exchange for that new accountability, schools would get the funding they needed. Today the accountability has been imposed but the funding has not. In fact, Federal funding for the No Child Left Behind Act has fallen $32 billion below the authorized levels since this act was signed into law.

I have visited schools in every corner of Washington State and I know firsthand that educators are working harder than ever to help their students meet these new accountability requirements. But today, as we all know, our State and local budgets are stretched so thin our local communities cannot afford to make up the differences between what our schools were promised and what this administration's budget proposal actually provides.

This year, the President's budget fell $9.4 billion short of fully funding this law. President Bush has proposed the smallest increase for education funding in 9 years and he even proposed eliminating commonsense initiatives like dropout prevention. In Washington State alone, the difference between the President's request and the promise of No Child Left Behind means nearly 28,000 low-income students will be left behind. That number skyrockets to 4.6 million nationwide.

We can do better. That is why in fact I offered an amendment to the Senate budget resolution to fully fund that act. Regrettably my amendment failed on party-line votes.

When we passed the No Child Left Behind Act, Congress and the administration sidestepped the issues affecting our high schools. Our national high school graduation rate is an abysmal 69 percent. That number is even worse for students of color. Do you know roughly half of our minority students are graduating from high school? That means nearly half are dropping out. We need to keep better track of how minority students are doing by tracking dropout rates carefully. But today this Department of Education is not requiring disaggregation of data on dropouts.

That would make it much harder for us to help vulnerable students or even to discover which students need help. With the right policies we can reduce the dropout rate. In fact, that is why last summer I introduced S. 1554, the Pathways for All Students to Succeed, or the PASS Act. This bill will reduce dropouts and help us close that achievement gap.

My bill, the PASS Act, does three things. First of all, it will help students to learn to read and write by providing $1 billion to help our schools hire literacy coaches. Second, my bill ensures our students are taking the classes and getting the support they need to finish high school, and it provides $2 billion for academic and career counselors to ensure all of our students have a personalized plan for completing high school and then going on to college.

Finally, my bill provides extra help to schools that need it the most by providing $500 million in grants to help improve our low-performing schools.

I hope the Senate will pass the bill this year. These are critical steps we could be taking if this Congress were to finally focus on improving the lives of our students.

Let me turn to the Federal role in the Individuals with Disabilities Education Act. Nearly 30 years ago, the Federal Government made a commitment of equal opportunity to our Nation's children with disabilities. With that commitment, again we gave the promise the Federal Government would pay 40 percent of the average per-student cost for every special education student. Today, however, the Federal Government is paying less than 19 percent of the costs. Over the past 4 years of fiscal crisis, Federal funding has fallen $40 billion short of that 40-percent promise. This hole in special education funding not only hurts our disabled students, it also hurts all of their classmates because in order to make up for Federal funding shortfalls, many districts have been forced to take money from their general education budgets and that affects all students.

Over the past couple of years, IDEA has received increases in Federal funding levels. However, according to the Congressional Research Service, at increases of $1 billion each year the Federal Government will never fulfill the promise of funding at 40 percent. And even if increases were $1 billion plus inflation, we would not reach the promised level of 40 percent until 2035. That is another 30 years from now.

Last week the Senate passed a reauthorized version of IDEA. Yet, despite clear support, the Senate did not pass an amendment by Senators HAGEL and HARKIN to fully fund IDEA through mandatory funding.

Education must be a priority for our country if we want a stable economy and a brighter future. We need to focus not only on funding Federal mandates but on access to quality early childhood education and postsecondary education.

This year, Congress is working on reauthorizing the Head Start law. I can tell you as a former preschool teacher, I know firsthand how these critical first early years are for our children's future learning, yet this year the President's budget barely allows Head Start to keep up with inflation. That amount is not nearly enough, especially in a year where we are examining new requirements for this program. Without a substantial increase in funding, these programs will have to shut the door to needy at-risk children who will then fall further behind before they even reach kindergarten.

What troubles me more is this President's clear intention is to end this critical program. We all know proposals to block grant programs will eventually lead to decreased funding for the program. Block granting Head Start is not only supported and pushed by the President but also by the House of Representatives. I know I will continue fighting to protect this very critical Head Start Program that has made such a huge difference in the lives of millions of low-income children.

Public education is the bedrock of our democracy. It helps create good, active citizens and it gives our families the tools they need to put food on the table and a roof over their heads. It also ensures each generation of Americans will have more opportunities than their parents and their grandparents did. There is so much at stake in making sure we are moving education forward for all of America's students.

I turn back to the question I posed at the start of my remarks. Are we better off than we were 4 years ago? Sadly, the answer is no. Our students deserve better. Our country deserves better. I am going to keep fighting here in the Senate to ensure that all of America's children get a good education.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

PRESIDENTIAL LEADERSHIP

Mr. DURBIN. Mr. President, I thank the Senator from Washington for her statement relative to education. I believe the theme, the question she has led off with, is one we will be returning to over and over again.

I know how much the Presiding Officer respects Ronald Reagan and how much he looks back on his Presidency and even candidacy as defining moments in the history of our Nation. President Reagan, despite my differences with him politically, had a way of saying things very directly. He was one of the best communicators we have ever had in the White House. He could, in a few words, convey a message so directly and so simply.

This statement of candidate Reagan is one that is a hallmark now of American politics. Not a campaign goes by that someone doesn't say:

> Well, as Ronald Reagan once said, "Are you better off than you were 4 years ago?"

It is a very simple question. It is a question that must be asked each time the American people face an important election, and this may be one of the most important in history.

What we hear back from the American people when we ask this question is a resounding no. They say in overwhelming numbers, America is going in the wrong direction. We need a new direction in this country. We need a strong leadership that not only protects America but also creates opportunity in America. You have heard repeatedly from my colleague from Michigan how this has a direct impact when it comes to the health care costs of families; how it has a direct impact—the Senator from Washington made this point—when it comes to educational costs. I think honestly what they have said is demonstrated by a few charts I have here.

This is one that I think tells the whole story about the last 4 years of the Bush administration. During this period of time, average weekly earnings for families have gone up 1 percent. President Bush can point to the fact that over 4 years, average income for Americans has barely increased. But what has happened to the expenses faced by Americans in the same period of time? The cost of gasoline, up 25 percent. My friend, Senator WYDEN of Oregon, will address that, as he has time and again on the floor of the Senate in the next part of this morning business time.

Look at the cost of college tuition. It has gone up 28 percent in the 4 years President Bush has been in office; the cost of family health care premiums; some 36 percent.

Now we will take a closer look at the family health care premiums as an illustration. When the President took office, the average health care premium paid on an annual basis was $6,348. Now look at the number: $9,068. The President can send out a check for $100, $200, or $300 and say to middle America: Here is your tax cut; go out and go crazy. Then take a look at this and say: Wait a minute, that tax cut just disappeared. More and more workers and families are paying more and more for health care premiums.

Take a look at this chart. Who really is better off? The average weekly earnings show no increase over the same period of time.

Look at the HMO profits. The profits of the health insurance companies have gone up 50 percent in terms of growth. The CEO compensation for the people who run the HMOs and other corporations is up 61 percent.

Working families, struggling to get by, have seen little or no increase in their income, while those who are profiting from HMOs and from other corporations are doing quite well, thank you.

I remember when Warren Buffett came to say hello to us. He is one of my favorites. His annual report is a must-read for anyone who follows common sense in American business. Warren Buffett, the second wealthiest man in America, said to some Senators: Many people say our policies are class warfare in America today. He said: I have news for you, my class is winning.

He is right, because, quite honestly, the disparity of income in America is worse than it has ever been. This President, with his tax cuts and his policies, has made it worse.

So 4 years later we go back to the same basic Ronald Reagan question: Are you better off now than you were 4 years ago? The answer, quite honestly, for most working Americans, is a resounding no.

Let me address two particular issues that hit most families. I talked about the increase in college tuition costs. You do not need to remind families that if their son or daughter is lucky enough to get into a good school, they will probably be in a position 4 or 5 years later where they are deeply in debt. I have seen it in my family and many others have seen it in theirs. Young people starting out not only have a challenge of finding a good job and a career opportunity but are challenged by what to do with this mountain of debt.

There was a time when the Federal Government helped. There was a time when we had scholarships and loans and grants to help students along so they would not end up more deeply in debt when they graduate from college than many of us were when we bought our first home many years ago.

Over the course of higher education and its cost, we see the gap between the haves and the have-nots is increasing. Over the course of their career, the difference in income between an 18-year-old high school graduate and a 24-year-old college graduate is now more than a million, so it is certainly worth going to school, but college tuition is out of reach for too many American students.

According to the College Board, the 13-percent inflation-adjusted real increase in tuition at public colleges last year was the highest in 30 years. In my State, it is going up. With the weak economy, with the limited resources coming from Washington, with the struggle that many States are having with this recession, which continues to linger, fewer and fewer dollars go into State treasuries and fewer and fewer dollars go from those treasuries to colleges and universities, so they raise tuition.

We are in a recession, losing jobs. Real income is going down and the cost of education is going up. That is a fact. Private school tuition has gone up even higher. Federal assistance has fallen far behind.

In the 1970s, the maximum Pell grant for low-income and working-class families covered about 40 percent of the average cost of going to school. In the 1970s, Pell grants and others helped cover 40 percent. Today, it covers 15 percent. So even the most deserving students from low-income families find the Federal programs are a shadow of what they used to be. They do not provide them the help they need. That means that 48 percent of low-income high school graduates who qualify for college do not go to a 4-year school because they simply do not have the money.

From 1987 to 1999, completion rates on college prep courses for the Nation's poorest students grew by 20 percent. So it means more students are ready for school; they just cannot afford to go to school.

When you look at what we have done on a Federal level time and again, this administration has not provided the helping hand to college students and their families. This President proposed to freeze Pell grants at $4,050 a year for the third year in a row, even though we know the cost of education continues to go up in a double-digit pace. His budget calls for a $823 million increase that merely holds the line on existing grant award levels. He proposes to freeze campus-based aid, cut Perkins loans, and eliminate the LEAP grants. In total, 78,000 students in America will lose grants because of the Bush budget policies, meaning the cost of education is higher and the helping hand from the Federal Government is not going to be there.

Are those families better off today than they were 4 years ago? Is the Bush policy, the budget policy on financing and education, for struggling students, from lower income families, better than it was 4 years ago? By almost every measure, the answer is a resounding no.

We need to get our priorities straight in this country. If we are going to have an American century in the 21st century, as we did in the 20th century, we better focus on students and education. We better make sure that deserving students who want to realize the American dream, many of them the first in their family to be able to go to college, have that chance. They cannot have a chance when the college education has been priced at a level where they cannot afford it, or even worse, graduating with heavy debt. Many of these students cannot pursue the career choice they really want.

How many students graduate wanting to be teachers, good teachers in grade schools and high schools, will be able to realize that dream if they face a mountain of debt? Starting off as a high school or grade school teacher at $30,000 a year, with a pretty limited take home pay, is almost impossible if you have to pay back a mountain of student loans in the process. So they try other things that might make more money and we lose the teacher we need to inspire the next generation.

So when the President makes a decision on budgets to cut back in helping students pay for a college education, it has a ripple effect all the way down the line in terms of new jobs and opportunity, in terms of tomorrow's teachers and nurses, in terms of those who we need to make America the strong nation it needs to be.

Let me also address an issue which is hitting Americans in the pocketbook. Take a look at what has happened to the price of gasoline between when President Bush took office and what it is today. A gallon was $1.47 in 2001 when President Bush came to office. Now it is up to an average of $2.01.

Now look at what is happening with the oil companies that are selling the gasoline. It has been a pretty good year for the oil companies. If you think you are getting pinched at the pump, take a look at what is happening here: For British Petroleum, a 165-percent profit increase; Chevron Texaco, 294 percent; ConcoPhilips—what has happened here—only a 44-percent profit increase. They are falling behind; Exxon Mobil, 125 percent.

Take a look at gas prices in the city of Chicago, which I am proud to represent. They are well over $2 a gallon in downtown Chicago. In California, I understand they are bumping up against $3 a gallon.

So you ask yourself: What can we do?

First—and Senator WYDEN will spend some time on this issue—why are we filling this Strategic Petroleum Reserve at a faster clip now than ever when the price of petroleum that we are putting into it is at record levels? The second question I need to ask, obviously, is, When is this President going to confront these oil companies about their record profits at the expense of families and businesses? The third and obvious question is, Candidate Bush, candidate George W. Bush, said if he ever faced this, he would get on the phone to OPEC and tell them to stop squeezing American consumers and families and businesses. I guess the telephone line is dead between the White House and Riyadh. He is not calling Saudi Arabia to tell them they have to release more oil to the United States. The President as candidate said he would do it. The President as President refuses to do it. Why? Haven't we done enough for the Middle Eastern nations and the OPEC countries, putting hundreds of thousands of American lives at risk for stability and security in the Middle East? And the President will not pick up the phone to say to them, for goodness' sake, you put our economy at risk when you hold back oil. And that is exactly what they are doing. We need Presidential leadership.

I yield the floor.

The PRESIDING OFFICER (Mr. SMITH). The Senator from Oregon.

GASOLINE PRICING

Mr. WYDEN. Mr. President, I have come to the Senate floor this morning to state, in accord with my policy of publicly announcing any hold that I place on a nominee or a piece of legislation, that I will object to any unanimous consent request for the Senate to take up the President's nominee, Deborah Majoras, to head the Federal Trade Commission.

Gasoline pricing is, of course, one of the most important consumer protection issues that the Federal Trade Commission is responsible for overseeing. The prices for gasoline, of course, are soaring. For years now, the Federal Trade Commission has been waging a campaign of inaction. In three specific areas—increased oil company mergers, refinery shutdowns, and anti-competitive practices—the Federal Trade Commission has simply been AWOL.

Yesterday, after writing to Ms. Majoras, to make sure she knew specifically of my concerns, I met with the nominee to head the Federal Trade Commission. I asked repeatedly if there was even one area—even one area—where she would change existing Federal Trade Commission policy with respect to these practices that are sucking the competitive juices out of gasoline markets across the country. During that conversation not even one example was given of an area that the nominee to head the Federal Trade Commission would change in the gasoline pricing area. It is for that reason that I publicly state today that I am placing a hold on this nominee.

To me, it is absolutely unacceptable for a nominee to chair the Federal Trade Commission to not want to make one specific change in gasoline pricing policy. It is certainly unacceptable to me as a Senator from a State where the average price of gas is now $2.25 a gallon, but it ought to be unacceptable to Senators from every area of the country.

Here are three examples of the record at the Federal Trade Commission that I wish to change:

First, since taking office, the Bush administration has allowed 33 oil industry mergers, totaling $19.5 billion to go through. Not only has the administration not tried to block any of these mergers, they simply have taken a pass in every respect. To be fair, the Clinton Administration also sat on its hands allowing 21 oil mergers to go through while challenging only one.

The Bloomberg News service recently reported on this issue. It is my own view that unchecked oil company mergers are a significant factor in the rising price of gasoline in the country. But the Federal Trade Commission, in the face of this huge wave of mergers, has simply been sitting on their hands, and yesterday, the nominee to head the Federal Trade Commission gave me no indication there would be a change in the policy of the Federal Trade Commission on the merger issue.

Second, a handful of refiners now control most of the gasoline in our markets. The concentration is especially serious on the west and east coasts. Mr. President, 67 percent of the west coast market and 77 percent of the east coast market is controlled by a handful of refiners—just four companies. Along with this increased concentration of refiners, we have seen a drop in the number of refineries at a critical time when clearly we need more refinery capacity, not less.

Now, I have documented evidence—it is up on my Web site—that refinery shutdowns have been implemented not because of competition but to boost profit. Certainly, in my view, the nominee to head the Federal Trade Commission ought to be looking at this issue of refinery capacity. But yet again, the nominee that I met with yesterday was unwilling to state what, if anything, would change with respect to refinery practices.

Third, the Federal Trade Commission has been unwilling to move against anti-competitive practices that the agency has even documented. Here I am talking about redlining, a tool that is used to wall off a community from competition. So, again, as we have seen in the case of oil company mergers, as we have seen in the case of refinery shutdowns, in this third area, anti-competitive practices such as redlining, the Federal Trade Commission is going to stay on the sidelines, apparently, with a new chair.

Most recently, the Federal Trade Commission, through their general counsel, has essentially said that oil companies can price gouge with impunity. It is an extraordinary statement. It was made in the Bloomberg News service, again. But the general counsel of the Federal Trade Commission has basically said oil companies can do whatever they want. They can move unilaterally, raise prices to essentially any level they would want in certain markets.

So this is what I am concerned about: these questions that are specifically under the jurisdiction of the Federal Trade Commission with respect to mergers, with respect to refinery shutdowns, with respect to anti-competitive practices, such as redlining.

I had hoped that the nominee to chair the agency would be willing to make changes. I provided the nominee in advance—in advance of our meeting—the key questions that I went through with her. Yet, despite that, and despite the fact that I asked for even one example of a policy she would change at the Federal Trade Commission, I was given nothing to indicate that the nominee to head the Federal Trade Commission would buck the pernicious trend across this country that is draining the competition out of gasoline markets across America.

For example, I asked Ms. Majoras about the Federal Trade Commission's lack of response to letters I have sent to the Chair requesting the Federal Trade Commission to investigate Shell Oil's plan to close a 70,000-barrel-per-day refinery in Bakersfield, CA. The Federal Trade Commission sent me a two-paragraph response saying they would seriously consider it.

This is an enormously important issue for those of us on the west coast. I see my friend from Nevada on the Senate floor, who has been eloquent with respect to trying to stand up for the consumer on the gasoline issue. The Presiding Officer, who I have the privilege of serving with, has been long concerned about gasoline prices. This Bakersfield shutdown will have enormous and negative ramifications for the people on the west coast.

But while I have heard repeatedly from the agency—and I heard yesterday from the nominee that this "sounds like a serious issue"—there was no commitment, none, just like the current FTC Chair, to take any specific action. In addition, the nominee pointed out there may even be a potential conflict of interest with respect to the Bakersfield shutdown because of her current law firm responsibilities and the fact that her current firm represents Chevron.

So, Mr. President, I will say, as I have done in the past, that I am going to keep my door open. I am hopeful, in the course of hearings and debates about the future direction of the Federal Trade Commission, that the nominee will shift course from what I heard yesterday. But I will tell you, it is not enough for the agency to continue to say they are "seriously concerned" or they are "monitoring the situation" or "they are troubled by the high prices our constituents are paying." That is not enough.

When people up and down the west coast of the United States and across the country are getting shellacked by these gasoline prices, in effect, we are seeing consumers clobbered at the pump with dollars from their own pockets, and then taxpayer dollars are used to fill the Strategic Petroleum Reserve at record prices when it is essentially filled.

We need some changes, and we need changes at the top with respect to gasoline pricing policy in this country. That means the Federal Trade Commission has to get off the sidelines. They have to zero in on the three specific areas I mentioned this morning:

oil company mergers; refinery shutdowns; and anti-competitive practices, such as redlining.

For far too many years, Federal Trade Commission political appointees have sat on their hands while the anti-competitive practices of the oil industry gouge American consumers at the gas pump. I have given Ms. Majoras a number of opportunities to explain to me what she plans to do differently as a Commissioner, and she has made it abundantly clear that she has no specific plan to energize the FTC to begin fighting for consumers. I don't intend to allow yet another FTC Commissioner collect a $145,00 salary to do nothing while unnaturally high gas prices jeopardize American jobs and American families.

It is my intention to continue to object to Senate consideration of the nominee to head the Federal Trade Commission until that agency is willing to tell the people of our State and the people of this country that there are going to be some changes and there is going to be some competition again in the gasoline markets of our country.

Mr. President, I yield the floor.

EXTENSION OF MORNING BUSINESS

Mr. REID. Mr. President, how much time remains on the side of the minority?

The PRESIDING OFFICER. There is 3½ minutes.

Mr. REID. Mr. President, we are going to go to the bioshield bill at 11:30. The majority has 45 minutes. We are not going to vote on that until 2 o'clock, anyway. I ask unanimous consent that I be allowed an extra 5 minutes and that the majority also be given 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY

Mr. REID. Mr. President, we have people from the majority coming out here occasionally talking about how important it would be to pass an energy bill. I listened to the President's press secretary yesterday saying: Well, the reason we are not having lower gas prices is because the Democrats won't help with the Energy bill.

This is simply talk. It has absolutely has no merit. All we need to look at is what the administration itself says about the Energy bill. The Department of Energy's Energy Information Administration studied this question and concludes the legislation's incentives to reduce our reliance on foreign oil sources will have a negligible success. The report, prepared by the administration for a Republican Senator, states:

> On a fuel-specific basis, proposals in the [conference report] including changes to production, consumption, imports, and prices are deemed to be negligible.

The bill won't address our energy needs in the future. It won't protect middle-class families who are being gouged with the gas prices we see today. Nevada has the second or third highest gas prices in the country. Gas prices across the Nation have reached alarming levels, especially in Nevada and California. A regular, unleaded gallon of gasoline costs $2.22 in Las Vegas, $2.29 in Reno, while higher blend fuels are at about $2.50 a gallon. I have to say, this was written on Monday. This is 2 days later. I don't know what it is today. But it has gone up.

Since the first of the year, the price of gasoline has increased more than 58 cents a gallon in Nevada. There is no doubt the price of crude oil has contributed to higher gasoline prices, but this outrageous 58-cent increase in Nevada since January has not been driven by the rising cost of crude oil but by corporate greed and the never-ending quest for profits, no matter what it does to the consumer.

Big oil companies and refiners are getting rich. Middle-class families are getting gouged. I had in my office last week a wholesale distributor from Las Vegas and Reno. If a service station wants some oil products, gasoline, that is where they get it. These companies are going broke because they can't pay for the huge cost of fuel. The markup they get is 2 or 3 cents a gallon. They make 2 or 3 cents a gallon on the fuel they sell. So it is not the service station operators making the money. It is not the person who gives them the fuel. It is the big suppliers. Big oil companies and refiners are getting rich. Middle-class families are getting gouged.

I am not making this up. It is documented. Refiner margins have doubled and tripled. Oil companies weren't content to make 25 cents for every gallon of gasoline.

They now make up to 75 cents for every gallon of gasoline sold.

Look at this. Who is better off? Oil companies report record profit increases. British Petroleum did OK last year, a 165-percent increase in their profits. Chevron-Texaco are the record holders, a 294-percent profit. Exxon-Mobil, a 125-percent profit. Conoco-Phillips, I don't know what happened to this company; they only made a 44-percent increase in profit last year. That is all. Conoco-Phillips is down at the bottom. They made a profit before, but now they had an additional 44-percent increase in profit. I repeat, British Petroleum had a 165-percent increase in profit compared to the previous year; Chevron, a 294-percent increase in profit compared to the preceding year; and Exxon-Mobil, a 125-percent increase in profit. I am not making this up. These companies are gouging.

We have all received letters from our constituents. I have received them from Nevadans whose budgets are stretched. They have to make a choice between food, a place to live, and medicine. This is the way it is. It is too bad. Gasoline is not a luxury; it is a necessity. Families have to put gas in their vehicles so they can drive to work, take the children to school, and go to the grocery store.

Big oil companies control it all. British Petroleum, Chevron-Texaco, Conoco-Phillips, Exxon-Mobil, they make the money. And as long as they can show their shareholders they are doing great, it doesn't matter what is happening to the country or the people who work for these companies. They control the supply. They know families have little choice in the matter. They literally have consumers over a barrel of oil.

While consumers are paying record prices, the oil companies are reaping record profits. These profits are outrageous. I believe in the free enterprise system, but if you carry this to its extreme, there isn't much left for the consumer.

Major California refineries owned by Valero and Tesoro that supply the Las Vegas-Reno area have reported record profits and project even bigger gains in the months ahead. Record profits for big oil; record prices for American families.

I have asked the Federal Trade Commission to stop this price gouging, but they won't act. The FTC continues to study the problem while gas prices skyrocket. We all agree something must be done. It is a simple fact that we can't drill our way out of the problem. We are sitting on less than 3 percent of the oil reserves of the world. This includes ANWR. We consume 25 percent of the oil that is produced, and 97-plus percent of the oil reserves in the world are someplace else.

We need to find an innovative new solution, but this administration's energy policy is stuck in the past. It is slanted toward big oil and special interests generally. This is a policy that was hatched in secret 3 years ago by the Vice President's energy task force. This is the task force that refuses to produce the records of who met, where they met, what they talked about. This has gone to court. They have stalled it for almost 4 years.

This past Sunday the Washington Post reported on the influence that has been wielded in this administration by the people who raised large amounts of money for President Bush's campaign. One of the four people who organized the entire fundraising apparatus was Donald Evans, a Texas oil man. The article also noted the influence of Enron CEO Ken Lay—"Kenny boy," as he was called by the President—who served on the Energy Department transition team and recommended two of the appointees to the five-member Federal Energy Regulatory Commission. Is it any wonder nothing is being done?

When it comes to national energy policy, this administration is taking care of the Enrons, the big oil companies, while middle-class families and other families are gouged. Our Nation must promote the responsible production of oil and gas, but that doesn't mean we should roll back environmental protections of our priceless public lands to allow drilling. Remember, we cannot produce our way out of this problem.

If we allow drilling in ANWR, with all the roads and other support structures that would be required, we would despoil a national treasure for little long-term gain in energy security.

Instead of squandering our children's birthright for a temporary supply of oil, we should do a better job of conserving.

If all our cars, trucks and sport utility vehicles got an average of 27.5 miles per gallon, we would save more oil in 3 years than could be recovered economically from the entire Arctic National Wildlife Refuge.

I know we can do it because we did it once before.

After the 1973 Arab oil embargo, when Americans were forced to wait in long lines to buy gasoline, we realized that our dependence on oil from the Middle East was compromising our national security.

So we dedicated ourselves to building vehicles that were more fuel-efficient. And by 1990, the average American vehicle got 40 percent more miles per gallon than in 1973.

That is an American success story, a triumph of good old American ingenuity.

We need to redouble our efforts to conserve oil.

We also need the President to stop filling the Strategic Petroleum Reserve.

It is more than 90 percent full. How much is enough?

There have been two major releases of oil from the SPR. Crude oil prices fell sharply each time.

The first SPR release occurred as the U.S. began bombing Iraq on January 16, 1991. The next day crude oil prices fell from $32 to $21 per barrel.

The second release occurred in September 2000. Crude oil prices immediately fell from $37 to $31 per barrel after this release was announced.

The President also needs to pressure OPEC to significantly increase its production quotas to lower the price of oil on world markets.

These are some immediate steps we can take to help middle class families.

But to meet our energy needs over the long term, we need an energy policy that looks to the future.

I have already talked about the need to conserve oil.

Conserving would protect consumers, and it would make our country stronger.

Thomas Friedman, who covers the Middle East for the New York Times, wrote last week that we must renew our efforts to free ourselves from our dependence on oil from that region.

He suggested an effort modeled after the Manhattan Project. That, of course, was our extraordinary race to develop a nuclear weapon during World War II.

The Manhattan Project was a success. It helped keep the world free.

And we can do it again.

We are going to be spending a lot of time this week talking about national defense, about ways to make our country stronger.

Well, we can make our country stronger by finding an efficient and environmentally sound way to produce hydrogen fuel.

We can find a way to produce hydrogen fuel by harnessing our abundant renewable energy sources—the power of the wind, the warmth of the sun, and the heat within the earth.

We need to break this bill apart and extract what is good.

Let's take elements of this energy legislation that enjoy broad, bipartisan support, and move them forward to the President's desk.

I was encouraged that the FSC/ETI bill passed by the Senate last week contains the Energy Tax Incentives.

I applaud Senators GRASSLEY, BAUCUS, and DOMENICI for the provision that expands and extends the production tax credit for wind, geothermal, solar, and biomass energy.

The FSC/ETI bill also guarantees a commodity floor price for the Alaskan Natural Gas Pipeline.

I strongly support a price floor and loan guarantees to build an Alaska Natural Gas Pipeline, but this supply won't enter the market for another 10 years.

Senator CANTWELL has introduced a standalone bipartisan bill to improve the reliability of our Nation's electric transmission system.

This bill is noncontroversial and can pass both Houses of Congress.

We can pass meaningful parts of this energy legislation, and begin to implement a strategy that looks toward the future.

We need to act now.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. COLEMAN. Mr. President, can the Chair advise where we are in the business of the Senate?

The PRESIDING OFFICER. We are in morning business.

MOVING AMERICA FORWARD

Mr. COLEMAN. Mr. President, I want to spend time talking about the Defense authorization bill. Before I do, I want to respond to this question, are we better off? I think it is a good question.

But the question has to be phrased: Are we better off today than we were after the impact of September 11? My colleagues across the aisle continually block out of their minds the impact of the devastating attack on American soil of September 11 and the challenges this country faced—both emotional, from the scars of the terrible loss of life, as well as the economic impact. That is the question.

Are we better off today with the Taliban not operating freely in Afghanistan? Are we better off today with Saddam Hussein no longer supporting Hamas and Hezbollah, no longer operating the torture and rape chambers?

Are we better off today fighting terrorism in Iraq rather than again back on our shores? Are we better off economically?

Mr. President, I have in front of me an article in today's Minneapolis Star Tribune, and I will refer to a couple sections. It says, in April, Minnesota broke all kinds of job records, led by the State's largest drop in unemployment, to 4.1 percent from 4.8 percent. Economists used words such as "spectacular" and "breathless" to describe the job gains they say were part of the national turnaround.

The U.S. economy added 625,000 jobs in March and April, a turnaround, I note, that was fueled by tax cuts, was fueled by bonus depreciation, was fueled by increasing expansion, fueled by lowering the top rate to give small business a tax break. The article notes that the 0.7-percent drop in the unemployment rate was the biggest since the State started keeping records in the late 1970s.

Are we better off economically today than we were after the impact of 9/11? Absolutely. With the $18,000 job decline and the number of unemployed people, also going back to the 1970s, that was 13 percent fewer than the 140,000 unemployed in March. The 4,500 new manufacturing jobs is the biggest monthly increase since the State started tracking the statistic in 1992.

Are we better off today, post-9/11, than we were right after that attack? Absolutely. Completing Tuesday's figures, success in more hiring suggests fewer firings. New unemployment claims dropped 14.1 percent in April. They talk about in this article the manufacturing sector.

We would be better off if we didn't have the other side filibustering an energy bill. We would grow more jobs. We would be better off if my colleagues on the other side were not blocking asbestos reform, if my colleagues were not blocking class action reform, so that we could grow more jobs. We would be better off if my colleagues on the other side were not blocking the appointing of conferees to the highway bill. That is a jobs bill. Have we moved forward? Absolutely. Have we recovered from 9/

11? Absolutely. But rather than criticize, my colleagues should come together and stop the obstruction and blocking and let's move America forward.

DEPARTMENT OF DEFENSE AUTHORIZATION

Mr. COLEMAN. Mr. President, we spend a fair amount of time on this floor discussing priorities for our people and our Government. As far as I am concerned, all that talk is about what comes in second to the subject we are on today: national security.

Our first obligation is to defend the American people and our interests abroad. If we don't do that with thoroughness and excellence, nothing else is going to matter for long.

September 11 was a tragic day. It was also the end of a period of denial. For generations, we believed that we could sit here safely, protected by our oceans. But 2 world wars in the last century and the coming of the nuclear age changed that. But when the Berlin Wall fell down and the Soviet Union collapsed, perhaps some lapsed into a false sense of security. September 11th changed that forever.

This bill—the Defense authorization bill—is an attempt to respond to the defense of American interests in the world as it is, now and for the foreseeable future. Failure to be prepared invites the threats we fear. Peace through strength must remain the governing doctrine of American national security.

I support the work of the Chairman, Senator WARNER, on this bill. What a tremendous asset it is to the Senate and Nation to have his expertise and experience. The fact that he served at the Pentagon, and has participated in this bill through numerous administrations gives us confidence in this work product.

It has been said that the key to leadership is maintaining order in the midst of change, and change in the midst of order. With the distinguished Chairman, we have that balance.

Mr. President, for a moment, I want to discuss recent developments in Iraq.

You would never try to time a foot race with a sun dial. Likewise, it makes no sense to judge the progress of the war in Iraq by the top of the hour news.

We are at war. That is a sentence fraught with meaning. War is by definition unpredictable. It involves a struggle against a dedicated foe, and constantly shifting conditions. Depending on your point of view, a single event for one part will be an "ebb", while for another it is a "flow." With a short term perspective, you never know whether something is a trend or an isolated, irrelevant occurrence.

One of the lessons we learned from the Vietnam era is that when the United States of America commits troops to battle, we should only do so if we are committed and confident of victory. The angst of so many Vietnam veterans is not the sacrifice they were called to make, but the betrayal of their cause and the anger of the American people at them for doing what their country asked them to do.

The decision to go to war in Iraq was not a snap judgment. It was thoroughly debated here on this floor. The vote to authorize the use of force was not unanimous, but it was bipartisan. We crossed a threshold when we made that decision, and when combat began.

A decision to go to war is not a stock you buy or sell depending on how it is doing. We are in this war until we finish it successfully.

Is there room for debate on how the war is to be conducted? Certainly. But only to a point. We don't need 535 commanders in chief.

In a world of instantaneous global communication, we need to be very sensitive to what we say on the public record, and how our words can be interpreted by those who wish to destroy us. War is a matter of armaments and troops and battle plans. But is also a matter of psychology and spirit. We should be very careful not to encourage our enemies. When Congressman MURTHA made his comments last week, I vehemently disagreed with them. This war is certainly "winnable" but if insurgents heard his words, it was harder to win than before he spoke.

I reiterate that it would be foolish to try to run this war based on public opinion. We have no General Gallup Poll. The circumstances we have learned about Abu Ghraib are very disturbing to us all. Looking at the polls, it had a short term effect on support for the war effort. But we must maintain the perspective that these are actions we are ashamed of and are working to prevent from ever re-occurring. Compare that to the villains who beheaded Mr. Berg. They reveled in the act of his murder. It was a picture of what we are there to fight against.

Progress is being made. The influential Shia cleric Al-Sistani has called for people like Al Sadr to lay down their arms.

The President has made it clear what to expect as the June 30 deadline approaches. Terrorists like Al Zarqawi know what the prospect of a free Iraq means, and they will do anything to stop it. We cannot let them succeed. We need to be more committed to our noble ideals than the terrorists are to their evil plans. Despite all the attempts to distract us or deter us, we need to stay focused on the transition to Iraqi sovereignty. If we fail, the fall out will be far worse than that from an artillery shell filled with sarin gas.

Mr. President, our history tells us that war is hell. But it also tells us that there are some things worth fighting for.

The battle is engaged. The war on terrorism is being fought in Baghdad, in the Sunni Triangle, not here. Better to fight the battle there than here. Have no doubt, if we were not fighting it there, it would be fought right here. Its poison and death would spew forth upon us.

Removing Saddam Hussein from the world stage was worth fighting for. Freeing the people of Iraq from tyranny and deprivation is worth fighting for. Planting an Arab democracy in the Middle East is an historic opportunity for freedom in this world.

We are committed, Mr. President. Our only option is to persevere to victory. With all people, I hope and pray it will be soon.

I thank the committee for the bill they have brought here to the Senate floor to give the President the tools he needs to protect our security. I look forward to our consideration and passage of it.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

THE COMMANDER'S EMERGENCY RESPONSE PROGRAM

Mr. STEVENS. Mr. President, I come to the floor of the Senate today to share with my colleagues and the American people a genuine success story coming out of Iraq. It is a story that demonstrates how American ingenuity, coupled with common sense and commitment, is leading to immediate, visible and valuable improvements in the lives of the Iraqi people.

I am speaking of the Commander's Emergency Response Program. This is a program that allows our troops on the ground to fund low-cost, high-impact humanitarian and small reconstruction projects that benefit the quality of life of the Iraqi people and contribute to our country's stabilization efforts in Iraq.

The Commander's Emergency Response Program, or CERP, is a program that has generated significant success and one that deserves to be told and told and told.

With the wave of bad news coming out of Iraq in recent weeks, it is easy to lose sight of the progress we have made in that country and of the many accomplishments our Armed Forces have already reached.

Our men and women in uniform have performed magnificently, and the Commander's Emergency Response Program gives them a tool to fund small-scale projects that have an immediate, visible, and high-value impact on the lives of the Iraqi people. We are literally talking about repairing homes, painting schools, restocking hospitals, and restoring freshwater supplies to villages. No project is too small; no task is too trivial.

To date, our commanders on the ground have spent over $250 million through the Commander's Emergency Response Program, funding over 21,000 projects at an average cost of less than $7,000. That is right, $7,000.

Our local commanders have used the CERP to reopen hospitals and clinics all across Iraq to administer over 22 million vaccinations. They have distributed new textbooks to 5.9 million students who are attending school, some for the first time. Our commanders have funded over 1,000 water and sewer projects, bringing clean water to farmers and to villages.

In Rutba, CERP funds were used for electrical and plumbing repairs to the local youth center. The repairs, which cost less than $9,000, were completed within 10 days.

In Baghdad, the 30th Medical Brigade used the CERP funds to purchase inspection equipment for seven slaughterhouses.

The list of small, yet meaningful, projects could go on and on. Most importantly, the CERP lets our troops act quickly without becoming entangled in red tape or bureaucracy.

Individually, these small-scale projects contribute to the improvement in the daily lives of Iraqi citizens step by step. Collectively, these thousands of projects become something larger, like pieces of a puzzle that join together to reveal a larger picture—a good picture.

Collectively, these projects illustrate the concern of the U.S. military for the Iraqi people, the commitment that our men and women in uniform bring to improving the lives of Iraqis every single day, and the creativity in our approach to ensuring security and stability in Iraq.

We do not read much about these kinds of activities, but collectively these projects give our troops on the ground an opportunity to reach out to Iraqi citizens and to build a bond of mutual trust and good will.

BG David Blackledge, the commander of the 352nd Civil Affairs Command in Iraq, said one of the reasons the Commander's Emergency Response Program has been so successful is that it is administered by the local battalion or brigade commander on the ground who is living and interacting with the citizens of his or her area of responsibility on a daily basis.

Who can better identify the immediate needs that can be addressed through low-cost, high-impact projects than the soldiers right there on the ground?

With all due respect for the policy people here in Washington, they cannot see the potholes in the roads, they cannot see the dilapidated buildings and infrastructure that has degenerated for years under the tyrannical dictatorship of Saddam Hussein. Our troops on the ground see these obstacles every day, and the Commander's Emergency Response Program lets them address these problems immediately and effectively with the cooperation and assistance of the Iraqi people.

Let me be clear—very clear: In most cases, the actual work is done by Iraqis themselves, so that in addition to yielding immediate and visible results, projects funded from the CERP provide jobs to Iraqis who are eager to rebuild their country and to stimulate the Iraqi economy.

Some people might be concerned that our commanders are walking around Iraq and Afghanistan with thousands of dollars of cash in their pockets, spending it without congressional oversight. Let me assure those people that is not so. The coalition has instituted strict controls to ensure complete accountability of the funds from the Commander's Emergency Response Program.

The Commander's Emergency Response Program is a low-cost, high-impact program, the effects of which will be felt throughout Iraq. It has been instrumental in gaining the confidence of the Iraqi people and in generating a tremendous amount of good will toward our troops on the ground.

Sometimes all it takes to improve the lives of Iraqi citizens and to build relationships is to repair a door that was damaged in a raid, or to provide a power generator to a factory so its Iraqi employees can get back to work. These are the types of small, yet meaningful, projects our commanders can tackle with the Commander's Emergency Response Program. These projects do not cost much in terms of dollars, but the return is tremendous. It is critical we continue to incorporate this approach into our reconstruction efforts in Iraq. Our commanders need reasonable, sound financial flexibility to match the speed of their operations and the dynamic nature of our battlefields.

The Commander's Emergency Response Program provides our commanders with a flexible tool to respond quickly and decisively to humanitarian problems. If fixing a well quickly solves a local problem and shows a neighborhood the coalition is improving their lives, then that is an important tool for our troops to have.

Initially, this program was funded from seized Iraqi assets. I am proud to say we gave the Department of Defense the authority to continue the Commander's Emergency Response Program in the current fiscal year 2004 supplemental appropriations bill. I look forward to again supporting the Department as we pass the fiscal year 2005 Department of Defense appropriations bill.

I close with a final thought. Our men and women in uniform liberated 25 million Iraqi people in a military campaign with swiftness, precision, and success—success unparalleled in history. We can attribute this success to the foresight and creativity that allowed us to prepare and equip a total force the world has never seen. Now we are applying that same foresight and creativity as we tackle the difficult task of reconstructing and stabilizing Iraq.

The Commander's Emergency Response Program provides visible, high-impact support to the Iraqi people so they can create a foundation for a free and stable society. It is a true success story in Iraq. I am proud of the troops who use it to help the Iraqi people every day, and I am proud to support this very important program.

Kate Kaufer and Sid Ashworth of the Appropriations Subcommittee on Defense prepared these remarks for my presentation.

I thank the Chair. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

PENTAGON RESPONSE TO IRAQI PRISONER ABUSE

Mr. BENNETT. Mr. President, last week, along with a number of my colleagues, I went up into the room on the fourth floor in the Capitol where the Defense Department, the State Department, and the CIA come to brief us on classified information. I sat in a darkened room where we saw a slide show of the photographs that had been taken of Americans inflicting abuse on Iraqi prisoners. The pictures were revolting, they were disgusting, and they left us all with a sense of outrage that this had gone on, outrage that Americans had been involved in anything such as this.

I did not look forward to the experience. Indeed, I made the initial decision not to go. Then I decided: No, if I am going to be involved in examining what is here, I have to see the evidence, as revolting as it may be.

The sense of outrage that I and my colleagues felt about this was shared by all Americans, but in one sector of American society it seems to be even greater than anyplace else. There are some in this society who might not be able to guess what that sector is. But I would say the outrage that has been the strongest has come from those who serve in the American military.

Duty, honor, country—these are the watch words of the American military, and they were violated by those who took those actions in the prison in Baghdad. They did not do their duty. They dishonored the uniforms they wore as they abused those prisoners, and they brought disgrace on the country whose Constitution they had taken an oath to uphold and defend.

The sense of outrage is nationwide, but it is particularly focused among those who have sworn to uphold duty, honor, and country and saw their fellows in uniform violate those principles.

I rise to discuss this today because today is the first court-martial coming as a result of the investigations that have been conducted into this activity. This morning in Baghdad, Army SPC Jeremy Sivits pled guilty, was convicted, and sentenced to a 1-year imprisonment, reduction in rank, and a bad conduct discharge.

Now, there are those in our society who have less faith in the military, who say: These courts-martial are a part of a coverup; this is an attempt to gloss over what has happened; one cannot trust the military to investigate themselves; and we need a whole series of investigations by outside groups.

I believe the facts are that we will find out more what happened from the courts-martial than we would find out from any degree of investigation conducted elsewhere. I offer as a demonstration of the fact that the military can be trusted to act in matters of this kind the following chronology of what has happened with respect to this incident.

We now know that the abuse of the prisoners took place in the last quarter of 2003. We do not know the exact dates, but sometime toward the end of that year the alleged detainee abuse occurred. On January 13, 2004, SPC Joseph Darby opened an e-mail thinking he was going to see pictures that he described as a travelogue; a history of the performance of a particular unit. Instead, what had been downloaded on his computer were the photographs that my colleagues and I saw in room 407 of this building.

Specialist Darby was absolutely stunned. What did he do? Here were his fellow soldiers engaged in activity that was clearly in violation of everything he had been taught, people he wanted to feel close with and identified with, people who, perhaps, were his friends. What would he do? He did his duty, and he provided a CD of the abuse photos to the Army Criminal Investigation Command, or the CID, on January 13, 2004. On January 14, the CID began its investigation—no attempt to cover up. No attempt to hide or turn away from the fact that there was a potential difficulty. They began the next day, and they notified people up the chain of command of what they were doing.

On January 16, just 2 days later, Brigadier General Kimmitt announced that there would be an investigation by Central Command. It had gone up all that way, that quickly. In just 3 days they were at the top levels of Central Command.

Two days after that, BG Janis Karpinski, who was the commander at Abu Ghraib prison, was admonished and suspended from her command. She was relieved just 2 days after this reached the attention of Central Command.

Additionally, the Abu Ghraib chain of command was suspended, from the battalion commander, a lieutenant colonel, all the way down. Just 2 days after this was brought to the attention of Central Command, the entire group was relieved.

Now, on January 19, a combined joint task force requested that Central Command appoint an investigating officer, and on January 31, Major General Taguba was appointed to conduct the investigation.

On February 10, the Secretary of the Army tasks the inspector general to conduct an analysis of the internment detention policies, practices, and procedures. It goes beyond just the prison: Look at the whole Army and our procedures to see what can be done to prevent this from happening again.

On March 12, General Taguba completed his investigation and briefed the commander of joint task force 7, Lieutenant General Sanchez. Also on March 12, Lieutenant General Helmly, who was the commander of the U.S. Army Reserve Command, directed that Command's inspector general to conduct an assessment of training for Reserve personnel on the issues of detainee treatment, ethics, and leadership to see if the training had broken down in a way that would cause this to happen. All of this was going on—the military acting on its own.

On March 20, the first charges were preferred against six accused and announced by Brigadier General Kimmitt at a press conference. This is not something that got discovered by some investigative reporter digging in behind the scenes. This was something that was announced by the military after they had done a careful examination and moved in a way to protect the rights of every individual.

At that announcement, no names or units were identified so that they would not compromise the due process of those who were being accused.

On April 15, Major General Fay, the Army Deputy Chief of Staff for Intelligence, appointed an investigative officer to examine the circumstances with respect to the 205th Military Intelligence Brigade. That is the group where the commander was relieved within 2 days of discovering that there was an allegation of a problem.

On May 1, Lieutenant General Sanchez issued a memorandum of reprimand to six general officers and one letter of admonition to a member of the 800th Military Police Brigade as recommended by Major General Taguba. This is not something that they passed off to the GIs, the sergeants, the corporals, and the privates. This is something they took care of at the general officer level. Six general officers received a memorandum of reprimand. That is a career-ending experience for a general officer.

Then on May 7, Secretary Rumsfeld announced the independent review panel headed by former Defense Secretary Jim Schlessinger, including retired Air Force General Chuck Horner, former Representative Tillie Fowler, and former Defense Secretary Harold Brown. And then, today, on May 19, the first court-martial has taken place and Specialist Sivits was found guilty and sentenced.

The lesson that comes from this list of actions is a lesson that the world should heed. The lesson for Iraqis and other nations is that this is how democracies handle their problems. This is how Americans face the difficulties that arise when there is a breakdown that occurs within our military. We do not hide it. We do not pretend it did not happen. We do not strive to find excuses. We act in the way consistent with the rule of law.

I hope everyone in the world would recognize the difference between the way we have responded to this and the way al-Qaida has responded to this. We have responded to it by exercising the rule of law and seeking those responsible. They have responded by taking an innocent American civilian, who had nothing whatever to do with any of this, and cutting off his head, live and in color on international television. That is the difference between Americans and al-Qaida when faced with a problem.

So that is the first lesson I hope the world will take from the way we are handling this. The lesson that the military should take from this is that the rules are there to be obeyed. The lesson that should go forward from Specialist Sivits' court-martial, from the six general officers who got the memorandum of reprimand and from the investigations that are still going forward is that if the rules are broken, you end up in Fort Leavenworth. That is the lesson that should come out of this for the American military, and I believe it is being received there.

The lesson for the commanders, those who are now responsible and who have taken over to replace those who were relieved, is this. It comes from a statement by General Eisenhower, who knew something about military discipline. He said: "Areas that are not inspected deteriorate."

Let's go back to Specialist Sivits for a moment and find out from his statements relating to his court-martial what really happened. I am quoting now from the Washington Post:

> Sivits told investigators that the abuse would not have happened had higher-ranking members been present. "Our command would have slammed us," he said. "They believe in doing the right thing. If they saw what was going on, there would be hell to pay."
>
> That statement echoes testimony given by one of the initial investigators on the case. During a session similar to a grand jury proceeding, Tyler Pieron, an Army criminal investigator, said the abuses occurred, "after the chain of command had changed shifts and gone home."

* * * * *

> Sivits said he did not report the abuse to his commanders because [he was told not to by a friend] "and I try to be friends with everyone. I see now where trying to be friends with everyone can cost you."

I spoke with Secretary Rumsfeld this morning about this lesson, the lesson of command. It is fine to change the command, but we must examine what caused the problem and change the procedures. Even though the rules were there, the procedures broke down. There was not a duty officer on duty. We have been told that this abuse took place between 2 and 4 in the morning when no one was around. I raised with Secretary Rumsfeld the importance of seeing to it from now on that the new commanders of the prison make sure there is a duty officer there all night long.

Back to Eisenhower's dictum, there should be snap, surprise inspections. People in the prisons should never know when someone might drop in, unexpected and unannounced, to see what is going on. Secretary Rumsfeld concurred. I believe that is the lesson that command should receive from this experience, and I believe it is the lesson they will learn and they will follow.

As sorry as this chapter is in our proud military history and as deep as this stain has become upon America's honor, it is not the first time we have seen such chapters. It is not the first time we have endured such stains. I wish I could say it is the last time this will happen, but even in this morning's news we are hearing that there are more pictures, that it may have been more widespread than we thought. With human beings as imperfect as they are, it is inevitable that at some point in the future someone else will break the rules, violate his oath, and take actions that will cause all Americans to mourn, as we do over these actions.

Given that history, that it has happened before and perhaps will happen again, we should remember what we did as a nation when it happened before and what we are doing now. We dealt with it. We went after those who were responsible, discovered who they were, gave them their full due process, but when they were convicted, they were punished. They were dealt with. Then we made the changes that were necessary to see to it that it wouldn't happen again. Then we got past it.

We have not allowed those past chapters in our history to deter us from our destiny as a nation. We should do the same thing now. We are in the process of discovering who the guilty are. We are in the process of conducting courts-martial. Specialist Sivits is just the first. Charges have been proffered against others and additional courts-martial will be forthcoming. We are in the process of making the changes—not just the change of command but the change in procedures to see to it that this will not happen again.

As we have done in the past, we must get through this and not let it deter us from our overall goal of why we are in Iraq. We must not fixate on this stain on our honor to the point that we become so muscle-bound that we cannot proceed forward in our mission.

What is our mission? Speakers who have addressed this before me have made that clear. Our mission is to provide freedom and security for the people of Iraq. I believe that means freedom and security for the Middle East generally. I believe that means transforming the world in which Americans live and an increase of freedom and security for our Nation as well. These are worthy, indeed noble goals, and we must not be deterred from seeking them by preoccupation with this particular outrage.

I close with a conversation I had over the weekend. Like many of us over the weekend, I went home to Utah and I participated in Armed Forces Day. It was a poignant Armed Forces Day for a variety of reasons, because many of the people who were there were families of those in the military who were there without their family member—that is, children, husbands, wives, mothers and fathers of Utahns who are serving in this war and who are not home with their families to enjoy the delightful spring day at Murray City Park where everyone was having a picnic and a good time. Set up in that area was a series of flags, one flag for each individual who had fallen in either Iraq or Afghanistan. Of course, the majority of flags were American flags, but I was struck by the number of British flags, Italian flags, Polish flags, Spanish flags—one I did not recognize, an Ukrainian flag, an Estonian flag. We are providing the leadership, but many countries in the world are responding to us as we launch on this mission.

On Armed Forces Day I sat next to a colonel. He was not a Utahn; he had come to participate in the activities. We visited over lunch. With the Army, he has been in Kosovo, he has been in Bosnia, he has been in Afghanistan, he has been in Iraq, and he was on his way back to Iraq.

I said to him: Colonel, tell me what it is like. You have been there, you have been on the ground. Tell me what it is like. He gave me an answer we hear a lot. Indeed, it was the first sentence out of his mouth that comes out the same as many others. He said: Well, things are not nearly as bad as the U.S. press would have you believe. Things are really going fairly well in many parts of the country. But we have problems.

We talked about some of the problems. He made this observation that I think should keep us thoughtful as we address our mission in Iraq. He said: You know, whether it is Bosnia, Kosovo, Afghanistan, or Iraq, the same thing is true: Those people are just like us in that all they want is to have their children be able to walk out of the door and be safe on the street, to be able to go to school without intimidation and learn what they need to learn to get a decent job and live a decent life. That is all they want in Kosovo, Bosnia, Afghanistan, or Iraq—just like us. That is what we want in America. To bring that to Iraq and give the people of Iraq that opportunity, with their wives and their children and their grandchildren, unfortunately requires force of arms. Americans, British, Italians, Poles, Spaniards, Ukrainians, Estonians, are willing to risk their lives to bring about that goal. We must never lose sight of the importance of that mission or of the sacrifice that has gone into achieving it. We must never turn back simply because there are those who have put a stain on American honor by the way they have behaved.

I pay tribute to the Armed Forces. I pay tribute to the chain of command that is dealing with these challenges. I pay tribute to those who are willing to face the problems and not back away from them or cover them up. We must support them in their efforts. We must not smear the entire establishment because of the actions of a few.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SMITH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BENNETT). Without objection, it is so ordered.

OREGON'S ECONOMY

Mr. SMITH. Mr. President, yesterday I had the privilege to sit in that chair during much of the morning hour and I heard many of the speeches of our colleagues and friends on the other side. The theme of the day was, Are you better off today than you were 4 years ago? Those are the words of Ronald Reagan and Jimmy Carter. Now they are being applied to George W. Bush. I can say as an Oregonian that the answer in my State is yes, we are now better off than we were 4 years ago.

When I watched George W. Bush take his oath of office on a cold and rainy January day 3½ years ago, I was very mindful that Oregon was not going into recession; we were deep into recession. We had spent 8 years of the Clinton administration watching the dismantling of 70,000 family-wage jobs in many of the natural resource industries in my State, specifically, timber industry, fishing, farming, and others.

We were told we did not need low tech, we had high tech. But the bubble of high tech had already popped in Oregon. Billions of high-tech values, equities, were disappearing because they were no more than the blue sky in the end than they were in the beginning.

Then we should have known it, but the tourism industry that we were told would take the place of our basic industries was in risk of peril that maybe we could not have imagined. When September 11 occurred, tourism evaporated, as well. And my State, because of the policy of the 1990s, coupled with the incredible shocks of the high-tech bubble popping, September 11, corporate scandals, began to register some of the highest unemployment rates in America.

Today those rates are falling and falling fast in Oregon. They are nowhere near as good as they ought to be, but with lower taxes, healthy forest initiative, an effort to preserve our hydroelectric dams in the Pacific Northwest, Oregon is coming back, tourists are coming back, high-tech is being restabilized, and trade is being advanced. These are all issues that will be and are part of the Presidential election.

As one Oregonian, I ask, Are we better off than we were 4 years ago? By most indicators, the answer is emphatically, yes. The rule of thumb is it takes 6 months between the kind of economic news we are beginning to enjoy now before that news is fully understood by the American people. If that holds true this time, a majority of Oregonians will be able to answer with me that, yes, we are better off now than we were 4 years ago.

It is not perfect. Gas prices, as my colleague from Oregon, RON WYDEN, pointed out, are too high. There are many reasons for that. I don't know that they will ever come down to what they were. But I do know the contender for the Presidency does not have the answer on this. The truth is, we have to explore for more and we have to conserve more. It is not all one and it is not all the other. It is both.

I understand he is complaining he does not see the President jawboning down the prices. Yet I think what Mr. Woodward said, that the President was talking to Prince Bandar, the men and women would not stand for it. You cannot have it both ways all the time.

The other half of the equation of, Are you better off now than you were 4 years ago, is the whole issue of our foreign policy and our domestic security. Having spent 6 years on the Foreign Relations Committee, I watched President Clinton, well motivated in foreign policy, trying to reconcile what to do with American power in a world in which we were the only superpower.

I learned a great lesson from him as it relates to Kosovo. I was one of the few Republican Senators who voted with him on Kosovo, consistently believing it was in American interests because it was consistent with an American value that we end genocide in Europe's back door. But for our intervention, at the urging and pleading of our NATO allies, they would have lost Kosovo to Mr. Milosevic without American power, President Clinton's leadership, and the support of this Congress that ultimately turned around that policy of genocide toward a European Muslim majority.

I remember asking President Clinton, Mr. President, can't you go get a Security Council resolution in support of this? He responded, Senator, I cannot because Russia and China have promised to veto.

I learned then how wise is now-President Bush's policy that you do not go to the Security Council of the United Nations in pursuit of the security of the American people. You do not get a permission slip from an institution that in its very makeup is not democratic.

It is a very interesting and historical observation that of the 191 countries of the U.N. members, only 89 would be described today as free and democratic countries. I guess a little more than half of them would be counted as liberal democratic democracies that ensure political competition, respect for civil liberties, significant independence, civic life, and independent medias. This is the same institution that puts Cuba at the head of its human rights commission and Iran at the head of its disarmament commission.

I say we should stay in it in a realistic way, even a skeptical way, using it as it serves America's interests because that is how other members of the U.N. use the U.N. But do not subject our security to a veto by the Security Council.

So when I hear our colleague on the other side run television ads in my State saying the first thing he will do as President of the United States is to return American foreign policy to the international community, I wonder what he means. And then he clarifies, he will go back to the Security Council.

I want the American people to know—I plead with Oregonians to know—that there is no security in that. Understand that permanent members of the Council—France in particular; Russia as well; China; occasionally Germany is a member—these were the primary creditors of Saddam Hussein, and they were also significant beneficiaries of the food for fraud—I am sorry—the Food for Oil Program which enabled Saddam Hussein to rearm and to execute tens of thousands of his countrymen and to build palaces of great austerity and wastefulness.

Regardless of the motives of other countries, the President did the right thing by going into Iraq and removing Saddam's murderous regime from power. We must remember that. He did the right thing for the people of Iraq, and he did the right thing for the American people as well.

By liberating the Iraqi people, we have provided hope to people not only in Iraq, but throughout the Middle East, that democracy is an option available to them. Civic movements throughout the region have emerged calling for political change, even in countries such as Egypt and Saudi Arabia. The Washington Post has reported that the individuals involved in these movements have widely credited President Bush's democratization policy for allowing them the opportunity to operate in a climate that, up to now, has been unfriendly to their aspirations. This is a real accomplishment, one that is not often touted, but that serves as a harbinger of what is to come if the United States continues to press for democratic change in the Middle East.

Unfortunately, the shameful images being broadcast around the world of a few American soldiers abusing Iraqi prisoners undermine the hard work and dedication of so many Americans who are serving honorably in Iraq. These abuses are abhorrent, and those who are responsible for them must be punished.

But in no way should we equate the actions of a few Americans with the widespread, government-endorsed terror inflicted by Saddam upon his own people. The prisoner abuse was wrong, but the United States has laws and military codes that these soldiers violated—and under which they will be held accountable. You can hardly say the same thing about Saddam's Iraq.

The tragic murder of Nick Berg should remind the American people of the kind of world in which we are living. People who are willing to brutally decapitate an innocent man for the crime of being an American citizen are not individuals who respect international law, or the founding principles of the United Nations. They respect force, and power, and resolve, and determination. President Bush understands this critical fact, and is willing to deal with these evil men in those terms, not under conditions that we wish existed but do not.

I understand that to some, the burden of responsibility we have in the world may seem too much to bear. "Internationalizing" conflicts seems, on the surface, to be an appropriate way to reduce our commitments abroad. I disagree. The answer is not to abdicate our responsibilities, but to embrace them.

Next week I am traveling to Madrid, Athens, and Bratislava to discuss these very issues with our NATO allies. It is my preference that we act in conjunction with them, but let me reiterate, we should act consistent with our principles. If in doing so we are at odds with our allies, that is a price I am willing to pay.

I would simply say, as the Presiding Officer has noted, there is bad news, but there is much good news, and many of us would sure like a little equality of treatment because our goals in Iraq, our goals in the war on terrorism, are noble. Short of those goals, we are left with a more moderate tyrant in the Middle East governing Iraq.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

PROJECT BIOSHIELD ACT OF 2003

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of S. 15, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 15) to amend the Public Health Service Act to provide for the payment of compensation for certain individuals with injuries resulting from the administration of smallpox countermeasures, to provide protections and countermeasures against chemical, radiological, or nuclear agents that may be used in a terrorist attack against the United States, and to improve immunization rates by increasing the distribution of vaccines and improving and clarifying the vaccine injury compensation program.

Thereupon, the Senate proceeded to consider the bill, which had been reported from the Committee on Health, Education, Labor, and Pensions, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

[Strike the part shown in black brackets and insert the part shown in italic.]

S. 15

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

[(a) SHORT TITLE.—This Act may be cited as the "Biodefense Improvement and Treatment for America Act".

[(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

[Sec. 1. Short title; table of contents.

[TITLE I—PROTECTION FOR SMALLPOX EMERGENCY PERSONNEL

[Sec. 101. Short title.
[Sec. 102. Amendment to the Public Health Service Act.

[TITLE II—PROJECT BIOSHIELD

[Sec. 201. Short title.
[Sec. 202. Biomedical countermeasure research and development authorities.
[Sec. 203. Biomedical countermeasures procurement.
[Sec. 204. Authorization for medical products for use in emergencies.
[Sec. 205. Developing new countermeasures and protecting existing countermeasures against bioterrorism.

[TITLE III—IMPROVED VACCINE AFFORDABILITY AND AVAILABILITY

[Sec. 301. Short title.

[Subtitle A—State Vaccine Grants

[Sec. 311. Availability of influenza vaccine.
[Sec. 312. Program for increasing immunization rates for adults and adolescents; collection of additional immunization data.
[Sec. 313. Immunization awareness.
[Sec. 314. Supply of vaccines.
[Sec. 315. Communication.
[Sec. 316. Fast track.
[Sec. 317. Study.

[Subtitle B—Vaccine Injury Compensation Program

[Sec. 321. Administrative revision of vaccine injury table.
[Sec. 322. Equitable relief.
[Sec. 323. Derivative petitions for compensation.
[Sec. 324. Jurisdiction to dismiss actions improperly brought.
[Sec. 325. Clarification of when injury is caused by factor unrelated to administration of vaccine.
[Sec. 326. Increase in award in the case of a vaccine-related death and for pain and suffering.
[Sec. 327. Basis for calculating projected lost earnings.
[Sec. 328. Allowing compensation for family counseling expenses and expenses of establishing and maintaining guardianship.
[Sec. 329. Allowing payment of interim costs.
[Sec. 330. Procedure for paying attorneys' fees.
[Sec. 331. Extension of statute of limitations.
[Sec. 332. Advisory Commission on Childhood Vaccines.
[Sec. 333. Clarification of standards of responsibility.
[Sec. 334. Clarification of definition of manufacturer.
[Sec. 335. Clarification of definition of vaccine-related injury or death.
[Sec. 336. Clarification of definition of vaccine and definition of physical injury.
[Sec. 337. Amendments to Vaccine Injury Compensation Trust Fund.
[Sec. 338. Ongoing review of childhood vaccine data.
[Sec. 339. Pending actions.
[Sec. 340. Report.

[TITLE I—PROTECTION FOR SMALLPOX EMERGENCY PERSONNEL

[SEC. 101. SHORT TITLE.

[This title may be cited as the "Smallpox Emergency Personnel Protection Act of 2003".

[SEC. 102. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT.

[Part A of title II of the Public Health Service Act (42 U.S.C. 202 et seq.) is amended by inserting after section 224 the following:

["SEC. 224A. PROTECTION FOR SMALLPOX EMERGENCY PERSONNEL.

["(a) DEFINITIONS.—In this section:

["(1) COVERED COUNTERMEASURE.—The term 'covered countermeasure' means a covered countermeasure as specified in article III of the Declaration.

["(2) COVERED INDIVIDUAL.—The term 'covered individual' means an individual—

["(A) who is—

["(i) a health care worker, a law enforcement officer, a firefighter, a security-related worker, an emergency medical worker, or a public safety worker who is identified in a State, local, or Department of Health and Human Services plan that is approved by the Secretary; or

["(ii) an individual with respect to whom the Secretary determines and declares that it is advisable to administer the vaccine (not including any individual to whom the Secretary determines only that such vaccine should be made available); and

["(B) to whom a vaccine is administered during the period in which the Declaration is effective (including the portion of such period before the date of enactment of this section) and ending on the later of—

["(i) the expiration of the 120-day period that begins on the effective date of the initial interim final regulations to implement this section;

["(ii) the expiration of the 120-day period that begins on the date on which an individual becomes an individual within a category specified in subparagraph (A); or

["(iii) the date on which the Secretary publicly announces that an active case of smallpox has been identified either within or outside the United States.

["(3) COVERED INJURY.—The term 'covered injury' includes—

["(A) an injury, disability, illness, condition, or death determined, pursuant to the procedures established under subsection (b), to have been sustained as the direct result of administration to an individual of a covered countermeasure during the effective period of the Declaration (other than a minor injury such as minor scarring or minor local reaction); and

["(B) an injury, disability, illness, condition, or death determined, pursuant to the procedures established under subsection (b), to have been sustained as the direct result of accidental vaccinia inoculation through contact with an individual who is (or who was accidentally inoculated by) an individual in a category specified in Article IV of the Declaration to whom vaccinia vaccine has been administered during the effective period of the Declaration.

["(4) DECLARATION.—The term 'Declaration' means the Declaration Regarding Administration of Smallpox Countermeasures issued by the Secretary of Health and Human Services on January 24, 2003, and published in the Federal Register on January 28, 2003, including any subsequent amendment.

["(5) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means an individual who is (as determined in accordance with section 3)—

["(A) a covered individual who sustains a covered injury as the direct result of administration of a covered countermeasure; or

["(B) any individual who contracts vaccinia during the effective period of the Declaration or within 30 days after the end of such period—

["(i) to whom vaccinia vaccine was not administered;

["(ii) who has resided with, or has been in close contact with, a covered individual; and

["(iii) who sustains a covered injury as the direct result of contracting vaccinia.

["(6) SECRETARY.—Except as provided otherwise, the term 'Secretary' means the Secretary of Health and Human Services.

["(b) DETERMINATION OF ELIGIBILITY.—

["(1) IN GENERAL.—The Secretary, in consultation with the Attorney General and the Secretary of Labor, shall establish administrative procedures for determining, as applicable with respect to an individual—

["(A) whether the individual is an eligible individual;

["(B) whether the individual has sustained a covered injury or injuries for which medical benefits and employment income-loss compensation may be available under subsections (d) and (e), and the amount of such benefits or compensation; and

["(C) whether the covered injury or injuries of the individual constitute a compensable disability, or caused the individual's death, for purposes of benefits under subsection (f).

[“(2) COVERED INDIVIDUALS.—The Secretary may accept a certification, by a Federal, State, or local government entity or private health care entity participating in the administration of covered countermeasures under the Declaration, that an individual is an individual in a category specified in article IV of the Declaration to whom such a countermeasure has been administered by the applicable deadline specified in subsection (a)(2)(B), as establishing that the individual is a covered individual.

[“(3) DETERMINATION OF CAUSATION.—

[“(A) INJURIES SPECIFIED IN INJURY TABLE.—In any case where an injury or other adverse effect specified in the injury table established under subsection (c) as a known effect of a covered countermeasure manifests in an individual within the time period specified in such table, such injury or other effect shall be rebuttably presumed to have resulted from administration of such covered countermeasure.

[“(B) OTHER DETERMINATIONS.—In making determinations other than those described in subparagraph (A) as to the causation or severity of an injury, the Secretary shall take into consideration all relevant medical and scientific evidence presented for consideration, and may obtain and consider the views of qualified medical experts.

[“(4) DEADLINE FOR FILING CLAIM.—The Secretary shall not consider any claim for a benefit under this subsection with respect to an individual that is filed later than 1 year after—

[“(A) the date a covered countermeasure was administered to the individual; or

[“(B) in the case of a claim based on contact vaccination (as described in subsection (a)(5)(B)), the date of the first symptom or manifestation of onset of an adverse effect of such vaccination.

[“(5) REVIEW OF DETERMINATION.—

[“(A) SECRETARY'S REVIEW AUTHORITY.—The Secretary may review a determination under this subsection at any time on the Secretary's own motion or on application, and may affirm, vacate, or modify such determination.

[“(B) SECRETARY'S ACTION NOT JUDICIALLY REVIEWABLE.—The determinations of the Secretary under this subsection shall not be subject to review by another official of the United States or by a court by mandamus or otherwise.

[“(c) COUNTERMEASURE INJURY TABLE.—

[“(1) SMALLPOX COUNTERMEASURE INJURY TABLE.—The Secretary shall establish by interim final regulation a table identifying—

[“(A) adverse effects (including injuries, disabilities, illnesses, conditions, and deaths) that shall be presumed to result from the administration of (or exposure to) a covered countermeasure; and

[“(B) the time periods in which the first symptom, or manifestation of onset of each such adverse effect, must manifest in order for such presumption to apply.

[“(2) AMENDMENTS.—The Secretary may amend by regulation the table established under paragraph (1). Such amendments shall apply retroactively to claims filed or pending at the time of the promulgation of final amending regulations and to claims filed after such promulgation.

[“(d) MEDICAL BENEFITS.—

[“(1) IN GENERAL.—Subject to paragraph (2), an eligible individual shall be entitled to payment by the Secretary for medical items and services as reasonable and necessary to treat a covered injury. The Secretary may consider the provisions of chapter 81 of title 5, United States Code, (and the implementing regulations with respect to such chapter) in determining the amount of such payment and the circumstances under which such payments are reasonable and necessary.

[“(2) LIMITATIONS.—

[“(A) BENEFITS SECONDARY TO OTHER COVERAGE.—The obligation of the Secretary to pay for any services or benefits under paragraph (1) shall be secondary to the obligation of the United States or any third party (including any State or local governmental entity, private insurance carrier, or employer) under any other provision of law or contractual agreement, to pay for or provide such services or benefits.

[“(B) NO BENEFITS FOR MEDICARE-ELIGIBLE INDIVIDUAL.—No benefits shall be available to an individual under this subsection with respect to any period in which the individual is eligible for benefits under title XVIII of the Social Security section (42 U.S.C. 1395 et seq.).

[“(e) COMPENSATION FOR LOST EMPLOYMENT INCOME.—

[“(1) IN GENERAL.—Subject to paragraphs (2) and (3), an eligible individual shall be entitled to payment of compensation by the Secretary for loss of employment income incurred as a result of a covered injury, at the rate specified in paragraph (2).

[“(2) AMOUNT OF COMPENSATION.—

[“(A) IN GENERAL.—Compensation under this subsection shall be at the rate of 66⅔ percent of monthly pay. The Secretary may consider the provisions of sections 8114 and 8115 of title 5, United States Code (and any implementing regulations) in determining the amount of such payment and the circumstances under which such payments are reasonable and necessary.

[“(B) TREATMENT OF SELF-EMPLOYMENT INCOME.—For purposes of this subsection—

[“(i) the term ‘employment income’ includes income from self-employment; and

[“(ii) for purposes of computation of pay and determination of wage-earning capacity under subparagraph (A), self-employment income shall be treated as wages.

[“(3) LIMITATIONS.—

[“(A) BENEFITS SECONDARY TO OTHER COVERAGE.—The obligation of the Secretary to pay compensation under paragraph (1) shall be secondary to the obligation of the United States or any third party (including any State or local governmental entity, private insurance carrier, or employer), under any other law or contractual agreement, to pay compensation for loss of employment income.

[“(B) NO BENEFITS FOR DEATH OR PERMANENT AND TOTAL DISABILITY.—No payment shall be made under this subsection in compensation for loss of employment income due to the death or permanent and total disability of an eligible individual.

[“(C) LIMIT ON TOTAL BENEFITS.—Total benefits paid to an individual under this subsection shall not exceed $50,000.

[“(D) WAITING PERIOD.—An eligible individual is not entitled to compensation under this subsection for the first 5 work days of disability.

[“(f) PAYMENT FOR DEATH AND PERMANENT, TOTAL DISABILITY.—

[“(1) BENEFIT FOR PERMANENT AND TOTAL DISABILITY.—Subject to the succeeding provisions of this subsection, an eligible individual who is determined, in accordance with the procedures established under subsection (b), to have a covered injury or injuries meeting the definition of disability in section 216(i) of the Social Security Act (42 U.S.C. 416(i)) shall be entitled to have payment made by the Secretary of an amount determined under paragraph (3), in the same manner as disability benefits are paid pursuant to the Public Safety Officers' Benefits Program under subpart 1 of part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796 et seq.) with respect to an eligible public safety officer.

[“(2) DEATH BENEFIT.—Subject to the succeeding provisions of this subsection, in the case of an eligible individual whose death is determined, in accordance with the procedures established under subsection (b), to have directly resulted from a covered injury or injuries a death benefit in the amount determined under paragraph (3) shall be payable by the Secretary to the survivor or survivors in the same manner as death benefits are paid pursuant to the Public Safety Officers' Benefits Program under subpart 1 of part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796 et seq.) with respect to an eligible deceased public safety officer.

[“(3) BENEFIT AMOUNT.—The amount of the disability or death benefit under paragraph (1) or (2) in a fiscal year shall, subject to paragraph (5)(B), equal the amount of the comparable benefit calculated under the Public Safety Officers' Benefits Program under subpart 1 of part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796 et seq.) in such fiscal year, without regard to any reduction attributable to a limitation on appropriations.

[“(4) BENEFIT IN ADDITION TO MEDICAL BENEFITS.—A benefit under this subsection shall be in addition to any amounts to which an eligible individual may be entitled as medical benefits under subsection (d).

[“(5) LIMITATIONS.—

[“(A) DISABILITY BENEFITS.—No benefit is payable under paragraph (1) with respect to the disability of an eligible individual if—

[“(i) a disability benefit is paid or payable with respect to such individual under Public Safety Officers' Benefits Program under subpart 1 of part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796 et seq.); or

[“(ii) a death benefit is paid or payable with respect to such individual under paragraph (2) or the Public Safety Officers' Benefits Program under subpart 1 of part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796 et seq.).

[“(B) DEATH BENEFITS.—No benefit is payable under paragraph (2) with respect to the death of an eligible individual if—

[“(i) a disability benefit is paid with respect to such individual under paragraph (1) or the Public Safety Officers' Benefits Program under subpart 1 of part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796 et seq.); or

[“(ii) a death benefit is paid or payable with respect to such individual under the Public Safety Officers' Benefits Program under subpart 1 of part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796 et seq.).

[“(g) ADMINISTRATION.—

[“(1) ADMINISTRATION BY AGREEMENT WITH OTHER AGENCY OR AGENCIES.—The Secretary may administer any or all of the provisions of this section through Memorandum of Agreement with the Attorney General or the Secretary of Labor.

[“(2) REGULATIONS.—The head of the agency administering this section or any provisions thereof (including any agency head administering such section or provisions through a Memorandum of Agreement under paragraph (1)) may promulgate such implementing regulations as may be determined necessary and appropriate. Initial implementing regulations may be interim final regulations.

["(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for fiscal year 2003 and each succeeding fiscal year to carry out this section, to remain available until expended, including administrative costs and costs of provision and payment of benefits.

["(i) RELATIONSHIP TO OTHER LAWS.—

["(1) NO PREEMPTION OF INDIVIDUAL RIGHTS.—Except as otherwise provided in this section, nothing in this section shall be construed to override or limit any rights an individual may have to seek compensation, benefits, or redress under any other provision of Federal or State law.

["(2) RELATIONSHIP TO THE FEDERAL TORT CLAIMS ACT.—

["(A) EXHAUSTION REQUIREMENT.—An individual may not seek any remedy that may be available under section 224(p) (providing a cause of action under the Federal Tort Claims Act for injuries resulting from administration of smallpox countermeasures under such section 224(p)) unless such individual has first filed a claim for payment or compensation under this section and has received a final determination with respect to such claim.

["(B) OFFSET OF COMPENSATION AGAINST FEDERAL TORT CLAIMS ACT RECOVERY.—The value of any compensation or benefits paid to an individual, or the survivor or survivors of such an individual, or the estate of the individual pursuant to a claim under this section shall be offset against any amount to which such individual or the individual's survivor, survivors, or estate are entitled under section 224(p).

["(3) PREEMPTION OF STATE LAWS PROVIDING EXCLUSIVE REMEDY FOR WORK-RELATED INJURIES.—No provision of a State workers' compensation law or other State law shall be construed to bar claims or benefits under this section, to the extent that it purports to make such State law the exclusive remedy for a work-related injury or otherwise to make benefits under this section unavailable to an otherwise eligible individual.".

[TITLE II—PROJECT BIOSHIELD

[SEC. 201. SHORT TITLE.

[This title may be cited as the "Project BioShield Act of 2003".

[SEC. 202. BIOMEDICAL COUNTERMEASURE RESEARCH AND DEVELOPMENT AUTHORITIES.

[Part B of title IV of the Public Health Service Act (42 U.S.C. 284 et seq.) is amended by adding at the end the following:

["SEC. 409I. BIOMEDICAL COUNTERMEASURE RESEARCH AND DEVELOPMENT.

["(a) IN GENERAL.—

["(1) AUTHORITY.—In carrying out research responsibilities under this Act, the Secretary may conduct and support research and development with respect to biomedical countermeasures.

["(2) IMPLEMENTATION.—

["(A) IN GENERAL.—Except as provided in subparagraph (C), authorities assigned by this section to the Secretary shall be carried out through the Director of NIH and the Director of the National Institute of Allergy and Infectious Diseases.

["(B) LEAD INSTITUTE.—The National Institute of Allergy and Infectious Diseases shall be the lead institute for biomedical countermeasure research and development under this section.

["(C) CHEMICAL, RADIOLOGICAL, AND NUCLEAR AGENTS.—To the extent that an authority described in subparagraph (A) is exercised with respect to a chemical, radiological, or nuclear agent, the Secretary may authorize the Director of NIH to carry out the authority through any national research institute.

["(3) INTERAGENCY COOPERATION.—

["(A) IN GENERAL.—In carrying out activities under this section, the Secretary is authorized, subject to subparagraph (B), to enter into interagency agreements and other collaborative undertakings with other agencies of the Federal Government and to use other agencies of the Department of Health and Human Services.

["(B) LIMITATION.—An agreement or undertaking under this paragraph may not authorize another agency to exercise the authorities provided to the Secretary by this section.

["(b) EXPEDITED PROCUREMENT AUTHORITY.—

["(1) INCREASED SIMPLIFIED ACQUISITION THRESHOLD FOR BIOMEDICAL COUNTERMEASURE PROCUREMENTS.—

["(A) IN GENERAL.—For any procurement by the Secretary, of property or services for use (as determined by the Secretary) in performing, administering, or supporting biomedical countermeasure research or development, the amount specified in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)), as applicable pursuant to section 302A(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252a(a)), shall be deemed to be $25,000,000 in the administration, with respect to such procurement, of—

["(i) section 303(g)(1)(A) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(A)) and its implementing regulations; and

["(ii) section 302A(b) of such Act (41 U.S.C. 252a(b)) and its implementing regulations.

["(B) INTERNAL CONTROLS TO BE INSTITUTED.—The Secretary shall institute appropriate internal controls for procurements made under this paragraph, including requirements with respect to documenting the justification for use of the authority provided in this paragraph.

["(2) USE OF NONCOMPETITIVE PROCEDURES.—In addition to any other authority to use procedures other than competitive procedures for procurements, the Secretary may use such other noncompetitive procedures when—

["(A) the procurement is as described by paragraph (1)(A); and

["(B) the property or services needed by the Secretary are available from only one responsible source or only from a limited number of responsible sources, and no other type of property or services will meet the needs of the Secretary.

["(3) INCREASED MICROPURCHASE THRESHOLD.—

["(A) IN GENERAL.—For a procurement described by paragraph (1)(A), the amount specified in subsections (c), (d), and (f) of section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428) shall be deemed to be $15,000 in the administration of that section with respect to such procurement.

["(B) INTERNAL CONTROLS TO BE INSTITUTED.—The Secretary shall institute appropriate internal controls for procurements that are made under this paragraph and that are greater than $2,500.

["(C) EXCEPTION TO PREFERENCE FOR PURCHASE CARD MECHANISM.—No provision of law establishing a preference for using a Federal Government purchase card method for purchases shall apply to procurements made under this paragraph and that are greater than $2,500.

["(c) AUTHORITY TO EXPEDITE PEER REVIEW.—The Secretary may, as the Secretary determines necessary to respond to pressing research and development needs under this section, employ such expedited peer review procedures (including consultation with appropriate scientific experts) as the Secretary, in consultation with the Director of NIH, determines to be appropriate to obtain an assessment of scientific and technical merit and likely contribution to the field of biomedical countermeasure research, in place of the peer review and advisory council review procedures that would otherwise be required under sections 301(a)(3), 405(b)(1)(B), 405(b)(2), 406(a)(3)(A), 492, and 494, as applicable to a grant, contract, or cooperative agreement—

["(1) that is for performing, administering, or supporting biomedical countermeasure research and development; and

["(2) the amount of which is not greater than $1,500,000.

["(d) FACILITIES AUTHORITY.—

["(1) AGENCY FACILITIES.—In addition to any similar authority provided under any other provision of law, in carrying out this section, the Secretary may—

["(A) acquire, lease, construct, improve, renovate, remodel, repair, operate, and maintain laboratories, other research facilities and equipment, and other real or personal property as the Secretary determines necessary for the purpose of performing, administering, and supporting biomedical countermeasure research and development; and

["(B) acquire, without regard to section 8141 of title 40, United States Code, by lease or otherwise, through the Administrator of General Services, buildings or parts of buildings in the District of Columbia.

["(2) FACILITIES OF GRANTEE OR COOPERATIVE AGREEMENT PARTNER.—

["(A) IN GENERAL.—The Secretary may exercise the authorities described in section 481A with respect to biocontainment laboratories and other related or ancillary specialized research facilities as the Secretary determines necessary for the purpose of performing, administering, and supporting biomedical countermeasure research and development.

["(B) AVAILABILITY OF FACILITY TO SECRETARY.—A grant or cooperative agreement under subparagraph (A) may provide that the facility that is the object of such grant or cooperative agreement shall be available as needed to the Secretary to respond to public health emergencies affecting national security.

["(C) TWENTY YEAR USE REQUIREMENT.—A grant or cooperative agreement under this paragraph shall include an agreement by the grantee or cooperative agreement partner that, for not less than 20 years after the completion of the acquisition, construction, or other work described in subparagraph (A), the facility will be used for the purposes of the research and development for which it is to be acquired, constructed, or otherwise improved.

["(D) AMOUNT OF GRANT; COST-SHARING; PAYMENTS.—The provisions of section 481A(e) shall apply to a grant or cooperative agreement under this paragraph, except that—

["(i) authorities exercised under that section by the Director of the National Center for Research Resources shall, for purposes of this paragraph, be exercised by the Secretary; and

["(ii) for purposes of this paragraph, each of the percentages in subparagraphs (A) and

(B) of section 481A(e)(1) shall be deemed to be 75 percent.

[“(E) RECAPTURE OF PAYMENTS.—If, not later than 20 years after the completion of construction for which a grant or cooperative agreement has been awarded under this paragraph, the facility shall cease to be used for the research and development purposes for which it was constructed (unless the Secretary determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from obligation to do so), the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the current value (as determined by an agreement between the parties or by action brought in the United States District Court for the district in which such facility is situated) of the facility as the amount of the Federal participation bore to the cost of the construction, acquisition, or other improvement of such facility.

[“(e) AUTHORITY FOR PERSONAL SERVICES CONTRACTS.—

[“(1) IN GENERAL.—For the purpose of performing, administering, and supporting biomedical countermeasure research and development, the Secretary may, as the Secretary determines necessary to respond to pressing research and development needs under this section, obtain by contract (in accordance with section 3109 of title 5, United States Code, but without regard to the limitations in such section on the period of service and on pay) the personal services of experts or consultants who have scientific or other professional qualifications.

[“(2) FEDERAL TORT CLAIMS ACT COVERAGE.—

[“(A) IN GENERAL.—A person carrying out a contract under paragraph (1), and an officer, employee, or governing board member of such person, shall be deemed to be an employee of the Department of Health and Human Services for purposes of claims under sections 1346(b) and 2672 of title 28, United States Code, for money damages for personal injury, including death, resulting from performance of functions under such contract.

[“(B) EXCLUSIVITY OF REMEDY.—The remedy provided by subparagraph (A) shall be exclusive of any other civil action or proceeding by reason of the same subject matter against the person, officer, employee, or governing board member.

[“(3) INTERNAL CONTROLS TO BE INSTITUTED.—

[“(A) IN GENERAL.—The Secretary shall institute appropriate internal controls for contracts under this subsection, including procedures for the Secretary to make a determination of whether a person, or an officer, employee, or governing board member of a person, is deemed to be an employee of the Department of Health and Human Services pursuant to paragraph (2).

[“(B) DETERMINATION OF EMPLOYEE STATUS TO BE FINAL.—A determination by the Secretary under subparagraph (A) that a person, or an officer, employee, or governing board member of a person, is or is not deemed to be an employee of the Department of Health and Human Services shall be final and binding on the Secretary and the Attorney General and other parties to any civil action or proceeding.

[“(4) NUMBER OF PERSONAL SERVICES CONTRACTS LIMITED.—The number of experts and consultants whose personal services are obtained under paragraph (1) shall not exceed 30 at any time.

[“(f) STREAMLINED PERSONNEL AUTHORITY.—

[“(1) IN GENERAL.—In addition to any other personnel authorities, the Secretary may, as the Secretary determines necessary to respond to pressing research and development needs under this section, without regard to such provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, appoint professional and technical employees, not to exceed 30 such employees at any time, to positions in the National Institutes of Health to perform, administer, or support biomedical countermeasure research and development in carrying out this section.

[“(2) INTERNAL CONTROLS TO BE INSTITUTED.—The Secretary shall institute appropriate internal controls for appointments under this subsection.

[“(g) DEFINITION.—As used in this section, the term ‘biomedical countermeasure’ means a drug (as that term is defined by section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1))), biological product (as that term is defined by section 351(i) of this Act (42 U.S.C. 262(i))), or device (as that term is defined by section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h))) that is used—

[“(1) to treat, identify, or prevent harm from any biological, chemical, radiological, or nuclear agent that may cause a public health emergency affecting national security; or

[“(2) to treat, identify, or prevent harm from a condition that may result in adverse health consequences or death and may be caused by administering a drug, biological product, or device that is used as described in paragraph (1).

[“(h) ACTIONS COMMITTED TO AGENCY DISCRETION.—Actions by the Secretary under the authority of this section are committed to agency discretion.”.

[SEC. 203. BIOMEDICAL COUNTERMEASURES PROCUREMENT.

[Section 121 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (42 U.S.C. 300hh–12) is amended—

[(1) by redesignating subsections (c) through (e) as subsections (d) through (f), respectively; and

[(2) by inserting after subsection (b) the following:

[“(c) BIOMEDICAL COUNTERMEASURES PROCUREMENT.—

[“(1) DETERMINATION OF MATERIAL THREATS.—

[“(A) RISK OF USE.—The Secretary, in consultation with the heads of other agencies as appropriate, shall on an ongoing basis—

[“(i) assess current and emerging threats of use of chemical, biological, radiological, and nuclear agents; and

[“(ii) determine which of such agents present a material risk of use against the United States population.

[“(B) PUBLIC HEALTH IMPACT.—The Secretary of Health and Human Services, in consultation with the Secretary, shall on an ongoing basis—

[“(i) assess the potential public health consequences of use against the United States population of agents identified under subparagraph (A)(ii); and

[“(ii) determine, on the basis of such assessment, the agents for which countermeasures are necessary to protect the public health.

[“(2) ASSESSMENT OF AVAILABILITY AND APPROPRIATENESS OF COUNTERMEASURES.—The Secretary of Health and Human Services, in consultation with the Secretary, shall assess on an ongoing basis the availability and appropriateness of specific countermeasures to address specific threats identified under paragraph (1).

[“(3) SECRETARY’S DETERMINATION OF COUNTERMEASURES APPROPRIATE FOR PROCUREMENT UNDER THIS SUBSECTION.—

[“(A) IN GENERAL.—The Secretary of Health and Human Services, in accordance with this paragraph, shall identify specific countermeasures to threats identified under paragraph (1) that such Secretary determines, in consultation with the Secretary of Homeland Security, to be appropriate for procurement with appropriations under this subsection for inclusion in the stockpile under subsection (a).

[“(B) REQUIREMENTS.—In order for the Secretary of Health and Human Services to make the determination under subparagraph (A) with respect to a countermeasure, the following requirements must be met:

[“(i) DETERMINATION OF QUALIFIED COUNTERMEASURE.—Such Secretary must determine that the product is a qualified countermeasure (as defined in paragraph (7)).

[“(ii) DETERMINATION OF QUANTITIES NEEDED AND FEASIBILITY OF PRODUCTION AND DISTRIBUTION.—Such Secretary must determine—

[“(I) the quantities of the product that will be needed to meet the needs of the stockpile; and

[“(II) that production and delivery within 5 years of sufficient quantities of the product, as so determined, is reasonably expected to be feasible.

[“(iii) DETERMINATION OF NO SIGNIFICANT COMMERCIAL MARKET.—Such Secretary shall—

[“(I) determine that, at the time of the initial determination under this paragraph, there is not a significant commercial market for the product other than as a homeland security threat countermeasure; and

[“(II) annually redetermine and report to the President, while a determination under subparagraph (A) remains in effect with respect to the product, whether a significant commercial market exists for the product other than as a homeland security threat countermeasure.

[“(4) RECOMMENDATION FOR PRESIDENT’S APPROVAL.—

[“(A) RECOMMENDATION FOR PROCUREMENT.—In the case of a countermeasure that the Secretary and the Secretary of Health and Human Services have determined is appropriate for procurement under this subsection for inclusion in the stockpile, in accordance with the preceding provisions of this subsection, the Secretary and the Secretary of Health and Human Services shall jointly submit to the President, in coordination with the Director of the Office of Management and Budget, a recommendation for procurement under this subsection.

[“(B) PRESIDENTIAL APPROVAL.—A countermeasure may be procured under this subsection only if the President has approved a recommendation under subparagraph (A) with respect to such countermeasure.

[“(C) NOTICE TO CONGRESS.—The Secretary shall notify Congress of each decision of the President to approve a recommendation under subparagraph (A).

[“(5) PROCUREMENT.—The Secretary of Health and Human Services and the Secretary shall be responsible for the following, for purposes of procurement of qualified countermeasures for the stockpile under subsection (a), as approved by the President under paragraph (4):

["(A) INTERAGENCY AGREEMENTS.—

["(i) FOR PROCUREMENT.—The Secretary shall enter into an agreement with the Secretary of Health and Human Services for the procurement of the countermeasure in accordance with the provisions of this paragraph. Amounts appropriated under paragraph (8) shall be available for the Secretary of Health and Human Service's costs of such procurement, other than as provided in clause (ii).

["(ii) FOR ADMINISTRATIVE COSTS.—The agreement entered into between the Secretary and the Secretary of Health and Human Services for managing the stockpile under subsection (a) shall provide for reimbursement of the Secretary of Health and Human Service's administrative costs relating to procurements under this subsection from appropriations to carry out such subsection (a).

["(B) PROCUREMENT.—

["(i) IN GENERAL.—The Secretary of Health and Human Services shall be responsible for—

["(I) arranging for procurement of the countermeasure, including negotiating terms (including quantity, production schedule, and price) of, and entering into, contracts and cooperative agreements, and for carrying out such other activities as may reasonably be required, in accordance with the provisions of this subparagraph; and

["(II) promulgating regulations to implement clauses (v), (vi), and (vii), and any other provisions of this subsection.

["(ii) CONTRACT TERMS.—A contract for procurements under this subsection shall (or, as otherwise specified in this clause, may) include the following terms:

["(I) PAYMENT CONDITIONED ON SUBSTANTIAL DELIVERY.—The contract shall provide that no payment may be made until delivery has been made of a substantial portion (as determined by the Secretary of Health and Human Services) of the total number of units contracted for.

["(II) DISCOUNTED PAYMENT FOR UNLICENSED PRODUCT.—The contract may provide for a discounted price per unit of a product that is not licensed or approved as described in paragraph (7)(A) at the time of delivery, and may provide for payment of an additional amount per unit if the product becomes so licensed or approved before the expiration date of the contract (including an additional amount per unit of product delivered before the effective date of such licensing or approval).

["(III) STORAGE BY VENDOR.—The contract may provide that the vendor will provide storage for stocks of a product delivered to the ownership of the Government under the contract. for such period and under such terms and conditions as the Secretary of Health and Human Services may specify, and in such case amounts appropriated under paragraph (8) shall be available for costs of shipping, handling, storage, and related costs for such product.

["(IV) CONTRACT DURATION.—The contract shall be for a period not to exceed 5 years, renewable for additional periods none of which shall exceed 5 years.

["(V) TERMINATION FOR NONDELIVERY.—In addition to any other rights of the Secretary of Health and Human Services to terminate the contract, the contract may provide that such Secretary may terminate the contract for failure to deliver a reasonable number (as determined by such Secretary) of units of the product by 3 years after the date the contract is entered into, and may further provide that in such case the vendor shall not be entitled to any payment under the contract.

["(iii) AVAILABILITY OF SIMPLIFIED ACQUISITION PROCEDURES.—The amount of any procurement under this subsection shall be deemed to be below the threshold amount specified in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)), for purposes of application to such procurement, pursuant to section 302A(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252a(a)), of—

["(I) section 303(g)(1)(A) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(A)) and its implementing regulations; and

["(II) section 302A(b) of such Act (41 U.S.C. 252a(b)) and its implementing regulations.

["(iv) USE OF NONCOMPETITIVE PROCEDURES.—In addition to any other authority to use procedures other than competitive procedures, the Secretary of Health and Human Services may use such other procedures for a procurement under this subsection if the product is available from only one responsible source or only from a limited number of responsible sources, and no other type of product will satisfy such Secretary's needs.

["(v) PREMIUM PROVISION IN MULTIPLE AWARD CONTRACTS.—

["(I) IN GENERAL.—If, under this subsection, the Secretary of Health and Human Services enters into contracts with more than one person to procure a countermeasure, such Secretary may, notwithstanding any other provision of law, include in each of such contracts a provision that—

["(aa) identifies an increment of the total quantity of countermeasure required, whether by percentage or by numbers of units; and

["(bb) promises to pay one or more specified premiums based on the priority of such persons' production and delivery of the increment identified under item (aa), in accordance with the terms and conditions of the contract.

["(II) DETERMINATION OF GOVERNMENT'S REQUIREMENT NOT REVIEWABLE.—If the Secretary of Health and Human Services includes in each of a set of contracts a provision as described in clause (I), such Secretary's determination of the total quantity of countermeasure required, and any amendment of such determination, is committed to agency discretion.

["(vi) EXTENSION OF CLOSING DATE FOR RECEIPT OF PROPOSALS NOT REVIEWABLE.—A decision by the Secretary of Health and Human Services to extend the closing date for receipt of proposals for a procurement under this subsection is committed to agency discretion.

["(vii) LIMITING COMPETITION TO SOURCES RESPONDING TO REQUEST FOR INFORMATION.—In conducting a procurement under this subsection, the Secretary of Health and Human Services may exclude a source that has not responded to a request for information under section 303A(a)(1)(B) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a(a)(1)(B)) if such request has given notice that such Secretary may so exclude such a source.

["(6) INTERAGENCY COOPERATION.—

["(A) IN GENERAL.—In carrying out activities under this section, the Secretary and the Secretary of Health and Human Services are authorized, subject to subparagraph (B), to enter into interagency agreements and other collaborative undertakings with other agencies of the United States Government.

["(B) LIMITATION.—An agreement or undertaking under this paragraph shall not authorize another agency to exercise the authorities provided by this section to the Secretary or to the Secretary of Health and Human Services.

["(7) DEFINITIONS.—In this subsection:

["(A) QUALIFIED COUNTERMEASURE.—The term 'qualified countermeasure' means a biomedical countermeasure—

["(i) that is approved under section 505(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) or licensed under section 351 of the Public Health Service Act (42 U.S.C. 262) for use as such a countermeasure to a chemical, biological, radiological, or nuclear agent identified as a material threat under paragraph (1); or

["(ii) for which the Secretary of Health and Human Services determines that sufficient and satisfactory clinical experience or research data (including data, if available, from preclinical and clinical trials) support a reasonable conclusion that the product will qualify for approval or licensing as such a countermeasure within 5 years after the date of a determination under paragraph (3).

["(B) BIOMEDICAL COUNTERMEASURE.—The term 'biomedical countermeasure' means a drug (as that term is defined by section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1))) or biological product (as that term is defined by section 351(i) of the Public Health Service Act (42 U.S.C. 262(i))) that is used—

["(i) to treat, identify, or prevent harm from any biological, chemical, radiological, or nuclear agent that may cause a public health emergency affecting national security; or

["(ii) to treat, identify, or prevent harm from a condition that may result in adverse health consequences or death and may be caused by administering a drug or biological product that is used as described in clause (i).

["(8) APPROPRIATIONS.—

["(A) IN GENERAL.— There are appropriated, out of any moneys in the Treasury not otherwise appropriated, for fiscal year 2003 and for each fiscal year thereafter, such sums as may be necessary for the costs incurred by the Secretary in the procurement of countermeasures under this subsection as approved by the President under paragraph (4) (other than costs specified in subparagraph (B)).

["(B) RESTRICTIONS.—Amounts appropriated under this paragraph shall not be available to pay—

["(i) costs for the purchase of vaccines under procurement contracts entered into before January 1, 2003;

["(ii) costs under new contracts, or costs of new obligations under contracts previously entered into, for procurement of a countermeasure after the date of a determination under paragraph (3)(B)(iii) that there is a significant commercial market for the countermeasure other than as a homeland security threat countermeasure; or

["(iii) administrative costs.".

[SEC. 204. AUTHORIZATION FOR MEDICAL PRODUCTS FOR USE IN EMERGENCIES.

[(a) IN GENERAL.—Subchapter E of Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb, et seq.) is amended by adding at the end the following:

["SEC. 564. AUTHORIZATION FOR MEDICAL PRODUCTS FOR USE IN EMERGENCIES.

["(a) IN GENERAL.—Notwithstanding sections 505 and 515 of this Act and section 351 of the Public Health Service Act, and subject to the provisions of this section, the Secretary may authorize the introduction into interstate commerce, during the effective period of a declaration under subsection (b), of a drug or device intended solely for use in an actual or potential emergency.

["(b) DECLARATION OF EMERGENCY.—

["(1) IN GENERAL.—The Secretary may declare an emergency justifying the authorization of a drug or device under this subsection on the basis of a determination—

["(A) by the Secretary of Homeland Security, that there is a national emergency (or a significant potential of a national emergency) involving a heightened risk of attack with a specified biological, chemical, radiological, or nuclear agent or agents;

["(B) by the Secretary of Defense, that there is a military emergency (or a significant potential of a military emergency) involving a heightened risk to United States military forces of attack with a biological, chemical, radiological, or nuclear agent or agents; or

["(C) by the Secretary of a public health emergency under section 319 of the Public Health Service Act, involving a specified disease or condition or a specified biological, chemical, radiological, or nuclear agent or agents.

["(2) TERMINATION OF DECLARATION.—

["(A) IN GENERAL.—A declaration under this subsection shall terminate upon the earlier of—

["(i) a determination by the Secretary, in consultation as appropriate with the Secretary of Homeland Security or the Secretary of Defense, that the circumstances described in paragraph (1) have ceased to exist; or

["(ii) the expiration of the 1-year period beginning on the date on which the declaration is made.

["(B) RENEWAL.—Notwithstanding subparagraph (A), the Secretary may renew a declaration under this subsection, and this paragraph shall apply to any such renewal.

["(3) PUBLICATION.—The Secretary shall promptly publish in the Federal Register each declaration, determination, and renewal under this subsection.

["(c) CRITERIA FOR ISSUANCE OF AUTHORIZATION.—The Secretary may issue an authorization under this section with respect to a product if the Secretary concludes—

["(1) that an agent specified in a declaration under subsection (b) can cause a serious or life-threatening disease or condition;

["(2) that, based on the totality of scientific evidence available to the Secretary, including data from adequate and well-controlled clinical trials, if available, it is reasonable to believe that—

["(A) the product may be effective in detecting, diagnosing, treating, or preventing—

["(i) such disease or condition; or

["(ii) a serious or life-threatening disease or condition caused by a product authorized under this section or approved under this Act or the Public Health Service Act, for detecting, diagnosing, treating, or preventing such a disease or condition caused by such an agent; and

["(B) the known and potential benefits of the product, when used to detect, diagnose, prevent, or treat such disease or condition, outweigh the known and potential risks of the product;

["(3) that there is no adequate, approved, and available alternative to the product for detecting, diagnosing, preventing, or treating such disease or condition; and

["(4) that such other criteria as the Secretary may by regulation prescribe are satisfied.

["(d) SCOPE OF AUTHORIZATION.—An authorization of a product under this section shall state—

["(1) each disease or condition that the product may be used to detect, diagnose, prevent, or treat within the scope of the authorization; and

["(2) the Secretary's conclusions, under subsection (c), concerning the safety and potential effectiveness of the product in detecting, diagnosing, preventing, or treating such diseases or conditions, including an assessment of the available scientific evidence.

["(e) CONDITIONS OF AUTHORIZATION.—

["(1) IN GENERAL.—The Secretary is authorized, by order or regulation, to impose such conditions on an authorization under this section as the Secretary determines are necessary or appropriate to protect the public health, including the following:

["(A) The Secretary shall impose requirements (including requirements concerning product labeling and the provision of information) designed to ensure that, to the maximum extent feasible given the circumstances of the emergency, health care professionals administering the product are informed—

["(i) that the Secretary has authorized the product solely for emergency use;

["(ii) of the significant known and potential benefits and risks of use of the product, and of the extent to which such benefits and risks are unknown; and

["(iii) of the alternatives to the product that are available, and of their benefits and risks.

["(B) The Secretary shall impose requirements (including requirements concerning product labeling and the provision of information) designed to ensure that, to the maximum extent feasible given the circumstances of the emergency, individuals to whom the product is administered are informed—

["(i) that the Secretary has authorized the product solely for emergency use;

["(ii) of the significant known and potential benefits and risks of use of the product, and of the extent to which such benefits and risks are unknown; and

["(iii) of any option to accept or refuse administration of the product, and of the alternatives to the product that are available and of their benefits and risks.

["(C) The Secretary may impose limitations on which entities may distribute the product (including limitation to distribution by government entities), and on how distribution is to be performed.

["(D) The Secretary may impose limitations on who may administer the product, and on the categories of individuals to whom, and the circumstances under which, the product may be administered.

["(E) The Secretary may condition the authorization on the performance of studies, clinical trials, or other research needed to support marketing approval of the product.

["(F) The Secretary may impose requirements concerning recordkeeping and reporting, including records access by the Secretary and publication of data.

["(G) The Secretary may impose (or waive) requirements, with respect to the product, of current good manufacturing practice otherwise applicable to the manufacture, processing, packing, or holding of products subject to regulation under this Act.

["(H) The Secretary may impose requirements for the monitoring and reporting of adverse events associated with use of the product.

["(2) WAIVER.—The Secretary may waive any condition imposed under this subsection.

["(f) DURATION OF AUTHORIZATION.—

["(1) IN GENERAL.—Except as provided in paragraph (2), an authorization under this section shall be effective until the earlier of the termination of the declaration under subsection (b) or a revocation under subsection (g).

["(2) CONTINUED USE AFTER END OF EFFECTIVE PERIOD.—An authorization shall continue to be effective for continued use with respect to patients to whom it was administered during the period described by paragraph (1), to the extent found necessary by such patients' attending physicians.

["(g) REVOCATION OF AUTHORIZATION.—

["(1) REVIEW.—The Secretary shall periodically review the circumstances and the appropriateness of an authorization under this section.

["(2) REVOCATION.—The Secretary may revoke an authorization under this section if, in the Secretary's unreviewable discretion—

["(A) the conditions for such an authorization are no longer met; or

["(B) other circumstances make such revocation appropriate.

["(h) PUBLICATION.—The Secretary shall promptly publish in the Federal Register a notice of each authorization, and each termination or revocation of an authorization, under this section.

["(i) RECORDKEEPING.—

["(1) IN GENERAL.—The Secretary may by order or regulation require persons, including a person who holds an authorization under this section, or who manufactures, distributes, prescribes, or administers a product that is the subject of such an authorization, to establish and maintain—

["(A) data that is obtained from such activity and that pertains to the effectiveness or safety of such product;

["(B) such records as are necessary to determine, or facilitate a determination, whether there may be any violation of this section or of a regulation promulgated under this section; and

["(C) such additional records as the Secretary may determine necessary.

["(2) ACCESS TO RECORDS BY SECRETARY.—

["(A) SAFETY AND EFFECTIVENESS INFORMATION.—The Secretary may by order or regulation require a person who holds an authorization under this section, or who manufactures, distributes, prescribes, or administers a product that is the subject of such an authorization to provide to the Secretary all data that is obtained from such activity and that pertains to the safety or effectiveness of such product.

["(B) OTHER INFORMATION.—Every person required under this section to establish or maintain records, and every person in charge or custody of such records, shall, upon request by the Secretary, permit the Secretary at all reasonable times to have access to, to copy, and to verify such records.

["(j) CIVIL MONETARY PENALTIES.—

["(1) IN GENERAL.—A person who violates a requirement of this section or of a regulation or order promulgated pursuant to this section shall be subject to a civil money penalty of not more than $100,000 in the case of an individual, and not more than $250,000 in the case of any other person, for each violation, not to exceed $1,000,000 for all such violations adjudicated in a single proceeding.

["(2) ASSESSMENT OF CIVIL PENALTIES.—Paragraphs (3), (4), and (5) of section 303(g) shall apply to a civil penalty under this subsection, and references in such paragraphs to 'paragraph (1) or (2)' shall, for purposes of this subsection, be deemed to refer to paragraph (1) of this subsection.

["(k) ACTIONS COMMITTED TO AGENCY DISCRETION.—Actions under the authority of this section by the Secretary, by the Secretary of Defense, or by the Secretary of

Homeland Security are committed to agency discretion.

[“(l) Regulations.—The Secretary may promulgate regulations to implement this section.

[“(m) Construction.—Nothing in this section shall be construed to impair or otherwise affect—

[“(1) the authority of the President as Commander in Chief of the Armed Forces of the United States under article II, section 2 of the United States Constitution; or

[“(2) the authority of the Secretary of Defense with respect to the Department of Defense, including the armed forces, under other provisions of Federal law.

[“(n) Application to Members of Armed Forces.—

[“(1) Waiver of requirement relating to option to refuse.—In the case of the administration of a countermeasure to members of the armed forces, a requirement, under subsection (e)(2)(C), designed to ensure that individuals are informed of an option to accept or refuse administration of a product, may be waived by the President if the President determines, in writing, that complying with such requirement is not feasible, is contrary to the best interests of the members affected, or is not in the interests of national security.

[“(2) Effect on statute pertaining to investigational new drugs.—In the case of an authorization based on a determination by the Secretary of Defense under subsection (b)(1)(B), section 1107 of title 10, United States Code, shall not apply to use of a product that is the subject of such authorization, within the scope of such authorization and while such authorization is effective.

[“(o) Relation to Other Provisions.—If a product is the subject of an authorization under this section, the use of such product within the scope of the authorization—

[“(1) shall not be subject to any requirements pursuant to section 505(i) or 520(g); and

[“(2) shall not be subject to any requirements otherwise applicable to clinical investigations pursuant to other provisions of this Act.”.

[(b) Prohibited Acts.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended—

[(1) in subsection (e)—

[(A) by striking “504, 703” and inserting “504, 564, 703”; and

[(B) by striking “or 519” and inserting “519, or 564”; and

[(2) by adding at the end the following:

[“(hh)(1) Promotion or use of a product that is the subject of an authorization under section 564 other than as stated in the authorization, or other than during the period described by section 564(g), unless such promotion or use is permitted under another provision of this Act.

[“(2) Failure to comply with an information requirement under section 564(e)(1).”.

[SEC. 205. DEVELOPING NEW COUNTERMEASURES AND PROTECTING EXISTING COUNTERMEASURES AGAINST BIOTERRORISM.

[Section 319F of the Public Health Service Act (42 U.S.C. 247d-6) is amended by adding at the end the following:

[“(k) Limited Antitrust Exemption.—

[“(1) Countermeasures development meetings.—

[“(A) Countermeasures development meetings and consultations.—The Secretary may conduct meetings and consultations with parties involved in the development of countermeasures for the purpose of the development, manufacture, distribution, or sale of priority countermeasures consistent with the purposes of this title. The Secretary shall give notice of such meetings and consultations to the Attorney General and the Chairperson of the Federal Trade Commission (referred to in this subsection as the ‘Chairperson’).

[“(B) Meeting and consultation conditions.—A meeting or consultation conducted under subparagraph (A) shall—

[“(i) be chaired or, in the case of a consultation, facilitated by the Secretary or the designee of the Secretary;

[“(ii) be open to parties involved in the development, manufacture, distribution, purchase, or sale of priority countermeasures, as determined by the Secretary;

[“(iii) be open to the Attorney General and the Chairperson;

[“(iv) be limited to discussions involving the development, manufacture, distribution, or sale of priority countermeasures, consistent with the purposes of this title; and

[“(v) be conducted in such manner as to ensure that national security, confidential, and proprietary information is not disclosed outside the meeting or consultation.

[“(C) Minutes.—The Secretary shall maintain minutes of meetings and consultations under this subsection, which shall not be disclosed under section 552 of title 5, United States Code.

[“(D) Exemption.—The antitrust laws shall not apply to meetings and consultations under this paragraph, except that any agreement that results from a meeting or consultation and that has been denied an exemption pursuant to this subsection shall be subject to the antitrust laws.

[“(2) Written agreements or conduct.—The Secretary or any party to an agreement or other conduct regarding covered activities entered into or undertaken pursuant to meetings or consultations conducted under paragraph (1), and that is consistent with this paragraph, shall file such written agreement or a description of the conduct involved with the Attorney General and the Chairperson for a determination of whether such agreement or conduct should be exempt from the antitrust laws. In addition to the proposed agreement or description of conduct itself, any such filing shall include—

[“(A) an explanation of the intended purpose of the agreement or conduct;

[“(B) a specific statement of the substance of the agreement or conduct;

[“(C) a description of the methods that will be utilized to achieve the objectives of the agreement or conduct;

[“(D) an explanation of the necessity of a cooperative effort among the particular participating parties to achieve the objectives of the agreement or conduct; and

[“(E) any other relevant information reasonably requested by the Attorney General, in consultation with the Chairperson and the Secretary.

[“(3) Determination.—The Attorney General, in consultation with the Chairperson, shall determine whether an agreement or description of conduct submitted under paragraph (2) should be exempt from the antitrust laws.

[“(4) Limited antitrust exemption.—

[“(A) In general.—The Attorney General, in consultation with the Chairperson, may, within 30 days of the receipt of a notification pursuant to paragraph (2), revoke in whole or in part, the scope of any exemption granted by the Attorney General under a determination under paragraph (3).

[“(B) Extension.—The Attorney General may extend the 35-day period referred to in subparagraph (A) for an additional period of not to exceed 20 days. Such additional period may be further extended only by the United States district court, upon an application by the Attorney General after notice to the Secretary and the parties involved.

[“(C) Application of laws.—

[“(i) In general.—The antitrust laws shall not apply to an agreement or conduct (described in a description of conduct) that is submitted for review pursuant to paragraph (2) until such time as the Attorney General determines, pursuant to subparagraph (D), that such agreement or conduct should not, in whole or in part, be exempt from the antitrust laws.

[“(ii) Limited liability.—No party to an agreement or conduct referred to in clause (i) shall be liable under the antitrust laws for any actions reasonably necessary to carry out the agreement or for conduct taken after the agreement or description has been submitted pursuant to paragraph (2) and prior to any revocation of the exemption by the Attorney General pursuant to subparagraph (D).

[“(D) Determination.—In making a determination under this subparagraph, the Attorney General, in consultation with the Chairperson and the Secretary shall consider—

[“(i) whether the agreement or conduct involved would facilitate the availability of priority countermeasures;

[“(ii) whether the exemption from the antitrust laws would promote the public interest;

[“(iii) the competitive impact to areas not directly related to the purposes of the agreement or conduct; and

[“(iv) any other factors determined relevant by the Attorney General and the Chairperson.

[“(5) Limitation on and renewal of exemptions.—An exemption provided under paragraphs (3) or (4) shall be limited to covered activities, and shall expire on the date that is 3 years after the date on which the exemption becomes effective (and at 3 year intervals thereafter, if renewed) unless the Attorney General in consultation with the Chairperson determines that the exemption should be renewed (with modifications, as appropriate) considering the factors described in paragraph (4).

[“(6) Limitation on parties.—Any exemption from the antitrust laws provided under this subsection shall not apply to the use of any information acquired in conducting exempted activities for any purposes other than those expressly specified in the antitrust exemption provided for by this subsection.

[“(7) Guidelines.—The Attorney General and the Chairperson may develop and issue guidelines to implement this subsection.

[“(8) Report.—Not later than 1 year after the date of enactment of this subsection, and annually thereafter, the Attorney General and the Chairperson shall report to the Committee on Health, Education, Labor, and Pensions and the Committee on the Judiciary of the Senate and the Committee on Energy and Commerce and the Committee on the Judiciary of the House of Representatives on the use and continuing need for the exemption from the antitrust laws provided by this subsection.

[“(9) Sunset.—The authority of any party to apply for or to obtain a limited antitrust exemption under this subsection shall expire at the end of the 6-year period that begins on the date of enactment of this subsection.

[“(l) Definitions.—In this section:

[“(1) ANTITRUST LAWS.—The term ‘antitrust laws’—

[“(A) has the meaning given such term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes the Act of June 19, 1936 (15 U.S.C. 13 et seq.) commonly known as the Robinson-Patman Act), and section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent such section 5 applies to unfair methods of competition; and

[“(B) includes any State law similar to the laws referred to in subparagraph (A).

[“(2) COVERED ACTIVITIES.—

[“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘covered activities’ means any group of activities or conduct, including attempting to make, making, or performing a contract or agreement or engaging in other conduct, for the purpose of—

[“(i) theoretical analysis, experimentation, or the systematic study of phenomena or observable facts related to the development of priority countermeasures;

[“(ii) the development or testing of basic engineering techniques related to the development of priority countermeasures;

[“(iii) the extension of investigative findings or theory of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, prototypes, equipment, materials, and processes related to the development of priority countermeasures;

[“(iv) the production, distribution, or marketing of a product, process, or service related to the development of priority countermeasures;

[“(v) the testing in connection with the production of a product, process, or service related to the development of priority countermeasures;

[“(vi) the collection, exchange, and analysis of research or production information related to the development of priority countermeasures; or

[“(vii) any combination of the purposes described in clauses (i) through (vi);

and such term may include the establishment and operation of facilities for the conduct of covered activities described in clauses (i) through (vi), the conduct of such covered activities on a protracted and proprietary basis, and the processing of applications for patents and the granting of licenses for the results of such covered activities.

[“(B) EXCEPTION.—The term ‘covered activities’ shall not include the following activities involving 2 or more persons:

[“(i) Exchanging information among competitors relating to costs, sales, profitability, prices, marketing, or distribution of any product, process, or service if such information is not reasonably necessary to carry out the purposes of covered activities.

[“(ii) Entering into any agreement or engaging in any other conduct—

[“(I) to restrict or require the sale, licensing, or sharing of inventions, developments, products, processes, or services not developed through, produced by, or distributed or sold through such covered activities; or

[“(II) to restrict or require participation by any person who is a party to such covered activities in other research and development activities, that is not reasonably necessary to prevent the misappropriation of proprietary information contributed by any person who is a party to such covered activities or of the results of such covered activities.

[“(iii) Entering into any agreement or engaging in any other conduct allocating a market with a competitor that is not expressly exempted from the antitrust laws by a determination under subsection (k)(4).

[“(iv) Exchanging information among competitors relating to production (other than production by such covered activities) of a product, process, or service if such information is not reasonably necessary to carry out the purpose of such covered activities.

[“(v) Except as otherwise provided in this subsection or subsection (k), entering into any agreement or engaging in any other conduct to restrict or require participation by any person who is a party to such activities, in any unilateral or joint activity that is not reasonably necessary to carry out the purpose of such covered activities.

[“(3) DEVELOPMENT.—The term ‘development’ includes the identification of suitable compounds or biological materials, the conduct of preclinical and clinical studies, the preparation of an application for marketing approval, and any other actions related to preparation of a countermeasure.

[“(4) PERSON.—The term ‘person’ has the meaning given such term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)).

[“(5) PRIORITY COUNTERMEASURE.—The term ‘priority countermeasure’ means a countermeasure, including a drug, medical device, biological product, or diagnostic test to treat, identify, or prevent infection by a biological agent or toxin on the list developed under section 351A(a)(1) and prioritized under subsection (a)(1).”.

[TITLE III—IMPROVED VACCINE AFFORDABILITY AND AVAILABILITY

[SEC. 301. SHORT TITLE.

[This title may be cited as the “Improved Vaccine Affordability and Availability Act”.

[Subtitle A—State Vaccine Grants

[SEC. 311. AVAILABILITY OF INFLUENZA VACCINE.

[Section 317(j) of the Public Health Service Act (42 U.S.C. 247b(j)) is amended by adding at the end the following:

[“(3)(A) For the purpose of carrying out activities relating to influenza vaccine under the immunization program under this subsection, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2003 and 2004. Such authorization shall be in addition to amounts available under paragraphs (1) and (2) for such purpose.

[“(B) The authorization of appropriations established in subparagraph (A) shall not be effective for a fiscal year unless the total amount appropriated under paragraphs (1) and (2) for the fiscal year is not less than such total for fiscal year 2000.

[“(C) The purposes for which amounts appropriated under subparagraph (A) are available to the Secretary include providing for improved State and local infrastructure for influenza immunizations under this subsection in accordance with the following:

[“(i) Increasing influenza immunization rates in populations considered by the Secretary to be at high risk for influenza-related complications and in their contacts.

[“(ii) Recommending that health care providers actively target influenza vaccine that is available in September, October, and November to individuals who are at increased risk for influenza-related complications and to their contacts.

[“(iii) Providing for the continued availability of influenza immunizations through December of such year, and for additional periods to the extent that influenza vaccine remains available.

[“(iv) Encouraging States, as appropriate, to develop contingency plans (including plans for public and professional educational activities) for maximizing influenza immunizations for high-risk populations in the event of a delay or shortage of influenza vaccine.

[“(D) The Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate, periodic reports describing the activities of the Secretary under this subsection regarding influenza vaccine. The first such report shall be submitted not later than June 6, 2003, the second report shall be submitted not later than June 6, 2004, and subsequent reports shall be submitted biennially thereafter.”.

[SEC. 312. PROGRAM FOR INCREASING IMMUNIZATION RATES FOR ADULTS AND ADOLESCENTS; COLLECTION OF ADDITIONAL IMMUNIZATION DATA.

[(a) ACTIVITIES OF CENTERS FOR DISEASE CONTROL AND PREVENTION.—Section 317(j) of the Public Health Service Act (42 U.S.C. 247b(j)), as amended by section 311, is further amended by adding at the end the following:

[“(4)(A) For the purpose of carrying out activities to increase immunization rates for adults and adolescents through the immunization program under this subsection, and for the purpose of carrying out subsection (k)(2), there are authorized to be appropriated $50,000,000 for fiscal year 2003, and such sums as may be necessary for each of the fiscal years 2004 through 2006. Such authorization is in addition to amounts available under paragraphs (1), (2), and (3) for such purposes.

[“(B) In expending amounts appropriated under subparagraph (A), the Secretary shall give priority to adults and adolescents who are medically underserved and are at risk for vaccine-preventable diseases, including as appropriate populations identified through projects under subsection (k)(2)(E).

[“(C) The purposes for which amounts appropriated under subparagraph (A) are available include (with respect to immunizations for adults and adolescents) the payment of the costs of storing vaccines, outreach activities to inform individuals of the availability of the immunizations, and other program expenses necessary for the establishment or operation of immunization programs carried out or supported by States or other public entities pursuant to this subsection.

[“(5) The Secretary shall annually submit to Congress a report that—

[“(A) evaluates the extent to which the immunization system in the United States has been effective in providing for adequate immunization rates for adults and adolescents, taking into account the applicable year 2010 health objectives established by the Secretary regarding the health status of the people of the United States; and

[“(B) describes any issues identified by the Secretary that may affect such rates.

[“(6) In carrying out this subsection and paragraphs (1) and (2) of subsection (k), the Secretary shall consider recommendations regarding immunizations that are made in reports issued by the Institute of Medicine of the National Academy of Sciences.”.

[(b) RESEARCH, DEMONSTRATIONS, AND EDUCATION.—Section 317(k) of the Public Health Service Act (42 U.S.C. 247b(k)) is amended—

[(1) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively;

[(2) by inserting after paragraph (1) the following:

[“(2)(A) The Secretary, directly and through grants under paragraph (1), shall provide for a program of research, demonstration projects, and education in accordance with the following:

["(i) The Secretary shall coordinate with public and private entities (including nonprofit private entities), and develop and disseminate guidelines, toward the goal of ensuring that immunizations are routinely offered to adults and adolescents by public and private health care providers.

["(ii) The Secretary shall cooperate with public and private entities to obtain information for the annual evaluations required in subsection (j)(5)(A).

["(iii) The Secretary shall (relative to fiscal year 2003) increase the extent to which the Secretary collects data on the incidence, prevalence, and circumstances of diseases and adverse events that are experienced by adults and adolescents and may be associated with immunizations, including collecting data in cooperation with commercial laboratories.

["(iv) The Secretary shall ensure that the entities with which the Secretary cooperates for purposes of subparagraphs (A) through (C) include managed care organizations, community-based organizations that provide health services, and other health care providers.

["(v) The Secretary shall provide for projects to identify racial and ethnic minority groups and other health disparity populations for which immunization rates for adults and adolescents are below such rates for the general population, and to determine the factors underlying such disparities.

["(B) Authorization of Appropriations.—There are authorized to be appropriated to carry out this subsection, such sums as may be necessary for each of fiscal years 2003 through 2007.".

[SEC. 313. IMMUNIZATION AWARENESS.

[(a) Development of Information Concerning Meningitis.—

[(1) In general.—The Secretary of Health and Human Services (in this title referred to as the "Secretary"), in consultation with the Director of the Centers for Disease Control and Prevention, shall develop and make available to entities described in paragraph (2) information concerning bacterial meningitis and the availability and effectiveness of vaccinations for populations targeted by the Advisory Committee on Immunization Practices (an advisory committee established by the Secretary, acting through the Director of the Centers for Disease Control and Prevention).

[(2) Entities.—An entity is described in this paragraph if the entity—

[(A) is—

[(i) a college or university; or

[(ii) any other facility with a setting similar to a dormitory that houses age-appropriate populations for whom the Advisory Committee on Immunization Practices recommends such a vaccination; and

[(B) is determined appropriate by the Secretary.

[(b) Development of Information Concerning Hepatitis.—

[(1) In general.—The Secretary, in consultation with the Director of the Centers for Disease Control and Prevention, shall develop and make available to entities described in paragraph (2) information concerning hepatitis A and B and the availability and effectiveness of vaccinations with respect to such diseases.

[(2) Entities.—An entity is described in this paragraph if the entity—

[(A) is—

[(i) a health care clinic that serves individuals diagnosed as being infected with HIV or as having other sexually transmitted diseases;

[(ii) an organization or business that counsels individuals about international travel or who arranges for such travel;

[(iii) a police, fire, or emergency medical services organization that responds to natural or man-made disasters or emergencies;

[(iv) a prison or other detention facility;

[(v) a college or university; or

[(vi) a public health authority or children's health service provider in areas of intermediate or high endemicity for hepatitis A as defined by the Centers for Disease Control and Prevention; and

[(B) is determined appropriate by the Secretary.

[SEC. 314. SUPPLY OF VACCINES.

[(a) In General.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control and Prevention, shall prioritize, acquire, and maintain a supply of such prioritized vaccines sufficient to provide vaccinations throughout a 6-month period.

[(b) Proceeds.—Any proceeds received by the Secretary of Health and Human Services from the sale of vaccines contained in the supply described in subsection (a), shall be available to the Secretary for the purpose of purchasing additional vaccines for the supply. Such proceeds shall remain available until expended.

[(c) Authorization of Appropriations.—There are authorized to be appropriated for the purpose of carrying out subsection (a) such sums as may be necessary for each of fiscal years 2003 through 2008.

[SEC. 315. COMMUNICATION.

[The Commissioner of Food and Drugs shall ensure that vaccine manufacturers receive all forms of compliance guidelines for vaccines and that such guidelines are kept up to date.

[SEC. 316. FAST TRACK.

[The Commissioner of Food and Drugs shall issue regulations to revise the policies of the Food and Drug Administration regarding fast-tracking and priority review approval of vaccine products currently under development, to allow for the use of new forms of existing vaccines in cases where a determination is made that applying such approvals is in the public health interest to address the unmet need of strengthening the overall vaccine supply.

[SEC. 317. STUDY.

[(a) In General.—The Secretary shall contract with the Institute of Medicine of the National Academy of Sciences or another independent and competent authority, to conduct a study of the statutes, regulations, guidelines, and compliance, inspection, and enforcement practices and policies of the Department of Health and Human Services and of the Food and Drug Administration that are applicable to vaccines intended for human use that are in periodic short supply in the United States.

[(b) Requirements.—The study under subsection (a) shall include a review of the regulatory requirements, guidelines, practices, and policies—

[(1) for the development and licensing of vaccines and the licensing of vaccine manufacturing facilities;

[(2) for inspections and other activities for maintaining compliance and enforcement of the requirements applicable to such vaccines and facilities; and

[(3) that may have contributed to temporary or long-term shortages of vaccines.

[(c) Report.—Not later than 6 months after the date of enactment of this Act, the Secretary shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that contains—

[(1) the results of the study under subsection (a); and

[(2) recommendations for modifications to the regulatory requirements, guidelines, practices, and policies described in subsection (b).

[Subtitle B—Vaccine Injury Compensation Program

[SEC. 321. ADMINISTRATIVE REVISION OF VACCINE INJURY TABLE.

[Section 2114 of the Public Health Service Act (42 U.S.C. 300aa–14) is amended—

[(1) by striking subsection (c)(1) and inserting the following:

["(1) The Secretary may promulgate regulations to modify in accordance with paragraph (3) the Vaccine Injury Table. In promulgating such regulations, the Secretary shall provide for notice and for at least 60 days of public comment."; and

[(2) in subsection (d), by striking "90 days" and inserting "60 days".

[SEC. 322. EQUITABLE RELIEF.

[Section 2111(a)(2)(A) of the Public Health Service Act (42 U.S.C. 300aa–11(a)(2)(A)) is amended by striking "No person" and all that follows through "and—" and inserting the following: "No person may bring or maintain a civil action against a vaccine administrator or manufacturer in a Federal or State court for damages arising from, or equitable relief relating to, a vaccine-related injury or death associated with the administration of a vaccine after October 1, 1988 and no such court may award damages or equitable relief for any such vaccine-related injury or death, unless the person proves past or present physical injury and a timely petition has been filed in accordance with section 2116 for compensation under the Program for such injury or death and—".

[SEC. 323. DERIVATIVE PETITIONS FOR COMPENSATION.

[(a) Limitations on Derivative Petitions.—Section 2111(a)(2) of the Public Health Service Act (42 U.S.C. 300aa–11(a)(2)) is amended—

[(1) in subparagraph (B), by inserting "or (B)" after "subparagraph (A)";

[(2) by redesignating subparagraph (B) as subparagraph (C); and

[(3) by inserting after subparagraph (A) the following:

["(B)(i) No parent or other third party may bring or maintain a civil action against a vaccine administrator or manufacturer in a Federal or State court for damages or equitable relief relating to a vaccine-related injury or death, including without limitation damages for loss of consortium, society, companionship, or services, loss of earnings, medical or other expenses, and emotional distress, and no court may award damages or equitable relief in such an action, unless—

["(I) the person who sustained the underlying vaccine-related injury or death upon which such parent's or other third party's claim is premised has timely filed a petition for compensation in accordance with section 2111;

["(II) such parent or other third party is the legal representative or spouse of the person who sustained the underlying vaccine-related injury or death, and such legal representative or spouse has filed a timely derivative petition, in accordance with section 2116; and

["(III)(aa) the United States Court of Federal Claims has issued judgment under section 2112 on the derivative petition, and such legal representative or spouse elects under section 2121(a) to file a civil action; or

[“(bb) such legal representative or spouse elects to withdraw such derivative petition under section 2121(b) or such petition is considered withdrawn under such section.

[“(ii) Any civil action brought in accordance with this subparagraph shall be subject to the standards and procedures set forth in sections 2122 and 2123, regardless of whether the action arises directly from a vaccine-related injury or death associated with the administration of a vaccine. In a case in which the person who sustained the underlying vaccine-related injury or death upon which such legal representative's or spouse's civil action is premised elects under section 2121(a) to receive the compensation awarded, such legal representative or spouse may not bring a civil action for damages or equitable relief, and no court may award damages or equitable relief, for any injury or loss of the type set forth in section 2115(a) or that might in any way overlap with or otherwise duplicate compensation of the type available under section 2115(a).”.

[(b) Eligible Persons.—Section 2111(a)(9) of the Public Health Service Act (42 U.S.C. 300aa–11(a)(9)) is amended by striking the period and inserting “and to a parent or other third party to the extent such parent or other third party seeks damages or equitable relief relating to a vaccine-related injury or death sustained by a person who is qualified to file a petition for compensation under the Program.”.

[(c) Petitioners.—Section 2111(b) of the Public Health Service Act (42 U.S.C. 300aa–11(b)) is amended—

[(1) in paragraph (1)—

[(A) in subparagraph (A), by striking “(B)” and inserting “(C)”;

[(B) by redesignating subparagraph (B) as subparagraph (C); and

[(C) by inserting after subparagraph (A) the following:

[“(B) Except as provided in subparagraph (C), any legal representative or spouse of a person—

[“(i) who has sustained a vaccine-related injury or death; and

[“(ii) who has filed a petition for compensation under the Program (or whose legal representative has filed such a petition as authorized in subparagraph (A));

may, if such legal representative or spouse meets the requirements of subsection (d), file a derivative petition under this section.”; and

[(2) in paragraph (2)—

[(A) by inserting “by or on behalf of the person who sustained the vaccine-related injury or death” after “filed”; and

[(B) by adding at the end the following: “A legal representative or spouse may file only 1 derivative petition with respect to each underlying petition.”.

[(d) Derivative Petition Contents.—Section 2111 of the Public Health Service Act (42 U.S.C. 300aa–11) is amended—

[(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

[(2) by inserting after subsection (c) the following:

[“(d) Derivative Petitions.—

[“(1) If the legal representative or spouse of the person who sustained the vaccine-related injury or death seeks compensation under the Program, such legal representative or spouse shall file a timely derivative petition for compensation under the Program in accordance with this section.

[“(2) Such a derivative petition shall contain—

[“(A) except for records that are unavailable as described in subsection (c)(3), an affidavit, and supporting documentation, demonstrating that—

[“(i) the child or spouse of such person has, in accordance with section 2111, timely filed a petition for compensation for the underlying vaccine-related injury or death upon which such legal representative's or spouse's derivative petition is premised;

[“(ii) the derivative petition was timely filed;

[“(iii) such legal representative or spouse suffered a loss compensable under section 2115(b) as a result of the vaccine-related injury or death sustained by such person; and

[“(iv) such legal representative or spouse has not previously collected an award or settlement of a civil action for damages for such loss; and

[“(B) records establishing such legal representative's or spouse's relationship to the person who sustained the vaccine-related injury or death.”.

[(e) Determination of Eligibility for Compensation.—Section 2113(a)(1) of the Public Health Service Act (42 U.S.C. 300aa–13(a)(1)) is amended—

[(1) in subparagraph (A), by striking “and” and inserting “or, as applicable, section 2111(d),”;

[(2) in subparagraph (B), by striking the period and inserting “, and”; and

[(3) by inserting before the flush matter at the end, the following:

[“(C) in the case of a derivative petition, that the person who sustained the underlying vaccine-related injury or death upon which the derivative petition is premised has timely filed a petition for compensation in accordance with section 2111 and that, with respect to such underlying petition, the special master or court has made the findings specified in subparagraphs (A) and (B) of this paragraph.”.

[(f) Compensation.—Section 2115 of the Public Health Service Act (42 U.S.C. 300aa–15) is amended—

[(1) by redesignating subsections (b) through (j) as subsections (c) through (k), respectively;

[(2) by inserting after subsection (a) the following:

[“(b) Derivative Petitions.—

[“(1) In general.—Compensation awarded under the Program to a legal representative or spouse who files a derivative petition under section 2111 for a loss sustained as a result of a vaccine-related injury or death sustained by such petitioner's child or spouse shall only include compensation for any loss of consortium, society, companionship, or services, in an amount not to exceed the lesser of $250,000 or the total amount of compensation awarded to the person who sustained the underlying vaccine-related injury or death.

[“(2) Multiple individuals.—Where more than 1 person files a derivative petition under section 2111 for losses sustained as a result of the same underlying vaccine-related injury or death, the aggregate compensation to such persons shall not exceed the lesser of $250,000, or the total amount of compensation awarded to the person who sustained the underlying vaccine-related injury or death. The special master or court shall apportion compensation among the derivative petitioners in proportion to their respective losses.”;

[(3) in subsection (e)(2), as so redesignated by paragraph (1)—

[(A) by striking “(2) and (3)” and inserting “(2), (3), (4), (5), and (6)”; and

[(B) by inserting “and subsection (b),” after “(a),”;

[(4) in subsection (g), as so redesignated by paragraph (1), in paragraph (4)(B), by striking “subsection (j)” and inserting “subsection (k)”;

[(5) in subsection (j), as so redesignated by paragraph (1)—

[(A) in paragraph (1), by striking “subsection (j)” and inserting “subsection (k)”; and

[(B) in paragraph (2), by inserting “, or to a legal representative or spouse of a person who sustained a vaccine-related injury or death,” after “death”; and

[(6) in subsection (k), as so redesignated by paragraph (1), by striking “subsection (f)(4)(B)” and inserting “subsection (g)(4)(B)”.

[SEC. 324. JURISDICTION TO DISMISS ACTIONS IMPROPERLY BROUGHT.

[Section 2111(a)(3) of the Public Health Service Act (42 U.S.C. 300aa–11(a)(3)) is amended by adding at the end the following: “If any civil action which is barred under subparagraph (A) or (B) of paragraph (2) is filed or maintained in a State court, or any vaccine administrator or manufacturer is made a party to any civil action brought in State court (other than a civil action which may be brought under paragraph (2)) for damages or equitable relief for a vaccine-related injury or death associated with the administration of a vaccine after October 1, 1988, the civil action may be removed at any time before final judgment by the defendant or defendants to the United States Court of Federal Claims. Once removed, the United States Court of Federal Claims shall have jurisdiction solely for the purpose of adjudicating whether the civil action should be dismissed pursuant to this section. If the United States Court of Federal Claims determines that the civil action should not be dismissed, the court shall remand the action to the State Court. The notice required by section 1446 of title 28, United States Code, shall be filed with the United States Court of Federal Claims, and that court shall, except as otherwise provided in this section, proceed in accordance with sections 1446 through 1451 of title 28, United States Code.”.

[SEC. 325. CLARIFICATION OF WHEN INJURY IS CAUSED BY FACTOR UNRELATED TO ADMINISTRATION OF VACCINE.

[Section 2113(a)(2)(B) of the Public Health Service Act (42 U.S.C. 300aa–13(a)(2)(B)) is amended—

[(1) by inserting “structural lesions, genetic disorders,” after “and related anoxia),”;

[(2) by inserting “(without regard to whether the cause of the infection, toxin, trauma, structural lesion, genetic disorder, or metabolic disturbance is known)” after “metabolic disturbances”; and

[(3) by striking “but” and inserting “and”.

[SEC. 326. INCREASE IN AWARD IN THE CASE OF A VACCINE-RELATED DEATH AND FOR PAIN AND SUFFERING.

[(a) In General.—Section 2115(a) of the Public Health Service Act (42 U.S.C. 300aa–15(a)) is amended—

[(1) in paragraph (2), by striking “$250,000” and inserting “$350,000”; and

[(2) in paragraph (4), by striking “$250,000” and inserting “$350,000”.

[(b) Death Awards.—Section 2115(a)(2) of the Public Health Service Act (42 U.S.C. 300aa–15(a)(2)) is amended by inserting “(if the deceased incurred unreimbursable expenses due to the vaccine-related injury prior to death in excess of $50,000, the award shall also include reimbursement for those unreimbursable expenses that exceed $50,000)" before the period.

[SEC. 327. BASIS FOR CALCULATING PROJECTED LOST EARNINGS.

[Section 2115(a)(3)(B) of the Public Health Service Act (42 U.S.C. 300aa-15(a)(3)(B)) is amended by striking "loss of earnings" and all that follows and inserting the following: "loss of earnings determined on the basis of the annual estimate of the average (mean) gross weekly earnings of wage and salary workers age 18 and over (excluding the incorporated self-employed) in the private nonfarm sector (which includes all industries other than agricultural production crops and livestock), as calculated annually by the Bureau of Labor Statistics from the quarter sample data of the Current Population Survey, or as calculated by such similar method as the Secretary may prescribe by regulation, less appropriate taxes and the average cost of a health insurance policy, as determined by the Secretary.".

[SEC. 328. ALLOWING COMPENSATION FOR FAMILY COUNSELING EXPENSES AND EXPENSES OF ESTABLISHING AND MAINTAINING GUARDIANSHIP.

[(a) FAMILY COUNSELING EXPENSES IN POST-1988 CASES.—Section 2115(a) of the Public Health Service Act (42 U.S.C. 300aa-15(a)) is amended by adding at the end the following:

["(5) Actual unreimbursable expenses that have been or will be incurred for family counseling as is determined to be reasonably necessary and that result from the vaccine-related injury from which the petitioner seeks compensation.".

[(b) EXPENSES OF ESTABLISHING AND MAINTAINING GUARDIANSHIPS IN POST-1988 CASES.—Section 2115(a) of the Public Health Service Act (42 U.S.C. 300aa-15(a)), as amended by subsection (a), is further amended by adding at the end the following:

["(6) Actual unreimbursable expenses that have been, or will be reasonably incurred to establish and maintain a guardianship or conservatorship for an individual who has suffered a vaccine-related injury, including attorney fees and other costs incurred in a proceeding to establish and maintain such guardianship or conservatorship.".

[(c) CONFORMING AMENDMENT FOR CASES FROM 1988 AND EARLIER.—Section 2115 of the Public Health Service Act (42 U.S.C. 300aa-15) is amended in subsection (c), as so redesignated by section 323(f)—

[(1) in paragraph (2), by striking "and" at the end;

[(2) in paragraph (3), by striking "(e)" and inserting "(f)";

[(3) by redesignating paragraph (3) as paragraph (5); and

[(4) by inserting after paragraph (2), the following:

["(3) family counseling expenses (as provided for in paragraph (5) of subsection (a));

["(4) expenses of establishing and maintaining guardianships (as provided for in paragraph (6) of subsection (a)); and".

[SEC. 329. ALLOWING PAYMENT OF INTERIM COSTS.

[Section 2115 of the Public Health Service Act (42 U.S.C. 300aa-15) is amended in subsection (f), as so redesignated by section 323(f), by adding at the end the following:

["(4) A special master or court may make an interim award of costs subject to final adjustment if—

["(A) the case involves a vaccine administered on or after October 1, 1988;

["(B) the special master or court has determined that the petitioner is entitled to compensation under the Program;

["(C) the award is limited to other costs (within the meaning of paragraph (1)(B)) incurred in the proceeding;

["(D) not more than 1 prior award has been made with respect to such petition; and

["(E) the petitioner provides documentation verifying the expenditure of the amount for which compensation is sought.".

[SEC. 330. PROCEDURE FOR PAYING ATTORNEYS' FEES.

[Section 2115 of the Public Health Service Act (42 U.S.C. 300aa-15), is amended in subsection (f), as so redesignated by section 323(f) and amended by section 329, by adding at the end the following:

["(5) When a special master or court awards attorney fees or costs under paragraph (1) or (4), it may order that such fees or costs be payable solely to the petitioner's attorney if—

["(A) the petitioner expressly consents; or

["(B) the special master or court determines, after affording to the Secretary and to all interested persons the opportunity to submit relevant information, that—

["(i) the petitioner cannot be located or refuses to respond to a request by the special master or court for information, and there is no practical alternative means to ensure that the attorney will be reimbursed for such fees or costs expeditiously; or

["(ii) there are otherwise exceptional circumstances and good cause for paying such fees or costs solely to the petitioner's attorney.".

[SEC. 331. EXTENSION OF STATUTE OF LIMITATIONS.

[(a) GENERAL RULE.—Section 2116(a) of the Public Health Service Act (42 U.S.C. 300aa-16(a)) is amended—

[(1) in paragraph (2), by striking "36 months" and inserting "6 years"; and

[(2) in paragraph (3), by striking "48 months" and inserting "6 years".

[(b) CLAIMS BASED ON REVISIONS TO TABLE.—Section 2116 of the Public Health Service Act (42 U.S.C. 300aa-16) is amended by striking subsection (b) and inserting the following:

["(b) EFFECT OF REVISED TABLE.—If at any time the Vaccine Injury Table is revised and the effect of such revision is to make an individual eligible for compensation under the program, where, before such revision, such individual was not eligible for compensation under the program, or to significantly increase the likelihood that an individual will be able to obtain compensation under the program, such person may, and shall before filing a civil action for equitable relief or monetary damages, notwithstanding section 2111(b)(2), file a petition for such compensation if—

["(1) the vaccine-related death or injury with respect to which the petition is filed occurred not more than 10 years before the effective date of the revision of the table; and

["(2) either—

["(A) the petition satisfies the conditions described in subsection (a); or

["(B) the date of the occurrence of the first symptom or manifestation of onset of the injury occurred more than 4 years before the petition is filed, and the petition is filed not more than 2 years after the effective date of the revision of the table.".

[(c) DERIVATIVE PETITIONS.—Section 2116 of the Public Health Service Act (42 U.S.C. 300aa-16) is amended by adding at the end the following:

["(d) DERIVATIVE PETITIONS.—No derivative petition may be filed for compensation under the Program later than the earlier of—

["(1) the last day on which the petition for compensation for the underlying claim of the person who sustained the vaccine-related injury or death upon which the derivative petition is premised may be timely filed; or

["(2) 60 days after the date on which the special master has issued a decision pursuant to section 2112(d)(3) on the underlying claim of the person who sustained the vaccine-related injury or death upon which the derivative petition is premised.".

[(d) TIMELY RESOLUTIONS OF CLAIMS.—

[(1) SPECIAL MASTER DECISION.—Section 2112(d)(3)(A) of the Public Health Service Act (42 U.S.C. 300aa-12(d)(3)(A)) is amended by adding at the end the following: "For purposes of this subparagraph, the petition shall be deemed to be filed on the date on which the special master issues a certificate of completeness, indicating that all petition contents and supporting documents required under section 2111(c) and, when applicable, section 2111(d) and the Vaccine Rules of the United States Court of Federal Claims, such as an affidavit and supporting documentation, have been served on the Secretary and filed with the clerk of the United States Court of Federal Claims.".

[(2) DERIVATIVE PETITIONS.—Section 2112(d)(3)(C) of the Public Health Service Act (42 U.S.C. 300aa-12(d)(3)(C)) is amended by adding at the end the following: "With respect to any derivative petition filed under section 2111, the period of time during which the petition for compensation for the underlying vaccine-related injury or death upon which such derivative petition is premised is pending shall be treated as a suspension for purposes of this subparagraph.".

[(3) COURT OF FEDERAL CLAIMS DECISION.—Section 2121(b) of the Public Health Service Act (42 U.S.C. 300aa-21(b)) is amended by adding at the end the following: "For purposes of this subsection, the petition shall be deemed to be filed on the date on which the special master issues a certificate of completeness, indicating that all petition contents and supporting documents required under section 2111(c) and, when applicable, section 2111(d) and the Vaccine Rules of the United States Court of Federal Claims, such as an affidavit and supporting documentation, have been served on the Secretary and filed with the clerk of the United States Court of Federal Claims.".

[SEC. 332. ADVISORY COMMISSION ON CHILDHOOD VACCINES.

[(a) SELECTION OF PERSONS INJURED BY VACCINES AS PUBLIC MEMBERS.—Section 2119(a)(1)(B) of the Public Health Service Act (42 U.S.C. 300aa-19(a)(1)(B)) is amended by striking "of whom" and all that follows and inserting the following: "of whom 1 shall be the legal representative of a child who has suffered a vaccine-related injury or death, and at least 1 other shall be either the legal representative of a child who has suffered a vaccine-related injury or death or an individual who has personally suffered a vaccine-related injury.".

[(b) MANDATORY MEETING SCHEDULE ELIMINATED.—Section 2119(c) of the Public Health Service Act (42 U.S.C. 300aa-19(c)) is amended by striking "not less often than four times per year and".

[SEC. 333. CLARIFICATION OF STANDARDS OF RESPONSIBILITY.

[(a) GENERAL RULE.—Section 2122(a) of the Public Health Service Act (42 U.S.C. 300aa-22(a)) is amended by striking "and (e) State law shall apply to a civil action brought for damages" and inserting "(d), and (f) State law shall apply to a civil action brought for damages or equitable relief"; and

[(b) UNAVOIDABLE ADVERSE SIDE EFFECTS.—Section 2122(b)(1) of the Public Health Service Act (42 U.S.C. 300aa-22(b)(1)) is amended by inserting "or equitable relief" after "for damages".

[(c) DIRECT WARNINGS.—Section 2122(c) of the Public Health Service Act (42 U.S.C. 300aa–22(c)) is amended by inserting “or equitable relief” after “for damages”.

[(d) CONSTRUCTION.—Section 2122(d) of the Public Health Service Act (42 U.S.C. 300aa–22(d)) is amended—

[(1) by inserting “or equitable relief” after “for damages”; and

[(2) by inserting “or relief” after “which damages”.

[(e) PAST OR PRESENT PHYSICAL INJURY.—Section 2122 of the Public Health Service Act (42 U.S.C. 300aa–22) is amended—

[(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

[(2) by inserting after subsection (c) the following:

[“(d) PAST OR PRESENT PHYSICAL INJURY.—No vaccine manufacturer or vaccine administrator shall be liable in a civil action brought after October 1, 1988, for equitable or monetary relief absent proof of past or present physical injury from the administration of a vaccine, nor shall any vaccine manufacturer or vaccine administrator be liable in any such civil action for claims of medical monitoring, or increased risk of harm.”.

[SEC. 334. CLARIFICATION OF DEFINITION OF MANUFACTURER.

[Section 2133(3) of the Public Health Service Act (42 U.S.C. 300aa–33(3)) is amended—

[(1) in the first sentence, by striking “under its label any vaccine set forth in the Vaccine Injury Table” and inserting “any vaccine set forth in the Vaccine Injury table, including any component or ingredient of any such vaccine”; and

[(2) in the second sentence, by inserting “including any component or ingredient of any such vaccine” before the period.

[SEC. 335. CLARIFICATION OF DEFINITION OF VACCINE-RELATED INJURY OR DEATH.

[Section 2133(5) of the Public Health Service Act (42 U.S.C. 300aa–33(5)) is amended by adding at the end the following: “For purposes of the preceding sentence, an adulterant or contaminant shall not include any component or ingredient listed in a vaccine's product license application or product label.”.

[SEC. 336. CLARIFICATION OF DEFINITION OF VACCINE AND DEFINITION OF PHYSICAL INJURY.

[Section 2133 of the Public Health Service Act (42 U.S.C. 300aa–33) is amended by adding at the end the following:

[“(7) The term ‘vaccine’ means any preparation or suspension, including a preparation or suspension containing an attenuated or inactive microorganism or subunit thereof or toxin, developed or administered to produce or enhance the body's immune response to a disease or diseases and includes all components and ingredients listed in the vaccine's product license application and product label.

[“(8) The term ‘physical injury’ means a manifest physical illness, condition, or death, including a neurological disease or disorder.”.

[SEC. 337. AMENDMENTS TO VACCINE INJURY COMPENSATION TRUST FUND.

[(a) EXPANSION OF COMPENSATED LOSS.—Section 9510(c)(1)(A) of the Internal Revenue Code of 1986 is amended by inserting “, or related loss,” after “death”.

[(b) INCREASE IN LIMIT ON ADMINISTRATIVE EXPENSES.—Subparagraph (B) of section 9510(c)(1) of the Internal Revenue Code of 1986 is amended—

[(1) by striking “(but not in excess of the base amount of $9,500,000 for any fiscal year)”; and

[(2) by striking the period and inserting “, provided that such administrative costs shall not exceed the greater of—

[“(i) the base amount of $9,500,000 for any fiscal year,

[“(ii) 125 percent of the base amount for any fiscal year in which the total number of claims pending under such subtitle exceeds 150 percent of the average number of claims pending in the preceding 5 years,

[“(iii) 175 percent of the base amount for any fiscal year in which the total number of claims pending under such subtitle exceeds 200 percent of the average number of claims pending in the preceding 5 years,

[“(iv) 225 percent of the base amount for any fiscal year in which the total number of claims pending under such subtitle exceeds 250 percent of the average number of claims pending in the preceding 5 years, or

[“(v) 275 percent of the base amount for any fiscal year in which the total number of claims pending under such subtitle exceeds 300 percent of the average number of claims pending in the preceding 5 years.”.

[(c) CONFORMING AMENDMENT.—Section 9510(c)(1)(A) of the Internal Revenue Code of 1986 is amended by striking “October 18, 2000” and inserting “the date of enactment of the Improved Vaccine Affordability and Availability Act”.

[SEC. 338. ONGOING REVIEW OF CHILDHOOD VACCINE DATA.

[Part C of title XXI of the Public Health Service Act (42 U.S.C. 300a–25 et seq.) is amended by adding at the end the following:

[“SEC. 2129A. ONGOING REVIEW OF CHILDHOOD VACCINE DATA.

[“(a) IN GENERAL.—Not later than 6 months after the date of enactment of this section, the Secretary shall enter into a contract with the Institute of Medicine of the National Academy of Science under which the Institute shall conduct an ongoing, comprehensive review of new scientific data on childhood vaccines (according to priorities agreed upon from time to time by the Secretary and the Institute of Medicine).

[“(b) REPORTS.—Not later than 3 years after the date on which the contract is entered into under subsection (a), the Institute of Medicine shall submit to the Secretary a report on the findings of the studies conducted under such contract, including findings as to any adverse events associated with childhood vaccines, including conclusions concerning causation of adverse events by such vaccines, and other appropriate recommendations, based on such findings and conclusions.

[“(c) FAILURE TO ENTER INTO CONTRACT.—If the Secretary and the Institute of Medicine are unable to enter into the contract described in subsection (a), the Secretary shall enter into a contract with another qualified nongovernmental scientific organization for the purposes described in subsections (a) and (b).

[“(d) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2003, 2004, 2005 and 2006.”.

[SEC. 339. PENDING ACTIONS.

[The amendments made by this title shall apply to all actions or proceedings pending on or after the date of enactment of this Act, unless a court of competent jurisdiction has entered judgment (regardless of whether the time for appeal has expired) in such action or proceeding disposing of the entire action or proceeding.

[SEC. 340. REPORT.

[Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Advisory Commission on Childhood Vaccines shall report to the Secretary regarding the status of the Vaccine Injury Compensation Trust Fund, and shall make recommendations to the Secretary regarding the allocation of funds from the Vaccine Injury Compensation Trust Fund.]

SECTION 1. SHORT TITLE.

This Act may be cited as the “Project BioShield Act of 2003”.

SEC. 2. BIOMEDICAL COUNTERMEASURE RESEARCH AND DEVELOPMENT AUTHORITIES.

(a) IN GENERAL.—Part B of title IV of the Public Health Service Act (42 U.S.C. 284 et seq.) is amended by adding at the end the following:

“SEC. 409J. BIOMEDICAL COUNTERMEASURE RESEARCH AND DEVELOPMENT.

“(a) IN GENERAL.—

“(1) AUTHORITY.—In carrying out research responsibilities under this Act, the Secretary may conduct and support research and development with respect to biomedical countermeasures.

“(2) IMPLEMENTATION.—

“(A) IN GENERAL.—Except as provided in subparagraph (C), authorities assigned by this section to the Secretary shall be carried out through the Director of NIH.

“(B) LEAD INSTITUTE.—The National Institute of Allergy and Infectious Diseases shall be the lead institute for performing, administering, or supporting biomedical countermeasure research and development. The Director of NIH may delegate to the Director of the Institute authorities as are necessary to carry out this function.

“(C) CHEMICAL, RADIOLOGICAL, AND NUCLEAR AGENTS.—To the extent that an authority described in subparagraph (A) is exercised with respect to a chemical, radiological, or nuclear agent, the Secretary may authorize the Director of NIH to carry out the authority through any national research institute.

“(D) AVAILABILITY OF FACILITIES TO THE SECRETARY.—In any grant or cooperative agreement entered into under the authority provided in this section with respect to a biocontainment laboratory or other related or ancillary specialized research facility that the Secretary determines necessary for the purpose of preforming, administering, and supporting biomedical countermeasures research and development, the Secretary may provide that the facility that is the object of such grant or cooperative agreement shall be available as needed to the Secretary to respond to public health emergencies affecting national security.

“(3) INTERAGENCY COOPERATION.—

“(A) IN GENERAL.—In carrying out activities under this section, the Secretary is authorized, subject to subparagraph (B), to enter into interagency agreements and other collaborative undertakings with other agencies of the Federal Government and to use other agencies of the Department of Health and Human Services.

“(B) LIMITATION.—An agreement or undertaking under this paragraph may not authorize another agency to exercise the authorities provided to the Secretary by this section.

“(b) EXPEDITED PROCUREMENT AUTHORITY.—

“(1) INCREASED SIMPLIFIED ACQUISITION THRESHOLD FOR BIOMEDICAL COUNTERMEASURE PROCUREMENTS.—

“(A) IN GENERAL.—For any procurement by the Secretary, of property or services for use (as determined by the Secretary) in performing, administering, or supporting biomedical countermeasure research or development, the amount specified in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)), as applicable pursuant to section 302A(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252a(a)), shall be deemed to be $25,000,000 in the administration, with respect to such procurement, of—

“(i) section 303(g)(1)(A) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(A)) and its implementing regulations; and

“(ii) section 302A(b) of such Act (41 U.S.C. 252a(b)) and its implementing regulations.

“(B) INTERNAL CONTROLS TO BE INSTITUTED.—The Secretary shall institute appropriate internal controls for procurements made under this paragraph, including requirements with respect to documenting the justification for use of the authority provided in this paragraph.

“(2) USE OF NONCOMPETITIVE PROCEDURES.—In addition to any other authority to use procedures other than competitive procedures for procurements, the Secretary may use such other noncompetitive procedures when—

“(A) the procurement is as described by paragraph (1)(A); and

“(B) the property or services needed by the Secretary are available from only one responsible source or only from a limited number of responsible sources, and no other type of property or services will meet the needs of the Secretary.

“(3) INCREASED MICROPURCHASE THRESHOLD.—

“(A) IN GENERAL.—For a procurement described by paragraph (1)(A), the amount specified in subsections (c), (d), and (f) of section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428) shall be deemed to be $15,000 in the administration of that section with respect to such procurement.

“(B) INTERNAL CONTROLS TO BE INSTITUTED.—The Secretary shall institute appropriate internal controls for procurements that are made under this paragraph and that are greater than $2,500.

“(C) EXCEPTION TO PREFERENCE FOR PURCHASE CARD MECHANISM.—No provision of law establishing a preference for using a Federal Government purchase card method for purchases shall apply to procurements made under this paragraph and that are greater than $2,500.

“(c) AUTHORITY TO EXPEDITE PEER REVIEW.—The Secretary may, as the Secretary determines necessary to respond to pressing research and development needs under this section, employ such expedited peer review procedures (including consultation with appropriate scientific experts) as the Secretary, in consultation with the Director of NIH, determines to be appropriate to obtain an assessment of scientific and technical merit and likely contribution to the field of biomedical countermeasure research, in place of the peer review and advisory council review procedures that would otherwise be required under sections 301(a)(3), 405(b)(1)(B), 405(b)(2), 406(a)(3)(A), 492, and 494, as applicable to a grant, contract, or cooperative agreement—

“(1) that is for performing, administering, or supporting biomedical countermeasure research and development; and

“(2) the amount of which is not greater than $1,500,000.

“(d) AGENCY FACILITIES.—In addition to any similar authority provided under any other provision of law, in carrying out this section, the Secretary may—

“(1) acquire, lease, construct, improve, renovate, remodel, repair, operate, and maintain laboratories, other research facilities and equipment, and other real or personal property as the Secretary determines necessary for the purpose of performing, administering, and supporting biomedical countermeasure research and development; and

“(2) acquire, without regard to section 8141 of title 40, United States Code, by lease or otherwise, through the Administrator of General Services, buildings or parts of buildings in the District of Columbia.

“(e) AUTHORITY FOR PERSONAL SERVICES CONTRACTS.—

“(1) IN GENERAL.—For the purpose of performing, administering, and supporting biomedical countermeasure research and development, the Secretary may, as the Secretary determines necessary to respond to pressing research and development needs under this section, obtain by contract (in accordance with section 3109 of title 5, United States Code, but without regard to the limitations in such section on the period of service and on pay) the personal services of experts or consultants who have scientific or other professional qualifications.

“(2) FEDERAL TORT CLAIMS ACT COVERAGE.—

“(A) IN GENERAL.—A person carrying out a contract under paragraph (1), and an officer, employee, or governing board member of such person, shall be deemed to be an employee of the Department of Health and Human Services for purposes of claims under sections 1346(b) and 2672 of title 28, United States Code, for money damages for personal injury, including death, resulting from performance of functions under such contract.

“(B) EXCLUSIVITY OF REMEDY.—The remedy provided by subparagraph (A) shall be exclusive of any other civil action or proceeding by reason of the same subject matter against the person, officer, employee, or governing board member for any act or omission within the scope of the Federal Tort Claims Act.

“(C) RECOURSE IN CASE OF GROSS MISCONDUCT OR CONTRACT VIOLATION.—

“(i) IN GENERAL.—Should payment be made by the United States to any claimant bringing a claim under this paragraph, either by way of administrative determination, settlement, or court judgment, the United States shall have, notwithstanding any provision of State law, the right to recover for that portion of the damages so awarded or paid, as well as interest and any costs of litigation, resulting from the failure of any person, officer, employee, or governing board member to carry out any obligation or responsibility assumed by such person, officer, employee, or governing board member under a contract with the United States or from any grossly negligent, reckless, or illegal conduct or willful misconduct on the part of such person, officer, employee, or governing board member.

“(ii) VENUE.—The United States may maintain an action under this subparagraph against such person, officer, employee, or governing board member in the district court of the United States in which such person, officer, employee, or governing board member resides or has its principal place of business.

“(3) INTERNAL CONTROLS TO BE INSTITUTED.—

“(A) IN GENERAL.—The Secretary shall institute appropriate internal controls for contracts under this subsection, including procedures for the Secretary to make a determination of whether a person, or an officer, employee, or governing board member of a person, is deemed to be an employee of the Department of Health and Human Services pursuant to paragraph (2).

“(B) DETERMINATION OF EMPLOYEE STATUS TO BE FINAL.—A determination by the Secretary under subparagraph (A) that a person, or an officer, employee, or governing board member of a person, is or is not deemed to be an employee of the Department of Health and Human Services shall be final and binding on the Secretary and the Attorney General and other parties to any civil action or proceeding.

“(4) NUMBER OF PERSONAL SERVICES CONTRACTS LIMITED.—The number of experts and consultants whose personal services are obtained under paragraph (1) shall not exceed 30 at any time.

“(f) STREAMLINED PERSONNEL AUTHORITY.—

“(1) IN GENERAL.—In addition to any other personnel authorities, the Secretary may, as the Secretary determines necessary to respond to pressing research and development needs under this section, without regard to such provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, appoint professional and technical employees, not to exceed 30 such employees at any time, to positions in the National Institutes of Health to perform, administer, or support biomedical countermeasure research and development in carrying out this section.

“(2) INTERNAL CONTROLS TO BE INSTITUTED.—The Secretary shall institute appropriate internal controls for appointments under this subsection.

“(g) DEFINITION.—As used in this section, the term ‘biomedical countermeasure’ means a drug (as that term is defined by section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1))), biological product (as that term is defined by section 351(i) of this Act (42 U.S.C. 262(i))), or device (as that term is defined by section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h))) that is used—

“(1) to treat, identify, or prevent harm from any biological, chemical, radiological, or nuclear agent that may cause a public health emergency affecting national security; or

“(2) to treat, identify, or prevent harm from a condition that may result in adverse health consequences or death and may be caused by administering a drug, biological product, or device that is used as described in paragraph (1).

“(h) ACTIONS COMMITTED TO AGENCY DISCRETION.—Actions by the Secretary under the authority of this section are committed to agency discretion.”.

(b) TECHNICAL AMENDMENT.—Section 481A of the Public Health Service Act (42 U.S.C. 287a-2) is amended—

(1) in subsection (a)(1), by inserting “or the Director of the National Institute of Allergy and Infectious Diseases” after “Director of the Center”;

(2) in subsection (c)—

(A) in paragraph (1), by inserting “or the Director of the National Institute of Allergy and Infectious Diseases” after “Director of the Center”; and

(B) in paragraph (2), in the matter preceding subparagraph (A), by striking “subsection (i)” and inserting “subsection (i)(1)”;

(3) in subsection (d), by inserting “or the Director of the National Institute of Allergy and Infectious Diseases” after “Director of the Center”;

(4) in subsection (e)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by inserting “or the Director of the National Institute of Allergy and Infectious Diseases” after “Director of the Center”;

(ii) in subparagraph (A), by inserting “(or, in the case of the Institute, 75 percent)” after “50 percent”; and

(iii) in subparagraph (B), by inserting “(or, in the case of the Institute, 75 percent)” after “40 percent”;

(B) in paragraph (2), by inserting “or the Director of the National Institute of Allergy and Infectious Diseases” after “Director of the Center”; and

(C) in paragraph (4), by inserting “of the Center or the Director of the National Institute of Allergy and Infectious Diseases” after “Director”; and

(5) in subsection (f)—

(A) in paragraph (1), by inserting “in the case of an award by the Director of the Center,” before “the applicant”; and

(B) in paragraph (2), by inserting “of the Center or the Director of the National Institute of Allergy and Infectious Diseases” after “Director”.

SEC. 3. BIOMEDICAL COUNTERMEASURES PROCUREMENT.

Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended by inserting after section 319A, the following:

"SEC. 319A-1. BIOMEDICAL COUNTERMEASURES PROCUREMENT.

"(a) DETERMINATION OF MATERIAL THREATS.—

"(1) RISK OF USE.—The Secretary of Homeland Security, in consultation with the heads of other agencies as appropriate, shall on an ongoing basis—

"(A) assess current and emerging threats of use of chemical, biological, radiological, and nuclear agents; and

"(B) determine which of such agents present a material risk of use against the United States population.

"(2) PUBLIC HEALTH IMPACT.—The Secretary, in consultation with the Secretary of Homeland Security, shall on an ongoing basis—

"(A) assess the potential public health consequences of use against the United States population of agents identified under paragraph (1)(B); and

"(B) determine, on the basis of such assessment, the agents for which countermeasures are necessary to protect the public health.

"(b) ASSESSMENT OF AVAILABILITY AND APPROPRIATENESS OF COUNTERMEASURES.—The Secretary, in consultation with the Secretary of Homeland Security, shall assess on an ongoing basis the availability and appropriateness of specific countermeasures to address specific threats identified under subsection (a).

"(c) CALL FOR NECESSARY COUNTERMEASURES; COMMITMENT FOR RECOMMENDATION FOR PROCUREMENT.—

"(1) PROPOSAL TO THE PRESIDENT.—Based on a determination of necessary countermeasures under subsection (a), and the assessment of availability and appropriateness of countermeasures under subsection (b), the Secretary of Homeland Security and the Secretary may jointly submit to the President a proposal to—

"(A) call for a necessary countermeasure that is not available; and

"(B) commit to make a recommendation for procurement under subsection (e) of the first such specific countermeasure that meets the conditions for procurement under subsection (d).

"(2) COUNTERMEASURE SPECIFICATIONS.—The Secretary of Homeland Security and the Secretary shall, to the extent practicable, include in the recommendation under paragraph (1)—

"(A) estimated quantity of purchase (in the form of number of doses or number of effective courses of treatments regardless of dosage form);

"(B) necessary measures of minimum safety and effectiveness;

"(C) estimated price for each dose or effective course of treatment regardless of dosage form; and

"(D) other information that may be necessary to encourage and facilitate research, development, and manufacture of the countermeasure or to provide specifications for the countermeasure.

"(3) PRESIDENTIAL APPROVAL.—If the President has approved a request under paragraph (1), the Secretary of Homeland Security and the Secretary shall make known to persons who may respond to a call for the countermeasure—

"(A) the call for the countermeasure;

"(B) specifications for the countermeasure under paragraph (2); and

"(C) a commitment for a recommendation for procurement under subsection (e) of the first such specific countermeasure that meets the conditions for procurement under subsection (d) and the specifications under paragraph (2).

"(4) SUBSEQUENT SPECIFIC COUNTERMEASURES.—Procurement under subsection (f) of the first such specific countermeasure, or any other such countermeasure, that meets the conditions for procurement under subsection (d) and the specifications under paragraph (2) shall not preclude the additional procurement under subsection (f) of a subsequent such countermeasure that meets the conditions of procurement under subsection (d) if such a countermeasure provides improved safety or effectiveness or for other reasons enhances preparedness to respond to threats of use of a biological, chemical, radiological, or nuclear agent.

"(d) SECRETARY'S DETERMINATION OF COUNTERMEASURES APPROPRIATE FOR PROCUREMENT UNDER THIS SECTION.—

"(1) IN GENERAL.—The Secretary, in accordance with this section, shall identify specific countermeasures to threats identified under subsection (a) that the Secretary determines, in consultation with the Secretary of Homeland Security, to be appropriate for procurement with appropriations under this subsection for inclusion in the stockpile under section 121(a) of the Public Health and Bioterrorism Preparedness and Response Act of 2002 (42 U.S.C. 300hh-12(a)).

"(2) REQUIREMENTS.—In order for the Secretary to make the determination under paragraph (1) with respect to a countermeasure, the following requirements must be met:

"(A) DETERMINATION OF QUALIFIED COUNTERMEASURE.—The Secretary must determine that the product is a qualified countermeasure (as defined in subsection (h)).

"(B) DETERMINATION OF QUANTITIES NEEDED AND FEASIBILITY OF PRODUCTION AND DISTRIBUTION.—The Secretary must determine—

"(i) the quantities of the product that will be needed to meet the needs of the stockpile; and

"(ii) that production and delivery within 5 years of sufficient quantities of the product, as so determined, is reasonably expected to be feasible.

"(C) DETERMINATION OF NO SIGNIFICANT COMMERCIAL MARKET.—The Secretary shall—

"(i) determine that, at the time of the initial determination under this subsection, there is not a significant commercial market for the product other than as a biomedical countermeasure; and

"(ii) annually redetermine and report to the President, while a determination under paragraph (1) remains in effect with respect to the product, whether a significant commercial market exists for the product other than as a biomedical countermeasure.

"(e) RECOMMENDATION FOR PRESIDENT'S APPROVAL.—

"(1) RECOMMENDATION FOR PROCUREMENT.—In the case of a countermeasure that the Secretary of Homeland Security and the Secretary have determined is appropriate for procurement under this section for inclusion in the stockpile, in accordance with the preceding provisions of this section, the Secretary of Homeland Security and the Secretary shall jointly submit to the President, in coordination with the Director of the Office of Management and Budget, a recommendation for procurement under this section.

"(2) PRESIDENTIAL APPROVAL.—A countermeasure may be procured under this section only if the President has approved a recommendation under paragraph (1) with respect to such countermeasure.

"(3) NOTICE TO CONGRESS.—The Secretary of Homeland Security shall notify Congress of each decision of the President to approve a recommendation under paragraph (1).

"(f) PROCUREMENT.—The Secretary and the Secretary of Homeland Security shall be responsible for the following, for purposes of procurement of qualified countermeasures for the stockpile under section 121(a) of the Public Health and Bioterrorism Preparedness and Response Act of 2002 (42 U.S.C. 300hh-12(a)), as approved by the President under subsection (e):

"(1) IN GENERAL.—The Secretary shall be responsible for—

"(A) arranging for procurement of the countermeasure, including negotiating terms (including quantity, production schedule, and price) of, and entering into, contracts and cooperative agreements, and for carrying out such other activities as may reasonably be required, in accordance with the provisions of this paragraph; and

"(B) promulgating regulations to implement subparagraphs (E), (F), and (G), and any other provisions of this section.

"(2) CONTRACT TERMS.—A contract for procurement under this section shall (or, as otherwise specified in this paragraph, may) include the following terms:

"(A) PAYMENT CONDITIONED ON SUBSTANTIAL DELIVERY.—The contract shall provide that no payment may be made until delivery has been made of a substantial portion (as determined by the Secretary) of the total number of units contracted for.

"(B) DISCOUNTED PAYMENT FOR UNLICENSED PRODUCT.—The contract may provide for a discounted price per unit of a product that is not licensed or approved as described in subsection (h)(1) at the time of delivery, and may provide for payment of an additional amount per unit if the product becomes so licensed or approved before the expiration date of the contract (including an additional amount per unit of product delivered before the effective date of such licensing or approval).

"(C) STORAGE BY VENDOR.—The contract may provide that the vendor will provide storage for stocks of a product delivered to the ownership of the Government under the contract, for such period and under such terms and conditions as the Secretary may specify, and in such case amounts appropriated under subsection (i) shall be available for costs of shipping, handling, storage, and related costs for such product.

"(D) CONTRACT DURATION.—The contract shall be for a period not to exceed 5 years, renewable for additional periods none of which shall exceed 5 years.

"(E) TERMINATION FOR NONDELIVERY.—In addition to any other rights of the Secretary to terminate the contract, the contract may provide that such Secretary may terminate the contract for failure to deliver a reasonable number (as determined by the Secretary) of units of the product by 3 years after the date the contract is entered into, and may further provide that in such case the vendor shall not be entitled to any payment under the contract.

"(F) PRODUCT APPROVAL.—The contract shall provide that the vendor seek approval, clearance, or licensing of the product from the Secretary for a timetable for the development of data and other information to support such approval, clearance, or licensing, and that the Secretary may waive part of all of this contract term on request of the vendor or on the initiative of the Secretary.

"(3) AVAILABILITY OF SIMPLIFIED ACQUISITION PROCEDURES.—The amount of any procurement under this section shall be deemed to be below the threshold amount specified in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)), for purposes of application to such procurement, pursuant to section 302A(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252a(a)), of—

"(A) section 303(g)(1)(A) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(A)) and its implementing regulations; and

"(B) section 302A(b) of such Act (41 U.S.C. 252a(b)) and its implementing regulations.

"(4) USE OF NONCOMPETITIVE PROCEDURES.—In addition to any other authority to use procedures other than competitive procedures, the

Secretary may use such other procedures for a procurement under this section if the product is available from only one responsible source or only from a limited number of responsible sources, and no other type of product will satisfy such Secretary's needs.

"(5) PREMIUM PROVISION IN MULTIPLE AWARD CONTRACTS.—

"(A) IN GENERAL.—If, under this section, the Secretary enters into contracts with more than one person to procure a countermeasure, such Secretary may, notwithstanding any other provision of law, include in each of such contracts a provision that—

"(i) identifies an increment of the total quantity of countermeasure required, whether by percentage or by numbers of units; and

"(ii) promises to pay one or more specified premiums based on the priority of such persons' production and delivery of the increment identified under clause (i), in accordance with the terms and conditions of the contract.

"(B) DETERMINATION OF GOVERNMENT'S REQUIREMENT NOT REVIEWABLE.—If the Secretary includes in each of a set of contracts a provision as described in subparagraph (A), such Secretary's determination of the total quantity of countermeasure required, and any amendment of such determination, is committed to agency discretion.

"(6) EXTENSION OF CLOSING DATE FOR RECEIPT OF PROPOSALS NOT REVIEWABLE.—A decision by the Secretary to extend the closing date for receipt of proposals for a procurement under this subsection is committed to agency discretion.

"(7) LIMITING COMPETITION TO SOURCES RESPONDING TO REQUEST FOR INFORMATION.—In conducting a procurement under this section, the Secretary may exclude a source that has not responded to a request for information under section 303A(a)(1)(B) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a(a)(1)(B)) if such request has given notice that such Secretary may so exclude such a source.

"(g) INTERAGENCY COOPERATION.—

"(1) IN GENERAL.—In carrying out activities under this section, the Secretary of Homeland Security and the Secretary are authorized, subject to paragraph (2), to enter into interagency agreements and other collaborative undertakings with other agencies of the United States Government.

"(2) LIMITATION.—An agreement or undertaking under this subsection shall not authorize another agency to exercise the authorities provided by this section to the Secretary of Homeland Security or to the Secretary.

"(h) DEFINITIONS.—in this section:

"(1) QUALIFIED COUNTERMEASURE.—The term 'qualified countermeasure' means a biomedical countermeasure—

"(A) that is approved under section 505(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) or licensed under section 351 of this Act (42 U.S.C. 262) or that is approved under section 515 or cleared under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e and 360) for use as such a countermeasure to a chemical, biological, radiological, or nuclear agent identified as a material threat under subsection (a); or

"(B) for which the Secretary determines that sufficient and satisfactory clinical experience or research data (including data, if available, from preclinical and clinical trials) support a reasonable conclusion that the product will qualify for approval or licensing as such a countermeasure within 5 years after the date of a determination under subsection (d).

"(2) BIOMEDICAL COUNTERMEASURE.—The term 'biomedical countermeasure' means a drug (as that term is defined by section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1))), device (as that term is defined by section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h))), or biological product (as that term is defined by section 351(i) of this Act (42 U.S.C. 262(i))) that is used—

"(A) to treat, identify, or prevent harm from any biological, chemical, radiological, or nuclear agent that may cause a public health emergency affecting national security; or

"(B) to treat, identify, or prevent harm from a condition that may result in adverse health consequences or death and may be caused by administering a drug or biological product that is used as described in subparagraph (A).

"(i) APPROPRIATIONS.—

"(1) IN GENERAL.— There are appropriated, out of any moneys in the Treasury not otherwise appropriated, for fiscal year 2003 and for each fiscal year thereafter, such sums as may be necessary for the costs incurred by the Secretary in the procurement of countermeasures under this subsection as approved by the President under subsection (e) (other than costs specified in paragraph (2)).

"(2) RESTRICTIONS.—Amounts appropriated under this subsection shall not be available to pay—

"(A) costs for the purchase of vaccines under procurement contracts entered into before January 1, 2003;

"(B) costs under new contracts, or costs of new obligations under contracts previously entered into, for procurement of a countermeasure after the date of a determination under subsection (d)(2)(C) that there is a significant commercial market for the countermeasure other than as a biomedical countermeasure; or

"(C) administrative costs.".

SEC. 4. AUTHORIZATION FOR MEDICAL PRODUCTS FOR USE IN EMERGENCIES.

(a) IN GENERAL.—Subchapter E of Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb, et seq.) is amended by adding at the end the following:

"SEC. 564. AUTHORIZATION FOR MEDICAL PRODUCTS FOR USE IN EMERGENCIES.

"(a) IN GENERAL.—Notwithstanding sections 505, 510(k), and 515 of this Act and section 351 of the Public Health Service Act, and subject to the provisions of this section, the Secretary may authorize the introduction into interstate commerce, during the effective period of a declaration under subsection (b), of a drug, biological product, or device intended solely for use in an actual or potential emergency.

"(b) DECLARATION OF EMERGENCY.—

"(1) IN GENERAL.—The Secretary may declare an emergency justifying the authorization of a drug, biological product, or device under this subsection on the basis of a determination—

"(A) by the Secretary of Homeland Security, that there is a domestic emergency (or a significant potential of a domestic emergency) involving a heightened risk of attack with a specified biological, chemical, radiological, or nuclear agent;

"(B) by the Secretary of Defense, that there is a military emergency (or a significant potential of a military emergency) involving a heightened risk to United States military forces of attack with a biological, chemical, radiological, or nuclear agent; or

"(C) by the Secretary of a public health emergency under section 319 of the Public Health Service Act, affecting national security and involving a specified biological, chemical, radiological, or nuclear agent or a specified disease or condition that may be attributable to such agent.

"(2) TERMINATION OF DECLARATION.—

"(A) IN GENERAL.—A declaration under this subsection shall terminate upon the earlier of—

"(i) a determination by the Secretary, in consultation as appropriate with the Secretary of Homeland Security or the Secretary of Defense, that the circumstances described in paragraph (1) have ceased to exist; or

"(ii) the expiration of the 1-year period beginning on the date on which the declaration is made.

"(B) RENEWAL.—Notwithstanding subparagraph (A), the Secretary may renew a declaration under this subsection, and this paragraph shall apply to any such renewal.

"(3) NOTIFICATION.—The Secretary shall promptly publish in the Federal Register, and shall notify the appropriate committees of Congress concerning, each declaration, determination, and renewal under this subsection.

"(c) CRITERIA FOR ISSUANCE OF AUTHORIZATION.—The Secretary may issue an authorization under this section with respect to a product if the Secretary concludes—

"(1) that an agent specified in a declaration under subsection (b) can cause a serious or life-threatening disease or condition;

"(2) that, based on the totality of scientific evidence available to the Secretary, including data from adequate and well-controlled clinical trials, if available, it is reasonable to believe that—

"(A) the product may be effective in detecting, diagnosing, treating, or preventing—

"(i) such disease or condition; or

"(ii) a serious or life-threatening disease or condition caused by a product authorized under this section or approved under this Act or the Public Health Service Act, for detecting, diagnosing, treating, or preventing such a disease or condition caused by such an agent; and

"(B) the known and potential benefits of the product, when used to detect, diagnose, prevent, or treat such disease or condition, outweigh the known and potential risks of the product;

"(3) that there is no adequate, approved, and available alternative to the product for detecting, diagnosing, preventing, or treating such disease or condition; and

"(4) that such other criteria as the Secretary may by regulation prescribe are satisfied.

"(d) SCOPE OF AUTHORIZATION.—An authorization of a product under this section shall state—

"(1) each disease or condition and the intended use of the product within the scope of the authorization; and

"(2) the Secretary's conclusions, under subsection (c), concerning the safety and potential effectiveness of the product in detecting, diagnosing, preventing, or treating such diseases or conditions, including an assessment of the available scientific evidence.

"(e) CONDITIONS OF AUTHORIZATION.—The Secretary is authorized to impose such conditions on an authorization under this section as the Secretary determines are necessary or appropriate to protect the public health, including the following:

"(1) The Secretary shall impose requirements (including requirements concerning product labeling and the provision of information) designed to ensure that, to the maximum extent feasible given the circumstances of the emergency, health care professionals administering the product are informed—

"(A) that the Secretary has authorized the product solely for emergency use;

"(B) of the significant known and potential benefits and risks of use of the product, and of the extent to which such benefits and risks are unknown; and

"(C) of the alternatives to the product that are available, and of their benefits and risks.

"(2) The Secretary shall impose requirements (including requirements concerning product labeling and the provision of information) designed to ensure that, to the maximum extent feasible given the circumstances of the emergency, individuals to whom the product is administered are informed—

"(A) that the Secretary has authorized the product solely for emergency use;

"(B) of the significant known and potential benefits and risks of use of the product, and of the extent to which such benefits and risks are unknown; and

"(C) of any option to accept or refuse administration of the product, and of the alternatives to the product that are available and of their benefits and risks.

"(3) The Secretary may impose limitations on which entities may distribute the product (including limitation to distribution by government entities), and on how distribution is to be performed.

"(4) The Secretary may impose limitations on who may administer the product, and on the categories of individuals to whom, and the circumstances under which, the product may be administered.

"(5) The Secretary may condition the authorization on the performance of studies, clinical trials, or other research needed to support marketing approval of the product.

"(6) The Secretary shall impose, to the extent feasible and appropriate given the circumstances of the emergency, requirements concerning recordkeeping and reporting, including records access by the Secretary and publication of data.

"(7) The Secretary may waive, to the extent appropriate given the circumstances of the emergency, requirements, with respect to the product, of current good manufacturing practice otherwise applicable to the manufacture, processing, packing, or holding of products subject to regulation under this Act.

"(8) The Secretary shall, to the extent feasible and appropriate given the circumstances of the emergency, impose requirements for the monitoring and reporting of adverse events associated with use of the product.

"(f) DURATION OF AUTHORIZATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), an authorization under this section shall be effective until the earlier of the termination of the declaration under subsection (b) or a revocation under subsection (g).

"(2) CONTINUED USE AFTER END OF EFFECTIVE PERIOD.—An authorization shall continue to be effective for continued use with respect to patients to whom it was administered during the period described by paragraph (1), to the extent found necessary by such patients' attending physicians.

"(g) REVOCATION OF AUTHORIZATION.—

"(1) REVIEW.—The Secretary shall periodically review the circumstances and the appropriateness of an authorization under this section.

"(2) REVOCATION.—The Secretary may revoke an authorization under this section if, in the Secretary's unreviewable discretion—

"(A) the conditions for such an authorization are no longer met; or

"(B) other circumstances make such revocation appropriate.

"(h) PUBLICATION.—The Secretary shall promptly publish in the Federal Register, and provide to the appropriate committees of Congress, a notice of each authorization, and each termination or revocation of an authorization, under this section.

"(i) RECORDKEEPING.—

"(1) IN GENERAL.—The Secretary may require persons, including a person who holds an authorization under this section, or who manufactures, distributes, prescribes, or administers a product that is the subject of such an authorization, to establish and maintain—

"(A) data that is obtained from such activity and that pertains to the effectiveness or safety of such product;

"(B) such records as are necessary to determine, or facilitate a determination, whether there may be any violation of this section or of a regulation promulgated under this section; and

"(C) such additional records as the Secretary may determine necessary.

"(2) ACCESS TO RECORDS BY SECRETARY.—

"(A) SAFETY AND EFFECTIVENESS INFORMATION.—The Secretary may require a person who holds an authorization under this section, or who manufactures, distributes, prescribes, or administers a product that is the subject of such an authorization to provide to the Secretary all data that is obtained from such activity and that pertains to the safety or effectiveness of such product.

"(B) OTHER INFORMATION.—Every person required under this section to establish or maintain records, and every person in charge or custody of such records, shall, upon request by the Secretary, permit the Secretary at all reasonable times to have access to, to copy, and to verify such records.

"(j) CIVIL MONETARY PENALTIES.—

"(1) IN GENERAL.—A person who violates a requirement of this section or of a regulation or order promulgated pursuant to this section shall be subject to a civil money penalty of not more than $100,000 in the case of an individual, and not more than $250,000 in the case of any other person, for each violation, not to exceed $1,000,000 for all such violations adjudicated in a single proceeding.

"(2) ASSESSMENT OF CIVIL PENALTIES.—Paragraphs (3), (4), and (5) of section 303(g) shall apply to a civil penalty under this subsection, and references in such paragraphs to 'paragraph (1) or (2)' shall, for purposes of this subsection, be deemed to refer to paragraph (1) of this subsection.

"(k) ACTIONS COMMITTED TO AGENCY DISCRETION.—Actions under the authority of this section by the Secretary, by the Secretary of Defense, or by the Secretary of Homeland Security are committed to agency discretion.

"(l) REGULATIONS.—The Secretary may promulgate regulations to implement this section.

"(m) CONSTRUCTION.—Nothing in this section shall be construed to impair or otherwise affect—

"(1) the authority of the President as Commander in Chief of the Armed Forces of the United States under article II, section 2 of the United States Constitution; or

"(2) the authority of the Secretary of Defense with respect to the Department of Defense, including the armed forces, under other provisions of Federal law.

"(n) APPLICATION TO MEMBERS OF ARMED FORCES.—

"(1) WAIVER OF REQUIREMENT RELATING TO OPTION TO REFUSE.—In the case of the administration of a countermeasure to members of the armed forces, a requirement, under subsection (e)(2), designed to ensure that individuals are informed of an option to accept or refuse administration of a product, may be waived by the President if the President determines, in writing, that complying with such requirement is not feasible, is contrary to the best interests of the members affected, or is not in the interests of national security.

"(2) EFFECT ON STATUTE PERTAINING TO INVESTIGATIONAL NEW DRUGS.—In the case of an authorization based on a determination by the Secretary of Defense under subsection (b)(1)(B), section 1107 of title 10, United States Code, shall not apply to use of a product that is the subject of such authorization, within the scope of such authorization and while such authorization is effective.

"(o) RELATION TO OTHER PROVISIONS.—If a product is the subject of an authorization under this section, the use of such product within the scope of the authorization—

"(1) shall not be subject to any requirements pursuant to section 505(i) or 520(g); and

"(2) shall not be subject to any requirements otherwise applicable to clinical investigations pursuant to other provisions of this Act.".

(b) PROHIBITED ACTS.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended—

(1) in subsection (e)—

(A) by striking "504, 703" and inserting "504, 564, 703"; and

(B) by striking "or 519" and inserting "519, or 564"; and

(2) by adding at the end the following:

"(hh)(1) Promotion or use of a product that is the subject of an authorization under section 564 other than as stated in the authorization, or other than during the period described by section 564(g), unless such promotion or use is permitted under another provision of this Act.

"(2) Failure to comply with an information requirement under section 564(e).".

SEC. 5. AMENDMENTS TO PROVISIONS OF THE HOMELAND SECURITY ACT.

(a) DECLARATION RECOMMENDING MAKING COUNTERMEASURE AVAILABLE TO INDIVIDUALS.—Section 224(p)(2)(A)(i) of the Public Health Service Act (42 U.S.C. 233(p)(2)(A)(i)) is amended—

(1) by striking "advisable the administration" and inserting the following: "advisable—

"(I) the administration";

(2) by striking the period and inserting "; or"; and

(3) by adding at the end the following:

"(II) making a covered countermeasure available to a category or categories of individuals who may wish to receive it.".

(b) AMENDMENT TO ACCIDENTAL VACCINIA INOCULATION PROVISION.—Section 224(p)(2)(C)(ii)(II) of the Public Health Service Act (42 U.S.C. 233(p)(2)(C)(ii)(II)) is amended by striking "resides or has resided with" and inserting "'has resided with, or has had close contact with,".

(c) DEEMING ACTS AND OMISSIONS TO BE WITHIN SCOPE OF EMPLOYMENT.—Section 224(p)(2) of the Public Health Service Act (42 U.S.C. 233(p)(2)) is amended by adding at the end the following:

"(D) ACTS AND OMISSIONS DEEMED TO BE WITHIN SCOPE OF EMPLOYMENT.—

"(i) IN GENERAL.—In the case of a claim arising out of alleged transmission of vaccinia from an individual described in clause (ii), acts or omissions by such individual shall be deemed to have been taken within the scope of such individual's office or employment for purposes of—

"(I) subsection (a); and

"(II) section 1346(b) and chapter 171 of title 28, United States Code.

"(ii) INDIVIDUALS TO WHOM DEEMING APPLIES.—An individual is described by this clause if—

"(I) vaccinia vaccine was administered to such individual as provided by paragraph (2)(B); and

"(II) such individual was within a category of individuals covered by a declaration under paragraph (2)(A)(i)(I).".

(d) REQUIREMENT TO COOPERATE WITH UNITED STATES.—Section 224(p)(5) of the Public Health Service Act (42 U.S.C. 233(p)(5)) is amended in paragraph heading by striking "DEFENDANT" and inserting "COVERED PERSON".

(e) AMENDMENT TO DEFINITION OF COVERED COUNTERMEASURE.—Subclause (II) of section 224(p)(7)(A)(i) of the Public Health Service Act (42 U.S.C. 233(p)(7)(A)(i)(II)) is amended to read as follows:

"(II) used to control or treat the adverse effects of vaccinia inoculation or of administration of another covered countermeasure; and".

(f) AMENDMENT TO DEFINITION OF COVERED PERSON.—Section 224(p)(7)(B) of the Public

Health Service Act (42 U.S.C. 233(p)(7)(B)) is amended—

(1) in the matter preceding clause (i), by striking "includes any person" and inserting "means a person";

(2) in clause (ii)—

(A) by striking "auspices such" and inserting the following: "auspices—

"(I) such"; and

(B) by adding at the end the following:

"(II) a determination was made as to whether, or under what circumstances, an individual should receive a covered countermeasure;

"(III) the immediate site of administration of a covered countermeasure was monitored, managed, or cared for; or

"(IV) an evaluation was made of whether the administration of a covered countermeasure was effective;";

(3) in clause (iii) by striking "or";

(4) by striking clause (iv) and inserting the following:

"(iv) a State, a political subdivision of a State, or an agency or official of a State or of such a political subdivision, if such State, subdivision, agency, or official has established requirements, provided policy guidance, or supplied technical or scientific advice or assistance with respect to administration of such countermeasures;

"(v) in the case of a claim arising out of alleged transmission of vaccinia from an individual—

"(I) the individual who allegedly transmitted the vaccinia, if vaccinia vaccine was administered to such individual as provided by paragraph (2)(B) and such individual was within a category of individuals covered by a declaration under paragraph (2)(A)(i)(I); or

"(II) an entity that employs an individual described by clause (I) or where such individual has privileges to provide health care;

"(vi) an official, agent, or employee of a person described in clause (i), (ii), (iii), or (iv);

"(vii) a contractor of, or a volunteer working for, a person described in clause (i), (ii), or (iv), if the contractor or volunteer performs a function for which a person described in clause (i), (ii), or (iv) is a covered person; or

"(viii) an individual who has privileges to provide health care under the auspices of an entity described in clause (ii) or (v)(II).".

(g) AMENDMENT TO DEFINITION OF QUALIFIED PERSON.—Section 224(p)(7)(C) of the Public Health Service Act (42 U.S.C. 233(p)(7)(C)) is amended—

(1) by striking "who is authorized to" and inserting the following: "who—

"(i) is authorized to";

(2) by striking the period and inserting "; or"; and

(3) by adding at the end the following:

"(ii) is otherwise authorized by the Secretary to administer such countermeasure.".

(h) DEFINITION OF "ARISING OUT OF ADMINISTRATION OF A COVERED COUNTERMEASURE".—Section 224(p)(7) of the Public Health Service Act (42 U.S.C. 233(p)(7)) is amended by adding at the end the following:

"(D) ARISING OUT OF ADMINISTRATION OF A COVERED COUNTERMEASURE.—

"(i) IN GENERAL.—The term 'arising out of administration of a covered countermeasure', when used with respect to a claim or liability, includes, except as provided in clause (ii), a claim or liability arising out of—

"(I) determining whether, or under what conditions, an individual should receive a covered countermeasure;

"(II) obtaining informed consent of an individual to the administration of a covered countermeasure;

"(III) monitoring, management, or care of an immediate site of administration of a covered countermeasure, or evaluation of whether the administration of the countermeasure has been effective; or

"(IV) transmission of vaccinia virus by an individual to whom vaccinia vaccine was administered as provided by paragraph (2)(B).

"(ii) EXCEPTION.—Such term shall not include a claim or liability arising out of care for or treatment of complications arising out of the administration of the countermeasure.".

(i) TECHNICAL CORRECTION.—Section 224(p)(2)(A)(ii) of the Public Health Service Act (42 U.S.C. 233(p)(2)(A)(ii)) is amended by striking "paragraph (8)(A)" and inserting "paragraph (7)(A)".

(j) EFFECTIVE DATE.—This amendments made by this section shall take effect as if enacted on November 25, 2002.

SEC. 6. GAO REPORT.

Not later than 4 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to the appropriate committees of Congress a report that—

(1) describes the activities conducted under the authorities provided for in section 409J(b)(1) of the Public Health Service Act (as added by section 2) and section 319A-1(f)(3) and (4) of such Act (as added by section 3);

(2) identifies any procurements that would have been prohibited except for the authorities provided in the sections described in paragraph (1); and

(3) assesses the adequacy of the internal controls established by the Secretary of Health and Human Services regarding procurements made under the authorities provided for in the sections described in paragraph (1).

The PRESIDING OFFICER. Under the previous order, there will now be 2 hours of debate equally divided on the measure.

The majority leader.

Mr. FRIST. Mr. President, agents of bioterror are potentially the most powerful and devastating weapons of mass destruction that are known to man. Bioterror agents are more powerful than traditional weapons of mass destruction, are more powerful than chemical weapons, are more powerful than nuclear weapons.

When I say that, people oftentimes say: How can you say that? And it really comes down to one simple concern: that many of the bioterror agents are and can be infectious. They are agents of virus, of bacteria, of another living organism that cannot be seen, that cannot be touched, that cannot be smelled or heard. Yet they are deadly. They know no borders. There are no geographic borders. They attack indiscriminately, and they can travel through a school, they can travel through a community, they can travel through a State, they can travel through a country, and they can travel, indeed, through a continent. They are powerful, powerful agents.

The United States is less than adequately prepared today in terms of defense against these agents of bioterror. Over the next 2 hours, we will be talking about a bill—and ultimately will pass a bill—that is long overdue, legislation that bolsters, that strengthens our Nation's defenses against threats from bioterrorism.

I applaud the leadership of Senator JUDD GREGG, the distinguished chairman of the Health, Education, Labor, and Pensions Committee. He has done a tremendous service to this Nation by bringing this legislation through his committee and to the floor of the Senate today for passage.

We absolutely must—we absolutely must—strengthen our defenses against the threats of biological weapons which I just referred to. But also covered in this bill are other weapons of mass destruction, including nuclear, including chemical, and including radiological weapons.

I also commend the distinguished Senator from Massachusetts, Mr. KENNEDY, for his efforts to achieve a bipartisan consensus on the bioshield legislation we are now considering on the Senate floor.

This legislation has been a priority for President Bush. I congratulate him. He first outlined his bold initiative in his State of the Union Address in January 2003. Since then, we have worked closely with the administration and with our colleagues here in Congress to pass this critical legislation.

What the legislation allows us to do is be proactive in developing a broad range of countermeasures to combat biological, chemical, radiological, and nuclear threats.

It was just several months ago in my own office that there was a bioterror attack and ricin was sent. It is a deadly agent. It is an interesting agent to think about because it is deadly. It is ricin. It was here in our Nation's capital city, in an adjacent building. There is no antidote. We do not have a medicine that can counteract the effects of ricin today.

It is now 3, almost 4 years ago that anthrax hit this same capital. It was deadly. With ricin, thank goodness, nobody was hurt and injured. With the anthrax, 3 years ago, the reality was being demonstrated that bioterror is here, it is on our own soil. It hit this Nation. It hit this Capitol. It hit the entire east coast. Indeed, it was deadly, that little anthrax bacteria that you cannot see.

This legislation allows us to further our response to such agents, both here on our soil, which exist and are being used today, as well as internationally.

It was just 2 days ago that a canister of sarin gas—it shifted just a little bit, with a mixing of two other chemicals, to become sarin gas—began to leak through that canister, again reminding us of the impact that chemical weapons can have today.

So whether it is domestically or internationally, this piece of legislation will bolster and strengthen our defenses to fight, to use countermeasures that will prevent, hopefully, the use of and have an appropriate response to the use of these biological and chemical weapons.

The bioshield legislation really does do just that. It improves our ability to investigate, to develop, and to produce these new such countermeasures. For the first time, we have well defined this new paradigm of a public and private partnership working together to develop these countermeasures in our Nation's interests.

While maintaining high standards of scientific excellence, the bill streamlines the ability of agencies and entities, such as the National Institutes of Health, to rapidly advance research into these much needed countermeasures, countermeasures to the realities of biological weapons today.

The bill provides the private sector with new incentives to invest in research and development of biomedical countermeasures that otherwise simply would not have the business potential. We need to give those appropriate incentives to the private sector, to use its ingenuity, to use its innovation, to use its capitalism, to use its knowledge to respond to the realities, these real threats that are out there today.

The legislation is critical to our efforts to protect our citizens. There is a whole series of biological threats that are categorized by categories 1, 2, and 3. For the category 1 list, we have vaccines for only two, one being anthrax and the other being smallpox. Both of those vaccines need continued research and refinement in order to minimize those side effects and to make sure we can improve the ease of delivery so that in the event we need to respond, we can respond quickly, efficiently, and safely, whether it be for our soldiers or for citizens throughout America.

This bill also is a major component of our overall much larger strategy to improve our overall biodefense.

There are other initiatives such as strengthening our public health system. Our public health system has been neglected over the last 25 or 30 years. That public health system, that public health infrastructure, is the frontline in response to these agents.

Another component I hope we will be able to address in the future, which is important as we develop this broad strategy against bioterrorism, is this whole element of vaccine liability. Clearly, our vaccine liability system needs reform.

We have the latest public health challenges, things such as SARS, sudden acute respiratory syndrome—a year and a half ago that virus came, and nobody knew what it was, and the terror it created—West Nile virus, and vancomycin-resistant staphylococcus aureus. All of those have taught us the danger of sitting back and being too complacent and not being proactive. In this bill we are being proactive.

I commend especially Chairman GREGG, the President of the United States for his bold leadership, Senator KENNEDY, and all of our colleagues who have worked to craft this legislation to see that we respond to a clearly identifiable need. Passage of this legislation, indeed, is a major step forward in strengthening our national security.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from New Hampshire.

Mr. GREGG. Madam President, I thank the majority leader for his kind statements. I certainly want to recognize the fact that without the majority leader's very strong and thoughtful leadership in this area, we would not have gotten this far. He is obviously an expert in the area of health care and especially sensitive to the need to do something in the area of fighting those agents which might be used against us as biological agents. His leadership and knowledge have made a significant difference in our ability to be successful with this bill. I thank him for that leadership.

I join him in thanking the President. Obviously, this is an initiative high on the President's agenda and the people at NIH, Dr. Zerhouni and Dr. Fauci, who understand the threat and understand the need to address the threat.

We have to put the threat in context, and, regrettably, the context is serious. Were this 1950, 1960, were this any time prior to the latter part of last century and the beginning of our century, and we had terrorists out there who wanted to do us harm, who were as fanatical as are the people who wish to do us harm, the Islamic fundamentalist movement, we would fight them and we would be concerned about them. But our concerns and our ability to handle their threat would be proportional. We would have been able to manage it at that time in an effective and rather contained way.

The problem today is that when you have a fanatical group, a group willing to not only pursue its purposes without limitation and as part of that to be willing to kill innocent individuals, and when you have a group such as that that is also able to get or potentially take possession of weapons of mass destruction, you have created a whole new issue, a whole new threat, a threat of massive proportions. Because if individuals are willing to use weapons of mass destruction—biological, chemical, or nuclear—and they have no compunction about killing innocents—and in fact the purpose of Islamic fundamentalism is specifically to kill Western individuals, people who subscribe to the American philosophy, to our Nation—and their purpose is to undermine our country, to destroy our culture because they deem Western culture to be a threat to them, when you have people like that and they have the ability to possess weapons of mass destruction and the delivery systems to get those weapons into places where they could do massive harm, then you have a problem of immense proportion. The Nation must protect itself from that type of threat. That is what this bioshield initiative is an attempt to do.

We recognize, as the majority leader stated, that probably the single most threatening weapon which these individuals can get their hands on easily and disperse easily—it is not the single most threatening weapon overall; I suspect a nuclear device, were they able to produce one, would be more threatening—the type of weaponry which they most likely can get their hands on which has the potential to do the most harm to the most innocent individuals is a biological weapon or potentially a chemical weapon, but more likely a biological weapon. Because if they were able, for example, as was seen in a small contained area in the Capitol, to spread anthrax or to spread smallpox or to spread botulism, Ebola, or any other agents which would be a disease which would be carried, as the majority leader mentioned, without sight, without sound, without smell, without noise, across a large dispersal area, they could literally harm tens of thousands, potentially even more, Americans.

There is no question but if these fundamentalist terrorists, Islamic fundamentalists, get their hands on that type of weapon, get their hands on a biological weapon, come into possession of an anthrax capability or a smallpox capability, they will use it. There is no question about that. They will use it in a place where people gather who are gathering simply to go through their daily lives, whether it is in a subway system as occurred in Japan, or whether it is in a building as occurred here in the Capitol, or whether it is in some other area where people congregate.

So we as a nation—and the President has made this very clear—have a responsibility to try to defend ourselves from that type of a threat. It is not an inexpensive responsibility. It is going to cost us a lot of money. Regrettably, it is a complex responsibility. There is no magic wand you can wave that will inoculate the American public against these threats. But we understand there is a procedure to go as far down the road as we can possibly go to accomplish that sort of an inoculation or have the capacity to defend our people from that type of a threat.

One of the great advantages we have in fighting Islamic fundamentalism is that we are a sophisticated society which has technical capabilities which we can bring to bear in this war—and it is a war—and bring it to bear in a manner which allows us to take the position that gives us self-defense and also the capacity to carry the battle to them rather than have them carry the battle to us.

This bioshield bill grew out of an initiative that the President suggested, which was that in the case of a series of agents which are biologically driven, which we know can do the most harm, the top seven or eight agents which we know can do the most harm—six or seven agents—we are going to initiate an effort to try to develop the science necessary to develop ways to interdict, to stop, to cure, to make the attacks that use those types of agents less harmful to our people. But in order to accomplish that, we had to recognize as a government—and the administration certainly did—that there is no commercial applicability for this type of research. There is no commercial demand for this type of a commodity.

A vaccine for anthrax is not in great commercial demand. People are not just going to go out and buy it or take it for the purposes of going through their daily lives. It is not like some other cure to some other sickness, and, therefore, we had to set up a structure where we make it viable for our private sector pharmaceutical industry and biotechnology industry to invest the extraordinary amount of money it takes to invest in the production of this type of response capability. That is essentially what bioshield does. It puts in place a regime which accomplishes three things.

First, it creates a research and development initiative which is public and private, using the great strength of NIH, which is refocused under the leadership of Dr. Zerhouni and Dr. Fauci, which has refocused a large amount of their energy, time, and expertise on this issue. It combines that public effort, which is aggressive, with a private initiative.

In order to get the private initiative going, it sets up a funding stream which makes it clear to the private sector that should they pursue development of vaccines or other ways to treat these agents which we see as the most threatening, whether it be anthrax, plague, smallpox, viral hemorrhagic fevers such as Ebola, or botulism, when they set up processes to address those diseases, whether it is a vaccine or whether it is something else, they will know there are going to be dollars in the pipeline to support that research and, more importantly, to purchase their product once they have produced it. And it will be purchased by the Government, obviously, because there is no market in the private sector for that.

So along with the research component of having NIH focused on this and the private sector focused on this, this bill sets up a stockpiling and procurement procedure to make it clear that, first, once we develop these types of vaccines, we are going to have enough of them to be able to deal with a major attack. Second, the producers of these vaccines or other treatment processes developed—it might be a pharmaceutical—are going to be able to have adequate return on their investment so they can pay the cost of producing that and still make a reasonable return. Third, the bill sets up a process where, should the event occur, should we be attacked with some sort of an agent that we do not yet have the actual approved response to—don't have an approved vaccine—and it has not received all of the FDA clearing that vaccines must go through, which is a long, complicated process in order to approve a vaccine for human use, or approve a pharmaceutical, but should there be somewhere in the pipeline a vaccine which appears to have some success in remediating damage caused by one of these biological attacks, or a pharmaceutical which remediates that, and it is in the pipeline, we set up a procedure that allows, under certain very limited situations where there is a clear and obvious emergency, the administration to use that treatment that is in development for human consumption in order to confront an emergency situation where specifically we have been attacked.

So that is the basic theme of the way this bill works. It creates the research component, the stockpiling and purchasing component, and creates an emergency outlet valve, if you will, for addressing a situation where we are attacked and we don't have a finalized product to address it.

As the majority leader mentioned, of the six major areas of threat that we see in the biological area, today we only have vaccines to address two of them. One of the vaccine regimes is sort of difficult to deliver. That, of course, is in the anthrax area. We have, obviously, a very strong vaccine capability, and we are getting the production of new vaccines in the area of smallpox. Hopefully, people will get back to being vaccinated for smallpox because this is a legitimate threat. But in the area of plague, viral hemorrhagic fever, and botulism, there are no vaccines yet. That is why it is very important that we focus the resources, energy, and the genius of the American health community on making sure that we try to develop these types of responses.

We are, regrettably, living in a world that has people who would do harm, who would pursue a course of inflicting massive harm for the purpose of making their political and quasi-religious point. It is an unfortunate fact. We need look no further than 9/11 to recognize that the killing of innocent people by the thousands is something that fundamentalist Islamic people, who ascribe to that belief, who are terrorists, basically are willing to pursue. We know that, regrettably, these biologic agents exist. Anthrax can be produced probably fairly easily if they have a chemistry background. We know it can be delivered and, regrettably, it was in the Capitol Building.

We know that other types of agents can also be produced. Regrettably, there may even be a vial of smallpox somewhere out there that could be used. So it is critical, as the President has so appropriately stated, that we put into place the process for trying to, in this area, reduce the threat, and hopefully someday be able to totally mute the threat. Obviously, if we are capable as a culture of developing a vaccine or some other treatment that will neutralize the effect of these types of biological agents, then they will not be used against us because the harm they would cause would not be worth the risk of developing and spreading of the agent. So it is definitely in our interest to pursue this course.

It is regrettable that it has taken us this long to get to this point from a legislative standpoint. But I congratulate the administration because they have not waited on us, the Congress. They have gone down the road as far as they think they can go toward letting contracts and putting into place the processes necessary to begin the development of these various vaccines and regimes necessary to address these risks. They have sort of come to a dead end, where they need this authorization in order to take the next steps necessary in the process of developing and expediting the process of getting these cures in place and the regimes in place.

So this bill remains critical to our efforts in the fight on the war against terrorism. Therefore, it is good that we have finally been able to reach a consensus in the Senate, where we will be able to pass this bill later today. It is my understanding that the House of Representatives is likely to accept this bill as it passes the Senate. Hopefully, that will be the case, and we can move it down to the President, who I know has been waiting anxiously. He has talked to us many times about the need for this piece of legislation. This will be a good way, obviously, to complete this week.

AMENDMENT NO. 3178

Mr. GREGG. Madam President, I send to the desk a substitute amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG], for himself and Mr. KENNEDY, proposes an amendment numbered 3178.

Mr. GREGG. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. GREGG. Madam President, I thank the staff of the HELP Committee, Vincent Ventimiglia and Sharon Soderstrom, Steve Irizarry, and the other members of the staff who have done a great job in pulling this legislation together and following it through the process.

It has been a complicated, tortured, difficult exercise. It would not have gotten to this point without strong and effective staff work. The country owes them a debt of gratitude.

In the end, this bill is going to be one of the major components of our ability to protect ourselves as we move through this world that has such fundamentally evil individuals in it who might actually use this type of weapon against us or anyone else.

There will also be some side benefits to this initiative. I honestly believe as we evolve various vaccines and initiate this research effort in trying to address issues such as anthrax and botulism and plague, we will actually have some spinoffs that will be positive in other health areas, and specifically in ways to deliver these types of vaccines in a less intrusive way. For example, anthrax has already gone from a six-shot series down to a three-shot series. I understand there is significant progress being made toward having a single vaccination event, potentially, in the anthrax area. There is great progress being made that I think may pay dividends to the American people beyond just the fight on terrorism but in addressing other types of agents which need and require vaccines or pharmaceuticals.

So this is a bill that not only is going to be a plus from the standpoint of fighting the war on terrorism but will be a plus from the standpoint of improving the health care delivery system in the United States, and specifically giving Americans better and more effective pharmaceuticals and vaccines.

I reserve the remainder of our time.

Madam President, I ask unanimous consent that at the conclusion or yielding back of time on S. 15, the bill be temporarily set aside, and the Senate then vote on passage at 2 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Madam President, I ask that if we proceed to a quorum call, the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BROWNBACK. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWNBACK. Madam President, I ask unanimous consent to speak on the side of the proponent, Senator GREGG, for up to 7 minutes.

The PRESIDING OFFICER (Mr. HAGEL). Without objection, it is so ordered.

Mr. BROWNBACK. Mr. President, I am here to address the Bioshield Act and particularly section 3 of that bill that directs the Secretary of Homeland Security on an ongoing basis to assess threats of use of chemical, biological, radiological, and nuclear agents and determine which threats pose a material risk of use against the U.S. population.

I draw my colleagues' particular attention to what has recently been reported in the newspaper about one of the most recent uses of sarin gas that has occurred and its possibility of being used in the United States.

I commend my colleagues for bringing this bill to the Senate, for a chance to talk about it. It is a very important issue. I see in this particular section our need to assess this. The discovery and confirmation of sarin gas in artillery shells in Iraq highlights evidence that Saddam Hussein had a weapons of mass destruction program that was not only fully operational but ready for use against U.S. troops.

I raise this for two reasons. One, the argument that we have not been able to find WMD in Iraq is ongoing. I hope we will not dismiss the lack of any findings in the past and what we are finding now, the actual use of sarin gas against our troops. That should continue to be a focus that we hunt for, and we should be vigilant in looking for weapons of mass destruction, particularly chemicals such as sarin gas. But more importantly, Iraq had told the U.N. weapons inspection team they had produced tons of sarin gas and other chemical weapons. We should be concerned about where those are today and whether some of them may have found their way into Syria or other countries.

I ask unanimous consent to have printed in the RECORD a news story that appeared today from Fox News.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Fox News, May 19, 2004]

TESTS CONFIRM SARIN IN IRAQI ARTILLERY SHELL

(By Liza Porteus)

NEW YORK.—Tests on an artillery shell that blew up in Iraq on Saturday confirm that it did contain an estimated three or four liters of the deadly nerve agent sarin (search), Defense Department officials told Fox News Tuesday.

The artillery shell was being used as an improvised roadside bomb, the U.S. military said Monday. The 155-mm shell exploded before it could be rendered inoperable, and two U.S. soldiers were treated for minor exposure to the nerve agent.

Three liters is about three-quarters of a gallon; four liters is a little more than a gallon.

"A little drop on your skin will kill you" in the binary form, said Ret. Air Force Col. Randall Larsen, founder of Homeland Security Associates. "So for those in immediate proximity, three liters is a lot," but he added that from a military standpoint, a barrage of shells with that much sarin in them would more likely be used as a weapon than one single shell.

The soldiers displayed "classic" symptoms of sarin exposure, most notably dilated pupils and nausea, officials said. The symptoms ran their course fairly quickly, however, and as of Tuesday the two had returned to duty.

The munition found was a binary chemical shell, meaning it featured two chambers, each containing separate chemical compounds. Upon impact with the ground after the shell is fired, the barrier between the chambers is broken, the chemicals mix and sarin is created and dispersed.

Intelligence officials stressed that the compounds did not mix effectively on Saturday. Due to the detonation, burn-off and resulting spillage, it was not clear exactly how much harmful material was inside the shell.

A 155-mm shell can hold two to five liters of sarin; three to four liters is likely the right number, intelligence officials said.

Another shell filled with mustard gas (search), possibly also part of an improvised explosive device (IED) was discovered on May 2, Defense Dept. officials said.

The second shell was found by passing soldiers in a median on a thoroughfare west of Baghdad. It probably was simply left there by someone, officials said, and it was unclear whether it was meant to be used as a bomb.

Testing done by the Iraqi Survey Group (search)—a U.S.-organized group of weapons inspectors who have been searching for weapons of mass destruction (search) since the ouster of Saddam Hussein—concluded that the mustard gas was "stored improperly" and was thus "ineffective."

"It's not out of the ordinary or unusual that you would find something [like these weapons] in a haphazard fashion" in Iraq, Edward Turzanski, a political and national security analyst, told Fox News on Tuesday.

But "you have to be very careful not to be entirely dismissive of it," he added. "It remains to be seen whether they have more shells like this."

IRAQ: A "BAZAAR OF WEAPONS"

New weapons caches are being found every day, experts said, including "hundreds of thousands" of rocket-propelled grenades and portable anti-aircraft weapons.

"Clearly, if we're gonna find one or two of these every so often—used as an IED or some other way—the threat is not all that high, but it does confirm suspicion that he [Saddam] did have this stuff," said Ret. U.S. Army Col. Robert Maginnis.

"It is a bazaar of weapons that are available on every marketplace throughout that country," Maginnis added. "We're doing everything we can to aggressively disarm these people, but there were so many things that were stored away by Saddam Hussein in that country . . . it's a huge job that we're tackling."

Some experts were concerned that enemy fighters with access to potential weapons of mass destruction in a country full of stockpiles could mean more risk to coalition forces and Iraqis.

"What we don't know is if there are other shells, which there certainly could be," said Dennis Ross, a former ambassador and special Middle East coordinator and a Fox News foreign affairs analyst. "We also don't know whether or not these kind of shells could be used as explosives, which could have a more devastating effect on our troops."

Other experts said the individual shells themselves don't pose a threat to the masses.

"I'm not as concerned they're going to use a lot of chemical munitions," Maginnis said. "They're not gonna use these as improvised explosive devices because they don't have a

> big blast associated with them, but they do combine those two compounds into the noxious sarin gas. But they can't do it all that well with a small explosive charge."
>
> "The reality is, they'd have to have a whole bunch of these things," he added, "have to find some way of blowing them with a large charge to even create a cloud."
>
> That doesn't mean insurgents couldn't find a better way to make the devices to create a more "terrorist-type of attack" against U.S. forces, Maginnis continued.
>
> The task of military analysts in Baghdad will be determine how old the sarin shells is. A final determination will have a significant effect on how weapons researchers and inspectors proceed.
>
> Some experts suggested that the two shells, which were unmarked, date back to the first Persian Gulf War. The mustard gas shell may have been one of 550 projectiles that Saddam failed to account for in his weapons declaration shortly before Operation Iraqi Freedom began. Iraq also failed to account for 450 aerial bombs containing mustard gas.
>
> It's not clear if enemy fighters simply found an old stockpile of weapons, or if they even knew what was inside.
>
> Defense Secretary Donald Rumsfeld reacted cautiously to the news of the discoveries.
>
> "What we have to then do is to try to track down and figure out how it might be there, what caused that to be there in this improvised explosive device, and what might it mean in terms of the risks to our forces," Rumsfeld said Monday.
>
> KURDS: WE HAVE EVIDENCE OF WMD
>
> An Iraqi Kurdish official had no doubt similar substances will be found as the weapons hunt continues.
>
> "We don't know where they are, but we suspect they are hidden in many locations in Iraq," Howar Ziad, the Kurdish representatives to the United Nations, told Fox News on Tuesday. "It's quite possible that even the neighboring states who are against the reform of Iraq . . . are helping the Saddamites in hiding."
>
> "As we know, the Baathist regime had a track record of using" these chemicals against people in Iraq, such as the Kurds, Ziad continued. "He's [Saddam] never kept any commitment he's ever made to the international committee nor to the people" to not use such deadly materials.
>
> Saddam's regime used sarin in mass amounts during an air attack on the Kurdish town of Halabja (search) in 1988, toward the end of the Iran-Iraq War. More than 5,000 people are believed to have died in Halabja and surrounding villages, where more than 65,000 were injured.
>
> Both Iraq and Iran used chemical weapons during the 1980–88 war.
>
> Ziad said the United Nations, the World Health Organization and others had not "bothered" to travel to the Iraqi Kurdistan to see the firsthand effects sarin and other chemical weapons had on people and to get proof that Saddam did in fact possess such weapons.
>
> "We have evidence—we have victims of the use of those agents, and we're still waiting for WHO and the U.N. to come investigate," Ziad said.

Mr. BROWNBACK. I will read portions of this news story, dated today, Fox News:

> Tests on an artillery shell that blew up in Iraq on Saturday confirmed that it did contain an estimated three or four liters of the deadly nerve agent sarin.

This has been confirmed by Defense Department officials. This is obviously a danger to our troops. It is obviously of great concern to us if this were to find its way into the United States.

I will read from retired United States Army COL Robert Maginnis:

> Clearly, if we're gonna find one or two of these every so often—used as an IED or some other way—the threat is not all that high, but it does confirm suspicion that he [Saddam] did have this stuff.

He goes on to say this:

> It is a bazaar of weapons that are available on every market place through that country. We're doing everything we can to aggressively disarm these people but there are so many things that were stored away by Saddam Hussein in that country . . . it's a huge job that we're tackling.

This next quote is from Dennis Ross, the former Ambassador, special envoy to the Middle East, a well-known figure on Middle East peace negotiations that took place:

> What we don't know is if there are other shells which there certainly could be.

He goes on to say:

> We also don't know whether or not these kinds of shells could be used as explosives, which could have a more devastating effect on our troops.

A final quote for the RECORD from this story:

> Saddam's regime used sarin gas in mass amounts during an air attack on the Kurdish town of Halabja in 1988, toward the end of the Iran-Iraq War. More than 5,000 people are believed to have died in Halabja and surrounding villages, with more than 65,000 injured.

This is deadly stuff. It exists. We are now finding it. We need to be aware of that as we move forward with this bioshield bill.

Earlier this week the Wall Street Journal reported that U.S. inspectors found within the last few months "warehouses full of commercial and agricultural chemicals" which, if mixed and packaged properly, "could quickly become chemical weapons." U.S. forces in Karbala have uncovered 55-gallon drums loaded with chemicals that were said to be "pesticides," some of which were stored in what military sources described as a camouflaged bunker complex. Why would anyone camouflage insecticide?

According to another article, the alleged agricultural site just happened to be located alongside a military ammunition dump. Why are we storing insecticide by a military ammunition dump?

According to the Journal, the Iraq Survey Group, headed by Charles Duelfer, recently told Congress that some of Saddam's WMD facilities were newly built and contained stockpiled raw materials that would have allowed them to "produce such weapons on a moment's notice."

If I recall, in early April, Jordanian authorities foiled an al-Qaida plot to kill 80,000 people in a chemical weapons attack in Amman.

According to one of the conspirators whose confession was broadcast on Jordanian TV, al-Qaida WMD specialist Abu Musab al-Zarqawi, who was last seen in that chilling video beheading Nick Berg, trained and outfitted the WMD attackers in prewar Iraq. Like notorious terrorists Abu Nidal and Abu Abi Abbas, Zarqawi enjoyed sanctuary in Baghdad, courtesy of Saddam Hussein. Jordanian coverage of the plot included footage of 100-gallon jugs containing chemical weapons that had been intercepted 75 miles from the Syrian border where much of Saddam Hussein's prewar WMD stockpiles are believed to be hidden.

The Zarqawi revelation comes on the heels of the April 26 explosion at a suspected chemical weapons factory in Baghdad just as a U.S. weapons team arrived to inspect its contents. This was disguised as "a perfume factory," and the facility was boobytrapped to destroy evidence, investigators believe, of whatever was inside.

We should not be surprised if, within the coming weeks, more sarin-laden shells are uncovered in Iraq. In the meantime, we should focus on this and get coverage on what is taking place and what has been found of this deadly sarin gas.

I note that Secretary Ridge, Homeland Security Department, has been warning of an increased risk of attack in coming months. In light of what we found in Iraq, it would not be farfetched to say if al-Qaida wants to strike on U.S. soil, it would likely be with a chemical or biological weapon, something other than a conventional explosive.

In a recent interview with the Associated Press, retired LTG Patrick Hughes said that America has gotten better at predicting and safeguarding itself against attacks since September 11, but still Lieutenant General Hughes indicated that significant threats remain, especially now as high "background noise" from terrorists and heightened sensitivity during the election year has officials on guard for a possible attack whose nature they cannot quite pin down.

Based on captured material, interviews, and other sources of information, Lieutenant General Hughes believes that al-Qaida will likely strike with something other than a conventional explosive device. He is particularly worried about chemical and biological attacks, including a dirty bomb, and particularly points to the possibility of another anthrax biological attack following the one that wreaked havoc on the postal system, closed a Senate office building for 3 months, and killed five people in 2001.

We first heard about sarin gas in an attack at a Japanese subway where twelve people died. It is a potent weapon in which a little drop on your skin will kill you. Sarin gas was confirmed in the 155-mm shell and contained an estimated 3 or 4 liters. Fortunately, the two soldiers who may have been exposed are now safe and are returned to duty. They did show signs of being hit by chemical weapons, but it was a mild case and they are back on duty. This could have ended in tragedy had our soldiers not been more vigilant.

I hope we will continue to be focused on finding these weapons of mass destruction, particularly before they find their way to our shores so we can make sure our troops are safe and that such weapons do not find their way here to the United States. I believe my colleagues' bill will go a long way toward securing that goal. I urge its immediate passage.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I strongly support the Project Bioshield Act. It is an essential part of our Nation's ability to respond effectively to the threat of terrorist attacks that use biological or chemical weapons.

I commend Senators GREGG, FRIST, REED, and other members of our HELP Committee for their efficient and effective bipartisan work on this bill, and I thank Senator LEVIN for his expertise and thoughtful considerations.

I also commend our colleagues on the Appropriations Committee, and especially the chairman, Senator STEVENS, and the ranking member, Senator BYRD, for already providing the funding that Project Bioshield needs to be effective. Their leadership is essential in protecting the Nation.

We have worked closely, too, with Secretary Tommy Thompson and CMS Administrator Mark McClellan on this important legislation. They deserve great credit for their leadership as well.

The Project Bioshield Act is an important addition to the Public Health Security and Bioterrorism Preparedness and Response Act that we passed 2 years ago. Since that major legislation was enacted, we have seen new examples of the vicious impact of terrorism around the world. The brutal pictures from the appalling bomb attack in Madrid and the horrifying images of other terror attacks around the world are savage reminders that we must never let down our guard.

The will to protect the Nation from terrorism is not enough. We must also provide the resources and the means. Bioshield is a major step toward giving the Nation's health care professionals the support they need to respond to attacks of biological, chemical, and nuclear weapons.

A terrorist armed with a vial of a deadly pathogen could inflict pain and death on a vast scale. For too many of the weapons we face, our defenses are inadequate. The Nation needs better vaccines and drugs to fight ancient enemies such as smallpox or new plagues launched by genetically modified disease bacteria.

The members of our HELP Committee have worked together to help America's skilled physicians and scientists develop the vaccines, the diagnostic tests, and treatments needed to meet these disease challenges. Clearly, new legislation is needed to improve America's defensive arsenal against these threats.

The current bill will help guide the talents of America's medical researchers and biotechnology industry in building the stronger medical defenses we need to keep families safe from bioterrorism.

I am proud that Boston is, once again, leading the way in developing pioneering new biodefense countermeasures. We have taken steps to expedite the discovery of new vaccines and cures needed to protect the Nation.

This chart is a statement about this overall legislation:

> Bioshield will accelerate the development of new vaccines, treatments and diagnostics to keep America safe from biological, chemical and radiological weapons.

The fact remains that there is little commercial interest in the development of countermeasures, because they will only be used in the event of some kind of assault or attack on the United States. Nonetheless, we need to develop these vaccines and the various treatments for treating these kinds of dangers because we may very well face them. If we are going to be serious about dealing with biodefense and bioterrorism, this is a very important part of the whole process.

Harvard Medical School has worked with other academic centers to create a New England Regional Center for Excellence for Biodefense. The new center will be the incubator for innovative ideas for treatments of the future. The Boston University Medical Center is building a major new laboratory to enable these pioneering new treatments be tested in a safe and secure research facility.

At the new laboratory, researchers from across America will be able to help turn promising new ideas into treatments to help patients. NIH has recognized the excellence of the center and the laboratory by making substantial investments in their development. The Project Bioshield will help complete this pipeline of discovery by harnessing the creativity and the skill of the flourishing biotechnology industry.

The legislation will ensure companies know that investing in new responses for bioterrorist attacks is a risk worth taking. The bill before the Senate guarantees that any company which develops a successful new product for these threats will find a willing buyer in the Federal Government. With that guarantee, companies will make the investments needed to prepare for any attack. Without that guarantee, they will not. It is as simple as that.

The act will accomplish several other important goals. It will streamline and accelerate the research at NIH on bioterrorism and other weapons of mass destruction. The most effective weapons in the war against biological and chemical attacks are often the skills of our health professionals and the ingenuity of our scientists. The new flexibility for NIH under this legislation will help use these extraordinary talents in the search for new responses.

The act will also encourage the biotechnology, pharmaceutical, and medical device industries to use their creativity to develop countermeasures against the dangerous pathogens and chemical or radioactive agents. In addition, it authorizes the Food and Drug Administration to allow the emergency use of unapproved medicines when needed to deal with such attacks.

The authorization for the emergency use of unapproved products also includes strong provisions on informed consent for patients and limits the scope of products that can qualify for emergency authorization. The FDA must carefully monitor adverse reactions to unapproved products and must require the recordkeeping and studies necessary to assure the safest possible use of these products.

The enactment of the Project BioShield Act is a significant accomplishment, but there is much more work to be done.

This is a brief outline of what this legislation is all about. It establishes the $5.6 billion fund as a guaranteed market for the new biodefense products, and it ensures that the Departments of Homeland Security and HHS set priorities in developing medicines for the threats that America faces. So you combine intelligence about the nature of the threat with expertise from HHS to set the priorities in developing medicines.

It gives NIH, the gold standard in terms of research throughout the world, much needed flexibility to ensure promising research areas can advance quickly. Finally, it allows the FDA to authorize the emergency use of medicines under the tightly controlled conditions outlined in this legislation.

The most sophisticated disease monitoring system will be of little use if public health agencies are so starved of funds that they cannot keep our communities safe.

I want to take a few moments of the Senate's time to look at the progress for bioterror preparedness.

This is taken from a GAO study from February 10 of this year. It says:

> No State reported meeting what they call the third benchmark, a plan for the hospitals in the State to respond to an epidemic involving at least 500 patients.

This is extraordinary. On the one hand, dealing with bioterrorism we have to be able to detect and contain it, and then we have to be able to treat people. That is where BioShield can be enormously effective. But if we are going to be able to contain and treat a bioterror attack, we must be able to deal with it in our medical centers. What we are finding out now, as we review our preparedness, is that we are not making the progress that is absolutely essential to protect communities.

Report after report shows that we are falling short in preparing our defenses against the threat of bioterrorism. The GAO conducted a detailed analysis of the readiness of hospitals for such attacks. How many communities do you think have plans—just plans to be able to treat a surge of 500 additional patients in a terrorism emergency? Would you say 75 percent? 50 percent? Only 25 percent? No, you would be wrong. The correct answer is none. Zero! Not a single community in the GAO survey had a plan to treat an additional 500 patients. That is basic—and none of the communities in the GAO survey could do it. That is a situation that has to be remedied.

An expert panel assembled by the Trust for America's Health conducted an analysis of the readiness for bioterrorism of public health agencies in all 50 States. They examined 10 key indicators of readiness, such as adequate laboratory capacity to respond to bioterrorism emergencies. How many States do you think were fully prepared? The answer, again, shockingly, is none.

This chart shows the different grades of States in bioterror preparedness. The highest we find is 7 out of 10. That would be the green. That includes California, Florida, Tennessee, and Maryland. But if you look at most of this chart you will see it is red or pink, which means they have only 2 or 3 of the 10 required actions necessary to be successful in dealing with bioterrorism. You need to have laboratories, hospital capacity and, as mentioned before in Bioshield, the basic medicines to treat the victims.

The Institute of Medicine in 2003 found that America's health agencies have "vulnerable and outdated health information systems and technologies, an insufficient and inadequately trained public health workforce, antiquated laboratory capacity, a lack of realtime surveillance in epidemiological systems, an ineffective and fragmented communications network, incomplete domestic preparedness and emergency response capabilities, and communities without access to essential public health services."

That is really the challenge. If we talk about homeland security, this is a key aspect in ensuring homeland security. It is a challenge we have to address. That puts the Project BioShield Act in an ominous perspective. It is a large step in the right direction, but without a commitment to adequately fund our hospitals and our health agencies, genuine preparedness and effective homeland security will still be far from what is needed.

I urge my colleagues in approving this important bipartisan legislation to also do what it takes to see that our hospitals and health agencies have the resources they need to use the new tools that BioShield gives them. We don't know how much time we have, but we do know we have to get the job done and do it as quickly as we can.

Mr. President, I want to take a moment to thank a number of our colleagues' staffs who have worked tirelessly in this endeavor over the period of these last 2 years. This has been an enormous effort on the part of many of them. They have done an extraordinary job working this through.

The passage of the BioShield legislation owes much to the hard work and skill of dedicated staff members on both sides of the aisle in the Senate and the House of Representatives, and in the administration too.

I would like to take a moment to thank the effective and skillful work of Senator GREGG's staff, particularly Vince Ventimiglia and Steve Irizarry. Their expertise was helpful in so many ways. I also want to thank Craig Burton of Senator FRIST's staff for his effective work on the legislation.

Our Republican colleagues on the House Commerce and Homeland Security committees were ably assisted by Tom DiLenge and Nandan Kenkeremath. John Ford worked tirelessly on behalf of the many Democratic Members with an interest in this legislation.

I also commend many senior staff in the Department of Health and Human Services for their work in seeing this important legislation enacted. We owe particular thanks to Stewart Simonsen, the Assistant Secretary for Public Health Preparedness, as well as Raissa Downs, Ken Bernard and Scott Whitaker from the Office of the Secretary, and Amit Sachdev of the FDA.

Staff members from many Democratic Senators made numerous helpful contributions to the success of this legislation. I would like to thank Peter Levine and Gary Leeling from Senator LEVIN's staff, as well as Lisa German from Senator REED's staff. I would also like to thank my health staff, particularly David Nexon, David Bowen, David Dorsey and Paul Kim for their excellent work on this legislation.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, I ask that my substitute amendment be accepted.

The PRESIDING OFFICER. Under the previous order, the amendment is agreed to.

The amendment (No. 3178) was agreed to.

The PRESIDING OFFICER. Under the previous order, the committee substitute amendment, as amended, is agreed to.

The committee amendment, in the nature of a substitute, as amended, was agreed to.

BIOSHIELD FUNDING

Mr. GREGG. Mr. President, I appreciate the hard work and cooperation of many of my colleagues to build a program to protect Americans from bioterrorism. I am grateful to Senator COCHRAN for his work last year to ensure that adequate funds were provided in advance to incentivize the immediate development of countermeasures. I also commend Senator NICKLES for his efforts to safeguard these funds and ensure that they remain available solely for the intended purpose of protecting our citizens from biological attack.

Mr. COCHRAN. I was pleased to work with the administration and my colleagues on the Appropriations Committee to secure funding for the program. It is my intention that any unobligated balances of funds appropriated for project BioShield remain available until expended, as the law requires, to ensure that the program has adequate resources in fiscal year 2005 to continue developing necessary countermeasures.

Mr. NICKLES. I appreciate the leadership of my colleague from Mississippi in this effort, and agree that the funds should remain dedicated to the rapid development of effective countermeasures against emerging threats.

Mr. BYRD. Mr. President, I commend Senators GREGG and KENNEDY for their hard work in bringing this important legislation to the floor. I share in their commitment to protect Americans from bio-terrorism. Last year, I worked with Senator COCHRAN, the chairman of the Homeland Security Subcommittee of the Senate Appropriations Committee, to develop an extraordinary funding mechanism for the funding of Project Bioshield. The Congress approved $5.6 billion of advanced appropriations to create incentives for the development of vaccines, pharmaceuticals and other countermeasures for responding to a potential terrorist attack. This funding demonstrated a strong commitment to implementing this important program.

During debate on the budget resolution, the Senate approved an amendment offered by Senator COCHRAN and myself that struck from the resolution a provision that would have established different rules in the House and Senate for the treatment of Project Bioshield funding. I believe such a provision would have created confusion and potentially undermined future funding for homeland security programs.

Is it the understanding of the Senator from New Hampshire that no such provision will be included in the final version of this legislation that will be presented to the President?

Mr. GREGG. I thank the Senator from West Virginia for his cooperation and appreciate his efforts to help secure funding for this important program. While I am unable to guarantee an outcome in conference, I have no intention of including this provision and I will work to ensure that no such provision will be included in the bill presented to the President.

Mr. BYRD. Is it also his understanding that no such provision, which is in neither the House nor Senate-passed budget resolutions, will be included in a conference report on the budget resolution?

Mr. GREGG. I have discussed this with the chairman of the Budget Committee and the Senator's understanding is correct that no such provision will be included.

Mr. BYRD. I thank the chairman for his assurances and cooperation in this matter and I commend both he and Senator KENNEDY for their cooperation in bringing to the Senate this important legislation.

PURCHASE OF VACCINES

Mr. LEVIN. Mr. President, I would like to clarify the understanding of the managers of this bill with regard to the restriction in section 319F-2(c)(9), as amended by the Gregg-Kennedy amendment, on the use of Bioshield funds from paying the costs for purchase of vaccines under procurement contracts entered into before the date of enactment. Is it the understanding of the bill's managers that this restriction would not apply to the purchase of additional doses of vaccines otherwise qualifying as security countermeasures if they are acquired under either new contracts or modifications to existing contracts to increase the numbers of doses to be procured for the Strategic National Stockpile?

Mr. GREGG. I thank the Senator for his question. That is my understanding.

Mr. KENNEDY. I agree with the Senator from Michigan and the Senator from New Hampshire that that is my understanding of the provision. However, it is also my understanding that the primary intent of the Bioshield program is to accelerate the development of new products rather than providing an additional funding source to pay for products developed prior to the enactment of the legislation.

SPECIAL RESERVE FUND

Mr. KENNEDY. Mr. President, I commend the leadership of our distinguished chairman in bringing the Bioshield legislation to the Senate floor. I am optimistic that our colleagues will approve this urgently needed legislation. I would like to clarify with the chairman the intent behind one of the key provisions in the legislation.

Would the chairman agree that as we have considered this legislation during our bipartisan and bicameral negotiations, it has been clear that the congressional intent is for the Bioshield special reserve fund to be one option for the Secretary with respect to procuring countermeasures against chemical, biological, radiological, or nuclear agents. A second option is ordinary appropriations for the stockpile outside of the special reserve fund. It is clear though that we expect that the Secretary will endeavor not to use the Bioshield special reserve fund as a substitute for the commercial market in procuring such countermeasures.

Mr. GREGG. I thank my colleague from Massachusetts for his comments. I agree that his statements reflect the intent of Congress regarding the use of the Bioshield special reserve fund.

Mr. LEVIN. Mr. President, I come to the floor today to express my support for the Project Bioshield legislation. This bill will make an important contribution to our Nation's preparedness by authorizing the expenditure of $5.6 billion from fiscal year 2004 to fiscal year 2013 for the procurement of biomedical countermeasures for inclusion in a Strategic National Stockpile. Project Bioshield will bolster the Nation's ability to provide protections and countermeasures against biological, chemical, radiological, and nuclear agents that may be used in a terrorist attack. It includes provisions to facilitate research and development of biomedical countermeasures by the National Institutes of Health; to provide for procurement of needed countermeasures through a special reserve fund and to authorize, under limited circumstances, the emergency use of medical products that have not been approved by the Food and Drug Administration.

I am pleased that the final version of the bill requires that any bioshield contract be awarded pursuant to full and open competition unless the Secretary determines that the mission of the bioshield program would be seriously impaired by this requirement. This provision ensures that the bioshield program, like other Federal programs, will be subject to government-wide competition requirements.

I am also pleased that the final version of the bill will not make it more likely that military personnel will be required to take unapproved products without their consent. This subject has been addressed in an appropriate manner in the National Defense Authorization Act for Fiscal Year 2005, which is being debated on the Senate floor right now.

This legislation will help to better prepare our Nation and bolster our critical infrastructure to help us deal effectively with terrorist attacks. The mailing of anthrax and ricin tainted letters to Capitol Hill and other locations in 2001 and 2004, respectively, have highlighted our Nation's weaknesses in this area of biodefense. Now Project Bioshield will help give us the tools we need to develop appropriate countermeasures and combat bioterrorism more effectively.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. GREGG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The bill having been read the third time, the question is, Shall the bill, as amended, pass?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY) is necessarily absent.

The PRESIDING OFFICER (Mr. SUNUNU). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 99 Leg.]

YEAS—99

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NOT VOTING—1

Kerry

The bill (S. 15), as amended, was passed.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The amendment (No. 3180) was agreed to, as follows:

AMENDMENT NO. 3180

(Purpose: To amend the title of the bill)

Amend the title so as to read: To amend the Public Health Service Act to provide protections and countermeasures against chemical, radiological, or nuclear agents that may be used in a terrorist attack against the United States by giving the National Institutes of Health contracting flexibility, infrastructure improvements, and expediting the scientific peer review process, and streamlining the Food and Drug Administration approval process of countermeasures.".

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

The PRESIDING OFFICER. The Senate will resume consideration of S. 2400, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2400) to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

Pending:

Lautenberg amendment No. 3151, to clarify the application of Presidential action under the International Emergency Economic Powers Act.

Mr. WARNER. Mr. President, my understanding is that the pending business is the Lautenberg amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. At this time, Mr. President, my colleague from Arizona is seeking recognition.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

AMENDMENT NO. 3191 TO AMENDMENT NO. 3151

Mr. KYL. Mr. President, I call up amendment No. 3191, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. Kyl], for himself and Mr. CORNYN, proposes an amendment numbered 3191 to amendment numbered 3151.

Mr. KYL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. KYL. Mr. President, I pose an inquiry. I am prepared to discuss this amendment and move forward with it. I was advised that possibly the Senator from West Virginia wishes to use this time to make some remarks. I say to the Senator, if he wishes to do that, I would be happy to defer.

Mr. WARNER. Mr. President, that is correct. I thank the Senator from Arizona. It is my understanding that our distinguished Senator from West Virginia desires to address the Senate, in which case the pending business is the amendment in the second degree, and we will return to that.

Mr. REID. Mr. President, may I direct a question through the Chair to the chairman of the committee? Senator LAUTENBERG wishes to modify his amendment, which doesn't take unanimous consent. Can we get that out of the way?

Mr. WARNER. Absolutely.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

AMENDMENT NO. 3151, AS MODIFIED

Mr. LAUTENBERG. Mr. President, I send a modification to my original amendment to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

On page 184, between lines 16 and 17, insert the following:

Subtitle F—Provisions Relating To Certain Sanctions

SEC. 856. CLARIFICATION OF CERTAIN SANCTIONS.

(a) CLARIFICATION OF CERTAIN ACTIONS UNDER IEEPA.—In any case in which the President takes action under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) to prohibit a United States person from engaging in transactions with a foreign country, where a determination has been made by the Secretary of State that the government of that country has repeatedly provided support for acts of international terrorism, such action shall apply to any foreign subsidiaries or affiliate, including any permanent foreign establishment of that United States person, that is controlled in fact by that United States person.

(b) DEFINITIONS.—In this section:

(1) CONTROLLED IN FACT.—The term "controlled in fact" means—

(A) in the case of a corporation, holds at least 50 percent (by vote or value) of the capital structure of the corporation; and

(B) in the case of any other kind of legal entity, holds interests representing at least 50 percent of the capital structure of the entity.

(2) UNITED STATES PERSON.—The term "United States person" means any United States citizen, permanent resident alien, entity organized under the law of the United States (including foreign branches) or any person in the United States.

(c) APPLICABILITY.—

(1) IN GENERAL.—In any case in which the President has taken action under the International Emergency Economic Powers Act and such action is in effect on the date of enactment of this Act, the provisions of subsection (a) shall not apply to a United States person (or other person) if such person divests or terminates its business with the government or person identified by such action within 90 days after the date of enactment of this Act.

(2) ACTIONS AFTER DATE OF ENACTMENT.—In any case in which the President takes action under the International Emergency Economic Powers Act on or after the date of enactment of this Act, the provisions of subsection (a) shall not apply to a United States person (or other person) if such person divests or terminates its business with the government or person identified by such action within 90 days after the date of such action.

SEC. 857 NOTIFICATION OF CONGRESS OF TERMINATION OF INVESTIGATION BY OFFICE OF FOREIGN ASSETS CONTROL.

(a) NOTIFICATION REQUIREMENT.—The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.) is amended by adding at the end the following new section:

"Sec. 42. Notification of Congress of termination of investigation by Office of Foreign Assets Control.".

"The Director of the Office of Foreign Assets Control shall notify Congress upon the termination of any investigation by the Office of Foreign Assets Control of the Department of the Treasury if any sanction is imposed by the Director of such office as a result of the investigation.".

Mr. KYL. Mr. President, I ask unanimous consent that at the conclusion of Senator BYRD's remarks, I be recognized to get back on my amendment. Also, I inquire of the Senator approximately how long he wishes to take.

Mr. BYRD. Mr. President, in response to the distinguished Senator from Arizona, I expect to take 15 to 18 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from West Virginia is recognized.

COMMENDING THE ARMED SERVICES COMMITTEE

Mr. BYRD. Mr. President, I thank all Senators for their courtesies. I especially want to take this moment to thank the chairman of the Senate Armed Services Committee and the ranking member for the splendid hearings they have been conducting.

I have never sat on a committee through such a series of hearings that have been so well ordered and so well chaired by both Members, the distinguished Senator from Virginia and the distinguished Senator from Michigan, as I have experienced in these few days as this committee has been conducting its hearings into the serious matters that have confronted us in the Middle East. I just want to take this occasion to say I could never ask for a chairman to be more fair, more just, more reasonable than the Senator from Virginia.

I marvel at his equanimity, at his good nature. He is always, always a man of good will. I count it a great privilege to serve on his committee.

Mr. WARNER. Mr. President, I thank our distinguished colleague. Senator LEVIN and I have had 26 years on that committee, and we work side by side for the highest degree of bipartisanship achievable.

I want to say to all members of the committee—and the distinguished Senator from West Virginia knows this—this is the third hearing, and it has been 100-percent attendance, except for one individual who is out of town, in each of the hearings, showing the intensity of the subject, the solemnity of the proceeding. I believe all members of our committee, both sides, comported themselves in the finest traditions of the Senate, given the seriousness of this problem. I thank the Senator.

Mr. LEVIN. If the Senator will yield for a thank-you from me for his nice comments.

Mr. BYRD. Yes.

Mr. LEVIN. As always, the Senator from Virginia shares the kudos which properly belong to him. I am grateful to the Senator from West Virginia for bringing to the attention of this body the extraordinary chairman we have on the Armed Services Committee.

Mr. BYRD. Mr. President, I thank the distinguished Senator. I have said along this line that it was a great pleasure serving on this committee with Senator Sam Nunn of Georgia. I thought he was a great chairman. He was. When he left the committee, I felt it would certainly be a long time before his shoes and his chair would be as well filled as one could hope.

I find that the distinguished Senator from Michigan has done a splendid job. He handles himself preeminently well on television, and he approaches each problem on the committee in a very studious fashion. When he reads a bill, one can say that bill has been read. When he writes a bill, one can say it has been written well—every period, comma, semicolon, colon, en dash, em dash, whatever it is. He would have gone over it thoroughly. I thank him. He has certainly stepped into the shoes of Sam Nunn very ably. I have every confidence in him.

Mr. WARNER. Mr. President, we wish to restore the time the Senator asked for, but I want to say I share that about Senator LEVIN. Senator LEVIN and I and Senator Nunn were taught by some of the greatest teachers in the Senate, foremost the Senator from West Virginia, Mr. BYRD, John Stennis, John Tower, Barry Goldwater, and Scoop Jackson.

As I look back on my quarter of a century in the Senate, those were the teachers who set the course and speed of that committee, and the Senator from Michigan and I do our best to do that with the help of the Senator from West Virginia. We thank the Senator from West Virginia.

Mr. BYRD. I thank the Senator. Among those giants who walked these halls, may I add one name: the name of the illustrious Richard Brevard Russell of Winder, GA, who was chairman of that committee when I first came to the Senate.

SECURING OUR ENERGY FUTURE: A NEW STRATEGY

Mr. BYRD. Mr. President, on another matter, a perfect storm has been brewing. Americans have already felt the leading edge of the approaching squalls. Today, we are more dependent upon imported oil than ever before. More than 54 percent of the oil that Americans consume comes from foreign countries, especially OPEC-producing nations. Instead of striving to disentangle ourselves from this foreign oil dependency, the Bush administration seems intent on sinking our military and energy fortunes deeper and deeper into the sands of the Middle East.

Last week, gas prices in many regions of West Virginia were above $2 per gallon. Within days, these prices could easily exceed the $2 per gallon average nationwide. The price of natural gas is at a historic high, and consumers and manufacturers in West Virginia and across the country are struggling to pay their bills. Though some advocate reducing this pressure by importing liquified natural gas in the future, we must also recognize that this will create a new and growing resource dependency. It is hard to believe that the energy and foreign policy decisions made in places elsewhere in the world are having such a dramatic impact on the lives and pocketbooks of our citizens, but that is today's reality.

Another aspect of that gathering storm is the poor state of our electricity grid, the lifeline of our economy. However, decade-long efforts to deregulate electricity markets have, in some cases, led to market manipulation and fracturing rather than producing a more integrated, reliable system. Given the blackout last summer, few observers would doubt that our electric transmission system needs to be made more robust. Furthermore, economic and environmental regulations governing energy production and use are often in conflict with our disjointed energy policies. Continued uncertainties make investment decisions difficult and clearly demonstrate that these ongoing debates must be resolved. Due to the lack of political will, special interest entrenchment, and other constraints, policymakers have been unable to untangle this Gordian knot.

These concerns are central to the long-term interests of our Nation, and they represent very ominous clouds on the horizon. Sadly, our energy problems are being addressed with Band-Aid solutions. In recent years, we have witnessed attempts to put a moratorium on Federal gas taxes, to tap the Strategic Petroleum Reserve, and to make secretive deals with Saudi Arabia to produce more oil. We have unnecessarily endeavored to treat the symptoms and not the core problem for far too long. Instead, our Nation needs to begin defining alternative pathways and new approaches that go beyond the extremist debates and simplistic solutions that define our very demanding energy and environmental challenges.

Three years ago this week, the Bush administration released the National Energy Policy report. Unfortunately, Americans have yet to receive the benefits that this energy plan promised to provide. Given the plan's 3 year anniversary, I am announcing that I, along with other Senators, have asked the General Accounting Office to undertake a broad and comprehensive review of the Federal Government's energy funding, policies, and overall goals to determine whether the U.S. does, in fact, have strategic plan in place.

The U.S. is without a serious energy policy, and no energy bill currently before this Congress can adequately rectify that problem. The U.S. faces the simultaneous challenges of an expanding energy appetite, a need to reduce its dependence on imported resources, and a decreasing tolerance for environmental impacts. Sadly, policymakers have time and time again failed to craft a comprehensive approach—a failure which continues to jeopardize our Nation's security, economic health, and environment. Too much is at stake to continue to ignore these looming problems.

America's energy policies have been driven primarily by a reaction to supply shortages and crises. The energy policy approaches of numerous administrations are littered with false starts and abrupt shifts—lurching first in one direction then in another. When it comes to securing America's energy future, the Bush White House is stuck in short-sighted, high-risk initiatives which seem largely guided by big dollar campaign contributors. Despite its rhetoric, this White House's lipservice and corporate coddling have been the sum total of its energy policy. It began with the Vice President's national energy policy task force and concluded with the exclusion of Democrats from the energy conference. As a result, the Bush administration appears to see energy policy as a way to reward its friends while sidestepping the serious, lingering challenges that face this country and, in fact, the world.

In spite of our Nation's herky-jerky responses to energy policy, there have been some successful energy policy initiatives. Surely, the Strategic Petroleum Reserve, the Public Utility Regulatory Policy Act, and the clean coal technology program have proved invaluable. However, for the most part, there has been little foresight, no coherent framework, and no clear objectives on which to base future decisions. The Nation needs a long-term energy plan that includes criteria and benchmarks by which to measure progress. In short, it requires a more integrated, cohesive roadmap.

Now is the time for the cornerstones of our Nation's energy strategy to be solidly established. Opportunities exist for entrenched parties to come together on a more comprehensive and cohesive approach. This approach must integrate four fundamental principles: Diversity of energy sources to protect our Nation's security; fiscal soundness to ensure stakeholder support and increase economic growth; consumer protections to guard against fraud and manipulation; and safeguards to minimize energy's environmental footprint.

A serious energy efficiency program, bolstered by the promotion of renewable energy and other clean homegrown energy sources, provides a compass point for a U.S. energy strategy. At its core, we must rely on our Nation's domestic energy assets, especially coal. Coal must become a primary fuel source for new energy demands into the 21st century. However, to do so requires that we think differently about coal. We must accelerate the deployment of commercial-scale technologies that move us away from simply burning coal toward the enhanced ability to transform coal into a variety of energy products. We can begin to meet this challenge by deploying advanced power generation and carbon sequestration technologies as well as by producing hydrogen and synthetic fuels for use in other sectors of the economy. Parallel efforts must also be initiated to resolve the outstanding environmental and regulatory issues attendant to coal production and reclamation. This broad approach also requires sending strong and clear regulatory and market signals which can significantly reconcile numerous environmental and climate change concerns, stimulate technology deployment, and set the stage for a renewed era for coal.

Furthermore, our Nation must recognize the incredible impact that U.S. technologies and ideas can have in helping to meet other nations' energy needs in a more sustainable way. We must work to open and expand international markets for a range of U.S. clean energy technologies and simultaneously address global energy security, economic, trade, and environmental objectives.

The path that I am proposing here today goes far beyond the so-called comprehensive energy legislation currently before us. Pursuing this course will take steadfast leadership, hard work, and American ingenuity to move forward in a responsible, balanced, and intelligent way. It is time for industry, labor, academic, environmental, and community interests to work with policymakers to find common ground. Commonsense market-based and regulatory approaches, emerging technology platforms, and new policy perspectives can bring these divergent groups together. By doing so, we can champion a new energy and environmental legacy that will benefit all the world's citizens.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, the distinguished ranking member, Senator LEVIN, and myself, together with Senator LAUTENBERG and Senator KYL, are endeavoring to structure a program for the next 2 or 3 hours, hopefully.

In the meantime, our distinguished colleague, the Senator from New Mexico, would like to respond to some earlier remarks made in the Senate.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, first, I thank the chairman for accommodating me and I thank the Senate for listening for a few minutes.

I was not here in person when Senator BYRD spoke about the need for an energy policy but I heard most of it. I will share with the Senate the reality of the energy problem in the United States.

I heard the distinguished Senator from West Virginia speak about issues such as electricity, the blackout that occurred, the shortage of crude oil that we have to import, natural gas problems, and all of those kinds of issues. I suggest it is wonderful to have somebody come to the Senate, especially from that side of the aisle, and talk about these problems and the need to do something about it, because the truth is, they have prevented the Senate from doing it. The very things he spoke of are in one or the other of the Energy bills we have put before the Senate and been denied. Most of the time the denial was because very few Democrats would support it.

So we did not get alternative fuels, so we did not get a fix to electricity blackout potential, we did not get a bill that produces huge quantities of American natural gas, we did not get a bill that fixed electricity so we would not have blackouts—on and on and on, all the issues and more that were spoken of by the distinguished Senator BYRD.

To talk about the fact that our country needs them or that the President did not do them is to forget, in a short period of time—it did not take long to forget—that all of these proposals have been voted down by the Democrats in this Senate.

Maybe there were other things in the bill they did not like, but I have never had anyone propose that if we change this and added that from that side of the aisle we could get a major energy bill. All we have heard is a filibuster and a vote against it.

One time they claimed there was a provision that was onerous to them and we got 58 votes and lost a filibuster. We removed that provision which they said was onerous. We then tried the bill without it.

And let's go again on the issues: huge production of American natural gas, some quick, some over time; a fix to the blackout problem; incentives for the electric grid to grow and prosper; incentives so we will have wind, which is right on the verge of becoming a major source—wind electricity—solar energy; and on and on. There are incentives for all those.

When you add them up, it was a comprehensive bill that fixed what was broken, added things we needed, and ultimately said to the world: America is ready to do something. They have finally stood up. And where there are no solutions, they did not find them. Anybody who thinks we could have a solution to produce more crude oil, step up. The only way we know is to tell Americans to use small cars. That would save gasoline. We tried it. The Senate is not for it. The House is not for it. I tried it in crowds. People are not for it. So that is the only one. It is out of the way.

So what can we do? We have to take care of the other energy sources. We have to make sure we do not get natural gas dependent, which we are about to be. We should tell the world we have alternatives to produce electricity. And we do, if we pass one of these bills. The problem is not that the President took too long, not that the President did not send us a proposal or that he did something in secret. We did our bill in public. So regardless of what you claim about him, we had an energy bill. We have an energy bill. As a matter of fact, I will offer it again before this session is out.

I understand somebody wants to put energy on this Armed Services authorization bill. Have at it. We will let you vote on the Energy bill at the same time. We will let you do that, and we will stand up and say: Are you ready or do you want to talk? Do you want to increase natural gas or do you want to blame somebody? Do you want to increase wind energy in America or do you want to complain?

I understand somebody around here wants to offer an amendment that we ought to fix this oil problem with the SPR, Strategic Petroleum Reserve. I was talking about that with my staff—and I would not do this, at least as of now—but I am thinking about it.

I say to the Senator, JON, what we ought to do is we ought to offer an amendment, when they offer that, and say that we want bin Laden to turn himself in; a resolution: We resolve that—after this, that, and the other—

he ought to turn himself in to America. Why would I do that? Because that is about as apt to happen as we are apt to save anything on the price of gasoline with an amendment that says: Use SPR. We tried it once. It saved 1 cent.

It is there because we are in jeopardy. If somebody has a major explosion, a terrorist action, we need that SPR to take care of us. That is what it is for. That is why it ought to stay there. That is why it ought to be filled.

So if I sound like I am concerned, I am, because I get tired of people saying we need an energy policy and then voting against the very things they talk about.

I understand some Senators are opposed to specific pieces. We are open minded and ready to talk. If there are people who say, the way to get what we are talking about and complaining about is this, that, and the other, we listen. But until they have one, we want to continue to ask them to vote for an energy bill that is almost the same as their rhetoric, that almost does as much as their rhetoric asks for.

Mr. INHOFE. Mr. President, will the Senator yield?

Mr. DOMENICI. Every time this comes up, I will come down here and go through this laundry list, and ask them where they have been.

I will be glad to yield.

Mr. INHOFE. Is the Senator aware in the committee that I chair, the Environment and Public Works Committee, we have held several hearings: one on natural gas and the prices being spiked, one on fuel that we burn in our automobiles. We have had witnesses who have documented that we have two primary causes. One is all of these unreasonable environmental regulations these refiners are exposed to, and it directly relates to the cost of energy in this case. And the other is the Energy bill.

I say to the Senator, as you point out, we had a good energy bill. The House has a good energy bill. In that energy bill we had the ability to drill for oil in places where we cannot right now that would open up ANWR. If you look at the production in States, such as my State of Oklahoma and your State of New Mexico, the marginal wells—those are wells that produce 15 barrels a day or less—the statistic has never been refuted that if we had all of the marginal wells that have been plugged in the last 10 years flowing today, that would equal more than we are currently importing from Saudi Arabia.

So we have a solution to the problem. With all those people crying about the high prices, those are the major reasons we have high prices. I say to the Senator, you are right, we are going to have to have an energy bill to correct this situation. Do you agree?

Mr. DOMENICI. I agree.

I thank the Senator for his comments.

Let me say again, for purposes of discussion, I think we ought to have a resolution—if the Democrats offer a resolution regarding SPR—that says two things. I think the resolution ought to say: We think and we direct that Saudi Arabia pump more oil and sell more oil. The Senate says we resolve that they ought to do that. And, second, we think the terrorist we have been looking all over Afghanistan for should turn himself in. That should be the second part of our resolution.

Why I say that is because we would do as much for the energy crisis with that resolution as we will with one that tries to convince the American people that the way to do this is to play around with the Strategic Petroleum Reserve.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, before the Senator leaves, I say to the distinguished Senator from New Mexico, we are prepared to accept, on both sides, the important amendment you had yesterday.

Mr. DOMENICI. Let me get it.

Mr. WARNER. Actually, it is at the desk. We could ask for its adoption, to meet your convenience.

Mr. President, I offered an amendment yesterday. Somebody said it had been withdrawn.

The PRESIDING OFFICER. The amendment has been withdrawn.

Mr. DOMENICI. But does that mean it still might be up there?

Mr. WARNER. Here we are.

Mr. DOMENICI. I have it.

Mr. WARNER. Mr. President, I think the Senator has his amendment.

Mr. DOMENICI. Is it in order?

Mr. LEVIN. You have to set aside the Lautenberg amendment temporarily.

AMENDMENT NO. 3192

Mr. DOMENICI. Mr. President, I ask unanimous consent that the pending amendment be set aside so that I can offer this amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I am shortly going to send the amendment to the desk. It has about 15 cosponsors from both sides of the aisle. This amendment has to do with accelerating internationally the removal of fissile materials; that is, insecure radiological material and related equipment that cause us to be vulnerable to proliferation.

Many of us have worked very hard to put together a program where we and other nations will go to work at ridding the world of proliferation of nuclear products from the nuclear age. We think it is an exciting approach. Eventually, we have to fund it and Presidents have to implement it. But the Senate would be saying today it is good policy to get the world concerned about getting rid of radioactive material that came from the nuclear age.

My principal cosponsors are Senators FEINSTEIN, LUGAR, BIDEN, BINGAMAN, and a whole array of Senators. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself, Mrs. FEINSTEIN, Mr. LUGAR, Mr. BIDEN, Mr. ALEXANDER, Mr. BINGAMAN, Mr. REED, and Mr. AKAKA, proposes an amendment numbered 3192.

Mr. DOMENICI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To accelerate the removal or security of fissile materials, radiological materials, and related equipment at vulnerable sites worldwide)

At the end of subtitle C of title XXXI, add the following:

SEC. 3132. ACCELERATION OF REMOVAL OR SECURITY OF FISSILE MATERIALS, RADIOLOGICAL MATERIALS, AND RELATED EQUIPMENT AT VULNERABLE SITES WORLDWIDE.

(a) SENSE OF CONGRESS.—(1) It is the sense of Congress that the security, including the rapid removal or secure storage, of high-risk, proliferation-attractive fissile materials, radiological materials, and related equipment at vulnerable sites worldwide should be a top priority among the activities to achieve the national security of the United States.

(2) It is the sense of Congress that the President may establish in the Department of Energy a task force to be known as the Task Force on Nuclear Materials to carry out the program authorized by subsection (b).

(b) PROGRAM AUTHORIZED.—The Secretary of Energy may carry out a program to undertake an accelerated, comprehensive worldwide effort to mitigate the threats posed by high-risk, proliferation-attractive fissile materials, radiological materials, and related equipment located at sites potentially vulnerable to theft or diversion.

(c) PROGRAM ELEMENTS.—(1) Activities under the program under subsection (b) may include the following:

(A) Accelerated efforts to secure, remove, or eliminate proliferation-attractive fissile materials or radiological materials in research reactors, other reactors, and other facilities worldwide.

(B) Arrangements for the secure shipment of proliferation-attractive fissile materials, radiological materials, and related equipment to other countries willing to accept such materials and equipment, or to the United States if such countries cannot be identified, and the provision of secure storage or disposition of such materials and equipment following shipment.

(C) The transportation of proliferation-attractive fissile materials, radiological materials, and related equipment from sites identified as proliferation risks to secure facilities in other countries or in the United States.

(D) The processing and packaging of proliferation-attractive fissile materials, radiological materials, and related equipment in accordance with required standards for transport, storage, and disposition.

(E) The provision of interim security upgrades for vulnerable, proliferation-attractive fissile materials and radiological materials and related equipment pending their removal from their current sites.

(F) The utilization of funds to upgrade security and accounting at sites where proliferation-attractive fissile materials or radiological materials will remain for an extended period of time in order to ensure that such materials are secure against plausible potential threats and will remain so in the future.

(G) The management of proliferation-attractive fissile materials, radiological materials, and related equipment at secure facilities.

(H) Actions to ensure that security, including security upgrades at sites and facilities for the storage or disposition of proliferation-attractive fissile materials, radiological materials, and related equipment, continues to function as intended.

(I) The provision of technical support to the International Atomic Energy Agency (IAEA), other countries, and other entities to facilitate removal of, and security upgrades to facilities that contain, proliferation-attractive fissile materials, radiological materials, and related equipment worldwide.

(J) The development of alternative fuels and irradiation targets based on low-enriched uranium to convert research or other reactors fueled by highly-enriched uranium to such alternative fuels, as well as the conversion of reactors and irradiation targets employing highly-enriched uranium to employment of such alternative fuels and targets.

(K) Accelerated actions for the blend down of highly-enriched uranium to low-enriched uranium.

(L) The provision of assistance in the closure and decommissioning of sites identified as presenting risks of proliferation of proliferation-attractive fissile materials, radiological materials, and related equipment.

(M) Programs to—

(i) assist in the placement of employees displaced as a result of actions pursuant to the program in enterprises not representing a proliferation threat; and

(ii) convert sites identified as presenting risks of proliferation regarding proliferation-attractive fissile materials, radiological materials, and related equipment to purposes not representing a proliferation threat to the extent necessary to eliminate the proliferation threat.

(2) The Secretary of Energy shall, in coordination with the Secretary of State, carry out the program in consultation with, and with the assistance of, appropriate departments, agencies, and other entities of the United States Government.

(3) The Secretary of Energy shall, with the concurrence of the Secretary of State, carry out activities under the program in collaboration with such foreign governments, nongovernmental organizations, and other international entities as the Secretary considers appropriate for the program.

(d) REPORTS.—(1) Not later than March 15, 2005, the Secretary shall submit to Congress a classified interim report on the program under subsection (b).

(2) Not later than January 1, 2006, the Secretary shall submit to Congress a classified final report that includes the following:

(A) A survey by the Secretary of the facilities and sites worldwide that contain proliferation-attractive fissile materials, radiological materials, or related equipment.

(B) A list of sites determined by the Secretary to be of the highest priority, taking into account risk of theft from such sites, for removal or security of proliferation-attractive fissile materials, radiological materials, or related equipment, organized by level of priority.

(C) A plan, including activities under the program under this section, for the removal, security, or both of proliferation-attractive fissile materials, radiological materials, or related equipment at vulnerable facilities and sites worldwide, including measurable milestones, metrics, and estimated costs for the implementation of the plan.

(3) A summary of each report under this subsection shall also be submitted to Congress in unclassified form.

(e) FUNDING.—Amounts authorized to be appropriated to the Secretary of Energy for defense nuclear nonproliferation activities shall be available for purposes of the program under this section.

(f) DEFINITIONS.—In this section:

(1) The term "fissile materials" means plutonium, highly-enriched uranium, or other material capable of sustaining an explosive nuclear chain reaction, including irradiated items containing such materials if the radiation field from such items is not sufficient to prevent the theft or misuse of such items.

(2) The term "radiological materials" includes Americium-241, Californium-252, Cesium-137, Cobalt-60, Iridium-192, Plutonium-238, Radium-226 and Strontium-90, Curium-244, Strontium-90, and irradiated items containing such materials, or other materials designated by the Secretary of Energy for purposes of this paragraph.

(3) The term "related equipment" includes equipment useful for enrichment of uranium in the isotope 235 and for extraction of fissile materials from irradiated fuel rods and other equipment designated by the Secretary of Energy for purposes of this section.

(4) The term "highly-enriched uranium" means uranium enriched to or above 20 percent in isotope 235.

(5) The term "low-enriched uranium" means uranium enriched below 20 percent in isotope 235.

(6) The term "proliferation-attractive", in the case of fissile materials and radiological materials, means quantities and types of such materials that are determined by the Secretary of Energy to present a significant risk to the national security of the United States if diverted to a use relating to proliferation.

Mr. DOMENICI. Mr. President, since the collapse of the Soviet Union, I have recognized the danger posed by the potential risk of proliferation of materials or expertise from that nation. Through work with Senators Nunn and LUGAR for the original Nunn-Lugar Cooperative Threat Reduction legislation, and later with the Nunn-Lugar-Domenici Defense Against Weapons of Mass Destruction Act, I have worked to minimize this risk. Through these bills, and through several other initiatives, we have made progress on the nonproliferation front. But these are complex and difficult programs, success is measured in small steps. While we have come a long ways, we still have a long ways to go.

Some of the programs we have established, such as materials protection control and accounting, the initiatives for proliferation prevention, and the nuclear cities initiative, are working fairly well to address some of the major threat issues.

The HEU Deal is working to reduce stockpiles of highly enriched uranium, a prime concern for proliferation, although it has needed congressional help at times to keep it alive. The plutonium disposition deal is seriously stalled and needs attention at the highest levels in both the United States and Russia.

Even though we are making progress, the focus on terrorism over the last few years has substantially amplified the level of our concerns. In the process, we have learned more about the complicated routes through which important equipment technologies, such as enrichment capabilities, have moved to unfortunate destinations.

Our focus on Russia was appropriate a decade ago. But it is very clear today that proliferation must be viewed as a global problem. We must broaden our programs so that they have a global impact, not only focused on the former Soviet Union.

The increased threat of terrorism should encourage us to seek new ways to expedite the management, security, and disposition of materials that could be dangerous to our national security if they were to fall into the wrong hands. These materials include a range of fissile materials, with highly enriched uranium and plutonium being the ones of greatest concern.

Fissile materials and the specialized equipment to produce them aren't the only concerns. We have also heard concerns about radiological dispersion devices, or "dirty bombs" as they are usually called. Materials that would be useful in dirty bombs also need to be under far better control all around the world.

The amendment I am offering today is aimed at expediting global cleanout of nuclear materials and equipment that could represent proliferation risks. It includes in one package a range of authorizations, all of which need acceleration toward the overall goal.

Of greatest importance, it provides authorization for global activities, not only for activities focused on the former Soviet Union. And it encourages that we act in partnership with other governments, nongovernmental organizations, and other international groups that can assist us in this undertaking.

Fissile materials are targeted no matter where they are located, from existing vulnerable storage sites to research reactors to other reactor systems. The highly enriched uranium that fuels many of these research reactors, including those supplied by both the United States and Russia, represents a major concern for proliferation. Recent operations have led to removal of some of these materials, but many more reactors need attention.

As one example of a potential concern beyond the research reactors, the Russian ice breakers are powered with nuclear reactors using highly enriched uranium. I hope we can help to convert those reactors in the course of this program.

Authorities are provided to transport materials to secure storage, either here or abroad, along with provision of improved security at vulnerable sites. In addition, attention is paid to the operation of improved security systems once they are installed.

Technical support is authorized for the International Atomic Energy Agency or other countries to help in removal of material or upgrading of security. In addition, several initiatives address some of the current uses of highly enriched uranium.

New fuels are to be developed to replace fuels that use highly enriched uranium. New reactor targets are to be developed to replace targets that involve highly enriched uranium. And assistance with conversion of both reactors and targets to these new alternatives is provided.

Faster blend-down of highly enriched uranium is included in the new provisions. It is vital to get more of this material out of a weapons-ready form more quickly than only relying on the rates of blend-down established in the existing HEU deal.

The amendment also authorizes assistance in closure and decommissioning of sites of proliferation concern. In addition, programs are authorized for helping displaced employees from such sites and converting these sites to other uses. We have had similar programs in place for the former Soviet Union for years, but now with this amendment we can extend these programs to other countries as well.

With this global cleanout amendment, we will take a giant step toward providing the Department of Energy, in coordination with other Federal agencies, with the tools they need to minimize proliferation risks from nuclear materials wherever they are found around the world. In the process, we can help to make this world a safer place.

Mrs. FEINSTEIN. Mr. President, I rise today with my colleague from New Mexico, Senator DOMENICI, to introduce an amendment to address one of the critical security issues in the post-9/11 world: the existence of weapons-usable nuclear materials at hundreds of vulnerable facilities around the world.

President Bush has singled out terrorist nuclear attacks on the United States as the defining threat our Nation will face in the future.

In making the case against Saddam Hussein, he argued: "If the Iraqi regime is able to produce, buy, or steal an amount of uranium a little bigger than a softball, it could have a nuclear weapon in less than a year."

What he did not mention is that with the same amount of uranium, al-Qaida, Hezbollah, Hamas, or any terrorist organization could do the same and smuggle a weapon across U.S. borders.

And the fact that Pakistani nuclear scientist A.Q. Khan's network put actual bomb designs on the black market only heightens the need to make sure these materials are not available.

Nonetheless, there are hundreds of vulnerable facilities around the world that store from kilograms to tons of plutonium or highly enriched uranium. The State Department has identified 24 of these locations as high priority sites.

In response to this threat, the administration has focused its efforts on removing vulnerable international nuclear materials through four projects: the take-back by Russia of highly enriched uranium fuels from Soviet-supplied reactors; the ongoing effort to convert Soviet-designed research reactors from using highly enriched uranium to using non-bomb-grade fuels; the decades-long effort to convert U.S.-supplied research reactors from highly enriched uranium to low enriched uranium and the on-going effort to take back U.S.-supplied uranium.

These are important steps, but I am deeply concerned that these efforts are not sufficient and do not adequately address the seriousness of the issue. For example, the current approach will take 10–20 years to complete at the current rate of about 1 facility per year. This time frame ignores the near-term dangers we face.

Under the current approach to the take-back of Soviet-supplied uranium, there have been only two successful removals of highly-enriched uranium in more than two years, at Vinca and at Pitesti. But the Vinca operation also required the additional contribution of $5 million from the Nuclear Threat Initiative to complete, because of the Bush administration's claim of inadequate authority to pursue various actions to facilitate Serbian cooperation.

The U.S.-Russian bilateral agreement on a broader take-back effort has taken years to complete—and even once final Russian government approval is secured, many obstacles remain. Indeed, Russia has never prepared certain types of environmental assessments related to these weapons. To move forward with this agreement, it will require sustained, high-level pressure.

U.S. efforts to convert highly enriched uranium-fueled reactors within Russia are still moving slowly on the technical front, in part because of insufficient funding. And we are only now beginning to take the first steps toward providing incentives directly to facilities to give up their highly enriched uranium.

The scope of the conversion effort in Russia is inadequate. It covers only research reactors, ignoring critical assemblies, pulsed powered reactors, and civilian and military naval fuels. This leaves numerous vulnerable HEU stockpiles scattered across the former Soviet Union.

Under the current U.S. uranium take-back effort, if no new incentives are offered, tons of U.S.-supplied nuclear materials will remain abroad when the program is complete. And scores of U.S.-supplied reactors may continue to use highly enriched uranium indefinitely.

If weapons of mass destruction, WMD, out of the hands of terrorists is the defining threat to our Nation, then removing weapons-usable material from facilities susceptible to terrorist theft should be a top priority for U.S. national security policy.

Yet, currently there is no single, integrated U.S. government program to facilitate the removal of these materials. To address this problem, Senator DOMENICI and I have offered this amendment to: urge the President to establish a task force within the Department of Energy on nuclear removal; provide a specific mandate for a program to remove nuclear material from vulnerable sites around the world as quickly as possible, whether the material was supplied by the U.S. or the Soviet Union; provide flexible approaches, tailored to each site, to encourage facilities to give up their nuclear material, and; authorize funding to begin these efforts.

Osama bin Laden has declared the acquisition of weapons of mass destruction a "religious duty." After the Taliban was defeated, blueprints for a crude nuclear weapon were found in a deserted al-Qaida headquarters in Afghanistan. It is clear that obtaining a nuclear weapon is a top priority of al-Qaida.

And a report released last year by the John F. Kennedy School of Government at Harvard University demonstrated the severity of the threat posed by a nuclear weapon in the hands of terrorists.

The report described a scenario in which a 10-kiloton nuclear bomb is smuggled into Manhattan and detonated, resulting in the deaths of 500,000 people and causing $1 trillion in direct economic damage.

We must do everything in our power to prevent this from ever happening.

This amendment will give our Government the direction and resources necessary to remove nuclear materials from vulnerable sites around the world in an expeditious manner.

We have little time to spare. I urge my colleagues to support this amendment.

Mr. BIDEN. Mr. President, I am proud to co-sponsor the amendment offered by my colleagues, Senator

DOMENICI and Senator FEINSTEIN, which authorizes a program to accelerate U.S. efforts to remove, secure, store, or destroy fissile and radiological material that might otherwise be accessible to rogue states or terrorists.

There could hardly be a higher priority—it is clear that terrorists seek to acquire materials to make a nuclear bomb. Many experts believe that terrorists would be capable of creating a nuclear weapon if they took possession of fissile material. Even the simpler, gun-type design, the type of bomb exploded at Hiroshima, could kill from tens of thousands to a million people if detonated in a large city.

Terrorists are also known to be interested in radiological material for a so-called "dirty bomb," also known as a radiological dispersion device. While an attack with a dirty bomb would not cause many fatalities, it could render large areas uninhabitable and cause long-term economic devastation and psychological damage.

I thank Senator DOMENICI, and Senator FEINSTEIN for their work and leadership on this issue. Senator DOMENICI, in his role as Chairman of the Appropriations Energy and Water Subcommittee, has done much to shape the nuclear non-proliferation programs at the Department of Energy. Senator FEINSTEIN, also a member of that subcommittee, introduced legislation to facilitate the removal of nuclear material from vulnerable sites around the world. They have worked together to craft the bipartisan amendment before us today.

While many raised the alarm about the possibility of terrorists using weapons of mass destruction before September 11, 2001, the events of that day made clear to all what devastation could have been wrought had the terrorists attacked with weapons of mass destruction.

Witnesses at a hearing I chaired before the Senate Foreign Relations Committee on March 6, 2002, emphasized the need for multiple layers of defense against nuclear terrorism and said that the very first priority must be controlling fissile and radioactive material in the United States and abroad.

Since that time, there has been progress in securing, storing and destroying fissile and radiological material. But much more needs to be done.

The Department of Energy's International Materials Protection, Control, and Cooperation Program and its Radiological Dispersion Devices Program seek to secure nuclear weapons, weapons-usable nuclear materials, and radiological sources by upgrading security and consolidating these materials.

From fiscal year 1993 through this fiscal year, 2004, Congress has appropriated $1.58 billion for these Department of Energy programs, mostly to secure nuclear weapons and nuclear material in Russia. Because of them, and the related Cooperative Threat Reduction programs at the Department of Defense, hundreds of tons of bomb material is more secure and the nuclear material that could have been made into thousands of nuclear weapons has been destroyed.

Why, when so much has been accomplished, is this amendment necessary?

One answer is that while much has indeed been accomplished in Russia, highly enriched uranium, or HEU, and plutonium exist in many countries and in both military and civilian sites. There are 345 operational or shut research reactors that used HEU in 58 countries. Many of these countries have inadequate resources to operate or clean up these reactors. Few of them can afford to convert their HEU-fueled reactors, or their HEU targets used to produce medical isotopes, without outside assistance.

Another answer is that even in Russia, only a fraction of its highly enriched uranium has been destroyed. Many experts, including those involved with the Project on Managing the Atom at Harvard University, have urged that efforts be accelerated to "blend down" highly enriched uranium to low-enriched uranium, which is usable for nuclear power, but not readily for weapons. At current rates, it could take *decades* to blend down Russia's excess HEU. The urgency of the potential threat from the tons of HEU in Russia argues for a more robust program that would blend down HEU in years, not decades. The amendment before us today wisely authorizes an acceleration of our HEU blend-down programs.

In addition to authorizing accelerated HEU recovery and blend-down programs, this amendment would accelerate our efforts to help move nuclear facilities away from the use of HEU in nuclear reactor fuel and medical isotope production. It will also encourage increased efforts to recover and secure plutonium and radiological sources that might otherwise be accessible to terrorists.

The Domenici-Feinstein amendment provides for a comprehensive program to: securely ship at-risk fissile and radiological materials; raise processing and packing standards; provide interim security upgrades and improve management of vulnerable sites; manage materials at secure facilities; provide technical assistance to the International Atomic Energy Agency, as well as to countries; and provide assistance in the closure of risky sites.

This amendment will also improve our efforts to convert risky sites to, and place displaced nuclear workers in, activities that do not represent a proliferation threat. Both the Department of Energy and the Department of State have programs to help displaced workers, but there many worthy projects in this area go unfunded each year. We can and we must do more to ensure that nuclear weapons scientists and technical personnel are not left prey to the lures of contracts in rogue states or sales to terrorists.

The Domenici-Feinstein amendment will not solve all the problems that our non-proliferation programs face. We also need sustained attention by the President to removing roadblocks that have hindered our existing programs in Russia. Whether the question is access to sites, or immunity from taxation, or immunity from liability for U.S. persons involved in these programs, we need effective intervention at the highest level to solve those problems. It would be ironic, indeed, if our authorization of accelerated efforts were to be undone by the inability of President Bush and Putin to work out the implementation of those programs.

This amendment must do more than spur the Department of Energy to put more resources into our non-proliferation programs. It must galvanize the government at the highest levels to do more and do it quickly, before some terrorist group gains access to fissile our radiological material and uses it against us.

I commend Senators DOMENICI and FEINSTEIN for their important amendment and I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I commend our distinguished colleague. This is a very important, innovative approach to one of the serious problems facing the world. I ask unanimous consent to be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. I believe my distinguished colleague from Michigan has cleared it on his side and we are ready for action.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I commend Senator DOMENICI. He has worked long and hard on this issue. I am proud to be a cosponsor of the amendment. The bottom line is there are a number of instances where the Department of Energy has run into situations where it does not have, nor do other agencies have, the authorities which are necessary to remove or otherwise deal with this nuclear material which is at risk. The Domenici amendment will provide those essential authorities in order to take some very strong antiproliferation steps. It is a very good amendment. We support it on this side of the aisle.

Mr. WARNER. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to amendment No. 3192.

The amendment (No. 3192) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I thank the managers for their cooperation and their statements. I am not sure Senator LEVIN is presently a cosponsor. I ask unanimous consent that he be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. And Senator WARNER has already asked.

Mr. WARNER. Yes, I have.

Mr. DOMENICI. I yield the floor.

Mr. WARNER. I see a Senator seeking recognition, so we will withhold a quorum call. My understanding is the Senator from Arizona wishes to talk about the proposal now under consideration, if that is agreeable.

Mr. LEVIN. Of course. If I may ask the chairman a question, I have no problem with that.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Is it still our intention to try to order the sequencing of two votes on these amendments?

Mr. WARNER. The Senator is correct. We have under consideration by our respective leadership at this time a program you and I have put to them to continue debate this afternoon on the Lautenberg amendment and the second degree by my colleague from Arizona at which time votes will be scheduled in the 5 to 6 timeframe.

I yield the floor.

AMENDMENT NO. 3191

The PRESIDING OFFICER. The Senator from Arizona.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from Arizona has been recognized to speak on his second-degree amendment.

Mr. KYL. I am happy to yield to the Senator from New Jersey for a question.

Mr. LAUTENBERG. If the Senator from Arizona will yield for a question, is a second-degree amendment still the proposal?

Mr. WARNER. Mr. President, the terminology is being worked on right now. Nothing is agreed upon at the moment.

Mr. LAUTENBERG. I thank the Senator.

Mr. KYL. Mr. President, what we have pending right now is a second-degree amendment to the Lautenberg amendment, and there will be discussions about precisely how that will be treated when this amendment and the Lautenberg amendment are voted on at the end of the afternoon.

Let me begin by noting what some of my objections are to the Lautenberg amendment. Then I will speak to the second-degree amendment which I have offered. The point of the Lautenberg amendment is to change the way in which sanctions are put on companies doing business abroad. The State Department has issued some objections to this amendment which I will speak to later. To summarize: That it would interfere with the President's discretion in conducting foreign affairs; that it would lead to a number of foreign policy problems for the United States; that it is unnecessary because the President exercises authority with respect to these foreign subsidiaries today.

To be precise about a particular concern the State Department expresses, the amendment would actually only focus on ownership, which is a standard that could easily be circumvented by these companies against whom we would all want sanctions to apply, and would be less effective than the administration's current approach utilized by the President. By defining this under the definition of control to mean owning at least 50 percent of the capital structure of the entity, the test could easily be circumvented by manipulating the percentage of ownership so that it remains under 50 percent, but at the same time maintaining control in fact.

Under current law, the U.S. Treasury Department considers both ownership and control so the President has the ability to exert this kind of sanction authority in a much more flexible way than would be the case under the amendment offered by the Senator from New Jersey. The Lautenberg amendment diminishes the President's authority and reduces the scope of the sanctions.

Finally, its impact on existing sanction programs is unclear. The authority exists already. The Lautenberg amendment would raise questions, complications, and reduce the President's flexibility in ways we don't think would be appropriate. That is one of the reasons we are offering this alternative, this substitute or second-degree amendment, depending upon how we agree to characterize it.

This is an amendment which has been offered as a way to raise revenues for different purposes, but the revenues—perhaps $9 billion in revenues generated here, but in any event some amount, substantial billions of dollars—would be available for expenditures by the Secretary of Defense on a variety of equipment such as replacement of equipment lost in combat, ammunition, and selected items of high priority such as vehicles or night vision devices, Javelin missiles, sensors, unmanned aerial vehicles. In fact, to the degree that we would want to expand the existing program, which will be completed shortly for our own troops for additional add-on protection for shoulder and side-body areas or interceptor body armor for Iraqi troops, for example, or additional add-on ballistic protection for medium and heavy wheeled vehicles or multipurpose wheeled vehicles, all of those things could be paid for with the fees that would be generated out of this particular amendment.

What is this amendment? I had actually offered versions of this before. The point was to try to prevent the tobacco settlement of 1998 from resulting in a windfall to certain of the trial lawyers who were involved in that settlement. What we did is to utilize an existing Tax Code provision which says in cases of trusts, for example, where the trustee pays himself too much or an unreasonable fee, the IRS can impose an excessive tax. I say excessive because it is 200 percent of income. The purpose of it is to discourage the behavior of a trustee who would bilk the trust in effect by charging himself fees that are not deemed reasonable. And we utilize that same concept here, adding a second section immediately following that section of the Internal Revenue Code to provide similar treatment with respect to these unreasonable lawyer fees. So the concept is already in the Tax Code. We would simply apply it to the master settlement agreement for lawyer fees as well.

I make it very clear that, first of all, the amendment does not apply to any fees that have already been judicially reviewed and approved by courts under appropriate standards. It does not apply retroactively. It is only prospectively, to fees paid in the future out of the tobacco settlement on which taxes have yet to be collected. And by the way, there are about $100 million in fees paid out of this settlement every year. The trial lawyers will still receive billions of dollars in fees under this amendment, far more than their actual legal work would justify.

What we have done is to say that the cap on fees we had suggested before of $2,000 an hour—if you stop and think about it, that is a lot of money—we have scrapped that. Some people said, no, some lawyers might actually have been worth $2,000 an hour. Think about your plumber and what he charges per hour.

But we said, OK, how about $10,000 an hour. And they said, no, that is still not enough. These lawyers need more than $10,000 an hour. So what we have done in this amendment is to say: OK, we will bend over backward here, be fair to these poor trial lawyers. We are going to let them earn $20,000 an hour for every hour they put in. I think that is enough.

I am not sure that would meet most people's definition of reasonable, but we are going to say that that is reasonable, that they can earn $20,000 an hour. But that isn't enough. Some people have said this is the "one yacht per lawyer rule." I am not sure what a yacht goes for.

The bottom line is that there is a point at which the fees are obscene and unreasonable and unethical, and under the existing IRS Code, this kind of conduct is taken care of by a special tax that is imposed of 200 percent. The same thing would be true here. Obviously, what the lawyer would do is to limit his fee to $20,000 an hour and then return anything in excess of that, so he would not be taxed at 200 percent—returning that money, in this case, to the Treasury of the United States of America.

So the tobacco companies are still going to pay every dime they committed to pay in lawyer fees. But the money, instead of going to the trial lawyers, after they have collected $20,000 an hour, will go to the U.S. Treasury to pay for the military equipment that is the subject of the bill before us right now.

Now, let me make a point about these fees being excessive. Some may dispute this, although, in view of the history, I cannot imagine anybody seriously disputing it. Let me give you some examples. I will start with reminding my colleagues exactly how the tobacco fees were awarded.

In the State of Texas, for example, trial lawyers were awarded $3.3 billion for their legal work—work that amounted in this case to filing a copycat lawsuit. The fee would amount to an effective hourly rate for these lawyers of over $100,000 an hour. Most people don't make $100,000 in a year. I don't even know how many hours there are in a year, but it is a lot. This is $100,000 an hour. That is wrong. I don't think they would suffer too much if we cut them down to $20,000 an hour.

My colleague from Texas, Senator CORNYN, was attorney general of the State of Texas and he had a firsthand relationship with this issue. In fact, it was a pretty difficult situation. Let me read to you some of the things he described about what happened in Texas. I am quoting the junior Senator from Texas:

> In my home State of Texas, trial lawyers have accused the then Attorney General of demanding $1 million in campaign contributions in exchange for their being included on the State's tobacco litigation team. One prominent lawyer—a former President of the Texas Trial Lawyers Association—has since said that the attorney general's solicitation was so blatant that "I knew that instant . . . that I could not be involved in the matter," and he even later wondered if the meeting had been a "sting operation." Another lawyer simply characterized his encounter with the attorney general as a bribery solicitation.

He describes the rewards these trial lawyers reaped for their political investment:

> As for the five law firms that actually did represent Texas in the tobacco litigation, they filed relatively late lawsuits based on other lawyers' work—and were awarded $3.3 billion in attorneys fees. This award amounts to compensation that, even had these attorneys worked all day, every day during the entire period of the litigation, is well in excess of $100,000 an hour. As one newspaper editorial has noted, for the amount of money that these lawyers were awarded, Texas could hire 10,000 additional teachers or policemen for ten years.

Senator CORNYN also described how these excessive and, I suggest, clearly unethical fees were obtained by lawyers in other States:

> In Maryland, [a tort lawyer, a billionaire] demanded a $1 billion fee for his work on that State's case, even though, according to the State senate President, the State legislature had retroactively "changed centuries of precedent to ensure [his] win in the case. [He] ultimately received an accelerated $150 million payment for this no-risk lawsuit.
>
> In Massachusetts, according to other tobacco plaintiffs' lawyers, Massachusetts' suit piggybacked on the work of other lawyers and was not pivotal to the outcome of the tobacco litigation. Result: $775 million was awarded to the Massachusetts lawyers in that [State's arbitration on the tobacco case.]
>
> In Missouri, a State supreme court justice in Missouri resigned his post in order to join one of the private law firms expected to receive a portion of the [tobacco fee award.] Ultimately, the firms representing the State spent just 5 months on the State's lawsuit. They received a fee award of $111 million. One State leader has described the award as "the biggest rip-off in the 180-year history of the State." The law firms receiving these fees had donated more than $500,000 to State politicians and parties in the years leading up to their selection as the State's outside counsel.

As I mentioned earlier, these fee contracts were awarded in a variety of ways, including through political cronyism, and really resulted in very little original legal work. That is my assertion to you. Don't take my word for it. On this tort reform issue, even many of the trial bar lawyers are in full agreement that the lawyers' fees here were excessive. They certainly should know; they are experts in this area. This is what some folks, including some tobacco lawyers, had to say:

Michael Ciresi, a pioneer in tobacco litigation who represented the State of Minnesota in its lawsuit, and who is very familiar with these lawsuits, has said that the Texas, Florida, and Mississippi lawyers' fees awards "are far in excess of these lawyers' contribution to any of the State results."

Washington, DC lawyer and tobacco industry opponent, John Coale, has denounced the fee awards as "beyond human comprehension" and stated that "the work does not justify them."

Even the Association of American Trial Lawyers, the Nation's premier representative of the plaintiffs bar, has condemned attorneys' fees requested in the State tobacco settlement. The President of ATLA stated:

> Common sense suggests that a $1 billion fee is excessive and unreasonable and certainly should invite the scrutiny [of the courts.] [ATLA] generally refrains from expressing an institutional opinion regarding a particular fee in a particular case, but we have a strong negative reaction to reports that at least one attorney on behalf of the plaintiffs in the Florida case is seeking a fee in excess of $1 billion.

Perhaps the best gloss on the tobacco fee awards is that provided by Professor Lester Brickman, a professor of law at Cardozo Law School, a noted authority on legal ethics and attorney fees:

> Under the rules of legal ethics, promulgated partly as a justification for the legal profession's self-governance, fees cannot be "clearly excessive." Indeed, that standard has now been superseded in most States by an even more rigorous standard: Fees have to be "reasonable." Are these fees, which in many cases amount to effective hourly rates of return of tens of thousands—and even hundreds of thousands—of dollars an hour, reasonable? I think to ask the question is to answer it.

Let me emphasize one more point. Lawyers are universally held in the law to be fiduciaries. That is, they owe a duty of trust to their clients, a special duty of trust. One can easily understand why that is so. As such, as a fiduciary, under the legal ethics that apply to every lawyer, lawyers are not allowed to take advantage of their clients with regard to their fees. A contract for an unreasonable or unethical fee, for example, is unenforceable in the courts, and the excessive portion of the fee must be returned to the client. Numerous legal authorities confirm that lawyers are fiduciaries whose fees have always been subject to enforceable reasonableness requirements. I say this because, of course, that is what we are doing right here.

We have done that with respect to other fiduciaries in the Tax Code—the trustees I spoke of earlier—and we can obviously do it here also. One court said:

> We realize that business contracts may be enforced between those in equal bargaining capacities, even though they turn out to be unfair, inequitable, or harsh. However, a fee agreement between lawyer and client is not an ordinary business contract. The profession has both an obligation of public service and duties to clients which transcend ordinary business relationships and prohibit the lawyer from taking advantage of the client.

I will tell you what another court said:

> An attorney is only entitled to fees which are fair and just and which adequately compensate him for his services. This is true no matter what fee is specified in the contract, because an attorney, as a fiduciary, cannot bind his client to pay a greater compensation for his services than the attorney would have a right to demand if no contract had been made. Therefore, as a matter of public policy, reasonableness is an implied term in every contract for attorney's fees.

So the choice before the Senate is either to allow the tobacco settlements to be diverted to self-dealing billionaire tobacco lawyers, or to provide our troops in Iraq and Afghanistan with additional combat equipment to help them perform their missions.

The choice could not be more clear: We can either allow the de facto taxes imposed by the tobacco settlement to continue to be diverted to pay $100,000-an-hour fees to these politically connected billionaire lawyers or we can put those taxes to use providing our troops with additional equipment.

We already have the precedent of doing this with respect to other fiduciaries in the Tax Code, specifically section 4958. This adds a new section immediately following, section 4959, that applies the very same concept to these particular fees. It is prospective only. It does not apply to anything that the court has already approved.

I cannot imagine how this would not be a good idea. The amendment is a sense of the Senate to pass this proposition. I urge my colleagues to support it, assuming we have a vote on this perhaps in an hour and a half or so this afternoon.

Mr. President, if there is no one else seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, we have had some discussion about what we can do to help raise the funds to finance our fight against terrorism. At this point, we are spending $5 billion a month in Iraq. I think if we wanted to really get some money raised to continue that assignment, which we must, then perhaps we ought to consider repealing the top tax rate cut for all millionaires and raise even more money for our troops than what has been offered.

I have an amendment. It has been modified. It is fairly obvious that we are talking around the issue. It is surprising that we cannot get together in an effort to dissuade companies, to prevent companies that are doing business with terrorist states from continuing to do that. My amendment says if a U.S. company owns 50 percent or more of a corporation, that it would be a violation of law for them to continue to do business with terrorist states.

I do not know what the concerns are about this amendment. It is fairly clear we are spending so much money, so much effort, and so many lives to fight terrorism. When we register concern about American companies doing business with these terrorist states, we seem to have created a climate that has people objecting and, frankly, I don't understand why.

When we talk about supplying revenue opportunities to Iran, we have to remember that they funded the 1983 terror attack in Beirut, killing 240 U.S. marines. We are talking about an Iranian Government that funds Hamas, Islamic Jihad, and Hezbollah. I ask my colleagues whether there is anyone here who would stand up and tell the American people why we should be helping Iran. Is there anyone here who can explain how it helps our soldiers to make sure that funds and potential profits are funneled to Iran? How does it help our troops to make sure Iran has more money to pass on to terrorists? We want to shut that down.

My amendment offers a simple proposition: You are either with us or against us, and if we are serious about the war on terror, then we have to cut off every revenue source we can of those sponsors of terror. President Bush said himself, "Money is the lifeblood of terrorist operations." He is right. We know that terrorist groups, such as Hamas and Islamic Jihad, are funded by Iran and other rogue states, and we need to cut off that funding opportunity.

Terrorist operations cannot survive without funds, and that is why our sanctions program is so critical. No American business should provide revenues to state sponsors of terror, and the nations that sponsor terrorism need to learn they will be denied business opportunities as long as they are funding terror groups.

Right now, American companies are doing business with terrorist states through foreign subsidiaries, and we must stop this practice. As long as this loophole is in place, our sanctions laws have no teeth.

We know that many companies find tax loopholes or regulatory loopholes that they exploit from time to time, but in this case, we are talking about companies exploiting loopholes just so they can do business with terrorists—sham corporations.

I urge my colleagues to look at this chart because it demonstrates how companies utilize this loophole.

If a U.S. corporation has a foreign subsidiary, they can send money to Iran. Iran can then send money to support Hezbollah or Hamas in their terror, suicide bombings, with their interests in developing weapons of mass destruction. We all believe that is in the works now. We should not in any way permit these companies—American companies created here, earning their living here, the executives earning their bonuses here—to be able to get some of that money as a result of sending funds to places such as Iran and other terrorist states.

U.S. companies often have several subsidiaries, and most U.S. companies and their subsidiaries do not cross the line that prevents business with terrorist states, but some do.

President Bush also has declared that Iran is part of the "axis of evil," and he couldn't be more right. My amendment says that if we are going to impose sanctions on rogue nations such as Iran, then let's be serious about it. Let's make sure Iran is isolated for their sponsorship of terrorism.

In addition to the 240 marines who were brutally murdered in their sleep in 1983 in Beirut, Iranian-backed terror killed these 2 young American women, 22-year-old Sara Duker and 14-year-old Abigail Litle. They were traveling in Israel. Sarah Duker was a constituent of mine from Teaneck, NJ. A summa cum laude graduate of Barnard College, Sara was killed with her fiancé when the bus she was riding on in Jerusalem was blown up in 1996 by Hamas. Again, Hamas receives funding and support from the Iranian Government.

Last year, 14-year-old Abigail, originally from New Hampshire, was riding home from school in Haifa when her bus exploded as a result of a suicide bombing. That attack killed 15 people and was directly linked to terrorists funded by Syria and Iran.

Iran sponsors terrorism, and they glow in that relationship. They love to let the world know they are out to harm Americans. The terror they help fund has killed hundreds of Americans and yet American companies are utilizing a loophole in order to do business with the Iranian Government. I want to close the loophole.

It is inexcusable for U.S. companies to engage in any business practices that provide revenue for terrorism. The bottom line is that big businesses, even those with financial ties to the top members of our Government, do not get a free pass in this war on terrorism.

I hope that when my amendment comes up for a vote later on that all of my colleagues will step up and ask the questions of themselves: Why do we want to promote anything that would send funds to Iran or other rogue terrorist nations? I cannot understand why that would be.

There are laws that say it should not happen, but they lack teeth. The process does not work. So I urge my colleagues, when the opportunity comes a little later in the day, to pass this amendment to close a terrorist funding loophole.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, today I join Senators LAUTENBERG and FEINGOLD in cosponsoring an amendment to the Department of Defense authorization bill.

This amendment will close loopholes that have allowed some American companies to skirt U.S. law by working with and operating in countries that have been identified by the President as supporters of terrorism.

Although Federal law prohibits U.S. companies from conducting business with nations that sponsor terrorism, a few firms have exploited a loophole in the International Emergency Economic Powers Act and are doing business through foreign subsidiaries, thereby providing terrorist states with revenue and other potentially important benefits.

Under the amendment we are introducing today, foreign subsidiaries are barred from engaging in commercial transactions with terrorist-sponsoring states under the same standards and under the same circumstances as their parent companies.

The definition of corporate entity would include not only U.S. companies and all foreign branches, but also foreign subsidiaries.

Subsidiaries of certain companies have been using foreign subsidiaries to conduct business in countries such as Iran.

Many of these foreign subsidiaries are often formed and incorporated overseas for the specific purpose of bypassing U.S. sanctions laws.

This amendment does not change which countries are subject to U.S. sanctions or interfere with the President's ability to invoke the International Emergency Economic Powers Act; and it does not change the sanctions under the act in anyway.

It simply clarifies who is subject to the sanctions when and if they are invoked by the President.

Currently Iran, North Korea, Cuba, and Libya have been targeted by the President under the International Emergency Economic Powers Act, all countries that we can agree deserve to be on the list.

Despite the tens of billions of dollars that we are spending on the defense of our homeland, we still have a law on our books that allows U.S. companies to assist the very nations that support terrorist activities aimed at us. This is unconscionable.

I want to applaud the efforts of New York City Comptroller, the New York Police Department, and the New York Fire Department to bring this problem to the Nation's attention.

Mr. LAUTENBERG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CORNYN). Without objection, it is so ordered.

Mr. WARNER. Mr. President, on behalf of the leadership, and working with my ranking member, the Senator from Michigan, I make the following unanimous consent request.

I ask unanimous consent that the time until 5:30 be divided between the chairman and ranking member or their designees as follows: 55 minutes to Senator LEVIN, 30 minutes to the Senator from Virginia; provided further that the Senate vote in relation to the Kyl amendment, which is to be drafted as a first-degree, to be followed by a vote in relation to the Lautenberg amendment; provided further that no second-degree amendment be in order to either amendment prior to the votes. Finally, I ask unanimous consent that following the votes the Senator from Virginia or his designee be recognized in order to offer the next amendment, and following that, that the Senator from Michigan be recognized in order to offer the sequential amendment.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, using what the Senator, the distinguished chairman outlined, we would vote at 5:30 or thereabouts; is that right?

The PRESIDING OFFICER. That is correct.

Mr. REID. No objection.

The PRESIDING OFFICER. It is so ordered.

Mr. WARNER. Mr. President, I would like to say a few words about the underlying amendment. In the opinion of the Senator from Virginia, the amendment would make it more difficult for the President to impose sanctions on states that support terrorism. At present, the President must weigh the benefits of imposing sanctions against the costs of such sanctions, including costs to U.S. businesses that may be affected. Second, the amendment will introduce a new factor into this balance, weighing against the imposition of sanctions: the objections of foreign countries to the extension of U.S. sanctions laws to reach companies organized under their jurisdiction. European countries in particular have strenuously objected to U.S. actions they perceive to involve the extra-territorial application of U.S. law.

Because the amendment leaves the President no discretion not to cover companies organized under the laws of other countries, and thus avoid such objections, the amendment introduces a new cost the President must overcome in any decision to use sanctions to fight terrorism.

The amendment is unnecessary because existing law already provides the President the ability to prevent U.S. companies from evading U.S. sanctions through the use of foreign subsidiaries. Existing U.S. sanctions regulations prohibit actions by U.S. companies to evade or avoid U.S. sanctions. U.S. companies that create foreign subsidiaries for the purpose of evading U.S. sanctions laws may be prosecuted for such evasions. Existing U.S. sanctions regulations also prohibit U.S. companies from approving or facilitating actions by their foreign subsidiaries that would constitute violations of U.S. sanctions laws if undertaken by a U.S. company. Similarly, U.S. sanctions regulations prohibit any U.S. citizen employed by a foreign company from taking actions in violation of relevant U.S. sanctions.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. I yield such time as the distinguished Senator from Kentucky may wish.

The PRESIDING OFFICER. The Republican whip.

Mr. McCONNELL. Mr. President, I commend my friend from Arizona, Senator KYL, for offering his important amendment. It seeks to remedy an unethical fee schedule and provide a way for us to protect the soldiers, the taxpayers, and the public treasury all at the same time.

Lawyers, of course, have a fiduciary duty to their clients and one component of that duty is, to put it plainly, not to rip them off. But in the tobacco cases, as my friend noted, plaintiffs' lawyers got as much as $100,000 an hour for providing "legal services," and I use the term "services" loosely. Their efforts were often duplicative of legal work others had done.

I think the notion that those who file what are in large part copycat lawsuits should get paid as much as $100,000 per hour for such work is absurd on its face. Absolutely absurd.

If anyone does not believe me, let's look at what some of the lawyers themselves have said about the situation I have described. Michael Cerisi, who pioneered the tobacco litigation and who represented the State of Minnesota in its lawsuit against the tobacco industry, said the fees of the lawyers who brought the lawsuits on behalf of Texas, Florida, and Mississippi "are far in excess of these lawyers' contribution to any of the state results."

John Coale, Washington, DC, lawyer and noted opponent of the tobacco industry, has denounced the fee awards as "beyond human comprehension" and stated that "the work does not justify them."

Even our friends at the American Trial Lawyers Association have found it very difficult to defend this practice. The past president of ATLA has said:

> Common sense suggests that a one billion dollar fee is excessive and unreasonable and certainly should invite. . . . scrutiny.

That is the past president of ATLA. He goes on to say that ATLA:

> . . . generally refrains from expressing an institutional opinion regarding a particular fee in a particular case, but we have a strong negative reaction to reports that at least one attorney . . . is seeking a fee in excess of one billion dollars.

The Tax Code already provides a remedy for abuses by certain fiduciaries. It requires trustees to disgorge themselves of ill-gotten gains that are due to the violation of their duty as fiduciaries. The Kyl amendment simply expresses the sense of the Senate that we ought to amend this section of the Tax Code so that it encompasses other important fiduciaries—namely, personal injury lawyers in mass tort cases. I would be shocked if my colleagues opposed it. If they do, they would be saying it is more important for personal injury lawyers to receive more than $20,000 an hour than it is to use excessive fees to protect our troops.

The Kyl amendment notes some of the things that could be purchased by requiring the disgorgement of these ill-gotten gains: up-armored high-mobility multipurpose wheeled vehicles; add-on ballistic missile protection for medium and heavy wheeled vehicles; interceptor body armor including add-on protection for the shoulder and side body areas; unmanned aerial vehicles; ammunition; night-vision devices; sensors; Javelin missiles; and replacement of equipment lost in combat.

This amendment does not turn personal injury lawyers into paupers. It only applies in mass tort cases where the judgment is over $100 million, and it merely ensures that lawyers do not take advantage of their own clients.

With respect to the tobacco litigation in particular, it provides that plaintiffs' lawyers are guaranteed to make no less than $20,000 an hour. That is right—not $20,000 a week, not $20,000 a day, but $20,000 an hour. In short, it guarantees plaintiffs' lawyers a minimum wage of $20,000 per hour. If they can show somehow that it is appropriate for them to be paid more, then I suppose they could even get more than $20,000 per hour. What it will prevent, however, is personal injury lawyers being able to get, as a matter of course, unjustified and excessive fees from their clients to the tune of $100,000 per hour or even more. My friend from Arizona has referred to this as the "one yacht per lawyer" rule. With a minimum wage of $20,000 per hour, I think it is more appropriate to term it the "one yacht per lawyer per week" rule.

I hope my colleagues will not choose trial lawyers over the troops.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. REID. Mr. President, I ask my friend to yield whatever time I may consume.

Mr. LEVIN. I am happy to do that.

Mr. REID. Mr. President, I have been called upon in the past, as have other Members of this body, to interfere with what goes on in corporations—that is, to tell corporations they are limited in what they can pay their corporate executives. I have chosen not to become involved in that. I truly believe, even though some of these compensation packages are outlandish, in my opinion, it is not up to me. In our free enterprise system, it is up to the board of the directors of those corporations to determine what someone is worth. It is inappropriate, in this free enterprise system in which we are living, we take away the ability of corporations to run corporations.

I have always looked at the salaries of ballplayers. We have a 14-year-old boy named Freddie Adu, who is the highest paid player in the American Soccer League. Now, are they paying a 14-year-old boy too much money? He is making more than people who have played soccer for 20 and 25 years. It is kind of up to them to determine how much money he should get.

The average salary of a professional Major League baseball player in America today is around $2 million a year. That is a lot of money for a person who bats a ball, throws a ball, catches a ball, and runs around the bases, but that is what they get in our free market system. They get a lot of money.

My friend Greg Maddux from Las Vegas made $15 million last year. He pitched about 30 times. I don't know how much that amounts to, but that is a lot of money he makes. This year he has taken a tremendous cut in pay. He is only making $8 million a year. However, Greg Maddux is being paid what the market determined he was worth. He was released by the Atlanta Braves and he shopped around. The Mets wanted him, the Baltimore Orioles looked at him, and he determined, rather than go with San Diego and the other teams I mentioned, he would play in Chicago for $7 million or $8 million a year. That is what America is all about, the free enterprise system.

If we want to be picky and talk about how much is too much, we might want to take a look at a man by the name of Reuben Mark—Colgate-Palmolive—who in 2003 was paid $149,970,000. That is a lot of money. That does not take into consideration a lot of the stock options he could have exercised if he had wanted to. I have the amount of money he could make from the stock options he could exercise if he chose to. It is, again, in the tens of millions of dollars. I cannot find it right now. Let's see if I can flip over to that. But it is a lot of money.

George David, of United Technologies, last year made almost $71 million. Again, it does not take into consideration the other money he could have made had he wanted to. Is United Technologies paying him too much money? It is none of my business, I believe, as a Member of Congress to tell United Technologies how much money they can pay George David.

Is it my business to determine how much Lehman Brothers can pay Richard S. Fuld, Jr? Last year he made almost $68 million. I do not think so. I think it is up to this company. Even though I think this is a huge figure to be paid, and I think it is unfair to the stockholders, I am not on the board of directors, and they may know things I do not know. And, in fact, they do.

Henry R. Silverman, with a company called Cendant, made over $60 million last year. Should we interfere with this? The answer is no.

Right here in the Washington, DC, area, there is a man by the name of Dwight Schar. I wish I had known this guy was as rich as he was. Or maybe I do not wish that. When we moved here 22 years ago, we bought the home that he lived in. He was living there. I went and met Dwight Schar, kind of a quiet guy. He did not say much. I understand now why he was unwilling to negotiate the price of that home. He said that is what he wanted, and he was unwilling to change that. Obviously, he is a good negotiator because last year he made over $58 million from NVR. They build homes.

Oracle Company paid Lawrence Ellison almost $41 million last year. And on and on, with these huge corporate salaries.

Using the logic of my friend, the distinguished junior Senator from Arizona—a fine man; I have great respect for him, but using the logic he used today, then, the free enterprise system really must not apply to everybody, only to some. We know there are companies that are well known around here. As I indicated, Reuben Mark of Colgate-Palmolive was the champion last year, that we know of at least, at $148 million. He did quite well. He had, just from stock alone, $131 million last year. And he is just one of a number of people.

But we have others who did quite well last year who are almost household names around here—not because they are known as good businesspeople, as are those people I have mentioned to this point; every one of these men I have talked to, Dwight Schar and all the rest, are known as extremely good businesspeople. But as we get down to some of these corporations, for example, we could take a look at David Lesar, who is the chairman and president of the Halliburton Company. Last year he did not do as well probably as some. He only made about $8 million last year from Halliburton. But he has, of course, $26 million in unexercised stock options that he could have used. But I guess with all that is going on with Halliburton—and that, of course, is the basis for this amendment that has been offered by my distinguished friend from New Jersey, Senator LAUTENBERG.

We do not, as Members of Congress, have the right, in my opinion, to interfere with the private sector. I have no right to say that Freddie Adu is making too much money playing soccer as a 14-year-old boy, or that Barry Bonds is making too much money, or that some guy who is batting .220 playing in the Major Leagues is making too much money being paid $15 million a year. Should we in Congress say that because he is not batting more than .240, his salary should not be more than $6 million? I do not think so.

Do we have any right to tell these companies that I have mentioned here that they are paying their people too much money and that Congress should step in and stop them from doing so? I do not think so. I have never felt that way.

We have here before us now a situation where we have a sense-of-the-Senate resolution. It was filed in that sense because had it been filed any other way there would be technical objections to it. So this is a so-called message amendment. It has no real impact. Even if it passed, it does not mean anything. But it is an attempt to embarrass people. It was offered because people are very uncomfortable with the amendment offered by my friend from New Jersey.

The distinguished Senator from New Jersey has offered an amendment that directs attention to some of the things that are going on with American companies, saying their foreign subsidiaries should not be able to do business with terrorist organizations and countries that work with terrorist organizations.

Mr. President, I was a lawyer. I am not ashamed, embarrassed, or concerned that in the past I have taken cases on contingent fees. What does that mean? It means someone came to me, and they had no money to prosecute their own case, and they said: Mr. REID, here is what has happened to me.

I can give you a couple examples that come to my mind. I can remember a woman by the name of Billie Robinson who came to me. I mentioned her name once before on this floor several months ago. Billie Robinson came to me. She was from Searchlight, NV, where I was born and raised. When she came to see me, I did not know her. I, of course, had been gone from Searchlight since I was a little boy. But she knew my mother who lived in Searchlight.

She could not talk very well. I proceeded to visit with her, and her problem was this: Billie Robinson had headaches, and she would come over to Searchlight to see various doctors. They told her: The only thing wrong with you, Billie, is you need to sober up. You are a drunk.

What they did not know and she tried to explain to these people is her headaches were so bad she drank a lot. By the time they realized, after about a year and a half, that she was having headaches because she had a tumor—they had misdiagnosed her condition—they operated. That is when it affected her a lot. She was not the same person after the surgery.

So she came to me and said: What should I do? So I represented her. I took that case on a contingent fee. For every dollar I got for Billie Robinson, I got a third of it. That was a standard fee. It still is a fairly standard fee. I did not know if I was going to be able to recover anything because when you go against doctors sometimes these cases are very complicated and involve expert witnesses. They fought this case for a while. Finally, I was able to arrive at an agreement, and we settled the lawsuit for Billie Robinson. I got a third of what we recovered.

Now, how much was I paid an hour? I really do not know. I was probably paid pretty good by the hour. But it was a case that she had shopped around, and other people would not take her case. I took a chance. I advanced fees for Billie Robinson, and I got her enough money that she led a comfortable life. She bought a new mobile home that she parked there in Searchlight. She had someone who could come in and help her. Now, does this Congress have the right to come in and say that the agreement she made with me was a bad deal, that I was paid too much money? I do not think so.

I remember a woman by the name of Joyce Martinez who came to see me. She was a really nice woman. She had been all over town trying to find a lawyer to take her case. This woman was a cocktail waitress at the Hacienda Hotel on the Strip in Las Vegas. She was there in her little skimpy gown they have, serving drinks to people, and the Las Vegas Police Department came and arrested her, took her off to jail because of her having written bad checks. She had not written any bad checks.

So I filed a lawsuit against Safeway Stores, and people, including the judge, said: What are you doing taking our time on this case? I demanded a jury. And I got a lot of money for Joyce Martinez. That was on a contingent fee. I took a chance on that case, and I won the case. I was paid pretty good by the hour. I do not have any reservations about having been paid a pretty good sum by the hour.

This Congress has no right in our free enterprise system to second-guess what Joyce Martinez did. What we are doing here is saying that attorneys, who entered into contracts to represent people—and sometimes not contracts, sometimes the State came in later and looked at the good works that they did—I do not know all the facts of this tobacco stuff, but I do know there were a number of lawyers, a handful of lawyers, in America who decided they would take on the tobacco industry.

It took a lot of money to fight one of the biggest businesses in the world, tobacco. And after many years, they won. It is a benefit to everyone in America that they won because now they cannot at will go out and solicit young children to smoke cigarettes and to become sick and addicted to tobacco. We owe those lawyers a debt of gratitude, not to say they are making too much money. Had it not been for those lawyers, we would still be having children openly and notoriously being attacked by advertising and other means to start smoking. That is what they did. The lawsuits uncovered the fact that they knew how much tobacco was addictive, and they went after these children. These children now are dying of emphysema.

I don't know for sure, but Smarty Jones' owner, I will bet, was a big smoker, and I bet he started as a kid. That is why you see him now being wheeled around and trying to breathe through that apparatus.

At my home in Searchlight, Fritz Hahn had a place there and watched my home for 15 years. He started smoking as a teenager. He is dead now, having died within the past 6 weeks as a result of tobacco, cancer of the throat. He suffered and suffered, and he is dead. Now as a result of the work of these tobacco lawyers, there are going to be fewer Fritz Hahns in the world. I don't apologize for how much money these lawyers made. They did me, my children, my grandchildren, and my children's children a favor.

I also believe the pending amendment is discriminatory, unprecedented, unconstitutional, and just plain bad policy. This amendment endorses the idea that Congress should fix the rates attorneys are allowed to charge for providing services, not for everybody but certain types of clients. If a lawyer earns more than Congress allows, that person will have to pay back the extra or pay a 200-percent penalty. A 200-percent tax on income is unprecedented in this great Nation. Our Nation's tax system has never had this before. Never in the history of this Nation have we assessed a 200-percent tax on income that is legally earned that I have heard of.

Justice Marshall said it best when, in the infancy of this country, he declared the power to tax is the power to destroy. There could be no better illustration of that concept than this amendment.

In this Congress, my friends on the other side pay a lot of lipservice to the free market. But they don't like the free market very much now in this case with this amendment. First of all, this amendment would interfere with legal private contracts just like the one I had with Joyce Martinez, just like the one I had with Billy Robinson. Legal fees are not assessed taxes. They are not assessed out of the control of the clients. When someone wants to hire a lawyer, they can generally choose from a variety of attorneys who will perform the necessary services.

I gave two examples where these women couldn't find anybody else to represent them. I have taken a lot of cases, I am sorry to say—I am not sorry to say, it is part of the system. I have taken cases where I didn't get anything back, but I thought I was doing the right thing by taking them. I can remember a case where a little girl stepped off a schoolbus and was hit by a car on Russell Road in Las Vegas. I tried that case to a jury. I thought I deserved to win that case. I lost it. I felt bad about that. But that is what our free enterprise system is all about, the free market system.

This amendment would interfere with legal private contracts. Clients don't have the power to negotiate rates with attorneys they retain all the time. If a client feels a rate is unfair, there is nothing to prevent that client from taking the business elsewhere.

Beyond being bad policy, I oppose this amendment because it encourages constitutional taking of private property. By forcing attorneys to return their fees or suffer a 200-percent penalty without any semblance of legal process, this amendment demands these professionals simply hand over to others income they have lawfully earned.

There may be some who believe a tobacco lawyer earned too much money, just as I feel Reuben Mark made too much money, just as I feel George David made too much money, Richard Fuld made too much money, Henry Silverman made too much money, and Dwight Schar made too much money. But it is not my right as a Member of this Congress to tell them they can't make that much money.

It is no secret why Members of the other side of the aisle, in my opinion, are interested in passing this kind of amendment. This amendment uses the Tax Code and the full power of big Government to punish one particular kind of lawyer, the kind who tries to protect consumers from big corporations.

A Republican governor in the State of Nevada, Kenny Guinn, my friend, established what is called in Nevada the millennial scholarships, giving scholarships to large numbers of children who have a B average when they graduate from high school. With what are those scholarships paid? Tobacco money. From where did the tobacco money come? From these lawyers who went to court and took a chance. That is where the money comes from.

In Nevada, as in many other States, there are programs similar to that. We are saying, what did these lawyers do to earn their money? Ask a kid going to college in Nevada who wouldn't have the opportunity to go to college but for Kenny Guinn's millennial scholarships.

These lawyers, the ones they are trying to castigate and punish here, are the lawyers who try to protect consumers from big corporations. These tobacco companies are big corporations, and due to the lawyers they are getting smaller all the time. The same people who want to cut taxes for the wealthiest corporations in our country now want to impose an unprecedented 200-percent tax on attorneys who hold these powerful companies accountable when they cause injury to ordinary Americans and their families.

This amendment sets a terrible, horrible precedent that next we are going to be looking at these salaries. Next we are going to be looking at Freddie Adu's salary to see if he is making too much money or that man who plays baseball who is batting .210 and getting paid $18 million a year.

If we look back, it is a dark chapter in the history of our Federal Government, but one of the articles of impeachment against President Nixon dealt with his abusive and discriminatory use of tax laws to harass his political enemies. I don't compare this to that, but I think it is something that draws reference, that what we have here is an effort to punish and use discriminatory tax laws to harass someone you don't like, the tobacco lawyers.

This is a bad amendment. I am confident people of goodwill will join together, Democrats and Republicans, and resoundingly defeat this very un-American amendment.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I would like to respond to the comments of my friend from Nevada. He had five basic arguments. I think they could all be dispensed with fairly quickly.

His first argument is there are a lot of people who make money in this country, a lot of money, CEOs of businesses, sports figures, and others who receive very large salaries. He wondered if there is any difference between that and the tobacco lawyers who are billionaires because of the money they have made off the tobacco settlement. The answer is, yes, there is a huge difference. The CEOs and the sports figures are not fiduciaries. They are not in a trust relationship with the people who pay their salary. A sports figure, for example, uses a representative of the union and negotiates a fee with the baseball team, and they do pretty well. But it is all a contract negotiation.

If George Steinbrenner is willing to take any New York Yankee player, whatever he is willing to pay him, that is what he thinks he is worth, that is what he brings in the gate, that player is not taking advantage of George Steinbrenner or the New York Yankee fans based upon any fiduciary responsibility.

It is the same thing with respect to the boards of directors who set the salaries of CEOs of major corporations. What I quoted before from professors of law and others is that there is a special category of people who are in a fiduciary relationship. I know my friend from Nevada, as a good lawyer, knows this concept. Lawyers owe their clients a very special duty, a duty far and above what normal contract law is. You cannot take advantage of your client. Even if you can get your client to sign an agreement regarding fees, that agreement will be thrown out of court if the court determines it is unfair.

That doesn't apply with the rich CEOs or the rich sports figures, but it applies in the case, for example, of lawyers, of fiduciaries who are trustees of a trust.

That gets to the second argument—that this is unprecedented. No, it is not. I refer my colleague to section 4958 of the Tax Code. The section deals with an intermediate sanctions tax on fiduciaries, trustees who pay themselves too much money out of a trust. They are held to a standard of a reasonable fee. If they exceed that fee, they pay what? A 200-percent tax.

We got the idea from the Tax Code. We didn't make this up. It is not unprecedented. So our section follows that section; it is 4959. So 4958, existing law, says if you are a fiduciary, a trustee, and you charge your trust too much money for your salary so that the beneficiary is being hurt and it is unfair, then you are going to pay a 200-percent tax to the IRS unless, of course, you give the excessive part back and the tax is waived. That is the whole idea. We never collect the 200-percent tax because nobody is foolish enough to take the money and pay twice as much back.

They just don't take the money in excess of what is fair. It is in the code and it applies to fiduciaries, people in this special trust relationship.

The third argument was that the tobacco settlement was good, and it is good. There were scholarships, and a lot of people benefited from it. What bothers me is the fact that lawyers benefited unreasonably from it—not all lawyers; a lot of tobacco lawyers did a lot of work and got paid a lot for it, but they put the work in. Others rode along on the work of others and charged far in excess of what any reasonable fee would be.

That gets to the next argument. My friend from Nevada talked about cases he took on a contingency fee, a one-third fee. He is correct. That is common for plaintiffs' lawyers. When they win, they get a third of the settlement. In many cases, that is a totally fair and reasonable fee. I know in the case of my colleague of Nevada, it was fair and reasonable because that is exactly the kind of person he is. If for some reason it would not have been, the court would not have allowed it because of this special fiduciary relationship with his clients. The court would not have allowed it if it exceeded that amount. I am sure—and I would not ask my colleague—that none of those fees topped $20,000 an hour. That is the amount we have set forth in this bill.

Again, these are not my words. I will quote a couple of people. John Coale, who is a big tobacco industry opponent in Washington, DC, denounced these fee awards as "beyond human comprehension" and stated that "the work does not justify them."

The president of the organization to which these lawyers belong, the Association of American Trial Lawyers, said:

> Common sense suggests that a $1 billion fee is excessive and unreasonable and certainly should invite the scrutiny [of the courts.]

The point is, a one-third contingency fee in a typical case is perfectly fine. But a one-third contingency fee in tobacco litigation—the kind of reward these lawyers are receiving—is totally unreasonable by any standard, including that of the president of the organization to which these few lawyers belong. These lawyers have already received about $4 billion in awards. None of that will be touched. They are going to get another $½ billion a year under the settlement.

All we are saying is that a reasonableness test has to apply, just as it does to other fiduciaries under the Tax Code. The excess refers to the Treasury so we can pay for things the Defense Department needs.

Another argument was this would interfere with private contracts. No, it doesn't. It has no applicability between lawyers and clients—none. All this applies to is this master settlement agreement that automatically pays out a $½ billion in fees per year to these lawyers. It doesn't apply retroactively; it only applies if and when the collection by the lawyer gets to the point that it represents more than $20,000 an hour. These lawyers can be paid until the cows come home at $19,999 an hour. But when the level finally gets to $20,000, we say that is enough. Just as the Tax Code today makes the trustee pay the rest of it back, we say the rest of it gets paid back. It doesn't hurt the plaintiffs at all. The plaintiffs have received what they are going to receive out of the settlement. It doesn't help the tobacco companies. They still have to pay the money. But the tax—in effect, the money the tobacco companies pay goes partially to the trial lawyers, and the rest goes to the U.S. Treasury, rather than all of it going to the trial lawyers. So the tobacco lawyers get paid what is fair—more than fair—and the plaintiffs have already received their reward. The tobacco companies still have to pay what they had to pay originally. The benefit is to the U.S. Treasury, Department of Defense, and the people we put in harm's way to carry out their missions.

The final argument made was one that I am not sure why it was made. My colleague acknowledged he knew this wasn't my motivation. Since I offered the amendment, it is unclear whose motivation therefore it would be—that it was a discriminatory tax policy to get at political enemies. This is what Nixon is alleged to have done. Of course, that is not the case here. I don't even know who these people are. I could not give you the name of one of them. I don't know how many there are. I don't know their politics or anything else. All I know is what others have said about them, which is that their fees are unconscionable, beyond human comprehension, that the work doesn't justify them, that the fees are excessive and unreasonable and should invite scrutiny, and so on and so on.

The question the law professor asked after going through the ethics rules about lawyers fees always having to be reasonable, the kind of fee contracts that my colleague from Nevada had with his clients—he goes through that and says fees cannot be clearly excessive. The fees have to be reasonable. Then he asked:

> Are these fees, which in many cases amount to effective hourly rates of return of tens of thousands—and even hundreds of thousands—of dollars an hour, reasonable? I think to ask the question is to answer it.

At the end of the day, the arguments raised against this amendment, frankly, are all fallacious. There is no relationship to CEOs or other people who make a lot of money. They don't have the same fiduciary relationship that a lawyer has to his client. A one-third contingency fee is a good thing. We all stipulate to that. But it still cannot be unreasonable.

In this case, the amounts are so egregious that they go far beyond what the Senator from Nevada was talking about. Unprecedented? No. It is in the Tax Code today—the same 200-percent tax, the same application to the fiduciaries who charge more than reasonable fees.

By the way, that also applies to another kind of fiduciaries—these particular tobacco lawyers. It would not interfere with other private contracts. By its terms, it doesn't apply to that.

I think the bottom line here is that we are faced with the same choice we had before. We have an opportunity to generate some funds to pay for the things our troops need. We are on the Defense authorization bill. We are trying to authorize a lot of programs. Eventually, we are going to have to appropriate money for them. This amendment provides additional funds of, by my calculation, something on the order of about $9 billion, that we can apply toward the acquisition of this important equipment and the other things needed in our Defense bill.

I suggest we need to give that stuff to our troops, that this is a way to pay for it, and that we have the added benefit of conforming our Tax Code to a situation here that is totally unreasonable and unconscionable, in the words of many, and that is that some of the tobacco lawyers are reaping a windfall.

Money that is paid by the tobacco companies instead would be paid to the Treasury because it is far in excess of what is a reasonable fee. We have said, OK, we will not limit it at $2,000. Some people said a reasonable fee might be more than that. We said, how about $10,000 an hour? No, that might be a reasonable fee someplace. We said $20,000. I have not found anybody who can come on this floor and say to me that a legal fee, even in this case, of $20,000 an hour for all of these hours of work is reasonable and will meet the laugh test or the reasonableness test, which is the test all lawyers must meet and the test of the IRS Code with respect to fiduciary duties in the trustee context.

It seems to me we have a great opportunity to help our troops. We are not hurting anybody by this amendment. I do not even think we can argue we are hurting these billionaire lawyers. I think it would be hard for them to spend all they have, and the little bit they are going to be denied here can do a whole lot more good in equipment in the hands of our troops. They cannot justify those fees coming to them in a prospective way under the settlement agreement they are taking advantage of today.

This is the amendment we will vote on first. I urge my colleagues to vote for it.

Then I urge my colleagues to vote against the underlying Lautenberg amendment. The easiest way to summarize the Lautenberg amendment—the Senator from New Jersey presented photographs and told some very disheartening stories of people who had been taken advantage of by other countries that harbor terrorists and that the United States does not consider places where American companies should do business.

I totally agree with the Senator from New Jersey. We need to have a provision for sanctions in a case such as that. If it were not for the fact we already have one, I would be supportive of the Senator's amendment. But we do already have a provision. It is being applied by the President of the United States.

The point I tried to make earlier is that—and I am sure he did not mean to do it this way, but the language of the amendment of the Senator from New Jersey is even more restrictive than current law because it talks about ownership and control and defines it as at least 50 percent when, in fact, you can keep the ownership under the 50 percent and still have effective control of the corporation.

In the case of the application of sanctions the way the President does it, he takes into account both factors so that a company that keeps the ownership at that level, under 50 percent, is not at all exempt from the application of sanctions imposed by the President of the United States because we also take into account the element of control.

The Treasury Department and the State Department oppose the Lautenberg amendment because it restricts the President's authority in ways it is not restricted today.

If there are any situations in which we need to apply these sanctions to countries where they are not applied today, I am perfectly willing to discuss that with anybody and urge the administration to do so. We have the authority today. The President is utilizing it. It does not seem to me, therefore, that the amendment of the Senator from New Jersey should be supported.

I urge my colleagues to support the Kyl amendment, which will be voted on first, and oppose the Lautenberg amendment. That vote, I understand, will begin at 5:30 this afternoon.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada, the Democratic whip.

Mr. REID. Mr. President, Senator LEVIN is in the Chamber. I asked that he allow me to speak again, which he indicated he will.

Mr. LEVIN. Mr. President, I am happy to yield time to the Senator from Nevada. I do not know if we have other speakers. How much time remains?

Mr. REID. There is 32 minutes left; is that right, Mr. President?

The PRESIDING OFFICER. That is correct.

Mr. KYL. Mr. President, will the Senator from Nevada yield for a question? Is there a division of time for both sides? Has the Chair announced how much time remains on both sides?

The PRESIDING OFFICER. There is 8 minutes remaining on the majority side; 31½ minutes on the minority side.

Mr. REID. Mr. President, a great book, certainly a classic, was written in 1776 by Adam Smith called "The Wealth Of Nations." This was the first time it was put down on paper that someone understood, from an economist's point of view, what the free enterprise system was and could be, and that is the basis for our country, this free enterprise system we hear so much about, capitalism, free markets. That is, in effect, what this debate is all about.

It is about free markets; what people have the right to do and not do. We have given an illustration of baseball players and other court cases. The top 10 executives, as far as compensation in 2003, made about $14.6 million a month. That is what they made. I think my math is right. No, the top 10 executives made last year about $600 million. That is a whole lot of money, as we know. Is that too much money, more than half a billion dollars for the top 10 corporate executives in America to make?

As I said before, I think so, but what right do I have to go to Nevada businesspeople—take, for example, the MGM corporation. MGM corporation, the vast majority of stock is owned by one of my former clients, Kirk Kerkorian, a great businessman, a wonderful human being. I have no idea how much Kirk Kerkorian makes, but he does not pay himself much money. He drives a relatively small car. He has a few things that appear to be luxurious, but not too many. He pays his corporate executives lots of money. Why? Because they deserve it.

His No. 1 executive is a man by the name of Terry Lanny. Terry Lanny makes lots of money. According to the figures here, he did not make the top 10, but he is way up at the top. Why? Because the marketplace indicates that is what Terry Lanny is worth. It is no different than these lawyers. Terry Lanny has a contract. I have not seen it, but it calls for compensation today, next year, and I am sure years after that. If he left today, Kirk Kerkorian's company would keep paying him deferred compensation. That is what it is all about. That is what these lawyers have. We have no right to interfere.

We are talking about some law professor. I have the highest respect for law professors, but they are some of the most underpaid people in America, and I bet they are so jealous of people making money that they could hardly wait to run to tell somebody they are being paid too much. Windfall—anything to a law professor is a windfall. So I am not impressed with a law professor saying some lawyer is making too much money.

What I would like to say is that law professor should be out seeing how much money he can make, but I am not going to say that. What he is doing is second-guessing what the free market does.

I understand the examples my friend from Arizona has given, how he thinks my argument is distinctive from the facts, but I think it is pretty clear what I am talking about, the points I have made.

The example he has given with the fiduciary trust relationship is a totally different situation. The distinguished Presiding Officer is a lawyer who is certainly qualified to discuss legal matters, having been the attorney general of one of the most populated States in America. We know problems arise with people who have trust agreements. Many of them are not lawyers, and there has to be some control set because they do have a fiduciary relationship. Many of the people they represent are babes in the woods, so to speak, and there has to be some oversight there, and I agree with that. But I am not here to say corporate executives make too much money, or, I repeat, ballplayers make too much money, and lawyers make too much money. I think we should let the market control this situation.

I hope this Congress, which talks so much about our capitalistic form of Government, this Senate which talks about it, I hope they will put their votes where their mouths have been in the past.

I suggest the absence of a quorum and ask that the time run against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. COLLINS). Without objection, it is so ordered.

Mr. REID. I ask unanimous consent that the distinguished Senator from Nevada, Mr. ENSIGN, be allowed to speak as in morning business and the time that he uses run equally against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Nevada.

HONORING OUR ARMED FORCES

Mr. ENSIGN. Madam President, I rise to speak for a few minutes about the men and women in uniform who are serving this Nation in Iraq, Afghanistan, and around the world.

I know the recent news has focused on the actions of a few of our service men and women, but I rise today because they truly are the exception.

I want to thank the members of our armed services who continue to exhibit extraordinary bravery, integrity, and commitment. I want to remind them we are grateful for them each and every day as they defend our freedom and our security.

My State of Nevada is proud and blessed to have many sons and daughters among the ranks of those on the front lines of our war on terrorism, people such as Jon Carpenter. Jon Carpenter is a 42-year-old marine reservist on his second tour in Iraq. Back in Las Vegas he has a wife and five children, and a proud community.

Jon wrote a letter earlier this year to his friends and family explaining why he would return to Iraq with the First Marine Division.

I ask unanimous consent that the entire letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> Why is Jon going back to Iraq?
>
> It is a question my wife and I have heard from quite a few people recently after announcing that I am getting orders to return to Iraq with the 1st Marine Division.
>
> Some have asked with a quizzical tone, assuming that I had already done my duty for the country with my first trip to Iraq last spring.
>
> Some have asked with expressed concern that I have a good wife, five good kids, a good church and a good job here at home that all need me, and that I should let the younger men and women run off to war and serve their country.

> When people ask why I am going back to Iraq, I say "Because the country has asked."
>
> Our country is at war, and even though the battlefields are different than those of WWII, the dangers of not winning this war are at least as great as those of our country's previous wars.
>
> It is very easy to forget that we are at war, due to the level of prosperity we have here and the lack of terrorists attacks we have had since the beginning of this war on terror. But we are at war, and during times of war, men and women must make sacrifices.
>
> I look at the sacrifices that our fellow countrymen have made during the world wars; and my previous deployments pale in comparison.
>
> When people ask why I am going back to war, to fight on foreign soil, to prevent the war from being fought on our soil, endangering my family and friends, I say, "Because I can."
>
> The next question is usually, "What will Jon be doing there?"
>
> I will be deployed with 1st Marine Division (Forward), when they go back to an area near Baghdad. I will be part of the Government Support Team, and assigned to the Police Training team, responsible for retraining the Iraqi Police to retake control of law enforcement functions and maintaining the peace.
>
> The next question is usually "How can we help you or your family?"
>
> I usually say to pray regularly for my wife, family and I, and to be supportive of the President and his policies in Iraq. Both of these are extremely important, especially in light of the relentless attack on the President, during a time of war, by our country's own extremist citizens; i.e. the liberals and media elite who hate that another socialist country has fallen (Iraq), and that conservatives can take credit for the tremendous successes we have had in the war on terrorism.
>
> From experience, I can tell you how demoralizing all of the criticism of the military and the dissension in the country is on the troops in Iraq. It also encourages the radical criminals and terrorists we are fighting over there to continue fighting in hopes we will pull out.
>
> We are doing the right thing there, we are winning, and the majority of the Iraqi citizens truly appreciate what we are doing for them.
>
> So, thank you for your past support and thank you for your future support of this next mission in Iraq.
>
> Sincerely—Jon Carpenter.

Mr. ENSIGN. He states:

> When people ask why I am going back to Iraq, I say, "Because the country has asked." Our country is at war, and even though battlefields are different than those of WWI, the dangers of not winning this war are at least as great as those of our country's previous wars.

He continues on to write:

> But we are at war, and during times of war, men and women must make sacrifices.

Jon was wounded a few weeks ago when he was shot through the neck. He has recovered now, pinned with a Purple Heart, has returned to his work training Iraqi police officers. Actually, he could not wait to get back to his fellow troops.

It is commendably common for our wounded troops to return to the front lines when given the option. That is because they are focused on the mission and determined to get the job done.

Army PFC Sean Freeman, Sparks, NV, is another example of a determined soldier. He was wounded in a June 22 ambush last year in Baghdad where he was stationed as an artillery crewman. Sean suffered back, shoulder, and arm wounds and is stationed in Germany while he recovers. He is motivated to do so, so he can return to Iraq.

The stories of bravery and heroism are truly inspiring and there is no shortage.

Dr. Thom Merry in Douglas County, NV, volunteered for duty in Iraq as a flight surgeon and has since been decorated with a Bronze Star for entering a minefield, without regard for his own personal safety, to rescue a severely injured marine.

TSgt William Kudzia, stationed at Nellis Air Force Base in Las Vegas, was engaged in ground operations against an opposing armed force in Iraq and hand-excavated 226,000 pounds of high explosive bombs buried by fleeing Iraqi forces.

With disregard for his own personal safety, he hand-removed a burning projectile, saving the lives of his team members and averting a catastrophic detonation. He was also awarded the Bronze Star with Valor.

As brave as our men and women are, I think there is an equal amount of emotional bravery exhibited by the spouses, parents, and children left behind to wait for their loved one's safe return. Nevada Highway Patrol Trooper SGT Jim Olschlager's son, James Jr., is on an aircraft carrier. His daughter Laurie is in the Army and will be sent to Iraq in September, and his son-in-law Kendall is currently serving in Karbala, near Baghdad.

In Fallon, NV, Juanita and Kevin Porteous got to visit with their son Jon for only a few days before his leave was cut short and he had to return to Iraq. I had looked forward to meeting and thanking Jon on a recent trip to Fallon, but was honored to deliver my appreciation via his parents. They are extremely proud of him, but that does not make the waiting or the worrying any easier.

My prayers are with the Olschlager and Porteous families and every other family which is anxiously awaiting the return of a loved one. We all thank them for the sacrifices they have made to keep this Nation safe. The men and women of our Armed Forces are truly defending our security. Our missions in Iraq and Afghanistan are critical to the continued ability to fight terrorism on foreign soil rather than on our shores.

Make no mistake about it, a war on our homeland would be devastating. That is why it is so important for us to continue steadfastly supporting our troops. Although we cherish our freedom of speech and the opportunity to debate, our united voice of support is essential if we want our troops to continue giving 110 percent to the mission.

It is easy to pretend what we as elected officials say is not heard by the men and women on the front lines, or for that matter by our enemies, but listen to what Jon Carpenter, the marine I talked about earlier, wrote before heading back to Iraq:

> From experience, I can tell you how demoralizing all the criticism of the military and the dissension in the country is on the troops in Iraq. It also encourages the radical criminals and terrorists we are fighting over there to continue fighting in hopes we will pull out. We are doing the right thing there, we are winning, and the majority of the Iraqi citizens truly appreciate what we are doing for them.

God bless Jon Carpenter and all of the men and women who are willing to lay their lives down for this Nation. Our prayers are with you and your families. God bless America, truly the home of the brave.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Madam President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FEINGOLD. Mr. President, I want to express my unwavering support for the men and women who wear this country's uniform and who are so bravely serving in dangerous areas throughout the world on our behalf. I have strongly supported and will continue to strongly support efforts to ensure that these courageous men and women continue to receive all of the resources they need to perform their duties. This is a serious issue that deserves serious focus. It should not be a part of gimmickry or a political sideshow and for that reason I oppose the amendment offered by the Senator from Arizona, Mr. KYL.

Mrs. BOXER. Mr. President, Senator KYL has offered an amendment expressing the sense of the Senate that an excise tax should be imposed on any lawyer's contingency fees in tobacco cases when those fees exceed the equivalent of $20,000 per hour.

I oppose this amendment because it singles out only one group of people who will be subjected to a government-imposed salary cap—lawyers who go after the tobacco companies.

The Kyl amendment does not apply to the CEO of Halliburton or Enron. It does not apply to the CEO of an HMO or a drug company. It does not even apply to lawyers who defend tobacco companies.

I would be happy to consider a fair and balanced amendment. But this one-sided amendment that goes after lawyers because they go after the tobacco companies should be defeated.

Mr. WARNER. Madam President, I understand the vote is set for 5:30.

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. I see the distinguished Senator from Alabama, and I yield the floor.

The PRESIDING OFFICER. Without objection, the Senator from Alabama is recognized.

Mr. LEVIN. Madam President, how much time is left on both sides?

The PRESIDING OFFICER. There is no time left on the majority side. There is 3½ minutes left on the minority side.

Mr. LEVIN. Madam President, is the Senator from Alabama speaking in opposition or in support of the amendment?

Mr. SHELBY. I am speaking in opposition to the Lautenberg amendment.

Mr. LEVIN. There is a chance Senator LAUTENBERG may be returning. If so, he would have wanted time. I have no problem agreeing to that.

Mr. SHELBY. Madam President, I ask unanimous consent for 3 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. REID. If Senator LAUTENBERG wants to come, he can come.

Mr. LEVIN. We ask unanimous consent, if Senator LAUTENBERG does return after Senator SHELBY is finished, that Senator LAUTENBERG be recognized for 3 minutes immediately prior to the vote.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Alabama.

Mr. SHELBY. Madam President, I rise in strong support of the motion to table the amendment of the Senator from New Jersey, Mr. LAUTENBERG.

As chairman of the Banking Committee which has jurisdiction over legislation pertaining to U.S. economic sanctions, I am more than a little familiar with the issue addressed by the amendment of the Senator from New Jersey. While his intent may be laudatory, the language of his amendment and the manner in which it has been proposed are not.

There is a reason all administrations oppose legislation such as this amendment. Not only do they argue that it infringes on their constitutional right to conduct foreign policy—an argument we admittedly employ or ignore as the need arises—but, more importantly, the White House invariably recognizes the potential for the law of unintended consequences to come into play. There has been no opportunity for those consequences to be considered in a truly deliberative manner because the legislation has not been brought before the Banking Committee for any type of hearing.

I take a backseat to no Member in this body in my support of strong economic sanctions as a vital tool in our foreign policy and national security arsenal, and I have been a strong advocate of closing loopholes that weaken those sanctions. My support for the Helms-Burton legislation was a case in point.

In addition, as one of the few Members of the Senate who opposes weakening the Government's ability to prevent the flow of military-sensitive technologies to countries with poor records in the areas of proliferation and support for terrorists, I believe my credentials in this area are quite strong.

The intent, as I understand it, behind the amendment of the Senator from New Jersey is certainly meritorious. We all support the war against terrorism and the need to staunch the flow of dollars to terrorist organizations. Under my chairmanship, the Banking Committee has been investigating the issue of terrorist financing for over a year, and has additional hearings scheduled on the subject in the weeks ahead.

We are taking this issue very seriously. We are examining the structure of the Federal Government to stem the flow of dollars to terrorist organizations. We work very closely with the Treasury Department Office of Foreign Assets and Control which is the Government's vehicle for enforcing U.S. economic sanctions to further prevent these organizations from gaining access to sources of revenue with which to fund their operation. OFAC, the Federal office responsible for enforcing sanctions, opposes the Lautenberg legislation.

I stand ready to work with the Senator from New Jersey to ensure U.S. economic sanctions have the requisite team to accomplish the objective for which they are imposed. But this amendment is not the way to go.

I urge my colleagues to support the motion to table.

Mr. WARNER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered.

Mr. REID. I ask unanimous consent that after we vote on the Kyl amendment, there be 4 minutes equally divided prior to the vote on the Lautenberg amendment.

Mr. WARNER. Reserving the right to object, I will not object, but that does not preclude a motion to table.

Mr. REID. That is right.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment offered by Senator KYL, as modified.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 37, nays 62, as follows:

[Rollcall Vote No. 100 Leg.]

YEAS—37

Alexander
Allard
Bond
Brownback
Bunning
Burns
Campbell
Cochran
Cornyn
Craig
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Grassley
Gregg
Hagel
Hutchison
Inhofe
Kyl
Lugar
McCain
McConnell
Miller
Murkowski
Nickles
Roberts
Santorum
Sessions
Snowe
Stevens
Sununu
Talent
Thomas
Warner

NAYS—62

Akaka
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Coleman
Collins
Conrad
Corzine
Crapo
Daschle
Dayton
DeWine
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham (FL)
Graham (SC)
Harkin
Hatch
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Shelby
Smith
Specter
Stabenow
Voinovich
Wyden

NOT VOTING—1

Kerry

The amendment (No. 3191) was rejected.

The PRESIDING OFFICER. The Senator from Idaho.

CHANGE OF VOTE

Mr. CRAPO. On rollcall vote 100, I voted "yea." It was my intention to vote "nay." Therefore, I ask unanimous consent that I be permitted to change my vote since it will not affect the outcome.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maine.

Ms. COLLINS. Mr. President, on rollcall vote 100, I voted "aye." It was my intention to vote "nay." Therefore, I ask unanimous consent that I be permitted to change my vote since it will not affect the outcome.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

Mr. HOLLINGS. Madam President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3151

Mr. WARNER. Parliamentary inquiry, Madam President: Is not the Lautenberg amendment the pending amendment?

The PRESIDING OFFICER. There are 4 minutes equally divided prior to the vote on the amendment.

Who yields time?

Mr. LEVIN. I think Senator LAUTENBERG has 2 minutes, and Senator KYL has 2 minutes.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I ask my colleagues please to permit us to have order in the Senate. We don't have much time to talk about this. I would appreciate the opportunity to speak.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senate will be in order.

Mr. LAUTENBERG. Mr. President, please try to help us maintain order.

This is very quick, very simple. My amendment is straightforward. Current sanctions law has a loophole that permits foreign subsidiaries of U.S. companies to do business with nations that sponsor terrorism, such as Iraq. My amendment closes the loophole. It is that simple. It only applies to foreign subsidiaries in which U.S. parent companies have a majority interest.

The question is, do we want U.S. companies to sell oilfield equipment through a sham foreign subsidiary to a country such as Iran—which the President has rightly called the axis of evil—so Iran can sell its oil at greater profits and funnel those profits to Hezbollah, Hamas, or Islamic Jihad, terrorist groups that killed 240 marines in Beirut, Lebanon.

These two young women in this photo, from New Jersey and New Hampshire, were killed in Israel by terrorist activities sponsored by Iran. It is very simple. The amendment says: Are you with us or against us? If you are with us and want them to stop killing our kids in Iraq, then you have to stand up and say, yes, this amendment counts, and, yes, we want to close this loophole. We just had a vote relating somewhat to my amendment. I hope my colleagues will stand up and say close the door.

I thank the Chair.

Mr. WARNER. Mr. President, I yield our time to Senator KYL.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, the State Department and Treasury Department strongly oppose this amendment because it is more restrictive than the current authority exercised by the President under IEEPA. The amendment would focus solely on ownership, which is a standard that can easily be circumvented and would be less effective than the administration's approach, which applies not only to ownership but also to control.

It is very easy for a company to get just under 50-percent ownership but still control the subsidiary. Under the Senator's amendment, no sanction would be permitted in that circumstance. So rather than broadening the authority and making it more capable of adding sanctions to what we already have, it would actually restrict the authority the President currently has.

That is why both Treasury and the State Department say let the President exert the current authority he has, which is broader. It is not a choice between helping people such as the Senator alluded to. This President is applying sanctions in those countries precisely where this condition exists.

I urge my colleagues to vote against the Lautenberg amendment and don't weaken the provisions already existing. Allow the President the flexibility he needs.

Mr. WARNER. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. LEAHY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 49, nays 50, as follows:

[Rollcall Vote No. 101 Leg.]

YEAS—49

Akaka
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carper
Clinton
Collins
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham (FL)
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Snowe
Specter
Stabenow
Wyden

NAYS—50

Alexander
Allard
Allen
Baucus
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chafee
Chambliss
Cochran
Coleman
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NOT VOTING—1

Kerry

The amendment (No. 3151) was rejected.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, several colleagues are anxious to address the Chair, so I yield the floor momentarily.

Mr. LAUTENBERG. Mr. President, I just want to say I thank my colleagues who worked so hard to get this legislation passed. But I want everybody to remember that this vote that was just taken said it is all right to do business with Iran. Look at the list of the dead and missing and see whether it is all right to vote for companies that sell to Iran. When we had a chance to close the loophole, the party lines were clear. No, stick with the companies. Forget about those who are serving in Iraq. Forget about those kids who want to come home in one piece. That is the kind of vote that just took place, and I hope the constituents back home will note it and remember it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, the distinguished Senator from Michigan, the ranking member on the committee, Mr. LEVIN, and I will momentarily process a number of agreed-upon amendments. So at this time, seeing no Senator seeking recognition, I will suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, as is the practice with my distinguished colleague, Mr. LEVIN, we have arrived at an agreement on a series of amendments. I would like at this point in time to proceed with perhaps a dozen or so.

AMENDMENT NO. 3205

Mr. LEVIN. Mr. President, I send an amendment to the desk.

the PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself and Mr. LEVIN, proposes an amendment numbered 3205.

The amendment is as follows:

(Purpose: To correct the characterization of the funding authority for up-armored high mobility multi-purpose wheeled vehicles and wheeled vehicle ballistic add-on armor protection)

On page 18, strike line 11, strike "**AUTHORIZATION OF APPROPRIATIONS FORK**".

On page 18, strike lines 15 through 24, and insert the following:

(a) AMOUNT.—Of the amount authorized to be appropriated for the Army for fiscal year

2005 for other procurement under section 101(5), $610,000,000 shall be available for both of the purposes described in subsection (b) and may be used for either or both of such purposes.

(b) PURPOSES.—The purposes referred to in subsection (a) are as follows:

On page 19, beginning on line 7, strike "authorized to be appropriated in" and insert "available under".

On page 19, line 17, strike "authorized to be appropriated" and insert "available under".

Mr. WARNER. Mr. President, this is a technical amendment which has been cleared by both sides.

Am I correct?

Mr. LEVIN. The amendment has been cleared.

The PRESIDING OFFICER. Is there further debate?

If not, without objection, the amendment is agreed to.

The amendment (No. 3205) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3206

Mr. WARNER. Mr. President, I offer an amendment that makes a technical correction. The amendment has been cleared on both sides.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 3206.

The amendment is as follows:

(Purpose: To correct a funding discrepancy)

On page 25, line 25, strike "$9,698,958,000" and insert "$9,686,958,000".

Mr. LEVIN. The amendment has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3206) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3207

Mr. WARNER. I offer an amendment to make a technical correction related to military construction.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A Senator from Virginia [Mr. WARNER] proposes an amendment numbered 3207.

The amendment is as follows:

(Purpose: To make a technical correction relating to military construction)

On page 318, line 2, strike "$980,557,000" and insert "$1,062,463,000".

Mr. LEVIN. That has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3207) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3208

Mr. WARNER. Mr. President, on behalf of myself and Senator LEVIN, I offer an amendment to make a technical change in title 10, to conform with actions taken in last year's bill.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia, [Mr. WARNER], for himself and Mr. LEVIN, proposes an amendment numbered 3208.

The amendment is as follows:

(Purpose: To make a technical correction to a cross reference in title 10, United States Code)

On page 247, between lines 13 and 14, insert the following:

SEC. 1022. TECHNICAL CORRECTION TO REFERENCE TO CERTAIN ANNUAL REPORTS.

Section 2474(f)(2) of title 10, United States Code, is amended by striking "section 2466(e)" and inserting "section 2466(d)".

Mr. LEVIN. The amendment has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3208) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3209

Mr. WARNER. Mr. President, I offer an amendment for myself and Senator LEVIN to authorize the Secretary of Defense to continue home health benefits for covered beneficiaries as the Department implements legislative changes to home health services enacted in fiscal year 2002.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself and Mr. LEVIN, proposes an amendment numbered 3209.

The amendment is as follows:

(Purpose: To provide for continuation of part-time or intermittent home health care benefits during transition to the subacute care program)

At the end of title VII, add the following:

SEC. . CONTINUATION OF SUB-ACUTE CARE FOR TRANSITION PERIOD.

Section 1074j(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) The Secretary of Defense may take such actions as are necessary to ensure that there is an effective transition in the furnishing of part-time or intermittent home health care benefits for covered beneficiaries who were receiving such benefits before the establishment of the program under this section. The actions taken under this paragraph may include the continuation of such benefits on an extended basis for such time as the Secretary determines appropriate.".

Mr. LEVIN. It has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3209) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3210

Mr. WARNER. I offer an amendment for myself and Mr. LEVIN that will provide temporary authority to the Secretary of Defense to waive collection of TRICARE payments made on behalf of certain individuals who were unaware of the requirement to obtain Part B coinsurance under Medicare in order to remain eligible for TRICARE actions underway by the Centers for Medicare and Medicaid Services to offer a new enrollment period for those individuals as a remedy to this matter.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself and Mr. LEVIN, proposes an amendment numbered 3210. The amendment is as follows:

(Purpose: To provide temporary authority for waiver of collection of payments due for CHAMPUS benefits received by disabled persons unaware of loss of CHAMPUS eligibility and continuation of such benefits)

At the end of subtitle B of title VII, insert the following:

SEC. 717. TEMPORARY AUTHORITY FOR WAIVER OF COLLECTION OF PAYMENTS DUE FOR CHAMPUS BENEFITS RECEIVED BY DISABLED PERSONS UNAWARE OF LOSS OF CHAMPUS ELIGIBILITY.

(a) AUTHORITY TO WAIVE DEBT.—(1) The Secretary of Defense, in consultation with the other administering Secretaries, may waive (in whole or in part) the collection of payments otherwise due from a person described in subsection (b) for health benefits received by such person under section 1086 of title 10, United States Code, after the termination of that person's eligibility for such benefits.

(2) If the Secretary of Defense waives collection of payments from a person under paragraph (1), the Secretary may also authorize a continuation of benefits for such person under such section 1086 for a period ending not later than the end of the period specified in subsection (c) of this section.

(b) ELIGIBLE PERSONS.—A person is eligible for relief under subsection (a)(1) if—

(1) the person is described in paragraph (1) of subsection (d) of section 1086 of title 10, United States Code;

(2) except for such paragraph, the person would have been eligible for the health benefits under such section; and

(3) at the time of the receipt of such benefits—

(A) the person satisfied the criteria specified in paragraph (2)(B) of such subsection (d); and

(B) the person was unaware of the loss of eligibility to receive the health benefits.

(c) Period of Applicability.—The authority provided under this section to waive collection of payments and to continue benefits shall apply, under terms and conditions prescribed by the Secretary of Defense, to health benefits provided under section 1086 of title 10, United States Code, during the period beginning on July 1, 1999, and ending at the end of December 31, 2004.

(d) Consultation With Other Administering Secretaries.—(1) The Secretary of Defense shall consult with the other administering Secretaries in exercising the authority provided in this section.

(2) In this subsection, the term "administering Secretaries" has the meaning given such term in section 1072(3) of title 10, United States Code.

Mr. LEVIN. The amendment has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3210) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3211

Mr. WARNER. Mr. President, on behalf of Senator ALLARD, I offer an amendment which clarifies that local stakeholder organizations working in cooperation with the Department of Energy after closure of environmental management sites will be made up of local elected officials and their designees.

This amendment, I believe, has been cleared on the other side.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. ALLARD, proposes an amendment numbered 3211.

The amendment is as follows:

(Purpose: To improve section 3120, relating to local stakeholder organizations for Department of Energy Environmental Management 2006 closure sites)

Strike section 3120 and insert the following:

SEC. 3120. LOCAL STAKEHOLDER ORGANIZATIONS FOR DEPARTMENT OF ENERGY ENVIRONMENTAL MANAGEMENT 2006 CLOSURE SITES.

(a) Establishment.—(1) The Secretary of Energy shall establish for each Department of Energy Environmental Management 2006 closure site a local stakeholder organization having the responsibilities set forth in subsection (c).

(2) The local stakeholder organization shall be established in consultation with interested elected officials of local governments in the vicinity of the closure site concerned.

(b) Composition.—A local stakeholder organization for a Department of Energy Environmental Management 2006 closure site under subsection (a) shall be composed of such elected officials of local governments in the vicinity of the closure site concerned as the Secretary considers appropriate to carry out the responsibilities set forth in subsection (c) who agree to serve on the organization, or the designees of such officials.

(c) Responsibilities.—A local stakeholder organization for a Department of Energy Environmental Management 2006 closure site under subsection (a) shall—

(1) solicit and encourage public participation in appropriate activities relating to the closure and post-closure operations of the site;

(2) disseminate information on the closure and post-closure operations of the site to the State government of the State in which the site is located, local and Tribal governments in the vicinity of the site, and persons and entities having a stake in the closure or post-closure operations of the site;

(3) transmit to appropriate officers and employees of the Department of Energy questions and concerns of governments, persons, and entities referred to paragraph (2) on the closure and post-closure operations of the site; and

(4) perform such other duties as the Secretary and the local stakeholder organization jointly determine appropriate to assist the Secretary in meeting post-closure obligations of the Department at the site.

(d) Deadline for Establishment.—The local stakeholder organization for a Department of Energy Environmental Management 2006 closure site shall be established not later than six months before the closure of the site.

(e) Inapplicability of Federal Advisory Committee Act.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to local stakeholder organizations under this section.

(f) Department of Energy Environmental Management 2006 Closure Site Defined.—In this section, the term "Department of Energy Environmental Management 2006 closure site" means each clean up site of the Department of Energy scheduled by the Department as of January 1, 2004, for closure in 2006.

Mr. LEVIN. The amendment has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3211) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3212

Mr. LEVIN. On behalf of Senator BYRD, I offer an amendment which would require the Secretary of Defense to increase the size of the acquisition workforce to address the huge management challenges that we face in this area.

I believe this amendment has been cleared on the other side.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. BYRD, proposes an amendment numbered 3212.

The amendment is as follows:

(Purpose: To require an increase in the size of the defense acquisition and support workforce during fiscal years 2005, 2006, and 2007)

On page 177, strike lines 14 through 24, and insert the following:

(b) Increase and Realignment of Workforce.—(1)(A) During fiscal years 2005, 2006, and 2007, the Secretary of Defense shall increase the number of persons employed in the defense acquisition and support workforce as follows:

(i) During fiscal year 2005, to 105 percent of the baseline number (as defined in subparagraph (B)).

(ii) During fiscal year 2006, to 110 percent of the baseline number.

(iii) During fiscal year 2007, to 115 percent of the baseline number.

(B) In this paragraph, the term "baseline number", with respect to persons employed in the defense acquisition and support workforce, means the number of persons employed in such workforce as of September 30, 2003 (determined on the basis of full-time employee equivalence).

(C) The Secretary of Defense may waive a requirement in subparagraph (A) and, subject to subsection (a), employ in the defense acquisition and support workforce a lesser number of employees if the Secretary determines and certifies to the congressional defense committees that the cost of increasing such workforce to the larger size as required under that subparagraph would exceed the savings to be derived from the additional oversight that would be achieved by having a defense acquisition and support workforce of such larger size.

(2) During fiscal years 2005, 2006, and 2007, the Secretary of Defense may realign any part of the defense acquisition and support workforce to support reinvestment in other, higher priority positions in such workforce.

Mr. BYRD. Mr. President, it's difficult to imagine a subject that is more obscure and more arcane than the federal procurement process. At times, it seems as though an impenetrable fog hangs over government contractors, clouding the process by which taxpayer funds are awarded and spent.

Nowhere is the issue of federal procurement more clouded, more obscured from public scrutiny than in the Defense Department.

What little information makes it into the mainstream media usually reinforces the worst cliches about government waste. The stories are familiar. We have all heard them. They are a grotesque litany of negligence and greed.

We read that the Pentagon has awarded billions of dollars to a contractor to produce a new supersonic stealth fighter. Twenty aircraft come off the production line and hundreds more are planned—only then do we find out that nobody has tested the new fighter to see if it actually works.

We read of how a contractor has charged the Federal Government for products and services never provided, and then of how the government must engage in lengthy, costly efforts to get the taxpayers' money back.

And then there is the over-billing.

We read about Defense Department officials who must wrestle with contractors over inflated pricing of spare parts. A disputed bill for airplane parts in 1999 includes: $2,522 for a 4½-inch metal sleeve, $744 for a washer, $714 for a rivet, and $5,217 for a 1-inch metal bracket.

Whatever the excuses—and I am sure there are legions of them—it is unfathomable to me that, year after year, administration after administration, our Government continues to endure the waste of billions and billions of taxpayer dollars on incompetent and negligent defense contractors who continually fail to deliver products and services on time and at a cost commensurate with what they promised.

Even with our troops overseas in Iraq—where, in too many cases, some of their most basic needs for armor and food are going unaddressed—the Defense Department continues to tolerate enormous waste from its contractors. Not enough questions asked, not enough accountability required.

In March, the new inspector general of the U.S.-led authority in Iraq, with colossal understatement, identified "improper procedures and limited competition" as "issues of concern" with regard to contractors in Iraq.

The Inspector General reported only 20 percent of the 1,500 contracts awarded last fiscal year—about $2 billion of the $10 billion in taxpayer funds awarded to defense contractors in Iraq—has been awarded through full and open competition.

The Inspector General noted that the Defense Contract Audit Agency has issued more than 187 audit reports related to nearly $7 billion in reconstruction work. These audits have found $133 million in questionable costs and $307 million in unsupported costs and have led to $176.5 million in suspended billings.

The Inspector General reported that the Defense Criminal Investigative Service has opened four bribery and corruption cases, four theft cases, two false claims cases, three weapons recovery cases, four counterfeit cases, and one conflict of interest case.

The Inspector General's report is the tip of an enormous and largely hidden iceberg. The Defense Department's contract oversight system is a sloppy, incomprehensible mess, and it has left the Defense Department with the unfortunate reputation of ignoring contractor rip-offs.

Procurement managers must be held accountable. Agency heads must be held accountable. Contracting officers must be held accountable. And, yet, they are not. The abuse and waste of the taxpayers' dollars is somehow allowed to continue.

The problem is attributable, in part, to the draconian staff cuts in the federal acquisition workforce. These are the civil servants who analyze proposed prices on bids, who keep tabs on cost overruns, who commit contractual fine print to memory so they can make sure requirements and standards are met. Since 1989, the number of these civil servants has been cut in half—one of the most dramatic reductions in the entire federal workforce since the end of the cold war.

Meanwhile, as procurement and contract oversight staffs have been shrinking, Defense's contracting activity has soared. It is now routine for the Pentagon to award multi-billion dollar contracts for logistics support for an entire weapon system or a host of support services for U.S. troops deployed in an overseas operation. These are the contracts the American public reads about most in the newspapers, where companies are alleged to have overcharged the taxpayers for fuel and meals supplied to U.S. troops in Iraq.

The Pentagon's Inspector General has rightly urged more vigilance by Defense auditors. But the Defense Department hasn't the staff or the resources to do it. Understaffed auditing agencies must pick and choose where to focus their resources. Likewise, the Congress remains woefully unprepared to oversee how taxpayer funds are being spent on defense contracts in Iraq and elsewhere. Congressional committees, along with the Defense Contract Audit Agency, the Inspector Generals' offices, and the Justice Department, do catch abuses, but not all of them.

All of this makes it increasingly tempting for companies to inflate their prices and to hide the real costs behind impenetrable contractual jargon.

Contractors have no incentive to contain costs. The more a contractor bills, the more money the contractor makes.

This is the dark side of acquisition. For all of the benefits and contributions provided by defense contractors—and there have been many contributions over the years—the lack of oversight makes it impossible for any Member of Congress to vote for additional defense dollars and honestly tell their constituents that those taxpayer funds will be well spent.

Every acquisition dollar frittered away on negligent contractors is one less taxpayer dollar available to support our troops. It is one more dollar that will be taken from our domestic needs here at home.

The American people should demand more from their Congress. They should demand better from their President.

We are asking men and women to make the ultimate sacrifice in Iraq and around the world. The food that nourishes them and the armor that shields them should not provide a blank check for avarice and imprudence.

I intend to offer an amendment that would require the Secretary of Defense to increase the size of the Pentagon's acquisition workforce. Under my amendment, the Secretary of Defense would be allowed to waive this required increase, but only if the Secretary can certify to the Congress that such an increase in the workforce would not yield sufficient savings to offset the cost of the additional personnel.

I recognize that the scope of the problems with the Pentagon's procurement system is larger than this amendment.

Gross waste, negligent oversight, and rampant abuse are embedded deep within our federal procurement system.

The procurement abuses that have been widely reported in Iraq—the allegations of favoritism, the lack of oversight, the fraudulent charges, the rampant waste—are common to other departments and agencies of the federal government.

Recently, far too much of the contracting debate has focused on individual agencies or individual contracts being negotiated by the administration. Many of them are important, but we also need to look at the bigger picture of what is wrong with the overall procurement process.

What is needed are comprehensive hearings by the Committees with jurisdiction, primarily the Senate Governmental Affairs and the Armed Services Committees, to identify the most serious problems and to make recommendations to fix them. Extensive hearings are needed not only to educate the Congress, but also the American public about the waste in the procurement system and the statutory changes needed to address them.

Comprehensive legislation should be reported to the full Senate, which should take the time necessary to debate the bill and to consider amendments.

It will require an enormous effort. It will require skilled legislators with an adroit understanding of the issues. At the end of the day, the procurement system should be transparent and open to public scrutiny and understanding it. In the meantime, I offer my amendment to help the administration better oversee the defense contractors it employs.

Each year, the Congress appropriates billions of taxpayer dollars to federal agencies to pay federal contractors with little means of ever fully accounting for how those funds are spent. Staff must be properly trained. Resources must be provided. Contractors must be held accountable to make sure they do their job right.

This is a common sense approach to a problem that has been ignored for far too long.

I urge the adoption of my amendment.

Mr. WARNER. The amendment has support on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3212) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3169

Mr. WARNER. On behalf of Senators DOMENICI and BINGAMAN, I offer an amendment which clarifies how the Department of Energy, working with the contractor for the Los Alamos National Laboratory, will provide support for the Los Alamos public schools.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. DOMENICI and Mr. BINGAMAN, proposes an amendment numbered 3169.

The amendment is as follows:

(Purpose: To provide a substitute for section 3144, relating to support for public education in the vicinity of Los Alamos National Laboratory, New Mexico)

Strike section 3144 and insert the following:

SEC. 3144. SUPPORT FOR PUBLIC EDUCATION IN THE VICINITY OF LOS ALAMOS NATIONAL LABORATORY, NEW MEXICO.

The Secretary of Energy shall require that the primary management and operations contract for Los Alamos National Laboratory, New Mexico, that involves Laboratory operations after September 30, 2005, shall contain terms requiring the contractor under such contract to provide support to the Los Alamos Public School District, New Mexico, for the elementary and secondary education of students by the School District in the amount of $8,000,000 in each fiscal year.

Mr. LEVIN. The amendment has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3169) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3213

Mr. LEVIN. I offer an amendment requested by Mr. REED of Rhode Island as a technical clarification to section 1005 of S. 2400 to clarify the types of recreational programs that can be supported by this section.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. REED, proposes an amendment numbered 3213.

The amendment is as follows:

(Purpose: To clarify the programs of the service academies that may be subject to uniform funding and management)

Strike section 1005, and insert the following:

SEC. 1005. UNIFORM FUNDING AND MANAGEMENT OF SERVICE ACADEMY ATHLETIC AND RECREATIONAL EXTRACURRICULAR PROGRAMS.

(a) UNITED STATES MILITARY ACADEMY.—(1) Chapter 403 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4359. Athletic and recreational extracurricular programs: uniform funding

"The authority and conditions provided in section 2494 of this title shall also apply to any athletic or recreational extracurricular program of the Academy that—

"(1) is not considered a morale, welfare, or recreation program referred to in such section;

"(2) is funded out of appropriated funds;

"(3) is supported by a supplemental mission nonappropriated fund instrumentality; and

"(4) is not operated as a private organization.".

(2) The table of sections at the beginning of such title is amended by adding at the end the following new item:

"4359. Athletic and recreational extracurricular programs: uniform funding.".

(b) UNITED STATES NAVAL ACADEMY.—(1) Chapter 603 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 6978. Athletic and recreational extracurricular programs: uniform funding

"The authority and conditions provided in section 2494 of this title shall also apply to any athletic or recreational extracurricular program of the Naval Academy that—

"(1) is not considered a morale, welfare, or recreation program referred to in such section;

"(2) is funded out of appropriated funds;

"(3) is supported by a supplemental mission nonappropriated fund instrumentality; and

"(4) is not operated as a private organization.".

(2) The table of sections at the beginning of such title is amended by adding at the end the following new item:

"6978. Athletic and recreational extracurricular programs: uniform funding.".

(c) UNITED STATES AIR FORCE ACADEMY.—(1) Chapter 903 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 9358. Athletic and recreational extracurricular programs: uniform funding

"The authority and conditions provided in section 2494 of this title shall also apply to any athletic or recreational extracurricular program of the Academy that—

"(1) is not considered a morale, welfare, or recreation program referred to in such section;

"(2) is funded out of appropriated funds;

"(3) is supported by a supplemental mission nonappropriated fund instrumentality; and

"(4) is not operated as a private organization.".

(2) The table of sections at the beginning of such title is amended by adding at the end the following new item:

"9358. Athletic and recreational extracurricular programs: uniform funding.".

(d) EFFECTIVE DATE AND APPLICABILITY.—This section and the amendments made by this section shall take effect on October 1, 2004, and shall apply with respect to funds appropriated for fiscal years beginning on or after such date.

Mr. WARNER. It has been cleared on this side. I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3213) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3214

Mr. WARNER. I offer an amendment on behalf of Senator SESSIONS to authorize the Secretary of the Air Force to authorize the exchange of land at Maxwell Air Force Base, Alabama.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. SESSIONS, propose an amendment numbered 3214.

The amendment is as follows:

(Purpose: To authorize the exchange of land at Maxwell Air Force Base, Alabama)

On page 365, between lines 18 and 19, insert the following:

SEC. 2830. LAND EXCHANGE, MAXWELL AIR FORCE BASE, ALABAMA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey to the City of Montgomery, Alabama (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately acres and including all of the Maxwell Heights Housing site and located at Maxwell Air Force Base, Alabama.

(b) CONSIDERATION.—(1) As consideration for the conveyance of property under subsection (a), the City shall convey to the United States all right, title, and interest of the City to a parcel of real property, including any improvements thereon, consisting of approximately 35 acres and designated as project AL 6-4, that is owned by the City and is contiguous to Maxwell Air Force Base, for the purpose of allowing the Secretary to incorporate such property into a project for the acquisition or improvement of military housing under subchapter IV of chapter 169 of title 10, United States Code. The Secretary shall have administrative jurisdiction over the real property received under this subsection.

(2) If the fair market value of the real property received under paragraph (1) is less than the fair market value of the real property conveyed under subsection (a) (as determined pursuant to an appraisal acceptable to the Secretary), the Secretary may require the City to provide, pursuant to negotiations between the Secretary and the City, in-kind consideration the value of which when added to the fair market value of the property conveyed under subsection (b) equals the fair market value of the property conveyed under subsection (a).

(c) PAYMENT OF COSTS OF CONVEYANCE.—(1) The Secretary may require the City to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyances under subsections (a) and (b), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyances. If amounts are collected from the City in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the City.

(2) Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyances. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsections (a) and (b) shall be determined by surveys satisfactory to the Secretary.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under subsections (a) and (b) as the Secretary considers appropriate to protect the interests of the United States.

Mr. LEVIN. The amendment has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3214) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3215

Mr. LEVIN. On behalf of Senators SARBANES and MIKULSKI, I offer an amendment that would authorize a land exchange between the Navy and the State of Maryland at Patuxent River Naval Air Station.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. SARBANES, for himself and Ms. MIKULSKI, proposes an amendment numbered 3215.

The amendment is as follows:

(Purpose: To authorize a land conveyance, Naval Air Station, Patuxent River, Maryland)

At the end of subtitle C of title XXVIII, add the following:

SEC. 2830. LAND EXCHANGE, NAVAL AIR STATION, PATUXENT RIVER, MARYLAND.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey to the State of Maryland (in this section referred to as "State"), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately five acres at Naval Air Station, Patuxent River, Maryland, and containing the Point Lookout Lighthouse, other structures related to the lighthouse, and an archaeological site pertaining to the military hospital that was located on the property during the Civil War. The conveyance shall include artifacts pertaining to the military hospital recovered by the Navy and held at the installation.

(b) PROPERTY RECEIVED IN EXCHANGE.—As consideration for the conveyance of the real property under subsection (a), the State shall convey to the United States a parcel of real property consisting of approximately five acres located in Point Lookout State Park, St. Mary's County, Maryland.

(c) PAYMENT OF COSTS OF CONVEYANCE.—(1) The Secretary may require the State to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, relocation expenses incurred under subsection (b), and other administrative costs related to the conveyance. If amounts are collected from the State in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to State.

(2) Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the properties to be conveyed under this section shall be determined by surveys satisfactory to the Secretary.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

AMENDMENT 3215

Mr. SARBANES. Mr. President, this amendment would authorize a land exchange between the State of Maryland and the Naval Air Station, Patuxent River.

Specifically, the amendment directs the Secretary of the Navy to convey approximately 5 acres, including the Point Lookout Lighthouse and related facilities, as well as an archaeological site and recovered artifacts pertaining to the military hospital located on the property during the Civil War. In exchange, the State of Maryland would transfer a similar parcel to the Navy for the location of the new tracking station.

At present, the Navy's Range Theodolite Tracking System is located on an historic parcel at the edge of Point Lookout State Park in St. Mary's County, Maryland. Navy Range Operations operates and maintains support facilities in historically significant structures formerly associated with the operation Point Lookout Lighthouse. These facilities, which date to the 19th century, now house radio relay, range surveillance radar, and a Remote Emitter System, all of which are controlled at Cedar Point via fiber optic link. Over the years, the facilities have deteriorated and can no longer meet the critical needs of the Navy.

This amendment has the support of both the Navy and the State of Maryland. In fact, last year, the State made available $450,000 for the preservation and restoration of the lighthouse so that it might be incorporated into the park and open for public use.

In my view, this amendment represents a real win-win for both the Navy and the people of the State of Maryland. This transfer will ultimately result in overall cost-savings for the Navy—and the preservation of the structures and the historic site.

I am pleased that Senator MIKULSKI has joined me in cosponsoring the amendment. I urge my colleagues to join us in supporting its adoption.

Mr. WARNER. We accept on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3215) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3165

Mr. WARNER. This is our final amendment. I offer an amendment on behalf of Senator COLEMAN, which would direct the Secretary of Defense to carry out a study on feasibility of the use of Camp Ripley National Guard Training Center in Minnesota as a mobilization station for Reserve components ordered to active duty.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. COLEMAN, proposes an amendment numbered 3165.

The amendment is as follows:

(Purpose: To require a study of establishment of mobilization station at Camp Ripley National Guard Training Center, Little Falls, Minnesota)

On page 247, between lines 13 and 14, insert the following:

SEC. 1022. STUDY OF ESTABLISHMENT OF MOBILIZATION STATION AT CAMP RIPLEY NATIONAL GUARD TRAINING CENTER, LITTLE FALLS, MINNESOTA.

Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall carry out and complete a study on the feasibility of the use of Camp Ripley National Guard Training Center, Little Falls, Minnesota, as a mobilization station for reserve components ordered to active duty under provisions of law referred to in section 101(a)(13)(B) of title 10, United States Code. The study shall include consideration of the actions necessary to establish such center as a mobilization station.

Mr. LEVIN. The amendment has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3165) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT 3158

Ms. SNOWE. Mr. President, I rise today to speak in support of the amendment offered by Senators DORGAN, LOTT, FEINSTEIN and myself to refocus the provisions in the Fiscal Year 2002 Defense Authorization Bill that authorizes a base closure round in 2005 from our domestic installations to our overseas military infrastructure. I do so because I am firmly convinced that today, in this unprecedented era of our global war on terrorism, as we continue operations in Afghanistan to root out the seeds of terror, as we are engaged in ensuring a free Iraq in the heart of the Middle East, it makes no sense to consider closing nearly a quarter of our domestic military infrastructure in addition to the 21 percent already lost over the past 15 years here in America.

I arrive at this debate as a veteran of a number of issues key to our deliberations. First, I have been all too intimately acquainted with every base closure round since the first in 1988 as well as the accompanying pitfalls, failures and foibles of each—and believe me, there were many. Second, with 12 years as ranking member of the House Foreign Affairs International Operations Subcommittee, as chair of the subcommittee's Senate counterpart, as a former member of the Senate Armed Services Committee and former chair of the Seapower Subcommittee, I cannot and will not ignore the pattern I have discerned of a failure to "connect" critical "dots" in the past—and the implications of these shortfalls for our ability to project into the future.

For starters, having fought battle after battle after battle to preserve the former Loring Air Force Base in Maine, only to have criteria changed and added literally at the 11th hour, you can feel free to label me a "skeptic" when it comes to the integrity of the process. In fact, we had not one but two Air Force generals defending Loring before the BRAC Commission but in a fundamental breach of confidence in the process, when they could not counter our strategic arguments for Loring, it was a brand new factor—so-called "quality of life"—that tipped the scales against strategic location and military value at the very last moment when the Air Force claimed its facilities were "well below average" despite the fact that $300 million had been spent there over a 10 year period to replace or upgrade nearly everything on the base.

To date, 49 bases in the Northeast alone have been lost to BRAC while the region—closest to Europe of anywhere in the United States I might add—has already suffered about a 50 percent reduction in infrastructure under BRAC. And now further cuts are being discussed, when it was the northeast that suffered the worst attack ever on American soil? When 18 percent of America's population lives in that region? And when we know the Department of Homeland Security is not going to be building any bases—should we be considering closing the very military facilities that are required to protect the Nation?

The fact is, once our critical bases are lost, they are lost forever. In that light, given the transformational times in which we live, given the requirement to make fiscal year 2005 BRAC projections 20 years into the future, while the track record of 6 year projections in the past has been so poor, as I will illustrate, given these projections will be the foundation upon which all infrastructure assessments will be built, and given that I have never been convinced of the alleged cost savings resulting from BRAC—an underpinning of the effort to even have a BRAC process in the first place—I do not believe this BRAC round should proceed at this time.

Advocates of BRAC allege that billions of dollars will be saved, despite the fact that there is no consensus on the numbers among different sources. These estimates vary because, as the Congressional Budget Office explained in 1998, BRAC savings are really "avoided costs." Because these avoided costs are not actual expenditures and cannot be recorded and tracked by the Department of Defense accounting systems, they cannot be validated, which has led to inaccurate and overinflated estimates of savings.

These estimated savings also do not include the very real costs of economic cleanup and financial assistance provided by Federal agencies to BRAC-affected communities and individuals. According to a 1998 report by the General Accounting Office, the unaccounted costs for environmental cleanup beyond the 6-year BRAC implementation period can exceed $2.4 billion and an additional $1.1 billion was in community assistance—and also not accounted for in the Department's estimated savings that result from BRAC.

That same General Accounting Office report also found that land sales from the first base closure round in 1988 were estimated by Pentagon officials to produce $2.4 billion in revenue; however, as of 1995, the actual revenue generated was only $65.7 million. That's about 25 percent of the expected value. This type of overly optimistic accounting establishes a very poor foundation for initiating a policy that will have a permanent impact on our national defenses, the military and the civilian communities surrounding these bases.

So the bottom line is, no one really knows what the bottom line is. But what most concerns me is the inadequacy of the military's threat assessment projections time after time accompanying the requirement included in the enacting BRAC legislation in 1991, that stipulates that the Secretary:

> shall include a force structure plan for the Armed Forces based on an assessment by the Secretary of the probable threats to the national security during the six-year period beginning with the fiscal year for which the budget request is made.

I can say this because I have reviewed the military threat assessments contained in the force structure plans that the Department provided along with the justifications for the 1991, 1993 and 1995 BRAC rounds as well as other key assessments made by the Department during that time such as the 1993 Bottom Up Review, the 1997 Quadrennial Review and the 2001 Quadrennial Review. Specifically, I wondered, how did actual events and results match with their expectations? How did their threat assessments dovetail with new realities like "terrorism," "asymmetric threat," "homeland security" or "homeland defense." I then went back a little more than 21 years ago to the bombing of the U.S. embassy in Beirut and looked at significant terrorist events directed against Americans throughout the world as chronicled by the State Department.

In the 1980's, American interests were clearly and constantly under attack—6 months after the embassy bombing in Beirut, we lost 242 brave Marines there to a suicide bomber. In 1985, TWA flight 847 was hijacked and a U.S. Navy diver, Robert Stethem was killed, and that October, four terrorists seized the *Achille Lauro* and killed Leon Klinghofer. In 1986, another two servicemen were killed and 79 American servicemen injured when a Berlin disco was bombed—my colleagues will recall this action resulted in President Reagan's launching of Operation El Dorado Canyon against Libya—and, tragically, in December of 1988, Pan Am 103 was destroyed over Lockerbie. Those are just a few of the significant incidents out of the 17 listed by the State Department in the 1980's in which Americans were the targets of terror.

Yet after all these events, let's look at what the four page 1991 BRAC military threat assessment submitted for the years 1992–1997 had to say:

> Threats to US interests range from the enmity of nations like North Korea and Cuba, to pressures from friend and foe alike to reduce US presence around the world.
>
> The most enduring concern for US leadership is that the Soviet Union remains the one country in the world capable of destroying the US with a single devastating attack.
>
> The Soviet state still will have millions of well armed men in uniform and will remain the strongest military force on the Eurasian landmass.
>
> While Iraq will require perhaps a decade to rebuild its military capabilities to pre-hostilities levels, Baghdad will likely remain a disruptive political force in the region.

As for terrorism, there was just a passing mention of the issue as an impediment to regional stability and the enhancement of democracy worldwide but no discussion of it in the context as a threat to the United States.

No mention of "asymmetric threats," and no "homeland security."

Then, on February 26, 1993, the World Trade Center was badly damaged when a car bomb planted by Islamic terrorists exploded in an underground garage, leaving 6 people dead and 1,000 injured. Yet the military threat assessment contained in the 1993 BRAC report told us:

> The vital interests of the United States will be threatened by regional crises between historical antagonists such as North and South Korea, India and Pakistan and Middle East/Persian Gulf states.
>
> The future world military situation will be characterized by regional actors with modern destructive weaponry, including chemical and biological weapons, modern ballistic missiles and, in some cases, nuclear weapons.
>
> In the Middle East, competition for political influence and natural resources along with weak economies, Islamic fundamentalism and demographic pressures will contribute to deteriorating living standards and encourage social unrest.

Please note, now, in this report, oddly there is suddenly once again no mention of "terrorism" at all, and no "asymmetric threat," no "homeland security."

Furthermore, the Bottom Up Review, a wide ranging review of strategy, programs and resources to delineate a national defense strategy, signed out in October 1993 described four new dangers to U.S. interests after the end of the Cold War:

> No. 1, The proliferation of nuclear and other weapons of mass destruction,
>
> No. 2, Aggression by major regional powers or ethnic and religious conflict,
>
> No. 3, Potential failure of democratic reform in the former Soviet Union, and
>
> No. 4, The potential failure to build a strong and growing US economy.

This report was issued just 8 months after that 1993 bombing of the World Trade Center, yet there was still no mention of "asymmetric threat," no "homeland security" and just a passing reference to "state-sponsored" terrorism. And even at that, the World Trade Center bombing was not conducted by "state-sponsored" terrorists but rather the Sheikh Omar Rahman, a non-state-sponsored terrorist.

Back to the timeline, in March 1995 we see the Tokyo subway attack by the Aum-Shinrikyo cult using sarin gas, the same gas discovered in Iraq this week, killed 12 and injured 5700 and, a month later, Timothy McVeigh and Terry Nichols destroyed the Federal Building in Oklahoma City with a truck bomb, killing 166 of our fellow citizens.

By contrast, I was astounded that the 1995 Force Structure Plan addressing threats from 1995 through 2001 was—other than the removal of a few sentences—the same as the 1993 BRAC threat assessment—so much for rigorous analysis. Still no "terrorism," no "asymmetric threat," and no "homeland security"—and this less than 6 years before September 11th! Remember this BRAC round requires DoD to look outward 20 years!

In 1996, a fuel truck carrying a bomb exploded outside the Khobar Towers housing facility in Dhahran. The Global Security Environment piece of the 1997 Quadrennial Defense Review described the world as a highly dangerous place with a number of "significant" challenges facing the U.S. including:

> Foremost among these is the threat of coercion and large-scale, cross-border aggression against U.S. allies and friends in key regions by hostile states with significant military power.
>
> Second, despite the best efforts of the international community, states find it increasingly difficult to control the flow of sensitive information and regulate the technologies that can have military or terrorist uses.
>
> Third, as the early years of the post-Cold War period portended, U.S. interests will continue to be challenged by a variety of transnational dangers. . . . The illegal drug trade and international organized crime will continue to ignore our borders, attack our society, and threaten our personal liberty and well-being.
>
> Fourth, while we are dramatically safer than during the Cold War, the US homeland is not free from external threats. . . . In addition, other unconventional means of attack, such as terrorism, are no longer just threats to our diplomats, military forces, and private Americans overseas, but will threaten Americans at home in the years to come.

So by 1997, the Department was acknowledging the fact that terrorists using asymmetric means might attack the homeland—again, I might add yet it still remained a fourth tier concern for the Pentagon in spite of the continuing onslaught of terrorism around the world—and the 1993 bombing here at home.

Then, in 1998, two bombs exploded almost simultaneously outside US embassies in Kenya and Tanzania. In Aden, Yemen 2 years later, a small dingy carrying explosives rammed the USS *Cole*. And then, September 11th, 2001 changed our lives forever. What did the 2001 Quadrennial Defense Review—issued, I might add, 19 days after the attack—find? They found that "as the September 2001 events have horrifically demonstrated, the geographic position of the United States no longer guarantees immunity from direct attack on its population, territory or infrastructure," and that "the United States is likely to be challenged by adversaries who possess a wide range of capabilities, including asymmetric approaches to warfare, particularly weapons of mass destruction."

That was an astute observation considering what happened 19 days before. And by the way, I also noted in examining the 80 page 2001 Quadrennial Defense Review the lack of any mention of al Qaeda by name—not once.

All this illustrates the significant dose of skepticism with which we should examine the current force structure plan and accompanying threat assessment submitted by the Department to justify the BRAC 2005 round—again, considering that we would now base decisions on a 20 year assessment, never mind just 6—and even the 6 year projections proved spotty at best—and considering the volatile times in which we live. And I have to say that what we received—over a month later than required by the BRAC legislation, I might add—is about what I expected—not much. Indeed, my sense is they took the assumptions made for the Future Year Defense Plan and simply extended them out to 2009.

Even after 20 years of constant terrorist attacks, the Defense Department still hasn't matched its force structures with the threats to our Nation. In fact, they avoided the entire issue of the threats this Nation will face over the next twenty years by claiming that today's security environment is "impossible to predict, with any confidence, which nations, combinations of nations or non-state actors may threaten U.S. interests at home and abroad."

And when the department claims they have adopted an approach to force development based on capabilities rather than threat-based requirements and will need a "flexible, adaptive, and decisive joint capabilities that can operate across the full spectrum of military contingencies."—what exactly does that mean? Is that the kind of bureaucratic "gobbledygook" and uncertainty upon which we should be considering closing our military bases. I do not think so and neither do other Americans. For example, retired Navy captain Ralph Dean succinctly observed in a recent Maine newspaper column that:

> Secretary of Defense Donald Rumsfeld released his 20-year force structure plan as an input to BRAC. Surprisingly, it showed virtually no changes in overall force structure during that long period. This may indicate that DoD is unable to make projections with any degree of certainty. This uncertainty must be addressed, because BRAC actions are irreversible.

Let there be no mistake, as the President has said, our global war on terror will be a long struggle that is just beginning. These are unconventional threats for an unconventional era—how can we possibly project outward 20 years to know our needs? At the same time, we are learning that quantity of troops matters—as DoD was forced to recalibrate and send an additional 20,000 troops to Iraq. Moreover, this very legislation before us would authorize an increase in the Army's end strength of 30,000 soldiers—yet we want to reduce our number of bases? Indeed, the BRAC 2005 force structure plan addresses neither the potential surge requirements we may face in this protracted struggle nor the need for more troops. In its May 2004 report, the GAO has said:

> The department must consider ongoing force transformation initiatives in its BRAC analysis as well as factor in relevant assumptions about the potential for future force structure changes—changes that will likely occur long after the timeframes for the 2005 BRAC round. This includes consideration of future surge requirements.

Frankly, there is even confusion between DoD and the services. On May 12, 2004 the Boston Globe reported the Navy is conducting an internal study and considering slashing its attack submarine force by as much as a third as they work toward their 2006 budget submission. This despite the fact that information we have been provided by the Navy indicates no changes in the Future Year Defense Plan.

Where is the coordination in assessing the threat or planning force structure needs? And what of the "joint" war-fighting plans that are still being developed? If BRAC decisions are based on untested and untried "joint" concepts, then DoD could well face limited options down the line because of limitations of facilities if all the anticipated efficiencies are not realized.

The Force Structure Plan clearly states the limits of their excess capacity analysis, saying:

> The results presented in this section cannot be used to project the number of potential BRAC closures or realignments that could be achieved in each installation category.

Without this projection, how are the savings from BRAC being estimated and what is driving the scope of BRAC? What is needed is a rigorous analysis that determines the number of BRAC closures or realignments that are expected to be achieved for each type of military installation.

Finally, the Pentagon was also instructed to consider the effects of overseas bases and joint tenancy in its assessment of excess capacity, and while the submitted Force Structure Plan tells us how many installations the US currently operates overseas, it provides no information about the number of bases and troops expected to be located overseas over the next 20 years or where these bases would be located nor does it detail the functions that are being considered for joint operations and how much efficiency is expected to be gained by these changes.

The amendment proposed by Senators DORGAN, LOTT, FEINSTEIN and myself ensure that Congress is provided with sufficient time to deliberate on what infrastructure is needed to provide for our Nation's security now and well into the future. While I would have preferred to cancel the process altogether, the amendment offered today ensures that these irrevocable decisions are made with sufficient deliberation. The amendment provides for an expedited consideration by Congress for a domestic base closure round in 2007—after the completion of an overseas BRAC action.

The amendment is a recognition that the operation, sustainment, and recapitalization of unneeded overseas bases diverts scarce resources from the nation's defense capabilities and requires the Secretary of Defense to establish a management structure and initiate a process for eliminating excess physical capacity at overseas bases.

After conducting this review of overseas facilities, the Secretary would provide to Congress and the BRAC Commission a list of military installations, a detailing of the reassignments of troops and equipment from affected bases, and an estimate of the cost savings to be achieved. The Secretary would also be required to provide a certification whether a domestic round of BRAC would be necessary.

The BRAC Commission would then evaluate the Secretary's recommendations and provide an assessment of the extent that the Secretary accounted for the final report of the Commission on the Review of the Overseas Military Facility Structure of the United States, whether the Secretary maximized the amount of savings and whether a domestic BRAC round in 2007 is warranted.

After the BRAC Commission completes its work, there is a process for an expedited consideration of an additional domestic BRAC. The amendment requires a "joint resolution" be introduced within 10 days after the President transmits to Congress an approval and certification for a domestic base closure round. If passed by Congress, then within 15 days, the Secretary will publish in the Federal Register the selection criteria to be used and a schedule for the BRAC round, and the domestic BRAC would proceed as originally planned.

According to the Congressional Budget Office, the U.S. military has approximately 197,000 active-duty personnel stationed permanently outside the United States—that is 14 percent of our active duty military and 19 percent of the Army active-duty forces. And, while the Secretary of Defense has estimated an excess capacity of 29 percent in the Army domestic infrastructure, the Congressional Budget Office, in a May 2004 report on overseas basing has said:

> Because of the various rounds of base realignment and closure (BRAC) that have occurred since the late 1980s, the Army has little excess capacity at its bases to absorb so many additional troops and units.

And according to former DoD Comptroller Dov Zakheim:

> BRAC does . . . make it difficult to move our forces directly to where they ought to go if you don't want them to be overseas.

Most of these overseas troops are stationed in Germany and South Korea, where the United States currently maintains 330 bases at an estimated cost of $1.2 billion annually. The administration has raised a number of concerns about these forces, including the fact that Army forces in Germany may not be able to deploy quickly to conflicts in Africa or the Caspian Sea region of Central Asia. Additionally, many of the bases in South Korea, which were formerly isolated, are becoming increasingly surrounded by commercial and residential communities, leading to greater friction with the local communities and limiting the training that can be conducted.

The Congressional Budget Office has determined that removing the Army forces from Germany and South Korea and relocating them in the United States would not affect deployment times, make available 4,000 to 10,000 more troops for sustained overseas operations, and reduce family separation by 22 percent, improving troop morale and retention rates. These changes would also result in an estimated annual savings of $1.2 billion. More important than financial considerations, today's uncertain environment requires our troops to be more agile and mobile and the time is long past to reevaluate an overseas base structure that was developed to meet the threats of the Cold War.

Some people contend that the overseas basing decisions will be completed in time to be accounted for by the BRAC process. But the current legislation provides for the Commission on Review of Overseas Military Facility Structure of the United States to report on their findings to Congress no later than December 31, 2004—only 4½ months before the BRAC decisions are to be completed. This timeline does not allow the Department of Defense to fully account for these overseas facilities in their domestic BRAC analysis nor does it include any time to include any of the changes to the report that Congress may determine are necessary.

Significant changes are being considered for our overseas bases and forces and these decisions potentially have an enormous impact on our domestic base infrastructure. According to the Congressional Budget Office "the need to house forces in the United States that are now stationed overseas could preclude some" of the closures in the upcoming BRAC round.

I want to protect the military's critical readiness and operational assets. And I want to make absolutely sure that this nation maintains the military infrastructure it will require in the years to come to support the war on terror and protect our homeland. The amendment my colleagues and I have proposed today will ensure that the evaluation of military facilities by the Department of Defense, both overseas and within the United States, is conducted with rigor and in a deliberative, systematic manner. As Senator HUTCHISON correctly observed:

> It would be irresponsible to build on an inefficient, obsolete overseas base structure, as we face new strategic threats in the 21st century, taking valuable dollars needed elsewhere.

Likewise, it would be irresponsible to continue with a domestic BRAC without a complete understanding and evaluation of our overseas basing requirements. This amendment will allow Congress time to exercise its oversight responsibilities and ensure that these important decisions—which cannot be undone—are serving the Nation's interests.

In closing, I believe that we must give the Department the time it needs to conduct a legitimate analysis of our security environment and the underpinning force structure and infrastructure requirements. Therefore I urge my colleagues to support the amendment before us.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUPPORT FOR U.S. TROOPS

Mr. DASCHLE. Mr. President, earlier today I heard a particularly egregious comment made on the Senate floor that I cannot in good conscience allow to pass unchallenged.

If there is one individual whose support for our troops and their effort I never thought would be subject to attack, it is JOHN MURTHA.

I served with Representative MURTHA in the House. I know full well the honorable service he has rendered to his country. And I know how hard he labors every day to promote the interests of our nation and its citizens—in particular our men and women in uniform.

JOHN joined the Marine Corps during the Korean War, and he later volunteered to serve in Vietnam. His public service continued back home when he became the first combat Vietnam veteran elected to Congress. JOHN has been awarded both the Navy Distinguished Service Medal and the USO's Spirit of Hope Award.

As most know, Representative MURTHA was a strong advocate for the Iraq war. And not too long ago, my Republican colleagues were praising him for his position. But now that he has raised reasonable questions about how the war has been handled by the Administration, he is being accused of aiding our enemies.

There should be no room in our debate for such personal attacks. JOHN MCCAIN. Max Cleland. And now JOHN MURTHA. All of these men honorably served our country, and all have had their character impugned.

JOHN MURTHA is an honorable man with a long history of public service. No one should question his dedication to our troops and their families, and to the national interest.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On August 25, 2000, in Baton Rouge, LA, a jury convicted Quincy Powell of second-degree murder for the beating and stomping death of Michael Fleming, a gay man, in June 1999. Prosecutors said that Powell killed the victim because he was gay and subsequently referred to the victim as "faggot Mike" when he recounted the murder.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

MARIANNE LAMONT HORINKO

Mr. INHOFE. Mr. President, I rise today to honor Marianne Lamont Horinko who currently serves as the Assistant Administrator of the Office of Solid Waste and Emergency Response at the Environmental Protection Agency. Marianne has served our Nation in that post since October 1, 2001, and just a few weeks from now will return to private life and to spend more time with her family.

As Assistant Administrator of OSWER, Marianne demonstrated outstanding leadership and has met the unprecedented challenges of a post September 11th America. Ms. Horinko realized the incredible challenges that lay before her just one month after the horrific attacks of that day. Immediately upon assuming office, Marianne refocused the traditional missions of OSWER from waste management and related reclamation work of contaminated sites to emergency response of historic proportions. She led the cleanup effort at Ground Zero in New York City and the Pentagon, a mission that no one could have contemplated before then and still haunts us today.

While managing the emergency response of the September 11th destruction, Congress itself was the victim of a cowardly anthrax biological attack. Facing yet another unprecedented event, Marianne led the emergency response and clean up effort not of a Superfund site, but of the Senate office buildings, and ensured that the Capitol community was safe from harm and helping Congress return to doing the work for the Nation.

In 2003, as National Program manager, Ms. Horinko oversaw EPA's response to the Columbia Space Shuttle Disaster. Again, Marianne charted a new course for OSWER and crafted the groundbreaking National Approach to Response.

Marianne has accepted challenge after challenge head on as Assistant Administrator of OSWER, and assumed responsibility when called upon. Not only did she exceed expectation in that role, but she also performed as acting administrator of the entire Environmental Protection Agency after the resignation of Governor Whitman.

Marianne has brought dynamic new approaches to environmental protection using partnerships, flexibility and innovation to create environmental improvements rather than the old command and control systems of the past. The Brownfields program, signed into law by President Bush in 2002, is just one of the many ways that Marianne's results-based leadership led to environmental protection.

Marianne Lamont Horinko proved to be one of the most diligent, dynamic, and outstanding leaders in the history of the Environmental Protection Agency. We thank her for her service to our Nation, and wish her all the best in her future pursuits.

ROSIE THE RIVETER

Mrs. BOXER. Mr. President, the famous poster of "Rosie the Riveter," created by J. Howard Miller in 1943, was quite well known throughout America during World War II. The slogan on the poster—"WE CAN DO IT!"—captured the spirit and dedication of our Nation's women during World War II. "Rosie the Riveter" became a nickname for the women who entered the workforce during the war.

World War II profoundly changed the role and status of American women. During this war, over 6 million women joined the workforce, filling jobs that had been traditionally held by men. For the first time in history, women in large numbers worked to produce ships, planes, tanks, trucks, guns and ammunition that were essential to the war effort. They worked in factories while raising their kids—often by themselves as their husbands were fighting abroad.

In California, women worked in factories across the state, from the Douglas Aircraft Company plant in Long Beach to the Ford Assembly plant in Richmond, CA.

These women's contributions on the homefront were invaluable to our nation's victory in World War II. As we approach Memorial Day—and the dedication of the World War II Memorial—I want to express my gratitude to our Nation's "Rosies" for their effort in helping America win the war.

In 2000, Congress enacted legislation, introduced by Representative GEORGE MILLER, to create the Rosie the Riveter/World War II Home Front National Historical Park in Richmond, CA. Senator FEINSTEIN and I introduced the Senate companion bill.

Richmond, CA was chosen as the site since the city played a significant role in the World War II effort on the homefront. Fifty-six war industries operated in Richmond, and the Kaiser Shipyards produced more ships than any other shipyard in the United States. The Ford Assembly Plant prepared for shipment overseas more than 20 percent of all tanks and other combat vehicles used by the United States during World War II.

The Rosie the Riveter/World War II Home Front National Historical Park is the first park created to commemorate the contributions of men and women on the U.S. home front during World War II and to preserve the historic sites, structures and stories associated with World War II.

I am so pleased that the park, in partnership with Ford Motor Company and the National Park Foundation, has initiated a campaign to find "Rosies" across the country to collect their personal stories and memorabilia to share with future generations. I commend Ford Motor Company and the National Park Foundation for their efforts to preserve such an important piece of our history.

In this historic year—the 60th anniversary of D-Day—while we are honoring the Nation's veterans, let us not forget to honor the women whose contributions were critical to our success in World War II.

IN RECOGNITION OF OLDER AMERICANS MONTH

Mr. SARBANES. Mr. President, in 1963, President Kennedy began an important tradition of designating a time for our country to honor our older citizens for their many accomplishments and contributions to our Nation. I rise today to continue that tradition and recognize May as "Older Americans Month." Those of us who have worked diligently in the U.S. Senate to ensure that older Americans are able to live in dignity and independence during their later years welcome this opportunity to pause and reflect on the contributions of those individuals who have played such a major role in shaping our great Nation. We honor them for their hard work and the countless sacrifices they have made throughout their lifetimes, and look forward to their continued contributions to our country's welfare.

In line with the theme of this year's Older Americans Month, "Aging Well, Living Well," I want to take this opportunity to highlight the importance of quality and comprehensive health care for our seniors. They deserve nothing less. I have significant concerns about what the future holds in this regard. I voted against the Medicare Prescription Drug and Modernization Act of 2003, which is currently being phased in, because I believed it would jeopardize promises we as a Nation have made to seniors. Many of the concerns that I shared with a number of my colleagues at that time and during the Senate's consideration of this measure are unfortunately now coming to fruition.

One of my principal concerns is that the new law will fail to provide a comprehensive, consistent and affordable prescription drug benefit to Medicare beneficiaries. And now as we look at the uncertainty of monthly premiums and incomplete coverage for drug costs under the new law, it is increasingly clear that corporate interests won out over the interests of the elderly. Indeed, at least 2.7 million retirees are expected to lose their existing retiree prescription drug benefits—which are of higher quality—and will instead have to use the Medicare drug benefit.

Moreover, I continue to be deeply concerned that existing Medicare beneficiaries will be forced into managed care organizations in order to receive substantial prescription drug benefits. Because of the recent history with Medicare+Choice plans, it has been suggested that requiring seniors to rely on the private market for coverage represents a significant threat to the very existence of Medicare as we have known it for the last 40 years.

On top of all of this, the Medicare trustees have predicted exhaustion of the Medicare Trust Fund 7 years earlier than previously predicted. With the rising costs of drugs and health care in general, and the implicit lack of means to reduce drug costs in the new law, we will be faced with hard decisions sooner than originally anticipated. Hopefully, the answer will not be to seek to decrease benefits.

To address these concerns, I am in favor of proposals to provide Medicare beneficiaries with full prescription drug coverage. In fact, a number of my colleagues and I supported legislation during the Senate's consideration of the Medicare overhaul that would have controlled drug prices by allowing our Government to negotiate directly with drug companies.

Unfortunately this amendment was defeated when it came to the Senate for a full vote, but I continue to work with my colleagues on this and other proposals in an effort to bring these prices under control.

In addition to health care access, our seniors deserve adequate protection through our Social Security Program. There are those who have suggested that to enable the Social Security fund to meet the expanding demand of our growing number of retirees, we should decrease benefits.

The key strength of the Social Security system is its guaranteed benefit and we must work to preserve it rather than diminish it. Social Security has been effective in improving the standard of living and reducing poverty among the elderly and disabled by providing an inflation-indexed, defined benefit no matter how long an individual lives. Throughout their lives, seniors have paid into a system with the understanding that their benefits will be there for them when they retire. We ought to uphold our end of the bargain and ensure that these benefits are available.

President Franklin Roosevelt signed the Social Security Act into law against a backdrop of increasing poverty among elderly Americans. President Roosevelt sought to give "a measure of protection for the average citizen and to his family against the loss of a job and against poverty-ridden old age." In my view, the words of President Roosevelt should continue to guide our conscience.

America's Older Americans add great value to our Nation. We ought to take this month as an opportunity to show our appreciation for the value they add and redouble our efforts to support their needs.

RETIREMENT OF FRANCES PRESTON

Mr. LEAHY. Mr. President, I would like to take a moment to recognize the remarkable career of Frances Preston. When Ms. Preston began working for Broadcast Music Incorporated in Nashville in 1958, she had only one assistant and her office was her parents' garage. She soon saw the company grow to more than 400 employees in that city alone. In 1985, she became Senior Vice President, Performing Rights, and in 1986 she was named President and CEO of BMI.

Since 1958 when she joined BMI, Ms. Preston has been an invaluable resource to the entire music industry. Her steady and visionary leadership has spanned unprecedented industry growth and several revolutions in technology and popular culture. Over that time, she has overseen the development of BMI's nearly 4.5 million musical works and has delivered a royalty system that meets the needs of this massive repertoire. Fortune magazine has rightly called her "one of the true powerhouses of the pop music business."

And for more than two decades she has proven herself an equally invaluable resource for those of us in Washington who appreciate the unique importance of the community of songwriters, composers and publishers. She has testified frequently and has vigilantly defended the rights of these individuals. She has also been a key player in the debates regarding music in the digital age. Her dedication to the many participants in the music world, and her unfailing willingness to assist us in Congress in understating their concerns and issues, made her an incomparable asset as we tried to make sound policy and good law in the areas that matter most to music.

Along with her many professional accomplishments, she has devoted herself to a multitude of charitable efforts. Her charitable work ranges from serving as president of the T.J. Martell Foundation for Leukemia, Cancer and AIDS Research, to her work for Goodwill of Nashville. She has received numerous humanitarian awards, including a "Woman of Achievement" Award from the Society for the Advancement of Women's Health Research, the first Distinguished Service Award from New York's Elaine Kaufman Cultural Center, and the Lester Sill Humanitarian Award presented at the Retinitis Pigmentosa International Awards.

Ms. Preston's skill and passion will be greatly missed. It is a comfort to know that she will be staying on at BMI in the role of President Emeritus. I thank her for her efforts and wish her well in all her future endeavors.

ADDITIONAL STATEMENTS

TRIBUTE TO DR. OSWALD P. BRONSON, SR.

• Mr. NELSON of Florida. Mr. President, I want to pay tribute to an outstanding leader, administrator and advisor, Dr. Oswald Bronson, the retiring president of Bethune-Cookman College in Daytona Beach, FL.

Dr. Bronson's list of accomplishments, honors and contributions are long and distinguished. Because of Dr. Bronson, Bethune-Cookman has earned a national reputation for excellence in liberal arts education. In his 29 years at Bethune-Cookman, he doubled the enrollment, boosted its endowment from $1.2 million to $25 million, increased its economic impact on the community to $300 million and raised its operating budget to $45 million.

A recognized "key power broker" for the Nation's black colleges by Black Issues in Higher Education, Dr. Bronson advised President Clinton on higher education issues and served as chairman and president of several national, influential educational organizations, including the United Negro College Fund, the National Association for Equal Opportunity in Education and most recently the National Association of Independent Colleges and Universities.

And not only is Dr. Bronson a respected voice on higher education issues, but also a leading religious figure. He served as President of the Interdenominational Theological Seminary and President of the United Methodist Church Council of Presidents. As a pastor in three States, Dr. Bronson lectured and taught in numerous mission schools, pastoral institutes and leadership training seminars.

For his dedicated service and distinguished career, Dr. Bronson earned many honors including an honorary Doctor of Divinity Degree, and honorary Doctor of Laws degree and keys to several cities in Florida.

I am honored to call Dr. Bronson a friend and thank him for his remarkable tenure at Bethune-Cookman College and extraordinary contribution to our country. He will be missed, but I know he will continue to make a contribution.•

OHIO COUNTY HIGH SCHOOL

• Mr. BUNNING. Mr. President, I pay tribute and congratulate the students of Randy Brown for winning the "Role of Citizen" unit award at the national finals of We The People: The Citizen and the Constitution program. This class hails from Ohio County High School of Hartford, KY.

This program is run by the Center for Civic Education, a Los Angeles-based organization that strives to get students involved in government and civic affairs. The event simulates a congressional hearing whereby high school students testify as constitutional experts before a panel of judges.

The members of the winning class are: Jeffrey Ashby, Samantha Beck, Hannah Benton, Jonathan Brown, Crystal Clayton, Jeffrey Coulter, Amanda Critchelow, Jessica Culbertson, Lauren Danks, Shellena Davis-Roberts, Ashley Evans, Raven Evans, Judson Hunter, Savannah Johnson, Daniel Justice, Julie Leach, Brian Mayes, Mallory Nauman, Mallory Phelps. Lauren Pieper, Emily Renfrow, Anthony Rusher, Jonathan Shrewsbury, Ashton Variot, Chase Vincent, Amy Walsh, Meredith Ward, Bailey Westerfield, Britney Westerfield, and Emily Williams.

The citizens of Ohio County can be very proud of these students. Their achievement should be an inspiration to all throughout the entire Commonwealth of Kentucky. Congratulations.•

FRED F. ZELLER

• Mr. BOND. Mr. President, I wish to pay special tribute to Mr. Fred F. Zeller, the American Legion District 11 and 12 Legionnaire of the Year. Fred and the millions of other veterans that have served have earned our Nation's most sincere thanks for the service and sacrifices they rendered. It is their service that provided the umbrella of freedom under which we live today.

Mr. Zeller earned his eligibility to be a member of The American Legion by serving in the U.S. Navy in World War II as part of the greatest generation and has enjoyed 57 continuous years in The American Legion.

After being discharged from the Navy in 1946, Fred joined Post 225 in Ohio. He was transferred by his company to Minnesota in 1951 where he joined Post 257. He served on various committees, the executive board and Captain of the Color Guard and the Firing Squad for 8 years. His job took him to many places and he landed in Missouri and settled in St. Louis in 1978, becoming a member of Post III where he took part in all of the Post activities.

Fred is presently serving as Judge Advocate and President of G.A.P.L., the building and grounds part of the post. For sharing all of his knowledge, skill and hard work, Mr. Zeller was presented a gold card and life membership in 1999. Fred is a member of The Past Commanders Club, having served twice on the Executive board.

Fred exemplifies the true meaning of the word service. As you can see, Fred continued to serve long after he was discharged from the military and we should all be proud of his many accomplishments. Again, I wish to extend my most sincere thanks for Mr. Zeller's service and my congratulations to him on being chosen as Legionnaire of the Year.•

SISTER GERALDINE BERNARDS

• Mr. SMITH. Mr. President, I am proud to pay tribute today to a remarkable woman who is one of Oregon's true health care heroes. For the past 40 years, Sister Geraldine Bernards has devoted herself to the work of Maryville Nursing Home in Beaverton, OR. First as a nurse, then as director of nurses, and for the last 10 years as Administrator, Sister Geraldine has made a positive difference in the lives of countless Oregonians. Sister Geraldine will be retiring this summer, and before she does, I wanted to take the opportunity to share her inspiring story.

Founded in 1963, Maryville Nursing Home is owned and operated by the Sisters of St. Mary of Oregon, and offers "service with love" to the elderly. During the four decades of Sister Geraldine's service, Maryville has expanded to include an Alzheimer's unit, a physical therapy unit, an eye clinic, a dental clinic, an activities center, and a multi-purpose gathering center.

In her 10 years as Maryville's administrator, Sister Geraldine has initiated many valuable programs to guarantee quality health care and safety for the residents. Two courtyards have been enclosed, making them attractive and safe places for the residents to enjoy the outdoors with their families. A wireless phone system was introduced which enables nurses to be contacted immediately anywhere in the facility. A security system has been installed. New patient lifts were purchased. The volunteer program has seen a tripling in the number of participants, and a full time director of volunteers has been hired.

Some of the most inspiring words about Sister Geraldine come from those who know her best. Activity Director Hilee Jackson says that Sister Geraldine is "consumed by making sure that others' needs are met." Terry Shrum, Quality Assurance Director, says "Sister Geraldine would do anything for anyone."

It is a fitting tribute to her lifetime of service that a Sister Geraldine Bernards Continuing Education Fund is being established to provide financial resources for on-going career education in the fields of health care and early childhood development.

I am proud to join with many other Oregonians in saluting the work of this true health care hero, and I wish her many more years of health and happiness.•

RECOGNIZING THE WORK OF ARTHUR PRATT

• Mr. LUGAR. Mr. President, I want to share with my colleagues a few highlights from the remarkable lifetime of leadership and good works displayed by Mr. Arthur Pratt, the founder and leader of Life Effectiveness Training in Indianapolis, IN.

Over the past 35 years, Mr. Pratt has been a dedicated leader in going into prisons around the country and assisting drug addicted men and women break their dependence on mind altering substances. His work has improved countless lives and the success is particularly evident in the reduced recidivism rates of the prisoners who have completed his program. His expertise and active contributions were the impetus behind legislation that I sponsored and passed requiring at least ten percent of all money allocated to Residential Substance Abuse Treatment programs to be allocated to programs in the jails.

Currently, at the age of 80, Mr. Pratt is a continual voice in advocating proven treatment service for our Nation's state and county jails. Yearly, his program provides approximately 250 alcoholics and drug addicts 90 days of treatment in Marion County Jails. Of the more than 7,000 people he has treated, over two-thirds have not been subsequently arrested. Through Life Effectiveness Training, he counters addiction and recidivism using a tested program that instills strength and confidence in their lives.

Arthur Pratt has dedicated his life to public service, and I am pleased to have this opportunity to congratulate him on his many worthwhile accomplishments.•

OUR PRECIOUS GIFT OF FREEDOM

• Mr. CRAPO. Mr. President, in a few days, a very special dedication will be held a short distance from here. Thanks to the diligence, commitment, and hard work of many people across the United States, our Nation's capital will officially be the proud home to the long-overdue World War II Memorial. It is definitely a time for celebration—a celebration of freedom, life, and honor, a celebration of the United States of America. Most of all, it is a celebration of all the soldiers and citizens who gave life and limb during the early years of the 1940s.

Idaho is home to many World War II veterans. This Memorial Day weekend, those veterans, along with veterans from every State and others who helped at home and abroad, can celebrate a very special Memorial Day. Many fought and many died to defend the United States in a war that ended 59 years ago. Sixteen million served, and 400,000 did not return to families and friends. Each one of these lives increased the value of our citizenship exponentially and immeasurably. This memorial, the design of which was selected after careful review of 400 submissions, stands as a reminder of the sacrifice of many. It is a most profound honor to their memory.

Watching the evening news is a sobering reminder of what this memorial stands for. It represents freedom from tyranny, peace and justice for all people, bravery in the face of terror and death, and love for America that surpasses words while challenging complacency. The World War II Memorial has an important role to play in teaching us about the price of freedom. It reminds each one of us that we cannot take our United States citizenship lightly. It calls on us to be vigilant in preserving those freedoms as those who have gone before have done with such conviction and singleness of purpose. Many veterans know all too well the physical and emotional challenges that the current generation of military personnel and their families are facing. Their wisdom, insight, and experience will help those who themselves are brand new veterans. These young men and women face the same challenges that others did over half a century ago. This memorial serves as a reminder of the debt of honor and gratitude we owe all veterans. We have a responsibility to care for them and, in our national leadership roles, we must take steps which do the most to support these brave defenders of our freedom.

This memorial represents those who have given life and limb in military service, and it also reminds all Americans of the gift of immeasurable cost—the gift of freedom—that the lives of brave men and women have purchased for all of us. And I can think of no better reason to celebrate.•

HONORING P.J. KEELEY

• Mr. DURBIN. Mr. President, I wish to honor P.J. Keeley, a great husband and father, a fine grandfather, and an outstanding golfer, on the eve of his 75th birthday.

It's appropriate that P.J. is turning 75 this year, having shot an impressive round of 75 on the links in March.

P.J. Keeley married Elizabeth L. Holten Keeley on February 3, 1951, and had 10 children by that union. In addition, P.J. has 24 grandchildren and one great grandchild.

After the death of his wife, Betty, P.J. married Virginia McKee Keeley on August 22, 1998.

P.J.'s passion is golf. In the course of his golfing career, P.J. Keeley won 16 championships at St. Clair Country Club in Belleville, IL. He won his first championship in 1958, at the age of 16, and his last championship in 1987 at the age of 58.

In addition to being an avid golfer, P.J. is an Army veteran who has honorably served his country.

P.J. Keeley served as president of Keeley & Sons, Inc., a well-known highway construction firm, for 23 years, from 1967 through 1989. Keeley & Sons was founded in 1947. In addition, P.J. was president of the Associated General Contractors of Illinois for two terms. Throughout my life, the name Keeley has been synonymous with construction in Southwestern Illinois.

I congratulate P.J. Keeley on the occasion of his 75th birthday and wish him many more years of happiness and accomplishment, both on and off the golf course.•

MESSAGE FROM THE HOUSE

At 3:16 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2728. An act to amend the Occupational Safety and Health Act of 1970 to provide for adjudicative flexibility with regard to an employer filing of a notice of contest following the issuance of a citation by the Occupational Safety and Health Administration; to provide for greater efficiency at the Occupational Safety and Health Review Commission; to provide for an independent review of citations issued by the Occupational Safety and Health Administration; to provide for the award of attorney's fees and costs to very small employers when they prevail in litigation prompted by the issuance of citations by the Occupational Safety and

Health Administration; and to amend the Paperwork Reduction Act and titles 5 and 31, United States Code, to reform Federal paperwork and regulatory processes.

H.R. 3740. An act to designate the facility of the United States Postal Service located at 223 South Main Street in Roxboro, North Carolina, as the "Oscar Scott Woody Post Office Building".

H.R. 4176. An act to designate the facility of the United States Postal Service located at 122 West Elwood Avenue in Raeford, North Carolina, as the "Bobby Marshall Gentry Post Office Building".

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3740. An act to designate the facility of the United States Postal Service located at 223 South Main Street in Roxboro, North Carolina, as the "Oscar Scott Woody Post Office Building"; to the Committee on Governmental Affairs.

H.R. 4176. An act to designate the facility of the United States Postal Service located at 122 West Elwood Avenue in Raeford, North Carolina, as the "Bobby Marshall Gentry Post Office Building"; to the Committee on Governmental Affairs.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

H.R. 2728. An act to amend the Occupational Safety and Health Act of 1970 to provide for adjudicative flexibility with regard to an employer filing of a notice of contest following the issuance of a citation by the Occupational Safety and Health Administration.

S. 2448. A bill to coordinate rights under the Uniformed Services Employment and Reemployment Rights Act of 1994 with other Federal laws.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–7565. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, Department of Defense, transmitting, pursuant to law, the Fiscal Year Defense Environmental Restoration Program report; to the Committee on Armed Services.

EC–7577. A communication from the Director, Regulatory Review Group, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "2002 Farm Bill Regulations—Loan Eligibility Provisions" (RIN0560–AG81) received on May 12, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7578. A communication from the Director, Regulatory Review Group, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Farm Loan Programs Account Servicing Policies—Elimination of 30-Day Past Due Period" (RIN0560–AG50) received on May 12, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7579. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Phosphomannose Isomerase and the Genetic Material Necessary for Its Production in All Plants; Exemption from the Requirement of a Tolerance" (FRL#7358–9) received on May 14, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7580. A communication from the Acting Under Secretary of Defense for Acquisition, Technology, and Logistics, Department of Defense, transmitting, pursuant to law, a report entitled "Report on Activities and Programs for Countering Proliferation and NBC Terrorism"; to the Committee on Armed Services.

EC–7581. A communication from the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–7582. A communication from the Acting General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations: 69 FR 12084" (FEMA–B–7744) received on May 12, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–7583. A communication from the Acting General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations: 69 FR 12081" (44 CFR 65) received on May 12, 2004 ; to the Committee on Banking, Housing, and Urban Affairs.

EC–7584. A communication from the Chairman and President, Export-Import Bank of the United States, transmitting, pursuant to law, the report of a transaction involving U.S. exports to Algeria; to the Committee on Banking, Housing, and Urban Affairs.

EC–7585. A communication from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting, pursuant to law, the report of a rule entitled "Interim Final Rule; Extension of Effective Date; Risk-Based Capital Guidelines, Interim Capital Treatment of Consolidated Asset-Backed Commercial Paper Program Assets" (RIN3064–AC74) received on May 12, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–7586. A communication from the General Counsel, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a nomination for the position of Secretary, Department of Housing and Urban Development received on May 12, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–7587. A communication from the General Counsel, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary for Policy Development and Research, Department of Housing and Urban Development received on May 12, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–7588. A communication from the General Counsel, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary for Public Affairs, Department of Housing and Urban Development received on May 12, 2004; to the Committee on Banking , Housing, and Urban Affairs.

EC–7589. A communication from the Administrator, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, a report relative to research on cabin air quality; to the Committee on Commerce, Science, and Transportation.

EC–7590. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Closure of Directed Fishing for Pacific Cod by Catcher/Processor Vessels Using Hook-and-Line Gear in the Bering Sea and Aleutian Islands Management Area" received on May 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7591. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Fishery Closure; Prohibiting Directed Fishing for Pollock in Statistical Area 610 of the Gulf of Alaska" received on May 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7592. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Closing Pacific Cod by Catcher/Processor Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area" received on May 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7593. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeaster United States; Summer Flounder; 2004 Specifications; Commercial Quota Restoration" received on May 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7594. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Fishery Closure; Prohibiting Directed Fishing for Species That Comprise the Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska (GOA)" received on May 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7595. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Final Rule; Final 2004 Specifications, and Preliminary Quota Adjustment; Notification of 2004 Commercial Summer Flounder Quote Harvest for Delaware" (RIN0648–AQ80) received on May 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7596. A communication from the Assistant Chief Counsel, Transportation Security Administration, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Protection of Sensitive Security Information" (RIN1652–AA08) received on May 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7597. A communication from the Assistant Secretary for Fish, Wildlife, and Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Extension of Amended Special Regulations for the Preble's Meadow Jumping Mouse" (RIN1018–AJ26) received on May 14, 2004; to the Committee on Energy and Natural Resources.

EC–7598. A communication from the Assistant Secretary for Fish, Wildlife, and Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and

Plants; Designation of Critical Habitat for Santa Ana Sucker (Catostomus Santaanae)" (RIN1018–AJ26) received on May 14, 2004; to the Committee on Energy and Natural Resources.

EC–7599. A communication from the Assistant Secretary for Fish, Wildlife, and Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Astragalus Pycnostachyus var. Lanosissimus (Ventura Marsh Milk—Vetch)" (RIN1018–AJ26) received on May 14, 2004; to the Committee on Energy and Natural Resources.

EC–7600. A communication from the Secretary of Energy, transmitting, a draft of proposed legislation to amend section 161k of the Atomic Energy Act to provide executive protection authorities for the Department of Energy (DOE) Federal protective force; to the Committee on Energy and Natural Resources.

EC–7601. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District" (FRL#7657–3) received on May 12, 2004; to the Committee on Environment and Public Works.

EC–7602. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation; State of Missouri" (FRL#7661–4) received on May 12, 2004; to the Committee on Environment and Public Works.

EC–7603. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District" (FRL#7659–8) received on May 12, 2004; to the Committee on Environment and Public Works.

EC–7604. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Control of Emissions of Air Pollution from Non Road Diesel Engines and Fuel" (FRL#7662–4) received on May 12, 2004; to the Committee on Environment and Public Works.

EC–7605. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "HAS/FSA/HRA Interaction" received on May 14, 2004; to the Committee on Finance.

EC–7606. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Section 601.204: Changes in Accounting Periods and in the Method of Accounting" (Rev. Proc. 2004–33) received on May 14, 2004; to the Committee on Finance.

EC–7607. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Weighted Average Interest Rate Update Notice—Pension Funding Equity Act of 2004" (Notice 2004–40) received on May 14, 2004; to the Committee on Finance.

EC–7608. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Section 602.204: Changes in Accounting Periods and in Methods of Accounting" (Rev. Proc. 2004–32) received on May 14, 2004; to the Committee on Finance.

EC–7609. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Examination of Returns and Claims for Refund, Credit, or Abatement; Determination of Correct Tax Liability" (Rev. Proc. 2004–26) received on May 14, 2004; to the Committee on Finance.

EC–7610. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Reduction of Tax Attributes Due to Discharge of Indebtedness" (RIN1545–BC47) received on May 14, 2004; to the Committee on Finance.

EC–7611. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Bureau of Labor Statistics Price Indexes for Department Stores—March 2004" (Rev . Rule 2004–48) received on May 14, 2004; to the Committee on Finance.

EC–7612. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "RIC REPOs" (Rev. Proc. 2004–28) received on May 14, 2004; to the Committee on Finance.

EC–7613. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "REMIC Inducement Fees Automatic Method Change" (Rev. Proc. 2004–30) received on May 14, 2004; to the Committee on Finance.

EC–7614. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "TD: Real Estate Mortgage Investment Conduits: Application of Section 446 With Respect to Inducement Fees" (RIN1545–BB73) received on May 14, 2004; to the Committee on Finance.

EC–7615. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Advance Payment Revenue Procedure" (Rev. Proc. 2004–34) received on May 14, 2004; to the Committee on Finance.

EC–7616. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Implementation of Notice Provisions of Section 102 of H.R. 3108" (Ann. 2004–43) received on May 14, 2004; to the Committee on Finance.

EC–7617. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Section 1.45–1; Taxable Year of Inclusion" (Rev. Rule 2004–52) received on May 14 , 2004; to the Committee on Finance.

EC–7618. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Guidance Under Section 1504(a)(C) and (D) Regarding Affiliation" (Notice 2004–37) received on May 14, 2004; to the Committee on Finance.

EC–7619. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Changes in Method of Accounting for Transfers to 461(f) Trusts" (Rev. Proc. 2004–31) received on May 14, 2004; to the Committee on Finance.

EC–7620. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Section 601–204 Changes in Accounting Periods and in the Method of Accounting" (Rev. Proc. 2004–33) received on May 14, 2004; to the Committee on Finance.

EC–7621. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to information on U.S. military personnel and U.S. individual civilians retained as contractors involved in the anti-narcotics campaign in Colombia; to the Committee on Foreign Relations.

EC–7622. A communication from the Director, Office of Inspector General, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Eligibility of Suspended Health Care Providers to Receive Payment of Federal Employees Health Benefits Program Funds; Financial Sanctions of Health Care Providers Participating in the Federal Employees Health Benefits Program" (RIN3206–AJ42) received on May 12, 2004; to the Committee on Governmental Affairs.

EC–7623. A communication from the Director, Office of Inspector General, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Changes in Health Benefits Enrollment" (RIN3206–AK04) received on May 12, 2004; to the Committee on Governmental Affairs.

EC–7624. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–419, "Practice of Naturopathic Medicine Licensing Amendment Act of 2004"; to the Committee on Governmental Affairs.

EC–7625. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–420, "Mount Vernon Triangle Business Improvement District Temporary Amendment Act of 2004"; to the Committee on Governmental Affairs.

EC–7626. A communication from the Deputy Archivist of the United States, National Archives and Records Administration, transmitting, pursuant to law, the report of a rule entitled "Official Seals and Logos" (RIN3095–AB19) received on May 12, 2004; to the Committee on Governmental Affairs.

EC–7627. A communication from the Secretary of Labor, transmitting, pursuant to law, a report entitled "The Department of Labor's 2003 Findings on the Worst Forms of Child Labor"; to the Committee on Health, Education, Labor, and Pensions.

EC–7628. A communication from the Director, Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, transmitting, pursuant to law, the report of a rule entitled "Underground Mine Ventilation—Safety Standards for the Use of a Belt Entry as an Intake Air Course to Ventilate Working Sections and Areas Where Mechanized Mining Equipment is Being Installed or Removed" (RIN1219–AA76) received on May 12, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7629. A communication from the Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Nondiscrimination on the Basis of

Age in Programs or Activities Receiving Federal Financial Assistance from the Department of Labor" (RIN1291–AA21) received on May 12, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7630. A communication from the Assistant Secretary for Indian Affairs, Division of Transportation, Bureau of Indian Affairs, transmitting, pursuant to law, the report of a rule entitled "Distribution of Fiscal Year 2004 Indian Reservation Roads Funds" (RIN1076–AE50) received on May 14, 2004; to the Committee on Indian Affairs.

EC–7631. A communication from the Chairman, Dwight D. Eisenhower Memorial Commission, transmitting, pursuant to law, the Commission's Report; to the Committee on Rules and Administration.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. COLLINS (for herself, Mr. LEVIN, Mr. CHAFEE, Mr. LIEBERMAN, Mr. AKAKA, Mr. SARBANES, and Ms. MIKULSKI):

S. 2438. A bill to amend title 31, United States Code, to provide Federal Government employees with bid protest rights in actions under Office of Management and Budget Circular A-76, and for other purposes; to the Committee on Governmental Affairs.

By Mrs. HUTCHISON (for herself, Mr. FRIST, and Mr. CORNYN):

S. 2439. A bill to award a congressional gold medal to Michael Ellis DeBakey, M.D.; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. McCAIN:

S. 2440. A bill to direct the Secretary of the Interior and the Secretary of Agriculture to jointly conduct a study of certain land adjacent to the Walnut Canyon National Monument in the State of Arizona; to the Committee on Energy and Natural Resources.

By Mr. BOND (for himself and Mr. TALENT):

S. 2441. A bill to designate the facility of the United States Postal Service located at 607 Pershing Drive in Laclede, Missouri, as the "General John J. Pershing Post Office"; to the Committee on Governmental Affairs.

By Mr. BOND (for himself and Mr. TALENT):

S. 2442. A bill to designate the facility of the United States Postal Service located at 475 Kell Farm Drive in Cape Girardeau, Missouri, as the "Richard G. Wilson Processing and Distribution Facility"; to the Committee on Governmental Affairs.

By Mr. HATCH (for himself, Mr. KYL, Mr. CORNYN, Mr. SESSIONS, and Mr. CHAMBLISS):

S. 2443. A bill to reform the judicial review process of orders of removal for purposes of the Immigration and Nationality Act; to the Committee on the Judiciary.

By Mr. SCHUMER:

S. 2444. A bill to amend the Controlled Substances Act to treat drug offenses involving crystal meth similarly to drug offenses involving crack cocaine; to the Committee on the Judiciary.

By Mr. EDWARDS:

S. 2445. A bill to amend the Federal, Food, Drug, and Cosmetic Act relating to direct-to-consumer prescription drug advertising; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. FEINSTEIN:

S. 2446. A bill to amend the Harmonized Tariff Schedule of the United States to provide that the calculation of the duty imposed on imported cherries that are provisionally preserved does not include the weight of the preservative materials of the cherries; to the Committee on Finance.

By Mr. LIEBERMAN (for himself, Mr. BROWNBACK, Mrs. CLINTON, Mr. SANTORUM, and Ms. LANDRIEU):

S. 2447. A bill to amend the Public Health Service Act to authorize funding for the establishment of a program on children and the media within the National Institute of Child Health and Human Development to study the role and impact of electronic media in the development of children; to the Committee on Health, Education, Labor, and Pensions.

By Mr. GREGG:

S. 2448. A bill to coordinate rights under the Uniformed Services Employment and Reemployment Rights Act of 1994 with other Federal laws; read the first time.

By Mr. BAUCUS (for himself, Mr. ROBERTS, and Mr. ENZI):

S. 2449. A bill to require congressional renewal of trade and travel restrictions with respect to Cuba; to the Committee on Finance.

By Mr. CAMPBELL:

S. 2450. A bill to amend title 10, United States Code, to revise the requirements for award of the Combat Infantryman Badge and the Combat Medical Badge with respect to service in Korea after July 28, 1953; to the Committee on Armed Services.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BROWNBACK (for himself and Mr. BINGAMAN):

S. Res. 365. A resolution expressing the sense of the Senate regarding the detention of Tibetan political prisoners by the Government of the People's Republic of China; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 569

At the request of Mr. ENSIGN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 569, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 847

At the request of Mr. SMITH, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 847, a bill to amend title XIX of the Social Security Act to permit States the option to provide medicaid coverage for low income individuals infected with HIV.

S. 884

At the request of Ms. LANDRIEU, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 884, a bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

S. 985

At the request of Mr. EDWARDS, his name was added as a cosponsor of S. 985, a bill to amend the Federal Law Enforcement Pay Reform Act of 1990 to adjust the percentage differentials payable to Federal law enforcement officers in certain high-cost areas, and for other purposes.

S. 1368

At the request of Mr. LEVIN, the names of the Senator from Vermont (Mr. LEAHY), the Senator from New York (Mr. SCHUMER), the Senator from Wisconsin (Mr. KOHL) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. 1368, a bill to authorize the President to award a gold medal on behalf of the Congress to Reverend Doctor Martin Luther King, Jr. (posthumously) and his widow Coretta Scott King in recognition of their contributions to the Nation on behalf of the civil rights movement.

S. 1733

At the request of Mr. KOHL, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1733, a bill to authorize the Attorney General to award grants to States to develop and implement State court interpreter programs.

S. 1900

At the request of Mr. LUGAR, the names of the Senator from New Hampshire (Mr. SUNUNU) and the Senator from Tennessee (Mr. ALEXANDER) were added as cosponsors of S. 1900, a bill to amend the African Growth and Opportunity Act to expand certain trade benefits to eligible sub-Saharan African countries, and for other purposes.

S. 1957

At the request of Mr. BINGAMAN, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 1957, a bill to authorize the Secretary of the Interior to cooperate with the States on the border with Mexico and other appropriate entities in conducting a hydrogeologic characterization, mapping, and modeling program for priority transboundary aquifers, and for other purposes.

S. 2275

At the request of Ms. MIKULSKI, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 2275, a bill to amend the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) to provide for homeland security assistance for high-risk nonprofit organizations, and for other purposes.

S. 2321

At the request of Mr. BYRD, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 2321, a bill to amend title 32, United

States Code, to rename the National Guard Challenge Program and to increase the maximum Federal share of the costs of State programs under that program, and for other purposes.

S. 2338

At the request of Mr. BOND, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2338, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 2365

At the request of Mr. COLEMAN, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 2365, a bill to ensure that the total amount of funds awarded to a State under part A of title I of the Elementary and Secondary Act of 1965 for fiscal year 2004 is not less than the total amount of funds awarded to the State under such part for fiscal year 2003.

S. 2389

At the request of Mr. ENSIGN, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 2389, a bill to require the withholding of United States contributions to the United Nations until the President certifies that the United Nations is cooperating in the investigation of the United Nations Oil-for-Food Program.

S. 2437

At the request of Mr. ENSIGN, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 2437, a bill to amend the Help America Vote Act of 2002 to require a voter-verified permanent record or hardcopy under title III of such Act, and for other purposes.

S.J. RES. 36

At the request of Mrs. FEINSTEIN, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S.J. Res. 36, a joint resolution approving the renewal of import restrictions contained in Burmese Freedom and Democracy Act of 2003.

S. RES. 221

At the request of Mr. SARBANES, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. Res. 221, a resolution recognizing National Historically Black Colleges and Universities and the importance and accomplishments of historically Black colleges and universities.

S. RES. 313

At the request of Mr. FEINGOLD, the names of the Senator from Vermont (Mr. LEAHY) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. Res. 313, a resolution expressing the sense of the Senate encouraging the active engagement of Americans in world affairs and urging the Secretary of State to coordinate with implementing partners in creating an online database of international exchange programs and related opportunities.

S. RES. 362

At the request of Mr. GRAHAM of Florida, the names of the Senator from Kansas (Mr. ROBERTS) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. Res. 362, a resolution expressing the sense of the Senate on the dedication of the National World War II Memorial on May 29, 2004, in recognition of the duty, sacrifices, and valor of the members of the Armed Forces of the United States who served in World War II.

AMENDMENT NO. 3151

At the request of Mr. LAUTENBERG, the names of the Senator from California (Mrs. FEINSTEIN), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from New York (Mrs. CLINTON) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of amendment No. 3151 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3154

At the request of Mr. FEINGOLD, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of amendment No. 3154 intended to be proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction , and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3169

At the request of Mr. DOMENICI, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of amendment No. 3169 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction , and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. COLLINS (for herself, Mr. LEVIN, Mr. CHAFEE, Mr. LIEBERMAN, Mr. AKAKA, Mr. SARBANES, and Ms. MIKULSKI):

S. 2438. A bill to amend title 31, United States Code, to provide Federal Government employees with bid protest rights in actions under Office of Management and Budget Circular A–76, and for other purposes; to the Committee on Governmental Affairs.

Ms. COLLINS. Mr. President, competitive sourcing is the process by which the Federal Government conducts a competition to compare the cost of obtaining a needed commercial service from a private sector contractor rather than from Federal employees. Properly conducted, competitive sourcing can be an effective tool to achieve cost savings. Poorly utilized, however, it can increase costs and hurt the morale of the Federal workforce.

The current guidelines under which agencies conduct these competitions are contained in the Office of Management and Budget's (OMB) Circular A–76 (A–76). To ensure that we maximize the benefit and minimize the cost of competitive sourcing, A–76 competition must be conducted in a carefully crafted manner. The rules under which they take place must be fair, objective, transparent, and efficient. In one particular regard, I believe the current rules fail to meet these criteria.

Specifically, they do not allow Federal employees to protest the agency's decisions in an A–76 competition beyond the agency's own internal review processes to the General Accounting Office (GAO). Congress has vested in the GAO the jurisdiction to hear and render opinions in protests of agency acquisition decisions generally. Private sector contractors, in contrast to federal employees, have standing to protest agency procurement decisions, including those in A–76 competitions, before GAO. Today, along with my distinguished colleague, Senator LEVIN, I am introducing legislation to correct this imbalance by providing Federal employees with standing to protest A–76 decisions to GAO.

The current situation does not arise from any conscious policy decision of Congress, GAO or OMB. Rather, it occurs because the Federal statute that confers protest jurisdiction upon GAO, the Competition in Contracting Act of 1984 or "CICA," was not drafted to address the unique nature of A–76 competitions, in particular, the role of Federal employees in the "Most Efficient Organization" or "MEO," which is the in-house side of these competitions. This was not deliberate—this particular circumstance for protest was simply not contemplated by Congress when drafting CICA.

Recent revisions to A–76 created the potential for GAO to review past decisions by Federal courts and revisit its own opinions to see whether the revisions would merit a determination that Federal employees had gained standing to protest adverse A–76 competition decisions. However, a recent GAO protest decision indicates that GAO has concluded it lacks the authority under CICA to hear protests from Federal employees in the MEO in these competitions. As a result, corrective legislative action has become necessary in our view.

Our bill would extend GAO protest rights on behalf of the MEO in A–76 competitions to two individuals. The first is the Agency Tender Official or "ATO." The ATO is the agency official who is responsible for developing and representing the Federal employees' MEO. The second is a representative chosen directly by the Federal employees in the MEO for the purposes of filing a protest with GAO where the ATO does not, in the view of a majority of the MEO, fulfill his or her duties in regards to a GAO protest.

As I mentioned, the rules under which these competitions are run must be fair. In addition to being objectively fair, however, I think they must also be perceived as fair by all parties. If the private sector perceives the rules to be unfair, they will decline to participate in competitive sourcing competitions, and the Federal Government will enjoy less competition in its acquisitions. If Federal employees perceive the rules to be unfair, there will be less interest in Federal employment at a time when we are all concerned about the Federal Government's human capital challenges. As the congressionally established Commercial Activities Panel noted in its report on competitive sourcing, the lack of GAO protest rights for Federal employees was one of the most often-heard complaints about the A–76 rules. Providing them with protest rights that are similar to those enjoyed by the private sector is, I think, vital to assuring Federal employees that the rules of the game are fair to them.

The rules must also be efficient. There are three interests that are served by A–76 rules that ensure a speedy process with finality. The Federal Government benefits by enjoying the benefits and efficiencies of competitive sourcing sooner rather than later. Federal workers benefit in that they spend less time having to worry about the outcome of these competitions, which can be stressful as they create uncertainty about employees' employment situations. Finally, because time is money in the private sector, private contractors will benefit by spending less time on competitions as well. In my view, having Federal employees vote to choose a representative to protest when they are dissatisfied with the ATO should achieve the maximum efficiency possible while respecting Federal employees' interests.

In the end, our intent is to bolster the A–76 process by providing a mechanism for Federal employees to seek redress from GAO, an entity that is well known for its fair, effective and expert handling of acquisition protests.

By Mrs. HUTCHISON (for herself, Mr. FRIST, and Mr. CORNYN):

S. 2439. A bill to award a congressional gold medal to Michael Ellis DeBakey, M.D.; to the Committee on Banking, Housing, and Urban Affairs.

Mrs. HUTCHISON. Mr. President, I rise today to acknowledge the lifetime achievements of Dr. Michael Ellis DeBakey, a public servant and world-renowned cardiologist, by offering legislation to award him the Congressional Gold Medal.

When he was only 23 years of age and still attending medical school, Dr. DeBakey accomplished what would be the first of many life saving accomplishments. He successfully developed a roller pump for blood transfusions—the precursor and major component of the heart-lung machine used in the first open-heart operation. This device later led to national recognition for his expertise in vascular disease.

Like many Americans of his generation, Dr. DeBakey put his practice on hold and volunteered for military service during World War II with the Surgeon General's staff. During this time, he received the rank of Colonel and chief of Surgical Consultants Division.

As a result of his military and medical experience, Dr. DeBakey made numerous recommendations to improve the military's medical procedures. His efforts led to the development of mobile army surgical hospitals, better known as MASH units, which earned him the Legion of Merit in 1945.

Following WWII, Dr. DeBakey continued his hard work by proposing national and specialized medical centers for those soldiers who were wounded or needed follow-up treatment. This recommendation evolved into the Veterans Affairs Medical Center System and the establishment of the commission on Veterans Medical Problems of the National Research Council.

In 1948, Dr. DeBakey joined the Baylor University College of Medicine, where it started its first surgical residency program and was later elected the first President of Baylor College of Medicine.

Adding to his list of accomplishments Dr. DeBakey performed the first successful procedure to treat patients with anyeurysms. In 1964, Dr. DeBakey performed the first successful coronary bypass surgery, opening the doors for surgeons to perform preventative procedures to save the lives of many people with heart disease. He was also the first to successfully use a partial artificial heart. Later that same year, President Lyndon B. Johnson appointed Dr. DeBakey as Chairman of the President's Commission on Heart Disease, Cancer and Stroke, which led to the creation of Regional Medical Programs. These programs coordinate medical schools, research institutions and hospitals to enhance research and training.

Dr. DeBakey continued to amaze the medical world when he pioneered the field of telemedicine by performing the first open-heart surgery transmitted over satellite and then supervised the first successful multi-organ transplant, where a heart, both kidneys and a lung were transplanted from a single donor into four separate recipients.

These accomplishments had led to national recognition. Dr. DeBakey has received both the Presidential Medal of Freedom with Distinction from President Johnson and the National Medal of Science from President Ronald Reagan.

Recently, Dr. DeBakey worked with NASA engineers to develop the DeBakey Ventricular Assist Device, which may eliminate the need for some patients to receive heart transplants.

I stand here today to acknowledge Dr. DeBakey's invaluable work and significant contribution to medicine by offering a bill to award him the Congressional Gold Medal. His efforts and innovative surgical techniques have since saved the lives of thousands, if not millions, of people. I ask my Senate colleagues to join me in recognizing the profound impact this man has had on medical advances, the delivery of medicine and how we care for our Veterans. Although, Dr. DeBakey is not a native of Texas, he has made Texas proud. He has guided the Baylor College of Medicine and the city of Houston into becoming a world leader in medical advancement. On behalf of all Texans, I thank Dr. DeBakey for his lifetime of commitment and service not only to the medical community but to the world. I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2439

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress makes the following findings:

(1) Michael Ellis DeBakey, M.D., was born on September 7, 1908 in Lake Charles, Louisiana, to Shaker and Raheeja DeBakey.

(2) Dr. DeBakey, at the age of 23 and still a medical student, reported a major invention, a roller pump for blood transfusions, which later became a major component of the heart-lung machine used in the first successful open-heart operation.

(3) Even though Dr. DeBakey had already achieved a national reputation as an authority on vascular disease and had a promising career as a surgeon and teacher, he volunteered for military service during World War II, joining the Surgeon General's staff and rising to the rank of Colonel and Chief of the Surgical Consultants Division.

(4) As a result of this first-hand knowledge of military service, Dr. DeBakey made numerous recommendations for the proper staged management of war wounds, which led to the development of mobile army surgical hospitals or MASH units, and earned Dr. DeBakey the Legion of Merit in 1945.

(5) After the war, Dr. DeBakey proposed the systematic medical follow-up of veterans and recommended the creation of specialized medical centers in different areas of the United States to treat wounded military personnel returning from war, and from this

recommendation evolved the Veterans Affairs Medical Center System and the establishment of the Commission on Veterans Medical Problems of the National Research Council.

(6) In 1948, Dr. DeBakey joined the Baylor University College of Medicine, where he developed the first surgical residency program in the City of Houston, and today, guided by Dr. DeBakey's vision, the College is one of the most respected health science centers in the Nation.

(7) In 1953, Dr. DeBakey performed the first successful procedures to treat patients who suffered aneurysms leading to severe strokes, and he later developed a series of innovative surgical techniques for the treatment of aneurysms enabling thousands of lives to be saved in the years ahead.

(8) In 1964, Dr. DeBakey triggered the most explosive era in modern cardiac surgery, when he performed the first successful coronary bypass, once again paving the way for surgeons world-wide to offer hope to thousands of patients who might otherwise succumb to heart disease.

(9) Two years later, Dr. DeBakey made medical history again, when he was the first to successfully use a partial artificial heart to solve the problems of a patient who could not be weaned from a heart-lung machine following open-heart surgery.

(10) In 1968, Dr. DeBakey supervised the first successful multi-organ transplant, in which a heart, both kidneys, and lung were transplanted from a single donor into 4 separate recipients.

(11) In 1964, President Lyndon B. Johnson appointed Dr. DeBakey to the position of Chairman of the President's Commission on Heart Disease, Cancer and Stroke, leading to the creation of Regional Medical Programs established "to encourage and assist in the establishment of regional cooperative arrangements among medical schools, research institutions, and hospitals, for research and training".

(12) In the mid-1960's, Dr. DeBakey pioneered the field of telemedicine with the first demonstration of open-heart surgery to be transmitted overseas by satellite.

(13) In 1969, Dr. DeBakey was elected the first President of Baylor College of Medicine.

(14) In 1969, President Lyndon B. Johnson bestowed on Dr. DeBakey the Presidential Medal of Freedom with Distinction, and in 1985, President Ronald Reagan conferred on him the National Medal of Science.

(15) Working with NASA engineers, he refined existing technology to create the DeBakey Ventricular Assist Device, one-tenth the size of current versions, which may eliminate the need for heart transplantation in some patients.

SEC. 2. CONGRESSIONAL GOLD MEDAL.

(a) PRESENTATION AUTHORIZED.—The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall make appropriate arrangements for the presentation, on behalf of the Congress, of a gold medal of appropriate design, to Michael Ellis DeBakey, M.D., in recognition of his many outstanding contributions to the Nation.

(b) DESIGN AND STRIKING.—For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury (referred to in this Act as the "Secretary") shall strike a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary.

SEC. 3. DUPLICATE MEDALS.

The Secretary may strike and sell duplicates in bronze of the gold medal struck pursuant to section 2 under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

SEC. 4. STATUS OF MEDALS.

(a) NATIONAL MEDALS.—The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

(b) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all medals struck under this Act shall be considered to be numismatic items.

SEC. 5. AUTHORITY TO USE FUND AMOUNTS; PROCEEDS OF SALE.

(a) AUTHORITY TO USE FUND AMOUNTS.—There is authorized to be charged against the United States Mint Public Enterprise Fund such amounts as may be necessary to pay for the costs of the medals struck pursuant to this Act.

(b) PROCEEDS OF SALE.—Amounts received from the sale of duplicate bronze medals authorized under section 3 shall be deposited into the United States Mint Public Enterprise Fund.

By Mr. MCCAIN:

S. 2440. A bill to direct the Secretary of the Interior and the Secretary of Agriculture to jointly conduct a study of certain land adjacent to the Walnut Canyon National Monument in the State of Arizona; to the Committee on Energy and Natural Resources.

Mr. MCCAIN. Mr. President, today I am introducing legislation to authorize a special land resource study for the Walnut Canyon National Monument in Arizona. The study is intended to evaluate whether Federal and State lands adjacent to the monument should be managed as part of the monument, and to provide recommendations for management options.

For several years, local communities adjacent to the Walnut Canyon National Monument have debated whether the land surrounding the monument would be best served by protection from future development and managed by the U.S. Forest Service or the National Park Service. The Coconino County Board and the Flagstaff City Council have passed resolutions concluding that the preferred method to determine what is best for the land surrounding the Walnut Canyon National Monument is by having a Federal study conducted. The recommendations from such a study would resolve the question of future management and whether the monument should be expanded.

The legislation also directs the Secretary of the Interior and the Secretary of Agriculture to provide recommendations for management options for maintenance of the public uses and protection of resources of the study area.

This legislation would provide a mechanism for determining the management options for one of Arizona's high uses scenic areas and protect the natural resources of this incredibly beautiful monument. Therefore, I urge my colleagues to support this legislation.

By Mr. HATCH (for himself, Mr. KYL, Mr. CORNYN, Mr. SESSIONS, and Mr. CHAMBLISS):

S. 2443. A bill to reform the judicial review process of orders of removal for purposes of the Immigration and Nationality Act; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, I rise today to introduce the Fairness in Immigration Litigation Act. The purpose of the Fairness in Immigration Litigation Act is to reform the statutory scheme governing judicial review of immigration removal orders. Currently, we have an absurd situation in which criminal aliens are entitled to more review and have more opportunities to file frivolous dilatory appeals than non-criminal aliens. The legislation which I am introducing will streamline the process of reviewing final administrative immigration orders, thereby eliminating such unfair results under the current statutory scheme.

In 1961, Congress amended Section 106 of the Immigration and Nationality Act, or INA, to specify the circumstances under which final orders of deportation and exclusion could be reviewed in the federal courts. The statute provided that petitions for review in the circuit courts of appeal were the "sole and exclusive" procedure for reviewing deportation orders, and that habeas corpus was available only to challenge exclusion orders of the custodial aspects of immigration detention. The jurisprudence was settled that there were no alternative or additional avenues of judicial review of immigration orders beyond those provided in Section 106.

In 1996, seeking to provide for the more efficient and expeditious removal of aliens who commit serious crimes in the United States, Congress attempted to streamline the judicial review of immigration orders against such aliens. Passed by wide, bipartisan margins, the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) eliminated judicial review of immigration orders for most criminals. IIRIRA recognized that criminal aliens had already received a full measure of due process in their criminal cases, as well as in their immigration proceedings, and that additional review typically only served to delay their inevitable removal.

However, because the 1996 reforms lacked express language precluding habeas corpus review, the Supreme Court decided in *INS v. St. Cyr* that habeas review remained available to criminal aliens other than or in addition to the review specified in the INA. Consequently, under current law, criminal aliens may seek habeas review of their deportation orders in district courts and then appeal adverse decisions to the courts of appeals. By contrast, non-criminal aliens are governed by INA §242, and must appeal directly to the court of appeals without the additional layer of review in the district courts. The result is that criminal aliens who have no claim to relief from deportation file frivolous petitions, causing serious delay in securing final judgment against them. This is a complete perversion of the reforms intended by Congress in 1996, and it must be corrected.

Let me illustrate the extent of the problem. In 1995, just before IIRIRA's enactment, there were 403 immigration habeas petitions filed. In 2003, that number rose to 2,374. Over the same period, the total number of immigration-related cases in federal courts rose from 1,939 to 11,906. This is after Congress passed a law to limit the review for criminal aliens. Clearly, the intent of Congress has been frustrated.

Consistent with the settled principled that petitions for review should be the "sole and exclusive" means of judicial review for aliens challenging their removal (as reaffirmed in 8 U.S.C. §1252(b)(9) requiring that all issues pertaining to removal orders be brought to the circuit courts of appeal), the Fairness in Immigration Litigation Act streamlines immigration review and protects an alien's right to review by an independent judiciary. It also ensures that even criminal aliens may receive review of pure questions of law and Constitutional claims, as dictated by the Supreme Court in S. Cyr.

With the expanded subject matter jurisdiction in the courts of appeals, the proposed legislation will eliminate the confusing, and indeed inequitable practice of allowing criminal aliens to obtain an additional layer of review through habeas corpus petitions. This legislation is fully consistent with both the Supreme Court's decision in S. Cyr and settled jurisprudence regarding the availability of habeas corpus. These reforms will ensure that aliens will have their day in court, and ensures that the law does not place criminals in a position that is superior to non-criminals. In sum, the Act restores order to the judicial review process in the courts as well as fairness for alien petitioners.

Moreover, the deportation proceedings too often are frustrated by activist judges who place unreasonable burdens on the government to show why a lawfully issued deportation order should be enforced, and who stop the lawful execution of deportation orders even though the aliens have advanced no legal basis to challenge the deportation order. Such activism combined with murkiness in the law have slowed and in some cases halted the government's ability to deport criminal aliens and others who have no right to stay. It is time we clarify the law so that the government can effectively deport those who should be deported.

Often, we hear complaints that the government is not doing enough to protect our borders against illegal entry, and that we need to do more to catch and deport the illegal aliens who have made their way into our country. Without question, sealing our borders and arresting every illegal alien is a monumental undertaking. But with this legislation, we can easily address the immediate problem of removing the illegal aliens that we already have in the system, and sometimes even in our custody.

I want to emphasize that the Fairness in Immigration Litigation Act does not abridge an immigration detainee's right to challenge actual, physical custody through a habeas corpus petition. It is not my intention at all to take away the habeas petition as a legitimate way to challenge physical custody. Instead, this legislation narrowly applies to judicial review of final agency orders of removal, which involve legal issues that should be reviewed through a petition for review by the court of appeals.

I further want to emphasize that nothing in this legislation deprives deportable aliens of all the procedural and substantive due process that the Supreme Court said was required. It simply bars unnecessary delays through collateral attacks. In fact, the only ones who are affected by this bill are criminals who have had their review, but who want to avoid enforcement of their deportation orders by initiating dilatory, collateral attacks, and perhaps their lawyers who charge thousands of dollars to file petitions that they know to be without merit.

In sum, the legislation which I am introducing today will expand the subject matter jurisdiction of the court of appeals so that criminal aliens will receive the judicial review to which they are entitled according to St. Cyr. At the same time, the legislation will streamline the process so that we no longer have the absurd result of criminals getting more protection than non-criminals. The legislation also will reduce the possibility that criminals who are without any statutory relief from deportation can abuse the system by filing frivolous petitions solely to delay their eventual removal from the United States. Furthermore, the legislation will properly place the burden of showing eligibility for relief from deportation upon the applicants for relief, and will clarify our statute so that the government can more effectively execute deportation orders without encountering the obstacles that ambiguous statutes have created.

I ask for the support of my colleagues in passing the Fairness in Immigration Litigation Act, which will restore procedural fairness for all immigrants, but will significantly reduce the backlog in our judicial system created by frivolous and dilatory appeals.

By Mr. LIEBERMAN (for himself, Mr. BROWNBACK, Mrs. CLINTON, Mr. SANTORUM, and Ms. LANDRIEU):

S. 2447. A bill to amend the Public Health Service Act to authorize funding for the establishment of a program on children and the media within the National Institute of Child Health and Human Development to study the role and impact of electronic media in the development of children; to the Committee on Health, Education, Labor, and Pensions.

Mr. LIEBERMAN. Mr. President, I rise to introduce, along with Senators BROWNBACK, CLINTON, SANTORUM and LANDRIEU, the Children and Media Research Advancement Act, or CAMRA Act. Mr. President, we believe there is an urgent need to establish a Federal role for targeting research on the impact of media on children. Almost 5 years ago, the American Academy of Pediatrics recommended no television viewing for children under the age of 2. They subsequently recommended limiting all screen time exposure, including television, videos, computer and video games, to 1–2 hours per day for older children. The Academy based these decisions on their best sense of how to facilitate the healthy development of children. However, not enough research had been conducted in this area to know if these particular recommendations were good advice or not. Five years later, we still have very limited information about the role of media, particularly the role of digital media, in very early development. Why not? None of our Federal agencies are charged with ensuring an ongoing funding base for a coherent research agenda about the role of media in children's lives.

From the cradle to the grave, we now live and develop in a world of media—a world that is increasingly digital, and a world where access is at our fingertips. This emerging digital world is well known to our children, but its effects on their development are not well understood. From ages 2–18, children are spending an average of 5 and a half hours with media each day. For those who are under age 6, 2 hours of exposure to screen media each day is common, even for those who are under age 2. That is about as much time as children under age 6 spend playing outdoors, and it is much more time than they spend reading or being read to by their parents. How does this investment of time affect their development? We have all wondered about the answer to this question.

Take the Columbine incident. After two adolescent boys shot and killed some of their teachers, classmates, and then turned their guns on themselves at Columbine High School, we asked ourselves if media played some role in this tragedy. Did these boys learn to kill in part from playing first-person shooter video games like Doom where they acted as a killer? Were they rehearsing criminal activities when playing this game? We looked to the research community for an answer. In the violence and media area, we had invested in research more so than in any other area, and as a result, we knew more. Therefore, some answers were forthcoming about how this tragedy could have taken place as well as steps that could be taken, such as media education programs, which could prevent similar events from happening in the future. Even so, there is still a considerable amount of speculation about the more complex questions. Why did these particular boys, for example, pull the trigger in real life while others who played Doom confine their aggressive acts to the gaming context?

Consider the national health problem of childhood obesity. Does time spent viewing screens and its accompanying sedentary life styles contribute to childhood obesity? Or is the constant bombardment of advertisements for sugar-coated cereals, snack foods, and candy that pervade children's television advertisements the culprit? What will happen when pop-up advertisements begin to appear on children's cell phones that specifically target them for the junk food that they like best? The answer to the obesity and media question is also complex. We need more answers.

A recent report linked very early television viewing with later symptoms that are common in children who have attention deficit disorders. Does television viewing cause attention deficits, or do children who have attention deficits find television viewing experiences more engaging than kids who don't have attention problems? Or do parents whose children have difficulty sustaining attention let them watch more television to encourage more sitting and less hyperactive behavior? How will Internet experiences, particularly those where children move rapidly across different windows, influence attention patterns and attention problems? Once again, we don't know the answer.

Many of us find that our children are becoming increasingly materialistic. Does exposure to commercial advertising and even the "good life" experienced by media characters partly explain materialistic attitudes? We're not sure. What will happen when our children will be able to click on their television screen and go directly to sites that advertise the products that they see in those favorite programs?

Many of us believe that time spent with computers is good for our children, teaching them the skills that they will need for success in the 21st century. Are we right?

How is time spent with computers different from time spent with television? Is the time spent with media the key to success, or is the content?

The questions about how media affect the development of our children are clearly important, abundant, and complex. Unfortunately, the answers to these questions are in short supply. Such gaps in our knowledge base limit our ability to make informed decisions about media policy.

We know that media are important. Over the years, we have held numerous hearings in these chambers about how exposure to media violence affects childhood aggression. We have passed legislation to maximize the documented benefits of exposure to educational media, such as the Children's Television Act which requires broadcasters to provide educational and informational television programs for children. We acted to protect our children from harm by passing the Children's Online Privacy Protection Act which provides safeguards from commercial exploitation for our youth as they explore the Internet, a popular pastime for them. But there are many areas where our understanding is preliminary at best, particularly those that involve the effect of our newer digital media. For example, we have passed numerous laws about sexually explicit content, such as the Communications Decency Act, the Child Online Protection Act, and the Children's Internet Protection Act to shield children from exposure to online content that is deemed harmful to minors. However, we know very little about how this kind of exposure affects children's development or about how to prevent children from falling prey to adult strangers who approach them online.

In order to ensure that we are doing our very best for our children, the behavioral and health recommendations and public policy decisions we make should be based on objective behavioral, social, and scientific research. Yet no Federal research agency has responsibility for overseeing and setting a coherent media research agenda that can guide these policy decisions. Instead, Federal agencies fund media research in a piece meal fashion, resulting in a patch work quilt of findings. We can do better than that.

The bill we are introducing today would remedy this problem. The CAMRA Act will provide an overarching view of media effects by establishing a program on Children and Media within the National Institute of Child Health and Human Development. This program of research, to be vetted by the National Academy of Sciences, will fund and energize a coherent program of research that illuminates the role of media in children's cognitive, social, emotional, physical, and behavioral development. The research will cover all forms of electronic media, including television, movies, DVDs, interactive video games, and the Internet and will encourage research with children of all ages—even babies and toddlers. The bill also calls for a report to Congress about the effectiveness of this research program in filling this void in our knowledge base. In order to accomplish these goals, we are authorizing $90 million dollars to be phased in gradually across the next five years. The cost to our budget is minimal. The benefits to our youth and our nation's families are immeasurable.

Our children live in the information age. Our nation has one of the most powerful and sophisticated information technology systems in the world. While this system entertains us, it is not harmless entertainment. Media have the potential to facilitate the healthy growth of our children. They also have the potential to harm. We have a stake in finding out exactly what that role is. Access to that knowledge requires us to make an investment: an investment in research, an investment in and for our children, an investment in our collective future.

By passing the Children and Media Research Advancement Act, we can advance knowledge and enhance the constructive effects of media while minimizing the negative ones. We can make future media policies that are grounded in a solid knowledge base. We can be proactive, rather than reactive. In so doing, we build a better nation for our youth, and we create a better foundation to guide future media policies about the digital experiences that pervade our children's daily lives.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2447

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Children and Media Research Advancement Act" or the "CAMRA Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) Congress has recognized the important role of electronic media in children's lives when it passed the Children's Television Act of 1990 (Public Law 101-437) and the Telecommunications Act of 1996 (Public Law 104-104), both of which documented public concerns about how electronic media products influence children's development.

(2) Congress has held hearings over the past several decades to examine the impact of specific types of media products such as violent television, movies, and video games on children's health and development. These hearings and other public discussions about the role of media in children's development require behavioral and social science research to inform the policy deliberations.

(3) There are important gaps in our knowledge about the role of electronic media and in particular, the newer interactive digital media, in children's healthy development. The consequences of very early screen usage

by babies and toddlers on children's cognitive growth are not yet understood, nor has a research base been established on the psychological consequences of high definition interactive media and other format differences for child viewers.

(4) Studies have shown that children who primarily watch educational shows on television during their preschool years are significantly more successful in school 10 years later even when critical contributors to the child's environment are factored in, including their household income, parents education, and intelligence.

(5) The early stages of child development are a critical formative period. Virtually every aspect of human development is affected by the environments and experiences that one encounters during his or her early childhood years, and media exposure is an increasing part of every child's social and physical environment.

(6) As of the late 1990's, just before the National Institute of Child Health and Human Development funded 5 studies on the role of sexual messages in the media on children and adolescents sexual attitudes and sexual practices, a review of research in this area found only 15 studies ever conducted in the United States on this topic, even during a time of growing concerns about HIV infection.

(7) In 2001, a National Academy of Sciences study group charged with finding solutions to Internet pornography exposure on youth found virtually no literature about how much children and adolescents were exposed to Internet pornography or how such content impacts youth.

(8) In order to develop strategies that maximize the positive and minimize the negative effects of each medium on children's physical, cognitive, social, and emotional development, it would be beneficial to develop a research program that can track the media habits of young children and their families over time using valid and reliable research methods.

(9) Research about the impact of the media on children is not presently supported through one primary programmatic effort. The responsibility for directing the research is distributed across disparate agencies in an uncoordinated fashion, or is overlooked entirely. The lack of any centralized organization for research minimizes the value of the knowledge produced by individual studies. A more productive approach for generating valuable findings about the impact of the media on children would be to establish a single, well-coordinated research effort with primary responsibility for directing the research agenda.

(10) Due to the paucity of research about electronic media, educators and others interested in implementing electronic media literacy initiatives do not have the evidence needed to design, implement, or assess the value of these efforts.

(b) Purpose.—It is the purpose of this Act to enable the National Institute of Child Health and Human Development to—

(1) examine the role and impact of electronic media in children's cognitive, social, emotional, physical, and behavioral development; and

(2) provide for a report to Congress containing the empirical evidence and other results produced by the research funded through grants under this Act.

SEC. 3. RESEARCH ON THE ROLE AND IMPACT OF ELECTRONIC MEDIA IN THE DEVELOPMENT OF CHILDREN.

Subpart 7 of part C of title IV of the Public Health Service Act (42 U.S.C. 285g et seq.) is amended by adding at the end the following:

"SEC. 452H. RESEARCH ON THE ROLE AND IMPACT OF ELECTRONIC MEDIA IN THE DEVELOPMENT OF CHILDREN.

"(a) In General.—The Director of the Institute shall enter into appropriate arrangements with the National Academy of Science in collaboration with the Institute of Medicine to establish an independent panel of experts to review, synthesize and report on research, theory, and applications in the social, behavioral, and biological sciences and to establish research priorities regarding the positive and negative roles and impact of electronic media use, including television, motion pictures, DVD's, interactive video games, and the Internet, and exposure to that content and medium on youth in the following core areas of child development:

"(1) Cognitive.—The role and impact of media use and exposure in the development of children within such cognitive areas as language development, attention span, problem solving skills (such as the ability to conduct multiple tasks or 'multitask'), visual and spatial skills, reading, and other learning abilities.

"(2) Physical.—The role and impact of media use and exposure on children's physical coordination, diet, exercise, sleeping and eating routines, and other areas of physical development.

"(3) Socio-behavioral.—The influence of interactive media on childhood and family activities and peer relationships, including indoor and outdoor play time, interaction with parents, consumption habits, social relationships, aggression, prosocial behavior, and other patterns of development.

"(b) Pilot Projects.—During the first year in which the National Academy of Sciences panel is summarizing the data and creating a comprehensive research agenda in the children and media area under subsection (a), the Secretary shall provide for the conduct of initial pilot projects to supplement and inform the panel in its work. Such pilot projects shall consider the role of media exposure on—

"(1) cognitive and social development during infancy and early childhood; and

"(2) the development of childhood obesity, particularly as a function of media advertising and sedentary lifestyles that may cooccur with heavy media diets.

"(c) Research Program.—Upon completion of the review under subsection (a), the Director of the National Institute of Child Health and Human Development shall develop and implement a program that funds additional research determined to be necessary by the panel under subsection (a) concerning the role and impact of electronic media in the cognitive, physical, and socio-behavioral development of children and adolescents with a particular focus on the impact of factors such as media content, format, length of exposure, age of child, and nature of parental involvement. Such program shall include extramural and intramural research and shall support collaborative efforts to link such research to other National Institutes of Health research investigations on early child health and development.

"(d) Eligible Entities.—To be eligible to receive a grant under this section, an entity shall—

"(1) prepare and submit to the Director of the Institute an application at such time, in such manner, and containing such information as the Director may require; and

"(2) agree to use amounts received under the grant to carry out activities that establish or implement a research program relating to the effects of media on children pursuant to guidelines developed by the Director relating to consultations with experts in the area of study.

"(e) Use of Funds Relating to the Media's Role in the Life of a Child.—An entity shall use amounts received under a grant under this section to conduct research concerning the social, cognitive, emotional, physical, and behavioral development of children as related to electronic mass media, including the areas of—

"(1) television;

"(2) motion pictures;

"(3) DVD's;

"(4) interactive video games; and

"(5) the Internet.

"(f) Reports.—

"(1) Report to director.—Not later than 12 months after the date of enactment of this section, the panel under subsection (a) shall submit the report required under such subsection to the Director of the Institute.

"(2) Report to congress.—Not later than December 31, 2010, the Director of the Institute shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate, and Committee on Education and the Workforce of the House of Representatives a report that—

"(A) summarizes the empirical evidence and other results produced by the research under this section in a manner that can be understood by the general public;

"(B) places the evidence in context with other evidence and knowledge generated by the scientific community that address the same or related topics; and

"(C) discusses the implications of the collective body of scientific evidence and knowledge regarding the role and impact of the media on children, and makes recommendations on how scientific evidence and knowledge may be used to improve the healthy developmental and learning capacities of children.

"(g) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section—

"(1) $10,000,000 for fiscal year 2005;

"(2) $15,000,000 for fiscal year 2006;

"(3) $15,000,000 for fiscal year 2007;

"(4) $25,000,000 for fiscal year 2008; and

"(5) $25,000,000 for fiscal year 2009.".

Mr. BROWNBACK. Mr. President, I am pleased to rise today to join my colleagues and support the Children and Media Research Advancement Act or CAMRA. The development of our Nation's children is vital and the way in which media impacts their ability to grow and develop is imperative. For many years, I have been concerned about the impact media has on our children.

The Kaiser Family Foundation recently released their report on electronic media in the lives of infants, toddlers, and preschoolers—ages 0 to 6 years old. Not surprisingly, the study found that children today are reared in a media saturated environment.

According to the study, 99 percent of all children live in a home with a TV set and 50 percent of these children live in a home with three or more TVs of which 36 percent have a TV in their bedroom.

Perhaps even more startling, 30 percent of children ages zero to three years and 43 percent of four to six year olds have a TV in their bedroom. Additionally, 27 percent of children have their own VCR or DVD player in their rooms and 10 percent have their own video game console in their room as well.

Further, 73 percent of children ages 0 to 6 have a computer at home, and 49 percent of these young people have a video game player.

Even more concerning is that the American Academy of Pediatrics recommends that children under two do not watch any television. The Academy further states that all children over two should be limited to one or two hours of educational screen media a day.

However, despite this recommendation, the Kaiser study found that in a typical day, 68 percent of all children under two use screen media—59 percent watch TV, 42 percent watch a video or DVD, five percent use computers and three percent play video games. The study also found that 74 percent of all infants and toddlers have watched TV before the age of two.

Unfortunately, there is a lack of comprehensive research that provides detailed data on the relationship between media and brain development in children. That is why I am pleased to support the Children and Media Research Advancement Act. This will not only encourage much needed research in this area, but will also serve to coordinate such research.

Providing parents and guardians with the most accurate information regarding the impact media has on their children is essential—to do anything less would be reprehensible.

Already many studies—including ones that followed children from age 8 until mid-adulthood (age 30 plus years)—have demonstrated a link between early exposure to entertainment violence and aggressive attitudes, values and behaviors, including increased levels of violent crime against others.

There are three main effects on children of viewing entertainment violence: aggression more likely to think and behave aggressively, and hold attitudes and values favorable to the use of aggression to resolve conflicts; desensitization decreased sensitivity to violence and a greater willingness to tolerate increasing levels of violence in society; fear viewers may develop the "mean world syndrome" in which they overestimate their risk of becoming victims of violence.

Even in the Kaiser study I referenced earlier, among all parents whose zero to six year olds watched TV, 81 percent said that they saw their children imitate behaviors from television—36 percent of parents reported that their children mimicked aggressive behavior, 78 percent mimicked positive behavior. When focusing on the four to six year age group, mimicking aggressive behaviors increase to nearly half or 47 percent, with aggressive behavior being imitated more frequently with boys, 59 percent than with girls at 35 percent.

Clearly, we must continue to encourage and fund studies that will show the effects media has on the development of the adolescent brain. I am pleased that CAMRA will encourage this much-needed research in such a crucial area.

Protecting our nation's children and ensuring that parents have the most accurate and complete information on the effects of media on their children should remain our top priority. I look forward to working with Senators LIEBERMAN and CLINTON on an issue that is vital to our society.

Mrs. CLINTON. Mr. President, I rise to join with my colleagues Senators LIEBERMAN and BROWNBACK in introducing the Children and Media Research Advancement Act (CAMRA).

Children today are living in an environment that is saturated with electronic media. Even in the last few years, we've seen a dramatic increase in media targeted directly at children. There's now a booming market of DVDs and videos for infants and the first TV show specifically for children as young as 12 months was launched a few years back. Kids today even have their own cable TV network.

Researchers estimate that children spend an average of five-and-a-half hours a day using these media—this works out to more than they spend doing anything besides sleeping. Even kids under six spend as much time watching TV and videos, playing video games, and using computers as they do playing outside. Unfortunately, we don't really know how this trend affects our children. But we do know that a child's early years affect every aspect of his or her development—physical, emotional, and cognitive. And therefore, we know that ignorance is not bliss.

The longer we wait to understand the full impact of media on our children, the bigger risk we take. And we are gambling with our children's future. Parents need to know how television, movies, advertisements, video games, and the Internet affect their children so that they can make informed decisions about how much and what kind of media their children should be exposed to.

As parents, we know intuitively that our young children shouldn't be watching television shows with extreme violence or age-inappropriate content. But there are other issues we aren't so sure about. How much video game playing is too much? Do advertisements for cereals and junk foods contribute to childhood obesity? How are our very young children and infants impacted by media? Right now we have little idea of what it means for infant development to put babies in front of TVs for hours at a time, but we know that sometimes popping in a video is the best and only way to calm our children down.

Our bill, The Children and Media Research Advancement Act, will help answer these questions by establishing a single, coordinated research program at the National Institute of Child Health and Human Development. This program will study the impact of electronic media on children's—particularly very young children and infant's—cognitive, social and physical development.

One of the first things the program will do will be to work with the National Academy of Sciences and the Institute of Medicine to establish an independent panel of experts to review and synthesize existing research and to establish research priorities on the impact of the media on child development. They'll then award grants for research that addresses the panel's priorities.

If we are truly going to make children a priority, we have to pay attention to and take seriously the activities they're engaged in on a daily basis. Watching television, playing video games, and surfing the Internet are the things that children are doing more than anything else. We need to invest in research that will help us understand how this is affecting our children so that parents can make informed decisions about the positive effects and negative effects of these media on children.

By Mr. GREGG.

S. 2448. A bill to coordinate rights under the Uniformed Services Employment and Reemployment Rights Act of 1994 with other Federal laws; read the first time.

Mr. GREGG. Mr. President, military action in Afghanistan and Iraq has brought to light yet another example of how outdated and burdensome government policies often punish generous employers in America. Apparently, when it comes to companies showing respect for employees who are called to active duty in the military, there is special meaning to the old cliché that "no good deed goes unpunished."

An arcane IRS interpretation of tax law actually penalizes employers that voluntarily pay their National Guard and reservist employees the difference between these patriots' military stipends and their previous civilian salaries—which appropriately is called "differential pay." The law also penalizes employers that continue making contributions to retirement plans for such employees.

According to the IRS, members of the Guard and reserves called up for active duty are required to be treated as if they are on a leave of absence by their employers under the Uniformed

Services Employment and Reemployment Rights Act of 1994—USERRA. Therefore, the act does not require employers to pay workers who are on active duty. However, many employers—out of a sense of civic duty—continue to pay active duty Guard members and reservists the difference between their military stipends and their regular salaries with some employers providing such "differential pay" for up to three years. In additions, many of these remarkable companies go even further and allow their active duty employees to continue making contributions to their 401(k) retirement plans via deductions from the "differential payments."

However, rather than applauding and encouraging such selfless behavior by companies, the IRS's 1969 Revenue Ruling requires that the active duty workers be treated as if they were "terminated." As a result, this law then puts at risk the retirement plan for an employers' entire workforce and could make all amounts in the plan immediately taxable to the plan's participants and the employer. Adding to the absurdity of the situation, preventing an employer from treating "differential pay" as wages under the law means employers are prohibited from withholding income taxes, which in turn causes their active duty former employees to face large and unexpected tax bills at the end of the year.

The Uniformed Services Differential Pay Protection Act simply amends USERRA to clarify that differential payments are to be treated as "wages" to current employees and that retirement plan contributions from such "wages" are permissible. The bill upholds the principle that these patriotic and truly remarkable employers should not be penalized for the selfless generosity they provide to our Nation's reservists and members of the National Guard.

By Mr. BAUCUS (for himself, Mr. ROBERTS, and Mr. ENZI):

S. 2449. A bill to require congressional renewal of trade and travel restrictions with respect to Cuba; to the Committee on Finance.

Mr. BAUCUS. Mr. President, I rise today in disbelief. Yesterday, I learned that a NAFTA panel reviewing the International Trade Commission's (ITC) analysis of material inquiry in Softwood Lumber from Canada has rejected an ITC request for more time to respond to a panel remand. This latest rejection of a reasonable request is simply one more circumstance in which this NAFTA panel has demonstrated its clear disregard of the limits of its own jurisdiction. And it provides further indication to me that the NAFTA Chapter 19 system is seriously off-track and is in need of fundamental reform.

After reviewing the ITC's first remand determination, a 114 page long document that answered all of the Panel's remand issues, the Panel yesterday again remanded, and gave the ITC, in effect, seven business days to craft a new remand determination. The ITC filed a motion to extend, requesting a reasonable period of time to respond fully to the remand determination. The ITC further noted that it would consider reopening the record for new evidence and argument. In fact, the Federal Circuit just several months ago said that the Commission had the exclusive authority to open its record when it believed it should do so.

Outrageously, the NAFTA panel refused to grant the ITC's request, again limiting the ITC to seven business days. Moreover, this runaway panel forbade the ITC from reopening the record, concluding that binding Federal Circuit precedent did not apply in the Panel.

On top of all of this, I understand that U.S.T.R. suggested to the Canadians that there is the appearance of a conflict of interest for one of the panelists.

The NAFTA rules could not be more clear: Chapter 19 Panels must act as would a U.S. court and must follow U.S. law. Panelists with a conflict of interest must step down. And the Federal Circuit has ruled, without reservation or qualification, that the question of whether compliance with a remand order requires the reopening of the record "is of course solely for the Commission itself to determine." *Nippon Steel Corp.* v. *Int'l Trade Comm'n*, 345 F.3d 1379, 1382 (Fed. Cir. 2003). It is outrageous that a NAFTA panel would seek to avoid binding U.S. law.

All I can say to this very sorry state of affairs is that I don't think Congress will long allow a dispute settlement panel to rewrite perfectly valid trade laws or preempt the powers delegated to the ITC, much less tolerate a dispute settlement system in which panels willfully and routinely breach the clear mandate of their authority that is itself the product of careful negotiation. This NAFTA panel has shown us that they cannot be trusted to respect the integrity of the NAFTA trading system. They have also shown us that the NAFTA panel system is broken and that it must be fixed.

By Mr. CAMPBELL:

S. 2450. A bill to amend title 10, United States Code, to revise the requirements for award of the Combat Infantryman Badge and the Combat Medical Badge with respect to service in Korea after July 28, 1953; to the Committee on Armed Services.

Mr. CAMPBELL. Mr. President, today I am introducing the Korean Defense Service Combat Recognition Act of 2004 which would amend Title 10, United States Code, to revise the requirements for award of the Combat Infantryman Badge and the Combat Medical Badge with respect to service in Korea after July 28, 1953.

The Army awards the Combat Infantry Badge (CIB) to recognize members of infantry units who have been engaged in ground combat. The Combat Medical Badge (CMB) recognizes field medics who accompany infantry troops into battle. A 1968 Army regulation makes it much more difficult for U.S. troops serving in South Korea to be awarded the CIB or CMB than for troops serving almost anywhere else in the world. Specifically, infantrymen stationed in South Korea must be in five firefights in order to qualify for the awards. In other combat zones, the requirement is one firefight.

In addition, to be awarded the medals, troops in South Korea must also have served in theater for sixty days in a hostile fire area, be authorized hostile fire pay, and be recommended by each superior up the chain-of-command to the division level.

My bill normalizes the rules so that all troops, no matter where they serve, are subject to the same eligibility requirements for these two prestigious medals.

Unfortunately, the Army regulation has had the unintended consequence of making it extra difficult for infantry and medical units serving along the DMZ in South Korea to earn combat recognition medals. A spokesman for the Korean Defense Veterans of America (KDVA) has described these requirements as making it nearly impossible to be awarded the CIB for infantrymen serving in Korea, short of getting killed in combat. The KDVA is a group of veterans and active soldiers who are serving, or who have served, in South Korea since 1953.

This language is supported by the KDVA and the Combat Infantryman's Association. The Combat Infantryman's Association is a group of Army infantrymen who have been awarded the Combat Infantry Badge.

It is unfair and wrong to require five firefights in South Korea, but only one firefight in Grenada, Panama, the Dominican Republic, Laos, Vietnam, and almost every other location in the world. The Korean Defense Service Combat Recognition Act of 2004 normalizes the rules so that all troops, no matter where they serve, are subject to the same eligibility requirements for these two prestigious medals.

I urge my colleagues to support its passage and ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2450

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Korea Defense Service Combat Recognition Act".

SEC. 2. REQUIREMENTS FOR AWARD OF COMBAT INFANTRYMAN BADGE AND COMBAT MEDICAL BADGE WITH RESPECT TO SERVICE IN KOREA AFTER JULY 28, 1953.

(a) STANDARDIZATION OF REQUIREMENTS WITH OTHER GEOGRAPHIC AREAS.—(1) Chapter 357 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 3757. Korea defense service: Combat Infantryman Badge; Combat Medical Badge

"The Secretary of the Army shall provide that, with respect to service in the Republic of Korea after July 28, 1953, eligibility of a member of the Army for the Combat Infantryman Badge or the Combat Medical Badge shall be met under criteria and eligibility requirements that, as nearly as practicable, are identical to those applicable, at the time of such service in the Republic of Korea, to service elsewhere without regard to specific location or special circumstances. In particular, such eligibility shall be established—

"(1) without any requirement for service by the member in an area designated as a 'hostile fire area' (or by any similar designation) or that the member have been authorized hostile fire pay;

"(2) without any requirement for a minimum number of instances (in excess of one) in which the member was engaged with the enemy in active ground combat involving an exchange of small arms fire; and

"(3) without any requirement for personal recommendation or approval by commanders in the member's chain of command other than is generally applicable for service at locations outside the Republic of Korea.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3757. Korea defense service: Combat Infantryman Badge; Combat Medical Badge.".

(b) APPLICABILITY TO SERVICE BEFORE DATE OF ENACTMENT.—The Secretary of the Army shall establish procedures to provide for the implementation of section 3757 of title 10, United States Code, as added by subsection (a), with respect to service in the Republic of Korea during the period between July 28, 1953, and the date of the enactment of this Act. Such procedures shall include a requirement for submission of an application for award of a badge under that section with respect to service before the date of the enactment of this Act and the furnishing of such information as the Secretary may specify.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 365—EXPRESSING THE SENSE OF THE SENATE REGARDING THE DETENTION OF TIBETAN POLITICAL PRISONERS BY THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA

Mr. BROWNBACK (for himself and Mr. BINGAMAN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 365

Whereas, for more than 1,000 years, Tibet has maintained a sovereign national identity that is distinct from the national identity of China;

Whereas armed forces of the People's Republic of China invaded Tibet in 1949 and 1950, and have occupied it ever since;

Whereas, according to the Department of State and international human rights organizations, the Government of the People's Republic of China continues to commit widespread and well-documented human rights abuses in Tibet;

Whereas the People's Republic of China has yet to demonstrate its willingness to abide by internationally accepted standards of freedom of belief, expression, and association by repealing or amending laws and decrees that restrict those freedoms;

Whereas the Government of the People's Republic of China has detained hundreds of Tibetan nuns, monks, and lay persons as political prisoners for speaking out against China's occupation of Tibet and for their efforts to preserve Tibet's distinct national identity;

Whereas Phuntsog Nyidron was arrested on October 14, 1989, together with 5 other nuns, for participating in a peaceful protest against China's occupation of Tibet;

Whereas, on February 26, 2004, following a sustained international campaign on her behalf, the Government of the People's Republic of China released Phuntsog Nyidron from detention after she served more than 14 years of her 16-year sentence;

Whereas Tenzin Delek, a prominent Tibetan religious leader, and 3 other monks were arrested on April 7, 2002, during a nighttime raid on Jamyang Choekhorling monastery in Nyagchu County, Tibetan Autonomous Prefecture;

Whereas, following a closed trial and more than 8 months of incommunicado detention, Tenzin Delek and another Tibetan, Lobsang Dhondup, were convicted of inciting separatism and for their alleged involvement in a series of bombings on December 2, 2002;

Whereas Lobsang Dhondup was sentenced to death and Tenzin Delek was sentenced to death with a 2-year suspension;

Whereas the Government of the People's Republic of China promised senior officials of the United States and other governments that the cases of Lobsang Dhondup and Tenzin Delek would be subjected to a "lengthy review" by the Supreme People's Court prior to the death sentences being carried out;

Whereas the Supreme People's Court never carried out the promised review, and Lobsang Dhondup was executed on January 26, 2003;

Whereas the Government of the People's Republic of China has failed to produce any evidence that either Lobsang Dhondup or Tenzin Delek were involved in the crimes for which they were convicted, despite repeated requests from officials of the United States and other governments;

Whereas the Government of the People's Republic of China continues to imprison Tibetans for engaging in peaceful efforts to protest China's occupation of Tibet and preserve the Tibetan identity;

Whereas Tibetan political prisoners are routinely subjected to beatings, electric shock, solitary confinement, and other forms of torture and inhumane treatment while in Chinese custody;

Whereas the Government of the People's Republic of China continues to exert control over religious and cultural institutions in Tibet, abusing human rights through the torture, arbitrary arrest, and detention without fair or public trial of Tibetans who peacefully express their political or religious views or attempt to preserve the unique Tibetan identity; and

Whereas the Government of the People's Republic of China has paroled individual political prisoners for good behavior or for medical reasons in the face of strong international pressure, but has failed to make the systemic changes necessary to provide minimum standards of due process or protections for basic civil and political rights: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the Government of the People's Republic of China is in violation of international human rights standards by detaining and mistreating Tibetans who engage in peaceful activities to protest China's occupation of Tibet or promote the preservation of a distinct Tibetan identity;

(2) sustained international pressure on the Government of the People's Republic of China is essential to improve the human rights situation in Tibet and secure the release of Tibetan political prisoners;

(3) the Government of the United States should—

(A) raise the cases of Tenzin Delek and other Tibetan political prisoners in every meeting with officials from the People's Republic of China; and

(B) work with other governments concerned about human rights in Tibet and China to encourage the release of Tibetan political prisoners and promote systemic improvement of human rights in Tibet and China; and

(4) the Government of the People's Republic of China should, as a gesture of goodwill and in order to promote human rights, immediately release all Tibetan political prisoners, including Tenzin Delek.

Mr. BROWNBACK. Mr. President, today I am introducing a resolution with my colleague, Senator BINGAMAN, calling on the Chinese Government to release all Tibetan political prisoners. One individual of concern is the prominent religious leader Tenzen Delek.

On April 7, 2002 Tenzen Delek and 3 other monks were arrested at their monastery. Subsequently, Tenzen was held incommunicado for 8 months and sentenced to death with a two years suspension after a closed door trial. Tenzen Delek and Lobsang Dhondup were both convicted of inciting separatism. Lobsang Dhondup was sentenced to death and executed on January 26, 2003, only one month after the sentence was handed down. Given the arbitrary and political nature of China's judiciary, Tenzen Delek could be put to death at any time. It has been 2 years since his April 7, 2002 arrest, and December 2004 will mark two years since he was sentenced to death.

Tenzen Delek moved to a monastery at the young age of 7, and by early adulthood he was active on issues of culture and religion and a dedicated supporter of the Dalai Lama and his teachings. More than likely, his community work and societal influence left him subject to the suspicion of the Chinese government. It is this sort of peaceful protest of China's occupation of Tibet that has landed so many other Tibetans in jail.

Mr. President, this resolution recognizes China's violation of internationally recognized human rights standards, and calls on the Chinese government to release Tenzen Delek and the other Tibetans who remain in jail. Phuntsog Nyidron is a prominent Tibetan nun who was arrested in 1989 for her peaceful protest of the political situation and remained in jail for 14 years. Just this February she was freed after the House passed a similar resolution calling for her release. The International Campaign for Tibet estimates that there are 150 political prisoners in Tibet, and 75 percent of them are monks and nuns. Those unfortunate enough to find themselves in a Chinese prison are often subjected to physical and mental torture, and isolation. Many of them do not make it out of custody alive.

Mr. President, I hope my colleagues will join me in cosponsoring this resolution. For more than 50 years the Tibetan people have struggled to preserve their 1,000 year old sovereign national identity. The Chinese occupation that began in 1949 brought with it the subjugation of the Tibetan people at the hand of the People's Liberation Army, destruction of thousands of monasteries and shrines, a prohibition against practicing the Buddhist faith and Chinese migration—all aimed at destroying Tibetan culture, language and religion. The United States must confront continued Chinese repression of the practice of all faiths in China, and this resolution does exactly that.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3176. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table.

SA 3177. Mr. CHAFEE submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3178. Mr. GREGG (for himself and Mr. KENNEDY) proposed an amendment to the bill S. 15, to amend the Public Health Service Act to provide protections and countermeasures against chemical, radiological, or nuclear agents that may be used in a terrorist attack against the United States by giving the National Institutes of Health contracting flexibility, infrastructure improvements, and expediting the scientific peer review process, and streamlining the Food and Drug Administration approval process of countermeasures.

SA 3179. Mr. LOTT (for himself and Mr. COCHRAN) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table.

SA 3180. Mr. GREGG (for himself and Mr. KENNEDY) proposed an amendment to the bill S. 15, to amend the Public Health Service Act to provide protections and countermeasures against chemical, radiological, or nuclear agents that may be used in a terrorist attack against the United States by giving the National Institutes of Health contracting flexibility, infrastructure improvements, and expediting the scientific peer review process, and streamlining the Food and Drug Administration approval process of countermeasures.

SA 3181. Ms. CANTWELL (for herself, Mr. HOLLINGS, Mrs. MURRAY, Mrs. CLINTON, Mrs. FEINSTEIN, Mr. LAUTENBERG, and Mr. SCHUMER) submitted an amendment intended to be proposed by her to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table.

SA 3182. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 3170 submitted by Mr. GRAHAM of South Carolina and intended to be proposed to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3183. Mr. SMITH (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3184. Mr. GRAHAM, of Florida (for himself and Mr. NELSON, of Florida) submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3185. Mr. GRAHAM, of Florida (for himself and Mr. NELSON, of Florida) submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3186. Mr. GRAHAM, of Florida (for himself and Mr. NELSON, of Florida) submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3187. Mr. GRAHAM, of Florida (for himself and Mr. NELSON, of Florida) submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3188. Mr. GRAHAM, of Florida (for himself and Mr. NELSON, of Florida) submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3189. Mr. GRAHAM, of Florida (for himself and Mr. NELSON, of Florida) submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3190. Mr. DASCHLE submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3191. Mr. KYL (for himself and Mr. CORNYN) proposed an amendment to the bill S. 2400, supra.

SA 3192. Mr. DOMENICI (for himself, Mrs. FEINSTEIN, Mr. LUGAR, Mr. BIDEN, Mr. ALEXANDER, Mr. BINGAMAN, Mr. REED, Mr. AKAKA, Mr. WARNER, Mr. LEVIN, and Mr. FEINGOLD) proposed an amendment to the bill S. 2400, supra.

SA 3193. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3194. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3195. Mrs. MURRAY (for herself and Mr. EDWARDS) submitted an amendment intended to be proposed by her to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3196. Mr. DURBIN (for himself, Ms. MIKULSKI, Ms. LANDRIEU, Mrs. MURRAY, Mr. DAYTON, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3197. Mr. DAYTON (for himself and Mr. FEINGOLD) submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3198. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3199. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3200. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3201. Mr. KENNEDY (for himself, Mrs. MURRAY, and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3202. Mr. DASCHLE submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3203. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3204. Mrs. CLINTON (for herself, Mr. LEAHY, and Mr. KENNEDY) submitted an amendment intended to be proposed by her to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3205. Mr. WARNER (for himself and Mr. LEVIN) proposed an amendment to the bill S. 2400, supra.

SA 3206. Mr. WARNER proposed an amendment to the bill S. 2400, supra.

SA 3207. Mr. WARNER proposed an amendment to the bill S. 2400, supra.

SA 3208. Mr. WARNER proposed an amendment to the bill S. 2400, supra.

SA 3209. Mr. WARNER (for himself and Mr. LEVIN) proposed an amendment to the bill S. 2400, supra.

SA 3210. Mr. WARNER (for himself and Mr. LEVIN) proposed an amendment to the bill S. 2400, supra.

SA 3211. Mr. WARNER (for Mr. ALLARD) proposed an amendment to the bill S. 2400, supra.

SA 3212. Mr. LEVIN (for Mr. BYRD) proposed an amendment to the bill S. 2400, supra.

SA 3213. Mr. LEVIN (for Mr. REED) proposed an amendment to the bill S. 2400, supra.

SA 3214. Mr. WARNER (for Mr. SESSIONS) proposed an amendment to the bill S. 2400, supra.

SA 3215. Mr. LEVIN (for Mr. SARBANES (for himself and Ms. MIKULSKI)) proposed an amendment to the bill S. 2400, supra.

SA 3216. Mr. FRIST (for Mr. DOMENICI) proposed an amendment to the bill S. 1848, to amend the Bend Pine Nursery Land Conveyance Act to direct the Secretary of Agriculture to sell the Bend Pine Nursery Administration Site in the State of Oregon.

SA 3217. Mr. FRIST (for Mr. Leahy) proposed an amendment to the bill H.R. 417, to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California.

SA 3218. Mr. FRIST (for Mr. Grassley (for himself and Mr. Baucus)) proposed an amendment to the bill S. 882, to amend the Internal Revenue Code of 1986 to provide improvements in tax administration and taxpayer safe-guards, and for other purposes.

SA 3219. Mr. FRIST (for Mr. Inhofe) proposed an amendment to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

SA 3220. Mr. LOTT (for himself, Mr. Cochran, Mr. Chambliss, Ms. Snowe, and Mr. Dorgan) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table.

SA 3221. Mr. LOTT (for himself, Ms. Snowe, Mr. Cochran, and Ms. Collins) submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3222. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3223. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3224. Ms. COLLINS (for herself and Mr. Levin) submitted an amendment intended to be proposed by her to the bill S. 2400, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3176. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 130, between lines 9 and 10, insert the following:

SEC. 642. FULL SBP SURVIVOR BENEFITS FOR SURVIVING SPOUSES OVER AGE 62.

(a) Phased Increase in Basic Annuity to 55 Percent.—(1) Subsection (a)(1)(B)(i) of section 1451 of title 10, United States Code, is amended by striking "35 percent of the base amount." and inserting "the product of the base amount and the percent applicable for the month. The percent applicable for a month is 35 percent for months beginning before October 2005, 40 percent for months beginning after September 2005 and before April 2006, 45 percent for months beginning after March 2006 and before April 2007, 50 percent for months beginning after March 2007 and before April 2008, and 55 percent for months beginning after March 2008.".

(2) Subsection (a)(2)(B)(i)(I) of such section is amended by striking "35 percent" and inserting "the percent specified under paragraph (1)(B)(i) as being applicable for the month".

(3) Subsection (c)(1)(B)(i) of such section is amended—

(A) by striking "35 percent" and inserting "the applicable percent"; and

(B) by adding at the end the following: "The percent applicable for a month under the preceding sentence is the percent specified under subsection (a)(1)(B)(i) as being applicable for the month.".

(4) The heading for subsection (d)(2)(A) of such section is amended to read as follows: "Computation of Annuity.—".

(b) Phased Elimination of Supplemental Annuity.—(1) Section 1457(b) of title 10, United States Code, is amended—

(A) by striking "5, 10, 15, or 20 percent" and inserting "the applicable percent"; and

(B) by inserting after the first sentence the following: "The percent used for the computation shall be an even multiple of 5 percent and, whatever the percent specified in the election, may not exceed 20 percent for months beginning before October 2005, 15 percent for months beginning after September 2005 and before April 2006, 10 percent for months beginning after March 2006 and before April 2007, and 5 percent for months beginning after March 2007.".

(2) Effective on April 1, 2008, chapter 73 of such title is amended—

(A) by striking subchapter III; and

(B) by striking the item relating to subchapter III in the table of subchapters at the beginning of that chapter.

(c) Recomputation of Annuities.—(1) Effective on the first day of each month referred to in paragraph (2)—

(A) each annuity under section 1450 of title 10, United States Code, that commenced before that month, is computed under a provision of section 1451 of that title amended by subsection (a), and is payable for that month shall be recomputed so as to be equal to the amount that would be in effect if the percent applicable for that month under that provision, as so amended, had been used for the initial computation of the annuity; and

(B) each supplemental survivor annuity under section 1457 of such title that commenced before that month and is payable for that month shall be recomputed so as to be equal to the amount that would be in effect if the percent applicable for that month under that section, as amended by this section, had been used for the initial computation of the supplemental survivor annuity.

(2) The requirements for recomputation of annuities under paragraph (1) apply with respect to the following months:

(A) October 2005.

(B) April 2006.

(C) April 2007.

(D) April 2008.

(d) Recomputation of Retired Pay Reductions for Supplemental Survivor Annuities.—The Secretary of Defense shall take such actions as are necessitated by the amendments made by subsection (b) and the requirements of subsection (c)(1)(B) to ensure that the reductions in retired pay under section 1460 of title 10, United States Code, are adjusted to achieve the objectives set forth in subsection (b) of that section.

(e) Open Enrollment Period For Survivor Benefit Plan Commencing October 1, 2005.—(1)(A) An eligible retired or former member may elect to participate in the Survivor Benefit Plan under subchapter II of chapter 73 of title 10, United States Code, during the open enrollment period specified in paragraph (5).

(B) An eligible retired or former member who elects under subparagraph (A) to participate in the Survivor Benefit Plan at the maximum level may also elect during the open enrollment period to participate in the Supplemental Survivor Benefit Plan established under subchapter III of chapter 73 of title 10, United States Code.

(C) For purposes of subparagraphs (A) and (B), an eligible retired or former member is a member or former member of the uniformed services who on the day before the first day of the open enrollment period is not a participant in the Survivor Benefit Plan and—

(i) is entitled to retired pay; or

(ii) would be entitled to retired pay under chapter 1223 of title 10, United States Code, but for the fact that such member or former member is under 60 years of age.

(D) A person making an election under subparagraph (A) by reason of eligibility under subparagraph (C)(i) shall be treated for all purposes as providing a standard annuity under the Survivor Benefit Plan.

(E) A person making an election under subparagraph (A) by reason of eligibility under subparagraph (C)(ii) shall be treated for all purposes as providing a reserve-component annuity under the Survivor Benefit Plan.

(2) A person who on the day before the first day of the open enrollment period is a participant in the Survivor Benefit Plan but is not participating at the maximum base amount or is providing coverage under the Plan for a dependent child and not for the person's spouse or former spouse may, during the open enrollment period, elect to—

(A) participate in the Plan at a higher base amount (not in excess of the participant's retired pay); or

(B) provide annuity coverage under the Plan for the person's spouse or former spouse at a base amount not less than the base amount provided for the dependent child.

(3)(A) A person who is eligible to make an election under this paragraph may elect during the open enrollment period to participate in the Supplemental Survivor Benefit Plan established under subchapter III of chapter 73 of title 10, United States Code.

(B) Except as provided in subparagraph (C), a person is eligible to make an election under subparagraph (A) if on the day before the first day of the open enrollment period the person—

(i) is a participant in the Survivor Benefit Plan at the maximum level, or during the open enrollment period the person increases the level of such participation to the maximum level under paragraph (2) of this subsection; and

(ii) under that Plan is providing annuity coverage for the person's spouse or a former spouse.

(C) A person is not eligible to make an election under subparagraph (A) if (as determined by the Secretary concerned) the annuity of a spouse or former spouse beneficiary of that person under the Survivor Benefit Plan is to be computed under section 1451(e) of title 10, United States Code. However, such a person may during the open enrollment period waive the right to have that annuity computed under such section 1451(e). Any such election is irrevocable. A person making such a waiver may make an election under subparagraph (A) as in the case of any other participant in the Survivor Benefit Plan.

(4) An election under this subsection shall be made in writing, signed by the person making the election, and received by the Secretary concerned before the end of the open enrollment period. Any such election shall be made subject to the same conditions, and with the same opportunities for

designation of beneficiaries and specification of base amount, that apply under the Survivor Benefit Plan or the Supplemental Survivor Benefit Plan, as the case may be. A person making an election under paragraph (1) to provide a reserve-component annuity shall make a designation described in section 1448(e) of title 10, United States Code. Any such election shall be effective as of the first day of the first calendar month following the month in which the election is received by the Secretary concerned.

(5) The open enrollment period under this section shall be the one-year period beginning on October 1, 2005.

(6) If a person making an election under this subsection dies before the end of the two-year period beginning on the effective date of the election, the election is void and the amount of any reduction in retired pay of the person that is attributable to the election shall be paid in a lump sum to the person who would have been the deceased person's beneficiary under the voided election if the deceased person had died after the end of such two-year period.

(7) The provisions of sections 1449, 1453, and 1454 of title 10, United States Code, are applicable to a person making an election, and to an election, under this subsection in the same manner as if the election were made under the Survivor Benefit Plan or the Supplemental Survivor Benefit Plan, as the case may be.

(8) The Secretary of Defense may require that the premium for a person making an election under paragraph (1)(A) or (2) include, in addition to the amount required under section 1452(a) of title 10, United States Code, an amount determined under regulations prescribed by the Secretary of Defense for the purposes of this subsection. Any such amount shall be stated as a percentage of the base amount of the person making the election and shall reflect the number of years that have elapsed since the person retired, but may not exceed 4.5 percent of that person's base amount.

(f) Report Concerning Open Season.—Not later than July 1, 2005, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the open season authorized by subsection (e) for the Survivor Benefit Plan. The report shall include the following:

(1) A description of the Secretary's plans for implementation of the open season.

(2) The Secretary's estimates of the costs associated with the open season, including any anticipated effect of the open season on the actuarial status of the Department of Defense Military Retirement Fund.

(3) Any recommendation by the Secretary for further legislative action.

SA 3177. Mr. CHAFEE submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 176, after line 21, insert the following:

SEC. 844. APPLICABILITY OF BERRY AMENDMENT TO PROCUREMENTS OF ARMED FORCES UNIFORMS AND UNIFORM ITEMS WITH NONAPPROPRIATED FUNDS.

(a) Applicability.—Section 2533a of title 10, United States Code, is amended—

(1) in subsection (b)(1), by striking subparagraph (B) and inserting the following:

"(B) clothing, including—

"(i) uniforms (including uniform headware) of the armed forces; and

"(ii) insignia, medals, other award appurtenances and decorations, other devices and accessories, belts, and belt buckles for armed forces uniforms;"; and

(2) in subsection (g), by inserting ", other than uniforms and uniform items described in clauses (i) and (ii) of subsection (b)(1)(B)," after "items".

(b) Effective Date and Applicability.—This section and the amendments made by this section shall take effect 180 days after the date of the enactment of this Act and shall apply with respect to expenditures made on or after such effective date.

SA 3178. Mr. GREGG (for himself and Mr. Kennedy) proposed an amendment to the bill S. 15, to amend the Public Health Service Act to provide protections and countermeasures against chemical, radiological, or nuclear agents that may be used in a terrorist attack against the United States by giving the National Institutes of Health contracting flexibility, infrastructure improvements, and expediting the scientific peer review process, and streamlining the Food and Drug Administration approval process of countermeasures; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Project BioShield Act of 2004".

SEC. 2. BIOMEDICAL COUNTERMEASURE RESEARCH AND DEVELOPMENT—AUTHORITIES.

(a) In General.—Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended by inserting after section 319F the following section:

"SEC. 319F-1. AUTHORITY FOR USE OF CERTAIN PROCEDURES REGARDING QUALIFIED COUNTERMEASURE RESEARCH AND DEVELOPMENT ACTIVITIES.

"(a) In General.—

"(1) Authority.—In conducting and supporting research and development activities regarding countermeasures under section 319F(h), the Secretary may conduct and support such activities in accordance with this section and, in consultation with the Director of the National Institutes of Health, as part of the program under section 446, if the activities concern qualified countermeasures.

"(2) Qualified countermeasure.—For purposes of this section, the term 'qualified countermeasure' means a drug (as that term is defined by section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1))), biological product (as that term is defined by section 351(i) of this Act (42 U.S.C. 262(i))), or device (as that term is defined by section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h))) that the Secretary determines to be a priority (consistent with sections 302(2) and 304(a) of the Homeland Security Act of 2002) to—

"(A) treat, identify, or prevent harm from any biological, chemical, radiological, or nuclear agent that may cause a public health emergency affecting national security; or

"(B) treat, identify, or prevent harm from a condition that may result in adverse health consequences or death and may be caused by administering a drug, biological product, or device that is used as described in subparagraph (A).

"(3) Interagency cooperation.—

"(A) In general.—In carrying out activities under this section, the Secretary is authorized, subject to subparagraph (B), to enter into interagency agreements and other collaborative undertakings with other agencies of the United States Government.

"(B) Limitation.—An agreement or undertaking under this paragraph shall not authorize another agency to exercise the authorities provided by this section.

"(4) Availability of facilities to the secretary.—In any grant, contract, or cooperative agreement entered into under the authority provided in this section with respect to a biocontainment laboratory or other related or ancillary specialized research facility that the Secretary determines necessary for the purpose of performing, administering, or supporting qualified countermeasure research and development, the Secretary may provide that the facility that is the object of such grant, contract, or cooperative agreement shall be available as needed to the Secretary to respond to public health emergencies affecting national security.

"(5) Transfers of qualified countermeasures.—Each agreement for an award of a grant, contract, or cooperative agreement under section 319F(h) for the development of a qualified countermeasure shall provide that the recipient of the award will comply with all applicable export-related controls with respect to such countermeasure.

"(b) Expedited Procurement Authority.—

"(1) Increased simplified acquisition threshold for qualified countermeasure procurements.—

"(A) In general.—For any procurement by the Secretary of property or services for use (as determined by the Secretary) in performing, administering, or supporting qualified countermeasure research or development activities under this section that the Secretary determines necessary to respond to pressing research and development needs under this section, the amount specified in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)), as applicable pursuant to section 302A(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252a(a)), shall be deemed to be $25,000,000 in the administration, with respect to such procurement, of—

"(i) section 303(g)(1)(A) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(A)) and its implementing regulations; and

"(ii) section 302A(b) of such Act (41 U.S.C. 252a(b)) and its implementing regulations.

"(B) Application of certain provisions.—Notwithstanding subparagraph (A) and the provision of law and regulations referred to in such subparagraph, each of the following provisions shall apply to procurements described in this paragraph to the same extent that such provisions would apply to such procurements in the absence of subparagraph (A):

"(i) Chapter 37 of title 40, United States Code (relating to contract work hours and safety standards).

"(ii) Subsections (a) and (b) of section 7 of the Anti-Kickback Act of 1986 (41 U.S.C. 57(a) and (b)).

"(iii) Section 304C of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254d) (relating to the examination of contractor records).

"(iv) Section 3131 of title 40, United States Code (relating to bonds of contractors of public buildings or works).

"(v) Subsection (a) of section 304 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(a)) (relating to contingent fees to middlemen).

"(vi) Section 6002 of the Solid Waste Disposal Act (42 U.S.C. 6962).

"(vii) Section 1354 of title 31, United States Code (relating to the limitation on the use of appropriated funds for contracts with entities not meeting veterans employment reporting requirements).

"(C) INTERNAL CONTROLS TO BE INSTITUTED.—The Secretary shall institute appropriate internal controls for procurements that are under this paragraph, including requirements with regard to documenting the justification for use of the authority in this paragraph with respect to the procurement involved.

"(D) AUTHORITY TO LIMIT COMPETITION.—In conducting a procurement under this paragraph, the Secretary may not use the authority provided for under subparagraph (A) to conduct a procurement on a basis other than full and open competition unless the Secretary determines that the mission of the BioShield Program under the Project BioShield Act of 2004 would be seriously impaired without such a limitation.

"(2) PROCEDURES OTHER THAN FULL AND OPEN COMPETITION.—

"(A) IN GENERAL.—In using the authority provided in section 303(c)(1) of title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(1)) to use procedures other than competitive procedures in the case of a procurement described in paragraph (1) of this subsection, the phrase 'available from only one responsible source' in such section 303(c)(1) shall be deemed to mean 'available from only one responsible source or only from a limited number of responsible sources'.

"(B) RELATION TO OTHER AUTHORITIES.—The authority under subparagraph (A) is in addition to any other authority to use procedures other than competitive procedures.

"(C) APPLICABLE GOVERNMENT-WIDE REGULATIONS.—The Secretary shall implement this paragraph in accordance with government-wide regulations implementing such section 303(c)(1) (including requirements that offers be solicited from as many potential sources as is practicable under the circumstances, that required notices be published, and that submitted offers be considered), as such regulations apply to procurements for which an agency has authority to use procedures other than competitive procedures when the property or services needed by the agency are available from only one responsible source or only from a limited number of responsible sources and no other type of property or services will satisfy the needs of the agency.

"(3) INCREASED MICROPURCHASE THRESHOLD.—

"(A) IN GENERAL.—For a procurement described by paragraph (1), the amount specified in subsections (c), (d), and (f) of section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428) shall be deemed to be $15,000 in the administration of that section with respect to such procurement.

"(B) INTERNAL CONTROLS TO BE INSTITUTED.—The Secretary shall institute appropriate internal controls for purchases that are under this paragraph and that are greater than $2,500.

"(C) EXCEPTION TO PREFERENCE FOR PURCHASE CARD MECHANISM.—No provision of law establishing a preference for using a Government purchase card method for purchases shall apply to purchases that are under this paragraph and that are greater than $2,500.

"(4) REVIEW.—

"(A) REVIEW ALLOWED.—Notwithstanding subsection (f), section 1491 of title 28, United States Code, and section 3556 of title 31 of such Code, review of a contracting agency decision relating to a procurement described in paragraph (1) may be had only by filing a protest—

"(i) with a contracting agency; or

"(ii) with the Comptroller General under subchapter V of chapter 35 of title 31, United States Code.

"(B) OVERRIDE OF STAY OF CONTRACT AWARD OR PERFORMANCE COMMITTED TO AGENCY DISCRETION.—Notwithstanding section 1491 of title 28, United States Code, and section 3553 of title 31 of such Code, the following authorizations by the head of a procuring activity are committed to agency discretion:

"(i) An authorization under section 3553(c)(2) of title 31, United States Code, to award a contract for a procurement described in paragraph (1) of this subsection.

"(ii) An authorization under section 3553(d)(3)(C) of such title to perform a contract for a procurement described in paragraph (1) of this subsection.

"(c) AUTHORITY TO EXPEDITE PEER REVIEW.—

"(1) IN GENERAL.—The Secretary may, as the Secretary determines necessary to respond to pressing qualified countermeasure research and development needs under this section, employ such expedited peer review procedures (including consultation with appropriate scientific experts) as the Secretary, in consultation with the Director of NIH, deems appropriate to obtain assessment of scientific and technical merit and likely contribution to the field of qualified countermeasure research, in place of the peer review and advisory council review procedures that would be required under sections 301(a)(3), 405(b)(1)(B), 405(b)(2), 406(a)(3)(A), 492, and 494, as applicable to a grant, contract, or cooperative agreement—

"(A) that is for performing, administering, or supporting qualified countermeasure research and development activities; and

"(B) the amount of which is not greater than $1,500,000.

"(2) SUBSEQUENT PHASES OF RESEARCH.—The Secretary's determination of whether to employ expedited peer review with respect to any subsequent phases of a research grant, contract, or cooperative agreement under this section shall be determined without regard to the peer review procedures used for any prior peer review of that same grant, contract, or cooperative agreement. Nothing in the preceding sentence may be construed to impose any requirement with respect to peer review not otherwise required under any other law or regulation.

"(d) AUTHORITY FOR PERSONAL SERVICES CONTRACTS.—

"(1) IN GENERAL.—For the purpose of performing, administering, or supporting qualified countermeasure research and development activities, the Secretary may, as the Secretary determines necessary to respond to pressing qualified countermeasure research and development needs under this section, obtain by contract (in accordance with section 3109 of title 5, United States Code, but without regard to the limitations in such section on the period of service and on pay) the personal services of experts or consultants who have scientific or other professional qualifications, except that in no case shall the compensation provided to any such expert or consultant exceed the daily equivalent of the annual rate of compensation for the President.

"(2) FEDERAL TORT CLAIMS ACT COVERAGE.—

"(A) IN GENERAL.—A person carrying out a contract under paragraph (1), and an officer, employee, or governing board member of such person, shall, subject to a determination by the Secretary, be deemed to be an employee of the Department of Health and Human Services for purposes of claims under sections 1346(b) and 2672 of title 28, United States Code, for money damages for personal injury, including death, resulting from performance of functions under such contract.

"(B) EXCLUSIVITY OF REMEDY.—The remedy provided by subparagraph (A) shall be exclusive of any other civil action or proceeding by reason of the same subject matter against the entity involved (person, officer, employee, or governing board member) for any act or omission within the scope of the Federal Tort Claims Act.

"(C) RECOURSE IN CASE OF GROSS MISCONDUCT OR CONTRACT VIOLATION.—

"(i) IN GENERAL.—Should payment be made by the United States to any claimant bringing a claim under this paragraph, either by way of administrative determination, settlement, or court judgment, the United States shall have, notwithstanding any provision of State law, the right to recover against any entity identified in subparagraph (B) for that portion of the damages so awarded or paid, as well as interest and any costs of litigation, resulting from the failure of any such entity to carry out any obligation or responsibility assumed by such entity under a contract with the United States or from any grossly negligent or reckless conduct or intentional or willful misconduct on the part of such entity.

"(ii) VENUE.—The United States may maintain an action under this subparagraph against such entity in the district court of the United States in which such entity resides or has its principal place of business.

"(3) INTERNAL CONTROLS TO BE INSTITUTED.—

"(A) IN GENERAL.—The Secretary shall institute appropriate internal controls for contracts under this subsection, including procedures for the Secretary to make a determination of whether a person, or an officer, employee, or governing board member of a person, is deemed to be an employee of the Department of Health and Human Services pursuant to paragraph (2).

"(B) DETERMINATION OF EMPLOYEE STATUS TO BE FINAL.—A determination by the Secretary under subparagraph (A) that a person, or an officer, employee, or governing board member of a person, is or is not deemed to be an employee of the Department of Health and Human Services shall be final and binding on the Secretary and the Attorney General and other parties to any civil action or proceeding.

"(4) NUMBER OF PERSONAL SERVICES CONTRACTS LIMITED.—The number of experts and consultants whose personal services are obtained under paragraph (1) shall not exceed 30 at any time.

"(e) STREAMLINED PERSONNEL AUTHORITY.—

"(1) IN GENERAL.—In addition to any other personnel authorities, the Secretary may, as the Secretary determines necessary to respond to pressing qualified countermeasure research and development needs under this section, without regard to those provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, appoint professional and technical employees, not to exceed 30 such employees at any time, to positions in the National Institutes of Health to perform, administer, or support qualified countermeasure research and development activities in carrying out this section.

“(2) Limitations.—The authority provided for under paragraph (1) shall be exercised in a manner that—

“(A) recruits and appoints individuals based solely on their abilities, knowledge, and skills;

“(B) does not discriminate for or against any applicant for employment on any basis described in section 2302(b)(1) of title 5, United States Code;

“(C) does not allow an official to appoint an individual who is a relative (as defined in section 3110(a)(3) of such title) of such official;

“(D) does not discriminate for or against an individual because of the exercise of any activity described in paragraph (9) or (10) of section 2302(b) of such title; and

“(E) accords a preference, among equally qualified persons, to persons who are preference eligibles (as defined in section 2108(3) of such title).

“(3) Internal controls to be instituted.—The Secretary shall institute appropriate internal controls for appointments under this subsection.

“(f) Actions Committed to Agency Discretion.—Actions by the Secretary under the authority of this section are committed to agency discretion.”.

(b) Technical Amendment.—Section 481A of the Public Health Service Act (42 U.S.C. 287a–2) is amended—

(1) in subsection (a)(1), by inserting “or the Director of the National Institute of Allergy and Infectious Diseases” after “Director of the Center”;

(2) in subsection (c)—

(A) in paragraph (1), by inserting “or the Director of the National Institute of Allergy and Infectious Diseases” after “Director of the Center”; and

(B) in paragraph (2), in the matter preceding subparagraph (A), by striking “subsection (i)” and inserting “subsection (i)(1)”;

(3) in subsection (d), by inserting “or the Director of the National Institute of Allergy and Infectious Diseases” after “Director of the Center”;

(4) in subsection (e)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by inserting “or the Director of the National Institute of Allergy and Infectious Diseases” after “Director of the Center”;

(ii) in subparagraph (A), by inserting “(or, in the case of the Institute, 75 percent)” after “50 percent”; and

(iii) in subparagraph (B), by inserting “(or, in the case of the Institute, 75 percent)” after “40 percent”;

(B) in paragraph (2), by inserting “or the Director of the National Institute of Allergy and Infectious Diseases” after “Director of the Center”; and

(C) in paragraph (4), by inserting “of the Center or the Director of the National Institute of Allergy and Infectious Diseases” after “Director”;

(5) in subsection (f)—

(A) in paragraph (1), by inserting “in the case of an award by the Director of the Center,” before “the applicant”; and

(B) in paragraph (2), by inserting “of the Center or the Director of the National Institute of Allergy and Infectious Diseases” after “Director”; and

(6) in subsection (i)—

(A) by striking “Appropriations.—For the purpose of carrying out this section,” and inserting the following: “Appropriations.—

“(1) Center.—For the purpose of carrying out this section with respect to the Center,”; and

(B) by adding at the end the following:

“(2) National institute of allergy and infectious diseases.—For the purpose of carrying out this section with respect to the National Institute of Allergy and Infectious Diseases, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 and 2005.”.

(c) Additional Authorizations of Appropriations.—Section 2106 of the Public Health Service Act (42 U.S.C. 300aa–6) is amended—

(1) in subsection (a), by striking “authorized to be appropriated” and all that follows and inserting the following: “authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 and 2005.”; and

(2) in subsection (b), by striking “authorized to be appropriated” and all that follows and inserting the following: “authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 and 2005.”.

(d) Technical Amendments.—Section 319F of the Public Health Service Act (42 U.S.C. 247d–6) is amended—

(1) in subsection (a), by inserting “the Secretary of Homeland Security,” after “Management Agency,”; and

(2) in subsection (h)(4)(B), by striking “to diagnose conditions” and inserting “to treat, identify, or prevent conditions”.

(e) Rule of Construction.—Nothing in this section has any legal effect on sections 302(2), 302(4), 304(a), or 304(b) of the Homeland Security Act of 2002.

SEC. 3. BIOMEDICAL COUNTERMEASURES PROCUREMENT.

(a) Additional Authority Regarding Strategic National Stockpile.—

(1) Transfer of program.—Section 121 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (116 Stat. 611; 42 U.S.C. 300hh–12) is transferred from such Act to the Public Health Service Act, is redesignated as section 319F–2, and is inserted after section 319F–1 of the Public Health Service Act (as added by section 2 of this Act).

(2) Additional authority.—Section 319F–2 of the Public Health Service Act, as added by paragraph (1), is amended to read as follows:

“SEC. 319F-2. STRATEGIC NATIONAL STOCKPILE.

“(a) Strategic National Stockpile.—

“(1) In general.—The Secretary, in coordination with the Secretary of Homeland Security (referred to in this section as the ‘Homeland Security Secretary’), shall maintain a stockpile or stockpiles of drugs, vaccines and other biological products, medical devices, and other supplies in such numbers, types, and amounts as are determined by the Secretary to be appropriate and practicable, taking into account other available sources, to provide for the emergency health security of the United States, including the emergency health security of children and other vulnerable populations, in the event of a bioterrorist attack or other public health emergency.

“(2) Procedures.—The Secretary, in managing the stockpile under paragraph (1), shall—

“(A) consult with the working group under section 319F(a);

“(B) ensure that adequate procedures are followed with respect to such stockpile for inventory management and accounting, and for the physical security of the stockpile;

“(C) in consultation with Federal, State, and local officials, take into consideration the timing and location of special events;

“(D) review and revise, as appropriate, the contents of the stockpile on a regular basis to ensure that emerging threats, advanced technologies, and new countermeasures are adequately considered;

“(E) devise plans for the effective and timely supply-chain management of the stockpile, in consultation with appropriate Federal, State and local agencies, and the public and private health care infrastructure;

“(F) deploy the stockpile as required by the Secretary of Homeland Security to respond to an actual or potential emergency;

“(G) deploy the stockpile at the discretion of the Secretary to respond to an actual or potential public health emergency or other situation in which deployment is necessary to protect the public health or safety; and

“(H) ensure the adequate physical security of the stockpile.

“(b) Smallpox Vaccine Development.—

“(1) In general.—The Secretary shall award contracts, enter into cooperative agreements, or carry out such other activities as may reasonably be required in order to ensure that the stockpile under subsection (a) includes an amount of vaccine against smallpox as determined by such Secretary to be sufficient to meet the health security needs of the United States.

“(2) Rule of construction.—Nothing in this section shall be construed to limit the private distribution, purchase, or sale of vaccines from sources other than the stockpile described in subsection (a).

“(c) Additional Authority Regarding Procurement of Certain Biomedical Countermeasures; Availability of Special Reserve Fund.—

“(1) In general.—

“(A) Use of fund.—A security countermeasure may, in accordance with this subsection, be procured with amounts in the special reserve fund under paragraph (10).

“(B) Security countermeasure.—For purposes of this subsection, the term ‘security countermeasure’ means a drug (as that term is defined by section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1))), biological product (as that term is defined by section 351(i) of this Act (42 U.S.C. 262(i))), or device (as that term is defined by section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h))) that—

“(i)(I) –the Secretary determines to be a priority (consistent with sections 302(2) and 304(a) of the Homeland Security Act of 2002) to treat, identify, or prevent harm from any biological, chemical, radiological, or nuclear agent identified as a material threat under paragraph (2)(A)(ii), or to treat, identify, or prevent harm from a condition that may result in adverse health consequences or death and may be caused by administering a drug, biological product, or device against such an agent;

“(II) the Secretary determines under paragraph (2)(B)(ii) to be a necessary countermeasure; and

“(III)(aa) is approved or cleared under chapter V of the Federal Food, Drug, and

Cosmetic Act or licensed under section 351 of this Act; or

"(bb) is a countermeasure for which the Secretary determines that sufficient and satisfactory clinical experience or research data (including data, if available, from pre-clinical and clinical trials) support a reasonable conclusion that the countermeasure will qualify for approval or licensing within eight years after the date of a determination under paragraph (5); or

"(ii) is authorized for emergency use under section 564 of the Federal Food, Drug, and Cosmetic Act.

"(2) DETERMINATION OF MATERIAL THREATS.—

"(A) MATERIAL THREAT.—The Homeland Security Secretary, in consultation with the Secretary and the heads of other agencies as appropriate, shall on an ongoing basis—

"(i) assess current and emerging threats of chemical, biological, radiological, and nuclear agents; and

"(ii) determine which of such agents present a material threat against the United States population sufficient to affect national security.

"(B) PUBLIC HEALTH IMPACT; NECESSARY COUNTERMEASURES.—The Secretary shall on an ongoing basis—

"(i) assess the potential public health consequences for the United States population of exposure to agents identified under subparagraph (A)(ii); and

"(ii) determine, on the basis of such assessment, the agents identified under subparagraph (A)(ii) for which countermeasures are necessary to protect the public health.

"(C) NOTICE TO CONGRESS.—The Secretary and the Homeland Security Secretary shall promptly notify the designated congressional committees (as defined in paragraph (10)) that a determination has been made pursuant to subparagraph (A) or (B).

"(D) ASSURING ACCESS TO THREAT INFORMATION.—In making the assessment and determination required under subparagraph (A), the Homeland Security Secretary shall use all relevant information to which such Secretary is entitled under section 202 of the Homeland Security Act of 2002, including but not limited to information, regardless of its level of classification, relating to current and emerging threats of chemical, biological, radiological, and nuclear agents.

"(3) ASSESSMENT OF AVAILABILITY AND APPROPRIATENESS OF COUNTERMEASURES.—The Secretary, in consultation with the Homeland Security Secretary, shall assess on an ongoing basis the availability and appropriateness of specific countermeasures to address specific threats identified under paragraph (2).

"(4) CALL FOR DEVELOPMENT OF COUNTERMEASURES; COMMITMENT FOR RECOMMENDATION FOR PROCUREMENT.—

"(A) PROPOSAL TO THE PRESIDENT.—If, pursuant to an assessment under paragraph (3), the Homeland Security Secretary and the Secretary make a determination that a countermeasure would be appropriate but is either currently unavailable for procurement as a security countermeasure or is approved, licensed, or cleared only for alternative uses, such Secretaries may jointly submit to the President a proposal to—

"(i) issue a call for the development of such countermeasure; and

"(ii) make a commitment that, upon the first development of such countermeasure that meets the conditions for procurement under paragraph (5), the Secretaries will, based in part on information obtained pursuant to such call, make a recommendation under paragraph (6) that the special reserve fund under paragraph (10) be made available for the procurement of such countermeasure.

"(B) COUNTERMEASURE SPECIFICATIONS.—The Homeland Security Secretary and the Secretary shall, to the extent practicable, include in the proposal under subparagraph (A)—

"(i) estimated quantity of purchase (in the form of number of doses or number of effective courses of treatments regardless of dosage form);

"(ii) necessary measures of minimum safety and effectiveness;

"(iii) estimated price for each dose or effective course of treatment regardless of dosage form; and

"(iv) other information that may be necessary to encourage and facilitate research, development, and manufacture of the countermeasure or to provide specifications for the countermeasure.

"(C) PRESIDENTIAL APPROVAL.—If the President approves a proposal under subparagraph (A), the Homeland Security Secretary and the Secretary shall make known to persons who may respond to a call for the countermeasure involved—

"(i) the call for the countermeasure;

"(ii) specifications for the countermeasure under subparagraph (B); and

"(iii) the commitment described in subparagraph (A)(ii).

"(5) SECRETARY'S DETERMINATION OF COUNTERMEASURES APPROPRIATE FOR FUNDING FROM SPECIAL RESERVE FUND.—

"(A) IN GENERAL.—The Secretary, in accordance with the provisions of this paragraph, shall identify specific security countermeasures that the Secretary determines, in consultation with the Homeland Security Secretary, to be appropriate for inclusion in the stockpile under subsection (a) pursuant to procurements made with amounts in the special reserve fund under paragraph (10) (referred to in this subsection individually as a 'procurement under this subsection').

"(B) REQUIREMENTS.—In making a determination under subparagraph (A) with respect to a security countermeasure, the Secretary shall determine and consider the following:

"(i) The quantities of the product that will be needed to meet the needs of the stockpile.

"(ii) The feasibility of production and delivery within eight years of sufficient quantities of the product.

"(iii) Whether there is a lack of a significant commercial market for the product at the time of procurement, other than as a security countermeasure.

"(6) RECOMMENDATION FOR PRESIDENT'S APPROVAL.—

"(A) RECOMMENDATION FOR PROCUREMENT.—In the case of a security countermeasure that the Secretary has, in accordance with paragraphs (3) and (5), determined to be appropriate for procurement under this subsection, the Homeland Security Secretary and the Secretary shall jointly submit to the President, in coordination with the Director of the Office of Management and Budget, a recommendation that the special reserve fund under paragraph (10) be made available for the procurement of such countermeasure.

"(B) PRESIDENTIAL APPROVAL.—The special reserve fund under paragraph (10) is available for a procurement of a security countermeasure only if the President has approved a recommendation under subparagraph (A) regarding the countermeasure.

"(C) NOTICE TO DESIGNATED CONGRESSIONAL COMMITTEES.—The Secretary and the Homeland Security Secretary shall notify the designated congressional committees of each decision of the President to approve a recommendation under subparagraph (A). Such notice shall include an explanation of the decision to make available the special reserve fund under paragraph (10) for procurement of such a countermeasure, including, where available, the number of, nature of, and other information concerning potential suppliers of such countermeasure, and whether other potential suppliers of the same or similar countermeasures were considered and rejected for procurement under this section and the reasons therefor.

"(D) SUBSEQUENT SPECIFIC COUNTERMEASURES.—Procurement under this subsection of a security countermeasure for a particular purpose does not preclude the subsequent procurement under this subsection of any other security countermeasure for such purpose if the Secretary has determined under paragraph (5)(A) that such countermeasure is appropriate for inclusion in the stockpile and if, as determined by the Secretary, such countermeasure provides improved safety or effectiveness, or for other reasons enhances preparedness to respond to threats of use of a biological, chemical, radiological, or nuclear agent. Such a determination by the Secretary is committed to agency discretion.

"(E) RULE OF CONSTRUCTION.—Recommendations and approvals under this paragraph apply solely to determinations that the special reserve fund under paragraph (10) will be made available for a procurement of a security countermeasure, and not to the substance of contracts for such procurement or other matters relating to awards of such contracts.

"(7) PROCUREMENT.—

"(A) IN GENERAL.—For purposes of a procurement under this subsection that is approved by the President under paragraph (6), the Homeland Security Secretary and the Secretary shall have responsibilities in accordance with subparagraphs (B) and (C).

"(B) INTERAGENCY AGREEMENT; COSTS.—

"(i) INTERAGENCY AGREEMENT.—The Homeland Security Secretary shall enter into an agreement with the Secretary for procurement of a security countermeasure in accordance with the provisions of this paragraph. The special reserve fund under paragraph (10) shall be available for payments made by the Secretary to a vendor for such procurement.

"(ii) OTHER COSTS.—The actual costs to the Secretary under this section, other than the costs described in clause (i), shall be paid from the appropriation provided for under subsection (f)(1).

"(C) PROCUREMENT.—

"(i) IN GENERAL.—The Secretary shall be responsible for—

"(I) arranging for procurement of a security countermeasure, including negotiating terms (including quantity, production schedule, and price) of, and entering into, contracts and cooperative agreements, and for carrying out such other activities as may reasonably be required, in accordance with the provisions of this subparagraph; and

"(II) promulgating such regulations as the Secretary determines necessary to implement the provisions of this subsection.

"(ii) CONTRACT TERMS.—A contract for procurements under this subsection shall (or, as specified below, may) include the following terms:

"(I) PAYMENT CONDITIONED ON DELIVERY.—The contract shall provide that no payment may be made until delivery has been made of a portion, acceptable to the Secretary, of the total number of units contracted for, except that, notwithstanding any other provision of law, the contract may provide that, if the Secretary determines (in the Secretary's discretion) that an advance payment is necessary to ensure success of a project, the Secretary may pay an amount, not to exceed 10 percent of the contract amount, in advance of delivery. The contract shall provide that such advance payment is required to be repaid if there is a failure to perform by the vendor under the contract. Nothing in this subclause may be construed as affecting rights of vendors under provisions of law or regulation (including the Federal Acquisition Regulation) relating to termination of contracts for the convenience of the Government.

"(II) DISCOUNTED PAYMENT.—The contract may provide for a discounted price per unit of a product that is not licensed, cleared, or approved as described in paragraph (1)(B)(i)(III)(aa) at the time of delivery, and may provide for payment of an additional amount per unit if the product becomes so licensed, cleared, or approved before the expiration date of the contract (including an additional amount per unit of product delivered before the effective date of such licensing, clearance, or approval).

"(III) CONTRACT DURATION.—The contract shall be for a period not to exceed five years, except that, in first awarding the contract, the Secretary may provide for a longer duration, not exceeding eight years, if the Secretary determines that complexities or other difficulties in performance under the contract justify such a period. The contract shall be renewable for additional periods, none of which shall exceed five years.

"(IV) STORAGE BY VENDOR.—The contract may provide that the vendor will provide storage for stocks of a product delivered to the ownership of the Federal Government under the contract, for such period and under such terms and conditions as the Secretary may specify, and in such case amounts from the special reserve fund under paragraph (10) shall be available for costs of shipping, handling, storage, and related costs for such product.

"(V) PRODUCT APPROVAL.—The contract shall provide that the vendor seek approval, clearance, or licensing of the product from the Secretary; for a timetable for the development of data and other information to support such approval, clearance, or licensing; and that the Secretary may waive part or all of this contract term on request of the vendor or on the initiative of the Secretary.

"(VI) NON-STOCKPILE TRANSFERS OF SECURITY COUNTERMEASURES.—The contract shall provide that the vendor will comply with all applicable export-related controls with respect to such countermeasure.

"(iii) AVAILABILITY OF SIMPLIFIED ACQUISITION PROCEDURES.—

"(I) IN GENERAL.—If the Secretary determines that there is a pressing need for a procurement of a specific countermeasure, the amount of the procurement under this subsection shall be deemed to be below the threshold amount specified in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)), for purposes of application to such procurement, pursuant to section 302A(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252a(a)), of—

"(aa) section 303(g)(1)(A) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(A)) and its implementing regulations; and

"(bb) section 302A(b) of such Act (41 U.S.C. 252a(b)) and its implementing regulations.

"(II) APPLICATION OF CERTAIN PROVISIONS.—Notwithstanding subclause (I) and the provision of law and regulations referred to in such clause, each of the following provisions shall apply to procurements described in this clause to the same extent that such provisions would apply to such procurements in the absence of subclause (I):

"(aa) Chapter 37 of title 40, United States Code (relating to contract work hours and safety standards).

"(bb) Subsections (a) and (b) of section 7 of the Anti-Kickback Act of 1986 (41 U.S.C. 57(a) and (b)).

"(cc) Section 304C of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254d) (relating to the examination of contractor records).

"(dd) Section 3131 of title 40, United States Code (relating to bonds of contractors of public buildings or works).

"(ee) Subsection (a) of section 304 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(a)) (relating to contingent fees to middlemen).

"(ff) Section 6002 of the Solid Waste Disposal Act (42 U.S.C. 6962).

"(gg) Section 1354 of title 31, United States Code (relating to the limitation on the use of appropriated funds for contracts with entities not meeting veterans employment reporting requirements).

"(III) INTERNAL CONTROLS TO BE ESTABLISHED.—The Secretary shall establish appropriate internal controls for procurements made under this clause, including requirements with respect to documentation of the justification for the use of the authority provided under this paragraph with respect to the procurement involved.

"(IV) AUTHORITY TO LIMIT COMPETITION.—In conducting a procurement under this subparagraph, the Secretary may not use the authority provided for under subclause (I) to conduct a procurement on a basis other than full and open competition unless the Secretary determines that the mission of the BioShield Program under the Project BioShield Act of 2004 would be seriously impaired without such a limitation.

"(iv) PROCEDURES OTHER THAN FULL AND OPEN COMPETITION.—

"(I) IN GENERAL.—In using the authority provided in section 303(c)(1) of title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(1)) to use procedures other than competitive procedures in the case of a procurement under this subsection, the phrase 'available from only one responsible source' in such section 303(c)(1) shall be deemed to mean 'available from only one responsible source or only from a limited number of responsible sources'.

"(II) RELATION TO OTHER AUTHORITIES.—The authority under subclause (I) is in addition to any other authority to use procedures other than competitive procedures.

"(III) APPLICABLE GOVERNMENT-WIDE REGULATIONS.—The Secretary shall implement this clause in accordance with government-wide regulations implementing such section 303(c)(1) (including requirements that offers be solicited from as many potential sources as is practicable under the circumstances, that required notices be published, and that submitted offers be considered), as such regulations apply to procurements for which an agency has authority to use procedures other than competitive procedures when the property or services needed by the agency are available from only one responsible source or only from a limited number of responsible sources and no other type of property or services will satisfy the needs of the agency.

"(v) PREMIUM PROVISION IN MULTIPLE AWARD CONTRACTS.—

"(I) IN GENERAL.—If, under this subsection, the Secretary enters into contracts with more than one vendor to procure a security countermeasure, such Secretary may, notwithstanding any other provision of law, include in each of such contracts a provision that—

"(aa) identifies an increment of the total quantity of security countermeasure required, whether by percentage or by numbers of units; and

"(bb) promises to pay one or more specified premiums based on the priority of such vendors' production and delivery of the increment identified under item (aa), in accordance with the terms and conditions of the contract.

"(II) DETERMINATION OF GOVERNMENT'S REQUIREMENT NOT REVIEWABLE.—If the Secretary includes in each of a set of contracts a provision as described in subclause (I), such Secretary's determination of the total quantity of security countermeasure required, and any amendment of such determination, is committed to agency discretion.

"(vi) EXTENSION OF CLOSING DATE FOR RECEIPT OF PROPOSALS NOT REVIEWABLE.—A decision by the Secretary to extend the closing date for receipt of proposals for a procurement under this subsection is committed to agency discretion.

"(vii) LIMITING COMPETITION TO SOURCES RESPONDING TO REQUEST FOR INFORMATION.—In conducting a procurement under this subsection, the Secretary may exclude a source that has not responded to a request for information under section 303A(a)(1)(B) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a(a)(1)(B)) if such request has given notice that the Secretary may so exclude such a source.

"(8) INTERAGENCY COOPERATION.—

"(A) IN GENERAL.—In carrying out activities under this section, the Homeland Security Secretary and the Secretary are authorized, subject to subparagraph (B), to enter into interagency agreements and other collaborative undertakings with other agencies of the United States Government.

"(B) LIMITATION.—An agreement or undertaking under this paragraph shall not authorize another agency to exercise the authorities provided by this section to the Homeland Security Secretary or to the Secretary.

"(9) RESTRICTIONS ON USE OF FUNDS.—Amounts in the special reserve fund under paragraph (10) shall not be used to pay—

"(A) costs for the purchase of vaccines under procurement contracts entered into before the date of the enactment of the Project BioShield Act of 2004; or

"(B) costs other than payments made by the Secretary to a vendor for a procurement of a security countermeasure under paragraph (7).

"(10) DEFINITIONS.—

"(A) SPECIAL RESERVE FUND.—For purposes of this subsection, the term 'special reserve fund' has the meaning given such term in section 510 of the Homeland Security Act of 2002.

"(B) DESIGNATED CONGRESSIONAL COMMITTEES.—For purposes of this section, the term 'designated congressional committees' means the following committees of the Congress:

"(i) In the House of Representatives: the Committee on Energy and Commerce, the Committee on Appropriations, the Committee on Government Reform, and the Select Committee on Homeland Security (or any successor to the Select Committee).

"(ii) In the Senate: the appropriate committees.

"(d) DISCLOSURES.—No Federal agency shall disclose under section 552 of title 5, United States Code, any information identifying the location at which materials in the stockpile under subsection (a) are stored.

"(e) DEFINITION.—For purposes of subsection (a), the term 'stockpile' includes—

"(1) a physical accumulation (at one or more locations) of the supplies described in subsection (a); or

"(2) a contractual agreement between the Secretary and a vendor or vendors under which such vendor or vendors agree to provide to such Secretary supplies described in subsection (a).

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) STRATEGIC NATIONAL STOCKPILE.—For the purpose of carrying out subsection (a), there are authorized to be appropriated $640,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006. Such authorization is in addition to amounts in the special reserve fund referred to in subsection (c)(10)(A).

"(2) SMALLPOX VACCINE DEVELOPMENT.—For the purpose of carrying out subsection (b), there are authorized to be appropriated $509,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006.".

(b) AMENDMENTS TO HOMELAND SECURITY ACT OF 2002.—Title V of the Homeland Security Act of 2002 (116 Stat. 2212; 6 U.S.C. 311 et seq.) is amended—

(1) in section 502(3) (6 U.S.C. 312(3))—

(A) in subparagraph (B), by striking "the Strategic National Stockpile,"; and

(B) in subparagraph (D), by inserting ", including requiring deployment of the Strategic National Stockpile," after "resources"; and

(2) by adding at the end the following:

"SEC. 510. PROCUREMENT OF SECURITY COUNTERMEASURES FOR STRATEGIC NATIONAL STOCKPILE.

"(a) AUTHORIZATION OF APPROPRIATIONS.—For the procurement of security countermeasures under section 319F–2(c) of the Public Health Service Act (referred to in this section as the 'security countermeasures program'), there is authorized to be appropriated up to $5,593,000,000 for the fiscal years 2004 through 2013. Of the amounts appropriated under the preceding sentence, not to exceed $3,418,000,000 may be obligated during the fiscal years 2004 through 2008, of which not to exceed $890,000,000 may be obligated during fiscal year 2004.

"(b) SPECIAL RESERVE FUND.—For purposes of the security countermeasures program, the term 'special reserve fund' means the 'Biodefense Countermeasures' appropriations account or any other appropriation made under subsection (a).

"(c) AVAILABILITY.—Amounts appropriated under subsection (a) become available for a procurement under the security countermeasures program only upon the approval by the President of such availability for the procurement in accordance with paragraph (6)(B) of such program.

"(d) RELATED AUTHORIZATIONS OF APPROPRIATIONS.—

"(1) THREAT ASSESSMENT CAPABILITIES.—For the purpose of carrying out the responsibilities of the Secretary for terror threat assessment under the security countermeasures program, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 through 2006, for the hiring of professional personnel within the Directorate for Information Analysis and Infrastructure Protection, who shall be analysts responsible for chemical, biological, radiological, and nuclear threat assessment (including but not limited to analysis of chemical, biological, radiological, and nuclear agents, the means by which such agents could be weaponized or used in a terrorist attack, and the capabilities, plans, and intentions of terrorists and other non-state actors who may have or acquire such agents). All such analysts shall meet the applicable standards and qualifications for the performance of intelligence activities promulgated by the Director of Central Intelligence pursuant to section 104 of the National Security Act of 1947.

"(2) INTELLIGENCE SHARING INFRASTRUCTURE.—For the purpose of carrying out the acquisition and deployment of secure facilities (including information technology and physical infrastructure, whether mobile and temporary, or permanent) sufficient to permit the Secretary to receive, not later than 180 days after the date of enactment of the Project BioShield Act of 2004, all classified information and products to which the Under Secretary for Information Analysis and Infrastructure Protection is entitled under subtitle A of title II, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 through 2006.".

(c) STOCKPILE FUNCTIONS TRANSFERRED.—

(1) IN GENERAL.—Except as provided in paragraph (2), there shall be transferred to the Secretary of Health and Human Services the functions, personnel, assets, unexpended balances, and liabilities of the Strategic National Stockpile, including the functions of the Secretary of Homeland Security relating thereto.

(2) EXCEPTIONS.—

(A) FUNCTIONS.—The transfer of functions pursuant to paragraph (1) shall not include such functions as are explicitly assigned to the Secretary of Homeland Security by this Act (including the amendments made by this Act).

(B) ASSETS AND UNEXPENDED BALANCES.—The transfer of assets and unexpended balances pursuant to paragraph (1) shall not include the funds appropriated under the heading "BIODEFENSE COUNTERMEASURES" in the Department of Homeland Security Appropriations Act, 2004 (Public law 108-90).

(3) CONFORMING AMENDMENT.—Section 503 of the Homeland Security Act of 2002 (6 U.S.C. 313) is amended by striking paragraph (6).

SEC. 4. AUTHORIZATION FOR MEDICAL PRODUCTS FOR USE IN EMERGENCIES.

(a) IN GENERAL.—Section 564 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb–3) is amended to read as follows:

"SEC. 564. AUTHORIZATION FOR MEDICAL PRODUCTS FOR USE IN EMERGENCIES.

"(a) IN GENERAL.—

"(1) EMERGENCY USES.—Notwithstanding sections 505, 510(k), and 515 of this Act and section 351 of the Public Health Service Act, and subject to the provisions of this section, the Secretary may authorize the introduction into interstate commerce, during the effective period of a declaration under subsection (b), of a drug, device, or biological product intended for use in an actual or potential emergency (referred to in this section as an 'emergency use').

"(2) APPROVAL STATUS OF PRODUCT.—An authorization under paragraph (1) may authorize an emergency use of a product that—

"(A) is not approved, licensed, or cleared for commercial distribution under a provision of law referred to in such paragraph (referred to in this section as an 'unapproved product'); or

"(B) is approved, licensed, or cleared under such a provision, but which use is not under such provision an approved, licensed, or cleared use of the product (referred to in this section as an 'unapproved use of an approved product').

"(3) RELATION TO OTHER USES.—An emergency use authorized under paragraph (1) for a product is in addition to any other use that is authorized for the product under a provision of law referred to in such paragraph.

"(4) DEFINITIONS.—For purposes of this section:

"(A) The term 'biological product' has the meaning given such term in section 351 of the Public Health Service Act.

"(B) The term 'emergency use' has the meaning indicated for such term in paragraph (1).

"(C) The term 'product' means a drug, device, or biological product.

"(D) The term 'unapproved product' has the meaning indicated for such term in paragraph (2)(A).

"(E) The term 'unapproved use of an approved product' has the meaning indicated for such term in paragraph (2)(B).

"(b) DECLARATION OF EMERGENCY.—

"(1) IN GENERAL.—The Secretary may declare an emergency justifying the authorization under this subsection for a product on the basis of—

"(A) a determination by the Secretary of Homeland Security that there is a domestic emergency, or a significant potential for a domestic emergency, involving a heightened risk of attack with a specified biological, chemical, radiological, or nuclear agent or agents,

"(B) a determination by the Secretary of Defense that there is a military emergency, or a significant potential for a military emergency, involving a heightened risk to United States military forces of attack with a specified biological, chemical, radiological, or nuclear agent or agents; or

"(C) a determination by the Secretary of a public health emergency under section 319 of the Public Health Service Act that affects, or has a significant potential to affect, national security, and that involves a specified biological, chemical, radiological, or nuclear agent or agents, or a specified disease or condition that may be attributable to such agent or agents.

"(2) TERMINATION OF DECLARATION.—

"(A) IN GENERAL.—A declaration under this subsection shall terminate upon the earlier of—

"(i) a determination by the Secretary, in consultation as appropriate with the Secretary of Homeland Security or the Secretary of Defense, that the circumstances described in paragraph (1) have ceased to exist; or

"(ii) the expiration of the one-year period beginning on the date on which the declaration is made.

"(B) RENEWAL.—Notwithstanding subparagraph (A), the Secretary may renew a declaration under this subsection, and this paragraph shall apply to any such renewal.

"(C) DISPOSITION OF PRODUCT.—If an authorization under this section with respect to an unapproved product ceases to be effective as a result of a termination under subparagraph (A) of this paragraph, the Secretary shall consult with the manufacturer of such product with respect to the appropriate disposition of the product.

"(3) ADVANCE NOTICE OF TERMINATION.—The Secretary shall provide advance notice that a declaration under this subsection will be terminated. The period of advance notice shall be a period reasonably determined to provide—

"(A) in the case of an unapproved product, a sufficient period for disposition of the product, including the return of such product (except such quantities of product as are necessary to provide for continued use consistent with subsection (f)(2)) to the manufacturer (in the case of a manufacturer that chooses to have such product returned); and

"(B) in the case of an unapproved use of an approved product, a sufficient period for the disposition of any labeling, or any information under subsection (e)(2)(B)(ii), as the case may be, that was provided with respect to the emergency use involved.

"(4) Publication.—The Secretary shall promptly publish in the Federal Register each declaration, determination, advance notice of termination, and renewal under this subsection.

"(c) Criteria for Issuance of Authorization.—The Secretary may issue an authorization under this section with respect to the emergency use of a product only if, after consultation with the Director of the National Institutes of Health and the Director of the Centers for Disease Control and Prevention (to the extent feasible and appropriate given the circumstances of the emergency involved), the Secretary concludes—

"(1) that an agent specified in a declaration under subsection (b) can cause a serious or life-threatening disease or condition;

"(2) that, based on the totality of scientific evidence available to the Secretary, including data from adequate and well-controlled clinical trials, if available, it is reasonable to believe that—

"(A) the product may be effective in diagnosing, treating, or preventing—

"(i) such disease or condition; or

"(ii) a serious or life-threatening disease or condition caused by a product authorized under this section, approved or cleared under this Act, or licensed under section 351 of the Public Health Service Act, for diagnosing, treating, or preventing such a disease or condition caused by such an agent; and

"(B) the known and potential benefits of the product, when used to diagnose, prevent, or treat such disease or condition, outweigh the known and potential risks of the product;

"(3) that there is no adequate, approved, and available alternative to the product for diagnosing, preventing, or treating such disease or condition; and

"(4) that such other criteria as the Secretary may by regulation prescribe are satisfied.

"(d) Scope of Authorization.—An authorization of a product under this section shall state—

"(1) each disease or condition that the product may be used to diagnose, prevent, or treat within the scope of the authorization;

"(2) the Secretary's conclusions, made under subsection (c)(2)(B), that the known and potential benefits of the product, when used to diagnose, prevent, or treat such disease or condition, outweigh the known and potential risks of the product; and

"(3) the Secretary's conclusions, made under subsection (c), concerning the safety and potential effectiveness of the product in diagnosing, preventing, or treating such diseases or conditions, including an assessment of the available scientific evidence.

"(e) Conditions of Authorization.—

"(1) Unapproved product.—

"(A) Required conditions.—With respect to the emergency use of an unapproved product, the Secretary, to the extent practicable given the circumstances of the emergency, shall, for a person who carries out any activity for which the authorization is issued, establish such conditions on an authorization under this section as the Secretary finds necessary or appropriate to protect the public health, including the following:

"(i) Appropriate conditions designed to ensure that health care professionals administering the product are informed—

"(I) that the Secretary has authorized the emergency use of the product;

"(II) of the significant known and potential benefits and risks of the emergency use of the product, and of the extent to which such benefits and risks are unknown; and

"(III) of the alternatives to the product that are available, and of their benefits and risks.

"(ii) Appropriate conditions designed to ensure that individuals to whom the product is administered are informed—

"(I) that the Secretary has authorized the emergency use of the product;

"(II) of the significant known and potential benefits and risks of such use, and of the extent to which such benefits and risks are unknown; and

"(III) of the option to accept or refuse administration of the product, of the consequences, if any, of refusing administration of the product, and of the alternatives to the product that are available and of their benefits and risks.

"(iii) Appropriate conditions for the monitoring and reporting of adverse events associated with the emergency use of the product.

"(iv) For manufacturers of the product, appropriate conditions concerning recordkeeping and reporting, including records access by the Secretary, with respect to the emergency use of the product.

"(B) Authority for additional conditions.—With respect to the emergency use of an unapproved product, the Secretary may, for a person who carries out any activity for which the authorization is issued, establish such conditions on an authorization under this section as the Secretary finds necessary or appropriate to protect the public health, including the following:

"(i) Appropriate conditions on which entities may distribute the product with respect to the emergency use of the product (including limitation to distribution by government entities), and on how distribution is to be performed.

"(ii) Appropriate conditions on who may administer the product with respect to the emergency use of the product, and on the categories of individuals to whom, and the circumstances under which, the product may be administered with respect to such use.

"(iii) Appropriate conditions with respect to the collection and analysis of information, during the period when the authorization is in effect, concerning the safety and effectiveness of the product with respect to the emergency use of such product.±

"(iv) For persons other than manufacturers of the product, appropriate conditions concerning recordkeeping and reporting, including records access by the Secretary, with respect to the emergency use of the product.

"(2) Unapproved use.—With respect to the emergency use of a product that is an unapproved use of an approved product:

"(A) For a manufacturer of the product who carries out any activity for which the authorization is issued, the Secretary shall, to the extent practicable given the circumstances of the emergency, establish conditions described in clauses (i) and (ii) of paragraph (1)(A), and may establish conditions described in clauses (iii) and (iv) of such paragraph.

"(B)(i) If the authorization under this section regarding the emergency use authorizes a change in the labeling of the product, but the manufacturer of the product chooses not to make such change, such authorization may not authorize distributors of the product or any other person to alter or obscure the labeling provided by the manufacturer.

"(ii) In the circumstances described in clause (i), for a person who does not manufacture the product and who chooses to act under this clause, an authorization under this section regarding the emergency use shall, to the extent practicable given the circumstances of the emergency, authorize such person to provide appropriate information with respect to such product in addition to the labeling provided by the manufacturer, subject to compliance with clause (i). While the authorization under this section is effective, such additional information shall not be considered labeling for purposes of section 502.

"(C) The Secretary may establish with respect to the distribution and administration of the product for the unapproved use conditions no more restrictive than those established by the Secretary with respect to the distribution and administration of the product for the approved use.

"(3) Good manufacturing practice.—With respect to the emergency use of a product for which an authorization under this section is issued (whether an unapproved product or an unapproved use of an approved product), the Secretary may waive or limit, to the extent appropriate given the circumstances of the emergency, requirements regarding current good manufacturing practice otherwise applicable to the manufacture, processing, packing, or holding of products subject to regulation under this Act, including such requirements established under section 501.

"(4) Advertising.—The Secretary may establish conditions on advertisements and other promotional descriptive printed matter that relate to the emergency use of a product for which an authorization under this section is issued (whether an unapproved product or an unapproved use of an approved product), including, as appropriate—

"(A) with respect to drugs and biological products, requirements applicable to prescription drugs pursuant to section 502(n); or

"(B) with respect to devices, requirements applicable to restricted devices pursuant to section 502(r).

"(f) Duration of Authorization.—

"(1) In general.—Except as provided in paragraph (2), an authorization under this section shall be effective until the earlier of the termination of the declaration under subsection (b) or a revocation under subsection (g).

"(2) Continued use after end of effective period.—Notwithstanding the termination of the declaration under subsection (b) or a revocation under subsection (g), an authorization shall continue to be effective to provide for continued use of an unapproved product with respect to a patient to whom it was administered during the period described by paragraph (1), to the extent found necessary by such patient's attending physician.

"(g) Revocation of Authorization.—

"(1) Review.—The Secretary shall periodically review the circumstances and the appropriateness of an authorization under this section.

"(2) REVOCATION.—The Secretary may revoke an authorization under this section if the criteria under subsection (c) for issuance of such authorization are no longer met or other circumstances make such revocation appropriate to protect the public health or safety.

"(h) PUBLICATION; CONFIDENTIAL INFORMATION.—

"(1) PUBLICATION.—The Secretary shall promptly publish in the Federal Register a notice of each authorization, and each termination or revocation of an authorization under this section, and an explanation of the reasons therefor (which may include a summary of data or information that has been submitted to the Secretary in an application under section 505(i) or section 520(g), even if such summary may indirectly reveal the existence of such application).

"(2) CONFIDENTIAL INFORMATION.—Nothing in this section alters or amends section 1905 of title 18, United States Code, or section 552(b)(4) of title 5 of such Code.

"(i) ACTIONS COMMITTED TO AGENCY DISCRETION.—Actions under the authority of this section by the Secretary, by the Secretary of Defense, or by the Secretary of Homeland Security are committed to agency discretion.

"(j) RULES OF CONSTRUCTION.—The following applies with respect to this section:

"(1) Nothing in this section impairs the authority of the President as Commander in Chief of the Armed Forces of the United States under article II, section 2 of the United States Constitution.

"(2) Nothing in this section impairs the authority of the Secretary of Defense with respect to the Department of Defense, including the armed forces, under other provisions of Federal law.

"(3) Nothing in this section (including any exercise of authority by a manufacturer under subsection (e)(2)) impairs the authority of the United States to use or manage quantities of a product that are owned or controlled by the United States (including quantities in the stockpile maintained under section 319F–2 of the Public Health Service Act).

"(k) RELATION TO OTHER PROVISIONS.—If a product is the subject of an authorization under this section, the use of such product within the scope of the authorization shall not be considered to constitute a clinical investigation for purposes of section 505(i), section 520(g), or any other provision of this Act or section 351 of the Public Health Service Act.

"(l) OPTION TO CARRY OUT AUTHORIZED ACTIVITIES.—Nothing in this section provides the Secretary any authority to require any person to carry out any activity that becomes lawful pursuant to an authorization under this section, and no person is required to inform the Secretary that the person will not be carrying out such activity, except that a manufacturer of a sole-source unapproved product authorized for emergency use shall report to the Secretary within a reasonable period of time after the issuance by the Secretary of such authorization if such manufacturer does not intend to carry out any activity under the authorization. This section only has legal effect on a person who carries out an activity for which an authorization under this section is issued. This section does not modify or affect activities carried out pursuant to other provisions of this Act or section 351 of the Public Health Service Act. Nothing in this subsection may be construed as restricting the Secretary from imposing conditions on persons who carry out any activity pursuant to an authorization under this section.".

(b) REPEAL OF TERMINATION PROVISION.—Subsection (d) of section 1603 of the National Defense Authorization Act for Fiscal Year 2004 (10 U.S.C. 1107a note) is repealed.

SEC. 5. REPORTS REGARDING AUTHORITIES UNDER THIS ACT.

(a) SECRETARY OF HEALTH AND HUMAN SERVICES.—

(1) ANNUAL REPORTS ON PARTICULAR EXERCISES OF AUTHORITY.—

(A) RELEVANT AUTHORITIES.—The Secretary of Health and Human Services (referred to in this subsection as the "Secretary") shall submit reports in accordance with subparagraph (B) regarding the exercise of authority under the following provisions of law:

(i) With respect to section 319F–1 of the Public Health Service Act (as added by section 2 of this Act):

(I) Subsection (b)(1) (relating to increased simplified acquisition threshold).

(II) Subsection (b)(2) (relating to procedures other than full and open competition).

(III) Subsection (c) (relating to expedited peer review procedures).

(ii) With respect to section 319F–2 of the Public Health Service Act (as added by section 3 of this Act):

(I) Subsection (c)(7)(C)(iii) (relating to simplified acquisition procedures).

(II) Subsection (c)(7)(C)(iv) (relating to procedures other than full and open competition).

(III) Subsection (c)(7)(C)(v) (relating to premium provision in multiple-award contracts).

(iii) With respect to section 564 of the Federal Food, Drug, and Cosmetic Act (as added by section 4 of this Act):

(I) Subsection (a)(1) (relating to emergency uses of certain drugs and devices).

(II) Subsection (b)(1) (relating to a declaration of an emergency).

(III) Subsection (e) (relating to conditions on authorization).

(B) CONTENTS OF REPORTS.—The Secretary shall annually submit to the designated congressional committees a report that summarizes—

(i) the particular actions that were taken under the authorities specified in subparagraph (A), including, as applicable, the identification of the threat agent, emergency, or the biomedical countermeasure with respect to which the authority was used;

(ii) the reasons underlying the decision to use such authorities, including, as applicable, the options that were considered and rejected with respect to the use of such authorities;

(iii) the number of, nature of, and other information concerning the persons and entities that received a grant, cooperative agreement, or contract pursuant to the use of such authorities, and the persons and entities that were considered and rejected for such a grant, cooperative agreement, or contract, except that the report need not disclose the identity of any such person or entity; and

(iv) whether, with respect to each procurement that is approved by the President under section 319F–2(c)(6) of the Public Health Service Act (as added by section 3 of this Act), a contract was entered into within one year after such approval by the President.

(2) ANNUAL SUMMARIES REGARDING CERTAIN ACTIVITY.—The Secretary shall annually submit to the designated congressional committees a report that summarizes the activity undertaken pursuant to the following authorities under section 319F–1 of the Public Health Service Act (as added by section 2 of this Act):

(A) Subsection (b)(3) (relating to increased micropurchase threshold).

(B) Subsection (d) (relating to authority for personal services contracts).

(C) Subsection (e) (relating to streamlined personnel authority).

With respect to subparagraph (B), the report shall include a provision specifying, for the one-year period for which the report is submitted, the number of persons who were paid amounts greater than $100,000 and the number of persons who were paid amounts between $50,000 and $100,000.

(3) REPORT ON ADDITIONAL BARRIERS TO PROCUREMENT OF SECURITY COUNTERMEASURES.—Not later than one year after the date of the enactment of this Act, the Secretary, in consultation with the Secretary of Homeland Security, shall report to the designated congressional committees any potential barriers to the procurement of security countermeasures that have not been addressed by this Act.

(b) GENERAL ACCOUNTING OFFICE REVIEW.—

(1) IN GENERAL.—Four years after the date of the enactment of this Act, the Comptroller General of the United States shall initiate a study—

(A)(i) to review the Secretary of Health and Human Services' utilization of the authorities granted under this Act with respect to simplified acquisition procedures, procedures other than full and open competition, increased micropurchase thresholds, personal services contracts, streamlined personnel authority, and the purchase of security countermeasures under the special reserve fund; and

(ii) to make recommendations to improve the utilization or effectiveness of such authorities in the future;

(B)(i) to review and assess the adequacy of the internal controls instituted by such Secretary with respect to such authorities, where required by this Act; and

(ii) to make recommendations to improve the effectiveness of such controls;

(C)(i) to review such Secretary's utilization of the authority granted under this Act to authorize an emergency use of a biomedical countermeasure, including the means by which the Secretary determines whether and under what conditions any such authorizations should be granted and the benefits and adverse impacts, if any, resulting from the use of such authority; and

(ii) to make recommendations to improve the utilization or effectiveness of such authority and to enhance protection of the public health;

(D) to identify any purchases or procurements that would not have been made or would have been significantly delayed except for the authorities described in subparagraph (A)(i); and

(E)(i) to determine whether and to what extent activities undertaken pursuant to the biomedical countermeasure research and development authorities established in this Act have enhanced the development of biomedical countermeasures affecting national security; and

(ii) to make recommendations to improve the ability of the Secretary to carry out these activities in the future.

(2) ADDITIONAL PROVISIONS REGARDING DETERMINATION ON DEVELOPMENT OF BIOMEDICAL COUNTERMEASURES AFFECTING NATIONAL SECURITY.—In the report under paragraph (1), the determination under subparagraph (E) of such paragraph shall include—

(A) the Comptroller General's assessment of the current availability of countermeasures to address threats identified by the Secretary of Homeland Security;

(B) the Comptroller General's assessment of the extent to which programs and activities under this Act will reduce any gap between the threat and the availability of countermeasures to an acceptable level of risk; and

(C)(i) the Comptroller General's assessment of threats to national security that are posed by technology that will enable, during the 10-year period beginning on the date of the enactment of this Act, the development of antibiotic resistant, mutated, or bioengineered strains of biological agents; and

(ii) recommendations on short-term and long-term governmental strategies for addressing such threats, including recommendations for Federal policies regarding research priorities, the development of countermeasures, and investments in technology.

(3) REPORT.—A report providing the results of the study under paragraph (1) shall be submitted to the designated congressional committees not later than five years after the date of the enactment of this Act.

(c) REPORT REGARDING BIOCONTAINMENT FACILITIES.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Homeland Security and the Secretary of Health and Human Services shall jointly report to the designated congressional committees whether there is a lack of adequate large-scale biocontainment facilities necessary for the testing of security countermeasures in accordance with Food and Drug Administration requirements.

(d) DESIGNATED CONGRESSIONAL COMMITTEES.—For purposes of this section, the term "designated congressional committees" means the following committees of the Congress:

(1) In the House of Representatives: the Committee on Energy and Commerce, the Committee on Appropriations, the Committee on Government Reform, and the Select Committee on Homeland Security (or any successor to the Select Committee).

(2) In the Senate: the appropriate committees.

SEC. 6. OUTREACH.

The Secretary of Health and Human Services shall develop outreach measures to ensure to the extent practicable that diverse institutions, including Historically Black Colleges and Universities and those serving large proportions of Black or African Americans, American Indians, Appalachian Americans, Alaska Natives, Asians, Native Hawaiians, other Pacific Islanders, Hispanics or Latinos, or other underrepresented populations, are meaningfully aware of available research and development grants, contracts, cooperative agreements, and procurements conducted under sections 2 and 3 of this Act.

SEC. 7. RECOMMENDATION FOR EXPORT CONTROLS ON CERTAIN BIOMEDICAL COUNTERMEASURES.

Upon the award of any grant, contract, or cooperative agreement under section 2 or 3 of this Act for the research, development, or procurement of a qualified countermeasure or a security countermeasure (as those terms are defined in this Act), the Secretary of Health and Human Services shall, in consultation with the heads of other appropriate Federal agencies, determine whether the countermeasure involved in such grant, contract, or cooperative agreement is subject to existing export-related controls and, if not, may make a recommendation to the appropriate Federal agency or agencies that such countermeasure should be included on the list of controlled items subject to such controls.

SEC. 8. ENSURING COORDINATION, COOPERATION AND THE ELIMINATION OF UNNECESSARY DUPLICATION IN PROGRAMS DESIGNED TO PROTECT THE HOMELAND FROM BIOLOGICAL, CHEMICAL, RADIOLOGICAL, AND NUCLEAR AGENTS.

(a) ENSURING COORDINATION OF PROGRAMS.—The Secretary of Health and Human Services, the Secretary of Homeland Security, and the Secretary of Defense shall ensure that the activities of their respective Departments coordinate, complement, and do not unnecessarily duplicate programs to identify potential domestic threats from biological, chemical, radiological or nuclear agents, detect domestic incidents involving such agents, analyze such incidents, and develop necessary countermeasures. The aforementioned Secretaries shall further ensure that information and technology possessed by the Departments relevant to these activities are shared with the other Departments.

(b) DESIGNATION OF AGENCY COORDINATION OFFICER.—The Secretary of Health and Human Services, the Secretary of Homeland Security, and the Secretary of Defense shall each designate an officer or employee of their respective Departments who shall coordinate, through regular meetings and communications, with the other aforementioned Departments such programs and activities carried out by their Departments.

SEC. 9. AUTHORITY OF THE SECRETARY OF HEALTH AND HUMAN SERVICES DURING NATIONAL EMERGENCIES.

Section 1135(b) of the Social Security Act (42 U.S.C. 1320b–5(b)) is amended—

(1) by striking paragraph (3) and inserting the following:

"(3) actions under section 1867 (relating to examination and treatment for emergency medical conditions and women in labor) for—

"(A) a transfer of an individual who has not been stabilized in violation of subsection (c) of such section if the transfer is necessitated by the circumstances of the declared emergency in the emergency area during the emergency period; or

"(B) the direction or relocation of an individual to receive medical screening in an alternate location pursuant to an appropriate State emergency preparedness plan;";

(2) in paragraph (5), by striking "and" at the end;

(3) in paragraph (6), by striking the period and inserting "; and";

(4) by inserting after paragraph (6), the following:

"(7) sanctions and penalties that arise from noncompliance with the following requirements (as promulgated under the authority of section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note)—

"(A) section 164.510 of title 45, Code of Federal Regulations, relating to—

"(i) requirements to obtain a patient's agreement to speak with family members or friends; and

"(ii) the requirement to honor a request to opt out of the facility directory;

"(B) section 164.520 of such title, relating to the requirement to distribute a notice; or

"(C) section 164.522 of such title, relating to—

"(i) the patient's right to request privacy restrictions; and

"(ii) the patient's right to request confidential communications."; and

(5) by adding at the end the following: "A waiver or modification provided for under paragraph (3) or (7) shall only be in effect if such actions are taken in a manner that does not discriminate among individuals on the basis of their source of payment or of their ability to pay, and shall be limited to a 72-hour period beginning upon implementation of a hospital disaster protocol. A waiver or modification under such paragraph (7) shall be withdrawn after such period and the provider shall comply with the requirements under such paragraph for any patient still under the care of the provider.".

SA 3179. Mr. LOTT (for himself and Mr. COCHRAN) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 30, between lines 14 and 15, insert the following:

SEC. 217. ADVANCED FERRITE ANTENNA.

(a) AMOUNT FOR DEVELOPMENT AND TESTING.—Of the amount authorized to be appropriated under section 201(2), $3,000,000 shall be available for development and testing of the Advanced Ferrite Antenna.

(b) ADJUSTMENTS TO AUTHORIZATIONS OF APPROPRIATIONS.—(1) The amount authorized to be appropriated under section 201(2) is hereby increased by $3,000,000.

(2) The amount authorized to be appropriated under section 102(a)(3) is hereby reduced by $3,000,000, to be derived from the amounts for the LCU(X) program.

SA 3180. Mr. GREGG (for himself and Mr. KENNEDY) proposed an amendment to the bill S. 15, to amend the Public Health Service Act to provide protections and countermeasures against chemical, radiological, or nuclear agents that may be used in a terrorist attack against the United States by giving the National Institutes of Health contracting flexibility, infrastructure improvements, and expediting the scientific peer review process, and streamlining the Food and Drug Administration approval process of countermeasures; as follows:

Amend the title so as to read: To amend the Public Health Service Act to provide protections and countermeasures against chemical, radiological, or nuclear agents that may be used in a terrorist attack against the United States by giving the National Institutes of Health contracting flexibility, infrastructure improvements, and expediting the scientific peer review process, and streamlining the Food and Drug Administration approval process of countermeasures.".

SA 3181. Ms. CANTWELL (for herself, Mr. HOLLINGS, Mrs. MURRAY, Mrs. CLINTON, Mrs. FEINSTEIN, Mr. LAUTENBERG, and Mr. SCHUMER) submitted an amendment intended to be proposed by her to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 384, strike line 3 and all that follows through page 391, line 7, and insert the following:

SEC. 3117. ANNUAL REPORT ON EXPENDITURES FOR SAFEGUARDS AND SECURITY.

(a) ANNUAL REPORT REQUIRED.—Subtitle C of title XLVII of the Atomic Energy Defense Act (50 U.S.C. 2771 et seq.) is amended by adding at the end the following new section:

"SEC. 4732. ANNUAL REPORT ON EXPENDITURES FOR SAFEGUARDS AND SECURITY.

"The Secretary of Energy shall submit to Congress each year, in the budget justification materials submitted to Congress in support of the budget of the President for the fiscal year beginning in such year (as submitted under section 1105(a) of title 31, United States Code), the following:

"(1) A detailed description and accounting of the proposed obligations and expenditures by the Department of Energy for safeguards and security in carrying out programs necessary for the national security for the fiscal year covered by such budget, including any technologies on safeguards and security proposed to be deployed or implemented during such fiscal year.

"(2) With respect to the fiscal year ending in the year before the year in which such budget is submitted, a detailed description and accounting of—

"(A) the policy on safeguards and security, including any modifications in such policy adopted or implemented during such fiscal year;

"(B) any initiatives on safeguards and security in effect or implemented during such fiscal year;

"(C) the amount obligated and expended for safeguards and security during such fiscal year, set forth by total amount, by amount per program, and by amount per facility; and

"(D) the technologies on safeguards and security deployed or implemented during such fiscal year.".

(b) CLERICAL AMENDMENT.—The table of contents for that Act is amended by inserting after the item relating to section 4731 the following new item:

"Sec. 4732. Annual report on expenditures for safeguards and security.".

SEC. 3118. AUTHORITY TO CONSOLIDATE COUNTERINTELLIGENCE OFFICES OF DEPARTMENT OF ENERGY AND NATIONAL NUCLEAR SECURITY ADMINISTRATION WITHIN NATIONAL NUCLEAR SECURITY ADMINISTRATION.

(a) AUTHORITY.—The Secretary of Energy may consolidate the counterintelligence programs and functions referred to in subsection (b) within the Office of Defense Nuclear Counterintelligence of the National Nuclear Security Administration and provide for their discharge by that Office.

(b) COVERED PROGRAMS AND FUNCTIONS.—The programs and functions referred to in this subsection are as follows:

(1) The functions and programs of the Office of Counterintelligence of the Department of Energy under section 215 of the Department of Energy Organization Act (42 U.S.C. 7144b).

(2) The functions and programs of the Office of Defense Nuclear Counterintelligence of the National Nuclear Security Administration under section 3232 of the National Nuclear Security Administration Act (50 U.S.C. 2422), including the counterintelligence programs under section 3233 of that Act (50 U.S.C. 2423).

(c) ESTABLISHMENT OF POLICY.—The Secretary shall have the responsibility to establish policy for the discharge of the counterintelligence programs and functions consolidated within the National Nuclear Security Administration under subsection (a) as provided for under section 213 of the Department of Energy Organization Act (42 U.S.C. 7144).

(d) PRESERVATION OF COUNTERINTELLIGENCE CAPABILITY.—In consolidating counterintelligence programs and functions within the National Nuclear Security Administration under subsection (a), the Secretary shall ensure that the counterintelligence capabilities of the Department of Energy and the National Nuclear Security Administration are in no way degraded or compromised.

(e) REPORT ON EXERCISE OF AUTHORITY.—In the event the Secretary exercises the authority in subsection (a), the Secretary shall submit to the congressional defense committees a report on the exercise of the authority. The report shall include—

(1) a description of the manner in which the counterintelligence programs and functions referred to in subsection (b) shall be consolidated within the Office of Defense Nuclear Counterintelligence of the National Nuclear Security Administration and discharged by that Office;

(2) a notice of the date on which that Office shall commence the discharge of such programs and functions, as so consolidated; and

(3) a proposal for such legislative action as the Secretary considers appropriate to effectuate the discharge of such programs and functions, as so consolidated, by that Office.

(f) DEADLINE FOR EXERCISE OF AUTHORITY.—The authority in subsection (a) may be exercised, if at all, not later than one year after the date of the enactment of this Act.

SEC. 3119. ON-SITE TREATMENT AND STORAGE OF WASTES FROM REPROCESSING ACTIVITIES AND RELATED WASTE.

(a) AUTHORITY.—Of the amount authorized to be appropriated by section 3102(a)(1) for environmental management for defense site acceleration completion, $350,000,000 shall be available for the following purposes at the sites referred to in subsection (b):

(1) The safe management of tanks or tank farms used to store waste from reprocessing activities.

(2) The on-site treatment and storage of wastes from reprocessing activities and related waste.

(3) The consolidation of tank waste.

(4) The emptying and cleaning of storage tanks.

(b) SITES.—The sites referred to in this subsection are as follows:

(1) The Idaho National Engineering and Environmental Laboratory, Idaho.

(2) The Savannah River Site, Aiken, South Carolina.

(3) The Hanford Site, Richland, Washington.

SA 3182. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 3170 submitted by Mr. GRAHAM of South Carolina and intended to be proposed to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, strike line 11.

SA 3183. Mr. SMITH (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill insert the following:

TITLE —LOCAL LAW ENFORCEMENT ENHANCEMENT ACT.

SEC. 01. SHORT TITLE.

This title may be cited as the "Local Law Enforcement Enhancement Act of 2004".

SEC. 02. FINDINGS.

Congress makes the following findings:

(1) The incidence of violence motivated by the actual or perceived race, color, religion, national origin, gender, sexual orientation, or disability of the victim poses a serious national problem.

(2) Such violence disrupts the tranquility and safety of communities and is deeply divisive.

(3) State and local authorities are now and will continue to be responsible for prosecuting the overwhelming majority of violent crimes in the United States, including violent crimes motivated by bias. These authorities can carry out their responsibilities more effectively with greater Federal assistance.

(4) Existing Federal law is inadequate to address this problem.

(5) The prominent characteristic of a violent crime motivated by bias is that it devastates not just the actual victim and the family and friends of the victim, but frequently savages the community sharing the traits that caused the victim to be selected.

(6) Such violence substantially affects interstate commerce in many ways, including—

(A) by impeding the movement of members of targeted groups and forcing such members to move across State lines to escape the incidence or risk of such violence; and

(B) by preventing members of targeted groups from purchasing goods and services, obtaining or sustaining employment, or participating in other commercial activity.

(7) Perpetrators cross State lines to commit such violence.

(8) Channels, facilities, and instrumentalities of interstate commerce are used to facilitate the commission of such violence.

(9) Such violence is committed using articles that have traveled in interstate commerce.

(10) For generations, the institutions of slavery and involuntary servitude were defined by the race, color, and ancestry of those held in bondage. Slavery and involuntary servitude were enforced, both prior to and after the adoption of the 13th amendment to the Constitution of the United States, through widespread public and private violence directed at persons because of their race, color, or ancestry, or perceived

race, color, or ancestry. Accordingly, eliminating racially motivated violence is an important means of eliminating, to the extent possible, the badges, incidents, and relics of slavery and involuntary servitude.

(11) Both at the time when the 13th, 14th, and 15th amendments to the Constitution of the United States were adopted, and continuing to date, members of certain religious and national origin groups were and are perceived to be distinct "races". Thus, in order to eliminate, to the extent possible, the badges, incidents, and relics of slavery, it is necessary to prohibit assaults on the basis of real or perceived religions or national origins, at least to the extent such religions or national origins were regarded as races at the time of the adoption of the 13th, 14th, and 15th amendments to the Constitution of the United States.

(12) Federal jurisdiction over certain violent crimes motivated by bias enables Federal, State, and local authorities to work together as partners in the investigation and prosecution of such crimes.

(13) The problem of crimes motivated by bias is sufficiently serious, widespread, and interstate in nature as to warrant Federal assistance to States and local jurisdictions.

SEC. ___03. DEFINITION OF HATE CRIME.

In this title, the term "hate crime" has the same meaning as in section 280003(a) of the Violent Crime Control and Law Enforcement Act of 1994 (28 U.S.C. 994 note).

SEC. ___04. SUPPORT FOR CRIMINAL INVESTIGATIONS AND PROSECUTIONS BY STATE AND LOCAL LAW ENFORCEMENT OFFICIALS.

(a) ASSISTANCE OTHER THAN FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—At the request of a law enforcement official of a State or Indian tribe, the Attorney General may provide technical, forensic, prosecutorial, or any other form of assistance in the criminal investigation or prosecution of any crime that—

(A) constitutes a crime of violence (as defined in section 16 of title 18, United States Code);

(B) constitutes a felony under the laws of the State or Indian tribe; and

(C) is motivated by prejudice based on the race, color, religion, national origin, gender, sexual orientation, or disability of the victim, or is a violation of the hate crime laws of the State or Indian tribe.

(2) PRIORITY.—In providing assistance under paragraph (1), the Attorney General shall give priority to crimes committed by offenders who have committed crimes in more than 1 State and to rural jurisdictions that have difficulty covering the extraordinary expenses relating to the investigation or prosecution of the crime.

(b) GRANTS.—

(1) IN GENERAL.—The Attorney General may award grants to assist State, local, and Indian law enforcement officials with the extraordinary expenses associated with the investigation and prosecution of hate crimes.

(2) OFFICE OF JUSTICE PROGRAMS.—In implementing the grant program, the Office of Justice Programs shall work closely with the funded jurisdictions to ensure that the concerns and needs of all affected parties, including community groups and schools, colleges, and universities, are addressed through the local infrastructure developed under the grants.

(3) APPLICATION.—

(A) IN GENERAL.—Each State that desires a grant under this subsection shall submit an application to the Attorney General at such time, in such manner, and accompanied by or containing such information as the Attorney General shall reasonably require.

(B) DATE FOR SUBMISSION.—Applications submitted pursuant to subparagraph (A) shall be submitted during the 60-day period beginning on a date that the Attorney General shall prescribe.

(C) REQUIREMENTS.—A State or political subdivision of a State or tribal official applying for assistance under this subsection shall—

(i) describe the extraordinary purposes for which the grant is needed;

(ii) certify that the State, political subdivision, or Indian tribe lacks the resources necessary to investigate or prosecute the hate crime;

(iii) demonstrate that, in developing a plan to implement the grant, the State, political subdivision, or tribal official has consulted and coordinated with nonprofit, nongovernmental victim services programs that have experience in providing services to victims of hate crimes; and

(iv) certify that any Federal funds received under this subsection will be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this subsection.

(4) DEADLINE.—An application for a grant under this subsection shall be approved or disapproved by the Attorney General not later than 30 business days after the date on which the Attorney General receives the application.

(5) GRANT AMOUNT.—A grant under this subsection shall not exceed $100,000 for any single jurisdiction within a 1 year period.

(6) REPORT.—Not later than December 31, 2005, the Attorney General shall submit to Congress a report describing the applications submitted for grants under this subsection, the award of such grants, and the purposes for which the grant amounts were expended.

(7) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $5,000,000 for each of fiscal years 2005 and 2006.

SEC. ___05. GRANT PROGRAM.

(a) AUTHORITY TO MAKE GRANTS.—The Office of Justice Programs of the Department of Justice shall award grants, in accordance with such regulations as the Attorney General may prescribe, to State and local programs designed to combat hate crimes committed by juveniles, including programs to train local law enforcement officers in identifying, investigating, prosecuting, and preventing hate crimes.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. ___06. AUTHORIZATION FOR ADDITIONAL PERSONNEL TO ASSIST STATE AND LOCAL LAW ENFORCEMENT.

There are authorized to be appropriated to the Department of the Treasury and the Department of Justice, including the Community Relations Service, for fiscal years 2005, 2006, and 2007 such sums as are necessary to increase the number of personnel to prevent and respond to alleged violations of section 249 of title 18, United States Code, as added by section ___07.

SEC. ___07. PROHIBITION OF CERTAIN HATE CRIME ACTS.

(a) IN GENERAL.—Chapter 13 of title 18, United States Code, is amended by adding at the end the following:

"§ 249. Hate crime acts

"(a) IN GENERAL.—

"(1) OFFENSES INVOLVING ACTUAL OR PERCEIVED RACE, COLOR, RELIGION, OR NATIONAL ORIGIN.—Whoever, whether or not acting under color of law, willfully causes bodily injury to any person or, through the use of fire, a firearm, or an explosive or incendiary device, attempts to cause bodily injury to any person, because of the actual or perceived race, color, religion, or national origin of any person—

"(A) shall be imprisoned not more than 10 years, fined in accordance with this title, or both; and

"(B) shall be imprisoned for any term of years or for life, fined in accordance with this title, or both, if—

"(i) death results from the offense; or

"(ii) the offense includes kidnaping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

"(2) OFFENSES INVOLVING ACTUAL OR PERCEIVED RELIGION, NATIONAL ORIGIN, GENDER, SEXUAL ORIENTATION, OR DISABILITY.—

"(A) IN GENERAL.—Whoever, whether or not acting under color of law, in any circumstance described in subparagraph (B), willfully causes bodily injury to any person or, through the use of fire, a firearm, or an explosive or incendiary device, attempts to cause bodily injury to any person, because of the actual or perceived religion, national origin, gender, sexual orientation, or disability of any person—

"(i) shall be imprisoned not more than 10 years, fined in accordance with this title, or both; and

"(ii) shall be imprisoned for any term of years or for life, fined in accordance with this title, or both, if—

"(I) death results from the offense; or

"(II) the offense includes kidnaping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

"(B) CIRCUMSTANCES DESCRIBED.—For purposes of subparagraph (A), the circumstances described in this subparagraph are that—

"(i) the conduct described in subparagraph (A) occurs during the course of, or as the result of, the travel of the defendant or the victim—

"(I) across a State line or national border; or

"(II) using a channel, facility, or instrumentality of interstate or foreign commerce;

"(ii) the defendant uses a channel, facility, or instrumentality of interstate or foreign commerce in connection with the conduct described in subparagraph (A);

"(iii) in connection with the conduct described in subparagraph (A), the defendant employs a firearm, explosive or incendiary device, or other weapon that has traveled in interstate or foreign commerce; or

"(iv) the conduct described in subparagraph (A)—

"(I) interferes with commercial or other economic activity in which the victim is engaged at the time of the conduct; or

"(II) otherwise affects interstate or foreign commerce.

"(b) CERTIFICATION REQUIREMENT.—No prosecution of any offense described in this subsection may be undertaken by the United States, except under the certification in writing of the Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General specially designated by the Attorney General that—

"(1) he or she has reasonable cause to believe that the actual or perceived race, color, religion, national origin, gender, sexual orientation, or disability of any person was a motivating factor underlying the alleged conduct of the defendant; and

"(2) he or his designee or she or her designee has consulted with State or local law enforcement officials regarding the prosecution and determined that—

"(A) the State does not have jurisdiction or does not intend to exercise jurisdiction;

"(B) the State has requested that the Federal Government assume jurisdiction;

"(C) the State does not object to the Federal Government assuming jurisdiction; or

"(D) the verdict or sentence obtained pursuant to State charges left demonstratively unvindicated the Federal interest in eradicating bias-motivated violence.

"(c) DEFINITIONS.—In this section—

"(1) the term 'explosive or incendiary device' has the meaning given the term in section 232 of this title; and

"(2) the term 'firearm' has the meaning given the term in section 921(a) of this title.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 13 of title 18, United States Code, is amended by adding at the end the following:

"249. Hate crime acts.".

SEC. 08. DUTIES OF FEDERAL SENTENCING COMMISSION.

(a) AMENDMENT OF FEDERAL SENTENCING GUIDELINES.—Pursuant to the authority provided under section 994 of title 28, United States Code, the United States Sentencing Commission shall study the issue of adult recruitment of juveniles to commit hate crimes and shall, if appropriate, amend the Federal sentencing guidelines to provide sentencing enhancements (in addition to the sentencing enhancement provided for the use of a minor during the commission of an offense) for adult defendants who recruit juveniles to assist in the commission of hate crimes.

(b) CONSISTENCY WITH OTHER GUIDELINES.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that there is reasonable consistency with other Federal sentencing guidelines; and

(2) avoid duplicative punishments for substantially the same offense.

SEC. 09. STATISTICS.

Subsection (b)(1) of the first section of the Hate Crimes Statistics Act (28 U.S.C. 534 note) is amended by inserting "gender," after "race,".

SEC. 10. SEVERABILITY.

If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SA 3184. Mr. GRAHAM of Florida (for himself and Mr. NELSON of Florida) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At end of subtitle B of title I, add the following:

SEC. 113. INTEGRATION OF JAVELIN ANTI-ARMOR MISSILE SYSTEM INTO ENGAGEMENT SKILLS TRAINER 2000.

The amount authorized to be appropriated by section 101(5) for other procurement for the Army is hereby increased by $3,000,000, with the amount of the increase to be allocated to the integration of the JAVELIN anti-armor missile system into the Engagement Skills Trainer 2000 in order to allow soldiers in infantry rifle platoons to train will all their organic weapons.

SA 3185. Mr. GRAHAM of Florida (for himself and Mr. NELSON of Florida) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title III, add the following:

SEC. 313. NAVAL PROFESSIONAL MILITARY EDUCATION.

The amount authorized to be appropriated by section 301(2) for operation and maintenance for the Navy is hereby increased by $4,000,000, with the amount of the increase to be allocated to Naval Professional Military Education (NPME).

SA 3186. Mr. GRAHAM of Florida (for himself and Mr. NELSON of Florida) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title II, add the following:

SEC. 217. ADVANCED DIGITAL RADAR SYSTEM.

The amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation, Army, is hereby increased by $3,000,000, with the amount of the increase to be made available for initial development of the Advanced Digital Radar System (ADRS) (PE 0605602A).

SA 3187. Mr. GRAHAM of Florida (for himself and Mr. NELSON of Florida) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title III, add the following:

SEC. 313. DEPLOYMENT AND EXPANSION OF CIVIL SUPPORT TEAM TRAINER PROGRAM.

The amount authorized to be appropriated by section 301(1) for operation and maintenance for the Army is hereby increased by $5,000,000, with the amount of the increase to be allocated to deploy and expand the scenarios in the Civil Support Team Trainer (CSTT) program, a simulations based training program for the National Guard Weapons of Mass Destruction Civil Support Teams (WMD–CSTs).

SA 3188. Mr. GRAHAM of Florida (for himself and Mr. NELSON of Florida) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title III, add the following:

SEC. 313. ROTARY WING NIGHT VISION GOGGLE TRAINING.

The amount authorized to be appropriated by section 301(2) for operation and maintenance for the Navy is hereby increased by $4,000,000, with the amount of the increase to be allocated to the development of rotary wing night vision goggle (NVG) training.

SA 3189. Mr. GRAHAM of Florida (for himself and Mr. NELSON of Florida) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title II, add the following:

SEC. 217. RAPID RESPONSE NETWORKING FOR MULTIPLE APPLICATIONS.

The amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation, Defense-wide activities, is hereby increased by $1,500,000, with the amount of the increase to be allocated to the Defense Threat Reducation Agency and made available to the University of North Florida for the purpose of permitting the University to continue its ongoing research on Rapid Response networking for Multiple Applications.

SA 3190. Mr. DASCHLE submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 131, between lines 17 and 18, insert the following:

SEC. 653. RELIEF FOR MOBILIZED MILITARY RESERVISTS FROM CERTAIN FEDERAL AGRICULTURAL LOAN OBLIGATIONS.

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981–2009dd-

7) is amended by inserting after section 331F the following:

“SEC. 332. RELIEF FOR MOBILIZED MILITARY RESERVISTS FROM CERTAIN AGRICULTURAL LOAN OBLIGATIONS.

“(a) Forgiveness of Interest Payments Due While Borrower Is a Mobilized Military Reservist.—Any requirement that a borrower of a direct loan made under this title make any interest payment on the loan that would otherwise be required to be.made while the borrower is a mobilized military reservist is hereby rescinded.

“(b) Deferral of Principal Payments Due While or After Borrower Is a Mobilized Military Reservist.—The due date of any payment of principal on a direct loan made to a borrower under this title that would otherwise be required to be made while or after the borrower is a mobilized military reservist is hereby deferred for a period equal in length to the period for which the borrower is a mobilized military reservist.

“(c) Mobilized Military Reservist.—In this section, the term ‘mobilized military reservist’ means an individual who—

“(1) is on active duty under section 688, 12301(a), 12301(g), 12302, 12304, 12306, or 12406, or chapter 15 of title 10, United States Code, or any other provision of law during a war or during a national emergency declared by the President or Congress, regardless of the location at which the active duty service is performed; or

“(2) in the case of a member of the National Guard, is on full-time National Guard duty (as defined in section 101(d)(5) of title 10, United States Code) under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 502(f) of title 32, United States Code, for purposes of responding to a national emergency declared by the President and supported by Federal funds.”.

SA 3191. Mr. KYL (for himself and Mr. Cornyn) proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

At the end of the amendment, insert the following:

SEC. 858. SENSE OF THE SENATE REGARDING EXCISE TAXES ON EXCESS FEE TRANSACTIONS OF CERTAIN ATTORNEYS.

It is the sense of the Senate that Congress should, as soon as practicable, enact the following legislation:

SEC. ___. EXCISE TAXES ON EXCESS FEE TRANSACTIONS OF CERTAIN ATTORNEYS.

(a) Imposition of Tax.—

(1) In general.—Subchapter D of chapter 42 of the Internal Revenue Code of 1986 (relating to failure by certain charitable organizations to meet certain qualification requirements) is amended by adding at the end the following new section:

“SEC. 4959. TAXES ON EXCESS FEE TRANSACTIONS.

“(a) Initial Taxes.—

“(1) In general.—There is hereby imposed on the collecting attorney in each excess fee transaction a tax equal to 5 percent of the excess fee.

“(2) Payment.—The tax imposed by paragraph (1) shall be paid by any collecting attorney referred to in subsection (f)(1) with respect to such transaction.

“(b) Additional Tax on the Collecting Attorney.—

“(1) In general.—In any case in which a tax is imposed by subsection (a) on an excess fee transaction and the excess fee involved in such transaction is not corrected within the taxable period, there is hereby imposed a tax equal to 200 percent of the excess fee involved.

“(2) Payment.—The tax imposed by this paragraph shall be paid by any collecting attorney referred to in subsection (f)(1) with respect to such transaction.

“(c) Excess Fee Transaction; Excess Fee.—For purposes of this section—

“(1) Excess fee transaction.—

“(A) In general.—The term ‘excess fee transaction’ means any transaction in which a fee is provided by an applicable plaintiff (including payments resulting from litigation on behalf of an applicable plaintiff determined on an hourly or percentage basis, whether such fee is paid from the applicable plaintiff's recovery, pursuant to a separately negotiated agreement, or in any other manner), directly or indirectly, to or for the use of any collecting attorney with respect to such applicable plaintiff if the amount of the fee provided exceeds the value of the services received in exchange therefor or subsection (g)(1) applies.

“(B) Determination of value.—For purposes of subparagraph (A), in determining whether the amount of the fee provided exceeds the value of the services received in exchange therefor, the value of the services shall be the sum of—

“(i) the reasonable expenses incurred by the collecting attorney in the course of the representation of the applicable plaintiff, and

“(ii) a reasonable fee based on—

“(I) the number of hours of non-duplicative, professional quality legal work provided by the collecting attorney of material value to the outcome of the representation of the applicable plaintiff, taking into account the factors described in subparagraphs (B) and (D) of subsection (h)(2),

“(II) reasonable hourly rates for the individuals performing such work based on hourly rates charged by other attorneys for the rendition of comparable services, including rates charged by adversary defense counsel in the representation, taking into account the factors described in subparagraphs (A), (C), (E), and (G) of subsection (h)(2), and

“(III) to the extent such items are not taken into account in establishing the reasonable hourly rates under subclause (II), an appropriate adjustment rate determined in accordance with subparagraph (C) to compensate the collecting attorney for periods of substantial risk of non-payment of fees and for skillful or innovative services which increase the amount of the applicable plaintiff's recovery.

“(iii) Fees in certain settlements.—For purposes of this subparagraph, the value of services for any collecting attorney receiving fees under the Master Settlement Agreement shall be deemed to include a reasonable fee that is based on a reasonable hourly rate (including appropriate adjustment rates) of not less than $20,000 per hour

“(C) Adjustment rate.—

“(i) In general.—For purposes of this paragraph, an appropriate adjustment rate is a percentage of the reasonable hourly rate under subparagraph (B)(ii)(II) which is added to the amount of such rate and which is not more than the sum of one risk percentage and one skill percentage described in clauses (ii) and (iii), respectively.

“(ii) Risk percentage.—For purposes of this subparagraph, the term ‘risk percentage’ means a percentage rate that is proportional to the collecting attorney's risk of nonrecovery of fees and which is—

“(I) in the case of a collecting attorney who assumed a substantial risk of nonpayment of fees, not more than 100 percent,

“(II) in the case of a collecting attorney who assumed a substantial risk of nonpayment of fees and devoted more than 8,000 hours of legal work (as described in subparagraph (B)(ii)(I)) and more than 2 years to the case before resolution of all claims, not more than 200 percent, or

“(III) in the case of a collecting attorney who assumed a substantial risk of nonpayment of fees and devoted more than 15,000 hours of legal work (as described in subparagraph (B)(ii)(I)) and more than 4 years to the case before resolution of all claims, not more than 300 percent.

“(iii) Skill percentage.—For purposes of this subparagraph, the term ‘skill percentage’ means, in the case of a collecting attorney who has demonstrated exceptionally skillful or innovative legal service which generated a recovery for the applicable plaintiff substantially greater than the typical recovery in similar cases, a percentage rate that is proportional to the increase in the applicable plaintiff's recovery and that is not more than 100 percent.

“(iv) Limitation.—An appropriate adjustment rate shall not increase the collecting attorney's fee above an amount that is proportional to the applicable plaintiff's recovery.

“(D) Court approval of fees.—Fee payments approved by any court shall be presumed to not be in excess of the value of the services received in exchange therefor if the court approving the fee—

“(i) did not approve an adjustment rate greater than that determined to be appropriate under subparagraph (C) in a case where such fee included an adjustment rate, and

“(ii) obtained and relied upon a report of a legal auditing firm with respect to such fee in accordance with the procedures in paragraph (12).

“(2) Excess fee.—The term ‘excess fee’ means the excess referred to in paragraph (1)(A).

“(d) Joint and Several Liability.—For purposes of this section, if more than 1 person is liable for any tax imposed by subsection (a), all such persons shall be jointly and severally liable for such tax.

“(e) Applicable Plaintiff.—For purposes of this section, the term ‘applicable plaintiff’ means any person represented by a collecting attorney with respect to a claim described in subsection (f)(1).

“(f) Other Definitions and Rules.—For purposes of this section—

“(1) Collecting attorney.—The term ‘collecting attorney’ means any person engaged in the practice of law who represents—

“(A) any governmental entity, including any State, municipality, or political subdivision of a State, or any person acting on such entity's behalf, including pursuant to Federal or State Qui Tam statutes, in a claim for recoupment of payments made or to be made by such entity to or on behalf of any natural person by reason, directly or indirectly, of a breach of duty that causes damage to such natural person,

“(B) any organization described in paragraph (3) or (4) of section 501(c) and exempt from tax under section 501(a), in a claim for damages based on a breach of duty, whether civil or criminal, causing damage to such organization,

"(C) any natural person seeking to recover damages in a claim based on breaches of duty, whether civil or criminal, causing damage to such natural person, or

"(D) any assignee or other holder of claims described in subparagraph (A), (B), or (C),

when 1 or more of such claims, whether or not joined in 1 action, involve the same or a coordinated group of plaintiff's attorneys or similarly situated defendants, arise out of the same transaction or set of facts or involve substantially similar liability issues, and result in settlements or judgments aggregating at least $100,000,000.

"(2) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any excess fee transaction, the period beginning with the date on which the transaction occurs and ending 90 days after the earliest of—

"(A) the date of the mailing of a notice of deficiency under section 6212 with respect to the tax imposed by subsection (a), or

"(B) the date on which the tax imposed by subsection (a) is assessed.

"(3) MASTER SETTLEMENT AGREEMENT.—The term 'Master Settlement Agreement' means that certain Master Settlement Agreement of November 23, 1998, and other, concluded Settlement Agreements based on State health care expenditures pursuant to title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), including lawsuits involving the States of Florida, Minnesota, Mississippi, and Texas.

"(4) CORRECTION.—

"(A) GENERAL RULE.—Any excess fee transaction is corrected by undoing the excess fee to the extent possible and taking any additional measures necessary to place the applicable plaintiff in a financial position not worse than that in which such plaintiff would be if the collecting attorney were dealing under the highest fiduciary standards.

"(B) PAYMENT OF EXCESS FEES.—

"(i) IN GENERAL.—Except as provided in clause (ii), a collecting attorney corrects an excess fee transaction by paying any excess fees plus interest to the applicable plaintiff.

"(ii) CERTAIN SETTLEMENTS.—In the case of excess fees arising from or related to the Master Settlement Agreement, the collecting attorney corrects an excess fee transaction by paying any excess fees plus interest to the Secretary of the Treasury.

"(C) NO WAIVER OF FEE.—No collecting attorney may avoid imposition of any tax imposed by this section by transferring any portion of the excess fee or refusing to accept any portion of the excess fee.

"(5) LIMITED REASONABLE CAUSE.—For purposes of section 4962(a), an excess fee transaction shall not be treated as an event which was due to reasonable cause if the amount of the fee provided would exceed the value of the services received in exchange therefor determined with the maximum adjustment rate allowed under subsection (c)(1)(C).

"(g) DISCLOSURE REQUIREMENTS.—

"(1) TREATMENT AS EXCESS FEE.—Any fee provided after the date of the enactment of this subsection by an applicable plaintiff (including payments resulting from litigation on behalf of an applicable plaintiff determined on an hourly or percentage basis, whether such fee is paid from the applicable plaintiff's recovery, pursuant to a separately negotiated agreement, or in any other manner), directly or indirectly, to or for the use of any collecting attorney with respect to such applicable plaintiff shall be deemed to be an excess fee provided in an excess fee transaction unless the disclosure requirements described in paragraph (2) are met.

"(2) CONTENTS OF STATEMENT.—The disclosure requirements of this paragraph are met for any taxable year in which a collecting attorney receives any fees with respect to a claim described in subsection (f)(1), if such collecting attorney—

"(A) includes in the return of tax for such taxable year a statement including the information described in subsection (c)(1) with respect to such claim, and

"(B) provides a statement including the information described in subsection (c)(1) to the applicable plaintiff prior to the deadline (including extensions) for filing such return.

"(h) LEGAL AUDITING FIRM.—

"(1) IN GENERAL.—In any case before a Federal district court or a State court in which the court approves fees paid to a collecting attorney, the court shall seek bids from legal auditing firms with a specialty in reviewing attorney billings and select 1 such legal auditing firm to review the billing records submitted by the collecting attorney, under the same standards the firm would use if it were hired by a private party to review legal bills submitted to the party, for the reasonableness of such attorney's billing patterns and practices. The court shall require the collecting attorney to submit billing records, cost records, and any other information sought by such firm in its review.

"(2) REVIEW BY LEGAL AUDITING FIRM.—In reviewing the billing records and work performed by the collecting attorney, the legal auditing firm shall address all relevant matters, including—

"(A) the hourly rates of the collecting attorney compared with the prevailing market rates for the services rendered by the collecting attorney,

"(B) the number of hours worked by the collecting attorney on the case compared with other cases that the collecting attorney worked on during the same period,

"(C) whether the collecting attorney performed tasks that could have been performed by attorneys with lower billing rates,

"(D) whether the collecting attorney used appropriate billing methodology, including keeping contemporaneous time records and using appropriate billing time increments,

"(E) whether particular tasks were staffed appropriately,

"(F) whether the costs and expenses submitted by the collecting attorney were reasonable,

"(G) whether the collecting attorney exercised billing judgment, and

"(H) any other matters normally addressed by the legal auditing firm when reviewing attorney billings for private clients.

"(3) FILING OF REPORT; RESPONSE; BURDEN OF PROOF.—The court shall set a date for the filing of the report of the legal auditing firm, and allow the collecting attorney or any applicable plaintiff to respond to the report within a reasonable time period. The report shall be presumed correct unless rebutted by the collecting attorney or any applicable plaintiff by clear and convincing evidence.

"(4) FEE FOR LEGAL AUDITING FIRM.—The fee for the report of the legal auditing firm shall be paid from the collecting attorney's fee award, the applicable plaintiff's recovery, or both in a manner determined by the court.

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations to prevent avoidance of the purposes of this section and regulations requiring recordkeeping and information reporting.".

(2) CONFORMING AND CLERICAL AMENDMENTS.—

(A) Subsections (a), (b), and (c) of section 4963 of the Internal Revenue Code of 1986 are each amended by inserting "4959," after "4958,".

(B) Subsection (e) of section 6213 of such Code is amended by inserting "4959 (relating to excess fee transactions)," before "4971".

(C) Paragraphs (2) and (3) of section 7422(g) of such Code are each amended by inserting "4959," after "4958,".

(D) The heading for subchapter D of chapter 42 of such Code is amended to read as follows:

"Subchapter D—Failure by Certain Charitable Organizations and Persons to Meet Certain Qualification Requirements and Fiduciary Standards.".

(E) The table of subchapters for chapter 42 of such Code is amended by striking the item relating to subchapter D and inserting the following:

"SUBCHAPTER D. Failure by certain charitable organizations and persons to meet certain qualification requirements and fiduciary standards.".

(F) The table of sections for subchapter D of chapter 42 of such Code is amended by adding at the end the following new item:

"Sec. 4959. Taxes on excess fee transactions.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to excess fees paid on or after the date of the enactment of this Act.

(b) DECLATORY JUDGMENTS RELATING TO EXCISE TAXES ON EXCISE FEE TRANSACTIONS OF CERTAIN ATTORNEYS.—

(1) IN GENERAL.—Subchapter B of chapter 76 of the Internal Revenue Code of 1986 (relating to judicial proceedings) is amended by redesignating section 7437 as section 7438 and by inserting after section 7436 the following new section:

"SEC. 7437. DECLARATORY JUDGMENTS RELATING TO TAX ON EXCESS FEE TRANSACTIONS.

"(a) IN GENERAL.—In a case of actual controversy involving—

"(1) a determination by the Secretary or the collecting attorney with respect to the imposition of the excise tax on excess fee transactions on such collecting attorney under section 4959, or

"(2) a failure by the Secretary or the collecting attorney to make such a determination,

upon the filing of an appropriate pleading by an applicable plaintiff, the Tax Court may make a declaration with respect to such determination or failure. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

"(b) DEFERENTIAL REVIEW.—If a collecting attorney's fee has been approved by a court in accordance with section 4959(c)(1)(D) or by the Secretary pursuant to section 4959, the Tax Court shall review the fee only for an abuse of discretion.

"(c) LEGAL AUDITING FIRM.—In any petition for a declaration referred to in subsection (a):

"(1) NO PREVIOUS REPORT.—If a report by a legal auditing firm that meets the requirements of section 4959(h) has not been previously produced and relied on by another

7) is amended by inserting after section 331F the following:

"SEC. 332. RELIEF FOR MOBILIZED MILITARY RESERVISTS FROM CERTAIN AGRICULTURAL LOAN OBLIGATIONS.

"(a) Forgiveness of Interest Payments Due While Borrower Is a Mobilized Military Reservist.—Any requirement that a borrower of a direct loan made under this title make any interest payment on the loan that would otherwise be required to be made while the borrower is a mobilized military reservist is hereby rescinded.

"(b) Deferral of Principal Payments Due While or After Borrower Is a Mobilized Military Reservist.—The due date of any payment of principal on a direct loan made to a borrower under this title that would otherwise be required to be made while or after the borrower is a mobilized military reservist is hereby deferred for a period equal in length to the period for which the borrower is a mobilized military reservist.

"(c) Mobilized Military Reservist.—In this section, the term 'mobilized military reservist' means an individual who—

"(1) is on active duty under section 688, 12301(a), 12301(g), 12302, 12304, 12306, or 12406, or chapter 15 of title 10, United States Code, or any other provision of law during a war or during a national emergency declared by the President or Congress, regardless of the location at which the active duty service is performed; or

"(2) in the case of a member of the National Guard, is on full-time National Guard duty (as defined in section 101(d)(5) of title 10, United States Code) under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 502(f) of title 32, United States Code, for purposes of responding to a national emergency declared by the President and supported by Federal funds.".

SA 3191. Mr. KYL (for himself and Mr. Cornyn) proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

At the end of the amendment, insert the following:

SEC. 858. SENSE OF THE SENATE REGARDING EXCISE TAXES ON EXCESS FEE TRANSACTIONS OF CERTAIN ATTORNEYS.

It is the sense of the Senate that Congress should, as soon as practicable, enact the following legislation:

SEC. ___. EXCISE TAXES ON EXCESS FEE TRANSACTIONS OF CERTAIN ATTORNEYS.

(a) Imposition of Tax.—

(1) In general.—Subchapter D of chapter 42 of the Internal Revenue Code of 1986 (relating to failure by certain charitable organizations to meet certain qualification requirements) is amended by adding at the end the following new section:

"SEC. 4959. TAXES ON EXCESS FEE TRANSACTIONS.

"(a) Initial Taxes.—

"(1) In general.—There is hereby imposed on the collecting attorney in each excess fee transaction a tax equal to 5 percent of the excess fee.

"(2) Payment.—The tax imposed by paragraph (1) shall be paid by any collecting attorney referred to in subsection (f)(1) with respect to such transaction.

"(b) Additional Tax on the Collecting Attorney.—

"(1) In general.—In any case in which a tax is imposed by subsection (a) on an excess fee transaction and the excess fee involved in such transaction is not corrected within the taxable period, there is hereby imposed a tax equal to 200 percent of the excess fee involved.

"(2) Payment.—The tax imposed by this paragraph shall be paid by any collecting attorney referred to in subsection (f)(1) with respect to such transaction.

"(c) Excess Fee Transaction; Excess Fee.—For purposes of this section—

"(1) Excess fee transaction.—

"(A) In general.—The term 'excess fee transaction' means any transaction in which a fee is provided by an applicable plaintiff (including payments resulting from litigation on behalf of an applicable plaintiff determined on an hourly or percentage basis, whether such fee is paid from the applicable plaintiff's recovery, pursuant to a separately negotiated agreement, or in any other manner), directly or indirectly, to or for the use of any collecting attorney with respect to such applicable plaintiff if the amount of the fee provided exceeds the value of the services received in exchange therefor or subsection (g)(1) applies.

"(B) Determination of value.—For purposes of subparagraph (A), in determining whether the amount of the fee provided exceeds the value of the services received in exchange therefor, the value of the services shall be the sum of—

"(i) the reasonable expenses incurred by the collecting attorney in the course of the representation of the applicable plaintiff, and

"(ii) a reasonable fee based on—

"(I) the number of hours of non-duplicative, professional quality legal work provided by the collecting attorney of material value to the outcome of the representation of the applicable plaintiff, taking into account the factors described in subparagraphs (B) and (D) of subsection (h)(2),

"(II) reasonable hourly rates for the individuals performing such work based on hourly rates charged by other attorneys for the rendition of comparable services, including rates charged by adversary defense counsel in the representation, taking into account the factors described in subparagraphs (A), (C), (E), and (G) of subsection (h)(2), and

"(III) to the extent such items are not taken into account in establishing the reasonable hourly rates under subclause (II), an appropriate adjustment rate determined in accordance with subparagraph (C) to compensate the collecting attorney for periods of substantial risk of non-payment of fees and for skillful or innovative services which increase the amount of the applicable plaintiff's recovery.

"(iii) Fees in certain settlements.—For purposes of this subparagraph, the value of services for any collecting attorney receiving fees under the Master Settlement Agreement shall be deemed to include a reasonable fee that is based on a reasonable hourly rate (including appropriate adjustment rates) of not less than $20,000 per hour

"(C) Adjustment rate.—

"(i) In general.—For purposes of this paragraph, an appropriate adjustment rate is a percentage of the reasonable hourly rate under subparagraph (B)(ii)(II) which is added to the amount of such rate and which is not more than the sum of one risk percentage and one skill percentage described in clauses (ii) and (iii), respectively.

"(ii) Risk percentage.—For purposes of this subparagraph, the term 'risk percentage' means a percentage rate that is proportional to the collecting attorney's risk of nonrecovery of fees and which is—

"(I) in the case of a collecting attorney who assumed a substantial risk of nonpayment of fees, not more than 100 percent,

"(II) in the case of a collecting attorney who assumed a substantial risk of nonpayment of fees and devoted more than 8,000 hours of legal work (as described in subparagraph (B)(ii)(I)) and more than 2 years to the case before resolution of all claims, not more than 200 percent, or

"(III) in the case of a collecting attorney who assumed a substantial risk of nonpayment of fees and devoted more than 15,000 hours of legal work (as described in subparagraph (B)(ii)(I)) and more than 4 years to the case before resolution of all claims, not more than 300 percent.

"(iii) Skill percentage.—For purposes of this subparagraph, the term 'skill percentage' means, in the case of a collecting attorney who has demonstrated exceptionally skillful or innovative legal service which generated a recovery for the applicable plaintiff substantially greater than the typical recovery in similar cases, a percentage rate that is proportional to the increase in the applicable plaintiff's recovery and that is not more than 100 percent.

"(iv) Limitation.—An appropriate adjustment rate shall not increase the collecting attorney's fee above an amount that is proportional to the applicable plaintiff's recovery.

"(D) Court approval of fees.—Fee payments approved by any court shall be presumed to not be in excess of the value of the services received in exchange therefor if the court approving the fee—

"(i) did not approve an adjustment rate greater than that determined to be appropriate under subparagraph (C) in a case where such fee included an adjustment rate, and

"(ii) obtained and relied upon a report of a legal auditing firm with respect to such fee in accordance with the procedures in paragraph (12).

"(2) Excess fee.—The term 'excess fee' means the excess referred to in paragraph (1)(A).

"(d) Joint and Several Liability.—For purposes of this section, if more than 1 person is liable for any tax imposed by subsection (a), all such persons shall be jointly and severally liable for such tax.

"(e) Applicable Plaintiff.—For purposes of this section, the term 'applicable plaintiff' means any person represented by a collecting attorney with respect to a claim described in subsection (f)(1).

"(f) Other Definitions and Rules.—For purposes of this section—

"(1) Collecting attorney.—The term 'collecting attorney' means any person engaged in the practice of law who represents—

"(A) any governmental entity, including any State, municipality, or political subdivision of a State, or any person acting on such entity's behalf, including pursuant to Federal or State Qui Tam statutes, in a claim for recoupment of payments made or to be made by such entity to or on behalf of any natural person by reason, directly or indirectly, of a breach of duty that causes damage to such natural person,

"(B) any organization described in paragraph (3) or (4) of section 501(c) and exempt from tax under section 501(a), in a claim for damages based on a breach of duty, whether civil or criminal, causing damage to such organization,

"(C) any natural person seeking to recover damages in a claim based on breaches of duty, whether civil or criminal, causing damage to such natural person, or

"(D) any assignee or other holder of claims described in subparagraph (A), (B), or (C),

when 1 or more of such claims, whether or not joined in 1 action, involve the same or a coordinated group of plaintiff's attorneys or similarly situated defendants, arise out of the same transaction or set of facts or involve substantially similar liability issues, and result in settlements or judgments aggregating at least $100,000,000.

"(2) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any excess fee transaction, the period beginning with the date on which the transaction occurs and ending 90 days after the earliest of—

"(A) the date of the mailing of a notice of deficiency under section 6212 with respect to the tax imposed by subsection (a), or

"(B) the date on which the tax imposed by subsection (a) is assessed.

"(3) MASTER SETTLEMENT AGREEMENT.—The term 'Master Settlement Agreement' means that certain Master Settlement Agreement of November 23, 1998, and other, concluded Settlement Agreements based on State health care expenditures pursuant to title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), including lawsuits involving the States of Florida, Minnesota, Mississippi, and Texas.

"(4) CORRECTION.—

"(A) GENERAL RULE.—Any excess fee transaction is corrected by undoing the excess fee to the extent possible and taking any additional measures necessary to place the applicable plaintiff in a financial position not worse than that in which such plaintiff would be if the collecting attorney were dealing under the highest fiduciary standards.

"(B) PAYMENT OF EXCESS FEES.—

"(i) IN GENERAL.—Except as provided in clause (ii), a collecting attorney corrects an excess fee transaction by paying any excess fees plus interest to the applicable plaintiff.

"(ii) CERTAIN SETTLEMENTS.—In the case of excess fees arising from or related to the Master Settlement Agreement, the collecting attorney corrects an excess fee transaction by paying any excess fees plus interest to the Secretary of the Treasury.

"(C) NO WAIVER OF FEE.—No collecting attorney may avoid imposition of any tax imposed by this section by transferring any portion of the excess fee or refusing to accept any portion of the excess fee.

"(5) LIMITED REASONABLE CAUSE.—For purposes of section 4962(a), an excess fee transaction shall not be treated as an event which was due to reasonable cause if the amount of the fee provided would exceed the value of the services received in exchange therefor determined with the maximum adjustment rate allowed under subsection (c)(1)(C).

"(g) DISCLOSURE REQUIREMENTS.—

"(1) TREATMENT AS EXCESS FEE.—Any fee provided after the date of the enactment of this subsection by an applicable plaintiff (including payments resulting from litigation on behalf of an applicable plaintiff determined on an hourly or percentage basis, whether such fee is paid from the applicable plaintiff's recovery, pursuant to a separately negotiated agreement, or in any other manner), directly or indirectly, to or for the use of any collecting attorney with respect to such applicable plaintiff shall be deemed to be an excess fee provided in an excess fee transaction unless the disclosure requirements described in paragraph (2) are met.

"(2) CONTENTS OF STATEMENT.—The disclosure requirements of this paragraph are met for any taxable year in which a collecting attorney receives any fees with respect to a claim described in subsection (f)(1), if such collecting attorney—

"(A) includes in the return of tax for such taxable year a statement including the information described in subsection (c)(1) with respect to such claim, and

"(B) provides a statement including the information described in subsection (c)(1) to the applicable plaintiff prior to the deadline (including extensions) for filing such return.

"(h) LEGAL AUDITING FIRM.—

"(1) IN GENERAL.—In any case before a Federal district court or a State court in which the court approves fees paid to a collecting attorney, the court shall seek bids from legal auditing firms with a specialty in reviewing attorney billings and select 1 such legal auditing firm to review the billing records submitted by the collecting attorney, under the same standards the firm would use if it were hired by a private party to review legal bills submitted to the party, for the reasonableness of such attorney's billing patterns and practices. The court shall require the collecting attorney to submit billing records, cost records, and any other information sought by such firm in its review.

"(2) REVIEW BY LEGAL AUDITING FIRM.—In reviewing the billing records and work performed by the collecting attorney, the legal auditing firm shall address all relevant matters, including—

"(A) the hourly rates of the collecting attorney compared with the prevailing market rates for the services rendered by the collecting attorney,

"(B) the number of hours worked by the collecting attorney on the case compared with other cases that the collecting attorney worked on during the same period,

"(C) whether the collecting attorney performed tasks that could have been performed by attorneys with lower billing rates,

"(D) whether the collecting attorney used appropriate billing methodology, including keeping contemporaneous time records and using appropriate billing time increments,

"(E) whether particular tasks were staffed appropriately,

"(F) whether the costs and expenses submitted by the collecting attorney were reasonable,

"(G) whether the collecting attorney exercised billing judgment, and

"(H) any other matters normally addressed by the legal auditing firm when reviewing attorney billings for private clients.

"(3) FILING OF REPORT; RESPONSE; BURDEN OF PROOF.—The court shall set a date for the filing of the report of the legal auditing firm, and allow the collecting attorney or any applicable plaintiff to respond to the report within a reasonable time period. The report shall be presumed correct unless rebutted by the collecting attorney or any applicable plaintiff by clear and convincing evidence.

"(4) FEE FOR LEGAL AUDITING FIRM.—The fee for the report of the legal auditing firm shall be paid from the collecting attorney's fee award, the applicable plaintiff's recovery, or both in a manner determined by the court.

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations to prevent avoidance of the purposes of this section and regulations requiring recordkeeping and information reporting.".

(2) CONFORMING AND CLERICAL AMENDMENTS.—

(A) Subsections (a), (b), and (c) of section 4963 of the Internal Revenue Code of 1986 are each amended by inserting "4959," after "4958,".

(B) Subsection (e) of section 6213 of such Code is amended by inserting "4959 (relating to excess fee transactions)," before "4971".

(C) Paragraphs (2) and (3) of section 7422(g) of such Code are each amended by inserting "4959," after "4958,".

(D) The heading for subchapter D of chapter 42 of such Code is amended to read as follows:

"Subchapter D—Failure by Certain Charitable Organizations and Persons to Meet Certain Qualification Requirements and Fiduciary Standards.".

(E) The table of subchapters for chapter 42 of such Code is amended by striking the item relating to subchapter D and inserting the following:

"SUBCHAPTER D. Failure by certain charitable organizations and persons to meet certain qualification requirements and fiduciary standards.".

(F) The table of sections for subchapter D of chapter 42 of such Code is amended by adding at the end the following new item:

"Sec. 4959. Taxes on excess fee transactions.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to excess fees paid on or after the date of the enactment of this Act.

(b) DECLATORY JUDGMENTS RELATING TO EXCISE TAXES ON EXCISE FEE TRANSACTIONS OF CERTAIN ATTORNEYS.—

(1) IN GENERAL.—Subchapter B of chapter 76 of the Internal Revenue Code of 1986 (relating to judicial proceedings) is amended by redesignating section 7437 as section 7438 and by inserting after section 7436 the following new section:

"SEC. 7437. DECLARATORY JUDGMENTS RELATING TO TAX ON EXCESS FEE TRANSACTIONS.

"(a) IN GENERAL.—In a case of actual controversy involving—

"(1) a determination by the Secretary or the collecting attorney with respect to the imposition of the excise tax on excess fee transactions on such collecting attorney under section 4959, or

"(2) a failure by the Secretary or the collecting attorney to make such a determination,

upon the filing of an appropriate pleading by an applicable plaintiff, the Tax Court may make a declaration with respect to such determination or failure. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

"(b) DEFERENTIAL REVIEW.—If a collecting attorney's fee has been approved by a court in accordance with section 4959(c)(1)(D) or by the Secretary pursuant to section 4959, the Tax Court shall review the fee only for an abuse of discretion.

"(c) LEGAL AUDITING FIRM.—In any petition for a declaration referred to in subsection (a):

"(1) NO PREVIOUS REPORT.—If a report by a legal auditing firm that meets the requirements of section 4959(h) has not been previously produced and relied on by another court, the Tax Court shall hire such a legal auditing firm and rely on its report pursuant to the procedures in section 4959(h).

"(2) SECOND REPORT.—

"(A) IN GENERAL.—If a report by a legal auditing firm has been approved by a court in accordance with section 4959, the Tax Court shall hire a second legal auditing firm upon the request of the petitioner.

"(B) FEE FOR REPORT.—The Tax Court may direct the petitioner to pay the fee for any report of a legal auditing firm provided pursuant to subparagraph (A).

"(d) TIME FOR BRINGING ACTION.—No proceeding may be initiated under this section by any person until 90 days after such person first notifies the Secretary of the excess fee transaction with respect to which the proceeding relates.

"(e) DEFINITIONS.—For purposes of this section, any term used in this section and also in section 4959 shall have the meaning given such term by section 4959.".

(2) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 76 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 7437 and by inserting the following new items:

"Sec. 7437. Declaratory judgments relating to tax on excess fee transactions.
"Sec. 7438. Cross references.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to actions filed on or after the date of the enactment of this Act.

(c) USE OF CERTAIN FEES.—Any fees collected by the Secretary of the Treasury pursuant to section 4959(f)(4)(B)(ii) of the Internal Revenue Code of 1986 (as added by subsection (a)), shall be made available to the Secretary of Defense, as provided by appropriation Acts, for making expenditures to address the readiness, force protection, and safety needs arising out of the ongoing global war on terrorism. Such expenditures shall include additional—

(1) up-armored High Mobility Multipurpose Wheeled Vehicles;

(2) add-on ballistic protection for medium and heavy wheeled vehicles;

(3) Interceptor Body Armor, including add-on protection for the shoulder and side body areas;

(4) unmanned aerial vehicles;

(5) ammunition and selected items of high priority (such as vehicles, night vision devices, sensors, and Javelin missiles); and

(6) replacement of equipment lost in combat.

SA 3192. Mr. DOMENICI (for himself, Mrs. FEINSTEIN, Mr. LUGAR, Mr. BIDEN, Mr. ALEXANDER, Mr. BINGAMAN, Mr. REED, Mr. AKAKA, Mr. WARNER, Mr. LEVIN, and Mr. FEINGOLD) proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

At the end of subtitle C of title XXXI, add the following:

SEC. 3132. ACCELERATION OF REMOVAL OR SECURITY OF FISSILE MATERIALS, RADIOLOGICAL MATERIALS, AND RELATED EQUIPMENT AT VULNERABLE SITES WORLDWIDE.

(a) SENSE OF CONGRESS.—(1) It is the sense of Congress that the security, including the rapid removal or secure storage, of high-risk, proliferation-attractive fissile materials, radiological materials, and related equipment at vulnerable sites worldwide should be a top priority among the activities to achieve the national security of the United States.

(2) It is the sense of Congress that the President may establish in the Department of Energy a task force to be known as the Task Force on Nuclear Materials to carry out the program authorized by subsection (b).

(b) PROGRAM AUTHORIZED.—The Secretary of Energy may carry out a program to undertake an accelerated, comprehensive worldwide effort to mitigate the threats posed by high-risk, proliferation-attractive fissile materials, radiological materials, and related equipment located at sites potentially vulnerable to theft or diversion.

(c) PROGRAM ELEMENTS.—(1) Activities under the program under subsection (b) may include the following:

(A) Accelerated efforts to secure, remove, or eliminate proliferation-attractive fissile materials or radiological materials in research reactors, other reactors, and other facilities worldwide.

(B) Arrangements for the secure shipment of proliferation-attractive fissile materials, radiological materials, and related equipment to other countries willing to accept such materials and equipment, or to the United States if such countries cannot be identified, and the provision of secure storage or disposition of such materials and equipment following shipment.

(C) The transportation of proliferation-attractive fissile materials, radiological materials, and related equipment from sites identified as proliferation risks to secure facilities in other countries or in the United States.

(D) The processing and packaging of proliferation-attractive fissile materials, radiological materials, and related equipment in accordance with required standards for transport, storage, and disposition.

(E) The provision of interim security upgrades for vulnerable, proliferation-attractive fissile materials and radiological materials and related equipment pending their removal from their current sites.

(F) The utilization of funds to upgrade security and accounting at sites where proliferation-attractive fissile materials or radiological materials will remain for an extended period of time in order to ensure that such materials are secure against plausible potential threats and will remain so in the future.

(G) The management of proliferation-attractive fissile materials, radiological materials, and related equipment at secure facilities.

(H) Actions to ensure that security, including security upgrades at sites and facilities for the storage or disposition of proliferation-attractive fissile materials, radiological materials, and related equipment, continues to function as intended.

(I) The provision of technical support to the International Atomic Energy Agency (IAEA), other countries, and other entities to facilitate removal of, and security upgrades to facilities that contain, proliferation-attractive fissile materials, radiological materials, and related equipment worldwide.

(J) The development of alternative fuels and irradiation targets based on low-enriched uranium to convert research or other reactors fueled by highly-enriched uranium to such alternative fuels, as well as the conversion of reactors and irradiation targets employing highly-enriched uranium to employment of such alternative fuels and targets.

(K) Accelerated actions for the blend down of highly-enriched uranium to low-enriched uranium.

(L) The provision of assistance in the closure and decommissioning of sites identified as presenting risks of proliferation of proliferation-attractive fissile materials, radiological materials, and related equipment.

(M) Programs to—

(i) assist in the placement of employees displaced as a result of actions pursuant to the program in enterprises not representing a proliferation threat; and

(ii) convert sites identified as presenting risks of proliferation regarding proliferation-attractive fissile materials, radiological materials, and related equipment to purposes not representing a proliferation threat to the extent necessary to eliminate the proliferation threat.

(2) The Secretary of Energy shall, in coordination with the Secretary of State, carry out the program in consultation with, and with the assistance of, appropriate departments, agencies, and other entities of the United States Government.

(3) The Secretary of Energy shall, with the concurrence of the Secretary of State, carry out activities under the program in collaboration with such foreign governments, nongovernmental organizations, and other international entities as the Secretary considers appropriate for the program.

(d) REPORTS.—(1) Not later than March 15, 2005, the Secretary shall submit to Congress a classified interim report on the program under subsection (b).

(2) Not later than January 1, 2006, the Secretary shall submit to Congress a classified final report that includes the following:

(A) A survey by the Secretary of the facilities and sites worldwide that contain proliferation-attractive fissile materials, radiological materials, or related equipment.

(B) A list of sites determined by the Secretary to be of the highest priority, taking into account risk of theft from such sites, for removal or security of proliferation-attractive fissile materials, radiological materials, or related equipment, organized by level of priority.

(C) A plan, including activities under the program under this section, for the removal, security, or both of proliferation-attractive fissile materials, radiological materials, or related equipment at vulnerable facilities and sites worldwide, including measurable milestones, metrics, and estimated costs for the implementation of the plan.

(3) A summary of each report under this subsection shall also be submitted to Congress in unclassified form.

(e) FUNDING.—Amounts authorized to be appropriated to the Secretary of Energy for defense nuclear nonproliferation activities shall be available for purposes of the program under this section.

(f) DEFINITIONS.—In this section:

(1) The term "fissile materials" means plutonium, highly-enriched uranium, or other material capable of sustaining an explosive nuclear chain reaction, including irradiated items containing such materials if the radiation field from such items is not sufficient to prevent the theft or misuse of such items.

(2) The term "radiological materials" includes Americium-241, Californium-252, Cesium-137, Cobalt-60, Iridium-192, Plutonium-238, Radium-226 and Strontium-90, Curium-244, Strontium-90, and irradiated items containing such materials, or other materials

designated by the Secretary of Energy for purposes of this paragraph.

(3) The term "related equipment" includes equipment useful for enrichment of uranium in the isotope 235 and for extraction of fissile materials from irradiated fuel rods and other equipment designated by the Secretary of Energy for purposes of this section.

(4) The term "highly-enriched uranium" means uranium enriched to or above 20 percent in isotope 235.

(5) The term "low-enriched uranium" means uranium enriched below 20 percent in isotope 235.

(6) The term "proliferation-attractive", in the case of fissile materials and radiological materials, means quantities and types of such materials that are determined by the Secretary of Energy to present a significant risk to the national security of the United States if diverted to a use relating to proliferation.

SA 3193. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division A, add the following:

TITLE XIII—BENEFITS FOR RESERVES ON EXTENDED TOURS OF ACTIVE DUTY

SEC. 1301. SHORT TITLE.

This title may be cited as the "Guard and Reserve Enhanced Benefits Act of 2004".

Subtitle A—Family Assistance Benefits

SEC. 1311. MILITARY FAMILY LEAVE.

(a) GENERAL REQUIREMENTS FOR LEAVE.—

(1) DEFINITIONS.—Section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611) is amended by adding at the end the following:

"(14) ACTIVE DUTY.—The term 'active duty' means duty under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code.

"(15) QUALIFIED MEMBER.—The term 'qualified member' means a member of the reserve components on active duty for a period of more than 30 days.".

(2) ENTITLEMENT TO LEAVE.—Section 102(a)(1) of such Act (29 U.S.C. 2612(a)) is amended by adding at the end the following:

"(E) Because the spouse, son, daughter, or parent of the employee is a qualified member.".

(3) SCHEDULE.—Section 102(b)(1) of such Act (29 U.S.C. 2612(b)(1)) is amended by inserting after the second sentence the following: "Leave under subsection (a)(1)(E) may be taken intermittently or on a reduced leave schedule.".

(4) SUBSTITUTION OF PAID LEAVE.—Section 102(d)(2)(A) of such Act (29 U.S.C. 2612(d)(2)(A)) is amended by striking "(A), (B), or (C)" and inserting "(A), (B), (C), or (E)".

(5) NOTICE.—Section 102(e) of such Act (29 U.S.C. 2612(e)) is amended by adding at the end the following:

"(3) NOTICE FOR MILITARY FAMILY LEAVE.—In any case in which an employee seeks leave under subsection (a)(1)(E), the employee shall provide such notice as is practicable.".

(6) CERTIFICATION.—Section 103 of such Act (29 U.S:C. 2613) is amended by adding at the end the following:

"(f) CERTIFICATION FOR MILITARY FAMILY LEAVE.—An employer may require that a request for leave under section 102(a)(1)(E) be supported by a certification issued at such time and in such manner as the Secretary may by regulation prescribe.".

(b) MILITARY FAMILY LEAVE FOR CIVIL SERVICE EMPLOYEES.—

(1) DEFINITIONS.—Section 6381 of title 5, United States Code, is amended—

(A) in paragraph (5), by striking "and" at the end;

(B) in paragraph (6), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(7) the term 'active duty' means duty under a call or order to aotive duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code; and

"(8) the term 'qualified member' means a member of the reserve components on active duty for a period of more than 30 days.".

(2) ENTITLEMENT TO LEAVE.—Section 6382(a) of such title is amended by adding at the end the following:

"(E) Because the spouse, son, daughter, or parent of the employee is a qualified member.".

(3) SCHEDULE.—Section 6382(b)(1) of such title is amended by inserting after the second sentence the following: "Leave under subsection (a)(1)(E) may be taken intermittently or on a reduced leave schedule.".

(4) SUBSTITUTION OF PAID LEAVE.—Section 6382(d) of such title is amended by striking "(A), (B), (C), or (D)" and inserting "(A), (B), (C), (D), or (E)"..

(5) NOTICE.—Section 6382(e) of such title is amended by adding at the end the following:

"(3) In any case in which an employee seeks leave under subsection (a)(1)(E), the employee shall provide such notice as is practicable.".

(6) CERTIFICATION.—Section 6383 of such title is amended by adding at the end the following:

"(f) An employing agency may require that a request for leave under section 6382(a)(1)(E) be supported by a certification issued at such time and in such manner as the Office of Personnel Management may by regulation prescribe.".

SEC. 1312. CHILD CARE ASSISTANCE FOR MILITARY DEPENDENTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 658B of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858) is amended—

(1) by striking "There is" and inserting "(a) IN GENERAL.—There is";

(2) in subsection (a), as so designated, by inserting "(except section 658T)" after "this subchapter"; and

(3) by adding at the end the following:

"(b) CHILD CARE FOR CERTAIN MILITARY DEPENDENTS.—There is authorized to be appropriated to carry out section 658T $200,000,000 for each of fiscal years 2005 through 2009.".

(b) CHILD CARE ASSISTANCE.—The Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) is amended by adding at the end the following:

"SEC. 658T. CHILD CARE ASSISTANCE FOR MILITARY DEPENDENTS.

"(a) IN GENERAL.—The Secretary shall make grants to eligible spouses to assist the spouses in paying for the cost of child care services provided to dependents by eligible child care providers. In making the grants, the Secretary shall give priority to eligible spouses of qualified members on active duty for a period of more than 6 months.

"(b) DEFINITIONS.—In this section:

"(1) ACTIVE DUTY.—The term 'active duty' means duty under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code.

"(2) ACTIVE DUTY FOR A PERIOD OF MORE THAN 30 DAYS.—The term 'active duty for a period of more than 30 days' has the meaning given the term in section 101(d)(2) of title 10, United States Code.

"(3) DEPENDENT.—The term 'dependent' means an individual who is—

"(A) a dependent, as defined in section 401 of title 37, United States Code, except that such term does not include a person described in paragraph (1) or (3) of subsection (a) of such section; and

"(B) an individual described in subparagraphs (A) and (B) of section 658P(4).

"(4) ELIGIBLE SPOUSE.—The term 'eligible spouse' means a person who—

"(A) is a parent of one or more dependents of a qualified member; and

"(B) has the primary responsibility for the care of one or more such dependents.

"(5) QUALIFIED MEMBER.—The term 'qualified member' means a member of the reserve components of the Armed Forces on active duty for a period of more than 30 days.

"(c) APPLICATIONS.—To be eligible to receive a grant under this section, a spouse shall submit an application to the Secretary, at such time, in such manner, and containing such information as the Secretary may require, including a description of the eligible child care provider who provides the child care services assisted through the grant.

"(d) RULE.—The provisions of this subchapter, other than section 658P and provisions referenced in section 658P, that apply to assistance provided under this subchapter shall not apply to assistance provided under this section.".

(c) CONFORMING AMENDMENTS.—Section 658O of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858m) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "appropriated under this subchapter" and inserting "appropriated under section 658B(a)"; and

(B) in paragraph (2), by striking "appropriated under section 658B" and inserting "appropriated under section 658(a)"; and

(2) in subsection (b)(1), by striking "appropriated under section 658B" and inserting "appropriated under section 658(a)".

Subtitle B—Education Benefits

PART I—MONTGOMERY GI BILL BENEFITS

SEC. 1321. BASIC EDUCATIONAL ASSISTANCE FOR MEMBERS OF SELECTED RESERVE SERVING EXTENDED OR RECURRING PERIODS ON ACTIVE DUTY.

(a) ENTITLEMENT.—(1) Subsection (a)(1) of section 3011 of title 38, United States Code, is amended—

(A) in subparagraph (B), by striking "or" at the end;

(B) in subparagraph (C), by adding "or" at the end; and

(C) by adding at the end the following new subparagraph:

"(D) after September 11, 2001, while a member of the Selected Reserve—

"(i) serves at least 12 months of continuous active duty in the Armed Forces; or

"(ii) during any 60-month period, serves an aggregate of 24 months of continuous active duty in the Armed Forces;".

(2) Subsection (d)(3) of such section is amended by striking "The period of service"

and inserting "Except in the case of an individual described in subsection (a)(1)(D), the period of service".

(b) Exclusion From Contributions for Increased Assistance.—Subsection (e)(1) of such section is amended by inserting "(other than an individual described in subsection (a)(1)(D)" after "Any individual".

(c) Amount of Assistance.—Section 3015(a) of such title is amended by inserting after "three years" the following: "or an individual whose service on active duty on which such entitlement is based is described in clause (i) or (ii) of section 3011(a)(1)(D) of this title".

SEC. 1322. INCREASE IN AMOUNT OF EDUCATIONAL ASSISTANCE FOR MEMBERS OF SELECTED RESERVE.

(a) Increase in Amounts.—Section 16131(b)(1) of title 10, United States Code, is amended—

(1) in subparagraph (A), by striking "$251" and inserting "$400";

(2) in subparagraph (B), by striking "$188" and inserting "$300"; and

(3) in subparagraph (C), by striking "$125" and inserting "$200".

(b) Effective Date.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to monthly rates of educational assistance for months beginning on or after that date.

SEC. 1323. MODIFICATION OF TIME LIMITATION FOR USE OF ENTITLEMENT TO EDUCATIONAL ASSISTANCE OF MEMBERS OF SELECTED RESERVE.

Section 16133(a)(2) of title 10, United States Code, is amended—

(1) by inserting "that is five years after the date" after "on the date"; and

(2) by striking "first" and inserting "later".

PART II—OTHER EDUCATION BENEFITS

SEC. 1326. STUDENT LOAN DEFERMENTS.

(a) FFEL and Direct Subsidized Loans.—Section 428(b)(1)(M) of the Higher Education Act of 1965 (20 U.S.C. 1078(b)(1)(M)) is amended—

(1) in clause (ii), by striking "or" after the semicolon;

(2) in clause (iii), by inserting "or" after the semicolon; and

(3) by inserting after clause (iii) the following:

"(iv) during which the borrower is a member of the reserve components of the Armed Forces on active duty for a period of more than 30 days under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code, and for 3 months following discharge or release from such active duty.".

(b) Consolidation Loans.—Section 428C(b)(4)(C)(ii) of the Higher Education Act of 1965 (20 U.S.C. 1078-3(b)(4)(C)(ii)) is amended—

(1) in subclause (II), by striking "or" after the semicolon;

(2) in subclause (III), by striking "or (II)" and inserting ", (II) or (III)";

(3) by redesignating subclause (III) (as so amended) as subclause (IV); and

(4) by inserting after subclause (II) the following:

"(III) by the Secretary, in the case of a consolidation loan of a student who is on an active duty deferment under section 428(b)(1)(M)(iv); or".

(c) FFEL and Direct Unsubsidized Loans.—Section 428H(e)(2) of the Higher Education Act of 1965 (20 U.S.C. 1078-8(e)(2)) is amended by adding at the end the following:

"(C) Notwithstanding subparagraph (A), interest on loans made under this section for which payments of principal are deferred because the student is on an active duty deferment under section 428(b)(1)(M)(iv) shall be paid by the Secretary.".

(d) Perkins Loans.—Section 464(c)(2)(A) of the Higher Education Act of 1965 (20 U.S.C. 1087dd(c)(2)(A)) is amended—

(1) in clause (iii), by striking "or" after the semicolon;

(2) in clause (iv), by inserting "or" after the semicolon; and

(3) by inserting after clause (iv) the following:

"(v) during which the borrower is a member of the reserve components of the Armed Forces on active duty for a period of more than 30 days under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code, and for 3 months following discharge or release from such active duty.".

SEC. 1327. PRESERVATION OF EDUCATIONAL STATUS AND TUITION.

(a) In General.—Title VII of the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.), as amended by section 1 of Public Law 108-189 (117 Stat. 2835), is further amended by adding at the end the following new section:

"SEC. 707. PRESERVATION OF EDUCATIONAL STATUS AND TUITION.

"(a) Leave of Absence.—A servicemember who is a member of the reserve components on active duty for a period of more than 30 days under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code, and who is enrolled as a student at an institution of higher education at the time of entry into the service on active duty, shall be granted a leave of absence from the institution during the period of the service on active duty and for one year after the conclusion of the service on active duty.

"(b) Educational Status.—

"(1) In general.—A servicemember on a leave of absence from an institution of higher education under subsection (a) shall be entitled, upon completion of the leave of absence, to be restored to the educational status the servicemember had attained before entering into the service on active duty as described in that subsection without loss of academic credits earned, scholarships or grants awarded, or, subject to paragraph (2), tuition and other fees paid before the entry of the servicemember into the service on active duty.

"(2) Tuition.—

"(A) Refund.—An institution of higher education shall refund tuition or fees paid or credit the tuition and fees to the next period of enrollment after a servicemember returns from the leave of absence, at the option of the servicemember. Notwithstanding the 180-day limitation referred to in subsection (a)(2)(B) of section 484B of the Higher Education Act of 1965 (20 U.S.C. 1091b), a servicemember on a leave of absence under this section shall not be treated as having withdrawn for purposes of such section 484B unless the servicemember fails to return upon the completion of the leave of absence.

"(B) Amount of refund.—If a servicemember requests a refund for a period of enrollment, the percentage of the tuition and fees that shall be refunded shall be equal to 100 percent minus—

"(i) the percentage of the period of enrollment (for which the tuition and fees were paid) that was completed (as determined in accordance with subsection (d) of such section 484B) as of the day the servicemember withdrew, provided that such date occurs on or before the completion of 60 percent of the period of enrollment; or

"(ii) 100 percent, if the day the person withdrew occurs after the servicemember has completed 60 percent of the period of enrollment.".

(b) Clerical Amendment.—The table of contents of that Act is amended by adding at the end the following new item:

"Sec. 707. Preservation of educational status and tuition.".

Subtitle C—Compensation and Retirement Benefits

SEC. 1331. NONREDUCTION IN PAY FOR FEDERAL EMPLOYEES WHO ARE RESERVES SERVING ON ACTIVE DUTY IN THE UNIFORMED SERVICES FOR EXTENDED PERIODS.

(a) In General.—Subchapter IV of chapter 55 of title 5, United States Code, is amended by adding at the end the following:

"§5538. Nonreduction in pay of Reserves on active duty in the uniformed services for extended periods

"(a) An employee who is absent from a position of employment with the Federal Government in order to perform active duty in the uniformed services for a period of more than 30 days pursuant to a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10 shall be entitled, while serving on active duty, to receive, for each pay period described in subsection (b), an amount equal to the amount by which—

"(1) the amount of basic pay which would otherwise have been payable to such employee for such pay period if such employee's civilian employment with the Government had not been interrupted by that service, exceeds (if at all)

"(2) the amount of pay and allowances which (as determined under subsection (d))—

"(A) is payable to such employee for that service; and

"(B) is allocable to such pay period.

"(b)(1) Amounts under this section shall be payable with respect to each pay period (which would otherwise apply if the employee's civilian employment had not been interrupted)—

"(A) during which such employee is entitled to reemployment rights under chapter 43 of title 38 with respect to the position from which such employee is absent (as referred to in subsection (a)); and

"(B) for which such employee does not otherwise receive basic pay (including by taking any annual, military, or other paid leave) to which such employee is entitled by virtue of such employee's civilian employment with the Government.

"(2) For purposes of this section, the period during which an employee is entitled to reemployment rights under chapter 43 of title 38—

"(A) shall be determined disregarding the provisions of section 4312(d) of title 38; and

"(B) shall include any period of time specified in section 4312(e) of title 38 within which an employee may report or apply for employment or reemployment following completion of the service on active duty to which called or ordered as described in subsection (a).

"(c) Any amount payable under this section to an employee shall be paid—

"(1) by such employee's employing agency;

"(2) from the appropriation or fund which would be used to pay the employee if such employee were in a pay status; and

"(3) to the extent practicable, at the same time and in the same manner as would basic pay if such employee’s civilian employment had not been interrupted.

“(d) The Office of Personnel Management shall, in consultation with Secretary of Defense, prescribe any regulations necessary to carry out the preceding provisions of this section.

“(e)(1) The head of each agency referred to in section 2302(a)(2)(C)(ii) shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of such agency.

“(2) The Administrator of the Federal Aviation Administration shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of that agency.

“(f) In this section—

“(1) the terms ‘employee’, ‘Federal Government’, and ‘uniformed services’ have the same respective meanings as given them in section 4303 of title 38;

“(2) the term ‘employing agency’, as used with respect to an employee entitled to any payments under this section, means the agency or other entity of the Government (including an agency referred to in section 2302(a)(2)(C)(ii)) with respect to which such employee has reemployment rights under chapter 43 of title 38; and

“(3) the term ‘basic pay’ includes any amount payable under section 5304.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5537 the following:

“5538. Nonreduction in pay of Reserves on active duty in the uniformed services for extended periods.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to pay periods (as described in section 5538(b) of title 5, United States Code, as added by this section) beginning on or after the date of enactment of this Act.

SEC. 1332. CREDIT FOR INCOME DIFFERENTIAL FOR EMPLOYMENT OF ACTIVATED MILITARY RESERVIST AND REPLACEMENT PERSONNEL.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

“SEC. 30B. EMPLOYER WAGE CREDIT FOR ACTIVATED MILITARY RESERVISTS.

“(a) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

“(1) in the case of a small business employer, the employment credit with respect to all qualified employees and qualified replacement employees of the taxpayer, plus

“(2) the self-employment credit of a qualified self-employed taxpayer.

“(b) EMPLOYMENT CREDIT.—For purposes of this section—

“(1) QUALIFIED EMPLOYEES.—

“(A) IN GENERAL.—The employment credit with respect to a qualified employee of the taxpayer for any taxable year is equal to the lesser of—

“(i) the excess, if any, of—

“(I) the qualified employee’s average daily qualified compensation for the taxable year, over

“(II) the average daily military pay and allowances received by the qualified employee during the taxable year,

while participating in qualified reserve component duty to the exclusion of the qualified employee’s normal employment duties for the number of days the qualified employee participates in qualified reserve component duty during the taxable year, including time spent in a travel status, or

“(ii) $6,000.

The employment credit, with respect to all qualified employees, is equal to the sum of the employment credits for each qualified employee under this subsection.

“(B) AVERAGE DAILY QUALIFIED COMPENSATION AND AVERAGE DAILY MILITARY PAY AND ALLOWANCES.—As used with respect to a qualified employee—

“(i) the term ‘average daily qualified compensation’ means the qualified compensation of the qualified employee for the taxable year divided by the difference between—

“(I) 365, and

“(II) the number of days the qualified employee participates in qualified reserve component duty during the taxable year, including time spent in a travel status, and

“(ii) the term ‘average daily military pay and allowances’ means—

“(I) the amount paid to the qualified employee during the taxable year as military pay and allowances on account of the qualified employee’s participation in qualified reserve component duty, divided by

“(II) the total number of days the qualified employee participates in qualified reserve component duty, including time spent in travel status.

“(C) QUALIFIED COMPENSATION.—When used with respect to the compensation paid or that would have been paid to a qualified employee for any period during which the qualified employee participates in qualified reserve component duty, the term ‘qualified compensation’ means—

“(i) compensation which is normally contingent on the qualified employee’s presence for work and which would be deductible from the taxpayer’s gross income under section 162(a)(1) if the qualified employee were present and receiving such compensation,

“(ii) compensation which is not characterized by the taxpayer as vacation or holiday pay, or as sick leave or pay, or as any other form of pay for a nonspecific leave of absence, and with respect to which the number of days the qualified employee participates in qualified reserve component duty does not result in any reduction in the amount of vacation time, sick leave, or other nonspecific leave previously credited to or earned by the qualified employee, and

“(iii) group health plan costs (if any) with respect to the qualified employee.

“(D) QUALIFIED EMPLOYEE.—The term ‘qualified employee’ means a person who—

“(i) has been an employee of the taxpayer for the 91-day period immediately preceding the period during which the employee participates in qualified reserve component duty, and

“(ii) is a member of the Ready Reserve of a reserve component of an Armed Force of the United States as defined in sections 10142 and 10101 of title 10, United States Code.

“(2) QUALIFIED REPLACEMENT EMPLOYEES.—

“(A) IN GENERAL.—The employment credit with respect to a qualified replacement employee of the taxpayer for any taxable year is equal to the lesser of—

“(i) the individual’s qualified compensation attributable to service rendered as a qualified replacement employee, or

“(ii) $6,000.

The employment credit, with respect to all qualified replacement employees, is equal to the sum of the employment credits for each qualified replacement employee under this subsection.

“(B) QUALIFIED COMPENSATION.—When used with respect to the compensation paid to a qualified replacement employee, the term ‘qualified compensation’ means—

“(i) compensation which is normally contingent on the qualified replacement employee’s presence for work and which is deductible from the taxpayer’s gross income under section 162(a)(1),

“(ii) compensation which is not characterized by the taxpayer as vacation or holiday pay, or as sick leave or pay, or as any other form of pay for a nonspecific leave of absence, and

“(iii) group health plan costs (if any) with respect to the qualified replacement employee.

“(C) QUALIFIED REPLACEMENT EMPLOYEE.—The term ‘qualified replacement employee’ means an individual who is hired to replace a qualified employee or a qualified self-employed taxpayer, but only with respect to the period during which such employee or taxpayer participates in qualified reserve component duty, including time spent in travel status.

“(c) SELF-EMPLOYMENT CREDIT.—For purposes of this section—

“(1) IN GENERAL.—The self-employment credit of a qualified self-employed taxpayer for any taxable year is equal to the lesser of—

“(A) the excess, if any, of—

“(i) the self-employed taxpayer’s average daily self-employment income for the taxable year over

“(ii) the average daily military pay and allowances received by the taxpayer during the taxable year, while participating in qualified reserve component duty to the exclusion of the taxpayer’s normal self-employment duties for the number of days the taxpayer participates in qualified reserve component duty during the taxable year, including time spent in a travel status, or

“(B) $6,000.

“(2) AVERAGE DAILY SELF-EMPLOYMENT INCOME AND AVERAGE DAILY MILITARY PAY AND ALLOWANCES.—As used with respect to a self-employed taxpayer—

“(A) the term ‘average daily self-employment income’ means the self-employment income (as defined in section 1402(b)) of the taxpayer for the taxable year plus the amount paid for insurance which constitutes medical care for the taxpayer for such year (within the meaning of section 162(l)) divided by the difference between—

“(i) 365, and

“(ii) the number of days the taxpayer participates in qualified reserve component duty during the taxable year, including time spent in a travel status, and

“(B) the term ‘average daily military pay and allowances’ means—

“(i) the amount paid to the taxpayer during the taxable year as military pay and allowances on account of the taxpayer’s participation in qualified reserve component duty, divided by

“(ii) the total number of days the taxpayer participates in qualified reserve component duty, including time spent in travel status.

“(3) QUALIFIED SELF-EMPLOYED TAXPAYER.—The term ‘qualified self-employed taxpayer’ means a taxpayer who—

“(A) has net earnings from self-employment (as defined in section 1402(a)) for the taxable year, and

“(B) is a member of the Ready Reserve of a reserve component of an Armed Force of the United States.

“(d) COORDINATION WITH OTHER CREDITS.—The amount of credit otherwise allowable under sections 51(a) and 1396(a) with respect to any employee shall be reduced by the credit allowed by this section with respect to such employee.

‘‘(e) LIMITATIONS.—

‘‘(1) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

‘‘(A) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

‘‘(B) the tentative minimum tax for the taxable year.

‘‘(2) DISALLOWANCE FOR FAILURE TO COMPLY WITH EMPLOYMENT OR REEMPLOYMENT RIGHTS OF MEMBERS OF THE RESERVE COMPONENTS OF THE ARMED FORCES OF THE UNITED STATES.—No credit shall be allowed under subsection (a) to a taxpayer for—

‘‘(A) any taxable year, beginning after the date of the enactment of this section, in which the taxpayer is under a final order, judgment, or other process issued or required by a district court of the United States under section 4323 of title 38 of the United States Code with respect to a violation of chapter 43 of such title, and

‘‘(B) the 2 succeeding taxable years.

‘‘(3) DISALLOWANCE WITH RESPECT TO PERSONS ORDERED TO ACTIVE DUTY FOR TRAINING.—No credit shall be allowed under subsection (a) to a taxpayer with respect to any period by taking into account any person who is called or ordered to active duty for any of the following types of duty:

‘‘(A) Active duty for training under any provision of title 10, United States Code.

‘‘(B) Training at encampments, maneuvers, outdoor target practice, or other exercises under chapter 5 of title 32, United States Code.

‘‘(C) Full-time National Guard duty, as defined in section 101(d)(5) of title 10, United States Code.

‘‘(f) GENERAL DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

‘‘(1) SMALL BUSINESS EMPLOYER.—

‘‘(A) IN GENERAL.—The term ‘small business employer’ means, with respect to any taxable year, any employer who employed an average of 50 or fewer employees on business days during such taxable year.

‘‘(B) CONTROLLED GROUPS.—For purposes of subparagraph (A), all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.

‘‘(2) MILITARY PAY AND ALLOWANCES.—The term ‘military pay’ means pay as that term is defined in section 101(21) of title 37, United States Code, and the term ‘allowances’ means the allowances payable to a member of the Armed Forces of the United States under chapter 7 of that title.

‘‘(3) QUALIFIED RESERVE COMPONENT DUTY.—The term ‘qualified reserve component duty’ means active duty performed for a period not less than 180 days under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code.

‘‘(4) CARRYBACK AND CARRYFORWARD ALLOWED.—

‘‘(A) IN GENERAL.—If the credit allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e)(1) for such taxable year (in this paragraph referred to as the ‘unused credit year’), such excess shall be a credit carryback to each of the 3 taxable years preceding the unused credit year and a credit carryforward to each of the 20 taxable years following the unused credit year.

‘‘(B) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).

‘‘(5) CERTAIN RULES TO APPLY.—Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply.’’.

(b) NO DEDUCTION FOR COMPENSATION TAKEN INTO ACCOUNT FOR CREDIT.—Section 280C(a) of the Internal Revenue Code of 1986 (relating to rule for employment credits) is amended—

(1) by inserting ‘‘or compensation’’ after ‘‘salaries’’, and

(2) by inserting ‘‘30B,’’ before ‘‘45A(a)’’.

(c) CONFORMING AMENDMENT.—Section 55(c)(2) of the Internal Revenue Code of 1986 is amended by inserting ‘‘30B(e)(1),’’ after ‘‘30(b)(3),’’.

(d) CLERICAL AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end 30A the following new item:

‘‘Sec. 30B. Employer wage credit for activated military reservists.’’.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 1333. REDUCED MINIMUM AGE FOR ELIGIBILITY FOR NON-REGULAR SERVICE RETIRED PAY.

Section 12731(a)(1) of title 10, United States Code, is amended by striking ‘‘60 years of age’’ and inserting ‘‘55 years of age’’.

Subtitle D—Health Care Benefits

SEC. 1341. EXPANDED ELIGIBILITY OF READY RESERVE MEMBERS UNDER TRICARE PROGRAM.

(a) UNCONDITIONAL ELIGIBILITY.—Subsection (a) of section 1076b of title 10, United States Code, is amended by striking ‘‘and receive benefits’’ and all that follows through ‘‘an employer-sponsored health benefits plan’’.

(b) PERMANENT AUTHORITY.—Subsection (l) of such section is repealed.

(c) CONFORMING AMENDMENTS.—Such section is further amended—

(1) by striking subsections (i) and (j); and

(2) by redesignating subsection (k) as subsection (i).

SEC. 1342. CONTINUATION OF NON-TRICARE HEALTH BENEFITS PLAN COVERAGE FOR CERTAIN RESERVES CALLED OR ORDERED TO ACTIVE DUTY AND THEIR DEPENDENTS.

(a) REQUIRED CONTINUATION.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1078a the following new section:

‘‘§1078b. Continuation of non-TRICARE health benefits plan coverage for dependents of certain Reserves called or ordered to active duty

‘‘(a) PAYMENT OF PREMIUMS.—The Secretary concerned shall pay the applicable premium to continue in force any qualified health benefits plan coverage for the members of the family of an eligible reserve component member for the benefits coverage continuation period if timely elected by the member in accordance with regulations prescribed under subsection (g).

‘‘(b) ELIGIBLE MEMBER; FAMILY MEMBERS.—(1) A member of a reserve component is eligible for payment of the applicable premium for continuation of qualified health benefits plan coverage under subsection (a) while serving on active duty for a period of more than 30 days pursuant to a call or order issued under a provision of law referred to in section 101(a)(13)(B) of this title during a war or a national emergency declared by the President or Congress.

‘‘(2) For the purposes of this section, the members of the family of an eligible reserve component member include only the member's dependents described in subparagraphs (A), (D), and (I) of section 1072(2) of this title.

‘‘(c) QUALIFIED HEALTH BENEFITS PLAN COVERAGE.—For the purposes of this section, health benefits plan coverage for the members of the family of a reserve component member called or ordered to active duty is qualified health benefits plan coverage if—

‘‘(1) the coverage was in force on the date on which the Secretary notified the reserve component member that issuance of the call or order was pending or, if no such notification was provided, the date of the call or order;

‘‘(2) on such date, the coverage applied to the reserve component member and members of the family of the reserve component member; and

‘‘(3) the coverage has not lapsed.

‘‘(d) APPLICABLE PREMIUM.—The applicable premium payable under this section for continuation of health benefits plan coverage for the family members of a reserve component member is the amount of the premium payable by the member for the coverage of the family members.

‘‘(e) BENEFITS COVERAGE CONTINUATION PERIOD.—The benefits coverage continuation period under this section for qualified health benefits plan coverage for the family members of an eligible reserve component member called or ordered to active duty is the period that—

‘‘(1) begins on the date of the call or order; and

‘‘(2) ends at the end of the day on which the active duty terminates.

‘‘(f) EXTENSION OF PERIOD OF COBRA COVERAGE.—Notwithstanding any other provision of law—

‘‘(1) any period of coverage under a COBRA continuation provision (as defined in section 9832(d)(1) of the Internal Revenue Code of 1986) for an eligible reserve component member under this section shall be deemed to be equal to the benefits coverage continuation period for such member under this section; and

‘‘(2) with respect to the election of any period of coverage under a COBRA continuation provision (as so defined), rules similar to the rules under section 4980B(f)(5)(C) of such Code shall apply.

‘‘(g) REGULATIONS.—The Secretary of Defense shall prescribe regulations for carrying out this section. The regulations shall include such requirements for making an election of payment of applicable premiums as the Secretary considers appropriate.’’.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1078a the following new item:

‘‘1078b. Continuation of non-TRICARE health benefits plan coverage for dependents of certain Reserves called or ordered to active duty.’’.

(b) APPLICABILITY.—Section 1078b of title 10, United States Code (as added by subsection (a)), shall apply with respect to calls or orders of members of reserve components of the Armed Forces to active duty as described in subsection (b) of such section, that are issued by the Secretary of a military department before, on, or after the date of the enactment of this Act, but only with respect to qualified health benefits plan coverage (as described in subsection (c) of such section) that is in effect on or after the date of the enactment of this Act.

SA 3194. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 247, after line 21, insert the following:

SEC. 717. RESTORATION OF PREVIOUS POLICY REGARDING RESTRICTIONS ON USE OF DEPARTMENT OF DEFENSE MEDICAL FACILITIES OVERSEAS.

Section 1093(b) of title 10, United States Code, is amended—

(1) by inserting "in the United States" after "treatment facility"; and

(2) by inserting "in the United States" after "Department of Defense".

SA 3195. Mrs. MURRAY (for herself and Mr. EDWARDS) submitted an amendment intended to be proposed by her to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title X, add the following:

SEC. . CHILD CARE ASSISTANCE FOR MILITARY DEPENDENTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 658B of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858) is amended—

(1) by striking "There is" and inserting "(a) IN GENERAL.—There is";

(2) in subsection (a), as so designated, by inserting "(except section 658T)" after "this subchapter"; and

(3) by adding at the end the following:

"(b) CHILD CARE FOR CERTAIN MILITARY DEPENDENTS.—There is authorized to be appropriated to carry out section 658T $200,000,000 for each of fiscal years 2005 through 2009.".

(b) CHILD CARE ASSISTANCE.—The Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) is amended by adding at the end the following:

"SEC. 658T. CHILD CARE ASSISTANCE FOR MILITARY DEPENDENTS.

"(a) IN GENERAL.—The Secretary shall make grants to eligible spouses to assist the spouses in paying for the cost of child care services provided to dependents by eligible child care providers. In making the grants, the Secretary shall give priority to eligible spouses of qualified members on active duty for a period of more than 6 months.

"(b) DEFINITIONS.—In this section:

"(1) ACTIVE DUTY.—The term 'active duty' means duty under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code.

"(2) ACTIVE DUTY FOR A PERIOD OF MORE THAN 30 DAYS.—The term 'active duty for a period of more than 30 days' has the meaning given the term in section 101(d)(2) of title 10, United States Code.

"(3) DEPENDENT.—The term 'dependent' means an individual who is—

"(A) a dependent, as defined in section 401 of title 37, United States Code, except that such term does not include a person described in paragraph (1) or (3) of subsection (a) of such section; and

"(B) an individual described in subparagraphs (A) and (B) of section 658P(4).

"(4) ELIGIBLE SPOUSE.—The term 'eligible spouse' means a person who—

"(A) is a parent of one or more dependents of a qualified member; and

"(B) has the primary responsibility for the care of one or more such dependents.

"(5) QUALIFIED MEMBER.—The term 'qualified member' means a member of the reserve components of the Armed Forces on active duty for a period of more than 30 days.

"(c) APPLICATIONS.—To be eligible to receive a grant under this section, a spouse shall submit an application to the Secretary, at such time, in such manner, and containing such information as the Secretary may require, including a description of the eligible child care provider who provides the child care services assisted through the grant.

"(d) RULE.—The provisions of this subchapter, other than section 658P and provisions referenced in section 658P, that apply to assistance provided under this subchapter shall not apply to assistance provided under this section.".

(c) CONFORMING AMENDMENTS.—Section 658O of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858m) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "appropriated under this subchapter" and inserting "appropriated under section 658B(a)"; and

(B) in paragraph (2), by striking "appropriated under section 658B" and inserting "appropriated under section 658(a)"; and

(2) in subsection (b)(1), by striking "appropriated under section 658B" and inserting "appropriated under section 658(a)".

SA 3196. Mr. DURBIN (for himself, Ms. MIKULSKI, Ms. LANDRIEU, Mrs. MURRAY, Mr. DAYTON, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . NONREDUCTION IN PAY WHILE FEDERAL EMPLOYEE IS PERFORMING ACTIVE SERVICE IN THE UNIFORMED SERVICES OR NATIONAL GUARD.

(a) SHORT TITLE.—This section may be cited as the "Reservists Pay Security Act of 2004".

(b) IN GENERAL.—Subchapter IV of chapter 55 of title 5, United States Code, is amended by adding at the end the following:

"§ 5538. Nonreduction in pay while serving in the uniformed services or National Guard

"(a) An employee who is absent from a position of employment with the Federal Government in order to perform active duty in the uniformed services pursuant to a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10 shall be entitled, while serving on active duty, to receive, for each pay period described in subsection (b), an amount equal to the amount by which—

"(1) the amount of basic pay which would otherwise have been payable to such employee for such pay period if such employee's civilian employment with the Government had not been interrupted by that service, exceeds (if at all)

"(2) the amount of pay and allowances which (as determined under subsection (d))—

"(A) is payable to such employee for that service; and

"(B) is allocable to such pay period.

"(b)(1) Amounts under this section shall be payable with respect to each pay period (which would otherwise apply if the employee's civilian employment had not been interrupted)—

"(A) during which such employee is entitled to reemployment rights under chapter 43 of title 38 with respect to the position from which such employee is absent (as referred to in subsection (a)); and

"(B) for which such employee does not otherwise receive basic pay (including by taking any annual, military, or other paid leave) to which such employee is entitled by virtue of such employee's civilian employment with the Government.

"(2) For purposes of this section, the period during which an employee is entitled to reemployment rights under chapter 43 of title 38—

"(A) shall be determined disregarding the provisions of section 4312(d) of title 38; and

"(B) shall include any period of time specified in section 4312(e) of title 38 within which an employee may report or apply for employment or reemployment following completion of service on active duty to which called or ordered as described in subsection (a).

"(c) Any amount payable under this section to an employee shall be paid—

"(1) by such employee's employing agency;

"(2) from the appropriation or fund which would be used to pay the employee if such employee were in a pay status; and

"(3) to the extent practicable, at the same time and in the same manner as would basic pay if such employee's civilian employment had not been interrupted.

"(d) The Office of Personnel Management shall, in consultation with Secretary of Defense, prescribe any regulations necessary to carry out the preceding provisions of this section.

"(e)(1) The head of each agency referred to in section 2302(a)(2)(C)(ii) shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of such agency.

"(2) The Administrator of the Federal Aviation Administration shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of that agency.

"(f) For purposes of this section—

"(1) the terms 'employee', 'Federal Government', and 'uniformed services' have the same respective meanings as given them in section 4303 of title 38;

"(2) the term 'employing agency', as used with respect to an employee entitled to any payments under this section, means the agency or other entity of the Government (including an agency referred to in section 2302(a)(2)(C)(ii)) with respect to which such employee has reemployment rights under chapter 43 of title 38; and

"(3) the term 'basic pay' includes any amount payable under section 5304.".

(c) CLERICAL AMENDMENT.—The table of sections for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5537 the following:

"5538. Nonreduction in pay while serving in the uniformed services or National Guard.".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to pay periods (as described in section 5538(b) of title 5, United States Code, as amended by this section) beginning on or after the date of enactment of this Act.

(2) CONDITIONAL RETROACTIVE APPLICATION.—

(A) IN GENERAL.—The amendments made by this section shall apply with respect to pay periods (as described in section 5538(b) of title 5, United States Code, as amended by this section) beginning on or after October 11, 2002 through the date of enactment of this Act, subject to the availability of appropriations.

(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $100,000,000 for purposes of subparagraph (A).

SA 3197. Mr. DAYTON (for himself and Mr. FEINGOLD) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 172, strike line 11 and all that follows through page 176, line 21.

SA 3198. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 269, line 20, strike "$150,000,000" and insert "$500,000,000".

SA 3199. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 195, between lines 10 and 11, insert the following:

SEC. 868. AVAILABILITY OF FEDERAL SUPPLY SCHEDULE SUPPLIES AND SERVICES TO UNITED SERVICE ORGANIZATIONS, INCORPORATED.

Section 220105(7) of title 36, United States Code, is amended by inserting before the semicolon at the end the following: ", including to acquire from the General Services Administration supplies and services on the Federal Supply Schedule of the General Services Administration as if the corporation were an executive agency of the United States".

SA 3200. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle F of title X, add the following:

SEC. 1055. ASSISTANCE TO FOREIGN MILITARY AND SECURITY FORCES FOR PEACEKEEPING AND PEACE ENFORCEMENT OPERATIONS.

(a) IN GENERAL.—Notwithstanding any other provision of law, within the limitation established in subsection (c), the Secretary of Defense may—

(1) with the concurrence of the Secretary of State, provide assistance in fiscal year 2005 to military or security forces of a country to enhance their capability to participate in an international peacekeeping or peace enforcement operation; or

(2) transfer funds to the Secretary of State for the purpose of providing such assistance.

(b) TYPES OF ASSISTANCE.—Assistance provided under subsection (a) may include equipment, supplies, services, training, and funding.

(c) LIMITATION.—The cost of assistance provided under subsection (a) may not exceed $100,000,000 in fiscal year 2005.

(d) CONSTRUCTION OF AUTHORITY.—The authority to provide assistance under subsection (a) is in addition to any other authority to provide assistance to foreign nations or forces under any other provision of law.

SA 3201. Mr. KENNEDY (for himself, Mrs. MURRAY, and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle F of title III, insert the following:

SEC. 353. EMERGENCY FUNDING FOR LOCAL EDUCATIONAL AGENCIES ENROLLING MILITARY DEPENDENT CHILDREN.

(a) SHORT TITLE.—This section may be cited as the "Help for Military Children Affected by War Act of 2004".

(b) GRANTS AUTHORIZED.—The Secretary of Defense is authorized to award grants, from distributions under subsection (e), to eligible local educational agencies for the additional education, counseling, and other needs of military dependent children who are affected by war or dramatic military decisions.

(c) DEFINITIONS.—In this section:

(1) ELIGIBLE LOCAL EDUCATIONAL AGENCY.—The term "eligible local educational agency" means a local educational agency that—

(A) had a number of military dependent children in average daily attendance in the schools served by the local educational agency during the school year preceding the school year for which the determination is made, that—

(i) equaled or exceeded 20 percent of the number of all children in average daily attendance in the schools served by such agency during the preceding school year; or

(ii) was 1,000 or more,

whichever is less; and

(B) is designated by the Secretary of Defense as impacted by—

(i) Operation Iraqi Freedom;

(ii) Operation Enduring Freedom;

(iii) high operations tempo;

(iv) military base realignment or closure; or

(v) privatization of military housing.

(2) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(3) MILITARY DEPENDENT CHILD.—The term "military dependent child" means a child described in subparagraph (B) or (D)(i) of section 8003(a)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(a)(1)).

(d) USE OF FUNDS.—Grant funds provided under this section shall be used for—

(1) tutoring, after-school, and dropout prevention activities for military dependent children with a parent who is or has been impacted by war-related action described in clause (i), (ii), or (iii) of subsection (c)(1)(B);

(2) professional development of teachers, principals, and counselors on the needs of military dependent children with a parent who is or has been impacted by war-related action described in clause (i), (ii), or (iii) of subsection (c)(1)(B);

(3) counseling and other comprehensive support services for military dependent children with a parent who is or has been impacted by war-related action described in clause (i), (ii), or (iii) of subsection (c)(1)(B), including the hiring of a military-school liaison; and

(4) other basic educational activities associated with an increase in military dependent children.

(e) DISTRIBUTIONS.—

(1) EMERGENCY ALLOCATION PETITION.—Notwithstanding any other provision of this subsection and from not more than 10 percent of funds appropriated under subsection (f)(1) for a fiscal year, the Secretary of Defense may allocate, on a pro rata basis, such funds to eligible local educational agencies that anticipate a rapid increase in military dependent children and petition the Secretary of Defense for an emergency allocation of such funds.

(2) PRO RATA DISTRIBUTION.—Each eligible local educational agency not receiving funds under paragraph (1) for a fiscal year shall receive a grant under this section for the fiscal year in an amount that bears the same relation to the funds appropriated under subsection (f)(1) and not allocated under paragraph (1) for the fiscal year that do not exceed $20,000,000 as the number of military dependent children who were in average daily

attendance in the schools served by such agency (as determined by the Secretary of Education) for the preceding or current school year, whichever is greater, bears to the total number of military dependent children who were in average daily attendance in the schools served by all eligible local educational agencies in the preceding school year (as so determined).

(3) HOLD HARMLESS.—The Secretary of Defense shall distribute funds appropriated under subsection (f)(1) and not allocated under paragraph (1) for a fiscal year that are in excess of $20,000,000 on a pro rata basis to each eligible local educational agency not receiving funds under paragraph (1) for the fiscal year that experiences (A) a decrease of 20 percent or more in the number of military dependent children who were in average daily attendance in the schools served by such agency, (B) a decrease of 20 percent or more in the amount of funds received under section 8003(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)), or (C) a decrease of 1,000 or more military dependent children who were in average daily attendance in the schools served by such agency, from the school year preceding the school year for which the determination is made to the school year for which the determination is made.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Department of Defense such sums as may be necessary to carry out this section for fiscal year 2005 and each of the 2 succeeding fiscal years.

(2) SPECIAL RULE.—Funds appropriated under paragraph (1) are in addition to any funds made available to local educational agencies under section 351 or 352 of this Act or section 8003 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703).

SA 3202. Mr. DASCHLE submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 131, between lines 17 and 18, insert the following:

SEC. 653. RELIEF FOR MOBILIZED MILITARY RESERVISTS FROM CERTAIN FEDERAL AGRICULTURAL LOAN OBLIGATIONS.

The Consolidated Farm and Rural Development Act is amended by inserting after section 331F (7 U.S.C. 1981f) the following:

"SEC. 332. RELIEF FOR MOBILIZED MILITARY RESERVISTS FROM CERTAIN AGRICULTURAL LOAN OBLIGATIONS.

"(a) DEFINITION OF MOBILIZED MILITARY RESERVIST.—In this section, the term 'mobilized military reservist' means an individual who—

"(1) is on active duty under section 688, 12301(a), 12301(g), 12302, 12304, 12306, or 12406, or chapter 15 of title 10, United States Code, or any other provision of law during a war or during a national emergency declared by the President or Congress, regardless of the location at which the active duty service is performed; or

"(2) in the case of a member of the National Guard, is on full-time National Guard duty (as defined in section 101(d)(5) of title 10, United States Code) under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 502(f) of title 32, United States Code, for purposes of responding to a national emergency declared by the President and supported by Federal funds.

"(b) FORGIVENESS OF INTEREST PAYMENTS DUE WHILE BORROWER IS A MOBILIZED MILITARY RESERVIST.—Any requirement that a borrower of a direct loan made under this title make any interest payment on the loan that would otherwise be required to be made while the borrower is a mobilized military reservist is rescinded.

"(c) DEFERRAL OF PRINCIPAL PAYMENTS DUE WHILE OR AFTER BORROWER IS A MOBILIZED MILITARY RESERVIST.—The due date of any payment of principal on a direct loan made to a borrower under this title that would otherwise be required to be made while or after the borrower is a mobilized military reservist is deferred for a period equal in length to the period for which the borrower is a mobilized military reservist.

"(d) NONACCRUAL OF INTEREST.—Interest on a direct loan made to a borrower described in this section shall not accrue during the period the borrower is a mobilized military reservist.

"(e) BORROWER NOT CONSIDERED TO BE DELINQUENT OR RECEIVING DEBT FORGIVENESS.—Notwithstanding section 373 or any other provision of this title, a borrower who receives assistance under this section shall not, as a result of the assistance, be considered to be delinquent or receiving debt forgiveness for purposes of receiving a direct or guaranteed loan under this title.".

SA 3203. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 247, between lines 13 and 14, insert the following:

SEC. 1022. PERIODIC DETAILED ACCOUNTING FOR OPERATIONS OF THE GLOBAL WAR ON TERRORISM.

(a) MONTHLY ACCOUNTING.—Not later than 30 days after the end of each month, the Secretary of Defense shall submit to the chairmen and ranking members of the Committees on Armed Services of the Senate and the House of Representatives and to all the members of the Committees on Appropriations of the Senate and the House of Representatives, for such month for each operation described in subsection (b), a full accounting of all costs incurred for such operation during such month and all amounts expended during such month for such operation, and the purposes for which such costs were incurred and such amounts were expended.

(b) OPERATIONS COVERED.—The operations referred to in subsection (a) are as follows:

(1) Operation Iraqi Freedom.

(2) Operation Enduring Freedom.

(3) All other operations relating to the Global War on Terrorism.

(c) REQUIREMENT FOR COMPREHENSIVENESS.—For the purpose of providing a full and complete accounting of the costs and expenditures under subsection (a) for operations described in subsection (b), the Secretary shall account in the monthly submission under subsection (a) for all costs and expenditures that are reasonably attributable to such operations, including personnel costs.

SA 3204. Mrs. CLINTON (for herself, Mr. LEAHY, and Mr. KENNEDY) submitted an amendment intended to be proposed by her to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 372, after line 17, insert the following:

SEC. 2844. PROHIBITION ON CLOSURE OF COMMISSARY STORES, MWR RETAIL FACILITIES, AND DEPENDENT ELEMENTARY AND SECONDARY SCHOOLS WITHOUT AUTHORIZATION OF CONGRESS.

(a) PROHIBITION.—Notwithstanding any other provision of law, the Secretary of Defense may not close any commissary store, MWR retail facility, or Department of Defense dependent elementary or secondary school without the specific authorization of Congress for such action by law.

(b) COMPTROLLER GENERAL REPORT.—Not later than 90 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the appropriate committees of Congress a report on the policy of the Department of Defense, and the criteria utilized by the Department, with respect to the closure of commissary stores, MWR retail facilities, and Department of Defense dependent elementary and secondary schools, including an assessment whether or not such policy and criteria are consistent with Department policies and procedures on the preservation of the quality of life of members of the Armed Forces.

(c) DEFINITIONS.—In this section:

(1) The term "appropriate committees of Congress" means—

(A) the Committee on Armed Services of the Senate; and

(B) the Committee on Armed Services of the House of Representatives.

(2) The term "MWR retail facility" means an exchange store or other revenue-generating facility operated by nonappropriated fund activities of the Department of Defense for the morale, welfare, and recreation of members of the Armed Forces.

SA 3205. Mr. WARNER (for himself and Mr. LEVIN) proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

On page 18, strike line 11, strike "**AUTHORIZATION OF APPROPRIATIONS FOR**".

On page 18, strike lines 15 through 24, and insert the following:

(a) AMOUNT.—Of the amount authorized to be appropriated for the Army for fiscal year

2005 for other procurement under section 101(5), $610,000,000 shall be available for both of the purposes described in subsection (b) and may be used for either or both of such purposes.

(b) PURPOSES.—The purposes referred to in subsection (a) are as follows:

On page 19, beginning on line 7, strike "authorized to be appropriated in" and insert "available under".

On page 19, line 17, strike "authorized to be appropriated" and insert "available under".

SA 3206. Mr. WARNER proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

On page 25, line 25, strike "$9,698,958,000" and insert "$9,686,958,000".

SA 3207. Mr. WARNER proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

On page 318, line 2, strike "$980,557,000" and insert "$1,062,463,000".

SA 3208. Mr. WARNER proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

On page 247, between lines 13 and 14, insert the following:

SEC. 1022. TECHNICAL CORRECTION TO REFERENCE TO CERTAIN ANNUAL REPORTS.

Section 2474(f)(2) of title 10, United States Code, is amended by striking "section 2466(e)" and inserting "section 2466(d)".

SA 3209. Mr. WARNER (for himself and Mr. LEVIN) proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

At the end of title VII, add the following:

SEC. . CONTINUATION OF SUB-ACUTE CARE FOR TRANSITION PERIOD.

Section 1074j(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) The Secretary of Defense may take such actions as are necessary to ensure that there is an effective transition in the furnishing of part-time or intermittent home health care benefits for covered beneficiaries who were receiving such benefits before the establishment of the program under this section. The actions taken under this paragraph may include the continuation of such benefits on an extended basis for such time as the Secretary determines appropriate.".

SA 3210. Mr. WARNER (for himself and Mr. LEVIN) proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

At the end of subtitle B of title VII, insert the following:

SEC. 717. TEMPORARY AUTHORITY FOR WAIVER OF COLLECTION OF PAYMENTS DUE FOR CHAMPUS BENEFITS RECEIVED BY DISABLED PERSONS UNAWARE OF LOSS OF CHAMPUS ELIGIBILITY.

(a) AUTHORITY TO WAIVE DEBT.—(1) The Secretary of Defense, in consultation with the other administering Secretaries, may waive (in whole or in part) the collection of payments otherwise due from a person described in subsection (b) for health benefits received by such person under section 1086 of title 10, United States Code, after the termination of that person's eligibility for such benefits.

(2) If the Secretary of Defense waives collection of payments from a person under paragraph (1), the Secretary may also authorize a continuation of benefits for such person under such section 1086 for a period ending not later than the end of the period specified in subsection (c) of this section.

(b) ELIGIBLE PERSONS.—A person is eligible for relief under subsection (a)(1) if—

(1) the person is described in paragraph (1) of subsection (d) of section 1086 of title 10, United States Code;

(2) except for such paragraph, the person would have been eligible for the health benefits under such section; and

(3) at the time of the receipt of such benefits—

(A) the person satisfied the criteria specified in paragraph (2)(B) of such subsection (d); and

(B) the person was unaware of the loss of eligibility to receive the health benefits.

(c) PERIOD OF APPLICABILITY.—The authority provided under this section to waive collection of payments and to continue benefits shall apply, under terms and conditions prescribed by the Secretary of Defense, to health benefits provided under section 1086 of title 10, United States Code, during the period beginning on July 1, 1999, and ending at the end of December 31, 2004.

(d) CONSULTATION WITH OTHER ADMINISTERING SECRETARIES.—(1) The Secretary of Defense shall consult with the other administering Secretaries in exercising the authority provided in this section.

(2) In this subsection, the term "administering Secretaries" has the meaning given such term in section 1072(3) of title 10, United States Code.

SA 3211. Mr. WARNER (for himself and Mr. ALLARD) proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

Strike section 3120 and insert the following:

SEC. 3120. LOCAL STAKEHOLDER ORGANIZATIONS FOR DEPARTMENT OF ENERGY ENVIRONMENTAL MANAGEMENT 2006 CLOSURE SITES.

(a) ESTABLISHMENT.—(1) The Secretary of Energy shall establish for each Department of Energy Environmental Management 2006 closure site a local stakeholder organization having the responsibilities set forth in subsection (c).

(2) The local stakeholder organization shall be established in consultation with interested elected officials of local governments in the vicinity of the closure site concerned.

(b) COMPOSITION.—A local stakeholder organization for a Department of Energy Environmental Management 2006 closure site under subsection (a) shall be composed of such elected officials of local governments in the vicinity of the closure site concerned as the Secretary considers appropriate to carry out the responsibilities set forth in subsection (c) who agree to serve on the organization, or the designees of such officials.

(c) RESPONSIBILITIES.—A local stakeholder organization for a Department of Energy Environmental Management 2006 closure site under subsection (a) shall—

(1) solicit and encourage public participation in appropriate activities relating to the closure and post-closure operations of the site;

(2) disseminate information on the closure and post-closure operations of the site to the State government of the State in which the site is located, local and Tribal governments in the vicinity of the site, and persons and entities having a stake in the closure or post-closure operations of the site;

(3) transmit to appropriate officers and employees of the Department of Energy questions and concerns of governments, persons, and entities referred to paragraph (2) on the closure and post-closure operations of the site; and

(4) perform such other duties as the Secretary and the local stakeholder organization jointly determine appropriate to assist the Secretary in meeting post-closure obligations of the Department at the site.

(d) DEADLINE FOR ESTABLISHMENT.—The local stakeholder organization for a Department of Energy Environmental Management 2006 closure site shall be established not later than six months before the closure of the site.

(e) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to local stakeholder organizations under this section.

(f) DEPARTMENT OF ENERGY ENVIRONMENTAL MANAGEMENT 2006 CLOSURE SITE DEFINED.—In this section, the term "Department of Energy Environmental Management 2006 closure site" means each clean up site of the Department of Energy scheduled by the Department as of January 1, 2004, for closure in 2006.

SA 3212. Mr. LEVIN (for Mr. BYRD) proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

On page 177, strike lines 14 through 24, and insert the following:

(b) Increase and Realignment of Workforce.—(1)(A) During fiscal years 2005, 2006, and 2007, the Secretary of Defense shall increase the number of persons employed in the defense acquisition and support workforce as follows:

(i) During fiscal year 2005, to 105 percent of the baseline number (as defined in subparagraph (B)).

(ii) During fiscal year 2006, to 110 percent of the baseline number.

(iii) During fiscal year 2007, to 115 percent of the baseline number.

(B) In this paragraph, the term "baseline number", with respect to persons employed in the defense acquisition and support workforce, means the number of persons employed in such workforce as of September 30, 2003 (determined on the basis of full-time employee equivalence).

(C) The Secretary of Defense may waive a requirement in subparagraph (A) and, subject to subsection (a), employ in the defense acquisition and support workforce a lesser number of employees if the Secretary determines and certifies to the congressional defense committees that the cost of increasing such workforce to the larger size as required under that subparagraph would exceed the savings to be derived from the additional oversight that would be achieved by having a defense acquisition and support workforce of such larger size.

(2) During fiscal years 2005, 2006, and 2007, the Secretary of Defense may realign any part of the defense acquisition and support workforce to support reinvestment in other, higher priority positions in such workforce.

SA 3213. Mr. LEVIN (for Mr. REED) proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

Strike section 1005, and insert the following:

SEC. 1005. UNIFORM FUNDING AND MANAGEMENT OF SERVICE ACADEMY ATHLETIC AND RECREATIONAL EXTRACURRICULAR PROGRAMS.

(a) United States Military Academy.—(1) Chapter 403 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4359. Athletic and recreational extracurricular programs: uniform funding

"The authority and conditions provided in section 2494 of this title shall also apply to any athletic or recreational extracurricular program of the Academy that—

"(1) is not considered a morale, welfare, or recreation program referred to in such section;

"(2) is funded out of appropriated funds;

"(3) is supported by a supplemental mission nonappropriated fund instrumentality; and

"(4) is not operated as a private organization.".

(2) The table of sections at the beginning of such title is amended by adding at the end the following new item:

"4359. Athletic and recreational extracurricular programs: uniform funding.".

(b) United States Naval Academy.—(1) Chapter 603 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 6978. Athletic and recreational extracurricular programs: uniform funding

"The authority and conditions provided in section 2494 of this title shall also apply to any athletic or recreational extracurricular program of the Naval Academy that—

"(1) is not considered a morale, welfare, or recreation program referred to in such section;

"(2) is funded out of appropriated funds;

"(3) is supported by a supplemental mission nonappropriated fund instrumentality; and

"(4) is not operated as a private organization.".

(2) The table of sections at the beginning of such title is amended by adding at the end the following new item:

"6978. Athletic and recreational extracurricular programs: uniform funding.".

(c) United States Air Force Academy.—(1) Chapter 903 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 9358. Athletic and recreational extracurricular programs: uniform funding

"The authority and conditions provided in section 2494 of this title shall also apply to any athletic or recreational extracurricular program of the Academy that—

"(1) is not considered a morale, welfare, or recreation program referred to in such section;

"(2) is funded out of appropriated funds;

"(3) is supported by a supplemental mission nonappropriated fund instrumentality; and

"(4) is not operated as a private organization.".

(2) The table of sections at the beginning of such title is amended by adding at the end the following new item:

"9358. Athletic and recreational extracurricular programs: uniform funding.".

(d) Effective Date and Applicability.—This section and the amendments made by this section shall take effect on October 1, 2004, and shall apply with respect to funds appropriated for fiscal years beginning on or after such date.

SA 3214. Mr. WARNER (for Mr. SESSIONS) proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

On page 365, between lines 18 and 19, insert the following:

SEC. 2830. LAND EXCHANGE, MAXWELL AIR FORCE BASE, ALABAMA.

(a) Conveyance Authorized.—The Secretary of the Air Force may convey to the City of Montgomery, Alabama (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 28 acres and including all of the Maxwell Heights Housing site and located at Maxwell Air Force Base, Alabama.

(b) Consideration.—(1) As consideration for the conveyance of property under subsection (a), the City shall convey to the United States all right, title, and interest of the City to a parcel of real property, including any improvements thereon, consisting of approximately 35 acres and designated as project AL 6-4, that is owned by the City and is contiguous to Maxwell Air Force Base, for the purpose of allowing the Secretary to incorporate such property into a project for the acquisition or improvement of military housing under subchapter IV of chapter 169 of title 10, United States Code. The Secretary shall have administrative jurisdiction over the real property received under this subsection.

(2) If the fair market value of the real property received under paragraph (1) is less than the fair market value of the real property conveyed under subsection (a) (as determined pursuant to an appraisal acceptable to the Secretary), the Secretary may require the City to provide, pursuant to negotiations between the Secretary and the City, in-kind consideration the value of which when added to the fair market value of the property conveyed under subsection (b) equals the fair market value of the property conveyed under subsection (a).

(c) Payment of Costs of Conveyance.—(1) The Secretary may require the City to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyances under subsections (a) and (b), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyances. If amounts are collected from the City in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the City.

(2) Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyances. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) Description of Property.—The exact acreage and legal description of the property to be conveyed under subsections (a) and (b) shall be determined by surveys satisfactory to the Secretary.

(e) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyances under subsections (a) and (b) as the Secretary considers appropriate to protect the interests of the United States.

SA 3215. Mr. LEVIN (for Mr. SARBANES (for himself and Ms. MIKULSKI)) proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

At the end of subtitle C of title XXVIII, add the following:

SEC. 2830. LAND EXCHANGE, NAVAL AIR STATION, PATUXENT RIVER, MARYLAND.

(a) Conveyance Authorized.—The Secretary of the Navy may convey to the State of Maryland (in this section referred to as "State"), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately five acres at Naval Air Station, Patuxent River, Maryland, and containing the Point Lookout Lighthouse, other structures related to the lighthouse, and an archaeological site pertaining to the military hospital that was located on the property during the Civil War. The conveyance shall include artifacts pertaining to the military hospital recovered by the Navy and held at the installation.

(b) Property Received in Exchange.—As consideration for the conveyance of the real property under subsection (a), the State shall convey to the United States a parcel of real property consisting of approximately five acres located in Point Lookout State Park, St. Mary's County, Maryland.

(c) Payment of Costs of Conveyance.—(1) The Secretary may require the State to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, relocation expenses incurred under subsection (b), and other administrative costs related to the conveyance. If amounts are collected from the State in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to State.

(2) Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) Description of Property.—The exact acreage and legal description of the properties to be conveyed under this section shall be determined by surveys satisfactory to the Secretary.

(e) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

SA 3216. Mr. FRIST (for Mr. DOMENICI) proposed an amendment to the bill S. 1848, to amend the Bend Pine Nursery Land Conveyance Act to direct the Secretary of Agriculture to sell the Bend Pine Nursery Administration Site in the State of Oregon; as follows:

On page 4, line 22, strike "1999" and insert "2004".

SA 3217. Mr. FRIST (for Mr. LEAHY) proposed an amendment to the bill H.R. 417, to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California; as follows:

At the end, add the following:

SEC. ___. GREEN MOUNTAIN NATIONAL FOREST EXPANSION.

(a) In General.—The boundaries of the Green Mountain National Forest are modified to include all parcels of land depicted on the forest maps entitled "Green Mountain Expansion Area Map I" and "Green Mountain Expansion Area Map II", each dated February 20, 2002, which shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Washington, District of Columbia.

(b) Management.—Federally owned land delineated on the maps acquired for National Forest purposes shall continue to be managed in accordance with the laws (including regulations) applicable to the National Forest System.

(c) Land and Water Conservation Fund.—For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–9), the boundaries of the Green Mountain National Forest, as adjusted by this Act, shall be considered to be the boundaries of the national forest as of January 1, 1965.

SA 3218. Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) proposed an amendment to the bill S. 882, to amend the Internal Revenue Code of 1986 to provide improvements in tax administration and taxpayer safe-guards, and for other purposes; as follows:

On page 186, between lines 6 and 7, insert the following:

(e) Director of Internal Revenue Service Oversight Board.—Subsection (e) of section 7802, as amended by subsection (d), is amended by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) Director.—The Chairperson of the Oversight Board shall, without regard to the provisions of title 5, United Stated Code, governing appointments in the competitive service, appoint a Director for the Oversight Board. The Director shall be paid at the same rate as the highest-rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code.".

On page 186, line 7, strike "(e)" and insert "(f)".

On page 201, strike lines 17 through 21, and insert the following:

(1) by striking "Annual" in the heading and inserting "Biennial",

(2) by inserting "every 2 years (beginning in 2004)" after "one of the semiannual reports" in the matter preceding subparagraph (A),

On page 206, lines 6 and 7, strike "**AND REFUND ANTICIPATION LOAN PROVIDERS**" and insert "**, REFUND ANTICIPATION LOAN PROVIDERS, AND PAYROLL AGENTS**".

On page 206, lines 12 and 13, strike "**AND REFUND ANTICIPATION LOAN PROVIDERS**" and insert "**, REFUND ANTICIPATION LOAN PROVIDERS, AND PAYROLL AGENTS**".

On page 206, lines 18 and 19, strike "and refund anticipation loan providers" and insert ", refund anticipation loan providers, and payroll agents".

On page 206, line 20, strike "and".

On page 207, line 2, strike the period and insert ", and".

On page 207, between lines 2 and 3, insert the following:

"(C) to require the posting of a reasonable bond by each registered payroll agent.

On page 208, lines 14 and 15, strike "or refund anticipation loan provider" and insert ", refund anticipation loan provider, or payroll agent".

On page 212, between lines 8 and 9, insert the following:

SEC. 142. JOINT TASK FORCE ON OFFERS-IN-COMPROMISE.

(a) In General.—The Secretary of the Treasury shall establish a joint task force—

(1) to review the Internal Revenue Service's determinations with respect to offers which raise equitable, public policy, or economic hardship grounds for compromise of a tax liability under section 7122 of the Internal Revenue Code of 1986,

(2) to review the extent to which the Internal Revenue Service has used its authority to resolve longstanding cases by forgoing penalties and interest which have accumulated as a result of delay in determining the taxpayer's liability,

(3) to provide recommendations as to whether the Internal Revenue Service's evaluation of offers-in-compromise should include—

(A) the taxpayer's compliance history,

(B) errors by the Internal Revenue Service with respect to the underlying tax,

(C) wrongful acts by a third party which gave rise to the liability, and

(D) whether the taxpayer has made payments on the liability, and

(4) to annually report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives (beginning in 2005) regarding such review and recommendations.

(b) Members of Joint Task Force.—The membership of the joint task force under subsection (a) shall consist of 1 representative each from the Department of the Treasury, the Internal Revenue Service Oversight Board, the Office of the Chief Counsel for the Internal Revenue Service, the Office of the Taxpayer Advocate, the Office of Appeals, and the division of the Internal Revenue Service charged with operating the offer-in-compromise program.

(c) Report of National Taxpayer Advocate.—

(1) In general.—Clause (i) of section 7803(c)(2)(B) (relating to annual reports), as amended by this Act, is amended by striking "and" at the end of subclause (X), by redesignating subclause (XI) as subclause (XII), and by inserting after subclause (X) the following new subclause:

"(XI) include a list of the factors taxpayers have raised to support their claims for offers-in compromise relief, the number of such offers submitted, accepted, and rejected, the number of such offers appealed, the period during which review of such offers have remained pending, and the efforts the Internal Revenue Service has made to correctly identify such offers, including the training of employees in identifying and evaluating such offers.".

(2) Effective date.—The amendment made by paragraph (1) shall apply to reports in calendar year 2005 and thereafter.

On page 215, after line 22, add the following:

SEC. 153. PUBLIC SUPPORT BY INDIAN TRIBAL GOVERNMENTS.

(a) In General.—Section 7871(a) (relating to Indian tribal governments treated as States for certain purposes) is amended by striking "and" at the end of subparagraph (C) of paragraph (6), by striking the period at the end of subparagraph (B) of paragraph (7) and inserting "; and", and by adding at the end the following new paragraph:

"(8) for purposes of—

"(A) determining support of an organization described in section 170(b)(1)(A)(vi), and

"(B) determining whether an organization is described in paragraph (1) or (2) of section 509(a) for purposes of section 509(a)(3).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to—

(1) support received before, on, or after the date of the enactment of this Act, and

(2) the determination of the status of any organization with respect to any taxable year beginning after such date of enactment.

SEC. 154. PAYROLL AGENTS SUBJECT TO PENALTY FOR FAILURE TO COLLECT AND PAY OVER TAX, OR ATTEMPT TO EVADE OR DEFEAT TAX.

(a) IN GENERAL.—Section 6672(a) is amended by inserting ", including any payroll agent," after "Any person".

(b) PENALTY NOT SUBJECT TO DISCHARGE IN BANKRUPTCY.—Section 6672(a) is amended by adding at the end the following new sentence: "Notwithstanding any other provision of law, no penalty imposed under this section may be discharged in bankruptcy.".

(c) CONSTRUCTION.—The amendment made by subsection (a) shall not be construed to create any inference with respect to the interpretation of section 6672 of the Internal Revenue Code of 1986 as such section was in effect on the day before the date of the enactment of this Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to failures occurring after the date of the enactment of this Act.

Beginning on page 224, line 14, strike all through page 225, line 8, and insert the following:

SEC. 206. FREEZE OF PROVISIONS REGARDING SUSPENSION OF INTEREST WHERE SECRETARY FAILS TO CONTACT TAXPAYER.

(a) IN GENERAL.—Section 6404(g) (relating to suspension of interest and certain penalties where Secretary fails to contact taxpayer) is amended by striking "1-year period (18-month period in the case of taxable years beginning before January 1, 2004)" both places it appears and inserting "18-month period".

(b) EXCEPTION FOR GROSS MISSTATEMENT.—Section 6404(g)(2) (relating to exceptions) is amended by striking "or" at the end of subparagraph (C), by redesignating subparagraph (D) as subparagraph (E), and by inserting after subparagraph (C) the following new subparagraph:

"(D) any interest, penalty, addition to tax, or additional amount with respect to any gross misstatement; or".

(c) EXCEPTION FOR REPORTABLE AND LISTED TRANSACTIONS.—Section 6404(g)(2) (relating to exceptions), as amended by subsection (b), is amended by striking "or" at the end of subparagraph (D), by redesignating subparagraph (E) as subparagraph (F), and by inserting after subparagraph (D) the following new subparagraph:

"(E) any interest, penalty, addition to tax, or additional amount with respect to any reportable transaction or listed transaction (as defined in 6707A(c)); or".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2003.

(2) EXCEPTION FOR REPORTABLE OR LISTED TRANSACTIONS.—The amendments made by subsection (c) shall apply with respect to interest accruing after May 5, 2004.

On page 232, line 15, insert "which is 60 days after the date" after "date".

On page 400, after line 16, add the following:

PART IV—OTHER REVENUE PROVISIONS

SEC. 641. REPORTING OF TAXABLE MERGERS AND ACQUISITIONS.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by inserting after section 6043 the following new section:

"SEC. 6043A. TAXABLE MERGERS AND ACQUISITIONS.

"(a) IN GENERAL.—The acquiring corporation in any taxable acquisition shall make a return (according to the forms or regulations prescribed by the Secretary) setting forth—

"(1) a description of the acquisition,

"(2) the name and address of each shareholder of the acquired corporation who is required to recognize gain (if any) as a result of the acquisition,

"(3) the amount of money and the fair market value of other property transferred to each such shareholder as part of such acquisition, and

"(4) such other information as the Secretary may prescribe.

To the extent provided by the Secretary, the requirements of this section applicable to the acquiring corporation shall be applicable to the acquired corporation and not to the acquiring corporation.

"(b) NOMINEE REPORTING.—Any person who holds stock as a nominee for another person shall furnish in the manner prescribed by the Secretary to such other person the information provided by the corporation under subsection (d).

"(c) TAXABLE ACQUISITION.—For purposes of this section, the term 'taxable acquisition' means any acquisition by a corporation of stock in or property of another corporation if any shareholder of the acquired corporation is required to recognize gain (if any) as a result of such acquisition.

"(d) STATEMENTS TO BE FURNISHED TO SHAREHOLDERS.—Every person required to make a return under subsection (a) shall furnish to each shareholder whose name is required to be set forth in such return a written statement showing—

"(1) the name, address, and phone number of the information contact of the person required to make such return,

"(2) the information required to be shown on such return with respect to such shareholder, and

"(3) such other information as the Secretary may prescribe.

The written statement required under the preceding sentence shall be furnished to the shareholder on or before January 31 of the year following the calendar year during which the taxable acquisition occurred.".

(b) ASSESSABLE PENALTIES.—

(1) Subparagraph (B) of section 6724(d)(1) (defining information return) is amended by redesignating clauses (ii) through (xviii) as clauses (iii) through (xix), respectively, and by inserting after clause (i) the following new clause:

"(ii) section 6043A(a) (relating to returns relating to taxable mergers and acquisitions),".

(2) Paragraph (2) of section 6724(d) (relating to definitions) is amended by redesignating subparagraphs (F) through (BB) as subparagraphs (G) through (CC), respectively, and by inserting after subparagraph (E) the following new subparagraph:

"(F) subsections (b) and (d) of section 6043A (relating to returns relating to taxable mergers and acquisitions),".

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6043 the following new item:

"Sec. 6043A. Returns relating to taxable mergers and acquisitions.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to acquisitions after the date of the enactment of this Act.

SEC. 642. MODIFICATION OF DEFINITION OF CONTROLLED GROUP OF CORPORATIONS.

(a) IN GENERAL.—Section 1563(a)(2) (relating to brother-sister controlled group) is amended by striking "possessing—" and all that follows through "(B)" and inserting "possessing".

(b) APPLICATION OF EXISTING RULES TO OTHER CODE PROVISIONS.—Section 1563(f) (relating to other definitions and rules) is amended by adding at the end the following new paragraph:

"(5) BROTHER-SISTER CONTROLLED GROUP DEFINITION FOR PROVISIONS OTHER THAN THIS PART.—

"(A) IN GENERAL.—Except as specifically provided in an applicable provision, subsection (a)(2) shall be applied to an applicable provision as if it read as follows:

"'(2) BROTHER-SISTER CONTROLLED GROUP.—Two or more corporations if 5 or fewer persons who are individuals, estates, or trusts own (within the meaning of subsection (d)(2) stock possessing—

"'(A) at least 80 percent of the total combined voting power of all classes of stock entitled to vote, or at least 80 percent of the total value of shares of all classes of stock, of each corporation, and

"'(B) more than 50 percent of the total combined voting power of all classes of stock entitled to vote or more than 50 percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.'

"(B) APPLICABLE PROVISION.—For purposes of this paragraph, an applicable provision is any provision of law (other than this part) which incorporates the definition of controlled group of corporations under subsection (a).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SA 3219. Mr. FRIST (for Mr. INHOFE) proposed an amendment to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; as follows:

On page 40, line 9, strike "$50,000,000" and insert "$60,000,000".

On page 83, line 10, strike "$50,000,000" and insert "$60,000,000".

On page 164, between lines 20 and 21, insert the following:

"(3) MITIGATION IN CLOSED BASINS.—

"(A) IN GENERAL.—A State may use amounts deposited in the State fund for projects to protect existing roadways from anticipated flooding of a closed basin lake, including—

"(i) construction—

"(I) necessary for the continuation of roadway services and the impoundment of water, as the State determines to be appropriate; or

"(II) for a grade raise to permanently restore a roadway the use of which is lost or reduced, or could be lost or reduced, as a result of an actual or predicted water level that is within 3 feet of causing inundation of the roadway in a closed lake basin;

"(ii) monitoring, studies, evaluations, design, or preliminary engineering relating to construction; and

"(iii) monitoring and evaluations relating to proposed construction.

"(B) Reimbursement.—The Secretary may permit a State that expends funds under subparagraph (A) to be reimbursed for the expenditures through the use of amounts made available under section 125(c)(1).

On page 407, strike lines 3 through 8 and insert the following:

Section 1214(d)(5)(A) of the Transportation Equity Act for the 21st Century (23 U.S.C. 202 note; 112 Stat. 206) is amended by striking

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SA 3220. Mr. LOTT (for himself, Mr. COCHRAN, Mr. CHAMBLISS, Ms. SNOWE, and Mr. DORGAN) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title XXVIII, add the following:

SEC. 2814. REPEAL OF AUTHORITY OF SECRETARY OF DEFENSE TO RECOMMEND THAT INSTALLATIONS BE PLACED IN INACTIVE STATUS DURING 2005 OF DEFENSE BASE CLOSURE AND REALIGNMENT.

Section 2914 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by striking subsection (c).

SA 3221. Mr. LOTT (for himself, Ms. SNOWE, Mr. COCHRAN, and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 280, after line 22, insert the following:

SEC. 1068. PRESERVATION OF SEARCH AND RESCUE CAPABILITIES OF THE FEDERAL GOVERNMENT.

The Secretary of Defense may not reduce or eliminate search and rescue capabilities at any military installation in the United States unless the Secretary first certifies to the Committees on Armed Services of the Senate and the House of Representatives that equivalent search and rescue capabilities will be provided, without interruption and consistent with the policies and objectives set forth in the United States National Search and Rescue Plan entered into force on January 1, 1999, by—

(1) the Department of Interior, the Department of Commerce, the Department of Homeland Security, the Department of Transportation, the Federal Communications Commission, or the National Aeronautics and Space Administration; or

(2) the Department of Defense, either directly or through a Department of Defense contract with an emergency medical service provider or other private entity to provide such capabilities.

SA 3222. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle F of title X, insert the following:

SEC. 1055. MILITARY EDUCATIONAL EXCHANGES WITH SENIOR OFFICERS AND OFFICIALS OF TAIWAN.

(a) Authority for Military Educational Exchanges With Senior Officers and Officials of Taiwan.—Chapter 41 of title 10, United States Code, is amended by inserting after section 712 the following new section:

"§ 712a. Military personnel exchanges: Taiwan

"(a) Requirement for Program.—The Secretary of Defense shall establish a program for exchange of senior defense personnel between the United States and the Republic of Taiwan.

"(b) Purpose.—The purpose of exchanges of personnel under the program is to improve the defenses of Taiwan against attack by the People's Liberation Army of the People's Republic of China.

"(c) Senior Defense Personnel.—The Department of Defense personnel authorized to participate in the exchange program under this section are as follows:

"(1) A general or flag officer of the armed forces.

"(2) A civilian official at the level of Deputy Assistant Secretary of Defense or above.

"(d) Activities.—(1) Activities under the exchange program shall include the following:

"(A) Threat analysis.

"(B) Military doctrine.

"(C) Force planning.

"(D) Logistical support.

"(E) Intelligence collection and analysis.

"(F) Operational tactics, techniques, and procedures.

"(G) Civil-military relations, including parliamentary relations.

"(2) In the planning and conduct of activities under subparagraphs (A) through (F) of paragraph (1), particular emphasis shall be placed on issues relating to the defense of Taiwan against submarine and missile attacks.

"(e) Locations.—Activities under the exchange program shall be carried out in the United States and in Taiwan.

"(f) Activity Defined.—In this section, the term 'activity' includes an exercise, an event, and an opportunity for observation.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by inserting before the item relating to section 713 the following new item:

"712a. Military personnel exchanges: Taiwan.".

SA 3223. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 130, between lines 9 and 10, insert the following:

SEC. 642. ELIGIBILITY FOR REDUCED NON-REGULAR SERVICE RETIRED PAY BEFORE AGE 60.

(a) Eligibility Beginning at Age 55.—Section 12731(a)(1) of title 10, United States Code, is amended by striking "60 years of age" and inserting "55 years of age".

(b) Reduced Retired Pay When Commenced Before Age 60.—Section 12739 of such title is amended—

(1) in subsection (a), by inserting ", subject to subsection (d)," after "this chapter is";

(2) by redesignating subsection (d) as subsection (e); and

(3) by inserting after subsection (c) the following new subsection (d):

"(d) In the case of a person to whom payment of retired pay under this chapter commences after the person attains 55 years of age and before the person attains 60 years of age, the total amount of the monthly retired pay computed under subsections (a), (b), and (c) shall be reduced by the percentage specified for the age of the person when payment of the retired pay commences, as follows:

"Age (in years) when payment of retired pay commences:	Percentage by which retired pay is to be reduced:
55	12.5
56	9.0
57	6.0
58	3.5
59	1.5.".

(c) Continuation of Age 60 as Minimum Age for Eligibility for Uniformed Services Health Benefits.—Section 1074(b) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following new paragraph:

"(2) Paragraph (1) does not apply to a member or former member entitled to retired pay for non-regular service under chapter 1223 of this title who is under 60 years of age.".

(d) Effective Date.—This section and the amendments made by this section shall take effect on the first day of the first month that begins more than 180 days after the date of the enactment of this Act.

SA 3224. Ms. COLLINS (for herself and Mr. LEVIN) submitted an amendment intended to be proposed by her to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 290, after line 22, insert the following:

SEC. 1107. BID PROTESTS BY FEDERAL EMPLOYEES IN ACTIONS UNDER OFFICE OF MANAGEMENT AND BUDGET CIRCULAR A–76.

(a) Eligibility To Protest.—(1) Section 3551(2) of title 31, United States Code, is amended to read as follows:

"(2) The term 'interested party'—

"(A) with respect to a contract or a solicitation or other request for offers described in paragraph (1), means an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract; and

"(B) with respect to a public-private competition conducted under Office of Management and Budget Circular A-76 regarding performance of an activity or function of a Federal agency, includes—

"(i) any official who submitted the agency tender in such competition; and

"(ii) any one person who, for the purpose of representing them in a protest under this subchapter that relates to such competition, has been designated as their agent by a majority of the employees of such Federal agency who are engaged in the performance of such activity or function.".

(2)(A) Subchapter V of chapter 35 of such title is amended by adding at the end the following new section:

"§ 3557. Expedited action in protests for public-private competitions

"For protests in cases of public-private competitions conducted under Office of Management and Budget Circular A-76 regarding performance of an activity or function of Federal agencies, the Comptroller General shall administer the provisions of this subchapter in a manner best suited for expediting final resolution of such protests and final action in such competitions.".

(B) The chapter analysis at the beginning of such chapter is amended by inserting after the item relating to section 3556 the following new item:

"3557. Expedited action in protests for public-private competitions.".

(b) RIGHT TO INTERVENE IN CIVIL ACTION.—Section 1491(b) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(5) If a private sector interested party commences an action described in paragraph (1) in the case of a public-private competition conducted under Office of Management and Budget Circular A-76 regarding performance of an activity or function of a Federal agency, then an official or person described in section 3551(2)(B) of title 31 shall be entitled to intervene in that action.".

(c) APPLICABILITY.—Subparagraph (B) of section 3551(2) of title 31, United States Code (as added by subsection (a)), and paragraph (5) of section 1491(b) of title 28, United States Code (as added by subsection (b)), shall apply to—

(1) protests and civil actions that challenge final selections of sources of performance of an activity or function of a Federal agency that are made pursuant to studies initiated under Office of Management and Budget Circular A-76 on or after January 1, 2004; and

(2) any other protests and civil actions that relate to public-private competitions initiated under Office of Management and Budget Circular A-76 on or after the date of the enactment of this Act.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Wednesday, May 19, 2004. The purpose of this meeting will be to mark up legislation to reauthorize child nutrition programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on May 19, 2004, at 8:30 a.m., in open session, to continue to receive testimony on allegations of mistreatment of Iraqi prisoners.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, May 19, 2004, at 10:00 a.m. to conduct a hearing on "Congressional Oversight of the IMF and World Bank."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, May 19, 2004, at 9:30 a.m. on from public service to private sector: Spinning the Revolving Door for Personal Gain.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATIONAL RESOURCES

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, May 19 at 11:30 a.m., to consider pending calendar business.

Agenda

Agenda Item 1: S. 155—A bill to convey to the town of Frannie, WY, certain land withdrawn by the Commissioner of Reclamation.

Agenda Item 2: S. 180—A bill to establish the National Aviation Heritage Area, and for other purposes.

Agenda Item 3: S. 203—A bill to open certain withdrawn land in Big Horn County, WY, to locatable mineral development and bentonite mining.

Agenda Item 4: S. 211—A bill to establish the Northern Rio Grande National Heritage Area in the State of New Mexico, and for other purposes.

Agenda Item 5: S. 323—A bill to establish the Atchafalaya National Heritage Area, LA.

Agenda Item 9: S. 1241—A bill to establish the Kate Mullany National Historic Site in the State of New York, and for other purposes.

Agenda Item 13: S. 1467—A bill to establish the Rio Grande Outstanding Natural Area in the State of Colorado, and for other purposes.

Agenda Item 14: S. 1521—A bill to direct the Secretary of the Interior to convey certain land to the Edward H. McDaniel American Legion Post 22 in Phrump, NV, for the construction of a post building and memorial park for use by the American Legion, other veterans' groups, and the local community.

Agenda Item 16: S. 1727—A bill to authorize additional appropriations for the Reclamation Safety of Dams Act of 1978.

Agenda Item 17: S. 2046—A bill to authorize the exchange of certain land in Everglades National Park.

Agenda Item 18: S. 2052—A bill to amend the National Trails System Act to designate El Camino Real de los Tejas as a National Historic Trail.

Agenda Item 20: S. 2180—A bill to direct the Secretary of Agriculture to exchange certain lands in the Arapaho and Roosevelt National Forests in the State of Colorado.

Agenda Item 21: S. 2319—A bill to authorize and facilitate hydroelectric power licensing of the Tapoco Project.

Agenda Item 23: H.R. 961—To promote Department of the Interior efforts to provide a scientific basis for the management of sediment and nutrient loss in the Upper Mississippi River Basin, and for other purposes.

Agenda Item 25: H.R. 1446—To support the efforts of the California Missions Foundation to restore and repair the Spanish colonial and mission-era missions in the State of California and to preserve the artworks and artifacts of these missions, and for other purposes.

Agenda Item 26: H.R. 1658—To amend the Railroad Right-of-Way Conveyance Validation Act to validate additional conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to facilitate the construction of the transcontinental railway, and for other purposes.

In addition, the committee may turn to any other measures that are ready for consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Wednesday, May 19, 2004, at 10 a.m., in 215 Dirksen Senate Office Building, to hear testimony on Oversight and Nomination Hearing: The Treasury Department and Terrorism Financing; and, to consider the nominations of John O. Colvin, to be Judge of the U.S. Tax Court; Juan C. Zarate, to be Assistant Secretary for Terrorism Finance, U.S. Department of the Treasury; and, Stuart Levey to the

Under Secretary for Enforcement, U.S. Department of the Treasury.

The PRESIDING OFFICER. Without objection, it so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, May 19, 2004 at 9:30 a.m. to hold a hearing on Iraq's Transition—The Way Ahead (Part II).

The PRESIDING OFFICER. Without objection, it so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, May 19, 2004, at 10 a.m. in Room 485 of the Russell Senate Office Building to conduct a business meeting on S.J. Res. 37, resolution to acknowledge a long history of official depredations and ill-conceived polices by the United States Government regarding Indian Tribes and offer an apology to all Native peoples on behalf of the United States, and S. 2277, a bill to amend the Act of November 2, 1966 (80 Stat. 1112) to allow binding arbitration clauses to be included in all contracts affecting the land within the Salt River Pima-Maricopa Indian Reservation; to be followed immediately by a hearing on S. 1696, a bill to amend the Indian Self-Determination and Education Assistance Act to provide further self government by Indian tribes.

The PRESIDING OFFICER. Without objection, it so ordered.

SPECIAL COMMITTEE ON AGING

Mr. GREGG. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet Wednesday, May 19, 2004 from 2:30 p.m.–5 p.m. in Dirksen 628 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER AND POWER

Mr. GREGG. Mr. President, I ask unanimous consent that the subcommittee on Water and Power of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, May 19th, at 2:30 p.m.

The purpose of the hearing is to receive testimony on S. 900, a bill to convey the Lower Yellowstone Irrigation Project, the savage unit of the Pick-Sloan Missouri Basin Program, and the Intake Irrigation Project to the pertinent irrigation districts; S. 1876, a bill to authorize the Secretary of the Interior to convey certain lands and facilities of the Provo River Project; S. 1957, a bill to authorize the Secretary of the Interior to cooperate with the States on the border with Mexico and other appropriate entities in conducting a hydrogeologic characterization, mapping, and modeling program for priority transboundary aquifers, and for other purposes; S. 2304 and H.R. 3209, bills to amend the Reclamation Project Authorization Act of 1972 to clarify the acreage for which the North Loup division is authorized to provide irrigation water under the Missouri River Basin Project; S. 2243, a bill to extend the deadline for commencement of construction of a hydroelectric project in the State of Alaska; H.R. 1648, a bill to authorize the Secretary of the Interior to convey certain water distribution systems of the Cachuma Project, California, to the Carpinteria Valley water district and the Montecito water district; and H.R. 1732, a bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Williamson County, TX, Water Recycling and Reuse Project, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. KENNEDY. Mr. President, I ask unanimous consent that Elizabeth Prescott, a fellow in my office, be granted the privilege of the floor during consideration of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that Bod Adebo of Senator BINGHAM's office be given the privilege of the floor during the pendency of S. 2400.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WYDEN. Mr. President, I ask unanimous consent that Matt Hiester, a legislative fellow in my office, be given floor privileges for the purpose of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SAFE, ACCOUNTABLE, FLEXIBLE, AND EFFICIENT TRANSPORTATION EQUITY ACT OF 2003

Mr. FRIST. Mr. President, I want to discuss with the Democratic leader an approach that might enable us to move forward to conference on S. 1072, the 6-year reauthorization of our Nation's surface transportation laws.

While I am proud of the bipartisan agreements reached by the bill's managers that got us to this point, much work still remains, and it is important that we start as soon as possible.

There are significant differences with the House bill, so this is likely going to be a challenging process. I want to make sure all Senators know it is unrealistic to expect the House will agree with all our provisions and that we will likely have to make significant changes to S. 1072. But as we make those changes, we should make them together.

The transportation bill we passed this year was a model of bipartisan cooperation that was marked by good faith on both sides. That is the essence of the agreement I am proposing, a commitment from both sides that they will work in good faith in conference to get the best possible result. I have spoken to Senator INHOFE, who will chair the conference. He has agreed he will not pursue a conclusion to the conference, nor sign any conference report that would alter the text of S. 1072 in a way that undermines the bipartisan working relationship that has existed in the Senate.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I thank the majority leader for his leadership. I have discussed this with my colleagues and can commit wholeheartedly to the good-faith process he has proposed. Our side understands that changes will have to be made, and we are not entering this process demanding a specific outcome on any provision. Instead, we are asking any changes to S. 1072 be the result of the mutual agreement of the lead Senate conferees acting in good faith.

By moving S. 1072 through the Senate, Senators INHOFE, BOND, JEFFORDS, and REID have already demonstrated they can make that process work. If the process should break down due to disagreements over either transportation policy or extraneous provisions, then we understand he and I will not bring such a conference report to the floor.

Mr. FRIST. That is correct, so long as the Democratic conferees are acting in good faith, and I have every expectation they will. Our goal is to reach a conference agreement that reflects the balance and broad bipartisan consensus S. 1072 achieves. That will be the test of good faith for both sides. I think we can do that, and we will not bring a bill to the Senate floor if it does not reflect that commitment.

Mr. DASCHLE. Mr. President, I thank the leader again for his leadership. He has agreement from our side, and we look forward to the successful conclusion of this important legislation.

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the House-passed highway bill, H.R. 3550; provided further that all after the enacting clause be stricken and the text of S. 1072, as passed, with the addition of the amendment which is at the desk, be inserted in lieu thereof; the bill then be read a third time and passed; further, the Senate then insist on its amendment, request a conference with the House, and the Chair then be authorized to appoint conferees on the part of the Senate with a ratio of 11 to 10.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3219) was agreed to, as follows:

AMENDMENT NO. 3219

On page 40, line 9, strike "$50,000,000" and insert "$60,000,000".

On page 83, line 10, strike "$50,000,000" and insert "$60,000,000".

On page 164, between lines 20 and 21, insert the following:

"(3) MITIGATION IN CLOSED BASINS.—

"(A) IN GENERAL.—A State may use amounts deposited in the State fund for projects to protect existing roadways from anticipated flooding of a closed basin lake, including—

"(i) construction—

"(I) necessary for the continuation of roadway services and the impoundment of water, as the State determines to be appropriate; or

"(II) for a grade raise to permanently restore a roadway the use of which is lost or reduced, or could be lost or reduced, as a result of an actual or predicted water level that is within 3 feet of causing inundation of the roadway in a closed lake basin;

"(ii) monitoring, studies, evaluations, design, or preliminary engineering relating to construction; and

"(iii) monitoring and evaluations relating to proposed construction.

"(B) REIMBURSEMENT.—The Secretary may permit a State that expends funds under subparagraph (A) to be reimbursed for the expenditures through the use of amounts made available under section 125(c)(1).

On page 407, strike lines 3 through 8 and insert the following:

Section 1214(d)(5)(A) of the Transportation Equity Act for the 21st Century (23 U.S.C. 202 note; 112 Stat. 206) is amended by striking

The bill (H.R. 3550), as amended, was read the third time and passed.

THE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Nos. 439 through 454, en bloc.

The PRESIDING OFFICER. Is there objection to consideration of the bills en bloc?

Without objection, it is so ordered.

Mr. FRIST. Mr. President, I ask unanimous consent that the amendments to S. 1848 and H.R. 417, which are at the desk, be agreed to; all committee amendments, where applicable, be agreed to; the bills, as amended, if amended, be read the third time and passed; the motions to reconsider be laid upon the table en bloc; the title amendment to S. 1167 be withdrawn; and that any statements relating to the bills be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

ALBUQUERQUE BIOLOGICAL PARK TITLE CLARIFICATION ACT

The Senate proceeded to consider the bill (S. 213) to amend the Indian Child Protection and Family Violence Prevention Act to provide for the reporting and reduction of child abuse and family violence incidences on Indian reservations, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment, as follows:

[Strike the part shown in black brackets and insert the part shown in italic.]

S. 213

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Albuquerque Biological Park Title Clarification Act".

[SEC. 2. FINDINGS AND PURPOSE.

[(a) FINDINGS.—The Congress finds that:

[(1) In 1997, the City of Albuquerque, New Mexico paid $3,875,000 to the Middle Rio Grande Conservancy District to acquire two parcels of land known as Tingley Beach and San Gabriel Park.

[(2) The City intends to develop and improve Tingley Beach and San Gabriel Park as part of its Albuquerque Biological Park Project.

[(3) In 2000, the United States claimed title to Tingley Beach and San Gabriel Park by asserting that these properties were transferred to the United States in the 1950's as part of the establishment of the Middle Rio Grande Project.

[(4) The City's ability to continue developing the Albuquerque Biological Park Project has been hindered by the United States claim of title to these properties.

[(5) The United States claim of ownership over the Middle Rio Grande Project properties is disputed by the City and MRGCD in Rio Grande Silvery Minnow v. John W. Keys, III, No. CV 99-1320 JP/RLP-ACE (D. N.M. filed Nov. 15, 1999).

[(6) Tingley Beach and San Gabriel Park are surplus to the needs of the Bureau of Reclamation and the United States in administering the Middle Rio Grande Project.

[(b) PURPOSE.—The purpose of this Act is to direct]

SEC. 2. PURPOSE.

The purpose of this Act is to direct the Secretary of the Interior to issue a quitclaim deed conveying any right, title, and interest the United States may have in and to Tingley Beach or San Gabriel Park to the City, thereby removing the cloud on the City's title to these lands.

SEC. 3. DEFINITIONS.

In this Act:

(1) CITY.—The term "City" means the City of Albuquerque, New Mexico.

(2) MIDDLE RIO GRANDE CONSERVANCY DISTRICT.—The terms "Middle Rio Grande Conservancy District" and "MRGCD" mean a political subdivision of the State of New Mexico, created in 1925 to provide and maintain flood protection and drainage, and maintenance of ditches, canals, and distribution systems for irrigation and water delivery and operations in the Middle Rio Grande Valley.

(3) MIDDLE RIO GRANDE PROJECT.—The term "Middle Rio Grande Project" means the works associated with water deliveries and operations in the Rio Grande basin as authorized by the Flood Control Act of 1948 (Public Law 80-858; 62 Stat. 1175) and the Flood Control Act of 1950 (Public Law 81-516; 64 Stat. 170).

(4) SAN GABRIEL PARK.—The term "San Gabriel Park" means the tract of land containing 40.2236 acres, more or less, situated within Section 12 and Section 13, T10N, R2E, N.M.P.M., City of Albuquerque, Bernalillo County, New Mexico, and described by New Mexico State Plane Grid Bearings (Central Zone) and ground distances in a Special Warranty Deed conveying the property from MRGCD to the City, dated November 25, 1997.

(5) TINGLEY BEACH.—The term "Tingley Beach" means the tract of land containing 25.2005 acres, more or less, situated within Section 13 and Section 24, T10N, R2E, N.M.P.M., City of Albuquerque, Bernalillo County, New Mexico, and described by New Mexico State Plane Grid Bearings (Central Zone) and ground distances in a Special Warranty Deed conveying the property from MRGCD to the City, dated November 25, 1997.

SEC. 4. CLARIFICATION OF PROPERTY INTEREST.

(a) REQUIRED ACTION.—The Secretary of the Interior shall issue a quitclaim deed conveying any right, title, and interest the United States may have in and to Tingley Beach and San Gabriel Park to the City.

(b) TIMING.—The Secretary shall carry out the action in subsection (a) as soon as practicable after the date of enactment of this title and in accordance with all applicable law.

(c) NO ADDITIONAL PAYMENT.—The City shall not be required to pay any additional costs to the United States for the value of San Gabriel Park and Tingley Beach.

SEC. 5. OTHER RIGHTS, TITLE, AND INTERESTS UNAFFECTED.

(a) IN GENERAL.—Except as expressly provided in section 4, nothing in this Act shall be construed to affect any right, title, or interest in and to any land associated with the Middle Rio Grande Project.

(b) ONGOING LITIGATION.—Nothing contained in this Act shall be construed or utilized to affect or otherwise interfere with any position set forth by any party in the lawsuit pending before the United States District Court for the District of New Mexico, No. CV 99-1320 JP/RLP-ACE, entitled Rio Grande Silvery Minnow v. John W. Keys, III, concerning the right, title, or interest in and to any property associated with the Middle Rio Grande Project.

The committee amendment was agreed to.

The bill (S. 213), as amended, was passed, as follows:

(The bill will be printed in a future edition of the RECORD.)

FORT DONELSON NATIONAL BATTTLEFIELD EXPANSION ACT OF 2003

The Senate proceeded to consider the bill (S. 524) to expand the boundaries of the Fort Donelson National Battlefield to authorize the acquisition and interpretation of lands associated with the campaign that resulted in the capture of the fort in 1862, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 524

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "Fort Donelson National Battlefield Expansion Act of 2003".

[SEC. 2. FORT DONELSON NATIONAL BATTLEFIELD.

[(a) DESIGNATION; PURPOSE.—There exists as a unit of the National Park System the Fort Donelson National Battlefield to commemorate—

[(1) the Battle of Fort Donelson in February 1862; and

[(2) the campaign conducted by General Ulysses S. Grant and Admiral Andrew H. Foote that resulted in the capture of Fort Donelson by Union forces.

[(b) BOUNDARIES.—The Fort Donelson National Battlefield shall consist of the site of Fort Donelson and associated land that has been acquired by the Secretary of the Interior for administration by the National Park Service, including Fort Donelson National Cemetery, in Stewart County, Tennessee and the site of Fort Heiman and associated land in Calloway County, Kentucky, as generally depicted on the map entitled "______" numbered ______, and dated ____. The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

[(c) EXPANSION OF BOUNDARIES.—The Fort Donelson National Battlefield shall also include any land acquired pursuant to section 3.

[SEC. 3 LAND ACQUISITION RELATED TO FORT DONELSON NATIONAL BATTLEFIELD.

[(a) ACQUISITION AUTHORITY.—Subject to subsections (b) and (c), the Secretary of the Interior may acquire land, interests in land, and improvements thereon for inclusion in the Fort Donelson National Battlefield. Such land, interests in land, and improvements may be acquired by the Secretary only by purchase from willing sellers with appropriated or donated funds, by donation, or by exchange with willing owners.

[(b) LAND ELIGIBLE FOR ACQUISITION.—The Secretary of the Interior may acquire land, interests in land, and improvements thereon under subsection (a)—

[(1) within the boundaries of the Fort Donelson National Battlefield described in section 2(b); and

[(2) outside such boundaries if the land has been identified by the American Battlefield Protection Program as part of the battlefield associated with Fort Donelson or if the Secretary otherwise determines that acquisition under subsection (a) will protect critical resources associated with the Battle of Fort Donelson in 1862 and the Union campaign that resulted in the capture of Fort Donelson.

[(c) BOUNDARY REVISION.—Upon acquisition of land or interests in land described in subsection (b)(2), the Secretary of the Interior shall revise the boundaries of the Fort Donelson National Battlefield to include the acquired property.

[(d) LIMITATION ON TOTAL ACREAGE OF PARK.—The total area encompassed by the Fort Donelson National Battlefield may not exceed 2,000 acres.

[SEC. 4. ADMINISTRATION OF FORT DONELSON NATIONAL BATTLEFIELD.

[The Secretary of the Interior shall administer the Fort Donelson National Battlefield in accordance with this Act and the laws generally applicable to units of the National Park System, including the Act of August 25, 1916 (commonly known as the National Park Service Organic Act; 16 U.S.C. 1 et seq.), and the Act of August 21, 1935 (commonly known as the Historic Sites, Buildings, and Antiquities Act; 16 U.S.C. 461 et seq.).

[SEC. 5. RELATION TO LAND BETWEEN THE LAKES NATIONAL RECREATION AREA.

[The Secretary of Agriculture and the Secretary of the Interior shall enter into a memorandum of understanding to facilitate cooperatively protecting and interpreting the remaining vestige of Fort Henry and other remaining Civil War resources in the Land Between the Lakes National Recreation Area affiliated with the Fort Donelson campaign.

[SEC. 6. REPEAL OF OBSOLETE PROVISIONS AND CONFORMING AMENDMENTS.

[(a) REPEALS.—

[(1) 1928 LAW.—The first section and sections 2 through 7 of the Act of March 26, 1928 (16 U.S.C. 428a–428f), are repealed.

[(2) 1937 LAW.—Section 3 of the Act of August 30, 1937 (16 U.S.C. 428d–3), is repealed.

[(3) 1960 LAW.—Sections 4 and 5 of Public Law 86–738 (16 U.S.C. 428n, 428o) are repealed.

[(b) CONFORMING AMENDMENTS.—

[(1) 1928 LAW.—The Act of March 26, 1928, is amended—

[(A) in section 8 (16 U.S.C. 428g), by striking "Secretary of War" and inserting "Secretary of the Interior";

[(B) in section 9 (16 U.S.C. 428h)—

[(i) by striking "Fort Donelson National Park" and inserting "Fort Donelson National Battlefield"; and

[(ii) by striking "Secretary of War" and inserting "Secretary of the Interior"; and

[(C) in section 10 (16 U.S.C. 428i), by striking "Secretary of War" and inserting "Secretary of the Interior".

[(2) 1937 LAW.—The Act of August 30, 1937, is amended—

[(A) in the first section (16 U.S.C. 428d–1)—

[(i) by striking "Fort Donelson National Military Park" and inserting "Fort Donelson National Battlefield"; and

[(ii) by striking "War Department" and inserting "Department of the Army"; and

[(B) in section 2 (16 U.S.C. 428d–2)—

[(i) by striking "Fort Donelson National Military Park" and inserting "Fort Donelson National Battlefield";

[(ii) by striking "said national military park" and inserting "Fort Donelson National Battlefield"; and

[(iii) by striking the last sentence.

[(3) 1960 LAW.—The first section of Public Law 86–738 (16 U.S.C. 428k) is amended—

[(A) by striking "Fort Donelson National Military Park" and inserting "Fort Donelson National Battlefield"; and

[(B) by striking ", but the total area commemorating the battle of Fort Donelson shall not exceed 600 acres".]

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fort Donelson National Battlefield Expansion Act of 2004".

SEC. 2. FORT DONELSON NATIONAL BATTLEFIELD.

(a) DESIGNATION; PURPOSE.—There exists as a unit of the National Park System the Fort Donelson National Battlefield to commemorate—

(1) the Battle of Fort Donelson in February 1862; and

(2) the campaign conducted by General Ulysses S. Grant and Admiral Andrew H. Foote that resulted in the capture of Fort Donelson by Union forces.

(b) BOUNDARIES.—The boundary of the Fort Donelson National Battlefield is revised to include the site of Fort Donelson and associated land that has been acquired by the Secretary of the Interior for administration by the National Park Service, including Fort Donelson National Cemetery, in Stewart County, Tennessee and the site of Fort Heiman and associated land in Calloway County, Kentucky, as generally depicted on the map entitled "Fort Donelson National Battlefield Boundary Adjustment" numbered 328/80024, and dated September 2003. The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(c) EXPANSION OF BOUNDARIES.—The Fort Donelson National Battlefield shall also include any land acquired pursuant to section 3.

SEC. 3. LAND ACQUISITION RELATED TO FORT DONELSON NATIONAL BATTLEFIELD.

(a) ACQUISITION AUTHORITY.—Subject to subsections (b) and (c), the Secretary of the Interior may acquire land, interests in land, and improvements thereon for inclusion in the Fort Donelson National Battlefield. Such land, interests in land, and improvements may be acquired by the Secretary only by purchase from willing sellers with appropriated or donated funds, by donation, or by exchange with willing owners.

(b) LAND ELIGIBLE FOR ACQUISITION.—The Secretary of the Interior may acquire land, interests in land, and improvements thereon under subsection (a)—

(1) within the boundaries of the Fort Donelson National Battlefield described in section 2(b); and

(2) outside such boundaries if the land has been identified by the American Battlefield Protection Program as part of the battlefield associated with Fort Donelson or if the Secretary otherwise determines that acquisition under subsection (a) will protect critical resources associated with the Battle of Fort Donelson in 1862 and the Union campaign that resulted in the capture of Fort Donelson.

(c) BOUNDARY REVISION.—Upon acquisition of land or interests in land described in subsection (b)(2), the Secretary of the Interior shall revise the boundaries of the Fort Donelson National Battlefield to include the acquired property.

(d) LIMITATION ON TOTAL ACREAGE OF PARK.—The total area encompassed by the Fort Donelson National Battlefield may not exceed 2,000 acres.

SEC. 4. ADMINISTRATION OF FORT DONELSON NATIONAL BATTLEFIELD.

The Secretary of the Interior shall administer the Fort Donelson National Battlefield in accordance with this Act and the laws generally applicable to units of the National Park System, including the Act of August 25, 1916 (commonly known as the National Park Service Organic Act; 16 U.S.C. 1 et seq.), and the Act of August 21, 1935 (commonly known as the Historic Sites, Buildings, and Antiquities Act; 16 U.S.C. 461 et seq.).

SEC. 5. RELATION TO LAND BETWEEN THE LAKES NATIONAL RECREATION AREA.

The Secretary of Agriculture and the Secretary of the Interior shall enter into a memorandum of understanding to facilitate cooperatively protecting and interpreting the remaining vestige of Fort Henry and other remaining Civil War resources in the Land Between the Lakes National Recreation Area affiliated with the Fort Donelson campaign.

SEC. 6. CONFORMING AMENDMENT.

The first section of Public Law 86–738 (16 U.S.C. 428k) is amended by striking "Tennessee" and all that follows through the period at the end and inserting "Tennessee.".

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 524), as amended, was passed.

CITY OF CHEYENNE, WYOMING KENDRICK WATER STORAGE PROJECT

The Senate proceeded to consider the bill (S. 943) to authorize the Secretary of the Interior to enter into one or more contracts with the city of Cheyenne, Wyoming, for the storage of water in the Kendrick Project, Wyoming, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 943

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. WATER STORAGE CONTRACTS.

[(a) DEFINITIONS.—In this Act:

[(1) CITY.—The term "city" means—

[(A) the city of Cheyenne, Wyoming;

[(B) the Board of Public Utilities of the city; and

[(C) any agency, public utility, or enterprise of the city.

[(2) KENDRICK PROJECT.—

[(A) IN GENERAL.—The term "Kendrick Project" means the Bureau of Reclamation project on the North Platte River in the State constructed for irrigation and the generation of electric power.

[(B) INCLUSIONS.—The term "Kendrick Project" includes—

[(i) the Seminoe dam, reservoir, and powerplant; and

[(ii) the Alcova dam and powerplant.

[(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Commissioner of Reclamation.

[(4) STATE.—The term "State" means the State of Wyoming.

[(b) CONTRACTS.—

[(1) IN GENERAL.—The Secretary may enter into 1 or more contracts with the city for the annual storage in Seminoe dam and reservoir of the Kendrick Project of water for municipal and industrial uses.

[(2) TERM; RENEWAL.—A contract under paragraph (1)—

[(A) shall have a term of not more than 40 years; and

[(B) may be renewed, subject to any terms agreed to by the Secretary and the city, for additional 40-year terms.

[(3) DISPOSITION OF PROCEEDS.—

[(A) IN GENERAL.—Except as provided in subparagraph (B), any proceeds received under a contract under paragraph (1) shall—

[(i) be deposited in the reclamation fund established under the first section of the Act of June 17, 1902 (43 U.S.C. 391); and

[(ii) be available for the Kendrick Project.

[(B) OPERATION AND MAINTENANCE.—Any amounts collected as payments for the operation and maintenance charges of the Kendrick Project under the contract under paragraph (1) shall be credited against applicable operation and maintenance costs of the Kendrick Project.

[(4) EFFECT.—A contract under paragraph (1) shall not affect Kendrick Project contractors or any other existing reclamation contractors on the North Platte River system.]

SECTION 1. WATER STORAGE CONTRACTS.

(a) DEFINITIONS.—In this Act:

(1) CITY.—The term "city" means—

(A) the city of Cheyenne, Wyoming;

(B) the Board of Public Utilities of the city; and

(C) any agency, public utility, or enterprise of the city.

(2) KENDRICK PROJECT.—The term "Kendrick Project" means the Bureau of Reclamation project on the North Platte River that was authorized by a finding of feasibility approved by the President on August 30, 1935, and constructed for irrigation and electric power generation, the major features of which include—

(A) Seminoe Dam, Reservoir, and Powerplant; and

(B) Alcova Dam and Powerplant.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Commissioner of Reclamation.

(4) STATE.—The term "State" means the State of Wyoming.

(b) CONTRACTS.—

(1) IN GENERAL.—The Secretary may enter into 1 or more contracts with the city for annual storage of the city's water for municipal and industrial use in Seminoe Dam and Reservoir of the Kendrick Project.

(2) CONDITIONS.—

(A) TERM; RENEWAL.—A contract under paragraph (1) shall—

(i) have a term of not more than 40 years; and

(ii) may be renewed on terms agreeable to the Secretary and the city, for successive terms of not more than 40 years per term.

(B) REVENUES.—Notwithstanding the Act of May 9, 1938 (52 Stat. 322, chapter 187; 43 U.S.C. 392a)—

(i) any operation and maintenance charges received under a contract executed under paragraph (1) shall be credited against applicable operation and maintenance costs of the Kendrick Project; and

(ii) any other revenues received under a contract executed under paragraph (1) shall be credited to the Reclamation Fund as a credit to the construction costs of the Kendrick Project.

(C) EFFECT ON EXISTING CONTRACTORS.—A contract under paragraph (1) shall not adversely affect the Kendrick Project, any existing Kendrick Project contractor, or any existing Reclamation contractor on the North Platte River System.

Amend the title so as to read: "A bill to authorize the Secretary of the Interior to contract with the city of Cheyenne, Wyoming, for the storage of the city's water in the Kendrick Project, Wyoming.".

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 943), as amended, was passed.

HAWAII WATER RESOURCES ACT OF 2004

The Senate proceeded to consider the bill (S. 960) to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize certain projects in the State of Hawaii and to amend the Hawaii Water Resources Act of 2000 to modify the water resources study, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 960

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hawaii Water Resources Act of [2003] *2004*".

SEC. 2. HAWAII RECLAMATION PROJECTS.

(a) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.) is amended by adding at the end the following:

"SEC. [1636] *1637*. HAWAII RECLAMATION PROJECTS.

"(a) AUTHORIZATION.—The Secretary may—

"(1) in cooperation with the Board of Water Supply, City and County of Honolulu, Hawaii, participate in the design, planning, and construction of a project in Kalaeloa, Hawaii, to desalinate and distribute seawater for direct potable use within the service area of the Board;

"(2) in cooperation with the County of Hawaii Department of Environmental Management, Hawaii, participate in the design, planning, and construction of facilities in Kealakehe, Hawaii, for the treatment and distribution of recycled water and for environmental purposes within the County; and

"(3) in cooperation with the County of Maui Wastewater Reclamation Division, Hawaii, participate in the design, planning, and construction of, and acquire land for, facilities in Lahaina, Hawaii, for the distribution of recycled water from the Lahaina Wastewater Reclamation Facility for non-potable uses within the County.

"(b) COST SHARE.—The Federal share of the cost of a project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

"(c) LIMITATION.—Funds provided by the Secretary shall not be used for the operation and maintenance of a project described in subsection (a).

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.".

(b) CONFORMING AMENDMENT.—The table of sections in section 2 of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. prec. 371) [is amended by inserting after the item relating to section 1634 the following:

["Sec. 1636. Hawaii reclamation projects.".

[SEC. 3. HAWAII WATER RESOURCES STUDY.

[The Hawaii Water Resources Act of 2000 is amended—

[(1) in section 103(e) (114 Stat. 2819), by striking "$300,000" and inserting "$2,000,000"; and

[(2) in section 104(b) (114 Stat. 2819), by striking "cost-effective," and all that follows through the period at the end and inserting "cost-effective.".]

is amended by inserting after the item relating to section 1636 the following:

"Sec. 1637. Hawaii reclamation projects.".

The committee amendments were agreed to.

The bill (S. 960), as amended, was passed, as follows:

(The bill will be printed in a future edition of the RECORD.)

RECREATIONAL FEE AUTHORITY ACT OF 2004

The Senate proceeded to consider the bill (S. 1107) to enhance the Recreational Fee Demonstration Program for the National Park Service, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

[Strike in parts shown in black brackets and insert the parts shown in italic.]

S. 1107

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Recreational Fee Authority Act of [2003] *2004*".

SEC. 2. RECREATION FEE AUTHORITY.

(a) In General.—Beginning [in Fiscal Year 2004 and thereafter,] *on January 1, 2006*, the Secretary of the Interior ("Secretary") may establish, modify, charge, and collect fees for admission to a unit of the National Park System and the use of National Park Service ("Service") administered areas, lands, sites, facilities, and services (including reservations) by individuals and/or groups. Fees shall be based on an analysis by the Secretary of—

(1) the benefits and services provided to the visitor;

(2) the cumulative effect of fees;

(3) the comparable fees charged elsewhere and by other public agencies and by nearby private sector operators;

(4) the direct and indirect cost and benefit to the government;

(5) public policy or management objectives served;

(6) economic and administrative feasibility of fee collection; and

(7) other factors or criteria determined by the Secretary.

(b) Number of Fees.—The Secretary shall establish the minimum number of fees and shall avoid the collection of multiple or layered fees for a wide variety of uses, activities or programs.

(c) Analysis.—The results of the analysis together with the Secretary's determination of appropriate fee levels shall be transmitted to the Congress at least three months prior to publication of such fees in the Federal Register. New fees and any increases or decreases in established fees shall be published in the Federal Register and no new fee or change in the amount of fees shall take place until at least 12 months after the date the notice is published in the Federal Register.

(d) Additional Authorities.—Beginning on [October 1, 2003] *January 1, 2006*, the Secretary may enter into agreements, including contracts to provide reasonable commissions or reimbursements with any public or private entity for visitor reservation services, fee collection and/or processing services.

(e) Administration.—The Secretary may provide discounted or free admission days or use, may modify the National Park Passport, established pursuant to Public Law 105–391, and shall provide information to the public about the various fee programs and the costs and benefits of each program.

(f) State Agency Admission and Special Use Passes.—Effective [October 1, 2003] *January 1, 2006*, and notwithstanding the Federal Grants Cooperative Agreements Act, the Secretary may enter into revenue sharing agreements with State agencies to accept their annual passes and convey the same privileges, terms and conditions as offered under the auspices of the National Park Passport, to State agency annual passes and shall only be accepted for all of the units of the National Park System within the boundaries of the State in which the specific revenue sharing agreement is entered into except where the Secretary has established a fee that includes a unit or units located in more than one State.

SEC. 3. DISTRIBUTION OF RECEIPTS.

Without further appropriation, all receipts collected pursuant to the Act or from sales of the National Park Passport shall be retained by the Secretary and may be expended as follows:

(1) 80 percent of amounts collected at a specific area, site, or project as determined by the Secretary, shall remain available for use at the specific area, site or project, except for those units of the National Park System that participate in an active revenue sharing agreement with a State under Section 2(f) of this Act, not less than 90 percent of amounts collected at a specific area, site, or project shall remain available for use.

(2) The balance of the amounts collected shall remain available for use by the Service on a Service-wide basis as determined by the Secretary.

(3) Monies generated as a result of revenue sharing agreements established pursuant to Section 2(f) may provide for a fee-sharing arrangement. The Service shares of fees shall be distributed equally to all units of the National Park System in the specific States that are parties to the revenue sharing agreement.

(4) Not less than 50 percent of the amounts collected from the sale of the National Park Passport shall remain available for use at the specific area, site, or project at which the fees were collected and the balance of the receipts shall be distributed in accordance with paragraph 2 of this Section.

SEC. 4. EXPENDITURES.

(a) Use of Fees at Specific Area, Site, or Project.—Amounts available for expenditure at a specific area, site or project shall be accounted for separately and may be used for—

(1) repair, maintenance, facility enhancement, media services and infrastructure including projects and expenses relating to visitor enjoyment, visitor access, environmental compliance, and health and safety;

(2) interpretation, visitor information, visitor service, visitor needs assessments, monitoring, and signs;

(3) habitat enhancement, resource assessment, preservation, protection, and restoration related to recreation use; and

(4) law enforcement relating to public use and recreation.

(b) The Secretary may use not more than fifteen percent of total revenues to administer the recreation fee program including direct operating or capital costs, cost of fee collection, notification of fee requirements, direct infrastructure, fee program management costs, bonding of volunteers, start-up costs, and analysis and reporting on program accomplishments and effects.

SEC. 5. REPORTS.

On January 1, [2006,] *2009*, and every three years thereafter the Secretary shall submit to the Congress a report detailing the status of the Recreation Fee Program conducted in units of the National Park System including an evaluation of the Recreation Fee Program conducted at each unit of the National Park System; a description of projects that were funded, work accomplished, and future projects and programs for funding with fees, and any recommendations for changes in the overall fee system.

The committee amendments were agreed to.

The bill (S. 1107), as amended, was passed, as follows:

(The bill will be printed in a future edition of the Record.)

BOUNDARY CONFLICTS IN BARRY AND STONE COUNTIES, MISSOURI

The Senate proceeded to consider the bill (S. 1167) to resolve the boundary conflicts in Barry and Stone Counties in the State of Missouri, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 1167

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. FINDINGS AND PURPOSE.

[(a) Findings.—The Congress finds and declares that—

[(1) certain landowners in Barry and Stone Counties, Missouri, have innocently and in good faith relied on subsequent land surveys, which they believed to have been correct, and have occupied, improved, or claimed portions of adjoining Federal lands based on such survey information; and

[(2) the appropriate Federal agencies should undertake actions to reestablish the corners of the Public Land Survey system, and to rectify boundary conflicts and landownership claims against Federal lands resulting from subsequent Federal and private land surveys, and do so in a manner which imposes the least cost and inconvenience to affected private landowners.

[(b) Purposes.—Within Barry and Stone Counties, Missouri, the purposes of this Act are—

[(1) to resolve any boundary disputes arising from these subsequent land surveys; and

[(2) to minimize costs and inconvenience to the affected private property owners in Barry and Stone County, Missouri.

[SEC. 2. DEFINITIONS.

[For the purposes of this Act, the term—

[(1) "appropriate Secretary" means either the Secretary of the Army or the Secretary of Agriculture;

[(2) "boundary conflict" means the situation where the private claim of ownership for non-Federal lands, based on subsequent land surveys, overlaps or conflicts with Federal ownership;

[(3) "Bureau of Land Management" means the agency of that name within the United States Department of the Interior, the successor agency to the United States General Land Office.

[(4) "Corps of Engineers" means the U.S. Army Corps of Engineers;

[(5) "Federal land surveys" means any land survey made by an agency or department of the Federal Government with Federal employees, or by Federal contract with State licensed private land surveyors or corporations and businesses licensed to provide professional land surveying services in the State of Missouri;

[(6) "Forest Service" means the Forest Service, an agency of the U.S. Department of Agriculture;

[(7) "National Forest System lands" means Federal lands within the National Forest System as such System is defined by section 10(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended (16 U.S.C. 1609(a));

[(8) "original land surveys" means the land surveys made by the General Land Office as part of the United States Public Land

Survey System in the State of Missouri, and upon which the Government land patents were issued conveying the land from the Federal Government into private ownership;

[(9) "United States Public Land Survey System" means the rectangular system of original Government lands survey made by the United States General Land Office and its successor, the Bureau of Land Management, under Federal laws providing for the survey of the public lands upon which the original land patents were issued;

[(10) "qualifying claimant" means a private owner of real property in Barry and Stone Counties, Missouri, who has boundary conflict as a result of good faith and innocent reliance on subsequent land surveys, and as a result of such reliance, has occupied, improved, or made ownership claims to Federal lands, and who files a claim for relief under this Act within the time period prescribed in section 4(b); and

[(11) "subsequent land surveys" mean any land surveys made after the original land surveys.

[SEC. 3. RESOLUTION OF BOUNDARY CONFLICTS.

[(a) AUTHORITIES.—Notwithstanding any other provision of law, including the Federal Property Administration Services Act of 1949, and without requirements for further administrative or environmental analyses or examination, the appropriate Secretary is authorized discretion to take any of the following actions, or combinations of actions, in order to resolve boundary conflicts with qualifying claimants on lands under their respective administrative jurisdiction—

[(1) to convey and quitclaim all right, title, and interest of the United States in land for which there is a boundary conflict; or

[(2) to confirm Federal title to and retain in Federal management any land for which there is a boundary conflict where there are Federal interests which may include improvements, authorized uses, easements, hazardous materials, historical and cultural resources; and

[(3) to compensate the qualifying claimant for the value of the overlapping property for which title is confirmed and retained in Federal management pursuant to paragraph (2) of this subsection.

[(b) CONSIDERATION AND COSTS.—The Appropriate Secretary shall—

[(1) waive consideration for the value of the Federal land conveyed and quitclaimed pursuant to subsection (a)(1) upon a finding that the boundary conflict was the result of the innocent detrimental reliance by the qualifying claimant on a subsequent land survey;

[(2) pay administrative, personnel and any other costs associated with the implementation of this Act, including the costs of survey, marking and monumenting property lines and corners; and

[(3) reimburse the qualifying claimant for reasonable out-of-pocket survey costs necessary to establish a claim under this Act.

[(c) VALUATION.—Compensation paid to qualifying claimants for land retained in Federal ownership pursuant to subsection (a)(2) shall be valued on the basis of the contributory value of the tract of land to the larger adjoining private parcel and not on the basis of the land being a separate tract, and shall not include the value of Federal improvements to the land.

[(d) PREEXISTING CONDITION.—

[(1) The United States shall not compensate a qualifying claimant or any other person for any preexisting condition or reduction in value of any land which is the subject of a boundary conflict because of any existing or outstanding permits, use authorizations, reservations, timber removal, or other land use or condition.

[(2) The requirements of section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9620(h)) shall not apply to conveyances or transfers of jurisdiction under this Act, but the United States shall continue to be liable for the cleanup costs of any hazardous substances on the lands so conveyed or transferred if the contamination by hazardous substances is caused by actions of the United States or its agents.

[(e) RESERVATIONS, VALID EXISTING RIGHTS AND USES.—

[(1) Any conveyance pursuant to subsection (a)(1) shall be subject to—

[(A) reservations for existing public uses for roads, utilities, and facilities; and

[(B) permits, rights-of-way, contracts and any other authorization to use the property; and

[(2) For any land subject to a special use authorization or permit for access or utilities, the appropriate Secretary may, at the request of the holder, convert such authorization to a permanent easement prior to any conveyance pursuant to subsection (a)(1); and

[(3) The appropriate Secretary may reserve rights for future public uses in conveyances made pursuant to subsection (a)(1) of this section if the qualifying claimant is paid for the reservation in cash or in land of equal value.

[(f) RESPONSIBILITIES OF CLAIMANTS.—The qualifying claimant shall have the responsibility for establishing that they qualify for the remedies allowed under this Act.

[SEC. 4. ADMINISTRATIVE PROCEDURE.

[(a) Qualifying claimants shall notify the appropriate Secretary in writing of their claims of a boundary conflict with adjoining Federal land. Such notification shall be accompanied by the following information provided by the qualifying claimant which, except as provided in section 3(b)(3), shall be without cost to the United States—

[(1) a land survey plat and legal description of the affected Federal lands claimed which are based upon a correctly made land survey completed and certified by a Missouri State licensed Professional Land Surveyor, and done in conformity with the United States Public Land Survey System and in compliance with the applicable State and Federal land surveying statutes and regulations; and

[(2) information relating to the claim of ownership of such Federal lands, including supporting documentation showing the landowner relied on a subsequent land survey due to actions by the Federal Government in making or approving surveys for the Table Rock Reservoir; and

[(b) Any qualifying claimant must file for resolution of a boundary conflict within 15 years of the date of enactment of this Act.

[(c) Except for such additional authorities provided in this Act, nothing herein shall affect the Quiet Title Act (28 U.S.C. 2409a) or other applicable law, or affect the exchange and disposal authorities of the Secretary of Agriculture including, but not limited to, the Small Tracts Act (16 U.S.C. 521c), or the exchange and disposal authorities of the Secretary of the Army.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated such sums as necessary to carry out this Act.]

SECTION 1. RESOLUTION OF BOUNDARY CONFLICTS, VICINITY OF MARK TWAIN NATIONAL FOREST, BARRY AND STONE COUNTIES, MISSOURI.

(a) DEFINITIONS.—In this section:

(1) The term "appropriate Secretary" means the Secretary of the Army or the Secretary of Agriculture.

(2) The term "boundary conflict" means the situation in which the private claim of ownership to certain lands, based on subsequent Federal land surveys, overlaps or conflicts with Federal ownership of the same lands.

(3) The term "Federal land surveys" means any land survey made by any agency or department of the Federal Government using Federal employees, or by Federal contract with State-licensed private land surveyors or corporations and businesses licensed to provide professional land surveying services in the State of Missouri for Table Rock Reservoir.

(4) The term "original land surveys" means the land surveys made by the United States General Land Office as part of the Public Land Survey System in the State of Missouri, and upon which Government land patents were issued conveying the land.

(5) The term "Public Land Survey System" means the rectangular system of original Government land surveys made by the United States General Land Office and its successor, the Bureau of Land Management, under Federal laws providing for the survey of the public lands upon which the original land patents were issued.

(6) The term "qualifying claimant" means a private owner of real property in Barry or Stone County, Missouri, who has a boundary conflict as a result of good faith and innocent reliance on subsequent Federal land surveys, and as a result of such reliance, has occupied or improved Federal lands administered by the appropriate Secretary.

(7) The term "subsequent Federal land surveys" means any Federal land surveys made after the original land surveys that are inconsistent with the Public Land Survey System.

(b) RESOLUTION OF BOUNDARY CONFLICTS.—The Secretary of the Army and the Secretary of Agriculture shall cooperatively undertake actions to rectify boundary conflicts and landownership claims against Federal lands resulting from subsequent Federal land surveys and correctly reestablish the corners of the Public Land Survey System in Barry and Stone Counties, Missouri, and shall attempt to do so in a manner which imposes the least cost and inconvenience to affected private landowners.

(c) NOTICE OF BOUNDARY CONFLICT.—

(1) SUBMISSION AND CONTENTS.—A qualifying claimant shall notify the appropriate Secretary in writing of a claim that a boundary conflict exists with Federal land administered by the appropriate Secretary. The notice shall be accompanied by the following information, which, except as provided in subsection (e)(2)(B), shall be provided without cost to the United States:

(A) A land survey plat and legal description of the affected Federal lands, which are based upon a land survey completed and certified by a Missouri State-licensed professional land surveyor and done in conformity with the Public Land Survey System and in compliance with the applicable State and Federal land surveying laws.

(B) Information relating to the claim of ownership of the Federal lands, including supporting documentation showing that the landowner relied on a subsequent Federal land survey due to actions by the Federal Government in making or approving surveys for the Table Rock Reservoir.

(2) DEADLINE FOR SUBMISSION.—To obtain relief under this section, a qualifying claimant shall submit the notice and information required

by paragraph (1) within 15 years after the date of the enactment of this Act.

(d) RESOLUTION AUTHORITIES.—In addition to using existing authorities, the appropriate Secretary is authorized to take any of the following actions in order to resolve boundary conflicts with qualifying claimants involving lands under the administrative jurisdiction of the appropriate Secretary:

(1) Convey by quitclaim deed right, title, and interest in land of the United States subject to a boundary conflict consistent with the rights, title, and interest associated with the privately-owned land from which a qualifying claimant has based a claim.

(2) Confirm Federal title to, and retain in Federal management, any land subject to a boundary conflict, if the appropriate Secretary determines that there are Federal interests, including improvements, authorized uses, easements, hazardous materials, or historical and cultural resources, on the land that necessitates retention of the land or interests in land.

(3) Compensate the qualifying claimant for the value of the overlapping property for which title is confirmed and retained in Federal management pursuant to paragraph (2).

(e) CONSIDERATION AND COST.—

(1) CONVEYANCE WITHOUT CONSIDERATION.—The conveyance of land under subsection (d)(1) shall be made without consideration.

(2) COSTS.—The appropriate Secretary shall—

(A) pay administrative, personnel, and any other costs associated with the implementation of this section by his or her Department, including the costs of survey, marking, and monumenting property lines and corners; and

(B) reimburse the qualifying claimant for reasonable out-of-pocket survey costs necessary to establish a claim under this section.

(3) VALUATION.—Compensation paid to a qualifying claimant pursuant to subsection (d)(3) for land retained in Federal ownership pursuant to subsection (d)(2) shall be valued on the basis of the contributory value of the tract of land to the larger adjoining private parcel and not on the basis of the land being a separate tract. The appropriate Secretary shall not consider the value of any Federal improvements to the land. The appropriate Secretary shall be responsible for compensation provided as a result of subsequent Federal land surveys conducted or commissioned by the appropriate Secretary's Department.

(f) PREEXISTING CONDITIONS; RESERVATIONS; EXISTING RIGHTS AND USES.—

(1) PREEXISTING CONDITIONS.—The appropriate Secretary shall not compensate a qualifying claimant or any other person for any preexisting condition or reduction in value of any land subject to a boundary conflict because of any existing or outstanding permits, use authorizations, reservations, timber removal, or other land use or condition.

(2) EXISTING RESERVATIONS AND RIGHTS AND USES.—Any conveyance pursuant to subsection (d)(1) shall be subject to—

(A) reservations for existing public uses for roads, utilities, and facilities; and

(B) permits, rights-of-way, contracts and any other authorization to use the property.

(3) TREATMENT OF LAND SUBJECT TO SPECIAL USE AUTHORIZATION OR PERMIT.—For any land subject to a special use authorization or permit for access or utilities, the appropriate Secretary may convert, at the request of the holder, such authorization to a permanent easement prior to any conveyance pursuant to subsection (d)(1).

(4) FUTURE RESERVATIONS.—The appropriate Secretary may reserve rights for future public uses in a conveyance made pursuant to subsection (d)(1) if the qualifying claimant is compensated for the reservation in cash or in land of equal value.

(5) HAZARDOUS SUBSTANCES.—The requirements of section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9620(h)) shall not apply to conveyances or transfers of jurisdiction pursuant to subsection (d), but the United States shall continue to be liable for the cleanup costs of any hazardous substances on the lands so conveyed or transferred if the contamination by hazardous substances is caused by actions of the United States or its agents.

(g) RELATION TO OTHER CONVEYANCE AUTHORITY.—Nothing in this section affects the Quiet Title Act (28 U.S.C. 2409a) or other applicable law, or affects the exchange and disposal authorities of the Secretary of Agriculture, including the Small Tracts Act (16 U.S.C. 521c), or the exchange and disposal authorities of the Secretary of the Army.

(h) ADDITIONAL TERMS AND CONDITIONS.—The appropriate Secretary may require such additional terms and conditions in connection with a conveyance under subsection (d)(1) as the Secretary considers appropriate to protect the interests of the United States.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out the purposes of this Act.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1167), as amended, was passed.

SALT CEDAR AND RUSSIAN OLIVE CONTROL DEMONSTRATION ACT

The Senate proceeded to consider the bill (S. 1516) to further the purposes of the Reclamation Projects Authorization and Adjustment Act of 1992 by directing the Secretary of the Interior, acting through the commissioner of Reclamation, to carry out an assessment and demonstration program to assess potential increases in water availability for Bureau of Reclamation projects and other uses through control of salt cedar and Russian olive, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "Salt Cedar Control Demonstration Act".

[SEC. 2. FINDINGS.

[Congress finds that—

[(1) the western United States is currently experiencing its worst drought in modern history;

[(2) it is estimated that throughout the western United States salt cedar and Russian olive—

[(A) occupy between 1,000,000 and 1,500,000 acres of land; and

[(B) are non-beneficial users of 2,000,000 to 4,500,000 acre-feet of water per year;

[(3) the quantity of non-beneficial use of water by salt cedar and Russian olive is greater than the quantity that valuable native vegetation would use;

[(4) much of the salt cedar and Russian olive infestation is located on Bureau of Land Management land or other land of the Department of the Interior; and

[(5) as drought conditions and legal requirements relating to water supply accelerate water shortages, innovative approaches are needed to address the increasing demand for a diminishing water supply.

[SEC. 3. SALT CEDAR AND RUSSIAN OLIVE ASSESSMENT AND DEMONSTRATION PROGRAM.

[(a) ESTABLISHMENT.—In furtherance of the purposes of the Reclamation Projects Authorization and Adjustment Act of 1992 (106 Stat. 4600), the Secretary of the Interior, acting through the Commissioner of Reclamation (referred to in this Act as the "Secretary"), shall carry out a salt cedar and Russian olive assessment and demonstration program to—

[(1) assess the extent of the infestation of salt cedar and Russian olive in the western United States; and

[(2) develop strategic solutions for long-term management of salt cedar and Russian olive.

[(b) ASSESSMENT.—Not later than 1 year after the date on which funds are made available to carry out this Act, the Secretary shall complete an assessment of the extent of salt cedar and Russian olive infestation in the western United States. The assessment shall—

[(1) consider past and ongoing research on tested and innovative methods to control salt cedar and Russian olive;

[(2) consider the feasibility of reducing water consumption;

[(3) consider methods of and challenges associated with the restoration of infested land;

[(4) estimate the costs of destruction of salt cedar and Russian olive, biomass removal, and restoration and maintenance of the infested land; and

[(5) identify long-term management and funding strategies that could be implemented by Federal, State, and private land managers.

[(c) DEMONSTRATION PROJECTS.—The Secretary shall carry out not less than 5 projects to demonstrate and evaluate the most effective methods of controlling salt ceder and Russian olive. Projects carried out under this subsection shall—

[(1) monitor and document any water savings from the control of salt cedar and Russian olive;

[(2) identify the quantity of, and rates at which, any water savings under paragraph (1) return to surface water supplies;

[(3) assess the best approach to and tools for implementing available control methods;

[(4) assess all costs and benefits associated with control methods and the restoration and maintenance of land;

[(5) determine conditions under which removal of biomass is appropriate and the optimal methods for its disposal or use;

[(6) define appropriate final vegetative states and optimal revegetation methods; and

[(7) identify methods for preventing the regrowth and reintroduction of salt cedar and Russian olive.

[(d) CONTROL METHODS.—The demonstration projects carried out under subsection (c) may implement 1 or more control method per project, but to assess the full range of control mechanisms—

[(1) at least 1 project shall use airborne application of herbicides;

[(2) at least 1 project shall use mechanical removal; and

[(3) at least 1 project shall use biocontrol methods such as goats or insects.

[(e) IMPLEMENTATION.—A demonstration project shall be carried out during a time period and to a scale designed to meet the requirements of subsection (c).

[(f) COSTS.—

[(1) IN GENERAL.—Each demonstration project under subsection (c) shall be carried out at a cost of not more than $7,000,000, including costs of planning, design, implementation, maintenance, and monitoring.

[(2) COST-SHARING.—

[(A) FEDERAL SHARE.—The Federal share of the costs of a demonstration project shall not exceed 75 percent.

[(B) FORM OF NON-FEDERAL SHARE.—The non-Federal share of the costs of a demonstration project may be provided in the form of in-kind contributions, including services provided by a State agency.

[(g) COOPERATION.—In carrying out the program, the Secretary shall—

[(1) use the expertise of Federal agencies, national laboratories, Indian tribes, institutions of higher education, State agencies, and soil and water conservation districts that are actively conducting research on or implementing salt cedar and Russian olive control activities; and

[(2) cooperate with other Federal agencies and affected States, local units of government, and Indian tribes.

[SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated to carry out this Act—

[(1) $50,000,000 for fiscal year 2004; and

[(2) such sums as are necessary for each fiscal year thereafter.]

SECTION 1. SHORT TITLE.

This Act may be cited as the "Salt Cedar and Russian Olive Control Demonstration Act".

SEC. 2. SALT CEDAR AND RUSSIAN OLIVE CONTROL DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT.—The Secretary of the Interior (referred to in this Act as the "Secretary"), acting through the Commissioner of Reclamation and in cooperation with the Secretary of Agriculture and the Secretary of Defense, shall carry out a salt cedar (Tamarix spp) and Russian olive (Elaeagnus angustifolia) assessment and demonstration program—

(1) to assess the extent of the infestation by salt cedar and Russian olive trees in the western United States;

(2) to demonstrate strategic solutions for—

(A) the long-term management of salt cedar and Russian olive trees; and

(B) the reestablishment of native vegetation; and

(3) to assess economic means to dispose of biomass created as a result of removal of salt cedar and Russian olive trees.

(b) ASSESSMENT.—

(1) IN GENERAL.—Not later than 1 year after the date on which funds are made available to carry out this Act, the Secretary shall complete an assessment of the extent of salt cedar and Russian olive infestation on public and private land in the western United States.

(2) REQUIREMENTS.—In addition to describing the acreage of and severity of infestation by salt cedar and Russian olive trees in the western United States, the assessment shall—

(A) consider existing research on methods to control salt cedar and Russian olive trees;

(B) consider the feasibility of reducing water consumption by salt cedar and Russian olive trees;

(C) consider methods of and challenges associated with the revegetation or restoration of infested land; and

(D) estimate the costs of destruction of salt cedar and Russian olive trees, related biomass removal, and revegetation or restoration and maintenance of the infested land.

(c) LONG-TERM MANAGEMENT STRATEGIES.—

(1) IN GENERAL.—The Secretary shall identify and document long-term management and funding strategies that—

(A) could be implemented by Federal, State, and private land managers in addressing infestation by salt cedar and Russian olive trees; and

(B) should be tested as components of demonstration projects under subsection (d).

(2) GRANTS.—The Secretary shall provide grants to institutions of higher education to develop public policy expertise in, and assist in developing a long-term strategy to address, infestation by salt cedar and Russian olive trees.

(d) DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—Not later than 180 days after the date on which funds are made available to carry out this Act, the Secretary shall establish a program that selects and funds not less than 5 projects proposed by and implemented in collaboration with Federal agencies, units of State and local government, national laboratories, Indian tribes, institutions of higher education, individuals, organizations, or soil and water conservation districts to demonstrate and evaluate the most effective methods of controlling salt cedar and Russian olive trees.

(2) PROJECT REQUIREMENTS.—The demonstration projects under paragraph (1) shall—

(A) be carried out over a time period and to a scale designed to fully assess long-term management strategies;

(B) implement salt cedar or Russian olive tree control using 1 or more methods for each project in order to assess the full range of control methods, including—

(i) airborne application of herbicides;

(ii) mechanical removal; and

(iii) biocontrol methods, such as the use of goats or insects;

(C) individually or in conjunction with other demonstration projects, assess the effects of and obstacles to combining multiple control methods and determine optimal combinations of control methods;

(D) assess soil conditions resulting from salt cedar and Russian olive tree infestation and means to revitalize soils;

(E) define and implement appropriate final vegetative states and optimal revegetation methods, with preference for self-maintaining vegetative states and native vegetation, and taking into consideration downstream impacts, wildfire potential, and water savings;

(F) identify methods for preventing the regrowth and reintroduction of salt cedar and Russian olive trees;

(G) monitor and document any water savings from the control of salt cedar and Russian olive trees, including impacts to both groundwater and surface water;

(H) assess wildfire activity and management strategies;

(I) assess changes in wildlife habitat;

(J) determine conditions under which removal of biomass is appropriate (including optimal methods for the disposal or use of biomass); and

(K) assess economic and other impacts associated with control methods and the restoration and maintenance of land.

(e) DISPOSITION OF BIOMASS.—

(1) IN GENERAL.—Not later than 1 year after the date on which funds are made available to carry out this Act, the Secretary, in cooperation with the Secretary of Agriculture, shall complete an analysis of economic means to use or dispose of biomass created as a result of removal of salt cedar and Russian olive trees.

(2) REQUIREMENTS.—The analysis shall—

(A) determine conditions under which removal of biomass is economically viable;

(B) consider and build upon existing research by the Department of Agriculture and other agencies on beneficial uses of salt cedar and Russian olive tree fiber; and

(C) consider economic development opportunities, including manufacture of wood products using biomass resulting from demonstration projects under subsection (d) as a means of defraying costs of control.

(f) COSTS.—

(1) IN GENERAL.—With respect to projects and activities carried out under this Act—

(A) the assessment under subsection (b) shall be carried out at a cost of not more than $4,000,000;

(B) the identification and documentation of long-term management strategies under subsection (c) shall be carried out at a cost of not more than $2,000,000;

(C) each demonstration project under subsection (d) shall be carried out at a Federal cost of not more than $7,000,000 (including costs of planning, design, implementation, maintenance, and monitoring); and

(D) the analysis under subsection (e) shall be carried out at a cost of not more than $3,000,000.

(2) COST-SHARING.—

(A) IN GENERAL.—The assessment under subsection (b), the identification and documentation of long-term management strategies under subsection (c), a demonstration project or portion of a demonstration project under subsection (d) that is carried out on Federal land, and the analysis under subsection (e) shall be carried out at full Federal expense.

(B) DEMONSTRATION PROJECTS CARRIED OUT ON NON-FEDERAL LAND.—

(i) IN GENERAL.—The Federal share of the costs of any demonstration project funded under subsection (d) that is not carried out on Federal land shall not exceed—

(I) 75 percent for each of the first 5 years of the demonstration project; and

(II) for the purpose of long-term monitoring, 100 percent for each of such 5-year extensions as the Secretary may grant.

(ii) FORM OF NON-FEDERAL SHARE.—The non-Federal share of the costs of a demonstration project that is not carried out on Federal land may be provided in the form of in-kind contributions, including services provided by a State agency or any other public or private partner.

(g) COOPERATION.—In carrying out the assessment under subsection (b), the demonstration projects under subsection (d), and the analysis under subsection (e), the Secretary shall cooperate with and use the expertise of Federal agencies and the other entities specified in subsection (d)(1) that are actively conducting research on or implementing salt cedar and Russian olive tree control activities.

(h) INDEPENDENT REVIEW.—The Secretary shall subject to independent review—

(1) the assessment under subsection (b);

(2) the identification and documentation of long-term management strategies under subsection (c);

(3) the demonstration projects under subsection (d); and

(4) the analysis under subsection (e).

(i) REPORTING.—

(1) IN GENERAL.—The Secretary shall submit to Congress an annual report that describes the results of carrying out this Act, including a synopsis of any independent review under subsection (h) and details of the manner and purposes for which funds are expended.

(2) PUBLIC ACCESS.—The Secretary shall facilitate public access to all information that results from carrying out this Act.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this Act—

(1) $20,000,000 for fiscal year 2005; and

(2) $15,000,000 for each subsequent fiscal year.

Amend the title so as to read: "A bill to further the purposes of the Reclamation Projects Authorization and Adjustment Act of 1992 by directing the Secretary of the Interior, acting through the Commissioner of Reclamation, to carry out an assessment and demonstration program to control salt cedar and Russian olive, and for other purposes.".

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1516), as amended, was passed.

HARPERS FERRY NATIONAL HISTORICAL PARK BOUNDARY REVISION ACT OF 2003

The bill (S. 1576) to revise the boundary of Harpers Ferry National Historical Park, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time and passed; as follows:

S. 1576

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Harpers Ferry National Historical Park Boundary Revision Act of 2003".

SEC. 2. HARPERS FERRY NATIONAL HISTORICAL PARK.

The first section of the Act of June 30, 1944 (58 Stat. 645, chapter 328; 16 U.S.C. 450bb), is amended to read as follows:

"SECTION 1. HARPERS FERRY NATIONAL HISTORICAL PARK.

"(a) IN GENERAL.—To carry out the purposes of this Act, the Secretary of the Interior (referred to in this Act as the 'Secretary') is authorized to acquire, by purchase from a willing seller with donated or appropriated funds, by donation, or by exchange, land or an interest in land within the boundaries as generally depicted on the map entitled 'Boundary Map, Harpers Ferry National Historical Park', numbered 385–80,021A, and dated April 1979.

"(b) BRADLEY AND RUTH NASH ADDITION.—The Secretary is authorized to acquire, by donation only, approximately 27 acres of land or interests in land that are outside the boundary of the Harpers Ferry National Historical Park and generally depicted on the map entitled 'Proposed Bradley and Ruth Nash Addition—Harpers Ferry National Historical Park', numbered 385–80056, and dated April 1, 1989.

"(c) BOUNDARY EXPANSION.—

"(1) IN GENERAL.—The Secretary is authorized to acquire, by purchase from a willing seller with donated or appropriated funds, by donation, or by exchange, land or an interest in land within the area depicted as 'Private Lands' on the map entitled 'Harpers Ferry National Historical Park Proposed Boundary Expansion,' numbered 385/80,126, and dated July 14, 2003.

"(2) ADMINISTRATION.—The Secretary shall—

"(A) transfer to the National Park Service for inclusion in the Harpers Ferry National Historical Park (referred to in this Act as the 'Park') the land depicted on the map referred to in paragraph (1) as 'U.S. Fish and Wildlife Service Lands' and revise the boundary of the Park accordingly; and

"(B) revise the boundary of the Park to include the land depicted on the map referred to in paragraph (1) as 'Appalachian NST' and exclude that land from the boundary of the Appalachian National Scenic Trail.

"(d) MAXIMUM NUMBER OF ACRES.—The number of acres of the Park shall not exceed 3,745.

"(e) MAPS.—The maps referred to in this section shall be on file and available for public inspection in the appropriate offices of the National Park Service.

"(f) ACQUIRED LAND.—Land or an interest in land acquired under this section shall become a part of the Park, subject to the laws (including regulations) applicable to the Park.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.".

SEC. 3. CONFORMING AMENDMENTS.

Sections 2 and 3 of the Act of June 30, 1944 (58 Stat. 646, chapter 328; 16 U.S.C. 450bb–1, 450bb–2), are amended by striking "Secretary of the Interior" each place it appears and inserting "Secretary".

EXTENSION OF THE DEADLINE FOR COMMENCEMENT OF CONSTRUCTION OF A HYDROELECTRIC PROJECT IN THE STATE OF WYOMING

The bill (S. 1577) to extend the deadline for commencement of construction of a hydroelectric project in the State of Wyoming, was considered, ordered to be engrossed for a third reading, read the third time and passed; as follows:

S. 1577

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF TIME FOR THE FEDERAL ENERGY REGULATORY COMMISSION HYDROELECTRIC PROJECT.

Notwithstanding the time period specified in section 13 of Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 1651, the Commission may, at the request of the licensee for the project, and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, extend the time period during which the licensee is required to commence the construction of the project for three consecutive two-year periods from the date of the expiration of the extension originally issued by the Commission.

BEND PINE NURSERY LAND CONVEYANCE ACT AMENDMENTS

The Senate proceeded to consider the bill (S. 1848) to amend the Bend Pine Nursery Land Conveyance Act to direct the Secretary of Agriculture to sell the Bend Pine Nursery Administration Site in the State of Oregon, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 1848

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SALE OF BEND PINE NURSERY ADMINISTRATIVE SITE.

[The Bend Pine Nursery Land Conveyance Act (114 Stat. 2512) is amended—

[(1) in section 3—

[(A) in subsection (a)—

[(i) by striking paragraph (1);

[(ii) by redesignating paragraphs (2) through (7) as subparagraphs (A) through (F), respectively, and adjusting the margins appropriately; and

[(iii) by striking "(a) IN GENERAL.—The Secretary may" and inserting the following:

["(a) IN GENERAL.—The Secretary—

["(1) shall offer to sell to the Bend Metro Park and Recreation District in Deschutes County, Oregon, for consideration in the amount of $3,505,676, all right, title, and interest of the United States in and to approximately 170 acres of the parcel of land identified as Tract A, Bend Pine Nursery, as depicted on the site plan map entitled 'Bend Pine Nursery Administrative Site, May 13, 1999'; and

["(2) may";

[(B) by striking subsection (e)(3); and

[(C) by inserting after subsection (f) the following:

["(g) BEND PINE NURSERY ADMINISTRATIVE SITE.—The land conveyed to the Bend Metro Park and Recreation District under section 3(a)(1)—

["(1) shall be used only for recreation purposes; and

["(2) may be developed for those purposes.".

[(2) by redesignating section 6 as section 7; and

[(3) by inserting after section 5 the following:

["SEC. 6. CONVEYANCE TO BEND-LA PINE SCHOOL DISTRICT.

["The Secretary, in accordance with section 202 of the Education Land Grant Act (16 U.S.C. 479a), shall convey to Administrative School District No. 1, Deschutes County, Oregon, for no consideration, 15 acres of land located in the northwest corner of the tract described in section 3(a)(1), to be used for educational purposes.".]

SECTION 1. MODIFICATION OF BEND PINE NURSERY LAND CONVEYANCE.

(a) DESIGNATION OF RECIPIENTS AND CONSIDERATION.—Section 3 of the Bend Pine Nursery Land Conveyance Act (Public Law 106–526; 114 Stat. 2512) is amended—

(1) in subsection (a), by striking paragraph (1) and redesignating paragraphs (2) through (7) as paragraphs (1) through (6), respectively;

(2) in subsection (e)—

(A) by striking "this section" both places it appears and inserting "subsection (a)";

(B) in paragraph (1), by striking "Subject to paragraph (3), the" and inserting "The"; and

(C) by striking paragraph (3); and

(3) by adding at the end the following:

"(g) BEND PINE NURSERY CONVEYANCE.—

"(1) CONVEYANCE TO PARK AND RECREATION DISTRICT.—Upon receipt of consideration in the amount of $3,503,676 from the Bend Metro Park and Recreation District in Deschutes County, Oregon, the Secretary shall convey to the Bend Metro Park and Recreation District all right, title, and interest of the United States in and to a parcel of real property consisting of approximately 185 acres and containing the Bend Pine Nursery, as depicted on the site plan map entitled 'Bend Pine Nursery Administrative Site, May 13, 1999'. Subject to paragraph (2), the real property conveyed to the Bend Metro Park and Recreation District shall be used only for public recreation purposes and may be developed for those purposes. If the Secretary determines that the real property subject to this condition is converted, in whole or in part, to a use other than public recreation, the Secretary shall require the Bend Metro Park and Recreation District to pay to the United States an amount

equal to the fair market value of the property at the time of conversion, less the consideration paid under this paragraph.

"(2) RECONVEYANCE OF PORTION TO SCHOOL DISTRICT.—As soon as practicable after the receipt by the Bend Metro Park and Recreation District of the real property described in paragraph (1), the Bend Metro Park and Recreation District shall convey to the Administrative School District No. 1, Deschutes County, Oregon, without consideration, a parcel of real property located in the northwest corner of the real property described in paragraph (1) and consisting of approximately 15 acres. The deed of conveyance shall contain a covenant requiring that the real property conveyed to the School District be used only for public education purposes.".

(b) CONFORMING AMENDMENT.—Section 4(a) of such Act is amended by striking "section 3(a)" and inserting "section 3".

The amendment (No. 3216) was agreed to, as follows:

AMENDMENT NO. 3216

On page 4, line 22, strike "1999" and insert "2004".

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 1848), as amended, was passed, as follows:

(The bill will be printed in a future edition of the RECORD.)

NATIONAL PARK SYSTEM LAWS TECHNICAL AMENDMENTS ACT OF 2004

The bill (S. 2178) to make technical corrections to laws relating to certain units of the National Park System and to National Park programs, was considered, ordered to be engrossed for a third reading, read the third time and passed; as follows:

S. 2178

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Park System Laws Technical Amendments Act of 2004".

SEC. 2. LACKAWANNA VALLEY HERITAGE AREA.

Section 106 of the Lackawanna Valley National Heritage Area Act of 2000 (16 U.S.C. 461 note; Public Law 106–278) is amended by striking subsection (a) and inserting the following:

"(a) AUTHORITIES OF MANAGEMENT ENTITY.—For purposes of preparing and implementing the management plan, the management entity may—

"(1) make grants to, and enter into cooperative agreements with, the State and political subdivisions of the State, private organizations, or any person; and

"(2) hire and compensate staff.".

SEC. 3. HAWAI'I VOLCANOES NATIONAL PARK.

Section 5 of the Act of June 20, 1938 (16 U.S.C. 392c) is amended by striking "Hawaii Volcanoes" each place it appears and inserting "Hawai'i Volcanoes".

SEC. 4. "I HAVE A DREAM" PLAQUE AT LINCOLN MEMORIAL.

Section 2 of Public Law 106–365 (114 Stat. 1409) is amended by striking "and expand contributions" and inserting "and expend contributions".

SEC. 5. WILD AND SCENIC RIVERS.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended—

(1) by redesignating paragraph (162) (relating to White Clay Creek, Delaware and Pennsylvania) as paragraph (163);

(2) by designating the second paragraph (161) (relating to the Wekiva River, Wekiwa Springs Run, Rock Springs Run, and Black Water Creek, Florida) as paragraph (162);

(3) by designating the undesignated paragraph relating to the Wildhorse and Kiger Creeks, Oregon, as paragraph (164);

(4) by redesignating the third paragraph (161) (relating to the Lower Delaware River and associated tributaries, New Jersey and Pennsylvania) as paragraph (165) and by indenting appropriately; and

(5) by redesignating the undesignated paragraph relating to the Rivers of Caribbean National Forest, Puerto Rico, as paragraph (166).

SEC. 6. ROSIE THE RIVETER/WORLD WAR II HOME FRONT NATIONAL HISTORICAL PARK.

The Rosie the Riveter/World War II Home Front National Historical Park Establishment Act of 2000 (16 U.S.C. 410ggg et seq.) is amended—

(1) in section 2(b), by striking "numbered 963/80000" and inserting "numbered 963/80,000"; and

(2) in section 3—

(A) in subsection (a)(1), by striking "August 35" and inserting "August 25";

(B) in subsection (b)(1), by striking "the World War II Child Development Centers, the World War II worker housing, the Kaiser-Permanente Field Hospital, and Fire Station 67A" and inserting "the Child Development Field Centers (Ruth C. Powers) (Maritime), Atchison Housing, the Kaiser-Permanente Field Hospital, and Richmond Fire Station 67A"; and

(C) in subsection (e)(2), by striking "the World War II day care centers, the World War II worker housing, the Kaiser-Permanente Field Hospital, and Fire Station 67," and inserting "the Child Development Field Centers (Ruth C. Powers) (Maritime), Atchison Housing, the Kaiser-Permanente Field Hospital, and Richmond Fire Station 67A,".

SEC. 7. VICKSBURG CAMPAIGN TRAIL BATTLEFIELDS.

The Vicksburg Campaign Trail Battlefields Preservation Act of 2000 (114 Stat. 2202) is amended—

(1) in section 2(a)(1), by striking "and Tennessee" and inserting "Tennessee, and Kentucky"; and

(2) in section 3—

(A) in paragraph (1), by striking "and Tennessee," and inserting "Tennessee, and Kentucky,"; and

(B) in paragraph (2)—

(i) in subparagraph (R), by striking "and" at the end;

(ii) by redesignating subparagraph (S) as subparagraph (T); and

(iii) by inserting after subparagraph (R) the following:

"(S) Fort Heiman in Calloway County, Kentucky, and resources in and around Columbus in Hickman County, Kentucky; and".

SEC. 8. HARRIET TUBMAN SPECIAL RESOURCE STUDY.

Section 3(c) of the Harriet Tubman Special Resource Study Act (Public Law 106–516; 114 Stat. 2405) is amended by striking "Public Law 91–383" and all that follows through "(P.L. 105–391; 112 Stat. 3501)" and inserting "section 8 of Public Law 91–383 (16 U.S.C. 1a–5)".

SEC. 9. PUBLIC LAND MANAGEMENT AGENCY FOUNDATIONS.

Employees of the foundations established by Acts of Congress to solicit private sector funds on behalf of Federal land management agencies shall qualify for General Service Administration contract airfares.

SEC. 10. SHORT TITLES.

(a) NATIONAL PARK SERVICE ORGANIC ACT.—The Act of August 25, 1916 (commonly known as the "National Park Service Organic Act") (16 U.S.C. 1 et seq.) is amended by adding at the end the following:

"SEC. 5. SHORT TITLE.

"This Act may be cited as the 'National Park Service Organic Act'.".

(b) NATIONAL PARK SYSTEM GENERAL AUTHORITIES ACT.—Public Law 91–383 (commonly known as the "National Park System General Authorities Act") (16 U.S.C. 1a–1 et seq.) is amended by adding at the end the following:

"SEC. 14. SHORT TITLE.

"This Act may be cited as the 'National Park System General Authorities Act'.".

SEC. 11. PARK POLICE INDEMNIFICATION.

Section 2(b) of Public Law 106–437 (114 Stat. 1921) is amended by striking "the Act" and inserting "of the Act".

SEC. 12. BOSTON HARBOR ISLANDS NATIONAL RECREATION AREA.

Section 1029 of division I of the Omnibus Parks and Public Lands Management Act of 1996 (110 Stat. 4233) is amended—

(1) in subsection (c)(2)(B)(i), by striking "reference" and inserting "referenced"; and

(2) in subsection (d)(4), by inserting a period after "plans".

SEC. 13. NATIONAL HISTORIC PRESERVATION ACT.

Section 5(a)(8) of the National Historic Preservation Act Amendments of 2000 (Public Law 106–208; 114 Stat. 319) is amended by striking "section 110(1)" and inserting "section 110(*l*)".

SEC. 14. NATIONAL TRAILS SYSTEM ACT.

The National Trails System Act (16 U.S.C. 1241 et seq.) is amended—

(1) in section 5—

(A) in subsection (c)—

(i) in paragraph (19), by striking "Kissimme" and inserting "Kissimmee";

(ii) in paragraph (40)(D) by striking "later that" and inserting "later than"; and

(iii) by designating the undesignated paragraphs relating to the Metacoment-Monadnock-Mattabesett Trail and The Long Walk Trail as paragraphs (41) and (42), respectively; and

(B) in the first sentence of subsection (d), by striking "establishment."; and

(2) in section 10(c)(1), by striking "The Ice Age" and inserting "the Ice Age".

SEC. 15. VICKSBURG NATIONAL MILITARY PARK.

Section 3(b) of the Vicksburg National Military Park Boundary Modification Act of 2002 (16 U.S.C. 430h–11) is amended by striking "the Secretary add it" and inserting "the Secretary shall add the property".

SEC. 16. ALLEGHENY PORTAGE RAILROAD NATIONAL HISTORIC SITE.

Section 2(2) of the Allegheny Portage Railroad National Historic Site Boundary Revision Act (Public Law 107–369; 116 Stat. 3069) is amended by striking "NERO 423/80,014 and dated May 01" and inserting "NERO 423/80,014A and dated July 02".

SEC. 17. TALLGRASS PRAIRIE NATIONAL PRESERVE.

Section 1006(b) of division I of the Omnibus Parks and Public Lands Management Act of 1996 (110 Stat. 4208) is amended by striking "subsection (a)(1)" and inserting "subsection (a)".

EXPANSION OF THE SLEEPING BEAR DUNES NATIONAL LAKESHORE

The bill (H.R. 408) to provide for expansion of Sleeping Bear Dunes National Lakeshore, was considered, ordered to a third reading, read the third time, and passed.

CIBOLA NATIONAL WILDLIFE REFUGE, CALIFORNIA PUBLIC LAND ORDER

The Senate proceeded to consider the bill (H.R. 417) to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California.

The amendment (No. 3217) was agreed to, as follows:

(Purpose: To adjust the boundaries of Green Mountain National Forest)

At the end, add the following:

SEC. ___. GREEN MOUNTAIN NATIONAL FOREST EXPANSION.

(a) In General.—The boundaries of the Green Mountain National Forest are modified to include all parcels of land depicted on the forest maps entitled "Green Mountain Expansion Area Map I" and "Green Mountain Expansion Area Map II", each dated February 20, 2002, which shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Washington, District of Columbia.

(b) Management.—Federally owned land delineated on the maps acquired for National Forest purposes shall continue to be managed in accordance with the laws (including regulations) applicable to the National Forest System.

(c) Land and Water Conservation Fund.—For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–9), the boundaries of the Green Mountain National Forest, as adjusted by this Act, shall be considered to be the boundaries of the national forest as of January 1, 1965.

The bill (H.R. 417), as amended, was ordered to a third reading, read the third time, and passed.

CONVEYANCE OF CERTAIN LANDS IN MENDOCINO NATIONAL FOREST

The bill (H.R. 708) to require the conveyance of certain National Forest System lands in Mendocino National Forest, California, to provide for the use of the proceeds from such conveyance for National Forest purposes, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

REVISED PAYMENT CONTRACT WITH THE TOM GREEN COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT

The bill (H.R. 856) to authorize the Secretary of the Interior to revise a repayment contract with the Tom Green County Water Control and Improvement District No. 1, San Angelo project, Texas, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

IRVINE BASIN SURFACE AND GROUNDWATER IMPROVEMENT ACT OF 2003

The bill (H.R. 1598) to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in projects within the San Diego Creek Watershed, California, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

50TH ANNIVERSARY OF THE BROWN V. BOARD OF EDUCATION DECISION

Mr. FRIST. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H. Con. Res. 414 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 414) expressing the sense of the Congress that, as Congress recognizes the 50th anniversary of the Brown v. Board of Education decision, all Americans are encouraged to observe this anniversary with a commitment to continuing and building on the legacy of Brown.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the concurrent resolution be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 414) was agreed to.

The preamble was agreed to.

Mr. DURBIN. Mr. President, I rise today to mark a bittersweet anniversary in our Nation's history. Fifty years ago today, the U.S. Supreme Court handed down the most important Court decision of the 20th century and perhaps of all time: Brown v. Board of Education.

Fifty years ago today, on May 17, 1954, the Supreme Court unanimously ruled that "in the field of public education the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal."

The Brown decision struck down laws that permitted racially segregated schools in 17 states and the District of Columbia. The Supreme Court said that such laws violate the fourteenth amendment of the U.S. Constitution—the amendment that was passed after the Civil War to guarantee "equal protection of the laws."

The day after Brown was handed down, the Chicago Daily Tribune wrote that the idea of educational equality "may appear dangerously novel to some citizens, but the Supreme Court didn't invent it. Indeed, they can be said to have borrowed it from a distinguished Virginian named Thomas Jefferson."

A May 19, 1954 editorial in the New York Times stated: "The Supreme Court's historic decision in the school desegregation cases brings the United States back into the mainstream of its own best traditions. Segregation is a hangover of slavery, and its ugliest manifestation has been in the schools."

The Brown decision was a victory for equality and a victory for America. But many African Americans had a muted reaction to the decision because it was so long overdue. As Richard Kluger wrote in the classic book Simple Justice:

> Too many proclamations of white America's good intentions had reached African Americans' ears in the past to permit premature celebration now. There was added hesitation, no doubt in expressing open glee lest it be taken as a sign of gratitude and thereby provide whites the emotional satisfaction over a deed well done. For, upon analysis, all the Supreme Court had truly and at long last granted to the black man was simple justice.

The impact of the Brown decision occurred mainly in the South, but the Chicago Daily Sun-Times offered a prescient observation. In a May 19, 1954 editorial the Sun-Times wrote: "We of the North would do well to apply ourselves with equal diligence and sincerity to our own unsolved problems of racial discrimination and prejudice."

Indeed, there were segregated schools in my home State of Illinois in 1954—the Land of Lincoln. My State had a law that banned racial segregation in our public schools, but there was inadequate enforcement.

Although we have made great strides over the past century in Illinois and in our Nation, we continue to have severe racial disparities in our public school systems—50 years after Brown v. Board of Education.

For that reason, the 50th anniversary is bittersweet. In 2004, we see that the racism has not been alleviated. Equal opportunity has not been assured.

Our schools are not fully integrated. In Illinois, 92 percent of white children attend majority white schools, and 68 percent of Black children attend majority Black schools. School segregation for our rapidly growing Latino population is on the rise.

And our schools are not equal. In Illinois a Black child is about 40 times more likely to attend a school that has failed to meet State standards for 4 consecutive years, a so-called "academic watch list" school. A Latino student is 20 times more likely. But less than 1 percent of the White children in Illinois are enrolled at a school on the academic watch list.

The Supreme Court in Brown v. Board of Education stated that equal access to education is a civil right of every citizen. And what a promise that was. We believed racial disparities in education would eventually be erased.

In 2001, we realized that this promise had not been realized. We enacted No Child Left Behind to try and tackle the enduring problem of racial inequality in our public schools. No Child Left Behind requires schools to break out test scores by racial and economic categories to show that each segment of a school's population is succeeding.

Many of us worked in concert with the more conservative champions of the effort because we believed the law would provide more resources and more opportunities for minority children in public schools.

Today schools are struggling to implement the law without the promised resources. We have not lived up to the promise of No Child Left Behind. And we have not lived up to the promise of Brown v. Board of Education.

Many of our schools today are separate and unequal. This commemoration is bittersweet, but we have the means to make it less bitter and more sweet.

We can live up to the promise of the Brown decision by investing in our public schools rather than giving up on them. Giving vouchers to a handful of lucky families only leaves the have-nots in an increasingly hopeless situation.

We can live up to the promise of Brown by adopting the Student's Bill of Rights—requiring an equitable apportionment of funds and qualified teachers and small class sizes.

We can live up to the promise of Brown by fully funding the Individuals with Disabilities Education Act, ensuring that students with disabilities can exercise their right to a public education.

We can live up to the promise of Brown by funding No Child Left Behind as promised, making it possible for struggling schools to improve the quality of education for all its students.

Let us honor the legacy of the Supreme Court's historic decision in Brown v. Board of Education by making the appropriate investments in public education and working to ensure equality of opportunity.

TAX ADMINISTRATION GOOD GOVERNMENT ACT

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 498, S. 882.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 882) to amend the Internal Revenue Code of 1986 to provide improvements in tax administration and taxpayer safe-guards, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Finance with an amendment to strike all after enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 882

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE; ETC.

[(a) SHORT TITLE.—This Act may be cited as the "Tax Administration Good Government Act".

[(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

[(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

[Sec. 1. Short title; etc.

[TITLE I—IMPROVEMENTS IN TAX ADMINISTRATION AND TAXPAYER SAFEGUARDS

[Subtitle A—Improving Efficiency and Safeguards in Internal Revenue Service Collection

[Sec. 101. Waiver of user fee for installment agreements using automated withdrawals.
[Sec. 102. Partial payment of tax liability in installment agreements.
[Sec. 103. Termination of installment agreements.
[Sec. 104. Office of Chief Counsel review of offers in compromise.
[Sec. 105. Seven-day threshold on tolling of statute of limitations during National Taxpayer Advocate review.
[Sec. 106. Increase in penalty for bad checks or money orders.
[Sec. 107. Financial management service fees.
[Sec. 108. Elimination of restriction on offsetting refunds from former residents.

[Subtitle B—Processing and Personnel

[Sec. 111. Explanation of statute of limitations and consequences of failure to file.
[Sec. 112. Disclosure of tax information to facilitate combined employment tax reporting.
[Sec. 113. Expansion of declaratory judgment remedy to tax-exempt organizations.
[Sec. 114. Amendment to Treasury auction reforms.
[Sec. 115. Revisions relating to termination of employment of Internal Revenue Service employees for misconduct.
[Sec. 116. IRS Oversight Board approval of use of critical pay authority.
[Sec. 117. Low-income taxpayer clinics.
[Sec. 118. Enrolled agents.
[Sec. 119. Establishment of disaster response team.
[Sec. 120. Accelerated tax refunds.
[Sec. 121. Study on clarifying record-keeping responsibilities.
[Sec. 122. Streamline reporting process for National Taxpayer Advocate.

[Subtitle C—Other Provisions

[Sec. 131. Penalty on failure to report interests in foreign financial accounts.
[Sec. 132. Repeal of personal holding company tax.

[TITLE II—REFORM OF PENALTY AND INTEREST

[Sec. 201. Individual estimated tax.
[Sec. 202. Corporate estimated tax.
[Sec. 203. Increase in large corporation threshold for estimated tax payments.
[Sec. 204. Abatement of interest.
[Sec. 205. Deposits made to suspend running of interest on potential underpayments.
[Sec. 206. Freeze of provision regarding suspension of interest where Secretary fails to contact taxpayer.
[Sec. 207. Expansion of interest netting.
[Sec. 208. Clarification of application of Federal tax deposit penalty.
[Sec. 209. Frivolous tax submissions.

[TITLE III—UNITED STATES TAX COURT MODERNIZATION

[Subtitle A—Tax Court Procedure

[Sec. 301. Jurisdiction of Tax Court over collection due process cases.
[Sec. 302. Authority for special trial judges to hear and decide certain employment status cases.
[Sec. 303. Confirmation of authority of Tax Court to apply doctrine of equitable recoupment.
[Sec. 304. Tax Court filing fee in all cases commenced by filing petition.
[Sec. 305. Amendments to appoint employees.
[Sec. 306. Expanded use of Tax Court practice fee for pro se taxpayers.

[Subtitle B—Tax Court Pension and Compensation

[Sec. 311. Annuities for survivors of Tax Court judges who are assassinated.
[Sec. 312. Cost-of-living adjustments for Tax Court judicial survivor annuities.
[Sec. 313. Life insurance coverage for Tax Court judges.
[Sec. 314. Cost of life insurance coverage for Tax Court judges age 65 or over.
[Sec. 315. Modification of timing of lump-sum payment of judges' accrued annual leave.
[Sec. 316. Participation of Tax Court judges in the Thrift Savings Plan.
[Sec. 317. Exemption of teaching compensation of retired judges from limitation on outside earned income.
[Sec. 318. General provisions relating to magistrate judges of the Tax Court.
[Sec. 319. Annuities to surviving spouses and dependent children of magistrate judges of the Tax Court.
[Sec. 320. Retirement and annuity program.
[Sec. 321. Incumbent magistrate judges of the Tax Court.
[Sec. 322. Provisions for recall.
[Sec. 323. Effective date.

[TITLE IV—CONFIDENTIALITY AND DISCLOSURE

[Sec. 401. Clarification of definition of church tax inquiry.

[Sec. 402. Collection activities with respect to joint return disclosable to either spouse based on oral request.
[Sec. 403. Taxpayer representatives not subject to examination on sole basis of representation of taxpayers.
[Sec. 404. Prohibition of disclosure of taxpayer identifying number with respect to disclosure of accepted offers-in-compromise.
[Sec. 405. Compliance by contractors and other agents with confidentiality safeguards.
[Sec. 406. Higher standards for requests for and consents to disclosure.
[Sec. 407. Civil damages for unauthorized inspection or disclosure.
[Sec. 408. Expanded disclosure in emergency circumstances.
[Sec. 409. Disclosure of taxpayer identity for tax refund purposes.
[Sec. 410. Disclosure to State officials of proposed actions related to section 501(c) organizations.
[Sec. 411. Treatment of public records.
[Sec. 412. Investigative disclosures.
[Sec. 413. TIN matching.
[Sec. 414. Form 8300 disclosures.
[Sec. 415. Technical amendment.

[TITLE V—SIMPLIFICATION THROUGH ELIMINATION OF INOPERATIVE PROVISIONS

[Sec. 501. Simplification through elimination of inoperative provisions.

[TITLE I—IMPROVEMENTS IN TAX ADMINISTRATION AND TAXPAYER SAFEGUARDS

[Subtitle A—Improving Efficiency and Safeguards in Internal Revenue Service Collection

[SEC. 101. WAIVER OF USER FEE FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.

[(a) IN GENERAL.—Section 6159 (relating to agreements for payment of tax liability in installments) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following:

["(e) WAIVER OF USER FEES FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.—In the case of a taxpayer who enters into an installment agreement in which automated installment payments are agreed to, the Secretary shall waive the fee (if any) for entering into the installment agreement.".

[(b) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date of the enactment of this Act.

[SEC. 102. PARTIAL PAYMENT OF TAX LIABILITY IN INSTALLMENT AGREEMENTS.

[(a) IN GENERAL.—

[(1) Section 6159(a) (relating to authorization of agreements) is amended—

[(A) by striking "satisfy liability for payment of" and inserting "make payment on", and

[(B) by inserting "full or partial" after "facilitate".

[(2) Section 6159(c) (relating to Secretary required to enter into installment agreements in certain cases) is amended in the matter preceding paragraph (1) by inserting "full" before "payment".

[(b) REQUIREMENT TO REVIEW PARTIAL PAYMENT AGREEMENTS EVERY TWO YEARS.—Section 6159, as amended by this Act, is amended by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively, and inserting after subsection (c) the following new subsection:

["(d) SECRETARY REQUIRED TO REVIEW INSTALLMENT AGREEMENTS FOR PARTIAL COLLECTION EVERY TWO YEARS.—In the case of an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years.".

[(c) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date of the enactment of this Act.

[SEC. 103. TERMINATION OF INSTALLMENT AGREEMENTS.

[(a) IN GENERAL.—Section 6159(b)(4) (relating to failure to pay an installment or any other tax liability when due or to provide requested financial information) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (E), and by inserting after subparagraph (B) the following:

["(C) to make a Federal tax deposit under section 6302 at the time such deposit is required to be made,

["(D) to file a return of tax imposed under this title by its due date (including extensions), or".

[(b) CONFORMING AMENDMENT.—Section 6159(b)(4) is amended by striking "FAILURE TO PAY AN INSTALLMENT OR ANY OTHER TAX LIABILITY WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION" and inserting "FAILURE TO MAKE PAYMENTS OR DEPOSITS OR FILE RETURNS WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION".

[(c) EFFECTIVE DATE.—The amendments made by this section shall apply to failures occurring on or after the date of the enactment of this Act.

[SEC. 104. OFFICE OF CHIEF COUNSEL REVIEW OF OFFERS IN COMPROMISE.

[(a) IN GENERAL.—Section 7122(b) (relating to record) is amended by striking "Whenever a compromise" and all that follows through "his delegate" and inserting "If the Secretary determines that an opinion of the General Counsel for the Department of the Treasury, or the Counsel's delegate, is required with respect to a compromise, there shall be placed on file in the office of the Secretary such opinion".

[(b) CONFORMING AMENDMENTS.—Section 7122(b) is amended by striking the second and third sentences.

[(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offers-in-compromise submitted or pending on or after the date of the enactment of this Act.

[SEC. 105. SEVEN-DAY THRESHOLD ON TOLLING OF STATUTE OF LIMITATIONS DURING NATIONAL TAXPAYER ADVOCATE REVIEW.

[(a) IN GENERAL.—Section 7811(d)(1) (relating to suspension of running of period of limitation) is amended by inserting after "application," the following: "but only if the date of such decision is at least 7 days after the date of the taxpayer's application".

[(b) EFFECTIVE DATE.—The amendment made by this section shall apply to applications filed after the date of the enactment of this Act.

[SEC. 106. INCREASE IN PENALTY FOR BAD CHECKS OR MONEY ORDERS.

[(a) IN GENERAL.—Section 6657 (relating to bad checks) is amended—

[(1) by striking "$750" and inserting "$1,250", and

[(2) by striking "$15" and inserting "$25".

[(b) EFFECTIVE DATE.—The amendments made by this section apply to checks or money orders received after December 31, 2003.

[SEC. 107. FINANCIAL MANAGEMENT SERVICE FEES.

[Notwithstanding any other provision of law, the Financial Management Service may charge the Internal Revenue Service, and the Internal Revenue Service may pay the Financial Management Service, a fee sufficient to cover the full cost of implementing a continuous levy program under subsection (h) of section 6331 of the Internal Revenue Code of 1986. Any such fee shall be based on actual levies made and shall be collected by the Financial Management Service by the retention of a portion of amounts collected by levy pursuant to that subsection. Amounts received by the Financial Management Service as fees under that subsection shall be deposited into the account of the Department of the Treasury under section 3711(g)(7) of title 31, United States Code, and shall be collected and accounted for in accordance with the provisions of that section. The amount credited against the taxpayer's liability on account of the continuous levy shall be the amount levied, without reduction for the amount paid to the Financial Management Service as a fee.

[SEC. 108. ELIMINATION OF RESTRICTION ON OFFSETTING REFUNDS FROM FORMER RESIDENTS.

[Section 6402(e) (relating to collection of past-due, legally enforceable State income tax obligations) is amended by striking paragraph (2) and by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (2), (3), (4), (5), and (6), respectively.

[Subtitle B—Processing and Personnel

[SEC. 111. EXPLANATION OF STATUTE OF LIMITATIONS AND CONSEQUENCES OF FAILURE TO FILE.

[The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable but not later than 180 days after the date of the enactment of this Act, revise the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1), and any instructions booklet accompanying a general income tax return form for taxable years beginning after 2001 (including forms 1040, 1040A, 1040EZ, and any similar or successor forms relating thereto), to provide for an explanation of—

[(1) the limitations imposed by section 6511 of the Internal Revenue Code of 1986 on credits and refunds; and

[(2) the consequences under such section 6511 of the failure to file a return of tax.

[SEC. 112. DISCLOSURE OF TAX INFORMATION TO FACILITATE COMBINED EMPLOYMENT TAX REPORTING.

[Section 6103(d)(5) is amended to read as follows:

["(5) DISCLOSURE FOR COMBINED EMPLOYMENT TAX REPORTING.—The Secretary may disclose taxpayer identity information and signatures to any agency, body, or commission of any State for the purpose of carrying out with such agency, body, or commission a combined Federal and State employment tax reporting program approved by the Secretary. Subsections (a)(2) and (p)(4) and sections 7213 and 7213A shall not apply with respect to disclosures or inspections made pursuant to this paragraph.".

[SEC. 113. EXPANSION OF DECLARATORY JUDGMENT REMEDY TO TAX-EXEMPT ORGANIZATIONS.

[(a) IN GENERAL.—Paragraph (1) of section 7428(a) (relating to creation of remedy) is amended—

[(1) in subparagraph (B) by inserting after "509(a))" the following: "or as a private operating foundation (as defined in section 4942(j)(3))"; and

[(2) by amending subparagraph (C) to read as follows:

["(C) with respect to the initial qualification or continuing qualification of an organization as an organization described in section 501(c) (other than paragraph (3)) or 501(d) which is exempt from tax under section 501(a), or".

[(b) COURT JURISDICTION.—Subsection (a) of section 7428 is amended in the material following paragraph (2) by striking "United States Tax Court, the United States Claims Court, or the district court of the United States for the District of Columbia" and inserting the following: "United States Tax Court (in the case of any such determination or failure) or the United States Claims Court or the district court of the United States for the District of Columbia (in the case of a determination or failure with respect to an issue referred to in subparagraph (A) or (B) of paragraph (1)),".

[(c) EFFECTIVE DATE.—The amendments made by this section shall apply to pleadings filed with respect to determinations (or requests for determinations) made after December 31, 2003.

[SEC. 114. AMENDMENT TO TREASURY AUCTION REFORMS.

[(a) IN GENERAL.—Clause (i) of section 202(c)(4)(B) of the Government Securities Act Amendments of 1993 (31 U.S.C. 3121 note) is amended by inserting before the semicolon "(or, if earlier, at the time the Secretary releases the minutes of the meeting in accordance with paragraph (2))".

[(b) EFFECTIVE DATE.—The amendment made by this section shall apply to meetings held after the date of the enactment of this Act.

[SEC. 115. REVISIONS RELATING TO TERMINATION OF EMPLOYMENT OF INTERNAL REVENUE SERVICE EMPLOYEES FOR MISCONDUCT.

[(a) IN GENERAL.—Subchapter A of chapter 80 (relating to application of internal revenue laws) is amended by inserting after section 7804 the following new section:

["SEC. 7804A. TERMINATION OF EMPLOYMENT FOR MISCONDUCT.

["(a) IN GENERAL.—Subject to subsection (c), the Commissioner shall terminate the employment of any employee of the Internal Revenue Service if there is a final administrative or judicial determination that such employee committed any act or omission described under subsection (b) in the performance of the employee's official duties. Such termination shall be a removal for cause on charges of misconduct.

["(b) ACTS OR OMISSIONS.—The acts or omissions described under this subsection are—

["(1) willful failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets,

["(2) providing a false statement under oath with respect to a material matter involving a taxpayer or taxpayer representative,

["(3) with respect to a taxpayer or taxpayer representative, the violation of—

["(A) any right under the Constitution of the United States, or

["(B) any civil right established under—

["(i) title VI or VII of the Civil Rights Act of 1964,

["(ii) title IX of the Education Amendments of 1972,

["(iii) the Age Discrimination in Employment Act of 1967,

["(iv) the Age Discrimination Act of 1975,

["(v) section 501 or 504 of the Rehabilitation Act of 1973, or

["(vi) title I of the Americans with Disabilities Act of 1990,

["(4) falsifying or destroying documents to conceal mistakes made by any employee with respect to a matter involving a taxpayer or taxpayer representative,

["(5) assault or battery on a taxpayer or taxpayer representative, but only if there is a criminal conviction, or a final judgment by a court in a civil case, with respect to the assault or battery,

["(6) violations of this title, Department of the Treasury regulations, or policies of the Internal Revenue Service (including the Internal Revenue Manual) for the purpose of retaliating against, or harassing, a taxpayer or taxpayer representative,

["(7) willful misuse of the provisions of section 6103 for the purpose of concealing information from a congressional inquiry,

["(8) willful failure to file any return of tax required under this title on or before the date prescribed therefor (including any extensions) when a tax is due and owing, unless such failure is due to reasonable cause and not due to willful neglect,

["(9) willful understatement of Federal tax liability, unless such understatement is due to reasonable cause and not due to willful neglect, and

["(10) threatening to audit a taxpayer for the purpose of extracting personal gain or benefit.

["(c) DETERMINATIONS OF COMMISSIONER.—

["(1) IN GENERAL.—The Commissioner may take a personnel action other than termination for an act or omission described under subsection (b).

["(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may not be delegated to any other officer. The Commissioner, in the Commissioner's sole discretion, may establish a procedure which will be used to determine whether an individual should be referred to the Commissioner for a determination by the Commissioner under paragraph (1).

["(3) NO APPEAL.—Any determination of the Commissioner under this subsection may not be appealed in any administrative or judicial proceeding.

["(d) DEFINITION.—For the purposes of the provisions described in clauses (i), (ii), and (iv) of subsection (b)(3)(B), references to a program or activity regarding Federal financial assistance or an education program or activity receiving Federal financial assistance shall include any program or activity conducted by the Internal Revenue Service for a taxpayer.".

[(b) CLERICAL AMENDMENT.—The table of sections for chapter 80 is amended by inserting after the item relating to section 7804 the following new item:

["Sec. 7804A. Termination of employment for misconduct.".

[(c) REPEAL OF SUPERSEDED SECTION.—Section 1203 of the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105–206; 112 Stat. 720) is repealed.

[(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

[SEC. 116. IRS OVERSIGHT BOARD APPROVAL OF USE OF CRITICAL PAY AUTHORITY.

[(a) IN GENERAL.—Section 7802(d)(3) (relating to management) is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting "; and", and by adding at the end the following new subparagraph:

["(D) review and approve the Commissioner's use of critical pay authority under section 9502 of title 5, United States Code, and streamlined critical pay authority under section 9503 of such title.".

[(b) EFFECTIVE DATE.—The amendments made by this section shall apply to personnel hired after the date of the enactment of this Act.

[SEC. 117. LOW-INCOME TAXPAYER CLINICS.

[(a) GRANTS FOR RETURN PREPARATION CLINICS.—

[(1) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by inserting after section 7526 the following new section:

["SEC. 7526A. RETURN PREPARATION CLINICS FOR LOW-INCOME TAXPAYERS.

["(a) IN GENERAL.—The Secretary may, subject to the availability of appropriated funds, make grants to provide matching funds for the development, expansion, or continuation of qualified return preparation clinics.

["(b) DEFINITIONS.—For purposes of this section—

["(1) QUALIFIED RETURN PREPARATION CLINIC.—

["(A) IN GENERAL.—The term 'qualified return preparation clinic' means a clinic which—

["(i) does not charge more than a nominal fee for its services (except for reimbursement of actual costs incurred), and

["(ii) operates programs which assist low-income taxpayers in preparing and filing their Federal income tax returns, including schedules reporting sole proprietorship or farm income.

["(B) ASSISTANCE TO LOW-INCOME TAXPAYERS.—A clinic is treated as assisting low-income taxpayers under subparagraph (A)(ii) if at least 90 percent of the taxpayers assisted by the clinic have incomes which do not exceed 250 percent of the poverty level, as determined in accordance with criteria established by the Director of the Office of Management and Budget.

["(2) CLINIC.—The term 'clinic' includes—

["(A) a clinical program at an eligible educational institution (as defined in section 529(e)(5)) which satisfies the requirements of paragraph (1) through student assistance of taxpayers in return preparation and filing, and

["(B) an organization described in section 501(c) and exempt from tax under section 501(a) which satisfies the requirements of paragraph (1).

["(c) SPECIAL RULES AND LIMITATIONS.—

["(1) AGGREGATE LIMITATION.—Unless otherwise provided by specific appropriation, the Secretary shall not allocate more than $10,000,000 per year (exclusive of costs of administering the program) to grants under this section.

["(2) OTHER APPLICABLE RULES.—Rules similar to the rules under paragraphs (2) through (7) of section 7526(c) shall apply with respect to the awarding of grants to qualified return preparation clinics.".

[(2) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by inserting after the item relating to section 7526 the following new item:

["Sec. 7526A. Return preparation clinics for low-income taxpayers.".

[(b) GRANTS FOR TAXPAYER REPRESENTATION AND ASSISTANCE CLINICS.—

[(1) INCREASE IN AUTHORIZED GRANTS.—Section 7526(c)(1) (relating to aggregate limitation) is amended by striking "$6,000,000" and inserting "$10,000,000".

[(2) USE OF GRANTS FOR OVERHEAD EXPENSES PROHIBITED.—

[(A) In general.—Section 7526(c) (relating to special rules and limitations) is amended by adding at the end the following new paragraph:

[“(6) Use of grants for overhead expenses prohibited.—No grant made under this section may be used for the overhead expenses of any clinic or of any institution sponsoring such clinic.”.

[(B) Conforming amendments.—Section 7526(c)(5) is amended—

[(i) by inserting “qualified” before “low-income”, and

[(ii) by striking the last sentence.

[(3) Promotion of Clinics.—Section 7526(c), as amended by paragraph (2), is amended by adding at the end the following new paragraph:

[“(7) Promotion of clinics.—The Secretary is authorized to promote the benefits of and encourage the use of low-income taxpayer clinics through the use of mass communications, referrals, and other means.”.

[(c) Effective Date.—The amendments made by this section shall apply to grants made after the date of the enactment of this Act.

[SEC. 118. ENROLLED AGENTS.

[(a) In General.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

[“SEC. 7527. ENROLLED AGENTS.

[“(a) In General.—The Secretary may prescribe such regulations as may be necessary to regulate the conduct of enrolled agents in regards to their practice before the Internal Revenue Service.

[“(b) Use of Credentials.—Any enrolled agents properly licensed to practice as required under rules promulgated under section (a) herein shall be allowed to use the credentials or designation as ‘enrolled agent’, ‘EA’, or ‘E.A.’.”

[(b) Clerical Amendment.—The table of sections for chapter 77 is amended by adding at the end the following new item:

[“Sec. 7527. Enrolled agents.”.

[(c) Prior Regulations.—Nothing in the amendments made by this section shall be construed to have any effect on part 10 of title 31, Code of Federal Regulations, or any other Federal rule or regulation issued before the date of the enactment of this Act.

[SEC. 119. ESTABLISHMENT OF DISASTER RESPONSE TEAM.

[(a) In General.—Section 7508A (relating to authority to postpone certain tax-related deadlines by reason of presidentially declared disaster) is amended by adding at the end the following new subsection:

[“(c) Duties of Disaster Response Team.—

[“(1) Response to disasters.—The Secretary shall—

[“(A) establish as a permanent office in the national office of the Internal Revenue Service a disaster response team composed of members, who in addition to their regular responsibilities, shall assist taxpayers in clarifying and resolving Federal tax matters associated with or resulting from any Presidentially declared disaster (as so defined), and

[“(B) respond to requests by such taxpayers for filing extensions and technical guidance expeditiously.

[“(2) Personnel of disaster response team.—The disaster response team shall be composed of—

[“(A) personnel from the Office of the Taxpayer Advocate, and

[“(B) personnel from the national office of the Internal Revenue Service with expertise in individual, corporate, and small business tax matters.

[“(3) Coordination with FEMA.—The disaster response team shall operate in coordination with the Director of the Federal Emergency Management Agency.

[“(4) Toll-free telephone number.—The Commissioner of Internal Revenue shall establish and maintain a toll-free telephone number for taxpayers to use to receive assistance from the disaster response team.

[“(5) Internet webpage site.—The Commissioner of Internal Revenue shall establish and maintain a site on the Internet webpage of the Internal Revenue Service for information for taxpayers described in paragraph (1)(A).”.

[(b) FEMA.—The Director of the Federal Emergency Management Agency shall work in coordination with the disaster response team established under section 7804(c)(1)(A) of the Internal Revenue Code of 1986 to provide timely assistance to disaster victims described in such section, including—

[(1) informing the disaster response team regarding any tax-related problems or issues arising in connection with the disaster,

[(2) providing the toll-free telephone number established and maintained by the Internal Revenue Service for the disaster victims in all materials provided to such victims, and

[(3) providing the information described in section 7804(c)(5) of such Code on the Internet webpage of the Federal Emergency Management Agency or through a link on such webpage to the Internet webpage site of the Internal Revenue Service described in such section.

[(c) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act.

[SEC. 120. ACCELERATED TAX REFUNDS.

[(a) Study.—The Secretary of the Treasury shall study the implementation of an accelerated refund program for taxpayers who—

[(1) maintain the same filing characteristics from year to year, and

[(2) elect the direct deposit option for any refund under the program.

[(b) Report.—Not later than the date which is 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall transmit a report of the study described in subsection (a), including recommendations, to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

[SEC. 121. STUDY ON CLARIFYING RECORD-KEEPING RESPONSIBILITIES.

[(a) Study.—The Secretary of the Treasury shall study—

[(1) the scope of the records required to be maintained by taxpayers under section 6001 of the Internal Revenue Code of 1986,

[(2) the utility of requiring taxpayers to maintain all records indefinitely,

[(3) such requirement given the necessity to upgrade technological storage for outdated records,

[(4) the number of negotiated records retention agreements requested by taxpayers and the number entered into by the Internal Revenue Service, and

[(5) proposals regarding taxpayer recordkeeping.

[(b) Report.—Not later than the date which is 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall transmit a report of the study described in subsection (a), including recommendations, to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

[SEC. 122. STREAMLINE REPORTING PROCESS FOR NATIONAL TAXPAYER ADVOCATE.

[(a) One Annual Report.—Subparagraph (B) of section 7803(c)(2) (relating to functions of Office) is amended—

[(1) by striking all matter preceding subclause (I) of clause (ii) and inserting the following:

[“(B) Annual report.—

[“(i) In general.—Not later than December 31 of each calendar year, the National Taxpayer Advocate shall report to the Committee of Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the objectives of the Office of the Taxpayer of Advocate for the fiscal year beginning in such calendar year and the activities of such Office during the fiscal year ending during such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and shall—”,

[(2) by striking “clause (ii)” in clause (iv) and inserting “clause (i)”, and

[(3) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

[(b) Effective Date.—The amendments made by this section shall apply to reports in calendar year 2003 and thereafter.

[Subtitle C—Other Provisions

[SEC. 131. PENALTY ON FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

[(a) In General.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

[“(5) Foreign financial agency transaction violation.—

[“(A) Penalty authorized.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

[“(B) Amount of penalty.—

[“(i) In general.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $5,000.

[“(ii) Reasonable cause exception.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

[“(I) such violation was due to reasonable cause, and

[“(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

[“(C) Willful violations.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

[“(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

[“(I) $25,000, or

[“(II) the amount (not exceeding $100,000) determined under subparagraph (D), and

[“(ii) subparagraph (B)(ii) shall not apply.

[“(D) Amount.—The amount determined under this subparagraph is—

[“(i) in the case of a violation involving a transaction, the amount of the transaction, or

[“(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.”

[(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

[SEC. 132. REPEAL OF PERSONAL HOLDING COMPANY TAX.

[(a) IN GENERAL.—Part II of subchapter G of chapter 1 (relating to personal holding companies) is hereby repealed.

[(b) CONFORMING AMENDMENTS.—

[(1) Section 12(2) is amended to read as follows:

["(2) For accumulated earnings tax, see part I of subchapter G (sec. 531 and following).".

[(2) Section 26(b)(2) is amended by striking subparagraph (G) and by redesignating the succeeding subparagraphs accordingly.

[(3) Section 30A(c) is amended by striking paragraph (3) and by redesignating paragraph (4) as paragraph (3).

[(4) Section 41(e)(7)(E) is amended by adding "and" at the end of clause (i), by striking clause (ii), and by redesignating clause (iii) as clause (ii).

[(5) Section 56(b)(2) is amended by striking subparagraph (C) and by redesignating subparagraph (D) as subparagraph (C).

[(6) Section 170(e)(4)(D) is amended by adding "and" at the end of clause (i), by striking clause (ii), and by redesignating clause (iii) as clause (ii).

[(7) Section 111(d) is amended to read as follows:

["(d) SPECIAL RULES FOR ACCUMULATED EARNINGS TAX.—In applying subsection (a) for the purpose of determining the accumulated earnings tax under section 531—

["(1) any excluded amount under subsection (a) allowed for purposes of this subtitle (other than section 531) shall be allowed whether or not such amount resulted in a reduction of the tax under section 531 for the prior taxable year, and

["(2) where any excluded amount under subsection (a) was not allowed as a deduction for the prior taxable year for purposes of this subtitle other than section 531 but was allowable for the same taxable year under section 531, then such excluded amount shall be allowable if it did not result in a reduction of the tax under section 531.".

[(8)(A) Section 316(b) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

[(B) Section 331(b) is amended by striking "(other than a distribution referred to in paragraph (2)(B) of section 316(b))".

[(9) Section 341(d) is amended—

[(A) by striking "section 544(a)" and inserting "section 465(f)", and

[(B) by inserting before the period at the end of the next to the last sentence "and such paragraph (2) shall be applied by inserting 'by or for his partner' after 'his family' ".

[(10) Section 381(c) is amended by striking paragraphs (14) and (17).

[(11) Section 443(e) is amended by striking paragraph (2) and by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

[(12) Section 447(g)(4)(A) is amended by striking "other than—" and all that follows and inserting "other than an S corporation."

[(13)(A) Section 465(a)(1)(B) is amended to read as follows:

["(B) a C corporation which is closely held,".

[(B) Section 465(a)(3) is amended to read as follows:

["(3) CLOSELY HELD DETERMINATION.—For purposes of paragraph (1), a corporation is closely held if, at any time during the last half of the taxable year, more than 50 percent in value of its outstanding stock is owned, directly or indirectly, by or for not more than 5 individuals. For purposes of this paragraph, an organization described in section 401(a), 501(c)(17), or 509(a) or a portion of a trust permanently set aside or to be used exclusively for the purposes described in section 642(c) shall be considered an individual."

[(C) Section 465 is amended by adding at the end the following new subsection:

["(f) CONSTRUCTIVE OWNERSHIP RULES.—For purposes of subsection (a)(3)—

["(1) STOCK NOT OWNED BY INDIVIDUAL.—Stock owned, directly or indirectly, by or for a corporation, partnership, estate, or trust shall be considered as being owned proportionately by its shareholders, partners, or beneficiaries.

["(2) FAMILY OWNERSHIP.—An individual shall be considered as owning the stock owned, directly or indirectly, by or for his family. For purposes of this paragraph, the family of an individual includes only his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

["(3) OPTIONS.—If any person has an option to acquire stock, such stock shall be considered as owned by such person. For purposes of this paragraph, an option to acquire such an option, and each one of a series of such options, shall be considered as an option to acquire such stock.

["(4) APPLICATION OF FAMILY AND OPTION RULES.—Paragraphs (2) and (3) shall be applied if, but only if, the effect is to make the corporation closely held under subsection (a)(3).

["(5) CONSTRUCTIVE OWNERSHIP AS ACTUAL OWNERSHIP.—Stock constructively owned by a person by reason of the application of paragraph (1) or (3), shall, for purposes of applying paragraph (1) or (2), be treated as actually owned by such person; but stock constructively owned by an individual by reason of the application of paragraph (2) shall not be treated as owned by him for purposes of again applying such paragraph in order to make another the constructive owner of such stock.

["(6) OPTION RULE IN LIEU OF FAMILY RULE.—If stock may be considered as owned by an individual under either paragraph (2) or (3) it shall be considered as owned by him under paragraph (3).

["(7) CONVERTIBLE SECURITIES.—Outstanding securities convertible into stock (whether or not convertible during the taxable year) shall be considered as outstanding stock if the effect of the inclusion of all such securities is to make the corporation closely held under subsection (a)(3). The requirement under the preceding sentence that all convertible securities must be included if any are to be included shall be subject to the exception that, where some of the outstanding securities are convertible only after a later date than in the case of others, the class having the earlier conversion date may be included although the others are not included, but no convertible securities shall be included unless all outstanding securities having a prior conversion date are also included."

[(D) Section 465(c)(7)(B) is amended by striking clause (i) and by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively.

[(E) Section 465(c)(7)(G) is amended to read as follows:

["(G) LOSS OF 1 MEMBER OF AFFILIATED GROUP MAY NOT OFFSET INCOME OF PERSONAL SERVICE CORPORATION.—Nothing in this paragraph shall permit any loss of a member of an affiliated group to be used as an offset against the income of any other member of such group which is a personal service corporation (as defined in section 269A(b) but determined by substituting '5 percent' for '10 percent' in section 269A(b)(2))."

[(14) Sections 508(d), 4947, and 4948(c)(4) are each amended by striking "545(b)(2)," each place it appears.

[(15) Section 532(b) is amended by striking paragraph (1) and by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

[(16) Sections 535(b)(1) and 556(b)(1) are each amended by striking "section 541" and inserting "section 541 (as in effect before its repeal)".

[(17)(A) Section 553(a)(1) is amended by striking "section 543(d)" and inserting "subsection (c)".

[(B) Section 553 is amended by adding at the end the following new subsection:

["(c) ACTIVE BUSINESS COMPUTER SOFTWARE ROYALTIES.—

["(1) IN GENERAL.—For purposes of subsection (a), the term 'active business computer software royalties' means any royalties—

["(A) received by any corporation during the taxable year in connection with the licensing of computer software, and

["(B) with respect to which the requirements of paragraphs (2), (3), (4), and (5) are met.

["(2) ROYALTIES MUST BE RECEIVED BY CORPORATION ACTIVELY ENGAGED IN COMPUTER SOFTWARE BUSINESS.—The requirements of this paragraph are met if the royalties described in paragraph (1)—

["(A) are received by a corporation engaged in the active conduct of the trade or business of developing, manufacturing, or producing computer software, and

["(B) are attributable to computer software which—

["(i) is developed, manufactured, or produced by such corporation (or its predecessor) in connection with the trade or business described in subparagraph (A), or

["(ii) is directly related to such trade or business.

["(3) ROYALTIES MUST CONSTITUTE AT LEAST 50 PERCENT OF INCOME.—The requirements of this paragraph are met if the royalties described in paragraph (1) constitute at least 50 percent of the ordinary gross income of the corporation for the taxable year.

["(4) DEDUCTIONS UNDER SECTIONS 162 AND 174 RELATING TO ROYALTIES MUST EQUAL OR EXCEED 25 PERCENT OF ORDINARY GROSS INCOME.—

["(A) IN GENERAL.—The requirements of this paragraph are met if—

["(i) the sum of the deductions allowable to the corporation under sections 162, 174, and 195 for the taxable year which are properly allocable to the trade or business described in paragraph (2) equals or exceeds 25 percent of the ordinary gross income of such corporation for such taxable year, or

["(ii) the average of such deductions for the 5-taxable year period ending with such taxable year equals or exceeds 25 percent of the average ordinary gross income of such corporation for such period.

If a corporation has not been in existence during the 5-taxable year period described in clause (ii), then the period of existence of such corporation shall be substituted for such 5-taxable year period.

["(B) DEDUCTIONS ALLOWABLE UNDER SECTION 162.—For purposes of subparagraph (A), a deduction shall not be treated as allowable under section 162 if it is specifically allowable under another section.

[“(C) LIMITATION ON ALLOWABLE DEDUCTIONS.—For purposes of subparagraph (A), no deduction shall be taken into account with respect to compensation for personal services rendered by the 5 individual shareholders holding the largest percentage (by value) of the outstanding stock of the corporation. For purposes of the preceding sentence individuals holding less than 5 percent (by value) of the stock of such corporation shall not be taken into account.”

[(18) Section 561(a) is amended by striking paragraph (3), by inserting “and” at the end of paragraph (1), and by striking ”, and” at the end of paragraph (2) and inserting a period.

[(19) Section 562(b) is amended to read as follows:

[“(b) DISTRIBUTIONS IN LIQUIDATION.—Except in the case of a foreign personal holding company described in section 552—

[“(1) in the case of amounts distributed in liquidation, the part of such distribution which is properly chargeable to earnings and profits accumulated after February 28, 1913, shall be treated as a dividend for purposes of computing the dividends paid deduction, and

[“(2) in the case of a complete liquidation occurring within 24 months after the adoption of a plan of liquidation, any distribution within such period pursuant to such plan shall, to the extent of the earnings and profits (computed without regard to capital losses) of the corporation for the taxable year in which such distribution is made, be treated as a dividend for purposes of computing the dividends paid deduction.

For purposes of paragraph (1), a liquidation includes a redemption of stock to which section 302 applies. Except to the extent provided in regulations, the preceding sentence shall not apply in the case of any mere holding or investment company which is not a regulated investment company.”

[(20) Section 563 is amended by striking subsection (b).

[(21) Section 564 is hereby repealed.

[(22) Section 631(c) is amended by striking “or section 545(b)(5)”.

[(23) Section 852(b)(1) is amended by striking “which is a personal holding company (as defined in section 542) or”.

[(24)(A) Section 856(h)(1) is amended to read as follows:

[“(1) IN GENERAL.—For purposes of subsection (a)(6), a corporation, trust, or association is closely held if the stock ownership requirement of section 465(a)(3) is met.”

[(B) Section 856(h)(3)(A)(i) is amended by striking “section 542(a)(2)” and inserting “section 465(a)(3)”.

[(C) Paragraph (3) of section 856(h) is amended by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

[(D) Subparagraph (C) of section 856(h)(3), as redesignating by the preceding subparagraph, is amended by striking “subparagraph (C)” and inserting “subparagraph (B)”.

[(25) The last sentence of section 882(c)(2) is amended to read as follows:

“The preceding sentence shall not be construed to deny the credit provided by section 33 for tax withheld at source or the credit provided by section 34 for certain uses of gasoline.”.

[(26) Section 936(a)(3) is amended by striking subparagraph (C), by inserting “or” at the end of subparagraph (B), and by redesignating subparagraph (D) as subparagraph (C).

[(27) Section 992(d) is amended by striking paragraph (2) and by redesignating succeeding paragraphs accordingly.

[(28) Section 992(e) is amended by striking “and section 541 (relating to personal holding company tax)”.

[(29) Section 1202(e)(8) is amended by striking “section 543(d)(1)” and inserting “section 553(c)(1)”.

[(30) Section 1362(d)(3)(C)(iii) is amended by adding at the end the following new sentence: “References to section 542 in the preceding sentence shall be treated as references to such section as in effect on the day before its repeal.”

[(31) Section 1504(c)(2)(B) is amended by adding “and” at the end of clause (i), by striking clause (ii), and by redesignating clause (iii) as clause (ii).

[(32) Section 2057(e)(2)(C) is amended by adding at the end the following new sentence: “References to sections 542 and 543 in the preceding sentence shall be treated as references to such sections as in effect on the day before their repeal.”

[(33) Sections 6422 is amended by striking paragraph (3) and by redesignating paragraphs (4) through (12) and paragraphs (3) through (11), respectively.

[(34) Section 6501 is amended by striking subsection (f).

[(35) Section 6503(k) is amended by striking paragraph (1) and by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively.

[(36) Section 6515 is amended by striking paragraph (1) and by redesignating paragraphs (2) through (6) as paragraphs (1) through (5), respectively.

[(37) Subsections (d)(1)(B) and (e)(2) of section 6662 are each amended by striking “or a personal holding company (as defined in section 542)”.

[(38) Section 6683 is hereby repealed.

[(c) CLERICAL AMENDMENTS.—

[(1) The table of parts for subchapter G of chapter 1 is amended by striking the item relating to part II.

[(2) The table of sections for part IV of such subchapter G is amended by striking the item relating to section 564.

[(3) The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6683.

[(d) EFFECTIVE DATE.—The amendments made by this Act shall apply to taxable years beginning after December 31, 2003.

[TITLE II—REFORM OF PENALTY AND INTEREST

[SEC. 201. INDIVIDUAL ESTIMATED TAX.

[(a) INCREASE IN EXCEPTION FOR INDIVIDUALS OWING SMALL AMOUNT OF TAX.—Section 6654(e)(1) (relating to exception where tax is small amount) is amended by striking “$1,000” and inserting “$2,000”.

[(b) COMPUTATION OF ADDITION TO TAX.—Subsections (a) and (b) of section 6654 (relating to failure by individual to pay estimated taxes) are amended to read as follows:

[“(a) ADDITION TO THE TAX.—

[“(1) IN GENERAL.—Except as otherwise provided in this section, in the case of any underpayment of estimated tax by an individual for a taxable year, there shall be added to the tax under chapters 1 and 2 for the taxable year the amount determined under paragraph (2) for each day of underpayment.

[“(2) AMOUNT.—The amount of the addition to tax for any day shall be the product of the underpayment rate established under subsection (b)(2) multiplied by the amount of the underpayment.

[“(b) AMOUNT OF UNDERPAYMENT; INTEREST RATE.—For purposes of subsection (a)—

[“(1) AMOUNT.—The amount of the underpayment on any day shall be the excess of—

[“(A) the sum of the required installments for the taxable year the due dates for which are on or before such day, over

[“(B) the sum of the amounts (if any) of estimated tax payments made on or before such day on such required installments.

[“(2) DETERMINATION OF INTEREST RATE.—

[“(A) IN GENERAL.—The underpayment rate with respect to any day in an installment underpayment period shall be the underpayment rate established under section 6621 for the first day of the calendar quarter in which such installment underpayment period begins.

[“(B) INSTALLMENT UNDERPAYMENT PERIOD.—For purposes of subparagraph (A), the term ‘installment underpayment period’ means the period beginning on the day after the due date for a required installment and ending on the due date for the subsequent required installment (or in the case of the 4th required installment, the 15th day of the 4th month following the close of a taxable year).

[“(C) DAILY RATE.—The rate determined under subparagraph (A) shall be applied on a daily basis and shall be based on the assumption of 365 days in a calendar year.

[“(3) TERMINATION OF ESTIMATED TAX INTEREST.—No day after the end of the installment underpayment period for the 4th required installment specified in paragraph (2)(B) for a taxable year shall be treated as a day of underpayment with respect to such taxable year.”

[(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

[SEC. 202. CORPORATE ESTIMATED TAX.

[(a) INCREASE IN SMALL TAX AMOUNT EXCEPTION.—Section 6655(f) (relating to exception where tax is small amount) is amended by striking “$500” and inserting “$1,000”.

[(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

[SEC. 203. INCREASE IN LARGE CORPORATION THRESHOLD FOR ESTIMATED TAX PAYMENTS.

[(a) IN GENERAL.—Section 6655(g)(2) (defining large corporation) is amended—

[(1) by striking “$1,000,000” in subparagraph (A) and inserting “the applicable amount”,

[(2) by redesignating subparagraph (B) as subparagraph (C), and

[(3) by inserting after subparagraph (A) the following new subparagraph:

[“(B) APPLICABLE AMOUNT.—For purposes of subparagraph (A), the applicable amount is $1,000,000 increased (but not above $1,500,000) by $50,000 for each taxable year beginning after 2004.”.

[(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

[SEC. 204. ABATEMENT OF INTEREST.

[(a) ABATEMENT OF INTEREST FOR PERIODS ATTRIBUTABLE TO ANY UNREASONABLE IRS ERROR OR DELAY.—Section 6404(e)(1) is amended—

[(1) by striking “in performing a ministerial or managerial act” in subparagraphs (A) and (B),

[(2) by striking “deficiency” in subparagraph (A) and inserting “underpayment of any tax, addition to tax, or penalty imposed by this title”, and

[(3) by striking “tax described in section 6212(a)” in subparagraph (B) and inserting “tax, addition to tax, or penalty imposed by this title”.

[(b) ABATEMENT OF INTEREST TO EXTENT INTEREST IS ATTRIBUTABLE TO TAXPAYER RELIANCE ON WRITTEN STATEMENTS OF THE IRS.—Subsection (f) of section 6404 is amended—

[(1) in the subsection heading, by striking "Penalty or Addition" and inserting "Interest, Penalty, or Addition"; and

[(2) in paragraph (1) and in subparagraph (B) of paragraph (2), by striking "penalty or addition" and inserting "interest, penalty, or addition".

[(c) Effective Date.—The amendments made by this section shall apply with respect to interest accruing on or after the date of the enactment of this Act.

[SEC. 205. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS.

[(a) In General.—Subchapter A of chapter 67 (relating to interest on underpayments) is amended by adding at the end the following new section:

["SEC. 6603. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS, ETC.

["(a) Authority To Make Deposits Other Than As Payment of Tax.—A taxpayer may make a cash deposit with the Secretary which may be used by the Secretary to pay any tax imposed under subtitle A or B or chapter 41, 42, 43, or 44 which has not been assessed at the time of the deposit. Such a deposit shall be made in such manner as the Secretary shall prescribe.

["(b) No Interest Imposed.—To the extent that such deposit is used by the Secretary to pay tax, for purposes of section 6601 (relating to interest on underpayments), the tax shall be treated as paid when the deposit is made.

["(c) Return of Deposit.—Except in a case where the Secretary determines that collection of tax is in jeopardy, the Secretary shall return to the taxpayer any amount of the deposit (to the extent not used for a payment of tax) which the taxpayer requests in writing.

["(d) Payment of Interest.—

["(1) In general.—For purposes of section 6611 (relating to interest on overpayments), a deposit which is returned to a taxpayer shall be treated as a payment of tax for any period to the extent (and only to the extent) attributable to a disputable tax for such period. Under regulations prescribed by the Secretary, rules similar to the rules of section 6611(b)(2) shall apply.

["(2) Disputable tax.—

["(A) In general.—For purposes of this section, the term 'disputable tax' means the amount of tax specified at the time of the deposit as the taxpayer's reasonable estimate of the maximum amount of any tax attributable to disputable items.

["(B) Safe harbor based on 30-day letter.—In the case of a taxpayer who has been issued a 30-day letter, the maximum amount of tax under subparagraph (A) shall not be less than the amount of the proposed deficiency specified in such letter.

["(3) Other definitions.—For purposes of paragraph (2)—

["(A) Disputable item.—The term 'disputable item' means any item of income, gain, loss, deduction, or credit if the taxpayer—

["(i) has a reasonable basis for its treatment of such item, and

["(ii) reasonably believes that the Secretary also has a reasonable basis for disallowing the taxpayer's treatment of such item.

["(B) 30-day letter.—The term '30-day letter' means the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals.

["(4) Rate of interest.—The rate of interest allowable under this subsection shall be the Federal short-term rate determined under section 6621(b), compounded daily.

["(e) Use of Deposits.—

["(1) Payment of tax.—Except as otherwise provided by the taxpayer, deposits shall be treated as used for the payment of tax in the order deposited.

["(2) Returns of deposits.—Deposits shall be treated as returned to the taxpayer on a last-in, first-out basis.".

[(b) Clerical Amendment.—The table of sections for subchapter A of chapter 67 is amended by adding at the end the following new item:

["Sec. 6603. Deposits made to suspend running of interest on potential underpayments, etc.".

[(c) Effective Date.—

[(1) In general.—The amendments made by this section shall apply to deposits made after December 31, 2003.

[(2) Coordination with deposits made under revenue procedure 84–58.—In the case of an amount held by the Secretary of the Treasury or his delegate on the date of the enactment of this Act as a deposit in the nature of a cash bond deposit pursuant to Revenue Procedure 84–58, the date that the taxpayer identifies such amount as a deposit made pursuant to section 6603 of the Internal Revenue Code (as added by this Act) shall be treated as the date such amount is deposited for purposes of such section 6603.

[SEC. 206. FREEZE OF PROVISIONS REGARDING SUSPENSION OF INTEREST WHERE SECRETARY FAILS TO CONTACT TAXPAYER.

[(a) In General.—Section 6404(G) (relating to suspension of interest and certain penalties where secretary fails to contact taxpayer) is amended by striking "1-year period (18-month period in the case of taxable years beginning before January 1, 2004)" both places it appears and inserting "18-month period".

[(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

[SEC. 207. EXPANSION OF INTEREST NETTING.

[(a) In General.—Subsection (d) of section 6621 (relating to elimination of interest on overlapping periods of tax overpayments and underpayments) is amended by adding at the end the following: "Solely for purposes of the preceding sentence, section 6611(e) shall not apply.".

[(b) Effective Date.—The amendment made by this section shall apply to interest accrued after December 31, 2003.

[SEC. 208. CLARIFICATION OF APPLICATION OF FEDERAL TAX DEPOSIT PENALTY.

[Nothing in section 6656 of the Internal Revenue Code of 1986 shall be construed to permit the percentage specified in subsection (b)(1)(A)(iii) thereof to apply other than in a case where the failure is for more than 15 days.

[SEC. 209. FRIVOLOUS TAX SUBMISSIONS.

[(a) Civil Penalties.—Section 6702 is amended to read as follows:

["SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

["(a) Civil Penalty for Frivolous Tax Returns.—A person shall pay a penalty of $5,000 if—

["(1) such person files what purports to be a return of a tax imposed by this title but which—

["(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

["(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

["(2) the conduct referred to in paragraph (1)—

["(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

["(B) reflects a desire to delay or impede the administration of Federal tax laws.

["(b) Civil Penalty for Specified Frivolous Submissions.—

["(1) Imposition of penalty.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

["(2) Specified frivolous submission.—For purposes of this section—

["(A) Specified frivolous submission.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

["(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

["(ii) reflects a desire to delay or impede the administration of Federal tax laws.

["(B) Specified submission.—The term 'specified submission' means—

["(i) a request for a hearing under—

["(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

["(II) section 6330 (relating to notice and opportunity for hearing before levy), and

["(ii) an application under—

["(I) section 7811 (relating to taxpayer assistance orders),

["(II) section 6159 (relating to agreements for payment of tax liability in installments), or

["(III) section 7122 (relating to compromises).

["(3) Opportunity to withdraw submission.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission promptly after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

["(c) Listing of Frivolous Positions.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

["(d) Reduction of Penalty.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

["(e) Penalties in Addition to Other Penalties.—The penalties imposed by this section shall be in addition to any other penalty provided by law."

[(b) Treatment of Frivolous Requests for Hearings Before Levy.—

[(1) Frivolous requests disregarded.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

["(g) Frivolous Requests for Hearing, etc.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review."

[(2) Preclusion from raising frivolous issues at hearing.—Section 6330(c)(4) is amended—

[(A) by striking "(A)" and inserting "(A)(i)";

[(B) by striking "(B)" and inserting "(ii)";

[(C) by striking the period at the end of the first sentence and inserting "; or"; and

[(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

["(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A)."

[(3) STATEMENT OF GROUNDS.—Section 6330(b)(1) is amended by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing".

[(c) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS UPON FILING OF NOTICE OF LIEN.—Section 6320 is amended—

[(1) in subsection (b)(1), by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing", and

[(2) in subsection (c), by striking "and (e)" and inserting "(e), and (g)".

[(d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR OFFERS-IN-COMPROMISE AND INSTALLMENT AGREEMENTS.—Section 7122 is amended by adding at the end the following new subsection:

["(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review."

[(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

'["Sec. 6702. Frivolous tax submissions."

[(f) EFFECTIVE DATE.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

[TITLE III—UNITED STATES TAX COURT MODERNIZATION

[Subtitle A—Tax Court Procedure

[SEC. 301. JURISDICTION OF TAX COURT OVER COLLECTION DUE PROCESS CASES.

[(a) IN GENERAL.—Paragraph (1) of section 6330(d) (relating to proceeding after hearing) is amended to read as follows:

["(1) JUDICIAL REVIEW OF DETERMINATION.—The person may, within 30 days of a determination under this section, appeal such determination to the Tax Court (and the Tax Court shall have jurisdiction with respect to such matter).".

[(b) EFFECTIVE DATE.—The amendment made by this section shall apply to determinations made after the date of the enactment of this Act.

[SEC. 302. AUTHORITY FOR SPECIAL TRIAL JUDGES TO HEAR AND DECIDE CERTAIN EMPLOYMENT STATUS CASES.

[(a) IN GENERAL.—Section 7443A(b) (relating to proceedings which may be assigned to special trial judges) is amended by striking "and" at the end of paragraph (4), by redesignating paragraph (5) as paragraph (6), and by inserting after paragraph (4) the following new paragraph:

["(5) any proceeding under section 7436(c), and".

[(b) CONFORMING AMENDMENT.—Section 7443A(c) is amended by striking "or (4)" and inserting "(4), or (5)".

[(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any proceeding under section 7436(c) of the Internal Revenue Code of 1986 with respect to which a decision has not become final (as determined under section 7481 of such Code) before the date of the enactment of this Act.

[SEC. 303. CONFIRMATION OF AUTHORITY OF TAX COURT TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.

[(a) CONFIRMATION OF AUTHORITY OF TAX COURT TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.—Section 6214(b) (relating to jurisdiction over other years and quarters) is amended by adding at the end the following new sentence: "Notwithstanding the preceding sentence, the Tax Court may apply the doctrine of equitable recoupment to the same extent that it is available in civil tax cases before the district courts of the United States and the United States Court of Federal Claims.".

[(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any action or proceeding in the United States Tax Court with respect to which a decision has not become final (as determined under section 7481 of the Internal Revenue Code of 1986) as of the date of the enactment of this Act.

[SEC. 304. TAX COURT FILING FEE IN ALL CASES COMMENCED BY FILING PETITION.

[(a) IN GENERAL.—Section 7451 (relating to fee for filing a Tax Court petition) is amended by striking all that follows "petition" and inserting a period.

[(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

[SEC. 305. AMENDMENTS TO APPOINT EMPLOYEES.

[(a) IN GENERAL.—Subsection (a) of section 7471 (relating to Tax Court employees) is amended to read as follows:

["(a) APPOINTMENT AND COMPENSATION.—

["(1) CLERK.—The Tax Court may appoint a clerk without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The clerk shall serve at the pleasure of the Tax Court.

["(2) LAW CLERKS AND SECRETARIES.—

["(A) IN GENERAL.—The judges and special trial judges of the Tax Court may appoint law clerks and secretaries, in such numbers as the Tax Court may approve, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Any such law clerk or secretary shall serve at the pleasure of the appointing judge.

["(B) EXEMPTION FROM FEDERAL LEAVE PROVISIONS.—A law clerk appointed under this subsection shall be exempt from the provisions of subchapter I of chapter 63 of title 5, United States Code. Any unused sick leave or annual leave standing to the employee's credit as of the effective date of this subsection shall remain credited to the employee and shall be available to the employee upon separation from the Federal Government.

["(3) DEPUTIES AND OTHER EMPLOYEES.—The clerk may appoint necessary deputies and employees without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Such deputies and employees shall be subject to removal by the clerk.

["(4) PAY.—The Tax Court may fix and adjust the compensation for the clerk and other employees of the Tax Court without regard to the provisions of chapter 51, subchapter III of chapter 53, or section 5373 of title 5, United States Code. To the maximum extent feasible, the Tax Court shall compensate employees at rates consistent with those for employees holding comparable positions in the judicial branch.

["(5) PROGRAMS.—The Tax Court may establish programs for employee evaluations, incentive awards, flexible work schedules, premium pay, and resolution of employee grievances.

["(6) DISCRIMINATION PROHIBITED.—The Tax Court shall—

["(A) prohibit discrimination on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition; and

["(B) promulgate regulations providing procedures for resolving complaints of discrimination by employees and applicants for employment.

["(7) EXPERTS AND CONSULTANTS.—The Tax Court may procure the services of experts and consultants under section 3109 of title 5, United States Code.

["(8) RIGHTS TO CERTAIN APPEALS RESERVED.—Notwithstanding any other provision of law, an individual who is an employee of the Tax Court on the day before the effective date of this subsection and who, as of that day, was entitled to—

["(A) appeal a reduction in grade or removal to the Merit Systems Protection Board under chapter 43 of title 5, United States Code,

["(B) appeal an adverse action to the Merit Systems Protection Board under chapter 75 of title 5, United States Code,

["(C) appeal a prohibited personnel practice described under section 2302(b) of title 5, United States Code, to the Merit Systems Protection Board under chapter 77 of that title,

["(D) make an allegation of a prohibited personnel practice described under section 2302(b) of title 5, United States Code, with the Office of Special Counsel under chapter 12 of that title for action in accordance with that chapter, or

["(E) file an appeal with the Equal Employment Opportunity Commission under part 1614 of title 29 of the Code of Federal Regulations,

shall be entitled to file such appeal or make such an allegation so long as the individual remains an employee of the Tax Court.

["(9) COMPETITIVE STATUS.—Notwithstanding any other provision of law, any employee of the Tax Court who has completed at least 1 year of continuous service under a non temporary appointment with the Tax Court acquires a competitive status for appointment to any position in the competitive service for which the employee possesses the required qualifications.

["(10) MERIT SYSTEM PRINCIPLES; PROHIBITED PERSONNEL PRACTICES; AND PREFERENCE ELIGIBLES.—Any personnel management system of the Tax Court shall—

["(A) include the principles set forth in section 2301(b) of title 5, United States Code;

["(B) prohibit personnel practices prohibited under section 2302(b) of title 5, United States Code; and

["(C) in the case of any individual who would be a preference eligible in the executive branch, the Tax Court will provide preference for that individual in a manner and to an extent consistent with preference accorded to preference eligibles in the executive branch.".

[(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date the United States Tax Court adopts a personnel management system after the date of the enactment of this Act.

[SEC. 306. EXPANDED USE OF TAX COURT PRACTICE FEE FOR PRO SE TAXPAYERS.

[(a) In General.—Section 7475(b) (relating to use of fees) is amended by inserting before the period at the end "and to provide services to pro se taxpayers".

[(b) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act.

[Subtitle B—Tax Court Pension and Compensation

[SEC. 311. ANNUITIES FOR SURVIVORS OF TAX COURT JUDGES WHO ARE ASSASSINATED.

[(a) Eligibility in Case of Death by Assassination.—Subsection (h) of section 7448 (relating to annuities to surviving spouses and dependent children of judges) is amended to read as follows:

["(h) Entitlement to Annuity.—

["(1) In general.—

["(A) Annuity to surviving spouse.—If a judge described in paragraph (2) is survived by a surviving spouse but not by a dependent child, there shall be paid to such surviving spouse an annuity beginning with the day of the death of the judge or following the surviving spouse's attainment of the age of 50 years, whichever is the later, in an amount computed as provided in subsection (m).

["(B) Annuity to child.—If such a judge is survived by a surviving spouse and a dependent child or children, there shall be paid to such surviving spouse an immediate annuity in an amount computed as provided in subsection (m), and there shall also be paid to or on behalf of each such child an immediate annuity equal to the lesser of—

["(i) 10 percent of the average annual salary of such judge (determined in accordance with subsection (m)), or

["(ii) 20 percent of such average annual salary, divided by the number of such children.

["(C) Annuity to surviving dependent children.—If such a judge leaves no surviving spouse but leaves a surviving dependent child or children, there shall be paid to or on behalf of each such child an immediate annuity equal to the lesser of—

["(i) 20 percent of the average annual salary of such judge (determined in accordance with subsection (m)), or

["(ii) 40 percent of such average annual salary, divided by the number of such children.

["(2) Covered judges.—Paragraph (1) applies to any judge electing under subsection (b)—

["(A) who dies while a judge after having rendered at least 5 years of civilian service computed as prescribed in subsection (n), for the last 5 years of which the salary deductions provided for by subsection (c)(1) or the deposits required by subsection (d) have actually been made or the salary deductions required by the civil service retirement laws have actually been made, or

["(B) who dies by assassination after having rendered less than 5 years of civilian service computed as prescribed in subsection (n) if, for the period of such service, the salary deductions provided for by subsection (c)(1) or the deposits required by subsection (d) have actually been made.

["(3) Termination of annuity.—

["(A) In the case of a surviving spouse.—The annuity payable to a surviving spouse under this subsection shall be terminable upon such surviving spouse's death or such surviving spouse's remarriage before attaining age 55.

["(B) In the case of a child.—The annuity payable to a child under this subsection shall be terminable upon (i) the child attaining the age of 18 years, (ii) the child's marriage, or (iii) the child's death, whichever first occurs, except that if such child is incapable of self-support by reason of mental or physical disability the child's annuity shall be terminable only upon death, marriage, or recovery from such disability.

["(C) In the case of a dependent child after death of surviving spouse.—In case of the death of a surviving spouse of a judge leaving a dependent child or children of the judge surviving such spouse, the annuity of such child or children shall be recomputed and paid as provided in paragraph (1)(C).

["(D) Recomputation.—In any case in which the annuity of a dependent child is terminated under this subsection, the annuities of any remaining dependent child or children, based upon the service of the same judge, shall be recomputed and paid as though the child whose annuity was so terminated had not survived such judge.

["(4) Special rule for assassinated judges.—In the case of a survivor or survivors of a judge described in paragraph (2)(B), there shall be deducted from the annuities otherwise payable under this section an amount equal to—

["(A) the amount of salary deductions provided for by subsection (c)(1) that would have been made if such deductions had been made for 5 years of civilian service computed as prescribed in subsection (n) before the judge's death, reduced by

["(B) the amount of such salary deductions that were actually made before the date of the judge's death.

[(b) Definition of Assassination.—Section 7448(a) (relating to definitions) is amended by adding at the end the following new paragraph:

["(8) The terms 'assassinated' and 'assassination' mean the killing of a judge that is motivated by the performance by that judge of his or her official duties.".

[(c) Determination of Assassination.—Subsection (i) of section 7448 is amended—

[(1) by striking the subsection heading and inserting the following:

["(i) Determinations by Chief Judge.—

["(1) Dependency and disability.—",

[(2) by moving the text 2 ems to the right, and

[(3) by adding at the end the following new paragraph:

["(2) Assassination.—The chief judge shall determine whether the killing of a judge was an assassination, subject to review only by the Tax Court. The head of any Federal agency that investigates the killing of a judge shall provide information to the chief judge that would assist the chief judge in making such a determination.".

[(d) Computation of Annuities.—Subsection (m) of section 7448 is amended—

[(1) by striking the subsection heading and inserting the following:

["(m) Computation of Annuities.—

["(1) In general.—",

[(2) by moving the text 2 ems to the right, and

[(3) by adding at the end the following new paragraph:

["(2) Assassinated judges.—In the case of a judge who is assassinated and who has served less than 3 years, the annuity of the surviving spouse of such judge shall be based upon the average annual salary received by such judge for judicial service.".

[(e) Other Benefits.—Section 7448 is amended by adding at the end the following:

["(u) Other Benefits.—In the case of a judge who is assassinated, an annuity shall be paid under this section notwithstanding a survivor's eligibility for or receipt of benefits under chapter 81 of title 5, United States Code, except that the annuity for which a surviving spouse is eligible under this section shall be reduced to the extent that the total benefits paid under this section and chapter 81 of that title for any year would exceed the current salary for that year of the office of the judge.".

[SEC. 312. COST-OF-LIVING ADJUSTMENTS FOR TAX COURT JUDICIAL SURVIVOR ANNUITIES.

[(a) In General.—Subsection (s) of section 7448 (relating to annuities to surviving spouses and dependent children of judges) is amended to read as follows:

["(s) Increases in Survivor Annuities.—Each time that an increase is made under section 8340(b) of title 5, United States Code, in annuities payable under subchapter III of chapter 83 of that title, each annuity payable from the survivors annuity fund under this section shall be increased at the same time by the same percentage by which annuities are increased under such section 8340(b).".

[(b) Effective Date.—The amendments made by this section shall apply with respect to increases made under section 8340(b) of title 5, United States Code, in annuities payable under subchapter III of chapter 83 of that title, taking effect after the date of the enactment of this Act.

[SEC. 313. LIFE INSURANCE COVERAGE FOR TAX COURT JUDGES.

[(a) In General.—Section 7447 (relating to retirement of judges) is amended by adding at the end the following new subsection:

["(j) Life insurance coverage.—For purposes of chapter 87 of title 5, United States Code (relating to life insurance), any individual who is serving as a judge of the Tax Court or who is retired under this section is deemed to be an employee who is continuing in active employment.".

[(b) Effective Date.—The amendment made by this section shall apply to any individual serving as a judge of the United States Tax Court or to any retired judge of the United States Tax Court on the date of the enactment of this Act.

[SEC. 314. COST OF LIFE INSURANCE COVERAGE FOR TAX COURT JUDGES AGE 65 OR OVER.

[Section 7472 (relating to expenditures) is amended by inserting after the first sentence the following new sentence: "Notwithstanding any other provision of law, the Tax Court is authorized to pay on behalf of its judges, age 65 or over, any increase in the cost of Federal Employees' Group Life Insurance imposed after April 24, 1999, including any expenses generated by such payments, as authorized by the chief judge in a manner consistent with such payments authorized by the Judicial Conference of the United States pursuant to section 604(a)(5) of title 28, United States Code.".

[SEC. 315. MODIFICATION OF TIMING OF LUMP-SUM PAYMENT OF JUDGES' ACCRUED ANNUAL LEAVE.

[(a) In General.—Section 7443 (relating to membership of the Tax Court) is amended by adding at the end the following new subsection:

["(h) Lump-Sum Payment of Judges' Accrued Annual Leave.—Notwithstanding the provisions of sections 5551 and 6301 of title 5, United States Code, when an individual subject to the leave system provided in chapter 63 of that title is appointed by the President to be a judge of the Tax Court, the individual shall be entitled to receive, upon appointment to the Tax Court, a lump-sum payment from the Tax Court of the accumulated and accrued current annual leave standing to the individual's credit as certified by the agency from which the individual resigned.''.

[(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any judge of the United States Tax Court who has an outstanding leave balance on the date of the enactment of this Act and to any individual appointed by the President to serve as a judge of the United States Tax Court after such date.

[SEC. 316. PARTICIPATION OF TAX COURT JUDGES IN THE THRIFT SAVINGS PLAN.

[(a) IN GENERAL.—Section 7447 (relating to retirement of judges), as amended by this Act, is amended by adding at the end the following new subsection:

[''(k) THRIFT SAVINGS PLAN.—

[''(1) ELECTION TO CONTRIBUTE.—

[''(A) IN GENERAL.—A judge of the Tax Court may elect to contribute to the Thrift Savings Fund established by section 8437 of title 5, United States Code.

[''(B) PERIOD OF ELECTION.—An election may be made under this paragraph only during a period provided under section 8432(b) of title 5, United States Code, for individuals subject to chapter 84 of such title.

[''(2) APPLICABILITY OF TITLE 5 PROVISIONS.—Except as otherwise provided in this subsection, the provisions of subchapters III and VII of chapter 84 of title 5, United States Code, shall apply with respect to a judge who makes an election under paragraph (1).

[''(3) SPECIAL RULES.—

[''(A) AMOUNT CONTRIBUTED.—The amount contributed by a judge to the Thrift Savings Fund in any pay period shall not exceed the maximum percentage of such judge's basic pay for such period as allowable under section 8440f of title 5, United States Code. Basic pay does not include any retired pay paid pursuant to this section.

[''(B) CONTRIBUTIONS FOR BENEFIT OF JUDGE.—No contributions may be made for the benefit of a judge under section 8432(c) of title 5, United States Code.

[''(C) APPLICABILITY OF SECTION 8433(b) OF TITLE 5 WHETHER OR NOT JUDGE RETIRES.—Section 8433(b) of title 5, United States Code, applies with respect to a judge who makes an election under paragraph (1) and who either—

[''(i) retires under subsection (b), or

[''(ii) ceases to serve as a judge of the Tax Court but does not retire under subsection (b).

Retirement under subsection (b) is a separation from service for purposes of subchapters III and VII of chapter 84 of that title.

[''(D) APPLICABILITY OF SECTION 8351(b)(5) OF TITLE 5.—The provisions of section 8351(b)(5) of title 5, United States Code, shall apply with respect to a judge who makes an election under paragraph (1).

[''(E) EXCEPTION.—Notwithstanding subparagraph (C), if any judge retires under this section, or resigns without having met the age and service requirements set forth under subsection (b)(2), and such judge's nonforfeitable account balance is less than an amount that the Executive Director of the Office of Personnel Management prescribes by regulation, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment.''.

[(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act, except that United States Tax Court judges may only begin to participate in the Thrift Savings Plan at the next open season beginning after such date.

[SEC. 317. EXEMPTION OF TEACHING COMPENSATION OF RETIRED JUDGES FROM LIMITATION ON OUTSIDE EARNED INCOME.

[(a) IN GENERAL.—Section 7447 (relating to retirement of judges), as amended by this Act, is amended by adding at the end the following new subsection:

[''(l) TEACHING COMPENSATION OF RETIRED JUDGES.—For purposes of the limitation under section 501(a) of the Ethics in Government Act of 1978 (5 U.S.C. App.), any compensation for teaching approved under subsection (a)(5) of that section shall not be treated as outside earned income when received by a judge of the Tax Court who has retired under subsection (b) for teaching performed during any calendar year for which such a judge has met the requirements of subsection (c), as certified by the chief judge of the Tax Court.''.

[(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any individual serving as a retired judge of the United States Tax Court on or after the date of the enactment of this Act.

[SEC. 318. GENERAL PROVISIONS RELATING TO MAGISTRATE JUDGES OF THE TAX COURT.

[(a) TITLE OF SPECIAL TRIAL JUDGE CHANGED TO MAGISTRATE JUDGE OF THE TAX COURT.—The heading of section 7443A is amended to read as follows:

[''SEC. 7443A. MAGISTRATE JUDGES OF THE TAX COURT.''.

[(b) APPOINTMENT, TENURE, AND REMOVAL.—Subsection (a) of section 7443A is amended to read as follows:

[''(a) APPOINTMENT, TENURE, AND REMOVAL.—

[''(1) APPOINTMENT.—The chief judge may, from time to time, appoint and reappoint magistrate judges of the Tax Court for a term of 8 years. The magistrate judges of the Tax Court shall proceed under such rules as may be promulgated by the Tax Court.

[''(2) REMOVAL.—Removal of a magistrate judge of the Tax Court during the term for which he or she is appointed shall be only for incompetency, misconduct, neglect of duty, or physical or mental disability, but the office of a magistrate judge of the Tax Court shall be terminated if the judges of the Tax Court determine that the services performed by the magistrate judge of the Tax Court are no longer needed. Removal shall not occur unless a majority of all the judges of the Tax Court concur in the order of removal. Before any order of removal shall be entered, a full specification of the charges shall be furnished to the magistrate judge of the Tax Court, and he or she shall be accorded by the judges of the Tax Court an opportunity to be heard on the charges.''.

[(c) SALARY.—Section 7443A(d) (relating to salary) is amended by striking ''90'' and inserting ''92''.

[(d) EXEMPTION FROM FEDERAL LEAVE PROVISIONS.—Section 7443A is amended by adding at the end the following new subsection:

[''(f) EXEMPTION FROM FEDERAL LEAVE PROVISIONS.—

[''(1) IN GENERAL.—A magistrate judge of the Tax Court appointed under this section shall be exempt from the provisions of subchapter I of chapter 63 of title 5, United States Code.

[''(2) TREATMENT OF UNUSED LEAVE.—

[''(A) AFTER SERVICE AS MAGISTRATE JUDGE.—If an individual who is exempted under paragraph (1) from the subchapter referred to in such paragraph was previously subject to such subchapter and, without a break in service, again becomes subject to such subchapter on completion of the individual's service as a magistrate judge, the unused annual leave and sick leave standing to the individual's credit when such individual was exempted from this subchapter is deemed to have remained to the individual's credit.

[''(B) COMPUTATION OF ANNUITY.—In computing an annuity under section 8339 of title 5, United States Code, the total service of an individual specified in subparagraph (A) who retires on an immediate annuity or dies leaving a survivor or survivors entitled to an annuity includes, without regard to the limitations imposed by subsection (f) of such section 8339, the days of unused sick leave standing to the individual's credit when such individual was exempted from subchapter I of chapter 63 of title 5, United States Code, except that these days will not be counted in determining average pay or annuity eligibility.

[''(C) LUMP SUM PAYMENT.—Any accumulated and current accrued annual leave or vacation balances credited to a magistrate judge as of the date of the enactment of this subsection shall be paid in a lump sum at the time of separation from service pursuant to the provisions and restrictions set forth in section 5551 of title 5, United States Code, and related provisions referred to in such section.''.

[(e) CONFORMING AMENDMENTS.—

[(1) The heading of subsection (b) of section 7443A is amended by striking ''SPECIAL TRIAL JUDGES'' and inserting ''MAGISTRATE JUDGES OF THE TAX COURT''.

[(2) Section 7443A(b) is amended by striking ''special trial judges of the court'' and inserting ''magistrate judges of the Tax Court''.

[(3) Subsections (c) and (d) of section 7443A are amended by striking ''special trial judge'' and inserting ''magistrate judge of the Tax Court'' each place it appears.

[(4) Section 7443A(e) is amended by striking ''special trial judges'' and inserting ''magistrate judges of the Tax Court''.

[(5) Section 7456(a) is amended by striking ''special trial judge'' each place it appears and inserting ''magistrate judge''.

[(6) Subsection (c) of section 7471 is amended—

[(A) by striking the subsection heading and inserting ''MAGISTRATE JUDGES OF THE TAX COURT.—'', and

[(B) by striking ''special trial judges'' and inserting ''magistrate judges''.

[SEC. 319. ANNUITIES TO SURVIVING SPOUSES AND DEPENDENT CHILDREN OF MAGISTRATE JUDGES OF THE TAX COURT.

[(a) DEFINITIONS.—Section 7448(a) (relating to definitions), as amended by this Act, is amended by redesignating paragraphs (5), (6), (7), and (8) as paragraphs (7), (8), (9), and (10), respectively, and by inserting after paragraph (4) the following new paragraphs:

[''(5) The term 'magistrate judge' means a judicial officer appointed pursuant to section 7443A, including any individual receiving an annuity under section 7443B, or chapters 83 or 84, as the case may be, of title 5, United States Code, whether or not performing judicial duties under section 7443C.

[''(6) The term 'magistrate judge's salary' means the salary of a magistrate judge received under section 7443A(d), any amount received as an annuity under section 7443B, or chapters 83 or 84, as the case may be, of title 5, United States Code, and compensation received under section 7443C.''.

[(b) ELECTION.—Subsection (b) of section 7448 (relating to annuities to surviving spouses and dependent children of judges) is amended—

[(1) by striking the subsection heading and inserting the following:

["(b) Election.—

["(1) Judges.—",

[(2) by moving the text 2 ems to the right, and

[(3) by adding at the end the following new paragraph:

["(2) Magistrate judges.—Any magistrate judge may by written election filed with the chief judge bring himself or herself within the purview of this section. Such election shall be filed not later than the later of 6 months after—

["(A) 6 months after the date of the enactment of this paragraph,

["(B) the date the judge takes office, or

["(C) the date the judge marries.".

[(c) Conforming Amendments.—

[(1) The heading of section 7448 is amended by inserting "**AND MAGISTRATE JUDGES**" after "**JUDGES**".

[(2) The item relating to section 7448 in the table of sections for part I of subchapter C of chapter 76 is amended by inserting "and magistrate judges" after "judges".

[(3) Subsections (c)(1), (d), (f), (g), (h), (j), (m), (n), and (u) of section 7448, as amended by this Act, are each amended—

[(A) by inserting "or magistrate judge" after "judge" each place it appears other than in the phrase "chief judge", and

[(B) by inserting "or magistrate judge's" after "judge's" each place it appears.

[(4) Section 7448(c) is amended—

[(A) in paragraph (1), by striking "Tax Court judges" and inserting "Tax Court judicial officers",

[(B) in paragraph (2)—

[(i) in subparagraph (A), by inserting "and section 7443A(d)" after "(a)(4)", and

[(ii) in subparagraph (B), by striking "subsection (a)(4)" and inserting "subsections (a)(4) and (a)(6)".

[(5) Section 7448(g) is amended by inserting "or section 7443B" after "section 7447" each place it appears, and by inserting "or an annuity" after "retired pay".

[(6) Section 7448(j)(1) is amended—

[(A) in subparagraph (A), by striking "service or retired" and inserting "service, retired", and by inserting ", or receiving any annuity under section 7443B or chapters 83 or 84 of title 5, United States Code," after "section 7447", and

[(B) in the last sentence, by striking "subsections (a)(6) and (7)" and inserting "paragraphs (8) and (9) of subsection (a)".

[(7) Section 7448(m)(1), as amended by this Act, is amended—

[(A) by inserting "or any annuity under section 7443B or chapters 83 or 84 of title 5, United States Code" after "7447(d)", and

[(B) by inserting "or 7443B(m)(1)(B) after "7447(f)(4)".

[(8) Section 7448(n) is amended by inserting "his years of service pursuant to any appointment under section 7443A," after "of the Tax Court,".

[(9) Section 3121(b)(5)(E) is amended by inserting "or magistrate judge" before "of the United States Tax Court".

[(10) Section 210(a)(5)(E) of the Social Security Act is amended by inserting "or magistrate judge" before "of the United States Tax Court".

[SEC. 320. RETIREMENT AND ANNUITY PROGRAM.

[(a) Retirement and Annuity Program.—Part I of subchapter C of chapter 76 is amended by inserting after section 7443A the following new section:

["SEC. 7443B. RETIREMENT FOR MAGISTRATE JUDGES OF THE TAX COURT.

["(a) Retirement Based on Years of Service.—A magistrate judge of the Tax Court to whom this section applies and who retires from office after attaining the age of 65 years and serving at least 14 years, whether continuously or otherwise, as such magistrate judge shall, subject to subsection (f), be entitled to receive, during the remainder of the magistrate judge's lifetime, an annuity equal to the salary being received at the time the magistrate judge leaves office.

["(b) Retirement Upon Failure of Reappointment.—A magistrate judge of the Tax Court to whom this section applies who is not reappointed following the expiration of the term of office of such magistrate judge, and who retires upon the completion of the term shall, subject to subsection (f), be entitled to receive, upon attaining the age of 65 years and during the remainder of such magistrate judge's lifetime, an annuity equal to that portion of the salary being received at the time the magistrate judge leaves office which the aggregate number of years of service, not to exceed 14, bears to 14, if—

["(1) such magistrate judge has served at least 1 full term as a magistrate judge, and

["(2) not earlier than 9 months before the date on which the term of office of such magistrate judge expires, and not later than 6 months before such date, such magistrate judge notified the chief judge of the Tax Court in writing that such magistrate judge was willing to accept reappointment to the position in which such magistrate judge was serving.

["(c) Service of at Least 8 Years.—A magistrate judge of the Tax Court to whom this section applies and who retires after serving at least 8 years, whether continuously or otherwise, as such a magistrate judge shall, subject to subsection (f), be entitled to receive, upon attaining the age of 65 years and during the remainder of the magistrate judge's lifetime, an annuity equal to that portion of the salary being received at the time the magistrate judge leaves office which the aggregate number of years of service, not to exceed 14, bears to 14. Such annuity shall be reduced by $\frac{1}{6}$ of 1 percent for each full month such magistrate judge was under the age of 65 at the time the magistrate judge left office, except that such reduction shall not exceed 20 percent.

["(d) Retirement for Disability.—A magistrate judge of the Tax Court to whom this section applies, who has served at least 5 years, whether continuously or otherwise, as such a magistrate judge, and who retires or is removed from office upon the sole ground of mental or physical disability shall, subject to subsection (f), be entitled to receive, during the remainder of the magistrate judge's lifetime, an annuity equal to 40 percent of the salary being received at the time of retirement or removal or, in the case of a magistrate judge who has served for at least 10 years, an amount equal to that proportion of the salary being received at the time of retirement or removal which the aggregate number of years of service, not to exceed 14, bears to 14.

["(e) Cost-of-Living Adjustments.—A magistrate judge of the Tax Court who is entitled to an annuity under this section is also entitled to a cost-of-living adjustment in such annuity, calculated and payable in the same manner as adjustments under section 8340(b) of title 5, United States Code, except that any such annuity, as increased under this subsection, may not exceed the salary then payable for the position from which the magistrate judge retired or was removed.

["(f) Election; Annuity in Lieu of Other Annuities.—

["(1) In general.—A magistrate judge of the Tax Court shall be entitled to an annuity under this section if the magistrate judge elects an annuity under this section by notifying the chief judge of the Tax Court not later than the later of—

["(A) 5 years after the magistrate judge of the Tax Court begins judicial service, or

["(B) 5 years after the date of the enactment of this subsection.

Such notice shall be given in accordance with procedures prescribed by the Tax Court.

["(2) Annuity in lieu of other annuity.—A magistrate judge who elects to receive an annuity under this section shall not be entitled to receive—

["(A) any annuity to which such magistrate judge would otherwise have been entitled under subchapter III of chapter 83, or under chapter 84 (except for subchapters III and VII), of title 5, United States Code, for service performed as a magistrate or otherwise,

["(B) an annuity or salary in senior status or retirement under section 371 or 372 of title 28, United States Code,

["(C) retired pay under section 7447, or

["(D) retired pay under section 7296 of title 38, United States Code.

["(3) Coordination with title 5.—A magistrate judge of the Tax Court who elects to receive an annuity under this section—

["(A) shall not be subject to deductions and contributions otherwise required by section 8334(a) of title 5, United States Code,

["(B) shall be excluded from the operation of chapter 84 (other than subchapters III and VII) of such title 5, and

["(C) is entitled to a lump-sum credit under section 8342(a) or 8424 of such title 5, as the case may be.

["(g) Calculation of Service.—For purposes of calculating an annuity under this section—

["(1) service as a magistrate judge of the Tax Court to whom this section applies may be credited, and

["(2) each month of service shall be credited as $\frac{1}{12}$ of a year, and the fractional part of any month shall not be credited.

["(h) Covered Positions and Service.—This section applies to any magistrate judge of the Tax Court or special trial judge of the Tax Court appointed under this subchapter, but only with respect to service as such a magistrate judge or special trial judge after a date not earlier than $9\frac{1}{2}$ years before the date of the enactment of this subsection.

["(i) Payments Pursuant to Court Order.—

["(1) In general.—Payments under this section which would otherwise be made to a magistrate judge of the Tax Court based upon his or her service shall be paid (in whole or in part) by the chief judge of the Tax Court to another person if and to the extent expressly provided for in the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation. Any payment under this paragraph to a person bars recovery by any other person.

["(2) Requirements for payment.—Paragraph (1) shall apply only to payments made by the chief judge of the Tax Court after the date of receipt by the chief judge of written notice of such decree, order, or agreement, and such additional information as the chief judge may prescribe.

["(3) Court defined.—For purposes of this subsection, the term 'court' means any court of any State, the District of Columbia, the

Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, or the Virgin Islands, and any Indian tribal court or courts of Indian offense.

[“(j) Deductions, Contributions, and Deposits.—

[“(1) Deductions.—Beginning with the next pay period after the chief judge of the Tax Court receives a notice under subsection (f) that a magistrate judge of the Tax Court has elected an annuity under this section, the chief judge shall deduct and withhold 1 percent of the salary of such magistrate judge. Amounts shall be so deducted and withheld in a manner determined by the chief judge. Amounts deducted and withheld under this subsection shall be deposited in the Treasury of the United States to the credit of the Tax Court Judicial Officers' Retirement Fund. Deductions under this subsection from the salary of a magistrate judge shall terminate upon the retirement of the magistrate judge or upon completion of 14 years of service for which contributions under this section have been made, whether continuously or otherwise, as calculated under subsection (g), whichever occurs first.

[“(2) Consent to deductions; discharge of claims.—Each magistrate judge of the Tax Court who makes an election under subsection (f) shall be deemed to consent and agree to the deductions from salary which are made under paragraph (1). Payment of such salary less such deductions (and any deductions made under section 7448) is a full and complete discharge and acquittance of all claims and demands for all services rendered by such magistrate judge during the period covered by such payment, except the right to those benefits to which the magistrate judge is entitled under this section (and section 7448).

[“(k) Deposits for Prior Service.—Each magistrate judge of the Tax Court who makes an election under subsection (f) may deposit, for service performed before such election for which contributions may be made under this section, an amount equal to 1 percent of the salary received for that service. Credit for any period covered by that service may not be allowed for purposes of an annuity under this section until a deposit under this subsection has been made for that period.

[“(l) Individual Retirement Records.—The amounts deducted and withheld under subsection (j), and the amounts deposited under subsection (k), shall be credited to individual accounts in the name of each magistrate judge of the Tax Court from whom such amounts are received, for credit to the Tax Court Judicial Officers' Retirement Fund.

[“(m) Annuities Affected in Certain Cases.—

[“(1) 1-year forfeiture for failure to perform judicial duties.—Subject to paragraph (3), any magistrate judge of the Tax Court who retires under this section and who fails to perform judicial duties required of such individual by section 7443C shall forfeit all rights to an annuity under this section for a 1-year period which begins on the 1st day on which such individual fails to perform such duties.

[“(2) Permanent forfeiture of retired pay where certain non-government services performed.—Subject to paragraph (3), any magistrate judge of the Tax Court who retires under this section and who thereafter performs (or supervises or directs the performance of) legal or accounting services in the field of Federal taxation for the individual's client, the individual's employer, or any of such employer's clients, shall forfeit all rights to an annuity under this section for all periods beginning on or after the first day on which the individual performs (or supervises or directs the performance of) such services. The preceding sentence shall not apply to any civil office or employment under the Government of the United States.

[“(3) Forfeitures not to apply where individual elects to freeze amount of annuity.—

[“(A) In general.—If a magistrate judge of the Tax Court makes an election under this paragraph—

[“(i) paragraphs (1) and (2) (and section 7443C) shall not apply to such magistrate judge beginning on the date such election takes effect, and

[“(ii) the annuity payable under this section to such magistrate judge, for periods beginning on or after the date such election takes effect, shall be equal to the annuity to which such magistrate judge is entitled on the day before such effective date.

[“(B) Election requirements.—An election under subparagraph (A)—

[“(i) may be made by a magistrate judge of the Tax Court eligible for retirement under this section, and

[“(ii) shall be filed with the chief judge of the Tax Court.

Such an election, once it takes effect, shall be irrevocable.

[“(C) Effective date of election.—Any election under subparagraph (A) shall take effect on the first day of the first month following the month in which the election is made.

[“(4) Accepting other employment.—Any magistrate judge of the Tax Court who retires under this section and thereafter accepts compensation for civil office or employment under the United States Government (other than for the performance of functions as a magistrate judge of the Tax Court under section 7443C) shall forfeit all rights to an annuity under this section for the period for which such compensation is received. For purposes of this paragraph, the term 'compensation' includes retired pay or salary received in retired status.

[“(n) Lump-Sum Payments.—

[“(1) Eligibility.—

[“(A) In general.—Subject to paragraph (2), an individual who serves as a magistrate judge of the Tax Court and—

[“(i) who leaves office and is not reappointed as a magistrate judge of the Tax Court for at least 31 consecutive days,

[“(ii) who files an application with the chief judge of the Tax Court for payment of a lump-sum credit,

[“(iii) is not serving as a magistrate judge of the Tax Court at the time of filing of the application, and

[“(iv) will not become eligible to receive an annuity under this section within 31 days after filing the application,

is entitled to be paid the lump-sum credit. Payment of the lump-sum credit voids all rights to an annuity under this section based on the service on which the lump-sum credit is based, until that individual resumes office as a magistrate judge of the Tax Court.

[“(B) Payment to survivors.—Lump-sum benefits authorized by subparagraphs (C), (D), and (E) of this paragraph shall be paid to the person or persons surviving the magistrate judge of the Tax Court and alive on the date title to the payment arises, in the order of precedence set forth in subsection (o) of section 376 of title 28, United States Code, and in accordance with the last 2 sentences of paragraph (1) of that subsection. For purposes of the preceding sentence, the term 'judicial official' as used in subsection (o) of such section 376 shall be deemed to mean 'magistrate judge of the Tax Court' and the terms 'Administrative Office of the United States Courts' and 'Director of the Administrative Office of the United States Courts' shall be deemed to mean 'chief judge of the Tax Court'.

[“(C) Payment upon death of judge before receipt of annuity.—If a magistrate judge of the Tax Court dies before receiving an annuity under this section, the lump-sum credit shall be paid.

[“(D) Payment of annuity remainder.—If all annuity rights under this section based on the service of a deceased magistrate judge of the Tax Court terminate before the total annuity paid equals the lump-sum credit, the difference shall be paid.

[“(E) Payment upon death of judge during receipt of annuity.—If a magistrate judge of the Tax Court who is receiving an annuity under this section dies, any accrued annuity benefits remaining unpaid shall be paid.

[“(F) Payment upon termination.—Any accrued annuity benefits remaining unpaid on the termination, except by death, of the annuity of a magistrate judge of the Tax Court shall be paid to that individual.

[“(G) Payment upon accepting other employment.—Subject to paragraph (2), a magistrate judge of the Tax Court who forfeits rights to an annuity under subsection (m)(4) before the total annuity paid equals the lump-sum credit shall be entitled to be paid the difference if the magistrate judge of the Tax Court files an application with the chief judge of the Tax Court for payment of that difference. A payment under this subparagraph voids all rights to an annuity on which the payment is based.

[“(2) Spouses and former spouses.—

[“(A) In general.—Payment of the lump-sum credit under paragraph (1)(A) or a payment under paragraph (1)(G)—

[“(i) may be made only if any current spouse and any former spouse of the magistrate judge of the Tax Court are notified of the magistrate judge's application, and

[“(ii) shall be subject to the terms of a court decree of divorce, annulment, or legal separation, or any court or court approved property settlement agreement incident to such decree, if—

[“(I) the decree, order, or agreement expressly relates to any portion of the lump-sum credit or other payment involved, and

[“(II) payment of the lump-sum credit or other payment would extinguish entitlement of the magistrate judge's spouse or former spouse to any portion of an annuity under subsection (i).

[“(B) Notification.—Notification of a spouse or former spouse under this paragraph shall be made in accordance with such procedures as the chief judge of the Tax Court shall prescribe. The chief judge may provide under such procedures that subparagraph (A)(i) may be waived with respect to a spouse or former spouse if the magistrate judge establishes to the satisfaction of the chief judge that the whereabouts of such spouse or former spouse cannot be determined.

[“(C) Resolution of 2 or more orders.—The chief judge shall prescribe procedures under which this paragraph shall be applied in any case in which the chief judge receives 2 or more orders or decrees described in subparagraph (A).

[“(3) Definition.—For purposes of this subsection, the term 'lump-sum credit' means the unrefunded amount consisting of—

["(A) retirement deductions made under this section from the salary of a magistrate judge of the Tax Court,

["(B) amounts deposited under subsection (k) by a magistrate judge of the Tax Court covering earlier service, and

["(C) interest on the deductions and deposits which, for any calendar year, shall be equal to the overall average yield to the Tax Court Judicial Officers' Retirement Fund during the preceding fiscal year from all obligations purchased by the Secretary during such fiscal year under subsection (o); but does not include interest—

["(i) if the service covered thereby aggregates 1 year or less, or

["(ii) for the fractional part of a month in the total service.

["(o) Tax Court Judicial Officers' Retirement Fund.—

["(1) Establishment.—There is established in the Treasury a fund which shall be known as the 'Tax Court Judicial Officers' Retirement Fund'. Amounts in the Fund are authorized to be appropriated for the payment of annuities, refunds, and other payments under this section.

["(2) Investment of Fund.—The Secretary shall invest, in interest bearing securities of the United States, such currently available portions of the Tax Court Judicial Officers' Retirement Fund as are not immediately required for payments from the Fund. The income derived from these investments constitutes a part of the Fund.

["(3) Unfunded liability.—

["(A) In general.—There are authorized to be appropriated to the Tax Court Judicial Officers' Retirement Fund amounts required to reduce to zero the unfunded liability of the Fund.

["(B) Unfunded liability.—For purposes of subparagraph (A), the term 'unfunded liability' means the estimated excess, determined on an annual basis in accordance with the provisions of section 9503 of title 31, United States Code, of the present value of all benefits payable from the Tax Court Judicial Officers' Retirement Fund over the sum of—

["(i) the present value of deductions to be withheld under this section from the future basic pay of magistrate judges of the Tax Court, plus

["(ii) the balance in the Fund as of the date the unfunded liability is determined.

["(p) Participation in Thrift Savings Plan.—

["(1) Election to contribute.—

["(A) In general.—A magistrate judge of the Tax Court who elects to receive an annuity under this section or under section 321 of the Tax Administration Good Government Act may elect to contribute an amount of such individual's basic pay to the Thrift Savings Fund established by section 8437 of title 5, United States Code.

["(B) Period of election.—An election may be made under this paragraph only during a period provided under section 8432(b) of title 5, United States Code, for individuals subject to chapter 84 of such title.

["(2) Applicability of title 5 provisions.—Except as otherwise provided in this subsection, the provisions of subchapters III and VII of chapter 84 of title 5, United States Code, shall apply with respect to a magistrate judge who makes an election under paragraph (1).

["(3) Special rules.—

["(A) Amount contributed.—The amount contributed by a magistrate judge to the Thrift Savings Fund in any pay period shall not exceed the maximum percentage of such judge's basic pay for such pay period as allowable under section 8440f of title 5, United States Code.

["(B) Contributions for benefit of judge.—No contributions may be made for the benefit of a magistrate judge under section 8432(c) of title 5, United States Code.

["(C) Applicability of section 8433(b) of title 5.—Section 8433(b) of title 5, United States Code, applies with respect to a magistrate judge who makes an election under paragraph (1) and—

["(i) who retires entitled to an immediate annuity under this section (including a disability annuity under subsection (d) of this section) or section 321 of the Tax Administration Good Government Act,

["(ii) who retires before attaining age 65 but is entitled, upon attaining age 65, to an annuity under this section or section 321 of the Tax Administration Good Government Act, or

["(iii) who retires before becoming entitled to an immediate annuity, or an annuity upon attaining age 65, under this section or section 321 of the Tax Administration Good Government Act.

["(D) Separation from service.—With respect to a magistrate judge to whom this subsection applies, retirement under this section or section 321 of the Tax Administration Good Government Act is a separation from service for purposes of subchapters III and VII of chapter 84 of title 5, United States Code.

["(4) Definitions.—For purposes of this subsection, the terms 'retirement' and 'retire' include removal from office under section 7443A(a)(2) on the sole ground of mental or physical disability.

["(5) Offset.—In the case of a magistrate judge who receives a distribution from the Thrift Savings Fund and who later receives an annuity under this section, that annuity shall be offset by an amount equal to the amount which represents the Government's contribution to that person's Thrift Savings Account, without regard to earnings attributable to that amount. Where such an offset would exceed 50 percent of the annuity to be received in the first year, the offset may be divided equally over the first 2 years in which that person receives the annuity.

["(6) Exception.—Notwithstanding clauses (i) and (ii) of paragraph (3)(C), if any magistrate judge retires under circumstances making such magistrate judge eligible to make an election under subsection (b) of section 8433 of title 5, United States Code, and such magistrate judge's nonforfeitable account balance is less than an amount that the Executive Director of the Office of Personnel Management prescribes by regulation, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment.".

[(b) Conforming Amendment.—The table of section for part I of subchapter C of chapter 76 is amended by inserting after the item relating to section 7443A the following new item:

["Sec. 7443B. Retirement for magistrate judges of the Tax Court.".

[SEC. 321. INCUMBENT MAGISTRATE JUDGES OF THE TAX COURT.

[(a) Retirement Annuity Under Title 5 and Section 7443B of the Internal Revenue Code of 1986.—A magistrate judge of the United States Tax Court in active service on the date of the enactment of this Act shall, subject to subsection (b), be entitled, in lieu of the annuity otherwise provided under the amendments made by this title, to—

[(1) an annuity under subchapter III of chapter 83, or under chapter 84 (except for subchapters III and VII), of title 5, United States Code, as the case may be, for creditable service before the date on which service would begin to be credited for purposes of paragraph (2), and

[(2) an annuity calculated under subsection (b) or (c) and subsection (g) of section 7443B of the Internal Revenue Code of 1986, as added by this Act, for any service as a magistrate judge of the United States Tax Court or special trial judge of the United States Tax Court but only with respect to service as such a magistrate judge or special trial judge after a date not earlier than 9½ years prior to the date of the enactment of this Act (as specified in the election pursuant to subsection (b)) for which deductions and deposits are made under subsections (j) and (k) of such section 7443B, as applicable, without regard to the minimum number of years of service as such a magistrate judge of the United States Tax Court, except that—

[(A) in the case of a magistrate judge who retired with less than 8 years of service, the annuity under subsection (c) of such section 7443B shall be equal to that proportion of the salary being received at the time the magistrate judge leaves office which the years of service bears to 14, subject to a reduction in accordance with subsection (c) of such section 7443B if the magistrate judge is under age 65 at the time he or she leaves office, and

[(B) the aggregate amount of the annuity initially payable on retirement under this subsection may not exceed the rate of pay for the magistrate judge which is in effect on the day before the retirement becomes effective.

[(b) Filing of Notice of Election.—A magistrate judge of the United States Tax Court shall be entitled to an annuity under this section only if the magistrate judge files a notice of that election with the chief judge of the United States Tax Court specifying the date on which service would begin to be credited under section 7443B of the Internal Revenue Code of 1986, as added by this Act, in lieu of chapter 83 or chapter 84 of title 5, United States Code. Such notice shall be filed in accordance with such procedures as the chief judge of the United States Tax Court shall prescribe.

[(c) Lump-Sum Credit Under Title 5.—A magistrate judge of the United States Tax Court who makes an election under subsection (b) shall be entitled to a lump-sum credit under section 8342 or 8424 of title 5, United States Code, as the case may be, for any service which is covered under section 7443B of the Internal Revenue Code of 1986, as added by this Act, pursuant to that election, and with respect to which any contributions were made by the magistrate judge under the applicable provisions of title 5, United States Code.

[(d) Recall.—With respect to any magistrate judge of the United States Tax Court receiving an annuity under this section who is recalled to serve under section 7443C of the Internal Revenue Code of 1986, as added by this Act—

[(1) the amount of compensation which such recalled magistrate judge receives under such section 7443C shall be calculated on the basis of the annuity received under this section, and

[(2) such recalled magistrate judge of the United States Tax Court may serve as a reemployed annuitant to the extent otherwise permitted under title 5, United States Code. Section 7443B(m)(4) of the Internal Revenue Code of 1986, as added by this Act, shall not apply with respect to service as a reemployed annuitant described in paragraph (2).

[SEC. 322. PROVISIONS FOR RECALL.

[(a) IN GENERAL.—Part I of subchapter C of chapter 76, as amended by this Act, is amended by inserting after section 7443B the following new section:

[“SEC. 7443C. RECALL OF MAGISTRATE JUDGES OF THE TAX COURT.

[“(a) RECALLING OF RETIRED MAGISTRATE JUDGES.—Any individual who has retired pursuant to section 7443B or the applicable provisions of title 5, United States Code, upon reaching the age and service requirements established therein, may at or after retirement be called upon by the chief judge of the Tax Court to perform such judicial duties with the Tax Court as may be requested of such individual for any period or periods specified by the chief judge; except that in the case of any such individual—

[“(1) the aggregate of such periods in any 1 calendar year shall not (without such individual's consent) exceed 90 calendar days, and

[“(2) such individual shall be relieved of performing such duties during any period in which illness or disability precludes the performance of such duties.

Any act, or failure to act, by an individual performing judicial duties pursuant to this subsection shall have the same force and effect as if it were the act (or failure to act) of a magistrate judge of the Tax Court.

[“(b) COMPENSATION.—For the year in which a period of recall occurs, the magistrate judge shall receive, in addition to the annuity provided under the provisions of section 7443B or under the applicable provisions of title 5, United States Code, an amount equal to the difference between that annuity and the current salary of the office to which the magistrate judge is recalled. The annuity of the magistrate judge who completes that period of service, who is not recalled in a subsequent year, and who retired under section 7443B, shall be equal to the salary in effect at the end of the year in which the period of recall occurred for the office from which such individual retired.

[“(c) RULEMAKING AUTHORITY.—The provisions of this section may be implemented under such rules as may be promulgated by the Tax Court.”.

[(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter C of chapter 76, as amended by this Act, is amended by inserting after the item relating to section 7443B the following new item:

[“Sec. 7443C. Recall of magistrate judges of the Tax Court.”.

[SEC. 323. EFFECTIVE DATE.

[Except as otherwise provided, the amendments made by this subtitle shall take effect on the date of the enactment of this Act.

[TITLE IV—CONFIDENTIALITY AND DISCLOSURE

[SEC. 401. CLARIFICATION OF DEFINITION OF CHURCH TAX INQUIRY.

[Subsection (i) of section 7611 (relating to section not to apply to criminal investigations, etc.) is amended by striking “or” at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting “, or”, and by inserting after paragraph (5) the following:

[“(6) information provided by the Secretary related to the standards for exemption from tax under this title and the requirements under this title relating to unrelated business taxable income.”.

[SEC. 402. COLLECTION ACTIVITIES WITH RESPECT TO JOINT RETURN DISCLOSABLE TO EITHER SPOUSE BASED ON ORAL REQUEST.

[(a) IN GENERAL.—Paragraph (8) of section 6103(e) (relating to disclosure of collection activities with respect to joint return) is amended by striking “in writing” the first place it appears.

[(b) ELIMINATION OF REPORTING REQUIREMENT.—Section 7803(d)(1) (relating to annual reporting) is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), (E), (F), and (G) as subparagraphs (B), (C), (D), (E), and (F), respectively.

[(c) EFFECTIVE DATES.—

[(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to requests made after the date of the enactment of this Act.

[(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to reports made after the date of the enactment of this Act.

[SEC. 403. TAXPAYER REPRESENTATIVES NOT SUBJECT TO EXAMINATION ON SOLE BASIS OF REPRESENTATION OF TAXPAYERS.

[(a) IN GENERAL.—Paragraph (1) of section 6103(h) (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended—

[(1) by striking “TREASURY.—Returns and return information” and inserting “TREASURY.—

[“(A) IN GENERAL.—Returns and return information”, and

[(2) by adding at the end the following new subparagraph:

[“(B) TAXPAYER REPRESENTATIVES.—Notwithstanding subparagraph (A), the return or return information of the representative of a taxpayer whose return is being examined by an officer or employee of the Department of the Treasury shall not be open to inspection by such officer or employee on the sole basis of the representative's relationship to the taxpayer unless a supervisor of such officer or employee has approved the inspection of the return or return information of such representative on a basis other than by reason of such relationship.”.

[(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date which is 180 days after the date of the enactment of this Act.

[SEC. 404. PROHIBITION OF DISCLOSURE OF TAXPAYER IDENTIFYING NUMBER WITH RESPECT TO DISCLOSURE OF ACCEPTED OFFERS-IN-COMPROMISE.

[(a) IN GENERAL.—Paragraph (1) of section 6103(k) (relating to disclosure of certain returns and return information for tax administrative purposes) is amended by inserting “(other than the taxpayer's identifying number)” after “Return information”.

[(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disclosures made after the date of the enactment of this Act.

[SEC. 405. COMPLIANCE BY CONTRACTORS AND OTHER AGENTS WITH CONFIDENTIALITY SAFEGUARDS.

[(a) IN GENERAL.—Section 6103(p) (relating to State law requirements) is amended by adding at the end the following new paragraph:

[“(9) DISCLOSURE TO CONTRACTORS AND OTHER AGENTS.—Notwithstanding any other provision of this section, no return or return information shall be disclosed to any contractor or other agent of a Federal, State, or local agency unless such agency, to the satisfaction of the Secretary—

[“(A) has requirements in effect which require each such contractor or other agent which would have access to returns or return information to provide safeguards (within the meaning of paragraph (4)) to protect the confidentiality of such returns or return information,

[“(B) agrees to conduct an on-site review every 3 years (mid-point review in the case of contracts or agreements of less than 1 year in duration) of each contractor or other agent to determine compliance with such requirements,

[“(C) submits the findings of the most recent review conducted under subparagraph (B) to the Secretary as part of the report required by paragraph (4)(E), and

[“(D) certifies to the Secretary for the most recent annual period that such contractor or other agent is in compliance with all such requirements.

The certification required by subparagraph (D) shall include the name and address of each contractor and other agent, a description of the contract or agreement with such contractor or other agent, and the duration of such contract or agreement. The requirements of this paragraph shall not apply to disclosures pursuant to subsection (n) for purposes of Federal tax administration.”.

[(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 6103(p)(8) is amended by inserting “or paragraph (9)” after “subparagraph (A)”.

[(c) EFFECTIVE DATE.—

[(1) IN GENERAL.—The amendments made by this section shall apply to disclosures made after December 31, 2003.

[(2) CERTIFICATIONS.—The first certification under section 6103(p)(9)(D) of the Internal Revenue Code of 1986, as added by subsection (a), shall be made with respect to calendar year 2004.

[SEC. 406. HIGHER STANDARDS FOR REQUESTS FOR AND CONSENTS TO DISCLOSURE.

[(a) IN GENERAL.—Subsection (c) of section 6103 (relating to disclosure of returns and return information to designee of taxpayer) is amended—

[(1) by striking “TAXPAYER.—The Secretary” and inserting “TAXPAYER.—

[“(1) IN GENERAL.—The Secretary”, and

[(2) by adding at the end the following new paragraphs:

[“(2) RESTRICTIONS ON PERSONS OBTAINING INFORMATION.—The return of any taxpayer, or return information with respect to such taxpayer, disclosed to a person or persons under paragraph (1) for a purpose specified in writing, electronically, or orally may be disclosed or used by such person or persons only for the purpose of, and to the extent necessary in, accomplishing the purpose for disclosure specified and shall not be disclosed or used for any other purpose.

[“(3) REQUIREMENTS FOR FORM PRESCRIBED BY SECRETARY.—For purposes of this subsection, the Secretary shall prescribe a form for written requests and consents which shall—

[“(A) contain a warning, prominently displayed, informing the taxpayer that the form should not be signed unless it is completed,

[“(B) state that if the taxpayer believes there is an attempt to coerce him to sign an incomplete or blank form, the taxpayer should report the matter to the Treasury Inspector General for Tax Administration, and

[“(C) contain the address and telephone number of the Treasury Inspector General for Tax Administration.

[“(4) CROSS REFERENCE.—

[“For provision providing for civil damages for violation of paragraph (2), see section 7431(i).”.

[(b) CIVIL DAMAGES.—Section 7431 (relating to civil damages for unauthorized inspection or disclosure of returns and return information) is amended by adding at the end the following new subsection:

["(i) DISCLOSURE OR USE OF RETURNS AND RETURN INFORMATION OBTAINED UNDER SUBSECTION 6103(c).—Disclosure or use of returns or return information obtained under section 6103(c) other than for—

["(1) the purpose of, and to the extent necessary in, accomplishing the purpose for disclosure specified in writing, electronically, or orally, or

["(2) subject to the safeguards set forth in section 6103, for purposes permitted under section 6103,

shall be treated as a violation of section 6103(a).".

[(b) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of the Treasury shall submit a report to the Congress on compliance with the designation and certification requirements applicable to requests for or consent to disclosure of returns and return information under section 6103(c) of the Internal Revenue Code of 1986, as amended by subsection (a). Such report shall—

[(1) evaluate (on the basis of random sampling) whether—

[(A) the amendment made by subsection (a) is achieving the purposes of this section;

[(B) requesters and submitters for such disclosure are continuing to evade the purposes of this section and, if so, how; and

[(C) the sanctions for violations of such requirements are adequate; and

[(2) include such recommendations that the Secretary of the Treasury considers necessary or appropriate to better achieve the purposes of this section.

[(d) SUNSET OF EXISTING CONSENTS.—Notwithstanding any other provision of law, any request for or consent to disclose any return or return information under section 6103(c) of the Internal Revenue Code of 1986 made before the date of the enactment of this Act shall remain in effect until the earlier of the date such request or consent is otherwise terminated or the date which is 3 taxable years after such date of enactment.

[(e) EFFECTIVE DATE.—The amendments made by this section shall apply to requests and consents made after 3 months after the date of the enactment of this Act.

[SEC. 407. CIVIL DAMAGES FOR UNAUTHORIZED INSPECTION OR DISCLOSURE.

[(a) NOTICE TO TAXPAYER.—Subsection (e) of section 7431 (relating to notification of unlawful inspection and disclosure) is amended by adding at the end the following: "The Secretary shall also notify such taxpayer if the Internal Revenue Service or, upon notice to the Secretary by a Federal or State agency, if such Federal or State agency, proposes an administrative determination as to disciplinary or adverse action against an employee arising from the employee's unauthorized inspection or disclosure of the taxpayer's return or return information. The notice described in this subsection shall include the date of the inspection or disclosure and the rights of the taxpayer under such administrative determination.".

[(b) EXHAUSTION OF ADMINISTRATIVE REMEDIES REQUIRED.—Section 7431, as amended by this Act, is amended by adding at the end the following new subsection:

["(j) EXHAUSTION OF ADMINISTRATIVE REMEDIES REQUIRED.—A judgment for damages shall not be awarded under subsection (c) unless the court determines that the plaintiff has exhausted the administrative remedies available to such plaintiff within the Internal Revenue Service.".

[(c) PAYMENT AUTHORITY CLARIFIED.—

[(1) IN GENERAL.—Section 7431, as amended by subsection (b), is amended by adding at the end the following new subsection:

["(k) PAYMENT AUTHORITY.—Claims pursuant to this section shall be payable out of funds appropriated under section 1304 of title 31, United States Code.".

[(2) ANNUAL REPORTS OF PAYMENTS.—The Secretary of the Treasury shall annually report to the Committee of Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding payments made from the United States Judgment Fund under section 7431(k) of the Internal Revenue Code of 1986.

[(d) BURDEN OF PROOF FOR GOOD FAITH EXCEPTION RESTS WITH SECRETARY.—Section 7431(b) (relating to exceptions) is amended by adding at the end the following new flush sentence:

["In any proceeding involving the issue of the existence of good faith, the burden of proof with respect to such issue shall be on the Secretary.".

[(e) REPORTS.—Subsection (p) of section 6103 (relating to procedure and recordkeeping), as amended by this Act, is amended by adding at the end the following new paragraph:

["(10) REPORT ON WILLFUL UNAUTHORIZED DISCLOSURE AND INSPECTION.—As part of the report required by paragraph (3)(C) for each calendar year, the Secretary shall furnish information regarding the willful unauthorized disclosure and inspection of returns and return information, including the number, status, and results of—

["(A) administrative investigations,

["(B) civil lawsuits brought under section 7431 (including the amounts for which such lawsuits were settled and the amounts of damages awarded), and

["(C) criminal prosecutions.".

[(c) EFFECTIVE DATES.—

[(1) NOTICE.—The amendment made by subsection (a) shall apply to determinations made after the date of the enactment of this Act.

[(2) EXHAUSTION OF REMEDIES AND BURDEN OF PROOF.—The amendments made by subsections (b) and (d) shall apply to inspections and disclosures occurring on and after the date of the enactment of this Act.

[(3) PAYMENT AUTHORITY.—The amendment made by subsection (c)(1) shall take effect on the date of the enactment of this Act.

[(4) REPORTS.—The amendment made by subsection (e) shall apply to calendar years ending after the date of the enactment of this Act.

[SEC. 408. EXPANDED DISCLOSURE IN EMERGENCY CIRCUMSTANCES.

[(a) IN GENERAL.—Section 6103(i)(3)(B)(i) (relating to danger of death or physical injury) is amended by striking "or State law enforcement agency" and inserting ", State, or local law enforcement agency".

[(b) CONFORMING AMENDMENTS.—Section 6103(p)(4) is amended—

[(1) by striking "(i)(3)(B)(i) or (7)(A)(ii)" and inserting "(i)(7)(A)(ii)", and

[(2) by striking ", (i)(3)(B)(i),".

[(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

[SEC. 409. DISCLOSURE OF TAXPAYER IDENTITY FOR TAX REFUND PURPOSES.

[(a) IN GENERAL.—Section 6103(m)(1) (relating to tax refunds) is amended by striking "taxpayer identity information to the press and other media" and by inserting "a person's name and the city, State, and zip code of the person's mailing address to the press, other media, and through any other means of mass communication,".

[(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

[SEC. 410. DISCLOSURE TO STATE OFFICIALS OF PROPOSED ACTIONS RELATED TO SECTION 501(c) ORGANIZATIONS.

[(a) IN GENERAL.—Subsection (c) of section 6104 is amended by striking paragraph (2) and inserting the following new paragraphs:

["(2) DISCLOSURE OF PROPOSED ACTIONS RELATED TO CHARITABLE ORGANIZATIONS.—

["(A) SPECIFIC NOTIFICATIONS.—In the case of an organization to which paragraph (1) applies, the Secretary may disclose to the appropriate State officer—

["(i) a notice of proposed refusal to recognize such organization as an organization described in section 501(c)(3) or a notice of proposed revocation of such organization's recognition as an organization exempt from taxation,

["(ii) the issuance of a letter of proposed deficiency of tax imposed under section 507 or chapter 41 or 42, and

["(iii) the names, addresses, and taxpayer identification numbers of organizations which have applied for recognition as organizations described in section 501(c)(3).

["(B) ADDITIONAL DISCLOSURES.—Returns and return information of organizations with respect to which information is disclosed under subparagraph (A) may be made available for inspection by or disclosed to an appropriate State officer.

["(C) PROCEDURES FOR DISCLOSURE.—Information may be inspected or disclosed under subparagraph (A) or (B) only—

["(i) upon written request by an appropriate State officer, and

["(ii) for the purpose of, and only to the extent necessary in, the administration of State laws regulating such organizations.

Such information may only be inspected by or disclosed to representatives of the appropriate State officer designated as the individuals who are to inspect or to receive the returns or return information under this paragraph on behalf of such officer. Such representatives shall not include any contractor or agent.

["(D) DISCLOSURES OTHER THAN BY REQUEST.—The Secretary may make available for inspection or disclose returns and return information of an organization to which paragraph (1) applies to an appropriate State officer of any State if the Secretary determines that such inspection or disclosure may facilitate the resolution of Federal or State issues relating to the tax-exempt status of such organization.

["(3) DISCLOSURE WITH RESPECT TO CERTAIN OTHER EXEMPT ORGANIZATIONS.—Upon written request by an appropriate State officer, the Secretary may make available for inspection or disclosure returns and return information of an organization described in paragraph (2), (4), (6), (7), (8), (10), or (13) of section 501(c) for the purpose of, and to the extent necessary in, the administration of State laws regulating the solicitation or administration of the charitable funds or charitable assets of such organizations. Such information may be inspected only by or disclosed only to representatives of the appropriate State officer designated as the individuals who are to inspect or to receive the returns or return information under this paragraph on behalf of such officer. Such representatives shall not include any contractor or agent.

["(4) USE IN CIVIL JUDICIAL AND ADMINISTRATIVE PROCEEDINGS.—Returns and return information disclosed pursuant to this subsection may be disclosed in civil administrative and civil judicial proceedings pertaining to the enforcement of State laws regulating such organizations in a manner prescribed by the Secretary similar to that for tax administration proceedings under section 6103(h)(4).

[“(5) NO DISCLOSURE IF IMPAIRMENT.—Returns and return information shall not be disclosed under this subsection, or in any proceeding described in paragraph (4), to the extent that the Secretary determines that such disclosure would seriously impair Federal tax administration.

[“(6) DEFINITIONS.—For purposes of this subsection—

[“(A) RETURN AND RETURN INFORMATION.—The terms ‘return’ and ‘return information’ have the respective meanings given to such terms by section 6103(b).

[“(B) APPROPRIATE STATE OFFICER.—The term ‘appropriate State officer’ means—

[“(i) the State attorney general,

[“(ii) in the case of an organization to which paragraph (1) applies, any other State official charged with overseeing organizations of the type described in section 501(c)(3), and

[“(iii) in the case of an organization to which paragraph (3) applies, the head of an agency designated by the State attorney general as having primary responsibility for overseeing the solicitation of funds for charitable purposes.”.

[(b) CONFORMING AMENDMENTS.—

[(1) Subsection (a) of section 6103 is amended—

[(A) by inserting “or any appropriate State officer who has or had access to returns or return information under section 6104(c)” after “this section” in paragraph (2), and

[(B) by striking “or subsection (n)” in paragraph (3) and inserting “subsection (n), or section 6104(c)”.

[(2) Subparagraph (A) of section 6103(p)(3) is amended by inserting “and section 6104(c)” after “section” in the first sentence.

[(3) Paragraph (4) of section 6103(p), as amended by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961), is amended by striking “or (17)” after “any other person described in subsection (l)(16)” each place it appears and inserting “or (18) or any appropriate State officer (as defined in section 6104(c))”.

[(4) The heading for paragraph (1) of section 6104(c) is amended by inserting “FOR CHARITABLE ORGANIZATIONS”.

[(5) Paragraph (2) of section 7213(a) is amended by inserting “or under section 6104(c)” after “6103”.

[(6) Paragraph (2) of section 7213A(a) is amended by inserting “or 6104(c)” after “6103”.

[(7) Paragraph (2) of section 7431(a) is amended by inserting “(including any disclosure in violation of section 6104(c))” after “6103”.

[(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act but shall not apply to requests made before such date.

[SEC. 411. TREATMENT OF PUBLIC RECORDS.

[(a) IN GENERAL.—Section 6103(b) (relating to definitions) is amended by adding at the end the following new paragraph:

[“(12) TREATMENT OF PUBLIC RECORDS.—Returns and return information shall not be subject to subsection (a) if disclosed—

[“(A) in the course of any judicial or administrative proceeding or pursuant to tax administration activities, and

[“(B) properly made part of the public record.”.

[(b) EFFECTIVE DATE.—The amendment made by this section shall take effect before, on, and after the date of the enactment of this Act.

[SEC. 412. INVESTIGATIVE DISCLOSURES.

[(a) IN GENERAL.—Section 6103 (confidentiality and disclosure of returns and return information) is amended by redesignating subsection (q) as subsection (r) and by inserting after subsection (p) the following new subsection:

[“(q) INVESTIGATIVE DISCLOSURES.—Nothing in this section may be construed to prohibit investigative agents of the Internal Revenue Service from identifying themselves, their organizational affiliation, and the criminal nature of an investigation when contacting third parties in writing or in person.”.

[(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

[SEC. 413. TIN MATCHING.

[(a) IN GENERAL.—Section 6103(k) (relating to disclosure of certain returns and return information for tax administration purposes) is amended by adding at the end the following new paragraph:

[“(10) TIN MATCHING.—The Secretary may disclose to any person required to provide a taxpayer identifying number (as described in section 6109) to the Secretary whether such information matches records maintained by the Secretary.”.

[(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

[SEC. 414. FORM 8300 DISCLOSURES.

[(a) IN GENERAL.—Section 6103(p)(4) (relating to safeguards) is amended by striking “(15),” both places it appears.

[(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

[SEC. 415. TECHNICAL AMENDMENT.

[(a) IN GENERAL.—Section 6103(i)(7)(A) (relating to disclosure to law enforcement agencies) is amended by adding at the end the following new clause:

[“(v) TAXPAYER IDENTITY.—For purposes of this subparagraph, a taxpayer's identity shall not be treated as taxpayer return information.”.

[(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

[TITLE V—SIMPLIFICATION THROUGH ELIMINATION OF INOPERATIVE PROVISIONS

[SEC. 501. SIMPLIFICATION THROUGH ELIMINATION OF INOPERATIVE PROVISIONS.

[(a) IN GENERAL.—

[(1) ADJUSTMENTS IN TAX TABLES SO THAT INFLATION WILL NOT RESULT IN TAX INCREASES.—Paragraph (7) of section 1(f) is amended to read as follows:

[“(7) SPECIAL RULE FOR CERTAIN BRACKETS.—In prescribing tables under paragraph (1) which apply to taxable years beginning in a calendar year after 1994, the cost-of-living adjustment used in making adjustments to the dollar amounts at which the 36 percent rate bracket begins or at which the 39.6 percent rate bracket begins shall be determined under paragraph (3) by substituting ‘1993’ for ‘1992’.”.

[(2) REDUCED CAPITAL GAIN RATES FOR QUALIFIED 5-YEAR GAIN.—Paragraph (2) of section 1(h) is amended by striking “In the case of any taxable year beginning after December 31, 2000, the” and inserting “The”.

[(3) CREDIT FOR PRODUCING FUEL FROM NONCONVENTIONAL SOURCE.—Section 29 is amended by striking subsection (e) and by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

[(4) EARNED INCOME CREDIT.—Paragraph (1) of section 32(b) is amended—

[(A) by striking subparagraphs (B) and (C), and

[(B) in subparagraph (A) by striking “(A) IN GENERAL.—In the case of taxable years beginning after 1995” and moving the table 2 ems to the left.

[(5) GENERAL BUSINESS CREDITS.—Subsection (d) of section 38 is amended by striking paragraph (3).

[(6) CARRYBACK AND CARRYFORWARD OF UNUSED CREDITS.—Subsection (d) of section 39 is amended by striking paragraphs (1) through (8) and by redesignating paragraphs (9) and (10) as paragraphs (1) and (2), respectively.

[(7) ADJUSTMENTS BASED ON ADJUSTED CURRENT EARNINGS.—Clause (ii) of section 56(g)(4)(F) is amended by striking “In the case of any taxable year beginning after December 31, 1992, clause” and inserting “Clause”.

[(8) ITEMS OF TAX PREFERENCE; DEPLETION.—Paragraph (1) of section 57(a) is amended by striking “Effective with respect to taxable years beginning after December 31, 1992, this” and inserting “This”.

[(9) INTANGIBLE DRILLING COSTS.—

[(A) Clause (i) of section 57(a)(2)(E) is amended by striking “In the case of any taxable year beginning after December 31, 1992, this” and inserting “This”.

[(B) Clause (ii) of section 57(a)(2)(E) is amended by striking “(30 percent in the case of taxable years beginning in 1993)”.

[(10) ANNUITIES; CERTAIN PROCEEDS OF ENDOWMENT AND LIFE INSURANCE CONTRACTS.—Section 72 is amended—

[(A) in subsection (c)(4) by striking “; except that if such date was before January 1, 1954, then the annuity starting date is January 1, 1954”, and

[(B) in subsection (g)(3) by striking “January 1, 1954, or” and “, whichever is later”.

[(11) ACCIDENT AND HEALTH PLANS.—Section 105(f) is amended by striking “or (d)”.

[(12) FLEXIBLE SPENDING ARRANGEMENTS.—Section 106(c)(1) is amended by striking “Effective on and after January 1, 1997, gross” and inserting “Gross”.

[(13) CERTAIN COMBAT ZONE COMPENSATION OF MEMBERS OF THE ARMED FORCES.—Subsection (c) of section 112 is amended—

[(A) by striking “(after June 24, 1950)” in paragraph (2), and

[(B) striking “such zone;” and all that follows in paragraph (3) and inserting “such zone.”.

[(14) PRINCIPAL RESIDENCE.—Section 121(b)(3) is amended—

[(A) by striking subparagraph (B); and

[(B) in subparagraph (A) by striking “(A) IN GENERAL.—” and moving the text 2 ems to the left.

[(15) CERTAIN REDUCED UNIFORMED SERVICES RETIREMENT PAY.—Section 122(b)(1) is amended by striking “after December 31, 1965,”.

[(16) GREAT PLAINS CONSERVATION PROGRAM.—Section 126(a) is amended by striking paragraph (6) and by redesignating paragraphs (7), (8), (9), and (10) as paragraphs (6), (7), (8), and (9), respectively.

[(17) MORTGAGE REVENUE BONDS FOR RESIDENCES IN FEDERAL DISASTER AREAS.—Section 143(k) is amended by striking paragraph (11).

[(18) INTERIM AUTHORITY FOR GOVERNOR.—

[(A) Section 146(e) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

[(B) Section 42(h)(3)(F) is amended by striking "(other than paragraph (2)(B) thereof)".

[(19) TREBLE DAMAGE PAYMENTS UNDER THE ANTITRUST LAW.—Section 162(g) is amended by striking the last sentence.

[(20) STATE LEGISLATORS' TRAVEL EXPENSES AWAY FROM HOME.—Paragraph (4) of section 162(h) is amended by striking "For taxable years beginning after December 31, 1980, this" and inserting "This".

[(21) INTEREST.—

[(A) Section 163 is amended by striking paragraph (6) of subsection (d) and paragraph (5) (relating to phase-in of limitation) of subsection (h).

[(B) Section 56(b)(1)(C) is amended by striking clause (ii) and by redesignating clauses (iii), (iv), and (v) as clauses (ii), (iii), and (iv), respectively.

[(22) CHARITABLE, ETC., CONTRIBUTIONS AND GIFTS.—Section 170 is amended by striking subsection (k).

[(23) AMORTIZABLE BOND PREMIUM.—Subparagraph (B) of section 171(b)(1) is amended to read as follows:

["(B)(i) in the case of a bond described in subsection (a)(2), with reference to the amount payable on maturity or earlier call date, and

["(ii) in the case of a bond described in subsection (a)(1), with reference to the amount payable on maturity (or if it results in a smaller amortizable bond premium attributable to the period of earlier call date, with reference to the amount payable on earlier call date), and".

[(24) NET OPERATING LOSS CARRYBACKS AND CARRYOVERS.—

[(A) Section 172 is amended—

[(i) by striking subparagraph (D) of subsection (b)(1) and by redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), respectively,

[(ii) by striking subsection (g), and

[(iii) by striking subparagraph (F) of subsection (h)(2).

[(B) Section 172(h)(4) is amended by striking "subsection (b)(1)(E)" each place it appears and inserting "subsection (b)(1)(D)".

[(C) Section 172(i)(3) is amended by striking "subsection (b)(1)(G)" each place it appears and inserting "subsection (b)(1)(F)".

[(D) Section 172(j) is amended by striking "subsection (b)(1)(H)" each place it appears and inserting "subsection (b)(1)(G)".

[(E) Section 172, as amended by subparagraphs (A) through (D) of this paragraph, is amended—

[(i) by redesignating subsections (h), (i), and (j) as subsections (g), (h), and (i), respectively,

[(ii) by striking "subsection (h)" each place it appears and inserting "subsection (g)", and

[(iii) by striking "subsection (i)" each place it appears and inserting "subsection (h)".

[(25) RESEARCH AND EXPERIMENTAL EXPENDITURES.—Subparagraph (A) of section 174(a)(2) is amended to read as follows:

["(A) WITHOUT CONSENT.—A taxpayer may, without the consent of the Secretary, adopt the method provided in this subsection for his first taxable year for which expenditures described in paragraph (1) are paid or incurred.".

[(26) AMORTIZATION OF CERTAIN RESEARCH AND EXPERIMENTAL EXPENDITURES.—Paragraph (2) of section 174(b)(2) is amended by striking "beginning after December 31, 1953".

[(27) SOIL AND WATER CONSERVATION EXPENDITURES.—Paragraph (1) of section 175(d) is amended to read as follows:

["(1) WITHOUT CONSENT.—A taxpayer may, without the consent of the Secretary, adopt the method provided in this section for his first taxable year for which expenditures described in subsection (a) are paid or incurred.".

[(28) ACTIVITIES NOT ENGAGED IN FOR PROFIT.—Section 183(e)(1) is amended by striking the last sentence.

[(29) DIVIDENDS RECEIVED ON CERTAIN PREFERRED STOCK; AND DIVIDENDS PAID ON CERTAIN PREFERRED STOCK OF PUBLIC UTILITIES.—

[(A) Sections 244 and 247 are hereby repealed and the table of sections for part VIII of subchapter B of chapter 1 is amended by striking the items relating to sections 244 and 247.

[(B) Paragraph (5) of section 172(d) is amended to read as follows:

["(5) COMPUTATION OF DEDUCTION FOR DIVIDENDS RECEIVED.—The deductions allowed by section 243 (relating to dividends received by corporations) and 245 (relating to dividends received from certain foreign corporations) shall be computed without regard to section 246(b) (relating to limitation on aggregate amount of deductions).".

[(C) Paragraph (1) of section 243(c) is amended to read as follows:

["(1) IN GENERAL.—In the case of any dividend received from a 20-percent owned corporation, subsection (a)(1) shall be applied by substituting '80 percent' for '70 percent'.".

[(D) Section 243(d) is amended by striking paragraph (4).

[(E) Section 246 is amended—

[(i) by striking ", 244," in subsection (a)(1),

[(ii) in subsection (b)(1)—

[(I) by striking "sections 243(a)(1), and 244(a)," the first place it appears and inserting "section 243(a)(1),",

[(II) by striking "244(a)," the second place it appears therein, and

[(III) by striking "subsection (a) or (b) of section 245, and 247," and inserting "and subsection (a) or (b) of section 245,", and

[(iii) by striking ", 244," in subsection (c)(1).

[(F) Section 246A is amended by striking ", 244," both places it appears in subsections (a) and (e).

[(G) Sections 263(g)(2)(B)(iii), 277(a), 301(e)(2), 469(e)(4), 512(a)(3)(A), subparagraphs (A), (C), and (D) of section 805(a)(4), 805(b)(5), 812(e)(2)(A), 815(c)(2)(A)(iii), 832(b)(5), 833(b)(3)(E), 1059(b)(2)(B), and 1244(c)(2)(C) are each amended by striking ", 244," each place it appears.

[(H) Section 805(a)(4)(B) is amended by striking ", 244(a)," each place it appears.

[(I) Section 810(c)(2)(B) is amended by striking "244 (relating to dividends on certain preferred stock of public utilities),".

[(30) ORGANIZATION EXPENSES.—Section 248(c) is amended by striking "beginning after December 31, 1953," and by striking the last sentence.

[(31) BOND REPURCHASE PREMIUM.—Section 249(b)(1) is amended by striking ", in the case of bonds or other evidences of indebtedness issued after February 28, 1913,".

[(32) AMOUNT OF GAIN WHERE LOSS PREVIOUSLY DISALLOWED.—Section 267(d) is amended by striking "(or by reason of section 24(b) of the Internal Revenue Code of 1939)" in paragraph (1), by striking "after December 31, 1953," in paragraph (2), by striking the second sentence, and by striking "or by reason of section 118 of the Internal Revenue Code of 1939" in the last sentence.

[(33) ACQUISITIONS MADE TO EVADE OR AVOID INCOME TAX.—Paragraphs (1) and (2) of section 269(a) are each amended by striking "or acquired on or after October 8, 1940,".

[(34) INTEREST ON INDEBTEDNESS INCURRED BY CORPORATIONS TO ACQUIRE STOCK OR ASSETS OF ANOTHER CORPORATION.—Section 279 is amended—

[(A) by striking "after December 31, 1967," in subsection (a)(2),

[(B) by striking "after October 9, 1969," in subsection (b),

[(C) by striking "after October 9, 1969, and" in subsection (d)(5), and

[(D) by striking subsection (i) and by redesignating subsection (j) as subsection (i).

[(35) SPECIAL RULES RELATING TO CORPORATE PREFERENCE ITEMS.—Paragraph (4) of section 291(a) is amended by striking "In the case of taxable years beginning after December 31, 1984, section" and inserting "Section".

[(36) QUALIFICATIONS FOR TAX CREDIT EMPLOYEE STOCK OWNERSHIP PLAN.—Section 409 is amended by striking subsections (a), (g), and (q).

[(37) FUNDING STANDARDS.—Section 412(m)(4) is amended—

[(A) by striking "the applicable percentage" in subparagraph (A) and inserting "25 percent", and

[(B) by striking subparagraph (C) and by redesignating subparagraph (D) as subparagraph (C).

[(38) RETIREE HEALTH ACCOUNTS.—Section 420 is amended—

[(A) by striking paragraph (4) in subsection (b) and by redesignating paragraph (5) as paragraph (4), and

[(B) by amending paragraph (2) of subsection (c) to read as follows:

["(2) REQUIREMENTS RELATING TO PENSION BENEFITS ACCRUING BEFORE TRANSFER.—The requirements of this paragraph are met if the plan provides that the accrued pension benefits of any participant or beneficiary under the plan become nonforfeitable in the same manner which would be required if the plan had terminated immediately before the qualified transfer (or in the case of a participant who separated during the 1-year period ending on the date of the transfer, immediately before such separation).".

[(39) EMPLOYEE STOCK PURCHASE PLANS.—Section 423(a) is amended by striking "after December 31, 1963,".

[(40) LIMITATION ON DEDUCTIONS FOR CERTAIN FARMING.—Section 464 is amended—

[(A) by striking "any farming syndicate (as defined in subsection (c))" both places it appears in subsections (a) and (b) and inserting "any taxpayer to whom subsection (f) applies", and

[(B) by striking subsection (g).

[(41) DEDUCTIONS LIMITED TO AMOUNT AT RISK.—

[(A) Paragraph (3) of section 465(c) is amended by striking "In the case of taxable years beginning after December 31, 1978, this" and inserting "This".

[(B) Paragraph (2) of section 465(e)(2)(A) is amended by striking "beginning after December 31, 1978".

[(42) NUCLEAR DECOMMISSIONING COSTS.—Section 468A(e)(2) is amended—

[(A) by striking "at the rate set forth in subparagraph (B)" in subparagraph (A) and inserting "at a rate of 20 percent", and

[(B) by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

[(43) PASSIVE ACTIVITY LOSSES AND CREDITS LIMITED.—

[(A) Section 469 is amended by striking subsection (m).

[(B) Subsection (b) of section 58 is amended by adding "and" at the end of paragraph (1), by striking paragraph (2), and by redesignating paragraph (3) as paragraph (2).

[(44) ADJUSTMENTS REQUIRED BY CHANGES IN METHOD OF ACCOUNTING.—Section 481(b)(3) is amended by striking subparagraph (C).

[(45) EXEMPTION FROM TAX ON CORPORATIONS, CERTAIN TRUSTS, ETC.—Section 501 is amended by striking subsection (p).

[(46) REQUIREMENTS FOR EXEMPTION.—

[(A) Section 503(a)(1) is amended to read as follows:

["(1) GENERAL RULE.—An organization described in paragraph (17) or (18) of section 501(a) or described in section 401(a) and referred to in section 4975(g)(2) or (3) shall not be exempt from taxation under section 501(a) if it has engaged in a prohibited transaction.".

[(B) Paragraph (2) of section 503(a) is amended by striking "described in section 501(c)(17) or (18) or paragraph (a)(1)(B)" and inserting "described in paragraph (1)".

[(C) Subsection (c) of section 503 is amended by striking "described in section 501(c)(17) or (18) or subsection (a)(1)(B)" and inserting "described in subsection (a)(1)".

[(47) AMOUNTS RECEIVED BY SURVIVING ANNUITANT UNDER JOINT AND SURVIVOR ANNUITY CONTRACT.—Subparagraph (A) of section 691(d)(1) is amended by striking "after December 31, 1953, and".

[(48) INCOME TAXES OF MEMBERS OF ARMED FORCES ON DEATH.—Section 692(a)(1) is amended by striking "after June 24, 1950".

[(49) INSURANCE COMPANY TAXABLE INCOME.—

[(A) Section 832(e) is amended by striking "of taxable years beginning after December 31, 1966,".

[(B) Section 832(e)(6) is amended by striking "In the case of any taxable year beginning after December 31, 1970, the" and by inserting "The".

[(50) TAX ON NONRESIDENT ALIEN INDIVIDUALS.—Subparagraph (B) of section 871(a)(1) is amended to read as follows:

["(B) gains described in subsection (b) or (c) of section 631,".

[(51) PROPERTY ON WHICH LESSEE HAS MADE IMPROVEMENTS.—Section 1019 is amended by striking the last sentence.

[(52) INVOLUNTARY CONVERSION.—Section 1033 is amended by striking subsection (j) and by redesignating subsection (k) as subsection (j).

[(53) PROPERTY ACQUIRED DURING AFFILIATION.—Section 1051 is repealed and the table of sections for part IV of subchapter O of chapter 1 is amended by striking the item relating to section 1051.

[(54) HOLDING PERIOD OF PROPERTY.—

[(A) Paragraph (5) of section 1223 is amended by striking "(or under so much of section 1052(c) as refers to section 113(a)(23) of the Internal Revenue Code of 1939)".

[(B) Paragraph (7) of section 1223 is amended by striking the last sentence.

[(C) Paragraph (9) of section 1223 is repealed.

[(55) PROPERTY USED IN THE TRADE OR BUSINESS AND INVOLUNTARY CONVERSIONS.—Subparagraph (A) of section 1231(c)(2) is amended by striking "beginning after December 31, 1981".

[(56) SALE OR EXCHANGE OF PATENTS.—Section 1235 is amended—

[(A) by striking subsection (c) and by redesignating subsections (d) and (e) as (c) and (d), respectively, and

[(B) by striking "(d)" in subsection (b) and inserting "(c)".

[(57) DEALERS IN SECURITIES.—Subsection (b) of section 1236 is amended by striking "after November 19, 1951,".

[(58) SALE OF PATENTS.—Subsection (a) of section 1249 is amended by striking "after December 31, 1962,".

[(59) GAIN FROM DISPOSITION OF FARM LAND.—Paragraph (1) of section 1252(a) is amended by striking "after December 31, 1969," both places it appears.

[(60) TREATMENT OF AMOUNTS RECEIVED ON RETIREMENT OR SALE OR EXCHANGE OF DEBT INSTRUMENTS.—Subsection (c) of section 1271 is amended to read as follows:

["(c) SPECIAL RULE FOR CERTAIN OBLIGATIONS WITH RESPECT TO WHICH ORIGINAL ISSUE DISCOUNT NOT CURRENTLY INCLUDIBLE.—

["(1) IN GENERAL.—On the sale or exchange of debt instruments issued by a government or political subdivision thereof after December 31, 1954, and before July 2, 1982, or by a corporation after December 31, 1954, and on or before May 27, 1969, any gain realized which does not exceed—

["(A) an amount equal to the original issue discount, or

["(B) if at the time of original issue there was no intention to call the debt instrument before maturity, an amount which bears the same ratio to the original issue discount as the number of complete months that the debt instrument was held by the taxpayer bears to the number of complete months from the date of original issue to the date of maturity,

shall be considered as ordinary income.

["(2) SUBSECTION (a)(2)(A) NOT TO APPLY.—Subsection (a)(2)(A) shall not apply to any debt instrument referred to in subparagraph (A) of this paragraph.

["(3) CROSS REFERENCE.—

"For current inclusion of original issue discount, see section 1272.".

[(61) AMOUNT AND METHOD OF ADJUSTMENT.—Section 1314 is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

[(62) ELECTION; REVOCATION; TERMINATION.—Clause (iii) of section 1362(d)(3) is amended by striking "unless" and all that follows and inserting "unless the corporation was an S corporation for such taxable year.".

[(63) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—Subsection (a) of section 1401 is amended by striking "the following percent" and all that follows and inserting "12.4 percent of the amount of the self-employment income for such taxable year.".

[(64) HOSPITAL INSURANCE.—Subsection (b) of section 1401 is amended by striking "the following percent" and all that follows and inserting "2.9 percent of the amount of the self-employment income for such taxable year.".

[(65) MINISTERS, MEMBERS OF RELIGIOUS ORDERS, AND CHRISTIAN SCIENCE PRACTITIONERS.—Paragraph (3) of section 1402(e) is amended by striking "whichever of the following dates is later: (A)" and by striking "; or (B)" and all that follows and by inserting a period.

[(66) WITHHOLDING OF TAX ON NONRESIDENT ALIENS.—The first sentence of subsection (b) of section 1441 and the first sentence of paragraph (5) of section 1441(c) are each amended by striking "gains subject to tax" and all that follows through "October 4, 1966" and inserting "and gains subject to tax under section 871(a)(1)(D)".

[(67) AFFILIATED GROUP DEFINED.—Subparagraph (A) of section 1504(a)(3) is amended by striking "for a taxable year which includes any period after December 31, 1984" in clause (i) and by striking "in a taxable year beginning after December 31, 1984" in clause (ii).

[(68) DISALLOWANCE OF THE BENEFITS OF THE GRADUATED CORPORATE RATES AND ACCUMULATED EARNINGS CREDIT.—

[(A) Subsection (a) of section 1551 is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

[(B) Section 1551(b) is amended—

[(i) by striking "or (2)" in paragraph (1), and

[(ii) by striking "(a)(3)" in paragraph (2) and inserting "(a)(2)".

[(69) DEFINITION OF WAGES.—Section 3121(b) is amended by striking paragraph (17).

[(70) CREDITS AGAINST TAX.—

[(A) Paragraph (4) of section 3302(f) is amended by striking "subsection—" and all that follows through "(A) IN GENERAL.—", by striking subparagraph (B), by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively, and by moving the text of such subparagraphs (as so redesignated) 2 ems to the left.

[(B) Paragraph (5) of section 3302(f) is amended by striking subparagraphs (D) and by redesignating subparagraph (E) as subparagraph (D).

[(71) DOMESTIC SERVICE EMPLOYMENT TAXES.—Section 3510(b) is amended by striking paragraph (4).

[(72) TAX ON FUEL USED IN COMMERCIAL TRANSPORTATION ON INLAND WATERWAYS.—Section 4042(b)(2)(A) is amended to read as follows:

["(A) The Inland Waterways Trust Fund financing rate is 20 cents per gallon.".

[(73) TRANSPORTATION BY AIR.—Section 4261(e) is amended—

[(A) in paragraph (1) by striking subparagraph (C), and

[(B) by striking paragraph (5).

[(74) TAXES ON FAILURE TO DISTRIBUTE INCOME.—Section 4942 is amended—

[(A) by striking subsection (f)(2)(D),

[(B) in subsection (g)(2)(A) by striking "For all taxable years beginning on or after January 1, 1975, subject" and inserting "Subject",

[(C) in subsection (g) by striking paragraph (4), and

[(D) in subsection (i)(2) by striking "beginning after December 31, 1969, and".

[(75) TAXES ON TAXABLE EXPENDITURES.—Section 4945(f) is amended by striking "(excluding therefrom any preceding taxable year which begins before January 1, 1970)".

[(76) RETURNS.—Subsection (a) of section 6039D is amended by striking "beginning after December 31, 1984,".

[(77) INFORMATION RETURNS.—Subsection (c) of section 6060 is amended by striking "year" and all that follows and inserting "year.".

[(78) ABATEMENTS.—Section 6404(f) is amended by striking paragraph (3).

[(79) FAILURE BY CORPORATION TO PAY ESTIMATED INCOME TAX.—Clause (i) of section 6655(g)(4)(A) is amended by striking "(or the corresponding provisions of prior law)".

[(80) RETIREMENT.—Section 7447(i)(3)(B)(ii) is amended by striking "at 4 percent per annum to December 31, 1947, and at 3 percent per annum thereafter", and inserting "at 3 percent per annum".

[(81) ANNUITIES TO SURVIVING SPOUSES AND DEPENDENT CHILDREN OF JUDGES.—

[(A) Paragraph (2) of section 7448(a) is amended by striking "or under section 1106 of the Internal Revenue Code of 1939" and by striking "or pursuant to section 1106(d) of the Internal Revenue Code of 1939".

[(B) Subsection (g) of section 7448 is amended by striking "or other than pursuant to section 1106 of the Internal Revenue Code of 1939".

[(C) Subsection (j)(1) and (j)(2) of section 7448 are each amended by striking "at 4 percent per annum to December 31, 1947, and at 3 percent per annum thereafter" and inserting "at 3 percent per annum".

[(82) MERCHANT MARINE CAPITAL CONSTRUCTION FUNDS.—Paragraph (4) of section 7518(g) is amended by striking "any nonqualified withdrawal" and all that follows through "shall be determined" and inserting "any nonqualified withdrawal shall be determined".

[(83) VALUATION TABLES.—Paragraph (3) of section 7520(c) is amended—

[(A) by striking "Not later than December 31, 1989, the" and inserting "The", and

[(B) by striking "thereafter" in the last sentence thereof.

[(84) ADMINISTRATION AND COLLECTION OF TAXES IN POSSESSIONS.—Section 7651 is amended by striking paragraph (4) and by redesignating paragraph (5) as paragraph (4).

[(85) DEFINITION OF EMPLOYEE.—(A) Section 7701(a)(20) is amended by striking "chapter 21" and all that follows and inserting "chapter 21.".

[(b) EFFECTIVE DATE.—

[(1) GENERAL RULE.—Except as otherwise provided in paragraph (2), the amendments made by subsection (a) shall take effect on the date of enactment of this Act.

[(2) SAVINGS PROVISION.—If—

[(A) any provision amended or repealed by subsection (a) applied to—

[(i) any transaction occurring before the date of the enactment of this Act,

[(ii) any property acquired before such date of enactment, or

[(iii) any item of income, loss, deduction, or credit taken into account before such date of enactment, and

[(B) the treatment of such transaction, property, or item under such provision would (without regard to the amendments made by subsection (a)) affect the liability for tax for periods ending after such date of enactment, nothing in the amendments made by subsection (a) shall be construed to affect the treatment of such transaction, property, or item for purposes of determining liability for tax for periods ending after such date of enactment.]

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the "Tax Administration Good Government Act".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; etc.

TITLE I—IMPROVEMENTS IN TAX ADMINISTRATION AND TAXPAYER SAFEGUARDS

Subtitle A—Improvements in Efficiency and Safeguards in Internal Revenue Service Collection

Sec. 101. Waiver of user fee for installment agreements using automated withdrawals.
Sec. 102. Authorization for IRS to enter into installment agreements that provide for partial payment.
Sec. 103. Termination of installment agreements.
Sec. 104. Office of Chief Counsel review of offers-in-compromise.
Sec. 105. Authorization for IRS to require increased electronic filing of returns prepared by paid return preparers.
Sec. 106. Threshold on tolling of statute of limitations during review by Taxpayer Advocate Service.
Sec. 107. Increase in penalty for bad checks and money orders.
Sec. 108. Extension of time limit for contesting IRS levy.
Sec. 109. Individuals held harmless on improper levy on individual retirement plan.
Sec. 110. Authorization for Financial Management Service retention of transaction fees from levied amounts.
Sec. 111. Elimination of restriction on offsetting refunds from former residents.

Subtitle B—Processing and Personnel

Sec. 121. Information regarding statute of limitations.
Sec. 122. Annual report on IRS performance measures.
Sec. 123. Disclosure of tax information to facilitate combined employment tax reporting.
Sec. 124. Extension of declaratory judgment procedures to non-501(c)(3) tax-exempt organizations.
Sec. 125. Amendment to Treasury auction reforms.
Sec. 126. Revisions relating to termination of employment of IRS employees for misconduct.
Sec. 127. Expansion of IRS Oversight Board Authority.
Sec. 128. IRS Oversight Board approval of use of critical pay authority.
Sec. 129. Low-income taxpayer clinics.
Sec. 130. Taxpayer access to financial institutions.
Sec. 131. Enrolled agents.
Sec. 132. Establishment of disaster response team.
Sec. 133. Study of accelerated tax refunds.
Sec. 134. Study on clarifying recordkeeping responsibilities.
Sec. 135. Streamline reporting process for National Taxpayer Advocate.
Sec. 136. IRS Free File program.
Sec. 137. Modification of TIGTA reporting requirements.
Sec. 138. Study of IRS accounts receivable.
Sec. 139. Electronic Commerce Advisory Group.
Sec. 140. Study on modifications to schedules L and M-1.
Sec. 141. Regulation of Federal income tax return preparers and refund anticipation loan providers.

Subtitle C—Other Provisions

Sec. 151. Penalty for failure to report interests in foreign financial accounts.
Sec. 152. Repeal of application of below-market loan rules to amounts paid to certain continuing care facilities.

TITLE II—REFORM OF PENALTY AND INTEREST

Sec. 201. Individual estimated tax.
Sec. 202. Corporate estimated tax.
Sec. 203. Increase in large corporation threshold for estimated tax payments.
Sec. 204. Abatement of interest.
Sec. 205. Deposits made to suspend running of interest on potential underpayments.
Sec. 206. Freeze of provisions regarding suspension of interest where Secretary fails to contact taxpayer.
Sec. 207. Clarification of application of Federal tax deposit penalty.
Sec. 208. Frivolous tax returns and submissions.
Sec. 209. Extension of notice requirements with respect to interest and penalty calculations.
Sec. 210. Expansion of interest netting.

TITLE III—UNITED STATES TAX COURT MODERNIZATION

Subtitle A—Tax Court Procedure

Sec. 301. Jurisdiction of Tax Court over collection due process cases.
Sec. 302. Authority for special trial judges to hear and decide certain employment status cases.
Sec. 303. Confirmation of authority of Tax Court to apply doctrine of equitable recoupment.
Sec. 304. Tax Court filing fee in all cases commenced by filing petition.
Sec. 305. Amendments to appoint employees.
Sec. 306. Expanded use of Tax Court practice fee for pro se taxpayers.

Subtitle B—Tax Court Pension and Compensation

Sec. 311. Annuities for survivors of Tax Court judges who are assassinated.
Sec. 312. Cost-of-living adjustments for Tax Court judicial survivor annuities.
Sec. 313. Life insurance coverage for Tax Court judges.
Sec. 314. Cost of life insurance coverage for Tax Court judges age 65 or over.
Sec. 315. Modification of timing of lump-sum payment of judges' accrued annual leave.
Sec. 316. Participation of Tax Court judges in the Thrift Savings Plan.
Sec. 317. Exemption of teaching compensation of retired judges from limitation on outside earned income.
Sec. 318. General provisions relating to magistrate judges of the Tax Court.
Sec. 319. Annuities to surviving spouses and dependent children of magistrate judges of the Tax Court.
Sec. 320. Retirement and annuity program.
Sec. 321. Incumbent magistrate judges of the Tax Court.
Sec. 322. Provisions for recall.
Sec. 323. Effective date.

TITLE IV—CONFIDENTIALITY AND DISCLOSURE

Sec. 401. Clarification of definition of church tax inquiry.
Sec. 402. Collection activities with respect to joint return disclosable to either spouse based on oral request.
Sec. 403. Taxpayer representatives not subject to examination on sole basis of representation of taxpayers.
Sec. 404. Prohibition of disclosure of taxpayer identification information with respect to disclosure of accepted offers-in-compromise.
Sec. 405. Compliance by contractors with confidentiality safeguards.
Sec. 406. Higher standards for requests for and consents to disclosure.
Sec. 407. Civil damages for unauthorized disclosure or inspection.
Sec. 408. Expansion of disclosure in emergency circumstances.
Sec. 409. Disclosure of taxpayer identity for tax refund purposes.
Sec. 410. Disclosure to State officials of proposed actions related to section 501(c) organizations.
Sec. 411. Treatment of public records.
Sec. 412. Employee identity disclosures.
Sec. 413. Taxpayer identification number matching.
Sec. 414. Form 8300 disclosures.
Sec. 415. Disclosure to law enforcement agencies regarding terrorist activities.

TITLE V—SIMPLIFICATION

Subtitle A—Uniform Definition of Child

Sec. 501. Uniform definition of child, etc.
Sec. 502. Modifications of definition of head of household.
Sec. 503. Modifications of dependent care credit.
Sec. 504. Modifications of child tax credit.
Sec. 505. Modifications of earned income credit.
Sec. 506. Modifications of deduction for personal exemption for dependents.

Sec. 507. Technical and conforming amendments.
Sec. 508. Effective date.

Subtitle B—Simplification Through Elimination of Inoperative Provisions

Sec. 511. Simplification through elimination of inoperative provisions.

TITLE VI—REVENUE PROVISIONS

Subtitle A—Provisions Designed to Curtail Tax Shelters

Sec. 601. Penalty for failing to disclose reportable transaction.
Sec. 602. Accuracy-related penalty for listed transactions and other reportable transactions having a significant tax avoidance purpose.
Sec. 603. Modifications of substantial understatement penalty for nonreportable transactions.
Sec. 604. Tax shelter exception to confidentiality privileges relating to taxpayer communications.
Sec. 605. Disclosure of reportable transactions.
Sec. 606. Modifications to penalty for failure to register tax shelters.
Sec. 607. Modification of penalty for failure to maintain lists of investors.
Sec. 608. Modification of actions to enjoin certain conduct related to tax shelters and reportable transactions.
Sec. 609. Understatement of taxpayer's liability by income tax return preparer.
Sec. 610. Regulation of individuals practicing before the Department of Treasury.
Sec. 611. Penalty on promoters of tax shelters.
Sec. 612. Statute of limitations for taxable years for which required listed transactions not reported.
Sec. 613. Denial of deduction for interest on underpayments attributable to tax-motivated transactions.
Sec. 614. Authorization of appropriations for tax law enforcement.

PART II—OTHER CORPORATE GOVERNANCE PROVISIONS

Sec. 621. Affirmation of consolidated return regulation authority.
Sec. 622. Declaration by chief executive officer relating to Federal annual income tax return of a corporation.
Sec. 623. Denial of deduction for certain fines, penalties, and other amounts.
Sec. 624. Disallowance of deduction for punitive damages.
Sec. 625. Increase in criminal monetary penalty for individuals to the amount of the tax at issue.
Sec. 626. Doubling of certain penalties, fines, and interest on underpayments related to certain offshore financial arrangements.

PART III—EXTENSION OF IRS USER FEES

Sec. 631. Extension of IRS user fees.

TITLE I—IMPROVEMENTS IN TAX ADMINISTRATION AND TAXPAYER SAFEGUARDS

Subtitle A—Improvements in Efficiency and Safeguards in Internal Revenue Service Collection

SEC. 101. WAIVER OF USER FEE FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.

(a) IN GENERAL.—Section 6159 (relating to agreements for payment of tax liability in installments) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following:

"(e) WAIVER OF USER FEES FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.—In the case of a taxpayer who enters into an installment agreement in which automated installment payments are agreed to, the Secretary shall waive the fee (if any) for entering into the installment agreement.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date which is 180 days after the date of the enactment of this Act.

SEC. 102. AUTHORIZATION FOR IRS TO ENTER INTO INSTALLMENT AGREEMENTS THAT PROVIDE FOR PARTIAL PAYMENT.

(a) IN GENERAL.—

(1) Section 6159(a) (relating to authorization of agreements) is amended—

(A) by striking "satisfy liability for payment of" and inserting "make payment on", and

(B) by inserting "full or partial" after "facilitate".

(2) Section 6159(c) (relating to Secretary required to enter into installment agreements in certain cases) is amended in the matter preceding paragraph (1) by inserting "full" before "payment".

(b) REQUIREMENT TO REVIEW PARTIAL PAYMENT AGREEMENTS EVERY TWO YEARS.—Section 6159, as amended by this Act, is amended by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively, and inserting after subsection (c) the following new subsection:

"(d) SECRETARY REQUIRED TO REVIEW INSTALLMENT AGREEMENTS FOR PARTIAL COLLECTION EVERY TWO YEARS.—In the case of an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years with the primary purpose of determining whether the financial condition of the taxpayer has significantly changed so as to warrant an increase in the value of the payments being made.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date of the enactment of this Act.

SEC. 103. TERMINATION OF INSTALLMENT AGREEMENTS.

(a) IN GENERAL.—Section 6159(b)(4) (relating to failure to pay an installment or any other tax liability when due or to provide requested financial information) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (E), and by inserting after subparagraph (B) the following:

"(C) to make a Federal tax deposit under section 6302 at the time such deposit is required to be made,

"(D) to file a return of tax imposed under this title by its due date (including extensions), or".

(b) CONFORMING AMENDMENT.—Section 6159(b)(4) is amended by striking "FAILURE TO PAY AN INSTALLMENT OR ANY OTHER TAX LIABILITY WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION" and inserting "FAILURE TO MAKE PAYMENTS OR DEPOSITS OR FILE RETURNS WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to failures occurring on or after the date of the enactment of this Act.

SEC. 104. OFFICE OF CHIEF COUNSEL REVIEW OF OFFERS-IN-COMPROMISE.

(a) IN GENERAL.—Section 7122(b) (relating to record) is amended by striking "Whenever a compromise" and all that follows through "his delegate" and inserting "If the Secretary determines that an opinion of the General Counsel for the Department of the Treasury, or the Counsel's delegate, is required with respect to a compromise, there shall be placed on file in the office of the Secretary such opinion".

(b) CONFORMING AMENDMENTS.—Section 7122(b) is amended by striking the second and third sentences.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offers-in-compromise submitted or pending on or after the date of the enactment of this Act.

SEC. 105. AUTHORIZATION FOR IRS TO REQUIRE INCREASED ELECTRONIC FILING OF RETURNS PREPARED BY PAID RETURN PREPARERS.

(a) IN GENERAL.—Section 6011(e) (relating to regulations requiring returns on magnetic media, etc.) is amended—

(1) by striking the second sentence in paragraph (1), and

(2) by striking "250" in paragraph (2)(A) and inserting "5".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 106. THRESHOLD ON TOLLING OF STATUTE OF LIMITATIONS DURING REVIEW BY TAXPAYER ADVOCATE SERVICE.

(a) IN GENERAL.—Section 7811(d)(1) (relating to suspension of running of period of limitation) is amended by inserting after "such application," the following: "but only if the date of such decision is at least 7 days after the date of the taxpayer's application".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to applications filed after the date of the enactment of this Act.

SEC. 107. INCREASE IN PENALTY FOR BAD CHECKS AND MONEY ORDERS.

(a) IN GENERAL.—Section 6657 (relating to bad checks) is amended—

(1) by striking "$750" and inserting "$1,250", and

(2) by striking "$15" and inserting "$25".

(b) EFFECTIVE DATE.—The amendments made by this section apply to checks or money orders received after the date of the enactment of this Act.

SEC. 108. EXTENSION OF TIME LIMIT FOR CONTESTING IRS LEVY.

(a) EXTENSION OF TIME FOR RETURN OF PROPERTY SUBJECT TO LEVY.—Subsection (b) of section 6343 (relating to return of property) is amended by striking "9 months" and inserting "2 years".

(b) PERIOD OF LIMITATION ON SUITS.—Subsection (c) of section 6532 (relating to suits by persons other than taxpayers) is amended—

(1) in paragraph (1) by striking "9 months" and inserting "2 years", and

(2) in paragraph (2) by striking "9-month" and inserting "2-year".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) levies made after the date of the enactment of this Act, and

(2) levies made on or before such date if the 9-month period has not expired under section 6343(b) of the Internal Revenue Code of 1986 (without regard to this section) as of such date.

SEC. 109. INDIVIDUALS HELD HARMLESS ON IMPROPER LEVY ON INDIVIDUAL RETIREMENT PLAN.

(a) IN GENERAL.—Section 6343 (relating to authority to release levy and return property) is amended by adding at the end the following new subsection:

"(f) INDIVIDUALS HELD HARMLESS ON WRONGFUL LEVY, ETC. ON INDIVIDUAL RETIREMENT PLAN.—

"(1) IN GENERAL.—If the Secretary determines that an individual retirement plan has been levied upon in a case to which subsection (b) or (d)(2)(A) applies and an amount is returned to the individual who is the beneficiary of such plan, the individual may deposit an amount equal to the sum of—

"(A) the amount of money returned by the Secretary on account of such levy, and

"(B) interest paid under subsection (c) on such amount of money,

into an individual retirement plan (other than an endowment contract) to which a rollover from the plan levied upon is permitted.

"(2) TREATMENT AS ROLLOVER.—The distribution on account of the levy and any deposit under paragraph (1) with respect to such distribution shall be treated for purposes of this title as if such distribution and deposit were part of a rollover described in section 408(d)(3)(A)(i); except that—

"(A) interest paid under subsection (c) shall be treated as part of such distribution and as not includible in gross income,

"(B) the 60-day requirement in such section shall be treated as met if the deposit is made not later than the 60th day after the day on which the individual receives an amount under paragraph (1) from the Secretary, and

"(C) such deposit shall not be taken into account under section 408(d)(3)(B).

"(3) REFUND, ETC., OF INCOME TAX ON LEVY.—If any amount is includible in gross income for a taxable year by reason of a levy referred to in paragraph (1) and any portion of such amount is treated as a rollover under paragraph (2), any tax imposed by chapter 1 on such portion shall not be assessed, and if assessed shall be abated, and if collected shall be credited or refunded as an overpayment made on the due date for filing the return of tax for such taxable year.

"(4) INTEREST.—Notwithstanding subsection (d), interest shall be allowed under subsection (c) in a case in which the Secretary makes a determination described in subsection (d)(2)(A) with respect to a levy upon an individual retirement plan.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid under subsections (b), (c), and (d)(2)(A) of section 6343 of the Internal Revenue Code of 1986 after December 31, 2004.

SEC. 110. AUTHORIZATION FOR FINANCIAL MANAGEMENT SERVICE RETENTION OF TRANSACTION FEES FROM LEVIED AMOUNTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Financial Management Service may charge the Internal Revenue Service, and the Internal Revenue Service may pay the Financial Management Service, a fee sufficient to cover the full cost of implementing a continuous levy program under subsection (h) of section 6331 of the Internal Revenue Code of 1986. Any such fee shall be based on actual levies made and shall be collected by the Financial Management Service by the retention of a portion of amounts collected by levy pursuant to that subsection. Amounts received by the Financial Management Service as fees under that subsection shall be deposited into the account of the Department of the Treasury under section 3711(g)(7) of title 31, United States Code, and shall be collected and accounted for in accordance with the provisions of that section. The amount credited against the taxpayer's liability on account of the continuous levy shall be the amount levied, without reduction for the amount paid to the Financial Management Service as a fee.

(b) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this Act.

SEC. 111. ELIMINATION OF RESTRICTION ON OFFSETTING REFUNDS FROM FORMER RESIDENTS.

(a) IN GENERAL.—Section 6402(e) (relating to collection of past-due, legally enforceable State income tax obligations) is amended by striking paragraph (2) and by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (2), (3), (4), (5), and (6), respectively.

(b) CLARIFICATION OF DISCLOSURE AUTHORITY.—Section 6103(l)(10) (relating to disclosure of certain information to agencies requesting a reduction under subsection (c), (d), or (e) or section 6402) is amended—

(1) by striking ", (d), or (e)" each place it appears and inserting "or (d)", and

(2) by striking ", (d), OR (e)" in the heading and inserting "OR (d)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle B—Processing and Personnel

SEC. 121. INFORMATION REGARDING STATUTE OF LIMITATIONS.

The Secretary of the Treasury or the Secretary's delegate shall—

(1) as soon as practicable but not later than 180 days after the date of the enactment of this Act, revise the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1), and

(2) for taxable years beginning after December 31, 2004, revise any instructions booklet accompanying a general income tax return form (including forms 1040, 1040A, 1040EZ, and any similar or successor forms relating thereto),

to provide for an explanation of the limitations imposed by section 6511 of the Internal Revenue Code of 1986 on credits and refunds, and the consequences under such section 6511 of the failure to file a return of tax.

SEC. 122. ANNUAL REPORT ON IRS PERFORMANCE MEASURES.

(a) IN GENERAL.—Section 7803(a) (relating to Commissioner of Internal Revenue) is amended by adding at the end the following new paragraph:

"(4) ANNUAL REPORT ON IRS PERFORMANCE MEASURES.—Not later than December 31 of each calendar year, the Commissioner shall report to Congress and the Oversight Board on performance goals and projections for the 5-fiscal-year period beginning with the fiscal year ending in such calendar year against which to measure the performance of the Internal Revenue Service in the areas of the public rating of the Internal Revenue Service, customer service, compliance, and management initiatives. The report shall include the long-term performance goal for each measurement and a brief narrative explaining how the Commissioner plans to meet each goal. For each performance goal, the report shall include comparisons between the projected performance level and actual performance level. For each performance measurement, the report shall include a volume projection for such period. If the Internal Revenue Service fails to achieve one of its goals, the report shall explain why. The report shall also include data and a narrative regarding the actual and projected level of the workload and resources of the Internal Revenue Service for such 5-year period.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to reports for fiscal year 2004 and thereafter.

SEC. 123. DISCLOSURE OF TAX INFORMATION TO FACILITATE COMBINED EMPLOYMENT TAX REPORTING.

(a) IN GENERAL.—Paragraph (5) of section 6103(d) (relating to disclosure to State tax officials and State and local law enforcement agencies) is amended to read as follows:

"(5) DISCLOSURE FOR COMBINED EMPLOYMENT TAX REPORTING.—The Secretary shall disclose taxpayer identity information and signatures to any agency, body, or commission of any State for the purpose of carrying out with such agency, body, or commission a combined Federal and State employment tax reporting program approved by the Secretary. Subsections (a)(2) and (p)(4) and sections 7213 and 7213A shall not apply with respect to disclosures or inspections made pursuant to this paragraph.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 124. EXTENSION OF DECLARATORY JUDGMENT PROCEDURES TO NON-501(c)(3) TAX-EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Paragraph (1) of section 7428(a) (relating to creation of remedy) is amended—

(1) in subparagraph (B) by inserting after "509(a))" the following: "or as a private operating foundation (as defined in section 4942(j)(3))"; and

(2) by amending subparagraph (C) to read as follows:

"(C) with respect to the initial qualification or continuing qualification of an organization as an organization described in section 501(c) (other than paragraph (3)) or 501(d) which is exempt from tax under section 501(a), or".

(b) COURT JURISDICTION.—Subsection (a) of section 7428 is amended in the material following paragraph (2) by striking "United States Tax Court, the United States Claims Court, or the district court of the United States for the District of Columbia" and inserting the following: "United States Tax Court (in the case of any such determination or failure) or the United States Claims Court or the district court of the United States for the District of Columbia (in the case of a determination or failure with respect to an issue referred to in subparagraph (A) or (B) of paragraph (1)),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to pleadings filed with respect to determinations (or requests for determinations) made after December 31, 2004.

SEC. 125. AMENDMENT TO TREASURY AUCTION REFORMS.

(a) IN GENERAL.—Clause (i) of section 202(c)(4)(B) of the Government Securities Act Amendments of 1993 (31 U.S.C. 3121 note) is amended by inserting before the semicolon "(or, if earlier, at the time the Secretary releases the minutes of the meeting in accordance with paragraph (2))".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to meetings held after the date of the enactment of this Act.

SEC. 126. REVISIONS RELATING TO TERMINATION OF EMPLOYMENT OF IRS EMPLOYEES FOR MISCONDUCT.

(a) IN GENERAL.—Subchapter A of chapter 80 (relating to application of internal revenue laws) is amended by inserting after section 7804 the following new section:

"SEC. 7804A. TERMINATION OF EMPLOYMENT FOR MISCONDUCT.

"(a) IN GENERAL.—Subject to subsection (c), the Commissioner shall terminate the employment of any employee of the Internal Revenue Service if there is a final administrative or judicial determination that such employee committed any act or omission described under subsection (b) in the performance of the employee's official duties. Such termination shall be a removal for cause on charges of misconduct.

"(b) ACTS OR OMISSIONS.—The acts or omissions described under this subsection are—

"(1) willful failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets,

"(2) providing a false statement under oath with respect to a material matter involving a taxpayer or taxpayer representative,

"(3) with respect to a taxpayer or taxpayer representative, the violation of—

"(A) any right under the Constitution of the United States, or

"(B) any civil right established under—

"(i) title VI or VII of the Civil Rights Act of 1964,

"(ii) title IX of the Education Amendments of 1972,

"(iii) the Age Discrimination in Employment Act of 1967, "(iv) the Age Discrimination Act of 1975,

"(v) section 501 or 504 of the Rehabilitation Act of 1973, or

"(vi) title I of the Americans with Disabilities Act of 1990,

"(4) falsifying or destroying documents to conceal mistakes made by any employee with respect to a matter involving a taxpayer or taxpayer representative,

"(5) assault or battery on a taxpayer or taxpayer representative, but only if there is a criminal conviction, or a final judgment by a court in a civil case, with respect to the assault or battery,

"(6) violations of this title, Department of the Treasury regulations, or policies of the Internal Revenue Service (including the Internal Revenue Manual) for the purpose of retaliating against, or harassing, a taxpayer or taxpayer representative,

"(7) willful misuse of the provisions of section 6103 for the purpose of concealing information from a congressional inquiry,

"(8) willful failure to file any return of tax required under this title on or before the date prescribed therefor (including any extensions) when a tax is due and owing, unless such failure is due to reasonable cause and not due to willful neglect,

"(9) willful understatement of Federal tax liability, unless such understatement is due to reasonable cause and not due to willful neglect, and

"(10) threatening to audit a taxpayer for the purpose of extracting personal gain or benefit.

"(c) DETERMINATIONS OF COMMISSIONER.—

"(1) IN GENERAL.—The Commissioner may take a personnel action other than termination for an act or omission described under subsection (b).

"(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may not be delegated to any other officer. The Commissioner, in the Commissioner's sole discretion, may establish a procedure which will be used to determine whether an individual should be referred to the Commissioner for a determination by the Commissioner under paragraph (1).

"(3) NO APPEAL.—Any determination of the Commissioner under this subsection may not be appealed in any administrative or judicial proceeding.

"(d) DEFINITION.—For the purposes of the provisions described in clauses (i), (ii), and (iv) of subsection (b)(3)(B), references to a program or activity regarding Federal financial assistance or an education program or activity receiving Federal financial assistance shall include any program or activity conducted by the Internal Revenue Service for a taxpayer.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 80 is amended by inserting after the item relating to section 7804 the following new item:

"Sec. 7804A. Termination of employment for misconduct.".

(c) REPEAL OF SUPERSEDED SECTION.—Section 1203 of the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105–206; 112 Stat. 720) is repealed.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 127. EXPANSION OF IRS OVERSIGHT BOARD AUTHORITY.

(a) APPROVAL WITH RESPECT TO SENIOR EXECUTIVES.—Section 7802(d)(3)(B) (relating to management) is amended by inserting "and approve" after "review".

(b) REPORTS.—

(1) BUDGET REQUEST.—Section 7802(d) (relating to specific responsibilities) is amended—

(A) by inserting "with detailed analysis" after "budget request" in paragraph (4)(B), and

(B) by inserting "without any additional review or comment from the Commissioner, the Secretary, any other officer or employee of the Department of the Treasury, or the Office of Management and Budget" before "to the President" in the last sentence thereof.

(2) DATE OF SUBMISSION OF ANNUAL REPORT.—Section 7802(f)(3)(A) (relating to annual reports) is amended by striking "The Oversight Board shall each year report" and insert "Not later than March 1 of each calendar year, the Oversight Board shall report".

(c) CONTINUITY IN OFFICE.—Section 7802(b)(2) (relating to qualifications and terms) is amended by adding at the end the following new subparagraph:

"(E) CONTINUATION IN OFFICE.—Any member whose term expires shall serve until the earlier of the date on which the member's successor takes office or the date which is 1 year after the date of the expiration of the member's term.

(d) ACCESS TO HEALTH BENEFITS.—Section 7802(e) (relating to Board personnel matters) is amended by adding at the end the following new paragraph:

"(5) MEMBERS ACCESS TO FEHBP.—Each member of the Oversight Board who—

"(A) is described in subsection (b)(1)(A), or

"(B) is described in subsection (b)(1)(D) and is not otherwise a Federal officer or employee,

shall be considered an employee solely for purposes of chapter 89 of title 5, United States Code.".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 128. IRS OVERSIGHT BOARD APPROVAL OF USE OF CRITICAL PAY AUTHORITY.

(a) IN GENERAL.—Section 7802(d)(3) (relating to management) is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting "; and", and by adding at the end the following new subparagraph:

"(D) review and approve the Commissioner's use of critical pay authority under section 9502 of title 5, United States Code, and streamlined critical pay authority under section 9503 of such title.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to personnel hired after the date of the enactment of this Act.

SEC. 129. LOW-INCOME TAXPAYER CLINICS.

(a) GRANTS FOR RETURN PREPARATION CLINICS.—

(1) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by inserting after section 7526 the following new section:

"SEC. 7526A. RETURN PREPARATION CLINICS FOR LOW-INCOME TAXPAYERS.

"(a) IN GENERAL.—The Secretary may, subject to the availability of appropriated funds, make grants to provide matching funds for the development, expansion, or continuation of qualified return preparation clinics.

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED RETURN PREPARATION CLINIC.—

"(A) IN GENERAL.—The term 'qualified return preparation clinic' means a clinic which—

"(i) does not charge more than a nominal fee for its services (except for reimbursement of actual costs incurred), and

"(ii) operates programs which assist low-income taxpayers in preparing and filing their Federal income tax returns, including schedules reporting sole proprietorship or farm income.

"(B) ASSISTANCE TO LOW-INCOME TAXPAYERS.—A clinic is treated as assisting low-income taxpayers under subparagraph (A)(ii) if at least 90 percent of the taxpayers assisted by the clinic have incomes which do not exceed 250 percent of the poverty level, as determined in accordance with criteria established by the Director of the Office of Management and Budget.

"(2) CLINIC.—The term 'clinic' includes—

"(A) a clinical program at an eligible educational institution (as defined in section 529(e)(5)) which satisfies the requirements of paragraph (1) through student assistance of taxpayers in return preparation and filing, and

"(B) an organization described in section 501(c) and exempt from tax under section 501(a) which satisfies the requirements of paragraph (1).

"(c) SPECIAL RULES AND LIMITATIONS.—

"(1) AGGREGATE LIMITATION.—Unless otherwise provided by specific appropriation, the Secretary shall not allocate more than $10,000,000 per year (exclusive of costs of administering the program) to grants under this section.

"(2) OTHER APPLICABLE RULES.—Rules similar to the rules under paragraphs (2) through (7) of section 7526(c) shall apply with respect to the awarding of grants to qualified return preparation clinics.".

(2) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by inserting after the item relating to section 7526 the following new item:

"Sec. 7526A. Return preparation clinics for low-income taxpayers.".

(b) GRANTS FOR TAXPAYER REPRESENTATION AND ASSISTANCE CLINICS.—

(1) INCREASE IN AUTHORIZED GRANTS.—Section 7526(c)(1) (relating to aggregate limitation) is amended by striking "$6,000,000" and inserting "$10,000,000".

(2) USE OF GRANTS FOR OVERHEAD EXPENSES PROHIBITED.—

(A) IN GENERAL.—Section 7526(c) (relating to special rules and limitations) is amended by adding at the end the following new paragraph:

"(6) USE OF GRANTS FOR OVERHEAD EXPENSES PROHIBITED.—No grant made under this section may be used for the overhead expenses of any clinic or of any institution sponsoring such clinic.".

(B) CONFORMING AMENDMENTS.—Section 7526(c)(5) is amended—

(i) by inserting "qualified" before "low-income", and

(ii) by striking the last sentence.

(3) PROMOTION OF CLINICS.—Section 7526(c), as amended by paragraph (2), is amended by adding at the end the following new paragraph:

"(7) PROMOTION OF CLINICS.—The Secretary is authorized to promote the benefits of and encourage the use of low-income taxpayer clinics through the use of mass communications, referrals, and other means.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to grants made after the date of the enactment of this Act.

SEC. 130. TAXPAYER ACCESS TO FINANCIAL INSTITUTIONS.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary is authorized to award demonstration project grants (including multi-year grants) to eligible entities to provide tax preparation services and assistance in connection with establishing an account in a federally insured depository institution for individuals that currently do not have such an account.

(b) ELIGIBLE ENTITIES.—

(1) IN GENERAL.—An entity is eligible to receive a grant under this section if such an entity is—

(A) an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code,

(B) a federally insured depository institution,

(C) an agency of a State or local government,

(D) a community development financial institution,

(E) an Indian tribal organization,

(F) an Alaska Native Corporation,

(G) a Native Hawaiian organization,

(H) a labor organization, or

(I) a partnership comprised of 1 or more of the entities described in the preceding subparagraphs.

(2) DEFINITIONS.—For purposes of this section—

(A) FEDERALLY INSURED DEPOSITORY INSTITUTION.—The term "federally insured depository institution" means any insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) and any insured credit union (as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752)).

(B) COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—The term "community development financial institution" means any organization that has been certified as such pursuant to section 1805.201 of title 12, Code of Federal Regulations.

(C) ALASKA NATIVE CORPORATION.—The term "Alaska Native Corporation" has the same meaning as the term "Native Corporation" under section 3(m) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m)).

(D) NATIVE HAWAIIAN ORGANIZATION.—The term "Native Hawaiian organization" means any organization that—

(i) serves and represents the interests of Native Hawaiians, and

(ii) has as a primary and stated purpose the provision of services to Native Hawaiians.

(E) LABOR ORGANIZATION.—The term "labor organization" means an organization—

(i) in which employees participate,

(ii) which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work, and

(iii) which is described in section 501(c)(5).

(c) APPLICATION.—An eligible entity desiring a grant under this section shall submit an application to the Secretary in such form and containing such information as the Secretary may require.

(d) LIMITATION ON ADMINISTRATIVE COSTS.—A recipient of a grant under this section may not use more than 6 percent of the total amount of such grant in any fiscal year for the administrative costs of carrying out the programs funded by such grant in such fiscal year.

(e) EVALUATION AND REPORT.—For each fiscal year in which a grant is awarded under this section, the Secretary shall submit a report to Congress containing a description of the activities funded, amounts distributed, and measurable results, as appropriate and available.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary, for the grant program described in this section, $10,000,000, or such additional amounts as deemed necessary, to remain available until expended.

(g) REGULATIONS.—The Secretary is authorized to promulgate regulations to implement and administer the grant program under this section.

SEC. 131. ENROLLED AGENTS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7529. ENROLLED AGENTS.

"(a) IN GENERAL.—The Secretary may prescribe such regulations as may be necessary to regulate the conduct of enrolled agents in regards to their practice before the Internal Revenue Service.

"(b) USE OF CREDENTIALS.—Any enrolled agents properly licensed to practice as required under rules promulgated under section (a) herein shall be allowed to use the credentials or designation as 'enrolled agent', 'EA', or 'E.A.'.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:

"Sec. 7529. Enrolled agents.".

(c) PRIOR REGULATIONS.—The authorization to prescribe regulations under the amendments made by this section may not be construed to have any effect on part 10 of title 31, Code of Federal Regulations, or any other related Federal rule or regulation issued before the date of the enactment of this Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 132. ESTABLISHMENT OF DISASTER RESPONSE TEAM.

(a) IN GENERAL.—Section 7803 (relating to Commissioner of Internal Revenue; other officials) is amended by adding at the end the following new subsection:

"(e) DISASTER RESPONSE TEAM.—

"(1) RESPONSE TO DISASTERS.—The Secretary shall—

"(A) establish as a permanent office in the national office of the Internal Revenue Service a disaster response team composed of members, who in addition to their regular responsibilities, shall assist taxpayers in clarifying and resolving Federal tax matters associated with or resulting from any Presidentially declared disaster (as defined in section 1033(h)(3)), and

"(B) respond to requests by such taxpayers for filing extensions and technical guidance expeditiously.

"(2) PERSONNEL OF DISASTER RESPONSE TEAM.—The disaster response team shall be composed of—

"(A) personnel from the Office of the Taxpayer Advocate, and

"(B) personnel from the national office of the Internal Revenue Service with expertise in individual, corporate, and small business tax matters.

"(3) COORDINATION WITH FEMA.—The disaster response team shall operate in coordination with the Director of the Federal Emergency Management Agency.

"(4) TOLL-FREE TELEPHONE NUMBER.—The Commissioner of Internal Revenue shall establish and maintain a toll-free telephone number for taxpayers to use to receive assistance from the disaster response team.

"(5) INTERNET WEBPAGE SITE.—The Commissioner of Internal Revenue shall establish and maintain a site on the Internet webpage of the Internal Revenue Service for information for taxpayers described in paragraph (1)(A).".

(b) FEMA.—The Director of the Federal Emergency Management Agency shall work in coordination with the disaster response team established under section 7803(e) of the Internal Revenue Code of 1986 to provide timely assistance to disaster victims described in such section, including—

(1) informing the disaster response team regarding any tax-related problems or issues arising in connection with the disaster,

(2) providing the toll-free telephone number established and maintained by the Internal Revenue Service for the disaster victims in all materials provided to such victims, and

(3) providing the information described in section 7803(e)(5) of such Code on the Internet webpage of the Federal Emergency Management Agency or through a link on such webpage to the Internet webpage site of the Internal Revenue Service described in such section.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 133. STUDY OF ACCELERATED TAX REFUNDS.

(a) STUDY.—The Secretary of the Treasury shall study the implementation of an accelerated refund program for taxpayers who—

(1) maintain the same filing characteristics from year to year, and

(2) elect the direct deposit option for any refund under the program.

(b) REPORT.—Not later than the date which is 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall transmit a report of the study described in subsection (a), including recommendations, to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 134. STUDY ON CLARIFYING RECORDKEEPING RESPONSIBILITIES.

(a) STUDY.—The Secretary of the Treasury shall study—

(1) the scope of the records required to be maintained by taxpayers under section 6001 of the Internal Revenue Code of 1986,

(2) the utility of requiring taxpayers to maintain all records indefinitely,

(3) such requirement given the necessity to upgrade technological storage for outdated records,

(4) the number of negotiated records retention agreements requested by taxpayers and the number entered into by the Internal Revenue Service, and

(5) proposals regarding taxpayer record-keeping.

(b) REPORT.—Not later than the date which is 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall transmit a report of the study described in subsection (a), including recommendations, to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 135. STREAMLINE REPORTING PROCESS FOR NATIONAL TAXPAYER ADVOCATE.

(a) ONE ANNUAL REPORT.—Subparagraph (B) of section 7803(c)(2) (relating to functions of Office) is amended—

(1) by striking all matter preceding subclause (I) of clause (ii) and inserting the following:

"(B) ANNUAL REPORT.—

"(i) IN GENERAL.—Not later than December 31 of each calendar year, the National Taxpayer Advocate shall report to the Committee of Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the objectives of the Office of the Taxpayer of Advocate for the fiscal year beginning in such calendar year and the activities of such Office during the fiscal year ending during such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and shall—",

(2) by striking "clause (ii)" in clause (iv) and inserting "clause (i)", and

(3) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(b) ADDITIONAL REPORTS.—Section 7803(c)(2)(C) (relating to other responsibilities) is amended by striking "and" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting "; and", and by adding at the end the following new clause:

"(v) at the discretion of the National Taxpayer Advocate, report at any time to the Committee of Ways and Means of the House of Representatives and the Committee on Finance of the Senate on significant issues affecting taxpayer rights.".

(c) EFFECTIVE DATES.—

(1) ANNUAL REPORTS.—The amendments made by subsection (a) shall apply to reports in calendar year 2005 and thereafter.

(2) ADDITIONAL REPORTS.—The amendments made by subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 136. IRS FREE FILE PROGRAM.

(a) IN GENERAL.—The Commissioner of Internal Revenue shall require that a taxpayer must *provide an affirmative consent before such taxpayer may be solicited with respect to any product or service by an entity participating in the Internal Revenue Service Free File program. Any request for such consent must be prominently displayed and clearly written, in large print, on any material relating to such program.*

(b) Effective Date.—This section shall take effect with respect to returns filed after December 31, 2004.

SEC. 137. MODIFICATION OF TIGTA REPORTING REQUIREMENTS.

(a) In General.—Paragraph (1) of section 7803(d) (relating to additional duties of the Treasury Inspector General for Tax Administration) is amended—

(1) by striking "Annual" in the heading and inserting "Semiannual",

(2) by striking "one of the semiannual reports" in the matter preceding subparagraph (A) and inserting "each semiannual report",

(3) by striking clause (ii) of subparagraph (A),

(4) by redesignating clauses (iii), (iv), and (v) of subparagraph (A) as clauses (ii), (iii), and (iv) of subparagraph (A), respectively,

(5) by striking subparagraph (B),

(6) by striking "and" at the end of subparagraph (F),

(7) by redesignating subparagraphs (C), (D), (E), and (F) as subparagraphs (B), (C), (D), and (E), respectively, and

(8) by striking subparagraph (G) and inserting the following new subparagraphs:

"(F) the number of employee misconduct and taxpayer abuse allegations received by the Internal Revenue Service or the Inspector General during the period from taxpayers, Internal Revenue Service employees, and other sources; and

"(G) with respect to allegations of serious employee misconduct—

"(i) a summary of the status of such allegations; and

"(ii) a summary of the disposition of such allegations, including the outcome of any Department of Justice action and any monies paid as a settlement of such allegations.".

(b) Conforming Amendments.—Section 7803(d) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 138. STUDY OF IRS ACCOUNTS RECEIVABLE.

(a) Study.—The Secretary of the Treasury shall conduct a study of the provisions of the Internal Revenue Code of 1986, and the application of such provisions, regarding collection procedures to determine if impediments exist to the efficient and timely collection of tax debts. Such study shall include an examination of the accounts receivable inventory of the Internal Revenue Service.

(b) Report.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, including the findings of the study described in subsection (a) and such legislative or administrative recommendations as the Secretary deems appropriate to increase the efficient and timely collection of tax debts.

SEC. 139. ELECTRONIC COMMERCE ADVISORY GROUP.

(a) In General.—Section 2001(b)(2) of the Internal Revenue Service Restructuring and Reform Act of 1998 is amended by inserting ", and at least 2 representatives from the consumer advocate community" after "industry".

(b) Application of Amendment.—The initial appointments in accordance with the amendment made by this section shall be made not later than the date which is 180 days after the date of the enactment of this Act.

SEC. 140. STUDY ON MODIFICATIONS TO SCHEDULES L AND M–1.

(a) In General.—Not later than 6 months after the date of the enactment of this Act, the Secretary of the Treasury shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on proposals to modify tax schedules L and M–1 of Form 1120 to require the disclosure of additional information, such as the items described in subsection (b).

(b) Items of Disclosure.—The items described in this subsection is as follows:

(1) The parent company names and identification numbers for both tax and book purposes.

(2) An asset reconciliation of consolidated book assets on the public financial disclosures with the consolidated tax return.

(3) Worldwide net income from public financial disclosures.

(4) The components of tax expense presently recorded in financial statement tax footnotes.

(5) The reconciliation of the book income of entities included in the consolidated financial statement with book income included in the consolidated tax return.

(6) The adjustment for book income from domestic and foreign entities excluded from financial reporting but included for tax reconciliation.

(7) The book income of United States entities included in the United States consolidated return.

(8) Taxable income due to actual or deemed dividends from foreign subsidiaries.

(9) A reconciliation which should reflect pretax book income of United States consolidated tax group plus taxable deemed or actual foreign repatriations.

(10) The differences in the reporting of income and expense between book and tax reporting, including specific reporting on pension expense, stock options, and the amortization of goodwill.

(11) Other reconciliation items in a consistent manner among all entities.

(c) Public Availability of Specified Information.—Not later than 1 year after the date of the enactment of this Act, the Securities and Exchange Commission and the Commissioner of Internal Revenue shall each report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on proposals to expand the public availability and clarity of information relating to book and tax differences and Federal tax liability with respect to corporations.

SEC. 141. REGULATION OF FEDERAL INCOME TAX RETURN PREPARERS AND REFUND ANTICIPATION LOAN PROVIDERS.

(a) In General.—Chapter 77 (relating to miscellaneous provisions), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 7530. FEDERAL INCOME TAX RETURN PREPARERS AND REFUND ANTICIPATION LOAN PROVIDERS.

"(a) Registration.—

"(1) In general.—The Secretary shall prescribe such regulations as may be necessary—

"(A) to require the registration of Federal income tax return preparers and refund anticipation loan providers with the Secretary or the designee of the Secretary, and

"(B) to prohibit the payment of a refund of tax to a Federal income tax return preparer or refund anticipation loan provider that is the result of a tax return which is prepared by such preparer or provider which does not include the preparer's or provider's registration number.

"(2) No disciplinary action.—The regulations under paragraph (1) shall require that an applicant for registration must not have demonstrated any conduct that would warrant disciplinary action under part 10 of title 31, Code of Federal Regulations.

"(3) Burden of registration.—In promulgating the regulations under paragraph (1), the Secretary shall minimize the burden and cost on the registrant.

"(b) Examination.—In promulgating the regulations under subsection (a)—

"(1) In general.—The Secretary shall develop a series of examinations designed to test the technical knowledge and competency of each applicant for registration to prepare Federal tax returns, including an examination testing knowledge of individual income tax return preparation, including the earned income tax credit under section 32.

"(2) Initial examination.—The Secretary shall require that each applicant for registration pass an initial examination testing the applicant's technical knowledge and competency to prepare individual and business Federal income tax returns.

"(c) Rules of Conduct.—All registrants shall be subject to rules of conduct that are consistent with the rules that govern any federally authorized tax practitioner within the meaning of section 7525(a)(3)(A).

"(d) Disclosure of Information.—The Secretary shall provide guidance on the manner and timing of disclosure to taxpayers of information relating to fees and interest rates imposed in connection with loans made to taxpayers by refund anticipation loan providers.

"(e) Annual Renewal of Registration.—

"(1) In general.—The regulations under subsection (a) shall require an annual renewal of registration and shall set forth the manner in which a registered Federal income tax return preparer or refund anticipation loan provider must renew such registration.

"(2) Annual examinations.—As part of the annual registration, such regulations shall require that each registrant pass an annual refresher examination (including tax law updates).

"(f) Fees.—

"(1) In general.—The Secretary may require the payment of reasonable fees for registration and for renewal of registration under the regulations promulgated under subsection (a).

"(2) Purpose of fees.—Any fees described in paragraph (1) shall be available without fiscal year limitation to the Secretary for the purpose of reimbursement of the costs of administering the requirements of the regulations.

"(g) Federal Income Tax Return Preparer.—For purposes of this section—

"(1) In general.—The term 'Federal income tax return preparer' means any individual who is an income tax return preparer (within the meaning of section 7701(a)(36)) who prepares not less than 5 returns of tax imposed by subtitle A or claims for refunds of tax imposed by subtitle A per taxable year.

"(2) Exception.—Such term shall not include a federally authorized tax practitioner (as defined in section 7525(a)(3)(A).

"(h) Refund Anticipation Loan Provider.—For purposes of this section, the term 'refund anticipation loan provider' means a person who makes a loan of money or of any other thing of value to a taxpayer in connection with the taxpayer's anticipated receipt of a Federal tax refund.".

(b) Prohibition.—

(1) In general.—Section 6695 (relating to other assessable penalties with respect to the preparation of income tax returns for other persons) is amended by adding at the end the following new subsection:

"(h) Actions on a Taxpayer's Behalf by a Non-Registered Person.—Any person not registered pursuant to the regulations promulgated by the Secretary under section 7530 who—

"(1) prepares a tax return for another taxpayer, or

"(2) provides a loan of money or of any other thing of value to a taxpayer in connection with the taxpayer's anticipated receipt of a Federal tax refund,

shall be subject to a $500 penalty for each incident of noncompliance.".

(2) USE OF PENALTIES.—There is authorized to be appropriated and is appropriated to the Secretary of the Treasury for each fiscal year for the administration of the requirements of the regulations promulgated under section 7530 of the Internal Revenue Code of 1986 an amount equal to the penalties imposed under section 6695(h) of such Code for the preceding fiscal year.

(c) COORDINATION WITH SECTION 6060(a).—The Secretary of the Treasury shall coordinate the registration required under the regulations promulgated under section 7530 of the Internal Revenue Code of 1986 with the return requirements of section 6060 of such Code.

(d) PUBLIC AWARENESS CAMPAIGN.—

(1) IN GENERAL.—The Secretary of the Treasury shall conduct a public information and consumer education campaign, utilizing paid advertising, to inform the public of the requirements that Federal income tax return preparers (as defined in section 7530(g) of the Internal Revenue Code of 1986) must sign the return prepared for a fee and display notice of their registration under the regulations promulgated under section 7530 of such Code.

(2) PUBLIC LIST.—The Secretary of the Treasury shall maintain a public list (in print and electronic media, including Internet-based) of Federal income tax return preparers (as so defined) who are so registered and whose registration has been revoked.

(3) NOTIFICATION.—The Secretary of the Treasury shall notify any taxpayer if such taxpayer's return was prepared by such an unregistered Federal income tax return preparer .

(e) ADDITIONAL FUNDS AVAILABLE FOR COMPLIANCE ACTIVITIES.—The Secretary of the Treasury may use any specifically appropriated funds for earned income tax credit compliance to improve and expand enforcement of Federal income tax preparers under the regulations promulgated under section 7530 of the Internal Revenue Code of 1986.

(f) CLERICAL AMENDMENT.—The table of sections for chapter 77, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 7530. Federal income tax return preparers and refund anticipation loan providers.".

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle C—Other Provisions

SEC. 151. PENALTY FOR FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) IN GENERAL.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

"(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

"(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

"(B) AMOUNT OF PENALTY.—

"(i) IN GENERAL.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $5,000.

"(ii) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

"(I) such violation was due to reasonable cause, and

"(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

"(C) WILLFUL VIOLATIONS.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

"(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

"(I) $25,000, or

"(II) the amount (not exceeding $100,000) determined under subparagraph (D), and

"(ii) subparagraph (B)(ii) shall not apply.

"(D) AMOUNT.—The amount determined under this subparagraph is—

"(i) in the case of a violation involving a transaction, the amount of the transaction, or

"(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

SEC. 152. REPEAL OF APPLICATION OF BELOW-MARKET LOAN RULES TO AMOUNTS PAID TO CERTAIN CONTINUING CARE FACILITIES.

(a) IN GENERAL.—Section 7872(c)(1) (relating to below-market loans to which section applies) is amended—

(1) by striking subparagraph (F), and

(2) by striking "(C), or (F)" in subparagraph (E) and inserting "or (C)".

(b) FULL EXCEPTION.—Section 7872(g) (relating to exception for certain loans to qualified continuing care facilities) is amended—

(1) by striking "made by a lender to a qualified continuing care facility pursuant to a continuing care contract" in paragraph (1) and inserting "owed by a facility which on the last day of such year is a qualified continuing care facility, if such loan was made pursuant to a continuing care contract and",

(2) by striking "increased personal care services or" in paragraph (3)(C),

(3) by adding at the end of paragraph (3) the following new flush sentence:

"The Secretary shall issue guidance which limits such term to contracts which provide to an individual or individual's spouse only facilities, care, and services described in this paragraph which are customarily offered by continuing care facilities.",

(4) by inserting "independent living unit" after "all of the" in paragraph (4)(A)(ii),

(5) by striking paragraphs (2) and (5),

(6) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively, and

(7) by striking "CERTAIN" in the heading thereof.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after 2004.

TITLE II—REFORM OF PENALTY AND INTEREST

SEC. 201. INDIVIDUAL ESTIMATED TAX.

(a) INCREASE IN EXCEPTION FOR INDIVIDUALS OWING SMALL AMOUNT OF TAX.—Section 6654(e)(1) (relating to exception where tax is small amount) is amended by striking "$1,000" and inserting "$2,000".

(b) COMPUTATION OF ADDITION TO TAX.—Subsections (a) and (b) of section 6654 (relating to failure by individual to pay estimated taxes) are amended to read as follows:

"(a) ADDITION TO THE TAX.—

"(1) IN GENERAL.—Except as otherwise provided in this section, in the case of any underpayment of estimated tax by an individual for a taxable year, there shall be added to the tax under chapters 1 and 2 for the taxable year the amount determined under paragraph (2) for each day of underpayment.

"(2) AMOUNT.—The amount of the addition to tax for any day shall be the product of the underpayment rate established under subsection (b)(2) multiplied by the amount of the underpayment.

"(b) AMOUNT OF UNDERPAYMENT; UNDERPAYMENT RATE.—For purposes of subsection (a)—

"(1) AMOUNT.—The amount of the underpayment on any day shall be the excess of—

"(A) the sum of the required installments for the taxable year the due dates for which are on or before such day, over

"(B) the sum of the amounts (if any) of estimated tax payments made on or before such day on such required installments.

"(2) DETERMINATION OF UNDERPAYMENT RATE.—

"(A) IN GENERAL.—The underpayment rate with respect to any day in an installment underpayment period shall be the underpayment rate established under section 6621 for the first day of the calendar quarter in which such installment underpayment period begins.

"(B) INSTALLMENT UNDERPAYMENT PERIOD.—For purposes of subparagraph (A), the term 'installment underpayment period' means the period beginning on the day after the due date for a required installment and ending on the due date for the subsequent required installment (or in the case of the 4th required installment, the 15th day of the 4th month following the close of a taxable year).

"(C) DAILY RATE.—The rate determined under subparagraph (A) shall be applied on a daily basis and shall be based on the assumption of 365 days in a calendar year.

"(3) TERMINATION OF ESTIMATED TAX UNDERPAYMENT.—No day after the end of the installment underpayment period for the 4th required installment specified in paragraph (2)(B) for a taxable year shall be treated as a day of underpayment with respect to such taxable year.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estimated tax payments made for taxable years beginning after December 31, 2004.

SEC. 202. CORPORATE ESTIMATED TAX.

(a) INCREASE IN SMALL TAX AMOUNT EXCEPTION.—Section 6655(f) (relating to exception where tax is small amount) is amended by striking "$500" and inserting "$1,000".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 203. INCREASE IN LARGE CORPORATION THRESHOLD FOR ESTIMATED TAX PAYMENTS.

(a) IN GENERAL.—Section 6655(g)(2) (defining large corporation) is amended—

(1) by striking "$1,000,000" in subparagraph (A) and inserting "the applicable amount",

(2) by striking "the $1,000,000 amount specified in subparagraph (A)" in subparagraph (B)(ii) and inserting "the applicable amount",

(3) by redesignating subparagraph (B) as subparagraph (C), and

(4) by inserting after subparagraph (A) the following new subparagraph:

"(B) APPLICABLE AMOUNT.—For purposes of this paragraph, the applicable amount is $1,000,000 increased (but not above $1,500,000) by $50,000 for each taxable year beginning after 2004.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 204. ABATEMENT OF INTEREST.

(a) ABATEMENT OF INTEREST FOR PERIODS ATTRIBUTABLE TO ANY UNREASONABLE IRS ERROR OR DELAY.—Section 6404(e)(1) is amended—

(1) by striking "in performing a ministerial or managerial act" in subparagraphs (A) and (B),

(2) by striking "deficiency" in subparagraph (A) and inserting "underpayment of any tax, addition to tax, or penalty imposed by this title", and

(3) by striking "tax described in section 6212(a)" in subparagraph (B) and inserting "tax, addition to tax, or penalty imposed by this title".

(b) ABATEMENT OF INTEREST TO EXTENT INTEREST IS ATTRIBUTABLE TO TAXPAYER RELIANCE ON WRITTEN STATEMENTS OF THE IRS.—Subsection (f) of section 6404 is amended—

(1) in the subsection heading, by striking "PENALTY OR ADDITION" and inserting "INTEREST, PENALTY, OR ADDITION"; and

(2) in paragraph (1) and in subparagraph (B) of paragraph (2), by striking "penalty or addition" and inserting "interest, penalty, or addition".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to interest accruing on or after the date of the enactment of this Act.

SEC. 205. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS.

(a) IN GENERAL.—Subchapter A of chapter 67 (relating to interest on underpayments) is amended by adding at the end the following new section:

"SEC. 6603. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS, ETC.

"(a) AUTHORITY TO MAKE DEPOSITS OTHER THAN AS PAYMENT OF TAX.—A taxpayer may make a cash deposit with the Secretary which may be used by the Secretary to pay any tax imposed under subtitle A or B or chapter 41, 42, 43, or 44 which has not been assessed at the time of the deposit. Such a deposit shall be made in such manner as the Secretary shall prescribe.

"(b) NO INTEREST IMPOSED.—To the extent that such deposit is used by the Secretary to pay tax, for purposes of section 6601 (relating to interest on underpayments), the tax shall be treated as paid when the deposit is made.

"(c) RETURN OF DEPOSIT.—Except in a case where the Secretary determines that collection of tax is in jeopardy, the Secretary shall return to the taxpayer any amount of the deposit (to the extent not used for a payment of tax) which the taxpayer requests in writing.

"(d) PAYMENT OF INTEREST.—

"(1) IN GENERAL.—For purposes of section 6611 (relating to interest on overpayments), a deposit which is returned to a taxpayer shall be treated as a payment of tax for any period to the extent (and only to the extent) attributable to a disputable tax for such period. Under regulations prescribed by the Secretary, rules similar to the rules of section 6611(b)(2) shall apply.

'(2) DISPUTABLE TAX.—

'(A) IN GENERAL.—For purposes of this section, the term 'disputable tax' means the amount of tax specified at the time of the deposit as the taxpayer's reasonable estimate of the maximum amount of any tax attributable to disputable items.

"(B) SAFE HARBOR BASED ON 30-DAY LETTER.—In the case of a taxpayer who has been issued a 30-day letter, the maximum amount of tax under subparagraph (A) shall not be less than the amount of the proposed deficiency specified in such letter.

"(3) OTHER DEFINITIONS.—For purposes of paragraph (2)—

"(A) DISPUTABLE ITEM.—The term 'disputable item' means any item of income, gain, loss, deduction, or credit if the taxpayer—

"(i) has a reasonable basis for its treatment of such item, and

"(ii) reasonably believes that the Secretary also has a reasonable basis for disallowing the taxpayer's treatment of such item.

"(B) 30-DAY LETTER.—The term '30-day letter' means the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals.

"(4) RATE OF INTEREST.—The rate of interest allowable under this subsection shall be the Federal short-term rate determined under section 6621(b), compounded daily.

"(e) USE OF DEPOSITS.—

"(1) PAYMENT OF TAX.—Except as otherwise provided by the taxpayer, deposits shall be treated as used for the payment of tax in the order deposited.

"(2) RETURNS OF DEPOSITS.—Deposits shall be treated as returned to the taxpayer on a last-in, first-out basis.".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 67 is amended by adding at the end the following new item:

"Sec. 6603. Deposits made to suspend running of interest on potential underpayments, etc.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to deposits made after the date which is 1 year after the date of the enactment of this Act.

(2) COORDINATION WITH DEPOSITS MADE UNDER REVENUE PROCEDURE 84-58.—In the case of an amount held by the Secretary of the Treasury or the Secretary's delegate on the date which is 1 year after the date of the enactment of this Act as a deposit in the nature of a cash bond deposit pursuant to Revenue Procedure 84–58, the date that the taxpayer identifies such amount as a deposit made pursuant to section 6603 of the Internal Revenue Code (as added by this Act) shall be treated as the date such amount is deposited for purposes of such section 6603.

SEC. 206. FREEZE OF PROVISIONS REGARDING SUSPENSION OF INTEREST WHERE SECRETARY FAILS TO CONTACT TAXPAYER.

(a) IN GENERAL.—Section 6404(g) (relating to suspension of interest and certain penalties where Secretary fails to contact taxpayer) is amended by striking "1-year period (18-month period in the case of taxable years beginning before January 1, 2004)" both places it appears and inserting "18-month period".

(b) ADDITIONAL EXCEPTION.—Section 6404(g)(2) (relating to exceptions) is amended by striking "or" at the end of subparagraph (C), by redesignating subparagraph (D) as subparagraph (E), and by inserting after subparagraph (C) the following new subparagraph:

"(D) any interest, penalty, addition to tax, or additional amount with respect to any gross misstatement; or".

(c) EFFECTIVE DATES.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 207. CLARIFICATION OF APPLICATION OF FEDERAL TAX DEPOSIT PENALTY.

Nothing in section 6656 of the Internal Revenue Code of 1986 shall be construed to permit the percentage specified in subsection (b)(1)(A)(iii) thereof to apply other than in a case where the failure is for more than 15 days.

SEC. 208. FRIVOLOUS TAX RETURNS AND SUBMISSIONS.

(a) CIVIL PENALTIES.—Section 6702 is amended to read as follows:

"SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

"(a) CIVIL PENALTY FOR FRIVOLOUS TAX RETURNS.—A person shall pay a penalty of $5,000 if—

"(1) such person files what purports to be a return of a tax imposed by this title but which—

"(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

"(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

"(2) the conduct referred to in paragraph (1)—

"(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(B) reflects a desire to delay or impede the administration of Federal tax laws.

"(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS.—

"(1) IMPOSITION OF PENALTY.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

"(2) SPECIFIED FRIVOLOUS SUBMISSION.—For purposes of this section—

"(A) SPECIFIED FRIVOLOUS SUBMISSION.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

"(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(ii) reflects a desire to delay or impede the administration of Federal tax laws.

"(B) SPECIFIED SUBMISSION.—The term 'specified submission' means—

"(i) a request for a hearing under—

"(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

"(II) section 6330 (relating to notice and opportunity for hearing before levy), and

"(ii) an application under—

"(I) section 6159 (relating to agreements for payment of tax liability in installments),

"(II) section 7122 (relating to compromises), or

"(III) section 7811 (relating to taxpayer assistance orders).

"(3) OPPORTUNITY TO WITHDRAW SUBMISSION.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

"(c) LISTING OF FRIVOLOUS POSITIONS.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

"(d) REDUCTION OF PENALTY.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

"(e) PENALTIES IN ADDITION TO OTHER PENALTIES.—The penalties imposed by this section shall be in addition to any other penalty provided by law.".

(b) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS BEFORE LEVY.—

(1) FRIVOLOUS REQUESTS DISREGARDED.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

"(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.".

(2) PRECLUSION FROM RAISING FRIVOLOUS ISSUES AT HEARING.—Section 6330(c)(4) is amended—

(A) by striking "(A)" and inserting "(A)(i)";

(B) by striking "(B)" and inserting "(ii)";

(C) by striking the period at the end of the first sentence and inserting "; or"; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

"(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).".

(3) STATEMENT OF GROUNDS.—Section 6330(b)(1) is amended by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing".

(c) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS UPON FILING OF NOTICE OF LIEN.—Section 6320 is amended—

(1) in subsection (b)(1), by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing", and

(2) in subsection (c), by striking "and (e)" and inserting "(e), and (g)".

(d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR OFFERS-IN-COMPROMISE AND INSTALLMENT AGREEMENTS.—Section 7122 is amended by adding at the end the following new subsection:

"(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.".

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

"Sec. 6702. Frivolous tax submissions.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 209. EXTENSION OF NOTICE REQUIREMENTS WITH RESPECT TO INTEREST AND PENALTY CALCULATIONS.

Sections 3306(c) and 3308(c) of the Internal Revenue Service Restructuring and Reform Act of 1998 are each amended by inserting "and during the period beginning on the date of the enactment of the Tax Administration Good Government Act, and ending before July 1, 2006," after "July 1, 2003,".

SEC. 210. EXPANSION OF INTEREST NETTING.

(a) IN GENERAL.—Subsection (d) of section 6621 (relating to elimination of interest on overlapping periods of tax overpayments and underpayments) is amended by adding at the end the following: "Solely for purposes of the preceding sentence, section 6611(e) shall not apply.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to interest accrued after December 31, 2010.

TITLE III—UNITED STATES TAX COURT MODERNIZATION

Subtitle A—Tax Court Procedure

SEC. 301. JURISDICTION OF TAX COURT OVER COLLECTION DUE PROCESS CASES.

(a) IN GENERAL.—Paragraph (1) of section 6330(d) (relating to proceeding after hearing) is amended to read as follows:

"(1) JUDICIAL REVIEW OF DETERMINATION.—The person may, within 30 days of a determination under this section, appeal such determination to the Tax Court (and the Tax Court shall have jurisdiction with respect to such matter).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to determinations made after the date of the enactment of this Act.

SEC. 302. AUTHORITY FOR SPECIAL TRIAL JUDGES TO HEAR AND DECIDE CERTAIN EMPLOYMENT STATUS CASES.

(a) IN GENERAL.—Section 7443A(b) (relating to proceedings which may be assigned to special trial judges) is amended by striking "and" at the end of paragraph (4), by redesignating paragraph (5) as paragraph (6), and by inserting after paragraph (4) the following new paragraph:

"(5) any proceeding under section 7436(c), and".

(b) CONFORMING AMENDMENT.—Section 7443A(c) is amended by striking "or (4)" and inserting "(4), or (5)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any proceeding under section 7436(c) of the Internal Revenue Code of 1986 with respect to which a decision has not become final (as determined under section 7481 of such Code) before the date of the enactment of this Act.

SEC. 303. CONFIRMATION OF AUTHORITY OF TAX COURT TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.

(a) CONFIRMATION OF AUTHORITY OF TAX COURT TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.—Section 6214(b) (relating to jurisdiction over other years and quarters) is amended by adding at the end the following new sentence: "Notwithstanding the preceding sentence, the Tax Court may apply the doctrine of equitable recoupment to the same extent that it is available in civil tax cases before the district courts of the United States and the United States Court of Federal Claims.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any action or proceeding in the United States Tax Court with respect to which a decision has not become final (as determined under section 7481 of the Internal Revenue Code of 1986) as of the date of the enactment of this Act.

SEC. 304. TAX COURT FILING FEE IN ALL CASES COMMENCED BY FILING PETITION.

(a) IN GENERAL.—Section 7451 (relating to fee for filing a Tax Court petition) is amended by striking all that follows "petition" and inserting a period.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 305. AMENDMENTS TO APPOINT EMPLOYEES.

(a) IN GENERAL.—Subsection (a) of section 7471 (relating to Tax Court employees) is amended to read as follows:

"(a) APPOINTMENT AND COMPENSATION.—

"(1) CLERK.—The Tax Court may appoint a clerk without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The clerk shall serve at the pleasure of the Tax Court.

"(2) LAW CLERKS AND SECRETARIES.—

"(A) IN GENERAL.—The judges and special trial judges of the Tax Court may appoint law clerks and secretaries, in such numbers as the Tax Court may approve, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Any such law clerk or secretary shall serve at the pleasure of the appointing judge.

"(B) EXEMPTION FROM FEDERAL LEAVE PROVISIONS.—A law clerk appointed under this subsection shall be exempt from the provisions of subchapter I of chapter 63 of title 5, United States Code. Any unused sick leave or annual leave standing to the employee's credit as of the effective date of this subsection shall remain credited to the employee and shall be available to the employee upon separation from the Federal Government.

"(3) OTHER EMPLOYEES.—The Tax Court may appoint necessary employees without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Such employees shall be subject to removal by the Tax Court.

"(4) PAY.—The Tax Court may fix and adjust the compensation for the clerk and other employees of the Tax Court without regard to the provisions of chapter 51, subchapter III of chapter 53, or section 5373 of title 5, United States Code. To the maximum extent feasible, the Tax Court shall compensate employees at rates consistent with those for employees holding comparable positions in the judicial branch.

"(5) PROGRAMS.—The Tax Court may establish programs for employee evaluations, incentive awards, flexible work schedules, premium pay, and resolution of employee grievances.

"(6) DISCRIMINATION PROHIBITED.—The Tax Court shall—

"(A) prohibit discrimination on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition; and

"(B) promulgate procedures for resolving complaints of discrimination by employees and applicants for employment.

"(7) EXPERTS AND CONSULTANTS.—The Tax Court may procure the services of experts and consultants under section 3109 of title 5, United States Code.

"(8) RIGHTS TO CERTAIN APPEALS RESERVED.—Notwithstanding any other provision of law, an individual who is an employee of the Tax Court on the day before the effective date of this subsection and who, as of that day, was entitled to—

"(A) appeal a reduction in grade or removal to the Merit Systems Protection Board under chapter 43 of title 5, United States Code,

"(B) appeal an adverse action to the Merit Systems Protection Board under chapter 75 of title 5, United States Code,

"(C) appeal a prohibited personnel practice described under section 2302(b) of title 5, United States Code, to the Merit Systems Protection Board under chapter 77 of that title,

"(D) make an allegation of a prohibited personnel practice described under section 2302(b) of title 5, United States Code, with the Office of Special Counsel under chapter 12 of that title for action in accordance with that chapter, or

"(E) file an appeal with the Equal Employment Opportunity Commission under part 1614 of title 29 of the Code of Federal Regulations,

shall be entitled to file such appeal or make such an allegation so long as the individual remains an employee of the Tax Court.

"(9) COMPETITIVE STATUS.—Notwithstanding any other provision of law, any employee of the Tax Court who has completed at least 1 year of continuous service under a non-temporary appointment with the Tax Court acquires a competitive status for appointment to any position in the competitive service for which the employee possesses the required qualifications.

"(10) MERIT SYSTEM PRINCIPLES; PROHIBITED PERSONNEL PRACTICES; AND PREFERENCE ELIGIBLES.—Any personnel management system of the Tax Court shall—

"(A) include the principles set forth in section 2301(b) of title 5, United States Code;

"(B) prohibit personnel practices prohibited under section 2302(b) of title 5, United States Code; and

"(C) in the case of any individual who would be a preference eligible in the executive branch, the Tax Court will provide preference for that individual in a manner and to an extent consistent with preference accorded to preference eligibles in the executive branch.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date the United States Tax Court adopts a personnel management system after the date of the enactment of this Act.

SEC. 306. EXPANDED USE OF TAX COURT PLACTICE FEE FOR PRO SE TAXPAYERS.

(a) IN GENERAL.—Section 7475(b) (relating to use of fees) is amended by inserting before the period at the end "and to provide services to pro se taxpayers".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

Subtitle B—Tax Court Pension and Compensation

SEC. 311. ANNUITIES FOR SURVIVORS OF TAX COURT JUDGES WHO ARE ASSASSINATED.

(a) ELIGIBILITY IN CASE OF DEATH BY ASSASSINATION.—Subsection (h) of section 7448 (relating to annuities to surviving spouses and dependent children of judges) is amended to read as follows:

"(h) ENTITLEMENT TO ANNUITY.—

"(1) IN GENERAL.—

"(A) ANNUITY TO SURVIVING SPOUSE.—If a judge described in paragraph (2) is survived by a surviving spouse but not by a dependent child, there shall be paid to such surviving spouse an annuity beginning with the day of the death of the judge or following the surviving spouse's attainment of the age of 50 years, whichever is the later, in an amount computed as provided in subsection (m).

"(B) ANNUITY TO CHILD.—If such a judge is survived by a surviving spouse and a dependent child or children, there shall be paid to such surviving spouse an immediate annuity in an amount computed as provided in subsection (m), and there shall also be paid to or on behalf of each such child an immediate annuity equal to the lesser of—

"(i) 10 percent of the average annual salary of such judge (determined in accordance with subsection (m)), or

"(ii) 20 percent of such average annual salary, divided by the number of such children.

"(C) ANNUITY TO SURVIVING DEPENDENT CHILDREN.—If such a judge leaves no surviving spouse but leaves a surviving dependent child or children, there shall be paid to or on behalf of each such child an immediate annuity equal to the lesser of—

"(i) 20 percent of the average annual salary of such judge (determined in accordance with subsection (m)), or

"(ii) 40 percent of such average annual salary, divided by the number of such children.

"(2) COVERED JUDGES.—Paragraph (1) applies to any judge electing under subsection (b)—

"(A) who dies while a judge after having rendered at least 5 years of civilian service computed as prescribed in subsection (n), for the last 5 years of which the salary deductions provided for by subsection (c)(1) or the deposits required by subsection (d) have actually been made or the salary deductions required by the civil service retirement laws have actually been made, or

"(B) who dies by assassination after having rendered less than 5 years of civilian service computed as prescribed in subsection (n) if, for the period of such service, the salary deductions provided for by subsection (c)(1) or the deposits required by subsection (d) have actually been made.

"(3) TERMINATION OF ANNUITY.—

"(A) IN THE CASE OF A SURVIVING SPOUSE.—The annuity payable to a surviving spouse under this subsection shall be terminable upon such surviving spouse's death or such surviving spouse's remarriage before attaining age 55.

"(B) IN THE CASE OF A CHILD.—The annuity payable to a child under this subsection shall be terminable upon (i) the child attaining the age of 18 years, (ii) the child's marriage, or (iii) the child's death, whichever first occurs, except that if such child is incapable of self-support by reason of mental or physical disability the child's annuity shall be terminable only upon death, marriage, or recovery from such disability.

"(C) IN THE CASE OF A DEPENDENT CHILD AFTER DEATH OF SURVIVING SPOUSE.—In case of the death of a surviving spouse of a judge leaving a dependent child or children of the judge surviving such spouse, the annuity of such child or children shall be recomputed and paid as provided in paragraph (1)(C).

"(D) RECOMPUTATION.—In any case in which the annuity of a dependent child is terminated under this subsection, the annuities of any remaining dependent child or children, based upon the service of the same judge, shall be recomputed and paid as though the child whose annuity was so terminated had not survived such judge.

"(4) SPECIAL RULE FOR ASSASSINATED JUDGES.—In the case of a survivor or survivors of a judge described in paragraph (2)(B), there shall be deducted from the annuities otherwise payable under this section an amount equal to—

"(A) the amount of salary deductions provided for by subsection (c)(1) that would have been made if such deductions had been made for 5 years of civilian service computed as prescribed in subsection (n) before the judge's death, reduced by

"(B) the amount of such salary deductions that were actually made before the date of the judge's death.".

(b) DEFINITION OF ASSASSINATION.—Section 7448(a) (relating to definitions) is amended by adding at the end the following new paragraph:

"(8) The terms 'assassinated' and 'assassination' mean the killing of a judge that is motivated by the performance by that judge of his or her official duties.".

(c) DETERMINATION OF ASSASSINATION.—Subsection (i) of section 7448 is amended—

(1) by striking the subsection heading and inserting the following:

"(i) DETERMINATIONS BY CHIEF JUDGE.—

"(1) DEPENDENCY AND DISABILITY.—",

(2) by moving the text 2 ems to the right, and

(3) by adding at the end the following new paragraph:

"(2) ASSASSINATION.—The chief judge shall determine whether the killing of a judge was an assassination, subject to review only by the Tax Court. The head of any Federal agency that investigates the killing of a judge shall provide information to the chief judge that would assist the chief judge in making such a determination.".

(d) COMPUTATION OF ANNUITIES.—Subsection (m) of section 7448 is amended—

(1) by striking the subsection heading and inserting the following:

"(m) COMPUTATION OF ANNUITIES.—

"(1) IN GENERAL.—",

(2) by moving the text 2 ems to the right, and

(3) by adding at the end the following new paragraph:

"(2) ASSASSINATED JUDGES.—In the case of a judge who is assassinated and who has served less than 3 years, the annuity of the surviving spouse of such judge shall be based upon the average annual salary received by such judge for judicial service.".

(e) OTHER BENEFITS.—Section 7448 is amended by adding at the end the following:

"(u) OTHER BENEFITS.—In the case of a judge who is assassinated, an annuity shall be paid under this section notwithstanding a survivor's eligibility for or receipt of benefits under chapter 81 of title 5, United States Code, except that the annuity for which a surviving spouse is eligible under this section shall be reduced to the extent that the total benefits paid under this section and chapter 81 of that title for any year would exceed the current salary for that year of the office of the judge.".

SEC. 312. COST-OF-LIVING ADJUSTMENTS FOR TAX COURT JUDICIAL SURVIVOR ANNUITIES.

(a) IN GENERAL.—Subsection (s) of section 7448 (relating to annuities to surviving spouses and dependent children of judges) is amended to read as follows:

"(s) INCREASES IN SURVIVOR ANNUITIES.—Each time that an increase is made under section 8340(b) of title 5, United States Code, in annuities payable under subchapter III of chapter 83 of that title, each annuity payable from the survivors annuity fund under this section shall be increased at the same time by the same percentage by which annuities are increased under such section 8340(b).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to increases made under section 8340(b) of title 5, United States Code, in annuities payable under subchapter III of chapter 83 of that title, taking effect after the date of the enactment of this Act.

SEC. 313. LIFE INSURANCE COVERAGE FOR TAX COURT JUDGES.

(a) IN GENERAL.—Section 7447 (relating to retirement of judges) is amended by adding at the end the following new subsection:

"(j) LIFE INSURANCE COVERAGE.—For purposes of chapter 87 of title 5, United States Code (relating to life insurance), any individual who is serving as a judge of the Tax Court or who is retired under this section is deemed to be an employee who is continuing in active employment.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any individual serving as a judge of the United States Tax Court or to any retired judge of the United States Tax Court on the date of the enactment of this Act.

SEC. 314. COST OF LIFE INSURANCE COVERAGE FOR TAX COURT JUDGES AGE 65 OR OVER.

Section 7472 (relating to expenditures) is amended by inserting after the first sentence the following new sentence: "Notwithstanding any other provision of law, the Tax Court is authorized to pay on behalf of its judges, age 65 or over, any increase in the cost of Federal Employees' Group Life Insurance imposed after April 24, 1999, including any expenses generated by such payments, as authorized by the chief judge in a manner consistent with such payments authorized by the Judicial Conference of the United States pursuant to section 604(a)(5) of title 28, United States Code.".

SEC. 315. MODIFICATION OF TIMING OF LUMP-SUM PAYMENT OF JUDGES' ACCRUED ANNUAL LEAVE.

(a) IN GENERAL.—Section 7443 (relating to membership of the Tax Court) is amended by adding at the end the following new subsection:

"(h) LUMP-SUM PAYMENT OF JUDGES' ACCRUED ANNUAL LEAVE.—Notwithstanding the provisions of sections 5551 and 6301 of title 5, United States Code, when an individual subject to the leave system provided in chapter 63 of that title is appointed by the President to be a judge of the Tax Court, the individual shall be entitled to receive, upon appointment to the Tax Court, a lump-sum payment from the Tax Court of the accumulated and accrued current annual leave standing to the individual's credit as certified by the agency from which the individual resigned.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any judge of the United States Tax Court who has an outstanding leave balance on the date of the enactment of this Act and to any individual appointed by the President to serve as a judge of the United States Tax Court after such date.

SEC. 316. PARTICIPATION OF TAX COURT JUDGES IN THE THRIFT SAVINGS PLAN.

(a) IN GENERAL.—Section 7447 (relating to retirement of judges), as amended by this Act, is amended by adding at the end the following new subsection:

"(k) THRIFT SAVINGS PLAN.—

"(1) ELECTION TO CONTRIBUTE.—

"(A) IN GENERAL.—A judge of the Tax Court may elect to contribute to the Thrift Savings Fund established by section 8437 of title 5, United States Code.

"(B) PERIOD OF ELECTION.—An election may be made under this paragraph only during a period provided under section 8432(b) of title 5, United States Code, for individuals subject to chapter 84 of such title.

"(2) APPLICABILITY OF TITLE 5 PROVISIONS.—Except as otherwise provided in this subsection, the provisions of subchapters III and VII of chapter 84 of title 5, United States Code, shall apply with respect to a judge who makes an election under paragraph (1).

"(3) SPECIAL RULES.—

"(A) AMOUNT CONTRIBUTED.—The amount contributed by a judge to the Thrift Savings Fund in any pay period shall not exceed the maximum percentage of such judge's basic pay for such period as allowable under section 8440f of title 5, United States Code. Basic pay does not include any retired pay paid pursuant to this section.

"(B) CONTRIBUTIONS FOR BENEFIT OF JUDGE.—No contributions may be made for the benefit of a judge under section 8432(c) of title 5, United States Code.

"(C) APPLICABILITY OF SECTION 8433(b) OF TITLE 5 WHETHER OR NOT JUDGE RETIRES.—Section 8433(b) of title 5, United States Code, applies with respect to a judge who makes an election under paragraph (1) and who either—

"(i) retires under subsection (b), or

"(ii) ceases to serve as a judge of the Tax Court but does not retire under subsection (b).

Retirement under subsection (b) is a separation from service for purposes of subchapters III and VII of chapter 84 of that title.

"(D) APPLICABILITY OF SECTION 8351(b)(5) OF TITLE 5.—The provisions of section 8351(b)(5) of title 5, United States Code, shall apply with respect to a judge who makes an election under paragraph (1).

"(E) EXCEPTION.—Notwithstanding subparagraph (C), if any judge retires under this section, or resigns without having met the age and service requirements set forth under subsection (b)(2), and such judge's nonforfeitable account balance is less than an amount that the Executive Director of the Office of Personnel Management prescribes by regulation, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act, except that United States Tax Court judges may only begin to participate in the Thrift Savings Plan at the next open season beginning after such date.

SEC. 317. EXEMPTION OF TEACHING COMPENSATION OF RETIRED JUDGES FROM LIMITATION ON OUTSIDE EARNED INCOME.

(a) IN GENERAL.—Section 7447 (relating to retirement of judges), as amended by this Act, is amended by adding at the end the following new subsection:

"(l) TEACHING COMPENSATION OF RETIRED JUDGES.—For purposes of the limitation under section 501(a) of the Ethics in Government Act of 1978 (5 U.S.C. App.), any compensation for teaching approved under section 502(a)(5) of such Act shall not be treated as outside earned income when received by a judge of the Tax Court who has retired under subsection (b) for teaching performed during any calendar year for which such a judge has met the requirements of subsection (c), as certified by the chief judge of the Tax Court.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any individual serving as a retired judge of the United States Tax Court on or after the date of the enactment of this Act.

SEC. 318. GENERAL PROVISIONS RELATING TO MAGISTRATE JUDGES OF THE TAX COURT.

(a) TITLE OF SPECIAL TRIAL JUDGE CHANGED TO MAGISTRATE JUDGE OF THE TAX COURT.—The heading of section 7443A is amended to read as follows:

"SEC. 7443A. MAGISTRATE JUDGES OF THE TAX COURT.".

(b) APPOINTMENT, TENURE, AND REMOVAL.—Subsection (a) of section 7443A is amended to read as follows:

"(a) APPOINTMENT, TENURE, AND REMOVAL.—

"(1) APPOINTMENT.—The chief judge may, from time to time, appoint and reappoint magistrate judges of the Tax Court for a term of 8 years. The magistrate judges of the Tax Court shall proceed under such rules as may be promulgated by the Tax Court.

"(2) REMOVAL.—Removal of a magistrate judge of the Tax Court during the term for which he or she is appointed shall be only for incompetency, misconduct, neglect of duty, or physical or mental disability, but the office of a magistrate judge of the Tax Court shall be terminated if the judges of the Tax Court determine that the services performed by the magistrate judge of the Tax Court are no longer needed. Removal shall not occur unless a majority of all the judges of the Tax Court concur in the order of removal. Before any order of removal shall be entered, a full specification of the charges shall be furnished to the magistrate judge of the Tax Court, and he or she shall be accorded by the judges of the Tax Court an opportunity to be heard on the charges.".

(c) SALARY.—Section 7443A(d) (relating to salary) is amended by striking "90" and inserting "92".

(d) EXEMPTION FROM FEDERAL LEAVE PROVISIONS.—Section 7443A is amended by adding at the end the following new subsection:

"(f) EXEMPTION FROM FEDERAL LEAVE PROVISIONS.—

"(1) IN GENERAL.—A magistrate judge of the Tax Court appointed under this section shall be exempt from the provisions of subchapter I of chapter 63 of title 5, United States Code.

"(2) TREATMENT OF UNUSED LEAVE.—

"(A) AFTER SERVICE AS MAGISTRATE JUDGE.—If an individual who is exempted under paragraph (1) from the subchapter referred to in such paragraph was previously subject to such subchapter and, without a break in service, again becomes subject to such subchapter on completion of the individual's service as a magistrate judge, the unused annual leave and sick leave standing to the individual's credit when such individual was exempted from this subchapter is deemed to have remained to the individual's credit.

"(B) COMPUTATION OF ANNUITY.—In computing an annuity under section 8339 of title 5, United States Code, the total service of an individual specified in subparagraph (A) who retires on an immediate annuity or dies leaving a survivor or survivors entitled to an annuity includes, without regard to the limitations imposed by subsection (f) of such section 8339, the days of unused sick leave standing to the individual's credit when such individual was exempted from subchapter I of chapter 63 of title 5, United States Code, except that these days will not be counted in determining average pay or annuity eligibility.

"(C) LUMP SUM PAYMENT.—Any accumulated and current accrued annual leave or vacation balances credited to a magistrate judge as of the date of the enactment of this subsection shall be paid in a lump sum at the time of separation from service pursuant to the provisions and restrictions set forth in section 5551 of title 5, United States Code, and related provisions referred to in such section.".

(e) CONFORMING AMENDMENTS.—

(1) The heading of subsection (b) of section 7443A is amended by striking "SPECIAL TRIAL JUDGES" and inserting "MAGISTRATE JUDGES OF THE TAX COURT".

(2) Section 7443A(b) is amended by striking "special trial judges of the court" and inserting "magistrate judges of the Tax Court".

(3) Subsections (c) and (d) of section 7443A are amended by striking "special trial judge" and inserting "magistrate judge of the Tax Court" each place it appears.

(4) Section 7443A(e) is amended by striking "special trial judges" and inserting "magistrate judges of the Tax Court".

(5) Section 7456(a) is amended by striking "special trial judge" each place it appears and inserting "magistrate judge".

(6) Subsection (c) of section 7471 is amended—

(A) by striking the subsection heading and inserting "MAGISTRATE JUDGES OF THE TAX COURT.—", and

(B) by striking "special trial judges" and inserting "magistrate judges".

SEC. 319. ANNUITIES TO SURVIVING SPOUSES AND DEPENDENT CHILDREN OF MAGISTRATE JUDGES OF THE TAX COURT.

(a) DEFINITIONS.—Section 7448(a) (relating to definitions), as amended by this Act, is amended by redesignating paragraphs (5), (6), (7), and (8) as paragraphs (7), (8), (9), and (10), respectively, and by inserting after paragraph (4) the following new paragraphs:

"(5) The term 'magistrate judge' means a judicial officer appointed pursuant to section 7443A, including any individual receiving an annuity under section 7443B, or chapters 83 or 84, as the case may be, of title 5, United States Code, whether or not performing judicial duties under section 7443C.

"(6) The term 'magistrate judge's salary' means the salary of a magistrate judge received under section 7443A(d), any amount received as an annuity under section 7443B, or chapters 33 or 84, as the case may be, of title 5, United States Code, and compensation received under section 7443C.".

(b) ELECTION.—Subsection (b) of section 7448 (relating to annuities to surviving spouses and dependent children of judges) is amended—

(1) by striking the subsection heading and inserting the following:

"(b) ELECTION.—

"(1) JUDGES.—",

(2) by moving the text 2 ems to the right, and

(3) by adding at the end the following new paragraph:

"(2) MAGISTRATE JUDGES.—Any magistrate judge may by written election filed with the chief judge bring himself or herself within the purview of this section. Such election shall be filed not later than the later of 6 months after—

"(A) 6 months after the date of the enactment of this paragraph,

"(B) the date the judge takes office, or

"(C) the date the judge marries.".

(c) CONFORMING AMENDMENTS.—

(1) The heading of section 7448 is amended by inserting "AND MAGISTRATE JUDGES" after "JUDGES".

(2) The item relating to section 7448 in the table of sections for part I of subchapter C of chapter 76 is amended by inserting "and magistrate judges" after "judges".

(3) Subsections (c)(1), (d), (f), (g), (h), (j), (m), (n), and (u) of section 7448, as amended by this Act, are each amended—

(A) by inserting "or magistrate judge" after "judge" each place it appears other than in the phrase "chief judge", and

(B) by inserting "or magistrate judge's" after "judge's" each place it appears.

(4) Section 7448(c) is amended—

(A) in paragraph (1), by striking "Tax Court judges" and inserting "Tax Court judicial officers",

(B) in paragraph (2)—

(i) in subparagraph (A), by inserting "and section 7443A(d)" after "(a)(4)", and

(ii) in subparagraph (B), by striking "subsection (a)(4)" and inserting "subsections (a)(4) and (a)(6)".

(5) Section 7448(g) is amended by inserting "or section 7443B" after "section 7447" each place it appears, and by inserting "or an annuity" after "retired pay".

(6) Section 7448(j)(1) is amended—

(A) in subparagraph (A), by striking "service or retired" and inserting "service, retired", and by inserting ", or receiving any annuity under section 7443B or chapters 83 or 84 of title 5, United States Code," after "section 7447", and

(B) in the last sentence, by striking "subsections (a)(6) and (7)" and inserting "paragraphs (8) and (9) of subsection (a)".

(7) Section 7448(m)(1), as amended by this Act, is amended—

(A) by inserting "or any annuity under section 7443B or chapters 83 or 84 of title 5, United States Code" after "7447(d)", and

(B) by inserting "or 7443B(m)(1)(B) after "7447(f)(4)".

(8) Section 7448(n) is amended by inserting "his years of service pursuant to any appointment under section 7443A," after "of the Tax Court,".

(9) Section 3121(b)(5)(E) is amended by inserting "or magistrate judge" before "of the United States Tax Court".

(10) Section 210(a)(5)(E) of the Social Security Act is amended by inserting "or magistrate judge" before "of the United States Tax Court".

SEC. 320. RETIREMENT AND ANNUITY PROGRAM.

(a) RETIREMENT AND ANNUITY PROGRAM.—Part I of subchapter C of chapter 76 is amended by inserting after section 7443A the following new section:

"SEC. 7443B. RETIREMENT FOR MAGISTRATE JUDGES OF THE TAX COURT.

"(a) RETIREMENT BASED ON YEARS OF SERVICE.—A magistrate judge of the Tax Court to whom this section applies and who retires from office after attaining the age of 65 years and serving at least 14 years, whether continuously or otherwise, as such magistrate judge shall, subject to subsection (f), be entitled to receive, during the remainder of the magistrate judge's lifetime, an annuity equal to the salary being received at the time the magistrate judge leaves office.

"(b) RETIREMENT UPON FAILURE OF REAPPOINTMENT.—A magistrate judge of the Tax Court to whom this section applies who is not reappointed following the expiration of the term of office of such magistrate judge, and who retires upon the completion of the term shall, subject to subsection (f), be entitled to receive, upon attaining the age of 65 years and during the remainder of such magistrate judge's lifetime, an annuity equal to that portion of the salary being received at the time the magistrate judge leaves office which the aggregate number of years of service, not to exceed 14, bears to 14, if—

"(1) such magistrate judge has served at least 1 full term as a magistrate judge, and

"(2) not earlier than 9 months before the date on which the term of office of such magistrate judge expires, and not later than 6 months before such date, such magistrate judge notified the chief judge of the Tax Court in writing that such magistrate judge was willing to accept reappointment to the position in which such magistrate judge was serving.

"(c) SERVICE OF AT LEAST 8 YEARS.—A magistrate judge of the Tax Court to whom this section applies and who retires after serving at least 8 years, whether continuously or otherwise, as such a magistrate judge shall, subject to subsection (f), be entitled to receive, upon attaining the age of 65 years and during the remainder of the magistrate judge's lifetime, an annuity equal to that portion of the salary being received at the time the magistrate judge leaves office which the aggregate number of years of service, not to exceed 14, bears to 14. Such annuity shall be reduced by ⅙ of 1 percent for each full month such magistrate judge was under the age of 65 at the time the magistrate judge left office, except that such reduction shall not exceed 20 percent.

"(d) RETIREMENT FOR DISABILITY.—A magistrate judge of the Tax Court to whom this section applies, who has served at least 5 years, whether continuously or otherwise, as such a magistrate judge, and who retires or is removed from office upon the sole ground of mental or physical disability shall, subject to subsection (f), be entitled to receive, during the remainder of the magistrate judge's lifetime, an annuity equal to 40 percent of the salary being received at the time of retirement or removal or, in the case of a magistrate judge who has served for at least 10 years, an amount equal to that proportion of the salary being received at the time of retirement or removal which the aggregate number of years of service, not to exceed 14, bears to 14.

"(e) COST-OF-LIVING ADJUSTMENTS.—A magistrate judge of the Tax Court who is entitled to an annuity under this section is also entitled to a cost-of-living adjustment in such annuity, calculated and payable in the same manner as adjustments under section 8340(b) of title 5, United States Code, except that any such annuity, as increased under this subsection, may not exceed the salary then payable for the position from which the magistrate judge retired or was removed.

"(f) ELECTION; ANNUITY IN LIEU OF OTHER ANNUITIES.—

"(1) IN GENERAL.—A magistrate judge of the Tax Court shall be entitled to an annuity under this section if the magistrate judge elects an annuity under this section by notifying the chief judge of the Tax Court not later than the later of—

"(A) 5 years after the magistrate judge of the Tax Court begins judicial service, or

"(B) 5 years after the date of the enactment of this subsection.

Such notice shall be given in accordance with procedures prescribed by the Tax Court.

"(2) ANNUITY IN LIEU OF OTHER ANNUITY.—A magistrate judge who elects to receive an annuity under this section shall not be entitled to receive—

"(A) any annuity to which such magistrate judge would otherwise have been entitled under subchapter III of chapter 83, or under chapter 84 (except for subchapters III and VII), of title 5, United States Code, for service performed as a magistrate or otherwise,

"(B) an annuity or salary in senior status or retirement under section 371 or 372 of title 28, United States Code,

"(C) retired pay under section 7447, or

"(D) retired pay under section 7296 of title 38, United States Code.

"(3) COORDINATION WITH TITLE 5.—A magistrate judge of the Tax Court who elects to receive an annuity under this section—

"(A) shall not be subject to deductions and contributions otherwise required by section 8334(a) of title 5, United States Code,

"(B) shall be excluded from the operation of chapter 84 (other than subchapters III and VII) of such title 5, and

"(C) is entitled to a lump-sum credit under section 8342(a) or 8424 of such title 5, as the case may be.

"(g) CALCULATION OF SERVICE.—For purposes of calculating an annuity under this section—

"(1) service as a magistrate judge of the Tax Court to whom this section applies may be credited, and

"(2) each month of service shall be credited as 1/12 of a year, and the fractional part of any month shall not be credited.

"(h) COVERED POSITIONS AND SERVICE.—This section applies to any magistrate judge of the Tax Court or special trial judge of the Tax Court appointed under this subchapter, but only with respect to service as such a magistrate judge or special trial judge after a date not earlier than 9½ years before the date of the enactment of this subsection.

"(i) PAYMENTS PURSUANT TO COURT ORDER.—

"(1) IN GENERAL.—Payments under this section which would otherwise be made to a magistrate judge of the Tax Court based upon his or her service shall be paid (in whole or in part) by the chief judge of the Tax Court to another person if and to the extent expressly provided for in the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation. Any payment under this paragraph to a person bars recovery by any other person.

"(2) REQUIREMENTS FOR PAYMENT.—Paragraph (1) shall apply only to payments made by the chief judge of the Tax Court after the date of receipt by the chief judge of written notice of such decree, order, or agreement, and such additional information as the chief judge may prescribe.

"(3) COURT DEFINED.—For purposes of this subsection, the term 'court' means any court of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, or the Virgin Islands, and any Indian tribal court or courts of Indian offense.

"(j) DEDUCTIONS, CONTRIBUTIONS, AND DEPOSITS.—

"(1) DEDUCTIONS.—Beginning with the next pay period after the chief judge of the Tax Court receives a notice under subsection (f) that a magistrate judge of the Tax Court has elected an annuity under this section, the chief judge shall deduct and withhold 1 percent of the salary of such magistrate judge. Amounts shall be so deducted and withheld in a manner determined by the chief judge. Amounts deducted and withheld under this subsection shall be deposited in the Treasury of the United States to the credit of the Tax Court Judicial Officers' Retirement Fund. Deductions under this subsection from the salary of a magistrate judge shall terminate upon the retirement of the magistrate judge or upon completion of 14 years of service for which contributions under this section have been made, whether continuously or otherwise, as calculated under subsection (g), whichever occurs first.

"(2) CONSENT TO DEDUCTIONS; DISCHARGE OF CLAIMS.—Each magistrate judge of the Tax Court who makes an election under subsection (f) shall be deemed to consent and agree to the deductions from salary which are made under paragraph (1). Payment of such salary less such deductions (and any deductions made under section 7448) is a full and complete discharge and acquittance of all claims and demands for all services rendered by such magistrate judge during the period covered by such payment, except the right to those benefits to which the magistrate judge is entitled under this section (and section 7448).

"(k) DEPOSITS FOR PRIOR SERVICE.—Each magistrate judge of the Tax Court who makes an election under subsection (f) may deposit, for service performed before such election for which contributions may be made under this section, an amount equal to 1 percent of the salary received for that service. Credit for any period covered by that service may not be allowed for purposes of an annuity under this section until a deposit under this subsection has been made for that period.

"(l) INDIVIDUAL RETIREMENT RECORDS.—The amounts deducted and withheld under subsection (j), and the amounts deposited under subsection (k), shall be credited to individual accounts in the name of each magistrate judge of the Tax Court from whom such amounts are received, for credit to the Tax Court Judicial Officers' Retirement Fund.

"(m) ANNUITIES AFFECTED IN CERTAIN CASES.—

"(1) 1-YEAR FORFEITURE FOR FAILURE TO PERFORM JUDICIAL DUTIES.—Subject to paragraph (3), any magistrate judge of the Tax Court who retires under this section and who fails to perform judicial duties required of such individual by section 7443C shall forfeit all rights to an annuity under this section for a 1-year period which begins on the 1st day on which such individual fails to perform such duties.

"(2) PERMANENT FORFEITURE OF RETIRED PAY WHERE CERTAIN NON-GOVERNMENT SERVICES PERFORMED.—Subject to paragraph (3), any magistrate judge of the Tax Court who retires under this section and who thereafter performs (or supervises or directs the performance of) legal or accounting services in the field of Federal taxation for the individual's client, the individual's employer, or any of such employer's clients, shall forfeit all rights to an annuity under this section for all periods beginning on or after the first day on which the individual performs (or supervises or directs the performance of) such services. The preceding sentence shall not apply to any civil office or employment under the Government of the United States.

"(3) FORFEITURES NOT TO APPLY WHERE INDIVIDUAL ELECTS TO FREEZE AMOUNT OF ANNUITY.—

"(A) IN GENERAL.—If a magistrate judge of the Tax Court makes an election under this paragraph—

"(i) paragraphs (1) and (2) (and section 7443C) shall not apply to such magistrate judge beginning on the date such election takes effect, and

"(ii) the annuity payable under this section to such magistrate judge, for periods beginning on or after the date such election takes effect, shall be equal to the annuity to which such magistrate judge is entitled on the day before such effective date.

"(B) ELECTION REQUIREMENTS.—An election under subparagraph (A)—

"(i) may be made by a magistrate judge of the Tax Court eligible for retirement under this section, and

"(ii) shall be filed with the chief judge of the Tax Court.

Such an election, once it takes effect, shall be irrevocable.

"(C) EFFECTIVE DATE OF ELECTION.—Any election under subparagraph (A) shall take effect on the first day of the first month following the month in which the election is made.

"(4) ACCEPTING OTHER EMPLOYMENT.—Any magistrate judge of the Tax Court who retires under this section and thereafter accepts compensation for civil office or employment under the United States Government (other than for the performance of functions as a magistrate judge of the Tax Court under section 7443C) shall forfeit all rights to an annuity under this section for the period for which such compensation is received. For purposes of this paragraph, the term 'compensation' includes retired pay or salary received in retired status.

"(n) LUMP-SUM PAYMENTS.—

"(1) ELIGIBILITY.—

"(A) IN GENERAL.—Subject to paragraph (2), an individual who serves as a magistrate judge of the Tax Court and—

"(i) who leaves office and is not reappointed as a magistrate judge of the Tax Court for at least 31 consecutive days,

"(ii) who files an application with the chief judge of the Tax Court for payment of a lump-sum credit,

"(iii) is not serving as a magistrate judge of the Tax Court at the time of filing of the application, and

"(iv) will not become eligible to receive an annuity under this section within 31 days after filing the application,

is entitled to be paid the lump-sum credit. Payment of the lump-sum credit voids all rights to an annuity under this section based on the service on which the lump-sum credit is based, until that individual resumes office as a magistrate judge of the Tax Court.

"(B) PAYMENT TO SURVIVORS.—Lump-sum benefits authorized by subparagraphs (C), (D), and (E) of this paragraph shall be paid to the person or persons surviving the magistrate judge of the Tax Court and alive on the date title to the payment arises, in the order of precedence set forth in subsection (o) of section 376 of title 28, United States Code, and in accordance with the last 2 sentences of paragraph (1) of that subsection. For purposes of the preceding sentence, the term 'judicial official' as used in subsection (o) of such section 376 shall be deemed to mean 'magistrate judge of the Tax Court' and the terms 'Administrative Office of the United States Courts' and 'Director of the Administrative Office of the United States Courts' shall be deemed to mean 'chief judge of the Tax Court'.

"(C) PAYMENT UPON DEATH OF JUDGE BEFORE RECEIPT OF ANNUITY.—If a magistrate judge of the Tax Court dies before receiving an annuity under this section, the lump-sum credit shall be paid.

"(D) PAYMENT OF ANNUITY REMAINDER.—If all annuity rights under this section based on the service of a deceased magistrate judge of the Tax Court terminate before the total annuity paid equals the lump-sum credit, the difference shall be paid.

"(E) PAYMENT UPON DEATH OF JUDGE DURING RECEIPT OF ANNUITY.—If a magistrate judge of the Tax Court who is receiving an annuity under this section dies, any accrued annuity benefits remaining unpaid shall be paid.

"(F) PAYMENT UPON TERMINATION.—Any accrued annuity benefits remaining unpaid on the termination, except by death, of the annuity of a magistrate judge of the Tax Court shall be paid to that individual.

"(G) PAYMENT UPON ACCEPTING OTHER EMPLOYMENT.—Subject to paragraph (2), a magistrate judge of the Tax Court who forfeits rights to an annuity under subsection (m)(4) before the total annuity paid equals the lump-sum credit shall be entitled to be paid the difference if the magistrate judge of the Tax Court files an application with the chief judge of the Tax Court for payment of that difference. A payment under this subparagraph voids all rights to an annuity on which the payment is based.

"(2) SPOUSES AND FORMER SPOUSES.—

"(A) IN GENERAL.—Payment of the lump-sum credit under paragraph (1)(A) or a payment under paragraph (1)(G)—

"(i) may be made only if any current spouse and any former spouse of the magistrate judge of the Tax Court are notified of the magistrate judge's application, and

"(ii) shall be subject to the terms of a court decree of divorce, annulment, or legal separation, or any court or court approved property settlement agreement incident to such decree, if—

"(I) the decree, order, or agreement expressly relates to any portion of the lump-sum credit or other payment involved, and

"(II) payment of the lump-sum credit or other payment would extinguish entitlement of the magistrate judge's spouse or former spouse to any portion of an annuity under subsection (i).

"(B) NOTIFICATION.—Notification of a spouse or former spouse under this paragraph shall be made in accordance with such procedures as the chief judge of the Tax Court shall prescribe. The chief judge may provide under such procedures that subparagraph (A)(i) may be waived with respect to a spouse or former spouse if the magistrate judge establishes to the satisfaction of the chief judge that the whereabouts of such spouse or former spouse cannot be determined.

"(C) RESOLUTION OF 2 OR MORE ORDERS.—The chief judge shall prescribe procedures under which this paragraph shall be applied in any case in which the chief judge receives 2 or more orders or decrees described in subparagraph (A).

"(3) DEFINITION.—For purposes of this subsection, the term 'lump-sum credit' means the unrefunded amount consisting of—

"(A) retirement deductions made under this section from the salary of a magistrate judge of the Tax Court,

"(B) amounts deposited under subsection (k) by a magistrate judge of the Tax Court covering earlier service, and

"(C) interest on the deductions and deposits which, for any calendar year, shall be equal to the overall average yield to the Tax Court Judicial Officers' Retirement Fund during the preceding fiscal year from all obligations purchased by the Secretary during such fiscal year under subsection (o); but does not include interest—

"(i) if the service covered thereby aggregates 1 year or less, or

"(ii) for the fractional part of a month in the total service.

"(o) TAX COURT JUDICIAL OFFICERS' RETIREMENT FUND.—

"(1) ESTABLISHMENT.—There is established in the Treasury a fund which shall be known as the 'Tax Court Judicial Officers' Retirement Fund'. Amounts in the Fund are authorized to be appropriated for the payment of annuities, refunds, and other payments under this section.

"(2) INVESTMENT OF FUND.—The Secretary shall invest, in interest bearing securities of the United States, such currently available portions of the Tax Court Judicial Officers' Retirement Fund as are not immediately required for payments from the Fund. The income derived from these investments constitutes a part of the Fund.

"(3) UNFUNDED LIABILITY.—

"(A) IN GENERAL.—There are authorized to be appropriated to the Tax Court Judicial Officers' Retirement Fund amounts required to reduce to zero the unfunded liability of the Fund.

"(B) UNFUNDED LIABILITY.—For purposes of subparagraph (A), the term 'unfunded liability' means the estimated excess, determined on an annual basis in accordance with the provisions of section 9503 of title 31, United States Code, of the present value of all benefits payable from the Tax Court Judicial Officers' Retirement Fund over the sum of—

"(i) the present value of deductions to be withheld under this section from the future basic pay of magistrate judges of the Tax Court, plus

"(ii) the balance in the Fund as of the date the unfunded liability is determined.

"(p) PARTICIPATION IN THRIFT SAVINGS PLAN.—

"(1) ELECTION TO CONTRIBUTE.—

"(A) IN GENERAL.—A magistrate judge of the Tax Court who elects to receive an annuity

under this section or under section 321 of the Tax Administration Good Government Act may elect to contribute an amount of such individual's basic pay to the Thrift Savings Fund established by section 8437 of title 5, United States Code.

"(B) PERIOD OF ELECTION.—An election may be made under this paragraph only during a period provided under section 8432(b) of title 5, United States Code, for individuals subject to chapter 84 of such title.

"(2) APPLICABILITY OF TITLE 5 PROVISIONS.—Except as otherwise provided in this subsection, the provisions of subchapters III and VII of chapter 84 of title 5, United States Code, shall apply with respect to a magistrate judge who makes an election under paragraph (1).

"(3) SPECIAL RULES.—

"(A) AMOUNT CONTRIBUTED.—The amount contributed by a magistrate judge to the Thrift Savings Fund in any pay period shall not exceed the maximum percentage of such judge's basic pay for such pay period as allowable under section 8440f of title 5, United States Code.

"(B) CONTRIBUTIONS FOR BENEFIT OF JUDGE.—No contributions may be made for the benefit of a magistrate judge under section 8432(c) of title 5, United States Code.

"(C) APPLICABILITY OF SECTION 8433(b) OF TITLE 5.—Section 8433(b) of title 5, United States Code, applies with respect to a magistrate judge who makes an election under paragraph (1) and—

"(i) who retires entitled to an immediate annuity under this section (including a disability annuity under subsection (d) of this section) or section 321 of the Tax Administration Good Government Act,

"(ii) who retires before attaining age 65 but is entitled, upon attaining age 65, to an annuity under this section or section 321 of the Tax Administration Good Government Act, or

"(iii) who retires before becoming entitled to an immediate annuity, or an annuity upon attaining age 65, under this section or section 321 of the Tax Administration Good Government Act.

"(D) SEPARATION FROM SERVICE.—With respect to a magistrate judge to whom this subsection applies, retirement under this section or section 321 of the Tax Administration Good Government Act is a separation from service for purposes of subchapters III and VII of chapter 84 of title 5, United States Code.

"(4) DEFINITIONS.—For purposes of this subsection, the terms 'retirement' and 'retire' include removal from office under section 7443A(a)(2) on the sole ground of mental or physical disability.

"(5) OFFSET.—In the case of a magistrate judge who receives a distribution from the Thrift Savings Fund and who later receives an annuity under this section, that annuity shall be offset by an amount equal to the amount which represents the Government's contribution to that person's Thrift Savings Account, without regard to earnings attributable to that amount. Where such an offset would exceed 50 percent of the annuity to be received in the first year, the offset may be divided equally over the first 2 years in which that person receives the annuity.

"(6) EXCEPTION.—Notwithstanding clauses (i) and (ii) of paragraph (3)(C), if any magistrate judge retires under circumstances making such magistrate judge eligible to make an election under subsection (b) of section 8433 of title 5, United States Code, and such magistrate judge's nonforfeitable account balance is less than an amount that the Executive Director of the Office of Personnel Management prescribes by regulation, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment.".

(b) CONFORMING AMENDMENT.—The table of section for part I of subchapter C of chapter 76 is amended by inserting after the item relating to section 7443A the following new item:

"Sec. 7443B. Retirement for magistrate judges of the Tax Court.".

SEC. 321. INCUMBENT MAGISTRATE JUDGES OF THE TAX COURT.

(a) RETIREMENT ANNUITY UNDER TITLE 5 AND SECTION 7443B OF THE INTERNAL REVENUE CODE OF 1986.—A magistrate judge of the United States Tax Court in active service on the date of the enactment of this Act shall, subject to subsection (b), be entitled, in lieu of the annuity otherwise provided under the amendments made by this title, to—

(1) an annuity under subchapter III of chapter 83, or under chapter 84 (except for subchapters III and VII), of title 5, United States Code, as the case may be, for creditable service before the date on which service would begin to be credited for purposes of paragraph (2), and

(2) an annuity calculated under subsection (b) or (c) and subsection (g) of section 7443B of the Internal Revenue Code of 1986, as added by this Act, for any service as a magistrate judge of the United States Tax Court or special trial judge of the United States Tax Court but only with respect to service as such a magistrate judge or special trial judge after a date not earlier than 9½ years prior to the date of the enactment of this Act (as specified in the election pursuant to subsection (b)) for which deductions and deposits are made under subsections (j) and (k) of such section 7443B, as applicable, without regard to the minimum number of years of service as such a magistrate judge of the United States Tax Court, except that—

(A) in the case of a magistrate judge who retired with less than 8 years of service, the annuity under subsection (c) of such section 7443B shall be equal to that proportion of the salary being received at the time the magistrate judge leaves office which the years of service bears to 14, subject to a reduction in accordance with subsection (c) of such section 7443B if the magistrate judge is under age 65 at the time he or she leaves office, and

(B) the aggregate amount of the annuity initially payable on retirement under this subsection may not exceed the rate of pay for the magistrate judge which is in effect on the day before the retirement becomes effective.

(b) FILING OF NOTICE OF ELECTION.—A magistrate judge of the United States Tax Court shall be entitled to an annuity under this section only if the magistrate judge files a notice of that election with the chief judge of the United States Tax Court specifying the date on which service would begin to be credited under section 7443B of the Internal Revenue Code of 1986, as added by this Act, in lieu of chapter 83 or chapter 84 of title 5, United States Code. Such notice shall be filed in accordance with such procedures as the chief judge of the United States Tax Court shall prescribe.

(c) LUMP-SUM CREDIT UNDER TITLE 5.—A magistrate judge of the United States Tax Court who makes an election under subsection (b) shall be entitled to a lump-sum credit under section 8342 or 8424 of title 5, United States Code, as the case may be, for any service which is covered under section 7443B of the Internal Revenue Code of 1986, as added by this Act, pursuant to that election, and with respect to which any contributions were made by the magistrate judge under the applicable provisions of title 5, United States Code.

(d) RECALL.—With respect to any magistrate judge of the United States Tax Court receiving an annuity under this section who is recalled to serve under section 7443C of the Internal Revenue Code of 1986, as added by this Act—

(1) the amount of compensation which such recalled magistrate judge receives under such section 7443C shall be calculated on the basis of the annuity received under this section, and

(2) such recalled magistrate judge of the United States Tax Court may serve as a reemployed annuitant to the extent otherwise permitted under title 5, United States Code.

Section 7443B(m)(4) of the Internal Revenue Code of 1986, as added by this Act, shall not apply with respect to service as a reemployed annuitant described in paragraph (2).

SEC. 322. PROVISIONS FOR RECALL.

(a) IN GENERAL.—Part I of subchapter C of chapter 76, as amended by this Act, is amended by inserting after section 7443B the following new section:

"SEC. 7443C. RECALL OF MAGISTRATE JUDGES OF THE TAX COURT.

"(a) RECALLING OF RETIRED MAGISTRATE JUDGES.—Any individual who has retired pursuant to section 7443B or the applicable provisions of title 5, United States Code, upon reaching the age and service requirements established therein, may at or after retirement be called upon by the chief judge of the Tax Court to perform such judicial duties with the Tax Court as may be requested of such individual for any period or periods specified by the chief judge; except that in the case of any such individual—

"(1) the aggregate of such periods in any 1 calendar year shall not (without such individual's consent) exceed 90 calendar days, and

"(2) such individual shall be relieved of performing such duties during any period in which illness or disability precludes the performance of such duties.

Any act, or failure to act, by an individual performing judicial duties pursuant to this subsection shall have the same force and effect as if it were the act (or failure to act) of a magistrate judge of the Tax Court.

"(b) COMPENSATION.—For the year in which a period of recall occurs, the magistrate judge shall receive, in addition to the annuity provided under the provisions of section 7443B or under the applicable provisions of title 5, United States Code, an amount equal to the difference between that annuity and the current salary of the office to which the magistrate judge is recalled. The annuity of the magistrate judge who completes that period of service, who is not recalled in a subsequent year, and who retired under section 7443B, shall be equal to the salary in effect at the end of the year in which the period of recall occurred for the office from which such individual retired.

"(c) RULEMAKING AUTHORITY.—The provisions of this section may be implemented under such rules as may be promulgated by the Tax Court.".

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter C of chapter 76, as amended by this Act, is amended by inserting after the item relating to section 7443B the following new item:

"Sec. 7443C. Recall of magistrate judges of the Tax Court.".

SEC. 323. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this subtitle shall take effect on the date of the enactment of this Act.

TITLE IV—CONFIDENTIALITY AND DISCLOSURE

SEC. 401. CLARIFICATION OF DEFINITION OF CHURCH TAX INQUIRY.

(a) IN GENERAL.—Subsection (i) of section 7611 (relating to section not to apply to criminal investigations, etc.) is amended by striking "or" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", or", and by inserting after paragraph (5) the following:

"(6) information provided by the Secretary related to the standards for exemption from tax

under this title and the requirements under this title relating to unrelated business taxable income.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 402. COLLECTION ACTIVITIES WITH RESPECT TO JOINT RETURN DISCLOSABLE TO EITHER SPOUSE BASED ON ORAL REQUEST.

(a) IN GENERAL.—Paragraph (8) of section 6103(e) (relating to disclosure of collection activities with respect to joint return) is amended by striking ''in writing'' the first place it appears.

(b) ELIMINATION OF REPORTING REQUIREMENT.—Section 7803(d)(1) (relating to annual reporting), as amended by this Act, is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), (E), (F), (G), and (H) as subparagraphs (B), (C), (D), (E), (F), and (G), respectively.

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to requests made after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to reports made after the date of the enactment of this Act.

SEC. 403. TAXPAYER REPRESENTATIVES NOT SUBJECT TO EXAMINATION ON SOLE BASIS OF REPRESENTATION OF TAXPAYERS.

(a) IN GENERAL.—Paragraph (1) of section 6103(h) (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended—

(1) by striking ''TREASURY.—Returns and return information'' and inserting ''TREASURY.—

''(A) IN GENERAL.—Returns and return information'', and

(2) by adding at the end the following new subparagraph:

''(B) TAXPAYER REPRESENTATIVES.—Notwithstanding subparagraph (A), the return or return information of the representative of a taxpayer whose return is being examined by an officer or employee of the Department of the Treasury shall not be open to inspection by such officer or employee on the sole basis of the representative's relationship to the taxpayer unless a supervisor of such officer or employee has approved the inspection of the return or return information of such representative on a basis other than by reason of such relationship.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect after the date of the enactment of this Act.

SEC. 404. PROHIBITION OF DISCLOSURE OF TAXPAYER IDENTIFICATION INFORMATION WITH RESPECT TO DISCLOSURE OF ACCEPTED OFFERS-IN-COMPROMISE.

(a) IN GENERAL.—Paragraph (1) of section 6103(k) (relating to disclosure of certain returns and return information for tax administrative purposes) is amended by inserting ''(other than the taxpayer's TIN)'' after ''Return information''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disclosures made after the date of the enactment of this Act.

SEC. 405. COMPLIANCE BY CONTRACTORS WITH CONFIDENTIALITY SAFEGUARDS.

(a) IN GENERAL.—Section 6103(p) (relating to State law requirements) is amended by adding at the end the following new paragraph:

''(9) DISCLOSURE TO CONTRACTORS AND OTHER AGENTS.—Notwithstanding any other provision of this section, no return or return information shall be disclosed to any contractor or other agent of a Federal, State, or local agency unless such agency, to the satisfaction of the Secretary—

''(A) has requirements in effect which require each such contractor or other agent which would have access to returns or return information to provide safeguards (within the meaning of paragraph (4)) to protect the confidentiality of such returns or return information,

''(B) agrees to conduct an on-site review every 3 years (mid-point review in the case of contracts or agreements of less than 1 year in duration) of each contractor or other agent to determine compliance with such requirements,

''(C) submits the findings of the most recent review conducted under subparagraph (B) to the Secretary as part of the report required by paragraph (4)(E), and

''(D) certifies to the Secretary for the most recent annual period that such contractor or other agent is in compliance with all such requirements.

The certification required by subparagraph (D) shall include the name and address of each contractor and other agent, a description of the contract or agreement with such contractor or other agent, and the duration of such contract or agreement. The requirements of this paragraph shall not apply to disclosures pursuant to subsection (n) for purposes of Federal tax administration.''.

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 6103(p)(8) is amended by inserting ''or paragraph (9)'' after ''subparagraph (A)''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to disclosures made after the date of the enactment of this Act.

(2) CERTIFICATIONS.—The first certification under section 6103(p)(9)(D) of the Internal Revenue Code of 1986, as added by subsection (a), shall be made with respect to the portion of calendar year 2004 following the date of the enactment of this Act.

SEC. 406. HIGHER STANDARDS FOR REQUESTS FOR AND CONSENTS TO DISCLOSURE.

(a) IN GENERAL.—Subsection (c) of section 6103 (relating to disclosure of returns and return information to designee of taxpayer) is amended—

(1) by striking ''TAXPAYER.—The Secretary'' and inserting ''TAXPAYER.—

''(1) IN GENERAL.—The Secretary'', and

(2) by adding at the end the following new paragraphs:

''(2) RESTRICTIONS ON PERSONS OBTAINING INFORMATION.—The return of any taxpayer, or return information with respect to such taxpayer, disclosed to a person or persons under paragraph (1) for a purpose specified in writing, electronically, or orally may be disclosed or used by such person or persons only for the purpose of, and to the extent necessary in, accomplishing the purpose for disclosure specified and shall not be disclosed or used for any other purpose.

''(3) REQUIREMENTS FOR FORM PRESCRIBED BY SECRETARY.—For purposes of this subsection, the Secretary shall prescribe a form for written requests and consents which shall—

''(A) contain a warning, prominently displayed, informing the taxpayer that the form should not be signed unless it is completed,

''(B) state that if the taxpayer believes there is an attempt to coerce him to sign an incomplete or blank form, the taxpayer should report the matter to the Treasury Inspector General for Tax Administration, and

''(C) contain the address and telephone number of the Treasury Inspector General for Tax Administration.

''(4) CROSS REFERENCE.—

''For provision providing for civil damages for violation of paragraph (2), see section 7431(i).''.

(b) CIVIL DAMAGES.—Section 7431 (relating to civil damages for unauthorized inspection or disclosure of returns and return information) is amended by adding at the end the following new subsection:

''(i) DISCLOSURE OR USE OF RETURNS AND RETURN INFORMATION OBTAINED UNDER SUBSECTION 6103(c).—Disclosure or use of returns or return information obtained under section 6103(c) other than for the purpose of, and to the extent necessary in, accomplishing the purpose for disclosure specified in writing, electronically, or orally, shall be treated as a violation of section 6103(a).''.

(b) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of the Treasury shall submit a report to the Congress on compliance with the designation and certification requirements applicable to requests for or consent to disclosure of returns and return information under section 6103(c) of the Internal Revenue Code of 1986, as amended by subsection (a). Such report shall—

(1) evaluate (on the basis of random sampling) whether—

(A) the amendment made by subsection (a) is achieving the purposes of this section;

(B) requesters and submitters for such disclosure are continuing to evade the purposes of this section and, if so, how; and

(C) the sanctions for violations of such requirements are adequate; and

(2) include such recommendations that the Secretary of the Treasury considers necessary or appropriate to better achieve the purposes of this section.

(d) SUNSET OF EXISTING CONSENTS.—Notwithstanding any other provision of law, any request for or consent to disclose any return or return information under section 6103(c) of the Internal Revenue Code of 1986 made before the date of the enactment of this Act shall remain in effect until the earlier of the date such request or consent is otherwise terminated or the date which is 3 years after such date of enactment.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to requests and consents made after the date which is 3 months after the date of the enactment of this Act.

SEC. 407. CIVIL DAMAGES FOR UNAUTHORIZED DISCLOSURE OR INSPECTION.

(a) NOTICE TO TAXPAYER.—Subsection (e) of section 7431 (relating to notification of unlawful inspection and disclosure) is amended by adding at the end the following: ''The Secretary shall also notify such taxpayer if the Internal Revenue Service or, upon notice to the Secretary by a Federal or State agency, if such Federal or State agency, proposes an administrative determination as to disciplinary or adverse action against an employee arising from the employee's unauthorized inspection or disclosure of the taxpayer's return or return information. The notice described in this subsection shall include the date of the inspection or disclosure and the rights of the taxpayer under such administrative determination.''.

(b) EXHAUSTION OF ADMINISTRATIVE REMEDIES REQUIRED.—Section 7431, as amended by this Act, is amended by adding at the end the following new subsection:

''(j) EXHAUSTION OF ADMINISTRATIVE REMEDIES REQUIRED.—A judgment for damages shall not be awarded under subsection (c) unless the court determines that the plaintiff has exhausted the administrative remedies available to such plaintiff.''.

(c) PAYMENT AUTHORITY CLARIFIED.—

(1) IN GENERAL.—Section 7431, as amended by subsection (b), is amended by adding at the end the following new subsection:

''(k) PAYMENT AUTHORITY.—Claims pursuant to this section shall be payable out of funds appropriated under section 1304 of title 31, United States Code.''.

(2) ANNUAL REPORTS OF PAYMENTS.—The Secretary of the Treasury shall annually report to

the Committee of Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding payments made from the United States Judgment Fund under section 7431(k) of the Internal Revenue Code of 1986.

(d) Burden of Proof for Good Faith Exception Rests With Individual Making Inspection or Disclosure.—Section 7431(b) (relating to exceptions) is amended by adding at the end the following new flush sentence: .

"In any proceeding involving the issue of the existence of good faith, the burden of proof with respect to such issue shall be on the individual who made the inspection or disclosure.".

(e) Reports.—Subsection (p) of section 6103 (relating to procedure and recordkeeping), as amended by this Act, is amended by adding at the end the following new paragraph:

"(10) Report on willful unauthorized disclosure and inspection.—As part of the report required by paragraph (3)(C) for each calendar year, the Secretary shall furnish information regarding the willful unauthorized disclosure and inspection of returns and return information, including the number, status, and results of—

"(A) administrative investigations,

"(B) civil lawsuits brought under section 7431 (including the amounts for which such lawsuits were settled and the amounts of damages awarded), and

"(C) criminal prosecutions.".

(c) Effective Dates.—

(1) Notice.—The amendment made by subsection (a) shall apply to determinations made after the date which is 180 days after the date of the enactment of this Act.

(2) Exhaustion of remedies and burden of proof.—The amendments made by subsections (b) and (d) shall apply to inspections and disclosures occurring on and after the date which is 180 days after the date of the enactment of this Act.

(3) Payment authority.—The amendment made by subsection (c)(1) shall take effect on the date which is 180 days after the date of the enactment of this Act.

(4) Reports.—The amendment made by subsection (e) shall apply to calendar years ending after the date which is 180 days after the date of the enactment of this Act.

SEC. 408. EXPANSION OF DISCLOSURE IN EMERGENCY CIRCUMSTANCES.

(a) In General.—Section 6103(i)(3)(B)(i) (relating to danger of death or physical injury) is amended by striking "or State law enforcement agency" and inserting ", State, or local law enforcement agency".

(b) Conforming Amendments.—Section 6103(p)(4) is amended—

(1) by striking "(i)(3)(B)(i) or (7)(A)(ii)" and inserting "(i)(7)(A)(ii)", and

(2) by striking ", (i)(3)(B)(i),".

(c) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 409. DISCLOSURE OF TAXPAYER IDENTITY FOR TAX REFUND PURPOSES.

(a) In General.—Section 6103(m)(1) (relating to tax refunds) is amended by striking "taxpayer identity information to the press and other media" and by inserting "a person's name and the city, State, and zip code of the person's mailing address to the press, other media, and through any other means of mass communication,".

(b) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 410. DISCLOSURE TO STATE OFFICIALS OF PROPOSED ACTIONS RELATED TO SECTION 501(c) ORGANIZATIONS.

(a) In General.—Subsection (c) of section 6104 is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) Disclosure of proposed actions related to charitable organizations.—

"(A) Specific notifications.—In the case of an organization to which paragraph (1) applies, the Secretary may disclose to the appropriate State officer—

"(i) a notice of proposed refusal to recognize such organization as an organization described in section 501(c)(3) or a notice of proposed revocation of such organization's recognition as an organization exempt from taxation,

"(ii) the issuance of a letter of proposed deficiency of tax imposed under section 507 or chapter 41 or 42, and

"(iii) the names, addresses, and taxpayer identification numbers of organizations which have applied for recognition as organizations described in section 501(c)(3).

"(B) Additional disclosures.—Returns and return information of organizations with respect to which information is disclosed under subparagraph (A) may be made available for inspection by or disclosed to an appropriate State officer.

"(C) Procedures for disclosure.—Information may be inspected or disclosed under subparagraph (A) or (B) only—

"(i) upon written request by an appropriate State officer, and

"(ii) for the purpose of, and only to the extent necessary in, the administration of State laws regulating such organizations.

Such information may only be inspected by or disclosed to representatives of the appropriate State officer designated as the individuals who are to inspect or to receive the returns or return information under this paragraph on behalf of such officer. Such representatives shall not include any contractor or agent.

"(D) Disclosures other than by request.—The Secretary may make available for inspection or disclose returns and return information of an organization to which paragraph (1) applies to an appropriate State officer of any State if the Secretary determines that such inspection or disclosure may facilitate the resolution of Federal or State issues relating to the tax-exempt status of such organization.

"(3) Disclosure with respect to certain other exempt organizations.—Upon written request by an appropriate State officer, the Secretary may make available for inspection or disclosure returns and return information of an organization described in paragraph (2), (4), (6), (7), (8), (10), or (13) of section 501(c) for the purpose of, and to the extent necessary in, the administration of State laws regulating the solicitation or administration of the charitable funds or charitable assets of such organizations. Such information may be inspected only by or disclosed only to representatives of the appropriate State officer designated as the individuals who are to inspect or to receive the returns or return information under this paragraph on behalf of such officer. Such representatives shall not include any contractor or agent.

"(4) Use in civil judicial and administrative proceedings.—Returns and return information disclosed pursuant to this subsection may be disclosed in civil administrative and civil judicial proceedings pertaining to the enforcement of State laws regulating such organizations in a manner prescribed by the Secretary similar to that for tax administration proceedings under section 6103(h)(4).

"(5) No disclosure if impairment.—Returns and return information shall not be disclosed under this subsection, or in any proceeding described in paragraph (4), to the extent that the Secretary determines that such disclosure would seriously impair Federal tax administration.

"(6) Definitions.—For purposes of this subsection—

"(A) Return and return information.—The terms 'return' and 'return information' have the respective meanings given to such terms by section 6103(b).

"(B) Appropriate State officer.—The term 'appropriate State officer' means—

"(i) the State attorney general,

"(ii) in the case of an organization to which paragraph (1) applies, any other State official charged with overseeing organizations of the type described in section 501(c)(3), and

"(iii) in the case of an organization to which paragraph (3) applies, the head of an agency designated by the State attorney general as having primary responsibility for overseeing the solicitation of funds for charitable purposes.".

(b) Conforming Amendments.—

(1) Subsection (a) of section 6103 is amended—

(A) by inserting "or any appropriate State officer who has or had access to returns or return information under section 6104(c)" after "this section" in paragraph (2), and

(B) by striking "or subsection (n)" in paragraph (3) and inserting "subsection (n), or section 6104(c)".

(2) Subparagraph (A) of section 6103(p)(3) is amended by inserting "and section 6104(c)" after "section" in the first sentence.

(3) Paragraph (4) of section 6103(p), as amended by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961), is amended by striking "or (17)" after "any other person described in subsection (l)(16)" each place it appears and inserting "or (18) or any appropriate State officer (as defined in section 6104(c))".

(4) The heading for paragraph (1) of section 6104(c) is amended by inserting "FOR CHARITABLE ORGANIZATIONS".

(5) Paragraph (2) of section 7213(a) is amended by inserting "or under section 6104(c)" after "6103".

(6) Paragraph (2) of section 7213A(a) is amended by inserting "or 6104(c)" after "6103".

(7) Paragraph (2) of section 7431(a) is amended by inserting "(including any disclosure in violation of section 6104(c))" after "6103".

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act but shall not apply to requests made before such date.

SEC. 411. TREATMENT OF PUBLIC RECORDS.

(a) In General.—Section 6103(b) (relating to definitions) is amended by adding at the end the following new paragraph:

"(12) Treatment of public records.—Returns and return information shall not be subject to subsection (a) if disclosed—

"(A) in the course of any judicial or administrative proceeding or pursuant to tax administration activities, and

"(B) properly made part of the public record.".

(b) Effective Date.—The amendment made by this section shall take effect before, on, and after the date of the enactment of this Act.

SEC. 412. EMPLOYEE IDENTITY DISCLOSURES.

(a) In General.—Section 6103 (confidentiality and disclosure of returns and return information) is amended by redesignating subsection (q) as subsection (r) and by inserting after subsection (p) the following new subsection:

"(q) Employee Identity Disclosures.—Nothing in this section may be construed to prohibit agents of the Department of the Treasury from identifying themselves, their organizational affiliation, and the nature of an investigation when contacting third parties in writing or in person.".

(b) Construction.—The amendments made by this section shall not be construed to create any inference with respect to the interpretation of any provision of law as such provision was in effect on the day before the date of enactment of this Act.

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 413. TAXPAYER IDENTIFICATION NUMBER MATCHING.

(a) In General.—Section 6103(k) (relating to disclosure of certain returns and return information for tax administration purposes) is amended by adding at the end the following new paragraph:

"(10) TIN matching.—The Secretary may disclose to any person required to provide a TIN (as defined in section 7701(a)(41)) to the Secretary whether such information matches records maintained by the Secretary.".

(b) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 414. FORM 8300 DISCLOSURES.

(a) In General.—Section 6103(p)(4) (relating to safeguards) is amended by striking "(15)," both places it appears.

(b) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 415. DISCLOSURE TO LAW ENFORCEMENT AGENCIES REGARDING TERRORIST ACTIVITIES.

(a) In General.—Section 6103(i)(7)(A) (relating to disclosure to law enforcement agencies) is amended by adding at the end the following new clause:

"(v) Taxpayer identity.—For purposes of this subparagraph, a taxpayer's identity shall not be treated as taxpayer return information.".

(b) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act.

TITLE V—SIMPLIFICATION

Subtitle A—Uniform Definition of Child

SEC. 501. UNIFORM DEFINITION OF CHILD, ETC.

Section 152 is amended to read as follows:

"SEC. 152. DEPENDENT DEFINED.

"(a) In General.—For purposes of this subtitle, the term 'dependent' means—

"(1) a qualifying child, or

"(2) a qualifying relative.

"(b) Exceptions.—For purposes of this section—

"(1) Dependents ineligible.—If an individual is a dependent of a taxpayer for any taxable year of such taxpayer beginning in a calendar year, such individual shall be treated as having no dependents for any taxable year of such individual beginning in such calendar year.

"(2) Married dependents.—An individual shall not be treated as a dependent of a taxpayer under subsection (a) if such individual has made a joint return with the individual's spouse under section 6013 for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

"(3) Citizens or nationals of other countries.—

"(A) In general.—The term 'dependent' does not include an individual who is not a citizen or national of the United States unless such individual is a resident of the United States or a country contiguous to the United States.

"(B) Exception for adopted child.—Subparagraph (A) shall not exclude any child of a taxpayer (within the meaning of subsection (f)(1)(B)) from the definition of 'dependent' if—

"(i) for the taxable year of the taxpayer, the child has the same principal place of abode as the taxpayer and is a member of the taxpayer's household, and

"(ii) the taxpayer is a citizen or national of the United States.

"(c) Qualifying Child.—For purposes of this section—

"(1) In general.—The term 'qualifying child' means, with respect to any taxpayer for any taxable year, an individual—

"(A) who bears a relationship to the taxpayer described in paragraph (2),

"(B) who has the same principal place of abode as the taxpayer for more than one-half of such taxable year,

"(C) who meets the age requirements of paragraph (3), and

"(D) who has not provided over one-half of such individual's own support for the calendar year in which the taxable year of the taxpayer begins.

"(2) Relationship.—For purposes of paragraph (1)(A), an individual bears a relationship to the taxpayer described in this paragraph if such individual is—

"(A) a child of the taxpayer or a descendant of such a child, or

"(B) a brother, sister, stepbrother, or stepsister of the taxpayer or a descendant of any such relative.

"(3) Age requirements.—

"(A) In general.—For purposes of paragraph (1)(C), an individual meets the requirements of this paragraph if such individual—

"(i) has not attained the age of 19 as of the close of the calendar year in which the taxable year of the taxpayer begins, or

"(ii) is a student who has not attained the age of 24 as of the close of such calendar year.

"(B) Special rule for disabled.—In the case of an individual who is permanently and totally disabled (as defined in section 22(e)(3)) at any time during such calendar year, the requirements of subparagraph (A) shall be treated as met with respect to such individual.

"(4) Special rule relating to 2 or more claiming qualifying child.—

"(A) In general.—Except as provided in subparagraph (B) and subsection (e), if (but for this paragraph) an individual may be and is claimed as a qualifying child by 2 or more taxpayers for a taxable year beginning in the same calendar year, such individual shall be treated as the qualifying child of the taxpayer who is—

"(i) a parent of the individual, or

"(ii) if clause (i) does not apply, the taxpayer with the highest adjusted gross income for such taxable year.

"(B) More than 1 parent claiming qualifying child.—If the parents claiming any qualifying child do not file a joint return together, such child shall be treated as the qualifying child of—

"(i) the parent with whom the child resided for the longest period of time during the taxable year, or

"(ii) if the child resides with both parents for the same amount of time during such taxable year, the parent with the highest adjusted gross income.

"(d) Qualifying Relative.—For purposes of this section—

"(1) In general.—The term 'qualifying relative' means, with respect to any taxpayer for any taxable year, an individual—

"(A) who bears a relationship to the taxpayer described in paragraph (2),

"(B) whose gross income for the calendar year in which such taxable year begins is less than the exemption amount (as defined in section 151(d)),

"(C) with respect to whom the taxpayer provides over one-half of the individual's support for the calendar year in which such taxable year begins, and

"(D) who is not a qualifying child of such taxpayer or of any other taxpayer for any taxable year beginning in the calendar year in which such taxable year begins.

"(2) Relationship.—For purposes of paragraph (1)(A), an individual bears a relationship to the taxpayer described in this paragraph if the individual is any of the following with respect to the taxpayer:

"(A) A child or a descendant of a child.

"(B) A brother, sister, stepbrother, or stepsister.

"(C) The father or mother, or an ancestor of either.

"(D) A stepfather or stepmother.

"(E) A son or daughter of a brother or sister of the taxpayer.

"(F) A brother or sister of the father or mother of the taxpayer.

"(G) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law.

"(H) An individual (other than an individual who at any time during the taxable year was the spouse, determined without regard to section 7703, of the taxpayer) who, for the taxable year of the taxpayer, has the same principal place of abode as the taxpayer and is a member of the taxpayer's household.

"(3) Special rule relating to multiple support agreements.—For purposes of paragraph (1)(C), over one-half of the support of an individual for a calendar year shall be treated as received from the taxpayer if—

"(A) no one person contributed over one-half of such support,

"(B) over one-half of such support was received from 2 or more persons each of whom, but for the fact that any such person alone did not contribute over one-half of such support, would have been entitled to claim such individual as a dependent for a taxable year beginning in such calendar year,

"(C) the taxpayer contributed over 10 percent of such support, and

"(D) each person described in subparagraph (B) (other than the taxpayer) who contributed over 10 percent of such support files a written declaration (in such manner and form as the Secretary may by regulations prescribe) that such person will not claim such individual as a dependent for any taxable year beginning in such calendar year.

"(4) Special rule relating to income of handicapped dependents.—

"(A) In general.—For purposes of paragraph (1)(B), the gross income of an individual who is permanently and totally disabled (as defined in section 22(e)(3)) at any time during the taxable year shall not include income attributable to services performed by the individual at a sheltered workshop if—

"(i) the availability of medical care at such workshop is the principal reason for the individual's presence there, and

"(ii) the income arises solely from activities at such workshop which are incident to such medical care.

"(B) Sheltered workshop defined.—For purposes of subparagraph (A), the term 'sheltered workshop' means a school—

"(i) which provides special instruction or training designed to alleviate the disability of the individual, and

"(ii) which is operated by an organization described in section 501(c)(3) and exempt from tax under section 501(a), or by a State, a possession of the United States, any political subdivision of any of the foregoing, the United States, or the District of Columbia.

"(5) Special rules for support.—For purposes of this subsection—

"(A) payments to a spouse which are includible in the gross income of such spouse under section 71 or 682 shall not be treated as a payment by the payor spouse for the support of any dependent, and

"(B) in the case of the remarriage of a parent, support of a child received from the parent's spouse shall be treated as received from the parent.

"(e) Special Rule for Divorced Parents.—

"(1) In general.—Notwithstanding subsection (c)(4) or (d)(1)(C), if—

"(A) a child receives over one-half of the child's support during the calendar year from the child's parents—

"(i) who are divorced or legally separated under a decree of divorce or separate maintenance,

"(ii) who are separated under a written separation agreement, or

"(iii) who live apart at all times during the last 6 months of the calendar year, and

"(B) such child is in the custody of 1 or both of the child's parents for more than one-half of the calendar year,

such child shall be treated as being the qualifying child or qualifying relative of the noncustodial parent for a calendar year if the requirements described in paragraph (2) are met.

"(2) REQUIREMENTS.—For purposes of paragraph (1), the requirements described in this paragraph are met if—

"(A) a decree of divorce or separate maintenance or written separation agreement between the parents applicable to the taxable year beginning in such calendar year provides that—

"(i) the noncustodial parent shall be entitled to any deduction allowable under section 151 for such child, or

"(ii) the custodial parent will sign a written declaration (in such manner and form as the Secretary may prescribe) that such parent will not claim such child as a dependent for such taxable year, or

"(B) in the case of such an agreement executed before January 1, 1985, the noncustodial parent provides at least $600 for the support of such child during such calendar year.

For purposes of subparagraph (B), amounts expended for the support of a child or children shall be treated as received from the noncustodial parent to the extent that such parent provided amounts for such support.

"(3) CUSTODIAL PARENT AND NONCUSTODIAL PARENT.—For purposes of this subsection—

"(A) CUSTODIAL PARENT.—The term 'custodial parent' means the parent with whom a child shared the same principal place of abode for the greater portion of the calendar year.

"(B) NONCUSTODIAL PARENT.—The term 'noncustodial parent' means the parent who is not the custodial parent.

"(4) EXCEPTION FOR MULTIPLE-SUPPORT AGREEMENTS.—This subsection shall not apply in any case where over one-half of the support of the child is treated as having been received from a taxpayer under the provision of subsection (d)(3).

"(f) OTHER DEFINITIONS AND RULES.—For purposes of this section—

"(1) CHILD DEFINED.—

"(A) IN GENERAL.—The term 'child' means an individual who is—

"(i) a son, daughter, stepson, or stepdaughter of the taxpayer, or

"(ii) an eligible foster child of the taxpayer.

"(B) ADOPTED CHILD.—In determining whether any of the relationships specified in subparagraph (A)(i) or paragraph (4) exists, a legally adopted individual of the taxpayer, or an individual who is lawfully placed with the taxpayer for legal adoption by the taxpayer, shall be treated as a child of such individual by blood.

"(C) ELIGIBLE FOSTER CHILD.—For purposes of subparagraph (A)(ii), the term 'eligible foster child' means an individual who is placed with the taxpayer by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

"(2) STUDENT DEFINED.—The term 'student' means an individual who during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins—

"(A) is a full-time student at an educational organization described in section 170(b)(1)(A)(ii), or

"(B) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational organization described in section 170(b)(1)(A)(ii) or of a State or political subdivision of a State.

"(3) DETERMINATION OF HOUSEHOLD STATUS.—An individual shall not be treated as a member of the taxpayer's household if at any time during the taxable year of the taxpayer the relationship between such individual and the taxpayer is in violation of local law.

"(4) BROTHER AND SISTER.—The terms 'brother' and 'sister' include a brother or sister by the half blood.

"(5) SPECIAL SUPPORT TEST IN CASE OF STUDENTS.—For purposes of subsections (c)(1)(D) and (d)(1)(C), in the case of an individual who is—

"(A) a child of the taxpayer, and

"(B) a student,

amounts received as scholarships for study at an educational organization described in section 170(b)(1)(A)(ii) shall not be taken into account.

"(6) TREATMENT OF MISSING CHILDREN.—

"(A) IN GENERAL.—Solely for the purposes referred to in subparagraph (B), a child of the taxpayer—

"(i) who is presumed by law enforcement authorities to have been kidnapped by someone who is not a member of the family of such child or the taxpayer, and

"(ii) who had, for the taxable year in which the kidnapping occurred, the same principal place of abode as the taxpayer for more than one-half of the portion of such year before the date of the kidnapping,

shall be treated as meeting the requirement of subsection (c)(1)(B) with respect to a taxpayer for all taxable years ending during the period that the child is kidnapped.

"(B) PURPOSES.—Subparagraph (A) shall apply solely for purposes of determining—

"(i) the deduction under section 151(c),

"(ii) the credit under section 24 (relating to child tax credit),

"(iii) whether an individual is a surviving spouse or a head of a household (as such terms are defined in section 2), and

"(iv) the earned income credit under section 32.

"(C) COMPARABLE TREATMENT OF CERTAIN QUALIFYING RELATIVES.—For purposes of this section, a child of the taxpayer—

"(i) who is presumed by law enforcement authorities to have been kidnapped by someone who is not a member of the family of such child or the taxpayer, and

"(ii) who was (without regard to this paragraph) a qualifying relative of the taxpayer for the portion of the taxable year before the date of the kidnapping,

shall be treated as a qualifying relative of the taxpayer for all taxable years ending during the period that the child is kidnapped.

"(D) TERMINATION OF TREATMENT.—Subparagraphs (A) and (C) shall cease to apply as of the first taxable year of the taxpayer beginning after the calendar year in which there is a determination that the child is dead (or, if earlier, in which the child would have attained age 18).

"(7) CROSS REFERENCES.—

"For provision treating child as dependent of both parents for purposes of certain provisions, see sections 105(b), 132(h)(2)(B), and 213(d)(5).".

SEC. 502. MODIFICATIONS OF DEFINITION OF HEAD OF HOUSEHOLD.

(a) HEAD OF HOUSEHOLD.—Clause (i) of section 2(b)(1)(A) is amended to read as follows:

"(i) a qualifying child of the individual (as defined in section 152(c), determined without regard to section 152(e)), but not if such child—

"(I) is married at the close of the taxpayer's taxable year, and

"(II) is not a dependent of such individual by reason of section 152(b)(2) or 152(b)(3), or both, or".

(b) CONFORMING AMENDMENTS.—

(1) Section 2(b)(2) is amended by striking subparagraph (A) and by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively.

(2) Clauses (i) and (ii) of section 2(b)(3)(B) are amended to read as follows:

"(i) subparagraph (H) of section 152(d)(2), or

"(ii) paragraph (3) of section 152(d).".

SEC. 503. MODIFICATIONS OF DEPENDENT CARE CREDIT.

(a) IN GENERAL.—Section 21(a)(1) is amended by striking "In the case of an individual who maintains a household which includes as a member one or more qualifying individuals (as defined in subsection (b)(1))" and inserting "In the case of an individual for which there are 1 or more qualifying individuals (as defined in subsection (b)(1)) with respect to such individual".

(b) QUALIFYING INDIVIDUAL.—Paragraph (1) of section 21(b) is amended to read as follows:

"(1) QUALIFYING INDIVIDUAL.—The term 'qualifying individual' means—

"(A) a dependent of the taxpayer (as defined in section 152(a)(1)) who has not attained age 13,

"(B) a dependent of the taxpayer who is physically or mentally incapable of caring for himself or herself and who has the same principal place of abode as the taxpayer for more than one-half of such taxable year, or

"(C) the spouse of the taxpayer, if the spouse is physically or mentally incapable of caring for himself or herself and who has the same principal place of abode as the taxpayer for more than one-half of such taxable year.".

(c) CONFORMING AMENDMENT.—Paragraph (1) of section 21(e) is amended to read as follows:

"(1) PLACE OF ABODE.—An individual shall not be treated as having the same principal place of abode of the taxpayer if at any time during the taxable year of the taxpayer the relationship between the individual and the taxpayer is in violation of local law.".

SEC. 504. MODIFICATIONS OF CHILD TAX CREDIT.

(a) IN GENERAL.—Paragraph (1) of section 24(c) is amended to read as follows:

"(1) IN GENERAL.—The term 'qualifying child' means a qualifying child of the taxpayer (as defined in section 152(c)) who has not attained age 17.".

(b) CONFORMING AMENDMENT.—Section 24(c)(2) is amended by striking "the first sentence of section 152(b)(3)" and inserting "subparagraph (A) of section 152(b)(3)".

SEC. 505. MODIFICATIONS OF EARNED INCOME CREDIT.

(a) QUALIFYING CHILD.—Paragraph (3) of section 32(c) is amended to read as follows:

"(3) QUALIFYING CHILD.—

"(A) IN GENERAL.—The term 'qualifying child' means a qualifying child of the taxpayer (as defined in section 152(c), determined without regard to paragraph (1)(D) thereof and section 152(e)).

"(B) MARRIED INDIVIDUAL.—The term 'qualifying child' shall not include an individual who is married as of the close of the taxpayer's taxable year unless the taxpayer is entitled to a deduction under section 151 for such taxable year with respect to such individual (or would be so entitled but for section 152(e)).

"(C) PLACE OF ABODE.—For purposes of subparagraph (A), the requirements of section 152(c)(1)(B) shall be met only if the principal place of abode is in the United States.

"(D) IDENTIFICATION REQUIREMENTS.—

"(i) IN GENERAL.—A qualifying child shall not be taken into account under subsection (b) unless the taxpayer includes the name, age, and TIN of the qualifying child on the return of tax for the taxable year.

"(ii) OTHER METHODS.—The Secretary may prescribe other methods for providing the information described in clause (i).".

(b) CONFORMING AMENDMENTS.—

(1) Section 32(c)(1) is amended by striking subparagraph (C) and by redesignating subparagraphs (D), (E), (F), and (G) as subparagraphs (C), (D), (E), and (F), respectively.

(2) Section 32(c)(4) is amended by striking “(3)(E)” and inserting “(3)(C)”.

(3) Section 32(m) is amended by striking “subsections (c)(1)(F)” and inserting “subsections (c)(1)(E)”.

SEC. 506. MODIFICATIONS OF DEDUCTION FOR PERSONAL EXEMPTION FOR DEPENDENTS.

Subsection (c) of section 151 is amended to read as follows:

“(c) ADDITIONAL EXEMPTION FOR DEPENDENTS.—An exemption of the exemption amount for each individual who is a dependent (as defined in section 152) of the taxpayer for the taxable year.”.

SEC. 507. TECHNICAL AND CONFORMING AMENDMENTS.

(1) Section 2(a)(1)(B)(i) is amended by inserting “, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof” after “section 152”.

(2) Section 21(e)(5) is amended—

(A) by striking “paragraph (2) or (4) of” in subparagraph (A), and

(B) by striking “within the meaning of section 152(e)(1)” and inserting “as defined in section 152(e)(3)(A)”.

(3) Section 21(e)(6)(B) is amended by striking “section 151(c)(3)” and inserting “section 152(f)(1)”.

(4) Section 25B(c)(2)(B) is amended by striking “151(c)(4)” and inserting “152(f)(2)”.

(5)(A) Subparagraphs (A) and (B) of section 51(i)(1) are each amended by striking “paragraphs (1) through (8) of section 152(a)” both places it appears and inserting “subparagraphs (A) through (G) of section 152(d)(2)”.

(B) Section 51(i)(1)(C) is amended by striking “152(a)(9)” and inserting “152(d)(2)(H)”.

(6) Section 72(t)(2)(D)(i)(III) is amended by inserting “, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof” after “section 152”.

(7) Section 72(t)(7)(A)(iii) is amended by striking “151(c)(3)” and inserting “152(f)(1)”.

(8) Section 42(i)(3)(D)(ii)(I) is amended by inserting “, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof” after “section 152”.

(9) Subsections (b) and (c)(1) of section 105 are amended by inserting “, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof” after “section 152”.

(10) Section 120(d)(4) is amended by inserting “(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)” after “section 152”.

(11) Section 125(e)(1)(D) is amended by inserting “, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof” after “section 152”.

(12) Section 129(c)(2) is amended by striking “151(c)(3)” and inserting “152(f)(1)”.

(13) The first sentence of section 132(h)(2)(B) is amended by striking “151(c)(3)” and inserting “152(f)(1)”.

(14) Section 153 is amended by striking paragraph (1) and by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

(15) Section 170(g)(1) is amended by inserting “(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)” after “section 152”.

(16) Section 170(g)(3) is amended by striking “paragraphs (1) through (8) of section 152(a)” and inserting “subparagraphs (A) through (G) of section 152(d)(2)”.

(17) Section 213(a) is amended by inserting “, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof” after “section 152”.

(18) The second sentence of section 213(d)(11) is amended by striking “paragraphs (1) through (8) of section 152(a)” and inserting “subparagraphs (A) through (G) of section 152(d)(2)”.

(19) Section 220(d)(2)(A) is amended by inserting “, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof” after “section 152”.

(20) Section 221(d)(4) is amended by inserting “(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)” after “section 152”.

(21) Section 529(e)(2)(B) is amended by striking “paragraphs (1) through (8) of section 152(a)” and inserting “subparagraphs (A) through (G) of section 152(d)(2)”.

(22) Section 2032A(c)(7)(D) is amended by striking “section 151(c)(4)” and inserting “section 152(f)(2)”.

(23) Section 2057(d)(2)(B) is amended by inserting “, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof” after “section 152”.

(24) Section 7701(a)(17) is amended by striking “152(b)(4), 682,” and inserting “682”.

(25) Section 7702B(f)(2)(C)(iii) is amended by striking “paragraphs (1) through (8) of section 152(a)” and inserting “subparagraphs (A) through (G) of section 152(d)(2)”.

(26) Section 7703(b)(1) is amended—

(A) by striking “151(c)(3)” and inserting “152(f)(1)”, and

(B) by striking “paragraph (2) or (4) of”.

SEC. 508. EFFECTIVE DATE.

The amendments made by this subtitle shall apply to taxable years beginning after December 31, 2004.

Subtitle B—Simplification Through Elimination of Inoperative Provisions

SEC. 511. SIMPLIFICATION THROUGH ELIMINATION OF INOPERATIVE PROVISIONS.

(a) IN GENERAL.—

(1) ADJUSTMENTS IN TAX TABLES SO THAT INFLATION WILL NOT RESULT IN TAX INCREASES.—Paragraph (7) of section 1(f) is amended to read as follows:

“(7) SPECIAL RULE FOR CERTAIN BRACKETS.—In prescribing tables under paragraph (1) which apply to taxable years beginning in a calendar year after 1994, the cost-of-living adjustment used in making adjustments to the dollar amounts at which the 36 percent rate bracket begins or at which the 39.6 percent rate bracket begins shall be determined under paragraph (3) by substituting ‘1993’ for ‘1992’.”.

(2) CREDIT FOR PRODUCING FUEL FROM NONCONVENTIONAL SOURCE.—Section 29 is amended by striking subsection (e) and by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(3) EARNED INCOME CREDIT.—Paragraph (1) of section 32(b) is amended—

(A) by striking subparagraphs (B) and (C), and

(B) in subparagraph (A) by striking “(A) IN GENERAL.—In the case of taxable years beginning after 1995” and moving the table 2 ems to the left.

(4) GENERAL BUSINESS CREDITS.—Subsection (d) of section 38 is amended by striking paragraph (3).

(5) CARRYBACK AND CARRYFORWARD OF UNUSED CREDITS.—Subsection (d) of section 39 is amended by striking paragraphs (1) through (8) and by redesignating paragraphs (9) and (10) as paragraphs (1) and (2), respectively.

(6) ADJUSTMENTS BASED ON ADJUSTED CURRENT EARNINGS.—Clause (ii) of section 56(g)(4)(F) is amended by striking “In the case of any taxable year beginning after December 31, 1992, clause” and inserting “Clause”.

(7) ITEMS OF TAX PREFERENCE; DEPLETION.—Paragraph (1) of section 57(a) is amended by striking “Effective with respect to taxable years beginning after December 31, 1992, this” and inserting “This”.

(8) INTANGIBLE DRILLING COSTS.—

(A) Clause (i) of section 57(a)(2)(E) is amended by striking “In the case of any taxable year beginning after December 31, 1992, this” and inserting “This”.

(B) Clause (ii) of section 57(a)(2)(E) is amended by striking “(30 percent in the case of taxable years beginning in 1993)”.

(9) ANNUITIES; CERTAIN PROCEEDS OF ENDOWMENT AND LIFE INSURANCE CONTRACTS.—Section 72 is amended—

(A) in subsection (c)(4) by striking “; except that if such date was before January 1, 1954, then the annuity starting date is January 1, 1954”, and

(B) in subsection (g)(3) by striking “January 1, 1954, or” and “, whichever is later”.

(10) ACCIDENT AND HEALTH PLANS.—Section 105(f) is amended by striking “or (d)”.

(11) FLEXIBLE SPENDING ARRANGEMENTS.—Section 106(c)(1) is amended by striking “Effective on and after January 1, 1997, gross” and inserting “Gross”.

(12) CERTAIN COMBAT ZONE COMPENSATION OF MEMBERS OF THE ARMED FORCES.—Subsection (c) of section 112 is amended—

(A) by striking “(after June 24, 1950)” in paragraph (2), and

(B) striking “such zone;” and all that follows in paragraph (3) and inserting “such zone.”.

(13) PRINCIPAL RESIDENCE.—Section 121(b)(3) is amended—

(A) by striking subparagraph (B); and

(B) in subparagraph (A) by striking “(A) IN GENERAL.—” and moving the text 2 ems to the left.

(14) CERTAIN REDUCED UNIFORMED SERVICES RETIREMENT PAY.—Section 122(b)(1) is amended by striking “after December 31, 1965,”.

(15) GREAT PLAINS CONSERVATION PROGRAM.—Section 126(a) is amended by striking paragraph (6) and by redesignating paragraphs (7), (8), (9), and (10) as paragraphs (6), (7), (8), and (9), respectively.

(16) MORTGAGE REVENUE BONDS FOR RESIDENCES IN FEDERAL DISASTER AREAS.—Section 143(k) is amended by striking paragraph (11).

(17) TREBLE DAMAGE PAYMENTS UNDER THE ANTITRUST LAW.—Section 162(g) is amended by striking the last sentence.

(18) STATE LEGISLATORS' TRAVEL EXPENSES AWAY FROM HOME.—Paragraph (4) of section 162(h) is amended by striking “For taxable years beginning after December 31, 1980, this” and inserting “This”.

(19) HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.—Paragraph (1) of section 162(l) is amended to read as follows:

“(1) ALLOWANCE OF DEDUCTION.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to 100 percent of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer and the taxpayer's spouse and dependents.”.

(20) INTEREST.—

(A) Section 163 is amended by striking paragraph (6) of subsection (d) and paragraph (5) (relating to phase-in of limitation) of subsection (h).

(B) Section 56(b)(1)(C) is amended by striking clause (ii) and by redesignating clauses (iii), (iv), and (v) as clauses (ii), (iii), and (iv), respectively.

(21) CHARITABLE, ETC., CONTRIBUTIONS AND GIFTS.—Section 170 is amended by striking subsection (k).

(22) AMORTIZABLE BOND PREMIUM.—Subparagraph (B) of section 171(b)(1) is amended to read as follows:

"(B)(i) in the case of a bond described in subsection (a)(2), with reference to the amount payable on maturity or earlier call date, and

"(ii) in the case of a bond described in subsection (a)(1), with reference to the amount payable on maturity (or if it results in a smaller amortizable bond premium attributable to the period of earlier call date, with reference to the amount payable on earlier call date), and".

(23) NET OPERATING LOSS CARRYBACKS AND CARRYOVERS.—

(A) Section 172 is amended—

(i) by striking subparagraph (D) of subsection (b)(1) and by redesignating subparagraphs (E), (F), (G), and (H) as subparagraphs (D), (E), (F), and (G), respectively,

(ii) by striking "ending after August 2, 1989" in subsection (b)(1)(D)(i)(II) (as redesignated by clause (i)),

(iii) by striking "subparagraph (F)" in subsection (b)(1)(G) (as redesignated by clause (i)) and inserting "subparagraph (E)",

(iv) by striking subsection (g), and

(v) by striking subparagraph (F) of subsection (h)(2).

(B) Section 172(h)(4) is amended by striking "subsection (b)(1)(E)" each place it appears and inserting "subsection (b)(1)(D)".

(C) Section 172(i)(3) is amended by striking "subsection (b)(1)(G)" each place it appears and inserting "subsection (b)(1)(F)".

(D) Section 172(j) is amended by striking "subsection (b)(1)(H)" each place it appears and inserting "subsection (b)(1)(G)".

(E) Section 172, as amended by subparagraphs (A) through (D) of this paragraph, is amended—

(i) by redesignating subsections (h), (i), and (j) as subsections (g), (h), and (i), respectively,

(ii) by striking "subsection (h)" each place it appears and inserting "subsection (g)", and

(iii) by striking "subsection (i)" each place it appears and inserting "subsection (h)".

(24) RESEARCH AND EXPERIMENTAL EXPENDITURES.—Subparagraph (A) of section 174(a)(2) is amended to read as follows:

"(A) WITHOUT CONSENT.—A taxpayer may, without the consent of the Secretary, adopt the method provided in this subsection for his first taxable year for which expenditures described in paragraph (1) are paid or incurred.".

(25) AMORTIZATION OF CERTAIN RESEARCH AND EXPERIMENTAL EXPENDITURES.—Paragraph (2) of section 174(b)(2) is amended by striking "beginning after December 31, 1953".

(26) SOIL AND WATER CONSERVATION EXPENDITURES.—Paragraph (1) of section 175(d) is amended to read as follows:

"(1) WITHOUT CONSENT.—A taxpayer may, without the consent of the Secretary, adopt the method provided in this section for his first taxable year for which expenditures described in subsection (a) are paid or incurred.".

(27) ACTIVITIES NOT ENGAGED IN FOR PROFIT.—Section 183(e)(1) is amended by striking the last sentence.

(28) DIVIDENDS RECEIVED ON CERTAIN PREFERRED STOCK; AND DIVIDENDS PAID ON CERTAIN PREFERRED STOCK OF PUBLIC UTILITIES.—

(A) Sections 244 and 247 are hereby repealed and the table of sections for part VIII of subchapter B of chapter 1 is amended by striking the items relating to sections 244 and 247.

(B) Paragraph (5) of section 172(d) is amended to read as follows:

"(5) COMPUTATION OF DEDUCTION FOR DIVIDENDS RECEIVED.—The deductions allowed by section 243 (relating to dividends received by corporations) and 245 (relating to dividends received from certain foreign corporations) shall be computed without regard to section 246(b) (relating to limitation on aggregate amount of deductions).".

(C) Paragraph (1) of section 243(c) is amended to read as follows:

"(1) IN GENERAL.—In the case of any dividend received from a 20-percent owned corporation, subsection (a)(1) shall be applied by substituting '80 percent' for '70 percent'.".

(D) Section 243(d) is amended by striking paragraph (4).

(E) Section 246 is amended—

(i) by striking ", 244," in subsection (a)(1),

(ii) in subsection (b)(1)—

(I) by striking "sections 243(a)(1), and 244(a)," the first place it appears and inserting "section 243(a)(1),",

(II) by striking "244(a)," the second place it appears therein, and

(III) by striking "subsection (a) or (b) of section 245, and 247," and inserting "and subsection (a) or (b) of section 245,", and

(iii) by striking ", 244," in subsection (c)(1).

(F) Section 246A is amended by striking ", 244," both places it appears in subsections (a) and (e).

(G) Sections 263(g)(2)(B)(iii), 277(a), 301(e)(2), 469(e)(4), 512(a)(3)(A), subparagraphs (A), (C), and (D) of section 805(a)(4), 805(b)(5), 812(e)(2)(A), 815(c)(2)(A)(iii), 832(b)(5), 833(b)(3)(E), 1059(b)(2)(B), and 1244(c)(2)(C) are each amended by striking ", 244," each place it appears.

(H) Section 805(a)(4)(B) is amended by striking ", 244(a)," each place it appears.

(I) Section 810(c)(2)(B) is amended by striking "244 (relating to dividends on certain preferred stock of public utilities),".

(29) ORGANIZATION EXPENSES.—Section 248(c) is amended by striking "beginning after December 31, 1953," and by striking the last sentence.

(30) BOND REPURCHASE PREMIUM.—Section 249(b)(1) is amended by striking ", in the case of bonds or other evidences of indebtedness issued after February 28, 1913,".

(31) AMOUNT OF GAIN WHERE LOSS PREVIOUSLY DISALLOWED.—Section 267(d) is amended by striking "(or by reason of section 24(b) of the Internal Revenue Code of 1939)" in paragraph (1), by striking "after December 31, 1953," in paragraph (2), by striking the second sentence, and by striking "or by reason of section 118 of the Internal Revenue Code of 1939" in the last sentence.

(32) ACQUISITIONS MADE TO EVADE OR AVOID INCOME TAX.—Paragraphs (1) and (2) of section 269(a) are each amended by striking "or acquired on or after October 8, 1940,".

(33) INTEREST ON INDEBTEDNESS INCURRED BY CORPORATIONS TO ACQUIRE STOCK OR ASSETS OF ANOTHER CORPORATION.—Section 279 is amended—

(A) by striking "after December 31, 1967," in subsection (a)(2),

(B) by striking "after October 9, 1969," in subsection (b),

(C) by striking "after October 9, 1969, and" in subsection (d)(5), and

(D) by striking subsection (i) and by redesignating subsection (j) as subsection (i).

(34) SPECIAL RULES RELATING TO CORPORATE PREFERENCE ITEMS.—Paragraph (4) of section 291(a) is amended by striking "In the case of taxable years beginning after December 31, 1984, section" and inserting "Section".

(35) QUALIFICATIONS FOR TAX CREDIT EMPLOYEE STOCK OWNERSHIP PLAN.—Section 409 is amended by striking subsections (a), (g), and (q).

(36) FUNDING STANDARDS.—Section 412(m)(4) is amended—

(A) by striking "the applicable percentage" in subparagraph (A) and inserting "25 percent", and

(B) by striking subparagraph (C) and by redesignating subparagraph (D) as subparagraph (C).

(37) RETIREE HEALTH ACCOUNTS.—Section 420 is amended—

(A) by striking paragraph (4) in subsection (b) and by redesignating paragraph (5) as paragraph (4), and

(B) by amending paragraph (2) of subsection (c) to read as follows:

"(2) REQUIREMENTS RELATING TO PENSION BENEFITS ACCRUING BEFORE TRANSFER.—The requirements of this paragraph are met if the plan provides that the accrued pension benefits of any participant or beneficiary under the plan become nonforfeitable in the same manner which would be required if the plan had terminated immediately before the qualified transfer (or in the case of a participant who separated during the 1-year period ending on the date of the transfer, immediately before such separation).".

(38) EMPLOYEE STOCK PURCHASE PLANS.—Section 423(a) is amended by striking "after December 31, 1963,".

(39) LIMITATION ON DEDUCTIONS FOR CERTAIN FARMING.—Section 464 is amended—

(A) by striking "any farming syndicate (as defined in subsection (c))" both places it appears in subsections (a) and (b) and inserting "any taxpayer to whom subsection (f) applies", and

(B) by striking subsection (g).

(40) DEDUCTIONS LIMITED TO AMOUNT AT RISK.—

(A) Paragraph (3) of section 465(c) is amended by striking "In the case of taxable years beginning after December 31, 1978, this" and inserting "This".

(B) Paragraph (2) of section 465(e)(2)(A) is amended by striking "beginning after December 31, 1978".

(41) NUCLEAR DECOMMISSIONING COSTS.—Section 468A(e)(2) is amended—

(A) by striking "at the rate set forth in subparagraph (B)" in subparagraph (A) and inserting "at a rate of 20 percent", and

(B) by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(42) PASSIVE ACTIVITY LOSSES AND CREDITS LIMITED.—

(A) Section 469 is amended by striking subsection (m).

(B) Subsection (b) of section 58 is amended by adding "and" at the end of paragraph (1), by striking paragraph (2), and by redesignating paragraph (3) as paragraph (2).

(43) ADJUSTMENTS REQUIRED BY CHANGES IN METHOD OF ACCOUNTING.—Section 481(b)(3) is amended by striking subparagraph (C).

(44) EXEMPTION FROM TAX ON CORPORATIONS, CERTAIN TRUSTS, ETC.—Section 501 is amended by striking subsection (q).

(45) REQUIREMENTS FOR EXEMPTION.—

(A) Section 503(a)(1) is amended to read as follows:

"(1) GENERAL RULE.—An organization described in paragraph (17) or (18) of section 501(c) or described in section 401(a) and referred to in section 4975(g)(2) or (3) shall not be exempt from taxation under section 501(a) if it has engaged in a prohibited transaction.".

(B) Paragraph (2) of section 503(a) is amended by striking "described in section 501(c)(17) or (18) or paragraph (a)(1)(B)" and inserting "described in paragraph (1)".

(C) Subsection (c) of section 503 is amended by striking "described in section 501(c)(17) or (18) or subsection (a)(1)(B)" and inserting "described in subsection (a)(1)".

(46) AMOUNTS RECEIVED BY SURVIVING ANNUITANT UNDER JOINT AND SURVIVOR ANNUITY CONTRACT.—Subparagraph (A) of section 691(d)(1) is amended by striking "after December 31, 1953, and".

(47) INCOME TAXES OF MEMBERS OF ARMED FORCES ON DEATH.—Section 692(a)(1) is amended by striking "after June 24, 1950".

(48) INSURANCE COMPANY TAXABLE INCOME.—

(A) Section 832(e) is amended by striking "of taxable years beginning after December 31, 1966,".

(B) Section 832(e)(6) is amended by striking "In the case of any taxable year beginning after December 31, 1970, the" and by inserting "The".

(49) TAX ON NONRESIDENT ALIEN INDIVIDUALS.—Subparagraph (B) of section 871(a)(1) is amended to read as follows:

"(B) gains described in subsection (b) or (c) of section 631,".

(50) PROPERTY ON WHICH LESSEE HAS MADE IMPROVEMENTS.—Section 1019 is amended by striking the last sentence.

(51) INVOLUNTARY CONVERSION.—Section 1033 is amended by striking subsection (j) and by redesignating subsection (k) as subsection (j).

(52) PROPERTY ACQUIRED DURING AFFILIATION.—Section 1051 is repealed and the table of sections for part IV of subchapter O of chapter 1 is amended by striking the item relating to section 1051.

(53) HOLDING PERIOD OF PROPERTY.—

(A) Paragraph (5) of section 1223 is amended by striking "(or under so much of section 1052(c) as refers to section 113(a)(23) of the Internal Revenue Code of 1939)".

(B) Paragraph (7) of section 1223 is amended by striking the last sentence.

(C) Paragraph (9) of section 1223 is repealed.

(54) PROPERTY USED IN THE TRADE OR BUSINESS AND INVOLUNTARY CONVERSIONS.—Subparagraph (A) of section 1231(c)(2) is amended by striking "beginning after December 31, 1981".

(55) SALE OR EXCHANGE OF PATENTS.—Section 1235 is amended—

(A) by striking subsection (c) and by redesignating subsections (d) and (e) as (c) and (d), respectively, and

(B) by striking "(d)" in subsection (b) and inserting "(c)".

(56) DEALERS IN SECURITIES.—Subsection (b) of section 1236 is amended by striking "after November 19, 1951,".

(57) SALE OF PATENTS.—Subsection (a) of section 1249 is amended by striking "after December 31, 1962,".

(58) GAIN FROM DISPOSITION OF FARM LAND.—Paragraph (1) of section 1252(a) is amended by striking "after December 31, 1969," both places it appears.

(59) TREATMENT OF AMOUNTS RECEIVED ON RETIREMENT OR SALE OR EXCHANGE OF DEBT INSTRUMENTS.—Subsection (c) of section 1271 is amended to read as follows:

"(c) SPECIAL RULE FOR CERTAIN OBLIGATIONS WITH RESPECT TO WHICH ORIGINAL ISSUE DISCOUNT NOT CURRENTLY INCLUDIBLE.—

"(1) IN GENERAL.—On the sale or exchange of debt instruments issued by a government or political subdivision thereof after December 31, 1954, and before July 2, 1982, or by a corporation after December 31, 1954, and on or before May 27, 1969, any gain realized which does not exceed—

"(A) an amount equal to the original issue discount, or

"(B) if at the time of original issue there was no intention to call the debt instrument before maturity, an amount which bears the same ratio to the original issue discount as the number of complete months that the debt instrument was held by the taxpayer bears to the number of complete months from the date of original issue to the date of maturity,

shall be considered as ordinary income.

"(2) SUBSECTION (a)(2)(A) NOT TO APPLY.—Subsection (a)(2)(A) shall not apply to any debt instrument referred to in subparagraph (A) of this paragraph.

"(3) CROSS REFERENCE.—

"For current inclusion of original issue discount, see section 1272.".

(60) AMOUNT AND METHOD OF ADJUSTMENT.—Section 1314 is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(61) ELECTION; REVOCATION; TERMINATION.—Clause (iii) of section 1362(d)(3) is amended by striking "unless" and all that follows and inserting "unless the corporation was an S corporation for such taxable year.".

(62) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—Subsection (a) of section 1401 is amended by striking "the following percent" and all that follows and inserting "12.4 percent of the amount of the self-employment income for such taxable year.".

(63) HOSPITAL INSURANCE.—Subsection (b) of section 1401 is amended by striking "the following percent" and all that follows and inserting "2.9 percent of the amount of the self-employment income for such taxable year.".

(64) MINISTERS, MEMBERS OF RELIGIOUS ORDERS, AND CHRISTIAN SCIENCE PRACTITIONERS.—Paragraph (3) of section 1402(e) is amended by striking "whichever of the following dates is later: (A)" and by striking "; or (B)" and all that follows and by inserting a period.

(65) WITHHOLDING OF TAX ON NONRESIDENT ALIENS.—The first sentence of subsection (b) of section 1441 and the first sentence of paragraph (5) of section 1441(c) are each amended by striking "gains subject to tax" and all that follows through "October 4, 1966" and inserting "and gains subject to tax under section 871(a)(1)(D)".

(66) AFFILIATED GROUP DEFINED.—Subparagraph (A) of section 1504(a)(3) is amended by striking "for a taxable year which includes any period after December 31, 1984" in clause (i) and by striking "in a taxable year beginning after December 31, 1984" in clause (ii).

(67) DISALLOWANCE OF THE BENEFITS OF THE GRADUATED CORPORATE RATES AND ACCUMULATED EARNINGS CREDIT.—

(A) Subsection (a) of section 1551 is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(B) Section 1551(b) is amended—

(i) by striking "or (2)" in paragraph (1), and

(ii) by striking "(a)(3)" in paragraph (2) and inserting "(a)(2)".

(68) DEFINITION OF WAGES.—Section 3121(b) is amended by striking paragraph (17).

(69) CREDITS AGAINST TAX.—

(A) Paragraph (4) of section 3302(f) is amended by striking "subsection—" and all that follows through "(A) IN GENERAL.—", by striking subparagraph (B), by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively, and by moving the text of such subparagraphs (as so redesignated) 2 ems to the left.

(B) Paragraph (5) of section 3302(f) is amended by striking subparagraphs (D) and by redesignating subparagraph (E) as subparagraph (D).

(70) DOMESTIC SERVICE EMPLOYMENT TAXES.—Section 3510(b) is amended by striking paragraph (4).

(71) TAX ON FUEL USED IN COMMERCIAL TRANSPORTATION ON INLAND WATERWAYS.—Section 4042(b)(2)(A) is amended to read as follows:

"(A) The Inland Waterways Trust Fund financing rate is 20 cents per gallon.".

(72) TRANSPORTATION BY AIR.—Section 4261(e) is amended—

(A) in paragraph (1) by striking subparagraph (C), and

(B) by striking paragraph (5).

(73) TAXES ON FAILURE TO DISTRIBUTE INCOME.—Section 4942 is amended—

(A) by striking subsection (f)(2)(D),

(B) in subsection (g)(2)(A) by striking "For all taxable years beginning on or after January 1, 1975, subject" and inserting "Subject",

(C) in subsection (g) by striking paragraph (4), and

(D) in subsection (i)(2) by striking "beginning after December 31, 1969, and".

(74) TAXES ON TAXABLE EXPENDITURES.—Section 4945(f) is amended by striking "(excluding therefrom any preceding taxable year which begins before January 1, 1970)".

(75) RETURNS.—Subsection (a) of section 6039D is amended by striking "beginning after December 31, 1984,".

(76) INFORMATION RETURNS.—Subsection (c) of section 6060 is amended by striking "year" and all that follows and inserting "year.".

(77) ABATEMENTS.—Section 6404(f) is amended by striking paragraph (3).

(78) FAILURE BY CORPORATION TO PAY ESTIMATED INCOME TAX.—Clause (i) of section 6655(g)(4)(A) is amended by striking "(or the corresponding provisions of prior law)".

(79) RETIREMENT.—Section 7447(i)(3)(B)(ii) is amended by striking "at 4 percent per annum to December 31, 1947, and at 3 percent per annum thereafter", and inserting "at 3 percent per annum".

(80) ANNUITIES TO SURVIVING SPOUSES AND DEPENDENT CHILDREN OF JUDGES.—

(A) Paragraph (2) of section 7448(a) is amended by striking "or under section 1106 of the Internal Revenue Code of 1939" and by striking "or pursuant to section 1106(d) of the Internal Revenue Code of 1939".

(B) Subsection (g) of section 7448 is amended by striking "or other than pursuant to section 1106 of the Internal Revenue Code of 1939".

(C) Subsections (g), (j)(1), and (j)(2) of section 7448 are each amended by striking "at 4 percent per annum to December 31, 1947, and at 3 percent per annum thereafter" and inserting "at 3 percent per annum".

(81) MERCHANT MARINE CAPITAL CONSTRUCTION FUNDS.—Paragraph (4) of section 7518(g) is amended by striking "any nonqualified withdrawal" and all that follows through "shall be determined" and inserting "any nonqualified withdrawal shall be determined".

(82) VALUATION TABLES.—Paragraph (3) of section 7520(c) is amended—

(A) by striking "Not later than December 31, 1989, the" and inserting "The", and

(B) by striking "thereafter" in the last sentence thereof.

(83) ADMINISTRATION AND COLLECTION OF TAXES IN POSSESSIONS.—Section 7651 is amended by striking paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(84) DEFINITION OF EMPLOYEE.—(A) Section 7701(a)(20) is amended by striking "chapter 21" and all that follows and inserting "chapter 21.".

(b) EFFECTIVE DATE.—

(1) GENERAL RULE.—Except as otherwise provided in paragraph (2), the amendments made by subsection (a) shall take effect on the date of enactment of this Act.

(2) SAVINGS PROVISION.—If—

(A) any provision amended or repealed by subsection (a) applied to—

(i) any transaction occurring before the date of the enactment of this Act,

(ii) any property acquired before such date of enactment, or

(iii) any item of income, loss, deduction, or credit taken into account before such date of enactment, and

(B) the treatment of such transaction, property, or item under such provision would (without regard to the amendments made by subsection (a)) affect the liability for tax for periods ending after such date of enactment,

nothing in the amendments made by subsection (a) shall be construed to affect the treatment of such transaction, property, or item for purposes of determining liability for tax for periods ending after such date of enactment.

TITLE VI—REVENUE PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

SEC. 601. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

“SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORTABLE TRANSACTION INFORMATION WITH RETURN OR STATEMENT.

“(a) IMPOSITION OF PENALTY.—Any person who fails to include on any return or statement any information with respect to a reportable transaction which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

“(b) AMOUNT OF PENALTY.—

“(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

“(2) LISTED TRANSACTION.—The amount of the penalty under subsection (a) with respect to a listed transaction shall be $100,000.

“(3) INCREASE IN PENALTY FOR LARGE ENTITIES AND HIGH NET WORTH INDIVIDUALS.—

“(A) IN GENERAL.—In the case of a failure under subsection (a) by—

“(i) a large entity, or

“(ii) a high net worth individual,

the penalty under paragraph (1) or (2) shall be twice the amount determined without regard to this paragraph.

“(B) LARGE ENTITY.—For purposes of subparagraph (A), the term ‘large entity’ means, with respect to any taxable year, a person (other than a natural person) with gross receipts in excess of $10,000,000 for the taxable year in which the reportable transaction occurs or the preceding taxable year. Rules similar to the rules of paragraph (2) and subparagraphs (B), (C), and (D) of paragraph (3) of section 448(c) shall apply for purposes of this subparagraph.

“(C) HIGH NET WORTH INDIVIDUAL.—For purposes of subparagraph (A), the term ‘high net worth individual’ means, with respect to a reportable transaction, a natural person whose net worth exceeds $2,000,000 immediately before the transaction.

“(c) DEFINITIONS.—For purposes of this section—

“(1) REPORTABLE TRANSACTION.—The term ‘reportable transaction’ means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

“(2) LISTED TRANSACTION.—Except as provided in regulations, the term ‘listed transaction’ means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

“(d) AUTHORITY TO RESCIND PENALTY.—

“(1) IN GENERAL.—The Commissioner of Internal Revenue may rescind all or any portion of any penalty imposed by this section with respect to any violation if—

“(A) the violation is with respect to a reportable transaction other than a listed transaction,

“(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

“(C) it is shown that the violation is due to an unintentional mistake of fact;

“(D) imposing the penalty would be against equity and good conscience, and

“(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

“(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

“(3) NO APPEAL.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

“(4) RECORDS.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

“(A) the facts and circumstances of the transaction,

“(B) the reasons for the rescission, and

“(C) the amount of the penalty rescinded.

“(5) REPORT.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

“(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

“(B) a description of each penalty rescinded under this subsection and the reasons therefor.

“(e) PENALTY REPORTED TO SEC.—In the case of a person—

“(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

“(2) which—

“(A) is required to pay a penalty under this section with respect to a listed transaction, or

“(B) is required to pay a penalty under section 6662A with respect to any reportable transaction at a rate prescribed under section 6662A(c),

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

“(f) COORDINATION WITH OTHER PENALTIES.—The penalty imposed by this section is in addition to any penalty imposed under this title.”.

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

“Sec. 6707A. Penalty for failure to include reportable transaction information with return or statement.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

SEC. 602. ACCURACY-RELATED PENALTY FOR LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662 the following new section:

“SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERSTATEMENTS WITH RESPECT TO REPORTABLE TRANSACTIONS.

“(a) IMPOSITION OF PENALTY.—If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of such understatement.

“(b) REPORTABLE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

“(1) IN GENERAL.—The term ‘reportable transaction understatement’ means the sum of—

“(A) the product of—

“(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of such item (as shown on the taxpayer's return of tax), and

“(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

“(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer's treatment of an item to which this section applies (as shown on the taxpayer's return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

“(2) ITEMS TO WHICH SECTION APPLIES.—This section shall apply to any item which is attributable to—

“(A) any listed transaction, and

“(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

“(c) HIGHER PENALTY FOR NONDISCLOSED LISTED AND OTHER AVOIDANCE TRANSACTIONS.—

“(1) IN GENERAL.—Subsection (a) shall be applied by substituting ‘30 percent’ for ‘20 percent’ with respect to the portion of any reportable transaction understatement with respect to which the requirement of section 6664(d)(2)(A) is not met.

“(2) RULES APPLICABLE TO ASSERTION AND COMPROMISE OF PENALTY.—

“(A) IN GENERAL.—Only upon the approval by the Chief Counsel for the Internal Revenue Service or the Chief Counsel's delegate at the national office of the Internal Revenue Service may a penalty to which paragraph (1) applies be included in a 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals. If such a letter is provided to the taxpayer, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

“(B) APPLICABLE RULES.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of subparagraph (A).

“(d) DEFINITIONS OF REPORTABLE AND LISTED TRANSACTIONS.—For purposes of this section, the terms ‘reportable transaction’ and ‘listed transaction’ have the respective meanings given to such terms by section 6707A(c).

“(e) SPECIAL RULES.—

“(1) COORDINATION WITH PENALTIES, ETC., ON OTHER UNDERSTATEMENTS.—In the case of an understatement (as defined in section 6662(d)(2))—

“(A) the amount of such understatement (determined without regard to this paragraph) shall be increased by the aggregate amount of reportable transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), and

“(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the

application of subparagraph (A) over the aggregate amount of reportable transaction understatements.

"(2) COORDINATION WITH OTHER PENALTIES.—

"(A) APPLICATION OF FRAUD PENALTY.—References to an underpayment in section 6663 shall be treated as including references to a reportable transaction understatement.

"(B) NO DOUBLE PENALTY.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6663.

"(3) SPECIAL RULE FOR AMENDED RETURNS.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

"(4) CROSS REFERENCE.—

"For reporting of section 6662A(c) penalty to the Securities and Exchange Commission, see section 6707A(e).".

(b) DETERMINATION OF OTHER UNDERSTATEMENTS.—Subparagraph (A) of section 6662(d)(2) is amended by adding at the end the following flush sentence:

"The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies.".

(c) REASONABLE CAUSE EXCEPTION.—

(1) IN GENERAL.—Section 6664 is amended by adding at the end the following new subsection:

"(d) REASONABLE CAUSE EXCEPTION FOR REPORTABLE TRANSACTION UNDERSTATEMENTS.—

"(1) IN GENERAL.—No penalty shall be imposed under section 6662A with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

"(2) SPECIAL RULES.—Paragraph (1) shall not apply to any reportable transaction understatement unless—

"(A) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under section 6011,

"(B) there is or was substantial authority for such treatment, and

"(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the requirements of subparagraph (A) if the penalty for such failure was rescinded under section 6707A(d).

"(3) RULES RELATING TO REASONABLE BELIEF.—For purposes of paragraph (2)(C)—

"(A) IN GENERAL.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

"(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

"(ii) relates solely to the taxpayer's chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

"(B) CERTAIN OPINIONS MAY NOT BE RELIED UPON.—

"(i) IN GENERAL.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

"(I) the tax advisor is described in clause (ii), or

"(II) the opinion is described in clause (iii).

"(ii) DISQUALIFIED TAX ADVISORS.—A tax advisor is described in this clause if the tax advisor—

"(I) is a material advisor (within the meaning of section 6111(b)(1)) who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

"(II) is compensated directly or indirectly by a material advisor with respect to the transaction,

"(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained, or

"(IV) as determined under regulations prescribed by the Secretary, has a disqualifying financial interest with respect to the transaction.

"(iii) DISQUALIFIED OPINIONS.—For purposes of clause (i), an opinion is disqualified if the opinion—

"(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

"(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

"(III) does not identify and consider all relevant facts, or

"(IV) fails to meet any other requirement as the Secretary may prescribe.".

(2) CONFORMING AMENDMENT.—The heading for subsection (c) of section 6664 is amended by inserting "FOR UNDERPAYMENTS" after "EXCEPTION".

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking "(as defined in section 6662(d)(2)(C)(iii))" in subparagraph (B)(i), and

(B) by adding at the end the following new subparagraph:

"(C) TAX SHELTER.—For purposes of subparagraph (B), the term 'tax shelter' means—

"(i) a partnership or other entity,

"(ii) any investment plan or arrangement, or

"(iii) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.".

(3) Section 6662(d)(2) is amended by striking subparagraphs (C) and (D).

(4) Section 6664(c)(1) is amended by striking "this part" and inserting "section 6662 or 6663".

(5) Subsection (b) of section 7525 is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(6)(A) The heading for section 6662 is amended to read as follows:

"SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERPAYMENTS.".

(B) The table of sections for part II of subchapter A of chapter 68 is amended by striking the item relating to section 6662 and inserting the following new items:

"Sec. 6662. Imposition of accuracy-related penalty on underpayments.

"Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 603. MODIFICATIONS OF SUBSTANTIAL UNDERSTATEMENT PENALTY FOR NONREPORTABLE TRANSACTIONS.

(a) SUBSTANTIAL UNDERSTATEMENT OF CORPORATIONS.—Section 6662(d)(1)(B) (relating to special rule for corporations) is amended to read as follows:

"(B) SPECIAL RULE FOR CORPORATIONS.—In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

"(i) 10 percent of the tax required to be shown on the return for the taxable year (or, if greater, $10,000), or

"(ii) $10,000,000.".

(b) REDUCTION FOR UNDERSTATEMENT OF TAXPAYER DUE TO POSITION OF TAXPAYER OR DISCLOSED ITEM.—

(1) IN GENERAL.—Section 6662(d)(2)(B)(i) (relating to substantial authority) is amended to read as follows:

"(i) the tax treatment of any item by the taxpayer if the taxpayer had reasonable belief that the tax treatment was more likely than not the proper treatment, or".

(2) CONFORMING AMENDMENT.—Section 6662(d) is amended by adding at the end the following new paragraph:

"(3) SECRETARIAL LIST.—For purposes of this subsection, section 6664(d)(2), and section 6694(a)(1), the Secretary may prescribe a list of positions for which the Secretary believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper tax treatment. Such list (and any revisions thereof) shall be published in the Federal Register or the Internal Revenue Bulletin.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 604. TAX SHELTER EXCEPTION TO CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.

(a) IN GENERAL.—Section 7525(b) (relating to section not to apply to communications regarding corporate tax shelters) is amended to read as follows:

"(b) SECTION NOT TO APPLY TO COMMUNICATIONS REGARDING TAX SHELTERS.—The privilege under subsection (a) shall not apply to any written communication which is—

"(1) between a federally authorized tax practitioner and—

"(A) any person,

"(B) any director, officer, employee, agent, or representative of the person, or

"(C) any other person holding a capital or profits interest in the person, and

"(2) in connection with the promotion of the direct or indirect participation of the person in any tax shelter (as defined in section 1274(b)(3)(C)).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to communications made on or after the date of the enactment of this Act.

SEC. 605. DISCLOSURE OF REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

"SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.

"(a) IN GENERAL.—Each material advisor with respect to any reportable transaction shall make a return (in such form as the Secretary may prescribe) setting forth—

"(1) information identifying and describing the transaction,

"(2) information describing any potential tax benefits expected to result from the transaction, and

"(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date specified by the Secretary.

"(b) DEFINITIONS.—For purposes of this section—

"(1) MATERIAL ADVISOR.—

"(A) IN GENERAL.—The term 'material advisor' means any person—

"(i) who provides any material aid, assistance, or advice with respect to organizing, managing, promoting, selling, implementing, or carrying out any reportable transaction, and

"(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

"(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A), the threshold amount is—

"(i) $50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons, and

"(ii) $250,000 in any other case.

"(2) REPORTABLE TRANSACTION.—The term 'reportable transaction' has the meaning given to such term by section 6707A(c).

"(c) REGULATIONS.—The Secretary may prescribe regulations which provide—

"(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

"(2) exemptions from the requirements of this section, and

"(3) such rules as may be necessary or appropriate to carry out the purposes of this section.".

(b) CONFORMING AMENDMENTS.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6111. Disclosure of reportable transactions.".

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

"SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANSACTIONS MUST KEEP LISTS OF ADVISEES.

"(a) IN GENERAL.—Each material advisor (as defined in section 6111) with respect to any reportable transaction (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

"(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such transaction, and

"(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction.".

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting "written" before "request" in paragraph (1)(A), and

(ii) by striking "shall prescribe" in paragraph (2) and inserting "may prescribe".

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6112. Material advisors of reportable transactions must keep lists of advisees.".

(3)(A) The heading for section 6708 is amended to read as follows:

"SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES WITH RESPECT TO REPORTABLE TRANSACTIONS.".

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

"Sec. 6708. Failure to maintain lists of advisees with respect to reportable transactions.".

(c) REQUIRED DISCLOSURE NOT SUBJECT TO CLAIM OF CONFIDENTIALITY.—Subparagraph (A) of section 6112(b)(1), as redesignated by subsection (b)(2)(B), is amended by adding at the end the following new flush sentence:

"For purposes of this section, the identity of any person on such list shall not be privileged.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section) is provided after the date of the enactment of this Act.

(2) NO CLAIM OF CONFIDENTIALITY AGAINST DISCLOSURE.—The amendment made by subsection (c) shall take effect as if included in the amendments made by section 142 of the Deficit Reduction Act of 1984.

SEC. 606. MODIFICATIONS TO PENALTY FOR FAILURE TO REGISTER TAX SHELTERS.

(a) IN GENERAL.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

"SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING REPORTABLE TRANSACTIONS.

"(a) IN GENERAL.—If a person who is required to file a return under section 6111(a) with respect to any reportable transaction—

"(1) fails to file such return on or before the date prescribed therefor, or

"(2) files false or incomplete information with the Secretary with respect to such transaction,

such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be $50,000.

"(2) LISTED TRANSACTIONS.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

"(A) $200,000, or

"(B) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the listed transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in subsection (a).

"(c) CERTAIN RULES TO APPLY.—The provisions of section 6707A(d) shall apply to any penalty imposed under this section.

"(d) REPORTABLE AND LISTED TRANSACTIONS.—The terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).".

(b) CLERICAL AMENDMENT.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking "tax shelters" and inserting "reportable transactions".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

SEC. 607. MODIFICATION OF PENALTY FOR FAILURE TO MAINTAIN LISTS OF INVESTORS.

(a) IN GENERAL.—Subsection (a) of section 6708 is amended to read as follows:

"(a) IMPOSITION OF PENALTY.—

"(1) IN GENERAL.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day.

"(2) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if such failure is due to reasonable cause.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 608. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 7408 (relating to action to enjoin promoters of abusive tax shelters, etc.) is amended by redesignating subsection (c) as subsection (d) and by striking subsections (a) and (b) and inserting the following new subsections:

"(a) AUTHORITY TO SEEK INJUNCTION.—A civil action in the name of the United States to enjoin any person from further engaging in specified conduct may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in specified conduct. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

"(b) ADJUDICATION AND DECREE.—In any action under subsection (a), if the court finds—

"(1) that the person has engaged in any specified conduct, and

"(2) that injunctive relief is appropriate to prevent recurrence of such conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under this title.

"(c) SPECIFIED CONDUCT.—For purposes of this section, the term 'specified conduct' means any action, or failure to take action, subject to penalty under section 6700, 6701, 6707, or 6708.".

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 7408 is amended to read as follows:

"SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.".

(2) The table of sections for subchapter A of chapter 67 is amended by striking the item relating to section 7408 and inserting the following new item:

"Sec. 7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the day after the date of the enactment of this Act.

SEC. 609. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY INCOME TAX RETURN PREPARER.

(a) STANDARDS CONFORMED TO TAXPAYER STANDARDS.—Section 6694(a) (relating to understatements due to unrealistic positions) is amended—

(1) by striking "realistic possibility of being sustained on its merits" in paragraph (1) and inserting "reasonable belief that the tax treatment in such position was more likely than not the proper treatment",

(2) by striking "or was frivolous" in paragraph (3) and inserting "or there was no reasonable basis for the tax treatment of such position", and

(3) by striking "UNREALISTIC" in the heading and inserting "IMPROPER".

(b) AMOUNT OF PENALTY.—Section 6694 is amended—

(1) by striking "$250" in subsection (a) and inserting "$1,000", and

(2) by striking "$1,000" in subsection (b) and inserting "$5,000".

(c) Effective Date.—The amendments made by this section shall apply to documents prepared after the date of the enactment of this Act.

SEC. 610. REGULATION OF INDIVIDUALS PRACTICING BEFORE THE DEPARTMENT OF TREASURY.

(a) Censure; Imposition of Penalty.—

(1) In general.—Section 330(b) of title 31, United States Code, is amended—

(A) by inserting ", or censure," after "Department", and

(B) by adding at the end the following new flush sentence:

"The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty shall not exceed the gross income derived (or to be derived) from the conduct giving rise to the penalty and may be in addition to, or in lieu of, any suspension, disbarment, or censure of the representative.".

(2) Effective date.—The amendments made by this subsection shall apply to actions taken after the date of the enactment of this Act.

(b) Tax Shelter Opinions, etc.—Section 330 of such title 31 is amended by adding at the end the following new subsection:

"(d) Nothing in this section or in any other provision of law shall be construed to limit the authority of the Secretary of the Treasury to impose standards applicable to the rendering of written advice with respect to any entity, transaction plan or arrangement, or other plan or arrangement, which is of a type which the Secretary determines as having a potential for tax avoidance or evasion.".

SEC. 611. PENALTY ON PROMOTERS OF TAX SHELTERS.

(a) Penalty on Promoting Abusive Tax Shelters.—Section 6700(a) is amended by adding at the end the following new sentence: "Notwithstanding the first sentence, if an activity with respect to which a penalty imposed under this subsection involves a statement described in paragraph (2)(A), the amount of the penalty shall be equal to 50 percent of the gross income derived (or to be derived) from such activity by the person on which the penalty is imposed.".

(b) Effective Date.—The amendment made by this section shall apply to activities after the date of the enactment of this Act.

SEC. 612. STATUTE OF LIMITATIONS FOR TAXABLE YEARS FOR WHICH REQUIRED LISTED TRANSACTIONS NOT REPORTED.

(a) In General.—Section 6501(c) (relating to exceptions) is amended by adding at the end the following new paragraph:

"(10) Listed transactions.—If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a listed transaction (as defined in section 6707A(c)(2)) which is required under section 6011 to be included with such return or statement, the time for assessment of any tax imposed by this title with respect to such transaction shall not expire before the date which is 1 year after the earlier of—

"(A) the date on which the Secretary is furnished the information so required; or

"(B) the date that a material advisor (as defined in section 6111) meets the requirements of section 6112 with respect to a request by the Secretary under section 6112(b) relating to such transaction with respect to such taxpayer.".

(b) Effective Date.—The amendment made by this section shall apply to taxable years with respect to which the period for assessing a deficiency did not expire before the date of the enactment of this Act.

SEC. 613. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO TAX-MOTIVATED TRANSACTIONS.

(a) In General.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) Interest on Unpaid Taxes Attributable To Nondisclosed Reportable Transactions.—No deduction shall be allowed under this chapter for any interest paid or accrued under section 6601 on any underpayment of tax which is attributable to the portion of any reportable transaction understatement (as defined in section 6662A(b)) with respect to which the requirement of section 6664(d)(2)(A) is not met.".

(b) Effective Date.—The amendments made by this section shall apply to transactions in taxable years beginning after the date of the enactment of this Act.

SEC. 614. AUTHORIZATION OF APPROPRIATIONS FOR TAX LAW ENFORCEMENT.

There is authorized to be appropriated $300,000,000 for each fiscal year beginning after September 30, 2003, for the purpose of carrying out tax law enforcement to combat tax avoidance transactions and other tax shelters, including the use of offshore financial accounts to conceal taxable income.

PART II—OTHER CORPORATE GOVERNANCE PROVISIONS

SEC. 621. AFFIRMATION OF CONSOLIDATED RETURN REGULATION AUTHORITY.

(a) In General.—Section 1502 (relating to consolidated return regulations) is amended by adding at the end the following new sentence: "In prescribing such regulations, the Secretary may prescribe rules applicable to corporations filing consolidated returns under section 1501 that are different from other provisions of this title that would apply if such corporations filed separate returns.".

(b) Result Not Overturned.—Notwithstanding subsection (a), the Internal Revenue Code of 1986 shall be construed by treating Treasury regulation §1.1502-20(c)(1)(iii) (as in effect on January 1, 2001) as being inapplicable to the type of factual situation in 255 F.3d 1357 (Fed. Cir. 2001).

(c) Effective Date.—The provisions of this section shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

SEC. 622. DECLARATION BY CHIEF EXECUTIVE OFFICER RELATING TO FEDERAL ANNUAL INCOME TAX RETURN OF A CORPORATION.

(a) In General.—The Federal annual tax return of a corporation with respect to income shall also include a declaration signed by the chief executive officer of such corporation (or other such officer of the corporation as the Secretary of the Treasury may designate if the corporation does not have a chief executive officer), under penalties of perjury, that the corporation has in place processes and procedures to ensure that such return complies with the Internal Revenue Code of 1986 and that the chief executive officer was provided reasonable assurance of the accuracy of all material aspects of such return. The preceding sentence shall not apply to any return of a regulated investment company (within the meaning of section 851 of such Code).

(b) Effective Date.—This section shall apply to the Federal annual tax return of a corporation with respect to income for taxable years ending after the date of the enactment of this Act.

SEC. 623. DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

(a) In General.—Subsection (f) of section 162 (relating to trade or business expenses) is amended to read as follows:

"(f) Fines, Penalties, and Other Amounts.—

"(1) In general.—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or entity described in paragraph (4) in relation to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law.

"(2) Exception for amounts constituting restitution.—Paragraph (1) shall not apply to any amount which the taxpayer establishes constitutes restitution (including remediation of property) for damage or harm caused by or which may be caused by the violation of any law or the potential violation of any law. This paragraph shall not apply to any amount paid or incurred as reimbursement to the government or entity for the costs of any investigation or litigation.

"(3) Exception for amounts paid or incurred as the result of certain court orders.—Paragraph (1) shall not apply to any amount paid or incurred by order of a court in a suit in which no government or entity described in paragraph (4) is a party.

"(4) Certain nongovernmental regulatory entities.—An entity is described in this paragraph if it is—

"(A) a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7)), or

"(B) to the extent provided in regulations, a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function.

"(5) Exception for taxes due.—Paragraph (1) shall not apply to any amount paid or incurred as taxes due.".

(b) Effective Date.—The amendment made by this section shall apply to amounts paid or incurred after April 27, 2003, except that such amendment shall not apply to amounts paid or incurred under any binding order or agreement entered into on or before April 27, 2003. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained on or before April 27, 2003.

SEC. 624. DISALLOWANCE OF DEDUCTION FOR PUNITIVE DAMAGES.

(a) Disallowance of Deduction.—

(1) In general.—Section 162(g) (relating to treble damage payments under the antitrust laws) is amended by adding at the end the following new paragraph:

"(2) Punitive damages.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).".

(2) Conforming amendments.—

(A) Section 162(g) is amended—

(i) by striking "If" and inserting:

"(1) Treble damages.—If", and

(ii) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively.

(B) The heading for section 162(g) is amended by inserting "or Punitive Damages" after "Laws".

(b) Inclusion in Income of Punitive Damages Paid by Insurer or Otherwise.—

(1) In general.—Part II of subchapter B of chapter 1 (relating to items specifically included

in gross income) is amended by adding at the end the following new section:

"SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSURANCE OR OTHERWISE.

"Gross income shall include any amount paid to or on behalf of a taxpayer as insurance or otherwise by reason of the taxpayer's liability (or agreement) to pay punitive damages.".

(2) REPORTING REQUIREMENTS.—Section 6041 (relating to information at source) is amended by adding at the end the following new subsection:

"(f) SECTION TO APPLY TO PUNITIVE DAMAGES COMPENSATION.—This section shall apply to payments by a person to or on behalf of another person as insurance or otherwise by reason of the other person's liability (or agreement) to pay punitive damages.".

(3) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end the following new item:

"Sec. 91. Punitive damages compensated by insurance or otherwise.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to damages paid or incurred on or after the date of the enactment of this Act.

SEC. 625. INCREASE IN CRIMINAL MONETARY PENALTY FOR INDIVIDUALS TO THE AMOUNT OF THE TAX AT ISSUE.

(a) IN GENERAL.—Section 7206 (relating to fraud and false statements) is amended—

(1) by striking "Any person who—" and inserting "(a) IN GENERAL.—Any person who—", and

(2) by adding at the end the following new subsection:

"(b) INCREASE IN MONETARY LIMITATION FOR UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.—If any portion of any underpayment (as defined in section 6664(a)) or overpayment (as defined in section 6203(a)) of tax required to be shown on a return is attributable to fraudulent action described in subsection (a), the applicable dollar amount under subsection (a) shall in no event be less than an amount equal to such portion. A rule similar to the rule under section 6663(b) shall apply for purposes of determining the portion so attributable.".

(b) INCREASE IN PENALTIES.—

(1) ATTEMPT TO EVADE OR DEFEAT TAX.—Section 7201 is amended—

(A) by striking "$100,000" and inserting "$250,000",

(B) by striking "$500,000" and inserting "$1,000,000", and

(C) by striking "5 years" and inserting "10 years".

(2) WILLFUL FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR PAY TAX.—Section 7203 is amended—

(A) in the first sentence—

(i) by striking "misdemeanor" and inserting "felony", and

(ii) by striking "1 year" and inserting "10 years", and

(B) by striking the third sentence.

(3) FRAUD AND FALSE STATEMENTS.—Section 7206(a) (as redesignated by subsection (a)) is amended—

(A) by striking "$100,000" and inserting "$250,000",

(B) by striking "$500,000" and inserting "$1,000,000", and

(C) by striking "3 years" and inserting "5 years".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to underpayments and overpayments attributable to actions occurring after the date of the enactment of this Act.

SEC. 626. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENTS.

(a) GENERAL RULE.—If—

(1) a taxpayer eligible to participate in—

(A) the Department of the Treasury's Offshore Voluntary Compliance Initiative, or

(B) the Department of the Treasury's voluntary disclosure initiative which applies to the taxpayer by reason of the taxpayer's underreporting of United States income tax liability through financial arrangements which rely on the use of offshore arrangements which were the subject of the initiative described in subparagraph (A), and

(2) any interest or applicable penalty is imposed with respect to any arrangement to which any initiative described in paragraph (1) applied or to any underpayment of Federal income tax attributable to items arising in connection with any arrangement described in paragraph (1),

then, notwithstanding any other provision of law, the amount of such interest or penalty shall be equal to twice that determined without regard to this section.

(b) DEFINITIONS AND RULES.—For purposes of this section—

(1) APPLICABLE PENALTY.—The term "applicable penalty" means any penalty, addition to tax, or fine imposed under chapter 68 of the Internal Revenue Code of 1986.

(2) VOLUNTARY OFFSHORE COMPLIANCE INITIATIVE.—The term "Voluntary Offshore Compliance Initiative" means the program established by the Department of the Treasury in January of 2003 under which any taxpayer was eligible to voluntarily disclose previously undisclosed income on assets placed in offshore accounts and accessed through credit card and other financial arrangements.

(3) PARTICIPATION.—A taxpayer shall be treated as having participated in the Voluntary Offshore Compliance Initiative if the taxpayer submitted the request in a timely manner and all information requested by the Secretary of the Treasury or his delegate within a reasonable period of time following the request.

(c) EFFECTIVE DATE.—The provisions of this section shall apply to interest, penalties, additions to tax, and fines with respect to any taxable year if as of the date of the enactment of this Act, the assessment of any tax, penalty, or interest with respect to such taxable year is not prevented by the operation of any law or rule of law.

PART III—EXTENSION OF IRS USER FEES

SEC. 631. EXTENSION OF IRS USER FEES.

(a) IN GENERAL.—Section 7528(c) (relating to termination) is amended by striking "December 31, 2004" and inserting "September 30, 2013".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests after the date of the enactment of this Act.

Mr. FRIST. Mr. President, I ask unanimous consent that the Grassley-Baucus technical amendment, which is at the desk, be adopted; that the committee-reported substitute, as amended, be agreed to; and that the bill be read the third time.

The amendment (No. 3218) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The committee amendment, in the nature of a substitute, as amended, was agreed to.

Mr. FRIST. Mr. President, I ask unanimous consent that the Finance Committee be discharged from further consideration of H.R. 1528, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection. it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1528) to amend the Internal Revenue Code of 1986 to protect taxpayers and ensure accountability of the Internal Revenue Service.

Mr. FRIST. Mr. President, I ask unanimous consent that all after the enacting clause be stricken and the text of S. 882, as amended be inserted; that H.R. 1528, as amended, be read the third time and passed; that the motion to reconsider be laid upon the table; and that S. 882 be returned to the calendar, all without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H. R. 1528), as amended, was read the third time and passed, as follows:

(The bill will be printed in a future edition of the RECORD.)

Mr. GRASSLEY. Mr. President, today the Senate has approved the Tax Administration Good Government Act. This legislation is the first legislation addressing tax administration since the IRS Restructuring and Reform Act of 1998.

The legislation contains five major components. First, it provides additional safeguards for taxpayers. Second, the legislation significantly simplifies the current interest and penalty regimes. Third, the act also includes the proposals passed out of the Finance Committee on April 2, 2003 and included in a bill introduced by Senators Hatch and Breaux to modernize the United States Tax Court.

Fourth, our legislation also includes several provisions, some of which were requested by the Treasury Department and the Joint Committee on Taxation, to strike an appropriate balance in protecting taxpayer confidentiality through disclosure reforms. Finally, the legislation takes an important step toward simplification of the Tax Code through the elimination of obsolete provisions and unifying the definition of child within the Tax Code.

We have worked closely with the Treasury Department, the Internal Revenue Service, the National Taxpayer Advocate, and the Joint Committee on Taxation to develop this package of proposals to promote good government in the administration of our Tax Code.

Congress's responsibility for the tax system does not stop after we pass tax law changes. We have an oversight responsibility to ensure that taxpayer rights are protected, that our tax laws are not administered counter to congressional intent, that the judicial body with primary jurisdiction over the tax laws has the tools necessary to provide independent review of controversies between taxpayers and the Internal Revenue Service, and to take steps to simplify the Tax Code whenever possible.

We are pleased to say that today, the Senate has taken a big step in that direction.

MEASURES READ THE FIRST TIME—H.R. 2728 and S. 2448

Mr. FRIST. Mr. President, I understand there are two bills at the desk, and I ask that they be read the first time, en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will read the titles of the bills for the first time, en bloc.

The legislative clerk read as follows:

A bill (H.R. 2728) to amend the Occupational Safety and Health Act of 1970 to provide for adjudicative flexibility with regard to an employer filing of a notice of contest following the issuance of a citation by the Occupational Safety and Health Administration; to provide for greater efficiency at the Occupational Safety and Health Review Commission; to provide for an independent review of citations issued by the Occupational Safety and Health Administration; to provide for the award of attorney's fees and costs to very small employers when they prevail in litigation prompted by the issuance of citations by the Occupational Safety and Health Administration; and to amend the Paperwork Reduction Act and titles 5 and 31, United States Code, to reform Federal paperwork and regulatory processes.

A bill (S. 2448) to coordinate rights under the Uniformed Services Employment and Reemployment Rights Act of 1994 with other Federal laws.

Mr. FRIST. Mr. President, I now ask for their second reading, and in order to place the bills on the calendar under rule XIV, I object to further proceedings to these bills en bloc.

The PRESIDING OFFICER. Objection is heard. The bills will receive their second reading on the next legislative day.

ORDERS FOR THURSDAY, MAY 20, 2004

Mr. FRIST. I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. on Thursday, May 20. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, the Senate then begin a period of morning business for up to 60 minutes with the majority leader or his designee in control of the first 30 minutes and the Democratic leader or his designee in control of the final 30 minutes; provided that following morning business the Senate resume consideration of Calendar No. 503, S. 2400, the Department of Defense authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Tomorrow, following morning business, the Senate will resume consideration of the Department of Defense authorization bill. We made good progress on that bill today, disposing of 16 amendments. Senators WARNER and LEVIN will continue working through amendments tomorrow. Rollcall votes are expected on amendments to the bill throughout the day tomorrow, and Senators will be notified when the first vote is scheduled.

I also want to alert all Senators that the fiscal year 2005 budget resolution conference report may become available, and we may consider that conference report before the week concludes. Votes will occur over the next 2 days and Members should plan accordingly.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. FRIST. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:21 p.m., adjourned until Thursday, May 20, 2004, at 10 a.m.

EXTENSIONS OF REMARKS

HONORING CLAIRE LUKE, EXECUTIVE DIRECTOR OF THE CENTRAL FAIRFAX CHAMBER OF COMMERCE

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to honor Claire Luke for over 13 years of dedicated service to the Central Fairfax Chamber of Commerce as the Executive Director.

Ms. Luke first served the Central Fairfax Chamber of Commerce (CFCC) as Events Coordinator in 1989. At that time, chamber membership was comprised of 250 businesses, and the group held only two events per month. Since then, largely due to Ms. Luke's dedicated efforts and impressive organization, membership has increased to over 850 businesses. Today, 3,500 area business people are able to participate in 7–10 events per month.

For years, Ms. Luke has worked tirelessly on the chamber's behalf. She successfully has overseen coordination of seminars, breakfasts, luncheons, mixers, and 12 active committees. Additionally, she skillfully has directed special events such as the Regional Business Showcase, the Taste of Fairfax, Fall Family Festival, and a golf tournament.

Under Ms. Luke's guidance, the CFCC scholarship, awarded annually to a select number of deserving high school seniors, has gained great recognition. Ms. Luke further contributes to local education by serving on the board of directors for the Margaret Kilpatrick Adams Scholarship Fund.

Ms. Luke also has been incredibly involved in the annual Chocolate Festival, which the CFCC sponsors. She was a member of the founding board for this event and has served on this committee for 14 years. For the past two years, she has served as committee chairman.

Throughout her accomplished career, Ms. Luke has received numerous awards, among them the 1999 ATHENA Award honoring her efforts in fostering business leadership and assistance. Ms. Luke was also admitted into the DECA (Distributive Education Clubs of America) Hall of Fame for her assistance to Robinson Secondary School with their National Projects. Furthermore, in 1998, Ms. Luke's high standards and extensive contributions led to her selection as the Rotarian of the Year, and also as a Paul Harris Fellow in 1996.

Not only a dedicated community servant, Ms. Luke also is a loving wife and mother of two. While raising her family, she was able to make time to serve on the Family Services Board of Directors, as President of the Officers' Wives Club, and as a volunteer in the Red Cross during her husband's military career in the Air Force.

Mr. Speaker, in closing, I would like to extend my best wishes to Ms. Luke on her retirement from the Central Fairfax Chamber of Commerce. While I know that she will be greatly missed, her retirement is well deserved. Her significant contributions are much appreciated and greatly admired. I congratulate her on a job well done. I call upon my colleagues to join me in honoring Ms. Luke and in wishing her the best of luck in all future endeavors.

IN HONOR OF KATHLEEN KELLUMS—PRESIDENT OF THE BUSINESS AND PROFESSIONAL WOMEN OF OHIO

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. KUCINICH. Mr. Speaker, I rise today in honor of Kathleen Kellums, as she is named President of the Business and Professional Women of Ohio. Since 1919, Business and Professional Women-USA, has served to support, promote and advance opportunity and equity for all women, in and out of the workplace.

Light years ahead of their time, the Ohio Federation of Business and Professional Women was instated in 1920, the same year that women finally won the right to vote. Today, as in 1920, this agency continues to build on a strong and brilliant foundation of support, education and guidance, focusing on women who were previously denied any opportunity to advance themselves personally or professionally. And even today, as women continue to rise above the stormy waters of gender inequality in the workplace, the Business and Professional Women exists to provide safe passages for women—pathways and bridges of support that help connect professional dreams to professional accomplishments.

A consummate professional in her own right, Kathleen Kellums continues to reflect accomplishment, leadership and tenacity throughout her professional endeavors. Her professional background includes executive positions in both the public and private sectors, and also includes significant community outreach contributions as a committed activist with many organizations, including the Parent Teacher Association and local Jaycee's. Ms. Kellums became a member of the Berea Business and Professional Women (BPW) in 1992, and currently holds the position of President. Her activism and leadership within the BPW has made a significant impact on the lives of many women by opening doors of opportunity and offering guidance, assistance and tangible support.

Mr. Speaker and Colleagues, please join me in honor and recognition of Kathleen Kellums, as she evolves from President of the Berea Business and Professional Women to President of the Business and Professional Women of Ohio. Her work as a state leader will serve to uplift the lives of countless Ohio women of all ages, as they journey toward advancing their professional and educational dreams—thereby advancing the progression of our entire community.

TRIBUTE TO MRS. ANGELA CINQUINO

HON. ROBERT A. BRADY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. BRADY of Pennsylvania. Mr. Speaker, I rise to honor the lifelong service of Mrs. Angela Cinquino. A dedicated civil service employee, Mrs. Cinquino has worked for City of Philadelphia Register of Wills Office for twenty-four years.

Mrs. Cinquino began her career with the City of Philadelphia in January 1980 as a Record Clerk II in the Register of Wills. For the next two and half decades, she provided Philadelphia with exemplary service as a Record Clerk III, Account Associate I, and Receptionist Clerk. In addition to her professional success, Mrs. Cinquino has remained involved in her local community by serving as a committeewoman for the past thirty years and serving as a member of Democratic Women for the past seventeen years.

Mrs. Cinquino will enjoy the fact that retirement allows her to spend more quality time with her wonderful family. I am sure that her husband Joseph, her two children Nicholas and Angela, and her four grandchildren, Nicholas, Noelle, Mia Nicollete, and Santino are all very proud.

Mrs. Cinquino will retire from the City of Philadelphia Register of Wills Office on May 19, 2004. In recognition of her years of service to the Philadelphia community, I ask that you and my other distinguished colleagues rise to congratulate her on her retirement.

COVER THE UNINSURED WEEK

HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. WILSON of South Carolina. Mr. Speaker, last week was Cover the Uninsured Week, I rise today to salute an organization which is working to do just that, working to provide assistance to some of the 44 million Americans who can not afford health insurance today.

Dr. Dana Kuhn, President and Co-founder of Patient Services Incorporated (PSI), is a

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

policy entrepreneur who thinks outside the box on how to provide health insurance coverage for those with chronic and catastrophic illnesses. PSI has successfully found a potential solution to this epidemic problem, which affects 44 million of our fellow Americans.

Since PSI was established in 1989, this national non-profit has worked with struggling families afflicted with such disorders as Hemophilia, Alpha One Antitrypsin Deficiency, Colorectal Cancer and Breast Cancer, Crohn's Disease, and Immune Deficiencies, just to name a few. PSI assists by identifying health insurance policies as well as subsidizing the health insurance premiums and pharmacy copayments for these families. PSI is financially supported through private donations from individuals, pharmaceutical manufacturers, foundations, and other corporations and uses these donations to ensure affordable health insurance coverage for the uninsured and underinsured.

PSI has a 15-year success rate of putting the uninsured and underinsured back to work by providing a bridge from insecurity and disease to one of accessing affordable duality health care therapies. During its 15 years of existence, PSI has helped about 20,000 Americans. The PSI model works to provide Americans with millions of dollars worth of medical care for just 5% of the total cost of care.

PSI saves middle-class families from becoming financially devastated when they have a family member with an expensive chronic illness. It is the only non-profit of its kind providing health insurance premium assistance and pharmacy copayment assistance. In 2002, PSI received a positive Department of Health and Human Services Office of Inspector General Opinion for the work it does with Medicare Part B Copayments, Deductibles, and Medigap Premiums.

Mr. Speaker, I would like to take this opportunity to salute Dr. Kuhn and the staff of Patient Services Incorporated for their hard work and resourcefulness in developing a workable solution for the epidemic of uninsured Americans.

H.R. 3722, THE UNDOCUMENTED ALIEN EMERGENCY MEDICAL ASSISTANCE AMENDMENTS OF 2004

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. BARTON of Texas. Mr. Speaker, at the request of the Chairman of the Committee on Ways and Means, I would like to include an exchange of letters to be included as part of the discussion of H.R. 3722, the Undocumented Alien Emergency Medical Assistance Amendments of 2004.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, May 17, 2004.

Hon. JOE BARTON,
Chairman, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN BARTON: I am writing concerning H.R. 3722, the "Undocumented Alien Emergency Medical Assistance Amendments of 2004," which was introduced on January 21, 2004, and referred to the Committee on Commerce.

As you know, the Committee on Ways and Means has jurisdiction over matters concerning Medicare. Sec. 3 of H.R. 3722 waives the Emergency Medical Treatment and Active Labor Act (EMTALA), and thus falls within the jurisdiction of the Committee on Ways and Means. However, in order to expedite this legislation for floor consideration, the Committee will forgo action on this bill. This is being done with the understanding that it does not in any way prejudice the Committee with respect to the appointment of conferees or its jurisdictional prerogatives on this or similar legislation.

I would appreciate your response to this letter, confirming this understanding with respect to H.R. 3722, and would ask that a copy of our exchange of letters on this matter be included in the Congressional Record during floor consideration.

Best regards,

BILL THOMAS,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, May 17, 2004.

Hon. BILL THOMAS,
Chairman, Committee on Ways and Means, 1102 Longworth House Office Building, Washington, DC.

DEAR CHAIRMAN THOMAS: Thank you for your letter of May 17, 2004 concerning H.R. 3722, the Undocumented Alien Emergency Medical Assistance Amendments of 2004. Although this bill was referred solely to the Committee on Energy and Commerce upon introduction, I will be happy to keep you apprised of the status of this legislation.

As requested, I will include this exchange of correspondence in the Congressional Record on H.R. 3722.

Sincerely,

JOE BARTON,
Chairman.

HONORING SOPHIE R. HOFFMAN, PRESIDENT OF THE JEWISH COMMUNITY COUNCIL OF GREATER WASHINGTON

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to honor Sophie R. Hoffman for over two decades of dedicated service to the Jewish Community Council of Greater Washington, including 2 years as their president.

Sophie R. Hoffman has worked tirelessly on behalf of the Jewish community, advocating Jewish interests, strengthening public support for Israel, building ties with other faith, minority, and ethnic groups and establishing a framework for social action.

While serving the Jewish community, Ms. Hoffman has enhanced the quality of life for those around her. She played a key role in securing over $2 million in grants for Jewish social service agencies, which provide for vulnerable citizens throughout Greater Washington.

For years, Ms. Hoffman has committed herself to strengthening public support for Israel. Her duties included presenting Cardinal McCarrick with a menorah to honor the heroes and martyrs of the Holocaust. This was then permanently placed on the campus of the Catholic University of America.

Furthermore, the Council has established and developed public school literacy programs under Ms. Hoffman's guidance. She has also been incredibly involved in preserving the principles of religious freedom in public schools and working to nurture a positive environment for the children. Her remarkable organization efforts have helped to create a framework for social action.

Throughout her accomplished career as a dedicated public servant, Ms. Hoffman has continuously demonstrated her vitality and commitment towards the Greater Washington community. Due to her contributions of time and talent, the diverse society is able to maintain its beauty while evolving to keep pace with the rapidly changing region.

Mr. Speaker, in closing, I would like to extend my best wishes to Ms. Hoffman on her retirement from the Jewish Community Council of Greater Washington. Her significant contributions are much appreciated and greatly admired. I congratulate her on a job well done. I call upon my colleagues to join me in honoring Ms. Hoffman and in wishing her the best of luck in all future endeavors.

IN HONOR OF JOHN DROTLEFF, CONDUCTOR OF THE WEST SHORE CHORALE AND ORCHESTRA

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of John Drotleff—admired conductor, musician and friend, as he celebrates his Twentieth Anniversary of performing, leading and conducting the West Shore Chorale and Orchestra.

Beyond his exemplary work with the West Shore Chorale, Mr. Drotleff has taught music at several local colleges, middle schools and high schools throughout Ohio—consistently inspiring our youth to attain their personal best and allow their natural musical talents to shine through. Mr. Drotleff was Chairman of Fine Arts at Lakewood High School, and has been a faculty member with Hiram College for the past 6 years, where he conducts the Hiram College Choir and Hiram College Madrigal Singers. At Hiram, Mr. Drotleff teaches choral conducting, music theory and secondary choral methods.

Mr. Drotleff's college ensembles have performed in New York, Boston, Chicago, and Detroit, and most notably, they have performed at the Kennedy Center and the National Cathedral in Washington, DC. Mr. Drotleff has also conducted the Youngstown Symphony Chorus and has served as a guest conductor for many musical groups throughout the northeastern United States.

Mr. Speaker and Colleagues, please join me in honor, recognition and gratitude to Mr. John Drotleff as he celebrates 20 years of leadership, inspiration and guidance as conductor of the West Shore Chorale and Orchestra. His remarkable ability to connect, inspire and uplift every member of his orchestra has significantly raised the level of musical offerings and has significantly increased public interest in every performance of the Chorale. An outstanding conductor, teacher and musical scholar, Mr. John Drotleff's love of music and strong confidence in his charges serves to draw the highest level of excellence from within the heart and soul of each performer. The lyrical and joyous concerto that personifies Mr. John Drotleff's life is a brilliant and treasured gift within our community that connects us through the universal language of music—uplifting our entire community on the wings of a song.

APPLAUDING THE MEN AND WOMEN WHO KEEP AMERICA MOVING AND RECOGNIZING NATIONAL TRANSPORTATION WEEK

SPEECH OF

HON. ROBERT A. BRADY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 17, 2004

Mr. BRADY of Pennsylvania. Mr. Speaker, I rise to congratulate Chairman YOUNG and Ranking Member OBERSTAR, for introducing H. Con. Res. 420, which properly applauds the men and women who keep our country moving—the American transportation workers.

There can be no doubt that the transportation sector is the most critical sector of our economy. We cannot produce or sell goods, agricultural products or raw materials if we cannot move them throughout our great land, or ship them overseas. And yet, despite the importance of these workers, they now find themselves under attack from within and without. But, their government has, at best, abandoned them in their hour of need. In some cases, the Federal government has actually joined in—and even led—the assault on their safety, their livelihoods and their rights.

Mr. Speaker, we can never forget that the very first victim on September 11, 2001 was a flight attendant, sliced by a box cutter our lax security measures allowed on board. And yet, three years later, these underpaid and overstressed workers find themselves fighting for proper security training and for safer conditions. Will we ever truly honor the dead of that infamous day as long as these citizens are at risk? And today, two years after it expired, the flight attendants of Southwest Airlines continue to work without a contract, victims of the alliance between management and the National Mediation Board (NMB), the agency responsible for administering the Railway Labor Act (RLA) which governs their work class. Management has refused to offer a new contract after the rejection of woefully inadequate opening offers. However, NMB has refused to declare an impasse, which would allow workers and the Transport Workers Union, which represents them, to move forward in exercising their rights.

And the Southwest Flight attendants are not the only victims of the recalcitrance of the NMB. Despite the fact that the current round of national rail negotiations is well into its fifth year for thousands of workers, the NMB has refused to move the bargaining process along in a timely manner. Specifically, the NMB has refused to "release" the International Association of Machinists (IAM) and the Sheet Metal Workers International Union (SMWIA) from mediation despite the fact that both unions have reached an impasse with management and further talks would be fruitless. It is intolerable for our government to force a rail worker to wait five years for a new collective bargaining agreement.

The NMB, whose three members are appointed by the President and confirmed by the other body, is responsible for providing bargaining and mediation assistance, and fostering productive collective bargaining between labor and management. The NMB's ability to either advance or delay labor-management talks is a power the agency should use fairly and with great care. The NMB is well known for touting its own record of having parties reach agreements without resorting to "self-help" such as strikes or lockouts.

In fact, the statute has survived since 1926 because it can work well if implemented fairly. But by failing to act on a release in the JAM and SMWIA case, the NMB is ignoring its own policy of expediting the bargaining and mediation process. Forcing employees and their unions to stay at the table well beyond the point of any productive negotiations frustrates the rights of workers and denies settlements within a reasonable time frame. The problems surrounding these excessive delays have little to do with the RLA, but rather with the manner in which the NMB administers the process. By failing to change the endless cycle of delay in rail bargaining, the NMB is denying basic due process. In other words, justice delayed is justice denied.

Mr. Speaker, I urge all of my colleagues to truly honor America's transportation workers by helping to make them safe on their jobs and secure in their contracts.

BURMA

HON. MARK E. SOUDER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. SOUDER. Mr. Speaker, this week, the military dictators in Burma opened a "constitutional convention" whose purported aim is to establish democracy in Burma. Anyone who has followed the situation in Burma knows that the brutal dictators of the State Peace and Democracy Council (SPDC) are the last people who should be guiding the democratic process.

While on the one hand, the SPDC talks of democracy and peace among Burma's ethnic and political groups, it continues to terrorize these same groups, impress people into forced labor for the military, and imprison those working for democratic change. This constitutional convention is a deception designed to give the perception of democracy while maintaining maximum military control.

While the SPDC organizes its constitutional convention, the legal and duly elected leader of Burma, Aung San Suu Kyi remains under house arrest. Nearly one year ago, the SPDC engineered an unprovoked attack on Aung San Suu Kyi's motorcade as she traveled throughout Burma spreading her message of freedom and democracy. In the aftermath of the attack, she was taken into custody for her own safety—at least that is what the Burmese military wants us to believe.

Wherever she goes crowds gather to hear her message. Despite the danger of attending these rallies, the Burmese people do not care. Countless Burmese of all ethnic persuasions look to Aung San Suu Kyi as the very heart and soul of the Burmese democracy movement. The credibility and charisma of Aung San Suu Kyi cannot be denied; it cannot be sold; it cannot be bought. It comes only from standing up for what is right.

To be sure, the movement is bigger than one person, but Aung San Suu Kyi has led the forces of democracy in Burma for many years. On many occasions, she could have left Burma behind, but at great personal sacrifice, she has remained. She provides a shining example of standing tall and standing firm in the face of relentless opposition and hardship. And although she has been in prison or under house arrest for 9 of the last 15 years, her commitment to freedom, democracy, and a better life in Burma has never wavered and never faltered. She is the public face of thousands of men, women, and children who have suffered unspeakably harsh conditions and who remain prisoners in their own country.

As leader of the National League for Democracy, it would seem natural that Aung San Suu Kyi and NLD Vice Chairman Tin Oo, who is also in the hands of Burma's merciless thugs, would attend the convention. Shamefully, the SPDC has refused to release either freedom fighter before, during, or after the convention.

Equally regrettable is that the SPDC has refused to allow NLD offices to reopen around the country. The SPDC has also failed to clarify procedures of discussion and has limited the parameters for discussion. The convention is being held in grim isolation with limited access by outside observers. In short, the SPDC is so tightly controlling the convention that it would seem that the participants can only rubber stamp the SPDC's agenda. That is not democracy; that is dictatorship.

The National League for Democracy is boycotting the convention, and I support that decision. Participation in such an obvious fraud can only undermine all for which the NLD is working.

Democracy in Burma is a goal that cannot be compromised. The United States believes in that goal. American sanctions on Burma have had a profoundly positive impact over the last year. Reports coming from inside Burma and from groups knowledgeable about the situation in that country have praised the tough stance the United States has taken against the dictatorship in Rangoon.

Our tough stance is in danger of faltering unless the sanctions are renewed during this Congress. H.J. Res. 95, which has 46 bipartisan co-sponsors, approves the renewal of American sanctions and show our continuing commitment to freedom, liberty, and emancipation from tyranny. I urge all of my colleagues to fight for the passage of this important resolution.

If the daylight of freedom feels like it's a long way off, it will be even longer unless the United States stands side by side with Aung San Suu Kyi, the NLD, and the people of Burma struggling under the heavy yoke of oppression and cruelty.

HONORING THE SPIRIT OF CUBAN FREEDOM

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Ms. ROS-LEHTINEN. Mr. Speaker, 102 years ago, Cuba achieved its hard-fought independence from the tyranny of Spanish imperialism. This moment of triumph and relief ushered in a new era of freedom, a republican age. The ideals of self-government had trumped despotic rule, and all were captivated by the promise of enduring liberty. May 20, 1902 immediately assumed a profound significance for the Cuban nation, melding a fierce passion for independence with a zeal for democracy. Indeed, May 20, paralleling America's own 4th of July, celebrates the same democratic fervor that Americans fondly recall whenever we reflect on our own sorely won freedom.

Unfortunately, the promise of a lasting and viable democracy would never be fully realized in Cuba. As we know all too well, the veil of "freedom" Fidel Castro promised with his Revolution soon descended into one of the worst tyrannies in modern history. July 26, a date sanctified by Castro as a symbol of his own political triumph, replaced May 20 as the new national holiday, wiping away all memories of democratic hope.

The Cuban people watched in stunned silence as they witnessed the dismantling of their republic and the institution of Marxist-Leninist totalitarianism. Soon the Soviet juggernaut had extended its iron fist across the ocean, marking the dawn of crushing religious, political, and artistic repression and the emergence of a culture of fear, theft, stagnation, and moral bankruptcy. After suffering countless state-sanctioned crimes throughout the decades, the indomitable will and courage of the Cuban people keep the hope of freedom and democratic change alive as an achievable goal.

Mr. Speaker, I proudly serve the cause of democracy as a United States Congresswoman, and continue the fight against the Castro regime and the oppression of the Cuban people. Ever cognizant of Cuba's plight, I feel compelled to call this oppression to your attention this day, May 20, 2004, a day representing freedom, and reminding us all of the tyranny that has usurped freedom.

Mr. Speaker, this 20th of May, liberty has once again eluded the Cuban people. Yet, I know that soon May 20th will once again stand as an affirmation of Cuban democracy, as a new birth of freedom, as a celebration of victory over dictatorship. Positive change will no doubt come, and we work toward it every day. I unite my thoughts and prayers with the Cuban people, and ask them to believe: a true 20th of May celebration is on the horizon—Cuba will once again be free.

TRIBUTE TO PRIVATE FIRST CLASS JESSE BURYJ

HON. RALPH REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. REGULA. Mr. Speaker, I rise to pay tribute to a dedicated soldier and citizen from my district in Ohio who gave his life defending our country. Private First Class Jesse Buryj (pronounced booty) died protecting a U.S. Army checkpoint in Iraq.

A graduate from McKinley High School in Canton, Ohio, he was a member of the marching band all four years and an outstanding citizen to his community. Growing up he served as a member of the Canton City Police Youth Corps with the lifelong dream of becoming a police officer in his hometown. Upon learning the age requirement to become a police officer was twenty-one years, he decided to join the army to serve his country until he could join the police force.

Pfc. Jesse Buryj served as a Military Police Officer for the Army and displayed great courage and dedication during his tour of duty. He died saving the lives of three of his comrades in Karbala, Iraq. He will be remembered as a hero to those men in Iraq and to all who knew him.

I would like to extend my deepest sympathy to his mother, father, sister, wife and all of his family and friends who are now mourning the loss of his life.

I pray for the safe return of all of our servicemen and women and thank them for the sacrifice they make every day defending our country.

HONORING COLONEL DEAN E. DETAR USAF (RET.) FOR HIS HEROISM AND LEADERSHIP

HON. KAY GRANGER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Ms. GRANGER. Mr. Speaker, I rise to honor retired U.S. Air Force Colonel Dean E. DeTar of Azle, Texas, for his combat heroism in Vietnam, and his leadership as National Commander of the Legion of Valor for the year 2003–2004.

The Legion of Valor of the United States of America, Inc. traces its heritage to the founding of the Medal of Honor Legion in 1890 by Medal of Honor recipients from the Civil War. In later years, recipients of the Distinguished Service Cross, Navy Cross, and Air Force Cross were made eligible for this elite organization, and those medals were authorized by Congress for extraordinary heroism in combat against enemy forces.

COL DeTar received the Air Force Cross for his extraordinary heroism in Vietnam on March 21, 1970, while leading a force of twenty-nine aircraft against one of the most heavily defended enemy locations in Southeast Asia to successfully rescue a downed airman.

COL DeTar's other U.S. decorations include the Silver Star; Legion of Merit; Distinguished Flying Cross with five oak leaf clusters; Air Medal with fifteen oak leaf clusters; Purple Heart Medal; and Air Force Commendation Medal, plus numerous USAF service medals and skill badges; and foreign decorations. COL DeTar will conclude his term of office as National Commander of the Legion of Valor by presiding over that distinguished organization's 2004 annual meeting to be held in Fort Worth, May 19–23.

Mr. Speaker, it is my great honor to commend COL Dean E. DeTar to my colleagues for his outstanding patriotism during his exemplary military career which included combat heroism in Vietnam. Since his retirement from active duty, he has shown devotion to the membership of the Legion of Valor and leadership as National Commander during the past year.

HONORING COLONEL FRANK S. VAJDA, MASON DISTRICT COUNCIL OF CIVIC ASSOCIATIONS MAN OF THE YEAR

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to congratulate Colonel Frank S. Vajda on winning the Mason District Council of Civic Associations' Man of the Year award. This special honor is truly well-deserved.

Colonel Vajda first relocated to Fairfax County following his retirement from the United States Air Force after 28 years. He quickly became active in both volunteer and community activities, demonstrating a strong commitment to improving Fairfax County. Currently a member of the Court of Camelot Civic Association, Colonel Vajda has also served the organization as president. Moreover, Colonel Vajda founded and continues to orchestrate Camelot's annual holiday charity fund drive in support of the Children's Hospital.

With community safety as a top priority, Colonel Vajda has served on the Camelot Neighborhood Watch Group for the past 15 years. As the organization's current coordinator, Colonel Vajda has tirelessly upheld the highest standards of care in the nation's oldest continuously active watch group. Furthermore, he organized and promoted the first park watch group at Pine Ridge, a local neighborhood park. Stemming from Mr. Vajda's efforts, the Park Authority, the Fairfax County Police, and the Rose Purple have effectively established the county-wide PARKWATCH system.

Since 1997, Colonel Vajda has notably contributed to the Friends of Mason District Park as a member of the Steering Committee. His other efforts include acting as a park volunteer for the Mason District Park Festival, the Spring Egg Hunt, and the Spotlight by Starlight summer concert series. Colonel Vajda's actions have ensured that all of these events were carried out in a safe and secure environment.

In 1998, Colonel Vajda was selected as the Mason District Representative to the Public Safety and Park Bond Referendum Committee. On this committee, his duties included speaking commitments informing county voters as to the purpose of the bonds during many speaking commitments. In 2001, Colonel Vajda extended the scope of responsibilities upon his appointment to the Park Authority Board. He continues to maintain the highest standards of service and dedication to this group.

Throughout his accomplished career of service, Colonel Vajda has received numerous awards including the 1998 Elly Doyle Park Service Award on the Pine Ridge Park Green Team.

Mr. Speaker, in closing, I would like to extend my heartfelt thanks to Colonel Vajda for his extensive service to the Mason District. His contributions and efforts are much appreciated and greatly admired. I call upon my colleagues to join me in congratulating Colonel Vajda on his award and in wishing him the best of luck in all future endeavors.

IMMIGRATION POLICY

HON. STEVE KING

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. KING of Iowa. Mr. Speaker, I wholly support an immigration policy designed to enhance the economic, social and cultural wellbeing of the United States of America. I am looking forward to working on immigration policy as a member of the Subcommittee on Immigration, Border Security, and Claims. I intend to carry out the responsibility for crafting the immigration and naturalization policy that was delegated to Congress by our Constitution.

Immigrants have made, and will continue to make, a valuable contribution to our Nation. I will work to develop an immigration policy that aids in the assimilation of newcomers by ensuring that the United States does not admit more immigrants than it can reasonably accommodate. Assimilation is valuable to immigrants who benefit from our shared American culture of personal responsibility, freedom and patriotism. The values shared by our civilization, founded on a heritage of western civilization, religious freedom and free enterprise capitalism, serve immigrants and native born alike. I am concerned that the recent rise in immigration levels in this country will make it difficult for newcomers to assimilate and find jobs. We must ensure cultural continuity for our great Nation.

As Americans, we should promote a naturalization process that promotes American values, the responsibilities of citizenship and our constitutional principles. We must be careful to admit only as many newcomers as we can accommodate with jobs so that our society will not be burdened by unemployed immigrants.

Candidates for naturalization should be proficient in the English language. Not only will English proficiency help newcomers attain better paying jobs, it also provides a means of communication with all Americans. For this reason, I have recently introduced the English Language Unity Act of 2003, H.R. 997 to declare English the official language of the United States.

Finally, as a sovereign nation, we must control our borders. We must ensure that terrorists do not infiltrate the United States. We must tighten and strengthen border control efforts so that illegal aliens do not enter our country. I support elimination of the visa lottery which gives randomly selected individuals visas, when many law abiding would-be immigrants are waiting to have their applications approved. I am also concerned about the enforcement of immigration laws within our borders.

I hope that this Congress will be vigilant in our oversight of the enforcement of existing immigration laws and make necessary changes to existing laws.

RECOGNIZING KATE A. SCANNELL, M.D. FOR HER ARTICLE "DELIRIOUSLY DUMBFOUNDING DRUG DISCOUNT CARDS"

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. STARK. Mr. Speaker, I rise today to recognize Kate A. Scannell, M.D. for bringing to light many of the shortcomings of the Medicare drug discount card program. Dr. Scannell is not only a respected geriatrician in the Bay Area, she is also a noted medical ethicist and author. With years of experience delivering services to Medicare beneficiaries, there is no one more qualified to pass judgment on the Medicare drug card program than Dr. Scannell. I appreciate her honesty, and willingness to stand up and inform people in my district about the confusing and wasteful drug card policy.

It is with pleasure that I submit the attached article, "Deliriously Dumbfounding Drug Discount Cards," for inclusion in the CONGRESSIONAL RECORD. The article originally appeared in the May 16, 2004 edition of The Argus (Fremont, CA).

DELIRIOUSLY DUMBFOUNDING DRUG DISCOUNT CARDS

(By Kate Scannell)

Medicare officials call it the "drug discount card"—a code phrase referring to a small piece of paper that has the capacity to blow up your mind and destroy your sanity. These "drug discount cards" or "DDCs"—also known as "deliriously dumbfounding cards"—are supposed to offer pharmaceutical discounts between 10 to 25 percent to Medicare enrollees who have no prescription drug coverage. However:

The DDCs were launched last week when the federal government initiated its new "discount drug program" or "DDP"—otherwise known as "Doing a Darn Pittance" about outlandishly high drug costs. While the official stated mission of the DDP is to make drugs more affordable for elderly and disabled Medicare recipients, in practice the system is cumbersome, confusing and inefficient.

The new program also smells like a political ploy during an election year. By giving Medicare enrollees a card to make it appear as though they had some control over out-of-control drug costs, the DDP functions to distract everyone from the root causes of excessively high drug prices: profit-driven pharmaceutical companies that wildly overcharge for medications, and a federal government that can't (or won't) help to control drug prices.

Here's how the new card system and drug program operate. The DDP requires that elderly or disabled Medicare enrollees first try to obtain "the card." Here we encounter our first daunting hurdle, in that there exists not one but many cards from which to choose. Medicare enrollees must select a single card from among at least 40 companies and organizations that have been approved by the Department of Health and Human Services to distribute them.

Fortunately, all our elderly and disabled Medicare patients are tech-savvy, and they own personal computers equipped with Internet services which they can navigate freely for the necessary comparison shopping.

Those Medicare patients will also want to print out Excel spreadsheets to help them sort out the fine details, because each card provides different savings on different medications. And it would be wise to keep a copy of the spreadsheet in a readily accessible location, because the companies can change the prices of those drugs at any time.

I have heard nothing but disappointment, confusion, frustration and anxiety voiced by Medicare enrollees who are trying to make sense of the president's drug card program. Its inhospitable and labyrinthine structure defies the will and the capacity of people to negotiate it.

To make matters worse, the new Medicare Web site (www.medicare.gov) unveiled last month by the Bush administration contains substantial inaccuracies and errors. Proposing to offer helpful information about the DDP and drug price comparisons, the site was found to be riddled with erroneous information and incorrect prices. For example, a spokeswoman for Walgreen's reported that about half their drug prices were listed inaccurately. To rub more salt into the wound, the prices of drugs from Canada tended to run below those offered by the Medicare discount cards.

Finally, millions of Medicare patients will spend many precious hours trying to choose the best card and to decipher the DDP when the stunning fact remains that the entire program is scheduled to end in January 2006. At that point, we will be under the thumb of the disastrous Medicare Drug Bill—the subject of my first installment of "Weapons of Medicare Destruction." In that piece, I wrote about the sweetheart deals our government made with the politically powerful pharmaceutical companies. Most notable and mind-boggling was our government's forfeiting its right to bargain with drug companies for price reductions on the drugs it offered through the Medicare program.

Further illustrating the unhealthy collusion between our government and the pharmaceutical industry, last week the New York Times reported that employees at companies that the Bush administration certified to distribute the drug discount cards already contributed almost $1.8 million to Republican candidates in this year's election. This included a $275,000 contribution to Bush's reelection campaign.

The drug discount card system exacts a phenomenal waste of effort and time and money that would have been better spent in a more cost-efficient manner by creating direct subsidies to Medicare recipients—like automatic rebate cards.

Still, we must be wary of any surface deceit offering "discounts" because it only masks the real problem: unregulated pharmaceutical costs that are driving our seniors into poverty or to Canada.

The fact is that "discounts" are easily "discounted" by the drug companies.

They can bump up the price of any drug and wipe out the effect of any apparent discount.

I urge everyone to become "Armchair Activists" and to contact their legislators by phone or e-mail to voice concern about prescription drug costs and our government's conflicted relationship with the drug industry. This is not a time to be "discounted."

HONORING CORPORAL WILLIAM A. SYDNOR VETERANS OF FOREIGN WARS POST #3398

HON. JOSEPH M. HOEFFEL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. HOEFFEL. Mr. Speaker, I rise today to recognize and honor the Corporal William A. Sydnor Veterans of Foreign Wars Post #3398, located in Willow Grove, Pennsylvania, on its 55 years of community involvement and dedication.

Since its beginning in 1939, Post #3398 has represented the efforts of an entire community. The building itself has changed several times, but the underlying spirit has never wavered.

Post #3398 has a long history of helping the community. The Post's involvement includes sponsoring several annual community events such as the Children's Halloween Party, the Senior Citizens Dinner, the Easter Egg Hunt, and Memorial Day Services. In addition, each year Post #3398 presents the William C. Purcell Scholarship to students planning to attend college. The Post now has four registered service officers to take care of the needs of veterans, widows, and the families of veterans.

Today the Corporal William A. Sydnor Veterans of Foreign Wars Post #3398 has grown from 36 Charter Members to over 250 members, and approximately 75 Ladies Auxiliary members. I wish the members of Post #3398 continued success and commend them for 55 years of service.

HONORING THE MEMORY OF LANCE CORPORAL JEFFREY C. BURGESS, USMC

HON. WILLIAM D. DELAHUNT

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. DELAHUNT. Mr. Speaker, I rise today to honor the memory of Lance Corporal Jeffrey C. Burgess, USMC, who was killed on March 25 in an enemy attack near Fallujah, Iraq. He served his country with courage and dignity. There is no greater valor than sacrifice in the name of our freedom and national defense. LCPL Burgess and his family will always be in our prayers.

With deepest sympathies, Mr. Speaker, I submit to my colleagues this deeply moving letter written to LCPL Burgess by his mother, Michelle Shea, which was read at his funeral on April 5:

Dear Jeff,

I thought you might want to know what's happened since you left this world for a better place. As usual, life continues on, but oh SO DIFFERENTLY now. Just like you, I am wounded also. The mail still comes each day at the same time, but it now brings letters and cards full of comfort and love from many friends and family.

Jordon still comes up each morning and has his breakfast with me, delivering a big, dimpled smile and a big "HI" comes out of his voice, welcoming in another day with his Nana and Papa.

The other morning before he came upstairs, I was by myself wondering if I might get some kind of spiritual sign that you were okay and asking myself why I couldn't remember some simple things about you. Maybe that's the brain's way of protecting a grieving parent? I don't know.

The church asked me to think of saying some words at your service or maybe having a favorite hymn or song played. I tried, Jeff, but nothing would come to me. I tried ever so hard to concentrate in my quiet morning time alone, feeling so frustrated with myself—when I realized that my concentration was being disrupted by all the birds that were chirping from the trees in the backyard. I went to the back door to investigate why they were so worked up, only to find just ONE BIRD. There was a bright red CARDINAL perched on the highest limb trying over and over to get his message out loud and clear—over and over he sang to me.

Returning to my coffee and note pad, I realized that I had gotten the message. It was in the form of a familiar song, but I didn't know the title or artist. So, I sent Jen to the Mall in search of a song containing the words that I could think of, at the time. She returned with nothing, but on returning home she retrieved her mail, which contained some CD's she had previously ordered. Watching her open her package, I saw a confused look on her face, because she couldn't understand why TIME LIFE had sent her a 60's CD, when she'd ordered a 70's CD. All of a sudden there was a look of amazement on her face as she realized that the CD in her hand contained the very song we'd been looking for. Your song for us. We immediately played it, listening to the lyrics and realized that this was the message that you wanted to share with everyone. So, I'm carrying out your wishes, Jeff, and will make sure that it's heard by all.

Several more mornings have come and gone since you left and you still come to me each morning, in the form of a Cardinal perched high in the branches of our tree outside and singing your song. I feel better now, knowing you are still with me in the beautiful bird. I now know that you are okay.

In closing, I want you to know that you touched so many of us in so many ways, just in the short time you were here with us. And, although, I won't ever be the same person I was before, I'll go on thankful that you were once mine and that we'll be together again some day in heaven.

I'm gonna sign off now so everyone can hear that beautiful song that is the message from you. I'm sure they'll get what you are trying to say, but to be sure, I had it printed in the program for you.

I love you, Jeff; take care and be forever safe and at peace knowing your brother Marines will finish the job for you.

Love and Kisses,
Mom

GET TOGETHER

(The Youngbloods)

Love is but a song to sing
Fear's the way we die
You can make the mountains ring
Or make the angels cry
Though the bird is on the wing
And you may not know why

Come on people now
Smile on your brother
Everybody get together
Try to love one another right now

Some may come and some may go
We shall surely pass
When the one that left us here
Returns for us at last
We are but a moment's sunlight
Fading in the grass

*Come on people now
Smile on your brother
Everybody get together
Try to love one another right now

*(Repeat)

*(Repeat)

If you hear the song I sing
You will understand (listen!)
You hold the key to love and fear
All in your trembling hand
Just one key unlocks them both
It's there at your command

*(Chorus)
*(Repeat)
*(Repeat)

HONORING TROOPER FIRST CLASS ANTHONY JONES

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. HOYER. Mr. Speaker, today, I pay special tribute to Maryland State Trooper Anthony Jones who was killed last week while on duty assisting another trooper. Trooper First Class (Tfc.) Jones every day exemplified the service and sacrifice that we honor in our law enforcement officers. As the recipient of awards for his valor and bravery, and as the anticipated recipient of the "Top Cop" award from the College Park Barracks this month, Trooper Jones demonstrated a commitment to public service and a sincere dedication to protecting and serving our community.

Tfc. Jones joined the state police after retiring from the U.S. Air Force in 1998. He spent his entire police career working as a road patrol trooper. He was on patrol when he stopped shortly after 2 a.m. to assist another trooper working at the scene of a single-vehicle crash in Prince George's County. Investigators said Jones crossed the four-lane highway on foot to remove a tire that was part of the accident debris and was making his way back across the road—using a flashlight to warn oncoming traffic—when he was struck and killed.

Every day, law enforcement officials like Trooper Jones risk their lives in dangerous situations on our highways and roads to protect the citizens who travel along our roadways. Last week we joined together in commemorating Trooper Jones and all of the law enforcement officers whose brave deeds led them to make the ultimate sacrifice, or left them disabled.

Trooper Jones is the 39th Maryland trooper to die in the line of duty, and we say a special prayer for his family, friends, and fellow officers of the Maryland State Police. The Joneses must know that a grateful nation mourns their loss and shares their pain.

We honor Tfc. Jones for his service to our country and to his community. I am confident that he will long be remembered with the utmost gratitude and respect. He willingly answered the call to duty, sacrificing his own safety for the safety and security of his community. We shall never forget that sacrifice and will bear witness to future generations the honor and courage Tfc. Jones exhibited as he served the State of Maryland.

Although we don't often thank them for it, officers like Trooper Jones help protect our most cherished rights as laid out by Thomas Jefferson in the Declaration of Independence: the right to life, liberty and the pursuit of happiness. We owe these fine and hard working people a great deal for their contribution to our freedom and security.

The words of John F. Kennedy strike a chord this week, "a nation reveals itself not only by the men it produces but also by the men it honors, the men it remembers." As these valiant men and women died because they made it their duty to protect and serve, it is our duty to honor and remember them for their selfless contribution to our communities.

RECOGNIZING HOWARD MARTIN CHASE

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. THOMPSON of California. Mr. Speaker, I rise today to recognize the significant achievements of Howard Martin Chase, the principal of Riviera Elementary School in Kelseyville, California.

Howard Martin Chase earned his Bachelors of Arts and Elementary Teaching Credential from California State University, Chico. Anxious to educate and serve, after graduation Mr. Chase became an elementary teacher in the Fairfield-Suison Unified School District.

Mr. Chase returned to school to pursue a postgraduate degree. He received his Administrative Services Credential in 1984 from California State University, Sacramento. He went on to serve as Principal at Kelseyville Primary School, Gard St. Elementary School and Riviera Elementary School. In 2003, he earned his Masters Degree in Education from Ashwood University.

It is not surprising that Mr. Chase is also very active in his community outside of his duties as principal. He has served as a board member of the Lake County Red Cross, acted as president of the Kelseyville Park Association, is a founding member of the Kelseyville Quality Educational Foundation and has served as chairperson for numerous committees for the Kelseyville School District.

Mr. Chase has also been involved in many fundraising events within Lake County. Through his efforts as an auctioneer, he helped raise over $1.5 million dollars for charities, schools and many nonprofit groups. He established the first Educational-Business Partnership in Lake County. This partnership between Lake County Schools and Konocti Harbor Resort and Spa has resulted in over $600,000 being donated to local schools.

Mr. Chase has already received several awards of recognition. The California State Senate named Mr. Chase the California Educator of the Year in 1996, and he was named Man of the Year for Lake County in March of 2004.

Mr. Chase is devoted to his family. He and his wife Pat have been married for over 20 years. They have one child, Jessica, and two grandchildren, Jenee and Aliyah. After the passing of his mother, Mr. Chase placed a sign in front of the school in her memory that says, "Welcome To A Place Where Everyone Is Special."

Mr. Speaker, because of the many contributions Howard Chase has made to his community, it is proper for us to honor him today as he moves on to his new position as superintendent of North County Joint Union School District in Hollister, California, and wish him the best in his future endeavors.

THE BUSH ADMINISTRATION MISSES THE BOAT ON RISING GAS PRICES

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. RAHALL. Mr. Speaker, an article in today's Washington Post, entitled "Bush's Handling of Gas Costs Criticized" by Jonathan Weisman, reports that not only Democrats, but also the President and Vice-President's former associates in the oil and gas industry are growing more critical of the Administration's inaction and lack of attention to the rising cost of gasoline. "The average guy on the street is getting killed because this administration does not care," said John Meade Huntsman, founder of the largest privately held chemicals manufacturing corporation in the U.S.

While I did not hold high hopes for the Bush Administration in general, I certainly thought that with two former oil executives running the country, the one thing they could get right would be the supply of affordable gasoline. But instead, America is heading into a long, hot summer of higher prices for the gasoline we use to get to work and to go on vacation. After all, this was an issue George W. Bush promised to make a high priority during his 2000 campaign for the presidency.

But, apparently, as with so many other promises, the President did not mean what he said about meeting the needs of Americans who depend on affordable gas prices to find work, get to work and provide for their families.

In March of this year, according to the American Automobile Association, the average price for a gallon of regular gasoline in West Virginia had increased to $1.72. At that time, I asked Attorney General John Ashcroft and Energy Secretary Spencer Abraham to launch an immediate investigation into whether price fixing is the cause behind skyrocketing gasoline prices. Now, less than 2 months later, the price has risen 27-cents to an average price of $1.99. One year ago, the average price was $1.54—that's a 50-cent increase over the last 12 months. This steep jump in price is severely affecting my constituents in West Virginia. Today, I add my voice to Senator ROBERT C. BYRD's request that the Federal Trade Commission review whether consumers are being unfairly squeezed.

So far, the Administration has done precious little to address the surge in oil prices. This past week, the price of oil reached a 13-year high. And these prices will continue to rise as fears and uncertainties rise over the Administration's ill-planned "regime change" in Iraq. Members of Congress have called on the Administration to suspend delivery of oil in-kind to the Strategic Petroleum Reserve and to bring greater pressure to bear on OPEC to increase oil supplies.

These near-term actions would have some beneficial effect. In the end, however, the Nation requires a serious, workable energy strategy. As Ranking member of the Resources Committee, I can say with confidence that neither the House nor the Senate has developed such legislation. Despite the President's continued call for an energy bill, his Energy Information Administration has concluded that a number of the provisions in the energy bills currently before Congress will have only a negligible effect on energy production, consumption or prices.

Certainly, there is a serious need to reduce our dependence on foreign oil sources. However, enacting legislation to open the ANWR or other environmentally-sensitive areas in the Rocky Mountains is not the answer. Instead, we should focus our efforts on developing alternative fuels and strategies. For instance, with an increased investment in energy efficiency, we can meet more of our transportation and other needs through the development of coal, renewable and other resources.

CONGRATULATING THE TYLER STREET BOYS TRACK TEAM

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. FROST. Mr. Speaker, I rise today to congratulate the Tyler Street Boys Track Team of Dallas, on their 2–A State Title. The Crusaders upset the two-time defending champions, Muenster Sacred Heart, to capture the title.

The Tyler Street Relay Teams won both the 4x200 and 4x400 relays, no doubt the result of hard work throughout the season. The Tyler Street Track Team also finished in the top three positions in the field events, including a first place finish in the shot put.

This year's championship team includes members: Bobby Lewis, Darrian Sanders, Daunte Bornen, Jared Carter, Cshammah Reed, E.J. Rusher, Richard Solis, Britt Jones, Austin Alburtis, Freddy Holland, Nicholas

Wright, Cjabrione Reed, and Joshua Carter. This year's team is coached by Walter Favors.

Mr. Speaker, I congratulate the Tyler Street Track Team on their championship and also on a great season.

PERSONAL EXPLANATION

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. BECERRA. Mr. Speaker, on Monday, May 17, 2004, I was unable to cast my floor vote on rollcall Nos. 177, 178, and 179. The votes I missed include rollcall vote 177 on the Motion to Suspend the Rules and Agree to H. Con. Res. 420, Recognizing National Transportation Week; rollcall vote 178 on the Motion to Suspend the Rules and Agree to H. Con. Res. 423, Authorizing the use of the Capitol Grounds; and rollcall vote 179, on the Motion to Suspend the Rules and Agree, as Amended to H. Con. Res. 403, Condemning the Government of the Republic of Sudan for Its Attacks Against Innocent Civilians.

Had I been present for the votes, I would have voted "aye" on rollcall votes 177, 178, and 179.

SECTION 8 HOUSING FLEXIBLE VOUCHER PROPOSAL

HON. STEVEN R. ROTHMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. ROTHMAN. Mr. Speaker, I rise today in opposition to the administration's proposed restructuring of the Section 8 Housing Program, particularly in regard to the block grant funding proposal, which is especially important to low-income men and women in my home state of New Jersey.

The Section 8 Housing Program currently assists two million individuals including elderly citizens, persons with disabilities, and low-income working families to meet their housing needs. The proposed Section 8 restructuring will leave states and local public housing authorities starved of the necessary financial resources they need to keep up with the demand for housing. Local housing authorities will be forced to either substantially raise rent or cut the number of vouchers distributed, severely hampering the program's effectiveness in helping Americans afford a safe and secure place to live.

Nationally, the Congressional Budget Office recently estimated that proposed changes to the Section 8 Housing Program will lead to the elimination of 600,000 vouchers by 2009, which equals thirty percent of all vouchers now in use. In 2005 alone an estimated 250,000 families could lose their housing assistance, including 7,181 families in New Jersey. For example, in Fiscal Year 2005, the Jersey City Housing Authority, located in my district, will face an expected $3,117,611 in funding reductions resulting in an estimated cut of 351 currently assisted families. The Housing Authority of Bergen County, also located within my district, expects a funding cut of $4,056,468, resulting in 434 families currently receiving assistance to lose their vouchers.

While losses such as these could be devastating to many families, several of my colleagues have argued the proposed restructuring is necessary in part to counteract escalating costs of the Section 8 Housing Program. Indeed, the cost of the Section 8 voucher program has increased, but these increases have been reasonable, legislatively driven, and impermanent. Over half of the growth in cost has resulted from Congressional decisions to increase the number of families the Section 8 Housing Program assists, often as a result of ending other federal public housing initiatives. Another 37 percent of the growth has resulted from an increasing gap between housing costs and the earnings of low-income families. In addition, the program has expanded because of efforts to improve its efficiency; the share of authorized vouchers rose from 90.5 to 96 percent between 2001 and 2003. Cutting the funding would, therefore, punish the program for more effectively achieving its objectives. Furthermore, the actual Section 8 Housing Program costs have risen at a low annual rate of only four percent, and the Congressional Budget Office expects future growth to slow markedly due to the cooling of the housing market, with an expected small 1.8 percent growth in fiscal year 2005.

Studies have shown that a large percentage of low-income families and individuals spend more than half of their income on housing, severely inhibiting their ability to meet other basic needs. Affordable housing is the foundation of economic self sufficiency, the loss of which is a barrier to employment that affects children, families, and entire communities. Cutting housing funding and reducing opportunities for American families to live in safe housing, will directly correlate with escalating costs in federal spending for welfare, crime, health, and homelessness in the coming years.

Mr. Speaker, I ask that we guarantee the Section 8 Housing Program an adequate level of funding by rejecting the administration's proposal. I hope that my colleagues will join me in taking preemptive action against escalating financial and social costs in the future by providing stable housing for our working poor today.

STATEMENT HONORING PFC. JOHN D. AMOS II

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. VISCLOSKY. Mr. Speaker, it is with great pride and honor that I rise today to pay tribute to an outstanding American, a true patriot, and a hero to his country, Army Pfc. John D. Amos II. Pfc. Amos died Sunday, April 4, 2004 while bravely serving in Operation Iraqi Freedom for the Army's 1st Battalion, 21st Infantry Regiment, 25th Infantry Division (Light), Schofield Barracks. He bravely sacrificed his life to ensure the safety of his fellow soldiers, the Iraqi people, and the very idea of freedom throughout the world.

Pfc. John Amos' unit was sent to the Tamin area of Kirkuk to set up a vehicle inspection point near the police academy. When his unit arrived, residents were conducting a demonstration in the streets surrounding the academy. With the streets cluttered by protesters, Amos' unit began inspecting vehicles and groups of people before they moved through the crowd. Amos was walking in a line of six soldiers when a car attempting to clear the checkpoint exploded. Pfc. Amos was posthumously awarded the Bronze Star and Purple Heart.

Pfc. Amos, a native of Griffith, Indiana, graduated from Valparaiso High School in 2002. Throughout his life, John always had the urge to protect his fellow man. In September 2001, John witnessed a fatal car accident. He tried to help the victim, called 911 and waited for help to arrive. The victim didn't make it and it affected John deeply. It's one of the reasons that prompted him to join the U.S. Army. After the terrorist attacks in 2001, John felt especially compelled to defend the United States.

John Amos is survived by his mother, Susan Amos, his father, John Amos, his sister, Rebecca Amos, two half-brothers, Hunter and Tyler Amos, his grandfather Hank Amos, and grandparents Doug and Lucy Whitehead. John's spirit and compassion will never be forgotten.

Mr. Speaker, at this time I ask that you and my other distinguished colleagues join me in honoring the memory of Pfc. John Amos, and in sending our heartfelt condolences to his family. John is a hero, not only to his family and friends, but also to Northwest Indiana and to the United States of America. He fought bravely for the ideals of freedom, truth, and liberty, and as our nation mourns his loss, let us honor his life and his dedication to the service of his country.

IN REMEMBRANCE OF BROWN v. BOARD OF EDUCATION

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. RANGEL. Mr. Speaker, I rise today in remembrance of the historical Supreme Court decision Brown v. Board of Education of May 17, 1954. The struggle against racial discrimination did not end with this decision nor has it ended today. Racial segregation in public places like restaurants and buses was still legal after 1954 and the Brown II decision of May 31, 1955 was a step backwards by allowing Southern district courts to integrate public schools "with all deliberate speed." But by declaring the segregation of public schools unconstitutional, the Supreme Court took a first step towards making the United States a society that lived up to its ideals of social equality, democracy and freedom.

The future of every country depends to a large extent on its children. Social values are conveyed to our youngest generation mainly by their parents, but also by their schools. Racial hatred and intolerance are products of a lack of knowledge and the fear of the unknown. Only schools that are racially mixed will increase children's understanding of each other, of other cultures and backgrounds. But today our country is drifting into the wrong direction. Our schools are more racially intermixed than in 1954 but less than in 1968, when our great national leader Martin Luther King was assassinated. While 43 percent of all black youngsters attended predominantly white schools in 1988, this figure has fallen to only 30 percent today. And Hispanic students are even more segregated than African Americans. My home state New York is among the most segregated states in the country and my district is particularly hardly hit. Minority students in my district still attend schools that perform worse than predominantly white schools.

While we should celebrate the historical event of the 1954 Supreme Court decision, let us keep in mind that racial discrimination and social inequality still exist in our country. Our education system still does not offer equal opportunities to all young people. Many schools are chronically underfunded. Let us celebrate the achievements of the civil rights movement in the past, but not forget that the biggest challenges still lie ahead.

MEMORIAL DAY

HON. BOB GOODLATTE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. GOODLATTE. Mr. Speaker, shortly, we will be celebrating Memorial Day, a sacred time of remembrance where we pay tribute to the brave men and women who have sacrificed their lives to protect the freedoms we hold so very dear.

I believe that it is especially fitting at this time to share a poem written by my constituent, Mr. Cordell A. Dickey of Roanoke, Virginia. Mr. Dickey is a veteran of Word War II where his unit was part of the division that invaded Guadalcanal on August 8, 1942. The poem was written in the Southwest Pacific in 1943 to honor a fallen friend, Hiram DiAlfordi, who was killed in New Caledonia in 1942.

The commemoration of Memorial Day will likely be a trying time filled with vivid memories of the son or daughter, husband or wife, mom or dad who will never come home. It is the hope of Mr. Dickey that his poem will bring comfort to the family of those who sacrificed for a cause greater than one's self.

LOST VIGILANCE

(By Cordell A. Dickey)

Twas here I stepped, here I fell, and here
On this far, unfriendly shore,
A dream was lost and shattered forever:
Leaving only fragments scattered on the sands.
To you who loved my life:
Whose heart knew pain when earth's cold bosom
Embraced and held me fast;
I would not have you grieve too much!
Sing no more sad songs for me . . .
Wipe away your last falling tear.
For when I quietly slipped into the void,
To keep with destiny my final rendezvous;
I did not fear to face Infinity,
Or plunge into a dark abyss.
To you who still have life:
Whose shattered spirit needs a healing balm
To make you whole again;
I would that you should know much joy;
Find new faith and hope again!
This above all:
Learn to laugh and sing again . . .
The world is filled with beauty.

COSPONSORSHIP OF HOMEOWNERSHIP TAX CREDIT LEGISLATION

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. BECERRA. Mr. Speaker, the low-income housing tax credit created by Section 42 of the Internal Revenue Code, commonly known as the rental credit, is responsible for the production of more than one million affordable housing units valued at over $100 billion since 1987. Because of its tremendous success, the Bush administration and a bipartisan group of Members have proposed the creation of a new credit modeled on the rental credit and targeted at creating affordable housing for purchase by low- and moderate-income families. Concerns have been raised, however, that a homeownership credit, not properly crafted, could have unintended, negative consequences on the highly successful rental credit and on the very low-income Americans who benefit from the housing produced by it.

Until today, these concerns have led me to withhold my support from H.R. 839, the "Renewing the Dream Tax Credit Act," which was introduced early last year by the gentleman from Ohio, Mr. PORTMAN and the gentleman from Maryland, Mr. CARDIN. I have decided, however, that despite my continued reservations, I will add my name as a cosponsor today because the goal of increasing affordable homeownership opportunities is one I strongly support and a well-developed tax incentive could play an important part in that effort. Of course, I will work to ensure that the matters detailed below are considered carefully as the bill moves forward in Congress.

My prime concern is that the legislation when enacted not adversely affect the existing rental credit. How might this happen? Put simply, in the event that rental credits are less attractive than homeownership credits to equity investors, pricing for rental credits may fall and the program may be less effective in meeting the demand for high quality, affordable housing.

In addition, it is worth emphasizing that the affordable homeownership tax credit should be utilized in communities where a new subsidy is clearly needed to enable homeownership. In some parts of the country, the supply of new subsidized homes resulting from the credit's creation may endanger the economics of existing multifamily rental properties and cause the value of homes presently owned by low- and moderate-income households—the successful result of current affordable housing programs—to fall. We must be exceptionally wary of this possibility.

Mr. Speaker, in closing, despite the reservations I have raised that deserve continued analysis and deliberation, I am pleased today to add my name as a cosponsor of H.R. 839. Increasing affordable homeownership opportunities for my constituents and families across America has long been a top priority for me and this proposal can certainly help us work toward that goal.

UNDOCUMENTED ALIEN EMERGENCY MEDICAL ASSISTANCE AMENDMENTS OF 2004

SPEECH OF

HON. WALLY HERGER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 17, 2004

Mr. HERGER. Mr. Speaker, while I inadvertently missed the final vote on H.R. 3722, Roll Call Vote #182, I would have voted in favor of the resolution.

The Medicare and Prescription Drug Reform bill last year appropriated $1 billion over four years to pay state and local health facilities for the costs they incur in treating illegal aliens. Without denying health care to anyone appearing in the emergency room for treatment, H.R. 3722 would have required that local hospitals turn over information to the Department of Homeland Security about the illegal aliens they treat, as a condition of being reimbursed under the new program.

If hospitals chose not to do so, they would still be free to continue treating undocumented aliens. They simply wouldn't receive payment for these services.

Although H.R. 3722 was not approved, as a member of the House Immigration Reform Caucus, I will continue to work with others in Congress toward meaningful solutions to curb the trend of illegal migration to the United States.

TRIBUTE TO ROBERT L. HABUSH

HON. TAMMY BALDWIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Ms. BALDWIN. Mr. Speaker, I rise today to extend congratulations to Robert L. Habush. On May 24, 2004, the Milwaukee Chapter of the American Jewish Committee will bestow upon Mr. Habush the 2004 Community Service Human Relations Award at the Pfister Hotel. The Community Service Human Relations Award honors individuals who have demonstrated outstanding service and leadership. Mr. Habush has shown through his significant contributions to Wisconsin and the law that he is richly deserving of this award.

As anyone in Wisconsin can tell you, Mr. Habush has achieved a high level of professional success. He has practiced law for forty two years as a litigator, principally for plaintiffs, and over the years has been involved in some of the most significant cases in Wisconsin, as well as the development of the law. His law firm, Habush Habush & Rottier S.C., is well known in Wisconsin with its ten offices throughout the state.

Mr. Habush is widely admired for his philanthropy, including his strong commitment to the two law schools in Wisconsin. He has established the Robert L. Habush Bascom Professorship in Trial Advocacy and the Robert L. Habush Moot Court Advocacy Fund at the University of Wisconsin Law School. At Marquette Law School, he has funded a scholarship and a gift to create the Howard Eisenberg Memorial Hall.

Mr. Habush has also been honored by serving as President of the Wisconsin Academy of Trial Lawyers and President of The Association of Trial Lawyers of America. In 2001, he was named by the National Law Journal as one of the top ten litigators in the United States. In 2002, he received The Association of Trial Lawyers of America's highest award, The Champion of Justice. Mr. Habush has also been named as one of the top Wisconsin leaders in the law, by the Wisconsin Law Review. In honor of Mr. Habush's esteemed work, The Wisconsin Academy of Trial Lawyers has named its Trial Lawyer of the Year award after him, as well as The Association of Trial Lawyers of America naming their endowment in his honor.

Today, I join the Milwaukee Chapter of the American Jewish Committee in offering my sincere congratulations for receiving the 2004 Community Service Human Relations Award. Robert Habush is one of Wisconsin's best and I am proud to recognize him today.

TRIBUTE TO BOB ERICKSON

HON. JOHN KLINE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. KLINE. Mr. Speaker, I rise today to honor my friend and neighbor, Bob Erickson, and to recognize him on the occasion of his retirement from the position of City Administrator for the city of Lakeville, Minnesota.

Over the past 44 years, Bob Erickson has compiled a distinguished record of public service. He has been honored by such groups as the Dakota Electric Association for his devotion to the people of Minnesota.

During his 15-year tenure as City Administrator, Bob helped transform a sleepy bedroom community into a thriving suburb with thousands of new jobs and thousands of new homes. Lakeville has benefited from his leadership and we owe him our gratitude.

Bob Erickson will be remembered for his undivided devotion to his community and his tireless work to ensure the citizens of Lakeville receive the best possible services from their city government.

The city of Lakeville thanks you, Bob, and so do I.

PERMANENT EXTENSION OF 10-PERCENT INDIVIDUAL INCOME TAX RATE BRACKET

SPEECH OF

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 2004

Mr. HOLT. Mr. Speaker, I rise in strong support of making permanent the 10% tax bracket for low-income families. I am supporting the Tanner substitute because it, unlike the underlying bill, is paid for and does not drive our country deeper into debt.

The Tanner substitute, like H.R. 4275, makes permanent the change in our lowest tax bracket from 15% to 10%, and exempts from taxation the first $7,000 for single taxpayers and $14,000 for married couples. The Tanner substitute, however, requires that the funds needed to pay the tax cut do not come from Social Security and Medicare trust funds. Passing the Tanner substitute would help low-income families protect Social Security and Medicare while also helping eliminate the need to borrow from foreign banks to fund the federal government.

Mr. Speaker, today the national debt is the largest in history. Americans now collectively owe more than $7 trillion. That is $24,304 for every man, woman, and child. We have borrowed an additional $280 billion so far this year. The Majority would now like to borrow another $218 billion with the passage of this bill.

Here we have another tax cut that is not being paid for, even as the Bush Administration and the leadership of this Congress spend more than the American government has ever spent on homeland security and on all the other expenses of running the government—especially the huge costs of the war in, and occupation of, Iraq. The resultant borrowing places the burden of repaying our debts on our children.

I want the people of this country to realize that, right now, we owe collectively, in hard money, about $4 trillion to foreign countries. We owe Japan $607 billion; China (including Hong Kong) $205 billion; the U.K. $137 billion; Taiwan, $50 billion; Germany, $45 billion; OPEC countries, $43 billion; Switzerland, $41 billion; Korea, $37 billion; Mexico, $32 billion; Luxembourg, $26 billion; Canada, $25 billion—the list goes on and on.

More tax cuts without offsets will not only jeopardize critical public services now, but they will also hurt Americans well into the future. Massive deficits now create large debt and will create high interest payments that will crowd out spending on public investments for future generations. Moreover, these deep deficits threaten to increase interest rates in the future—making it harder for Americans to buy homes and afford higher education and making it harder for businesses to raise capital.

The President is pretending that we can have war without sacrifice. Eventually, someone has to pay. I believe Chairman Greenspan's recent comments are appropriate: "Our fiscal prospects are, in my judgment, a significant obstacle to long-term stability because the budget deficit is not readily subject to correction by market forces that stabilize other imbalances. The free lunch has still to be invented."

Now, we, all of us Americans, have to pay interest on the debt. We are literally squandering the wealth of this country by not paying for our tax cuts. The underlying bill is a good idea—keeping the lowest tax bracket at 10% helps all taxpayers equally. Unfortunately, by not paying for the tax cut, we are contributing to a far greater problem—the breathtaking fiscal irresponsibility that is going on here in this town.

A TRIBUTE TO ASIAN PACIFIC AMERICAN HERITAGE MONTH

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. LANTOS. Mr. Speaker, I rise in recognition of Asian Pacific American Heritage Month and to commend the millions of Asian Americans who have contributed so much to make this a great nation. I am fortunate to have the great privilege to represent the ethnically diverse 12th Congressional District of California that has one of the largest populations of Asian Pacific Americans in the United States and the largest population of Filipinos outside of the Philippines.

This month we celebrate the many Asian and Pacific Islander cultures that enrich our community. The Asian Pacific American community is quite diverse and includes some two-dozen distinct ethnic groups who came to this country from around the world. Their diverse cultures come together under a common umbrella and their presence in my community adds a wonderfully distinct flavor. I would be remiss to selfishly consider the impact on San Francisco and San Mateo alone, because the nation as a whole have benefited from the assimilation of the Asian Pacific American population.

We know the architecture of I. M. Pei and Maya Lin, we see the reporting of Connie Chung and Ann Curry, we listen to the music of Yo Yo Ma, we watch the movies of Lucy Liu and Pat Morita, we cheer Kristi Yamaguchi and Greg Louganis at the Olympics.

Our lives have been made easier with companies like Yahoo! Inc. and Computer Associates, founded by Jerry Yang and Charles Wang, respectively. George Artani wanted to make a better stereo system and succeeded when he founded, now the most popular electronics producer, Kenwood. Military life has also proven conducive to many in the community, and many have excelled. Major General Antonio Taguba exposed the Abu Ghraib prison abuse scandal, and General Eric K. Shinseki became the Chief of Staff for the Army in 1999.

The advanced strides can be measured in the heights reached by the public officials. In government we depend on the leaders like San Francisco Supervisor Fiona Ma, our distinguished colleagues in the Senate, DANIEL INOUYE and DANIEL AKAKA, U.S. Secretary of Transportation Norman Mineta, and here in the House of Representatives, my good friends from California, ROBERT MATSUI and MIKE HONDA. Sec. Mineta also represented California for 20 years before becoming the first Asian American to be appointed to a cabinet-level position when he was appointed Secretary of Commerce by President Clinton.

Our appreciation of their culture has come full circle. Today we celebrate, but in the not too distant past, racist and nativist sentiments met the newest immigrants with severe prejudice. Many who came faced strict quotas and unfair immigration laws, and suffered horrible prejudice and barbarous discrimination.

Following the attack on Pearl Harbor, we interned 114,000 persons of Japanese descent, whether or not they were citizens. In San Francisco, 7,800 Japanese Americans were rounded up, taken to the Tanforan Racetrack in San Bruno and housed in the stables. "Relocation Camps" were built, but as President Roosevelt's Secretary of the Interior Harold Ickes described them, they were nothing more than concentration camps.

Although interned by their country, many Japanese heroes fought for the freedom that their government took from them. The 442nd Regimental Combat Team was a regiment made up of persons of Japanese descent from the continental U.S. and Hawaii. The unit became the most decorated unit for its size in U.S. history. The Honorable DANIEL INOUYE earned the Medal of Honor fighting for the 442nd.

The Tydings-McDuffie Act of 1934 gave the Philippines its independence, but reclassified Filipinos as aliens rather than citizens, and reduced the amount of people who could legally immigrate to 50 per year. President Roosevelt used the Tydings-McDuffie Act to conscript the Filipino army into service against Japan. After fighting so courageously for our government, in 1946 Congress denied them the benefits that all other veterans received, especially disabled veterans. Today I am trying to correct this injustice and have cosponsored H.R. 664 to give Filipino Americans residing as a legal alien, or citizens of the U.S. the same health and pension benefits that all other veterans of World War II receive.

Since 1977, the month of May has been set aside to celebrate Asian Pacific American Heritage Month. This is the time that we can renew our focus on the problems that face the Asian Pacific American community, problems like affordable housing, immigration concerns, and racial profiling, and we can celebrate the accomplishments of the community.

I would like to thank my colleague Mr. MIKE HONDA for his leadership on the Congressional Asian Pacific American Caucus, and on H.R. 56, supporting the goals of the Japanese American, German American and Italian American communities in recognizing of a National Day of Remembrance, of which I am also a cosponsor.

Their vibrant community and array of perspectives have been firmly woven into the fabric of America. I am extremely proud to serve so many Asian Pacific Americans as their Congressman.

TRIBUTE TO DR. HENRY N. TISDALE, PRESIDENT OF CLAFLIN UNIVERSITY

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to Dr. Henry Nehemiah Tisdale, the 8th President of Claflin University in Orangeburg, South Carolina. A native South Carolinian, Dr. Tisdale's commitment to higher education has enabled scores of students to achieve their dreams of a college degree. This year marks his 10th year as President of this esteemed institution, and I believe a good time to highlight some of his outstanding contributions to South Carolina's higher education community.

Born in Kingstree, South Carolina, Dr. Tisdale received a Bachelor of Science degree in Mathematics from Claflin University in 1964. In 1967, he was awarded a Master of Education degree from Temple University, and in 1975, received a Master of Arts in Mathematics from Dartmouth College. He later obtained a Doctor of Philosophy degree in Mathematics from Dartmouth College in 1978.

Dr. Tisdale's professional experiences include a twenty-four-year tenure as Senior Vice-President and Chief Academic Officer at Delaware State University, where he also served for a year as Assistant Academic Dean for Administration, Planning, and Information Management.

His vision and zeal to position his alma mater Claflin University as a premier institution in the Southeast is nothing short of extraordinary. Under his tutelage, the University has earned "Top Tier" and "Top Ten" ranking among comprehensive baccalaureate granting institutions in the South with U.S. News and World Report's "America's Best Colleges 2003. " He has increased enrollment by 60 percent, achieved national accreditation for Business Administration and Teacher Education, restored many of the campus buildings, and transformed the campus with the new Living and Learning Center and Legacy Plaza.

Dr. Tisdale has also been the recipient of numerous honors and awards including the National Association for Equal Opportunity in Higher Education (NAFEO) Distinguished Alumni Award, Who's Who Among Black Americans, and the National Association for the Advancement of Colored People (NAACP) Educator of the Year Award.

Mr. Speaker, I ask you and my colleagues to join me in commemorating Dr. Tisdale's ten years at Claflin University. He has blazed a trail in his community through education and service that continues to influence future generations and enhance the national reputation of South Carolina in the field of higher education. Not only are Claflin's students and faculty, friends and alumni fortunate to have a person of Dr. Tisdale's caliber at the helm of their institution, but South Carolina is also a grateful beneficiary of Dr. Tisdale's passion for public service, and I am personally proud to have him as a personal friend.

INTRODUCTION OF THE TECHNOLOGY ADMINISTRATION AND NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACT OF 2004

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. UDALL of Colorado. Mr. Speaker, I rise today to introduce the Technology Administration and National Institute of Standards and Technology Act of 2004.

The National Institute of Standards and Technology (NIST) is a lynchpin to commercial activities of the private sector and the health and safety of all Americans—from its small-scale measurement activities that support the development of nanotechnology energy to its investigation of the collapse of the World Trade Center.

Lynchpins are noted for their reliability and criticality, and as such they are frequently overlooked until they break. That is the situation NIST finds itself in today. FY04 budget cuts are causing drastic cutbacks in NIST programs and causing NIST to lay off its employees. These reductions in NIST's budget and in its workforce threaten future U.S. competitiveness and the health and safety of Americans.

The bill I'm introducing today is an attempt to reverse this downward spiral. This bill would put NIST back on a positive growth track. It authorizes funding for NIST's standards support activities based on the FY05 budget request, and also includes funding for NIST's role in the implementation of the Help America Vote Act. The bill then provides a 5% increase for these support activities in FY06, FY07 and FY08. The bill also provides full funding for NIST to renovate its existing laboratory infrastructure. Many of NIST's labs are over fifty years old and are not suitable to house NIST's high-quality research equipment. This is especially true at NIST's Boulder, Colorado facility. This bill also provides full funding for the Advanced Technology Program (ATP) and the Manufacturing Extension Partnership (MEP) program.

The Science Committee has repeatedly heard from industry about the importance of funding for NIST's laboratory activities and for the ATP and the MEP programs. My bill is based on these recommendations.

Less than three weeks ago, the Science Committee held a hearing on NIST. Panelists included representatives from a chemical industry company, an information technology association, a biometric company, a nanotechnology company, and a fire safety association. They were all unanimous in their support for NIST and the need to increase its funding.

As one witness succinctly stated when asked about what other countries were doing in the standards area and what it meant to U.S. competitiveness: "So the question becomes where do we want to place ourselves as a nation. Do we want to be the lead dog on the sled or do we want to be somewhere else in the line? And my perspective is that our nation's interest is served better and our future is served better and our people are served better if we are the lead dog on the sled."

I urge my colleagues on the Science Committee and my colleagues in the House to support this legislation to help the U.S. remain the lead dog on the sled.

HONORING MARGARET PARKER FRETWELL

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. PORTER. Mr. Speaker, I stand today to honor Margaret Parker Fretwell. Mrs. Fretwell just recently celebrated her ninetieth birthday and it is my great pleasure to note that she is still working hard to better her community. Through her enjoyment of community service and a love for her family, Margaret Fretwell has made sure that her ninety years here on this earth have been spent in the service of others.

As an active member in her family, church, and community, she has become a symbol of service and charity. Those around her have been able to rely on her hard work and giving nature to promote charitable programs and educational events that benefit everyone in her hometown of Anderson, Nevada.

Mr. Speaker, it is my great privilege to stand here and honor Margaret Fretwell with my deepest thanks for her continued service and contributions to her local community. It is my hope that those that have been touched by her generosity will remember her example and use it in their own lives.

UNIVERSITY OF OREGON PHILANTHROPISTS ROBERT AND BEVERLY LEWIS

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. DEFAZIO. Mr. Speaker, I am pleased to recognize two important philanthropists who in their generosity to the University of Oregon are making a difference.

Robert and Beverly Lewis attended the University of Oregon in the 1940s. They deserve special recognition for their contributions to cognitive neuroscience. Robert and Beverly Lewis donated $10 million to the University of Oregon for its Brain, Biology and Machine Initiative and in doing so provided the philanthropic version of venture capital to grow this project into a world class center. I take a special interest in the Brain, Biology, and Machine Initiative, a research effort that brings together the university's top scientists in molecular biology, cognitive neuroscience, genomics, optics, and computational science to study how genetic factors affect brain development at the Robert and Beverly Lewis Center for Neuroimaging. It is a project that combines robust competitive federal grants, state support, private philanthropy, and congressional interest funds. It is already yielding compelling research and significant breakthroughs in our understanding of the mind and brain.

Thank you, Bob and Beverly Lewis, for your commitment to the University of Oregon. You are truly transforming lives.

INTRODUCTION OF THE PROPOSED NORTH MAUI COASTAL PRESERVATION ACT OF 2004

HON. ED CASE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. CASE. Mr. Speaker, I rise today to introduce the proposed North Maui Coastal Preservation Act of 2004, a bill directing the National Park Service to assess the feasibility of designating certain coastal lands on the north shore of the Island of Maui between the towns of Pa'ia and Sprecklesville as a unit of the National Park Service. This area is fully worthy of designation as a National Seashore, National Historic Park, or National Recreation Area.

Since assuming office as the representative for Hawai'i's Second Congressional District, I have heard loud and clear from the people of Maui, in person during countless times on the island and through petitions and postcards from some 2,000 constituents, about their deep concern for preserving this beautiful, historically significant and resources-rich coastline. Although the 128 acres identified in the bill are currently zoned as open space or parkland, they lie directly in the path of development in Maui's hot real estate market.

The desire of the people of Maui is to have the natural, scenic, and cultural resources of this unique area preserved and protected from development, and ultimately designated as the Patsy Takemoto Mink North Shore Heritage Park. As many of my colleagues know, my predecessor in this body, the late Congresswoman Patsy T. Mink, was born and grew up in Hamakua Poko, a small village near Pa'ia on just this coastline. If the Park Service finds that the area merits inclusion in the National Park System, I will introduce legislation authorizing establishment of a park and directing that it be named after Congresswoman Mink.

I want to take this opportunity to acknowledge the contribution of the Maui Sierra Club and especially of Lance Holter, a dedicated community activist, for inspiring the introduction of this bill. I can tell by the hundreds of cards I continue to receive from Maui residents in support of establishing such a park that there are many more people who have dedicated enormous energy and time in the hopes of preserving our precious natural and cultural heritage for future generations.

I urge my colleagues to join me in supporting this bill, and invite you to come to the Island of Maui to visit this special area. I know that if you do so, you will be convinced as I am of the vital importance of protecting these lands.

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50 YEARS OF RFE/RL BROADCASTING OF BELARUS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. LANTOS. Mr. Speaker, May 20, 2004 will mark the 50 year anniversary of Congressional action which authorized broadcasting to Belarus. This is an anniversary, which I note with some regret. It is unfortunate that we still need to broadcast to Belarus, and it is unfortunate that democracy and freedom of speech have not made greater progress there.

The transition to democracy and genuine freedom of speech in the former communist countries has never been easy. Belarus, a former Soviet republic that regained its independence when the Soviet Union collapsed in 1991, is an exception when compared to its neighbors, such as Ukraine and Russia. Since elected President in 1994, Alexander Lukashenka has relentlessly curbed independent media outlets in Belarus. As his regime became increasingly authoritarian, leaders of the democratic opposition have disappeared; civil society activists have been routinely detained, beaten by Special Forces, imprisoned and fined by government courts; and numerous NGOs have been closed. Belarus is the only country in Europe where Radio Free Europe/Radio Liberty (RFE/RL) continues to broadcast as it did during the darkest days of the Cold war—exclusively from abroad and relying primarily on short wave radio.

Mr. Speaker, RFE/RL listeners in Belarus greatly appreciate this service provided by U.S. taxpayers. The atmosphere of fear does not stop people from expressing their feelings of gratitude and support. A priest from a regional town writes to RFE/RL: "When I listen to your programs I think that it is God who is speaking trough your waves to Belarusians." A listener from Minsk, the country's capital, writes: "Radio Liberty is doing more for democracy in Belarus than all the opposition taken together." A former member of parliament, Uladzimer Kudinsky, imprisoned by the Lukashenka regime, was listening to the RFE/RL Belarus service over a radio smuggled into prison and found out that due to international pressure he was to be released in a week. The ground breaking reporting of the RFE/RL Belarus service helped discover and document illegal arms deals between the Lukashenka regime and Saddam Hussein.

It is a tradition of the Belarus service to step in and give an outlet to those who the government tries to muffle—opposition leaders, journalists from banned newspapers and magazines, children from the only Belarusian language high school which was shut down by the authorities, and civil society activists who are harassed and arrested. For 50 years the FRE/RL Belarus service was the major and most popular independent voice from abroad broadcasting domestic and international news into a state-controlled media environment and it has been carrying out this mission with professionalism, courage and dedication.

Mr. Speaker, I invite my colleagues to join me in commending the Belorusian service of REF/RL for its persistence and professionalism on this 50th anniversary. The

Belorusian listeners of the RFE/RL who tune in to its broadcasts, truly hear a "voice of freedom"—objective coverage of events within and outside of Belarus and, perhaps even more precious, a sense of solidarity with the world communities of democracies and hope for freedom for themselves.

TRIBUTE TO MRS. EVELYN ALETHIA BONAPARTE HAYNES

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to Mrs. Evelyn Alethia Bonaparte Haynes, a native South Carolinian whose dedication to the education of all children—regardless of economic background or racial identity—shines as an example to all who love children. On June 23, 2004, would have celebrated her 91st birthday, and in commemorating her legacy, I believe it is important to highlight a few of the contributions that she made.

Born in Charleston, South Carolina, Mrs. Haynes attended Wallingford and Buist Elementary Schools and Charleston's Avery Institute. She later graduated from South Carolina State College—now South Carolina State University—where she received a Bachelor of Science degree in Elementary Education. In 1958, she received a Master of Arts degree in Elementary Education, Supervision, and Administration from Teachers College at Columbia University in New York.

Mrs. Haynes made significant contributions to the education of children through her dedicated service in a number of positions. She began her teaching career in Beaufort, South Carolina. In 1936, she was employed by the Charleston County Department of Education, now the Charleston County School District. She served as teacher and principal at Miley Hill Elementary School in Ravenel, South Carolina for 14 years. In 1964, she was appointed the Jeanes Supervisor for the Charleston County Department of Education where she served until 1967. It was during these years that I met and for three years worked in consultation with her. After desegregation of the public schools in 1967, she was the first African-American appointed to an administrative position in the Charleston County public school system. She became Assistant Personnel Director for the Charleston County Public School District and remained in that position until her retirement in 1974.

Retirement, however, did not quell her passion for service. In 1974, Mrs. Haynes was elected to the City of Charleston's Constituent School District #20 Board of Trustees and served in that position until 1978. She advocated for high academic standards, high-quality learning materials, smaller classes, competitive salaries, trained administrators, and parental involvement.

Mrs. Haynes received numerous awards, citations, and honors for her active membership in her church, her public service contributions, and her distinguished career in education. She has been recognized by the Charleston Branch of the National Advancement of Colored People (NAACP), by Shaw University, and by Miley Hill Elementary School for her achievements.

Mr. Speaker, I ask you and my colleagues to join me in celebrating the life and legacy of this venerable woman on what would have been her 91st birthday. She blazed a trail in her community through education and service that continues to influence future generations. This committed teacher from South Carolina has demonstrated with great fervor, her commitment to excellence and to the highest of standards for the educational well-being of the children of South Carolina.

UNDOCUMENTED ALIEN EMERGENCY MEDICAL ASSISTANCE AMENDMENTS OF 2004

SPEECH OF

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 17, 2004

Mr. UDALL of Colorado. Mr. Speaker, I rise today to express my opposition to H.R. 3722, the Undocumented Alien Emergency Medical Assistance Amendments of 2004.

First and foremost, I oppose the way this bill was brought to the floor. There have been no committee hearings or markups. Instead, the bill was rushed to the floor under suspension so that no amendments could be offered to. the bill. There has not been any proper debate on this piece of legislation.

Studies have estimated that there are between 8–12 million illegal immigrants in the country. Hospitals throughout the country, but particularly in border states, are overcrowded and often cannot afford to provide vital services to their patients. The Medicare bill which recently became law provided for a total of $1 billion over four years to reimburse hospital expenses incurred by providing medical services to illegal immigrants. While the Medicare bill does not mandate the use of the reimbursement program, many hospitals depend on these funds simply to remain open.

The Undocumented Alien Emergency Medical Assistance Amendments will require further paperwork to be done by doctors and nurses in hospitals who are already overworked and overburdened. These doctors and nurses are not trained to enforce immigration law and should not be expected to do so. We should not use hospitals to fight the influx of illegal immigration but rather should provide more resources to law enforcement so that they can better enforce immigration laws.

This bill also has the potential to discourage illegal immigrants from seeking treatment for life-threatening conditions. Immigrant women who become victims of domestic violence may not seek help for fear of being deported. Pregnant women may not seek prenatal care or even go to the hospital for the birth of their children out of fear of being separated from their families and deported. It is likely that this bill will actually increase the cost of emergency services because illegal immigrants are more likely to wait until their conditions have worsened and require more expensive treatments.

Doctors and nurses create important trust-based relationships with immigrant communities which may be broken if this legislation is enacted. Discouraging immigrants from seeking medical assistance will have ill effects on our public health as well. Without proper treatment, communicable diseases such as tuberculosis are likely to spread and cause a much larger public health hazard.

I also have many concerns about requiring doctors and nurses to ask so many questions of their patients. It is not always possible or practical to ask such questions of every patient who enters the hospital; as a result, doctors and nurses might have to pick and choose those they ask, opening themselves up for accusations of profiling and possible legal recourse. This also may slow the delivery of medical treatment, as patients will have to provide documentation of their citizenship or immigrant status.

These are just some of the concerns this bill raises, and none of them has been adequately discussed. H.R. 3722 clearly is controversial and thus deserves to be properly debated on the floor, with amendments allowed to be offered. For all the reasons I've outlined, I must vote against suspending the rule and passing this bill, and I urge my colleagues to do the same so that H.R. 3722 can be considered under normal procedures.

POEM FOR A SOLDIER'S WIFE

HON. LINCOLN DAVIS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. DAVIS of Tennessee. Mr. Speaker, I am going to read a poem written in honor of the wives of soldiers, specifically for Betty Calabrese whose husband, Master Sergeant Robert Calabrese, just returned from a tour in Iraq. The poem was written by Lt. Commander Don Flanagan, U.S. Navy, Retired.

ONE SOLDIER'S WIFE

If she could take the time today to sit and stare
She would find her emotions ranging from hope to despair
So long ago her life was filled with daily chores
With joys and sorrows in and out like revolving doors.
In the early years of serving his country she was so proud
And anyone can tell you she certainly said so out loud
As a member of the National Guard he was called up each year
When he went to Vietnam and Kosovo she was filled with fear.
Fast forward to that terrible day in September 2001
She knew the dangers to him would increase one by one.
The talk of terrorists became much more intense
Until President Bush said that we would help the people of Iraq in their defense.
Too soon the day came for him to go
And as a soldier's wife she knew the dangers would grow.
The military promise of a limited tour did not come true.
Time passed with no firm planning to do.

In mortal combat he has comrades to stand by his side
But who really there for his worried and burdened bride?
Although family and friends say that they understand
They do not know unless a spouse had to fight for this land.
What does the war mean to you and me?
Only a distraction or an interruption of a program on TV.
Yet to her it is crying, despair, not knowing of a dead soldier and who it might be.
In spite of all she rallied her church members to pray for all to return safely.
Is there anything we can say or do but
Just realize how simple the challenges we go through.
Let us now allow her an extra fault or two
And most of all pray God to help her in all she must face and do.

PAYING TRIBUTE TO LEO LARGE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Leo Large and thank him for his exceptional contributions to his community and the State of Colorado as a Montrose County Commissioner. A two-term commissioner, Leo will always be remembered as a dedicated public servant and leader of his community. As Leo celebrates his retirement, let it be known that he leaves behind a terrific legacy of commitment to the people of Montrose County and the State of Colorado.

Born and raised in La Juanta, Colorado, Leo is a lifelong farmer and rancher who served his country proudly from 1950 to 1953 in the U.S. Army. His intimate knowledge with agricultural issues and dedication to his community later took him into a career in public service. For 16 years he served as vice-president for the Montrose County Farm Bureau Board, represented District 9 for the Colorado Farm Bureau, and served as chairman of American Farm Bureau Natural Resources for 9 years. As a county commissioner, he served on the Montrose Airport Advisory Board. Some of the other numerous boards and committees Leo served on and or chaired include Club 20, C.S.U. Task Force, Society for Range Management Board of Directors, National Public Lands Committee, Water for Colorado Task Force, and the Region 10 Transportation Board.

Mr. Speaker, I am honored to pay tribute to Commissioner Leo Large before this body of Congress and this Nation, and to congratulate him on an outstanding career of public service. His selfless dedication to his community and the people of Colorado as a Montrose County Commissioner is truly remarkable. I wish him and his wife Mickie all the best in their future endeavors. Thanks for your service.

MALCOLM X WOULD HAVE BEEN 79 TODAY

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. RANGEL. Mr. Speaker, I rise to pay tribute to a revolutionary African-American leader, Malcolm X, who would have turned 79 today, May 19, 2004. Malcolm X is recognized in my community and several others as a hero. His contributions towards racial and social equality will never be forgotten, thus his legacy still exists today.

Malcolm X's life was cut short when his influence as a political leader was reaching its pinnacle. Although his ability to leave a clear institutional legacy was thwarted, his influence was and continues to be wide reaching. Malcolm's religious and social transformation is something to be recognized and emulated.

Malcolm X played a pivotal role in American and African-American history. He helped shape the course of the Civil Rights Movement and the path for equal social justice. Let us never forget the positive legacy Malcolm X left behind. On this day, May 19, 2004 let us all wish Malcolm X a Happy 79th Birthday.

PAYING TRIBUTE TO FRANK DANIELS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. McINNIS. Mr. Speaker, it is a privilege to rise today and pay tribute to Frank Daniels and thank him for his outstanding commitment to serving the people of Colorado as District Attorney for the 21st Judicial District. As he celebrates his retirement, let it be known that he leaves behind a wonderful and strong legacy of dedication to the District Attorney's Office and the citizens of Colorado.

Appointed by Governor Ray Romer in 1993, Frank was elected three times to serve the position of District Attorney. In 1982 he graduated from Colorado University Law School, and from 1983 to 1993 he served as Deputy District Attorney and then Chief Deputy District Attorney for the 1st Judicial District. During his tenure in the District Attorney's Office, he handled thousands of cases of all varieties, including the well-known Blagg murder trial. He has also implemented many programs through the District Attorney's Office, including the Intensive Juvenile Diversion Program, Adult Diversion Program, and the Consumer Crime Program. A dedicated member of the community, Frank served as President of Mesa County Peace Officers Association, Western Slope Center for the Children, and the Grand Junction Gem and Mineral Club.

Mr. Speaker, it is clear that District Attorney Frank Daniels has ceaselessly dedicated his time and efforts to serving his district and the people of Colorado in the District Attorney's Office for the 21st Judicial District. I am honored to bring his hard work and commitment to the attention of this body of Congress and this nation today. Thank you for all your service, Frank, and I wish you all the best in your future endeavors.

RECOGNIZING THE SOUTHWEST GUILFORD GOLF TEAM

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. COBLE. Mr. Speaker, I am very pleased to recognize the Southwest Guilford golf team for their terrific talent and teamwork which resulted in a state championship on May 11, 2004. It is my honor to congratulate the Southwest Guilford golf squad from the Sixth District of North Carolina for their victory and remarkable team effort in the state 3A golf tournament. Led by Head Coach Don Dixon and assistant Larry Rice, the Cowboys were able to work together and capture the title. Special congratulations to Matt Dowdy, Shawn Hardesty, Greg Williams, Will Duke, T.J. Christensen, Andrew Smith, Taylor Radison, Tyler Smith, Drew Hilliard, Andrew Chakasem, and Wes Swaim for their efforts.

As team leader Greg Williams told the High Point Enterprise, "We knew to stay more focused on golf this season, and not worry about having too much of a good time." The Cowboys dedication proved to pay off which should not only bring pride to Southwest Guilford, but to the entire Sixth District. T.J. Christensen, who played another vital role on the team, fought through injury with a broken bone in his hand to finish the year and contribute to the state championship. This was a clear example of the dedication exhibited by the Cowboys golf team.

Congratulations to Principal Arthur Legrand and Athletic Director Brendan Christen. This was a remarkable season of golf for the Sixth District. I am very proud of these young men and wish them the best of luck for the future. We are looking forward to more impressive play in the years to come.

PAYING TRIBUTE TO ROY CRAIG

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. McINNIS. Mr. Speaker, it is with a heavy heart that I rise before you today to pay tribute to the life of Roy F. Craig, an extraordinary American and distinguished scientist, who recently passed away at the age of seventy-nine. For the past twenty-five years, Roy enjoyed life on his La Boca Ranch outside of Ignacio, Colorado, where he took an active role in community issues, particularly land use. As his family and community mourn his passing, I believe it is appropriate to recognize the life of this exceptional man, and his many contributions to his community, state and country.

Roy F. Craig was born May 10, 1924 on his parent's homestead on the Florida Mesa. Upon graduation from Durango High School, Roy attended Fort Lewis College, but left his studies to serve in the Army during the Second World War. After the war, he resumed his studies and earned his doctorate in physical chemistry from Iowa State University. During his professional career he taught at the University of Colorado, founded the Four Corners Research Institute, and served as a visiting professor at the University of Hawaii and at Ponape, an island in the South Pacific.

Mr. Speaker, it is an honor to rise before this body of Congress and this nation to recognize the life of Roy Craig. He dedicated his life toward the betterment of his community, state and nation, and he will be greatly missed. My thoughts are with his loved ones during this difficult time of bereavement.

COMMENDING THE PEACEKEEPING EFFORTS OF THE TROOPS FROM EL SALVADOR IN IRAQ

HON. LINCOLN DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I rise today to commend the brave troops from El Salvador who are participating in the peacekeeping operations in Iraq. Their bravery, honor, competence and professionalism are playing a critical role in the creation of a free and democratic Iraq.

The Salvadoran peacekeepers have been doing remarkable work delivering humanitarian relief and reconstruction assistance in Iraq. These peacekeepers have provided supplies, electricity, books, and playground equipment to impoverished schools as well as delivering aid to local farmers. However, Iraq remains a dangerous place for those who are contributing to the liberation of Iraq. The hazards of this important task were apparent on April 4, 2004 when the Salvadoran soldiers encountered armed resistance around Najif.

On April 4, 17 Salvadoran troops bravely stood their ground in the face of overwhelming opposition from the armed followers of Sheik Muqtada al-Sadr. In the face of mounting injuries and certain defeat, at one point fighting when 12 of the 17 were wounded and one had died, the Salvadoran soldiers never stopped fighting. Fortunately, a relief unit arrived to join the fight and rescue the Salvadoran troops.

The brave deeds of these valiant few will be remembered by all. Mr. Phil Kosnett, who leads the Coalition Provisional Authority in Najiv, described the Salvadoran troops as "the bravest and most professional troops I've ever worked with."

Tragically, PVT Natividad Mendez perished on the field of battle. He will always be in our hearts and prayers.

Mr. Speaker, it is imperative that we recognize the enormous efforts of every nation and every troop serving in Iraq. The world has arrived at a momentous turning point. If Iraq can become a stable democracy the world will have changed for the better. El Salvador and the Salvadoran troops in Iraq recognize the importance of this moment and are acting to ensure that Iraq is transformed from a terrorist state into a free and democratic nation. They will always have our profound gratitude.

PAYING TRIBUTE TO RUTH HULSEY

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Ruth Hulsey for her selfless dedication to her Pueblo, Colorado community. A lifelong coach and teacher, she is a pioneer in Colorado sports, helping to establish girls' high school athletics in school district 60 in 1971. It is Ruth's determination and love of sports and her community that enabled her to help shape the history of athletics in Colorado.

A lifelong native of Pueblo, Ruth graduated from Centennial High School in 1947. Although there were no female scholastic athletics programs at the time, she found a way to compete, as her marksmanship earned her a spot on the rifle team. While attending Colorado State Teachers College, she participated in hockey, soccer, basketball, swimming, tennis, and volleyball. After graduating with a degree in physical education in 1951, Ruth began her teaching career at the Keating School in Pueblo.

Her dream for female athletics finally came to fruition after several years of effort and planning in 1971. That year she coached gymnastics, tennis, and track and field at Centennial High School, taking the relay team to the state track meet in their first season. Ruth moved to East High School in 1981, where she taught and coached swimming until her retirement in 1989. In 1983, she became only the fourth woman inducted into the Greater Pueblo Sports Association Hall of Fame.

Mr. Speaker, it is my privilege to pay tribute to the achievements of Ruth Hulsey before this body of Congress and this nation, and to thank her for her contributions to the great tradition of athletics in Colorado. Her efforts to instill the love of sport in the youth of her community is truly commendable. I wish her all the best in her future endeavors.

THE MEDICAL LIBRARY ASSOCIATION AND THE "E-REACH PROJECT" IN ILLINOIS 7TH CONGRESSIONAL DISTRICT

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. DAVIS of Illinois. Mr. Speaker, I am pleased to announce to my colleagues that the Medical Library Association will hold its Annual Meeting in Washington, D.C. on May 22–May 26. Headquartered in my congressional district in Chicago, MLA is a nonprofit, educational organization of more than 900 institutions and 3,600 individual members in the health sciences information field, committed to educating health information professionals, supporting health information research, promoting access to the world's health information, and working to ensure that the best health information is available to all.

The advancement of information technology holds great promise for dramatically increasing the delivery of health care to underserved communities across the country and throughout the world. Medical librarians and health information professionals play a key role in the delivery of quality health care services by facilitating access to web-based health care information and telemedicine services. Despite the value of electronic-based health information, a recent needs assessment survey conducted by Loyola University Health System, the Loyola University Health Sciences Library and their Pediatric Mobile Health Unit highlighted the fact that 60 percent of respondents in the predominately minority communities of Bellwood, Maywood and Cicero, IL had not used the Internet to access health care information. Moreover, 80 percent of respondents had never consulted a librarian to help them find health related information.

In response to these findings, the Loyola University Health System, Loyola University Health Sciences Library, and Loyola University Health System Mobile Health Unit have developed a project designed to strengthen and enhance access to health information among underserved and under-represented populations in Maywood, Bellwood and Cicero. The E-REACH (Electronic Realtime Education Aiding Community Health) initiative will provide "on demand" health information to patients and families served by the Loyola University Health System Mobile Health Unit and Loyola Children's Center. The program will focus on expanding electronic access to health information at the point of patient care, promoting the use of health information by physicians and other health workers involved in the project, increasing patient awareness of health insurance programs and other health information resources, and increasing awareness of electronic health care information for individuals with Internet access.

The E-REACH initiative is partially funded by a grant from the National Library of Medicine (NLM) and is an excellent example of how the NLM has taken a leadership role in promoting educational outreach to underserved populations as part of an ongoing effort to reduce health disparities among large sections of the American public. NLM currently funds over 280 outreach projects, with at least one such project in every state.

I congratulate all those involved in this promising new initiative, including the project director, Dr. Logan Ludwig, Associate Dean of Library Services and Telemedicine at the Loyola University Health Sciences Library. It is my hope that the E-REACH program will serve as a model for other communities seeking to expose the benefits of health information services to medically underserved and minority populations.

Mr. Speaker, I ask my colleagues to join me in welcoming the Medical Library Association to Washington for their Annual Meeting, and recognize the invaluable contribution that health information professionals make to our nation's health care system.

PAYING TRIBUTE TO KEN NESBITT

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. MCINNIS. Mr. Speaker, it is with a heavy heart that I rise to pay tribute to the life and memory of Ken Nesbitt, who recently passed away after sustaining fatal injuries in a motorcycle crash. I personally knew Ken well, and he was a devoted family man, a dear friend, and a beloved member of his Grand Junction, Colorado community. As his family and community mourn his passing, I believe it is appropriate to recognize the life of this exceptional man, and his many contributions to his community and state.

After graduating from Arizona State University in 1968, Ken served our nation for five years as a Navy pilot where he was selected for the Apollo 16 Recovery Mission. In 1973, he moved back to Grand Junction where he joined the family construction business that his father started in 1954. He took over the business in 1977 at age twenty-eight, and his strong leadership and business acumen saw the company grow into an industry leader and a vital asset to the community. Due in large part to personally donating land and the resources of his business, he made sure the Grand Junction/Mesa County Riverfront Project was completed, which Grand Junctionites still enjoy today. For his efforts, Ken received the Outstanding Citizen of the Year Award by the State of Colorado Parks Board, and his company received an award for Reclamation Project of the Year for Greenbelt.

One of the most dedicated, hard-working, and likable people that I have ever known, Ken has made a lasting impact on Grand Junction and the State of Colorado. He helped found the Grand Junction Economic Partnership and was a president and board member of the Grand Junction Chamber of Commerce. He was a trustee on the Board of Directors for St. Mary's Hospital and sponsored the Winter Sports Clinic for the Vietnam Veterans of America in 1993. He also served on the board of numerous civic and business organizations, including the Colorado National Bank, Riverfront Commission, Mesa County Economic Development Council where he also served as chairman, and the Grand Junction Lions Club. Above all, Ken was devoted to his beloved wife JoAnn, sons Chris and Jeff, and daughter Ashley.

Mr. Speaker, it is an honor to rise before this body of Congress and this nation to pay tribute to the life and memory of Ken Nesbitt. I am proud to have known such a great man who enriched the lives of his family and community. My heart goes out to his family, friends, and Grand Junction community during this difficult time of bereavement. Ken, we will miss you.

PERSONAL EXPLANATION

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. SHAYS. Mr. Speaker, on May 18, I was returning to Washington from the World Economic Forum in Amman, Jordan and, therefore, missed three recorded votes.

I take my voting responsibility very seriously and would like the CONGRESSIONAL RECORD to reflect that, had I been present, I would have voted "yes" on recorded vote No. 180, "yes" on recorded vote No. 181, and "no" on recorded vote No. 182.

PAYING TRIBUTE TO JENNY INGE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. MCINNIS. Mr. Speaker, I would like to take this opportunity to congratulate Jenny Inge of Creede, Colorado, on being recognized by the Creede-Mineral County Chamber of Commerce as their 2004 Employer of the Year. The award recognizes an employer who has shown an exceptional devotion to the community and to promoting the local economy. This award is a well-deserved testament to her achievements.

Jenny is the proud owner of Rare Things, a business that sells fine jewelry, antiques, and various works by artisans. In addition to running the business, Jenny also creates many of the fine pieces of jewelry and art displayed in the store. The business has been a success in the community for thirty years, and is Creede's largest year-round employer. The success of the business can be credited to the creative and open environment Jenny creates, as well as her entrepreneurial skills in attracting tourists and other customers to Creede. Her civic involvement and dedication to Creede includes the Mineral County Gem and Mineral Show, and her work with the Mineral County Fairgrounds.

Mr. Speaker, I am honored to pay tribute to the service and achievements of Jenny Inge before this body of Congress and this nation. Her efforts to strengthen her community are truly remarkable, and the recognition she received from the Creede-Mineral County Chamber of Commerce, as their 2004 Employer of the Year, is a well-deserved testament to her tireless efforts. I sincerely thank Jenny for her service, and wish her the best in her future endeavors.

UNDOCUMENTED ALIEN EMERGENCY MEDICAL ASSISTANCE AMENDMENTS OF 2004

SPEECH OF

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 17, 2004

Mr. MOORE. Mr. Speaker, I rise today in opposition to H.R. 3722, which I believe poses a significant threat to the health of all Americans. If H.R. 3722 is enacted, the fear of deportation will inevitably discourage undocumented immigrants from seeking care for potentially communicable diseases. As a result, serious health problems will likely go untreated and unreported with serious negative consequences to the health of entire communities.

In addition, numerous hospital and local government organizations have told Congress that the reporting and record keeping requirements included in H.R. 3722 will not only place a serious administrative burden on already overburdened hospitals, but also harm the relationship of trust between health care providers and their patients. This will undermine health care providers' basic and vital mission—tending the sick and injured. I would like to include in the RECORD a letter in opposition to H.R. 3722 I received from El Centro, an organization in my district dedicated to family improvement.

Like many of my colleagues, I am dedicated to continuing to seek solutions to the challenges we face in our immigration policy. I have supported multiple efforts to strengthen our immigration and border patrol systems. I do not believe, however, that denying emergency health care to those critically in need is consistent with the successful curbing of illegal immigration.

EL CENTRO, INC.,
Kansas City, KS, May 7, 2004.

Congressman DENNIS MOORE,
Cannon House Office Building,
Washington, DC.

CONGRESSMAN MOORE: El Centro, Inc. sincerely hopes that you will oppose Representative Dana Rohrabacher's (R–CA) extreme bill threatening access to emergency health care for undocumented immigrants and, we fear, for many U.S. citizens living in immigrant families and communities.

Among its provisions, H.R. 3722, the Undocumented Alien Emergency Medical Assistance Amendments of 2004, would deny hospitals and other health care providers reimbursement for uncompensated emergency care they provide to undocumented immigrants unless they report those immigrants to the Department of Homeland Security (DHS). As a practical matter, this would oblige providers to verify the immigration status of all uninsured patients presenting health care emergencies. The information health care providers would be required to transmit to DHS would include their patients' financial data, identity of employer, and biometric information.

H.R. 3722 would also narrow the scope of emergency health services available to undocumented persons and make inability to pay medical expenses a basis for removal from the U.S. Employers of undocumented workers whose medical expenses are reimbursed by the federal government would be required to repay the government for those costs.

This proposal would jeopardize the health of immigrants and the general public. The threat of separation from their communities and families would deter immigrants and their family members from seeking needed health services, including testing and treatment for communicable diseases. Overburdened emergency health care providers would be forced to verify the immigration status of emergency patients, and report those believed to be undocumented to immigration authorities, in conflict with patient privacy rights and the fundamental principle that they refrain from harming their patients. The bill would impose additional burdens on employers, including small businesses, who already are required to verify the citizenship and immigration status of workers. It also would increase the likelihood of discrimination against persons assumed to "appear foreign" because of their race, accent or other prohibited factors.

Though Rep. Rohrabacher's intentions may be to contain emergency health cost and the flow of undocumented immigrants via this proposal, this is certainly not the way to do it. In fact, we believe the only possible outcome of the proposal is the creation of a disastrous and costly public health scenario. We ask that you oppose attempts to move this proposal forward.

Most sincerely,

MELINDA K. LEWIS,
Director of Policy Advocacy and Research.

PAYING TRIBUTE TO FIRST NATIONAL BANK OF THE ROCKIES

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. McINNIS. Mr. Speaker, I am honored to stand before this body of Congress and this Nation today to pay tribute to First National Bank of the Rockies, a business that has given a century of service to the citizens of Colorado. Recently, the bank moved its headquarters from Meeker to Grand Junction where most of its corporate officials reside. As First National celebrates its 100th Anniversary, let it be known that I, along with the people of Colorado, are grateful for the valuable service it provides.

First National Bank of the Rockies first opened its doors in 1904. Originally chartered as The First National Bank of Meeker, the name was changed in 1989 when a group of investors bought the bank, as well as First Federal Savings & Loan in Craig, and renamed it. Since the new owners took over, the bank has rapidly expanded, increasing its total assets ten-fold, and buying Rocky Mountain State Bank and Rio Blanco State Bank in 1997. As First National continues its expansion, it sees a bright economic outlook for Grand Junction and the State of Colorado.

Mr. Speaker, it is a privilege to recognize the service and dedication of First National Bank of the Rockies to Grand Junction and the State of Colorado. It has maintained strong community involvement and excellent personal customer service while continuing to grow and expand throughout the state. I congratulate First National on its 100th Anniversary and wish it continuing success.

PAPERWORK AND REGULATORY IMPROVEMENTS ACT OF 2004

SPEECH OF

HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mr. BLUMENAUER. Mr. Chairman, I speak out in opposition to H.R. 2432, the "Paperwork and Regulatory Improvements Act of 2003." This bill would weaken, rather than improve, the process of developing federal regulations by elevating the interests of regulated industries over all other considerations. The bill would needlessly divert resources from implementing important regulations and does nothing to protect current public health and environmental regulations, which are under fire from the Bush administration. These are regulations that even the Office of Management and Budget has indicated have immense benefits: in September of 2003 an OMB study concluded that environmental regulations are well worth the costs they impose on industry and consumers, resulting in significant public health improvements and other benefits to society. For example, the study found that the health and social benefits of enforcing clean-air regulations during the past decade were five to seven times greater in economic terms than were the costs of complying with the rules. Yet the Bush administration continues to issue rules and guidelines that weaken the Clean Air Act.

I strongly support the Waxman-Tierney amendment to establish an independent commission on the politicization of science in the regulatory process. The amendment responds to a growing concern among scientists and the environmental community that the Bush administration is placing politics above science. From refusing to release a report contradicting their views in the Klamath basin of Oregon to removing information on global warming in an Environmental Protection Agency report, this administration has shown little more than flat out contempt for science. Just last month we saw the Bush administration issue a new policy that would allow hatchery-raised salmon in the Pacific Northwest to be included in wild salmon population counts, which could have a significant impact on whether or not the species are listed under the Endangered Species Act. Press accounts show that this was done over the objection of an independent panel of scientists commissioned by National Marine Fisheries Service to advise them on the issue.

In February of this year, 60 leading scientists—including 20 Nobel laureates, leading medical experts, former federal agency directors, and university chairs and presidents—voiced their concern over the misuse of science by this administration. I am deeply disappointed that H.R. 2432 takes us in the wrong direction by advancing a misguided concept that elevates the interests of regulated industries over the health of our communities.

PAYING TRIBUTE TO TED HAYDEN

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity and pay tribute to Ted Hayden and thank him for his dedication to Colorado as a four-term Delta County Commissioner. His dedication and tireless efforts have done much to ensure a promising future for his constituents. As Ted celebrates his retirement, let it be known that he leaves behind a terrific legacy of commitment to the people of Delta County and the State of Colorado.

As a member of the Delta County Board of Commissioners for sixteen years, Ted has been instrumental in implementing a variety of projects. He represented Delta County on the Rail Transportation Research & Advisory Committee, helping to secure funding for a rail corridor safety improvement plan to upgrade public railroad crossings on the North Fork branch of the Union Pacific Railroad. Ted has also been very active in the North Fork River Improvement Association, the North Fork Coal Working Group, the Delta County Fairgrounds, and in developing a park and sports complex in Paonia. Ted served as Chairman of the Delta County Board in 1991, 1994, 1997, 2001, and 2003. Before serving as commissioner, Ted spent fourteen years in the service of the Colorado State Patrol.

Mr. Speaker, it is quite clear that Ted Hayden is a person that has displayed a terrific level of dedication and commitment to his pursuit of public service. Ted's selfless dedication to his Delta County community and the State of Colorado is truly outstanding, and it my privilege to recognize him today before this body of Congress and this nation. I wish him all the best in his future endeavors.

PAPERWORK AND REGULATORY IMPROVEMENTS ACT OF 2004

SPEECH OF

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mr. HOLT. Mr. Chairman, I rise in opposition to H.R. 2432. Like so many other bills that have come the House floor recently, this one has a good title that belies its real substance. The paperwork and regulatory burdens on businesses could certainly use improvement, but this bill is actually an underhanded way to weaken so many important regulations that protect American citizens by giving us clean air, clean water, protected public lands, and safe workplaces.

It is ironic that, even as we operate under one of the most industry-friendly administrations in recent history, the paperwork burden on the average American businessman has actually gone up. In fiscal year 2003, total government paperwork reached an estimated 8.1 billion hours. According to OMB's Office of Information and Regulatory Affairs, the paperwork burden rose a record 570 million hours in fiscal year 2002 and another 72 million hours in fiscal year 2003.

So even as the Bush administration and the House leadership dole out special interest goodies to oil and gas companies, HMOs, and many others, the paperwork burden for businesses is going up. The bill we have in front of us will not relieve that burden or do anything to undo the sharp increase in paperwork that we have seen from this White House. Instead, it weakens the process of developing federal regulations that protect the health and safety of Americans and our natural environment.

It is also ironic that the House leadership has chosen to attack environmental regulations as imposing undue burdens on businesses when our laws and regulations still do not fully account for externalities like pollution. Polluting industries may decry the costs of burdensome government regulations, but it is average citizens who pay the real price when they breathe dirty air and drink polluted water.

Some reports have concluded that my home state of New Jersey has the worst air quality in the nation. So it is hard for me, and for my constituents, to tolerate the cries of the power industries when their pollution leads to the premature deaths of so many New Jerseyans. I am outraged when the Bush administration insists on rewriting environmental regulations to pad the profits of polluters and ignores the human costs of pollution.

There is a real danger with the details in this legislation, especially concerning environmental and health regulations. The bill directs OMB to have every federal agency provide an annual report estimating the total costs and benefits of regulations and paperwork pertaining to that agency. So the agency measures the costs, say, of installing pollution controls on a power plant and filling out the relevant paperwork. When it comes to measuring the benefits of a given pollution control regulation, however, are we going to include the value of premature deaths avoided and reduced asthma rates? I sincerely doubt that most federal agencies are going to be inclined, or even be able, to estimate such external benefits.

As a research scientist. I am also concerned that the bill does not require the cost-benefit analyses to be done using rigorous scientific analysis. If we want to seriously look at the real costs and benefits of our regulations, we need to use scientific methods, or we risk using complete speculation. This Administration has already undermined and ignored science numerous times—let's not give them another opportunity.

I understand the burden that many businesses, especially small businesses, face in filling out government paperwork. This bill, however, is more about coming up with excuses to undermine vital health, safety, and environmental regulations than about relieving the evergrowing paperwork burden.

ARE WE BETTER OFF THAN WE WERE?

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Ms. EDDIE BERNICE-JOHNSON of Texas. Mr. Speaker, I rise to speak on where we as a Nation have come over the last 3 years of the Bush Administration.

The question that deserves to be answered is, Are we better off than we were three years ago? Is our security better? Are we as safe as we should be? Do the Republicans have a plan to create jobs, or to reduce the deficit? Is our health care better? Have the costs for college tuition gone down? Have we ensured our children a better start in life?

Mr. Speaker, I can categorically and honestly answer each of these questions with a solid "no."

But what has happened in the last three years?

When President Bush took office, we had a $236 billion budget surplus; the Nation had created 22 million jobs in the previous eight years and gas prices averaged $1.47 a gallon.

Today, the government spends $900,000 more a minute than it takes in. We are borrowing $1.1 billion daily; 8.2 million are looking for work; gas prices are at a 23-year high with a national average of $2.01 a gallon; and wages have grown flat while college tuition and health care costs have skyrocketed.

As a result, most Americans are not better off today than they were three years ago.

Most Americans do not feel safer; they are living in fear and are losing hope. Forty-four million Americans do not have health insurance. Most Americans cannot afford to send their children to colleges and universities. This trend must stop.

America can do better for Americans than this. We can restore hope. We can restore peace. We can get back on the right track.

Democrats want to put America back on the right track. We just need the Republicans to get out of the way.

HONORING JOHN CONRAD KAPTUR

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Ms. KAPTUR. Mr. Speaker, as we approach Father's Day, 2004, it is a great privilege today to offer respectful words of tribute on behalf of the entire Kaptur family—loving wife Rita, children and spouses Stephen, Christopher/Renee, James/Christine, Kenneth, Regina/Jeff. Sisters Virginia, Lillian, Christine, and the grandchildren, Nicole, Michael, Cassandra, Ashley, Brittany, Jacob, and Lucas—as we honor the beautiful life of John Conrad Kaptur. Surely, he is loved.

His children observe: "Dad has a smile that would immediately tell all that he was happy to be in company with you. He enjoyed a good joke and always enjoyed a brewed cup of tea. 'Refreshing', he would say. John was a gentleman, also a strongman, a man who exemplified the motto by which he lived 'always faithful'. Our beloved father, Steve, his uncle, said of John, 'He knew how to be a man'."

Born in 1925, John was a devoted son of Szepan and Mary, an American of Polish heritage. He was his parents first and only born son. His father was the eldest of 16 children. John grew up attending St. Stanislaus Church and Libbey High School during tough economic times. He knew struggle. He worked hard. He possessed the drive, inventiveness and skill for which Kaptur men are known. His kindness was rooted deeply in his early years when people survived by holding onto one another.

He valued family—to celebrate life and to weather the rough times. At 79, he was the patriarch of the Kaptur family.

John was a tot when Wall Street crashed in 1929 ushering in the Great Depression of the 1930's. No jobs were to be had. For people today, it is hard to describe how hard life was back then—before America had a minimum wage, before there was enough to eat for so many families, before there was Social Security and Medicare. That was the world into which John was born. He never forgot. But he always kept moving forward. He was so talented. He possessed the Kaptur man's physique—sturdy, square jawed, full of wanderlust, but steady, with a heart of gold so big his body could hardly contain it.

At 17, following in his father's footsteps, he enlisted in the U.S. Marine Corps—the elite, special branch of the US Armed Forces especially trained for amphibious assault. He served in the Pacific Theater during WWII—first training at Camp Le Jeune in New River, North Carolina. In September 1942, he departed on a troop ship out of San Diego as a member of the 3rd Marine Division for the Bouganville invasion of American Samoa. He contracted a mosquito borne illness in late 1943 after the Guadalcanal invasion. A natural leader, he rose in rank in the Corps and later in the Reserves from Private First Class, to Lance Corporal, to Corporal, to Sergeant, and Staff Sergeant. He served honorably 12 years in the Corps and Reserves. He was a Patriot.

When I look at his beautiful family, I repeat the Marine Corps saying: "The marines have landed, and the situation is well in hand." John maintained a keen interest in world events and helped shape them. In his mid 30s, John married Rita Mominee. What a match this has been! Smiles, a house full of activity-travel-joy. Together, they raised a magnificent family—4 boys—Stephen, Christopher, James, Kenneth and finally a girl! Regina. What a blessing he was able to watch them grow up and flower into adulthood. He enjoyed every minute.

During his long life, he also experienced the Great Depression, World War II, the Korean War, Sputnik and the landing of the first man on the moon, the collapse of the Soviet Union, where his own father had served in Marine Corps in Vladivostok, and he ushered in the 21st century. All the while, John kept steady with his family and garden blooming, a man of quiet strength, a gentleman, good, and kind. To ease the sorrow, we should think about what each of us can do in his name, as a living prayer. For he will come to us now in a new way, not on our time but on his time. His children, through Regina, say about him:

"Dad was proud to be Catholic and to have served in the United States Marine Corps. His talents were many." After working nearly four decades in industrial production planning at Dura Corp and later, retiring from Chrysler-Jeep as a planner in the engineering division, he quickly went out to do plumbing. "The love of people and good conversation made me want to do it," he said. He always worked a hard day supporting his large family.

He most loved his family. He celebrated his 45th Wedding Anniversary not long ago with his wife, Rita, along with their family. What a strong and devoted spouse Rita has been. Jim and Christine shared their home to make that happen, just as they will for the wake today after the Christian burial. Dad was very proud of Jim's accomplishments as a Paramedic/Toledo Firefighter and the perseverance he has to move up. He found great comfort in his knowledge. He would always take a nap in the afternoon so he could stay up to welcome Ken home from a hard day's work, and talk about the Lottery. When the day came to around 3 o'clock he would look for Chris to come by and have some good conversation. For Steve, he was very thankful for the skills it took to fix his car or use his trailer. As he was fathering all these boys, he became so very proud of their hard work and perseverance on a job. Regina knows her dad is proud of her accomplishments and the love, care, and comfort she had for him in his time of need. "Dad taught me respect, compassion, diplomacy, perseverance, and the ability to know people and to have the psychology of life. Most of all, he taught me to love a human being, no matter if they were challenged or not."

Then there are the grandchildren: He loved each and every one of them—Nicole, Michael, Cassandra, Ashley, Brittany, Jacob, and Lucas. Whether John wanted to play hockey in the driveway, or bump the tree with the tire swing, or pick up sticks in the yard, or take a walk to the grapes, or even around the block. He may have just wanted a conversation with you, he loved you all. And I might add, our last conversation, just a few days ago, was about getting together with the grandchildren for dinner when he was feeling better.

And the grandchildren couldn't have come without the loving daughters-in-law and son-in-law he gained—Renee, Christine and Jeff.

Regina writes: "I was very glad to have spent the time with Dad these few months and through all his surgeries. I would not have wanted it any other way. So much value was built in the quality time we had. He recalled everyone in the present and in the past. Never was a cross word said. His words were always very kind.

Dad had the best doctors and they always took our phone calls without hesitation and went beyond to meet our needs. Dad was always open to their suggestions that would help him. He had told the doctors: "Let's do it"—"I am a patient man."

With tears in my eyes, I watched as God wrapped his arms around Dad and said to him, "My precious child, come with me. You surely were a treasure on this earth, but now I need you in Heaven." So God reached out and showed him the bright light, and said, "I will reunite you all again some day."

With tears in all of our eyes we will meet him again in heaven where he will greet each one of us with a smile and say, "It's great to see you." "Thank you for coming." "Can I get you a cup of tea, or perhaps a Coop e'Kava and cookie."

POEM

Because you went first and I remain,
To walk the road alone.
I live in memories garden, Dear,
With happy days we've known.
In Spring I wait for roses red,
When faded, the lilacs blue.
In early Fall when brown leaves fall
I'll catch a glimpse of you.
Because you went first and I remain,
For battles to be fought.
Each thing you touched along the way
Is now a hallowed spot.
I hear your voice, I see your smile,
Tho blindly I now grope.
The memory of your helping hand
Now buoys me on with hope.
Because you went first and I remain,
One thing I'll have to do:
Walk slowly down that long long path,
For soon I'll follow you,
I want to know each step you took,
So I may take the same,
For some day down that lonely road,
You'll hear me call your name.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, May 20, 2004 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 2

9:30 a.m.
Foreign Relations
To hold hearings to examine the greater Middle East initiative.
SD–419

JUNE 16

2:30 p.m.
Energy and Natural Resources
Public Lands and Forests Subcommittee
To hold hearings to examine the grounding of multi-engine fire-retardant aircraft, steps the Forest Service and Department of the Interior have taken to provide alternative aerial support for initial attack and extended attack fire fighting operations in the short run, and the feasibility and desirability of designing and implementing an inspection process to allow the use of multi-engine fire-retardant aircraft in the future.
SD–366

SEPTEMBER 21

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the American Legion.
345 CHOB

SENATE—*Thursday, May 20, 2004*

The Senate met at 10 a.m. and was called to order by the Honorable LISA MURKOWSKI, a Senator from the State of Alaska.

The PRESIDING OFFICER. Today's prayer will be offered by guest Chaplain Rabbi Ellen Bernhardt, Headmaster of Albert Einstein Academy, Wilmington, DE.

PRAYER

The guest Chaplain offered the following prayer:

God, Creator of the universe, source of all goodness and mercy, we thank You for the bounty that is ours in this world. Help us to live so that we may be worthy of Your love as we strive to do Your will. You have created each one of us with uniqueness and implanted within us a spark of the divine.

We come from many backgrounds and ancestries, and we are bound together in these great United States of America with its cherished values and high ideals. Let us remember the gifts and responsibilities that God has given us as we strive to perfect the world in our days and for generations yet unborn.

We beseech You to give strength and wisdom to our Senators so that they will continue to do their work in this great Chamber and in every cubicle across this land. May they have the patience to listen to the voices of others, the vision to see within the hearts of each person, and the tenacity to continue to strive to make this world a better place for all humanity. And let us all say, Amen.

PLEDGE OF ALLEGIANCE

The Honorable LISA MURKOWSKI, a Senator from the State of Alaska, led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 20, 2004.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable LISA MURKOWSKI, a Senator from the State of Alaska, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Ms. MURKOWSKI thereupon assumed the Chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for up to 60 minutes, with the first half of the time under the control of the majority leader or his designee and the second half of the time under the control of the Democratic leader or his designee.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Kansas is recognized.

SCHEDULE

Mr. BROWNBACK. Madam President, this morning the Senate will conduct a period of morning business for up to 60 minutes, with the first half under the control of the majority leader and the second half under the control of the Democratic leader. Following morning business, the Senate will resume consideration of the Department of Defense authorization bill. Senators WARNER and LEVIN will continue working on amendments today and rollcall votes are expected on amendments to the bill throughout the day. Senators will be notified when the first vote is scheduled.

The majority leader announced last night that the fiscal year 2005 budget resolution conference report may become available and we may consider that conference report before the week concludes. Votes will occur over the next 2 days. Members should plan accordingly.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada, Mr. REID.

ORDER OF PROCEDURE

Mr. REID. Madam President, if the distinguished Chair would allow me a unanimous consent request, at the time the Democrats' morning business hour begins, I ask unanimous consent that Senator SCHUMER be recognized for 12½ minutes and Senator BILL NELSON be recognized for 12½ minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Kansas.

MASSACHUSETTS COURT SAME-SEX MARRIAGE DECISION

Mr. BROWNBACK. Madam President, I take a few minutes of the leader's time to speak in morning business on one of the issues this week that has drawn, obviously, the attention of everybody across the country. It has happened in Massachusetts where, 3 days ago, in keeping with the rulings of four Massachusetts Supreme Court justices last November, the State of Massachusetts started issuing marriage licenses to same-sex couples, as thousands descended on the State.

This event has significant repercussions for all Americans. According to news reports, local officials across the State were giving licenses to all who requested them, without asking for proof of State residency. This is in open defiance of Massachusetts law, which bars out-of-State couples from marrying in the State if the union would be illegal in their home State.

Let there be no mistake about this. The stakes in this battle over the future of our culture are enormous. This attempt by an imperious judiciary to radically redefine marriage by a few people is both a grave threat to our central social institution and a serious affront to democratic rule in our Nation.

Our reaction to this threat hinges on not only the future of marriage, which is a foundational unit for building a strong society, but our future as a self-governing people as well—whether the people here rule or a few on the judiciary. The actions of the Massachusetts Supreme Court in Goodridge v. Department of Public Health, to mandate homosexual marriage, is simply the latest instance of arrogant judges riding roughshod over the democratic process and constitutional law alike, in a quest to impose a radical social agenda on America.

The decision in this case could not have been more radical. The court declared that our society's longstanding, historical understanding of marriage as

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

between a man and a woman was irrational or completely lacking a foundation in reason. As such, according to the court, the only possible explanation for the State denying marriage licenses to homosexual couples is prejudice, which the court compared with racial prejudice of the past that opposed interracial marriages. This analogy, of course, is false. It is misleading. The vast majority of African Americans recognize that. The vast majority of all Americans recognize it. All America should have the right to marry whomever they choose, regardless of race. But while most Americans believe that homosexuals have a right to live as they choose, they do not believe that a small group of activists or a tiny judicial elite have a right to redefine marriage for the entire society and to impose this radical social experiment on the culture.

Almost every benefit that is being sought can be attained through contract or power of attorney. But let us be clear, this is not a battle over civil rights. It is a battle over whether marriage will be emptied of its meaning in contradiction to the will of the people and their duly elected representatives.

This is a key issue. I look for this body to take up the issue in a constitutional amendment defining marriage as between a man and a woman. This is going to be a very difficult discussion. I hope we can have a good, healthy discussion about the importance of marriage as a foundational building unit in this society, a marriage between a man and a woman bonded together for life. That, indeed, is the best place to raise children according to all of our sociological data. This institution has been in disrepair for 40 years—has had difficulty for a long period of time—but this is not the answer to curing it. This will harm it.

While this is going to be a difficult debate and discussion for us as a country, it is a valuable and important one for us to have. I look forward to this body, later this year, voting on a constitutional amendment defining marriage as between a man and a woman.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mrs. HUTCHISON. Madam President, I yield up to 10 minutes to the Senator from Colorado.

The ACTING PRESIDENT pro tempore. The Senator from Colorado.

ACCOMPLISHMENTS OF THE LAST FOUR YEARS

Mr. ALLARD. Madam President, I thank the Senator from Texas for yielding.

I want to talk a little bit about what has happened during the last 4 years after the President assumed office, and after we have had a Republican Congress.

I think there were problems within the world and within this country that nobody wanted to admit were happening.

For example, when this President took office, the economy was going down. The previous President—President Clinton—didn't want to admit that, but it was a fact. And that is an accepted fact today which everybody understands.

Look at what the economy was doing when President Bush assumed office. The economy was going down. This President and this Congress, instead of putting the problem off to future generations and putting out a lot of rhetoric, did something. We cut the tax burden to stimulate this economy, and today the economy is doing much better. Employment is growing. We have a strong economy; it is getting stronger. People are being productive. We are getting people into homes. Right now, we have the highest home ownership rate in the history of this country, which means people of all races and ethnic backgrounds are getting an opportunity to own a piece of America. That is where the strength of this country is.

Because of this President and this Congress working on those kinds of issues, there is a real difference in people's personal lives.

The other thing that was not recognized and which some people wanted to ignore is the fact that we are much more secure today than we were 4 years ago. We didn't realize, 4 years ago, the threat that was happening as far as America.

I recall an opportunity where I was interviewed on BBC. This was an interview that happened a couple or 3 years back. There was an individual on the other side who was from the Middle East.

He said: Senator, what you don't realize is that you have been at war in America for 5 years already because of what is happening in the Middle East. They have already declared war on you.

If you look at it historically, we had a few terrorist attacks on small areas that were rather insignificant. We ignored them. Then we had terrorist attacks on our embassies. We ignored them. We had a terrorist attack on Khobar Towers, and we ignored it. We had the attack on the USS *Cole*, and we ignored that. Then we had the World Trade Center in New York, and basically that was ignored. Finally, it took the attacks by terrorists on the Twin Towers and the Pentagon of the United States for people to wake up, and this President and this Republican Congress stepped to the plate and we dealt with those security issues. We provided the money to make this a modern military. This President said we needed a more modern military; that is, more mobile because times are changing.

Our threat is terrorism throughout the world. We need to be prepared to address that. This President and this Congress didn't put that off to the next generation. We didn't put it off until somebody else would make a decision—some future Congress or some future President. We addressed that problem immediately. We got after it. We are continuing to get after it. We still have a concern.

I am excited about the fact that we are now talking about sovereignty for Iraq where they are going to be their own leaders. That doesn't mean necessarily that we are going to have less involvement as far as the conflict is concerned.

But we need a leader in this world who is trying to promote world peace. And we need a leader who is trying to secure the economic health of this country and the world, too.

If we look back at the accomplishments of the last 4 years, there is a lot to be proud of. I am glad we had some real leadership in the White House. I am glad we had some real leadership in both the House of Representatives and the Senate that took on those issues. They are not easy issues. They are difficult issues.

But the good message to the rest of the world is, America is stepping to the plate.

I am looking forward to continuing the fight and the work with my other Members to make sure we have a strong economy. That is a challenge.

We need to make sure those tax cuts we provided are stimulating our economy and economic growth; make that economic engine go so we have a free market system which is working; and make sure those incentives are out there so Americans who work hard are justly rewarded and they can keep the benefits of their hard work in their own pockets and it doesn't have to be sent to the Federal Government for it to spend; they get to spend it themselves in their own communities to meet there own needs. That means less government. It means we can rely more on individuals to assume responsibility. We need to work to make sure we create opportunities for everyone.

That is the challenge we have ahead of us. Tax cuts are expiring. One of the challenges we are facing in the Senate is the budget deficit. We have to be sure we reduce the deficit. Our economy is responding to the tax cuts. I don't think anybody can say tax cuts didn't help. We have to keep our country strong for our security.

We still have challenges, we recognize that. But we have to face up to those challenges and not push them off to future generations.

I happen to believe you have to stand up to terrorism. We learned the hard lesson. We learned if you ignore terrorism, it doesn't go away. We learned that you have to stand up to the terrorists. If you do not, with each success the recruitment of terrorist groups goes up. We saw that. With each success, the terrorist groups get more money, they get better financing, and they are a greater risk.

I compliment this President. I am proud to be a part of a body which has over the last 4 years made a difference in this country. That is not to say we do not have a lot of challenges; we certainly have a lot of challenges. But we are off to a good start. We need to continue.

I look forward to working with this President for another 4 years because I think he has done a good job in leadership. I think this country needs him.

I think this Congress has some challenges ahead of it, and we need good, strong leadership.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mrs. HUTCHISON. Madam President, how much time remains?

The ACTING PRESIDENT pro tempore. There is 18 minutes remaining on the Republican side.

Mrs. HUTCHISON. Madam President, I would like to be notified at the end of 5 minutes, after which I will yield the remainder on our side to the Senator from New Mexico.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITMENT TO NATIONAL SECURITY

Mrs. HUTCHISON. Madam President, we just heard a wonderful talk by the President of the United States. He talked about our commitment and reminded us once again that our commitment to winning in Iraq is everything. There is no alternative. The President talked about the commitment of winning the war on terrorism.

That means we must stabilize Iraq. We must begin to show the people in the Middle East what freedom, free enterprise, economy and jobs can do, and an educational system that includes boys and girls, giving them hope for the future.

He reminded us of the commitment we must make to see the war on terrorism through. This is not going to be a war that goes exactly the way it was planned. Name for me a war that did. Name for me a war that we said, Here is what is going to happen, and it happens just that way. This is war. We have been attacked. Thousands of Americans have been killed by fanatics. Nick Berg was assassinated on videotape in a brutal manner by terrorism. This will continue to happen if we lose our resolve. There is only one way that we can lose; that is, for America not to see this through.

It means winning the immediate war. It means stabilizing Iraq and Afghanistan. It means sowing the seeds of freedom and representative government in those countries to show how it can be done where people have not lived in freedom for years. We must see it through. But it means more than just the next year in which we have the big important war on terrorism that we see evolve before our eyes. It means we are going to have to stick with it for 25 or 30 years because it is going to take that long to show education can give children hope for the future, so you will not be able to brainwash a child to think life is not worth living, that the best thing one could do with their life is to give it up by killing other people in a suicide bomb.

The only way to warp children to believe a suicide bomb is their best hope in life is by failing to give them an education. An education gives them hope for a future, for a job, for a family, for a quality of life that is worth living.

The President of the United States is laser-beam focused. He is focused on winning the war on terrorism for the security of the American people and for the ability for freedom to live throughout the world. If America does not carry the beacon and the flag for freedom in the world, who will? Who has the capacity and the will to do it? If freedom dies in America, it will not flourish for very long anywhere else on Earth. That is why the President is so focused on the security of our country by finding and winning the war on terrorism.

We see people wringing their hands, asking, What can we do. We see the assassination of Nick Berg on videotape and we ask, What can we do to get out of this. We can make sure the violent death of Nicholas Berg is not in vain, that the hundreds of Americans who have died in this cause do not die in vain, that they are dealing with an America that has the leadership to stand up for our country and our security and our freedom and see it through. That is what the President of the United States is doing for our country today. We must not lose focus.

I ask unanimous consent to have printed in the RECORD an article by David Brooks from the New York Times.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, May 18, 2004.]

IN IRAQ, AMERICA'S SHAKEOUT MOMENT

(By David Brooks)

There's something about our venture into Iraq that is inspiringly, painfully, embarrassingly and quintessentially American.

No other nation would have been hopeful enough to try to evangelize for democracy across the Middle East. No other nation would have been naive enough to do it this badly. No other nation would be adaptable enough to recover from its own innocence and muddle its way to success, as I suspect we are about to do.

American history sometimes seems to be the same story repeated over and over again. Some group of big-dreaming but foolhardy adventurers head out to eradicate some evil and to realize some golden future. They get halfway along their journey and find they are unprepared for the harsh reality they suddenly face. It's too late to turn back, so they reinvent their mission. They toss out illusions and adopt an almost desperate pragmatism. They never do realize the utopia they initially dreamed about, but they do build something better than what came before.

This basic pattern has marked our national style from the moment British colonists landed on North American shores. Overly optimistic about the conditions they would find, the colonists were woefully undercapitalized, underequipped and underskilled. At Jamestown, there were three gentlemen and gentlemen's servants for every skilled laborer. They didn't bother to plant enough grain to see them through the winter.

But they learned and adapted. Settlement companies were compelled to send more workers, along with axes, chisels, scythes, millstones and seeds. Eventually the colonies thrived.

Centuries later, it was much the same. The guides who aided and fleeced the pioneers who moved West were struck by how clueless many of them were about the wilderness they were entering. Their diaries show that many thought they could establish genteel New England-style villages in short order. They leapt before they looked, faced the shock of reality, adapted and cobbled together something unexpected.

And it is that way today. We are tricked by hope into starting companies, beginning books, immigrating to this country and investing in telecom networks. The challenges turn out to be tougher than we imagined. Our excessive optimism is exposed. New skills are demanded. But nothing important was ever begun in a prudential frame of mind.

Hope begets disappointment, and we are now in a moment of disappointment when it comes to Iraq. During these shakeout moments, the nay-sayers get to gloat while the rest of us despair, lacerate ourselves, second-guess those in charge and look at things anew. But this very process of self-criticism is the precondition for the second wind, the grubbier, less illusioned effort that often enough leads to some acceptable outcome.

Today in Iraq local commanders seem to be allowed to try anything. We are allowing former Baathists to man a Falluja Brigade to police their own city. We are pounding Moktada al-Sadr while negotiating with him. There is talk of moving up elections so when an Iraqi official is assassinated, he is not seen as a person working with the U.S., but as a duly elected representative of the Iraqi people.

Some of these policies seem incoherent, but they may work. And back home a new mood has taken over part of the political class. The emerging responsible faction has no time now for the witless applause lines the jeering jackdaws on left and right repeat to themselves to their own perpetual self-admiration and delight. Even in a political year, most politicians do not want this country to fail.

There are, for example, members of Congress from both parties who feel estranged from this administration. They feel it does not listen to their ideas. But in this troubled hour, they are desperate to help. If but a call were made, they would burst forth with intelligent suggestions: about Iraq, about political tactics, about getting additional appropriations.

Remember, the most untrue truism in human history is that there are no second acts in American life. In reality, there is nothing but second acts. There are shakeout moments and redundantly, new beginnings. The weeks until June 30 are bound to be awful, but we may be at the start of a new beginning now.

Mrs. HUTCHISON. I yield the remainder of my time to the Senator from New Mexico.

Mr. DOMENICI. How much time do I have?

The ACTING PRESIDENT pro tempore. There is 12 minutes remaining.

HIGH ENERGY PRICES

Mr. DOMENICI. Madam President, again this morning I will talk about energy. I hope I have an opportunity each week until we come to our senses and pass an energy bill to remind the American people one of the reasons gas prices are spiraling, one of the reasons we are skeptical about our future is the tremendously high price of crude oil.

That will never be reduced until America makes a commitment, until the people of the world and the producers of oil understand the United States of America is not going to sit by and do nothing. We are going to have a comprehensive policy with one objective. That is to produce more alternatives that can be used by the American people to satisfy and supply their energy needs. That means we want to do more to produce natural gas, not sit idly by and let the demand increase and soon be dependent on foreign countries for natural gas.

The occupant of the Chair comes from a State that has an abundance of natural gas. But we have to bring it to the lower 48 States. The Energy bill which we propose, that the other side of the aisle for the most part defeated, had a powerful provision which will bring natural gas from Alaska. It also had a provision that will get the maximum amount of natural gas from our sources in America.

The price of gas in California this week averaged $2.27; in San Francisco, it hit $2.79; in Brooklyn, it was $2.49. Each time our citizens pump a gallon of gas in their cars, they should remember a majority of the Senators in this body, led by the Republicans, has been trying to pass a comprehensive energy legislation package. They are blocked each time by a filibuster led by the other side of the aisle, the Democrats, who, for some reason, find an excuse on every energy bill we propose. Either this must be changed, that must be changed, or this must be added—until we end up with nothing.

Fellow Senators, the Energy bill is not a silver bullet to lowering the price of gasoline. It does, however, set forth a plan for the future. The Energy bill will increase domestic oil and natural gas production that helps balance supply with our growing demand. The Energy bill does a number of technical things. It removes a 2-percent oxygenate mandate that will make it easier on refineries to make gasoline that can be traded between regional markets. The Energy bill addresses the proliferation of boutique fuels. There are a number of State-specific gasoline reformulations that make refining more challenging and make marketing inefficient. We can go on and on.

This bill provides basic research in hydrogen power. Many ask, How are we going to get ourselves off of this tremendous demand for gasoline and crude oil derivatives? One is hydrogen power. How do we do that without an energy bill that sets a policy of spending the research money on hydrogen power with the automobile manufacturers to come up with a solution?

We try, as part of a comprehensive energy bill, I said, try as we may—we cannot satisfy the other side of the aisle. I wonder if they really want an energy bill. I am beginning to think it is their way or no way. They might even think the President of the United States might be helped too much with an energy bill. I hope that is not true.

The benefits are being denied to the American people. Some people want to kick the political football around and they hope they can score a touchdown. We are actually going to score in higher energy prices—and higher energy prices hurt the economy. I am a football fan. But that is one touchdown I don't want to see scored.

Right now we are focusing on high gasoline prices. High gasoline prices are tied to the price of oil. What has been making the price climb? We know there is huge demand in the world led by China, which is gobbling oil like you would think there was no end to the supply. In addition, there is a risk factor being built into the price because of terrorism and the vulnerability of oil production. There is a risk factor that is causing those who produce and sell it on the world market to not go rock bottom but to go as high as they can because they are afraid of terrorism.

We have to be hopeful that the cartel and those who are producing oil, who are listening to our President, some of whom have been friends of America, we are hopeful they will see the light of day, that this price they are forcing on the world is not good for them, either; it is bad for their friends; it is bad for the world. Ultimately, it is not good for the producing countries.

Our President is taking a leadership role with reference to the energy-producing countries. He is trying to cajole, to talk to them, to work on them so they will increase production and hopefully bring down the price of oil. Some want to embarrass the President by offering resolutions directing him to do what he is doing. Some want to use the Strategic Petroleum Reserve as if that reserve, which is there for emergencies, could, in fact, help with these high oil prices. The last time we tried, it affected gasoline prices by 1 cent. Do we want to reduce the emergency oil we have and then find in a few months the terrorists do something and we are short of oil and then we have a real problem because of it? SPR was for that kind of situation.

Perhaps people forgot the last time Iran cut a little bit of the supply to the world, America was affected in a dramatic way. That caused us to build SPR so we could never be immediately cut off and immediately forced to have our economy disrupted by a challenge from outside. Why do we want to risk that when the consequences will be very little?

Maybe some think they can blame an economic downturn, because of high energy prices, on President Bush. They will not succeed. President Bush's economic policy has brought America from a recession to a vibrant, growing economy. Its gross domestic product increases are the highest in 20 years—not 2 years, not 5 years, in 20 years. So they are not going to deny that by filibustering an energy bill.

But I can tell you, the purpose of debating in the Senate is to let the American people know who is responsible for what. And I don't know what to do. We have tried everything with reference to getting an energy bill. Maybe we ought to ask the Democrats to sit down and talk about what they need. I am not sure we could get anything out of that because I am not sure they know. Because it seems to me anything we try just cannot get anywhere because one group or another, principally on the other side of the aisle, seems to find fault; and there we go, we get nothing done.

Now, we have some who want to investigate the oil companies because of the prices. I have, in this statement, a list of the investigations that have occurred and who has done them. They are powerful, neutral bodies that have done them. They did one for California because their prices went skyrocketing. Nobody can find collusion or price fixing. What has happened is the world demand is monstrous, and the cartel and others that are not part of it want to hold supply down to let prices go up.

And what do we do? We sit here in the U.S. Congress, wring our hands, and complain and worry and talk about President Bush needing a plan. Look, he gave us a plan. If you want to argue about how he did it, go ahead, but look at it and see what it will do. For the most part, the things in that plan are exactly what America needs. We need to maximize our own production of oil. It will not be sufficient, but we can do some things. We need to maximize the production of natural gas. We need to maximize the potential use of coal. We need to build every alternative into our national plan. Wind energy and solar energy need the incentives that are required. And, yes, in the end we have to put some incentives in to get started with nuclear again. But we do not have to have all of these. We need the basics. You cannot even get those done.

So from my standpoint, I hope we will quit blaming, quit wringing our hands, quit talking, especially on the other side of the aisle, about what we need to do, when, in fact, they are denying the very things they say we need to do by not voting for the things they are talking about. In fact, I think we could go through the RECORD and find that many on the other side have gotten up and made speeches about what we need to do, and you could go down and tick them off, and most of them are in the Energy bill. Most of the things they talk about are in the Energy bill, but for some reason they would rather talk about it than vote for it. They would rather talk about it than offer amendments and get the thing going.

I think what we ought to do soon is offer a bill and offer a unanimous consent suggestion that we put it up here and we have 10 amendments on each side and then we proceed to vote. I think that would be a fair way to handle the energy crisis of America. It would say, quit fooling around. You get 10 amendments. That ought to be enough to get your purposes out there. We get 10. Then it is over with, and we vote. But I am sure if you tried that, every excuse in the world would be forthcoming. Nobody will say: We need an energy bill. Let's do something. They will say: Oh, no, it doesn't have this. There is a chance, a risk we will get hurt. They won't take care of this and they won't take care of that and we will get nowhere.

So I close by saying I was also privileged to hear the President speak this morning. The Senator from Texas talked about it. I, frankly, have nothing but admiration for his fortitude, his strength, and his determination. I think if the United States and its people can quickly assess the blame with reference to the prisons and get on with letting our President and the military people stabilize Iraq and let them begin to decide their future as free people who do not have to worry about getting killed, the sooner we can let that happen, the sooner America will be back on the right track. But I am not sure that everybody in this country wants to get that over.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. DOMENICI. Madam President, I ask unanimous consent to have 1 additional minute.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOMENICI. Madam President, I close by saying I would hope that as we prepare to go out for recess, everybody in this body will examine their conscience, examine their positions, and that maybe they can come back and say: Let's sit down. Let's get an energy bill. Let's get the maximum kind of flexibility for production of alternatives in this country. Let's see if we can't make the American electric energy grid more powerful, stronger, more reliable, and see that it can grow and prosper.

It is our future. How we energize it is our challenge. We cannot do it with natural gas alone. We have to have alternatives. That is what we had proposed. We must decide that we are going to try. I chose this committee—left the Budget Committee—because I knew how important this was, but, frankly, I never thought there would be so many people who wanted to make it so hard for us to get an energy policy as has happened. I could not believe it, as a veteran Senator. Frankly, I am amazed there are still those on the other side who want to blame somebody, want to tell us what we ought to do but do not want to vote for anything.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Delaware.

Mr. CARPER. Madam President, as Senator DOMENICI prepares to leave the Senate floor, I thank him for his tenacity and his earnest desire to lead us to a balanced energy policy. I think he knows there are plenty of us on this side who do want to reach the right balance, and I have enjoyed trying to provide a little bit of that balance.

Mr. BIDEN. Madam President, will the Senator yield for a unanimous consent request?

Mr. CARPER. I am happy to yield.

ORDER OF PROCEDURE

Mr. BIDEN. Madam President, I ask unanimous consent that the Democratic side be given an additional 10 minutes of morning business, with the time equally divided between Senator CARPER and myself. Before the Chair acts on this request, I am told it has been cleared by the Republican side.

Mr. DOMENICI. We have no objection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOMENICI. Madam President, I wonder if the Senator will yield for 30 seconds?

Mr. CARPER. I yield.

Mr. DOMENICI. Madam President, I say to the Senator, I heard your remarks, and I do want to say to the Senator, that while I do not know your overall feelings about an energy bill, I will say on a couple of very difficult issues that I think are very important that were contentious—and many people on your side did not think we ought to do—you stood tall because you understand that we need diversification and you are not afraid to make votes. And I thank you for that.

Mr. CARPER. I thank the Senator.

Madam President, on a brighter note, with respect to energy policy, a week or so ago we passed a major bill called FSC/ETI. Some people call it the JOBS bill or a trade bill. But provisions of the Energy bill were incorporated in that legislation, important provisions that include incentives for renewable forms of energy—solar, wind, geothermal—and incentives to encourage people to buy more energy-efficient vehicles, hybrids, fuel-cell vehicles, to make them more affordable, to get more of them out on the road, and using less gasoline and diesel fuel, and also incentives for us to begin converting to a greater use of what I call biofuels—ethanol—and something we do in Delaware a lot on the Delmarva Peninsula where we take soybean oil and mix it with diesel fuel.

They were able to do something good for the environment and actually reduce significantly our use of diesel-powered vehicles.

While it is still mid-May, we have a fair amount of time to go before we finish here. Before we finish, I hope we will find common ground on the rest of the energy policy, and that it is also respective of our environment and the clean air concerns we have, and gives the States the ability to recover damages for their drinking supply that has been damaged by MTBE.

GUEST CHAPLAIN RABBI BERNHARDT

Mr. CARPER. Mr. President, I express to Senator BIDEN my appreciation for his inviting a wonderful woman, a rabbi from Delaware, to come here to be our guest Chaplain, and to say how pleased we are, all of us, to welcome Ellen Bernhardt. She gave the invocation about 40 minutes ago. I told her it was one of the best invocations I have heard in the 3 years I have been privileged to be a Senator. It was as good as any I have heard. We thank you for not only coming to bring the blessing of that invocation, but to remind us about what really matters.

I also thank her for just what she does in Delaware. She has been a rabbi, I think, about 17 years. She is a native of Philadelphia. For the last 11 years or so, she has run a school in Delaware which is, I believe, the only Jewish day school in our State. We have a lot of schools, but only one Jewish day school—Albert Einstein Academy. There are youngsters in kindergarten, from age 5, up to the sixth grade. While it is a Jewish day school, it is nondenominational because whether the students happen to be Jewish or not, they can attend that school. I was kidding earlier about how most of them are Baptists. Actually, I don't think that is the case. That gives you the flavor of the nondenominational school. I have been privileged to know a number of the kids who go there. They get a wonderful education and start for their lives and go on to do great work.

We have been joined today not only by Rabbi Bernhardt, but also by three of her children and her husband. We are so privileged that she lives in Delaware and that she provides great leadership on the educational side, and also for a lot of us on the spiritual side, whether we happen to be Jewish or not. Welcome.

Again, to my friend, JOE BIDEN, I thank him for making it possible for her to be here today.

Mr. BIDEN. Madam President, Delaware is a small State and everyone seems to know everyone else. We know just about everyone in the State. You can't go to the grocery store, church, synagogue, or mosque without running into people you know. We go to each other's events. It is a little like Alaska—small. Alaska is gigantic, but the population is small. We go to each other's gatherings, and we are affected by each other's achievements and each other's milestones, and we are affected by each other's losses. Sometimes the closeness gets us in trouble, but I would not change it for the world.

It has been an honor and a pleasure to represent my State and to have the pleasure over the years to invite several members of our clergy to come and be guest Chaplains.

Rabbi Ellen Bernhardt is our guest Chaplain today. As Senator CARPER said, she is finishing her 11th year at the Albert Einstein Academy in Wilmington, not far from where I live. The academy is open to all students, although it is the only Jewish day school in our State.

It has been a pleasure visiting the school on a number of occasions. Over the years, we have spent a fair amount of time in fundraising events together, sharing the dais, and attempting to see to it that the school remains vibrant. That has been going on, actually, before the rabbi was running the school. But the fact is, her dedication, talent, faith, and deep abiding commitment to her students and her work in my State has touched many people in our community. For that, we are all very grateful.

I believe I speak for all my colleagues when I say thank you for your thoughtful, inspirational invocation this morning. We need it badly at this moment in the United States. We are honored to welcome you to the floor of the Senate.

I arrived here almost 32 years ago and I feel the same amount of pride today that I felt then as I walk out on this floor. I know that sounds corny, but I really do. I am incredibly proud of this institution. I remember the first time I walked on the floor; my temporary desk was the second from the end over there. I realized I was standing next to the desk where Daniel Webster sat. I thought to myself, it is the only time I actually thought, my God, what am I doing here? In the last 31 years, some in my constituency have said: My God, what is he doing there? I have become accustomed to it. My impression at that time—and I don't know the rabbi's impression—was how small this Chamber is. There is a closeness to it. It is a comfort. Anyway, I am proud we are able to share the floor with the rabbi today.

Let me say, my relationship and personal connection with the rabbi is a quintessential example of the nature of the State of Delaware.

I happen to know that the rabbi grew up over her father's drugstore in Belfonte, which I frequented a lot. I went to St. Helena, a Catholic grade school in Claymont. Everybody knew your father's drugstore. Everybody hung out in your father's drugstore. I am considerably older than the rabbi. So we basically come from the same small neck of the woods, the same small neighborhood.

The rabbi's father was a heck of a guy, by the way. As a kid and a member of the Congregation Ades Kodesh Shel Emeth, Ellen would study after school with her rabbi, Rabbi Leonard Gewirtz—a man I always affectionately referred to as literally "my rabbi." He introduced me frequently. He became my first tutor—literally, not figuratively—because of my interest in theology and the Holocaust. I remember speaking up at a college, a rabbinical school in Philadelphia. I remember those big old thick shoes he used to wear, the kind that laced up the side and squeaked on a linoleum floor. I was speaking in this room that was not very commodious for speaking; it was long and with low ceilings, and the podium was in the middle. It was a shoal, actually. He came late and wanted to hear me speak. He opened the door and the congregation was seated and the door smacked against a pew. He walked in and, as you know, he walked right up to the front and sat down. It was kind of a tense moment. Everybody wondered who is this guy walking in. I said, "My rabbi has arrived."

After speaking to this all-Jewish congregation, a group of ladies my mom's age, who were in an atrium that connected the shoal to the university, the school—as I walked out, they were arguing. I could hear them saying: Yes, he is. No, he isn't. Yes, he is. A lady grabbed me by the coat and said: You said "your rabbi. He had a similar influence on me—though much more profound to you but no less significant to me." He was a great man.

He was famous for his passionate sermons from the pulpit, his love for Jewish education, his love for Israel and the community he served.

Rabbi Gewirtz was truly a spiritual leader and, as Ellen will tell you, is the reason she decided to become a rabbi. We truly miss him, but his spirit is with her today. I know he is looking down and is very proud. He was also proud of this place, proud of this country, proud of the Senate. To have you here, I am sure, he is smiling.

There are a lot of other things I could and would like to say about Ellen. As I said, we are very similar in the sense that we are truly products of our parents' upbringing and, knowing her story, it is no surprise to me that she has devoted her life to Jewish education, community service, and to her family.

Her grandparents came to this country by way of Ellis Island. Her entire mother's side of the family chose to remain in Eastern Europe and were tragically killed in the Nazi Holocaust.

Her extended family was conspicuously absent from her life. As one can imagine, this had a profound effect on Rabbi Bernhardt and her family's life, priorities, and values.

Her father, Herman Gordon, was one of the many heroic members of the Armed Forces who chose to enlist in the Army Air Corps at the outset of World War II. Mr. Gordon served as a waist gunner on the Flying Fortress B-17 bomber.

Based in England, his unit performed missions over France and Germany, clearing the way for our troops to land on the beaches of Normandy. On his 24th mission, his plane was shot down over Germany. As a Jew, he became a prisoner of war in Germany for 9 months. The latter 3 months of his imprisonment was spent marching at gunpoint on the infamous "death march"—a desperate move by the Nazis to relocate their POWs straight into the heart of Germany, out of the hands of the Allied forces which were closing in, which I always thought was a metaphor for the insanity, the lust of Hitler and Nazi Germany. This nightmare all came to an end when Mr. Gordon's camp was liberated by General Patton's army.

It is quite a story, quite a heritage, and quite a family. As my dad, who passed away about a year and a half ago, would say: Girl, you have good blood; you have real good blood.

I only hope our children and grandchildren develop an appreciation for the sacrifices of so many Americans, such as Ellen's father, and the thousands of soldiers who are currently serving abroad have done for this country.

One of the reasons I am telling this story is to give my colleagues and constituents back home an insight into what motivates our guest Chaplain this morning to energize her students, family, and friends to better the Delaware community and to uphold our American values with the same patriotic zeal exemplified by her father.

Last year, for the fourth consecutive year, I submitted a resolution in the Senate to designate the week of Veterans Day as "National Veterans Awareness Week." It explicitly underscores the need for our schools to develop educational programs to highlight the contributions of veterans in our country.

This past year, Ellen held a very moving ceremony. The school invited every friend, relative, or neighbor of a student who served in our military to come and speak at the ceremony in front of the entire school and faculty about their experiences.

Madam President, included in the list of speakers was the mother of LT Scott Travis, a Wilmington native, a graduate of Brandywine High School and West Point, who is currently serving in Iraq.

The ceremony brought real people with real stories into the classroom and gave the kids a tangible sense of what it meant and what it means to sacrifice for one's country. The climax was when students pinned medals on the veterans in attendance as a way to personally thank them for their service.

That is the kind of school Ellen runs. That is the kind of person Ellen is.

By the way, for the record, let me say that in my 31st year in the Senate, Rabbi Bernhardt is only the fifth guest Chaplain I have invited from Delaware, following in the footsteps of Father Jim Trainer from St. Patrick's Church, Rabbi Kenneth S. Cohen from Congregation Beth Shalom, and Father Robert Balducci from St. Anthony's Parish.

From where I sit, you are in good company and so are they.

I thank Rabbi Bernhardt for being here this morning. By the way, you should be very proud of your son sitting behind me who is a relatively new member of my staff. He is already having an impact in the conduct of business around here.

Again, I know I speak for all my colleagues when I welcome you and your family here today. Thank you for the sacrifices you have made for this country, and thank you for the values you are imprinting on the young men and women of my community.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

ORDER OF PROCEDURE

Mr. REID. Madam President, the distinguished ranking member of the Foreign Relations Committee wishes to speak on an important subject. Will the Senator indicate how much time he wishes to take?

Mr. BIDEN. Madam President, I say to the Senator, I do not want to interfere. I want to speak for about 10 minutes regarding Ahmed Chalabi. I do not have to do it now.

Mr. REID. Madam President, I say to the distinguished ranking member, we have 25 minutes that have been allocated. We could easily, I am confident, get another 10 minutes. Does the Senator wish to speak right now?

Mr. BIDEN. Madam President, I would like to do whatever accommodates the Senate.

Mr. REID. Through the Chair to the distinguished Senator from Florida, how is the Senator's time schedule?

Mr. NELSON of Florida. Madam President, I say there is never a dull moment in the life of this Senator from Florida. Since I have learned the ways of comity, accommodation, felicity, I yield to the distinguished Senator from the State of Delaware. In fact, in my remarks about are we better off now than we were 4 years ago, I was going to try to engage my distinguished colleague in a colloquy.

Mr. REID. Madam President, I ask unanimous consent there be 5 additional minutes on both sides for morning business. That will allow the Senator from Delaware to speak for 10 minutes. If my unanimous consent request is granted, that would allow him to begin now.

The ACTING PRESIDENT pro tempore. The Senator will need an additional 10 minutes. All time in excess has expired.

Mr. REID. Our time is gone?

The ACTING PRESIDENT pro tempore. There are 23½ minutes remaining.

Mr. REID. Where did our time go? Did somebody speak?

The ACTING PRESIDENT pro tempore. The senior Senator from Delaware and the junior Senator from Delaware.

Mr. REID. Madam President, I ask unanimous consent for an additional 10 minutes on each side, then.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AHMED CHALABI

Mr. BIDEN. Madam President, I thank my friend from Florida who knows much more about what I am going to mention today. He and I worked on what I am going to talk about for some time. And that is—there are reports coming in that the home and offices of Ahmed Chalabi were raided today in Baghdad.

I do not have clear evidence yet as to whether they were raided by the Iraqi government or by the CPA, but both the Senator and I have been incredible skeptics of this administration's reliance on this fellow, Ahmed Chalabi, who has been indicted, tried, convicted, and sentenced in Jordan.

For the last 2 years—although I have nothing personal against Mr. Ahmed Chalabi—I have been urging this administration, particularly the Secretary of Defense, the Vice President, and Mr. Wolfowitz: Do not put our eggs into Mr. Chalabi's basket.

Mr. Chalabi is the President of the Iraqi National Congress. I was so concerned about this that my friend from Nebraska, Senator HAGEL, and I were literally smuggled into northern Iraq about a month before the war began because we wanted to meet with the Barzani and Talibani clients in northern Iraq to determine what their attitude was, first, toward our invasion with Iraq—would they be with us? There were reports that they would have been, but we wanted to find out firsthand.

And B, we wanted to find out whether Ahmed Chalabi spoke for them. The leaders of both those clans said: We want to make it clear that the INC does not speak for us. We did form the INC with him, but he is out for himself, not us.

I could never quite understand the incredible preoccupation of the administration with Mr. Chalabi. I think that reliance has done us great damage in terms of establishing legitimacy.

Today's raid comes on the heels of an announcement earlier this week that the Defense Department belatedly, after well over a year, has cut off the $340,000 monthly payment to the INC, headed by Mr. Chalabi.

Last month, I wrote to the Secretary of State and the Secretary of Defense asking them to explain why we continue to pay Mr. Chalabi a monthly stipend. The action was seen as sort of putting our thumb on the scale—we say we want the Iraqis to decide their outcome, and here we are pouring into one man, an outfit, $340,000 a month.

It is no secret Mr. Chalabi has long been the favorite of the Pentagon civilians and the Vice President, although the CIA, the uniformed military, and the State Department have been adamantly opposed to him.

We recently had a meeting with the Secretary of Defense in a closed session, but I am allowed to say this in public, and I raised the question of funds to Chalabi and the phrase—well, I guess I cannot quote exactly what the phrase was. I cannot quote the Secretary. But the point is there has been a real difficulty in pushing back.

It has been clear for some time our close association with Mr. Chalabi has damaged American interests in Iraq. Chalabi is the best known figure in the Iraqi Governing Council, according to a poll taken. We appointed him. By the way, a poll taken a couple of months ago in Iraq shows that he is not only the best known member of the Governing Council, but he is also the least popular, with a negative rating of over 60 percent.

Chalabi, as my colleagues will recall, was flown in to southern Iraq literally days before the statue of Saddam fell. It was actually during the war; he was flown in to a portion of southern Iraq we had already conquered and passed. He had been flown in without the knowledge of the State Department and other senior officials. I guess he was going to be the triumphant Shi'a who was going to march through the Shi'a territories heading up to Baghdad, except one thing, nobody liked him and nobody followed him.

I do not know what it took to get the message to this administration that this guy was not helpful but this guy was hurting our legitimacy. At that time, I rose in the Senate and said, what are we doing here? I think my friend from Florida as well, if not here in the Senate, I know in our hearings, said, what are we doing this for? How are we saying we are liberating the Iraqis, we are going to let them choose their government and we are flying in a handpicked guy?

Well, that sort of went south, figuratively speaking. It was clear we were attempting to put him in a place to take over the reins of Baghdad. Toward the end of that year, he organized the militia, which was implicated in instances of looting in Baghdad. The U.S. military wisely ordered the militia to disband, but there were some supporters here saying it is okay for him to set up a militia.

We are trying to disband militias, and we wonder why we have so little legitimacy. This is not Monday-morning quarter-backing. If need be, for the record, I will come back and lay out all the statements we made 2 years ago about Mr. Chalabi, a year ago, 8 months ago, 10 months ago, as recently as a hearing 2 days ago in the Senate.

It has done us serious damage. High-ranking civilians in the Defense Department continue to back Mr. Chalabi, despite numerous warnings about his past dealings.

The King of Jordan made known his country's distaste for Mr. Chalabi. They did not hide it. The Foreign Minister of Jordan came to me personally and said, for God's sake, do not deal with this guy; do you not understand he is going to hurt you?

Mr. Chalabi has been convicted on fraud charges stemming from a failure of the Petra Bank which Chalabi headed. In recent months, Chalabi has been moving closer and closer to the religious elements in Iraq, apparently belying his claims to be a secular leader. His close association with hardliners in Iran, including Ayatollah Khamenei, has been a matter of mystery and some suspicion, but we continued to support him.

The reason for today's raid is not yet clear, although there were reports earlier this week that one of Chalabi's associates, the finance minister, is being investigated by Iraqi police for a scam involving government vehicles. There have been other reports of corruption allegations as well.

I am not making a judgment on that at this moment. We will wait to see. But I am making a judgment, did make a judgment, and will continue to make the judgment that Mr. Chalabi is hurting us, not helping us.

One other point; Mr. Chalabi's guys got in and got hold of a whole lot of intelligence data that was Saddam Hussein's. He refuses to give it to us. He refuses to turn it over to the U.S. military. He will let us see it but not keep it. And this is our guy. It is like our guy in Havana. You know, our guy?

I do not know what it takes. It is like taking a wombat and banging it up the side of the heads of some of these guys and the civilians in the Defense Department.

This guy is bad news for the United States, whether the reason for the raiding of his headquarters and his home relates to corruption or not. We have tarnished our reputation by our association with this man. It is time to begin recouping it by ending our efforts to foist an unpopular leader on Iraqis and supporting a process which will produce more legitimate leaders.

The PRESIDING OFFICER (Mr. ENSIGN). The Senator's time has expired.

The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I was going to address the topic, "Are you safer than you were 4 years ago," but while we have the distinguished Senator from Delaware in the Chamber, I want to address a couple of issues with him.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. The bottom line is it is a long time in coming. I hope this means we have listened to the sounds of voices in this administration. I say to my friend, we both know this: We have both tried to help this administration, but it is as though there is a San Andreas fault that runs down the middle of this administration, with two very different views of the world. One is held by Mr. Powell, the State Department, and the uniformed military, and the other being the Vice President, the Secretary of Defense, and Mr. WOLFOWITZ, who are all fine, honorable, and decent men who have a very different view of the world.

The view of their world which they have been promoting has turned out not to be so accurate. I hope this is evidence of the fact the President is starting to listen to saner voices.

I facetiously said—nobody asked—if you had a baseball team and you had somebody who batted zero and it came time to put in a pinch-hitter, are you going to look at the batting averages? It is time to look at the batting averages, Mr. President. Listen to those folks in your administration. There are some very good ones who have better batting averages, and I hope this is beginning that recognition.

Mr. NELSON of Florida. Mr. President, I want to posit a couple of questions to the distinguished immediate past chairman of the Senate Foreign Relations Committee. How much time do we have remaining?

The PRESIDING OFFICER. The Senator from Florida has 10 minutes.

Is there objection to the unanimous consent request? Without objection, it is so ordered.

The Senator from New York.

Mr. SCHUMER. I did not hear the request.

Mr. NELSON of Florida. I did not have a request.

The PRESIDING OFFICER. The Senator wishes to pose questions to the other side.

Mr. SCHUMER. I apologize. I thought something was said about 10 minutes.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. How much time is allocated to this side on morning business?

The PRESIDING OFFICER. The Democratic side has 22 minutes remaining.

Mr. NELSON of Florida. Is it my understanding this Senator would have 10 minutes?

The PRESIDING OFFICER. Correct.

Mr. NELSON of Florida. Does that give the Senator from New York enough time?

Mr. SCHUMER. Yes.

Mr. NELSON of Florida. All of my speech on "are you better off now than you were 4 years ago," I am going to save for another day. I want to take advantage of one of the most knowledgeable Members of the Senate. In thinking about the question of are you better off now than you were 4 years ago, are you safer now than you were 4 years ago, I have had the privilege of sitting at the knee of the former chairman of the Senate Foreign Relations Committee. He has taught me something about two countries where we better keep a laser eye focused, namely Iran and North Korea.

I ask the distinguished ranking member of the Senate Foreign Relations Committee, as I hold up this chart about suspected nuclear weapons in North Korea, are we safer now than we were 4 years ago?

Mr. BIDEN. Clearly we are not. That is not to suggest you are suggesting it is not good Saddam is gone. I think we are, in a marginal sense, safer because he is gone. But I think the effect of what we have allowed to happen, or what has happened in the rest of the world, has literally put us in more jeopardy.

Mr. NELSON of Florida. Then, Mr. President, indeed this is what the Senator from Delaware has constantly preached. He has been a Johnny-one-note on how we ought to engage with other nations around this world, through diplomacy, to better the protection of the United States.

Is it the impression of the Senator from Delaware we have been dragging our feet with regard to North Korea, before we ever started engaging them in international and one-to-one discussions?

Mr. BIDEN. Mr. President, I say to my friend—I will make two points here. One is, it was not only the Senator from Delaware and Florida, but also the Senator from Indiana, the Republican chairman, who pointed out we made a mistake by dismissing the policy of engagement of the last administration. Even the Secretary of State of the United States of America, Mr. Powell, when Kim Dae Jong of South Korea came, said we were going to continue engaging the North as Mr. Kim wanted us to and thought we should, as our Japanese friends thought we should, and the President summarily stopped that. I think that was another mistake.

I make another point about Iran. The neoconservative view of why we should have gone into Iraq alone is it would teach a lesson to the other malcontents in the world such as the Iranians. They were going to say, My God, look at the unilateral use of force; we better behave. I point out what my friend knows well and we talked about. Prior to our invasion of Iraq, Iran had a genuine democratic movement—not prowestern, democratic movement. It was the Majlis, their parliament, 195 people. There was a genuine movement.

You had the mullahs and the apparatus and the clerics who controlled security and controlled the intelligence apparatus, afraid of world opinion if they crushed that democratic movement.

What did they do? If, in fact, the neocons are correct, and having 140,000 troops in Iraq was going to teach Iran a lesson, in the midst of our greatest show of force in Iraq, the clerics in Tehran would have been afraid to touch the democratic movement, for fear of world reaction.

Obviously they were not frightened by our show of force. There is no democratic movement left. For instead the clerics crushed it. They disbanded it.

So that is another example of the two most dangerous states for the United States of America today if they spiral out of control—Iran and North Korea. Both present a greater threat to America today than they did 3 years ago.

Mr. NELSON of Florida. Mr. President, I further ask the distinguished former chairman of the Foreign Relations Committee with regard to nuclear weapons and the acquiring of nuclear technology and the ability to make a bomb in Iran, are we safer today than we were 4 years ago?

Mr. BIDEN. As we both know, the details of that are classified, but we are allowed to say, and I give you my opinion, and I believe it would be the consensus of the intelligence community: No. We are not safer.

Mr. NELSON of Florida. Mr. President, I further ask my friend from Delaware, given the fact of what we have heard in the testimony in the Foreign Relations Committee over the last week, and also in the Senate Armed Services Committee; given the fact my friend from Delaware and I have had long conversations about not only do we not need to pull out of Iraq but we need to increase our troop strength in Iraq because the alternative would be unthinkable, for us to turn tail and run and create a vacuum which would be filled by terrorists, which would only give succor and encouragement to the other radical elements in the region, including Iran, does the Senator from Delaware think we are safer now in our international diplomacy results than we were 4 years ago?

Mr. BIDEN. No, we are not. But we could be if the President is willing to not stay the course but change the course. There is an opportunity, if the President begins to listen to the correct voices in his administration, to internationalize this, to bring in the major powers, to actually leave Iraq in December of 2005 with a representative government which will have a positive impact on the region over time. It is still possible, but the President must quickly call a summit meeting of the major powers; quickly get them to agree to sign off on Mr. Brahimi's plan of a new government; quickly get NATO to agree to have a NATO-led multinational force, sanctioned by the United Nations; and quickly, quickly demonstrate he understands the breadth and depth of the damage done by the Abu Ghraib prison scandal, bulldoze that prison down, build a hospital in its place, release those prisoners who should not be there and keep the others in a different environment and open it up. He still can do this. But my friend knows, we can't do it. Only one man, because of the majesty of his office, can do it: the President of the United States. He can do it. I hope he does not squander this last opportunity. I am hopeful he will not.

I believe he understands more now. I hope he begins to listen to the uniform military and Mr. Powell, what they have been counseling along with you and I and Senators LUGAR, HAGEL, MCCAIN, and others all along here. There is still time. But I believe this is the last serious chance he has to get it right by June 30.

Mr. NELSON of Florida. Mr. President, I certainly agree with the Senator from Delaware. I will ask a final question of him. Why does the Senator from Delaware, one of the most knowledgeable in this entire body on international affairs——

Mr. BIDEN. I thank my friend.

Mr. NELSON of Florida. Why, in his opinion, does the administration continue to resist the outreach of building consensus in the international community, to help us with problems such as Iraq and Iran and North Korea? Why is there resistance to that, I ask the Senator from Delaware?

Mr. BIDEN. First of all, I thank the Senator for his compliments that are excessive and not accurate, but I thank him nonetheless. But let me say in a second, I took the time 4 years ago to ask my senior staff to go back and get every major work written by the Straussians, the neocons, I mean it sincerely, and Tony Blinken, former National Security Agency, my chief guy, got together 11 or 12 books, the most seminal volumes written in the last decade by the neoconservatives. These are honorable, bright, serious people—patriotic Americans.

If you read what they say, they mean what they say. What they say is the value of America——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. NELSON of Florida. I ask unanimous consent it be charged to our time and that we have 1 additional minute so the Senator can finish his answer.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. The bottom line is the neoconservatives believe our power is enhanced by leveraging power. Meaning if we go alone without any help, the malcontents of the world go: Oh, my God, look at them, they don't even listen to the rest of the world. They have this awesome power. We should listen to them.

It might work if we had an army of 12 million and a surplus of $500 billion a year instead of an army that is one-twelfth and a deficit of $500 billion a year. It doesn't work.

Now ideology has run head on into reality. For ideologues, like all honorable people, it is difficult to change. It is a little like me as a practicing Roman Catholic denying the Trinity. You can't deny the Trinity and be a Catholic. It is not possible. They cannot acknowledge they need the international community and stick to a thesis that has been theirs for the last 12 years. That is as quickly, succinctly, and as accurately as I can state it. As Samuel Clemens said: All generalities are false, including this one. I made a bit of a generalization, but I believe an accurate one.

Mr. NELSON of Florida. Mr. President, what we have gotten in a few minutes is a short course of what, in the opinion of this Senator from Delaware, and in the opinion of this Senator from Florida, we need to do: Internationalize the effort, build a consensus, reach out, bring in an international force such as NATO, led by the American military, bring in a senior international diplomat, prepare Iraq for governing itself, and be prepared to be there for the long haul.

I yield the floor.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

NATIONAL SECURITY

Mr. SCHUMER. Mr. President, I thank my colleague from Florida for his persistence to get to the truth, and my colleague from Delaware, who succinctly described our problem brilliantly in terms of the ideology of the neocons running into reality. I could not agree more.

Ever since I was in college in the late 1960s, I would say to my colleagues, ideologues have bothered me. Anyone who thinks they have a monopoly on truth, and there is only one way to see the world, always gets us into trouble. They can be ideologues of the far left, they can be ideologues of the far right, they can be ideologues just on one issue. America is a place where we all come together. It is a place of consensus.

I tend to believe in a strong and muscular foreign policy. I think the war on terror is real. But by being so blind to the realities of the world, those who are hawks should be more angry at some of the things that have been done, as my colleague from Delaware outlined, than those who are doves because we are going to need strength and fortitude to continue this war for decades.

I thank both my colleagues. I was privileged to listen to their erudite and illuminating explanation.

Over the last few days, we have been discussing the question: Are we better off than 4 years ago? We have been discussing mainly domestic issues the last few days. Today we are discussing it on national security; are we better off than we were 4 years ago. I guess this means our safety. And there are pluses and minuses.

Certainly in the wake of September 11 and the horrible attacks—and now that the September 11 Commission was in my city yesterday, I am living them all over again and it shakes my insides to remember what happened, to remember going the day after with my colleague, Senator CLINTON and Mayor Guiliani and the Governor, and seeing what happened—certainly we have responded. It is good we have responded. Some do not want to respond or find every response wrong, and you get caught in a quagmire of no response, which would be the worst response, in my opinion.

Having said that, I focus on two areas where we should be a lot better off than we were 4 years ago, where there is a large deficiency. One I will touch on is Iraq. Again, as somebody who supported the President going into Iraq and supported the $87 billion, I am troubled, deeply troubled, by the lack of planning, not just in the prisons but in the whole way the peace has been managed.

No one knows what is going to happen on June 30. We set a June 30 deadline and then we have to fill in the blanks. What do we want to do? How long does it take? The lack of planning has been troubling. It is taking the great military victory we had in Iraq, a justified victory, and turning it into certainly less than a complete success in terms of what happened afterward.

So this inadequate planning, the "go it alone" attitude which my colleagues discussed, means we should be a lot better off than we were.

The place I want to focus on in my remaining few minutes is homeland security. It is a truism that has been stated before, but it is not irrelevant still. To win a war, to win a game, you need a good offense and a good defense. My colleagues talked about some of the problems on our team's offense. Let me talk about our problems on our team's defense. We are better off than we were 4 years ago in terms of homeland security. No question. Our guard was down, we know that. But we are not close to where we should be.

What has happened is basically this: While this administration is willing to fully fund the war on terror overseas—and we will get repeated requests for more dollars, which we will support, provided they are planned out and we see what they are doing with the money—we are totally short on homeland security. There are so many areas where we are weak: Port security, rail security, computer technology, the borders, who is coming in and who is not.

What is frustrating is, we can solve all these problems. They are not technologically beyond our reach. We can have foreigners cross our borders free and clear and yet keep bad people out if we have the right computer systems and the right cards that we can give to foreigners before they come in.

We can make our rail and our ports far more secure. We can develop devices that can detect explosives and biological and chemical weapons. We can detect nuclear devices so, God forbid, if one is sent over here, we will get it at the borders.

And why is the pace so slow? I will tell you why. Somehow the priorities in the White House are not to spend money on homeland security. It is to talk about it. It is to do some photo opportunities. Let me share with the American people somebody who has been deeply concerned and ahead of our task force on this side on homeland security. Every time we ask for the dollars that are needed to tighten one area—we say $10 is needed, and they say, We will give you $1.50.

An example, shoulder-held missiles. We know the terrorists have them. God forbid, they smuggle 10 of them into this country, and on a given moment take down a plane in New York, Chicago, Los Angeles, Houston, Seattle, Denver, Boston, Miami. The mayhem. Of course, all the progress we are trying to make on the economy would go right down the drain. No one would fly for 6 months or a year.

We can arm every one of our commercial planes so they can avoid these shoulder-held missiles. Our military planes have them. Air Force One has them. People on their own private jets, wealthy people, have them. We are not doing it on our commercial planes. It is a slow walk.

We said take $8 billion to do the whole thing in 2 years out of the $80 billion we are spending on the missile defense system—which was designed to fight Russia and now Russia, thank God, or the Communist Soviet Union, is no longer our enemy. And they said no. They do not say let's not do it, but they say let's spend $50 million and study it.

We know what is going on. I have spoken to people in the White House who will talk to me privately and say they will not spend a nickel on homeland security. Between the military and the idea of cutting taxes, cutting taxes, cutting taxes, you cannot do it all. And it seems to me homeland security should be just as high a priority as helping our troops overseas fight the wars in Iraq and Afghanistan. Yet there is nothing.

It hurts our localities. It is not just New York City, my city, where, obviously, we have a real problem. In Buffalo, Rochester, and smaller places, Watertown, Jamestown, talk to the police and fire departments, and they are trying to do their job. They do not have the dollars to do it. So they stretch and do their best. But it is not being done right.

In place after place after place, we are only inspecting 2 percent of the containers that come in on our ships. Two percent? Do you want there to be a 2-percent chance that we stop someone from smuggling in something terrible? We have the technology to do it. It costs dollars. We cannot do homeland security without the necessary resources to make it happen.

And every single time, the one place where we have done a good job is on air security, to prevent people from smuggling weapons on the planes. Even there we are not doing enough, but we have done better.

I give credit in one other place: In the biological area, we are doing a B. It is not an A—it should be an A—but we are doing B. In almost every one of the other areas we are at C's, D's, and F's.

Who in America would not spend dollars to make us safe so that, God forbid, another September 11 does not happen? No one. But, once again, it is the ideologues in the White House who say they hate spending money on domestic things. It is not just education or health care, it is homeland security.

So we are not as well off, we are not close to as well off as we should be. We can do a lot better.

The bottom line is this: In area after area we should be far more secure than we are. We have taken some steps in every area, but who wants to wake up one morning and say: What if? God forbid, there was a terrorist incident the day before, and we say: What if we had put the detectors on the cranes and ports to avoid nuclear? What if we had made our ports secure?

Mr. President, I hope the administration will change its view on homeland security and spend the dollars that are necessary.

The PRESIDING OFFICER. The Senator's time has expired.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 2400, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2400) to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I understand Senator WARNER is on his way to the floor. I thought, in the meantime, I would make a few comments on a very important section of the Defense authorization bill. Then the plan is to recognize Senator GRAHAM of South Carolina. I believe he has an amendment he is working on.

As chairman of the Strategic Subcommittee of the Armed Services Committee, I have the responsibility of overseeing a lot of nuclear programs, one of the most important of which is nuclear cleanup. The Department of Energy is facing the potential collapse of its plan to accelerate risk reduction and cleanup of this Nation's nuclear weapons production legacy. I think we must act responsibly to give the Department the clarification it needs to complete cleanup of the sites in our lifetime.

In 1997, the Rocky Flats cleanup was expected to take until 2045, at a cost of $17.1 billion. Now, working together, the State Government of Colorado and the Department of Energy have developed a plan under which closure is expected in 2006, at a cost of $7.1 billion. Key to our success was the collaboration between the State and the Department of Energy in devising the path forward.

The initiative to accelerate cleanup of the tank farms was proceeding on a similar path in other States. The DOE had been working with each of the various host States to develop strategies for acceleration and closure plans in the States of Washington and Idaho, as well as South Carolina.

We were so very successful in getting cleanup at Rocky Flats in Colorado and saving billions upon billions of dollars for the taxpayers that I was hoping we could put together a plan that would be working well in cleanup efforts in those three States which still have considerable challenges ahead of them.

Last year, the Idaho District Court threw a monkey wrench in those plans. The court interpreted the Nuclear Waste Policy Act to prevent the plans that DOE and the States have agreed on from going forward, by striking down a cornerstone of these plans, which was DOE's approach to classifying the waste in the tanks.

It is not just the accelerated cleanup plans that were called into question, it is also the base plans that the Department of Energy had in place for years. Now in South Carolina and Washington, since the 1980s, it has been clear that the cleanup plans have called for less radioactive tank waste being treated and disposed of onsite. Unless the law is clarified, these plans will not be able to proceed, and it will be impossible to devise new ones.

It is our responsibility in the Congress and as members of the Armed Services Committee to clarify the law so as to allow the plans agreed upon by DOE and the States to proceed. I am convinced if we work together we can achieve the same kind of results on complex issues such as we achieved at Rocky Flats, where we accelerated cleanup by 40 years at Rocky Flats, significantly reducing risks to the public and workers and saving the taxpayers $10 billion.

If we do not get this problem solved at the nuclear sites in Idaho and Washington and South Carolina, what we are going to end up with is a possible increase in additional costs of $86 billion. We simply cannot deal with those kinds of costs. And consider the stress that is in the Armed Services right now. So it means you just do not move forward with cleanup.

The Senators from those three States, I know, have been spending a good deal of time trying to work out an agreement. It is called the WIR issue. In committee, we fenced off $350 million that was set aside to deal with cleanup in those three sites and other parts of the country. We did that so it would not get used in other parts of the bill because if you allow that money to go out, that means there is less money for cleanup. And those of us who have been pushing cleanup for years in the Senate would not want to lose that $350 million because it would be just hanging out there. So we fenced it off.

We adopted an amendment in committee that was proposed by Senator GRAHAM to kind of get us out of committee and give the delegations from those States an opportunity to negotiate and see if they could work out some better provisions than what we left with out of committee. We simply have to work out something. If we cannot get an agreement, maybe we will have to step in to just work with those three States and see what other provisions we can move forward so the cleanup, at least, can move forward.

I am very concerned that we do not stop cleanup. Cleanup is very important. It is something we need to move forward. The plan DOE had in mind was a plan that would have met performance standards that have been specified by the Nuclear Regulatory Commission. They are the ones who have oversight for disposal of low-level waste. And the debate over whether the grout used to stabilize residue should be included in concentration areas is basically a red herring because the bottom line is, what we are doing here meets the requirements of the Nuclear Regulatory Commission.

So I am hopeful that on the floor of the Senate we can get this problem further resolved than what we did in committee.

I understand Senator GRAHAM might have an amendment he wants to bring forward.

Mr. President, I recognize the Senator from South Carolina.

The PRESIDING OFFICER. The Senator cannot recognize other Senators.

The Senator from South Carolina.

AMENDMENT NO. 3170

Mr. GRAHAM of South Carolina. Mr. President, I call up amendment No. 3170.

The PRESIDING OFFICER. The clerk will report the amendment.

The senior assistant bill clerk read as follows:

The Senator from South Carolina [Mr. GRAHAM] proposes an amendment numbered 3170.

The PRESIDING OFFICER. Without objection, reading of the amendment is dispensed with.

The amendment is as follows:

(Purpose: To provide for the treatment by the Department of Energy of waste material)

Strike section 3119 and insert the following:

SEC. 3119. TREATMENT OF WASTE MATERIAL.

(a) AVAILABILITY OF FUNDS FOR TREATMENT.—Of the amount authorized to be appropriated by section 3102(a)(1) for environmental management for defense site acceleration completion, $350,000,000 shall be available for the following purposes at the sites referred to in subsection (b):

(1) The safe management of tanks or tank farms used to store waste from reprocessing activities.

(2) The on-site treatment and storage of wastes from reprocessing activities and related waste.

(3) The consolidation of tank waste.

(4) The emptying and cleaning of storage tanks.

(5) Actions under section 3116.

(b) SITES.—The sites referred to in this subsection are as follows:

(1) The Idaho National Engineering and Environmental Laboratory, Idaho.

(2) The Savannah River Site, Aiken, South Carolina.

(3) The Hanford Site, Richland, Washington.

Mr. GRAHAM of Florida. Mr. President, I ask unanimous consent that Senators ALLARD and CRAPO be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM of South Carolina. Mr. President, I appreciate Senator ALLARD's comments. I will try to explain this amendment the best I can and as briefly as I can.

Several States played a very key role in winning the cold war by making sure we had a strong and effective nuclear deterrent. South Carolina is one of them, as are Idaho and Washington. They are States that have cold-war legacy materials.

As Senator ALLARD suggested, the Federal Government has been working with these sites for decades now. We spent billions of dollars—billions and billions and billions of dollars—to clean up the cold-war legacy that exists at the Savannah River site and other sites. To be honest with you, we have spent a lot of money and have done very little cleanup. From a taxpayer point of view, from an environmental point of view, the longer you put this off, the more it costs, and the more damage that can be done.

I have an amendment that would allow $350 million that has been put on the table by the Department of Energy to accelerate cleanup—$350 million has been put on the table in, I think, a very creative fashion to accelerate cleanup at these sites, putting new money on the table.

Here is a little history about what has gone on in terms of how DOE and the sites have been dealing with each other. There are 50-plus tanks of high-level waste in South Carolina as a direct result of winning the cold war, cold war legacy materials. The State of Washington has certainly done its share in helping win the cold war. They have a waste tank problem. Idaho has waste. These three States have a problem. It is now time to create an environment to fix the problem for each State.

Two years ago the State of Idaho entered into a cleanup agreement with the Department of Energy, setting standards that the State of Idaho would agree to help remediate the environment and clean up the sites in Idaho so that we could move forward to have a new day in Idaho.

Washington has been negotiating with the Department of Energy to come up with acceptable standards for cleanup of the waste in tanks and other areas, and there are ongoing negotiations.

South Carolina, for over a year, has been negotiating with the Department of Energy about how to clean up 51 tanks that contain high-level nuclear waste. People in South Carolina want the waste cleaned up. They want it done in an environmentally sound manner, and people in South Carolina want it done sooner rather than later. They are conscious of the cost to the taxpayer.

All three States at some stage have negotiated with the Department of Energy about waste in their particular States and how they can find agreement between the Department of Energy and the State to remediate the site.

I am here to say, thankfully, that the Department of Energy and the State regulators in South Carolina have come up with a plan that will allow these 51 tanks, 2 of which have already been cleaned up, to be cleaned up and to close them, that is environmentally sound, in my opinion.

But it is just not my opinion. The people responsible for the groundwater and the environmental safety of South Carolina, in conjunction with the Governor's office and the Department of Energy, have come up with an agreement to allow these tanks to be closed. The tanks will be cleaned up in a manner that will save $16 billion compared to the old plan, and it will allow the tanks to be closed up 23 years ahead of schedule.

The issue is what is environmentally sound cleanup for the State of South Carolina and any other State that has this legacy material. No. 1, no State should be forced to accept standards that they find unacceptable for the State in terms of their environmental needs. The amendment I have authored and that is part of the base Defense authorization bill ratifies the agreement that South Carolina has achieved with the Department of Energy. Under that agreement, my State regulators tell me that the permitting process of how you close up a tank and when you close up a tank and when a tank can be closed up is a collaborative process between the State and the Department of Energy. They feel they are protected. They have reached an agreement that the last 1.5 inches of waste that is in the bottom of these rather large tanks can be environmentally remediated in a manner safe for South Carolina that would prevent people from unnecessarily risking their lives to go get that last inch and a half and save $16 billion.

What does it mean? It means that some things that were going to go to Yucca Mountain don't have to go because to send them to Yucca Mountain is not environmentally necessary and it is not financially sensible. I hope other States can find a way to get there. I know Washington is talking. I know Idaho had an agreement 2 years ago. All I am asking is that South Carolina be allowed to execute this agreement that is good for South Carolina and the Nation and will move forward and clean up in a sound manner.

The amendment I am offering today doesn't deal with that issue. It deals with the idea that the $350 million to clean up sites in Washington and Idaho, that the money due to Washington and Idaho shall be spent on cleanup, that the Department of Energy cannot require either one of those States to enter into an agreement to get this cleanup money like we have in South Carolina.

My goal has been to do two things: that my State could reach a sound agreement with the Department of Energy to get it ratified for the best interests of South Carolina—and the Nation—and not do anything in South Carolina that is going to harm any other State's ability to negotiate on their terms and to reach an agreement that is sound for their State, and not to change any standards of what would leave South Carolina going to Yucca Mountain or any other repository. So this language requires the Department of Energy to spend money to treat the waste in South Carolina, Idaho, and Washington. It also allows the agreement to be financed in South Carolina.

I know there is some disagreement on this issue. I welcome the debate. That is what the Senate is all about, having two sides of every story. But this is not something we just came into lightly; this is something that has been going on between the Department of Energy and South Carolina for a very long time. Similar processes are going on now in Idaho and Washington.

I am asking this body to join with me to make sure that the Department of Energy spends the money to treat the waste in these three sites, and that we not bind any site by the agreement in South Carolina but we allow the agreement between South Carolina and the Department of Energy to be ratified. Not only is it good for my State, it is good for this Nation if we can clean up these tanks in an environmentally sound manner 23 years ahead of schedule and save $16 billion. That is my hope.

As to what is left behind, the Nuclear Regulatory Commission has looked at the 1.5 inches of material left in the bottom of the tank and has classified it as waste incidental to reprocessing, which is a separate category from high-level waste. The people in South Carolina who regulate our environment and have an obligation to protect the State's groundwater and other environmental obligations have said that this waste that is left can be dealt with in a sound manner, and to get the 1.5 inches totally out would risk people's lives and would take unnecessary time and expense, and that we are going to secure these tanks in a way over which South Carolina would have control.

I didn't come to Washington to tell my State it is not a player in controlling its waste. I hope Washington will allow us who have these sites to work in a sound manner for the benefit of the taxpayers in the State and the Nation and for the environmental needs of our State.

That is what this is about. If we stay the old course and we never allow anybody to do anything other than the most extreme groups out there in terms of what this is all about—and there is politics in every issue, and there should be. There are some people who have an agenda that is not about the groundwater in South Carolina because they don't live there. Some of them are very well motivated, but some of them have an agenda to make cleaning up these sites very difficult, to the point that they don't care what it costs, and they are not trying to get a fair standard. They want to make it take as long as it takes and spend as much money as is necessary and send everything to Yucca Mountain and other repositories because they have an agenda that we don't want to produce any more nuclear power and run out of places to store fuel rods.

I don't want to be part of that agenda. I want to be a part of an agenda that allows each State that has these waste materials to be able to control their destiny, do it in a way that is safe for the State and makes sense for the Nation. That is exactly what we have accomplished.

Idaho and Washington have tried to do the same thing we are doing. They have tried to work with the Department of Energy to get an agreement. We have been successful. I will never, as a Senator, leverage one of my sister States here to have to agree to something to which they don't want to agree. That is not my goal.

I hope the Senate and the Congress will allow an agreement that has been negotiated to its full term to be approved and to help South Carolina save some money. I am ready to agree on a small time agreement, a large one, or whatever time agreement we can have on this amendment, and have a vote.

Mr. ALLARD. If the Senator from South Carolina will yield, I wish to enter into a colloquy with him to make sure we have laid out this debate.

First, we had a plan by the DOE to expedite cleanups of sites in South Carolina, Washington, and Idaho. Then we had a court case that was litigated in the district court in Idaho. As a result of that, that case is going to definitely be appealed to the Federal court of appeals and may even go as far as the U.S. Supreme Court. In the meantime, we have some cleanup needs in these various States.

As I understand what the Senator's amendment would provide, we are going to keep our $350 million for cycling, which is vital, and it is going to say that the money is going to be available for treatment. But we are not going to have any removal or anything from a contaminated site, except for South Carolina. South Carolina has a plan that has been worked out with the State. The State is very comfortable with it. It is a State-driven plan. We are trying to work out something where we don't create a problem among the various States. We don't want this process to tie up South Carolina and, obviously, we want to see cleanup move ahead in Idaho and Washington.

My concern, as chairman of the subcommittee, is that I don't want to see taxpayer dollars wasted on a huge white elephant out there that will add something like $86 billion to the cleanup budget, which we don't have.

I hope we can work this out, and you are trying to work it out among yourselves. I hope I characterized it properly.

Mr. GRAHAM of South Carolina. The Senator has done a good job characterizing it.

No. 1, this amendment makes the money flow for treatment. There is the $350 million in committee with regard to the argument that there is a fence built around it. If there is any concern about it, this amendment knocks that fence down. The money has to be spent on treatment of waste. There is a lot of waste to be treated. But it also allows for a disposal plan agreed to between South Carolina and DOE.

Other States, the Senator is right, have been negotiating and trying to find a disposal plan. We have just been successful, that is all. Other States have different needs and tank problems. We don't have tanks leaking as they do in Washington. Washington has different needs and concerns. I don't want to wait 23 years and allow these things to leak as we try to clean up the last inch and a half; I think that does more damage than good.

This is where we do agree. DOE, by order 43.5, I think it is, tried to issue an internal order allowing them to unilaterally go into these States and say: Here are the cleanup standards, take it or leave it.

Then you had a court case in Idaho where South Carolina joined as a friend of the court, with an amicus brief, saying, no, we don't want the DOE unilaterally telling a State to take it or leave it. That is why we joined as a friend of the court. We think that is a bad policy.

What we want to do, and what all three States have tried to do, is make sure cleanup occurs in an environmentally sound manner, where the States are involved. What we have been able to do in South Carolina is reach that agreement to have the waste stream cleaned up. What is left in the bottom of the tank we believe we can handle in an environmentally sound manner. Some people don't want us to do that. That is not their agenda to accomplish that. It is my agenda that we accomplish that when and how we can.

We are not going to let the DOE unilaterally decide. That is what this amendment is about. It doesn't allow the Department of Energy to take money away from a site. They have to let the $350 million go. The language in the bill, which Senator ALLARD helped me write and get passed, ensures that South Carolina is protected. Now we need language to ratify that agreement.

Mr. ALLARD. Mr. President, I thank the Senator for his hard work and diligence. Certainly, I am glad he is a member of the Armed Services Committee. It has been a pleasure to work with him on many issues.

I know there is a good deal of frustration on this particular issue. I recognize, in a public way, his dedication and hard work on this issue in trying to clean up this area. It is very important to his State and, hopefully, we can reach some kind of agreement in the ensuing few hours on this debate.

Mr. GRAHAM of South Carolina. I say to Senator ALLARD, he has been a very responsible subcommittee chairman here. This is a big deal for the country, to South Carolina, Idaho, and Washington, and any other State. It is a huge deal. We need to make sure these sites are remediated and the environment of each State is protected and that we get on with it and not give DOE unilateral authority to tell us what to do, and do it in a collaborative way.

We have achieved that in South Carolina. I think it would be inappropriate if Washington or Idaho could reach an agreement between DOE, and Idaho and Washington ran it by the NRC and they say, yes, we like this agreement, we think it protects us, we would like to do it, and then somebody else says no, or they make up a reason of telling us no, which would prevent this from ever happening.

Now, we are going to disagree over some aspects of this. But here is where we do not disagree. The States are going to get the money, whether or not they reach an agreement with DOE. We are not going to let them do it unilaterally. We want to make sure every State has a right to negotiate an agreement on their own terms.

There is nothing in this amendment that is going to prejudice another State in terms of their ability to reach an agreement with DOE on their terms, if they can. I think this is a very important concept.

This is a pivotal time in our effort to clean up these sites. I say to my friend from Nevada and all those folks at Yucca Mountain, if I were in Nevada, I would have the same concerns. I totally understand that. But the rest of us have an obligation, too. I don't think it is fair just to make Nevada be the only one on the receiving end of what is fair and appropriate. If we can, in our individual States, in an environmentally sound manner, deal with some of this waste—an inch and a half—not to send it to Yucca Mountain, not spend $16 billion and take 23 years, I think we have some obligation to be part of the solution.

Let it be said that South Carolina, from the regulator's side—their view is we have reached that agreement. I hope we can pass this amendment.

Mr. ALLARD. Mr. President, I have a letter from the Defense Nuclear Facilities Safety Board to the Secretary of Energy. It addresses the disposal of waste as contemplated in section 3116. The last paragraph reads:

> The Board believes that disposal of wastes as contemplated in Section 3116 can be accomplished safely and should enable efficient disposition of the radioactive waste. The Board, under its statutory safety oversight mandate, will continue to follow DOE's actions to ensure that activities related to disposal of such waste are conducted safely.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Hon. SPENCER ABRAHAM,
Secretary of Energy,
Washington, DC.

DEAR SECRETARY ABRAHAM: This is in response to the letter of May 13, 2004, from the Assistant Secretary for Environmental Management regarding the nuclear safety consequences of proposed Section 3116 of the National Defense Authorization Act for Fiscal Year 2005 (S. 2400). Section 3116 would permit certain radioactive residual materials to remain in a facility (including a tank) at the Savannah River Site.

Safe disposal of radioactive waste is essential to preserving public health and safety. In 1994, the Board issued Recommendation 94-2, Conformance with Safety Standards at Department of Energy Low-Level Nuclear Waste and Disposal Sites, which identified the importance of performance assessments for ensuring safe disposal of radioactive materials in shallow land burial grounds. Department of Energy (DOE) subsequently issued Order 435.1, Radioactive Waste Management, which defines an acceptable process for conducting the required performance assessments for DOE onsite waste disposal activities.

During the period 1996 to 1997, the DOE at the Savannah River Site undertook the closure of two high level waste tanks. At that time, The Defense Nuclear Facilities Safety Board (Board) closely observed the undertakings and saw no basis to determine that the remaining residual material constituted a danger to the public. The closure process involved transport modeling of the residual material left in the tanks.

When conducted with appropriate rigor, a performance assessment can provide a conservative estimate of potential safety and health consequences. When these estimates meet acceptable safety standards (i.e., DOE Order 435.1 or 10 CFR Part 61 subpart C, Performance Objectives), it is reasonable to conclude that the disposal action adequately protects public health and safety.

The Board believes that disposal of wastes as contemplated in Section 3116 can be accomplished safely and should enable efficient disposition of the radioactive waste. The Board, under its statutory safety oversight mandate, will continue to follow DOE's actions to ensure that activities related to disposal of such wastes are conducted safely.

Sincerely,

JOHN T. CONWAY,
Chairman.

Mr. ALLARD. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina, Mr. HOLLINGS, is recognized.

Mr. HOLLINGS. Mr. President, I have not had the opportunity to work with my distinguished colleague. We have worked very closely together on many matters, and I have the highest respect for him. It has really been a pleasure for this Senator to work with him as he has come over to the Senate.

Only yesterday on our way to a vote, I asked him about this issue because I heard about it from our colleague from the State of Washington, Senator CANTWELL. He said he had a letter from the Environmental Control Division of the State of South Carolina.

I thereupon got in touch with the director of the DHEC of South Carolina, the Department of Health and Environmental Control. Mr. Hunter said: Oh, no, we adamantly oppose any kind of reclassification of high-level to low-level.

I said: That is exactly what is being done.

He said: That is not what we understand. We know that Senator GRAHAM has been working with the Department of Energy, and we were led to believe we would have a signoff on it and his amendment would give us any kind of collaborative agreement, as characterized by the distinguished Senator, that was worked out, and we could sign off on it.

On page 2 of the amendment, he refers to subsection A and subsection B—rather subsection A shall not apply to any other material otherwise covered by that subsection that is transported from the State. Then down in section D, in this section, the term "State" means the State of South Carolina. So referring to that particular section, what we have is not a preemption, but really the preemption is invalid. That language is, "any such action may be completed pursuant to the terms of the closure plan of the State-issued permit notwithstanding the final criteria adopted by the rulemaking pursuant to subsection A."

We had this in the Kentucky case with respect to the supremacy clause. We know this has already been taken to the 6th Circuit Court. That does not protect the State of South Carolina at all. I know my distinguished colleague wants to protect the State of South Carolina, but I think he even knows now that language does not protect the State.

I asked: Where in the world did this all come from anyway?

He said: Oh, Senator, we have been working on it.

We have a brief filed on March 25, a certificate of a brief in the case of the National Resources Defense Council v. Spencer Abraham. We won the case, and it is up on appeal. On this appeal, we have signed that brief, Samuel L. Finckley III, South Carolina Department of Health and Environmental Control—that was just a few weeks ago—stating the Department's position.

I have nothing from the Governor. I know Governor Sanford extremely well. We traveled back and forth for 6 years when he was in Congress. I know the one thing he is known for and that is protecting the environment. Governor Sanford does not approve of this. I understand informally he told my distinguished colleague: If you can work out an agreement that protects the State of South Carolina, then we will go along with it. That is not what is occurring with this amendment.

I have been in this game for 50 years. In 1955, I was the chairman of the Regional Advisory Council on Nuclear Energy. We called it RACNE then. It was a 17-State compact. We had all the dangers of nuclear emissions. We looked for places for permanent storage. At that time, in the early fifties, they said—at that time, I was Lieutenant Governor—they said: Governor, don't worry about it. This Savannah River site we are developing is twofold very dangerous for any kind of permanent storage. One reason is this site is over the Tuscaloosa aquifer water supply that comes down below Aiken County. More than anything else, there is an earthquake fault from Calhoun, Orangeburg, into Aiken County. He said: We are not going to have anything stored here for over 2 years.

Two years became 4, 4 became 8, 8 became 16, 16 became 32, and now it is some 50 years. It has been some 50 years and that problem has yet to be solved.

We worked on the financial end of the problem, and we exacted 1/10th of one cent on a kilowatt of power sold by the various energy companies engaged in nuclear power, and that fund has some $13 billion in it. We are not worried about money. The Department of Energy went around—and that is the case to which I am referring. They ran around and surreptitiously said we are going to reclassify and call it low-level waste, and that means we can save a lot of money and bother and use the money maybe on tax cuts. Don't worry about that fund because the power companies have sued on the particular fund. Otherwise, that fund has been built up, and there is plenty of money.

It is just not cleaning it up. They were trying to empty out the waste and throw some sand and concrete on top of it. We found out in expert hearings back in 1982, when we classified it as high-level waste—the finest of experts came in, and that is where the classification came, and that, my dear friends, is what should occur here.

If there is some reason to reclassify, then let's come before the Environment Committee and the Energy Committee and let's have a hearing as has been provided for by my colleague, the distinguished Congressman from the 5th District, Congressman JOHN SPRATT, whereby on the House side they said, let's refer to the National Academy of Sciences, and we will go about it in a deliberate way, and if the Energy Department wants it reclassified and has some authoritative source that will support their particular position, maybe the Congress itself will reclassify. But this has been classified by us, upheld in the courts, now on appeal, and here they come around in a fancy little surreptitious way on a Defense authorization bill and get the Graham language in the bill that would not hold up in the State legislature where general provision would say it is unconstitutional.

When I heard about this going on, I looked to see if maybe this was unconstitutional, but it is not.

That can be done, and it has been done already. So there has been precedent set for this. I can say categorically, the State in the last 48 hours is in an uproar over this particular measure. They did not know of any kind of special provision that was going to be put on for one State in a Defense authorization bill. They resent it, they resist it, and they have asked me by advertisement and telephone calls to please "adamantly oppose," is the expression they have used.

This is all in the offing. We can see what my colleague has done. He has put language on here so that when the deal is made with the Energy Department where apparently the State still would have a signoff—under the supremacy clause, the Federal Government has got it—and it means absolutely nothing, but it allows them to get the deal and lock the State in, and then we will start all the legal proceedings all over again.

So I implore my colleagues on both sides of the aisle, this is no way to legislate high-level waste in the United States. I have worked with the Department of Energy. We have the facility down when Secretary Richardson—now the Governor of New Mexico—was in, and I have brought every particular benefit that I could possibly bring to this particular facility, but apparently the contractors want to move ahead and certainly the Department of Energy wants to move ahead and not have to pay out the full sums. If they can get a precedent set for the reclassification in a surreptitious fashion of this kind called low-level waste, then it will set a precedent for the other States and we have an environmental disaster in the offing because we will not be here.

That is about the attitude around here, that if it can be handled in a day's time, then let us forget about the future. This is a highly dangerous procedure. It is wrong for the State of South Carolina. It is wrong for the Nation. It is wrong for the Department of Energy.

I had misgivings when the Secretary of Energy came up for nomination. I remembered very clearly my debate with Spencer Abraham. He wanted to abolish the Department of Energy and abolish the Department of Commerce. I can see him over on that side of the floor right now. We had a debate about that. I was sort of shocked that he would want to be Secretary of a Department that he wanted to abolish, but he is a good fellow. I got along with him, and I said, all right, I will cast a vote and keep my fingers crossed. But this is monkeyshines. We cannot go along with this one.

If they want a reclassification—this is not a money problem, this is a reclassification problem—then let us reclassify it in the orderly fashion in which we made the classification back some 22 years ago in the Congress.

The House of Representatives says let us handle it that way, so let us handle it that way over in the Senate. If we want to give permission to have hearings and then change that law, that is fine business, let us do it in that fashion, but do not put a rider that says this is for the interest of the State of South Carolina because it is not. It is not in the interest of the United States of America.

I do not know how else we can solve this. I know the other States are involved. The Senator from Michigan on the Defense appropriations has been very alert on this particular measure. I am just a Johnny-come-lately to it, but it affects my State, and it affects an area that I have been vitally interested in for over 50 years now. I have worked with every particular facet that one can think of. Never has this Senator been contacted about this deal. I know the Governor, I know his position on the environment, and I know he will not approve of this one.

I can tell my colleagues right now that reclassifying high level as low level, saying that we protect the State of South Carolina when we know the legalistic wording is just that, legalistic wording, has already been found ineffective by the highest court of the land.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator from Virginia.

ORDER FOR RECESS

Mr. WARNER. I ask unanimous consent that the Senate stand in recess at the hour of 12:45 to accommodate the Secretary of Defense, who will be briefing us, and resume at 2:15.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I think the two managers are very wise, offering the opportunity for everyone to go to hear the Secretary of Defense and the three generals who testified yesterday. It is commendable. It speaks well of the management of the Senate floor because there would be nothing happening here anyway. Everyone needs to go there. So I commend the two managers of this bill.

Has the Senator offered a unanimous consent that we would be out from 12:45 to 2:15?

Mr. WARNER. That is correct. It is essential that Senator LEVIN and I be present with the Secretary.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CRAIG). Without objection, it is so ordered.

RECESS

Mr. WARNER. Mr. President, the distinguished Senator from Michigan and I, together with the distinguished Senator from Nevada, are doing our very best to try to arrange the debate on the pending amendment to accommodate both sides. It is not likely we are going to achieve that in the next few minutes, so I ask unanimous consent the pending unanimous consent request for 12:45 be revised to reflect that the recess start now and terminate at 2:15.

There being no objection, the Senate, at 12:37 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. ALEXANDER].

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAPO. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRAPO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005—Continued

AMENDMENT NO. 3226 TO AMENDMENT NO. 3170

Mr. CRAPO. Mr. President, I call up amendment No. 3226.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. CRAPO] proposes an amendment numbered 3226 to amendment No. 3170.

Mr. CRAPO. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the first word of the matter proposed to be inserted and insert the following:

3119. TREATMENT OF WASTE MATERIAL.

(a) AVAILABILITY OF FUNDS FOR TREATMENT.—Of the amount authorized to be appropriated by section 3102(a)(1) for environmental management for defense site acceleration completion, $350,000,000 shall be available for the following purposes at the sites referred to in subsection (b):

(1) The safe management of tanks or tank farms used to store waste from reprocessing activities.

(2) The on-site treatment and storage of wastes from reprocessing activities and related waste.

(3) The consolidation of tank waste.

(4) The emptying and cleaning of storage tanks.

(5) Actions under section 3116.

(b) SITES.—The sites referred to in this subsection are as follows:

(1) The Idaho National Engineering and Environmental Laboratory, Idaho.

(2) The Savannah River Site, Aiken, South Carolina.

(3) The Hanford Site, Richland, Washington.

(c) This section shall become effective 1 day after enactment.

Mr. CRAPO. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I came to the floor with the understanding that we are in a moment where we haven't been able to move forward legislatively as far as the schedule goes. I wanted to take a few minutes of leader time to comment on a number of specific issues.

PAUL WELLSTONE MENTAL HEALTH EQUITABLE TREATMENT ACT

Mr. DASCHLE. Yesterday I spoke about the Paul Wellstone Mental Health Equitable Treatment Act. This is a critical piece of health care legislation. One in five Americans today suffers from a mental illness every year. Many are now denied health care they need because of legal discrimination by their health insurers. Such discrimination often takes a terrible toll on people with mental illness, their families, and all of us.

It is estimated that not treating mental illness costs our society $300 billion a year. The Wellstone bill will end that discrimination for all Americans. It is modest, affordable, and urgently needed.

I mentioned yesterday people from across America were coming to Washington on June 10 for a rally in support of mental health parity and the Wellstone bill. The famous Wellstone green bus that Paul loved to campaign on is coming back here for that rally.

It is my hope the majority leader will agree to allow the Senate to vote on the Wellstone bill prior to the June 10 rally. I think it would be a fitting tribute to Paul, and it would make a profound difference for millions of Americans who live with mental illness.

(The remarks of Mr. DASCHLE pertaining to the introduction of S. 2451 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

COMMEMORATION OF MEMORIAL DAY

Mr. DASCHLE. Mr. President, 2 weeks ago, in the Black Hill National Cemetery, SD, SSG Cory Brooks was laid to rest.

A member of the South Dakota National Guard, Sergeant Brooks died in Iraq in late April, and his friends and family gathered to remember his laughter, his joyful spirit, and his love of country.

Among the mourners was a man Cory Brooks had never met, Pat Red Fox.

Mr. Red Fox came as a representative of the Cheyenne River Sioux Tribe.

Six months earlier, the tribe had suffered the loss of PVT Sheldon Hawk Eagle, who died when his Black Hawk helicopter collided with another above Mosul.

The families of Sheldon Hawk Eagle and Cory Brooks had little in common on the surface.

But each passed along the values of service and patriotism to their children.

With pride and sorrow, each said good-bye as their loved ones were shipped overseas. And each prayed that Sheldon and Cory would complete their mission unharmed. Today, they are bound to one another in mourning.

And so to acknowledge this bond, this sacred bond that transcends all apparent differences, the family of Sheldon Hawk Eagle sent Pat Red Fox to Cory Brooks' funeral with one of the most valued gifts in the Sioux tradition—a star quilt bearing the colors of our Nation, and the Sioux symbol representing the immortality of the soul and the connection between the living and the dead.

During the upcoming recess, our Nation will commemorate Memorial Day with a special unity, immediacy, and poignancy.

As we honor those who gave their lives for their country in generations past, young American soldiers today face mortal danger.

As we offer thanks for the sacrifice of families who suffered the loss of loved ones, hundreds of American families are today mourning the deaths of their children, spouses, and parents.

For them, the cost of war and the price of freedom is not a thing of memory. It is the inescapable fact of their lives. And their pain and shock reverberate throughout American communities.

All Americans stand together in awe of the courage of our soldiers, and in gratitude for their sacrifice.

But the urgency of this Memorial Day also serves to amplify and clarify our understanding of America's history.

Within the sacrifices of today's soldiers, we see a clear reflection of the sacrifice of those who came before.

Like our soldiers today, our veterans, too, left families behind. They, too, woke up to uncertain dangers. They, too, saw their friends fall. Yet, knowing both their risks and their responsibilities, they, too, performed their duty each day. And many gave their lives.

Forty years ago, President Kennedy noted that no nation "in the history of the world has buried its soldiers farther from its native soil than we Americans—or closer to the towns in which they grew up."

At our proudest moments, the American people have sent our sons and daughters across the globe to fight for freedom.

Today, the honor of defending those who cannot defend themselves is carried forward by young American soldiers. But their service is doubled, for in addition to offering a chance for freedom to the Iraqi people, they are renewing our understanding of the cost of war, the price of freedom, and the immeasurable depths of American valor.

Seven hundred and ninety one Americans have lost their lives in Iraq. Another 122 have died in Afghanistan during the course of Operation Enduring Freedom.

As was true in World War I, World War II, and the Vietnam War, South Dakotans have volunteered for service in disproportionate numbers. And as before, South Dakota has borne a disproportionate share of loss. Seven of South Dakota's sons have lost their lives in this conflict:

CWO Hans GOO-Keye-sen, of Lead; PFC Michael DOOL, of Nemo; CWO Scott Saboe, of Willow Lake; CPT Chris SOUL-zer, of Sturgis; SP Dennis Morgan, of Winner; PFC Sheldon Hawk Eagle, of Eagle Butte; SSG Cory Brooks, of Philip.

For them and for the hundreds more who have lost their lives in service to their country, America is united in sorrow, and in debt for their sacrifice.

But this sorrow, and this debt, is not unique to us. In many ways, it has been the central experience of each and every American generation.

My father was an Army sergeant in World War II. He landed on the beaches of Normandy with the 6th Armored Division on "D Plus 1"—June 7, 1944.

He was injured during the landing, and, as he was recovering, one of his duties was sending word back to the States of those who had died so their loved ones could be notified.

That experience left my father with a profound sense of respect for the sacrifices that freedom sometimes demands, and he passed that lesson on to his four sons.

When I was a boy, every Memorial Day, my parents would take my brothers and me to the cemetery to pay our respects to the heroes who lie buried there.

Later in life, when I was in the service, I learned the lesson in a deeper way, as friends of mine lost their lives in Vietnam.

The men whose names my father sent home from Normandy, the men whose names are carved into The Wall in Washington, and all of the other noble heroes we honor gave their lives to preserve our freedom.

We are in their debt—today and every day. Now a new generation of Americans is called to battle—in Iraq, Afghanistan, and many other areas around the world. And once again, they are answering the call, and making us proud.

In 1868, just three years after the end of the bloodiest conflict our Nation has ever known, General James Garfield led the first observance of the holiday we now know as Memorial Day.

Standing among the graves of Union and Confederate soldiers alike, he said:

> If silence is ever golden, it must be here beside the graves of fifteen thousand men whose lives were more significant than speech and whose death was a poem the music of which can never be sung.
>
> We do not know one promise these men made, one pledge they gave, one word they spoke; but we do know they summed up and perfected, by one supreme act, the highest virtues of men and citizens.
>
> For love of country they accepted death, and thus resolved all doubts, and made immortal their patriotism and virtue.

No words, no ceremony could add to the honor they won in their lives.

So this year, with the heroism of our soldiers so radiant, we must acknowledge that Memorial Day is not commemorated for the sake of those who gave their lives, but for our own.

We remember their courage because within it lie the seeds of our own courage.

We remember their sacrifice, because it shows us both the cost, and the value, of freedom.

Memorial Day is not merely a time to remember those who died in uniform, but a time for each of us to rededicate ourselves to trying in our own way, in our own lives, to meet the the example of patriotism set by all the men and women who defend our Nation.

It is a time to rededicate ourselves to carrying forward the legacy that has been passed down from one generation to the next.

As with the families of Sheldon Hawk Eagle and Cory Brooks, it is a legacy that binds together every American.

It transcends borders and generations and all political divisions.

Above all else, it is this shared legacy, and the great gifts that it has conferred upon our Nation, that we reaffirm on Memorial Day.

I yield the floor.

The PRESIDING OFFICER. The assistant Democratic leader is recognized.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

RULE OF LAW

Mr. REID. Mr. President, the core concept which has guided this Nation for 200 years has been the rule of law. That is why we have a Constitution. That is why we have a judiciary. That is why we have a national legislature, to make and revise the laws which rule our conduct, one and all, no exceptions. Therefore, no one, not the mightiest in his mansion, not the lowest begger on the street, is above, beneath, or outside the law.

If a law is outmoded, has lost its utility, if it is obsolete, it is not the place of any citizen, no matter how high or how low, to decide it must no longer be obeyed. That decision rests only with the Congress or with an interpretation by the Federal courts. That is the only place that decision can rest.

Yet I have in front of me a memorandum written in January of 2002 by Alberto Gonzales, the White House counsel to President Bush, telling the President of the United States that the Third Geneva Convention of 1949 is obsolete, that the War Crimes Act, which we passed in 1995 making it a felony to commit a grave breach of that Convention, is inapplicable, and that as a result, prisoners captured on the battlefield can be questioned using means that would violate the Third Geneva Convention.

I am not talking about members of al-Qaida. The Gonzales memo specifically discusses members of the Taliban. It makes an extremely questionable argument that the Taliban are not prisoners of war because they were not the government of a state.

That argument is most disturbing. In the first place, it represents precisely the kind of arguments which the drafters of the Third Geneva Convention tried to defeat, drafters who included representatives of the United States. Those drafters repeatedly expressed their concern that the German Government, the Nazi government during World War II, used trumped-up legalisms to avoid applying the 1929 POW Convention to captured prisoners. One of those arguments was that Polish prisoners were unprotected because, according to the Nazis, Poland had ceased to exist as a state. That is precisely why articles 4 and 5 of the current Convention are written in such broad language with such inclusive presumptions.

I am equally disturbed by Mr. Gonzales's argument that because the Taliban were generally unrecognized as a legal government, they should not be afforded the protection required for soldiers of a de facto government. What particularly bothers me about that is the statement issued by the White House late in 2001 that the United States recognized that the Taliban was a de facto government of Afghanistan. You cannot have it both ways. Did Mr. Gonzales forget that statement? Did he ignore it or did he just not care that it squarely contradicted his memo of January 25, 2002, made just days later?

When he sent that memo to the President, over the objections of the Secretary of State, Mr. Gonzales and everyone else involved in its drafting and preparation sowed a bitter harvest. They sowed the seeds of solitary confinement, of sensory deprivation, of physical mistreatment, of violations of religious right, of legal rights, of rights against intimidations and threats and torture—all grave breaches of the Third Geneva Convention. They sowed the wind, and now we are reaping their whirlwind caused by that memorandum from the legal representative of the President of the United States.

AMENDMENT NO. 3170

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Mr. President, I rise to speak on the Graham amendment.

It is almost unbelievable that we are on the DOD authorization bill, a very important bill that we need to discuss and move forward, as it supports a lot of important things for our troops, and our military strategy. But somehow the other side of the aisle and the Department of Energy think they can sneak in language to this Defense authorization bill that would allow the reclassification of hazardous, high-level nuclear waste and basically call it incidental waste. Basically it would reclassify nuclear waste that is in existing tanks in my State, in South Carolina, in Idaho, and in New York, and basically say that waste can be covered over with cement, with sand, and could be grouted. Basically, it says we can take high-level nuclear waste and grout it—grout it.

For most Americans, grout is something they see in their bathroom, not something they do with nuclear waste. Yet this is what we have before us in the underlying Department of Defense authorization bill. It is a shame. It is a shame that this body would allow such a significant change, really a change to the Nuclear Waste Policy Act on how nuclear waste is classified in this country, without public debate, without a public vote, without a public hearing, even without legislation discussing that change. Yet the other side of the aisle thinks they can come at 1 o'clock in the afternoon and offer an amendment to change 30 years of policy, and that in the blink of an eye, they are going to get a vote on changing that policy without discussion.

The underlying bill is flawed. As far as I am concerned, it has made the whole DOD bill radioactive itself. Why do they play politics on an issue that is so important to our country? Why do they try to sneak through a change that ought to be debated in public in full daylight, with people weighing in on what is appropriate science?

Mr. President, if I sound as if I am a little upset about this underlying bill and the fact that it has this sneak attack language to reclassify high-level nuclear waste, you are right.

Fifty-three million gallons of nuclear waste reside at the Hanford nuclear reservation in the State of Washington.

This Senator wants to see that waste cleaned up. I do not believe that can happen by pouring cement on top of it and putting sand in those tanks and all of a sudden now say we have cleaned up waste. Nowhere has that policy been promulgated as sound science.

This is a picture of the Hanford Nuclear Reservation and one of its reactors in proximity to the Columbia River. My constituents in Washington State already know the 53 million-gallon tanks of nuclear waste are leaking, and there are toxic plumes that have already gained access to the Columbia River. So, yes, Washington State wants the tanks to be cleaned up. They want the material that has been part of the nuclear mission of this country removed from the tanks, the tanks cleaned up, the ground cleaned up, the plumes removed to the best possible extent, in order for us to go on with our mission and our life at the Hanford Reservation.

What we do not want is somebody to come in and say all of a sudden these underground storage tanks that exist below ground should be taken and cement poured on top of them and that means they are cleaned up.

It is amazing to me because when I think about the Hanford project and what I think it meant to our country, these were men and women in 1943 who started on a mission to produce a product that would help us win the war. In less than 2 years, they had the world's first reactor going and they produced plutonium that provided a very valuable tool for our country. Those men and women did their job.

Now we have been left with the aftermath of that and we should handle it in the same professional way those men and women did, by cleaning up the waste and recognizing that these tanks are leaking and they are causing hazard to the environment. The appropriate way to clean them up is by making sure the material is removed and that that material is placed in a more permanent storage. That is exactly what science has been saying. Yet my colleagues believe that in this underlying bill, the Defense authorization, it was somehow appropriate, in a closed-door session, with no public, no public testimony, no public witness to this language, no bill saying they were going to put this in the DOD bill, they can now sneak through this policy.

Well, thank God some people in America are paying attention because they are starting to respond. I will share some of that with my colleagues. For example, the Idaho Falls Post Register basically said those on the other side are choosing the wrong side.

What happened in this case is the Department of Energy—maybe I should stop for a second and give some of my colleagues a little reminder of how we got to this point, because everybody thinks reclassification of waste is something that belongs to the States. It does not belong to the States. It belongs in the Nuclear Waste Policy Act that was passed in 1982. That was passed by Congress, after much debate. It went through the Energy and Natural Resources Committee and the EPW Committee. They had a discussion about what nuclear waste cleanup should be. They have the authority.

So when the Department of Energy recently said "let us accelerate the cleanup of waste, let us do it faster, we have an idea, instead of removing all of the material from these tanks we can just pour cement and sand on top of it and somehow we can get this done quicker and cheaper"—I am sure everybody in America agrees that pouring sand and cement on top of the waste that is there instead of cleaning it up is cheaper. But no one says it is safer and no one says it satisfies current law in the Nuclear Waste Policy Act.

That is why when the Department of Energy tried to use an order basically reclassifying waste, saying, "let us try this accelerated cleanup, let us try this notion of grouting and see if it, in fact, is the way we can do this." The courts have said the Department of Energy does not have that authority to reclassify the waste; the definition lies within the Nuclear Waste Policy Act, and DOE was not consistent with that act.

So what did the Department of Energy do when they lost that case? Yes, it is on appeal. They can go through the appeal process. But instead of coming to Congress and asking for public hearings on changing the Nuclear Waste Policy Act, saying, "listen, we think some waste that ought to be able to be reclassified," they have snuck language into the DOD authorizing bill.

Let me be clear again. Sneaking in language is having a closed-door session, without public debate, without public scrutiny, without a hearing on the change in this reclassification.

Now all of a sudden we are presented with this bill and people think we ought to move ahead without removing this radioactive language that is in the DOD bill, which I say has no business being here. If people want to debate this policy, let us debate it in the broad daylight of a hearing and discuss what hazardous waste is and the changes to the Nuclear Waste Policy Act that might be appropriate.

I guarantee, if somebody wants to change the Nuclear Waste Policy Act, that bill would not go to the Senate Armed Services Committee. It would be a policy that was debated by the Energy and Natural Resources Committee and by the EPW Committee. It is not the Armed Services Committee's jurisdiction to change the Nuclear Waste Policy Act. This underlying bill basically will put in place language contradictory to the Nuclear Waste Policy Act.

What are newspapers around America saying about this? Basically, the Idaho Falls Post Register says, "if the courts are uncooperative, try blackmail. That is what DOE is doing by holding $350 million in cleanup funds, including $95 million for Idaho's national engineering and environmental laboratory.

They go on to say, "if blackmail fails, start cutting deals in secret with Congress. DOE found an ally and behind closed doors in the Senate Armed Services Committee won a provision in the Defense authorization bill that would allow DOE to reclassify the high-level Savannah River waste."

I think they said it best when they said the view from Boise is more accurate, and that Kempthorne, the Governor, believes the measure "would wreck Idaho's position in the court by setting a precedent in short order, it would undermine the State's landmark decision."

It goes on to say: "Why would you reward DOE for its heavyhandedness against the State by passing something in the committee with the thinnest of claims to jurisdiction? If the Nuclear Waste Policy Act needs revision, do so in the open. Hold hearings. Conduct them in germane committees. What is going on here is not science, it is bare-knuckle politics." That is from the Idaho paper.

The Seattle Post-Intelligencer said a similar thing: "The Senate should halt the nuclear waste plan." Why? Because the bill gives the DOE the reclassification authority and withholds funds, and that this is a scheme to reclassify, hoping the States will cave in. It is not a good idea.

What did the Idaho Statesman say? Well, basically in a headline that said "State Cleanup Faces An All or All Proposition," it said: "We expect the Feds to clean up and move out all the highly radioactive liquid waste now stored in Idaho. No haggling, no shortcuts. Our political leaders need to hold firm even when politicians in other States are willing to cut deals."

What did the Spokesman Review in my State say? I thought the Spokesman Review had an interesting take. They said: "For example, let us say the next step would be to persuade the affected parties and the public there is scientific consensus on this matter. Without that, there will be no hope of political consensus. The U.S. Department of Energy believes leaving some waste behind is a good idea but is trying to slip this in as a seismic policy shift in the Defense authorization bill without comment or without congressional debate."

I think these newspapers have it right. In fact, another newspaper in my State, the Tacoma News Tribune, said: "It was bad enough that the U.S. Department of Energy was trying to carry out illegal, quick, and dirty disposal of the Nation's most dangerous radioactive waste. Now a Senate committee is helping the Department circumvent the law."

I think these newspapers are on to it. The Buffalo News, in their editorial, called it "A Dangerous Game."

> The Federal Department of Energy is trying to use administrative sleight of hand to avoid its responsibilities in the cleanup of nuclear waste at West Valley and several other sites. DOD is trying to downgrade the threat of nuclear waste altered in this bill. The department argues that the waste should be classified as high level based only on how it originated, not on what they are. But what they are still is bad. It's still radioactive and it's still a Federal responsibility.

That is from the Buffalo News.

Mr. President, I ask unanimous consent to have all those editorials printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Buffalo News, May 10, 2004]

DANGEROUS GAMES—FEDERAL EFFORT TO BURY NUCLEAR WASTES AT WEST VALLEY IS UNCONSCIONABLE

The federal Department of Energy is trying to use administrative sleight of hand to avoid its responsibility in the cleanup of nuclear waste sites at West Valley and several other states.

This contemptible effort involves downgrading the threat of nuclear waste, thereby allowing the government to bury that dangerous material at West Valley and other sites instead of shipping it to a permanent repository as called for in a 1982 law.

Fortunately, New York Sens. Charles E. Schumer and Hillary Rodham Clinton recognized this downgrading for what it was, a threat to West Valley and surrounding areas from the possibility of future leakage of this radioactive material. After they protested the legislation, Sen. Lindsey Graham, a Republican from south Carolina who introduced the bill that would have allowed the DOE to downgrade the threat of nuclear wastes, altered his bill. It now will apply only to the waste remediation project at Savannah River, S.C.

But that doesn't remove the danger. The House, essentially led by Republican Majority Leader Tom DeLay, still has to consider the DOE legislation. That cannot be a comforting thought to residents living near West Valley.

The department argues that the wastes should be classified as "high-level" based only on how they originated, not what they are. But what they are is still bad, still radioactive and still a federal responsibility.

Decades of expensive cleanup progress have improved safety at West Valley, but the work is far from over. The radioactive liquid wastes from a nuclear fuels reprocessing effort have been solidified into safe glass logs, which were supposed to be stored elsewhere. But the anticipated long-term storage facility at Yucca Flats is years from completion. Tanks and residual wastes still remain at West Valley, and an underground plume of water is contaminated with radioactive strontium. Covering wastes with concrete won't help that.

The 600,000 gallons of West Valley wastes have their counterpart in nuclear weapons production wastes at other sites—53 million gallons at Hanford on the Washington-Oregon border, 34 million gallons at Savannah River near Aiken, S.C., and 900,000 gallons at the Idaho National Engineering and Environmental Laboratory.

West Valley is the only site where the state shares the cost of cleanup.

Those costs may run into the tens of billions of dollars over decades, but the mess remains a federal issue. At West Valley, the risk includes not only the site's land but water drainage that flows into Buttermilk Creek, Cattaraugus Creek and Lake Erie. Trace amounts of that radioactivity have been tracked as far as Buffalo.

The DOE also is threatening to withhold $350 million in cleanup money from military-related cleanup efforts unless it gets a change in the definition of what constitutes high-level waste. That bit of weaseling does the department no credit. These sites were created by the federal government, and the federal government should not be allowed to walk away from them.

Acceptable cleanup at West Valley involves removal of all wastes and dismantling and removal of the contaminated structures that were used to process and store them. The government cannot be allowed to escape that responsibility through administrative trickery.

If the federal government truly could end a problem by renaming it, we'd already be at "mission accomplished" in Iraq.

[From the Idaho Falls Post Register, May 19, 2004]

CHOOSING THE WRONG SIDE

Why would Idaho's two U.S. senators support the Department of Energy against their own state?

You'll have to ask them.

A big vote is coming up—possibly today or tomorrow—in the Senate.

Idaho has a lot at stake.

The outcome is expected to be close.

Idaho Gov. Dirk Kempthorne is on the right side.

Sens. Larry Craig and Mike Crapo intend to be on the wrong side.

At issue is nearly 1 million gallons of high-level radioactive wastes stored in Idaho. The Hanford nuclear site in Washington has 53 million gallons. Savannah River in South Carolina had 37 million gallons.

Federal law says that waste may be collected and stored in a national repository. DOE wants to reclassify it, leave some material behind and save a few bucks.

But it can't get a judge to go along. Last year, U.S. District Judge Lynn Winmill ruled DOE couldn't do that on its own. DOE appealed.

If the courts are uncooperative, try blackmail. DOE is withholding $350 million in cleanup funds—including about $95 million for the Idaho National Engineering and Environmental Laboratory.

And if blackmail fails, start cutting deals—in secret—with Congress. DOE found an ally in freshman Sen. Lindsey Graham, R–S.C. Behind closed doors in the Senate Armed Services Committee last week, Graham won a provision in the Defense authorization Bill that would allow DOE to reclassify high-level wastes at Savannah River. Another provision allows DOE to continue holding cleanup funds hostage in Washington and Idaho until the accede to DOE's demands.

Fortunately, the House version contains none of this mischief. So even if the Senate goes along, there's still hope a conference committee will reject it.

Craig and Crapo say they're willing to defer to Graham on something they believe affects only his state—as long as the cleanup funds are kicked loose. They also believe Graham will be appreciative down the road when Idaho needs his help.

The view from Boise is the more accurate one, however. Kempthorne believes the Graham measure could wreck Idaho's position in the courts by setting a precedent. In short order, it would undermine the state's landmark 1995 settlement with DOE, which requires the agency to clean up the INEEL and ship wastes out of the state.

That's not to say Idaho isn't willing to negotiate. But no governor can surrender unilaterally to DOE demands without unraveling the 8-year-old truce that ended the statewide battle over the INEEL, its future and the waste issue that has raged for more than a decade.

Politically, two states are weaker than three. If South Carolina cuts a private deal on waste, Washington and Idaho are left to fight on their own.

And why would you reward DOE for its heavy-handedness against the states by passing something in a committee with the thinnest of claims to jurisdiction? If the Nuclear Waste Policy Act needs revision, do so in the open. Hold hearings and conduct them in the germane committees—Energy or Environment and Public Works.

What's going on there isn't science. It's bare-knuckle politics.

So as early as today, Sen. Maria Cantwell, D–Wash., will offer a motion to strip Graham's language from the defense bill. She has the support of Graham's colleague, Sen. Ernest Hollings, D–S.C. But it's going to be close, and the Idaho delegation could make the difference.

Does Graham may have more to offer Craig and Crapo than Idaho voters?

Maybe. Craig is in the second year of a six-year term. Crapo just got re-elected to a second term. Although the election isn't until November, Idaho Democrats have forfeited the race.

Just the same, both Idaho senators ought to reconsider.

[From the Seattle Post-Intelligencer, May 18, 2004]

SENATE SHOULD HALT NUCLEAR WASTE PLAN

Senators should halt the Bush administration's Department of Energy's attempts to boss everyone around on nuclear waste policy and end run the federal courts. The administration's bullying tactics should be met with a firm refusal to submit.

The DOE has a responsibility to clean up the heavily contaminated radioactive waste in tanks at Hanford and several other sites around the country. A federal judge already has overruled the department's attempts to reclassify the waste in order to save money and leave it at the sites.

Legitimately, Energy has filed an appeal. But is has shown horrid judgment with attempts to dictate changes in federal law to evade its responsibility, blackmail states into accepting the waste and free itself of state controls.

Sen. Lindsey Graham, R–S.C., has put language into a defense authorization bill to give the department much of what it wants. The bill would authorize reclassification of the waste in his state and let DOE withhold $350 million in cleanup money for Hanford and other sites until their states cave in to reclassification schemes.

Sen. Maria Cantwell, D-Wash., is leading a fight against the plan. Tank waste at Hanford threatens to pollute the Columbia River. Environmental groups rightly complain about rewriting the waste law in a defense bill without public hearings.

The Senate should strip Graham's amendment from the bill. The Energy Department needs to clean up nuclear waste fully, not evade public accountability.

[From the Idaho Statesman, May 11, 2004]

STATE CLEANUP FACES ALL-OR-ALL PROPOSITION

Idaho's political leaders need to hold the Department of Energy to a simple standard.

We expect the feds to clean up and move out all the highly radioactive liquid waste now stored in Idaho. No haggling and no shortcuts. Our political leaders need to hold firm even when politicians in other states are willing to cut deals.

About 900,000 gallons of high-level radioactive waste sit in underground tanks in the Eastern Idaho desert, above an aquifer that provides water for many Idaho farms and communities.

After decades of nuclear defense work in states like Idaho, it's time for the Energy Department to fully clean up the sites that helped produce the implements of the Cold War.

Unfortunately, the Energy Department has been more interested in cutting corners than in cleaning up. The agency wants to clean up most of the waste but leave a fraction of it in the tanks, sealed with grout.

The Energy Department has been trying to foist off less-than-clean cleanup as adequate and cost-effective. B. Lynn Winmill, an Idaho federal judge, ruled last year that the DOE plan violated federal law. Since then, the Energy Department has pushed the idea in Congress, and it may have a taker. With the help of Sen. Lindsey Graham, R–S.C., the Energy Department now has language in a defense bill limiting its cleanup obligations in South Carolina, where 34 million gallons of waste are stored at its Savannah River Plant.

The language covers only South Carolina, not Idaho. Still, it could set an alarming precedent, and could put pressure on Idaho's political leaders to cave to the federal government.

In Idaho, cleanup should be non-negotiable. Idaho has the law and Winmill on its side and has in hand a binding agreement with the feds mandating the tank cleanup. Then-Gov. Phil Batt reached a comprehensive waste cleanup deal in 1995, and Idaho voters ratified it a year later.

The deal gives Idaho leverage—but only if state officials and the Idaho delegation hold the feds to every word of it. Especially the word "all."

[From the Tacoma News Tribune, May 10, 2004]

FIX ENERGY DEPARTMENT, NOT THE LAW IT'S BREAKING

It was bad enough that the U.S. Department of Energy was trying to carry out an illegal quick-and-dirty "disposal" of some of the nation's most dangerous radioactive waste. Now a U.S. Senate committee is helping the department circumvent the law.

The law in question is the Nuclear Waste Policy Act, which Congress passed in 1982. Among other things, this act requires the federal government to safely dispose of high-level nuclear waste in a deep underground repository. The law quite explicitly specifies that the radioactive byproducts of plutonium creation—a category of waste all-too-abundant at the Hanford Nuclear Reservation—must be buried in such a repository.

Despite what the law says, the Energy Department has other plans. Hanford's high-level wastes are presently being stored on site in steel-walled tanks, many of which have leaked dangerous radioisotopes into the surrounding soils. The department does intent to encase most of the wastes in these tanks in glass cylinders, which will be buried. But it also wants to leave significant quantities on site. Naturally, the idea is to save money.

The Nuclear Waste Policy Act, however, doesn't say, "Bury what's convenient, and don't spend too much trying to get the rest." It says, "Bury it, bury it all, and bury it deep." A federal judge in Boise last year called the Energy Department on its scheme, ruling that the leave-it-in-place plan would violate the law.

Laws, however, can be altered. That is what Sen. Linsey Graham (R-S.C.) is now trying to do, so far with success. At this behest, the Senate Armed Services Committee last week amended a defense bill with a measure that partially exempts the Energy Department from the requirement that all high-level waste be sent to a repository.

The amendment applies only to South Carolina wastes, but it's a scary precedent for this state. The Energy Department has already made clear its desire for an incomplete cleanup at Hanford, the nuclear contamination capital of America.

If Congress attempts to relax the disposal standards in Washington as well, the state had better be given consultation rights and veto power over whatever plan the Energy Department comes up with. The department simply cannot be trusted to act in the interest of Washington and its environment.

As for Graham, his constituents in South Carolina ought to be giving him an earful about the prospect of living in perpetuity with the world's most lethal garbage.

[From the Spokesman-Review.com, May 9, 2004]

DEBATE NEEDED ON NUCLEAR WASTE

For the sake of argument, let's say leaving some lethal waste buried at nuclear weapons sites is a good idea, because the cost benefits outweigh the risks.

The next step would be to persuade affected parties and the public there is a scientific consensus on the matter. Without that, there would be no hope of a political consensus. The U.S. Department of Energy believes that leaving some waste behind is a good idea, but it is trying to slip this seismic policy shift into a defense authorization bill, without public comment or congressional debate.

Last year, DOE tried to get House-Senate conferees on an already passed energy bill to accept this change. But that bill has bogged down. Now it has found an opening in a bill that otherwise has nothing to do with energy matters. U.S. Sen. Lindsay Graham, R-S.C., is pushing the change, but according to a Seattle Post-Intelligencer article, a deputy assistant energy secretary is listed as "author" in supporting documents.

In effects, Graham's measure would exempt DOE from the 1982 Nuclear Waste Policy Act, allowing the agency to solely determine when a site has been "cleaned." This is just the latest DOE maneuver to shut states out of the decision-making process, which is in direct conflict with the 1989 Tri-Party Agreement.

DOE has been trying to reclassify some "high-level" waste as "low level" for two years, but the states, Congress and the courts have said no. A federal judge's ruling sent DOE back to Congress to get the law changed. Such a change would have enormous implications for sites such as the Hanford Nuclear Reservation and the Idaho National Engineering and Environmental Laboratory, both of which are near major rivers. DOE previously announced a plan that would redefine as "low level" 53 million gallons of waste at Hanford and 900,000 gallons at INEEL.

Idaho and Washington are against reclassifying the waste. Said Sen. Maria Cantwell of Washington: "Trying to rename high-level nuclear waste doesn't change the fact that it is still dangerous, toxic, radioactive sludge that needs to be cleaned up."

Critics say another danger in allowing such waste to be reclassified and permanently buried where it sits is that it paves the way for the importation of any other waste DOE deems to be "low level." Hanford could be a dumping ground for another state's waste. The National Academy of Sciences has concluded that the best approach is to bury nuclear waste deep underground. Since that conclusion, Yucca Mountain in Nevada has been chosen as the national repository.

Without a scientific or political consensus, it is unconscionable for DOE to seek such a major change on such an important matter, especially in the absence of an open debate. The agency needs to stop the repeated end-runs and make a good-faith effort to involve all affected parties if it sees the need for change.

Ms. CANTWELL. Mr. President, let's go back for a second to what this issue is as it relates to the Nuclear Waste

Policy Act and what the underlying change in this bill does. That is the question at hand.

My colleagues on the other side of the aisle hope we can get rid of this issue in one afternoon—again, without public debate, without the scrutiny of changing the definition of highly radioactive waste. They think we should just pass what is in the underlying bill. It has only seen the daylight because of the objections of myself and other colleagues and the scrutiny of the press. That is what has gotten them now to offer the amendment on the floor. The amendment on the floor is not sufficient to strike the language relating to the reclassification of waste.

So what is the issue? In 1982, when we passed the Nuclear Waste Policy Act—I wasn't here but other Members were—basically we came up with a definition. We said:

> Highly radioactive material resulting from the processing of spent nuclear fuel, including the liquid waste produced in the reprocessing. . . .

That is what this reactor did for us in World War II. It basically processed spent nuclear fuel and that liquid waste was then stored in tanks still at Hanford.

> That the solid material derived from such waste that contains fission products in sufficient concentrations. . . .

So that is what we said high-level radioactive waste was. We went on to add to the definition:

> Highly radioactive material that the Commission says is consistent with the law requires permanent isolation.

That is what we said in 1982, that the spent fuel from these reactors required permanent isolation. That is what the current law says. The current law says spent fuel requires permanent isolation. That means you have to remove it from the tanks that are there, because the tanks are leaking and you cannot guarantee permanent isolation.

So the tanks have started to be cleaned up and the process for cleaning them up is underway. But now the Department of Energy wants to say, "let's have a new definition of that." In fact, in the underlying DOD bill, in section 3116, it basically says:

> High-level radioactive waste does not include radioactive material resulting from the processing of spent nuclear fuel.

How about that? One change in the DOD bill and billions of gallons of waste in my State is no longer high-level radioactive nuclear waste. Just like that, changing the definition. Yes, it says the Secretary can determine whether various hurdles have been scaled, but that is contradictory to the current law in the 1982 act.

I remind my colleagues this is an act that was passed through this body after hearings, after discussion. I think the process may have taken more than a year. It took more than a year to define high-level radioactive waste. Yet now we want to pass the DOD authorizing bill with this change in it and basically say, "let's go ahead and reclassify nuclear waste."

I am not for reclassifying nuclear waste without a debate and a discussion and, frankly, the notion that this underlying bill would reclassify it in such an inappropriate fashion, to say you could somehow call this grouting and that this would be a sufficient way to deal with the country's nuclear waste, is incredible. It is incredible that this is the scam being used on the American public just to get this process in place.

Let's go through some of the history, because as I said, I think this is really sour grapes by the Department of Energy, which has tried to get this policy pushed through and has not been successful. In fact, in 2001, basically, the Department said that they would recreate a better cleanup process. But, they said, we obviously have to get States to agree.

They came to us in Washington State and we said: We have an agreement with you about the level of waste that is going to be cleaned up under the requirements of the Nuclear Waste Policy Act, so we don't really know what you mean by reclassification. At that time they refused to say that they meant they would clean up 99 percent, or all that was technically possible, of this waste.

So we in Washington State said: Listen, it doesn't sound like you have a serious plan for reclassifying waste when you just want to call it a different name. That is not an appropriate process. In fact, Washington State decided not to do that.

Wisely enough, the Idaho court basically said DOE didn't have that ability, they didn't have the ability to reclassify that waste. That is exactly why they are trying to sneak this language in today, because they would like to continue to say that they can move ahead on a plan that, sure, would save money, but who wants to save money by leaving nuclear waste in the ground, where it is leaking into the Columbia River or the Savannah River, or other areas of the country?

If somebody thinks this is an issue that affects the State of Washington, or affects just Idaho, or affects South Carolina—it doesn't. These are bodies of water, with the potential of nuclear waste in them, that flow through many parts of our country. To pass legislation without debate on changing the Nuclear Waste Policy Act is an incredible statement, that people are willing to override 30 years of law just to do that.

There are other issues I think we need to talk about. I am very pleased the Governor of Idaho, Governor Kempthorne, issued a release saying:

> Federal legislation undermines the cleanup that was to take place in Idaho, at the Idaho facility.

In fact, Governor Kempthorne has said his opposition to the legislation that was passed by the Senate Armed Services Committee is because it allows the Secretary of Energy to withhold an estimated $95 million from cleanup funds, which is part of the debate we are going to have on the underlying amendment. But then he goes on to say:

> I recognize the need to ensure public confidence in how we manage nuclear waste. This legislation would be a huge step backwards, reinforcing public fears about our Nation walking away from nuclear cleanup obligations. I am also concerned this legislation will negatively impact DOE's compliance with the 1995 court settlement case in Idaho.

I think Governor Kempthorne, who has to deal with this, just as Governor Locke does in the State of Washington, has realized what a bad deal this is for Idaho. He realizes the underlying language, when it tries to reclassify waste, is a danger.

I find it interesting that we will forget the Nuclear Waste Policy Act, no problem. We will write our own rule about what hazardous waste is. We will come up with our own definition.

The states of Washington, Idaho, Oregon, South Carolina, New Mexico, and New York filed into the court case and in their amicus brief said:

> DOE cannot ignore Congress' intent . . . by simply calling [high level] waste by a different name.

South Carolina joined that case. South Carolina went to the courts, put its name on a brief, objecting to the DOE attempt to reclassify high-level nuclear waste by issuing an order.

Why all of a sudden are we now going to listen to one State tell us they have the right to decide they are going to keep nuclear waste in their State and they are going to call it something else? Nuclear waste that reaches the Savannah River does not affect just South Carolina, and a definition in statute that conflicts with the Nuclear Waste Policy Act does not just affect South Carolina; it affects everyone. That is not the way to legislate, by sneaking it in without having full public debate about this issue and the obligations we have for nuclear waste cleanup.

What has the Atomic Energy Commission said? Basically, it said in 1970 that over the life of these tanks, basically you have a problem. Basically, what you are saying when you assume that you will take those Hanford tanks or Savannah River tanks or Idaho tanks or West Valley tanks, and you are going to leave material in them and somehow put cement over the top of them and everything will be okay—that is counter to all the science we have had for 50 years.

The Atomic Energy Commission said "over periods of centuries,"—guess what, that is what happens when you leave it in the tanks for a long period of time; you are talking about centuries—“one cannot assure the continuity of surveillance and care which tank storage requires.”

(Mr. CRAPO assumed the Chair.)

Ms. CANTWELL. They are saying if you put in high-level waste, we cannot tell what will happen to that over a long period of time. That is why the decision was made to take it out and put it in a permanent storage facility somewhere else, because these tanks do not have the capacity.

The science says that once you do the grouting of this waste, unfortunately, your opportunity to do other things is much more difficult. Once you have poured cement on the ground and solidified it, the process of getting it out and retrieving it is made immensely more difficult. In fact, the Institute for Energy and Environmental Research in 2004 said:

> Grouting residual high-level waste in tanks that contain significant quantities of long lived radionuclides . . . Is a policy that poses considerable risk to the long-term health of the water resources in the region.

This statement is from 2004. In 2004, people have said this grouting technique, which basically is storing this in the leaking position in underground tanks, is a threat to the water resources of the region. These tanks are not more than 7 miles from the Columbia River, not 7 miles from one of the major water resources of the Pacific Northwest. It already has a plume of nuclear waste that has reached the river. Fortunately, it is at a level that we can contain today but only if we continue to clean up the tanks.

This proposal to pour cement and sand on top of it and just keep the waste in the ground has not been proven as a secure way to keep the waste intact and water resources clean. So what you are leaving us with in the Pacific Northwest—in Washington, in Oregon, in the tributaries feeding in and out of the Columbia River and into the Pacific Ocean—is the threat of 50 million gallons of nuclear waste not being cleaned up in a sufficient fashion and that waste ending up in the Columbia River. Or in the South Carolina, Savannah River. Governor Kempthorne said it right: this is a huge step backward because it reinforces the public fears about this process.

This Senator wants to have the nuclear waste cleaned up in our State. Some people may not understand the process, or some people listening to this debate may even think this is somehow about four or five States in this country. It is not about four or five States in this country and just about whether we will change the definition of high-level radioactive waste and what we will do about the definition.

That is what I am concerned about today in the underlying bill. This Nation has a responsibility—as it had a responsibility in development of the reactors, the development of the plutonium, and the development of that product—this Nation has a responsibility for the cleanup of those facilities. Oftentimes my colleagues forget about that responsibility until it comes time to do the budget and people see the huge amount of money that is spent on nuclear waste cleanup.

I would be the first Senator to say we have made mistakes in this process. It is mind-boggling to think prior to my coming here that at one point in time somebody gave contracts to a company to produce vitrified logs, and they were not going to pay them until they made the vitrification work. Somewhere along the way people figured that would not work, that the vitrification process was not underway and operating. But now we have been successful and vitrification is starting to take place. That means we are taking the nuclear waste out of the ground and solidifying it into a glass log substance and that glass log substance will then go to permanent storage. So it will be in a facility that can help store that product for an indefinite period of time. That has been the plan. That is the plan on the books. That is the plan of record.

But that is not what the DOE authorizing bill does. It says, “no, let's reclassify that waste and say that it is not high level. Let's just call it another name, let's call it grout and say it is okay to keep in the ground, let it contaminate water, and let's keep the savings from that unbelievable shortcutting of our responsibilities in the cleanup process.” I don't think that is something we want to do as a body and government.

I would like to talk about how this legal process worked and why DOE is attempting to do this. What my colleagues seem to want to think today is that this is all about giving the State of South Carolina the ability to negotiate with DOE what nuclear waste cleanup should be. In fact, as I said, in the underlying bill, instead of saying that high-level waste is something that needs to be retrieved, basically that spent fuel from reactors is something that needs to be retrieved from tanks and put in permanent storage, basically the DOE underlying bill says, no, high-level radioactive waste resulting from fuel process can be reconsidered and considered for a different kind of storage permanently in the tank. And that is something South Carolina and DOE can do together.

That is not what the cleanup partnership really is. The cleanup partnership is not about the State of South Carolina and the Federal Department of Energy interpreting the Nuclear Waste Policy Act in a new way by passing contradictory language.

Let's imagine for a second that we let the State of Michigan determine what the clean air standards are for the State of Michigan. Let's say that EPA and the State of Michigan decided, well, the clean air standards for Michigan are going to be at X level, and that somehow that is OK for Michigan, but somehow we do not think that is going to apply to the rest of the country.

Does anyone think that once it applies to Michigan, some other State is not going to say: How come you gave Michigan an exemption? They continue to pollute the air at a level that the rest of the country does not, which has a higher standard. We are talking about a recipe for disaster in the courts and for predictability in the process. I think it is very detrimental, where we are going with this legislation.

The court process that took place is now on appeal to the Ninth Circuit Court. We are still waiting for a decision. I think the appropriate thing for the Department of Energy to do, while they are waiting for their decision on appeal, is to say they want to come to Congress and have hearings on changing radioactive waste definitions, that they want to come and have a discussion about that.

I appreciate the fact the Senator from Michigan, Mr. LEVIN, as this issue was discussed in the Armed Services Committee, understood the dangerous precedence of this language, and understood how important it was to get the DOD bill done. He basically asked that they not include that language in the bill.

Now, it was a closed-door session. I do not know what the real vote was. I am sure it was a closely, hotly debated issue. But, really, what they put in was section 3116, which would overturn 30 years of carefully crafted laws and 50 years of scientific consensus related to the cleanup of the Nation's radioactive defense waste.

As written, this provision—because it allows DOE to reclassify waste that, as I said, for decades has been classified as high-level waste—basically says the radioactive and chemical toxic components would stay the same. So basically the same toxic level of waste is there, but we are just going to call it another name. I appreciate the fact that the Senator from Michigan tried to change this language and prevent it from being in the bill. Unfortunately, it is in the underlying bill before us.

The underlying bill before us also created a slush fund of $350 million. I find it intriguing. I love knowing a little bit about software because when you share documents and you basically try to make changes to documents, and you e-mail those around to everybody, you can look at the text and see where the changes came from. It is very interesting, this legislation was proposed by a member of the Senate Armed Services Committee. But when you check on who was really the author of the legislation, when you look at who was making the changes to the legislation, it was the Department of Energy.

The Department of Energy wrote the statute and basically submitted it to the committee, and tried to make it look like it was a Member's idea. This is coming straight from the Department of Energy, that lost a court battle, and does not want to wait for an appeal, does not want to come here and fight their battle in the daylight, but wants to try to sneak language in a bill, in the hopes these people will blink on a Thursday afternoon. Well, I am not prepared to have this bill move forward without having this discussion today about this change.

Now, what was DOE's great idea that they submitted through a member of the Senate Armed Services Committee? What was their wonderful idea? Well, besides reclassifying waste, they decided, "well, let's create a $350 million slush fund that gives the Secretary of Energy the authority to withdraw cleanup funds from the States of South Carolina, Washington, and Idaho—until they agree with our reclassification plan." Basically, it was to hold them hostage and blackmail them into agreeing.

As I said, when the State of Washington was offered this deal 2 years ago, we said: "We are not taking any deal unless we understand what you are cleaning up and how you are cleaning it up. The fact that you think you are going to reclassify and rename this is not good enough for us. Let's see the details." When they refused to show us that they planned on cutting cleaning up all this waste, we refused to accept the deal. Now they are hoping they will buy off some other State.

If the Department of Energy really believes science is on their side, if it really believes this grouting technique works, if it really believes this is the process we ought to pursue, then come before the Energy and Natural Resources Committee, come before the EPW Committee, and debate a change to the Nuclear Waste Policy Act, the policy that defines highly radioactive waste and how it should be cleaned up.

I think it is a tragedy, especially when you think about the good job the people did at Hanford, the process by which these people speedily got to the business of helping us in World War II, in the cold war years, and providing us with help and support. They got the job done. They did their job. Now it is our turn to do our job and clean this up.

When you are talking about 100 million gallons of highly radioactive waste that is stored in 253 deteriorating tanks in all of these States—as I said, at Hanford we have 53 million gallons of this tank waste, about 60 percent of the whole national inventory. So 60 percent is in Washington State, along with other high level waste stored in the Hanford 200-Area. That includes spent fuel and miscellaneous volumes that contain high-level waste from offsite which are also buried in the ground.

I am all for considering new technology and new ways to clean up waste and to retrieve waste that is buried in the ground that is considered high-level waste, which may have come from other States or have been basically brought to the Hanford Reservation. Some has been dumped on the Hanford Reservation and then has been part of the storage there for some time, but that is a different issue.

The Nuclear Waste Policy Act makes it very clear that spent nuclear fuel from reactors needs to be placed in a permanent isolated area. That does not mean pouring cement in tanks and calling it incidental. It is very clear about that. So we can talk about other technologies to clean up other kinds of waste, or we can come back and debate changing the Nuclear Waste Policy Act. But because 67 of the 177 tanks that we have in Washington State have already leaked 1 million gallons of waste into the ground, that is 1 million gallons of nuclear waste, this Senator does not take this issue lightly.

DOE estimates that at Hanford, 270 billion gallons of ground water is contaminated above the drinking water standards across 80 miles of this site, and that plumes containing numerous toxins have reached the Columbia River.

I think we have another picture of the Hanford site. I encourage all my colleagues, at some point in time, to go to the Hanford site. This site is in Washington State, but this is a Federal responsibility. It is a Federal responsibility to clean up nuclear waste. It is not just the province or jurisdiction of four or five States in the country. We spend budget money on this issue, and we need to get the job done.

You can see one scene of the Hanford reservation, which is almost as big as—a third of the size—the State of Rhode Island. It is an immense property. I know the senior Senator from Washington State has joined me, and she can tell you—because she was instrumental in getting the Hanford Reach Monument created, preserving some of this as a national monument for us. On the one hand we are preserving it as a national monument and then deciding one day we are going to take high-level radioactive waste, rename it, let the plume that is already reaching the Columbia River to stay in the ground, and that somehow by putting cement and sand on it, we are all going to be OK.

Everybody wants to say how much cheaper that proposal is. I think everybody in America gets how cheap it would be to pour concrete and sand. What they want to know is whether it is safe, whether it is the right technology, whether it is going to stop the plumes or leaking tanks, whether you are going to change the current law first to get there.

This is a beautiful, pristine area of our country that we can preserve, but only if we do the job we are responsible to do, as the people who created the B reactor and created this facility were responsible in doing.

To be irresponsible today by offering this on the DOD authorizing bill and thinking we are going to have a debate about it in a few short hours and change 30 years of law and 50 years of science is shameful. It is shameful that we think we can have this kind of discussion in a few hours and wrap up a decision. If people are so sure about their position, then hold the public hearings and have the debate. Because these tanks are leaking and one million gallons have already leaked in my State. It is not something that is a tomorrow issue.

What about the science? Let's go back, so my colleagues are clear about how we got here. Congress required DOE to clean up these sites and make it a priority, and they did that in that 1982 act. That act reflected science dating back to 1950, when the National Academy of Sciences recognized that high-level radioactive waste, such as the waste at Hanford, must remain isolated from human beings and the environment long enough for the radioactivity to decay. That is a long process.

That is why the Atomic Energy Commission, a precursor to the Department of Energy, also recognized something must be done to treat high-level radioactive waste in the tanks and at these DOE sites, and they referred to "over a period of centuries." As I said earlier, this isn't a problem where you think about it for a few years or even a decade. You have to come up with a solution for centuries.

Over a period of centuries, the Atomic Energy Commission wrote in 1970, "one cannot assure the continuity of surveillance of care with storage tanks." Basically they said, you can't get it done with storage tanks. So the science has not changed since then.

Yet there are provisions in this bill where DOE says, let's throw out the science. And the provision in this bill would allow DOE to take 50 years of science and leave an indeterminate amount of toxic sludge in these leaky tanks and simply say: Mission accomplished. I think we have heard that statement before.

What science says is that grouting residual high-level waste in tanks that contain significant quantities of long-lived radionuclides is a policy that possesses considerable risk to the long-term health of the water resources of the region. That is what science says.

The grouting proposal that is in this bill is a considerable risk. In the State of Washington, we are very familiar with this. In Washington State, thank

God our Department of Ecology has had strong reservations about grouting and we have vocalized those. For us, because it is 50 million gallons of this highly radioactive waste, it would have to have been a plan for durability for 10,000 years. That is what you would have to have. That is how radioactive the waste is.

What is bothersome is when people say an indeterminate amount, that is what DOE can decide. An indeterminate amount? The last 8 percent of the waste in the tanks has 50 percent of the radioactivity. Think about that. So we are saying in this underlying bill, go ahead, DOE. Leave an indeterminate amount in the tanks. Maybe they will say let's leave 10 percent. Maybe they will say, let's leave 5 percent. We know at 8 percent it is 50 percent of the radioactivity.

We think the grouting plan is something that is not the way to go. We set it aside in Washington State. We said that basically glassifying or vitrifying the waste was the way to go. That means that process of turning it into a glass structure so it is a solid structure and taking it to permanent storage was a better way to go.

As I said, in 2002, DOE wanted to use this accelerated initiative. We in Washington State had people come and talk to us about what accelerated cleanup was and what the schedule would be on high-level waste. And we said: We want to understand how you are going to comply with the agreements that are already on the table and with the Nuclear Waste Policy Act, with the triparty agreement, because this isn't the first time the Department of Energy has had debates with the State about their responsibilities for cleanup.

I can't imagine that there is an OMB director or a DOE executive who does not come to that post and look at the numbers involved in cleanup and basically says: Boy, there has to be a way we can get this done quicker and cheaper. I am all about getting it done quicker, given that I have a million gallons already leaking and running into the Columbia River. I am all about quicker. But I am not about a plan that has not been verified by science, that has not had a hearing in a full committee as to this process and what it will mean.

Everybody gets the quick factor, but who said cleaning up nuclear waste in America should be about doing it on the cheap? It is about doing it the right way. As the Atomic Energy Commission said, it is about keeping it out of the reach of humans for centuries.

Subsequently DOE has insisted upon researching new technologies for the treatment of Hanford tanks, this new form of grout, cast stone, steam reforming, and different forms of vitrification. In all, I think there were three cases. DOE said they would still retrieve waste from the tanks, but try to treat it and bury it in steel containers and lined trenches in the Hanford site.

I can tell you, even the new and improved grout was quickly rejected by the State of Washington and by other scientists.

According to the officials at the Washington State Department of Ecology, grouting would have violated the State requirement that any alternative waste that was not performed at the vitrification objected to. And, in addition, the State found that this grouting would still pose ground water risks and create leaching; furthermore, that this would violate drinking water standards.

Even more interesting is the fact that the grouting was not to be found more efficient. In some instances, grouting wasn't found to be any cheaper than other options of cleaning up the tanks. While everybody says that pouring cement and sand on this is a great way to clean up nuclear waste, most people figured out that leaking would still happen and that nuclear waste would still need to be removed. They figured out that it was even more expensive to remove than waste.

So those are the scenarios with which we are dealing. Those are the scenarios that have been discussed. This debate—whether we want to reclassify nuclear waste and call it low-level waste and say we are going to grout it—might be new to some of my colleagues in the Senate as to. But for the State of Washington, we already said this plan wasn't acceptable science, and that reclassification was something we didn't think we should go along with, when DOE wasn't willing to give us a definition on how they were going to clean up the waste.

So this is very difficult because the tanks holding sludge and salt cake and hard heels—this would mean the waste in those tanks would not be penetrated to remove and segregate the radionuclides. The hazardous material would not be separated out and removed. It means those tanks would not be thoroughly mixed without the right level of product. Basically, what they found is that grout, as engineered, is not an option that protects human health and the environment for such a significant portion of tank waste, when we don't know the definition, because it is an indeterminate amount of tank waste.

As I said, even the last 8 percent of tank waste includes 50 percent of the radioactivity. How do you know, by using this grouting process, that you have successfully rendered this a nonhazardous substance? So grout as an in-tank treatment for significant waste volume will be, as I said, probably more expensive than other routes when we find out that it is not successful.

The best science says is don't hold States hostage by reclassifying waste and telling them we are not going to give them money for cleanup unless they agree to our definition. This definition is something that the Department of Energy thinks they can come up with on their own. But the courts have determined that DOE doesn't have that authority.

The courts have not sided in DOE's favor. The courts have not said don't go ahead with cleanup. They didn't say you cannot move forward on cleaning up the tanks. The courts said: DOE cannot move forward on its plan of reclassifying waste and saying that it is a grout process and that is going to work. It says you cannot move forward on that.

So back to the underlying bill and what happened in the Defense authorization bill. There was an amendment that would enable the Department of Energy to exempt an intermediate amount of highly radioactive waste from regulation as high-level radioactive waste.

I am reading from legal counsel's interpretation of this underlying provision in the DOD bill. This interpretation says the amendment would allow the Department of Energy to continue to store waste long thought destined for deep geologic repository in existing storage tanks or send them to waste isolation pile-up plants or low-level radioactive waste burial sites. It also would exempt the Department's handling of those wastes from the license and regulation by the Nuclear Regulatory Commission. It will, in short, overturn the fundamental legal principles that have governed the disposal of these wastes for the past 30 years.

This legal briefing goes on to point out—which I think is very important—that for nearly half a century, when the DOE and its predecessors made plutonium for their nuclear weapons, they did so by irradiating uranium fuel, transforming it into plutonium, and reprocessing the spent fuel, as I showed in the picture with the reactor. And that became high-level radioactive waste. This is the term given to the plutonium spent fuel from the reactors was high-level waste.

So what did the Nuclear Waste Policy Act say? In 1981, the Nuclear Waste Policy Act said: Let's establish a comprehensive program for the disposal of this spent nuclear fuel, and put it in deep geologic repositories licensed by the Commission.

So let me be clear about this point, because I am sure we will hear about this in the debate. The Nuclear Regulatory Commission was given the responsibility of the deep geological repository license procedure. The Nuclear Regulatory Commission was not given the responsibility for these low-level tanks. The Nuclear Regulatory Commission was not given the responsibility to interpret this change in the DOD bill as it relates to whether this is a cleanup plan and whether they can license it because that is not their responsibility. Their responsibility, as the Nuclear Regulatory Commission, is on Yucca Mountain and the deep geological solution. That is what their responsibility is.

The act directed the President to decide whether high-level radioactive defense waste should be disposed of in the same repository as civilian waste, or in a separate repository. So in 1985, President Reagan decided this defense waste should be put in the same repository as civilian waste.

The 1982 act defines high-level radioactive waste. We had a decision by the President in 1985 that military waste should be treated as civilian waste, and that the civilian waste should be put in the same spot.

So that is the plan we have been on. Now, I have had some concerns about how much waste you are actually going to take out of Hanford because, I tell you what, I want more than 17 percent of the waste taken from Hanford to go to Yucca Mountain. I want it cleaned up and I want it in a permanent place.

I don't want grouting and I don't want to have plumes continuing to leak. But that was the decision made in 1985, and the President made that decision. They said, let's vitrify this waste, glassify it, take it out of the tanks, turn it into glass logs, and take that to a site for permanent storage, wherever that site is.

The plan, since 1985, has not been to pour cement and sand and create grout leaving some percentage, some indeterminate amount of waste in tanks.

I cannot emphasize how important it is if DOE believes in this philosophy, this science, if DOE thinks this is the successful course of discussion that should happen with spent nuclear fuel, then come to the broad daylight of a Senate hearing and make their case and put that before the appropriate Senate committees. If they are so proud of their science and the standing of their decision, they should have no problem doing that. As Governor Kempthorne of Idaho said, when you don't end up achieving public consensus, you don't do anybody any favors.

The issue is the Department of Energy knows all too well, because these States of Washington, Oregon, Idaho, and South Carolina challenged the Department of Energy in court, that these States do not believe this order or plan for reclassifying waste is sound science. They do not believe it is sound science. That is why they challenged it in court.

I know the Department of Energy knows they cannot waltz into the Senate hearing rooms and make their case without hearing the critiques of the experts who have been dealing with this issue for years and years. And by "the experts," I mean not only the scientists, but the people who have to live with the economic and health consequences of having a million gallons of nuclear waste leak into the ground and make its way to the Columbia River. Those people are paying attention, and they are paying attention to the fact that this science is not standing the test of daylight and scrutiny. If it were, they would be here debating it.

I am saying to them now, this Senator, and I am sure members of other committees, welcomes the opportunity to understand this technology, to understand this new process, to understand exactly how taking some level of spent fuel from these reactors in these underground tanks and somehow pouring a grouting material on them is going to make for a successful cleanup effort.

I am sure my colleagues would love to hear if it actually saves billions of dollars and can be safe and sound science. But if that is the case, then we should not be in a rush today. After the courts have already said DOE does not have the authority to change this policy without the approval of Congress, the Nuclear Waste Policy Act, my colleagues should not be in a hurry to pass this legislation that basically says in a contradictory form: Go ahead, DOE Secretary, reclassify the waste because nuclear waste from spent fuel does not have to be classified as highly radioactive.

The definition of highly radioactive waste that is used in the Nuclear Waste Policy Act was initially modeled after the definition found in the West Valley demonstration project. That is a commercial site in New York. I am again reading from the legal opinion Energy counsel has provided to us.

It basically said waste produced by reprocessing of spent fuel, that it included both liquid waste and that waste directly from reprocessing and dry solid material derived from that solid waste.

In addition, it gave the Nuclear Regulatory Commission the authority to include other waste in the definition of such material. Significantly, West Valley gave the Commission power to add material other than reprocessing waste to the definition, but not to exempt any part of the processing of waste.

We have had this debate, and I know the Department of Energy objected to the definition. I know they wanted the regulatory agencies to be able to exclude material from high-level radioactive waste. I know that is what they wanted. But Congress rewrote the definition, not as the Department asked, but, as enacted, the final definition provides, as I said earlier, high-level radioactive waste means material from reprocessing of spent nuclear fuel, and that other radioactive material that the Commission, consistent with existing law, determines requires permanent isolation.

That is the process by which we, as the legislative branch, have gotten to the point of making decisions about this incredible product that was made by men and women throughout our country in the 1940s. It was a time of great military need, during World War II and the cold war. And they did their job, as the federal government had asked.

Now we are saying we are going to ignore the definitions and the process and not really have a hearing on the Nuclear Waste Policy Act or the fact that the DOE has already been turned down in the courts in its ability to reclassify that waste.

Mr. ALLARD. Mr. President, I wonder if the Senator from Washington will allow me a moment.

Ms. CANTWELL. Does the Senator have a question?

Mr. ALLARD. Pardon?

Ms. CANTWELL. Does the Senator have a question?

Mr. ALLARD. I do not have a question. I wanted to know how much longer the Senator from Washington will take because we have Members in the Chamber who would like to speak. They have schedules and would like to get some feel of when their opportunity may come up to speak.

Ms. CANTWELL. Without yielding the floor.

Mr. ALLARD. Mr. President, I ask the Senator from Washington how much longer she anticipates taking to complete her remarks.

Ms. CANTWELL. Mr. President, I have some more material on the history of the process. I see 2 of my colleagues in the Chamber who are also very concerned about this issue, but I imagine at least another half hour or so longer, maybe more.

Mr. ALLARD. I thank the Senator for that guidance.

Ms. CANTWELL. Does the Senator from Washington have a question?

Mr. ALLARD. I would hope we could go back and forth. I think that is the way the debate has been going. The next Senator I will call on is Senator INHOFE, and then whoever on your side.

Ms. CANTWELL. I obviously want my colleagues to join in the debate on this issue, but the reason this Senator feels so strongly about this process is because I do believe this measure does not belong on the Defense authorization bill. We have a very important piece of legislation that needs to move through the process, and yet we have an entity the courts have turned down, that believes that States have turned them down, that believes this is a controversial issue, and thinks they ought to sneak it in on a DOD bill and that is a way to do legislation. It is not the way to do legislation.

This is the only opportunity we have to expose the fact this legislation has been drafted this way and the unbelievable effect it has on so many people in this country when the Department of Energy can author legislation and give it to a member of the Senate Armed Services Committee who then offers it in a mark-up in private and includes it in the legislation.

I am going to take a little more time to go over these facts because I think the bright light of day needs to shine on the fact the Nuclear Waste Policy Act of 1982 ought to have the attention of the Energy and Natural Resources Committee and ought to have the attention of the Environment and Public Works Committee and not be proposed on the Defense authorization bill without the scrutiny of public debate and foresight that such a huge, significant change in policy would bring about.

This is why I am going to take as much time as necessary to explain this policy and to say to the members of the Senate Armed Services Committee that while any member has the ability to offer any amendment they want, including in an authorizing bill, usually it is the other way around. We have authorizing on appropriations and issues of that nature that have caused——

Mr. INHOFE. Will the Senator yield for a question?

Ms. CANTWELL. The Senator will yield for a question.

Mr. INHOFE. I remind the Senator from Washington, if she is concerned about the action that we had proposed with the Environment and Public Works Committee, I chair that committee and I am waiting to be heard concerning this issue because I also have a lot of interest in it. I appreciate the fact that the Senator is suggesting our jurisdiction should be heard, and that is what I am waiting to do.

Will the Senator agree with that?

Ms. CANTWELL. I thank the Senator for his question. The issue is that the Senate Armed Services Committee should never have voted and considered this legislation in a closed door session without those hearings. So I certainly want the Member to be heard but—I think I have the floor, Mr. President.

Mr. INHOFE. Will the Senator yield the floor for a question?

Ms. CANTWELL. I think I have the floor, Mr. President, and I will yield in a moment for another question.

The issue is that we have been trying to work with the author of this legislation on a compromise that would promote a dialog and a hearing. My staff has been working diligently since the language came out of the Senate Armed Services Committee.

This morning we learned without warning, without notice, that perhaps now they did not want to continue discussion on that, they did not want to continue discussion on how we brought this issue to light.

I really did not want to spend the afternoon on the Senate floor. We had hoped we would actually propose a better process and procedure, but others want to move forward on changing the underlying bill, which in this amendment is still flawed. The proposed amendment by Senator GRAHAM of South Carolina makes a bad situation slightly better but does not correct the underlying problem. And this Senator whose home state has one million gallons of nuclear waste flowing to the Columbia River—is going to be heard on the details of this proposal.

The fact that we have not had a full public hearing on a significant change in 30 years of policy and 50 years of science is something that, if it takes me 5 hours to explain, I will take it. I will take the 5 hours to explain to my colleague the significance of these changes.

Mr. WARNER. Mr. President, will the distinguished Senator yield for a question?

Ms. CANTWELL. I will yield to the Senator for a question.

Mr. WARNER. I thank the Senator. May I most respectfully explain that under the Senate rules of allocation of committee responsibilities, this issue of the nuclear waste is directly within the purview of the Senate Armed Services Committee. We control, through oversight, 70 percent of the budget of the Department of Energy. The cost of nuclear waste cleanup comes before our committee. So I want to say to my distinguished colleague, while she may have concerns about the legislative process as a whole, there is no doubt about the jurisdiction of the Armed Services Committee over this subject.

We have put in our bill, which is now at the desk and the subject of debate, the specific provisions the Senator is addressing. Jurisdictionally we had the perfect right to incorporate in our bill such legislative language we deemed as a committee necessary for dealing with this question of this specific type of nuclear waste. I was not certain that the distinguished Senator was aware that clearly this is in the jurisdiction of this committee.

Ms. CANTWELL. I thank the Senator for his question, but under rule XXV, the Armed Services Committee has jurisdiction over national security aspects of nuclear energy, the Energy and Natural Resources Committee has jurisdiction over nonmilitary development of nuclear energy, and the EPW Committee has jurisdiction over the nonmilitary environmental regulation and control of nuclear energy.

Undoubtedly SASC has jurisdiction over the reprocessing that created the tanks to begin with because DOE was responsible for the national security, but I do not see how anyone could seriously argue how the waste, disposal, and cleanup of the Nuclear Waste Policy Act is a part of the national security aspect of the Senate Armed Services Committee's jurisdiction.

While I am more than happy that the committee has used this authority to bring this issue up, I think the committee is doing an injustice to say to our colleagues that a change that is in contradiction to the Nuclear Waste Policy Act ought to be passed by the committee without hearing, without debate, without full scrutiny of public daylight. This provision would really contradict 30 years of law on the books when the agency promulgating that rule change lost a court battle basically telling it it does not have the authority to redefine high-level nuclear waste.

I fully respect, because of all the committees that I work with, I know that the chairman of the Armed Services Committee always strives to be fair and balanced at his hearings. And there are difficult challenges that we have had over many sensitive subjects in the last several weeks. The chairman has gone way out of his way to make sure the continuity of that committee works well and that the rules and processes are followed. But I say to the chairman that if the Department of Energy is so sure about these statutory changes they are promulgating through his committee without debate, then they ought to be willing to have the hearings and have the debates with the other committees that have jurisdiction for the cleanup, not the national security efforts the Senator was responsible for as the chairman of that committee.

Mr. WARNER. Mr. President, if I could reply, without the Senator losing her right to the floor, I will shortly bring the President's budget request for funds. I will bring appropriations acts and I will show the Senator the direct linkage of the request for funds coming to the Armed Services Committee, the Armed Services Committee bill going to the Appropriations Committee, and action by the Appropriations Committee on the authorizations of expenditure of the funds for nuclear waste and cleanup. It is irrefutable, and I will take a little time to go out and get the documentation. Then I will ask unanimous consent to print that documentation in the RECORD.

I thank the Senator.

Ms. CANTWELL. I thank the chairman again for his statement. I point out to him that the difference between authorizing for appropriations and oversight of policy, and what I am debating is that the committee's oversight over nuclear waste cleanup policy as set out in the Nuclear Waste Policy Act. When that was passed in 1982 and moved through the legislative branch and made its way through the debates, it was debated in the Energy and Natural Resources Committee and EPW Committee. As the parliamentarian referred to those committees, I am sure that the SASC, because of its nature of the appropriated funds, has some responsibilities. But I do not think that the SASC is the committee of jurisdiction for changing the Nuclear Waste

Policy Act. I do not think that is the primary responsibility of that committee.

So, I don't know. I say to the Senator, the chairman of the Senate Armed Services Committee, I have a great deal of respect for his willingness at all times in the most difficult of situations to try to have consideration of issues be as fair and balanced as possible, and to give Members their opportunity. I am happy to continue to discuss with him the nuances of this particular issue. But I have a feeling that if we had this Nuclear Waste Policy Act before us today and we asked the Parliamentarian—this change that is in your bill, under a separate act, under a separate stand-alone bill—it would not be referred to that committee. It would be referred jointly to those other committees and maybe to SASC in the authorizing of an appropriation, but not for the policy change.

Mr. WARNER. Mr. President, I will reply later today with the documents in hand.

Ms. CANTWELL. Mr. President, I think there are several other people here.

Mr. REID. Will the Senator respond to a question from the Senator?

Ms. CANTWELL. Without losing my right to the floor.

Mr. REID. Yes. I say to my friend from Washington, having spoken with her, it is my understanding the Senator has said publicly that if we came back after the break, the Senator would be willing to look very closely at the amendment pending and would be willing to offer one of her own, that she would agree to a time certain on that amendment. Is that true?

Ms. CANTWELL. I simply want the issue to have the appropriate amount of debate and dialog. All of us will have the opportunity to vote up or down on any of the amendments anybody wants to offer to this section. But the question before us was, all of a sudden at 11:30 today, without notice, when we had been in negotiations on this language, to bring it to the floor, this Senator feels obligated to make sure this time period is used to bring committee members and colleagues up to speed about the contents of the underlying bill.

Mr. REID. Does the Senator yield for another question?

Ms. CANTWELL. Yes.

Mr. REID. It is my further understanding the Senator, who has spoken for some time now, has a lot more to say, is that right, on this amendment, on this date? She has only gotten warmed up; is that right?

Ms. CANTWELL. That is correct.

Mr. REID. And you, as a matter of courtesy, will allow Senators HOLLINGS and MURRAY and anyone on the majority side to speak and you will be back at a later time for another round or two; is that correct?

Ms. CANTWELL. That is correct. I will give my colleagues from Washington and South Carolina an opportunity to join in this debate and participate because I think it is very important that this issue receive the full attention of Members. As I said at the beginning of this discussion, I do not believe this is an issue—even though a lot of my colleagues would like to classify it as an issue that only affects Washington State, South Carolina, or Idaho perhaps with some impact on Oregon and maybe Georgia, or New York in its commercial facility. I have never thought of this nuclear waste issue as a geographic-specific debate.

Our responsibility as a body is to make sure nuclear waste cleanup happens in a process that the science determines will not be with harm to humans or to the environment. We now have a proposal before us that science says will be harmful, that is not based on sound science, that has not met the test, nor has our approval.

While I am willing to have this debate, I hope my colleagues will use this debate as an opportunity to understand our challenge on nuclear waste cleanup and the tremendous amount of resources that are spent by our Government on that cleanup and the efficiencies that need to happen to make that process go more smoothly than it has in the past.

But I can guarantee to my colleagues that wanting that process to go more smoothly in the future, and wanting it to be more cost effective, does not simply mean coming up with a short-term proposal, a fix that is counter to what existing statute and law is. If we want to have that debate, let's go through the normal committees and have that debate, and let's have the scientists come in and discuss it with us, and let's not end up with a process where we are going to be battling in the courts. I don't think that does any of us any good. Certainly, for us in the State of Washington, with a 1-million-gallon plume heading toward the Columbia River, it doesn't do us any good.

I hope my colleagues will use this opportunity to focus attention not just on the question at hand, of high-level radioactive waste, but I would say the consistency by which the States of Washington, Oregon, Idaho, South Carolina, and others have banded together in the last year or two in authorizing and appropriations language that has done a good job to make sure the processing of radioactive waste is completed.

I remind my colleagues, this is the first time I think the Department of Energy has successfully picked off a State. At first the underlying language was actually blackmail: We are going to make this change and nuclear waste is going to be reclassified, and if you are going to agree with us, we will give you some money, and if you don't agree with us, we are not cleaning up your waste. That is blackmail. That is what the current language in the DOD authorizing bill is. It is blackmail.

Now, after my colleagues have seen what ludicrous language that is, Senator GRAHAM wants to offer an amendment that will not tie up the funds. But we still remain with the underlying problem, which is the Department of Energy is trying to reclassify highly radioactive waste as low-level ancillary waste and say it can be grouted, that is that cement and sand can be poured on it and somehow, leaving incidental amount of tank waste is a sufficient way to clean up tanks.

I will continue to fight on this issue until Members understand the significant policy change that is before this body.

I ask unanimous consent after the remarks of Senator INHOFE that Senators MURRAY, ALLARD, and HOLLINGS be recognized, and that I immediately be recognized after them.

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard. The Senator from Washington has the floor.

Ms. CANTWELL. I want to accommodate the Senator from Nevada. I was proposing to accommodate and trade off recognition of the four Members who are present on the floor?

Does the Senator have a question?

Mr. REID. When the Senator yields the floor, I will speak.

Ms. CANTWELL. The Senator from Nevada—I am happy to yield the floor to the Senator from Nevada.

Mr. REID. Pardon me?

The PRESIDING OFFICER. Is the Senator yielding the floor?

Several Senators addressed the Chair.

Ms. CANTWELL. Does the Senator from Nevada have a question?

Mr. REID. Mr. President, I yield to the Chair. I have a question on that statement. The Senator from Washington has a right to speak, but we are not going to set a long list of speakers here at random, what speakers are going to speak. I think what we are going to do, we have a number of speakers on the floor, Senators INHOFE, HOLLINGS, ALLARD, MURRAY—people who have been here for a long period of time.

It appears to me we are not going to have a vote on this in the near future. I suggest what we do is enter into agreement for the next several however long it takes. We have people who want to speak. We can go forward and whoever gets the jump ball, have people be recognized whenever they get the floor.

Senator HOLLINGS has said Senator INHOFE has been here longer than he has. Senator INHOFE could be recognized for whatever time he feels appropriate. I would like to get some idea of what the time should be. Then, Senator

HOLLINGS, I think that would be the best way to go.

But in the meantime, it must be under some agreement, whoever gets the floor.

Mr. ALLARD. Will the Senator from Nevada yield?

Mr. REID. I am happy to.

The PRESIDING OFFICER. The Senator from Washington has the floor.

Ms. CANTWELL. The Senator from Washington is happy to entertain a question that would allow the various Members who are here——

Mr. REID. The Senator from Washington has to understand—she has the floor, and if she wants to keep talking, let her keep talking. When she finishes, we will be happy to——

Mr. ALLARD. If the Senator from Washington will yield, I would like to pose a plan of how we can go through this. I suggest that maybe we can sit down with leadership and work out some time for debate. I know Senator GRAHAM on this side of the Senate floor would like to wrap up this debate. Maybe we can get some time limits to give everybody an opportunity to speak. I know there is some interest in having some votes tonight. I believe I need to work with leadership on this side, if Senator REID will work with leadership on his side, to determine if we can work this out. The Senator from Washington can finish, and I can call on the Senator from Oklahoma. Maybe we can sit down and work out a time agreement.

Mr. REID. Mr. President, if the Senator will yield——

Mr. ALLARD. I yield.

Mr. REID. The Senator from Washington has the floor.

Let me say this: Everyone should understand that there is not going to be a vote on this amendment tonight. Everyone should understand that. There is going to be no vote on the pending amendment tonight. I told people that 5 hours ago. No one believed me. There is not going to be a vote on the Graham amendment tonight.

Mr. ALLARD. Nobody is calling for a vote on this amendment tonight, but there might be other votes.

Mr. REID. We will not agree to set this one side. If the Senator from South Carolina wishes to withdraw his amendment and set some orderly procedure to take it up when we get back after the Memorial Day break, we are in agreement. But we are not going to agree to set this aside to go to another amendment.

Ms. CANTWELL. Mr. President, this Senator is happy to yield the floor to my colleague to discuss this issue. I want to make it clear that after 30 years of standard policy, they are not willing to just have a few hours of debate and then vote on this significant a change. The underlying Graham amendment does not fix the underlying DOD committee-passed authorization language that allows the Department of Energy to reclassify waste.

That is the key issue at hand. We do not want to leave this bill with this reclassification of highly radioactive waste to an amendment on spent fuel storage tanks to then be grouted over. We need to have the attention of this body, my colleagues who are members of the various committees I mentioned and my colleagues from those States directly affected, although I said it is a policy everybody should be discussing, and the public needs to have an idea and an opportunity to understand that this is a major policy proposal which is being proposed in this underlying bill.

I would have preferred that the Graham amendment not be brought up today, not to this particular issue of the DOD bill being discussed. We are still talking. We hoped we might able to work something out and save our colleagues the time and attention of studying a nuclear waste policy proposal and what level of radioactivity could be sufficiently removed from tanks and what couldn't be. But if my colleagues want to continue to pursue the subject, we are going to continue to pursue and discuss this issue.

With that, I know various Members of both sides of the aisle are waiting, and I will have more to say on this subject as we continue to debate the DOD authorizing bill and continue to debate whether the Graham amendment is sufficient in disposing of the problem that has now been created in the underlying bill in overriding 30 years of law and science about how this country should clean up nuclear waste. I don't believe anybody in America wants to do it on the cheap. We need to give the American public the certainty that this body will not propose major policy changes without hearings, without debate, without committees of jurisdiction having oversight of this policy proposal that is in the Defense authorization bill.

I yield the floor.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, we are trying to work out, subject to the approval of the majority leader, to allow Senator INHOFE to speak for 15 minutes and Senator HOLLINGS for 45 minutes. They have waited a long time. Senator ALLARD, being the gentleman he is, did want to talk about the subsequent votes; there are a couple of judges who need votes. We have 25 to do before the end of June, so we have a lot of voting to do. Then, of course, everyone should understand that we will be right back on the Defense bill following those votes.

We appreciate the courtesy of the Senator from Oklahoma for being patient and the Senator from South Carolina. The order has not been entered, but that is what we will order. It would be appropriate for the Senator from Oklahoma to start his speech.

Members should understand that we will have a couple of votes around 5:30.

Mr. ALLARD. I yield 15 minutes to the Senator from Oklahoma.

Mr. INHOFE. I ask the manager if I could have 20 minutes, but I will probably not take that long. I am saving the best for last and I don't want to miss it.

Mr. ALLARD. I amend that and ask unanimous consent that the Senator from Oklahoma be allowed to speak for 20 minutes.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 20 minutes.

Mr. INHOFE. Mr. President, I will clarify a couple of things that were said by the distinguished Senator from Washington that I am sure she believes are true but need to be elaborated upon. First, characterizing the consideration of going back to the old policy as something that happened in the middle of the night, something that happened in the dark, something that happened in a less than honest way is not at all accurate.

I suggest two things. First, I chaired the Subcommittee on Clean Air, Wetlands, Private Property and Nuclear Safety of the Environment and Public Works Committee in 1998 and 1999. During that time, of course, we had jurisdiction over the Nuclear Regulatory Commission. During that time, they had countless hearings. They had comment periods. They talked about this out in the open, with people given an opportunity to be heard. I happened to be chairing the committee that had oversight at the time. I remember that very well.

Second, I suggest this was discussed in the Senate Armed Services Committee. It certainly was not something that was done in any way that was less than totally honest and totally done in the daylight. By suggesting that Senator JOE LIEBERMAN and Senator JACK REED and the other Members on this side of the issue did something that was not out in the open, I don't think is quite fair.

We had a hearing this morning with the Nuclear Regulatory Commission. It is an oversight hearing we have had ever since 1998. That is when, in the NRC, I believe we saw a major change. They have done a good job. The NRC says we should manage waste based on the risk it poses, not how it is defined.

The Department of Energy was attempting to pursue this very policy when it was stopped in its tracks. What stopped it? Several of my colleagues already mentioned a lawsuit was brought against the DOE by the Natural Resources Defense Council. This is the allegedly charitable organization that uses a substantial amount of taxpayer dollars in the form of discretionary grants to achieve its goals.

Three weeks ago I spoke in the Senate about the spurious and misleading advertisement run by the NRDC. This organization places a higher priority on imposing ridiculously stringent environmental standards than on essential elements of national security. They have proven this many times in the past by filing lawsuits to limit the Navy readiness exercises and otherwise hampering our military. Now the NRDC has hamstrung the Department of Energy in the faithful execution of its responsibilities.

This amendment allows the DOE to pursue the best plan to dispose of this nuclear material. That plan saves our taxpayers money. It shortens the amount of time the waste remains in the tanks. It is a safe way to do it. It is a well-thought-out way of doing it and one that has been the subject of a lot of daylight. It is merely going back to a policy that has worked for a long period of time.

We know the background. Sometimes it is necessary to repeat it. During the cold war, the national security of the United States necessitated the building of nuclear weapons. Now, 50 years later, we are faced with the legacy of this effort and the need to clean up the sites where there is waste from the reprocessing of spent nuclear fuel. The creation of this waste was a necessary result of the chemical processes needed to make defense nuclear material. We all understand that.

Last summer, this very important cleanup effort, which is the single largest ongoing environmental risk reduction project for the Department of Energy, took a crushing blow when the district court issued a ruling that created significantly illegal uncertainties and enormous problems for the Department's tank waste cleanup at the Savannah River site, the West Valley, the Hanford site, and the Idaho National Engineer Environmental Laboratory. Unless these legal uncertainties are resolved, the only path the Department of Energy could in theory pursue that does have the necessary legal certainty would be to involve sending all the waste in tanks and the tanks themselves to Yucca Mountain no matter how long or short lived is the radioactivity they contain.

This dramatic change in course would increase the costs of the cleanup itself in terms of human lives sevenfold and also delay completion of simply emptying the tanks and treating the waste there by four decades, thereby further substantially increasing the risk, as the NRC pointed out, to the public health and safety during the time period by leaving the waste in tanks for that much longer. It would also increase the cost of simply emptying and treating the tank waste, according to the DOE estimates, by an additional $86 billion, only $1 billion less than last year's supplemental appropriation for the Iraq war, for approximately a total cost of $138 billion.

We are talking about something really big. The estimates for delay and the additional costs do not take into account the very complex logistics of transporting and disposing of all the additional waste at Yucca Mountain or the complex logistics of preparing for disposal, transporting, and disposing of the tanks themselves. Keep in mind, it is not just what is in the tanks. The tanks themselves would have to go there and be disposed of at the Yucca Mountain facility. These would also add additional decades and tens, if not hundreds, of billions of dollars to the cleanup cost.

Furthermore, under this scenario, the number of canisters of waste that would be transported to Yucca Mountain would increase from 20,000 canisters to approximately 200,000 canisters.

I know there are a lot of members in the Senate concerned about the transport of waste to Yucca Mountain. That would increase it tenfold. Some have asked, why not just authorize and appropriate $350 million needed for the cleanup activities in fiscal year 2005 and force the Department of Energy to continue its work? This is not a responsible path. If the Department of Energy constructs the facility necessary to prepare waste for disposal as low-level or transuranic waste and prepare the waste for disposal and then finds out after the fact that it lacked the legal authority to classify the waste in this manner, hundreds of millions of dollars of the taxpayers' money would already have been wasted and years of cleanup work lost. The Department may have actually made it harder to put the waste in the form needed to dispose of it at Yucca Mountain.

The fundamental root cause of the dilemma that faces our Nation today is the ambiguity presented by the Nuclear Waste Policy Act's definition of high-level waste and that, if left unclassified, is producing this technologically irrational result without environmental benefit that, in fact, increases health and safety risks.

It is up to this committee and this Congress to resolve ambiguity in order for the cleanup of the sites which played such a key role in the national security of our Nation. The language before the Senate clarifies the ambiguity, and I urge adoption of this language.

What had happened on this, back in the time it was considered in SAS Committee—the Senate Armed Services Committee—was that it was an amendment to actually go back and do it as it had been done before, to do it in the best way, as determined by the multitude of hearings that were conducted by the Nuclear Regulatory Commission and which were conducted during the time I chaired the oversight committee. So we were there. We knew it was taking place.

The thing that I guess bothers me the most—I see the ranking minority member of the Senate Armed Services Committee on the Senate floor. We acted very responsibly. This was not a partisan issue. This was a bipartisan issue. To infer in any way that things were done in the dark of night or in any way inappropriately is to say that I and several others—certainly the chairman of the committee; certainly Senator JOE LIEBERMAN; certainly Senator JACK REED, who supported this effort and supported the Senator from South Carolina—were acting inappropriately. I do not think that is realistic.

By the way, it has been said several times that there is some doubt as to what the NRC's position is on this issue. I will read the last paragraph of a letter that was sent to me, on May 18, as chairman of the Environment and Public Works Committee. This last paragraph says:

> It is our understanding that some opponents of DOE's proposed plans believe that the tanks and the waste residuals should be disposed of as high-level waste in a geologic repository. While either approach could potentially be implemented within NRC regulatory requirements, we note that removal of the tanks, packaging of the tanks and residuals for transport and disposal, and disposal of the waste at a geologic repository, if feasible, would incur significant additional worker exposures—

That is human lives. We are exposing individuals.

> and transportation exposures—

The transportation exposures we have talked about on this floor many, many times—

> at very large financial costs.

You might conclude that, at this time, with all the terrorist threats around, these could become prime targets while being transported. Still quoting the letter:

> Whereas, if DOE's proposed plans meet appropriate criteria, such as those used in NRC's previous reviews, then the NRC believes that public health and safety can be maintained while avoiding unnecessary additional exposures and risks associated with removal and transport of the waste and unnecessary additional expenditures of Federal funds.
>
> I hope this letter satisfactorily addresses your questions.

Mr. President, I ask unanimous consent that the entire letter from the NRC to me dated May 18 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NUCLEAR REGULATORY COMMISSION,
Washington, DC, May 18, 2004.
Hon. JAMES M. INHOFE,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This letter responds to your request of May 18, 2004, for the U.S. Nuclear Regulatory Commission's (NRC's) views on waste-incident-to-reprocessing (WIR). Specifically, you requested NRC's thoughts on: (1) the U.S. Department of Energy's (DOE's) plan to grout in place the remaining residues left in the tanks at the Savannah River Site (SRS), the Hanford site, and the Idaho National Engineering and Environmental Laboratory (INEEL); and (2) the risks to human health and the environment by following DOE's plan or the Natural Resources Defense Council' (NRDC's) plan. The concept underlying WIR is that wastes can be managed based on their risk to human health and the environment, rather than the origin of the wastes. For wastes that originate in reprocessing of nuclear fuel, such as the tank residuals at the DOE sites, some are highly radioactive and need to be treated and disposed of as high-level radioactive waste. Others do not pose the same risk to human health and the environment, and do not need to be disposed of as high-level waste in order to manage the risks that they pose.

At the outset, it must be understood that the NRC does not have regulatory authority or jurisdiction over SRS, Hanford, or INEEL. In the past, DOE has requested NRC review of some of its WIR determinations and supporting analysis. The NRC entered into reimbursable agreements to perform these reviews, which were provided as advice and did not constitute regulatory approval. NRC performed comprehensive and independent WIR reviews for Hanford in 1997, SRS in 2000, and INEEL in 2002 and 2003. These reviews involved both waste removed from tanks, and waste residuals remaining in the tanks for grouting and closure. NRC assessed whether DOE's determinations had sound technical assumptions, analysis, and conclusions with regard to specific WIR criteria. These criteria are: (1) the waste has been processed to remove key radionuclides to the maximum extent that is technically and economically practical, and (2) the waste is to be managed so that safety requirements comparable to the performance objectives in NRC's regulation 10 CFR Part 61 (Licensing Requirements for Land Disposal of Radioactive Waste), Subpart C, are satisfied. In all cases, the NRC staff found that DOE's proposed methodology and conclusions met the appropriate WIR criteria and therefore met the performance objectives and dose limits that would apply to near-surface low-level waste disposal and would protect public health and safety. It should be noted that the Commission did not review all of DOE's actions with regard to WIR at those sites, and that the NRC conclusions applied only to those actions that the NRC reviewed. It should be noted that the Commission in its "Decommissioning Criteria for the West Valley Demonstration Project (M–32) at the West Valley Site; Final Policy Statement" (67 FR 5003, February 1, 2002), established WIR criteria for that site identical to those used in our reviews of the three DOE sites.

It is our understanding that some opponents of DOE's proposed plans believe that the tanks and the waste residuals should be disposed of as high-level waste in a geologic repository. While either approach could potentially be implemented within NRC regulatory requirements, we note that removal of the tanks, packaging of the tanks and residuals for transport and disposal, and disposal of the waste at a geologic repository, if feasible, would incur significant additional worker exposures and transportation exposures at very large financial costs. Whereas, if DOE's proposed plans meet appropriate criteria, such as those used in NRC's previous reviews, then the NRC believes that public health and safety can be maintained while avoiding unnecessary additional exposures and risks associated with removal and transport of the waste and unnecessary additional expenditures of Federal funds.

I hope this letter satisfactorily addresses your questions.

Sincerely,

NILS J. DIAZ.

Mr. INHOFE. We have a lot of commissions and a lot of organizations in the committee that I chair. We have some 17 Departments for which we have oversight and we deal with on a daily basis. When the Nuclear Regulatory Commission was originally formed, it was to have the expertise and the knowledge as to what is going to assure the most safety for the public in the cheapest way you can get things done. They have done a good job. We have a lot of organizations such as this throughout Government. We have CASAC, the Clean Air Scientific Advisory Committee. We look to them because they have expertise. We look to the NRC because they have expertise.

I do not want to imply that any of the Members here would have necessarily less expertise than the NRC, but I suspect that is the case. So we rely on that expertise. Here we have the Department of Energy with all of its experts saying: This is the safe way to do it. This is the cheapest way to do it. And we have the NRC, which is charged with the responsibility of public safety, saying: This is the best way to do it.

So I believe, when the time comes, we need to look at this rationally and not try to make disparaging remarks about some of the members of the Armed Services Committee in our consideration of this amendment. Keep in mind, this was years in the making. Six years ago we started hearings on how to properly dispose of this, and the conclusions they came to were unanimous.

With that, Mr. President, I yield the floor.

Mr. REID. Mr. President, I ask the Senator, are we in a position now to do anything on this request we had?

Mr. ALLARD. No. We are still hearing. Senator INHOFE has finished his statement. I would suggest we recognize the Senator from South Carolina for 40 minutes.

The PRESIDING OFFICER. The Senator from South Carolina is recognized—

Mr. REID. No. The Senator is recognized for whatever time he wants. He has the floor.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from South Carolina.

SETTING THE RECORD STRAIGHT

Mr. HOLLINGS. Mr. President, I thank my distinguished colleagues. I have, this afternoon, the opportunity to respond to being charged as anti-Semitic when I proclaimed the policy of President Bush in the Mideast as not for Iraq or really for democracy in the sense that he is worried about Saddam and democracy. If he were worried about democracy in the Mideast, as we wanted to spread it as a policy, we would have invaded Lebanon, which is half a democracy and has terrorism and terrorists who have been problems to the interests of Israel and the United States.

It is very interesting that on page 231, Richard Clarke, in his book "Against All Enemies," cites the fact that there had not been any terrorism, any evidence or intelligence of Saddam's terrorism against the United States from 1993 to 2003. He says that in the presence of Paul Wolfowitz. He says that in the presence of John McLaughlin of the CIA. In fact, he says: Isn't that right, John? And John says: That is exactly right.

The reason was when they made the attempt on President Bush, Senior, back in 1993, President Clinton ordered a missile strike on Saddam in downtown Baghdad, the intelligence headquarters, and it went right straight down the middle of the headquarters. It was after hours so not a big kill—but Saddam got the message: You monkey around with the United States, a missile will land on your head.

So, in essence, the equation had changed in the Saddam-Iraq/Mideast concerns whereby Saddam was more worried about any threat of the United States against him than the United States was worried about a threat by Saddam against us.

I want to read an article that appeared in the Post and Courier in Charleston on May 6; thereafter, I think in the State newspaper in Columbia a couple days later; and in the Greenville News—all three major newspapers in South Carolina. You will find that there is no anti-Semitic reference whatsoever in it.

The reason I emphasize that upfront is for the simple reason that you cannot put an op-ed in my hometown paper that is anti-Semitic. We have a very, very proud Jewish community in Charleston. In fact, it is where reform Judaism began. The earliest temple, Kadosh Beth Elohim, is on Hasell Street. I have spoken there several times. I had the pleasure of having that particular temple put on the National Register. This particular Senator, with over 50 years now of public service, has received a strong Jewish vote.

Let me emphasize another thing because the papers are piling on and bringing up again a little difference of opinion I had on the Senate floor with Senator Metzenbaum. It was not really a difference. What had happened was we were discussing a matter, and we referred to each's religion in order to make sure there would not be any misunderstanding or tempers flaring. The distinguished Senator from North Carolina, Mr. Helms, referred to himself as the Baptist lay leader, Senator Danforth as the Episcopal priest. I referred to myself as the Lutheran Senator. And when Senator Metzenbaum came on the floor, I referred to him as the Senator from B'nai B'rith, and he took exception. He thought it was an aspersion. I told him: Wait a minute, I will gladly identify myself as the Senator from B'nai B'rith. I did not mean to hurt his feelings. I apologized at that time but not for the legitimacy and the circumstances of the particular reference.

Now here we go again, some years later. The Senator from Virginia, Mr. GEORGE ALLEN, and I are good friends. Maybe after this particular thing he might feel different, but I know his role as the chairman of the campaign committee. And so I have an article here where Senator ALLEN denounces Senator HOLLINGS' latest political attack, Senator HOLLINGS' antisemitic, political conspiracy statement. Let me read the statement here from the May 6 Post and Courier, and you be the judge:

> With 760 dead in Iraq, over 3,000 maimed for life—home folks continue to argue why we are in Iraq—and how to get out.
>
> Now everyone knows what was not the cause. Even President Bush acknowledges that Saddam Hussein had nothing to do with 9/11. Listing the 45 countries where al-Qaida was operating on September 11 . . . the State Department did not list Iraq.

They listed 45 countries and at that particular date on September 11, 2001, they did not even list Iraq.

> Richard Clarke, in "Against All Enemies," tells how the United States had not received any threat of terrorism for 10 years from Saddam at the time of our invasion.
>
> On page 231, John McLaughlin of the CIA verifies this to Deputy Defense Secretary Paul Wolfowitz. In 1993, President Clinton responded to Saddam's attempt on the life of President George H.W. Bush by putting a missile down on Saddam's intelligence headquarters in Baghdad. Not a big kill, but Saddam got the message—monkey around with the United States and a missile lands on his head. Of course there were no weapons of mass destruction. Israel's intelligence Mossad knows what's going on in Iraq. They are the best. They have to know.
>
> Israel's survival depends on knowing. Israel long since would have taken us to the weapons of mass destruction . . .

Let me divert for a second there. I was here when Israel attacked the nuclear facility in Baghdad during the 1980s. In all candor, when President Bush, on October 7, 2002, said, after all that buildup by Cheney, Wolfowitz, Rumsfeld and everybody else, that facing clear evidence of peril, we cannot wait until the smoking gun is a mushroom cloud, I thought we were attacking for Israel. I thought that they knew about some kind of nuclear development there. And rather than getting them in further trouble with the United Nations and the Arab world, that its best friend, the United States, would knock it out for them. That is why I voted for it. I got misled. Our attack on Iraq, the invasion of Iraq is a bad mistake. I will get into that later. But let me read even further:

> . . . if there were any [weapons of mass destruction] or if they had been removed. With Iraq no threat, why invade a sovereign country? The answer: President Bush's policy to secure Israel.
>
> Led by Wolfowitz, Richard Perle and Charles Krauthammer, for years there had been a domino school of thought that the way to guarantee Israel's security is to spread democracy in the area. Wolfowitz wrote: "The United States may not be able to lead countries through the door of democracy, but where that door is locked shut by a totalitarian deadbolt, American power may be the only way to open it up."

Namely, invasion. That is Wolfowitz talking.

> And on another occasion: Iraq as "the first Arab democracy . . . would cast a very large shadow, starting with Syria and Iran but across the whole Arab world." Three weeks before the invasion, President Bush stated: "A new regime in Iraq would serve as a dramatic and inspiring example for freedom for other nations in the region."

I referred to those three gentlemen because I know them well. They are brilliant. I have been for years associated one way or the other with each of them. I read Charles Krauthammer. I wish I could write like he can. With respect to Richard Perle, he was sort of our authority in the cold war, best friend of Scoop Jackson. That is how I met him 38 years ago almost. I followed him and I followed his advice, and that is in large measure how we prevailed in the cold war. So I have the highest respect for Richard Perle.

And, of course, the other gentleman, Paul Wolfowitz, Paul Wolfowitz, I met him out in Indonesia when he was Ambassador. He came back. We were good friends. He was looking around for a position, and I know I offered him one—in fact, we might go to the records and find temporarily he might have been on my payroll for a few weeks. But I have always had the highest regard for Paul Wolfowitz.

That is why I referred to him. I had their sayings and everything else. But let me go, diverting for a minute, right to the Project For The New American Century. I have a letter that was written on May 29, 1998, to Newt Gingrich, the Speaker, TRENT LOTT, the Senate majority leader. These are the gentlemen who said this:

> We would use U.S. and allied military power to provide protection for liberating areas in northern and southern Iraq, and we should establish and maintain a strong U.S. military presence in the region and be prepared to use that force to protect our vital interests in the Gulf and, if necessary, to help remove Saddam from power.

And that is signed by—and I want everybody to remember these names—Elliot Abrams, William J. Bennett, Jeffrey Bergner, John R. Bolton, Paula Dobriansky, Francis Fukuyama, Robert Kagan, Zalmay Khalilzad, William Kristol, Richard Perle, Peter Rodman, Donald Rumsfeld, William Schneider, Jr., Vin Weber, Paul Wolfowitz, James Woolsey, Robert B. Zoellick. There is a studied school of thought of the best way to secure Israel. We have been going for years back and forth with every particular administration; you can see where we are now.

But in any event, the better way to do it is go right in and establish our predominance in Iraq and then, as they say, and I have different articles here I could refer to, next is Iran and then Syria. And it is the domino theory, and they genuinely believe it. I differ. I think, frankly, we have caused more terrorism than we have gotten rid of. That is my Israel policy. You can't have an Israel policy other than what AIPAC gives you around here. I have followed them mostly in the main, but I have also resisted signing certain letters from time to time, to give the poor President a chance.

I can tell you no President takes office—I don't care whether it is a Republican or a Democrat—that all of a sudden AIPAC will tell him exactly what the policy is, and Senators and members of Congress ought to sign letters. I read those carefully and I have joined in most of them. On some I have held back. I have my own idea and my own policy. I have stated it categorically.

The way to really get peace is not militarily. You cannot kill an idea militarily. I was delighted the other day when General Myers appeared before our Appropriations Subcommittee on Defense and he said that we will not win militarily in Iraq. He didn't say we are going to get defeated militarily but that you can't win militarily in Iraq.

Mr. ALLARD. Will the Senator yield?

Mr. HOLLINGS. Not until I complete this thought. Time is running out on me.

The papers are the ones that pointed out Wolfowitz, Pearle, and Charles Krauthammer were of the Jewish faith. They are the ones who brought all this Semitism in there. I can tell you that right now, I didn't have that in mind. I had my friends in mind and I followed them. We had this in the late 1990s under President Clinton, when we passed a resolution that we ought to have Saddam removed from power, have a regime change. I was wondering how it went. I had to find my old file—on this Project For The New American Century.

Now, going back to my article: "every President since 1947 has made a futile attempt to help Israel negotiate peace. But no leadership has surfaced amongst the Palestinians that can make a binding agreement. President Bush realized his chances at negotiation were no better. He came to office imbued with one thought."

Mr. ALLARD. I wonder if the Senator will yield, preserving his time, for a unanimous consent request to move forward with the judge vote we have at 5:40.

Mr. HOLLINGS. Without losing my right to the floor, I will yield.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. ALLARD. Mr. President, as in executive session, I ask unanimous consent that at 5:30 today the Senate proceed to executive session to consider the following nominations en bloc on today's Executive Calendar: No. 556, the nomination of Raymond Gruender to be U.S. Circuit Judge for the Eighth Circuit; and Calendar No. 557, the nomination of Franklin S. Van Antwerpen, to be U.S. Circuit Judge for the Third Circuit.

I further ask unanimous consent that following 10 minutes of debate, equally divided between the chairman and ranking member of the Judiciary Committee, or their designees, that the Senate proceed to consecutive votes on the confirmation of the nominations, with no further intervening action or debate; further, that following the vote, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, I ask that the Senator modify his request so that the statement of the Senator from South Carolina will stop at 5:40, and the rest of the unanimous consent kick in at 5:40, rather than 5:30, so we will be voting at 5:50.

Mr. ALLARD. I am willing to modify it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, let me again read from my article:

> President Bush came to office imbued with one thought: reelection.

I say that advisedly. I have been up here with eight Presidents. We have had support of all eight Presidents. Yes, I supported the President on this Iraq resolution, but I was misled. There weren't any weapons, or any terrorism, or al-Qaida. This is the reason we went to war. He had one thought in mind, and that was reelection. I say that about President Bush. He is a delightful fella, a wonderful campaigner, but he loves campaigning. You cannot get him in the White House or catch him there, hardly. He doesn't work on these problems at all.

I have worked with all of the Presidents. I know the leadership goes to the White House and tries to work with him. He is interested in one thing, and that is to be out campaigning. So he had one thought in mind, and that was reelection.

Again, let me read: Bush thought tax cuts would hold his crowd together and that spreading democracy in the Mideast to secure Israel would take the Jewish vote from the Democrats.

Is there anything wrong with referring to the Jewish vote? Good gosh, every 1 of us of the 100, with pollsters and all, refer to the Jewish vote. That is not anti-Semitic. It is appreciating them. We campaigned for it.

I just read about President Bush's appearance before the AIPAC. He confirmed his support of the Jewish vote, referring to adopting Ariel Sharon's policy, and the dickens with the 1967 borders, the heck with negotiating the return of refugees, the heck with the settlements he had objected to originally. They had those borders, Resolution No. 242—no, no, President Bush said: I am going along with Sharon, and he was going to get that and he got the wonderful reception he got with the Jewish vote. There is nothing like politicizing or a conspiracy, as my friend from Virginia, Senator ALLEN, says—that it is an anti-Semitic, political, conspiracy statement.

That is not a conspiracy. That is the policy. I didn't like to keep it a secret, maybe; but I can tell you now, I will challenge any 1 of the other 99 Senators to tell us why we are in Iraq, other than what this policy is here. It is an adopted policy, a domino theory of The Project For The New American Century.

Everybody knows it because we want to secure our friend, Israel. If we can get in there and take it in 7 days, as Paul Wolfowitz says, then we would get rid of Saddam, and when we got rid of Saddam, now all they can do is fall back and say: Aren't you getting rid of Saddam?

Let me get to that point. What happens is, they say he is a monster. We continued to give him aid after he gassed his own people and everything else of that kind. George Herbert Walker Bush said in his book All The Best in 1999, never commit American GIs into an unwinnable urban guerrilla war and lose the support of the Arab world, lose their friendship and support. That is a general rephrasing of it.

The point is, my authority is the President's daddy. I want everybody to know that. I don't apologize for this column. I want them to apologize to me for talking about anti-Semitism. They are not getting by with it. I will come down here every day—I have nothing else to do—and we will talk about it and find out what the policy is.

Let me go back to this particular column:

> But George Bush, as stated by former Treasury Secretary Paul O'Neill and others, started laying the groundwork to invade Iraq days before the Inauguration.

There is no question, he got a briefing. That was the first thing he wanted out of former Secretary of Defense Bill Cohen. Then the nominee, about to take the oath of office as President of the United States, wanted to be briefed on Iraq. They had this policy in mind coming to town. Mr. President, 9/11 had nothing to do with it, and we all know it now. We have to understand it because that is the only way really to help Israel and get us out of the soup. Everybody is worrying about Iraq. We better worry about Israel because we certainly have put her in terrible jeopardy with this particular initiative.

> Without any Iraq connection to 9/11, within weeks President Bush had the Pentagon outlining a plan to invade Iraq. He was determined. President Bush thought taking Iraq would be easy. Wolfowitz said it would take only 7 days. Vice President Cheney believed that we would be greeted as liberators, but Cheney's man, Chalabi, made a mess of de-Baathification of Iraq by dismissing Republican Guard leadership and Sunni leaders who soon joined with the insurgents.
>
> Worst of all, we tried to secure Iraq with too few troops. In 1966 in South Vietnam, with a population of 16 million, General William C. Westmoreland, with 535,000 U.S. troops, was still asking for more troops. In Iraq, with a population of 25 million, General John Abizaid, with only 135,000 troops, can barely secure the troops, much less the country. If the troops are there to fight, there are too few. If they are there to die, there are too many. To secure Iraq we need more troops, at least 100,000 more. The only way to get the United Nations back in Iraq is to make the country secure. Once back, the French, Germans, and others will join with the U.N. to take over.
>
> With President Bush's domino policy in the Mideast gone awry, he can't keep shouting "Terrorism war." Terrorism is a method, not a war. We don't call the Crimean war, with the charge of the light brigade, the cavalry war, or World War II the blitzkrieg war. There is terrorism in Northern Ireland, there is terrorism in India, and in Pakistan. In the Mideast, terrorism is a separate problem, to be defeated by diplomacy and negotiation, not militarily.
>
> Here, might does not make right. Right makes might. Acting militarily we have created more terrorism than we have eliminated.

The title of this article is "Bush's failed Mideast policy is creating more terrorism, " and, I could add, jeopardizing the security of Israel.

They say: He talks like a big fan of Israel. I am. I have a 38-year track record. I will never forget some 34 years ago meeting with David Ben-Gurion. He talked about little Israel, less than 3 million at that time in a sea of 100 million.

Let's say Israel has 5 million people there now, but there are 150 million Muslims surrounding it. If you punch the particular buzzer I did with Yitzhak Rabin 1 day down on the Negev to scramble the air force, I think it was 21 seconds they were up in the air, and in a minute's time, they were outside over Jordan.

Militarily, Israel is a veritable aircraft carrier. You can hardly fly and you are out of the country, and everybody has to understand that. You cannot play the numbers game Sharon plays. He thinks he can do it militarily.

I want to remind you, it was in that 6-day war—the book is "Six Days of War" by Michael Oren. Look on page 151, and Major Ariel Sharon says: Look, we are going to decimate the Egyptian army and you will not hear from Egypt again for several generations. And Levi Eshkol, the Prime Minister, on page 152 says: "Militarily victory decides nothing. The Arabs will still be here."

That is my theme. I have watched it over the years. You have to learn not to kill together, but to live together. The finest piece I ever read was right in this morning's paper. There is still hope. I refer to an article: "Israeli Arabs Exalting in a Rare Triumph."

There are a million Israeli Arabs. They won a soccer match in Tel Aviv. The majority of the team was of Israeli heritage, and they held an Israeli flag, if you can imagine that in the political United States of America. They are living together. Every Prime Minister since David Ben-Gurion has realized that fact: that they have to learn to live together. They all moved, and they almost had it under Ehud Barak and President Clinton. Arafat proved he did not want peace. He did not accept it. That was our one chance.

Unfortunately, rather than working on that one chance and continuing, Ariel Sharon went in their face at Temple Mount, the intifada started, and he has been killing 10 to 1. He plays the numbers game, almost like we had in Vietnam. He thinks he can eliminate by moving the ball some, getting some more settlements, bulldozing a house, but he is creating terrorism.

I had a headline the other day. When I saw it, I showed it to my staff. I said: You all come in here, I want to ask you something. "Israel plans to destroy more Gaza dwellings." You see that headline? I asked staff members: Suppose they bulldoze your daddy's home. Wouldn't you want to cut their throat?

They said: In a New York minute.

How do you create terrorists? Where is the front line in the so-called war on terrorism? I learned the answer recently on a trip I was on with the distinguished chairman of the Appropriations Committee and the chairman of the Armed Services Committee. We talked for over an hour with the King of Jordan. He finally cautioned at the very end, when we stood up, he said: You have to settle this Israel-Palestine question. That is the only way to get on top of this. We went over to Kuwait to the Prime Minister when he got through, he said: You have to settle the Israel-Palestine situation.

I will quote Mr. Musharraf, the President of Pakistan. When we got there, he cautioned if you can settle the Israel-Palestine question, terrorism will disappear around the world.

Then we came in on a Friday evening to make a little courtesy call with the French. The distinguished Senator from Virginia with Lafayette—and I have slept in Lafayette's bed over there in Richmond, VA, and I helped with that particular thing because I believe and remember the French help. I will never forget—everybody is going to the 60th anniversary of D-Day, but I was at the 50th anniversary and we went over to Ste-Mere-Eglise, where a major, who was a Citadel graduate, had broken through the line and saved us from having to leave the beachhead and go back to England. They made a movie of it. A shell burst killed him. They laid him down on their side. He is buried on the side of the chapel.

We went to the services. We had talks there. This little old lady came. She was about 80 years old, walking with a cane. I was listening to the mayor, and she pulled my jacket and she said: Thank you, Yank. If you had not come we would be goose-stepping.

I turned to her and I said, thank you, madam, because if you had not come, we would still be a colony.

The majority of the troops on the field at Yorktown with the surrender of Cornwallis were French troops. We had French troops that helped us get this so-called freedom. All this anti-French stuff, do not give me french fries and everything else, is crazy.

I was proud to appear with the Senator from Virginia. But Chirac, he said, look, we have to have western solidarity. We have to work together now and we have to watch this competition from China in the Far East, and we in the western world have to stick together. He said he wanted to help in Iraq, but he needed a U.N. resolution to cover. He said what we have to do is do something about Israel and Palestine.

I said, what would you do?

He said, I would put a peacekeeping force.

I said, would French troops come?

He said, French troops would come immediately. We would be part of it and we would separate them from killing each other every day.

My position is, and I believe in this particular policy as strongly as I know how, might does not make right, but right makes might. We have lost our evenhanded posture and reputation in the Mideast. We are in worse off shape with Israel, our principal interest in the gulf.

Sharon has not helped us at all. We see him going back and forth. They say, oh, no, it is negotiation. But we are throwing over the United States-Israel policy of some 35 years insofar as negotiating the settlements and the refugees. We are saying forget about all of that, let Sharon keep bulldozing them. Now in the morning paper on the front page one sees the killing of children, they are saying, we are defending Israel. That is the U.S. policy. That is not just Israel's policy.

They are coming in there with U.S. equipment, U.S. gun helicopters, U.S. tanks that are bulldozing. That is our policy. That is the reason for 9/11 and Osama. He said, I do not like American troops in Saudi Arabia, get the infidel out. That is why they went right into that thing. Where do you think we get all this talk about hate America? I do not buy that stuff. I have traveled the world. They love Americans.

Recently we met with the Ambassadors of Germany and France, and Britain in our policy committee and they said the young people are disillusioned. They always look to the United States for the moral position and taking and defending that particular position. They do not look there anymore.

We are losing the terrorism war because we thought we could do it militarily under the domino policy of President Bush, going into Iraq. That is my point. That is not anti-Semite or whatever they say in here about people's faith and ethnicity. I never referred to any faith. I should have added those other names from the Project For The New American Century, but I picked out the names I had quotes for. And for space, I left other things out.

Mr. President, on May 12 of this year, I had printed in the RECORD the article in its entirety.

I diverted from the reading of the article several times, so for the sake of accuracy I wanted the whole article printed.

This particular op-ed piece appeared in the Post and Courier. Never would they have thought, having read it, if it was anti-Semitic, that they would have ever put it in there. Nor would the Knight Ridder newspapers in Columbia, SC. Nor would the Metro Media newspapers in Greenville, SC. But the Anti-Defamation League picked it up and now they have given it to my good friend, Senator ALLEN of Virginia. I have his particular admonition how I am anti-Semitic and I cannot let that stay there.

My staff knew I was coming over and waiting my turn in order to talk under the Pastore rule. I know I am as vitally interested as anybody can be about this issue. Our distinguished colleague from Washington, Senator CANTWELL, knows this subject backward and forward.

The reason I had not known or gotten all fired up is I have been doing some other work and South Carolina has already looked to me for everything at that Savannah River plant. I am on the Energy Appropriations Subcommittee and we have gotten all the money—do not worry about money. This is a policy of nuclear waste disposal, high-level waste, being reclassified under an end-around-end deal of trying to make it low-level waste and, as Senator CANTWELL says, pouring in some sand and concrete on top of it. The scientists say, watch out, the remains in these tanks are 50 percent as deadly and dangerous as the entire tank container.

Back to Saddam, everybody is glad we have gotten rid of Saddam, but we can see what has happened. There is an old saying we learned in World War II that no matter how well the gun is aimed, if the recoil is going to kill the gun crew, you do not fire.

Did this White House and administration ever think of the recoil? It severely injured the gun crew. Yes, ordinarily to get rid of Saddam, like they put a missile on the intelligence head, they could have put a missile on him any time they wanted, but they did not want to do that. They wanted the domino policy to ensue.

No, no, getting rid of Saddam was not worth almost 800 dead GIs and over 3,500 maimed for life. Some say every time we want to criticize the policy, we are weakening the GIs. I am strengthening the GIs. I said let's get enough in there so they can secure themselves. We have 135,000 now. A third of those are guarding the other third, and that means leaving a third, 35,000 or 40,000 troops, running out like a fire drill to any particular trouble and coming back in and eating. I have been there.

You can see it in Rafah. They are building a big old thing like in Kosovo, where we hunker down and act like we are in charge of Kosovo. The Albanians are in charge of Kosovo.

You can't force-feed democracy. It has to come from within. We helped liberate Morocco, Algeria, Tunisia, 60-some years ago, and Morocco, Algeria, Tunisia have not opted for democracy, nor has Libya, nor has Egypt, nor has Lebanon, nor has Syria, nor has Iraq, nor has Iran, nor has Afghanistan, nor has Pakistan, nor has Jordan, nor has Yemen, nor has Aden, nor has Saudi Arabia, nor has the organization of Arab states.

Come on. So we have to go out and not speak sense with respect to policy, and when you want to talk about policy, they say it is anti-Semitic. Well, come on the floor, let's debate it. Because my friend from Virginia admonishes me. Referring to me he says, "I suggest he should learn from history before making accusations." I didn't make any accusations. I stated facts. That is their policy. That is not my policy.

Mind you me, when we went into Iraq, the only people in the world who favored that policy were the people of the United States and the people of Israel. The people of Jordan, Iraq, Britain, Spain, Poland, Italy, Japan, everywhere around the world said you just don't invade a sovereign country no matter how bad the rascal is. We have Kim Jong of North Korea—he has weapons of mass destruction, but we don't do anything there.

Don't give me this about how we saved this and we did this or did that. We have to sort of learn that the front line now is not the Pentagon but the State Department. We have to work through diplomacy. We live in a global economy and a global world. That is only going to come about economically, politically, diplomatically, and by negotiations.

The United States, until this invasion and this domino policy for Israel—don't tell me it is otherwise, about spreading democracy. They know what they are talking about. They are insisting on it. It is not a Jewish policy or a Semite policy. It is their domino policy. That is exactly what it is. But they know how to make you tuck tail and run. Not the Senator from South Carolina. We don't run, we don't win, we are not right, we are wrong a lot of times, but I have thought this out as thoroughly as I know how, and it worries me that here we are.

I said after we got into that thing in Vietnam with the Gulf of Tonkin—I came there at that particular time, in 1966, went to Vietnam when we were under fire three times—actually over into Cambodia before and that kind of thing. We finally came up with McNamara writing a book saying he was wrong.

I'll never forget, McNamara comes out to Allie Richenberg near Saint Albans to get his tennis lesson at 7 o'clock, and Bob Mcnamara turned to Allie and said, "Allie, what do you think about my book?" He said, "It's as bad as your backhand. You should not have written it."

But we had to wait 20 years for that one, and we killed 58,000 Americans. Now we have killed almost 800, maimed for life thousands of others. Are we going to just continue on?

What would the Senator from South Carolina do if I were king for a day? Yes, I would put the troops in to get security, and I would step up the election. I can tell you right now, I have run for all kind of offices, 20-some statewide offices and campaigns. But don't put me in on that temporary coalition. That fellow, El Baradei, who is running around the United Nations to get a temporary coalition or government to turn power over to on June 30—don't put me in that. I immediately have to repudiate the United States, that I am not a stooge for the United States. We just have our fingers crossed that we can hold law and order so we can have an election. But don't wait until 2005, or December; by September 30, let's get that election going.

Let's realize we are in real trouble. Saudi Arabia is in trouble. Israel is in trouble. The United States is in trouble. I am going to state what I believe to be the fact. In fact, I believe it very strongly. They just are whistling by on account of the pressures that we get politically. Nobody is willing to stand up and say what is going on.

It was a mistake like Vietnam. We got misled with the Gulf of Tonkin, we got misled here, and we are in that quagmire. "Municipal guerrilla war and a quagmire," that says George Herbert Walker Bush. I will end on my authority—President George Herbert Walker Bush said:

> Never commit U.S. troops into an unwinnable urban guerrilla war and turn off the Arab world.

Look in that book of his and you will see exactly what I am talking about. He is not anti-Semitic. He is sensible. He didn't go in.

Yes, Colin Powell, General Powell said if you are going in, let's have enough troops. They tried to do it on the cheap. They were ill advised. My friend Paul Wolfowitz said you will do it in 7 days. Come on. And they let the Republican Guard back into the city of Baghdad and into the Sunni triangle, and the next thing you know, when Chalabi, who has now been demoted or set aside—he did away with their leadership and everything, so they got turned off and they buddied up with the insurgents, and now we have hell on our hands. Everybody knows that.

So it has been ill prepared, ill advised, and ill administered. The entire thing is a mess. Don't give me "support the troops, support the troops." I have been with troops, about 3 years in combat, so don't tell me about troops. I have always supported the troops.

You ask how many Senators have gotten a Woodward Award from the U.S. Army. They don't give that out lightly. I have been with every Secretary of Defense until this one, and I think he is brilliant, but I think he has made a mistake going along with this domino policy. We have it now out on the table, and we will all talk about it, and we will be around and ready to debate it.

I appreciate the colleagues yielding to me. I wish I had all the time to put all these articles in.

I want to thank—and I am going to sit here and support my friend from Washington. She has done a magnificent job stating what the issue is.

It is simply under the auspices of an accelerated disposal plan going around end to reclassify—and it is around end. I had not heard anything about it. I have been handling everything at Savannah River for 30 some years. I called up the South Carolina Department of Health and Environmental Control—DHEC—and they were adamantly opposed and gave me the brief they signed a few weeks ago adamantly opposing it, with the assistant attorney general's name on it. They say this is DHEC policy. I talked to two members of DHEC and they said it was never brought up at their meetings. They do not know anything about it.

So, yes, it is a little rider for one special State that is injurious not only to the State itself—I say that advisedly—but also to the United States.

I yield the floor.

EXECUTIVE SESSION

RAYMOND W. GRUENDER, OF MISSOURI, TO BE UNITED STATES CIRCUIT JUDGE FOR THE EIGHTH CIRCUIT

FRANKLIN S. VAN ANTWERPEN, OF PENNSYLVANIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE THIRD CIRCUIT

The PRESIDING OFFICER (Mr. COLEMAN). Under the previous order, the Senate will now go into executive session. The clerk will report the nominations.

The legislative clerk read the nominations of Raymond W. Gruender, of Missouri, to be United States Circuit Judge for the Eighth Circuit, and Franklin S. Van Antwerpen, of Pennsylvania, to be United States Circuit Judge for the Third Circuit.

The PRESIDING OFFICER. There is 15 minutes of debate evenly divided.

Who yields time?

Mr. ALLARD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be equally counted on both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, shortly we are going to be voting on the nomination of Raymond Gruender to be United States Circuit Judge for the Eighth Circuit Court of Appeals.

I want to tell my colleagues this is one of the finest young men I know. He worked his way through Washington University, getting an MBA and a law degree in 6 years while working full time to support himself. His personal story is a very touching one, with very significant difficulties which he overcame.

He served as an assistant U.S. Attorney under Republican and Democratic administrations.

He has been in private practice of law and has tried cases in district courts—criminal and a wide range of civil cases.

He served as an appellate lawyer.

Most recently, he has been U.S. Attorney for the Eastern District of Missouri.

I can assure you this is a man who will bring not only integrity, legal skills, and judicial knowledge to the Eighth Circuit, but he is a person of great human understanding and intellect. He will be a pleasure to appear before.

We can be proud the President has nominated a man who has such great respect among the bar in the Eastern District of Missouri and law enforcement personnel, as well as plaintiffs' and defendants' attorneys.

I urge my colleagues to vote for Raymond Gruender.

Mr. HATCH. Mr. President, I rise today to express my strong support for the confirmation of Raymond W. Gruender, who has been nominated to the U.S. Court of Appeals for the Eighth Circuit.

Our nominee has ideal qualifications for the Federal bench. An honors graduate of Washington University School of Law, Mr. Gruender has nearly ten years of experience as a trial attorney in private practice along with a solid record in public service. He joined the U.S. Attorney's Office for the Eastern District of Missouri as an Assistant U.S. Attorney in 1990, specializing in white collar and economic crimes, including fraud and corruption cases.

Mr. Gruender has the bipartisan support of the Missouri legal community, including: Senators BOND and TALENT; Edward L. Down, Clinton appointed U.S. Attorney for the Eastern District of Missouri; Lee Lawless, First Assistant Federal Public Defender for the Eastern District of Missouri; Howard Shalowitz, President of the Bar Association of Metropolitan St. Louis; Joseph Mokwa, Chief of Police of City of St. Louis; and Dean Joel Seligman, Washington University in St. Louis School of Law.

In 2000, Mr. Gruender returned to the U.S. Attorney's Office in the Eastern District of Missouri, and specialized in fraud and corruption prosecution. A year later, he was unanimously confirmed as the United States Attorney for the Eastern District of Missouri, where he manages both the civil and criminal litigation handled by the office, as well as overseeing the administration of the office, which includes 60 attorneys. Mr. Gruender and his office have been active in helping to reduce violent crime in the St. Louis area. He has also been a leader in strengthening our nation's readiness in the war on terror.

Mr. Gruender also believes in giving back to his community, and in addition to devoting a significant amount of his career to public service, he has been very active in civic affairs. He has volunteered his time on domestic violence issues, serving at various times as President of the Board of Directors, Vice President, and Secretary of Alternatives to Living in Violent Environments, ALIVE. ALIVE is a not-for-profit organization dedicated to eliminating domestic violence. He also serves as a volunteer on the Allocations Committee of the Variety Club of St. Louis, which raises and distributes funds to disadvantaged and disabled children.

Raymond W. Gruender III has a fine background, which will serve him well as a circuit court judge. He will be a terrific addition to the Court, and I urge my colleagues to join me in supporting his nomination.

Mr. LEAHY. Mr. President, earlier this week, we were able to obtain a firm commitment from the White House that there would be no further judicial recess appointments for the remainder of this presidential term. That undertaking led immediately and directly to the Senate vitiating a cloture vote and proceeding to confirm the nomination of Marcia Cooke to the federal bench in Florida. Today we debate and vote on the nomination of Raymond Gruender to the Eighth Circuit.

Thus, despite the pessimism expressed by some last week, I continued working to conclude an arrangement between the White House and the Senate that would allow additional progress on judicial confirmations. Working with Senator DASCHLE, Senator FRIST, Judge Gonzales and the White House chief of staff Andy Card, we were able to reach an agreement on Tuesday. I again commend our two leaders. I have been working with Senator DASCHLE for months, as well as with the White House, to find a way out of the impasse in judicial confirmations. Senator FRIST and I have spoken at length about this, and he has been working on that, too. I was delighted to see the meeting of Senator DASCHLE, Senator FRIST, and Mr. Card finally take place this week. Most importantly, I was pleased that the White House agreed to no more recess appointments of judges.

I think we have demonstrated our good faith. In the 17 months that the Democrats were in charge of the Senate, we confirmed 100 of President Bush's nominees to lifetime positions on the federal bench. And the Republicans, during the 23 months that they have been in charge of the Senate, have now confirmed another 74. With the consideration of the Gruender nomination today, that total reaches 75.

This is the 75th confirmation for 2003 and 2004, of the 108th Congress. That matches the total for the entire two-year 1995–1996 period in which Republicans controlled the 104th Congress and exceeds the total for the entire two-year 1999–2000 period in which Republicans controlled the 106th Congress. Of course in those years Senate Republicans were reviewing President Clinton's judicial nominees. Further, with 175 confirmations, we will have matched the total confirmation for the most recent 4-year Presidential term 1997–2000.

It is significant that this is the first circuit court nomination the Senate will have considered this Presidential election year. The last time a President ran for reelection was 1996. During that session, with the Republican majority controlling the Senate agenda not a single circuit court nominee was considered. Accordingly, when the Senate acts to confirm the first circuit court nominee this year, we will have bested the total for the entire 1996 session.

I am pleased that the Senate has received assurances from the White House that the President will not further abuse the recess appointment power by making recess appointments during the remainder of his presidential term. It was the White House's refusal to reach a reasonable accommodation of the concerns of many Senators about the unilateral approach of the President's recess appointments to the federal courts that complicated our efforts to reach an agreement regarding votes on judicial nominees over the past few months. That is demonstrated by the prompt vote and confirmation of Judge Cooke Tuesday afternoon. I was pleased to be able to help facilitate the end of that impasse.

And now we are set to vote on another candidate, the nomination of Raymond Gruender to the U.S. Court of Appeals for the Eighth Circuit. While some have mischaracterized the nominees included in this week's agreement as "noncontroversial," they in fact include a number who will require debate and they will each require a roll call vote

Unfortunately, Mr. Gruender is another nominee whose record raises concerns, just as have the records of far too many of President Bush's judicial nominees. Mr. Gruender, though only 40 years old, has been a member of the Federalist Society since 1988 and has played a lead role in many national Republican campaigns. For the past two years, Mr. Gruender has served as the U.S. Attorney for the Eastern District of Missouri. In this capacity, he has been a vocal defender of Attorney General John Ashcroft's aggressive and controversial tactics.

He has also been critical of a city that passed a resolution reaffirming the importance of civil liberties in the fight against terrorism. He claimed that the resolution, which aimed to protect freedom of speech, assembly, privacy and due process, is "putting lives in jeopardy and increasing the chances for terrorists to be successful." Mr. Gruender stood by these statements and his criticisms of the resolution at his hearing.

Despite his activities applying the PATRIOT Act as a U.S. Attorney and his public pronouncements about its provisions, Mr. Gruender stated in his answers to my written questions that he has "not formed or expressed any opinions with respect to the constitutionality of any provisions of the PATRIOT Act" and would, if confirmed, protect each citizen's civil rights and civil liberties.

I do hope that, if confirmed, Mr. Gruender will be a person of his word. I hope he will be fair and open-minded, and listen to all arguments involved in such cases. I hope he would not seek to decide cases in accordance with his partisan or personal beliefs rather than in accordance with the law. I also must note that, while he was candid about some of his activities, Mr. Gruender failed to directly answer several questions that I asked him in writing after his hearing, questions that would enable me to fully evaluate his qualifications for a lifetime appointment on the federal bench.

Just as a nominee last year attempted to stonewall Committee Members by not answering questions in a forthright manner, so Mr. Gruender avoided answering some of my questions by claiming that he could not express his views on the issues without a complete factual record and the benefit of the "deliberative process." For example, Mr. Gruender refused to express his opinion about Congress's power under the Commerce Clause, Section 5 of the Fourteenth Amendment, or the 10th or 11th Amendments. This is a timid, evasive and useless response. And many other circuit court nominees of this President have answered the same questions.

Mr. Gruender does, however, have the support of both of his home-State Senators and has served both as prosecutor and a defense attorney.

I am hopeful that he will be open-minded on the bench and will act as he says he will, that he will follow the law and not seek out opportunities to overturn precedent or decide cases in accord with his political beliefs rather than his obligations as a judge. I also sincerely hope that Mr. Gruender will treat all those who appear before him with respect and courtesy and will not abuse the power and trust of his position.

For the last three and one-half years, I have urged President Bush to work with us. Our proceeding today on this nomination demonstrates our going the extra mile.

I would note that President Clinton's nomination of Bonnie Campbell to this court was blocked—by a secret Republican hold—from ever getting Committee or Senate consideration. By contrast, the Senate has already confirmed four of President Bush's nominees to this circuit:—William Riley, Michael Melloy, and Lavenski Smith were confirmed while Democrats held the majority, and, last year, Steven Colloton was confirmed to this court, as well. Mr. Gruender makes the fifth.

With his confirmation, Republican appointees on the Eighth Circuit Court of Appeals will outnumber Democratic appointees by four to one. There will be eight active Republican-appointed judges and only two active Democratic-appointed judges. And there is one more vacancy on this court which President Bush intends to fill with another conservative nominee.

I would note for my friends on the other side of the aisle—who consistently rebuke the Ninth Circuit Court of Appeals as being "too liberal" because 60 percent of the judges are Democratic appointees—that the scales are tipped much farther the other way on the Eighth Circuit. With Democratic cooperation in confirming five of President Bush's nominees to the Eighth Circuit, Republican appointees now occupy 80 percent of the authorized seats on that court.

I congratulate Mr. Gruender and his family on his confirmation today.

Mr. TALENT. Mr. President, United States Attorney Ray Gruender has had a distinguished career as a public servant and practicing attorney. He is an outstanding and highly qualified candidate as evidenced by his professional and academic credentials.

From humble beginnings, Mr. Gruender has risen to the top of the legal profession. Neither of his parents graduated from high school; his father painted houses; his mother worked in a factory as a bookbinder and is now a prison guard. He has worked since age 10 with his father and he continued to work all through school.

Mr. Gruender obtained three degrees from Washington University in less than 6 years, all while working and paying his own way through school. By 1987, he had obtained Bachelor of Science in Business Administration, Master of Business Administration and Juris Doctoris degrees. Not only did he work twenty hours per week during the 6 years in which he obtained these degrees, but he also ranked near the top of his class in each program. In law school, Mr. Gruender served on the Washington University Law Quarterly and is a member of The Order of the Coif. In December 2003, he was awarded an honorary Doctor of Laws degree by William Woods University in Fulton, Missouri.

Since May 1, 2001, Ray Gruender has served as the United States Attorney for the Easter District of Missouri. As United States Attorney he oversees an office of 60 Assistant United States Attorneys actively engaged in both civil and criminal matters. During his tenure, the number of Federal firearms prosecutions in his district has increased dramatically. In 2003, the City of St. Louis experienced 69 homicides, the first time it had fewer than 100 homicides in more than 40 years.

Prior to serving as the United States Attorney, Mr. Gruender served as an Assistant United States Attorney—AUSA—between 1990 and 1994 and again between 2000 and 2001. As an AUSA, he specialized in fraud and public corruption matters. He was one of the AUSAs who handled the Second Injury Fund prosecutions involving several lawyers, physicians and an administrative law judge who were defrauding Missouri's workers' compensation system.

In addition to his experience as a Federal prosecutor, Mr. Gruender has spent 9 years in the private practice of law. Between 1987 and 1990, he was an associate with the large St. Louis law firm of Lewis, Rice and Fingersh. Between 1994 and 2000, he as a partner with Thompson Coburn, LLP, another large Missouri firm. He has represented both plaintiffs and defendants in a broad array of civil matters such as admiralty, antitrust, contracts, employment, securities, fraud, banking and various torts claims.

He is a member of the Missouri and Illinois bars, the Bar Association of Metropolitan St. Louis, and has been a member of the Eastern District of Missouri's Criminal Justice Act Lead Counsel Panel, making himself available to accept criminal appointments.

Mr. Gruender also has been active in civil affairs. His numerous civic contributions include serving as a volunteer on the Allocations Committee of the Variety Club of St. Louis to help raise and distribute funds to disadvantaged and disabled children in the St. Louis area. He also served on the Board of Directors—including as board president of—ALIVE—Alternatives to Living in Violent Environments—a not-for-profit entity dedicated to eliminating domestic violence and helping its victims.

I urge all of my colleagues to vote to confirm Raymond Gruender, of Missouri, to be U.S. Circuit Judge for the Eighth Circuit.

Mr. BOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I yield time for the minority on the judges matter.

The PRESIDING OFFICER. Without objection, all time is yielded.

The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that there be 4 minutes equally divided between the two votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, have the yeas and nays been asked for?

The PRESIDING OFFICER. They have not.

Mrs. HUTCHISON. I ask for the yeas and nays on the first vote.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Raymond W. Gruender, of Missouri, to be United States Circuit Judge for the Eighth Circuit?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY) is necessarily absent.

Mr. McCONNELL. I announce that the Senator from Virginia (Mr. WARNER) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 1, as follows:

[Rollcall Vote No. 102 Ex.]

YEAS—97

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Wyden

NAYS—1

Harkin

NOT VOTING—2

Kerry
Warner

The nomination was confirmed.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, the nominee for confirmation to the Court of Appeals for the Third Circuit, Franklin Van Antwerpen, has a very distinguished academic record. He has been on the bench for 25 years, 12 years on the State court bench in Northampton County and 13 years on the U.S. District Court for the Eastern District of Pennsylvania. I thank my colleagues, the leaders, and the chairman and ranking member of the Judiciary Committee for working out the impasse. He will be an excellent judge for the Third Circuit.

I yield time to my distinguished colleagues.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I add my congratulations to Judge Van Antwerpen. He has been an excellent public servant and distinguished jurist and will make an excellent contribution to the Third Circuit.

Mr. HATCH. Mr. President, I rise today to express my strong support for the confirmation of Franklin S. Van Antwerpen, who has been nominated to the U.S. Court of Appeals for the Third Circuit.

Judge Van Antwerpen is truly an impressive man and has the enthusiastic support of both Pennsylvania senators, along with a unanimous "Well Qualified" ABA rating.

Judge Van Antwerpen has exceptional qualifications for the Federal appellate bench. After graduation from Temple University School of Law in 1967, he worked as an attorney at the Hazeltine Corporation and served as Chief Counsel of the Northampton Legal Aid Society. He then spent 9 years in private practice, representing both plaintiffs and defendants in general litigation matters, with a particular specialization in municipal law.

In 1979, Judge Van Antwerpen commenced a 25-year career in public service when he joined the Court of Common Pleas of Northampton County. He served in this position until 1987, when President Reagan appointed him United States District Judge for the Eastern District of Pennsylvania, the position he holds today.

Judge Van Antwerpen has a fine background which will serve him well as a circuit court judge. He will be a terrific addition to the court, and I urge my colleagues to join me in supporting his nomination.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, today, in addition to voting on the nomination of Raymond Gruender, we vote to confirm another circuit court nominee, Judge Franklin Van Antwerpen to the United States Court of Appeals for the Third Circuit. A Federal District Court judge since he was appointed by President Reagan in 1987, Judge Van Antwerpen comes to the Senate floor strongly supported by the Senior Senator from Pennsylvania, who I know is eager to see him confirmed.

Today's confirmation will make the 76th judge confirmed this year alone and the 176th judicial nominee to be confirmed for this President. With 76 judicial confirmations in just a little more than 16 months, the Senate has now confirmed more Federal judges than were confirmed during the two full years of 1995 and 1996, when Republicans first controlled the Senate and President Clinton was in the White House. It also exceeds the 2-year total for the last 2 years of the Clinton administration, when Republicans held the Senate. In fact, with 176 total confirmations for President Bush in just

3½ years, the Senate has confirmed more lifetime appointees for this president than were allowed to be confirmed in President Clinton's entire second term, the most recent 4-year presidential term. We have already surpassed the number of judicial confirmations won by President Reagan in his entire first term in office.

The confirmation of Judge Van Antwerpen also marks the second circuit court nominee confirmed for President Bush this year, which is double the number of circuit court nominees confirmed in all of 1996, the last time a president was running for reelection and Republicans refused to allow a single circuit court nominee of President Clinton to be confirmed all year. Today we confirm the 32nd circuit court nominee of President Bush, which is more circuit court confirmations than in all 4 years of President Clinton's first term in the White House.

A look at the Federal judiciary in Pennsylvania demonstrates yet again that President Bush's nominees have been treated far better than President Clinton's and shows dramatically how Democrats have worked in a bipartisan way to fill vacancies, despite the fact that Republicans blocked more than 60 of President Clinton's judicial nominees. With this confirmation, 16 of President Bush's nominees to the Federal courts in Pennsylvania will have been confirmed, more than for any other State except California.

With this confirmation, President Bush's nominees will make up 16 of the 41 active Federal circuit and district court judges for Pennsylvania—that is more than one third of the Pennsylvania Federal bench. With the additional four Pennsylvania district court nominees pending on the floor and likely to be confirmed soon, nearly half of the district court seats in Pennsylvania will be held by President Bush's appointees. Republican appointees will outnumber Democratic appointees by nearly two to one.

This is in sharp contrast to the way vacancies in Pennsylvania were left unfilled during Republican control of the Senate when President Clinton was in the White House. Although Republicans now decry Democratic filibusters of a mere handful of the most extreme nominees, Republicans denied votes to nine district and one circuit court nominees of President Clinton in Pennsylvania alone. Despite the efforts and diligence of the senior Senator from Pennsylvania, Mr. SPECTER, to secure the confirmation of all of the judicial nominees from every part of his home State, there were ten nominees by President Clinton to Pennsylvania vacancies who never got a vote. Despite how well-qualified these nominees were, many of their nominations sat pending before the Senate for more than a year without being considered. Such obstruction provided President Bush with a significant opportunity to shape the bench according to his partisan and ideological goals.

Recent news articles in Pennsylvania have highlighted the way that President Bush has been able to reshape the Federal bench in Pennsylvania. For example, the Philadelphia Inquirer, on November 27, 2003, said that the significant number of vacancies on the Pennsylvania courts "present Republicans with an opportunity to shape the judicial makeup of the court for years to come."

Democratic support for the confirmation of Franklin Van Antwerpen is yet another example of our extraordinary cooperation despite an uncompromising White House and the record of how President Clinton's Pennsylvania nominees fared under Republican control in the Senate. In contrast to many of President Bush's nominees, Judge Van Antwerpen comes to us with a distinguished and widely acclaimed career on the bench—both on the State and Federal levels. He was rated unanimously well-qualified by the American Bar Association and has the respect of his peers on the bench and of the attorneys who appear before him. He is the kind of nominee this President and my Republican colleagues should be looking for as we fulfill our constitutional duty of appointing members to the Federal judiciary—an independent branch of the government.

I congratulate Judge Van Antwerpen and his family on his confirmation today.

The PRESIDING OFFICER. All time is yielded back.

The question is, Will the Senate advise and consent to the nomination of Franklin S. Van Antwerpen, of Pennsylvania, to be United States Circuit Judge for the Third Circuit?

Mr. LEAHY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The clerk will call the roll.

The bill clerk called the roll.

Mr. McCONNELL. I announce that the Senator from Texas (Mrs. HUTCHISON) and the Senator from Alabama (Mr. SESSIONS) are necessarily absent.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY) and the Senator from Georgia (Mr. MILLER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 103 Ex.]

YEAS—96

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NOT VOTING—4

Hutchison
Kerry
Miller
Sessions

The nomination was confirmed.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005—Continued

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I join with my colleague in requesting Senators to send in as many amendments as they possibly can. The Senator from Michigan and I will be here tomorrow in hopes that we can clear amendments. There are days when clearances could be facilitated. I think tomorrow is one of those days.

I say to my good colleague, the Senator from Michigan, Mr. LEVIN, am I correct in that?

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I say to my good friend from Virginia, he is absolutely not only correct but I would join his plea to our colleagues that we make good use of time tomorrow. If Senators are not here, their staff can deliver amendments so at least we can begin to consider them. We can make good use of tomorrow so when we come back we will have to use up less of the Senate's time.

So I join the chairman's plea that Members on both sides of the aisle, who have not filed amendments or given our staffs amendments, do that tomorrow. Let us try to work through some of them. We could clear them tomorrow and, even if we do not have contested amendments tomorrow, we could make some progress on this bill.

Mr. WARNER. I thank my colleague.

The distinguished Senator from Nevada, the Democratic whip, pointed out that he has a count of over 100-odd amendments with which we have to deal. So there is a formidable task ahead of us.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM of South Carolina. The reason I speak as we close out this evening is to comment on a few things about the amendment pending before the Senate in regard to an effort to do two things: to make sure the $350 million that is available for the Department of Energy to provide cleanup in the States of Washington, Idaho, and South Carolina can move forward without any strings attached, and to ratify an agreement that the State of South Carolina has entered into with the Department of Energy concerning 51 tanks containing high-level waste.

I really do very much like my colleague from Washington, Senator CANTWELL, but we dramatically disagree on this. I cannot emphasize how dramatically we do disagree about what is at stake and what we are trying to accomplish.

My senior Senator from South Carolina could not have been possibly better to me since I have been in the Senate almost 18 months now. He is going through some accusations that I find not consistent with who Senator HOLLINGS is. I am not going to dwell on that, but I believe that most of us who know Senator HOLLINGS very well believe he gives everybody the same treatment: Really hard. He is a fair man. He is a good man. We have some disagreement about how to handle the amendment before us, but I did not come to this issue without some time, attention, and thought to the matter.

Well over a year I have been involved with my State working with the Department of Energy to make sure that the 51 tanks that have high-level waste as a result of the cold war legacy material at the Savannah River site is cleaned up in a way that is environmentally sound for South Carolina, good for the taxpayer, and it makes sense.

I have a letter from the Governor of South Carolina. Contrary to what Senator HOLLINGS suggested, the Governor of South Carolina not only knows what we are doing, he encourages what we are doing. I received a letter to that effect. I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATE OF SOUTH CAROLINA,
OFFICE OF THE GOVERNOR,
Columbia, SC, May 20, 2004.

Hon. LINDSEY O. GRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAHAM: I am writing in support Section 3116, Defense Site Acceleration Completion in the FY 2005 Department of Defense Authorization bill, S. 2400. More specifically, this section of the bill will allow for an accelerated clean up of the Savannah River Site in South Carolina.

This Administration is concerned about the prospect of long-term storage of radioactive waste in aging tanks at the Savannah River Site. Under the current Nuclear Waste Policy Act, the cleanup process could leave the waste in those storage tanks for an additional 30 years.

However, the amendment allows the U.S. Department of Energy, working with the South Carolina Department of Health and Environmental Control, to move more quickly to clean up the Savannah River Site. In fact, the estimated cleanup time will be reduced by 23 years, at a savings of $16 billion to the taxpayers.

Most important is ensuring that the State of South Carolina will be able to retain an oversight role in the cleanup process. According to analysis by the South Carolina Department of Health and Environmental Control, the state's environmental regulatory agency, the clean up process will still require an equal partnership with the State.

As you move through the legislative process, we urge you and your colleagues to retain two very important goals for South Carolina: 1. allow for a more accelerated clean up process, and 2. provide strong language to protect the State's sovereignty within the process of accelerated cleanup.

Thank you for your leadership in the United States Senate. I look forward to working with you on this and many other matters of importance to our State.

Sincerely,

MARK SANFORD.

Mr. GRAHAM of South Carolina. I am going to read from it. The question Senator HOLLINGS raised was, well, if our Governor knew about this he would not agree to this because he is a good environmentalist.

We will agree on this: Our Governor is a good environmentalist. He has been a great Governor trying to change the culture of the way we do business in South Carolina. I have been working with him for well over a year to make sure our State gets those tanks cleaned up in our lifetime and we do not have to worry about ground water leakage.

The folks in Washington have a real problem on their hands, and I want to help them. The people in Idaho have problems on their hands, and I want to help them. I do not think they are being very responsible in terms of how we are dealing with each other's problems.

Here is a chronology of what has been going on in these three States. Idaho, South Carolina, and Washington have been separately negotiating with the Department of Energy about trying to agree on standards in their States to remediate the high-level waste that is left over from the cold war. Washington has a particular problem where they have tanks that are leaking into the ground water. That needs to be fixed sooner rather than later.

The question is, What is clean? The question is, Are we going to allow South Carolina, Idaho, and Washington to work with the Department of Energy to take care of their specific needs and specific problems in an environmentally sound manner or are we going to give one group a veto power over everybody else?

I hope we do not. January 26, 2004, Congressman HASTINGS and Senators MURRAY and CANTWELL sent a letter to Governor Locke and Secretary Abraham asking them to work together to resolve the ongoing dispute pertaining to waste classification.

On February 2, the deputy secretary and Governor Locke connected. Governor Locke indicated he would designate someone to enter into a discussion on behalf of the State of Washington.

That has been going on in South Carolina far before January 26. It is going on in Idaho. About 8 or 9 years ago Idaho reached agreement about certain aspects of cleaning up of the Idaho sites. Each site has a different problem and it is working with DOE in a way that is good for everyone, the State and at the Federal level, to clean up these sites.

The reason we are in court in Idaho is DOE unilaterally issued an order that gave them the authority to set the cleanup standards without consulting with the States. They were trying to change the game or the agreement Idaho had with DOE, and Idaho sued and we—South Carolina and Washington—joined as a friend of the court, saying we will not sit on the sidelines and watch the Department of Energy have the unilateral right to set cleanup standards. That is what we agree upon.

The amendment I have before the Senate does two important things. It does not allow the Department of Defense to withhold funds to Idaho and Washington unless they reach a similar agreement with South Carolina. It does not make what is going on in South Carolina a Presidential event, in terms of how it affects other States. It limits what is going on in South Carolina to South Carolina. It does not disadvantage Washington or Idaho. They have the right, the obligation to enter into an agreement, if any, with DOE. What we are doing in South Carolina only affects South Carolina. I will tell you in a moment what people in South Carolina who are in charge of our environmental needs say about this agreement. I will read the letter from the Governor here in a moment.

The Department of State, the Department of Energy, and the State of Washington, along with the State of Idaho, exchanged drafts and held conversations between January and April.

There is a lot of paperwork out there that shows Idaho and Washington have been trying to do the same thing we have been doing in South Carolina. Here is the difference. We reached an agreement South Carolina likes that will get our tanks cleaned up in an environmentally sound manner. And listen to this, it allows the tanks to be cleaned up, remediated, and closed 23 years ahead of schedule, and it saves $16 billion to the American taxpayer.

I hope Washington and Idaho can get there. If they ever do get there, if they ever do reach an agreement with the Department of Energy where the Governor says I like it, where the environmental regulators say I like it, where the Nuclear Regulatory Commission says this is waste incidental to reprocessing, that this can be done in a way that is environmentally sound—I hope I will help, not stand in the way.

So much was said that is so wrong about this issue. To my two friends from Idaho, you have taken some political abuse here that is so far from the truth that it is mind-boggling. What Senators Crapo and Craig have been doing is they have been working with me, in conjunction with all three States, to make sure they get the money they are entitled to regardless of what we do in South Carolina, and they have been kind enough to work with me to make sure my State's agreement can go forward. We are doing nothing to prejudice the lawsuit of the State of Idaho or their ability to reach an independent agreement. I can assure you, this is not blindsiding anybody because there is paperwork from January all the way through to recent months between Idaho and Washington, talking with DOE about trying to find an agreement.

On February 25, 2004, Jessie Roberson, the Assistant Secretary for Energy for Environmental Management came before Senator Allard in a hearing and talked about this extensively. He was asked numerous questions.

I ask unanimous consent to have an excerpt of that hearing printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

TRANSCRIPT ON WASTE INCIDENTAL TO REPROCESSING, STRATEGIC FORCES SUBCOMMITTEE HEARING, FEBRUARY 25, 2004

QUESTIONS BY SENATOR WAYNE ALLARD TO MS. JESSIE ROBERSON, ASSISTANT SECRETARY OF ENERGY FOR ENVIRONMENTAL MANAGEMENT

ALLARD: Well, thank you very much for your participation. It's invaluable to this committee.

I'm going to be referring in my questioning to WIR, which stands for Waste Incidental Reprocessing. And I think it would behoove the committee to hear, Secretary Roberson, you summarize what the WIR issue is.

ROBERSON: Thank you, Chairman Allard. Thank you, Senator, as well.

Clean-up of tank waste at Hanford, Idaho, and Savannah River represents the greatest risk-reduction effort in the department's entire clean-up program.

ALLARD: And this all falls under Waste Incidental Reprocessing, is that correct?

ROBERSON: Absolutely.

ALLARD: Okay.

ROBERSON: And I'll explain what portion of the program that specifically applies to.

ALLARD: Very good.

ROBERSON: Okay, we have planned at these three sites to clean up tank waste, plans agreed to with our host states and that the NRC had also carefully reviewed. At each site, our plans acknowledge we would remove as much tank waste as we could. We would separate the tank waste into two factions.

The first is a high-activity faction containing over 95 percent of the radioactivity, which we would classify as high-level waste and treat and dispose of in the repository for spent fuel and high-level waste called for by the Nuclear Waste Policy Act.

And then a low-activity faction, which we would classify as low-level waste, incidental to reprocessing and, depending on its characteristics, treat and dispose of in an appropriate disposal facility for such material.

We would then determine whether we could demonstrate that disposing of a small amount of residues remaining in the tank, generally around one percent of the original volume, by immobilizing it in place and determine—to ensure that it would be comparable to the public health and safety requirements for disposal of low-level waste in a near-surface disposal facility. If it would, our plans were to classify the residues as low-level waste, incidental to reprocessing, to immobilize them in the tank and close the tanks with these residues in place.

A key element of these plans is the classification of the tank waste.

The problem we have encountered is that in July of 2003, an Idaho district court struck down the waste incident to reprocessing portion of DOE Order 435.1, the DOE order addressing how DOE and its contractors classify waste under the Atomic Energy Act. As a result, we now face uncertainty in implementing the very plans our host states had agreed made technical sense.

The classification of this waste is key to determining how to dispose of it. Therefore, if we're unable to resolve this issue regarding waste incidental to reprocessing, we face leaving these tank wastes in place far longer than we and our host states had anticipated. In fact, such delay would likely create more serious health and safety risk to workers and members of the public by leaving the waste in tanks longer and risking leaks to ground water.

ALLARD: Madam Secretary, why do you have to leave any of the waste residues behind?

ROBERSON: Mr. Chairman, let me just briefly describe the size of these tanks and the nature of the waste removal in question. Each tank can hold as much as 1.3 million gallons of liquid waste. At Hanford, for example, the tanks are 75 feet in diameter, and the tanks are of differing shapes. Some are concave, which means they don't have a flat bottom.

ALLARD: I guess that's about the size of this room . . . .

(CROSSTALK)

ROBERSON: Under the tri-party agreement at Hanford between DOE, Washington state and EPA, which governs the clean-up at that site, the goal is that we retrieve 99 percent of the tank waste. If all of the remaining waste were on the bottom of the tank, it would be just under one inch thick.

Because of radiological concerns with exposure for workers, tank waste removal must be done remotely. In addition, these tanks usually sit below 10 feet of soil cover. Our retrieval equipment must fit into openings two inches to two feet wide. And tank structures are not designed to support heavy loads for which equipment must be deployed to do the tank cleaning. So it is not a simple task to scrape the last remaining tank residues from a tank.

Further, much of the waste residues are expected to have a stiff consistency. Most removal techniques require directing pressurized water streams at the remaining waste to immobilize it and to move it to a location which can be pumped.

ROBERSON: We have spent over 10 years working on technologies to improve removal opportunities of the waste from these tanks.

Finally, many of the tanks are over 40 years old. And a number of them have known leak sites, requiring us to exercise great care to preclude water leaking from the tank.

As I said, DOE spent tens of millions of dollars exploring how to get as much residual waste as possible out of the tanks.

ALLARD: What is the material you plan to leave in the tanks?

ROBERSON: We think the residues, when stabilized, are appropriately considered low-level waste, suitable for shallow land burial. Analysis will be performed to ensure that they meet performance objectives established by DOE and the NRC for low-level waste performance objectives.

In fact, that is what the order that was struck down by the judge's ruling required.

ALLARD: Now, shouldn't the waste characteristics and the risks they pose be what matters in terms of safe disposal rather than the process that created the waste?

ROBERSON: Yes, Mr. Chairman, we believe so. And we believe that that is the philosophy behind the clean-up plans in place for those sites.

ALLARD: And how much more than your current estimates might this cost the American taxpayers?

ROBERSON: Our preliminary assessment was that it would cost as much as $50 billion more over the life-cycle of the department's clean-up program and extend that life-cycle by decades to have to process all of our tank waste as high-level waste for disposal in a geologic repository, including exhuming the tanks themselves, cutting them up and packaging them for disposal.

ALLARD: So what is the risk if you have to do that?

ROBERSON: Clearly, the risk to workers, and frankly to the environment, is much larger if we have to exhume tanks. Given that we cannot proceed with our clean-up plans that were based on our waste classification order, we risk leaving waste in tanks much longer than we had planned right now.

We also add to environmental risk by the need to dispose of the large amounts of metals resulting from the almost 250 large tanks and the associated equipment. Our analysis thus far indicates that we would increase worker exposure 10 fold. We would increase costs 10 fold and achieve no meaningful improvement in environmental protection.

ALLARD: So I don't see what the rational benefit is to the American taxpayer from the department having to implement the Idaho district court decision.

ROBERSON: Frankly, Senator, we don't see it either, which is why we are pursuing this. Rather than accelerating clean-up of tank waste in agreement with our host states, we face stopping much of that work.

ALLARD: What is your plan for resolving this WIR issue:

ROBERSON: Accelerated clean up of tank waste is a top priority for the entire department and the states that host our facilities. As pointed out in the General Accounting Office report completed last year, the WIR, waste incidental to reprocessing issue, poses a significant vulnerability for the department.

Consistent with both the GAO recommendations to seek legislative clarification regarding DOE's authority to classify tank waste and with the request by the House Oversight and Investigations Subcommittee last year, we proposed draft legislation to Congress that would clarify our authority for managing such waste.

We have since held discussions with affected states over the impact the Idaho district court decision had on our activities in Hanford, Idaho, and Savannah River, in order to seek to address issues they have raised about our proposed legislative approach.

In addition, we've just filed our opening brief in our appeal of the Idaho court decision to continue our litigation efforts to resolve the WIR issue. Without timely resolution to this issue, not only could we be unable to implement our clean-up plans, but DOE also could be forced to realign its resources across the complex in a manner that would significantly distort the department's clean-up and other priorities.

ALLARD: What about the $350 million, and what does it take to get that money released?

ROBERSON: The Department's fiscal year 2005 budget request includes $350 million in a high-level waste proposal that reflects the need to satisfactorily resolve this issue to support clean-up. These funds will be requested only to the extent that legal uncertainties concerning disposition of these wastes are resolved.

Until we can resolve the legal uncertainties related to WIR, it does not make sense for us to proceed with projects that prepare tank waste for disposition as other than high-level waste destined for deep geologic depository.

ALLARD: I want to thank you for your response.

Mr. GRAHAM of South Carolina. There was another Energy and Water hearing where the same topic was brought before the Congress. The topic is, how are you doing with your efforts to reach agreements with the three States in question to find cleanup standards they can agree to that are environmentally sound, that will allow things to go forward in a more expeditious manner?

The truth is, we have spent billions of dollars talking about cleaning up and we have done nothing but let tanks leak and have waste stay around for years and decades. Now we have a new model. Now we have new money, $350 million of new dollars, and we are using commonsense approaches to cleanup.

What are we trying to do in South Carolina? If I can explain very quickly. I am not a scientist, but I do have fairly good common sense. The 51 tanks that have high-level waste, those tanks will be cleaned up. The liquid in those tanks will be converted to glass logs, it is called vitrification, and that will be sent to Yucca Mountain.

What we are trying to do is clean these tanks up in a manner consistent with safety for South Carolina. The amendment says no tank can be closed unless the State of South Carolina issues a closure permit. The letter from my Governor says, not only am I aware of what you are doing, Senator GRAHAM, I support it because it will allow the tanks to be closed up 23 years ahead of schedule, it will save money, and we don't have to worry about tanks deteriorating.

The plan is to take all of the liquid out and the film on the bottom, which will be 1 to 1.5 inches, treated with concrete and other materials and the tank will be closed. To get that 1 to 1.5 inches out of the bottom of that tank will cost $16 billion and take 23 additional years and put people's lives at risk for no good reason, no good environmental reason.

Every State is trying to define what is clean for their State. Washington is trying to do the same thing. Maybe they will want half an inch. I don't know what they want. Idaho is trying to do the same thing. We have done it and I have a Nuclear Regulatory Commission report that says what is left in that tank after treatment is waste incidental to reprocessing, not high-level waste.

The people in my State who regulate the environment have sent a letter saying we want this agreement because we have final say over where you close the tank and the standards we have negotiated we think are good for South Carolina. The only reason we are having this argument is they don't want one State to go—I guess some groups want to have the leverage of all three States to get standards they believe are better than those by the South Carolina folks who regulate our environment, and they are trying to use some standard that may not be necessary for Idaho and South Carolina. We don't have the same problems they do in Washington.

I will stand behind any Senator from Washington to make sure DOE doesn't run over them. I will stand behind any Senator from Idaho to make sure they can negotiate on their own terms. I am asking this body to approve an agreement that is environmentally sound, fiscally responsible, that affects South Carolina, and is what all three States are trying to achieve.

I have had printed in the RECORD the letter from my Governor. I have had printed the study from the Nuclear Regulatory Commission. I ask unanimous consent to have printed the letter from the Department of Health and Environment Control in South Carolina, saying this is good for the State, they retain control over the tanks, and this is environmentally sound.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JUNE 30, 2000.

Mr. ROY J. SCHEPENS,
Assistant Manager for High-Level Waste, U.S. Department of Energy, Savannah River Operations Office, Aiken, SC.

SAVANNAH RIVER SITE HIGH LEVEL WASTE TANK CLOSURE: CLASSIFICATION OF RESIDUAL WASTE AS INCIDENTAL

DEAR MR. SCHEPENS: The U.S. Nuclear Regulatory Commission (NRC) has completed the review of the tank closure methodology for the high-level waste (HLW) tanks at the Savannah River Site (SRS). Under the terms and conditions of the Department of Energy (DOE)/NRC Memorandum of Understanding and the DOE/NRC Interagency Agreement, both dated July 9, 1997, the NRC is acting in an advisory capacity and is not providing regulatory approval. The focus of the review was whether or not the residual waste left in the HLW tanks, after cleaning, could be labeled as incidental waste. The criteria for incidental waste were approved by the Commission in the Staff Requirements Memorandum (SRM) dated February 16, 1993, in response to SECY-92-391, "Denial of PRM 60-4—Petition for Rulemaking from the States of Washington and Oregon Regarding Classification of Radioactive Waste at Hanford," and described in the March 2, 1993, letter from R. Bernero, NRC, to J. Lytle, DOE. The review focused on DOE's "Regulatory Basis for Incidental Waste Classification at the Savannah River Site High-Level Waste Tank Farms," "High-Level Waste Tank Closure Program Plan," "Environmental Radiological Analysis, Fate and Transport Modeling of Residual Contaminants and Human Health Impacts from the F-Area High-Level Waste Tank Farm," "Industrial Wastewater Closure Module for the High-Level Waste Tank 17 System," and "Industrial Wastewater Closure Module for the High-Level Waste Tank 20 System." It also included the responses (letter from R. Schepens, DOE, to K. Stablein, NRC, September 30, 1998) to the request for additional information, as well as information resulting from the April 1, 1999, public meeting between NRC and DOE staff. The results of the NRC staff review are enclosed to provide input to your decision. DOE is responsible for determining whether the residual tank waste can be classified as incidental.

Your tank closure methodology proposes using the incidental waste criteria approved by the Commission in the February 16, 1993 SRM and stated in the March 2, 1993, letter from R. Bernero, NRC, to J. Lytle, DOE, that were established for the treatment and disposal of removed HLW. In reviewing your methodology, staff took a generic performance-based approach rather than strictly applying the criteria developed in 1993. Criterion One from the March 1993, letter specified that ". . . wastes have been processed (or will be further processed) to remove key radionuclides to the maximum extent that is technically and economically practical." DOE identified only water washing and oxalic acid washing as technically feasible with regards to removal of key radionuclides following bulk waste removal. Water washing and bulk waste removal have been shown to be capable of removing 98 percent of the initial tank activity. Depending on the initial sludge inventories, oxalic acid washing, or comparable cleaning, will be required on selected tanks, although it is not considered to be economically practical for all 51 tanks.

The sampling methods used to characterize the HLW tanks at SRS have been evaluated.

Several different sampling techniques were used. In general, the sampling process for Tanks 17 and 20 was adequate. NRC staff has concluded that available removal technologies have been extensively examined to determine those that are both technically and economically practical, and that the residual waste left in the tanks is limited to waste that cannot be removed by application of those technologies currently considered technically and economically practical for HLW tank cleaning. As the HLW tank closure process evolves over the next several decades the technical and economic feasibility of other waste removal options should continue to be evaluated.

The staff recommends that a set waste sampling protocol should be developed and followed. The number of samples obtained will be a function of the tank contents, as well as the homogeneity of the sludge. All sample results should be compared to process estimates to ensure consistency and accuracy. Any significant inconsistencies resulting from tank sampling and process history should result in further sampling.

The staff review generally found that DOE's methodology for removal of key radionuclides to the maximum extent economically and technically practical achieves the objectives of Criterion One.

The staff review of Criterion Two, " . . . wastes will be incorporated in a solid physical form at a concentration that does not exceed the applicable concentration limits for class C low-level waste as set out in 10 CFR Part 61," made use of information you provided on initial tank inventories and expected removal efficiencies. Fourteen of the 51 HLW tanks are anticipated to meet Class C limits by utilizing concentration averaging with only bulk waste removal and water washing. The other 37 tanks would require chemical cleaning via oxalic acid washing to meet Class C limits, even with the application of concentration averaging. DOE, therefore, plans to rely on alternative considerations of the classification of waste, rather than planning to use oxalic acid cleaning to meet Class C concentration limits. In particular, DOE relies on its plans to solidify the waste in layers of grout, some 30 feet below the surface of the ground, and relies on the disposal site, which it considers to be stable. In addition, it appears that there is reasonable assurance that the performance objectives of 10 CFR Part 61, Subpart C can be met without meeting the Class C concentration limits for all tanks. These considerations are similar to those in 10 CFR 61.58 of the Commission's regulations, and are viewed by DOE as providing comparable protection to an inadvertent intruder. Staff believes that concentration averaging in accordance with the Branch Technical Position on Concentration Averaging, is generally acceptable in this context to meet Class C concentration limits, and recognizes that the alternative provisions for waste classification proposed by DOE are generally similar to those in 10 CFR 61.58. Staff recommends that DOE develop site-specific concentration limits for residual waste in the SRS HLW tanks in order to bound the associated analyses and to provide a specific benchmark for satisfactory cleaning of the tanks.

As for the portion of Criterion Two that addresses the solid physical form, the staff believes that the waste has been sufficiently immobilized to help prevent inadvertent intrusion. By utilizing three different types of grout, the waste is further protected. The initial reducing grout pour helps to reduce the mobility of the radionuclides. The middle layer of grout provides a solid foundation to guard against subsidence, and, finally, the top layer of strong grout provides protection against physical penetration of the waste. Therefore, the physical form aspect of Criterion Two appears to be achieved by our methodology.

Assessing Criterion Three, " . . . wastes are to be managed, pursuant to the Atomic Energy Act, so that safety requirements comparable to the performance objectives set out in 10 CFR Part 61 are satisfied" involves the evaluation of the tank farm performance assessment (PA).

DOE has indicated that it intends to meet a 4 mrem/yr drinking water dose limit. From standard dose modeling methodology, the drinking water dose is expected to be the largest dose contributor pathway. It appears from the performance assessment that the drinking water dose will be less than the 4 mrem/yr drinking water dose limit, and by extrapolation, that the individual dose will be less than the 25 mrem/yr total effective dose equivalent (TEDE) requirement of 10 CFR 61.41. In meeting the performance objective of §61.41, reliance on institutional controls beyond 100 years will not be needed, although DOE has proposed institutional controls in perpetuity. Future PAs should focus on meeting the performance objectives of 10 CFR Part 61 Subpart C and should not rely on any active institutional controls beyond 100 years. The NRC staff has concluded that the DOE methodology will achieve safety objectives comparable to §61.41.

To show protection of an inadvertent intruder, the standard agriculture scenario consists of a farmer who lives at the tank farm, and drills a well near the tank farm and then uses the well water to irrigate his crops and feed his livestock as well as himself. DOE–SR has provided only calculated drinking water doses for this intruder scenario. DOE's intruder PA showed that the maximum drinking water dose the farmer would receive via the ground-water pathway was 130 mrem/year at a well distance of 1 meter from the tank farm, at approximately 700 years. According to DOE–SR, the drinking water dose pathway is expected to be the highest dose contributor and, therefore, provides reasonable assurance of protection of individuals from inadvertent intrusion using a 500 mrem/year limit. The DOE–SR analysis assumes all activity is contained within the reducing grout-layer located at the bottom of each tank, and that this contaminant zone is not disturbed. This then implies that there is no activity in any vertical component of the tank structure and, therefore, a typical construction scenario (with a 10 foot deep basement) would not disturb any contaminated portion of the tank structure.

The staff recommends that future performance assessments for SR tank closures, including individual tank closure modules, and the H-Tank Farm Fate and Transport Modeling, include the full agriculture scenario (all pathways) as well as the discovery scenario, as described in the Draft Environmental Impact Statement for 10 CFR Part 61. Staff also notes that closure of ancillary piping and equipment must consider an inadvertent intruder. That is, performance assessment must consider disturbed surface piping and equipment, which, in addition to tank sources, must not exceed a TEDE of 500 mrem per year (all pathways) for the discovery and agricultural scenarios. Furthermore, all external components (e.g., piping) have not been demonstrated to provide the same protection to an inadvertent intruder as the residual waste in the HLW tank bottoms. Without the proper intruder scenarios (e.g., intruder-agriculture) the NRC does not recognize in-situ disposal of external components as achieving the objectives of Criterion Three.

The worker is protected by DOE regulations which are analogous to 10 CFR Part 20. The worker protection performance objectives of §61.43 is, therefore, considered to be adequately addressed. By filling the tanks with three layers of grout, the site stability performance objectives of §61.44 can also be satisfied.

The staff recommends that future tank closure modeling should include a more thorough PA for all predicted or known source terms (i.e., all HLW tanks) in the F-Area Tank Farm and including the following: early degradation of grout, degradation of ancillary equipment and piping, combined aquifer scenarios, conservative distribution coefficient analysis, conservative radionuclide dispersion analysis, submerged tanks, conservative analysis for the horizontal versus vertical flux radiouclide transport processes for the saturated zone, and a complete all-pathways dose assessment. See the enclosed Technical Evaluation Report for further details and additional recommendations. In addition, future tank closure modeling (including individual tank closure modules, as well as fate and transport modeling for H-Tank Farm) should not refer to, or be reliant on in any way, previous modules. This will avoid confusion and errors associated with outdated data and assumptions.

By generally achieving each of the performance objectives stated in 10 CFR Part 61, Subpart C, the staff has concluded that the tank closure methodology is consistent with the objectives of Criterion Three.

Based on the information provided the staff has concluded that the methodology for tank closure at SRS appears to reasonably analyze the relevant considerations for Criterion One and Criterion Three of the three incidental waste criteria. DOE would undertake cleanup to the maximum extent that is technically and economically practical, and would demonstrate it can meet performance objectives consistent with those required for disposal of low-level waste. These commitments, if satisfied, should serve to provide adequate protection of public health and safety. Further, DOE's methodology relies on alternative classification considerations similar to those contained in the Commission's regulations at 10 CFR 61.58. The NRC staff, from a safety perspective, therefore does not disagree with DOE–SR's proposed methodology, contingent upon DOE reaching current goals for bulk waste removal, as well as water and chemical washing, such that the performance objectives comparable to those stated in Subpart C 10 CFR 61 are met. In addition, NRC judgment as to the adequacy of the methodology is dependent on verification that the assumptions underlying the analysis are correct.

The analysis performed regarding the proposed tank closure methodology for the HLW tanks located at the DOE Savannah River Site was performed by NRC according to the terms and conditions of the established Memorandum of Understanding and the Interagency Agreement. The analysis and resulting NRC conclusions are specific only to the 51 tanks located at the DOE Savannah River F and H Area tank farms, and related piping and equipment. The NRC assessment is a site-specific evaluation, and is not a precedent for any future decisions on waste classification scenarios at other sites, particularly sites under NRC jurisdiction.

Sincerely,

WILLIAM F. KANE,
Director, Office of Nuclear Material Safety and Safeguards.

Mr. GRAHAM of South Carolina. With that, to be continued. Thank you. Happy holidays.

Mr. AKAKA. Mr. President, I rise today in support of the fiscal year 2005 Defense authorization bill. I want to first commend Chairman WARNER and Senator LEVIN, who have continued their tradition of strong and bipartisan leadership. I also want to thank my friend, colleague and subcommittee chairman Senator ENSIGN, for his cooperation and leadership throughout this process this year.

While I think the bill before us goes a long way to supporting the needs of our service men and women, I do want to highlight a few concerns.

First, I am pleased that the administration finally followed Congress' lead and sent a request for an additional $25 billion to begin to address the ongoing military operations in Iraq and Afghanistan for the first few months of fiscal year 2005. While I do not support the structure of the administration's request, in part because it does not do enough to ensure accountability for how these funds would be used, I do support its intent, and I think it is imperative that we include an authorization of additional funding in the final version of this bill.

Second, while I support every action to aid our brave men and women in the armed forces, who are making so many sacrifices as they fight for our freedoms, I am concerned and disappointed by some of the actions we have taken in the bill we are reporting to the Senate. My greatest concern lies, as it did last year, in the reductions we have made in the working capital funds of the military services and defense agencies. While I disagreed with the cuts in these accounts last year, the ones this year are even more harmful, as DOD is already tapping these accounts to the greatest possible extent to get through the remainder of this fiscal year. So they will already be well below normal cash balances as they enter fiscal year 2005, and the $1.6 billion in reductions we have recommended in this bill will increase the risk of readiness problems by decreasing DOD's ability to provide spare parts, maintenance, and other support for our forces that are critical to their continued success. By cutting into these accounts, I believe we are sending a message that we do not support our troops, a message that I know could not be further from the truth.

Our forces deserve armored vehicles to protect them in Iraq, but they also deserve the spare parts they need to keep those vehicles running. When our troops come home, they deserve to have those vehicles repaired, rather than wait for maintenance from a depot until parts arrive that could have been ordered earlier if the working capital funds had had sufficient cash. We owe them the courage to make tough decisions to ensure that those needs are met now, not when future funds not yet requested may or may not become available.

On the positive side, I am pleased about our continued support for military construction and family housing needs that are so critical to quality of life for our service men and women. I also support many of the provisions we have included that will further improve the management of the department. I particularly appreciate the bipartisan effort that the staff has made to address a wide range of procurement issues, environmental issues, and longstanding DOD financial management problems.

While I support the overall actions taken in this bill, and commend all of my colleagues for the hard work that they have invested, as ranking member of the Readiness Subcommittee I have mixed feelings about our actions. We have increased funding for some key programs, but at the expense of others where the impact might be more easily obscured. Our experience with the Air Force over the last few years has shown that there is a direct correlation between increased spare parts and mission capable rates for aircraft; those spare parts are provided through the Air Force Working Capital Fund. The Navy expects to have only a few days of cash on hand at the end of this fiscal year, and may be forced to bill customers before they actually receive their orders. And the Army faces a situation where its orders for parts and other key items exceed its cash on hand by more than 700 percent. Wartime, when we see a great expansion of customer needs for readiness and large fluctuations in required support, is not the time to take on more readiness risk by decreasing cash balances in the working capital funds. It hurts readiness, and it hurts the men and women who serve in uniform.

By reducing funding for the readiness accounts and failing to provide any supplemental funding for 2005, this bill does not do enough to meet the most pressing needs of our men and women in uniform.

I will support this bill, and I urge my colleagues to do the same. I think it is a good bill that could have been better, and I will continue to work throughout the rest of the authorization process to improve it.

MORNING BUSINESS

Mr. WARNER. I ask unanimous consent that the Senate now go into a period for morning business, with each Senator permitted to speak no longer than 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Michigan.

MEDICARE VIDEOS

Ms. STABENOW. Mr. President, as we are wrapping up the session this week, I think it is very important to note what we all read in the Washington Post today. Something very serious was clearly spelled out. That is that the General Accounting Office has concluded the U.S. Department of Health and Human Services illegally spent Federal money on what amounted to covert propaganda, by producing videos about the Medicare changes that were made to look like news reports. Portions of the videos which had been aired by 40 television stations around the country do not make it clear that the announcers were paid by Health and Human Services, or paid by taxpayers, and that they were not real reporters.

In fact, the administration has violated two Federal laws. This comes from the nonpartisan arm, the Congressional Investigative Services, the General Accounting Office.

They indicated two different laws that the administration broke in these ads on Medicare.

No. 1, the Omnibus appropriations bill of 2003: The prohibition on using appropriated funds for publicity or propaganda purposes.

No. 2, the Anti-Deficiency Act: Incurred obligations in excess of appropriations available for that purpose.

This is just one more example of the ongoing saga in what happened in relationship to the passage of the new Medicare law and all of the irregularities—the pronouncement that, in fact, the law was violated and the other ethics investigations going on.

Let me go through some of what else is happening. It is stunning, actually, when you look at the full picture. I would argue that this is absolutely in the wrong direction and against the interests of those who count on Medicare—our seniors and disabled, and the American taxpayers who have been funding what the GAO says are illegal ads.

In addition to that, 2 weeks ago, the Congressional Research Service concluded that the administration potentially violated the law in a related matter in which the Medicare Program's chief actuary has said he was threatened with firing a year ago if he shared with Congress cost estimates that the Medicare legislation would be one-third more expensive than what we were told—one-third more expensive than the $400 billion the President said it would cost.

Also, the House ethics panel meanwhile is investigating whether Republican leaders attempted to bribe or coerce a Republican House Member—in fact, someone in my own State—to vote for the bill before it passed by a few votes just before dawn after the longest record rollcall in the history of the House.

We have numerous other challenges and questions. It is important to note for the record that the latest investigation by the GAO was not prompted by our side of the aisle, nor requested. It was something they looked into on their own separate from other concerns which have been raised. We have raised issues that relate to the advertising we have seen on television.

Concerning materials, the GAO indicated that, while they were not specifically in violation, the HHS materials have notable omissions and other weaknesses. They say it is a question of prudence and appropriateness for HHS's decision to communicate by placing advertising in Roll Call, which we all know is something that we read and certainly our constituents and the seniors and the disabled of the country do not read.

This goes on and on, questions of violating the law and questions of an ethics violation.

Now we see, in fact, that the administration specifically has broken two different laws. One of the questions is, What do we do about that? I think the public deserves the answer to that. What is it that we do when the administration violates the law as it relates to spending public dollars and advertising as it relates to this Medicare bill?

A colleague of mine is suggesting—since we know it is a campaign year and we know this is put forward certainly to put the best light on this for the administration—the Senator from New Jersey, Mr. LAUTENBERG, has suggested that the President repay the funds from his Presidential campaign.

Given what we know is happening this year and the fact that certainly the administration wants to have the best face put on this Medicare package and certainly has everything to gain from using public dollars to advertise that, I think it would be appropriate to ask the President to repay that from his campaign funds. In fact, they are in violation of the law.

We have seen questionable action after questionable action. The head of the center of Medicare and Medicaid, after writing this bill and working closely with the industry that benefits from it—the pharmaceutical industry—leaves to take a job with folks involved in the industry that will make money off of this new law.

We have seen other individuals leaving and going into lucrative positions where they will themselves be making money off of this new law.

We know it has been analyzed and that the pharmaceutical industry will be making, during the next 8 years, about $139 billion in new profits. That is tough to do if you are lowering prices and tough to do if you are providing a real Medicare benefit to seniors which they can afford.

The reality is that is not what this bill does. This bill doesn't allow Medicare to be able to negotiate group discounts as we do through the VA.

It creates a situation where up to 40 million seniors and disabled are locked into the highest possible prices—not only in our country but in the world. We have a bill that locks in high prices.

The industry is making billions of dollars from it. People from the administration are going to work for the industry or related businesses that will be making money off of this process.

We now see a situation where, again, the taxpayer money that was put aside to be able to explain the Medicare bill has actually been used in a way that is in violation of the law.

I say again that the GAO concluded that the Department of Health and Human Services illegally spent Federal money—taxpayers' money—on what amounted to covert propaganda by producing videos about the Medicare changes that were made.

Another piece of that which is extremely disconcerting to me is we now have discount cards for seniors for those who qualify for Medicare—depending on where you live—and there could be 60 or 70 different cards that you now can attempt to wade through to try to find a discount card that will help you when you really are struggling to pay for your medicine.

We are now finding since passing the Medicare bill that many of the name brand companies have dramatically increased the prices of their products in anticipation of the discount card. The base is higher. That is like the storeowner who marked up the product 25 percent and then put a sign out that says: "15 percent sale." That is what is happening to many of our seniors.

To add insult to injury, those who purchase cards—most of them are purchased for about $30—lock themselves into one card for a year after wading through all of the different cards. They pick the one that covers the medicines they use. They purchase the card and they are locked into it for a year, but the business, the industry can change every 7 days the list of what is covered. Today, four medicines are not covered; next week maybe two aren't covered; and next week maybe none of them are covered.

Why would this be set up like this? It is confusing. They are not real discounts. The discounts are changed. It is certainly not set up for the people who depend on Medicare every day.

Once again, the implementation of the bill that passed is being done in a way that helps the industry that already makes billions and billions of dollars in producing the products, but it is not helping our seniors. We want industry to be successful.

Taxpayers help subsidize the billions of dollars of research given free to the industry. We provide tax credits, tax deductions, writeoffs and patents. All we ask at the end of the day is that people can afford their medicine, that people can afford oftentimes the lifesaving medicine they need for their cancer, diabetes, or other chronic disease.

This is serious. We debated and had a lot of hoopla about a new law in Medicare. We have seen nothing but broken promises, broken laws, broken ethics rules since the adoption of the law. I suggest it is time to start over. We can do better. It is time to scrap this benefit, start over, get it right, follow the law, follow the ethics rules, negotiate group prices, get a real benefit, bring prices down. That is what our seniors expected the first time. It is time we make a commitment to get it right.

I am very hopeful between now and the end of the session in the fall that we are going to turn around and get this right. Scrap the old bill and pass a new one that focuses on helping our seniors and bringing down prescription drug prices for everyone. And by the way, it is time to follow the law in the process.

The PRESIDING OFFICER. The Senator from Washington.

NUCLEAR WASTE

Ms. CANTWELL. Mr. President, I take a few minutes to clarify points from the debate we had prior to moving off the DOE bill and the specifics of the Graham amendment.

I know my colleague, the Senator from South Carolina, is probably somewhere still in the vicinity of the Senate. I, too, admire the Senator from South Carolina on a variety of issues, particularly on National Guard issues and some of the challenges we have had, both coming from States that have been hard hit economically and challenged with a large number of people participating in our efforts in Iraq and Afghanistan. This issue that he and I disagree on obviously is one of utmost importance and certainly one that needs a lot of attention by the Members of this body. We will get that time and attention when we return to DOE after the recess.

I bring up a couple of points made that are the crux of my concern about this legislation; that is, that section 3116 of the underlying bill, the Defense authorization bill, attempts to reclassify high-level nuclear waste into a low-level material and allow it to be disposed of in a different way.

I object to that and I object to the process by which that legislation was drafted. The Senate Armed Services Committee does not have jurisdiction over the ability to reclassify waste. That is a change to the Nuclear Waste Policy Act drafted in 1982. If the Department of Energy wants to have that debate, then the Department of Energy should come down here and have hearings before the appropriate committees and discuss that issue. But to have such a major policy change of 30 years' policy since 1982 and 50 years of science saying this is what high-level nuclear waste is and one day changing it in the DOD bill is beyond absurd. Obviously, that is why we have spent time this afternoon talking about it.

The chairman of the committee asked me in a question whether that committee has jurisdiction over the issue. I know that DOE many times has tried with various environmental issues to have them go through the Senate Armed Services Committee, environmental issues such as the Resource Conservation Recovery Act, Comprehensive Environmental Response, Compensation, and Liability Act, the Endangered Species Act. All of those, even though they are DOE issues, do not go through the Senate Armed Services Committee. In fact, the committee even said they are not part of our issues. Those are environmental policies or policies for other committees and referred to those specific committees.

I read to my colleagues rule XXV earlier regarding what the jurisdiction of the Senate Armed Services Committee is. It is specific to the national interests that were necessary in creating nuclear fuel. That was an offshoot of the reactors used in the development of plutonium for our efforts in World War II and the cold war, but they do not have the legislative oversight of the cleanup policy. That is the prerogative of other committees, the Energy and Natural Resources Committee, the Environment and Public Works Committee.

To make my point, I took section 3116 of this bill, this section that reclassifies waste, and introduced it today as my own legislation and asked for a referral. If we took this section on reclassification now as a stand-alone bill, let's see where it was referred to. That bill, Senate bill 2457, by Senator CANTWELL, was referred to the Energy and Natural Resources Committee. That proves my point, that this policy change is not the jurisdiction of the Senate Armed Services Committee, and the Senate Armed Services Committee should not try, in a closed-door session, in secrecy without having a public hearing, without having a public debate, to change policy of this significant nature which is not the jurisdiction of their committee.

I ask unanimous consent to have printed in the RECORD a letter from the ranking member of the Senate Energy and Natural Resources Committee that was also sent to the Senate Armed Services Committee chairman and ranking member asking them not to pass this legislation out of committee, and that it was the jurisdiction of the Energy and Natural Resources Committee.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE, COMMITTEE ON ENERGY
AND NATURAL RESOURCES,
Washington, DC, May 5, 2004.

Hon. JOHN W. WARNER, Chairman,
Hon. CARL LEVIN, Ranking Democratic Member,
Committee on Armed Services,
U.S. Senate, Washington, DC

DEAR SENATOR WARNER AND SENATOR LEVIN: I am writing to urge you not to include language relating to the reclassification of high-level radioactive defense wastes proposed by Senator Graham of South Carolina in the defense authorization bill.

For thirty years, it has been the policy of this nation that the high-level radioactive defense wastes temporarily stored in tanks at Savannah River and elsewhere would, in time, be removed from those tanks and permanently disposed of in new facilities licensed by the Nuclear Regulatory Commission. Enactment of Senator Graham's amendment would abandon that policy and permit the Department of Energy, in its discretion, to reclassify an unknown part of the tank wastes as transuranic or low-level waste and either leave it where it is or ship it to New Mexico for disposal in the Waste Isolation Pilot Plant as transuranic waste, or to some other state for shallow land burial as low-level waste.

In addition, Senator Graham's amendment would exempt the Department's handling of these wastes from licensing and regulation by the Nuclear Regulatory Commission. Its enactment would have profound consequences for the nation's high-level nuclear waste policy, which is under the jurisdiction of the Committee on Energy and Natural Resources. It would also interfere in litigation now pending before the United States Court of Appeals for the Ninth Circuit.

For all of these reasons, I urge you not to include Senator Graham's amendment in the defense authorization bill.

Sincerely,

JEFF BINGAMAN.

Ms. CANTWELL. Mr. President, I am trying to make the point that the ranking member of the committee, and now the parliamentarian, have agreed that this is not the jurisdiction of this committee.

I ask my colleagues to weigh that in the time we have away from here, to drop this policy as it relates to trying to reclassify waste without having the proper public hearing and public comment about the issues.

Yes, everyone has heard of DOE attempts to try to reclassify this waste. It is well known that they actually tried to do it by order themselves and were shot down in court. They were shot down in court because specifically they do not have the authority. They have to change the definition under the Nuclear Waste Policy Act. If they want to do that, debate it on the Hill, have this discussion, and move forward.

I make a point that cleanup around America—whether it is in South Carolina, in the Savannah River, or whether it is Washington State at the Hanford reservation, whether it is Idaho or any other facility in this country—should be continuing. There is nothing about any court case or any court battle that prohibits the Department of Energy from continuing with cleanup. I hope they understand that is the judgment and the clarification of the court that ruled.

If my colleague from South Carolina is hearing that nuclear waste cleanup may be going slow or may be put on hold in the future, that is the absolute wrong message from the Department of Energy. Congress has appropriated funds, has appropriated funds in the past, and they should be going about their cleanup job.

What we are not going to do as a body is whitewash a change of significant nature where we do not have science backing that says we ought to reclassify this waste. In fact, science has been very specific in saying this is not a simple proposition.

In 1990, the National Academy of Science said:

> There is strong worldwide consensus that the best, and safest, long-term option for dealing with HLW is geologic isolation.

Again, not grouting waste in existing tanks but removing the waste and putting it in a geological isolation, as we have suggested, and others have suggested, at Yucca Mountain.

A 1992 report by the Pacific Northwest Laboratory said:

> The grouts will remain at elevated temperatures for many years. The high temperatures expected during the first few decades after disposal will increase the driving force for water vapor transport away from the grouts; the loss of water may result in cracking . . .

A 1992 study on this issue regarding just pouring cement and sand on nuclear waste and somehow storing it and solidifying it in the ground said there would be a result of cracking.

What we know in Washington State is we already had the cracking of the tanks. We already had a plume of nuclear waste going toward the river. So we already know what this situation is all about.

In 2000, the National Academy of Sciences said:

> [W]aste tank residue is likely to be highly radioactive and not taken up in the grout, so there is substantial uncertainty. . . .

Another 2000 study by the National Academy of Sciences says:

> [Using grout,] the ability of the site to reliably meet long-term safety performance objectives remains uncertain.

I think there is much science that basically says we do not think grout can work. Obviously, we do not know what the Department of Energy is trying to do, because they want to leave an unspecified amount of waste in the ground and not be specific about that. So it is very difficult for us to see.

I would also like in my short time here, because I know each Member is limited in time this evening, to refute the letter that was submitted by the Nuclear Regulatory Commission. While we do not know what the Nuclear Regulatory Commission was asked to comment on, what they ended up commenting on was not the underlying language in the DOD authorizing bill. They did not comment on the fact that the Graham language would significantly change the Nuclear Waste Power Act and classify high-level waste as something else.

What they did comment on was the fact that you could take the entire tanks out of the ground and it would be very expensive, which I do not know if people can imagine, because the Hanford site is miles and miles of acres—I think earlier we said something close to one-third the size of the State of Rhode Island. That is how big the Hanford reservation is—580 miles of land. These tanks that have stored the spent fuel are enormous.

The Nuclear Regulatory Commission is saying: We do not know if it is feasible to take out the tanks entirely. Well, no one ever said we expected to take out the entire tanks. What we said was we think the tanks have to be cleaned and the site has to be cleaned. And that is the removal process we should continue to do.

So I think while we would be wise to get a letter from the Nuclear Regulatory Commission that was specific about the exact proposal that is in this bill and get their response, the issue is they are not in charge of short-term waste disposal. They are in charge of this geological isolation solution we in Congress and others have been looking for, and basically asking questions about, and saying, Where are you going to take the vitrified waste and put it? They are not the regulatory entity over those short-term issues.

I think the Nuclear Regulatory Commission has not fully addressed the question. I think perhaps we should send them a more direct question to which we can get a more specific answer.

We will hear a lot more about this issue when we return from the legislative recess. But I assure my colleagues, we are going to continue to talk about the fact that we in Congress cannot have this significant a change in a policy by simply sneaking language into a Senate Armed Services Committee bill that does not have jurisdiction over this issue and make a major policy change that is 30 years of law—30 years of established law—and 50 years of scientific evidence and override that in a short period of time without a full discussion and debate.

This underlying bill language needs to be stricken. We need to get about the nuclear waste cleanup that the science says we should do; that is, removing the high-level waste and not simply trying to do cleanup on the quick by calling it grout.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROBERT A. (BOB) BEAN

Mr. DASCHLE. Mr. President, earlier today many of our Senate family attended the funeral of a former Senate employee, Robert Bean. Bob started here in the Senate when he was 15 years old as a Senate page under the sponsorship of Majority Leader Mike Mansfield. Following his page graduation Bob moved into the Democratic cloakroom where he continued his outstanding service to our members. He rose to the position of Assistant Secretary for the Majority and then was appointed by Senate Majority Leader George Mitchell to the position of Deputy Sergeant at Arms in 1990. He moved to the Treasury Department's legislative affairs office in 1995 and remained there until 1999 when he returned to the Hill to work on the House side as the minority staff director of the House Administration Committee. He retired from the Hill in 2002 and he had just recently begun work for the Jefferson Consulting Group.

Throughout these years of service Bob earned his undergraduate degree from George Washington University and his law degree from American University's Washington College of Law. But all of these accomplishments pale in comparison to his personal accomplishments. Bob was known as a friend by anyone who came into contact with him. Whether you were a member of Congress or a new staffer, lost on the Hill, Bob would find a way to help you, and he would make sure you knew that, if you ever needed help again, he'd be there to assist you. The church was filled today and that was a testament to the type of person Bob was to so many people. He died at the age of 43 leaving behind his mother, Margaret and his brothers John, Kenneth, and Brian. Bob also left behind a Capitol Hill community united in mourning the loss of one of its most cherished possessions—a true friend. I would like to extend my sympathies to his mother, his brothers and to all those who were lucky enough to know him.

Mr. President, I ask unanimous consent that the eulogy given earlier today by Congressman STENY HOYER be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EULOGY FOR ROBERT A. (BOB) BEAN

Father Nash, Father Polland, Members of St. John's Parish, Friends:

I first want to express my deepest condolences to the Bean family, Bob's mother, Margaret; his brothers, John, Kenneth and Brian; his sister-in-law, Patti; niece, Rachel; and nephew, Christian.

Your loss, I know, is as immeasurable as it is unexpected; that this good, decent, kind man who graced and brightened your lives—and all of ours—was summoned by our Creator, at what seems to so many of us as the twilight of youth.

The passing of one who had so much to offer, who yearned to serve others, who continually took it upon himself to help others, and who was enjoying what seemed to be the prime of his life, cuts particularly deep.

But the truth be told, Robert A. Bean, son of Margaret and Louis, lived more in 43 years than most do in twice that time.

Bob's service to our nation started early, when at the age of 15, he began working as a Senate page under the former majority leader Mike Mansfield.

He later served on the staff of the democratic cloakroom in the Senate, which is where I first met him after being elected to Congress.

I couldn't help but be impressed with Bob, by his willingness to help on matters big and small, his strong bearing, and his ability to get things done.

Bob was not passing time.

His talent, his character, his personality led to his being selected for ever-increasing responsibility: serving first as the assistant secretary for the democratic majority in the Senate and then as deputy sergeant at arms, where he performed the duties of chief law enforcement officer, protocol officer and manager of support services in the Senate.

In that position, he supervised thousands of employees and displayed his considerable management skills.

And yes, along the way, he earned a bachelor's degree from George Washington University as well as a law degree from American University.

Bob was always improving himself and, in the process, improving the lot of others.

In 1995, Bob was asked by Secretary Robert Rubin to join him at the Treasury Department as the Deputy Assistant Secretary of the Treasury for Legislative Affairs, where his extraordinary knowledge of the Congress and his reputation on Capitol Hill for honesty and insight would help guide our Nation to unprecedented prosperity in the 1990s.

Given the wide breadth of Bob's experience on Capitol Hill and in the Executive Branch, I was ecstatic that I had the opportunity to hire him in 1999 to serve as the staff director of the Committee on House Administration.

Bob's service in that position was an immense advantage to me, the Committee, and the Congress, which he loved.

Bob was a fierce partisan. He believed deeply in the Democratic party and its principles, and he lived them.

But his political convictions never translated into unthinking antagonism toward foes.

And I saw that first-hand during the negotiations on bipartisan election reform, a legislative effort that was perhaps Bob's legacy as staff director on the House Administration Committee.

Bob played to win, but he played by the rules. And Congressman Bob Ney, the Republican chairman of the Committee and his staff, knew that; and they respected and trusted Bob for it, which in my judgment is one reason why we were able to work together, across the partisan divide, to address the problems in our election system.

This week, Chairman Ney said of Bob:

"There were many times when the process was in danger of breaking down. Bob Bean refused to let that happen, though. He was a stand-up guy, a tremendously hard worker and truly great American."

As anyone who walked through the Capitol with Bob knows, he knew an unbelievable number of people. House members and Senators. Staffers. Capitol Police officers. Maintenance workers. And cafeteria workers.

All who knew him were his friend.

Walking through the Capitol with Bob was a constant reminder of his experience and popularity on Capitol Hill—with people from all walks of life. And he returned their affection with kindness, consideration and respect.

A friend of Bob's for nearly 30 years, Sharon Daniels, the long-time executive assistant for Congressman Richard Gephardt, said of Bob:

"Bob is the kind of friend you could call at two in the morning, and ask: Can I borrow twenty thousand dollars? And, by the way, can you bring it to me by 4 a.m. out on Route 50? And Bob would not only do it. He would ask if there was anything else he could do—and, of course, when he showed up at 4 a.m., he would be wearing a suit and tie."

And, then, of course, there was Captain Bean, skipper of the "Margaret B." Fisherman extraordinaire.

He loved the bay and he loved his boat. And all who sailed and fished with him remember that experience as one filled with the joy of life and adventure.

How appropriate that God chose to take Bob home from his beloved bay and boat.

Bob loved his family and all of us, as well. He was a blessing to each of us—a kind and gentle man, who succeeded in all of his careers: government leader, businessman, captain, consultant.

But his greatest success was as a human being. So as we pay our respects to a beloved son and brother, a trusted and good friend, a colleague, let me end by quoting from the poem "Chesapeake Mornings" by Chris Kleinfelter:

"I measure all of my daybreaks at home,
"Against the Chesapeake mornings I have known,
"Anchored in the stillness of emerging light,
"Waiting for dawn to open my shadowed eyes.
"A grove of tall masts is tracing circles
"In the sky as restless keels and unmanned rudders
"Stain the blue water with rippling patterns;
"Brush stokes from the steady hand of God."

Bob has joined God now on one last voyage that beckons us all.

Yes, his heart has been stilled.

But ours have been enriched beyond measure-and forever—for having this opportunity to share time with this good and decent man.

HONORING OUR ARMED FORCES

PETTY OFFICER 2ND CLASS TRACE DOSSETT

Mr. **GRASSLEY**. Mr. President, I would like to pay tribute to Petty Officer 2nd Class Trace Dossett who valiantly gave his life for his country on Sunday, May 2, 2004. Petty Officer Dossett was one of five Navy Seabees from Naval Mobile Construction Battalion 14 killed during a mortar attack on the Ramadi Marine base in Iraq. I offer my deepest sympathy to his wife, Angela, their two daughters, Cassidie and Raimi, and his parents, Larry and Cheryl of Wapello, IA.

Petty Officer Dossett was a 1985 graduate of Wapello High School in Wapello, IA. He was respected in the community for his strong mind and sense of devotion to serve our country. Trace joined the Navy shortly after graduating from high school and ended his six year tour in the early 1990s. He joined the Naval Reserve a year ago and was activated in January. I am proud of the patriotism displayed by Petty Officer Trace Dossett and his exemplary commitment to defending America. I offer my condolences to his family and close with the words of his wife, "Trace died a hero and he would have had it no other way."

PFC BRANDON CHAUNCY STURDY

Mr. President, I rise today to pay tribute to PFC Brandon Chauncy Sturdy, the fourteenth Iowan to be killed in Iraq in brave service to our country. PFC Sturdy was a machine gunner in the 2nd Battalion of the 1st Marine Regiment in the 1st Marine Division. I offer my deepest sympathy to his parents, Shelly Rivera and David Sturdy and his fiancé, Tricia Johnson.

PFC Sturdy was killed by the explosion of a homemade bomb in Iraq on Thursday, May 13 in the Al Anbar Province near Fallujah. I thank him for his patriotic duty to his country and am proud to honor the courage he boldly displayed as a Marine. PFC Sturdy was a 2003 graduate of Urbandale High School in Urbandale, IA. A statement released by Brandon's family describes him as "the best of the best" who "set the bar high for us to reach for". He was a top notch Marine who had already been awarded the National Defense Medal and a Purple Heart. Brandon Sturdy died a hero fighting to preserve freedom. He was a brave patriot whose presence will be missed. I am proud of the model of service he provided to Iowans and I again offer my condolences to his family.

MAJ. WILLIAM E. BURCHETT

Mr. **BAYH**. Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave man who served in the Indiana Air National Guard unit stationed in Terre Haute, IN. Major William E. Burchett, 35 years old, died during a training mission when the F–16 he was flying collided with another F–16 fighter jet, just west of Indiana on Monday, May 17, 2004.

Bill graduated from the United States Air Force Academy in 1991. A native of Michigan, Bill moved to Terre Haute in 2000 after leaving active duty and being reassigned to the 181st Fighter Wing. He was a seasoned fighter pilot with over 2,300 flight hours in various military aircraft, which he flew while bravely serving our Nation on numerous occasions, including missions in Kosovo, Bosnia, Yugoslavia and Saudi Arabia. His love of flying also spilled over into his civilian career. When Bill wasn't training in his Air Force flight suit, he was working in his FedEx pilot uniform flying around the packages and supplies that help keep our Nation's economy moving forward.

Bill was a man of great faith as well as a hardworking and brave airman. He leaves behind his wife, Deborah who is expecting their third child in a few weeks and his two sons, ages six and two years old. May Bill's children grow up knowing that their father gave his life to help defend our great Nation and ensure that children in other countries, like Kosovo and Iraq, will some day know the freedom they enjoy.

Today, I join Bill's family, his friends, and the entire Indiana community in mourning his death. While we struggle to bear our sorrow over his death, we can also take pride in the example he set, bravely training and fighting to make the world a safer place. It is his courage and strength of character that people will remember when they think of Bill, a memory that will burn brightly during these continuing days of grief.

When looking back on the life of his late parishioner, Bill's minister, Mark Grayless told the Terre Haute Tribune Star that he "was a fantastic family man. He was a really neat guy and great with his kids." Bill was known for his wonderful sense of humor, his unfailing patience and the incredible love he shared with his wife and small children. According to his friends, Bill's passion for flying may not soon be forgotten for his oldest son was quoted as having proudly pronounced that he, too, wanted to be a pilot, just like his dad.

It is my sad duty to enter the name of William E. Burchett in the official record of the U.S. Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about the unfortunate pain that comes with the loss of our heroes, I hope that families such as Bill's can find comfort in the words of the prophet Isaiah who said, "He will swallow up death in victory; and the Lord God will wipe away tears from off all faces."

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with Bill.

MONUMENT IN TRIBUTE TO "THE GREATEST GENERATION"

Mr. **LEAHY**. Mr. President, the dedication of the long overdue World War II Memorial is a moment in time that we will always remember.

I am so pleased that many Vermont veterans from the WWII will be on hand for this solemn, and triumphant, occasion.

No monument—even one so grandly placed as this gleaming tribute in stone is, between the Washington and Lincoln Monuments—can fully capture the full enormity of the service and sacrifice of the 16 million soldiers, sailors, airmen and others who served in uniform during those 5 years of war and struggle. Yet with its marble expanse, majestic pillars, and carefully chiseled engravings, this memorial will forever stand as a symbol of the Nation's appreciation for those who served and for those who made the ultimate sacrifice.

World War II was truly an epic struggle. It was a struggle that would determine the very direction of humanity, whether militarism and Nazism would supplant freedom and democracy. Every American soldier understood the purpose and the stakes of that war. They unwaveringly answered the call to duty, they won the war, they returned home, and then the greatest generation soldiered on further to also win the peace.

We in Vermont often pride ourselves on our healthy skepticism of centralized government. Yet we are early and arduous in rallying to the Nation's defense in disproportionate numbers to our relatively small population, from the Civil War onward. In World War II nearly 50,000 men from the State of Vermont fought the axis powers. More than 1,200 Vermonters lost their lives in the war. At home and overseas, Vermont women also made great contributions to the war effort, and 1,400 of them served with our armed forces.

Today a new generation of veterans is being minted. I have had the honor of meeting many of the young men and women who are serving in Afghanistan and Iraq. These soldiers, sailors, airmen, and Marines tell me time and time again that they look over their shoulders to take pride and courage in the examples set by our World War II veterans, as well as our veterans from more recent wars.

On behalf of all Vermonters, as an American citizen, and as a member of one of several grateful generations, I welcome our proud veterans to Washington on the occasion of the dedication of the World War II Memorial. We thank you for all that you have done, and our Nation will forever honor your sacrifices.

We cannot thank you enough, but we can, and we will, always remember.

MEMORIAL DAY 2004 AND WWII MEMORIAL DEDICATION

Mr. DOMENICI. Mr. President, on this Memorial Day, I encourage my fellow New Mexicans to take a few moments to remember those Americans who have given their lives in the name of freedom. The freedom we enjoy today remains only because of their courage and unselfish sacrifice.

American men and women, throughout our Nation's history, have fought and died because they believed in their country and believed in preserving its immeasurable blessings. Many gave their lives for her in a far away land, and failed to make it back to the country or family they loved.

With this upcoming remembrance, I am reminded of Oliver Wendell Holmes, Jr. Holmes gave us some of the best thoughts, and his speech and writings, as a whole, will always be among the best of their kind.

On May 30, 1884, Holmes delivered a Memorial Day address before John Sedgwick Post No. 4, Grand Army of the Republic. The address reflected on the Civil War and during his address he focused on a question posed to him by a young man, about why people still kept up Memorial Day. In his wonderful style he gave attention why Memorial Day is what it is.

He said, "Not the answer that you and I should give to each other-not the expression of those feelings that, so long as you live, will make this day sacred to memories of love and grief and heroic youth—but an answer which should command the assent of those who do not share our memories, and in which we of the North and our brethren of the South could join in perfect accord. . . . but Memorial Day may and ought to have a meaning also for those who do not share our memories."

One month ago on April 29, 2004, the National World War II Memorial opened for public view. The memorial is the first national memorial dedicated to all who served during the WWII. The formal dedication will take place this Memorial Day weekend as a service and tribute to members of the World War II generation, and to share their memories. The memorial honors all military veterans of the war, the citizens of the time that stayed on the home front, and the America's moral purpose that ultimately warranted our nation's involvement.

The memorial was authorized by Congress in 1993, and this year's Memorial Day celebration on the National Mall will culminate a long effort to honor America's World War II generation. I take a quick moment to thank my friend former Majority Leader Bob Dole, a wounded and decorated WWII veteran who served in this body, for chairing the World War II Memorial Commission and for giving countless hours to this wonderful work.

It has been nearly 59 years since the end of World War II. However, I think it is safe to say that from 1939 to 1945, when every major power in the world was involved in a worldwide conflict—those times, like the Civil War, were some of our nation's toughest. We live in a remarkably different world today, but Memorial Day has kept many memories. At this moment in America's history, our men and women in uniform are engaged in conflict in both Iraq and Afghanistan. They serve with the same courage and commitment shown by Americans of generations past, and they deserve our thoughts and prayers.

From the Bataan Peninsula to beaches of Normandy, from the Ia Drang Valley to Inchon, from Iwo Jima and Okinawa to the North Apennine Mountains of Italy, from Afghanistan to Iraq, and many other conflicts too numerous to mention, American men and women have fought and died because of their love of country.

I am proud that we have kept up Memorial Day. This one, in particular, brings significant meaning and a special time to remember and reflect. I pay a special tribute today to those who have fallen during the two conflicts in Iraq and Afghanistan, including those from my home state of New Mexico: CPT Tamara Archuleta of Los Lunas; Marine CPL Aaron Austin of Lovington; SrA Jason Cunningham of Carlsbad; Army SP James Pirtle of La Mesa; and Marine PFC Christopher Ramos of Albuquerque.

As we enjoy this holiday weekend with our family and friends, let us take some time to recognize the valor with which so many of our soldiers, sailors, airmen, and marines have fought when called upon by their country. Finally, may our United States continue to be blessed and may America forever remain the land of the free and the home of the brave.

HONORING WORLD WAR II VETERANS

Mr. CRAIG. Mr. President, more than 60 years ago a generation of Americans answered the call to service, leaving their daily lives and joining the fight in a world war that would dramatically change the way this country, and the world, conducted itself. Raised during the Great Depression, this "Greatest Generation" would have such a profound impact on our history that is almost impossible to overstate. Their legacy is formidable and lasting.

Almost six decades later, we are finally paying full tribute to those men and women, and this generation, who served and sacrificed their lives in defense of this great Nation and who ultimately saved the world from tyranny and tyrants. No doubt, those men and women and their triumph over evil have served as a stark reminder and inspiration to the men and women in uniform who have followed in their permanent footsteps.

However, the presence of this generation was not limited to the islands of the Pacific or the beaches of Normandy; it was also displayed by those who remained in this country to mobilize the home front during and after the war. No one can question the hard work and dedication this generation embraced that ultimately pushed this nation to the position of global economic, military, political, and social leadership we still maintain today. Almost overnight, America moved from isolation to a country of engagement.

Having learned this lesson well, America remained engaged with the world after the war, struggling against the advance of communism, and ultimately winning that battle.

I am proud of the role the citizens of my state played in these struggles, and as such, I would like to take a moment to honor those Idahoans who served and to those who lost their lives as a result of World War II. Their strong commitment and dedication to their state and to our country has not and will not go unnoticed. I am reminded of a saying, "For your tomorrow, we gave our today." This statement embodies what this generation gave; but words can't fully describe what the soldiers and survivors of WWII contributed to this nation, during and after the war. That contribution changed the course, not only of our Nation, but of the entire world. We continue to see the repercussions of it today, and to be honest, I believe the effect will continue to be felt long after all of us are gone. The official motto of Idaho is "Esto Perpetua," meaning "May it last forever." Well, the same could probably be said of the influence of this generation on America.

Still, despite playing such a profound role in American history, until this year, there was no monument or memorial in our Nation's capital that honored the sacrifices of all World War II veterans. We have monuments and memorials for Vietnam and the Korean War, as we should. Just across the river in Arlington, there is the Iwo Jima Memorial which honors the U.S. Marines who served in World War II. It is a beautiful and fitting commemoration of the leathernecks' service in that conflict but just that branch, not all the services.

This Memorial Day, we will dedicate, at long last, the National World War II Memorial on the National Mall. I believe it is fitting that the memorial should take its place alongside Lincoln, Jefferson and Washington, in the place our nation comes to remember and honor the greatest deeds in our great history. I thank our veterans for their service, for guaranteeing my freedom and those of all Americans, and I wish them a Happy Memorial Day.

Mr. PRYOR. Mr. President, this week marks the 50th anniversary of Brown v. Board of Education, the Supreme Court decision that ultimately ended legal segregation in schools and helped catalyze a better education for all of America's children.

This landmark decision was the first significant action by an institution of national government in the struggle for equality. However, it would be naive to believe that Brown erased the hatred and ignorance that black families faced when testing their rights to a better education. One of the most dramatic examples occurred on September 24, 1957 when President Eisenhower ordered federal troops to Little Rock, AR to allow nine black children, the Little Rock Nine, to attend the all-white Central High School.

Of her experience, Melba Pattillo Beals of the Little Rock Nine recalls: "I had to become a warrior. I had to learn not how to dress the best but how to get from that door to the end of the hall without dying." Her act of courage, and those of the other eight students who integrated Little Rock Central, helped change history for all Americans in a tale that continues to have immediacy.

Another one of those students was Ernest Green, who best explains why the Little Rock Nine sacrificed their innocence for a chance at a better education. He said, "We wanted to widen options for ourselves and later for our children." Mr. Green was the first black student to graduate from Central High School. He later served as Assistant Secretary of Housing and Urban Affairs under President Jimmy Carter and now serves as the vice president of Lehman Brothers.

Turning opportunity into achievement is what civil rights pioneer Daisy Bates had in mind when she helped the Little Rock Nine break down the barriers that stood between them and an equal education. Despite threats on her life and financial ruin, Daisy Bates made significant strides in the courtroom and increased public awareness through her newspaper.

Mr. President, as a former student of Central High, I can tell you the impact of the Little Rock Nine is still felt in the hearts of its student body and teachers past and present. In 2007, Central High will commemorate the 50th anniversary of its desegregation crises. The National Park Service plans to build the Little Rock Central High School Visitors Center in time for this watershed anniversary, and I will be urging my colleagues to support funding for this endeavor later this year.

What we know today is that children all over America have the right to learn—whether their ancestors came to America on slave ships or the Mayflower. What we know today is that we all benefit when we learn together and work together for a common purpose. What we know today is there are more black doctors, lawyers, judges and elected officials than ever before. What we know today is that there is more equality and more opportunity for all children.

But what we don't know, what we still question is whether we have really achieved the inclusion, equality and diversity in our schools that the Court intended when it struck down the "separate but equal" doctrine and required the desegregation of schools across America. I do not believe we have met the promise of Brown yet.

I am concerned that many public schools in Arkansas and around the country remain segregated by race and class, still unequal in regard to performance and resources. Today, a fourth-grade Hispanic child is only one-third as likely to read at the same level as a fourth grade white child. Only fifty percent of African-Americans are finishing high school, and only 18 percent are graduating from college.

We must do better, and President Bush and the Congress can do better by keeping the promises made to parents and students when it passed the No Child Left Behind Act. We must live up to this promise, and provide every child access to a quality public education. Daisy Bates, the Little Rock Nine and countless civil rights leaders did not endure hardship and sacrifice for us to fail now.

Mr. President, on this landmark anniversary, let us stand together to celebrate how far we have come. But let us also acknowledge the problems that stand in the way to a better education for all children. And let us commit ourselves to preparing our children for today's expectations and tomorrow's challenges.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On June 1, 2000, Gary William Mick, 25, pleaded guilty to first-degree murder, attempted murder, and armed robbery after admitting that he murdered a gay man and tried to kill another because he believed gay men were "evil." In the first attack, a New Jersey man was bludgeoned to death with a claw hammer. Mick met his second victim, a dentist, at a bar. There, he had dinner with him and went home with him. Mick later attacked the man with a knife, a struggle ensued, and the victim escaped. Mick told police that a childhood incident caused him to hate homosexuals.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

A COLOSSAL FAILURE OF WHITE HOUSE LEADERSHIP IN IRAQ

Mr. LEAHY. Mr. President, according to the Washington Post, a recent poll by the Coalition Provisional Authority in Iraq, which is, for all intents and purposes, an entity of the U.S. Government, showed that 80 percent of the Iraqis surveyed reported a lack of confidence in the CPA and 82 percent disapprove of the U.S. and allied militaries in Iraq.

I mention this for two reasons.

First, I remember when, less than 2 months ago, much was made by administration officials and several Senators of a February poll which suggested that Iraqis strongly supported the U.S. occupation. They held it up as proof that our strategy was working, even if they could not explain what the strategy was.

To quote one of my friends on the other side of the aisle, who spoke on April 8:

> [I] noticed the BBC/ABC poll results in Iraq, which are fascinating. I only wish Americans were as upbeat about America as Iraqis are about Iraq. If you watched U.S. TV every day, you would think there was nothing but bad things happening in Iraq . . . But, in fact, in the BBC/ABC poll, which was taken from February 9th to February 28th, in answer to the question, "How are things going today, good or bad, in Iraq?" Overall, 70 percent said good, 29 percent said bad. . . And in terms of the optimism factor, how they will be a year from now, 71 percent of Iraqis thought things would be better a year from now . . .

He concluded by saying that this encouraging news was thanks to the leadership of the President of the United States.

Whatever the accuracy of that February poll, the CPA's recent poll indicates that far more Iraqis today oppose what we are doing in Iraq. The CPA's poll also shows that more than half of Americans surveyed oppose the President's policy.

This latest poll also compels us to ask why so many of the people we sought to liberate, and did liberate from the brutality of Saddam, turned against us so quickly. And why so many Americans are questioning the President's decision to go to war.

There are many reasons, the genesis of which dates back to the President's fateful decision to shift gears from fighting al-Qaida, which had attacked us, to overthrowing Saddam Hussein, who had not attacked us and who apparently had no plan or ability to.

That decision, followed by a remarkable series of miscalculations and misguided policies, has enmeshed our troops in an ill-fated, costly war from which neither the President, nor anyone else in his Administration, appears to have the faintest idea of how to extricate ourselves.

Let's review the history.

After September 11, there was nearly universal support for retaliation against al-Qaida. There was widespread sympathy and support for the United States from around the world. But then the President, encouraged by a handful of Pentagon and White House officials, most notably the Vice President, who were fixated on Saddam Hussein, changed course. And what followed, I believe, has very possibly increased the risk of terrorism against Americans.

We remember when someone in the administration "gave currency to a fraud," to quote George Will, by putting in the President's 2003 State of the Union speech that Iraq was trying to buy uranium in Africa.

This administration repeatedly, insistently and unrelentingly justified pre-emptive war by insisting that Saddam Hussein not only had weapons of mass destruction but was hell-bent on using them against us and our allies.

Administration officials, led by Vice President CHENEY, repeatedly tried to link Saddam Hussein to 9/11 in order to build public support for the war, though there never was any link—none.

Truth tellers in the administration—like General Shinseki and Lawrence Lindsay—were either ridiculed or hounded out of their jobs because they had the temerity to suggest realistic estimates for the number of soldiers and amount of money it would take to do the job right in Iraq.

Incredibly, there was no real plan, despite a year-long, $5 million study by the State Department, to deal with the widespread looting that greeted our soldiers once Saddam had fallen—doubling or tripling the cost of reconstruction, and leaving open the gates to stockpiles of weapons and ammunition that have been used with deadly results against our soldiers.

We remember President Bush flying onto the aircraft carrier and declaring "Mission Accomplished" when, in fact, the worst of it was ahead.

Two months later, the President taunted Iraqi resistance fighters to "Bring It On!" while our troops were still in harm's way and were fending off ambushes and roadside attacks every day and every night.

Some of our closest allies and friends, like Mexico and Canada, and even those countries Secretary Rumsfeld called "Old Europe," were belittled and alienated because they disagreed with our strategy of pre-emptive war—countries whose diplomatic and intelligence and military support we so desperately need today.

That sorry chronology has brought us to where we are today. Each day that passes, more Iraqis seem to turn against us, threatening the mission and morale of our troops.

The latest episode in this misguided adventure is the Abu Ghraib prison scandal. It is tragic for many reasons, but none more so than the harm it has caused to the image of our Armed Forces and to our Nation, particularly among Muslims, and the fact that it could so easily have been prevented.

The International Red Cross had warned U.S. officials about the mistreatment of Iraqi prisoners last year, and nothing was done about it for months.

We also know that similarly cruel and degrading treatment of prisoners occurred at Bagram Air Base in Afghanistan. The New York Times first reported it last March. It described prisoners who had been kept naked in freezing cold cells, forced to stand for days with their arms upraised and chained to the ceiling, subjected to other humiliating and abusive treatment, and in at least two instances prisoners died in what were ruled homicides. We have since learned that many more detainees have died in U.S. custody in both Afghanistan and Iraq.

Even before last June, when I first sought information about the abuses at Bagram, my attempts to seek information about the dehumanizing and, I believe, illegal treatment of prisoners at Guantanamo were ignored.

It is no secret that Guantanamo was chosen precisely because the Pentagon wanted it to be outside the jurisdiction of U.S. courts. They did not want to be subjected to the watchful eyes of attorneys who know the law. They did not want to be bothered with U.S. or international law. As it turns out, many of the prisoners at Guantanamo who had been drugged and shackled and hooded and denied access to lawyers, were released after it was determined, a year or two later, that they were innocent.

Now we hear that there are videos of the treatment of prisoners at Guantanamo, but, like Abu Ghraib, we only learned about it from the press. That is the only way we have learned about any of what is increasingly looking like a pattern of cruel and degrading treatment of terrorism suspects in U.S. military custody.

Top Pentagon officials continue to insist that there is no pattern; that we are dealing only with "isolated incidents." We could debate when "incidents" become so pervasive that they are part of a "pattern." One might think that similar types of abuses of prisoners in U.S. custody in Cuba, Afghanistan, and Iraq during approximately the same time period would suggest a pattern, but perhaps not to those who bear responsibility. The fact is, as the Washington Post so clearly stated on May 20, this was "A Corrupted Culture."

We have heard that U.S. military intelligence gave the orders. We have heard of attempts by military to block investigations by the International Red Cross. We have heard that FBI officers declined to be present during interrogations because of the harsh methods that were used. We have heard of complaints by former Iraqi and Afghan prisoners that were ignored. We have heard about investigations of alleged abuses that were cursory, at best. We have heard of instances when denials of misconduct by military officers were treated as proof that nothing bad happened, while those who alleged the abuse were never interviewed.

We have learned that self-serving and reassuring statements about respect for the law by officials here in Washington, including the President and the Pentagon's top lawyer, bore little resemblance to what was going on in the field.

The sadistic acts that have now been published on the front pages of every newspaper in the world as well as millions of television screens have endangered our soldiers and civilians abroad and threaten our national security and foreign policy interests abroad. The photographs will be used as recruiting posters for terrorists around the world. They depict an interrogation and detention system that is out of control. They have made a mockery of President Bush's statement a year ago that the United States will neither "torture" terrorist suspects, nor use "cruel and unusual" treatment to interrogate them, and they directly contradict the more detailed policy on interrogations outlined in a June 25, 2003, letter to me by Defense Department General Counsel William Haynes.

It is apparent that, when it comes to Iraq, this administration is disinterested, at best, in the views of anyone who is either a member of the minority, or who, Republican or Democrat, dares to utter words of caution or criticism. But there are some basic truths that cannot be ignored.

First, atrocities occur in all wars. Invariably, there are incidents—often many incidents—in which excessive force is used, civilians are brutalized, prisoners of war are tortured and summarily executed. There has never been a war without such heinous crimes.

Second, our Armed Forces are the finest in the world. The vast majority of our troops have conducted themselves professionally and courageously, in accordance with the laws of war. But even Americans have at times used excessive force and violated the rights of civilians or prisoners. There were instances of this long before Abu Ghraib prison.

And it is precisely because these atrocities are predictable in any war that the Geneva Conventions and the Torture Convention exist. The United States was instrumental in the drafting and adoption of these conventions, whose purpose is to prevent atrocities against civilians and the mistreatment of prisoners of war, including Americans.

We should also recognize that not only were the abuses at Abu Ghraib prison not isolated incidents; similar practices have recently been documented in many prisons in the United States. We have seen the same types of humiliating and sexually degrading treatment, the assaults by prison guards, the misuse of dogs against defenseless prisoners, and the same failure to hold accountable those in positions of responsibility.

The President reaffirmed, in the midst of the Abu Ghraib scandal, that the United States is a nation of laws, and that those responsible for the mistreatment of Iraqi prisoners will be punished. This, of course, must happen. But it does not obscure the glaring hypocrisy of this administration.

On the one hand, last March, referring to the capture of U.S. soldiers by Iraqi forces, President Bush said, "We expect them to be treated humanely, just like we'll treat any prisoner of theirs that we capture humanely. If not, the people who mistreat the prisoners will be treated as war criminals." On the other hand, there is the White House Counsel, who called the Geneva Conventions "quaint" and "obsolete," and there is the pattern of abuses themselves and the way the administration ignored inquiries and warnings for months.

The White House set the tone, and the consequences were disastrous. According to the International Red Cross, 70 to 90 percent of the Iraq prisoners arrested—who were unquestionably entitled to the protections of the Geneva Conventions—were later determined to have been detained by mistake. That is appalling, but not so appalling that the Administration did anything about it.

The Red Cross reported that soldiers carrying out arrests "usually entered after dark, breaking down doors, waking up residents roughly, yelling orders. Sometimes they arrested all adult males present in a house, including the elderly, handicapped or sick people. Treatment often included pushing people around, insulting, taking aim with rifles, punching and kicking and striking with rifles."

Is it any wonder that so many Iraqis want us to leave? This is not what we expect of the conduct of our military operations. The Geneva Conventions have the force of law, and as a nation whose Bill of Rights was the model for the Universal Declaration of Human Rights, that holds itself out as a force for human rights and human dignity around the world, we should set the example. Any person taken into U.S. custody should be treated, at a minimum, consistent with the Geneva Conventions and in accordance with the Torture Convention.

This fiasco is part and parcel of the increasing insecurity in Iraq and the dangers facing our troops from a hostile population that has resulted from such miserably poor planning that so many people warned of.

It has claimed the lives and limbs of hundreds of Americans and of thousands of Iraqis.

It has caused deep divisions between ourselves and the Iraqi people and Muslims around the world.

It has damaged our image as a nation that stands for respect for human rights.

It represents a colossal failure of leadership.

As I and so many others have said for months, we cannot succeed in Iraq by ourselves. Not when the rationale for going to war has been exposed for the pretext that it was. Not when we are widely perceived as occupiers. Not when photographs of uniformed Americans abusing naked Iraqi prisoners have become the symbol of that occupation.

We saw, with the horrifying murder of Nicolas Berg by al-Qaida, the incredible depravity and determination of the enemy we face. Only weeks ago there were images of dismembered American corpses hanging from a bridge.

We are united in our revulsion, and in our commitment to bring to justice those responsible for such despicable acts. The question is how to do it effectively.

Last October 13th, in a memo entitled "Global War on Terrorism," Secretary Rumsfeld asked, "Are we capturing, killing or dissuading more terrorists every day than the madrassas and radical clerics are recruiting, training and deploying against us?"

Since then, he and the President have called Iraq the main front in the war against terrorism. It certainly did not used to be. Last week, I asked Secretary Rumsfeld how he would answer the question he posed last October—whether we are winning the fight against terrorism. He said he didn't know.

That speaks volumes. We are spending more than $1 billion a week in Iraq, and the Secretary doesn't know if we are winning.

President Bush's Iraq policy has been discredited not only among the world's Muslims, but among most of our friends and allies. Not only have we lost the moral authority that is necessary to defeat terrorism, we have been unable to even secure the country we liberated. As I have said repeatedly, we need a radical change of course, and that decision can be made only by the President of the United States.

The President has reaffirmed his steadfast support for the Secretary of Defense, and at this point it appears that Secretary Rumsfeld has no plans to leave. But many are seriously questioning whether we can succeed in Iraq, or against terrorism for that matter, so long as he and General Myers, and Deputy Secretary Wolfowitz, who are so closely identified with this discredited policy, remain at the helm.

At the same time, the President needs to articulate credible, achievable goals in Iraq, beyond "staying the course" and the usual cliches about remaking the Middle East.

We and the rest of the world need to know what those goals are and how he plans to achieve them, to whom we are going to turn over sovereignty that can effectively govern, how the President plans to secure the support needed from other nations to effectively address the deteriorating security situation, how long he expects our troops to stay in Iraq, and how many more billions of dollars it may cost.

Unless the President can answer these questions, more and more Americans will question how much longer we can ask our troops to risk life and limb in Iraq and the taxpayers to continue to pay for a policy that is not working.

END THE BLOCK AND BLAME GAME

Mr. GRASSLEY. Mr. President, I rise today to make an appeal to our Democratic colleagues to end this obstruction of legislation vital to our Nation. I am appealing to my Democratic colleagues to abandon this harmful, politically motivated, election year strategy of gridlock, and if I may be so bold, to suggest a different election year political strategy that will not hurt Americans.

The Democrats' obstruction strategy is no secret in Washington, although it may not be so obvious to those outside the beltway.

We have all heard of the old "blame game." Well now, Congressional Democrats have taken it to a new level and created a new game. I call it the "Block and Blame Game."

According to a lobbyist, a few weeks ago one of the Senate's Democratic leaders gave a briefing to campaign contributors. First, all were assured, naturally, that the Democrats would take over the Senate. Second, they were told that to help secure this Democratic victory, they were implementing a strategy to block all major legislation, except for some appropriations measurers.

So how does blocking legislation elect Democrats? The answer came within days as a Senate Democrat blasted away, charging that while Republicans control the White House, the Senate and the House of Representatives, the GOP is getting nothing done. The block and blame game.

Democrats must think that as long as no one outside Washington can figure out the nuances of the legislative procedures of obstruction, then as they say, "the proof is in the pudding," nothing is getting done, the Republicans are in control, and therefore the Republicans are to blame.

Who is really hurt by this strategy? Republicans? Maybe, if they are unable to explain the complicated procedures that are being used by Democrats to block the business of the Senate.

Clearly, it is the American people who are harmed. And for what reason? Simply, the interests of Americans are being sacrificed upon the altar of the selfish, political power struggle.

Please understand that I refuse to insult my Democratic colleagues by suggesting that they should not vigorously compete for control of Congress and the White House.

But they can do it in a way that helps Americans, not hurt them.

I do strongly urge them to abandon the block and blame game strategy and instead to join Republicans in making this closely divided Government work.

Let's all acknowledge that there are precious few legislative days left in the 108th Congress, that we have a large number of bills very important to our country, and that we do not have the luxury of debating and voting on each and every amendment we desire.

Let's recognize that no legislation will be perfect in everyone's mind, but let's not block it simply because we don't get everything we want.

Instead, let's work hard together to get these important bills to the President's desk to be signed into law.

And that is the basis of a better campaign strategy for Democrats, and one that will not undermine the vital interests of Americans.

Simply, Democrats could share credit for all the legislation enacted this year, but then they are free to argue with voters that had they been in control of the Congress and the White House, they would have done much, much better.

Or, Democrats might try to persuade voters that if they are elected, provisions that Democrats view as ill-conceived, will be repealed or modified.

Republicans are happy to engage Democrats in the debate this fall over the issues, our goals and our vision for our nation's future. And Democrats should be just as enthusiastic.

In short, there is no need to obstruct legislation. It makes no sense, it is totally irrational, for Democrats to be blocking critically needed legislation, crucial for their own constituents, simply because they fear that Republicans might get credit for passing and enacting legislation.

The ongoing fight over the Energy bill is a perfect case study that underscores my point of how the vital interests of Americans are being sacrificed on the alter of political ambition.

Last year, lobbyist working hard for either the medicare prescription bill or the Energy bill, were telling me that the Senate Democratic caucus was struggling with the following question: "Which, if either bill, should we allow to pass? We definitely cannot let the President have two victories."

Let me repeat, Congressional Democrats concluded that they could not let the President have two victories. So as it happened, Medicare was passed first, but then Democrats mounted a successful filibuster against the Energy bill.

They wanted to deny the President a victory.

Where did they get that crazy notion? What genius political consultants and pollsters are advising them?

Enacting the Energy bill would be a victory for all Americans, not just the President! It would be a victory for people of all political stripes.

There are provisions in the Energy bill that would help increase oil production, which would reduce gasoline prices.

Do you think Americans, who drive up to the pump today, having to spend well over two dollars a gallon for gasoline, give a hoot whether or not enacting the energy bill could be considered a victory for the President? Do you think for one moment that even the most dyed-in-the-wool Democrats living outside of Washington, DC say to themselves, "Well, we may be paying $2.50 for gasoline, but thank goodness Congressional Democrats denied the President a legislative victory"?

Why don't Democrats do to the Energy bill, what they did to the prescription drug bill? Let it be enacted into law, and then go out and tell everyone what a terrible bill it is. Tell voters that the Energy bill is just terrible, but that Republicans are in control, and if that's their idea of good energy policy, so be it. But if you elect us, we will do this and that differently, and you will be far better off.

That type of political strategy does not undermine Americans. That strategy sets the stage for vigorous campaigns that will we won or lost based upon who have the best ideas and vision.

Perhaps, therein lies the problem for Democrats. Perhaps the block and blame game is easier to play for those who are not confident that they have better ideas and winning arguments about their goals and vision.

We came within two votes of shutting off the Democrat-led filibuster against the Energy bill. There are provisions in that bill of vital interest to virtually every part of our country, let alone establishing critically needed energy policy for our Nation as a whole.

For the upper Midwest's farm country, it contains renewable fuel provisions that will expand farm markets for corn and soybeans which in turn will increase income for farmers and rural Americans while expanding job opportunities. It contains provisions that increase our sources of oil and gas which will reduce the production costs of farmers as well as save money for all consumers throughout our country.

Each and every one of us can point to things we did not like in the bill, but instead of passing it for the greater good, it has fallen prey to the Democrat's block and blame game.

Just 3 weeks ago, Democrats sacrificed the renewable fuels section of the Energy bill to the block and blame game.

It is inconceivable that the renewable fuels amendment offered by the Democratic leader on April 27 could have been designed any better to assure its failure. It was guaranteed to fail. If you understand Senate procedures, and the importance of passing a regionally attractive, comprehensive Energy bill, it is obvious to you that this amendment was designed to fail.

Let me offer the proof.

First, everyone knows that any energy bill that has any hope of passing this Congress must be a comprehensive package that addresses a wide variety of energy issues and that draws bipartisan support from all regions of the country.

This fact has long been recognized by ethanol and farm organizations who have been working hard for approval of the renewable fuels standard. Moreover, these groups recognize that the comprehensive energy bill has provisions beyond ethanol and biodiesel that are very important to their members.

So why did the Democratic leader fail to offer instead the comprehensive energy bill, which included the renewable fuels standard, as an amendment?

He has been around here long enough to know Senators from other parts of the country, who want to pass pro-energy provisions more important to their states than ethanol, are not likely to vote to strip ethanol out. After all, such an effort would unravel the energy coalition, and thus reduce the likelihood of passing their preferred energy provisions.

So the Democratic leader offered an amendment that he knew was less likely to pass.

The second bit of evidence that this effort was part of the block and blame game, is that no pro-ethanol Republican ally was contacted in advance to help develop a strategy to assure that we secure enough votes.

We have always counted on bipartisan cooperation to support ethanol legislation, and for the first time that I can remember, neither I nor any other pro-ethanol Republican was contacted.

Third, and even more telling, the Democrat leader failed to contact the ethanol and corn grower lobbyists in advance. That, I know, has never happened. If you really want to pass renewable fuels legislation, every one of us in this body knows you better have the National Corn Growers and the Renewable Fuels Association ready and able to help you line up the votes.

Why weren't they contacted? Perhaps it is because Democrats knew they would refuse to be part of an effort to splinter the broad energy coalition, sinking all hope of passing any energy legislation this year, including that for renewable fuels.

They would not willingly let themselves become victims of the Democratic block and blame game!

The fourth bit of evidence that this amendment was designed to fail involves Senate procedure. As soon as the amendment was offered, a signed cloture petition was immediately offered by the Democratic leader to his own amendment. This cloture petition, by the way, was signed exclusively by Democrats.

The most obvious reason to invoke cloture is to cut off a filibuster. But who in the world was going to filibuster this amendment? We were trying to pass a long-overdue solution to differences that has stalled the internet tax bill. Moreover, if the Democratic leader's renewable fuels amendment was so popular, why worry about a filibuster? Let's just vote up or down on the amendment.

Although cutting off debate is the obvious, normal purpose of filing a cloture petition, there is another purpose which is not so widely understood. If cloture is invoked, all amendments to that underlying provision must be germane. If a second degree amendment is not germane, then you have constructed a hurdle requiring 60 votes to overcome.

Could it be, therefore, since no one was filibustering this amendment, that an attempt to invoke cloture was aimed at blocking the more popular, comprehensive energy legislation as a second degree amendment?

Indeed, Senator DOMENICI, recognizing hopes for energy legislation was being jeopardized by this block and blame game, offered the comprehensive energy bill as a second degree.

What most constituents do not know, is that had the democratic leader succeeded in gaining the 60 votes needed to invoke cloture on his amendment, the Domenici amendment would have been ruled out of order as non germane because it was far more expansive than the underlying amendment. It would have taken another 60-vote majority to overcome this ruling. That may not be impossible, but we know that some Senators vote will vote differently on a procedural question than they might on the underlying amendment. So this was another hurdle, another attempt at blocking the more popular provision that, remember, included the renewable fuels standard and had a much higher likelihood of passing.

The fifth piece of evidence that the Democratic leader's amendment was designed to fail is that he offered it to S. 150, instead of the compromise substitute amendment developed and offered by Senator McCAIN, the chairman of the Senate Commerce Committee.

Given the long stalemate over the internet tax bill, we all knew that Senator McCAIN's substitute had broken the impasse and that if anything was going to pass, it was his compromise.

But his amendment, No. 3048 was an entire substitute to the language of S. 150. We all know, therefore, that any amendment to S. 150, including amendment No. 3050 offered later by the Democratic leader, would fall when the McCain substitute was approved.

So you should offer an amendment to the substitute that will prevail. If you did not think you knew which would prevail, then you could offer two amendments—one to the underlying bill, and one to the substitute amendment.

Here is a good way to explain this. Suppose our objective is to get supplies to the space station. Do you load your supplies on the booster rocket, or do you load it into the space shuttle? The booster rocket in this case was S. 150, and the McCain substitute was the space shuttle. And we all knew that.

The next bit of evidence that the Democratic leader's ethanol amendment was designed to fail, is the very fact that he picked a bill, again, the internet tax bill, that is controlled and managed by the Senate's most out-spoken, anti-ethanol Senator.

If everything else failed to fail, adding an amendment to a bill to be taken to conference by Chairman McCAIN was the iron-clad guarantee it would be rejected. And in fact, that is exactly what Senator McCAIN stated on the floor of the Senate. He stated emphatically, and quite predictably, that if the ethanol or energy amendment passed, he would drop it in conference.

So the Democrat leader's amendment was designed in so may ways to fail, and thus, to block his own amendment. And guess who gets the blame? Republicans.

Farmers lose. All energy consumers lose. But if the block and blame game works and Republicans lose, too, then it is all worth it, because Congressional Democrats win.

The block and blame game.

An interesting exchange occurred between Chairman McCAIN and Senator DORGAN during the debate of this amendment. Senator McCAIN said, "I am sure there may be a headline in South Dakota that says: Senator DASCHLE fights for ethanol."

Senator DORGAN responded, "Senator DASCHLE has not offered an amendment for the purpose of a headline in South Dakota."

Guess what. As soon as his amendment failed, Senator DASCHLE did issue a press release. And not only that, the press release attacked Republicans.

The release, according to the Congressional Quarterly, was headlined, and "Washington Republicans abandon ethanol."

The block and blame game: hurts the farmers, hurts Americans, but helps the Democrats.

I would like to share a statement issued by the National Corn Growers following the vote:

> Yesterday, during consideration of legislation dealing with internet sales taxes, Senator DASCHLE offered an amendment to create a Renewable Fuels Standard (RFS). Senator DOMENICI offered S. 2095 as a second degree amendment to the Daschle amendment. S. 2095 contains the RFS as well as other energy provisions. NCGA will support all efforts to pass an energy bill that contains an RFS and addresses the serious problem our nation faces regarding energy. We again call upon Congress to set aside partisan bickering and to pass an energy bill.

I agree wholeheartedly with the National Corn Growers Association. We have serious problems facing our nation, and we have several very important bills aimed at addressing these problems that are falling victim to the block and blame game.

I wish that what I was told by a Democratic lobbyist, about the strategy to block everything this year . . . I wish that it were not true. I hope that the Democratic leaders will have a change of heart and a change of campaign strategy that allows vital pieces of legislation to be signed by the President this year, and then let the election be fought over who has the best ideas or who will do better if they take control of Congress or the White House.

SECTION 8 HOUSING ASSISTANCE

Mr. DODD. Mr. President, I am pleased to join Senators SCHUMER, KENNEDY, REED, and others as an original co-sponsor of this important legislation, which would clarify the intent of a provision in the fiscal year 2004 appropriations law regarding the Section 8 housing voucher program.

The Department of Housing and Urban Development, HUD, has claimed that language in the FY2004 appropriations law requires it to distribute voucher funding in a manner that leaves no alternative but to reduce assistance by $191 million nationwide. Subsequently, it issued a notice on April 22, 2004 that put in place a new system for funding Section 8 vouchers that differed greatly from its usual practice. In the past, HUD would reimburse housing authorities for the cost of providing housing to low-income individuals based on their real, current costs. Under the April 22 guidelines, however, the reimbursements will be gauged to August 1, 2003, plus a small adjustment for inflation. In addition, the change will be retroactive to January 1, 2004, which will create even further confusion for those public housing authorities whose vouchers are already issued and whose budget are already finalized.

I strongly believe that that HUD's interpretation of the FY2004 appropriations law is both unduly restrictive and is in sharp contradiction to the intent of Congress to fully fund Section 8 program. Despite HUD's protestations that Congress forced its hand to make these cuts, Congress in fact added funding to the Section 8 program in FY2004 so that HUD could fully fund all vouchers currently in use. Congress appropriated $17.6 billion in FY2004 to renew expiring Section 8 contracts, or $1.4 billion above the amount requested by the administration. Although the FY2004 appropriations law did make some modest changes in how voucher funding is disbursed, nothing in the law mandated that HUD take the unprecedented step of cutting housing assistance for senior citizens, the disabled, and working families and individuals with the greatest housing needs.

It therefore makes little sense that HUD would insist on reading the FY2004 appropriations law in such a way as to produce more homelessness across the nation. My own State of Connecticut will be especially hurt if HUD's April 22 notice is not changed to reflect the program commitments of housing authorities. Many public housing authorities in Connecticut are anticipating that the HUD proposal will result in a significant reduction in funds needed to honor existing contracts as well as effectively administer the voucher program. The current average Housing Assistance Payment for many agencies has typically increased beyond the August 1, 2003 "benchmark" plus the Annual Adjustment Factor. In most cases, this result is not due to increases in local rental rates but reflects the rise in unemployment among Section 8 participants and thus an increase in the public housing authority's share of the rent.

The impact of the April 22, 2004 rule on Connecticut will be particularly severe given that that it has the sixth most expensive rental housing market in the nation and very few vacancies to meet the needs of low-income individuals. Coupled with the administration's proposed FY2005 budget cuts and block granting of the Section 8 program, which could adversely affect over 4,000 existing voucher holders in Connecticut, it is difficult to understand why HUD would be trying to balance its budget on the backs of low-income Americans.

The Department of Housing and Urban Development's April 22, 2004 notice is therefore just another salvo in the administration's war on the Section 8 program. Section 8 provides more than just rent assistance for low and moderate wage individuals in high cost housing markets. It also helps to sustain the employee base in urban markets, keeps wages for jobs in the service and manufacturing sectors competitive, enables corporations to remain and expand in their communities, and reduces the strain on vehicular transportation systems.

In an economy that is creating few jobs and producing scant affordable housing, HUD should be pursing policies to ensure that no family in America loses its housing assistance. HUD's April 22 notice should therefore be changed, so I urge my colleagues to support this urgent legislation.

MANUEL RODRIGUEZ GOMEZ, MD

Mr. COLEMAN. Mr. President, I rise today to honor Manuel Rodriguez Gomez, MD, Emeritus Professor of Pediatric Neurology at Mayo Medical School in Rochester, Minnesota, for his lifetime of education and as one of the first physicians in the United States to champion tuberous sclerosis complex, TSC. Dr. Gomez is considered by many to be the "father" of tuberous sclerosis complex research because of his many contributions to the field of TSC research and passionate patient care. Through his work to describe TSC over the lifespan of an individual with the disorder and the extraordinary resources provided by the Mayo Clinic, Dr. Gomez published extensively on his growing knowledge of the multiple organ involvement in TSC. He passionately encouraged his colleagues to not only provide medical care for individuals with TSC, but to also share their knowledge through conferences, publications and the three editions of the book, "Tuberous Sclerosis Complex." This book is considered by his peers to be the premier medical textbook for care of TSC patients. For his dedication to the many individuals he treated throughout his medical practice and his guidance of the Tuberous Sclerosis Alliance, Dr. Gomez made the world a better place for individuals living with TSC by providing exceptional medical care and guidance through the many challenges associated with living with the disease. His quest to better understand the nature and cause of the disease will benefit all patients diagnosed with this condition and possible unlock the secret to a cure that will eradicate this disease once and for all. Because of his dedication to his patients and his contribution to the research community, it is my pleasure to rise today, and offer this tribute to Dr. Gomez.

ADDITIONAL STATEMENTS

HONORING ERWIN ARNDT

• Mr. HARKIN. Mr. President, the National World War II Memorial will be dedicated here in Washington on the Saturday before Memorial Day. It is a stunningly beautiful monument, located midway between the Lincoln Memorial and Washington Monument. It is a long-overdue salute—an expression of profound gratitude—to the millions of Americans who served their country with courage, sacrifice, and selflessness in that war.

I would like to share with my Senate colleagues a remarkable story about how the small community of Walnut, IA, has expressed its gratitude to a local veteran of the Second World War, Erwin Arndt.

Mr. Arndt returned from the war to serve his community as an electrician, a volunteer firefighter, a city council member, and commander of the local AMVETS unit. Just about everybody in Walnut knows and respects Mr. Arndt. And there was much concern when he suffered a series of strokes over the past year.

All too typically, a man in Mr. Arndt's condition would have no choice but to become a dependent in a nursing home. But friends and neighbors in Walnut came to his rescue in a truly remarkable and inspiring way. They joined hands to give him the wherewithal and assistance he needed to continue living independently in his apartment.

A local restaurant helped to provide daily meals. Several citizens helped Mr. Arndt to keep his apartment clean and orderly, and take him to medical appointments. Still others organized shifts to keep him company in his apartment. Several especially kind citizens got together to purchase a motorized chair to help Mr. Arndt get around.

It was truly a community effort—an act of collective kindness that I find truly inspiring. As you can imagine, Mr. Arndt's daughter, Karen Dewinter, is overwhelmed with gratitude for what the people of Walnut did for her father. She told me that she was especially touched that on her father's birthday, the local AMVET auxiliary held a party at a cafe, where they brought cards from local elementary and preschool children.

I express my own gratitude to the people of Walnut, IA, for their extraordinary caring and kindness toward Erwin Arndt. Like millions of Americans of what Tom Brokaw has labeled "the Greatest Generation," Mr. Arndt served our Nation with dedication in both war and peace.

In their own special way, the people of Walnut have said thank you to this veteran and beloved member of the community. I would like to add my own gratitude, not just to Mr. Arndt but also to the good citizens of Walnut.●

FRIENDS OF THE DES PLAINES PUBLIC LIBRARY

● Mr. DURBIN. Mr. President, I want to honor The Friends of the Des Plaines Public Library, an organization that has been serving the Des Plaines community for the past 50 years.

The Friends of the Des Plaines Public Library was founded in April 1954 by a planning committee of the northwest suburban branch of the American Association of University Women and members of several parent organizations from Des Plaines area schools.

The initial objectives of The Friends of the Des Plaines Public Library were to stimulate interest in the library and record historical data for the town of Des Plaines. Much of the historical data first recorded by The Friends has since become part of the collection of the Des Plaines Historical Society.

Over the course of the past 50 years, The Friends of the Des Plaines Public Library has come to play an invaluable role in the ongoing operations of the institution and community they serve. Members have volunteered to straighten book shelves, provided rainy day plastic bags to help protect books on loan, and held voter registration drives.

The Friends of the Des Plaines Public Library holds ongoing book sales to provide financial support to the library, enabling the library to purchase additional resources and provide educational programming for the citizens of Des Plaines. In the past, the proceeds of these book sales have enabled the library to purchase computers and audio visual equipment.

I congratulate the Friends of the Des Plaines Public Library as it celebrates its 50th anniversary. I am confident that this organization will continue its long tradition of promoting and fostering a lifelong commitment to reading and education in the community of Des Plaines long into the future.●

THE LIFE OF AN AWARD-WINNING COLUMNIST, REPORTER, AUTHOR

● Mr. BIDEN. Mr. President, I honor the life of an award-winning columnist, reporter and author. My friend, Bill Fiset, lived a long, distinguished life of 73 years, serving his country in World War II. In addition to his honorable career, he was a devoted husband, father, and grandfather.

Bill Fiset was born March 15, 1921 in Seattle, WA and attended Queen Anne High School and the University of Washington, where he was a member of the Delta Kappa Epsilon Fraternity and a member of the golf team. At 21, he was a reporter and wrote a column called "Strolling Around the Town" for the Seattle Times.

At 22, Fiset saw foreign service in Africa as an ambulance driver in the American Field Service, an organization giving medical aid to the Allies before the U.S. entered the war. He resigned the Field Service in Egypt in April 1942, and enlisted with the Royal Armored Service Corps. As a second lieutenant in the British 8th Army in North Africa, he served as a machine gunner on an armored lorry defending convoys from Italian bombers between Tobruk and Suez. Fiset also filed field reports as a war correspondent.

Then America entered WWII. With refugees flooding African transports, Fiset luckily used his recent gunnery experience to sign on with an American freighter as a member of the gun crew, reaching the U.S. 3 months later.

In October, 1942, he joined the Navy. He did his preflight training at St. Mary's College in Moraga, CA, and served as a blimp pilot in Airship Squadron 32 on a coastal submarine patrol stationed out of Moffet Field, California.

After the war, Fiset worked as a reporter for the Oakland Post Enquirer from 1946 to 1950 and joined the San Francisco Call Bulletin as a staff reporter from 1950 to 1952.

Fiset then wrote for the Oakland Tribune from March 1952 to 1955 as a general assignment reporter covering such infamous murder and kidnap trials as Burton Abbott, Carl Chessman; and Barbara Graham, Jack Santo and Emmett Perkins of the so-called Mountain Murder Mob. He also witnessed and reported on their executions at San Quentin Prison.

In 1956 he wrote the Tribune's first television column where he became internationally syndicated and was invited to do walk-on acting parts in "Route 66" and "Tales of Wells Fargo." He began a general column for the Tribune in 1962. That same year, he was nominated for a Pulitzer Prize and won many awards for his writing. His award-winning public service booklets "This Is Sherry" and "Want To Be Smart," written by Fiset and illustrated by artist Ray Marta were discreetly designed to warn children and parents about the dangers of kidnapping and child sex offenders. Over a million copies were distributed free worldwide and locally by the Tribune, the Bay Area Board of Education, and local police departments. The efforts earned a commendation by FBI Director J. Edgar Hoover as, "a graphic message which may mean the difference between life and death for countless youngsters," and was requested by police departments throughout the United States, Canada, and Europe.

From time to time Fiset continued to file news reports. He wrote about the airlift of Vietnamese-American children out of Vietnam by Ed Daly, a friend and the flamboyant owner of World Airways. In 1973, Fiset was one of the first to file an eyewitness report on the crash of the Soviet SST TU–144 crash at the Paris Air Show.

An avid golfer, Fiset participated in many civic groups and fund raisers. He taught news writing and reporting at the College of Alameda and for many years was a board member for JACKIE, an agency that finds foster homes for children.

He was married for almost 60 years and is survived by his wife, Marian Fiset of Walnut Creek, his sons Rick Fiset of Danville, Gary Fiset of Alamo, daughter Michele Fiset Rice of Bryn Mawr, PA, and his eight grandchildren. Bill Fiset died peacefully on Sunday, May 2, in Concord, CA.●

HONORING THE STUDENTS OF DOBSON HIGH SCHOOL

• Mr. KYL. Mr. President, earlier this month, more than 1,250 students from across the United States were in Washington, DC to compete in the national finals of the "We the People: The Citizen and the Constitution" program. I am proud to note that the class from Dobson High School from Mesa, AZ received a fourth place honorable mention in this year's competition.

I would like to take a moment to mention the names of those students who competed for Dobson High: Andrew Barrett, Andi Berlin, Amanda Campbell, Catherine Capozzi, Eric Chen, Katy Cronenberg, Tom Emmons, Eva Farnsworth, Jennifer Heller, Annie Ho, Jamie Kearney, Katie Kearney, Maureen Klaum, Nicole Klundt, Jessie Leatham, Angela Mallard, Tara McMurdy, Joanna Sung, Taylor Morris, Kim Nath, Janne Perona, Dean Thong-Kahm, and Shaochen Wu. I would also like to acknowledge their teacher, Abby Dupke, the district coordinator, Kathy Williams, and the State coordinator, Susan Nusso.

I congratulate these budding constitutional experts and wish them the best of luck in the future.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in the executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE CONTINUATION OF THE NATIONAL EMERGENCY PROTECTING THE DEVELOPMENT FUND FOR IRAQ AND CERTAIN OTHER PROPERTY IN WHICH IRAQ HAS AN INTEREST—PM 78

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the national emergency declared in Executive Order 13303 of May 22, 2003, as expanded in scope by Executive Order 13315 of August 28, 2003, protecting the Development Fund for Iraq and certain other property in which Iraq has an interest, is to continue in effect beyond May 22, 2004, to the *Federal Register* for publication.

The obstacles to the orderly reconstruction of Iraq, the restoration and maintenance of peace and security in the country, and the development of political, administrative, and economic institutions in Iraq constituted by the threat of attachment or other judicial process against the Development Fund for Iraq, Iraqi petroleum and petroleum products, and interests therein, and proceeds, obligations, or any financial instruments of any nature whatsoever arising from or related to the sale or marketing thereof, pose a continuing unusual and extraordinary threat to the national security and foreign policy of the United States. For these reasons, I have determined that it is necessary to continue the national emergency protecting the Development Fund for Iraq, and certain other property in which Iraq has an interest, and to maintain in force the sanctions to respond to this threat.

GEORGE W. BUSH.
THE WHITE HOUSE, *May 20, 2004.*

UNITED STATES ARCTIC RESEARCH PLAN—PM 79

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

Consistent with the provisions of the Arctic Research and Policy Act of 1984, as amended (15 U.S.C. 4108(a)), I transmit herewith the eighth biennial revision (2004–2008) to the United States Arctic Research Plan, as prepared for the Congress and the Administration by the Interagency Arctic Research Policy Committee.

GEORGE W. BUSH.
THE WHITE HOUSE, *May 20, 2004.*

2004 COMPREHENSIVE REPORT ON U.S. TRADE AND INVESTMENT POLICY FOR SUB-SAHARAN AFRICA AND IMPLEMENTATION OF THE AFRICAN GROWTH AND OPPORTUNITY ACT—PM 80

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance:

To the Congress of the United States:

Consistent with title I of the Trade and Development Act of 2000, I am providing a report prepared by my Administration entitled "2004 Comprehensive Report on U.S. Trade and Investment Policy for Sub-Saharan Africa and Implementation of the African Growth and Opportunity Act."

GEORGE W. BUSH.
THE WHITE HOUSE, *May 20, 2004.*

MESSAGES FROM THE HOUSE

At 10:38 a.m., a message from the House of Representatives, delivered by the House Enrolling Clerk, announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the resolution (S. Con. Res. 95) setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009.

The message also announced that pursuant to section 211 of the Older Americans Act Amendments of 2000 (42 U.S.C. 3001 note), the Minority Leader appoints the following individuals on the part of the House of Representatives to the Policy Committee of the White House Conference on Aging: Barbara Kennelly of Connecticut and Robert B. Blancato of Virginia.

ENROLLED BILLS SIGNED

At 11:55 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H. R. 923. An act to amend the Small Business Investment Act of 1958 to allow certain premier certified lenders to elect to maintain an alternative loss reserve.

H.R. 3104. An act to provide for the establishment of separate campaign medals to be awarded to members of the uniformed services who participate in Operation Enduring Freedom and to members of the uniformed services who participate in Operation Iraqi Freedom.

The enrolled bills were signed subsequently by the President pro tempore (Mr. STEVENS).

At 4:51 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 424. Concurrent resolution honoring past and current members of the Armed Forces of the United States and encouraging Americans to wear red poppies on Memorial Day.

H. Con. Res. 432. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

The message also announced that the House disagree to the amendment of the Senate to the bill (H.R. 1047) to amend the harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, to make other technical amendments to the trade laws, and for other purposes, and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That the following Members be the managers of the conference on the part of the House: From the Committee on Ways and Means, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Mr. THOMAS, Mr. CRANE, Mr. SHAW, Mr. RANGEL, and Mr. LEVIN.

ENROLLED BILLS SIGNED

At 7:28 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 408. An act to provide for expansion of Sleeping Bear Dunes National Lakeshore.

H.R. 708. An act to require the conveyance of certain National Forest System lands in Mendocino National Forest, California, to provide for the use of the proceeds from such conveyance for National Forest purposes, and for other purposes.

H.R. 856. An act to authorize the Secretary of the Interior to revise a repayment contract with the Tom Green County Water Control and Improvement District No. 1, San Angelo project, Texas, and for other purposes.

H.R. 1598. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in projects within the San Diego Creek Watershed, California, and for other purposes.

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar:

H.R. 2728. To amend the Occupational Safety and Health Act of 1970 to provide for adjudicative flexibility with regard to an employer filing of a notice of contest following the issuance of a citation by the Occupational Safety and Health Administration; to provide for greater efficiency at the Occupational Safety and Health Review Commission; to provide for an independent review of citations issued by the Occupational Safety and Health Administration; to provide for the award of attorney's fees and costs to very small employers when they prevail in litigation prompted by the issuance of citations by the Occupational Safety and Health Administration: and to amend the Paperwork Reduction Act and titles 5 and 31, United States Code, to reform Federal paperwork and regulatory processes.

S. 2448. A bill to coordinate rights under the Uniformed Services Employment and Reemployment Rights Act of 1994 with other Federal laws.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

H.R. 4279. To amend the Internal Revenue Code of 1986 to provide for the disposition of unused health benefits in cafeteria plans and flexible spending arrangements, to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system, and to amend title I of the Employee Retirement Income Security Act of 1974 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees.

S. 2451. A bill to amend the Agricultural Marketing Act of 1946 to restore the application date for country of origin labeling.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-7632. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Indoxacarb; Time-Limited Pesticide Tolerance" (FRL#7359-1) received on May 19, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7633. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Isoxadifen-ethyl; Pesticide Tolerance" (FRL#7355-8) received on May 19, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7634. A communication from the Assistant Director for Executive and Political Personnel, Department of the Army, transmitting, pursuant to law, a nomination rejected, withdrawn, or returned, received on May 19, 2004; to the Committee on Armed Services.

EC-7635. A communication from the Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC-7636. A communication from the Acting Under Secretary of Defense for Acquisition, Technology, and Logistics, transmitting, pursuant to law, a report relative to defense federally funded research and development centers; to the Committee on Armed Services.

EC-7637. A communication from the Deputy Secretary of the Treasury, transmitting, pursuant to law, a report on the national emergency with respect to Iran that was declared in Executive Order 12170 of November 14, 1979; to the Committee on Banking, Housing, and Urban Affairs.

EC-7638. A communication from the Chairman, Appraisal Subcommittee, Federal Financial Institutions Examination Council, transmitting, pursuant to law, the Subcommittee's Annual Report; to the Committee on Banking, Housing, and Urban Affairs.

EC-7639. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A300 B4-600, B4-600R, C4-605R Variant F, and F4-600R (Collectively Called A300 and 600) Airplanes and Model A310 Doc. No. 2004-NM-57" (RIN2120-AA64) received on May 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC-7640. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747-400, and 400D Airplanes Doc. No. 2004-NM-42" (RIN2120-AA64) received on May 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC-7641. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model MD-90-30 Airplanes Doc. No. 2001-NM-226" (RIN2120-AA64) received on May 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC-7642. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 737-300, 400, and 500 Airplanes Doc. No. 2002-NM-174" (RIN2120-AA64) received on May 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC-7643. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 707 and 720 Series Airplanes Doc. No. 2002-NM-335" (RIN2120-AA64) received on May 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC-7644. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 737-600, 700, 700C, 800, and 900 Series Airplanes Doc. No. 2002-NM-101" (RIN2120-AA64) received on May 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC-7645. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 767-400ER Series Airplanes Doc. No. 2002-NM-287" (RIN2120-AA64) received on May 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC-7646. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A321-111, 112, 131, Airplanes Doc. No. 2002-NM-17" (RIN2120-AA64) received on May 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC-7647. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Construcciones Aeronauticas, S.A. (CASA), Model C-235 Airplanes Doc. No. 2002-NM-160" (RIN2120-AA64) received on May 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC-7648. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Construcciones Aeronauticas, S.A. (CASA), Model C212 Airplanes Doc. No. 2002-NM-262" (RIN2120-AA64) received on May 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC-7649. A communication from the Attorney Advisor, Maritime Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Deferment of Service Obligations of Midshipmen Recipients of Scholarships or Fellowships" (RIN2133–AB58) received on May 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7650. A communication from the Assistant Secretary for Land and Minerals Management, Department of the Interior, transmitting, pursuant to law, a report relative to leasing systems for the Cook Inlet, Sale 191; to the Committee on Energy and Natural Resources.

EC–7651. A communication from the Regulations Officer, Federal Highway Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "National Standards for Traffic Control Devices; the Manual on Uniform Traffic Control Devices for Streets and Highways; Specific Service and General Service Signing for 24-Hour Pharmacies" (RIN2125–AF02) received on May 19, 2004; to the Committee on Environment and Public Works.

EC–7652. A communication from the Assistant Secretary of the Army for Civil Works, Department of the Defense, transmitting, a draft of proposed legislation relative to authority in support of the Recreation Modernization Initiative; to the Committee on Environment and Public Works.

EC–7653. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Missouri Update to Materials Incorporated by Reference" (FRL#7658–5) received on May 19, 2004; to the Committee on Environment and Public Works.

EC–7654. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; The 2005 ROP Plan for the Pennsylvania Portion of the Philadelphia-Wilmington-Trenton Severe Area Severe 1-Hour Ozone Nonattainment Area" (FRL#7663–7) received on May 19, 2004; to the Committee on Environment and Public Works.

EC–7655. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Indiana" (FRL#7658–9) received on May 19, 2004; to the Committee on Environment and Public Works.

EC–7656. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; New Jersey; Motor Vehicle Enhanced Inspection and Maintenance Program" (FRL#7661–1) received on May 19, 2004; to the Committee on Environment and Public Works.

EC–7657. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Implementation Plans; Illinois" (FRL#7657–8) received on May 19, 2004; to the Committee on Environment and Public Works.

EC–7658. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Finding of Failure to Submit Required State Implementation Plan Revision for the Metropolitan Washington, DC Ozone Nonattainment Area; Maryland" (FRL#7665–6) received on May 19, 2004; to the Committee on Environment and Public Works.

EC–7659. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California and Nevada State Implementation Plans, Ventura County Air Pollution Control District and Clark County Department of Air Quality Management" (FRL#7660–6) received on May 19, 2004; to the Committee on Environment and Public Works.

EC–7660. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, Bay Area Air Quality Management District, Monterey Bay Unified Air Pollution Control District, and Ventura County Air Pollution Control District" (FRL#7665–2) received on May 19, 2004; to the Committee on Environment and Public Works.

EC–7661. A communication from the Regulations Coordinator, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare and State Health Care Programs; Fraud and Abuse: OIG Civil Money Penalties Under the Medicare Prescription Drug Card Program" (RIN0991–AB30) received on May 19, 2004; to the Committee on Finance.

EC–7662. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed amendment to a manufacturing license agreement for the export of defense articles or defense services in the amount of $100,000,000 or more to Japan; to the Committee on Foreign Relations.

EC–7663. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed manufacturing license agreement for the export of defense articles or defense services in the amount of $100,000,000 or more to the United Kingdom; to the Committee on Foreign Relations.

EC–7664. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed manufacturing license agreement for the export of defense articles or defense services sold commercially under a contract in the amount of $100,000,000 or more to Canada and the United Kingdom; to the Committee on Foreign Relations.

EC–7665. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed manufacturing license agreement for the export of defense articles or defense services sold commercially under a contract in the amount of $100,000,000 or more to South Korea, Turkey, Spain, Saudi Arabia, and Chile; to the Committee on Foreign Relations.

EC–7666. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed manufacturing license agreement for the export of defense articles or defense services sold commercially under a contract in the amount of $100,000,000 or more to Japan; to the Committee on Foreign Relations.

EC–7667. A communication from the Deputy Secretary of State and the Deputy Secretary of Defense, transmitting, pursuant to law, a report relative to the Global Peace Operations Initiative; to the Committee on Foreign Relations.

EC–7668. A communication from the Executive Secretary, Harry S. Truman Scholarship Foundation, transmitting, pursuant to law, the Foundation's Annual Report for 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–7669. A communication from the Secretary of Labor, transmitting, pursuant to law, the Department of Labor's report on the Office of Workers' Compensation Programs' administration of the Energy Employees Occupational Illness Compensation Program Act of 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–7670. A communication from the Chief, Child Exploitation and Obscenity Section, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Designation of Agencies to Receive and Investigate Reports Required Under the Protection of Children from Sexual Predators Act, as Amended" (RIN1105–AA65) received on May 18, 2004; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment:

S. 1071. A bill to authorize the Secretary of the Interior, through the Bureau of Reclamation, to conduct a feasibility study on a water conservation project within the Arch Hurley Conservancy District in the State of New Mexico, and for other purposes (Rept. No. 108–267).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1097. A bill to authorize the Secretary of the Interior to implement the Calfed Bay-Delta Program (Rept. No. 108–268).

S. 1582. A bill to amend the Valles Preservation Act to improve the preservation of the Valles Caldera, and for other purposes (Rept. No. 108–269).

S. 1687. A bill to direct the Secretary of the Interior to conduct a study on the preservation and interpretation of the historic sites of the Manhattan Project for potential inclusion in the National Park System (Rept. No. 108–270).

S. 1778. A bill to authorize a land conveyance between the United State and the City of Craig, Alaska, and for other purposes (Rept. No. 108–271).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

S. 1791. A bill to amend the Lease Lot Conveyance Act of 2002 to provide that the amounts received by the United States under that Act shall be deposited in the reclamation fund, and for other purposes (Rept. No. 108–272).

By Mr. CAMPBELL, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 1955. A bill to make technical corrections to laws relating to Native Americans, and for other purposes (Rept. No. 108–273).

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 2279. A bill to amend title 46, United States Code, with respect to maritime transportation security, and for other purposes (Rept. No. 108–274).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

S. Res. 321. A resolution recognizing the loyal service and outstanding contributions of J. Robert Oppenheimer to the United States and calling on the Secretary of Energy to observe the 100th anniversary of Dr. Oppenheimer's birth with appropriate programs at the Department of Energy and the Los Alamos National Laboratory (Rept. No. 108–275).

H.R. 1521. A bill to provide for additional lands to be included within the boundary of the Johnstown Flood National Memorial in the State of Pennsylvania, and for other purposes (Rept. No. 108–276).

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

H. Con. Res. 409. A concurrent resolution recognizing with humble gratitude the more than 16,000,000 veterans who served in the United States Armed Forces during World War II and the Americans who supported the war effort on the home front and celebrating the completion of the National World War II Memorial on the National Mall in the District of Columbia.

S. Res. 362. A resolution expressing the sense of the Senate on the dedication of the National World War II Memorial on May 29, 2004, in recognition of the duty, sacrifices, and valor of the members of the Armed Forces of the United States who served in World War II.

By Mr. HATCH, from the Committee on the Judiciary, with amendments:

S. 1933. A bill to promote effective enforcement of copyrights, and for other purposes.

By Mr. SHELBY, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. 2453. An original bill to authorize the Secretary of Homeland Security to award grants to public transportation agencies to improve security, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. GRASSLEY for the Committee on Finance.

*John O. Colvin, of Virginia, to be a Judge of the United States Tax Court for a term of fifteen years.

*Juan Carlos Zarate, of California, to be an Assistant Secretary of the Treasury.

*Stuart Levey, of Maryland, to be Under Secretary of the Treasury for Enforcement.

By Mr. HATCH for the Committee on the Judiciary.

Jonathan W. Dudas, of Virginia, to be Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

By Mr. SPECTER for the Committee on Veterans' Affairs.

*Pamela M. Iovino, of the District of Columbia, to be an Assistant Secretary of Veterans Affairs (Congressional Affairs).

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DASCHLE (for himself, Mr. Johnson, Mr. Conrad, Mr. Wyden, and Mr. Graham of Florida):

S. 2451. A bill to amend the Agricultural Marketing Act of 1946 to restore the application date for country of origin labeling; read the first time.

By Mr. FEINGOLD:

S. 2452. A bill to require labeling of raw agricultural forms of ginseng, including the country of harvest, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry .

By Mr. SHELBY:

S. 2453. An original bill to authorize the Secretary of Homeland Security to award grants to public transportation agencies to improve security, and for other purposes; from the Committee on Banking, Housing, and Urban Affairs; placed on the calendar.

By Mr. DeWINE (for himself and Mr. Durbin):

S. 2454. A bill to amend the Peace Corps Act to establish an Ombudsman of the Peace Corps and a Office of Safety and Security of the Peace Corps, to establish an independent Inspector General of the Peace Corps, and for other purposes; to the Committee on Foreign Relations.

By Mrs. HUTCHISON:

S. 2455. A bill to amend title II of the Social Security Act to repeal the windfall elimination provision and protect the retirement of public servants; to the Committee on Finance.

By Mr. BAUCUS:

S. 2456. A bill to provide emergency disaster assistance to agricultural producers, and for other purposes; to the Committee on Finance.

By Ms. CANTWELL:

S. 2457. A bill entitled "Nuclear Waste Cleanup Act"; to the Committee on Energy and Natural Resources.

By Mr. REID (for himself and Mr. Ensign):

S. 2458. A bill to provide for the conveyance of certain public lands in and around historic mining townsites in Nevada, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ROCKEFELLER:

S. 2459. A bill to authorize the Secretary of Homeland Security to award research and equipment grants, to provide a tax credit for employers who hire temporary workers to replace employees receiving first responder training, to provide school-based mental health training, and for other purposes; to the Committee on Finance.

By Mr. DOMENICI:

S. 2460. A bill to provide assistance to the State of New Mexico for the development of comprehensive State water plans, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DeWINE (for himself and Mr. Kennedy):

S. 2461. A bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products; to the Committee on Health, Education, Labor, and Pensions.

By Mr. WARNER (for himself, Mr. Lieberman, Mr. Roberts, and Mr. Allen):

S. 2462. A bill to provide additional assistance to recipients of Federal Pell Grants who are pursuing programs of study in engineering, mathematics, science, or foreign languages; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BROWNBACK (for himself, Mr. Chambliss, Mr. Craig, Mr. Crapo, Mr. Graham of South Carolina, and Mr. Inhofe):

S. 2463. A bill to terminate the Internal Revenue Code of 1986; to the Committee on Finance.

By Mr. COLEMAN (for himself and Mrs. Feinstein):

S. 2464. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the sale of prescription drugs through the Internet; to the Committee on Health, Education, Labor, and Pensions.

By Mr. COLEMAN:

S. 2465. A bill to amend the Controlled Substances Act with respect to the seizure of shipments of controlled substances, and for other purposes; to the Committee on the Judiciary.

By Mr. BROWNBACK (for himself, Mr. Alexander, Mr. Bunning, Mr. Burns, Mr. Coleman, Mr. Crapo, Mr. DeWine, Mr. Ensign, Mr. Enzi, Mr. Fitzgerald, Mr. Graham of South Carolina, Mr. Grassley, Mr. Hatch, Mr. Kyl, Mr. McConnell, Mr. Miller, Mr. Nickles, Mr. Roberts, Mr. Santorum, Mr. Sessions, Mr. Shelby, Mr. Talent, Mr. Chambliss, and Mr. Inhofe):

S. 2466. A bill to ensure that women seeking an abortion are fully informed regarding the pain experienced by their unborn child; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SCHUMER (for himself, Mr. Kennedy, Mr. Reed , Mr. Dodd, Mrs. Clinton, Mr. Kerry, Mr. Lautenberg, Ms. Cantwell, Mr. Kohl, Mr. Corzine, Mrs. Murray, Mr. Carper, Mr. Bingaman, Mr. Jeffords, Mrs. Boxer, Mr. Durbin, Mr. Dayton, Mr. Lieberman, and Mr. Johnson):

S. 2467. A bill to clarify the calculation of per-unit costs payable under expiring annual contributions contracts for tenant-based rental assistance that are renewed in fiscal year 2004; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. COLLINS (for herself, Mr. Carper, Mr. Stevens, Mr. Voinovich, Mr. Sununu, Mr. Lieberman, Mr. Akaka, and Mr. Durbin):

S. 2468. A bill to reform the postal laws of the United States; to the Committee on Governmental Affairs.

By Mr. TALENT:

S. 2469. A bill to amend the National Historic Preservation Act to provide appropriation authorization and improve the operations of the Advisory Council on Historic Preservation; to the Committee on Energy and Natural Resources.

By Mr. BOND (for himself, Mr. Harkin, Mr. Durbin, Mr. Talent, Mr. Grassley, Mr. Coleman, Mr. Fitzgerald, and Mr. Pryor):

S. 2470. A bill to enhance navigation capacity improvements and the ecosystem restoration plan for the Upper Mississippi River and Illinois Waterway System; to the Committee on Environment and Public Works.

By Mrs. CLINTON:

S. 2471. A bill to regulate the transmission of personally identifiable information to foreign affiliates and subcontractors; to the Committee on the Judiciary.

By Mr. NELSON of Florida:

S. 2472. A bill to require that notices to consumers of health and financial services include information on the outsourcing of sensitive personal information abroad, to require relevant Federal agencies to prescribe regulations to ensure the privacy and security of sensitive personal information outsourced abroad, to establish requirements for foreign call centers, and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. COLEMAN:

S. Res. 366. A resolution supporting May 2004 as National Better Hearing and Speech Month and commending those States that have implemented routine hearing screenings for every newborn before the newborn leaves the hospital; considered and agreed to.

By Ms. STABENOW (for herself and Mr. LEVIN):

S. Res. 367. A resolution honoring the life of Mildred McWilliams "Millie" Jeffrey (1910-2004) and her contributions to her community and to the United States; considered and agreed to.

ADDITIONAL COSPONSORS

S. 557

At the request of Ms. COLLINS, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 557, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes.

S. 846

At the request of Mr. GRAHAM of Florida, his name was added as a cosponsor of S. 846, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums on mortgage insurance, and for other purposes.

At the request of Mr. SMITH, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 846, supra.

S. 847

At the request of Mr. SMITH, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 847, a bill to amend title XIX of the Social Security Act to permit States the option to provide medicaid coverage for low income individuals infected with HIV.

S. 1368

At the request of Mr. LEVIN, the names of the Senator from Maine (Ms. SNOWE) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 1368, a bill to authorize the President to award a gold medal on behalf of the Congress to Reverend Doctor Martin Luther King, Jr. (posthumously) and his widow Coretta Scott King in recognition of their contributions to the Nation on behalf of the civil rights movement.

S. 1369

At the request of Mr. AKAKA, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1369, a bill to ensure that prescription drug benefits offered to medicare eligible enrollees in the Federal Employees Health Benefits Program are at least equal to the actuarial value of the prescription drug benefits offered to enrollees under the plan generally.

S. 1379

At the request of Mr. JOHNSON, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1420

At the request of Mr. CRAIG, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1420, a bill to establish terms and conditions for use of certain Federal land by outfitters and to facilitate public opportunities for the recreational use and enjoyment of such land.

S. 1515

At the request of Mr. GREGG, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 1515, a bill to establish and strengthen postsecondary programs and courses in the subjects of traditional American history, free institutions, and Western civilization, available to students preparing to teach these subjects, and to other students.

S. 1721

At the request of Mr. CAMPBELL, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 1721, a bill to amend the Indian Land Consolidation Act to improve provisions relating to probate of trust and restricted land, and for other purposes.

S. 1883

At the request of Mr. ENZI, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 1883, a bill to amend the Public Health Service Act to provide greater access for residents of frontier areas to the healthcare services provided by community health centers.

S. 1890

At the request of Mr. ENZI, the names of the Senator from Missouri (Mr. TALENT) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 1890, a bill to require the mandatory expensing of stock options granted to executive officers, and for other purposes.

S. 2176

At the request of Mr. BINGAMAN, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 2176, a bill to require the Secretary of Energy to carry out a program of research and development to advance high-end computing.

S. 2270

At the request of Mr. DEWINE, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 2270, a bill to amend the Sherman Act to make oil-producing and exporting cartels illegal.

S. 2271

At the request of Mr. DURBIN, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 2271, a bill to establish national standards for discharges from cruise vessels into the waters of the United States, and for other purposes.

S. 2283

At the request of Mr. GREGG, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2283, a bill to extend Federal funding for operation of State high risk health insurance pools.

S. 2302

At the request of Mr. CONRAD, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 2302, a bill to improve access to physicians in medically underserved areas.

S. 2305

At the request of Mr. HAGEL, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 2305, a bill to authorize programs that support economic and political development in the Greater Middle East and Central Asia and support for three new multilateral institutions, and for other purposes.

S. 2351

At the request of Ms. COLLINS, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 2351, a bill to establish a Federal Interagency Committee on Emergency Medical Services and a Federal Interagency Committee on Emergency Medical Services Advisory Council, and for other purposes.

S. 2363

At the request of Mr. HATCH, the names of the Senator from Minnesota (Mr. DAYTON), the Senator from Idaho (Mr. CRAIG), the Senator from Alaska (Ms. MURKOWSKI), the Senator from Mississippi (Mr. COCHRAN) and the Senator from Alabama (Mr. SESSIONS) were added as cosponsors of S. 2363, a bill to revise and extend the Boys and Girls Clubs of America.

S. 2389

At the request of Mr. ENSIGN, the name of the Senator from Georgia (Mr.

CHAMBLISS) was added as a cosponsor of S. 2389, a bill to require the withholding of United States contributions to the United Nations until the President certifies that the United Nations is cooperating in the investigation of the United Nations Oil-for-Food Program.

S. 2411

At the request of Mr. DODD, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2411, a bill to amend the Federal Fire Prevention and Control Act of 1974 to provide financial assistance for the improvement of the health and safety of firefighters, promote the use of life saving technologies, achieve greater equity for departments serving large jurisdictions, and for other purposes.

S. 2425

At the request of Mr. COCHRAN, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of S. 2425, a bill to amend the Tariff Act of 1930 to allow for improved administration of new shipper administrative reviews.

S. 2449

At the request of Mr. BAUCUS, the names of the Senator from New Hampshire (Mr. SUNUNU) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 2449, a bill to require congressional renewal of trade and travel restrictions with respect to Cuba.

S. CON. RES. 81

At the request of Mr. STEVENS, his name was added as a cosponsor of S. Con. Res. 81, a concurrent resolution expressing the deep concern of Congress regarding the failure of the Islamic Republic of Iran to adhere to its obligations under a safeguards agreement with the International Atomic Energy Agency and the engagement by Iran in activities that appear to be designed to develop nuclear weapons.

At the request of Mrs. FEINSTEIN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. Con. Res. 81, supra.

S. CON. RES. 90

At the request of Mr. LEVIN, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. Con. Res. 90, a concurrent resolution expressing the Sense of the Congress regarding negotiating, in the United States-Thailand Free Trade Agreement, access to the United States automobile industry.

S. RES. 221

At the request of Mr. SARBANES, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. Res. 221, a resolution recognizing National Historically Black Colleges and Universities and the importance and accomplishments of historically Black colleges and universities.

S. RES. 357

At the request of Mr. CAMPBELL, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. Res. 357, a resolution designating the week of August 8 through August 14, 2004, as "National Health Center Week".

AMENDMENT NO. 3170

At the request of Mr. GRAHAM of South Carolina, the names of the Senator from Colorado (Mr. ALLARD) and the Senator from Idaho (Mr. CRAPO) were added as cosponsors of amendment No. 3170 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3171

At the request of Ms. LANDRIEU, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of amendment No. 3171 intended to be proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3196

At the request of Mr. DURBIN, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of amendment No. 3196 intended to be proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3204

At the request of Mrs. CLINTON, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of amendment No. 3204 intended to be proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DASCHLE (for himself, Mr. JOHNSON, Mr. CONRAD, Mr. WYDEN, and Mr. GRAHAM of Florida):

S. 2451. A bill to amend the agricultural Marketing Act of 1946 to restore the application date for country of origin labeling; read the first time.

Mr. DASCHLE. Mr. President, today the Washington Post reported that the United States Department of Agriculture secretly allowed American meatpackers to resume imports of ground and processed beef from Canada last September, just weeks after Secretary Veneman publicly reaffirmed the Department's ban on such importation as a result of mad cow disease being found in Canadian-born cattle.

The article states that a total of 33 million pounds of Canadian processed beef came into the United States and went straight to American consumers under a series of undisclosed permits USDA issued to the meatpackers.

This is how today's article describes Secretary Veneman's public position last August:

> She and her top deputies said ground beef imports would resume only after the agency completed a formal rulemaking process, with public debate.

There was no public debate. Instead, there were undisclosed permits allowing banned Canadian beef in the United States.

Not only am I extremely concerned that the Department of Agriculture deceived American consumers by allowing the import of Canadian beef that was previously banned, but I am also disappointed that the Bush administration is actually working to prevent American consumers from knowing where the food they buy comes from.

That is why I am introducing a bill today that will require USDA to implement country-of-origin labeling on schedule this September. That was the date agreed upon in the Farm Bill which the President signed into law in 2002.

Unfortunately, at the urging of the Bush administration and the large meatpackers—most likely the same people who urged USDA to issue permits to allow the importation of banned Canadian meat products—Republican leaders in Congress inserted language into last year's omnibus appropriations bill in the dead of night delaying implementation of country-of-origin labeling for 2 years until September 2006.

The bill I am introducing today is what the Senate has voted to do several times: Inform consumers about the origin of their food.

Over 80 percent of American consumers have said they want to know the country of origin of their food, and over 170 groups representing over 50 million Americans support mandatory food labeling.

We must not allow anyone who may represent special interests, anyone who now abrogates the spirit as well as the letter of the law to choose big business interests over the interests of the average American family. We must ensure consumer confidence, particularly now in light of recent developments. We would have not had the situation of 33 million pounds of banned beef entering the United States if it couldn't have been properly labeled.

This legislation is long overdue. It is time that it become the law of the land.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2451

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COUNTRY OF ORIGIN LABELING.

Section 285 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1638d) is amended by striking "2006" and all that follows through "2004" and inserting "2004".

By Mr. FEINGOLD:

S. 2452. A bill to require labeling of raw agricultural of ginseng, including the country of harvest, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. FEINGOLD. Mr. President, I would like to discuss legislation I am introducing that would protect ginseng farmers and consumers by ensuring that ginseng sold at retail discloses where the root was harvested. The "Ginseng Harvest Labeling Act of 2004" is similar to a bill that I introduced in the last Congress, but it has been further strengthened based on suggestions I received from ginseng growers and the Ginseng Board of Wisconsin.

I would like to take the opportunity to discuss American ginseng and the problems facing Wisconsin's ginseng growers so that my colleagues recognize the need for this legislation. Chinese and Native American cultures have used ginseng for thousands of years for herbal and medicinal purposes. As a dietary supplement, American ginseng is widely touted for its ability to improve energy and vitality, particularly in fighting fatigue or stress.

In the U.S., ginseng is experiencing increasing popularity as a dietary supplement, and I am proud to say that my home State of Wisconsin is playing a central role in ginseng's resurgence. Wisconsin produces 97 percent of the ginseng grown in the United States, and 85 percent of the country's ginseng is grown in just one Wisconsin county, Marathon County. Ginseng is also grown in a number of other States such as Maine, Maryland, New York, North Carolina, Oregon, South Carolina, and West Virginia.

For Wisconsin, ginseng has been an economic boon. Wisconsin ginseng commands a premium price in world markets because it is of the highest quality and because it has a low pesticide and chemical content. In 2002, U.S. exports of ginseng totaled nearly $45 million, much of which was grown in Wisconsin. With a huge market for this high-quality ginseng overseas, and growing popularity for the ancient root here at home, Wisconsin's ginseng industry should have a prosperous future ahead.

Unfortunately, the outlook for ginseng farmers is marred by a serious problem—smuggled and mislabeled ginseng. Wisconsin ginseng is considered so superior to ginseng grown abroad that smugglers will go to great lengths to label ginseng grown in Canada or Asia as "Wisconsin-grown."

Here's how the switch takes place: Wisconsin ginseng is shipped to China to be sorted into various grades. While the sorting process is itself a legitimate part of distributing ginseng, smugglers often use it as a ruse to switch Wisconsin ginseng with Asian- or Canadian-grown ginseng considered inferior by consumers. The lower quality ginseng is then shipped back to the U.S. for sale to American consumers who think they are buying the Wisconsin-grown product.

For consumers concerned with purchasing ginseng grown in the U.S., there is no accurate way of testing ginseng to determine where it was grown, other than testing for pesticides that are banned in the United States. The Ginseng Board of Wisconsin has been testing some ginseng found on store shelves, and in many of the products, residues of chemicals such as DDT, lead, arsenic, and quintozine (PCNB) have been detected. Since the majority of ginseng sold in the U.S. originates from countries with less stringent pesticide standards, it is vitally important that consumers know which ginseng is really grown in the U.S.

To capitalize on their product's preeminence, the Ginseng Board of Wisconsin has developed a voluntary labeling program, stating that the ginseng is "Grown in Wisconsin, U.S.A." However, Wisconsin ginseng is so valuable that counterfeit labels and ginseng smuggling have become widespread around the world. As a result, consumers have no way of knowing the most basic information about the ginseng they purchase—where it was grown, what quality or grade it is, or whether it contains dangerous pesticides.

My legislation, the Ginseng Harvest Labeling Act of 2004, proposes some common sense steps to address some of the challenges facing the ginseng industry. My legislation requires that ginseng, as a raw agricultural commodity, be sold at retail with a label clearly indicating the country that the ginseng was harvested in. 'Harvest' is important because some Canadian and Chinese growers have ginseng plants that originated in the U.S., but because these plants were cultivated in the foreign country, they may have been treated with chemicals not allowed for use in the U.S. This label would also allow buyers of ginseng to more easily prevent foreign companies from mixing foreign-produced ginseng with ginseng harvested in the U.S. The country of harvest labeling is a simple but effective way to enable consumers to make an informed decision.

We must give ginseng growers the support they deserve by implementing these commonsense reforms that also help consumers make informed choices about the ginseng that they consume. We must ensure that when ginseng consumers reach for a high-quality ginseng product—such as Wisconsin-grown ginseng—they are getting the real thing, not a knock-off.

I ask unanimous consent that the full text of my bill, the Ginseng Harvest Labeling Act of 2004, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2452

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ginseng Harvest Labeling Act of 2004".

SEC. 2. DISCLOSURE OF COUNTRY OF HARVEST.

The Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.) is amended by adding at the end the following:

"Subtitle E—Ginseng

"SEC. 291. DISCLOSURE OF COUNTRY OF HARVEST.

"(a) DEFINITION OF GINSENG.—In this section, the term 'ginseng' means an herb or herbal ingredient that—

"(1) is derived from a plant classified within the genus Panax; and

"(2) is offered for sale as a raw agricultural commodity in any form intended to be used in or as a food or dietary supplement under the name of 'ginseng'.

"(b) DISCLOSURE.—

"(1) IN GENERAL.—A person that offers ginseng for sale as a raw agricultural commodity shall disclose to potential purchasers the country of harvest of the ginseng.

"(2) IMPORTATION.—A person that imports ginseng into the United States shall disclose the country of harvest of the ginseng at the point of entry of the United States, in accordance with section 304 of the Tariff Act of 1930 (19 U.S.C. 1304).

"(c) MANNER OF DISCLOSURE.—

"(1) IN GENERAL.—The disclosure required by subsection (b) shall be provided to potential purchasers by means of a label, stamp, mark, placard, or other clear and visible sign on the ginseng or on the package, display, holding unit, or bin containing the ginseng.

"(2) RETAILERS.—A retailer of ginseng shall—

"(A) retain disclosure provided under subsection (b); and

"(B) provide disclosure to a retail purchaser of the raw agricultural commodity.

"(3) REGULATIONS.—The Secretary of Agriculture shall by regulation prescribe with specificity the manner in which disclosure shall be made in transactions at wholesale or retail (including transactions by mail, telephone, or Internet or in retail stores).

"(d) FAILURE TO DISCLOSE.—The Secretary of Agriculture may impose on a person that fails to comply with subsection (b) a civil penalty of not more than—

"(1) $1,000 for the first day on which the failure to disclose occurs; and

"(2) $250 for each day on which the failure to disclose continues.".

SEC. 3. EFFECTIVE DATE.

This Act and the amendment made by this Act take effect on the date that is 180 days after the date of enactment of this Act.

By Mr. DEWINE (for himself and Mr. DURBIN):

S. 2454. A bill to amend the Peace Corps Act to establish an Ombudsman of the Peace Corps and an Office of Safety and Security of the Peace Corps, to establish an independent Inspector General of the Peace Corps, and for other purposes; to the Committee on Foreign Relations.

Mr. DEWINE. Mr. President, I ask unanimous consent that the Peace Corps Volunteers Health, Safety, and Security Act of 2004 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD.

S. 2454

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Peace Corps Volunteers Health, Safety, and Security Act of 2004".

SEC. 2. OMBUDSMAN OF THE PEACE CORPS.

The Peace Corps Act (22 U.S.C. 2501 et seq.) is amended by inserting after section 4 the following new section:

"SEC. 4A. OMBUDSMAN OF THE PEACE CORPS.

"(a) ESTABLISHMENT.—There is established in the Peace Corps the Office of the Ombudsman of the Peace Corps (in this section referred to as the 'Office'). The Office shall be headed by the Ombudsman of the Peace Corps (in this section referred to as the 'Ombudsman'), who shall be appointed by and report directly to the Director of the Peace Corps.

"(b) VOLUNTEER COMPLAINTS AND OTHER MATTERS.—The Ombudsman shall receive and, as appropriate, inquire into complaints, questions, or concerns submitted by current or former volunteers regarding services or support provided by the Peace Corps to its volunteers, including matters pertaining to—

"(1) the safety and security of volunteers;

"(2) due process, including processes relating to separation from the Peace Corps;

"(3) benefits and assistance that may be due to current or former volunteers;

"(4) medical or other health-related assistance; and

"(5) access to files and records of current or former volunteers.

"(c) EMPLOYEE COMPLAINTS AND OTHER MATTERS.—The Ombudsman shall receive and, as appropriate, inquire into complaints, questions, or concerns submitted by current or former employees of the Peace Corps on any matters of grievance.

"(d) ADDITIONAL DUTIES.—The Ombudsman shall—

"(1) recommend responses to individual matters received under subsections (b) and (c);

"(2) make recommendations for legislative, administrative, or regulatory adjustments to address recurring problems or other difficulties of the Peace Corps;

"(3) identify systemic issues relating to the practices, policies, and administrative procedures of the Peace Corps that affect volunteers and employees; and

"(4) call attention to problems not yet adequately considered by the Peace Corps.

"(e) STANDARDS OF OPERATION.—The Ombudsman shall carry out the duties under this section in a manner that is—

"(1) independent, impartial in the conduct of inquiries, and confidential; and

"(2) consistent with the revised Standards for the Establishment and Operation of Ombudsman Offices (August 2003) as endorsed by the American Bar Association.

"(f) INVOLVEMENT IN MATTERS SUBJECT TO ONGOING ADJUDICATION, LITIGATION, OR INVESTIGATION.—The Ombudsman shall refrain from any involvement in the merits of individual matters that are the subject of ongoing adjudication or litigation, or investigations related to such adjudication or litigation.

"(g) REPORTS.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this section, and semiannually thereafter, the Ombudsman shall submit to the Director of the Peace Corps, the Chair of the Peace Corps National Advisory Council, and Congress a report containing a summary of—

"(A) the complaints, questions, and concerns considered by the Ombudsman;

"(B) the inquiries completed by the Ombudsman;

"(C) recommendations for action with respect to such complaints, questions, concerns, or inquiries; and

"(D) any other matters that the Ombudsman considers relevant.

"(2) CONFIDENTIALITY.—Each report submitted under paragraph (1) shall maintain confidentiality on any matter that the Ombudsman considers appropriate in accordance with subsection (e).

"(h) EMPLOYEE DEFINED.—In this section, the term 'employee' means an employee of the Peace Corps, an employee of the Office of Inspector General of the Peace Corps, an individual appointed or assigned under the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.) to carry out functions under this Act, or an individual subject to a personal services contract with the Peace Corps.".

SEC. 3. OFFICE OF SAFETY AND SECURITY OF THE PEACE CORPS.

The Peace Corps Act (22 U.S.C. 2501 et seq.), as amended by section 2 of this Act, is further amended by inserting after section 4A the following new section:

"SEC. 4B. OFFICE OF SAFETY AND SECURITY OF THE PEACE CORPS.

"(a) ESTABLISHMENT.—There is established in the Peace Corps the Office of Safety and Security of the Peace Corps (in this section referred to as the 'Office'). The Office shall be headed by the Associate Director of the Peace Corps for Safety and Security, who shall be appointed by and report directly to the Director of the Peace Corps.

"(b) RESPONSIBILITIES.—The Office established under subsection (a) shall be responsible for all safety and security activities of the Peace Corps, including background checks of volunteers and staff, the safety and security of volunteers and staff (including training), the safety and security of facilities, the security of information technology, and other responsibilities as required by the Director.

"(c) SENSE OF CONGRESS.—It is the sense of Congress that—

"(1) the Associate Director of Safety and Security of the Peace Corps, as appointed pursuant to subsection (a) of this section, should assign a Peace Corps country security coordinator for each country where the Peace Corps has a program of volunteer service for the purposes of carrying out the field responsibilities of the Office; and

"(2) each country security coordinator—

"(A) should be a United States citizen;

"(B) should be under the supervision of the Peace Corps country director in such country;

"(C) should report directly to the Associate Director of the Peace Corps for Safety and Security on all matters of importance that the country security coordinator considers necessary;

"(D) should be responsible for coordinating security activities with the regional security officer of the Peace Corps responsible for the country to which such country security officer is assigned; and

"(E) should have access to information, including classified information, relating to possible threats against Peace Corps volunteers.".

SEC. 4. INSPECTOR GENERAL OF THE PEACE CORPS.

(a) ESTABLISHMENT OF INDEPENDENT INSPECTOR GENERAL.—

(1) IN GENERAL.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(A) in section 8G(a)(2), by striking ", the Peace Corps";

(B) in section 9(a)(1), by adding at the end the following new subparagraph:

"(X) of the Peace Corps, the office of that agency referred to as the 'Office of Inspector General'; and"; and

(C) in section 11—

(i) in paragraph (1), by striking "or the Office of Personnel Management" and inserting "the Office of Personnel Management, or the Peace Corps"; and

(ii) in paragraph (2), by inserting ", the Peace Corps" after "the Office of Personnel Management".

(2) TECHNICAL AMENDMENT.—Section 9(a)(1)(U) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking "and" at the end.

(b) TEMPORARY APPOINTMENT.—The Director of the Peace Corps may appoint an individual to assume the powers and duties of the Inspector General of the Peace Corps under the Inspector General Act of 1978 (5 U.S.C. App.) on an interim basis until such time as a person is appointed by the President, by and with the advice and consent of the Senate, pursuant to the amendments made in this section.

(c) EXEMPTION FROM EMPLOYMENT TERM LIMITS UNDER THE PEACE CORPS ACT.—

(1) IN GENERAL.—Section 7 of the Peace Corps Act (22 U.S.C. 2506) is amended—

(A) by redesignating subsection (c) as subsection (b); and

(B) by adding at the end the following new subsection:

"(c) The provisions of this section that limit the duration of service, appointment, or assignment of individuals shall not apply to—

"(1) the Inspector General of the Peace Corps;

"(2) officers of the Office of the Inspector General of the Peace Corps;

"(3) any individual whose official duties primarily include the safety and security of Peace Corps volunteers or employees;

"(4) the head of the office responsible for medical services of the Peace Corps; or

"(5) any health care professional within the office responsible for medical services of the Peace Corps.".

(2) CONFORMING AMENDMENT.—The first proviso of section 15(d)(4) of the Peace Corps Act

(22 U.S.C. 2514(d)(4)) is amended by striking "7(c)" and inserting "7(b)".

(d) COMPENSATION.—Section 7 of the Peace Corps Act (22 U.S.C. 2506), as amended by subsection (c) of this section, is further amended by adding at the end the following new subsection:

"(d) The Inspector General of the Peace Corps shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.".

SEC. 5. OFFICE OF MEDICAL SERVICES OF THE PEACE CORPS.

(a) REPORT ON MEDICAL SCREENING AND PLACEMENT COORDINATION.—Not later than 120 days after the date of the enactment of this Act, the Director of the Peace Corps shall submit to the appropriate congressional committees a report that—

(1) describes the medical screening procedures and guidelines used by the office responsible for medical services of the Peace Corps to determine whether an applicant for Peace Corps service has worldwide clearance, limited clearance, a deferral period, or is not medically, including psychologically, qualified to serve in the Peace Corps as a volunteer;

(2) describes the procedures and guidelines used by the Peace Corps to ensure that applicants for Peace Corps service are matched with a host country where the applicant can, with reasonable accommodations, complete at least two years of volunteer service without interruption due to foreseeable medical conditions; and

(3) with respect to each of fiscal years 2000 through 2003 and the first six months of fiscal year 2004, states the number of—

(A) medical screenings of applicants conducted;

(B) applicants who have received worldwide clearance, limited clearance, deferral periods, and medical disqualifications to serve;

(C) appeals to the Medical Screening Review Board of the Peace Corps and the number of times that an initial screening decision was upheld;

(D) requests that have been made to the head of the office responsible for medical services of the Peace Corps for reconsideration of a decision of the Medical Screening Review Board and the number of times that such decisions were upheld by the head of such office;

(E) Peace Corps volunteers who became medically qualified to serve because of a decision of the Medical Screening Review Board and who were later evacuated or terminated their service early due to medical reasons;

(F) Peace Corps volunteers who became medically qualified to serve because of a decision of the head of the office responsible for medical services of the Peace Corps and who were later evacuated or terminated their service early due to medical reasons;

(G) Peace Corps volunteers who the agency has had to separate from service due to the discovery of undisclosed medical information; and

(H) Peace Corps volunteers who have terminated their service early due to medical, including psychological, reasons.

(b) FULL TIME DIRECTOR OF MEDICAL SERVICES.—Section 4(c) of the Peace Corps Act (22 U.S.C. 2503(c)) is amended by adding at the end the following new paragraph:

"(5) The Director of the Peace Corps shall ensure that the head of the office responsible for medical services of the Peace Corps does not occupy any other position in the Peace Corps.".

SEC. 6. REPORTS ON THE "FIVE YEAR RULE" AND ON WORK ASSIGNMENTS OF VOLUNTEERS OF THE PEACE CORPS.

(a) REPORT BY THE COMPTROLLER GENERAL.—

(1) IN GENERAL.—Not later than one year after the date of enactment of this Act, the Comptroller General shall submit to the appropriate congressional committees a report on the effects on the ability of the Peace Corps to effectively manage Peace Corps operations of the limitations on the duration of employment, appointment, or assignment of officers and employees of the Peace Corps under section 7 of the Peace Corps Act (22 U.S.C. 2506).

(2) CONTENTS.—The report described in paragraph (1) shall include—

(A) a description of such limitations;

(B) a description of the history of such limitations and the purposes for which it was enacted and amended;

(C) an analysis of the impact of such limitations on the ability of the Peace Corps to recruit capable volunteers, establish productive and worthwhile assignments for volunteers, provide for the health, safety, and security of volunteers, and, as declared in section 2(a) of the Peace Corps Act (22 U.S.C. 2501(a)), "promote a better understanding of the American people on the part of the peoples served and a better understanding of other peoples on the part of the American people";

(D) an assessment of whether the application of such limitations have accomplished the objectives for which they were intended; and

(E) recommendations, if any, for legislation to amend provisions of the Peace Corps Act that relate to such limitations.

(b) REPORT ON WORK ASSIGNMENTS OF VOLUNTEERS.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Director of the Peace Corps shall submit to the appropriate congressional committees a report on the extent to which the work assignments of Peace Corps volunteers fulfill the commitment of the Peace Corps to ensuring that—

(A) such assignments are well developed, with clear roles and expectations; and

(B) volunteers are well-suited for their assignments.

(2) CONTENTS.—The report described in paragraph (1) shall include—

(A) an assessment of the extent to which agreements between the Peace Corps and host countries delineate clear roles for volunteers in assisting host governments to advance their national development strategies;

(B) an assessment of the extent to which the Peace Corps—

(i) recruits volunteers who have skills that correlate with the expectations cited in the country agreements; and

(ii) assigns such volunteers to such posts;

(C) a description of the procedures in place for determining volunteer work assignments and minimum standards for such assignments;

(D) the results of a survey of volunteers on health, safety, and security issues and of satisfaction surveys, which are to be conducted after the date of the enactment of this Act; and

(E) an assessment of the plan of the Peace Corps to increase the number of volunteers who are assigned to projects in sub-Saharan Africa, Asia, and the Western Hemisphere, particularly among communities of African descent within countries in the Western Hemisphere, that help combat HIV/AIDS and other global infectious diseases.

SEC. 7. DEFINITION OF APPROPRIATE CONGRESSIONAL COMMITTEES.

In this Act, the term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

By Mrs. HUTCHISON:

S. 2455. A bill to amend title II of the Social security Act to repeal the windfall elimination provision and protect the retirement of public servants; to the Committee on Finance.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2455

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Public Servant Retirement Protection Act".

SEC. 2. REPEAL OF CURRENT WINDFALL ELIMINATION PROVISION.

Paragraph (7) of section 215(a) of the Social Security Act (42 U.S.C. 415(a)(7)) is repealed.

SEC. 3. REPLACEMENT OF THE WINDFALL ELIMINATION PROVISION WITH A FORMULA EQUALIZING BENEFITS FOR CERTAIN INDIVIDUALS WITH NONCOVERED EMPLOYMENT.

(a) SUBSTITUTION OF PROPORTIONAL FORMULA FOR FORMULA BASED ON COVERED PORTION OF PERIODIC BENEFIT.—

(1) IN GENERAL.—Section 215(a) of the Social Security Act (as amended by section 2 of this Act) is amended further by inserting after paragraph (6) the following new paragraph:

"(7)(A) In the case of an individual whose primary insurance amount would be computed under paragraph (1) of this subsection, who—

"(i) attains age 62 after 1985 (except where he or she became entitled to a disability insurance benefit before 1986 and remained so entitled in any of the 12 months immediately preceding his or her attainment of age 62), or

"(ii) would attain age 62 after 1985 and becomes eligible for a disability insurance benefit after 1985,

and who first becomes eligible after 1985 for a monthly periodic payment (including a payment determined under subparagraph (E), but excluding (I) a payment under the Railroad Retirement Act of 1974 or 1937, (II) a payment by a social security system of a foreign country based on an agreement concluded between the United States and such foreign country pursuant to section 233, and (III) a payment based wholly on service as a member of a uniformed service (as defined in section 210(m)) which is based in whole or in part upon his or her earnings for service which did not constitute 'employment' as defined in section 210 for purposes of this title (hereafter in this paragraph and in subsection (d)(3) referred to as 'noncovered service'), the primary insurance amount of that individual during his or her concurrent entitlement to such monthly periodic payment and to old-age or disability insurance benefits shall be computed or recomputed under subparagraph (B) or subparagraph (D) (as applicable).

"(B) In the case of an individual who first performs service described in subparagraph (A) after the 12th calendar month following the date of the enactment of the Public Servant Retirement Protection Act, if paragraph (1) of this subsection would apply to such individual (except for subparagraph (A) of this paragraph), the individual's primary insurance amount shall be the product derived by multiplying—

"(i) the individual's primary insurance amount, as determined under paragraph (1) of this subsection and subparagraph (C)(i) of this paragraph, by

"(ii) a fraction—

"(I) the numerator of which is the individual's average indexed monthly earnings (determined without regard to subparagraph (C)(i)), and

"(II) the denominator of which is an amount equal to the individual's average indexed monthly earnings (as determined under subparagraph (C)(i)),

rounded, if not a multiple of $0.10, to the next lower multiple of $0.10.

"(C)(i) For purposes of determining an individual's primary insurance amount pursuant to subparagraph (B)(i), the individual's average indexed monthly earnings shall be determined by treating all service performed after 1950 on which the individual's monthly periodic payment referred to in subparagraph (A) is based (other than noncovered service as a member of a uniformed service (as defined in section 210(m))) as 'employment' as defined in section 210 for purposes of this title (together with all other service performed by such individual consisting of 'employment' as so defined).

"(ii) For purposes of determining average indexed monthly earnings as described in clause (i), the Commissioner of Social Security shall provide by regulation for a method for determining the amount of wages derived from service performed after 1950 on which the individual's periodic benefit is based and which is to be treated as 'employment' solely for purposes of clause (i). Such method shall provide for reliance on employment records which are provided to the Commissioner and which constitute a reasonable basis for treatment of service as 'employment' for such purposes, together with such other information received by the Commissioner as the Commissioner may consider appropriate as a reasonable basis for treatment of service as 'employment' for such purposes.

"(D)(i) In the case of an individual who has performed service described in subparagraph (A) during or before the 12th calendar month following the date of the enactment of the Public Servant Retirement Protection Act, if paragraph (1) of this subsection would apply to such individual (except for subparagraph (A) of this paragraph), there shall first be computed an amount equal to the individual's primary insurance amount under paragraph (1) of this subsection, except that for purposes of such computation the percentage of the individual's average indexed monthly earnings established by subparagraph (A)(i) of paragraph (1) shall be the percent specified in clause (ii). There shall then be computed (without regard to this paragraph) a second amount, which shall be equal to the individual's primary insurance amount under paragraph (1) of this subsection, except that such second amount shall be reduced by an amount equal to one-half of the portion of the monthly periodic payment which is attributable to noncovered service performed after 1956 (with such attribution being based on the proportionate number of years of such noncovered service) and to which the individual is entitled (or is deemed to be entitled) for the initial month of his or her concurrent entitlement to such monthly periodic payment and old-age or disability insurance benefits. There shall then be computed (without regard to this paragraph) a third amount, which shall be equal to the individual's primary insurance amount determined under subparagraph (B) as if subparagraph (B) applied in the case of such individual. The individual's primary insurance amount shall be the largest of the three amounts computed under this subparagraph (before the application of subsection (i)).

"(ii) For purposes of clause (i), the percent specified in this clause is—

"(I) 80.0 percent with respect to individuals who become eligible (as defined in paragraph (3)(B)) for old-age insurance benefits (or became eligible as so defined for disability insurance benefits before attaining age 62) in 1986;

"(II) 70.0 percent with respect to individuals who so become eligible in 1987;

"(III) 60.0 percent with respect to individuals who so become eligible in 1988;

"(IV) 50.0 percent with respect to individuals who so become eligible in 1989; and

"(V) 40.0 percent with respect to individuals who so become eligible in 1990 or thereafter.

"(E)(i) Any periodic payment which otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly payment (as determined by the Commissioner of Social Security), and such equivalent monthly payment shall constitute a monthly periodic payment for purposes of this paragraph.

"(ii) In the case of an individual who has elected to receive a periodic payment that has been reduced so as to provide a survivor's benefit to any other individual, the payment shall be deemed to be increased (for purposes of any computation under this paragraph or subsection (d)(3) by the amount of such reduction.

"(iii) For purposes of this paragraph, the term 'periodic payment' includes a payment payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.

"(F)(i) Subparagraph (D) shall not apply in the case of an individual who has 30 years or more of coverage. In the case of an individual who has more than 20 years of coverage but less than 30 years of coverage (as so defined), the percent specified in the applicable subdivision of subparagraph (D)(ii) shall (if such percent is smaller than the applicable percent specified in the following table) be deemed to be the applicable percent specified in the following table:

"If the number of such individual's years of coverage (as so defined) is:	**The applicable percent is:**
29	85 percent
28	80 percent
27	75 percent
26	70 percent
25	65 percent
24	60 percent
23	55 percent
22	50 percent
21	45 percent

"(ii) For purposes of clause (i), the term 'year of coverage' shall have the meaning provided in paragraph (1)(C)(ii), except that the reference to '15 percent' therein shall be deemed to be a reference to '25 percent'.

"(G) An individual's primary insurance amount determined under this paragraph shall be deemed to be computed under paragraph (1) of this subsection for the purpose of applying other provisions of this title.

"(H) This paragraph shall not apply in the case of an individual whose eligibility for old-age or disability insurance benefits is based on an agreement concluded pursuant to section 233 or an individual who on January 1, 1984—

"(i) is an employee performing service to which social security coverage is extended on that date solely by reason of the amendments made by section 101 of the Social Security Amendments of 1983; or

"(ii) is an employee of a nonprofit organization which (on December 31, 1983) did not have in effect a waiver certificate under section 3121(k) of the Internal Revenue Code of 1954 and to the employees of which social security coverage is extended on that date solely by reason of the amendments made by section 102 of that Act, unless social security coverage had previously extended to service performed by such individual as an employee of that organization under a waiver certificate which was subsequently (prior to December 31, 1983) terminated.".

(2) CONFORMING AMENDMENTS.—

(A) Section 215(d)(3) of such Act (42 U.S.C. 415(d)(3)) is amended—

(i) by striking "subsection (a)(7)(C)" each place it appears and inserting "subsection (a)(7)(E)";

(ii) by striking "subparagraph (E)" and inserting "subparagraph (H)"; and

(iii) by striking "subparagraph (D)" and inserting "subparagraph (F)(i)".

(B) Section 215(f)(9)(A) of such Act (42 U.S.C. 415(f)(9)(A)) is amended by striking "(a)(7)(C)" and inserting "(a)(7)(E)".

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall apply with respect to monthly insurance benefits for months commencing with or after the 12th calendar month following the date of the enactment of this Act. Notwithstanding section 215(f) of the Social Security Act, the Commissioner of Social Security shall recompute primary insurance amounts to the extent necessary to carry out the amendments made by this Act.

By Mr. REID (for himself and Mr. ENSIGN):

S. 2458. A bill to provide for the conveyance of certain public lands in and around historic mining townsites in Nevada, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, I rise today on behalf of myself and Senator ENSIGN to introduce the Nevada Mining Townsite Conveyance Act, which will address an important public land issue in rural Nevada. As you may know, the Federal Government controls over 87 percent of the State of Nevada. That's more than 61 million acres of land. This fact makes it necessary for our State and our communities to pursue Federal remedies for problems that in other States can be handled in a much more expeditious manner. With this in mind, Senator ENSIGN and I look forward to working with our colleagues to pass this common-sense legislation in a bipartisan and timely fashion.

Two rural counties in Nevada have asked for our help in settling longstanding trespass issues that hurt 2 historic mining communities. The towns of Ione and Gold Point have been continuously occupied for over 100 years. Many residents live on land that their families have ostensibly owned for many decades. These citizens have paid their property taxes and made improvements to their properties, rehabilitated historic structures and built new ones.

The documents by which many of these people claim possession of the properties date back many years. In fact, some of the deeds are historic documents themselves. Yet because many of these documents do not satisfy modern requirements for demonstrating land title, they have been deemed invalid. In other words, the Bureau of Land Management has determined that some of the residents of Ione and Gold Point are trespassing on Federal land. This unfortunate situation puts the BLM at odds with the local residents and county governments.

Nye County, Esmeralda County, and the BLM have worked together for almost 10 years to come up with a solution to this problem. All of these parties support the legislation that we offer today as a solution to these land ownerships conflicts, and as a means of promoting responsible resource management. All of the land included in our bill has been identified by the BLM for disposal.

Our legislation represents the first of a two-part solution. Under this bill, specified lands within the historic mining townsites of Ione and Gold Point would be conveyed to the respective counties. Under the provisions of a State law passed several years ago in Nevada, the counties will then re-convey the land to these people or entities who can demonstrate ownership or longstanding occupancy of specific land parcels.

The sum of our bill is that it conveys for no consideration approximately 760 acres in Ione and Gold Point to the counties of Nye and Esmeralda. As a condition of the conveyance, all historic and cultural resources contained in the townsites shall be preserved and protected under applicable Federal and State law. These conveyances will benefit the agencies that manage Nevada's vast Federal lands as well as the proud citizens of our rural communities. We sincerely hope that our colleagues will support this legislation. It is a practical solution that deserves swift passage. We salute the Bureau of Land Management, the counties, and the local residents for their cooperation and hard work in crafting this excellent compromise.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nevada Mining Townsite Conveyance Act".

SEC. 2. DISPOSAL OF PUBLIC LANDS IN MINING TOWNSITES, ESMERALDA AND NYE COUNTIES, NEVADA.

(a) FINDINGS.—Congress finds the following:

(1) The Federal Government owns real property in and around historic mining townsites in the counties of Esmeralda and Nye in the State of Nevada.

(2) While the real property is under the jurisdiction of the Secretary of the Interior, acting through the Bureau of Land Management, some of the real property land has been occupied for decades by persons who took possession by purchase or other documented and putatively legal transactions, but whose continued occupation of the real property constitutes a "trespass" upon the title held by the Federal Government.

(3) As a result of the confused and conflicting ownership claims, the real property is difficult to manage under multiple use policies and creates a continuing source of friction and unease between the Federal Government and local residents.

(4) All of the real property is appropriate for disposal for the purpose of promoting administrative efficiency and effectiveness, and the Bureau of Land Management has already identified certain parcels of the real property for disposal.

(5) Some of the real property contains historic and cultural values that must be protected.

(6) To promote responsible resource management of the real property, certain parcels should be conveyed to the county in which the property is situated in accordance with land use management plans of the Bureau of Land Management so that the county can, among other things, dispose of the property to persons residing on or otherwise occupying the property.

(b) MINING TOWNSITE DEFINED.—In this section, the term "mining townsite" means real property in the counties of Esmeralda and Nye, Nevada, that is owned by the Federal Government, but upon which improvements were constructed because of a mining operation on or near the property and based upon the belief that—

(1) the property had been or would be acquired from the Federal Government by the entity that operated the mine; or

(2) the person who made the improvement had a valid claim for acquiring the property from the Federal Government.

(c) CONVEYANCE-AUTHORITY.—

(1) IN GENERAL.—Notwithstanding sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1713), the Secretary of the Interior, acting through the Bureau of Land Management, shall convey, without consideration, all right, title, and interest of the United States in and to mining townsites (including improvements thereon) identified for conveyance on the maps entitled "Original Mining Townsite Ione Land Disposal Map Nye County" and "Original Mining Townsite Gold Point Land Disposal Map Esmeralda County" dated October 29, 2003.

(2) AVAILABILITY OF MAPS.—The maps referred to in paragraph (1) shall be on file and available for public inspection in the appropriate offices of the Secretary of the Interior, including the office of the Bureau of Land Management located in the State of Nevada.

(d) RECIPIENTS.—

(1) ORIGINAL RECIPIENT.—Subject to paragraph (2), the conveyance of a mining townsite under subsection (c) shall be made to the county in which the mining townsite is situated.

(2) RECONVEYANCE TO OCCUPANTS.—In the case of a mining townsite conveyed under subsection (c) for which a valid interest is proven by one or more persons, under the provisions of Nevada Revised Statutes Chapter 244, the county that received the mining townsite under paragraph (1) shall reconvey the property to that person or persons by appropriate deed or other legal conveyance as provided in that State law. For purposes of proving a valid interest, the person making the claim must have occupied the mining townsite for at least 15 years immediately before the date of the enactment of this Act. The county is not required to recognize a claim under this paragraph submitted more than 10 years after the date of the enactment of this Act.

(e) PROTECTION OF HISTORIC AND CULTURAL RESOURCES.—As a condition on the conveyance or reconveyance of a mining townsite under subsection (c), all historic and cultural resources (including improvements) on the mining townsite shall be preserved and protected in accordance with applicable Federal and State law.

(f) VALID EXISTING RIGHTS.—The conveyance of a mining townsite under this section shall be subject to valid existing rights, including any easement or other right-of-way or lease in existence as of the date of the conveyance. All valid existing rights and interests of mining claimants shall be maintained, unless those rights or interests are deemed abandoned and void or null and void under—

(1) section 2320 of the Revised Statutes (30 U.S.C. 21 et seq);

(2) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq); or

(3) subtitle B of title X of the Omnibus Budget Reconciliation Act of 1993 (30 U.S.C. 28(f)–(k)), including regulations promulgated under section 3833.1 of title 43, Code of Federal Regulations or any successor regulation.

(g) SURVEY.—A mining townsite to be conveyed by the United States under this section shall be sufficiently surveyed to legally describe the land for patent conveyance.

(h) RELEASE.—On completion of the conveyance of a mining townsite under subsection (c), the United States shall be relieved from liability for, and shall be held harmless from, any and all claims arising from the presence of improvements and materials on the conveyed property.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of the Interior such amounts as may be necessary to carry out the conveyances required by this section, including funds to cover the costs of cadastral and mineral surveys, mineral potential reports, hazardous materials, biological, cultural and archaeological clearances, validity examinations and other expenses incidental to the conveyances.

By Mr. ROCKEFELLER:

S. 2459. A bill to authorize the Secretary of Homeland Security to award research and equipment grants, to provide a tax credit for employers who hire temporary workers to replace employees receiving first responder training, to provide school-based mental health training, and for other purposes; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I am proud today to introduce the Community Security Act of 2004. This bill is intended to help prepare our Nation to cope with future disasters, as well as help the daily work of our first responders, by adequately training and equipping them, and by increasing Federal investments in relevant research and development. While much of the bill applies generally to all first responders, this legislation gives special emphasis to the role of volunteer first responders.

As my colleagues surely know, volunteers make up a very significant portion of our Nation's fire service, as well as emergency medical personnel and, to a somewhat lesser degree, law enforcement. The role of volunteers is especially prominent in rural areas, such as in my State of West Virginia. Making certain that local governments can recruit and retain first responders, and that once serving, these dedicated men and women have the necessary tools, are essential factors in protecting our communities.

Inspiration for much of this bill came from the West Virginia Summit on Homeland Security, which I hosted in November of last year, and from the numerous roundtable discussions I have had with my State's first responders since the terrorist attacks on our country on September 11, 2001. During the Summit and in the discussions that preceded it, first responders, educators, health officials, and local elected officials from around West Virginia provided me with thoughtful analysis of what works in Federal assistance programs, what doesn't, and what has been completely lacking.

Although the President and Congress have made great strides in improving our homeland security, there are still gaping holes in our level of preparedness that must be filled. For the most part, the Federal Government is the only source of funding for this work; work that must be done. This legislation is based on what first responders have told me they need and is intended to address these needs.

What was reiterated in meeting after meeting was that the gaps were many, and that additional State funding was unlikely. As almost every State in the Union faces budget shortfalls, I expect my colleagues have heard much the same thing. First responders and local politicians need to recruit and train volunteers; they need the Federal Government to help them supply these men and women with basic lifesaving and interoperable communication equipment; and they need help in fostering cooperation among not only the different professions within the first responder community, but between first responders and the education and social service communities.

Many areas of concern were discussed and it became clear to me that no one program could address all of them. Instead of introducing a number of small bills, I've put together a package of legislation that contains several arguably unrelated provisions that have one thing in common—each is designed to improve homeland security at the local level.

In West Virginia and across the Nation, the numbers of volunteer first responders have been dwindling due to a number of factors—National Guard and Reserve call-ups and changing American lifestyles that leave little time for the serious commitment necessary to be a first responder. It is believed that many more people would volunteer, or would continue in their service as volunteers, if there were a way to carve out more time for the training involved. In addition to basic training, West Virginia and other states require additional training for first responders who choose to serve in units specializing in Weapons of Mass Destruction (WMD) response, or mitigation of biohazards and chemical releases. In fact, Secretary Ridge has cited West Virginia's homeland security plan, including development of highly trained Regional Response Teams, as an example for other States to follow.

The problem is, earning the right to be part of one of these teams—made up of the best of the best in their respective disciplines—requires training that most volunteers, who are holding down full-time jobs in addition to their public service and family responsibilities, cannot find the time for, or in some cases, afford. For example, West Virginia's Regional Response Team members are required, within the first two years, to complete 200 hours of specialized training over and above what is already required in their roles as firefighters or EMTs. For many volunteer first responders, this time commitment is difficult to meet but, for those whose jurisdictions do not pay training costs, it is impossible to justify.

To remedy this situation, this bill creates two tax incentives: a business credit to encourage small businesses to allow their volunteer first responder employees to take time off for training, and a personal deduction for the first responders themselves, when training and related expenses are not reimbursed by their State or local government.

My conversations with West Virginia first responders and local officials have also taught me that even when a State is well prepared or, in the case of West Virginia, exceptionally prepared, gaps can still exist at the local level which put citizens at risk. Some local first responder units, especially those in rural areas, do not feel as prepared as they know they should be. For example, a recent report found that most fire departments across the country had only enough radios for one-half of the firefighters on a shift and breathing apparatuses for only one-third. Without these basics, these brave men and women are not adequately equipped to respond to a house fire and are at a serious disadvantage when responding to a critical incident.

Similarly, some firehouses and police stations lack basic telecommunications equipment. I have been concerned for some time that many of our police departments in rural areas were operating without the crime-fighting tools at their disposal that computers and high-speed Internet connections offer. So, while I was not necessarily surprised, I was a little troubled that the lack of modern telecommunications equipment—computer hardware, Internet service and e-mail, and multiple phone and fax lines—was hampering the ability of fire departments and EMS units to serve their communities. Given the wealth of information available and the greater amounts of first responder work conducted over the Internet, these basic office tools are essential to guarantee the safety and protection of our citizens. For instance, where this equipment is available, some first responder training is now being done over the Internet, saving departments time and money. Rural firehouses are probably the ones least likely to have an Internet-accessible computer and are also the least likely to be able to fund a longer trip to a fire school.

So, this legislation requires the Secretary of Homeland Security to assess the critical needs of a first responder unit, from personal safety equipment to office machines, and establishes a grant program to provide the basic equipment essential for carrying out the constantly expanding responsibilities of local first responders. The Secretary is to give emphasis to those departments most in need. These departments will often, but not always, be rural departments.

The other areas I cover in this bill are a bit of a departure from standard measures to increase funding and provide better equipment for first responders. They are, I believe, no less important to the goal of improving the safety and security of our towns and cities. Again, my conversations with people on the front lines—in this instance teachers and academic experts on homeland security and mental health—inspired these provisions.

Our communities have had to adjust to some new realities. Our schools find themselves thrust into a role in disaster preparedness and response that most educators never before considered. When I asked school personnel what was needed to improve the circumstance of schools in homeland security preparation, response, and mitigation efforts, I was surprised to hear their answer—mental health professionals in the schools and training for school staff in mental health issues. This bill works to address these community needs in two ways. First, in the unfortunate event that a school is the scene of a disaster, or is called upon to assist a community in response to a disaster elsewhere, this bill provides that community with a reimbursement mechanism for related expenses. Second, the bill creates a sustainable program to provide school-based mental health services to all students. I am convinced that having mental health professionals in schools to train students and faculty about disaster avoidance and preparation makes for safer, healthier schools and more stable communities.

Our institutions of higher learning are already contributing to homeland security. The Department of Homeland Security has a program of university-based research, and this legislation proposes to expand it with a new research grant program to supplement the surprising dearth of research that has been conducted on human factors in homeland security, including first responder group dynamics, citizens' response to disasters, and the human factors behind preparation efforts. We know that a primary goal of terrorists is to disrupt social systems, and this social disruption is often more devastating to a community then the attack itself. I have actively supported both basic and applied scientific research throughout my Senate career, and I believe science should guide policy. This research grant program will fund research on how terrorism and the threat of terrorism impacts the average citizen, how the inevitable societal disruption can be mitigated, and will help guide disaster planning and optimize the performance of first responder units and the systems designed to assist them.

Historically, some States have benefited more than others under traditional grant systems and in response to that situation, our leading science funding organizations have developed special programs to encourage the growth of research in under represented states. For example, the National Science Foundation designed the Experimental Program to Stimulate Competitive Research to support academic research and development across the nation and to counteract the trend that concentrated research expertise in a few states. This bill allows for a similar program to be developed within the Department of Homeland Security. Homeland security is regional and research and personnel expertise must be distributed around the country. Unfortunately, terrorist threats against the United States are not restricted to a single geographic area, terrorist group, or method of threat. Terrorism is possible in many parts of our country that have never had to prepare for, or respond to, such attacks. Addressing these threats requires regional and local expertise; thus the homeland security- related scientific and technological workforce and training must not be overly centralized.

Our country has worked extraordinarily hard to prepare for disaster. The Local Preparation Act is designed to assist these preparation efforts by guaranteeing adequate numbers of first responders, providing them with the training and protection they need, and improving the safety and security of our communities. Local preparation is the bedrock of our state-wide and national efforts. I firmly believe these goals will be achieved through the innovative programs contained in this bill. I want to thank Summit participants as well as the men and women who have taken time out of their busy schedules to help work through the best way to design these new programs. Also, I want to thank first responders, both volunteer and career. After all, they are the original inspiration for this bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2459

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Community Security Act".

SEC. 2. TAX INCENTIVES TO FACILITATE TRAINING OR DISASTER RESPONSE BY INDIVIDUALS SERVING AS VOLUNTEER FIRST RESPONDERS.

(a) FINDINGS.—Congress makes the following findings:

(1) Seventy percent of our Nation's firefighters are volunteers, as are many emergency medical service and police personnel.

(2) States rely heavily on the services of these volunteer first responders.

(3) Many career first responders begin as volunteers.

(4) Volunteer first responders need the same preparation and training as career first responders. Advanced training is frequently required before volunteer first responders can be fully integrated in a State homeland security plan.

(5) The training and duties of volunteer first responders - sometimes conflict with their regular employment for significant periods of time, such as in cases of out-of-State training and disaster response. In these cases employers may need to hire temporary replacement workers or incur other related costs while the volunteer responders are away from work. The burden of temporarily replacing these employees is particularly great for small and single-employer businesses.

(b) VOLUNTEER FIRST RESPONDER CREDIT.—

(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following:

"SEC. 45G. CREDIT TO EMPLOYERS OF VOLUNTEER FIRST RESPONDERS.

"(a) GENERAL RULE.—For purposes of section 38, the volunteer first responder employee credit is an amount equal to 50 percent of the sum of—

"(1) the employment credit with respect to all qualified volunteer first responder employees of the taxpayer,

"(2) in the case of a small business employer, the replacement credit with respect to all qualified volunteer first responder employees of the taxpayer, plus

"(3) the self-employment credit of a qualified volunteer first responder self-employed taxpayer.

"(b) EMPLOYMENT CREDIT.—For purposes of this section—

"(1) IN GENERAL.—The employment credit with respect to any qualified volunteer first responder employee of the taxpayer is an amount equal to the lesser of—

"(A) the actual compensation amount with respect to such employee for such taxable year, or

"(B) $30,000.

"(2) ACTUAL COMPENSATION AMOUNT.—

"(A) IN GENERAL.—The term 'actual compensation amount' means the amount of compensation paid or incurred by the taxpayer with respect to a qualified volunteer first responder employee on any day when such employee was absent from employment for the purpose of participating in a qualified activity.

"(B) COMPENSATION.—The term 'compensation' means any remuneration for employment, whether in cash or in kind, which is paid or incurred by a taxpayer and which is deductible from the taxpayer's gross income under section 162(a)(1).

"(3) LIMITATION.—No credit shall be allowed under this subsection with respect to any day that a qualified volunteer first responder employee who takes part in a qualified activity was not scheduled to work (for reason other than to participate in a qualified activity).

"(c) REPLACEMENT CREDIT.—For purposes of this section.—

"(1) IN GENERAL.—The replacement credit with respect to any qualified volunteer first responder employee of the taxpayer is an amount equal to the sum of—

"(A) the qualified compensation with respect to each qualified replacement employee of the taxpayer paid by the taxpayer during the taxable year, and

"(B) the qualified overtime wages paid by the taxpayer during the taxable year.

"(2) LIMITATION.—The amount of the credit allowed by reason of this subsection shall not exceed $12,000 for any taxable year.

"(3) QUALIFIED COMPENSATION.—The term 'qualified compensation' means—

"(A) compensation which is normally contingent on the qualified replacement employee's presence for work and which is deductible from the taxpayer's gross income under section 162(a)(1),

"(B) compensation which is not characterized by the taxpayer as vacation or holiday pay, or as sick leave or pay, or as any other form of pay for a nonspecific leave of absence, and

"(C) group health plan costs (if any) with respect to the qualified replacement employee.

"(4) QUALIFIED REPLACEMENT EMPLOYEE.—The term 'qualified replacement employee' means an individual who is hired to replace a qualified volunteer first responder employee, but only with respect to the period during which such employee participates in a qualified activity, including time spent in travel status.

"(5) QUALIFIED OVERTIME WAGES.—For purposes of this section, the term 'qualified overtime wages' means overtime wages paid to an employee of the taxpayer (other than a qualified replacement employee) for duties normally performed by a qualified volunteer first responder employee, but only with respect to the period during which such qualified volunteer first responder employee participates in a qualified activity, including time spent in travel status.

"(6) COORDINATION WITH OTHER CREDITS.—The amount of credit otherwise allowable under sections 51(a) and 1396(a) with respect to any employee shall be reduced by the credit allowed by reason of paragraph (1)(A) with respect to such employee.

"(d) SELF-EMPLOYMENT CREDIT.—For purposes of this section—

"(1) IN GENERAL.—The self-employment credit with respect to a qualified volunteer first responder self-employed taxpayer is an amount equal to the amount paid or incurred by such taxpayer with respect to a qualified self-employment replacement employee.

"(2) QUALIFIED VOLUNTEER FIRST RESPONDER SELF-EMPLOYED TAXPAYER.—The term 'qualified volunteer first responder self-employed taxpayer' means a taxpayer who—

"(A) has self-employment income (as defined in section 1402) for the taxable year, and

"(B) holds a volunteer position as a firefighter, law enforcement official, or emergency medical service provider.

"(3) QUALIFIED SELF-EMPLOYMENT REPLACEMENT EMPLOYEE.—The term 'qualified self-employment replacement employee' means an individual who is hired to replace the qualified volunteer first responder self-employed taxpayer, but only with respect to the period during which such taxpayer participates in a qualified activity, including time spent in travel status.

"(e) DEFINITIONS AND OTHER RULES.—For purposes of this section—

"(1) QUALIFIED VOLUNTEER FIRST RESPONDER EMPLOYEE.—The term 'qualified volunteer first responder employee' means an individual who—

"(A) has been an employee of the taxpayer for the 91-day period immediately preceding the period during which the employee participates in a qualified activity, and

"(B) holds a volunteer position as a firefighter, law enforcement official, or emergency medical service provider.

"(2) QUALIFIED ACTIVITY.—The term 'qualified activity' means—

"(A) training with respect to duties performed in connection with the volunteer position of the qualified volunteer first responder employee or qualified volunteer first responder self-employed taxpayer, and

"(B) the performance of duties in connection with the volunteer position of the qualified volunteer first responder employee or qualified volunteer first responder self-employed taxpayer, but only to the extent that such duties take not less than 1 day to perform.

"(3) SMALL BUSINESS EMPLOYER.—

"(A) IN GENERAL.—The term 'small business employer' means, with respect to any taxable year, any employer who employed an average of 200 or fewer employees on business days during such taxable year.

"(B) CONTROLLED GROUPS.—For purposes of subparagraph (A), all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.".

(2) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) of the Internal Revenue Code of 1986 is amended by striking "plus" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting ", plus", and by adding at the end the following new paragraph:

"(16) the volunteer first responder employee credit determined under section 45G.".

(3) TRANSITION RULE.—Section 39(d) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(11) NO CARRYBACK OF VOLUNTEER FIRST RESPONDER EMPLOYEE CREDIT BEFORE ENACTMENT.—No portion of the unused business credit for any taxable year which is attributable to the volunteer first responder employee credit determined under section 45G may be carried back to a taxable year beginning before January 1, 2004.".

(4) DENIAL OF DOUBLE BENEFIT.—Section 280C(a) of the Internal Revenue Code of 1986 (relating to rule for employment credits) is amended

(A) by inserting "or compensation" after "salaries", and

(B) by inserting "45G,", after "45A(a),".

(5) CONFORMING AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

"Sec. 45G. Credit to employers of volunteer first responders.".

(6) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2003.

(c) DEDUCTION FOR CERTAIN EXPENSES OF VOLUNTEER FIRST RESPONDERS.—

(1) DEDUCTION FOR TRAVEL EXPENSES.—

(A) DEDUCTION ALLOWED.—Section 162 (relating to certain trade or business expenses) is amended by redesignating subsection (q) as subsection (r) and inserting after subsection (p) the following new subsection:

"(q) TREATMENT OF EXPENSES OF VOLUNTEER FIRST RESPONDERS.—For purposes of subsection (a)(2), in the case of an individual who participates in a qualified activity (within the meaning of section 45G(e)(2)) as a volunteer first responder (within the meaning of section 224) at any time during the taxable year, such individual shall be deemed to be away from home in the pursuit of a trade or business for any period during which such individual is away from home in connection with such participation.".

(B) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ELECTS TO ITEMIZE.—Section 62(a)(2) (relating to certain trade and business deductions of employees) is amended by adding at the end the following new subparagraph:

"(F) CERTAIN EXPENSES OF VOLUNTEER FIRST RESPONDERS.—The deductions allowed by section 162 which consist of expenses, determined at a rate not in excess of the rates for travel expenses (including per diem in lieu of subsistence) authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, paid or incurred by the taxpayer in connection with participation in qualified activities (as defined in section 45G(e)(2)) as a volunteer first responder for any period during which such individual is more than 100 miles away from home in connection with such qualified activities.".

(2) DEDUCTION FOR TRAINING EXPENSES.—

(A) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deduction for individuals) is amended by redesignating section 224 as section 225 and by inserting after section 223 the following new section:

"SEC. 224. CERTAIN EXPENSES OF VOLUNTEER FIRST RESPONDERS.

"(a) IN GENERAL.—In the case of a volunteer first responder, there shall be allowed as a deduction an amount equal to the expenses paid or incurred by the volunteer first responder necessary for training with respect to duties performed in connection with the volunteer position of such volunteer first responder.

"(b) VOLUNTEER FIRST RESPONDER.—For purposes of this section, the term 'volunteer first responder' means an individual who holds a volunteer position as a firefighter, law enforcement official, or emergency medical service provider.".

(B) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ELECTS TO ITEMIZE.—Section 62(a) of such Code (relating to adjusted gross income) is amended by adding at the end the following new section:

"(20) VOLUNTEER FIRST RESPONDER TRAINING EXPENSES.—The deduction allowed by section 224.".

(C) CONFORMING AMENDMENT.—The table of section for part VII of subchapter B of chapter 1 of such Code is amended by striking the item relating to section 224 and inserting the following:

"Sec. 224. Certain expenses of volunteer first responders.
"Sec. 225. Cross reference.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2003.

SEC. 3. CRITICAL NEED GRANTS FOR FIRST RESPONDERS.

(a) FINDINGS.—Congress finds the following:

(1) According to a report by the Council on Foreign Relations Independent Task Force, first responders in the United States are underfunded and unprepared for future natural, technological, and human-caused disasters.

(2) Local firefighters, police officers, and emergency medical personnel are responsible for disaster prevention, mitigation, and response.

(3) It is essential that first responders have basic safety equipment that is in good working order and customized, if appropriate, to do their jobs as safely and effectively as possible.

(4) All first responder operation centers need basic communications equipment, including—

(A) multiple touch-tone phone lines;

(B) a fax machine with a dedicated phone line;

(C) a computer with a high-speed connection to the Internet; and

(D) personal communication devices for shift supervisors, their commanders, and all first responders in a work unit.

(b) PURPOSE.—The purpose of this section is to establish a competitive grant program within the Department of Homeland Security to provide first responders with the basic equipment needed to accomplish their homeland security goals.

(c) LOCAL CRITICAL NEED HOMELAND SECURITY GRANTS FOR FIRST RESPONDERS.—Title V of the Homeland Security Act of 2002 (6 U.S.C. 311 et seq.) is amended by adding at the end the following:

"SEC. 510. LOCAL CRITICAL NEED HOMELAND SECURITY GRANTS FOR FIRST RESPONDERS.

"(a) DEFINITIONS.—As used in this section, the following definitions shall apply:

"(1) BASIC PERSONAL EQUIPMENT.—The term 'basic personal equipment' means equipment necessary to achieve the standard of basic preparedness established by the Under Secretary for Emergency Preparedness and Response under subsection (d), including—

"(A) personal breathing apparatus;

"(B) protective equipment; and

"(C) bulletproof vests.

"(2) COMMUNICATIONS ENHANCEMENT.—The term 'communications enhancement' means improvements to local first responder communications systems that are necessary to achieve the standard of basic preparedness established by the Under Secretary for Emergency Preparedness and Response under subsection (d), including the development or enhancement of—

"(A) emergency operations centers;

"(B) processes and facilities for information sharing among different levels and first responder units; and

"(C) communications capabilities within individual firehouses, police precincts, or other centers of emergency operation.

"(b) STANDARD OF BASIC PREPAREDNESS.—Not later than September 30, 2005, the Under Secretary for Emergency Preparedness and Response shall establish a standard of basic preparedness for local first responders, which shall provide for maximum State flexibility.

"(c) GRANTS AUTHORIZED.—The Secretary may award need-based, competitive grants to States and units of local government to be used for basic personal equipment and communications enhancement needed to perform their disaster response, mitigation, and recovery missions.

"(d) APPLICATION.—

"(1) IN GENERAL.—Each eligible entity desiring a grant under this section shall submit an application to the Under Secretary for Emergency Preparedness and Response at such time, in such manner, and containing such information, including the safety and communications equipment to be purchased with grant funds, as the Under Secretary may reasonably require.

"(2) PRIORITY.—

"(A) IN GENERAL.—The Under Secretary shall give the highest priority to applicants demonstrating the greatest need for basic personal equipment and communication enhancements when compared to the standard of basic preparedness established under subsection (d).

"(B) INTERIM PRIORITY.—Until a standard of basic preparedness is established under subsection (d), the Secretary shall give highest priority to applicants that demonstrate the greatest need for basic personal equipment and communication enhancements when compared to the standard under consideration.

"(3) EVALUATION PLANS.—The Secretary shall use evaluation plans under consideration to help determine which applicants will receive grants under this section.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, for each of fiscal years 2005 through 2007, such sums as may be necessary to carry out this section, which shall remain available until expended.".

SEC. 4. SAFE SCHOOLS THROUGH MENTAL HEALTH PROGRAM.

(a) GRANTS AUTHORIZED.—Subpart 2 of part A of title IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7131 et seq.) is amended by adding at the end the following:

"SEC. 4131. MENTAL HEALTH PROGRAMS.

"(a) PURPOSE.—The purpose of this section is to provide grants to States and local educational agencies—

"(1) to prepare for and respond to disasters or terrorism in or impacting schools;

"(2) to prevent avoidable disasters, such as in-school or school-related violence;

"(3) to establish community-sustainable mental health programs in schools; and

"(4) to train school personnel on mental health issues, including disaster and terrorism prevention, response, and mitigation.

"(b) FINDINGS.—Congress makes the following findings:

"(1) Schools occupy a unique place in the community. In addition to their main mission of educating children, they serve a public education role and a role in community organization.

"(2) Schools have new responsibilities in the homeland security era and in terms of disaster response. Schools often serve as community meeting places, centers of operation for disaster response, and shelters, and have a place in preventing some disasters from happening. Schools may also be called upon to fill novel roles in the case of a disaster, such as keeping children safe after normal school hours.

"(3) Some disasters, such as in-school violence, are largely preventable. Mental health professionals in schools may be able to anticipate and prevent school-related disasters and are better positioned to mitigate disaster effects.

"(4) After any disaster, people benefit from returning to their normal routine to whatever extent possible. Schools may be in the position to mitigate disaster-related stress.

"(c) DEFINITION.—In this section, the term 'eligible entity' means a public school or a local educational agency.

"(d) SAFE SCHOOLS THROUGH MENTAL HEALTH PROGRAM.—

"(1) GRANTS AUTHORIZED.—From funds made available to carry out this subpart under section 4003(2), the Secretary shall award grants to eligible entities to pay the Federal share of the cost of carrying out the activities described in paragraph (3).

"(2) APPLICATION.—An eligible entity that desires to receive a grant under this subsection shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require, including a certification that the eligible entity will provide the necessary State or local funding to continue the activities initiated with the grant during the 5-year period beginning on the date on which such grant is awarded.

"(3) USES OF FUNDS.—An eligible entity that receives a grant under this subsection may use the grant funds to—

"(A) train elementary school and secondary school teachers, administrators, and other professionals to—

"(i) identify and prevent avoidable disasters; and

"(ii) assist children in dealing with the aftermath of terrorism and disasters or other mental health issues;

"(B) provide for school-based mental health professionals to offer services in elementary and secondary schools;

"(C) provide mental health services to elementary and secondary school students who face, or have faced, disciplinary action, including students who have been suspended or expelled from school.

"(4) FEDERAL SHARE.—The Federal share of the cost of carrying out the activities under paragraph (3) shall be not more than—

"(A) 80 percent of the total cost of such activities, in the first year of the grant award;

"(B) 60 percent of the total cost of such activities, in the second year of the grant award;

"(C) 40 percent of the total cost of such activities, in the third year of the grant award;

"(D) 20 percent of the total cost of such activities, in the fourth year of the grant award; and

"(E) 0 percent of the total cost of such activities, in the fifth year of the grant award.

"(5) STATE AND LOCAL FUNDING.—If an eligible entity receiving a grant under this subsection fails to provide sufficient State or local funding, in accordance with paragraph (4), the eligible entity shall be subject to a penalty up to the amount received under this subsection, as determined by the Secretary, which shall be payable to the United States Treasury.

"(e) SCHOOL-BASED DISASTER MITIGATION REFUND PROGRAM.—

"(1) GRANTS AUTHORIZED.—From funds made available to carry out this subpart under section 4003(2), the Secretary, in an emergency declared by the President under title V of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 501 et seq.), shall award grants to eligible entities to pay the Federal share of the cost of carrying out the activities described in paragraph (3).

"(2) APPLICATION.—An eligible entity that desires to receive a grant under this subsection shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

"(3) USE OF FUNDS.—An eligible entity that receives a grant under this subsection shall use the grant funds to reimburse elementary and secondary schools for costs incurred by such schools—

"(A) during a disaster response; and

"(B) for in-school mental health counseling for a period of 13 months beginning on the date of the disaster.".

(b) FEDERAL EMERGENCY ASSISTANCE.—Section 502(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5192(a)) is amended—

(1) in paragraph (6), by striking "and" at the end;

(2) in paragraph (7), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(8) provide financial assistance to affected State and local governments for school-based community mental health counseling.".

SEC. 5. HOMELAND SECURITY RESEARCH AND DEVELOPMENT GRANT PROGRAM.

(a) FINDINGS.—Congress finds the following:

(1) The Department of Homeland Security is responsible for funding the intramural and extramural research and development to address the Department's scientific and technological needs and requirements.

(2) Funding has been appropriated to the Department of Homeland Security to carry out significant levels of scientific development, and this funding will likely increase in the future.

(3) Terrorist threats against the United States are not restricted to a single geographic area, terrorist group, or method of threat. Undefended borders make terrorist attacks possible in places that have never had to prepare for, or respond to, terrorism.

(4) Every State must be prepared for disasters and will incur costs associated with homeland security.

(5) States experience varying levels of potential homeland security threats and homeland security concerns vary geographically. Addressing these threats requires regional and local expertise, thus the scientific and technological workforce and training should not be overly centralized.

(6) Academic research and development funding has not been distributed equitably in the past. Congress has taken steps to resolve

this problem. Correcting this inequity will provide beneficial results for science and technology training and research.

(b) PURPOSE.—The purpose of this section is to establish a competitive grant program for homeland security research and development.

(c) HOMELAND SECURITY RESEARCH AND DEVELOPMENT GRANT PROGRAM.—Title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.) is amended by adding at the end the following:

"SEC. 314. COMPETITIVE RESEARCH GRANT PROGRAM.

"(a) ESTABLISHMENT.—The Secretary, in consultation with the Under Secretary for Science and Technology, shall establish a Homeland Security Competitive Research Grant Program (referred to in this section as the 'Program') to more equitably distribute Federal research and development funds by awarding competitive grants to universities and colleges in eligible States to conduct research projects relating to homeland security.

"(b) ELIGIBLE STATES.—During fiscal years 2005 and 2006, colleges and universities located in States and territories that qualify for the National Science Foundation's EPSCoR program or the National Institutes of Health IDeA program shall be eligible for funding under the Program.

"(c) RESPONSIBILITIES.—The Under Secretary for Science and Technology shall—

"(1) ensure that not less than 15 percent of the Department's overall academic research funding is allocated to universities and colleges in eligible States;

"(2) establish a cofunding mechanism for States with academic facilities that have not fully developed security-related science and technology to support burgeoning research efforts by the faculty or link them to established investigators;

"(3) provide for conferences, workshops, outreach, and technical assistance to researchers and academic institutions in eligible States on topics related to developing science and technology expertise in areas of high interest and relevance to the Department;

"(4) monitor the efforts of States to develop programs that support the Department's mission;

"(5) implement a merit review program, consistent with program objectives, to ensure the quality of research conducted with Program funding; and

"(6) provide annual reports on the progress and achievements of the Program to the Secretary.

"(d) ANNUAL REPORT.—Not later than March 15 of each year, the Under Secretary for Science and Technology shall submit a report to Congress on the implementation of the Program.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

"(1) $5,000,000 for fiscal year 2005 to carry out subsection (c)(3); and

"(2) such sums as may be necessary for fiscal year 2006 to carry out this section.".

SEC. 6. HOMELAND SECURITY RESEARCH EXPANSION GRANT PROGRAM.

(a) FINDINGS.—Congress finds the following:

(1) The Department of Homeland Security should fund research, which explores the innovative human dimensions of homeland security.

(2) Infrastructure and transportation systems, and the systems designed to protect them, are only as effective as their operators and users.

(3) Because communication before, during, and after disasters is critical, the understanding of behavioral, psychological, and social sciences in promoting effective communications with homeland security goals in mind is vital to the department's mission.

(4) Several areas of social science are relevant to homeland security, including—

(A) theories and data regarding threat communication and the psychological impacts of such threats;

(B) citizen response to disaster;

(C) group behavior in response to a threat or actual disaster;

(D) theories and data about the impact of sustained attention and vigilance on reasoning; and

(E) risk analysis and decision-making and their application to homeland security.

(5) Since the primary goal of terrorism is to disrupt social systems, the Department of Homeland Security should support research on how attitudes and beliefs about terrorism impact—

(A) consumer confidence;

(B) population mobility;

(C) decisions about childcare;

(D) job behaviors; and

(E) attitudes toward immigrants, political institutions, and leaders.

(6) Homeland security efforts would benefit from research on—

(A) the selection, management, and training of security personnel and first responders;

(B) the impact of stereotyping and marginalization of groups;

(C) hate crimes;

(D) the emergence and maintenance of fundamentalist, extremist, and antigovernment groups within the United States; and

(E) protection against the acts inspired by the groups described in subparagraph (D).

(b) PURPOSE.—The purpose of this section is to establish a program to award research grants to examine the social dimensions of terrorism.

(c) RESEARCH EXPANSION GRANTS.—Title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), as amended by section 5, is further amended by adding at the end the following:

"SEC. 315. RESEARCH EXPANSION GRANTS.

"(a) IN GENERAL.—The Secretary shall award research grants to colleges and universities to—

"(1) analyze group dynamics during periods of extreme stress, including how first responders—

"(A) react during such periods;

"(B) can be inoculated to stress; and

"(C) can help mitigate the stress and social disruption that often accompanies emergency situations;

"(2) analyze the social and cultural factors that may affect the performance of first responder groups;

"(3) expand human factors research to all other modes of transportation including the use of infrastructure and transportation systems under evacuation circumstances;

"(4) develop and demonstrate compliance with operability standards for new technologies designed by human factors experts in conjunction with users;

"(5) examine the decision making of voluntary first responders under extended periods of disaster, including whether volunteer first responders would report to their primary jobs or their first responder positions if simultaneously called to both; and

"(6) understand how the Homeland Security Advisory System operates as a useful communication tool for citizens.

"(b) APPLICATION.—Each college and university desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

"(c) ANNUAL REPORTS.—

"(1) REPORT TO SECRETARY.—Grant recipients shall submit an annual report to the Secretary containing specific research findings that may be used to improve emergency preparedness and response efforts.

"(2) REPORT TO CONGRESS.—The Secretary shall submit an annual report to Congress on the grant program authorized by this section.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $40,000,000 for each of the fiscal years 2005 through 2007.".

By Mr. DOMENICI:

S. 2460. A bill to provide assistance to the State of New Mexico for the development of comprehensive State water plans, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. DOMENICI. Mr. President, water is the life's blood for New Mexico. When the water dries up in New Mexico, so will many of its communities. As such, the scarcity of water in New Mexico is a dire situation. Unfortunately, the New Mexico Office of the State Engineer (NM OSE) lacks the tools necessary to undertake the Herculean task of effectively managing New Mexico's water resources.

Today, I introduce legislation that would allow New Mexico to make informed decisions about its limited water resources.

In order to effectively perform water rights administration, as well as comply with New Mexico's compact deliveries, the State Engineer is statutorily required to perform assessments and investigations of the numerous stream systems and ground water basins located within New Mexico. However, the NM OSE is ill equipped to vigorously and comprehensively undertake the daunting but critically important task of water resource planning. At present, the NM OSE lacks adequate resources to perform necessary hydrographic surveys and data collection. As such, ensuring a future water supply for my home state requires that Congress provide the NM OSE with the resources necessary to fulfill its statutory mandate.

The bill I introduce today would create a standing authority for the State of New Mexico to seek and receive technical assistance from the Bureau of Reclamation and the United States Geological Survey. It would also provide the NM OSE the sum of $12.5 million in federal assistance to perform hydrologic models of New Mexico's most important water systems. This bill would provide the NM OSE with the best resources available when making crucial decisions about how best preserve our limited water stores.

Ever decreasing water supplies in New Mexico have reached critical levels and require immediate action. The Congress cannot sit idly by as water shortages cause death to New Mexico's communities. I hope the Senate will give this legislation its every consideration.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2460

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "New Mexico Water Planning Assistance Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Bureau of Reclamation and the United States Geological Survey.

(2) STATE.—The term "State" means the State of New Mexico.

SEC. 3. COMPREHENSIVE WATER PLAN ASSISTANCE.

(a) IN GENERAL.— On the request of the Governor of the State and subject to subsections (b) through (e), the Secretary shall—

(1) provide to the State technical assistance and grants for the development of comprehensive State water plans;

(2) conduct water resources mapping in the State; and

(3) conduct a comprehensive study of groundwater resources (including potable, brackish, and saline water resources) in the State to assess the quantity, quality, and interaction of groundwater and surface water resources.

(b) TECHNICAL ASSISTANCE.—Technical assistance provided under subsection (a) may include—

(1) acquisition of hydrologic data, groundwater characterization, database development, and data distribution;

(2) expansion of climate, surface water, and groundwater monitoring networks;

(3) assessment of existing water resources, surface water storage, and groundwater storage potential;

(4) numerical analysis and modeling necessary to provide an integrated understanding of water resources and water management options;

(5) participation in State planning forums and planning groups;

(6) coordination of Federal water management planning efforts;

(7) technical review of data, models, planning scenarios, and water plans developed by the State; and

(8) provision of scientific and technical specialists to support State and local activities.

(c) ALLOCATION.—In providing grants under subsection (a), the Secretary shall, subject to the availability of appropriations, allocate—

(1) $5,000,000 to develop hydrologic models and acquire associated equipment for the New Mexico Rio Grande main stem sections and Rio Taos and Hondo, Rios Nambe, Pojoaque and Teseque, Rio Chama, and Lower Rio Grande tributaries;

(2) $1,500,000 to complete the hydrographic survey development of hydrologic models and acquire associated equipment for the San Juan River and tributaries;

(3) $1,000,000 to complete the hydrographic survey development of hydrologic models and acquire associated equipment for Southwest New Mexico, including the Animas Basin, the Gila River, and tributaries;

(4) $4,500,000 for statewide digital orthophotography mapping; and

(5) such sums as are necessary to carry out additional projects consistent with subsection (b).

(d) NON-REIMBURSABLE AND NO COST-SHARING.—Any assistance or grants provided to the State under this Act shall be made on a non-reimbursable basis and without a cost-sharing requirement.

(e) AUTHORIZED TRANSFERS.—On request of the State, the Secretary shall directly transfer to 1 or more Federal agencies any amounts made available to the State to carry out this Act.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $2,500,000 for each of fiscal years 2005 through 2009.

By Mr. DEWINE (for himself and Mr. KENNEDY):

S. 2461. A bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products; to the Committee on Health, Education, Labor, and Pensions.

Mr. DEWINE. Mr. President, today I join our colleague from Massachusetts, Senator KENNEDY, to introduce a bill designed to help protect consumers—especially children—from the dangers of tobacco. Simply, our bill would finally give the Food and Drug Administration (FDA) the authority it needs to effectively regulate the manufacture and sale of tobacco products.

I say finally, because there are some tobacco proponents who would have you believe that the Master Settlement Agreement, which was signed in 1998 by 46 States, resolved the issue of youth tobacco use by imposing advertising restrictions.

I say finally, because my colleagues—first Senator MCCAIN, then Senator FRIST, then Senator GREGG, and then Senator KENNEDY and I—have been seeking FDA regulation of tobacco products since the mid to late 1990's.

And, I say finally, because the bill that we are introducing today is the product of long and hard discussions and negotiations that I have had with Senator KENNEDY and public interest groups and industry. Our bill has the support of Campaign for Tobacco Free Kids. Our bill has the support of Philip Morris. Our bill has the support of the American Heart Association, the American Lung Association, and the American Cancer Association. It is a bill that I am proud of, that is worthy of the Senate's consideration, and that will provide the FDA—finally—with strong and effective authority over the regulation of tobacco products.

I realize full well that tobacco users and non-users, alike, recognize and understand that tobacco products are hazardous to their health. We all know that smoking is not a healthy habit. But, that's an obvious point in comparison to the fact that right now, many consumers, including smokers, are surprised to learn that no Federal agency has the authority to require tobacco companies to list the ingredients that are in their products—things like trace amounts of arsenic, formaldehyde, and ammonia. And, no Federal agency has the authority to inspect tobacco manufacturers—how the cigarette and smokeless tobacco products are made, whether the manufacturers' machines and equipment are clean, etc.

While simply listing the ingredients, toxic as they may be, might not seem like much to some, think of it this way: Current law makes sure we know what's in products designed to help people quit smoking, like "the patch" or Nicorette gum, but not the very products that get people addicted in the first place—the cigarettes. That is absolutely absurd!

Think about this: Right now, the Food and Drug Administration (FDA) requires Philip Morris/Altria to print the ingredients in its Kraft "Macaroni and Cheese," but not the ingredients in its cigarettes—a product that contributes to the deaths of more than 440,000 people a year.

Right now, the FDA requires Philip Morris-owned Nabisco to print the ingredients contained in "Oreo Cookies" and "Ritz Crackers," but not the ingredients in its cigarettes—even though cigarettes cause one-third of all cancer deaths and 90 percent of lung cancer deaths. It is unfathomable to me that we would require the listing of ingredients on these products, yet not require the listing of ingredients for one of the leading causes of death and disease.

Right now, the FDA requires the printed ingredients for chewing gum, lipstick, bottled water, and ice cream, but not for cigarettes—a product that causes 20% of all heart disease deaths and is the leading cause of preventable death in the United States.

Think about this: If a company wants to market a food product as "fat-free" or "reduced-fat" or "lite," that company is required to meet certain standards regarding the number of calories or the amount of fat grams in that product. Yet, cigarette companies can call a cigarette a "light" or "mild" and not reveal a thing about the amount of tar or nicotine or arsenic in that supposedly "light" cigarette.

Not having access to all the information about this deadly product just makes no sense, and it is something that needs to change. By introducing this bill, we are finally saying that we are not going to let tobacco manufacturers have free reign over their markets and consumers any more.

Today, we are taking a step toward making sure the public gets adequate information about whether to continue to smoke or even to start smoking in the first place. With this bill, we are not just saying "buyer beware." We are saying "tobacco companies be honest." We are saying "tobacco companies stop marketing to innocent children." We are saying "tobacco companies tell consumers about what they are really buying."

The legislation that Senator KENNEDY and I are introducing would do just that.

One of the most dramatic changes our bill makes is that tobacco products will now have to be approved before they reach consumer hands. It just makes sense that tobacco products should not be able to imply that they may be safer or less harmful to consumers because they use descriptors such as "light" or "mild" or "low" to characterize the level of a substance in a product. The National Cancer Institute has found that many smokers mistakenly believe that "low tar" and "light" cigarettes cause fewer health problems than other cigarettes. Our bill would require specific approval by the FDA to use those words, so that consumers could be informed.

For the first time ever, all new tobacco products entering the market would have to be approved by the FDA. Obviously, we already know that smoking is a health risk. But, what we don't know about is the harm caused by or what adverse health effects are created by the other ingredients in tobacco products or by how the tobacco is burned. There are tobacco products on the market that are not conventional cigarettes. They have carbon filters running down the center of them. They are sophisticated products that burn tobacco differently, that affect the body differently, and that may cause people to smoke them differently.

According to the Department of Health and Human Services, in an October article of the Journal of the National Cancer Institute, "the only proven method to reduce tobacco-related cancer risk is to stop smoking." Yet, often times, people cannot quit. It is very difficult to quit ingesting an addictive product. People are addicted to the nicotine in the tobacco product and are just simply unable to quit using it. So, tobacco companies have responded by developing and marketing tobacco products that purport to be "reduced-risk" or "safer."

Take, for example, a person who smokes Marlboro cigarettes—just plain Marlboro cigarettes, the ones in the red package. Let's say that person would like to quit smoking, has tried to quit smoking a number of times, but just hasn't been successful. So instead of quitting outright, that person figures they will switch the type of cigarette they smoke to a cigarette that has the implied claim of being "safer"—like a "light" cigarette or a "mild" cigarette or a "low tar" cigarette. Those cigarettes have not been found to be any safer? In fact, just the opposite has been discovered.

In a 2001 National Cancer Institute publication, they wrote the following:

> The tobacco companies set out to develop cigarette designs that markedly lowered the tar and nicotine yield results as measured by the Federal Trade Commission (FTC) testing method. Yet, these cigarettes can be manipulated by the smoker to increase the intake of tar and nicotine. The use of these "decreased risk" cigarettes have not significantly decreased the disease risk. In fact, the use of these cigarettes may be partly responsible for the increase in lung cancer for long-term smokers who have switched to the low-tar/low-nicotine brands. Finally, switching to these cigarettes may provide smokers with a false sense of reduced risk, when the actual amount of tar and nicotine consumed may be the same as, or more than, the previously used higher yield brand.

So the products that tobacco companies develop and market as being "safer" are not safer. Rather than people quitting smoking entirely, they are often misled into thinking that the "light" or "mild" cigarettes that they switch to are better for them. In addition, people may begin to start smoking because they think some of these products aren't so bad for them—that the products have been made safer or better for them somehow and are okay to smoke.

Tobacco companies are able to make these implied health claims about their products because they are not regulated. Consumers have no choice but to trust the tobacco companies to reveal the ingredients and marketing claims about their products. That is just absurd to me. These are all things that should be examined, reviewed, and commented on by the Food and Drug Administration to determine whether it is appropriate for these products to be marketed as "reduced-risk" products, so the public knows what they are choosing to consume.

Tobacco advertising is in magazines and on billboards along the highway. Tobacco advertising is in convenience stores, along the aisles and at the checkout counter right beside the candy where children are likely to see it. Tobacco advertising is at sporting events, part of promotional items, where consumers can "buy 1 get 1 free." Tobacco advertising is on the Internet and in the daily delivery of mail.

Our bill would make changes regarding tobacco advertising. It would give the FDA authority to restrict tobacco industry marketing—consistent with the First Amendment—that targets our children. Our bill would require advertisements to be in black and white text only and would define adult publication in terms of readership.

An issue that is related to advertising and marketing of tobacco products has to do with the flavored tobacco products, which clearly target our children. We have probably all seen the flavored cigarettes—flavors like strawberry, chocolate, and wild rum. The scent of strawberry filters through the unopened pack of cigarettes. And guess what, the cigarettes smell like candy. A recent New York Times article described the scent of chocolate flavored cigarettes as if "someone had lifted the lid on a Whitman Sampler."

I can't speak for every parent, but I know my 8 grandchildren like candy, and they like the smell of chocolate, and they would be curious to try something that smells or tastes like candy. Cigarettes shouldn't be flavored and marketed in such a way to attract children and to encourage children to smoke. Our bill bans the use of flavors such as strawberry, grape, orange, clove, cinnamon, pineapple, vanilla, coconut, coffee and other flavorings that would attract children to the product.

Despite the fact that 40 million Americans use tobacco products, many of them do not know what is inside the cigarette or the tobacco product they ingest. They do not know the ingredients or the constituents, like tar or nicotine, that are in the products they use. Consumers do not know what additives are included in the product. Additives like ammonia or urea, both of which may make the tobacco product more addictive because they increase the delivery of nicotine. Tobacco companies do not disclose the specific ingredients in their products because they don't have to. Tobacco products are unregulated.

Our legislation would give consumers more information about what's in tobacco products. Specifically, the bill would provide the FDA with the ability to publish the ingredients of tobacco products.

It would require a listing of all ingredients, substances, and compounds added by the manufacturer to the tobacco, paper, or filter.

It would require a description of the content, delivery, and form of nicotine in each tobacco product.

It would require information on the health, behavioral, or physiologic effects of the tobacco products.

I think it is equally important that I mention what our bill does not do. Here are some of the areas where authority is not conferred to FDA: Our bill does not allow FDA to ban tobacco products or to eliminate nicotine from a tobacco product. The bill ensures that FDA will not have the power to use its "performance standard" authority to ban cigarettes, smokeless tobacco or any other category of tobacco products, or to reduce their nicotine yields to zero.

Our bill does not allow FDA to establish a minimum smoking age higher than 18. The bill explicitly forbids FDA from establishing a minimum age higher than 18 years of age to purchase tobacco products.

Our bill treats all tobacco retailers equally. Our bill specifically provides that FDA can't prohibit the sale of tobacco products in any particular category of retail outlet. Our bill forbids FDA from creating a more permissive set of advertising rules for adult-only establishments. This provision protects retailers and convenience store owners.

Finally, I would like to make a comment about the tobacco farmers. There has been a lot of talk recently about the need for a buyout for our Nation's tobacco farmers. My colleagues, Senator MCCONNELL and Senator DOLE, have been working tirelessly to craft a buyout bill for tobacco farmers. They need a buyout—and the Congress should give them one. The Senate needs to pass the buyout, but the buyout needs to be passed along with this FDA bill. I look forward to working with my colleagues from the tobacco-growing states to make this happen.

The bill that Senator KENNEDY and I introduce today gives the FDA the authority to regulate a product that has gone unregulated for far too long—a product that for the past century has not revealed its ingredients to the consumer—a product whose manufacturing facilities are not inspected or accountable for following good manufacturing practices—a product that is never reviewed or approved before reaching the hands of 40 million consumers, many of whom are just children. Congress needs to put an end to this. Congress should put an end to the marketing of tobacco products to our children. Congress should put an end to the ability of tobacco companies to make claims, whether they are implied claims or direct claims, about their products. Congress should put an end to tobacco companies putting any ingredient they want into their products without disclosing it to the consumer. It is time Congress give the FDA authority to it needs to fix these problems.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2461

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Family Smoking Prevention and Tobacco Control Act".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Purpose.
Sec. 4. Scope and effect.
Sec. 5. Severability.

TITLE I—AUTHORITY OF THE FOOD AND DRUG ADMINISTRATION

Sec. 101. Amendment of Federal food, drug, and cosmetic act.
Sec. 102. Construction of current regulations.
Sec. 103. Conforming and other amendments to general provisions.

TITLE II—TOBACCO PRODUCT WARNINGS; CONSTITUENT AND SMOKE CONSTITUENT DISCLOSURE

Sec. 201. Cigarette label and advertising warnings.
Sec. 202. Authority to revise cigarette warning label Statements.
Sec. 203. State regulation of cigarette advertising and promotion.
Sec. 204. Smokeless tobacco labels and advertising warnings.
Sec. 205. Authority to revise smokeless tobacco product warning label Statements.
Sec. 206. Tar, nicotine, and other smoke constituent disclosure to the public.

TITLE III—PREVENTION OF ILLICIT TRADE IN TOBACCO PRODUCTS

Sec. 301. Labeling, record keeping, records inspection.
Sec. 302. Study and report.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The use of tobacco products by the Nation's children is a pediatric disease of considerable proportions that results in new generations of tobacco-dependent children and adults.

(2) A consensus exists within the scientific and medical communities that tobacco products are inherently dangerous and cause cancer, heart disease, and other serious adverse health effects.

(3) Nicotine is an addictive drug.

(4) Virtually all new users of tobacco products are under the minimum legal age to purchase such products.

(5) Tobacco advertising and marketing contribute significantly to the use of nicotine-containing tobacco products by adolescents.

(6) Because past efforts to restrict advertising and marketing of tobacco products have failed adequately to curb tobacco use by adolescents, comprehensive restrictions on the sale, promotion, and distribution of such products are needed.

(7) Federal and State governments have lacked the legal and regulatory authority and resources they need to address comprehensively the public health and societal problems caused by the use of tobacco products.

(8) Federal and State public health officials, the public health community, and the public at large recognize that the tobacco industry should be subject to ongoing oversight.

(9) Under Article I, Section 8 of the Constitution, the Congress is vested with the responsibility for regulating interstate commerce and commerce with Indian tribes.

(10) The sale, distribution, marketing, advertising, and use of tobacco products are activities in and substantially affecting interstate commerce because they are sold, marketed, advertised, and distributed in interstate commerce on a nationwide basis, and have a substantial effect on the Nation's economy.

(11) The sale, distribution, marketing, advertising, and use of such products substantially affect interstate commerce through the health care and other costs attributable to the use of tobacco products.

(12) It is in the public interest for Congress to enact legislation that provides the Food and Drug Administration with the authority to regulate tobacco products and the advertising and promotion of such products. The benefits to the American people from enacting such legislation would be significant in human and economic terms.

(13) Tobacco use is the foremost preventable cause of premature death in America. It causes over 400,000 deaths in the United States each year and approximately 8,600,000 Americans have chronic illnesses related to smoking.

(14) Reducing the use of tobacco by minors by 50 percent would prevent well over 6,500,000 of today's children from becoming regular, daily smokers, saving over 2,000,000 of them from premature death due to tobacco induced disease. Such a reduction in youth smoking would also result in approximately $75,000,000,000 in savings attributable to reduced health care costs.

(15) Advertising, marketing, and promotion of tobacco products have been especially directed to attract young persons to use tobacco products and these efforts have resulted in increased use of such products by youth. Past efforts to oversee these activities have not been successful in adequately preventing such increased use.

(16) In 2001, the tobacco industry spent more than $11,000,000,000 to attract new users, retain current users, increase current consumption, and generate favorable long-term attitudes toward smoking and tobacco use.

(17) Tobacco product advertising often misleadingly portrays the use of tobacco as socially acceptable and healthful to minors.

(18) Tobacco product advertising is regularly seen by persons under the age of 18, and persons under the age of 18 are regularly exposed to tobacco product promotional efforts.

(19) Through advertisements during and sponsorship of sporting events, tobacco has become strongly associated with sports and has become portrayed as an integral part of sports and the healthy lifestyle associated with rigorous sporting activity.

(20) Children are exposed to substantial and unavoidable tobacco advertising that leads to favorable beliefs about tobacco use, plays a role in leading young people to overestimate the prevalence of tobacco use, and increases the number of young people who begin to use tobacco.

(21) The use of tobacco products in motion pictures and other mass media glamorizes its use for young people and encourages them to use tobacco products.

(22) Tobacco advertising expands the size of the tobacco market by increasing consumption of tobacco products including tobacco use by young people.

(23) Children are more influenced by tobacco advertising than adults, they smoke the most advertised brands.

(24) Tobacco company documents indicate that young people are an important and often crucial segment of the tobacco market. Children, who tend to be more price-sensitive than adults, are influenced by advertising and promotion practices that result in drastically reduced cigarette prices.

(25) Comprehensive advertising restrictions will have a positive effect on the smoking rates of young people.

(26) Restrictions on advertising are necessary to prevent unrestricted tobacco advertising from undermining legislation prohibiting access to young people and providing for education about tobacco use.

(27) International experience shows that advertising regulations that are stringent and comprehensive have a greater impact on overall tobacco use and young people's use than weaker or less comprehensive ones.

(28) Text only requirements, although not as stringent as a ban, will help reduce underage use of tobacco products while preserving the informational function of advertising.

(29) It is in the public interest for Congress to adopt legislation to address the public health crisis created by actions of the tobacco industry.

(30) The final regulations promulgated by the Secretary of Health and Human Services in the August 28, 1996, issue of the Federal Register (61 Fed. Reg. 44615–44618) for inclusion as part 897 of title 21, Code of Federal Regulations, are consistent with the First Amendment to the United States Constitution and with the standards set forth in the amendments made by this Act for the regulation of tobacco products by the Food and Drug Administration and the restriction on the sale and distribution, including access to and the advertising and promotion of, tobacco products contained in such regulations are substantially related to accomplishing the public health goals of this Act.

(31) The regulations described in paragraph (30) will directly and materially advance the Federal Government's substantial interest in reducing the number of children and adolescents who use cigarettes and smokeless tobacco and in preventing the life-threatening health consequences associated with tobacco use. An overwhelming majority of Americans who use tobacco products begin using such products while they are minors and become addicted to the nicotine in those products before reaching the age of 18. Tobacco advertising and promotion plays a crucial role in the decision of these minors to begin using tobacco products. Less restrictive and less comprehensive approaches have not and will not be effective in reducing the problems addressed by such regulations. The reasonable restrictions on the advertising and promotion of tobacco products contained in such regulations will lead to a significant decrease in the number of minors using and becoming addicted to those products.

(32) The regulations described in paragraph (30) impose no more extensive restrictions on communication by tobacco manufacturers and sellers than are necessary to reduce the number of children and adolescents who use cigarettes and smokeless tobacco and to prevent the life-threatening health consequences associated with tobacco use. Such regulations are narrowly tailored to restrict those advertising and promotional practices which are most likely to be seen or heard by youth and most likely to entice them into tobacco use, while affording tobacco manufacturers and sellers ample opportunity to convey information about their products to adult consumers.

(33) Tobacco dependence is a chronic disease, one that typically requires repeated interventions to achieve long-term or permanent abstinence.

(34) Because the only known safe alternative to smoking is cessation, interventions should target all smokers to help them quit completely.

(35) Tobacco products have been used to facilitate and finance criminal activities both domestically and internationally. Illicit trade of tobacco products has been linked to organized crime and terrorist groups.

(36) It is essential that the Food and Drug Administration review products sold or distributed for use to reduce risks or exposures associated with tobacco products and that it be empowered to review any advertising and labeling for such products. It is also essential that manufacturers, prior to marketing such products, be required to demonstrate that such products will meet a series of rigorous criteria, and will benefit the health of the population as a whole, taking into account both users of tobacco products and persons who do not currently use tobacco products.

(37) Unless tobacco products that purport to reduce the risks to the public of tobacco use actually reduce such risks, those products can cause substantial harm to the public health to the extent that the individuals, who would otherwise not consume tobacco products or would consume such products less, use tobacco products purporting to reduce risk. Those who use products sold or distributed as modified risk products that do not in fact reduce risk, rather than quitting or reducing their use of tobacco products, have a substantially increased likelihood of suffering disability and premature death. The costs to society of the widespread use of products sold or distributed as modified risk products that do not in fact reduce risk or that increase risk include thousands of unnecessary deaths and injuries and huge costs to our health care system.

(38) As the National Cancer Institute has found, many smokers mistakenly believe that "low tar" and "light" cigarettes cause fewer health problems than other cigarettes. As the National Cancer Institute has also found, mistaken beliefs about the health consequences of smoking "low tar" and "light" cigarettes can reduce the motivation to quit smoking entirely and thereby lead to disease and death.

(39) Recent studies have demonstrated that there has been no reduction in risk on a population-wide basis from "low tar" and "light" cigarettes and such products may actually increase the risk of tobacco use.

(40) The dangers of products sold or distributed as modified risk tobacco products that do not in fact reduce risk are so high that there is a compelling governmental interest in insuring that statements about modified risk tobacco products are complete, accurate, and relate to the overall disease risk of the product.

(41) As the Federal Trade Commission has found, consumers have misinterpreted advertisements in which one product is claimed to be less harmful than a comparable product, even in the presence of disclosures and advisories intended to provide clarification.

(42) Permitting manufacturers to make unsubstantiated statements concerning modified risk tobacco products, whether express or implied, even if accompanied by disclaimers would be detrimental to the public health.

(43) The only way to effectively protect the public health from the dangers of unsubstantiated modified risk tobacco products is to empower the Food and Drug Administration to require that products that tobacco manufacturers sold or distributed for risk reduction be approved in advance of marketing, and to require that the evidence relied on to support approval of these products is rigorous.

SEC. 3. PURPOSE.

The purposes of this Act are—

(1) to provide authority to the Food and Drug Administration to regulate tobacco products under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), by recognizing it as the primary Federal regulatory authority with respect to the manufacture, marketing, and distribution of tobacco products;

(2) to ensure that the Food and Drug Administration has the authority to address issues of particular concern to public health officials, especially the use of tobacco by young people and dependence on tobacco;

(3) to authorize the Food and Drug Administration to set national standards controlling the manufacture of tobacco products and the identity, public disclosure, and amount of ingredients used in such products;

(4) to provide new and flexible enforcement authority to ensure that there is effective oversight of the tobacco industry's efforts to develop, introduce, and promote less harmful tobacco products;

(5) to vest the Food and Drug Administration with the authority to regulate the levels of tar, nicotine, and other harmful components of tobacco products;

(6) in order to ensure that consumers are better informed, to require tobacco product manufacturers to disclose research which has not previously been made available, as well as research generated in the future, relating to the health and dependency effects or safety of tobacco products;

(7) to continue to permit the sale of tobacco products to adults in conjunction with measures to ensure that they are not sold or accessible to underage purchasers;

(8) to impose appropriate regulatory controls on the tobacco industry;

(9) to promote cessation to reduce disease risk and the social costs associated with tobacco related diseases; and

(10) to strengthen legislation against illicit trade in tobacco products.

SEC. 4. SCOPE AND EFFECT.

(a) INTENDED EFFECT.—Nothing in this Act (or an amendment made by this Act) shall be construed to—

(1) establish a precedent with regard to any other industry, situation, circumstance, or legal action; or

(2) affect any action pending in Federal, State, or Tribal court, or any agreement, consent decree, or contract of any kind.

(b) AGRICULTURAL ACTIVITIES.—The provisions of this Act (or an amendment made by this Act) which authorize the Secretary to take certain actions with regard to tobacco and tobacco products shall not be construed to affect any authority of the Secretary of Agriculture under existing law regarding the growing, cultivation, or curing of raw tobacco.

SEC. 5. SEVERABILITY.

If any provision of this Act, the amendments made by this Act, or the application of any provision of this Act to any person or circumstance is held to be invalid, the remainder of this Act, the amendments made by this Act, and the application of the provisions of this Act to any other person or circumstance shall not be affected and shall continue to be enforced to the fullest extent possible.

TITLE I—AUTHORITY OF THE FOOD AND DRUG ADMINISTRATION

SEC. 101. AMENDMENT OF FEDERAL FOOD, DRUG, AND COSMETIC ACT.

(a) DEFINITION OF TOBACCO PRODUCTS.—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

"(nn)(1) The term 'tobacco product' means any product made or derived from tobacco that is intended for human consumption, including any component, part, or accessory of a tobacco product (except for raw materials other than tobacco used in manufacturing a component, part, or accessory of a tobacco product).

"(2) The term 'tobacco product' does not mean—

"(A) a product in the form of conventional food (including water and chewing gum), a product represented for use as or for use in a conventional food, or a product that is intended for ingestion in capsule, tablet, softgel, or liquid form; or

"(B) an article that is approved or is regulated as a drug by the Food and Drug Administration.

"(3) The products described in paragraph (2)(A) shall be subject to chapter IV or chapter V of this Act and the articles described in paragraph (2)(B) shall be subject to chapter V of this Act.

"(4) A tobacco product may not be marketed in combination with any other article or product regulated under this Act (including a drug, biologic, food, cosmetics, medical device, or a dietary supplement).".

(b) FDA AUTHORITY OVER TOBACCO PRODUCTS.—The Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) is amended—

(1) by redesignating chapter IX as chapter X;

(2) by redesignating sections 901 through 907 as sections 1001 through 1007; and

(3) by inserting after section 803 the following:

"CHAPTER IX—TOBACCO PRODUCTS

"SEC. 900. DEFINITIONS.

"In this chapter:

"(1) ADDITIVE.—The term 'additive' means any substance the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristic of any tobacco product (including any substances intended for use as a flavoring, coloring or in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding), except that such term does not include tobacco or a pesticide chemical residue in or on raw tobacco or a pesticide chemical.

"(2) BRAND.—The term 'brand' means a variety of tobacco product distinguished by the tobacco used, tar content, nicotine content, flavoring used, size, filtration, or packaging, logo, registered trademark or brand name, identifiable pattern of colors, or any combination of such attributes.

"(3) CIGARETTE.—The term 'cigarette' has the meaning given that term by section 3(1) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332(1)), but also includes tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette or as roll-your-own tobacco.

"(4) CIGARETTE TOBACCO.—The term 'cigarette tobacco' means any product that consists of loose tobacco that is intended for use by consumers in a cigarette. Unless otherwise stated, the requirements for cigarettes shall also apply to cigarette tobacco.

"(5) COMMERCE.—The term 'commerce' has the meaning given that term by section 3(2) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332(2)).

"(6) COUNTERFEIT TOBACCO PRODUCT.—The term 'counterfeit tobacco product' means a tobacco product (or the container or labeling of such a product) that, without authorization, bears the trademark, trade name, or other identifying mark, imprint or device, or any likeness thereof, of a tobacco product listed in a registration under section 905(i)(1).

"(7) DISTRIBUTOR.—The term 'distributor' as regards a tobacco product means any person who furthers the distribution of a tobacco product, whether domestic or imported, at any point from the original place of manufacture to the person who sells or distributes the product to individuals for personal consumption. Common carriers are not considered distributors for purposes of this chapter.

"(8) ILLICIT TRADE.—The term 'illicit trade' means any practice or conduct prohibited by law which relates to production, shipment, receipt, possession, distribution, sale, or purchase of tobacco products including any practice or conduct intended to facilitate such activity.

"(9) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given such term in section 4(e) of the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b(e)).

"(10) LITTLE CIGAR.—The term 'little cigar' has the meaning given that term by section 3(7) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332(7)).

"(11) NICOTINE.—The term 'nicotine' means the chemical substance named 3-(1-Methyl-2-pyrrolidinyl) pyridine or C[10]H[14]N[2], including any salt or complex of nicotine.

"(12) PACKAGE.—The term 'package' means a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane), in which a tobacco product is offered for sale, sold, or otherwise distributed to consumers.

"(13) RETAILER.—The term 'retailer' means any person who sells tobacco products to individuals for personal consumption, or who operates a facility where self-service displays of tobacco products are permitted.

"(14) ROLL-YOUR-OWN TOBACCO.—The term 'roll-your-own tobacco' means any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.

"(15) SMOKE CONSTITUENT.—The term 'smoke constituent' means any chemical or chemical compound in mainstream or sidestream tobacco smoke that either transfers from any component of the cigarette to the smoke or that is formed by the combustion or heating of tobacco, additives, or other component of the tobacco product.

"(16) SMOKELESS TOBACCO.—The term 'smokeless tobacco' means any tobacco product that consists of cut, ground, powdered, or leaf tobacco and that is intended to be placed in the oral or nasal cavity.

"(17) STATE.—The term 'State' means any State of the United States and, for purposes of this chapter, includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Atoll, the Northern Mariana Islands, and any other trust territory or possession of the United States.

"(18) TOBACCO PRODUCT MANUFACTURER.—Term 'tobacco product manufacturer' means any person, including any repacker or relabeler, who—

"(A) manufactures, fabricates, assembles, processes, or labels a tobacco product; or

"(B) imports a finished cigarette or smokeless tobacco product for sale or distribution in the United States.

"(19) UNITED STATES.—The term 'United States' means the 50 States of the United States of America and the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Atoll, the Northern Mariana Islands, and any other trust territory or possession of the United States.

"SEC. 901. FDA AUTHORITY OVER TOBACCO PRODUCTS.

"(a) IN GENERAL.—Tobacco products shall be regulated by the Secretary under this chapter and shall not be subject to the provisions of chapter V, unless—

"(1) such products are intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease (within the meaning of section 201(g)(1)(B) or section 201(h)(2)); or

"(2) a claim is made for such products under section 201(g)(1)(C) or 201(h)(3);

other than modified risk tobacco products approved in accordance with section 911.

"(b) APPLICABILITY.—This chapter shall apply to all tobacco products subject to the regulations referred to in section 102 of the Family Smoking Prevention and Tobacco Control Act, and to any other tobacco products that the Secretary by regulation deems to be subject to this chapter.

"(c) SCOPE.—

"(1) IN GENERAL.—Nothing in this chapter, or any policy issued or regulation promulgated thereunder, or the Family Smoking Prevention and Tobacco Control Act, shall be construed to affect the Secretary's authority over, or the regulation of, products under this Act that are not tobacco products under chapter V or any other chapter.

"(2) LIMITATION OF AUTHORITY.—

"(A) IN GENERAL.—The provisions of this chapter shall not apply to tobacco leaf that is not in the possession of a manufacturer of tobacco products, or to the producers of tobacco leaf, including tobacco growers, tobacco warehouses, and tobacco grower cooperatives, nor shall any employee of the Food and Drug Administration have any authority to enter onto a farm owned by a producer of tobacco leaf without the written consent of such producer.

"(B) EXCEPTION.—Notwithstanding any other provision of this subparagraph, if a producer of tobacco leaf is also a tobacco product manufacturer or controlled by a tobacco product manufacturer, the producer shall be subject to this chapter in the producer's capacity as a manufacturer.

"(C) RULE OF CONSTRUCTION.—Nothing in this chapter shall be construed to grant the Secretary authority to promulgate regulations on any matter that involves the production of tobacco leaf or a producer thereof, other than activities by a manufacturer affecting production.

"SEC. 902. ADULTERATED TOBACCO PRODUCTS.

"A tobacco product shall be deemed to be adulterated if—

"(1) it consists in whole or in part of any filthy, putrid, or decomposed substance, or is otherwise contaminated by any added poisonous or added deleterious substance that may render the product injurious to health;

"(2) it has been prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health;

"(3) its package is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

"(4) it is, or purports to be or is represented as, a tobacco product which is subject to a tobacco product standard established under section 907 unless such tobacco product is in all respects in conformity with such standard;

"(5)(A) it is required by section 910(a) to have premarket approval and does not have an approved application in effect;

"(B) it is in violation of the order approving such an application; or

"(6) the methods used in, or the facilities or controls used for, its manufacture, packing or storage are not in conformity with applicable requirements under section 906(e)(1) or an applicable condition prescribed by an order under section 906(e)(2); or

“(7) it is in violation of section 911.

“SEC. 903. MISBRANDED TOBACCO PRODUCTS.

“(a) In General.—A tobacco product shall be deemed to be misbranded—

“(1) if its labeling is false or misleading in any particular;

“(2) if in package form unless it bears a label containing—

“(A) the name and place of business of the tobacco product manufacturer, packer, or distributor;

“(B) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count;

“(C) an accurate statement of the percentage of the tobacco used in the product that is domestically grown tobacco and the percentage that is foreign grown tobacco; and

“(D) the statement required under section 921(a),

except that under subparagraph (B) reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary;

“(3) if any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements or designs in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

“(4) if it has an established name, unless its label bears, to the exclusion of any other nonproprietary name, its established name prominently printed in type as required by the Secretary by regulation;

“(5) if the Secretary has issued regulations requiring that its labeling bear adequate directions for use, or adequate warnings against use by children, that are necessary for the protection of users unless its labeling conforms in all respects to such regulations;

“(6) if it was manufactured, prepared, propagated, compounded, or processed in any State in an establishment not duly registered under section 905(b), 905(c), 905(d), or 905(h), if it was not included in a list required by section 905(i), if a notice or other information respecting it was not provided as required by such section or section 905(j), or if it does not bear such symbols from the uniform system for identification of tobacco products prescribed under section 905(e) as the Secretary by regulation requires;

“(7) if, in the case of any tobacco product distributed or offered for sale in any State—

“(A) its advertising is false or misleading in any particular; or

“(B) it is sold or distributed in violation of regulations prescribed under section 906(d);

“(8) unless, in the case of any tobacco product distributed or offered for sale in any State, the manufacturer, packer, or distributor thereof includes in all advertisements and other descriptive printed matter issued or caused to be issued by the manufacturer, packer, or distributor with respect to that tobacco product—

“(A) a true statement of the tobacco product's established name as described in paragraph (4), printed prominently; and

“(B) a brief statement of—

“(i) the uses of the tobacco product and relevant warnings, precautions, side effects, and contraindications; and

“(ii) in the case of specific tobacco products made subject to a finding by the Secretary after notice and opportunity for comment that such action is appropriate to protect the public health, a full description of the components of such tobacco product or the formula showing quantitatively each ingredient of such tobacco product to the extent required in regulations which shall be issued by the Secretary after an opportunity for a hearing;

“(9) if it is a tobacco product subject to a tobacco product standard established under section 907, unless it bears such labeling as may be prescribed in such tobacco product standard; or

“(10) if there was a failure or refusal—

“(A) to comply with any requirement prescribed under section 904 or 908; or

“(B) to furnish any material or information required under section 909.

“(b) Prior Approval of Label Statements.—The Secretary may, by regulation, require prior approval of statements made on the label of a tobacco product. No regulation issued under this subsection may require prior approval by the Secretary of the content of any advertisement, except for modified risk tobacco products as provided in section 911. No advertisement of a tobacco product published after the date of enactment of the Family Smoking Prevention and Tobacco Control Act shall, with respect to the language of label statements as prescribed under section 4 of the Cigarette Labeling and Advertising Act and section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 or the regulations issued under such sections, be subject to the provisions of sections 12 through 15 of the Federal Trade Commission Act (15 U.S.C. 52 through 55).

“SEC. 904. SUBMISSION OF HEALTH INFORMATION TO THE SECRETARY.

“(a) Requirement.—Not later than 6 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, each tobacco product manufacturer or importer, or agents thereof, shall submit to the Secretary the following information:

“(1) A listing of all ingredients, including tobacco, substances, compounds, and additives that are, as of such date, added by the manufacturer to the tobacco, paper, filter, or other part of each tobacco product by brand and by quantity in each brand and subbrand.

“(2) A description of the content, delivery, and form of nicotine in each tobacco product measured in milligrams of nicotine in accordance with regulations promulgated by the Secretary in accordance with section 4(a)(4) of the Federal Cigarette Labeling and Advertising Act.

“(3) A listing of all constituents, including smoke constituents as applicable, identified by the Secretary as harmful or potentially harmful to health in each tobacco product, and as applicable in the smoke of each tobacco product, by brand and by quantity in each brand and subbrand. Effective beginning 2 years after the date of enactment of this chapter, the manufacturer, importer, or agent shall comply with regulations promulgated under section 915 in reporting information under this paragraph, where applicable.

“(4) All documents developed after the date of enactment of the Family Smoking Prevention and Tobacco Control Act that relate to health, toxicological, behavioral, or physiologic effects of current or future tobacco products, their constituents (including smoke constituents), ingredients, components, and additives.

“(b) Data Submission.—At the request of the Secretary, each tobacco product manufacturer or importer of tobacco products, or agents thereof, shall submit the following:

“(1) Any or all documents (including underlying scientific information) relating to research activities, and research findings, conducted, supported, or possessed by the manufacturer (or agents thereof) on the health, toxicological, behavioral, or physiologic effects of tobacco products and their constituents (including smoke constituents), ingredients, components, and additives.

“(2) Any or all documents (including underlying scientific information) relating to research activities, and research findings, conducted, supported, or possessed by the manufacturer (or agents thereof) that relate to the issue of whether a reduction in risk to health from tobacco products can occur upon the employment of technology available or known to the manufacturer.

“(3) Any or all documents (including underlying scientific or financial information) relating to marketing research involving the use of tobacco products or marketing practices and the effectiveness of such practices used by tobacco manufacturers and distributors.

An importer of a tobacco product not manufactured in the United States shall supply the information required of a tobacco product manufacturer under this subsection.

“(c) Time for Submission.—

“(1) In general.—At least 90 days prior to the delivery for introduction into interstate commerce of a tobacco product not on the market on the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the manufacturer of such product shall provide the information required under subsection (a).

“(2) Disclosure of additive.—If at any time a tobacco product manufacturer adds to its tobacco products a new tobacco additive or increases the quantity of an existing tobacco additive, the manufacturer shall, except as provided in paragraph (3), at least 90 days prior to such action so advise the Secretary in writing.

“(3) Disclosure of other actions.—If at any time a tobacco product manufacturer eliminates or decreases an existing additive, or adds or increases an additive that has by regulation been designated by the Secretary as an additive that is not a human or animal carcinogen, or otherwise harmful to health under intended conditions of use, the manufacturer shall within 60 days of such action so advise the Secretary in writing.

“(d) Data List.—

“(1) In general.—Not later than 3 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, and annually thereafter, the Secretary shall publish in a format that is understandable and not misleading to a lay person, and place on public display (in a manner determined by the Secretary) the list established under subsection (e).

“(2) Consumer research.—The Secretary shall conduct periodic consumer research to ensure that the list published under paragraph (1) is not misleading to lay persons. Not later than 5 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall submit to the appropriate committees of Congress a report on the results of such research, together with recommendations on whether such publication should be continued or modified.

“(e) Data Collection.—Not later than 12 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall establish a list of harmful and potentially harmful constituents, including smoke constituents, to health in each tobacco product by brand and by quantity in each brand and subbrand. The Secretary shall publish a public notice requesting the submission by interested persons of scientific and other information concerning the harmful and potentially harmful constituents in tobacco products and tobacco smoke.

"SEC. 905. ANNUAL REGISTRATION.

"(a) DEFINITIONS.—In this section:

"(1) MANUFACTURE, PREPARATION, COMPOUNDING, OR PROCESSING.—The term 'manufacture, preparation, compounding, or processing' shall include repackaging or otherwise changing the container, wrapper, or labeling of any tobacco product package in furtherance of the distribution of the tobacco product from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer or user.

"(2) NAME.—The term 'name' shall include in the case of a partnership the name of each partner and, in the case of a corporation, the name of each corporate officer and director, and the State of incorporation.

"(b) REGISTRATION BY OWNERS AND OPERATORS.—On or before December 31 of each year every person who owns or operates any establishment in any State engaged in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products shall register with the Secretary the name, places of business, and all such establishments of that person.

"(c) REGISTRATION OF NEW OWNERS AND OPERATORS.—Every person upon first engaging in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products in any establishment owned or operated in any State by that person shall immediately register with the Secretary that person's name, place of business, and such establishment.

"(d) REGISTRATION OF ADDED ESTABLISHMENTS.—Every person required to register under subsection (b) or (c) shall immediately register with the Secretary any additional establishment which that person owns or operates in any State and in which that person begins the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products.

"(e) UNIFORM PRODUCT IDENTIFICATION SYSTEM.—The Secretary may by regulation prescribe a uniform system for the identification of tobacco products and may require that persons who are required to list such tobacco products under subsection (i) shall list such tobacco products in accordance with such system.

"(f) PUBLIC ACCESS TO REGISTRATION INFORMATION.—The Secretary shall make available for inspection, to any person so requesting, any registration filed under this section.

"(g) BIENNIAL INSPECTION OF REGISTERED ESTABLISHMENTS.—Every establishment in any State registered with the Secretary under this section shall be subject to inspection under section 704, and every such establishment engaged in the manufacture, compounding, or processing of a tobacco product or tobacco products shall be so inspected by 1 or more officers or employees duly designated by the Secretary at least once in the 2-year period beginning with the date of registration of such establishment under this section and at least once in every successive 2-year period thereafter.

"(h) FOREIGN ESTABLISHMENTS SHALL REGISTER.—Any establishment within any foreign country engaged in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products, shall register under this section under regulations promulgated by the Secretary. Such regulations shall require such establishment to provide the information required by subsection (i) of this section and shall include provisions for registration of any such establishment upon condition that adequate and effective means are available, by arrangement with the government of such foreign country or otherwise, to enable the Secretary to determine from time to time whether tobacco products manufactured, prepared, compounded, or processed in such establishment, if imported or offered for import into the United States, shall be refused admission on any of the grounds set forth in section 801(a).

"(i) REGISTRATION INFORMATION.—

"(1) PRODUCT LIST.—Every person who registers with the Secretary under subsection (b), (c), (d), or (h) shall, at the time of registration under any such subsection, file with the Secretary a list of all tobacco products which are being manufactured, prepared, compounded, or processed by that person for commercial distribution and which has not been included in any list of tobacco products filed by that person with the Secretary under this paragraph or paragraph (2) before such time of registration. Such list shall be prepared in such form and manner as the Secretary may prescribe and shall be accompanied by—

"(A) in the case of a tobacco product contained in the applicable list with respect to which a tobacco product standard has been established under section 907 or which is subject to section 910, a reference to the authority for the marketing of such tobacco product and a copy of all labeling for such tobacco product;

"(B) in the case of any other tobacco product contained in an applicable list, a copy of all consumer information and other labeling for such tobacco product, a representative sampling of advertisements for such tobacco product, and, upon request made by the Secretary for good cause, a copy of all advertisements for a particular tobacco product; and

"(C) if the registrant filing a list has determined that a tobacco product contained in such list is not subject to a tobacco product standard established under section 907, a brief statement of the basis upon which the registrant made such determination if the Secretary requests such a statement with respect to that particular tobacco product.

"(2) BIANNUAL REPORT OF ANY CHANGE IN PRODUCT LIST.—Each person who registers with the Secretary under this section shall report to the Secretary once during the month of June of each year and once during the month of December of each year the following:

"(A) A list of each tobacco product introduced by the registrant for commercial distribution which has not been included in any list previously filed by that person with the Secretary under this subparagraph or paragraph (1). A list under this subparagraph shall list a tobacco product by its established name and shall be accompanied by the other information required by paragraph (1).

"(B) If since the date the registrant last made a report under this paragraph that person has discontinued the manufacture, preparation, compounding, or processing for commercial distribution of a tobacco product included in a list filed under subparagraph (A) or paragraph (1), notice of such discontinuance, the date of such discontinuance, and the identity of its established name.

"(C) If since the date the registrant reported under subparagraph (B) a notice of discontinuance that person has resumed the manufacture, preparation, compounding, or processing for commercial distribution of the tobacco product with respect to which such notice of discontinuance was reported, notice of such resumption, the date of such resumption, the identity of such tobacco product by established name, and other information required by paragraph (1), unless the registrant has previously reported such resumption to the Secretary under this subparagraph.

"(D) Any material change in any information previously submitted under this paragraph or paragraph (1).

"(j) REPORT PRECEDING INTRODUCTION OF CERTAIN SUBSTANTIALLY-EQUIVALENT PRODUCTS INTO INTERSTATE COMMERCE.—

"(1) IN GENERAL.—Each person who is required to register under this section and who proposes to begin the introduction or delivery for introduction into interstate commerce for commercial distribution of a tobacco product intended for human use that was not commercially marketed (other than for test marketing) in the United States as of June 1, 2003, shall, at least 90 days prior to making such introduction or delivery, report to the Secretary (in such form and manner as the Secretary shall prescribe)—

"(A) the basis for such person's determination that the tobacco product is substantially equivalent, within the meaning of section 910, to a tobacco product commercially marketed (other than for test marketing) in the United States as of June 1, 2003, that is in compliance with the requirements of this Act; and

"(B) action taken by such person to comply with the requirements under section 907 that are applicable to the tobacco product.

"(2) APPLICATION TO CERTAIN POST JUNE 1, 2003 PRODUCTS.—A report under this subsection for a tobacco product that was first introduced or delivered for introduction into interstate commerce for commercial distribution in the United States after June 1, 2003, and prior to the date that is 15 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act shall be submitted to the Secretary not later than 15 months after such date of enactment.

"(3) EXEMPTIONS.—

"(A) IN GENERAL.—The Secretary may by regulation, exempt from the requirements of this subsection tobacco products that are modified by adding or deleting a tobacco additive, or increasing or decreasing the quantity of an existing tobacco additive, if the Secretary determines that—

"(i) such modification would be a minor modification of a tobacco product authorized for sale under this Act;

"(ii) a report under this subsection is not necessary to ensure that permitting the tobacco product to be marketed would be appropriate for protection of the public health; and

"(iii) an exemption is otherwise appropriate.

"(B) REGULATIONS.—Not later than 9 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall issue regulations to implement this paragraph.

"SEC. 906. GENERAL PROVISIONS RESPECTING CONTROL OF TOBACCO PRODUCTS.

"(a) IN GENERAL.—Any requirement established by or under section 902, 903, 905, or 909 applicable to a tobacco product shall apply to such tobacco product until the applicability of the requirement to the tobacco product has been changed by action taken under section 907, section 910, section 911, or subsection (d) of this section, and any requirement established by or under section 902, 903, 905, or 909 which is inconsistent with a requirement imposed on such tobacco product under section 907, section 910, section 911, or subsection (d) of this section shall not apply to such tobacco product.

"(b) INFORMATION ON PUBLIC ACCESS AND COMMENT.—Each notice of proposed rulemaking under section 907, 908, 909, 910, or 911 or under this section, any other notice which is published in the Federal Register with respect to any other action taken under any such section and which states the reasons for such action, and each publication of findings required to be made in connection with rulemaking under any such section shall set forth—

"(1) the manner in which interested persons may examine data and other information on which the notice or findings is based; and

"(2) the period within which interested persons may present their comments on the notice or findings (including the need therefore) orally or in writing, which period shall be at least 60 days but may not exceed 90 days unless the time is extended by the Secretary by a notice published in the Federal Register stating good cause therefore.

"(c) LIMITED CONFIDENTIALITY OF INFORMATION.—Any information reported to or otherwise obtained by the Secretary or the Secretary's representative under section 903, 904, 907, 908, 909, 910, 911, or 704, or under subsection (e) or (f) of this section, which is exempt from disclosure under subsection (a) of section 552 of title 5, United States Code, by reason of subsection (b)(4) of that section shall be considered confidential and shall not be disclosed, except that the information may be disclosed to other officers or employees concerned with carrying out this chapter, or when relevant in any proceeding under this chapter.

"(d) RESTRICTIONS.—

"(1) IN GENERAL.—The Secretary may by regulation require restrictions on the sale and distribution of a tobacco product, including restrictions on the access to, and the advertising and promotion of, the tobacco product, if the Secretary determines that such regulation would be appropriate for the protection of the public health. The Secretary may by regulation impose restrictions on the advertising and promotion of a tobacco product consistent with and to full extent permitted by the first amendment to the Constitution. The finding as to whether such regulation would be appropriate for the protection of the public health shall be determined with respect to the risks and benefits to the population as a whole, including users and non-users of the tobacco product, and taking into account—

"(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

"(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

No such regulation may require that the sale or distribution of a tobacco product be limited to the written or oral authorization of a practitioner licensed by law to prescribe medical products.

"(2) LABEL STATEMENTS.—The label of a tobacco product shall bear such appropriate statements of the restrictions required by a regulation under subsection (a) as the Secretary may in such regulation prescribe.

"(3) LIMITATIONS.—

"(A) IN GENERAL.—No restrictions under paragraph (1) may—

"(i) prohibit the sale of any tobacco product in face-to-face transactions by a specific category of retail outlets; or

"(ii) establish a minimum age of sale of tobacco products to any person older than 18 years of age.

"(B) MATCHBOOKS.—For purposes of any regulations issued by the Secretary, matchbooks of conventional size containing not more than 20 paper matches, and which are customarily given away for free with the purchase of tobacco products shall be considered as adult written publications which shall be permitted to contain advertising. Notwithstanding the preceding sentence, if the Secretary finds that such treatment of matchbooks is not appropriate for the protection of the public health, the Secretary may determine by regulation that matchbooks shall not be considered adult written publications.

"(e) GOOD MANUFACTURING PRACTICE REQUIREMENTS.—

"(1) METHODS, FACILITIES, AND CONTROLS TO CONFORM.—

"(A) IN GENERAL.—The Secretary may, in accordance with subparagraph (B), prescribe regulations (which may differ based on the type of tobacco product involved) requiring that the methods used in, and the facilities and controls used for, the manufacture, preproduction design validation (including a process to assess the performance of a tobacco product), packing and storage of a tobacco product, conform to current good manufacturing practice, as prescribed in such regulations, to assure that the public health is protected and that the tobacco product is in compliance with this chapter. Good manufacturing practices may include the testing of raw tobacco for pesticide chemical residues regardless of whether a tolerance for such chemical residues has been established.

"(B) REQUIREMENTS.—The Secretary shall—

"(i) before promulgating any regulation under subparagraph (A), afford the Tobacco Products Scientific Advisory Committee an opportunity to submit recommendations with respect to the regulation proposed to be promulgated;

"(ii) before promulgating any regulation under subparagraph (A), afford opportunity for an oral hearing;

"(iii) provide the advisory committee a reasonable time to make its recommendation with respect to proposed regulations under subparagraph (A); and

"(iv) in establishing the effective date of a regulation promulgated under this subsection, take into account the differences in the manner in which the different types of tobacco products have historically been produced, the financial resources of the different tobacco product manufacturers, and the state of their existing manufacturing facilities, and shall provide for a reasonable period of time for such manufacturers to conform to good manufacturing practices.

"(2) EXEMPTIONS; VARIANCES.—

"(A) PETITION.—Any person subject to any requirement prescribed under paragraph (1) may petition the Secretary for a permanent or temporary exemption or variance from such requirement. Such a petition shall be submitted to the Secretary in such form and manner as the Secretary shall prescribe and shall—

"(i) in the case of a petition for an exemption from a requirement, set forth the basis for the petitioner's determination that compliance with the requirement is not required to assure that the tobacco product will be in compliance with this chapter;

"(ii) in the case of a petition for a variance from a requirement, set forth the methods proposed to be used in, and the facilities and controls proposed to be used for, the manufacture, packing, and storage of the tobacco product in lieu of the methods, facilities, and controls prescribed by the requirement; and

"(iii) contain such other information as the Secretary shall prescribe.

"(B) REFERRAL TO THE TOBACCO PRODUCTS SCIENTIFIC ADVISORY COMMITTEE.—The Secretary may refer to the Tobacco Products Scientific Advisory Committee any petition submitted under subparagraph (A). The Tobacco Products Scientific Advisory Committee shall report its recommendations to the Secretary with respect to a petition referred to it within 60 days after the date of the petition's referral. Within 60 days after—

"(i) the date the petition was submitted to the Secretary under subparagraph (A); or

"(ii) the day after the petition was referred to the Tobacco Products Scientific Advisory Committee,

whichever occurs later, the Secretary shall by order either deny the petition or approve it.

"(C) APPROVAL.—The Secretary may approve—

"(i) a petition for an exemption for a tobacco product from a requirement if the Secretary determines that compliance with such requirement is not required to assure that the tobacco product will be in compliance with this chapter; and

"(ii) a petition for a variance for a tobacco product from a requirement if the Secretary determines that the methods to be used in, and the facilities and controls to be used for, the manufacture, packing, and storage of the tobacco product in lieu of the methods, controls, and facilities prescribed by the requirement are sufficient to assure that the tobacco product will be in compliance with this chapter.

"(D) CONDITIONS.—An order of the Secretary approving a petition for a variance shall prescribe such conditions respecting the methods used in, and the facilities and controls used for, the manufacture, packing, and storage of the tobacco product to be granted the variance under the petition as may be necessary to assure that the tobacco product will be in compliance with this chapter.

"(E) HEARING.—After the issuance of an order under subparagraph (B) respecting a petition, the petitioner shall have an opportunity for an informal hearing on such order.

"(3) COMPLIANCE.—Compliance with requirements under this subsection shall not be required before the period ending 3 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act.

"(f) RESEARCH AND DEVELOPMENT.—The Secretary may enter into contracts for research, testing, and demonstrations respecting tobacco products and may obtain tobacco products for research, testing, and demonstration purposes without regard to section 3324(a) and (b) of title 31, United States Code, and section 5 of title 41, United States Code.

"SEC. 907. TOBACCO PRODUCT STANDARDS.

"(a) IN GENERAL.—

"(1) SPECIAL RULE FOR CIGARETTES.—A cigarette or any of its component parts (including the tobacco, filter, or paper) shall not contain, as a constituent (including a smoke constituent) or additive, an artificial or natural flavor (other than tobacco or menthol) or an herb or spice, including strawberry, grape, orange, clove, cinnamon, pineapple, vanilla, coconut, licorice, cocoa, chocolate, cherry, or coffee, that is a characterizing flavor of the tobacco product or tobacco smoke. Nothing in this subparagraph shall be construed to limit the Secretary's authority to take action under this section or other sections of this Act applicable to menthol or any artificial or natural flavor, herb, or spice not specified in this paragraph.

"(2) REVISION OF TOBACCO PRODUCT STANDARDS.—The Secretary may revise the tobacco product standards in paragraph (1) in accordance with subsection (b).

"(3) TOBACCO PRODUCT STANDARDS.—The Secretary may adopt tobacco product standards in addition to those in paragraph (1) if the Secretary finds that a tobacco product standard is appropriate for the protection of the public health. This finding shall be determined with respect to the risks and benefits to the population as a whole, including users and non-users of the tobacco product, and taking into account—

"(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

"(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

"(4) CONTENT OF TOBACCO PRODUCT STANDARDS.—A tobacco product standard established under this section for a tobacco product—

"(A) shall include provisions that are appropriate for the protection of the public health, including provisions, where appropriate—

"(i) for the reduction of nicotine yields of the product;

"(ii) for the reduction or elimination of other constituents, including smoke constituents, or harmful components of the product; or

"(iii) relating to any other requirement under (B);

"(B) shall, where appropriate for the protection of the public health, include—

"(i) provisions respecting the construction, components, ingredients, additives, constituents, including smoke constituents, and properties of the tobacco product;

"(ii) provisions for the testing (on a sample basis or, if necessary, on an individual basis) of the tobacco product;

"(iii) provisions for the measurement of the tobacco product characteristics of the tobacco product;

"(iv) provisions requiring that the results of each or of certain of the tests of the tobacco product required to be made under clause (ii) show that the tobacco product is in conformity with the portions of the standard for which the test or tests were required; and

"(v) a provision requiring that the sale and distribution of the tobacco product be restricted but only to the extent that the sale and distribution of a tobacco product may be restricted under a regulation under section 906(d); and

"(C) shall, where appropriate, require the use and prescribe the form and content of labeling for the proper use of the tobacco product.

"(5) PERIODIC RE-EVALUATION OF TOBACCO PRODUCT STANDARDS.—The Secretary shall provide for periodic evaluation of tobacco product standards established under this section to determine whether such standards should be changed to reflect new medical, scientific, or other technological data. The Secretary may provide for testing under paragraph (4)(B) by any person.

"(6) INVOLVEMENT OF OTHER AGENCIES; INFORMED PERSONS.—In carrying out duties under this section, the Secretary shall endeavor to—

"(A) use personnel, facilities, and other technical support available in other Federal agencies;

"(B) consult with other Federal agencies concerned with standard-setting and other nationally or internationally recognized standard-setting entities; and

"(C) invite appropriate participation, through joint or other conferences, workshops, or other means, by informed persons representative of scientific, professional, industry, agricultural, or consumer organizations who in the Secretary's judgment can make a significant contribution.

"(b) ESTABLISHMENT OF STANDARDS.—

"(1) NOTICE.—

"(A) IN GENERAL.—The Secretary shall publish in the Federal Register a notice of proposed rulemaking for the establishment, amendment, or revocation of any tobacco product standard.

"(B) REQUIREMENTS OF NOTICE.—A notice of proposed rulemaking for the establishment or amendment of a tobacco product standard for a tobacco product shall—

"(i) set forth a finding with supporting justification that the tobacco product standard is appropriate for the protection of the public health;

"(ii) set forth proposed findings with respect to the risk of illness or injury that the tobacco product standard is intended to reduce or eliminate; and

"(iii) invite interested persons to submit an existing tobacco product standard for the tobacco product, including a draft or proposed tobacco product standard, for consideration by the Secretary.

"(C) STANDARD.—Upon a determination by the Secretary that an additive, constituent (including smoke constituent), or other component of the product that is the subject of the proposed tobacco product standard is harmful, it shall be the burden of any party challenging the proposed standard to prove that the proposed standard will not reduce or eliminate the risk of illness or injury.

"(D) FINDING.—A notice of proposed rulemaking for the revocation of a tobacco product standard shall set forth a finding with supporting justification that the tobacco product standard is no longer appropriate for the protection of the public health.

"(E) CONSIDERATION BY SECRETARY.—The Secretary shall consider all information submitted in connection with a proposed standard, including information concerning the countervailing effects of the tobacco product standard on the health of adolescent tobacco users, adult tobacco users, or non-tobacco users, such as the creation of a significant demand for contraband or other tobacco products that do not meet the requirements of this chapter and the significance of such demand, and shall issue the standard if the Secretary determines that the standard would be appropriate for the protection of the public health.

"(F) COMMENT.—The Secretary shall provide for a comment period of not less than 60 days.

"(2) PROMULGATION.—

"(A) IN GENERAL.—After the expiration of the period for comment on a notice of proposed rulemaking published under paragraph (1) respecting a tobacco product standard and after consideration of such comments and any report from the Tobacco Products Scientific Advisory Committee, the Secretary shall—

"(i) promulgate a regulation establishing a tobacco product standard and publish in the Federal Register findings on the matters referred to in paragraph (1); or

"(ii) publish a notice terminating the proceeding for the development of the standard together with the reasons for such termination.

"(B) EFFECTIVE DATE.—A regulation establishing a tobacco product standard shall set forth the date or dates upon which the standard shall take effect, but no such regulation may take effect before 1 year after the date of its publication unless the Secretary determines that an earlier effective date is necessary for the protection of the public health. Such date or dates shall be established so as to minimize, consistent with the public health, economic loss to, and disruption or dislocation of, domestic and international trade.

"(3) POWER RESERVED TO CONGRESS.—Because of the importance of a decision of the Secretary to issue a regulation establishing a tobacco product standard—

"(A) banning all cigarettes, all smokeless tobacco products, all little cigars, all cigars other than little cigars, all pipe tobacco, or all roll your own tobacco products; or

"(B) requiring the reduction of nicotine yields of a tobacco product to zero,

Congress expressly reserves to itself such power.

"(4) AMENDMENT; REVOCATION.—

"(A) AUTHORITY.—The Secretary, upon the Secretary's own initiative or upon petition of an interested person may by a regulation, promulgated in accordance with the requirements of paragraphs (1) and (2)(B), amend or revoke a tobacco product standard.

"(B) EFFECTIVE DATE.—The Secretary may declare a proposed amendment of a tobacco product standard to be effective on and after its publication in the Federal Register and until the effective date of any final action taken on such amendment if the Secretary determines that making it so effective is in the public interest.

"(5) REFERENCE TO ADVISORY COMMITTEE.—The Secretary may—

"(A) on the Secretary's own initiative, refer a proposed regulation for the establishment, amendment, or revocation of a tobacco product standard; or

"(B) upon the request of an interested person which demonstrates good cause for referral and which is made before the expiration of the period for submission of comments on such proposed regulation,

refer such proposed regulation to the Tobacco Products Scientific Advisory Committee, for a report and recommendation with respect to any matter involved in the proposed regulation which requires the exercise of scientific judgment. If a proposed regulation is referred under this paragraph to the Tobacco Products Scientific Advisory Committee, the Secretary shall provide the advisory committee with the data and information on which such proposed regulation is based. The Tobacco Products Scientific Advisory Committee shall, within 60 days after the referral of a proposed regulation and after independent study of the data and information furnished to it by the Secretary and other data and information before it, submit to the Secretary a report and recommendation respecting such regulation, together with all underlying data and information and a statement of the reason or basis for the recommendation. A copy of such report and recommendation shall be made public by the Secretary.

"SEC. 908. NOTIFICATION AND OTHER REMEDIES.

"(a) NOTIFICATION.—If the Secretary determines that—

"(1) a tobacco product which is introduced or delivered for introduction into interstate commerce for commercial distribution presents an unreasonable risk of substantial harm to the public health; and

"(2) notification under this subsection is necessary to eliminate the unreasonable risk of such harm and no more practicable means is available under the provisions of this chapter (other than this section) to eliminate such risk,

the Secretary may issue such order as may be necessary to assure that adequate notification is provided in an appropriate form, by the persons and means best suited under the circumstances involved, to all persons who should properly receive such notification in order to eliminate such risk. The Secretary may order notification by any appropriate means, including public service announcements. Before issuing an order under this subsection, the Secretary shall consult with the persons who are to give notice under the order.

"(b) No Exemption From Other Liability.—Compliance with an order issued under this section shall not relieve any person from liability under Federal or State law. In awarding damages for economic loss in an action brought for the enforcement of any such liability, the value to the plaintiff in such action of any remedy provided under such order shall be taken into account.

"(c) Recall Authority.—

"(1) In general.—If the Secretary finds that there is a reasonable probability that a tobacco product contains a manufacturing or other defect not ordinarily contained in tobacco products on the market that would cause serious, adverse health consequences or death, the Secretary shall issue an order requiring the appropriate person (including the manufacturers, importers, distributors, or retailers of the tobacco product) to immediately cease distribution of such tobacco product. The order shall provide the person subject to the order with an opportunity for an informal hearing, to be held not later than 10 days after the date of the issuance of the order, on the actions required by the order and on whether the order should be amended to require a recall of such tobacco product. If, after providing an opportunity for such a hearing, the Secretary determines that inadequate grounds exist to support the actions required by the order, the Secretary shall vacate the order.

"(2) Amendment of order to require recall.—

"(A) In general.—If, after providing an opportunity for an informal hearing under paragraph (1), the Secretary determines that the order should be amended to include a recall of the tobacco product with respect to which the order was issued, the Secretary shall, except as provided in subparagraph (B), amend the order to require a recall. The Secretary shall specify a timetable in which the tobacco product recall will occur and shall require periodic reports to the Secretary describing the progress of the recall.

"(B) Notice.—An amended order under subparagraph (A)—

"(i) shall not include recall of a tobacco product from individuals; and

"(ii) shall provide for notice to persons subject to the risks associated with the use of such tobacco product.

In providing the notice required by clause (ii), the Secretary may use the assistance of retailers and other persons who distributed such tobacco product. If a significant number of such persons cannot be identified, the Secretary shall notify such persons under section 705(b).

"(3) Remedy not exclusive.—The remedy provided by this subsection shall be in addition to remedies provided by subsection (a) of this section.

"SEC. 909. RECORDS AND REPORTS ON TOBACCO PRODUCTS.

"(a) In General.—Every person who is a tobacco product manufacturer or importer of a tobacco product shall establish and maintain such records, make such reports, and provide such information, as the Secretary may by regulation reasonably require to assure that such tobacco product is not adulterated or misbranded and to otherwise protect public health. Regulations prescribed under the preceding sentence—

"(1) may require a tobacco product manufacturer or importer to report to the Secretary whenever the manufacturer or importer receives or otherwise becomes aware of information that reasonably suggests that one of its marketed tobacco products may have caused or contributed to a serious unexpected adverse experience associated with the use of the product or any significant increase in the frequency of a serious, expected adverse product experience;

"(2) shall require reporting of other significant adverse tobacco product experiences as determined by the Secretary to be necessary to be reported;

"(3) shall not impose requirements unduly burdensome to a tobacco product manufacturer or importer, taking into account the cost of complying with such requirements and the need for the protection of the public health and the implementation of this chapter;

"(4) when prescribing the procedure for making requests for reports or information, shall require that each request made under such regulations for submission of a report or information to the Secretary state the reason or purpose for such request and identify to the fullest extent practicable such report or information;

"(5) when requiring submission of a report or information to the Secretary, shall state the reason or purpose for the submission of such report or information and identify to the fullest extent practicable such report or information; and

"(6) may not require that the identity of any patient or user be disclosed in records, reports, or information required under this subsection unless required for the medical welfare of an individual, to determine risks to public health of a tobacco product, or to verify a record, report, or information submitted under this chapter.

In prescribing regulations under this subsection, the Secretary shall have due regard for the professional ethics of the medical profession and the interests of patients. The prohibitions of paragraph (6) continue to apply to records, reports, and information concerning any individual who has been a patient, irrespective of whether or when he ceases to be a patient.

"(b) Reports of Removals and Corrections.—

"(1) In general.—Except as provided in paragraph (2), the Secretary shall by regulation require a tobacco product manufacturer or importer of a tobacco product to report promptly to the Secretary any corrective action taken or removal from the market of a tobacco product undertaken by such manufacturer or importer if the removal or correction was undertaken—

"(A) to reduce a risk to health posed by the tobacco product; or

"(B) to remedy a violation of this chapter caused by the tobacco product which may present a risk to health.

A tobacco product manufacturer or importer of a tobacco product who undertakes a corrective action or removal from the market of a tobacco product which is not required to be reported under this subsection shall keep a record of such correction or removal.

"(2) Exception.—No report of the corrective action or removal of a tobacco product may be required under paragraph (1) if a report of the corrective action or removal is required and has been submitted under subsection (a).

"SEC. 910. APPLICATION FOR REVIEW OF CERTAIN TOBACCO PRODUCTS.

"(a) In General.—

"(1) New tobacco product defined.—For purposes of this section the term 'new tobacco product' means—

"(A) any tobacco product (including those products in test markets) that was not commercially marketed in the United States as of June 1, 2003; or

"(B) any modification (including a change in design, any component, any part, or any constituent, including a smoke constituent, or in the content, delivery or form of nicotine, or any other additive or ingredient) of a tobacco product where the modified product was commercially marketed in the United States after June 1, 2003.

"(2) Premarket approval required.—

"(A) New products.—Approval under this section of an application for premarket approval for any new tobacco product is required unless—

"(i) the manufacturer has submitted a report under section 905(j); and

"(ii) the Secretary has issued an order that the tobacco product—

"(I) is substantially equivalent to a tobacco product commercially marketed (other than for test marketing) in the United States as of June 1, 2003; and

"(II)(aa) is in compliance with the requirements of this Act; or

"(bb) is exempt from the requirements of section 905(j) pursuant to a regulation issued under section 905(j)(3).

"(B) Application to certain post June 1, 2003 products.—Subparagraph (A) shall not apply to a tobacco product—

"(i) that was first introduced or delivered for introduction into interstate commerce for commercial distribution in the United States after June 1, 2003, and prior to the date that is 15 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act; and

"(ii) for which a report was submitted under section 905(j) within such 15-month period, until the Secretary issues an order that the tobacco product is not substantially equivalent.

"(3) Substantially equivalent defined.—

"(A) In general.—In this section and section 905(j), the terms 'substantially equivalent' or 'substantial equivalence' mean, with respect to the tobacco product being compared to the predicate tobacco product, that the Secretary by order has found that the tobacco product—

"(i) has the same characteristics as the predicate tobacco product; or

"(ii) has different characteristics and the information submitted contains information, including clinical data if deemed necessary by the Secretary, that demonstrates that it is not appropriate to regulate the product under this section because the product does not raise different questions of public health.

"(B) Characteristics.—In subparagraph (A), the term 'characteristics' means the materials, ingredients, design, composition, heating source, or other features of a tobacco product.

"(C) Limitation.—A tobacco product may not be found to be substantially equivalent to a predicate tobacco product that has been removed from the market at the initiative of the Secretary or that has been determined by a judicial order to be misbranded or adulterated.

"(4) Health information.—

"(A) Summary.—As part of a submission under section 905(j) respecting a tobacco product, the person required to file a premarket notification under such section shall provide an adequate summary of any health information related to the tobacco product or state that such information will be made available upon request by any person.

"(B) Required information.—Any summary under subparagraph (A) respecting a tobacco product shall contain detailed information regarding data concerning adverse health effects and shall be made available to the public by the Secretary within 30 days of the issuance of a determination that such tobacco product is substantially equivalent to another tobacco product.

"(b) Application.—

"(1) Contents.—An application for premarket approval shall contain—

"(A) full reports of all information, published or known to, or which should reasonably be known to, the applicant, concerning investigations which have been made to show the health risks of such tobacco product and whether such tobacco product presents less risk than other tobacco products;

"(B) a full statement of the components, ingredients, additives, and properties, and of the principle or principles of operation, of such tobacco product;

"(C) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and, when relevant, packing and installation of, such tobacco product;

"(D) an identifying reference to any tobacco product standard under section 907 which would be applicable to any aspect of such tobacco product, and either adequate information to show that such aspect of such tobacco product fully meets such tobacco product standard or adequate information to justify any deviation from such standard;

"(E) such samples of such tobacco product and of components thereof as the Secretary may reasonably require;

"(F) specimens of the labeling proposed to be used for such tobacco product; and

"(G) such other information relevant to the subject matter of the application as the Secretary may require.

"(2) Reference to tobacco products scientific advisory committee.—Upon receipt of an application meeting the requirements set forth in paragraph (1), the Secretary—

"(A) may, on the Secretary's own initiative; or

"(B) may, upon the request of an applicant,

refer such application to the Tobacco Products Scientific Advisory Committee for reference and for submission (within such period as the Secretary may establish) of a report and recommendation respecting approval of the application, together with all underlying data and the reasons or basis for the recommendation.

"(c) Action on Application.—

"(1) Deadline.—

"(A) In general.—As promptly as possible, but in no event later than 180 days after the receipt of an application under subsection (b), the Secretary, after considering the report and recommendation submitted under paragraph (2) of such subsection, shall—

"(i) issue an order approving the application if the Secretary finds that none of the grounds for denying approval specified in paragraph (2) of this subsection applies; or

"(ii) deny approval of the application if the Secretary finds (and sets forth the basis for such finding as part of or accompanying such denial) that 1 or more grounds for denial specified in paragraph (2) of this subsection apply.

"(B) Restrictions on sale and distribution.—An order approving an application for a tobacco product may require as a condition to such approval that the sale and distribution of the tobacco product be restricted but only to the extent that the sale and distribution of a tobacco product may be restricted under a regulation under section 906(d).

"(2) Denial of approval.—The Secretary shall deny approval of an application for a tobacco product if, upon the basis of the information submitted to the Secretary as part of the application and any other information before the Secretary with respect to such tobacco product, the Secretary finds that—

"(A) there is a lack of a showing that permitting such tobacco product to be marketed would be appropriate for the protection of the public health;

"(B) the methods used in, or the facilities or controls used for, the manufacture, processing, or packing of such tobacco product do not conform to the requirements of section 906(e);

"(C) based on a fair evaluation of all material facts, the proposed labeling is false or misleading in any particular; or

"(D) such tobacco product is not shown to conform in all respects to a tobacco product standard in effect under section 907, compliance with which is a condition to approval of the application, and there is a lack of adequate information to justify the deviation from such standard.

"(3) Denial information.—Any denial of an application shall, insofar as the Secretary determines to be practicable, be accompanied by a statement informing the applicant of the measures required to place such application in approvable form (which measures may include further research by the applicant in accordance with 1 or more protocols prescribed by the Secretary).

"(4) Basis for finding.—For purposes of this section, the finding as to whether approval of a tobacco product is appropriate for the protection of the public health shall be determined with respect to the risks and benefits to the population as a whole, including users and nonusers of the tobacco product, and taking into account—

"(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

"(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

"(5) Basis for action.—

"(A) Investigations.—For purposes of paragraph (2)(A), whether permitting a tobacco product to be marketed would be appropriate for the protection of the public health shall, when appropriate, be determined on the basis of well-controlled investigations, which may include 1 or more clinical investigations by experts qualified by training and experience to evaluate the tobacco product.

"(B) Other evidence.—If the Secretary determines that there exists valid scientific evidence (other than evidence derived from investigations described in subparagraph (A)) which is sufficient to evaluate the tobacco product the Secretary may authorize that the determination for purposes of paragraph (2)(A) be made on the basis of such evidence.

"(d) Withdrawal and Temporary Suspension.—

"(1) In general.—The Secretary shall, upon obtaining, where appropriate, advice on scientific matters from an advisory committee, and after due notice and opportunity for informal hearing to the holder of an approved application for a tobacco product, issue an order withdrawing approval of the application if the Secretary finds—

"(A) that the continued marketing of such tobacco product no longer is appropriate for the protection of the public health;

"(B) that the application contained or was accompanied by an untrue statement of a material fact;

"(C) that the applicant—

"(i) has failed to establish a system for maintaining records, or has repeatedly or deliberately failed to maintain records or to make reports, required by an applicable regulation under section 909;

"(ii) has refused to permit access to, or copying or verification of, such records as required by section 704; or

"(iii) has not complied with the requirements of section 905;

"(D) on the basis of new information before the Secretary with respect to such tobacco product, evaluated together with the evidence before the Secretary when the application was approved, that the methods used in, or the facilities and controls used for, the manufacture, processing, packing, or installation of such tobacco product do not conform with the requirements of section 906(e) and were not brought into conformity with such requirements within a reasonable time after receipt of written notice from the Secretary of nonconformity;

"(E) on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when the application was approved, that the labeling of such tobacco product, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Secretary of such fact; or

"(F) on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when the application was approved, that such tobacco product is not shown to conform in all respects to a tobacco product standard which is in effect under section 907, compliance with which was a condition to approval of the application, and that there is a lack of adequate information to justify the deviation from such standard.

"(2) Appeal.—The holder of an application subject to an order issued under paragraph (1) withdrawing approval of the application may, by petition filed on or before the 30th day after the date upon which such holder receives notice of such withdrawal, obtain review thereof in accordance with subsection (e).

"(3) Temporary suspension.—If, after providing an opportunity for an informal hearing, the Secretary determines there is reasonable probability that the continuation of distribution of a tobacco product under an approved application would cause serious, adverse health consequences or death, that is greater than ordinarily caused by tobacco products on the market, the Secretary shall by order temporarily suspend the approval of the application approved under this section.

If the Secretary issues such an order, the Secretary shall proceed expeditiously under paragraph (1) to withdraw such application.

“(e) SERVICE OF ORDER.—An order issued by the Secretary under this section shall be served—

“(1) in person by any officer or employee of the department designated by the Secretary; or

“(2) by mailing the order by registered mail or certified mail addressed to the applicant at the applicant's last known address in the records of the Secretary.

“(f) RECORDS.—

“(1) ADDITIONAL INFORMATION.—In the case of any tobacco product for which an approval of an application filed under subsection (b) is in effect, the applicant shall establish and maintain such records, and make such reports to the Secretary, as the Secretary may by regulation, or by order with respect to such application, prescribe on the basis of a finding that such records and reports are necessary in order to enable the Secretary to determine, or facilitate a determination of, whether there is or may be grounds for withdrawing or temporarily suspending such approval.

“(2) ACCESS TO RECORDS.—Each person required under this section to maintain records, and each person in charge or custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

“(g) INVESTIGATIONAL TOBACCO PRODUCT EXEMPTION FOR INVESTIGATIONAL USE.—The Secretary may exempt tobacco products intended for investigational use from the provisions of this chapter under such conditions as the Secretary may by regulation prescribe.

“SEC. 911. MODIFIED RISK TOBACCO PRODUCTS.

“(a) IN GENERAL.—No person may introduce or deliver for introduction into interstate commerce any modified risk tobacco product unless approval of an application filed pursuant to subsection (d) is effective with respect to such product.

“(b) DEFINITIONS.—In this section:

“(1) MODIFIED RISK TOBACCO PRODUCT.—The term 'modified risk tobacco product' means any tobacco product that is sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products.

“(2) SOLD OR DISTRIBUTED.—

“(A) IN GENERAL.—With respect to a tobacco product, the term 'sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products' means a tobacco product—

“(A) the label, labeling, or advertising of which represents explicitly or implicitly that—

“(I) the tobacco product presents a lower risk of tobacco-related disease or is less harmful than one or more other commercially marketed tobacco products;

“(II) the tobacco product or its smoke contains a reduced level of a substance or presents a reduced exposure to a substance; or

“(III) the tobacco product or its smoke does not contain or is free of a substance;

“(ii) the label, labeling, or advertising of which uses the descriptors 'light', 'mild', or 'low' or similar descriptors; or

“(iii) the tobacco product manufacturer of which has taken any action directed to consumers through the media or otherwise, other than by means of the tobacco product's label, labeling or advertising, after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, respecting the product that would be reasonably expected to result in consumers believing that the tobacco product or its smoke may present a lower risk of disease or is less harmful than one or more commercially marketed tobacco products, or presents a reduced exposure to, or does not contain or is free of, a substance or substances.

“(B) LIMITATION.—No tobacco product shall be considered to be 'sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products', except as described in subparagraph (A).

“(c) TOBACCO DEPENDENCE PRODUCTS.—A product that is intended to be used for the treatment of tobacco dependence, including smoking cessation, is not a modified risk tobacco product under this section and is subject to the requirements of chapter V.

“(d) FILING.—Any person may file with the Secretary an application for a modified risk tobacco product. Such application shall include—

“(1) a description of the proposed product and any proposed advertising and labeling;

“(2) the conditions for using the product;

“(3) the formulation of the product;

“(4) sample product labels and labeling;

“(5) all documents (including underlying scientific information) relating to research findings conducted, supported, or possessed by the tobacco product manufacturer relating to the effect of the product on tobacco related diseases and health-related conditions, including information both favorable and unfavorable to the ability of the product to reduce risk or exposure and relating to human health;

“(6) data and information on how consumers actually use the tobacco product; and

“(7) such other information as the Secretary may require.

“(e) PUBLIC AVAILABILITY.—The Secretary shall make the application described in subsection (d) publicly available (except matters in the application which are trade secrets or otherwise confidential, commercial information) and shall request comments by interested persons on the information contained in the application and on the label, labeling, and advertising accompanying such application.

“(f) ADVISORY COMMITTEE.—

“(1) IN GENERAL.—The Secretary shall refer to an advisory committee any application submitted under this subsection.

“(2) RECOMMENDATIONS.—Not later than 60 days after the date an application is referred to an advisory committee under paragraph (1), the advisory committee shall report its recommendations on the application to the Secretary.

“(g) APPROVAL.—

“(1) MODIFIED RISK PRODUCTS.—Except as provided in paragraph (2), the Secretary shall approve an application for a modified risk tobacco product filed under this section only if the Secretary determines that the applicant has demonstrated that such product, as it is actually used by consumers, will—

“(A) significantly reduce harm and the risk of tobacco-related disease to individual tobacco users; and

“(B) benefit the health of the population as a whole taking into account both users of tobacco products and persons who do not currently use tobacco products.

“(2) SPECIAL RULE FOR CERTAIN PRODUCTS.—

“(A) IN GENERAL.—The Secretary may approve an application for a tobacco product that has not been approved as a modified risk tobacco product pursuant to paragraph (1) if the Secretary makes the findings required under this paragraph and determines that the applicant has demonstrated that—

“(i) the approval of the application would be appropriate to promote the public health;

“(ii) any aspect of the label, labeling, and advertising for such product that would cause the tobacco product to be a modified risk tobacco product under subsection (b)(2) is limited to an explicit or implicit representation that such tobacco product or its smoke contains or is free of a substance or contains a reduced level of a substance, or presents a reduced exposure to a substance in tobacco smoke.

“(iii) scientific evidence is not available and, using the best available scientific methods, cannot be made available without conducting long-term epidemiological studies for an application to meet the standards set forth in paragraph (1); and

“(iv) the scientific evidence that is available without conducting long-term epidemiological studies demonstrates that a measurable and substantial reduction in morbidity or mortality among individual tobacco users is anticipated in subsequent studies.

“(B) ADDITIONAL FINDINGS REQUIRED.—In order to approve an application under subparagraph (A) the Secretary must also find that the applicant has demonstrated that—

“(i) the magnitude of the overall reductions in exposure to the substance or substances which are the subject of the application is substantial, such substance or substances are harmful, and the product as actually used exposes consumers to the specified reduced level of the substance or substances;

“(ii) the product as actually used by consumers will not expose them to higher levels of other harmful substances compared to the similar types of tobacco products then on the market unless such increases are minimal and the anticipated overall impact of use of the product remains a substantial and measurable reduction in overall morbidity and mortality among individual tobacco users;

“(iii) testing of actual consumer perception shows that, as the applicant proposes to label and market the product, consumers will not be misled into believing that the product—

“(I) is or has been demonstrated to be less harmful; or

“(II) presents or has been demonstrated to present less of a risk of disease than 1 or more other commercially marketed tobacco products; and

“(iv) approval of the application is expected to benefit the health of the population as a whole taking into account both users of tobacco products and persons who do not currently use tobacco products.

“(C) CONDITIONS OF APPROVAL.—

“(i) IN GENERAL.—Applications approved under this paragraph shall be limited to a term of not more than 5 years, but may be renewed upon a finding by the Secretary that the requirements of this paragraph continue to be satisfied based on the filing of a new application.

“(ii) AGREEMENTS BY APPLICANT.—Applications approved under this paragraph shall be conditioned on the applicant's agreement to conduct post-market surveillance and studies and to submit to the Secretary the results of such surveillance and studies to determine the impact of the application approval on consumer perception, behavior, and health and to enable the Secretary to review the accuracy of the determinations upon which the approval was based in accordance with a protocol approved by the Secretary.

"(iii) ANNUAL SUBMISSION.—The results of such post-market surveillance and studies described in clause (ii) shall be submitted annually.

"(3) BASIS.—The determinations under paragraphs (1) and (2) shall be based on—

"(A) the scientific evidence submitted by the applicant; and

"(B) scientific evidence and other information that is available to the Secretary.

"(4) BENEFIT TO HEALTH OF INDIVIDUALS AND OF POPULATION AS A WHOLE.—In making the determinations under paragraphs (1) and (2), the Secretary shall take into account—

"(A) the relative health risks to individuals of the tobacco product that is the subject of the application;

"(B) the increased or decreased likelihood that existing users of tobacco products who would otherwise stop using such products will switch to the tobacco product that is the subject of the application;

"(C) the increased or decreased likelihood that persons who do not use tobacco products will start using the tobacco product that is the subject of the application;

"(D) the risks and benefits to persons from the use of the tobacco product that is the subject of the application as compared to the use of products for smoking cessation approved under chapter V to treat nicotine dependence; and

"(E) comments, data, and information submitted by interested persons.

"(h) ADDITIONAL CONDITIONS FOR APPROVAL.—

"(1) MODIFIED RISK PRODUCTS.—The Secretary shall require for the approval of an application under this section that any advertising or labeling concerning modified risk products enable the public to comprehend the information concerning modified risk and to understand the relative significance of such information in the context of total health and in relation to all of the diseases and health-related conditions associated with the use of tobacco products.

"(2) COMPARATIVE CLAIMS.—

"(A) IN GENERAL.—The Secretary may require for the approval of an application under this subsection that a claim comparing a tobacco product to 1 or more other commercially marketed tobacco products shall compare the tobacco product to a commercially marketed tobacco product that is representative of that type of tobacco product on the market (for example the average value of the top 3 brands of an established regular tobacco product).

"(B) QUANTITATIVE COMPARISONS.—The Secretary may also require, for purposes of subparagraph (A), that the percent (or fraction) of change and identity of the reference tobacco product and a quantitative comparison of the amount of the substance claimed to be reduced shall be stated in immediate proximity to the most prominent claim.

"(3) LABEL DISCLOSURE.—

"(A) IN GENERAL.—The Secretary may require the disclosure on the label of other substances in the tobacco product, or substances that may be produced by the consumption of that tobacco product, that may affect a disease or health-related condition or may increase the risk of other diseases or health-related conditions associated with the use of tobacco products.

"(B) CONDITIONS OF USE.—If the conditions of use of the tobacco product may affect the risk of the product to human health, the Secretary may require the labeling of conditions of use.

"(4) TIME.—The Secretary shall limit an approval under subsection (g)(1) for a specified period of time.

"(5) ADVERTISING.—The Secretary may require that an applicant, whose application has been approved under this subsection, comply with requirements relating to advertising and promotion of the tobacco product.

"(i) POSTMARKET SURVEILLANCE AND STUDIES.—

"(1) IN GENERAL.—The Secretary shall require that an applicant under subsection (g)(1) conduct post market surveillance and studies for a tobacco product for which an application has been approved to determine the impact of the application approval on consumer perception, behavior, and health, to enable the Secretary to review the accuracy of the determinations upon which the approval was based, and to provide information that the Secretary determines is otherwise necessary regarding the use or health risks involving the tobacco product. The results of post-market surveillance and studies shall be submitted to the Secretary on an annual basis.

"(2) SURVEILLANCE PROTOCOL.—Each applicant required to conduct a surveillance of a tobacco product under paragraph (1) shall, within 30 days after receiving notice that the applicant is required to conduct such surveillance, submit, for the approval of the Secretary, a protocol for the required surveillance. The Secretary, within 60 days of the receipt of such protocol, shall determine if the principal investigator proposed to be used in the surveillance has sufficient qualifications and experience to conduct such surveillance and if such protocol will result in collection of the data or other information designated by the Secretary as necessary to protect the public health.

"(j) WITHDRAWAL OF APPROVAL.—The Secretary, after an opportunity for an informal hearing, shall withdraw the approval of an application under this section if the Secretary determines that—

"(1) the applicant, based on new information, can no longer make the demonstrations required under subsection (g), or the Secretary can no longer make the determinations required under subsection (g);

"(2) the application failed to include material information or included any untrue statement of material fact;

"(3) any explicit or implicit representation that the product reduces risk or exposure is no longer valid, including if—

"(A) a tobacco product standard is established pursuant to section 907;

"(B) an action is taken that affects the risks presented by other commercially marketed tobacco products that were compared to the product that is the subject of the application; or

"(C) any postmarket surveillance or studies reveal that the approval of the application is no longer consistent with the protection of the public health;

"(4) the applicant failed to conduct or submit the postmarket surveillance and studies required under subsection (g)(2)(C)(ii) or (i); or

"(5) the applicant failed to meet a condition imposed under subsection (h).

"(k) CHAPTER IV OR V.—A product approved in accordance with this section shall not be subject to chapter IV or V.

"(l) IMPLEMENTING REGULATIONS OR GUIDANCE.—

"(1) SCIENTIFIC EVIDENCE.—Not later than 2 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall issue regulations or guidance (or any combination thereof) on the scientific evidence required for assessment and ongoing review of modified risk tobacco products. Such regulations or guidance shall—

"(A) establish minimum standards for scientific studies needed prior to approval to show that a substantial reduction in morbidity or mortality among individual tobacco users is likely;

"(B) include validated biomarkers, intermediate clinical endpoints, and other feasible outcome measures, as appropriate;

"(C) establish minimum standards for post market studies, that shall include regular and long-term assessments of health outcomes and mortality, intermediate clinical endpoints, consumer perception of harm reduction, and the impact on quitting behavior and new use of tobacco products, as appropriate;

"(D) establish minimum standards for required postmarket surveillance, including ongoing assessments of consumer perception; and

"(E) require that data from the required studies and surveillance be made available to the Secretary prior to the decision on renewal of a modified risk tobacco product.

"(2) CONSULTATION.—The regulations or guidance issued under paragraph (1) shall be developed in consultation with the Institute of Medicine, and with the input of other appropriate scientific and medical experts, on the design and conduct of such studies and surveillance.

"(3) REVISION.—The regulations or guidance under paragraph (1) shall be revised on a regular basis as new scientific information becomes available.

"(4) NEW TOBACCO PRODUCTS.—Not later than 2 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall issue a regulation or guidance that permits the filing of a single application for any tobacco product that is a new tobacco product under section 910 and for which the applicant seeks approval as a modified risk tobacco product under this section.

"(m) DISTRIBUTORS.—No distributor may take any action, after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, with respect to a tobacco product that would reasonably be expected to result in consumers believing that the tobacco product or its smoke may present a lower risk of disease or is less harmful than one or more commercially marketed tobacco products, or presents a reduced exposure to, or does not contain or is free of, a substance or substances.

"SEC. 912. JUDICIAL REVIEW.

"(a) RIGHT TO REVIEW.—

"(1) IN GENERAL.—Not later than 30 days after—

"(A) the promulgation of a regulation under section 907 establishing, amending, or revoking a tobacco product standard; or

"(B) a denial of an application for approval under section 910(c),

any person adversely affected by such regulation or denial may file a petition for judicial review of such regulation or denial with the United States Court of Appeals for the District of Columbia or for the circuit in which such person resides or has their principal place of business.

"(2) REQUIREMENTS.—

"(A) COPY OF PETITION.—A copy of the petition filed under paragraph (1) shall be transmitted by the clerk of the court involved to the Secretary.

“(B) Record of proceedings.—On receipt of a petition under subparagraph (A), the Secretary shall file in the court in which such petition was filed—

“(i) the record of the proceedings on which the regulation or order was based; and

“(ii) a statement of the reasons for the issuance of such a regulation or order.

“(C) Definition of record.—In this section, the term ‘record’ means—

“(i) all notices and other matter published in the Federal Register with respect to the regulation or order reviewed;

“(ii) all information submitted to the Secretary with respect to such regulation or order;

“(iii) proceedings of any panel or advisory committee with respect to such regulation or order;

“(iv) any hearing held with respect to such regulation or order; and

“(v) any other information identified by the Secretary, in the administrative proceeding held with respect to such regulation or order, as being relevant to such regulation or order.

“(b) Standard of Review.—Upon the filing of the petition under subsection (a) for judicial review of a regulation or order, the court shall have jurisdiction to review the regulation or order in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief, including interim relief, as provided for in such chapter. A regulation or denial described in subsection (a) shall be reviewed in accordance with section 706(2)(A) of title 5, United States Code.

“(c) Finality of Judgment.—The judgment of the court affirming or setting aside, in whole or in part, any regulation or order shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

“(d) Other Remedies.—The remedies provided for in this section shall be in addition to, and not in lieu of, any other remedies provided by law.

“(e) Regulations and Orders Must Recite Basis in Record.—To facilitate judicial review, a regulation or order issued under section 906, 907, 908, 909, 910, or 916 shall contain a statement of the reasons for the issuance of such regulation or order in the record of the proceedings held in connection with its issuance.

“SEC. 913. EQUAL TREATMENT OF RETAIL OUTLETS.

“The Secretary shall issue regulations to require that retail establishments for which the predominant business is the sale of tobacco products comply with any advertising restrictions applicable to retail establishments accessible to individuals under the age of 18.

“SEC. 914. JURISDICTION OF AND COORDINATION WITH THE FEDERAL TRADE COMMISSION.

“(a) Jurisdiction.—

“(1) In general.—Except where expressly provided in this chapter, nothing in this chapter shall be construed as limiting or diminishing the authority of the Federal Trade Commission to enforce the laws under its jurisdiction with respect to the advertising, sale, or distribution of tobacco products.

“(2) Enforcement.—Any advertising that violates this chapter or a provision of the regulations referred to in section 102 of the Family Smoking Prevention and Tobacco Control Act, is an unfair or deceptive act or practice under section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)) and shall be considered a violation of a rule promulgated under section 18 of that Act (15 U.S.C. 57a).

“(b) Coordination.—With respect to the requirements of section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) and section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402)—

“(1) the Chairman of the Federal Trade Commission shall coordinate with the Secretary concerning the enforcement of such Act as such enforcement relates to unfair or deceptive acts or practices in the advertising of cigarettes or smokeless tobacco; and

“(2) the Secretary shall consult with the Chairman of such Commission in revising the label statements and requirements under such sections.

“SEC. 915. CONGRESSIONAL REVIEW PROVISIONS.

“In accordance with section 801 of title 5, United States Code, Congress shall review, and may disapprove, any rule under this chapter that is subject to section 801. This section and section 801 do not apply to the regulations referred to in section 102 of the Family Smoking Prevention and Tobacco Control Act.

“SEC. 916. REGULATION REQUIREMENT.

“(a) Testing, Reporting, and Disclosure.—Not later than 24 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary, acting through the Commissioner of the Food and Drug Administration, shall promulgate regulations under this Act that meet the requirements of subsection (b).

“(b) Contents of Rules.—The regulations promulgated under subsection (a) shall require testing and reporting of tobacco product constituents, ingredients, and additives, including smoke constituents, by brand and sub-brand that the Secretary determines should be tested to protect the public health. The regulations may require that tobacco product manufacturers, packagers, or importers make disclosures relating to the results of the testing of tar and nicotine through labels or advertising or other appropriate means, and make disclosures regarding the results of the testing of other constituents, including smoke constituents, ingredients, or additives, that the Secretary determines should be disclosed to the public to protect the public health and will not mislead consumers about the risk of tobacco related disease.

“(c) Authority.—The Food and Drug Administration shall have the authority under this chapter to conduct or to require the testing, reporting, or disclosure of tobacco product constituents, including smoke constituents.

“SEC. 917. PRESERVATION OF STATE AND LOCAL AUTHORITY.

“(a) In General.—

“(1) Preservation.—Nothing in this chapter, or rules promulgated under this chapter, shall be construed to limit the authority of a Federal agency (including the Armed Forces), a State or political subdivision of a State, or the government of an Indian tribe to enact, adopt, promulgate, and enforce any law, rule, regulation, or other measure with respect to tobacco products that is in addition to, or more stringent than, requirements established under this chapter, including a law, rule, regulation, or other measure relating to or prohibiting the sale, distribution, possession, exposure to, access to, advertising and promotion of, or use of tobacco products by individuals of any age, information reporting to the State, or measures relating to fire safety standards for tobacco products. No provision of this chapter shall limit or otherwise affect any State, Tribal, or local taxation of tobacco products.

“(2) Preemption of certain state and local requirements.—

“(A) In general.—Except as provided in paragraph (1) and subparagraph (B), no State or political subdivision of a State may establish or continue in effect with respect to a tobacco product any requirement which is different from, or in addition to, any requirement under the provisions of this chapter relating to tobacco product standards, premarket approval, adulteration, misbranding, labeling, registration, good manufacturing standards, or reduced risk products.

“(B) Exception.—Subparagraph (A) does not apply to requirements relating to the sale, distribution, possession, information reporting to the State, exposure to, access to, the advertising and promotion of, or use of, tobacco products by individuals of any age; or relating to fire safety standards for tobacco products. Information disclosed to a State under subparagraph (A) that is exempt from disclosure under section 554(b)(4) of title 5, United States Code, shall be treated as trade secret and confidential information by the State.

“(b) Rule of Construction Regarding Product Liability.—No provision of this chapter relating to a tobacco product shall be construed to modify or otherwise affect any action or the liability of any person under the product liability law of any State.

“SEC. 918. TOBACCO PRODUCTS SCIENTIFIC ADVISORY COMMITTEE.

“(a) Establishment.—Not later than 1 year after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall establish a 11-member advisory committee, to be known as the ‘Tobacco Products Scientific Advisory Committee’.

“(b) Membership.—

“(1) In general.—

“(A) Members.—The Secretary shall appoint as members of the Tobacco Products Scientific Advisory Committee individuals who are technically qualified by training and experience in the medicine, medical ethics, science, or technology involving the manufacture, evaluation, or use of tobacco products, who are of appropriately diversified professional backgrounds. The committee shall be composed of—

“(i) 7 individuals who are physicians, dentists, scientists, or health care professionals practicing in the area of oncology, pulmonology, cardiology, toxicology, pharmacology, addiction, or any other relevant specialty;

“(ii) 1 individual who is an officer or employee of a State or local government or of the Federal Government;

“(iii) 1 individual as a representative of the general public;

“(iv) 1 individual as a representative of the interests in the tobacco manufacturing industry; and

“(v) 1 individual as a representative of the interests of the tobacco growers.

“(B) Nonvoting members.—The members of the committee appointed under clauses (iv) and (v) of subparagraph (A) shall serve as consultants to those described in clauses (i) through (iii) of subparagraph (A) and shall be nonvoting representatives.

“(2) Limitation.—The Secretary may not appoint to the Advisory Committee any individual who is in the regular full-time employ of the Food and Drug Administration or any agency responsible for the enforcement of this Act. The Secretary may appoint Federal officials as ex officio members.

"(3) CHAIRPERSON.—The Secretary shall designate 1 of the members of the Advisory Committee to serve as chairperson.

"(c) DUTIES.—The Tobacco Products Scientific Advisory Committee shall provide advice, information, and recommendations to the Secretary—

"(1) as provided in this chapter;

"(2) on the effects of the alteration of the nicotine yields from tobacco products;

"(3) on whether there is a threshold level below which nicotine yields do not produce dependence on the tobacco product involved; and

"(4) on its review of other safety, dependence, or health issues relating to tobacco products as requested by the Secretary.

"(d) COMPENSATION; SUPPORT; FACA.—

"(1) COMPENSATION AND TRAVEL.—Members of the Advisory Committee who are not officers or employees of the United States, while attending conferences or meetings of the committee or otherwise engaged in its business, shall be entitled to receive compensation at rates to be fixed by the Secretary, which may not exceed the daily equivalent of the rate in effect for level 4 of the Senior Executive Schedule under section 5382 of title 5, United States Code, for each day (including travel time) they are so engaged; and while so serving away from their homes or regular places of business each member may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(2) ADMINISTRATIVE SUPPORT.—The Secretary shall furnish the Advisory Committee clerical and other assistance.

"(3) NONAPPLICATION OF FACA.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the Advisory Committee.

"(e) PROCEEDINGS OF ADVISORY PANELS AND COMMITTEES.—The Advisory Committee shall make and maintain a transcript of any proceeding of the panel or committee. Each such panel and committee shall delete from any transcript made under this subsection information which is exempt from disclosure under section 552(b) of title 5, United States Code.

"SEC. 919. DRUG PRODUCTS USED TO TREAT TOBACCO DEPENDENCE.

"The Secretary shall consider—

"(1) at the request of the applicant, designating nicotine replacement products as fast track research and approval products within the meaning of section 506;

"(2) direct the Commissioner to consider approving the extended use of nicotine replacement products (such as nicotine patches, nicotine gum, and nicotine lozenges) for the treatment of tobacco dependence;

"(3) review and consider the evidence for additional indications for nicotine replacement products, such as for craving relief or relapse prevention; and

"(4) consider—

"(A) relieving companies of premarket burdens under section 505 if the requirement is redundant considering other nicotine replacement therapies already on the market; and

"(B) time and extent applications for nicotine replacement therapies that have been approved by a regulatory body in a foreign country and have marketing experience in such country.

"SEC. 920. USER FEE.

"(a) ESTABLISHMENT OF QUARTERLY USER FEE.—The Secretary shall assess a quarterly user fee with respect to every quarter of each fiscal year commencing fiscal year 2004, calculated in accordance with this section, upon each manufacturer and importer of tobacco products subject to this chapter.

"(b) FUNDING OF FDA REGULATION OF TOBACCO PRODUCTS.—The Secretary shall make user fees collected pursuant to this section available to pay, in each fiscal year, for the costs of the activities of the Food and Drug Administration related to the regulation of tobacco products under this chapter.

"(c) ASSESSMENT OF USER FEE.—

"(1) AMOUNT OF ASSESSMENT.—Except as provided in paragraph (4), the total user fees assessed each year pursuant to this section shall be sufficient, and shall not exceed what is necessary, to pay for the costs of the activities described in subsection (b) for each fiscal year.

"(2) ALLOCATION OF ASSESSMENT BY CLASS OF TOBACCO PRODUCTS.—

"(A) IN GENERAL.—Subject to paragraph (3), the total user fees assessed each fiscal year with respect to each class of importers and manufacturers shall be equal to an amount that is the applicable percentage of the total costs of activities of the Food and Drug Administration described in subsection (b).

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A) the applicable percentage for a fiscal year shall be the following:

"(i) 92.07 percent shall be assessed on manufacturers and importers of cigarettes;

"(ii) 0.05 percent shall be assessed on manufacturers and importers of little cigars;

"(iii) 7.15 percent shall be assessed on manufacturers and importers of cigars other than little cigars;

"(iv) 0.43 percent shall be assessed on manufacturers and importers of snuff;

"(v) 0.10 percent shall be assessed on manufacturers and importers of chewing tobacco;

"(vi) 0.06 percent shall be assessed on manufacturers and importers of pipe tobacco; and

"(vii) 0.14 percent shall be assessed on manufacturers and importers of roll-your-own tobacco.

"(3) DISTRIBUTION OF FEE SHARES OF MANUFACTURERS AND IMPORTERS EXEMPT FROM USER FEE.—Where a class of tobacco products is not subject to a user fee under this section, the portion of the user fee assigned to such class under subsection (d)(2) shall be allocated by the Secretary on a pro rata basis among the classes of tobacco products that are subject to a user fee under this section. Such pro rata allocation for each class of tobacco products that are subject to a user fee under this section shall be the quotient of—

"(A) the sum of the percentages assigned to all classes of tobacco products subject to this section; divided by

"(B) the percentage assigned to such class under paragraph (2).

"(4) ANNUAL LIMIT ON ASSESSMENT.—The total assessment under this section—

"(A) for fiscal year 2004 shall be $85,000,000;

"(B) for fiscal year 2005 shall be $175,000,000;

"(C) for fiscal year 2006 shall be $$300,000,000; and

"(D) for each subsequent fiscal year, shall not exceed the limit on the assessment imposed during the previous fiscal year, as adjusted by the Secretary (after notice, published in the Federal Register) to reflect the greater of—

"(i) the total percentage change that occurred in the Consumer Price Index for all urban consumers (all items; United States city average) for the 12-month period ending on June 30 of the preceding fiscal year for which fees are being established; or

"(ii) the total percentage change for the previous fiscal year in basic pay under the General Schedule in accordance with section 5332 of title 5, United States Code, as adjusted by any locality-based comparability payment pursuant to section 5304 of such title for Federal employees stationed in the District of Columbia.

"(5) TIMING OF USER FEE ASSESSMENT.—The Secretary shall notify each manufacturer and importer of tobacco products subject to this section of the amount of the quarterly assessment imposed on such manufacturer or importer under subsection (f) during each quarter of each fiscal year. Such notifications shall occur not earlier than 3 months prior to the end of the quarter for which such assessment is made, and payments of all assessments shall be made not later than 60 days after each such notification.

"(d) DETERMINATION OF USER FEE BY COMPANY MARKET SHARE.—

"(1) IN GENERAL.—The user fee to be paid by each manufacturer or importer of a given class of tobacco products shall be determined in each quarter by multiplying—

"(A) such manufacturer's or importer's market share of such class of tobacco products; by

"(B) the portion of the user fee amount for the current quarter to be assessed on manufacturers and importers of such class of tobacco products as determined under subsection (e).

"(2) NO FEE IN EXCESS OF MARKET SHARE.—No manufacturer or importer of tobacco products shall be required to pay a user fee in excess of the market share of such manufacturer or importer.

"(e) DETERMINATION OF VOLUME OF DOMESTIC SALES.—

"(1) IN GENERAL.—The calculation of gross domestic volume of a class of tobacco product by a manufacturer or importer, and by all manufacturers and importers as a group, shall be made by the Secretary using information provided by manufacturers and importers pursuant to subsection (f), as well as any other relevant information provided to or obtained by the Secretary.

"(2) MEASUREMENT.—For purposes of the calculations under this subsection and the information provided under subsection (f) by the Secretary, gross domestic volume shall be measured by—

"(A) in the case of cigarettes, the number of cigarettes sold;

"(B) in the case of little cigars, the number of little cigars sold;

"(C) in the case of large cigars, the number of cigars weighing more than 3 pounds per thousand sold; and

"(D) in the case of other classes of tobacco products, in terms of number of pounds, or fraction thereof, of these products sold.

"(f) MEASUREMENT OF GROSS DOMESTIC VOLUME.—

"(1) IN GENERAL.—Each manufacturer and importer of tobacco products shall submit to the Secretary a certified copy of each of the returns or forms described by this paragraph that are required to be filed with a Government agency on the same date that those returns or forms are filed, or required to be filed, with such agency. The returns and forms described by this paragraph are those returns and forms related to the release of tobacco products into domestic commerce, as defined by section 5702(k) of the Internal Revenue Code of 1986, and the repayment of the taxes imposed under chapter 52 of such Code (ATF Form 500.24 and United States

Customs Form 7501 under currently applicable regulations).

"(2) PENALTIES.—Any person that knowingly fails to provide information required under this subsection or that provides false information under this subsection shall be subject to the penalties described in section 1003 of title 18, United States Code. In addition, such person may be subject to a civil penalty in an amount not to exceed 2 percent of the value of the kind of tobacco products manufactured or imported by such person during the applicable quarter, as determined by the Secretary.

"(h) EFFECTIVE DATE.—The user fees prescribed by this section shall be assessed in fiscal year 2004, based on domestic sales of tobacco products during fiscal year 2003 and shall be assessed in each fiscal year thereafter.".

SEC. 102. INTERIM FINAL RULE.

(a) CIGARETTES AND SMOKELESS TOBACCO.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of Health and Human Services shall publish in the Federal Register an interim final rule regarding cigarettes and smokeless tobacco, which is hereby deemed to be in compliance with the Administrative Procedures Act and other applicable law.

(2) CONTENTS OF RULE.—Except as provided in this subsection, the interim final rule published under paragraph (1), shall be identical in its provisions to part 897 of the regulations promulgated by the Secretary of Health and Human Services in the August 28, 1996, issue of the Federal Register (61 Fed. Reg., 44615–44618). Such rule shall—

(A) provide for the designation of jurisdictional authority that is in accordance with this subsection;

(B) strike Subpart C—Labeling and section 897.32(c); and

(C) become effective not later than 1 year after the date of enactment of this Act.

(3) AMENDMENTS TO RULE.—Prior to making amendments to the rule published under paragraph (1), the Secretary shall promulgate a proposed rule in accordance with the Administrative Procedures Act.

(4) RULE OF CONSTRUCTION.—Except as provided in paragraph (3), nothing in this section shall be construed to limit the authority of the Secretary to amend, in accordance with the Administrative Procedures Act, the regulation promulgated pursuant to this section.

(b) LIMITATION ON ADVISORY OPINIONS.—As of the date of enactment of this Act, the following documents issued by the Food and Drug Administration shall not constitute advisory opinions under section 10.85(d)(1) of title 21, Code of Federal Regulations, except as they apply to tobacco products, and shall not be cited by the Secretary of Health and Human Services or the Food and Drug Administration as binding precedent:

(1) The preamble to the proposed rule in the document entitled "Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco Products to Protect Children and Adolescents" (60 Fed. Reg. 41314–41372 (August 11, 1995)).

(2) The document entitled "Nicotine in Cigarettes and Smokeless Tobacco Products is a Drug and These Products Are Nicotine Delivery Devices Under the Federal Food, Drug, and Cosmetic Act" (60 Fed. Reg. 41453–41787 (August 11, 1995)).

(3) The preamble to the final rule in the document entitled "Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents" (61 Fed. Reg. 44396–44615 (August 28, 1996)).

(4) The document entitled "Nicotine in Cigarettes and Smokeless Tobacco is a Drug and These Products are Nicotine Delivery Devices Under the Federal Food, Drug, and Cosmetic Act; Jurisdictional Determination" (61 Fed. Reg. 44619–45318 (August 28, 1996)).

SEC. 103. CONFORMING AND OTHER AMENDMENTS TO GENERAL PROVISIONS.

(a) AMENDMENT OF FEDERAL FOOD, DRUG, AND COSMETIC ACT.—Except as otherwise expressly provided, whenever in this section an amendment is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference is to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(b) SECTION 301.—Section 301 (21 U.S.C. 331) is amended—

(1) in subsection (a), by inserting "tobacco product," after "device,";

(2) in subsection (b), by inserting "tobacco product," after "device,";

(3) in subsection (c), by inserting "tobacco product," after "device,";

(4) in subsection (e), by striking "515(f), or 519" and inserting "515(f), 519, or 909";

(5) in subsection (g), by inserting "tobacco product," after "device,";

(6) in subsection (h), by inserting "tobacco product," after "device,";

(7) in subsection (j), by striking "708, or 721" and inserting "708, 721, 904, 905, 906, 907, 908, 909, or section 921(b)";

(8) in subsection (k), by inserting "tobacco product," after "device,";

(9) by striking subsection (p) and inserting the following:

"(p) The failure to register in accordance with section 510 or 905, the failure to provide any information required by section 510(j), 510(k), 905(i), or 905(j), or the failure to provide a notice required by section 510(j)(2) or 905(i)(2).";

(10) by striking subsection (q)(1) and inserting the following:

"(q)(1) The failure or refusal—

"(A) to comply with any requirement prescribed under section 518, 520(g), 903(b)(8), or 908, or condition prescribed under section 903(b)(6)(B)(ii)(II);

"(B) to furnish any notification or other material or information required by or under section 519, 520(g), 904, 909, or section 921; or

"(C) to comply with a requirement under section 522 or 913.";

(11) in subsection (q)(2), by striking "device," and inserting "device or tobacco product,";

(12) in subsection (r), by inserting "or tobacco product" after "device" each time that it appears; and

(13) by adding at the end the following:

"(aa) The sale of tobacco products in violation of a no-tobacco-sale order issued under section 303(f).

"(bb) The introduction or delivery for introduction into interstate commerce of a tobacco product in violation of section 911.

"(cc)(1) Forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp (including tax stamp), tag, label, or other identification device upon any tobacco product or container or labeling thereof so as to render such tobacco product a counterfeit tobacco product.

"(2) Making, selling, disposing of, or keeping in possession, control, or custody, or concealing any punch, die, plate, stone, or other item that is designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any tobacco product or container or labeling thereof so as to render such tobacco product a counterfeit tobacco product.

"(3) The doing of any act that causes a tobacco product to be a counterfeit tobacco product, or the sale or dispensing, or the holding for sale or dispensing, of a counterfeit tobacco product.

"(dd) The charitable distribution of tobacco products.

"(ee) The failure of a manufacturer or distributor to notify the Attorney General of their knowledge of tobacco products used in illicit trade.".

(c) SECTION 303.—Section 303 (21 U.S.C. 333(f)) is amended in subsection (f)—

(1) by striking the subsection heading and inserting the following:

"(f) CIVIL PENALTIES; NO-TOBACCO-SALE ORDERS.—";

(2) in paragraph (1)(A), by inserting "or tobacco products" after "devices";

(3) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), and inserting after paragraph (2) the following:

"(3) If the Secretary finds that a person has committed repeated violations of restrictions promulgated under section 906(d) at a particular retail outlet then the Secretary may impose a no-tobacco-sale order on that person prohibiting the sale of tobacco products in that outlet. A no-tobacco-sale order may be imposed with a civil penalty under paragraph (1).";

(4) in paragraph (4) as so redesignated—

(A) in subparagraph (A)—

(i) by striking "assessed" the first time it appears and inserting "assessed, or a no-tobacco-sale order may be imposed,"; and

(ii) by striking "penalty" and inserting "penalty, or upon whom a no-tobacco-order is to be imposed,";

(B) in subparagraph (B)—

(i) by inserting after "penalty," the following: "or the period to be covered by a no-tobacco-sale order,"; and

(ii) by adding at the end the following: "A no-tobacco-sale order permanently prohibiting an individual retail outlet from selling tobacco products shall include provisions that allow the outlet, after a specified period of time, to request that the Secretary compromise, modify, or terminate the order."; and

(C) by adding at the end, the following:

"(D) The Secretary may compromise, modify, or terminate, with or without conditions, any no-tobacco-sale order.";

(5) in paragraph (5) as so redesignated—

(A) by striking "(3)(A)" as redesignated, and inserting "(4)(A)";

(B) by inserting "or the imposition of a no-tobacco-sale order" after "penalty" the first 2 places it appears; and

(C) by striking "issued." and inserting "issued, or on which the no-tobacco-sale order was imposed, as the case may be."; and

(6) in paragraph (6), as so redesignated, by striking "paragraph (4)" each place it appears and inserting "paragraph (5)".

(d) SECTION 304.—Section 304 (21 U.S.C. 334) is amended—

(1) in subsection (a)(2)—

(A) by striking "and" before "(D)"; and

(B) by striking "device." and inserting the following: ", (E) Any adulterated or misbranded tobacco product.";

(2) in subsection (d)(1), by inserting "tobacco product," after "device,";

(3) in subsection (g)(1), by inserting "or tobacco product" after "device" each place it appears; and

(4) in subsection (g)(2)(A), by inserting "or tobacco product" after "device" each place it appears.

(e) SECTION 702.—Section 702(a) (21 U.S.C. 372(a)) is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end thereof the following:

"(2) For a tobacco product, to the extent feasible, the Secretary shall contract with the States in accordance with paragraph (1) to carry out inspections of retailers in connection with the enforcement of this Act.".

(f) SECTION 703.—Section 703 (21 U.S.C. 373) is amended—

(1) by inserting "tobacco product," after "device," each place it appears; and

(2) by inserting "tobacco products," after "devices," each place it appears.

(g) SECTION 704.—Section 704 (21 U.S.C. 374) is amended—

(1) in subsection (a)(1)(A), by inserting "tobacco products," after "devices," each place it appears;

(2) in subsection (a)(1)(B), by inserting "or tobacco product" after "restricted devices" each place it appears; and

(3) in subsection (b), by inserting "tobacco product," after "device,".

(h) SECTION 705.—Section 705(b) (21 U.S.C. 375(b)) is amended by inserting "tobacco products," after "devices,".

(i) SECTION 709.—Section 709 (21 U.S.C. 379) is amended by inserting "or tobacco product" after "device".

(j) SECTION 801.—Section 801 (21 U.S.C. 381) is amended—

(1) in subsection (a)—

(A) by inserting "tobacco products," after "devices," the first time it appears;

(B) by inserting "or section 905(j)" after "section 510"; and

(C) by striking "drugs or devices" each time it appears and inserting "drugs, devices, or tobacco products";

(2) in subsection (e)(1), by inserting "tobacco product," after "device,"; and

(3) by adding at the end the following:

"(p)(1) Not later than 2 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, and annually thereafter, the Secretary shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report regarding—

"(A) the nature, extent, and destination of United States tobacco product exports that do not conform to tobacco product standards established pursuant to this Act;

"(B) the public health implications of such exports, including any evidence of a negative public health impact; and

"(C) recommendations or assessments of policy alternatives available to Congress and the Executive Branch to reduce any negative public health impact caused by such exports.

"(2) The Secretary is authorized to establish appropriate information disclosure requirements to carry out this subsection.".

(k) SECTION 1003.—Section 1003(d)(2)(C) (as redesignated by section 101(a)) is amended—

(1) by striking "and" after "cosmetics,"; and

(2) inserting a comma and "and tobacco products" after "devices".

(l) EFFECTIVE DATE FOR NO-TOBACCO-SALE ORDER AMENDMENTS.—The amendments made by subsection (c), other than the amendment made by paragraph (2) of such subsection, shall take effect upon the issuance of guidance by the Secretary of Health and Human Services—

(1) defining the term "repeated violation", as used in section 303(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333(f)) as amended by subsection (c), by identifying the number of violations of particular requirements over a specified period of time at a particular retail outlet that constitute a repeated violation;

(2) providing for timely and effective notice to the retailer of each alleged violation at a particular retail outlet and an expedited procedure for the administrative appeal of an alleged violation;

(3) providing that a person may not be charged with a violation at a particular retail outlet unless the Secretary has provided notice to the retailer of all previous violations at that outlet;

(4) establishing a period of time during which, if there are no violations by a particular retail outlet, that outlet will not considered to have been the site of repeated violations when the next violation occurs; and

(5) providing that good faith reliance on the presentation of a false government issued photographic identification that contains the bearer's date of birth does not constitute a violation of any minimum age requirement for the sale of tobacco products if the retailer has taken effective steps to prevent such violations, including—

(A) adopting and enforcing a written policy against sales to minors;

(B) informing its employees of all applicable laws;

(C) establishing disciplinary sanctions for employee noncompliance; and

(D) requiring its employees to verify age by way of photographic identification or electronic scanning device.

TITLE II—TOBACCO PRODUCT WARNINGS; CONSTITUENT AND SMOKE CONSTITUENT DISCLOSURE

SEC. 201. CIGARETTE LABEL AND ADVERTISING WARNINGS.

Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) is amended to read as follows:

"SEC. 4. LABELING.

"(a) LABEL REQUIREMENTS.—

"(1) IN GENERAL.—It shall be unlawful for any person to manufacture, package, sell, offer to sell, distribute, or import for sale or distribution within the United States any cigarettes the package of which fails to bear, in accordance with the requirements of this section, one of the following labels:

'WARNING: Cigarettes are addictive'.

'WARNING: Tobacco smoke can harm your children'.

'WARNING: Cigarettes cause fatal lung disease'.

'WARNING: Cigarettes cause cancer'.

'WARNING: Cigarettes cause strokes and heart disease'.

'WARNING: Smoking during pregnancy can harm your baby'.

'WARNING: Smoking can kill you'.

'WARNING: Tobacco smoke causes fatal lung disease in non-smokers'.

'WARNING: Quitting smoking now greatly reduces serious risks to your health'.

"(2) PLACEMENT; TYPOGRAPHY; ETC.—

"(A) IN GENERAL.—Each label statement required by paragraph (1) shall be located in the upper portion of the front and rear panels of the package, directly on the package underneath the cellophane or other clear wrapping. Except as provided in subparagraph (B), each label statement shall comprise at least the top 30 percent of the front and rear panels of the package. The word 'WARNING' shall appear in capital letters and all text shall be in conspicuous and legible 17-point type, unless the text of the label statement would occupy more than 70 percent of such area, in which case the text may be in a smaller conspicuous and legible type size, provided that at least 60 percent of such area is occupied by required text. The text shall be black on a white background, or white on a black background, in a manner that contrasts, by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (b)(4).

"(B) FLIP-TOP BOXES.—For any cigarette brand package manufactured or distributed before January 1, 2000, which employs a flip-top style (if such packaging was used for that brand in commerce prior to June 21, 1997), the label statement required by paragraph (1) shall be located on the flip-top area of the package, even if such area is less than 25 percent of the area of the front panel. Except as provided in this paragraph, the provisions of this subsection shall apply to such packages.

"(3) DOES NOT APPLY TO FOREIGN DISTRIBUTION.—The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of cigarettes which does not manufacture, package, or import cigarettes for sale or distribution within the United States.

"(4) APPLICABILITY TO RETAILERS.—A retailer of cigarettes shall not be in violation of this subsection for packaging that is supplied to the retailer by a tobacco product manufacturer, importer, or distributor and is not altered by the retailer in a way that is material to the requirements of this subsection except that this paragraph shall not relieve a retailer of liability if the retailer sells or distributes tobacco products that are not labeled in accordance with this subsection.

"(b) ADVERTISING REQUIREMENTS.—

"(1) IN GENERAL.—It shall be unlawful for any tobacco product manufacturer, importer, distributor, or retailer of cigarettes to advertise or cause to be advertised within the United States any cigarette unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a) of this section.

"(2) TYPOGRAPHY, ETC.—Each label statement required by subsection (a) of this section in cigarette advertising shall comply with the standards set forth in this paragraph. For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent (including a smoke constituent) yield shall comprise at least 20 percent of the area of the advertisement and shall appear in a conspicuous and prominent format and location at the top of each advertisement within the trim area. The Secretary may revise the required type sizes in such area in such manner as the Secretary determines appropriate. The word 'WARNING' shall appear in capital letters, and each label statement shall appear in conspicuous and legible type. The text of the label statement shall be black if the background is white and white if the background is black, under the plan submitted under paragraph (4) of this subsection. The label statements shall be enclosed by a rectangular border that is the same color as the letters of the statements and that is the width of the first downstroke of the capital 'W' of the word 'WARNING' in the label statements. The text of such label statements shall be in a typeface pro rata to the following requirements: 45-point type for a whole-page broadsheet newspaper advertisement; 39-point type for a half-page broadsheet newspaper advertisement; 39-point type for a whole-page tabloid newspaper advertisement; 27-point type for a half-page tabloid newspaper advertisement; 31.5-point type for a double page spread magazine or whole-page magazine advertisement; 22.5-point type for a 28 centimeter by 3 column advertisement; and 15-point type for a 20 centimeter by 2 column advertisement. The label statements shall be in English, except that in the case of—

“(A) an advertisement that appears in a newspaper, magazine, periodical, or other publication that is not in English, the statements shall appear in the predominant language of the publication; and

“(B) in the case of any other advertisement that is not in English, the statements shall appear in the same language as that principally used in the advertisement.

“(3) Matchbooks.—Notwithstanding paragraph (2), for matchbooks (defined as containing not more than 20 matches) customarily given away with the purchase of tobacco products, each label statement required by subsection (a) may be printed on the inside cover of the matchbook.

“(4) Adjustment by secretary.—The Secretary may, through a rulemaking under section 553 of title 5, United States Code, adjust the format and type sizes for the label statements required by this section or the text, format, and type sizes of any required tar, nicotine yield, or other constituent (including smoke constituent) disclosures, or to establish the text, format, and type sizes for any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et. seq.). The text of any such label statements or disclosures shall be required to appear only within the 20 percent area of cigarette advertisements provided by paragraph (2) of this subsection. The Secretary shall promulgate regulations which provide for adjustments in the format and type sizes of any text required to appear in such area to ensure that the total text required to appear by law will fit within such area.

“(5) Marketing requirements.—

“(A) The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

“(B) The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of cigarettes in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

“(C) The Secretary shall review each plan submitted under subparagraph (B) and approve it if the plan—

“(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

“(ii) assures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.

“(6) Applicability to retailers.—This subsection applies to a retailer only if that retailer is responsible for or directs the label statements required under this section except that this paragraph shall not relieve a retailer of liability if the retailer displays, in a location open to the public, an advertisement that is not labeled in accordance with the requirements of this subsection.”.

SEC. 202. AUTHORITY TO REVISE CIGARETTE WARNING LABEL STATEMENTS.

Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333), as amended by section 201, is further amended by adding at the end the following:

“(c) Change in Required Statements.—The Secretary may, by a rulemaking conducted under section 553 of title 5, United States Code, adjust the format, type size, and text of any of the label requirements, require color graphics to accompany the text, increase the required label area from 30 percent up to 50 percent of the front and rear panels of the package, or establish the format, type size, and text of any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), if the Secretary finds that such a change would promote greater public understanding of the risks associated with the use of tobacco products.”.

SEC. 203. STATE REGULATION OF CIGARETTE ADVERTISING AND PROMOTION.

Section 5 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1334) is amended by adding a the end the following:

“(c) Exception.—Notwithstanding subsection (b), a State or locality may enact statutes and promulgate regulations, based on smoking and health, that take effect after the effective date of the Family Smoking Prevention and Tobacco Control Act, imposing specific bans or restrictions on the time, place, and manner, but not content, of the advertising or promotion of any cigarettes.”.

SEC. 204. SMOKELESS TOBACCO LABELS AND ADVERTISING WARNINGS.

Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402) is amended to read as follows:

“SEC. 3. SMOKELESS TOBACCO WARNING.

“(a) General Rule.—

“(1) It shall be unlawful for any person to manufacture, package, sell, offer to sell, distribute, or import for sale or distribution within the United States any smokeless tobacco product unless the product package bears, in accordance with the requirements of this Act, one of the following labels:

‘WARNING: This product can cause mouth cancer’.

‘WARNING: This product can cause gum disease and tooth loss’.

‘WARNING: This product is not a safe alternative to cigarettes’.

‘WARNING: Smokeless tobacco is addictive’.

“(2) Each label statement required by paragraph (1) shall be—

“(A) located on the 2 principal display panels of the package, and each label statement shall comprise at least 30 percent of each such display panel; and

“(B) in 17-point conspicuous and legible type and in black text on a white background, or white text on a black background, in a manner that contrasts by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (b)(3), except that if the text of a label statement would occupy more than 70 percent of the area specified by subparagraph (A), such text may appear in a smaller type size, so long as at least 60 percent of such warning area is occupied by the label statement.

“(3) The label statements required by paragraph (1) shall be introduced by each tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products concurrently into the distribution chain of such products.

“(4) The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of any smokeless tobacco product that does not manufacture, package, or import smokeless tobacco products for sale or distribution within the United States.

“(5) A retailer of smokeless tobacco products shall not be in violation of this subsection for packaging that is supplied to the retailer by a tobacco products manufacturer, importer, or distributor and that is not altered by the retailer unless the retailer offers for sale, sells, or distributes a smokeless tobacco product that is not labeled in accordance with this subsection.

“(b) Required Labels.—

“(1) It shall be unlawful for any tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products to advertise or cause to be advertised within the United States any smokeless tobacco product unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a).

“(2) Each label statement required by subsection (a) in smokeless tobacco advertising shall comply with the standards set forth in this paragraph. For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent yield shall—

“(A) comprise at least 20 percent of the area of the advertisement, and the warning area shall be delineated by a dividing line of contrasting color from the advertisement; and

“(B) the word ‘WARNING’ shall appear in capital letters and each label statement shall appear in conspicuous and legible type. The text of the label statement shall be black on a white background, or white on a black background, in an alternating fashion under the plan submitted under paragraph (3).

“(3)(A) The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

“(B) The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of smokeless tobacco product in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

“(C) The Secretary shall review each plan submitted under subparagraph (B) and approve it if the plan—

“(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

“(ii) assures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.

“(D) This paragraph applies to a retailer only if that retailer is responsible for or directs the label statements under this section, unless the retailer displays in a location open to the public, an advertisement that is not labeled in accordance with the requirements of this subsection.

“(c) Television and Radio Advertising.—It is unlawful to advertise smokeless tobacco on any medium of electronic communications subject to the jurisdiction of the Federal Communications Commission.''.

SEC. 205. AUTHORITY TO REVISE SMOKELESS TOBACCO PRODUCT WARNING LABEL STATEMENTS.

Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402), as amended by section 203, is further amended by adding at the end the following:

''(d) AUTHORITY TO REVISE WARNING LABEL STATEMENTS.—The Secretary may, by a rulemaking conducted under section 553 of title 5, United States Code, adjust the format, type size, and text of any of the label requirements, require color graphics to accompany the text, increase the required label area from 30 percent up to 50 percent of the front and rear panels of the package, or establish the format, type size, and text of any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), if the Secretary finds that such a change would promote greater public understanding of the risks associated with the use of smokeless tobacco products.''.

SEC. 206. TAR, NICOTINE, AND OTHER SMOKE CONSTITUENT DISCLOSURE TO THE PUBLIC.

Section 4(a) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333 (a)), as amended by section 201, is further amended by adding at the end the following:

''(4)(A) The Secretary shall, by a rulemaking conducted under section 553 of title 5, United States Code, determine (in the Secretary's sole discretion) whether cigarette and other tobacco product manufacturers shall be required to include in the area of each cigarette advertisement specified by subsection (b) of this section, or on the package label, or both, the tar and nicotine yields of the advertised or packaged brand. Any such disclosure shall be in accordance with the methodology established under such regulations, shall conform to the type size requirements of subsection (b) of this section, and shall appear within the area specified in subsection (b) of this section.

''(B) Any differences between the requirements established by the Secretary under subparagraph (A) and tar and nicotine yield reporting requirements established by the Federal Trade Commission shall be resolved by a memorandum of understanding between the Secretary and the Federal Trade Commission.

''(C) In addition to the disclosures required by subparagraph (A) of this paragraph, the Secretary may, under a rulemaking conducted under section 553 of title 5, United States Code, prescribe disclosure requirements regarding the level of any cigarette or other tobacco product constituent including any smoke constituent. Any such disclosure may be required if the Secretary determines that disclosure would be of benefit to the public health, or otherwise would increase consumer awareness of the health consequences of the use of tobacco products, except that no such prescribed disclosure shall be required on the face of any cigarette package or advertisement. Nothing in this section shall prohibit the Secretary from requiring such prescribed disclosure through a cigarette or other tobacco product package or advertisement insert, or by any other means under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

''(D) This paragraph applies to a retailer only if that retailer is responsible for or directs the label statements required under this section, except that this paragraph shall not relieve a retailer of liability if the retailer sells or distributes tobacco products that are not labeled in accordance with the requirements of this subsection.''.

TITLE III—PREVENTION OF ILLICIT TRADE IN TOBACCO PRODUCTS

SEC. 301. LABELING, RECORDKEEPING, RECORDS INSPECTION.

Chapter IX of the Federal Food, Drug, and Cosmetic Act, as added by section 101, is further amended by adding at the end the following:

''SEC. 921. LABELING, RECORDKEEPING, RECORDS INSPECTION.

''(a) ORIGIN LABELING.—The label, packaging, and shipping containers of tobacco products for introduction or delivery for introduction into interstate commerce shall bear the statement 'sale only allowed in the United States.'

''(b) REGULATIONS CONCERNING RECORDKEEPING FOR TRACKING AND TRACING.—

''(1) IN GENERAL.—Not later than 9 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall promulgate regulations regarding the establishment and maintenance of records by any person who manufactures, processes, transports, distributes, receives, packages, holds, exports, or imports tobacco products.

''(2) INSPECTION.—In promulgating the regulations described in paragraph (1), the Secretary shall consider which records are needed for inspection to monitor the movement of tobacco products from the point of manufacture through distribution to retail outlets to assist in investigating potential illicit trade, smuggling or counterfeiting of tobacco products.

''(3) CODES.—The Secretary may require codes on the labels of tobacco products or other designs or devices for the purpose of tracking or tracing the tobacco product through the distribution system.

''(4) SIZE OF BUSINESS.—The Secretary shall take into account the size of a business in promulgating regulations under this section.

''(5) RECORDKEEPING BY RETAILERS.—The Secretary shall not require any retailer to maintain records relating to individual purchasers of tobacco products for personal consumption.

''(c) RECORDS INSPECTION.—If the Secretary has a reasonable belief that a tobacco product is part of an illicit trade or smuggling or is a counterfeit product, each person who manufactures, processes, transports, distributes, receives, holds, packages, exports, or imports tobacco products shall, at the request of an officer or employee duly designated by the Secretary, permit such officer or employee, at reasonable times and within reasonable limits and in a reasonable manner, upon the presentation of appropriate credentials and a written notice to such person, to have access to and copy all records (including financial records) relating to such article that are needed to assist the Secretary in investigating potential illicit trade, smuggling or counterfeiting of tobacco products.

''(d) KNOWLEDGE OF ILLEGAL TRANSACTION.—If the manufacturer or distributor of a tobacco product has knowledge which reasonably supports the conclusion that a tobacco product manufactured or distributed by such manufacturer or distributor that has left the control of such person may be or has been—

''(A) imported, exported, distributed or offered for sale in interstate commerce by a person without paying duties or taxes required by law; or

''(B) imported, exported, distributed or diverted for possible illicit marketing,

the manufacturer or distributor shall promptly notify the Attorney General of such knowledge.

''(2) KNOWLEDGE DEFINED.—For purposes of this subsection, the term 'knowledge' as applied to a manufacturer or distributor means—

''(A) the actual knowledge that the manufacturer or distributor had; or

''(B) the knowledge which a reasonable person would have had under like circumstances or which would have been obtained upon the exercise of due care.

SEC. 302. STUDY AND REPORT.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of cross-border trade in tobacco products to—

(1) collect data on cross-border trade in tobacco products, including illicit trade and trade of counterfeit tobacco products and make recommendations on the monitoring of such trade;

(2) collect data on cross-border advertising (any advertising intended to be broadcast, transmitted, or distributed from the United States to another country) of tobacco products and make recommendations on how to prevent or eliminate, and what technologies could help facilitate the elimination of, cross-border advertising.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the study described in subsection (a).

Mr. KENNEDY. Mr. President, today, Senator DEWINE and I are introducing legislation to give the Food and Drug Administration broad authority to regulate tobacco products for the protection of the public health. We cannot in good conscience allow the Federal agency most responsible for protecting the public health to remain powerless to deal with the enormous risks of tobacco, the most deadly of all consumer products.

This legislation is a fair and balanced approach to FDA regulation. It creates a new section in FDA jurisdiction for the regulation of tobacco products, with standards that allow for consideration of the unique issues raised by tobacco use. It is sensitive to the concerns of tobacco farmers, small businesses, and nicotine-dependent smokers. But, it clearly gives FDA the authority it needs in order to prevent youth smoking and to reduce addiction to this highly lethal product.

The stakes are vast. Five thousand children have their first cigarette every day, and two thousand of them become daily smokers. Nearly a thousand of them will die prematurely from tobacco-induced diseases. Smoking is the number one preventable cause of death in the Nation today. Cigarettes kill well over 400,000 Americans each year. That is more lives lost than from automobile accidents, alcohol abuse, illegal drugs, AIDS, murder, suicide, and fires combined. Our response to a public health problem of this magnitude must consist of more than half-way measures.

We must deal firmly with tobacco company marketing practices that target children and mislead the public. The Food and Drug Administration needs broad authority to regulate the sale, distribution, and advertising of cigarettes and smokeless tobacco.

The tobacco industry currently spends over $9 billion a year to promote its products. Much of that money is spent in ways designed to tempt children to start smoking, before they are mature enough to appreciate the enormity of the health risk. The industry knows that more than 90 percent of smokers begin as children and are addicted by the time they reach adulthood.

Documents obtained from tobacco companies prove, in the companies' own words, the magnitude of the industry's efforts to trap children into dependency on their deadly product. Recent studies by the Institute of Medicine and the Centers for Disease Control show the substantial role of industry advertising in decisions by young people to use tobacco products.

If we are serious about reducing youth smoking, FDA must have the power to prevent industry advertising designed to appeal to children wherever it will be seen by children. This legislation will give FDA the ability to stop tobacco advertising which glamorizes smoking from appearing where it will be seen by significant numbers of children. It grants FDA full authority to regulate tobacco advertising "consistent with and to the full extent permitted by the First Amendment."

FDA authority must also extend to the sale of tobacco products. Nearly every State makes it illegal to sell cigarettes to children under 18, but surveys show that those laws are rarely enforced and frequently violated. FDA must have the power to limit the sale of cigarettes to face-to-face transactions in which the age of the purchaser can be verified by identification. This means an end to self-service displays and vending machine sales. There must also be serious enforcement efforts with real penalties for those caught selling tobacco products to children. This is the only way to ensure that children under 18 are not able to buy cigarettes.

The FDA conducted the longest rulemaking proceeding in its history, studying which regulations would most effectively reduce the number of children who smoke. Seven hundred thousand public comments were received in the course of that rulemaking. At the conclusion of its proceeding, the Agency promulgated rules on the manner in which cigarettes are advertised and sold. Due to litigation, most of those regulations were never implemented. If we are serious about curbing youth smoking as much as possible, as soon as possible; it makes no sense to require FDA to reinvent the wheel by conducting a new multi-year rulemaking process on the same issues. This legislation will give the youth access and advertising restrictions already developed by FDA the immediate force of law, as if they had been issued under the new statute.

The legislation also provides for stronger warnings on all cigarette and smokeless tobacco packages, and in all print advertisements. These warnings will be more explicit in their description of the medical problems which can result from tobacco use. The FDA is given the authority to change the text of these warning labels periodically, to keep their impact strong.

Nicotine in cigarettes is highly addictive. Medical experts say that it is as addictive as heroin or cocaine. Yet for decades, tobacco companies have vehemently denied the addictiveness of their products. No one can forget the parade of tobacco executives who testified under oath before Congress that smoking cigarettes is not addictive. Overwhelming evidence in industry documents obtained through the discovery process proves that the companies not only knew of this addictiveness for decades, but actually relied on it as the basis for their marketing strategy. As we now know, cigarette manufacturers chemically manipulated the nicotine in their products to make it even more addictive.

The tobacco industry has a long, dishonorable history of providing misleading information about the health consequences of smoking. These companies have repeatedly sought to characterize their products as far less hazardous than they are. They made minor innovations in product design seem far more significant for the health of the user than they actually were. It is essential that FDA have clear and unambiguous authority to prevent such misrepresentations in the future. The largest disinformation campaign in the history of the corporate world must end.

Given the addictiveness of tobacco products, it is essential that the FDA regulate them for the protection of the public health. Over forty million Americans are currently addicted to cigarettes. No responsible public health official believes that cigarettes should be banned. A ban would leave forty million people without a way to satisfy their drug dependency. FDA should be able to take the necessary steps to help addicted smokers overcome their addiction, and to make the product less toxic for smokers who are unable or unwilling to stop. To do so, FDA must have the authority to reduce or remove hazardous ingredients from cigarettes, to the extent that it becomes scientifically feasible. The inherent risk in smoking should not be unnecessarily compounded.

Recent statements by several tobacco companies make clear that they plan to develop what they characterize as "reduced risk" cigarettes. This legislation will require manufacturers to submit such "reduced risk" products to the FDA for analysis before they can be marketed. No health-related claims will be permitted until they have been verified to the FDA's satisfaction. These safeguards are essential to prevent deceptive industry marketing campaigns, which could lull the public into a false sense of health safety.

Smoking is the number one preventable cause of death in America. Congress must vest FDA not only with the responsibility for regulating tobacco products, but with full authority to do the job effectively.

This legislation will give the FDA the legal authority it needs—to reduce youth smoking by preventing tobacco advertising which targets children—to prevent the sale of tobacco products to minors—to help smokers overcome their addiction—to make tobacco products less toxic for those who continue to use them—and to prevent the tobacco industry from misleading the public about the dangers of smoking.

We believe that there is an excellent chance of enacting this bill this year. The interest of tobacco-state members in passing a tobacco farmers' quota buyout provides a golden opportunity. By joining a strong FDA bill with relief for tobacco farmers, we can assemble a broad, bipartisan coalition to accomplish both of these goals during this session. This approach is supported by the public health community and by farmers' organizations. Most importantly, it is the right thing to do for America's children.

By Mr. WARNER (for himself, Mr. LIEBERMAN, Mr. ROBERTS, and Mr. ALLEN):

S. 2462. A bill to provide additional assistance to recipients of Federal Pell Grants who are pursuing programs of study in engineering, mathematics, science, or foreign languages; to the Committee on Health, Education, Labor and Pensions.

Mr. WARNER. Mr. President, I rise today to introduce an important bill related to education and our national, homeland, and economic security. I am pleased to be joined in this bipartisan effort with Senators LIEBERMAN, ROBERTS, and ALLEN, and I am grateful to each of them for working closely with me in crafting this legislation.

Some 50 plus years ago, I was a high school drop-out. I left school at the age of 17 to enlist in the Navy to serve this country in World War II. In the military, I earned the rank of Petty Officer 3rd Class, electronic technician's mate. And, it was in this role that I earned my first bit of technical education.

In return for my service, I was lucky enough to earn a GI Bill that helped me go to college at Washington & Lee University where I earned a degree in engineering. Subsequently, I joined the Marines and earned a second GI Bill that allowed me to attend the University of Virginia where I earned my law degree.

Without the GI bill, I certainly might not have earned the education that I was fortunate enough to receive, and I certainly would not be standing here today in the United States Senate. That is why I feel so very strongly that we must support education in this country. Today's generation of students should have at least the same opportunity to earn their education that I had, if not more.

We are fortunate in America that we have several important Federal programs to help make education more affordable for today's generation. Whether it is the GI Bill, the Americorp stipend, subsidized and unsubsidized Stafford loans, or any number of other Federal education programs, many Americans today who wish to obtain higher education have access to a variety of educational programs. I support strengthening these programs to increase access to higher education.

Of all the educational grant programs, the Pell Grant program is the largest source of grant aid to help students pay for the costs associated with higher education. Eligibility for Pell Grants is based on financial need, and this year alone, Pell Grants helped 5.3 million undergraduate students attain higher education.

Now, I am a strong supporter of the Pell Grant program. The $13.1 billion that is being spent by the Federal Government on Pell Grants in fiscal year 2004 gives students access to higher education that otherwise might not have such access. But, I also recognize that the Pell Grant program was created in 1972 when the world was entirely different.

Our world today is much more dangerous than it was back then, and much more dangerous than when I served this country with brief tours of duty in World War II and the Korean War.

Today, while we're sleeping, people in other parts of the world are contriving of every possible way to take our business, our economy, our security, and our freedoms away from us. September 11, 2001, should remind us of this.

Once, great oceans protected this Nation. But now, with the advent of the Internet and other modern technologies, the world is more connected than ever, and America is more vulnerable than ever in a lot of ways. Computer hackers all over the world try on a daily basis to hack into government computers. If successful, this could wreak havoc. Furthermore, each day, for whatever reason, people create computer viruses, and even the smallest virus can cost our economy billions of dollars.

Simply put, in today's day and age, our country faces new challenges like never before. I ask—are we prepared to meet these challenges?

Unfortunately, our institutions of higher learning are not producing enough American graduates with certain majors to meet our new challenges. In engineering, math, computer sciences, hard sciences, and certain foreign languages—America is coming up short.

The statistics are alarming: the Third International Math and Science Study reports that U.S. 12th graders scored in only the 7th percentile in math worldwide, and only the 3rd percentile in science. This is near the bottom among major industrialized nations. The National Science Foundation reports that the fraction of U.S. Bachelor degrees in science and engineering have been declining for nearly 2 decades when compared to the rest of the world. While nearly two-thirds of Bachelor degrees in China and Singapore are science or engineering, they account for only about 17 percent in the United States. In fact, we currently rank 61st out of the 63 countries surveyed. Similarly, the National Science Board reports that the fraction of foreign born scientists and engineers in the U.S. workforce rose to an all time high by 2000. Amazingly, 38 percent of all people working in the United States with doctorate degrees in science or engineering are now foreign born.

The effects of these educational trends are already being felt in various important ways. For example: the American Physical Society reports that the proportion of articles by American authors in the Physical Review, one of the most important research journals in the world, has hit an all time low of 29 percent, down from 61 percent in 1983. And the U.S. production of patents, probably the most direct link between research and economic benefit, has declined steadily relative to the rest of the world for decades, and now stands at only 52 percent of the total.

Despite these statistics, up to now, this country has been able to meet its new challenges by importing brain power from foreign countries. We are fortunate to have so many smart minds from other countries willing to come to the United States to fill critical science and engineering positions. However, the need for home-grown talent is becoming more and more apparent.

First, international competition for this foreign brain power has become intense. As the National Science Board notes, "Governments throughout the world recognize that a high-skill S&E workforce is essential for economic strength. Countries beyond the United States have been taking action to . . . attract foreign students and workers, and raise the attractiveness to their own citizenry of staying home or returning from abroad to serve growing national economies and research enterprises." This increased global competition for science and engineering workers "comes at a time when demand for their skills is projected to rise significantly—both in the United States and throughout the global economy."

Without action on our part, though, America will lose out in the competition for these technically talented workers. According to the National Science Board, by 2010, if current trends continue, significantly less than 10 percent of all physical scientists and engineers in the world will be working in America.

Increased global competition is not the only reason, though, that we have to promote a home-grown S&E workforce in America. In the post 9/11 era, it is more important than ever from a security perspective to have American citizens performing certain tasks.

The National Science Board put it best when they said, "The ready availability of outstanding science and engineering talent from other countries is no longer assured, as international competition for the science and engineering workforce grows. Threats to world peace and domestic security create additional constraints on employment of foreign nationals in the United States."

I think the message is clear: Our S&E workforce is in crisis. If we do not act to encourage more American citizens to enter the high shortage areas in engineering, math, and science, then America may lose its historical advantage as the world's innovator.

The consequences of this trend are also significant from a national security perspective. The defense-related research that goes into giving our men and women in the Armed Forces the best technology and equipment requires the special skills of engineers, scientists and computer scientists. Our military has always recognized these facts, and historically has been a tremendous supporter of science and engineering on a broad scale, from applied research to the most pure and esoteric of pursuits.

Let me quote some numbers which make clear what a huge investment our defense community makes in science and engineering: According to the National Science Foundation, the Defense Department is by far the largest single supporter of science and technology in the Federal Government, accounting for about half of the total research dollars spent; the proportion of defense funding for University research in critical disciplines is very significant. For example, 90 percent of basic astronautical research is defense-funded. And, as you all must realize, University research is vastly important for training subsequent generations of high-quality researchers; and in terms of technical manpower, defense-related scientists and engineers make up nearly 46 percent of the total Federal workforce. And, this includes 28 percent of all physical scientists, 48 percent of computer scientists and mathematicians, and 67 percent of all engineers.

For well over a century these investments have given us advantages in technological fields that have provided our men and women of our Armed Forces the most advanced and powerful tools in existence, from submarines and airplanes to unmanned vehicles and the Internet. These technologies not only give our military an overwhelming advantage on the battlefield, they also save many lives.

Yet, alarmingly, it is in the precise disciplines that produce these technologies and equipment where we see some of the greatest potential shortages in our science and engineering workforce. Numerous studies show that the number of domestic students in these critical fields has been falling steadily for years. And, without major investments to encourage more Americans to enter these critical fields, America is going to lose its status as the world's innovator and be placed in the precarious situation of having to rely on foreign countries to sell us the best equipment and the best technology for our troops. That is why it is paramount for America, from within, to produce the home-grown technical talent it needs.

The consequences of inaction are enormous. And, while America's challenge is substantial, it is not insurmountable. Fortunately, we already have an existing Federal program up and running that, if modified, can help.

Under current law, the $13.1 billion a year Pell Grant program awards recipients grants regardless of the course of study that the recipient chooses to pursue. So, under current law, 2 people from the same financial background are eligible for the same grant even though one chooses to major in the liberal arts while the other majors in engineering or science.

While I believe studying the liberal arts is an important component to having an enlightened citizenry, I also believe that given the unique challenges we are facing in this country, it is appropriate for us to add an incentive to the Pell Grant program to encourage individuals to pursue courses of study where graduates are needed to meet our national security, homeland security, and economic security needs.

That is why today I am introducing this legislation. The legislation is simple. It provides that at least every 2 years, our Secretary of Education, in consultation with the Secretary of Defense, the Secretary of Homeland Security, and others, should provide a list of courses of study where America needs home-grown talent to meet our national, homeland, and economic security needs. Those students who pursue courses of study in these programs will be rewarded through a doubling of their Pell Grant to help them with the costs associated with obtaining their education.

We in the Congress have an obligation when expending taxpayer money, to do so in a manner that meets our Nation's needs. Our Nation desperately needs more highly trained domestic workers. That is an indisputable fact. And, in the Pell Grant program, we have over $13 billion that is readily available to help meet this demand.

In closing, our world is vastly different today than it was when the Pell Grant program was created in 1972. My legislation is a commonsense modification of the Pell Grant program that will help America meet its new challenges. I hope my colleagues will join me in this endeavor.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2462

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "21st Century Federal Pell Grant Plus Act".

SEC. 2. RECIPIENTS OF FEDERAL PELL GRANTS WHO ARE PURSUING PROGRAMS OF STUDY IN ENGINEERING, MATHEMATICS, SCIENCE, OR FOREIGN LANGUAGES.

Section 401(b)(2) of the Higher Education Act of 1965 (20 U.S.C. 1070a(b)(2)) is amended by adding at the end the following:

"(C)(i) Notwithstanding subparagraph (A) and subject to clause (iii), in the case of a student who is eligible under this part and who is pursuing a degree with a major in, or a certificate or program of study relating to, engineering, mathematics, science (such as physics, chemistry, or computer science), or a foreign language, described in a list developed or updated under clause (ii), the amount of the Federal Pell Grant shall be the amount calculated for the student under subparagraph (A) for the academic year involved, multiplied by 2.

"(ii)(I) The Secretary, in consultation with the Secretary of Defense, the Secretary of the Department of Homeland Security, and the Director of the National Science Foundation, shall develop, update not less than once every 2 years, and publish in the Federal Register, a list of engineering, mathematics, and science degrees, majors, certificates, or programs that if pursued by a student, may enable the student to receive the increased Federal Pell Grant amount under clause (i). In developing and updating the list the Secretaries and Director shall consider the following:

"(aa) The current engineering, mathematics, and science needs of the United States with respect to national security, homeland security, and economic security.

"(bb) Whether institutions of higher education in the United States are currently producing enough graduates with degrees to meet the national security, homeland security, and economic security needs of the United States.

"(cc) The future expected workforce needs of the United States required to help ensure the Nation's national security, homeland security, and economic security.

"(dd) Whether institutions of higher education in the United States are expected to produce enough graduates with degrees to meet the future national security, homeland security, and economic security needs of the United States.

"(II) The Secretary, in consultation with the Secretary of Defense, the Secretary of the Department of Homeland Security, and the Secretary of State, shall develop, update not less than once every 2 years, and publish in the Federal Register, a list of foreign language degrees, majors, certificates, or programs that if pursued by a student, may enable the student to receive the increased Federal Pell Grant amount under clause (i). In developing and updating the list the Secretaries shall consider the following:

"(aa) The foreign language needs of the United States with respect to national security, homeland security, and economic security.

"(bb) Whether institutions of higher education in the United States are currently producing enough graduates with degrees to meet the national security, homeland security, and economic security needs of the United States.

"(cc) The future expected workforce needs of the United States required to help ensure the Nation's national security, homeland security, and economic security.

"(dd) Whether institutions of higher education in the United States are expected to produce enough graduates with degrees to meet the future national security, homeland security, and economic security needs of the United States.

"(iii) Each student who received an increased Federal Pell Grant amount under clause (i) to pursue a degree, major, certificate, or program described in a list published under subclause (I) or (II) of clause (ii) shall continue to be eligible for the increased Federal Pell Grant amount in subsequent academic years if the degree, major, certificate, or program, respectively, is subsequently removed from the list.

"(iv)(I) If a student who received an increased Federal Pell Grant amount under clause (i) changes the student's course of study to a degree, major, certificate, or program that is not included in a list described in clause (ii), then the Secretary shall reduce the amount of Federal Pell Grant assistance the student is eligible to receive under this section for subsequent academic years by an amount equal to the difference between the total amount the student received under this subparagraph and the total amount the student would have received under this section if this subparagraph had not been applied.

"(II) The Secretary shall reduce the amount of Federal Pell Grant assistance the student is eligible to receive in subsequent academic years by dividing the total amount to be reduced under subclause (I) for the student by the number of years the student received an increased Federal Pell Grant amount under clause (i), and deducting the result from the amount of Federal Pell Grant assistance the student is eligible to receive under this section for a number of subsequent academic years equal to the number of academic years the student received an increased Federal Pell Grant amount under clause (i).".

Mr. LIEBERMAN. Mr. President, I rise today to join my esteemed colleague from the State of Virginia, Senator WARNER, in introducing The 21st Century Pell Grant Plus Act. This bill is intended to provide an immediate and direct response to the urgent need in this country to encourage greater numbers of graduates in the critical areas of math and science and foreign language. Specifically, our bill would provide financial incentives to American college students, via enhanced Pell grants, to pursue degrees in science, engineering, mathematics, and key foreign languages. These subject areas are critical for meeting our nation's economic and homeland security needs.

Although the number of jobs requiring scientific and technical skills is projected to grow over the next decade, the last ten years have witnessed a significant decline in the number of relevant baccalaureate degrees awarded by U.S. institutions of higher education. Recent reports have highlighted the decline in science and engineering graduates in our country, which has threatened the United States' worldwide dominance in science and innovation. Foreign advances in basic science now often exceed those in the United States. To exacerbate the matter, future demographics signal that many of the presently employed engineers and scientists who entered the workforce in the 1960s and 1970s will retire during the next decade. Unfortunately, their children are not following them into the same professions.

Many of our competitors in the world market are not experiencing these same problems. The universities in some European and Asian countries are attracting science and engineering majors at much higher rates than the universities in the United States. For example, China graduated three times as many engineering graduates than the United States did in 1999. In 2000, there were 24 nations who awarded a higher percentage of science and engineering degrees than the United States did. In that same year, the percentage of students earning science degrees in Finland was 2.5 times higher than in the United States. Graduate education trends are no better. According to National Science Foundation indicators, between 1986 and 1999, China produced science and engineering doctorates at an average annual growth rate of 36.5 percent. By comparison, the United States had an average annual growth rate of just 2.2 percent during the same period. We must also keep in mind that of all the science and engineering doctoral degrees earned in the United States in 1999, 48.6 percent of them were earned by non-U.S. citizens.

I noted in my recent offshore outsourcing study, now posted on my website, that as global competition for technical talent intensifies, our economic security depends on producing U.S.-born science and engineering graduates. Not being able to fill the jobs in this country with U.S. citizens is also a threat to our national security. Thus, it is imperative that our higher education system, which is the best in the world, train more individuals in science and technology.

Our bill provides a simple and efficient solution to this problem. Under our proposal, any student who qualifies for a Pell Grant and majors in science, engineering, mathematics, or certain foreign languages would be eligible to receive a grant that is double the size of the original award. Every two years the Secretary of Education, in consultation with the Secretaries of Defense and Homeland Security, and the director of the National Science Foundation will develop a list of engineering, mathematics, science, and foreign language majors, degrees, certificates, or programs that if pursued by a student, may enable that student to receive the increased Federal Pell Grant amount.

Science, engineering, technology, and innovation are key to our economic growth, prosperity, and security. The 21st Century Federal Pell Grant Plus Act aims to strengthen our technical workforce, and thus our economic and homeland security, by encouraging more of our college students to study science, engineering, mathematics, and foreign languages. I urge my colleagues to act favorably on this measure.

I would also like to take this opportunity to pay tribute to a man who some have appropriately described as a true gentleman as well as an outstanding leader in engineering and science. Dr. John H. Hopps died on May 14, 2004 at 65 years of age. He has advised my office on our nation's science talent issues for the past three years, and I want to dedicate today's new bill to him. At the time of his death, he was serving as Deputy Under Secretary of Defense for Research and National Laboratories, and Deputy Director of Defense Research and Engineering. He accepted this dual position out of a strong sense of national service after the September 11 attack. The science community has lost a member who has served as an inspiration to many, including members of my staff, for his commitment to his profession and his unique approaches to developing our technical workforce. Among his many achievements, including many in University education and at NSF, I would note that Dr. Hopps was the author of numerous scholarly and scientific papers, and was recognized as one of the top African Americans in Technology in 2004. I might also mention that in addition to his intellectual prowess, he was passionate about athletics—a winning combination. As we introduce this bill to highlight the importance of this profession, I thought it was appropriate to recognize Dr. Hopps, and thank my colleagues for this opportunity.

By Mr. COLEMAN (for himself and Mrs. FEINSTEIN):

S. 2464. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the sale of prescription drugs through the Internet; to the Committee on Health, Education, Labor, and Pensions.

By Mr. COLEMAN:

S. 2465. A bill to amend the Controlled Substances Act with respect to the seizure of shipments of controlled substances, and for other purposes; to the Committee on the Judiciary.

Mr. COLEMAN. Mr. President, I rise to introduce two bills that expand Federal authority to prevent controlled substances from flooding into the U.S., authorizing states to shut down illegitimate virtual pharmacies, and bar Internet drug stores from dispensing drugs to customers referred to on-line doctors for a prescription.

Americans are increasingly turning to the Internet for access to affordable drugs. In 2003, consumer spending on drugs procured over the Internet exceeded $3.2 billion. Unfortunately, rogue Internet sites have proliferated and rake in millions of dollars by selling unproven, counterfeit, defective or otherwise inappropriate medications to unsuspecting consumers. Even more dangerously, these sites are profiting by selling addictive and potentially deadly controlled substances to consumers without a prescription or any physician oversight. This must stop before more individuals die or become addicted to easily obtainable narcotic drugs.

The first bill I am introducing was developed in close consultation with Senator FEINSTEIN, who is an original cosponsor. In appreciation for her role in helping write this legislation it is named after a young man from her state who died from an overdose of drugs purchased over the Internet.

17-year old Ryan Haight of La Mesa, CA was an honor roll student, and avid baseball card collector about to enter college. As his mom says, "he was a good kid." But in May of 2000 Ryan started hanging out with a different crowd of friends. He joined an online chat forum, which advocates the safe use of drugs, and he began buying prescription drugs from the Internet.

He used the family computer late at night and a debit card his parents gave him to buy baseball cards on Ebay. You might ask, how did a healthy 17-year old obtain prescriptions for painkillers without a medical exam. He got them from Dr. Robert Ogle an "online" physician based out of Texas. With the prescriptions from Dr. Ogle, Ryan was able to order hydrocodone, morphine, Valium and Oxazepam and have them shipped via US mail right to his front door.

In February 2001, Ryan overdosed on a combination of these prescription drugs. His mother found him dead on his bedroom floor.

The Ryan Haight Internet Pharmacy Consumer Protection Act counters the growing sale of prescription drugs over the Internet without a valid prescription by 1. providing new disclosure standards for Internet pharmacies; 2. barring Internet sites from selling or dispensing prescription drugs to consumers who are provided a prescription solely on the basis of an online questionnaire; and 3. allowing State Attorneys General to go to Federal court to shut down rogue sites.

The bill is geared to counter domestic Internet pharmacies that sell drugs without a valid prescription, not international pharmacies that sell drugs at a low cost to individuals who have a valid prescription from their U.S. doctors.

Under current law, purchasing drugs online without a valid prescription can be simple: a consumer just types the name of the drug into a search engine, quickly identifies a site selling the medication, fills in a brief questionnaire, and then clicks to purchase. The risks of self-medicating, however, can include potential adverse reactions from inappropriately prescribed medications, dangerous drug interactions, use of counterfeit or tainted products, and addiction to habit-forming substances. Several of these illegitimate sites fail to provide information about contraindications, potential adverse effects, and efficacy.

Regulating these Internet pharmacies is difficult for Federal and State authorities. State medical and pharmacy boards have expressed the concern that they do not have adequate enforcement tools to regulate practice over the Internet. It can be virtually impossible for States to identify, investigate, and prosecute these illegal pharmacies because the consumer, prescriber, and seller of a drug may be located in different States.

The Internet Pharmacy Consumer Protection Act amends the Federal Food, Drug, and Cosmetic Act to address this problem in three steps. First, it requires Internet pharmacy websites to display information identifying the business, pharmacist, and physician associated with the website.

Second, the bill bars the selling or dispensing of a prescription drug via the Internet when the website has referred the customer to a doctor who then writes a prescription without ever seeing the patient.

Third, the bill provides States with new enforcement authority modeled on the Federal Telemarketing Sales Act that will allow a state attorney general to shut down a rogue site across the country, rather than only bar sales to consumers of his or her state.

I am proud to say that the Ryan Haight Internet Pharmacy Consumer Protection Act is supported by the Federation of State Medical Boards, the National Community Pharmacists Association, and the American Pharmacists Association.

The second bill I am introducing enables Customs and Border Protection to immediately seize and destroy any package containing a controlled substance that is illegally imported into the U.S. without having to fill out duplicative forms and other unnecessary administrative paperwork. The Act will allow Customs to focus on interdicting and destroying potentially addictive and deadly controlled substances. The Act is dedicated to Todd Rode, a young man who died after overdosing on imported drugs.

Todd Rode had the heart and soul of a musician He graduated from college magna cum laude with a major in psychology and a minor in music. The faculty named him the outstanding senior in the Psychology Department. He worked in this field for a number of years, but he constantly fought bouts of depression and anxiety.

Unfortunately Todd ordered controlled drugs from a pharmacy and doctor in another country. These drugs included Venlafaxine, Propoxyphene, and Codeine. All were controlled substances and all were obtained from overseas pharmacies without any safeguards. To obtain these controlled substances all Todd had to do was to fill out an online questionnaire and with the click of a mouse they were shipped directly to his front door.

In October of 1999, Todd's family found him dead in his apartment.

A six-month investigation by the Permanent Subcommittee on Investigations has revealed that tens of thousands of dangerous and addictive controlled substances are streaming into the U.S. on a daily basis from overseas Internet pharmacies. For example, on March 15 and 17, 2004, at JFK airport, home to the largest International Mail Branch in the U.S., at least 3,000 boxes from a single vendor in the Netherlands containing hydrocodone and Diazepam (Valium) were seized by Customs and Border Protection (Customs).

In fact, senior Customs inspectors at JFK estimate that 40,000 parcels containing drugs are imported on a daily basis. During last summer's FDA/Customs blitz, 28 percent of the drugs tested were controlled substances. Extrapolating these figures, 11,200 drug parcels containing controlled substances are imported through JFK daily, 78,400 weekly, 313,600 monthly and 3,763,200 annually. top countries of origin include Brazil, India, Pakistan, Netherlands, Spain, Portugal, Canada, Mexico, and Romania.

Likewise, as of March 2003, senior Customs officials at the Miami International Airport indicated that as much as 30,000 packages containing drugs were being imported on a daily basis. A large percentage of these are controlled substances as well. Customs is simply overwhelmed. At Mail facilities across the U.S., Customs regularly seizes shipments of oxycodone, hydroquinone, tranquilizers, steroids, codeine laced products, GHB, date rape drug, and morphine.

In order to comply with paperwork requirements, Customs is forced to devote investigators solely to opening, counting, and analyzing drug packages, filling out duplicative forms, and logging into a computer all of the seized controlled substances. It takes Customs at least one hour to process a single shipment of a controlled substance. This minimizes the availability of inspectors to screen incoming drug packages. In fact, currently at JFK, there are 20,000 packages of seized controlled substances waiting processing. Customs acknowledges that, because of the sheer volume of product, bureaucratic regulations, and lack of manpower, the vast majority of controlled substances that are illegally imported are simply missed and allowed into the U.S. stream of commerce.

The Act to Prevent the Illegal Importation of Controlled Substances is a simple bill to address this burgeoning and potentially lethal problem.

I am confident that, if enacted as stand-alone measures, each of these bills will make on-line drug purchasing safer. However, I am working with Senator GREGG to ensure these safety features are included in his comprehensive reimportation bill and urge my colleagues to help make sure that this important piece of legislation becomes law this year.

Mrs. FEINSTEIN. Mr. President, I rise today along with my colleague Senator COLEMAN to introduce the Internet Pharmacy Consumer Protection Act also called the "Ryan Haight Act", a bill which is vital to protect the safety of Americans who choose to purchase their prescription drugs legally over the Internet.

This legislation is necessary because of a growing problem of illegal prescription drug diversion and abuse of prescription drugs. Coupled with the ease of access to the Internet, it has led to an environment where illegitimate pharmacy websites can bypass traditional regulations and established safeguards for the sale of prescription drugs. Internet websites that allow consumers to obtain prescription drugs without the existence of a bona fide physician-patient relationship pose an immediate threat to public health and safety.

To address this problem, the Internet Pharmacy Consumer Protection Act makes several critical steps to ensure safety and to assist regulatory authorities in shutting down "rogue" Internet pharmacies.

First, this bill establishes disclosure standards for Internet pharmacies.

Second, this bill prohibits the dispensing or sale of a prescription drug based solely on communications via the Internet such as the completion of an online medical questionnaire.

Third, it allows a State Attorney General to bring a civil action in a federal district court to enjoin a pharmacy operation and to enforce compliance with the provisions of this law.

Under this bill, for a domestic website to sell prescription drugs legally, the website would have to display identifying information such as the names, addresses, and medical licensing information for pharmacists and physicians associated with the website.

In addition, if a person wants to use the Internet to purchase their prescription drugs he or she will not be prohibited from doing so under this bill but, in order to do so, must already have a prescription for the drug that is valid in the United States prior to making the Internet purchase.

Reliance on the Internet for public health purposes and the expansion of telemedicine, particularly in rural areas, make it essential that there be at the very least a minimum standard for what qualifies as an acceptable medical relationship between patients and their physicians.

According to the American Medical Association, a health care practitioner who offers a prescription for a patient he or she has never seen before, based solely on an online questionnaire, generally does not meet the appropriate medical standard of care.

Let me illustrate the situation facing our country today. If a physician's office prescribed and dispensed prescription drugs the same way Internet pharmacies currently can and do, it would look something like this: A physician opens a physical office, asks a patient to fill out a medical history questionnaire in the lobby and give his or her credit card information to the office manager. There is no nurse, and therefore no one to take the patients' height, weight, blood pressure, verify his or her medical history, and so forth and no one to answer the patient's questions regarding their health.

The questionnaire is then slipped through a hole in the window; the office manager takes it to the physician, or person acting as the physician, who then writes the prescription and hands it to the pharmacist, or person acting as the pharmacist, in the next room. Once the patient signs his credit card, he is on his way out the door, drugs in hand.

No examination is performed, no questions asked, and no verification or clarification of the answers provided on the medical history questionnaire.

This illustration is not an exaggeration. It occurs every day all across the United States. The National Association of Boards of Pharmacy estimates that there are around 500 identifiable rogue pharmacy websites operating on the Internet.

According to the Federation of State Medical Boards, approximately 29 states and the District of Columbia either have laws or medical board initiatives addressing Internet medical practice. Of the other 21 States, 13 have medical or osteopathic medical boards that have taken disciplinary action against a physician for prescribing medication online.

Many States have already enacted laws defining acceptable practices for qualifying medical relationships between doctors and patients and this bill would not affect any existing State laws.

For example, California law was changed in 2000 to say:

> No person or entity may prescribe, dispense, or furnish, or cause to be prescribed, dispensed, or furnished dangerous drugs or dangerous devices [defined as any drug or device unsafe for self-use] on the Internet for delivery to any person in this state, without a good faith prior examination and medical indication . . .

I believe California's law is a perfect example of why this legislation is needed. The law only applies to persons living in California. As we all know, however, the Internet is not bound by State or even country borders.

This legislation makes a critical step forward by providing additional authority for State Attorneys General to file an injunction in Federal court to shut down an Internet site operating in another State that violates the provisions in the bill.

Under current law, in order to close down an Internet website selling prescription drugs prosecutors must take enforcement actions in every State where the Internet pharmacy operates, requiring a tremendous amount of resources in an environment where the location of the website is difficult, if not impossible, to determine or keep track of.

This bill will allow a State Attorney General to bring a civil action in a Federal district court to enjoin a pharmacy operation and to enforce compliance with the provisions of the law in every jurisdiction where the pharmacy is operating.

While this legislation pertains to domestic Internet pharmacies, the practice of international pharmacies selling low-cost drugs to U.S. consumers who have valid prescriptions from their doctors deserves to be discussed and debated on the Senate floor. It is my hope that the Senate will act this year on prescription drug importation legislation.

In closing, I want to share with you the story of Ryan T. Haight of La Mesa, CA in whose memory this bill is named.

Ryan was an 18-year old honor student from La Mesa, CA, when he died in his home on February 12, 2001. His parents found a bottle of Vicodin in his room with a label from an out-of-state pharmacy.

It turns out that Ryan had been ordering addictive drugs online and paying with a debit card his parents gave him to buy baseball cards on eBay.

Without a physical exam or his parents' consent, Ryan had been obtaining controlled substances, some from an Internet site in Oklahoma. It only took a few months before Ryan's life was ended by an overdose on a cocktail of painkillers.

Ryan's story and others like it force us to ask why anyone in the U.S. would be able to access such highly addictive and dangerous drugs over the Internet with such ease?

Why was there no physician or pharmacist on the other end of this teenager's computer verifying his age, his medical history and that there was a valid prescription?

That is why I support this legislation. It makes sensible requirements of Internet pharmacy websites that will not impact access to convenient, oftentimes cost-saving drugs.

With simple disclosure requirements for Internet sites such as names, addresses and medical or pharmacy licensing information, patients will be better off and state medical and pharmacy boards can ensure that pharmacists and doctors are properly licensed.

Lastly, this bill will give State Attorneys General the authority they need to shut down rogue Internet pharmacies operating in other States. I urge my colleagues to support this bill.

By Mr. BROWNBACK (for himself, Mr. ALEXANDER, Mr. BUNNING, Mr. BURNS, Mr. COLEMAN, Mr. CRAPO, Mr. DEWINE, Mr. ENSIGN, Mr. ENZI, Mr. FITZGERALD, Mr. GRAHAM of South Carolina, Mr. GRASSLEY, Mr. HATCH, Mr. KYL, Mr. MCCONNELL, Mr. MILLER, Mr. NICKLES, Mr. ROBERTS, Mr. SANTORUM, Mr. SESSIONS, Mr. SHELBY, Mr. TALENT, Mr. CHAMBLISS, and Mr. INHOFE):

S. 2466. A bill to ensure that women seeking an abortion are fully informed regarding the pain experienced by their unborn child; to the Committee on Health, Education, Labor, and Pensions.

Mr. BROWNBACK. Mr. President, I rise today to introduce the bipartisan Unborn Child Pain Awareness Act, and I am joined by 22 original cosponsors.

Unborn children can experience pain, and they can certainly respond to touch from outside the womb. Any woman who has been blessed with carrying a baby in the second trimester can tell you this.

I remember my own children kicking and squirming inside of my wife's womb. And my wife certainly remembers feeling their kicks. That unborn child is very much alive. All along, women have been able to feel the child inside of them, but now, science is telling us what the child inside of his or her mother can feel.

Many among us are unaware of the scientific, medical fact that unborn children can feel, but it is true. Not only can they feel, but their ability to experience pain is heightened. The highest density of pain receptors per square inch of skin in human development occurs in utero from 20 to 30 weeks gestation.

An expert report on fetal development, prepared for the Partial Birth Abortion Ban trials, notes that while unborn children are obviously incapable of verbal expressions, we know that they can experience pain based upon anatomical, functional, physiological and behavioral indicators that are correlated with pain in children and adults.

Unborn children can experience pain. This is why unborn children are often administered anesthesia during in utero surgeries.

Think about the pain that unborn children can experience, and then think about the more gruesome abortion procedures. Of course, we have heard about Partial Birth Abortion, but also consider the D&E abortion. During this procedure, commonly performed after 20-weeks—when there is medical evidence that the child can experience severe pain—the child is torn apart limb from limb. Think about how that must feel to a young human.

We would never allow a dog to be treated this way. Yet, the creature we are talking about is a young, unborn child.

Fortunately, the issue of pain experienced by unborn children has been covered by the news media during the ongoing Partial Birth Abortion Ban trials. Take for instance an April 7, 2004 Associated Press news article covering the trials. And I quote: "A type of abortion banned under a new federal law would cause 'severe and excruciating' pain to 20-week-old fetuses, a medical expert testified yesterday . . . 'I believe the fetus is conscious,' said Dr. Kanwaljeet 'Sonny' Anand, a pediatrician at the University of Arkansas for Medical Sciences . . . said yesterday that fetuses show increased heart rate, blood flow, and hormone levels in response to pain. 'The physiological responses have been very clearly studied,' he said. 'The fetus cannot talk . . . so this is the best evidence we can get."

Today I introduce a bill that would require those who perform abortions on unborn children 20 weeks after fertilization to inform the woman seeking an abortion of the medical evidence that the unborn child feels pain: (a.) Through a verbal statement given by the abortion provider, and also (b.) by providing a brochure—developed by the Department of Health and Human Services—that goes into more detail than the verbal statement on the medical evidence of pain experienced by an unborn child 20 weeks after fertilization.

The bill would also ensure that the woman, if she chooses to continue with the abortion procedure after being given the medical information, has the option of choosing anesthesia for the child, so that the unborn child's pain is less severe.

Women should not be kept in the dark; women have the right to know what their unborn child experiences during an abortion. After being presented with the medical and scientific information on the development of the unborn child 20 weeks after fertilization, the woman is more aware of the pain experienced by the child during an abortion procedure, and able—at the very least—to make an informed decision. It is simply not fair to keep women in the dark.

Unborn children do not have a voice, but they are young members of the human family. It is time to look at the unborn child, and recognize that it is really a young human, who can feel pain and should be treated with care.

I urge my colleagues to support and pass this important piece of legislation.

By Ms. COLLINS (for herself, Mr. CARPER, Mr. STEVENS, Mr. VOINOVICH, Mr. SUNUNU, Mr. LIEBERMAN, Mr. AKAKA, and Mr. DURBIN):

S. 2468. A bill to reform the postal laws of the United States; to the Committee on Governmental Affairs.

Ms. COLLINS. Mr. President, I rise today with my friend and colleague, Senator CARPER, to introduce the Postal Accountability and Enhancement Act of 2004, a bill designed to help the 225-year-old Postal Service meet the challenges of the 21st Century. This legislation represents the culmination of a process that began in the summer of 2002 when I introduced a bill to establish a Presidential Commission charged with examining the problems the Postal Service faces, and developing specific recommendations and legislative proposals that Congress and the Postal Service could implement.

It has long been acknowledged that the financial and operational problems confronting the Postal Service are serious. At present, the Postal Service has more than $90 billion in unfunded liabilities and obligations, which include $6.5 billion in debt to the U.S. Treasury, nearly $7 billion for Workers' Compensation claims, $5 billion for retirement costs, and as much as $45 billion to cover retiree health care costs. The General Accounting Office's Comptroller General, David Walker, has pointed to the urgent need for "fundamental reforms to minimize the risk of a significant taxpayer bailout or dramatic postal rate increases." The Postal Service has been on GAO's "High-Risk" List since April of 2001. The Postal Service is at risk of a "death spiral" of decreasing volume and increasing rates that lead to further decreases in volume.

In December of 2003, President Bush announced the creation of a bipartisan commission charged with identifying the operational, structural, and financial challenges facing the U.S. Postal Service. The President charged this commission with examining all significant aspects of the Postal Service with the goal of recommending legislative and administrative reforms to ensure its long-term viability.

The President's Commission conducted seven public hearings across the country at which they heard from numerous witnesses. On July 31, 2003, the Commission released its final report, making 35 legislative and administrative recommendations for the reform of the Postal Service.

As I read through the Commission's report, I was struck by what I considered the Commission's wake up call to Congress: its statement that "an incremental approach to Postal Service reform will yield too little, too late given the enterprise's bleak fiscal outlook, the depth of current debt and unfunded obligations, the downward trend in First-Class mail volumes and the limited potential of its legacy postal network that was built for a bygone era." That is a very strong statement, and one that challenged both the Postal Service and Congress to embrace far-reaching reforms.

To the relief of many, including myself, the Commission did not recommend privatization of the Postal Service. Instead, the Commission sought to find a way for the Postal Service to do, as Co-Chair Jim Johnson described to me, "an overwhelmingly better job under the same general structure."

The Postal Service plays a vital role in our economy. The Service itself employs more than 750,000 career employees. Less well known is the fact that it is also the linchpin of a $900-billion mailing industry that employs 9 million Americans in fields as diverse as direct mailing, printing, catalog production, paper manufacturing, and financial services. The health of the Postal Service is essential to the vitality of thousands of companies and the millions that they employ.

One of the greatest challenges for the Postal Service is the decrease in mail volume as business communications, bills and payments move more and more to the Internet. The Postal Service has experienced declining volumes of First-Class mail for the past four years. This is highly significant, given that First-Class mail accounts for 48 percent of total mail volume, and the revenue it generates pays for more than two-thirds of the Postal Service's institutional costs.

The Postal Service also faces the difficult task of trying to cut costs from its nationwide infrastructure and transportation network. These costs are difficult to cut. Even though volumes may be decreasing, carriers must still deliver six days a week to more than 139 million addresses.

As Chairman of the Committee on Governmental Affairs, I held a series of eight hearings, including a joint hearing with the House, during which we reviewed the recommendations of the President's Commission. The bill Senator CARPER and I introduce today is the culmination of everything the Committee learned from dozens of witnesses over the past eight months.

First and foremost, the Collins-Carper bill preserves the basic features of universal service-affordable rates, frequent delivery, and convenient community access to retail postal services. As a Senator representing a large, rural State, I want to ensure that my constituents living in the northern woods, or on the islands, or in our many rural small towns have the same access to postal services as the people of our cities. If the Postal Service were no longer to provide universal service and deliver mail to every customer, the affordable communication link upon which many Americans rely would be jeopardized. Most commercial enterprises would find it uneconomical, if not impossible, to deliver mail and packages to rural Americans at rates charged by the Postal Service.

The Collins-Carper bill allows the Postal Service to maintain its current mail monopoly, and retain its sole access to customer mailboxes. It grants the Postal Service Board of Governors the authority to set rates for competitive products like Express Mail and Parcel Post, as long as these prices do not result in cross subsidy from market-dominant products. As a safeguard, our bill establishes a 30 day prior review period during which the proposed rate changes shall be reviewed by the Postal Regulatory Commission.

It replaces the current lengthy and litigious rate-setting process with a rate cap-based structure for market-dominant products such as First-Class Mail, periodicals and library mail. This would allow the Postal Service to react more quickly to changes in the mailing industry. The rate caps would be linked to an inflation indicator selected by the Postal Regulatory Commission. The goal would be to make rate increases more predictable and less frequent and to provide incentives for the Postal Service to operate efficiently. Price changes for market-dominant products would be subject to a 45-day prior review period by the Postal Regulatory Commission.

Our bill would introduce new safeguards against unfair competition by the Postal Service in competitive markets. Subsidization of competitive products by market-dominant products would be expressly forbidden, and an equitable allocation of institutional costs to competitive products would be required.

The President's Commission recommended that the regulator be granted the authority to make changes to the Postal Service's universal service obligation and monopoly. The vast majority of the postal community, however, shared my belief that these are important policy determinations that should be retained by Congress. The Collins-Carper bill keeps those public policy decisions in congressional hands.

The existing Postal Rate Commission would be transformed into the Postal Regulatory Commission with greatly enhanced authority. Under current law, the Rate Commission has very narrow authority. We wanted to ensure that the Postal Service management has both greater latitude and stronger oversight. Among other things, the Postal Regulatory Commission will have the authority to regulate rates for non-competitive products and services; ensure financial transparency; establish limits on the accumulation of retained earnings by the Postal Service; obtain information from the Postal Service, if need be, through the use of new subpoena power; and review and act on complaints filed by those who believe the Postal Service has exceeded its authority. Members of the Postal Regulatory Board will be selected solely on the basis of their demonstrated experience and professional standing. Senate confirmation of all Board Members will be required.

The Governmental Affairs Committee dedicated two hearings to the examination of the Commission's workforce-related recommendations. The Postal Service is a highly labor intensive organization, using $3 out of every $4 to pay the wages and benefits of its employees. Their workforce is comprised of more than 700,000 dedicated letter carriers, clerks, mail handlers, postmasters, and others, who place great value on their right to collectively bargain. Our bill reaffirms that right. This bill only makes changes to the bargaining process that have been agreed to by both the Postal Service and the four major unions. We replace the rarely used fact-finding process with mediation, and shorten statutory deadlines for certain phases of the bargaining process.

Additionally, the Collins-Carper bill corrects what I believe to be an anomaly in the Federal workers' compensation law that results in high costs for the Postal Service. Under the Federal Employees Compensation Act (FECA), Federal employees with dependents are eligible for 75 percent of their take-home pay, tax free, plus cost of living allowances. In addition, there is no maximum dollar cap on FECA payments. As a result, employees often opt not to retire, staying on the more generous workers' compensation program permanently.

According to a March 2003 audit issued by the Postal Service's Office of Inspector General, the Postal Service's workers' compensation rolls include 81 cases that originated 40 to 50 years ago, with the oldest recipient being 102 years old. The IG's office found 778 cases that originated 30 to 40 years ago; and 1,189 cases that originated 20 to 29 years ago.

The Collins-Carper bill works to protect the financial resources of the Postal Service by converting workers' compensation benefits for total or partial disability to a retirement annuity when the affected employee reaches 65 years of age. This change would reflect the fact that disabled postal employees would likely retire at some point were they not receiving workers' compensation. I would like to note that the average postal employee retires far earlier than age 65, so this is still a generous program. It is important to point out that the Postal Service has reduced their workplace injury rate by twenty-eight percent over the past three years.

The Collins—Carper bill also puts into place a three-day waiting period before an employee is eligible to receive 45 days of continuation of pay. This is consistent with every state's workers' compensation program that requires a three- to seven-day waiting period before benefits are paid.

Our bill has reached an important compromise on the issue of workshare discounts. Some have raised concerns that the Postal Service has set rates so that mailers get a discount greater than the cost avoided by the Postal Service. While this may have occurred in a handful of instances, those mailers are still covering their attributable costs, as well as making a healthy contribution to overhead. The language in our bill sets a policy that the Postal Service shall not create new discounts greater than the cost avoided by the Postal Service. The only exception is in those cases where the Postal Regulatory Commission believes those rates are necessary.

The bill has also, for the first time, explicitly created the authority for the Postal Service to enter into negotiated service agreements with individual customers. This will allow the Postal Service to create agreements with customers to increase its revenue. I would point out that these agreements must cover all attributable costs, and will likely result in greater contribution to overhead. In addition, our bill requires that other similarly situated mailers will be able to enter into such agreements with the Postal Service.

Finally, our bill would repeal a provision of Public Law 108–18 which requires that money owed to the Postal Service due to an overpayment into the Civil Service Retirement System Fund be held in an escrow account. Repealing this provision would essentially "free up" $78 billion over a period of 60 years. These savings would be used to not only pay off debt to the U.S. Treasury and to fund health care liabilities, but to mitigate rate increases as well. In fact, failure to release these escrow funds would mean, for mailers, a double-digit rate increase in 2006—an expense most American businesses and many consumers are ill-equipped to afford.

The bill would also return to the Department of Treasury the responsibility for funding CSRS pension benefits relating to the military service of postal retirees. No other agency is required to make this payment. Ratepayers should not be held responsible for this $27 billion obligation.

The Postal Service has reached a critical juncture. If we are to save and strengthen this vital service upon which so many Americans rely for communication and their livelihoods, the time to act is now.

Our bill has the strong endorsements of the National Rural Letter Carriers Association, the National Association of Letter Carriers, the National Association of Postmasters of the United States, and the Coalition for a 21st Century Postal Service—which represents thousands of the major mailers, employee groups, small businesses, and other users of the mail. I am also very pleased to add Senators TED STEVENS, GEORGE VOINOVICH and JOHN SUNUNU as originated cosponsors of this bill.

I look forward to working with all of my colleagues in the Senate, and House Government Reform and Oversight Committee Chairman Tom Davis, who just last week passed a postal reform bill out of his committee by a vote of 40–0.

I ask unanimous consent that the text of the bill be printed in the RECORD, along with a letter sent to me from David Walker, Comptroller General of the General Accounting Office, addressing the need for comprehensive postal reform.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2468

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Postal Accountability and Enhancement Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—DEFINITIONS; POSTAL SERVICES

Sec. 101. Definitions.
Sec. 102. Postal services.

TITLE II—MODERN RATE REGULATION

Sec. 201. Provisions relating to market-dominant products.
Sec. 202. Provisions relating to competitive products.
Sec. 203. Provisions relating to experimental and new products.
Sec. 204. Reporting requirements and related provisions.
Sec. 205. Complaints; appellate review and enforcement.
Sec. 206. Clerical amendment.

TITLE III—MODERN SERVICE STANDARDS

Sec. 301. Establishment of modern service standards.
Sec. 302. Postal service plan.

TITLE IV—PROVISIONS RELATING TO FAIR COMPETITION

Sec. 401. Postal Service Competitive Products Fund.
Sec. 402. Assumed Federal income tax on competitive products income.
Sec. 403. Unfair competition prohibited.
Sec. 404. Suits by and against the Postal Service.

TITLE V—GENERAL PROVISIONS

Sec. 501. Qualification and term requirements for Governors.
Sec. 502. Obligations.
Sec. 503. Private carriage of letters.
Sec. 504. Rulemaking authority.
Sec. 505. Noninterference with collective bargaining agreements.

TITLE VI—ENHANCED REGULATORY COMMISSION

Sec. 601. Reorganization and modification of certain provisions relating to the Postal Regulatory Commission.
Sec. 602. Authority for Postal Regulatory Commission to issue subpoenas.
Sec. 603. Appropriations for the Postal Regulatory Commission.
Sec. 604. Redesignation of the Postal Rate Commission.
Sec. 605. Financial transparency.

TITLE VII—EVALUATIONS

Sec. 701. Assessments of ratemaking, classification, and other provisions.
Sec. 702. Report on universal postal service and the postal monopoly.
Sec. 703. Study on equal application of laws to competitive products.

TITLE VIII—POSTAL SERVICE RETIREMENT AND HEALTH BENEFITS FUNDING

Sec. 801. Short title.
Sec. 802. Civil Service Retirement System.
Sec. 803. Health insurance.
Sec. 804. Repeal of disposition of savings provision.
Sec. 805. Effective dates.

TITLE IX—COMPENSATION FOR WORK INJURIES

Sec. 901. Temporary disability; continuation of pay.
Sec. 902. Disability retirement for postal employees.

TITLE I—DEFINITIONS; POSTAL SERVICES

SEC. 101. DEFINITIONS.

Section 102 of title 39, United States Code, is amended by striking "and" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting a semicolon, and by adding at the end the following:

"(5) 'postal service' refers to the physical delivery of letters, printed matter, or packages weighing up to 70 pounds, including physical acceptance, collection, sorting, transportation, or other services ancillary thereto;

"(6) 'product' means a postal service with a distinct cost or market characteristic for which a rate is applied;

"(7) 'rates', as used with respect to products, includes fees for postal services;

"(8) 'market-dominant product' or 'product in the market-dominant category of mail' means a product subject to subchapter I of chapter 36; and

"(9) 'competitive product' or 'product in the competitive category of mail' means a product subject to subchapter II of chapter 36; and

"(10) 'year', as used in chapter 36 (other than subchapters I and VI thereof), means a fiscal year.".

SEC. 102. POSTAL SERVICES.

(a) IN GENERAL.—Section 404 of title 39, United States Code, is amended—

(1) in subsection (a), by striking paragraph (6) and by redesignating paragraphs (7) through (9) as paragraphs (6) through (8), respectively; and

(2) by adding at the end the following:

"(c) Nothing in this title shall be considered to permit or require that the Postal Service provide any special nonpostal or similar services.".

(b) CONFORMING AMENDMENTS.—(1) Section 1402(b)(1)(B)(ii) of the Victims of Crime Act of 1984 (98 Stat. 2170; 42 U.S.C. 10601(b)(1)(B)(ii)) is amended by striking "404(a)(8)" and inserting "404(a)(7)".

(2) Section 2003(b)(1) of title 39, United States Code, is amended by striking "and nonpostal".

TITLE II—MODERN RATE REGULATION

SEC. 201. PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS.

(a) IN GENERAL.—Chapter 36 of title 39, United States Code, is amended by striking sections 3621, 3622, and 3623 and inserting the following:

"§ 3621. Applicability; definitions

"(a) APPLICABILITY.—This subchapter shall apply with respect to—

"(1) first-class mail letters;
"(2) first-class mail cards;
"(3) periodicals;
"(4) standard mail;
"(5) single-piece parcel post;
"(6) media mail;
"(7) bound printed matter;
"(8) library mail;
"(9) special services; and
"(10) single-piece international mail,

subject to any changes the Postal Regulatory Commission may make under section 3642.

"(b) RULE OF CONSTRUCTION.—Mail matter referred to in subsection (a) shall, for purposes of this subchapter, be considered to have the meaning given to such mail matter under the mail classification schedule.

"§ 3622. Modern rate regulation

"(a) AUTHORITY GENERALLY.—The Postal Regulatory Commission shall, within 12 months after the date of the enactment of this section, by regulation establish (and may from time to time thereafter by regulation revise) a modern system for regulating rates and classes for market-dominant products.

"(b) OBJECTIVES.—Such system shall be designed to achieve the following objectives:

"(1) To reduce the administrative burden and increase the transparency of the ratemaking process.

"(2) To create predictability and stability in rates.

"(3) To maximize incentives to reduce costs and increase efficiency.

"(4) To enhance mail security and deter terrorism by promoting secure, sender-identified mail.

"(5) To allow the Postal Service pricing flexibility, including the ability to use pricing to promote intelligent mail and encourage increased mail volume during nonpeak periods.

"(6) To assure adequate revenues, including retained earnings, to maintain financial stability and meet the service standards established under section 3691.

"(7) To allocate the total institutional costs of the Postal Service equitably between market-dominant and competitive products.

"(c) FACTORS.—In establishing or revising such system, the Postal Regulatory Commission shall take into account—

"(1) the establishment and maintenance of a fair and equitable schedule for rates and classification system;

"(2) the value of the mail service actually provided each class or type of mail service to both the sender and the recipient, including but not limited to the collection, mode of transportation, and priority of delivery;

"(3) the direct and indirect postal costs attributable to each class or type of mail service plus that portion of all other costs of the Postal Service reasonably assignable to such class or type;

"(4) the effect of rate increases upon the general public, business mail users, and enterprises in the private sector of the economy engaged in the delivery of mail matter other than letters;

"(5) the available alternative means of sending and receiving letters and other mail matter at reasonable costs;

"(6) the degree of preparation of mail for delivery into the postal system performed by the mailer and its effect upon reducing costs to the Postal Service;

"(7) simplicity of structure for the entire schedule and simple, identifiable relationships between the rates or fees charged the various classes of mail for postal services;

"(8) the relative value to the people of the kinds of mail matter entered into the postal system and the desirability and justification for special classifications and services of mail;

"(9) the importance of providing classifications with extremely high degrees of reliability and speed of delivery and of providing those that do not require high degrees of reliability and speed of delivery;

"(10) the desirability of special classifications from the point of view of both the user and of the Postal Service;

"(11) the educational, cultural, scientific, and informational value to the recipient of mail matter; and

"(12) the policies of this title as well as such other factors as the Commission deems appropriate.

"(d) REQUIREMENTS.—The system for regulating rates and classes for market-dominant products shall—

"(1) require the Postal Rate Commission to set annual limitations on the percentage changes in rates based on inflation using indices, such as the Consumer Price Index, the Employment Cost Index, the Gross Domestic Product Price Index, or any similar measure as the Postal Rate Commission may prescribe;

"(2) establish a schedule whereby rates, when necessary and appropriate, would increase at regular intervals by predictable amounts;

"(3) not later than 45 days before the implementation of any adjustment in rates under this section—

"(A) require the Postal Service to provide public notice of the adjustment;

"(B) provide an opportunity for review by the Postal Rate Commission;

"(C) provide for the Postal Rate Commission to notify the Postal Service of any noncompliance of the adjustment with the limitation under paragraph (1); and

"(D) require the Postal Service to respond to the notice provided under subparagraph (C) and describe the actions to be taken to comply with the limitation under paragraph (1).

"(4) notwithstanding any limitation set under paragraphs (1) and (3), establish procedures whereby rates may be adjusted on an expedited basis due to unexpected and extraordinary circumstances.

"(e) WORKSHARE DISCOUNTS.—

"(1) DEFINITION.—In this subsection, the term 'workshare discount' refers to rate discounts provided to mailers for the presorting, prebarcoding, handling, or transportation of mail, as further defined by the Postal Regulatory Commission under subsection (a).

"(2) REGULATIONS.—As part of the regulations established under subsection (a), the Postal Regulatory Commission shall establish rules for workshare discounts that ensure that such discounts do not exceed the cost that the Postal Service avoids as a result of workshare activity, unless—

"(A) the discount is—

"(i) associated with a new postal service or with a change to an existing postal service; and

"(ii) necessary to induce mailer behavior that furthers the economically efficient operation of the Postal Service;

"(B) a reduction in the discount would—

"(i) lead to a loss of volume in the affected category of mail and reduce the aggregate contribution to institutional costs of the Postal Service from the mail matter subject to the discount below what it otherwise would have been if the discount had not been reduced to costs avoided;

"(ii) result in a further increase in the rates paid by mailers not able to take advantage of the discount; or

"(iii) impede the efficient operation of the Postal Service;

"(C) the amount of the discount above costs avoided—

"(i) is necessary to mitigate rate shock; and

"(ii) will be phased out over time;

"(D) the workshare discount is provided in connection with subclasses of mail consisting exclusively of mail matter of educational, cultural, or scientific value; or

"(E) the Postal Regulatory Commission determines that such discounts are reasonable and equitable and consistent with the objectives and factors taken into account under subsections (b) and (c).

"(3) REPORT.—Whenever the Postal Service establishes or maintains a workshare discount, the Postal Service shall, at the time it publishes the workshare discount rate, submit to the Postal Regulatory Commission a detailed report and explanation of the Postal Service's reasons for establishing or maintaining the rate, setting forth the data, economic analyses, and other information relied on by the Postal Service to justify the rate.

"(f) TRANSITION RULE.—Until regulations under this section first take effect, rates and classes for market-dominant products shall remain subject to modification in accordance with the provisions of this chapter and section 407, as such provisions were last in effect before the date of the enactment of this section.

"§ 3623. Service agreements for market-dominant products

"(a) IN GENERAL.—

"(1) AUTHORITY.—The Postal Service may enter into service agreements with a customer or group of customers that provide for the provision of postal services under terms, conditions, or service standards that differ from those that would apply under the otherwise applicable classification of market-dominant mail.

"(2) AGREEMENTS.—An agreement under this section may involve—

"(A) performance by the contracting mail user of mail preparation, processing, transportation, or other functions;

"(B) performance by the Postal Service of additional mail preparation, processing, transportation, or other functions; or

"(C) other terms and conditions that meet the requirements of subsections (b) and (c).

"(b) REQUIREMENTS.—A service agreement under this section may be entered into only if each of the following conditions is met:

"(1) The total revenue generated under the agreement—

"(A) will cover all Postal Service costs attributable to the postal services covered by the agreement; and

"(B) will result in no less contribution to the institutional costs of the Postal Service than would have been generated had the agreement not been entered into.

"(2) Rates or fees for other mailers will not increase as a result of the agreement.

"(3) The agreement pertains exclusively to products in the market-dominant category of mail.

"(4) The agreement will not preclude or materially hinder similarly situated mail users from entering into agreements with the Postal Service on the same, or substantially the same terms or conditions, and the Postal Service remains willing and able to enter into such.

"(c) LIMITATIONS.—A service agreement under this section shall—

"(1) be for a term not to exceed 3 years; and

"(2) provide that such agreement shall be subject to the cancellation authority of the Commission under section 3662.

"(d) NOTICE REQUIREMENTS.—

"(1) IN GENERAL.—At least 30 days before a service agreement under this section is to take effect, the Postal Service shall file with the Postal Regulatory Commission and publish in the Federal Register the following information with respect to such agreement:

"(A) A description of the postal services the agreement involves.

"(B) A description of the functions the customer is to perform under the agreement.

"(C) A description of the functions the Postal Service is to perform under the agreement.

"(D) The rates and fees payable by the customer during the term of the agreement.

"(E) With respect to each condition under subsection (b), information sufficient to demonstrate the bases for the view of the Postal Service that such condition would be met.

"(2) AGREEMENTS LESS THAN NATIONAL IN SCOPE.—In the case of a service agreement under this section that is less than national in scope, the information described under paragraph (1) shall also be published by the

Postal Service in a manner designed to afford reasonable notice to persons within any geographic area to which such agreement (or any amendment to that agreement) pertains.

"(e) Equal Treatment Required.—If the Postal Service enters into a service agreement with a mailer under this section, the Postal Service shall make such agreement available to similarly situated mailers on functionally equivalent terms and conditions consistent with the regulatory system established under section 3622 without unreasonable distinctions based on mailer profiles, provided that such distinctions, if ignored, would not render any subsequent agreement uneconomic or impractical.

"(f) Complaints.—Any person who believes that a service agreement under this section is not in conformance with the requirements of this section, or who is aggrieved by a decision of the Postal Service not to enter into an agreement under this section, may file a complaint with the Postal Regulatory Commission in accordance with section 3662.

"(g) Postal Regulatory Commission Role.—

"(1) Regulations.—The Postal Regulatory Commission may promulgate such regulations regarding service agreements as the Commission determines necessary to implement the requirements of this section.

"(2) Review.—The Postal Regulatory Commission may review any agreement or proposed agreement under this section and may suspend, cancel, or prevent such agreement if the Commission finds that the agreement does not meet the requirements of this section.

"(h) Interpretation.—The determination of whether the revenue generated under the agreement meets the requirements of subsection (b)(1)(B) shall be based, to the extent practicable, on the actual contribution of the mail involved, not on the average contribution made by the mail classification most similar to the services performed under the agreement. If mailer-specific data is not available, the bases for the determination used shall be provided and shall include a discussion of the suitability of the data used, in accordance with regulations established by the Postal Regulatory Commission.".

(b) Repealed Sections.—Sections 3624, 3625, and 3628 of title 39, United States Code, are repealed.

(c) Redesignation.—Chapter 36 of title 39, United States Code (as in effect after the amendment made by section 601, but before the amendment made by section 202) is amended by striking the heading for subchapter II and inserting the following:

"SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS".

SEC. 202. PROVISIONS RELATING TO COMPETITIVE PRODUCTS.

Chapter 36 of title 39, United States Code, is amended by inserting after section 3629 the following:

"SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS

"§ 3631. Applicability; definitions and updates

"(a) Applicability.—This subchapter shall apply with respect to—

"(1) priority mail;

"(2) expedited mail;

"(3) bulk parcel post;

"(4) bulk international mail; and

"(5) mailgrams;

subject to subsection (d) and any changes the Postal Regulatory Commission may make under section 3642.

"(b) Definition.—For purposes of this subchapter, the term 'costs attributable', as used with respect to a product, means the direct and indirect postal costs attributable to such product.

"(c) Rule of Construction.—Mail matter referred to in subsection (a) shall, for purposes of this subchapter, be considered to have the meaning given to such mail matter under the mail classification schedule.

"(d) Limitation.—Notwithstanding any other provision of this section, nothing in this subchapter shall be considered to apply with respect to any product then currently in the market-dominant category of mail.

"§ 3632. Action of the Governors

"(a) Authority To Establish Rates and Classes.—The Governors, with the written concurrence of a majority of all of the Governors then holding office, shall establish rates and classes for products in the competitive category of mail in accordance with the requirements of this subchapter and regulations promulgated under section 3633.

"(b) Procedures.—

"(1) In general.—Rates and classes shall be established in writing, complete with a statement of explanation and justification, and the date as of which each such rate or class takes effect.

"(2) Public notice; review; and compliance.—Not later than 30 days before the date of implementation of any adjustment in rates under this section—

"(A) the Governors shall provide public notice of the adjustment and an opportunity for review by the Postal Regulatory Commission;

"(B) the Postal Rate Commission shall notify the Governors of any noncompliance of the adjustment with section 3633; and

"(C) the Governors shall respond to the notice provided under subparagraph (B) and describe the actions to be taken to comply with section 3633.

"(c) Transition Rule.—Until regulations under section 3633 first take effect, rates and classes for competitive products shall remain subject to modification in accordance with the provisions of this chapter and section 407, as such provisions were as last in effect before the date of the enactment of this section.

"§ 3633. Provisions applicable to rates for competitive products

"The Postal Regulatory Commission shall, within 180 days after the date of the enactment of this section, promulgate (and may from time to time thereafter revise) regulations to—

"(1) prohibit the subsidization of competitive products by market-dominant products;

"(2) ensure that each competitive product covers its costs attributable; and

"(3) ensure that all competitive products collectively cover their share of the institutional costs of the Postal Service.".

SEC. 203. PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS.

Subchapter III of chapter 36 of title 39, United States Code, is amended to read as follows:

"SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS

"§ 3641. Market tests of experimental products

"(a) Authority.—

"(1) In general.—The Postal Service may conduct market tests of experimental products in accordance with this section.

"(2) Provisions waived.—A product shall not, while it is being tested under this section, be subject to the requirements of sections 3622, 3633, or 3642, or regulations promulgated under those sections.

"(b) Conditions.—A product may not be tested under this section unless it satisfies each of the following:

"(1) Significantly different product.—The product is, from the viewpoint of the mail users, significantly different from all products offered by the Postal Service within the 2-year period preceding the start of the test.

"(2) Market disruption.—The introduction or continued offering of the product will not create an unfair or otherwise inappropriate competitive advantage for the Postal Service or any mailer, particularly in regard to small business concerns (as defined under subsection (h)).

"(3) Correct categorization.—The Postal Service identifies the product, for the purpose of a test under this section, as either market-dominant or competitive, consistent with the criteria under section 3642(b)(1). Costs and revenues attributable to a product identified as competitive shall be included in any determination under section 3633(3) (relating to provisions applicable to competitive products collectively). Any test that solely affects products currently classified as competitive, or which provides services ancillary to only competitive products, shall be presumed to be in the competitive product category without regard to whether a similar ancillary product exists for market-dominant products.

"(c) Notice.—

"(1) In general.—At least 30 days before initiating a market test under this section, the Postal Service shall file with the Postal Regulatory Commission and publish in the Federal Register a notice—

"(A) setting out the basis for the Postal Service's determination that the market test is covered by this section; and

"(B) describing the nature and scope of the market test.

"(2) Safeguards.—For a competitive experimental product, the provisions of section 504(g) shall be available with respect to any information required to be filed under paragraph (1) to the same extent and in the same manner as in the case of any matter described in section 504(g)(1). Nothing in paragraph (1) shall be considered to permit or require the publication of any information as to which confidential treatment is accorded under the preceding sentence (subject to the same exception as set forth in section 504(g)(3)).

"(d) Duration.—

"(1) In general.—A market test of a product under this section may be conducted over a period of not to exceed 24 months.

"(2) Extension authority.—If necessary in order to determine the feasibility or desirability of a product being tested under this section, the Postal Regulatory Commission may, upon written application of the Postal Service (filed not later than 60 days before the date as of which the testing of such product would otherwise be scheduled to terminate under paragraph (1)), extend the testing of such product for not to exceed an additional 12 months.

"(e) Dollar-Amount Limitation.—

"(1) In general.—A product may only be tested under this section if the total revenues that are anticipated, or in fact received, by the Postal Service from such product do not exceed $10,000,000 in any year, subject to paragraph (2) and subsection (g).

"(2) Exemption authority.—The Postal Regulatory Commission may, upon written application of the Postal Service, exempt the market test from the limit in paragraph (1) if the total revenues that are anticipated, or in fact received, by the Postal Service from such product do not exceed $50,000,000 in any year, subject to subsection (g). In reviewing an application under this paragraph, the Postal Regulatory Commission shall approve such application if it determines that—

"(A) the product is likely to benefit the public and meet an expected demand;

"(B) the product is likely to contribute to the financial stability of the Postal Service; and

"(C) the product is not likely to result in unfair or otherwise inappropriate competition.

"(f) Cancellation.—If the Postal Regulatory Commission at any time determines that a market test under this section fails to meet 1 or more of the requirements of this section, it may order the cancellation of the test involved or take such other action as it considers appropriate. A determination under this subsection shall be made in accordance with such procedures as the Commission shall by regulation prescribe.

"(g) Adjustment for Inflation.—For purposes of each year following the year in which occurs the deadline for the Postal Service's first report to the Postal Regulatory Commission under section 3652(a), each dollar amount contained in this section shall be adjusted by the change in the Consumer Price Index for such year (as determined under regulations of the Commission).

"(h) Definition of a Small Business Concern.—The criteria used in defining small business concerns or otherwise categorizing business concerns as small business concerns shall, for purposes of this section, be established by the Postal Regulatory Commission in conformance with the requirements of section 3 of the Small Business Act.

"(i) Effective Date.—Market tests under this subchapter may be conducted in any year beginning with the first year in which occurs the deadline for the Postal Service's first report to the Postal Regulatory Commission under section 3652(a).

"§3642. New products and transfers of products between the market-dominant and competitive categories of mail

"(a) In General.—Upon request of the Postal Service or users of the mails, or upon its own initiative, the Postal Regulatory Commission may change the list of market-dominant products under section 3621 and the list of competitive products under section 3631 by adding new products to the lists, removing products from the lists, or transferring products between the lists.

"(b) Criteria.—All determinations by the Postal Regulatory Commission under subsection (a) shall be made in accordance with the following criteria:

"(1) The market-dominant category of products shall consist of each product in the sale of which the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing substantial business to other firms offering similar products. The competitive category of products shall consist of all other products.

"(2) Exclusion of products covered by postal monopoly.—A product covered by the postal monopoly shall not be subject to transfer under this section from the market-dominant category of mail. For purposes of the preceding sentence, the term 'product covered by the postal monopoly' means any product the conveyance or transmission of which is reserved to the United States under section 1696 of title 18, subject to the same exception as set forth in the last sentence of section 409(e)(1).

"(3) Additional considerations.—In making any decision under this section, due regard shall be given to—

"(A) the availability and nature of enterprises in the private sector engaged in the delivery of the product involved;

"(B) the views of those who use the product involved on the appropriateness of the proposed action; and

"(C) the likely impact of the proposed action on small business concerns (within the meaning of section 3641(h)).

"(c) Transfers of Subclasses and Other Subordinate Units Allowable.—Nothing in this title shall be considered to prevent transfers under this section from being made by reason of the fact that they would involve only some (but not all) of the subclasses or other subordinate units of the class of mail or type of postal service involved (without regard to satisfaction of minimum quantity requirements standing alone).

"(d) Notification and Publication Requirements.—

"(1) Notification requirement.—The Postal Service shall, whenever it requests to add a product or transfer a product to a different category, file with the Postal Regulatory Commission and publish in the Federal Register a notice setting out the basis for its determination that the product satisfies the criteria under subsection (b) and, in the case of a request to add a product or transfer a product to the competitive category of mail, that the product meets the regulations promulgated by the Postal Regulatory Commission under section 3633. The provisions of section 504(g) shall be available with respect to any information required to be filed.

"(2) Publication requirement.—The Postal Regulatory Commission shall, whenever it changes the list of products in the market-dominant or competitive category of mail, prescribe new lists of products. The revised lists shall indicate how and when any previous lists (including the lists under sections 3621 and 3631) are superseded, and shall be published in the Federal Register.

"(e) Prohibition.—Except as provided in section 3641, no product that involves the physical delivery of letters, printed matter, or packages may be offered by the Postal Service unless it has been assigned to the market-dominant or competitive category of mail (as appropriate) either—

"(1) under this subchapter; or

"(2) by or under any other provision of law.".

SEC. 204. REPORTING REQUIREMENTS AND RELATED PROVISIONS.

(a) Redesignation.—Chapter 36 of title 39, United States Code (as in effect before the amendment made by subsection (b)) is amended—

(1) by striking the heading for subchapter IV and inserting the following:

"SUBCHAPTER V—POSTAL SERVICES, COMPLAINTS, AND JUDICIAL REVIEW"; and

(2) by striking the heading for subchapter V and inserting the following:

"SUBCHAPTER VI—GENERAL".

(b) Reports and Compliance.—Chapter 36 of title 39, United States Code, is amended by inserting after subchapter III the following:

"SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS

"§3651. Annual reports by the Commission

"(a) In General.—The Postal Regulatory Commission shall submit an annual report to the President and the Congress concerning the operations of the Commission under this title, including the extent to which regulations are achieving the objectives under sections 3622, 3633, and 3691.

"(b) Information From Postal Service.—The Postal Service shall provide the Postal Regulatory Commission with such information as may, in the judgment of the Commission, be necessary in order for the Commission to prepare its reports under this section.

"§3652. Annual reports to the Commission

"(a) Costs, Revenues, Rates, and Service.—Except as provided in subsection (c), the Postal Service shall, no later than 90 days after the end of each year, prepare and submit to the Postal Regulatory Commission a report (together with such nonpublic annex to the report as the Commission may require under subsection (e))—

"(1) which shall analyze costs, revenues, rates, and quality of service in sufficient detail to demonstrate that all products during such year complied with all applicable requirements of this title; and

"(2) which shall, for each market-dominant product provided in such year, provide—

"(A) product information, including mail volumes; and

"(B) measures of the service afforded by the Postal Service in connection with such product, including—

"(i) the level of service (described in terms of speed of delivery and reliability) provided; and

"(ii) the degree of customer satisfaction with the service provided.

Before submitting a report under this subsection (including any annex to the report and the information required under subsection (b)), the Postal Service shall have the information contained in such report (and annex) audited by the Inspector General. The results of any such audit shall be submitted along with the report to which it pertains.

"(b) Information Relating to Workshare Discounts.—The Postal Service shall include, in each report under subsection (a), the following information with respect to each market-dominant product for which a workshare discount was in effect during the period covered by such report:

"(1) The per-item cost avoided by the Postal Service by virtue of such discount.

"(2) The percentage of such per-item cost avoided that the per-item workshare discount represents.

"(3) The per-item contribution made to institutional costs.

"(c) Service Agreements and Market Tests.—In carrying out subsections (a) and (b) with respect to service agreements (including service agreements entered into under section 3623) and experimental products offered through market tests under section 3641 in a year, the Postal Service—

"(1) may report summary data on the costs, revenues, and quality of service by service agreement and market test; and

"(2) shall report such data as the Postal Regulatory Commission requires.

"(d) Supporting Matter.—The Postal Regulatory Commission shall have access, in accordance with such regulations as the Commission shall prescribe, to the working papers and any other supporting matter of the Postal Service and the Inspector General in connection with any information submitted under this section.

"(e) Content and Form of Reports.—

"(1) In general.—The Postal Regulatory Commission shall, by regulation, prescribe the content and form of the public reports (and any nonpublic annex and supporting matter relating to the report) to be provided by the Postal Service under this section. In carrying out this subsection, the Commission shall give due consideration to—

“(A) providing the public with timely, adequate information to assess the lawfulness of rates charged;

“(B) avoiding unnecessary or unwarranted administrative effort and expense on the part of the Postal Service; and

“(C) protecting the confidentiality of commercially sensitive information.

“(2) Revised requirements.—The Commission may, on its own motion or on request of an interested party, initiate proceedings (to be conducted in accordance with regulations that the Commission shall prescribe) to improve the quality, accuracy, or completeness of Postal Service data required by the Commission under this subsection whenever it shall appear that—

“(A) the attribution of costs or revenues to products has become significantly inaccurate or can be significantly improved;

“(B) the quality of service data has become significantly inaccurate or can be significantly improved; or

“(C) such revisions are, in the judgment of the Commission, otherwise necessitated by the public interest.

“(f) Confidential Information.—

“(1) In general.—If the Postal Service determines that any document or portion of a document, or other matter, which it provides to the Postal Regulatory Commission in a nonpublic annex under this section or under subsection (d) contains information which is described in section 410(c) of this title, or exempt from public disclosure under section 552(b) of title 5, the Postal Service shall, at the time of providing such matter to the Commission, notify the Commission of its determination, in writing, and describe with particularity the documents (or portions of documents) or other matter for which confidentiality is sought and the reasons therefor.

“(2) Treatment.—Any information or other matter described in paragraph (1) to which the Commission gains access under this section shall be subject to paragraphs (2) and (3) of section 504(g) in the same way as if the Commission had received notification with respect to such matter under section 504(g)(1).

“(g) Other Reports.—The Postal Service shall submit to the Postal Regulatory Commission, together with any other submission that the Postal Service is required to make under this section in a year, copies of its then most recent—

“(1) comprehensive statement under section 2401(e);

“(2) strategic plan under section 2802;

“(3) performance plan under section 2803; and

“(4) program performance reports under section 2804.

“§ 3653. Annual determination of compliance

“(a) Opportunity for Public Comment.—After receiving the reports required under section 3652 for any year, the Postal Regulatory Commission shall promptly provide an opportunity for comment on such reports by users of the mails, affected parties, and an officer of the Commission who shall be required to represent the interests of the general public.

“(b) Determination of Compliance or Noncompliance.—Not later than 90 days after receiving the submissions required under section 3652 with respect to a year, the Postal Regulatory Commission shall make a written determination as to—

“(1) whether any rates or fees in effect during such year (for products individually or collectively) were not in compliance with applicable provisions of this chapter (or regulations promulgated thereunder); or

“(2) whether any service standards in effect during such year were not met.

If, with respect to a year, no instance of noncompliance is found under this subsection to have occurred in such year, the written determination shall be to that effect.

“(c) If Any Noncompliance Is Found.—If, for a year, a timely written determination of noncompliance is made under subsection (b), the Postal Regulatory Commission shall take any appropriate remedial action authorized by section 3662(c).

“(d) Rebuttable Presumption.—A timely written determination described in the last sentence of subsection (b) shall, for purposes of any proceeding under section 3662, create a rebuttable presumption of compliance by the Postal Service (with regard to the matters described in paragraphs (1) through (3) of subsection (b)) during the year to which such determination relates.”.

SEC. 205. COMPLAINTS; APPELLATE REVIEW AND ENFORCEMENT.

Chapter 36 of title 39, United States Code, is amended by striking sections 3662 and 3663 and inserting the following:

“§ 3662. Rate and service complaints

“(a) In General.—Interested persons (including an officer of the Postal Regulatory Commission representing the interests of the general public) who believe the Postal Service is not operating in conformance with the requirements of chapter 1, 4, or 6, or this chapter (or regulations promulgated under any of those chapters) may lodge a complaint with the Postal Regulatory Commission in such form and manner as the Commission may prescribe.

“(b) Prompt Response Required.—

“(1) In general.—The Postal Regulatory Commission shall, within 90 days after receiving a complaint under subsection (a), either—

“(A) begin proceedings on such complaint; or

“(B) issue an order dismissing the complaint (together with a statement of the reasons therefor).

“(2) Treatment of complaints not timely acted on.—For purposes of section 3663, any complaint under subsection (a) on which the Commission fails to act in the time and manner required by paragraph (1) shall be treated in the same way as if it had been dismissed under an order issued by the Commission on the last day allowable for the issuance of such order under paragraph (1).

“(c) Action Required If Complaint Found To Be Justified.—If the Postal Regulatory Commission finds the complaint to be justified, it shall order that the Postal Service take such action as the Commission considers appropriate in order to achieve compliance with the applicable requirements and to remedy the effects of any noncompliance including ordering unlawful rates to be adjusted to lawful levels, ordering the cancellation of market tests, ordering the Postal Service to discontinue providing loss-making products, and requiring the Postal Service to make up for revenue shortfalls in competitive products.

“(d) Authority To Order Fines in Cases of Deliberate Noncompliance.—In addition, in cases of deliberate noncompliance by the Postal Service with the requirements of this title, the Postal Regulatory Commission may order, based on the nature, circumstances, extent, and seriousness of the noncompliance, a fine (in the amount specified by the Commission in its order) for each incidence of noncompliance. Fines resulting from the provision of competitive products shall be paid out of the Competitive Products Fund established in section 2011. All receipts from fines imposed under this subsection shall be deposited in the general fund of the Treasury of the United States.

“§ 3663. Appellate review

“A person, including the Postal Service, adversely affected or aggrieved by a final order or decision of the Postal Regulatory Commission may, within 30 days after such order or decision becomes final, institute proceedings for review thereof by filing a petition in the United States Court of Appeals for the District of Columbia. The court shall review the order or decision in accordance with section 706 of title 5, and chapter 158 and section 2112 of title 28, on the basis of the record before the Commission.

“§ 3664. Enforcement of orders

“The several district courts have jurisdiction specifically to enforce, and to enjoin and restrain the Postal Service from violating, any order issued by the Postal Regulatory Commission.”.

SEC. 206. CLERICAL AMENDMENT.

Chapter 36 of title 39, United States Code, is amended by striking the heading and analysis for such chapter and inserting the following:

“CHAPTER 36—POSTAL RATES, CLASSES, AND SERVICES

“SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS

“Sec.
“3621. Applicability; definitions.
“3622. Modern rate regulation.
“3623. Service agreements for market-dominant products.
“[3624. Repealed.]
“[3625. Repealed.]
“3626. Reduced Rates.
“3627. Adjusting free rates.
“[3628. Repealed.]
“3629. Reduced rates for voter registration purposes.

“SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS

“3631. Applicability; definitions and updates.
“3632. Action of the Governors.
“3633. Provisions applicable to rates for competitive products.
“3634. Assumed Federal income tax on competitive products.

“SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS

“3641. Market tests of experimental products.
“3642. New products and transfers of products between the market-dominant and competitive categories of mail.

“SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS

“3651. Annual reports by the Commission.
“3652. Annual reports to the Commission.
“3653. Annual determination of compliance.

“SUBCHAPTER V—POSTAL SERVICES, COMPLAINTS, AND JUDICIAL REVIEW

“3661. Postal Services.
“3662. Rate and service complaints.
“3663. Appellate review.
“3664. Enforcement of orders.

“SUBCHAPTER VI—GENERAL

“3681. Reimbursement.

"3682. Size and weight limits.
"3683. Uniform rates for books; films, other materials.
"3684. Limitations.
"3685. Filing of information relating to periodical publications.
"3686. Bonus authority.

"SUBCHAPTER VII—MODERN SERVICE STANDARDS

"3691. Establishment of modern service standards.".

TITLE III—MODERN SERVICE STANDARDS

SEC. 301. ESTABLISHMENT OF MODERN SERVICE STANDARDS.

Chapter 36 of title 39, United States Code, as amended by this Act, is further amended by adding at the end the following:

"SUBCHAPTER VII—MODERN SERVICE STANDARDS

"§ 3691. Establishment of modern service standards

"(a) Authority Generally.—The Postal Regulatory Commission shall, within 12 months after the date of the enactment of this section, by regulation establish (and may from time to time thereafter by regulation revise) a set of service standards for market-dominant products consistent with sections 101 (a) and (b) and 403.

"(b) Objectives.—Such standards shall be designed to achieve the following objectives:

"(1) To enhance and preserve the value of postal services to both senders and recipients.

"(2) To provide a system of objective external performance measurements for each market-dominant product as a basis for measurement of Postal Service performance.

"(3) To guarantee Postal Service customers delivery reliability, speed and frequency consistent with reasonable rates and best business practices.

"(c) Factors.—In establishing or revising such standards, the Postal Regulatory Commission shall take into account—

"(1) the actual level of service that Postal Service customers receive under any service guidelines previously established by the Postal Service or service standards established under this section;

"(2) the degree of customer satisfaction with Postal Service performance in the acceptance, processing and delivery of mail;

"(3) mail volume and revenues projected for future years;

"(4) the projected growth in the number of addresses the Postal Service will be required to serve in future years;

"(5) the current and projected future cost of serving Postal Service customers;

"(6) the effect of changes in technology, demographics and population distribution on the efficient and reliable operation of the postal delivery system; and

"(7) the policies of this title as well as such other factors as the Commission determines appropriate.".

SEC. 302. POSTAL SERVICE PLAN.

(a) In General.—Within 6 months after the establishment of the service standards under section 3691 of title 39, United States Code, as added by this Act, the Postal Service shall, in consultation with the Postal Regulatory Commission, develop and submit to Congress a plan for meeting those standards.

(b) Content.—The plan under this section shall—

(1) establish performance goals;

(2) describe any changes to the Postal Service's processing, transportation, delivery, and retail networks necessary to allow the Postal Service to meet the performance goals; and

(3) describe any changes to planning and performance management documents previously submitted to Congress to reflect new performance goals.

(c) Postal Facilities.—The Postal Service plan shall include a description of its long-term vision for rationalizing its infrastructure and workforce and how it intends to implement that vision, including—

(1) a strategy for how it intends to rationalize the postal facilities network and remove excess processing capacity and space from the network, including estimated timeframes, criteria and processes to be used for making changes to the facilities network, and the process for engaging policy makers and the public in related decisions;

(2) an update on how postal decisions related to mail changes, security, automation initiatives, worksharing, information technology systems, and other areas will impact network rationalization plans;

(3) a discussion of what impact any facility changes may have on the postal workforce and whether the Postal Service has sufficient flexibility to make needed workforce changes; and

(4) an identification of anticipated costs, cost savings, and other benefits associated with the infrastructure rationalization alternatives discussed in the plan.

(d) Alternate Retail Options.—The Postal Service plan shall include plans to expand and market retail access to postal services, in addition to post offices, including—

(1) vending machines;

(2) the Internet;

(3) Postal Service employees on delivery routes; and

(4) retail facilities in which overhead costs are shared with private businesses and other government agencies.

(e) Reemployment Assistance and Retirement Benefits.—The Postal Service plan shall include—

(1) a plan under which reemployment assistance shall be afforded to employees displaced as a result of the automation or privatization of any of its functions or the closing and consolidation of any of its facilities; and

(2) a plan, developed in consultation with the Office of Personnel Management, to offer early retirement benefits.

(f) Inspector General Report.—

(1) In general.—Before submitting the plan under this section to Congress, the Postal Service shall submit the plan to the Inspector General of the United States Postal Service in a timely manner to carry out this subsection.

(2) Report.—The Inspector General shall prepare a report describing the extent to which the Postal Service plan—

(A) is consistent with the continuing obligations of the Postal Service under title 39, United States Code; and

(B) provides for the Postal Service to meet the service standards established under section 3691.

(3) Submission of report.—The Postal Service shall submit the report of the Inspector General under this subsection with the plan submitted to Congress under subsection (a).

TITLE IV—PROVISIONS RELATING TO FAIR COMPETITION

SEC. 401. POSTAL SERVICE COMPETITIVE PRODUCTS FUND.

(a) Provisions Relating to Postal Service Competitive Products Fund and Related Matters.—

(1) In general.—Chapter 20 of title 39, United States Code, is amended by adding at the end the following:

"§ 2011. Provisions relating to competitive products

"(a) There is established in the Treasury of the United States a revolving fund, to be called the Postal Service Competitive Products Fund, which shall be available to the Postal Service without fiscal year limitation for the payment of—

"(1) costs attributable to competitive products; and

"(2) all other costs incurred by the Postal Service, to the extent allocable to competitive products.

For purposes of this subsection, the term 'costs attributable' has the meaning given such term by section 3631.

"(b) There shall be deposited in the Competitive Products Fund, subject to withdrawal by the Postal Service—

"(1) revenues from competitive products;

"(2) amounts received from obligations issued by the Postal Service under subsection (e);

"(3) interest and dividends earned on investments of the Competitive Products Fund; and

"(4) any other receipts of the Postal Service (including from the sale of assets), to the extent allocable to competitive products.

"(c) If the Postal Service determines that the moneys of the Competitive Products Fund are in excess of current needs, it may invest such amounts as it considers appropriate in accordance with regulations which the Secretary of the Treasury shall prescribe within 12 months after the date of enactment of the Postal Accountability and Enhancement Act.

"(d) The Postal Service may, in its sole discretion, provide that moneys of the Competitive Products Fund be deposited in a Federal Reserve bank or a depository for public funds.

"(e)(1) Subject to the limitations specified in section 2005(a), the Postal Service is authorized to borrow money and to issue and sell such obligations as it determines necessary to provide for competitive products and deposit such amounts in the Competitive Products Fund, except that the Postal Service may pledge only assets related to the provision of competitive products (as determined under subsection (h) or, for purposes of any period before accounting practices and principles under subsection (h) have been established and applied, the best information available from the Postal Service, including the audited statements required by section 2008(e)), and the revenues and receipts from such products, for the payment of the principal of or interest on such obligations, for the purchase or redemption thereof, and for other purposes incidental thereto, including creation of reserve, sinking, and other funds which may be similarly pledged and used, to such extent and in such manner as the Postal Service determines necessary or desirable.

"(2) The Postal Service may enter into binding covenants with the holders of such obligations, and with the trustee, if any, under any agreement entered into in connection with the issuance thereof with respect to—

"(A) the establishment of reserve, sinking, and other funds;

"(B) application and use of revenues and receipts of the Competitive Products Fund;

"(C) stipulations concerning the subsequent issuance of obligations or the execution of leases or lease purchases relating to properties of the Postal Service; and

"(D) such other matters as the Postal Service considers necessary or desirable to enhance the marketability of such obligations.

"(3) Obligations issued by the Postal Service under this subsection—

"(A) may not be purchased by the Secretary of the Treasury;

"(B) shall not be exempt either as to principal or interest from any taxation now or hereafter imposed by any State or local taxing authority;

"(C) shall not be obligations of, nor shall payment of the principal thereof or interest thereon be guaranteed by, the Government of the United States, and the obligations shall so plainly state; and

"(D) notwithstanding the provisions of the Federal Financing Bank Act of 1973 or any other provision of law (except as specifically provided by reference to this subparagraph in a law enacted after this subparagraph takes effect), shall not be eligible for purchase by, commitment to purchase by, or sale or issuance to, the Federal Financing Bank.

"(4)(A) This paragraph applies with respect to the period beginning on the date of the enactment of this paragraph and ending at the close of the 5-year period which begins on the date on which the Postal Service makes its submission under subsection (h)(1).

"(B) During the period described in subparagraph (A), nothing in subparagraph (A) or (D) of paragraph (3) or the last sentence of section 2006(b) shall, with respect to any obligations sought to be issued by the Postal Service under this subsection, be considered to affect such obligations' eligibility for purchase by, commitment to purchase by, or sale or issuance to, the Federal Financing Bank.

"(C) The Federal Financing Bank may elect to purchase such obligations under such terms, including rates of interest, as the Bank and the Postal Service may agree, but at a rate of yield no less than the prevailing yield on outstanding marketable securities of comparable maturity issued by entities with the same credit rating as the rating then most recently obtained by the Postal Service under subparagraph (D), as determined by the Bank.

"(D) In order to be eligible to borrow under this paragraph, the Postal Service shall first obtain a credit rating from a nationally recognized credit rating organization. Such rating—

"(i) shall be determined taking into account only those assets and activities of the Postal Service which are described in section 3634(a)(2) (relating to the Postal Service's assumed taxable income from competitive products); and

"(ii) may, before final rules of the Postal Regulatory Commission under subsection (h) are issued (or deemed to have been issued), be based on the best information available from the Postal Service, including the audited statements required by section 2008(e).

"(f) The receipts and disbursements of the Competitive Products Fund shall be accorded the same budgetary treatment as is accorded to receipts and disbursements of the Postal Service Fund under section 2009a.

"(g) A judgment against the Postal Service or the Government of the United States (or settlement of a claim) shall, to the extent that it arises out of activities of the Postal Service in the provision of competitive products, be paid out of the Competitive Products Fund.

"(h)(1) The Postal Service, in consultation with an independent, certified public accounting firm and such other advisors as it considers appropriate, shall develop recommendations regarding—

"(A) the accounting practices and principles that should be followed by the Postal Service with the objectives of identifying the capital and operating costs incurred by the Postal Service in providing competitive products, and preventing the cross-subsidization of such products by market-dominant products; and

"(B) the substantive and procedural rules that should be followed in determining the Postal Service's assumed Federal income tax on competitive products income for any year (within the meaning of section 3634).

Such recommendations shall be submitted to the Postal Regulatory Commission no later than 12 months after the effective date of this section.

"(2)(A) Upon receiving the recommendations of the Postal Service under paragraph (1), the Commission shall give interested parties, including the Postal Service, enterprises in the private sector of the economy engaged in the delivery of mail matter other than letters, users of the mails, and an officer of the Commission who shall be required to represent the interests of the general public, an opportunity to present their views on those recommendations through submission of written data, views, or arguments with or without opportunity for oral presentation, or in such other manner as the Commission considers appropriate.

"(B) After due consideration of the views and other information received under subparagraph (A), the Commission shall by rule—

"(i) provide for the establishment and application of the accounting practices and principles which shall be followed by the Postal Service;

"(ii) provide for the establishment and application of the substantive and procedural rules described in paragraph (1)(B); and

"(iii) provide for the submission by the Postal Service to the Postal Regulatory Commission of annual and other periodic reports setting forth such information as the Commission may require.

Final rules under this subparagraph shall be issued not later than 12 months after the date on which the Postal Service makes its submission to the Commission under paragraph (1) (or by such later date as the Commission and the Postal Service may agree to). If final rules are not issued by the Commission by the deadline under the preceding sentence, the recommendations submitted by the Postal Service under paragraph (1) shall be treated as the final rules. The Commission is authorized to promulgate regulations revising such rules.

"(C) Reports described in subparagraph (B)(iii) shall be submitted at such time and in such form, and shall include such information, as the Commission by rule requires. The Commission may, on its own motion or on request of an interested party, initiate proceedings (to be conducted in accordance with such rules as the Commission shall prescribe) to improve the quality, accuracy, or completeness of Postal Service data under such subparagraph whenever it shall appear that—

"(i) the quality of the information furnished in those reports has become significantly inaccurate or can be significantly improved; or

"(ii) such revisions are, in the judgment of the Commission, otherwise necessitated by the public interest.

"(D) A copy of each report described in subparagraph (B)(iii) shall also be transmitted by the Postal Service to the Secretary of the Treasury and the Inspector General of the United States Postal Service.

"(i) The Postal Service shall render an annual report to the Secretary of the Treasury concerning the operation of the Competitive Products Fund, in which it shall address such matters as risk limitations, reserve balances, allocation or distribution of moneys, liquidity requirements, and measures to safeguard against losses. A copy of its then most recent report under this subsection shall be included with any other submission that it is required to make to the Postal Regulatory Commission under section 3652(g).".

(2) CLERICAL AMENDMENT.—The analysis for chapter 20 of title 39, United States Code, is amended by adding after the item relating to section 2010 the following:

"2011. Provisions relating to competitive products.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) DEFINITION.—Section 2001 of title 39, United States Code, is amended by striking "and" at the end of paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following:

"(2) 'Competitive Products Fund' means the Postal Service Competitive Products Fund established by section 2011; and".

(2) CAPITAL OF THE POSTAL SERVICE.—Section 2002(b) of title 39, United States Code, is amended by striking "Fund," and inserting "Fund and the balance in the Competitive Products Fund,".

(3) POSTAL SERVICE FUND.—

(A) PURPOSES FOR WHICH AVAILABLE.—Section 2003(a) of title 39, United States Code, is amended by striking "title." and inserting "title (other than any of the purposes, functions, or powers for which the Competitive Products Fund is available).".

(B) DEPOSITS.—Section 2003(b) of title 39, United States Code, is amended by striking "There" and inserting "Except as otherwise provided in section 2011, there".

(4) RELATIONSHIP BETWEEN THE TREASURY AND THE POSTAL SERVICE.—Section 2006 of title 39, United States Code, is amended—

(A) in subsection (b), by adding at the end the following: "Nothing in this chapter shall be considered to permit or require the Secretary of the Treasury to purchase any obligations of the Postal Service other than those issued under section 2005."; and

(B) in subsection (c), by inserting "under section 2005" before "shall be obligations".

SEC. 402. ASSUMED FEDERAL INCOME TAX ON COMPETITIVE PRODUCTS INCOME.

Subchapter II of chapter 36 of title 39, United States Code, as amended by section 202, is amended by adding at the end the following:

"§ 3634. Assumed Federal income tax on competitive products income

"(a) DEFINITIONS.—For purposes of this section—

"(1) the term 'assumed Federal income tax on competitive products income' means the net income tax that would be imposed by chapter 1 of the Internal Revenue Code of 1986 on the Postal Service's assumed taxable income from competitive products for the year; and

"(2) the term 'assumed taxable income from competitive products', with respect to a year, refers to the amount representing what would be the taxable income of a corporation under the Internal Revenue Code of 1986 for the year, if—

"(A) the only activities of such corporation were the activities of the Postal Service allocable under section 2011(h) to competitive products; and

“(B) the only assets held by such corporation were the assets of the Postal Service allocable under section 2011(h) to such activities.

“(b) Computation and Transfer Requirements.—The Postal Service shall, for each year beginning with the year in which occurs the deadline for the Postal Service's first report to the Postal Regulatory Commission under section 3652(a)—

“(1) compute its assumed Federal income tax on competitive products income for such year; and

“(2) transfer from the Competitive Products Fund to the Postal Service Fund the amount of that assumed tax.

“(c) Deadline for Transfers.—Any transfer required to be made under this section for a year shall be due on or before the January 15th next occurring after the close of such year.”.

SEC. 403. UNFAIR COMPETITION PROHIBITED.

(a) Specific Limitations.—Chapter 4 of title 39, United States Code, is amended by adding after section 404 the following:

“§ 404a. Specific limitations

“(a) Except as specifically authorized by law, the Postal Service may not:

“(1) establish any rule or regulation (including any standard) the effect of which is to preclude competition or establish the terms of competition unless the Postal Service demonstrates that the regulation does not create an unfair competitive advantage for itself or any entity funded (in whole or in part) by the Postal Service;

“(2) compel the disclosure, transfer, or licensing of intellectual property to any third party (such as patents, copyrights, trademarks, trade secrets, and proprietary information); or

“(3) obtain information from a person that provides (or seeks to provide) any product, and then offer any postal service that uses or is based in whole or in part on such information, without the consent of the person providing that information, unless substantially the same information is obtained (or obtainable) from an independent source or is otherwise obtained (or obtainable).

“(b) The Postal Regulatory Commission shall prescribe regulations to carry out this section.

“(c) Any party (including an officer of the Commission representing the interests of the general public) who believes that the Postal Service has violated this section may bring a complaint in accordance with section 3662.”.

(b) Conforming Amendments.—

(1) General powers.—Section 401 of title 39, United States Code, is amended by striking “The” and inserting “Subject to the provisions of section 404a, the”.

(2) Specific powers.—Section 404(a) of title 39, United States Code, is amended by striking “Without” and inserting “Subject to the provisions of section 404a, but otherwise without”.

(c) Clerical Amendment.—The analysis for chapter 4 of title 39, United States Code, is amended by inserting after the item relating to section 404 the following:

“404a. Specific limitations.”.

SEC. 404. SUITS BY AND AGAINST THE POSTAL SERVICE.

(a) In General.—Section 409 of title 39, United States Code, is amended by striking subsections (d) and (e) and inserting the following:

“(d)(1) For purposes of the provisions of law cited in paragraphs (2)(A) and (2)(B), respectively, the Postal Service—

“(A) shall be considered to be a ‘person’, as used in the provisions of law involved; and

“(B) shall not be immune under any other doctrine of sovereign immunity from suit in Federal court by any person for any violation of any of those provisions of law by any officer or employee of the Postal Service.

“(2) This subsection applies with respect to—

“(A) the Act of July 5, 1946 (commonly referred to as the ‘Trademark Act of 1946’ (15 U.S.C. 1051 and following)); and

“(B) the provisions of section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair or deceptive acts or practices.

“(e)(1) To the extent that the Postal Service, or other Federal agency acting on behalf of or in concert with the Postal Service, engages in conduct with respect to any product which is not reserved to the United States under section 1696 of title 18, the Postal Service or other Federal agency (as the case may be)—

“(A) shall not be immune under any doctrine of sovereign immunity from suit in Federal court by any person for any violation of Federal law by such agency or any officer or employee thereof; and

“(B) shall be considered to be a person (as defined in subsection (a) of the first section of the Clayton Act) for purposes of—

“(i) the antitrust laws (as defined in such subsection); and

“(ii) section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

For purposes of the preceding sentence, any private carriage of mail allowable by virtue of section 601 shall not be considered a service reserved to the United States under section 1696 of title 18.

“(2) No damages, interest on damages, costs or attorney's fees may be recovered under the antitrust laws (as so defined) from the Postal Service or any officer or employee thereof acting in an official capacity for any conduct with respect to a product in the market-dominant category of mail.

“(3) This subsection shall not apply with respect to conduct occurring before the date of the enactment of this subsection.

“(f) To the extent that the Postal Service engages in conduct with respect to the provision of competitive products, it shall be considered a person for the purposes of the Federal bankruptcy laws.

“(g)(1) Each building constructed or altered by the Postal Service shall be constructed or altered, to the maximum extent feasible as determined by the Postal Service, in compliance with 1 of the nationally recognized model building codes and with other applicable nationally recognized codes.

“(2) Each building constructed or altered by the Postal Service shall be constructed or altered only after consideration of all requirements (other than procedural requirements) of zoning laws, land use laws, and applicable environmental laws of a State or subdivision of a State which would apply to the building if it were not a building constructed or altered by an establishment of the Government of the United States.

“(3) For purposes of meeting the requirements of paragraphs (1) and (2) with respect to a building, the Postal Service shall—

“(A) in preparing plans for the building, consult with appropriate officials of the State or political subdivision, or both, in which the building will be located;

“(B) upon request, submit such plans in a timely manner to such officials for review by such officials for a reasonable period of time not exceeding 30 days; and

“(C) permit inspection by such officials during construction or alteration of the building, in accordance with the customary schedule of inspections for construction or alteration of buildings in the locality, if such officials provide to the Postal Service—

“(i) a copy of such schedule before construction of the building is begun; and

“(ii) reasonable notice of their intention to conduct any inspection before conducting such inspection.

Nothing in this subsection shall impose an obligation on any State or political subdivision to take any action under the preceding sentence, nor shall anything in this subsection require the Postal Service or any of its contractors to pay for any action taken by a State or political subdivision to carry out this subsection (including reviewing plans, carrying out on-site inspections, issuing building permits, and making recommendations).

“(4) Appropriate officials of a State or a political subdivision of a State may make recommendations to the Postal Service concerning measures necessary to meet the requirements of paragraphs (1) and (2). Such officials may also make recommendations to the Postal Service concerning measures which should be taken in the construction or alteration of the building to take into account local conditions. The Postal Service shall give due consideration to any such recommendations.

“(5) In addition to consulting with local and State officials under paragraph (3), the Postal Service shall establish procedures for soliciting, assessing, and incorporating local community input on real property and land use decisions.

“(6) For purposes of this subsection, the term ‘State’ includes the District of Columbia, the Commonwealth of Puerto Rico, and a territory or possession of the United States.

“(h)(1) Notwithstanding any other provision of law, legal representation may not be furnished by the Department of Justice to the Postal Service in any action, suit, or proceeding arising, in whole or in part, under any of the following:

“(A) Subsection (d) or (e) of this section.

“(B) Subsection (f) or (g) of section 504 (relating to administrative subpoenas by the Postal Regulatory Commission).

“(C) Section 3663 (relating to appellate review).

The Postal Service may, by contract or otherwise, employ attorneys to obtain any legal representation that it is precluded from obtaining from the Department of Justice under this paragraph.

“(2) In any circumstance not covered by paragraph (1), the Department of Justice shall, under section 411, furnish the Postal Service such legal representation as it may require, except that, with the prior consent of the Attorney General, the Postal Service may, in any such circumstance, employ attorneys by contract or otherwise to conduct litigation brought by or against the Postal Service or its officers or employees in matters affecting the Postal Service.

“(3)(A) In any action, suit, or proceeding in a court of the United States arising in whole or in part under any of the provisions of law referred to in subparagraph (B) or (C) of paragraph (1), and to which the Commission is not otherwise a party, the Commission shall be permitted to appear as a party on its own motion and as of right.

“(B) The Department of Justice shall, under such terms and conditions as the Commission and the Attorney General shall consider appropriate, furnish the Commission such legal representation as it may require in connection with any such action, suit, or proceeding, except that, with the prior consent of the Attorney General, the Commission may employ attorneys by contract or otherwise for that purpose.

"(i) A judgment against the Government of the United States arising out of activities of the Postal Service shall be paid by the Postal Service out of any funds available to the Postal Service, subject to the restriction specified in section 2011(g).".

(b) TECHNICAL AMENDMENT.—Section 409(a) of title 39, United States Code, is amended by striking "Except as provided in section 3628 of this title," and inserting "Except as otherwise provided in this title,".

TITLE V—GENERAL PROVISIONS

SEC. 501. QUALIFICATION AND TERM REQUIREMENTS FOR GOVERNORS.

(a) QUALIFICATIONS.—

(1) IN GENERAL.—Section 202(a) of title 39, United States Code, is amended by striking "(a)" and inserting "(a)(1)" and by striking the fourth sentence and inserting the following: "The Governors shall represent the public interest generally, and shall be chosen solely on the basis of their demonstrated ability in managing organizations or corporations (in either the public or private sector) of substantial size. The Governors shall not be representatives of specific interests using the Postal Service, and may be removed only for cause.".

(2) APPLICABILITY.—The amendment made by paragraph (1) shall not affect the appointment or tenure of any person serving as a Governor of the United States Postal Service under an appointment made before the date of the enactment of this Act however, when any such office becomes vacant, the appointment of any person to fill that office shall be made in accordance with such amendment. The requirement set forth in the fourth sentence of section 202(a)(1) of title 39, United States Code (as amended by subsection (a)) shall be met beginning not later than 9 years after the date of the enactment of this Act.

(b) CONSULTATION REQUIREMENT.—Section 202(a) of title 39, United States Code, is amended by adding at the end the following:

"(2) In selecting the individuals described in paragraph (1) for nomination for appointment to the position of Governor, the President should consult with the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate.".

(c) 5-YEAR TERMS.—

(1) IN GENERAL.—Section 202(b) of title 39, United States code, is amended in the first sentence by striking "9 years" and inserting "5 years".

(2) APPLICABILITY.—

(A) CONTINUATION BY INCUMBENTS.—The amendment made by paragraph (1) shall not affect the tenure of any person serving as a Governor of the United States Postal Service on the date of enactment of this Act and such person may continue to serve the remainder of the applicable term.

(B) VACANCY BY INCUMBENT BEFORE 5 YEARS OF SERVICE.—If a person who is serving as a Governor of the United States Postal Service on the date of enactment of this Act resigns, is removed, or dies before the expiration of the 9-year term of that Governor, and that Governor has served less than 5 years of that term, the resulting vacancy in office shall be treated as a vacancy in a 5-year term.

(C) VACANCY BY INCUMBENT AFTER 5 YEARS OF SERVICE.—If a person who is serving as a Governor of the United States Postal Service on the date of enactment of this Act resigns, is removed, or dies before the expiration of the 9-year term of that Governor, and that Governor has served 5 years or more of that term, that term shall be deemed to have been a 5-year term beginning on its commencement date for purposes of determining vacancies in office. Any appointment to the vacant office shall be for a 5-year term beginning at the end of the original 9-year term determined without regard to the deeming under the preceding sentence. Nothing in this subparagraph shall be construed to affect any action or authority of any Governor or the Board of Governors during any portion of a 9-year term deemed to be 5-year term under this subparagraph.

(d) TERM LIMITATION.—

(1) IN GENERAL.—Section 202(b) of title 39, United States Code, is amended—

(A) by inserting "(1)" after "(b)"; and

(B) by adding at the end the following:

"(2) No person may serve more than 3 terms as a Governor.".

(2) APPLICABILITY.—The amendments made by paragraph (1) shall not affect the tenure of any person serving as a Governor of the United States Postal Service on the date of enactment of this Act with respect to the term which that person is serving on that date. Such person may continue to serve the remainder of the applicable term, after which the amendments made by paragraph (1) shall apply.

SEC. 502. OBLIGATIONS.

(a) PURPOSES FOR WHICH OBLIGATIONS MAY BE ISSUED.—The first sentence of section 2005(a)(1) of title 39, United States Code, is amended by striking "title." and inserting "title, other than any of the purposes for which the corresponding authority is available to the Postal Service under section 2011.".

(b) INCREASE RELATING TO OBLIGATIONS ISSUED FOR CAPITAL IMPROVEMENTS.—Section 2005(a)(1) of title 39, United States Code, is amended by striking the third sentence.

(c) AMOUNTS WHICH MAY BE PLEDGED.—

(1) OBLIGATIONS TO WHICH PROVISIONS APPLY.—The first sentence of section 2005(b) of title 39, United States Code, is amended by striking "such obligations," and inserting "obligations issued by the Postal Service under this section,".

(2) ASSETS, REVENUES, AND RECEIPTS TO WHICH PROVISIONS APPLY.—Subsection (b) of section 2005 of title 39, United States Code, is amended by striking "(b)" and inserting "(b)(1)", and by adding at the end the following:

"(2) Notwithstanding any other provision of this section—

"(A) the authority to pledge assets of the Postal Service under this subsection shall be available only to the extent that such assets are not related to the provision of competitive products (as determined under section 2011(h) or, for purposes of any period before accounting practices and principles under section 2011(h) have been established and applied, the best information available from the Postal Service, including the audited statements required by section 2008(e)); and

"(B) any authority under this subsection relating to the pledging or other use of revenues or receipts of the Postal Service shall be available only to the extent that they are not revenues or receipts of the Competitive Products Fund.".

SEC. 503. PRIVATE CARRIAGE OF LETTERS.

(a) IN GENERAL.—Section 601 of title 39, United States Code, is amended by striking subsection (b) and inserting the following:

"(b) A letter may also be carried out of the mails when—

"(1) the amount paid for the private carriage of the letter is at least the amount equal to 6 times the rate then currently charged for the 1st ounce of a single-piece first class letter;

"(2) the letter weighs at least 12½ ounces; or

"(3) such carriage is within the scope of services described by regulations of the United States Postal Service (as in effect on July 1, 2001) that purport to permit private carriage by suspension of the operation of this section (as then in effect).

"(c) Any regulations necessary to carry out this section shall be promulgated by the Postal Regulatory Commission.".

(b) EFFECTIVE DATE.—This section shall take effect on the date as of which the regulations promulgated under section 3633 of title 39, United States Code (as amended by section 202) take effect.

SEC. 504. RULEMAKING AUTHORITY.

Paragraph (2) of section 401 of title 39, United States Code, is amended to read as follows:

"(2) to adopt, amend, and repeal such rules and regulations, not inconsistent with this title, as may be necessary in the execution of its functions under this title and such other functions as may be assigned to the Postal Service under any provisions of law outside of this title;".

SEC. 505. NONINTERFERENCE WITH COLLECTIVE BARGAINING AGREEMENTS.

(a) LABOR DISPUTES.—Section 1207 of title 39, United States Code, is amended to read as follows:

"§ 1207. Labor disputes

"(a) If there is a collective-bargaining agreement in effect, no party to such agreement shall terminate or modify such agreement unless the party desiring such termination or modification serves written notice upon the other party to the agreement of the proposed termination or modification not less than 90 days prior to the expiration date thereof, or not less than 90 days prior to the time it is proposed to make such termination or modification. The party serving such notice shall notify the Federal Mediation and Conciliation Service of the existence of a dispute within 45 days of such notice, if no agreement has been reached by that time.

"(b) If the parties fail to reach agreement or to adopt a procedure providing for a binding resolution of a dispute by the expiration date of the agreement in effect, or the date of the proposed termination or modification, the Director of the Federal Mediation and Conciliation Service shall within 10 days appoint a mediator of nationwide reputation and professional stature, and who is also a member of the National Academy of Arbitrators. The parties shall cooperate with the mediator in an effort to reach an agreement and shall meet and negotiate in good faith at such times and places that the mediator, in consultation with the parties, shall direct.

"(c)(1) If no agreement is reached within 60 days after the expiration or termination of the agreement or the date on which the agreement became subject to modification under subsection (a) of this section, or if the parties decide upon arbitration but do not agree upon the procedures therefore, an arbitration board shall be established consisting of 3 members, 1 of whom shall be selected by the Postal Service, 1 by the bargaining representative of the employees, and the third by the 2 thus selected. If either of the parties fails to select a member, or if the members chosen by the parties fail to agree on the third person within 5 days after their first meeting, the selection shall be made from a list of names provided by the Director. This list shall consist of not less then 9 names of arbitrators of nationwide reputation and professional nature, who are also members of the National Academy of Arbitrators, and whom the Director has determined are available and willing to serve.

“(2) The arbitration board shall give the parties a full and fair hearing, including an opportunity to present evidence in support of their claims, and an opportunity to present their case in person, by counsel or by other representative as they may elect. Decisions of the arbitration board shall be conclusive and binding upon the parties. The arbitration board shall render its decision within 45 days after its appointment.

“(3) Costs of the arbitration board and mediation shall be shared equally by the Postal Service and the bargaining representative.

“(d) In the case of a bargaining unit whose recognized collective-bargaining representative does not have an agreement with the Postal Service, if the parties fail to reach the agreement within 90 days of the commencement of collective bargaining, a mediator shall be appointed in accordance with the terms in subsection (b) of this section, unless the parties have previously agreed to another procedure for a binding resolution of their differences. If the parties fail to reach agreement within 180 days of the commencement of collective bargaining, and if they have not agreed to another procedure for binding resolution, an arbitration board shall be established to provide conclusive and binding arbitration in accordance with the terms of subsection (c) of this section.”.

(b) NONINTERFERENCE WITH COLLECTIVE BARGAINING AGREEMENTS.—Except as otherwise provided by the amendment made by subsection (a), nothing in this Act shall restrict, expand, or otherwise affect any of the rights, privileges, or benefits of either employees of or labor organizations representing employees of the United States Postal Service under chapter 12 of title 39, United States Code, the National Labor Relations Act, any handbook or manual affecting employee labor relations within the United States Postal Service, or any collective bargaining agreement.

(c) FREE MAILING PRIVILEGES CONTINUE UNCHANGED.—Nothing in this Act or any amendment made by this Act shall affect any free mailing privileges accorded under section 3217 or sections 3403 through 3406 of title 39, United States Code.

TITLE VI—ENHANCED REGULATORY COMMISSION

SEC. 601. REORGANIZATION AND MODIFICATION OF CERTAIN PROVISIONS RELATING TO THE POSTAL REGULATORY COMMISSION.

(a) TRANSFER AND REDESIGNATION.—Title 39, United States Code, is amended—

(1) by inserting after chapter 4 the following:

“CHAPTER 5—POSTAL REGULATORY COMMISSION

“Sec.
“501. Establishment.
“502. Commissioners.
“503. Rules; regulations; procedures.
“504. Administration.

“§ 501. Establishment

“The Postal Regulatory Commission is an independent establishment of the executive branch of the Government of the United States.

“§ 502. Commissioners

“(a) The Postal Regulatory Commission is composed of 5 Commissioners, appointed by the President, by and with the advice and consent of the Senate. The Commissioners shall be chosen solely on the basis of their technical qualifications, professional standing, and demonstrated expertise in economics, accounting, law, or public administration, and may be removed by the President only for cause. Each individual appointed to the Commission shall have the qualifications and expertise necessary to carry out the enhanced responsibilities accorded Commissioners under the Postal Accountability and Enhancement Act. Not more than 3 of the Commissioners may be adherents of the same political party.

“(b) No Commissioner shall be financially interested in any enterprise in the private sector of the economy engaged in the delivery of mail matter.

“(c) A Commissioner may continue to serve after the expiration of his term until his successor has qualified, except that a Commissioner may not so continue to serve for more than 1 year after the date upon which his term otherwise would expire under subsection (f).

“(d) One of the Commissioners shall be designated as Chairman by, and shall serve in the position of Chairman at the pleasure of, the President.

“(e) The Commissioners shall by majority vote designate a Vice Chairman of the Commission. The Vice Chairman shall act as Chairman of the Commission in the absence of the Chairman.

“(f) The Commissioners shall serve for terms of 6 years.”;

(2) by striking, in subchapter I of chapter 36 (as in effect before the amendment made by section 201(c)), the heading for such subchapter I and all that follows through section 3602; and

(3) by redesignating sections 3603 and 3604 as sections 503 and 504, respectively, and transferring such sections to the end of chapter 5 (as inserted by paragraph (1)).

(b) APPLICABILITY.—The amendment made by subsection (a)(1) shall not affect the appointment or tenure of any person serving as a Commissioner on the Postal Regulatory Commission (as so redesignated by section 604) under an appointment made before the date of the enactment of this Act or any nomination made before that date, but, when any such office becomes vacant, the appointment of any person to fill that office shall be made in accordance with such amendment.

(c) CLERICAL AMENDMENT.—The analysis for part I of title 39, United States Code, is amended by inserting after the item relating to chapter 4 the following:

“5. Postal Regulatory Commission .. 501”

SEC. 602. AUTHORITY FOR POSTAL REGULATORY COMMISSION TO ISSUE SUBPOENAS.

Section 504 of title 39, United States Code (as so redesignated by section 601) is amended by adding at the end the following:

“(f)(1) Any Commissioner of the Postal Regulatory Commission, any administrative law judge appointed by the Commission under section 3105 of title 5, and any employee of the Commission designated by the Commission may administer oaths, examine witnesses, take depositions, and receive evidence.

“(2) The Chairman of the Commission, any Commissioner designated by the Chairman, and any administrative law judge appointed by the Commission under section 3105 of title 5 may, with respect to any proceeding conducted by the Commission under this title—

“(A) issue subpoenas requiring the attendance and presentation of testimony by, or the production of documentary or other evidence in the possession of, any covered person; and

“(B) order the taking of depositions and responses to written interrogatories by a covered person.

The written concurrence of a majority of the Commissioners then holding office shall, with respect to each subpoena under subparagraph (A), be required in advance of its issuance.

“(3) In the case of contumacy or failure to obey a subpoena issued under this subsection, upon application by the Commission, the district court of the United States for the district in which the person to whom the subpoena is addressed resides or is served may issue an order requiring such person to appear at any designated place to testify or produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

“(4) For purposes of this subsection, the term ‘covered person’ means an officer, employee, agent, or contractor of the Postal Service.

“(g)(1) If the Postal Service determines that any document or other matter it provides to the Postal Regulatory Commission under a subpoena issued under subsection (f), or otherwise at the request of the Commission in connection with any proceeding or other purpose under this title, contains information which is described in section 410(c) of this title, or exempt from public disclosure under section 552(b) of title 5, the Postal Service shall, at the time of providing such matter to the Commission, notify the Commission, in writing, of its determination (and the reasons therefor).

“(2) Except as provided in paragraph (3), no officer or employee of the Commission may, with respect to any information as to which the Commission has been notified under paragraph (1)—

“(A) use such information for purposes other than the purposes for which it is supplied; or

“(B) permit anyone who is not an officer or employee of the Commission to have access to any such information.

“(3)(A) Paragraph (2) shall not prohibit the Commission from publicly disclosing relevant information in furtherance of its duties under this title, provided that the Commission has adopted regulations under section 553 of title 5, that establish a procedure for according appropriate confidentiality to information identified by the Postal Service under paragraph (1). In determining the appropriate degree of confidentiality to be accorded information identified by the Postal Service under paragraph (1), the Commission shall balance the nature and extent of the likely commercial injury to the Postal Service against the public interest in maintaining the financial transparency of a government establishment competing in commercial markets.

“(B) Paragraph (2) shall not prevent the Commission from requiring production of information in the course of any discovery procedure established in connection with a proceeding under this title. The Commission shall, by regulations based on rule 26(c) of the Federal Rules of Civil Procedure, establish procedures for ensuring appropriate confidentiality for information furnished to any party.”.

SEC. 603. APPROPRIATIONS FOR THE POSTAL REGULATORY COMMISSION.

(a) AUTHORIZATION OF APPROPRIATIONS.—Subsection (d) of section 504 of title 39, United States Code (as so redesignated by section 601) is amended to read as follows:

"(d) There are authorized to be appropriated, out of the Postal Service Fund, such sums as may be necessary for the Postal Regulatory Commission. In requesting an appropriation under this subsection for a fiscal year, the Commission shall prepare and submit to the Congress under section 2009 a budget of the Commission's expenses, including expenses for facilities, supplies, compensation, and employee benefits.".

(b) BUDGET PROGRAM.—

(1) IN GENERAL.—The next to last sentence of section 2009 of title 39, United States Code, is amended to read as follows: "The budget program shall also include separate statements of the amounts which (1) the Postal Service requests to be appropriated under subsections (b) and (c) of section 2401, (2) the Office of Inspector General of the United States Postal Service requests to be appropriated, out of the Postal Service Fund, under section 8G(f) of the Inspector General Act of 1978, and (3) the Postal Regulatory Commission requests to be appropriated, out of the Postal Service Fund, under section 504(d) of this title.".

(2) CONFORMING AMENDMENT.—Section 2003(e)(1) of title 39, United States Code, is amended by striking the first sentence and inserting the following: "The Fund shall be available for the payment of (A) all expenses incurred by the Postal Service in carrying out its functions as provided by law, subject to the same limitation as set forth in the parenthetical matter under subsection (a); (B) all expenses of the Postal Regulatory Commission, subject to the availability of amounts appropriated under section 504(d); and (C) all expenses of the Office of Inspector General, subject to the availability of amounts appropriated under section 8G(f) of the Inspector General Act of 1978.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to fiscal years beginning on or after October 1, 2002.

(2) SAVINGS PROVISION.—The provisions of title 39, United States Code, that are amended by this section shall, for purposes of any fiscal year before the first fiscal year to which the amendments made by this section apply, continue to apply in the same way as if this section had never been enacted.

SEC. 604. REDESIGNATION OF THE POSTAL RATE COMMISSION.

(a) AMENDMENTS TO TITLE 39, UNITED STATES CODE.—Title 39, United States Code, is amended in sections 404, 503 and 504 (as so redesignated by section 601), 1001 and 1002, by striking "Postal Rate Commission" each place it appears and inserting "Postal Regulatory Commission";

(b) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended in sections 104(1), 306(f), 2104(b), 3371(3), 5314 (in the item relating to Chairman, Postal Rate Commission), 5315 (in the item relating to Members, Postal Rate Commission), 5514(a)(5)(B), 7342(a)(1)(A), 7511(a)(1)(B)(ii), 8402(c)(1), 8423(b)(1)(B), and 8474(c)(4) by striking "Postal Rate Commission" and inserting "Postal Regulatory Commission".

(c) AMENDMENT TO THE ETHICS IN GOVERNMENT ACT OF 1978.—Section 101(f)(6) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by striking "Postal Rate Commission" and inserting "Postal Regulatory Commission".

(d) AMENDMENT TO THE REHABILITATION ACT OF 1973.—Section 501(b) of the Rehabilitation Act of 1973 (29 U.S.C. 791(b)) is amended by striking "Postal Rate Office" and inserting "Postal Regulatory Commission".

(e) AMENDMENT TO TITLE 44, UNITED STATES CODE.—Section 3502(5) of title 44, United States Code, is amended by striking "Postal Rate Commission" and inserting "Postal Regulatory Commission".

(f) OTHER REFERENCES.—Whenever a reference is made in any provision of law (other than this Act or a provision of law amended by this Act), regulation, rule, document, or other record of the United States to the Postal Rate Commission, such reference shall be considered a reference to the Postal Regulatory Commission.

SEC. 605. FINANCIAL TRANSPARENCY.

Section 101 of title 39, United States Code, is amended—

(1) by redesignating subsections (d) through (g) as subsections (e) through (h), respectively; and

(2) by inserting after subsection (c) the following:

"(d) As an independent establishment of the executive branch of the Government of the United States, the Postal Service shall be subject to a high degree of transparency to ensure fair treatment of customers of the Postal Service's market-dominant products and companies competing with the Postal Service's competitive products.".

TITLE VII—EVALUATIONS

SEC. 701. ASSESSMENTS OF RATEMAKING, CLASSIFICATION, AND OTHER PROVISIONS.

(a) IN GENERAL.—The Postal Regulatory Commission shall, at least every 3 years, submit a report to the President and Congress concerning—

(1) the operation of the amendments made by this Act; and

(2) recommendations for any legislation or other measures necessary to improve the effectiveness or efficiency of the postal laws of the United States.

(b) POSTAL SERVICE VIEWS.—A report under this section shall be submitted only after reasonable opportunity has been afforded to the Postal Service to review the report and to submit written comments on the report. Any comments timely received from the Postal Service under the preceding sentence shall be attached to the report submitted under subsection (a).

SEC. 702. REPORT ON UNIVERSAL POSTAL SERVICE AND THE POSTAL MONOPOLY.

(a) REPORT BY THE POSTAL SERVICE.—

(1) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Postal Regulatory Commission shall submit a report to the President and Congress on universal postal service and the postal monopoly in the United States (in this section referred to as "universal service and the postal monopoly"), including the monopoly on the delivery of mail and on access to mailboxes.

(2) CONTENTS.—The report under this subsection shall include—

(A) a comprehensive review of the history and development of universal service and the postal monopoly, including how the scope and standards of universal service and the postal monopoly have evolved over time for the Nation and its urban and rural areas;

(B) the scope and standards of universal service and the postal monopoly provided under current law (including sections 101 and 403 of title 39, United States Code), and current rules, regulations, policy statements, and practices of the Postal Service;

(C) a description of any geographic areas, populations, communities (including both urban and rural communities), organizations, or other groups or entities not currently covered by universal service or that are covered but that are receiving services deficient in scope or quality or both; and

(D) the scope and standards of universal service and the postal monopoly likely to be required in the future in order to meet the needs and expectations of the United States public, including all types of mail users, based on discussion of such assumptions, alternative sets of assumptions, and analyses as the Postal Service considers plausible.

(b) RECOMMENDED CHANGES TO UNIVERSAL SERVICE AND THE MONOPOLY.—The Postal Regulatory Commission shall include in the report under subsection (a), and in all reports submitted under section 701 of this Act—

(1) any recommended changes to universal service and the postal monopoly as the Commission considers appropriate, including changes that the Commission may implement under current law and changes that would require changes to current law, with estimated effects of the recommendations on the service, financial condition, rates, and security of mail provided by the Postal Service;

(2) with respect to each recommended change described under paragraph (1)—

(A) an estimate of the costs of the Postal Service attributable to the obligation to provide universal service under current law; and

(B) an analysis of the likely benefit of the current postal monopoly to the ability of the Postal Service to sustain the current scope and standards of universal service, including estimates of the financial benefit of the postal monopoly to the extent practicable, under current law; and

(3) such additional topics and recommendations as the Commission considers appropriate, with estimated effects of the recommendations on the service, financial condition, rates, and the security of mail provided by the Postal Service.

SEC. 703. STUDY ON EQUAL APPLICATION OF LAWS TO COMPETITIVE PRODUCTS.

(a) IN GENERAL.—The Federal Trade Commission shall prepare and submit to the President and Congress, and to the Postal Regulatory Commission, within 1 year after the date of the enactment of this Act, a comprehensive report identifying Federal and State laws that apply differently to the United States Postal Service with respect to the competitive category of mail (within the meaning of section 102 of title 39, United States Code, as amended by section 101) and similar products provided by private companies.

(b) RECOMMENDATIONS.—The Federal Trade Commission shall include such recommendations as it considers appropriate for bringing such legal discrimination to an end, and in the interim, to account under section 3633 of title 39, United States Code (as added by this Act), for the net economic advantages provided by those laws.

(c) CONSULTATION.—In preparing its report, the Federal Trade Commission shall consult with the United States Postal Service, the Postal Regulatory Commission, other Federal agencies, mailers, private companies that provide delivery services, and the general public, and shall append to such report any written comments received under this subsection.

(d) COMPETITIVE PRODUCT REGULATION.—The Postal Regulatory Commission shall take into account the recommendations of the Federal Trade Commission in promulgating or revising the regulations required under section 3633 of title 39, United States Code.

TITLE VIII—POSTAL SERVICE RETIREMENT AND HEALTH BENEFITS FUNDING

SEC. 801. SHORT TITLE.

This title may be cited as the "Postal Civil Service Retirement and Health Benefits Funding Amendments of 2004".

SEC. 802. CIVIL SERVICE RETIREMENT SYSTEM.

(a) IN GENERAL.—Chapter 83 of title 5, United States Code, is amended—

(1) in section 8334(a)(1)(B), by striking clause (ii) and inserting the following:

"(ii) In the case of an employee of the United States Postal Service, no amount shall be contributed under this subparagraph."; and

(2) by amending section 8348(h) to read as follows:

"(h)(1) In this subsection, the term 'Postal surplus or supplemental liability' means the estimated difference, as determined by the Office, between—

"(A) the actuarial present value of all future benefits payable from the Fund under this subchapter to current or former employees of the United States Postal Service and attributable to civilian employment with the United States Postal Service; and

"(B) the sum of—

"(i) the actuarial present value of deductions to be withheld from the future basic pay of employees of the United States Postal Service currently subject to this subchapter under section 8334;

"(ii) that portion of the Fund balance, as of the date the Postal surplus or supplemental liability is determined, attributable to payments to the Fund by the United States Postal Service and its employees, minus benefit payments attributable to civilian employment with the United States Postal Service, plus the earnings on such amounts while in the Fund; and

"(iii) any other appropriate amount, as determined by the Office in accordance with generally accepted actuarial practices and principles.

"(2)(A) Not later than June 30, 2006, the Office shall determine the Postal surplus or supplemental liability, as of September 30, 2005. If that result is a surplus, the amount of the surplus shall be transferred to the Postal Service Retiree Health Benefits Fund established under section 8909a. If the result is a supplemental liability, the Office shall establish an amortization schedule, including a series of annual installments commencing September 30, 2006, which provides for the liquidation of such liability by September 30, 2043.

"(B) The Office shall redetermine the Postal surplus or supplemental liability as of the close of the fiscal year, for each fiscal year beginning after September 30, 2006, through the fiscal year ending September 30, 2038. If the result is a surplus, that amount shall remain in the Fund until distribution is authorized under subparagraph (C), and any prior amortization schedule for payments shall be terminated. If the result is a supplemental liability, the Office shall establish a new amortization schedule, including a series of annual installments commencing on September 30 of the subsequent fiscal year, which provides for the liquidation of such liability by September 30, 2043.

"(C) As of the close of the fiscal years ending September 30, 2015, 2025, 2035, and 2039, if the result is a surplus, that amount shall be transferred to the Postal Service Retiree Health Benefits Fund, and any prior amortization schedule for payments shall be terminated.

"(D) Amortization schedules established under this paragraph shall be set in accordance with generally accepted actuarial practices and principles, with interest computed at the rate used in the most recent valuation of the Civil Service Retirement System.

"(E) The United States Postal Service shall pay the amounts so determined to the Office, with payments due not later than the date scheduled by the Office.

"(3) Notwithstanding any other provision of law, in computing the amount of any payment under any other subsection of this section that is based upon the amount of the unfunded liability, such payment shall be computed disregarding that portion of the unfunded liability that the Office determines will be liquidated by payments under this subsection.".

(b) CREDIT ALLOWED FOR MILITARY SERVICE.—In the application of section 8348(g)(2) of title 5, United States Code, for the fiscal year 2006, the Office of Personnel Management shall include, in addition to the amount otherwise computed under that paragraph, the amounts that would have been included for the fiscal years 2003 through 2005 with respect to credit for military service of former employees of the United States Postal Service as though the Postal Civil Service Retirement System Funding Reform Act of 2003 (Public Law 108–18) had not been enacted, and the Secretary of the Treasury shall make the required transfer to the Civil Service Retirement and Disability Fund based on that amount.

SEC. 803. HEALTH INSURANCE.

(a) IN GENERAL.—Chapter 89 of title 5, United States Code, is amended—

(1) in section 8906(g)(2)(A), by striking "shall be paid by the United States Postal Service." and inserting "shall be paid first from the Postal Service Retiree Health Benefits Fund up to the amount contained in the Fund, with any remaining amount paid by the United States Postal Service."; and

(2) by inserting after section 8909 the following:

"§ 8909a. Postal Service Retiree Health Benefit Fund

"(a) There is in the Treasury of the United States a Postal Service Retiree Health Benefits Fund which is administered by the Office of Personnel Management.

"(b) The Fund is available without fiscal year limitation for payments required under section 8906(g)(2)(A).

"(c) The Secretary of the Treasury shall immediately invest, in interest-bearing securities of the United States such currently available portions of the Fund as are not immediately required for payments from the Fund. Such investments shall be made in the same manner as investments for the Civil Service Retirement and Disability Fund under section 8348.

"(d)(1) Not later than December 31, 2006, and by December 31 of each succeeding year, the Office shall compute the net present value of the future payments required under section 8906(g)(2)(A) and attributable to the service of Postal Service employees during the most recently ended fiscal year.

"(2)(A) Not later than December 31, 2006, the Office shall compute, and by December 31 of each succeeding year, the Office shall recompute the difference between—

"(i) the net present value of the excess of future payments required under section 8906(g)(2)(A) for current and future United States Postal Service annuitants as of the end of the fiscal year ending on September 30 of that year; and

"(ii)(I) the value of the assets of the Postal Retiree Health Benefits Fund as of the end of the fiscal year ending on September 30 of that year; and

"(II) the net present value computed under paragraph (1).

"(B) Not later than December 31, 2006, the Office shall compute, and by December 31 of each succeeding year shall recompute, an amortization schedule including a series of annual installments which provide for the liquidation by January 31, 2046, or within 15 years, whichever is later, of the net present value determined under subparagraph (A), including interest at the rate used in that computation.

"(3) Not later than January 31, 2007, and by January 31 of each succeeding year, the United States Postal Service shall pay into such Fund—

"(A) the net present value computed under paragraph (1); and

"(B) the annual installment computed under paragraph (2)(B).

"(4) Computations under this subsection shall be made consistent with the assumptions and methodology used by the Office for financial reporting under subchapter II of chapter 35 of title 31.

"(5) After consultation with the United States Postal Service, the Office shall promulgate any regulations the Office determines necessary under this subsection.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 89 of title 5, United States Code, is amended by inserting after the item relating to section 8909 the following:

"8909a. Postal Service Retiree Health Benefits Fund.".

SEC. 804. REPEAL OF DISPOSITION OF SAVINGS PROVISION.

Section 3 of the Postal Civil Service Retirement System Funding Reform Act of 2003 (Public Law 108–18) is repealed.

SEC. 805. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided under subsection (b), this title shall take effect on October 1, 2005.

(b) TERMINATION OF EMPLOYER CONTRIBUTION.—The amendment made by paragraph (1) of section 802(a) shall take effect on the first day of the first pay period beginning on or after October 1, 2005.

TITLE IX—COMPENSATION FOR WORK INJURIES

SEC. 901. TEMPORARY DISABILITY; CONTINUATION OF PAY.

(a) TIME OF ACCRUAL OF RIGHT.—Section 8117 of title 5, United States Code, is amended—

(1) by striking "An employee" and inserting "(a) An employee other than a Postal Service employee"; and

(2) by adding at the end the following:

"(b) A Postal Service employee is not entitled to compensation or continuation of pay for the first 3 days of temporary disability. A Postal Service employee may use annual leave, sick leave, or leave without pay during that 3-day period.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 8118(b)(1) of title 5, United States Code, is amended to read as follows:

"(1) without a break in time, except as provided under section 8117;".

SEC. 902. DISABILITY RETIREMENT FOR POSTAL EMPLOYEES.

(a) TOTAL DISABILITY.—Section 8105 of title 5, United States Code, is amended—

(1) in subsection (a), by adding at the end the following: "This section applies to a Postal Service employee, except as provided under subsection (c)."; and

(2) by adding at the end the following:

"(c)(1) In this subsection, the term 'retirement age' has the meaning given under section 216(*l*)(1) of the Social Security Act (42 U.S.C. 416(*l*)(1)).

"(2) Notwithstanding any other provision of law, for any injury occurring on or after the date of enactment of the Postal Accountability and Enhancement Act, and for any new claim for a period of disability commencing on or after that date, the compensation entitlement for total disability is converted to 50 percent of the monthly pay of the employee on the later of—

"(A) the date on which the injured employee reaches retirement age; or

"(B) 1 year after the employee begins receiving compensation.".

(b) PARTIAL DISABILITY.—Section 8106 of title 5, United States Code, is amended—

(1) in subsection (a), by adding at the end the following: "This section applies to a Postal Service employee, except as provided under subsection (d)."; and

(2) by adding at the end the following:

"(d)(1) In this subsection, the term 'retirement age' has the meaning given under section 216(*l*)(1) of the Social Security Act (42 U.S.C. 416(*l*)(1)).

"(2) Notwithstanding any other provision of law, for any injury occurring on or after the date of enactment of this subsection, and for any new claim for a period of disability commencing on or after that date, the compensation entitlement for partial disability is converted to 50 percent of the difference between the monthly pay of an employee and the monthly wage earning capacity of the employee after the beginning of partial disability on the later of—

"(A) the date on which the injured employee reaches retirement age; or

"(B) 1 year after the employee begins receiving compensation.".

UNITED STATES GENERAL
ACCOUNTING OFFICE,
Washington, DC, February 6, 2004.
Hon. SUSAN M. COLLINS,
Chairman, Committee on Governmental Affairs,
United States Senate.

Need for Comprehensive Postal Reform

DEAR CHAIRMAN COLLINS: This letter responds to your request for our views on the need for postal reform and is based upon our prior testimonies related to this issue. In summary, we believe that comprehensive postal reform is urgently needed. The ability of the Service to remain financially viable is at risk because its current business model—which relies on mail volume growth to cover the costs of its expanding delivery network—is not well aligned with 21st century realities. Since we placed the Postal Service's transformation efforts and financial outlook on our High-Risk List in April 2001, I have testified on several occasions about the governance, financial, operational, and human capital challenges that threaten the Service's ability to carry out its mission. If not effectively addressed in a timely manner, these challenges serve to threaten the Service's ability to remain self-supporting while providing affordable, high-quality and universal postal services to all Americans.

The following key trends serve to reinforce our view that enactment of postal reform legislation is needed:

Declining mail volume: Total mail volume declined in fiscal year 2003 for the third year in a row—a historical first for the Service, which has depended on rising mail volume to help cover rising costs and mitigate rate increases. First-Class Mail volume declined by a record 3.2 percent in fiscal year 2003 and is projected to decline annually for the foreseeable future. Some of this decline is due to technology advances (e.g. E-mail, digital phones, faxes, and electronic bill payments) that are likely to increase in the future. This trend is particularly significant because First-Class Mail covers more than two-thirds of the Service's institutional costs.

Changes in the mail mix: The Service's mail mix is changing with declining volume for high-margin products, such as First-Class Mail, and increasing volume of lower-margin products, such as some types of Standard Mail. These changes reduce revenues available to cover the Service's institutional costs.

Increased competition from private delivery companies: Private delivery companies dominate the market for parcels greater than 2 pounds and appear to be making inroads into the market for small parcels. Priority Mail volume fell 13.9 percent in fiscal year 2003 and over the last 3 years has declined nearly 30 percent. Once a highly profitable growth product for the Service, Priority Mail volume is declining as the highly competitive parcel market turns to lower-priced ground shipment alternatives. Express Mail volume is declining for the same reason. In addition, United Parcel Service (UPS) and FedEx have established national retail networks through UPS's acquisition of MailBoxes Etc., now called UPS Stores, and FedEx's recent acquisition of Kinko's.

Subpar revenue growth: The Service's revenues are budgeted for zero growth in fiscal year 2004, which would be the first year since postal reorganization that postal revenues have failed to increase. However, as the Service has recognized, even the zero-growth target will be challenging. In the absence of revenue growth generated by increasing volume, the Service must rely more heavily on rate increases to cover rising costs and help finance capital investment needs.

Declining capital investment: The Service's capital cash outlays declined from $3.3 billion in fiscal year 2000 to $1.3 billion in fiscal year 2003, which was the lowest level since fiscal year 1986, and far below the level of the late 1990s, when the Service spent more than $3 billion annually. Capital cash outlays are budgeted to increase to $2.4 billion in fiscal year 2004, but this level may not be sufficient to enable the Service to fully fund its capital investment needs. In the longer term, it is unclear what the Service's needs will be to maintain and modernize its physical infrastructure, as well as how these needs will be funded.

Renewed difficulties in substantially improving postal productivity: The Service's productivity increased by 1.8 percent in fiscal year 2003 but is estimated to increase by only 0.4 percent in fiscal year 2004. In the absence of mail volume growth, substantial productivity increases will be required to help cover cost increases generated by rising wages and benefit costs and to mitigate rate increases.

Significant financial liabilities and obligations: Despite the passage of legislation that reduced the Service's pension obligations, the Service has about $88 billion to $98 billion in liabilities and obligations that include $47 billion to $57 billion in unfunded retiree health benefits. Under the current pay-as-you-go system, the Service may have difficulty financing its retiree health benefits obligation in the future if mail volume trends continue to impact revenues while costs in this area continue to rise. The Service has recently proposed two options to Congress, so the Service could prefund this obligation to the extent that it is financially able.

Uncertain funding for emergency preparedness: The Service requested $350 million for emergency preparedness for fiscal year 2004, which it did not receive, and $779 million for fiscal year 2005. If the money is not appropriated, funding for this purpose may have to be built into postal rates.

Challenges to achieve sufficient cost cutting: The Service achieved additional cost cutting to compensate for below-budget revenues in fiscal year 2003. Despite this progress, in the longer term it is unclear whether continued cost-cutting efforts can offset declines in First-Class Mail volume without impacting the quality of service.

Although we have discussed numerous actions that the Postal Service can take within its existing authority to improve its overall efficiency and effectiveness, we do not believe that incremental steps toward postal transformation can resolve the fundamental and systemic issues associated with the Service's current business model. To avoid the risk of a significant taxpayer bailout or dramatic postal rate increases, we believe that Congress should enact comprehensive postal reform legislation that includes the Service's overall statutory framework, resolution of issues regarding the Service's pension and retiree health benefits obligations, and whether there is a continued need for an escrow account.

The key areas of the Service's statutory framework that need to be addressed include:

Clarifying the Service's mission and role by defining the scope of universal service and the postal monopoly and by clarifying the role of the Service in regard to competition and its regulatory functions.

Enhancing governance, transparency, and accountability by delineating public policy, operational, and regulatory responsibilities; by ensuring managerial accountability through a strong, well-qualified corporate-style board that holds its officers responsible and accountable for achieving real results; and by defining appropriate reporting mechanisms to enhance the Service's transparency and accountability for financial and performance results.

Improving flexibilities and oversight by balancing increased flexibility for the Service—through streamlining the rate-setting process and allowing a certain amount of retained earnings—with appropriate oversight by a independent regulatory body to protect postal customers against undue discrimination, to restrict cross-subsidies, and to ensure due process. In addition, the Service needs additional flexibility to rationalize its infrastructure and reshape its workforce. Any such additional flexibility should be accompanied by appropriate safeguards to prevent abuse along with enhanced transparency and accountability mechanisms.

Making needed human capital reforms such as (1) determining the Service's responsibility for pension costs related to military service, funding retiree health benefits, and determining what action to take on the escrow account established in recent pension legislation; (2) deciding whether postal workers' compensation benefits should be on par with those in the private sector; and (3) clarifying pay comparability standards.

We believe that Congress now has a rare opportunity to assure the Service's long-term financial viability through comprehensive postal reform legislation that addresses the Service's key structural and systemic deficiencies, its unfunded obligations, including its retiree health benefits obligation, and the escrow requirement. Key legislative and administrative actions in connection with transforming the Postal Service can also serve as positive examples for other key government transformation efforts.

As agreed with your office, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the date of this letter. At that time, we will provide copies to interested congressional committees. We will also make copies available to others on request. In addition, the report will be available at no charge on the GAO Web site at http://www.gao.gov.

For additional information about this report, please contact Mark L. Goldstein, Director, Physical Infrastructure Issues at (202) 512–2834 or at goldsteinm@gao.gov. Please contact me if I can be of any further assistance to help make comprehensive postal reform a reality.

Sincerely yours,
DAVID M. WALKER,
Comptroller General of the United States.

Mr. CARPER. Mr. President, I rise today to join Senator COLLINS in introducing the Postal Accountability and Enhancement Act of 2004, legislation that makes the reforms necessary for the Postal Service to thrive in the 21st Century and to better serve the American people.

This bill is based in part on S. 1285, the comprehensive postal reform legislation I introduced nearly a year ago. S. 1285 was itself based on ten years of work on postal reform in the House of Representatives, led by Congressman, JOHN McHUGH from New York. It is also inspired by the work of the postal commission formed by President Bush last year, called the President's Commission on the United States Postal Service, which studied all aspects of the Postal Service and made recommendations on how it could be modernized.

When I rose to introduce S. 1285 last June, the House Government Reform Committee had only recently failed to report out the latest version of the McHugh reform bill and the President's Commission was only weeks away from issuing its final recommendations. Along with a number of other observers, I feared that the McHugh bill's fate might have spelled the end of postal reform for some time. I also feared that the Commission's recommendations would focus on some of the more extreme reform proposals floated in the past, such as postal privatization. While the Commission did make a handful of recommendations that I believe go too far, I was pleased to see that its work largely mirrored the provisions in S. 1285 and the various House reform bills we have seen in recent years.

I'd like to begin, then, by thanking Congressman McHUGH and his colleagues on the House Government Reform Committee for its visionary leadership on postal reform over the years. I'd also like to thank the members of the President's Commission, especially co-chairs James A. Johnson and Harry J. Pearce, for their service. Postal reform is a difficult issue. It is also a vitally important issue for every American who depends on the Postal Service every day. Their willingness to listen to all sides of the debate and to craft what is, for the most part, a set of balanced reform recommendations is admired and appreciated. The work they have done has brought to light a number of the key issues facing the Postal Service and has made it possible to get a bipartisan postal reform bill signed into law this year.

Senator COLLINS also deserves our thanks and applause for her hard work on this issue. Under her leadership, the Governmental Affairs Committee held a series of eight excellent hearings on postal reform over the past few months. She and I and our staffs have also held countless meetings with the various stakeholders for more than a year now. Everyone with an interest in the Postal Service was given an opportunity to have their say, and I think that's reflected in the balanced bill we're introducing today.

It's always a pleasure working with Senator COLLINS. We've worked together on a number of issues over the years—from welfare reform to homeland security and the future of passenger rail in our country. Her dedication to bipartisanship, and simply doing the right thing, is rare these days. It's a honor to be introducing this historic bill with her today.

Let me also express to Senator LIEBERMAN, our Committee's Ranking Member, my appreciation for giving me the opportunity as a freshman Senator to work so closely on one of the most important issues to come before Governmental Affairs. The support he and his staff have offered us throughout this process has been invaluable.

Some of our colleagues may wonder why we need postal reform. They probably receive few complaints about the service their constituents get from the Postal Service and its employees. In fact, a survey conducted by the President's Commission indicated that the American people like the Postal Service just the way it is. We must keep in mind, however, that, despite the fact that the mailing industry, and the economy as a whole, have changed radically over the years, the Postal Service has, for the most part, remained unchanged for more than three decades now.

In the early 1970s, Senator STEVENS and others led the effort in the Senate to create the Postal Service out of the failing Post Office Department. At the time, the Post Office Department received about 20 percent of its revenue from taxpayer subsidies. Service was suffering and there was little money available to expand.

By all accounts, the product of Senator STEVENS' labors, the Postal Reorganization Act signed into law by President Nixon in 1971, has been a phenomenal success. The Postal Service today receives virtually no taxpayer support and the service its hundreds of thousands of employees provide to every American, every day is second to none. More than thirty years after its birth, the Postal Service now delivers to 141 million addresses each day and is the anchor of a $900 billion per year mailing industry.

As we celebrate the Postal Service's successes, however, we need to be thinking about what needs to be done to make them just as successful in the years to come. When the Postal Service started out in 1971, no one had access to fax machines, cell phones and pagers. No one imagined that we would ever enjoy conveniences like e-mail and electronic bill payment. Most of the mail I receive from my constituents these days arrives via fax and e-mail instead of hard copy mail, a marked change from my days in the House and even from my more recent days as Governor of Delaware.

This continuing electronic diversion of mail, coupled with economic recession and terrorism, has made for some rough going at the Postal Service in recent years. In 2001, as Postmaster General Potter came onboard, the Postal Service was projecting its third consecutive year of deficits. They lost $199 million in fiscal year 2000 and $1.68 billion in fiscal year 2001. They were projecting losses of up to $4 billion in fiscal year 2002. Mail volume was falling, revenues were below projections and the Postal Service was estimating that it needed to spend $4 billion on security enhancements in order to prevent a repeat of the tragic anthrax attacks that took several lives. The Postal Service was also perilously close to its $15 billion debt ceiling and had been forced to raise rates three times in less than two years in order to pay for its operations, further eroding mail volume.

Good things have happened since 2001, though. First, General Potter has led a commendable effort to make the Postal Service more efficient. Billions of dollars in costs and have been taken out of the system. Thousands of positions have been eliminated through attrition. Successful automation programs have yielded great benefits. Perhaps more dramatically, the Postal Service also learned that an unfunded pension liability they once believed was an high as $32 billion was actually $5 billion. Senator COLLINS and I responded with legislation, the Postal Civil Service Retirement System Funding Reform Act, signed into law by President Bush last year, which cuts the amount the Postal Service must pay into the Civil Service Retirement System each year by nearly $3 billion. This has freed up money for debt reduction and prevented the need for another rate increase until at least 2006.

Aggressive cost cutting and a lower pension payment, then, have put off the emergency that would have come if the Postal Service had reached its debt limit. But cost cutting can only go so far and will not solve the Postal Service's long-term challenges. These long-term challenges were laid out in stark detail earlier this year when Postmaster General Potter and Postal Board of Governors Chairman David Fineman testified before the House Government Reform Committee's Special Panel on Postal Reform. Chairman Fineman pointed out then that the total volume of mail delivered by the Postal Service has declined by more than 5 billion pieces since 2000. Over the same period, the number of homes and businesses the Postal Service delivers to have increased by more than 5 million. First Class mail, the largest contributor to the Postal Service's bottom line, is leading the decline in volume. Some of those disappearing First Class letters are being replaced by advertising mail, which earns significantly less. Many First Class letters have likely been lost for good to the fax machine, e-mail and electronic bill pay.

Despite electronic diversion, the Postal Service continues to add about 1.7 million new delivery points each year, creating the need for thousands of new routes and thousands of new letter carriers to work them. In addition, faster-growing parts of the country will need new or expanded postal facilities in the coming years. As more and more customers turn to electronic forms of communication, letter carriers are bringing fewer and fewer pieces of mail to each address they serve. The rate increases that will be needed to maintain the Postal Service's current infrastructure, finance retirement obligations to its current employees, pay for new letter carriers and build facilities in growing part of the country will only further erode mail volume.

As I've mentioned, the Postal Service has been trying to improve on its own. They are making progress, but there is only so much they can do. Even if the economy begins to recover more quickly and the Postal Service begins to see volume and revenues improve, we will still need to make fundamental changes in the way the Postal Service operates in order to make them as successful in the 21st Century as they were in the 20th Century.

This is where the Postal Accountability and Enhancement Act comes in. First, our bill begins the process of developing a modern rate system for pricing Postal Service products. The new system, to be developed by a strengthened Postal Rate Commission, renamed the Postal Regulatory Commission, would allow retained earnings, provide the Postal Service significantly more flexibility in setting prices and streamline today's burdensome ratemaking process. To provide stability, predictability and fairness for the Postal Service's customers, rates would remain within an inflation-based cap to be developed by the Commission.

In addition, the new rate system will allow the Postal Service to negotiate service agreements with individual mailers. The Postal Rate Commission in recent years did approve a service agreement the Postal Service negotiated with Capital One, but the process for considering the agreement took almost a year and the Postal Service's authority to enter into such agreements is not clearly spelled out in law. The Postal Accountability and Enhancement Act allows the Postal Service to enter into agreements if the revenue generated from them covers all costs attributable to the Postal Service and will result in no less contribution to the institutional costs of the Postal Service than would have been generated had the agreement not been entered into. No agreement would be permitted if it resulted in higher rates for any other mailer or prohibited any similarly situated mailer from negotiating a similar agreement.

The new rate system also includes some important safeguards meant to prohibit worksharing discounts that exceed costs avoided by the Postal Service. Now, worksharing on the part of mailers has been an important part of the productivity improvements at the Postal Service in recent years. Mailers should get credit in the form of a discount for work they do to their mail, such as presorting and barcoding or transporting mail deeper into the postal system. The discounts they receive, however, should have some rational relation to the benefit the Postal Service gets from the worksharing. The Postal Service should continue to be free to use discounts to incent mailers to be more efficient. They also should not be forced to impose large rate increases on workshared mail in order to comply with a strict prohibition on discounts in excess of costs avoided. Discounts in excess of costs avoided, however, should be temporary and reasonable. Our worksharing language strikes a good balance in that it prohibits the Postal Service from outsourcing work that could be performed cheaper in house while maintaining pricing flexibility.

The second major provision in the Postal Accountability and Enhancement Act requires the Postal Regulatory Commission to set strong service standards for the Postal Service's Market Dominant products, a category made up mostly of those products, like First Class mail, that are part of the postal monopoly. The Postal Service currently sets its own service standards, which allows them to pursue efforts like the elimination of Saturday delivery, a proposal floated three years ago. The new standards set by the Commission will aim to improve service and will be used by the Postal Service to establish performance goals, rationalize its physical infrastructure and streamline its workforce.

In a rate system featuring rate caps, as any system established under the Postal Accountability and Enhancement Act must, I believe it is especially important that the Regulatory Commission, not the Postal Service, be charged with determining the appropriate level of service postal customers should receive. This will prevent the Postal Service form cutting service as a way to keep rates below the cap. The Postal Service should be forced to look to productivity enhancements, not poorer quality service, to find savings.

Third, the Postal Accountability and Enhancement Act ensures that the Postal Service competes fairly. The bill prohibits the Postal Service from issuing anti-competitive regulations. It also subjects the Postal Service to state zoning, planning and land use laws, requires them to pay an assumed Federal income tax on products like packages and Express Mail that private firms also offer and requires that these products as a whole pay their share of the Postal Service's institutional costs. The Federal Trade Commission will further study any additional legal benefits the Postal Service enjoys that its private sector competitors do not. The Regulatory Commission will then find a way to use the rate system to level the playing field.

Fourth, the Postal Accountability and Enhancement Act improves Postal Service accountability, mostly by strengthening oversight. Qualifications for membership on the Regulatory Commission would be stronger than those for the Rate Commission so that Commissioners would have a background in finance or economics. Commissioners would also have the power to demand information from the Postal Service, including by subpoena, and have the power to punish them for violating rate and service regulations. In addition, the Commission will make an annual determination as to whether the Postal Service is in compliance with rate law and meeting service standards and will have the power to punish them for any transgressions.

Fifth, the Postal Accountability and Enhancement Act revises two provisions from the Postal Civil Service Retirement System Funding Reform Act in an effort to shore up the Postal Service's finances in the years to come. As our colleagues may be aware, that bill requires the Postal Service, beginning in 2006, to deposit any savings it enjoys by virtue of lower pension payments into an escrow account. In this bill, we eliminate that requirement in order to allow the Postal Service to spend the money that would have gone into escrow according to the plan submitted by the Postal Service in September of last year, which called for using most of the savings to begin paying down the Postal Service's $50 billion retiree health obligation. The bill

Senator COLLINS and I are introducing today also reverses the provision in the Postal Civil Service Retirement System Funding Reform Act that made the Postal Service the only Federal agency shouldered with the burden of paying the additional pension benefits owed to their employees by virtue of past military service.

Finally, and most importantly, the bill preserves universal service and the postal monopoly and forces the Postal Service to concentrate solely on what it does best—processing and delivering the mail to all Americans. Our bill limits the Postal Service, for the first time, to providing "postal services," meaning they would be prohibited from engaging in other lines of business, such as e-commerce, that draw time and resources away from letter and package delivery. It also explicitly preserves the requirement that the Postal Service "bind the Nation together through the mail" and serve all parts of the country, urban, suburban and rural, in a non-discriminatory fashion. Any service standards established by the Postal Regulatory Commission will continue to ensure delivery to every address, every day. In addition, the bill maintains the prohibition on closing post offices solely because they operate at a deficit, ensuring that rural and urban customers continue to enjoy full access to retail postal services.

The President's Commission, while calling for the preservation of universal service and the postal monopoly, opened the door for future changes by recommending that the Regulatory Commission be given the authority to make them themselves. While I believe that Congress will find it difficult to roll back universal service or limit the postal monopoly in the future if it is deemed necessary to do so, I believe the recommendation from the President's Commission would give too much power to a relatively small, political body. In order to keep Congress focused on the Postal Service's future, however, our bill asks the Regulatory Commission to report every three years on the state of universal service and the postal monopoly. When necessary, they would also make recommendations to Congress when they feel like one is necessary.

We have a once-in-a-generation opportunity this year to enact meaningful postal reform legislation. The House Government Reform Committee marked up its version of the Postal Accountability and Enhancement Act last week by a unanimous 40-0 vote. The President has indicated his support for a bill, releasing a set of postal reform principles at the end of last year calling on Congress to make some key changes to the way the Postal Service operates. We now have everyone from the National Association of Letter Carriers to former opponents of reform like UPS supporting our efforts, as well as those in the House. I know there are still some concerns about certain provisions in our bill, but I look forward to working with Senator COLLINS and each of our colleagues in the coming weeks to continue this momentum and get a bill through Congress that can be signed into law this year.

It's amazing to me to think that the Postal Service, something Senator STEVENS was able to put together at the beginning of his career, could have lasted so long and had such an impact on every American. I'm hopeful that the model Senator COLLINS and I have set out in this bill today can last at least that long and have just as positive an impact on our nation and our economy as the Postal Service did so many years ago.

Mr. STEVENS. Mr. President, I am pleased to join Chairman COLLINS and Senator CARPER as an original cosponsor of S. 2468, the Postal Accountability and Enhancement Act. In 2002, the President formed a Commission to evaluate the operations of the United States Postal Service. Earlier this year, the President's Commission issued a comprehensive report filled with suggestions on how to improve the Postal Service. Senator COLLINS became actively engaged on the issue of postal reform and held a series of hearing this year on postal reform. This bill is the product of the postal reform hearings held before the Government Affairs Committee.

I expect I will have suggestions on this legislation as the bill moves through the legislative process. However, I support Senator COLLINS's commitment to postal reform. I look forward to working with her and Senator CARPER in Committee and on the Senate floor to ensure the success of this legislation.

Mr. AKAKA. Mr. President, I am pleased to join with Senator COLLINS and Senator CARPER, who today have introduced the Postal Accountability and Enhancement Act. I commend both of my Governmental Affairs Committee colleagues for their leadership in crafting a postal reform bill.

For some time, the General Accounting Office has warned that the long-term financial outlook for the U.S. Postal Service was at risk without significant changes. At the request of the Governmental Affairs Committee, the U.S. Postal Service developed a transformation plan that offered its vision for the future. Late in 2002, a Presidential Postal Commission was convened, which issued a number of recommendations in 2003.

Over the past 6 months, I have participated in a series of hearings chaired by Senator COLLINS which examined the recommendations of the Postal Commission. I commend Senator COLLINS for guaranteeing that the divergent views were seriously considered throughout our eight hearings. I also wish to commend my colleague from Delaware, Senator CARPER, for his strong and early commitment to postal reform.

I support modernizing the U.S. Postal Service to ensure that its mission of providing 6 days a week universal service at an affordable rate is preserved. Although the legislation introduced today responds to many of the recommendations and concerns we heard in our hearings, it wisely rejects others. However, like most bills, there are provisions that trouble me. I am particularly concerned with the sections relating to worksharing and changes to the Federal Employees' Compensation Act (FECA). I will continue to work with the bill's sponsors to address these provisions, which I believe do not promote cost savings for the Postal Service or fairness for postal workers.

I look forward to working with my colleagues on this legislation to guarantee that the U.S. Postal Service will be in position to best serve the public in the 21st century, be a model employer, and protect the retirement future of its employees.

By Mr. BOND (for himself, Mr. HARKIN, Mr. DURBIN, Mr. TALENT, Mr. GRASSLEY, Mr. COLEMAN, Mr. FITZGERALD, and Mr. PRYOR):

S. 2470. A bill to enhance navigation capacity improvements and the ecosystem restoration plan for the Upper Mississippi River and Illinois Waterway System; to the Committee on Environment and Public Works.

Mr. BOND. Mr. President, today, I join my colleagues, Senators HARKIN, DURBIN, TALENT, GRASSLEY, COLEMAN, FITZGERALD and PRYOR to introduce bipartisan legislation to provide transportation efficiency and environmental sustainability on the Mississippi and Illinois Rivers.

As the world becomes more competitive, we must also. In the heartland, the efficiency, reliability, capacity, and safety of our transportation options are critical—often make-or-break. As we look 50 years into the future, and as we anticipate and try to promote commercial and economic growth, we have to ask ourselves a fundamental question: should we have a system that permits and promotes growth, or should we be satisfied to restrict our growth to the confines of a transportation straight jacket designed not for 2050, but for 1980?

Further, we must ask ourselves if dramatic investments should be made to address environmental problems and opportunities that exist on these great waterways.

In both cases, the answer is, "Of course we should modernize and improve."

We have a system which is in environmental and economic decline. Jobs and markets and the availability of habitat for fish and wildlife are at stake.

We cannot be for increased trade, commercial growth, and job creation without supporting the basic transportation infrastructure necessary to move goods from buyers to sellers. New efficiency helps give our producers an edge that can make or break opportunities in the international marketplace.

Seventy years ago, some argued that a transportation system on the Mississippi River was not justified. Congress decided that its role was not to try to predict the future but to shape the future and decided to invest in a system despite the naysayers. Over 80 million tons per year later, it is clear that the decision was wise.

Now, that system that was designed for paddlewheel boats and to last 50 years is nearly 70 years old and we must make decisions that will shape the next 50–70 years. As we look ahead, we must promote growth policies that help Americans who produce and employ.

We must work for policies that promote economic growth, job creation, and environmental sustainability. We know that trade and economic growth can be fostered or it can be discouraged by policies and other realities which include the quality of our transportation infrastructure.

So in 20 and 30 and 40 and 50 years, where will the growth in transportation occur to accommodate the growth in demand for commercial shipping? The Department of Transportation suggests that congestion on our roads and rails will double in the next quarter century. The fact of the matter is that the great untapped capacity is on our water.

This is good news because water transportation is efficient, it is safe, it conserves fuel, and it protects the air and the environment. One medium-sized barge tow can carry the freight of 870 trucks. That fact alone speaks volumes to the benefits of water. If we can, would we rather have 870 diesel engines on the roads of downtown St. Louis, or two diesel engines on the water watching the traffic buildup and smog glide by?

The veteran Chief Economist at USDA testified that transportation efficiency and the ability of farmers to win markets at higher prices are "fundamentally related." He predicts that corn exports over the next 10 years will rise 45 percent, 70 percent of which will travel down the Mississippi.

Over the past 35 years, waterborne commerce on the Upper Mississippi River has more than tripled. The system currently carries 60 percent of our Nation's corn exports and 45 percent of our Nation's soybean exports and it does so at two-thirds the cost of rail—when rail is available.

Over the previous 11 years, the U.S. Army Corps of Engineers have spent $70 million doing a six year study. During that period, there have been 35 meetings of the Governors Liaison Committee, 28 meetings on the Economic Coordinating Committee, among the States along the Upper Mississippi and Illinois waterways, and there have been 44 meetings of the Navigation and Environmental Coordination Committee. Additionally, there have been 130 briefings for special interest groups, 24 newsletters. There have been six sets of public meetings in 46 locations with over 4,000 people in attendance. To say the least, this has been a very long, very transparent, and very representative process.

However, while we have been studying, our competitors have been building. Given the extraordinary delay so far, and given the reality that large scale construction takes not weeks or months, but decades, further delay is no longer an option.

This is why I am leased to be joined by a bipartisan group of Senators who agree that we must improve the efficiency and the environmental sustainability of our great resources. Today, we introduce legislation to adopt the initial recommendations of the Corps of Engineers and their public and private partners to increase the lock capacity on the Upper Mississippi and Illinois Rivers and the begin an ambitious program of ecosystem restoration.

This plan gets the Corps back in the business of building the future, rather than just haggling about predicting the future. More will need to be done later on ecosystem and lock expansions further upstream, but this begins the improvement schedule underway.

In this legislation, we authorize $1.46 billion for ecosystem restoration—two times the federal share of lock capacity expansion which we authorize on locks 20-25 on the Mississippi River and Peoria and LaGrange on the Illinois. The new 1,200 foot locks on the Mississippi River will provide equal capacity in the bottleneck region below the 1,200 foot lock 19 at Keokuk above locks 26 and 27 near St. Louis. Half the cost of the new locks will be paid for by private users who pay into the Inland Waterways Trust fund. Additional funds will be provided for mitigation and small scale and nonstructural measures to improve efficiency.

As we look ahead, the locks at 14–18 will have to be addressed as will further investments to ecosystem restoration efforts.

This effort is supported by a broad-based group of the States, farm groups, shippers, labor, and those who pay taxes into the Trust Fund for improvements.

I thank my colleagues for their work together on this bipartisan effort.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2470

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress finds that—

(1) in section 1103(a)(2) of the Water Resources Development Act of 1986 (100 Stat. 4225), Congress recognized the Upper Mississippi River System as "a nationally significant ecosystem and a nationally significant commercial navigation system" and declared that the system "shall be administered and regulated in recognition of its several purposes";

(2) inaction on construction of new locks will lead to economic decline, and inaction on implementation of an enhanced ecosystem restoration program will lead to further environmental decline;

(3) the Upper Mississippi River and Illinois Waterway carry approximately 60 percent of the corn exports of the United States and 45 percent of the soybean exports of the United States, providing a significant positive balance of trade benefit for the Nation;

(4) the movement of more than 100,000,000 tons of product supports 400,000 full- and part-time jobs in the United States, generating over $4,000,000,000 in income and $12,000,000,000 to $15,000,000,000 in economic activity;

(5) Midwestern utilities use coal, the second largest category of cargo shipped on the Upper Mississippi River System, to produce cost-efficient energy;

(6) keeping the cost of transportation lower through competition between transportation modes is the United States farmer's competitive advantage in capturing future global growth in agricultural exports;

(7) United States farm and trade policies work to open world markets and promote United States exports, and water resource policy has provided a low-cost transportation alternative to other modes;

(8) the Department of Agriculture projects that corn exports will grow 44 percent over the next decade, with a ⅓ increase in growth exported through the Gulf of Mexico;

(9) those transportation savings—

(A) provide higher income to farmers and rural communities; and

(B) generate Federal and State taxes to support community activities, quality of life, and national benefits;

(10) the construction of new 1,200-foot locks and lock extensions will provide more than 48,000,000 man-hours of employment over 10 to 15 years;

(11) foreign competitors have worked over the last 10 years to improve foreign transportation infrastructure to compete more effectively with United States production;

(12) the inland waterway transportation system moves 16 percent of the freight in the United States for 2 percent of the cost, including more than 100,000,000 tons on the Upper Mississippi River System;

(13) the Department of Transportation projects that freight congestion on the roads and rails in the United States will double in the next 25 years and that water transportation will need to play an increasing role in moving freight;

(14) the movement of 100,000,000 tons on the river system in 4,400 15-barge tows out of harms way would require an equivalent of 4,000,000 trucks or 1,000,000 rail cars moving directly through our communities;

(15) econometric models are useful analytic tools to provide valuable information, but are unable to account for every market trend, development, and public policy impact;

(16) the current capacity of the Upper Mississippi River System is—

(A) declining by 10 percent annually because of unplanned closures of a 70-year old infrastructure; and

(B) reducing the potential for sustained growth;

(17) the current 600-foot lock system was designed for steamboats, at a time when 4,000,000 tons moved on the Mississippi River and a total of 2,000,000,000 bushels of corn were produced nationally, compared to today, when 100,000,000 to 120,000,000 tons are shipped and the national production of corn exceeds 10,000,000,000 bushels;

(18) the 600-foot locks at Locks and Dam Nos. 20, 21, 22, 24, and 25 on the Upper Mississippi River and LaGrange and Peoria on the Illinois Waterway are operating at 80 percent utilization and are unable to provide for or process effectively the volatile growth of traditional export grain markets;

(19) based on the current construction schedule of new locks and dams on the inland system, lock modernization will need to take place over 30 years, starting immediately, as an imperative to avoid lost export grain sales and diminished national competitiveness;

(20) the Corps of Engineers has been studying the needs for national investments on the Upper Mississippi River System for the last 15 years and has based initial recommendations on the best available information and science;

(21) the Upper Mississippi and Illinois Rivers ecosystem consists of hundreds of thousands of acres of bottomland forests, islands, backwaters, side channels, and wetlands;

(22) the river ecosystem is home to 270 species of birds, 57 species of mammals, 45 species of amphibians and reptiles, 113 species of fish, and nearly 50 species of mussels;

(23) more than 40 percent of migratory waterfowl and shorebirds in North America depend on the river for food, shelter, and habitat during migration;

(24) the annual operation of the Upper Mississippi River Basin needs to take into consideration opportunities for ecosystem restoration;

(25) development since the 1930's has altered and reduced the biological diversity of the large flood plain river systems of the Upper Mississippi and Illinois Rivers;

(26) Congress recognizes the need for significant Federal investment in the restoration of the Upper Mississippi and Illinois River ecosystems;

(27) the Upper Mississippi River System provides important economic benefits from recreational and tourist uses, resulting in the basin's receiving more visitors annually than most National Parks, with the ecosystems and wildlife being the main attractions; and

(28) the Upper Mississippi River System—

(A) includes 284,688 acres of National Wildlife Refuge land that is managed as habitat for migratory birds, fish, threatened and endangered species, and a diverse assortment of other species and related habitats; and

(B) provides many recreational opportunities.

SEC. 2. ENHANCED NAVIGATION CAPACITY IMPROVEMENTS AND ECOSYSTEM RESTORATION PLAN FOR THE UPPER MISSISSIPPI RIVER AND ILLINOIS WATERWAY SYSTEM.

(a) DEFINITIONS.— In this section:

(1) PLAN.—The term "Plan" means the preferred integrated plan contained in the document entitled "Integrated Feasibility Report and Programmatic Environmental Impact Statement for the UMR–IWW System Navigation Feasibility System" and dated April 29, 2004.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Army.

(3) UPPER MISSISSIPPI RIVER AND ILLINOIS WATERWAY SYSTEM.—The term "Upper Mississippi River and Illinois Waterway System" means the projects for navigation and ecosystem restoration authorized by Congress for—

(A) the segment of the Mississippi River from the confluence with the Ohio River, River Mile 0.0, to Upper St. Anthony Falls Lock in Minneapolis-St. Paul, Minnesota, River Mile 854.0; and

(B) the Illinois Waterway from its confluence with the Mississippi River at Grafton, Illinois, River Mile 0.0, to T.J. O'Brien Lock in Chicago, Illinois, River Mile 327.0.

(b) AUTHORIZATION OF CONSTRUCTION OF NAVIGATION IMPROVEMENTS.—

(1) SMALL SCALE AND NONSTRUCTURAL MEASURES.—At a cost of $24,000,000 in funds from the general fund of the Treasury, to be matched in an equal amount from the Inland Waterways Trust Fund (which is paid by private users), the Secretary shall—

(A) construct mooring facilities at Locks 12, 14, 18, 20, 22, 24, and LaGrange Lock;

(B) provide switchboats at Locks 20 through 25 over 5 years for project operation; and

(C) conduct development and testing of an appointment scheduling system.

(2) NEW LOCKS.—At a cost of $730,000,000 in funds from the general fund of the Treasury, with an equal matching amount provided from the Inland Waterways Trust Fund (which is paid by the private users), the Secretary shall construct new 1,200-foot locks at Locks 20, 21, 22, 24, and 25 on the Upper Mississippi River and at LaGrange Lock and Peoria Lock on the Illinois Waterway.

(3) MITIGATION.—At a cost of $100,000,000 in funds from the general fund of the Treasury, with an equal matching amount provided from the Inland Waterway Trust Fund (which is paid by private users), the Secretary shall conduct mitigation for new locks and small scale and nonstructural measures authorized under paragraphs (1) and (2).

(c) ECOSYSTEM RESTORATION AUTHORIZATION.—

(1) OPERATION.—To ensure the environmental sustainability of the existing Upper Mississippi River and Illinois Waterway System, the Secretary shall, consistent with requirements to avoid any adverse effects on navigation, modify the operation of the Upper Mississippi River and Illinois Waterway System to address the cumulative environmental impacts of operation of the system and improve the ecological integrity of the Upper Mississippi River and Illinois River.

(2) ECOSYSTEM RESTORATION PROJECTS.—

(A) IN GENERAL.—The Secretary shall, consistent with requirements to avoid any adverse effects on navigation, carry out ecosystem restoration projects to attain and maintain the sustainability of the ecosystem of the Upper Mississippi River and Illinois River in accordance with the general framework outlined in the Plan.

(B) PROJECTS INCLUDED.—Ecosystem restoration projects may include—

(i) island building;

(ii) construction of fish passages;

(iii) floodplain restoration;

(iv) water level management (including water drawdown);

(v) backwater restoration;

(vi) side channel restoration;

(vii) wing dam and dike restoration and modification;

(viii) island and shoreline protection;

(ix) topographical diversity;

(x) dam point control;

(xi) use of dredged material for environmental purposes;

(xii) tributary confluence restoration;

(xiii) spillway modification to benefit the environment;

(xiv) land easement authority; and

(xv) land acquisition.

(C) COST SHARING.—

(i) IN GENERAL.—Except as provided in clause (ii), the Federal share of the cost of carrying out an ecosystem restoration project under this paragraph shall be 65 percent.

(ii) EXCEPTION FOR CERTAIN RESTORATION PROJECTS.—In the case of a project under this paragraph for ecosystem restoration, the Federal share of the cost of carrying out the project shall be 100 percent if the project—

(I) is located below the ordinary high water mark or in a connected backwater;

(II) modifies the operation or structures for navigation; or

(III) is located on federally owned land.

(iii) NONGOVERNMENTAL ORGANIZATIONS.—Nongovernmental organizations shall be eligible to contribute the non-Federal cost-sharing requirements applicable to projects under this paragraph.

(D) LAND ACQUISITION.—The Secretary may acquire land or an interest in land for an ecosystem restoration project from a willing owner through conveyance of—

(i) fee title to the land; or

(ii) a flood plain conservation easement.

(3) SPECIFIC PROJECTS AUTHORIZATION.—

(A) IN GENERAL.—Subject to subparagraph (B), the ecosystem restoration projects described in paragraph (2) shall be carried out at a total construction cost of $1,460,000,000.

(B) LIMITATION ON AVAILABLE FUNDS.—Of the amounts made available under subparagraph (A), not more than $35,000,000 for each fiscal year shall be available for land acquisition under paragraph (2)(D).

(4) IMPLEMENTATION REPORTS.—

(A) IN GENERAL.—Not later than June 30, 2005, and every 4 years thereafter, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an implementation report that—

(i) includes baselines, benchmarks, goals, and priorities for ecosystem restoration projects; and

(ii) measures the progress in meeting the goals.

(B) ADVISORY PANEL.—

(i) IN GENERAL.—The Secretary shall appoint and convene an advisory panel to provide independent guidance in the development of each implementation report under subparagraph (A).

(ii) PANELISTS.—Panelists shall include—

(I) 1 representative of each of the State resource agencies (or a designee of the Governor of the State) from each of the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin;

(II) 1 representative of the Department of Agriculture;

(III) 1 representative of the Department of Transportation;

(IV) 1 representative of the United States Geological Survey;

(V) 1 representative of the United States Fish and Wildlife Service;

(VI) 1 representative of the Environmental Protection Agency;

(VII) 1 representative of affected landowners;

(VIII) 2 representatives of conservation and environmental advocacy groups; and

(IX) 2 representatives of agriculture and industry advocacy groups.

(iii) CO-CHAIRPERSONS.—The Secretary and the Secretary of the Interior shall serve as co-chairpersons of the advisory panel.

(d) AUTHORIZATION OF APPROPRIATIONS.—Except as otherwise provided in this section—

(1) there are authorized to be appropriated such sums as are necessary to carry out this section for fiscal years 2006 through 2020; and

(2) after fiscal year 2020—

(A) funds that have been made available under this section, but have not been expended, may be expended; and

(B) funds that have been authorized to be appropriated under this section, but have not been made available, may be made available.

Mr. HARKIN. Mr. President, I rise to discuss a bipartisan measure on which I have worked closely with my colleague from Missouri, Senator BOND. The purpose of this bill is to expand the transportation infrastructure and improve the ecosystem of the upper Mississippi River.

I have been deeply involved with Mississippi navigation issues because of their enormous importance to farmers in Iowa. Efficient river transportation is critical to keeping Iowa commodity costs competitive with foreign and domestic alternatives. When shipping on the river is constrained, costs rise. That, in turn, leads to price increases for moving bulk farm commodities by alternative means, mainly rail. These price differentials seem relatively small compared to the total price, but they make a huge difference in farm income.

Clearly, river traffic on the Mississippi is incredibly important to producers in my State. As a result of traffic congestion on the Mississippi, producers in the upper Midwest face longer shipping times, higher costs, and lost revenue. In the short run, enhanced traffic management can improve the situation. And it is important to have helper boats to push long barges through crowded locks. This bill addresses these two matters. But we need a longer-term solution, too. It is incredibly important that we modernize a number of the locks on the upper Mississippi—and we need to get started as soon as possible.

Existing law requires exhaustive analysis of river-use levels looking decades into the future. The studies required for such predictions are, by their very nature, highly speculative at best. There is no shortage of critics of the U.S. Army Corps of Engineers and its methods. But we can all agree that, to remain competitive, America needs to keep the arteries and veins of America's river transportation system in smooth running order. Last year, I visited Brazil and saw first-hand their remarkable efforts to modernize and improve their river transportation system. We need to keep up with countries like Brazil, if we are going to remain competitive. We simply cannot wait any longer to authorize construction of 1,200-foot locks so barge tows can move through the upper Mississippi and Illinois without being split.

However, this is not an easy issue. Over the years, I have heard time and time again from constituents and national leaders who are concerned about the environment, as I am. People correctly insist that we maintain a balance between navigation, flood control, and environmental protection. Habitat for many species, and the Mississippi river ecosystem as a whole, has deteriorated since the construction of the original lock system in the 1930's.

The Mississippi River is home to a wide variety of fish and birds, as well as other wildlife. All of this wildlife, and the abundant plant life, too, are important to the character and life of the Mississippi River. Approximately 40 percent of North America's waterfowl and shorebirds use the Mississippi Flyway. Parts of the Upper Mississippi River serve could well be the most important area for migrating diving ducks in the United States. The Mississippi River also serves as habitat for breeding and wintering birds, including the bald eagle.

We are all aware of the problems that have plagued the Corps' past work on the Mississippi River. But the Corps has pledged to dramatically step up its emphasis on environmental protection. We need to work with the Corps to ensure that all updates and renovations of locks and dams are done with keen concern for the environment and for the fish and wildlife that depend on the Mississippi River habitat. At the same time, we need to give the Corps the authorization and funding it needs to accomplish real ecosystem restoration, and not just make up for the lost habitat of specific identified species. The legislation we are proposing accomplishes this.

We understand that this bill is going to be a challenge in these difficult budget times. But to not act would be penny wise and pound foolish. We need to be thinking of the long-term economic health of our agricultural producers and shippers, hand in hand with the long-term health of the diverse ecosystems in the river. I believe the legislation we are proposing strikes a careful balance. I look forward to working closely with my colleagues to achieve those goals.

Mr. TALENT. Mr. President, I rise today to as a cosponsor of legislation to modernize our aging waterways infrastructure on the Upper Mississippi River and the Illinois River.

I am glad to join my colleague from Missouri, Senator BOND as well as Senators HARKIN and GRASSLEY in introducing a bill to upgrade and modernize the failing infrastructure on the Upper Mississippi and Illinois Rivers.

This $2.9 billion authorization will also bring great benefits to the fish habitat along the river through construction of fish passages, floodplain restoration and side channel restoration. I commend Senators BOND and HARKIN for working to find some balance in this important issue. I have always said, navigation and habitat restoration do not have to be mutually exclusive.

The locks and dams that are in place today are vital to our national economy. These national waterways serve as our competitive advantage to our overseas competitors, and this a clean and efficient way to move goods and commodities for export. The Upper Mississippi River and Illinois Waterway carry approximately 60 percent of the country's corn exports and 45 percent of our soybean exports, providing a significant positive balance of trade benefit for the Nation. Over half of the Soybeans produced in Missiouri head down the Mississippi River to the Gulf where they are shipped to markets overseas.

To me, this issue is a question of common sense. Water transportation is safe, clean and efficient. One medium barge tow can carry the same freight as 870 tractor trailer trucks. This relieves highway congestion, reduces shipping costs, and reduces fuels consumption and air emissions. Despite this, we'll still have opponents to this bill saying that it isn't good for the environment.

This bill is a win-win. It will take steps to reduce some of the burdens on our transportation systems, as well as providing more opportunities for our agricultural producers to export their products.

These locks are old and outdated. The current 600-foot lock system was designed for streamboats, at a time when 4 million tons moved on the Mississippi River and a total of 2 billion bushels of corn were produced nationally, compared to today, when 100 million to 120 million tons are shipped and the national production of corn exceeds 10 million bushels. We need to bring these locks into the 21st Century.

If we don't fix this aging infrastructure now, it will only become more costly. If I get a hole in the roof of my house, my wife and I may discuss how to fix it, but we know we will make the repair. If you don't make the repairs and upgrades, the problem only gets worse. That is what we have done to the locks and dams on the Mississippi River. I don't want this to be a situation where the roof actually falls in—we must modernize the system.

I commend my colleague from Missouri and his leadership on this issue.

This is a good bill and I am happy to join him as a cosponsor. I look forward to continuing to work with him on this important issue.

Mr. GRASSLEY. Mr. President, I am pleased to be an original cosponsor of bipartisan legislation to authorize the modernization of the lock and dam infrastructure and enhanced environmental restoration on the Upper Mississippi and Illinois Rivers.

Modernizing the inland waterway transportation system remains a high priority for the Upper Mississippi River basin and for agricultural, commercial, and labor interests that rely on the river to transport their products. In addition to strong grassroots support for this endeavor, the State legislatures have passed resolutions endorsing lock and dam modernization, ecosystem restoration, and Congressional action.

Agriculture and related industries in Iowa and the other States on the Upper Mississippi remain competitive in world markets, despite higher production costs, because of the efficiencies inherent in river transport. More than 60 percent of all grain exports move from the Upper Mississippi, making this competitive advantage vital to their ability to operate their business. Over 400,000 full and part-time jobs in our basin are connected to the river. Without modernization, Midwest producers will not be able to compete in anticipated world grain export growth.

Furthermore, a recent study estimates the loss of 30,000 jobs nationwide, $562 million annually in lost farm income and $185 million annually in lost State and local tax receipts if the lock and dam system is not upgraded. Providing U.S. agricultural producers every opportunity to export their products to world markets is essential for their financial well-being and future viability.

While it is important to consider economic benefits, we must also protect the ecosystem of the river. A cooperative solution can meet the needs of farmers and waterway users while at the same time improve the environment and stem the decline of the Rivers' ecosystems through enhanced authorities. Restoring the ecosystem is not mutually exclusive to lock modernization.

After 12 years and $70 million of study, we firmly believe that the time has come to take action. I urge my colleagues to support this legislation providing initial authorization to begin the modernization process and enhance the authorities to address broader ecosystem restoration. Without immediate action, the health of both the agriculture economy and river ecosystem will continue to decline.

Mr. COLEMAN. Mr. President, the Mississippi River is a national treasure and this legislation authorizes programs that will help restore water quality and rehabilitate wildlife and wildlife habitat on the river.

The annual operation of the Upper Mississippi River Basin needs to take into consideration opportunities for ecosystem restoration. The Upper Mississippi River ecosystem consists of hundreds of thousands of acres of bottomland forests, islands, backwaters, side channels and wetlands. The Upper Mississippi River system includes 284,688 acres of National Wildlife Refuge land that is managed as habitat for migratory birds, fish, threatened and endangered species and a diverse assortment of other species and related habitats.

I am very pleased that this bill gives ecosystem restoration the attention that it deserves.

The Department of Transportation projects that water transportation will play an increasing role in moving freight due to congestion on roads and railways. More efficient use of river transportation will help the environment reducing traffic congestion and emissions on our Nation's highways. For example, a 15 barge tow can carry as much as 870 semi-tractor trailer trucks. Fuel efficiency for barge transportation is 2.5 times that of rail transport and nearly 10 times that of truck transport.

Improving navigation efficiency on the upper Mississippi and Illinois Rivers has been a high priority issue for Midwest farmers for years. Our agricultural competitive position in accessing world markets is greatly impacted by the efficiency of our transportation system. Farmers depend on the lock system to move grain efficiently to market. They also depend on the locks for the movement of crop production inputs up the Mississippi River.

Our entire region benefits as commercial barge traffic moves not only agricultural products, but also aggregate, cement, salt, and other important items efficiently, safely and in an environmentally sound manner.

The Upper Mississippi River Ecosystem Restoration and navigation bill also represents a landmark opportunity to address environmental and economic ramifications of the entire lock and dam system, rather than the previous piecemeal approaches. The Corps of Engineers has responded to critics who called for a comprehensive evaluation, coupling an assessment of the economic need for navigation improvements and the ecosystem restoration components necessary to protect our region in the process. As outlined in this legislation, the $1.46 billion ecosystem restoration package includes the construction of fish passages, floodplain restoration on thousands of acres and side channel restoration, along with other measures.

This is indeed a new approach to improving our economy, by providing construction jobs and boosting our farm economy, and protecting our environment, by increasing the efficiency of barge traffic while initiating important water quality measures.

I am proud to be a coauthor of this important legislation.

Mr. FITZGERALD. Mr. President, I rise today with Senator BOND in support of a bill to put into place recommendations by the Army Corps of Engineers for navigation capacity improvements and ecosystem restoration for the Upper Mississippi and Illinois Rivers Waterway System.

Modernizing the inland waterway transportation system is a high priority for the Upper Mississippi River basin and for agricultural, commercial, and labor interests that rely on the river to transport their products. Without modernization, Midwest producers will not be able to fully participate in growing world markets.

On April 29, 2004, the Army Corps of Engineers released its proposal to upgrade the locks and to provide for ecosystem restoration on these two waterways. I have consistently fought for funding to revitalize these locks to help Illinois producers more easily transport their products to market. I have joined Senator BOND as a cosponsor to this bill because our country's agriculture and business interests have waited far too long for these improvements.

The Mississippi River plays a vital role in our economy. The Mississippi and Illinois Rivers are two of the major routes by which Illinois agricultural commodities are distributed to the world. In fact, roughly 70 percent of U.S. agricultural products are transported through the Mississippi River system. More than 60 million tons of commodities are transported on the Illinois River alone, including more than half of Illinois' annual corn crop.

By controlling the water's flow, locks and dams help facilitate the transportation of commodities along rivers. The outdated and deteriorating 600-foot locks on the Mississippi and Illinois Rivers create unnecessary delays because the locks are too small to accommodate modern size barge tows. This causes transportation costs to rise and results in lost market share for Illinois agriculture producers.

Along with modernizing this river system's locks, we must not allow the deterioration of its ecosystem. A cooperative solution can meet the needs of waterway users and, at the same time, improve the environment and stem the decline of the Mississippi and Illinois Rivers' ecosystems. This legislation strikes a good balance by upgrading the lock system while protecting the ecosystem of these rivers.

I commend Senator BOND for introducing this important legislation and am pleased to join him in cosponsoring this bill. Illinois farmers and other producers have waited far too long for these improvements. This bill brings the Upper Mississippi and Illinois Rivers Waterway System into the 21st century.

By Mr. NELSON of Florida:

S. 2472. A bill to require that notices to consumers of health and financial services include information on the outsourcing of sensitive personal information abroad, to require relevant Federal agencies to prescribe regulations to ensure the privacy and security of sensitive personal information outsourced abroad, to establish requirements for foreign call centers, and for other purposes; to the Committee on the Judiciary.

Mr. NELSON of Florida. Mr. President, I rise today to express my deep concern about an issue that illustrates the continuing erosion of Americans' privacy rights. My concern is related to the practice of outsourcing. When U.S. companies outsource sensitive customer information for processing overseas, they may be outsourcing our privacy rights along with it.

We all know that recently it has become popular for American companies to send internal paperwork to be done in other countries, by foreign companies.

When a U.S. company allows a foreign company to process customer data, the foreign company may be given access to the most sensitive types of customer information. Our health records, bank account numbers, social security numbers, tax forms, and credit card numbers are now being shipped abroad—without the knowledge of the customer and beyond the reach of U.S. privacy laws.

This phenomenon means that consumers are almost powerless to stop foreign scam artists from misusing their sensitive information. What types of abuses can occur under this scenario?

In one recent shocking example, a U.S. hospital hired a medical transcriber in Pakistan through a subcontractor to work with sensitive patient health information. Later, the foreign worker claimed that she had not been paid for her work.

So, you know what she did? She threatened to post patients' medical records online unless she was paid. Luckily, she got her paycheck and doesn't seem to have posted anything online.

But this situation shows us the potential for gross violations of consumer privacy. The U.S. hospital said that it never even knew that the foreign transcriber had been hired through a subcontractor and it therefore had never bound her contractually to follow any privacy or security standards.

Another potential abuse of offshoring sensitive customer data is identity theft. The illegal theft of someone's identity is a profoundly disturbing and costly problem in this information age.

Moreover, illegal misuse of sensitive information also can have national security implications. For example, data about some of our Nation's power grids allegedly has been outsourced to companies overseas. Imagine the harm that terrorists might do if they got hold of that type of confidential information.

As our global economy expands at such a rapid pace, we simply cannot tolerate the outsourcing of American's privacy rights overseas. We need to be proactive on this potentially explosive issue. Make no mistake, the Pakistani transcriber incident is not the first or the last time that sensitive customer information becomes endangered in a foreign country. The time to act is now, instead of reacting only after our privacy rights are further eroded.

In light of these circumstances, today I am introducing a bill—along with Senator FEINSTEIN—that begins to address these privacy and security concerns. The bill is called the INFO Act, which is short for The Increasing Notice of Foreign Outsourcing Act.

The INFO Act is designed to help ensure that sensitive consumer information is protected and that U.S. companies can be held accountable for breakdowns in the security of customer information.

Specifically, the INFO Act that we are introducing today would require the following things: First, U.S. companies in the health care industry and the financial industry must tell their customers that their sensitive health information and financial information is being processed by companies in foreign nations, where privacy safeguards may be less stringent.

Second, U.S. companies in the health care industry and the financial industry must promise their customers that they are complying with U.S. privacy laws, which are designed to keep sensitive customer information secure even when it is outsourced.

Third, U.S. companies in the health care industry and financial industry must make sure that each foreign company that is handling sensitive customer information has agreed by contract to meet U.S. privacy standards and to keep sensitive customer information secure.

Fourth, U.S. companies may examine the business operations of the foreign company to make sure the foreign company is meeting privacy standards and is keeping sensitive customer information secure.

Fifth, a foreign company must notify the U.S company of any data security breach. The U.S. company must then notify the U.S. regulatory agency, which can then hold the U.S. company accountable for the actions of the foreign company.

Finally, an employee of a foreign call center must tell a U.S. customer where the employee is located, if the U.S. customer asks for this information.

I strongly believe that we need to act now, before the privacy issues raised by offshoring begin to explode.

Let me emphasize that I see this bill as both pro-consumer and pro-business. Consumers will be informed about how their sensitive information is handled and they can learn when security breaches occur. Additionally, foreign companies that handle customer data will be held accountable to the U.S. company that gives them their work. And U.S. companies will be upfront in informing their customers about offshoring sensitive data before customer backlash occurs.

With this sort of system in place, we hopefully can reduce the chances of customer data being misused, and allow U.S. companies to play on a level playing field where all interested parties know the rules of the game.

I have a history of trying to solve consumer issues in ways that are not needlessly burdensome to U.S. businesses. That is why my office, as well as Senator FEINSTEIN's office, has met several times with industry representatives during the development of this bill.

I was interested to find ways for businesses to protect consumer privacy rights without having to sharply raise prices or limit products and services. I believe that the INFO Act has achieved those goals.

Consumer privacy has always been one of my top priorities. Now, as always, I look forward to working with all interested parties to resolve this consumer privacy issue in a timely and effective manner.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2472

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Increasing Notice of Foreign Outsourcing Act".

SEC. 2. HEALTH PRIVACY.

(a) FOREIGN-BASED BUSINESS ASSOCIATE.—In this section, the term "foreign-based business associate" means a business associate, as defined under the regulations promulgated pursuant to section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note), whose operation is based outside the United States and that receives protected health information and processes such information outside the United States.

(b) NOTICES.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the "Secretary") shall revise the regulations prescribed pursuant to section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note) to require a covered entity (as defined under such regulations and referred to in this section as a "covered entity"), that

outsources protected health information (as defined under such regulations and referred to in this section as “protected health information”), outside the United States to include in such entity’s notice of privacy protections the following:

(A) The following information in simple language:

(i) Notification that the covered entity outsources protected health information to foreign-based business associates.

(ii) Any risks and consequences to the privacy and security of protected health information that arise as a result of the processing of such information outside the United States.

(iii) Additional measures the covered entity is taking to protect the protected health information outsourced for processing outside the United States.

(B) A certification that the covered entity has taken reasonable steps to ensure that the handling of protected health information will be done in compliance with applicable laws in all instances where protected health information is processed outside the United States, including the reasons for the certification.

(2) EFFECTIVE DATE.—A covered entity shall be required to include in such entity’s notice of privacy protections the information and certification described in paragraph (1) for notices issued on or after the date on which the Secretary prescribes regulations pursuant to this section or the date that is 365 days after the date of enactment of this Act, whichever date is earlier. Nothing in this subsection shall be construed to require a covered entity to reissue notices issued before the date on which the Secretary prescribes regulations pursuant to this section or the date that is 365 days after the date of enactment of this Act, whichever date is earlier, to include in such notices the information and certification described in paragraph (1).

(c) RULEMAKING.—

(1) IN GENERAL.—

(A) REGULATORY AUTHORITY.—The Secretary shall—

(i) prescribe such regulations consistent with paragraph (2) as may be necessary to carry out this section with respect to foreign outsourcing; and

(ii) determine the appropriate penalties to impose upon a covered entity for a violation of a provision of this subsection or subsection (b).

(B) PROCEDURES AND DEADLINES.—The regulations described in subparagraph (A) shall be prescribed in accordance with all applicable legal requirements and shall be issued in final form not later than 365 days after the date of enactment of this Act.

(2) NECESSARY REGULATIONS.—The Secretary shall prescribe regulations—

(A) requiring that a contract between a covered entity and such entity’s foreign-based business associate contain a provision that provides such entity with the right to audit such associate, as needed, to monitor performance under the contract; and

(B) requiring that foreign-based business associates and subcontractors of covered entities be contractually bound by Federal privacy standards and security safeguards.

(d) BREACH OF SECURITY.—

(1) BREACH OF SECURITY OF THE SYSTEM.—In this subsection, the term “breach of security of the system”—

(A) means the compromise of the security, confidentiality, or integrity of computerized data that results in, or there is a reasonable basis to conclude has resulted in, the unauthorized acquisition of and access to protected health information maintained by the covered entity, foreign-based business associate, or subcontractor; and

(B) does not include good faith acquisition of protected health information by an employee or agent of the covered entity, foreign-based business associate, or subcontractor for the purposes of the entity, associate, or subcontractor, if the protected health information is not used or subject to further unauthorized disclosure.

(2) DATABASE SECURITY.—

(A) COVERED ENTITY.—A covered entity—

(i) that owns or licenses electronic data containing protected health information shall, following the discovery of a breach of security of the system containing such data, notify the Secretary of such breach; or

(ii) that receives a notification under subparagraph (B) of a breach, shall notify the Secretary of such breach.

(B) OTHER PARTIES.—

(i) THIRD PARTY.—The Secretary shall require that a contract between a covered entity and such entity’s foreign-based business associate contain a provision that if the foreign-based business associate (or any subcontractor of such associate) owns or licenses electronic data containing protected health information that was provided to the associate through the covered entity, the associate (or subcontractor) shall, following the discovery of a breach of security of the system containing such data—

(I) notify the entity from which it received the protected health information of such breach; and

(II) provide a description to the entity from which it received the protected health information of any corrective actions taken to guard against future security breaches.

(ii) NOTIFICATION PROCESS.—Each entity that receives a notification under clause (i) shall notify the entity from which it received the protected health information of such breach until the notification reaches the foreign-based business associate who shall, in turn, notify the covered entity of such breach.

(C) TIMELINESS OF NOTIFICATION.—All notifications required under subparagraphs (A) and (B) shall be made as expediently as possible and without unreasonable delay following—

(i) the discovery of a breach of security of the system; and

(ii) any measures necessary to determine the scope of the breach, prevent further disclosures, and restore the reasonable integrity of the data system.

(3) EFFECTIVE DATE.—This subsection shall take effect on the expiration of the date that is 365 days after the date of enactment of this subsection.

SEC. 3. FINANCIAL PRIVACY.

(a) FOREIGN-BASED BUSINESS.—Section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809) is amended by adding at the end the following:

“(12) FOREIGN-BASED BUSINESS.—The term ‘foreign-based business’ means a nonaffiliated third party whose operation is based outside the United States and that receives nonpublic personal information and processes such information outside the United States.”.

(b) FINANCIAL NOTICES.—

(1) IN GENERAL.—Section 503(b) of the Gramm-Leach-Bliley Act (15 U.S.C. 6803(b)) is amended—

(A) in paragraph (3), by striking “and” after the semicolon;

(B) in paragraph (4), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(5) if the financial institution outsources nonpublic personal information outside the United States—

“(A) information informing the consumer in simple language—

“(i) that the financial institution outsources nonpublic personal information to foreign-based businesses;

“(ii) of any risks and consequences to the privacy and security of an individual’s nonpublic personal information that arise as a result of the processing of such information outside the United States; and

“(iii) of the additional measures the financial institution is taking to protect the nonpublic personal information outsourced for processing outside the United States; and

“(B) a certification that the financial institution has taken reasonable steps to ensure that the handling of nonpublic personal information will be done in compliance with applicable laws in all instances where nonpublic personal information is processed outside the United States, including the reasons for the certification.”.

(2) EFFECTIVE DATE.—A financial institution shall include in such institution’s disclosure the information and certification described in the amendment made by paragraph (1)(C) for disclosures provided on or after the date on which the regulatory agency that has jurisdiction over such institution pursuant to section 505 of the Gramm-Leach-Bliley Act (15 U.S.C. 6805) prescribes regulations pursuant to the amendments made by this section or the date that is 365 days after the date of enactment of this Act, whichever date is earlier. Nothing in this subsection, or the amendments made by this subsection, shall be construed to require a financial institution to reissue disclosures provided before the date on which the regulatory agency that has jurisdiction over such institution pursuant to section 505 of the Gramm-Leach-Bliley Act (15 U.S.C. 6805) prescribes regulations pursuant to the amendments made by this section or the date that is 365 days after the date of enactment of this Act, whichever date is earlier, to include in such disclosures the information and certification described in the amendment made by paragraph (1)(C).

(c) RULEMAKING.—Section 504 of the Gramm-Leach-Bliley Act (15 U.S.C. 6804) is amended by adding at the end the following:

“(c) RULEMAKING ON FOREIGN OUTSOURCING.—

“(1) IN GENERAL.—

“(A) REGULATORY AUTHORITY.—The Federal banking agencies, the National Credit Union Administration, the Secretary of the Treasury, the Securities and Exchange Commission, and the Federal Trade Commission (referred to in this subsection as the ‘regulatory agencies’) shall—

“(i) prescribe such regulations consistent with paragraph (2) as may be necessary to carry out this subtitle with respect to foreign outsourcing, with respect to the financial institutions subject to their jurisdiction under section 505; and

“(ii) determine the appropriate penalties to impose upon financial institutions for a violation of a provision of this subsection.

“(B) COORDINATION, CONSISTENCY, AND COMPARABILITY.—The regulatory agencies shall consult and coordinate with each other for the purposes of assuring, to the extent possible, that the regulations prescribed by each such agency are consistent and comparable with the regulations prescribed by the other such agencies.

“(C) PROCEDURES AND DEADLINES.—The regulations described in subparagraph (A) shall be prescribed in accordance with all applicable legal requirements and shall be issued in final form not later than 365 days after the date of enactment of this subsection.

"(2) Necessary Regulations.—The regulatory agencies shall prescribe regulations—

"(A) requiring that a contract between a financial institution and such institution's foreign-based business contain a provision that provides such institution with the right to audit such business, as needed, to monitor performance under the contract; and

"(B) requiring that foreign-based businesses and subcontractors of financial institutions be contractually bound by Federal privacy standards and security safeguards.".

(d) Breach of Security.—Section 502 of the Gramm-Leach-Bliley Act (15 U.S.C. 6802) is amended by adding at the end the following:

"(f) Breach of Security.—

"(1) Breach of Security of the System.—In this subsection, the term 'breach of security of the system'—

"(A) means the compromise of the security, confidentiality, or integrity of computerized data that results in, or there is a reasonable basis to conclude has resulted in, the unauthorized acquisition of and access to nonpublic personal information maintained by the financial institution, foreign-based business, or subcontractor; and

"(B) does not include good faith acquisition of nonpublic personal information by an employee or agent of the financial institution, foreign-based business, or subcontractor for the purposes of the institution, business, or subcontractor, if the nonpublic personal information is not used or subject to further unauthorized disclosure.

"(2) Database Security.—

"(A) Financial Institution.—A financial institution—

"(i) that owns or licenses electronic data containing nonpublic personal information shall, following the discovery of a breach of security of the system containing such data, notify the entity under which the institution is subject to jurisdiction under section 505 of such breach; or

"(ii) that receives a notification under subparagraph (B) of a breach, shall notify the entity under which the institution is subject to jurisdiction under section 505 of such breach.

"(B) Other Parties.—

"(i) In General.—The Federal banking agencies, the National Credit Union Administration, the Secretary of the Treasury, the Securities and Exchange Commission, and the Federal Trade Commission shall require, with respect to the financial institutions subject to their jurisdiction under section 505, that a contract between a financial institution and such institution's foreign-based business contain a provision that if the foreign-based business (or any subcontractor of such business) owns or licenses electronic data containing nonpublic personal information that was provided to the business through the financial institution, the business (or subcontractor) shall, following the discovery of a breach of security of the system containing such data—

"(I) notify the entity from which it received the nonpublic personal information of such breach; and

"(II) provide a description to the entity from which it received the nonpublic personal information of any corrective actions taken to guard against future security breaches.

"(ii) Notification Process.—Each entity that receives a notification under clause (i) shall notify the entity from which it received the nonpublic personal information of such breach until the notification reaches the foreign-based business who shall, in turn, notify the financial institution of such breach.

"(C) Timeliness of Notification.—All notifications required under subparagraphs (A) and (B) shall be made as expediently as possible and without unreasonable delay following—

"(i) the discovery of a breach of security of the system; and

"(ii) any measures necessary to determine the scope of the breach, prevent further disclosures, and restore the reasonable integrity of the data system.

"(3) Effective Date.—This subsection shall take effect on the expiration of the date that is 365 days after the date of enactment of this subsection.".

SEC. 4. FOREIGN CALL CENTERS.

(a) Foreign Call Center Defined.—In this section, the term "foreign call center" means a foreign-based service provider or a foreign-based subcontractor of such provider that—

(1) is unaffiliated with the entity that utilizes such provider or subcontractor; and

(2) provides customer-based service and sales or technical assistance and expertise to individuals located in the United States via the telephone, the Internet, or other telecommunications and information technology.

(b) Requirement.—A contract between a foreign call center and an entity that utilizes such foreign call center to initiate telephone calls to, or receive telephone calls from, individuals shall include a requirement that each employee of the foreign call center disclose the physical location of such employee upon the request of such individual.

(c) Certification Requirement.—An entity described in subsection (b) shall submit an annual certification to the Federal Trade Commission on whether or not the entity and its subsidiaries, and the foreign call center employees and its subsidiaries, have complied with subsection (b). Such annual certifications shall be made available to the public.

(d) Noncompliance.—An entity described in subsection (b) or its subsidiaries that violates subsection (b) shall be subject to such civil penalties as the Federal Trade Commission prescribes under subsection (e).

(e) Regulations.—Not later than 365 days after the date of enactment of this Act, the Federal Trade Commission shall prescribe such regulations as are necessary for effective monitoring and compliance with this section. Such regulations shall include appropriate civil penalties for noncompliance with this section.

Mrs. FEINSTEIN. Mr. President, I rise to introduce, along with my colleague, Senator BILL NELSON, the Increasing Notice of Foreign Outsourcing Act, or the INFO Act. This legislation will help safeguard Americans' most important and sensitive personal information when it is sent abroad for processing to countries that may have lax security and privacy standards.

The bill will ensure that American companies notify consumers of a business's outsourcing practices. It will require American companies to certify the adequacy of their outsourcing protections. And it will require American companies to hold their foreign business partners accountable for protecting Americans' data.

In order to protect the information of Americans that is now vulnerable abroad, this bill calls for the following key safeguards:

First, the bill requires American health and financial companies to notify consumers when sending their information abroad, and to certify the safety of the overseas processing.. We drafted provisions carefully to minimize the burden on businesses, so they will expand on privacy disclosures that companies already make under Federal law.

Second, American companies processing health or financial data must include clauses in contracts with their foreign partners to allow audits of their foreign information processors and to enforce American privacy standards.

Third, the bill creates a system to inform American companies and Federal regulators of any security breaches involving American health or financial information at facilities operated outside the United States.

And fourth, the bill gives Americans the right to have workers at foreign call centers disclose where they are calling from.

The bill also gives Federal agencies the power to enforce these provisions. It is important to emphasize that this bill is drafted to minimize the burdens on businesses, by expanding on existing privacy data and security laws.

While many are concerned about how outsourcing abroad hurts American workers, outsourcing also poses risks to the security and privacy of American consumers' personal data. The recent wave of international outsourcing means that we are flooding the entire world with our most sensitive information.

Once sent abroad, the information is at risk because our Federal laws do not apply to foreign companies operating overseas. Another reason is because many foreign countries have far weaker security laws than our own. For instance, India still has no laws to protect personal and private data. And still another reason is because it is extremely difficult for Americans to use foreign courts to sue foreign companies that misuse American data.

These factors leave the most intimate details of the lives of uncountable Americans vulnerable to lax security and to malicious identity thieves.

And there is even more at stake. Information outsourcing poses a direct risk to national security. We are painfully aware that some people want to steal the identity of individual Americans in order to evade our homeland defenses and harm us all.

International information outsourcing has skyrocketed in recent years. Consider the following:

Tax returns for about 200,000 Americans were prepared in India this year.

To put this number in context, India workers processed only about 1,000 U.S. tax returns 2 years ago. Tax returns have Americans' names, Social Security numbers, income, employers, addresses, and other details.

The American Association of Medical Transcription estimates that 10 percent of all medical transcription of doctors' notes is being done abroad.

An executive from Trans Union, one of the major credit agencies in the United States, told The San Francisco Chronicle that:

> A hundred percent of our mail regarding customer disputes is going to go to India at some point.

If anyone doubts the risk that international outsourcing poses to Americans, consider these incidents:

Recently, a low-paid transcriber in Pakistan was working as a subcontractor to the University of California Medical Center in San Francisco. That foreign worker threatened to post confidential patient information on the Internet unless the university coaxed her boss into paying some of her bills.

Three weeks later, a strikingly similar incident occurred with a worker in Bangalore, India.

In another incident, in Noida, India, an employee working at a call center used an American's credit card information to buy electronics equipment from Sony.

Also in India, there is a burgeoning black market in personal identity information. According to one report, stolen names, addresses, phone numbers, the bank a person has an account with, and even bank account numbers are sold on the streets for mere pennies.

These are just a few incidents. No one knows how many other times workers have done similar things. And that is a big part of the problem. It is not merely that Americans' identities are vulnerable when sent abroad. The problem is that American companies obscure how much outsourcing they do, and when they are doing it.

For example, according to the San Jose Mercury News, a worker at a call center dealing with State benefits refused to identify his location. The supervisor, when she picked up the call, refused to say anything more than that she worked for Citicorp.

In essence, the problem of obscurity is so bad that we can list only a few incidents reported by the media. How many security breaches have taken place? Have consumers been informed when their information is abroad and at risk? How much money has this cost consumers? We don't know.

And so far, American regulatory agencies have been unable to say despite their oversight of these industries. And American companies have stayed mum. We need to break the silence.

The fact is, our Government is simply not doing enough to protect consumers. Earlier this month I received a letter from John D. Hawke, Jr., who is the U.S. Comptroller of the Currency. He heads one of the agencies that regulates U.S. financial institutions and banks.

Mr. Hawke wrote to me that the Office of the Comptroller of the Currency, known as the OCC, does not directly regulate foreign contractors that work for U.S. banks. Specifically, he wrote:

> [T]he OCC focuses its supervisory reviews regarding foreign servicing relationships on whether the serviced banks have adequate procedures in place. . . .

That means the OCC is focusing on the American companies, not the foreign ones.

I also learned from the OCC that it already suggests certain safeguards for American banks to use when they hire foreign information processors. The OCC asks U.S. banks to use contract provisions to make sure that foreign companies use secure methods to process data, and to let the U.S. companies audit the foreign companies.

But the OCC only suggests that companies adopt these safeguards. The legislation we are introducing today would take safeguards like the OCC's a step further, and make them mandatory.

Now is the time to act. We know that there are criminal syndicates, such as in Nigeria, that have fraudulently obtained bank information to steal untold fortunes. We can hardly imagine the damage such organizations can do with a vast new source of sensitive financial data from international information outsourcing.

In short, this bill accomplishes four goals crucial to protecting Americans' sensitive data sent abroad. It requires companies to give notice that they send consumers' sensitive data abroad. It ensures that U.S. companies can audit their foreign partners, and impose U.S. privacy standards on them. It establishes a system to ensure that foreign and U.S. companies will report security breaches to the U.S. Government. And it allows American consumers to demand to know where foreign call centers are located.

This bill helps to protect outsourced information while minimizing burdens on American businesses. I urge my colleagues to join us in this effort.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 366—SUPPORTING MAY 2004 AS NATIONAL BETTER HEARING AND SPEECH MONTH AND COMMENDING THOSE STATES THAT HAVE IMPLEMENTED ROUTINE HEARING SCREENINGS FOR EVERY NEWBORN BEFORE THE NEWBORN LEAVES THE HOSPITAL

Mr. COLEMAN submitted the following resolution; which was considered and agreed to:

S. RES. 366

Whereas the National Institute on Deafness and Other Communication Disorders reports that approximately 28,000,000 people in the United States experience hearing loss or have a hearing impairment;

Whereas 1 out of every 3 people in the United States over the age of 65 have hearing loss;

Whereas the overwhelming majority of people in the United States with hearing loss would benefit from the use of a hearing aid and fewer than 7,000,000 people in the United States use a hearing aid;

Whereas 30 percent of people in the United States suffering from hearing loss cite financial constraints as an impediment to hearing aid use;

Whereas hearing loss is among the most common congenital birth defects;

Whereas a delay in diagnosing the hearing loss of a newborn can affect the social, emotional, and academic development of the child;

Whereas the average age at which newborns with hearing loss are diagnosed is between the ages of 12 to 25 months; and

Whereas May 2004 is National Better Hearing and Speech Month, providing Federal, State, and local governments, members of the private and nonprofit sectors, hearing and speech professionals, and all people in the United States an opportunity to focus on preventing, mitigating, and treating hearing impairments: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of May 2004 as National Better Hearing and Speech Month;

(2) commends those States that have implemented routine hearing screenings for every newborn before the newborn leaves the hospital; and

(3) encourages all people in the United States to have their hearing checked regularly.

SENATE RESOLUTION 367—HONORING THE LIFE OF MILDRED McWILLIAMS "MILLIE" JEFFREY (1910–2004) AND HER CONTRIBUTIONS TO HER COMMUNITY AND TO THE UNITED STATES

Ms. STABENOW (for herself and Mr. LEVIN) submitted the following resolution; which was considered and agreed to:

S. RES. 367

Whereas Mildred McWilliams "Millie" Jeffrey, a social justice activist, a retired UAW Director of the Consumer Affairs Department, and a Governor Emerita of Wayne State University, died peacefully surrounded by her family on March 24, 2004, in the Metro Detroit, Michigan area at the age of 93;

Whereas in 2000, President Clinton awarded Millie the Medal of Freedom, the highest civilian award bestowed by the United States Government;

Whereas in seeking world peace by ensuring equality for all, Millie spent a lifetime working on labor, civil rights, education, health care, youth employment, and recreation issues;

Whereas Millie brought inspiration and humor to the many people she touched and did so with optimism and undaunted spirit;

Whereas Millie, a woman of influence and of great moral character, was always a voice of conscience and reason;

Whereas Millie provided a voice for those that could not be heard and hope for those that no longer believed, and because of this her legacy will continue to live on for generations to come;

Whereas Millie's list of accomplishments and awards is long but what she is most remembered for is her zest for organizing, including mentoring legions of women and men in the labor, civil rights, women's rights, and peace movements;

Whereas President Clinton stated that "her impact will be felt for generations, and her example never forgotten";

Whereas Millie was born in Alton, Iowa on December 29, 1910, and was the oldest of 7 children;

Whereas in 1932 Millie graduated from the University of Minnesota with a bachelor's degree in psychology and in 1934 Millie received a master's degree in social economy and social research from Bryn Mawr College;

Whereas Millie became an organizer for the Amalgamated Clothing Workers of America in Philadelphia, Pennsylvania, and later became Educational Director of the Pennsylvania Joint Board of Shirt Workers;

Whereas in 1936, Millie married fellow Amalgamated Clothing Workers of America organizer Homer Newman Jeffrey, and they traveled throughout the South and East organizing textile workers;

Whereas during World War II, the Jeffreys worked in Washington, D.C., as consultants to the War Labor Board, where they became close friends with Walter, Victor, and Roy Reuther;

Whereas the Jeffreys moved to Detroit, Michigan in 1944 when Victor Reuther offered Millie a job as director of the newly formed UAW Women's Bureau;

Whereas Millie's commitment to equal rights fueled her career at the UAW;

Whereas Millie organized the first UAW women's conference in response to the massive postwar layoffs of women production workers, who were replaced by returning veterans;

Whereas from 1949 until 1954, Millie ran the UAW's radio station;

Whereas Millie moved on to direct the Community Relations Department of the UAW;

Whereas Millie served as Director of the Consumer Affairs Department of the UAW from 1968 until her retirement in 1976;

Whereas Millie joined the NAACP in the 1940s and marched in the South with Dr. Martin Luther King, Jr. in the 1960s;

Whereas Former Executive Secretary of the Detroit Branch of the NAACP, Arthur Johnson, said that "in the civil rights movement, she knew how to fight without being disagreeable";

Whereas Millie ran for public office in 1974 and was elected by the people of Michigan to the Wayne State University Board of Governors, an office she held for 16 years (1974–1990);

Whereas Millie served 3 terms as chair of the Wayne State University Board of Governors;

Whereas Millie loved Wayne State University and was a long-time resident on campus;

Whereas Millie never tired of showing visitors around her "neighborhood"—the Adamany Undergraduate Library, the Hilberry Theatre, and the Walter P. Reuther Library of Wayne State University;

Whereas Millie thrived in the academic environment enriched by Wayne State University students;

Whereas whether discussing mathematics with teenagers in Wayne State University's Math Corps or strategizing at the United Nations Conferences on Women about the plight of sweatshop workers, Millie's capacity for connecting with people was unmatched;

Whereas Millie was inducted into the Michigan Women's Hall of Fame and was an original member of the board of the Michigan Women's Foundation;

Whereas Millie served in various leadership roles in a wide variety of national and State organizations;

Whereas Millie served on the peer review board of Blue Cross;

Whereas Millie also was an active member of the First Unitarian Universalist Church in Detroit; and

Whereas the United States mourns the death of Mildred McWilliams "Millie" Jeffrey: Now, therefore be it

Resolved, That the Senate—

(1) honors the life of Mildred McWilliams "Millie" Jeffrey and her contributions to her community and to the United States; and

(2) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to the family of Millie Jeffrey.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3225. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table.

SA 3226. Mr. CRAPO proposed an amendment to amendment SA 3170 proposed by Mr. GRAHAM of South Carolina to the bill S. 2400, supra.

SA 3227. Mr. GRAHAM, of South Carolina submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3228. Mr. GRAHAM, of South Carolina submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3229. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3230. Ms. COLLINS (for herself, Mr. BAYH, Mr. ROBERTS, Mr. REED, Mr. DORGAN, and Mr. BIDEN, submitted an amendment intended to be proposed by her to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3231. Mr. GRAHAM, of Florida (for himself and Mr. NELSON, of Florida) submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3232. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3233. Mr. LOTT (for himself and Mr. GRAHAM, of South Carolina) submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3234. Mr. NELSON, of Florida (for himself, Mrs. DOLE, Mr. CORZINE, Mr. NELSON, of Nebraska, Mr. LEAHY, Mrs. MURRAY, and Mr. GRAHAM, of Florida) submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3235. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3236. Mr. TALENT submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3237. Mr. CAMPBELL submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3238. Mr. GRAHAM, of South Carolina submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3225. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table, as follows:

On page 147, after line 21, insert the following:

SEC. 717. REPORTING OF SERIOUS ADVERSE HEALTH EXPERIENCES.

(a) IN GENERAL.—The Secretary of Defense may not permit a dietary supplement containing a stimulant to be sold on a military installation unless the manufacturer of such dietary supplement submits any report of a serious adverse health experience associated with such dietary supplement to the Secretary of Health and Human Services, who shall make such reports available to the Surgeon Generals of the Armed Forces.

(b) EFFECT OF SECTION.—Notwithstanding section 201(ff)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(ff)(2)) and paragraph (3) of subsection (c), this section does not apply to a dietary supplement containing caffeine that is intended to be consumed in liquid form.

(c) DEFINITIONS.—In this section—

(1) The term "dietary supplement" has the same meaning given the term in section 201(ff) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(ff)).

(2) The term "serious adverse health experience" means an adverse event that is associated with the use of a dietary supplement in a human, without regard to whether the event is known to be causally related to the dietary supplement, that—

(A) results in—

(i) death;

(ii) a life-threatening condition;

(iii) inpatient hospitalization or prolongation of hospitalization;

(iv) a persistent or significant disability or incapacity; or

(v) a congenital anomaly, birth defect, or other effect regarding pregnancy, including premature labor or low birth weight; or

(B) requires medical or surgical intervention to prevent 1 of the outcomes described in clauses (i) through (v) in subparagraph (A).

(3) The term "stimulant" means a dietary ingredient that has a stimulant effect on the cardiovascular system or the central nervous system of a human by any means, including—

(A) speeding metabolism;

(B) increasing heart rate;

(C) constricting blood vessels; or

(D) causing the body to release adrenaline.

SA 3226. Mr. CRAPO proposed an amendment to amendment SA 3170 proposed by Mr. GRAHAM of South Carolina to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

Strike all after the first word of the matter proposed to be inserted and insert the following:

3119. TREATMENT OF WASTE MATERIAL.

(a) AVAILABILITY OF FUNDS FOR TREATMENT.—Of the amount authorized to be appropriated by section 3102(a)(1) for environmental management for defense site acceleration completion, $350,000,000 shall be available for the following purposes at the sites referred to in subsection (b):

(1) The safe management of tanks or tank farms used to store waste from reprocessing activities.

(2) The on-site treatment and storage of wastes from reprocessing activities and related waste.

(3) The consolidation of tank waste.

(4) The emptying and cleaning of storage tanks.

(5) Actions under section 3116.

(b) SITES.—The sites referred to in this subsection are as follows:

(1) The Idaho National Engineering and Environmental Laboratory, Idaho.

(2) The Savannah River Site, Aiken, South Carolina.

(3) The Hanford Site, Richland, Washington.

(c) This section shall become effective 1 day after enactment.

SA 3227. Mr. GRAHAM of South Carolina submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table, as follows:

On page 280, after line 22, insert the following:

SEC. 1068. RECEIPT OF PAY BY RESERVES FROM CIVILIAN EMPLOYERS WHILE ON ACTIVE DUTY IN CONNECTION WITH A CONTINGENCY OPERATION.

Section 209 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(h) This section does not prohibit a member of the reserve components of the armed forces on active duty pursuant to a call or order to active duty under a provision of law referred to in section 101(a)(13) of title 10 from receiving from any person that employed such member before the call or order to active duty any payment of any part of the salary or wages that such person would have paid the member if the member's employment had not been interrupted by such call or order to active duty.".

SA 3228. Mr. GRAHAM of South Carolina submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table, as follows:

At the end of subtitle B of title II, add the following:

SEC. 217. INFRASTRUCTURE SYSTEM SECURITY ENGINEERING DEVELOPMENT FOR THE NAVY.

(a) INCREASE IN AMOUNT FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY.—The amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation, Navy, is hereby increased by $3,000,000.

(b) AVAILABILITY OF AMOUNT FOR INFRASTRUCTURE SYSTEM SECURITY ENGINEERING DEVELOPMENT.—Of the amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation, Navy, as increased by subsection (a), $3,000,000 shall be available for infrastructure system security engineering development.

(c) OFFSET.—(1) The amount authorized to be appropriated by section 101(5) for other procurement, Army, is hereby reduced by $1,000,000, with the amount of the reduction to be allocated to Buffalo Landmine Vehicles.

(2) The amount authorized to be appropriated by section 102(b) for procurement for the Marine Corps is hereby reduced by $500,000, with the amount of the reduction to be allocated to Combat Casualty Care.

(3) The amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation, Army, is hereby reduced by $1,000,000, with the amount of the reduction to the allocated to Active Coating Technology.

(4) The amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation, Defense-wide activities, is hereby reduced by $500,000, with the amount of the reduction to be allocated to Radiation Hard Complimentary Metal Oxide Semi-Conductors.

SA 3229. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 60, after line 23, insert the following:

SEC. 403. EXCLUSION OF SERVICE ACADEMY PERMANENT AND CAREER PROFESSORS FROM A LIMITATION ON CERTAIN OFFICER GRADE STRENGTHS.

Section 523(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(8) Up to 50 permanent professors of each of the United States Military Academy and the United States Air Force Academy, and up to 50 professors of the United States Naval Academy who are career military professors (as defined in regulations prescribed by the Secretary of the Navy).".

SA 3230. Ms. COLLINS (for herself, Mr. BAYH, Mr. ROBERTS, Mr. REED, Mr. DORGAN, and Mr. BIDEN) submitted an amendment intended to be proposed by her to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title III, add the following:

SEC. 313. ENERGY SAVINGS PERFORMANCE CONTRACTS.

(a) CONTRACTS AUTHORIZED.—The Secretary of Defense may enter into an energy savings performance contract under this section for the sole purpose of achieving energy savings and benefits ancillary to that purpose. The Secretary may incur obligations under the contract to finance energy conservation measures so long as guaranteed savings exceed the debt service requirements.

(b) TERMS AND CONDITIONS.—

(1) CONTRACT PERIOD.—Notwithstanding any other provision of law, an energy savings performance contract may be for a period of up to 25 years beginning on the date on which the first payment is made by the Secretary pursuant to the contract. The contract need not include funding of cancellation charges (if any) before cancellation, if—

(A) the contract was awarded in a competitive manner, using procedures and methods established under this section;

(B) the Secretary determines that funds are available and adequate for payment of the costs of the contract for the first fiscal year;

(C) the contract is governed by part 17.1 of the Federal Acquisition Regulation; and

(D) if the contract contains a clause setting forth a cancellation ceiling in excess $10,000,000, the Secretary provides notice to Congress of the proposed contract and the proposed cancellation ceiling at least 30 days before the award of the contract.

(2) COSTS AND SAVINGS.—An energy savings performance contract shall require the contractor to incur the costs of implementing energy savings measures, including at least the cost (if any) incurred in making energy audits, acquiring and installing equipment, and training personnel, in exchange for a

share of any energy savings directly resulting from implementation of such measures during the term of the contract.

(3) OTHER TERMS AND CONDITIONS.—An energy savings performance contract shall require an annual energy audit and specify the terms and conditions of any Government payments and performance guarantees. Any such performance guarantee shall provide that either the Government or the contractor is responsible for maintenance and repair services for any energy related equipment, including computer software systems.

(c) LIMITATION ON ANNUAL CONTRACT PAYMENTS.—Aggregate annual payments by the Secretary to a contractor for energy, operations, and maintenance under an energy savings performance contract may not exceed the amount that the Department of Defense would have paid for energy, operations, and maintenance in the absence of the contract (as estimated through the procedures developed pursuant to this section) during term of the contract. The contract shall provide for a guarantee of savings to the Department, and shall establish payment schedules reflecting such guarantee, taking into account any capital costs under the contract.

(d) RULEMAKING.—Not later than 90 days after the date of the enactment of this Act, the Secretary, with the concurrence of the Federal Acquisition Regulatory Council, shall issue final rules to establish the procedures and methods for use by the Department of Defense to select, monitor, and terminate energy savings performance contracts in accordance with laws governing Federal procurement that will achieve the intent of this section in a cost-effective manner. In developing such procedures and methods, the Secretary, with the concurrence of the Federal Acquisition Regulatory Council, shall determine which existing regulations are inconsistent with the intent of this section and shall formulate substitute regulations consistent with laws governing Federal procurement.

(e) IMPLEMENTATION PROCEDURES AND METHODS.—The procedures and methods established by rule under subsection (d) shall—

(1) provide for the calculation of energy savings based on sound engineering and financial practices;

(2) allow the Secretary to request statements of qualifications, which shall, at a minimum, include prior experience and capabilities of contractors to perform the proposed types of energy savings services and financial and performance information from firms engaged in providing energy savings services;

(3) allow the Secretary to presume that a contractor meets the requirements of paragraph (2) if the contractor either—

(A) has carried out contracts with a value of at least $1,000,000,000 with the Federal Government over the previous 10 years; or

(B) is listed by a Federal agency pursuant to section 801(b)(2) of the National Energy Policy Act (42 U.S.C. 8287(b)(2));

(4) allow the Secretary to, from the statements received, designate and prepare a list, with an update at least annually, of those firms that are qualified to provide energy savings services;

(5) allow the Secretary to select firms from such list to conduct discussions concerning a particular proposed energy savings project, including requesting a technical and price proposal from such selected firms for such project;

(6) allow the Secretary to select from such firms the most qualified firm to provide energy savings services based on technical and price proposals and any other relevant information;

(7) allow the Secretary to permit receipt of unsolicited proposals for energy savings performance contracting services from a firm that the Department of Defense has determined is qualified to provide such services under the procedures established pursuant to subsection (d) and require facility managers to place a notice in the Commerce Business Daily announcing they have received such a proposal and invite other similarly qualified firms to submit competing proposals;

(8) allow the Secretary to enter into an energy savings performance contract with a firm qualified under paragraph (7), consistent with the procedures and methods established pursuant to subsection (d); and

(9) allow a firm not designated as qualified to provide energy savings services under paragraph (4) to request a review of such decision to be conducted in accordance with procedures, substantially equivalent to procedures established under section 759(f) of title 40, United States Code, to be developed by the board of contract appeals of the General Services Administration.

(f) TRANSITION RULE FOR CERTAIN ENERGY SAVINGS PERFORMANCE CONTRACTS.—In the case of any energy savings performance contract entered into by the Secretary, or the Secretary of Energy, before October 1, 2003, for services to be provided at Department of Defense facilities, the Secretary may issue additional task orders pursuant to such contract and may make whatever contract modifications the parties to such contract agree are necessary to conform to the provisions of this section.

(g) PILOT PROGRAM FOR NONBUILDING APPLICATIONS.—

(1) IN GENERAL.—The Secretary may carry out a pilot program to enter into up to 10 energy savings performance contracts for the purpose of achieving energy savings, secondary savings, and benefits incidental to those purposes, in nonbuilding applications.

(2) SELECTION.—The Secretary shall select the contract projects to demonstrate the applicability and benefits of energy savings performance contracting to a range of nonbuilding applications.

(3) REPORT.—Not later than three years after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the progress and results of the pilot program. The report shall include a description of projects undertaken; the energy and cost savings, secondary savings and other benefits that resulted from such projects; and recommendations on whether the pilot program should be extended, expanded, or authorized.

(h) DEFINITIONS.—In this section:

(1) ENERGY SAVINGS.—The term "energy savings" means a reduction in the cost of energy, from a base cost established through a methodology set forth in the energy savings performance contract, utilized in an existing federally owned building or buildings or other federally owned facilities as a result of—

(A) the lease or purchase of operating equipment, improvements, altered operation and maintenance, increased capacity or payload, or technical services; or

(B) the increased efficient use of existing energy sources by cogeneration or heat recovery, excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities.

(2) ENERGY SAVINGS PERFORMANCE CONTRACT.—The term "energy savings performance contract" means a contract that provides for the performance of services for the design, acquisition, installation, testing, operation, and, where appropriate, maintenance and repair of an identified energy conservation measure or series of measures at one or more locations. Such contracts—

(A) may provide for appropriate software licensing agreements; and

(B) shall, with respect to an agency facility that is a public building, as defined in section 13(l) of the Public Buildings Act of 1959 (40 U.S.C. 612(l)), be in compliance with the prospectus requirements and procedures of section 7 of the Public Buildings Accountability Act of 1959 (40 U.S.C. 606).

(3) NONBUILDING APPLICATION.—The term "nonbuilding application" means—

(A) any class of vehicles, devices, or equipment that is transportable under its own power by land, sea, or air that consumes energy from any fuel source for the purpose of such transportability, or to maintain a controlled environment within such vehicle, device, or equipment; or

(B) any Federally owned equipment used to generate electricity or transport water.

(4) SECONDARY SAVINGS.—The term "secondary savings" means additional energy or cost savings that are a direct consequence of the energy savings that result from the energy efficiency improvements that were financed and implemented pursuant to the energy savings performance contract. Such secondary savings may include energy and cost savings that result from a reduction in the need for fuel delivery and logistical support, personnel cost savings and environmental benefits. In the case of electric generation equipment, secondary savings may include the benefits of increased efficiency in the production of electricity, including revenue received by the Federal Government from the sale of electricity so produced.

(5) SECRETARY.—The term "Secretary" means the Secretary of Defense.

SA 3231. Mr. GRAHAM of Florida (for himself and Mr. NELSON of Florida) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table, as follows:

At end of subtitle B of title III, add the following:

SEC. 313. ROTARY WING NIGHT VISION GOGGLE TRAINING.

(a) INCREASE IN AMOUNTS FOR PROCUREMENT, NAVY.—(1) The amount authorized to be appropriated by section 102(a)(1) for aircraft procurement, Navy, is hereby increased by $3,850,000.

(2) The amount authorized to be appropriated by section 102(a)(4) for other procurement, Navy, is hereby increased by $150,000.

(b) AVAILABILITY OF AMOUNTS FOR ROTARY WING NIGHT VISION GOGGLE TRAINING.—(1) Of the amount authorized to be appropriated by section 102(a)(1) for aircraft procurement, Navy, as increased by subsection (a)(1), $3,850,000 shall be available for the development of rotary wing night vision goggle (NVG) training.

(2) Of the amount authorized to be appropriated by section 102(a)(4) for other procurement, Navy, as increased by subsection

(a)(2), $150,000 shall be available for the development of rotary wing night vision goggle training.

(c) OFFSET.—Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation, Defense-wide activities, the amount available in Program Element PE 0305199D8Z for horizontal fusion is hereby reduced by $4,000,000.

SA 3232. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table, as follows:

On page 280, after line 22, insert the following:

SEC. 1068. SENSE OF CONGRESS ON CONTRIBUTIONS OF AFRICAN AMERICANS TO THE ARMED FORCES.

(a) FINDINGS.—Congress makes the following findings:

(1) From the inception of our Nation, many African Americans have given their lives in service to this country in order that Americans could enjoy freedom and prosperity.

(2) Nowhere is this sacrifice more apparent than in the history of the Armed Forces of the United States, and in the current fight against the threat of terrorism within the United States and abroad.

(3) It is important to recognize the extraordinary contributions of African American soldiers enlisted in the Armed Forces during the era of segregation, when these brave soldiers fought valiantly to ensure freedom and democracy for Americans that they were not, in many instances, able to enjoy.

(4) In September 1945, Secretary of War Robert P. Patterson appointed a board of 3 general officers, which became known as the Gillem Board, to investigate the policy of the United States Army with respect to African Americans and to prepare a new policy that would provide for the efficient use of African Americans in the Army.

(5) The April 1946 Gillem Board report, titled "Utilization of Negro Manpower in the Postwar Army Policy," concluded that the future policy of the Army should be to "eliminate, at the earliest practicable moment, any special consideration based on race."

(6) On October 29, 1947, the President's Committee on Civil Rights issued a landmark report titled "To Secure These Rights", which condemned segregation, in particular segregation in the Armed Forces. The report recommended legislation and administrative action "to end immediately all discrimination and segregation based on race, color, creed or national origin in . . . all branches of the Armed Services."

(7) On July 26, 1948, President Truman signed Executive Order 9981, which stated that "there shall be equality of treatment and opportunity for all persons in the armed services without regard to race, color, religion, or national origin." The order also established the President's Committee on Equality of Treatment and Opportunity in the Armed Services, which included two African American members among its initial members.

(8) On April 1, 1949, Secretary of Defense Louis Johnson issued a directive to the Secretaries of the Army, Navy, and Air Force that stated that it was the policy of the Department of Defense that there should be equality of treatment and opportunity for all in the armed services, and that "qualified Negro personnel shall be assigned to fill any type of position . . . without regard to race."

(9) On May 11, 1949, Secretary of Defense Louis Johnson approved the integration plans of the Air Force, but rejected those of the Army and the Navy.

(10) On June 7, 1949, Secretary of Defense Louis Johnson accepted a revised Navy integration plan.

(11) On March 13, 1950, the Army agreed to abolish its 10 percent recruitment quota for African Americans.

(12) On March 18, 1951, The Department of Defense announced that all basic training within the United States had been integrated.

(13) In October 1953, the Army announced that 95 percent of African American soldiers in the Army were serving in integrated units.

(b) SENSE OF CONGRESS.—It is the sense of Congress—

(1) to apologize for the racial segregation that was enforced by the United States Government upon African American soldiers who defended the United States prior to the desegregation of the Armed Forces;

(2) that the United States has been richly blessed by the contributions and sacrifices of African Americans;

(3) that the African Americans who served in the Armed Forces of the United States were heroes who were willing to see beyond their own oppression and envision a future society that would be fully inclusive of all citizens, regardless of their race; and

(4) because of the sacrifices of these heroes, our Nation has prospered and grown into a symbol of freedom emulated by countries around the world.

(c) CLAIMS NOT AUTHORIZED.—This section shall not be construed to authorize any claim against the United States and shall not be construed as a settlement of any claim against the United States.

SA 3233. Mr. LOTT (for himself and Mr. GRAHAM of South Carolina) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table, as follows:

On page 35, between lines 6 and 7, insert the following:

SEC. 232. SENSE OF THE SENATE REGARDING FUNDING OF THE ADVANCED SHIPBUILDING ENTERPRISE UNDER THE NATIONAL SHIPBUILDING RESEARCH PROGRAM OF THE NAVY.

(a) FINDINGS.—Congress makes the following findings:

(1) The budget for fiscal year 2005, as submitted to Congress by the President, provides $10,300,000 for the Advanced Shipbuilding Enterprise under the National Shipbuilding Research Program of the Navy.

(2) The Advanced Shipbuilding Enterprise is an innovative program to encourage greater efficiency in the national technology and industrial base.

(3) The leaders of the United States shipbuilding industry have embraced the Advanced Shipbuilding Enterprise as a method for exploring and collaborating on innovation in shipbuilding and ship repair that collectively benefits all components of the industry.

(b) SENSE OF THE SENATE.—It is the sense of the Senate—

(1) that the Senate—

(A) strongly supports the innovative Advanced Shipbuilding Enterprise under the National Shipbuilding Research Program as an enterprise between the Navy and industry that has yielded new processes and techniques that reduce the cost of building and repairing ships in the United States; and

(B) is concerned that the future-years defense program of the Department of Defense that was submitted to Congress for fiscal year 2005 does not reflect any funding for the Advanced Shipbuilding Enterprise after fiscal year 2005; and

(2) that the Secretary of Defense should continue to provide in the future-years defense program for funding the Advanced Shipbuilding Enterprise at a sustaining level in order to support additional research to further reduce the cost of designing, building, and repairing ships.

SA 3234. Mr. NELSON of Florida (for himself, Mrs. DOLE, Mr. CORZINE, Mr. NELSON of Nebraska, Mr. LEAHY, Mrs. MURRAY, and Mr. GRAHAM of Florida) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table, as follows:

At the end of subtitle B of title III, add the following:

SEC. 313. FAMILY READINESS PROGRAM OF THE NATIONAL GUARD.

(a) AMOUNT FOR PROGRAM.—The amount authorized to be appropriated by section 301(1) for operation and maintenance for the Army is hereby increased by $10,000,000 for the Family Readiness Program of the National Guard.

(b) OFFSET.—The amount authorized to be appropriated by section 301(1) for operation and maintenance for the Army is hereby reduced by $10,000,000 due to excessive unobligated balances.

SA 3235. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table, as follows:

On page 280, after line 22, insert the following:

SEC. ___. BROADCAST DECENCY ENFORCEMENT ACT OF 2004.

(a) SHORT TITLE.—This section may be cited as the "Broadcast Decency Enforcement Act of 2004".

(b) Increase in Penalties for Obscene, Indecent, and Profane Broadcasts.—Section 503(b)(2) of the Communications Act of 1934 (47 U.S.C. 503(b)(2)) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively;

(2) by inserting after subparagraph (B) the following new subparagraph:

"(C) Notwithstanding subparagraph (A), if the violator is—

"(i)(I) a broadcast station licensee or permittee; or

"(II) an applicant for any broadcast license, permit, certificate, or other instrument or authorization issued by the Commission; and

"(ii) determined by the Commission under paragraph (1) to have broadcast obscene, indecent, or profane language, the amount of any forfeiture penalty determined under this subsection shall not exceed $275,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of $3,000,000 for any single act or failure to act."; and

(3) in subparagraph (D), as redesignated by paragraph (1), by striking "subparagraph (A) or (B)" and inserting "subparagraph (A), (B), or (C)".

SA 3236. Mr. TALENT submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table, as follows:

On page 131, between lines 17 and 18, insert the following:

SEC. 653. ACCEPTANCE OF FREQUENT TRAVELER MILES, CREDITS, AND TICKETS TO FACILITATE THE AIR OR SURFACE TRAVEL OF CERTAIN MEMBERS OF THE ARMED FORCES AND THEIR FAMILIES.

Section 2608 of title 10, United States Code, is amended—

(1) by redesignating subsections (g) through (k) as subsections (h) through (l), respectively; and

(2) by inserting after subsection (f) the following new subsection:

"(g) Operation Hero Miles.—(1) The Secretary of Defense may use the authority of subsection (a) to accept the donation of frequent traveler miles, credits, and tickets for air or surface transportation issued by any air carrier or surface carrier that serves the public and that consents to such donation, and under such terms and conditions as the air or surface carrier may specify. The Secretary shall designate a single office in the Department of Defense to carry out this subsection, including the establishment of such rules and procedures as may be necessary to facilitate the acceptance of such frequent traveler miles, credits, and tickets.

"(2) Frequent traveler miles, credits, and tickets accepted under this subsection shall be used only in accordance with the rules established by the air carrier or surface carrier that is the source of the miles, credits, or tickets and shall be used only for the following purposes:

"(A) To facilitate the travel of a member of the armed forces who—

"(i) is deployed on active duty outside the United States away from the permanent duty station of the member in support of a contingency operation; and

"(ii) is granted, during such deployment, rest and recuperative leave, emergency leave, convalescent leave, or another form of leave authorized for the member.

"(B) In the case of a member of the armed forces recuperating from an injury or illness incurred or aggravated in the line of duty during such deployment, to facilitate the travel of family members of the member to be reunited with the member.

"(3) For the use of miles, credits, or tickets under paragraph (2)(B) by family members of a member of the armed forces, the Secretary may, as the Secretary determines appropriate, limit—

"(A) eligibility to family members who, by reason of affinity, degree of consanguinity, or otherwise, are sufficiently close in relationship to the member of the armed forces to justify the travel assistance;

"(B) the number of family members who may travel; and

"(C) the number of trips that family members may take.

"(4) Notwithstanding paragraph (2), the Secretary of Defense may, in an exceptional case, authorize a person not described in subparagraph (B) of that paragraph to use frequent traveler miles, credits, or a ticket accepted under this subsection to visit a member of the armed forces described in such subparagraph if that person has a notably close relationship with the member. The frequent traveler miles, credits, or ticket may be used by such person only in accordance with such conditions and restrictions as the Secretary determines appropriate and the rules established by the air carrier or surface carrier that is the source of the miles, credits, or ticket.

"(5) The Secretary of Defense shall encourage air carriers and surface carriers to participate in, and to facilitate through minimization of restrictions and otherwise, the donation, acceptance, and use of frequent traveler miles, credits, and tickets under this section.

"(6) The Secretary of Defense may enter into an agreement with a nonprofit organization to use the services of the organization—

"(A) to promote the donation of frequent traveler miles, credits, and tickets under paragraph (1), except that amounts appropriated to the Department of Defense may not be expended for this purpose; and

"(B) to assist in administering the collection, distribution, and use of donated frequent traveler miles, credits, and tickets.

"(7) Members of the armed forces, family members, and other persons who receive air or surface transportation using frequent traveler miles, credits, or tickets donated under this subsection are deemed to recognize no income from such use. Donors of frequent traveler miles, credits, or tickets under this subsection are deemed to obtain no tax benefit from such donation.

"(8) In this subsection, the term 'family member' has the meaning given that term in section 411h(b)(1) of title 37.".

SA 3237. Mr. CAMPBELL submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 86, between lines 9 and 10, insert the following:

SEC. 543. REQUIREMENTS FOR AWARD OF COMBAT INFANTRYMAN BADGE AND COMBAT MEDICAL BADGE WITH RESPECT TO SERVICE IN KOREA AFTER JULY 28, 1953.

(a) Standardization of Requirements With Other Geographic Areas.—(1) Chapter 357 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 3757. Korea defense service: Combat Infantryman Badge; Combat Medical Badge

"The Secretary of the Army shall provide that, with respect to service in the Republic of Korea after July 28, 1953, eligibility of a member of the Army for the Combat Infantryman Badge or the Combat Medical Badge shall be met under criteria and eligibility requirements that, as nearly as practicable, are identical to those applicable, at the time of such service in the Republic of Korea, to service elsewhere without regard to specific location or special circumstances. In particular, such eligibility shall be established—

"(1) without any requirement for service by the member in an area designated as a 'hostile fire area' (or by any similar designation) or that the member have been authorized hostile fire pay;

"(2) without any requirement for a minimum number of instances (in excess of one) in which the member was engaged with the enemy in active ground combat involving an exchange of small arms fire; and

"(3) without any requirement for personal recommendation or approval by commanders in the member's chain of command other than is generally applicable for service at locations outside the Republic of Korea.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3757. Korea defense service: Combat Infantryman Badge; Combat Medical Badge.".

(b) Applicability to Service Before Date of Enactment.—The Secretary of the Army shall establish procedures to provide for the implementation of section 3757 of title 10, United States Code, as added by subsection (a), with respect to service in the Republic of Korea during the period between July 28, 1953, and the date of the enactment of this Act. Such procedures shall include a requirement for submission of an application for award of a badge under that section with respect to service before the date of the enactment of this Act and the furnishing of such information as the Secretary may specify.

SA 3238. Mr. GRAHAM of South Carolina submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 221, between the matter following line 17 and line 18, insert the following:

SEC. 915. AUTHORITIES OF THE JUDGE ADVOCATES GENERAL.

(a) DEPARTMENT OF THE ARMY.—(1) Section 3019(b) of title 10, United States Code, is amended by striking "The General Counsel" and inserting "Subject to sections 806 and 3037 of this title, the General Counsel".

(2)(A) Section 3037 of such title is amended to read as follows:

"§ 3037. Judge Advocate General, Assistant Judge Advocate General: appointment; duties

"(a) POSITION OF JUDGE ADVOCATE GENERAL.—There is a Judge Advocate General in the Army, who is appointed by the President, by and with the advice and consent of the Senate, from officers of the Judge Advocate General's Corps. The term of office is four years, but may be sooner terminated or extended by the President. The Judge Advocate General, while so serving, has the grade of lieutenant general.

"(b) APPOINTMENT.—The Judge Advocate General of the Army shall be appointed from those officers who at the time of appointment are members of the bar of a Federal court or the highest court of a State or Territory, and who have had at least eight years of experience in legal duties as commissioned officers.

"(c) DUTIES.—The Judge Advocate General, in addition to other duties prescribed by law—

"(1) is the legal adviser of the Secretary of the Army, the Chief of Staff of the Army, and the Army Staff, and of all officers and agencies of the Department of the Army;

"(2) shall direct and supervise the members of the Judge Advocate General's Corps and civilian attorneys employed by the Department of the Army (other than those assigned or detailed to the Office of the General Counsel of the Army) in the performance of their duties;

"(3) shall direct and supervise the performance of duties under chapter 47 of this title (the Uniform Code of Military Justice) by any member of the Army;

"(4) shall receive, revise, and have recorded the proceedings of courts of inquiry and military commissions; and

"(5) shall perform such other legal duties as may be directed by the Secretary of the Army.

"(d) POSITION OF ASSISTANT JUDGE ADVOCATE GENERAL.—(1) There is an Assistant Judge Advocate General in the Army, who is appointed by the President, by and with the advice and consent of the Senate, from officers of the Army who have the qualifications prescribed in subsection (b) for the Judge Advocate General. The term of office of the Assistant Judge Advocate General is four years, but may be sooner terminated or extended by the President. An officer appointed as Assistant Judge Advocate General who holds a lower regular grade shall be appointed in the regular grade of major general.

"(2) When there is a vacancy in the office of the Judge Advocate General, or during the absence or disability of the Judge Advocate General, the Assistant Judge Advocate General shall perform the duties of the Judge Advocate General until a successor is appointed or the absence or disability ceases.

"(3) When paragraph (2) cannot be complied with because of the absence or disability of the Assistant Judge Advocate General, the heads of the major divisions of the Office of the Judge Advocate General, in the order directed by the Secretary of the Army, shall perform the duties of the Judge Advocate General, unless otherwise directed by the President.

"(e) APPOINTMENTS RECOMMENDED BY SELECTION BOARDS.—Under regulations prescribed by the Secretary of Defense, the Secretary of the Army, in selecting an officer for recommendation to the President under subsection (a) for appointment as the Judge Advocate General or under subsection (d) for appointment as the Assistant Judge Advocate General, shall ensure that the officer selected is recommended by a board of officers that, insofar as practicable, is subject to the procedures applicable to selection boards convened under chapter 36 of this title.".

(B) The item relating to such section in the table of sections at the beginning of chapter 305 of such title is amended to read as follows:

"3037. Judge Advocate General, Assistant Judge Advocate General: appointment; duties.".

(b) DEPARTMENT OF THE NAVY.—(1) Section 5019(b) of title 10, United States Code, is amended by striking "The General Counsel" and inserting "Subject to sections 806 and 5148 of this title, the General Counsel".

(2) Section 5148 of such title is amended—

(A) in subsection (b), by striking the fourth sentence and inserting the following: "The Judge Advocate General, while so serving, has the grade of vice admiral or lieutenant general, as appropriate."; and

(B) in subsection (d)—

(i) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(ii) by inserting after paragraph (1) the following new paragraph (2):

"(2) direct and supervise the members of the Judge Advocate General's Corps in the performance of their duties;".

(c) DEPARTMENT OF THE AIR FORCE.—(1) Section 8019(b) of title 10, United States Code, is amended by striking "The General Counsel" and inserting "Subject to sections 806 and 8037 of this title, the General Counsel".

(2) Section 8037 of such title is amended—

(A) in subsection (a), by striking the third sentence and inserting the following: "The Judge Advocate General, while so serving, has the grade of lieutenant general."; and

(B) in subsection (c)—

(i) by striking "General shall," in the matter preceding paragraph (1) and inserting "General,";

(ii) by redesignating paragraphs (1) and (2) as paragraphs (4) and (5), respectively, and, in each such paragraph, by inserting "shall" before the first word; and

(iii) by inserting after paragraph (1) the following new paragraphs:

"(1) is the legal adviser of the Secretary of the Air Force, the Chief of Staff of the Air Force, and the Air Staff, and of all officers and agencies of the Department of the Air Force;

"(2) shall direct and supervise the members of the Air Force designated as judge advocates and civilian attorneys employed by the Department of the Air Force (other than those assigned or detailed to the Office of the General Counsel of the Air Force) in the performance of their duties;

"(3) shall direct and supervise the performance of duties under chapter 47 of this title (the Uniform Code of Military Justice) by any member of the Air Force;".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING HOUSING AND URBAN AFFAIRS

Mr. ALLARD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, May 20, 2004, at 10 a.m. to conduct a hearing on "Oversight of the Extended Custodial Inventory Program."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. ALLARD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, May 20, 2004, at 10:15 a.m. on spam.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. ALLARD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet in open Executive Session during the session on May 20, 2004; to consider favorably reporting the nominations of John O. Colvin, to be Judge, U.S. Tax Court, renomination for a second term; Stuart A. Levey, to be Under Secretary of the Treasury for Enforcement and Juan C. Zarate, to be Assistant Secretary of the Treasury, Terrorist Financing and Financial Crimes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. ALLARD. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing entitled "Prescription Drug Reimportation" during the session of the Senate on Thursday, May 20, 2004, at 10:00 a.m. in SD–430.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. ALLARD. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Thursday, May 20, 2004, at 10:00 a.m. in Room 485 of the Russell Senate Office Building to conduct a hearing on S. 2382, the Native American Connectivity Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. ALLARD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, May 20, 2004, at 10:30 a.m. in Dirksen Senate Building, room 226.

I. Nominations

Henry W. Saad to be U.S. Circuit Judge for the Sixth Circuit; Jonathan

W. Dudas to be Under Secretary of Commerce for Intellectual Property and Director of the United states Patent and Trademark Office.

II. Legislation

S. 1735, Gang Prevention and Effective Deterrence Act of 2003 [Hatch, Feinstein, Grassley, Graham, Chambliss, Cornyn, Schumer, Biden];

S. 1933, Enhancing Federal Obscenity Reporting and Copyright Enforcement (ENFORCE) Act of 2003 [Hatch, Feinstein, Cornyn];

S. 1635, A bill to amend the Immigration and Nationality Act to ensure the integrity of the L–1 visa for intracompany transferees [Chambliss];

S. 1129, Unaccompanied Alien Child Protection Act of 2003 [Feinstein, DeWine, Feingold, Kennedy, Leahy, Specter, Edwards, Durbin, Kohl, Schumer];

S. 2013, Satellite Home Viewer Extension Act of 2004 [Hatch, Leahy, DeWine, Kohl];

S. Res. 362, a resolution expressing the sense of the Senate on the dedication of the National World War II Memorial on May 29, 2004, in recognition of the duty, sacrifices, and valor of the members of the Armed Forces of the United States who served in World War II. [Graham (FL), Biden, Chambliss, Durbin, Feingold, Grassley, Hatch, Cornyn, DeWine, Edwards, Graham, (SC)].

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. ALLARD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Thursday, May 20, 2004 on "FBI Oversight: Terrorism and Other Topics" in the Dirksen Senate Office Building, room 226 immediately following the full committee markup scheduled for 10:30 a.m. in Dirksen Senate Office Building, room 226.

Witness List

Panel I: Robert S. Mueller III, Director, Federal Bureau of Investigation, Department of Justice, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. ALLARD. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, May 20, 2004, to markup the nomination of Pamela M. Iovino, to be Assistant Secretary of Veterans Affairs for Congressional Affairs.

The meeting will take place in S–216 in the Capitol, immediately following the first roll call vote of the Senate after 12 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. ALLARD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on May 20, 2004 at 2:30 p.m. to hold a closed Business Meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CLEAN AIR, CLIMATE CHANGE, AND NUCLEAR SAFETY

Mr. ALLARD. Mr. President. I ask unanimous consent that the subcommittee on Clean Air, Climate Change, and Nuclear Safety be authorized to meet on Thursday, May 20th at 10:30 a.m. rather than 9:30 a.m. to conduct an oversight hearing on the Nuclear Regulatory Commission.

The meeting will be held in SD–406.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NATIONAL PARKS

Mr. ALLARD. Mr. President, I ask unanimous consent that the Subcommittee on National Parks of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, May 20 at 2:30 p.m.

The purpose of the hearing is to receive testimony on the following bills: S. 1672, to expand the Timucuan Ecological and Historic Preserve, Florida; S. 1789 and H.R. 1616, to authorize the exchange of certain lands within the Martin Luther King, Junior, National Historic Site for lands owned by the city of Atlanta, GA. and for other purposes; S. 1808, to provide for the preservation and restoration of historic buildings at historically women's public colleges or universities; S. 2167, to establish the Lewis and Clark National Historical Park in the states of Washington and Oregon, and for other purposes; and S. 2173, to further the purposes of the Sand Creek Massacre National Historic Site Establishment Act of 2000.

The PRESIDING OFFICER. Without objection, it is so ordered.

ALBUQUERQUE BIOLOGICAL PARK TITLE CLARIFICATION ACT

On Wednesday, May 19, 2004, the Senate passed S. 213, as follows:

S. 213

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Albuquerque Biological Park Title Clarification Act".

SEC. 2. PURPOSE.

The purpose of this Act is to direct the Secretary of the Interior to issue a quitclaim deed conveying any right, title, and interest the United States may have in and to Tingley Beach or San Gabriel Park to the City, thereby removing the cloud on the City's title to these lands.

SEC. 3. DEFINITIONS.

In this Act:

(1) CITY.—The term "City" means the City of Albuquerque, New Mexico.

(2) MIDDLE RIO GRANDE CONSERVANCY DISTRICT.—The terms "Middle Rio Grande Conservancy District" and "MRGCD" mean a political subdivision of the State of New Mexico, created in 1925 to provide and maintain flood protection and drainage, and maintenance of ditches, canals, and distribution systems for irrigation and water delivery and operations in the Middle Rio Grande Valley.

(3) MIDDLE RIO GRANDE PROJECT.—The term "Middle Rio Grande Project" means the works associated with water deliveries and operations in the Rio Grande basin as authorized by the Flood Control Act of 1948 (Public Law 80–858; 62 Stat. 1175) and the Flood Control Act of 1950 (Public Law 81–516; 64 Stat. 170).

(4) SAN GABRIEL PARK.—The term "San Gabriel Park" means the tract of land containing 40.2236 acres, more or less, situated within Section 12 and Section 13, T10N, R2E, N.M.P.M., City of Albuquerque, Bernalillo County, New Mexico, and described by New Mexico State Plane Grid Bearings (Central Zone) and ground distances in a Special Warranty Deed conveying the property from MRGCD to the City, dated November 25, 1997.

(5) TINGLEY BEACH.—The term "Tingley Beach" means the tract of land containing 25.2005 acres, more or less, situated within Section 13 and Section 24, T10N, R2E, N.M.P.M., City of Albuquerque, Bernalillo County, New Mexico, and described by New Mexico State Plane Grid Bearings (Central Zone) and ground distances in a Special Warranty Deed conveying the property from MRGCD to the City, dated November 25, 1997.

SEC. 4. CLARIFICATION OF PROPERTY INTEREST.

(a) REQUIRED ACTION.—The Secretary of the Interior shall issue a quitclaim deed conveying any right, title, and interest the United States may have in and to Tingley Beach and San Gabriel Park to the City.

(b) TIMING.—The Secretary shall carry out the action in subsection (a) as soon as practicable after the date of enactment of this title and in accordance with all applicable law.

(c) NO ADDITIONAL PAYMENT.—The City shall not be required to pay any additional costs to the United States for the value of San Gabriel Park and Tingley Beach.

SEC. 5. OTHER RIGHTS, TITLE, AND INTERESTS UNAFFECTED.

(a) IN GENERAL.—Except as expressly provided in section 4, nothing in this Act shall be construed to affect any right, title, or interest in and to any land associated with the Middle Rio Grande Project.

(b) ONGOING LITIGATION.—Nothing contained in this Act shall be construed or utilized to affect or otherwise interfere with any position set forth by any party in the lawsuit pending before the United States District Court for the District of New Mexico, No. CV 99–1320 JP/RLP–ACE, entitled Rio Grande Silvery Minnow v. John W. Keys, III, concerning the right, title, or interest in and to any property associated with the Middle Rio Grande Project.

HAWAII WATER RESOURCES ACT OF 2004

On Wednesday, May 19, 2004, the Senate passed S. 960, as follows:

S. 960

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hawaii Water Resources Act of 2004".

SEC. 2. HAWAII RECLAMATION PROJECTS.

(a) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.) is amended by adding at the end the following:

"SEC. 1637. HAWAII RECLAMATION PROJECTS.

"(a) AUTHORIZATION.—The Secretary may—

"(1) in cooperation with the Board of Water Supply, City and County of Honolulu, Hawaii, participate in the design, planning, and construction of a project in Kalaeloa, Hawaii, to desalinate and distribute seawater for direct potable use within the service area of the Board;

"(2) in cooperation with the County of Hawaii Department of Environmental Management, Hawaii, participate in the design, planning, and construction of facilities in Kealakehe, Hawaii, for the treatment and distribution of recycled water and for environmental purposes within the County; and

"(3) in cooperation with the County of Maui Wastewater Reclamation Division, Hawaii, participate in the design, planning, and construction of, and acquire land for, facilities in Lahaina, Hawaii, for the distribution of recycled water from the Lahaina Wastewater Reclamation Facility for non-potable uses within the County.

"(b) COST SHARE.—The Federal share of the cost of a project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

"(c) LIMITATION.—Funds provided by the Secretary shall not be used for the operation and maintenance of a project described in subsection (a).

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.".

(b) CONFORMING AMENDMENT.—The table of sections in section 2 of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. prec. 371) is amended by inserting after the item relating to section 1636 the following:

"Sec. 1637. Hawaii reclamation projects.".

RECREATIONAL FEE AUTHORITY ACT OF 2004

On Wednesday, May 19, 2004, the Senate passed S. 1107, as follows:

S. 1107

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Recreational Fee Authority Act of 2004".

SEC. 2. RECREATION FEE AUTHORITY.

(a) IN GENERAL.—Beginning on January 1, 2006, the Secretary of the Interior ("Secretary") may establish, modify, charge, and collect fees for admission to a unit of the National Park System and the use of National Park Service ("Service") administered areas, lands, sites, facilities, and services (including reservations) by individuals and/or groups. Fees shall be based on an analysis by the Secretary of—

(1) the benefits and services provided to the visitor;

(2) the cumulative effect of fees;

(3) the comparable fees charged elsewhere and by other public agencies and by nearby private sector operators;

(4) the direct and indirect cost and benefit to the government;

(5) public policy or management objectives served;

(6) economic and administrative feasibility of fee collection; and

(7) other factors or criteria determined by the Secretary.

(b) NUMBER OF FEES.—The Secretary shall establish the minimum number of fees and shall avoid the collection of multiple or layered fees for a wide variety of uses, activities or programs.

(c) ANALYSIS.—The results of the analysis together with the Secretary's determination of appropriate fee levels shall be transmitted to the Congress at least three months prior to publication of such fees in the Federal Register. New fees and any increases or decreases in established fees shall be published in the Federal Register and no new fee or change in the amount of fees shall take place until at least 12 months after the date the notice is published in the Federal Register.

(d) ADDITIONAL AUTHORITIES.—Beginning on January 1, 2006, the Secretary may enter into agreements, including contracts to provide reasonable commissions or reimbursements with any public or private entity for visitor reservation services, fee collection and/or processing services.

(e) ADMINISTRATION.—The Secretary may provide discounted or free admission days or use, may modify the National Park Passport, established pursuant to Public Law 105-391, and shall provide information to the public about the various fee programs and the costs and benefits of each program.

(f) STATE AGENCY ADMISSION AND SPECIAL USE PASSES.—Effective January 1, 2006, and notwithstanding the Federal Grants Cooperative Agreements Act, the Secretary may enter into revenue sharing agreements with State agencies to accept their annual passes and convey the same privileges, terms and conditions as offered under the auspices of the National Park Passport, to State agency annual passes and shall only be accepted for all of the units of the National Park System within the boundaries of the State in which the specific revenue sharing agreement is entered into except where the Secretary has established a fee that includes a unit or units located in more than one State.

SEC. 3. DISTRIBUTION OF RECEIPTS.

Without further appropriation, all receipts collected pursuant to the Act or from sales of the National Park Passport shall be retained by the Secretary and may be expended as follows:

(1) 80 percent of amounts collected at a specific area, site, or project as determined by the Secretary, shall remain available for use at the specific area, site or project, except for those units of the National Park System that participate in an active revenue sharing agreement with a State under Section 2(f) of this Act, not less than 90 percent of amounts collected at a specific area, site, or project shall remain available for use.

(2) The balance of the amounts collected shall remain available for use by the Service on a Service-wide basis as determined by the Secretary.

(3) Monies generated as a result of revenue sharing agreements established pursuant to Section 2(f) may provide for a fee-sharing arrangement. The Service shares of fees shall be distributed equally to all units of the National Park System in the specific States that are parties to the revenue sharing agreement.

(4) Not less than 50 percent of the amounts collected from the sale of the National Park Passport shall remain available for use at the specific area, site, or project at which the fees were collected and the balance of the receipts shall be distributed in accordance with paragraph 2 of this Section.

SEC. 4. EXPENDITURES.

(a) USE OF FEES AT SPECIFIC AREA, SITE, OR PROJECT.—Amounts available for expenditure at a specific area, site or project shall be accounted for separately and may be used for—

(1) repair, maintenance, facility enhancement, media services and infrastructure including projects and expenses relating to visitor enjoyment, visitor access, environmental compliance, and health and safety;

(2) interpretation, visitor information, visitor service, visitor needs assessments, monitoring, and signs;

(3) habitat enhancement, resource assessment, preservation, protection, and restoration related to recreation use; and

(4) law enforcement relating to public use and recreation.

(b) The Secretary may use not more than fifteen percent of total revenues to administer the recreation fee program including direct operating or capital costs, cost of fee collection, notification of fee requirements, direct infrastructure, fee program management costs, bonding of volunteers, start-up costs, and analysis and reporting on program accomplishments and effects.

SEC. 5. REPORTS.

On January 1, 2009, and every three years thereafter the Secretary shall submit to the Congress a report detailing the status of the Recreation Fee Program conducted in units of the National Park System including an evaluation of the Recreation Fee Program conducted at each unit of the National Park System; a description of projects that were funded, work accomplished, and future projects and programs for funding with fees, and any recommendations for changes in the overall fee system.

BEND PINE NURSERY LAND CONVEYANCE ACT AMENDMENTS

On Wednesday, May 19, 2004, the Senate passed S. 1848, as follows:

S. 1848

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MODIFICATION OF BEND PINE NURSERY LAND CONVEYANCE.

(a) DESIGNATION OF RECIPIENTS AND CONSIDERATION.—Section 3 of the Bend Pine Nursery Land Conveyance Act (Public Law 106-526; 114 Stat. 2512) is amended—

(1) in subsection (a), by striking paragraph (1) and redesignating paragraphs (2) through (7) as paragraphs (1) through (6), respectively;

(2) in subsection (e)—

(A) by striking "this section" both places it appears and inserting "subsection (a)";

(B) in paragraph (1), by striking "Subject to paragraph (3), the" and inserting "The"; and

(C) by striking paragraph (3); and

(3) by adding at the end the following:

"(g) BEND PINE NURSERY CONVEYANCE.—

"(1) CONVEYANCE TO PARK AND RECREATION DISTRICT.—Upon receipt of consideration in the amount of $3,503,676 from the Bend Metro Park and Recreation District in Deschutes County, Oregon, the Secretary shall convey to the Bend Metro Park and Recreation District all right, title, and interest of the United States in and to a parcel of real property consisting of approximately 185 acres and containing the Bend Pine Nursery, as depicted on the site plan map entitled 'Bend Pine Nursery Administrative Site, May 13, 2004'. Subject to paragraph (2), the real property conveyed to the Bend Metro Park and Recreation District shall be used only for public recreation purposes and may be developed for those purposes. If the Secretary determines that the real property subject to this condition is converted, in whole or in part, to a use other than public recreation, the Secretary shall require the Bend Metro Park and Recreation District to pay to the United States an amount equal to the fair market value of the property at the time of conversion, less the consideration paid under this paragraph.

"(2) RECONVEYANCE OF PORTION TO SCHOOL DISTRICT.—As soon as practicable after the receipt by the Bend Metro Park and Recreation District of the real property described in paragraph (1), the Bend Metro Park and Recreation District shall convey to the Administrative School District No. 1, Deschutes County, Oregon, without consideration, a parcel of real property located in the northwest corner of the real property described in paragraph (1) and consisting of approximately 15 acres. The deed of conveyance shall contain a covenant requiring that the real property conveyed to the School District be used only for public education purposes.".

(b) CONFORMING AMENDMENT.—Section 4(a) of such Act is amended by striking "section 3(a)" and inserting "section 3".

TAX ADMINISTRATION GOOD GOVERNMENT ACT

On Wednesday, May 19, 2004, the Senate passed H.R. 1528, as follows:

H.R. 1528

Resolved, That the bill from the House of Representatives (H.R. 1528) entitled "An Act to amend the Internal Revenue Code of 1986 to protect taxpayers and ensure accountability of the Internal Revenue Service.", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the "Tax Administration Good Government Act".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; etc.

TITLE I—IMPROVEMENTS IN TAX ADMINISTRATION AND TAXPAYER SAFEGUARDS

Subtitle A—Improvements in Efficiency and Safeguards in Internal Revenue Service Collection

Sec. 101. Waiver of user fee for installment agreements using automated withdrawals.
Sec. 102. Authorization for IRS to enter into installment agreements that provide for partial payment.
Sec. 103. Termination of installment agreements.
Sec. 104. Office of Chief Counsel review of offers-in-compromise.
Sec. 105. Authorization for IRS to require increased electronic filing of returns prepared by paid return preparers.
Sec. 106. Threshold on tolling of statute of limitations during review by Taxpayer Advocate Service.
Sec. 107. Increase in penalty for bad checks and money orders.
Sec. 108. Extension of time limit for contesting IRS levy.
Sec. 109. Individuals held harmless on improper levy on individual retirement plan.
Sec. 110. Authorization for Financial Management Service retention of transaction fees from levied amounts.
Sec. 111. Elimination of restriction on offsetting refunds from former residents.

Subtitle B—Processing and Personnel

Sec. 121. Information regarding statute of limitations.
Sec. 122. Annual report on IRS performance measures.
Sec. 123. Disclosure of tax information to facilitate combined employment tax reporting.
Sec. 124. Extension of declaratory judgment procedures to non-501(c)(3) tax-exempt organizations.
Sec. 125. Amendment to Treasury auction reforms.
Sec. 126. Revisions relating to termination of employment of IRS employees for misconduct.
Sec. 127. Expansion of IRS Oversight Board Authority.
Sec. 128. IRS Oversight Board approval of use of critical pay authority.
Sec. 129. Low-income taxpayer clinics.
Sec. 130. Taxpayer access to financial institutions.
Sec. 131. Enrolled agents.
Sec. 132. Establishment of disaster response team.
Sec. 133. Study of accelerated tax refunds.
Sec. 134. Study on clarifying recordkeeping responsibilities.
Sec. 135. Streamline reporting process for National Taxpayer Advocate.
Sec. 136. IRS Free File program.
Sec. 137. Modification of TIGTA reporting requirements.
Sec. 138. Study of IRS accounts receivable.
Sec. 139. Electronic Commerce Advisory Group.
Sec. 140. Study on modifications to schedules L and M–1.
Sec. 141. Regulation of Federal income tax return preparers and refund anticipation loan providers.
Sec. 142. Joint task force on offers-in-compromise.

Subtitle C—Other Provisions

Sec. 151. Penalty for failure to report interests in foreign financial accounts.
Sec. 152. Repeal of application of below-market loan rules to amounts paid to certain continuing care facilities.
Sec. 153. Public support by Indian tribal governments.
Sec. 154. Payroll agents subject to penalty for failure to collect and pay over tax, or attempt to evade or defeat tax.

TITLE II—REFORM OF PENALTY AND INTEREST

Sec. 201. Individual estimated tax.
Sec. 202. Corporate estimated tax.
Sec. 203. Increase in large corporation threshold for estimated tax payments.
Sec. 204. Abatement of interest.
Sec. 205. Deposits made to suspend running of interest on potential underpayments.
Sec. 206. Freeze of provisions regarding suspension of interest where Secretary fails to contact taxpayer.
Sec. 207. Clarification of application of Federal tax deposit penalty.
Sec. 208. Frivolous tax returns and submissions.
Sec. 209. Extension of notice requirements with respect to interest and penalty calculations.
Sec. 210. Expansion of interest netting.

TITLE III—UNITED STATES TAX COURT MODERNIZATION

Subtitle A—Tax Court Procedure

Sec. 301. Jurisdiction of Tax Court over collection due process cases.
Sec. 302. Authority for special trial judges to hear and decide certain employment status cases.
Sec. 303. Confirmation of authority of Tax Court to apply doctrine of equitable recoupment.
Sec. 304. Tax Court filing fee in all cases commenced by filing petition.
Sec. 305. Amendments to appoint employees.
Sec. 306. Expanded use of Tax Court practice fee for pro se taxpayers.

Subtitle B—Tax Court Pension and Compensation

Sec. 311. Annuities for survivors of Tax Court judges who are assassinated.
Sec. 312. Cost-of-living adjustments for Tax Court judicial survivor annuities.
Sec. 313. Life insurance coverage for Tax Court judges.
Sec. 314. Cost of life insurance coverage for Tax Court judges age 65 or over.
Sec. 315. Modification of timing of lump-sum payment of judges' accrued annual leave.
Sec. 316. Participation of Tax Court judges in the Thrift Savings Plan.
Sec. 317. Exemption of teaching compensation of retired judges from limitation on outside earned income.
Sec. 318. General provisions relating to magistrate judges of the Tax Court.
Sec. 319. Annuities to surviving spouses and dependent children of magistrate judges of the Tax Court.
Sec. 320. Retirement and annuity program.
Sec. 321. Incumbent magistrate judges of the Tax Court.
Sec. 322. Provisions for recall.
Sec. 323. Effective date.

TITLE IV—CONFIDENTIALITY AND DISCLOSURE

Sec. 401. Clarification of definition of church tax inquiry.
Sec. 402. Collection activities with respect to joint return disclosable to either spouse based on oral request.
Sec. 403. Taxpayer representatives not subject to examination on sole basis of representation of taxpayers.
Sec. 404. Prohibition of disclosure of taxpayer identification information with respect to disclosure of accepted offers-in-compromise.
Sec. 405. Compliance by contractors with confidentiality safeguards.
Sec. 406. Higher standards for requests for and consents to disclosure.
Sec. 407. Civil damages for unauthorized disclosure or inspection.
Sec. 408. Expansion of disclosure in emergency circumstances.
Sec. 409. Disclosure of taxpayer identity for tax refund purposes.
Sec. 410. Disclosure to State officials of proposed actions related to section 501(c) organizations.
Sec. 411. Treatment of public records.
Sec. 412. Employee identity disclosures.

Sec. 413. Taxpayer identification number matching.
Sec. 414. Form 8300 disclosures.
Sec. 415. Disclosure to law enforcement agencies regarding terrorist activities.
TITLE V—SIMPLIFICATION
Subtitle A—Uniform Definition of Child
Sec. 501. Uniform definition of child, etc.
Sec. 502. Modifications of definition of head of household.
Sec. 503. Modifications of dependent care credit.
Sec. 504. Modifications of child tax credit.
Sec. 505. Modifications of earned income credit.
Sec. 506. Modifications of deduction for personal exemption for dependents.
Sec. 507. Technical and conforming amendments.
Sec. 508. Effective date.
Subtitle B—Simplification Through Elimination of Inoperative Provisions
Sec. 511. Simplification through elimination of inoperative provisions.
TITLE VI—REVENUE PROVISIONS
Subtitle A—Provisions Designed to Curtail Tax Shelters
Sec. 601. Penalty for failing to disclose reportable transaction.
Sec. 602. Accuracy-related penalty for listed transactions and other reportable transactions having a significant tax avoidance purpose.
Sec. 603. Modifications of substantial understatement penalty for nonreportable transactions.
Sec. 604. Tax shelter exception to confidentiality privileges relating to taxpayer communications.
Sec. 605. Disclosure of reportable transactions.
Sec. 606. Modifications to penalty for failure to register tax shelters.
Sec. 607. Modification of penalty for failure to maintain lists of investors.
Sec. 608. Modification of actions to enjoin certain conduct related to tax shelters and reportable transactions.
Sec. 609. Understatement of taxpayer's liability by income tax return preparer.
Sec. 610. Regulation of individuals practicing before the Department of Treasury.
Sec. 611. Penalty on promoters of tax shelters.
Sec. 612. Statute of limitations for taxable years for which required listed transactions not reported.
Sec. 613. Denial of deduction for interest on underpayments attributable to tax-motivated transactions.
Sec. 614. Authorization of appropriations for tax law enforcement.
PART II—OTHER CORPORATE GOVERNANCE PROVISIONS
Sec. 621. Affirmation of consolidated return regulation authority.
Sec. 622. Declaration by chief executive officer relating to Federal annual income tax return of a corporation.
Sec. 623. Denial of deduction for certain fines, penalties, and other amounts.
Sec. 624. Disallowance of deduction for punitive damages.
Sec. 625. Increase in criminal monetary penalty for individuals to the amount of the tax at issue.
Sec. 626. Doubling of certain penalties, fines, and interest on underpayments related to certain offshore financial arrangements.
PART III—EXTENSION OF IRS USER FEES
Sec. 631. Extension of IRS user fees.
PART IV—OTHER REVENUE PROVISIONS
Sec. 641. Reporting of taxable mergers and acquisitions.
Sec. 642. Modification of definition of controlled group of corporations.

TITLE I—IMPROVEMENTS IN TAX ADMINISTRATION AND TAXPAYER SAFEGUARDS

Subtitle A—Improvements in Efficiency and Safeguards in Internal Revenue Service Collection

SEC. 101. WAIVER OF USER FEE FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.

(a) IN GENERAL.—Section 6159 (relating to agreements for payment of tax liability in installments) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following:

"(e) WAIVER OF USER FEES FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.—In the case of a taxpayer who enters into an installment agreement in which automated installment payments are agreed to, the Secretary shall waive the fee (if any) for entering into the installment agreement.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date which is 180 days after the date of the enactment of this Act.

SEC. 102. AUTHORIZATION FOR IRS TO ENTER INTO INSTALLMENT AGREEMENTS THAT PROVIDE FOR PARTIAL PAYMENT.

(a) IN GENERAL.—

(1) Section 6159(a) (relating to authorization of agreements) is amended—

(A) by striking "satisfy liability for payment of" and inserting "make payment on", and

(B) by inserting "full or partial" after "facilitate".

(2) Section 6159(c) (relating to Secretary required to enter into installment agreements in certain cases) is amended in the matter preceding paragraph (1) by inserting "full" before "payment".

(b) REQUIREMENT TO REVIEW PARTIAL PAYMENT AGREEMENTS EVERY TWO YEARS.—Section 6159, as amended by this Act, is amended by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively, and inserting after subsection (c) the following new subsection:

"(d) SECRETARY REQUIRED TO REVIEW INSTALLMENT AGREEMENTS FOR PARTIAL COLLECTION EVERY TWO YEARS.—In the case of an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years with the primary purpose of determining whether the financial condition of the taxpayer has significantly changed so as to warrant an increase in the value of the payments being made.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date of the enactment of this Act.

SEC. 103. TERMINATION OF INSTALLMENT AGREEMENTS.

(a) IN GENERAL.—Section 6159(b)(4) (relating to failure to pay an installment or any other tax liability when due or to provide requested financial information) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (E), and by inserting after subparagraph (B) the following:

"(C) to make a Federal tax deposit under section 6302 at the time such deposit is required to be made,

"(D) to file a return of tax imposed under this title by its due date (including extensions), or".

(b) CONFORMING AMENDMENT.—Section 6159(b)(4) is amended by striking "FAILURE TO PAY AN INSTALLMENT OR ANY OTHER TAX LIABILITY WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION" and inserting "FAILURE TO MAKE PAYMENTS OR DEPOSITS OR FILE RETURNS WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to failures occurring on or after the date of the enactment of this Act.

SEC. 104. OFFICE OF CHIEF COUNSEL REVIEW OF OFFERS-IN-COMPROMISE.

(a) IN GENERAL.—Section 7122(b) (relating to record) is amended by striking "Whenever a compromise" and all that follows through "his delegate" and inserting "If the Secretary determines that an opinion of the General Counsel for the Department of the Treasury, or the Counsel's delegate, is required with respect to a compromise, there shall be placed on file in the office of the Secretary such opinion".

(b) CONFORMING AMENDMENTS.—Section 7122(b) is amended by striking the second and third sentences.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offers-in-compromise submitted or pending on or after the date of the enactment of this Act.

SEC. 105. AUTHORIZATION FOR IRS TO REQUIRE INCREASED ELECTRONIC FILING OF RETURNS PREPARED BY PAID RETURN PREPARERS.

(a) IN GENERAL.—Section 6011(e) (relating to regulations requiring returns on magnetic media, etc.) is amended—

(1) by striking the second sentence in paragraph (1), and

(2) by striking "250" in paragraph (2)(A) and inserting "5".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 106. THRESHOLD ON TOLLING OF STATUTE OF LIMITATIONS DURING REVIEW BY TAXPAYER ADVOCATE SERVICE.

(a) IN GENERAL.—Section 7811(d)(1) (relating to suspension of running of period of limitation) is amended by inserting after "such application," the following: "but only if the date of such decision is at least 7 days after the date of the taxpayer's application".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to applications filed after the date of the enactment of this Act.

SEC. 107. INCREASE IN PENALTY FOR BAD CHECKS AND MONEY ORDERS.

(a) IN GENERAL.—Section 6657 (relating to bad checks) is amended—

(1) by striking "$750" and inserting "$1,250", and

(2) by striking "$15" and inserting "$25".

(b) EFFECTIVE DATE.—The amendments made by this section apply to checks or money orders received after the date of the enactment of this Act.

SEC. 108. EXTENSION OF TIME LIMIT FOR CONTESTING IRS LEVY.

(a) EXTENSION OF TIME FOR RETURN OF PROPERTY SUBJECT TO LEVY.—Subsection (b) of section 6343 (relating to return of property) is amended by striking "9 months" and inserting "2 years".

(b) PERIOD OF LIMITATION ON SUITS.—Subsection (c) of section 6532 (relating to suits by persons other than taxpayers) is amended—

(1) in paragraph (1) by striking "9 months" and inserting "2 years", and

(2) in paragraph (2) by striking "9-month" and inserting "2-year".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) levies made after the date of the enactment of this Act, and

(2) levies made on or before such date if the 9-month period has not expired under section 6343(b) of the Internal Revenue Code of 1986 (without regard to this section) as of such date.

SEC. 109. INDIVIDUALS HELD HARMLESS ON IMPROPER LEVY ON INDIVIDUAL RETIREMENT PLAN.

(a) IN GENERAL.—Section 6343 (relating to authority to release levy and return property) is amended by adding at the end the following new subsection:

"(f) INDIVIDUALS HELD HARMLESS ON WRONGFUL LEVY, ETC. ON INDIVIDUAL RETIREMENT PLAN.—

"(1) IN GENERAL.—If the Secretary determines that an individual retirement plan has been levied upon in a case to which subsection (b) or (d)(2)(A) applies and an amount is returned to the individual who is the beneficiary of such plan, the individual may deposit an amount equal to the sum of—

"(A) the amount of money returned by the Secretary on account of such levy, and

"(B) interest paid under subsection (c) on such amount of money,

into an individual retirement plan (other than an endowment contract) to which a rollover from the plan levied upon is permitted.

"(2) TREATMENT AS ROLLOVER.—The distribution on account of the levy and any deposit under paragraph (1) with respect to such distribution shall be treated for purposes of this title as if such distribution and deposit were part of a rollover described in section 408(d)(3)(A)(i); except that—

"(A) interest paid under subsection (c) shall be treated as part of such distribution and as not includible in gross income,

"(B) the 60-day requirement in such section shall be treated as met if the deposit is made not later than the 60th day after the day on which the individual receives an amount under paragraph (1) from the Secretary, and

"(C) such deposit shall not be taken into account under section 408(d)(3)(B).

"(3) REFUND, ETC., OF INCOME TAX ON LEVY.—If any amount is includible in gross income for a taxable year by reason of a levy referred to in paragraph (1) and any portion of such amount is treated as a rollover under paragraph (2), any tax imposed by chapter 1 on such portion shall not be assessed, and if assessed shall be abated, and if collected shall be credited or refunded as an overpayment made on the due date for filing the return of tax for such taxable year.

"(4) INTEREST.—Notwithstanding subsection (d), interest shall be allowed under subsection (c) in a case in which the Secretary makes a determination described in subsection (d)(2)(A) with respect to a levy upon an individual retirement plan.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid under subsections (b), (c), and (d)(2)(A) of section 6343 of the Internal Revenue Code of 1986 after December 31, 2004.

SEC. 110. AUTHORIZATION FOR FINANCIAL MANAGEMENT SERVICE RETENTION OF TRANSACTION FEES FROM LEVIED AMOUNTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Financial Management Service may charge the Internal Revenue Service, and the Internal Revenue Service may pay the Financial Management Service, a fee sufficient to cover the full cost of implementing a continuous levy program under subsection (h) of section 6331 of the Internal Revenue Code of 1986. Any such fee shall be based on actual levies made and shall be collected by the Financial Management Service by the retention of a portion of amounts collected by levy pursuant to that subsection. Amounts received by the Financial Management Service as fees under that subsection shall be deposited into the account of the Department of the Treasury under section 3711(g)(7) of title 31, United States Code, and shall be collected and accounted for in accordance with the provisions of that section. The amount credited against the taxpayer's liability on account of the continuous levy shall be the amount levied, without reduction for the amount paid to the Financial Management Service as a fee.

(b) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this Act.

SEC. 111. ELIMINATION OF RESTRICTION ON OFFSETTING REFUNDS FROM FORMER RESIDENTS.

(a) IN GENERAL.—Section 6402(e) (relating to collection of past-due, legally enforceable State income tax obligations) is amended by striking paragraph (2) and by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (2), (3), (4), (5), and (6), respectively.

(b) CLARIFICATION OF DISCLOSURE AUTHORITY.—Section 6103(l)(10) (relating to disclosure of certain information to agencies requesting a reduction under subsection (c), (d), or (e) or section 6402) is amended—

(1) by striking ", (d), or (e)" each place it appears and inserting "or (d)", and

(2) by striking ", (d), OR (e)" in the heading and inserting "OR (d)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle B—Processing and Personnel

SEC. 121. INFORMATION REGARDING STATUTE OF LIMITATIONS.

The Secretary of the Treasury or the Secretary's delegate shall—

(1) as soon as practicable but not later than 180 days after the date of the enactment of this Act, revise the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1), and

(2) for taxable years beginning after December 31, 2004, revise any instructions booklet accompanying a general income tax return form (including forms 1040, 1040A, 1040EZ, and any similar or successor forms relating thereto),

to provide for an explanation of the limitations imposed by section 6511 of the Internal Revenue Code of 1986 on credits and refunds, and the consequences under such section 6511 of the failure to file a return of tax.

SEC. 122. ANNUAL REPORT ON IRS PERFORMANCE MEASURES.

(a) IN GENERAL.—Section 7803(a) (relating to Commissioner of Internal Revenue) is amended by adding at the end the following new paragraph:

"(4) ANNUAL REPORT ON IRS PERFORMANCE MEASURES.—Not later than December 31 of each calendar year, the Commissioner shall report to Congress and the Oversight Board on performance goals and projections for the 5-fiscal-year period beginning with the fiscal year ending in such calendar year against which to measure the performance of the Internal Revenue Service in the areas of the public rating of the Internal Revenue Service, customer service, compliance, and management initiatives. The report shall include the long-term performance goal for each measurement and a brief narrative explaining how the Commissioner plans to meet each goal. For each performance goal, the report shall include comparisons between the projected performance level and actual performance level. For each performance measurement, the report shall include a volume projection for such period. If the Internal Revenue Service fails to achieve one of its goals, the report shall explain why. The report shall also include data and a narrative regarding the actual and projected level of the workload and resources of the Internal Revenue Service for such 5-year period.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to reports for fiscal year 2004 and thereafter.

SEC. 123. DISCLOSURE OF TAX INFORMATION TO FACILITATE COMBINED EMPLOYMENT TAX REPORTING.

(a) IN GENERAL.—Paragraph (5) of section 6103(d) (relating to disclosure to State tax officials and State and local law enforcement agencies) is amended to read as follows:

"(5) DISCLOSURE FOR COMBINED EMPLOYMENT TAX REPORTING.—The Secretary shall disclose taxpayer identity information and signatures to any agency, body, or commission of any State for the purpose of carrying out with such agency, body, or commission a combined Federal and State employment tax reporting program approved by the Secretary. Subsections (a)(2) and (p)(4) and sections 7213 and 7213A shall not apply with respect to disclosures or inspections made pursuant to this paragraph.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 124. EXTENSION OF DECLARATORY JUDGMENT PROCEDURES TO NON-501(c)(3) TAX-EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Paragraph (1) of section 7428(a) (relating to creation of remedy) is amended—

(1) in subparagraph (B) by inserting after "509(a))" the following: "or as a private operating foundation (as defined in section 4942(j)(3))"; and

(2) by amending subparagraph (C) to read as follows:

"(C) with respect to the initial qualification or continuing qualification of an organization as an organization described in section 501(c) (other than paragraph (3)) or 501(d) which is exempt from tax under section 501(a), or".

(b) COURT JURISDICTION.—Subsection (a) of section 7428 is amended in the material following paragraph (2) by striking "United States Tax Court, the United States Claims Court, or the district court of the United States for the District of Columbia" and inserting the following: "United States Tax Court (in the case of any such determination or failure) or the United States Claims Court or the district court of the United States for the District of Columbia (in the case of a determination or failure with respect to an issue referred to in subparagraph (A) or (B) of paragraph (1)),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to pleadings filed with respect to determinations (or requests for determinations) made after December 31, 2004.

SEC. 125. AMENDMENT TO TREASURY AUCTION REFORMS.

(a) IN GENERAL.—Clause (i) of section 202(c)(4)(B) of the Government Securities Act Amendments of 1993 (31 U.S.C. 3121 note) is amended by inserting before the semicolon "(or, if earlier, at the time the Secretary releases the minutes of the meeting in accordance with paragraph (2))".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to meetings held after the date of the enactment of this Act.

SEC. 126. REVISIONS RELATING TO TERMINATION OF EMPLOYMENT OF IRS EMPLOYEES FOR MISCONDUCT.

(a) IN GENERAL.—Subchapter A of chapter 80 (relating to application of internal revenue laws) is amended by inserting after section 7804 the following new section:

"SEC. 7804A. TERMINATION OF EMPLOYMENT FOR MISCONDUCT.

"(a) IN GENERAL.—Subject to subsection (c), the Commissioner shall terminate the employment of any employee of the Internal Revenue Service if there is a final administrative or judicial determination that such employee committed any act or omission described under subsection (b) in the performance of the employee's official duties. Such termination shall be a removal for cause on charges of misconduct.

"(b) Acts or Omissions.—The acts or omissions described under this subsection are—

"(1) willful failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets,

"(2) providing a false statement under oath with respect to a material matter involving a taxpayer or taxpayer representative,

"(3) with respect to a taxpayer or taxpayer representative, the violation of—

"(A) any right under the Constitution of the United States, or

"(B) any civil right established under—

"(i) title VI or VII of the Civil Rights Act of 1964,

"(ii) title IX of the Education Amendments of 1972,

"(iii) the Age Discrimination in Employment Act of 1967,

"(iv) the Age Discrimination Act of 1975,

"(v) section 501 or 504 of the Rehabilitation Act of 1973, or

"(vi) title I of the Americans with Disabilities Act of 1990,

"(4) falsifying or destroying documents to conceal mistakes made by any employee with respect to a matter involving a taxpayer or taxpayer representative,

"(5) assault or battery on a taxpayer or taxpayer representative, but only if there is a criminal conviction, or a final judgment by a court in a civil case, with respect to the assault or battery,

"(6) violations of this title, Department of the Treasury regulations, or policies of the Internal Revenue Service (including the Internal Revenue Manual) for the purpose of retaliating against, or harassing, a taxpayer or taxpayer representative,

"(7) willful misuse of the provisions of section 6103 for the purpose of concealing information from a congressional inquiry,

"(8) willful failure to file any return of tax required under this title on or before the date prescribed therefor (including any extensions) when a tax is due and owing, unless such failure is due to reasonable cause and not due to willful neglect,

"(9) willful understatement of Federal tax liability, unless such understatement is due to reasonable cause and not due to willful neglect, and

"(10) threatening to audit a taxpayer for the purpose of extracting personal gain or benefit.

"(c) Determinations of Commissioner.—

"(1) In general.—The Commissioner may take a personnel action other than termination for an act or omission described under subsection (b).

"(2) Discretion.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may not be delegated to any other officer. The Commissioner, in the Commissioner's sole discretion, may establish a procedure which will be used to determine whether an individual should be referred to the Commissioner for a determination by the Commissioner under paragraph (1).

"(3) No appeal.—Any determination of the Commissioner under this subsection may not be appealed in any administrative or judicial proceeding.

"(d) Definition.—For the purposes of the provisions described in clauses (i), (ii), and (iv) of subsection (b)(3)(B), references to a program or activity regarding Federal financial assistance or an education program or activity receiving Federal financial assistance shall include any program or activity conducted by the Internal Revenue Service for a taxpayer.".

(b) Clerical Amendment.—The table of sections for chapter 80 is amended by inserting after the item relating to section 7804 the following new item:

"Sec. 7804A. Termination of employment for misconduct.".

(c) Repeal of Superseded Section.—Section 1203 of the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105–206; 112 Stat. 720) is repealed.

(d) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 127. EXPANSION OF IRS OVERSIGHT BOARD AUTHORITY.

(a) Approval With Respect to Senior Executives.—Section 7802(d)(3)(B) (relating to management) is amended by inserting "and approve" after "review".

(b) Reports.—

(1) Budget request.—Section 7802(d) (relating to specific responsibilities) is amended—

(A) by inserting "with detailed analysis" after "budget request" in paragraph (4)(B), and

(B) by inserting "without any additional review or comment from the Commissioner, the Secretary, any other officer or employee of the Department of the Treasury, or the Office of Management and Budget" before "to the President" in the last sentence thereof.

(2) Date of submission of annual report.—Section 7802(f)(3)(A) (relating to annual reports) is amended by striking "The Oversight Board shall each year report" and insert "Not later than March 1 of each calendar year, the Oversight Board shall report".

(c) Continuity in Office.—Section 7802(b)(2) (relating to qualifications and terms) is amended by adding at the end the following new subparagraph:

"(E) Continuation in office.—Any member whose term expires shall serve until the earlier of the date on which the member's successor takes office or the date which is 1 year after the date of the expiration of the member's term.

(d) Access to Health Benefits.—Section 7802(e) (relating to Board personnel matters) is amended by adding at the end the following new paragraph:

"(5) Members access to FEHBP.—Each member of the Oversight Board who—

"(A) is described in subsection (b)(1)(A), or

"(B) is described in subsection (b)(1)(D) and is not otherwise a Federal officer or employee,

shall be considered an employee solely for purposes of chapter 89 of title 5, United States Code.".

(e) Director of Internal Revenue Service Oversight Board.—Subsection (e) of section 7802, as amended by subsection (d), is amended by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) Director.—The Chairperson of the Oversight Board shall, without regard to the provisions of title 5, United Stated Code, governing appointments in the competitive service, appoint a Director for the Oversight Board. The Director shall be paid at the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code.".

(f) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 128. IRS OVERSIGHT BOARD APPROVAL OF USE OF CRITICAL PAY AUTHORITY.

(a) In General.—Section 7802(d)(3) (relating to management) is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting "; and", and by adding at the end the following new subparagraph:

"(D) review and approve the Commissioner's use of critical pay authority under section 9502 of title 5, United States Code, and streamlined critical pay authority under section 9503 of such title.".

(b) Effective Date.—The amendments made by this section shall apply to personnel hired after the date of the enactment of this Act.

SEC. 129. LOW-INCOME TAXPAYER CLINICS.

(a) Grants for Return Preparation Clinics.—

(1) In general.—Chapter 77 (relating to miscellaneous provisions) is amended by inserting after section 7526 the following new section:

"SEC. 7526A. RETURN PREPARATION CLINICS FOR LOW-INCOME TAXPAYERS.

"(a) In General.—The Secretary may, subject to the availability of appropriated funds, make grants to provide matching funds for the development, expansion, or continuation of qualified return preparation clinics.

"(b) Definitions.—For purposes of this section—

"(1) Qualified return preparation clinic.—

"(A) In general.—The term 'qualified return preparation clinic' means a clinic which—

"(i) does not charge more than a nominal fee for its services (except for reimbursement of actual costs incurred), and

"(ii) operates programs which assist low-income taxpayers in preparing and filing their Federal income tax returns, including schedules reporting sole proprietorship or farm income.

"(B) Assistance to low-income taxpayers.—A clinic is treated as assisting low-income taxpayers under subparagraph (A)(ii) if at least 90 percent of the taxpayers assisted by the clinic have incomes which do not exceed 250 percent of the poverty level, as determined in accordance with criteria established by the Director of the Office of Management and Budget.

"(2) Clinic.—The term 'clinic' includes—

"(A) a clinical program at an eligible educational institution (as defined in section 529(e)(5)) which satisfies the requirements of paragraph (1) through student assistance of taxpayers in return preparation and filing, and

"(B) an organization described in section 501(c) and exempt from tax under section 501(a) which satisfies the requirements of paragraph (1).

"(c) Special Rules and Limitations.—

"(1) Aggregate limitation.—Unless otherwise provided by specific appropriation, the Secretary shall not allocate more than $10,000,000 per year (exclusive of costs of administering the program) to grants under this section.

"(2) Other applicable rules.—Rules similar to the rules under paragraphs (2) through (7) of section 7526(c) shall apply with respect to the awarding of grants to qualified return preparation clinics.".

(2) Clerical amendment.—The table of sections for chapter 77 is amended by inserting after the item relating to section 7526 the following new item:

"Sec. 7526A. Return preparation clinics for low-income taxpayers.".

(b) Grants for Taxpayer Representation and Assistance Clinics.—

(1) Increase in authorized grants.—Section 7526(c)(1) (relating to aggregate limitation) is amended by striking "$6,000,000" and inserting "$10,000,000".

(2) Use of grants for overhead expenses prohibited.—

(A) In general.—Section 7526(c) (relating to special rules and limitations) is amended by adding at the end the following new paragraph:

"(6) Use of grants for overhead expenses prohibited.—No grant made under this section may be used for the overhead expenses of any clinic or of any institution sponsoring such clinic.".

(B) Conforming amendments.—Section 7526(c)(5) is amended—

(i) by inserting "qualified" before "low-income", and

(ii) by striking the last sentence.

(3) PROMOTION OF CLINICS.—Section 7526(c), as amended by paragraph (2), is amended by adding at the end the following new paragraph:

"(7) PROMOTION OF CLINICS.—The Secretary is authorized to promote the benefits of and encourage the use of low-income taxpayer clinics through the use of mass communications, referrals, and other means.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to grants made after the date of the enactment of this Act.

SEC. 130. TAXPAYER ACCESS TO FINANCIAL INSTITUTIONS.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary is authorized to award demonstration project grants (including multi-year grants) to eligible entities to provide tax preparation services and assistance in connection with establishing an account in a federally insured depository institution for individuals that currently do not have such an account.

(b) ELIGIBLE ENTITIES.—

(1) IN GENERAL.—An entity is eligible to receive a grant under this section if such an entity is—

(A) an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code,

(B) a federally insured depository institution,

(C) an agency of a State or local government,

(D) a community development financial institution,

(E) an Indian tribal organization,

(F) an Alaska Native Corporation,

(G) a Native Hawaiian organization,

(H) a labor organization, or

(I) a partnership comprised of 1 or more of the entities described in the preceding subparagraphs.

(2) DEFINITIONS.—For purposes of this section—

(A) FEDERALLY INSURED DEPOSITORY INSTITUTION.—The term "federally insured depository institution" means any insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) and any insured credit union (as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752)).

(B) COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—The term "community development financial institution" means any organization that has been certified as such pursuant to section 1805.201 of title 12, Code of Federal Regulations.

(C) ALASKA NATIVE CORPORATION.—The term "Alaska Native Corporation" has the same meaning as the term "Native Corporation" under section 3(m) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m)).

(D) NATIVE HAWAIIAN ORGANIZATION.—The term "Native Hawaiian organization" means any organization that—

(i) serves and represents the interests of Native Hawaiians, and

(ii) has as a primary and stated purpose the provision of services to Native Hawaiians.

(E) LABOR ORGANIZATION.—The term "labor organization" means an organization—

(i) in which employees participate,

(ii) which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work, and

(iii) which is described in section 501(c)(5).

(c) APPLICATION.—An eligible entity desiring a grant under this section shall submit an application to the Secretary in such form and containing such information as the Secretary may require.

(d) LIMITATION ON ADMINISTRATIVE COSTS.—A recipient of a grant under this section may not use more than 6 percent of the total amount of such grant in any fiscal year for the administrative costs of carrying out the programs funded by such grant in such fiscal year.

(e) EVALUATION AND REPORT.—For each fiscal year in which a grant is awarded under this section, the Secretary shall submit a report to Congress containing a description of the activities funded, amounts distributed, and measurable results, as appropriate and available.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary, for the grant program described in this section, $10,000,000, or such additional amounts as deemed necessary, to remain available until expended.

(g) REGULATIONS.—The Secretary is authorized to promulgate regulations to implement and administer the grant program under this section.

SEC. 131. ENROLLED AGENTS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7529. ENROLLED AGENTS.

"(a) IN GENERAL.—The Secretary may prescribe such regulations as may be necessary to regulate the conduct of enrolled agents in regards to their practice before the Internal Revenue Service.

"(b) USE OF CREDENTIALS.—Any enrolled agents properly licensed to practice as required under rules promulgated under section (a) herein shall be allowed to use the credentials or designation as 'enrolled agent', 'EA', or 'E.A.'.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:

"Sec. 7529. Enrolled agents.".

(c) PRIOR REGULATIONS.—The authorization to prescribe regulations under the amendments made by this section may not be construed to have any effect on part 10 of title 31, Code of Federal Regulations, or any other related Federal rule or regulation issued before the date of the enactment of this Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 132. ESTABLISHMENT OF DISASTER RESPONSE TEAM.

(a) IN GENERAL.—Section 7803 (relating to Commissioner of Internal Revenue; other officials) is amended by adding at the end the following new subsection:

"(e) DISASTER RESPONSE TEAM.—

"(1) RESPONSE TO DISASTERS.—The Secretary shall—

"(A) establish as a permanent office in the national office of the Internal Revenue Service a disaster response team composed of members, who in addition to their regular responsibilities, shall assist taxpayers in clarifying and resolving Federal tax matters associated with or resulting from any Presidentially declared disaster (as defined in section 1033(h)(3)), and

"(B) respond to requests by such taxpayers for filing extensions and technical guidance expeditiously.

"(2) PERSONNEL OF DISASTER RESPONSE TEAM.—The disaster response team shall be composed of—

"(A) personnel from the Office of the Taxpayer Advocate, and

"(B) personnel from the national office of the Internal Revenue Service with expertise in individual, corporate, and small business tax matters.

"(3) COORDINATION WITH FEMA.—The disaster response team shall operate in coordination with the Director of the Federal Emergency Management Agency.

"(4) TOLL-FREE TELEPHONE NUMBER.—The Commissioner of Internal Revenue shall establish and maintain a toll-free telephone number for taxpayers to use to receive assistance from the disaster response team.

"(5) INTERNET WEBPAGE SITE.—The Commissioner of Internal Revenue shall establish and maintain a site on the Internet webpage of the Internal Revenue Service for information for taxpayers described in paragraph (1)(A).".

(b) FEMA.—The Director of the Federal Emergency Management Agency shall work in coordination with the disaster response team established under section 7803(e) of the Internal Revenue Code of 1986 to provide timely assistance to disaster victims described in such section, including—

(1) informing the disaster response team regarding any tax-related problems or issues arising in connection with the disaster,

(2) providing the toll-free telephone number established and maintained by the Internal Revenue Service for the disaster victims in all materials provided to such victims, and

(3) providing the information described in section 7803(e)(5) of such Code on the Internet webpage of the Federal Emergency Management Agency or through a link on such webpage to the Internet webpage site of the Internal Revenue Service described in such section.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 133. STUDY OF ACCELERATED TAX REFUNDS.

(a) STUDY.—The Secretary of the Treasury shall study the implementation of an accelerated refund program for taxpayers who—

(1) maintain the same filing characteristics from year to year, and

(2) elect the direct deposit option for any refund under the program.

(b) REPORT.—Not later than the date which is 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall transmit a report of the study described in subsection (a), including recommendations, to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 134. STUDY ON CLARIFYING RECORD-KEEPING RESPONSIBILITIES.

(a) STUDY.—The Secretary of the Treasury shall study—

(1) the scope of the records required to be maintained by taxpayers under section 6001 of the Internal Revenue Code of 1986,

(2) the utility of requiring taxpayers to maintain all records indefinitely,

(3) such requirement given the necessity to upgrade technological storage for outdated records,

(4) the number of negotiated records retention agreements requested by taxpayers and the number entered into by the Internal Revenue Service, and

(5) proposals regarding taxpayer record-keeping.

(b) REPORT.—Not later than the date which is 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall transmit a report of the study described in subsection (a), including recommendations, to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 135. STREAMLINE REPORTING PROCESS FOR NATIONAL TAXPAYER ADVOCATE.

(a) ONE ANNUAL REPORT.—Subparagraph (B) of section 7803(c)(2) (relating to functions of Office) is amended—

(1) by striking all matter preceding subclause (I) of clause (ii) and inserting the following:

"(B) ANNUAL REPORT.—

"(i) IN GENERAL.—Not later than December 31 of each calendar year, the National Taxpayer Advocate shall report to the Committee of Ways and Means of the House of Representatives and *the Committee on Finance of the Senate on the objectives of the Office of the Taxpayer of Advocate for the fiscal year beginning in such calendar year and the activities of such Office during the fiscal year ending during such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and shall—",*

(2) by striking "clause (ii)" in clause (iv) and inserting "clause (i)", and

(3) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(b) ADDITIONAL REPORTS.—Section 7803(c)(2)(C) (relating to other responsibilities) is amended by striking "and" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting "; and", and by adding at the end the following new clause:

"(v) at the discretion of the National Taxpayer Advocate, report at any time to the Committee of Ways and Means of the House of Representatives and the Committee on Finance of the Senate on significant issues affecting taxpayer rights.".

(c) EFFECTIVE DATES.—

(1) ANNUAL REPORTS.—The amendments made by subsection (a) shall apply to reports in calendar year 2005 and thereafter.

(2) ADDITIONAL REPORTS.—The amendments made by subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 136. IRS FREE FILE PROGRAM.

(a) IN GENERAL.—The Commissioner of Internal Revenue shall require that a taxpayer must provide an affirmative consent before such taxpayer may be solicited with respect to any product or service by an entity participating in the Internal Revenue Service Free File program. Any request for such consent must be prominently displayed and clearly written, in large print, on any material relating to such program.

(b) EFFECTIVE DATE.—This section shall take effect with respect to returns filed after December 31, 2004.

SEC. 137. MODIFICATION OF TIGTA REPORTING REQUIREMENTS.

(a) IN GENERAL.—Paragraph (1) of section 7803(d) (relating to additional duties of the Treasury Inspector General for Tax Administration) is amended—

(1) by striking "ANNUAL" in the heading and inserting "BIENNIAL",

(2) by inserting "every 2 years (beginning in 2004)" after "one of the semiannual reports" in the matter preceding subparagraph (A),

(3) by striking clause (ii) of subparagraph (A),

(4) by redesignating clauses (iii), (iv), and (v) of subparagraph (A) as clauses (ii), (iii), and (iv) of subparagraph (A), respectively,

(5) by striking subparagraph (B),

(6) by striking "and" at the end of subparagraph (F),

(7) by redesignating subparagraphs (C), (D), (E), and (F) as subparagraphs (B), (C), (D), and (E), respectively, and

(8) by striking subparagraph (G) and inserting the following new subparagraphs:

"(F) the number of employee misconduct and taxpayer abuse allegations received by the Internal Revenue Service or the Inspector General during the period from taxpayers, Internal Revenue Service employees, and other sources; and

"(G) with respect to allegations of serious employee misconduct—

"(i) a summary of the status of such allegations; and

"(ii) a summary of the disposition of such allegations, including the outcome of any Department of Justice action and any monies paid as a settlement of such allegations.".

(b) CONFORMING AMENDMENTS.—Section 7803(d) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 138. STUDY OF IRS ACCOUNTS RECEIVABLE.

(a) STUDY.—The Secretary of the Treasury shall conduct a study of the provisions of the Internal Revenue Code of 1986, and the application of such provisions, regarding collection procedures to determine if impediments exist to the efficient and timely collection of tax debts. Such study shall include an examination of the accounts receivable inventory of the Internal Revenue Service.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, including the findings of the study described in subsection (a) and such legislative or administrative recommendations as the Secretary deems appropriate to increase the efficient and timely collection of tax debts.

SEC. 139. ELECTRONIC COMMERCE ADVISORY GROUP.

(a) IN GENERAL.—Section 2001(b)(2) of the Internal Revenue Service Restructuring and Reform Act of 1998 is amended by inserting ", and at least 2 representatives from the consumer advocate community" after "industry".

(b) APPLICATION OF AMENDMENT.—The initial appointments in accordance with the amendment made by this section shall be made not later than the date which is 180 days after the date of the enactment of this Act.

SEC. 140. STUDY ON MODIFICATIONS TO SCHEDULES L AND M–1.

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary of the Treasury shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on proposals to modify tax schedules L and M–1 of Form 1120 to require the disclosure of additional information, such as the items described in subsection (b).

(b) ITEMS OF DISCLOSURE.—The items described in this subsection is as follows:

(1) The parent company names and identification numbers for both tax and book purposes.

(2) An asset reconciliation of consolidated book assets on the public financial disclosures with the consolidated tax return.

(3) Worldwide net income from public financial disclosures.

(4) The components of tax expense presently recorded in financial statement tax footnotes.

(5) The reconciliation of the book income of entities included in the consolidated financial statement with book income included in the consolidated tax return.

(6) The adjustment for book income from domestic and foreign entities excluded from financial reporting but included for tax reconciliation.

(7) The book income of United States entities included in the United States consolidated return.

(8) Taxable income due to actual or deemed dividends from foreign subsidiaries.

(9) A reconciliation which should reflect pretax book income of United States consolidated tax group plus taxable deemed or actual foreign repatriations.

(10) The differences in the reporting of income and expense between book and tax reporting, including specific reporting on pension expense, stock options, and the amortization of goodwill.

(11) Other reconciliation items in a consistent manner among all entities.

(c) PUBLIC AVAILABILITY OF SPECIFIED INFORMATION.—Not later than 1 year after the date of the enactment of this Act, the Securities and Exchange Commission and the Commissioner of Internal Revenue shall each report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on proposals to expand the public availability and clarity of information relating to book and tax differences and Federal tax liability with respect to corporations.

SEC. 141. REGULATION OF FEDERAL INCOME TAX RETURN PREPARERS, REFUND ANTICIPATION LOAN PROVIDERS, AND PAYROLL AGENTS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 7530. FEDERAL INCOME TAX RETURN PREPARERS, REFUND ANTICIPATION LOAN PROVIDERS, AND PAYROLL AGENTS.

"(a) REGISTRATION.—

"(1) IN GENERAL.—The Secretary shall prescribe such regulations as may be necessary—

"(A) to require the registration of Federal income tax return preparers, refund anticipation loan providers, and payroll agents with the Secretary or the designee of the Secretary,

"(B) to prohibit the payment of a refund of tax to a Federal income tax return preparer or refund anticipation loan provider that is the result of a tax return which is prepared by such preparer or provider which does not include the preparer's or provider's registration number, and

"(C) to require the posting of a resonable bond by each registered payroll agent.

"(2) NO DISCIPLINARY ACTION.—The regulations under paragraph (1) shall require that an applicant for registration must not have demonstrated any conduct that would warrant disciplinary action under part 10 of title 31, Code of Federal Regulations.

"(3) BURDEN OF REGISTRATION.—In promulgating the regulations under paragraph (1), the Secretary shall minimize the burden and cost on the registrant.

"(b) EXAMINATION.—In promulgating the regulations under subsection (a)—

"(1) IN GENERAL.—The Secretary shall develop a series of examinations designed to test the technical knowledge and competency of each applicant for registration to prepare Federal tax returns, including an examination testing knowledge of individual income tax return preparation, including the earned income tax credit under section 32.

"(2) INITIAL EXAMINATION.—The Secretary shall require that each applicant for registration pass an initial examination testing the applicant's technical knowledge and competency to prepare individual and business Federal income tax returns.

"(c) RULES OF CONDUCT.—All registrants shall be subject to rules of conduct that are consistent with the rules that govern any federally authorized tax practitioner within the meaning of section 7525(a)(3)(A).

"(d) DISCLOSURE OF INFORMATION.—The Secretary shall provide guidance on the manner and timing of disclosure to taxpayers of information relating to fees and interest rates imposed in connection with loans made to taxpayers by refund anticipation loan providers.

"(e) ANNUAL RENEWAL OF REGISTRATION.—

"(1) IN GENERAL.—The regulations under subsection (a) shall require an annual renewal of registration and shall set forth the manner in which a registered Federal income tax return preparer, refund anticipation loan provider, or payroll agent must renew such registration.

"(2) ANNUAL EXAMINATIONS.—As part of the annual registration, such regulations shall require that each registrant pass an annual refresher examination (including tax law updates).

"(f) FEES.—

"(1) IN GENERAL.—The Secretary may require the payment of reasonable fees for registration and for renewal of registration under the regulations promulgated under subsection (a).

"(2) PURPOSE OF FEES.—Any fees described in paragraph (1) shall be available without fiscal year limitation to the Secretary for the purpose of reimbursement of the costs of administering the requirements of the regulations.

"(g) FEDERAL INCOME TAX RETURN PREPARER.—For purposes of this section—

"(1) IN GENERAL.—The term 'Federal income tax return preparer' means any individual who is an income tax return preparer (within the meaning of section 7701(a)(36)) who prepares not less than 5 returns of tax imposed by subtitle A or claims for refunds of tax imposed by subtitle A per taxable year.

"(2) EXCEPTION.—Such term shall not include a federally authorized tax practitioner (as defined in section 7525(a)(3)(A).

"(h) REFUND ANTICIPATION LOAN PROVIDER.—For purposes of this section, the term 'refund anticipation loan provider' means a person who makes a loan of money or of any other thing of value to a taxpayer in connection with the taxpayer's anticipated receipt of a Federal tax refund.".

(b) PROHIBITION.—

(1) IN GENERAL.—Section 6695 (relating to other assessable penalties with respect to the preparation of income tax returns for other persons) is amended by adding at the end the following new subsection:

"(h) ACTIONS ON A TAXPAYER'S BEHALF BY A NON-REGISTERED PERSON.—Any person not registered pursuant to the regulations promulgated by the Secretary under section 7530 who—

"(1) prepares a tax return for another taxpayer, or

"(2) provides a loan of money or of any other thing of value to a taxpayer in connection with the taxpayer's anticipated receipt of a Federal tax refund,

shall be subject to a $500 penalty for each incident of noncompliance.".

(2) USE OF PENALTIES.—There is authorized to be appropriated and is appropriated to the Secretary of the Treasury for each fiscal year for the administration of the requirements of the regulations promulgated under section 7530 of the Internal Revenue Code of 1986 an amount equal to the penalties imposed under section 6695(h) of such Code for the preceding fiscal year.

(c) COORDINATION WITH SECTION 6060(a).—The Secretary of the Treasury shall coordinate the registration required under the regulations promulgated under section 7530 of the Internal Revenue Code of 1986 with the return requirements of section 6060 of such Code.

(d) PUBLIC AWARENESS CAMPAIGN.—

(1) IN GENERAL.—The Secretary of the Treasury shall conduct a public information and consumer education campaign, utilizing paid advertising, to inform the public of the requirements that Federal income tax return preparers (as defined in section 7530(g) of the Internal Revenue Code of 1986) must sign the return prepared for a fee and display notice of their registration under the regulations promulgated under section 7530 of such Code.

(2) PUBLIC LIST.—The Secretary of the Treasury shall maintain a public list (in print and electronic media, including Internet-based) of Federal income tax return preparers (as so defined) who are so registered and whose registration has been revoked.

(3) NOTIFICATION.—The Secretary of the Treasury shall notify any taxpayer if such taxpayer's return was prepared by such an unregistered Federal income tax return preparer .

(e) ADDITIONAL FUNDS AVAILABLE FOR COMPLIANCE ACTIVITIES.—The Secretary of the Treasury may use any specifically appropriated funds for earned income tax credit compliance to improve and expand enforcement of Federal income tax preparers under the regulations promulgated under section 7530 of the Internal Revenue Code of 1986.

(f) CLERICAL AMENDMENT.—The table of sections for chapter 77, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 7530. Federal income tax return preparers and refund anticipation loan providers.".

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 142. JOINT TASK FORCE ON OFFERS-IN-COMPROMISE.

(a) IN GENERAL.—The Secretary of the Treasury shall establish a joint task force—

(1) to review the Internal Revenue Service's determinations with respect to offers which raise equitable, public policy, or economic hardship grounds for compromise of a tax liability under section 7122 of the Internal Revenue Code of 1986,

(2) to review the extent to which the Internal Revenue Service has used its authority to resolve longstanding cases by forgoing penalties and interest which have accumulated as a result of delay in determining the taxpayer's liability,

(3) to provide recommendations as to whether the Internal Revenue Service's evaluation of offers-in-compromise should include—

(A) the taxpayer's compliance history,

(B) errors by the Internal Revenue Service with respect to the underlying tax,

(C) wrongful acts by a third party which gave rise to the liability, and

(D) whether the taxpayer has made payments on the liability, and

(4) to annually report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives (beginning in 2005) regarding such review and recommendations.

(b) MEMBERS OF JOINT TASK FORCE.—The membership of the joint task force under subsection (a) shall consist of 1 representative each from the Department of the Treasury, the Internal Revenue Service Oversight Board, the Office of the Chief Counsel for the Internal Revenue Service, the Office of the Taxpayer Advocate, the Office of Appeals, and the division of the Internal Revenue Service charged with operating the offer-in-compromise program.

(c) REPORT OF NATIONAL TAXPAYER ADVOCATE.—

(1) IN GENERAL.—Clause (i) of section 7803(c)(2)(B) (relating to annual reports), as amended by this Act, is amended by striking "and" at the end of subclause (X), by redesignating subclause (XI) as subclause (XII), and by inserting after subclause (X) the following new subclause:

"(XI) include a list of the factors taxpayers have raised to support their claims for offers-in-compromise relief, the number of such offers submitted, accepted, and rejected, the number of such offers appealed, the period during which review of such offers have remained pending, and the efforts the Internal Revenue Service has made to correctly identify such offers, including the training of employees in identifying and evaluating such offers.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to reports in calendar year 2005 and thereafter.

Subtitle C—Other Provisions

SEC. 151. PENALTY FOR FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) IN GENERAL.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

"(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

"(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

"(B) AMOUNT OF PENALTY.—

"(i) IN GENERAL.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $5,000.

"(ii) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

"(I) such violation was due to reasonable cause, and

"(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

"(C) WILLFUL VIOLATIONS.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

"(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

"(I) $25,000, or

"(II) the amount (not exceeding $100,000) determined under subparagraph (D), and

"(ii) subparagraph (B)(ii) shall not apply.

"(D) AMOUNT.—The amount determined under this subparagraph is—

"(i) in the case of a violation involving a transaction, the amount of the transaction, or

"(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

SEC. 152. REPEAL OF APPLICATION OF BELOW-MARKET LOAN RULES TO AMOUNTS PAID TO CERTAIN CONTINUING CARE FACILITIES.

(a) IN GENERAL.—Section 7872(c)(1) (relating to below-market loans to which section applies) is amended—

(1) by striking subparagraph (F), and

(2) by striking "(C), or (F)" in subparagraph (E) and inserting "or (C)".

(b) FULL EXCEPTION.—Section 7872(g) (relating to exception for certain loans to qualified continuing care facilities) is amended—

(1) by striking "made by a lender to a qualified continuing care facility pursuant to a continuing care contract" in paragraph (1) and inserting "owed by a facility which on the last day of such year is a qualified continuing care facility, if such loan was made pursuant to a continuing care contract and",

(2) by striking "increased personal care services or" in paragraph (3)(C),

(3) by adding at the end of paragraph (3) the following new flush sentence:

"The Secretary shall issue guidance which limits such term to contracts which provide to an individual or individual's spouse only facilities, care, and services described in this paragraph which are customarily offered by continuing care facilities.",

(4) by inserting "independent living unit" after "all of the" in paragraph (4)(A)(ii),

(5) by striking paragraphs (2) and (5),

(6) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively, and

(7) by striking "CERTAIN" in the heading thereof.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after 2004.

SEC. 153. PUBLIC SUPPORT BY INDIAN TRIBAL GOVERNMENTS.

(a) IN GENERAL.—Section 7871(a) (relating to Indian tribal governments treated as States for *certain purposes) is amended by striking "and" at the end of subparagraph (C) of paragraph (6), by striking the period at the end of subparagraph (B) of paragraph (7) and inserting "; and", and by adding at the end the following new paragraph:*

"(8) for purposes of—

"(A) determining support of an organization described in section 170(b)(1)(A)(vi), and

"(B) determining whether an organization is described in paragraph (1) or (2) of section 509(a) for purposes of section 509(a)(3).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to—

(1) support received before, on, or after the date of the enactment of this Act, and

(2) the determination of the status of any organization with respect to any taxable year beginning after such date of enactment.

SEC. 154. PAYROLL AGENTS SUBJECT TO PENALTY FOR FAILURE TO COLLECT AND PAY OVER TAX, OR ATTEMPT TO EVADE OR DEFEAT TAX.

(a) IN GENERAL.—Section 6672(a) is amended by inserting ", including any payroll agent," after "Any person".

(b) PENALTY NOT SUBJECT TO DISCHARGE IN BANKRUPTCY.—Section 6672(a) is amended by adding at the end the following new sentence: "Notwithstanding any other provision of law, no penalty imposed under this section may be discharged in bankruptcy.".

(c) CONSTRUCTION.—The amendment made by subsection (a) shall not be construed to create any inference with respect to the interpretation of section 6672 of the Internal Revenue Code of 1986 as such section was in effect on the day before the date of the enactment of this Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to failures occurring after the date of the enactment of this Act.

TITLE II—REFORM OF PENALTY AND INTEREST

SEC. 201. INDIVIDUAL ESTIMATED TAX.

(a) INCREASE IN EXCEPTION FOR INDIVIDUALS OWING SMALL AMOUNT OF TAX.—Section 6654(e)(1) (relating to exception where tax is small amount) is amended by striking "$1,000" and inserting "$2,000".

(b) COMPUTATION OF ADDITION TO TAX.—Subsections (a) and (b) of section 6654 (relating to failure by individual to pay estimated taxes) are amended to read as follows:

"(a) ADDITION TO THE TAX.—

"(1) IN GENERAL.—Except as otherwise provided in this section, in the case of any underpayment of estimated tax by an individual for a taxable year, there shall be added to the tax under chapters 1 and 2 for the taxable year the amount determined under paragraph (2) for each day of underpayment.

"(2) AMOUNT.—The amount of the addition to tax for any day shall be the product of the underpayment rate established under subsection (b)(2) multiplied by the amount of the underpayment.

"(b) AMOUNT OF UNDERPAYMENT; UNDERPAYMENT RATE.—For purposes of subsection (a)—

"(1) AMOUNT.—The amount of the underpayment on any day shall be the excess of—

"(A) the sum of the required installments for the taxable year the due dates for which are on or before such day, over

"(B) the sum of the amounts (if any) of estimated tax payments made on or before such day on such required installments.

"(2) DETERMINATION OF UNDERPAYMENT RATE.—

"(A) IN GENERAL.—The underpayment rate with respect to any day in an installment underpayment period shall be the underpayment rate established under section 6621 for the first day of the calendar quarter in which such installment underpayment period begins.

"(B) INSTALLMENT UNDERPAYMENT PERIOD.—For purposes of subparagraph (A), the term 'installment underpayment period' means the period beginning on the day after the due date for a required installment and ending on the due date for the subsequent required installment (or in the case of the 4th required installment, the 15th day of the 4th month following the close of a taxable year).

"(C) DAILY RATE.—The rate determined under subparagraph (A) shall be applied on a daily basis and shall be based on the assumption of 365 days in a calendar year.

"(3) TERMINATION OF ESTIMATED TAX UNDERPAYMENT.—No day after the end of the installment underpayment period for the 4th required installment specified in paragraph (2)(B) for a taxable year shall be treated as a day of underpayment with respect to such taxable year.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estimated tax payments made for taxable years beginning after December 31, 2004.

SEC. 202. CORPORATE ESTIMATED TAX.

(a) INCREASE IN SMALL TAX AMOUNT EXCEPTION.—Section 6655(f) (relating to exception where tax is small amount) is amended by striking "$500" and inserting "$1,000".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 203. INCREASE IN LARGE CORPORATION THRESHOLD FOR ESTIMATED TAX PAYMENTS.

(a) IN GENERAL.—Section 6655(g)(2) (defining large corporation) is amended—

(1) by striking "$1,000,000" in subparagraph (A) and inserting "the applicable amount",

(2) by striking "the $1,000,000 amount specified in subparagraph (A)" in subparagraph (B)(ii) and inserting "the applicable amount",

(3) by redesignating subparagraph (B) as subparagraph (C), and

(4) by inserting after subparagraph (A) the following new subparagraph:

"(B) APPLICABLE AMOUNT.—For purposes of this paragraph, the applicable amount is $1,000,000 increased (but not above $1,500,000) by $50,000 for each taxable year beginning after 2004.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 204. ABATEMENT OF INTEREST.

(a) ABATEMENT OF INTEREST FOR PERIODS ATTRIBUTABLE TO ANY UNREASONABLE IRS ERROR OR DELAY.—Section 6404(e)(1) is amended—

(1) by striking "in performing a ministerial or managerial act" in subparagraphs (A) and (B),

(2) by striking "deficiency" in subparagraph (A) and inserting "underpayment of any tax, addition to tax, or penalty imposed by this title", and

(3) by striking "tax described in section 6212(a)" in subparagraph (B) and inserting "tax, addition to tax, or penalty imposed by this title".

(b) ABATEMENT OF INTEREST TO EXTENT INTEREST IS ATTRIBUTABLE TO TAXPAYER RELIANCE ON WRITTEN STATEMENTS OF THE IRS.—Subsection (f) of section 6404 is amended—

(1) in the subsection heading, by striking "PENALTY OR ADDITION" and inserting "INTEREST, PENALTY, OR ADDITION"; and

(2) in paragraph (1) and in subparagraph (B) of paragraph (2), by striking "penalty or addition" and inserting "interest, penalty, or addition".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to interest accruing on or after the date of the enactment of this Act.

SEC. 205. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS.

(a) IN GENERAL.—Subchapter A of chapter 67 (relating to interest on underpayments) is amended by adding at the end the following new section:

"SEC. 6603. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS, ETC.

"(a) AUTHORITY TO MAKE DEPOSITS OTHER THAN AS PAYMENT OF TAX.—A taxpayer may make a cash deposit with the Secretary which may be used by the Secretary to pay any tax imposed under subtitle A or B or chapter 41, 42, 43, or 44 which has not been assessed at the time of the deposit. Such a deposit shall be made in such manner as the Secretary shall prescribe.

"(b) NO INTEREST IMPOSED.—To the extent that such deposit is used by the Secretary to pay tax, for purposes of section 6601 (relating to interest on underpayments), the tax shall be treated as paid when the deposit is made.

"(c) RETURN OF DEPOSIT.—Except in a case where the Secretary determines that collection of tax is in jeopardy, the Secretary shall return to the taxpayer any amount of the deposit (to the extent not used for a payment of tax) which the taxpayer requests in writing.

"(d) PAYMENT OF INTEREST.—

"(1) IN GENERAL.—For purposes of section 6611 (relating to interest on overpayments), a deposit which is returned to a taxpayer shall be treated as a payment of tax for any period to the extent (and only to the extent) attributable to a disputable tax for such period. Under regulations prescribed by the Secretary, rules similar to the rules of section 6611(b)(2) shall apply.

"(2) DISPUTABLE TAX.—

"(A) IN GENERAL.—For purposes of this section, the term 'disputable tax' means the amount of tax specified at the time of the deposit as the taxpayer's reasonable estimate of the maximum amount of any tax attributable to disputable items.

"(B) SAFE HARBOR BASED ON 30-DAY LETTER.—In the case of a taxpayer who has been issued a 30-day letter, the maximum amount of tax under subparagraph (A) shall not be less than the amount of the proposed deficiency specified in such letter.

"(3) OTHER DEFINITIONS.—For purposes of paragraph (2)—

"(A) DISPUTABLE ITEM.—The term 'disputable item' means any item of income, gain, loss, deduction, or credit if the taxpayer—

"(i) has a reasonable basis for its treatment of such item, and

"(ii) reasonably believes that the Secretary also has a reasonable basis for disallowing the taxpayer's treatment of such item.

"(B) 30-DAY LETTER.—The term '30-day letter' means the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals.

"(4) RATE OF INTEREST.—The rate of interest allowable under this subsection shall be the Federal short-term rate determined under section 6621(b), compounded daily.

"(e) USE OF DEPOSITS.—

"(1) PAYMENT OF TAX.—Except as otherwise provided by the taxpayer, deposits shall be treated as used for the payment of tax in the order deposited.

"(2) RETURNS OF DEPOSITS.—Deposits shall be treated as returned to the taxpayer on a last-in, first-out basis.".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 67 is amended by adding at the end the following new item:

"Sec. 6603. Deposits made to suspend running of interest on potential underpayments, etc.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to deposits made after the date which is 1 year after the date of the enactment of this Act.

(2) COORDINATION WITH DEPOSITS MADE UNDER REVENUE PROCEDURE 84–58.—In the case of an amount held by the Secretary of the Treasury or the Secretary's delegate on the date which is 1 year after the date of the enactment of this Act as a deposit in the nature of a cash bond deposit pursuant to Revenue Procedure 84–58, the date that the taxpayer identifies such amount as a deposit made pursuant to section 6603 of the Internal Revenue Code (as added by this Act) shall be treated as the date such amount is deposited for purposes of such section 6603.

SEC. 206. FREEZE OF PROVISIONS REGARDING SUSPENSION OF INTEREST WHERE SECRETARY FAILS TO CONTACT TAXPAYER.

(a) IN GENERAL.—Section 6404(g) (relating to suspension of interest and certain penalties where Secretary fails to contact taxpayer) is amended by striking "1-year period (18-month period in the case of taxable years beginning before January 1, 2004)" both places it appears and inserting "18-month period".

(b) EXCEPTION FOR GROSS MISSTATEMENT.—Section 6404(g)(2) (relating to exceptions) is amended by striking "or" at the end of subparagraph (C), by redesignating subparagraph (D) as subparagraph (E), and by inserting after subparagraph (C) the following new subparagraph:

"(D) any interest, penalty, addition to tax, or additional amount with respect to any gross misstatement; or".

(c) EXCEPTION FOR REPORTABLE AND LISTED TRANSACTIONS.—Section 6404(g)(2) (relating to exceptions), as amended by subsection (b), is amended by striking "or" at the end of subparagraph (D), by redesignating subparagraph (E) as subparagraph (F), and by inserting after subparagraph (D) the following new subparagraph:

"(E) any interest, penalty, addition to tax, or additional amount with respect to any reportable transaction or listed transaction (as defined in 6707A(c)); or".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2003.

(2) EXCEPTION FOR REPORTABLE OR LISTED TRANSACTIONS.—The amendments made by subsection (c) shall apply with respect to interest accruing after May 5, 2004.

SEC. 207. CLARIFICATION OF APPLICATION OF FEDERAL TAX DEPOSIT PENALTY.

Nothing in section 6656 of the Internal Revenue Code of 1986 shall be construed to permit the percentage specified in subsection (b)(1)(A)(iii) thereof to apply other than in a case where the failure is for more than 15 days.

SEC. 208. FRIVOLOUS TAX RETURNS AND SUBMISSIONS.

(a) CIVIL PENALTIES.—Section 6702 is amended to read as follows:

"SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

"(a) CIVIL PENALTY FOR FRIVOLOUS TAX RETURNS.—A person shall pay a penalty of $5,000 if—

"(1) such person files what purports to be a return of a tax imposed by this title but which—

"(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

"(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

"(2) the conduct referred to in paragraph (1)—

"(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(B) reflects a desire to delay or impede the administration of Federal tax laws.

"(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS.—

"(1) IMPOSITION OF PENALTY.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

"(2) SPECIFIED FRIVOLOUS SUBMISSION.—For purposes of this section—

"(A) SPECIFIED FRIVOLOUS SUBMISSION.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

"(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(ii) reflects a desire to delay or impede the administration of Federal tax laws.

"(B) SPECIFIED SUBMISSION.—The term 'specified submission' means—

"(i) a request for a hearing under—

"(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

"(II) section 6330 (relating to notice and opportunity for hearing before levy), and

"(ii) an application under—

"(I) section 6159 (relating to agreements for payment of tax liability in installments),

"(II) section 7122 (relating to compromises), or

"(III) section 7811 (relating to taxpayer assistance orders).

"(3) OPPORTUNITY TO WITHDRAW SUBMISSION.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

"(c) LISTING OF FRIVOLOUS POSITIONS.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

"(d) REDUCTION OF PENALTY.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

"(e) PENALTIES IN ADDITION TO OTHER PENALTIES.—The penalties imposed by this section shall be in addition to any other penalty provided by law.".

(b) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS BEFORE LEVY.—

(1) FRIVOLOUS REQUESTS DISREGARDED.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

"(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.".

(2) PRECLUSION FROM RAISING FRIVOLOUS ISSUES AT HEARING.—Section 6330(c)(4) is amended—

(A) by striking "(A)" and inserting "(A)(i)";

(B) by striking "(B)" and inserting "(ii)";

(C) by striking the period at the end of the first sentence and inserting "; or"; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

"(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).".

(3) STATEMENT OF GROUNDS.—Section 6330(b)(1) is amended by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing".

(c) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS UPON FILING OF NOTICE OF LIEN.—Section 6320 is amended—

(1) in subsection (b)(1), by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing", and

(2) in subsection (c), by striking "and (e)" and inserting "(e), and (g)".

(d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR OFFERS-IN-COMPROMISE AND INSTALLMENT AGREEMENTS.—Section 7122 is amended by adding at the end the following new subsection:

"(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.".

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

"Sec. 6702. Frivolous tax submissions.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 209. EXTENSION OF NOTICE REQUIREMENTS WITH RESPECT TO INTEREST AND PENALTY CALCULATIONS.

Sections 3306(c) and 3308(c) of the Internal Revenue Service Restructuring and Reform Act of 1998 are each amended by inserting "and during the period beginning on the date of the enactment of the Tax Administration Good Government Act, and ending before July 1, 2006," after "July 1, 2003,".

SEC. 210. EXPANSION OF INTEREST NETTING.

(a) IN GENERAL.—Subsection (d) of section 6621 (relating to elimination of interest on overlapping periods of tax overpayments and underpayments) is amended by adding at the end the following: "Solely for purposes of the preceding sentence, section 6611(e) shall not apply.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to interest accrued after December 31, 2010.

TITLE III—UNITED STATES TAX COURT MODERNIZATION

Subtitle A—Tax Court Procedure

SEC. 301. JURISDICTION OF TAX COURT OVER COLLECTION DUE PROCESS CASES.

(a) IN GENERAL.—Paragraph (1) of section 6330(d) (relating to proceeding after hearing) is amended to read as follows:

"(1) JUDICIAL REVIEW OF DETERMINATION.—The person may, within 30 days of a determination under this section, appeal such determination to the Tax Court (and the Tax Court shall have jurisdiction with respect to such matter).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to determinations made after the date which is 60 days after the date of the enactment of this Act.

SEC. 302. AUTHORITY FOR SPECIAL TRIAL JUDGES TO HEAR AND DECIDE CERTAIN EMPLOYMENT STATUS CASES.

(a) IN GENERAL.—Section 7443A(b) (relating to proceedings which may be assigned to special trial judges) is amended by striking "and" at

the end of paragraph (4), by redesignating paragraph (5) as paragraph (6), and by inserting after paragraph (4) the following new paragraph:

"(5) any proceeding under section 7436(c), and".

(b) CONFORMING AMENDMENT.—Section 7443A(c) is amended by striking "or (4)" and inserting "(4), or (5)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any proceeding under section 7436(c) of the Internal Revenue Code of 1986 with respect to which a decision has not become final (as determined under section 7481 of such Code) before the date of the enactment of this Act.

SEC. 303. CONFIRMATION OF AUTHORITY OF TAX COURT TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.

(a) CONFIRMATION OF AUTHORITY OF TAX COURT TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.—Section 6214(b) (relating to jurisdiction over other years and quarters) is amended by adding at the end the following new sentence: "Notwithstanding the preceding sentence, the Tax Court may apply the doctrine of equitable recoupment to the same extent that it is available in civil tax cases before the district courts of the United States and the United States Court of Federal Claims.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any action or proceeding in the United States Tax Court with respect to which a decision has not become final (as determined under section 7481 of the Internal Revenue Code of 1986) as of the date of the enactment of this Act.

SEC. 304. TAX COURT FILING FEE IN ALL CASES COMMENCED BY FILING PETITION.

(a) IN GENERAL.—Section 7451 (relating to fee for filing a Tax Court petition) is amended by striking all that follows "petition" and inserting a period.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 305. AMENDMENTS TO APPOINT EMPLOYEES.

(a) IN GENERAL.—Subsection (a) of section 7471 (relating to Tax Court employees) is amended to read as follows:

"(a) APPOINTMENT AND COMPENSATION.—

"(1) CLERK.—The Tax Court may appoint a clerk without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The clerk shall serve at the pleasure of the Tax Court.

"(2) LAW CLERKS AND SECRETARIES.—

"(A) IN GENERAL.—The judges and special trial judges of the Tax Court may appoint law clerks and secretaries, in such numbers as the Tax Court may approve, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Any such law clerk or secretary shall serve at the pleasure of the appointing judge.

"(B) EXEMPTION FROM FEDERAL LEAVE PROVISIONS.—A law clerk appointed under this subsection shall be exempt from the provisions of subchapter I of chapter 63 of title 5, United States Code. Any unused sick leave or annual leave standing to the employee's credit as of the effective date of this subsection shall remain credited to the employee and shall be available to the employee upon separation from the Federal Government.

"(3) OTHER EMPLOYEES.—The Tax Court may appoint necessary employees without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Such employees shall be subject to removal by the Tax Court.

"(4) PAY.—The Tax Court may fix and adjust the compensation for the clerk and other employees of the Tax Court without regard to the provisions of chapter 51, subchapter III of chapter 53, or section 5373 of title 5, United States Code. To the maximum extent feasible, the Tax Court shall compensate employees at rates consistent with those for employees holding comparable positions in the judicial branch.

"(5) PROGRAMS.—The Tax Court may establish programs for employee evaluations, incentive awards, flexible work schedules, premium pay, and resolution of employee grievances.

"(6) DISCRIMINATION PROHIBITED.—The Tax Court shall—

"(A) prohibit discrimination on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition; and

"(B) promulgate procedures for resolving complaints of discrimination by employees and applicants for employment.

"(7) EXPERTS AND CONSULTANTS.—The Tax Court may procure the services of experts and consultants under section 3109 of title 5, United States Code.

"(8) RIGHTS TO CERTAIN APPEALS RESERVED.—Notwithstanding any other provision of law, an individual who is an employee of the Tax Court on the day before the effective date of this subsection and who, as of that day, was entitled to—

"(A) appeal a reduction in grade or removal to the Merit Systems Protection Board under chapter 43 of title 5, United States Code,

"(B) appeal an adverse action to the Merit Systems Protection Board under chapter 75 of title 5, United States Code,

"(C) appeal a prohibited personnel practice described under section 2302(b) of title 5, United States Code, to the Merit Systems Protection Board under chapter 77 of that title,

"(D) make an allegation of a prohibited personnel practice described under section 2302(b) of title 5, United States Code, with the Office of Special Counsel under chapter 12 of that title for action in accordance with that chapter, or

"(E) file an appeal with the Equal Employment Opportunity Commission under part 1614 of title 29 of the Code of Federal Regulations,

shall be entitled to file such appeal or make such an allegation so long as the individual remains an employee of the Tax Court.

"(9) COMPETITIVE STATUS.—Notwithstanding any other provision of law, any employee of the Tax Court who has completed at least 1 year of continuous service under a non-temporary appointment with the Tax Court acquires a competitive status for appointment to any position in the competitive service for which the employee possesses the required qualifications.

"(10) MERIT SYSTEM PRINCIPLES; PROHIBITED PERSONNEL PRACTICES; AND PREFERENCE ELIGIBLES.—Any personnel management system of the Tax Court shall—

"(A) include the principles set forth in section 2301(b) of title 5, United States Code;

"(B) prohibit personnel practices prohibited under section 2302(b) of title 5, United States Code; and

"(C) in the case of any individual who would be a preference eligible in the executive branch, the Tax Court will provide preference for that individual in a manner and to an extent consistent with preference accorded to preference eligibles in the executive branch.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date the United States Tax Court adopts a personnel management system after the date of the enactment of this Act.

SEC. 306. EXPANDED USE OF TAX COURT PRACTICE FEE FOR PRO SE TAXPAYERS.

(a) IN GENERAL.—Section 7475(b) (relating to use of fees) is amended by inserting before the period at the end "and to provide services to pro se taxpayers".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

Subtitle B—Tax Court Pension and Compensation

SEC. 311. ANNUITIES FOR SURVIVORS OF TAX COURT JUDGES WHO ARE ASSASSINATED.

(a) ELIGIBILITY IN CASE OF DEATH BY ASSASSINATION.—Subsection (h) of section 7448 (relating to annuities to surviving spouses and dependent children of judges) is amended to read as follows:

"(h) ENTITLEMENT TO ANNUITY.—

"(1) IN GENERAL.—

"(A) ANNUITY TO SURVIVING SPOUSE.—If a judge described in paragraph (2) is survived by a surviving spouse but not by a dependent child, there shall be paid to such surviving spouse an annuity beginning with the day of the death of the judge or following the surviving spouse's attainment of the age of 50 years, whichever is the later, in an amount computed as provided in subsection (m).

"(B) ANNUITY TO CHILD.—If such a judge is survived by a surviving spouse and a dependent child or children, there shall be paid to such surviving spouse an immediate annuity in an amount computed as provided in subsection (m), and there shall also be paid to or on behalf of each such child an immediate annuity equal to the lesser of—

"(i) 10 percent of the average annual salary of such judge (determined in accordance with subsection (m)), or

"(ii) 20 percent of such average annual salary, divided by the number of such children.

"(C) ANNUITY TO SURVIVING DEPENDENT CHILDREN.—If such a judge leaves no surviving spouse but leaves a surviving dependent child or children, there shall be paid to or on behalf of each such child an immediate annuity equal to the lesser of—

"(i) 20 percent of the average annual salary of such judge (determined in accordance with subsection (m)), or

"(ii) 40 percent of such average annual salary, divided by the number of such children.

"(2) COVERED JUDGES.—Paragraph (1) applies to any judge electing under subsection (b)—

"(A) who dies while a judge after having rendered at least 5 years of civilian service computed as prescribed in subsection (n), for the last 5 years of which the salary deductions provided for by subsection (c)(1) or the deposits required by subsection (d) have actually been made or the salary deductions required by the civil service retirement laws have actually been made, or

"(B) who dies by assassination after having rendered less than 5 years of civilian service computed as prescribed in subsection (n) if, for the period of such service, the salary deductions provided for by subsection (c)(1) or the deposits required by subsection (d) have actually been made.

"(3) TERMINATION OF ANNUITY.—

"(A) IN THE CASE OF A SURVIVING SPOUSE.—The annuity payable to a surviving spouse under this subsection shall be terminable upon such surviving spouse's death or such surviving spouse's remarriage before attaining age 55.

"(B) IN THE CASE OF A CHILD.—The annuity payable to a child under this subsection shall be terminable upon (i) the child attaining the age of 18 years, (ii) the child's marriage, or (iii) the child's death, whichever first occurs, except that if such child is incapable of self-support by reason of mental or physical disability the child's annuity shall be terminable only upon death, marriage, or recovery from such disability.

"(C) IN THE CASE OF A DEPENDENT CHILD AFTER DEATH OF SURVIVING SPOUSE.—In case of the death of a surviving spouse of a judge leaving a dependent child or children of the judge

surviving such spouse, the annuity of such child or children shall be recomputed and paid as provided in paragraph (1)(C).

"(D) RECOMPUTATION.—In any case in which the annuity of a dependent child is terminated under this subsection, the annuities of any remaining dependent child or children, based upon the service of the same judge, shall be recomputed and paid as though the child whose annuity was so terminated had not survived such judge.

"(4) SPECIAL RULE FOR ASSASSINATED JUDGES.—In the case of a survivor or survivors of a judge described in paragraph (2)(B), there shall be deducted from the annuities otherwise payable under this section an amount equal to—

"(A) the amount of salary deductions provided for by subsection (c)(1) that would have been made if such deductions had been made for 5 years of civilian service computed as prescribed in subsection (n) before the judge's death, reduced by

"(B) the amount of such salary deductions that were actually made before the date of the judge's death.".

(b) DEFINITION OF ASSASSINATION.—Section 7448(a) (relating to definitions) is amended by adding at the end the following new paragraph:

"(8) The terms 'assassinated' and 'assassination' mean the killing of a judge that is motivated by the performance by that judge of his or her official duties.".

(c) DETERMINATION OF ASSASSINATION.—Subsection (i) of section 7448 is amended—

(1) by striking the subsection heading and inserting the following:

"(i) DETERMINATIONS BY CHIEF JUDGE.—

"(1) DEPENDENCY AND DISABILITY.—",

(2) by moving the text 2 ems to the right, and

(3) by adding at the end the following new paragraph:

"(2) ASSASSINATION.—The chief judge shall determine whether the killing of a judge was an assassination, subject to review only by the Tax Court. The head of any Federal agency that investigates the killing of a judge shall provide information to the chief judge that would assist the chief judge in making such a determination.".

(d) COMPUTATION OF ANNUITIES.—Subsection (m) of section 7448 is amended—

(1) by striking the subsection heading and inserting the following:

"(m) COMPUTATION OF ANNUITIES.—

"(1) IN GENERAL.—",

(2) by moving the text 2 ems to the right, and

(3) by adding at the end the following new paragraph:

"(2) ASSASSINATED JUDGES.—In the case of a judge who is assassinated and who has served less than 3 years, the annuity of the surviving spouse of such judge shall be based upon the average annual salary received by such judge for judicial service.".

(e) OTHER BENEFITS.—Section 7448 is amended by adding at the end the following:

"(u) OTHER BENEFITS.—In the case of a judge who is assassinated, an annuity shall be paid under this section notwithstanding a survivor's eligibility for or receipt of benefits under chapter 81 of title 5, United States Code, except that the annuity for which a surviving spouse is eligible under this section shall be reduced to the extent that the total benefits paid under this section and chapter 81 of that title for any year would exceed the current salary for that year of the office of the judge.".

SEC. 312. COST-OF-LIVING ADJUSTMENTS FOR TAX COURT JUDICIAL SURVIVOR ANNUITIES.

(a) IN GENERAL.—Subsection (s) of section 7448 (relating to annuities to surviving spouses and dependent children of judges) is amended to read as follows:

"(s) INCREASES IN SURVIVOR ANNUITIES.—Each time that an increase is made under section 8340(b) of title 5, United States Code, in annuities payable under subchapter III of chapter 83 of that title, each annuity payable from the survivors annuity fund under this section shall be increased at the same time by the same percentage by which annuities are increased under such section 8340(b).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to increases made under section 8340(b) of title 5, United States Code, in annuities payable under subchapter III of chapter 83 of that title, taking effect after the date of the enactment of this Act.

SEC. 313. LIFE INSURANCE COVERAGE FOR TAX COURT JUDGES.

(a) IN GENERAL.—Section 7447 (relating to retirement of judges) is amended by adding at the end the following new subsection:

"(j) LIFE INSURANCE COVERAGE.—For purposes of chapter 87 of title 5, United States Code (relating to life insurance), any individual who is serving as a judge of the Tax Court or who is retired under this section is deemed to be an employee who is continuing in active employment.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any individual serving as a judge of the United States Tax Court or to any retired judge of the United States Tax Court on the date of the enactment of this Act.

SEC. 314. COST OF LIFE INSURANCE COVERAGE FOR TAX COURT JUDGES AGE 65 OR OVER.

Section 7472 (relating to expenditures) is amended by inserting after the first sentence the following new sentence: "Notwithstanding any other provision of law, the Tax Court is authorized to pay on behalf of its judges, age 65 or over, any increase in the cost of Federal Employees' Group Life Insurance imposed after April 24, 1999, including any expenses generated by such payments, as authorized by the chief judge in a manner consistent with such payments authorized by the Judicial Conference of the United States pursuant to section 604(a)(5) of title 28, United States Code.".

SEC. 315. MODIFICATION OF TIMING OF LUMP-SUM PAYMENT OF JUDGES' ACCRUED ANNUAL LEAVE.

(a) IN GENERAL.—Section 7443 (relating to membership of the Tax Court) is amended by adding at the end the following new subsection:

"(h) LUMP-SUM PAYMENT OF JUDGES' ACCRUED ANNUAL LEAVE.—Notwithstanding the provisions of sections 5551 and 6301 of title 5, United States Code, when an individual subject to the leave system provided in chapter 63 of that title is appointed by the President to be a judge of the Tax Court, the individual shall be entitled to receive, upon appointment to the Tax Court, a lump-sum payment from the Tax Court of the accumulated and accrued current annual leave standing to the individual's credit as certified by the agency from which the individual resigned.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any judge of the United States Tax Court who has an outstanding leave balance on the date of the enactment of this Act and to any individual appointed by the President to serve as a judge of the United States Tax Court after such date.

SEC. 316. PARTICIPATION OF TAX COURT JUDGES IN THE THRIFT SAVINGS PLAN.

(a) IN GENERAL.—Section 7447 (relating to retirement of judges), as amended by this Act, is amended by adding at the end the following new subsection:

"(k) THRIFT SAVINGS PLAN.—

"(1) ELECTION TO CONTRIBUTE.—

"(A) IN GENERAL.—A judge of the Tax Court may elect to contribute to the Thrift Savings Fund established by section 8437 of title 5, United States Code.

"(B) PERIOD OF ELECTION.—An election may be made under this paragraph only during a period provided under section 8432(b) of title 5, United States Code, for individuals subject to chapter 84 of such title.

"(2) APPLICABILITY OF TITLE 5 PROVISIONS.—Except as otherwise provided in this subsection, the provisions of subchapters III and VII of chapter 84 of title 5, United States Code, shall apply with respect to a judge who makes an election under paragraph (1).

"(3) SPECIAL RULES.—

"(A) AMOUNT CONTRIBUTED.—The amount contributed by a judge to the Thrift Savings Fund in any pay period shall not exceed the maximum percentage of such judge's basic pay for such period as allowable under section 8440f of title 5, United States Code. Basic pay does not include any retired pay paid pursuant to this section.

"(B) CONTRIBUTIONS FOR BENEFIT OF JUDGE.—No contributions may be made for the benefit of a judge under section 8432(c) of title 5, United States Code.

"(C) APPLICABILITY OF SECTION 8433(b) OF TITLE 5 WHETHER OR NOT JUDGE RETIRES.—Section 8433(b) of title 5, United States Code, applies with respect to a judge who makes an election under paragraph (1) and who either—

"(i) retires under subsection (b), or

"(ii) ceases to serve as a judge of the Tax Court but does not retire under subsection (b).

Retirement under subsection (b) is a separation from service for purposes of subchapters III and VII of chapter 84 of that title.

"(D) APPLICABILITY OF SECTION 8351(b)(5) OF TITLE 5.—The provisions of section 8351(b)(5) of title 5, United States Code, shall apply with respect to a judge who makes an election under paragraph (1).

"(E) EXCEPTION.—Notwithstanding subparagraph (C), if any judge retires under this section, or resigns without having met the age and service requirements set forth under subsection (b)(2), and such judge's nonforfeitable account balance is less than an amount that the Executive Director of the Office of Personnel Management prescribes by regulation, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act, except that United States Tax Court judges may only begin to participate in the Thrift Savings Plan at the next open season beginning after such date.

SEC. 317. EXEMPTION OF TEACHING COMPENSATION OF RETIRED JUDGES FROM LIMITATION ON OUTSIDE EARNED INCOME.

(a) IN GENERAL.—Section 7447 (relating to retirement of judges), as amended by this Act, is amended by adding at the end the following new subsection:

"(l) TEACHING COMPENSATION OF RETIRED JUDGES.—For purposes of the limitation under section 501(a) of the Ethics in Government Act of 1978 (5 U.S.C. App.), any compensation for teaching approved under section 502(a)(5) of such Act shall not be treated as outside earned income when received by a judge of the Tax Court who has retired under subsection (b) for teaching performed during any calendar year for which such a judge has met the requirements of subsection (c), as certified by the chief judge of the Tax Court.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any individual serving as a retired judge of the United States Tax Court on or after the date of the enactment of this Act.

SEC. 318. GENERAL PROVISIONS RELATING TO MAGISTRATE JUDGES OF THE TAX COURT.

(a) TITLE OF SPECIAL TRIAL JUDGE CHANGED TO MAGISTRATE JUDGE OF THE TAX COURT.—The heading of section 7443A is amended to read as follows:

"SEC. 7443A. MAGISTRATE JUDGES OF THE TAX COURT.".

(b) APPOINTMENT, TENURE, AND REMOVAL.—Subsection (a) of section 7443A is amended to read as follows:

"(a) APPOINTMENT, TENURE, AND REMOVAL.—

"(1) APPOINTMENT.—The chief judge may, from time to time, appoint and reappoint magistrate judges of the Tax Court for a term of 8 years. The magistrate judges of the Tax Court shall proceed under such rules as may be promulgated by the Tax Court.

"(2) REMOVAL.—Removal of a magistrate judge of the Tax Court during the term for which he or she is appointed shall be only for incompetency, misconduct, neglect of duty, or physical or mental disability, but the office of a magistrate judge of the Tax Court shall be terminated if the judges of the Tax Court determine that the services performed by the magistrate judge of the Tax Court are no longer needed. Removal shall not occur unless a majority of all the judges of the Tax Court concur in the order of removal. Before any order of removal shall be entered, a full specification of the charges shall be furnished to the magistrate judge of the Tax Court, and he or she shall be accorded by the judges of the Tax Court an opportunity to be heard on the charges.".

(c) SALARY.—Section 7443A(d) (relating to salary) is amended by striking "90" and inserting "92".

(d) EXEMPTION FROM FEDERAL LEAVE PROVISIONS.—Section 7443A is amended by adding at the end the following new subsection:

"(f) EXEMPTION FROM FEDERAL LEAVE PROVISIONS.—

"(1) IN GENERAL.—A magistrate judge of the Tax Court appointed under this section shall be exempt from the provisions of subchapter I of chapter 63 of title 5, United States Code.

"(2) TREATMENT OF UNUSED LEAVE.—

"(A) AFTER SERVICE AS MAGISTRATE JUDGE.—If an individual who is exempted under paragraph (1) from the subchapter referred to in such paragraph was previously subject to such subchapter and, without a break in service, again becomes subject to such subchapter on completion of the individual's service as a magistrate judge, the unused annual leave and sick leave standing to the individual's credit when such individual was exempted from this subchapter is deemed to have remained to the individual's credit.

"(B) COMPUTATION OF ANNUITY.—In computing an annuity under section 8339 of title 5, United States Code, the total service of an individual specified in subparagraph (A) who retires on an immediate annuity or dies leaving a survivor or survivors entitled to an annuity includes, without regard to the limitations imposed by subsection (f) of such section 8339, the days of unused sick leave standing to the individual's credit when such individual was exempted from subchapter I of chapter 63 of title 5, United States Code, except that these days will not be counted in determining average pay or annuity eligibility.

"(C) LUMP SUM PAYMENT.—Any accumulated and current accrued annual leave or vacation balances credited to a magistrate judge as of the date of the enactment of this subsection shall be paid in a lump sum at the time of separation from service pursuant to the provisions and restrictions set forth in section 5551 of title 5, United States Code, and related provisions referred to in such section.".

(e) CONFORMING AMENDMENTS.—

(1) The heading of subsection (b) of section 7443A is amended by striking "SPECIAL TRIAL JUDGES" and inserting "MAGISTRATE JUDGES OF THE TAX COURT".

(2) Section 7443A(b) is amended by striking "special trial judges of the court" and inserting "magistrate judges of the Tax Court".

(3) Subsections (c) and (d) of section 7443A are amended by striking "special trial judge" and inserting "magistrate judge of the Tax Court" each place it appears.

(4) Section 7443A(e) is amended by striking "special trial judges" and inserting "magistrate judges of the Tax Court".

(5) Section 7456(a) is amended by striking "special trial judge" each place it appears and inserting "magistrate judge".

(6) Subsection (c) of section 7471 is amended—

(A) by striking the subsection heading and inserting "MAGISTRATE JUDGES OF THE TAX COURT.—", and

(B) by striking "special trial judges" and inserting "magistrate judges".

SEC. 319. ANNUITIES TO SURVIVING SPOUSES AND DEPENDENT CHILDREN OF MAGISTRATE JUDGES OF THE TAX COURT.

(a) DEFINITIONS.—Section 7448(a) (relating to definitions), as amended by this Act, is amended by redesignating paragraphs (5), (6), (7), and (8) as paragraphs (7), (8), (9), and (10), respectively, and by inserting after paragraph (4) the following new paragraphs:

"(5) The term 'magistrate judge' means a judicial officer appointed pursuant to section 7443A, including any individual receiving an annuity under section 7443B, or chapters 83 or 84, as the case may be, of title 5, United States Code, whether or not performing judicial duties under section 7443C.

"(6) The term 'magistrate judge's salary' means the salary of a magistrate judge received under section 7443A(d), any amount received as an annuity under section 7443B, or chapters 83 or 84, as the case may be, of title 5, United States Code, and compensation received under section 7443C.".

(b) ELECTION.—Subsection (b) of section 7448 (relating to annuities to surviving spouses and dependent children of judges) is amended—

(1) by striking the subsection heading and inserting the following:

"(b) ELECTION.—

"(1) JUDGES.—",

(2) by moving the text 2 ems to the right, and

(3) by adding at the end the following new paragraph:

"(2) MAGISTRATE JUDGES.—Any magistrate judge may by written election filed with the chief judge bring himself or herself within the purview of this section. Such election shall be filed not later than the later of 6 months after—

"(A) 6 months after the date of the enactment of this paragraph,

"(B) the date the judge takes office, or

"(C) the date the judge marries.".

(c) CONFORMING AMENDMENTS.—

(1) The heading of section 7448 is amended by inserting "**AND MAGISTRATE JUDGES**" after "**JUDGES**".

(2) The item relating to section 7448 in the table of sections for part I of subchapter C of chapter 76 is amended by inserting "and magistrate judges" after "judges".

(3) Subsections (c)(1), (d), (f), (g), (h), (j), (m), (n), and (u) of section 7448, as amended by this Act, are each amended—

(A) by inserting "or magistrate judge" after "judge" each place it appears other than in the phrase "chief judge", and

(B) by inserting "or magistrate judge's" after "judge's" each place it appears.

(4) Section 7448(c) is amended—

(A) in paragraph (1), by striking "Tax Court judges" and inserting "Tax Court judicial officers",

(B) in paragraph (2)—

(i) in subparagraph (A), by inserting "and section 7443A(d)" after "(a)(4)", and

(ii) in subparagraph (B), by striking "subsection (a)(4)" and inserting "subsections (a)(4) and (a)(6)".

(5) Section 7448(g) is amended by inserting "or section 7443B" after "section 7447" each place it appears, and by inserting "or an annuity" after "retired pay".

(6) Section 7448(j)(1) is amended—

(A) in subparagraph (A), by striking "service or retired" and inserting "service, retired", and by inserting ", or receiving any annuity under section 7443B or chapters 83 or 84 of title 5, United States Code," after "section 7447", and

(B) in the last sentence, by striking "subsections (a)(6) and (7)" and inserting "paragraphs (8) and (9) of subsection (a)".

(7) Section 7448(m)(1), as amended by this Act, is amended—

(A) by inserting "or any annuity under section 7443B or chapters 83 or 84 of title 5, United States Code" after "7447(d)", and

(B) by inserting "or 7443B(m)(1)(B) after "7447(f)(4)".

(8) Section 7448(n) is amended by inserting "his years of service pursuant to any appointment under section 7443A," after "of the Tax Court,".

(9) Section 3121(b)(5)(E) is amended by inserting "or magistrate judge" before "of the United States Tax Court".

(10) Section 210(a)(5)(E) of the Social Security Act is amended by inserting "or magistrate judge" before "of the United States Tax Court".

SEC. 320. RETIREMENT AND ANNUITY PROGRAM.

(a) RETIREMENT AND ANNUITY PROGRAM.—Part I of subchapter C of chapter 76 is amended by inserting after section 7443A the following new section:

"SEC. 7443B. RETIREMENT FOR MAGISTRATE JUDGES OF THE TAX COURT.

"(a) RETIREMENT BASED ON YEARS OF SERVICE.—A magistrate judge of the Tax Court to whom this section applies and who retires from office after attaining the age of 65 years and serving at least 14 years, whether continuously or otherwise, as such magistrate judge shall, subject to subsection (f), be entitled to receive, during the remainder of the magistrate judge's lifetime, an annuity equal to the salary being received at the time the magistrate judge leaves office.

"(b) RETIREMENT UPON FAILURE OF REAPPOINTMENT.—A magistrate judge of the Tax Court to whom this section applies who is not reappointed following the expiration of the term of office of such magistrate judge, and who retires upon the completion of the term shall, subject to subsection (f), be entitled to receive, upon attaining the age of 65 years and during the remainder of such magistrate judge's lifetime, an annuity equal to that portion of the salary being received at the time the magistrate judge leaves office which the aggregate number of years of service, not to exceed 14, bears to 14, if—

"(1) such magistrate judge has served at least 1 full term as a magistrate judge, and

"(2) not earlier than 9 months before the date on which the term of office of such magistrate judge expires, and not later than 6 months before such date, such magistrate judge notified the chief judge of the Tax Court in writing that such magistrate judge was willing to accept reappointment to the position in which such magistrate judge was serving.

"(c) SERVICE OF AT LEAST 8 YEARS.—A magistrate judge of the Tax Court to whom this section applies and who retires after serving at least 8 years, whether continuously or otherwise, as such a magistrate judge shall, subject to subsection (f), be entitled to receive, upon attaining the age of 65 years and during the remainder of the magistrate judge's lifetime, an annuity equal to that portion of the salary being received at the time the magistrate judge leaves office which the aggregate number of years of service, not to exceed 14, bears to 14. Such annuity shall be reduced by 1/6 of 1 percent for each full month such magistrate judge was under the age of 65 at the time the magistrate judge left office, except that such reduction shall not exceed 20 percent.

"(d) RETIREMENT FOR DISABILITY.—A magistrate judge of the Tax Court to whom this section applies, who has served at least 5 years, whether continuously or otherwise, as such a magistrate judge, and who retires or is removed from office upon the sole ground of mental or physical disability shall, subject to subsection (f), be entitled to receive, during the remainder of the magistrate judge's lifetime, an annuity equal to 40 percent of the salary being received at the time of retirement or removal or, in the case of a magistrate judge who has served for at least 10 years, an amount equal to that proportion of the salary being received at the time of retirement or removal which the aggregate number of years of service, not to exceed 14, bears to 14.

"(e) COST-OF-LIVING ADJUSTMENTS.—A magistrate judge of the Tax Court who is entitled to an annuity under this section is also entitled to a cost-of-living adjustment in such annuity, calculated and payable in the same manner as adjustments under section 8340(b) of title 5, United States Code, except that any such annuity, as increased under this subsection, may not exceed the salary then payable for the position from which the magistrate judge retired or was removed.

"(f) ELECTION; ANNUITY IN LIEU OF OTHER ANNUITIES.—

"(1) IN GENERAL.—A magistrate judge of the Tax Court shall be entitled to an annuity under this section if the magistrate judge elects an annuity under this section by notifying the chief judge of the Tax Court not later than the later of—

"(A) 5 years after the magistrate judge of the Tax Court begins judicial service, or

"(B) 5 years after the date of the enactment of this subsection.

Such notice shall be given in accordance with procedures prescribed by the Tax Court.

"(2) ANNUITY IN LIEU OF OTHER ANNUITY.—A magistrate judge who elects to receive an annuity under this section shall not be entitled to receive—

"(A) any annuity to which such magistrate judge would otherwise have been entitled under subchapter III of chapter 83, or under chapter 84 (except for subchapters III and VII), of title 5, United States Code, for service performed as a magistrate or otherwise,

"(B) an annuity or salary in senior status or retirement under section 371 or 372 of title 28, United States Code,

"(C) retired pay under section 7447, or

"(D) retired pay under section 7296 of title 38, United States Code.

"(3) COORDINATION WITH TITLE 5.—A magistrate judge of the Tax Court who elects to receive an annuity under this section—

"(A) shall not be subject to deductions and contributions otherwise required by section 8334(a) of title 5, United States Code,

"(B) shall be excluded from the operation of chapter 84 (other than subchapters III and VII) of such title 5, and

"(C) is entitled to a lump-sum credit under section 8342(a) or 8424 of such title 5, as the case may be.

"(g) CALCULATION OF SERVICE.—For purposes of calculating an annuity under this section—

"(1) service as a magistrate judge of the Tax Court to whom this section applies may be credited, and

"(2) each month of service shall be credited as 1/12 of a year, and the fractional part of any month shall not be credited.

"(h) COVERED POSITIONS AND SERVICE.—This section applies to any magistrate judge of the Tax Court or special trial judge of the Tax Court appointed under this subchapter, but only with respect to service as such a magistrate judge or special trial judge after a date not earlier than 9½ years before the date of the enactment of this subsection.

"(i) PAYMENTS PURSUANT TO COURT ORDER.—

"(1) IN GENERAL.—Payments under this section which would otherwise be made to a magistrate judge of the Tax Court based upon his or her service shall be paid (in whole or in part) by the chief judge of the Tax Court to another person if and to the extent expressly provided for in the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation. Any payment under this paragraph to a person bars recovery by any other person.

"(2) REQUIREMENTS FOR PAYMENT.—Paragraph (1) shall apply only to payments made by the chief judge of the Tax Court after the date of receipt by the chief judge of written notice of such decree, order, or agreement, and such additional information as the chief judge may prescribe.

"(3) COURT DEFINED.—For purposes of this subsection, the term 'court' means any court of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, or the Virgin Islands, and any Indian tribal court or courts of Indian offense.

"(j) DEDUCTIONS, CONTRIBUTIONS, AND DEPOSITS.—

"(1) DEDUCTIONS.—Beginning with the next pay period after the chief judge of the Tax Court receives a notice under subsection (f) that a magistrate judge of the Tax Court has elected an annuity under this section, the chief judge shall deduct and withhold 1 percent of the salary of such magistrate judge. Amounts shall be so deducted and withheld in a manner determined by the chief judge. Amounts deducted and withheld under this subsection shall be deposited in the Treasury of the United States to the credit of the Tax Court Judicial Officers' Retirement Fund. Deductions under this subsection from the salary of a magistrate judge shall terminate upon the retirement of the magistrate judge or upon completion of 14 years of service for which contributions under this section have been made, whether continuously or otherwise, as calculated under subsection (g), whichever occurs first.

"(2) CONSENT TO DEDUCTIONS; DISCHARGE OF CLAIMS.—Each magistrate judge of the Tax Court who makes an election under subsection (f) shall be deemed to consent and agree to the deductions from salary which are made under paragraph (1). Payment of such salary less such deductions (and any deductions made under section 7448) is a full and complete discharge and acquittance of all claims and demands for all services rendered by such magistrate judge during the period covered by such payment, except the right to those benefits to which the magistrate judge is entitled under this section (and section 7448).

"(k) DEPOSITS FOR PRIOR SERVICE.—Each magistrate judge of the Tax Court who makes an election under subsection (f) may deposit, for service performed before such election for which contributions may be made under this section, an amount equal to 1 percent of the salary received for that service. Credit for any period covered by that service may not be allowed for purposes of an annuity under this section until a deposit under this subsection has been made for that period.

"(l) INDIVIDUAL RETIREMENT RECORDS.—The amounts deducted and withheld under subsection (j), and the amounts deposited under subsection (k), shall be credited to individual accounts in the name of each magistrate judge of the Tax Court from whom such amounts are received, for credit to the Tax Court Judicial Officers' Retirement Fund.

"(m) ANNUITIES AFFECTED IN CERTAIN CASES.—

"(1) 1-YEAR FORFEITURE FOR FAILURE TO PERFORM JUDICIAL DUTIES.—Subject to paragraph (3), any magistrate judge of the Tax Court who retires under this section and who fails to perform judicial duties required of such individual by section 7443C shall forfeit all rights to an annuity under this section for a 1-year period which begins on the 1st day on which such individual fails to perform such duties.

"(2) PERMANENT FORFEITURE OF RETIRED PAY WHERE CERTAIN NON-GOVERNMENT SERVICES PERFORMED.—Subject to paragraph (3), any magistrate judge of the Tax Court who retires under this section and who thereafter performs (or supervises or directs the performance of) legal or accounting services in the field of Federal taxation for the individual's client, the individual's employer, or any of such employer's clients, shall forfeit all rights to an annuity under this section for all periods beginning on or after the first day on which the individual performs (or supervises or directs the performance of) such services. The preceding sentence shall not apply to any civil office or employment under the Government of the United States.

"(3) FORFEITURES NOT TO APPLY WHERE INDIVIDUAL ELECTS TO FREEZE AMOUNT OF ANNUITY.—

"(A) IN GENERAL.—If a magistrate judge of the Tax Court makes an election under this paragraph—

"(i) paragraphs (1) and (2) (and section 7443C) shall not apply to such magistrate judge beginning on the date such election takes effect, and

"(ii) the annuity payable under this section to such magistrate judge, for periods beginning on or after the date such election takes effect, shall be equal to the annuity to which such magistrate judge is entitled on the day before such effective date.

"(B) ELECTION REQUIREMENTS.—An election under subparagraph (A)—

"(i) may be made by a magistrate judge of the Tax Court eligible for retirement under this section, and

"(ii) shall be filed with the chief judge of the Tax Court.

Such an election, once it takes effect, shall be irrevocable.

"(C) EFFECTIVE DATE OF ELECTION.—Any election under subparagraph (A) shall take effect on the first day of the first month following the month in which the election is made.

"(4) ACCEPTING OTHER EMPLOYMENT.—Any magistrate judge of the Tax Court who retires under this section and thereafter accepts compensation for civil office or employment under the United States Government (other than for the performance of functions as a magistrate judge of the Tax Court under section 7443C) shall forfeit all rights to an annuity under this section for the period for which such compensation is received. For purposes of this paragraph, the term 'compensation' includes retired pay or salary received in retired status.

"(n) LUMP-SUM PAYMENTS.—

"(1) ELIGIBILITY.—

"(A) IN GENERAL.—Subject to paragraph (2), an individual who serves as a magistrate judge of the Tax Court and—

"(i) who leaves office and is not reappointed as a magistrate judge of the Tax Court for at least 31 consecutive days, *"(ii) who files an application with the chief judge of the Tax Court for payment of a lump-sum credit,*

"(iii) is not serving as a magistrate judge of the Tax Court at the time of filing of the application, and

"(iv) will not become eligible to receive an annuity under this section within 31 days after filing the application,

is entitled to be paid the lump-sum credit. Payment of the lump-sum credit voids all rights to an annuity under this section based on the service on which the lump-sum credit is based, until that individual resumes office as a magistrate judge of the Tax Court.

"(B) PAYMENT TO SURVIVORS.—Lump-sum benefits authorized by subparagraphs (C), (D), and (E) of this paragraph shall be paid to the person or persons surviving the magistrate judge of the Tax Court and alive on the date title to the payment arises, in the order of precedence set forth in subsection (o) of section 376 of title 28, United States Code, and in accordance with the last 2 sentences of paragraph (1) of that subsection. For purposes of the preceding sentence, the term 'judicial official' as used in subsection (o) of such section 376 shall be deemed to mean 'magistrate judge of the Tax Court' and the terms 'Administrative Office of the United States Courts' and 'Director of the Administrative Office of the United States Courts' shall be deemed to mean 'chief judge of the Tax Court'.

"(C) PAYMENT UPON DEATH OF JUDGE BEFORE RECEIPT OF ANNUITY.—If a magistrate judge of the Tax Court dies before receiving an annuity under this section, the lump-sum credit shall be paid.

"(D) PAYMENT OF ANNUITY REMAINDER.—If all annuity rights under this section based on the service of a deceased magistrate judge of the Tax Court terminate before the total annuity paid equals the lump-sum credit, the difference shall be paid.

"(E) PAYMENT UPON DEATH OF JUDGE DURING RECEIPT OF ANNUITY.—If a magistrate judge of the Tax Court who is receiving an annuity under this section dies, any accrued annuity benefits remaining unpaid shall be paid.

"(F) PAYMENT UPON TERMINATION.—Any accrued annuity benefits remaining unpaid on the termination, except by death, of the annuity of a magistrate judge of the Tax Court shall be paid to that individual.

"(G) PAYMENT UPON ACCEPTING OTHER EMPLOYMENT.—Subject to paragraph (2), a magistrate judge of the Tax Court who forfeits rights to an annuity under subsection (m)(4) before the total annuity paid equals the lump-sum credit shall be entitled to be paid the difference if the magistrate judge of the Tax Court files an application with the chief judge of the Tax Court for payment of that difference. A payment under this subparagraph voids all rights to an annuity on which the payment is based.

"(2) SPOUSES AND FORMER SPOUSES.—

"(A) IN GENERAL.—Payment of the lump-sum credit under paragraph (1)(A) or a payment under paragraph (1)(G)—

"(i) may be made only if any current spouse and any former spouse of the magistrate judge of the Tax Court are notified of the magistrate judge's application, and

"(ii) shall be subject to the terms of a court decree of divorce, annulment, or legal separation, or any court or court approved property settlement agreement incident to such decree, if—

"(I) the decree, order, or agreement expressly relates to any portion of the lump-sum credit or other payment involved, and

"(II) payment of the lump-sum credit or other payment would extinguish entitlement of the magistrate judge's spouse or former spouse to any portion of an annuity under subsection (i).

"(B) NOTIFICATION.—Notification of a spouse or former spouse under this paragraph shall be made in accordance with such procedures as the chief judge of the Tax Court shall prescribe. The chief judge may provide under such procedures that subparagraph (A)(i) may be waived with respect to a spouse or former spouse if the magistrate judge establishes to the satisfaction of the chief judge that the whereabouts of such spouse or former spouse cannot be determined.

"(C) RESOLUTION OF 2 OR MORE ORDERS.—The chief judge shall prescribe procedures under which this paragraph shall be applied in any case in which the chief judge receives 2 or more orders or decrees described in subparagraph (A).

"(3) DEFINITION.—For purposes of this subsection, the term 'lump-sum credit' means the unrefunded amount consisting of—

"(A) retirement deductions made under this section from the salary of a magistrate judge of the Tax Court,

"(B) amounts deposited under subsection (k) by a magistrate judge of the Tax Court covering earlier service, and

"(C) interest on the deductions and deposits which, for any calendar year, shall be equal to the overall average yield to the Tax Court Judicial Officers' Retirement Fund during the preceding fiscal year from all obligations purchased by the Secretary during such fiscal year under subsection (o); but does not include interest—

"(i) if the service covered thereby aggregates 1 year or less, or

"(ii) for the fractional part of a month in the total service.

"(o) TAX COURT JUDICIAL OFFICERS' RETIREMENT FUND.—

"(1) ESTABLISHMENT.—There is established in the Treasury a fund which shall be known as the 'Tax Court Judicial Officers' Retirement Fund'. Amounts in the Fund are authorized to be appropriated for the payment of annuities, refunds, and other payments under this section.

"(2) INVESTMENT OF FUND.—The Secretary shall invest, in interest bearing securities of the United States, such currently available portions of the Tax Court Judicial Officers' Retirement Fund as are not immediately required for payments from the Fund. The income derived from these investments constitutes a part of the Fund.

"(3) UNFUNDED LIABILITY.—

"(A) IN GENERAL.—There are authorized to be appropriated to the Tax Court Judicial Officers' Retirement Fund amounts required to reduce to zero the unfunded liability of the Fund.

"(B) UNFUNDED LIABILITY.—For purposes of subparagraph (A), the term 'unfunded liability' means the estimated excess, determined on an annual basis in accordance with the provisions of section 9503 of title 31, United States Code, of the present value of all benefits payable from the Tax Court Judicial Officers' Retirement Fund over the sum of—

"(i) the present value of deductions to be withheld under this section from the future basic pay of magistrate judges of the Tax Court, plus

"(ii) the balance in the Fund as of the date the unfunded liability is determined.

"(p) PARTICIPATION IN THRIFT SAVINGS PLAN.—

"(1) ELECTION TO CONTRIBUTE.—

"(A) IN GENERAL.—A magistrate judge of the Tax Court who elects to receive an annuity under this section or under section 321 of the Tax Administration Good Government Act may elect to contribute an amount of such individual's basic pay to the Thrift Savings Fund established by section 8437 of title 5, United States Code.

"(B) PERIOD OF ELECTION.—An election may be made under this paragraph only during a period provided under section 8432(b) of title 5, United States Code, for individuals subject to chapter 84 of such title.

"(2) APPLICABILITY OF TITLE 5 PROVISIONS.—Except as otherwise provided in this subsection, the provisions of subchapters III and VII of chapter 84 of title 5, United States Code, shall apply with respect to a magistrate judge who makes an election under paragraph (1).

"(3) SPECIAL RULES.—

"(A) AMOUNT CONTRIBUTED.—The amount contributed by a magistrate judge to the Thrift Savings Fund in any pay period shall not exceed the maximum percentage of such judge's basic pay for such pay period as allowable under section 8440f of title 5, United States Code.

"(B) CONTRIBUTIONS FOR BENEFIT OF JUDGE.—No contributions may be made for the benefit of a magistrate judge under section 8432(c) of title 5, United States Code.

"(C) APPLICABILITY OF SECTION 8433(b) OF TITLE 5.—Section 8433(b) of title 5, United States Code, applies with respect to a magistrate judge who makes an election under paragraph (1) and—

"(i) who retires entitled to an immediate annuity under this section (including a disability annuity under subsection (d) of this section) or section 321 of the Tax Administration Good Government Act,

"(ii) who retires before attaining age 65 but is entitled, upon attaining age 65, to an annuity under this section or section 321 of the Tax Administration Good Government Act, or

"(iii) who retires before becoming entitled to an immediate annuity, or an annuity upon attaining age 65, under this section or section 321 of the Tax Administration Good Government Act.

"(D) SEPARATION FROM SERVICE.—With respect to a magistrate judge to whom this subsection applies, retirement under this section or section 321 of the Tax Administration Good Government Act is a separation from service for purposes of subchapters III and VII of chapter 84 of title 5, United States Code.

"(4) DEFINITIONS.—For purposes of this subsection, the terms 'retirement' and 'retire' include removal from office under section 7443A(a)(2) on the sole ground of mental or physical disability.

"(5) OFFSET.—In the case of a magistrate judge who receives a distribution from the Thrift Savings Fund and who later receives an annuity under this section, that annuity shall be offset by an amount equal to the amount which represents the Government's contribution to that person's Thrift Savings Account, without regard to earnings attributable to that amount. Where such an offset would exceed 50 percent of the annuity to be received in the first year, the offset may be divided equally over the first 2 years in which that person receives the annuity.

"(6) EXCEPTION.—Notwithstanding clauses (i) and (ii) of paragraph (3)(C), if any magistrate judge retires under circumstances making such magistrate judge eligible to make an election under subsection (b) of section 8433 of title 5, United States Code, and such magistrate judge's nonforfeitable account balance is less than an amount that the Executive Director of the Office of Personnel Management prescribes by regulation, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment.".

(b) CONFORMING AMENDMENT.—The table of section for part I of subchapter C of chapter 76 is amended by inserting after the item relating to section 7443A the following new item:

"Sec. 7443B. Retirement for magistrate judges of the Tax Court.".

SEC. 321. INCUMBENT MAGISTRATE JUDGES OF THE TAX COURT.

(a) RETIREMENT ANNUITY UNDER TITLE 5 AND SECTION 7443B OF THE INTERNAL REVENUE CODE

OF 1986.—A magistrate judge of the United States Tax Court in active service on the date of the enactment of this Act shall, subject to subsection (b), be entitled, in lieu of the annuity otherwise provided under the amendments made by this title, to—

(1) an annuity under subchapter III of chapter 83, or under chapter 84 (except for subchapters III and VII), of title 5, United States Code, as the case may be, for creditable service before the date on which service would begin to be credited for purposes of paragraph (2), and

(2) an annuity calculated under subsection (b) or (c) and subsection (g) of section 7443B of the Internal Revenue Code of 1986, as added by this Act, for any service as a magistrate judge of the United States Tax Court or special trial judge of the United States Tax Court but only with respect to service as such a magistrate judge or special trial judge after a date not earlier than 9½ years prior to the date of the enactment of this Act (as specified in the election pursuant to subsection (b)) for which deductions and deposits are made under subsections (j) and (k) of such section 7443B, as applicable, without regard to the minimum number of years of service as such a magistrate judge of the United States Tax Court, except that—

(A) in the case of a magistrate judge who retired with less than 8 years of service, the annuity under subsection (c) of such section 7443B shall be equal to that proportion of the salary being received at the time the magistrate judge leaves office which the years of service bears to 14, subject to a reduction in accordance with subsection (c) of such section 7443B if the magistrate judge is under age 65 at the time he or she leaves office, and

(B) the aggregate amount of the annuity initially payable on retirement under this subsection may not exceed the rate of pay for the magistrate judge which is in effect on the day before the retirement becomes effective.

(b) FILING OF NOTICE OF ELECTION.—A magistrate judge of the United States Tax Court shall be entitled to an annuity under this section only if the magistrate judge files a notice of that election with the chief judge of the United States Tax Court specifying the date on which service would begin to be credited under section 7443B of the Internal Revenue Code of 1986, as added by this Act, in lieu of chapter 83 or chapter 84 of title 5, United States Code. Such notice shall be filed in accordance with such procedures as the chief judge of the United States Tax Court shall prescribe.

(c) LUMP-SUM CREDIT UNDER TITLE 5.—A magistrate judge of the United States Tax Court who makes an election under subsection (b) shall be entitled to a lump-sum credit under section 8342 or 8424 of title 5, United States Code, as the case may be, for any service which is covered under section 7443B of the Internal Revenue Code of 1986, as added by this Act, pursuant to that election, and with respect to which any contributions were made by the magistrate judge under the applicable provisions of title 5, United States Code.

(d) RECALL.—With respect to any magistrate judge of the United States Tax Court receiving an annuity under this section who is recalled to serve under section 7443C of the Internal Revenue Code of 1986, as added by this Act—

(1) the amount of compensation which such recalled magistrate judge receives under such section 7443C shall be calculated on the basis of the annuity received under this section, and

(2) such recalled magistrate judge of the United States Tax Court may serve as a reemployed annuitant to the extent otherwise permitted under title 5, United States Code.

Section 7443B(m)(4) of the Internal Revenue Code of 1986, as added by this Act, shall not apply with respect to service as a reemployed annuitant described in paragraph (2).

SEC. 322. PROVISIONS FOR RECALL.

(a) IN GENERAL.—Part I of subchapter C of chapter 76, as amended by this Act, is amended by inserting after section 7443B the following new section:

"SEC. 7443C. RECALL OF MAGISTRATE JUDGES OF THE TAX COURT.

"(a) RECALLING OF RETIRED MAGISTRATE JUDGES.—Any individual who has retired pursuant to section 7443B or the applicable provisions of title 5, United States Code, upon reaching the age and service requirements established therein, may at or after retirement be called upon by the chief judge of the Tax Court to perform such judicial duties with the Tax Court as may be requested of such individual for any period or periods specified by the chief judge; except that in the case of any such individual—

"(1) the aggregate of such periods in any 1 calendar year shall not (without such individual's consent) exceed 90 calendar days, and

"(2) such individual shall be relieved of performing such duties during any period in which illness or disability precludes the performance of such duties.

Any act, or failure to act, by an individual performing judicial duties pursuant to this subsection shall have the same force and effect as if it were the act (or failure to act) of a magistrate judge of the Tax Court.

"(b) COMPENSATION.—For the year in which a period of recall occurs, the magistrate judge shall receive, in addition to the annuity provided under the provisions of section 7443B or under the applicable provisions of title 5, United States Code, an amount equal to the difference between that annuity and the current salary of the office to which the magistrate judge is recalled. The annuity of the magistrate judge who completes that period of service, who is not recalled in a subsequent year, and who retired under section 7443B, shall be equal to the salary in effect at the end of the year in which the period of recall occurred for the office from which such individual retired.

"(c) RULEMAKING AUTHORITY.—The provisions of this section may be implemented under such rules as may be promulgated by the Tax Court.".

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter C of chapter 76, as amended by this Act, is amended by inserting after the item relating to section 7443B the following new item:

"Sec. 7443C. Recall of magistrate judges of the Tax Court.".

SEC. 323. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this subtitle shall take effect on the date of the enactment of this Act.

TITLE IV—CONFIDENTIALITY AND DISCLOSURE

SEC. 401. CLARIFICATION OF DEFINITION OF CHURCH TAX INQUIRY.

(a) IN GENERAL.—Subsection (i) of section 7611 (relating to section not to apply to criminal investigations, etc.) is amended by striking "or" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", or", and by inserting after paragraph (5) the following:

"(6) information provided by the Secretary related to the standards for exemption from tax under this title and the requirements under this title relating to unrelated business taxable income.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 402. COLLECTION ACTIVITIES WITH RESPECT TO JOINT RETURN DISCLOSABLE TO EITHER SPOUSE BASED ON ORAL REQUEST.

(a) IN GENERAL.—Paragraph (8) of section 6103(e) (relating to disclosure of collection activities with respect to joint return) is amended by striking "in writing" the first place it appears.

(b) ELIMINATION OF REPORTING REQUIREMENT.—Section 7803(d)(1) (relating to annual reporting), as amended by this Act, is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), (E), (F), (G), and (H) as subparagraphs (B), (C), (D), (E), (F), and (G), respectively.

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to requests made after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to reports made after the date of the enactment of this Act.

SEC. 403. TAXPAYER REPRESENTATIVES NOT SUBJECT TO EXAMINATION ON SOLE BASIS OF REPRESENTATION OF TAXPAYERS.

(a) IN GENERAL.—Paragraph (1) of section 6103(h) (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended—

(1) by striking "TREASURY.—Returns and return information" and inserting "TREASURY.—

"(A) IN GENERAL.—Returns and return information", and

(2) by adding at the end the following new subparagraph:

"(B) TAXPAYER REPRESENTATIVES.—Notwithstanding subparagraph (A), the return or return information of the representative of a taxpayer whose return is being examined by an officer or employee of the Department of the Treasury shall not be open to inspection by such officer or employee on the sole basis of the representative's relationship to the taxpayer unless a supervisor of such officer or employee has approved the inspection of the return or return information of such representative on a basis other than by reason of such relationship.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect after the date of the enactment of this Act.

SEC. 404. PROHIBITION OF DISCLOSURE OF TAXPAYER IDENTIFICATION INFORMATION WITH RESPECT TO DISCLOSURE OF ACCEPTED OFFERS-IN-COMPROMISE.

(a) IN GENERAL.—Paragraph (1) of section 6103(k) (relating to disclosure of certain returns and return information for tax administrative purposes) is amended by inserting "(other than the taxpayer's TIN)" after "Return information".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disclosures made after the date of the enactment of this Act.

SEC. 405. COMPLIANCE BY CONTRACTORS WITH CONFIDENTIALITY SAFEGUARDS.

(a) IN GENERAL.—Section 6103(p) (relating to State law requirements) is amended by adding at the end the following new paragraph:

"(9) DISCLOSURE TO CONTRACTORS AND OTHER AGENTS.—Notwithstanding any other provision of this section, no return or return information shall be disclosed to any contractor or other agent of a Federal, State, or local agency unless such agency, to the satisfaction of the Secretary—

"(A) has requirements in effect which require each such contractor or other agent which would have access to returns or return information to provide safeguards (within the meaning of paragraph (4)) to protect the confidentiality of such returns or return information,

"(B) agrees to conduct an on-site review every 3 years (mid-point review in the case of contracts or agreements of less than 1 year in duration) of each contractor or other agent to determine compliance with such requirements,

"(C) submits the findings of the most recent review conducted under subparagraph (B) to the Secretary as part of the report required by paragraph (4)(E), and

"(D) certifies to the Secretary for the most recent annual period that such contractor or other agent is in compliance with all such requirements.

The certification required by subparagraph (D) shall include the name and address of each contractor and other agent, a description of the contract or agreement with such contractor or other agent, and the duration of such contract or agreement. The requirements of this paragraph shall not apply to disclosures pursuant to subsection (n) for purposes of Federal tax administration.".

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 6103(p)(8) is amended by inserting "or paragraph (9)" after "subparagraph (A)".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to disclosures made after the date of the enactment of this Act.

(2) CERTIFICATIONS.—The first certification under section 6103(p)(9)(D) of the Internal Revenue Code of 1986, as added by subsection (a), shall be made with respect to the portion of calendar year 2004 following the date of the enactment of this Act.

SEC. 406. HIGHER STANDARDS FOR REQUESTS FOR AND CONSENTS TO DISCLOSURE.

(a) IN GENERAL.—Subsection (c) of section 6103 (relating to disclosure of returns and return information to designee of taxpayer) is amended—

(1) by striking "TAXPAYER.—The Secretary" and inserting "TAXPAYER.—

"(1) IN GENERAL.—The Secretary", and

(2) by adding at the end the following new paragraphs:

"(2) RESTRICTIONS ON PERSONS OBTAINING INFORMATION.—The return of any taxpayer, or return information with respect to such taxpayer, disclosed to a person or persons under paragraph (1) for a purpose specified in writing, electronically. or orally may be disclosed or used by such person or persons only for the purpose of, and to the extent necessary in, accomplishing the purpose for disclosure specified and shall not be disclosed or used for any other purpose.

"(3) REQUIREMENTS FOR FORM PRESCRIBED BY SECRETARY.—For purposes of this subsection, the Secretary shall prescribe a form for written requests and consents which shall—

"(A) contain a warning, prominently displayed, informing the taxpayer that the form should not be signed unless it is completed,

"(B) state that if the taxpayer believes there is an attempt to coerce him to sign an incomplete or blank form, the taxpayer should report the matter to the Treasury Inspector General for Tax Administration, and

'(C) contain the address and telephone number of the Treasury Inspector General for Tax Administration.

"(4) CROSS REFERENCE.—

"For provision providing for civil damages for violation of paragraph (2), see section 7431(i).".

(b) CIVIL DAMAGES.—Section 7431 (relating to civil damages for unauthorized inspection or disclosure of returns and return information) is amended by adding at the end the following new subsection:

"(i) DISCLOSURE OR USE OF RETURNS AND RETURN INFORMATION OBTAINED UNDER SUBSECTION 6103(c).—Disclosure or use of returns or return information obtained under section 6103(c) other than for the purpose of, and to the extent necessary in, accomplishing the purpose for disclosure specified in writing, electronically, or orally, shall be treated as a violation of section 6103(a).".

(c) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of the Treasury shall submit a report to the Congress on compliance with the designation and certification requirements applicable to requests for or consent to disclosure of returns and return information under section 6103(c) of the Internal Revenue Code of 1986, as amended by subsection (a). Such report shall—

(1) evaluate (on the basis of random sampling) whether—

(A) the amendment made by subsection (a) is achieving the purposes of this section;

(B) requesters and submitters for such disclosure are continuing to evade the purposes of this section and, if so, how; and

(C) the sanctions for violations of such requirements are adequate; and

(2) include such recommendations that the Secretary of the Treasury considers necessary or appropriate to better achieve the purposes of this section.

(d) SUNSET OF EXISTING CONSENTS.—Notwithstanding any other provision of law, any request for or consent to disclose any return or return information under section 6103(c) of the Internal Revenue Code of 1986 made before the date of the enactment of this Act shall remain in effect until the earlier of the date such request or consent is otherwise terminated or the date which is 3 years after such date of enactment.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to requests and consents made after the date which is 3 months after the date of the enactment of this Act.

SEC. 407. CIVIL DAMAGES FOR UNAUTHORIZED DISCLOSURE OR INSPECTION.

(a) NOTICE TO TAXPAYER.—Subsection (e) of section 7431 (relating to notification of unlawful inspection and disclosure) is amended by adding at the end the following: "The Secretary shall also notify such taxpayer if the Internal Revenue Service or, upon notice to the Secretary by a Federal or State agency, if such Federal or State agency, proposes an administrative determination as to disciplinary or adverse action against an employee arising from the employee's unauthorized inspection or disclosure of the taxpayer's return or return information. The notice described in this subsection shall include the date of the inspection or disclosure and the rights of the taxpayer under such administrative determination.".

(b) EXHAUSTION OF ADMINISTRATIVE REMEDIES REQUIRED.—Section 7431, as amended by this Act, is amended by adding at the end the following new subsection:

"(j) EXHAUSTION OF ADMINISTRATIVE REMEDIES REQUIRED.—A judgment for damages shall not be awarded under subsection (c) unless the court determines that the plaintiff has exhausted the administrative remedies available to such plaintiff.".

(c) PAYMENT AUTHORITY CLARIFIED.—

(1) IN GENERAL.—Section 7431, as amended by subsection (b), is amended by adding at the end the following new subsection:

"(k) PAYMENT AUTHORITY.—Claims pursuant to this section shall be payable out of funds appropriated under section 1304 of title 31, United States Code.".

(2) ANNUAL REPORTS OF PAYMENTS.—The Secretary of the Treasury shall annually report to the Committee of Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding payments made from the United States Judgment Fund under section 7431(k) of the Internal Revenue Code of 1986.

(d) BURDEN OF PROOF FOR GOOD FAITH EXCEPTION RESTS WITH INDIVIDUAL MAKING INSPECTION OR DISCLOSURE.—Section 7431(b) (relating to exceptions) is amended by adding at the end the following new flush sentence:

"In any proceeding involving the issue of the existence of good faith, the burden of proof with respect to such issue shall be on the individual who made the inspection or disclosure.".

(e) REPORTS.—Subsection (p) of section 6103 (relating to procedure and recordkeeping), as amended by this Act, is amended by adding at the end the following new paragraph:

"(10) REPORT ON WILLFUL UNAUTHORIZED DISCLOSURE AND INSPECTION.—As part of the report required by paragraph (3)(C) for each calendar year, the Secretary shall furnish information regarding the willful unauthorized disclosure and inspection of returns and return information, including the number, status, and results of—

"(A) administrative investigations,

"(B) civil lawsuits brought under section 7431 (including the amounts for which such lawsuits were settled and the amounts of damages awarded), and

"(C) criminal prosecutions.".

(f) EFFECTIVE DATES.—

(1) NOTICE.—The amendment made by subsection (a) shall apply to determinations made after the date which is 180 days after the date of the enactment of this Act.

(2) EXHAUSTION OF REMEDIES AND BURDEN OF PROOF.—The amendments made by subsections (b) and (d) shall apply to inspections and disclosures occurring on and after the date which is 180 days after the date of the enactment of this Act.

(3) PAYMENT AUTHORITY.—The amendment made by subsection (c)(1) shall take effect on the date which is 180 days after the date of the enactment of this Act.

(4) REPORTS.—The amendment made by subsection (e) shall apply to calendar years ending after the date which is 180 days after the date of the enactment of this Act.

SEC. 408. EXPANSION OF DISCLOSURE IN EMERGENCY CIRCUMSTANCES.

(a) IN GENERAL.—Section 6103(i)(3)(B)(i) (relating to danger of death or physical injury) is amended by striking "or State law enforcement agency" and inserting ", State, or local law enforcement agency".

(b) CONFORMING AMENDMENTS.—Section 6103(p)(4) is amended—

(1) by striking "(i)(3)(B)(i) or (7)(A)(ii)" and inserting "(i)(7)(A)(ii)", and

(2) by striking ", (i)(3)(B)(i),".

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 409. DISCLOSURE OF TAXPAYER IDENTITY FOR TAX REFUND PURPOSES.

(a) IN GENERAL.—Section 6103(m)(1) (relating to tax refunds) is amended by striking "taxpayer identity information to the press and other media" and by inserting "a person's name and the city, State, and zip code of the person's mailing address to the press, other media, and through any other means of mass communication,".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 410. DISCLOSURE TO STATE OFFICIALS OF PROPOSED ACTIONS RELATED TO SECTION 501(c) ORGANIZATIONS.

(a) IN GENERAL.—Subsection (c) of section 6104 is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) DISCLOSURE OF PROPOSED ACTIONS RELATED TO CHARITABLE ORGANIZATIONS.—

"(A) SPECIFIC NOTIFICATIONS.—In the case of an organization to which paragraph (1) applies, the Secretary may disclose to the appropriate State officer—

"(i) a notice of proposed refusal to recognize such organization as an organization described in section 501(c)(3) or a notice of proposed revocation of such organization's recognition as an organization exempt from taxation,

"(ii) the issuance of a letter of proposed deficiency of tax imposed under section 507 or chapter 41 or 42, and *"(iii) the names, addresses, and taxpayer identification numbers of organizations which have applied for recognition as organizations described in section 501(c)(3).*

"(B) ADDITIONAL DISCLOSURES.—Returns and return information of organizations with respect to which information is disclosed under subparagraph (A) may be made available for inspection by or disclosed to an appropriate State officer.

"(C) PROCEDURES FOR DISCLOSURE.—Information may be inspected or disclosed under subparagraph (A) or (B) only—

"(i) upon written request by an appropriate State officer, and

"(ii) for the purpose of, and only to the extent necessary in, the administration of State laws regulating such organizations.

Such information may only be inspected by or disclosed to representatives of the appropriate State officer designated as the individuals who are to inspect or to receive the returns or return information under this paragraph on behalf of such officer. Such representatives shall not include any contractor or agent.

"(D) DISCLOSURES OTHER THAN BY REQUEST.—The Secretary may make available for inspection or disclose returns and return information of an organization to which paragraph (1) applies to an appropriate State officer of any State if the Secretary determines that such inspection or disclosure may facilitate the resolution of Federal or State issues relating to the tax-exempt status of such organization.

"(3) DISCLOSURE WITH RESPECT TO CERTAIN OTHER EXEMPT ORGANIZATIONS.—Upon written request by an appropriate State officer, the Secretary may make available for inspection or disclosure returns and return information of an organization described in paragraph (2), (4), (6), (7), (8), (10), or (13) of section 501(c) for the purpose of, and to the extent necessary in, the administration of State laws regulating the solicitation or administration of the charitable funds or charitable assets of such organizations. Such information may be inspected only by or disclosed only to representatives of the appropriate State officer designated as the individuals who are to inspect or to receive the returns or return information under this paragraph on behalf of such officer. Such representatives shall not include any contractor or agent.

"(4) USE IN CIVIL JUDICIAL AND ADMINISTRATIVE PROCEEDINGS.—Returns and return information disclosed pursuant to this subsection may be disclosed in civil administrative and civil judicial proceedings pertaining to the enforcement of State laws regulating such organizations in a manner prescribed by the Secretary similar to that for tax administration proceedings under section 6103(h)(4).

"(5) NO DISCLOSURE IF IMPAIRMENT.—Returns and return information shall not be disclosed under this subsection, or in any proceeding described in paragraph (4), to the extent that the Secretary determines that such disclosure would seriously impair Federal tax administration.

"(6) DEFINITIONS.—For purposes of this subsection—

"(A) RETURN AND RETURN INFORMATION.—The terms 'return' and 'return information' have the respective meanings given to such terms by section 6103(b).

"(B) APPROPRIATE STATE OFFICER.—The term 'appropriate State officer' means—

"(i) the State attorney general,

"(ii) in the case of an organization to which paragraph (1) applies, any other State official charged with overseeing organizations of the type described in section 501(c)(3), and

"(iii) in the case of an organization to which paragraph (3) applies, the head of an agency designated by the State attorney general as having primary responsibility for overseeing the solicitation of funds for charitable purposes.".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 6103 is amended—

(A) by inserting "or any appropriate State officer who has or had access to returns or return information under section 6104(c)" after "this section" in paragraph (2), and

(B) by striking "or subsection (n)" in paragraph (3) and inserting "subsection (n), or section 6104(c)".

(2) Subparagraph (A) of section 6103(p)(3) is amended by inserting "and section 6104(c)" after "section" in the first sentence.

(3) Paragraph (4) of section 6103(p), as amended by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961), is amended by striking "or (17)" after "any other person described in subsection (l)(16)" each place it appears and inserting "or (18) or any appropriate State officer (as defined in section 6104(c))".

(4) The heading for paragraph (1) of section 6104(c) is amended by inserting "FOR CHARITABLE ORGANIZATIONS".

(5) Paragraph (2) of section 7213(a) is amended by inserting "or under section 6104(c)" after "6103".

(6) Paragraph (2) of section 7213A(a) is amended by inserting "or 6104(c)" after "6103".

(7) Paragraph (2) of section 7431(a) is amended by inserting "(including any disclosure in violation of section 6104(c))" after "6103".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act but shall not apply to requests made before such date.

SEC. 411. TREATMENT OF PUBLIC RECORDS.

(a) IN GENERAL.—Section 6103(b) (relating to definitions) is amended by adding at the end the following new paragraph:

"(12) TREATMENT OF PUBLIC RECORDS.—Returns and return information shall not be subject to subsection (a) if disclosed—

"(A) in the course of any judicial or administrative proceeding or pursuant to tax administration activities, and

"(B) properly made part of the public record.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect before, on, and after the date of the enactment of this Act.

SEC. 412. EMPLOYEE IDENTITY DISCLOSURES.

(a) IN GENERAL.—Section 6103 (confidentiality and disclosure of returns and return information) is amended by redesignating subsection (q) as subsection (r) and by inserting after subsection (p) the following new subsection:

"(q) EMPLOYEE IDENTITY DISCLOSURES.—Nothing in this section may be construed to prohibit agents of the Department of the Treasury from identifying themselves, their organizational affiliation, and the nature of an investigation when contacting third parties in writing or in person.".

(b) CONSTRUCTION.—The amendments made by this section shall not be construed to create any inference with respect to the interpretation of any provision of law as such provision was in effect on the day before the date of enactment of this Act.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 413. TAXPAYER IDENTIFICATION NUMBER MATCHING.

(a) IN GENERAL.—Section 6103(k) (relating to disclosure of certain returns and return information for tax administration purposes) is amended by adding at the end the following new paragraph:

"(10) TIN MATCHING.—The Secretary may disclose to any person required to provide a TIN (as defined in section 7701(a)(41)) to the Secretary whether such information matches records maintained by the Secretary.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 414. FORM 8300 DISCLOSURES.

(a) IN GENERAL.—Section 6103(p)(4) (relating to safeguards) is amended by striking "(15)," both places it appears.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 415. DISCLOSURE TO LAW ENFORCEMENT AGENCIES REGARDING TERRORIST ACTIVITIES.

(a) IN GENERAL.—Section 6103(i)(7)(A) (relating to disclosure to law enforcement agencies) is amended by adding at the end the following new clause:

"(v) TAXPAYER IDENTITY.—For purposes of this subparagraph, a taxpayer's identity shall not be treated as taxpayer return information.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

TITLE V—SIMPLIFICATION

Subtitle A—Uniform Definition of Child

SEC. 501. UNIFORM DEFINITION OF CHILD, ETC.

Section 152 is amended to read as follows:

"SEC. 152. DEPENDENT DEFINED.

"(a) IN GENERAL.—For purposes of this subtitle, the term 'dependent' means—

"(1) a qualifying child, or

"(2) a qualifying relative.

"(b) EXCEPTIONS.—For purposes of this section—

"(1) DEPENDENTS INELIGIBLE.—If an individual is a dependent of a taxpayer for any taxable year of such taxpayer beginning in a calendar year, such individual shall be treated as having no dependents for any taxable year of such individual beginning in such calendar year.

"(2) MARRIED DEPENDENTS.—An individual shall not be treated as a dependent of a taxpayer under subsection (a) if such individual has made a joint return with the individual's spouse under section 6013 for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

"(3) CITIZENS OR NATIONALS OF OTHER COUNTRIES.—

"(A) IN GENERAL.—The term 'dependent' does not include an individual who is not a citizen or national of the United States unless such individual is a resident of the United States or a country contiguous to the United States.

"(B) EXCEPTION FOR ADOPTED CHILD.—Subparagraph (A) shall not exclude any child of a taxpayer (within the meaning of subsection (f)(1)(B)) from the definition of 'dependent' if—

"(i) for the taxable year of the taxpayer, the child has the same principal place of abode as the taxpayer and is a member of the taxpayer's household, and

"(ii) the taxpayer is a citizen or national of the United States.

"(c) QUALIFYING CHILD.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualifying child' means, with respect to any taxpayer for any taxable year, an individual—

"(A) who bears a relationship to the taxpayer described in paragraph (2),

"(B) who has the same principal place of abode as the taxpayer for more than one-half of such taxable year,

"(C) who meets the age requirements of paragraph (3), and

"(D) who has not provided over one-half of such individual's own support for the calendar year in which the taxable year of the taxpayer begins.

"(2) RELATIONSHIP.—For purposes of paragraph (1)(A), an individual bears a relationship

to the taxpayer described in this paragraph if such individual is—

"(A) a child of the taxpayer or a descendant of such a child, or

"(B) a brother, sister, stepbrother, or stepsister of the taxpayer or a descendant of any such relative.

"(3) AGE REQUIREMENTS.—

"(A) IN GENERAL.—For purposes of paragraph (1)(C), an individual meets the requirements of this paragraph if such individual—

"(i) has not attained the age of 19 as of the close of the calendar year in which the taxable year of the taxpayer begins, or

"(ii) is a student who has not attained the age of 24 as of the close of such calendar year.

"(B) SPECIAL RULE FOR DISABLED.—In the case of an individual who is permanently and totally disabled (as defined in section 22(e)(3)) at any time during such calendar year, the requirements of subparagraph (A) shall be treated as met with respect to such individual.

"(4) SPECIAL RULE RELATING TO 2 OR MORE CLAIMING QUALIFYING CHILD.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) and subsection (e), if (but for this paragraph) an individual may be and is claimed as a qualifying child by 2 or more taxpayers for a taxable year beginning in the same calendar year, such individual shall be treated as the qualifying child of the taxpayer who is—

"(i) a parent of the individual, or

"(ii) if clause (i) does not apply, the taxpayer with the highest adjusted gross income for such taxable year.

"(B) MORE THAN 1 PARENT CLAIMING QUALIFYING CHILD.—If the parents claiming any qualifying child do not file a joint return together, such child shall be treated as the qualifying child of—

"(i) the parent with whom the child resided for the longest period of time during the taxable year, or

"(ii) if the child resides with both parents for the same amount of time during such taxable year, the parent with the highest adjusted gross income.

"(d) QUALIFYING RELATIVE.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualifying relative' means, with respect to any taxpayer for any taxable year, an individual—

"(A) who bears a relationship to the taxpayer described in paragraph (2),

"(B) whose gross income for the calendar year in which such taxable year begins is less than the exemption amount (as defined in section 151(d)),

"(C) with respect to whom the taxpayer provides over one-half of the individual's support for the calendar year in which such taxable year begins, and

"(D) who is not a qualifying child of such taxpayer or of any other taxpayer for any taxable year beginning in the calendar year in which such taxable year begins.

"(2) RELATIONSHIP.—For purposes of paragraph (1)(A), an individual bears a relationship to the taxpayer described in this paragraph if the individual is any of the following with respect to the taxpayer:

"(A) A child or a descendant of a child.

"(B) A brother, sister, stepbrother, or stepsister.

"(C) The father or mother, or an ancestor of either.

"(D) A stepfather or stepmother.

"(E) A son or daughter of a brother or sister of the taxpayer.

"(F) A brother or sister of the father or mother of the taxpayer.

"(G) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law.

"(H) An individual (other than an individual who at any time during the taxable year was the spouse, determined without regard to section 7703, of the taxpayer) who, for the taxable year of the taxpayer, has the same principal place of abode as the taxpayer and is a member of the taxpayer's household.

"(3) SPECIAL RULE RELATING TO MULTIPLE SUPPORT AGREEMENTS.—For purposes of paragraph (1)(C), over one-half of the support of an individual for a calendar year shall be treated as received from the taxpayer if—

"(A) no one person contributed over one-half of such support,

"(B) over one-half of such support was received from 2 or more persons each of whom, but for the fact that any such person alone did not contribute over one-half of such support, would have been entitled to claim such individual as a dependent for a taxable year beginning in such calendar year,

"(C) the taxpayer contributed over 10 percent of such support, and

"(D) each person described in subparagraph (B) (other than the taxpayer) who contributed over 10 percent of such support files a written declaration (in such manner and form as the Secretary may by regulations prescribe) that such person will not claim such individual as a dependent for any taxable year beginning in such calendar year.

"(4) SPECIAL RULE RELATING TO INCOME OF HANDICAPPED DEPENDENTS.—

"(A) IN GENERAL.—For purposes of paragraph (1)(B), the gross income of an individual who is permanently and totally disabled (as defined in section 22(e)(3)) at any time during the taxable year shall not include income attributable to services performed by the individual at a sheltered workshop if—

"(i) the availability of medical care at such workshop is the principal reason for the individual's presence there, and

"(ii) the income arises solely from activities at such workshop which are incident to such medical care.

"(B) SHELTERED WORKSHOP DEFINED.—For purposes of subparagraph (A), the term 'sheltered workshop' means a school—

"(i) which provides special instruction or training designed to alleviate the disability of the individual, and

"(ii) which is operated by an organization described in section 501(c)(3) and exempt from tax under section 501(a), or by a State, a possession of the United States, any political subdivision of any of the foregoing, the United States, or the District of Columbia.

"(5) SPECIAL RULES FOR SUPPORT.—For purposes of this subsection—

"(A) payments to a spouse which are includible in the gross income of such spouse under section 71 or 682 shall not be treated as a payment by the payor spouse for the support of any dependent, and

"(B) in the case of the remarriage of a parent, support of a child received from the parent's spouse shall be treated as received from the parent.

"(e) SPECIAL RULE FOR DIVORCED PARENTS.—

"(1) IN GENERAL.—Notwithstanding subsection (c)(4) or (d)(1)(C), if—

"(A) a child receives over one-half of the child's support during the calendar year from the child's parents—

"(i) who are divorced or legally separated under a decree of divorce or separate maintenance,

"(ii) who are separated under a written separation agreement, or

"(iii) who live apart at all times during the last 6 months of the calendar year, and

"(B) such child is in the custody of 1 or both of the child's parents for more than one-half of the calendar year, such child shall be treated as being the qualifying child or qualifying relative of the noncustodial parent for a calendar year if the requirements described in paragraph (2) are met.

"(2) REQUIREMENTS.—For purposes of paragraph (1), the requirements described in this paragraph are met if—

"(A) a decree of divorce or separate maintenance or written separation agreement between the parents applicable to the taxable year beginning in such calendar year provides that—

"(i) the noncustodial parent shall be entitled to any deduction allowable under section 151 for such child, or

"(ii) the custodial parent will sign a written declaration (in such manner and form as the Secretary may prescribe) that such parent will not claim such child as a dependent for such taxable year, or

"(B) in the case of such an agreement executed before January 1, 1985, the noncustodial parent provides at least $600 for the support of such child during such calendar year.

For purposes of subparagraph (B), amounts expended for the support of a child or children shall be treated as received from the noncustodial parent to the extent that such parent provided amounts for such support.

"(3) CUSTODIAL PARENT AND NONCUSTODIAL PARENT.—For purposes of this subsection—

"(A) CUSTODIAL PARENT.—The term 'custodial parent' means the parent with whom a child shared the same principal place of abode for the greater portion of the calendar year.

"(B) NONCUSTODIAL PARENT.—The term 'noncustodial parent' means the parent who is not the custodial parent.

"(4) EXCEPTION FOR MULTIPLE-SUPPORT AGREEMENTS.—This subsection shall not apply in any case where over one-half of the support of the child is treated as having been received from a taxpayer under the provision of subsection (d)(3).

"(f) OTHER DEFINITIONS AND RULES.—For purposes of this section—

"(1) CHILD DEFINED.—

"(A) IN GENERAL.—The term 'child' means an individual who is—

"(i) a son, daughter, stepson, or stepdaughter of the taxpayer, or

"(ii) an eligible foster child of the taxpayer.

"(B) ADOPTED CHILD.—In determining whether any of the relationships specified in subparagraph (A)(i) or paragraph (4) exists, a legally adopted individual of the taxpayer, or an individual who is lawfully placed with the taxpayer for legal adoption by the taxpayer, shall be treated as a child of such individual by blood.

"(C) ELIGIBLE FOSTER CHILD.—For purposes of subparagraph (A)(ii), the term 'eligible foster child' means an individual who is placed with the taxpayer by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

"(2) STUDENT DEFINED.—The term 'student' means an individual who during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins—

"(A) is a full-time student at an educational organization described in section 170(b)(1)(A)(ii), or

"(B) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational organization described in section 170(b)(1)(A)(ii) or of a State or political subdivision of a State.

"(3) DETERMINATION OF HOUSEHOLD STATUS.—An individual shall not be treated as a member of the taxpayer's household if at any time during the taxable year of the taxpayer the relationship between such individual and the taxpayer is in violation of local law.

"(4) BROTHER AND SISTER.—The terms 'brother' and 'sister' include a brother or sister by the half blood.

"(5) SPECIAL SUPPORT TEST IN CASE OF STUDENTS.—For purposes of subsections (c)(1)(D) and (d)(1)(C), in the case of an individual who is—

"(A) a child of the taxpayer, and

"(B) a student,

amounts received as scholarships for study at an educational organization described in section 170(b)(1)(A)(ii) shall not be taken into account.

"(6) TREATMENT OF MISSING CHILDREN.—

"(A) IN GENERAL.—Solely for the purposes referred to in subparagraph (B), a child of the taxpayer—

"(i) who is presumed by law enforcement authorities to have been kidnapped by someone who is not a member of the family of such child or the taxpayer, and

"(ii) who had, for the taxable year in which the kidnapping occurred, the same principal place of abode as the taxpayer for more than one-half of the portion of such year before the date of the kidnapping,

shall be treated as meeting the requirement of subsection (c)(1)(B) with respect to a taxpayer for all taxable years ending during the period that the child is kidnapped.

"(B) PURPOSES.—Subparagraph (A) shall apply solely for purposes of determining—

"(i) the deduction under section 151(c),

"(ii) the credit under section 24 (relating to child tax credit),

"(iii) whether an individual is a surviving spouse or a head of a household (as such terms are defined in section 2), and

"(iv) the earned income credit under section 32.

"(C) COMPARABLE TREATMENT OF CERTAIN QUALIFYING RELATIVES.—For purposes of this section, a child of the taxpayer—

"(i) who is presumed by law enforcement authorities to have been kidnapped by someone who is not a member of the family of such child or the taxpayer, and

"(ii) who was (without regard to this paragraph) a qualifying relative of the taxpayer for the portion of the taxable year before the date of the kidnapping,

shall be treated as a qualifying relative of the taxpayer for all taxable years ending during the period that the child is kidnapped.

"(D) TERMINATION OF TREATMENT.—Subparagraphs (A) and (C) shall cease to apply as of the first taxable year of the taxpayer beginning after the calendar year in which there is a determination that the child is dead (or, if earlier, in which the child would have attained age 18).

"(7) CROSS REFERENCES.—

"For provision treating child as dependent of both parents for purposes of certain provisions, see sections 105(b), 132(h)(2)(B), and 213(d)(5).".

SEC. 502. MODIFICATIONS OF DEFINITION OF HEAD OF HOUSEHOLD.

(a) HEAD OF HOUSEHOLD.—Clause (i) of section 2(b)(1)(A) is amended to read as follows:

"(i) a qualifying child of the individual (as defined in section 152(c), determined without regard to section 152(e)), but not if such child—

"(I) is married at the close of the taxpayer's taxable year, and

"(II) is not a dependent of such individual by reason of section 152(b)(2) or 152(b)(3), or both, or".

(b) CONFORMING AMENDMENTS.—

(1) Section 2(b)(2) is amended by striking subparagraph (A) and by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively.

(2) Clauses (i) and (ii) of section 2(b)(3)(B) are amended to read as follows:

"(i) subparagraph (H) of section 152(d)(2), or

"(ii) paragraph (3) of section 152(d).".

SEC. 503. MODIFICATIONS OF DEPENDENT CARE CREDIT.

(a) IN GENERAL.—Section 21(a)(1) is amended by striking "In the case of an individual who maintains a household which includes as a member one or more qualifying individuals (as defined in subsection (b)(1))" and inserting "In the case of an individual for which there are 1 or more qualifying individuals (as defined in subsection (b)(1)) with respect to such individual".

(b) QUALIFYING INDIVIDUAL.—Paragraph (1) of section 21(b) is amended to read as follows:

"(1) QUALIFYING INDIVIDUAL.—The term 'qualifying individual' means—

"(A) a dependent of the taxpayer (as defined in section 152(a)(1)) who has not attained age 13,

"(B) a dependent of the taxpayer who is physically or mentally incapable of caring for himself or herself and who has the same principal place of abode as the taxpayer for more than one-half of such taxable year, or

"(C) the spouse of the taxpayer, if the spouse is physically or mentally incapable of caring for himself or herself and who has the same principal place of abode as the taxpayer for more than one-half of such taxable year.".

(c) CONFORMING AMENDMENT.—Paragraph (1) of section 21(e) is amended to read as follows:

"(1) PLACE OF ABODE.—An individual shall not be treated as having the same principal place of abode of the taxpayer if at any time during the taxable year of the taxpayer the relationship between the individual and the taxpayer is in violation of local law.".

SEC. 504. MODIFICATIONS OF CHILD TAX CREDIT.

(a) IN GENERAL.—Paragraph (1) of section 24(c) is amended to read as follows:

"(1) IN GENERAL.—The term 'qualifying child' means a qualifying child of the taxpayer (as defined in section 152(c)) who has not attained age 17.".

(b) CONFORMING AMENDMENT.—Section 24(c)(2) is amended by striking "the first sentence of section 152(b)(3)" and inserting "subparagraph (A) of section 152(b)(3)".

SEC. 505. MODIFICATIONS OF EARNED INCOME CREDIT.

(a) QUALIFYING CHILD.—Paragraph (3) of section 32(c) is amended to read as follows:

"(3) QUALIFYING CHILD.—

"(A) IN GENERAL.—The term 'qualifying child' means a qualifying child of the taxpayer (as defined in section 152(c), determined without regard to paragraph (1)(D) thereof and section 152(e)).

"(B) MARRIED INDIVIDUAL.—The term 'qualifying child' shall not include an individual who is married as of the close of the taxpayer's taxable year unless the taxpayer is entitled to a deduction under section 151 for such taxable year with respect to such individual (or would be so entitled but for section 152(e)).

"(C) PLACE OF ABODE.—For purposes of subparagraph (A), the requirements of section 152(c)(1)(B) shall be met only if the principal place of abode is in the United States.

"(D) IDENTIFICATION REQUIREMENTS.—

"(i) IN GENERAL.—A qualifying child shall not be taken into account under subsection (b) unless the taxpayer includes the name, age, and TIN of the qualifying child on the return of tax for the taxable year.

"(ii) OTHER METHODS.—The Secretary may prescribe other methods for providing the information described in clause (i).".

(b) CONFORMING AMENDMENTS.—

(1) Section 32(c)(1) is amended by striking subparagraph (C) and by redesignating subparagraphs (D), (E), (F), and (G) as subparagraphs (C), (D), (E), and (F), respectively.

(2) Section 32(c)(4) is amended by striking "(3)(E)" and inserting "(3)(C)".

(3) Section 32(m) is amended by striking "subsections (c)(1)(F)" and inserting "subsections (c)(1)(E)".

SEC. 506. MODIFICATIONS OF DEDUCTION FOR PERSONAL EXEMPTION FOR DEPENDENTS.

Subsection (c) of section 151 is amended to read as follows:

"(c) ADDITIONAL EXEMPTION FOR DEPENDENTS.—An exemption of the exemption amount for each individual who is a dependent (as defined in section 152) of the taxpayer for the taxable year.".

SEC. 507. TECHNICAL AND CONFORMING AMENDMENTS.

(1) Section 2(a)(1)(B)(i) is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(2) Section 21(e)(5) is amended—

(A) by striking "paragraph (2) or (4) of" in subparagraph (A), and

(B) by striking "within the meaning of section 152(e)(1)" and inserting "as defined in section 152(e)(3)(A)".

(3) Section 21(e)(6)(B) is amended by striking "section 151(c)(3)" and inserting "section 152(f)(1)".

(4) Section 25B(c)(2)(B) is amended by striking "151(c)(4)" and inserting "152(f)(2)".

(5)(A) Subparagraphs (A) and (B) of section 51(i)(1) are each amended by striking "paragraphs (1) through (8) of section 152(a)" both places it appears and inserting "subparagraphs (A) through (G) of section 152(d)(2)".

(B) Section 51(i)(1)(C) is amended by striking "152(a)(9)" and inserting "152(d)(2)(H)".

(6) Section 72(t)(2)(D)(i)(III) is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(7) Section 72(t)(7)(A)(iii) is amended by striking "151(c)(3)" and inserting "152(f)(1)".

(8) Section 42(i)(3)(D)(ii)(I) is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(9) Subsections (b) and (c)(1) of section 105 are amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(10) Section 120(d)(4) is amended by inserting "(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)" after "section 152".

(11) Section 125(e)(1)(D) is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(12) Section 129(c)(2) is amended by striking "151(c)(3)" and inserting "152(f)(1)".

(13) The first sentence of section 132(h)(2)(B) is amended by striking "151(c)(3)" and inserting "152(f)(1)".

(14) Section 153 is amended by striking paragraph (1) and by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

(15) Section 170(g)(1) is amended by inserting "(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)" after "section 152".

(16) Section 170(g)(3) is amended by striking "paragraphs (1) through (8) of section 152(a)" and inserting "subparagraphs (A) through (G) of section 152(d)(2)".

(17) Section 213(a) is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(18) The second sentence of section 213(d)(11) is amended by striking "paragraphs (1) through (8) of section 152(a)" and inserting "subparagraphs (A) through (G) of section 152(d)(2)".

(19) Section 220(d)(2)(A) is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(20) Section 221(d)(4) is amended by inserting "(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)" after "section 152".

(21) Section 529(e)(2)(B) is amended by striking "paragraphs (1) through (8) of section 152(a)" and inserting "subparagraphs (A) through (G) of section 152(d)(2)".

(22) Section 2032A(c)(7)(D) is amended by striking "section 151(c)(4)" and inserting "section 152(f)(2)".

(23) Section 2057(d)(2)(B) is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(24) Section 7701(a)(17) is amended by striking "152(b)(4), 682," and inserting "682".

(25) Section 7702B(f)(2)(C)(iii) is amended by striking "paragraphs (1) through (8) of section 152(a)" and inserting "subparagraphs (A) through (G) of section 152(d)(2)".

(26) Section 7703(b)(1) is amended—

(A) by striking "151(c)(3)" and inserting "152(f)(1)", and

(B) by striking "paragraph (2) or (4) of".

SEC. 508. EFFECTIVE DATE.

The amendments made by this subtitle shall apply to taxable years beginning after December 31, 2004.

Subtitle B—Simplification Through Elimination of Inoperative Provisions

SEC. 511. SIMPLIFICATION THROUGH ELIMINATION OF INOPERATIVE PROVISIONS.

(a) IN GENERAL.—

(1) ADJUSTMENTS IN TAX TABLES SO THAT INFLATION WILL NOT RESULT IN TAX INCREASES.—Paragraph (7) of section 1(f) is amended to read as follows:

"(7) SPECIAL RULE FOR CERTAIN BRACKETS.—In prescribing tables under paragraph (1) which apply to taxable years beginning in a calendar year after 1994, the cost-of-living adjustment used in making adjustments to the dollar amounts at which the 36 percent rate bracket begins or at which the 39.6 percent rate bracket begins shall be determined under paragraph (3) by substituting '1993' for '1992'.".

(2) CREDIT FOR PRODUCING FUEL FROM NONCONVENTIONAL SOURCE.—Section 29 is amended by striking subsection (e) and by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(3) EARNED INCOME CREDIT.—Paragraph (1) of section 32(b) is amended—

(A) by striking subparagraphs (B) and (C), and

(B) in subparagraph (A) by striking "(A) IN GENERAL.—In the case of taxable years beginning after 1995" and moving the table 2 ems to the left.

(4) GENERAL BUSINESS CREDITS.—Subsection (d) of section 38 is amended by striking paragraph (3).

(5) CARRYBACK AND CARRYFORWARD OF UNUSED CREDITS.—Subsection (d) of section 39 is amended by striking paragraphs (1) through (8) and by redesignating paragraphs (9) and (10) as paragraphs (1) and (2), respectively.

(6) ADJUSTMENTS BASED ON ADJUSTED CURRENT EARNINGS.—Clause (ii) of section 56(g)(4)(F) is amended by striking "In the case of any taxable year beginning after December 31, 1992, clause" and inserting "Clause".

(7) ITEMS OF TAX PREFERENCE; DEPLETION.—Paragraph (1) of section 57(a) is amended by striking "Effective with respect to taxable years beginning after December 31, 1992, this" and inserting "This".

(8) INTANGIBLE DRILLING COSTS.—

(A) Clause (i) of section 57(a)(2)(E) is amended by striking "In the case of any taxable year beginning after December 31, 1992, this" and inserting "This".

(B) Clause (ii) of section 57(a)(2)(E) is amended by striking "(30 percent in the case of taxable years beginning in 1993)".

(9) ANNUITIES; CERTAIN PROCEEDS OF ENDOWMENT AND LIFE INSURANCE CONTRACTS.—Section 72 is amended—

(A) in subsection (c)(4) by striking "; except that if such date was before January 1, 1954, then the annuity starting date is January 1, 1954", and

(B) in subsection (g)(3) by striking "January 1, 1954, or" and ", whichever is later".

(10) ACCIDENT AND HEALTH PLANS.—Section 105(f) is amended by striking "or (d)".

(11) FLEXIBLE SPENDING ARRANGEMENTS.—Section 106(c)(1) is amended by striking "Effective on and after January 1, 1997, gross" and inserting "Gross".

(12) CERTAIN COMBAT ZONE COMPENSATION OF MEMBERS OF THE ARMED FORCES.—Subsection (c) of section 112 is amended—

(A) by striking "(after June 24, 1950)" in paragraph (2), and

(B) striking "such zone;" and all that follows in paragraph (3) and inserting "such zone.".

(13) PRINCIPAL RESIDENCE.—Section 121(b)(3) is amended—

(A) by striking subparagraph (B); and

(B) in subparagraph (A) by striking "(A) IN GENERAL.—" and moving the text 2 ems to the left.

(14) CERTAIN REDUCED UNIFORMED SERVICES RETIREMENT PAY.—Section 122(b)(1) is amended by striking "after December 31, 1965,".

(15) GREAT PLAINS CONSERVATION PROGRAM.—Section 126(a) is amended by striking paragraph (6) and by redesignating paragraphs (7), (8), (9), and (10) as paragraphs (6), (7), (8), and (9), respectively.

(16) MORTGAGE REVENUE BONDS FOR RESIDENCES IN FEDERAL DISASTER AREAS.—Section 143(k) is amended by striking paragraph (11).

(17) TREBLE DAMAGE PAYMENTS UNDER THE ANTITRUST LAW.—Section 162(g) is amended by striking the last sentence.

(18) STATE LEGISLATORS' TRAVEL EXPENSES AWAY FROM HOME.—Paragraph (4) of section 162(h) is amended by striking "For taxable years beginning after December 31, 1980, this" and inserting "This".

(19) HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.—Paragraph (1) of section 162(l) is amended to read as follows:

"(1) ALLOWANCE OF DEDUCTION.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to 100 percent of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer and the taxpayer's spouse and dependents.".

(20) INTEREST.—

(A) Section 163 is amended by striking paragraph (6) of subsection (d) and paragraph (5) (relating to phase-in of limitation) of subsection (h).

(B) Section 56(b)(1)(C) is amended by striking clause (ii) and by redesignating clauses (iii), (iv), and (v) as clauses (ii), (iii), and (iv), respectively.

(21) CHARITABLE, ETC., CONTRIBUTIONS AND GIFTS.—Section 170 is amended by striking subsection (k).

(22) AMORTIZABLE BOND PREMIUM.—Subparagraph (B) of section 171(b)(1) is amended to read as follows:

"(B)(i) in the case of a bond described in subsection (a)(2), with reference to the amount payable on maturity or earlier call date, and

"(ii) in the case of a bond described in subsection (a)(1), with reference to the amount payable on maturity (or if it results in a smaller amortizable bond premium attributable to the period of earlier call date, with reference to the amount payable on earlier call date), and".

(23) NET OPERATING LOSS CARRYBACKS AND CARRYOVERS.—

(A) Section 172 is amended—

(i) by striking subparagraph (D) of subsection (b)(1) and by redesignating subparagraphs (E), (F), (G), and (H) as subparagraphs (D), (E), (F), and (G), respectively,

(ii) by striking "ending after August 2, 1989" in subsection (b)(1)(D)(i)(II) (as redesignated by clause (i)),

(iii) by striking "subparagraph (F)" in subsection (b)(1)(G) (as redesignated by clause (i)) and inserting "subparagraph (E)",

(iv) by striking subsection (g), and

(v) by striking subparagraph (F) of subsection (h)(2).

(B) Section 172(h)(4) is amended by striking "subsection (b)(1)(E)" each place it appears and inserting "subsection (b)(1)(D)".

(C) Section 172(i)(3) is amended by striking "subsection (b)(1)(G)" each place it appears and inserting "subsection (b)(1)(F)".

(D) Section 172(j) is amended by striking "subsection (b)(1)(H)" each place it appears and inserting "subsection (b)(1)(G)".

(E) Section 172, as amended by subparagraphs (A) through (D) of this paragraph, is amended—

(i) by redesignating subsections (h), (i), and (j) as subsections (g), (h), and (i), respectively,

(ii) by striking "subsection (h)" each place it appears and inserting "subsection (g)", and

(iii) by striking "subsection (i)" each place it appears and inserting "subsection (h)".

(24) RESEARCH AND EXPERIMENTAL EXPENDITURES.—Subparagraph (A) of section 174(a)(2) is amended to read as follows:

"(A) WITHOUT CONSENT.—A taxpayer may, without the consent of the Secretary, adopt the method provided in this subsection for his first taxable year for which expenditures described in paragraph (1) are paid or incurred.".

(25) AMORTIZATION OF CERTAIN RESEARCH AND EXPERIMENTAL EXPENDITURES.—Paragraph (2) of section 174(b)(2) is amended by striking "beginning after December 31, 1953".

(26) SOIL AND WATER CONSERVATION EXPENDITURES.—Paragraph (1) of section 175(d) is amended to read as follows:

"(1) WITHOUT CONSENT.—A taxpayer may, without the consent of the Secretary, adopt the method provided in this section for his first taxable year for which expenditures described in subsection (a) are paid or incurred.".

(27) ACTIVITIES NOT ENGAGED IN FOR PROFIT.—Section 183(e)(1) is amended by striking the last sentence.

(28) DIVIDENDS RECEIVED ON CERTAIN PREFERRED STOCK; AND DIVIDENDS PAID ON CERTAIN PREFERRED STOCK OF PUBLIC UTILITIES.—

(A) Sections 244 and 247 are hereby repealed and the table of sections for part VIII of subchapter B of chapter 1 is amended by striking the items relating to sections 244 and 247.

(B) Paragraph (5) of section 172(d) is amended to read as follows:

"(5) COMPUTATION OF DEDUCTION FOR DIVIDENDS RECEIVED.—The deductions allowed by section 243 (relating to dividends received by corporations) and 245 (relating to dividends received from certain foreign corporations) shall be computed without regard to section 246(b) (relating to limitation on aggregate amount of deductions).".

(C) Paragraph (1) of section 243(c) is amended to read as follows:

"(1) IN GENERAL.—In the case of any dividend received from a 20-percent owned corporation, subsection (a)(1) shall be applied by substituting '80 percent' for '70 percent'.".

(D) Section 243(d) is amended by striking paragraph (4).

(E) Section 246 is amended—

(i) by striking ", 244," in subsection (a)(1),

(ii) in subsection (b)(1)—

(I) by striking "sections 243(a)(1), and 244(a)," the first place it appears and inserting "section 243(a)(1),",

(II) by striking "244(a)," the second place it appears therein, and

(III) by striking "subsection (a) or (b) of section 245, and 247," and inserting "and subsection (a) or (b) of section 245,", and

(iii) by striking ", 244," in subsection (c)(1).

(F) Section 246A is amended by striking ", 244," both places it appears in subsections (a) and (e).

(G) Sections 263(g)(2)(B)(iii), 277(a), 301(e)(2), 469(e)(4), 512(a)(3)(A), subparagraphs (A), (C), and (D) of section 805(a)(4), 805(b)(5), 812(e)(2)(A), 815(c)(2)(A)(iii), 832(b)(5); 833(b)(3)(E), 1059(b)(2)(B), and 1244(c)(2)(C) are each amended by striking ", 244," each place it appears.

(H) Section 805(a)(4)(B) is amended by striking ", 244(a)," each place it appears.

(I) Section 810(c)(2)(B) is amended by striking "244 (relating to dividends on certain preferred stock of public utilities),".

(29) ORGANIZATION EXPENSES.—Section 248(c) is amended by striking "beginning after December 31, 1953," and by striking the last sentence.

(30) BOND REPURCHASE PREMIUM.—Section 249(b)(1) is amended by striking ", in the case of bonds or other evidences of indebtedness issued after February 28, 1913,".

(31) AMOUNT OF GAIN WHERE LOSS PREVIOUSLY DISALLOWED.—Section 267(d) is amended by striking "(or by reason of section 24(b) of the Internal Revenue Code of 1939)" in paragraph (1), by striking "after December 31, 1953," in paragraph (2), by striking the second sentence, and by striking "or by reason of section 118 of the Internal Revenue Code of 1939" in the last sentence.

(32) ACQUISITIONS MADE TO EVADE OR AVOID INCOME TAX.—Paragraphs (1) and (2) of section 269(a) are each amended by striking "or acquired on or after October 8, 1940,".

(33) INTEREST ON INDEBTEDNESS INCURRED BY CORPORATIONS TO ACQUIRE STOCK OR ASSETS OF ANOTHER CORPORATION.—Section 279 is amended—

(A) by striking "after December 31, 1967," in subsection (a)(2),

(B) by striking "after October 9, 1969," in subsection (b),

(C) by striking "after October 9, 1969, and" in subsection (d)(5), and

(D) by striking subsection (i) and by redesignating subsection (j) as subsection (i).

(34) SPECIAL RULES RELATING TO CORPORATE PREFERENCE ITEMS.—Paragraph (4) of section 291(a) is amended by striking "In the case of taxable years beginning after December 31, 1984, section" and inserting "Section".

(35) QUALIFICATIONS FOR TAX CREDIT EMPLOYEE STOCK OWNERSHIP PLAN.—Section 409 is amended by striking subsections (a), (g), and (q).

(36) FUNDING STANDARDS.—Section 412(m)(4) is amended—

(A) by striking "the applicable percentage" in subparagraph (A) and inserting "25 percent", and

(B) by striking subparagraph (C) and by redesignating subparagraph (D) as subparagraph (C).

(37) RETIREE HEALTH ACCOUNTS.—Section 420 is amended—

(A) by striking paragraph (4) in subsection (b) and by redesignating paragraph (5) as paragraph (4), and

(B) by amending paragraph (2) of subsection (c) to read as follows:

"(2) REQUIREMENTS RELATING TO PENSION BENEFITS ACCRUING BEFORE TRANSFER.—The requirements of this paragraph are met if the plan provides that the accrued pension benefits of any participant or beneficiary under the plan become nonforfeitable in the same manner which would be required if the plan had terminated immediately before the qualified transfer (or in the case of a participant who separated during the 1-year period ending on the date of the transfer, immediately before such separation).".

(38) EMPLOYEE STOCK PURCHASE PLANS.—Section 423(a) is amended by striking "after December 31, 1963,".

(39) LIMITATION ON DEDUCTIONS FOR CERTAIN FARMING.—Section 464 is amended—

(A) by striking "any farming syndicate (as defined in subsection (c))" both places it appears in subsections (a) and (b) and inserting "any taxpayer to whom subsection (f) applies", and

(B) by striking subsection (g).

(40) DEDUCTIONS LIMITED TO AMOUNT AT RISK.—

(A) Paragraph (3) of section 465(c) is amended by striking "In the case of taxable years beginning after December 31, 1978, this" and inserting "This".

(B) Paragraph (2) of section 465(e)(2)(A) is amended by striking "beginning after December 31, 1978".

(41) NUCLEAR DECOMMISSIONING COSTS.—Section 468A(e)(2) is amended—

(A) by striking "at the rate set forth in subparagraph (B)" in subparagraph (A) and inserting "at a rate of 20 percent", and

(B) by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(42) PASSIVE ACTIVITY LOSSES AND CREDITS LIMITED.—

(A) Section 469 is amended by striking subsection (m).

(B) Subsection (b) of section 58 is amended by adding "and" at the end of paragraph (1), by striking paragraph (2), and by redesignating paragraph (3) as paragraph (2).

(43) ADJUSTMENTS REQUIRED BY CHANGES IN METHOD OF ACCOUNTING.—Section 481(b)(3) is amended by striking subparagraph (C).

(44) EXEMPTION FROM TAX ON CORPORATIONS, CERTAIN TRUSTS, ETC.—Section 501 is amended by striking subsection (q).

(45) REQUIREMENTS FOR EXEMPTION.—

(A) Section 503(a)(1) is amended to read as follows:

"(1) GENERAL RULE.—An organization described in paragraph (17) or (18) of section 501(c) or described in section 401(a) and referred to in section 4975(g)(2) or (3) shall not be exempt from taxation under section 501(a) if it has engaged in a prohibited transaction.".

(B) Paragraph (2) of section 503(a) is amended by striking "described in section 501(c)(17) or (18) or paragraph (a)(1)(B)" and inserting "described in paragraph (1)".

(C) Subsection (c) of section 503 is amended by striking "described in section 501(c)(17) or (18) or subsection (a)(1)(B)" and inserting "described in subsection (a)(1)".

(46) AMOUNTS RECEIVED BY SURVIVING ANNUITANT UNDER JOINT AND SURVIVOR ANNUITY CONTRACT.—Subparagraph (A) of section 691(d)(1) is amended by striking "after December 31, 1953, and".

(47) INCOME TAXES OF MEMBERS OF ARMED FORCES ON DEATH.—Section 692(a)(1) is amended by striking "after June 24, 1950".

(48) INSURANCE COMPANY TAXABLE INCOME.—

(A) Section 832(e) is amended by striking "of taxable years beginning after December 31, 1966,".

(B) Section 832(e)(6) is amended by striking "In the case of any taxable year beginning after December 31, 1970, the" and by inserting "The".

(49) TAX ON NONRESIDENT ALIEN INDIVIDUALS.—Subparagraph (B) of section 871(a)(1) is amended to read as follows:

"(B) gains described in subsection (b) or (c) of section 631,".

(50) PROPERTY ON WHICH LESSEE HAS MADE IMPROVEMENTS.—Section 1019 is amended by striking the last sentence.

(51) INVOLUNTARY CONVERSION.—Section 1033 is amended by striking subsection (j) and by redesignating subsection (k) as subsection (j).

(52) PROPERTY ACQUIRED DURING AFFILIATION.—Section 1051 is repealed and the table of sections for part IV of subchapter O of chapter 1 is amended by striking the item relating to section 1051.

(53) HOLDING PERIOD OF PROPERTY.—

(A) Paragraph (5) of section 1223 is amended by striking "(or under so much of section 1052(c) as refers to section 113(a)(23) of the Internal Revenue Code of 1939)".

(B) Paragraph (7) of section 1223 is amended by striking the last sentence.

(C) Paragraph (9) of section 1223 is repealed.

(54) PROPERTY USED IN THE TRADE OR BUSINESS AND INVOLUNTARY CONVERSIONS.—Subparagraph (A) of section 1231(c)(2) is amended by striking "beginning after December 31, 1981".

(55) SALE OR EXCHANGE OF PATENTS.—Section 1235 is amended—

(A) by striking subsection (c) and by redesignating subsections (d) and (e) as (c) and (d), respectively, and

(B) by striking "(d)" in subsection (b) and inserting "(c)".

(56) DEALERS IN SECURITIES.—Subsection (b) of section 1236 is amended by striking "after November 19, 1951,".

(57) SALE OF PATENTS.—Subsection (a) of section 1249 is amended by striking "after December 31, 1962,".

(58) GAIN FROM DISPOSITION OF FARM LAND.—Paragraph (1) of section 1252(a) is amended by striking "after December 31, 1969," both places it appears.

(59) TREATMENT OF AMOUNTS RECEIVED ON RETIREMENT OR SALE OR EXCHANGE OF DEBT INSTRUMENTS.—Subsection (c) of section 1271 is amended to read as follows:

"(c) SPECIAL RULE FOR CERTAIN OBLIGATIONS WITH RESPECT TO WHICH ORIGINAL ISSUE DISCOUNT NOT CURRENTLY INCLUDIBLE.—

"(1) IN GENERAL.—On the sale or exchange of debt instruments issued by a government or political subdivision thereof after December 31, 1954, and before July 2, 1982, or by a corporation after December 31, 1954, and on or before May 27, 1969, any gain realized which does not exceed—

"(A) an amount equal to the original issue discount, or

"(B) if at the time of original issue there was no intention to call the debt instrument before maturity, an amount which bears the same ratio to the original issue discount as the number of complete months that the debt instrument was held by the taxpayer bears to the number of complete months from the date of original issue to the date of maturity,

shall be considered as ordinary income.

"(2) SUBSECTION (a)(2)(A) NOT TO APPLY.—Subsection (a)(2)(A) shall not apply to any debt instrument referred to in subparagraph (A) of this paragraph.

"(3) CROSS REFERENCE.—

"For current inclusion of original issue discount, see section 1272.".

(60) AMOUNT AND METHOD OF ADJUSTMENT.—Section 1314 is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(61) ELECTION; REVOCATION; TERMINATION.—Clause (iii) of section 1362(d)(3) is amended by striking "unless" and all that follows and inserting "unless the corporation was an S corporation for such taxable year.".

(62) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—Subsection (a) of section 1401 is

amended by striking "the following percent" and all that follows and inserting "12.4 percent of the amount of the self-employment income for such taxable year.".

(63) HOSPITAL INSURANCE.—Subsection (b) of section 1401 is amended by striking "the following percent" and all that follows and inserting "2.9 percent of the amount of the self-employment income for such taxable year.".

(64) MINISTERS, MEMBERS OF RELIGIOUS ORDERS, AND CHRISTIAN SCIENCE PRACTITIONERS.—Paragraph (3) of section 1402(e) is amended by striking "whichever of the following dates is later: (A)" and by striking "; or (B)" and all that follows and by inserting a period.

(65) WITHHOLDING OF TAX ON NONRESIDENT ALIENS.—The first sentence of subsection (b) of section 1441 and the first sentence of paragraph (5) of section 1441(c) are each amended by striking "gains subject to tax" and all that follows through "October 4, 1966" and inserting "and gains subject to tax under section 871(a)(1)(D)".

(66) AFFILIATED GROUP DEFINED.—Subparagraph (A) of section 1504(a)(3) is amended by striking "for a taxable year which includes any period after December 31, 1984" in clause (i) and by striking "in a taxable year beginning after December 31, 1984" in clause (ii).

(67) DISALLOWANCE OF THE BENEFITS OF THE GRADUATED CORPORATE RATES AND ACCUMULATED EARNINGS CREDIT.—

(A) Subsection (a) of section 1551 is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(B) Section 1551(b) is amended—

(i) by striking "or (2)" in paragraph (1), and

(ii) by striking "(a)(3)" in paragraph (2) and inserting "(a)(2)".

(68) DEFINITION OF WAGES.—Section 3121(b) is amended by striking paragraph (17).

(69) CREDITS AGAINST TAX.—

(A) Paragraph (4) of section 3302(f) is amended by striking "subsection—" and all that follows through "(A) IN GENERAL.—", by striking subparagraph (B), by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively, and by moving the text of such subparagraphs (as so redesignated) 2 ems to the left.

(B) Paragraph (5) of section 3302(f) is amended by striking subparagraphs (D) and by redesignating subparagraph (E) as subparagraph (D).

(70) DOMESTIC SERVICE EMPLOYMENT TAXES.—Section 3510(b) is amended by striking paragraph (4).

(71) TAX ON FUEL USED IN COMMERCIAL TRANSPORTATION ON INLAND WATERWAYS.—Section 4042(b)(2)(A) is amended to read as follows:

"(A) The Inland Waterways Trust Fund financing rate is 20 cents per gallon.".

(72) TRANSPORTATION BY AIR.—Section 4261(e) is amended—

(A) in paragraph (1) by striking subparagraph (C) and

(B) by striking paragraph (5).

(73) TAXES ON FAILURE TO DISTRIBUTE INCOME.—Section 4942 is amended—

(A) by striking subsection (f)(2)(D),

(B) in subsection (g)(2)(A) by striking "For all taxable years beginning on or after January 1, 1975, subject" and inserting "Subject",

(C) in subsection (g) by striking paragraph (4), and

(D) in subsection (i)(2) by striking "beginning after December 31, 1969, and".

(74) TAXES ON TAXABLE EXPENDITURES.—Section 4945(f) is amended by striking "(excluding therefrom any preceding taxable year which begins before January 1, 1970)".

(75) RETURNS.—Subsection (a) of section 6039D is amended by striking "beginning after December 31, 1984,".

(76) INFORMATION RETURNS.—Subsection (c) of section 6060 is amended by striking "year" and all that follows and inserting "year.".

(77) ABATEMENTS.—Section 6404(f) is amended by striking paragraph (3).

(78) FAILURE BY CORPORATION TO PAY ESTIMATED INCOME TAX.—Clause (i) of section 6655(g)(4)(A) is amended by striking "(or the corresponding provisions of prior law)".

(79) RETIREMENT.—Section 7447(i)(3)(B)(ii) is amended by striking "at 4 percent per annum to December 31, 1947, and at 3 percent per annum thereafter", and inserting "at 3 percent per annum".

(80) ANNUITIES TO SURVIVING SPOUSES AND DEPENDENT CHILDREN OF JUDGES.—

(A) Paragraph (2) of section 7448(a) is amended by striking "or under section 1106 of the Internal Revenue Code of 1939" and by striking "or pursuant to section 1106(d) of the Internal Revenue Code of 1939".

(B) Subsection (g) of section 7448 is amended by striking "or other than pursuant to section 1106 of the Internal Revenue Code of 1939".

(C) Subsections (g), (j)(1), and (j)(2) of section 7448 are each amended by striking "at 4 percent per annum to December 31, 1947, and at 3 percent per annum thereafter" and inserting "at 3 percent per annum".

(81) MERCHANT MARINE CAPITAL CONSTRUCTION FUNDS.—Paragraph (4) of section 7518(g) is amended by striking "any nonqualified withdrawal" and all that follows through "shall be determined" and inserting "any nonqualified withdrawal shall be determined".

(82) VALUATION TABLES.—Paragraph (3) of section 7520(c) is amended—

(A) by striking "Not later than December 31, 1989, the" and inserting "The", and

(B) by striking "thereafter" in the last sentence thereof.

(83) ADMINISTRATION AND COLLECTION OF TAXES IN POSSESSIONS.—Section 7651 is amended by striking paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(84) DEFINITION OF EMPLOYEE.—(A) Section 7701(a)(20) is amended by striking "chapter 21" and all that follows and inserting "chapter 21.".

(b) EFFECTIVE DATE.—

(1) GENERAL RULE.—Except as otherwise provided in paragraph (2), the amendments made by subsection (a) shall take effect on the date of enactment of this Act.

(2) SAVINGS PROVISION.—If—

(A) any provision amended or repealed by subsection (a) applied to—

(i) any transaction occurring before the date of the enactment of this Act,

(ii) any property acquired before such date of enactment, or

(iii) any item of income, loss, deduction, or credit taken into account before such date of enactment, and

(B) the treatment of such transaction, property, or item under such provision would (without regard to the amendments made by subsection (a)) affect the liability for tax for periods ending after such date of enactment,

nothing in the amendments made by subsection (a) shall be construed to affect the treatment of such transaction, property, or item for purposes of determining liability for tax for periods ending after such date of enactment.

TITLE VI—REVENUE PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

SEC. 601. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

"SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORTABLE TRANSACTION INFORMATION WITH RETURN OR STATEMENT.

"(a) IMPOSITION OF PENALTY.—Any person who fails to include on any return or statement any information with respect to a reportable transaction which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

"(2) LISTED TRANSACTION.—The amount of the penalty under subsection (a) with respect to a listed transaction shall be $100,000.

"(3) INCREASE IN PENALTY FOR LARGE ENTITIES AND HIGH NET WORTH INDIVIDUALS.—

"(A) IN GENERAL.—In the case of a failure under subsection (a) by—

"(i) a large entity, or

"(ii) a high net worth individual,

the penalty under paragraph (1) or (2) shall be twice the amount determined without regard to this paragraph.

"(B) LARGE ENTITY.—For purposes of subparagraph (A), the term 'large entity' means, with respect to any taxable year, a person (other than a natural person) with gross receipts in excess of $10,000,000 for the taxable year in which the reportable transaction occurs or the preceding taxable year. Rules similar to the rules of paragraph (2) and subparagraphs (B), (C), and (D) of paragraph (3) of section 448(c) shall apply for purposes of this subparagraph.

"(C) HIGH NET WORTH INDIVIDUAL.—For purposes of subparagraph (A), the term 'high net worth individual' means, with respect to a reportable transaction, a natural person whose net worth exceeds $2,000,000 immediately before the transaction.

"(c) DEFINITIONS.—For purposes of this section—

"(1) REPORTABLE TRANSACTION.—The term 'reportable transaction' means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

"(2) LISTED TRANSACTION.—Except as provided in regulations, the term 'listed transaction' means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

"(d) AUTHORITY TO RESCIND PENALTY.—

"(1) IN GENERAL.—The Commissioner of Internal Revenue may rescind all or any portion of any penalty imposed by this section with respect to any violation if—

"(A) the violation is with respect to a reportable transaction other than a listed transaction,

"(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

"(C) it is shown that the violation is due to an unintentional mistake of fact;

"(D) imposing the penalty would be against equity and good conscience, and

"(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

"(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

"(3) NO APPEAL.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

"(4) RECORDS.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

"(A) the facts and circumstances of the transaction,

"(B) the reasons for the rescission, and

"(C) the amount of the penalty rescinded.

"(5) REPORT.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

"(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

"(B) a description of each penalty rescinded under this subsection and the reasons therefor.

"(e) PENALTY REPORTED TO SEC.—In the case of a person—

"(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

"(2) which—

"(A) is required to pay a penalty under this section with respect to a listed transaction, or

"(B) is required to pay a penalty under section 6662A with respect to any reportable transaction at a rate prescribed under section 6662A(c),

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

"(f) COORDINATION WITH OTHER PENALTIES.—The penalty imposed by this section is in addition to any penalty imposed under this title.".

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

"Sec. 6707A. Penalty for failure to include reportable transaction information with return or statement.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

SEC. 602. ACCURACY-RELATED PENALTY FOR LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662 the following new section:

"SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERSTATEMENTS WITH RESPECT TO REPORTABLE TRANSACTIONS.

"(a) IMPOSITION OF PENALTY.—If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of such understatement.

"(b) REPORTABLE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

"(1) IN GENERAL.—The term 'reportable transaction understatement' means the sum of—

"(A) the product of—

"(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of such item (as shown on the taxpayer's return of tax), and

"(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

"(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer's treatment of an item to which this section applies (as shown on the taxpayer's return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

"(2) ITEMS TO WHICH SECTION APPLIES.—This section shall apply to any item which is attributable to—

"(A) any listed transaction, and

"(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

"(c) HIGHER PENALTY FOR NONDISCLOSED LISTED AND OTHER AVOIDANCE TRANSACTIONS.—

"(1) IN GENERAL.—Subsection (a) shall be applied by substituting '30 percent' for '20 percent' with respect to the portion of any reportable transaction understatement with respect to which the requirement of section 6664(d)(2)(A) is not met.

"(2) RULES APPLICABLE TO ASSERTION AND COMPROMISE OF PENALTY.—

"(A) IN GENERAL.—Only upon the approval by the Chief Counsel for the Internal Revenue Service or the Chief Counsel's delegate at the national office of the Internal Revenue Service may a penalty to which paragraph (1) applies be included in a 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals. If such a letter is provided to the taxpayer, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

"(B) APPLICABLE RULES.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of subparagraph (A).

"(d) DEFINITIONS OF REPORTABLE AND LISTED TRANSACTIONS.—For purposes of this section, the terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

"(e) SPECIAL RULES.—

"(1) COORDINATION WITH PENALTIES, ETC., ON OTHER UNDERSTATEMENTS.—In the case of an understatement (as defined in section 6662(d)(2))—

"(A) the amount of such understatement (determined without regard to this paragraph) shall be increased by the aggregate amount of reportable transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), and

"(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the application of subparagraph (A) over the aggregate amount of reportable transaction understatements.

"(2) COORDINATION WITH OTHER PENALTIES.—

"(A) APPLICATION OF FRAUD PENALTY.—References to an underpayment in section 6663 shall be treated as including references to a reportable transaction understatement.

"(B) NO DOUBLE PENALTY.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6663.

"(3) SPECIAL RULE FOR AMENDED RETURNS.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

"(4) CROSS REFERENCE.—

"For reporting of section 6662A(c) penalty to the Securities and Exchange Commission, see section 6707A(e).".

(b) DETERMINATION OF OTHER UNDERSTATEMENTS.—Subparagraph (A) of section 6662(d)(2) is amended by adding at the end the following flush sentence:

"The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies.".

(c) REASONABLE CAUSE EXCEPTION.—

(1) IN GENERAL.—Section 6664 is amended by adding at the end the following new subsection:

"(d) REASONABLE CAUSE EXCEPTION FOR REPORTABLE TRANSACTION UNDERSTATEMENTS.—

"(1) IN GENERAL.—No penalty shall be imposed under section 6662A with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

"(2) SPECIAL RULES.—Paragraph (1) shall not apply to any reportable transaction understatement unless—

"(A) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under section 6011,

"(B) there is or was substantial authority for such treatment, and

"(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the requirements of subparagraph (A) if the penalty for such failure was rescinded under section 6707A(d).

"(3) RULES RELATING TO REASONABLE BELIEF.—For purposes of paragraph (2)(C)—

"(A) IN GENERAL.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

"(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

"(ii) relates solely to the taxpayer's chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

"(B) CERTAIN OPINIONS MAY NOT BE RELIED UPON.—

"(i) IN GENERAL.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

"(I) the tax advisor is described in clause (ii), or

"(II) the opinion is described in clause (iii).

"(ii) DISQUALIFIED TAX ADVISORS.—A tax advisor is described in this clause if the tax advisor—

"(I) is a material advisor (within the meaning of section 6111(b)(1)) who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

"(II) is compensated directly or indirectly by a material advisor with respect to the transaction,

"(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained, or

"(IV) as determined under regulations prescribed by the Secretary, has a disqualifying financial interest with respect to the transaction.

"(iii) DISQUALIFIED OPINIONS.—For purposes of clause (i), an opinion is disqualified if the opinion—

"(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

"(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

"(III) does not identify and consider all relevant facts, or

"(IV) fails to meet any other requirement as the Secretary may prescribe.".

(2) CONFORMING AMENDMENT.—The heading for subsection (c) of section 6664 is amended by inserting "FOR UNDERPAYMENTS" after "EXCEPTION".

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking "(as defined in section 6662(d)(2)(C)(iii))" in subparagraph (B)(i), and

(B) by adding at the end the following new subparagraph:

"(C) TAX SHELTER.—For purposes of subparagraph (B), the term 'tax shelter' means—

"(i) a partnership or other entity,

"(ii) any investment plan or arrangement, or

"(iii) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.".

(3) Section 6662(d)(2) is amended by striking subparagraphs (C) and (D).

(4) Section 6664(c)(1) is amended by striking "this part" and inserting "section 6662 or 6663".

(5) Subsection (b) of section 7525 is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(6)(A) The heading for section 6662 is amended to read as follows:

"SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERPAYMENTS.".

(B) The table of sections for part II of subchapter A of chapter 68 is amended by striking the item relating to section 6662 and inserting the following new items:

"Sec. 6662. Imposition of accuracy-related penalty on underpayments.

"Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 603. MODIFICATIONS OF SUBSTANTIAL UNDERSTATEMENT PENALTY FOR NONREPORTABLE TRANSACTIONS.

(a) SUBSTANTIAL UNDERSTATEMENT OF CORPORATIONS.—Section 6662(d)(1)(B) (relating to special rule for corporations) is amended to read as follows:

"(B) SPECIAL RULE FOR CORPORATIONS.—In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

"(i) 10 percent of the tax required to be shown on the return for the taxable year (or, if greater, $10,000), or

"(ii) $10,000,000.".

(b) REDUCTION FOR UNDERSTATEMENT OF TAXPAYER DUE TO POSITION OF TAXPAYER OR DISCLOSED ITEM.—

(1) IN GENERAL.—Section 6662(d)(2)(B)(i) (relating to substantial authority) is amended to read as follows:

"(i) the tax treatment of any item by the taxpayer if the taxpayer had reasonable belief that the tax treatment was more likely than not the proper treatment, or".

(2) CONFORMING AMENDMENT.—Section 6662(d) is amended by adding at the end the following new paragraph:

"(3) SECRETARIAL LIST.—For purposes of this subsection, section 6664(d)(2), and section 6694(a)(1), the Secretary may prescribe a list of positions for which the Secretary believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper tax treatment. Such list (and any revisions thereof) shall be published in the Federal Register or the Internal Revenue Bulletin.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 604. TAX SHELTER EXCEPTION TO CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.

(a) IN GENERAL.—Section 7525(b) (relating to section not to apply to communications regarding corporate tax shelters) is amended to read as follows:

"(b) SECTION NOT TO APPLY TO COMMUNICATIONS REGARDING TAX SHELTERS.—The privilege under subsection (a) shall not apply to any written communication which is—

"(1) between a federally authorized tax practitioner and—

"(A) any person,

"(B) any director, officer, employee, agent, or representative of the person, or

"(C) any other person holding a capital or profits interest in the person, and

"(2) in connection with the promotion of the direct or indirect participation of the person in any tax shelter (as defined in section 1274(b)(3)(C)).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to communications made on or after the date of the enactment of this Act.

SEC. 605. DISCLOSURE OF REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

"SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.

"(a) IN GENERAL.—Each material advisor with respect to any reportable transaction shall make a return (in such form as the Secretary may prescribe) setting forth—

"(1) information identifying and describing the transaction,

"(2) information describing any potential tax benefits expected to result from the transaction, and

"(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date specified by the Secretary.

"(b) DEFINITIONS.—For purposes of this section—

"(1) MATERIAL ADVISOR.—

"(A) IN GENERAL.—The term 'material advisor' means any person—

"(i) who provides any material aid, assistance, or advice with respect to organizing, managing, promoting, selling, implementing, or carrying out any reportable transaction, and

"(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

"(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A), the threshold amount is—

"(i) $50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons, and

"(ii) $250,000 in any other case.

"(2) REPORTABLE TRANSACTION.—The term 'reportable transaction' has the meaning given to such term by section 6707A(c).

"(c) REGULATIONS.—The Secretary may prescribe regulations which provide—

"(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

"(2) exemptions from the requirements of this section, and

"(3) such rules as may be necessary or appropriate to carry out the purposes of this section.".

(b) CONFORMING AMENDMENTS.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6111. Disclosure of reportable transactions.".

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

"SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANSACTIONS MUST KEEP LISTS OF ADVISEES.

"(a) IN GENERAL.—Each material advisor (as defined in section 6111) with respect to any reportable transaction (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

"(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such transaction, and

"(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction.".

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting "written" before "request" in paragraph (1)(A), and

(ii) by striking "shall prescribe" in paragraph (2) and inserting "may prescribe".

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6112. Material advisors of reportable transactions must keep lists of advisees.".

(3)(A) The heading for section 6708 is amended to read as follows:

"SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES WITH RESPECT TO REPORTABLE TRANSACTIONS.".

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

"Sec. 6708. Failure to maintain lists of advisees with respect to reportable transactions.".

(c) REQUIRED DISCLOSURE NOT SUBJECT TO CLAIM OF CONFIDENTIALITY.—Subparagraph (A) of section 6112(b)(1), as redesignated by subsection (b)(2)(B), is amended by adding at the end the following new flush sentence:

"For purposes of this section, the identity of any person on such list shall not be privileged.".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section) is provided after the date of the enactment of this Act.

(2) NO CLAIM OF CONFIDENTIALITY AGAINST DISCLOSURE.—The amendment made by subsection (c) shall take effect as if included in the

amendments made by section 142 of the Deficit Reduction Act of 1984.

SEC. 606. MODIFICATIONS TO PENALTY FOR FAILURE TO REGISTER TAX SHELTERS.

(a) IN GENERAL.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

"SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING REPORTABLE TRANSACTIONS.

"(a) IN GENERAL.—If a person who is required to file a return under section 6111(a) with respect to any reportable transaction—

"(1) fails to file such return on or before the date prescribed therefor, or

"(2) files false or incomplete information with the Secretary with respect to such transaction, such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be $50,000.

"(2) LISTED TRANSACTIONS.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

"(A) $200,000, or

"(B) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the listed transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in subsection (a).

"(c) CERTAIN RULES TO APPLY.—The provisions of section 6707A(d) shall apply to any penalty imposed under this section.

"(d) REPORTABLE AND LISTED TRANSACTIONS.—The terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).".

(b) CLERICAL AMENDMENT.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking "tax shelters" and inserting "reportable transactions".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

SEC. 607. MODIFICATION OF PENALTY FOR FAILURE TO MAINTAIN LISTS OF INVESTORS.

(a) IN GENERAL.—Subsection (a) of section 6708 is amended to read as follows:

"(a) IMPOSITION OF PENALTY.—

"(1) IN GENERAL.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day.

"(2) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if such failure is due to reasonable cause.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 608. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 7408 (relating to action to enjoin promoters of abusive tax shelters, etc.) is amended by redesignating subsection (c) as subsection (d) and by striking subsections (a) and (b) and inserting the following new subsections:

"(a) AUTHORITY TO SEEK INJUNCTION.—A civil action in the name of the United States to enjoin any person from further engaging in specified conduct may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in specified conduct. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

"(b) ADJUDICATION AND DECREE.—In any action under subsection (a), if the court finds—

"(1) that the person has engaged in any specified conduct, and

"(2) that injunctive relief is appropriate to prevent recurrence of such conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under this title.

"(c) SPECIFIED CONDUCT.—For purposes of this section, the term 'specified conduct' means any action, or failure to take action, subject to penalty under section 6700, 6701, 6707, or 6708.".

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 7408 is amended to read as follows:

"SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.".

(2) The table of sections for subchapter A of chapter 67 is amended by striking the item relating to section 7408 and inserting the following new item:

"Sec. 7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the day after the date of the enactment of this Act.

SEC. 609. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY INCOME TAX RETURN PREPARER.

(a) STANDARDS CONFORMED TO TAXPAYER STANDARDS.—Section 6694(a) (relating to understatements due to unrealistic positions) is amended—

(1) by striking "realistic possibility of being sustained on its merits" in paragraph (1) and inserting "reasonable belief that the tax treatment in such position was more likely than not the proper treatment",

(2) by striking "or was frivolous" in paragraph (3) and inserting "or there was no reasonable basis for the tax treatment of such position", and

(3) by striking "UNREALISTIC" in the heading and inserting "IMPROPER".

(b) AMOUNT OF PENALTY.—Section 6694 is amended—

(1) by striking "$250" in subsection (a) and inserting "$1,000", and

(2) by striking "$1,000" in subsection (b) and inserting "$5,000".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to documents prepared after the date of the enactment of this Act.

SEC. 610. REGULATION OF INDIVIDUALS PRACTICING BEFORE THE DEPARTMENT OF TREASURY.

(a) CENSURE; IMPOSITION OF PENALTY.—

(1) IN GENERAL.—Section 330(b) of title 31, United States Code, is amended—

(A) by inserting ", or censure," after "Department", and

(B) by adding at the end the following new flush sentence:

"The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty shall not exceed the gross income derived (or to be derived) from the conduct giving rise to the penalty and may be in addition to, or in lieu of, any suspension, disbarment, or censure of the representative.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to actions taken after the date of the enactment of this Act.

(b) TAX SHELTER OPINIONS, ETC.—Section 330 of such title 31 is amended by adding at the end the following new subsection:

"(d) Nothing in this section or in any other provision of law shall be construed to limit the authority of the Secretary of the Treasury to impose standards applicable to the rendering of written advice with respect to any entity, transaction plan or arrangement, or other plan or arrangement, which is of a type which the Secretary determines as having a potential for tax avoidance or evasion.".

SEC. 611. PENALTY ON PROMOTERS OF TAX SHELTERS.

(a) PENALTY ON PROMOTING ABUSIVE TAX SHELTERS.—Section 6700(a) is amended by adding at the end the following new sentence: "Notwithstanding the first sentence, if an activity with respect to which a penalty imposed under this subsection involves a statement described in paragraph (2)(A), the amount of the penalty shall be equal to 50 percent of the gross income derived (or to be derived) from such activity by the person on which the penalty is imposed.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to activities after the date of the enactment of this Act.

SEC. 612. STATUTE OF LIMITATIONS FOR TAXABLE YEARS FOR WHICH REQUIRED LISTED TRANSACTIONS NOT REPORTED.

(a) IN GENERAL.—Section 6501(c) (relating to exceptions) is amended by adding at the end the following new paragraph:

"(10) LISTED TRANSACTIONS.—If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a listed transaction (as defined in section 6707A(c)(2)) which is required under section 6011 to be included with such return or statement, the time for assessment of any tax imposed by this title with respect to such transaction shall not expire before the date which is 1 year after the earlier of—

"(A) the date on which the Secretary is furnished the information so required; or

"(B) the date that a material advisor (as defined in section 6111) meets the requirements of section 6112 with respect to a request by the Secretary under section 6112(b) relating to such transaction with respect to such taxpayer.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years with respect to which the period for assessing a deficiency did not expire before the date of the enactment of this Act.

SEC. 613. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO TAX-MOTIVATED TRANSACTIONS.

(a) IN GENERAL.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) INTEREST ON UNPAID TAXES ATTRIBUTABLE TO NONDISCLOSED REPORTABLE TRANSACTIONS.—No deduction shall be allowed under this chapter for any interest paid or accrued under section 6601 on any underpayment of tax which is attributable to the portion of any reportable transaction understatement (as defined in section 6662A(b)) with respect to which the requirement of section 6664(d)(2)(A) is not met.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions in taxable years beginning after the date of the enactment of this Act.

SEC. 614. AUTHORIZATION OF APPROPRIATIONS FOR TAX LAW ENFORCEMENT.

There is authorized to be appropriated $300,000,000 for each fiscal year beginning after September 30, 2003, for the purpose of carrying out tax law enforcement to combat tax avoidance transactions and other tax shelters, including the use of offshore financial accounts to conceal taxable income.

PART II—OTHER CORPORATE GOVERNANCE PROVISIONS

SEC. 621. AFFIRMATION OF CONSOLIDATED RETURN REGULATION AUTHORITY.

(a) IN GENERAL.—Section 1502 (relating to consolidated return regulations) is amended by adding at the end the following new sentence: "In prescribing such regulations, the Secretary may prescribe rules applicable to corporations filing consolidated returns under section 1501 that are different from other provisions of this title that would apply if such corporations filed separate returns.".

(b) RESULT NOT OVERTURNED.—Notwithstanding subsection (a), the Internal Revenue Code of 1986 shall be construed by treating Treasury regulation §1.1502-20(c)(1)(iii) (as in effect on January 1, 2001) as being inapplicable to the type of factual situation in 255 F.3d 1357 (Fed. Cir. 2001).

(c) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

SEC. 622. DECLARATION BY CHIEF EXECUTIVE OFFICER RELATING TO FEDERAL ANNUAL INCOME TAX RETURN OF A CORPORATION.

(a) IN GENERAL.—The Federal annual tax return of a corporation with respect to income shall also include a declaration signed by the chief executive officer of such corporation (or other such officer of the corporation as the Secretary of the Treasury may designate if the corporation does not have a chief executive officer), under penalties of perjury, that the corporation has in place processes and procedures to ensure that such return complies with the Internal Revenue Code of 1986 and that the chief executive officer was provided reasonable assurance of the accuracy of all material aspects of such return. The preceding sentence shall not apply to any return of a regulated investment company (within the meaning of section 851 of such Code).

(b) EFFECTIVE DATE.—This section shall apply to the Federal annual tax return of a corporation with respect to income for taxable years ending after the date of the enactment of this Act.

SEC. 623. DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

(a) IN GENERAL.—Subsection (f) of section 162 (relating to trade or business expenses) is amended to read as follows:

"(f) FINES, PENALTIES, AND OTHER AMOUNTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or entity described in paragraph (4) in relation to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law.

"(2) EXCEPTION FOR AMOUNTS CONSTITUTING RESTITUTION.—Paragraph (1) shall not apply to any amount which the taxpayer establishes constitutes restitution (including remediation of property) for damage or harm caused by or which may be caused by the violation of any law or the potential violation of any law. This paragraph shall not apply to any amount paid or incurred as reimbursement to the government or entity for the costs of any investigation or litigation.

"(3) EXCEPTION FOR AMOUNTS PAID OR INCURRED AS THE RESULT OF CERTAIN COURT ORDERS.—Paragraph (1) shall not apply to any amount paid or incurred by order of a court in a suit in which no government or entity described in paragraph (4) is a party.

"(4) CERTAIN NONGOVERNMENTAL REGULATORY ENTITIES.—An entity is described in this paragraph if it is—

"(A) a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7)), or

"(B) to the extent provided in regulations, a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function.

"(5) EXCEPTION FOR TAXES DUE.—Paragraph (1) shall not apply to any amount paid or incurred as taxes due.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after April 27, 2003, except that such amendment shall not apply to amounts paid or incurred under any binding order or agreement entered into on or before April 27, 2003. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained on or before April 27, 2003.

SEC. 624. DISALLOWANCE OF DEDUCTION FOR PUNITIVE DAMAGES.

(a) DISALLOWANCE OF DEDUCTION.—

(1) IN GENERAL.—Section 162(g) (relating to treble damage payments under the antitrust laws) is amended by adding at the end the following new paragraph:

"(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).".

(2) CONFORMING AMENDMENTS.—

(A) Section 162(g) is amended—

(i) by striking "If" and inserting:

"(1) TREBLE DAMAGES.—If", and

(ii) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively.

(B) The heading for section 162(g) is amended by inserting "OR PUNITIVE DAMAGES" after "LAWS".

(b) INCLUSION IN INCOME OF PUNITIVE DAMAGES PAID BY INSURER OR OTHERWISE.—

(1) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end the following new section:

"SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSURANCE OR OTHERWISE.

"Gross income shall include any amount paid to or on behalf of a taxpayer as insurance or otherwise by reason of the taxpayer's liability (or agreement) to pay punitive damages.".

(2) REPORTING REQUIREMENTS.—Section 6041 (relating to information at source) is amended by adding at the end the following new subsection:

"(f) SECTION TO APPLY TO PUNITIVE DAMAGES COMPENSATION.—This section shall apply to payments by a person to or on behalf of another person as insurance or otherwise by reason of the other person's liability (or agreement) to pay punitive damages.".

(3) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end the following new item:

"Sec. 91. Punitive damages compensated by insurance or otherwise.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to damages paid or incurred on or after the date of the enactment of this Act.

SEC. 625. INCREASE IN CRIMINAL MONETARY PENALTY FOR INDIVIDUALS TO THE AMOUNT OF THE TAX AT ISSUE.

(a) IN GENERAL.—Section 7206 (relating to fraud and false statements) is amended—

(1) by striking "Any person who—" and inserting "(a) IN GENERAL.—Any person who—", and

(2) by adding at the end the following new subsection:

"(b) INCREASE IN MONETARY LIMITATION FOR UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.—If any portion of any underpayment (as defined in section 6664(a)) or overpayment (as defined in section 6203(a)) of tax required to be shown on a return is attributable to fraudulent action described in subsection (a), the applicable dollar amount under subsection (a) shall in no event be less than an amount equal to such portion. A rule similar to the rule under section 6663(b) shall apply for purposes of determining the portion so attributable.".

(b) INCREASE IN PENALTIES.—

(1) ATTEMPT TO EVADE OR DEFEAT TAX.—Section 7201 is amended—

(A) by striking "$100,000" and inserting "$250,000",

(B) by striking "$500,000" and inserting "$1,000,000", and

(C) by striking "5 years" and inserting "10 years".

(2) WILLFUL FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR PAY TAX.—Section 7203 is amended—

(A) in the first sentence—

(i) by striking "misdemeanor" and inserting "felony", and

(ii) by striking "1 year" and inserting "10 years", and

(B) by striking the third sentence.

(3) FRAUD AND FALSE STATEMENTS.—Section 7206(a) (as redesignated by subsection (a)) is amended—

(A) by striking "$100,000" and inserting "$250,000",

(B) by striking "$500,000" and inserting "$1,000,000", and

(C) by striking "3 years" and inserting "5 years".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to underpayments and overpayments attributable to actions occurring after the date of the enactment of this Act.

SEC. 626. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENTS.

(a) GENERAL RULE.—If—

(1) a taxpayer eligible to participate in—

(A) the Department of the Treasury's Offshore Voluntary Compliance Initiative, or

(B) the Department of the Treasury's voluntary disclosure initiative which applies to the taxpayer by reason of the taxpayer's underreporting of United States income tax liability through financial arrangements which rely on the use of offshore arrangements which were the subject of the initiative described in subparagraph (A), and

(2) any interest or applicable penalty is imposed with respect to any arrangement to which any initiative described in paragraph (1) applied or to any underpayment of Federal income tax attributable to items arising in connection with any arrangement described in paragraph (1),

then, notwithstanding any other provision of law, the amount of such interest or penalty shall be equal to twice that determined without regard to this section.

(b) DEFINITIONS AND RULES.—For purposes of this section—

(1) APPLICABLE PENALTY.—The term "applicable penalty" means any penalty, addition to tax, or fine imposed under chapter 68 of the Internal Revenue Code of 1986.

(2) VOLUNTARY OFFSHORE COMPLIANCE INITIATIVE.—The term "Voluntary Offshore Compliance Initiative" means the program established by the Department of the Treasury in January of 2003 under which any taxpayer was eligible to voluntarily disclose previously undisclosed income on assets placed in offshore accounts and accessed through credit card and other financial arrangements.

(3) PARTICIPATION.—A taxpayer shall be treated as having participated in the Voluntary Offshore Compliance Initiative if the taxpayer submitted the request in a timely manner and all information requested by the Secretary of the Treasury or his delegate within a reasonable period of time following the request.

(c) EFFECTIVE DATE.—The provisions of this section shall apply to interest, penalties, additions to tax, and fines with respect to any taxable year if as of the date of the enactment of this Act, the assessment of any tax, penalty, or interest with respect to such taxable year is not prevented by the operation of any law or rule of law.

PART III—EXTENSION OF IRS USER FEES

SEC. 631. EXTENSION OF IRS USER FEES.

(a) IN GENERAL.—Section 7528(c) (relating to termination) is amended by striking "December 31, 2004" and inserting "September 30, 2013".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests after the date of the enactment of this Act.

PART IV—OTHER REVENUE PROVISIONS

SEC. 641. REPORTING OF TAXABLE MERGERS AND ACQUISITIONS.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by inserting after section 6043 the following new section:

"SEC. 6043A. TAXABLE MERGERS AND ACQUISITIONS.

"(a) IN GENERAL.—The acquiring corporation in any taxable acquisition shall make a return (according to the forms or regulations prescribed by the Secretary) setting forth—

"(1) a description of the acquisition,

"(2) the name and address of each shareholder of the acquired corporation who is required to recognize gain (if any) as a result of the acquisition,

"(3) the amount of money and the fair market value of other property transferred to each such shareholder as part of such acquisition, and

"(4) such other information as the Secretary may prescribe.

To the extent provided by the Secretary, the requirements of this section applicable to the acquiring corporation shall be applicable to the acquired corporation and not to the acquiring corporation.

"(b) NOMINEE REPORTING.—Any person who holds stock as a nominee for another person shall furnish in the manner prescribed by the Secretary to such other person the information provided by the corporation under subsection (d).

"(c) TAXABLE ACQUISITION.—For purposes of this section, the term 'taxable acquisition' means any acquisition by a corporation of stock in or property of another corporation if any shareholder of the acquired corporation is required to recognize gain (if any) as a result of such acquisition.

"(d) STATEMENTS TO BE FURNISHED TO SHAREHOLDERS.—Every person required to make a return under subsection (a) shall furnish to each shareholder whose name is required to be set forth in such return a written statement showing—

"(1) the name, address, and phone number of the information contact of the person required to make such return,

"(2) the information required to be shown on such return with respect to such shareholder, and

"(3) such other information as the Secretary may prescribe.

The written statement required under the preceding sentence shall be furnished to the shareholder on or before January 31 of the year following the calendar year during which the taxable acquisition occurred.".

(b) ASSESSABLE PENALTIES.—

(1) Subparagraph (B) of section 6724(d)(1) (defining information return) is amended by redesignating clauses (ii) through (xviii) as clauses (iii) through (xix), respectively, and by inserting after clause (i) the following new clause:

"(ii) section 6043A(a) (relating to returns relating to taxable mergers and acquisitions),".

(2) Paragraph (2) of section 6724(d) (relating to definitions) is amended by redesignating subparagraphs (F) through (BB) as subparagraphs (G) through (CC), respectively, and by inserting after subparagraph (E) the following new subparagraph:

"(F) subsections (b) and (d) of section 6043A (relating to returns relating to taxable mergers and acquisitions).".

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6043 the following new item:

"Sec. 6043A. Returns relating to taxable mergers and acquisitions.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to acquisitions after the date of the enactment of this Act.

SEC. 642. MODIFICATION OF DEFINITION OF CONTROLLED GROUP OF CORPORATIONS.

(a) IN GENERAL.—Section 1563(a)(2) (relating to brother-sister controlled group) is amended by striking "possessing—" and all that follows through "(B)" and inserting "possessing".

(b) APPLICATION OF EXISTING RULES TO OTHER CODE PROVISIONS.—Section 1563(f) (relating to other definitions and rules) is amended by adding at the end the following new paragraph:

"(5) BROTHER-SISTER CONTROLLED GROUP DEFINITION FOR PROVISIONS OTHER THAN THIS PART.—

"(A) IN GENERAL.—Except as specifically provided in an applicable provision, subsection (a)(2) shall be applied to an applicable provision as if it read as follows:

"'(2) BROTHER-SISTER CONTROLLED GROUP.—Two or more corporations if 5 or fewer persons who are individuals, estates, or trusts own (within the meaning of subsection (d)(2) stock possessing—

"'(A) at least 80 percent of the total combined voting power of all classes of stock entitled to vote, or at least 80 percent of the total value of shares of all classes of stock, of each corporation, and

"'(B) more than 50 percent of the total combined voting power of all classes of stock entitled to vote or more than 50 percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.'

"(B) APPLICABLE PROVISION.—For purposes of this paragraph, an applicable provision is any provision of law (other than this part) which incorporates the definition of controlled group of corporations under subsection (a).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

The PRESIDING OFFICER. The majority leader.

ADJOURNMENT OF THE TWO HOUSES OVER THE MEMORIAL DAY HOLIDAY

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H. Con. Res. 432, the adjournment resolution, which is at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 432) providing for the conditional adjournment of the House of Representatives and the conditional recess or adjournment of the Senate.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 432) was agreed to, as follows:

H. CON. RES. 432

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Thursday, May 20, 2004, or Friday, May 21, 2004, it stand adjourned until 2 p.m. on Tuesday, June 1, 2004, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on Thursday, May 20, 2004, Friday, May 21, 2004, or Saturday, May 22, 2004, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Tuesday, June 1, 2004, or at such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

NATIONAL TRANSPORTATION WEEK

Mr. FRIST. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of H. Con. Res. 420 and the Senate now proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 420) applauding the men and women who keep America moving and recognizing National Transportation Week.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table en bloc, and any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 420) was agreed to.

The preamble was agreed to.

SUPPORTING MAY 2004 AS NATIONAL BETTER HEARING AND SPEECH MONTH

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 366, submitted earlier today by Senator COLEMAN.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 366) supporting May 2004 as National Better Hearing and Speech Month, and commending those States that have implemented routine hearing screenings for every newborn before the newborn leaves the hospital.

There being no objection, the Senate proceeded to consider the resolution.

Mr. COLEMAN. Mr. President, every day, more than 1.2 million children will struggle to hear their teacher's voice. Every day, more than 26 million adults will miss important pieces of conversations. Every day, more than 10 million older Americans will consider early retirement in the face of hearing loss.

Mr. President, hearing is not an accessory, but a necessity—a necessity to success in school, business, and life.

In recognition of the importance of hearing, I have introduced this resolution.

This resolution recognizes May as "National Better Hearing and Speech Month," and transforms its ideals into action by encouraging all Americans to have their hearing checked regularly and to seek treatment for hearing loss.

Despite the necessity of hearing to success, one third of all newborns leave the hospital without having their hearing tested. As a result, thirty-three babies are born each day with hearing loss, making deafness the most common birth defect in America.

Mr. President, it doesn't have to be like this. Study after study has shown that through regular testing and early treatment, hearing loss can be prevented not only in infants, but in adults as well.

This resolution can take the first step in preventing hearing loss. Early prevention and treatment is the key to preventing future hearing loss, but we must also care for the 28 million Americans currently suffering from deafness.

Today, 95 percent of individuals with hearing loss can be successfully treated with hearing aids. However, only 22 percent of deaf Americans can afford to use this remarkable technology. In other words, over 21 million Americans will be denied the sensation of sound because they cannot afford a remedy. For this reason, I introduced the Hearing Aid Assistance Tax Credit Act or S. 2055.

S. 2055 provides financial assistance for those who need it most, our elderly and young. Under this legislation, minors and seniors can take a tax credit of up to $500, once every 5 years, toward the purchase of any hearing device that is considered a "qualified hearing aid" under the Federal Food, Drug, and Cosmetic Act.

Hearing aids are not just portals to sound, but portals to success—success in school, business, and life. With your support 1.2 million children will hear their teacher's voice for the first time as they learn to read and write. With your support, ten million older Americans will be able to hear their grandchildren's voices and continue working despite age-related hearing loss. With your support, we can give millions the gift of sound.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that statements relating to the measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 366) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 366

Whereas the National Institute on Deafness and Other Communication Disorders reports that approximately 28,000,000 people in the United States experience hearing loss or have a hearing impairment;

Whereas 1 out of every 3 people in the United States over the age of 65 have hearing loss;

Whereas the overwhelming majority of people in the United States with hearing loss would benefit from the use of a hearing aid and fewer than 7,000,000 people in the United States use a hearing aid;

Whereas 30 percent of people in the United States suffering from hearing loss cite financial constraints as an impediment to hearing aid use;

Whereas hearing loss is among the most common congenital birth defects;

Whereas a delay in diagnosing the hearing loss of a newborn can affect the social, emotional, and academic development of the child;

Whereas the average age at which newborns with hearing loss are diagnosed is between the ages of 12 to 25 months;

Whereas May 2004 is National Better Hearing and Speech Month, providing Federal, State, and local governments, members of the private and nonprofit sectors, hearing and speech professionals, and all people in the United States an opportunity to focus on preventing, mitigating, and treating hearing impairments: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of May 2004 as National Better Hearing and Speech Month;

(2) commends those States that have implemented routine hearing screenings for every newborn before the newborn leaves the hospital; and

(3) encourages all people in the United States to have their hearing checked regularly.

DESIGNATING MAY 2004 AS OLDER AMERICANS MONTH

Mr. FRIST. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further action on S. Res. 353 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 353) designating May 2004 as "Older Americans Month."

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 353) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 353

Whereas today's older Americans are living longer, healthier, and more productive lives than any other time in our history;

Whereas older Americans exemplify the theme of "Aging Well, Living Well" by continuing to give their time to our communities, their knowledge to our children, their experience to our workplace, and their wisdom to all of us;

Whereas there are now more than 50,000 people in the United States 100 years old or older;

Whereas more than 47 million Americans are now 60 years old or older;

Whereas the opportunities and challenges that await our Nation require our Nation to continue to commit to the goal of improving the quality of life for all older Americans; and

Whereas it is appropriate for our Nation to continue the tradition of designating the month of May as a time to celebrate the contributions of older Americans and to rededicate its effort to respect and better serve older Americans: Now, therefore, be it

Resolved, That the Senate—

(1) designates May 2004 as "Older Americans Month"; and

(2) commends the President on the issuance of his proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities that publicly reaffirm our gratitude and respect for older Americans.

HONORING THE LIFE OF MILDRED McWILLIAMS JEFFREY

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 367, submitted earlier today by Senators STABENOW and LEVIN.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 367) honoring the life of Mildred McWilliams "Millie" Jeffrey (1910–2004) and her contributions to her community and to the United States.

There being no objection, the Senate proceeded to consider the resolution.

Ms. STABENOW. Mr. President, today I rise to honor the life of a very dear friend who passed away on March 24 of this year. Millie Jeffrey is an icon in the State of Michigan and in our country for civil rights, women's rights, and worker's rights. Her life has epitomized the principles by which we all strive to live our lives—justice, equality, and compassion.

Although small in stature, Millie has been a giant among all of us who have known her. Words cannot express the depth of affection and respect in which Millie is held, nor can words quantify the lives that she has touched.

Mildred McWilliams Jeffrey, social justice activist, retired UAW Director of the Consumer Affairs Department and a Governor Emerita of Wayne State University, died peacefully surrounded by her family early this morning in the Metro Detroit area. She was 93. In 2000, President William Clinton awarded here the Medal of Freedom, the highest civilian award bestowed by the United States government.

In seeking world peace by ensuring equality for all, Millie spent a lifetime working on labor, civil rights, education, health care, youth employment, and recreation issues. She brought inspiration and humor to the many people she touched—and did so with optimism and undaunted spirit.

Millie's list of accomplishments and awards is long but what she is most remembered for is her zest for organizing. She mentored legions of women and men in the labor, civil rights, women's rights, and peace movements. As President Clinton noted: "Her impact will be felt for generations, and her example never forgotten."

Born in Alton, IA, on December 29, 1910, Millie was the oldest of seven children. She graduated from the University of Minnesota in 1932 with a bachelor's degree in psychology and received a master's degree in social economy and social research in 1934 from Bryn Mawr College. In graduate school, she realized that to improve the lives of working women and men she would have to change the system. In the 1930s, that meant joining the labor movement.

Millie became an organizer for the Amalgamated Clothing Workers of America in Philadelphia and then Educational Director of the Pennsylvania Joint Board of Shirt Workers. In 1936, she married fellow Amalgamated organizer Homer Newman Jeffrey, and they traveled throughout the South and East organizing textile workers. During World War II, the Jeffreys worked in Washington, DC, as consultants to the War Labor Board, where they became close friends with Walter, Victor, and Roy Reuther.

Mildred and Newman Jeffrey moved to Detroit in 1944 when victor Reuther offered Millie a job as director of the newly formed UAW Women's Bureau. Millie's commitment to equal rights fueled here career at the UAW. She organized the first UAW women's conference in response to the massive postwar layoffs of women production workers replaced by returning veterans. From 1949 until 1954, Millie ran the union's radio station. She moved on to direct the Community Relations Departments. She was director of the Consumer Affairs Department from 1968 until her retirement in 1976.

Millie joined the NAACP in the 1940s and marched in the South with Dr. Martin Luther King Jr. in the 1960s. Former executive secretary of the Detroit Branch of the NAACP, Arthur Johnson, said that "in the civil rights movement, she knew how to fight without being disagreeable."

Mildred Jeffrey also was very active in the Democratic Party, preferring to work behind the scenes organizing, canvassing, consulting, and fundraising. She was the consummate strategist. Millie provided savvy advice to Democratic officeholders and presidents from JFK to Bill Clinton. Senator EDWARD KENNEDY observed, "whether it was a worker in a plant, or whether it was a Congressman or Senator or President, Millie inspired people."

As a founding member and chair of the National Women's Political Caucus, Millie supported female candidates for public office. Twenty years ago she led the effort to nominate Geraldine Ferraro as Walter Mondale's running mate. Most recently, Millie delighted in being represented by Michigan women she supported, Governor Jennifer Granholm, and myself. Millie is the "political godmother" for many of us, and we are extremely grateful for her love and support. Millie was one of the most important mentors in my life and I will always be very, very grateful to her.

Millie ran for public office in 1974 and was elected by the people of the State of Michigan to the Wayne State University Board of Governors, an office she held for 16 years—1974–1990. She was so proud of her role in supporting this wonderful university. She served three terms as board chair. Millie loved Wayne State University and was a long-time resident on campus. She never tired of showing visitors around her "neighborhood"—the Adamany Undergraduate Library, the Hilberry Theatre, and the Walter P. Reuther Library. Millie thrived in the academic environment enriched by Wayne State University students.

Her friendships extended worldwide across all ages and nationalities. Whether discussing math with teenagers in Wayne State's Math Corps, or strategizing at the UN Conference on Women about the plight of sweatshop workers, Millie's capacity for connecting with people was unmatched.

Millie's capacity for connecting with people was unmatched. As one who traveled with her to the Fourth World Conference on Women in Beijing, it was amazing to see people from all over the world, hearing we were from Michigan, asking if we knew Millie Jeffrey and if we could tell them where she was; or that their grandmother, their aunt, suggested they meet Millie Jeffrey.

I often said the way to world peace was to let Millie loose; sooner or later, we would all know Millie Jeffrey and come to understand each other.

Millie was inducted into the Michigan Women's Hall of Fame and was an original board member of the Michigan Women's Foundation. She served in various leadership roles in a wide variety of national and State organizations such as the Michigan Women's Political Caucus, the Coalition for Labor Union Women, Americans for Democratic Action, National Abortion Rights Action League, Voters for Choice, EMILY's List, and the American Civil Liberties Union. She served on the peer review board of Blue Cross and was an active member of the First Unitarian Universalist Church in Detroit.

She was also an adoring mother of a son and a daughter and adoring grandmother who developed and nourished creativity and curiosity in her two grandchildren who she loved dearly, Erica Jeffrey and Thomas Jeffrey. She encouraged Erica's love of ballet. She urged Thomas to travel to learn about the world and was so proud of his AmeriCorps Service.

All of these lists of awards, duties, responsibilities, and committees do not say what Millie is all about: Millie Jeffrey was a one-of-a-kind woman of great passion, of great commitment, of great interest in knowing about each one of us and what we were doing and what we cared and how she could help.

Yesterday, 250 people came to Washington, DC, from all over the country to remember Millie and to share how Millie had touched their lives. Millie's life was celebrated and honored by her family and friends through photos, speech and song. Many of her friends gave heartwarming accounts on how she helped them as well as our country. As the memorial service concluded, one thing became very clear. Millie is no longer with us, but she will be with us forever because her spirit will continue in all of us.

I thank my colleagues for the support of this resolution.

I yield the floor.

Mr. LEVIN. Today, Mr. President, I join Senator STABENOW in introducing a resolution to celebrate and to honor the life of an extraordinary American woman, Mildred Jeffrey. Millie Jeffrey was a shining star in the firmament of our State and Nation. Her legendary courage and her incredible tenacity were an inspiration to all who came within her orbit.

Throughout her life, Millie fought tenaciously to advance civil rights and break down the racial barriers that divide us. She fought for workers' rights, making sure that the people who make up the backbone of our business and industry are given a voice and afforded fair treatment. She was a pioneer for women's rights, opening doors and providing opportunities for women that were merely a dream for women before her. We can all say that our world is more just and more humane because of Millie.

We couldn't begin to count all of the people she assisted, all of the careers she helped launch, and all of the walls she broke down. She was a major force in the election of Michigan's first female Senator and first female governor; how wonderful it is that she lived to see both Senator DEBBIE STABENOW and Governor Jennifer Granholm take office.

It is a mystery how her larger-than-life passion, energy, enthusiasm, and kindness fit into such a tiny frame. Every person who ever met with her or talked with her or felt her spirit was left with a deep sense of awe and respect for her extraordinarily good nature and her commitment to good deeds. It is a badge of honor to be able to say "I knew Millie Jeffrey."

Millie famously said that she would retire only when she died, and she certainly lived up to that promise, working and fighting until the very end. We all wish her retirement could have been later, but her legacy and her inspiration will be a major presence in Michigan and the Nation forever.

I know all of my colleagues will join me in celebrating her life and honoring her memory.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the measure be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 367) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 367

Whereas Mildred McWilliams "Millie" Jeffrey, a social justice activist, a retired UAW Director of the Consumer Affairs Department, and a Governor Emerita of Wayne State University, died peacefully surrounded by her family on March 24, 2004, in the Metro Detroit, Michigan area at the age of 93;

Whereas in 2000, President Clinton awarded Millie the Medal of Freedom, the highest civilian award bestowed by the United States Government;

Whereas in seeking world peace by ensuring equality for all, Millie spent a lifetime working on labor, civil rights, education, health care, youth employment, and recreation issues;

Whereas Millie brought inspiration and humor to the many people she touched and did so with optimism and undaunted spirit;

Whereas Millie, a woman of influence and of great moral character, was always a voice of conscience and reason;

Whereas Millie provided a voice for those that could not be heard and hope for those that no longer believed, and because of this her legacy will continue to live on for generations to come;

Whereas Millie's list of accomplishments and awards is long but what she is most remembered for is her zest for organizing, including mentoring legions of women and men in the labor, civil rights, women's rights, and peace movements;

Whereas President Clinton stated that "her impact will be felt for generations, and her example never forgotten";

Whereas Millie was born in Alton, Iowa on December 29, 1910, and was the oldest of 7 children;

Whereas in 1932 Millie graduated from the University of Minnesota with a bachelor's degree in psychology and in 1934 Millie received a master's degree in social economy and social research from Bryn Mawr College;

Whereas Millie became an organizer for the Amalgamated Clothing Workers of America in Philadelphia, Pennsylvania, and later became Educational Director of the Pennsylvania Joint Board of Shirt Workers;

Whereas in 1936, Millie married fellow Amalgamated Clothing Workers of America organizer Homer Newman Jeffrey, and they traveled throughout the South and East organizing textile workers;

Whereas during World War II, the Jeffreys worked in Washington, D.C., as consultants to the War Labor Board, where they became close friends with Walter, Victor, and Roy Reuther;

Whereas the Jeffreys moved to Detroit, Michigan in 1944 when Victor Reuther offered Millie a job as director of the newly formed UAW Women's Bureau;

Whereas Millie's commitment to equal rights fueled her career at the UAW;

Whereas Millie organized the first UAW women's conference in response to the massive postwar layoffs of women production workers, who were replaced by returning veterans;

Whereas from 1949 until 1954, Millie ran the UAW's radio station;

Whereas Millie moved on to direct the Community Relations Department of the UAW;

Whereas Millie served as Director of the Consumer Affairs Department of the UAW from 1968 until her retirement in 1976;

Whereas Millie joined the NAACP in the 1940s and marched in the South with Dr. Martin Luther King, Jr. in the 1960s;

Whereas Former Executive Secretary of the Detroit Branch of the NAACP, Arthur Johnson, said that "in the civil rights movement, she knew how to fight without being disagreeable";

Whereas Millie ran for public office in 1974 and was elected by the people of Michigan to the Wayne State University Board of Governors, an office she held for 16 years (1974–1990);

Whereas Millie served 3 terms as chair of the Wayne State University Board of Governors;

Whereas Millie loved Wayne State University and was a long-time resident on campus;

Whereas Millie never tired of showing visitors around her "neighborhood"—the Adamany Undergraduate Library, the Hilberry Theatre, and the Walter P. Reuther Library of Wayne State University;

Whereas Millie thrived in the academic environment enriched by Wayne State University students;

Whereas whether discussing mathematics with teenagers in Wayne State University's Math Corps or strategizing at the United Nations Conferences on Women about the plight of sweatshop workers, Millie's capacity for connecting with people was unmatched;

Whereas Millie was inducted into the Michigan Women's Hall of Fame and was an original member of the board of the Michigan Women's Foundation;

Whereas Millie served in various leadership roles in a wide variety of national and State organizations;

Whereas Millie served on the peer review board of Blue Cross;

Whereas Millie also was an active member of the First Unitarian Universalist Church in Detroit; and

Whereas the United States mourns the death of Mildred McWilliams "Millie" Jeffrey: Now, therefore be it

Resolved, That the Senate—

(1) honors the life of Mildred McWilliams "Millie" Jeffrey and her contributions to her community and to the United States; and

(2) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to the family of Millie Jeffrey.

HONORING PAST AND CURRENT MEMBERS OF THE ARMED FORCES OF THE UNITED STATES

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 424, which is at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 424) honoring past and current members of the Armed Forces of the United States and encouraging Americans to wear red poppies on Memorial Day.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statement relating to the concurrent resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 424) was agreed to.

The preamble was agreed to.

MEASURES READ THE FIRST TIME—S. 2451 AND H.R. 4279

Mr. FRIST. Mr. President, I understand there are two bills at the desk, and I ask that they be read for the first time, en bloc.

The PRESIDING OFFICER. Without objection, the clerk will read the titles of the bills for the first time, en bloc.

The legislative clerk read as follows:

A bill (S. 2451) to amend the Agricultural Marketing Act of 1946 to restore the application date of country of origin labeling.

A bill (H.R. 4279) to amend the Internal Revenue Code of 1986 to provide for the disposition of unused health benefits in cafeteria plans and flexible spending arrangements, to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system, and to amend title I of the Employee Retirement Income Security Act of 1974 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees.

Mr. FRIST. I now ask for their second reading and, in order to place the bills on the calendar under rule XIV, I object to further proceedings of these matters, en bloc.

The PRESIDING OFFICER. Objection is heard. The bills will receive their second reading on the next legislative day.

MEASURES PLACED ON THE CALENDAR—H.R. 2728 AND S. 2448

Mr. FRIST. Mr. President, I understand there are two bills at the desk due for their second reading. I ask unanimous consent that the bills be given their second reading, en bloc.

The PRESIDING OFFICER. Without objection, the clerk will read the titles of the bills for the second time, en bloc.

The legislative clerk read as follows:

A bill (H.R. 2728) to amend the Occupational Safety and Health Act of 1970 to provide for adjudicative flexibility with regard to an employer filing of a notice of contest following the issuance of a citation by the Occupational Safety and Health Administration; to provide for greater efficiency at the Occupational Safety and Health Review Commission; to provide for an independent review of citations issued by the Occupational Safety and Health Administration; to provide for the award of attorney's fees and costs to very small employers when they prevail in litigation prompted by the issuance of citations by the Occupational Safety and Health Administration; and to amend the Paperwork Reduction Act and titles 5 and 31, United States Code, to reform Federal paperwork and regulatory processes.

A bill (S. 2448) to coordinate rights under the Uniformed Services Employment and Reemployment Rights Act of 1994 with other Federal laws.

Mr. FRIST. I object to further proceedings on the measures, en bloc, at this time.

The PRESIDING OFFICER. Under the rule, the bills are placed on the calendar.

APPOINTMENT OF CONFEREES—H.R. 3550

The PRESIDING OFFICER. The Chair appoints the following conferees on behalf of the Senate:

The Presiding Officer (Mr. Coleman) appointed Mr. Inhofe, Mr. Warner, Mr. Bond, Mr. Voinovich, Mr. Grassley, Mr. Hatch, Mr. Nickles, Mr. Lott, Mr. Shelby, Mr. McCain, Mr. McConnell, Mr. Jeffords, Mr. Reid, Mr. Graham of Florida, Mr. Lieberman, Mrs. Boxer, Mr. Daschle, Mr. Hollings, Mr. Sarbanes, Mr. Baucus, and Mr. Conrad.

ORDERS FOR FRIDAY, MAY 21, 2004

Mr. FRIST. I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Friday, May 21. I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date and the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of Calendar No. 503, S. 2400, the Department of Defense authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, tomorrow the Senate will resume consideration of the Department of Defense authorization bill. There will be no votes tomorrow, but Senators WARNER and LEVIN will have a series of cleared amendments. Following that action, we will proceed to a period for morning business to accommodate Senators who do wish to make statements.

As I stated earlier, there will be no votes during tomorrow's session. The next vote will occur on Tuesday, June 1, the day we return from recess. I will have more to say tomorrow on the post-recess schedule.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:39 p.m., adjourned until Friday, May 21, 2004, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 20, 2004:

OFFICE OF PERSONNEL MANAGEMENT

EDWIN D. WILLIAMSON, OF SOUTH CAROLINA, TO BE DIRECTOR OF THE OFFICE OF GOVERNMENT ETHICS FOR A TERM OF FIVE YEARS, VICE AMY L. COMSTOCK, RESIGNED.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

MARK D. GEARAN, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICES FOR A TERM OF ONE YEAR. (NEW POSITION)

LEONA WHITE HAT, OF SOUTH DAKOTA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2008, VICE AMY C. ACHOR, TERM EXPIRED.

NATIONAL COUNCIL ON DISABILITY

MILTON APONTE, OF FLORIDA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2006. (REAPPOINTMENT)

ROBERT DAVILA, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2006. (REAPPOINTMENT)

YOUNG WOO KANG, OF INDIANA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2006. (REAPPOINTMENT)

KATHLEEN MARTINEZ, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2006. (REAPPOINTMENT)

LINDA WETTERS, OF OHIO, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2006. (REAPPOINTMENT)

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTIONS 624:

To be colonel

PAUL R. DISNEY JR., 1534

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTIONS 624:

To be lieutenant colonel

ERIC R. RHODES, 8533

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AS CHAPLAINS AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK(*)) UNDER TITLE 10, U.S.C., SECTIONS 624, 531, AND 3064:

To be lieutenant colonel

EDWIN E. AHL, 0281
DANIEL T. AMES, 5522
WILLIAM O. BAREFIELD, 5423
MICHAEL E. BRAINERD, 3969
DAVID M. BROWN, 0444
JAMES R. CARTER, 4294
MICHAEL D. CHARLES, 7000
TIMOTHY B. EGGLESTON, 9053
GREGORY J. ESTES, 9749
JOSEPH M. FLEURY, 0878
JONATHAN C. GIBBS III, 5629
MARTHA J. HAYES, 5722
JACK B. HERRON, 9248
JAMES P. KING, 5990
WARREN E. KIRBY JR., 3309
MARVIN W. LUCKIE, 7656
JOEL A. LYTLE, 8173
JONATHAN A. MCGRAW, 3206
CAROL A. * MITCHELL, 3665
JERRY L. OWENS, 4945
WRAY B. PHYSIOC III, 3713
CARL R. RAU, 6452
HARRY A. RAUCH III, 7129
BARBARA K. SHERER, 4227
THOMAS L. SOLHJEM, 8553
VALERIE B. * STJOHN, 4165
GARY R. * STUDNIEWSKI, 3714
HARLON J. TRIPLETT JR., 5972
BRYAN J. WALKER, 4670
STEPHEN M. WALSH, 9191
DAVID L. WATERS SR., 8455
JAMES C. WATSON, 3773
THOMAS C. WAYNICK, 7844
JERRY M. WOODBERY, 7581
MARK A. ZERGER, 7160

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR TEMPORARY APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 6222:

To be lieutenant colonel

MICHAEL J. COLBURN, 2511

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

WILLIAM J. ALDERSON, 1180
JAMES W. GRAYBEAL, 4876
CHARLES D. MCWHORTER, 1047
DENNIS J. MOYNIHAN, 7798
ROBERT D. NEWELL, 2724
HAROLD E. PITTMAN, 0089

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

AARON L BOWMAN, 2817
JAMES R BROWN, 0781
ROBERT L CURBEAM JR., 6495
CHRISTOPHER J FERGUSON, 1684
CHRISTOPHER H FLOOD, 7538
JOHN B HERRINGTON, 6049
WADE E KNUDSON, 7537
RICHARD C MULDOON, 4829
GREGORY A SILVERNAGEL, 6527
CLAY J SNAZA, 3798
ERIC J TIBBETS, 5887
JOHN B WESTERBEKE, 4501
STEVEN R WRIGHT, 7348
MAUDE E YOUNG, 0806

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

THOMAS J BROVARONE, 4519
DARREL S DEHAVEN, 1053
MARY E DEXTER, 9519
ALFRED O GAISER, 8630
ALLAN G GALSGAARD, 1031
MICHAEL R GOOD, 3686
STEPHEN E IWANOWICZ, 4644
MARY J LOGSDON, 3062
ROBERT W MAZZONE, 3891
PETER A NARDI, 5683
GERALDINE L OLSON, 2636
CHRISTOPHER R PIETRAS, 9301
MARK E POWELL, 4025
NEIL C STUBITS, 4127
ROBERT T SUSBILLA, 1982
ROBERT J VINCE, 2323
MARK R WHITNEY, 2095

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

KENT R AITCHESON, 6948
JOHN S ANDREWS, 8996
JOHN S ARBTER, 1189
CLAYTON L ARMSTRONG, 5203
ROBERT A ARONSON, 5606
MICHAEL L ARTURE, 9210
DUANE R ASHTON, 8011
KENNETH W AUTEN, 7204
THOMAS W BAILEY, 3323
DAVID J BARTHOLOMEW JR., 0966
JEFFREY S BARTKOSKI, 6317
RUSSELL J BARTLETT, 7552
TIMOTHY A BATZLER, 9997
STEVEN BAXTER, 3271
THOMAS R BEALL, 1150
STEPHEN W BECKVONPECCOZ JR., 5994
FREDERICK T BLANCHARD, 7641
GEORGE BONSALL, 2478
JAMES R BOORUJY, 1860
STEVEN A BORDEN, 1907
TODD W BOSTOCK, 3282
IRVIN G BOUGH, 7284
DANIEL E BRASWELL, 9107
STEVEN G BROCKETT, 4508
BRIAN J BROENE, 1625
MICHAEL W BROWN, 4567
THOMAS L BROWN II, 9541
SEAN S BUCK, 5163
KENDALL A BURDICK, 9915
RICHARD W BUTLER, 2681
MICHAEL W BYMAN, 3944
KEVIN P CAMPBELL, 5445
SHARON B L CAMPBELL, 3873
RONALD R CARLSON, 4170
EVON B CARTER, 7203
THOMAS J CHASSEE, 6965
JAY M CHESNUT, 3683
TIMOTHY M CONROY, 2815
WILLIAM T COONEY, 7997
BRIAN T COSTELLO, 9689
JOHN J COSTELLO, 3038
CALVIN H CRAIG, 4152
RICHARD T CREANGE, 8480
JOSEPH D CREED, 4864
THOMAS R CRIGER, 3682
TERRENCE E CULTON, 7266
JEFFREY S CURRER, 7227
JEFFREY S DALE, 0095
STEPHEN F DAVIS JR., 2136
TODD C DAVIS, 9906
WILLIAM G DAVIS, 9223
MARK J DEARDURFF, 7890
CARLOS DELTORO, 8451
JOSEPH F DEMARCO, 1832
PAUL S DILLMAN, 8283
DAVID R DIORIO, 4033
DAVID M DOBER, 5306
MATTHEW H DOLAN, 2149
BRIAN T DONEGAN, 5348
CHARLES J DOTY, 5389
ANTHONY H DROPP, 8455
CHARLES F DRUMMOND, 8864
DAVID M DURYEA, 8768
ANDREW W EDDOWES, 0310
MATTHEW J FALETTI, 9681
ROBERT D FINK, 3657
WILLIAM J FLANAGAN JR., 2908
JAMES H FLATLEY IV, 1873
THOMAS A FLISK JR., 8459
DANIEL P FORNEY, 9925
DAVID M FOX, 8829
PAUL J FROST, 0151
DAVID J FUHRMANN, 8968
ANTHONY E GAIANI, 0224
SCOTT M GALBREAITH, 6285
DAVID J GALE, 9428
CHRISTOPHER P GALLAGHER, 2533
MATTHEW J GARSIDE, 7065
MARK D GENUNG, 0682
JOHN M GERAGOTELIS, 9364
MICHAEL M GILDAY, 5806
ROBERT P GIRRIER, 5596
MICHAEL H GLASER, 4212
MICHAEL G GRAHAM, 7748
MARK R HAGEROTT, 5227
ANDREW M HALE, 2351
WILLIAM C HAMILTON, 5932
JEFFREY A HARLEY, 9486
CHARLES K HARRIS, 0883
FRANCIS L HARRISON JR., 7684
WILLIAM J HART, 0920
MARK J HELLSTERN, 7878
DAVID M HENDRICKS, 9952
RANDALL M HENDRICKSON, 5026
PAUL E HENNES, 1100
MICHAEL W HEWITT, 3466
CHARLES R HILL, 4240
BRIAN E HINKLEY, 1606
JOSEPH M HINSON JR., 7746
GEORGE F HOFFER, 3911
OWEN P HONORS JR., 1361
JAMES B HOPKINS II, 6951
ROBERT S HOSPODAR, 9016
JOHN R HOUFEK, 4127
MARK R HOYLE, 4641
THOMAS W HUFF, 4045
PETER P HUNT, 7994
JAMES F HUNTER, 9577
KELLY M JOHNSON, 9929
CJ KALB, 2401
JONATHAN H KAN, 1968
ERIC G KANIUT, 4408
CHRISTOPHER J KELLY, 9052
PHILLIP R KESSLER, 4193
ANDREW A KING, 9556
MARK S KINNANE, 3323
STEVEN G KOCHMAN, 3266
KEVIN J KOVACICH, 4918
JAMES H KRUSE, 5701
DIETRICH H KUHLMANN III, 6745
JAMES M KUZMA, 2510
LEIF E LAGERGREN, 2768
CHARLES W LAINGEN, 7663
BERNARD O LESSARD, 4188
EDWARD J LESTER, 8308
KENNETH C LEVINS, 4152
JAY S LEWIS, 7014
JOHN J LITHERLAND, 5915
BRIAN L LOSEY, 7379
SHERMAN R LUPTON, 3776
ANDREW T MACYKO, 1075
STEPHEN G MARR, 9317
MICHAEL L MARTIN, 3833
DAVID F MATAWITZ, 1613
DAVID N MAYNARD, 2017
STUART A MCCORMICK, 9541
JEFFREY L MCKENZIE, 5966
WILLIAM C MCQUILKIN, 2135
RONALD W MELAMPY, 0212
STEPHEN T MILLER, 6082
MARK C MONTGOMERY, 3302
SCOTT P MOORE, 2764
FRANK A MORNEAU, 5172
ERIC B MOSS, 4010
MICHAEL J MURPHY, 5359
DAVID A MURRAY, 3616
STEVEN J MYERS, 0679
JOHN P NEAGLEY, 8044
RANDALL A NEAL, 0921
DUANE E NESTOR, 0158
JOSEPH F NOLAN, 3739
CHARLES E NORBERG JR., 1478
JOHN C NYGAARD, 9222
JOHN C OBERST, 1039
PAUL G OCONNOR, 4619
JEFFREY A OGUREK, 2669
CLIFFORD I OLSEN, 8812
LEE A OLSON, 6483
MARK J OLSON, 2533
JAMES E OTIS, 0083
JONATHAN M PADFIELD, 2160
PHILLIP C PARDUE, 6802
NEIL R PARROTT, 2436
JAMES PAULSEN, 8479
THOMAS J PAYNE, 8266
TYRONE PAYTON, 6752
JAMES A PELKOFSKI, 1250
GARY C PETERSON, 2123
FREDERICK W PFIRRMANN, 0290
ANN C PHILLIPS, 9700
SCOTT J PHILLPOTT, 1905
JONATHAN D PICKER, 9026
MICHEL T POIRIER, 5881
SCOTT D POLLPETER, 2826
FERNANDEZ L PONDS, 0116
CLYDE C PORTER JR., 2200
MATTHEW J PRINGLE, 2824
WILLIAM R RADOMSKI, 2443
MARK E REDDEN, 0977
MARKHAM K RICH, 7002
STEVEN C RITCHIE, 0912
JOSEPH W RIXEY, 0771
WILLIAM J ROBERTSON, 3874
RONALD B ROBINSON, 2941
ANTHONY C RODGERS, 7419
ENRIQUE L SADSAD, 4116
MICHAEL J SALVATO, 2266
KENNETH R SAULT, 0323
PHILLIP G SAWYER, 8274
PATRICK J SCANLON, 0492
ROBERT J SCHMIDT, 8764
DAVID A SCHNELL, 1025
LEE W SCHONENBERG, 2497
STEVEN R SCHREIBER, 4130
JOHN E SCHWERING JR., 6840
JOHN C SCORBY JR., 3243
JAMES G SCOTT, 3955
EDWARD B SEAL, 1692
JOHN C SHEEHAN, 1224
MICHAEL SHERLOCK, 4669
GARY SHOMAN, 9332
PAUL W SIEGRIST, 2746
CHARLES J SITARSKI, 2961
CHAD M SKIDMORE, 3777
JOHN M SLAUGHTER, 4844
STEVEN E SLOAN, 9653
DIXON R SMITH, 5901
GREGG K SMITH, 0856
HENRY C SMITH, 0049
MICHAEL E SMITH, 9330
TIMOTHY T SMITH, 3127
RICHARD P SNYDER, 6434
THOMAS P SNYDER, 8018
WAYNE P STAMPER, 4022
LEE A STEELE, 6928
JOHN J STEVENS III, 7920
PAUL T STEVENS, 9747
WARD E STEVENS, 1056
ROBERT B STEWART, 2793
JAY T STOCKS, 5385
SCOTT M SUNDT, 8985
CHARLES D SYKORA, 8628
NORBERT E SZARLETA JR., 1402
EDWARD L TAKESUYE, 4533
SCOTT J TAPPAN, 1869
STEPHEN N THOMPSON, 3139
WALTER L TOWNS, 3031
WILLIAM F TRAUB, 3240
JOHN G WALKER, 9337
GEORGE J WALTER JR., 2259
GARY K WARING, 6749
THOMAS G WEARS, 5366
MALCOLM L WEATHERBIE, 8176
THOMAS E WEDDING, 7649
MICHAEL S WHITE, 4900
ANDREW S WHITSON, 1859
KEVIN J WILSON, 5679
EDWARD R WOLFE, 3414
JOHN R WOOD, 1701
RANDOLPH L WOOD, 7510
JANICE M WYNN, 4480
ULYSSES O ZALAMEA, 4210
JOHN A ZANGARDI, 6091
STEVEN C ZARICOR, 5900
KEVIN S ZUMBAR, 7468

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

RICHARD L ARCHEY, 2413
VERNON D BASHAW, 2515
JEFFREY L CANFIELD, 4306
EUSTAQUIO CASTROMENDOZA, 8268
EDWIN J DAUM JR., 3716
KRIS O DAVIS, 6211
ERIC D EXNER, 3392
ROBERT V HOPPA, 2243
STEPHEN A KAPPES, 0675
MATTHEW J KOHLER, 1586
JAMES F MCDOUGALL, 0327
JOHN W MENGEL JR., 0426
ROBIN K MYERS, 6208
ERIC W OLSON, 3864
TIMOTHY B PENCE, 6845
ROY N PETERSON, 3108
JOHN M SANFORD, 3984
JOHN T SEGURA, 5551
FRED C SMITH, 4777

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

THOMAS H. BOND JR., 7890
PATRICIA COLE, 5490
ALICE L. RAND, 2524
LAWRENCE R. SLADE, 7143
CARL R. WALLSTEDT, 2129
DIANE E. H. WEBBER, 0434
CARLENE D. WILSON, 8587
PAMELA J. WYNFIELD, 0078

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

KENNETH R. CAMPITELLI, 7712
JON C. HARDING, 2081
TIMOTHY A. HOLLAND, 4040
CINDY L. JAYNES, 2813
TIMOTHY S. MATTHEWS, 5518

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

JEFFREY J. BURTCH, 5183
STEVEN O. CARDER, 6119
KEVIN R. HOOLEY, 5589
MARK C. JOHNSON, 6507
CHARLES B. JOHNSTON, 4467
FORBES O. MACVANE, 9099
JEFFREY D. PROPER, 5250
JAN E. TIGHE, 4941

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

EDWIN J. BURDICK, 0010
LEE R. JOHNSON JR., 6770
ROBERT J. PETRY, 9604
STEPHEN K. TIBBITS, 2530

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

ANDREW BROWN III, 3627
JESSIE C. CARMAN, 1684
JOHN D. COUSINS, 1915
PAUL K. HEIM II, 4943
STEVEN W. WAREN, 8212
JOHNATHAN. W. WHITE, 6734

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

JERRY R. ANDERSON, 9266
JANE A. BARCLIFT, 6311
KAY L. DINOVA, 7028
ROBERT L. FIBERHAMMER JR., 9368
ROBERT J. GAINES, 0541
ANNEMARIE HARTLAUB, 8739
JAMES E. KNAPP JR., 7349

THE JUDICIARY

LAURA A. CORDERO, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF HTE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS, VICE SHELLIE FOUNTAIN BOWERS, RETIRING.

JULIET JOANN MCKENNA, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS, VICE NAN R. SHUKER, RETIRING.

DEPARTMENT OF JUSTICE

ROBERT CLARK CORRENTE, OF RHODE ISLAND, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF RHODE ISLAND FOR THE TERM OF FOUR YEARS, VICE MARGARET ELLEN CURRAN.

CONFIRMATION

Executive nominations confirmed by the Senate May 20, 2004:

THE JUDICIARY

RAYMOND W. GRUENDER, OF MISSOURI, TO BE UNITED STATES CIRCUIT JUDGE FOR THE EIGHTH CIRCUIT.

FRANKLIN S. VAN ANTWERPEN, OF PENNSYLVANIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE THIRD CIRCUIT.

HOUSE OF REPRESENTATIVES—*Thursday, May 20, 2004*

The House met at 10 a.m.

The Reverend Michael Bentley, Pastor, First Baptist Church, Brevard, North Carolina, offered the following prayer:

Dear Heavenly Father, we praise You this morning for Your never ending mercies that are new to us every day. As we lift our hearts in prayer, I thank You for the diligence and faithfulness of the Members of Congress. I pray for God's wisdom to guide them in the decisions they have to make today, for God's discernment as they strive to bring out the truth in all the matters before them, and for God's peace that passes all human understanding to be spread throughout our country and all of the world. I ask that You bless our country's leaders with God's love that has been given to us as an awesome gift. I thank You for the power of prayer and for what God can accomplish through public servants who place their faith and trust in Him.

In Your holy name I pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Texas (Mr. FROST) come forward and lead the House in the Pledge of Allegiance.

Mr. FROST led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment bills and a concurrent resolution of the House of the following titles:

H.R. 408. An act to provide for expansion of Sleeping Bear Dunes National Lakeshore.

H.R. 708. An act to require the conveyance of certain National Forest System lands in Mendocino National Forest, California, to provide for the use of the proceeds from such conveyance for National Forest purposes, and for other purposes.

H.R. 856. An act to authorize the Secretary of the Interior to revise a repayment contract with the Tom Green County Water Control and Improvement District No. 1, San Angelo project, Texas, and for other purposes.

H.R. 1598. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in projects within the San Diego Creek Watershed, California, and for other purposes.

H. Con. Res. 414. Concurrent resolution expressing the sense of the Congress that, as Congress recognizes the 50th anniversary of the Brown v. Board of Education decision, all Americans are encouraged to observe this anniversary with a commitment to continuing and building on the legacy of Brown.

The message also announced that the Senate has passed with an amendment in which the concurrence of the House if requested, bills of the House of the following titles:

H.R. 417. An act to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California.

H.R. 1528. An act to amend the Internal Revenue Code of 1986 to protect taxpayers and ensure accountability of the Internal Revenue Service.

The message also announced that the Senate has passed bills of the following titles in which the concurrence of the House is requested:

S. 15. An act to amend the Public Health Service Act to provide protections and countermeasures against chemical, radiological, or nuclear agents that may be used in a terrorist attack against the United States by giving the National Institutes of Health contracting flexibility, infrastructure improvements, and expediting the scientific peer review process, and streamlining the Food and Drug Administration approval process of countermeasures.

S. 213. An act to clear title to certain real property in New Mexico associated with the Middle Rio Grande Projects, and for other purposes.

S. 524. An act to expand the boundaries of the Fort Donelson National Battlefield to authorize the acquisition and interpretation of lands associated with the campaign that resulted in the capture of the fort in 1862, and for other purposes.

S. 943. An act to authorize the Secretary of the Interior to contract with the city of Cheyenne, Wyoming, for the storage of the city's water in the Kendrick Project, Wyoming.

S. 960. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize certain projects in the State of Hawaii and to amend the Hawaii Water Resources Act of 2000 to modify the water resources study.

S. 1107. An act to enhance the recreational Fee Demonstration Program for the National Park Service, and for other purposes.

S. 1167. An act to resolve boundary conflicts in Barry and Stone Counties in the State of Missouri.

S. 1516. An act to further the purposes of the Reclamation Projects Authorization and Adjustment Act of 1992 by directing the Secretary of the Interior, acting through the Commissioner of Reclamation, to carry out an assessment and demonstration program to control salt cedar and Russian olive, and for other purposes.

S. 1576. An act to revise the boundary of Harpers Ferry National Historical Park, and for other purposes.

S. 1577. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of Wyoming.

S. 1848. An act to amend the Bend Pine Nursery Land Conveyance Act to direct the Secretary of Agriculture to sell the Bend Pine Nursery Administrative Site in the State of Oregon.

S. 2178. An act to make technical corrections to laws relating to certain units of the National Park System and to National Park programs.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Requests for 1-minute speeches will be entertained later in the day.

RESIGNATION AS PARLIAMENTARIAN OF HOUSE OF REPRESENTATIVES

The SPEAKER laid before the House the following resignation as Parliamentarian of the House of Representatives:

THE SPEAKER'S ROOMS,
HOUSE OF REPRESENTATIVES,
Washington, DC, May 20, 2004.

Hon. J. DENNIS HASTERT,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: After forty years of service in the Office of Parliamentarian, I believe that the time is appropriate for me to submit my resignation in completion of a wonderfully satisfying career under seven Speakers. By this action, I shall with your permission remain available to fulfill the requirement in law to publish precedents accumulated during my tenure and that of my beloved predecessor, the late Wm. Holmes Brown.

This decision is made especially difficult by the loyal support and friendship you have shown to me, Mr. Speaker. You have enabled my office to serve the House and all its Members at a time of profound institutional change, by coping with new pressures and realities while mindful of the importance of continuity of the practices and precedents of the House and of the dignity and integrity of its proceedings. Speaker Foley, who appointed me to this position, other Speakers, and Minority Leaders, whose personal friendships I have also cherished, have likewise been particularly supportive of this office.

One need only refer to the prefaces of Hinds', Cannon's, and Deschler's Precedents to gain a sense of the extent of the procedural evolution in the House for the first 190 years of the Republic, and then compare

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

with that documented history the nature and pace of more recent changes, to understand the enormity of contemporary developments. Along the way, important matters of Constitutional separation of powers and continuity of government have occupied high profile status requiring the attention of my office. Numerous incremental changes have considerably altered the procedural landscape during my career. Examples include increased turnover in Membership, committee seniority status, budgetary disciplines, appropriations practices, an ethics process, televised proceedings, multiplicity of committee jurisdictions, oversight and authorization prerequisites, the impact of changing Senate processes, disposition of matters in conference, review of Executive actions, authorities to recess, to postpone and cluster votes and consolidate amendments, an issue-specific super-majority vote requirement, electronic capabilities, committee report availabilities, five-minute rule and other special rule variations, and the interaction between traditional spontaneity of the House's proceedings and trends toward relative predictability of time constraints and issues presented.

I believe that the longstanding tradition of the role of the Chair in rendering impartial and proper decisions has been maintained and appreciated despite the switch in party majorities and despite occasional efforts to appeal various rulings. It has been reassuring when bipartisan majorities understand and support the rulings of the Chair solely on the basis of their propriety as nonpartisan institutional standards with precedential significance. Respect for appropriate means of disagreement remains the foundation upon which so much depends. I express special gratitude to those Members on both sides of the aisle who served as fair and effective presiding officers during this time. We share a unique bond.

In fact, my decision is made easier by the certain realization that my office is immediately capable of providing all required services to the House. That is made possible by the total dedication and competence of my deputies, assistants and clerks. Beyond the fact that they offer to the House more than 100 years in cumulative nonpartisan professional experience, they are my dear friends whose institutional loyalty and commitment have been unfailing. Together, with frequent infusions of humor and with an essential ability to communicate honestly with all who inquire, they serve in the public interest. In retrospect many of my own most valuable experiences were as Deputy and Assistant, in furtherance of the office's collective response to questions. I am particularly proud of the involvement of my office in the preparation of the recodification of the Rules in the 106th Congress working with a bi-partisan task force. By this letter through you Mr. Speaker, I also wish to honor the many staff who, over the years, have respected and protected the collegial traditions of the House by their professionalism and by being true to Speaker O'Neill's reminder of the abiding "importance of being nice".

My affection for the House which began when Parliamentarian Lewis Deschler hired me in 1964 has been sustaining. It has been nurtured by occasional skepticism, by the never-ending nuances of questions and responses which have confronted the House, by cherished relationships with Members and staff past and present, and by exchanges with parliamentarians from over the world. I expect to communicate the value of this unique experience to young people contemplating public service. Thank you, Mr. Speaker, for having permitted me this opportunity, and for your friendship.

With your permission, this resignation will take effect May 31, 2004.

Very respectfully yours,

CHARLES W. JOHNSON,
Parliamentarian.

The SPEAKER. With great regret, the Chair accepts the resignation of the distinguished Parliamentarian of the House, Charles W. Johnson, effective May 31, 2004.

APPOINTMENT AS PARLIAMENTARIAN OF HOUSE OF REPRESENTATIVES

The SPEAKER. Pursuant to section 287a of title 2, United States Code, the Chair appoints John V. Sullivan as Parliamentarian of the House of Representatives to succeed Charles W. Johnson, resigned.

Will the gentleman from Illinois (Mr. LAHOOD) kindly assume the Chair.

EXPRESSING THE GRATITUDE OF THE HOUSE OF REPRESENTATIVES TO ITS PARLIAMENTARIAN, THE HONORABLE CHARLES W. JOHNSON.

Mr. HASTERT. Mr. Speaker, I offer a resolution (H. Res. 651) expressing the gratitude of the House of Representatives to its Parliamentarian, the Honorable Charles W. Johnson, and ask unanimous consent for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 651

Whereas Charles W. Johnson was appointed to the Office of the Parliamentarian of the House of Representatives in May 1964 and, over the ensuing 40 years has continuously served in that Office under seven successive Speakers, the past 10 years as Parliamentarian of the House of Representatives under the appointments of three successive Speakers;

Whereas Charles W. Johnson has unfailingly endeavored to apply pertinent precedent to every parliamentary question, in recognition of the principle that fidelity to precedent promotes procedural fairness and legitimacy; and

Whereas Charles W. Johnson has institutionalized in the Office of the Parliamentarian his demonstrated commitment to consistency in parliamentary analysis: Now, therefore, be it

Resolved, That the House of Representatives expresses its profound gratitude to the Honorable Charles W. Johnson for his unrivaled record of devoted service and steady, impartial guidance as its Parliamentarian.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. DREIER. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman may inquire.

Mr. DREIER. Mr. Speaker, is a motion to table this resolution in order at this time?

The SPEAKER pro tempore. The gentleman from Illinois (Mr. HASTERT), the distinguished Speaker, will control 1 hour.

Mr. HASTERT. Mr. Speaker, I yield myself such time as I may consume, after which I yield my time to the gentleman from Texas (Mr. DELAY) and ask unanimous consent that he be allowed to control that time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. HASTERT. Mr. Speaker, 40 years ago Charlie Johnson, fresh out of Virginia Law School, came to work for the Office of the Parliamentarian. Little did he know that 40 years later, almost to the day, he would be announcing his retirement from that same office.

Charlie, we are going to miss you.

You have been a rock. You have advised seven different Speakers and countless Speaker pro tems on how they should rule on various parliamentary questions. You have advised thousands of Members and even more staff in how to draft their amendments. You have given us advice on committee jurisdiction, the favorite part of my job.

The Parliamentarian in the House takes on special significance, more so than any other legislative body. You have to be exceedingly fair and judicious, and have to be seen as fair and judicious by both sides. And I know that is not always easy.

Charlie replaced Bill Brown as Parliamentarian. Bill started the process of demystifying the precedents used by his predecessor, Lew Deschler. That is a pretty good pedigree of institutional knowledge. Charlie has continued to make the Parliamentarian's office more accessible and more open to Members and staff.

Charlie is a man of many talents. He is dedicated to education and talks endlessly about his beloved Camp Dudley, a place for kids to learn about the great outdoors. He is a baseball fanatic, a southpaw who pitches batting practice for the Los Angeles Dodgers. And he has an avid interest in the English House of Commons. In fact, he is writing a book with his counterpart in London comparing our procedures with those of the Parliament.

I am sure he thinks he will get the chance to spend more time with his lovely wife Martha and his two boys, Charles and Drew, once he retires, but let us not kid ourselves. If I know Charlie Johnson, I know he will keep as active as he ever has with his many interests in many things.

I have asked John Sullivan to replace Charlie, and he has accepted the offer. John is well respected by both Republicans and Democrats and has served in the Parliamentarian's office since 1987.

John is a graduate from the Air Force Academy and got his law degree from Indiana School of Law. John is an avid college basketball fan whose allegiance tends to flow to any team that Bobby Knight coaches. John is an able successor to Charlie Johnson, Bill Brown and Lew Deschler, and he will do a fine job.

Once again, best wishes to Charlie Johnson in his golden years. We wish you the best.

The SPEAKER pro tempore. The gentleman from Texas (Mr. DELAY) is recognized.

Mr. DELAY. Mr. Speaker, I yield half of my time to the gentlewoman from California (Ms. PELOSI) and ask unanimous consent that she be allowed to control that time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

☐ 1015

Ms. PELOSI. Mr. Speaker, I yield myself such time as I may consume.

To the gentleman from California's (Mr. DREIER) question as to whether it was appropriate to table the resolution, I think we should have tabled the letter.

Mr. Speaker, it is with personal and official pride that I rise to pay tribute to Charles Johnson on his retirement as House Parliamentarian and to thank him for his many years of outstanding service to this body.

To praise Charlie Johnson is easy, and it is one thing that brings Democrats and Republicans together. I have only served for 17 years of Charlie's 40, and during that time I have observed, and we have all witnessed, profound changes in how this body conducts its business. But through every change and difficult time, the House has always been able to count on the expert, honest, and fair advice of Charlie Johnson.

Charlie began his service in the House in 1964, as acknowledged by the Speaker, shortly after graduating from the University of Virginia Law School. When he was appointed House Parliamentarian in 1994, he joined a distinguished line that includes Clarence Cannon, Lewis Deschler, and Bill Brown. Think of this, my colleagues: Charlie is just the third Parliamentarian since 1928.

Respected on both sides of the aisle, Charlie was first appointed by a Democratic Speaker, Speaker Tom Foley, and reappointed by Republican Speakers Newt Gingrich and the gentleman from Illinois (Mr. HASTERT).

Charlie exemplifies the best of this House. With his unquestioned integrity and keen intellect, he has consistently maintained the highest standards of nonpartisanship and scholarship for the Office of Parliamentarian. Charlie has guided us carefully, but firmly, through turbulent floor debates; and he knows of what we speak here and has provided sound and discreet advice to individual Members and staff.

He has served as a mentor to the outstanding Parliamentarians that serve under him, among them his respected successor, John Sullivan. And we are all pleased with the Speaker's announcement that John Sullivan will be named the Parliamentarian; and that, of course, is the suggestion of Charlie Johnson. So respected is he that he can even suggest his own successor.

On top of everything, Charlie Johnson is truly a kind man. The Speaker and others will reference Camp Dudley, one of his acts of kindness.

As a San Franciscan, and, Charlie, I am going to spill the beans on you, I am delighted that Charlie is also a devoted San Francisco Giants fan. But Charlie is not just a fan. When he leaves us, he will take up his true calling as a major league batting practice pitcher, beginning with a Dodgers-Expos game soon.

Perhaps, Mr. Leader, we can use our collective influence to have this event covered by C–SPAN. Maybe we could just do it right here on the floor and then it will be covered by C–SPAN.

Although Charlie will relinquish his daily duties here, Charlie's dedication to this House, of course, will remain. Charlie will continue the difficult, but essential, work on the Precedents of the House of Representatives.

Earlier this week when the Speaker told me of the news of Charlie's submitting this letter, which I agree should be tabled, I received the news with mixed emotions. We all know how great Charlie is as the Parliamentarian and what a great friend he is to many of us, but of course we want to see him go on after 40 years to fulfill himself personally in other ways. And so we know he will teach professionally at the University of Virginia Law School and he will collaborate with the Parliamentarian in the House of Commons of the U.K. on a book of parliamentary procedures that will surely be a great contribution on that important topic.

But I was delighted to hear Charlie talk about his own personal plans. Of course he will have more time with his wonderful family, and he is very lucky his grandchildren live in the region. In fact, we are lucky his grandchildren live in the region because hopefully that will mean that Charlie will visit us frequently.

As you leave us, Charlie, please go forth with the knowledge that anyone who values the work of this House of Representatives, indeed values the work of democracy, is deeply in your debt, and that goes well beyond those of us who have served here, with the knowledge that you will be deeply missed and with the hope for us that you will visit us often. Good luck to you. Congratulations. Thank you. Thank you. Thank you. And thank you to your family for sharing you with us.

Mr. Speaker, I reserve the balance of my time.

Mr. DELAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is with mixed feelings that I come to the House today to wish farewell to our respected and beloved Parliamentarian Charlie Johnson. It is a happy day because it provides us with an opportunity to recognize one of the true giants of the United States House of Representatives and finally give one of our often underappreciated officials his due and also because we know he is on his way to a happy retirement.

But it is a sad day, as well, for the House is losing one of its true institutions. For more than 4 decades, Charlie has provided Members of both parties the benefit of his guidance and his judgment and his experience. Charlie is an honest man, one of the few in Washington whose staff can honestly claim that they rarely make mistakes and honestly claim that they take responsibility for them when they do.

For instance, when I took over as majority leader, Charlie and I often butted heads over the length of floor votes. I urged the Chair to gavel votes closely right at 15 minutes, even as Members were scrambling to the floor to cast their votes. I thought that imposing a little discipline in the voting would encourage a more efficient use of floor time in the House.

But Charlie's experience taught him the value of tolerance and understanding in these matters; and particularly during certain votes late last year, I finally saw the wisdom of Charlie's way of thinking in leaving some of those votes open. For those of you on the other side of the aisle, that was a TOM DELAY's idea of a joke.

Along with Charlie's experience, we will also miss his undying support for the Amherst College Lord Jeffs, which, to those of you who follow the perennial NESCAC, the cellar-dwellers, know, is vocal, enthusiastic, and honestly a little sad.

Seriously, Mr. Speaker, the job of the Parliamentarian is a job of trust, of integrity, and of honesty. These are the qualities without which no description of Charlie Johnson would be complete. The House has been honored by his service, and we have been honored by his presence.

Good luck, Charlie. God bless you and your family, and of course we always thank you for your exemplary and distinguished service to the House of Representatives and to this Nation.

Mr. Speaker, I yield the balance of my time to the gentleman from California (Mr. DREIER) and ask unanimous consent that he be allowed to control that time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Ms. PELOSI. Mr. Speaker, I yield the balance of my time to the very distinguished gentleman from Texas (Mr. FROST), ranking member on the Committee on Rules. He and the Committee on Rules and staff, as well as other Members, know full well the quality of the excellence of the work of Charlie Johnson, and I ask unanimous consent that he be allowed to control that time.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentleman from Maryland (Mr. HOYER), the Democratic whip.

Mr. HOYER. Mr. Speaker, I thank the distinguished gentleman from Texas, the ranking member of the Committee on Rules, for yielding me this time.

Those who will speak have been here for some years. Most of us who speak are known as institutions. We love this House. We believe this House plays a very unique role in this democracy. It is called the People's house, a House to which one can be elected but not appointed. It is a House where the passions and wisdom of the people are joined in this crucible of decision-making process. It is a House that is composed of persons of different views, different regions, indeed different races and nationalities. It is a House where our Founding Fathers designed American democracy to be realized.

And in that context it is extraordinarily important to have a House that plays by the rules. Our Founding Fathers knew that if we were to have democracy, it would have to be governed by rules.

The gentleman from Missouri (Mr. GEPHARDT), my good friend, the former majority leader, is on the floor; and I have heard him say so often that democracy is a substitute for war.

In that context, it is sometimes confrontational; and we need a wise person helped by wise staff to, in effect, be the referee, to say to both sides that we are a democracy and we resolve questions in a peaceful way, perhaps animated, perhaps heated, but nevertheless in a way that seeks to realize the dream of our Founding Fathers, a dream which has been sustained now since 1789 because of people like Charles W. Johnson III. Not elected to serve but selected, selected by persons who themselves are elected and who know the value of this institution and the absolutely essential position that Charles Johnson III was called to serve in.

I am not objective. Those of us who speak will not be objective. We are his friends. We are his admirers. We are appreciative of the service that he has given to this House but, much more importantly, to this country. He is wise. He is also thoughtful. He is also caring of the institution, its staff and its Members but, most of all, of his country.

Mr. Speaker, I rise with my colleagues to thank Charlie Johnson for his service. Charlie's service will be long remembered. He will write a book, and like his predecessors, that book will be used for generations to come to help manage this center of democracy, the people's House.

I somewhat lament the fact that Charlie is leaving and will be replaced by John Sullivan, not because John Sullivan is not a worthy successor, but because I prefer Gary Williams to Bobby Knight, and Drew went to the University of Maryland and therefore leavened Charlie Johnson's University of Virginia experience.

But, Charlie, as you leave, as we honor you, as we thank you, we wish you Godspeed and wish you many years of the kind of productivity and success that you have enjoyed here in this House. You have been and continue to be a great American in the tradition of your predecessors who ensured that the people's House would be revered by its Members and respected by those it serves. Godspeed.

□ 1030

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a very challenging time for all of us, because Charlie has been such a great friend and enormous asset to this institution.

Many of us are proud to be institutionalists, and as the gentleman from Maryland (Mr. HOYER) said, I am one of them; and there are an awful lot of people here who, over the last decades have seen attacks made on this institution itself, but many of us, you included, Mr. Speaker, have had a strong commitment to this institution.

The Office of the Parliamentarian began in 1857 when Speaker James L. Orr of South Carolina appointed Thaddeus Morrice as "Messenger." Morrice was said to have a marvelous memory and his ability to recall the House precedents and other decisions of the Chair required him to be near the Speaker in his role as presiding officer of the House.

The title was later changed to "Clerk to the Speaker," then to "Clerk at the Speaker's Table," and in 1927 to "House Parliamentarian." The first person to actually have the title of Parliamentarian was Lehrn Fess.

Today, we are honoring Charles W. Johnson III as he steps down from that most important position. There are few people, including those Members who have been elected to serve, who have contributed more to this institution than Charlie Johnson.

In fact, Mr. Speaker, I believe that Charles W. Johnson III is the greatest Parliamentarian to have served this House and our country. His dedication and service to this great institution is unparalleled in our history.

Oh, yes, great men have served before, as we have heard, but he has distinguished himself from them by his desire and ability to not only assist the Speaker and other presiding officers, but to reach out and teach Members and staff the rules of this institution.

Moreover, he has been an example as to how we should conduct ourselves in office and in life. He has always been a gentleman who has dealt with Members honestly and fairly. He has worked with Members from both sides of the aisle evenhandedly and without prejudice. His advice and counsel have always been sound and thoughtful. He has been steady and consistent, even when there has been turmoil in the House and in the country at large.

Charlie has helped this institution during some of the most trying times that our country has endured. He has competently served this House and our country by assuring that this great Chamber proceeds in order when there has been chaos and conflict in the world around us. He has been at our side from the Vietnam War to the War on Terror.

There is not enough time to ever fully explain how much Charlie has contributed. Every piece, every single piece of legislation, every amendment considered, every motion, every floor event, every law enacted over the past several decades, bears his mark. Who else among us can actually say that?

I am humbled at the thought of how much he has done for me personally as a Member of this body and as chairman of the Committee on Rules. He has assisted me through major reforms and minor jurisdictional squabbles.

But today I want to say thank you very much, Charlie, not only for what you have done for me, but I want to thank you for what you have done for this great institution, the greatest deliberative body known to man and to our country as a whole.

Yesterday morning, not unusually, the House Committee on Rules convened at 7 a.m. to proceed with consideration of the Department of Defense authorization rule and the conference report on the budget. At the end of that meeting, I joined with the gentleman from Texas (Mr. FROST), the ranking minority member of the Committee on Rules, in asking for an agreement to be unanimous, and, thank heavens for you, Charlie, no one did call a vote, but we unanimously did pass a resolution that had been crafted by our able Staff Director, Billy Pitts, who, as you know, is a great institutionalist and very committed to this body, and Kristi Walseth, who worked in fashioning the resolution.

I should say that we actually have many more staff people on the House floor, I think, than Members at this moment, because there are so many staff members with whom you have worked closely. I mentioned Billy Pitts, but I want to say on behalf of the bipartisan staff membership of the House Committee on Rules, working closely with you and your team, I see here on the floor Seth Webb and a number of people from the Speaker's office who work, I know, very closely with you. These staff members will not have an opportunity to speak here on the House floor, but I know that every single one of them would want us to express our appreciation to you for your effort.

I would like to take just a moment to read the resolution, which we overnight have gotten on parchment, and I am going to personally present to you here. This was voted unanimously by the Committee on Rules at 7 o'clock, foggy, yesterday morning.

> Whereas Charles W. Johnson, III has served the House of Representatives with dedication and devotion in the Office of the Parliamentarian since May 20, 1964; and
>
> Whereas Charles W. Johnson, III learned the Rules, practices and precedents of the House under the tutelage of Lewis Deschler, who served the House as Parliamentarian from 1928 until 1974, and his good and great friend W. Holmes Brown, who served as the House Parliamentarian from 1974 until 1994; and
>
> Whereas Charles W. Johnson, III has used those lessons to honorably serve as a universally respected Parliamentarian of the House from 1994 until today; and
>
> Whereas Charles W. Johnson, III has, as a teacher of House rules, its practices and precedents, taught respect for the institution of the United States House of Representatives to countless Members of Congress and their staff; and
>
> Whereas Charles W. Johnson, III has provided to the Committee on Rules countless hours of advice and counsel as well as assistance in its work as the traffic cop of the House; and
>
> Whereas Charles W. Johnson, III has ensured that the Office the Parliamentarian will continue to operate with the high standards and non-partisan manner that he and his predecessors have demanded by assembling a knowledgeable, skilled and experienced staff who serve as a vital part of the operation of the House; and
>
> Whereas Charles W. Johnson, III, or "Charlie" as he is known in the House, will continue to serve the House as he continues the work of Lew Deschler and Bill Brown by finishing the Precedents of the House; and
>
> Whereas his good humor, kind smile and love of baseball will be missed by all who know him in the House of Representatives; and
>
> Whereas Charles W. Johnson, III will officially retire from the United States House of Representatives on May 20, 2004, exactly 40 years after he first came to this body: Now, therefore be it
>
> *Resolved*, That the Members of the Committee on Rules express their deep and lasting appreciation for the service Charles W. Johnson, III has given to the Committee, the House of Representatives and the people of the United States of America.

I look forward to giving this to you personally, Charlie.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank you and the Democratic leader for bringing this resolution to the Floor this morning so that Members of the House may pay tribute to our friend Charles W. Johnson.

Charlie is taking leave of his position as Parliamentarian of the House today, exactly 40 years after he began as a young lawyer fresh out of law school in the Parliamentarian's office. On his last day in the House it is only fitting that the Members of this body can take the floor to pay tribute to him and express our gratitude and our friendship.

To say that Charlie is a creature of the House or a servant of this institution does him a disservice, for without him, many of us would never have learned the intricacies of the Rules of the House, its practices and its procedures. Without his sage advice and counsel, so many of us, as well as our staff, would be lost in the maze of legislative practice.

His office, just off this floor, is more than just an office; it has served as a focal point for discussions both pointed and prosaic, political and procedural, but always, always, non-partisan.

Quite frankly, Mr. Speaker, Charlie is the institution. During his 40 years as a Parliamentarian, he has served Democratic Speakers and Republican Speakers. He has shown fairness to all and malice to none. Not an easy task, where tempers can run high and where blame is easily cast.

He has served through peace and war and through times of great national triumph and tragedy. Charlie has always risen to the challenge, and in doing so, has challenged so many of us to do so as well.

Charlie took over the job as the Parliamentarian in 1994 following the retirement of his dear friend and colleague Bill Brown. Just as Bill was a voice of calm, deliberative reason, so is Charlie. Far too often we, as Members, fail to recognize the importance of those qualities in the people who ensure that the business of the House can proceed, regardless of which political party holds the majority. I know that it is often the case with regard to Charlie and the entire staff of the Office of the Parliamentarian.

Charlie is so good at what he does that he makes the job look easy. But I, for one, know it is not. But his talents, his intellect and his love for this institution have made our job as legislators all the more easy, and I am grateful.

When I was first elected to the House 26 years ago, I became only the second freshman Member in the 20th century to take a seat on the Committee on Rules. Had it not been for Bill and Charlie, my acclimation to that difficult post would have been far more difficult. I know because of their patient tutelage, their willingness to just sit down and talk, their careful guidance, my knowledge of the Rules and how to use them now runs both deep and wide.

I want to take just a moment, Mr. Speaker, to kind of talk about my personal experience with Charlie and his office.

From time to time, I, my staff, would go to see Charlie and we would ask very direct questions, questions that were vital to formulating strategy on our side of the aisle. What he would do would be to respond to every question and to answer every question truthfully. He did not go beyond that. He did not try to suggest what strategic steps we should take. He only answered what we asked. And I know he did that for the other side as well.

He was truly acting in the best, non-partisan position in helping us as partisans understand what we could and could not do. But he never went beyond that. He never said, "By the way, you know, you could do this also." And that is the role of a Parliamentarian, to answer truthfully the questions of both sides of the aisle, and then let those Members on both sides of the aisle figure out where they go with the information.

I cannot tell you how important that is to the functioning of this body and how important it has been to me as a Member to know that I can go to someone and get an honest answer; who will answer my questions, but who will not necessarily go beyond that. And I respect that.

I know we will all miss Charlie, but I also know we all wish him well. He has earned the respect of hundreds of Members and more staff than he can count. He is a man of the House and a deep and true friend of the House. He has ensured that his office will continue to serve the House by assembling a talented staff.

I owe him so much, and there are not words to express my deep gratitude and affection. I can only wish you the best, Charlie. And while I know he has taken great pains to ensure the institution will go on without him, I know it will not be the same.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, at this time, I am happy to yield 1 minute to my friend, the gentleman from Sanibel, Florida (Mr. Goss), the very distinguished vice chairman of the Committee on Rules.

Mr. GOSS. Mr. Speaker, I thank the distinguished chairman for yielding me time.

I too wish to associate myself with the praise and gratitude for the man and his service to our institution. I would characterize Charlie as the true north on the compass of this institution and the man who had the good judgment to understand when magnetic declinations were in order. He has had seasoned patience with seasoned Members, and he has had extraordinary patience with new Members, to try to explain how things happen here. I think many of us feel that his personal judgment is as much a hallmark as the knowledge of the institution, which is matched by none.

The reason I asked for time to speak is that Charlie will always be in my memory on a fateful day in this country, September 11, 2001. The Speaker of the House desired that the House be opened for a prayer on that fateful day even as events were transpiring around us. It was not the right time, there was concern about precedent. Parliamentarians always worry about precedent.

□ 1045

Charlie found a way for us to get the House opened, the prayer said, and the House evacuated. And I have, to this day, that official RECORD hanging on my wall in my office and it will always be a memory of my life. Because I think it was very important that that day was recorded that way about this institution, and it would not have happened without him, of course.

Charlie is well regarded here and overseas, as we know. I have talked to parliamentarians, as I am sure others will testify, who come and wonder how this democracy works; how the people's House works. He has imparted that knowledge and wisdom and judgment around the globe, and I have heard it expressed many times from visitors who come here.

He has added value. He has brought credit to our institution. We are going to miss you a lot, Charlie, and I wanted to say thanks.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. DINGELL), the dean of the House.

Mr. DINGELL. Mr. Speaker, I rise with great personal sadness about the departure from this institution of a great friend, wise counselor, mentor, and superb public servant. I do speak, however, with pride about the accomplishments of Charlie Johnson, who has served us, the House, and his country well.

He is in all particulars a great patriot and a great American. He has been wise counselor to us, mentor; he has given us good advice; and he has seen to it that we understood the history and the traditions of this institution.

He has served us in the great traditions of Clarence Cannon, Lewis Deschler, Bill Brown, and now the fine work which he has done. He is going to be missed by this institution. He has served as an example to all of us and to those who will follow in his particular task as Parliamentarian.

It has been his responsibility to see to it that the House function as it should, in accord with the great traditions that we have here of respect, of decency, and of love of this institution. And for that and all of the other things that we can say good about Charlie, we have to recognize that we should say thank you; that we should say well done; that we should wish him well for what it is that he has accomplished.

The House is a better institution for his wonderful service to this body. And all of us here, as individual Members, particularly those of us who have had frequent occasion to consult with him about the rules, about the traditions, about how this institution does work and how it should work have a special reason to be grateful to him and to have a special burden of gratitude to him for what he has done.

I am proud, indeed, that he has been my friend. I am grateful to him as my mentor. I am appreciative to him of his wise counsel and guidance. And I know that I am not alone in feeling a singular debt of gratitude to my good friend, our Parliamentarian, as he leaves us.

I would note that other Members have these same feelings and all have good reasons. And I would note that the House of Representatives is a better institution, and one more in keeping with the traditions and with the principles and practices, and in keeping with what it is we would like to say it was, a great institution, the House of the people, and a place which serves all of us.

All of us have reason to miss him, and we will indeed. We will wish him well. We will pray that God will be good to him and that He will give him many years to enjoy a reflection upon the great service which he has given to this great country.

I say again to him, Charlie, well done, good and faithful servant. You have made this a great institution, and we are all grateful to you. Thank you, my friend.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Wisconsin (Mr. PETRI).

Mr. PETRI. Mr. Speaker, it is with a sense of real loss that I first heard the news that Charlie Johnson was leaving after so many years of dedicated service to all of us in the House, and I want to take this occasion to join with my colleagues in paying tribute to him today.

I personally take great comfort in seeing Charlie each day at his post on the Speaker's podium, monitoring our proceedings, guiding the Member who has been appointed to preside over the House, and making the determinations and rulings needed to keep this House running in a manner that respects the rights and the privileges of all Members. I know that we are in good hands.

The person who serves as Parliamentarian influences the daily activities of the House, and though not known by many Americans, has had a great impact on some of the most dramatic moments that have occurred in this Chamber. From his perch, he literally has a front seat to history. I am sure at times he found himself in situations he never expected; but through it all, his behavior was beyond reproach.

Perhaps what impressed me most as I got to know Charlie over the years was his commitment to and interest in parliamentary procedure, not only here in the U.S. but in other legislative bodies as well. Charlie often traveled to consult with others and has participated in conferences and hearings explaining our rules and procedures.

Speaking from my own experience, he joined us on trips to London as part of the British-American Parliamentary Group. He spent at least part of the time consulting with his counterpart in the British Parliament regarding a cooperative project on parliamentary procedures and comparing the two institutions.

Charlie was an educator. In addition to writing and editing books about parliamentary procedure, he spent a lot of time meeting with school kids and others to explain how our House works and the importance of parliamentary procedure and its literal impact on the history of our House and this Nation.

As he leaves us, we can thank him too for the way he ran the Office of Parliamentarian and mentored the deputy and assistant Parliamentarians under his direction. His deputy, John Sullivan, will become the Parliamentarian next month. This also reflects well on the standards Charlie set for his office.

I will miss Charlie, but I will value always his integrity, professionalism, his attention given to each Member no matter what party they may have represented, his principled advice and conduct, his love and respect for the House and its traditions, and, most importantly, for his friendship.

Mr. FROST. Mr. Speaker I yield 3 minutes to the gentleman from Missouri (Mr. GEPHARDT), the former Democratic leader of the House.

Mr. GEPHARDT. Mr. Speaker, I found out something I did not know about Charlie today. I found out from our leader that he is a San Francisco Giants fan. If I had known that, I would not have come today.

On a more serious note, I have had some time lately to do some things that I usually have not had time to do, so I have been watching on television the early part of the proceedings here in the House, and I hear these rules being explained. I have tried to put myself in the shoes of an average citizen, and I think it is gobbledygook, and I do not understand what they are talking about. But that really is the magic of this place.

As the gentleman from Maryland (Mr. HOYER) said earlier, I am fond of saying that politics is a substitute for violence. It really is. And the only thing that allows us to resolve our differences peacefully is that we have a process. We have rules. We have laws. We have parliamentary procedure. And that process is what makes this place work and makes democracy work in our country.

The keeper of those rules has been our subject today, Charles Johnson. He has done it, in my view, as well as it can be done. He has always been fair. No one questions his judgment or his enunciation of the precedents of the House, whether it comes down in your favor or it does not. He is a professional. No one ever doubts his knowledge or his dedication to knowledge about the process.

Finally, his character, his human character, has been impressive to everybody who has come in contact with him. Whether a Member, staff, people visiting, everyone knows that this is a man of great character.

I guess the best story I can tell to kind of sum up my feelings about Charlie is that we had a common friend, someone that I went to Northwestern University with and was one of my best friends there, wound up at the University of Virginia Law School and became a friend of Charlie's. So we, in that common friendship, got somewhat of a personal relationship; and we, unfortunately, saw our friend die of cancer some years back. But even with that personal relationship I had with Charlie, I never, ever felt that in anything he did while I was leader or in anything I have done here was anything other than fair. Never prejudiced. Never giving in to human relationships. Always calling it the way he saw it and making judgments on the process, which is at the heart of our democratic experiment, fairly and with honesty and good character.

Charlie, we truly will miss you. We welcome the successor, who is going to do a great job; and we wish you the greatest time in retirement that anybody could ever have. Thank you.

Mr. DREIER. Mr. Speaker, I am very happy to yield 2 minutes to the gentleman from Nebraska (Mr. BEREUTER), a Member who has chosen to retire at the end of this term but has served extraordinarily well on both the Committee on International Relations and the Committee on Financial Services.

Mr. BEREUTER. Mr. Speaker, I thank the gentleman from California for yielding me this time and for his statement.

It is people that make an institution function, that make it great, that sustain and build respect for it; and Charles W. Johnson is certainly one of those people. He has helped the Congress respect and assert the best traditions and decorum of the House.

I said to him, Charlie, you cannot retire before I do. I will miss you too much. And yet I guess we were born in the same vintage year. Nevertheless, we have great respect for John Sullivan, and we look forward to his service here as Parliamentarian.

I think it was just a few minutes ago that the distinguished gentleman from Maryland (Mr. HOYER) said Charlie Johnson is not only a knowledgeable man but he is a wise man and a caring man, and that is certainly the case. I respect the contributions so much that he has made to help young people who have less advantages than most others.

Charles Johnson has had a tremendous and very positive impact on the U.S. House of Representatives during his service here, 40 years to the month in the Office of the Parliamentarian, and 10 years as our Parliamentarian. Tremendous service!

I remember a day back on January 21, 1997. I do not preside over the House that much, but it has been my lot to preside on some of the most difficult days, and I recall that difficult and historic day. And it was the strategy and advice of Charles Johnson that helped set the tone and the order and demeanor of the House that day, through me, which was so crucial. I thank him for that and for so many other occasions.

It has been my privilege to travel with Charlie as I led the House delegation to the NATO-Parliamentary Assembly, and not only going to Brussels but, as the gentleman from Wisconsin (Mr. PETRI) said, visiting the House of Commons where Charles Johnson is very well known. Charlie has lots of friends there and in the leadership of the House of Representatives.

If Charlie and this Member ever talk about nonessential things here, like sports, we have talked about college football. And I have never until yesterday really known how much of an interest Charlie Johnson had in baseball. But I think I am shortly going to join him as a fan of the San Francisco Giants. A couple of years ago, the Wall Street Journal ran a piece on the chronic shortage of left-handed batting practice pitchers in major league baseball. So shortly thereafter, Charlie's ability to throw strikes from the port side was tested as he auditioned and then he started pitching for the Los Angeles Dodgers when they came to Camden Yards to play the Orioles. Then he pitched for them in Philadelphia, helping the Dodgers, and soon they became better hitters of left-handed pitchers.

If it had not been for yesterday's rework of the schedule because of rain, I understand he would have been doing the same thing for the Dodgers in the Phillies' new stadium. So that is a remarkable side of Charlie that I did not know about at all.

Mr. Speaker, as he leaves here, our outgoing Parliamentarian is going to be working with the recently retired Clerk of the British House of Commons, William McKay, on an updated comparative book on Parliament and Congress. Charlie's appreciation of the value of comparative studies through his work with counterparts in other countries, especially with that Mother of all Parliaments, has played an essential role in the development of programs of mutual exchange. You have heard that already referenced. People on every continent know Charlie Johnson because they have worked with him in their parliamentary efforts. So he is going to be working with Sir William in that respect.

Mr. Speaker, if it were consistent with American tradition, we would make you Sir Charles. But, nevertheless, we know that this is going to be another major contribution and it has some impact here. As you leave the House, Charlie Johnson should feel good to know that the recently established Office of Interparliamentary Exchange reflects his interest in improving not only the conduct of activities here in this parliament but in parliaments around the world.

□ 1100

So Charlie Johnson, best wishes to you and your family. Thank you for your public service and your service to the U.S. House of Representatives. You will be greatly missed.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, parliamentary inquiry, is it correct that the Speaker accepted Mr. JOHNSON's resignation?

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman is correct.

Mr. OBEY. Mr. Speaker, I appeal the ruling of the chair.

Mr. Speaker, I often refer to Archie the cockroach. This is my political bible, and Archie has something for almost every occasion. One thing he said once was "Boss, I believe the millennium will come, but there is a long list of people who have to go first." I think Charlie misunderstood. Charlie, Archie was not talking about you, and I hope you reconsider.

Mr. Speaker, for 40 years Charlie has been at the center of every effort of this institution to live up to the responsibility which it has to the oldest democracy in the world. Democracy can thrive only when all of our citizens believe that there is at least one place, some forum to which they can go in order to make their case and to have their arguments heard. They do not have to win, but they have to know that there is a place where they will receive a fair hearing. When that happens, democracy thrives; and when it does not, democracy dies a little.

I think more than anyone in this institution, Charlie Johnson has dedicated himself to see to it that on this floor, democracy thrives. He has been dedicated to the proposition that the rules ought to be applied in a way that enabled the majority to meet their responsibilities to govern and at the same time to enable the minority to offer and be heard on its alternative visions.

To the extent that the House has on occasion not been used that way, the fault certainly does not lie on the shoulders of Charlie Johnson. Charlie Johnson, I think, has met his responsibility to the institution, to the country, to both political parties; and we are all the better for it.

I know people have said a lot of good things about him today, and I know that on occasions like this people often exaggerate. For instance, I understand that Charlie's own wife was watching this on C-SPAN, and she heard so many good things about him that she rushed to the Chamber to see if we were talking about the same fellow. We are, Charlie. We are all talking about you. If Dick Bolling were here, who was my mentor in this place and who as a Member I think knew more about the rules than any other Member I ever knew, if Dick Bolling were here today, he would say, "Well done, thou good and faithful servant."

Mr. DREIER. Mr. Speaker, I yield 2½ minutes to the gentleman from Savannah, Georgia (Mr. KINGSTON), the very distinguished vice chairman of the Republican Conference.

Mr. KINGSTON. Mr. Speaker, I want to say a few remarks about our great friend and departing parliamentarian. If Members think about the world we live in today and all the technology and all the feats of engineering, we take so much for granted. We get in our cars, and our cars are almost a mechanical and a computer platform now, and we never marvel, we never question. We just flip a switch, and we expect something to happen. We take it all for granted.

That is somewhat how we are as we come down to the floor of the House. As 435 independent contractors, we come down here and we expect bills to be on the table, we expect to have a learned staff who can ask why a certain amendment was germane and why it was allowed and why it was not allowed. We expect to have some professionals who can keep their eyes on our distinguished brethren and sisters on the Committee on Rules, for example.

We need a neutral body as our motions flow that can say this is how the procedure must go on. And I think the House should be very proud of what Charlie and his entire team have done and all of the staff members that make this body click. Lord knows what would happen if we did not have this. We might look like the U.S. Senate.

I do not know if my words will be taken down, Charlie. I know there is a whole list of things I am not supposed to say. For example, I cannot turn to my friend, DAVID OBEY or JOHN LEWIS and say, JOHN. I have to say my distinguished friend from. Right now, this is like fingernails going against a blackboard. He keeps Members like me who can be somewhat flippant, who might say the wrong thing, who may deserve to have words taken down. He is the guy who says I may agree with what he just said about the fellow Member of the House, I might agree with his politics, I might disagree, but I am going to stick with the rule books. We need to have somebody like that. And he keeps people like the gentleman from Illinois (Mr. LAHOOD) watching that clock.

There was a great TV commercial of Motel 6 years ago. Tom Bodett made famous the line, "I am going to keep the light on for you." I always liked that because my mom would keep the light on for us when we were teenagers going home because the light represented security, the light represented home and wisdom and fairness. Charlie has kept the light on for all of us for many, many years, a source of wisdom, a source of fairness, a bright spot no matter what the legislative agenda of the day was; and we thank Charlie for all of his hard work.

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Speaker, so much of the time in this institution in recent years has been partisan, rancorous comments back and forth, difficult feelings among the Members; and this year, which is an election year, has exacerbated all of that. So it is important to note that Democrats and Republicans are joined together because what we are all experiencing is a significant loss for this institution, for the people's House, the House of Representatives.

Charlie Johnson has served as an integral part of the legislative process, and I feel privileged to have had the opportunity to work with him over the years. We have been the beneficiaries of his intellect, thoughtfulness, and integrity time and time again. Several years ago, Charlie noted that his predecessor, William Brown, had set a standard of "intellectual vigor, sharing of information, and a sharing of responsibility with a grace that was accompanied by a total devotion to the House of Representatives." Charlie has more than met that standard.

He does serve an important role, but it is more than just the role he serves. He has embodied the person that all of us can look to as one who will judge the issues with fairness based on the rules, based on the idea that laws govern not just individuals, and that when he makes his determination on all of the precedents and the exact wording of the rules, we know that is the course that we all have to agree to.

I came here from the California State legislature, and I think many legislatures are like this, the speaker has complete control. The speaker gets to appoint the Members to the committees and the chairmen, and assigns the members' offices and staff, and the speaker can make the rulings, and it is the speaker's authority alone to make the rulings.

So when I came here, I was surprised to find out that the Speaker could not just make a decision that benefited those of us on a certain side of the issue. He had to go to Charlie Johnson to find out what the rules were, and he had to abide by that decision.

I have come to realize how important that is for an institution to be able to have someone with such integrity and knowledge that we can look to to be the final say on what the rules are because we have to follow the rules in this institution and in a country that looks to the rule of law as essential.

I have come to recognize that as important, just as I have come over the years to recognize even the importance of seniority, which I more and more appreciate the longer I am here.

I want to say that I have not only benefited from Charlie's wisdom and advice but from his friendship. I have not had the opportunity to travel with him. Maybe now that Charlie is leaving, we will have to go on an Elder Hostel trip together because we are advancing in age. He has been a terrific friend to me, someone I have tremendous respect for, and it is shared by everyone in this institution. He is certainly going to be missed.

This is a change that many of us hoped we would not see, not only with Charlie's absence but a change in his guidance for all of us; and I join all of my colleagues, Democrats and Republicans, liberals and conservatives, in supporting this resolution to thank him for a job well done.

Mr. DREIER. Mr. Speaker, I yield 1½ minutes to the gentleman from Buffalo, New York (Mr. QUINN), another Member who unfortunately has chosen to retire at the end of this term.

Mr. QUINN. Mr. Speaker, I want to join my colleagues this morning, mostly in leadership positions, who have come to the floor this morning, Charlie, to talk about your wisdom and fairness and work ethnic; and I want to associate myself with their remarks, of course. But I am one of those dozens of the Speaker pro tempores. Charlie has made us all look good, both on C-SPAN and back home for our constituents, and for our colleagues here in the Chamber.

I was in the chair one day and some rule question came up. After I answered it, my mother called me on the phone and said, "How did you know all of those rules so quickly?"

I said, "It was easy, Charlie Johnson was there."

She said, "Who is he?"

I said, "Well, he is the guy that does the trick. He talks into the microphone so you hear him, but so nobody else hears him, and he explains the rules."

Charlie, on behalf of all of the Speaker pro tempores, some with a little more experience than others, who you have made look good across the country and in front of our colleagues, I want to thank you for knowing those rules, for sharing those rules, and for keeping this place a place of order when we are in the chair trying to keep order.

I guess the trick for you then and your staff is to be heard, but not to be heard when you do your job best. And I would submit to my colleagues here in the Chamber that we all can take a lesson from this gentleman as he leaves us. When we do our business, we should try to be heard, and maybe not be heard so loud during those times of emotion, during those times of debate, during those times of political arguments, to be heard, of course, but to not be heard. And Charlie, for that service to us as that group of people that chair these sessions, and on behalf of all our constituents across the country, I want to say thanks for a job well done. We appreciate it. We will always remember you.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from South Carolina (Mr. SPRATT).

Mr. SPRATT. Mr. Speaker, I have served in the House for more than half of the 40 years that Charlie Johnson has served as Parliamentarian. As a matter of fact, I had just become a Member of the House with no more than 3 weeks of experience when I wandered onto the floor one day, having mistaken the bells and thought there was about to be a vote.

Before I could get off the floor and go back about my business, Charlie beckoned me to the chair; and the next thing I knew I was wielding the gavel, presiding over the House, never having done that before in my life. I was never more thankful to have someone who knew what he was doing sitting behind me whispering instructions, and I have been thankful ever since that Charlie Johnson was in that position.

□ 1115

For all those 22 years that I have known him, his chair behind the Speaker, his office across the hall have been sources of civility in a House that is often contentious, sometimes bitter and pugnacious and embattled. For all those years, the Parliamentarian has been an authority that everyone in this House, both sides of the aisle, have recognized and respected because his rulings and his advice and his good judgment have always been based on precedent and on sound thinking.

His office made him powerful. Anyone who became the Parliamentarian of the House would be powerful inherently, but his knowledge, his ability and his manner made him authoritative. The House could not be the House that the Framers intended us to be, the people's House, without sometimes passionate, hard-hitting debate; but the House could not operate in that mode, sometimes pushing the envelope of civility, without a referee that everybody trusted and respected. For a long, long time, Charlie has been such a referee.

My respect for Charlie Johnson on our side, the Democratic side of the aisle, was established over the years and well-founded, but his great ability, his inherent decent fairness, was recognized to his credit and theirs when our Republican colleagues moved into the majority and made him their Parliamentarian, too. He proved his fairness, his basic inherent fairness, by serving both parties without ever breaking stride. I do not think anyone in the years that I have served here has ever accused him of bending with partisan winds. Charlie Johnson has called them the way he saw them for the last 40 years.

The House of Representatives is losing, we should not fool ourselves, a huge amount of institutional memory with the loss and retirement of Charlie Johnson. Four decades in the Parliamentarian's office, 10 years as Chief Parliamentarian, and during all those 40 years he has embodied those qualities that we need most in a parliamentarian: erudition and evenhandedness, great authority and great good humor, too, and overall a keen understanding of this great institution of the Republic.

He has made the people's House deserve its name. He has helped us make this complex system that we call democracy work and work well.

Though he is leaving, he leaves behind him a legacy that will inform the proceedings of this House for a long time to come, and he is leaving a well-trained staff of Parliamentarians.

The SPEAKER pro tempore (Mr. LAHOOD). The time of the gentleman from Texas (Mr. FROST) has expired.

Mr. DREIER. Mr. Speaker, I ask unanimous consent, in light of the fact that we have so many requests to talk about Charlie, that we extend the debate on this for an additional 5 minutes; and I would like to yield that 5 minutes to the control of my friend from Dallas, Texas (Mr. FROST).

The SPEAKER pro tempore (Mr. LAHOOD). Without objection, there will be an additional 5 minutes.

There was no objection.

Mr. FROST. Mr. Speaker, I yield 30 additional seconds to the gentleman from South Carolina (Mr. SPRATT).

Mr. SPRATT. Mr. Speaker, I remember when John Sullivan was first appointed and moved from the House Committee on Armed Services. The day after he took his office as the Deputy Parliamentarian, the staff on the House Committee on Armed Services concocted a convoluted parliamentary problem, which I presented to him as an innocent junior Member of the House, which John was immediately stumped by before he realized that it was all a hoax. Today, if we presented him that Gordian knot, I think he could probably cut it.

Charlie, you have taught us not just the procedures of the House and taught us well, but you have taught us the reasons that those rules must prevail. That is a legacy that will last for a long, long time. I think the brooding omnipresence of Charlie Johnson will loom over this House for a long time to come.

Thank you for everything you have done for us and this great institution.

Mr. DREIER. Mr. Speaker, I am happy to yield 1 minute to the gentleman from Texas (Mr. THORNBERRY), who often presides very ably over this institution.

Mr. THORNBERRY. Mr. Speaker, Members come to this Congress with a policy agenda or a political agenda. We spend our time and effort trying to make some change we think is good for the country. Yet there is something bigger and more enduring than any one of us or any one of our issues. That something is the institution of the House of Representatives.

I believe that every elected Member has a responsibility to that institution, but it is the professionals who serve as the officers and staff of the House that make sure it is preserved and protected. They serve the House and the Nation day and night through heated debates and even through long, dull special orders.

Nobody has served this House more faithfully and more nobly than our Parliamentarian, Charles Johnson. He is smart and insightful as his job required, but he also has the integrity to be trusted by both sides of the aisle during heated debate and controversial rulings. He has a sense of history and, I think, a sense of responsibility for this institution going back 217 years to the Constitutional Convention on through today and on through generations to come.

The House has been in good hands during Charlie Johnson's tenure, and part of his legacy, part of his lasting influence, will be felt through his successor. I join in expressing sadness at his leaving, but also admiration and gratitude for his service.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. LEWIS).

Mr. LEWIS of Georgia. Mr. Speaker, I rise to join my colleagues in paying tribute to and saying a word of thank you to Charles Johnson, the distinguished Parliamentarian of the House of Representatives.

This is my 18th year of serving in this House, and this Member can testify to the fact that Charles Johnson has been a fair, hardworking, committed and dedicated public servant. When new Members were given the chance to preside over the House, he was always patient and eager to help Members make it through the process. The House is a better House, and the country is a better country because of Charles Johnson.

It is my belief that when historians pick up their pens and write the history of this House during the latter part of the 20th century and the beginning of the 21st century, they will have to write that a man called Charles Johnson made a lasting contribution to maintaining order and peace in this House.

But he did more than maintain order and peace with his talents, skills and ability. He helped guide this House through some of the most important and sometimes bitter debates and discussions. Charles Johnson has helped guide this House through the discussion and debate on voting rights, civil rights, Medicare, the Higher Education Act, war and peace.

I want to join my colleagues to thank Charles Johnson for all of his good work and for his contribution toward the strengthening of our democracy. Charles Johnson, Mr. Parliamentarian, we wish you well in the days and years to come.

Mr. DREIER. Mr. Speaker, I am very happy to yield 1 minute to the gentleman from Ohio (Mr. LATOURETTE).

Mr. LATOURETTE. Mr. Speaker, when we are all here on the floor, there are often calls for regular order. The fellow who has kept regular order has been Charlie Johnson during my 10 years.

A lot of platitudes have been spoken and they are all well deserved. I want to extend my voice in saying thanks for giving me the guidance when I have had the honor of presiding over the House from time to time.

I do want to tell just one quick story in the minute that I have been given because the majority leader made sort of a joke about the 3-hour vote on prescription drugs and some Members in the House, when they scream regular order, because we are all busy, we do not take time to read the rules, do not know that the votes are a minimum of 15 minutes and not a maximum of 15 minutes.

But I can recall during a rather contentious vote the Republicans were up 206–204 and time had expired. A rather excited Member from the West Coast, California, came running up, it was not the gentleman from California (Mr. DREIER), and said, "You've got to close this thing down. We have to win this vote. You need to shut it down."

We looked and saw that earlier in the day 420 Members had voted, we were about 10 Members short; it was late in the evening, everybody was out having dinner, coming back; it was raining in the Capital. Charlie Johnson then said, "When you're in the minority, you understand that you're not going to win a lot of votes here, and when you're in the majority you can and probably should win most votes, but what you can't do when you're in the majority is steal a vote. We need to keep this vote open to make sure that those 10 Members who voted just a half an hour ago have the opportunity to be here and cast their ballots."

We wound up winning and the Member on that occasion who was excited came up later and apologized for screaming. Charlie Johnson has been fair, fair to the Republicans, fair to the Democrats, and I shall miss him very much.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Speaker, I take this time to say thank you to Charlie Johnson for his public service. He has never been elected as a Member of this body, but he has had as much influence as anyone who has ever been elected to this House in preserving the traditions of this great democratic institution, and I thank him for that. His contributions go well beyond the 40 years of service because what he has done in his service will be a lasting tradition in this body and will serve future generations.

He cannot duck a single tough issue, but he has ruled every time on the basis of sound precedent without partisan considerations. He is a person of the highest integrity, an encyclopedic mind, a person who is totally committed to our country and this legislative body.

Mr. Speaker, I just wanted to take this 1 minute as one Member of this body to thank Charlie Johnson for what he has done to make this great institution a better place for the future.

I thank you, I thank you for your friendship, and I thank you for your commitment.

Mr. DREIER. Mr. Speaker, I am very pleased to yield 1 minute to my good friend, the gentleman from Atlanta, Georgia (Mr. ISAKSON).

Mr. ISAKSON. Mr. Speaker, I, first of all, associate myself with all the kind remarks that have been made about Charlie, but I thought back to my first day here. I was elected on a special election, came in, I knew no one, and it was a hustle and bustle. Charlie Johnson was the guy who got me through that in what was a blur to me.

Secondly, I am reminded of how great this institution is, and I am reminded of three silent factors the public never sees. First is the sconce of Moses that looks down upon the Speaker as an inanimate object, but as a constant reminder of the integrity we all need. Second is our Founding Father, George Washington, whose portrait hangs on this side of our Capitol to remind us of where we come from.

The third silent but very present, day in and day out, person that guides the integrity of this most important institution is the quiet but effective leadership of Charlie Johnson. This institution has been blessed to have leaders of great capability from elected office, but from that seat next to the Speaker, we have been blessed to have a man who has the excellent commitment to fairness, integrity, responsibility and the preservation of this Republic, and that is Charlie Johnson.

Mr. FROST. Mr. Speaker, I yield 30 seconds to the gentleman from New York (Mr. MCNULTY).

Mr. MCNULTY. Mr. Speaker I am honored to stand here today and associate myself with the remarks of Speaker HASTERT and Leader PELOSI and all of the other Members in thanking Charlie Johnson for his 40 years of outstanding service to the House of Representatives and to the country.

When I first came to the Congress in the 1980s, I served on a regular basis as one of the Speaker pro tems. At that time I knew very little about parliamentary procedure and almost nothing about the House rules. I thank Charlie and my friend the late Bill Brown and John and Tom and Muftia and Gay and all of the others who helped through the years to educate me about the House rules and to have that wonderful experience which, incidentally, I hope I have again someday.

Charlie, I would sum it up this way: You are the very definition of outstanding public service. I wish you good health and happiness for many, many years to come.

GENERAL LEAVE

Mr. DREIER. Mr. Speaker, we have many, many Members who want to have an opportunity to be heard on this and so, at this moment, I am going to ask unanimous consent that general leave be provided so that all Members may include statements in the RECORD upon Charlie Johnson's retirement.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DREIER. Mr. Speaker, I ask unanimous consent that my friend from Texas (Mr. FROST) be given an additional 1½ minutes for debate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DREIER. Mr. Speaker, I am happy to yield 1 minute to my very, very good friend, the gentleman from Idaho (Mr. SIMPSON).

Mr. SIMPSON. Mr. Speaker, I thank the gentleman for yielding me this time.

Charlie, we are certainly going to miss you. Sometimes that does not seem like enough, but all of the Members of the House and the fellow staff members here in the House are certainly going to miss you. Sometimes simple words are the best.

Parliamentary procedure, as has been stated here, the Rules of the House equally and uniformly applied to all, are what make this emotional and sometimes polarized place work. Charlie and I have sometimes disagreed about the interpretation of those rules and we have debated it a little bit. Yielding to the superior wisdom of Charlie, I found out that you can end debate with a nondebatable motion here in the House, but if we were back in Idaho, you could not do that. We have had some very interesting debates.

I always found, when I practiced dentistry, that when I was hiring a new chairside assistant, it was sometimes often easier to hire somebody that had no experience because then you did not have to untrain them before you retrained them. Sometimes I think Charlie's toughest job here is to take some of us who have been presiding officers in State legislatures and untrain us of the rules that we learned in our State legislatures before he retrained us about the Rules of the House.

I know that you have done a fantastic job. We have all enjoyed working with you. Sometimes the measure of an individual's performance is what those around him think about the job that he has done. As I have talked to other staff members here, I can tell you one of the things that was said yesterday, someone said, "If I had to think of one word to describe Charlie, it would be 'integrity.'" That is not a bad legacy to leave.

Thank you, Charlie. We are going to miss you.

Mr. FROST. Mr. Speaker, I yield 30 seconds to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Charlie, you have served your country and you have served this wonderful House. At a time when we have lost something in terms of ritual and ceremony, you have always brought us back to reality.

□ 1130

Thomas Jefferson, I am sure, would be very proud of you. Our laws and our rules are based upon what he wrote.

We were brought together 8 years ago when I came into this House by a mutual friend. It was the right move. The first person I met on this floor was Charlie Johnson.

And I know you have wished well your successor. I know he will do well. I know John will do very well. This is a great institution, Charlie, and we will never forget how you served your country.

Mr. DREIER. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker I yield 30 seconds to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, we have talked about the contribution that our friend Charlie Johnson has made to the rules of the House, and that he has provided the context to understand the rules. But I think the thing that I have come to appreciate is the human face that he puts on it. It is the dimension provided by the outstanding men and women who make this place work behind the scenes, that we all come to appreciate.

Charlie, you epitomize those people; and ultimately it is that human face that is going to provide the strength to make sure that the House follows through on the path that you have charted so ably in the past 40 years. We greatly appreciate your contributions.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentleman from Peoria, Illinois (Mr. LAHOOD), who, as has been pointed out, time and time again so ably presides over this institution as Speaker pro tempore.

Mr. LAHOOD. Mr. Speaker, I think people watching this would find it kind of odd that I would have to step down off the podium in order to speak, but Charlie would never allow me to speak from up there because it is not according to the rules of the House.

And I think people would find it odd that Charlie cannot speak today. Charlie has spoken many, many times on this floor through those of us who have had the great opportunity and privilege to serve as Speaker pro tempore. But it is not according to the rules. And if it is not according to the rules, it does not happen. And if it is not according to the rules by Charlie Johnson, it does not happen.

I was quoted in CQ as saying that Charlie runs the House, and I hope our leadership does not take offense at that; but Charlie really has run the House for many years, and thank goodness for that.

I think many people do not realize that in 1994 not one of us in the majority presided. When we were sworn in in 1995, not one of us in the majority had ever presided over the House. And if it were not for the magnificent work of Charlie and his entire staff, think of the chaos that could be created when we turn over an entire House to a new majority of people who obviously maybe know a little bit about the rules but not much. And if it were not for the great work of Charlie and all of his people, think of the kind of chaos.

And we were dealing with some really important issues here. I know you do not like to hear about the Contract with America, but that was the agenda for 3 months, and that was major legislation. And we could not have done it, and those of us who had the privilege early on of presiding could have never done it. It would not have been possible for us if we had not really paid attention to Charlie Johnson and the people that work in his office, and they really are the ones that allow us to do the things that we were able to do throughout the 10 years that we have been in the majority.

When people say to me, How did you get so good at presiding? It is a very simple answer. I listened to Charlie Johnson. That is the answer. And when one listens to Charlie, they get good advice.

I want to say one word about these jobs that we have: we could not do without the kind of spouses that allow us to do them, and I want to say a word about Martha. Martha is here.

And, Martha, I want to say to you, thank you for giving us this extraordinary human being who has given us so much. We are in your debt for the kind of, I think, tolerance that you have lent to the job that Charlie has done, the long nights, the late nights, and the good work.

Charlie, job well done. Godspeed.

Mr. FROST. Mr. Speaker, I yield 30 seconds to the gentleman from Washington (Mr. BAIRD).

Mr. BAIRD. Mr. Speaker, on the night of September 11, I began to think about what might happen if this institution were to perish in an attack, and I asked, who should we talk to to learn the answer to that question? And the answer to that was Charlie Johnson.

Charlie, I want to thank you and your entire staff for your help on that issue but, more importantly, for how you help us every single day.

People around the country see us disagree and bicker all the time here, and they say is there not anything you people can agree on? Today, my friends, we have agreed on something. We have agreed to honor this magnificent individual, his service to our country and the principle of the rules that keep our democracy, our Republic, and this great body functioning.

I thank you, Charlie, and I thank my colleagues for their great words today. Godspeed, Charlie.

Mr. FROST. Mr. Speaker, I yield 30 seconds to the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. Mr. Speaker, I thank the gentleman for yielding me this time.

Charlie, they say that politics is a sea of conflict. If that is true, then you have been the steady hand that has guided this ship of state, our democratic process, through so many years of calm and troubled waters. You will be missed. We have appreciated your service. You are the epitome of what public service is all about.

And, as I encouraged Terry just before his retirement, and I have enjoyed the conversations that we have had in regards to the tradition and the history and the culture of this place, I encourage you to record your memories and maybe put it in book form to share with the rest of the world because in so many ways, you are also the repository of a lot of the knowledge and memories that are embodied in this place.

So we all wish you well today. We wish you Godspeed and may you have a very long and happy and healthy retirement. Thank you.

Mr. DREIER. Mr. Speaker, I yield 30 seconds to the gentleman from Georgia (Mr. LINDER), the chairman of the Subcommittee on Technology and the House of the Committee on Rules.

Mr. LINDER. Mr. Speaker, when the Republican transition occurred in December of 1994, I was charged with the responsibility of interviewing people and finding hires for the top five positions in the House, and one of those was Parliamentarian. I frankly came at it with some suspicion. If someone could be working so long for the other party in control, could that person be fair? And he convinced me over two meetings that his job was not to be fair or unfair, but to know the rules. He has proven that he does, with an even hand; and I join all my colleagues in thanking him in his service to his country.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

I would like to close again by expressing appreciation on behalf of all of the many staff members here in this institution who work so closely with Charlie Johnson, all of those who are working for us here today and the members of committee staffs and personal staffs who have worked so closely with him.

And I would like to close by sharing with our colleagues a note that was handed to me a few minutes ago. It says: "Dear Charlie, thanks for your 40 years of service to the House and our country. I wish you all the best. Keep your arm loose. We may need to call you in from the bullpen." This is a handwritten note from the President of the United States, George W. Bush, which I will give to you, Charlie, as soon as we have the resolution.

Mr. MATSUI. Mr. Speaker, it is with great pleasure that I rise today to congratulate Parliamentarian Charles Johnson on four decades of service to the U.S. House of Representatives, and to wish him the very best for a well-earned retirement.

As all Members are aware, the job of House Parliamentarian is an exceedingly difficult one. One must have a scholarly grasp of the rules governing this institution, the integrity to be an honest and fair judge, and an ability to work with both sides of the aisle in contentious moments. Throughout my twenty-five years of service in the House, I have seen Charlie exhibit these qualities with the highest distinction.

Charlie began his service in the Parliamentarian's office in 1964, shortly after graduating from the University of Virginia School of Law. In 1994, he was appointed Parliamentarian by a Democratic Speaker, Tom Foley. In a testament to his character, he was then reappointed by two Republican Speakers, Newt Gingrich and Dennis Hastert. All Members of this body have relied on Charlie's keen intellect and sound judgment, day in and day out. He has served with the greatest integrity and will be missed. However, all Members welcome his respected successor John Sullivan, who Charlie has mentored.

Fittingly, Charlie will continue to serve our country in other ways when he retires from this institution. In collaboration with the Parliamentarian of the House of Commons in the United Kingdom, he plans to produce a book on parliamentary procedure that will be a welcome addition to the field. In addition, after an activity that is dear to my heart, he will lend his talents to the San Francisco Giants as a batting practice pitcher.

I want to thank Charlie for his wisdom, his commitment to being a nonpartisan advisor, and above all his forty years of service to the United States House of Representatives. We thank him for sharing his life with us these many years, and wish him the very best in his endeavors to come.

Mr. RAHALL. Mr. Speaker, as many have already stated, and as many more Members are eager to express, Charlie Johnson's departure will be a loss to this great institution we serve, and which Charlie has served so well for 22 years.

I am actually one of the few Members of the House who can say I was already here before Charlie was, although he arrived here within only a couple of short years after I did. Since that time, we've had the opportunity to grow older together.

Throughout his tenure, Charlie has been a wise counselor, a trusted confidant, and an impartial adjudicator who has served both parties without pride or prejudice.

For those who don't readily grasp the significance of the role of Parliamentarian, it is the Parliamentarian who makes sure that we can continue to conduct the House's business every hour of every day.

Those visiting, or watching at home on C–SPAN, may understand the importance of the House Parliamentarian as Members come and go from the Speaker's Chair. When they see Members in the Chair making procedural decisions, they also see the Parlimentarian's staff providing helpful advice on a timely basis.

For those of us who serve in the House, the Parliamentarian is an absolute lifeline. He's also the occasional judge, father confessor, and calm in the storm of the House floor as Members and parties seek to advance their own interests.

Although it seems that we increasingly can't find ourselves in agreement on many things, too many things for that matter, one thing that is beyond dispute is that Charlie has embodied the ideal of the civil servant who tirelessly has served the interests of the American people.

I, like so many others, am proud to have served with him.

Mr. SENSENBRENNER. Mr. Speaker, it is with both gratitude and sadness that I rise to honor the Parliamentarian of the House, Charles W. Johnson, on his upcoming retirement. Charlie has long served the House, and he has done so with distinction, integrity, and honor. He has embodied the nonpartisan traditions that make the Parliamentarian's Office one of the most respected institutions in this House.

Through our constant debating of matters large and small, Charlie has remained a calm head guiding us through our differences with a quiet grace. His abiding love for the institution and his knowledge of the rules are unparalleled. He will be greatly missed. I deeply appreciate his service and wish him well. As he passes into retirement, we all bid a fond farewell to an unsung hero who kept the great wheels of this democracy turning.

Mr. OXLEY. Mr. Speaker, I rise today in support of the resolution, and to thank Mr. Charles Johnson, the Parliamentarian, for his service to this institution and its members. Those of us who have the privilege to serve as committee chairmen know first hand the good work done by Charlie and his team of professionals. In many ways, the Parliamentarian and his deputies are the grease which makes our legislative machine work a little more smoothly.

Charlie's dedication to this institution spans his 40-year career. Beginning his career fresh out of the University of Virginia law school in 1963, he guided members of both parties through the shoals of the legislative process. Charlie was particularly helpful to those of us who were newly elected committee and subcommittee chairmen in 1995 and beyond. His advice and counsel have served us all well as we learned the sometimes difficult lessons of legislating in the 21st century.

As anyone who knows Charlie knows, his only greater love than this institution is his love of baseball. As he begins his retirement after 40 years of crouching behind home plate, we all hope he enjoys watching the rest of the game from the stands.

Mr. Speaker, I wish Mr. Johnson well in his retirement, and extend my heartfelt thanks for his service.

Mr. DREIER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain five 1-minute speeches on each side.

ARE WE WINNING THE WAR ON TERROR?

(Mr. TURNER of Texas asked and was given permission to address the House for 1 minute.)

Mr. TURNER of Texas. Mr. Speaker, it has been almost 3 years since the September 11 attacks by a small, but deadly, network of terrorists; and America is asking, are we winning the war on terror? Are we better off today than we were 4 years ago?

To win the war on terror, we must succeed on three fronts simultaneously: we must attack the terrorists, we must protect the homeland, and we must prevent the rise of future terrorists.

Our protracted conflict in Iraq has overextended our military and limits our capacity to confront the emerging threats around the world. The terrorist threat is growing into an even larger network of loosely affiliated groups whose common thread is their hatred of America.

We have yet to pursue a strategy to strengthen the voices of moderation in the Muslim world that are our best hope for preventing the rise of future terrorists.

Serious security gaps remain at our ports, in the air, on our trains, at our borders. Chemical, biological, nuclear, and conventional threats are increasing.

We are fighting the war on terror, but are we winning? To make Americans safer, we must move faster and be stronger than we are today.

WEAPONS OF MASS DESTRUCTION HAVE BEEN FOUND IN IRAQ

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, despite the national media's best efforts to minimize the news, I am here to report, as the United States military confirmed in Iraq on Monday, weapons of mass destruction have been found in Iraq in the form of two separate artillery shells containing sarin and mustard gas, shells that had been used by insurgents to create roadside bombs. A 155 millimeter shell found last week included nearly a gallon of a deadly gas, a drop of which would kill a human being. Not that we should be surprised. Saddam Hussein killed or injured over 70,000 Iraqi Kurds using sarin gas munitions in 1988.

Where are the WMDs? We have been asked again and again. Mr. Speaker, they are where they have always been, hidden in Iraq, within the reach of terrorists, a threat to the Iraqi people, U.S. soldiers, and the world.

THE HOUSE REPUBLICAN LEADERSHIP'S MISPLACED PRIORITIES

(Mr. EDWARDS asked and was given permission to address the House for 1 minute.)

Mr. EDWARDS. Mr. Speaker, American military families will be disappointed to find out what the House Republican leadership is doing today. Unbelievably, during a time of war, they will pass this afternoon generous tax cuts for Members of Congress but put a freeze on military children's education funding and a freeze on the most important military housing improvement program in American history.

It is shameful that the House Republican leadership is saying that we can afford to give Members of Congress and families making up to $250,000 a year a new $1,000 tax credit per child, but we must freeze education funding for our military kids and put a 1-year hold on military housing improvements for 24,452 military families.

The House Republican leadership's misplaced and self-serving priorities make a mockery of the principle of shared sacrifice during time of war. Military families, and Americans who respect their sacrifices, have a right to be outraged.

□ 1145

TRIBUTE TO AGUSTIN VELASCO

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.).

Ms. ROS-LEHTINEN. Mr. Speaker, I rise today to honor Mr. Agustin Velasco, a valued Member of our South Florida community. Agustin's contribution to our community dates back over 4 decades, serving as a leader, entrepreneur, and an example of determination to succeed.

Agustin is currently the president and original founder of the Inter-American Bank, a bank with humble beginnings, now proudly celebrating its 25th anniversary of service to the people of South Florida.

After fleeing Communist Cuba in 1961, Agustin sought refuge in Miami and quickly became a dynamic and flourishing member of our community. Joining the ranks of thousands of very hard-working Americans, Agustin became the realization of the American dream.

A father of two and a grandfather of five beautiful girls, I invite my colleagues to join me in congratulating Mr. Agustin Velasco and wishing him continued success.

Felicidades, Agustin.

CHANGE AND A NEW DIRECTION NEEDED FOR AMERICA

(Mr. EMANUEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.).

Mr. EMANUEL. Mr. Speaker, last night the House passed a $2.3 trillion budget, leaving a $500 billion hole and deficit, and showing that it is impossible to finance three wars with three tax cuts and get a different result.

In the 2000 election, President Bush said he was against nation-building. Who knew it was America he was talking about?

Let us look at the results of their economic program. An additional 2.5 million Americans are now unemployed since he has taken office; 44 million Americans without health care; 2 million more middle-class families have entered the rolls of poverty from the middle-class; we have the worst and most anemic wage growth since World War II at this time; and nearly $1 trillion worth of corporate individual assets have been foreclosed on.

We have spent nearly $112 billion in Iraq at this point, and we will vote today on another $25 billion. With this budget, the administration is telling the American people they have two values, two principles, two sets of books; one for Iraq and one for the United States.

Mr. Speaker, we need a change, a new direction, to balance our values and our budget priorities for America's future and our children.

WE WERE NOT AT WAR IN 2000?

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, one of the distressing things about this partisan election year is to hear our friends on the other side politicizing national security. One of my colleagues on the other side of the aisle said that we were not at war when President Clinton was in office, suggesting that it was President Bush's fault that we are at war today.

I would like to ask, what would you call it then in the 1990s when terrorists attacked our country, not once, but four times? In 1993, they killed innocent Americans at the World Trade Center; in 1996, they killed Americans at the Khobar Towers; in 1998, they attacked two U.S. embassies in Africa; in 2000, they attacked a U.S. Naval vessel, the USS *Cole*, again killing Americans.

Terrorists have been at war with us for years. We failed to admit it, despite the body bags.

Then in 2001, 9/11 happened.

We were at war long before President Bush came to Washington. All President Bush did was muster the courage and moral vision to admit it and fight back.

These political games only cloud the true issue that we are at war, and the more we hesitate to fight it, the more aggressive our enemies become.

CHALABI A CORRUPT ALLY

(Mr. McGOVERN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McGOVERN. Mr. Speaker, this morning we learned U.S. military personnel and Iraqi police raided the home and party headquarters of Iraqi Governing Council member Ahmed Chalabi.

I am not surprised. Chalabi's past is riddled with allegations and convictions for fraud and corruption. That he may now be under investigation in Iraq for corruption or other crimes is hardly unexpected. Chalabi has always been a favorite at the Pentagon, even though the State Department sees him as divisive and untrustworthy.

Under the Iraqi Liberation Act, the Pentagon has fed him a steady stream of money in return for information. It was Chalabi who was the principal source for the false intelligence about weapons of mass destruction in Iraq. When Saddam fell and the U.S. flew Chalabi and his cronies to Iraq to take up positions of power, it was he who championed the plan to rid Iraq of all Baath Party influence, including civil servants, a policy that angered many an Iraqi and deprived the coalition of experienced workers.

Mr. Speaker, it is time to distance ourselves from this man once and for all. Cut off his money. The taxpayers deserve a refund.

BENEFIT OF HEALTH SAVINGS ACCOUNTS AFTER JUST 6 MONTHS

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.).

Mr. BURGESS. Mr. Speaker, this weekend we are going to mark the 6-month anniversary where we in this House passed the conference report to modernize Medicare. Since that time, in 6 months' time, we are now on the threshold of having the Medicare prescription drug discount card, which will come to us June 1, and that will make a user-friendly database available to seniors across the country. For the first time, seniors will be able to comparison shop for their prescription drugs, just like they do for cruises, shoes and other necessities.

Also, since that time, we have seen the growth of Health Savings Accounts that were part of that legislation. There are some interesting figures about Health Savings Accounts. Almost half of the people signing up for Health Savings Accounts earn under $50,000 a year, hardly a program that just benefits the rich, but we hear that over and over again.

Fifty-six percent of the people that have signed up for Health Savings Accounts are under 40 years of age. Sixty-two percent are families, as opposed to just individuals, and there are comparable benefits after the deductibles are met.

The most important thing, though, Mr. Speaker, is this is money that patients own and they control. It is their accounts, not the government's.

HELPING HARD-PRESSED FAMILIES IS CRITICAL

(Mr. BLUMENAUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.).

Mr. BLUMENAUER. Mr. Speaker, helping hard-pressed families is a valuable activity here on the floor of the House. We have an opportunity to do it today. Yet my Republican friends are advancing a fundamentally flawed proposal.

For two families each with three children, one making minimum wage, the other over $300,000 a year, my Republican friends propose a new benefit for the family that makes over $300,000. They will however slam the door on the family at minimum wage earning $10,300; no benefit for them.

I keep hoping my Republican friends will show the same compassion for the people who need our help the most as they shower new benefits on those who need our help the least.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

The SPEAKER pro tempore (Mr. BURGESS). Pursuant to House Resolution 648 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4200.

□ 1152

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4200) to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2005, and for other purposes, with Mr. LAHOOD (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Wednesday, May 19, 2004, a request for a recorded vote on Amendment No. 14 printed in House Report 108-499, offered by the gentleman from Missouri (Mr. SKELTON) had been postponed.

Pursuant to the order of the House of that day, the amendments numbered 29, 30, 31 and 32 are in order as though printed in the report and Amendment No. 13 is modified.

It is now in order to consider Amendment No. 7 printed in House Report 108-499.

It is now in order to consider Amendment No. 8 printed in House Report 108-499.

REQUEST TO INCLUDE MEMBER AS COSPONSOR OF AMENDMENT

Mr. KENNEDY of Minnesota. Mr. Chairman, I ask unanimous consent that the name of the gentleman from Arkansas (Mr. SNYDER) be added as a cosponsor of the amendment.

The CHAIRMAN pro tempore. While a Member may not designate a co-offerer of an amendment, the RECORD will reflect his request.

AMENDMENT NO. 8 OFFERED BY MR. KENNEDY OF MINNESOTA

Mr. KENNEDY of Minnesota. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. KENNEDY of Minnesota:

Strike section 2821 (page 514, beginning line 19) and insert the following new section:

SEC. 2821. PREPARATION OF REPORTS AS PART OF 2005 BASE CLOSURE ROUND REGARDING FUTURE INFRASTRUCTURE REQUIREMENTS FOR THE ARMED FORCES.

Section 2912 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note), as added by section 3001 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1342), is amended by adding at the end the following new subsection:

‘‘(e) INFRASTRUCTURE-RELATED REPORTS.—

‘‘(1) REQUIRED REPORTS.—The Secretary shall prepare the following reports related to infrastructure requirements for the Armed Forces:

‘‘(A) A report containing the Integrated Global Presence and Basing Strategy of the Department of Defense, including the location of long-term overseas installations, installations to be used for rotational purposes, and forward operating locations, anticipated rotational plans and policies, and domestic and overseas infrastructure requirements associated with the strategy.

‘‘(B) A report describing the anticipated infrastructure requirements associated with the probable end-strength levels and major military force units (including land force divisions, carrier and other major combatant vessels, air wings, and other comparable units) for each of the Armed Forces resulting from force transformation.

‘‘(C) A report describing the anticipated infrastructure requirements related to expected changes in the active component versus reserve component personnel mix of the Armed Forces.

‘‘(D) A report describing the anticipated infrastructure requirements associated with the so-called ‘10-30-30 objective’ of the Secretary to ensure that military forces are capable of deployment overseas within 10 days in sufficient strength to defeat an enemy within 30 days and be ready for redeployment within 30 days after the end of combat operations.

‘‘(E) A report containing the results of a complete reassessment of the infrastructure necessary to support the force structure described in the force-structure plan prepared under paragraph (1) of subsection (a) and describing any resulting excess infrastructure and infrastructure capacity, which were previously required by paragraph (2) of such subsection. The reassessment shall be based on actual infrastructure, facility, and space requirements for the Armed Forces rather than a comparative study between 1989 and 2003.

‘‘(F) A report describing the anticipated infrastructure requirements associated with the assessment prepared by the Secretary pursuant to section 2822 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136; 117 Stat. 1726), in which Congress required the Secretary to assess the probable threats to national security and determine the potential, prudent, surge requirements for the Armed Forces and military installations to meet those threats.

"(2) TIME FOR SUBMISSION OF REPORTS.—The Secretary shall submit the reports required by paragraph (1) to the congressional defense committees at the same time as the Secretary transmits the recommendations for the closure or realignment of military installations under section 2914(a).".

The CHAIRMAN pro tempore. Pursuant to House Resolution 648, the gentleman from Minnesota (Mr. KENNEDY) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Minnesota (Mr. KENNEDY).

Mr. KENNEDY of Minnesota. I yield myself 3 minutes.

Mr. Chairman, I rise today to urge my colleagues to support the amendment I am offering with my friend, the gentleman from Arkansas (Mr. SNYDER). The Kennedy-Snyder amendment repeals the 2-year BRAC delay that was included in the Defense Authorization Act reported out by the committee.

Our amendment also requires DOD to report to Congress on our overseas basing posture and other issues raised by the committee in March of 2005 when DOD transmits its base closure and realignment recommendations to the BRAC Commission.

Under the terms of our amendment, Congress would have 6 months to consider the report before a potential vote to disapprove the recommendations of the BRAC Commission. This would give the House ample time to hold hearings and decide if DOD paid attention to such important issues as our overseas basing structure. Furthermore, estimates show that the 2-year delay of BRAC could waste as much as $16 billion in lost savings.

Mr. Chairman, this is money that would be better used to modernize our weapons systems and improve the quality of life for our service men and women.

I know some of my colleagues on this floor are opposed to the BRAC process. They argue that now is not the time to conduct a round of base closures, not while the country is at war. I disagree. I believe that now is as important a time as ever.

The critical nature of our war on terrorism and our military actions in Iraq and Afghanistan demand we go forward with BRAC. Right now, we have a perfect opportunity to see what infrastructure the military really needs for our modern-day challenges. After all, if it is not essential where our military is engaged in two countries simultaneously, in addition to all of our other responsibilities being undertaken by our men and women in uniform, when will it be needed?

But that is not just my opinion. The Chairman and Vice Chairman of the Joint Chiefs of Staff, along with the Army Chief of Staff, the Air Force Chief of Staff, the Chief of Naval Operations and the Commandant of the Marine Corps recently warned a delay in the BRAC amendment will seriously undermine our ability to fundamentally reconfigure our infrastructure to best support the transformation of our forces to meet the security challenges we face now and will continue to face for the foreseeable future.

For this reason, the administration has issued a statement of administration policy that says anything that delays, weakens or repeals the BRAC would trigger a veto.

Mr. Chairman, we cannot afford that risk. For those of my colleagues really concerned about BRAC, I would ask them to remember that the BRAC process works. Congress and the President each must act to accept or reject the recommendations of the BRAC Commission. They do not take effect until both Congress and the President accept the list. That means a vote for the Kennedy-Snyder amendment is not a vote to close any base; it is a vote for a process proven to work, free from political posturing, that puts the needs of the military and taxpayers ahead of parochial interests.

Mr. Chairman, the BRAC process is a significant innovation that relies upon shared oversight to strengthen our military and produce significant savings in the defense budget. We have had significant savings in the past BRAC closings.

The CHAIRMAN pro tempore. Who seeks time in opposition?

Mr. HEFLEY. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman is recognized for 10 minutes.

Mr. HEFLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the 2-year delay that is in the bill is in direct response to widespread concern that the Department of Defense is experiencing too many stresses and changes to make effective base closure decisions by May of 2005. Our Nation cannot afford to close a base in the 2005 BRAC round only to discover in 2010 that the assets at that base were both irreplaceable and now lost forever.

We have had this happen in the past, at Cecil Field in Florida, and we also lost port space down in Charleston Harbor that we could very well use today.

The press releases, what I have heard from the gentleman from Minnesota, seems to be that he is mostly concerned about the saving of money. I would like to share with the gentleman from Minnesota (Mr. KENNEDY) the BRAC math that we get by serving on the committee.

The DOD's claim that BRAC will result in a savings of $3 billion are only half the story. It is like looking at a financial sheet and just seeing the assets and not the deficits. In truth, 3 years after the next BRAC round, we can expect DOD to have spent approximately $5 billion more than they have saved.

In other words, DOD will have realized a cumulative savings of $4 billion, but they will have spent $9 billion in the process. Even 6 years after the BRAC rounds, we can expect DOD BRAC costs to exceed their cumulative savings by more than $100 million.

These figures are real. These are not my figures. They are based on GAO's reports on costs and savings from the past two BRAC rounds.

Let me repeat. DOD will actually need increased budgets to implement base closures, and by 2011, DOD will actually have spent more than it has saved from base closure actions.

□ 1200

Let me share two additional reasons for why delaying the BRAC until 2007 is the responsible thing to do. First, we are undergoing the most significant realignment of overseas forces and bases since World War II. And these changes may result in tens of thousands of military personnel returning to the United States. We do not know what this is going to amount to. In addition, I am concerned about the Department's overseas proposals. According to CBO, all the proposals under consideration have substantial upfront cost, as much as $9 billion; and several of the approaches under consideration would actually result in decreased operational capability.

DOD plans to roll these overseas realignment decisions into BRAC. This is too significant an issue for Congress to accept without time for consultation, oversight, and approval.

Mr. Chairman, I reserve the balance of my time.

Mr. KENNEDY of Minnesota. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Arkansas (Mr. SNYDER).

Mr. SNYDER. Mr. Chairman, I rise in support of the Kennedy amendment. It just maintains current law to move ahead with the process of necessary base closure.

With regard to the previous statements made about BRAC math, GAO, CBO, the Department of Defense, and the Army Audit Agency have all concluded that prior rounds have indeed saved substantial sums of money and more savings are expected. But just as important is the realignment, the R in the BRAC. Our forces are currently going through readjustments as they come back home, as we are fighting a war. We need to give the authority to go ahead and do this process to enable more jointness and more effectiveness in crossing service lines.

We also have to remember that both former-President Clinton and President Bush have supported moving ahead with another line of base closures. This is a bipartisan effort from both administrations.

We also hear the argument that this is a difficult time to do this, that we are at war, that the military is under stress. But the world is not going to take a time-out for 3 or 4 years while we to this. That is not how the world works. It is time to move ahead with this. There is not going to be a perfect time to do it.

I have great concerns about communities, as we all do. I do not see how another delay of 2 years, forcing these communities to be apprehensive about this, to hire more lobbyists, to be involved in this process for an additional 2 years, a prolongation of this process, how that helps communities. They probably are in as good shape now as they are ever going to be.

The most important point I want to make is that this is a bipartisan effort that has gone on through multiple Secretaries of Defense from both Republican and Democratic administrations, from both President Clinton and President Bush. Now is not the time to delay another round of base closures.

The gentleman from Colorado (Mr. HEFLEY) in his amendment before the Committee on Armed Services wanted six additional reports. The language in the Kennedy amendment retains those six reports. If his amendment passes, that would be added to the current base closure process.

I encourage a vote of "yes" on the Kennedy amendment.

Mr. HEFLEY. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. MURTHA).

Mr. MURTHA. Mr. Chairman, it is hard to add anything to what the chairman said, but I have found over the years it has cost us more in many cases to close these bases than we have saved. But in this particular case, I think we have got a different problem. About a year ago, General Jones of NATO and the Supreme Allied Commander said to me, we will realign the troops in Europe. Secretary Rumsfeld not long ago spent some time talking to me about the realignment in Europe and in the United States. For us to start to look at base closing before they get the realignment done would be a real mistake. I think it would be counterproductive.

In the first place, we do not know when these troops come back. We are going to increase the size of the forces. We have already increased the Army by 30,000. They want to increase the brigades by about 25 percent. All those things have to be stationed someplace. Until they get the global strategy, the global footprints set up, I do not think there is any way we should make a decision like this.

When it comes to savings, we spent in the Presidio, they talk about how much money we will save when we close the base. We spent $100 million in cleaning up that base afterwards. In Southern California, we spent almost $100 million cleaning up the base.

We have ammunition depots, ammunition targets where we spend. The Navy Yard in Philadelphia, they figure to clean it up it would cost $1 billion. So it leaves a hole in Philadelphia where if you do not clean it up, you lose the jobs; and in addition to that you spend an awful lot of extra money.

I think as all the chiefs say in the letter dated 18 November 2004, this is not the time to do a BRAC. Naturalization of our domestic infrastructure as conducted by BRAC must closely follow the global posture review. I agree with that. I would urge Members to vote against this amendment.

Mr. KENNEDY of Minnesota. Mr. Chairman, I yield 1 minute to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I stand in support of the Kennedy-Snyder amendment. This is an area that is inherently controversial, but we have finally put a process in place that helps depoliticize it. The bill, in its current form, represents an unfortunate step backward.

I want to speak to a point my friend from Pennsylvania (Mr. MURTHA) raised because I have talked to him repeatedly about what I think is a scandal. We do not deal with the unexploded ordnance and the military clean-up. Yes, there will be some costs that are associated with base closures, but they are costs that are our responsibility now. If we did a better job of cleaning up after ourselves with the toxics, the unexploded ordnance and the pollution, we would save money in the long run and we would not have communities go ballistic. In fact, they would have a resource that could be recycled.

Ultimately, we will have to pay the cost for the military clean-up. Delaying another round of BRAC is not going to save money; it is going to cost money. It is going to delay returning that land to productive use, and it is going to have us engage in politics that will be unseemly and very difficult.

Mr. HEFLEY. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina (Mr. JONES).

Mr. JONES of North Carolina. Mr. Chairman, I want to thank the chairman, and I want to say that this debate is always very interesting; and I want to rise in strong opposition to the Kennedy-Snyder amendment. I want to say as a member of the Committee on Armed Services that this was debated and discussed in the committee, and I do not remember anyone raising any opposition in the committee about this language that is in the bill today.

I want to say also that I believe and disagree with the gentleman that just spoke that actually what this one year will do, this 1-year extension will make the process less political and make it more of a streamlined business process where the Congress can really analyze the needs, working with the military, the needs of our defenses. Because this world we live in is very unsafe, and I can say that we will not know until we analyze the needs overseas, the needs here in this country as to what we should do that will be the right decision for the American people and the future defense of America.

Mr. Chairman, again I am in opposition to this amendment, and I hope that we can defeat it at the proper time.

Mr. KENNEDY of Minnesota. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Illinois (Mr. KIRK), a Reserve member of the U.S. Navy.

Mr. KIRK. Mr. Chairman, a base in my district was the poster child for the first base closings bill. People back home demanded that the base be saved, but it was closed and our civilian economy took off. Over $300 million was invested in that community by the new housing and activity at the closed base.

We lost another base in the second base closings bill. New investment there was not $300 million; it was $800 million in new investment. Over 20,000 soldiers are needed for the war on terror, but instead soldiers guard bases we do not need. We are at war, and it is time for the Congress to treat the military budget as a defense bill and not a jobs bill. Base closings save the taxpayer $1.7 billion and the next round will save $3 billion.

This amendment supports the policy of President Bush, Secretary Rumsfeld, and Joint Chiefs Head General Myers. We need more beans and bullets for Americans in uniform, not pointless guard duty outside an empty building at a base that died long ago.

Mr. HEFLEY. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. ORTIZ), the ranking member on the Subcommittee on Military Readiness which oversees base closures.

Mr. ORTIZ. Mr. Chairman, this is a time to step back and see what is being done, to look at, like we say, the whole ball of wax.

The base closure legislation was created back in 1989. We are now involved in two very serious wars. We are going to increase the troop level by 39,000 people. We have now begun to rely so much on the National Guard and Reserve. We have got 40,000 contractors all over the place.

Is it not time to step back and look at what is happening? When the service Secretaries appear before us, we ask them, Which base do you want to close? They have yet to name one base.

Savings? If there were so much savings, how come we have got a $419 billion budget?

Let us do the responsible thing and vote against this amendment.

Mr. KENNEDY of Minnesota. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Chairman, I rise in strong support of the Kennedy-Snyder amendment. I urge its adoption.

This debate we are having right now points up the importance of having a nonpolitical process. That is why the BRAC came about. That is why we have to stick to the schedule.

The Chairman of the Joint Chiefs of Staff representing all the chiefs want the Congress to continue the 2005 rounds of the base alignment and closures as authorized by Congress. They do not want us to leave this issue in because of the savings they want to accrue. This will be essential for the restructuring of the military forces. To delay all the efforts of the military, to accomplish this restructuring, to leave our bases and local communities in doubt for another 2 years is not doing either the military or the community any favor.

Delaying the transformation of military bases overseas and at home, it ties the hands of our military at the same time they are fighting the war on terrorism.

We owe it to our Armed Forces to give them the savings and the structuring reprocess that they need. I urge strong adoption of this amendment. I thank the gentleman for offering it.

Mr. HEFLEY. Mr. Chairman, I yield 1 minute to the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

Mrs. JO ANN DAVIS of Virginia. Mr. Chairman, as a member of the House Committee on Armed Services, I stand in strong support of the BRAC provision in the committee report, and I oppose the Kennedy amendment because it is the wrong time. It sends the wrong message to our men and women in uniform to close bases at a time when we are at war. When this round of BRAC was signed, Congress had no idea that we would be fighting a war against terrorism, and our Armed Forces need our support now more than ever.

My colleagues who offered this amendment have said we need it to save money. But the estimated cost to implement BRAC is somewhere between 10 and $20 billion, and any savings would not be seen until after 2011. We are at war right now. Our men and women need the money now. And we are not even sure what those savings would be.

The GAO report completed on Monday on the need for a BRAC found that while the potential exists for substantial savings from the upcoming round, it is difficult to conclusively project the expected magnitude of the savings because there are too many unknowns at this time.

I urge my colleagues to do the right thing and to support our men and women in uniform today. Vote "no" on the Kennedy amendment.

Mr. KENNEDY of Minnesota. Mr. Chairman, I yield 1 minute to the gentleman from Arizona (Mr. KOLBE), the very distinguished member and chairman of the Subcommittee on Foreign Operations, Export Financing and Related Programs of the Committee on Appropriations, former Navy Reservist and Vietnam veteran.

Mr. KOLBE. Mr. Chairman, I rise in support of the Kennedy amendment to delete the provision that would delay the BRAC process for 2 years.

Some people say if you are for that you must not have any military bases in your district. Nothing could be further from the truth. I have Davis-Monthan Air Force Base, Fort Huachuca, the 162nd Fighter Wing of the Arizona Air National Guard which is the largest air guard unit in the United States, and the Western Army Aviation Training site near Marana. But I support the BRAC process in 2005 because I think the BRAC is good public policy.

A delay in BRAC postpones a savings that would be gained from shuttering unneeded facilities. Clearly, we are wasting money on unneeded capacity. BRAC rounds conducted in 1988, 1991, and 1993, 1995 closed 97 major installations, reducing DOD infrastructure by 21 percent. But we have reduced the size of the military by 36 percent and DOD maintains it still has more than 23 percent excess infrastructure.

Maintaining excess bases is very expensive. Closing unneeded bases produces long-term savings. It is a key component in the military transformation, and it reshapes the military to respond to new global missions.

BRAC is good public policy. I encourage my colleagues to support this amendment and to vote in favor of the underlying bill.

I oppose any delay to the Base Realignment and Closure (BRAC) process and support the amendment offered by Representative MARK KENNEDY of Minnesota.

H.R. 4200 is an excellent bill. I commend Chairman HUNTER, Ranking Member SKELTON, the Members of the committee and the staff on both sides of the aisle. I am, however, opposed to the provision in H.R. 4200 that delays the BRAC process for two years. We should not endanger H.R. 4200 to a possible Administration veto by retaining this provision.

Some people may think I must not have any bases in my district if I support BRAC. Nothing could be further from the truth. My district is home to Davis-Monthan Air Force Base; Fort Huachuca; the 162nd Fighter Wing of the Arizona Air National Guard at Tucson Airport (the Nation's largest Air National Guard unit); and the Western Army Aviation Training Site near Marana. These bases are operationally interdependent with other Arizona bases, including Luke Air Force Base, Yuma Proving Grounds, Marine Corps Air Station Yuma, and the Barry M. Goldwater Range. Arizona bases provide over 83,000 jobs and contribute over $5.6 billion annually to the State's economy. Yet, I support the BRAC process in 2005 because BRAC is good public policy.

A delay in BRAC postpones the savings to be gained from shuttering unneeded facilities. The Department of Defense (DoD) estimates that the 2005 BRAC round will yield net savings of $21 billion over 10 years and $3.6 billion annually thereafter. A GAO study of BRAC dated just three days ago states, "We believe the potential for significant savings exist," and "We found no bases to question the [Defense] Secretary's certification of the need for an additional BRAC round. . . ." These savings can be better spent elsewhere; for example, increasing soldiers' pay, improving health care for military families, modernizing equipment, or fixing buildings on the bases that are not closed.

Clearly, DoD is wasting money on unneeded capacity. BRAC rounds conducted in 1988, 1991, 1993, and 1995 closed 97 major installations, reducing DoD infrastructure by 21 percent. At the same time, however, the size of our military has declined by 36 percent. DoD maintains it still has approximately 23 percent excess infrastructure.

Maintaining these excess bases is very expensive. We criticize DoD constantly for not being as efficient as a private sector corporation, but delaying BRAC would not allow the department of perform the most essential business management action of shedding unnecessary infrastructure.

Closing unneeded bases produces long term savings. Previous BRAC rounds generated net savings—that is, savings after accounting for the cost of closure—of about $16.7 billion through fiscal year 2001 and about $6.6 billion in annual recurring savings expected thereafter. Failure to close unneeded facilities wastes taxpayer dollars and impedes DoD's efforts to allocate resources in the most effective manner. BRAC is a key component of transformation and is essential to reshape the military to respond to new global missions. BRAC helps realize significant savings by cutting excess infrastructure and enables the armed forces to maximize opportunities to train, deploy and fight jointly. Yesterday I received a copy of a letter supporting the 2005 BRAC round signed by the chairman and each of the joint chiefs of the military services.

Some people argue we should not close bases while we are fighting a war and while we are uncertain of future force structure changes. I disagree. Excess bases are not needed for the war on terrorism; in fact, they waste scarce dollars needed for our battle against terrorists. Furthermore, the BRAC process will fully consider potential force structure growth, "surge capacity," and repositioning of forces stationed overseas.

In closing, I wish to impress upon my colleagues that delaying BRAC is not good public policy. I encourage my colleagues to support this amendment and to vote in favor of the underlying bill.

Mr. HEFLEY. Mr. Chairman, I yield 1 minute to the gentleman from New Hampshire (Mr. BRADLEY).

Mr. BRADLEY of New Hampshire. Mr. Chairman, I rise to support the committee and to support the 2-year delay in the BRAC process and oppose the Kennedy amendment.

Why? Number one, BRAC's estimated costs are $15 billion and savings are not expected to be realized until at least 2011. These funds can be better used to equip our Humvees or pay hazard duty pay for members of our military or any other function today in winning the war on terror.

□ 1215

Furthermore, the dynamics of the 2005 BRAC process are very different from previous rounds. There will not be a requisite force structure reduction as before. Our military will have to do the same or more in the future on a smaller footprint, with a smaller industrial base and with fewer critical assets. These assets cannot be reconstituted. BRAC will result in the permanent loss and knowledge of skills and industrial capacity.

I urge my colleagues to support the committee and oppose the amendment.

Mr. KENNEDY of Minnesota. Mr. Chairman, I yield the final minute to the distinguished gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Chairman, I thank the gentleman for yielding the time, and I rise in support of the Kennedy amendment, and not easily.

I think it is a very important amendment. This is a very important debate, but as we look at BRAC as we go into it, and I want to say also I have five military installations in my district. I think I have more military than any other Member of the House, I am not certain about that, but I am in there, we have got to let the Pentagon, we have got to let the Defense Department run the military.

We cannot do it in Congress. This is not our job. We get involved in it. It is very, very important to support their efforts and work with them, but we also have other issues, Medicare, education, Social Security, taxes, that we have to delve into, and right now, we have a lot of Members delving into the military.

BRAC was set up to be nonpolitical, to be fair. In our office, we work on military issues at our bases, not during BRAC years, but every single year. We work on issues of the cost return on the bases, environmental issues, encroachment issues, military construction issues, community support. We work with our military all the time.

If Members of Congress want to help the bases in their districts, they need to be doing it year around, not just during an election year and on the eve of BRAC.

Mr. HEFLEY. Mr. Chairman, I yield 1 minute to the gentleman from Mississippi (Mr. PICKERING).

Mr. PICKERING. Mr. Chairman, I rise in opposition to the Kennedy amendment and in support of the common-sense and consensus and bipartisan committee mark that wisely and reasonably and with common sense postpones the next round of BRAC for 2 years.

This week, I went to Walter Reed Hospital, and I met with Mississippians who have been the victims of IEDs as they drove their Humvees, as they served their country, and I asked this question: Do we want to spend $5 billion more over the next 5 years to close bases or do we want to give the young men and women who are serving in Afghanistan and Iraq today the body armor and the Humvee armor that they need to protect themselves so that their legs and their ability to walk and to go through rehab will be avoided for other men and women? It is a clear choice of priorities.

The world has changed since 9/11. BRAC was called for before 9/11. We are now at war; we need all resources for that effort. We need to wisely wait for the realignment internationally before we choose how to go forward with the transformation domestically. This is a wise course, a reasonable course for a 2-year delay.

Mr. HEFLEY. Mr. Chairman, let me just point out very quickly that the committee that works with this issue and struggles with it every day overwhelmingly supports the defeat of the Kennedy amendment.

Mr. Chairman, I yield the remainder of the time to the gentleman from Mississippi (Mr. TAYLOR), a very fine member of our committee.

Mr. TAYLOR of Mississippi. Mr. Chairman, the Constitution of the United States gives the elected Members of Congress the responsibility to provide for an Army and a Navy. Every person in this body was elected to fulfill those requirements.

I did not come here to delegate my responsibility to some bureaucrat to decide where or when bases should be closed. If Members want to give away their responsibilities, they should not seek this job.

For that reason, I encourage my colleagues to vote against the Kennedy amendment, to keep that responsibility here in Congress and to do our jobs.

Ms. CORRINE BROWN of Florida. Mr Chairman, what a horrifying message to send to our troops and to our adversaries right now to close bases during a time of war. It is not prudent to shut down these bases at this time. I support postponing BRAC until the defense needs of the nation are more settled than they are at present.

Particularly during this time of economic crisis, we do not need to close bases. There should never have been any discussion about this in the first place. Base closures are devastating to communities. Our resources should be used to improve our current defense system, not for arbitrarily closing bases because of political decisions.

Mr. VITTER. Mr. Chairman, I rise today in opposition to the amendment offered by Representative KENNEDY.

Our nation is a war against terrorism; our military is deployed across the globe in 139 different countries with close to 160,000 fighting in Iraq as part of Operation Iraqi Freedom. Simultaneously, the Department of Defense is contemplating some of the most significant changes to its force and overseas posture since World War II. Now is not the time to rush to close our military bases. The responsible approach to base closing would be to delay the next round of BRAC until 2007.

By moving forward before resolving major infrastructure issues, a 2005 BRAC decision would increase a significant level of risk that DOD will close a base only to discover that it needs that same base just a few years later. Once a base is closed, it's gone forever.

The language as it stands now would not eliminate BRAC. Rather, it reflects widespread bipartisan concern that DOD should close no bases until several issues effecting base infrastructure requirements have been resolved and reviewed by Congress.

During my time in Congress I have been focused on preparing Louisiana for BRAC, and have helped secure more than $76 million for Belle Chasse in New Orleans. As a member of the Military Construction Appropriations Subcommittee I vigorously worked to secure $160 million more for infrastructure improvement to protect both Fort Polk and Barksdale Air Force Base.

I cannot underscore the importance of delaying the next round of BRAC. A 2-year delay will greatly reduce the risk of making an irreversible mistake in the BRAC process.

Mr. Chairman, I strongly urge a "no" vote on the Kennedy Amendment to H.R. 4200.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I must rise to oppose this amendment. We are now increasing the number of troops because the U.S. military is stretched too thin to meet its ongoing military commitments. In recognition of this fact, H.R. 4200 authorizes the DOD to increase military end-strength by 39,000. In addition, the DOD recently announced that it is considering rotating 3,800 troops from South Korea to augment the U.S. forces in Iraq.

DOD's estimate of the level of excess capacity that exists in military infrastructure was determined in 1998 by then Defense Secretary Bill Cohen. Many significant events that have occurred since 1998, i.e. September 11, 2001, the global war on terrorism, and military operations in Afghanistan, Iraq and Haiti. In pursuing the 2005 BRAC, the DOD fails to recognize the profound impact that these events are having upon the United States military's ability to fulfill its national security obligations. Under Secretary of Defense for Installations and Facilities Raymond DuBois has stated that the 2005 BRAC will cost the taxpayers between $10 billion to $20 billion over next 7 years. Savings, if any, are not expected until 2011. Those funds could be used now for the equipment needed by our military personnel. Important decisions affecting military force structure and infrastructure should not be left to an unelected commission. Article 1, section 8 of the U.S. Constitution entrusts Congress with the responsibility to make these decisions.

It is for these reasons that I oppose this amendment.

Ms. HARMAN. Mr. Chairman, after careful consideration I have decided to support a 2-year delay in the BRAC process. Let me be clear that I remain a supporter of BRAC and my vote against this amendment is not a vote against base closures.

BRAC plays a vital role in ensuring that we have a modern military that is prepared to fight the next war, not re-fight the last war. It is critically important that the tooth-to-tail ratio of the armed services be reduced, with unnecessary facilities eliminated and resources directed to where they will be most effective in fighting the war on terror. However, I believe there are several reasons why a stay in the process would be the most sensible course at this time.

First, our military forces are currently stretched to the limit as they fight the war on terror on more than one front. We have asked our forces to fight a global war and they have risen to the occasion and performed admirably. But as they fight the global war on terrorism, they are encountering uncertain circumstances and unforeseen obstacles. The real-time lessons that we are learning in the war on terror will help the BRAC determine what our military priorities should be in the future.

The BRAC law was adopted before September 11, 2001. The terrorists attacks on this country significantly altered U.S. national security priorities. Our armed forces are responding to these new demands, but I am afraid that if BRAC moves forward with the next round of base closures as planned, it will be during a period when the U.S. military is undergoing critical changes in tactics and organization. As a result, any reduction will be done without knowing what kind of base structure will be needed in the future.

Second, I am extremely concerned by the way this Administration is funding the war in Iraq and the global war on terror. This President has funded the entire Iraq war by supplemental and, by all accounts, he plans to continue funding in this manner in the future. The funding-by-supplemental-only process prevents Congress from determining the exact costs of the war. It also makes it impossible for Congress to determine, by proper oversight, whether the President's priorities are the right priorities for our military to win the war on terror. If Congress has difficulty determining what our armed forces' needs and requirements are, the next round of BRAC commissioners will find it even more difficult to decide which facilities are vital to winning the war on terror.

I am also concerned that the current BRAC guidelines do not accurately reflect the military's priorities for fighting the next war. For instance, the BRAC guidelines should include recognition of the value of intellectual capital and the synergy between the skilled civilian workers in various communities. Especially the critically important roles and missions the civilian workers support at our military bases.

In the post-9/11 environment, I would like to see the BRAC guidelines broaden the concept of joint operations to include base functions and installations currently or potentially critical to the Department of Homeland Security. BRAC should also consider the costs of base closures as they relate to finding new sources for supplies and professional expertise at military bases.

Finally, Mr. Chairman, I am concerned about the disproportionate contribution California has already made to the streamlining of the military's base infrastructure. Obviously, no state wants to have bases closed. Bases mean jobs and increased income for states and local municipalities. In the past BRAC rounds, California has experienced 29 base closures, including the closure of Ft. Ord—the largest closure in history. This is a factor that should be considered in the next round of closures.

For all of these reasons, I believe it would be prudent for Congress to postpone the next round of BRAC to allow for a study of the needs of our post-9/11 military and the guidelines that best reflect those priorities.

The CHAIRMAN pro tempore (Mr. LAHOOD). All time has expired.

The question is on the amendment offered by the gentleman from Minnesota (Mr. KENNEDY).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. KENNEDY of Minnesota. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, this 15-minute vote on the amendment offered by the gentleman from Minnesota (Mr. KENNEDY) will be followed by 5-minute votes on amendment No. 4, offered by the gentleman from Pennsylvania (Mr. WELDON), and amendment No. 14, offered by the gentleman from Missouri (Mr. SKELTON) as the designee of the gentlewoman from New York (Ms. SLAUGHTER).

The vote was taken by electronic device, and there were—ayes 162, noes 259, not voting 12, as follows:

[Roll No. 200]

AYES—162

Aderholt
Akin
Andrews
Bachus
Baker
Baldwin
Ballenger
Barrett (SC)
Barton (TX)
Berkley
Berman
Biggert
Blackburn
Blumenauer
Blunt
Boehner
Bonner
Boozman
Boswell
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Camp
Cantor
Capito
Cardin
Case
Castle
Chabot
Chocola
Coble
Collins
Cooper
Cox
Cramer
Crane
Cubin
Culberson
Davis (FL)
Davis (IL)
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLay
DeMint
Dicks
Doggett
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
English
Eshoo
Feeney
Flake
Frank (MA)
Garrett (NJ)
Gilchrest
Gillmor
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hastings (WA)
Hayworth
Hensarling
Herger
Hoekstra
Inslee
Isakson
Istook
Johnson (CT)
Johnson (IL)
Kelly
Kennedy (MN)
King (IA)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Larsen (WA)
Latham
Lee
Lewis (CA)
Lewis (KY)
Linder
Lucas (KY)
McCollum
McCrery
McDermott
McHugh
Miller (NC)
Moran (VA)
Myrick
Neugebauer
Northup
Nussle
Oberstar
Obey
Ose
Otter
Oxley
Pence
Peterson (PA)
Petri
Pitts
Porter
Portman
Price (NC)
Radanovich
Ramstad
Renzi
Reynolds
Rogers (KY)
Rogers (MI)
Rohrabacher
Royce
Ruppersberger
Rush
Ryan (WI)
Sabo
Sanchez, Loretta
Schrock
Sensenbrenner
Sessions
Shadegg
Shays
Sherman
Simpson
Smith (TX)
Smith (WA)
Snyder
Stark
Stenholm
Taylor (NC)
Terry
Thomas
Thornberry
Toomey
Upton
Van Hollen
Vitter
Walden (OR)
Walsh
Wamp
Waxman
Weldon (PA)
Weller
Whitfield
Wilson (SC)

NOES—259

Abercrombie
Ackerman
Alexander
Allen
Baca
Baird
Bartlett (MD)
Bass
Becerra
Bell
Bereuter
Berry
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Boehlert
Bonilla
Bono
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Burns
Burr
Burton (IN)
Buyer
Calvert
Cannon
Capps
Capuano
Cardoza
Carson (IN)
Chandler
Clay
Clyburn
Cole
Conyers
Costello
Crenshaw
Crowley
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (TN)
Davis, Jo Ann
Delahunt
DeLauro
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doyle
Emanuel
Emerson
Engel
Etheridge
Evans
Everett
Farr
Ferguson
Filner
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Gephardt
Gerlach
Gibbons
Gingrey
Gonzalez
Goss
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hart
Hastings (FL)
Hayes
Hefley
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (NY)
Kleczka
LaHood
Lampson
Langevin
Lantos
Larson (CT)
LaTourette
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
McCarthy (MO)
McCarthy (NY)
McCotter
McGovern
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Murphy
Murtha
Musgrave
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Nunes
Olver
Ortiz
Osborne
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Peterson (MN)
Pickering
Platts
Pombo
Pomeroy
Pryce (OH)
Putnam
Quinn
Rahall
Rangel
Regula
Rehberg
Reyes
Rodriguez
Rogers (AL)
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ryan (OH)
Ryun (KS)
Sánchez, Linda T.
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shaw
Sherwood
Shimkus
Shuster
Simmons
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Solis
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson
Watt
Weiner
Weldon (FL)
Wexler
Wicker
Wilson (NM)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—12

Ballance
Beauprez
Carson (OK)
Carter
Deutsch
Dooley (CA)
Fattah
Johnson, Sam
Leach
Matsui
Norwood
Tauzin

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. LAHOOD) (during the vote). There are 2 minutes remaining in this vote.

☐ 1246

Messrs. TURNER of Ohio, FARR, STUPAK, PLATTS, NADLER, EVERETT, OWENS, and HALL, Ms. KILPATRICK, and Messrs. RYUN of Kansas, BASS, SULLIVAN and TIAHRT changed their vote from "aye" to "no."

Messrs. OBERSTAR, SMITH of Washington, ROHRABACHER, OBEY, GOODE, Ms. McCOLLUM, Mr. DAVIS of Florida, Ms. HARRIS, Mr. RUSH and Mr. WAXMAN changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. CARTER. Mr. Chairman, on May 20, 2004, during rollcall vote 200, I was unavoidably detained. If I had been present, I would have voted "yea" on rollcall vote 200.

Stated against:

Mr. BEAUPREZ. Mr. Chairman, on rollcall No. 200, I was unavoidably detained. Had I been present, I would have voted "no."

Mr. VITTER. Mr. Chairman, on rollcall vote 200, regarding the Mark Kennedy Amendment to H.R. 4200, the Department of Defense Authorization bill, I inadvertently voted "yea", but intended to vote "nay". I ask for unanimous consent that the RECORD reflect my intentions to have voted "nay" and that I can place a statement in the RECORD at the appropriate place.

PERSONAL EXPLANATION

Ms. CORRINE BROWN of Florida. Mr. Chairman, on rollcall vote number 200, the Kennedy Amendment, I inadvertently voted "yes," when I meant to vote "no." I support delaying BRAC.

☐ 1246

AMENDMENT NO. 4 OFFERED BY MR. WELDON OF PENNSYLVANIA

The CHAIRMAN pro tempore (Mr. LAHOOD). The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Pennsylvania (Mr. WELDON) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. WELDON of Pennsylvania:

At the end of subtitle A of title XII (page 424, after line 12), insert the following new section:

SEC. 12 . SENSE OF CONGRESS ON DESTRUCTION OF ABU GHRAIB PRISON IN IRAQ.

(a) FINDINGS.—Congress makes the following findings:

(1) Under the regime of Saddam Hussein, the Abu Ghraib prison in Iraq was one of the world's most notorious prisons.

(2) Under that regime, as many as 50,000 men and women were jammed into the prison at one time in 12 feet by 12 feet cells.

(3) Under that regime, many people were tortured and executed in the Abu Ghraib prison.

(4) Recent activities have further highlighted the horrible memories that Abu Ghraib stands for.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the Secretary of Defense should assist the Iraqi Government, with the approval of that government, in destroying the Abu Ghraib prison and replacing it with a modern detention facility.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 308, noes 114, not voting 11, as follows:

[Roll No. 201]

AYES—308

Abercrombie
Ackerman
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baldwin
Ballenger
Bass
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blumenauer
Boehlert
Boehner
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Burns
Burr
Burton (IN)
Buyer
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Castle
Chandler
Chocola
Clay
Clyburn
Cole
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doyle
Dreier
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Ferguson
Filner
Foley
Forbes
Ford
Frank (MA)
Frelinghuysen
Frost
Gallegly
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gonzalez
Gordon
Goss
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayworth
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Hooley (OR)
Hostettler
Hulshof
Hyde
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Lee
Levin
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lynch
Maloney
Manzullo
Markey
Matheson
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McIntyre
McNulty
Meehan
Menendez
Mica
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Owens
Oxley
Pallone
Pascrell
Pastor
Pearce
Pelosi
Pence
Peterson (PA)
Pickering
Pitts
Platts
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Serrano
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Solis
Souder
Spratt
Stark
Strickland
Stupak
Tancredo
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Watson
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn

NOES—114

Aderholt
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Bilirakis
Blackburn
Blunt
Bonilla
Bonner
Bono
Boozman
Brady (TX)
Brown-Waite, Ginny
Burgess
Calvert
Cannon
Carter
Case
Chabot
Coble
Collins
Conyers
Cooper
Cubin
Cunningham
Deal (GA)
DeLay
Doggett
Doolittle
Duncan
Everett
Feeney
Flake
Fossella
Franks (AZ)
Garrett (NJ)
Gingrey
Goode
Goodlatte
Granger
Graves
Hayes
Hefley
Hensarling
Herger
Hoekstra
Honda
Houghton
Hunter
Isakson
Istook
Jefferson
Jenkins
John
Jones (NC)
Keller
King (IA)
King (NY)
Kingston
Lewis (CA)
Linder
Lucas (OK)
Majette
Marshall
McCotter
McCrery
McInnis
McKeon
Meek (FL)
Meeks (NY)
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Nethercutt
Neugebauer
Ney
Northup
Ose
Otter
Paul
Payne
Peterson (MN)
Petri
Pombo
Putnam
Radanovich
Rangel
Rodriguez
Rogers (AL)
Rohrabacher
Saxton
Sensenbrenner
Sessions
Simmons
Simpson
Smith (MI)
Snyder
Stearns
Stenholm
Sullivan
Sweeney
Tanner
Thornberry
Tiahrt
Upton
Vitter
Wamp
Waters
Watt
Young (AK)
Young (FL)

NOT VOTING—11

Ballance
Carson (OK)
Deutsch
Dooley (CA)
Fattah
Hoyer
Johnson, Sam
Leach
Matsui
Norwood
Tauzin

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

☐ 1257

Messrs. GINGREY, CONYERS, DOOLITTLE, FOSSELLA, Ms. WATERS, Mrs. BONO, and Ms. GRANGER changed their vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 14 OFFERED BY MR. SKELTON

The CHAIRMAN pro tempore. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Missouri (Mr. SKELTON) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 14 offered by Mr. SKELTON:

At the end of title V (page 200, after line 24), insert the following new section:

SEC. 598. DEPARTMENT OF DEFENSE POLICY AND PROCEDURES ON PREVENTION AND RESPONSE TO SEXUAL ASSAULTS INVOLVING MEMBERS OF THE ARMED FORCES.

(a) COMPREHENSIVE POLICY ON PREVENTION AND RESPONSE TO SEXUAL ASSAULTS.—(1) Not later than January 1, 2005, the Secretary of Defense shall develop a comprehensive policy for the Department of Defense on the prevention of and response to sexual assaults involving members of the Armed Forces.

(2) The policy shall be based on the recommendations of the Department of Defense Task Force on Care for Victims of Sexual Assaults and on such other matters as the Secretary considers appropriate.

(b) ELEMENTS OF COMPREHENSIVE POLICY.—The policy developed under subsection (a) shall address the following matters:

(1) Prevention measures.

(2) Education and training on prevention and response.

(3) Investigation of complaints by command and law enforcement personnel.

(4) Medical treatment of victims.

(5) Confidential reporting of incidents.

(6) Victim advocacy and intervention.

(7) Oversight by commanders of administrative and disciplinary actions in response to substantiated incidents of sexual assault.

(8) Disposition of victims of sexual assault, including review by appropriate authority of administrative separation actions involving victims of sexual assault.

(9) Disposition of members of the Armed Forces accused of sexual assault.

(10) Liaison and collaboration with civilian agencies on the provision of services to victims of sexual assault.

(11) Uniform collection of data on the incidence of sexual assaults and on disciplinary actions taken in substantiated cases of sexual assault.

(c) REPORT ON IMPROVEMENT OF CAPABILITY TO RESPOND TO SEXUAL ASSAULTS.—Not later than March 1, 2005, the Secretary of Defense shall submit to Congress a proposal for such legislation as the Secretary considers necessary to enhance the capability of the Department of Defense to address matters relating to sexual assaults involving members of the Armed Forces.

(d) APPLICATION OF COMPREHENSIVE POLICY TO MILITARY DEPARTMENTS.—The Secretary shall ensure that, to the maximum extent practicable, the policy developed under subsection (a) is implemented uniformly by the military departments.

(e) POLICIES AND PROCEDURES OF MILITARY DEPARTMENTS.—(1) Not later than March 1, 2005, the Secretaries of the military departments shall prescribe regulations, or modify current regulations, on the policies and procedures of the military departments on the prevention of and response to sexual assaults involving members of the Armed Forces in order—

(A) to conform such policies and procedures to the policy developed under subsection (a); and

(B) to ensure that such policies and procedures include the elements specified in paragraph (2).

(2) The elements specified in this paragraph are as follows:

(A) A program to promote awareness of the incidence of sexual assaults involving members of the Armed Forces.

(B) A program to provide victim advocacy and intervention for members of the Armed Force concerned who are victims of sexual assault, which program shall make available, at home stations and in deployed locations, trained advocates who are readily available to intervene on behalf of such victims.

(C) Procedures for members of the Armed Force concerned to follow in the case of an incident of sexual assault involving a member of such Armed Force, including—

(i) specification of the person or persons to whom the alleged offense should be reported;

(ii) specification of any other person whom the victim should contact;

(iii) procedures for the preservation of evidence; and

(iv) procedures for confidential reporting and for contacting victim advocates.

(D) Procedures for disciplinary action in cases of sexual assault by members of the Armed Force concerned.

(E) Other sanctions authorized to be imposed in substantiated cases of sexual assault, whether forcible or nonforcible, by members of the Armed Force concerned.

(F) Training on the policies and procedures for all members of the Armed Force concerned, including specific training for members of the Armed Force concerned, including specific training for members of the Armed Force concerned who process allegations of sexual assault against members of such Armed Force.

(G) Any other matters that the Secretary of Defense considers appropriate.

(f) ANNUAL ASSESSMENT OF POLICIES AND PROCEDURES.—Not later than January 15, 2006, and each year thereafter, each Secretary of a military department shall conduct an assessment of the implementation during the preceding fiscal year of the policies and procedures of such department on the prevention of and response to sexual assaults involving members of the Armed Forces in order to determine the effectiveness of such policies and procedures during such fiscal year in providing an appropriate response to such sexual assaults.

(g) ANNUAL REPORTS.—(1) Not later than April 1, 2005, and January 15 of each year thereafter, each Secretary of a military department shall submit to the Secretary of Defense a report on the sexual assaults involving members of the Armed Force concerned during the preceding year.

(2) Each report on an Armed Force under paragraph (1) shall contain the following:

(A) The number of sexual assaults against members of the Armed Force, and the number of sexual assaults by members of the Armed Force, that were reported to military officials during the year covered by such report, and the number of the cases so reported cases that were substantiated.

(B) A synopsis of and the disciplinary action taken in each substantiated case.

(C) The policies, procedures, and processes implemented by the Secretary concerned during the year covered by such report in response to incidents of sexual assault involving members of the Armed Force concerned.

(D) A plan for the actions that ware to be taken in the year following the year covered by such report on the prevention of and response to sexual assault involving members of the Armed Forces concerned.

(3) Each report under paragraph (1) in 2006, 2007, and 2008 shall also include the assessment conducted by the Secretary concerned under subsection (f).

(4) The Secretary of Defense shall transmit to the Committees on Armed Services of the Senate and the House of Representatives each report submitted to the Secretary under this subsection, together with the comments of the Secretary on each such report on 2004 not alter than May 1, 2005, and shall transmit the report on any year after 2004 not later than March 15 of the year following such year.

(h) REQUIREMENT TO DEVELOP DEFINITION OF SEXUAL ASSAULT.—Prior to developing policies and programs on the prevention of and response to sexual assaults, the Department of Defense, in consultation with the Service Secretaries, shall develop a definition of sexual assault that is uniform for all the Armed Forces, including but not limited to rape, acquaintance rape, sexual assault, and other criminal offenses.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 410, noes 0, not voting 23, as follows:

[Roll No. 202]

AYES—410

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette

Delahunt
DeLauro
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Stark
Stearns
Stenholm
Strickland
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—23

Ballance
Brown (OH)
Cantor
Carson (OK)
Carter
Cole
Deutsch
Dooley (CA)
Fattah
Hoyer
Johnson, Sam
Leach
Matsui
McCrery
Miller, George
Murphy
Norwood
Pelosi
Pence
Radanovich
Spratt
Stupak
Tauzin

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. LAHOOD) (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1304

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated for:

Mr. MURPHY. Mr. Chairman, on rollcall No. 202 I was unavoidably detained. Had I been present, I would have voted "aye."

Mr. COLE. Mr. Chairman, on May 20, 2004, for rollcall vote 202, I was unavoidably detained. If I had been present, on rollcall vote No. 202, I would have voted "aye."

PERSONAL EXPLANATION

Mr. STUPAK. Mr. Chairman, earlier today I was unavoidably detained and missed rollcall vote 202. I wish the RECORD to reflect I would have vote "yes" on that amendment.

PERSONAL EXPLANATION

Mr. BROWN of Ohio. Mr. Chairman, I was unavoidably detained and missed rollcall vote 202. Had I been present, I would have voted "yes."

PERSONAL EXPLANATION

Mr. CARSON of Oklahoma. Mr. Chairman, on Thursday, May 20, 2004, I regret that I was unable to cast my floor vote on rollcall Nos. 200, 201, and 202. The votes I missed include rollcall vote 200 to eliminate the 2-year Base Realignment and Closure (BRAC) delay contained in H.R. 4200; rollcall vote 201 expressing the sense of Congress that the Secretary of Defense should assist the Iraqi Government in destroying the Abu Ghraib prison and replacing it with a modern detention facility; and rollcall vote 202 requiring the Secretary of Defense to develop a comprehensive policy to prevent and respond to sexual assaults involving members of the Armed Forces.

Had I been present, I would have voted "nay" on rollcall vote 200; I would have voted "aye" on rollcall vote 201; and I would have voted "aye" on rollcall vote 202.

Mr. HUNTER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SIMPSON) having assumed the chair, Mr. LAHOOD, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4200) to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2005, and for other purposes, had come to no resolution thereon.

MOMENT OF SILENCE IN HONOR OF MEMORIAL DAY AND OUR FALLEN HEROES

The SPEAKER pro tempore. The Chair would ask the House to observe a moment of silence in honor of Memorial Day and our fallen heroes.

GENERAL LEAVE

Mr. WALSH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and insert extraneous material on a special order speech on the topic of fallen heroes and that all such remarks be printed in the CONGRESSIONAL RECORD of May 20, 2004.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. RANGEL. Mr. Speaker, reserving the right to object and I will not object, I just want to take this opportunity to thank my friend and colleague from New York for affording this House the opportunity to express ourselves on this Memorial Day in honor of these fallen heroes. I appreciate working with him and I thank him very much for this opportunity.

Mr. Speaker, I withdraw my reservation of objection

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 1047, MISCELLANEOUS TRADE AND TECHNICAL CORRECTIONS ACT OF 2003

Mr. CRANE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1047) to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, to make other technical amendments to the trade laws, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois? The Chair hears none, and without objection, appoints the following conferees:

From the Committee on Ways and Means, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Messrs. THOMAS, CRANE, SHAW, RANGEL, and LEVIN.

There was no objection.

REPUBLICANS WIN GREAT CONGRESSIONAL SHOOTOUT

(Mr. HAYES asked and was given permission to address the House for 1 minute.)

Mr. HAYES. Mr. Speaker, believe it or not, this House works together on a bipartisan basis on a number of things.

This past Monday my colleague and cochair of the Sportsmen's Caucus, the gentleman from California (Mr. THOMPSON), and I got together and enjoyed a wonderful day afield. The Sportsmen's Caucus is the largest group of a bipartisan nature on the Hill for anyone who enjoys the out-of-doors.

In this particular instance, it was the Great Congressional Shootout. Fortunately, the Republicans won, but our Democratic friends, including the gentleman from Minnesota (Mr. PETERSON) who was top gun for the Democrats and the gentleman from California (Mr. CUNNINGHAM), top gun for our side, did a great job.

Mr. Speaker, I yield to my colleague and cochairman the gentleman from California (Mr. THOMPSON).

Mr. THOMPSON of California. Mr. Speaker, I thank my friend from North Carolina for yielding.

I too want to express appreciation to everyone in the Sportsmen's Caucus who came out, put aside the partisan battles and entered into some good fun and sportsmanship in advance of the shooting sports and to congratulate everyone who participated.

This year we had a record turnout, 13 Democrats, 13 Republicans. Most important, a whole group of new Members who came out had never participated in the event in the past. Next year, I would only ask that you not spray the Democrats' targets with the bulletproof spray paint so we have at least a chance.

Mr. HAYES. I thank my colleague and I thank everyone who participated. Our cochairs, also, the gentleman from Iowa (Mr. BOSWELL) for the Democrats and the gentleman from Nevada (Mr. GIBBONS) on our side.

PERMISSION FOR COMMITTEE ON ARMED SERVICES TO FILE SUPPLEMENTAL REPORT ON H.R. 4200, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

Mr. EVERETT. Mr. Speaker, I ask unanimous consent to file a supplemental report on H.R. 4200, the National Defense Authorization Act for Fiscal Year 2005 for the purpose of providing the Ramseyer Report as prepared by the House Office of Legislative Counsel.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

GENERAL LEAVE

Mr. EVERETT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on H.R. 4200.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

PERMISSION TO INCLUDE EXCHANGE OF LETTERS BETWEEN COMMITTEE ON WAYS AND MEANS AND COMMITTEE ON ARMED SERVICES ON H.R. 4200, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

Mr. EVERETT. Mr. Speaker, I ask unanimous consent to include in the RECORD a letter from the chairman of the Committee on Ways and Means, the gentleman from California (Mr. THOMAS), regarding section 585 of H.R. 4200, the National Defense Authorization Act for Fiscal Year 2005, and my response, and ask that it be printed as part of the debate on H.R. 4200.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

PERMISSION TO INCLUDE LETTER FROM CHAIRMAN OF COMMITTEE ON INTERNATIONAL RELATIONS ON H.R. 4200, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

Mr. EVERETT. Mr. Speaker, I ask unanimous consent to include in the RECORD a letter from the chairman of the Committee on International Relations, the gentleman from Illinois (Mr. HYDE), regarding H.R. 4200, the National Defense Authorization Act for Fiscal Year 2005, and ask that it be printed as part of the debate on that bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

The SPEAKER pro tempore. Pursuant to House Resolution 648 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4200.

□ 1309

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4200) to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2005, and for other purposes, with Mr. LAHOOD (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose earlier today, amendment No. 14 printed in House Report 108–499 offered by the gentleman from Missouri (Mr. SKELTON) had been disposed of.

It is now in order to consider amendment No. 9 printed in House Report 108–499.

AMENDMENT NO. 9 OFFERED BY MRS. TAUSCHER

Mrs. TAUSCHER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Mrs. TAUSCHER:

At the end of title II, insert the following new section:

SEC. 2___. ADDITIONAL AMOUNTS FOR ORDNANCE TECHNOLOGY AND FOR STRATEGIC CAPABILITY MODERNIZATION.

(a) AIR FORCE CONVENTIONAL MUNITIONS.—The amount in section 201(3) for research, development, test, and evaluation for the Air Force is hereby increased by $25,000,000, of which—

(1) $10,000,000 is to be available in program element 0602602F, Conventional Munitions, for ordnance technology applicable to defeat of weapons of mass destruction and hardened, deeply buried targets; and

(2) $15,000,000 is to be available in program element 0603601F, Conventional Weapons Technology, for ordnance technology applicable to defeat of weapons of mass destruction and hardened, deeply buried targets.

(b) DEFENSE-WIDE STRATEGIC CAPABILITY MODERNIZATION.—The amount in section 201(4) for research, development, test, and evaluation, Defense-wide, is hereby increased by $11,557,000, to be available for program element 0603910D8Z, Strategic Capability Modernization.

(c) OFFSET.—The amount in section 3101(a)(1) for weapons activities is hereby reduced by $36,557,000, of which—

(1) $27,557,000 is to be derived from the Stockpile Services Robust Nuclear Earth Penetrator study; and

(2) $9,000,000 is to be derived from the Stockpile Services Advanced Concepts program.

The CHAIRMAN pro tempore. Pursuant to House Resolution 648, the gentlewoman from California (Mrs. TAUSCHER) and the gentleman from Alabama (Mr. EVERETT) each will control 10 minutes.

The Chair recognizes the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, my amendment redirects funds in the defense authorization bill from new nuclear weapons to conventional programs that meet the same threats. The amendment that I am offering with the gentleman from Missouri (Mr. SKELTON), the gentleman from Massachusetts (Mr. MARKEY), the gentleman from South Carolina (Mr. SPRATT) the gentleman from Washington (Mr. DICKS) and the gentleman from Maine (Mr. ALLEN) transfers funds for the Robust Nuclear Earth Penetrator and advanced concepts to, instead, improve conventional capabilities and intelligence required to defeat hardened targets.

The President called for international cooperation to control the proliferation of weapons of mass destruction in a February speech at the National Defense University, but his vision is directly undermined by the contents of this defense bill. By calling for new, more usable nuclear weapons, the United States sends a message to the world that nuclear weapons are legitimate weapons that should be acquired. Resorting to nuclear weapons to destroy hardened targets is a disproportionate response with too many negative ramifications and little benefit.

There are several reasons not to consider new nuclear bunker busters. Here are a few:

First of all, the military has not asked for them.

Second, they will produce massive collateral damage and expose our own troops to massive doses of radiation.

Third, a nuclear strike against a WMD stockpile could release deadly agents into the atmosphere.

Fourth, even the most powerful nuclear weapons cannot destroy bunkers over a certain depth, and rogue regimes will just dig deeper to avoid them.

Fifth, an RNEP will cause mass casualties miles away from the targeted bunker and potentially harm our allies.

And sixth and furthermore, developing new nuclear bunker busters would undermine decades of United States leadership aimed at preventing non-nuclear states from acquiring nuclear weapons and encouraging nuclear states to reduce their stockpiles.

They are also unnecessary because the United States already has conventional programs to defeat hardened targets.

My amendment strengthens these conventional programs and improves intelligence needed to get at hardened targets. The costs of missing the target with a conventional weapon is bad enough, but missing it with a nuclear warhead is far worse. Even the hawkish Defense Science Board that advises the Pentagon recently stated that U.S. interests are best served by preserving into the future the half-century-plus nonuse of nuclear weapons.

I urge my colleagues to support this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. EVERETT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today in strong opposition to the amendment offered by the gentlewoman from California. The $27.6 million included in the bill by the House Committee on Armed Services for RNEP would support the Air Force-led study concerning the feasibility of modifying an existing nuclear weapon to destroy what are known as hardened and deeply buried targets.

It has long been recognized that these hardened targets are increasingly being used by potential adversaries to conceal and protect leadership, command and control, weapons of mass destruction and ballistic missiles. I believe it is imperative that we finish this review as a part of a larger effort to ensure that we further our technological edge.

I would like to take this opportunity to remind my colleagues that this funding does not authorize the production of any weapons. In fact, as a result of the compromise reached in last year's defense bill, any effort beyond a study is prohibited unless the President approves it and the necessary funds are authorized and appropriated by Congress. Some will claim that the military does not have a requirement for this weapon. I would have to disagree with that.

Just yesterday, I spoke with the commander of STRATCOM, Admiral James Ellis, who assured me that a military requirement does exist for the RNEP study. Specifically, a military requirement for this study can be traced back 10 years to the Clinton administration when STRATCOM and the Air Combat Command both issued a mission needs statement for a method to defeat these hardened and buried targets. Since then, the Quadrennial Defense Review, the Nuclear Posture Review, the Defense Science Board and the Vice Chairman of the Joint Chiefs of Staff have all identified a need for this study to go forward.

Mr. Chairman, this is not a new issue. We debated this same topic last year when we considered the defense bill and we, as a Congress, decided to go forward with this study. Furthermore, we rejected a similar amendment in full committee last week that would have cut funding for this study.

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Mr. Chairman, I would urge my colleagues to defeat this amendment.

Mr. Chairman, I reserve the balance of my time.

Mrs. TAUSCHER. Mr. Chairman, I yield 30 seconds to the gentleman from Missouri (Mr. SKELTON), the ranking member of the full committee.

Mr. SKELTON. Mr. Chairman, I strongly support the Tauscher amendment. Let us talk common sense on this issue. The key to neutralizing hard and deeply buried bunkers is solid and accurate and detailed intelligence. So let us remember. Remember the political fallout when we accidentally bombed the Chinese embassy in Belgrade? We should remember that. Imagine the fallout literally and figuratively if we were to use a nuclear weapon to take out a bunker and we got the location wrong. No President would authorize the use of a nuclear weapon on a bunker without having solid rock intelligence on it. We need to have strong intelligence, and this should not go forward.

Mr. EVERETT. Mr. Chairman, I yield 3 minutes to the gentlewoman from New Mexico (Mrs. WILSON), who is both knowledgeable on this subject and a valued member of our subcommittee as well as the full House Committee on Armed Services.

Mrs. WILSON of New Mexico. Mr. Chairman, there is a fundamental question here, and that is what is the role of nuclear weapons in America's national defense?

Nuclear weapons have been an important part of deterrence over the last 40 years, and the key to their effectiveness is that we need to be able to hold at risk the things that people most value, particularly the leaders of countries whose interests and whose values are very different from our own. And the reality is that those countries are burrowing in their command and control facilities, their chemical weapons, their missiles; and we must continue to hold those at risk.

Over 10 years ago under the Clinton administration, they identified the need for this new capability and had begun the process of studying it. But let us be very clear. This is not a new nuclear weapon. In fact, under the Clinton administration, they looked at using an existing nuclear bomb called a B-61 and hardening it. This is an extension of that idea so that it would be hardened even further so that it could penetrate further and hold those targets at risk.

Bipartisan majorities of the Congress and two Presidents from two different parties have seen this need and the need to study whether this can be done. But the military has as well. In 1994 the Strategic Command came out with a missions-need statement that said they have to develop new ways to hold these targets at risk. The Air Force has requested this study, and the Nuclear Weapons Council, dominated by the Defense Department, has approved that request. Therefore, both the military and the political leadership over a long period of time have recognized the importance of this work.

In addition, I think we need to understand what the other program, Advanced Concepts, is for. We used to do a lot of studying of nuclear weapons, their effects, the robustness and safety and security of our own weapons, but we stopped doing that a while ago; and we need to restart that because other countries, particularly Russia, are continuing to develop new nuclear weapons, and the United States must maintain its understanding of nuclear weapons, how they work, how they function over time so that we can understand and advise our own leadership about those capabilities. We can never be in a position to lose that expertise when other countries are continuing to develop it.

I would urge my colleagues to oppose this amendment. It has been opposed in the committee, and both the RNEP program and Advanced Concepts have received long-time support from this Congress.

Mrs. TAUSCHER. Mr. Chairman, I yield 1½ minutes to the gentleman from the State of Washington (Mr. DICKS).

Mr. DICKS. Mr. Chairman, I rise in support of the Tauscher amendment for two reasons. Conventional precision-guided munitions are a better technical solution than the Robust Earth Penetrator for hardened and deeply buried targets; and because the fallout, both figurative and literal, from the use of nuclear weapons will make the Robust Nuclear Earth Penetrator an extensive showpiece rather than a usable weapon.

We have the B–2. We have the means of delivering a JDAM missile, a 5,000-pound bunker buster, and the EGBU–28. All of these are a better approach than a nuclear option. Henry Kissinger, former Secretary of State, says that nuclear weapons are for deterrence, that we are not entering an era of nuclear war-fighting; and so if we are going to have to use something, then we want to make sure it is a conventional weapon to go after these deep underground targets.

We have seen the fallout from what has happened in Iraq in this prison. Did the United States use tactics that were questionable? Think of what the fallout politically would be if we were using nuclear weapons in a war-fighting context. Conventional weapons are a much better choice. Let us approve the Tauscher amendment. Let us improve our intelligence. Let us improve the conventional capabilities. Why? Because they are usable. Nuclear weapons are not usable; conventional weapons are.

Mr. EVERETT. Mr. Chairman, I yield myself such time as I may consume.

I remind the gentleman from Washington that we are not proceeding down the path of building. We are simply studying this weapon.

Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. THORNBERRY), another great member of our subcommittee and the House Committee on Armed Services, who is very knowledgeable also on this subject.

Mr. THORNBERRY. Mr. Chairman, this amendment tries to eliminate a research program designed to explore whether or not we can threaten deeply buried targets with an existing nuclear warhead. As the chairman of the subcommittee just said, to build an actual weapon requires Congress's approval. That is not what this amendment is about. This amendment is about whether we want to know what our options may be. And to stick our head in the sand and pretend that we are somehow safer if we do not know or to pretend we are somehow safer if we limit our options seems to me not only foolish but actually dangerous.

I agree with the gentleman from Washington, it is about deterrence. But we do not deter anybody if they know we are not going to use a weapon. They have to have a realistic expectation that we might in order to discourage them to do something.

Clearly, there is a trend toward burying things. It may be a leadership bunker. It may be a weapon-production facility. It may be weapons themselves. And today we are very limited in our ability to threaten things which are buried. The more limited we are, and especially the more we limit ourselves, the more it encourages potential adversaries to go underground.

We have heard all these conclusions giving reasons why we should not use such a weapon. The problem is these are conclusions not based on scientific study and scientific fact, and they come with a political agenda. We ought to step back from political agendas and objectively study what the pros and cons of this approach are and then collectively make a judgment call on whether it is a good idea or not. But we are not anywhere close to that at this point.

I am for putting all the money we need into research into conventional weapons that can accomplish the same goal; and if more money is needed to effectively and productively take advantage of those programs this year, then I am all for it. But this is so important that to limit our options at this time, to not even explore what the options are and what may be available to us, I think, is extremely shortsighted. Therefore, I urge Members to again this year, as we did last year, reject this amendment and vote "no."

The CHAIRMAN pro tempore (Mr. LAHOOD). The gentlewoman from California (Mrs. TAUSCHER) has 6 minutes remaining. The gentleman from Alabama (Mr. EVERETT) has 2 minutes remaining.

Mrs. TAUSCHER. Mr. Chairman, I yield 1 minute to the gentleman from Utah (Mr. MATHESON).

Mr. MATHESON. Mr. Chairman, I rise in support of this amendment for a number of reasons. First, there are serious doubts within the scientific community about whether the so-called bunker busters will actually be able to destroy deeply buried targets. Second, why would we even want to use a first-strike nuclear weapon? The RNEP would result in high levels of radioactive fallout and would put civilians and U.S. troops in harm's way. And, finally, if we decide to develop new tactical nuclear weapons, that means resume testing at the Nevada test site; and for those of us who live downwind, those are fighting words.

Supporters of these weapons say that they do not necessarily lead to testing. But if we are going to spend a half billion dollars over the next 5 years on a new weapons program, we are going to have to test it at some point or, quite frankly, we are just throwing away taxpayer dollars that should go to other weapons programs that actually stand a chance of defending Americans.

I close with a comment from an editorial in today's Salt Lake Tribune: "If the strategic foolishness of the project were not enough to condemn it, the waste of money should be. At a time when we have so many genuine national security needs, every dime piddled away on Cold War technology not only fails to save lives, it actually endangers them."

I thank the gentlewoman from California (Mrs. TAUSCHER) for her leadership on this issue.

Mr. EVERETT. Mr. Chairman, I reserve the balance of my time.

Mrs. TAUSCHER. Mr. Chairman, I yield 1 minute to the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Chairman, I thank the gentlewoman for yielding me this time.

Mr. Chairman, I rise in support of the Tauscher amendment, which I am pleased to cosponsor. The amendment improves the military's ability to penetrate deeply buried targets by redirecting funds from nuclear options that will never be used to conventional methods that could be.

For too long, the debate over the Robust Nuclear Earth Penetrator has focused on the utility of the weapon and not its consequences.

In the real world, no President or operational commander is going to be launching a nuclear device to strike a deep bunker. The fallout would render the target area off limits to reconnaissance by U.S. troops for too long. The harm to any local population would be devastating. The geopolitical reaction would be severe.

The Tauscher amendment invests $25 million in conventional penetrating technologies, which represent a much more realistic alternative to meeting the requirement.

Why on Earth should we spend millions of dollars to study or produce a weapon we will never use? It is a definition of wasteful government spending. Vote for the Tauscher amendment.

Mr. EVERETT. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. HUNTER), our distinguished chairman of the full Committee on Armed Services.

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, this is about the most basic part of our military strategy. The gentleman who just spoke said if we do not use these weapons, they are a total waste, and people used to say why do we have all these nuclear weapons that could kill the Russians 100 times over? The reason we had them was so we would never have to kill a single Russian because we would have a deterrent.

Whom do we have to deter? Do we deter a private in a barrack? Do we deter a housewife in her home in the land of our adversary? Do we deter children in a school or people in a hospital?

The answer is no. The very best deterrent target is the people who pull the trigger, and that is the leadership of the adversarial nation, that is, the people who make the decision to attack the United States. Those are the people who like to go deep.

Hitler had a bunker. Saddam Hussein had a bunker. The people in North Korea have bunkers. We have to have this type of a program to hold the leadership at risk. This is deterrence. Vote "no" on this amendment.

Mrs. TAUSCHER. Mr. Chairman, I yield 1 minute to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Chairman, I think the point that the gentleman from Maine (Mr. ALLEN) was making and that I am making is that we think there are conventional alternatives to a nuclear weapon that are usable. So my concern is if we have a conventional approach with JDAMs, with the 5,000-pound bunker buster, EGBU-28, three very good conventional approaches to go after deeper targets, we should keep working and spending our money on those options.

My concern is his concern. We will not use this weapon. Even if we build it, we will not use it, because nuclear weapons are the weapon of last resort for deterence.

We have improved our military capability by having developed our conventional capability with the B-2, with the B-1s, the B-52s, with JDAMs, with the small diameter bomb, because they are usable; and that is more of a deterrent. When the enemy knows we can use that weapon and it will be effective, it is more of a deterrent than a nuclear weapon. We just will not use it. That is the problem, and it is a waste of money.

Mr. EVERETT. Mr. Chairman, I yield 30 seconds to the gentlewoman from New Mexico (Mrs. WILSON).

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Mrs. WILSON of New Mexico. Mr. Chairman, the gentleman from Washington (Mr. DICKS) is right that we do need to develop our conventional intelligence capabilities, and that is why there is such a significant commitment in this bill to continuing those programs that do so. But we also recognize that there are limitations to what we can do with those conventional weapons and what we can hold at risk.

Nuclear weapons are useful because they are unusable. That is the core of deterrence.

Mrs. TAUSCHER. Mr. Chairman, I yield 1 minute to the gentleman from South Carolina (Mr. SPRATT), another cosponsor of the amendment.

Mr. SPRATT. Mr. Chairman, let me just pick up on where we left off. We have got thousands of nuclear weapons in order to achieve deterrence. This weapon is not necessary. It is not only unnecessary, it is counterproductive at a time when we are trying to get countries like Iran and North Korea and countless other want-to-be nuclear countries to give up their nuclear ambition.

And it raises a fundamental question: How long can we move the world in one direction while we move in another direction, and do we want to backslide into an era that we finally emerged from where we had a nuclear weapon for every tactical mission?

They are not practical, they are not necessary, and this weapon will not come close to destroying or hardening up the hardened, deep geological targets for which they are reputedly available. To the extent we want to go after a target like that, we have bombs for that effect, and you can dial a yield. In addition, we have conventional weapons that serve this purpose.

This is not necessary. And anyone who thinks this is a minor item, the justification indicates that $480 million needs to be spent for this particular program over the next 5 years. This is a major item in the defense budget.

This amendment should be adopted.

Mrs. TAUSCHER. Mr. Chairman, as our final speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. MARKEY), a cosponsor of the amendment.

Mr. MARKEY. Mr. Chairman, I thank the gentlewoman for yielding me time.

Mr. Chairman, the gentlewoman and I have been making this amendment for 3 years, $500 million on a program for a weapon which is unusable. Can you imagine on the first day of Shock and Awe if we had dropped a nuclear bunker buster in the middle of Baghdad to get Saddam Hussein, and he was not in the command bunker, he was not there at all? The catastrophe for our country across the whole world would have been disastrous. We found him in a spider hole, 5 feet deep.

You cannot drop a nuclear bomb in the middle of a city. It is an unusable weapon.

Our threat is that Iran and North Korea and other terrorist groups are trying to get a nuclear weapon. We cannot preach temperance from a bar stool; you cannot tell a kid not to smoke while holding a Camel cigarette in your hand.

If we want other countries to disavow the desire to develop nuclear weapons, we cannot be developing new usable nuclear weapons, which is what the Republican majority, the Bush administration, wants to do. We must use our political and our moral high ground to convince every other country in the world to disavow that interest.

This is the worst public policy decision that the Bush administration is making. We started a war in Iraq because of our fear of him having nuclear weapons. We are sending a signal to Iran, to North Korea, to Syria, to Egypt, to every other country in the world, that nuclear weapons are usable and we will use them. Well, they will develop them as well, Mr. Chairman, and the next generations of Americans will be less secure, not more secure.

Vote for the Tauscher amendment if you care about the security of the children and the grandchildren in our country. It is the only way in which we can convince this military-industrial complex that they could not have won in Iraq if they had used nuclear weapons. They would have destroyed our capacity for evermore to be a political and moral force in the world.

The CHAIRMAN pro tempore. The gentleman from Alabama (Mr. EVERETT) has 30 seconds remaining.

Mr. EVERETT. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, let me just simply say that we are not spending half a billion dollars to develop a new weapon. First of all, this is a modification of an old weapon, and everyone very well knows that.

Secondly, the study period is only $122 billion.

Thirdly, the proponents of this amendment are saying, let us just stick our heads in the sand and not study this.

Mr. Chairman, I urge the defeat of this amendment. This amendment is not worthy of passing this House.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I wholeheartedly support the Amendment being offered by a number of my distinguished colleagues including Ranking Members SKELTON and SPRATT, both of whom played large roles in crafting the Defense Authorization Act. This Amendment would take the responsible course of action by transferring $36.6 million for studying the feasibility of developing new nuclear weapons, including the Robust Nuclear Earth Penetrator, and direct it instead towards increasing both intelligence capabilities to get at heard and deeply buried targets and providing improved conventional bunker-busting capabilities. This Amendment allows our nation to develop a strategy and the proper equipment to fight our enemies even when they go below ground to evade us. However, where this Amendment truly succeeds is in the fact that it keeps our nation from breaking our long held belief in nuclear disarmament.

This Defense Authorization in its present form that endorses the development of new nuclear weapons sets a dangerous precedent that will be seen worldwide. This Administration seeks to lift the ban on developing low-yield nuclear weapons which so far have not yet proven effective. The goals we hope to achieve with these low-yield nuclear missiles can also be accomplished by conducting research on the use of conventional missiles in penetrating and destroying enemy bunkers. If we allow ourselves to research and develop these more accessible nuclear weapons it will only encourage other foreign nations to do so as well. Our nation already faces great challenges in keeping traditional nuclear weapons out of the hands of rogue nations, if we allow ourselves to develop these new low-yield nuclear weapons our nuclear disarmament efforts will be seen by the global community as hypocrisy.

Ever since the use of nuclear weapons in World War II our nation and the global community has realized the devastating potential that a nuclear war poses. With the end of the Cold War, our nation has rightfully sought the course of nuclear disarmament. While this effort is far from complete, what we do know is that the grave danger of a nuclear war is still very much a possibility. If we allow this Defense Authorization to pass without this Amendment then we will have retarded our nuclear disarmament efforts of the past few decades.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from California (Mrs. TAUSCHER).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mrs. TAUSCHER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 9 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from California (Mrs. TAUSCHER) will be postponed.

AMENDMENTS EN BLOC OFFERED BY MR. HUNTER

Mr. HUNTER. Mr. Chairman, I offer amendments en bloc.

The CHAIRMAN pro tempore. The Clerk will designate the amendments en bloc.

The Clerk designated the amendments en bloc, as follows:

Amendments en bloc offered by Mr. HUNTER printed in House Report 108–499 consisting of amendment No. 10; amendment No. 12; amendment No. 13; amendment No. 15; amendment No. 16; amendment No. 17; amendment No. 18; amendment No. 19; amendment No. 20; amendment No. 21; amendment No. 22; amendment No. 23; amendment No. 24; amendment No. 26; amendment No. 27; amendment No. 28; amendment No. 29; amendment No. 30; amendment No. 31; and amendment No. 32.

AMENDMENT NO. 10 OFFERED BY MR. HUNTER

The text of the amendment is as follows:

At the end of title X (page 409, after line 13), insert the following new section:

SEC. ___. AUTHORITY TO ACCEPT CERTAIN VOLUNTARY SERVICES.

Section 1588 of title 10, United States Code, is amended—

(1) in subsection (a), by adding at the end the following new paragraph:

"(8) Voluntary services to support programs of a committee of the Employer Support of the Guard and Reserve as authorized by the Secretary of Defense."; and

(2) in subsection (f)(1), by inserting "and (a)(8)" before the period at the end.

At the end of subtitle G of title X (page 385, after line 10), insert the following new section:

SEC. ___. PHASED IMPLEMENTATION OF NEW PROGRAM FOR TRANSPORTING HOUSEHOLD GOODS OF MEMBERS OF THE ARMED FORCES.

The Secretary of Defense may not implement the new program for the transportation of household goods of members of the Armed Forces and their dependents beyond phase I of the program, which includes the testing of electronic bill processing at 14 sites, until the Secretary submits to Congress a report evaluating whether Phase I met its objectives and whether it is in the best interest of the Department of Defense and members of the Armed Forces to move forward to Phase II of the program.

In section 1001(b)(3) (page 350, line 5), strike "section 1522" and insert "section 1519".

At the end of subtitle A of title X (page 358, after line 2), insert the following new sections:

SEC. ___. FISCAL YEAR 2004 TRANSFER AUTHORITY.

Section 1001(a)(2) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1582) is amended by striking "$2,500,000,000" and inserting "$3,000,000,000".

SEC. ___. REPORT ON AMOUNTS REMITTED AND REIMBURSED DURING FISCAL YEAR 2004 UNDER SECTION 1007 OF PUBLIC LAW 108–136.

Not later than 30 days after the end of fiscal year 2004, the Secretary of Defense shall submit to the congressional defense committees a report on amounts remitted and reimbursed during fiscal year 2004 under section 1007 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1585; 10 U.S.C. 2241 note).

Page 393, line 17, insert "by striking" after "is amended".

Page 456, line 20, insert after "title" the following: "are available upon the enactment of this Act and".

At the end of title I (page 27, after line 10), insert the following new section:

SEC. 1___. ADDITIONAL AMOUNT FOR PATRIOT MISSILE PROCUREMENT.

(a) ADDITIONAL AMOUNTS.—The amount in section 101 for Army procurement, missiles, is hereby increased by $90,000,000, to be available for Patriot missiles.

(b) OFFSETTING REDUCTIONS.—(1) The amount in section 101 for Other Support Space Programs is hereby decreased by $27,000,000, to be derived from Titan Space Boosters (SPACE).

(2) The amount in section 301(4) for operation and maintenance, Air Force, is hereby reduced by $15,000,000, to be derived from the transportation working capital fund.

(3) The amount in section 201(4) for research, development, test, and evaluation, defense-wide, is hereby reduced by $48,000,000, to be derived from the Ballistic Missile Defense System Interceptor program element (PE 63886C).

At the end of subtitle A of title II (page 28, after line 14), insert the following new section:

SEC. 2___. PROGRAM INCREASES.

(a) NANO-COMPOSITE HARD-COAT FOR AIRCRAFT CANOPIES.—The amount provided in section 201(2) for research development, test and evaluation, Navy, is hereby increased by $5,000,000, to be available for Nano-composite hard-coat for aircraft canopies in Program Element 0205633N.

(b) COMMAND-AND-CONTROL SERVICE LEVEL MANAGEMENT.—The amount provided in section 201(3) for research development, test and evaluation, Air Force, is hereby increased by $5,000,000, to be available for command-and-control service level management in Program Element 0207443F for best-commercial practices and enterprise wide architectures for military command-and-control applications.

At the end of subtitle A of title III (page 43, after line 3), insert the following new section:

SEC. 3___. REDUCTION IN AUTHORIZATION FOR AIR FORCE OPERATIONS AND MAINTENANCE.

The amount authorized to be appropriated in section 301(4) is hereby reduced by $10,000,000, to be derived from the transportation working capital fund.

Strike section 215 (page 36, lines 1 through 9).

Strike section 2818 (page 514, lines 1 through 16) and insert the following new section:

SEC. 2818. REPORT ON FEASIBILITY OF VETERANS MEMORIAL AT MARINE CORPS AIR STATION, EL TORO, CALIFORNIA.

Not later than 30 days after the date of the enactment of this Act, the Secretary of the Navy shall submit to Congress a report on whether the City of Irvine's anticipated future uses of the former MCAS El Toro property would permit the establishment and maintenance of a veterans memorial at no cost to the Federal Government.

AMENDMENT NO. 12 OFFERED BY MR. DICKS

The text of the amendment is as follows:

In section 117(b) insert "no later than March 1, 2005" after "program" (page 25, line 10).

AMENDMENT NO. 13 OFFERED BY MR. HASTINGS OF WASHINGTON

The text of the amendment is as follows:

At the end of title XXXI (page 556, after line 10), insert the following new section:

SEC. 31___. ADDITIONAL AMOUNT FOR DEFENSE SITE ACCELERATION COMPLETION.

(a) ADDITIONAL AMOUNT.—The amount in section 3102 is hereby increased by $50,000,000, to be available under section 3102(1) for defense site acceleration completion.

(b) OFFSET.—The amount in section 301(4), operation and maintenance, Air Force, is hereby reduced by $50,000,000, to be derived from the transportation capital fund.

AMENDMENT NO. 15 OFFERED BY MRS. MALONEY

The text of the amendment is as follows:

At the end of subtitle A of title III (page 43, after line 3), insert the following new section:

SEC. 3___. ELIMINATION OF BACKLOG IN PROCESSING FORENSIC EVIDENCE COLLECTION KITS AND ACQUISITION OF SUFFICIENT STOCKS OF SUCH KITS.

The Secretary of Defense shall take such steps as may be necessary to eliminate the current backlog in the processing of forensic evidence collection kits used by the Department of Defense, to shorten the time period between the use of such kits and their processing in the future, and to ensure an adequate supply of such kits for all domestic and overseas United States military installations, including the military service academies, and for units of the Armed Forces deployed in theaters of operation.

AMENDMENT NO. 16 OFFERED BY MR. CHABOT

The text of the amendment is as follows:

At the end of title VIII, insert the following new section:

SEC. 825. REQUIREMENT TO TREAT SURETIES IN SAME MANNER AS FINANCING INSTITUTIONS WHEN CONTRACTORS DEFAULT.

(a) AMENDMENT TO TITLE 31.—Section 3727(c) of title 31, United States Code, is amended by inserting “surety on a bond provided in connection with a contract or other” before “financing institution”.

(b) AMENDMENT TO REVISED STATUTES.—Section 3737(b) of the Revised Statutes (41 U.S.C. 15) is amended in the first sentence by inserting “surety on a bond provided in connection with a contract,” before “or other financing institution”.

AMENDMENT NO. 17 OFFERED BY MR. MANZULLO

The text of the amendment is as follows:

At the end of title VIII (page 337, after line 15), insert the following new section:

SEC. 825. PROVISIONS RELATING TO CREATION OF JOBS IN THE UNITED STATES BY DEFENSE CONTRACTORS.

(a) AUTHORITY TO EXCLUDE CERTAIN SOURCES ON BASIS OF CREATION OF JOBS IN UNITED STATES.—Section 2304(b)(1) of title 10, United States Code, is amended—

(1) by striking “or” at the end of subparagraph (E);

(2) by striking the period at the end of subparagraph (F) and inserting “; or”; and

(3) by adding at the end the following new subparagraph:

“(G) would create jobs in the United States.”.

(b) REQUIREMENT TO INCLUDE CREATION OF JOBS IN UNITED STATES AS EVALATION FACTOR.—(1) Section 2305(a)(3)(A) of title 10, United States Code, is amended—

(A) by striking “and” at the end of clause (ii);

(B) by redesignating clause (iii) as clause (iv); and

(C) by inserting after clause (ii) the following new clause:

“(iii) shall include the creation of jobs in the United States as an evaluation factor that must be considered in the evaluation of proposals; and”.

(2) Section 2305(a)(3)(B) of such title is amended by striking “clause (iii)” and inserting “clause (iv)”.

AMENDMENT NO. 18 OFFERED BY MR. DAVIS OF ILLINOIS

The text of the amendment is as follows:

At the end of the bill, add the following new title:

TITLE XXXVI—SMALL BUSINESS ADMINISTRATION

SEC. 3601. ADDITION OF LANDSCAPING AND PEST CONTROL SERVICES TO LIST OF DESIGNATED INDUSTRY GROUPS PARTICIPATING IN THE SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM.

(a) IN GENERAL.—Subsection (a) of section 717 of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note) is amended—

(1) in paragraph (3), by striking “and” at the end;

(2) in paragraph (4), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following new paragraph:

“(5) landscaping and pest control services.”.

(b) LANDSCAPING AND PEST CONTROL SERVICES.—Section 717 of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note) is amended—

(1) by redesignating subsection (e) as subsection (f), and

(2) by inserting after subsection (d) the following new subsection:

“(e) LANDSCAPING AND PEST CONTROL SERVICES.—Landscaping and pest control services shall include contract awards assigned to North American Industrial Classification Code 561710 (relating to exterminating and pest control services) or 561730 (relating to landscaping services).”.

AMENDMENT NO. 19 OFFERED BY MR. WELDON OF PENNSYLVANIA

The text of the amendment is as follows:

At the end of title X (page 409, after line 13), insert the following new section:

SEC.   . TRANSFER OF EXCESS DEPARTMENT OF DEFENSE PERSONAL PROPERTY SUITABLE FOR FIREFIGHTING USE TO SUPPORT FEDERAL EXCESS PERSONAL PROPERTY PROGRAM.

(a) IN GENERAL.—Section 2576b of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by striking “Subject” and inserting “Notwithstanding any other provision of law and subject”; and

(B) by striking “a firefighting agency in a State” and inserting “the United States Forest Service”;

(2) in subsections (b)(2) and (c), by striking “recipient firefighting agency” and inserting “Forest Service’; and

(3) by striking subsection (d) and inserting the following new subsections:

“(d) PRIORITY FOR RURAL FIREFIGHTING AGENCIES.—(1) Subject to paragraph (2), the Secretary of Defense shall enter into an agreement with the Secretary of Agriculture to use the existing property disposal program of the Forest Service, known as the Federal Excess Personal Property Program, to facilitate the reutilization of Department of Defense personal property described in subsection (a) by firefighting agencies in rural areas.

“(2) An agreement under paragraph (1) shall not provide for the reutilization of Department of Defense aircraft by the Forest Service until the end of the one-year period beginning on the date on which the Secretary of Agriculture submits a report to the Committee on Agriculture and the Committee on Armed Services of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Armed Services of the Senate detailing measures taken by the Forest Service in response to National Transportation Safety Board Recommendations A-04-29 through A-04-33.

“(3) The transfer of Department of Defense personal property described in subsection (a) to the Forest Service for reutilization by firefighting agencies in rural areas shall be afforded a property disposal priority at least equal to the priority given the military departments and other entities within the Department of Defense.

“(e) DEFINITION OF STATE.—The term ‘State’ includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States.”.

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

“§ 2576b. Excess personal property: reutilization to assist firefighting agencies”.

(2) The table of sections at the beginning of chapter 153 of such title is amended by striking the item relating to section 2576b and inserting the following new item:

“2576b. Excess personal property: reutilization to assist firefighting agencies.”.

AMENDMENT NO. 20 OFFERED BY MR. BROWN OF SOUTH CAROLINA

The text of the amendment is as follows:

At the end of title X , insert the following new section:

SEC.   . EXPANSION OF DEPARTMENT OF DEFENSE EXCESS PERSONAL PROPERTY DISPOSAL PROGRAM TO INCLUDE HEALTH AGENCIES.

(a) INCLUSION OF HEALTH AGENCIES.—Section 2576b of title 10, United States Code, is amended by adding at the end the following new subsection:

“(e) TRANSFER TO STATE HEALTH AGENCIES.—The Secretary of Defense may expand the program authorized by this section to include the transfer to State health agencies of personal property of the Department of Defense that the Secretary determines is—

“(1) excess to the needs of the Department of Defense; and

“(2) suitable for use in responding to health or environmental emergencies.”.

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

“§ 2576b. Excess personal property: reutilization to assist firefighting agencies and health agencies

(2) The table of sections at the beginning of chapter 153 of such title is amended by striking the item relating to section 2576b and inserting the following new item:

“2576b. Excess personal property: reutilization to assist firefighting agencies and health agencies.”.

AMENDMENT NO. 21 OFFERED BY MR. BROWN OF SOUTH CAROLINA

The text of the amendment is as follows:

At the end of subtitle A of title XXVIII, insert the following new section:

SEC. 28   . CONSIDERATION OF COMBINATION OF MILITARY MEDICAL TREATMENT FACILITIES AND HEALTH CARE FACILITIES OF DEPARTMENT OF VETERANS AFFAIRS.

(a) DEPARTMENT OF DEFENSE CONSIDERATION OF JOINT CONSTRUCTION.—(1) Subchapter I of chapter 169 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 2816. Consideration of joint construction and use of military medical treatment facilities and health care facilities of the Department of Veterans Affairs

“In the case of the budget submitted under section 1105 of title 31 for any fiscal year, the Secretary of Defense shall include in the budget justification materials submitted to Congress in support of the budget a certification that, in evaluating for inclusion in the budget for that fiscal year any military construction project for construction in the United States (or a territory or possession of the United States) of a new military medical treatment facility, the Secretary, after consulting with the Secretary of Veterans Affairs, evaluated the feasibility of carrying out the project so as to establish with the Department of Veterans Affairs a joint medical facility that—

"(1) could serve as a facility for health resources sharing between the Department of Defense and the Department of Veterans Affairs; and

"(2) would be no more costly to each Department to construct and operate than separate facilities for each Department.".

(2) The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2816. Consideration of joint construction and use of military medical treatment facilities and health care facilities of the Department of Veterans Affairs.".

(b) DEPARTMENT OF VETERANS AFFAIRS CONSIDERATION OF JOINT CONSTRUCTION.—Section 8104(b) of title 38, United States Code, is amended by adding at the end the following new paragraph:

"(9) In the case of a prospectus proposing the construction of a new or replacement medical facility, the Secretary's certification that the Secretary, after consulting with the Secretary of Defense, evaluated the feasibility of carrying out the project so as to establish with the Department of Defense a joint medical facility that—

"(A) could serve as a facility for health resources sharing between the Department of Defense and the Department of Veterans Affairs; and

"(B) would be no more costly to each Department to construct and operate than separate facilities for each Department.".

AMENDMENT NO. 22 OFFERED BY MR. JOHNSON OF ILLINOIS

The text of the amendment is as follows:

At the end of title V (page 200, after line 24), insert the following new section:

SEC. 598. AUTHORITY FOR REMOVAL OF REMAINS OF CERTAIN PERSONS INTERRED IN UNITED STATES MILITARY CEMETERIES OVERSEAS.

(a) REMOVAL AND TRANSPORTATION OF REMAINS.—Upon receipt from a qualifying survivor of an application with respect to a person interred in a United States overseas military cemetery, the Secretary of Defense may, upon approval of such application, provide for—

(1) the removal of the remains of that person from the cemetery in which interred; and

(2) transportation of such remains to a location in the United States selected by such qualifying survivor.

(b) REQUIREMENT FOR APPROVAL OF APPLICATIONS.—(1) An application under this section may be approved only if the application presents sufficient evidence that, at the time of the initial disposition decision (as defined in paragraph (2)), there was a misunderstanding or error related to that disposition decision that the Secretary finds warrants approval of the application.

(2) In paragraph (1), the term "initial disposition decision", with respect to the remains of a person who died outside the United States and was interred in a United States overseas military cemetery, means a decision by a family member (or other designated person) as to the disposition (in accordance with laws and regulations in effect at the time) of the remains of the person with respect to whom the application is submitted, such decision being to have the remains interred in a United States overseas military cemetery (rather than to have those remains transported to the United States for interment or other disposition in the United States).

(c) ABMC ASSISTANCE.—The American Battle Monuments Commission shall provide the Secretary of Defense with such assistance as the Secretary may require in carrying out this section with respect to cemeteries under the jurisdiction of the Commission.

(d) TIME FOR APPLICATION.—An application under subsection (a) must be submitted to the Secretary of Defense not later than the end of the two-year period beginning on the date of the enactment of this Act.

(e) NO EXPENDITURE OF FEDERAL FUNDS.—No costs associated with the removal and transportation of remains provided for under subsection (a) may be paid by the United States.

(f) DEFINITIONS.—For purposes of this section:

(1) UNITED STATES OVERSEAS MILITARY CEMETERY.—The term "United States overseas military cemetery" means a cemetery located in a foreign country that is administered by the Secretary of a military department or the American Battle Monuments Commission.

(2) QUALIFYING SURVIVORS.—The term "qualifying survivor" means the following, in the order specified.

(A) The surviving spouse.

(B) All surviving children (including adoptive children), acting concurrently.

(C) A birth parent or, if both survive, both birth parents, acting concurrently.

AMENDMENT NO. 23 OFFERED BY MR. BAIRD

The text of the amendment is as follows:

At the end of title VII (page 306, after line 13), insert the following new section:

SEC. 723. STUDY OF MENTAL HEALTH SERVICES.

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study of mental health services available to members of the Armed Forces.

(b) PERSONS COVERED.—The study shall evaluate the availability and effectiveness of existing mental health treatment and screening resources—

(1) for members of the Armed Forces during a deployment to a combat theater;

(2) for members of the Armed Forces returning from a deployment to a combat theater, both—

(A) in the short-term, post-deployment period; and

(B) in the long-term, following the post-deployment period;

(3) for the families of members of the Armed Forces who have been deployed to a combat theater during the time of the deployment;

(4) for the families of members of the Armed Forces who have been deployed to a combat theater after the member has returned from the deployment; and

(5) for members of the Armed Forces and their families described in this subsection who are members of Reserve components.

(c) ASSESSMENT OF OBSTACLES.—The study shall provide an assessment of existing obstacles that prevent members of the Armed Forces and military families in need of mental health services from obtaining these services, including—

(1) the extent to which existing confidentiality regulations, or lack thereof, inhibit members of the Armed Forces from seeking mental health treatment;

(2) the implications that a decision to seek mental health services can have on a military career;

(3) the extent to which a social stigma exists within the Armed Forces that prevents members of the Armed Forces and military families from seeking mental health treatment within the Department of Defense and the individual Armed Forces;

(4) the extent to which logistical obstacles, particularly with respect to members of the Armed Forces and families residing in rural areas, deter members in need of mental health services from obtaining them; and

(5) the extent to which members of the Armed Forces and their families are prevented or hampered from obtaining mental health treatment due to the cost of such services.

(d) IDENTIFICATION OF PROBLEMS UNIQUE TO RESERVES.—The study shall identify potential problems in obtaining mental health treatment that are unique to members of Reserve components.

(e) REPORT.—The Secretary of Defense shall submit to Congress a report on the study conducted under this section not later than 90 days after the date of the enactment of this Act. The report shall contain the results of the study and make specific recommendations—

(1) for improving the effectiveness and accessibility of mental health services provided by Department of Defense to the persons listed in subsection (b), including recommendations to ensure appropriate referrals and a seamless transition to the care of the Department of Veterans Affairs following separation from the Armed Forces;

(2) for removing or mitigating any obstacles identified under subsection (c); and

(3) for steps that can be taken by the Department of Defense or Congress to bring parity to mental health services available to members of Reserve components and members of the Armed Forces on active duty.

AMENDMENT NO. 24 OFFERED BY MR. HEFLEY

The text of the amendment is as follows:

At the end of subtitle F of title V, insert the following new section:

SEC. 560. BOARD OF VISITORS OF UNITED STATES AIR FORCE ACADEMY.

Section 9355 of title 10, United States Code, is amended to read as follows:

"§ 9355. Board of Visitors

"(a) A Board of Visitors to the Academy is constituted annually. The Board consists of the following members:

"(1) Six persons designated by the President.

"(2) Four persons designated by the Speaker of the House of Representatives, three of whom shall be members of the House of Representatives and the fourth of whom may not be a member of the House of Representatives.

"(3) Three persons designated by the Vice President or the President pro tempore of the Senate, two of whom shall be members of the Senate and the third of whom may not be a member of the Senate.

"(4) The chairman of the Committee on Armed Services of the House of Representatives, or his designee.

"(5) The chairman of the Committee on Armed Services of the Senate, or his designee.

"(b)(1) The persons designated by the President serve for three years each except that any member whose term of office has expired shall continue to serve until his successor is designated. The President shall designate persons each year to succeed the members designated by the President whose terms expire that year.

"(2) At least two of the members designated by the President shall be graduates of the Academy.

"(c)(1) If a member of the Board dies or resigns or is terminated as a member of the board under paragraph (2), a successor shall be designated for the unexpired portion of the term by the official who designated the member.

"(2) If a member of the Board fails to attend two successive Board meetings, except in a case in which an absence is approved in advance, for good cause, by the Board chairman, such failure shall be grounds for termination from membership on the Board. A person designated for membership on the Board shall be provided notice of the provisions of this paragraph at the time of such designation.

"(d) The Board should meet at least four times a year, with at least two of those meetings at the Academy. The Board or its members may make other visits to the Academy in connection with the duties of the Board. Board meetings should last at least one full day. Board members shall have access to the Academy grounds and the cadets, faculty, staff, and other personnel of the Academy for the purposes of the duties of the Board.

"(e)(1) The Board shall inquire into the morale, discipline, and social climate, the curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to the Academy that the Board decides to consider.

"(2) The Secretary of the Air Force and the Superintendent of the Academy shall provide the Board candid and complete disclosure, consistent with applicable laws concerning disclosure of information, of all institutional problems.

"(3) The Board shall recommend appropriate action.

"(f) Within 30 days after any meeting of the Board, the Board shall submit a written report concurrently to the Secretary of Defense, through the Secretary of the Air Force, and to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives with its views and recommendations pertaining to the Academy.

"(g) Upon approval by the Secretary, the Board may call in advisers for consultation.

"(h) While performing duties as a member of the Board, each member of the Board and each adviser shall be reimbursed under Government travel regulations for travel expenses.".

AMENDMENT NO. 26 OFFERED BY MR. FLAKE

The text of the amendment is as follows:

At the end of subtitle G of title V (page 174, after line 15), insert the following new section:

SEC. . REQUIREMENTS FOR AWARD OF COMBAT INFANTRYMAN BADGE AND COMBAT MEDICAL BADGE WITH RESPECT TO SERVICE IN KOREA AFTER JULY 28, 1953.

(a) Standardization of Requirements With Other Geographic Areas.—(1) Chapter 357 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 3757. Korean defense service: Combat Infantryman Badge; Combat Medical Badge

"The Secretary of the Army shall provide that, with respect to service in the Republic of Korea after July 28, 1953, eligibility of a member of the Army for the Combat Infantryman Badge or the Combat Medical Badge shall be met under criteria and eligibility requirements that, as nearly as practicable, are identical to those applicable, at the time of such service in the Republic of Korea, to service elsewhere without regard to specific location or special circumstances. In particular, such eligibility shall be established—

"(1) without any requirement for service by the member in an area designated as a 'hostile fire area' (or by any similar designation) or that the member have been authorized hostile fire pay;

"(2) without any requirement for a minimum number of instances (in excess of one) in which the member was engaged with the enemy in active ground combat involving an exchange of small arms fire; and

"(3) without any requirement for personal recommendation or approval by commanders in the member's chain of command other than is generally applicable for service at locations outside the Republic of Korea.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3757. Korean defense service: Combat Infantryman Badge; Combat Medical Badge.".

(b) Applicability to Service Before Date of Enactment.—The Secretary of the Army shall establish procedures to provide for the implementation of section 3757 of title 10, United States Code, as added by subsection (a), with respect to service in the Republic of Korea during the period between July 28, 1953, and the date of the enactment of this Act. Such procedures shall include a requirement for submission of an application for award of a badge under that section with respect to service before the date of the enactment of this Act and the furnishing of such information as the Secretary may specify.

AMENDMENT NO. 27 OFFERED BY MR. SHIMKUS

The text of the amendment is as follows:

At the end of subtitle G of title V, insert the following new section:

SEC. . ARMY COMBAT RECOGNITION RIBBON.

(a) Requirement Similar to That for Navy Combat Action Ribbbon .—(1) Chapter 357 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 3757. Combat recognition ribbon

"(a) Requirement.—The Secretary of the Army shall establish a combat recognition ribbon to recognize participation by members of the Army in combat. The Secretary shall award the combat recognition ribbon to each member of the Army who meets the criteria for that ribbon based upon service performed after August 1, 1990.

"(b) Criteria for Award.—The Secretary shall establish the criteria for award of the combat recognition ribbon. To the maximum extent practicable, the criteria for the award of such ribbon shall be based upon, and be similar to, the criteria for award of the Navy Combat Action Ribbon, including any special criteria for service during a particular period of time or in a specific location.

"(c) Limitation.—The combat recognition ribbon may not be awarded to a member of the Army with respect to the same period of service as service for which the member was awarded the Combat Infantryman Badge or the Combat Medic Badge.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3757. Combat recognition ribbon.".

(b) Implementation for Service Before Date of Enactment.—The Secretary of the Army shall establish procedures to provide for the implementation of section 3757 of title 10, United States Code, as added by subsection (a), with respect to service during the period beginning on August 1, 1990, and ending on the date of the enactment of this Act. Such procedures shall include a requirement for submission of an application for award of a ribbon under that section with respect to service before the date of the enactment of this Act and the furnishing of such information as the Secretary may specify. Such procedures shall be established not later than 180 days after the date of the enactment of this Act.

AMENDMENT NO. 28 OFFERED BY MR. SMITH OF WASHINGTON

The text of the amendment is as follows:

At the end of part I of subtitle D of title XXVIII (page 535, after line 7), insert the following new section:

SEC. 28 . MODIFICATION OF LAND EXCHANGE AND CONSOLIDATION, FORT LEWIS, WASHINGTON.

(a) Property To Be Transferred to Secretary of the Interior in Trust.—Subsection (a)(1) of section 2837 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1315) is amended—

(1) by striking "may convey to" and inserting "may transfer to the Secretary of the Interior, in trust for"; and

(2) by striking "Washington, in" and all that follows through the period and inserting "Washington. The Secretary of the Army may make the transfer under the preceding sentence, and the Secretary of the Interior may accept the property transferred in trust for the Nisqually Tribe under the preceding sentence, only in conjunction with the conveyance described in subsection (b)(2).".

(b) Increase in Acreage To Be Transferred.—Such subsection is further amended by striking "138 acres" and inserting "168 acres".

(c) Qualification on Property To Be Transferred.—Subsection (a)(2) of such section is amended—

(1) by striking "conveyance" and inserting "transfer"; and

(2) by striking "or the right of way described in subsection (c)" and inserting "located on the real property transferred under that paragraph".

(d) Consideration.—Subsection (b) of such section is amended—

(1) in the matter preceding paragraph (1), by striking "conveyance" and inserting "transfer"; and

(2) in paragraph (2), by striking "fee title over the acquired property to the Secretary" and inserting "to the United States fee title to the property acquired under paragraph (1), free from all liens, encumbrances or other interests other than those, if any, acceptable to the Secretary of the Army".

(e) Treatment of Existing Permit Rights; Grant of Easement.—Such section is further amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c) the following new subsection:

"(d) Treatment of Existing Permit Rights; Grant of Easement.—(1) The transfer under subsection (a) recognizes and preserves to the Bonneville Power Administration, in perpetuity and without the right of revocation except as provided in paragraph (2), rights in existence at the time of the conveyance under the permit dated February 4, 1949, as amended January 4, 1952, between the Department of the Army and the Bonneville Power Administration with respect to any portion of the property transferred under subsection (a) upon which the Bonneville Power Administration retains transmission facilities. The rights recognized and preserved include the right to upgrade those transmission facilities.

"(2) The permit rights recognized and preserved under paragraph (1) shall terminate only upon the Bonneville Power Administration's relocation of the transmission facilities referred to in paragraph (1), and then only with respect to that portion of those transmission facilities that are relocated.

"(3) The Secretary of the Interior, as trustee for the Nisqually Tribe, shall grant to the Bonneville Power Administration, without consideration and subject to the same rights recognized and preserved in paragraph (1), such additional easements across the property transferred under subsection (a) as the Bonneville Power Administration considers necessary to accommodate the relocation or reconnection of Bonneville Power Administration transmission facilities from property owned by the Tribe and held by the Secretary of the Interior in trust for the Tribe.".

(f) CONFORMING AMENDMENTS.—(1) Subsection (c) of such section is amended by inserting "of the Army" after "Secretary".

(2) Subsection (e) of such section (as redesignated by subsection (e)(1)) is amended—

(A) by striking "conveyed" and inserting "transferred";

(B) by inserting "of the Army" after "Secretary"; and

(C) by striking "the recipient of the property being surveyed" and inserting "the Tribe, in the case of the transfer under subsection (a), and the Secretary of the Army, in the case of the acquisition under subsection (b)".

(3) Subsection (f) of such section (as redesignated by subsection (e)(1)) is amended—

(A) by inserting "of the Army" after "Secretary" both place it appears; and

(B) by striking "conveyances under this section" and inserting "transfer under subsection (a) and conveyances under subsections (b)(2) and (c)".

AMENDMENT NO. 29 OFFERED BY MR. CUNNINGHAM

The text of the amendment is as follows:

At the end of title X (page 409, after line 13), insert the following new section:

SEC. 1077. PLACEMENT OF MEMORIAL IN ARLINGTON NATIONAL CEMETERY HONORING NONCITIZENS KILLED IN THE LINE OF DUTY WHILE SERVING IN THE ARMED FORCES OF THE UNITED STATES.

(a) IN GENERAL.—The Secretary of the Army shall place in Arlington National Cemetery a memorial marker honoring the service and sacrifice of noncitizens killed in the line of duty while serving in the Armed Forces of the United States.

(b) APPROVAL OF DESIGN AND SITE.—The Secretary of the Army, in consultation with Secretary of Veterans Affairs, shall approve an appropriate design and site within Arlington National Cemetery for the memorial marker provided for under subsection (a).

(c) USE OF FEDERAL FUNDS.—Federal funds shall not be required or permitted to be used for the design and construction of the memorial marker provided for under subsection (a).

(d) AUTHORITY TO ACCEPT DONATIONS.—(1) The Secretary of the Army may accept gifts and donations of services, money, and property (including personal, tangible, or intangible property) for the design and construction of the memorial marker provided for under subsection (a).

(2) The authority of the Secretary of the Army to accept gifts and donations under paragraph (1) shall expire on the date that is five years after the date of the enactment of this Act.

AMENDMENT NO. 30 OFFERED BY MR. SKELTON

The text of the amendment is as follows:

Page 479, in the table following line 9—

(1) in the item for Robins Air Force Base, strike "$15,000,000" and insert "$21,570,000"; and

(2) in the total at the bottom of the table, strike "$398,714,000" and insert "$405,284,000".

Page 483, line 2, strike "$2,493,679,000" and insert "$2,500,249,000".

Page 483, line 5, strike "$398,714,000" and insert "$405,284,000".

Page 492, line 7, strike "$114,090,000" and insert "$107,520,000".

AMENDMENT NO. 31 OFFERED BY MR. ISRAEL

The text of the amendment is as follows:

At the end of title I (page 27, after line 10), insert the following new section:

SEC. ___. TRANSFER OF CERTAIN ARMY PROCUREMENT FUNDS.

(a) INCREASE FOR CERTAIN HELICOPTER ITEMS.—The amount provided in section 101(1) for procurement of aircraft for the Army is hereby increased by $4,000,000, of which—

(1) $2,000,000 shall be available for procurement of the Aircraft Wireless Intercom System; and

(2) $2,000,000 shall be available for procurement of bladefold kits for Apache Helicopters.

(b) OFFSET.—The amount provided in section 101(5) for Other Procurement, Army, is hereby reduced by $4,000,000, to be derived from amounts for Information Systems.

AMENDMENT NO. 32 OFFERED BY MR. HOBSON

The text of the amendment is as follows:

At the end of subtitle F of title V (page 172, after line 9), insert the following new section:

SEC. 5___. ESTABLISHMENT OF COLLEGE FINANCIAL ASSISTANCE PROGRAM FOR DISTRICT OF COLUMBIA NATIONAL GUARD.

(a) AUTHORITY.—Under regulations prescribed by the Secretary of Defense, the Secretary concerned may, in recognition of the unique position of the District of Columbia in the Federal system, provide financial assistance to eligible members of the National Guard of the District of Columbia for expenses of such a member while enrolled in an approved institution of higher education in a degree, certificate, or other program (including a program of study abroad approved for credit by the institution of higher education) leading to a recognized educational credential at the institution of higher education. Any such assistance may be provided only during the program applicability period specified in subsection (i).

(b) AUTHORITY SUBJECT TO AVAILABILITY OF APPROPRIATIONS.—The authority provided in subsection (a) is subject to the availability of appropriations for that purpose.

(c) ELIGIBILITY.—To be eligible for financial assistance under this section, a member of the National Guard of the District of Columbia must—

(1) be a member of the National Guard of the District of Columbia for not less than the 12 consecutive months preceding the commencement of the tuition assistance and continue to be such a member while receiving such assistance;

(2) agree to serve one year in the National Guard of the District of Columbia for each academic year of assistance provided;

(3) be enrolled or accepted for enrollment in a program of education referred to in subsection (a) at an institution of higher education; and

(4) if already enrolled, maintain satisfactory progress in the course of study the member is pursuing in accordance with section 484(c) of the Higher Education Act of 1965 (20 U.S.C. 1091(c)).

(d) COVERED EXPENSES.—Expenses for which financial assistance may be provided under this section are the following:

(1) Tuition and fees charged by an approved institution of higher education involved.

(2) The cost of books.

(3) Laboratory expenses.

(e) AMOUNT.—(1) The amount of financial assistance provided to a member of the National Guard of the District of Columbia under this section shall be prescribed by the Secretary concerned, but may not exceed $2,500 for any academic year. The Secretary concerned shall prorate assistance under this section for members who pursue a program of education on less than a full-time basis.

(2) A member may not receive more than $12,500 under this section.

(f) CONSTRUCTION.—Nothing in this section shall be construed to require an institution of higher education to alter the institution's admissions policies or standards in any manner to enable a member of the National Guard of the District of Columbia to enroll in the institution.

(g) DEFINITIONS.—In this section:

(1) The term "approved institution of higher education" means an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) that—

(A) is eligible to participate in the student financial assistance programs under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.); and

(B) has entered into an agreement with the Secretary concerned containing such conditions as the Secretary may specify, including a requirement that the institution use the funds made available under this section to supplement and not supplant assistance that otherwise would be provided to eligible students from the District of Columbia National Guard.

(2) SECRETARY CONCERNED.—The term "Secretary concerned" means—

(A) the Secretary of the Army, in the case of the Army National Guard of the District of Columbia; and

(B) the Secretary of the Air Force, in the case of the Air National Guard of the District of Columbia.

(h) ANNUAL REPORT.—At the close of each year during which the program under this section is in effect, the Secretary of Defense shall submit to the congressional defense committees a report on the effectiveness of the program in improving recruiting and retention for the District of Columbia National Guard. Each such report shall include such recommendations for changes in law or policy as the Secretary considers appropriate. In the first such report, the Secretary shall include an analysis of means for improving the effectiveness as a recruitment and retention incentive of any program providing tuition assistance for members of the District of Columbia National Guard in existence as of the date of the enactment of this Act.

(i) PROGRAM APPLICABILITY PERIOD.—Financial assistance may be provided under this section to eligible members of the National Guard of the District of Columbia for periods of instruction that begin during the three-year period beginning on the date of the enactment of this Act.

The CHAIRMAN pro tempore. Pursuant to House Resolution 648, the gentleman from California (Mr. HUNTER) and the gentleman from Missouri (Mr. SKELTON) each will control 10 minutes.

The Chair recognizes the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is a number of amendments, some of them technical in nature, others amendments cleared with both sides. They include amendments by myself, the gentleman from Washington (Mr. DICKS), the gentleman from Washington (Mr. HASTINGS), the gentlewoman from New York (Mrs. MALONEY), the gentleman from Ohio (Mr. CHABOT), the gentleman from Illinois (Mr. MANZULLO), the gentleman from Pennsylvania (Mr. WELDON), the gentleman from South Carolina (Mr. BROWN), the gentleman from Illinois (Mr. JOHNSON), the gentleman from Washington (Mr. BAIRD), the gentleman from Colorado (Mr. HEFLEY), the gentleman from Arizona (Mr. FLAKE), the gentleman from Illinois (Mr. SHIMKUS), the gentleman from Illinois (Mr. DAVIS), the gentleman from Washington (Mr. SMITH), the gentleman from California (Mr. CUNNINGHAM), the gentleman from Missouri (Mr. SKELTON), the gentleman from Georgia (Mr. MARSHALL), the gentleman from New York (Mr. ISRAEL), the gentleman from Ohio (Mr. HOBSON) and by the gentlewoman from the District of Columbia (Ms. NORTON).

Mr. Chairman, I reserve the balance of my time.

Mr. SKELTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I happen to agree with the en bloc amendments put forward by the chairman. We have examined them thoroughly and discussed them thoroughly. I think they are certainly worthy of passing.

However, if I may comment on other amendments, much has been said, Mr. Chairman, about the contractor situation in Iraq and Afghanistan. I would like at this moment to make reference to two amendments that were adopted in the committee that were passed out onto the floor, and I would like to make reference to them now, two outstanding amendments.

The gentleman from Tennessee (Mr. COOPER) had an amendment that requires the chairman or ranking member of the Committee on Armed Services, the Secretary of Defense to provide copies of contract documents within 14 days to the committee, and it also allows greater transparency in the contracting system, particularly when we have been having so many problems in Iraq and elsewhere. This is critical to our oversight responsibility, and I compliment the gentleman from Tennessee (Mr. COOPER).

There was another amendment that was adopted in the committee that we should make reference to today offered by the gentleman from Hawaii (Mr. ABERCROMBIE), which requires guidance previously recommended by the GAO on how to manage contractors that support deployed forces.

It requires report and contractor oversight, rules of engagement in Iraq, and requires better information gathering on how many security contractors are in Iraq. It directly responds to concerns raised in a letter that I sent to the Secretary of Defense on April 2.

We are on top, I think, as a result of these two amendments by the gentleman from Tennessee (Mr. COOPER) and the gentleman from Hawaii (Mr. ABERCROMBIE), to make sure that we are tending to the deep concern we have about the contractor use and the contractor hiring in those two countries.

I do agree with the chairman on the en bloc amendments.

Mr. Chairman, I reserve the balance of my time.

Mr. HUNTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I just want to take this time, because I always have to follow the leadership of the gentleman from Missouri (Mr. SKELTON) in this area, to just thank all the staff that have been working this armed services bill. The committee staff has been tirelessly working this bill, putting it together in the subcommittees, full committee and now on the floor, and I want to thank everyone who has been part of this product.

Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. REYES).

Mr. REYES. Mr. Chairman, I understand that the gentleman from Texas (Mr. ORTIZ) offered an amendment at full committee markup on May 12, 2004, and that the amendment was passed by the committee within a manager's amendment. Unfortunately, however, the amendment offered by the gentleman from Texas (Mr. ORTIZ) was not printed in the committee report 108–491.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. REYES. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, that is correct. It is an unfortunate error that the amendment was not printed in the report. The Ortiz amendment was adopted by the full committee.

Mr. REYES. Mr. Chairman, in light of that, I ask unanimous consent that a copy of the amendment accepted at full committee be made part of the record.

Mr. HUNTER. Mr. Chairman, I support that request.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. SKELTON. Mr. Chairman, I yield, for the purpose of making a unanimous consent request, to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Chairman, I rise in favor of the en bloc amendment, and especially my amendment dealing with the Comp Demo.

Mr. Chairman, I appreciate the opportunity to briefly review my proposed amendment to H.R. 4200.

My amendment is a simple, highly targeted, and non-controversial effort to better balance the way that small business set aside, SBSA, goals are met by Federal agencies, including the Department of Defense. Presently, these goals are unevenly distributed with some product and service sectors experiencing a disproportionate rate of small business set aside while other small businesses in other product or service sectors see little in small business set-aside contracts come their way, despite the fact that there are capable small businesses involved in those industries. This can obviously work to deny a large number of small businesses the benefits of the small business set aside program that Congress has long supported.

My amendment would address this problem through a small, targeted improvement of an existing Federal law called the Competitiveness Demonstration Program (P.L. 100–656), also known as the "Comp Demo" law.

The legislative history of Comp Demo shows that it was enacted to prevent disproportionate assignment of small business set aside goals into a small, unrepresentative number of NAICS codes. It began when Congress took major steps to enhance competition and diversity in small business procurement opportunities by enacting section 921 of P.L. 99–661, which requires that small businesses receive a "fair proportion" of Government contracts in each industry.

That effort later led to the enactment of the Comp Demo law. Essentially, Comp Demo recognized that in certain NAICS codes, work was being disproportionately set aside, even though overall small business participation in the open market-place in these industries was high. While these industries had too much work set aside, many more industries have seen little or no set-aside contracts come their way, despite representation of capable small firms in those other industries.

My amendment would build on the existing Comp Demo law by adding the NAICS codes for landscaping services and exterminating & pest control services to the existing Comp Demo list. These two NAICS codes would be added to the existing Comp Demo list which presently includes the NAICS codes for: (1) construction, (2) refuse systems and related services; (3) architectural and engineering services, and (4) non-nuclear ship repair.

Under the Comp Demo law, Federal agencies may not set aside procurements for small businesses in these designated NAICS codes, provided small businesses otherwise win 40 percent of all prime contract awards in that NAICS code. This means that small businesses are required to win a minimum of 40 percent of the prime contract awards. If they do not win that minimum amount, small business set-aside for that NAICS code would be automatically reimposed.

The effective result of both the current Comp Demo law and my amendment is to assure that small business set aside awards are more evenly distributed across all NAICS codes and benefit the greatest number of small businesses in the largest number of product and service sectors possible.

Indeed, the existing Comp Demo law has shown that small businesses in the four NAICS codes on the current Comp Demo list compete for, and win, large numbers of contracts, though on an unrestricted basis. The intent of the Comp Demo program is to ensure that each agency balances its procurement needs so that set aside contracting opportunities for small businesses are as widely distributed as possible across as many industries as possible.

Also important is the fact that the Comp Demo amendment does not affect 8(a) or HUB Zone set asides. They are not impacted by either the current Comp Demo program or my amendment's proposed improvement of the current law.

It is also worthy to note that my proposed amendment of the Comp Demo law has no budgetary impact—that is, amending the program to include landscape services and exterminating ahd pest control services will not increase the federal deficit.

In sum, Mr. Chairman, the existing Comp Demo program and my amendment to it will require a more even distribution of small business set asides across a larger number of NAICS codes. It does not change or reduce the size of agency small business aside goals; it just makes the programs benefits available to a greater number of small businesses across a larger number of industries.

Mr. HUNTER. Mr. Chairman, I yield 3 minutes to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Chairman, I want to compliment the gentleman from California (Chairman HUNTER) and the ranking member, the gentleman from Missouri (Mr. SKELTON) and their outstanding staffs on both sides for working with us on this tanker amendment.

One of the things that I am convinced of, and I am even more convinced today, is we need to start a program of tanker replacement. Every single airplane that bombed in Afghanistan and in Iraq had to be refueled multiple times.

One of the reasons we are a superpower is because we have got these tankers. All of the original planes were built between 1957 and 1963. I have been to Tinker Air Force Base. I have seen the condition of these planes. The corrosion is significant and the cost of maintenance is going right through the roof. It is time to move out on this program.

The people who made mistakes in the contracting are being disciplined in the process, in the criminal process, and we should look at this on the merits. The chairman's amendment lays out a process whereby we can go forward.

If the chairman wants to explain it, I would be glad to yield to him. But basically we are going to have an analysis of alternatives, then we are going to have a negotiation session on the contract, then we are going to have a panel review with the Secretary of Defense; and we hope that by March 1, we will be able to finalize this and enter into an agreement to go forward with the 767 tanker.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I think the gentleman has analyzed it correctly. We call this "Fresh Start." It is based on the premise that the tanker fleet is the keystone to the projection of American air power. Even our tactical air, coming off of carriers in Afghanistan, for example, had to drink four or five times from tankers going to target and coming back. Of course, the long-range stuff, all of our deep-strike capability hinges on tankers.

So our idea was, we take the mess, that is, all the personalities, all of the charges and countercharges, and we move that all aside; and we say, we are going to address the one thing we should be addressing, which is the requirement for our country.

We are going to take the requirement, and we are going to have a "Fresh Start" on tankers and use a blue ribbon panel of people with good judgment, and they are going to pass judgment on the business deal.

Mr. DICKS. Mr. Chairman, reclaiming my time, the key thing here is, we are buying an off-the-shelf aircraft. That means no development costs whatsoever.

I asked the chairman of the Boeing Company today what it would cost if we had to develop a new airplane, just in development before we got into production. He said $15 billion to $18 billion, and it would take a number of years to do that. So that option is not good.

I do not believe this House wants to buy this airplane from AirBus, so therefore before the 767 line goes down next year, we have got to enter into this agreement, militarize that line, and use it for tankers, which are so critical to our national security.

Mr. HUNTER. Mr. Chairman, if the gentleman will yield further, let me just say to the gentleman, I think it would be a massive mistake for the United States to buy foreign in this very important part of our national security.

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Mr. SKELTON. Mr. Chairman, I yield 30 seconds to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Chairman, this is a point we want to make. If we can get this done, we can do this for a lot less money than any of the other options, and we can do it with an American airplane; and we have blocked obsolescence before in the C–141s. If we had that problem, we will undermine our military capabilities. So this amendment in this en bloc is very important for us to move forward. And I commend the chairman and ranking member for their leadership on this issue.

Mr. HUNTER. Mr. Chairman, I yield for the purpose of making a unanimous consent request to the gentlewoman from New Mexico (Mrs. WILSON).

Mrs. WILSON of New Mexico. Mr. Chairman, I am going to support the en bloc amendments. I do have some reservations about one of the amendments included in it.

I oppose the amendment offered by my friend and colleague from Washington State.

DOE does not have the authority to reclassify, on its own, high level waste as low level waste. Yet, they proposed to do just that so that they could send some of this waste to WIPP. The $350 million DOE requested for the "high level waste proposal" cleanup projects included funds for activities that a Federal court has ruled violated the Nuclear Waste Policy Act.

To address this, we did two things: (1) We required an external scientific study (the National Academy of Sciences) before any laws regarding high level waste are rewritten; (2) We removed $100 million for activities clouded by litigation, but allowed for the possibility of reprogramming if additional funds are needed, and asked DOE to provide the House and Senate defense committees with a list of projects it feels it can proceed with and why.

While my colleague's amendment retains the external scientific study, it restores DOE's high level waste cleanup funds to $300 million by transferring $50 million from the transportation capital fund for Air Force operations and maintenance.

I continue to oppose this amendment. First, because this could have a negative effect on a number of bases, including those in New Mexico, and, second, to the extent that this softens the message we sent to DOE that we do not want them reclassifying waste on their own.

Mr. SKELTON. Mr. Chairman, I yield 1 minute to the gentleman from Washington (Mr. BAIRD).

Mr. BAIRD. Mr. Chairman, I thank the distinguished ranking member and the chairman for including in this en bloc amendment an amendment drafted by the gentleman from Rhode Island (Mr. KENNEDY) and me.

In essence, what our amendment does is ask the Department of Defense to study the availability of mental health services for our returning soldiers and their families. I have been to Walter Reed on many occasions, and we are providing outstanding physical health care and mental health care for those folks. But when people come back to their small rural towns, we need to make sure if they are suffering the emotional after-effects from the things they have seen and experienced, that they get the help they need, so they can return to their families, return to their work and not suffer lasting impacts.

For 23 years before serving in Congress, I worked as a psychologist, often with veterans and in VA hospitals; and I know we can provide care that will help our warriors return home. We need to do that.

I thank the chairman and ranking member for making sure this will happen and look forward to working with them when the report is returned from the DOD.

Mr. HUNTER. Mr. Chairman, I reserve the balance of my time.

Mr. SKELTON. Mr. Chairman, I yield 1 minute to the gentleman from South Carolina (Mr. SPRATT), a member of the Committee on Armed Services and ranking member of the Committee on the Budget.

Mr. SPRATT. Mr. Chairman, among the amendments included in the en bloc is an amendment known as the Hastings amendment.

The Department of Energy requested $350 million for accelerated clean-up of defense sites, old nuclear weapons production sites, where some of the world's most radioactive nuclear waste is stored.

The chairman's mark authorizes 250 of the $350 million that DOE asks for. I am glad to see us go close to at least 300. I wish we could have gone to 350. But the amendment before us does leave out the fence or the conditions or the limitations that DOE would have imposed.

Both of these provisions, both the additional money taking us to $300 million and the lack of any fence of conditions are steps in the right direction, and I commend the gentleman for his amendment and urge everyone to support it.

Mr. SKELTON. Mr. Chairman, I reserve the balance of my time.

Mr. HUNTER. Mr. Chairman, we have no further requests for time.

Mr. SKELTON. Mr. Chairman, I yield 1 minute to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Chairman, I thank the gentleman from California (Mr. HUNTER) and the gentleman from Missouri (Mr. SKELTON) for including my amendment in the en bloc amendments.

My amendment directs the Secretary of Defense to eliminate the backlog in rape and sexual assault evidence collection kits, reduce the processing time of those kits, and provide an adequate supply of those kits at all domestic and overseas military installations and military academies.

This amendment is similar to legislation this House passed earlier with the gentleman from Wisconsin (Mr. SENSENBRENNER), the gentleman from Michigan (Mr. CONYERS), and the gentlewoman from New York (Ms. SLAUGHTER) and the gentlewoman from Ohio (Ms. PRYCE) that uses DNA technology to really convict rapists and to put them behind bars.

We know from the Department of Defense report that there are many kits that are gathering dust, that are not being processed. We know that rapists will strike up to eight times according to the FBI. They rate it the second worst crime preceded only by murder. And it is unconscionable that these are not being processed.

This merely helps convictions and helps protect men and women in the military. I thank very much the gentleman from Missouri (Mr. SKELTON) for working to have this included.

Mr. HASTINGS of Washington. Mr. Chairman, my amendment will restore $50 million cut by the House Armed Services Committee from the Department of Energy's proposed nuclear waste cleanup budget.

It is important that the Federal government meet its legal and contractual cleanup obligations.

By returning $50 million to the Defense Site Acceleration Completion account, this amendment helps make certain that funds are available to ensure the Federal government continues the progress being made at cleaning up our Nation's nuclear waste sites.

Although the Committee decreased the portion of the nuclear waste cleanup budget related to high-level liquid waste, the remainder of the cleanup budget was fully authorized by the Committee. I am grateful for the support shown for cleanup by Armed Services Committee Chairman HUNTER and Subcommittee Chairman EVERETT. However, I offered this amendment because I believe Congress ought to make certain that the funds deemed necessary for cleanup next year by the Department of Energy, and included in the President's budget, are made available.

The Committee's action to cut funding for high-level liquid waste cleanup comes after a Federal district court ruling on high-level waste. While agreement on this matter has not yet been realized between the Department of Energy and the States in which affected waste sites are located, I believe it is important for the Congress to make available the funding so that planned cleanup activity does not have to be postponed due to unavailability of funds.

By adding back $50 million, my amendment helps advance cleanup progress next year.

The Federal government has a responsibility—a responsibility under the law . . . a contractual responsibility with the affected States . . . and a moral responsibility—to cleanup its nuclear waste sites.

At the Hanford cleanup site in my Washington State congressional district, there are 177 underground tanks containing more than 50 million gallons of liquid waste that are affected by this funding.

For many, those figures may be difficult to imagine—but for the people I represent in Washington State, the more than 50 million gallons of radioactive, nuclear waste is very real.

The citizens of Washington State did not invite this waste into our State—in the 1940s as part of the Manhattan Project, the Federal government moved farmers from their land and uprooted several small communities from a 586 square mile area along the Columbia River to make room for a top-secret effort that ultimately helped lead to an end of the Second World War, and over the decades that followed, to victory in the Cold War. The legacy of this nuclear production is the more than 50 million gallons of liquid waste.

It is the Department of Energy's obligation to cleanup these wastes—and I will hold the Department responsible for getting this work done. I pushed this amendment to restore $50 million to the cleanup budget because it is essential that the funds be available to keep cleanup on track. I also firmly believe that the State of Washington must be involved in these decisions. I have opposed and will oppose any effort to force a solution on Washington State. Department of Energy officials have expressed their commitment not to pursue a change in the law that does not have the support of the affected states—and that commitment is constructive to resolving this matter.

It has been my consistent view that the Department of Energy and States have a shared responsibility to resolve the current situation—and I want to strongly reiterate that for the sake of cleaning up this massive volume of waste, reducing its potential threat to health and the environment, and to make certain cleanup progress is not jeopardized, that the sooner this matter is resolved, the better. I know the Department of Energy and States are committed to cleaning up these wastes—and continued disagreement only makes that shared goal more difficult. I will keep pushing for a resolution and I will continue working to make certain funds are available for cleanup work.

I also want to express my great respect and appreciation to Mr. SIMPSON of Idaho and Mr. BARRETT of South Carolina for the assistance and support they provided for this amendment and for success in adding $50 million to the cleanup budget.

Mr. BARRETT of South Carolina. Mr. Chairman, I rise in support of the amendment offered by my esteemed colleague, Representative DOC HASTINGS of Washington. For over 50 years, the United Sates has stored the legacy of our Nation's nuclear weapons programs at sites throughout the Nation. For example, the Savannah River Site, which is located in my district, has 35 million gallons of radioactive nuclear waste in 49 storage tanks. Like the Savannah River Site, other facilities throughout our Nation must ensure the American public is protected against the environmental risk posed by such waste. However, we all bear this responsibility because this waste represents a security created on behalf of all Americans. As a result, this Congress has the duty to reduce the environmental risk posed by this waste in a safe, expeditious, and cost effective manner.

A vote in favor of the Hastings amendment fulfills this obligation because it maintains the current accelerated cleanup schedules and saves the American taxpayers billions of dollars across our Nation's nuclear complexes. The problem of nuclear waste will not solve itself. There is no doubt the less priority we give to cleaning up our nuclear waste today, the greater costs we impose on the public tomorrow. The Hastings amendment responsibly places our country in a better position to fulfill its duty of expediting environmental cleanup to save costs in the long run.

I urge my colleagues to support the American taxpayer by voting in favor of the Hastings amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I am pleased to add my voice in support of the Baird-Kennedy amendment that will ensure that mental health services are available to our troops. Just like it would be crazy to send troops into a prolonged battle without medics and surgeons to tend to their physical wounds, it would also be inappropriate to send soldiers to the battlefield without support from professionals capable of dealing with their mental health issues. Poor mental health can hamper a soldier's ability to do his or her job, and can thus jeopardize the safety of comrades, and the success of the mission. Moreover, mental health issues can persist even after the soldier comes home, affecting their families, their workplace, our VA hospitals, and our society. Our troops deserve top-quality mental health services, for their own sake and for the sake of the Nation.

Such support and resources must include adequate and appropriate mental health care to minimize the impact that the trauma of combat, separation from one's family, and other stresses associated with deployment have on the health of our troops. We also owe it to those who sacrifice for the country to give them every opportunity to return to their families intact, mentally as well as physically.

In pursuit of these goals, this amendment to the House's National Defense Authorization Act for FY2005 would require the Pentagon to conduct a comprehensive study of the availability, accessibility, cost and effectiveness of the mental health services available to U.S. military personnel deployed to combat theaters. In addition, it requires the Secretary to examine the post-deployment mental health screening procedures used for soldiers returning from combat theaters, as well as treatment availability for families of deployed servicemembers.

This is a sensible approach to an important problem. We have seen in Abu Ghraib, and in recent reports of sexual promiscuity and abuse in our military—that the stresses of war can bring about behaviors and emotional responses that are fundamentally incompatible with American values and our mission overseas. We need to prevent these problems whenever possible, through mental health interventions, and treat victims when others go astray. First we need to find out the need for and availability of care.

I commend my colleague from the Science Committee, Congressman BAIRD, for his leadership on this issue.

Mr. JOHNSON of Illinois. Mr. Chairman, today is a significant day for families throughout the United States. Not just because the House of Representatives is passing the National Defense Authorization Act for Fiscal Year 2005, but also because 3½ years of perseverance are beginning to pay off. Thanks to Chairman DUNCAN HUNTER of the House Armed Services Committee, Chairman CHRIS SMITH of the House Veterans' Affairs Committee, Chairman DAVID DRIER of the Rules Committee, their staffs, and mine, family members of those who are buried in an overseas United States military cemetery will finally have an avenue into the Department of Defense to present evidence that the decision to leave the remains of their loved ones overseas was based on a misunderstanding or error.

My amendment is simple and straightforward. It gives families with loved ones buried in an overseas military cemetery a way to present to the Department of Defense that they should be allowed to bring the remains of their family member home and, if ultimately approved, to do so at no cost to the United States. There is a 2 year period from the date of enactment of this bill for application and I believe that amount of time is sufficient and fair. In the coming weeks as this bill moves into conference, I will be commenting on my amendment and what I believe a "misunderstanding" or "error related to the disposition decision" means. I merely wanted to take this opportunity to thank the respective chairmen and my colleagues for supporting my amendment.

Mr. CUNNINGHAM. Mr. Chairman, first, I want to thank the Committee Chairman and Ranking Member for allowing this amendment to be considered. I have had great bipartisan support in raising this issue, most notably my colleague from California, Ms. HARMAN.

My amendment directs placement of a memorial in Arlington National Cemetery honoring noncitizen service members killed in the line of duty while serving in the United States Armed Forces. The amendment designates the Secretary of the Army to coordinate and direct this effort. In addition, the amendment allows for the collection of private donations for design and construction, while restricting the use of Federal funds. It is no cost to the taxpayers and has no budgetary implications for the DoD bill. Finally, authority for accepting donations and pursuing the memorial expires 5 years after the date of enactment.

Honoring our service members is a process that begins on the battlefield through ensuring that our troops have the best equipment and other essentials. It continues as we welcome them home upon returning from war, when we fly the POW–MIA flag, when we care for them and their families and, ultimately, when we lay them to rest with appropriate remembrance and tribute.

Many American military heroes, past and present, were born outside of the United States. From the thousands of noncitizens who fought for our independence as a Nation, to those who fought for the Union Army during the Civil war, to the more than 36,000 noncitizen members of today's Armed Forces, these men and women have sacrificed for our country and the preservation of our precious freedom.

Our country is united in its support for our service men and women who are prepared to make the ultimate sacrifice to defend our freedom. As of the end of March, we have lost 24 noncitizen service members in Operation Iraqi Freedom, including a member of my district, Lance Corporal Jesus Suarez Del Solar.

It is time that we appropriately recognize their bravery, valor, and patriotism. Arlington, the Nation's premier military cemetery and shrine honoring the men and women who served in the Armed Forces, is a particularly fitting place for this tribute. I encourage you to support this bipartisan effort.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise to give bipartisan support to the gentleman from Illinois, Mr. MANZULLO, on his amendment to H.R. 4200, the Defense authorization bill. This proposal would allow for procurement officials within the Department of Defense to include the creation of jobs in the United States as an evaluation factor.

The House Armed Services Committee and Chairman HUNTER's office have reviewed this proposal and has found it to be acceptable.

As Mr. MANZULLO has indicated, procurement officials don't have the ability to consider whether procurement will add jobs or take away jobs from U.S. shores. They can't consider it in a Best Value determination and analysis of the impact on U.S. jobs is not part of acquisition planning schemes. The premise behind this proposal is to help our procurement agents to help the American job market and our workers by using taxpayer dollars to support them.

The amendment is included as an evaluation factor and doesn't require vendors to create jobs here. It does, however, give an incentive to companies—foreign and domestic—to foster job creation here. It supports insourcing and gives the job-creators an edge in the evaluation process.

For example, if there are multiple firms that are competing for a contract, companies that create jobs here in the United States get extra consideration versus those that don't. It becomes a competitive advantage. You can also have a solicitation where no firm creates jobs. Thus, the solicitation would be unaffected by the provision. Finally, a foreign firm could be in the final selection process with a domestic firm, where the foreign company wins the contract because they pledge to create jobs in the United States while the domestic company plans not to add any new jobs. Enforcement would be done by past performance evaluations.

With this amendment, we would demonstrate that this Congress is committed to creating more jobs in the United States and providing the necessary environment to entice business to stay here.

I am particularly concerned with the huge disparity that exists in the awarding of procurement contracts to minority and women-owned businesses—or M/WBEs here in the United States. Mr. MANZULLO's amendment, if passed, would yield positive benefits that would work to repair this disparity by a significant margin.

I offer as a snapshot of the disparity that exists on a nationwide scale a study of one State.

A primary complaint heard from the business owners interviewed in connection with the study released in 2001 was that large firms tended to be favored for selection as contractors because of their experience, size, certain bidding practices and selection procedures. Nonminority male firms were seen as the recipients of State contracts because a large percent of them had been in business longer, had more resources, and generated significantly greater revenues than M/WBEs. Some key examples are listed below:

Discrepancies existed between the numbers of employees of M/WBEs compared to nonminority firms. Nine percent of M/WBEs had more than 50 employees, whereas nonminority male firms had a more even distribution among the staff size categories, with 16 percent of nonminority male firms having more than 50 employees.

Thirty-eight percent of the businesses earned $1 million or less in gross revenues for the year 2000. Twenty-three percent of nonminority male firms earned greater than $10 million, while 12 percent of nonminority women firms and 10 percent African American firms earned more than $10 million in 2000. A very small number of Native American firms were surveyed, thereby creating unreliable data. Nonetheless, of the 7 Native American firms surveyed, 2 (40 percent) of these firms had gross revenues greater than $10 million.

African American firms had the highest percentage of applicants of any ethnicity for a business start-up loan. However, only 25 percent of the African American applications were approved at least once, while nonminority male firms had a success rate of 75 percent.

Generally, M/WBEs were more likely to bid as subcontractors than were nonminority male firms. For example, 69 percent of African American firms reported bidding as a subcontractor 1 or more times since 1995. Even greater percentages were found for Hispanic American firms (100 percent), Native American firms (100 percent), Asian American firms (80 percent), and nonminority women-owned firms (78 percent). In contrast, fewer firms owned by nonminority males reported bidding as subcontractors during the study period (60 percent).

Fifty-one percent of African American firms reported that it is commonplace for a prime contractor to include a minority subcontractor on a bid to meet the "good faith effort" requirement, and then drop the minority subcontractor after winning the award. Only 21 percent of nonminority women firms agreed with this statement. Nonminority male firms disagreed (51 percent) with this statement, as did Hispanic, Asian, and Native American respondents collectively (54 percent or 13 out of 24).

If we extrapolate the above data nationwide, the disparities show the clear need for the MANZULLO amendment. Mr. Chairman, I support his amendment and urge my colleagues to join me.

Mr. SKELTON. Mr. Chairman, we have no further requests for time, and I yield back the balance of my time.

Mr. HUNTER. Mr. Chairman, we have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. LAHOOD). The question is on the amendments en bloc offered by the gentleman from California (Mr. HUNTER).

The amendments en bloc were agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 11 printed in House Report 108–499.

AMENDMENT NO. 11 OFFERED BY MR. WAMP

Mr. WAMP. Mr. Chairman, I offer an amendment.

The Chairman pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 11 offered by Mr. WAMP:

At the end of title XXXI of the bill (page 556, after line 10), add the following new section:

SECTION 3134. IMPROVEMENTS TO ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM.

(a) STATE AGREEMENTS.—Section 3661 of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7385o) is amended—

(1) in subsection (b) by striking "Pursuant to agreements under subsection (a), the" and inserting "The";

(2) in subsection (c) by striking "provided in an agreement under subsection (a), and if"; and

(3) in subsection (e) by striking "If provided in an agreement under subsection (a)" and inserting "If a panel reports a determination under subsection (d)(5)".

(b) SELECTION OF PANEL MEMBERS.—Section 3661 of that Act (42 U.S.C. 7385o) is further amended in subsection (d) by amending paragraph (2) to read as follows:

"(2) The Secretary of Health and Human Services shall select individuals to serve as panel members based on experience and competency in diagnosing occupational illnesses. For each individual so selected, the Secretary shall appoint that individual as a panel member or obtain by contract the services of that individual as a panel member.".

The CHAIRMAN pro tempore. Pursuant to House Resolution 648, the gentleman from Tennessee (Mr. WAMP) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. WAMP).

Mr. WAMP. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Defense Authorization Act of 2001, which was actually signed into law in the fall of 2000 by President Clinton, included the Energy Employees Occupational Illness Compensation Program Act, EEOICPA, which we wrote and passed to compensate workers who became ill as a result of their work in the Department of Energy facilities across the country. There are nine major sites affected, and I represent Oak Ridge, Tennessee, which handles the largest number of affected workers in the country.

This is a critical issue for many of us, and we have been very involved for a number of years. The Department of Energy has had definite problems administering the program, and some of those programs are brought about by statutory issues that need to be remedied.

Part B of this program is actually administered by the Department of Labor, and people affected qualify for $150,000 lump-sum payments. That has gone relatively smooth. But part D of this program is the DOE portion, and we have had numerous problems identified under subtitle B relative to the claims process, a lack of communication, long delays, et cetera.

Now, the GAO, which we need to listen to in this case, has made recommendations for changes to the Department of Energy. The Department of Energy has made rules changes, but we now need statutory changes. And that is what this amendment actually addresses, three issues that cannot be done by rules. They need to be done by statute here in an amendment, and we have the full support of the Department of Energy; and the administration is asking that these three changes be adopted.

Number one, this amendment eliminates the pay cap for physicians and lets the market set the rate. One of our problems today is that the statute sets physician pay at $69 an hour when, indeed, occupational medicine physicians are paid in the market $130 to $150 an hour. We do not have enough physicians to meet this caseload; and, therefore, we have a backlog. This will help us alleviate the backlog.

Number two, this amendment eliminates restrictions on hiring authority. Today, the Department of Energy can only hire temporary or intermittent experts when, indeed, we need Federal and contract employees full time on the job to move this program forward. This has severely impaired DOE's ability to staff this necessary program and to move it smoothly.

Thirdly, this amendment will eliminate the requirements that an application for a benefit can go forward if, indeed, the State has an agreement in place. Not all States do. Based on the feedback for the advocates of the program and the States at the local level, DOE is moving away from this requirement, and we need to statutorily change the legislation. This will affect 80 percent of the workers.

With all due respect to a few people in this body that may be opposed to this, I know it does not do everything; but we shopped these issues around to the committees of jurisdiction, and this is all we could get. I would like to do more.

There were amendments offered to the Committee on Rules that I said I would be happy to support. They were not ruled in order, and you do have some committees of jurisdiction weighing in.

This is what we can do. And I hope that even though people will express their discontent today on the floor with the Department of Energy which we all have experienced because it is a very frustrating, very complicated program and there was great bipartisan cooperation in bringing it about, I hope that they can support this amendment in the final analysis because this clearly will help immediately many workers who are waiting in line. That is the bottom line.

While it does not get to everyone, there are States that do not have agreements in place. They may not have a willing payer in their State or whatever the issue is. Eighty percent of the workers affected will be expedited if this amendment is adopted and allows DOE to move forward, getting the physicians, hitting the panels on time, and making this program more effective. It is very complicated, but we need to make these changes today.

Mr. Chairman, I reserve the balance of my time.

Mrs. TAUSCHER. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentlewoman from California (Mrs. TAUSCHER) is recognized for 5 minutes.

Mrs. TAUSCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I commend the gentleman from Tennessee (Mr. WAMP) for trying to fix the Sick Worker Compensation program at the Department of Energy. His State of Tennessee has 3,000 claims from sick workers pending, and I have two facilities in my district where workers are waiting for their claims to be processed.

This amendment primarily increases the rate of pay for DOE to attract more doctors to review claims in the physicians panel, which is useful but does not fix structural flaws in this program.

The GAO panel has found that even after claims go through a physicians panel, there is no willing payer and that by order from DOE, that is no one to pay these claims for at least 20 to 33 percent of valid claims.

When there is no willing payer, as we have in States like Alaska, Colorado, Ohio, Iowa, Missouri and Kentucky, and we have workers in Nevada, construction workers in New Mexico, Idaho, California and in most other States that DOE cannot find willing payers, without a willing payer, workers who get a finding from the physicians panel will have a piece of paper from DOE saying their illness was caused by exposure to radiation at DOE sites, but they will not get paid.

I support an amendment offered by the gentleman from Ohio (Mr. STRICKLAND) that fixed this problem, but it was rejected by the Committee on Rules.

DOE also does not have a clear mechanism to value claims, inviting additional litigation when the goal of Congress was to take DOE out of the business of fighting sick workers who have served our Nation by building our Cold War deterrent.

This amendment does not fix that either. The Department of Energy's record is catastrophic. Two and a half years into the program, of the 23,000 people who have applied for compensation, the Department of Energy has rejected 5 percent of them and completely processed about 6 percent of them. In other words, 94 percent of applicants are still waiting for their cases to be addressed.

Sick workers were told help was on the way. Four years later, DOE is projecting its caseload will not be completed for at least another 3½ years. I reluctantly oppose this amendment, as it offers a minor technical fix to a program that remains structurally flawed. Throwing more money at DOE only rewards it for failing to compensate sick workers and will make it harder in the future to make real improvements to the program.

There is a bipartisan amendment on the Senate side that I hope many of our colleagues will be able to support in conference. In the meantime, I reluctantly call on my colleagues to oppose the Wamp amendment.

Mr. Chairman, I reserve the balance of time.

Mr. WAMP. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN pro tempore (Mr. UPTON). The gentleman has 1 minute remaining.

Mr. WAMP. Mr. Chairman, I yield 1 minute to the gentlewoman from New Mexico (Mrs. WILSON).

Mrs. WILSON of New Mexico. Mr. Chairman, I am supporting this amendment even though I know that it does not do all the things that we all want it to do, because there is not sufficient jurisdiction here to take care of all the things we want to in this bill.

I look forward to working with the gentleman and my other colleagues who have constituents deeply affected by this for a real comprehensive solution.

Mr. Chairman, I rise in support of the amendment offered by my colleague Representative WAMP, to modify the Energy Employees Occupational Illness Compensation Program Act (EEOICPA). The modifications offered in this amendment will address current obstacles in addressing the backlog of cases needing review by physician panels under this program. The report for this bill notes, with bipartisan support, that such remedies were needed to allow timely physician review panel determinations. This amendment is a step forward toward assuring that workers receive the speedy assistance and, where found appropriate, compensation that we in Congress intended. Therefore, I strongly support it.

Yet I have to observe that this vote, while an important and positive step, is not by itself enough. I have had the fortune of knowing some of these workers personally and have become familiar with their frustration at the glacial pace of processing of their claims through the Department of Energy. One was Raymond Ruiz, a former worker at Los Alamos and a respected 2-term legislator in the State of New Mexico. His case was finally taken up for review, but he did not live long enough to receive compensation for his cancer. Before his death his colleagues in the State legislature passed a joint memorial requesting reforms in this program. Other New Mexicans have applied under Part D of EEOICPA and most have been backlogged.

In addition to this amendment we need to address three things in the implementation on this part of EEOICPA. First, we need to ensure that the management of the program is sound and effective. The Department of Energy has not created an acceptable track record. It is now working to improve its practices, but it is possible we may need to consider moving the program out of DOE, if that will speed up the appropriate resolution of claims. Second, we need to assure that medical determinations are speedy as well as proper. This amendment is a step in that direction, as are recent adjustments DOE has made to its procedures, but we may need to make other improvements to eliminate the backlog in a timely way. Third, we will need to address solutions to the cases in which "willing payers" are not available.

I urge my colleagues to support this amendment. But we still have work to do to ensure EEOICPA provides the help we in Congress intended for these workers. I look forward to considering additional idea, including insights from the General Accounting Office report currently in preparation, and ideas that may be discussed in the other body.

Mr. WAMP. Mr. Chairman, will the gentlewoman yield?

Mrs. WILSON of New Mexico. I yield to the gentleman from Tennessee.

Mr. WAMP. Mr. Chairman, this issue is not about moving the program to the Department of Labor. That is another issue for another day. That may come up at a later time. This is about making the program as it is currently written work much better. That is why I really hope that everybody that has a dog in this hunt will help us do this today.

It is just one step forward, but it needs to be made short of sweeping reforms, which I know are pending before the Senate, but that is a whole different issue, and a lot of people have to get back in line and start over if that does happen.

Mr. Chairman, I yield back the balance of my time.

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Mrs. TAUSCHER. Mr. Chairman, I yield the balance of my time to the gentleman from Ohio (Mr. STRICKLAND), the author of the amendment that I wish I could have supported.

Mr. STRICKLAND. Mr. Chairman, why do we not just do the right thing when it comes to this issue, just do the right thing, help all the workers who need help? I appreciate the effort of the gentleman from Tennessee (Mr. WAMP) to improve this program, but I cannot support his amendment.

Unfortunately, DOE's management of this program has been a miserable failure. After spending millions of dollars, they can only point to one claim having been paid through March of 2004. Not only is DOE's claims processing moving at a snail's pace, but by the Department's own admission, as many as 50 percent of the claimants may not have a willing payer. This means that regardless of how quickly DOE processes a claim, many sick workers will get nothing but an IOU.

The gentleman from Tennessee's (Mr. WAMP) amendment does nothing to address this larger problem of a willing payer, which affects my constituents in Ohio and other nuclear workers in Alaska, Colorado, Idaho, Iowa, Kentucky, Missouri, Nevada, and New Mexico, and we do not fully understand the magnitude of this problem as GAO acknowledges that it is not possible to effectively audit DOE's databases.

Meanwhile, I have a June 7, 2002, DOE letter saying that the Department is compiling a list of sites which would not have a willing payer. Nearly 2 years later, DOE's Under Secretary testified in the Senate, and I am quoting, "DOE has proposed a study by the National Academies that would commence when sufficient cases have been through the State program to provide meaningful data regarding the finding of willing payers."

How long can DOE study this obvious problem? Enough is enough. If DOE will not face the problem, then it is our responsibility to take action because DOE apparently thinks that conducting a study is going to help sick workers.

The Senate has been noted as working on an amendment in a bipartisan fashion. I went to the Committee on Rules with a simple amendment that would have made significant progress in resolving the willing payer issue. My amendment was not made in order. Processing claims more quickly falls far short of addressing the glaring flaws in this program.

The intent of this program is not to compensate our Cold War veterans based on geography. We should be paying comprehensive reform of this program so that all meritorious claims can be paid in a timely manner.

Mr. UDALL of New Mexico. Mr. Chairman, my colleague from Tennessee who is proposing this amendment has been very involved in Energy Employees Compensation issues and I thank him for that. Surely, in proposing this amendment, he has good intentions.

However, because the amendment fails to accomplish real reform of the Energy Employees Occupational Illness Compensation Program, I must rise in opposition to the amendment.

It has been almost 3½ years since Congress passed the Energy Employees Occupational Illness Compensation Program Act. This bill was passed in an attempt to bring justice to the thousands of energy workers who incurred illnesses—in many cases deadly—as a result of their work at Department of Energy facilities. In my state of New Mexico, there are over 1,200 workers who have filed such claims.

Yet after 3½ years, less than 3 percent of the cases filed with the Department of Energy have been processed. This means that the vast majority of the men and women who have filed claims through this program—many of whom will die before they ever see a compensation check—are being denied justice.

Conversely, the Department of Labor has processed over 95 percent of the claims in its area of responsibility. DOE recognizes that it has failed yet now it wants more money. Surely I am not the only member on this floor who shudders at the prospect of throwing millions more at a department that has failed this program and these people for almost 4 years.

Unfortunately, this amendment does not include crucial components that are necessary for real reform. By real reform, I mean identifying a willing payer for all claims submitted by energy employees, taking a hard look at how DOE has spent money on the program so far with so few results, and addressing the reasons for the stark difference in progress on claims between the Department of Energy and the Department of Labor.

If this amendment were part of a larger reform package, I may have looked upon it more favorably. I joined Representatives STRICKLAND of Ohio, UDALL of Colorado, TAUSCHER of California, and COOPER of Tennessee, in submitting an amendment to the Rules Committee that would have called upon the President to send legislation to Congress proposing a willing payer. Unfortunately, the Rules Committee did not make this amendment in order.

Because this amendment falls so far short to real reform, I cannot vote for it. Passing this amendment without other crucial reform components rewards the Department of Energy for its failure. The 1,200 people in New Mexico who have filed claims simply cannot afford the status quo.

I recommend a "no" vote on the amendment.

Mr. WHITFIELD. Mr. Chairman, I support efforts to streamline the claims process for DOE workers seeking compensation for illnesses resulting from exposure to toxic substances and other hazardous materials, and I will vote in favor of the amendment.

The changes in this amendment will not insure payments to claimants in states like Kentucky where there is no willing payor to cover compensation costs. DOE lacks the authority to direct the DOE contractors or their insurors who employed these workers at the Paducah Gaseous Diffusion Plant to pay compensation claims even if the claims are approved by DOE physicians panels. More important, the Paducah uranium enrichment plant is no longer a DOE-run facility. Plant operations were privatized in 1998 and DOE cannot direct that private operator, USEC, to pay claims approved by DOE physician panels. Only the current DOE contractor employees at Paducah will have a willing payor. So, depending on what state you live in, even if you prove that your illness is work-related, you may never receive a dime in compensation.

Of the 23,000 claims filed with DOE, 2,874 were filed by my constituents because of illnesses they contracted while working at the Paducah Gaseous Diffusion Plant. Those workers and thousands like them across the country deserve more.

I do support the amendment because if Congress takes no other action this session repairing this program, this will at least help expedite the DOE claims process. But I think all former and current workers in the DOE complex would be much better served if we fixed the willing payor problem once and for all and moved the administration of the entire DOE program to the Department of Labor. That is still my goal as we look to the future.

The CHAIRMAN pro tempore (Mr. UPTON). All time has expired.

The question is on the amendment offered by the gentleman from Tennessee (Mr. WAMP).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 25 printed in House Report 108-499.

AMENDMENT NO. 25 OFFERED BY MR. RYUN OF KANSAS

Mr. RYUN of Kansas. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 25 offered by Mr. RYUN of Kansas:

At the end of title XII (page 432, after line 16), insert the following new section:

SEC. 12 . MILITARY EDUCATIONAL EXCHANGES BETWEEN SENIOR OFFICERS AND OFFICIALS OF THE UNITED STATES AND TAIWAN.

(a) DEFENSE EXCHANGES.—The Secretary of Defense shall undertake a program of senior military officer and senior official exchanges with Taiwan designed to improve Taiwan's defenses against the People's Liberation Army of the People's Republic of China.

(b) EXCHANGES DESCRIBED.—For the purposes of this section, the term "exchange" means an activity, exercise, event, or observation opportunity between Armed Forces personnel or Department of Defense officials of the United States and armed forces personnel and officials of Taiwan.

(c) FOCUS OF EXCHANGES.—The senior military officer and senior official exchanges undertaken pursuant to subsection (a) shall include exchanges focused on the following, especially as they relate to defending Taiwan against potential submarine attack and potential missile attack:

(1) Threat analysis.

(2) Military doctrine.

(3) Force planning.

(4) Logistical support.

(5) Intelligence collection and analysis.

(6) Operational tactics, techniques, and procedures.

(d) CIVIL-MILITARY AFFAIRS.—The senior military officer and senior official exchanges undertaken pursuant to subsection (a) shall include activities and exercises focused on civil-military relations, including parliamentary relations.

(e) LOCATION OF EXCHANGES.—The senior military officer and senior official exchanges undertaken pursuant to subsection (a) shall be conducted in both the United States and Taiwan.

(f) DEFINITIONS.—For purposes of this section:

(1) The term "senior military officer" means a general or flag officer of the Armed Forces on active duty.

(2) The term "senior official" means a civilian official of the Department of Defense at the level of Deputy Assistant Secretary of Defense or above.

The CHAIRMAN pro tempore. Pursuant to House Resolution 648, the gentleman from Kansas (Mr. RYUN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Kansas (Mr. RYUN).

Mr. RYUN of Kansas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first of all, I want to thank my colleague the gentlewoman from Guam (Ms. BORDALLO) for her help in cosponsoring this amendment and her continuing efforts to seek a peaceful and stable Pacific Rim. I also want to thank the DOD for their support of this amendment.

Taiwan is facing a very difficult situation. With a clear and rapidly modernizing threat across the straits, I am concerned that Taiwan is increasingly unable to provide a credible deterrent. Unfortunately, this is due, in part, to current U.S. policy.

Although Taiwan has access to U.S. military hardware, it faces two substantial hurdles in being defensively self-sufficient. Taiwan has difficulties integrating these new systems into its current forces, and Taiwan has difficulties prioritizing its own defense needs. Senior officer/official educational exchanges would help fix both problems.

This amendment would require the Secretary of Defense to initiate these senior officer/official educational exchanges with Taiwan. To be held both in the United States and Taiwan, these programs would focus on antisubmarine warfare, ballistic missile defense and C4ISR improvements, the three fields the U.S. Department of Defense says Taiwan needs the most assistance. At the same time, this amendment would provide the Secretary discretion on whom to send to Taiwan and under what circumstances.

Currently, the Department of Defense is prohibited from sending to Taiwan general officers and DOD officials at the deputy assistant level or above. I understand that this is a unique restriction placed only on Taiwan. This restriction is even more surprising, given that Taiwan is one of our democratic allies.

Our commitment to ensuring a peaceful resolution between China and Taiwan must not be just talk. By allowing senior military officers/officials exchanges, we will be encouraging greater Taiwanese self-sufficiency and provide for greater political stability across the Straits.

I ask support for Taiwan through the support of the Ryun-Bordallo amendment.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore. Does any Member rise in opposition to the amendment?

Mr. TURNER of Texas. Yes, I am in opposition, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman from Texas is recognized for 5 minutes.

Mr. TURNER. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri (Mr. SKELTON), the distinguished ranking member of the Committee on Armed Services.

Mr. SKELTON. Mr. Chairman, in 1939, this body took action refusing to upgrade and arm the harbor in Guam. The Japanese Empire took that action as being in a position of not wanting to defend in the Pacific. We all know what happened later in 1941.

This amendment is a dangerous amendment. The State Department of the United States of America is against it. It says that the proposed amendment interferes with the President's constitutional authority to conduct the Nation's foreign affairs.

It would not enhance Taiwan's security. We already have an effective mechanism for ensuring Taiwan's security. It is called the Taiwan Relations Act passed in 1979.

Newt Gingrich, former Speaker of this House, at a hearing and a briefing just a few days ago before the Committee on Armed Services, said that the two most dangerous areas in the world are Pakistan and the Taiwan Straits. He said that is a very dangerous area, and I understand what he said, because if we are not careful, we can send a terrible message to Taiwan.

Read this amendment. Let me tell my colleagues what it says. It shall include exchanges focused on the following, especially as they relate to defending Taiwan against potential submarine attack and potential missile attack, threat analysis, military doctrine, force planning, logistical support, intelligence collection and analysis, operational tactics, techniques and procedures.

My goodness, we are inviting a conflict, I think, very, very well. We are making a severe step in that direction. I oppose the amendment.

Mr. RYUN of Kansas. Mr. Chairman, first of all, I would say DOD strongly supports this.

Mr. Chairman, I yield 2 minutes to the gentlewoman from Guam (Ms. BORDALLO).

Ms. BORDALLO. Mr. Chairman, I rise today to join my colleague from Kansas (Mr. RYUN) in offering an amendment to improve military education exchanges between Taiwan and the United States. Given our commitment to ensure the peaceful settlement of differences between Taiwan and mainland China, it only makes sense that we remind the Chinese at every possible opportunity that war is not an option. By hosting Taiwanese military officers and by sending our own military leadership to Taiwan, we reinforce the bonds of friendship and defense.

The opportunity for dialogue between military planners provided in this amendment will help the Taiwanese Government to have a good net assessment of the strategic situation in the Taiwan Straits.

It is my fervent hope that these military exchanges will also provide a boost to civil-military relations between our two nations. Our model of civilian control of the military within a democratic society is one that Taiwan has truly adopted as its own. Other nations in the region could benefit from the stability of such a system.

Given Guam's proximity to Taiwan, it is a logical place to host these military exchanges. Andersen Air Force Base and the Command Naval Headquarters Marianas have excellent conference and training facilities. The Department of Defense has identified knowledge of submarine operations as a key improvement area for the Taiwanese military. Given that forces from Guam, including our home-ported submarines, would be involved in any joint operations with Taiwan, it only makes sense that we work closely together.

So I urge my colleagues to support this amendment, which is an expression of our friendship with the people of Taiwan.

Mr. TURNER of Texas. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. ORTIZ).

Mr. ORTIZ. Mr. Chairman, I have the utmost respect for my two colleagues, the gentleman from Kansas (Mr. RYUN) and the gentlewoman from Guam (Ms. BORDALLO), but we have a great stake in impartial diplomacy when it comes to Taiwan and China at every level.

I think that I am one of the Members who has been to Taiwan more than anybody else, at least 40 times because of the business we do with them, and I love the people of Taiwan. I have traveled extensively in the Far East on military trade missions and love the people of both China and Taiwan.

Taiwan is still working through a very divisive presidential election which has only further strained the relationship with China, and of course, we were able to see democracy in action by the people of Taiwan voting.

As one of the few Americans who has traveled to North Korea and talked to officials there, I remind Members, we have multiple dangerous strategic concerns in that area, and China has been kind enough to help us set those meetings with Japan, South Korea and the United States.

So I have to oppose this amendment.

Mr. RYUN of Kansas. Mr. Chairman, I would like to inquire how much time I have remaining.

The CHAIRMAN pro tempore. The gentleman from Kansas (Mr. RYUN) has 1 minute remaining. The gentleman from Texas (Mr. TURNER) has 2 minutes remaining.

Mr. RYUN of Kansas. Mr. Chairman, I yield the remaining time to the distinguished gentleman from California (Mr. HUNTER), the Chairman of the Committee on Armed Services.

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding me time.

I appreciate all the comments from both sides of this debate, and Mr. Chairman, Taiwan is our friend, and these are people of freedom who fought for freedom and who recessed to that island across the straits to maintain a free society. We have many relationships now with Mainland China that are very clear economic relationships in principle. We reserve the right to have friends, and encompassed in that friendship is the right to have our military establishment relate and interrelate with their military establishment. That is not a bad thing, and that is very simply what the Ryun amendment does.

I have read the statement by DOD that they support it. They say the requirement for a senior official/officer education and training program is supportable. The amendment properly focuses on areas in the defense of Taiwan which pose greatest threats, submarines and missiles.

We know that greater China is acquiring a vast military arsenal, much of it being acquired with their vast surplus of trade cash. It is absolutely appropriate that we maintain this friendship with Taiwan and in that friendship engage our military leadership, and I would support the amendment.

Mr. TURNER of Texas. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. REYES), a distinguished member of the Committee on Armed Services.

Mr. REYES. Mr. Chairman, I thank the gentleman for yielding time, and I rise in opposition to this amendment because it can potentially impact a very important part of the world for this country. It impacts not only trade, not only national security, but also cultural exchange programs.

As a Member, like my colleague the gentleman from Texas (Mr. ORTIZ) that has done extensive travel to both China and to Taiwan, the issues that we are talking about here are important issues for them to resolve. It can potentially upset the One China policy that we all recognize and respect.

It is opposed by the State Department, jeopardizes our One China policy. It creates perhaps another political crisis area at a time we can least afford it.

So I rise in opposition of this amendment, and I urge its defeat.

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Mr. TURNER of Texas. Mr. Chairman, I yield myself the balance of my time.

Let me say first that this amendment is not about friendship. We are clearly friends with the People's Republic of China and the people of Taiwan, and let there be no mistake about that. Let me also say that this amendment is not about military exchanges, because they are already authorized under the Taiwan Relations Act.

What this amendment does that is new is requires a higher level of exchanges between high-level military personnel and high-level civilian personnel, which has never, to date, been authorized by any administration.

So I think this is clearly an amendment that is interfering with a very delicate balance that exists with regard to our One China policy. It is opposed by the State Department, it is opposed by the National Security Council members, and employees who work with China. One of them said, "This is unhelpful to the national interest. It could backfire. It works against our purpose."

I urge Members to leave this matter in the hands of our President, to allow him to do this. Never have we required these higher-level visits, which to date have never been approved. I urge opposition to the amendment.

Mr. OBERSTAR. Mr. Chairman, I rise today in opposition to the Ryun/Bordello Taiwan Military Exchange amendment.

Military exchanges can advance our national security when they enhance the military professionalism of an ally and foster important relationships between senior military officials. I know the value of these exchanges because I served as a civilian language instructor in Haiti where I taught French and Creole at our Navy military mission to U.S. Marines, and also taught English to Haitian military officers and enlisted personnel at the Haitian military academy. As I witnessed in Haiti, our national security is enhanced when our senior officers share their expertise with their colleagues from other nations.

The great difficulty that I have with this amendment is the faulty premise that the United States should develop a military alliance with Taiwan. In my view, the pursuit of closer military ties with Taiwan sends in inflammatory and dangerous message to China that does not promote our national security or stability in this region. The diplomatic ambiguity of the one-China policy has served our nation well. The promotion of military exchanges with Taiwan, however, will destabilize the region and could very well bring us one step closer to hostilities.

I encourage my colleagues to defeat this amendment. Our relationships with China and Taiwan are complex and nuanced, and the region is still tense after the recent Taiwan referendum. At this critical time, we should not take any action that could be interpreted as promoting Taiwan independence. I am greatly concerned, however, that the enactment of the Ryun/Bordello amendment would send a clear, but misguided, signal that will undermine peace.

Mr. TANCREDO. Mr. Chairman, I rise today in strong support of the Ryun amendment.

This amendment seeks to allow for educational exchanges between high level military officials from the Republic of China on Taiwan, and those in our own country. The amendment will help to improve Taiwan's self-defense capabilities, and enhance stability in the region.

The inclusion of this amendment is critical to assist the Republic of China on how best to organize and prioritize their defense needs, and how to integrate new defensive systems. The amendment also seeks how best to accelerate and facilitate existing educational exchange programs by involving more senior participants and reaching broader audiences.

For many years Taiwan has been one of our closest friends in an increasingly dangerous part of the world. Over the last several years, Taiwan has evolved into a pluralistic, free, and democratic society—despite the constant threat of military force from Communist China, and international diplomatic isolation. As members of the growing family of free nations, the people of Taiwan deserve our cooperation and support.

Mr. Chairman, the Republic of China on Taiwan is a free and democratic country, and has been a long-standing ally of the United States for the better part of a century. The passage of this amendment can only serve to enhance that alliance.

I hope that today this House will resist the efforts of the Communist government in Beijing to engineer the defeat of this important amendment, Mr. Chairman, and I hope that in the future we can enact additional measures to improve and enhance our relationship with the government of Taiwan.

The CHAIRMAN pro tempore (Mr. UPTON). All time has expired. The question is on the amendment offered by the gentleman from Kansas (Mr. RYUN).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. TURNER of Texas. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Kansas (Mr. RYUN) will be postponed.

Mr. HUNTER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BARRETT of South Carolina) having assumed the chair, Mr. UPTON, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4200) to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2005, and for other purposes, had come to no resolution thereon.

PROVIDING FOR CONSIDERATION OF H.R. 4359, CHILD CREDIT PRESERVATION AND EXPANSION ACT OF 2004

Ms. PRYCE of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 644 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 644

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 4359) to amend the Internal Revenue Code of 1986 to increase the child tax credit. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) one hour of debate on the bill equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means; (2) the amendment in the nature of a substitute printed in the report of the Committee on Rules accompanying this resolution, if offered by Representative Rangel of New York or his designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentlewoman from Ohio (Ms. PRYCE) is recognized for 1 hour.

Ms. PRYCE of Ohio. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to my colleague and friend, the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, H. Res. 644 provides for 1 hour of debate in the House equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means.

It also provides for consideration of the amendment in the nature of a substitute printed in the Committee on Rules report accompanying the resolution, if offered by the gentleman from New York (Mr. RANGEL) or his designee, which shall be considered as read and shall be separately debatable for 1 hour equally divided and controlled by the proponent and an opponent.

Finally, the resolution waives all points of order against the amendment printed in the report and provides one motion to recommit with or without instructions.

Mr. Speaker, in 2001, Congress passed the Economic Growth and Tax Relief Reconciliation Act, which put $1 trillion back into the pockets of the American people and led to the strong economic recovery we are witnessing today. Without that package, the beating that our economy took as a result of September 11 would have been even more disastrous.

This relief plan expanded the child tax credit initially enacted as part of the Tax Relief Act of 1997, increasing it from $400 to $1,000 over 10 years. The jobs and growth package of 2003 accelerated the credit to $1,000 in 2003 and 2004.

Today's bill, sponsored by my friend, the gentleman from Nevada (Mr. PORTER), addresses the $1,000 tax credit, which is set to snap back to $700 in 2005 if we do not act today. In addition, the bill makes the child tax credit permanent and raises the eligibility limits on those who can claim the credit to include more middle-income parents.

Finally, the bill accelerates the refundability of the child tax credit this year to make it available to more of the Americans who need it, low-income families.

Mr. Speaker, tax relief stimulates economic growth. In 1997, unemployment was at 4.9 percent, and the Republican-led Congress passed the Balanced Budget Act. Unemployment fell to 4.5 percent in 1998, 4.2 percent in 1999, and a rock bottom 4 percent in the year 2000.

In 2001, we passed the Taxpayer Relief Act, putting nearly $1 trillion back into the hands of American families. And given the economic history I will continue with shortly, I am convinced that we would have seen unemployment rates fall even farther. But then September 11 hit, one of the most tragic days in American history. A horrendous loss of life through a murderous act of terrorism; an act that cost our economy trillions.

Unemployment jumped to 5.8 percent in 2002 as millions of Americans lost jobs connected to tourism, services, construction, and the list goes on and on and on. But we knew what to do. We knew how to respond. We knew that simply increasing spending would not lead to long-term viability and sustained recovery. Instead, we had to find a way to put money into the hands of consumers and businesses so they could make smart economic decisions that would begin to rebuild our economy.

So we enacted tax relief. We passed the Jobs and Growth Act to spur spending by American businesses. And after unemployment hit 6 percent in 2003, we saw the positive effects of these cumulative tax cuts begin to take effect. Beginning last November, unemployment steadily began to decrease. So we passed more tax cuts to speed up the process. And you know what happened? Unemployment continued to fall, all the way to 5.6 percent.

Now, some people say that is not good enough. During the so-called tech boom, unemployment was as low as 4 percent. Well, you know what? I agree with them, we must do better. We should always strive to do better. One person unemployed is one too many. And today's bill will do exactly that. It will put $200 billion directly into the hands of American families, families who also happen to be consumers. And every dollar they spend, whether on a package of diapers, a tank of gas, or a car payment, they will be supporting America's jobs.

At the end of the day, that is what this debate is all about, American jobs. It is all about the cumulative effect of a Republican revolution that started in 1994 and led to strong and steady growth in spite of the horrors of September 11.

Beginning 3 weeks ago, we continued our commitment to strengthening the economy by preventing job-destroying tax hikes, passing permanent extensions of the new 10 percent tax bracket, wiping out the punitive marriage penalty, and relieving many families of the burdensome and unfair Alternative Minimum Tax.

Now we have before us the Child Tax Preservation and Expansion Act of 2004. Once again, this bill will make permanent the $1,000 child tax credit, preventing an unfair and unreasonable tax increase of $600 on 30 million taxpayers with 49 million children. After 2010, this bill will prevent a tax hike of $1,100 on 34 million taxpayers with 59 million children.

Finally, the bill helps our soldiers serving in combat by allowing nontaxable combat pay to be taken into account when calculating the refundable portion of the child tax credit. Currently, such pay is excluded from the calculation when calculating eligibility for the credit, thereby depriving thousands of our soldiers of a portion of the credit.

When we accelerated the child tax credit in 2003, 25 million families received checks totaling $14 billion. That is right, $14 billion was given back to consumers to pump into the economy. Imagine what a typical family can do with that kind of money, and $400 is what each typical family would get, a family with one child.

This bill is an opportunity for parents to spend money on their children, whether it is for a vacation, for an education, for diapers, for groceries, for a swingset. Whatever they want, they will have the money, and they can make the decisions. And it will also make our workforce more competitive because we will have that many more jobs.

Mr. Speaker, do we support tax relief for families, tax relief that will enable us to save for our children's education, finance a new house, pay for other activities that will continue to strengthen the economy? I do. I think the answer is a clear yes.

A "yes" vote on this rule and the underlying bill is a vote in favor of American families and a vote to spur more economic growth, so I urge a "yes" vote on this rule.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I thank the gentlewoman from Ohio for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

Mr. Speaker, the Federal Government's financial house is in disarray. In 2001, the Federal Government had historic surpluses in the trillions of dollars. In 2004, those surpluses are gone, replaced by huge deficits.

Last night, by a very small margin, the House of Representatives passed a budget with a deficit of $367 billion. Let me repeat that: a deficit of $367 billion. The hole we are in keeps getting deeper and deeper and deeper.

Today, we are considering a measure to make permanent child tax credits. The question is not whether hardworking parents should have tax credits for each of their children. We all agree that they should. The question is whether we are going to do it in a responsible way. Are we going to target tax relief to the middle-class families who need it most, or are we going to give yet another tax break to people who do not need it? Are we going to add to the mounting Federal debt, or are we going to do the right thing and pay for these tax breaks?

Unfortunately, Mr. Speaker, once again the Republicans have chosen to extend tax cuts for the wealthy without paying for them.

□ 1430

As the gentleman from Texas (Mr. EDWARDS) pointed out earlier today, the Republican leadership is giving tax breaks to Members of Congress on the same day that they are freezing education funding for military children and freezing the most important military housing improvement program in American history. It is outrageous. The priorities are all messed up.

The Republican scheme would charge the entire $228 billion cost to the country's maxed-out credit card to be paid for by the very children the Republicans claim they want to help. By contrast, the Democratic alternative pays for the entire cost of the child tax credits and is targeted to the people who need it most.

Mr. Speaker, more should be done to help the children and families who are struggling to get by. H.R. 4359 does not focus the help where it is needed most. The lowest-income families, earning less than $10,750, are not helped by this bill at all. In fact, about 70 percent of the tax credits in this bill go to tax filers in the top 20 percent of income earners.

This means that a family with a parent working full time for minimum wage, and that is $10,300 a year, would get absolutely nothing from this bill. But two-child families earning up to $250,000 would get an extra $20,000 in tax breaks over the next 10 years.

Advocates for children and fiscal responsibility alike have expressed their outrage that H.R. 4359 gives the majority of the benefit to wealthier families and adds $228 billion to the national debt that children will have to pay for. The Washington Post called this bill "bad social policy, bad tax policy and bad fiscal policy."

Mr. Speaker, I urge my colleagues to reject the Republican bill and support the Rangel substitute so working families get the help they need and so their children will not be the ones stuck with the bill.

Mr. Speaker, I reserve the balance of my time.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 4 minutes to the gentleman from Georgia (Mr. LINDER), my good friend from the Committee on Rules.

Mr. LINDER. Mr. Speaker, I thank the gentlewoman from Ohio (Ms. PRYCE) for yielding me this time in support of H. Res. 644, the rule providing for the consideration of H.R. 4359, the Child Credit Preservation and Expansion Act of 2004.

Mr. Speaker, this is a modified closed rule which provides that the minority will be able to bring an amendment in the nature of a substitute to the House floor for consideration by the full House. In this respect, H. Res. 644 is in line with the recent history and tradition of the House when debating tax legislation on the floor.

I urge the House to approve this rule in order to give the House the opportunity to consider the merits of the underlying legislation.

With this in mind, I want to commend the gentleman from Nevada (Mr. PORTER) for bringing H.R. 4359 to the floor today. This bill permanently extends the full $1,000 child tax credit that the Congress and the Bush administration were able to enact in 2001 and 2003.

Failure to get this proposal signed into law means that in 2005 an estimated 34 million families, with approximately 59 million more children, face higher taxes, as the credit is lowered to $700, and eventually sinks to $500 in 2011.

Moving this bill into law will make crystal clear to the American people that President Bush and the Republican Congress are committed to protecting the tax relief that we were able to enact in 2001 and 2003. Anything less than that represents a tax hike. And clearly, based on recent economic reports, a tax hike is exactly what our economy does not need as it continues to grow.

In fact, as Treasury Secretary Snow stated this week, effective monetary and fiscal policies, "of which the President's tax cuts are a part," are enabling the economy to perform very well. This President and this Congress understood that by reducing the tax burden and improving economic incentives, we can boost economic growth and increase the flow of resources into production. That is what has occurred by following the Republican tax relief plan. By removing the heavy burden of government from the backs of small businesses and families, we are creating more economic activity which means more jobs for all Americans and ultimately more revenues to the Treasury.

We need to permanently extend this tax credit for American families, and I hope my colleagues on both sides of the aisle will join me in supporting this bill's passage and enactment into law.

Mr. Speaker, I urge my colleagues to join me in supporting this rule so we may proceed to consider the underlying legislation.

Mr. MCGOVERN. Mr. Speaker, I reserve the balance of my time.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 1 minute to the gentlewoman from West Virginia (Mrs. CAPITO), a champion of this cause.

Mrs. CAPITO. Mr. Speaker, I rise today as a proud co-sponsor of H.R. 4359. Last year, this House increased the child tax credit by $400 per child. This increase from $600 to $1,000 per child has benefited families across the country.

Under current law, however, the child tax credit is scheduled to decrease to $700 per child in 2005, increase to $800 in 2009, return to $1,000 in 2010, and fall to $500 in 2011.

Mr. Speaker, if parents are to take advantage of this tax credit to purchase new clothes, school supplies, or a new computer for their child, or to invest in their child's future, they need to know that these tax cuts are not here today and gone tomorrow.

This legislation corrects the problem in existing law and makes the $1,000 child tax credit permanent. When the underlying legislation we are considering today becomes law, parents will know from year to year the amount of money they have for their children.

The President's jobs and growth plan has helped to get our economy back on track. Over 500,000 jobs have been created in just the last 2 months. We must continue the tax cuts we passed last year to benefit American families and the American economy.

This bill is another step forward. I urge my colleagues to join me in supporting this rule and in supporting the underlying legislation.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. FERGUSON).

Mr. FERGUSON. Mr. Speaker, we are here today in the name of American families, to support our children and to support our children's future educational opportunities. I am not only a father, but a former teacher. This is about more than a tax credit. This is about working to expand relief to a greater number of families and to make sure those families who already benefit from the child tax credit continue to be able to do so and are not forced to face a tax increase next year.

In my home State of New Jersey, 1.4 million children benefit from the child tax credit; 1.4 million children in New Jersey benefit from the child tax credit, and over 100,000 of those children live in the congressional district I have the privilege of representing.

I want to be able to look their parents in the eye and tell them I am doing everything in my power to help them save for their children's future, their children's college fund. I want to tell them that even more children will benefit in the upcoming years. I want to be able to, in good faith, promise them that no matter what, we will help the American family in the best and worst times of the economy.

This bill will allow me and all of us to do just that. The Child Credit Preservation and Expansion Act of 2004 makes the child tax credit permanent at $1,000 a child. If Democrats had their way, this credit would decline and then vanish in the year 2010. We will not let that happen. This bill allows a greater number of families to benefit nationwide. In addition to the 1 million families already receiving relief in New Jersey, additional families will become eligible for the credit. A greater number of joint filers and single parents will be able to use this money to save for their children's education and build for their future.

Mr. Speaker, it is important to know we put as much money as possible into the hands of American parents to be able to provide for their kids. Every dollar we allow them to save is a dollar toward a better life for their kids. A vote today to help American children is what we need to do. Vote today to make the child tax credit permanent.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to say to the previous speaker that we do not have any problem, in fact we support and we have been a champion of the child tax credit. What we have a problem with is the fact that they do not want to pay for it. What we have a problem with is the other side of the aisle is adding $228 billion to the debt that is being passed on to our kids.

Mr. Speaker, how does the other side go home and say I am helping children and families of our country when essentially they are just adding to the national debt? That is irresponsible. This is the most fiscally irresponsible Congress, this is the most fiscally irresponsible President in the history of our country. It is great to get up and talk about tax relief, it is great to get up and do all of these wonderful press releases, but when it is not paid for, it is just added to the debt. That is wrong.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman for yielding me this time.

I wish we would have an opportunity to work together on issues that impact all of our families across the Nation. Mr. Speaker, whenever I am in my congressional district in Houston, young mothers come up to me about their needs as relates to child care.

In fact, we could estimate the number of young mothers, single parents and of course families who are in need of child care is probably growing exponentially on a continuum. Our children are in need of care.

It is unfortunate that we would extend this child tax credit and make it permanent and add $228 billion as part of the increasing deficit, and we do nothing to expand the actual resources that go into child care.

I am a proponent of a tax credit; but I believe it should be paid for, and it also has to be reasonable, given to those who can utilize it because they have no other resources. While we are spending $228 billion by putting us further in debt, we are actually not creating child care facilities that can help the thousands upon thousands and millions of parents around the Nation who in fact do not have the ability to have children in their homes, but need the actual facilities which are in fact decreasing by the day because they do not have the resources.

So if my message is anything today it is that, one, child care should be bipartisan; and the tax credit should work, meaning it should be paid for. The income level should not be extended; low-income parents should be included and embraced. And then we need to answer the question when these parents come up to us in our congressional district, where can they go to take their children? Where are the child care facilities and where are the resources to support the child care facilities, and those that are both licensed and good and careful and caring for the children, and provide educational resources? Where are the dollars for Head Start that is a form of child care as we have seen the number of grown people who are products of Head Start? We are decreasing Head Start. Yet we go $228 billion in debt rather than provide a tax credit that the Rangel substitute provides that answers all of our concerns.

I am disappointed this is not a bipartisan effort because I want the message from the United States Congress to be that we have concerns about child care and the needs that parents have in this particular credit.

In particular, as a woman who faced that question on a daily basis in raising her own children, and I know men have as well, it is a disappointment that we cannot be unified around this particular question. I ask my colleagues to support the Rangel substitute, I ask that we not go into debt, and I state that our number one question is to provide child care facilities, in urban and rural areas, where families can actually take advantage of them. Our job is not yet finished on that need!

□ 1445

Ms. PRYCE of Ohio. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, how many times have we heard tax breaks for the rich in this body? Maybe their liberal Democratic base can believe it, but the American people are not stupid.

They said the marriage penalty was a tax break for the rich. There should be a reward for people that get married, not a disincentive. Yet my colleagues said, oh, it's a tax break for the rich.

Tax breaks for the family and the children, that is for the rich. Most Americans have children in this community and those that do not, adopt, like myself; and it is not just a tax break for the rich. But any tax relief for a working family, to my liberal colleagues on the other side, is a tax break for the rich. The American people are not stupid, Mr. Speaker.

Mr. Speaker, I invite Members to look up www.dsausa.org. This is their Web page. It stands for Democrat Socialists of America, DSA. Look what their 12-point agenda is. They talk about how they work with and they laud the Progressive Caucus, 58 Members of the House in the Progressive Caucus along with the Democrat Socialists of America. Their own Web page lists 12 points.

They want government control of health care; they sure tried to do that. They want government control of education; they have sure tried to do that. They want unions over small business. That is where they get their campaign money. They have sure done that.

They want the highest taxes possible. That is why any tax relief is for the rich only, because they want the justification to raise yours and my taxes, any working family.

And they want to cut defense by 50 percent; they have sure tried that.

Mr. Speaker, a man once called Abraham Lincoln two-faced. He said, do you think if I had two faces I would use this one. My colleagues on the other side say it is only tax breaks for the rich, but they have never seen a tax increase that they do not like. Also, if you look at the 13 appropriations committees, and I serve on the Committee on Appropriations, there is not a single one except for Defense that they do not want to increase, and increase the debt.

We just had a budget that limits spending. Most of my colleagues on that side of the aisle voted against it because they want to increase spending. They want to increase the debt. Yet they say, oh, don't vote for a tax break for the rich because it gives money to working families for children.

Yes, Abraham Lincoln was right. There are two faces on some people.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume. I would like to respond to the gentleman from California, if I may. I very rarely agree with anything he says.

I do agree with one thing he said and that is, the American people are not stupid. I would just like to say to him that the American people can add and they can subtract. The unpaid-for tax cuts, many of them for the wealthiest people of this country, that his party has championed during this last month have added $1.2 trillion to the Federal debt that is already nearly $7.2 trillion. That is an addition of $4,000 to each American's share of the Federal debt. Each citizen's share of the debt would be now, with all these tax cuts that they have passed that are not paid for, $28,479.

Most of us on this side of the aisle have absolutely no problem with the marriage penalty tax relief provisions and most of the child tax credits that are being discussed here today. What we do have a problem with is passing the bill on to our kids and our grandkids. That is fiscally irresponsible.

They should listen to one of the great leaders of their own party, Senator John McCain of Arizona, who said that the Republican Party used to be the party of fiscal responsibility. It used to be the party that would want to pay as you go. That is no longer the case. This is the most fiscally irresponsible Congress in the history of our country.

And so to the gentleman who spoke earlier, I would say my problem is not so much that we should not provide tax relief to middle-income families; my problem is that you are not paying for it and you are passing the bill on to my kids and my grandkids, and that is not right.

Mr. Speaker, I reserve the balance of my time.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. Upton). The Chair would remind Members to avoid improper references to the other body.

Ms. PRYCE of Ohio. Mr. Speaker, I am pleased to yield 3 minutes to the gentlewoman from Virginia (Mrs. Jo Ann Davis).

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I rise in strong support of this rule and for the underlying bill, the Child Credit Preservation and Expansion Act.

If we do not pass this bill, the child tax credit, which is currently $1,000, will go down to $700 next year and then fall to $500 in 2011. In other words, if we do not act on this bill, taxes will increase for 30 million taxpayers.

This bill makes the $1,000 tax credit permanent and raises the eligibility limits for those who can claim the credit to include more middle-income parents so that more people can keep more of their own money.

Americans deserve to keep more of their hard-earned money. For many families, $1,000 goes a very long way. Parents could invest the money for their child's education.

This bill also helps more of our men and women in uniform become eligible to receive the child tax credit. It would allow nontaxable combat pay to be taken into account when calculating the refundable portion of the tax credit. Currently, combat pay is excluded from calculating eligibility for the credit. This bill would allow low-income families to receive more of the child tax credit and to keep more of their own money.

I wholeheartedly support tax credits; however, I think we all need to remember whose money it is in the first place. It is not the government giving back its money to the people. It is the American taxpayers' money and they should be able to keep more of it, whether it is in the form of a tax credit or lower taxes.

Mr. Speaker, we have all seen firsthand in the past few years how much tax cuts have stimulated the economy. The American economy grew at a strong annual pace of 4.2 percent during the first quarter of 2004, well above the historical average. In fact, economic growth over the last three quarters has grown the fastest in nearly 20 years. Tax relief has helped drive the economic recovery forward, putting more money in the pockets of America's families and creating more jobs.

Mr. Speaker, as a former businesswoman and realtor before I came to Congress, I know firsthand the impact that tax cuts have on businesses. And as a mother, I know how far $1,000 can go towards a child's education or for immediate needs like food, diapers, clothing, et cetera.

I urge all of my colleagues to support America's families and vote "yes" on the rule and on the underlying bill.

Ms. PRYCE of Ohio. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from California (Mr. Cunningham).

Mr. CUNNINGHAM. Mr. Speaker, I am reminded, my colleague on the other side talked about middle income. I listened to the gentleman from Missouri that ran for President over and over and over again in the 1990s, 1991, 1992, 1993, talk about the middle class.

First of all, we should never use that term. There is no such thing as a middle class in this country. There are middle income, there is low income. But they play the race card, they play the social card every chance they get. Time after time they said, oh, we want tax relief for the middle income.

In 1993, when they had the White House, the House and the Senate, what did they do? They raised the highest tax on the middle income in the history of this country. They increased the tax on Social Security. They took every dime out of the Social Security trust fund. They cut the veterans' COLAs, the military COLAs. They gave us the highest gas tax possible. And they increased the tax on the middle income.

When we took the majority in 1994, we reversed those and they said, oh, look, the economy. After we reversed that tax, not a single Democrat economic structure or tax passed in this House or the other body and they said, "Well, look. Look at the fine economy we had under President Clinton."

Not one of President Clinton's measures ever passed in this House or was signed. So if that is the case, if we reversed that and none of their policies went forward since we have had the majority, then how can they be responsible for the good economy?

But, no, they will use every chance they can to say we want middle-class tax cuts, middle-class tax cuts. But when it comes time to do it, they will increase it every time because it increases their power to spend on big government.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

I want to answer the gentleman's question. He asked, what did we give the American people when the Democrats had the White House and the House of Representatives and the United States Senate. We gave the American people one of the largest surpluses in the history of this country.

What have they given the American people now that they control the White House, House and the Senate? They have given the American people the largest deficit in the history of this country.

There is a clear difference.

Ms. PRYCE of Ohio. Mr. Speaker, I yield an additional 30 seconds to the gentleman from California (Mr. Cunningham).

Mr. CUNNINGHAM. Mr. Speaker, that is the whole idea. When the gentleman claims that they gave a surplus, we took away their Social Security tax increase. We restored veterans' pay. We restored military pay. We put their gas tax into a highway trust fund so we could build more. We took away the middle-class tax and we had our budgets to balance the budget. We had 9/11 and it has gone up, but their policies did not create that surplus. We did away with that tax and it was our policies that increased it, not decreased it.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

I just would remind the gentleman again that yesterday he and a majority, almost every single member of the Republican Party, voted for a budget to increase the national debt to over $8 trillion. That is not something I think anyone can be proud of.

Mr. Speaker, I include for printing in the Congressional Record an editorial that appeared in the Washington Post, entitled "Leave No Rich Child Behind" that refers to the bill we are talking about here today.

[From the Washington Post, May 19, 2004]

Leave No Rich Child Behind

The House Representatives plans to take up a bill this week that would provide new tax breaks to families earning as much as $309,000, while doing next to nothing for those at the low end of the income scale. The bill, which could come up as early as today, is the most egregious part of a House tax-cutting spree that altogether would add more than $500 billion to the deficit over the next 10 years, according to estimates by the Urban Institute-Brookings Institution Tax Policy Center.

The House would not only make permanent the $1,000-per-child tax credit enacted as part of the 2001 tax cut but would dramatically increase the income limits for eligibility. Currently, married families with incomes of up to $110,000 receive the full credit; the bill would more than double the income ceiling, to $250,000. Under existing law, families with two children and incomes up to $149,000 receive a partial tax credit; the bill would make that partial credit available to families with two children and income of between $250,000 and $289,000; families with three children would be entitled to the partial credit up to an income of $309,000.

This is unnecessary, misguided and irresponsible. Families at that income level have already enjoyed significant benefits from the recent tax cuts; they don't need an extra subsidy to help support their children. While tax cut proponents argue that lowering marginal tax rates or cutting dividend and capital gains taxes helps promote economic growth, there is no such claim to be made for the child tax credit. And the increase in the income ceiling would cost $69 billion through 2014, $87 billion if you count increased interest payments on the extra debt.

House Republicans have the gall to propose all this—and many House Democrats don't seem to have the spine to oppose it—while providing almost no extra help for the poorest families. Currently, low-income families who earn more than $10,750 are eligible for a small refundable tax credit. (These are families that pay payroll taxes but don't earn enough to be subject to paying income taxes, so they get a check back from the government.) For example, a married family with two children and an income of $12,000 gets $125 per child. The House bill would speed up by one year a planned increase in the size of this credit, giving low-income families a one-time average benefit of $150 per child. This remedies—belatedly—last year's mean-spirited omission of these families from the accelerated increase in the child tax credit enjoyed by higher-income taxpayers. The cost of this meager improvement: $1.8 billion.

For families earning less than $10,750, however, the House bill would do nothing. Thus, a family with a parent working full-time at the minimum wage ($10,300) would get no benefit from the bill. A better-off but still low-income family with two children would get a one-time $300 average tax break ($150 per child). By contrast, two-child families with earnings between $150,000 and $250,000 get $22,000 in extra tax breaks over the next 10 years ($1,000 per child per year). This is bad social policy, bad tax policy, and bad fiscal policy. You'd think they'd be embarrassed, but they're not.

Let me close, Mr. Speaker, by saying I hope that my colleagues will look seriously at the Rangel substitute. We provide a child tax credit, but we pay for it. I think that is the fiscally responsible thing to do.

We are now experiencing record deficits. We are going into debt. We are passing on to our kids an incredible bill. We need to be more responsible in this House. I would urge my colleagues to support the Democratic substitute.

Mr. Speaker, I yield back the balance of my time.

Ms. PRYCE of Ohio. Mr. Speaker, I yield myself such time as I may consume.

When I vote "yes" today, I will be voting for America's hardworking families and their children. I will be voting to strengthen the economy and support American jobs, Mr. Speaker. I invite my colleagues on both sides of the aisle to join me in voting "yes" today on both the rule and the underlying bill. I cannot think of a better vote to take than a vote for America's children and families, the economy and American jobs. It is the right thing to do.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

The SPEAKER pro tempore (Mr. KNOLLENBERG). Pursuant to House Resolution 648 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4200.

☐ 1458

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4200) to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2005, and for other purposes, with Mr. UPTON (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose earlier today, a request for a recorded vote on amendment No. 25 printed in House Report 108–499, offered by the gentleman from Kansas (Mr. RYUN), had been postponed.

Mr. KENNEDY of Rhode Island. Mr. Chairman, I'd like to commend the leadership and hard work of Chairman HUNTER and Ranking Member SKELTON in producing this Defense Authorization.

I'd also like to thank my distinguished colleague from Washington, Congressman BAIRD, for offering this amendment with me.

In March, we heard about a higher suicide rate for our troops in Iraq than elsewhere. We've heard about problems with morale.

We're all committed to maximizing our troops' effectiveness. To keep them in fighting shape, we've got to safeguard their psychological resiliency.

We know from past experience, articles in the press, and meeting personally with our returning troops the difficulties of readjusting to civilian life after duty in a combat area.

They're troubled by anxiety and sleeplessness bred by the hyper-vigilance required in combat. At its utmost worst, the ravages of war on a person's psyche may change them completely from those who knew them before, manifesting itself in depression, drug abuse, domestic violence, or suicide—we need to protect our troops from that.

The intensity and nature of ground combat and urban warfare our troops face may produce some of the most lingering scars of war, those that lie beneath the skin: The emotional and the psychological.

And the stress and emotional hardship our military families cope with may not necessarily end with the return of their loved ones.

Our Nation and our Department of Defense need to address these needs and with this amendment, we make sure that they will.

Ms. HARMAN. Mr. Chairman, I thank Mr. CUNNINGHAM for his leadership on this issue, and rise in strong support of the Cunningham-Harman amendment.

Let me tell you a story about four exceptional people who shared several things in common. What are the things that Jose Gutierrez, Jesus del Suarez, Francisco Martinez-Flores, and Jose Garibay had in common? They all loved this country, they all served in the U.S. Marine Corps, and they all died fighting for this country in Iraq. Something else they shared, Mr. Chairman—none of them were U.S. citizens.

The amendment we are now considering appropriately recognizes these four young men and the thousands of other noncitizens whose service and ultimate sacrifice often goes overlooked.

Based on legislation that Representative CUNNINGHAM and I introduced last fall, this amendment authorizes construction of a memorial at Arlington National Cemetery honoring the noncitizens killed in the line of duty while serving in the U.S. Armed Forces.

Many of our military heroes, past and present—from the American Revolution to Operation Iraqi Freedom and beyond—were, like Jose, Jesus, Francisco and Jose—born outside of the United States. In fact, an estimated 20 percent of Medal of Honor recipients—the Nation's highest military honor—are immigrants.

Among the hundreds of U.S. service men and women we have lost in Iraq, at least 24 are foreign-born.

A quote etched at Arlington's Memorial Amphitheater translates from Latin to read, "It is sweet and fitting to die for one's country." Those words hold just as true for our foreign-born patriots who have served and made the ultimate sacrifice for their adopted country.

Our amendment honors the memory of these young men and all of our noncitizen heroes. It is the least we should do for them, their families and in acknowledgement of their sacrifice.

Mr. REYES. Mr. Chairman, I rise in strong support of this amendment offered by my friend and colleague, Mr. CUNNINGHAM. The amendment would honor noncitizens killed in the line of duty while serving in the U.S. Armed Forces with a memorial in Arlington National Cemetery.

Throughout American history, foreign-born men and women have served in our military, standing shoulder to shoulder with U.S. citizens in defense of our Nation. Today, there are over 36,000 noncitizens serving in our Armed Forces. Tragically, in the first year of the war in Iraq alone, 24 of these brave service members made the ultimate sacrifice, giving their lives for their adopted country.

Mr. Chairman, we all know that we can never fully express our gratitude for the service and sacrifice these heroes have made. However, establishing a memorial at Arlington National Cemetery in their honor is a fitting way to show the appreciation of a grateful Nation for the thousands of people who have come to this great country and given their lives for America.

I thank my colleague from California for offering this amendment, and I urge all of my colleagues to give it their strong support.

Ms. DEGETTE. Mr. Chairman, while I voted against the resolution authorizing the war with Iraq and whole-heartedly disagree with the way this administration has handled the conflict in Iraq, I strongly support our troops. Congress has been unwavering in its support for our troops in Iraq and Afghanistan, passing resolutions and giving speeches praising their sacrifice and courage. However, such words are hollow if Congress does not proceed with real action. For that reason, I have supported legislation in the past and will support the bill in front of us today because it provides our tireless troops with the benefits they so rightfully deserve.

This bill will make long-overdue changes to the current military pay and benefit rules for all members of the Armed Services. Among other things, this legislation will make permanent the increases in "combat pay," the Family Separation Allowance and hardship duty pay that Congress passed on a temporary basis last year. More than any tax cut ever could, these increased benefits will provide substantive relief to the soldiers and their families in their time of need.

This bill also recognizes the vital contribution that reservists have made to our country's military operations in Iraq and Afghanistan. Indeed, our country has not depended on the members of the Reserve forces and National Guard as much as we do now since the Korean war. This bill appropriately ensures that, after uprooting these men and women from their lives and putting them in the line of fire, they do not return home without adequate benefits. This bill extends healthcare coverage to National Guard members and reservists and their families who lack health insurance. It also provides pay parity to reservists, ensuring that reservists are paid the same bonuses and special pay as active duty members are.

Not only does passing this bill keep our commitment to our troops, it also importantly keeps the promise we made to our country's veterans years ago. For years, the widows of veterans have unfairly seen their survivor benefit decrease after the age of 62, even though in many cases, retirees and survivors were never informed of the reduction when they signed up for the plan. This bill would rightly eliminate the reduction in the Survivor Benefit Plan annuities, thereby upholding our country's commitment and restoring the faith of our veterans who were unaware of the reduction.

While I do not believe this bill is perfect, I cannot in good faith turn my back on the courageous men and women who have so valiantly served to preserve the peace in Iraq and Afghanistan and protect our safety at home. Also, I am pleased to vote for a bill that delivers on a promise that we made to veterans and their families years ago—to provide surviving spouses the full benefits they deserve and the benefits that were promised to them.

Mr. STARK. Mr. Chairman, I rise in opposition to this defense authorization bill. We are voting today on another bloated Pentagon budget full of wasteful and irresponsible spending. It seeks billions more for Iraq without mention of an exit strategy. It does not go far enough to help our troops who continue to fight in harms way.

This bill continues to waste billions on the development of ineffective or duplicative weapons systems that pad the pockets of big defense contractors. It authorizes $10.2 billion on pie in the sky missile defense, a $1 billion increase over last year. Yet, this unproven cold war concept does not address the very real security threat posed by weapons of significant magnitude that are readily delivered in a suitcase or cargo container.

This bill also throws money at building up nuclear weapon capabilities for use in conventional warfare. It authorizes $28 million for the Robust Nuclear Earth Penetrator or "nuclear bunker buster bomb" and $9 million for research on so-called low-yield nuclear weapons to be deployed in combat. The bill also provides nearly $30 million to replace plutonium pits in existing nuclear warheads without evidence that such upgrades are necessary.

This rush to nuclear weapons development won't deter terrorists or rogue nations like North Korea. It challenges them to answer in kind, especially as the Bush administration pursues its belligerent policy of preemption. It also undermines cooperative efforts to stop the proliferation of destructive weapons that keep them out of the hands of those who would do us harm.

There is no question that this money is better spent securing uranium stockpiles, assisting cooperative threat reduction and advancing nonproliferation programs. But Republicans seem content to take that gamble with our national security and the cooperative security of the world.

This bill also authorizes the President's request for $25 billion for Iraq. Make no mistake, our troops in Iraq deserve all the support we can provide to keep them safe. But, as their deployments are extended and hostilities increase, our troops also deserve to know our exit strategy. Even after the June 30 transfer of power, 135,000 troops will remain on the ground, in the words of General Myers, "for the foreseeable future."

There's no question that America can't cut and run, but the American people ought to know what lies ahead and at what cost. We've spent $166 billion thus far in Iraq without any clear strategy. Earlier this year, the administration said they didn't need any money. The President didn't account for anything in his budget. Now, they say they only need $25 billion.

But, if you tally up what will be required for over the coming year, this just isn't enough. When you consider the over $4 billion we spend each month and the cost of replenishing needed equipment, the price tag is closer to $66 billion. I'm not sure how any American can be confident that we're really being told what is required. Yet, it is clear that we can no longer shoulder this effort alone and must move to share the responsibility with our major allies.

Even as Republicans move forward to authorize this $25 billion for Iraq, they refuse to accept quality of life and force protection initiatives to help our troops. They refused to allow an amendment providing targeted pay raises to retain our forces. They shot down funding to test countermeasures to improvised explosive devices that continue to take the lives and limbs of our troops in Iraq. And they dismissed a proposal to provide free life insurance for soldiers serving in harms way.

I urge my colleagues to vote down this wasteful and irresponsible bill. It is time we had a defense budget that lives within its means, an accounting for what is truly required in Iraq, and the best possible support we can provide our troops.

Ms. NORTON. Mr. Chairman, I would like to address provisions contained in section 2841 of H.R. 4200 that authorizes a transfer of 38 acres in the District of Columbia from the Department of Navy to the General Services Administration for the purpose of housing the Department of Homeland Security at the Navy Complex on Nebraska Ave.

First let me say I support the commitment of the Department of Homeland Security to remain in the District of Columbia and commend Secretary Ridge for his personal involvement in this decision. Since the Department was created two years ago I have worked with both the Department and the General Services Administration to identify suitable space in the District to house the new department, and am delighted that for now and until the Transportation Committee reviews and approves its housing plans, they will be housed at the Naval Complex on Nebraska Ave.

However, I do have objections, and these are bi-partisan objections shared with my colleagues on the Transportation Committee, about authority contained in section 2841 that transfers the Naval property into the GSA inventory.

Section 2841 transfers the property to the General Services Administration using the phrase "administrative jurisdiction," rather than the more traditional and routinely used phrase "custody and control."

Mr. Chairman, by way of background, officials from the White House, Office of Management and Budget, The Department of Homeland Security, General Services Administration and the Navy agreed to a three step approach whereby: (1) the Nebraska Ave. Complex would be transferred to GSA; (2) GSA would lease the space to Homeland Security; and (3) the Navy would be made whole for the expenses associated with its move from the site. In fact in February of this year these officials met with Transportation Committee staff, on a bi-partisan basis, to review the details of this approach.

This provision reflects that approach, except that the property should be transferred to the full custody and control of the Administrator of GSA. The reason for this change is quite simple. According to GSA's lawyers, administrative jurisdiction is undefined and thus open to interpretation regarding the bundle of rights and responsibilities associated with use and ownership of property in the GSA inventory. Such uncertainties associated with the transfer of responsibility for property inevitably lead to delays based on different legal interpretations and often to litigation.

For example, the ability of GSA to operate, maintain, and protect buildings is for buildings under the custody and control of the Administrator, but the ability to perform these activities is unclear for facilities under administrative jurisdiction. Further, the ability to assign and reassign space is for those buildings under the custody and control of the Administrator, but it is unclear that the Administrator would preserve the complex for federal purposes under "administrate jurisdiction." Finally, the application of NEPA and historic preservation provisions are unambiguous for buildings under the custody and control of the Administrator but would not apply for buildings under the administrative jurisdiction.

Needless to say, a simple remedy of inserting "custody and control" will clarify any use or ownership circumstances that could affect these 38 valuable acres in my District.

My staff has been working with staff from the House Armed Services Committee on a freestanding bill that will make this section obsolete. On a bi-partisan basis, we believe there is a way to deal with this issue. Once we reach agreement on appropriate and legally sufficient language we hope this agreement will be reflected in the DOD conference report.

Mr. FILNER. Mr. Chairman, today, our nation is at war—a war that should never have been started, a war without an exit strategy, a war without allies, and a war I will continue to oppose. Congress ought to be debating these issues—now! But what is not debatable is the fact that all of us in Congress support our dedicated men and women serving in harm's way.

This bill is not perfect—and includes many very bad provisions. This hulking bill, authorizing well over half of our nation's spending every year, has often been the culprit in funding dangerous cost overruns and government spending waste.

Just like last year's Defense Authorization bill, this bill authorizes previously prohibited research on low-yield nuclear weapons. The bill also authorizes $28 million to study the feasibility of developing a high-yield, earth penetrating nuclear weapon to destroy hardened and deeply buried targets.

Another troubling provision is the approval of the administration's request of $10.2 billion for ballistic missile defense programs—$1.1 billion, or 13 percent more than the current level. The total includes funding for the initial deployment of a national missile defense system based in Alaska and California. In today's world of terrorist cells scattered around the globe, this $10.2 billion expenditure is a wasteful boondoggle left over from another time.

There were many good provisions that the Republican Leadership would not even allow the People's House to debate and vote on. These Democratic amendments related to the war in Iraq, and dealt with important issues, such as why money is going to the Iraqi National Congress despite repeatedly bad intelligence from them, affirmations of the Geneva Convention and training requirements, support for Reserves and National Guard, and the need for greater international military support. Shutting out a full debate on these issues is a great failing of this bill.

Possibly most troubling is the lack of oversight Congress is exercising in this bill. Since the spring of 2003, Congress has appropriated more than $166 billion for the war efforts in Iraq and Afghanistan. Since the last supplemental measure, the administration had been claiming additional funds would not be needed until next year. Unbelievably, the President's FY 2005 defense authorization request, in fact, contained no money for Iraq operations.

However, the worsening situation in Iraq forced the White House last week to ask for an additional $25 billion for operations there this year—and the Armed Services Committee authorized the funding with little discussion on the floor.

In essence, the President of the United States hasn't been honest with either the Congress or the American people about what this war is costing, and what funding he needs in the months, and potentially years, to come. The Congress missed a golden opportunity to discuss and debate the substance of the nation's deepening descent into Iraqmire.

Despite these shortcomings, the bill contains many important provisions that are essential to our soldier's serving in combat. I strongly support the 3.5 percent across-the-board pay raise, special pay and bonuses for reservists and active duty personnel, and improved housing provisions. The bill also includes an authorization for additional body armor and armored Humvees, which have been, tragically, in short supply over the last year in Iraq.

I am very happy that after many of us have struggled for years to end the Survivor Benefit Penalty, the Republican Leadership has finally relented in this bill. Democrats have worked with veterans' and military officers' organizations to press for the elimination of the social security offset under the SBP by increasing the annuities paid to survivors of military retirees who are 62 or older from 35 percent of retired pay to 55 percent. This is a major victory for our nation's military retirees and their spouses.

In addition, this bill contains a 2-year delay of the Base Realignment and Closure process (BRAG), which I strongly support. This delay in the BRAC process is important to all of us in San Diego, and we all need to stand up to the President's desire to complete the next round of base closings as soon as possible. I hope the final bill stands up to the Presidential blustering threats of veto.

Mr. Chairman, I am supporting this bill because it keeps faith with our men and women in uniform, serving in combat halfway around the world.

Ms. KILPATRICK. Mr. Chairman, I rise in opposition to the bill we are considering today. A major issue of concern is the additional $25 billion authorized for military operations in Iraq gives the Pentagon a blank check to spend the money as it sees fit. The Secretary of Defense wants unfettered flexibility in the disposition of these funds free from Congressional oversight. As Bob Woodward's book details, the administration cannot be trusted to seek Congressional approval to reprogram resources. The administration secretly moved approximately $200 million out of Afghanistan operations into Iraq war planning in 2002 without the approval of Congress. There must be more Congressional oversight in this $422 billion bill.

Additionally, I am, frankly, disappointed in the work of the House Armed Services Committee to address several key issues, especially the lack of attention given to the problem of sexual assault and abuse within military circles. I appreciate the efforts of Representatives SKELTON and SLAUGHTER to make improvements in this area, but I think we could have done better.

This measure allows the Pentagon to continue to do business as usual. I find that unacceptable; therefore, I cast my vote against this measure. I am hopeful that a better bill will emerge from conference when the House meets with the other body to iron out a compromise agreement.

Mr. UDALL of Colorado. Mr. Chairman, I have strong reservations about this bill, but I will support it.

We are three years into our war on terrorism and still engaged in military action in Iraq and Afghanistan. There is no doubt that we must continue to focus on defending our homeland against terrorism, we must support our military personnel, and we must give our military the training, equipment, and weapons it needs to beat terrorism around the world.

In particular, we must respond to the needs of our men and women in uniform in Iraq as they struggle against a persistent and dangerous insurgency with too few troops and inadequate supplies.

That's why I'm in favor of increasing protection for our troops in Iraq through funding provided in the bill for expedited production of armored Humvees, body armor, and armored trucks. And I'm also in favor of provisions in the bill authorizing the largest increase in military end-strength in decades—increasing active duty Army by 30,000 personnel and the Marine Corps by 9,000. Our army is overstretched, and we can't and shouldn't continue to rely on National Guard, reservists, and private contractors to fill in the gaps. I'm pleased also that the bill includes provisions—such as the continuing extension of TRICARE coverage—to ease the particular hardships that our campaign in Iraq has

The bill includes provisions authorizing $25 billion in response to the president's most recent supplemental budget request for the war in Iraq. The costs of our Iraq mission continue to skyrocket, adding to our ballooning federal deficit and shortchanging domestic programs. But these costs must be paid. So I am encouraged that this bill doesn't give the president a blank check. Instead, it breaks down the $25 billion and specifies that certain amounts be spent on operations and maintenance, personnel, and weapons procurement.

I support the BRAC provisions in the bill. BRAC is an important process that has the support of Members on both sides of the aisle. But no process should go forward blindly, without taking into account changing facts on the ground. In my view, given the uncertainty of the current wartime environment, it makes sense to give Congress time to consider what resources our military might need in the future. We are still making decisions regarding the number of troops needed in Europe and Asia and where they should be located. Many of them may return to the U.S. This bill itself increases troop strength by 39,000—and it isn't clear how this increased end-strength will figure in to the next BRAC round. The Department of Defense is still completing its global posture review, yet as reported by CongressDaily recently, DoD officials have no plans to share the review with Congress. Yet that review no doubt informs the BRAC process in ways that Congress needs to understand.

So I think it's important for Congress to have a year to review reports from DoD on its global basing strategy and its infrastructure needs.

I'm also in favor of provisions in the bill establishing new rules for the interrogation of prisoners and commending the actions of Joseph Darby, the brave soldier who first notified authorities of the prisoner abuse at Abu Ghraib prison.

The bill also provides for our men and women in uniform an across-the-board pay increase of 3.5 percent, boosts military special pay and extends bonuses, and funds programs to improve living and working facilities on military installations. These are all necessary and important provisions that I support.

I do have a number of serious reservations about the bill.

I don't believe it addresses 21st century threats as well as it could. With the exception of the Crusader artillery system and the Comanche helicopter, the Administration and Congress have continued every major weapons system inherited from previous administrations. So although the bill brings overall defense spending to levels 18 percent higher than the average Cold War levels, it doesn't present a coherent vision of how to realign our defense priorities.

I am strongly opposed to the authorization of $10 billion to deploy a missile defense system that doesn't work and that wouldn't protect against the terrorist threats that we face today.

And I'm strongly opposed to the funding provided in the bill to study the feasibility of developing nuclear earth-penetrating weapons and to authorize previously prohibited research on low-yield nuclear weapons. Low-yield nuclear weapons have an explosive yield of five kilotons or less—"only" a third of the explosive yield of the bomb dropped on Hiroshima. Our obligations under the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) require the United States to work towards nuclear disarmament, rather than further increase the size and diversity of our arsenal. By continuing the development of new U.S. nuclear weapons at the same time that we are trying to convince other nations to forego obtaining such weapons, we undermine our credibility in the fight to stop nuclear proliferation.

I also was disappointed in the way the bill was handled here on the floor of the House.

Not only was inadequate time allowed for debating this important and far-reaching measure, the House was prevented from even considering amendments on some aspects of the bill—such as the missile defense system—or was able only to consider amendments that were too narrow in scope.

An example of the latter is the amendment by my friend from Tennessee, Mr. WAMP.

The Wamp amendment is well-intentioned, and by itself it would do no harm. So, it is not surprising that it was adopted by a voice vote. However, I am concerned that adoption of the amendment may send the wrong signal to the Administration and to the Cold War warriors it is supposed to help.

The amendment would change one small part of the compensation program established by the Energy Employees Occupational Illness Compensation Program Act (EEOICPA).

Originally enacted as part of the Fiscal Year 2001 Defense Authorization Act, that compensation program is split into two parts.

One is administered by the Department of Labor for workers exposed to radiation, beryllium and silica. It has worked fairly well—something that can't be said about the second part.

The second part, commonly referred to as Subtitle D, is administered by the Department of Energy and covers workers exposed to radiation, and other toxic hazards.

Under Subtitle D, DOE is required to use physicians panels to evaluate whether an illness is work related, and relies upon state workers' compensation programs to assure payments for wage loss and medical benefits.

The Wamp amendment would fine-tune the way the physicians' panels work and smooth the linkage to state workers' compensation programs.

But these are marginal changes at best—and they would do nothing to fix the most serious problem with Subpart D.

That problem is that, by DOE's own admission, for too many people Subpart D simply will not work.

In fact, as many as 50 percent of claimants may find that even if a physicians panel finds their illness is covered, there is no "willing payer" that will follow through by providing compensation. Colorado is one of the states where this can happen, along with Ohio, Iowa, Alaska, Kentucky, Missouri, and other states.

The GAO recognizes this "willing payer" issue is one that cannot be ignored. The federal government should not make compensation under the program depend on geography. EEOICPA needs to be amended to make sure that doesn't happen.

Furthermore, so far DOE has processed fewer than 2 percent of its caseload under Subpart D. In fact, I am told that as of March of this year, there were approximately 22,000 claims pending—and only ONE had been paid, even though DOE had spent approximately $50 million to administer this part of the law. On the other hand, the Department of Labor has processed 97 percent of its 52,000 claims it has received and issued over $825 million in payments and medical benefits.

The Wamp amendment well might improve DOE's claims processing—which certainly need improving. But it will not guarantee payments for meritorious claims in Colorado and other states across the nation. Too many of our cold war veterans are headed down a dead end street. Speeding the trip isn't the answer—we need to change the route.

The Wamp amendment won't do that. That was why I hoped the House would have been able to consider the amendment filed by my friend from Ohio, Mr. STRICKLAND.

The Strickland amendment would have required the President to submit to Congress a proposal for legislation to establish a Federal payer for Subpart D claims, if legislation to solve the problem is not enacted during this Session of Congress.

Unfortunately, the Republican leadership did not allow the House to even consider that amendment, just as they refused to permit consideration of the amendment I filed with my colleague from Colorado, Mr. BEAUPREZ.

The purpose of our amendment was to help some people who worked at DOE's Rocky Flats nuclear-weapons plant.

Some of them are suffering from cancer or other conditions because they were exposed to radiation or other hazards while they were working there. So they are covered by the EEOICPA program.

For those who worked at most sites, coverage requires a finding that their condition is as likely as not to have resulted from on-the-job exposure. That's a reasonable requirement—provided there is adequate documentation of exposures. But, unfortunately, over the years there were serious problems with the way DOE kept records at Rocky Flats. So, as things stand now, there is a real risk that many Rocky Flats workers who should be covered will not get coverage in time to benefit from it, because their claims are tied up in red tape.

Nonetheless, Mr. Chairman, despite my concerns and disappointments, I do think enactment of this bill will help support our men and women in uniform and help them win the peace in Iraq and to defeat terrorism in Afghanistan. And, while in my view Congress was wrong to allow the president to rush us into war in Iraq, I think it now is imperative to provide our men and women in uniform with what they need.

So I will support this bill today.

Mr. WAXMAN. Mr. Chairman, I will vote for H.R. 4200, the National Defense Authorization Act for Fiscal Year 2005, because it contains a number of provisions that I support that will address the needs of the brave men and women serving on the front lines in Iraq, as well as the needs of our dedicated members of the civil service here at home.

This bill includes much needed increases in separation allowance and combat pay for troops that are deployed in combat. It also includes provisions that will greatly improve the A–76 process, which governs competitions between the private sector and federal employees. These provisions will ensure, among other things, that federal employees are permitted to compete for their jobs before they are outsourced to the private sector and will give them the same legal rights as contractors enjoy. These are important protections that I strongly support.

However, I have a number of concerns with other provisions in the bill, and believe it should have gone further than it does in some areas.

Iraq is fast becoming a hall of mirrors. When the Administration says conditions are getting better, they are probably getting worse. When the Administration says they have a plan, they usually don't. And when the Administration says they are trying to build an international coalition, they may actually be further alienating our allies.

We can add another contradiction to this list: When the Administration says they will closely scrutinize the work of private contractors in Iraq, what they mean is that they have given the contractors a virtual blank check.

The Coalition Provisional Authority has identified over 2,000 specific reconstruction projects in Iraq. The contracts to perform this work should be bid competitively, so that market forces would dictate the costs to taxpayers. But under the Administration's approach, not a single one of the 2,000 reconstruction projects will be awarded on the basis of competition. Instead, they will all be performed on a cost-plus basis by large private contractors who have been awarded monopolies over large sectors of the reconstruction effort.

The public wonders why unsupervised private contractors would be allowed to interrogate and abuse prisoners in Abu Ghraib . . . how Halliburton could be allowed to charge inflated prices for gasoline and to submit bills for millions of meals it never served . . . and why there is so little to show for the billions that the Administration has spent on the reconstruction effort.

There is one answer to all of these questions: whether by design or incompetence, the Administration is failing in its responsibility to oversee the reconstruction effort and to protect the taxpayer from waste, fraud, and abuse.

Under these circumstances, aggressive and impartial oversight is obviously crucial. Yet as I and others described in a report released yesterday, the Administration has outsourced this essential oversight responsibility to private contractors who have significant conflicts of interest.

While Parsons is supposed to oversee Fluor's electricity work in Iraq, Parsons and Fluor have a huge $2.6 billion joint venture in Kazakhstan. CH2M Hill has been permitted to oversee the Iraq work of Washington Group International, Fluor, and AMEC even though it has existing contractual relationships with all three companies in the United States. Parsons is even in a position to benefit its own reconstruction efforts through the use of its oversight powers.

This is an unacceptable situation that I would have liked to address with an amendment to this bill. Unfortunately, it was not made in order.

Another way to ensure vigorous congressional oversight of the Iraqi reconstruction efforts would be to require the Defense Department to provide contract information to both the chair and ranking members of committees with jurisdiction.

For months I have attempted to obtain information from the Administration about the contracting in Iraq. For the most part, the Administration has a poor record of complying with these requests.

I have written four letters to the White House requesting information about the inflated prices Halliburton was charging to import gasoline into Iraq under a sole source, IDIQ contract from the Army Corps of Engineers. The only responses they received were two nearly identical, two-paragraph letters from Condoleezza Rice saying that Pentagon auditors are investigating the overcharges.

The White House hasn't offered any justification for Halliburton's $2.64 per gallon price of gasoline from Kuwait. The White House hasn't turned over task orders or invoices for the gasoline importation work either.

It's not just the White House. I've also written to Secretary Rumsfeld to request information about Halliburton's subcontractors and the process by which they were selected. I sought basic documents, like the subcontracts themselves and the bid proposals from potential subcontractors. Over five months have passed, but the Defense Department has not produced any of the requested documents.

Under the bill, the Department is required to respond to a request from the Ranking Member of the Armed Services Committee. That is a start. I would have liked to offer an amendment to also require the Department to respond to the Government Reform Committee, which has government-wide jurisdiction over contracting issues. But again, unfortunately, the amendment was not made in order.

One of the reasons events are not going well in Iraq is that there has not been enough accountability and oversight by this House. No one was held accountable for the Administration's false claim that Iraq attempted to obtain uranium from Niger or misleading claims about Iraq's alleged weapons of mass destruction. While we all agree that the abuse and torture of Iraqi detainees at the Abu Ghraib prison is completely unacceptable and universally condemn this illegal and inhumane misconduct, the House has yet to fully investigate this terrible episode.

Today, I offered a procedural motion to express the sense of the House of Representatives that a select committee should immediately be established to investigate the treatment of detainees held by the Administration in connection with the global war on terrorism. A select committee is necessary because this House has ignored its constitutional responsibility for holding the Administration accountable. Time and time again, the Republican leadership has demonstrated that it has no interest in performing any serious oversight of the Administration. I am disappointed that the motion failed by a vote of 202–224.

There are other troubling elements of this bill that I do not support. I staunchly oppose the more than $10 billion authorized for ballistic missile programs plagued by massive cost overruns and consistent failures in testing. I also oppose other wasteful programs like the $4.2 billion included for the F/A–22 Raptor, a fighter aircraft best known for its technical difficulties, questionable utility, and unprecedented price-tag of between $200 to $300 million per plane. I find it most disturbing that the bill also allows continued research for the development of low-yield nuclear weapons for deployment in combat and directs $36 million to research the feasibility of an earth-penetrating nuclear weapon that existing research shows is more likely to spread contamination than destroy its target.

The Bush Administration's quest for usable nuclear weapons contravenes the basic principle of nuclear deterrence and threatens to undermine decades of U.S. leadership nonproliferation efforts. Together with the doctrine of pre-emption and the President's policy endorsing the use of nuclear weapons against non-nuclear states, the effort sends the wrong message at a time when we are trying to get the international community to help us challenge proliferation in North Korea and Iran.

Mr. BLUMENAUER. Mr. Chairman, I hope this bill signals the beginning of a different approach from Congress in dealing with Defense Authorization. I'm pleased that there is at least some money for Iraq, with some instructions on how it's to be spent rather than relying exclusively on the discretion of the administration. It is encouraging that more attention is given to the specific needs of our men and women on the ground in Iraq. It's unfortunate that despite hundreds of billions of dollars authorized in previous bills, not enough has made it to our troops for essential things that they need.

The bill continues to spend too much money on the wrong things. The most graphic example is the 13 percent increase for missile defense; $10.2 billion that's critically needed in other areas of homeland security and defense activities.

One other area I take strong exception to is delaying the next round of base closings. Base closings have historically been highly controversial and political, and Congress was unable to deal with it until we had a BRAG process that helped to de-politicize the process. This bill represents an unfortunate step backwards placing politics over economic or military concerns. We continue to have inventory left over from a bygone era of defense needs that is far more than is necessary. It doesn't speak to today's demands, to say nothing of where we're going to be in the future. We have to be able to close and realign military facilities.

Part of the reason that people are upset when a military base is closed is that we do a terrible job of transitioning what can be extraordinarily valuable resources back to the community. If we were to clean them up and recycle them in a way that helped the environment, local governments, and local enterprises, there would be much less reticence. Unfortunately, we hamper communities by not providing the resources or guidance to bring these lands back to productive use. Simply delaying the next round of BRAG closures gives us the worst of both worlds. We have an inappropriate inventory of facilities, and we do nothing to speed the transition that could help everyone—the taxpayers, the military, and the local communities in which they're located.

I am disappointed that my amendment to help the Department of Defense return former military bases back to local communities was not made in order. My amendment would have codified a recommendation by the Defense Science Board, issued in November, 2003, to implement a national Wide Area Assessment for unexploded ordnance (UXO). This assessment would enable the Department to determine the extent of UXO contamination and help restore at least 8 million acres of potentially contaminated sites scattered throughout the country.

This is the largest and arguably the most important authorization Congress takes up each year. It helps shape the largest single federal expenditure. I long for the day when there is a full and open debate and when there's a way to right-size and re-direct these funds. Never has the need been greater. It's unfortunate that this bill continues to miss the mark.

Mr. HOLT. Mr. Chairman, I strongly support the provision in the FY 2005 Defense Authorization Bill that would finally end the Survivor Benefit Penalty (SBP), a reduction in survivor benefits when a beneficiary reaches age 62. I have heard from many veterans and military families among my constituents who have waited for too long to end this discriminatory policy. Members who signed up for SBP in the 1970s were led to believe they were purchasing annuities that would provide their surviving spouses 55 percent of retired pay for life. After paying decades of premiums, they understandably feel betrayed upon learning that their benefit drops by more than one-third when they reach age 62. To make matters worse, the U.S. Defense Department Actuary has confirmed that the federal subsidy has dropped to 19 percent—far below the 40 percent level Congress intended when the program was first enacted. There could be no more effective way for the Federal government to restore the intended cost-sharing relationship than by raising the age-62 SBP annuity.

I have been a long-standing cosponsor of two free-standing bipartisan bills, H.R. 548 and H.R. 3763, to make this change in the law and eliminate this penalty as quickly as affordable. Unfortunately, these bills remained stuck in committee until a discharge petition was filed a few weeks ago to bring this matter to a vote. I was happy to co-sign that discharge petition, just as I was glad to be one of nearly 170 Democrats in this House to co-sign the letter sent to Congressman DUNCAN HUNTER, chairman of the House Armed Services Committee, urging that this provision be included in this bill. Now we must fight to retain this provision in conference to ensure a 5-year phase-in to finally eliminate this penalty once and for all.

Mr. Chairman, I oppose those provisions in the FY 2005 Defense Authorization Bill which authorize an additional $28 million on the nuclear bunker buster, the Robust Nuclear Earth Penetrator, plus $9 million for "advanced concept initiatives." The direction in which the Bush Administration is leading our nation on nuclear weapons policy by steadily increasing funding for this type of de-stabilizing research is reckless and ill-advised. That is why I support the amendment offered by my colleagues, U.S. Representatives TAUSCHER, MARKEY, and SPRATT, which would have shifted the funding in this bill away from Robust Nuclear Earth Penetrator to increase both U.S. intelligence capabilities to get at hard and deeply buried targets and improved conventional bunker-busting capabilities.

The U.S. Department of Energy, DOE, originally planned to spend $45 million on such research between FY2003 and FY2005. According to the Congressional Research Service, DOE now projects spending $71 million through FY2006.

We should be stepping away from researching new tactical nuclear weapons for new uses, not warming to that proposition. We are sending the wrong message to our allies and potential adversaries around the world. When they see the Bush Administration steadily increasing U.S. spending for this kind of research, they are understandably concerned that the U.S. is opening Pandora's box and encouraging the development and procurement of a new generation of nuclear weapons.

Furthermore, this type of research does not make practical, scientific sense.

Supporters of the nuclear bunker buster claim that such weapons would accomplish the destruction of deeply buried targets without causing massive collateral damage. But they ignore some fundamental considerations that are underscored in several recent scientific studies including some by scientists at Princeton University and by the Union of Concerned Scientists.

First, since weapons cannot penetrate very deeply into the ground, then destroying deep hardened targets would require powerful, high-yield nuclear warheads.

Second, it is relatively easy to build a bunker so deep, 1,000 yards underground, that no earth-penetrating nuclear weapons, no matter how large its yield, could destroy such a bunker.

Third, even a small, low-yield earth-penetrating nuclear weapon will create enormous radioactive fallout because the explosion could not be contained underground. The radioactive debris thrown into the air would drift for miles on the wind.

Fourth, there is no guarantee that a nuclear blast would successfully destroy chemical or biological weapons. In fact, a nuclear attack on a bunker that contains chemical or biological weapons could easily lead to the release and spread of those agents.

Fifth, there are conventional alternatives to the use of nuclear bunker busters. Current precision-guided conventional weapons could instead be used to cut off a bunker's communications, power, and air supply, thus effectively keeping the enemy weapons underground and unusable until U.S. forces could secure them.

Finally, it is very troubling to me that, while Bush administration officials are quick to point out that no funds are authorized in this bill for production of these weapons, it is worth noting that their preferred federal budget plan over the next 5 years outlines spending $485 million to move into the deployment and engineering phases for the Robust Nuclear Earth Penetrator.

Mr. COSTELLO. Mr. Chairman, I rise today in support of retaining the BRAC language in the Defense Authorization Act for FY 2005. The bill as it currently stands would postpone BRAC for 2 full years, and require the Pentagon to submit reports by certain dates or BRAC will not take place.

The United States military is being stretched thin due to the war against terrorism and the effort to rebuild Iraq. In addition, the Department of Defense, DOD, is currently considering significant realignments of forces in Europe and Asia while it transforms its forces. While I agree that we should evaluate overseas bases first before considering closing domestic bases, for DOD to make irreversible decisions to close or realign military installations before these changes have been fully considered by both DOD and Congress would be an enormous mistake.

Further, the BRAC process is estimated to cost roughly $15 billion with savings not required until 2011. These funds could be used now for more equipment and supplies for our military troops. Make no mistake, our troops will be in Afghanistan and Iraq for a long time. It is our responsibility to provide them with the necessary resources they need for survival. In addition, savings from previous BRAC rounds are almost entirely due to significant reductions in force structure and end-strength. DOD and Congress are not decreasing either of these; instead, we are increasing end-strength by 39,000 over 3 years and considering increases in force structure.

I also continue to be extremely concerned that if the BRAC round in 2005 commences, we will revert back to pre-World War II days when our valuable military assets were located in very few places. The attack on Pearl Harbor in 1941 completely crippled our Pacific Fleet. Further, the September 11th attacks are a fresh reminder that our homeland and our military headquarters, the Pentagon, are susceptible to attacks. History tells us we should not push for more base closures and consolidation of our forces.

Finally, as the BRAC process currently stands, Congress is virtually eliminated from the decision-making process. There has been no effort on the part of DOD to work with Congress on basing locations, rotational plans and policies, and overseas and domestic infrastructure requirements which all directly affect BRAC.

Mr. Chairman, since September 11th, the needs of our Nation continue to change. We are constantly reevaluating what resources we will need in the future. When a base is closed, that asset is lost forever to the community it serves and the military. We have fundamental decisions to make about overseas basing, transformation, and major military deployments before we make BRAC decisions. It is my preference that we eliminate this process completely; however, if Congress decides to move forward on another BRAC round, we have only one opportunity to do this right and Congress must be given the opportunity to provide sufficient oversight of the BRAC process. We cannot afford to act hastily. I urge my colleagues to support the BRAC language currently in H.R. 4200.

Mr. HOLT. Mr. Chairman, I support the provision in this bill which would at least postpone the 2005 BRAC Round until 2007.

Since September 11, 2001, the national security and defense needs of our nation have been changing and are still changing. We are still uncertain as to what resources we will need in the future.

First, U.S. troops will remain in Afghanistan and Iraq for an uncertain period of time. Just look at Bosnia and Korea. In fact, after considerable effort to keep Congress from increasing end-strength, DOD is not reducing the number of military personnel in Iraq as planned, and Congress is increasing end-strength by 39,000 over 3 years.

Second, the U.S. Department of Homeland Security is still in the process of being established and the facilities and resources needed for its diverse challenges, including any current military infrastructure that might be needed, are unknown.

Third, difficult decisions are yet to be made about the number of troops needed in Europe and Asia and where they should be located.

Fourth, there are efforts underway to raise or remove the caps on the number of troops in Colombia, and we have 2,500 Marines in Haiti. Similarly, we also see moves to shift at least 3,600 troops from South Korea to Iraq.

Fifth, congressional oversight of the re-deployment and re-positioning of American troops is needed now more than ever. Yet, there has been no structured, deliberate, and timely effort on the part of DOD to work with Congress to prepare our nation to confront additional and unprecedented challenges in the post–9/11 world. In fact, as reported in the National Journal last month, "The department [DOD] has no plans to share the study [global posture review] with Congress, although Pentagon officials say the study will inform the BRAC process."

Sixth, the BRAC process is estimated to cost approximately $15 billion. Savings above the cost of implementing BRAC are not required until 2011. These funds could be used now for our troops now.

Seventh, we are confronting very different circumstances in 2005 compared to the BRAC Rounds conducted in 1988, 1991, 1993 or 1995. Savings from previous BRAC rounds were derived almost entirely from substantial reductions in force structure and end strength. But now, we are increasing end strength and considering increases in force structure.

Mr. Chairman, the following reports are required from DOD between January 1, 2006, and March 15, 2006, or the BRAC process dies:

a. The Pentagon's Integrated Global Basing Strategy, including basing locations, rotational plans and policies, and overseas and domestic infrastructure requirements associated with that strategy;

b. A study of the infrastructure requirements associated with force transformation efforts; a report on infrastructure requirements related to changes to the active and reserve personnel mixtures of the services;

c. A study of the infrastructure requirements resulting from the Secretary of Defense's "10–30–30" objective; a reassessment of excess infrastructure capacity that is based upon infrastructure, facility, and space requirements of current, future, and surged military forces; and

d. A definition of, and infrastructure requirements associated with, "surge requirements" as determined by the Secretary as required by section 2822 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136).

It is prudent for implementation of BRAC to be put off 2 years (1 year if you start at the final due date of the reports) to allow Congress the opportunity and more time to review these reports in light of our nation's evolving defense needs. Realistically, even if Congress was to obtain the reports I've cited during the current BRAC timeline, there would not be enough opportunity for Congress to fully review and debate the merits before we would be required to vote on closure and realignment choices.

We should postpone the 2005 BRAC Round for at least 2 years.

Mr. EVERETT. Mr. Chairman, I submit for the RECORD a letter from the chairman of the Committee on Ways and Means, Mr. THOMAS, regarding section 585 of H.R. 4200, the National Defense Authorization Act for Fiscal Year 2005, and a response from the gentleman from California (Mr. HUNTER).

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, May 19, 2004.
Hon. DUNCAN HUNTER,
Chairman, House Armed Services Committee, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN HUNTER: I am writing concerning H.R. 4200, the "National Defense Authorization Act for Fiscal Year 2005," which was reported to the House by the House Armed Services Committee on May 14, 2004.

As you know, the Committee on Ways and Means has jurisdiction over tax matters. Section 585 of H.R. 4200 allows individuals to donate their frequent traveler miles through the Department of Defense to deployed members of the armed forces and their families. This provision requires an amendment to the Internal Revenue Code, and thus falls within the jurisdiction of the Committee on Ways and Means. However, we will not take action on this proposal. This is being done with the understanding that it does not in any way prejudice the Committee with respect to the appointment of conferees or its jurisdictional prerogatives on this or similar legislation.

I would appreciate your response to this letter, confirming this understanding with respect to H.R. 4200, and would ask that a copy of our exchange of letters on this matter be included in the Congressional Record during floor consideration.

Best regards,
BILL THOMAS,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
Washington, DC, May 20, 2004.
Hon. WILLIAM THOMAS,
Chairman, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of May 19, 2004 regarding H.R. 4200, the National Defense Authorization Act for Fiscal Year 2005.

I agree that the Committee on Ways and Means has a valid jurisdictional claim to section 585 in this important legislation, and I am most appreciative of your decision not to request such a referral in the interest of expediting consideration of the bill. I agree that by foregoing a sequential referral, the Committee on Ways and Means is not waiving its jurisdiction. Further, per your request, your letter and this response will be included in the Congressional Record during floor consideration.

With best wishes.
Sincerely,
DUNCAN HUNTER,
Chairman.

Mr. EVERETT. Mr. Chairman, I submit for the RECORD a letter from the chairman of the Committee on International Relations, Mr. HYDE, regarding H.R. 4200, the National Defense Authorization Act for Fiscal Year 2005.

COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES,
Washington, DC, May 19, 2004.
Hon. DUNCAN HUNTER,
Chairman, Committee on Armed Services, Washington, DC

DEAR MR. CHAIRMAN: I appreciate the close cooperation between the Committee on Armed Services and the Committee on International Relations concerning H.R. 4200, the FY 2005 National Defense Authorization Act. I commend your leadership, and that of Mr. SKELTON, in bringing forward this important bill which will give the courageous men and women of our armed forces what they need to continue to prosecute the war on terrorism successfully.

Further, several of the provisions of Title XIV (in particular, in Subtitle A concerning export controls) amend the Arms Export Control Act, a matter under the jurisdiction of the Committee on International Relations. These provisions will also make an important contribution to our Nation's interests by ensuring that United States weapons systems and technology do not fall into dangerous hands. Two provisions in particular (sections 1401 and 1402) relate to the controls required by United States law over our most significant military technology and clarify that this technology is to be handled with the utmost care. Because of the importance and sensitivity of these areas, it is useful to set forth for the record an explication of several points highlighted in your Committee's report that have figured in the deliberations between our two Committees during consideration of H.R. 4200. Accordingly, when H.R. 4200 is taken up on the Floor for adoption, I ask that you consent to include the full text of this letter in the record, memorializing our discussions on these matters.

SEC. 1401. DEFINITIONS UNDER ARMS EXPORT CONTROL ACT

As the report by the Committee on Armed Services makes clear, the addition of several new definitions to section 47 of the Arms Export Control Act (AECA) will help ensure that the future administration of United States law in this sensitive area is carried out in accordance with longstanding principles that have safeguarded our Nation's security and foreign policy interests for many years. Of particular importance, the terms "agent" and "exporting agent" have long been in common usage in the AECA but have lacked precise definitions. This absence appears to have given rise to a recent controversy in which some maintain the term "agent" can be construed as any foreign person who has a general association with a foreign government receiving United States defense articles or defense services, such that any (and potentially all) foreign corporations located in the same country could be eligible to receive custody or ownership of, or access to, the United States articles or services without any need to seek the U.S. Government's consent to such a transfer from the foreign government to its private sector. However, such a construction would run counter to well-established principles in our laws. In this respect, section 3(a) of the AECA and section 505(a) of the Foreign Assistance Act are very important. Section 3(a) provides that "no defense article or defense service shall be sold or leased by the United States Government . . . and no agreement shall be entered into for a cooperative project . . . unless—"(2) the country . . . shall have agreed not to transfer title to, or possession of, any defense article or related training or other defense service . . . to anyone not an officer, employee, or agent of that country . . . unless the consent of the President has first been obtained."

Section 505(a) provides a nearly identical requirement with respect to military assistance provided under Chapter 2 of the Foreign Assistance Act. These provisions (which also provide a legal framework for commercial arms sales and training under section 38 of AECA) ensure that all of the stringencies and safeguards that apply under United States law to a weapons related export also apply equally to any subsequent re-export or retransfer to third parties (including third parties located in the country to which the original export was authorized).

Section 1401 will make abundantly clear that the term "agent" must be understood in its classic and commonly understood form, as a person that is specifically authorized by the foreign government to represent its interests (other than an officer or employee, who are presumptively authorized representatives), and one that is subject to the foreign government's supervision and control and for whom the foreign government is responsible (such as an officer or employee). This type of "agency" relationship occurs commonly in the foreign military sales program where foreign governments routinely designate freight forwarders and other agents through contractual relationships to receive and transport United States defense articles. Section 1401 accommodates this practice. Similarly, but less frequently, a foreign government may establish an agency relationship with one of its corporations for the purpose of carrying out part of a cooperative agreement it has entered into with the Department of Defense under section 27 of the AECA. Such relationships would still be acknowledged under section 1401, provided that a bona fide agency relationship has been established. On the other hand, this definition is intended to resolve, definitively in favor of longstanding principles in United States law, the recent controversy related to the proposition that any foreign corporation located in a foreign country with which the United States has entered into a cooperative agreement under section 27 of the AECA (or another similar provision in United States law) may be presumed to be an agent provided only that it is a participant at some level in the cooperation (irrespective of whether the foreign corporation is, in fact, a true agent of the foreign government). In such matters, the clear intent of the AECA and the Foreign Assistance Act is that persons who are not specifically authorized agents of the foreign government must be subject to the specific approval of the U.S. Government before United States defense articles or defense services are made available to them, whether by satisfaction of the requirements of section 3, pursuant to issuance of an export license under section 38, or by other statutorily provided means (e.g., U.S. Government approval when such persons are designated as agents in an international agreement to which the United States is a party).

SEC. 1402. EXEMPTION FROM LICENSE REQUIREMENTS FOR EXPORT OF SIGNIFICANT MILITARY EQUIPMENT

This provision would amend section 38(b) of the Arms Export Control Act in order to codify the longstanding regulatory practice not to establish exemptions in regulation from the munitions export license requirements of section 38 that apply to commercial defense exports by private U.S. and foreign persons for any defense article that has been designated as "significant military equipment." The President's authority under section 38 has been delegated by Executive Order to the Secretary of State. The regulations that implement the President's authority in this area are the International Traffic in Arms Regulations (22 CFR §§120–130). "Significant military equipment" (or "SME," as it is commonly referred to) is any defense article required to be so designated on the United States Munitions List, "for which special export controls are warranted because of the capacity of such articles for substantial military utility or capability" in accordance with section 47(9)(A) of the Arms Export Control Act (22 U.S.C. 2794(9)(A)). By longstanding practice, an export license has generally been required for the permanent export of any SME defense article or technical data (such as production or manufacturing know-how for SME articles), except in certain areas (described below) pertaining to official use by the Department of Defense and other U.S. Government agencies that section 38(b)(2) of the Arms Export Control itself (as distinct from an exemption established by the President in regulation) specifically declares to be outside the ambit of the export licensing requirements imposed on private U.S. persons.

However, as part of an ongoing process to "reform" or relax military export controls, the Committee on International Relations has recently been informed of the State Department's intention to establish a new exemption in regulation available to private U.S. persons for the export of a wide range of cargo, transport and trainer fixed-wing aircraft, as well as certain utility rotary aircraft, to a large number of foreign governments. The aircraft that would be exempt are: C–21, C–22, C–130 Hercules (earlier than J configuration), CT–39, T–1, T–3, T–6, T–34, T–37, T–39, T–41, T–42, T–43, T–44, UH–1 Huey, CH–46, OH–58, and U–27. Most of these aircraft would be eligible for export without a license to any one of the 26 NATO member governments, as well as to Australia, Japan, Austria, Finland, Ireland, Sweden, Switzerland, and those other countries designated as major non-NATO allies under section 517 of the Foreign Assistance Act (Israel, Egypt, Republic of Korea, Jordan, Argentina, New Zealand and, prospectively, Pakistan). Some of these aircraft would only be eligible for NATO countries, Australia and Japan. All of these aircraft are designated as SME. Certain of these aircraft (e.g., C–130, T–6, T–37, OH–58 and UH–1) are also "major defense equipment," an additional category of defense articles required to be identified on the Department of Defense's List of Major Defense Equipment. Under section 47 of the Arms Export Control Act, items that are "major defense equipment" are those that are both SME and have been designed and developed through major DoD procurement programs (i.e., involving $50 million or more in non-recurring Research and Development or $200 million or more in total production costs).

Section 1402 would bar the establishment of such exemptions for the export of defense articles designated as "significant military equipment." It is difficult to understand why some apparently believe it is appropriate or timely to relax our military export controls in the midst of the global war on terrorism, least of all over defense articles that fall into the SME category. Under the Arms Export Control Act, these articles are intended to be the subject of "special export controls" which historically have included the requirement for the foreign end user to sign a U.S. Government nontransferable and end-use certificate before a license is issued. A further consideration is that the State Department has not yet been able to put into place an adequate system for monitoring and tracking exports of SME that are approved under licenses (let alone exemptions). In this respect, more than four years after the enactment of Public Law 106–113 requiring a quarterly report to Congress of all SME exports licensed under section 38, the State Department has yet to submit its first report. Further, State announced earlier this year that it was deferring implementation of a regulation to require reporting by exporters of technical data and defense services exported under section 38, suggesting that its initial report is not in the immediate offing.

The Committee on International Relations is very sympathetic to the goal of expediting the export of such defense articles to our coalition partners in the war on terrorism (although a list of our coalition partners might not necessarily coincide with the above list of countries drawn up by State). This said, it would be far preferable to establish priorities in the export license process such that our closest coalition partners are placed at the head of the line. In this way, exports involving coalition partners can be processed more securely (without the increased risks of diversion that arise from license exemptions) and more quickly, with licenses issued in a matter of a few days rather than many weeks. Initiatives to relax military export controls when our country is at war, as reflected in such proposals and others which the Committee on International Relations understands may be forthcoming in the context of a new policy to promote defense trade (National Security Policy Directive 19), are inherently inconsistent with the national security interests of our Nation.

By the same measure, section 1402 would not significantly alter the existing regulatory regime in this area. Until now, the principal exceptions to the practice of not exempting SME defense articles from munitions license requirements have not resulted from exemptions established by the President in regulation, but from the express exclusion by Congress when enacting the Arms Export Control Act of certain U.S. Government (chiefly Department of Defense) activities from the ambit of section 38 of the Arms Export Control Act. Section 38(b)(2) of that Act provides that ". . . no license shall be required for exports or imports made by or for an agency of the United States Government (A) for official use by a department or agency of the United States Government, or (B) for carrying out any foreign assistance or sales program authorized by law and subject to the control of the President by other means (22 USC 2778(b)(2))." This provision (section 1402), therefore, does not affect the export of defense articles that are expressly precluded by section 38(b)(2) from export licensing under the Arms Export Control Act, including defense articles that are SME, and without regard to whether they are unclassified or classified (provided, in the latter case, that they are subject to the control and other requirements of applicable United States law and regulation concerning handling and shipments of classified material). Nor does this provision affect any regulatory procedures in place or promulgated in the future to facilitate the import or export of defense articles through U.S. ports of entry and exit that meet the exclusionary standards of section 38(b)(2). Such regulatory procedures do not constitute the establishment of an exemption in regulation by the President, but merely facilitate activities by the Department of Defense and other U.S. Government agencies that have been expressly excluded in law from license requirements by the Congress.

Similarly, section 1402 is not intended to affect the longstanding practice with respect to exports to Canada, where the Congress has also provided an exemption in law in section 38(f)(3) of the AECA with respect to export license requirements. Further, section 1402 is concerned fundamentally with permanent exports and is not intended to impinge on regulatory practice to permit license exemptions, under well-defined conditions relating to "temporary" exports under well-defined circumstances by United States defense firms, of significant military equipment for purposes of exhibition and demonstration to friends and allies of the United States.

Thank you for your kind and immediate attention to this matter.

Sincerely,

HENRY J. HYDE,
Chairman.

Mr. LANGEVIN. Mr. Chairman, as a member of the House Armed Services Committee, I am pleased to speak in support of the bill before us. I wish to thank Chairman HUNTER and Ranking Member SKELTON for their leadership in crafting a bill that will provide our military—and the men and women who serve in it—the resources they need to keep America strong in the 21st century. It is always a daunting task to craft legislation that balances the needs of our services, and such an effort is even more challenging during a time of military conflict. Chairman HUNTER and Ranking Member SKELTON have succeeded admirably in this endeavor, and the product before us today is a fine example of careful craftsmanship and bipartisan cooperation. I am particularly appreciative of the Chairman's theme of "The Year of the Soldier," and the commitment this legislation demonstrates to force protection and quality of life enhancements. We are proud of our men and women in uniform, and we must ensure that they are given the resources necessary to succeed in their mission.

I am pleased that the legislation includes provisions that I offered with Congressman JIM COOPER during committee consideration to ensure that civilian employees at the Department of Defense do not lose their jobs to private contractors without first having the opportunity to compete for the work. The legislation closes loopholes that have allowed the Department of Defense to reclassify or reorganize work to avoid Congressionally mandated competition requirements. It also supports efforts to provide civilian employees with comparable legal standing to private-sector workers when appealing contract decisions. These provisions will offer equality to our civilian employees and significant savings to our taxpayers.

I also appreciate the committee's effort to correct the problem of reduced survivor benefits for military spouses. For too long, military spouses have witnessed their survivor benefits drop by more than one-third once reaching the age of 62. Comparable civilian plans provide survivors a lifetime annuity of 50–55 percent of retired pay and protect against a drop in annuity at age 62. As a cosponsor of the Military Survivor Benefits Improvement Act, I have supported efforts to repeal this unfair burden and am pleased that this legislation would restore benefits gradually to 55 percent by March 2008.

As we move forward on this legislation, I hope to work with the Chairman and the Ranking Member to address my concerns about our nation's shipbuilding rates. This legislation would postpone by one year construction of our next-generation destroyer, DD(X), and the Littoral Combat Ship, at a time when our naval fleet is shrinking and our shipbuilding industry is struggling. The proposed $221 million reduction for DD(X) is particularly disconcerting when the project has been running on budget and on schedule. Admiral Vern Clark, Chief of Naval Operations, has indicated his opposition to these shipbuilding cuts, and I look forward to working with the committee to restore funding for DD(X) and LCS.

Overall, this legislation is a well-balanced approach to the needs of our nation's military, and I commend the Chairman, Ranking Member, and my colleagues on the committee for a fine work product. Thank you, Mr. Chairman.

Mr. BACA. Mr. Chairman, while I do have concerns with this bill, I rise to voice my support for H.R. 4200, the National Defense Authorization Act for Fiscal Year 2005. We need to do everything we can to make our armed forces as effective as possible. That's why I support the 2-year delay for the next BRAC round.

California has seen 29 bases close. In the Inland Empire, George and Norton Air Force Bases have been closed. And March Air Force Base was reduced to a reserve base. This cost an estimated 37,000 jobs and $3.9 billion in economic activity. That is 39 times the size of the San Bernardino city budget. That's real money that could have helped our citizens.

The 22,000 citizens of Barstow are worried that the Nebo Marine Corp Logistics Base and Yermo Annex will close. It is the city's second largest employer. What will happen when it closes?

When Norton Air Force Base closed in a previous BRAC round, it devastated my district. We lost 10,000 military and civilian personnel. And thousands more lost their job off the base. We have never been able to replace those jobs. It's not only communities that will be affected. Base closings will affect our troops and their families. It will set the military on a course of instability. All in order to save a few bucks.

Our troops in Iraq should not have to worry whether their families will be moved to another city or another state. They have better things to worry about. Because of these reasons I support the suspension of BRAC.

H.R. 4200 is far from a perfect bill. But it helps to fix the problems the Administration has not dealt with. It makes the military more effective and it protects our communities and troops.

Mr. SWEENEY. Mr. Chairman, I am pleased to support Chairman DUNCAN HUNTER and the House Armed Services Committee efforts to provide our troops with the equipment necessary to successfully accomplish their missions in the global war on terrorism and Operation Iraqi Freedom, more specifically.

Specifically, the FY05 Defense Authorization bill funds procurement initiatives near-and-dear to my heart, to include full funding for the Up Armor High Mobility Multipurpose Wheeled Vehicle, providing the ability to purchase over 6,000 up armored Humvees, and funding for ballistic armor for other Humvees and trucks, as well as Interceptor Body Armor funding.

Mr. Chairman, this is of particular concern to me since recently I approached the Chairman after several U.S. Army National Guard soldiers from my District in Charlie Company, 2nd Battalion of the 108th Light Infantry were killed and wounded on Easter Sunday during an attack in Samarra, Iraq.

Private First Class Nathan Brown was killed in action after being struck by a rooftop fired RPG while riding in a 5-ton truck.

Armored and up armored vehicles and body armor equipment are not just necessary but required, and it is Congress' job to provide these resources to troops in combat.

The Pentagon must know it is Congress' intent to provide all the tools needed to successfully complete their missions in Iraq and around the world. The message Congress is sending to the bureaucracy that supports our military and the field commanders in theater is the same. Our collective expectation is for the Department of Defense to put this equipment to the best use immediately, in order to allow the men and women on the ground sacrificing their lives to fully succeed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: amendment No. 9 offered by the gentlewoman from California (Mrs. TAUSCHER) and amendment No. 25 offered by the gentleman from Kansas (Mr. RYUN).

The first electronic vote will be conducted as a 15-minute vote. The remaining electronic vote will be conducted as a 5-minute vote.

AMENDMENT NO. 9 OFFERED BY MRS. TAUSCHER

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from California (Mrs. TAUSCHER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 204, noes 214, not voting 16, as follows:

[Roll No. 203]

AYES—204

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Bell
Berkley
Berman
Berry
Bishop (NY)
Blumenauer
Boehlert
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)

Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Ehlers
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Filner
Ford
Frank (MA)
Frost
Gilchrest
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hefley
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Hyde
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Petri
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Simmons
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—214

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carson (OK)
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dreier
Duncan
Dunn
Edwards
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Isakson
Issa
Istook
Jenkins
Johnson (IL)
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
Marshall
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Pearce
Pence
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Vitter
Walden (OR)
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—16

Ballance
Becerra
Burr
Crowley
Deutsch
Doolittle
Fattah
Fossella
Gephardt
Johnson, Sam
LaTourette
Leach
Norwood
Quinn
Tauzin
Walsh

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. UPTON) (during the vote). Members are advised 2 minutes remain in this vote.

☐ 1524

Messrs. NEUGEBAUER, McINNIS, BACHUS and POMBO changed their vote from "aye" to "no."

Mr. BOEHLERT and Mr. PETRI changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 25 OFFERED BY MR. RYUN OF KANSAS

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 25 offered by the gentleman from Kansas (Mr. RYUN) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 290, noes 132, not voting 11, as follows:

[Roll No. 204]

AYES—290

Ackerman
Aderholt
Akin
Andrews
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Berkley
Berman
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capuano
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Coble
Cole
Collins
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cummings
Cunningham
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Eshoo
Etheridge
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoeffel
Hoekstra
Holden
Hooley (OR)
Hostettler
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Langevin
Lantos
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Markey
Matheson
Matsui
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
McNulty
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Pallone
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Rush
Ryan (WI)
Ryun (KS)
Sánchez, Linda T.
Sanders
Saxton
Schiff
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Stupak
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thompson (CA)
Tiahrt
Tiberi
Toomey
Turner (OH)
Udall (NM)
Upton
Vitter
Walden (OR)

Wamp
Watson
Waxman
Weiner
Weldon (FL)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)
Young (FL)

NOES—132

Abercrombie
Alexander
Allen
Baca
Bachus
Baird
Bereuter
Berry
Biggert
Bishop (NY)
Blumenauer
Boucher
Boyd
Capps
Cardin
Cardoza
Clay
Clyburn
Conyers
Cooper
Crowley
Davis (AL)
Davis (CA)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Doggett
Dooley (CA)
Emanuel
Evans
Farr
Filner
Ford
Gephardt
Gonzalez
Gordon
Goss
Green (TX)
Grijalva
Gutierrez
Hill
Hinchey
Hinojosa
Holt
Honda
Houghton
Hoyer
Inslee
Israel
Jackson (IL)
Kanjorski
Kind
Kleczka
Kolbe
Kucinich
LaHood
Lampson
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Manzullo
Marshall
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
Meehan
Meek (FL)
Miller, George
Moore
Moran (VA)
Nadler
Napolitano
Oberstar
Obey
Olver
Ortiz
Owens
Pascrell
Pastor
Paul
Payne
Petri
Pomeroy
Price (NC)
Rahall
Rangel
Renzi
Reyes
Rodriguez
Rothman
Roybal-Allard
Ruppersberger
Ryan (OH)
Sabo
Sanchez, Loretta
Sandlin
Schakowsky
Scott (VA)
Serrano
Shays
Skelton
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Tanner
Tauscher
Taylor (MS)
Thompson (MS)
Thornberry
Tierney
Towns
Turner (TX)
Udall (CO)
Van Hollen
Velázquez
Visclosky
Waters
Watt
Weldon (PA)
Woolsey
Wynn

NOT VOTING—11

Ballance
Becerra
Burr
Deutsch
Fattah
Johnson, Sam
Leach
Norwood
Quinn
Tauzin
Walsh

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). Two minutes are left in this vote.

□ 1534

Messrs. ABERCROMBIE, CARDOZA and CROWLEY changed their vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. UPTON). Are there any more amendments?

The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SWEENEY) having assumed the chair, Mr. UPTON, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4200) to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2005, and for other purposes, pursuant to House Resolution 648, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. WAXMAN. I am, Mr. Speaker, in its current form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Waxman moves to recommit the bill H.R. 4200 to the Committee on Armed Services with instructions to report the same back to the House forthwith with the following amendment:

At the end of title X (page 409, after line 13), insert the following new section:

SEC. ___. SENSE OF HOUSE CONCERNING ESTABLISHMENT OF A SELECT COMMITTEE OF THE HOUSE TO INVESTIGATE THE TREATMENT OF DETAINEES HELD IN CONNECTION WITH THE GLOBAL WAR ON TERRORISM.

It is the sense of the House of Representatives—

(1) that there should immediately be established, during the 108th Congress, a select committee of the House to investigate the treatment of detainees (both within and outside the United States) who are held in connection with Operation Iraqi Freedom, Operation Enduring Freedom, or any other operation within the Global War on Terrorism;

(2) that such a select committee should be composed of 10 members, five to be selected by the Speaker and five to be selected by the Democratic leader; and

(3) that such a select committee's investigation should cover, at a minimum, the following:

(A) The treatment of detainees.

(B) The conduct of United States military and civilian personnel operating facilities at which such detainees are held.

(C) The role of any contractor personnel in detention or interrogation activities.

(D) Allegations of abuse at any of those facilities and the response to those allegations by officials at all levels of the United States Government.

The SPEAKER pro tempore. The gentleman from California (Mr. WAXMAN) is recognized for 5 minutes on his motion to recommit.

Mr. WAXMAN. Mr. Speaker, George Will wrote a column recently about the administration's lack of accountability. He pointed out that no one was held accountable for the administration's false claim that Iraq attempted to obtain uranium from Niger or misleading claims about Iraq's alleged weapons of mass destruction.

He correctly concluded failures are multiplying because of choices for which no one seems accountable.

We are about to repeat this mistake once again. We all agree that the abuse and torture of Iraqi detainees at the Abu Ghraib prison is completely unacceptable. Congress has rightly condemned this illegal and inhumane conduct; but this House must take the next step, and fully investigate these terrible episodes. We must determine how many individuals were involved and how far up the chain of command this extends.

We also must find out whether this type of abuse has occurred elsewhere, inside or outside of Iraq. We need to review the role of independent contractors; what role they played, to whom were they accountable. If we do not insist on holding the executive branch accountable, we are creating exactly the same situation George Will described, "an administration where failures go unpunished and officials need not worry about the consequences of their conduct."

This motion to recommit would express the sense of the House of Representatives that a select committee of the House should immediately be established to investigate the treatment of detainees held by the administration in connection with the global war on terrorism. A select committee is necessary because this House has ignored its constitutional responsibility for holding the administration accountable.

Time and time again the House majority has demonstrated that it has no interest in performing any serious oversight of this administration. The Republican majority has refused to investigate the alleged White House's outing of CIA agency's Valerie Plame, which might have jeopardized our national security.

The majority has declined to investigate allegations that administration officials threatened to fire the Health and Human Services chief actuary if he disclosed unfavorable cost projections for the Medicare prescription drug benefit to Congress. Now the House majority wants to do as little oversight as possible when it comes to abuse of detainees.

One Republican leader objected to "jerking those battle field commanders out of Iraq for hearings" even when these same commanders are on the other side of the Capitol testifying before the Senate.

Another suggested the "congressional investigations would inflame hatred of the U.S. by providing fodder and soundbites for our enemies." Our enemies are already gleeful over the tarnishing of our credibility all around the world as champions of democracy and human rights.

On the floor yesterday we were told that public hearings and some closed meetings amount to a "massive investigation." Well, they seem to think this is all that they need to do; but they have not even brought General Taguba before them. They have not even looked at the issue of the civilian contractors. The majority seems to think that it is unpatriotic to ask tough questions and demand answers.

What do they propose? They propose that the administration investigate itself. Well, this is an administration that does not even acknowledge mistakes, let alone accept responsibility to correct them. It has never found the person responsible in the White House for outing Valerie Plame.

We have never heard any action taken about General William G. Boykin, the Deputy Under Secretary of Defense for intelligence who made the egregious anti-Muslim statement that this is a Christian holy war against Muslims.

It has never responded to Richard Clark's revelations about what he said about our preparedness for September 12 except to make an all-out assault on his character.

The administration has never told us who told them to write the Iraq-Niger uranium deal in the State of the Union address which was based on bogus information that the CIA told them was bogus. They have never fired anybody for any of these mistakes.

Well, I do not believe it is our constitutional responsibility to let the administration investigate itself. We have a fundamental responsibility to investigate this issue and to assert oversight over the military campaign in Iraq and the global war on terror.

Mr. Speaker, oversight is not unpatriotic. Oversight is our constitutional duty. Now, I know there are different committees of the House that have different jurisdictions on this matter. Let us bring them all together in one select committee. But let us be sure we do the job of oversight. I ask for support for this motion to recommit.

The SPEAKER pro tempore. Does the gentleman from California (Mr. HUNTER) rise in opposition to the motion to recommit?

Mr. HUNTER. I do, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from California (Mr. HUNTER) is recognized for 5 minutes.

Mr. HUNTER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New Jersey (Mr. SAXTON), the chairman of the Subcommittee on Terrorism, Unconventional Threats and Capabilities.

Mr. SAXTON. Mr. Speaker, I rise in opposition to the motion to recommit. My friend, the gentleman from California (Mr. WAXMAN), has made the point that Congress is not investigating. That is simply not true.

Both the Senate and the House, particularly, have held particularly contentious hearings, and the country has seen those hearings because they have been public. But in addition to that, on a frequent basis we have held closed hearings because much of this information is classified. And we ask tough questions in those hearings, Republicans and Democrats together.

But in addition to that, General Antonio Taguba just days after it was discovered, after these events had taken place, was tasked to do an investigation. That was in January. And through January and February and March and April that investigation went forward resulting in something that has become known as the Taguba Report, a report every bit this high with a 58-page summary.

That report and six other military investigations which are still under way have led to a conclusion that this situation is being well taken care of. The conclusion is that there are a few people who committed some horrific acts and that the problem was the result of the collapse of leadership in one battalion, possibly two, and that some misdirected people got out of control.

While this is going on, there is much good going on in the Middle East, in Iraq. Our troops are fighting to secure the peace in support of the CPA. They are fighting to secure important sites, important to economic growth and the welfare of the Iraqi people. They are fighting to build an Iraqi security service, border police, site police, security police and a police force.

□ 1545

They are fighting to secure hospitals and schools. They are fighting to promote local caucuses, to elect local individuals, and they are fighting to control foreign fighters, insurgents if you will.

So there is a big job to do in the Middle East, and I was taken yesterday as I read in the press of another investigation that is ongoing by the 9/11 Commission when they interviewed Rudy Giuliani. Let me conclude with this. This is not an exact quote, but this is the meaning of what Rudy Giuliani said yesterday. He said words to this effect: There is only one enemy in the war on terrorism and it is not us. It is those who attacked us and murdered our loved ones.

Mr. HUNTER. Mr. Speaker, I yield myself the remaining time.

Mr. Speaker, I think that the gentleman from New Jersey (Mr. SAXTON) said it well. The interesting thing about this entire mess in Abu Ghraib is the fact that General Sanchez, just 3 days in January after that first soldier came forward, started the investigation on his own. There was no media. There was no CNN out there with an investigative reporter. The general did that on his own, and he then announced to the world in a press conference, kept it secret except for the 50 million people watching television, that we Americans were investigating ourselves over what happened in that prison. He started that investigation and it worked its way on down, and it has now culminated in the first conviction that took place just yesterday in Iraq.

So the military has done well, and we held full blown, full Committee on Armed Services hearings here. They had them obviously in the other body. We have spent more time on this than we have any weapons system, any military operation, and we have done a good job.

We have embedded some of the recommendations that were made in the Taguba report in the bill my colleagues are about ready to pass. We have embedded some of those recommendations. We have made some changes and some reforms in that bill.

Now, it is time to refocus, and let me tell my colleagues why it is time to refocus. In the last 24 hours we have had 66 attacks on American and coalition forces in Iraq. We suffered 14 people wounded. We suffered two KIA. We have to return our focus to this war.

About 3 years ago, we started this very complex and difficult military operation. It has been tough. We have had reluctant allies. We have had tactical problems. We have had enormous challenges, and through all of this, our troops have carried us, our great American troops. They have killed the enemy at 10,000 feet in the high mountains of Afghanistan. They have engaged him in these fierce fire fights in the choke points in Iraq. They have done a wonderful job, and the 300,000-plus Americans who have served honorably and purely in the Afghanistan and Iraq theaters have received almost no publicity.

When Master Sergeant Bill Pryor attacked an enemy position by himself, killing the four people that he took on and killed the last one in hand-to-hand combat, he received no publicity except maybe among a few of his platoon members that he saved. When Gunny Sergeant Jeff Bohr laid down his life by putting his body between his wounded marines and the enemy, he did not appear on any front pages.

We have attended the Abu Ghraib mess with more press coverage than probably any military operation, including the invasion of Normandy. It is time to refocus. Let us refocus on those great and wonderful 2.5 million people that wear the uniform of the United States. We do that by giving them the tools to get the job done, and this bill, put together by Democrats and Republicans, does that. It gets the job done. Please vote "yes." Vote down the motion to recommit and let us move this bill.

The SPEAKER pro tempore (Mr. SWEENEY). All time has expired.

Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. WAXMAN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—ayes 202, noes 224, not voting 8, as follows:

[Roll No. 205]

AYES—202

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—224

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
Marshall
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—8

Ballance
Burr
Deutsch
Johnson, Sam
Leach
Norwood
Tauzin
Walsh

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SWEENEY) (during the vote). There are 2 minutes remaining in this vote.

□ 1611

Mr. COX changed his vote from "aye" to "no."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HUNTER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 391, noes 34, not voting 9, as follows:

[Roll No. 206]

AYES—391

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Gutknecht
Hall
Harman
Harris
Hart
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee

Isakson
Israel
Issa
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Nunes
Nussle
Obey
Ortiz
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Pastor
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sànchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Vitter
Walden (OR)
Wamp
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NOES—34

Baldwin
Blumenauer
Capuano
Frank (MA)
Grijalva
Gutierrez
Hinchey
Honda
Jackson (IL)
Kilpatrick
Kucinich
Lee
Lewis (GA)
Markey
McDermott
Miller, George
Nadler
Oberstar
Olver
Owens
Paul
Payne
Rangel
Schakowsky
Serrano
Stark
Towns
Velázquez
Waters
Watson
Watt
Weiner
Woolsey
Wu

NOT VOTING—9

Ballance
Burr
Conyers
Deutsch
Johnson, Sam
Leach
Norwood
Tauzin
Walsh

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1619

So the bill was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.".

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 4200, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

Mr. HUNTER. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 4200, the Clerk be authorized to correct section numbers, punctuation, cross-references, and the table of contents, and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill.

The SPEAKER pro tempore (Mr. SWEENEY). Is there objection to the request of the gentleman from California?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. HINCHEY. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. HINCHEY. Mr. Speaker, I take it we are about to adjourn, and if that is the case, I am wondering if we are adjourning without doing an extension of unemployment insurance?

The SPEAKER pro tempore. The gentleman is not stating a proper parliamentary inquiry.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the House by Ms. Wanda Evans, one of his secretaries.

ADDRESSING PARTICIPATION OF TAIWAN IN WORLD HEALTH ORGANIZATION

Mr. DELAY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2092) to address the participation of Taiwan in the World Health Organization, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2092

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONCERNING THE PARTICIPATION OF TAIWAN IN THE WORLD HEALTH ORGANIZATION.

(a) FINDINGS.—Congress makes the following findings:

(1) Good health is important to every citizen of the world and access to the highest standards of health information and services is necessary to improve the public health.

(2) Direct and unobstructed participation in international health cooperation forums and programs is beneficial for all parts of the world, especially today with the great potential for the cross-border spread of various infectious diseases such as the human immunodeficiency virus (HIV), tuberculosis, and malaria.

(3) Taiwan's population of 23,500,000 people is greater than that of ¾ of the member states already in the World Health Organization (WHO).

(4) Taiwan's achievements in the field of health are substantial, including—

(A) attaining—

(i) 1 of the highest life expectancy levels in Asia; and

(ii) maternal and infant mortality rates comparable to those of western countries;

(B) eradicating such infectious diseases as cholera, smallpox, the plague, and polio; and

(C) providing children with hepatitis B vaccinations.

(5) The United States Centers for Disease Control and Prevention and its counterpart agencies in Taiwan have enjoyed close collaboration on a wide range of public health issues.

(6) In recent years Taiwan has expressed a willingness to assist financially and technically in international aid and health activities supported by the WHO.

(7) On January 14, 2001, an earthquake, registering between 7.6 and 7.9 on the Richter scale, struck El Salvador. In response, the Taiwanese Government sent 2 rescue teams, consisting of 90 individuals specializing in firefighting, medicine, and civil engineering. The Taiwanese Ministry of Foreign Affairs also donated $200,000 in relief aid to the Salvadoran Government.

(8) The World Health Assembly has allowed observers to participate in the activities of the organization, including the Palestine Liberation Organization in 1974, the Order of Malta, and the Holy See in the early 1950's.

(9) The United States, in the 1994 Taiwan Policy Review, declared its intention to support Taiwan's participation in appropriate international organizations.

(10) Public Law 106–137 required the Secretary of State to submit a report to Congress on efforts by the executive branch to support Taiwan's participation in international organizations, in particular the WHO.

(11) In light of all benefits that Taiwan's participation in the WHO can bring to the

state of health not only in Taiwan, but also regionally and globally, Taiwan and its 23,500,000 people should have appropriate and meaningful participation in the WHO.

(12) On May 11, 2001, President Bush stated in a letter to Senator Murkowski that the United States "should find opportunities for Taiwan's voice to be heard in international organizations in order to make a contribution, even if membership is not possible", further stating that the administration "has focused on finding concrete ways for Taiwan to benefit and contribute to the WHO".

(13) In his speech made in the World Medical Association on May 14, 2002, Secretary of Health and Human Services Tommy Thompson announced "America's work for a healthy world cuts across political lines. That is why my government supports Taiwan's efforts to gain observership status at the World Health Assembly. We know this is a controversial issue, but we do not shrink from taking a public stance on it. The people of Taiwan deserve the same level of public health as citizens of every nation on earth, and we support them in their efforts to achieve it".

(14) The Government of the Republic of China on Taiwan, in response to an appeal from the United Nations and the United States for resources to control the spread of HIV/AIDS, donated $1,000,000 to the Global Fund to Fight AIDS, Tuberculosis, and Malaria in December 2002.

(15) In 2003, the outbreak of Severe Acute Respiratory Syndrome (SARS) caused 84 deaths in Taiwan.

(16) Avian influenza, commonly known as bird flu, has reemerged in Asia, with strains of the influenza reported by the People's Republic of China, Cambodia, Indonesia, Japan, Pakistan, South Korea, Taiwan, Thailand, Vietnam, and Laos.

(17) The SARS and avian influenza outbreaks illustrate that disease knows no boundaries and emphasize the importance of allowing all people access to the WHO.

(18) As the pace of globalization quickens and the spread of infectious disease accelerates, it is crucial that all people, including the people of Taiwan, be given the opportunity to participate in international health organizations such as the WHO.

(19) The Secretary of Health and Human Services acknowledged during the 2003 World Health Assembly meeting that "[t]he need for effective public health exists among all peoples".

(b) PLAN.—The Secretary of State is authorized to—

(1) initiate a United States plan to endorse and obtain observer status for Taiwan at the annual week-long summit of the World Health Assembly each year in Geneva, Switzerland;

(2) instruct the United States delegation to the World Health Assembly in Geneva to implement that plan; and

(3) introduce a resolution in support of observer status for Taiwan at the summit of the World Health Assembly.

(c) REPORT CONCERNING OBSERVER STATUS FOR TAIWAN AT THE SUMMIT OF THE WORLD HEALTH ASSEMBLY.—Not later than 30 days after the date of the enactment of this Act, and not later than April 1 of each year thereafter, the Secretary of State shall submit a report to the Congress, in unclassified form, describing the United States plan to endorse and obtain observer status for Taiwan at the annual week-long summit of the World Health Assembly (WHA) held by the World Health Organization (WHO) in May of each year in Geneva, Switzerland. Each report shall include the following:

(1) An account of the efforts the Secretary of State has made, following the last meeting of the World Health Assembly, to encourage WHO member states to promote Taiwan's bid to obtain observer status.

(2) The steps the Secretary of State will take to endorse and obtain observer status at the next annual meeting of the World Health Assembly in Geneva, Switzerland.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROVIDING FOR CONDITIONAL ADJOURNMENT OR RECESS OF THE TWO HOUSES

Mr. DELAY. Mr. Speaker, I send to the desk a privileged concurrent resolution (H. Con. Res. 432) and ask for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the concurrent resolution.

The Clerk read as follows:

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Thursday, May 20, 2004, or Friday, May 21, 2004, it stand adjourned until 2 p.m. on Tuesday, June 1, 2004, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on Thursday, May 20, 2004, Friday, May 21, 2004, or Saturday, May 22, 2004, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Tuesday, June 1, 2004, or at such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

The SPEAKER pro tempore. The question is on the concurrent resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HINCHEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 222, nays 193, not voting 19, as follows:

[Roll No. 207]

YEAS—222

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
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ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SWEENEY) (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1640

So the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3473

Mr. HOLDEN. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 3473.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

CHILD CREDIT PRESERVATION AND EXPANSION ACT OF 2004

Mr. CAMP. Mr. Speaker, pursuant to House Resolution 644, I call up the bill (H.R. 4359) to amend the Internal Revenue Code of 1986 to increase the child tax credit, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 644, the bill is considered read for amendment.

The text of H.R. 4359 is as follows:

H.R. 4359

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Credit Preservation and Expansion Act of 2004".

SEC. 2. INCREASE IN CHILD TAX CREDIT.

(a) IN GENERAL.—Subsection (a) of section 24 of the Internal Revenue Code of 1986 (relating to child tax credit) is amended to read as follows:

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year with respect to each qualifying child of the taxpayer an amount equal to $1,000.".

(b) INCREASE IN PHASEOUT THRESHOLDS.—Paragraph (2) of section 24(b) of such Code is amended to read as follows:

"(2) THRESHOLD AMOUNT.—For purposes of paragraph (1), the term 'threshold amount' means $125,000 ($250,000 in the case of a joint return).".

(c) ACCELERATION OF INCREASE IN REFUNDABLE PORTION OF CREDIT.—Clause (i) of section 24(d)(1)(B) of such Code is amended by striking "(10 percent in the case of taxable years beginning before January 1, 2005)".

(d) COMBAT PAY TAKEN INTO ACCOUNT.—Paragraph (1) of section 24(d) of such Code is amended by adding at the end the following new sentence: "For purposes of subparagraph (B), any amount excluded from gross income by reason of section 112 shall be treated as earned income which is taken into account in computing taxable income for the taxable year.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 3. REPEAL OF SUNSET.

Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to the provisions of, and amendments made by, sections 201 and 203 of such Act.

The SPEAKER pro tempore. After 1 hour of debate on the bill, it shall be in order to consider the amendment printed in House Report 108–496, if offered by the gentleman from New York (Mr. RANGEL) or his designee, which shall be considered read, and shall be debatable for 1 hour, equally divided and controlled by the proponent and an opponent.

The gentleman from Michigan (Mr. CAMP) and the gentleman from Michigan (Mr. LEVIN) each will control 30 minutes of debate on the bill.

The Chair recognizes the gentleman from Michigan (Mr. CAMP).

Mr. CAMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of legislation to permanently extend the child tax credit to millions of hardworking American families. H.R. 4359, the Child Credit Preservation and Expansion Act of 2004, will prevent 30 million American families from being hit with a tax increase next year. The bill before us today will make the $1,000 child credit permanent while enhancing the credit for low-income families, middle-income families, married couples and our military families. As the economy continues to grow, it is important that Congress stand in firm support of policies that strengthen families.

The current credit is a product of the 2001 tax law, the Economic Growth and Tax Relief Reconciliation Act, which increased the tax credit to $600 per child through 2004, eventually raising it to $1,000 per child by 2010. This tax relief was accelerated in last year's Jobs and Growth tax relief bill which made the $1,000 credit available to families immediately for 2003 and 2004. Today's bill would make this level of relief permanent and enhances the credit by making it more available to lower-income, middle-income and military families.

Mr. Speaker, in addition to making the $1,000 credit permanent, H.R. 4359 also provides for several other tax benefits that Members on both sides of the aisle have sought. The bill increases the level of refundability to 15 percent of earned income above $10,750, a year earlier than provided under current law. Soldiers in combat areas and their families will receive additional support because the bill allows combat pay to be treated as earned income for the credit's refundability. Further, this bill would permanently prevent the child credit from being lost to the Alternative Minimum Tax.

Congress must not allow taxes to be increased on American families just as our economy gets going. This tax credit is good for the American family and good for the American soldier. I urge my colleagues to support the rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mr. LEVIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is important we understand what the issue is here today and where there is a difference. It is not a question of extending the child credit; we favor its extension. It is not a question of accelerating the 15 percent refundability; Democrats support it and urged it before. It is not a question relating to military families; we Democrats have been urging that before and support it now.

So what is the issue here? It is interesting that my colleague from Michigan does not discuss either of the two major issues. Somehow by using the term "families," there is the notion that major issues can be avoided, that major issues can be skirted, that major issues can somehow be covered up by the use of the term "families." We are not going to let that happen. Whoever is listening must learn the difference here.

Part of it relates, and now I am talking about the differences between the substitute and this bill, to low-income working families. The substitute would provide more benefits because for working families the threshold was indexed. We want to de-index it. That will help 2.5 million working families. We also want to increase the benefit for every family by indexing the credit.

I also now want to point out two additional major differences. This is not only an extension, this is a new tax break. This is not only an extension of this credit, this is a new tax cut. And for whom? It is a tax cut not really only for families earning $110,000 because they receive some of the benefits of the present system. For example, it goes up to $120,000, $130,000, et cetera. For a family of two with $135,000, they get 375 bucks for each child.

□ 1645

So this really goes beyond the present system, one that provides some relief for families up to $150,000 and in some cases beyond, depending on the number of children. Now, what this is, is a new tax break that goes beyond the $150,000, beyond $200,000, beyond $250,000, beyond in some cases $300,000. This is not a tax break mainly for middle-income families. It is a tax break for Members of Congress who have kids 17 and under. Do we need that tax break? I do not think so. I do not think so.

Under the tax legislation that was passed before, the very wealthy families have already received an ample tax break. And if the first chart would be brought forth, I want to refer to it. This is for family household incomes 200 to $500,000: $7,430, this has been the average tax cut in earlier years. And what this bill would do would be to add 2,000 bucks to it. That is what this bill does. Do not call it just an extension. That is point one.

So when I hear, as I heard earlier today, this is for families to buy diapers, to buy toys, to buy a swing, no. I am in favor of providing, and so are Democrats, the extension for families who clearly need it. I am not in favor of a new tax break for families who clearly do not need it, 250,000 bucks a year.

Stand up and say that you are providing a tax break for them. Stand up and say you are providing a tax break for the Members of Congress with kids 17 and under. What this is, is an example of imbalance of priorities and, indeed, of perspective. And to make it worse, you do not pay for it.

I ask that the second chart be brought forth. And I want everybody to understand what the Republican majority is doing here. This tax cut, the way they have tailored it, the estimate is it is going to cost about $228 billion. Of that, close to $70 billion is because of your new tax break. My gosh, you do not even pay for the child credit that makes really good sense. Okay. Should you not at least pay for a tax break for families making 250 and 300,000 bucks a year? That is not just fiscal irresponsibility; that is fiscal madness.

So that is why I rise today and urge support for the substitute and urge that people vote with some perspective, with some sense of priorities, and vote against the Republican majority bill.

It is not going to pass the Senate. I do not even know how you make it in order in the Senate. If this bill had come out of the Committee on Ways and Means, as I understand the rules, there had to be a waiver by rules in order for us to consider it today because it does not come within any budget.

So what we are doing today is in a sense going through the motions, and I am in favor of making clear to low- and increasing numbers of low-income families the need for a child credit. I am in favor of making clear an extension of the child credit for middle-income families in this country. It does not make any sense to dig a deeper fiscal hole for families making 200, 250, $300,000 a year.

I close with this and everybody take notice: what you are doing by giving a tax break to a relatively small number of families, not all of whom but many of whom are earning 175,000, 200,000, $200,000 a year, what you are doing is, in essence, putting a tax on all of the families of America, if not next year, in the future, because they are going to have to pay for the interest on this deep, deep deficit. And you are just adding to it.

Mr. Speaker, I reserve the balance of my time.

Mr. CAMP. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. CRANE), a distinguished member of the Committee on Ways and Means and chairman of the Trade Subcommittee.

Mr. CRANE. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today to voice my strong support for H.R. 4359, legislation that makes permanent the $1,000 child tax credit.

The Bush tax cut of 2003 accelerated the amount of money American working families with children are able to keep, from $600 to $1,000. If we do not act today to make this tax relief permanent, next year working families will end up having to pay $300 more per child in taxes than they did in 2003 and 2004.

In the following years, the Federal Government will take American families on a financial roller coaster ride. In 2005 through 2008, families will continue to see their taxes increased by $300 more per child. In 2009 it will decrease to $200 more. In 2010 they will get the full $1,000 credit, only to have the rug whipped out from under them in the following 2 years when the credit will decrease to $500 per child.

Does this sound confusing? I will boil it down to its simpler form. A vote against this legislation is a vote to increase taxes on American families by $228 billion over 10 years. That is money earned by mothers and fathers who work hard to pay the enormous costs required to keep food on their families' tables and clothes on their families' backs.

I urge my colleagues to support H.R. 4359.

Mr. LEVIN. Mr. Speaker, I yield myself such time as I may consume.

I want to point out to the gentleman from Illinois that over 2 million children in Illinois will receive more of a benefit from the Democratic substitute than from the Republican bill and only the very wealthiest 4 percent of the families in Illinois will receive any of the new tax cut that goes beyond the extension of the present system.

Mr. Speaker, I yield 3 minutes to the very distinguished gentleman from Georgia (Mr. LEWIS), an active member of the Committee on Ways and Means.

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank my friend and colleague for yielding me this time.

Mr. Speaker, I rise in disbelief that we are even considering such an irresponsible bill today. Instead of taking responsible steps to make permanent a tax cut to help working families with children, this bill balloons our Federal debt and gives thousands of dollars in extra tax breaks to the very wealthiest Americans.

On the other hand, those who need help the most, low- to moderate-income working families with children, receive little benefit under this bill. And those at the very bottom get nothing. That is right, they get nothing.

A family with one parent who works full time at minimum wage earns about $10,300 a year. That struggling family will get no benefit under this unfair bill. A better off, but still low-income, family with two children earning $12,000 will get a one-time $300 tax break. This is only $25 per child or $50 more than they would already receive under current law.

Contrast that with a two-child family earning between $150,000 and $250,000. That family will get $20,000 in extra tax breaks over the next 10 years, $20,000.

This largess comes at a high price indeed. This bill comes with a price tag of $228 billion over 10 years. In fact, when we combine the cost of this bill with the cost of the three other tax bills we have passed over the last month, we are looking at $569 billion worth of tax cuts. That is over half a trillion dollars added to our already incredible debt of $7.2 trillion.

Yes, my colleagues heard me right, $569 billion on top of $7.2 trillion.

This bill is outrageous. It is a sham. It is a shame and a disgrace. What we are doing today, yet again, is offering huge tax breaks for those who need them least by greatly increasing the debt tax that will burden all of our children and grandchildren for many years to come.

Mr. Speaker, I ask my colleagues to tell me how that is fair. The fact is they cannot, and no one can because this bill is not only unfair; it is downright reckless.

Mr. Speaker, it is long past the time for us to exercise fiscal restraint, but it is never, ever too late to take that first step.

The Democrats, the people on my side of the aisle, we have a better version, a more responsible bill, a more equitable bill, a bill that truly helps those who need it most.

I urge my colleagues to take the first step. Vote against this bill and vote for the Rangel substitute. Our children and our grandchildren deserve better.

Mr. CAMP. Mr. Speaker, I yield 3 minutes to the gentleman from Nevada (Mr. PORTER).

Mr. PORTER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I had the opportunity to have breakfast with a young man from Nevada this week. He held up his hand and he said, "I have a baby that was born 2 months premature, and I can hold that baby in my hand just like this." And as we talked about his child, who now is well and thriving and feeling wonderful, we talked about the tax credit. This was at breakfast just across the street. He was amazed and appalled and shocked that he would be seeing a $300 tax increase next year because he has a child.

Mr. Speaker, there are 47 million kids across the country not unlike my friend's little baby that he held in his hand a few months ago, 500,000 foster kids, 370,000 children in Nevada alone, who stand to have a tax increase next year if we do not take action today.

Nevada is one of the fastest growing States in the country, close to 5 or 6,000 new residents a month moving into our community. We need 2½ new schools a month because we have about 20,000 new children that could benefit from this tax credit.

We know that the economy is turning around; and because of the strength of the economy, because of the tax credits that we have given in this Congress, right now nationwide there are 1.1 million new jobs since 2003. Unemployment is down to 5.6 percent across the country. Nevada's unemployment rate is 4.4 percent. It is working. Personal income is up. Homeownership is the highest it has ever been, and this is because of these tax credits; and it is because families, working families, have an opportunity to reinvest in their community.

I have been in office a short time as a Member of Congress, but I served in the Nevada legislature as many of the Members have served in legislature, and I will be honest with them, I am perplexed. One of the criticisms I am hearing about this bill to help families is that we have raised the threshold. I am perplexed because I know that politics is the art of bringing groups together and building bridges. The $250,000 threshold was a Democrat proposal just 10 days ago.

□ 1700

I am perplexed that all of a sudden it has become a criticism. We have crossed the aisle and are using their proposal. I encourage the $250,000, and I thank the Democrats for their proposal. Families need permanence in the language.

We also support the Democrat's proposal in helping those families that need help the most by increasing the refundability to 15 percent. I thank my colleagues from across the aisle.

Criticism number three was about not helping military families. Again, I thank my colleagues across the aisle for their language and support of those folks with the combat pay.

Mr. Speaker, I appreciate having this opportunity to ask our colleagues to support this bill. The economy is getting stronger, men and women are getting back to work, hard-working families are receiving these credits so they can choose what to do with the funds and not the Federal Government.

We have reinvigorated the entrepreneurial spirit across the country. We need to continue with these tax credits, so hard-working families can reinvest the money and take care of their families.

Mr. LEVIN. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I do not want anyone to be misled by the gentleman from Nevada. The $250,000 figure related to the Alternative Minimum Tax, not to the child credit. The AMT was never intended to apply, except to the very wealthy, and we want to make sure it does not. They have not stepped up to the plate on it.

Also, I want to point out that 400,000 children in Nevada will benefit more from the Democratic substitute than the Republican bill.

Mr. Speaker, I yield 4 minutes to the active and distinguished gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Speaker, I thank my friend from Michigan for yielding me time.

Mr. Speaker, these are very troubling days in the Congress of the United States of America, because we are engaging virtually every day in the easy part of government. It is really easy to come to this floor and spend more money on things that people like, whether it is defense contracts that put people to work, or highway projects that make the traffic flow more easily, or cleanup of toxic waste dumps or more financial aid for colleges and universities. It is easy to do that, and it is great to go home and take credit for it.

It is even easier to stand on the floor of the House and vote to lower people's taxes. There is not a constituent in America that I can think of that does not like to hear us come home and say we just lowered their taxes.

What we are engaging in here is an act of economic malpractice against the people of this country. I heard my friend from Nevada talk about his friend holding his newborn baby. Well, I have two children, and I am going to vote against this bill, because I do not want to send them the bill for the money that we are borrowing to pay for our increased spending and tax cut after tax cut after tax cut.

For every $100 dollars that this government spends, we borrow $30. We borrow $30 for every $100 we spend around here. We borrow it from the Social Security trust fund that is going to run out of money in the next decade, and we borrow it from future taxpayers of this country.

Now, it is very easy to vote for these things today and hand the bill to our children in the future, but it is very wrong. And I hear all this talk about "job creation." We have had tax cuts since 2001. We have lost a net 2.2 million jobs since 2001. I do not think they have worked.

I will tell you what will work. There is a tried and true formula in America. The more money the Federal Government borrows, the higher the interest rates eventually go. The higher the interest rates go, the less economic growth you have. The less economic growth you have, the more jobs you kill. The more deficits you create, the more communities you hurt. We have seen this before. It happened in the 1980s and it was a disaster, and we are doing it again.

Mr. Speaker, I would ask my colleagues to listen to a Republican voice in the wilderness from the other body, Senator MCCAIN, who said yesterday, referring to our Speaker, "The Speaker is correct that nothing we are called upon to do comes close to matching the heroism of our troops."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from New Jersey will refrain from quoting Senators.

Mr. ANDREWS. Mr. Speaker, I would then paraphrase what the good Senator says.

The SPEAKER pro tempore. The gentleman may not either characterize nor quote the remarks of Senators.

Mr. ANDREWS. I can certainly understand why the Speaker does not want this quote characterized.

The SPEAKER pro tempore. The Chair would remind the gentleman that the standard is set in the Rules of the House, not by the Speaker.

Mr. ANDREWS. Mr. Speaker, this Member of the House believes, and shares this belief with many people in both parties across the country, that it is reckless and irresponsible at a time of war to be borrowing money to pay to reduce anybody's taxes.

There used to be a time in this country when we had to sacrifice as a country, that everybody was part of that sacrifice. It is shameful that for the purpose of going home and delivering good news, we are borrowing money from our children.

We should oppose this bill and we should support the substitute of the gentleman from New York (Mr. RANGEL), because it is paid for; and we should stop this economic malpractice against the people of this country.

Mr. CAMP. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina (Mr. BROWN).

Mr. BROWN of South Carolina. Mr. Speaker, I am so proud that this is the fourth straight week that this House is bringing important tax relief legislation to the floor.

The Child Tax Credit Preservation and Expansion Act of 2004 is another step in the right direction to improve the Tax Code for the benefit of hard-working American families. By making the $1,000 child tax credit permanent, we are sending the right message that we want to help out all taxpayers with the burden of providing for their families and ensuring that they maintain their quality of life.

Last year, the President signed the Jobs and Growth Tax Act into law. Our ailing economy needed bold and decisive action, and this plan was precisely what we needed to make a difference for this Nation. Since the law went into effect last June, the economy has expanded at an average quarterly rate of some 5.5 percent, and we are continuing to see positive signs from the job market.

We all know that families are very busy in today's society with both parents often working to take care of their families, paying for daycare, making mortgage payments in an historically high housing market and trying to make ends meet. This bill, along with all of the other tax cuts that we have provided, will help keep families strong. With traditional marriage and families under attack from so many different sources, including the courts, the entertainment industry and the media, our tax system should not feed them any further.

H.R. 4359 makes sure that the child tax credit does not drop from $1,000 per child to $700 next year, and to $500 by the year 2011. In other words, if this bill is not passed, taxes will increase on children by $300 next year and by $500 per child after 2010. How can we penalize so many American families across this Nation for having children? Shame on every Member of this House if we allow this to happen.

I want to thank my colleague, the gentleman from Nevada (Mr. PORTER), for introducing this legislation, and the gentleman from California (Chairman THOMAS) and the Republican leadership for making sure that we do everything in our power to reduce the tax burden on American families.

Mr. Speaker, I urge all of my colleagues to support H.R. 4359 and to continue to fight for hard-working American taxpayers.

Mr. LEVIN. Mr. Speaker, I would like to point out to the distinguished gentleman from South Carolina that about 800,000 children in South Carolina will benefit more from the Democratic alternative than the Republican bill, and that less than 3 percent of the families in the gentleman's State would benefit from the additional $70 billion in tax cuts in the Republican bill.

Mr. Speaker, it is now my privilege and pleasure to yield such time as he may consume to the gentleman from New York (Mr. RANGEL), the ranking member of the Committee on Ways and Means.

Mr. RANGEL. Mr. Speaker, how historic it would be if we could get back to the idea that tax bills would come out of the tax-writing committee. Every bill that has been coming to the floor has been without the benefit of Republicans and Democrats having an opportunity to evaluate the legislation, to improve on the legislation. At least at a time when our Nation has this polarized war on our hands, would that we could say in the tax-writing committee, we are working together to improve the economy and that we also support our troops, we support Social Security, we support Medicare.

But this is not the case.

There is no basic difference in the thrust of the Republican bill and the Democratic bill. They just would like to make certain that the benefits would go up to people making $329,000. There is no basic difference. They would drive us into debt some $228 billion, because they do not attempt to pay for it.

There is no basic difference, because we are just more concerned with those in the lower income, while they have this fetish, this desire, that no matter how much it costs, they have to make these special appeals to those that have so much.

It would have been that if we were working together, then we could find some equitable solution.

Somewhere on the Republican side, somewhere there is somebody that believes that we should not go deeper into debt. I do not know who it is. I have not met anybody, but there has to be someone that believes that, with the $500 billion in the tax bills we have had.

It would seem to me that the basic principle should include two things: One, this is a time of war. We are spending $4 billion a month because the President has been ordained to bring peace and democracy to this part of the world. He does not know, and neither does Secretary Rumsfeld know, how many months it is going to take in order to pay this cost, not just in human resources, but in dollars.

We have spent over $150 billion, and we are going deeper and deeper in debt. As has been pointed out, we have to pay the interest on that debt. We do not know what it is, besides prescription drugs, that we are going to have to give up. How many schools do we have to give up? How many Social Security payments do we have to give up?

Do we have any obligation at all to legislate today with some consideration for our kids and our grandkids? I do not think so. You have a Committee on the Budget, I guess, because you want to have one. But what impact does it have on the trillions of dollars that we have gone into debt because we want to show the world that we have a fetish in order to give the tax credits and the tax benefits to the top percentage of those people who have such high incomes.

How embarrassed you should be to be able to tell one of your friends and constituents, have I got a surprise for you. I got on the floor of the House and I said, If you make $329,000 a year, net, and you have four kids, I was thinking about you. I was thinking about you on Memorial Day. I was thinking about you when they were looking for more troops to send to Iraq. I was thinking about you and wondering how could I get you to be patriotic enough to know that you can make a sacrifice? But how did it turn out? I am giving you $4,000 to let you know that as Republicans, we care.

You may get some Democrats to support you because they do not want to be against any child credit. But if they only knew how much their children and their grandchildren would be paying for this credit in a nonpolitical year, we would not be doing it, and no responsible Republican would be doing something like this.

This is election year politicking so you can say you voted for the child credit. Your credibility is so shot on the Republican side, they will not believe it anyway. But having said that, God forbid if they should ask one of your candidates, "and how do you intend to pay for it?" And paying for it is just not on the Republican agenda. Borrowing is.

So I hope that people will see their way clear to do not just the right thing by working Americans, to give them a break, especially those that have kids, but do the right thing for the country. Do the right thing for the future. Do the right thing for our kids.

How selfish it is for us to be spending everything, reducing taxes, and knowing one day someone may ask us, granddad, what were you doing when they increased the taxes on me so much? Were you one of those people in the Congress that was a part of this?

I, for one, would be able to say "no." I stood up against them. They have had the majority temporarily, but, God willing, all of this will change and we can get back to some norm. It is nothing I am looking forward to, being in the majority, because we will have the responsibility to be responsible, and when we give tax breaks and social services and education and homes and make Social Security secure and come up with a decent prescription drug bill, we would say, "And we have to find the money to pay for it."

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That is the only difference between Republicans and Democrats: We pay for what we want to do.

Mr. CAMP. Mr. Speaker, I yield 2 minutes to the gentleman from Idaho (Mr. OTTER).

Mr. OTTER. Mr. Speaker, we are a Nation of families, and for good reason. The family unit is the foundation of society. And America's future depends on the success of our families. Our jobs as Members of Congress should be to nurture an environment in America where families can flourish and provide and support the opportunity of freedom and the sense of civic virtue that children need to become responsible citizens.

We did the right thing by increasing the child tax credit in 2001. We did the right thing by accelerating that process last year. And now, by making the child tax credit permanent, we ensure that families continue to retain more control over their own money and we enable them to plan for the future, and we give them the freedom to help their children accomplish their dreams.

There are almost a quarter of a million children in my State whose families will benefit if we pass H.R. 4359. But without this legislation, those families will feel the weight of a significantly increased burden next year. In fact, under current law, tax-paying families in Idaho will pay $757 million more in taxes than they did last year. That money should be staying in their pockets. They should continue to enjoy the fruits of their labors, planning for tomorrow's doctors and teachers and scientists and leaders.

This legislation is about creating an environment that enables those families to take care of their own. It is about time we let them take care of their own.

Mr. LEVIN. Mr. Speaker, I yield 5 minutes to the gentleman from Maryland (Mr. HOYER), our distinguished whip.

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding me time.

This has got to be a frustrating debate for the American public, these tax bills. It is a frustrating debate for those of us who were for much of what is proposed. It is certainly a frustrating debate for future generations.

Mr. Speaker, over the last 4 weeks, our Republican friends have worn their reckless tax cut hearts on their sleeves. That is a pretty harsh phrase. But for those of us who believe we ought to balance America's budget as we ought to balance family budgets, it is nevertheless, I think, accurate.

Republicans have cynically put popular tax legislation on the floor and dared Democrats to oppose it knowing full well that the only reason that many Members on our side of the aisle would cast "no" votes against such bills is because they were not paid for, and on the pretense somehow that cutting taxes, cutting revenues, cutting prices, if you will, for what we buy, whether it is defense, education, health care at NIH, CIA agents, FBI investigators, whatever we are buying, you will want to cut the cost and will not pay for it. You want to put it on our national credit card, and you want my kids and your kids and our grandchildren to pay for it.

Very frankly, if this were a Democratic President today making these proposals, there is not a person on your side of the aisle that would not be outraged at the fiscal profligacy, at the fiscal irresponsibility, at the fiscal immorality of the policies that you are pursuing.

I assume you go back to your districts and say, oh, the deficit will take care of itself, just as it did in the 90s. Baloney. What took care of the fiscal deficit in the 90s was a bill that George Bush, the first, had the courage to sign, a bill in 1993 that no Republican voted for in the House or the Senate. And in 1997, in a bipartisan way, we came together and passed a balanced budget amendment for which I voted, and we passed PAYGO, for which most of you voted, which said that PAYGO would apply to spending and to taxes.

You are digging a hole. You are not digging a hole for yourself, though. You are digging a hole for my children, my grandchildren, and all the children and grandchildren in America who are going to have to pay this debt.

I do not get it. I do not get the intellectual disconnect between what you said in the 70s and 80s and 90s and what you are saying today. I do not get it. And you are hoping the American public does not get it either. You are hoping the American public is saying only that I want tax cuts. I want tax cuts. I want tax cuts and to heck with my children.

We are talking about one another. How sad. The deficit is going to be half a trillion dollars this year. When I came to Congress it was $985 billion. Last year we raised the debt limit by $900-plus billion. And yesterday all of you voted, almost all, to increase the debt limit by $670 billion. And how your side of the aisle railed, and the gentlewoman from Connecticut has been here long enough to remember that railing, against increasing the debt. How awful that was and we ought to stand up and vote for it.

And what did you do? You hid it by the Hastert rule in your budget because you did not have the courage to stand up and say, these are the policies that I am going to pursue as a Representative of the Congress of the United States.

Democrats are for fixing the marriage penalty. Democrats are for keeping the 10 percent tax bracket. Democrats are for fixing the Alternative Minimum Tax. Democrats are for making the child tax credits permanent. We are for that, and we are for paying for it so that we do not say we are going to fix it. But generations to come, young people, hear me, young people, you are going to pay for it. That is bad policy. That is bad morality.

Let us pass the Democratic alternative, which seeks to be responsible and honest with America and with generations yet to come.

Mr. CAMP. Mr. Speaker, I yield 4½ minutes to the gentlewoman from Connecticut (Mrs. JOHNSON), a distinguished member of the Committee on Ways and Means and chairman of the Subcommittee on Health.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise in strong support of H.R. 4359. This is about children. It is about families. I think back to when my husband and I raised our children and the tremendous economic pressure on us. I look at that pressure on my children and their husbands and it is enormous. We paid $28,000 for our house. That is not what the kids are out there facing. We paid $2,000 for a car. The kids are having to make payments on houses that are worth more than the cars we bought and the houses we bought.

It is tough to raise a family today. It is very hard to meet the expenses of raising children in a stable, secure environment, saving for their educations and saving for your retirement which is also part of their security. So this is not about digging a hole. This is about setting priorities.

One of my most deeply held priorities is to reshape public policy so that it strengthens families and increases the economic and emotional security of our children. Indeed, one of the things I like about this bill is that it adopts the definition of the middle class that was encompassed in a bill the Democrats offered just 2 weeks ago as part of their effort to shelter more middle-class families from the impact of the Alternative Minimum Tax. I thought that was a good definition. We were impressed by it.

It does expand the definition of the middle class, and this bill reflects that. But you cannot have a tax policy that one year gives a family $1,000 worth of child credit, the next year $700, the next year $500. It is erratic. They have to be able to plan. They have to be able to think through how will we meet the needs of our family.

Making this particular tax credit permanent is important to building a solid, strong support system under our families. And I rise in strong and proud support of H.R. 4359, the Child Credit Preservation and Expansion Act.

Now, why do I say we are not digging a hole for our children in the budget sense? First of all, I have been here a long time, and I am one of the ones that fought hard to balance the budget in 1997. I was here when we had to dig out of long years of debt. In fact, when we balanced the budget in 1997, it was the first time in 40 years or the first time in 2 generations and we did it right here in this Chamber by disciplined spending. And the result was that as the economy got going, we had a surplus that required us to add just tax policies because we were taking, the estimates were trillions, more out of people's pockets than we needed to fund government services. So we did make changes in tax policy to make the code fairer and more family friendly.

This was one of the most constructive bills, and I am willing to take the responsibility to make this tax credit permanent, and in the future to adjust defense and other spending as we work our way out of Iraq and address priority domestic needs. That is what we did last time. To pass this year's budget, which is a freeze budget on spending, it is going to be tough for us because we do need to increase the funding for public education and to do that, we will have to cut spending in other areas. But I am willing to take responsibility to pass tough budgets year after year, as we will have to, to get to balance. I am willing to do that again and again and to realistically adjust the defense budget as our responsibilities in Iraq decline in the context of new revenues from an expanding economy. And through those mechanisms, to balance the budget.

Again, we showed the grit to do it before the war and a recession. Then had no choice but to allow imbalance. In the future we will have the grit to do it again. But we should not question that grit and fail to fulfill this obligation today, that obligation being to create a predictable, stabilizing tax policy around our young families.

Mr. LEVIN. Mr. Speaker, how much time remains on each side?

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Michigan (Mr. LEVIN) has 2½ minutes remaining. The gentleman from Michigan (Mr. CAMP) has 14½ minutes remaining.

Mr. LEVIN. Mr. Speaker, I reserve the balance of my time.

Mr. CAMP. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. BURNS).

Mr. BURNS. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, as I listen to this debate, it appears that we have different perspectives about what is important to America. There is no tax relief measure that has ever been passed by this House which has done more good to help the average working family in my district, the 12th District of Georgia, than the child tax credit.

My friend from Georgia (Mr. LEWIS) made a quote. He said the $20,000 of tax credit over 10 years was for families earning more than $250,000. Well, he is correct. What he failed to mention is that this assumes you have two children, $1,000 a year for 10 years. If you made $100,000 a year, you would receive the exact same tax credit, $20,000 over 10 years. If you made $50,000 a year you would receive the same tax credit, $20,000 over 10 years. If you make $35,000 a year, which is the average for a small family in my district, you would receive the same tax credit of $20,000 over 10 years.

With a median income for a family of four in my district at $35,000, the child tax credit virtually eliminates all Federal income tax for these families. These families earning that range have children. They need every penny of their income to properly raise their children, and I oppose them having to pay one nickel more.

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There are 113,000 children and families in the 12th District, and if we fail to pass this bill, the tax burden on these families will go up by $33.9 million. We must pass and make the child tax credit permanent. If we fail to do this, it will expire and we will, by default, raise taxes across America, the most broad-based tax increase since this body approved the income tax itself in 1913, which was a huge mistake, and we need to fix it.

Mr. Speaker, the child tax credit needs to be made permanent as long as we allow this failed income tax system to continue. I urge Members to support the bill.

Mr. CAMP. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. HERGER), the Subcommittee on Human Resources.

Mr. HERGER. Mr. Speaker, I rise in strong support of the Child Credit Preservation and Expansion Act of 2004. As a member of the tax-writing Committee on Ways and Means, I have been privileged to work on a number of important tax relief measures. However, nothing has done more to reduce the tax burden on middle-class families than the child tax credit. Three years ago, we made a decision to raise the child credit from $500 per child to $1,000 per child. This was good policy 3 years ago, and it is good policy today.

Unless we act, the child credit would drop next year to $700. This will mean an average tax increase of $600 on 30 million Americans with children. Without the congressional action, the child credit would drop again to $500 after 2010. This would result in a tax hike of more than $1,000 on 34 million taxpayers with children.

Many families in my district in northern California, Mr. Speaker, are already having a difficult time making ends meet. Now is not the time to allow for a new tax increase.

The underlying bill also improves the child credit by allowing more families to qualify. Further, the bill makes the credit more valuable to lower-income families and more accessible to military families receiving combat pay.

Mr. Speaker, if we value children and we value families, let us make our Tax Code more family friendly. I urge my colleagues to reject the Democrat substitute and support the underlying bill.

Mr. CAMP. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. BAKER).

Mr. BAKER. Mr. Speaker, I thank the gentleman for yielding.

It is apparent we have three different perspectives on taxes. There is one group, when talking about giving back programs or benefits, that says when we give. Well, that comes from the assumption that the money they are giving is actually their money, like the Congress has this big bank and we are just going to give it away because we are doing good things for the American people. They do not really think this through, that that money comes from working families and the Congress is just the middleman who just kind of passes it along based upon the votes that the majority might get on a particular issue.

There is another group, too, that troubles me in Washington when they look at taxes. First, they look out across the economic landscape and they see people doing something very bad. They are actually making money, you know, it is a terrible thing.

So, first, we are going to regulate it, make sure we kind of slow that pace of making money down. If that does not work, then we are going to tax them and, by George, if they are still moving after we regulate and tax, let us just sue them. It is a three-step recovery plan to keep an American from having anything in their pocket.

There is a third group. We happen to believe that the 52 or 53 percent of Americans who pay all the taxes in this country, who are working families, who work hard every day, ought to have the opportunity to do something radical. If you make money, we think you might ought to get to keep it. I know, that is out there on the edge, but I think we ought to give it a try because going into the future, as we worry about the economic prosperity of this country, this is a country of small businesses, family-owned businesses, people who get up very early in the morning and work hard all day just to pay their taxes, keep the kids in school, keep the car running and keep the blue jeans on. It is not easy.

Will this tax benefit reverse the economic fortunes of our country? No, but I will tell my colleagues what, there are a whole lot fewer dairies in Louisiana and a whole lot less farmers today than there were a decade ago, and it is primarily due to government regulation and taxes.

This may keep some family farm operating. It may keep another dairy door open, and it may make some small business that we do not know about tonight operate for 3, 4 or 5 years, but let us give it a chance. Let us let people who work, who are the engine of our economy, 52 or 53 percent of all working families pay all the taxes, is it not time we give them a break?

Mr. CAMP. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, this bill is, as my colleagues on the other side say, about now and the future, but I think we see it a little bit differently. It is an honest debate, and I would tell my friends that my colleagues on the other side, I believe, feel that if we give tax relief money to people, it just goes down a rat hole; that it does not work; that it is just gone; that it adds to the debt and the deficit. I do not believe that is true.

When we give money to a family, maybe they go out to the store and they buy books or they buy a double egg, double cheese, double fry burger at McDonald's and they pay taxes on that. They pay local, they pay State and they pay Federal taxes, and that money comes back to our coffers for more money to spend. That is called tax relief.

It is not all President Clinton's fault. We are in Congress, we spend money and we make the rules. But right after President Clinton left, we were in a slight recession. We gave tax relief and we had one of the fastest recoveries ever, and we had 9/11. My friend from New York knows the devastation that was in New York City. We spent billions of dollars to fix it. We lost a lot of revenue because a lot of people not only lost their lives but lost jobs there.

Guess what, now that those jobs are coming back, that revenue is coming here. It means more money to spend. We are tying to give them, the same families, more money to spend to come here.

The President and the Congress, bipartisan as the gentleman from Maryland (Mr. HOYER) said, we want to give tax relief. Those families got that tax money and, guess what, they spent it, and now look what we have today. We have a growing economy. Four and 4½ percent in personal incomes have gone up. We have added over 1.2 million jobs in the last 3 months and it is coming back. So the money is not going down a rat hole. It actually creates money and revenue for us so that we will have more money in the future. This is the difference.

Mr. CAMP. Mr. Speaker, we have no further speakers at this time, and I reserve the balance of my time.

Mr. LEVIN. Mr. Speaker, I yield myself 15 seconds.

I just want to say to the gentleman, this is not about tax relief for people who need money to buy hamburgers or books. You add $60 billion, $8 billion, $70 billion to the debt, in large part for families making $200,000, $250,000.

Mr. Speaker, how much time is left?

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Michigan (Mr. LEVIN) has 2¼ minutes remaining. The gentleman from Michigan (Mr. CAMP) has 6½ minutes remaining.

Mr. LEVIN. Mr. Speaker, is the gentleman ready to close?

Mr. CAMP. We have the right to close.

Mr. LEVIN. Mr. Speaker, I yield the balance of the time to the gentleman from Texas (Mr. HINOJOSA), our very distinguished colleague.

Mr. HINOJOSA. Mr. Speaker, I rise in opposition to the misguided legislation, H.R. 4359.

Mr. Speaker, the current total outstanding national debt of the United States, including intragovernmental holdings, is $7.2 trillion, a $1.7 trillion increase from where it was in 2001. Our budget deficit recently reached an all-time high, and it has increased by $648 billion since 2001.

Our Social Security and Medicare surplus funds have been raided, and our national unemployment rate remains high at 5.6 percent. Our fiscal condition, at best, can be described as a calamity; and now this legislation, H.R. 4359, the Child Credit Preservation and Expansion Act, wants to add to our fiscal woes by catering to wealthy Americans who do not need this particular tax cut.

This legislation will add an unwarranted and unaffordable expansion of the child tax credit for the high-income filers that will cost $69 billion, thus adding to our outstanding debt.

Mr. Speaker, I support a strong national defense and a vigorous program for homeland security, and Mr. Speaker, I especially support making permanent the $1,000 child tax credit, but only for those whose annual incomes do not surpass the existing $110,000 threshold. These families, the ones making $110,000 or less, are the ones who need a permanent $1,000 child tax credit.

If this legislation only provided support for these families, I, too, would have supported it, but it does not. It goes far beyond what is needed and expands the credit to families making up to $250,000 a year.

Mr. Chairman, H.R. 4359 is not a middle-class tax cut, as some have attempted to characterize it. I do not know many in America who would consider a married couple making $250,000 a year a middle-class family.

Under this legislation, a married couple with two children would be eligible to receive the $1,000 child tax credit until the couple's income nearly reached $290,000.

I urge my colleagues to oppose H.R. 4359.

At a time of record budget deficits and in the midst of a war, this action is irresponsible and fiscally dangerous at this time.

For all of these reasons, I strongly encourage my colleagues to oppose H.R. 4359.

Mr. CAMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation makes the child tax credit permanent and enhances it. Without this credit, without action, this credit will decline by $300 or it will raise taxes on families next year if we do not take action.

The enhancements in this legislation increase the level of refundability to 15 percent of earned income at those income levels above $10,750 and it raises that 1 year earlier than under current law.

Our military families have enhanced benefits as a result of this legislation because combat pay is treated as earned income for refundability, and we permanently prevent the child credit from being lost to AMT.

Let me just say something about the Alternative Minimum Tax. A couple of weeks ago, my colleagues on the other side of the aisle offered an amendment to define the Alternative Minimum Tax to define middle-income taxpayers exactly the same way we have defined them in this legislation. So the enhancement of this credit for those middle-income families is important, but it is something that those on the other side proposed just 2 weeks ago.

Let me lastly say that this is really about strengthening families, and it is interesting to hear the argument on the other side for those who feel that if the government loses money, somehow that is a problem for families. What we say is, no, this money is earned by those families in America and across the country, and if we can do whatever we can to have them keep more of their hard-earned money, that ultimately means not only would their families be doing better, but our economy will do better, and if the economy does better, our government will do better.

Mr. STARK. Mr. Speaker, I rise today to oppose H.R. 4359, the "Child Credit Preservation and Expansion Act of 2004." Once again the Republicans are giving a new and unnecessary tax break to wealthier Americans at the expense of the hard working middle class. For this reason I urge my colleagues to vote no on the Republican proposal and support the Democratic substitute, which provides real relief for middle-class families and ensures working families benefit for years to come.

Making the child tax credit expansion permanent is one of the best things we can do to provide tax relief for working families. However, the Republicans have made a mockery of this expansion by giving the full credit to families that make $250,000 a year. Members of Congress don't need this tax credit, but under the Republican proposal, many members would qualify for thousands of dollars in new tax credits they do not receive under current law.

No big surprise, the Republicans also don't want to pay for this new tax cut for households making over $110,000 per year. Just yesterday they passed a budget that specifically exempts this and other tax cuts from a requirement that they be paid for. Even Republican Senator JOHN McCAIN said this week it was fiscally irresponsible to cut taxes given the current status of our domestic and international obligations.

The Democratic substitute is a real solution for working families. Our tax credit expansion is indexed so that the value of the credit keeps pace with inflation and doesn't lose value over time (something the Republican bill ignores). We ensure lower-income families get the benefit of actual money in their pockets by increasing the refundable portion of the credit and lowering the income threshold. Our substitute also refuses to make this credit available to families making over $110,000 per year who don't need it. Finally, we pay for our proposal by asking households making over $1,000,000 to pay a little more.

The Republican bill proposed today gives $70 billion in tax cuts to families in the top 10 percent of income, but does nothing to ensure real low and middle class families get the permanent relief they deserve. The Republican agenda is clear, more tax cuts for the wealthiest Americans at the expense of the majority of hard working American families. My agenda is also clear, I will continue to oppose these unfair, fiscally irresponsible tax cuts that put more money in the pockets of the fat cats while taking it away from those who need it most.

Mr. MATSUI. Mr. Speaker, today I rise to protest what I consider to be one of the most egregious examples of the reckless fiscal policies that are being pursued relentlessly by those on the other side of the aisle. Today, the majority has decided to distort the child tax credit—a policy intended to help lower- and middle-income families support their children—and twist it into yet another tax break for the rich.

Mr. Speaker, I favor making the existing $1,000 tax credit permanent, and I favor expanding the credit to cover more low-income families. However, I cannot support a policy that would provide a tax credit for families that make more than $300,000, while denying a credit to those with the lowest incomes.

The bill that the majority has proposed today would greatly expand the tax credit for families with incomes between $100,000 and $300,000, but would not allow a low-income family where a parent works full-time, year-round at the minimum wage to receive the credit! The tax credit would remain unavailable to families with incomes below $10,500. Approximately 8 million children are in families with incomes below this amount! Mr. Speaker, it seems to me that those families with incomes below $10,500 are having a much harder time affording the costs of raising a child than are families with incomes of $300,000, and yet this bill does nothing to help them.

Not only would the bill under consideration today provide another tax break to those who do not need one, but it would do so by digging a deeper hole in our federal deficit. Mr. Speaker, the deficit this year is expected to be the largest in history! Yet, this bill would add more than a quarter of a trillion dollars to that deficit—and nearly a third of the cost ($69 billion) is due to the expansion in tax breaks for those with incomes between $110,000 and $300,000.

Mr. Speaker, we are a nation at war. We have deficits so large that international organizations like the IMF are warning that the continuation of our fiscal policies threaten to hurt not just the U.S. economy, but the global economy. This is no time to be using borrowed money to give tax breaks to those who do not need them. Mr. Speaker, the legislation under consideration today is a stark reflection of the differences in priorities and values that many of us have with the current tax and economic agenda of the majority.

Mr. BLUMENAUER. Mr. Speaker, the objective of child tax credits should be to help families with children who are in need of assistance and to improve tax fairness. This legislation provides little to no help for a single mother making minimum wage, while increasing the income ceiling allowing parents that earn as much as $300,000 per year to receive tax credits.

Low-income working mothers and fathers pay a disproportionately high cost for providing care to their children so that they can earn a wage outside of the home and stay off of welfare assistance. These are the families most in need of a child tax credit, yet, they are the families that are short-changed and left behind by the Republican tax bill.

The money to provide these tax credits for families making well over $100,000 per year is taken from the thin wallets of families making up to $10,000 per year, who receive no benefit from this legislation, and from borrowed funds that will further increase our record deficit. The inequities of this legislation are unconscionable.

Mr. HOLT. Mr. Speaker, I rise in strong support of providing a child tax credit. I am supporting the Rangel substitute because it, unlike the underlying bill, is paid for and does not drive our country deeper into debt.

The Democratic substitute, like H.R. 4359, calls for permanent extension of the $1,000 per child credit, but would index the credit for inflation and fully pays for this extension through 2010. It would also accelerate the increase in the refundable portion of the credit, from 10% to 15%, starting in 2004. The Democratic substitute also provides the tax credit to low income individuals—it is simply unfair that they are left out of the child tax credit.

Because the GOP bill proposes no offsets to their version of the expanded and extended child credit, their proposal costs $228 billion over 10 years.

Mr. Speaker, today the national debt is largest in history. Americans now collectively owe more than $7 trillion—$24,304 for every man, woman and child. We have borrowed an additional $280 billion so far this year. The Majority would now like to borrow another $228 billion with the passage of this bill. Someone needs to remind them that we are also fighting a war, a war that has already cost us $150 billion and will cost another $4 billion a month.

More tax cuts without offsets will not only jeopardize critical public services now, but will also hurt Americans well into the future. Massive deficits now lead to increases in the debt and will create high interest payments that crowd out spending on public investments for future generations. Moreover, these deep deficits threaten to increase interest rates well into the future, making it harder for Americans to buy homes and afford higher education and making it harder for businesses to raise capital. We are literally squandering the wealth of this country by not paying for our tax cuts. This bill further contributes to a glaring problem—the breathtaking fiscal irresponsibility that is going on here in this town.

Mr. Speaker, I ask my colleagues to support the substitute and defeat the $228 billion dollars of debt in the underlining bill.

Mr. KIND. Mr. Speaker, I strongly support providing tax relief to middle-income Americans and I support permanent extension of tax cuts aimed at helping working American families. However, I am not in favor of a new tax break for families making over $300,000 per year, which is exactly what H.R. 4359 provides, and I rise in opposition to this legislation.

The legislation before us today is a dangerous tax cut Trojan Horse. Disguised as an extension of the child tax credit increase included in the 2001 and 2003 tax cut packages, this bill provides an entirely new tax cut for the wealthiest of Americans by expanding eligibility for this tax cut to families making over $300,000 per year. This more than doubles the previous high point of $110,000 per family where the child tax credit started to phase out, and provides those in the top 10% of income earners over $70 billion in tax cuts.

This is not surprising considering the House leadership decided not to include a child tax credit benefit for working families making between $10,500 and $26,625 during the 2003 tax cut package. By loading on tax breaks for the very wealthy, H.R. 4359 is simply another demonstration of the majority's contempt for working American families.

Further, it is unfair to Americans today, and especially the next generation, to delude ourselves by thinking the record budget deficits facing our nation, estimated by the White House at over $500 billion this year alone, will simply go away. H.R. 4359 as drafted contains no offsets, and will add $288 billion to the budget deficit over the next 10 years at a time when the raid on the Social Security and Medicare Trust funds continues.

As a member of the House Budget Committee, I supported a budget resolution that would have extended the child tax credit at the current levels, while still reducing the deficit. This approach required touch choices, prioritization, and a commitment to helping working families. Unfortunately, this was not the approach taken by the House leadership, putting tax relief for middle-income Americans in jeopardy.

I support the alternative offered today by my colleague Representative Levin that fully extends the child tax credit increase for middle-income Americans. It would prevent any tax increase in 2005, and will not increase the budget deficit because it is fully paid for through a responsible offset. Further, it provides more tax relief to more families making up to $110,000 by indexing the child tax credit for inflation—bringing it up to $1,100 by 2009. It also benefits our military families by allowing combat pay to be counted toward the refundable portion of the credit. This approach makes sure that during these difficult economic times, the vast majority of the benefits of the child tax credit help the vast majority of Americans.

In conclusion, I urge my colleagues to support the Levin alternative and reject the new tax break for the wealthiest of Americans. Without the Rangel alternative, this legislation creates more harm than good; it not only increases the budget deficit of today, but also increases the debt of the future at the expense of working families.

Mr. VAN HOLLEN. Mr. Speaker, the House Republican leadership proposal on the child tax credit is a travesty that puts politics above the well-being of America's children. I strongly support making the $1,000 child tax credit permanent. That tax credit provides important relief to middle and lower income families around the country. But rather than simply extending the existing credit, the Republicans seek to expand the child tax credit to higher income families by adding tens of billions of dollars to the nation's deficit. It is not the Republican leadership that will be left to pay that debt; it is our children and grandchildren. It is incredible that the same Republican leadership that refuses to fully fund the No Child Left Behind Initiative would—under the guise of helping families—add billions of dollars to the debt tax that will have to be paid by future generations.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate on the bill has expired.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. LEVIN

Mr. LEVIN. Mr. Speaker, on behalf of the gentleman from New York (Mr. Rangel) and the gentlewoman from Connecticut (Ms. DeLauro) and myself, I offer an amendment in the nature of a substitute.

The SPEAKER pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the Nature of a Substitute offered by Mr. Levin:

Strike all after the enacting clause and insert the following:

SECTION 1. INCREASE IN AND EXPANSION OF CHILD TAX CREDIT.

(a) In General.—Subsection (a) of section 24 of the Internal Revenue Code of 1986 (relating to child tax credit) is amended to read as follows:

"(a) Allowance of Credit.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year with respect to each qualifying child of the taxpayer an amount equal to $1,000.".

(b) Adjustment of Credit Amount for Inflation.—Section 24 of such Code is amended by adding at the end the following new subsection:

"(g) Inflation Adjustment .—In the case of any taxable year beginning in a calendar year after 2005, the $1,000 amount contained in subsection (a) shall be increased by an amount equal to—

"(1) such dollar amount, multiplied by

"(2) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2004' for 'calendar year 1992' in subparagraph (B) thereof. Any increase determined under the preceding sentence shall be rounded to the nearest multiple of $50.".

(c) Restoration of $10,000 Threshold for Refundable Portion of Credit.—Subsection (d) of section 24 of such Code is amended by striking paragraph (3).

(d) Acceleration of Increase in Refundable Portion of Credit.—Clause (i) of section 24(d)(1)(B) of such Code is amended by striking "(10 percent in the case of taxable years beginning before January 1, 2005)".

(e) Combat Pay Taken Into Account in Determining Refundable Portion of Credit.—Paragraph (1) of section 24(d) of such Code is amended by adding at the end the following new sentence: "For purposes of subparagraph (B), any amount excluded from gross income by reason of section 112 shall be treated as earned income which is taken into account in computing taxable income for the taxable year.".

(f) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

(g) Repeal of Sunset.—Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to the provisions of, and amendments made by, sections 201 and 203 of such Act.

SEC. 2. BENEFITS EXTENSION NOT TO INCREASE FEDERAL BUDGET DEFICIT.

(a) In General.—Section 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

"(j) Additional Tax on High Income Taxpayers.—In the case of taxable years beginning in calendar year 2005, 2006, 2007, 2008, 2009, or 2010, the amount determined under subsection (a), (b), (c), or (d), as the case may be, shall be increased by 2.75 percent of so much of adjusted gross income as exceeds $1,000,000 in the case of individuals to whom subsection (a) applies ($500,000 in any other case)."

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 3. REQUIREMENT THAT CONGRESS BALANCE THE BUDGET WITHOUT USING THE MEDICARE AND SOCIAL SECURITY TRUST FUNDS.

(a) In General.—Notwithstanding the provisions of section 1 of this Act and any other provision of law, title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall take effect in the form as originally enacted unless Congress meets the requirements of subsection (b).

(b) Requirements.—Congress meets the requirements of this subsection if—

(1) before September 1, 2010, Congress has enacted comprehensive Federal budget legislation, and

(2) the Director of the Office of Management and Budget certifies in September of 2010 that such legislation—

(A) will result in a balanced Federal budget by fiscal year 2014, determined by taking in to account the costs of the foregoing provisions of this Act and without taking into account the receipts and disbursements of the Social Security and Medicare Trust Funds, and

(B) will substantially reduce the United States Government's reliance on Foreign central bank purchases of its debt obligations.

The SPEAKER pro tempore. Pursuant to House Resolution 644, the gentleman from Michigan (Mr. Levin) and a Member opposed each will control 30 minutes.

The Chair recognizes the gentleman from Michigan (Mr. Levin).

Mr. LEVIN. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. Becerra), a very distinguished colleague and member of the Committee on Ways and Means.

Mr. BECERRA. Mr. Speaker, I thank the gentleman for yielding me the time.

To be sure we are clear, this is a bill to make the child tax credit permanent, to extend it to include families that were not part of the legislation before, those families that are high-income earners.

The other part of this that we have to talk about is the fact that it is $22 billion worth of costs without paying for it.

The first part everyone will agree on. Child tax credit, let us go with it. Second part, increase it or expand it to include families who are among the highest-income earners in this country, we could debate that, but let us do it fiscally responsibly.

The third part, to not pay for it, is the irresponsible part of this legislation.

If my colleagues want to do something to expand the child tax credit at the same time they are making it permanent in the face of what is today a $400 billion deficit for this country, and in the face of, as we have heard other Members say, a $7.2 trillion debt that this Nation has on which we pay close to a quarter of a trillion dollars a year simply in interest, does nothing to give anyone any additional service or benefit, just paying interest.

□ 1745

If we did not have that $17.2 trillion debt, that is about $24,000 for each man, woman, and child in this country today; and if we did not have in this fiscal year a more than $400 billion deficit that we face, that adds to that national debt, then perhaps you could easily talk about extending this to the high-income earners and not paying for the cost of it. But that is not the case.

Today, what is the world like? We have men and women, over 100,000 of them, that have not seen their children, in some cases, for more than a year. We have a Social Security System where people are today contributing for their retirement, where every single cent of the Social Security surplus is being spent and more. We have a situation where more than a million and a half Americans in the last 3½ years have lost their jobs. And those Americans who have been lucky enough in the last few months to regain a job, are finding they are earning less today than in the job they held previously.

So, then, you have to ask yourself, is this truly the direction we want our country to take? Is this the one problem we have to tackle today, increasing the child tax credit to include high-income earning families in America at a cost of expanding the size of the national debt?

And that is where folks on this side of the aisle break. Because we would love to be able to go back to our districts and say, you know what, we just extended the child tax credit, we made it permanent so you can always count on it being there. But you cannot in good faith do that to people who have sons and daughters in Iraq or in a war where we have no exit strategy, where we have already spent more than $166 billion, again not saying how we are paying for it, and what we are doing is adding to the debt.

One of our colleagues from Nevada came to the floor and spoke eloquently just a moment ago about how he held a newborn child in his arms, and he talked about how that child tax credit will now go to that family because of that child. What he did not say, of course, is that while that child is going to help that family receive, perhaps, if they are lucky enough to qualify, a $1,000 child tax credit, that child is born today with a $2,000 additional debt just from the last four bills that have passed this House in the last month that deal with tax cuts: this child tax credit; the marriage penalty relief; the relief from the Alternative Minimum Tax; and the cut on the 10 percent bottom tax bracket.

If you total all those up and extend them for the 10 years, that is over $1 trillion dollars in cost, unpaid for. So you cannot continue doing this and be realistic, be fiscally responsible, be fair; and we go from there. This is not the way to go. Go with the Democratic substitute.

Mr. CAMP. Mr. Speaker, I yield 3 minutes to the gentleman from Nevada (Mr. PORTER).

Mr. PORTER. Mr. Speaker, we have talked at length about where the threshold should be. Just a few days ago, May 5, 2004, my colleague from California voted in favor of an amendment that said that we will eliminate all liability for individual minimum tax for taxpayers with adjusted gross incomes at less than $250,000 and above those levels we phase in over $40,000.

It seems to me very hypocritical that just a few days ago our colleagues from across the aisle felt that $290,000 should establish the threshold. And if I can read again from that amendment, it said, in general, the Alternative Minimum Tax to the taxpayer shall be zero, zero, if the adjusted gross income of the taxpayer, as determined by this bill, is $290,000.

Mr. Speaker, it seems hypocritical we can use numbers, play with numbers. The important thing is to get people back to work and get people to be able to invest their own hard-earned tax dollars. The economy is improving because of the policy of returning to families their hard-earned dollars.

I again would urge my colleagues to vote against this amendment and support the original bill as proposed.

Mr. LEVIN. Mr. Speaker, I yield myself 30 seconds.

Do not keep repeating a big fib. The AMT was not supposed to cover except a small minority of the taxpayers. We did not define a certain amount as middle class. It is not in that legislation.

Do not repeat it. It is not true. This is a child credit. You are adding on to an extension $70 billion in large part, substantial part, for very high-income families beyond $250,000. This is not the AMT; this is the child credit. Get off your big fib.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. RANGEL), the ranking member of the Committee on Ways and Means.

Mr. RANGEL. Mr. Speaker, this substitute, for those who are listening, gives an opportunity for people to do the right thing for working families that deserve some type of tax break for their young kids, that deserve a deduction. Again, the basic difference is do we want to burden the children of the future with the price that we pay for this. We say no.

Can we not think about doing things and providing this type of relief and paying for it? There has to be in this Tax Code that weighs 25 pounds some loopholes that my colleagues can find for the wealthy that you are prepared to say, this is a time of war, this is a time of sacrifice, we just cannot take care of everybody at the same time. Let us start off with those people that work every day. Those families, the kids from the families that are working, that are volunteering, that are in the National Guard, that are in the Reserve, these are the families that really need the help.

When we start getting up there to $300,000 a year, these are not the families from the communities that produce our warriors. It is not me that says that; it is the DOD that says it. The statistics say it. The low- and the middle class are the warriors that are fighting in Iraq. These are the families that deserve the support.

We welcome the fact that our colleagues saw their way clear to make adjustments so that combat pay would not exclude these families from some type of relief. But every time you bring a tax bill, do not drive us deeper and deeper in debt. We support the concept; we just support a better economic basis for the future.

It is so selfish for us to do what we want to do politically this year and leave the burden on the generations thereafter that follow us. As Americans, as Members of Congress, the things that we have to do in terms of national security are not always just guns and planes and the military. It is a sound economic policy so that the future of our great country will not be left in the hands of foreign investors, but in the hands of economists that work with us as Members of Congress to do the responsible thing.

So the reason that we have this substitute is so that we do not deviate from the good intentions of some of our Republican friends, but that we do have a sound economic policy.

Now, my colleagues can talk all they want about the Alternative Minimum Tax. We are not going to attack you on that. You do not have the courage to stand up and talk about the $800 billion it would take to fix it. You are not going to fix it. We tried to give temporary relief. This is designed to create some type of relief for those in the higher income that we say must pay some type of tax. But what you have done is driven the tax burden on these middle-income people, and we tried to give relief.

Let us try not to avoid the fiscal irresponsibility on this bill. Do not talk about the Alternative Minimum Tax. We beg you to bring a bill out to talk about that. Talk about this bill and who gets the relief. And I hope some of the people on the other side of the aisle might say, what does this do to the deficit. Let that be the key question: What is the difference between the bills: Which one is paid for, which one is not paid for, which drives us into the deficit and which one says that we break even because we have closed up loopholes?

Mr. Speaker, I want to thank the gentleman from Michigan (Mr. LEVIN) for the opportunity to speak and the way he has managed this bill today. It causes us in the House and on the Committee on Ways and Means to wish we could do some of these debates in committee rather than wait for the Committee on Rules to give us a bill that we have to debate on the floor.

Mr. CAMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Members should oppose this substitute for three simple reasons:

First, just like the sponsors' substitute last week on permanence of the 10 percent bracket, this substitute is only temporary. It is not permanent tax relief. The substitute would cut the child credit in half after 2010, according to the Joint Committee on Taxation.

Here is what that means. The benefits to the lowest income families would disappear. The benefits for our military personnel and their families would disappear. The AMT will gobble up the tax credits, which will drop to $500 per child in 2011 for families.

Second, the substitute does not eliminate the marriage penalty and the child credit, and it does not expand access to the credit for middle-income families. By contrast, our bill, H.R. 4359, will provide the full tax credit to married couples with up to $250,000 in income and for single parents with up to $125,000 in income.

The substitute's advocates are opposed to providing help to these families. And this is really a mystery, since the Democrats were willing to provide these same families with tax relief three separate times in the last 3 weeks. Two of their recent substitutes to other tax bills would have granted AMT relief both to married couples and people in the 10 percent bracket regardless of their income. The Rangel substitute on AMT relief exempted couples with up to $250,000 adjusted gross income, and single taxpayers with up to $125,000 in adjusted gross income from the AMT.

So, Mr. Speaker, I would submit my friends on the other side simply are not being consistent. They continue to change their definition of middle-class families to suit whatever needs they see at the time.

Finally, a tax increase is used to fund this bill, a 2.75 percent new tax on entrepreneurs. Seventy-five percent of the tax filers that this new tax will strike have business income. The Democrats' approach would raise taxes on small business owners and investors and undermine the economic growth that tax relief has delivered.

This same tax-and-tax again approach has been rejected twice this May by substantial margins in this House and should be rejected again.

Mr. Speaker, I reserve the balance of my time.

Mr. LEVIN. Mr. Speaker, I yield myself 15 seconds.

Look, the 10 percent applied across the board, and so much of it went to families other than the very wealthy. So much of this proposal of yours goes to families that are very wealthy. That is the difference.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Connecticut (Ms. DELAURO), one of the cosponsors of the substitute.

Ms. DELAURO. Mr. Speaker, I am proud to join my colleagues, the gentleman from New York (Mr. RANGEL) and the gentleman from Michigan (Mr. LEVIN), in offering this substitute. Correcting this injustice is something Democrats have been advocating for almost a year now.

It is almost hard to believe a full year after this Congress passed a $350 billion tax cut bill that gave every millionaire in this country a $93,000 break, deliberately leaving behind 6.5 million families with 12 million children in the process, this majority has finally decided it is time to right the wrong done to these families, so long as something is done for the wealthy in return.

During that time, Democrats have come to the floor time and time again imploring this majority to extend the $1,000 child tax credit to those families, a million of whom are military and veterans' families, with 260,000 children of active duty personnel serving today in Afghanistan and in Iraq. We have said that it is a matter of values.

Now, when Republicans finally relent, they do so on the condition that families earning as much as $309,000 also get the credit.

□ 1800

But they do not do anything about capturing any additional people at that lower wage scale; they will not do that. What it also means is a $3.5 billion problem will now add another $69 billion to an exploding deficit, $87 billion if you count the increased interest payments on the extra debt.

To illustrate the profound unfairness of this bill, at the same time that low-income families with two children would get a one-time $300 average tax break under this legislation, two-child families with earnings between $150,000 and $250,000 would receive $20,000 in extra tax breaks over the next 10 years. In my view, particularly at a time when we face deficits as far as the eye can see, it is not only irresponsible; it is immoral.

By contrast, our substitute is simple, to the point, and fair. Not only would it extend the $1,000 tax credit to only the low-income families left out of this bill, hard-working, tax-paying families, yes, they are tax-paying families who need it the most; but it is fully paid for, meaning that it will not add to the deficit.

Mr. Speaker, it is time that Republicans stop using these families as a bargaining chip for more tax cuts for the wealthy. Do the right thing, support the Rangel-Levin-DeLauro substitute.

Mr. CAMP. Mr. Speaker, I reserve the balance of my time.

Mr. LEVIN. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, here we are again. For the fourth week in a row, Republicans have put us between a rock and a hard spot, forcing a choice between short-term relief for hard-working families and the long-term interest of future generations. It breaks my heart.

Each one of these votes has broken my heart because I have four adult children. They are families, they each have a spouse, and I have three grandchildren. They would like this short-term relief; but guess what, they know better. They know better than my colleagues do on the other side of the aisle.

It broke my heart to oppose the 10 percent tax bracket, to oppose relief from the Alternative Minimum Tax, and the end of the marriage penalty; and it will break my heart to oppose the child tax credit extension today. But I will oppose it because I know we could do better for our children.

I wanted to vote for tax relief because these bills would help my kids, and it would help the people in my district, but short term. These bills would help short term the four families that I have talked about. Members talk about hard-working families. These kids work around the clock, week in and week out; yet the Republicans are squandering the future of these children and their children. They are providing tax relief for the very wealthiest, and they are providing tax relief in the short term, and I think we can do it better. We will do it without mortgaging the future of our grandchildren with this substitute.

Here are two of my grandchildren. Let me introduce Members to Teddy and his baby sister, Julia. Teddy is 4 and Julia is 9 months old. They have a 16-year-old cousin named Sean, and they have two cousins on the way by year end. I will not ask my grandchildren to pay for their parents' tax relief, nor should you. It is not in their best interest to grow up in a country that cannot afford to properly fund its public schools. It is not in their best interests to work in a Nation crippled by debt. My grandchildren and yours deserve better than that.

The Democratic substitute we are considering today will give both my children and my grandchildren a little extra money, and it will not mortgage the future of the next generation. At first blush, it is troubling to oppose this bill, a bill that would seemingly benefit my own hard-working family. But I am lucky, my constituents and my children understand the hidden price of these tax bills. We understand that tax relief for my children should not come at the expense of Teddy, Julia, Sean, and their cousins we are expecting to be born before the end of year.

Mr. LEVIN. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. CARDIN), a member of the Committee on Ways and Means.

Mr. CARDIN. Mr. Speaker, it is really a sad moment that we are considering this bill, another tax bill, another week. We are really not serious about trying to help American taxpayers or trying to get a budget that makes some sense, that is balanced, that does not mortgage our future, that does not require us to ask our children and grandchildren to pay for what we are doing today.

Mr. Speaker, I would have a little more sympathy for this bill if it was an extension of the current child credit bill that many of us have supported. We think the child credit law makes some sense. But this bill does more than that. I think it is important to point out that this bill would increase the income limits of those who qualify for the child credit. That is an additional tax cut that is being placed in this bill that affects people whose incomes are over $100,000-some.

I mention that because every dollar of tax relief that this bill provides is going to have to be borrowed. We are going to have to pay interest on it. It is going to encumber our decisions in the future, whether to protect our Nation in national defense, homeland security, or to adequately fund our schools. I think it is immoral for us to create debt today in order to give a tax cut and then ask future generations to pay for those tax cuts.

Mr. Speaker, I said that this was an extension of a bill that we already passed. I think an argument could be made, but this is to expand that credit, to give an additional tax cut; and it is being done in a way that it is not paid for. I just think that is wrong.

I would hope that we would be able to work together on tax policies because I think there is some agreement on both sides of the aisle, but not the way that this legislation is being presented. I urge my colleagues to support the substitute and to reject the final version if the substitute is not approved.

Mr. CAMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate the gentleman's comments and appreciate much of the work we have done together on the Subcommittee on Human Resources.

I would say, just a couple of weeks ago the other side of the aisle set their own definition of middle class when they offered an amendment on the floor to expand AMT to include "more middle class families" and exempt them from the AMT, which is exactly the same levels we have tried to incorporate in this bill. We have changed this bill to include those families. We are working together to try to strengthen families in America and try to help families with the incredible costs and burdens of raising children today. So I think we can all agree it is those families that need help.

Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Speaker, I thank the gentleman for yielding me this time, and I just wanted to touch base on this amendment and speak against the substitute.

The reason I want to do that is because the substitute actually increases taxes on small businesses in order to get to their tax credit. But more importantly, the tax credit is not a permanent fix. What we believe the young families need today is a permanent child tax credit so they can count on this for many years to come.

I am a father of four. I spend a lot of my time in the carpool line. In fact, I just left the House immediately after the last vote to drive my son to a Little League game. And after this last vote, I am going to drive back to the Little League game, and that is not untypical of working parents today. Parents are juggling money trying to raise these children. And often you think it is time for mom and dad to get a little relaxation. Well, they cannot do that because they have to put the money into new tires or a new dryer, children's braces, whatever.

This makes it helpful and affordable for families, who are often in the sandwich generation somewhere between having dependent children and dependent parents. I believe that the Camp bill, the Thomas bill, the Ways and Means Committee mark in its present form is a good bill.

I think that the Democrats have raised a lot of good points, and I share a lot of their concerns about our growing debt. I think it is time we start bringing that up, and I am glad that they are doing it. But I also feel when you reduce taxes, you put it back in the pocket of those who earn it, and they are going to go out and buy more hamburgers or clothes, more CDs. And when they do, small businesses are going to react. They are going to expand their inventory and hire more people, and it is going to be an extremely important multiplier to the economic engine of our society. Or as ADAM SMITH said, It is the invisible hand at work. We want to cut the budget, but we should not start with taking more money out of the taxpayers' pocket. We should start by overseeing some of these Federal Government programs and eliminating some of them.

Mr. LEVIN. Mr. Speaker, I yield myself 15 seconds.

I want to say respectfully to the gentleman from Georgia (Mr. KINGSTON), what the majority's bill does, adding a new tax cut, gives a tax cut to Members in the gentleman's position, not to families who are struggling to find money to buy books or buy hamburgers; and to dig a deeper hole for that reason is a mistake.

Mr. Speaker, I yield 2 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I too was struck by the words of the gentleman from Georgia (Mr. KINGSTON) because I think he has the rhetoric right, but I am concerned about the target for his concern. The Republican bill takes resources and extends them to families who make up to $309,000 a year for a family of three. I have people like that in my neighborhood who would like compassion, who would like some help, who are soccer moms and dads. But frankly, I am more concerned about those parents that do not have the resources to be soccer moms and dads, that parent who has three kids and works at minimum wage and who is left off altogether.

Somehow the concern that we have to raise the level to over $300,000 and ignore the people who are most in need, I find disingenuous and I find it sad.

This is not any confusion about whether or not the Democrats want to provide assistance for the middle class. The millionaire's tax that my Republican colleagues refused to fix on a permanent basis so they can use over a half trillion dollars to mask the costs of further tax cuts for people who need it the least is something that we tried to do something about so they would not be subjected to the millionaire's tax.

But today, we are talking about the child care credit. The Democrat substitute is seeking to focus it where it is needed most, not the gentleman from Georgia (Mr. KINGSTON), not my friends in my neighborhood who make over $300,000 a year.

Most important, it is an opportunity for us to step back and think about who our priorities ought to be directed at. He talks about attacks on entrepreneurs because we would have a small surcharge on people who make over a millionaire dollars a year. Yes, it includes some entrepreneurs, it includes some power forwards, it includes some actuaries, but these people have been treated most generously. They have received massive reductions, increased disposable spending. To provide a modest adjustment to help the families most in need is something I can go back to my middle class, my upper middle class, my rich constituents, and I can defend.

Indeed, I do not have to. I have them asking me to do this for poor families. I have CEOs sitting next to me in airplanes saying why are you giving me these tax cuts when there are people who are more in need. I would hope our Republican colleagues would get in touch with those who need help the most.

Mr. CAMP. Mr. Speaker, I yield 2 minutes to the gentleman from Nevada (Mr. PORTER), the sponsor of the base bill, H.R. 4359.

□ 1815

Mr. PORTER. Mr. Speaker, while we are speaking of those children who need help the most, I would like to talk about those children without parents, those foster kids that are impacted by the bill. The substitute, as proposed, will be a tax increase on kids who depend upon the kindness of strangers. The amendment, as written, will be a tax increase on those children. It will punish children who do not have parents.

I suggest to my colleagues that we reject this amendment, that we speak for those kids who need help the most, those without parents, and reject this amendment.

Mr. Speaker, I would also like to just take a moment and say thank you to the staff for their hard work on the bill as originally written. I appreciate their efforts and time.

Mr. LEVIN. Mr. Speaker, I yield myself 10 seconds.

I have no idea what the gentleman was referring to. No idea.

Mr. Speaker, I yield 3 minutes to the very distinguished gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Speaker, last night the Republican majority passed a $2.3 trillion budget that left a $500 billion deficit, showing it is impossible to finance three wars with three tax cuts.

They never miss an opportunity to stick it to working families and add to the deficit, in this case $228 billion. They never miss an opportunity.

When Ronald Reagan created the earned income tax credit and Bill Clinton doubled the size of it in 1993, we actually cut taxes and reduced the deficit. In 1997, we balanced the budget, invested millions of dollars in health care for uninsured children and created the $500 per child tax credit. We did it while balancing the budget.

They have taken the whole notion of fiscal responsibility, thrown it out, added $228 billion to the deficit, raiding Social Security at that time, just so they can have a tax cut and stick it right to working families who, more than just tires and braces, who do not have health care in some cases.

So you can actually have a tax cut, balance the budget, provide health care, open the doors to college education, but you have to govern and, as President Kennedy once said, to govern is to choose. Those are things that they refuse to do. They do not try to make those choices.

We have two proposals here to expand the child credit, but we have two different visions of America, two different sets of values. We are willing to make the choices that put working families, the interest of their health care, their children, their family, their college education, their savings at the front and center without raiding, without destroying, Social Security. In the last three times that they have brought up tax cuts, they have never missed an opportunity to raid Social Security and add deficit.

In the last 3 years they have added $3 trillion to the deficit, 3 million Americans have been unemployed and they have had three tax cuts. I do not know what it is about the number three that they love so much. I have no idea.

What they have done here is they have decided to stick it to working families. We need to go back, to put our fiscal house in order, not raiding our children's future, provide a tax cut for working families and reduce the deficit. Not to say, "I empathize with my colleagues on the other side about the importance of the deficit" but to do something, after passing a budget with a $500 billion hole, do something that we can provide a tax cut finally to working families so they can get the resources and know it is there without raiding Social Security from their grandparents while you are doing it.

Mr. CAMP. Mr. Speaker, I yield myself such time as I may consume.

I certainly appreciate the gentleman's view of history. I would just point out that he forgot to mention that the previous administration signed the largest tax increase in history, which actually started to begin the economic decline that occurred at the end of the last administration.

I would just say, Mr. Speaker, that what we are trying to do here in terms of helping middle-class families is exactly the same definition that my friends on the other side used 2 weeks ago in their attempts to change the AMT to make that more beneficial.

Mr. Speaker, I reserve the balance of my time.

Mr. LEVIN. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Speaker, twenty-two million new jobs, the beginning of an economic recession. Lifting 4.3 million families out of poverty, the beginning of an economic recession. Reduction of uninsured in this country from 44 million to 38 million, the beginning of our economic recession?

There is a rampant case of an inversion in the world. To the people that had those jobs, more people going to college, more people not in poverty, more people with health care, and the gentleman says that is the beginning of the recession? I could have sworn in the 1990s when I was around, all the Republicans talked about was that it had nothing to do with Bill Clinton; it had everything to do with Ronald Reagan's boom from the 1980s. Maybe the gentleman needs a rendezvous with history here and a rendezvous with his record.

He is right, we raised taxes on the wealthiest and we cut them on working families, and we reduced the deficit and had a balanced budget. I would recommend that the gentleman take a rendezvous with that record of what a balanced budget would look like, since his colleagues have done a great job of adding $3 trillion to the Nation's debt.

Mr. CAMP. Mr. Speaker, I yield myself such time as I may consume.

Let me just say that my friend's view of this whole economy and budget process is very different, because while his party was in control, the budget was not balanced for two generations. It took our party to gain the majority to actually bring some fiscal sanity to the process.

would just say that what we are debating here today, though, is whether we are going to extend the child tax credit permanently and whether we are going to do that in a way to help more low-income families, more middle-class families and more military families. The base bill does that.

The substitute regrettably raises taxes on small businesses and entrepreneurs. That is exactly the wrong thing to do as we begin to see job creation come again; 1.2 million jobs since October of last year have been created as a result of the tax relief that we have passed.

Mr. Speaker, I reserve the balance of my time.

Mr. LEVIN. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, my friends on the other side have a distorted concept of history inasmuch as we lived under a balanced budget for the years that President Clinton was in office and we struggled together in a unified way to bump up the economy.

Right now, in the fourth largest city in the Nation, in Houston, Texas, not only are there cuts to the pension of working men and women, the city budget is not only cutting their pensions, laying off people in the library, in the health department, pulling out strings so that we can find a way to finance the needs of the citizens of Houston. But that is the story of major cities around the country. Sadly, it is taking place in Houston, and I wish it was not.

But this particular legislation that my good friends have on the other side is leaving 3 million people at the bottom without a child tax credit and giving us a $228 billion bill that we cannot pay. I would rather my friends look closely at their proposal and wonder why those who are making $300,000 a year, who have, as my colleagues have already indicated, received generous cuts, now putting those others at the bottom of the barrel.

In a letter by Margaret written to the Houston Chronicle in July 2003 she begged as a student making $10,000, with an 8-year-old son, why she could not get a child tax credit, why we are making it permanent for those who make $300,000 a year, yet Margaret who is trying to make ends meet, get an education and take care of that 8-year-old child cannot, in fact, get that kind of coverage.

This substitute allows us to provide for those working families along with those who have already made it. We do not discriminate against them. We want to have tax cuts for the middle class and working families. But what we do not want to have is a splurge that we cannot afford. Waging war in Iraq, waging war in Afghanistan, young military personnel cannot even afford to put food on their table; and they are giving us a $228 billion deficit.

I argue vigorously for the substitute, not for us and not for partisanship, but for working families. Three million of them are not yet going to be able to see a tax cut today. We need the Rangel-Levin substitute in order to make it work.

Mr. Speaker, I rise in opposition to H.R. 4359, the Child Credit Preservation and Expansion Act, and I call on this body to adopt the more fiscally responsible Rangel Substitute. The Rangel Substitute gives real tax relief to middle-class Americans while not raising the deficit.

Conversely, the original legislation of the Child Credit Preservation and Expansion Act seeks to amend the Internal Revenue Code in the following ways:

To repeal the scheduled reductions in the amount of the child tax credit for taxable years beginning in 2005 through 2009 (from $1,000 to $700 in 2005 through 2008 and $800 in 2009);

To make the $1,000 credit amount permanent;

To increase the income threshold amount for calculating reductions in the credit amount to $125,000 ($250,000 for married taxpayers filing a joint return).

To eliminate the reduction in the percentage of earned income for calculating the refundable portion of the credit (15 to 10 percent) for taxable years beginning before 2005;

To include in earned income for purposes of calculating the refundable portion of the credit otherwise tax excludable combat zone compensation of members of the armed forces; and

To exempt from the general termination date in the Economic Growth and Tax Relief Reconciliation Act of 2001 (December 31, 2010) provisions of that Act disregarding as income any refunds from the child tax credit for purposes of determining eligibility for federally funded assistance programs.

Mr. Speaker, the original legislation, as drafted will allocate $70 billion in permanent tax cuts to 2 million taxpayers with children who are in the top 10 percent of the income hierarchy but leaves working families "in the lurch." Furthermore, the bill threatens the welfare of middle-class families because the drafters have failed to include provisions to pay for these tax cuts—increasing record deficits that threaten economic growth, raise interest rates, and cost jobs.

Mr. Speaker, instead, I support the amendment in the nature of a substitute as offered by my esteemed colleague from New York and that has been made in order by the Committee on Rules. In sharp contrast to the instant bill, Mr. RANGEL's proposal will ensure that the Republican tax cuts are paid for through 2010, will increase the child tax credit for more than 31 million people to help middle-income families with children (over 75 percent) currently receiving the credit, and provide the child tax credit to an additional 2.5 million working families, instead of directing this tremendous relief to a groups who have already benefited tremendously under the Bush tax cuts.

Middle-class families would be better off if tax cuts were paid for. Given the loss of 2.2 million private-sector jobs over the past three years, Democrats believe tax cuts should not add to the budget deficits, as ballooning deficits threaten economic growth, raise interest rates and cost jobs. Instead of taking the responsible course of action and paying for these tax cuts, our colleagues on the other side of the aisle choose instead to increase our debt and deficit levels. Economists agree that federal budget deficits threaten to crowd out private investment and raise interest rates on mortgages, consumer credit and business borrowing, which will slow economic growth and job creation. Federal Reserve Chairman Greenspan warned that soaring budget deficits represent a "significant obstacle to long-term stability" in the economy." (Washington Post, 5/7/04) "The [child tax credit] bill . . . is the most egregious part of a House tax-cutting spree that altogether would add more than $500 billion to the deficit over the next 10 years." (editorial, Washington Post, 5/19/04) Republicans have already taken us from a $5.6 trillion 10-year surplus to a nearly $3 trillion deficit, and now are proposing to add another $228 billion in this bill.

This bill is increasing the deficit to provide tax breaks for higher-income taxpayers, while doing nothing for working families. Instead of providing more tax cuts to middle-income families or helping working families struggling to get into the middle class or making minimum wage, Republicans spend nearly $70 billion (or 30 percent) of the tax cuts on extending the child tax to taxpayers making up to nearly $300,000. According to the Tax Policy Center, 40 percent of the benefits of the Republican bill go to the top 10 percent of taxpayers making over $100,000. For example, a family with a parent working full-time at the minimum wage ($10,300) would get no benefit at all from the bill, while two-child families earning up to $250,000 would get an extra $20,000 in tax breaks over the next 10 years. "This is unnecessary, misguided and irresponsible. Families at that income level have already enjoyed significant benefits from the recent tax cuts; they don't need an extra subsidy to help support their children." (editorial, Washington Post, 5/19/04).

Democrats pay for these tax cuts and require a balanced budget to make the tax cuts permanent. Democrats know we can provide real tax relief to millions of families without endangering our economy or threatening job creation. The Democratic plan essentially pays for these tax cuts through 2010, through a small surtax on the most affluent 0.2 percent of households in America—for couples the surtax only applies to those with annual incomes over $1 million. Democrats are committed to tax cuts that are fiscally responsible. That is why the Democratic plan makes these tax cuts permanent once Congress enacts legislation to balance the budget by 2014, as Republicans have already promised to do, without tapping into the Social Security or Medicare surplus.

The Democratic plan provides more tax relief for middle-income families and working families. The Democratic plan will provide more tax relief to more than 31 million (over 75 percent) of middle-income families—those making less than $110,000. It does so by indexing the $1,000 child tax credit for inflation bringing it to $1,100 in 2009. It also provides the child tax credit to an additional 2.5 million working families with children by lowering the income at which families are eligible from $10,750 to $10,000. Democrats will fight to make sure that tax cuts are targeted to the nearly 85 percent of middle-income and working families feeling the squeeze in the Bush economy.

Democrats have long favored more tax relief for middle-income families. Last year, Democrats worked to provide long-lasting tax cuts for middle-income families, including rescinding the marriage penalty—providing the child tax credit for more people and for a longer period of time. Unfortunately, Republicans are consistently willing to shortchange middle-class families in order to provide tax cuts for the wealthy. Last year, Republicans made the acceleration of the marriage penalty relief, child tax credit, and the 10 percent bracket temporary in order to protect their tax cuts for corporate dividends. This "problem" is one they themselves created.

Extending tax cuts is not an economic plan. Republicans have launched a phony P.R. offensive called "Hire our Workers," but they have yet to explain how they lost 2.2 million private sector jobs, how they increased the deficit to $3 trillion, or how their failed economic policies are going to lead to the hiring of even one additional worker. Democrats have a real plan to create jobs, by passing bipartisan tax relief for manufacturers that keep jobs here in the U.S., passing a robust highway bill, fully funding the Small Business Administration, passing middle class tax cuts that are fully paid for, and putting the federal government back on a "pay as you go" basis. I urge the entire body to reject H.R. 4359 and adopt the Rangel Substitute which is the only responsible fiscal legislation before this body that actually benefits middle-class Americans.

[From the Houston Chronicle, July 8, 2003]

A POOR MOTHER: MY CHILD'S WORTH TAX CREDIT, TOO

(By Margaret Gaffin)

I'm among the millions of men and women being shafted by the Bush administration.

Under the Bush administration's new tax law, families whose taxable income is more than $26,625 will see an increase in the Child Tax Credit of $400 for a total of $1,000. They will get a check in the mail for the difference this summer.

For working families whose taxable income is between $10,500 and $26,625, it's still being debated as to when and if they will receive the credit after they were left out of the bill the first time.

At the same time, the entire tax bill is expected to return an average of $90,000 a year to people making more than a million dollars a year. Not to mention the fact that most of the members of Congress stand to receive dividends. But families earning less than $10,500 like mine will remain ineligible for any part of the child tax credit.

My situation is like millions of women around the country. While we work, go to school and care for our children, we often don't get paid well. My dream is to give back to my community by working in social services like being a probation officer. I have lived a tough life and know how trying it is where there is no one to lend a helping hand in difficult circumstances.

Being in human services will allow me to be that helping hand for other families and the children facing hard times. I'm going to school full time to complete my associate's degree. This means I bring home $5,600 a year, since I can work only part time. Student loans help pay some expenses, but it still is not enough.

It hurts when my 8-year-old daughter wants to go to the movies or even have a meal at McDonald's and I have to say, "No, Mommy can't afford it." If I had gotten a tax cut, I would spend it on bills that face me. Like millions of other working people, I would have put the money right back into the economy.

(Unlike many millionaires, who will most likely put their $90,000 refund in the bank or spend it on stocks or campaign contributions to keep those tax cuts coming.)

The deficit caused by this tax cut is already being felt in states around the country. In Ohio, we had to cut back Head Start programs and medical expenses, leaving millions of children without early education and medical insurance.

It seems shortsighted. The expenses our country will have to pay by not healing ill children and providing a quality education at an early age will be counted not only in dollars, but also in the pain of impoverished human lives.

Twelve million kids, including 1 million military children, are being penalized because their parents are teachers, social workers or in the armed forces. When the President and Congress ignore us, we are being told that our children aren't as valuable as those of persons making more than we do. We are told that our children are not worth a tax credit, even though we work and pay taxes like everyone else. When all the dust settles, I hope our congressional leaders will stop placing higher value on a child from a rich family over my daughter because I am poor.

I'd like to believe that another world is possible, a world where we have equal opportunity, and one child is not favored over another because of skin color or wealth.

Mr. CAMP. Mr. Speaker, I yield myself 15 seconds to say that I urge Members to reject the substitute because it does not make the child tax credit permanent, it ends in 2010, and we need to make that tax relief permanent.

Mr. Speaker, I reserve the balance of my time.

Mr. LEVIN. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. McDERMOTT).

Mr. McDERMOTT. Mr. Speaker, I could not help noticing today that the President had to come up here and stiffen the spine of his troops. I understand that they are getting a little weak-kneed but this is the rubber-stamp Congress, and we know that when the President comes up here and asks for something, no matter how big the deficit is or how many poor people or ordinary working folks you exclude, you will do exactly what he wants.

The people should understand, this is a priority of the President of the United States. He is the one that wants to cut the money or give more money to people on the top. His whole idea is, if I can give enough to the people on the top, I will get reelected.

I noticed some of the Members were a little worried there when we had that discussion about having an investigation of what is going on with the prisoners and how high up the ladder that goes. There were a lot of weak knees over there. They are going home and they have got to take home this tax credit, by God. I can hear them saying it down in HC–5 today: "Gentlemen, you have to vote for this because you'll have nothing else to say." You have got to say something to cover up what is going on in Iraq.

Mr. CAMP. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. THOMAS), chairman of the full Committee on Ways and Means.

Mr. THOMAS. Mr. Speaker, I assume there is some relevancy to this particular debate on this particular measure offered by the gentleman from Washington.

But I think we really ought to put this entire debate in perspective. In 1993, with a Democrat President and a Democratically controlled Congress, the largest tax increase in the history of the United States was put in place. There was an opportunity at that time to make adjustments on the Alternative Minimum Tax which would not place us in the position that we are in today. That measure passed this House with all Democratic votes and no Republican votes. That was in the first full year of President Clinton's presidency.

The next year was an off-year election for the House of Representatives and one-third of the United States Senate. The American people, for the first time in 40 years, decided that empty promises and failure to deliver and continuing to assume that by requiring Americans to send a dollar to Washington with bureaucratic waste, fraud and abuse subtracted and the 86 cents, the 82 cents, the 76 cents that was sent back to them on programs that they promised to help them was a failed policy. That produced the first Congress of a Republican majority in 40 years.

Ten years later, Republicans are still in the majority. I do not see any better example of the fundamental choices in which the American people chose our way of dealing with issues versus theirs.

Somehow requiring people to pay taxes when they have children at home, for which the amount we are debating does not even offset inflation over the last decade, of increasing the child deduction, somehow allowing them to keep $1,000 per child so that perhaps a school choice would be different, perhaps an educational or enlightenment trip would be different, so that that child in terms of the $20,000 that is going to be available to someone, have you checked college tuition nowadays? The concept of putting money away for future education can be assisted by this $1,000.

☐ 1830

And the real problem to my friends on the other side is to see a dollar of tax revenue lost because they did not get it, they did not get their fingers on it, and they did not create a program in the hopes that someone would vote for them because they were going to give them the money.

What I see is an opportunity for a family to allow that child to be enriched over their lifetime, that, in, fact they do go to college. Anybody knows, and graphs show today, a college education is worth about $4 million over the earning life of that individual. And do you know what you do when you make that much money? You surely know listening to their arguments, because if people make a little bit of money, they pay a lot of taxes.

One of the things Republicans have done in this Tax Code is to drop more people off the tax rolls than they have ever done in the history of the time that they have controlled the House of Representatives.

Now, there is a problem when people do not pay income taxes, because they do not get the benefits of the structure of the income tax, for example, the child tax credit. So they then come to the well and say people who do not pay income taxes should get the benefits, notwithstanding the fact they do not pay income taxes, of the people who pay income taxes. That is an unfair system.

And all we are saying is let us give the American family a little security and assurance. What we do in our proposal is make it $1,000 and make it permanent. What they do is dangle out the opportunity that there may be $1,000. If someone in the executive branch certifies that what this constitutionally independent body can do is okay to do, they turn over fundamental legislative decisions to the executive branch. Does the executive branch certify that we can do it? Yes or no?

That is how desperate these people are, to come up with an angle which allows them to say this is what we are going to offer, with the ability, in fact, to jerk it away and never allow the American family to get the $1,000 child tax credit.

So the choice is pretty simple. Certainty, appropriateness, and the investment where we think that investment does the most good, to the family for them to decide. That is the proposal before us.

The substitute says let us promise something that is not guaranteed, that someone in an entirely different constitutional structure will tell you whether or not you can do it. I think that is why finally in 1994 the American people said we have had enough, we want to go a different way.

And to my friend from Texas talking about a balanced budget under the Clinton administration, to make sure history is accurate, 6 of those 8 years Republicans were in the majority in the House and the Senate. That is how we came out of the deficit. Everybody knows the world's circumstances that we were in. We will get out of the deficit again how? By not hoping that keeping taxpayers poor and government rich will solve the problem, but by making sure that we invest in the future in the American way, let those people spend their own money in ways they think bring the best return. And guess what, jobs are created, productivity is up, more taxes come in, i.e., we have revenue coming in.

The real question of whether or not we are able to grow out of this deficit is whether or not we control spending. Not giving people their own money back to spend, that is not the problem. It is new programs, larger programs, spending, that is the greatest concern.

A pretty fundamental battle here today. Invest in individuals that made America great, provide more fodder for government spending so that these folks can say I gave them something. We want the mother and father to tell the child they gave them something, not the government.

Mr. LEVIN. Mr. Speaker, I yield myself the balance of my time.

The issue is not extension of the child credit. We favor it. Nor taking into account the needs of military families. We are very much for it.

There is a difference and a big difference. Why should we create a new tax program here? Why? Why for families making $300,000, $250,000? Are they the families in need? And is it right to do so when we add $70 billion to the deficit? The answer, I say to my chairman, pay for it. Pay for it.

You say it is not permanent and yet you say you are going to grow out of the deficit. Okay. If you are right, our proposal is permanent. If you are wrong, as you have been before, in some years we will take another look. Do not raise, I hope again in your remarks, even though when you have a message, you keep after it even if it is wrong, the AMT illustration. It is simply not correct. We do not use the term "middle class" in our AMT proposal. What we say is the AMT should be used for the same purpose as it was intended, for very wealthy families, and we are consistent because we say do not add a new child credit, a new tax break for very wealthy families when you are digging another $70 billion in the hole.

That is not fiscally responsible, as I said before. It is fiscal insanity. Do not raise children when your kids and my grandkids, if not my children, would pay for your irresponsibility, adding $70 billion to the already huge pile of debt. It is red enough. Do not add to it.

I urge that we vote for this responsible substitute and that we vote "no" against a very irresponsible, unneeded, additional tax credit that is in their proposal.

Mr. Speaker, I yield back the balance of my time.

Mr. CAMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge my colleagues to reject the Rangel substitute for three reasons: the Rangel substitute does not make the $1,000 tax credit permanent. The Rangel substitute will cut the $1,000 child tax credit in 2011 in half, according to the Joint Committee on Taxation. The result: millions of low-income families and military families will face a hefty tax increase. In addition, more than 1 million more taxpayers would fall victim to the Alternative Minimum Tax.

The second reason to reject the Rangel substitute is that it does not include tax relief for middle-class families in the way of the child tax credit. In the Democrat substitute to the AMT bill, it was the Democrats who defined middle-class families as single parents earning $125,000 a year and married couples earning $250,000 a year. This substitute would deny the full credit to families in those ranges. As a result, this substitute does not give the full tax credit to families defined by my friends on the other side as middle class.

Thirdly, the Rangel substitute raises taxes on small businesses and entrepreneurs. The Democrat alternative creates a new tax that will hit approximately 200,000 individual tax returns. Seventy-five percent of those have business income, the same small business community that we have been working so hard to bring back. The House has rejected similar tax increases twice in the last 3 weeks.

I urge my colleagues to believe in parents, believe in families, believe in children, reject the Rangel substitute, and vote for H.R. 4359.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to House Resolution 644, the previous question is ordered on the bill and on the amendment by the gentleman from Michigan (Mr. LEVIN).

The question is on the amendment in the nature of a substitute offered by the gentleman from Michigan (Mr. LEVIN).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. LEVIN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 187, nays 226, not voting 20, as follows:

[Roll No. 208]

YEAS—187

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Case
Clay
Clyburn
Conyers
Cooper
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—226

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carson (OK)
Carter
Castle
Chabot
Chandler
Chocola
Coble
Cole
Collins
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gerlach
Gibbons

Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
Matheson
McCotter
McCrery
McHugh
McKeon
Mica
Miller (FL)
Miller (MI)
Mollohan
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—20

Ballance
Burr
DeMint
Deutsch
Gallegly
Johnson, Sam
LaTourette
Leach
Lipinski
Lofgren
Marshall
McInnis
McIntyre
Menendez
Miller, Gary
Murtha
Norwood
Owens
Rush
Tauzin

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised that 2 minutes remain in this vote.

☐ 1903

Mr. PLATTS changed his vote from "yea" to "nay."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CAMP. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 271, noes 139, not voting 23, as follows:

[Roll No. 209]

AYES—271

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Bereuter
Berkley
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Bradley (NH)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carson (OK)
Carter
Castle
Chabot
Chandler
Chocola
Coble
Cole
Collins
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (AL)
Davis (CA)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
Engel
English
Etheridge
Feeney
Filner
Flake
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Holden
Hooley (OR)
Hostettler
Hulshof
Hunter
Hyde
Isakson
Israel
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Lampson
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Manzullo
Marshall
Matheson
McCarthy (NY)
McCotter
McCrery
McHugh
McKeon
McNulty
Meeks (NY)
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Rothman
Royce
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stupak
Sullivan
Sweeney
Tancredo
Tauscher
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Udall (CO)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weiner
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NOES—139

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Berman
Berry
Blumenauer
Boyd
Brady (PA)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Case
Clay
Clyburn
Conyers
Cooper
Cummings
Davis (FL)
Davis (IL)
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Eshoo
Evans
Everett
Farr
Fattah
Frank (MA)
Frost
Gonzalez
Green (TX)
Grijalva
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Houghton
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Majette
Markey
Matsui
McCollum
McDermott
McGovern
Meehan
Meek (FL)
Millender-McDonald
Miller, George
Mollohan
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Pelosi
Rangel
Reyes
Rodriguez
Ross
Roybal-Allard
Ruppersberger
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Tanner
Taylor (MS)
Thompson (CA)
Tierney
Towns
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Wexler
Wilson (NM)
Woolsey

NOT VOTING—23

Ballance
Blunt
Burr
DeMint
Deutsch
Ferguson
Gallegly
Gutierrez
Johnson, Sam
Leach
Lipinski
Lofgren
McCarthy (MO)
McInnis
McIntyre
Menendez
Miller, Gary
Murtha
Norwood
Owens
Rush
Tauzin
Turner (TX)

☐ 1920

Mr. DELAHUNT and Mr. SCHIFF changed their vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Ms. McCARTHY of Missouri. Mr. Speaker, on rollcall No. 209, I was unavoidably detained on H.R. 4359, Child Credit Preservation and Expansion Act. Had I been present, I would have voted "no."

PERSONAL EXPLANATION

Mr. OWENS. Mr. Speaker, because of an emergency in my district, I missed rollcall vote No. 208 and No. 209. If present I would have voted "yea" on rollcall vote No. 208 and "nay" on rollcall vote No. 209.

GENERAL LEAVE

Mr. GOSS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4359, the bill just passed.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Florida?

There was no objection.

CONDITIONAL ADJOURNMENT TO MONDAY, MAY 24, 2004

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 4 p.m. on Monday, May 24, 2004, unless it sooner has received a message from the Senate transmitting its concurrence in House Concurrent Resolution 432, in which case the House shall stand adjourned pursuant to that concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, JUNE 2, 2004

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, June 2, 2004.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

APPOINTMENT OF HON. WAYNE T. GILCHREST OR HON. MAC THORNBERRY TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH JUNE 1, 2004

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 20, 2004.

I hereby appoint the Honorable WAYNE T. GILCHREST or, if not available to perform this duty, the Honorable MAC THORNBERRY to act as Speaker pro tempore to sign enrolled bills and joint resolutions through June 1, 2004.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the appointment is approved.

There was no objection.

CONTINUATION OF NATIONAL EMERGENCY PROTECTING THE DEVELOPMENT FUND FOR IRAQ AND CERTAIN OTHER PROPERTY IN WHICH IRAQ HAS AN INTEREST—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 108–187)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the national emergency declared in Executive Order 13303 of May 22, 2003, as expanded in scope by Executive Order 13315 of August 28, 2003, protecting the Development Fund for Iraq and certain other property in which Iraq has an interest, is to continue in effect beyond May 22, 2004, to the *Federal Register* for publication.

The obstacles to the orderly reconstruction of Iraq, the restoration and maintenance of peace and security in the country, and the development of political, administrative, and economic institutions in Iraq constituted by the threat of attachment or other judicial process against the Development Fund for Iraq, Iraqi petroleum and petroleum products, and interests therein, and proceeds, obligations, or any financial instruments of any nature whatsoever arising from or related to the sale or marketing thereof, pose a continuing unusual and extraordinary threat to the national security and foreign policy of the United States. For these reasons, I have determined that it is necessary to continue the national emergency protecting the Development Fund for Iraq, and certain other property in which Iraq has an interest, and to maintain in force the sanctions to respond to this threat.

GEORGE W. BUSH.
THE WHITE HOUSE, *May 20, 2004.*

U.S. ARCTIC RESEARCH PLAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Science:

To the Congress of the United States:

Consistent with the provisions of the Arctic Research and Policy Act of 1984, as amended (15 U.S.C. 408(a)), I transmit herewith the eighth biennial revision (2004–2008) to the United States Arctic Research Plan, as prepared for the Congress and the Administration by the Interagency Arctic Research Policy Committee.

GEORGE W. BUSH.
THE WHITE HOUSE, *May 20, 2004.*

A FURTHER MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

MOUNT NOTRE DAME WINS STATE TITLES IN GOLF AND BASKETBALL

(Mr. CHABOT asked and was given permission to address the House for 1 minute.)

Mr. CHABOT. Mr. Speaker, I rise to recognize the achievements of two outstanding groups of young women from my District. Both happen to be from Mount Notre Dame High School.

This past fall the Mount Notre Dame golf team registered its second consecutive Ohio State championship with an impressive 23-stroke victory over Cincinnati rival Ursuline Academy. The Cougars dominated, finishing 16 strokes better than their previous year's State title performance.

Not to be outdone by their classmates, Mount Notre Dame's basketball team was crowned Ohio State champions with a convincing 59 to 44 win over Chaminade-Julienne. The victory topped off a perfect 28 and 0 season and propelled the team to a number two national ranking in the prestigious USA Today poll.

It gives me great pleasure to recognize the continued success of Mount Notre Dame High School, its coaches and administrators, and these young women who serve as ideal role models for future generations of high school student athletes.

Congratulations, Mount Notre Dame.

THANKING FEDERAL EXPRESS AND RICK SICILIANO, LISA DANIEL, DEANDRE SAM, THOMAS DALE AND A-ROCKET

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, over a year ago, the children of Houston collected books, story books, pens, paper and other supplies for the children of Afghanistan. We know that their lives have been extremely difficult, but yet the new government is seeking to provide them with an education.

I rise today to thank Rick Siciliano of Federal Express and Lisa Daniel of Federal Express, constituents A-Rocket, the company, A-Rocket, with DeAndre Sam, the owner, and Thomas Dale, for making the dreams of Afghanistan children a reality as they will help get those books from the children of Houston over to Afghanistan.

This has been an effort that has been done in love and commitment, working across not only the aisle but across the land and across the sea. The children of Afghanistan have stood up to say we want to learn, boys and girls, and I just want to give my greatest appreciation for those who will be willing to support this effort in a humanitarian way and to help the children of Houston make their dreams come true to be friends of the children of Afghanistan.

Again, to Rick Siciliano, Lisa Daniel, DeAndre Sam and Thomas Dale, a big thank you on behalf of the children of Afghanistan.

HONORING THE LIFE OF SHERIDAN GARRISON

(Mr. BOOZMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOOZMAN. Mr. Speaker, I rise today to honor the life of Sheridan Garrison, whose untimely death was announced today.

In the early 1980s, Sheridan founded Arkansas Freightways, which became American Freightways, a company that serviced points in 40 States and employed 16,000 people across the country, including 1,000 in his hometown of Harrison, Arkansas. In 2000, FedEx purchased American Freightways, making Sheridan the director.

Through the years, Sheridan always kept his focus on being a good community partner. When Arkansas Business profiled Sheridan in 1988, he described how he would like to be remembered. He said, "I want to be remembered for being a decent person, for doing what I said I would do, as someone who created an environment where people would choose to work and succeed. And for being a decent father, husband and brother, by people who love me in spite of my faults."

Mr. Speaker, Sheridan will be remembered for all of these traits and more. I ask my colleagues to keep his family in their thoughts and in their prayers.

THE FINANCIAL PENALTY RESULTING FROM SAME-SEX MARRIAGES

(Mr. BACHUS asked and was given permission to address the House for 1 minute, revise and extend his remarks and include extraneous material.)

Mr. BACHUS. Mr. Speaker, an enormous unrevealed financial penalty will result from same-sex marriage recognition, but there has been little discussion. Why is the media looking the other way? Do seniors not have the right to know it will affect their Social Security benefits? Do taxpayers not have the right to know that it will affect their taxes, both State and Federal? Does the public not have the right to know that it means less money for roads, schools, medical research, veterans benefits? In fact, it was the Social Security issue that side-lined a similar proposal in the Canadian Parliament.

What is the cost? I include in the RECORD a GAO report outlining 1,138 Federal programs impacted if same-sex marriages are recognized in this country, an enormous price tag, hundreds of billions of dollars.

The American people have the right to know. We need to discuss this issue. We are going to give benefits to same-sex couples we do not give to Americans caring for disabled and elderly relatives. We are going to give it to same-sex couples who have no children and give them the same benefits we give married couple with several children.

We need to discuss this issue. It is going to cost billions of dollars.

U.S. GENERAL ACCOUNTING OFFICE,
Washington, DC, January 23, 2004.

Subject: Defense of Marriage Act: Update to Prior Report

Hon. BILL FRIST,
Majority Leader,
U.S. Senate.

DEAR SENATOR FRIST: The Defense of Marriage Act (DOMA) provides definitions of "marriage" and "spouse" that are to be used in construing the meaning of a federal law and, thus, affect the interpretation of a wide variety of federal laws in which marital status is a factor. In 1997, we issued a report identifying 1,049 federal statutory provisions classified to the United States Code in which benefits, rights, and privileges are contingent on marital status or in which marital status is a factor. In preparing the 1997 report, we limited our search to laws enacted prior to September 21, 1996, the date DOMA was signed into law. Recently, you asked us to update our 1997 compilation.

We have identified 120 statutory provisions involving marital status that were enacted between September 21, 1996, and December 31, 2003. During the same period, 31 statutory provisions involving marital status were repealed or amended in such a way as to eliminate marital status as a factor. Consequently, as of December 31, 2003, our research identified a total of 1,138 federal statutory provisions classified to the United States Code in which marital status is a factor in determining or receiving benefits, rights, and privileges.

To prepare the updated list, we used the same research methods and legal databases that we employed in 1997. Accordingly, the same caveats concerning the completeness of our collection of laws apply to this updated compilation, as explained more fully in our prior report. For example, because of the inherent limitations of any global electronic search and the many ways in which the laws of the United States Code may deal with marital status, we cannot guarantee that we have captured every individual law in the United States Code in which marital status figures. However, we believe that the probability is high that the updated list identified federal programs in the United States Code in which marital status is a factor.

We have organized our research using the same 13 subject categories as the 1997 report. As agreed with your staff, in addition to providing you with a primary table of new statutory provisions involving marital status, we have prepared a second table identifying those provisions in our prior report that subsequently have been repealed or amended in a manner that eliminates marital status as a factor. Finally, in a third table, we have listed those provisions identified in our 1997 report that have since been relocated to a different section of the United States Code. We have also attached a brief summary of the 13 research categories; a full description of each category is set forth in the 1997 report.

We plan no further distribution of this report until 30 days after the date of this letter. At that time, we will send copies of this letter to interested congressional committees. The letter will also be available on GAO's home page at http://www.gao.gov.

If you have any questions, please contact me at (202) 512–8208 or by E-mail at shahd@gao.gov. Behn Miller Kelly and Richard Burkard made key contributions to this project.

Sincerely yours,

DAYNA K. SHAH,
Associate General Counsel.

APPENDIX 1

Table of Statutory Provisions Involving Marital Status Added to the United States Code Between September 21, 1996, and December 31, 2003, by Category

CATEGORY 1—SOCIAL SECURITY AND RELATED PROGRAMS, HOUSING, AND FOOD STAMPS

Title 42 – The Public Health and Welfare	
Chapter 6A—Public Health Service ***Subchapter II*** ***Part D—Primary Health Care*** **Subpart I—Health Centers**	
§ 254d	National Health Service Corps
Subchapter IV—Grants to States for Aid and Services to Needy Families with Children and for Child-Welfare Services	
Part B—Child and Family Services **Subpart 2—Promoting Safe and Stable Families**	
§ 629a	Definitions
Subchapter XI—General Provisions, Peer Review, and Administrative Simplification ***Part A—General Provisions***	
§ 1320a-7	Exclusion of certain individuals and entities from participation in Medicare and state health care programs
§ 1320b-17	Recovery of SSI overpayments from other benefits
Part C—Medicare + Choice Program	
§ 1395w-22	Benefits and beneficiary protections
§ 1395w-23	Payments to Medicare + Choice organizations
§ 1395w-27	Contracts with Medicare + Choice organizations
Part D—Miscellaneous Provisions	
§ 1395x	Definitions
§ 1395ff	Determinations; appeals
Chapter 35—Programs for Older Americans ***Subchapter III—Grants for States and Community Programs on Aging*** ***Part C—Nutrition Services*** ***Subpart III—General Provisions***	
§ 3030g-21	General provisions—nutrition
§ 3030s	Definitions
Chapter 46—Justice System Improvement ***Subchapter XII—F—Public Safety Officers' Death Benefits*** ***Part A—Death Benefits***	
§ 3796d	Purposes
§ 3796d-1	Basic eligibility
Subchapter XII—H—Grants to Combat Violent Crimes against Women	
§ 3796gg-1.	State grants
Chapter 84—Department of Energy ***Part A—Establishment of Compensation Program and Compensation Fund*** ***Subchapter XVI—Energy Employees Occupational Illness Compensation Program***	
§ 7384s	Compensation and benefits to be provided
§ 7384u	Separate treatment of certain uranium employees
Part C—Treatment, Coordination, and Forfeiture of Compensation and Benefits	
§ 7385c	Exclusivity of remedy against the United States and against contractors and subcontractors
Chapter 110—Family Violence Prevention and Services	
§ 10410	Grants for state domestic violence coalitions
§ 10421	Definitions

Chapter 129—National and Community Service *Subchapter I—National and Community Service State Grant Program* *Division F—Administrative Provisions*	
§ 12639	Evaluation
Chapter 130—National Affordable Housing *Subchapter I—General Provisions and Policies*	
§ 12704	Definitions
§12713	Eligibility under first-time home-buyer programs
Chapter 136—Violent Crime Control and Law Enforcement *Subchapter III—Violence against Women* *Part C—Civil Rights for Women*	
§ 13981	Civil rights
§ 13992	Training provided by grants
Chapter 143—Intercountry Adoptions *Subchapter V—General Provisions*	
§ 14952	Special rules for certain cases

CATEGORY 2—VETERANS' BENEFITS

Title 38—Veterans' Benefits	
Part II—General Benefits **Chapter 17—Hospital, Nursing Home, Domiciliary, and Medical Care** *Subchapter II—Hospital, Nursing Home, Or Domiciliary Care and Medical Treatment*	
§ 1710B	Extended care services
Subchapter VIII—Health Care of Persons other than Veterans	
§ 1781	Medical care for survivors and dependents of certain veterans
Chapter 18—Benefits for Children of Vietnam Veterans *Subchapter III—General Provisions*	
§ 1821	Definitions
Chapter 19—Insurance *Subchapter III—Servicemembers' Group Life Insurance*	
§ 1967	Person insured; amount
§ 1969	Deductions; payment; investment; expenses
Chapter 23—Burial Benefits	
§ 2306	Headstones, markers, and burial receptacles
Part III—Readjustment and Related Benefits **Chapter 30—All-Volunteer Force Educational Assistance Program** *Subchapter II—Basic Educational Assistance*	
§ 3020	Transfer of entitlement to basic educational assistance: members of the Armed Forces with critical military skills
Chapter 42—Employment and Reemployment Rights of Members of the Uniformed Services	
§ 4215	Priority of service for veterans in Department of Labor job training programs
Part IV—General Administrative Provisions **Chapter 53—Special Provisions Relating to Benefits**	
§ 5302	Waiver of recovery of claims by the United States
§ 5313B	Prohibition on providing certain benefits with respect to persons who are fugitive felons
Part V—Boards, Administrations, and Services **Chapter 77—Veterans Benefits Administration** *Subchapter II—Veterans Outreach Services Program*	
§ 7721	Purpose; definitions

CATEGORY 3—TAXATION

Title 26—Internal Revenue Code	
Subtitle A—Income Taxes **Chapter 1—Normal Taxes and Surtaxes** ***Subchapter A—Determination of Tax Liability*** ***Part IV—Credits Against Tax*** ***Subpart A—Nonrefundable Personal Credits***	
§ 24	Child tax credit
§25A	Hope and lifetime learning credits
§ 25B	Tax imposed on individuals
	Subchapter B—Computation of Taxable Income ***Part III—Items Specifically Excluded from Gross Income***
§ 101	Certain death benefits
	Part VII—Additional Itemized Deductions for Individuals
§ 138	Medicare + Choice MSA
§ 221	Interest on education loans
	Subchapter D—Deferred Compensation, Etc. ***Part I—Pension, Profit-Sharing, Stock Bonus Plans, Etc.*** ***Subpart A—General Rule***
§ 408A	Roth IRAs
	Subchapter F—Exempt Organizations ***Part VIII—Higher Education Savings Entities***
§ 529	Qualified tuition programs
§ 530	Coverdell education savings accounts
	Subchapter K—Partners and Partnerships ***Part IV—Special Rules for Electing Large Partnerships***
§ 774	Other modifications
§ 775	Electing large partnership defined
	Subchapter O—Gain or Loss on Disposition of Property ***Part II—Basis Rules of General Application***
§ 1022	Treatment of property acquired by decedent dying after December 31, 2009
	Subchapter W—District of Columbia Enterprise Zone
§ 1400C	First-time home-buyer credit for District of Columbia
Subtitle B—Estate and Gift Taxes **Chapter 11—Estate Tax** ***Subchapter A—Estates Of Citizens Or Residents*** ***Part IV—Taxable Estate***	
§ 2057	Family-owned business interests
	Subchapter C—Miscellaneous
§ 2210	Termination
Chapter 12—Gift Tax ***Subchapter B—Transfers***	
§ 2511	Transfers in general
Chapter 13—Tax on Generation-Skipping Transfers ***Subchapter D—GST Exemption***	
§ 2632	Special rules for allocation of GST exemption
Subtitle F—Procedure and Administration **Chapter 61—Information and Returns** ***Subchapter A—Returns and Records*** ***Part II—Tax Returns or Statements*** ***Subpart B—Income Tax Returns***	
§ 6015	Relief from joint and several liability on joint return
	Part III—Information Returns ***Subpart B—Information Concerning Transactions with Other Persons***
§ 6045	Returns of brokers

Chapter 62—Time and Place for Paying Tax ***Subchapter A—Place and Due Date for Payment of Tax***	
§ 6159	Agreements for payment of tax liability in installments
Chapter 63—Assessment ***Subchapter C—Tax Treatment of Partnership Items***	
§ 6230	Additional administrative provisions
Chapter 66—Limitations ***Subchapter B—Limitations on Credit or Refund***	
§ 6511	Limitations on credit or refund

CATEGORY 4—FEDERAL CIVILIAN AND MILITARY SERVICE BENEFITS

Title 5—Government Organization and Employees	
Part III—Employees **Subpart A—General Provisions** **Chapter 23—Merit system principles**	
§ 2301	Merit system principles
§ 2302	Prohibited personnel practices
Subpart B—Employment and Retention **Chapter 33—Examination, Selection, and Placement** ***Subchapter I—Examination, Certification and Appointment***	
§ 3301	Civil service; generally
Subpart D—Pay and Allowances **Chapter 57—Travel, Transportation, And Subsistence** ***Subchapter II—Travel And Transportation Expenses; New Appointees, Student Trainees, And Transferred Employees***	
§ 5737	Relocation expenses of an employee who is performing an extended assignment
Chapter 59—Allowances ***Subchapter III—Overseas Differentials And Allowances***	
§ 5922	General provisions
Subpart G—Insurance and Annuities **Chapter 90—Long-term Care Insurance**	
§ 9001	Definitions
§ 9002	Availability of insurance
§ 9003	Contracting authority
Title 6—Domestic Security	
Chapter 1—Homeland Security Organization	
§ 331	Treatment of charitable trusts for members of the armed services and other governmental organizations
Title 10—Armed Forces	
Subtitle A—General Military Law **Part I—Organization and General Military Powers** **Chapter 2—Department of Defense**	
§ 118a	Quadrennial quality of life review
Part II—Personnel **Chapter 55—Medical and Dental Care**	
§ 1108	Health care coverage through federal employees' health benefits program: demonstration project
Chapter 73—Annuities based on Retired or Retainer Pay ***Subchapter II—Survivor Benefit Plan***	
§ 1448a	Election to discontinue participation: one-year opportunity after second anniversary of commencement of payment of retired pay
Chapter 88—Military Family Care Programs and Military Child Care ***Subchapter II—Military Child Care***	

§ 1798	Child care services and youth program services for dependents: financial assistance for providers
Title 37—Pay and Allowances of The Uniformed Services	
Chapter 7—Allowances	
§ 403	Basic allowance for housing
§ 407	Travel and transportation allowances: dislocation allowance
§ 411f	Travel and transportation allowances: transportation for survivors of deceased member to attend the member's burial ceremonies
§ 427	Family separation allowance

CATEGORY 5—EMPLOYMENT BENEFITS AND RELATED STATUTORY PROVISIONS

Title 29—Labor	
Chapter 30—Workforce Investment Systems	
Subchapter I—Workforce Investment Definitions	
§ 2801	Definitions
Subchapter IV—National Programs	
§ 2918	National emergency grants
Title 30—Mineral Lands and Mining	
Chapter 25—Surface Mining Control and Reclamation	
Subchapter VII—Administrative and Miscellaneous Provisions	
§ 1304	Surface owner protection
Title 42—The Public Health and Welfare	
Chapter 46—Justice System Improvement	
Subchapter XII—Public Safety Officers' Death Benefits	
Part B—Educational Assistance to Dependents of Civilian Federal Law Enforcement Officers Killed or Disabled in the Line of Duty	
§ 3796d	Purposes
§ 3796d-1	Basic eligibility
Chapter 84—Department of Energy	
Subchapter XVI—Energy Employees Occupational Illness Compensation Program	
§ 7384s	Compensation and benefits to be provided
§ 7384u	Separate treatment of certain uranium employees
§ 7385c	Exclusivity of remedy against the United States and against contractors and subcontractors

CATEGORY 6—IMMIGRATION, NATURALIZATION, AND ALIENS

Title 8—Aliens and Nationality	
Chapter 12—Immigration and Nationality	
Subchapter II—Immigration	
Part II—Admission Qualifications fFor Aliens; Travel Control of Citizens And Aliens	
§ 1183a	Requirements for sponsor's affidavit of support
Part IV—Inspection, Apprehension, Examination, Exclusion, and Removal	
§ 1227	General classes of deportable aliens
§ 1229a	Removal proceedings
§ 1229b	Cancellation of removal; adjustment of status
§ 1229c	Voluntary departure
Part IX—Miscellaneous	
§ 1367	Penalties for disclosure of information
§ 1375	Mail-order bride business

Chapter 14—Restricting Welfare and Public Benefits for Aliens	
Subchapter IV—General Provisions	
§ 1641	Definitions
Chapter 15—Enhanced Border Security and Visa Entry Reform	
Subchapter V—Foreign Students and Exchange Visitors	
§ 1761	Foreign student monitoring program
Title 19—Customs Duties	
Chapter 24—Bipartisan Trade Promotion	
§ 3805*note*	United States—Chile Free Trade Agreement Implementation Act

CATEGORY 7–INDIANS

Title 25—Indians	
Chapter 18—Indian Health Care	
Subchapter II—Health Services	
§ 1621h	Mental health services
Chapter 24—Indian Land Consolidation	
§ 2206	Descent and distribution
§ 2216	Trust and restricted land transactions
Chapter 43—Native American Housing Assistance and Self-Determination	
§ 4103	Definitions
Subchapter VIII—Housing Assistance for Native Hawaiians	
§ 4221	Definitions

CATEGORY 8—TRADE, COMMERCE, AND INTELLECTUAL PROPERTY

Title 12—Banks and Banking	
Chapter 13—National Housing	
§ 1701q	Supportive housing for the elderly
	Subchapter II—Mortgage Insurance
§ 1707	Definitions
§ 1713	Rental housing insurance
§ 1715e	Cooperative housing insurance
Chapter 17—Bank Holding Companies	
§ 1841	Definitions
Chapter 31—National Consumer Cooperative Bank	
Subchapter I—Establishment and Operation	
§ 3015	Eligibility of cooperatives
Chapter 32—Foreign Bank Participation in Domestic Markets	
§ 3106a	Compliance with state and federal laws
Title 15—Commerce and Trade	
Chapter 14A—Aid to Small Business	
§ 632	Small business concern
Chapter 14B—Small Business Investment Program	
Subchapter V—Loans to State and Local Development Companies	
§ 696	Loans for plant acquisition, construction, conversion, and expansion
Chapter 41—Consumer Credit Protection	
Subchapter IV—Equal Credit Opportunity	
§ 1691	Scope of prohibition

CATEGORY 9—FINANCIAL DISCLOSURE AND CONFLICT OF INTEREST

Title 7—Agriculture	
Chapter 50—Agricultural Credit ***Subchapter VI—Delta Regional Authority***	
§ 2009aa-1	Delta Regional Authority
Subchapter VII—Northern Great Plains Regional Authority	
§ 2009bb-1	Northern Great Plains Regional Authority
Subchapter IX—Rural Strategic Investment Program	
§ 2009dd-3	National Board on rural America

CATEGORY 10—CRIMES AND FAMILY VIOLENCE

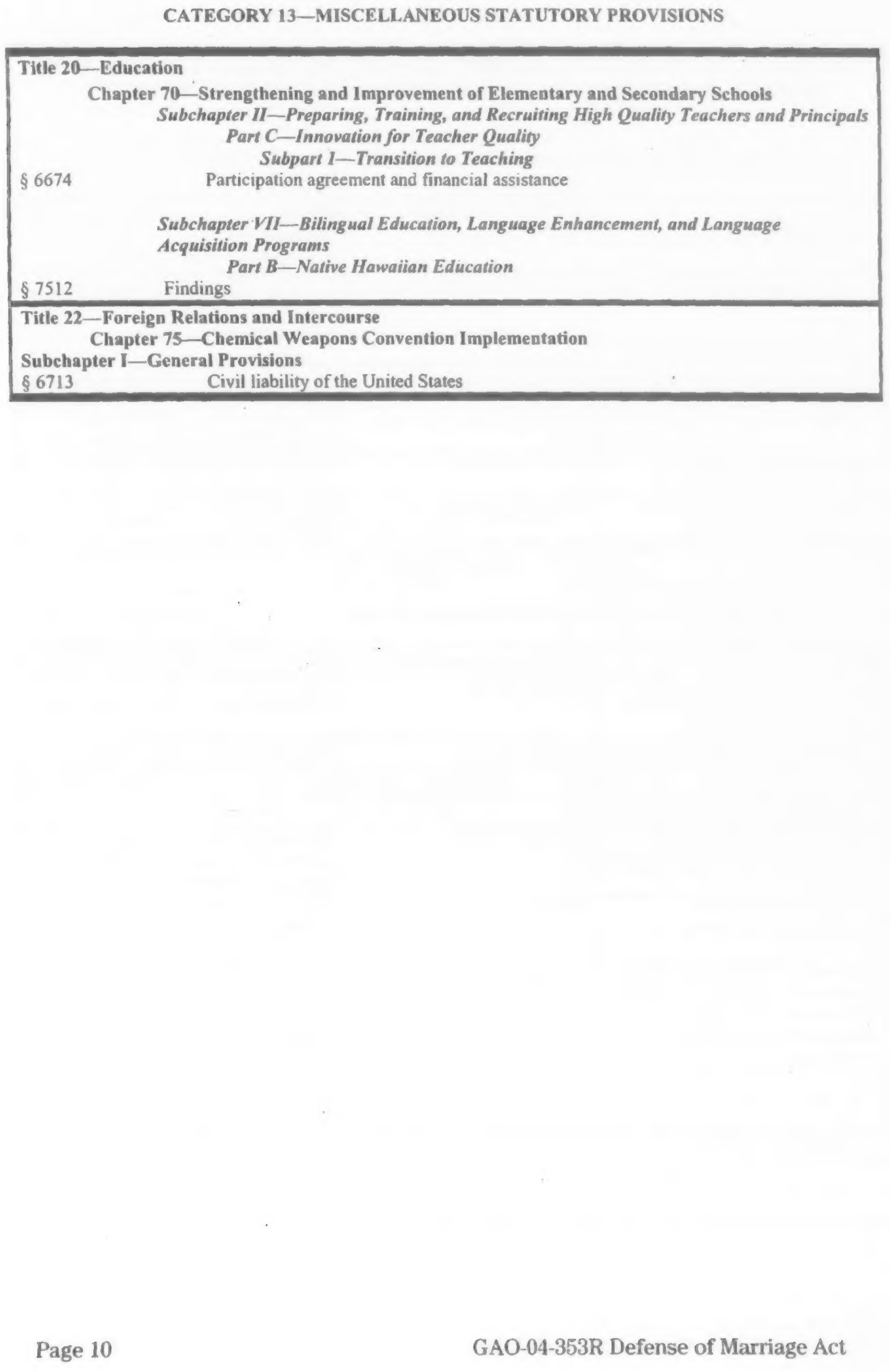
Title 18—Crimes and Criminal Procedure	
Part I—Crimes **Chapter 46—Forfeiture**	
§ 983	General rules for civil forfeiture proceedings
Chapter 110A—Domestic Violence	
§ 2261A	Interstate stalking
Title 20	
Chapter 28—Higher Education Resources and Student Assistance ***Subchapter VIII—Miscellaneous***	
§ 1152	Grants to combat violent crimes against women on campuses
Title 28—Judiciary and Judicial Procedure	
Part V—Procedure **Chapter 115—Evidence; Documentary**	
§ 1738C	Certain acts, records, and proceedings and the effect thereof
Title 42—The Public Health And Welfare	
Chapter 135—Violent Crime Control and Law Enforcement ***Subchapter III—Violence against Women*** ***Subpart 3—Rural Domestic Violence and Child Abuse Enforcement*** ***Part C—Civil Rights for Women***	
§ 13981	Civil rights
Part D—Equal Justice for Women in the Courts Act ***Subpart 1—Education and Training for Judges and Court Personnel in State Courts***	
§ 13992	Training provided by grants

CATEGORY 11—LOANS, GUARANTEES, AND PAYMENTS IN AGRICULTURE

No new provisions in this category of statutes.

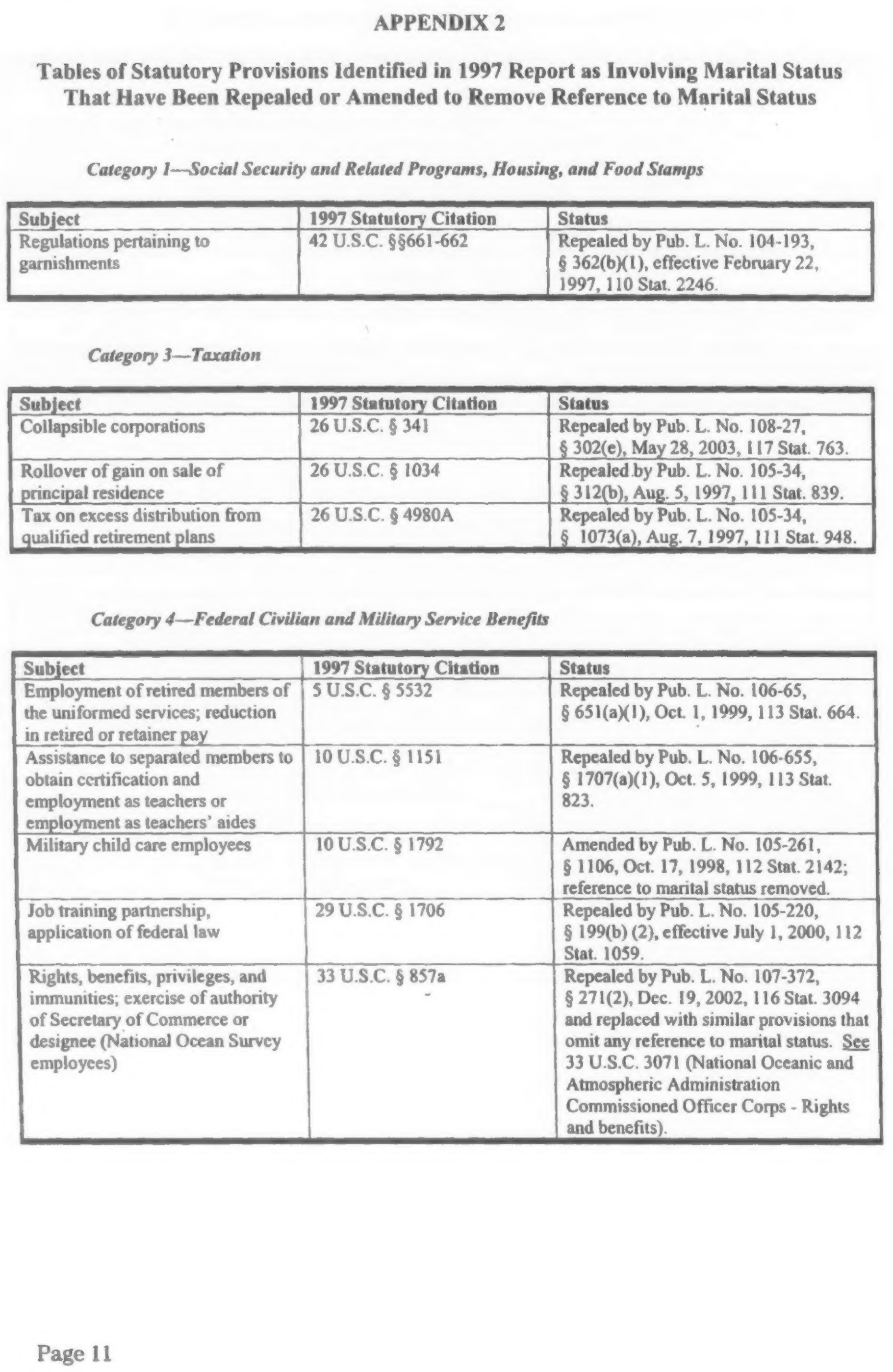
CATEGORY 12—FEDERAL NATURAL RESOURCES AND RELATED STATUTORY PROVISIONS

No new provisions in this category of statutes.



CATEGORY 13—MISCELLANEOUS STATUTORY PROVISIONS

Title 20—Education	
	Chapter 70—Strengthening and Improvement of Elementary and Secondary Schools
	Subchapter II—Preparing, Training, and Recruiting High Quality Teachers and Principals
	Part C—Innovation for Teacher Quality
	Subpart 1—Transition to Teaching
§ 6674	Participation agreement and financial assistance
	Subchapter VII—Bilingual Education, Language Enhancement, and Language Acquisition Programs
	Part B—Native Hawaiian Education
§ 7512	Findings
Title 22—Foreign Relations and Intercourse	
	Chapter 75—Chemical Weapons Convention Implementation
Subchapter I—General Provisions	
§ 6713	Civil liability of the United States



APPENDIX 2

Tables of Statutory Provisions Identified in 1997 Report as Involving Marital Status That Have Been Repealed or Amended to Remove Reference to Marital Status

Category 1—Social Security and Related Programs, Housing, and Food Stamps

Subject	1997 Statutory Citation	Status
Regulations pertaining to garnishments	42 U.S.C. §§661-662	Repealed by Pub. L. No. 104-193, § 362(b)(1), effective February 22, 1997, 110 Stat. 2246.

Category 3—Taxation

Subject	1997 Statutory Citation	Status
Collapsible corporations	26 U.S.C. § 341	Repealed by Pub. L. No. 108-27, § 302(e), May 28, 2003, 117 Stat. 763.
Rollover of gain on sale of principal residence	26 U.S.C. § 1034	Repealed by Pub. L. No. 105-34, § 312(b), Aug. 5, 1997, 111 Stat. 839.
Tax on excess distribution from qualified retirement plans	26 U.S.C. § 4980A	Repealed by Pub. L. No. 105-34, § 1073(a), Aug. 7, 1997, 111 Stat. 948.

Category 4—Federal Civilian and Military Service Benefits

Subject	1997 Statutory Citation	Status
Employment of retired members of the uniformed services; reduction in retired or retainer pay	5 U.S.C. § 5532	Repealed by Pub. L. No. 106-65, § 651(a)(1), Oct. 1, 1999, 113 Stat. 664.
Assistance to separated members to obtain certification and employment as teachers or employment as teachers' aides	10 U.S.C. § 1151	Repealed by Pub. L. No. 106-655, § 1707(a)(1), Oct. 5, 1999, 113 Stat. 823.
Military child care employees	10 U.S.C. § 1792	Amended by Pub. L. No. 105-261, § 1106, Oct. 17, 1998, 112 Stat. 2142; reference to marital status removed.
Job training partnership, application of federal law	29 U.S.C. § 1706	Repealed by Pub. L. No. 105-220, § 199(b) (2), effective July 1, 2000, 112 Stat. 1059.
Rights, benefits, privileges, and immunities; exercise of authority of Secretary of Commerce or designee (National Ocean Survey employees)	33 U.S.C. § 857a	Repealed by Pub. L. No. 107-372, § 271(2), Dec. 19, 2002, 116 Stat. 3094 and replaced with similar provisions that omit any reference to marital status. See 33 U.S.C. 3071 (National Oceanic and Atmospheric Administration Commissioned Officer Corps - Rights and benefits).

Category 5—Employment Benefits and Related Statutory Provisions

Subject	1997 Statutory Citation	Status
Youth training program for the disadvantaged	29 U.S.C. § 1644	Repealed by Pub. L. No. 105-220, § 199(b)(2), effective July 1, 2000, 112 Stat. 1059.
Job Corps—Allowances and support	29 U.S.C. § 1699	Repealed by Pub. L. No. 105-220, § 199(b)(2), effective July 1, 2000, 112 Stat. 1059.
Labor market information	29 U.S.C. § 1752	Repealed by Pub. L. No. 105-220, § 199(b)(2), effective July 1, 2000, 112 Stat. 1059.

Category 6—Immigration, Naturalization, and Aliens

Subject	1997 Statutory Citation	Status
Suspension of deportation of aliens	8 U.S.C. § 1251	Repealed by Pub. L. No. 104-208, § 308(b)(7), Sep. 30, 1996, 110 Stat. 3009-615.

Category 9—Financial Disclosure and Conflict of Interest

Subject	1997 Statutory Citation	Status
Alternative Agricultural Research and Commercialization Corporation—Board of Directors, Employees, and Facilities	7 U.S.C. § 5903	Repealed by Pub. L. No. 107-171, § 6201(a), May 13, 2002, 116 Stat. 418.

Category 10—Crimes and Family Violence

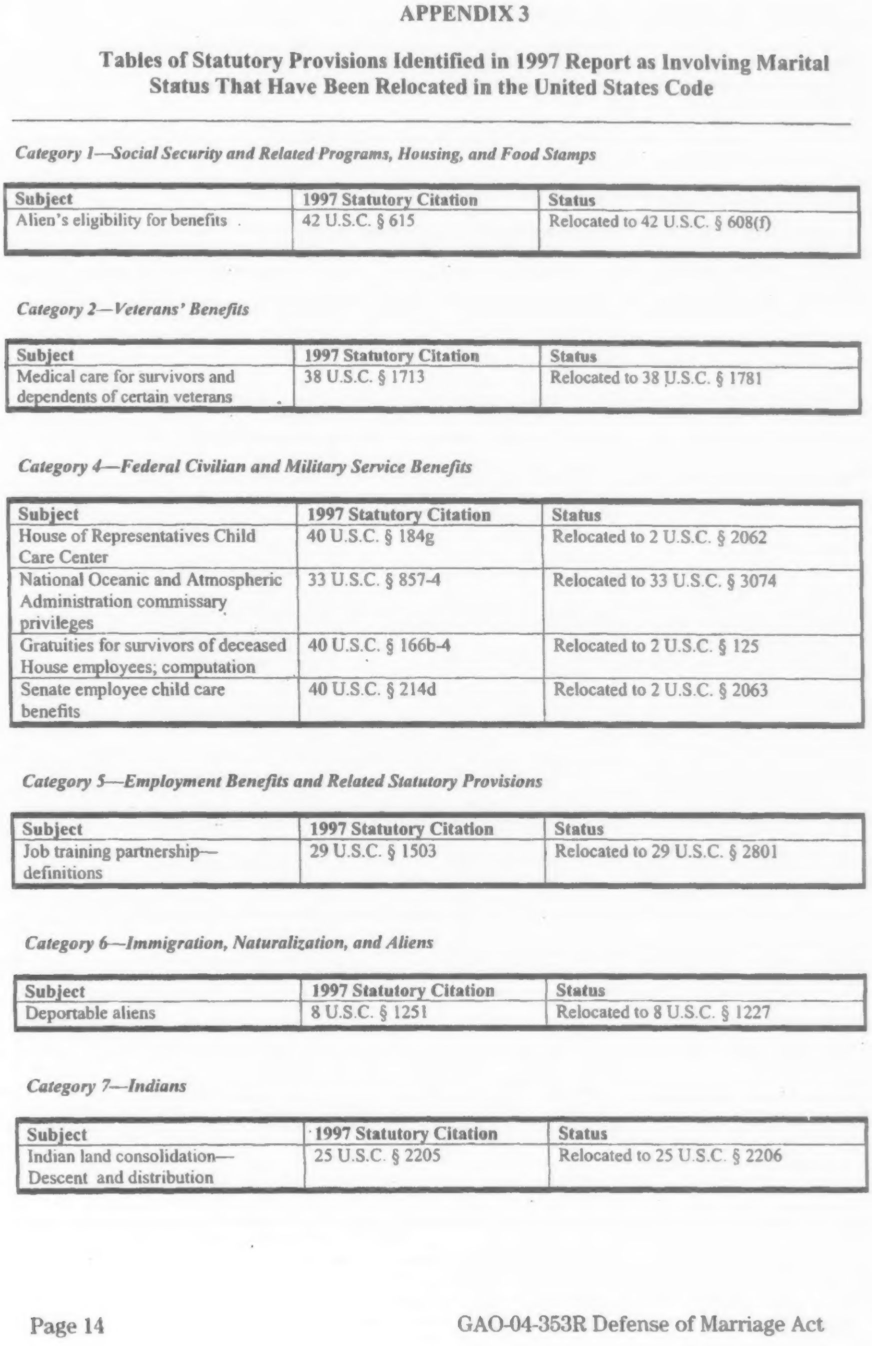
Subject	1997 Statutory Citation	Status
Interstate violation of a protection order	18 U.S.C. § 2262	Amended by Pub. L. 106-386, § 1107, Oct. 28, 2000, 114 Stat. 1464; reference to marital status removed.
Narcotic addict rehabilitation—definitions	42 U.S.C. § 3411	Repealed by Pub. L. No. 106-310, § 3405(b), Oct. 17, 2000, 114 Stat. 1221.
Model state leadership grants for domestic violence intervention	42 U.S.C. § 10415	Repealed by Pub. L. No. 108-36, § 410, June 25, 2003, 117 Stat. 827.

Category 11—Loans, Guarantees, and Payments in Agriculture

Subject	1997 Statutory Citation	Status
Paul Douglas Teaching Scholarships—exceptions to repayment provisions	20 U.S.C. § 1104g	Amended by Pub. L. No. 105-244, § 501, October 7, 1998, 112 Stat. 1581; reference to marital status removed.
Faculty Development Fellowship Program—exceptions to repayment provisions	20 U.S.C. § 1134r-5	Repealed by Pub. L. No. 105-244, § 701, October 7, 1998,112 Stat. 1581.

Category 13—Miscellaneous Statutory Provisions

Subject	1997 Statutory Citation	Status
Vocational education state plans	20 U.S.C. § 2323	Amended by Pub. L. No. 105-332, § 1(b), October 31, 1998,112 Stat. 3076; reference to marital status removed.
Vocational education definitions	20 U.S.C. § 2471	Amended by Pub. L. No. 105-332, § 1(b), October 31, 1998, 112 Stat. 3076; reference to marital status removed.
Agricultural Hall of Fame	36 U.S.C. § 977	Amended by Pub. L. No. 105-354, § 1, Aug. 12, 1998, 112 Stat. 3238; reference to marital status removed.
Audits of Federally Chartered Corporations	36 U.S.C. § 1101	Amended by Pub. L. No. 105-225, § 1, Aug. 12, 1998, 112 Stat. 1253; reference to marital status removed.
Gold Star Wives of America	36 U.S.C. § 1602	Amended by Pub. L. No. 105-225, § 1, Aug. 12, 1998, 112 Stat. 1253; replaced provision's reference to "gold wives" with "corporation". (The name of the organization continues to be the Gold Star Wives of America.)
Navy Wives Clubs of America	36 U.S.C. § 2802	Amended by Pub. L. No. 105-225, § 1, Aug. 12, 1998, 112 Stat. 1436; replaced provision's reference to "Navy Wives" with "corporation". (The name of the organization continues to be the Navy Wives Clubs of America.)
Aviation Hall of Fame	36 U.S.C. § 4307 and § 4309	Amended by Pub. L. No. 105-225, § 1, Aug. 12, 1998, 112 Stat. 1312. These provisions' references to "survivors" were deleted.
Membership of Martin Luther King, Jr., Federal Holiday Commission	36 U.S.C. § 169j-3	Repealed by Pub. L. No. 105-225, § 6, Aug. 12, 1998, 112 Stat. 1253.
Testing and other early intervention services for state prisoners	42 U.S.C. § 300ff-48	Repealed by Pub. L. No. 106-345, § 301(a), Oct. 20, 2000, 114 Stat. 1345.
Programs for older Americans—Demonstration projects	42 U.S.C. § 3035a	Provision was omitted by Pub. L. No. 106-501, Nov. 13, 2001, 114 Stat. 2257.



APPENDIX 3

Tables of Statutory Provisions Identified in 1997 Report as Involving Marital Status That Have Been Relocated in the United States Code

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Category 1—Social Security and Related Programs, Housing, and Food Stamps

Subject	1997 Statutory Citation	Status
Alien's eligibility for benefits	42 U.S.C. § 615	Relocated to 42 U.S.C. § 608(f)

Category 2—Veterans' Benefits

Subject	1997 Statutory Citation	Status
Medical care for survivors and dependents of certain veterans	38 U.S.C. § 1713	Relocated to 38 U.S.C. § 1781

Category 4—Federal Civilian and Military Service Benefits

Subject	1997 Statutory Citation	Status
House of Representatives Child Care Center	40 U.S.C. § 184g	Relocated to 2 U.S.C. § 2062
National Oceanic and Atmospheric Administration commissary privileges	33 U.S.C. § 857-4	Relocated to 33 U.S.C. § 3074
Gratuities for survivors of deceased House employees; computation	40 U.S.C. § 166b-4	Relocated to 2 U.S.C. § 125
Senate employee child care benefits	40 U.S.C. § 214d	Relocated to 2 U.S.C. § 2063

Category 5—Employment Benefits and Related Statutory Provisions

Subject	1997 Statutory Citation	Status
Job training partnership—definitions	29 U.S.C. § 1503	Relocated to 29 U.S.C. § 2801

Category 6—Immigration, Naturalization, and Aliens

Subject	1997 Statutory Citation	Status
Deportable aliens	8 U.S.C. § 1251	Relocated to 8 U.S.C. § 1227

Category 7—Indians

Subject	1997 Statutory Citation	Status
Indian land consolidation—Descent and distribution	25 U.S.C. § 2205	Relocated to 25 U.S.C. § 2206

Category 9—Financial Disclosure and Conflict of Interest

Subject	1997 Statutory Citation	Status
Appalachian Regional Commission—personal financial interests	40 U.S.C. § 108	Relocated to 40 U.S.C. § 14309

Category 10—Crimes and Family Violence

Subject	1997 Statutory Citation	Status
Family violence prevention and Services—definitions	40 U.S.C. § 10408	Relocated to 40 U.S.C. § 10421

Category 13—Miscellaneous Statutory Provisions

Subject	1997 Statutory Citation	Status
Marine Corps League	36 U.S.C. § 57a	Relocated to chapter 2301 § 140102
Veterans of Foreign Wars of the United States	36 U.S.C. § 113	Relocated to chapter 2301 § 230102
Legion of Valor of the United States of America	36 U.S.C. § 633	Relocated to chapter 1303 § 130302
Veterans of World War I of the United States of America	36 U.S.C. § 763	Relocated to chapter 2303 § 230302
The Congressional Medal of Honor Society of the United States	36 U.S.C. § 793 and § 799	Relocated to chapter 405 § 40502 and § 40506
Blinded Veterans Association	36 U.S.C. § 859	Relocated to chapter 303 § 30307
National Woman's Relief Corps, Auxiliary to the Grand Army of the Republic	36 U.S.C. § 1005	Relocated to chapter 1537 § 153703
Gold Star Wives of America	36 U.S.C. § 1601	Relocated to chapter 805 § 80502
American Ex-Prisoners of War	36 U.S.C. § 2103	Relocated to chapter 209 § 20903
Catholic War Veterans of the United States of America, Inc.	36 U.S.C. § 2603	Relocated to chapter 401 § 40103
Navy Wives Clubs of America	36 U.S.C. §2801 and § 2803	Relocated to chapter 1545, § 154502 and §154503.
Army and Navy Union of the United States	36 U.S.C. § 3903	Relocated to chapter 229 § 22903
Non-Commissioned Officers Association of the United States	36 U.S.C. § 4003	Relocated to chapter 1547 § 4003
Retired Enlisted Association, Incorporated	36 U.S.C. § 5103	Relocated to chapter 1903 § 190303
National Fallen Firefighters Foundation	36 U.S.C. § 5201	Relocated to Chapter 1513 § 151302
Public Health Service grants for services of substance abusers	42 U.S.C. § 280d	Relocated to 42 U.S.C. § 290bb-25
Programs for older Americans—state plans	42 U.S.C. § 3035	Relocated to 42 U.S.C. § 3027

APPENDIX 4—CATEGORIES OF STATUTORY PROVISIONS

CATEGORY 1—SOCIAL SECURITY AND RELATED PROGRAMS, HOUSING, AND FOOD STAMPS

This category includes the major federal health and welfare programs, particularly those considered entitlements, such as Social Security retirement and disability benefits, food stamps, welfare, and Medicare and Medicaid. Most of these provisions are found in Title 42 of the United States Code, Public Health and Welfare; food stamp legislation is in Title 7, Agriculture.

CATEGORY 2—VETERANS' BENEFITS

Veterans' benefits, which are codified in Title 38 of the United States Code, include pensions, indemnity compensation for service-connected deaths, medical care, nursing home care, right to burial in veterans' cemeteries, educational assistance, and housing. Husbands or wives of veterans have many rights and privileges by virtue of the marital relationship.

CATEGORY 3—TAXATION

While the distinction between married and unmarried status is pervasive in federal tax law, terms such as "husband," "wife," or "married" are not defined. However, marital status figures in federal tax law in provisions as basic as those giving married taxpayers the option to file joint or separate income tax returns. It is also seen in the related provisions prescribing different tax consequences, depending on whether a taxpayer is married filing jointly, married filing separately, unmarried but the head of a household, or unmarried and not the head of a household.

CATEGORY 4—FEDERAL CIVILIAN AND MILITARY SERVICE BENEFITS

This category includes statutory provisions dealing with current and retired federal officers and employees, members of the Armed Forces, elected officials, and judges, in which marital status is a factor. Typically these provisions address the various health, leave, retirement, survivor, and insurance benefits provided by the United States to those in federal service and their families.

CATEGORY 5—EMPLOYMENT BENEFITS AND RELATED PROVISIONS

Marital status comes into play in many different ways in federal laws relating to employment in the private sector. Most provisions appear in Title 29 of the United States Code, Labor. However, others are in Title 30, Mineral Lands and Mining; Title 33, Navigation and Navigable Waters; and Title 45, Railroads. This category includes laws that address the rights of employees under employer-sponsored employee benefit plans; that provide for continuation of employer-sponsored health benefits after events like the death or divorce of the employee; and that give employees the right to unpaid leave in order to care for a seriously ill spouse. In addition, Congress has extended special benefits in connection with certain occupations, like mining and public safety.

CATEGORY 6—IMMIGRATION, NATURALIZATION, AND ALIENS

This category includes federal statutory provisions governing the conditions under which noncitizens may enter and remain in the United States, be deported, or become citizens. Most are found in Title 8, Aliens and Nationality. The law gives special consideration to spouses of immigrant and nonimmigrant aliens in a wide variety of circumstances. Under immigration law, aliens may receive special status by virtue of their employment, and that treatment may extend to their spouses. Also, spouses of aliens granted asylum can be given the same status if they accompany or join their spouses.

CATEGORY 7—INDIANS

The indigenous peoples of the United States have long had a special legal relationship with the federal government through treaties and laws that are classified to Title 25, Indians. Various laws set out the rights to tribal property of "white" men marrying "Indian" women, or of "Indian" women marrying "white" men. The law also outlines the descent and distribution rights for Indians' property. In addition, there are laws pertaining to health care eligibility for Indians and spouses and reimbursement of travel expenses of spouses and candidates seeking positions in the Indian Health Service.

CATEGORY 8—TRADE, COMMERCE, AND INTELLECTUAL PROPERTY

This category includes provisions concerning foreign or domestic business and commerce, in the following titles of the United States Code: Bankruptcy, Title 11; Banks and Banking Title 12; Commerce and Trade, Title 15; Copyrights, Title 17; and Customs Duties, Title 19. This category also includes the National Housing Act (rights of mortgage borrowers); the Consumer Credit Protection Act (governs wage garnishment); and the Copyright Act (spousal copyright renewal and termination rights).

CATEGORY 9—FINANCIAL DISCLOSURE AND CONFLICT OF INTEREST

Federal law imposes obligations on members of Congress, employees or officers of the federal government, and members of the boards of directors of some government-related or government chartered entities, to prevent actual or apparent conflicts of interest. These individuals are required to disclose publicly certain gifts, interests, and transactions. Many of these requirements, which are found in 16 different titles of the United States Code, apply also to the individual's spouse.

CATEGORY 10—CRIMES AND FAMILY VIOLENCE

This category includes laws that implicate marriage in connection with criminal justice or family violence. The nature of these provisions varies greatly. Some deal with spouses as victims of crimes, others with spouses as perpetrators. These laws are found primarily in Title 18, Crimes and Criminal Procedure, but some statutory provisions, dealing with crime prevention and family violence, are in Title 42, Public Health and Welfare.

CATEGORY 11—LOANS, GUARANTEES, AND PAYMENTS IN AGRICULTURE

Under many federal loan programs, a spouse's income, business interests, or assets are taken into account for purposes of determining a person's eligibility to participate in the program. In other instances, marital status is a factor in determining the amount of federal assistance to which a person is entitled or the repayment schedule. This category includes education loan programs, housing loan programs for veterans, and provisions governing agricultural price supports and loan programs that are affected by the spousal relationship.

CATEGORY 12—FEDERAL NATURAL RESOURCES AND RELATED PROVISIONS

Federal law gives special rights to spouses in connection with a variety of transactions involving federal lands and other federal property. These transactions include purchase and sale of land by the federal government and lease by the government of water and mineral rights.

CATEGORY 13—MISCELLANEOUS PROVISIONS

This category comprises federal statutory provisions that do not fit readily in any of the other 12 categories. Federal provisions that prohibit discrimination on the basis of marital status are included in this category. This category also includes various patriotic societies chartered in federal law, such as the Veterans of Foreign Wars or the Gold Star Wives of America.

H.R. 2426—Domestic Partnership Benefits and Obligations Act of 2003

Summary: H.R. 2426 would provide fringe benefits to domestic partners of federal employees. Same-sex and opposite-sex domestic partners of federal employees would be entitled to the same benefits available to spouses of federal employees. Those benefits would include survivor annuities, health insurance, life insurance, and compensation for work-related injuries. Additionally, H.R. 2426 would amend the Internal Revenue Code by exempting domestic partner benefits from federal income taxes.

CBO estimates that enacting the bill would increase direct spending by $137 million over the 2004–2008 period and by $242 million over the next 10 years. Discretionary spending under the bill would increase by $525 million over the 2004–2008 period and by about $1.3 billion over the next 10 years, assuming appropriation of the necessary funds. The bill would also affect federal revenues; those effects would have to be estimated by the Joint Committee on Taxation (JCT).

H.R. 2426, as introduced, would extend benefits to domestic partners of active federal employees and of current and prospective retirees. At the request of the sponsor, this estimate excludes the cost of extending such benefits to domestic partners of currently retired federal employees. (Including benefits for the domestic partners of currently retired federal employees would increase direct spending by an additional $448 million over the 2004–2008 period and $1.4 billion over the 2004–2013 period; it would not result in additional discretionary costs.)

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 2426 is shown in the following table. The costs of this legislation fall within budget functions 550 (health) and 600 (income security).

	Outlays in millions of dollars, by fiscal year—									
	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
CHANGES IN DIRECT SPENDING										
Increase in FEHBP Benefits (future retirees)	4	9	14	19	25	32	40	49	58	69
Net Increase in FECA Outlays[1]	2	2	*	*	*	*	*	*	*	*
Postal Service FEHBP and FECA Costs (off-budget)	54	59	0	0	0	0	0	0	0	0
Reduction in Survivor Annuity Payments	−3	−7	−10	−13	−17	−21	−25	−29	−32	−36

	Outlays in millions of dollars, by fiscal year—									
	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Total, Direct Spending	57	63	3	5	8	11	16	20	26	32
CHANGES IN DISCRETIONARY SPENDING										
Agency Costs for FEHBP Benefits (active employees)	91	96	102	109	117	125	134	143	152	162
Agency Costs for FECA	1	1	3	3	3	3	3	3	3	3
Total, Discretionary Spending	92	97	105	112	120	128	137	146	155	165

[1] The outlays shown are net of receipts from federal agencies.

* = Less than $500,000.

Notes: FEHBP = Federal Employees Health Benefits Program. FECA = Federal Employees Compensation Act. Components may not sum to totals because of rounding. This estimate assumes that the bill will be enacted by October 2003. The estimate does not reflect changes to the Internal Revenue Code; those effects would have to be estimated by JCT.

Basis of estimate: For this estimate, CBO assumes that H.R. 2426 will be enacted by the end of fiscal year 2003 and that domestic partners would be eligible to begin receiving benefits in November 2003. CBO estimates that about 2 percent of federal employees would elect to provide health care and retirement benefits for a domestic partner if given the opportunity. Approximately 83 percent of the costs would come from partners in opposite-sex partnerships and approximately 17 percent of costs derive from partners in same-sex partnerships. These figures are based on information from state and local governments as well as corporations that have adopted similar policies. In addition, domestic partners of workers who retire after the bill goes into effect would be eligible to opt for survivor annuity coverage, as well as retiree health care benefits.

Direct spending

Federal Employees Health Benefits Program (FEHBP) for Future Retirees. H.R. 2426 would extend eligibility for health benefits to the domestic partners of retiring federal employees. An employee who retires after enactment of the bill would be allowed to maintain family coverage for his or her domestic partner. Unlike premiums for current workers, the government's share of health care premiums for retirees is classified as direct spending. For each year of the 2004–2013 period, CBO projects that approximately 1,000 additional family coverage policies would be added to the FEHBP by retiring non-Postal Service workers choosing to cover domestic partners. As a result, direct spending would increase by $71 million over the next five years and by $319 million over the next 10 years. The costs associated with providing benefits to the domestic partners of both active and retiring Postal Service workers are discussed below.

Federal Employees' Compensation Act (FECA) Benefits. FECA provides compensation to federal civilian employees for disability due to personal injury sustained while in the performance of duty. Married workers currently receive slightly higher FECA benefits for wage replacement than do single workers. Additionally, if an employee dies of an employment-related injury or disease, his or her spouse receives monthly compensation equal to 50 percent of the deceased employee's salary. CBO projects that H.R. 2426, if enacted, would provide FECA benefits to approximately 1,200 domestic partners of non-postal federal employees each year. Additional costs would total $35 million; agencies would have to cover those costs over time from appropriated funds (see below). Because increases in agency contributions would lag behind the increased costs, there would be a net increase in direct spending of $4 million over the 2004–2013 period.

Postal Service Employees. Postal Service employees would also be eligible for domestic partner coverage under H.R. 2426. CBO estimates that providing health benefits to the domestic partners of active postal workers would result in about 11,000 postal employees moving from individual to family coverage plans. Additionally, CBO anticipates that approximately 500 of the postal workers who would retire each year would maintain FEHB coverage for their partners. Together, these benefits would cost $311 million over the 2004–2008 period and $814 million over the 2004–2013 period. Additionally, extending FECA benefits to Postal Service employees would cost $15 million over the next five years and $30 million over the next 10 years.

The operations of the Postal Service are classified as off-budget (like Social Security), although the total federal budget records the agency's net spending (outlays less offsetting collections). The Postal Service's mandate requires it to set postage rates to cover its operating expenses, and thus it would be expected to cover 100 percent of the increased costs associated with H.R. 2426 from postage receipts. However, the Postal Service Retirement System Funding Reform Act of 2003 (Public Law 108–18) effectively froze postage rate increases until 2006. Therefore, for the 2004–2005 period, the increased costs resulting from H.R. 2426 would not be offset by higher postal receipts. Beginning in 2006, the Postal Service would be able to raise postage rates to account for its increased costs. As a result, CBO estimates that extending FEHBP and FECA benefits to the domestic partners of Postal Service workers would increase off-budget direct spending by $113 million over the 2004–2005 period and would have no net effect after that.

Survivor Annuities. Under current law, a federal employee who is eligible to receive retirement benefits may elect to provide his or her spouse with a survivor annuity by reducing the value of the employee's annuity. Participants in the Civil Service Retirement System (CSRS) face different reductions and survivor annuity benefit levels than participants in the Federal Employees' Retirement System (FERS). Under both plans, those who elect survivor benefits face a reduction in their current annuity of between 5 percent and 10 percent.

Under H.R. 2426, federal employees who retire would be able to choose to reduce the value of their own annuities in order to provide survivor annuities for their domestic partners. CBO estimates that 85 percent of federal employees with domestic partners would elect survivor benefits if given the opportunity. On that basis, CBO projects that approximately 2,000 newly retired federal employees each year would add survivor annuities for their domestic partners and thus collect smaller annuities. However, some of these individuals would die and their partners would begin collecting survivor benefits. Over the next 10 years, the savings from the reduction in retirees' annuities would outweigh the additional costs for survivors' annuities. CBO estimates that direct spending would decrease by $51 million over the 2004–2008 period and by $194 million over the 2004–2013 period.

Coverage of Current Retirees. H.R. 2426, as introduced, would extend domestic partner benefits to all current federal retirees, as well as active workers. However, the sponsor indicated to CBO that this was not the intent of H.R. 2426 and requested that CBO estimate the costs of the bill under the assumption that it would be changed to include only active workers and those who retire after the bill's enactment. The above estimate reflects that assumed change. If all current retirees were to receive the same benefits that new retirees would receive under H.R. 2426, the cost of the bill would increase by an additional $448 million over the 2004–2008 period and $1.4 billion over the 2004–2013 period.

Discretionary spending

Health Benefits for Active Employees. H.R. 2426 would allow federal employees to add domestic partners to their health insurance policies. CBO estimates that about 80 percent of employees who add a domestic partner would switch from individual coverage to family coverage. Federal agencies pay about 72 percent of health-care premiums for active employees; thus, as premiums rise, so do agency contributions. In 2004 family coverage policies for active employees are projected to cost the federal government approximately $3,800 more than individual coverage policies. CBO estimates that providing additional family coverage policies to about 24,000 non-postal employees who would elect domestic partner coverage would increase spending subject to appropriation by $515 million over the 2004–2008 period and by $1.2 billion over the 2004–2013 period.

Federal Employees' Compensation Act Benefits. As discussed under the direct spending section, this bill would result in increased spending for federal workers' compensation. The reimbursement of FECA expenses paid by the Department of Labor comes from discretionary salary and expense accounts of federal agencies. Because these expenses are ultimately borne by the employing agency, CBO estimates discretionary spending would increase by $11 million over the 2004–2008 period and by $26 million over the 2004–2013 period to pay for these benefits.

Federal Employees' Group Life Insurance (FEGLI) Benefits. Under current law, the federal government pays one-third of basic life insurance premiums and employees pay two-thirds. Optional coverage that provides benefits above the basic level is paid for entirely by the employee. H.R. 2426 would allow federal employees to purchase Option C coverage, which would insure a domestic partner for up to $25,000. The premium for this option is actuarially sound; over time, premiums paid in to the account equal the payouts from the account. While the cash flow in any given year could be positive or negative, the overall impact on the federal budget would be negligible.

Tax changes

H.R. 2426 contains provisions that would amend the Internal Revenue Code of 1986.

Those changes would likely have tax implications that CBO does not estimate. The Joint Committee on Taxation normally supplies the estimate of the tax effects of legislation.

Estimate prepared by: Van Swearingen and Geoff Gerhardt.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. KING of Iowa). Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

NONPROLIFERATION AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. SCHIFF) is recognized for 5 minutes.

Mr. SCHIFF. Mr. Speaker, in January 2001, a well-respected and bipartisan task force looked at the threats facing the United States and recommended increasing nonproliferation funding under the Department of Energy to $3 billion per year for the next 10 years. As they stated in their report, the most urgent unmet national security threat to the United States today is the danger that weapons of mass destruction or weapons-usable materiel in Russia could be stolen and sold to terrorists or hostile nation-states and used against American troops abroad or citizens at home.

This year, now, 3 years after that report, the Department of Energy and Department of Defense nonproliferation budgets only contained $1.8 billion combined for nuclear nonproliferation. This is simply not enough.

I offered an amendment that would increase the amount of funding for nonproliferation by a combined $200 million, bringing the total for nonproliferation to $2 billion this year. Regrettably, this amendment was not made in order.

On the Defense Department side, our amendment would have added $50 million for the Cooperative Threat Reduction program, or Nunn-Lugar. The goal of Nunn-Lugar is to lessen the threat posed by weapons of mass destruction, to deactivate and destroy these weapons and to help scientists, formerly engaged in the production of such weapons, start working for peace. To date, Nunn-Lugar has reportedly helped destroy over 6,000 warheads.

The Defense Department authorization bill contained a $41.6 million decrease in funds for Nunn-Lugar from last year's level. In fact, it is a $34 million decrease below the pre-September 11 level.

Last year, Congress expanded the scope of the Cooperative Threat Reduction program to countries outside of the former Soviet Union. They authorized $50 million for this purpose. The amendment would have provided this $50 million. The elimination of Libya and Iraq as states of concern have presented us with new opportunities for progress on nonproliferation, as has our improved relationship with the former Soviet Union states whose need for assistance in securing nuclear materials has never been greater.

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In the Department of Energy, there are countless programs sorely in need of additional funding. Our amendment would have provided $40 million more for global cleanout, a program to secure and dispose of highly enriched uranium at research reactors around the globe. There are over 345 operating or shut-down research reactors in 58 countries fueled with highly enriched uranium.

The State Department has identified 24 other facilities for highly enriched uranium cleanout operations because they have enough uranium to make a nuclear weapon. Many of these facilities are guarded by little more than a night watchman and a chain link fence.

The Department of Defense authorization bill we just passed only contains $9.8 million for this program, which is only enough to clean out one site.

A recent report by the Project of Managing the Atom at Harvard University suggests Congress appropriate $40 million annually to fund global cleanout efforts. Our amendment would have met or exceeded this goal. And I have also introduced stand-alone legislation to establish a structure to prioritize the effort to clean out highly enriched uranium around the world. It would have provided funding to downblend highly enriched uranium to low enriched uranium so that it could not be used directly to make nuclear weapons, but would be suitable for nuclear power plant fuel.

Russia currently has over a thousand tons of highly enriched uranium, enough for 20,000 simple nuclear weapons. Under a 1993 U.S.-Russian agreement, Russia will convert 500 metric tons of highly enriched uranium to low enriched uranium by 2013, but this program was zeroed out in the Department of Energy's budget. We would have changed that.

According to the Stockholm Peace Research Institute, only a quarter of Russia's nuclear sites are properly secured. We would have added funding for global nuclear security. We would have added funding for security upgrades at nine Russian weapons complexes.

The irony of removing this funding, of not sensing this urgency, after going to war in Iraq over weapons of mass destruction stockpiles we have not found, when we know there are massive stockpiles in the former Soviet Union for which we have cooperative arrangements to secure and destroy, could not be more apparent. The urgency could not be greater.

We would have paid for these programs, we would have provided for the national defense, and this must be an urgency.

Osama bin Laden has declared that the acquisition of weapons of mass destruction is a religious duty. After the Taliban was defeated, blueprints of a crude nuclear weapon were found in a deserted al Qaeda headquarters in Afghanistan.

My amendment would not have gotten us all the way to the $3 billion recommended by the Baker-Cutler Commission, but it was an important first step. We must continue that process now in the conference committee, and I would urge the conferees to take up the cause of nonproliferation with the urgency it deserves.

To conclude, Mr. Speaker, as Senator Nunn put it so well, the most effective, least expensive way to prevent nuclear terrorism is to lock down and secure weapons and fissile materials in every country, in every facility that has them.

THE 63RD ANNIVERSARY OF THE HEROIC BATTLE OF CRETE

The SPEAKER pro tempore (Mr. KING of Iowa). Under a previous order of the House, the gentleman from Florida (Mr. BILIRAKIS) is recognized for 5 minutes.

Mr. BILIRAKIS. Mr. Speaker, I rise proudly today to celebrate the 63rd anniversary of the Battle of Crete, a World War II event of epic proportions that profoundly impacted on the determination of many countries to resist the aggression of Nazi Germany.

It is a story of a battered, but brave, group of individuals thrown together in a combined effort to halt the domination of a smaller and weaker nation by a larger more powerful aggressor. One of those individuals, a true hero of the battle, is with us tonight in the gallery, Mr. George Tzitzikas, who now lives in California.

Today, more than half a century later, the heroic event that took place in the Battle of Crete remains etched in the memory of people around the world. In commemoration of this anniversary, and for the benefit of future generations, I will share a brief account of these events as they unfolded.

Early on the morning of May 20, 1941, Crete became the theater of the first and largest German airborne operation of the war. The skies above Crete were filled with more than 8,000 Nazi paratroopers landing in a massive invasion of the island, which was subjected to heavy bombing and attacks in what became known as Operation Mercury.

Old men, women, and children participated, and used whatever makeshift weapons they could find. They used sticks, sickles, and even their bare hands to fight those soldiers already on the ground. Most of them were illiterate villagers; but their intuition, honed by the mortal risk they were facing, led them to fight with courage and bravery. "Aim for the legs, and you will get them in the heart," was the popular motto that summarized their hastily acquired battle experience.

Although the Germans captured the island in 10 days, they paid a heavy price. Of the 8,100 paratroopers involved in this operation, close to 4,000 were killed and 1,600 were wounded. So injured were the German units that they never again attempted an airborne assault of the magnitude launched at Crete. In fact, it is a lesson taught in almost every major military academy in the world on what not to do.

In retaliation for the losses they incurred, the Nazis spread punishment, terror, and death on the innocent civilians of the island. More than 2,000 Cretans were executed during the first month alone, and thousands more later.

Despite these atrocities for the 4 years following the Allied withdrawal from the island, the people of Crete put up a courageous guerrilla resistance, aided by a few British and Allied officers and troops who remained. Those involved were known as the Andartes, the Rebels.

The German terror campaign was meant to break the fighting spirit and morale of the Andartes. Besides the random and frequent executions, German soldiers used other means to achieve their goal. These actions only made the Cretans more ferocious in their quest for freedom.

Even in the face of certain death, while standing in line to be executed, Cretans did not beg for their lives. This shocked the German troops. Kurt Student, the German paratrooper commander who planned the invasion, said of the Cretans, "I have never seen such a defiance of death."

Finally, the Cretan people participated in one of the most daring operations that brought shame and humiliation to the German occupation forces and exhilaration and hope to the enslaved peoples of Europe. Major-General Von Kreipe, commander of all German forces in Crete, was abducted from his own headquarters in April 1944, and transferred to a POW camp in England. The German troops had never encountered such resistance.

Hitler had initially sent 12,000 troops to Crete, thinking the occupation would be swift. By the end of the 3½ years of occupation, Hitler had sent a total of 100,000 troops to confront the little more than 5,000 Cretan Andarte fighters. These German troops could have been deployed somewhere else. More German troops were lost during the occupation of Crete than in France, Yugoslavia, and Poland combined.

Most importantly, as a result of the battle in Crete, Hitler's master plan to invade Russia before the coming of winter had to be postponed, which resulted in the deaths of many German troops who were not properly prepared to survive the harsh Russian winter.

Mr. Speaker, we must always remember that as long as there are people willing to sacrifice their lives for the just cause of defending the integrity and freedom of their country, there is always hope for a better tomorrow.

May we take inspiration from the shining example of the people of Crete in ensuring that this is, indeed, the case.

Mr. Speaker, I rise proudly today to celebrate the 63rd anniversary of the Battle of Crete, a World War II event of epic proportions that profoundly impacted on the determination of many countries to resist the aggression of Nazi Germany. It is a story of a battered but brave group of individuals thrown together in a combined effort to halt the domination of a smaller, weaker nation by a larger more powerful aggressor. One of those individuals, a true hero of the battle, is with us tonight in the gallery, Mr. George Tzitzikas who now lives in California. Amidst the cataclysm that engulfed the countries of Europe at the time, it seems now preposterous that a small island dared to stand up to the aggressor to preserve its freedom and defend its honor. Today, more than half a century later, the heroic events that took place in the Battle of Crete remain etched in the memory of people around the world. In commemoration of this anniversary, and for the benefit of future generations, I will share a brief account of these events as they unfolded.

In early April 1941, the German army rushed to the aid of their defeated ally, Italy, and invaded Greece. Following a valiant struggle, Greek forces had been pushed entirely off the continent and were forced to take refuge on the island of Crete.

The German army then looked covetously across the sea to Crete because of the British airfields on the island, which could be used by the Allies for air strikes against the oil fields of Rumania, thereby denying this vital war commodity to Hitler's forces now preparing for their attack on Russia. If captured, it would also provide air and sea bases from which the Nazis could dominate the eastern Mediterranean and launch air attacks against Allied forces in northern Africa. In fact, the Nazi high command envisioned the capture of Crete to the first of a series of assaults leading to the Suez Canal. Hitler intended a short, one month, campaign, starting in March. On successful completion, his troops would be re-assigned to Russia.

Crete's defenses at the time had been badly neglected due to the deployment of Allied forces in North Africa. General Bernard Freyberg of the New Zealand Division was appointed by British Prime Minister Winston Churchill as commander of a small contingent of Allied troops which had been dispatched to the island a few months before and re-enforced by additional troops who had retreated from the Greek mainland.

Early on the morning of May 20, 1941, Crete became the theater of the first and largest German airborne operation of the war. The skies above Crete were filled with more than eight thousand Nazi paratroopers, landing in a massive invasion of the island, which was subjected to heavy bombing and attacks in what became known as "Operation Mercury." Waves of bombers pounded the Allied positions followed by a full-scale airborne assault. Elite paratroopers and glider-borne infantry units fell upon the rag-tag Allied soldiers and were met with ferocious resistance from the Allied troops and the Cretan population.

Although General Freyberg had decided not to arm the Cretans because they were believed to be anti-royalist, they fought bravely with whatever was at hand during the invasion. As soon as the battle broke out, the people of Crete volunteered to serve in the militia. Centuries of oppression and several revolts against Venetians and Turks had taught them that freedom is won and preserved by sacrifice, and there was hardly a family without a gun stashed somewhere in the house. For the first time, the Germans met stiff partisan resistance.

War-seasoned men joined the regular troops in the effort to repel the invader. Old men, women and children participated and used whatever makeshift weapons they could find. They pointed their antiquated guns at the descending German paratroopers. They used sticks, sickles and even their bare hands, to fight those soldiers already on the ground. Most of them were illiterate villagers but their intuition, honed by the mortal risk they were facing, led them to fight with courage and bravery. "Aim for the legs and you'll get them in the heart," was the popular motto that summarized their hastily acquired battle experience.

Seven days later, the defenders of Crete—though clinging to their rocky defensive positions—knew that they would soon be overrun. The evacuation order was given, and nearly 18,000 men were rescued. These valiant survivors had bought the Allies a week's precious time free of Nazi air and sea attacks based from Crete. More importantly, they inflicted severe losses on the German airborne forces, the showpieces of the Nazi army. Although well-armed and thoroughly equipped, the Germans didn't break the Cretan's love of freedom.

Although the Germans captured the island in ten days, they paid a heavy price. Of the 8,100 paratroopers involved in this operation, close to 4,000 were killed and 1,600 were wounded. So injured were the German units that they never again attempted an airborne assault of the magnitude launched at Crete. Hitler may have won the Battle of Crete, but he lost the war. The German victory proved a hollow one, as Crete became the graveyard of the German parachute troops. In fact, it is a lesson taught in almost every major military academy in the world on what NOT to do.

In retaliation for the losses they incurred, the Nazis spread punishment, terror and death on the innocent civilians of the island. More than two thousand Cretans were executed during the first month alone and thousands more later. Despite these atrocities, for the four years following the Allied withdrawal from the island, the people of Crete put up a courageous guerrilla resistance, aided by a few British and Allied officers and troops who remained. Those involved were known as the Andartes (the Rebels).

Cretan people of all ages joined or aided the Andartes. Children would pile rocks in the roads to slow down the German convoys. They even carried messages in their schoolbooks because it was the only place that the German soldiers never looked. These messages contained information critical to the Andartes who were hiding in the mountains and would come down for midnight raids or daytime sabotages.

The German terror campaign was meant to break the fighting spirit and morale of the Andartes. Besides the random and frequent executions, German soldiers used other means to achieve their goal. They leveled many buildings in the towns and villages, destroyed religious icons, and locked hundreds of Cretans in churches for days without food or water, but nothing worked. These actions only made the Cretans more ferocious in their quest for freedom.

Even in the face of certain death while standing in line to be executed, Cretans did not beg for their lives. This shocked the German troops. Kurt Student, the German Paratrooper Commander who planned the invasion, said of the Cretans, "I have never seen such a defiance of death."

Finally, the Cretan people participated in one of the most daring operations that brought shame and humiliation to the German occupation forces and exhilaration and hope to the enslaved peoples of Europe. Major-General Von Kreipe, Commander of all German forces in Crete, was abducted from his own headquarters in April 1944 and transferred to a POW camp in England.

The German troops had never encountered such resistance. Hitler had initially sent 12,000 troops to Crete, thinking that the occupation would be swift. By the end of the three-and-a-half years of occupation, Hitler had sent a total of 100,000 troops, to confront a little more than 5,000 Cretan Andarte fighters. These German troops could have been deployed somewhere else. More German troops were lost during the occupation of Crete than in France, Yugoslavia and Poland combined.

Most importantly, as a result of the battle in Crete, Hitler's master plan to invade Russia before the coming of winter, had to be postponed, which resulted in the deaths of many German troops who were not properly prepared to survive the harsh Russian winter.

As we Americans know from our history, freedom does not come free. For their gallant resistance against the German invasion and occupation of their island, Cretans paid a stiff price. Within the first five months of the Battle of Crete, 3,500 Cretans were executed and many more were killed in the ensuring three-and-a-half years of occupation.

Mr. Speaker, there are historical reasons why we Americans appreciate the sacrifices of the Cretan people in defending their island during the Battle of Crete. We have a history replete with similar heroic events starting with our popular revolt that led to the birth of our Nation more than two centuries.

We must always remember that as long as there are people willing to sacrifice their lives for the just cause of defending the integrity and freedom of their country, there is always hope for a better tomorrow. May we take inspiration from the shining example of the people of Crete in ensuring that this is indeed the case.

SMART SECURITY AND ABU GHRAIB SCANDAL

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, amidst all the debate about the defense bill, we seem to have forgotten one very, very important thing, which should be the driving force behind every decision we make with regard to Iraq. Mr. Speaker, nearly 800 young men and women have lost their lives as a result of the conflict. Eight hundred.

We must never forget that people are dying as a result of the decisions of this House. Many of our brave soldiers will never again walk this Earth because of the choices we have made. Many more will be lame for life. Clearly, something is wrong with our Nation's policies when 800 of our soldiers have died in Iraq, most of them after our flight-clad President declared an end to major combat operations.

Something is most certainly wrong when events occur such as the abuses in Abu Ghraib prison in Iraq, or even events like the deaths of five Iraqi prisoners in war-torn detention camps, as the Denver Post recently reported. The fact that these actions occurred in separate places, under the command of different interrogators, demonstrates that this is a systemic problem.

The Pentagon's response has been to court-martial the young soldiers directly responsible for these instances of torture, calling them bad apples. And what has been the response by the leaders of this country? Two weeks ago, President Bush appeared on Arab television condemning the abuses by American servicemembers and private American contractors. Secretary of Defense Donald Rumsfeld testified before the Senate and House Committee on Armed Services for the same purpose. Both men in their respective addresses tried to distance themselves from the crimes.

Mr. Speaker, President Harry Truman made famous the quote "The buck stops here." President Bush would be well served to take notice of this quotation, which President Truman thought was so important that he kept it as a sign on his desk in the Oval Office.

In fact, it is becoming more apparent every day that all along both President Bush and Secretary Rumsfeld may have known more than they were letting on and that the crimes committed at the prisons could have originated in the Pentagon and passed through the Oval Office.

An investigation by Newsweek magazine provides evidence that President Bush and Secretary Rumsfeld, along with Attorney General John Ashcroft, may have personally agreed to a secret system of detention interrogation designed to circumnavigate the Geneva Conventions. This information was substantiated by a New Yorker magazine article, which similarly detailed a Pentagon operation known inside the intelligence community as Copper Green, which encouraged physical coercion and sexual humiliation of Iraqi prisoners in an attempt to produce intelligence about the post-war insurgency in Iraq.

Are we really to believe that the Secretary of Defense had no knowledge of the actions being taken by the soldiers under his command? And if the Secretary of Defense had absolutely no knowledge of this abuse, is that not a gigantic problem in and of itself? And if Secretary Rumsfeld did know of Copper Green, are we really to believe that nobody shared this information with the President? And if not, why not?

The buck stops with the Commander in Chief, the President of the United States. The buck does not stop with the young soldiers interrogating Iraqi prisoners. The buck does not stop with Brigadier General Janis Karpinski, the U.S. general in charge of running the prisons in Iraq. The buck does not even stop with Donald Rumsfeld, the Secretary of Defense. The buck stops with the President and only with the President.

There has to be a better way, because the Bush doctrine of passing the buck has been tried and it has failed. It is time for a new national security strategy, one that emphasizes brains instead of brawn, one that is consistent with the best American values.

I have introduced H. Con. Res. 392, legislation to create a SMART security platform for the 21st century. SMART stands for Sensible Multilateral American Response to Terrorism. SMART treats war as an absolute last resort. It fights terrorism with stronger intelligence and multilateral partnerships. It controls the spread of weapons of mass destruction with a renewed commitment to nonproliferation. And it aggressively invests in the development of impoverished nations with an emphasis on women's health and education.

The buck stops with the President of the United States. No more denials, no more passing the buck.

AMERICAN INVESTMENT IN INDIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DREIER) is recognized for 5 minutes.

Mr. DREIER. Mr. Speaker, because the issue of American investment in India has been a particular point of debate here in the Congress, I want to say a few words about the recent elections in India and what they portend for Americans and Indians alike.

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For many months now I have been talking about how our Nation's success in a 21st century economy is going to hinge on companies that are successfully able to invest and compete globally. It is these companies, the ones who invest in emerging overseas markets, that use global investment to maximize their efficiencies and create new opportunities right here in the United States.

Economic isolationists have tried to claim that investment in India is bad for Americans. They have claimed that new job opportunities in cities like Hyderabad and Mumbai mean job losses here at home. They have tried to tell the American people that we cannot compete with a growing Indian middle class.

As economic news from India, such as the 10 percent GDP growth rate last year, grew brighter and brighter, the isolationists' predictions of gloom grew darker and darker.

Then something unforeseen happened. Contrary to predictions, the Indian parliamentary elections resulted in the defeat of the BJP and Prime Minister Vajpayee, who had made market reform a pillar of his economic policy. A new party now claims the seat of prime minister and is working to build a majority coalition in the legislature.

The sudden, unexpected change made investors nervous and sent them into a large selling spree, in fact, the largest sell-off in the 129-year history of their market. The Sensex, the Bombay Stock Exchange's benchmark index, shed over 11 percent of its value on Monday, following 6 percent losses on the previous Friday. The 2-day loss to investors was over $65 billion.

Now, I am certainly not prepared to write off economic growth in India just yet, and despite the recent dismal days for the market there, I do not believe the Indian people are either; but the sudden uncertainty over India's long-term economic outlook reveals what this debate on foreign investment should have been about all along. The threat to the U.S. economy was never, never that the India economy is growing too much. The danger is that it might not be able to sustain and continue such economic growth.

This was a lesson we all learned, or should have been learned, in the 1980s. The economic isolationists told us that the rapidly expanding German and Japanese economies were going to devastate us, leaving America in the economic dust. But we soon discovered that if those two countries posed any economic threat to the U.S., it was that they were not able to sustain their economic growth.

Although the economic prophets of doom may have substituted India or maybe China for the Germany and Japan of the 1980s, the fundamental economic lesson is the same today as it was 20 years ago: Rapid and sustained growth by emerging trading partners is unquestionably in our best interest. A strong and growing Indian economy provides opportunities for U.S. companies to invest and become more competitive and create jobs right here at home. A growing Indian middle class demands more and more U.S. goods and services. And a prosperous India helps bring stability to that region of the world.

Most important, growth and job creation is helping to lift millions out of poverty in India, another compelling reason for us to encourage a thriving Indian economy, not a weakened one.

It is vitally important that we encourage India's new leadership to continue the market reforms that have successfully put India on the path to economic strength. So far, there have been some promising signs. The new governing Congress Party has pledged to continue the economic liberalization efforts of their predecessors. It is worth noting that this is the party that first introduced market reforms under Mr. Singh, who will likely be the new prime minister, back in the early 1990s.

Like the U.S. workers and consumers who have benefited from a stronger Indian economy, the 250 million Indians who are living in poverty have everything to gain from opening their markets even further. India has made tremendous strides in liberalizing its economy, but the fact is that India's economy is still not open enough. Significant obstacles to U.S. participation in India's economy persist: nontariff trade barriers, high tariffs, and weak protection of intellectual property rights, to name just a few.

The greater liberalization of the Indian economy will have a significant and positive impact on Americans and Indians alike. As the new government organizes and sets an economic agenda, I urge them to continue the work they began over a decade ago.

[From the Wall Street Journal, May 17, 2004]

India Dimming?

(By Swapan Dasgupta)

The Indian election upset that has unseated Prime Minister Atal Bihari Vajpayee may have one unintended victim: John Kerry. After making the loss of American jobs from outsourcing to countries like India a key part of his presidential campaign, the Democratic challenger may no longer have an easy scapegoat to rail against. Now, his suspicion of tech-savvy Indians who are speeding up their country's global integration will be shared by the new government in Delhi.

The world's largest democracy has given an astonishing verdict in an election whose outcome was thought to be a foregone conclusion. The voters rejected the Bharatiya Janata Party-led alliance that had governed since 1998. The winner was a combination of the Congress Party led by the Italian-born Sonia Gandhi, a doctrinaire Marxist bloc, and a motley group of regional outfits that have come together to assemble an alternative government.

India is no stranger to crazy coalitions forged out of sheer expediency. Since 1989, when Rajiv Gandhi was voted out of power, it has witnessed a series of coalition governments. What marks the latest experiment is not merely the uniqueness of a naturalized citizen at the helm—a development that has contributed to a flurry of Italian jokes being circulated on the mobile phone circuit—but the circumstances of its creation.

In the past, incumbents have been voted out for either their high-handedness or the perceived corruption of their governments. This was the case with Congress Prime Ministers Indira Gandhi in 1977, Rajiv Gandhi in 1989, and Narasimha Rao in 1996. This time, the rejection of Mr. Vajpayee was grounded in policy. The 2004 election was dominated by two themes: his leadership and the slogan "India shining." This last may have been the creation of a clever copywriter, but it reflected the difference the Vajpayee government made over the past six years.

Aimed at kindling patriotism with feel-good economics, "India Shining" stressed India's IT and telecom revolutions, the roads program that will link the four corners of India, and the promise of becoming a global power by 2020. Deputy Prime Minister L.K. Advani, the government's ideologue, went on a bus journey across India publicizing "India Shining" and promising a government that would unleash India's potential and creative energies. To gum-chewing 21-year-olds working in call centers and poor farmers in drought-affected India, he invoked the same vision of India as one of the five largest economies in the next 20 years.

Traditionally, capitalism in India has lacked political advocacy. The BJP, a party that built itself on Hindu nationalism, tried to break the mold by grafting the image of a tremendously successful 79-year-old Mr. Vajpayee onto a buoyant economy. For years, intellectuals had complained about development not featuring on the election agenda. The BJP leadership tried to talk real economics to an electorate used to being promised state jobs and welfare schemes.

The outcome was a debacle on a scale that baffled pollster and politician alike: Mr. Vajpayee was swept out of office. In simultaneous local polls held in the southern states of Andhra Pradesh and Karnataka, two of India's most ardent champions of the IT industry, chief ministers Chandrababu Naidu and S.M. Krishna, were roundly defeated. Mr. Naidu was attacked for having more time for Bill Gates than for farmers and mocked for having transformed the state capital Hyderabad into "Cyberabad."

As the results poured in, the political class seemed united in treating the verdict as a resounding rebuff of "India Shining" and its symbols. On the TV, commentators joined politicians in interpreting the verdict as a rejection of the Vajpayee government's pro-business policies. "You can't build highways bypassing the slums," concluded one critic of the BJP. Even the BJP's own allies were scathing. Dripping with sarcasm, Bal Thackeray, chief of the ultra-Hindu Shiv Sena, thanked Finance Minister Jaswant Singh and privatization czar Arun Shourie for contributing to the Congress victory.

Predictably, the left is gung-ho. With the Congress dependent on its 60 legislators for a majority, the two Communist parties are expected to put their regressive stamp on economic policy. Even before the celebrations were over, leftists called for an end to the privatization of the public sector, the abolition of the Disinvestment Ministry and a review of the reforms program. Regardless of whether or not the left joins in government, it will leave its antediluvian mark on the policies of the new regime.

An already jittery stock market panicked. On Friday, the Bombay Sensex fell 6% in one day and wiped out $22 billion of investors' wealth. Since the specter of political uncertainty and a possible defeat for Mr. Vajpayee first appeared on the horizon, the Sensex has fallen from 5712 and April 27 to 5069 on May 14. Foreign institutional investors have pulled out millions of rupees from the markets since the election results.

The fear of capital flight may quiet the left for a bit, but it is going to be a temporary respite. The manner in which the verdict has been interpreted will also encourage the old-style socialists within the Congress to press for higher taxes on corporate profits and luxury goods, as well as for more subsidies and government expenditure on welfare projects. The Vajpayee government's initiatives for the creation of world-class highways, reduction of the role of government and the cautious initiation of labor reforms look set to be modified, if not completely junked.

Over the past six years, India has tried to dance to a different tune. The Vajpayee government encouraged modernity and entrepreneurship, and boosted the self-confidence of a growing middle class. It tried to turn the country away from a Third World trajectory, from the sloth and mediocrity of the past, into a new India that is so feared by protectionists in the U.S. and Europe. Well, those protectionists can breathe a little easier now. India's ancient regime has struck back with a vengeance.

A DRAFT BY ANY OTHER NAME

The SPEAKER pro tempore (Mr. KING of Iowa). Under a previous order of the House, the gentleman from Washington (Mr. MCDERMOTT) is recognized for 5 minutes.

Mr. MCDERMOTT. Mr. Speaker, the President came to Capitol Hill today to rally his Republican troops. Why did he need to do that? Well, a District Work Period is about to begin, that is why. Members of Congress are going home to face questions from their constituents. Here are some of the questions the Republicans are going to have to answer:

Why did a Republican President send our soldiers off to war without a plan? Almost 800 brave American soldiers have died and several thousand soldiers have been injured in Iraq. Well over half the casualties have occurred since the President's PR stunt on the deck of the Abraham Lincoln to announce that combat was over. If combat ended months ago, what exactly is going on in Iraq today?

Here is another question on the minds of Americans: How did the President's team in the Pentagon allow the worst atrocities in our history to occur in Iraq? New abuse revelations surface every day, but the administration keeps looking the other way as if hoping the crisis will go away is an effective strategy. It is the President's favorite tactic.

There is another question just beginning to emerge that the President and Republicans will consider radioactive, that means deny, deny, deny. The question is: Mr. President, Mr. Speaker, why did the President not tell the American people we were going to reinstitute a military draft? Why did the Congress not have an opportunity to debate the issue?

Why did you reinstitute a draft without considering the bill that the gentleman from New York (Mr. RANGEL) and I cosponsored? At least, under our bill, young Americans would have a choice about whether they fight in Iraq or perform public service.

America needs to understand the President is not calling it a military draft. That is the White House way, call it something else and hope you get away with it. But as the saying goes, if it looks like a duck, walks like a duck, and quacks like a duck, then it is a duck. It is a silent draft.

Here are some of the headlines and news stories that America should know about before the Republicans arrive home to say they are doing a great job. In Seattle, "Military Says It Might Return Some Former Soldiers to Duty." Here is the lead sentence. "Hundreds of Washington residents who thought they might be done with their days in the Army may be pulled back into service in the weeks ahead."

The Oregonian newspaper says, "Army Does About-Face on Call-Up Readiness." The story says, "Thousands of recent U.S. Army veterans nationwide were told to choose by Monday a new assignment in the Army Reserve or National Guard, meaning a potential return to active duty, or the military would decide for them."

Rumsfeld blind-sided the Congress and the American people and the Supreme Court on the prisoner atrocities in Iraq. The Vice President and Deputy Defense Secretary Paul Wolfowitz did it this time. They never mentioned the new order when they briefed the Senate Committee on Armed Services the other day. Maybe they can update the Congress and comment on something else the Pentagon has ginned up.

UPI reports today that the Pentagon may use the IRS to find the Reservists. Imagine, soon American men and women can get a tax refund and orders to report for duty in one envelope. That is real government efficiency.

Thousands of soldiers were recently denied what President and the Defense Secretary promised, a one-way ticket home after a year of combat in Iraq. They were not asked, they were ordered to stay. That is no choice. That is a de facto military draft.

The President has reinstituted a military draft, but he will not tell the American people he needs more soldiers to fight his war in Iraq because he has no plan and the fighting gets bloodier every day. The President is keeping soldiers in combat for over a year. That is more than twice as long a stretch as was expected of people in the Second World War.

The United States today has a draft. No wonder the President was on Capitol Hill today trying to rally Republicans. Maybe he should draft them. At least they would see real shared sacrifice and shared risk.

Today, America's minorities bear an unfair share of the consequences of this war. The President and the Republicans will not tell us that, they will say the war is going well, the department of war is doing perfectly. Watch the evening news, read the newspaper, decide for yourself whether the President's war is going well.

Make no mistake about it, they need more soldiers and they are taking the steps to get them, whether they volunteer or not. That is the definition of a draft, Mr. Speaker. You ought to tell the President that he ought to just come right out and say it, he is going to draft people any way he can to avoid talking about it before the election.

ORDER OF BUSINESS

Mr. SMITH of New Jersey. Mr. Speaker, I ask unanimous consent to claim my Special Order speech at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

ABORTION EXCRUCIATINGLY PAINFUL TO UNBORN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. SMITH) is recognized for 5 minutes.

Mr. SMITH of New Jersey. Mr. Speaker, abortion is excruciatingly painful to unborn children. It hurts. It hurts the children.

In expert testimony provided to the Northern District of the U.S. District Court in California on April 15, during the partial birth abortion trials, Dr. Sunny Anand, Director of the Pain Neurobiology Laboratory at Arkansas Children's Hospital Research Institute, explained, "The human fetus possesses the ability to experience pain from 20 weeks of gestation, if not earlier, and the pain perceived by a fetus is possibly more intense than that perceived by term newborns or older children."

Dr. Anand further describes before the court that the "highest density of pain receptors per square inch of skin in human development occurs in utero," while still in the womb, "from 20 to 30 weeks gestation. During this period, the epidermis is still very thin, leaving nerve fibers closer to the surface of the skin than in older neonates and adults."

He went on to explain that the pain inhibitory mechanisms, in other words fibers which dampen and modulate the experience of pain, do not begin to develop until 32 to 34 weeks of gestation. Thus, Dr. Anand concludes, a fetus 20 to 32 weeks of gestation would experience a much more intense pain than older infants or children or adults when these groups are subjected to similar types of injury.

Dr. Anand points out on the question of fetal consciousness that more than 3 decades of research show that preterm infants are actively perceiving, learning and organizing information, and are constantly striving to regulate themselves, their environment and their experiences. All preterm infants actively approach and favor experiences that are developmentally supporting and actively avoiding experiences that are disruptive.

So, today, Mr. Speaker, Senator BROWNBACK and I have introduced legislation. In the House it is H.R. 4420, the Unborn Child Pain Awareness Act. This bipartisan piece of legislation, which now has over two dozen House sponsors and 22 Senate sponsors, would require that those performing abortions at or beyond 20 weeks gestation provide the mother with certain information regarding the capacity of the unborn child to experience pain during the abortion and offer the mother the option of having pain-reducing drugs administered directly to the unborn child to reduce the baby's pain.

Mr. Speaker, before an abortion involving a pain-capable child begins, the abortionist would have to provide the woman with an oral statement at this stage of development of the unborn child, saying that the child has physical structures to feel pain and that the abortion would likely cause pain to the unborn child.

☐ 2000

The bill ensures that the mother has the option of choosing to have anesthesia administered directly to the unborn child if she so desires in order to reduce or to eliminate and mitigate that pain.

Mr. Speaker, the recent partial-birth abortion trials have shattered, hopefully forever, the myth, the big lie, that somehow the unborn child does not feel pain during an abortion. The pro-abortion lobby has spread that. Finally, that myth has been shattered. Even the American Civil Liberties Union, Mr. Speaker, the ACLU, has conceded that unborn children feel pain during an abortion. In a February motion to exclude evidence regarding fetal pain in the partial-birth abortion ban trials, the ACLU went so far as to argue that testimony on fetal pain in relation to partial-birth abortion was irrelevant because they said the dilation-and-evacuation method of abortion, involving dismemberment, is more painful than a partial-birth abortion.

So the question, Mr. Speaker, is clearly not whether or not unborn children feel pain during the commission of this act of violence, perfectly legal, a D&E, as they call it, method of abortion, but how much do the children feel. There is growing evidence, Mr. Speaker, to suggest that children feel a frightening amount of pain during these abortion procedures. I agree with the ACLU when they make that statement as they did before the court.

Let me just remind my colleagues, the D&E method of abortion as used in most second-trimester abortions involves the abortionist grasping the unborn child's body parts, various parts, arms, legs, torso with a long-toothed clamp. The fetal body parts are then torn off the body and pulled out of the mother piecemeal. It is an act of dismemberment. It is a despicable act. It is a violent act. It is an act of violence.

It takes about 30 minutes for this act of violence, again perfectly legal, allowed by Roe v. Wade, to occur. During those 30 minutes, this child suffers immensely. I would remind my colleagues that Congress requires that pain be mitigated when livestock are slaughtered, not so when an unborn child is slaughtered. I would ask Members to take a good, strong look at this legislation and hopefully cosponsor it and get this bill to the floor so that we can vote on it.

Let me just finally say to my colleagues, there was a Zogby poll recently on the question, do you support laws requiring that women who are 20 weeks or more along in their pregnancy be given information about fetal pain before having an abortion? Seventy-seven percent of the people said yes. Only 16 percent disagreed. We should not be killing these children, Mr. Speaker, but they should at least not have to suffer such excruciating pain. I urge passage as soon as possible of this legislation.

EXCHANGE OF SPECIAL ORDER TIME

Mr. BROWN of Ohio. Mr. Speaker, I ask unanimous consent to take the time of the gentleman from Oregon (Mr. DEFAZIO).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

TIMKEN PLANT CLOSINGS ELIMINATE 1,300 OHIO JOBS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, about a year ago, April 24, 2003, President Bush came to Canton, Ohio, to address workers at the Timken Company, a company which makes ball bearings and other metal products. The President chose his visit to Timken to showcase his economic policy. During his speech, the President told Timken workers:

"Here at Timken last year, productivity rose 10 percent. Which means that America can compete with any nation in the world because we got the finest workers in the world."

President Bush told the Timken workers that if his tax plans were enacted "more than a million new jobs will be created by the end of 2004." He then went on to say, "That's what the whole purpose of our economic package is, to create the conditions for job growth so people can find work."

One million jobs created by 2004. He was so confident of this that he mentioned it twice during his speech. Last week the Timken management announced the company will close its Canton plant, eliminating 1,300 more Ohio manufacturing jobs. Third- and fourth-generation workers at this plant who helped build this company now face unemployment. Timken is closing its Canton plants, three of them, while building another facility in China.

Like a host of other predictions and promises delivered by President Bush, the record just has not matched the rhetoric. The Bush economic record of the last 4 years, ship jobs overseas, give tax cuts to large corporations, help corporations reap big profits, lay off American workers. It happened at Timken. It has happened at plant after plant after plant in my State and all over the country. In my State alone, we have lost one out of six manufacturing jobs since President Bush took office. One hundred eighty thousand manufacturing workers have lost their jobs. That comes out to about 200 Ohioans a day who have been thrown out of work since George Bush took his oath of office.

The recent modest job creation numbers are welcome that we are seeing in some places around the country but too many of those jobs are low-paid service jobs, too many of these jobs are seasonal work, too few of them have health and pension benefits. The men and women at Timken, the men and women who build things in America, want to know where they are going to find the good-paying jobs to send their kids to school, to feed their families and to pay their mortgages.

The Timken Corporation, however, is doing just fine. Three weeks before announcing the Canton plant closure, Timken boasted in a press release of its record quarterly sales of $1.1 billion for the first 3 months of this year. They also added that earnings per share were up 63 percent over earnings per share 1 year ago. In a speech to Timken workers, the President bragged that worker productivity, productivity of these workers for the previous year, was up 10 percent. So we have worker productivity up 10 percent, we have corporate profits going up significantly, we have sales setting records, yet Timken laid off hundreds of workers, 1,300 workers, and closed down three plants.

Last spring, the President when he visited Timken was also visiting Tim Timken, the chairman of this company. Mr. Timken is a Ranger, meaning he raised more than $200,000 for the Bush campaign in 2000. Mr. Timken also raised soon after that 2003 visit another $600,000 for an event for the 2004 campaign. In other words, President Bush's economic policies have worked just fine for Mr. Timken and his family but the Bush economic program has failed the families of 1,300 Timken workers.

We can do better for America's workers. First of all we can extend unemployment benefits to 1 million Americans in this country who have lost jobs, who are looking for work, who have not found work and whose benefits have expired. Fifty thousand of those workers live in Ohio. Second, Congress can pass the bipartisan Crane-Rangel bill which instead of rewarding those companies that go overseas and do their manufacturing as the Timken company is doing, instead of rewarding them we give tax breaks, we give tax incentives, we reward those companies that stay in the United States and manufacture. If 100 percent of your manufacturing is in the U.S., you get 100 percent of the benefits. If 10 percent of your manufacturing is in the U.S. and 90 percent is in China and Mexico and Indonesia, you only get 10 percent of the benefits. The third thing we need to do is quit using our Tax Code to send our jobs overseas. Too many workers have seen their tax dollars go to subsidize their companies who go overseas and cost American jobs. Something has got to change.

2004 COMPREHENSIVE REPORT ON U.S. TRADE AND INVESTMENT POLICY TOWARD SUB-SAHARAN AFRICA AND IMPLEMENTATION OF THE AFRICAN GROWTH AND OPPORTUNITY ACT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means:

To the Congress of the United States:

Consistent with title I of the Trade and Development Act of 2000, I am providing a report prepared by my Administration entitled "2004 Comprehensive Report on U.S. Trade and Investment Policy for Sub-Saharan Africa and Implementation of the African Growth and Opportunity Act."

GEORGE W. BUSH.
THE WHITE HOUSE, *May 20, 2004.*

NO CHILD LEFT BEHIND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. KLINE) is recognized for 5 minutes.

Mr. KLINE. Mr. Speaker, I have been sitting here for some time this evening listening to the discussion and I am struck by the tone. We have had speakers from both sides of the aisle rise to discuss different things. I notice that my colleagues from this side of the aisle have risen to celebrate an anniversary of World War II, to talk about an important economic and trade issue with the developing nation of India, to talk about the tragedy of the pain of unborn children and my colleagues from the other side of the aisle have taken every occasion with every speaker to make outrageous claims and to engage in vicious partisan attacks against the President of the United States and the Republican Party and it saddens me.

But tonight I wish to join my colleagues from this side of the aisle in a celebration. As we celebrate the anniversary of the landmark Brown v. Board of Education Supreme Court decision this week, we have an excellent opportunity to recognize some of the vast improvements made in the quality of education available to America's children over the past 50 years.

In the Brown v. Board of Education case, the doctrine of "separate but equal" education for different groups of students was found to produce unequal results and was ruled unconstitutional. On this important anniversary, Mr. Speaker, we are working to ensure another group of students, our special needs children, receive the same high quality education available to every child in Minnesota and America.

Because no two students are the same and no two schools face identical challenges, one of the most important elements in any Federal education law is flexibility. I am pleased to share with my colleagues one of the many ways in which our committee, the Committee on Education and the Workforce, has worked with the Department of Education to enhance that flexibility for our schools. Following implementation of the No Child Left Behind education law, teachers and administrators expressed concern and many of them to me over the last year that special needs children were required to pass the same tests as their non-special needs counterparts. At the same time parents of special needs children expressed concern that exempting their children from testing altogether would eliminate the ability to monitor their progress. To address these competing concerns, the Department of Education issued a rule providing States and school districts with the flexibility to provide alternate tests to determine the adequate yearly progress for children with the most severe disabilities. Under the rule, alternate tests can be administered only to children with the most significant cognitive disabilities, only 1 percent of all students, or about 10 percent of students with disabilities. All other students with disabilities will take either the regular State assessments or assessments aligned with State standards designed to compensate for the child's disability.

Because it prohibits States and schools from excluding students with disabilities from accountability systems, the No Child Left Behind provides parents of these children with something they have never had before, the right to know whether their children are getting the education they deserve, what every parent wants.

I believe we are making great strides toward improving the quality of education available to every child in America. I remain committed to addressing the concerns of parents, teachers and administrators as we seek to not only maintain but to build on this quality. I look forward to continuing the fight to provide the necessary flexibility to accommodate those States and those schools who wish to participate.

Leaving no child behind means leaving no child behind, not "no child except children with disabilities." On this important anniversary, Mr. Speaker, we are living up to that promise.

FALLEN HEROES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. HASTERT) is recognized for 5 minutes.

Mr. HASTERT. Mr. Speaker, I rise today to join with my colleagues in paying tribute to all of our fallen citizens who have lost their lives defending freedom in the war against terror.

I want to thank JIM WALSH and CHARLIE RANGEL for working together to come up with this tribute to those who have died defending freedom.

This Memorial Day, we all need to take an extra moment to remember those who made the ultimate sacrifice as we remember those who are separated from their families and fighting in distant lands to defend freedom.

I especially want to call attention to the sacrifices of two of my constituents who died in the service of their Nation: Staff Sgt. Jacob Frazier and Marine 1st Lt. Timothy Ryan.

Staff Sgt. Jacob Frazier, 24, of St. Charles Township, was killed in March 2003, when his patrol unit was ambushed in Afghanistan. Frazier joined the Illinois Air National Guard in 1998, a year after graduating from Central High School in Burlington. The oldest of

James and Joyce Frazier's five children, he was a wrestler, all-conference football player and a member of the choir in high school. He was engaged to be married. Frazier was assigned to the 169th Air Support Operations Squadron of the 182nd Airlift Wing of the National Guard, and had been working with U.S. Army Special Forces in Afghanistan since January 2003. He was proud to serve his country, and often told friends and family "I'm going to hunt bad guys,"—a reference to the terrorist attacks of Sept. 11.

Marine 1st Lt. Timothy Ryan, 30, of North Aurora, died in May 2003, when his helicopter crashed into a canal in Iraq. The son of Judith and Michael Ryan, Tim Ryan grew up with his older brother in Montgomery and Aurora, graduating from West Aurora High School. A music major, he began playing the drums when he was in 4th grade and was a member of the marching band at West Aurora High. He attended Illinois State University, where he met his wife, Michelle. He graduated, was married, and enlisted in the Marines during a single month in 1997. Ryan joined the Marines to be a part of its drum and bugle corps, but changed course after two years because he wanted to be a pilot. He was stationed at Camp Pendleton, near San Diego, and deployed to Kuwait in February 2003.

May God bless these two men who died so that we could live in freedom. And may God continue to bless the United States of America.

Mr. MOORE. Mr. Speaker, I stood on the House floor on May 20, 2004, and observed a moment of silence to remember the brave men and women who fought and died for our freedom. During this time, images flashed in my mind of the heroic Kansans I visited at the Walter Reed Army Medical Center and the men and women I spoke with when I traveled to Iraq in January. These images culminated into a feeling of pride, a feeling I know each and every American feels when they think of what America means to them.

As a Nation on Memorial Day we honor the men and women who through the history of our country gave their lives in battle to defend the freedom and liberty that makes these American States united. From the Revolutionary War to Operation Iraqi Freedom, we honor these brave souls in unison as one people on this day. The Memorial Day weekend has also come to symbolize a time for family and friends to come together; during this time it becomes abundantly clear who is missing. Please join me in thanking these families for their sacrifice as well.

In times of crisis, our Nation looks to the men and women of the armed forces. They have never hesitated in answering their Nation's call, giving of their time, service and in many cases their lives. Our Nation owes them a debt that we can never repay. The dedication and valor displayed by those who served in the armed services deserves the gratitude of the entire Nation.

As the number of veterans growing older increases, the responsibility of providing adequate care and compensation to their families will become a higher priority for the Federal Government.

After making a sacrifice for our country, our veterans should not have to be concerned that the Veterans Administration will not provide the services or benefits they have earned.

As a veteran myself, it saddens me to see how some of our Nation's finest citizens are being treated. We owe it to all of our veterans—whether they fought on the front lines or served here at home—to keep the promise America made to them. Veterans should not be financially punished in the name of fiscal responsibility. Even in difficult budget times, there is no excuse for cutting already underfunded veterans' programs to pay for tax cuts.

I will continue to urge my colleagues in Congress to rethink these cuts. We must work together from both sides of the aisle to ensure that these cuts are restored to honor our nation's commitment to care for its defenders. I will fight to see that Congress makes adequate funding for the Veterans Administration a priority—not an afterthought.

Mr. MATSUI. Mr. Speaker, I rise today to honor the brave men and women of our military personnel who have made the ultimate sacrifice and lost their lives in service to their country. To the families and friends of these fallen soldiers, I offer my condolences in their time of grief. Please know that we all share in your sorrow.

I would like to recognize the soldiers from the Sacramento area who have lost their lives while serving their country. SP Keicia Coleman Hines, of Sacramento, was a member of the 108th Military Police Combat Support Company when she died while serving on a base near Mosul in Iraq. She was her mother Beverly Coleman's only child. Ms. Coleman has said she is extremely proud of her daughter, and that she was an honorable person. I share Ms. Coleman's pride in her daughter and in the work she chose to do. Keicia is also survived by her husband, who she met at basic training. They had planned to start their own family when Keicia returned from Iraq. She was 27 years old.

SP Adam G. Kinser, was assigned to the 304th Psychological Operations Company, United States Army Reserve, and serving in Afghanistan when he died of injuries from the explosion of a weapons cache. He had a soft spot in his heart for the children of Iraq, and would often ask friends and family to send crayons and coloring books for the kids. At the time of his death, he was just one month away from being sent home to be with his wife, who was about to have their first child. His family lives in Sacramento and Rio Vista.

U.S. Army MAJ Gerald Compton, son of MSG Gerald Compton, U.S. Army, retired, and Sue Joe Compton of Sacramento, was training cadets at West Point when he passed away of natural causes. Major Compton had dedicated his life to the Army and passed on his sense of dedication to the cadets he trained. His cadets and colleagues will remember Major Compton as a skilled officer, a leader and friend to all who knew him.

Words cannot begin to express our gratitude to these brave soldiers. Nor can words describe the debt we owe their families. Instead, today we honor the soldiers and their families through a moment of silence. Our thoughts and prayers are with all those who bear this burden.

Mr. EMANUEL. Mr. Speaker, I am proud to rise with my colleagues today to observe a moment of silence in honor of our fallen soldiers, including the nearly 800 U.S. troops who gave their lives in Iraq.

As Memorial Day approaches, we pause to honor each of the soldiers, sailors, airmen and Marines who gave their lives to defend our freedom. We will always remember their valor and sacrifices for America. We also pause to mourn with their families and friends who go on without their loved ones.

Today, more than 135,000 brave men and women remain in harm's way. Our continued attention should be focused on our troops, the success of their mission, and their safe return to their families.

I was proud to cast my vote for the defense authorization bill earlier today as a measure that honors their service and delivers much-needed relief. This legislation meets immediate warfighting needs, expands quality of life initiatives, and makes up for readiness shortfalls.

I am pleased to support a much deserved 3.5 percent pay raise for our troops, hardship duty pay increases, and a restored Survivors Benefit. I also strongly support the bill's increased production for armored Humvees and body armor as well as improvements to family housing, military medical facilities and schools.

I salute the brave men and women in uniform who will become our Nation's newest veterans upon their return. Now that over 14 months have passed since U.S. troops were deployed to Iraq, we wish them all a safe return and will work to ensure they have all the resources they need to accomplish the mission and bring them home safely to their families.

Mr. Speaker, our fallen troops will always remain in our thoughts and prayers. We will remember their sacrifices this Memorial Day and beyond, and we will do all that we can to support our troops currently deployed and to ensure their safe return.

Mr. HAYES. Mr. Speaker, across this great Nation, Americans designate the last Monday in May to honor those who have fallen in battle protecting our freedom. Memorial Day this year is especially important as we are reminded almost daily of the great sacrifices that the men and women of the Armed Services make to defend our way of life. Those who served, and those who continue to serve in the Army, Navy, Air Force, Marines, and Coast Guard took an oath to uphold and protect the Constitution against all enemies foreign and domestic, and we can never forget the importance of their commitment to our Nation.

North Carolina, particularly the 8th District, has long played a key role in our Nation's military forces. Troops from Fort Bragg and Pope Air Force Base are nobly answering the call of duty, separated from their families, friends, and loved ones. Currently serving alongside the active component in Iraq is the North Carolina National Guard. These individuals who put their lives on hold to answer the call of duty are the pinnacle of American patriotism. To prosecute the war on terrorism, the State of North Carolina has deployed 3,500 guardsmen, the largest deployment in the State's history. While putting themselves in harms' way, the men and women in uniform, whether part of the active or reserve component, seek to root out the evil that seeks

America's destruction. Their mission is clear and they will succeed. I cannot express how proud I am of them and the entire military for their service, selfless attitude and sacrifice.

Of all the recent publicity the war on terrorism has garnered, sometimes overlooked is the support of our troops by their valiant spouses and families. The support they provide and the hardship that they are enduring are to be recognized and commended. Without such support in place, our troops would not be as ready or prepared to fight the battle.

While we continue to pray for those who are deployed and their families, we must hold a special place in our hearts for their fallen comrades. The men and women who have paid the ultimate sacrifice safeguarding our great Nation must be honored and remembered. Freedom is not free, and many have given all they have—their lives—for its and our defense. May we as a Nation be eternally grateful for their sacrifice and remember their families in our prayers. May God bless the families of our fallen heroes, watch over their families, and may He bless and protect those who continue to serve. May God bless our U.S. Armed Forces and the United States of America.

Mr. CUMMINGS. Mr. Speaker, today, I rise in support of our troops. I rise in support of all of our men and women serving in our armed forces, and especially the 300,000 brave men and women that have been serving in Iraq and Afghanistan.

To our young countrymen and women serving their country in Afghanistan and Iraq, I salute you and I offer you the following:

As our Nation once again honors those who have served, I pray that this Memorial Day finds you healthy and well.

Some of you may know that, although, I supported our action against al Qaeda in Afghanistan, I voted against President Bush's demand for advance congressional authorization to use military force against Iraq.

In the absence of a clearly demonstrated imminent danger to this Nation, I concluded, giving the President a "blank check" for war would be an abdication of my constitutional duty as a Member of the Congress. Further, I believed it would put our young men and women into a conflict that would yield enduring unfavorable outcomes. Once Saddam Hussein was toppled, for what and with whom would we be fighting? Where is the proof of WMDs or the presence of al Qaeda in Iraq? These were just a few of the many questions I and many Members of Congress wanted to ask. But in the administration's rush to war and its subsequent insolence, these and many questions remain unanswered.

Today, my reasoning for that conviction remains unchanged. There is not today—nor has there ever been any dispositive proof that Iraq is an imminent danger to our country. Like the majority of the international community, I believe "imminent danger" is the proper litmus test for waging a preemptive war. The current administration does not and ignored warnings from many countries who were friends in our fight against terrorism. I ask the Commander-in-Chief, who suffers and will continue to suffer as a result of this affront to the international rules of engagement? The answer is that we all do, but it is our troops who bear the blunt of this suffering.

There has been a tragic loss of life—both among our American troops and among Iraq's civilian population. I knew the human losses would be too great and I did not want our families—or the Iraqi people—to experience the overwhelming grief and remorse that accompanies waging war unnecessarily.

The moral authority of the United States has been undermined—establishing a devastating international precedent that we may well see echoed within other troubled regions. I believe that the Middle East region has been destabilized, harming the international cooperation that we desperately need to defend this Nation against terrorism.

We must now contemplate the prospect of American troops remaining in Iraq for an indefinite period of time, at great cost to the lives and treasure of our Nation, while its government regroups a country that has been involuntarily bowed.

Tragically, none of these cautions about war prevailed, and hundreds of thousands of young Americans now struggle to survive in harm's way.

With so many questions about the wisdom and consequences of this war left unanswered, what can America say to you—the young men and women who have been called upon to risk your lives?

What can we say to your wives and husbands—or to your parents and children—that could possibly justify your sacrifice?

The current administration that waged this war must search for his own answers to these soul-wrenching questions—and I must speak to you in my own way.

Young people, I hope that these words reach you in Iraq.

You have a right to expect encouragement and support at this difficult and dangerous time. I encourage you and commend you for your bravery. I know you are dealing with circumstances beyond our comprehension.

Nevertheless, you stand at the brink of eternity—and you deserve an honest appraisal. You are doing your duty, just as we in the Congress must do everything within our power to protect you.

So, I will continue to call for clear and convincing evidence that war was necessary and I will continue to support the Federal funding that has helped to make you the best trained and equipped military force in the world. You deserve nothing less.

Human life is too precious to allow anything less.

I am among those whom the administration has not convinced about the wisdom of war in Iraq. Yet, I want you to know that I support you wholeheartedly. You are there to protect and defend and you are serving and have served valiantly.

You are honorable young Americans.

When the President committed your lives to battle, you went to war with your Nation's prayers and unconditional support. I pledge that we will not allow this Nation's response to your service degenerate into the shameful neglect that followed U.S. efforts in Vietnam. We will not blame the failures of our generation upon yours.

Indeed, you have my undying respect.

Neither President Bush nor I have ever been required to risk our own lives in battle. We have not been forced to move forward against the mechanized hell of modern warfare. We have not endured the screams of tormented friends who have fallen at our side.

War leaders of old did not direct war from the safety of their homes. There was great wisdom in the ancient custom that required a leader who ordered others into battle to, himself, fight on the front lines. The danger is not real when it's second-hand.

You are honorable young Americans—you are our young women and men who now stand at the brink of eternity. Over 700 of your brethren and of the Allied Forces have perished. Over 4,500 of you have been injured or maimed. At least 10 claim Maryland as their home State and I have attached their names in memoriam and in recognition of their brave service to our country.

May those who lead America today regain wisdom and bring the rest of you home safely. May our actions from this day forward live up to the example of your sacrifice.

And may God bless you and keep you in His hands.

In Memoriam and in recognition of brave service to our Country—Operation Iraqi Freedom: Jakia Sheree Cannon, Brandon Lee Davis, Jason Christopher Ford, Cornell Winston Gilmore I, Jason David Mileo, George Arthur Mitchell, Jr., Adam Garber Mooney, Bryan Nicholas Spry, Jeffery Calvin Walker, Kendall Damon Waters-Bey.

Mr. ETHERIDGE. Mr. Speaker, it is altogether fitting and proper that the U.S. House of Representatives holds this moment of silence on behalf of our fallen warriors in Iraq and Afghanistan. On the last legislative day before America observes Memorial Day, it is appropriate for us to pause from our business to pay our respects to those who have made the ultimate sacrifice in those important and difficult theatres of war.

As the Representative of North Carolina's Second Congressional District, I have the honor of serving the military families of the Army's Fort Bragg, Pope Air Force Base, and numerous National Guard and Reserve units. I have observed our troops training for combat, and I have visited soldiers wounded in the battlefield in their recovery at Walter Reed Army Hospital in Washington, DC.

Last month, I had the opportunity to travel to Iraq to witness firsthand the daily struggle our soldiers wage in that war-torn country. The work they are doing is vitally important to bring peace and stability in Iraq and allow for the growth of a just and open democracy in a place that has never really known such conditions that we take for granted. Previously, I visited Afghanistan to investigate our progress in taking the war against terrorism into the sanctuary of the terrorists. Our troops are dedicated, professional and motivated by their love of America and the folks back home who pray for their safety and their speedy return.

Mr. Speaker, this moment of silence on behalf of our fallen heroes is an important opportunity to state once and for all that the American people and the Congress of the United States strongly support our men and women in the Armed Forces.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today to honor our soldiers who have died in the service of our country in Iraq and Afghanistan.

As of May 19, 2004, 783 American men and women had lost their lives as a part of Operation Iraqi Freedom and 123 American men and women had lost their lives as a part of Operation Enduring Freedom.

I am forever indebted to these courageous men and women because the fight for freedom is not without loss.

I fully support the military families of these heroes who have sacrificed their lives in the service of our country.

In my State of Texas, we have lost 84 men and women defending America's dream of democracy and freedom for all.

I am sure all Texans join me in letting their families know that we consider all of them heroes because they died answering the call of our country.

It is because of them we enjoy our freedom and live in the greatest country there is.

Father Dennis Edward O'Brien of the USMC wrote the following poem honoring our soldiers:

It is the soldier, not the reporter,
Who has given us freedom of the press.

It is the soldier, not the poet,
Who has given us the freedom of speech.

It is the soldier, not the campus organizer,
Who has given us the freedom to demonstrate.

It is the soldier
Who salutes the flag,
Who serves beneath the flag
And whose coffin is draped by the flag.
Who allows the protester to burn the flag.

Mr. Speaker, I ask that the names of the fallen Texas soldiers be printed in the RECORD. May God grant strength and peace to those who mourn and God bless America.

TEXAS FALLEN HEROES

OPERATION IRAQI FREEDOM

Marine Cpl. Daniel R. Amaya died from hostile fire in Al Anbar Province, Iraq. He was assigned to 3rd Battalion, 4th Marine Regiment, 1st Marine Division, I Marine Force, Twentynine Palms, California. Died on April 11, 2004.

Army Spc. Edward J. Anguiano, 24, of Brownsville, Texas. Spc. Anguiano was in a six-vehicle convoy on Highway 7 in Iraq when enemy forces ambushed them on March 23. His remains were recovered on April 24. Anguiano was assigned to 3rd Forward Support Battalion, Fort Stewart, Georgia.

Marine CWO Andrew Todd Arnold, 30, of Spring, Texas. Killed in a non-hostile accident with two other soldiers when a rocket-propelled grenade launcher they were firing for familiarization malfunctioned on a firing range near the city of Al Kut, Iraq. He was assigned to the 1st Battalion, 10th Marine Regiment, 2nd Marine Expeditionary Brigade, Camp Lejeune, North Carolina. Died on April 22, 2003.

Army Spc. Richard Arriaga, 20, of Ganado, Texas. Arriaga was killed in an ambush by small arms fire and rocket propelled grenade in Tikrit, Iraq. He was assigned to Headquarters and Headquarters Battery, 4th Battalion, 42nd Field Artillery Regiment, Fort Hood, Texas. Died on September 18, 2003.

Army Spc. Robert R. Arsiaga, 25, of San Antonio, Texas. Arsiaga died in Baghdad, Iraq, when his unit was attacked with rocket-propelled grenades and small arms fire. He was assigned to 2nd Battalion, 5th Cavalry Regiment, 1st Cavalry Division, Fort Hood, Texas. Died on April 4, 2004.

Marine Lance Cpl. Aaron C. Austin, 21, of Sunray, Texas. Austin died due to hostile fire in Al Anbar Province, Iraq. He was assigned to 2nd Battalion, 1st Marine Regiment, 1st Marine Division, I Marine Expeditionary Force, Camp Pendleton, California. Died on April 26, 2004.

Marine Pfc. Chad E. Bales, 20, of Coahoma, Texas. Killed in a non-hostile vehicle accident during convoy operations east of Ash Shahin, Iraq. He was assigned to 1st Transportation Support Battalion, 1st Force Service Support Group, Camp Pendleton, California. Died on April 3, 2003.

Army Sgt. Michael Paul Barrera, 26, of Von Ormy, Texas. Barrea was fatally injured when his tank was hit with an improvised explosive device in Baqubah, Iraq. Barrera was assigned to the 3rd Battalion, 67th Armor Regiment, Fort Hood, Texas. Died on October 28, 2003.

Army Capt. Ernesto M. Blanco, 28, of Texas. Blanco was conducting a support mission when an improvised explosive device hit his vehicle in Qaryat Ash Shababi, Iraq. He was assigned to 1st Battalion, 504th Parachute Infantry Regiment, 82nd Airborne Division, Fort Bragg, North Carolina. Died on December 28, 2003.

Army CW4 Clarence E. Boone, 50, of Fort Worth Texas. Boone died as a result of a noncombat related injury in Kuwait City, Kuwait. He was assigned to Headquarters and Headquarters Company, 4th Infantry Division, Fort Hood, Texas. Died on December 2, 2003.

Army Spc. Philip D. Brown, 21, of El Paso, Texas. Brown died in Balad, Iraq, from injuries sustained by an improvised explosive device west of Samarra. He was assigned to the Army National Guard's Company B, 141st Engineer Combat Battalion, Jamestown, North Dakota. Died on May 8, 2004.

Army Spc. Adolfo C. Carballo, 20, of Houston, Texas. Carballo died in Baghdad, Iraq, when shrapnel struck him. He was assigned to 1st Battalion, 21st Field Artillery Regiment, 1st Cavalry Division, Fort Hood, Texas. Died on April 10, 2004.

Marine Lance Cpl. James A. Casper, 20, of Coolidge, Texas. Casper died due to a noncombat related incident at Al Asad, Iraq. He was assigned to 2nd Battalion, 11th Marines, 1st Marine Division, I Marine Expeditionary Force, Camp Pendleton, California. Died on March 25, 2004.

Army Staff Sgt. Roland L. Castro, 26, of San Antonio, Texas. Castro died of a nonhostile gunshot wound in Camp Cedar II, Iraq. He was assigned to Battery A, 1st Battalion, 12th Field Artillery, Fort Sill, Oklahoma. Died on January 16, 2004.

Army Staff Sgt. Gary L. Collins, 32, of Hardin, Texas. Collins was riding in a Bradley Fighting Vehicle when it hit an improvised explosive device in Fallujah, Iraq. He was assigned to 1st Battalion, 16th Infantry Regiment, 1st Infantry Division, Fort Riley, Kansas. Died on November 8, 2003.

Army Spc. Zeferino E. Colunga, 20, of Bellville, Texas. Colunga was initially evacuated to the 28th Combat Support Hospital in Iraq on Aug. 4. He was then evacuated to Landstuhl Army Regional Medical Center and later to Homburg University Hospital in Germany for further evaluation. He remained at Homburg until his death. His death was unrelated to the recent cases of pneumonia in Southwest Asia. Colunga was assigned to 4th Squadron, 2nd Armored Calvary Regiment, Fort Polk, Louisiana. Died on August 6, 2003.

Army Pfc. Rey D. Cuervo, 24, of Laguna Vista, Texas. Cuervo was on a mounted patrol in Baghdad, Iraq when an improvised explosive device hit his vehicle. He was assigned to 1st Squadron, 2nd Armored Cavalry Regiment, Fort Polk, Louisiana. Died on December 28, 2003.

Air Force Capt. Eric B. Das, 30, of Amarillo, Texas. Das was the pilot of an F–15E that went down during a combat mission in Iraq. He was assigned to the 333rd Fighter Squadron, Seymour Johnson Air Force Base, North Carolina. Died on April 7, 2003.

Army Pfc. Ervin Dervishi, 21, of Fort Worth, Texas. Dervishi died in Baji, Iraq, during a combat patrol when a rocket-propelled grenade hit the Bradley Fighting Vehicle in which he was traveling. He was evacuated to the 28th Combat Support Hospital where he later died. Dervishi was assigned to Company B, 1st Battalion, 22nd Infantry Regiment, 4th Infantry Division, Fort Hood, Texas. Died on January 24, 2004.

Army Staff Sgt. Joe L. Dunigan, Jr., 37, of Belton, Texas. Dunigan died in Fallujah, Iraq, when his vehicle was hit by an improvised explosive device. He was assigned to the 1st Battalion, 16th Infantry Brigade, 1st Infantry Division, Fort Riley, Kansas. Died on March 11, 2004.

Army Sgt. William C. Eckhart, 25, of Rocksprings, Texas. Eckhart died in Baqubah, Iraq when he was on an anti-mortar mission and there was an explosion of unknown origin. He was assigned to 4th Cavalry, 1st Infantry Division, Schweinfurt, Germany. Died on April 10, 2004.

Army Pfc. Analaura Esparza-Gutierrez, 21, of Houston, Texas. Esparza-Gutierrez was in a convoy that was hit by an improvised explosive device and rocket propelled grenades in Tikrit, Iraq. Esparza-Gutierrez died of her injuries. She was assigned to A Company, 4th Forward Support Battalion, Fort Hood, Texas. Died on October 1, 2003.

Army Pvt. Ruben Estrella-Soto, 18, of El Paso, Texas. Killed in action after his convoy was ambushed in Iraq on March 23. He was assigned to the 507th Maintenance Company, Fort Bliss, Texas.

Army Master Sgt. George A. Fernandez, 36, of El Paso, Texas. Killed in action in northern Iraq. He was assigned to Headquarters, U.S. Army Special Operations Command, Fort Bragg, North Carolina. Died on April12, 2003.

Army Chief Warrant Officer Wesley C. Fortenberry, 38, of Woodville, Texas. Fortenberry died in Baghdad, Iraq when his helicopter was shot down. He was assigned to the 1st Battalion, 227th Aviation Regiment, 1st Cavalry Division, Fort Hood, Texas. Died on April 11, 2004.

Army Pvt. Robert L. Frantz, 19, of San Antonio, Texas. Frantz was on guard duty when a local resident threw a grenade over the wall. Frantz died of his injuries in Baghdad, Iraq. He was assigned to Company B, 1st Battalion, 36th Infantry Regiment, 1st Armored Division, Ray Barracks, Germany. Died on June 17, 2003.

Army Spc. Israel Garza, 25, of Lubbock, Texas. Garza died in Baghdad, Iraq, when his unit was attacked with rocket-propelled grenades and small arms fire. He was assigned to 2nd Battalion, 5th Cavalry Regiment, 1st Cavalry Division, Fort Hood, Texas. Died on April 4, 2004.

Army 1st Sgt. Joe J. Garza, 43, of Robstown, Texas. Garza was riding in a HMMWV that swerved to avoid a civilian vehicle in Baghdad, Iraq. Graza fell out and was struck by a civilian vehicle. He was assigned to 1st Battalion, 30th Infantry Regiment, Fort Benning, Georgia. Died on April 28, 2003.

Marine Lance Cpl. Shane L. Goldman, 20, of Orange, Texas. Goldman died due to injuries received from hostile fire in Al Anbar

Province, Iraq. He was assigned to 1st Battalion, 5th Marines, 1st Marine Division, I Marine Expeditionary Force, Camp Pendleton, California. Died on April 5, 2004.

Marine Cpl. Jeffrey G. Green, 20, of Dallas, Texas. Green was found deceased on May 5, 2004 in the Euphrates River, in Al Anbar Province, Iraq. Cause of death is under investigation. He was assigned to 2nd Battalion, 4th Marine Regiment, 1st Marine Division, I Marine Expeditionary Force, Camp Pendleton, California.

Army Pfc. Clayton W. Henson, 20, of Stanton, Texas. Henson died when his convoy was ambushed in Dwaniyan, Iraq. He was assigned to 1st Squadron, 2nd Armored Cavalry Regiment, Fort Polk, Louisiana. Died on April 17, 2004.

Army Master Sgt. Kelly L. Hornbeck, 36, of Fort Worth, Texas. Hornbeck sustained injuries on January 16 when an improvised explosive device hit his vehicle, south of Samarra, Iraq. He was initially evacuated to the 21st Combat Support Hospital and then moved to the 28th CSH for further treatment where he later died. Hornbeck was assigned to Company C, 3rd Battalion, 10th Special Forces Group, Fort Carson, Colorado. Died on January 18, 2004.

Army 1st Lt. Doyle M. Hufstedler, 25, of Abilene, Texas. Hufstedler died in Habbaniyah, Iraq, when an improvised explosive device hit his armored personnel carrier. He was assigned to the Army's 1st Engineer Battalion, 1st Brigade, 1st Infantry Division, Fort Riley, Kansas. Died on March 31, 2004.

Army Spc. Ray J. Hutchinson, 20, of League City, Texas. Hutchinson was returning from a patrol when an improvised explosive device hit his vehicle in Mosul, Iraq. He was assigned to the 2nd Battalion, 502nd Infantry Regiment, 101st Airborne Division (Air Assault), Fort Campbell, Kentucky. Died on December 7, 2003.

Army CW2 Scott Jamar, 32, of Sweetwater, Texas. Killed when his UH-60 Black Hawk helicopter crashed in central Iraq. He was assigned to the 2nd Battalion, 3rd Aviation Regiment, Hunter Army Airfield, Georgia. Died on April 2, 2003.

Army Spc. John P. Johnson, 24, of Houston, Texas. Johnson died of non-combat related injuries in Baghdad, Iraq. He was assigned to 2nd Battalion, 6th Infantry Regiment, 1st Armored Division, Baumholder, Germany. Died on October 22, 2003.

Army Spc. Michael G. Karr, Jr., 23, of San Antonio, Texas. Karr died in Habbaniyah, Iraq, when an improvised explosive device hit his armored personnel carrier. He was assigned to the Army's 1st Engineer Battalion, 1st Brigade, 1st Infantry Division, Fort Riley, Kansas. Died on March 31, 2004.

Marine Cpl. Brian Matthew Kennedy, 25, of Houston, Texas. Killed in a CH-46E helicopter crash in Kuwait. He was assigned to the Marine Medium Helicopter Squadron—268, 3rd Marine Aircraft Wing, Marine Corps Air Station, Camp Pendleton, California. Died on March 20, 2003.

Army Spc. James M. Kiehl, 22, of Comfort, Texas. Killed in action after his convoy was ambushed in Iraq on March 23. He was assigned to the 507th Maintenance Company, Fort Bliss, Texas.

Army Spc. Scott Q. Larson, Jr., 22, of Houston, Texas. Larson died in Baghdad, Iraq, of injuries sustained when his convoy was ambushed. He was assigned to 1st Battalion, 37th Armor Regiment, 1st Brigade, 1st Armor Division, Ray Barracks, Friedberg, Germany. Died on April 5, 2004.

Army Staff Sgt. Rene Ledesma, 34, of Abelene, Texas. Ledesma died in Baghdad, Iraq, when an improvised explosive device exploded near his Bradley Fighting Vehicle. He was assigned to 1st Squadron, 7th Cavalry Regiment, 1st Cavalry Division, Fort Hood, Texas. Died on May 15, 2004.

Army Pfc. Jason C. Ludlam, 22, of Arlington, Texas. Ludlam died in Ba'qubah, Iraq, when he was electrocuted while laying telephone wires. He was assigned to the 2nd Battalion, 2nd Infantry Regiment, 1st Infantry Division, based in Vilseck, Germany. Died on March 19, 2004.

Army Chief Warrant Officer Johnny Villareal Mata, 35, of Pecos, Texas. Killed in action after his convoy was ambushed in Iraq on March 23. He was assigned to the 507th Maintenance Company, Fort Bliss, Texas.

Marine Cpl. Matthew E. Matula, 20, of Spicewood, Texas. Matula died from hostile fire in Iraq. He was assigned to 2nd Battalion, 1st Marines, 1st Marine Division, I Marine Expeditionary Force, Camp Pendleton, California. Died on April 9, 2004.

Marine Cpl. Jesus Martin Antonio Medellin, 21, of Fort Worth, Texas. Killed in Central Iraq when an enemy artillery round struck the Amphibious Assault Vehicle in which he was riding. He was assigned to the 3rd Assault Amphibian Battalion, 1st Marine Division, Camp Pendleton, California. Died on April 7, 2003.

Army Sgt. Daniel K. Methvin, 22, of Belton, Texas. Methvin was killed as a result of a grenade being thrown from a window of an Iraqi civilian hospital that he was guarding in Ba'qubah, Iraq. He was assigned to Headquarters and Headquarters Company, 1st Battalion, 67th Armor Regiment, 4th Infantry Division, Fort Hood, Texas. Died on July 26, 2003.

Army Pfc. Anthony S. Miller, 19, of San Antonio, Texas. Killed by enemy indirect fire in Iraq. He was assigned to Headquarters and Headquarters Company, 3rd Infantry Division, 2nd Brigade, Fort Stewart, Georgia. Died on April 7, 2003.

Army Pfc. Stuart W. Moore, 21, of Livingston, Texas. Moore died in Baghdad, Iraq, when an improvised explosive device struck his convoy. He was assigned to 2nd Battalion, 3rd Field Artillery Regiment, 1st Armored Division, based in Giessen, Germany. Died on December 22, 2003.

Army Sgt. Gerardo Moreno, 23, of Terrell, Texas. Moreno died in Ashula, Iraq, when his unit was ambushed by individuals who fired a rocket-propelled grenade. He was assigned to the 1st Battalion, 5th Cavalry, 1st Cavalry Division, Fort Hood, Texas. Died on April 6, 2004.

Marine Pfc. Ricky A. Morris, Jr., 20, of Lubbock, Texas. Morris died as a result of enemy action in Al Qaim, Iraq. He was assigned to the 3rd Battalion, 7th Marine Regiment, 1st Marine Division, I Marine Expeditionary Force, Twentynine Palms, California. Died on March 18, 2004.

Army Sgt. Keelan L. Moss, 23, of Houston, Texas. Moss was on board a CH-47 Chinook Helicopter when it went down in Al Fallujah, Iraq. The cause of the incident is unknown and an investigation is underway. He was assigned to 2nd Battalion, 5th Field Artillery Regiment, Fort Sill, Oklahoma. Died on November 2, 2003.

Army Spc. Joseph C. Norquist, 26, of San Antonio, Texas. Norquist was in a convoy that came under attack from rocket propelled grenades and small arms fire in Baqubah, Iraq. Norquist was fatally injured in the incident. He was assigned to the 588th Engineer Battalion, Fort Hood, Texas. Died on October 9, 2003.

Army Capt. Eric T. Paliwoda, 28, of Texas. Paliwoda was in his command post in Balad, Iraq when it came under mortar attack. He was assigned to 4th Engineer Battalion, 3rd Brigade Combat Team, 4th Infantry Division (Mechanized), Fort Carson, Colorado. Died on January 2, 2004.

Army Pfc. James D. Parker, 20, of Bryan, Texas. Parker died in a mortar attack on a forward operating base near Ba'qubah. He was assigned to the 588th Engineer Battalion (Heavy), 4th Infantry Division, Fort Hood, Texas. Died on January 21, 2004.

Army Staff Sgt. Hector R. Perez, 40, of Corpus Christi, Texas. Killed north of Al Hawd, Iraq, when his military convoy came under enemy fire. Perez was assigned to Company A, 1st Battalion, 327th Infantry, 101st Airborne Division, Fort Campbell, Kentucky. Died on July 24, 2003.

Army Spc. Jose A. Perez III, 22, of San Diego, Texas. Perez was in a convoy that was ambushed in Taji, Iraq. He was assigned to 6th Battalion, 27th Field Artillery Regiment, Fort Sill, Oklahoma. Died on May 28, 2003.

Army Spc. Larry E. Polley, Jr., 20, of Center, Texas. Polley was killed when his Bradley Fighting Vehicle struck an improvised explosive device and overturned north of Taji, Iraq. He was assigned to the 2nd Battalion, 20th Field Artillery Regiment, 4th Infantry Division, Fort Hood, Texas. Died on January 17, 2004.

Army Sgt. Christopher Ramirez, 34, of McAllen, Texas. Ramirez died in Al Anbar Province, Iraq, from injuries sustained during combat operations. He was assigned to the 1st Battalion, 16th Infantry, 1st Brigade, 1st Infantry Division, Fort Riley, Kansas. Died on April 14, 2004.

Army Sgt. Ariel Rico, 25, of El Paso, Texas. Rico died of injuries sustained during an enemy mortar attack in Mosul, Iraq. He was assigned to 3rd Battalion, 320th Field Artillery Regiment, 101st Airborne Division (Air Assault), Fort Campbell, Kentucky. Died on November 28, 2003.

Army 1st Lt. Jonathan D. Rozier, 25, of Katy, Texas. Rozier's unit was fired upon by rocket-propelled grenades and small arms fire while manning a vehicle checkpoint in Baghdad, Iraq. Rozier was assigned to B Company, 2–70th Armor Battalion (1st Armored Division), Fort Riley, Kansas. Died on July 19, 2003.

Army Spc. Isela Rubalcava, 25, of El Paso, Texas. Rubalcava died in Mosul, Iraq, when a mortar round hit near her. She was assigned to the 296th Combat Support Battalion, 3rd Brigade, 2nd Infantry Division (Stryker Brigade Combat Team), Fort Lewis, Washington. Died on May 8, 2004.

Army Sgt. John W. Russell, 26, of Portland, Texas. Russell died when two 101st Airborne Division (Air Assault) UH-60 Black Hawk helicopters crashed in Mosul, Iraq. He was assigned to the 4th Battalion, 101st Aviation Regiment, 101st Airborne Division (Air Assault), Fort Campbell, Kentucky. Died on November 15, 2003.

Marine Pfc. Leroy Sandoval, Jr., 21, of Houston, Texas. Sandoval died due to hostile fire in the Al Anbar Province, Iraq. He was assigned to 2nd Battalion, 1st Marine Regiment, 1st Marine Division, I Marine Expeditionary Force, Camp Pendleton, California. Died on March 26, 2004.

Army Spc. Christian C. Schulz, 20, of Colleyville, Texas. Schulz died as a result of non-combat injuries in Baqubah, Iraq. Schulz was assigned to the 3rd Troop, 67th Armor Battalion, Fort Hood, Texas. Died on July 11, 2003.

Marine Pfc. Dustin M. Sekula, 18, of Edinburg, Texas. Sekula died due to injuries sustained from enemy fire in Al Anbar Province, Iraq. He was assigned to 2nd Battalion, 7th Marines, 1st Marine Division, I Marine Expeditionary Force, Twentynine Palms, California. Died on April 1, 2004.

Army Pfc. Armando Soriano, 20, of Houston, Texas. Soriano was traveling in a two-vehicle convoy on a supply route when weather conditions caused his vehicle to slide off the road and roll over. He died as a result of his injuries in Haditha, Iraq. Soriano was assigned to the howitzer battery, 3rd Squadron, 3rd Armored Cavalry Regiment, Fort Carson, Colorado. The unit is currently attached to the 82nd Airborne Division, Fort Bragg, North Carolina. Died on February 1, 2004.

Army Cpl. Tomas Sotelo, Jr., 20, of Houston, Texas. Sotelo was traveling in a convoy when a rocket propelled grenade struck his vehicle in Baghdad, Iraq. Sotelo was assigned to Headquarters Troop, 2nd Armored Cavalry Regiment, Fort Polk, Louisiana. Died on June 27, 2003.

Army Spc. Joseph D. Suell, 24, of Lufkin, Texas. Suell died from a non-combat related cause in Todjie, Iraq. Suell was assigned to Headquarters and Headquarters and Service Battery, 5th Battalion, 3rd Field Artillery Regiment, Fort Sill, Oklahoma. Died on June 16, 2003.

Marine Lance Cpl. Elias Torrez III, 21, of Veribest, Texas. Torrez died from hostile fire in Iraq. He was assigned to 3rd Battalion, 7th Marines, 1st Marine Division, I Marine Expeditionary Force, Twentynine Palms, California. Died on April 9, 2004.

Marine Lance Cpl. Ruben Valdez, Jr., 21, of San Diego, Texas. Valdez died due to injuries received from enemy action in Al Anbar Province, Iraq. He was assigned to 3rd Battalion, 7th Marine Regiment, 1st Marine Division, I Marine Expeditionary Force, Twentynine Palms, California. Died on April 17, 2004.

Army Sgt. Melissa Valles, 26, of Eagle Pass, Texas. Valles died in Balad, Iraq as a result of non-combat injuries. She was assigned to B Company, 64th Forward Support Battalion, Fort Carson, Colorado. Died on July 9, 2003.

Marine Lance Cpl. Michael B. Wafford, 20, of Spring, Texas. Wafford died due to injuries received from hostile fire in Al Anbar Province, Iraq. He was assigned to 1st Battalion, 5th Marine Regiment, 1st Marine Division, I Marine Expeditionary Force, Camp Pendleton, California. Died on April 8, 2004.

Navy Lt. Nathan D. White, 30, of Abilene, Texas. Killed in action. White was the pilot of an F/A–18C Hornet lost over Iraq. He was assigned to Strike Fighter Squadron One Nine Five (VFA 195), based in Atsugi, Japan, and currently deployed with Carrier Air Wing Five (CVW 5) aboard USS Kitty Hawk (CV 63). Died on April 2, 2003.

Army Sgt. Steven W. White, 29, of Fruitvale, Texas. White died of injuries sustained when his M113 armored personnel carrier hit an antitank mine in Tikrit, Iraq. White was assigned to Headquarters and Headquarters Battery, 4th Battalion, 42nd Field Artillery Regiment, Fort Hood, Texas. Died on August 13, 2003.

Army Spc. James C. Wright, 27, of Morgan, Texas. Wright was killed in an ambush by small arms fire and rocket propelled grenade in Tikrit, Iraq. He was assigned to Headquarters and Headquarters Battery, 4th Battalion, 42nd Field Artillery Regiment, Fort Hood, Texas. Died on September 18, 2003.

Army Pfc. Stephen E. Wyatt, 19, of Kilgore, Texas. Wyatt was in a convoy that was hit by an improvised explosive device and small arms fire in Balad, Iraq. Wyatt was assigned to C Battery, 1st Battalion, 17th Field Artillery Regiment, Fort Sill, Oklahoma. Died on October 13, 2003.

Army Staff Sgt. Henry Ybarra III, 32, of Austin, Texas. Ybarra was changing the tire on a Heavy Expanded Mobility Tactical Truck in Balad, Iraq when the tire exploded. Ybarra died of his injuries. Ybarra was assigned to D Troop, 6th Squadron, 6th Cavalry, Illesheim, Germany. Died on September 11, 2003.

OPERATION ENDURING FREEDOM

Air Force Tech. Sgt. John A. Chapman, 36, of Waco, Texas. Killed in action in eastern Afghanistan during Operation Anaconda. Died on March 4, 2002.

Army Sgt. 1st Class Nathan R. Chapman, 31, of San Antonio, Texas. Died in Afghanistan. Died on January 4, 2002.

Army Staff Sgt. Brian T. Craig, 27, of Texas. Craig died as the result of an explosion during explosive clearing operations in Qandahar, Afghanistan. He was assigned to 710th Explosive Ordnance Detachment, San Diego, California. Died on April 15, 2002.

Army Spc. Rodrigo Gonzalez-Garza, 26, of Texas. Died in Kuwait. Died on February 24, 2003.

Air Force Airman 1st Class Raymond Losano, 24, of Del Rio, Texas. Losano was a tactical air command and control specialist assigned to the 14th Air Support Operation Squadron, Pope Air Force Base, North Carolina. Died on April 25, 2003.

Army Sgt. 1st Class John E. Taylor, 31, of Wichita Falls, Texas. Taylor suffered a heart attack after completing physical training in Kabul, Afghanistan. Taylor was assigned to 1st Battalion, 3rd Special Forces Group, Fort Bragg, North Carolina. Died on May 17, 2003.

Air Force Staff Sgt. John Teal, 29, of Dallas, Texas. Teal died in an HH–60 Pave Hawk accident in Afghanistan. He was assigned to the 41st Rescue Squadron, Moody Air Force Base, Georgia. Died on March 23, 2003.

Mr. BOSWELL. Mr. Speaker, at the close of business this week, we will journey back home to our districts. There, we will meet with our constituents and hear their concerns so that we may better serve them. We will also celebrate Memorial Day with them. Memorial Day is a very special day for me and my family, as I am sure it is for millions of other families across our great nation.

Prior to my years in public office, I proudly served my country in the United States Army. During my twenty years as a soldier, I served a number of overseas tours, including two tours in Vietnam. The years I spent wearing the uniform of my country will always be special to me, and the brave Americans I knew as a result of my service will always have a special place in my heart.

I would like to take this opportunity today to reflect upon the sacrifices our brave servicemen and women have made in the past and are making today as they honorably serve overseas in Iraq and Afghanistan. I know what it is like to serve in a hostile environment far away from the comforts of home, separated from your loved ones. I also know the joy they will feel when they return home to their families. However, war does not promise that everyone who serves will return home. War does not promise that families will see their brave soldiers again.

This Memorial Day, Iowans will join together with the rest of the nation as we honor those soldiers who gave the ultimate sacrifice to defend the United States, uphold our Constitution, and advance the cause of freedom around the world. We will honor GySgt. Jeffrey Bohr, Lance Cpl. Ben Carman, Pvt. Michael Deutsch, PO Trace Dossett, Sgt. Paul Fisher, Pvt. Kurt Frosheiser, Pfc. David Kirchhoff, Spc. Joshua Knowles, Sgt. Bradley Korthaus, Pvt. Kenneth Nalley, Spc. Aaron Sissel, CW4 Bruce Smith, Cpl. Michael R. Speer, and Pfc. Brandon Sturdy, brave Iowans who lost their lives serving in Iraq. I thank them for their sacrifice, and I, along with the rest of our nation, offer my deepest condolences to their families.

God bless our brave and honorable servicemen and women and their families. Your sacrifices will never be forgotten.

Mr. PEARCE. Mr. Speaker. From the troops still in the field today in the deserts of Iraq and mountains of Afghanistan, to the scores of veterans who have served in different theaters and eras, Memorial Day is a time to honor these American heroes and celebrate the freedoms that their sacrifices have secured.

This Memorial Day we stand victorious in liberating Iraq and Afghanistan, and our soldiers have struck another blow against international terrorism. These patriots and their families are making great sacrifices on behalf of this nation, this world and all of humanity.

This is also a time for our nation to remember the high price of freedom, as we mourn with the families whose loved ones do not return from the front lines. Memorial Day is a time to honor their lives and their sacrifice.

New Mexico has been reminded that freedom isn't free, as we have laid to rest four of our bravest sons and daughters.

Air Force 1st Lt. Tamara Archuleta, 23 years old, of Los Lunas, New Mexico died on March 23, 2003 in an HH–60 Pave Hawk accident in Afghanistan. She was assigned to the 41st Rescue Squadron, Moody Air Force Base, Georgia.

Army Sgt. Lee D. Todacheene, 29 years old from Farmington, New Mexico, was killed April 6, 2004 when mortar fire hit his guard post in Balad, Iraq. He was assigned to 1st Battalion, 77th Armored Regiment, 1st Infantry Division, Germany

Marine Corp Pfc. Christopher Ramos, 26 years old from Albuquerque, New Mexico, was killed April 5, 2004 by hostile fire in Anbar province, Iraq. He was assigned to the 1st Battalion, 5th Marines, 1st Marine Division, 1st Marine Expeditionary Force, Camp Pendleton, CA.

Marine Lance Corporal Aaron Austin, 21 years old from Lovington, NM. He was killed April 26, 2004 by hostile fire in Anbar province, Iraq. He was assigned to 2nd Battalion, 1st Marine Regiment, 1st Marine Division, 1st Marine Expeditionary Force, at Camp Pendleton, CA.

I ask for a Moment of Silence from this Body, to honor them, and their memory.

Mr. Speaker, Memorial Day is May 31st this year. But each day we live in freedom is a Memorial Day, and an opportunity to thank our brave members of the United States Military, as well as our Veterans. They have the eternal thanks for a grateful nation.

The time we spend with our families and friends over Memorial Day weekend is a time for us to turn back toward what is truly important: our faith, our families, and our precious freedom.

May God Continue to Bless America.

Mr. OSBORNE. Mr. Speaker, I rise today to honor the memories of eight brave soldiers from the Third District of Nebraska who gave the ultimate sacrifice for the freedom of our country.

Spc. Dennis B. Morgan, 22, of Valentine, Nebraska; Pvt. Noah L. Boye, 21, of Grand Island, Nebraska; Sgt. Cory R. Mracek, 26, of Hay Springs, Nebraska; Sgt. Dennis A. Corral, 33, of Kearney, Nebraska; Spc. James R. Wolf, 21, of Scottsbluff, Nebraska; Spc. Blake C. Kelly, 21 of Columbus, Nebraska; Petty Officer 3rd Class David J. Moreno, 26, Gering, Nebraska; and Capt. Travis A. Ford, 30, of Ogallala, Nebraska.

Having been in Iraq and Afghanistan just a few months ago, I fully appreciate the character and commitment of our troops.

We are truly blessed to have this quality of soldiers protecting our country.

We will never be able to express to these families our appreciation for what their loved ones have sacrificed for our freedom.

I know that words cannot lessen the grief that each family is experiencing.

I want you to know that I share some of that grief, because all of us in Congress feel deeply responsible for our troops.

I can assure you that these eight soldiers have not been lost in vain.

All of us are resolved to see this matter through to a successful conclusion, so that Dennis; Noah; Cory; Dennis; James; Blake; David; and Travis sacrifice and memory are honored.

Mr. Speaker, may we all take a moment this Memorial Day to remember that our freedom has been bought with a price.

Mr. RANGEL. Mr. Speaker, I rise today to honor the brave soldiers who have given their lives while serving our great Nation during war. For 136 years American citizens have used Memorial Day as a special day to honor the servicemen and women who have made the ultimate sacrifice for our country. Flowers and candles are lit on the graves of our heroes, ceremonies are held and Americans all over the country recognize the fallen soldiers in silence and solemnity.

Memorial Day is also a day where we should think about our values and appreciate how lucky we are to live in a free and democratic country. We should remember Franklin D. Roosevelt's words of January 6, 1941 when he outlined his hopes for a better future for the world. "In the future days, which we seek to make secure, we look forward to a world founded upon four essential human freedoms. The first is freedom of speech and expression—everywhere in the world. The second is freedom of every person to worship God in his own way—everywhere in the world. The third is freedom from want—which, translated into world terms, means economic understandings which will secure to every nation a healthy peacetime life for its inhabitants—everywhere in the world. The fourth is freedom from fear—which, translated into world terms, means a world-wide reduction of armaments to such a point and in such a thorough fashion that no nation will be in a position to commit an act of physical aggression against any neighhbor—anywhere in the world."

Memorial Day is a day when we should remember that there are still nations in the world which do not have these four freedoms. American soldiers are still fighting abroad to help people free themselves from oppression.

Sadly, this Memorial Day we also have to remember that we are a nation at war. But whatever we think about this war should not undermine our unity in support of the brave troops fighting in Iraq. America stands behind the servicemen and women who, day after day, risk their lives. Almost 800 U.S. men and women in uniform have been killed in Iraq to the current date. I submit a list of the names of these heroes to be entered into the CONGRESSIONAL RECORD.

Let us use Memorial Day to show our deep appreciation for these heroes. I again want to offer my sincerest sympathy to the families of the fallen soldiers. It is hard to imagine the pain these families are going through. But they can be assured that Americans will forever remember their loved ones with pride and gratefulness.

I have founded the Iraq Fallen Heroes Caucus to honor the fallen heroes and to actively support their families. Seventy-three Members of Congress—Democrats as well as Republicans—are already members of this caucus and I hope that more will join.

I again want to commend our soldiers for their great courage and willingness to fight for our country and encourage all Americans to use Memorial Day to honor our troops and remember those who have given their lives for the United States.

U.S. CASUALTIES IN IRAQ AS OF MAY 17, 2004

[Sorted by State of Residence]

Date	Branch	Rank and name	Age	State	Hometown
23-Mar-03	Army	Pfc. Howard Johnson II	21	AL	Mobile.
6-Apr-03	Army	Pvt. Kelley S. Prewitt	24	AL	Birmingham.
14-Apr-03	Army	Pfc. John E. Brown	21	AL	Troy.
22-Apr-03	Army	Chief Warrant Officer Robert William Channell, Jr	36	AL	Tuscaloosa.
24-Jun-03	Army	Spc. Cedric L. Lennon	32	AL	West Blocton.
28-Jun-03	Army	Sgt. Timothy M. Conneway	22	AL	Enterprise.
20-Jul-03	Army	Sgt. 1st Class Christopher R. Willoughby	29	AL	Phenix City.
4-Sept-03	Air Force	Tech. Sgt. Bruce E. Brown	32	AL	Coatopa.
21-Oct-03	Army	Pfc. Paul J. Bueche	19	AL	Daphne.
27-Oct-03	Army	Sgt. Aubrey D. Bell	33	AL	Tuskegee.
26-Dec-03	Army	Spc Charles G. Haight	23	AL	Jacksonville.
8-Jan-04	Army	Chief Warrant Officer Philip A. Johnson, Jr	31	AL	Mobile.
23-Jan-04	Army	Chief Warrant Officer Brian D. Hazelgrove	29	AL	Fort Rucker.
16-Feb-04	Army	Spc. Christopher M. Taylor	25	AL	Daphne.
4-Apr-04	Army	Spc. Ahmed A. Cason	24	AL	McCalla.
4-Apr-04	Army	Spc. Stephen D. Hiller	25	AL	Opelika.
10-Apr-04	Marine	Lance Cpl. John T. Sims, Jr	21	AL	Alexander City.
25-Mar-03	Navy	Hospital Corpsman 3rd Class Michael Vann Johnson	25	AR	Little Rock.
26-Jul-03	Army	Pfc. Jonathan M. Cheatham	19	AR	Camden.
12-Sep-03	Army	Master Sgt. Kevin N. Morehead	33	AR	Little Rock.
18-Mar-04	Marine	Pfc. Brandon C. Smith	20	AR	Washington.
6-Apr-04	Army	Sgt. 1st Class William W. Labadie, Jr	45	AR	Bauxite.
24-Apr-04	Army	Staff Sgt. Stacy C. Brandon	35	AR	Hazen.
24-Apr-04	Army	Capt. Arthur L. Felder	36	AR	Lewisville.
24-Apr-04	Army	Chief Warrant Officer Patrick W. Kordsmeier	49	AR	North Little Rock.
24-Apr-04	Army	Staff Sgt. Billy J. Orton	41	AR	Humnoke.
6-May-04	Army	Staff Sgt. Hesley Box	24	AR	Nashville.
23-Mar-03	Army	Pfc. Lori Ann Piestewa	23	AZ	Tuba City.
28-Mar-03	Marine	Sgt. Fernando Padilla-Ramirez	26	AZ	Yuma.
2-Apr-03	Navy	Lt. Nathan D. White	30	AZ	Mesa.
18-Jun-03	Army	Staff Sgt. William T. Latham	29	AZ	Kingman.
26-Jun-03	Navy	Seaman Joshua McIntosh	22	AZ	Kingman.
30-Aug-03	Army	Sgt. Sean K. Cataudella	28	AZ	Tucson.
15-Sep-03	Army	Spc. Alyssa R. Peterson	27	AZ	Flagstaff.
6-Oct-03	Army	Spc. Spencer T. Karol	20	AZ	Woodruff.
17-Oct-03	Marine	Lance Cpl. Michael J. Williams	31	AZ	Yuma.
28-Oct-03	Army	Spec. Issac Campoy	21	AZ	Douglas.
24-Dec-03	Army	Command Sgt. Major Eric F. Cooke	43	AZ	Scottsdale.
9-Feb-04	Army	Sgt. Elijah Tai Wah Wong	42	AZ	Mesa.
17-Feb-04	Army	Spc. Michael M. Merila	23	AZ	Sierra Vista.
25-Feb-04	Army	Chief Warrant Officer Matthew C. Laskowski	32	AZ	Phoenix.
12-Apr-04	Marine	Lance Cpl. Robert P. Zurheide, Jr	20	AZ	Tucson.
21-Mar-03	Marine	Lance Cpl. Jose Gutierrez	22	CA	Los Angeles.
22-Mar-03	Navy	Lt. Thomas Mullen Adams	27	CA	La Mesa.
23-Mar-03	Marine	Cpl Randal Kent Rosacker	21	CA	San Diego.
23-Mar-03	Marine	Sgt. Michael E. Bitz	31	CA	Ventura.
23-Mar-03	Marine	Cpl Jose A. Garibay	21	CA	Costa Mesa.
23-Mar-03	Marine	Cpl. Jorge A. Gonzalez	20	CA	Los Angeles.
25-Mar-03	Marine	Lance Cpl. Patrick T. O'Day	20	CA	Sonoma.

U.S. CASUALTIES IN IRAQ AS OF MAY 17, 2004—Continued

[Sorted by State of Residence]

Date	Branch	Rank and name	Age	State	Hometown
25–Mar–03	Marine	Pfc. Francisco A. Martinez-Flores	21	CA	Los Angeles.
27–Mar–03	Marine	Gunnery Sgt. Joseph Menusa	33	CA	San Jose.
27–Mar–03	Marine	Lance Cpl. Jesus A. Suarez del Solar	20	CA	Escondido.
3–Apr–03	Marine	Cpl. Erik H. Silva	22	CA	Chula Vista.
4–Apr–03	Army	Pvt. Devon D. Jones	19	CA	San Diego.
8–Apr–03	Army	Sgt. 1st Class John W. Marshall	50	CA	Los Angeles.
12–Apr–03	Marine	Cpl. Jesus A. Gonzalez	22	CA	Indio.
24–Apr–03	Army	Sgt. Troy David Jenkins	25	CA	Ridgecrest.
25–Apr–03	Army	1st Lt. Osbaldo Orozco	26	CA	Delano.
12–May–03	Marine	Pfc. Jose Franci Gonzalez Rodriguez	19	CA	Norwalk.
18–May–03	Marine	Cpl. Douglas Jose Marencoreyes	28	CA	Chino.
19–May–03	Marine	Capt. Andrew David La Mont	31	CA	Eureka.
19–May–03	Marine	Lance Cpl. Jason William Moore	21	CA	San Marcos.
3–Jun–03	Army	Sgt. Atanacio Haro Marin	27	CA	Baldwin Park.
19–Jun–03	Army	Spc. Paul T. Nakamura	21	CA	Santa Fe Springs.
25–Jun–03	Army	Spec. Andrew F. Chris	25	CA	San Diego.
9–Jul–03	Marine	Lance Cpl. Jason Andrew Tetrault	20	CA	Moreno Valley.
15–Jul–03	Marine	Lance Cpl. Cory Ryan Geurin	18	CA	Santee.
24–Jul–03	Army	Cpl. Evan Asa Ashcraft	24	CA	Los Angeles.
10–Aug–03	Army	Staff Sgt. David S. Perry	36	CA	Bakersfield.
12–Aug–03	Army	Pfc. Daniel R. Parker	18	CA	Lake Elsinore.
21–Aug–03	Navy	Lt. Kylan A. Jones-Huffman	31	CA	Aptos.
25–Aug–03	Army	Pfc. Pablo Manzano	19	CA	Heber.
9–Oct–03	Army	Pvt. Sean A. Silva	23	CA	Roseville.
13–Oct–03	Army	Pfc. Jose Casanova	23	CA	El Monte.
16–Oct–03	Army	Cpl. Sean R. Grilley	24	CA	San Bernardino.
24–Oct–03	Army	Spc. Jose L. Mora	26	CA	Bell Gardens.
24–Oct–03	Army	Sgt. Michael S. Hancock	29	CA	Yreka.
26–Oct–03	Army	Pfc. Steven Acosta	19	CA	Calexico.
31–Oct–03	Army	2nd Lt. Todd J. Bryant	23	CA	Riverside.
2–Nov–03	Army	Pfc. Karina S. Lau	20	CA	Livingston.
2–Nov–03	Army	Staff Sgt. Paul A. Velazquez	29	CA	San Diego.
11–Nov–03	Army	Spc. Genaro Acosta	26	CA	Fair Oaks.
15–Nov–03	Army	Sgt. 1st Class Kelly Bolor	37	CA	Whittier.
23–Nov–03	Army	Spc. Rel A. Ravago IV	21	CA	Glendale.
23–Nov–03	Army	Staff Sgt. Eddie E. Menyweather	35	CA	Los Angeles.
23–Nov–03	Army	CW2 Christopher G. Nason	39	CA	Los Angeles.
29–Nov–03	Army	Staff Sgt. Stephen A. Bertolino	40	CA	Orange.
2–Dec–03	Army	Sgt. Ryan C. Young	21	CA	Corona.
5–Dec–03	Army	Spc. Arron R. Clark	20	CA	Chico.
8–Dec–03	Army	Staff Sgt. Steven H. Bridges	33	CA	Tracy.
10–Dec–03	Army	Staff Sgt. Richard A. Burdick	24	CA	National City.
26–Dec–03	Army	Spc. Michael G. Mihalakis	18	CA	San Jose.
30–Dec–03	Army	Spc. Justin W. Pollard	21	CA	Foothill Ranch.
7–Jan–04	Army	Pfc. Jesse D. Mizener	24	CA	Auburn.
8–Jan–04	Army	Spc. Michael A. Diraimondo	22	CA	Simi Valley.
14–Jan–04	Army	Sgt. Keicia M. Hines	27	CA	Citrus Heights.
24–Jan–04	Army	Spc. Jason K. Chappell	22	CA	Hemet.
31–Jan–04	Army	Sgt. Eliu A. Miersandoval	27	CA	San Clemente.
10–Feb–04	Air Force	Master Sgt. Jude C. Mariano	39	CA	Vallejo.
11–Feb–04	Army	Sgt. Patrick S. Tainsh	33	CA	Oceanside.
12–Feb–04	Army	Spc. Eric U. Ramirez	31	CA	San Diego.
11–Mar–04	Army	Spc. Christopher K. Hill	26	CA	Ventura.
13–Mar–04	Army	Pfc. Joel K. Brattain	21	CA	Santa Ana.
20–Mar–04	Army	Maj. Mark D. Taylor	41	CA	Stockton.
20–Mar–04	Army	1st Lt. Michael W. Vega	41	CA	Lathrop.
22–Mar–04	Marine	Lance Cpl. Andrew S. Dang	20	CA	Foster City.
30–Mar–04	Marine	Lance Cpl. William J. Wiscowiche	20	CA	Victorville.
4–Apr–04	Army	Sgt. Michael W. Mitchell	25	CA	Porterville.
4–Apr–04	Army	Spc. Casey Sheehan	24	CA	Vacaville.
6–Apr–04	Marine	Lance Cpl. Marcus M. Cherry	18	CA	Imperial.
6–Apr–04	Marine	Lance Cpl. Kyle D. Crowley	18	CA	San Ramon.
6–Apr–04	Marine	Lance Cpl. Travis J. Layfield	19	CA	Fremont.
6–Apr–04	Marine	Staff Sgt. Allan K. Walker	28	CA	Lancaster.
8–Apr–04	Marine	Staff Sgt. William M. Harrell	30	CA	Placentia.
8–Apr–04	Marine	1st Lt. Joshua M. Palmer	25	CA	Banning.
9–Apr–04	Marine	Pfc. Eric A. Ayon	26	CA	Arleta.
11–Apr–04	Marine	1st Lt. Oscar Jimenez	34	CA	San Diego.
11–Apr–04	Marine	Pfc. George D. Torres	23	CA	Long Beach.
12–Apr–04	Marine	Lance Cpl. Brad S. Shuder	21	CA	El Dorado.
13–Apr–04	Army	Staff Sgt. Victor A. Rosaleslomeli	29	CA	Westminister.
15–Apr–04	Marine	Staff Sgt. Jimmy J. Arroyave	30	CA	Woodland.
16–Apr–04	Army	Sgt. Brian M. Wood	21	CA	Torrence.
17–Apr–04	Marine	Capt. Richard J. Gannon II	31	CA	Escondido.
18–Apr–04	Marine	Cpl. Christopher A. Gibson	23	CA	Simi Valley.
20–Apr–04	Army	Pfc. Leroy Harris-Kelly	20	CA	Azusa.
27–Apr–04	Army	Staff Sgt. Abraham D. Penamedina	32	CA	Los Angeles.
29–Apr–04	Army	Spc. James L. Beckstrand	27	CA	Escondido.
29–Apr–04	Army	Sgt. Adam W. Estep	23	CA	Campbell.
1–May–04	Army	Spc. Ramon C. Ojeda	22	CA	Ramona.
1–May–04	Army	Spc. Trevor A. Win'E	22	CA	Orange.
3–May–04	Army	Pfc. Lyndon A. Marcus, Jr	21	CA	Long Beach.
3–May–04	Army	Sgt. Marvin R. Sprayberry III	24	CA	Tehachapi.
13–May–04	Marine	Pfc. Brian K. Cutter	19	CA	Riverside.
14–May–04	Army	Sgt. Brud J. Cronkrite	22	CA	Spring Valley.
14–May–04	Army	Pfc. Michael A. Mora	19	CA	Arroyo Grande.
23–Mar–03	Marine	Lance Cpl. Thomas J. Slocum	22	CO	Thornton.
3–Apr–03	Army	Capt. Russell B. Rippetoe	27	CO	Arvada.
3–Apr–03	Army	Sgt. 1st Class Randall S. Rehn	36	CO	Longmont.
27–May–03	Army	Sgt. Thomas F. Broomhead	34	CO	Canon City.
7–Jul–03	Army	Staff Sgt. Barry Sandford Sr	46	CO	Aurora.
29–Aug–03	Army	Staff Sgt. Mark A. Lawton	41	CO	Hayden.
24–Dec–03	Army	Sgt. Michael E. Yashinski	24	CO	Monument.
9–Apr–04	Marine	Pfc. Chance R. Phelps	19	CO	Clifton.
29–Apr–04	Army	Pfc. Ryan E. Reed	20	CO	Colorado Springs.
23–Mar–03	Marine	Staff Sgt. Phillip A. Jordan	42	CT	Enfield.
23–Mar–03	Marine	Cpl. Kemaphoom A. Chanawongse	22	CT	Waterford.
20–Jul–03	Army	Sgt. Jason D. Jordan	24	CT	Enfield.
26–Jul–03	Army	Pfc. Wilfredo Perez, Jr	24	CT	Norwalk.
12–Aug–03	Army	Staff Sgt. Richard S. Eaton, Jr	37	CT	Guilford.
2–Nov–03	Army	Pfc. Anthony D. D'Agostino	20	CT	Waterbury.
12–Dec–03	Army	Pfc. Jeffrey F. Braun	19	CT	Stafford.
7–Apr–04	Army	Spc. Tyanna S. Felder	22	CT	Bridgeport.
9–Apr–04	Army	Sgt. Felix M. Delgreco	22	CT	Simsbury.
25–Jun–03	Marine	Lance Cpl. Gregory E. MacDonald	29	DC	Washington.
26–Aug–03	Army	Spc. Darryl T. Dent	21	DC	Washington.

U.S. CASUALTIES IN IRAQ AS OF MAY 17, 2004—Continued

[Sorted by State of Residence]

Date	Branch	Rank and name	Age	State	Hometown
30-Mar-03	Marine	Sgt. Brian McGinnis	23	DE	Saint Georges.
3-Apr-03	Army	Spc. Ryan P. Long	21	DE	Seaford.
7-Sep-03	Army	Spc. Jarrett B. Thompson	27	DE	Dover.
6-Apr-04	Marine	Lance Cpl. Anthony P. Roberts	18	DE	Bear.
23-Mar-03	Marine	Lance Cpl. Brian Rory Buesing	20	FL	Cedar Key.
3-Apr-03	Army	Staff Sgt. Wilbert Davis	40	FL	Tampa.
4-Apr-03	Army	Sgt. 1st Class Paul R. Smith	33	FL	Tampa
7-Apr-03	Marine	Lance Cpl. Andrew Julian Aviles	18	FL	Palm Beach.
14-Apr-03	Marine	Cpl. Armando Ariel Gonzalez	25	FL	Hialeah.
17-Apr-03	Army	Cpl. John T. Rivero	23	FL	Tampa.
26-May-03	Army	Sgt. Keman L. Mitchell	24	FL	Hilliard.
27-May-03	Army	Staff Sgt. Michael B. Quinn	37	FL	Tampa.
6-Jul-03	Army	Spc. Jeffrey M. Wershow	22	FL	Gainesville.
3-Oct-03	Army	Pfc. Charles M. Sims	18	FL	Miami.
12-Nov-03	Army	Spc. Robert A. Wise	21	FL	Tallahassee.
20-Nov-03	Army	Spc. Robert D. Roberts	21	FL	Winter Park.
8-Jan-04	Army	Chief Warrant Officer Aaron A. Weaver	32	FL	Inverness.
8-Jan-04	Army	Chief Warrant Officer Ian D. Manuel	23	FL	
17-Jan-04	Army	Pfc. Cody J. Orr	21	FL	Ruskin.
17-Jan-04	Army	Sgt. Edmond L. Randle	26	FL	Miami.
1-Mar-04	Army	Spc. Michael R. Woodliff	22	FL	Port Charlotte.
17-Mar-04	Army	Spc. Tracy L. Laramore	30	FL	Okaloosa.
24-Mar-04	Army	SSgt. Wentz Jerome Henry Shanaberger III	33	FL	Naples.
6-Apr-04	Marine	Pfc. Christopher R. Cobb	19	FL	Brandenton.
9-Apr-04	Army	Staff Sgt. Raymond E. Jones, Jr	31	FL	Gainesville.
17-Apr-04	Army	Sgt. Jonathan N. Hartman	27	FL	Jacksonville.
20-Apr-04	Army	Sgt. 1st Class Bradley C. Fox	34	FL	Orlando.
29-Apr-04	Army	Pfc. Jeremy Ricardo Ewing	22	FL	Miami.
29-Apr-04	Army	Spc. Justin B. Schmidt	23	FL	Bradenton.
30-Apr-04	Navy	Navy Petty Officer 2nd Class Jason B. Dwelley	31	FL	Apopka.
2-May-04	Navy	Petty Officer 2nd Class Michael C. Anderson	36	FL	Daytona
2-May-04	Navy	Petty Officer 2nd Class Trace W. Dossett	37	FL	Orlando.
2-May-04	Navy	Petty Officer 3rd Class Ronald A. Ginther	37	FL	Auburndale.
2-May-04	Navy	Petty Officer 2nd Class Robert B. Jenkins	35	FL	Stuart.
2-May-04	Navy	Petty Officer 2nd Class Scott R. Mchugh	33	FL	Boca Raton.
2-May-04	Army	Capt. John E. Tipton	32	FL	Fort Walton Beach.
3-May-04	Army	1st Lt. Christopher J. Kenny	32	FL	Miami
6-May-04	Marine	Cpl. Dustin H. Schrage	20	FL	Brevard.
8-May-05	Marine	Cpl. Ronald R. Payne, Jr	23	FL	Lakeland.
23-Mar-03	Army	Spc. Jamaal R. Addison	22	GA	Roswell.
29-Mar-03	Army	Pfc. Diego Fernando Rincon	19	GA	Conyers.
29-Mar-03	Army	Pfc. Michael Russell Creighton Weldon	20	GA	Conyers.
3-Apr-03	Army	Capt. Edward J. Korn	31	GA	Savannah.
14-May-03	Army	Spc. David T. Nutt	32	GA	Blackshear.
12-Jun-03	Army	Spc. John K. Klinesmith, Jr	25	GA	Stockbridge.
14-Jul-03	Army	Sgt. Michael T. Crockett	27	GA	Soperton.
28-Jul-03	Army	Sgt. Nathaniel Hart, Jr	29	GA	Valdosta.
20-Aug-03	Army	Staff Sgt. Bobby C. Franklin	38	GA	Mineral Bluff.
13-Oct-03	Army	Pvt. Benjamin L. Freeman	19	GA	Valdosta.
23-Nov-03	Army	Command Sgt. Maj. Jerry L. Wilson	45	GA	Thomson.
11-Dec-03	Army	Spec. Marshall L. Edgerton	27	GA	Rocky Face.
17-Dec-03	Army	Spc. Christopher J. Holland	26	GA	Brunswick.
8-Jan-04	Army	Spc. Nathaniel H. Johnson	22	GA	Augusta.
12-Jan-04	Army	Staff Sgt. Ricky L. Crockett	37	GA	Broxton.
15-Mar-04	Army	Sgt. William J. Normandy	42	GA	Augusta.
16-Mar-04	Army	Master Sgt. Thomas R. Thigpen, Sr	52	GA	Augusta.
2-Apr-04	Army	Pfc. William R. Strange	19	GA	Adrian.
10-Apr-04	Air Force	Airman 1st Class Antoine J. Holt	20	GA	Kennesaw.
10-Apr-04	Army	Spc. Justin W. Johnson	22	GA	Rome.
17-Apr-04	Army	Spc. Marvin A. Camposiles	25	GA	Austell.
27-Apr-04	Army	Pfc. Marquis A. Whitaker	20	GA	Columbus.
30-Apr-04	Navy	Petty Officer 3rd Class Christopher M. Dickerson	33	GA	Eastman.
1-Sep-03	Army	Staff Sgt. Cameron B. Sarno	43	HI	Waipahu.
24-Mar-03	Marine	Sgt. Bradley S. Korthaus	28	IA	Davenport.
10-Apr-03	Marine	Gunnery Sgt. Jeffrey E. Bohr, Jr	39	IA	Ossian.
26-May-03	Army	Pvt. Kenneth A. Nalley	19	IA	Hamburg.
31-Jul-03	Army	Pvt. Michael J. Deutsch	21	IA	Dubuque.
14-Aug-03	Army	Pfc. David M. Kirchhoff	31	IA	Cedar Rapds.
2-Nov-03	Army	Chief Warrant Officer Bruce A. Smith	41	IA	West Liberty.
6-Nov-03	Army	Sgt. Paul F. Fisher	39	IA	Cedar Rapids.
8-Nov-03	Army	Pvt. Kurt R. Frosheiser	22	IA	Des Moines.
29-Nov-03	Army	Spc. Aaron J. Sissel	22	IA	Tipton.
5-Feb-04	Army	Spc. Joshua Knowles	23	IA	Sheffield.
6-Apr-04	Marine	Pfc. Benjamin R. Carman	20	IA	Jefferson.
9-Apr-04	Marine	Cpl. Michael R. Speer	24	IA	Davenport
13-Mar-04	Marine	Pfc. Brandon C. Sturdy	19	IA	Urbandale.
24-Mar-03	Air National Guard	Maj. Gregory Stone	40	ID	Boise.
9-May-03	Army	Cpl. Richard P. Carl	26	ID	Glenns Ferry.
10-Dec-03	Army	Pfc. Jerrick M. Petty	25	ID	Idaho Falls.
31-Mar-04	Army	Pfc. Cleston C. Raney	20	ID	Rupert.
20-Mar-03	Marine	Capt. Ryan Anthony Beaupre	30	IL	Bloomington.
23-Mar-03	Army	Staff Sgt. Andrew R. Pokorny	30	IL	Naperville.
23-Mar-03	Marine	Pvt. Jonathan L. Gifford	30	IL	Decatur.
24-Mar-03	Marine	Cpl. Evan T. James	20	IL	La Harpe.
31-Mar-03	Army	Spc. Brandon J. Rowe	20	IL	Roscoe.
5-Apr-03	Marine	1st Sgt. Edward Smith	38	IL	Chicago.
7-Apr-03	Army	Staff Sgt. Lincoln D. Hollinsaid	27	IL	Malden.
12-May-03	Marine	Lance Cpl. Jakub Henryk Kowalik	21	IL	Schaumburg.
13-May-03	Marine	Lance Cpl. Nicholas Brian Kleiboeker	19	IL	Irvington.
19-May-03	Marine	1st Lt. Timothy Louis Ryan	30	IL	Aurora.
26-Jun-03	Army	Spc. Corey A. Hubbell	20	IL	Urbana.
8-Aug-03	Army	Pfc. Brandon Ramsey	21	IL	Calumet City.
8-Aug-03	Army	Pvt. Matthew D. Bush	20	IL	East Alton.
2-Sep-03	Army	Pfc. Christopher A. Sisson	20	IL	Oak Park.
9-Sep-03	Army	Spc. Ryan G. Carlock	25	IL	Macomb.
2-Nov-03	Army	1st Lt. Brian D. Slavenas	30	IL	Genoa
15-Nov-03	Army	Spc. William D. Dusenbery	30	IL	Fairview Heights.
15-Nov-03	Army	Spc. John R. Sullivan	26	IL	Countryside.
20-Nov-03	Army	Pvt. Scott M. Tyrrell	21	IL	Sterling.
1-Dec-03	Army	Spc. Uday Singh	21	IL	Lake Forest.
26-Dec-03	Army	Staff Sgt. Michael Sutter	28	IL	Tinley Park.
17-Mar-04	Army	Sgt. Ivory L. Phipps	44	IL	Chicago.
4-Apr-04	Army	Cpl. Forest J. Jostes	22	IL	Albion.
4-Apr-04	Marine	Pfc. Geoffery S. Morris	19	IL	Gurnee.
8-Apr-04	Marine	Lance Cpl. Phillip E. Frank	20	IL	Elk Grove.
9-Apr-04	Army	Pfc. Gregory R. Goodrich	37	IL	Bartonville.

U.S. CASUALTIES IN IRAQ AS OF MAY 17, 2004—Continued

[Sorted by State of Residence]

Date	Branch	Rank and name	Age	State	Hometown
11-Apr-04	Marine	Lance Cpl. Torrey L. Gray	19	IL	Patoka.
23-Apr-04	Army	Pfc. Shawn C. Edwards	20	IL	Bensenville.
29-Apr-04	Army	Sgt. Landis W. Garrison	23	IL	Rapids City.
1-May-04	Army	Staff Sgt. Oscar D. Vargas-Medina	32	IL	Chicago.
23-Mar-03	Marine	Lance Cpl. David K. Fribley	26	IN	Warsaw.
24-Mar-03	Army	Spc. Gregory P. Sanders	19	IN	Hobart.
26-Mar-03	Army	Spc. William A. Jeffries	39	IN	Evansville.
4-Apr-03	Marine	Sgt. Duane R. Rios	25	IN	Griffith.
22-Apr-03	Army	Spc. Roy Russell Buckley	24	IN	Portage.
10-May-03	Marine	Lance Cpl. Matthew R. Smith	20	IN	Anderson.
7-Jun-03	Army	Pvt. Jesse M. Halling	19	IN	Indianapolis.
16-Jun-03	Army	Pvt. Shawn D. Pahnke	25	IN	Shelbyville.
7-Jul-03	Army	Spc. Chad L. Keith	21	IN	Batesville.
8-Jul-03	Army	Pvt. Robert L. McKinley	23	IN	Kokomo.
8-Jul-03	Army	Sgt. 1st Class Craig A. Boling	38	IN	Elkhart.
5-Aug-03	Army	Spc. Ronald D. Allen Jr.	22	IN	Mitchell.
20-Sep-03	Army	Staff Sgt. Frederick L. Miller, Jr	27	IN	Hagerstown.
2-Nov-03	Army	Spc. Brian H. Penisten	28	IN	Fort Wayne.
6-Nov-03	Army	Spc. James A. Chance III	25	IN	KoKomo.
23-Nov-03	Army	Cpl. Darrell Smith	28	IN	Otwell.
12-Dec-03	Army	Sgt. Jarrod W. Black	26	IN	Peru.
5-Jan-04	Army	Spc. Luke P. Frist	20	IN	West Lafayette.
21-Mar-04	Army	Pfc. Christopher E. Hudson	21	IN	Carmel.
4-4-04	Army	Pfc. John D. Amos II	22	IN	Valparaiso.
6-Apr-04	Marine	Pfc. Deryk L. Hallal	24	IN	Indianapolis.
1-Apr-03	Army	Sgt. Jacob L. Butler	24	KS	Wellsville.
15-Jun-03	Marine	Pfc. Ryan R. Cox	19	KS	Derby.
25-Sep-03	Army	Spc. Kyle G. Thomas	23	KS	Topeka.
30-Sep-03	Army	Spc. Dustin K. McGaugh	20	KS	Derby.
20-Nov-03	Army	Spc. Joseph L. Lister	22	KS	Pleasanton.
31-Jan-04	Army	Cpt. Juan C. Cabralbanuelos	25	KS	Emporia.
21-Mar-04	Army	Pvt. Dustin L. Kreider	19	KS	Riverton.
8-Apr-04	Marine	Lance Cpl. Christopher B. Wasser	21	KS	Ottawa.
2-May-04	Army	Pvt. Jeremy L. Drexler	23	KS	Topeka.
29-Sep-03	Army	Sgt. Darrin K. Potter	24	KY	Louisville.
12-Oct-03	Army	Spc. James E. Powell	26	KY	Radcliff.
15-Nov-03	Army	Sgt. Michael D. Acklin II	25	KY	Louisville.
21-Nov-03	Army	Cpl. Gary B. Coleman	24	KY	Pikeville.
27-Jan-04	Army	Sgt. James T. Hoffman	41	KY	Whitesburg.
19-Feb-04	Army	2nd Lt. Jeffrey C. Graham	24	KY	Elizabethtown.
7-Apr-04	Army	Staff Sgt. George S. Rentschler	31	KY	Louisville.
8-Apr-04	Marine	Cpl. Nicholas J. Dieruf	21	KY	Versailles.
17-Apr-04	Army	1st Lt. Robert L. Henderson II	33	KY	Alvaton.
14-May-04	Army	Sgt. James W. Harlan	44	KY	Owensboro.
4-Apr-03	Army	Pfc. Wilfred D. Bellard	20	LA	Lake Charles.
9-Aug-03	Army	Spc. Levi B. Kinchen	21	LA	Tickfaw.
9-Aug-03	Army	Sgt. Floyd G. Knighten, Jr	55	LA	Olla.
12-Aug-03	Army	Sgt. Taft V. Williams	29	LA	New Orleans.
29-Sep-03	Army	Pfc. Kristian E. Parker	23	LA	Slidell.
8-Jan-04	Army	Staff Sgt. Craig Davis	37	LA	Opelousas.
7-Mar-04	Army	Capt. Gussie M. Jones	41	LA	
9-Apr-04	Army	Staff Sgt. Toby W. Mallet	26	LA	Kaplan.
14-May-04	Army	Command Sgt. Maj. Edward C. Barnhill	50	LA	Shreveport.
2-Apr-03	Army	Spc. Mathew G. Boule	22	MA	Dracut.
4-Apr-03	Marine	Capt. Benjamin W. Sammis	29	MA	Rehoboth.
4-Apr-03	Marine	1st Lt. Brian M. McPhillips	25	MA	Pembroke.
20-Jul-03	Army	Sgt. Justin W. Garvey	23	MA	Townsend.
1-Sep-03	Army	Staff Sgt. Joseph Camara	40	MA	New Bedford.
16-Oct-03	Staff	Sgt. Joseph P. Bellavia	28	MA	Wakefield.
18-Oct-03	Army	Pfc. John D. Hart	20	MA	Bedford.
7-Nov-03	Army	Chief Warrant Officer Kyran E. Kennedy	43	MA	Boston.
18-Dec-03	Army	Sgt. Glenn R. Allison	24	MA	Pittsfield.
23-Dec-03	Army	Sgt. Theodore L. Perreault	33	MA	Webster.
21-Jan-04	Army	Spc. Gabriel T. Palacios	22	MA	Lynn.
25-Feb-04	Army	Chief Warrant Officer Stephen M. Wells	29	MA	Egremont.
13-Mar-04	Army	Sgt. Daniel J. Londono	22	MA	Boston.
19-Mar-04	Marine	Cpl. David M. Vicente	25	MA	Methuen.
25-Mar-04	Marine	LCpl. Jeffrey C. Burgess	20	MA	Plymouth.
9-Apr-04	Army	Spc. Peter G. Enos	24	MA	South Dartmouth.
29-Apr-04	Army	Pfc. Norman Darling	29	MA	Middleboro.
20-Mar-03	Marine	Staff Sgt. Kendall Dannon Waters-Bey	29	MD	Baltimore.
7-Apr-03	Army	Spc. George A. Mitchell	35	MD	Rawlings.
14-Apr-03	Marine	Cpl. Jason David Mileo	20	MD	Centreville.
8-Nov-03	Army	Command Sgt. Maj. Cornell W. Gilmore I	45	MD	Baltimore.
8-Jan-04	Army	Sgt. Jeffrey C. Walker	33	MD	Havre de Grace.
25-Jan-04	Army	Lt. Adam G. Mooney	28	MD	Cambridge.
13-Feb-04	Army	Pvt. Bryan N. Spry	19	MD	Chestertown.
13-Mar-04	Army	Spc. Jason C. Ford	21	MD	Bowie.
31-Mar-04	Army	Pvt. Brandon L. Davis	20	MD	Cumberland.
15-May-04	Army	Chief Warrant Officer Bruce E. Price	37	MD	
20-Mar-03	Marine	Maj. Jay Thomas Aubin	36	ME	Waterville.
4-Apr-03	Army	Spc. Daniel Francis J. Cunningham	33	ME	Lewiston.
7-Nov-03	Army	Chief Warrant Officer Sharon T. Swartworth	43	ME	Litchfield.
29-Mar-04	Army	Spc. Jeremiah J. Holmes	27	ME	North Berwick.
20-Apr-04	Army	Spc. Christopher D. Gelineau	23	ME	Portland.
26-Apr-04	Army	Sgt. Lawrence A. Roukey	33	ME	Westbrook.
26-Mar-03	Marine	Maj. Kevin Nave	36	MI	Union.
2-Apr-03	Army	Sgt. Michael F. Pedersen	26	MI	Flint.
3-Apr-03	Army	Sgt. Todd J. Robbins	33	MI	Pentwater.
8-Apr-03	Army	Pfc. Jason M. Meyer	23	MI	Swartz Creek.
8-Apr-03	Air Force	Staff Sgt. Scott D. Sather	29	MI	Clio.
8-Apr-03	Marine	Pfc. Juan Guadalupe Garza, Jr	20	MI	Temperance.
14-Apr-03	Army	Spc. Richard A. Goward	32	MI	Midland.
3-May-03	Army	Sgt. Sean C. Reynolds	25	MI	East Lansing.
16-May-03	Army	Master Sgt. William L. Payne	46	MI	Otsego.
26-May-03	Army	Staff Sgt. Brett J. Petriken	30	MI	Flint.
13-Jul-03	Army	Capt. Paul J. Cassidy	36	MI	Laingsburg.
6-Aug-03	Army	Staff Sgt. Brian R. Hellermann	35	MI	Freeport.
14-Sep-03	Army	Sgt. Trevor A. Blumberg	22	MI	Canton.
13-Oct-03	Army	Spc. Donald L. Wheeler	22	MI	Concord.
20-Oct-03	Army	Staff Sgt. Paul J. Johnson	29	MI	Calumet.
24-Oct-03	Army	Spc. Artimus D. Brassfield	22	MI	Flint.
8-Nov-03	Army	Staff Sgt. Mark D: Vasquez	35	MI	Port Huron.
22-Nov-03	Army	Pfc. Damian S. Bushart	22	MI	Waterford.
8-Dec-03	Army	Pfc. Jason G. Wright	19	MI	Luzerne.
25-Dec-03	Army	Staff Sgt. Thomas W. Christensen	42	MI	Atlantic Mine.

U.S. CASUALTIES IN IRAQ AS OF MAY 17, 2004—Continued

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Date	Branch	Rank and name	Age	State	Hometown
25-Dec-03	Army	Staff Sgt. Stephen C. Hattamer	43	MI	Gwinn.
31-Jan-04	Army	Pfc. Holly J. McGeogh	19	MI	Taylor.
14-Apr-04	Army	Spc. Richard K. Trevithick	20	MI	Gaines.
3-Jul-03	Army	Pfc. Edward J. Herrgott	20	MN	Shakopee.
17-Nov-03	Army	Staff Sgt. Dale A. Panchot	26	MN	Northome.
25-Jan-04	Army	Chief Warrant Officer Patrick D. Dorff	32	MN	Elk River.
8-Mar-04	Marine	Pfc. Matthew G. Milczark	18	MN	Kettle River.
4-Apr-04	Marine	Cpl. Tyler R. Fey	22	MN	Eden Prarie.
5-Apr-04	Marine	Pfc. Moises A. Langhorst	19	MN	Moose Lake.
8-Apr-04	Marine	Lance Cpl. Levi T. Angell	20	MN	Saint Louis.
8-May-04	Army	Spc. James J. Holmes	28	MN	East Grand Forks.
22-Mar-03	Marine	Sgt. Nicholas M. Hodson	22	MO	Smithville.
1-May-03	Army	Pfc. Jesse A. Givens	34	MO	Springfield.
26-May-03	Army	Pfc. Jeremiah D. Smith	25	MO	Odessa.
6-Jun-03	Army	Sgt. Travis L. Burkhardt	26	MO	Edina.
12-Jul-03	Army	Spc. Joshua M. Neusche	20	MO	Montreal.
18-Jul-03	Army	Spc. Joel L. Bertoldie	20	MO	Independence.
26-Jul-03	Army	Spc. Jonathan P. Barnes	21	MO	Anderson.
26-Oct-03	Army	Staff Sgt. Jamie L. Huggins	26	MO	Hume.
7-Nov-03	Army	Capt. Joseph B. Smith	29	MO	Monroe City.
23-Jan-04	Army	Chief Warrant Officer Michael T. Blaise	29	MO	Macon.
9-Mar-04	Army	Sgt. 1st Class Richard S. Gottfried	42	MO	Lake Ozark.
25-Apr-04	Army	Spc. Kenneth A. Melton	30	MO	Westplains.
29-Apr-04	Army	Sgt. Ryan M. Campbell	25	MO	Kirksville.
21-Mar-03	Marine	2nd Lt. Therrel S. Childers	30	MS	Harrison County.
5-Apr-03	Army	Cpl. Henry L. Brown	22	MS	Natchez.
8-Apr-03	Army	Spc. Larry K. Brown	22	MS	Jackson.
28-May-03	Army	Staff Sgt. Kenneth R. Bradley	39	MS	Utica.
1-Jun-03	Marine	Sgt. Jonathan W. Lambert	28	MS	New Site.
2-Nov-03	Army	Staff Sgt. Joe N. Wilson	30	MS	Crystal Springs.
15-Nov-03	Army	Spc. Jeremy DiGiovanni	21	MS	Tylertown.
15-Nov-03	Army	Pfc. Damian L. Heidelberg	21	MS	Batesville.
2-Dec-03	Army	Spc. Raphael S. Davis	24	MS	Tutwiler.
13-Mar-04	Army	Staff Sgt. Clint D. Ferrin	31	MS	Picayune.
7-Apr-04	Marine	Pfc. Christpher D. Mabry	19	MS	Chunky.
29-Apr-04	Army	Staff Sgt. Jeffrey F. Dayton	27	MS	Caledonia.
1-May-04	Army	Sgt. Joshua S. Ladd	20	MS	Port Gibson.
22-Dec-03	Army	1st Lt. Edward M. Saltz	27	MT	Bigfork.
28-Mar-03	Army	Sgt. Roderic A. Solomon	32	NC	Fayetteville.
2-Apr-03	Marine	Lance Cpl. Brian E. Anderson	26	NC	Durham.
22-Apr-03	Marine	Lance Cpl. Alan Dinh Lam	19	NC	Snow Camp.
17-Jun-03	Army	Sgt. Michael L. Tosto	24	NC	Apex.
6-Jul-03	Army	Sgt. David B. Parson	30	NC	Kannapolis.
21-Jul-03	Army	Cpl. Mark A. Bibby	25	NC	Watha.
31-Jul-03	Army	Spc. James I. Lambert III	22	NC	Raleigh.
6-Aug-03	Army	Sgt. Leonard D. Simmons	33	NC	New Bern.
20-Sep-03	Army	Spc. Lunsford B. Brown II	27	NC	Creedmoor.
26-Oct-03	Army	Pvt. Joseph R. Guerrera	20	NC	Dunn.
26-Oct-03	Army	Lt. Col. Charles H. Buehring	40	NC	Fayetteville.
7-Nov-03	Army	Sgt. Scott C. Rose	30	NC	Fayetteville.
15-Nov-03	Army	Joey Whitener	19	NC	Nebo.
20-Feb-04	Army	Sgt. 1st Class Henry A. Bacon	45	NC	Wagram.
13-Mar-04	Army	Spc. Jocelyn L. Carrasquillo	28	NC	Wrightsville Beach.
7-Apr-04	Army	Sgt. 1st Class Marvin L. Miller	38	NC	Dunn.
9-Apr-04	Army	Sgt. Elmer C. Krause	40	NC	Greensboro.
3-May-04	Army	Sgt. Gregory L. Wahl	30	NC	Salisbury.
9-May-05	Army	Sgt. Rodney A. Murray	28	NC	Ayden.
22-Jul-03	Army	Spc. Jon P. Fettig	30	ND	Dickinson.
15-Nov-03	Army	Pfc. Sheldon R. Hawk Eagle	21	ND	Grand Forks.
27-Nov-03	Army	Spc. Thomas J. Sweet II	23	ND	Bismarck.
24-Jan-04	Army	Staff Sgt. Kenneth W. Hendrickson	41	ND	Bismarck.
8-May-05	Army	Spc. Philip D. Brown	21	ND	Jamestown.
4-Apr-03	Marine	Capt. Travis A. Ford	30	NE	Ogallala.
21-May-03	Army	Spc. Nathaniel A. Caldwell	27	NE	Omaha.
17-Jul-03	Navy	Hospital Corpsman 3rd Class David J. Moreno	26	NE	Gering.
9-Oct-03	Army	Staff Sgt. Christopher W. Swisher	26	NE	Lincoln.
2-Nov-03	Army	Staff Sgt. Daniel Bader	28	NE	York.
6-Nov-03	Army	Spc. James R. Wolf	21	NE	Scottsbluff.
1-Jan-04	Army	Sgt. Dennis A. Corral	33	NE	Kearney.
27-Jan-04	Army	Sgt. Cory R. Mracek	26	NE	Hay Springs.
13-Apr-04	Marine	Pvt. Noah L. Boye	21	NE	Grand Island.
17-Apr-04	Army	Spc. Dennis B. Morgan	22	NE	Valentine.
25-Sep-03	Army	Sgt. 1st Class Robert E. Rooney	43	NH	Nashua.
24-Jan-04	Army	Sgt. Rany S. Rosenberg	23	NH	Berlin.
30-Mar-04	Army	Master Sgt. Richard L. Ferguson	45	NH	Conway.
29-Mar-03	Army	Spc. Michael Edward Curtin	23	NJ	Howell.
10-Apr-03	Army	Staff Sgt. Terry W. Hemingway	39	NJ	Willingboro.
13-Apr-03	Army	Spc. Gil Mercado	25	NJ	Paterson.
25-Apr-03	Army	Spc. Narson B. Sullivan	21	NJ	North Brunswick.
30-May-03	Army	Spc. Kyle A. Griffin	20	NJ	Emerson.
28-Jun-03	Army	Sgt. 1st Class Gladimir Philippe	37	NJ	Linden.
16-Jul-03	Army	2nd Lt. Richard Torres	25	NJ	
1-Oct-03	Army	Spc. Simeon Hunte	23	NJ	Essex.
11-Nov-03	Army	Spc. Marlon P. Jackson	25	NJ	Jersey City.
15-Nov-03	Army	Spc. Ryan T. Baker	24	NJ	Brown Mills.
2-Jan-04	Army	Spc. Marc S. Seiden	26	NJ	Brigantine.
3-Feb-04	Army	2nd Lt. Seth J. Dvorin	24	NJ	East Brunswick.
22-Mar-04	Army	Pfc. Bruce Miller, Jr	23	NJ	Orange.
25-Mar-04	Army	Spc. Adam D. Froelich	21	NJ	Pine Hill.
6-Apr-04	Marine	2nd Lt. John T. Wroblewski	25	NJ	Oak Ridge.
14-May-04	Army	Spc. Philip I. Spakosky	25	NJ	Browns Mill.
4-Oct-03	Army	Spc. James H. Pirtle	27	NM	Le Mesa.
4-5-04	Marine	Pfc. Christopher Ramos	26	NM	Albuquerque.
6-Apr-04	Army	Sgt. Lee D. Todacheene	29	NM	Farmington.
23-Mar-03	Marine	Lance Cpl. Donald J. Cline, Jr	21	NV	Washoe Valley.
13-Jun-03	Marine	2nd Lt. Frederick E. Pokorney, Jr	31	NV	Tonopah.
23-Jul-03	Army	Capt. Joshua T. Byers	29	NV	Sparks.
22-Mar-03	Marine	Lance Cpl. Eric J. Orlowski	26	NY	Buffalo.
23-Mar-03	Marine	Pfc. Tamario D. Burkett	21	NY	Buffalo.
23-Mar-03	Army	Spc. Michael L. Williams	46	NY	Buffalo.
27-Mar-03	Marine	Cpl. Robert M. Rodriguez	21	NY	Queens.
29-Mar-03	Marine	Lance Cpl. William W. White	24	NY	Brooklyn.
29-Mar-03	Army	Sgt. Eugene Williams	24	NY	Highland.
2-Apr-03	Army	Chief Warrant Officer Eric A. Smith	41	NY	Rochester.
4-Apr-03	Marine	Cpl. Bernard G. Gooden	22	NY	Mount Vernon.
6-Apr-03	Army	Pfc. Gregory P. Huxley, Jr	19	NY	Forestport.

U.S. CASUALTIES IN IRAQ AS OF MAY 17, 2004—Continued

[Sorted by State of Residence]

Date	Branch	Rank and name	Age	State	Hometown
11-Apr-03	Marine	Staff Sgt. Riayan A. Tejeda	26	NY	New York.
18-May-03	Army	Spc. Rasheed Sahib	22	NY	Brooklyn.
25-May-03	Army	Pvt. David Evans, Jr	18	NY	Buffalo.
24-Jul-03	Army	Pfc. Raheen Tyson Heighter	22	NY	Bay Shore.
27-Jul-03	Army	Sgt. Heath A. McMillin	29	NY	Canandaigua.
10-Sep-03	Army	Staff Sgt. Joseph E. Robsky, Jr	31	NY	Elizaville.
15-Sep-03	Army	Staff Sgt. Kevin C. Kimmerly	31	NY	North Creek.
20-Sep-03	Army	Sgt. David T. Friedrich	26	NY	Hammond.
3-Nov-03	Army	Pfc. Rayshawn S. Johnson	20	NY	Brooklyn.
13-Nov-03	Army	Pfc. Jacob S. Fletcher	28	NY	Bay Shore.
14-Nov-03	Army	Spc. Irving Medina	22	NY	Middletown.
20-Nov-03	Army	Capt. George A. Wood	33	NY	New York.
19-Dec-03	Army	Pfc. Charles E. Bush, Jr	43	NY	Buffalo.
29-Jan-04	Army	Pfc. Luis A. Moreno	19	NY	Bronx.
9-Feb-04	Army	Sgt. Thomas D. Robbins	27	NY	Schenectady.
19-Feb-04	Army	Spc. Roger G. Ling	20	NY	Douglaston.
18-Mar-04	Army	Spec. Doron Chan	20	NY	Highland.
27-Mar-04	Marine	Master Sgt. Timothy Toney	37	NY	Manhattan.
5-Apr-04	Army	Spc. David M. McKeever	25	NY	Buffalo.
8-Apr-04	Army	Spc. Isaac Michael Nieves	20	NY	Unadilla.
11-Apr-04	Army	Pfc. Nathan P. Brown	21	NY	South Glens Falls.
13-Apr-04	Marine	Cpl. Kevin T. Kolm	23	NY	Hicksville.
18-Apr-04	Marine	Cpl. Jason L. Dunham	22	NY	Allegany.
24-Apr-04	Coast Guard	Coast Guard Officer 3rd Class Nathan B. Bruckenthal	24	NY	Smithtown.
24-Apr-04	Navy	Navy Petty Officer 1st Class Michael J. Pernaselli	27	NY	Monroe.
23-Mar-03	Army	Master Sgt. Robert J. Dowdy	38	OH	Cleveland.
23-Mar-03	Army	Pvt. Brandon Ulysses Sloan	19	OH	Bedford Heights.
2-Apr-03	Marine	Pfc. Christian D. Gurtner	19	OH	Ohio City.
8-May-03	Army	Pfc. Marlin T. Rockhold	23	OH	Hamilton.
9-May-03	Army	Chief Warrant Officer 3 Brian K. Van Dusen	39	OH	Columbus.
19-May-03	Army	Lt. Col. Dominic R. Baragona	42	OH	Niles.
5-Jun-03	Army	Pfc. Branden F. Oberleitner	20	OH	Worthington.
10-Jun-03	Army	Pfc. Gavin L. Neighbor	20	OH	Somerset.
28-Jun-03	Army	Pfc. Kevin C. Ott	27	OH	Columbus.
23-Jul-03	Army	Spc. Brett T. Christian	27	OH	North Royalton.
2-Nov-03	Army	Spc. Steven D. Conover	21	OH	Wilmington.
10-Dec-03	Army	Staff Sgt. Aaron T. Reese	31	OH	Reynoldsburg.
10-Dec-03	Army	Spc. Todd M. Bates	20	OH	Bellaire.
15-Dec-03	Army	Pfc. Kenneth C. Souslin	21	OH	Mansfield.
24-Dec-03	Army	Sgt. Benjamin W. Biskie	27	OH	Vermillion.
27-Jan-04	Army	Sgt. Lester O. Kinney II	27	OH	Zanesville.
27-Jan-04	Army	Sgt. Sean G. Landrus	31	OH	Thompson.
8-Feb-04	Army	Staff Sgt. Richard P. Ramey	27	OH	Canton.
18-Mar-04	Marine	Cpl. Andrew D. Brownfield	24	OH	Summit.
9-Apr-04	Army	Spc. Allen J. Vandayburg	20	OH	Mansfield.
17-Apr-04	Marine	Lance Cpl. Michael J. Smith, Jr	21	OH	Jefferson.
5-May-04	Army	Pfc. Jesse R. Buryj	21	OH	Canton.
24-Mar-03	Marine	Lance Cpl. Thomas A. Blair	24	OK	Wagoner.
19-May-03	Marine	Staff Sgt. Aaron Dean White	27	OK	Shawnee.
6-Jun-03	Navy	Petty Officer 3rd Class Doyle W. Bollinger, Jr	21	OK	Poteau.
13-Aug-03	Army	Sgt. Steven W. White	29	OK	Lawton.
23-Aug-03	Army	Spc. Stephen M. Scott	21	OK	Lawton.
22-Oct-03	Army	Pvt. Jason M. Ward	25	OK	Tulsa.
2-Nov-03	Army	Sgt. Ross A. Pennanen	36	OK	Shawnee.
27-Jan-04	Army	Luke S. James	24	OK	Hooker.
11-Apr-04	Army	Chief Warrant Officer Lawrence S. Colton	32	OK	Oklahoma City.
30-Apr-04	Marine	Cpl. Scott M. Vincent	21	OK	Bokoshe.
3-May-04	Army	Staff Sgt. Erickson H. Petty	28	OK	Fort Gibson.
5-May-04	Army	Spc. James E. Marshall	19	OK	Tulsa.
11-May-04	Army	Spc. Kyle A. Brinlee	21	OK	Pryor.
22-Mar-03	Army	Reserve Spc. Brandon S. Tobler	19	OR	Portland.
23-Mar-03	Army	Sgt. Donald Ralph Walters	33	OR	Salem.
30-Mar-03	Marine	Capt. Aaron J. Contreras	31	OR	Sherwood.
8-Apr-03	Army	Staff Sgt. Robert A. Stever	36	OR	Pendleton.
2-Jul-03	Marine	Cpl. Travis J. Bradach-Nall	21	OR	Multnomah County.
15-Nov-03	Army	Chief Warrant Officer Erik C. Kesterson	29	OR	Independence.
8-Dec-03	Army	Spc. Christopher J. Rivera Wesley	26	OR	Portland.
8-Dec-03	Army	Spc. Joseph M. Blickenstaff	23	OR	Corvallis.
16-Dec-03	Army	Spc. Nathan W. Nakis	19	OR	Corvallis.
27-Jan-04	Army	Travis A. Moothart	23	OR	Brownsville.
11-Feb-04	Army	Pfc. William C. Ramirez	19	OR	Portland.
4-Apr-04	Army	Spc. Philip G. Rogers	23	OR	Gresham.
17-Apr-04	Marine	Lance Cpl. Gary F. VanLeuven	20	OR	Klamath Falls.
8-May-04	Army	Spc. Chase R. Whitham	21	OR	Eugene.
17-May-04	Marine	Lance Cpl. Bob W. Roberts	30	OR	Newport.
22-Mar-03	Army	Capt. Christopher Scott Seifert	27	PA	Easton.
1-Apr-03	Marine	Lance Cpl. Joseph B. Maglione	22	PA	Lansdale.
3-Apr-03	Army	Spc. Donald S. Oaks, Jr	20	PA	Erie.
4-Apr-03	Army	Capt. Tristan N. Aitken	31	PA	State College.
6-Apr-03	Army	Staff Sgt. Stevon A. Booker	34	PA	Apollo.
30-May-03	Army	Spc. Zachariah W. Long	20	PA	Milton.
30-May-03	Army	Spc. Michael T. Gleason	25	PA	Warren.
1-Jul-03	Army	1st Sgt. Christopher D. Coffin	51	PA	Bethlehem.
3-Jul-03	Army	Pfc. Corey L. Small	20	PA	East Berlin.
13-Jul-03	Army	Sgt. Jaror C. Puello-Coronado	36	PA	Mount Pocono.
28-Jul-03	Army	Spc. William J. Maher III	35	PA	Yardley.
12-Aug-03	Army	Pfc. Timmy R. Brown, Jr	21	PA	Conway.
17-Aug-03	Army	Spc. Craig S. Ivory	26	PA	Port Matilda.
18-Aug-03	Army	Spc. Eric R. Hull	23	PA	Uniontown.
27-Aug-03	Army	Lt. Col. Anthony L. Sherman	43	PA	Pottstown.
27-Aug-03	Army	Spc. Rafael L. Navea	34	PA	Pittsburgh.
18-Sep-03	Army	Capt. Brian R. Faunce	28	PA	Philadelphia.
29-Sep-03	Army	Staff Sgt. Christopher E. Cutchall	30	PA	McConnellsburg.
29-Sep-03	Army	Sgt. Andrew Joseph Baddick	26	PA	Jim Thorpe.
13-Oct-03	Army	Spc. Douglas J. Weismantle	28	PA	Pittsburgh.
18-Oct-03	Army	1st Lt. David R. Bernstein	24	PA	Phoenixville.
1-Nov-03	Army	Spc. Maurice J. Johnson	21	PA	Levittown.
2-Nov-03	Army	Sgt. Ernest G. Bucklew	33	PA	Enon Valley.
9-Nov-03	Army	Sgt. Nicholas A. Tomko	24	PA	Pittsburgh.
13-Nov-03	Army	Sgt. Joseph Minucci II	23	PA	Richeyville.
15-Nov-03	Army	Sgt. Timothy L. Hayslett	26	PA	Newville.
14-Dec-03	Army	Staff Sgt. Kimberly A. Voelz	27	PA	Carlisle.
8-Jan-04	Army	Spc. Christopher A. Golby	26	PA	Johnstown.
24-Jan-04	Army	Spc. William R. Sturges, Jr	24	PA	Spring Church.
9-Mar-04	Army	Spc. Edward W. Brabazon	20	PA	Philadelphia.
19-Mar-04	Army	Spc. Clint Richard Matthews	31	PA	Bedford.

U.S. CASUALTIES IN IRAQ AS OF MAY 17, 2004—Continued

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Date	Branch	Rank and name	Age	State	Hometown
20-Mar-04	Army	Spc. Matthew J. Sandri	24	PA	Shamokin.
31-Mar-04	Army	Spc. Sean R. Mitchell	24	PA	Youngsville.
3-Apr-04	Marine	Lance Cpl. Aric J. Barr	22	PA	Allegheny.
9-Apr-04	Army	Spc. Jonathan R. Kephart	21	PA	Oil City.
17-Apr-04	Army	Staff Sgt. Edward W. Carmen	27	PA	McKeesport.
26-Apr-04	Army	Sgt. Sherwood R. Baker	30	PA	Plymouth.
29-Apr-04	Army	Pfc. Martin W. Kondor	20	PA	York.
3-May-04	Marine	Gunnery Sgt. Ronald E. Baum	38	PA	Hollidaysburg.
5-May-04	Army	Pfc. Bradley G. Kritzer	18	PA	Irvona.
16-May-04	Army	Spc. Carl F. Curran	22	PA	Union City.
16-May-04	Army	Spc. Mark J. Kasecky	20	PA	McKees Rock.
26-Jun-03	Army	Spc. Richard P. Orengo	32	PR	Toa Alta.
24-Jul-03	Army	Sgt. Juan M. Serrano	31	PR	Manati.
6-Oct-03	Army	Spc. Ramon Reyes Torres	29	PR	Caguas.
2-Nov-03	Army	Sgt. Joel Perez	25	PR	Rio Grande.
2-Nov-03	Army	Spc. Frances M. Vega	20	PR	Fort Buchanan.
4-Nov-03	Army	Sgt. Francisco Martinez	28	PR	Humacao.
5-Nov-03	Army	Sgt. 1st Class Jose A. Rivera	34	PR	Bayamon.
7-Apr-04	Navy	Petty Officer 3rd Class Fernando A. Mendezaceves	27	PR	Ponce.
27-Aug-03	Army	Sgt. Gregory A. Belanger	24	RI	Narragansett.
1-Sep-03	Army	Sgt. Charles T. Caldwell	38	RI	North Providence.
24-Sep-03	Army	Spc. Michael Andrade	28	RI	Bristol.
27-Jan-04	Army	Capt. Matthew J. August	28	RI	North Kingstown.
5-Apr-04	Marine	Lance Cpl. Matthew K. Serio	21	RI	North Providence.
4-Apr-04	Army	Sgt. Yihjyh L. Chen	31	Saipan	Marianas.
5-Aug-03	Army	Spc. Farao K. Letufuga	20	Samoa	Pago Pago.
27-Oct-03	Army	Pvt. Jonathan I. Falaniko	20	Samoa	Pago Pago.
23-Mar-03	Marine	Pvt. Nolen R. Hutchings	19	SC	Boiling Springs.
23-Mar-03	Army	Sgt. George Edward Buggs	31	SC	Barnwell.
13-May-03	Air Force	Staff Sgt. Patrick Lee Griffin, Jr	31	SC	Elgin.
22-Jun-03	Army	Spc. Orenthial J. Smith	21	Sc	Allendale.
21-Aug-03	Army	Pfc. Michael S. Adams	20	SC	Spartanburg.
23-Aug-03	Army	Pfc. Vorn J. Mack	19	SC	Orangeburg.
18-Sep-03	Army	Sgt. Anthony O. Thompson	26	SC	Orangeburg.
28-Oct-03	Army	Pvt. Algernon Adams	36	SC	Aiken.
2-Nov-03	Army	Spc. Darius T. Jennings	22	SC	Cordova.
7-Nov-03	Army	Staff Sgt. Paul M. Neff II	30	SC	Fort Mill.
13-Dec-03	Army	Spc. Rian C. Ferguson	22	SC	Taylors.
2-Jan-04	Army	Capt. Kimberly N. Hampton	27	SC	Easley.
11-Apr-04	Army	Sgt. Maj. Michael B. Stack	48	SC	Lake City.
29-Apr-04	Army	Staff Sgt. Esàu G. Patterson, Jr	25	SC	Ridgeland.
9-May-03	Army	Chief Warrant Officer 2 Hans N. Gukeisen	31	SD	Lead.
18-Jun-03	Army	Pfc. Michael R. Deuel	21	SD	Nemo.
15-Nov-03	Army	Chief Warrant Officer Scott A. Saboe	33	SD	Willow Lake.
24-Dec-03	Army	Capt. Christopher F. Soelzer	26	SD	Sturgis.
24-Apr-04	Army	Staff Sgt. Cory W. Brooks	32	SD	Phillip.
23-Mar-03	Marine	Lance Cpl. Patrick R. Nixon	21	TN	Nashville.
14-Apr-03	Army	Spc. Thomas A. Foley III	23	TN	Dresden.
9-Jul-03	Army	Sgt. Roger D. Rowe	54	TN	Bon Aqua.
5-Aug-03	Army	Staff Sgt. David L. Loyd	44	TN	Jackson.
20-Aug-03	Army	Spc. Kenneth W. Harris, Jr	23	TN	Charlotte.
12-Sep-03	Army	Sgt. 1st Class William M. Bennett	35	TN	Seymour.
16-Oct-03	Army	Lt. Col. Kim S. Orlando	43	TN	Clarksville.
7-Nov-03	Army	Staff Sgt. Morgan D. Kennon	23	TN	Memphis.
12-Nov-03	Army	Staff Sgt. Nathan J. Bailey	46	TN	Nashville.
17-Nov-03	Army	Chief Warrant Officer Alexander S. Coulter	35	TN	Bristol.
8-Jan-04	Army	Sgt. 1st Class Gregory B. Hicks	35	TN	Duff.
7-Apr-04	Marine	Capt. Brent L. Morel	27	TN	Martin.
9-Apr-04	Army	Staff Sgt. Don S. McMahan	31	TN	Nashville.
24-Apr-04	Navy	Navy Petty Officer 2nd Class Christopher E. Watts	28	TN	Knoxville.
2-May-04	Army	Spc. Ervin Caradine, Jr	33	TN	Memphis.
2-May-04	Army	Staff Sgt. Todd E. Nunes	29	TN	Chapel Hill.
12-May-04	Marine	Lance Cpl. Jeremiah E. Savage	21	TN	Livingston.
15-May-04	Air Force	Senior Airman Pedro I. Espaillat, Jr	20	TN	Columbia.
20-Mar-03	Marine	Cpl. Brian Matthew Kennedy	25	TX	Houston.
23-Mar-03	Army	Chief Warrant Officer Johnny Villareal Mata	35	TX	Pecos.
23-Mar-03	Army	Spc. James M. Kiehl	22	TX	Comfort.
23-Mar-03	Army	Sgt. Edward J. Anguiano	24	TX	Brownsville.
23-Mar-03	Army	Pvt. Ruben Estrella-Soto	18	TX	El Paso.
2-Apr-03	Army	Chief Warrant Officer Scott Jamar	32	TX	Granbury.
2-Apr-03	Army	Master Sgt. George A. Fernandez	36	TX	El Paso.
3-Apr-03	Marine	Pfc. Chad E. Bales	20	TX	Coahoma.
7-Apr-03	Marine	Cpl. Jesus Martin Antonio Medellin	21	TX	Fort Worth.
7-Apr-03	Air Force	Capt. Eric B. Das	30	TX	Amarillo.
7-Apr-03	Army	Pfc. Anthony S. Miller	19	TX	San Antonio.
22-Apr-03	Marine	Chief Warrant Officer Andrew Todd Arnold	30	TX	Spring.
28-Apr-03	Army	1st Sgt. Joe J. Garza	43	TX	Robstown.
28-May-03	Army	Spc. Jose A. Perez III	22	TX	San Diego.
16-Jun-03	Army	Spc. Joseph D. Suell	24	TX	Lufkin.
27-Jun-03	Army	Pvt. Robert L. Frantz	19	TX	San Antonio.
27-Jun-03	Army	Cpl. Tomas Sotelo, Jr	20	TX	Houston.
9-Jul-03	Army	Sgt. Melissa Valles	26	TX	Eagle Pass.
11-Jul-03	Army	Spc. Christian C. Schulz	20	TX	Colleyville.
19-Jul-03	Army	Lt. Jonathan D. Rozier	25	TX	Katy.
24-Jul-03	Army	Staff Sgt. Hector R. Perez	40	TX	Corpus Christi.
26-Jul-03	Army	Sgt. Daniel K. Methvin	22	TX	Belton.
6-Aug-03	Army	Spc. Zeferino E. Colunga	20	TX	Bellville.
11-Sep-03	Army	Sgt. Henry Ybarra III	32	TX	Austin.
18-Sep-03	Army	Spc. James C. Wright	27	TX	Morgan.
18-Sep-03	Army	Spc. Richard Arriaga	20	TX	Ganado.
1-Oct-03	Army	Pfc. Analaura Esparza Gutierrez	21	TX	Houston.
9-Oct-03	Army	Spc. Joseph C. Norquist	26	TX	San Antonio.
13-Oct-03	Army	Pfc. Stephen E. Wyatt	19	TX	Kilgore.
22-Oct-03	Army	Spc. John P. Johnson	24	TX	Houston.
28-Oct-03	Army	Sgt. Michael Paul Barrera	26	TX	Von Ormy.
2-Nov-03	Army	Sgt. Keelan L. Moss	23	TX	Houston.
8-Nov-03	Army	Staff Sgt. Gary L. Collins	32	TX	Hardin.
15-Nov-03	Army	Sgt. John W. Russell	26	TX	Portland.
28-Nov-03	Army	Sgt. Ariel Rico	25	TX	El Paso.
2-Dec-03	Army	Chief Warrant Officer Clarence E. Boone	50	TX	Fort Worth.
7-Dec-03	Army	Pfc. Ray J. Hutchinson	20	TX	League City.
22-Dec-03	Army	Pfc. Stuart W. Moore	21	TX	Livingston.
28-Dec-03	Army	Pvt. Rey D. Cuervo	24	TX	Laguna Vista.
28-Dec-03	Army	Capt. Ernesto Blanco	28	TX	San Antonio.
2-Jan-04	Army	Eric T. Paliwoda	28	TX	Goodyear.
16-Jan-04	Army	Staff Sgt. Roland L. Castro	26	TX	San Antonio.

U.S. CASUALTIES IN IRAQ AS OF MAY 17, 2004—Continued

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Date	Branch	Rank and name	Age	State	Hometown
17-Jan-04	Army	Spc. Larry E. Polley		TX	Center.
18-Jan-04	Army	Master Sgt. Kelly L. Hornbeck	36	TX	Fort Worth.
21-Jan-04	Army	Pfc. James D. Parker	20	TX	Bryan.
23-Jan-04	Army	Pfc. Ervin Dervishi	21	TX	Fort Worth.
2-Feb-04	Army	Pfc. Armando Soriano	20	TX	Houston.
11-Mar-04	Army	Staff Sgt. Joe L. Dunigan, Jr	37	TX	Belton.
18-Mar-04	Marine	Pfc. Ricky A. Morris, Jr	20	TX	Lubbock.
19-Mar-04	Army	Pfc. Jason C. Ludlam	22	TX	Arlington.
25-Mar-04	Marine	LCpl. James A. Casper	20	TX	Coolidge.
26-Mar-04	Marine	Pfc. Leroy Sandoval, Jr	21	TX	Houston.
31-Mar-04	Army	1st Lt. Doyle M. Hufstedler	25	TX	Abilene.
31-Mar-04	Army	Spc. Michael G. Karr, Jr	23	TX	San Antonio.
1-Apr-04	Marine	Pfc. Dustin M. Sekula	18	TX	Edinburg.
4-Apr-04	Army	Spc. Robert R. Arsiaga	25	TX	San Antonio.
4-Apr-04	Army	Spc. Israel Garza	25	TX	Lubbock.
6-Apr-04	Army	Sgt. Gerardo Moreno	23	TX	Terrell.
8-Apr-04	Marine	Lance Cpl. Michael B. Wafford	20	TX	Spring.
9-Apr-04	Marine	Cpl. Matthew E. Matula	20	TX	Spicewood.
9-Apr-04	Marine	Lance Cpl. Elias Torrez III	21	TX	Veribest.
10-Apr-04	Army	Spc. Adolf C. Carballo	20	TX	Houston.
10-Apr-04	Army	Sgt. William C. Eckhart	25	TX	Rocksprings.
11-Apr-04	Marine	Cpl. Daniel R. Amaya	22	TX	Odessa.
11-Apr-04	Army	Chief Warrant Officer Wesley C. Fortenberry	38	TX	Woodville.
14-Apr-04	Army	Sgt. Christopher Ramirez	34	TX	McAllen.
17-Apr-04	Army	Pfc. Clayton W. Henson	20	TX	Stanton.
17-Apr-04	Marine	Lance Cpl. Ruben Valdez, Jr	21	TX	San Diego.
26-Apr-04	Marine	Lance Cpl. Aaron C. Austin	21	TX	Sunray.
5-May-04	Army	Cpl. Jeffrey G. Green	20	TX	Dallas.
8-May-04	Army	Spc. Isela Rubalcava	25	TX	El Paso.
15-May-04	Army	Staff Sgt. Rene Ledesma	34	TX	Abilene.
29-Mar-03	Marine	Staff Sgt. James W. Cawley	41	UT	Roy.
3-Apr-03	Army	Staff Sgt. Nino D. Livaudais	23	UT	Ogden.
17-Jul-03	Army	Sgt. Mason Douglas Whetstone	30	UT	Ogden.
17-Nov-03	Army	Capt. Nathan S. Dalley	27	UT	Kaysville.
26-Nov-03	Army	Spc. David J. Goldberg	20	UT	Layton.
25-Mar-03	Marine	Staff Sgt. Donald C. May, Jr	31	VA	Richmond.
30-Mar-03	Marine	Sgt. Michael V. Lalush	23	VA	Troutville.
2-Apr-03	Army	Capt. James F. Adamouski	29	VA	Springfield.
7-Apr-03	Army	2nd Lt. Jeffrey J. Kaylor	24	VA	Clifton.
7-Apr-03	Air Force	Maj. William R. Watkins III	37	VA	Danville.
13-Apr-03	Marine	Lance Cpl. David Edward Owens, Jr	20	VA	Winchester.
4-May-03	Army	Pvt. Jason L. Deibler	20	VA	Coeburn.
8-Jun-03	Army	Sgt. Michael E. Dooley	23	VA	Pulaski.
1-Oct-03	Army	Command Sgt. Maj. James D. Blankenbecler	40	VA	Alexandria.
23-Oct-03	Army	Capt. John R. Teal	31	VA	Mechanicsville.
1-Nov-03	Army	1st Lt. Joshua C. Hurley	24	VA	Clifton Forge.
5-Mar-04	Navy	Petty Officer 2nd Class Michael J. Gray	32	VA	Richmond.
14-Apr-04	Army	Spc. Frank K. Rivers, Jr	23	VA	Woodbridge.
10-May-04	Army	Pfc. Andrew L. Tuazon	21	VA	Chesapeake.
16-May-04	Army	2nd Lt. Leonard M. Cowherd	22	VA	Culpeper.
28-Apr-04	Army	Staff Sgt. Kendall Thomas	36	VI	St. Thomas.
2-Apr-03	Army	Chief Warrant Officer 4 Erik A. Halvorsen	40	VT	Bennington.
3-Apr-03	Marine	Cpl. Mark A. Evnin	21	VT	Burlington.
6-Aug-03	Army	Pvt. Kyle C. Gilbert	20	VT	Brattleboro.
15-Nov-03	Army	1st Lt. Pierre Piche	28	VT	Starksboro.
2-Jan-04	Army	Solomon C. Gangayan	24	VT	Jay.
9-May-03	Marine	Lance Cpl. Cedric E. Bruns	22	WA	Vancouver.
1-Aug-03	Army	Spc. Justin W. Hebert	20	WA	Arlington.
7-Aug-03	Army	Pfc. Duane E. Longstreth	19	WA	Tacoma.
6-Oct-03	Army	Pfc. Kerry D. Scott	21	WA	Mount Vernon.
1-Nov-03	Army	2nd Lt. Benjamin J. Colgan	30	WA	Kent.
4-Nov-03	Army	Spc. Robert T. Benson	20	WA	Spokane.
17-Nov-03	Army	Capt. James A. Shull	32	WA	Kirkland.
28-Dec-03	Army	Sgt. Curt E. Jordan	25	WA	Greenacres.
25-Jan-04	Army	Staff Sgt. Christopher Bunda	29	WA	Bremerton.
16-Mar-04	Army	First Lieutenant Michael R. Adams	24	WA	Seattle.
28-Apr-04	Army	Spc. Jacob R. Herring	21	WA	Kirkland.
12-May-04	Army	Spc. Jeffrey R. Shaver	26	WA	Maple Valley.
19-May-03	Marine	Sgt. Kirk Allen Straseskie	23	WI	Beaver Dam.
26-May-03	Army	Maj. Mathew E. Schram	36	WI	Brookfield.
9-Jul-03	Army	Sgt. 1st Class Dan H. Gabrielson	39	WI	Spooner.
22-Sep-03	Army	Spc. Paul J. Sturino	21	WI	Rice Lake.
26-Oct-03	Army	Pfc. Rachel K. Bosveld	19	WI	Waupun.
15-Nov-03	Army	Spc. Eugene A. Uhl III	21	WI	Amherst.
15-Nov-03	Army	Sgt. Warren S. Hansen	36	WI	Clintonville.
15-Nov-03	Army	2nd Lt. Jeremy L. Wolfe	27	WI	Menomonie.
24-Dec-03	Army	Maj. Christopher J. Splinter	43	WI	Platteville.
16-Feb-04	Army	Pfc. Nichole M. Frye	19	WI	Lena.
10-Mar-04	Army	Pfc. Bert. E. Hoyer	23	WI	Ellsworth.
13-Mar-04	Army	Capt. John F. Kurth	31	WI	Columbus.
29-Mar-04	Army	Pfc. Sean M. Schneider	22	WI	Janesville.
5-Apr-04	Marine	Cpl. Jesse L. Thiry	23	WI	Casco.
6-Apr-04	Marine	Pfc. Ryan M. Jerabek	18	WI	Oneida.
9-Apr-04	Army	Spc. Michelle M. Witmer	20	WI	New Berlin.
17-Apr-04	Army	Spc. Michael A. McGlothin	21	WI	Milwaukee.
15-Nov-03	Army	Pfc. Rich Hafer	21	WV	Cross Lanes.
1-Feb-04	Army	Sgt. Roger C. Turner, Jr	37	WV	Parkersburg.
18-Mar-04	Army	Pfc. Ernest Harold Sutphin	21	WV	Parkersburg.
30-Apr-04	Marine	Cpl. Joshua S. Wilfong	22	WV	Walker.
23-Mar-03	Marine	Sgt. Brendon C. Reiss	23	WY	Natrona.
14-Apr-03	Army	Pfc. Joseph P. Mayek	20	WY	Rock Springs.
30-Jul-03	Army	1st Lt. Leif E. Nott	24	WY	Cheyenne.
25-Sep-03	Army	Capt. Robert L. Lucero	34	WY	Casper.

Mr. VAN HOLLEN. Mr. Speaker, Memorial Day is the unofficial start of summer: pools open, barbecues are held in local parks and in backyards, and families set out on car trips to take advantage of the long weekend. But the excitement of the beginning of summer should not obscure the holiday's true meaning—honoring the men and women who gave their lives in service of our country.

This weekend, the National World War II Memorial will be dedicated in Washington D.C. This memorial allows a grateful nation to thank the World War II generation for their selfless sacrifices, which helped preserve the freedoms we all enjoy. I am proud to join thousands of Americans around the country in honoring them. They exemplify the spirit, sacrifice, and commitment of the American people to securing freedom and democracy throughout the world. We are not just the beneficiaries of their bravery. We are the stewards of their sacrifice.

This Memorial Day, we have thousands of brave men and women fighting in Iraq and Afghanistan. As we remember those who have fallen, we must continue to stand up for those who are still fighting overseas and those who have finished their service with honor. Our government must be accountable for the promises it makes to young men and women who are asked to serve our country in this way.

Military retirees—who served a career in uniform to defend our freedoms—are not asking for handouts; they are only asking for what was promised to them. I introduced the "Keep Our Promises to America's Military Retirees Act," a bill to restore earned and promised health care coverage to retired members of the uniformed services. Many people joined the military believing they would earn a lifetime medical care in exchange for 20 years of service, based on promises made by recruiters and government officials. We must now honor that promise. I am pleased that a majority of the House of Representatives has cosponsored the bill; now the House must act.

Another promise made to young men and women when they were recruited was that their surviving spouses would receive a fair pension upon retirement. However, the military's Survivor Benefit Plan (SBP) unfairly slashes pension benefits for thousands of military spouses just when they need it the most. In response to this injustice, I co-sponsored the Military Survivor Benefits Improvement Act. This is fair legislation that would increase the minimum survivor benefit and restore to 55 percent from 35 percent the basic annuity for surviving spouses age 62 and older. I am pleased that this legislation recently passed the House.

I am also fighting to end the Disabled Veterans Tax, which forces disabled veterans and military retirees to give up one dollar of their pension for every dollar of disability pay they receive. I believe that our troops should be taken care of when we send them into battle and that they should be given our respect when we bring them home. Our brave men and women in uniform fought for our country. They shouldn't have to fight the government to get the benefits they deserve.

The National World War II Memorial will inspire future generations of Americans and stand as an important symbol of American national unity. It will serve as a timeless reminder of our solemn obligation to preserve peace for our children and the strength of our nation when united in a common and just cause.

Mr. STUPAK. Mr. Speaker, this Memorial Day we recognize again not only the soldiers who have died for their country over the generations—but also the men and women serving in Iraq and Afghanistan. I am proud of our soldiers in Iraq who are serving their country with dedication and courage.

Four soldiers from Michigan's First District have made the ultimate sacrifice in Iraq: Staff Sergeants Thomas W. Christensen and Stephen C. Hattamer who were killed on Christmas Day; Staff Sergeant Paul J. Johnson and Private First Class Jason G. Wright. I'd like to take a few minutes to describe these good men.

Sergeant Christensen, a 42-year-old from Atlantic Mine, was a reservist with the 652nd Engineer Battalion and had been overseas for about a year when he was killed. His brother described him as a quiet person who was handsome and smart. Sergeant Christensen had a passion for hunting and fishing and that is why he called the Upper Peninsula of Michigan his home.

Sergeant Hattamer, a 43-year-old from Gwinn, was a member of the same Battalion as Christensen and enjoyed weight lifting, waterskiing, and was famous for his chocolate cake using his mother's recipe. He is survived by his wife and three children. Sergeant Hattamer's love of country and children will live on through the scholarship the local community established in his honor.

Sergeant Johnson, a 29-year-old from Calumet, was assigned to the 1st Battalion, 505th Parachute Infantry Regimen of the famed 82nd Airborne. He was described as the epitome of a paratrooper and he is survived by his wife and son. He was from the "Copper Country" in the Keweenaw Peninsula.

Private Jason Wright, a 19-year-old from Luzerne, was assigned to the 1st Battalion, 502nd Infantry Regimen of the famed 101st Airborne. Private Wright was a good student who played baseball, basketball and football in High School. He was protective of his three younger brothers and was truly devoted to his family. Jason Wright will be greatly missed by his family.

All four of these men served with honor and courage and my prayers are with their families. On this and every Memorial Day hereafter when we pause to honor our fallen soldiers, may God Bless their families and America.

Mr. HINOJOSA. Mr. Speaker, today we are setting aside a special time to pay tribute to fallen heroes. My South Texas district is mourning the loss of three such heroes, Pfc. Dustin Sekula, Sgt. Christopher Ramirez and Sgt. John Wayne Russell. These three men were very different. One was a fresh-faced 18-year-old who had only been in the Marines for 8 months. One was a 34-year-old veteran of the Gulf War and Kosovo who was looking forward to retiring and joining the Border Patrol. One was a 26-year-old, former high-school football player whose own hero was his 34-year Army veteran father. Yet all shared a love of country and a sense of patriotism and duty.

Sergeant Russell, a member of the Army's 101st Airborne was killed when his Blackhawk helicopter collided with another helicopter on November 17, 2003 over Mosul, Iraq. Private Sekula, an infantry mortarman with the 2nd Battallion, 7th Marines, 1st Marine Division, 1st Marine Expeditionary Force, died April 1, 2004 from enemy fire in the Al Anbar Province of Iraq. Sergeant Ramirez, who served with the Army's 1st Infantry Division, 1st Battalion, 16th Infantry out of Ft. Riley, Kansas, was killed two weeks later on April 14 when his patrol was ambushed in Fallujah.

When you hear the stories that friends and families tell about Dustin, John and Christopher, you understand just how special all three were. They were role models to their peers, devoted sons, loyal friends and active in their communities. All could have chosen to use their talents in other career paths, yet they chose the path of military service.

Military service will not make you rich. It requires long absences from home and family, often in dangerous and inclement corners of the world. Yet Americans like Dustin, John and Christopher continue to volunteer to defend this country and protect our freedom, all the while knowing it may cost them their lives.

John, Christopher and Dustin are true heroes and we owe them more then we can ever repay. For their friends and families left behind, we offer our prayers and the comfort of knowing that the sacrifices of these young lives will not be forgotten. To those still on the front lines we pledge our unity and support. As we approach the Memorial Day holiday let us all take time away from the picnics and the sales to remember every fallen American hero.

Mr. DEFAZIO. Mr. Speaker, as we pause to commemorate Memorial Day and remember all those who have proudly served our nation, I am pleased that we will finally dedicate the long-overdue World War II Memorial here in Washington, D.C. Now Congress should rededicate itself to improved services and benefits for our veterans and our troops and future veterans.

Since the fighting began in Iraq last year, nearly 800 American service men and women have died. It is my solemn privilege and honor to name the casualties from my district.

Specialist Joseph M. Blickenstaff, U.S. Army, Sergeant Travis A. Moothart, U.S. Army, Specialist Nathan W. Nakis, Oregon National Guard, Lance Corporal Gary F. VanLeuven, U.S. Marines, Specialist Chase R. Witham, U.S. Army.

In gratitude and in sorrow, I commemorate their courage and sacrifice. They chose to serve and served honorably and well. It is now our duty to keep these men in our hearts and in our memories as we celebrate the joy of living free and strong.

Mr. DINGELL. Mr. Speaker, we rise today to pay tribute to the heroic men and women from the great state of Michigan who served in the United States Armed Forces and the civilian defense sector during World War II. The sacrifices that these heroes made to protect our country and defend freedom from the tyranny of totalitarianism will never be forgotten.

From Benton Harbor to Detroit, from Calumet to Monroe, brave men and women left behind their homes and loved ones to answer their country's call to duty. Be it fighting in the Atlantic or the Pacific theater or working in one of the many war production plants throughout our state, courageous Michiganders truly helped make America the Arsenal of Democracy. As our forces fight overseas today, like those of yesteryear, we are vividly reminded of the debt of gratitude we owe our men and women in uniform who serve to better our country.

Mr. Speaker, we come together as a people on Memorial Day to pay tribute and remember those who have died while defending our Nation and its values of democracy and freedom. This Memorial Day we make a special tribute to the Greatest Generation with the dedication of the National World War II Memorial. This Memorial is well overdue and will ensure that our nation will never forget the brave and gallant service of millions of Americans.

Today, we come together to praise and thank the many veterans who answered their country's call to serve. The labor of the mothers, fathers, sons and daughters of Michigan who helped defend our country shall never perish from our memory. For the National World War II Memorial stands tall to ensure that each passing generation understands the sacrifices that the World War II generation made for our nation.

Mr. SERRANO. Mr. Speaker, as we approach Memorial Day, I want to pay special tribute to the thousands of men and women who gave their lives in defense of this nation even though they were never able to fully reap its vast benefits.

On January 29, 2004, the war on Iraq hit close to home as a young member of my constituency was killed. Private First Class Luis A. Moreno was a 19 year old Dominican-born immigrant who served in the Army's First Armored Division. He had been deployed in Iraq only three months before his untimely death.

What was most inspiring about this courageous young man was his willingness to fight for a country that had yet to grant him citizenship. Pfc. Moreno did not vote for the President who sent him into battle. So the question is why? Why did Pfc. Moreno and others like him, who could not enjoy the full benefits of this country, decide to make the ultimate sacrifice in defense of it?

The fact that he took up arms may surprise some, but anyone who has a sense of America's past wars knows that this phenomenon has been ubiquitous throughout our history. During America's early wars, African Americans fought bravely for this nation even though they had not gained equal status in society. Many Japanese Americans courageously fought for this nation during World War II even as their families were placed into internment camps. I suspect that, much like the disenfranchised soldiers of those days, heroes like Pfc. Moreno continue to make these sacrifices because they believe in the promise of America; the promise of freedom and equality for all. It is this same promise that keeps immigrants coming to our shores from all parts of the world.

Mr. Speaker, as we honor the countless men and women who have given their lives for this country, let us not forget that many of them fought and died even though they were never able to enjoy what they fought to preserve. It is too late for us to give rights to the thousands of Black soldiers who fought and died on the battlefields of World War II, or to allow Luis Moreno to vote in the next presidential election. But it is not too late for us to ensure that America fulfills its promise to those who continue to come to our shores in search of a better life.

Mr. SCHIFF. Mr. Speaker, almost three years ago, our nation was shocked by the sickening reality of global terrorism infiltrating our borders. Since September 11, 2001, the global war on terror has resulted in the deployment of our troops to Afghanistan and other perilous locations. At the same time, more than 130,000 young Americans are serving in Iraq. During a time when the struggles of our troops abroad are broadcast every day, our observance of Memorial Day calls for sober reflection. We must remember that Memorial Day, at its core, is our nation's somber tribute to those who have made the ultimate sacrifice.

Seven hundred eighty-nine servicemen and servicewomen have lost their lives since the beginning of our combat operations in Iraq, and 85 have fallen in our military campaign in Afghanistan. Among these brave men and women is a constituent from my district, United States Army Specialist Rel Allen Ravago, IV, who was killed in Mosul, Iraq, on November 23, 2003. My heart goes out to Mr. Ravago's friends and loved ones, as it does to the innumerable Americans who have known troops whose lives were cut short during our nation's wars. It is with a sense of gratitude and humility that I will mark my observance of Memorial Day.

In the past few weeks, much attention has been focused on the conduct of our troops stationed in Iraq. Whether the grotesque abuses that have shocked us all are the result of the depraved actions of a few individuals or derelictions of duty rising up the chain of command is an issue that must be determined through Congressional investigation. Whatever the case may be, I am confident that Americans recognize that the overwhelming majority of our troops are honorable, deeply principled citizens. We are grateful to those who have left their families, jobs, and the comforts of home to fight threats to freedom and security.

We often find ourselves divided on the home front in terms of our views on both foreign and domestic issues. Pundits chatter on about red states and blue states in an attempt to highlight the supposedly irreconcilable political cleavages within our society. It is with this in mind that I reflect on the original observance of Memorial Day—then called Decoration Day—on May 30, 1868. On the inaugural celebration of what has become a national holiday, five thousand people journeyed to Arlington National Cemetery to decorate the graves of the more than 20,000 Union and Confederate soldiers buried there. Americans had heeded Abraham Lincoln's admonition to act "with malice toward none, with charity for all" and united to commemorate the fallen troops on both sides.

If our nation was then able to transcend a brutal conflict that pitted brother against brother, surely we can close ranks and join together now in mourning the men and women who have most recently died in Afghanistan and Iraq, and in other past battles. Memorializing our fallen troops is not a partisan or political issue; it is a basic debt of gratitude that all Americans owe to those who safeguard our freedom.

I hope all Americans will join us this Memorial Day in reflecting on those who safeguard our freedom, democracy, and prosperity.

Mr. HOYER. Mr. Speaker, today, I pay special tribute to Army Specialist Jason Christopher Ford who was killed on March 13, 2004 in Tikrit, Iraq. Army Specialist Ford epitomized the duty, valor and sacrifice that we honor in our members of the armed services.

Spc. Ford grew up in the Bladensburg, MD area. He was an optimistic young man who had an abiding love for his family. He was a good athlete—a swimmer, baseball player and avid bowler. Spc. Ford joined the U.S. Army in 2002 for the chance to travel. After completing basic training he was stationed in Germany and assigned to the 1st Battalion, 18th Infantry Regiment. In early March 2004 he was sent to Iraq. On March 13, 2004 while on patrol, an improvised explosive device exploded next to the Humvee Spc. Ford was riding in and he was killed.

Every day, the men and women of our armed services are exhibiting courage and making sacrifices ensuring that 25 million human beings who had been enslaved for a quarter of a century have been liberated. It is because of their courage and sacrifice that a dangerous dictator no longer menaces his own people or the world, but instead awaits the justice that he denied millions. And it is because of their courage and sacrifice that the universal aspirations of all men and women—freedom, democracy, and basic human rights—are being extended half a world away.

This generation of Americans, and future generations, are indeed blessed that when freedom's call came, brave Americans like Spc. Ford answered. We honor Spc. Ford's service to our country and his willingness to answer the call to duty. Today we say a special prayer for his family, friends and fellow soldiers. They must know that a grateful nation mourns their loss and shares their pain.

Daniel Webster, the noted orator, Member of Congress and Secretary of State, remarked nearly two centuries ago: "God grants liberty only to those who love it and are always ready to guard and defend it." Army Specialist Jason Ford was ready and he defended liberty. Today we remember and we pay our respect to a beloved son, brother, friend, and now a fallen American patriot who has made the ultimate sacrifice for our nation and the principles for which we stand—liberty, justice, equality and decency.

Mr. BURGESS. Mr. Speaker, and so it was said by Pericles, the Athenian leader some 24 centuries ago, "Not only are they commemorated by columns and inscriptions, but there dwells also an unwritten memorial of them, graven not on stone but in the hearts of men."

As Memorial Day 2004 approaches, I am awed by a greater sense of pride for our fallen soldiers and those serving aboard. We approach this day with solemn affirmations of the sacrifices of our brave men and women, and in celebration for every joy and freedom bestowed to us from the Almighty.

This day was born of human necessity and the answer to an overwhelming desire to honor those who have given the ultimate sacrifice so that we may live without fear, but with hope. No matter where he has fallen, a soldier stands in place for you, for me, for us as a country and for freedom everywhere.

May they always be honored for their commitment and respected for their bravery. For the stance taken by each man and woman is written down in the archives of history. The stories and memories shape our vision of the world and provide footsteps for future generations.

Bow one head; lay one flower; remember one soldier; pray continuously; and may you be blessed this Memorial Day.

Mr. KUCINICH. Mr. Speaker, today, we honor the men and women in uniform who have lost their lives in military service to our nation. Memorial Day is for that reason a very solemn occasion. It is not a day to celebrate our military glories. Rather, we remember our losses: lost lives and the lost futures of our fallen soldiers. When the nation's political leaders commit our country's citizens to war, it is a concomitant that the lives of our soldiers are put at risk. Some will not come home alive and undamaged. Our leaders have an obligation to the citizens of the nation to know that and to take heed. My thoughts and prayers are with the families and loved ones of our fallen soldiers.

Mr. HOLT. Mr. Speaker, today, as the House of Representatives pauses for a moment of silence in honor of our fallen service men and women in Iraq and Afghanistan, I rise in memory of Lieutenant Seth Dvorin, a member of the Army's 10th Mountain Division and a lifetime resident of East Brunswick, New Jersey.

An avid athlete, Seth played high school baseball and football before attending Rutgers University. In 2002, he joined the Army and was commissioned as an officer of the 10th Mountain Division's Battery B, 3rd Battalion, 62nd Air Defense Artillery Regiments.

Like many men and women in the armed forces and Reserves, Seth was deployed to Iraq. On February 4, 2004, he was killed when a device exploded on a road near Iskandariyah, Iraq. Seth died in the service of his country and his fellow soldiers. As a result of his bravery, others are alive today.

News of Seth's passing spread quickly throughout my Congressional district. Even those who never knew Seth personally still knew that we had lost someone special. Yesterday, more than two hundred students from John Witherspoon Middle School in Princeton gathered at Arlington National Cemetery to lay a wreath in honor of fallen service men and women. I was heartened to talk with these patriotic students today and understand the depth of their appreciation for the brave people who serve. Seth Dvorin was an American soldier and a respected member of our community. His loss is a tragedy—there is no other word.

Mr. Speaker, I want the record to show that Seth's country appreciates and mourns the sacrifice he made on our behalf. Men of his character and courage are rare. New Jersey has lost one of its sons, and we will miss him.

Mr. STARK. Mr. Speaker, I rise today to pay tribute to the 793 Americans who have given their lives and the 4,524 who've been wounded courageously serving their country in Iraq. It is fitting that we should share in a moment of silence on the floor of this House to honor their memory and sacrifice.

It is with particular sadness that I pay tribute to a Marine from my district whose service will not be forgotten. On Tuesday, April 6, 2004, Lance Cpl. Travis J. Layfield, a 19-year-old from Fremont, California, was killed during a firefight in the Anbar Province of Western Iraq. Travis served courageously through unimaginable circumstances. He is a credit to the US Marine Corps to which he was deeply dedicated.

A 2003 graduate of Washington High School, Travis is a hero for his service with the 2nd Battalion, 4th Marines, 1st Marine Division, 1st Marine Expeditionary Force out of Camp Pendleton. Travis entered ROTC while in junior high school, committed to a career in the Marine Corps. Last year, he completed 12 weeks of basic training at the Marine Corps recruit depot in San Diego. He left for the Middle East in February 2003, first heading to Kuwait and later Iraq.

There has been tremendous outpouring of love and respect for Travis from his classmates and friends at his high school as well as from the entire Fremont community. We have joined together to mourn the loss of this proud young Marine. We shall long remember Lance Cpl. Travis J. Layfield. He gave his life for peace and democracy and died, as a noble Marine, serving our country.

Travis is but one example of the thousands of young Americans who answered the call of service and paid the ultimate price in Iraq. As a nation we mourn his passing and offer our solemn gratitude to him and to all those who have given life or limb for their selfless service and sacrifice to our country. Our thoughts are with Travis' family and the families of all those who have served and continue to serve courageously in our armed forces in Iraq.

Mr. LANTOS. Mr. Speaker, on May 31st we will commemorate Memorial Day. Across our great land, thousands of American flags, proudly waving, will mark the final resting place of those who gave their lives so that we in the United States and people in other lands might enjoy the blessings of liberty. We are deeply saddened by their deaths, but eternally grateful for their sacrifice.

One such sacrifice in freedom's name was made on March 22, 2004, when a 20-year-old Marine Lance Corporal Andrew S. Dang's life was cut short in a gun battle during patrol near Ar Ramady, Iraq. Cpl. Dang was from Foster City, California, and he graduated from Aragon High School. Those who knew Andrew Dang best describe him as someone with a passion for science and technology who spent his free time building robots and rockets. He was one of the founding members of Aragon's renowned robotics team and by his senior year, he was taking multiple advanced placement classes in physics and chemistry. He also excelled in athletics as a wrestler and football player. The oldest of three brothers raised by a single mom, he joined the U.S. Marine Corps less than a year ago to make a better future for himself and to give back to his country. His life had just begun when bullets stole it away.

Mr. Speaker, the commemoration of Memorial Day will be a difficult time for Cpl. Dang's family and friends, filled with vivid memories of a bright, enthusiastic and popular young man who will never come home. Mr. Speaker, I urge my colleagues to remember Mr. Dang and his fellow soldiers who served and made the ultimate sacrifice.

Mr. DAVIS of Tennessee. Mr. Speaker, world renowned anthropologist Margaret Mead once said, "Never doubt that a small group of thoughtful committed citizens can change the world. Indeed, it is the only thing that ever has." These well articulated words embodies the core meaning of what Memorial Day symbolizes. If it was not for those individuals who banded together, many of us would not have the freedoms we enjoy today.

Citizens of Tennessee, the Volunteer State, have a long, storied history of military service to our country. Many of its young have sacrificed themselves in the name of liberty, freedom, and patriotism. On courthouses and city halls across Tennessee, stone or bronze monuments list the names of the men and women who gave their life for this country. It is fitting that tribute be perpetually acknowledged to their ultimate sacrifice.

We must never lose touch with our traditions and history. Memorial Day is more than a three-day holiday weekend. It's about reconnecting with our past and being thankful for the freedom we all have today. We all must share in the loss of those brave patriots who have come and gone.

Mr. TOWNS. Mr. Speaker, I rise in honor of Lance Cpl. William W. White in recognition of his bravery, courage, and sacrifice for our country.

Lance Cpl. White, who grew up in Brooklyn, had been assigned to the 3rd Amphibious Assault Battalion, part of the 1st Marine Division, which is based in Camp Pendleton in California. On March 29, 2004, he became the first soldier from New York City to die in the Iraq war after his military Humvee rolled into a canal, and he drowned. He was 24 years old.

A 1998 graduate of Bushwick High School, White was committed to serving his country as he was planning to join the fire department or pursue a career in law enforcement upon his return. Until his final days, he always shared a great concern and love for others, especially his family. In his last letter home, he sent home a $100 bill to help his brother pay a cell phone tab, instructing him to keep the money if the brother had already paid the bill.

Lance Cpl. White was a disciplined student of martial arts and of the Bible. He left behind his wife Mychaele of 18 months.

Mr. Speaker, Lance Cpl. William W. White was a true American hero, making the ultimate sacrifice for our nation. As such, he is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable person.

Mr. CASTLE. Mr. Speaker, I rise today to honor and pay tribute to Marine Sgt. Brian McGinnis of the Marine Light Attack Helicopter Squadron 169, who made the ultimate sacrifice for his country on March 30, 2004 in southern Iraq. In the words of his fellow Marines, Sgt. McGinnis was a trusted mentor, a brother, and a hero.

Sgt. McGinnis, a graduate of William Penn High School and native of St. Georges, Delaware joined the Marine Corps because as he stated, he, "wanted to be a part of the best." As a member of the U.S. Armed Services, Sgt. McGinnis had fulfilled his goal of becoming a part of the best fighting force in the world. Sgt. McGinnis had the opportunity to take part in activities he loved in the Marine Corps and had received his crew wings the day before he met with tragedy in southern Iraq. The most important aspect of Sgt. McGinnis' service in Iraq was the sense of pride he felt knowing that he was serving his country.

Mr. Speaker, it is not possible to quantify the sense of loss our great Nation feels when faced with the loss of life of our men and women in the U.S. Armed Services. Nonetheless, I will say that Sgt. Brian McGinnis will be deeply missed by his family, his friends, the Marine Corps, and by his Nation. His service for our Nation and the service of countless men and women before and after him will never be forgotten.

Mr. Speaker, as we approach Memorial Day, I would like to rise in honor of a courageous young soldier who died September 7, 2003, of injuries suffered August 30 when the truck he was driving in a supply convoy was hit by a civilian vehicle in Iraq. U.S. Army Specialist Jarrett B. Thompson was a member of the Lewes, Delaware-based 946th Transportation Company, and sadly was our State's first war casualty from a Reserve or National Guard unit.

At only 27 years of age, Jarrett was a brave young reservist who valiantly served his state and country. A Dover resident who grew up in Millington, Maryland and played high school football, Jarrett joined the Army in March of 1994. Following a 3-year tour of active duty at Fort Campbell, Kentucky, he continued his commitment to service as a member of the Army Reserve. When he was called to active duty in January 2003, Jarrett dutifully accepted service in the Middle East, where his fellow reservists described him as an energetic, mission-oriented soldier.

In civilian life, Jarrett was a design engineer for Ashland Equipment, Inc. A proud son and devoted husband and father, Jarrett will be deeply missed by his parents, Judy Coleman Thompson and Allen B. Thompson, his wife Kelly, and their sons Conner and Collin. At his funeral in September, Jarrett received a 21-gun salute and the Bronze Star Medal in honor of his noble service to our Nation.

Mr. Speaker, it is my sincere privilege to honor the life of a proud soldier and heroic representative of the State of Delaware. Army Specialist Jarrett B. Thompson was an honorable defender of liberty, and he deserves our gratitude and respect.

Mr. Speaker, I rise today in honor of a brave young Army Ranger who died Thursday, April 3, 2003, due to suicide car-bomber at a checkpoint northwest of Baghdad. U.S. Army Specialist Ryan P. Long was a proud Ranger who gave his life, along with two of his fellow soldiers, helping the Third Battalion of the 75th Ranger Regiment operate a checkpoint outside of Baghdad.

At only 21 years of age, Ryan was an inspirational young Delawarean who graduated from Seafood High School in June of 1999, where he had been vice commander of the Naval Junior ROTC program. Ryan joined the Army and became an Army Ranger, where he was part of an elite group chosen to carry out special missions. He was stationed in Fort Benning, Georgia and was deployed twice to Afghanistan before his service in Iraq, where he continued the noble fight against terror.

Ryan was a patriotic American who enjoyed soccer, golf, snowboarding, and motorcycles. Ryan was a fourth generation soldier, his father is retired Major Rudolf "Rudy" Long. Ryan followed in his family's tradition and chose to serve his country. He will be deeply missed by his parents, Rudy and Donna, and brother, his friends, teachers, and fellow soldiers.

Mr. Speaker, it is my sincere privilege to honor the life of a proud Ranger and heroic representative of the State of Delaware. Army Specialist Ryan P. Long deserves our gratitude and respect.

Mr. Speaker, I rise today to pay tribute to the heroic life of U.S. Army Staff Sergeant Joseph Garyantes who died May 19, 2004, while securing freedom for the people of Iraq. Staff Sergeant Garyantes was patrolling Muqdadiyah, Iraq, just outside of Baghdad when his vehicle was attacked by sniper fire, ending the life of this dedicated soldier.

Staff Sergeant Garyantes was born in Wilmington, Delaware, and for most of his childhood called the Rehoboth Beach area home. He attended Epworth Christian School in Laurel, and at an early age contemplated a life in the Christian ministry. Eventually his selflessness and unwavering desire to help others drew him to military service. From what I have learned about this remarkable young man, it is apparent that Staff Sergeant Garyantes truly enjoyed helping others overcome the difficulties in their lives. For example, he wrote a letter to the editor while stationed in Germany, in response to a young soldier's complaint about the difficulties of Army life. His response was not negative or demeaning, he offered solutions and words of encouragement to this fellow soldier.

Staff Sergeant Garyantes, because of his inherent desire to lead and guide others to greatness, certainly would have found a way to inspire others in any career he chose, but he chose to join the U.S. Army. He chose to subject himself to the daily rigors of military service because he valued the well-being of others—ultimately at the cost of his own life. And although he will be missed tremendously by his wife and children, his family and friends, and his fellow soldiers, it is my hope that they can take comfort in his devotion to serving those in need, which will be his legacy.

Mr. Speaker, it is not often that I have the opportunity to honor the life of a true hero and American patriot such as Staff Sergeant Joseph Garyantes. His devotion to his fellow man is truly amazing, and he deserves our utmost respect and admiration.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I rise to pay homage to all of our fallen heroes in arms that have defended our Nation from despotism, nazism, fascism, communism and terrorism.

The life we live has been shaped by those we honor today. Each answered Liberty's call to duty in defense of their country. Our Nation owes an immeasurable debt of gratitude for their service. Our humble words can never adequately put into perspective their overwhelming contribution to freedom.

We cannot forget the last full measure of devotion they gave us. Not for fame or fortune, but for a love of country, with determination, courage and honor, the men and women of our armed services have dedicated their lives to the defense of our democratic ideals.

We honor their memory. The freedoms we enjoy today because of their valor are their eternal legacy to us and our posterity.

I join a grateful nation in sending my thoughts and prayers to all the bereaved families who have lost loved ones who served to protect our sacred liberty.

Mr. CARDIN. Mr. Speaker, on Monday, May 31, America will celebrate Memorial Day, our most solemn national holiday. First observed in 1868 to commemorate the Civil War dead, it was initially called Decoration Day. This tradition of placing flags on the graves of our war dead began at a time when our country still bore the scars of a four-year war that claimed 620,000 American lives, a war that divided America as nothing else has, before or since.

But as the House of Representatives pauses in 2004 to honor our Nation's fallen heroes, we do so as one Nation united by the values of liberty and democracy. When American families carry wreaths and flags to veterans' graves across the country, we do so as one America. When we visit the Garrison Forest Veterans Cemetery in Owings Mills, Arlington National Cemetery, the Vietnam Veterans Memorial, or the new World War II Memorial on the Mall, our memories will be of those we knew and loved. And our thoughts and prayers will be with those still in combat today.

This year, while our military struggles to bring stability to Iraq, mounting American casualties cast new light on the meaning of valor and sacrifice. Nearly 800 American men and women have died in Iraq in the past fourteen months; yet on the faces of our soldiers, we see only their resolve, their unwavering dedication.

I want to make special mention of the 8 young Marylanders who have died in the Iraqi conflict: Private Brandon Davis, Specialist Jason Ford, Command Sergeant Major Cornell Gilmore, Captain Jason David Mileo, Specialist George A. Mitchell, First Lieutenant Adam G. Mooney, Sergeant Jeffery Walker, and Staff Sergeant Kendall Damon Waters-Bey. These brave men left the comfort and safety of our shores for Iraq, and theirs was the ultimate sacrifice. They are our heroes in the truest sense of the word. We extend our gratitude to them, we offer our condolences to their loved ones, and we hold them up as an example of America's best.

Mr. STUPAK. Mr. Speaker, as our Nation prepares for the dedication of the National World War II Memorial next weekend, I rise to join my constituents in paying solemn tribute to the nearly 200 World War II veterans of Oscoda County, Michigan. Each and every one of these veterans deserves our continued gratitude for their service, for their sacrifice, and for their leadership.

On May 29th, the residents of Oscoda County will celebrate these members of the greatest generation with a parade, ceremony, and luncheon marking Oscoda World War II Veterans Recognition Day. This day has an added significance: Together they will also be watching the dedication ceremony in Washington, DC, for the National World War II Memorial. I am fortunate that I will have the honor of participating in this event, and will have the chance to thank these veterans in person for the sacrifice they made for our freedom 60 years ago.

I am especially pleased that this event is focused on those veterans that are still with us. On Memorial Day, our nation rightly honors those who made the ultimate sacrifice in the cause of preserving liberty. But we too often forget to thank those who came home to careers and family and civic leadership. By the grace of God they returned home, but this does not diminish their service and sacrifice. Indeed, their leadership and example since have put us further in their debt.

Mr. Speaker, as we all know, the World War II generation, and especially those who fought so bravely in Europe and the Pacific for the freedom we enjoy today, are deserving of our highest honor and deepest gratitude. We must never forget their sacrifice and their courage. I therefore ask that the House join me in paying tribute to that greatest generation, and especially to those who will be at the Oscoda World War II Veterans Recognition events.

Ms. WOOLSEY. Mr. Speaker, I rise today to honor the nearly 800 American soldiers who have lost their lives in Iraq and Afghanistan. No one has sacrificed more than these brave men and women and their families. The debt we owe them all is tremendous.

As we approach Memorial Day, we must never forget that people are dying as a result of the decisions of this House. Many of our brave soldiers will never again walk on this earth because of the choices we make.

Late last year I spent a week in Bethesda Naval Hospital recuperating from back surgery. During my stay there, I visited with wounded soldiers who had come home forever changed by the war in Iraq. Meeting with these soldiers and seeing their injuries gave me a firsthand look at the true reality of war, and made me more committed than ever before that our government cover all the expenses of any injury that results from war. But that's just not happening.

Congress must work to equip every soldier in Iraq and Afghanistan with the best equipment and supplies available, including state-of-the-art bulletproof vests, and Camelbak water bottles so they can rehydrate in the hot desert air. And the vehicles our soldiers use need to be equipped with the best and strongest armor available. Dozens of un-armored Humvees are falling victim to road-side bombs and rocket propelled grenades. This year's Defense Authorization bill paid for some of these things. It's about time.

We must make every attempt to provide for our service men and women when they come home from the war, too. That's why Congress needs to provide better health coverage to our veterans, and why we need to end the Disabled Veterans Tax immediately to ensure that anyone who has served in the military receives both health benefits and retirement benefits. This outdated tax from 1891 needs to go.

Our lives wouldn't be the same without the selflessness of thousands of courageous Americans. I am humbled by their courage and the sacrifices they have made for their country.

Mr. LIPINSKI. Mr. Speaker, I rise today to honor the tremendous sacrifice and bravery of the countless men and women who have fallen in service to this great country. This Memorial Day, let us stop to remember all of the American service men and women who have answered the call to defend our Nation, many making that ultimate sacrifice for the peace and preservation of this great union.

As we prepare to dedicate the National World War II Memorial, we are again reminded of the brave, young men and women who have come before us giving their lives in defense of this land. From the beaches of Normandy to the Sea of Japan to the heart of the Rhine, 400,000 Americans gave their lives defending democracy and halting the spread of tyranny during the Second World War. Now, immortalized in granite, America pays tribute to our Greatest Generation and the selfless sacrifices so many made in honor of our Nation.

Again, this country is engaged in battle. Fighting to maintain peace and security across the globe, American soldiers in Iraq and Afghanistan continue to make the ultimate sacrifice to ensure freedom and democracy for all people. As the war on terror continues, Americans must honor the brave men and women who gave their lives for the protection of this Nation and the hope of another.

This Memorial Day I pay tribute to the millions of soldiers who have fallen in service to this great Nation and the immeasurable sacrifices they have made defending freedom and democracy throughout the world. It is with a humble heart and proud spirit that I honor the lives of America's fallen soldiers and remember with admiration their patriotism and dedication to country in the face of adversity. Let us never forget their sacrifices.

Mr. MICHAUD. Mr. Speaker, I rise today to honor those who have served our country so selflessly and given their lives to defend our freedom. We realize the sacrifice that these soldiers have made for our country can never truly be repaid, so we honor them by remembering their heroic deeds and what they have meant for America. Those who served and are presently serving in our military have helped defend our Nation from harm, allowing the citizens of my State of Maine and the citizens of our entire country to enjoy the liberties that we cherish so deeply.

Maine's population, as much as any State, has felt the burden of war for many years. With 154,000 veterans, a large percentage of Maine's small population has served and protected our country. Most Mainers have several relatives or friends who have defended our home. Our State's dedication to service continues as over 3,000 Maine citizens are putting their lives in harm's way overseas.

This Memorial Day is especially meaningful because we also remember those who have recently made the ultimate sacrifice for our country in a war where danger is still present today. Over 300,000 Americans have bravely faced the violence that still ravages Iraq and sadly over 700 servicemen and servicewomen have made the ultimate sacrifice for our country. Maine has not been immune from loss in this current conflict, and my thoughts are with the loved ones of those who gave their lives for our country. These sacrifices are fresh in our memory and should not and will not be forgotten.

Today we say thank you to those who gave their lives. Tomorrow we must make sure to honor their memory by caring for their families. We must forever recognize and respect the ultimate sacrifices that so many great men and women made so that the many citizens of our country can enjoy the blessings that they do today.

Ms. HOOLEY of Oregon. Mr. Speaker, in honor of Memorial Day, I rise today to pay tribute to the brave men and women who gallantly gave their lives so we may live in freedom.

Throughout the history of our nation, valiant soldiers have struggled, distinguished themselves, advanced our cause, and fallen in battle. Next weekend is the unveiling of a lasting tribute to our greatest generation—many of whom made the ultimate sacrifice more than 50 years ago.

As Tom Brokaw so eloquently wrote:

> They won the war; they saved the world. They came home to joyous and short-lived celebrations and immediately began the task of rebuilding their lives and the world they wanted.
>
> I am in awe of them, these men and women who have given us the world we have today. I feel privileged to have been witness to their stories. As I came to know many of them I became more and more moved by their everyday excellence—and more and more convinced that this is the greatest generation in our country's history.

I too, am in awe of the brave men and women who fought on the front lines, and the millions of Americans who served on the home front. Truly they are the greatest generation.

Young men and women committed their lives, knowing they might not see their families again, for a cause that was greater than any individual nation. Young men and women committed to building a free world.

And now we mark the dedication of a memorial that honors our greatest generation, a memorial that will remind future generations of Americans as well as visitors from around the globe of the cost of freedom that we enjoy. It will serve as a reminder of the suffering and the sacrifice of our soldiers.

We also must take the time this Memorial Day to remember the soldiers who have given their lives in Operation Iraqi Freedom. These soldiers deserve no less awe and respect than those who fought and served more than 50 years ago. From Oregon, 15 brave soldiers have made the ultimate sacrifice while serving their country: Specialist Brandon Scott Tobler of Portland, Sergeant Donald Walters of Salem, Captain Aaron Joseph Contreras of Sherwood, Staff Sergeant Robert Anthony Stever of Pendleton, Corporal Travis J. Bradachnall of Multnomah County, Chief Warrant Officer Erik C. Kesterson of Independence, Specialist Joseph M. Blickenstaff of Corvallis, Specialist Nathan W. Nakis of Corvallis, Specialist Christopher Jude Wesley of Portland, Sergeant Travis A. Moothart of Brownsville, Private 1st Class William C. Ramirez of Portland, Specialist Philip G. Rogers of Gresham, Lance Corporal Gary F. Van Leuven of Klamath Falls, Specialist Chase R. Whitman of Eugene, and Lance Corporal Bob W. Roberts of Newport.

Each of these 20 soldiers and their families deserve thanks from all Oregonians and all Americans. The Nation offers its collective thanks, as well as its sincere hope that all the Americans still in Iraq will return home to their families swiftly and safely.

Let us give thanks and praise to all men and women who worked together and in many cases died together, so that we all live in a more safe and more free world. We are all forever indebted to these brave soldiers.

Mr. FROST. Mr. Speaker, I rise today to honor a courageous serviceman who lost his life while bravely serving our country in Iraq. Jason Ludlam made the ultimate sacrifice for his country and for the American people.

In times of war, our soldiers and their families carry the gravest imaginable burden upon their shoulders. The service these brave men and women provide their country is immeasurable and will not be forgotten.

I truly sympathize with the families of fallen heroes for their terrible loss. It is my hope that many good memories help bring these families comfort in their time of need.

Mr. Speaker, I recognize and honor Jason Ludlam for the sacrifice he made and for the service he gave his country.

Mr. Speaker, I rise today to honor a courageous serviceman who lost his life while bravely serving our country in Iraq. Kenneth Melton made the ultimate sacrifice for his country and for the American people.

In times of war, our soldiers and their families carry the gravest imaginable burden upon their shoulders. The service these brave men and women provide their country is immeasurable and will not be forgotten.

I truly sympathize with the families of fallen heroes for their terrible loss. It is my hope that many good memories help bring these families comfort in their time of need.

Mr. Speaker, I recognize and honor Kenneth Melton for the sacrifice he made and for the service he gave his country.

Mrs. MCCARTHY of New York. Mr. Speaker, I rise today to join my colleagues in honoring the brave men and women who have fallen in service in Iraq and Afghanistan. They gave the ultimate sacrifice to guarantee the freedoms and rights we hold so dear and to help the oppressed and give a voice to those who do not have one.

Army Sergeant Gregory Wahl, a constituent of mine from Valley Stream, NY, was one of the brave men who gave his life in Iraq. He was riding in a vehicle that flipped over in a canal during a combat patrol. Gregory, according to his father, wanted to be there and he knew what it was all about. He was confident in his mission and proud of his military career, which spanned over 11 years. Gregory is survived by his wife, Maricela, who together spent many hours enjoying their love of cooking, and his daughter, Alexis, who inherited her father's blue eyes. He loved his country and entered into combat with a lot of courage and ambition for his future, the future of Maricela and Alexis, and the future of the people he was fighting for, both Americans and Iraqis. But Gregory is only one of many. We have lost many brave men and women and it is important to remember their valor and dedication to our country.

I would also like to honor and extend my sorrow to the families of those who have fallen. While we get to go on with our daily lives, parents, spouses, and children will have to adapt and learn to live without their loved one. And for this they and the men and women of the Armed Forces will always be in my prayers.

Mr. HILL. Mr. Speaker, I rise today in the well of the House of Representatives to honor those who have so nobly given their lives in defense of our freedoms and values. The men and women serving in the armed services both here and abroad are American heroes. We are holding this moment of silence today for our fellow countrymen and women that have given the last full measure of devotion in battlefields throughout the world. They will forever be remembered and revered in the memory of this great Nation.

Ms. SLAUGHTER. Mr. Speaker, I rise today to honor three brave soldiers from the 28th Congressional District of New York who lost their lives while serving in Iraq. These three men, all from Buffalo, left loving families, promising careers and secure futures to serve our Nation in the Armed Forces. They traveled thousands of miles across the world to make the ultimate sacrifice for their country. I am humbled to have served them in Congress.

Private First Class Tamario D. Burkett was killed in the line of duty just days after combat operations began in Iraq, on March 23, 2003. While securing bridges near Nasiriyah, Pfc. Burkett and his fellow soldiers came under heavy fire. Pfc. Burkett, who lived with his family on Peace Street, was just 21 years old. His family continues to celebrate his memory and to mourn the promise of his young life.

On October 17, 2003, Specialist Michael L. Williams was killed near Baghdad when the vehicle he was riding in ran over an explosive. Specialist Williams, 46, reenlisted in the Army National Guard after witnessing the horrendous attacks on September 11, which also happened to be his birthday. He died doing what he had dedicated his life to: protecting and serving the American people. He left behind a wife and four daughters.

Private First Class Charles E. Bush, Jr., was killed just days before Christmas on December 19, 2003, when a bomb exploded beneath his vehicle. Pfc. Bush, 34, was a cook in the Army, but he had volunteered as a door gunner to help protect the convoy. He could have stayed back, but he chose instead to ride along that day to defend his fellow soldiers. He left behind a devoted family and a young daughter.

This Memorial Day, we will pay respect to all the soldiers who have lost their lives defending our nation. It is a tragedy that across the nation, the legion of those we honor will now include hundreds of new names—names of fathers, mothers, husbands, wives, siblings and children who volunteered to serve their nation and who will never return home.

In Buffalo, this day will be especially tragic as we honor these three brave soldiers. Private First Class Tamario D. Burkett, Specialist Michael L. Williams and Private First Class Charles E. Bush, Jr. will forever be remembered for their patriotism, their valor and their sacrifice. I pray with all the families who have loved ones that no more lives will be lost and that all our soldiers will arrive safely home soon. We cannot stand to lose any more.

Mr. BLUMENAUER. Mr. Speaker, General John Logan, the national commander of the Grand Army of the Republic, officially declared the first Memorial Day to be observed on May 30th, 1868. In a healing moment for our Nation, flowers were placed on the graves of both Union and Confederate soldiers at Arlington Cemetery. Our nation was united in our grief.

On this Memorial Day, 136 years later, we are again united in our grief and our respect for our fallen soldiers, sailors, airmen, and Marines. Whether speaking of those from the wars of our past or those from our current conflict in Iraq, we acknowledge their valiant service and sacrifice, as well as the void that their loss has left for their families, their communities, and our Nation. In my thoughts now, along with all of those whom we have lost, are six young men from my congressional district who have given their lives in Iraq:

> Specialist Brandon Tobler, Corporal Travis Bradach-Nall, Specialist Christopher Rivera Wesley, Private First Class William Ramirez, Specialist Philip Rogers, Lance Corporal Bob W. Roberts.

There are no words that Congress can utter today that would be as noted as the silence of these soldiers. There is no way to express our appreciation and sorrow to those who have made the ultimate sacrifice for our country. We can only fulfill our duty to ensure that our men and women in uniform receive the best training and equipment, adequate pay and fair treatment during their service and after. We must then assure our veterans new and old, that they will receive the treatment they have been promised. Most importantly, we must pledge our valiant and tireless effort for peace and security at home and abroad.

Mr. ORTIZ. Mr. Speaker, as we celebrate Memorial Day, 2004, we honor both the veterans who fought America's wars, and those who stand on the front lines of today's combat engagements.

Each day it seems, news from Iraq carries the awful news of combat deaths as we try to quell a nation and leave it in better hands than before. Most importantly, our troops are still pursuing al Queda and Osama bin Laden in the mountains of Afghanistan and elsewhere around the world to root out the entity that attacked us on 9–11. This generation's solemn mission is to undermine and eradicate the terrorist movement, which continues to grow and evolve, from the face of the Earth.

Today we honor all those who fought for this nation throughout our history. Americans all over the world are remembering friends, family members and countrymen who made the ultimate sacrifice for liberty and democracy. In South Texas, the list of young people lost in the global conflict with al Queda, and now in Iraq, is becoming longer than we can bear. We continue to welcome home other sons and daughters who were injured or captured. Please remember these brave young warriors and their families on this Memorial Day.

As a member of Congress who sits on the House Armed Services Committee, I know what we ask of people in uniform, and I know the difficulties of service. As a veteran, I know what is expected of soldiers and sailors in combat—or in the possibility of combat. The very least we must do for the men and women who serve this nation is provide adequately for their health care now and in their later years.

The attack on our nation on 9–11 served to remind us that firemen, law enforcement officers and doctors also stand on the front lines in the first war of the 21st Century. The world has entered this century through pillars of fire, and the United States is called to fight a global war again, this time against al Queda and the terrorism they sponsor and continue to inspire. Americans, as always, fight for this country, and South Texans always make an extraordinary contribution to our military force.

Today, let us pledge anew to face the challenges of our world with compassion, strength, and understanding as we stand on the watchtower of freedom. On this Memorial Day, let us remember the heroes of our history as we wish for peace as the poets and the dreamers do—but remain ever ready to fight the battles that are righteous, where the values of freedom and democracy are at stake.

Please take a moment of silence and remember the South Texas heroes who answered this nation's call to military service, especially those who gave this nation the ultimate measure of devotion. We remember them all and their families today and always. Our South Texas heroes:

Killed aboard the USS *Cole*: Petty Officer 3rd Class Ronchester Santiago, 22, from Kingsville and Fireman Gary Swenchonis Jr., 26 from Rockport, TX

Army Spc. Edward J. Anguiano, 24, from Los Fresnos, 3rd Combat Support Battalion from Los Fresnos; he went missing on March 23, 2003, when his convoy was ambushed in Iraq; his remains were recovered on April 24

1st Sgt. Joe J. Garza, 43, 1st Battalion, 30th Infantry Regiment, 3rd Brigade, 3rd Infantry Division, from Robstown; he was killed on April 28, 2003, when he was struck by a civilian vehicle in Iraq

Pfc. Juan Guadalupe Garza Jr., 20, 1st Battalion, 4th Marine Regiment, 1st Marine Division from San Benito; he was killed in action on April 8, 2003, in central Iraq

Staff Sgt. Hector R. Perez, 40, 1st Battalion, 327th Infantry Regiment, 1st Brigade, 101st Airborne Division (Air Assault) from Corpus Christi; he was killed when his military convoy came under fire north of Hawd, Iraq on July 24, 2003

Spc. Jose A. Perez III, 22, 6th Battalion, 27th Field Artillery Regiment, 18th Field Artillery Brigade, from San Diego, Texas; he was killed in an ambush of a convoy on May 28, 2003, in Taji, Iraq

Sgt. Christopher Ramirez, 34, 1st Battalion, 16th Infantry, 1st Brigade, 1st Infantry Division, from McAllen; he died from injuries sustained during combat operations in Al Anbar Province, Iraq, on April 14, 2004

Sgt. John W. Russell, 26, 4th Battalion, 101st Aviation Regiment, 101st Airborne Division (Air Assault), from Portland; he was killed when two 101st Airborne Division UH-60 Black Hawk helicopters collided in midair over Mosul, Iraq, on November 15, 2003

Pfc. Dustin M. Sekula, 18, 2nd Battalion, 7th Marine Regiment, 1st Marine Division, 1st Marine Expeditionary Force, from Edinburg; he died due to injuries sustained from enemy fire in Al Anbar Province, Iraq, on April 1, 2004

Lance Cpl. Ruben Valdez Jr., 21, 3rd Battalion, 7th Marine Regiment, 1st Marine Division, 1st Marine Expeditionary Force, from San Diego; he died from combat injuries in Al Anbar Province, Iraq, on April 17, 2004

May the Lord bless their souls, and make strong their families, who must live forever without them. And may this list grow no longer . . .

Mrs. CAPPS. Mr. Speaker, I rise today in commemoration of the upcoming Memorial Day holiday.

This Memorial Day is particularly poignant as hundreds of thousands of brave American service men and women are serving their country and putting their lives on the line in Iraq, Afghanistan and around the world.

Our service men and women—including many from my community on the Central Coast of California—have left their homes, jobs, and families to serve in Afghanistan and Iraq.

While we honor those who are currently serving and pray for their safe return home, today we remember and pay tribute to the Americans who have fought and given their lives for us, from Lexington and Concord to the beaches of Normandy, the jungles of Vietnam, the mountains of Afghanistan, and the desert of Iraq.

Every casualty on the battlefield is a blow to our nation, but we are mindful that it is an unspeakable loss to the family and friends of the one who has been lost.

We know too that the qualities embodied by our fallen soldiers—heroism, honor, bravery, and sacrifice—cannot always be of great comfort to those who knew them best.

My thoughts and prayers are especially with the loved ones of fallen soldiers who hail from Santa Barbara, San Luis Obispo and Ventura Counties on California's Central Coast.

The very least the Federal government can do for those who did their duty and served our nation is to provide them quality health care and retirement benefits. This is our duty.

Today, we pause and remember those who have died to preserve American values. We honor those who fought, and who fight today to protect American freedoms.

I will do everything I can to keep our troops safe and to preserve the quality of life of our veterans. I look forward to working with my colleagues on this endeavor.

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today to honor our fallen heroes and to pay tribute to our current military men and women who are serving our Nation in a time of war. I especially want to thank American Samoa's warriors for the sacrifices they have made so that you and I and future generations may live in peace.

American Samoa's sons and daughters have served in record number in every U.S. military engagement from WWII to present operations in our war against terrorism. Our active duty service members are also serving in Operation Iraqi Freedom. In March of this year, over 65 soldiers from American Samoa's Army Reserve Unit were deployed to Iraq and recently we received word that other units from American Samoa will soon follow.

Last year, American Samoa lost two young warriors to the war in Iraq. In August 2003, SPC Farao Kevin Letufuga died in Mosul, Iraq and it was with heavy hearts that CSM Iuniasolua Savusa and I accompanied his body home. Specialist Letufuga served as a member of the 101st Airborne Division. He is the son of Mr. Fetineia'i and Siniva Letufuga of Aoloau, American Samoa.

On October 27, 2003, PVT Jonathan I. Falaniko was killed in Baghdad, Iraq in a rocket propelled grenade attack. Twenty-year-old Jonathan Falaniko had been in the U.S. Army for less than 6 months. He attended basic training at Fort Leonard Wood, MO, in May 2003 and was deployed to Iraq in August 2003. Private Falaniko was then assigned to the 70th Engineer Battalion under the 1st Armored Division, Engineers Brigade of which his father, Ioakimo Falaniko, was the command sergeant major and the most senior enlisted soldier.

CSM Ioakimo Falaniko has been serving with distinction in the U.S. Army for over 26 years and is still serving in Iraq. Command Sergeant Major Falaniko is from the village of Amanave, American Samoa and his wife Maliana is from Aua. Their son was laid to rest at the National Cemetery in Arlington on Friday, November 7, 2003. I was privileged to be invited by the Falaniko family to speak at Private Falaniko's services. It was a very solemn and inspiring service that was also attended by LTG Robert Flowers, Commander of the Army Corps of Engineers, and the Sergeant Major of the Army, Jack Tilley.

In Samoan culture, it is customary to make speeches so that for generations to come the name of our fallen heroes will not be forgotten. This is why I am pleased that we are observing a moment of silence today and are reserving a special section of the CONGRESSIONAL RECORD for Members to honor fallen soldiers from their districts and to offer their thoughts on Memorial Day. In remembrance of Specialist Letufuga and Private Falaniko, I rise today to say that these two young men lived and died honorably as true Samoan warriors. They gave their lives so that you and I may live in freedom.

Across America, many others have also died while protecting our Nation and today I pay special tribute to them. To those who have lost their sons and daughters and husbands and wives, I say let us honor their patriotism, love of country and willingness to serve and sacrifice to bring about peace and freedom in a troubled world.

To our veterans and current service members, and especially to American Samoa's Reserve unit now serving in Iraq, I would like to close by saying I am proud of you. As a Vietnam Veteran, I commend you for your courage and I thank you for your service to our country. May God bless you and may God bless America.

Mr. KILDEE. Mr. Speaker, I rise today to honor the brave men and women of our Nation's Armed Forces who are performing so magnificently in Iraq, under very difficult circumstances. America is exceedingly blessed to have such citizens who are willing to put their lives on the line to protect our Nation.

Some who serve in Iraq have made the supreme sacrifice by giving their very lives in defense of our Nation. And to those heroes we owe our eternal gratitude, and we give our deepest sympathy to their families and loved ones.

Mr. Speaker, several families in my congressional district have lost loved ones in Iraq. I list their names and hometowns for my colleagues in Congress.

SGT Michael F. Pedersen, U.S. Army of Flint, MI, killed in action in a helicopter crash on April 2, 2003.

SSG Scott Sather, U.S. Air Force of Clio, MI, killed in action on April 8, 2003.

PFC Jason M. Meyer, U.S. Army or Swartz Creek, MI, killed in action when struck by mortar fire on April 8, 2003.

SSG Brett J. Petriken, U.S. Army of Mundy Township, MI, killed in action escorting a convoy on May 26, 2003.

SPC Artimus D. Brassfield, U.S. Army of Flint, MI, killed in action when struck by mortar fire on October 24, 2003.

SPC Richard K. Trevithick, U.S. Army of Gaines, MI, killed in action by an improvised explosive device on April 14, 2004.

Mr. Speaker, as we prepare to observe Memorial Day later this month, it is incumbent upon us to remember the service and sacrifice of, not only those who have fought in previous wars and conflicts, but also the fine men and women who are currently serving our Nation in Iraq, Afghanistan and around the world. We particularly want to express our gratitude to those heroes who have given their lives in the service of our country. May they rest in peace.

Ms. BALDWIN. Mr. Speaker, we come together, as we do every year, to observe this national day of remembrance—to honor the men and women who've given their lives in the service of our country.

This year we sadly add the names of 19 sons and daughters of Wisconsin, killed in Iraq and Afghanistan, to those rolls. We join with their families in grieving the loss of: SPC Bert Hoyer, PVC Nicholas Frye, MAJ Christopher Splinter, SGT Warren Hansen, SPC Eugene Uhl III, 2nd LT Jeremy Wolf, PFC Rachel Bosveld, SPC Paul Sturino, SGT Dan Gabrielson, MAJ Mathew Schram, SGT Kirk Straseskie, CPT John Kurth, PFC Sean Schneider, CPL Jesse Thiry, PFC Ryan Jerabek, SPC Michelle Witmer, SPC Michael McGlothin, PO Michael Anderson, and SPC Robert Cook.

We mourn them as we mourn the loss of all Americans in uniform who've made the ultimate sacrifice.

This is a day of great pride and great sorrow. It is a day of sweet memories and bitter regrets. It is a day of despair and, yet, of hopefulness.

Yes, despite our sadness, we do have reason to be hopeful.

For as long as men and women don the uniform and serve with distinction, they embody the promise of America. This America founded on the principles of equal justice under law. This America which for centuries has stood as a beacon of liberty. This America which, by the sacrifices of those we honor today, we still proudly proclaim the land of the free and the home of the brave. We remember them today and always.

Mr. LARSEN of Washington. Mr. Speaker, I rise today to honor and remember the young men and women who have given their lives while serving our country in Iraq and Afghanistan.

A monument now stands in our Nation's capital to recognize the service and sacrifice of our service men and women during World War II. The long-overdue monument comes at a time when our Nation is reminded each day of the painful reality of war—not everyone returns home. The 2nd Congressional District of Washington state that I represent has not stayed immune from this reality.

This coming Memorial Day I will join with veterans of wars past to honor those who did not return home—including the four young men from the 2nd District who gave their lives for this nation during Operation Iraqi Freedom and Operation Enduring Freedom.

On Memorial Day, today, and every day, I honor Air Force Staff Sergeant Juan M. Ridout of Oak Harbor, Washington; Army Private First Class Kerry D. Scott of Concrete, Washington; Army Specialist Justin W. Hebert of Silvana, Washington; and Army Specialist Nathan W. Nakis of Sedro-Woolley, Washington.

You will not be forgotten.

Mr. MARKEY. Mr. Speaker, as we prepare to dedicate the World War II Memorial in Washington DC next week, and remember the sacrifices of the Greatest Generation who repelled the forces of tyranny and hate in Europe and the Pacific 50 years ago, let us also pause to honor a new generation of brave Americans that have made the ultimate sacrifice for their country. We observe a moment of silence for those brave young men and women that have given their life while serving our Nation in the War on Terror.

Throughout the history of this Nation, the soldiers of our Armed Forces have fought to preserve the ideals of democracy, freedom, and liberty. The tragic events of September 11th, 2001, reminded us that there is no permanent respite from the need to maintain our guard in an unstable world. Even as Communism and the Cold War have faded into history's mists, radical and dangerous new groups and individuals are ready to rise to test the willingness of America to defend itself. The sacrifices of our sons and daughters fighting in Afghanistan and Iraq demonstrate that when duty calls, America is ready. Hundreds of thousands of men and women in uniform have bravely answered the call to duty and traveled far beyond our borders to preserve and protect our nation in its time of need. Our Armed Forces are working today throughout the globe to ensure that future generations of Americans can live in a free and peaceful society.

Today, we pause to remember our young men and women who answered the call, fought bravely, and sacrificed much to preserve our freedom. It is with a heavy but grateful heart that we thank our fallen soldiers and their families in these difficult times. We can never fully repay their service, but we must never forget their sacrifice.

Mr. GERLACH. Mr. Speaker, on the occasion of Memorial Day, I rise to recognize a fallen soldier from my district, First Lieutenant David R. Bernstein, formerly of Phoenixville, Pennsylvania.

Lieutenant Bernstein, 24 at the time of his death, was a member of the 1st Battalion (Airborne), 508th Infantry Regiment, 173rd Infantry Brigade of Camp Ederle, Italy. He, along with Pfc. John D. Hart, 20, of Bedford, Mass., were killed in Taza, Iraq on October 18, 2003 when enemy forces ambushed their patrol using rock-propelled grenades and small arms fire.

Although I never had the opportunity to know Lieutenant Bernstein, what I have read about his life demonstrates what a tremendous and exemplary young man he was. He was a member of the West Point swim team for his 4 years at the United States Military Academy and enjoyed running, bicycling and competing in triathlons. He was also an accomplished student as exhibited by his selection as his high school valedictorian at Phoenixville High School and finishing fifth in his class at West Point. Lieutenant Bernstein, like so many fallen soldiers throughout our history, looked forward to a bright future, but sacrificed that future for the welfare, safety and liberty of our Nation.

I take this opportunity today to thank Lieutenant David R. Bernstein for his heroic service and sacrifice to our Nation and to also offer my condolences to his parents, Richard and Gail, and the entire Bernstein family.

Mr. Speaker, on this Memorial Day, I will remember First Lieutenant David R. Bernstein as an example of the sacrifices made by so many to keep our Nation strong and free. I ask my colleagues and the public to join me in remembering and honoring our Nation's fallen heroes.

Mr. MCINTYRE. Mr. Speaker, I rise today to pay tribute to the courageous servicemen and women who have given their lives to protect us in this time of war. These selfless warriors have dedicated their lives to fighting for this great country and our freedoms, and it is only fitting that we honor them this Memorial Day.

As President John F. Kennedy once said, "Mankind must put an end to war or war will put an end to mankind." Although we are forced with the difficult decision of sending our servicemen and women into the battlefield, it is they who make the conscious decision to leave their families and friends behind. Every day of every month, these valiant members of our armed forces make the call to duty—always aware of the challenges they face and the painful reality that they may not make it back home. Yet, they still make the admirable choice, and they do it honorably and without complaint. Our Soldiers, Sailors, Airmen, Marines, and Coast Guardsmen and women are the true heroes and heroines in this world, and they are the ones who will help to bring an end to war.

As we observe this Memorial Day, our hearts will be filled with gratitude to the brave men and women in uniform who have laid down their lives for this great country. And, the voices of those who have fallen will echo in our memories as we are comforted by the legacy of courage that they have established for us. We must all remember that freedom, and the blessings it brings, often exacts the ultimate sacrifice. Therefore, Mr. Speaker, I stand today to pay tribute to the remarkable servicemen and women who have lost their lives so that we may continue ours. They have proudly served our country, and now we proudly recognize and honor them. May God's grace be upon each and every one of them.

Mr. CUNNINGHAM. Mr. Speaker, on the eve of the 136th observance of Memorial Day, the House of Representatives paused in a moment of silence to honor all of our fallen heroes. Men and women across the United States and from other countries continue to serve in the defense of our great nation and the ideals we hold most important. These brave heroes are prepared to make this same sacrifice should their duties require it, and that is a grave responsibility we must honor.

This year I also want to recognize an unsung group of fallen military heroes, the countless members of our Armed Forces that served and died for our country but were never United States citizens. Many American military heroes, past and present, were born outside of the United States. From the thousands of non-citizens who fought for our independence as a nation, to those who fought for the Union Army during the Civil War, to the more than 36,000 non-citizen members of today's Armed Forces, these men and women have sacrificed for our country and the preservation of our precious freedom. We succeeded today in amending the Fiscal Year 2005 National Defense Authorization Act to authorize creation of a memorial to recognize these fallen heroes at Arlington National Cemetery, our nation's premier military cemetery and shrine honoring the men and women who served in the Armed Forces.

As a combat veteran and member of the House Appropriations Subcommittee on Defense, I am keenly aware and appreciative of the sacrifices our service members make. In the past, I received the good will and recognition of this nation for my service. This Memorial Day, I want to extend these sentiments to our service members, my fellow veterans, and our fallen heroes from the United States and allies nations around the world.

Mr. SMITH of Michigan. Mr. Speaker, I rise today to honor three young men from my district who sacrificed their lives while serving in the Armed Forces in the war on terror.

Jason Plite of Delta Township, Eaton County, Michigan, was a senior airman in the Air Force who died while on a mission to rescue two injured Afghan children. He was an extraordinary young man who took part in an elite Special Forces program to become an airborne paramedic and was serving his second tour in Afghanistan. Jason was both artistic and athletic, serving as captain of his high school swim team and painting murals for local businesses. A sensitive individual who loved his country, his family and his friends, Jason was always there when someone needed him. He was 21 years old.

D.J. Wheeler of Concord, Michigan, died in Tikrit while serving as gunner on an armored vehicle that was attacked with a rocket-propelled grenade. D.J., whose nickname was "Sunshine", enlisted right after the 9/11 attacks. He delighted in handing out dollar bills and candy to Iraqi children and was known for his sense of humor and generous spirit. While attending Lumen Christi High School he played offensive lineman on the football team. In spite of his towering height, he was gentle and loving with friends and family. He was 22 years old.

Bradley Fox of Adrian, Michigan, was an Army gunner in Iraq. He enlisted at age 19, serving in the first Gulf War, Kosovo, Panama and Afghanistan. He was severely wounded when his Bradley Fighting Vehicle was hit by a roadside bomb and he was evacuated to Germany for treatment. Brad was on life-support for a month before he succumbed to his injuries with his wife at his side. His fellow soldiers told his mother, his wife, and children how proud they were to have served with him and what a dedicated leader he had been. Working on his master's degree, he was planning to teach after he completed 20 years in the Army. He was 35 years old.

My tribute to these young men should be measured by showing that they did not strive and die in vain, but that through their sacrifice, future generations can live in greater peace, prosperity, and hope.

Mr. COSTELLO, Mr. Speaker, I rise today to pay tribute to all the many men and women who have died in defense of our nation. Next week is Memorial Day where we join our constituents in honoring those who gave their lives to ensure that we enjoy the principles of liberty, justice, and democracy. During that time, we remember, honor, and reflect on the men and women who paid the ultimate price for their country. Flags fly at half-mast, relatives and friends place wreaths and flowers on the graves of those they loved, and communities host parades adorned in red, white, and blue. These tributes are small tokens we perform in an effort to convey our gratitude to those who have served for the cause of freedom and democracy.

Over this last year, my district alone has lost three soldiers: Pfc. Matthew Bush, Spc. William Dusenbery, and Capt. John Tipton. Further, in my district, Jack Montague, a civilian KBR employee for the Halliburton Corporation, died while working in Iraq. Today and throughout this Memorial Day week, we honor their memories and their families who bear the heaviest burden of our freedom. They are not simply statistics; these fallen soldiers were dads, brothers, sons, neighbors, and community leaders. While the grief and pain may not have faded, I hope it is comforting for them to know that their fallen heroes are loved, honored, respected and their cause was just.

In addition, let us remember that thousands of servicemembers will spend this Memorial Day stationed in other countries defending our freedoms far away from their families. Mr. Speaker, I join my colleagues today in a moment of silence to remember our fallen soldiers and pray for peace.

Mr. COLLINS. Mr. Speaker, throughout the history of the United States, men and women have paid the ultimate price for freedom.

Memorial Day is a day dedicated to the remembrance of those who gave their life in the name of freedom.

The U.S. House of Representatives has assembled in the Capitol to pay special tribute to those who have lost their life in the war against terrorism. Henceforth, the battle has been in Iraq and Afghanistan.

I salute those from Georgia who have died on the battlefields in Iraq and Afghanistan:

U.S. Army Specialist Jamaal R. Addison of Roswell.

U.S. Army Private First Class Diego Fernando Rincon of Conyers.

U.S. Army Private First Class Michael Russell Creighton Weldon of Conyers.

U.S. Army Captain Edward J. Korn of Savannah.

U.S. Army Specialist David T. Nutt of Blackshear.

U.S. Army Specialist John K. Klinesmith of Stockbridge.

U.S. Army Sgt. Michael T. Crockett of Soperton.

U.S. Army Sgt. Nathaniel Hart Jr. of Valdosta.

U.S. Army Staff Sgt. Bobby C. Franklin of Mineral Bluff.

U.S. Army Private Benjamin L. Freeman of Valdosta.

U.S. Army Command Sgt. Major Jerry L. Wilson of Thomson.

U.S. Army Specialist Marshall Edgerton of Rocky Face.

U.S. Army Specialist Christopher J. Holland of Brunswick.

U.S. Army Specialist Nathaniel H. Johnson of Augusta.

U.S. Army Staff Sgt. Ricky L. Crockett of Broxton.

U.S. Army Sgt. William J. Normandy of Augusta.

U.S. Army Master Sgt. Thomas R. Thigpen, Sr. of Augusta.

U.S. Army Specialist William R. Strange of Adrian.

U.S. Air Force Airman 1st Class Antoine J. Holt of Kennesaw.

U.S. Army Private First Class Marquis A. Whitaker of Columbus.

U.S. Army Specialist Justin W. Johnson of Rome.

Mr. MCNULTY. Mr. Speaker, as the House pauses to remember all the brave American men and women of our Armed Forces who have been lost in Iraq and Afghanistan, I am proud to honor the service and sacrifice of Sgt. Thomas Robbins, who grew up in New York's Capital Region.

Sgt. Robbins, a cavalry scout with the Army Stryker Brigade's 1st Squadron, 14th Cavalry Regiment out of Fort Lewis, Washington, lost his life this February due to injuries sustained in northwestern Iraq.

Sgt. Robbins is survived by his wife, Gina, their beautiful daughter, Marisa, his father, Douglas, and mother, Charlene.

I know the pain of such a tremendous loss. In August of 1970, I was called to my home in Green Island, New York, to learn that my brother Bill had been killed in Vietnam. H.M.3 William F. McNulty, a medic in the Navy, transferred to the Marine Corps, had been out in the field in Quang Nam province patching up his buddies when he stepped on a land mine and lost his life. Our family misses him every day.

On this Memorial Day, Mr. Speaker, I also recall the service of my Dad, Jack McNulty, and friends like Leo O'Brien, Lou DiNuzzo, Peter D'Alessandro, and other World War II veterans who were part of what we now call "the greatest generation." We can all be very proud of the beautiful new World War II Memorial on the National Mall. This monument will stand for generations in honor of those who put their lives on the line for all of us, for our families, and for all that we hold dear.

On a daily basis, we should remember that had it not been for all of the men and women who wore the uniform of the United States military through the years, like my good friend Ned Haggerty, who earned two Purple Hearts in Korea, the rest of us would not have the ability to boast that we live in the freest and most open democracy on the face of the Earth. Freedom isn't free. We have paid a tremendous price for it. Let us never forget that.

Mr. Speaker, our veterans are the reason why, when I get up each morning, I thank God for my life—and veterans for my way of life.

Mr. BLUNT. Mr. Speaker, southwest Missouri learned early in the War on Terrorism of the sacrifices necessary to defend our way of life. Two men from the 7th Congressional District died in less than a week of hostilities in Afghanistan.

Stanley L. Harriman, 34, a Chief Warrant Officer in the United States Army, was the first American killed in combat in Afghanistan on March 2, 2002. His death brought the harsh realities of war home to the Ozarks. Harriman was assigned to the 3rd Special Forces Group at Fort Bragg, North Carolina. While Harriman's hometown is Wade, North Carolina, he had family ties to Southwest Missouri. He attended and graduated from Strafford High School in 1985. "Stanley died for you and you and you," his wife, Sheila Harriman, told reporters at Fort Bragg, N.C., "and for your freedom. All Stanley ever wanted to do was be an American soldier."

Two days later, Army Sergeant Philip Svitak of Joplin was killed in action. Svitak was killed while in combat with Taliban and al Qaeda forces in eastern Afghanistan during Operation Anaconda on March 4, 2002. Svitak was 31. He was assigned to the 160th Special Operations Group at Ft. Campbell, Kentucky. His wife and two children survived him. He was the only son in a family of veterans. Both his mother and father served in Vietnam. Roseann Svitak said her son "told me before he went, 'Mom, the terrorists have to be stopped.' He said, 'If they send me over there and anything happens to me . . . I'm proud to die for my country.'"

Daniel Kisling, Jr. of Neosho died of injuries suffered in a helicopter crash in Afghanistan on January 30, 2003. Kisling and three other servicemen were aboard a UH–60 Black Hawk helicopter that crashed during a training exercise. Staff Sergeant Daniel Kisling, Jr. served in the U.S. Army for eight years. At the time of the fatal crash he was assigned to the 101st Airborne Division based at Ft. Campbell, Kentucky: He was the crew chief aboard the Black Hawk helicopter. Daniel Kisling was survived by his parents Daniel Leon and Velinda Kisling of Neosho, Missouri, and his sister Lisa. Kisling was married to Georgie McNeill for 14 years. They have three children: Nathan, age 13; Jessie, age 10; and Riley, age 3. A fourth child was born to the couple after Sgt. Kisling's death.

In early May, 2003, Private-First-Class Jess A. Givens was killed in a tank accident along the banks of the Euphrates River west of Baghdad, Iraq. Jesse Givens, son of Connie Givens of Springfield, Missouri, attended Springfield Glendale High School. He was 34 years old. His wife and five-year-old child, who live in Ft. Carson, Colorado, survive him. Givens was with the 3rd Armored Cavalry Regiment. His siblings live in Joplin and Springfield.

Twenty-one-year-old Jonathan Paul Barnes from McDonald County was killed in a grenade attack July 26, 2003 in Iraq. Barnes was a member of the 4th Infantry Division's 1st Battalion, 67th Armored Regiment. He joined the Army in April, 2001. At the time of his death he was guarding a hospital with two fellow soldiers who were also killed. James Barnes, Jonathan's father, who lives in Anderson, Missouri, and pastors the Greenwood Community Church near Southwest City, Missouri, described his son as a "strong boy, who loved God and his country. He wanted to go," his father said. "He died doing what he wanted to do." Jonathan Barnes was survived by his wife Amanda and daughter Michelle of Goodman, Missouri.

1st Lt. Benjamin J. Colgan was killed on November 1, 2003 in Baghdad while responding to a rocket propelled grenade attack. His wife Jill Kathleen Asay of Aurora, Missouri, said, "He loved his country and wanted to make a difference in the world, and he gave his life to make a better life for the people of Iraq and for all Americans." Colgan had been in the U.S. Army 12 years. He was in the 2nd Battalion, 3rd Field Artillery Regiment, 1st Armored Division. Jill Asay gave birth to the couple's third child in December 2003. Daughters Grace, age 2, and Paige, age 1, also survived their father.

U.S. Army Staff Sergeant James 'Doug' Douglas Mowris was among 7 U.S. servicemen killed January 29, 2004 in an explosion in Ghazni, Afghanistan, about sixty miles southwest of the country's capital city. "My husband was proud to serve," Mrs. Mowris said. "He gave the greatest sacrifice anyone can give; that was his life . . . . He was a good husband and wonderful father." Doug Mowris was a member of the 414th Military Police Company based in Joplin, Missouri. Mowris had been in the U.S. Army or Army Reserves since 1984. Mowris was 37 years old. He was survived by his wife of 15 years, Michelle, and children Craig, age 14, and McKenzie, age 9.

These men died, leaving friends, family, and children to grieve and remember. We also remember another group of Americans who are civilian casualties of the War on Terror. John Willett and Craig Amundson were Ozarks natives who died in the September 11, 2001 attacks on New York and Washington.

All of these brave men are the faces of this war. They remind me every day of what we are fighting for.

Mr. CANTOR. Mr. Speaker, as our nation mourns the loss of 2nd Lt. Leonard Cowherd, I rise today to honor this fallen son of Virginia. I would like to reflect on his honorable service and sacrifice to the United States of America.

I join his family, wife, and friends who now stand strong as they carry on the memory of his life. I extend a special condolence to his wife Sarah Cerri Cowherd, his parents Lenny and Mary Ann Cowherd of Culpeper, his brother Colby Cowherd, his sister Laura Cowherd, and his twin brother, Charles Cowherd. 2nd Lt. Leonard Cowherd will forever be in our hearts.

2nd Lt. Leonard Cowherd called the Culpeper region home and graduated from the Wakefield Country Day School in Rappahannock County. Always striving to better himself, he applied for and accepted a nomination to the United States Military Academy, graduating in 2003. Upon concluding an excellent academic career, he married the love of his life, Sarah Cerri Cowherd.

Soon after their wedding, 2nd Lt. Leonard Cowherd answered his country's call to defend our flag and took command of a tank platoon assigned to Company C, 1st Battalion, 37th Armor Regiment, 1st Armored Division. In Iraq, 2nd Lt. Leonard Cowherd gave the ultimate sacrifice in the performance of his selfless duty. The life of 2nd Lt. Leonard Cowherd will stand forever as a perfect model for all men and women in uniform. He is a testament to his family, the American Military, and the United States of America.

2nd Lt. Leonard Cowherd possessed the deepest conviction in the freedoms symbolized by the flag of the United States of America. Our flag symbolizes strength and conviction, perseverance and steadfast morals, justice and liberty. Where our flag stands, so stands freedom. The flag of the United States of America stands in the sands of Iraq because of 2nd Lt. Leonard Cowherd and so does freedom.

I join the people of the United States of America, the Commonwealth of Virginia, family and friends, and all those who hold the memory of 2nd Lt. Leonard Cowherd close—that today and everyday following, we honor his sacrifice and celebrate his life.

Mr. LAMPSON. Mr. Speaker, I want to take a moment to thank my Colleagues, Congressman RANGEL and Congressman WALSH, for organizing all of us to take a moment to honor the brave men and women who have made the ultimate sacrifice for our freedom worldwide.

As we hold this moment of silence, and on the occasion of Memorial Day, let us not lose sight of brave veterans as well. Recently the House had the opportunity to honor these fine Americans through legislation that would have added $1.3 billion to the Veterans Affairs health care budget, and that would have increased funds by $500 million over the next 5 years for the Survivor Benefit Plan, which pays a military survivor 55 percent of their late spouse's retiree benefits, but is reduced to 35 percent at age 62. Both measures were defeated before they ever saw any debate by the full House. That this Congress would even consider the idea of cutting military families' benefits shows a disconcerting emphasis on misguided budget priorities.

In previous congressional sessions, I have voted to authorize increases in cost-of-living adjustments for veterans receiving disability compensation and their surviving family members, to expand long-term care services for veterans and allow Veterans Affairs to generate increased revenue to help pay for health care costs, and to increase funding for Veterans Affairs' state extended care facilities construction grant program by $10 million. I firmly believe that additional benefits are critical to the future success, stability, and retention levels for our armed forces. More importantly, this is the right thing to do for Texas, our great Nation, and the hardworking families of our brave troops and veterans.

There is absolutely no excuse to duck our responsibilities to the men and women of our armed forces, and it is my sincere hope that my colleagues do not continue to confuse budget priorities when it comes to standing up for these all too important Americans.

Mr. KIND. Mr. Speaker, as we approach Memorial Day, it is proper that the House take a moment to remember the brave American men and women of our armed forces who have died defending freedom in Iraq and Afghanistan.

In particular, I want to take this time to remember heroes from my district in western Wisconsin.

First Lieutenant Jeremy L. Wolfe, U.S. Army, of Menomonie, Wisconsin. Lieutenant Wolfe was assigned to the 4th Battalion, 101st Aviation Regiment, 101st Airborne Division (Air Assault), Fort Campbell, Kentucky. He died serving in support of Operation Iraqi Freedom on November 15, 2003.

Major Christopher J. Splinter, U.S. Army, of Platteville, Wisconsin. Major Splinter was assigned to the 5th Engineer Battalion, 1st Engineer Brigade, Fort Leonard Wood, Missouri. He died serving in support of Operation Iraqi Freedom on December 24, 2003.

Private First Class Bert E. Hoyer, U.S. Army Reserve, of Ellsworth, Wisconsin. Private Hoyer was assigned to the 652nd Engineer Company, Ellsworth, Wisconsin. He died serving in support of Operation Iraqi Freedom on March 10, 2004.

Private First Class Gregory R. Goodrich, U.S. Army Reserve, of Bartonville, Illinois. Private Goodrich's mother lives in Hillsboro, Wisconsin. He was assigned to the 724th Transportation Company, Bartonville, Illinois. Private Goodrich died serving in support of Operation Iraqi Freedom on April 9, 2004.

These young men paid the ultimate price to enhance our security and protect our liberties; they also gave the people of Iraq the greatest gift of all: their freedom. I want to extend my heartfelt sympathies to their families and friends. Young leaders like these exemplify all that is good and decent about America.

On behalf of a grateful nation, we thank all our brave men and women serving in hard and dangerous conditions to bring stability and freedom to the people of Iraq and Afghanistan. God bless those who are serving and those who have fallen. Their sacrifice is honored by all Americans.

Mr. GREEN of Texas. Mr. Speaker, I rise today to pay tribute to the brave men and women of our Armed Forces who have given their lives serving their country in Iraq and Afghanistan.

As Memorial Day approaches, I hope that each man, woman, and child in this country pauses to remember those who have made the ultimate sacrifice defending our Nation.

Over the past two years, five young men from the district I represent have lost their lives in Iraq and Afghanistan:

Staff Sergeant Brian Thomas Craig, died in Afghanistan on April 15, 2002;

Sergeant Keelan Moss, died in Iraq on November 2, 2003;

Private First Class Armando Soriano, died in Iraq on February 1, 2004;

Private First Class Leroy Sandoval, Jr., died in Iraq on March 26, 2004; and

Sergeant Gregory Wahl, died in Iraq on May 3, 2004.

No words can express our gratitude for the sacrifices these young men made to defend our country.

All those who have given their lives in Iraq and Afghanistan are heroes, and we will forever be grateful for their sacrifice.

As this Memorial Day approaches, I once again ask my colleagues and my fellow Americans to join me in remembering those who have served, those who are serving, and especially those who have given their lives serving in Iraq and Afghanistan.

Ms. CARSON of Indiana. Mr. Speaker, as we approach another celebration of Memorial Day, it is incumbent that we pay homage to the Nation's veterans and war dead with more than just words. Rather, we reflect on how our actions honor or may dishonor this great republic for which they enlist to defend. Indiana's veterans and war dead share in this tribute.

Memorial Day, originally called Decoration Day, is a day of remembrance for those who have died in our Nation's service.

Those that we remember—veterans—are precious benchmarks for how well we have maintained all of the freedoms and democratic principles they fought and died for.

Veterans fought for the survival of all the things that made the United States, the leader of the free world: Freedom of religion, freedom of speech, life, liberty and the pursuit of happiness for each citizen and not the least—our great Constitution which undergirds this Republic.

It is in defense of our democratic principles and the freedoms that we uphold and value for each citizen with no respect to wealth, social rank, or might, that we form a military, that we have veterans, that we honor them on Memorial Day.

My memorial to Hoosier veterans and the war dead is to revere what they fought and died to preserve:

> We, the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty, to ourselves, and our Posterity, do ordain and establish this Constitution for the United States of America.

We are trustees of a future that remembers and honor the past and living freedoms. As we honor them this Memorial Day, let us refresh our commitment to the trust we bear for the days and years ahead. That is the fitting memorial—to honor their service with meaning as we remember daily why they serve.

With special tribute to the war dead of the seventh congressional district of Indiana in the Iraq theatre: Pvt. Jesse M. Halling and Pfc Derek L. Hallal.

Mr. GONZALES. Mr. Speaker, I rise humbly today in recognition of the brave men and women of the United States military, past and present.

Memorial Day has become a day in which many Americans have the opportunity to spend time with their friends and family. It is important to remember, however, that the purpose of this day is to honor, as a Nation, those who have sacrificed their lives in service to their country. These defenders of freedom were husbands and wives, parents and children, friends, and neighbors. They had plans for the future and a love for their country. I urge each and every American to take a moment this Memorial Day to remember and honor those who have given the ultimate sacrifice.

I would like to take this opportunity to pay special recognition to three individuals from the 20th Congressional District of Texas who were killed in service to their Nation in Iraq.

Army Pfc. Anthony Scott Miller was the first soldier from San Antonio killed in Operation Iraqi Freedom. This friendly 19-year-old enlisted because, according to his brother, he saw it as a way to better himself. Anthony had only been in the Army for a year when an Iraqi surface-to-surface missile hit a tactical operations center of the Army's 3rd Infantry Division, killing Anthony and three others.

Staff Sgt. Rodrigo Gonzalez was born in Mexico and his family immigrated to the U.S. when he was just 1 year old. Like many members of his family, including his twin brother Ricardo, Rodrigo was a true patriot—he chose to serve in the U.S. military. His family has said that Rodrigo loved this country and that he had plans to purse a medical career after finishing his participation in the military. He had been in Kuwait for only 3 weeks when the Black Hawk helicopter he was in crashed.

Army Staff Sgt. Roland Lee Castro was a soldier, a husband, and a father. Roland went to Iraq in April 2003. He returned home last summer due to an injury, but, while recovering in San Antonio, Roland told his mother, "I've got to bring my soldiers back safely." Shortly thereafter, the 26-year-old returned to Iraq to serve with his field artillery unit. There, he was accidentally shot. He leaves behind his wife, Liliana, and their 4-year-old daughter, Raquel Lee.

This Memorial Day, I ask that we remember Rodrigo, Roland, Scott, and the many other inspiring men and women who have lost their lives in service to this great nation. On behalf of all Americans, I wish to thank military personnel and their loved ones for their profound sacrifices, God bless.

Mr. GOODE. Mr. Speaker, as we approach Memorial Day, I rise today to salute two members of the military from the Fifth District of Virginia, who gave their lives in service to the United States in the war on terrorism.

LTC William R. Watkins III, lived in Halifax County, and SGT Michael Dooley lived in Bedford County. Both of these men loved this Nation and served bravely in Iraq in the war against terrorism. Their untimely deaths in the spring of 2003 came as they defended the freedoms that we cherish.

Because Lieutenant Colonel Watkins and Sergeant Dooley joined their fellow soldiers in removing the Taliban and Saddam Hussein from power, the terrorists no longer have Afghanistan and Iraq from which they can operate with impunity and with statesponsored support to plot, plan, and mastermind another event like September 11 in our country.

Because of the bravery of Lieutenant Colonel Watkins and Sergeant Dooley and the other hundreds of men and women who have given their lives, the United States and much of the World is safer, and we thank all of those who are in uniform this Memorial Day.]

Ms. MCCARTHY of Missouri. Mr. Speaker, I respectfully rise during this moment of silence to honor and acknowledge members of the armed forces from my district, Missouri's Fifth, and commend those who have given the ultimate sacrifice in service to our grateful nation for their valor, strength and commitment. I also commend those six Missouri soldiers injured while serving our country in Iraq and Afghanistan who are being treated at the VA Hospital in Kansas City. These courageous men have performed admirably and served unconditionally on behalf of our country. I extend to them my deepest respect and gratitude.

I was honored to visit Private Phillip Ramsey of Kansas City on several occasions at Walter Reed Hospital. Private Ramsey suffered injuries this past September to his left arm and right leg when an explosive device hit his convoy en route between Tikrit and Baghdad, Iraq. He has exemplified courage and strength in his service to our nation and was awarded the Purple Heart and promoted to Specialist for his bravery. He is now back in Kansas City after spending eight months in recovery at Walter Reed Hospital and continues his service in the military. He has made his family and our country proud.

Army Spc. Joel L. Bertoldie of Independence, Mo. was killed on July 18, 2003 when his vehicle ran over an explosive in Fallujah, Iraq. I was privileged to present his family with a flag flown over the Capitol in his honor, and to join them at his memorial service to pay tribute to a fine son, father and citizen. A former Truman high school student, Specialist Bertoldie served honorably in Operation Iraqi Freedom and was awarded the Purple Heart, Bronze Star, National Defense Service Ribbon and Good Conduct Medal for his valor. His spirit will live on in his son, and his memory will inspire all those whose lives he touched.

Mr. Speaker, I am honored to join with my colleagues to praise these heroic soldiers and the sacrifices they have made. God bless them and God bless our Nation.

Mr. MATHESON. Mr. Speaker, Memorial Day is our opportunity, as a nation, to pause and pay tribute to the millions of Americans who gave their lives for this country. We enjoy our freedom and prosperity because we are citizens of a nation that believes in service, dedication, and honor. We believe in liberty and our men and women have always willingly stepped up when called upon in defense of freedom.

This year, the Memorial Day weekend celebration on the National Mall will specifically honor America's World War II generation. The National World War II Memorial, which was authorized by Congress in 1993 in memory of those who served and died in World War II, will be dedicated in Washington, D.C., on Saturday, May 29, 2004. Sixteen million Americans fought valiantly, far from home, to protect not just our nation, but the entire world.

More than 400,000 Americans died during this war. Thousands more gave their lives during subsequent wars in Korea, Vietnam, the Persian Gulf, and most recently in Afghanistan and Iraq.

I would also like to take a moment to give my thanks to the soldiers from my home state of Utah. Over the past few years, nearly four thousand Utahns from the National Guard and Reserves, were sent into harm's way in the Middle East, or supported those on the front lines. I am so proud of these men and women—from the Wasatch Front, from St. George, Vernal, Cedar City, and other cities. I am proud of their commitment, grateful for their service, and deeply sorry for the families of those who won't be returning home.

God bless this Nation, and the men and women who serve so valiantly and with honor.

CONCERNING THE VICE PRESIDENT'S ENERGY TASK FORCE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from New Jersey (Mr. PALLONE) is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, I want to express my concern this evening over Vice President CHENEY's abusing his power as Vice President to continue to keep secret documents that could significantly impact our Nation's future energy policy and the effect the Bush administration's energy policies are having on American families and on our economy.

Mr. Speaker, almost immediately after entering office, Vice President CHENEY took it upon himself to convene what would later be called the energy task force. The unnamed participants of this secret task force came together to advise the Bush administration on energy policy and develop what would become the administration's official energy plan. However, in the 3 years since the energy task force released its report, the Vice President has done everything he can to keep the records and participants of the task force secret. This task force played a critical role in developing a major policy initiative with a direct impact on everything from our economy to our environment. Still, the Vice President has refused to let the American people know who made up this energy task force or how and why the task force came to the conclusions that it did.

I am going to get back to this in a minute, but first I want to address the rise in gas prices which I think ultimately is related to the issue of the energy task force.

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Earlier today, I heard the argument that if Congress passes the energy bill devised by the secret Cheney task force, consumers would be alleviated from the high gasoline prices we are witnessing across the country. I want to say, Mr. Speaker, that not only is this argument foolish, but it is also wrong. The Republican-passed energy bill would do nothing to address the rising cost of gasoline; and, in fact, the bill has provisions that would make gasoline even more expensive.

In fact, a study released in February by the Energy Information Administration found that the provisions in the energy bill would have only a negligible effect on energy production, consumption, and prices; but that negligible effect would be far outweighed by a provision requiring the use of ethanol. The report concluded that such a provision would actually increase the average gasoline price by 3 cents per gallon and the price for reformulated gasoline by an average of 8.1 cents. So the study concludes that provisions in the Republican energy bill would actually increase gas prices, and I certainly know that my constituents would not like to see that happen, particularly as we now move into the Memorial Day week.

What President Bush and his administration do not understand is that high gas prices impact all of us, consumers and businesses alike. Gasoline prices have increased 38 percent since December 2003, with the average price for a gallon of regular unleaded at just over $2. High fuel costs translate into a loss of profit margins for the manufacturing and transportation sectors that force prices for products and services higher, hitting American consumers twice. Not only do Americans need to dole out more cash to fill their gas tanks with the little disposable income that they have left; they are be strangled by rising health care costs, higher education costs, and now higher costs in goods and services.

I just want to give some stories from struggling Americans that show that the hardships are being felt from coast to coast. I quote first DeAnn from Salt Lake City, Utah, who writes: "My husband and I own a small trucking company. Due to the rise in fuel, we have let three drivers go and sold the trucks and trailers. This was very hard to do, but in an effort to keep the other two drivers working, we had to. I know of two other small companies that are doing the same, and the burden is just too much."

I have another letter from Sara, who lives in Virginia Beach, Virginia, and she writes: "As a military family, the rising gas prices are taking a big chunk of our disposable income. We have two small fuel-efficient cars, thankfully, but our cost to fill up our cars is easily $10 more every time. Unfortunately, we will not be driving much this summer because of it. I really wish the President would take more of an interest in the problems of middle working-class families like ours."

Not only does Sara think, Mr. Speaker, that President Bush does not care about the impact that gasoline prices have on Americans, but another gentleman, Jon Meade Huntsman, who is the founder of the largest privately held chemical manufacturing corporation in the United States, was recently quoted saying: "The average guy on the street is getting killed because this administration does not care."

Mr. Speaker, many in Congress have requested that President Bush temporarily suspend deliveries to the Strategic Petroleum Reserve and put this oil in the marketplace. If President Bush reduced the amount of oil placed in the Petroleum Reserve, more would be on the market and prices would moderate for Americans now. The SPR can then be replenished when oil prices are lower. But as we know, President Bush refuses to do this because of national security concerns, he claims. But I would like to know why President Bush has no concern for the health of the American economy.

The American people are tired of rising gas prices. In my State alone, in New Jersey, gas prices have increased 48 percent, costing New Jersey families an additional $869 per year. This figure jumps to $1,037 for households with teenagers. In the general U.S. marketplace, gasoline prices will cause a $1.3 billion increase in costs for farmers, which will force American consumers into paying higher prices for food. The trucking industry will experience a $6.3

billion increase in the cost of its services, and airlines will see a $7.5 billion increase because of fuel costs. In fact, just yesterday I read that Continental Airlines has sought to impose a fuel surcharge for their services and reported that it is considering layoffs and cuts in wages and pension benefits in response to the struggle they are facing with the surging oil prices.

So the real impact of all this is a slowdown in the economy with a potential even for more job losses. In fact, an estimate by Merrill Lynch shows that every penny increase in gasoline prices at the pump is equal to $1 billion in lost consumer spending. That is nearly $25 billion in lost spending since the beginning of this year.

All of this is happening on the watch of the Bush administration that vowed to make energy policy a priority in the United States. Yet 4 years after President Bush took office, we have no national energy policy, and we have no national energy policy because the bill that the White House presented to Congress was filled with an extraordinary collection of energy industry giveaways. And to make matters worse, these giveaways do little or really nothing to moderate gas prices.

The President should have promoted meaningful policies that would increase fuel efficiency and conservation measures and provide for expanded use of renewable and alternative fuels.

I would like to ask, Mr. Speaker, what exactly has the Bush administration done over the last 4 years to cut gas prices? During that time the country lost five refineries with the total number of operating refineries dropping from 158 to 153; and while Republicans blame difficult regulatory hurdles for new refineries, I would like to highlight that the Democrats included a policy in our 2001 energy plan with streamlined regulatory guidelines for permitting new refineries or for additional capacity to existing facilities when these permits did not detrimentally impact environmental standards.

I would also like to highlight data compiled by Bloomberg showing that mergers over the last few years have partially contributed to today's high gas prices. Since President Bush took office in January 2001, the administration has approved 33 takeovers totaling $19.6 billion. The Federal Trade Commission took no action to prevent any one of these 33 mergers. And today, Mr. Speaker, the largest five refineries operating in America, ConocoPhillips, Royal Dutch Shell, ExxonMobile, BP, and Valero, control over 52 percent of domestic refining capacity, up 18 percent in a decade. The top 10, which includes ChevronTexaco, Citgo, Marathon, Sunoco, and Tesoro, control 78.5 percent, up 22 percent. With this market concentration, I think it is imperative that this administration seriously consider and review the impact that mergers have on consumers rather than watching out only for the CEOs who benefit from these business mergers.

While the Bush administration has expressed the concern for rising prices, it seems like they are completely disregarding the March 2001 report by the U.S. Federal Trade Commission, FTC, which concluded that during that summer of 2000 price spike, certain suppliers had pursued "profit-maximizing strategies," intentionally withholding gasoline supplies or delaying shipping as a tactic to drive up prices. But today the Bush administration is doing nothing to investigate whether a similar situation might be occurring now.

In fact, while Americans are paying higher prices at the pump, oil companies are posting record profits. In the first quarter of this year, ChevronTexaco reported a 294 percent increase in profits; British Petroleum, 165 percent increase; Exxon Mobile, 125 percent increase; and ConocoPhillips, a 44 percent increase in record profits.

I would also like to note that policies not related to the energy bill actually increased demand in consumption of gasoline. In February, President Bush extended for another 4 years the duel-fuel loophole. This loophole allows auto manufacturers who produce vehicles that can run on more than one fuel type, although they rarely do, a tax credit towards meeting CAFE standards for the entire fleet. What this means, Mr. Speaker, in effect is that these companies can reduce fuel economy for the millions of other cars that they sell. And according to the American Council for an Energy Efficient Economy, this means the U.S. will consume an extra 40 to 110 million barrels of oil from 2005 to 2008. Clearly, the Bush administration is not promoting policies that relieve Americans from high gas prices.

What the administration really should be promoting are policies that make gasoline supplies more stable and provide resources for alternative energy sources. For instance, oil companies should be required to expand gasoline storage capacities and require them to hold significant amounts in that storage, and the administration should reserve the right to order these companies to release this stored gas in order to address supply and demand fluctuations.

I also think that conservation and efficiency standards should be a priority. Democrats have always supported and have proposed innovative tax incentives for gains in energy conservation and efficiency such as a nonrefundable tax credit for higher efficiency vehicles.

Before I finish, Mr. Speaker, I just wanted to go back to what I mentioned earlier regarding Vice President CHENEY's energy task force. After 3 years of hiding the details regarding the task force, it appeared that we might finally get some of the information CHENEY was fighting so hard to keep secret. The Sierra Club, as we know, and the conservative group Judicial Watch earlier this year jointly sued Vice President CHENEY and the energy task force, seeking an accounting of energy industry participation in crafting the Bush administration's destructive energy policy.

In response to that suit, a district court ordered the administration to provide information about participation from these industries, which the Bush administration refused to do. Of course, the President claimed constitutional immunity from these kinds of inquiries. But the district court rejected the Bush administration's contention, pointing out that the administration was attempting to "cloak what is tantamount to an aggrandizement of executive power with the legitimacy of precedent where none exists." That is a quote from the court. I will read it again: that the Bush administration was attempting to "cloak what is tantamount to an aggrandizement of executive power with the legitimacy of precedent where none exists."

Refusing, however, to give in, of course, Vice President CHENEY appealed the district court's decision, asking, basically, the district court to make new law that would effectively shield the Bush administration from any scrutiny. And I just have to say again, in my mind, Mr. Speaker, this is the height of arrogance on the part of the Bush administration. They actually go to court and they ask the court to shield President Bush, Vice President CHENEY, and the rest of the administration from any scrutiny. Fortunately, the court denied that request, and then of course what did the Vice President do? He appealed the decision to the U.S. Supreme Court, and in December the Supreme Court agreed to make argument public on the case. Of course, we do not have a decision yet, but they have heard the case.

And the last thing that I wanted to mention in this regard, and I have mentioned it before here on the House floor, is the whole issue of Justice Scalia's involvement in the case and the fact that, in my opinion, he should have recused himself from any participation when this case came before the Supreme Court. We all know the story: Vice President CHENEY treated Justice Scalia to a personal hunting vacation down in Louisiana. They went on Air Force Two down to Louisiana. And, of course, several questions have been raised by not only me but others with regard to this hunting trip or duck hunting trip to Louisiana and the potential conflict of interest. And I would just like to mention some of those questions again tonight before I close.

First, was the energy executive that hosted the Vice President and Justice

Scalia on this duck hunting trip to Louisiana a member of the energy task force? Of course we do not know because the whole point of the suit is to determine who was a member of the energy task force, and so far the Vice President is not willing to provide that information.

Second, was the Vice President attempting to use this trip, the duck hunting trip, as a way to persuade Justice Scalia that the documents being requested should remain secret under the cloak of executive privilege?

And, third, how could either Vice President CHENEY or Justice Scalia think that this trip in which both flew to and from Louisiana together on Air Force Two would not look like a conflict of interest?

These questions remain unanswered, but I do not think there is any question in my mind and the public's mind. Certainly there have been many editorials on this subject that have said that Justice Scalia should have recused himself from hearing this case.

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Of course, the one thing that I keep thinking in the back of my mind, Mr. Speaker, is, what if this ends up being one of those rather frequent 5-4 decisions, and Justice Scalia is one of the five? What are we going to think about that, given this trip to Louisiana?

I am going to yield to the gentlewoman, but I did want to say, the one thing that is really significant about this Energy Task Force and the one thing that I am trying to bring out tonight is, regardless of what you think about the Energy Task Force and what happened behind closed doors in these secret meetings, because we do not really know what happened, hopefully we will find out at some point, depending on the Supreme Court's decision, but we know one thing clearly, and that is the task force came up with a bad energy policy.

There is no doubt that the energy industry succeeded with its influence during these secret, closed-door meetings. The one thing we know is they managed to craft an energy policy that benefited them, rather than benefiting Americans, who, at the time, desperately needed relief from high energy prices. That continues today with the high gas prices. The problems continue, and the Bush administration does not want to do anything about it.

I see the gentlewoman from Texas is here, and I yield to the gentlewoman.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman for taking the time to very deliberatively chronicle for this body some of the concerns that we have expressed on a number of occasions.

Let me just expand on the gentleman's presentation, primarily because I think it is important to note he is from New Jersey and I am from Texas. The energy industry is one that I work collaboratively with as constituents of my area, and I have often been here on the floor indicating the importance of an energy policy.

We remember very well the number of Energy Secretaries in the Clinton administration, and on a number of occasions there were occurrences there that we disagreed with, but we were consistently working to give input on developing and embracing energy policy; and I still think, for the industry, that is the best way to go. That means we talk about conservation, we talk about solar, we talk about wind power, we talk about domestic production, which many of us have discussed over the period of time.

I think what the administration is failing to see is that we are now at a logjam. We are stagnant, because we have a problem not only with the energy bill being stagnated, because it is one that has not brought in as many of the interests as it should, but we now have this parallel issue, where, frankly, we cannot get to the bottom of the truth; and we are using, if you will, judicial procedures that are thwarting simply providing us with the truth.

This issue of "executive privilege," which is something very sensitive to me, being on the Committee on the Judiciary, but I think a lot of that is overcome by the very facts that the gentleman has just allowed us to hear, and that is, of course, the close relationship between Justice and the Vice President, the disregard of that close relationship, to the extent it does not matter finding out why others with other perspectives could not have been part of those discussions.

Our understanding is that any number of conservation groups repeatedly tried to access the meetings and provide information, and they were denied.

We do not suggest, nor do I think the distinguished gentleman from New Jersey is suggesting, that policy-makers should not have the benefit of different perspectives, whether it be industry or whether it be others. But what we are talking about is the light of day. Government has to be transparent. Frankly, what we have seen is nontransparency.

Might I just add to the gentleman's line of reasoning here, I know that the gentleman worked very hard on the Committee on Energy and Commerce, and this is an issue of great importance, but on the Committee on the Judiciary, this is a question of whether or not there has been an abuse of power.

My disappointment is, I recall maybe 3 or 4 years ago, let us say 4 years ago, in an earlier administration, neither the door of the Committee on Government Reform nor the Committee on the Judiciary or the lights of those committees were ever turned off. We were in a constant state of investigation, trying; I suppose a majority at that time would argue they were trying to present a transparent government.

But not only do we have the energy collapse and catastrophe and debacle, I am still, if you will, seething, I will use that term, and dismayed by Medicare.

Mr. PALLONE. Mr. Speaker, reclaiming my time, I appreciate what the gentlewoman is saying, because I think when we talk about the Republican abuse of power and we use the Energy Task Force, or I think she is going to go into the Medicare issue as well, what we have to explain, I think, to our constituents and to the public is that the Republican majority here in the House has simply made it impossible, if you will, for Democrats, any Democrat, to participate in the process.

So when I say that it is important to know what happened at this Energy Task Force and who was on it and what they did, it is not because of some secret feeling that this is crucial; it is because of the impact on public policy.

We know that when the energy bill came to the House, as the gentlewoman mentioned, from my Committee on Energy and Commerce, and came to the floor, basically it was a bill that came from this task force and that moved through the committee to the floor and over to the other body without any major changes, because they do not allow Democrats on the Committee on Energy and Commerce, or even Republicans sometimes, to make changes from what the administration requested.

So if we had gone through the normal deliberative process, where the White House came up with an idea, but there were all kinds of changes or a consensus was reached with the Democrats, where amendments were allowed, where we had a full debate, then maybe this would not be as significant.

But that is not the way this Republican majority has been operating. They abuse their power by not having the deliberations, by not having a consensus in the committee, by not having amendments, by not having full debate on the floor.

That is why what this secret task force did becomes even more important, because essentially they put together the bill that passed the House and that is now the Republican energy policy.

We just have so many examples. I know the gentlewoman is going to get into them now with the Medicare bill, where they abused their power and did not allow the Democrats, the minority, to have any input. It is an abuse of the system. It really is.

I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. The gentleman has made a very good point. I think it is very important, because we are speaking about the very nature of our government, beyond the concept of Democrats, Republicans or a two-party government. We are also talking about checks and balances and oversight and responsibilities of this body.

I do not believe when the dictates of oversight in our procedural body of rules that govern the House, they do not say, make sure those responsibilities of oversight only fall to Republicans when Democrats are in charge of the executive, or they only fall to Republicans or Democrats, if you will, or vice versa. It is the system of government, of transparency, that we are now speaking to.

I think the consternation, if you will, and in some instances, outrage, is frankly because this is going on without the light of day.

The gentleman has spoken about the energy bill. I have heard the ranking member eloquently announce the difficulty in even having a conference on the bill so that we could make this legislative initiative better for the American people, not for the distinguished gentleman from New Jersey or for the distinguished Member from California or for the Member from Texas.

It is, frankly, to make this a working legislative initiative that will actually pass both Houses, if you will, the other body, and actually implement a process that the American people can utilize.

Mr. PALLONE. Mr. Speaker, if I can just reclaim my time, the gentlewoman makes a very important point that I want to emphasize, and that is the unwillingness and the arrogance, if you will, of the Republican majority to not allow for input from the Democrats. And the consequence of not having a consensus on something as important as national energy policy means that we never pass a bill and that we continue to be energy-dependent on Mideast oil and other foreign sources.

This is because of the breakdown of Members. Even though the Republicans are in the majority in both Houses, the majority is very close. So if you take a position, as this Republican majority does in their leadership, that we are not going to allow input from Democrats, or even other views, then the consequence is, you have a stalemate and you do not pass a bill.

That is the reason why we continue to be so dependent on foreign oil, because they are not willing to try to come up with something that we can all agree on. They will not allow input.

Ms. JACKSON-LEE of Texas. If the gentleman will yield further, the gentleman again clarifies the point. We are not only energy dependent, we are energy deficient, because I believe we could find ways cooperatively to look at alternative sources of energy.

Coming from the State I come from, domestic production in many areas is very safe technologically. We have not enhanced that in ways where it has been welcomed. But because we have this cloud over this energy legislation, the gentleman is absolutely right, we are at a standstill. And while we are on this floor, there are millions of Americans in line for gasoline at gasoline stations, there are volunteers for Meals on Wheels, volunteers who take meals in to shut-ins' homes who are saying, I have to stop volunteering because I cannot afford $2 a gallon gasoline, which we are paying here in the United States.

Of course, Europeans are listening to us with somewhat of a smile on their face.

But the point is, that is not where the economy is now. Truck drivers are pulling trucks off to the side. Deliverers of pizza are pulling their cars off. So the quality of life has been impacted by denying people who are getting to school, trying to improve their lives, getting to an hourly wage job, trying to support their family. All of them are being impacted by the fact we are at inertia because of this energy legislation.

If I might, just as an example, to continue this inequity, we see in both the administration and this Congress, we just got through finishing with the defense authorization bill. There were a number of Democratic amendments that would have been enormously valid and helpful in terms of where we need to move our military, both in terms of clearing up and saying to the world clearly that we denounce the atrocities that occurred in the Iraqi prison at the hands of our military personnel, as we abhor the decapitating of one of our very fine and able Americans. We are not diminishing that. That was beyond expression, beyond words.

But in order for us to be America, the country that rises to the highest moral value, then we must show that we have oversight. Yet we spent the last 2 weeks talking, and I might say most of the talking has been in the other body; not investigating, not deliberating on how we can, if you will, pull out, extract out those who should be held accountable in that instance.

The gentleman is right, I was about to mention Medicare.

As we know, on June 1, these prescription drug cards will be coming out. I imagine that all of us might be able to see some glimmer of positiveness in any discount that our seniors would get. But as the gentleman recalls, I think now for 6 to 8 years, we have been constantly pounding the pavement, pounding on this podium and talking about a guaranteed prescription drug benefit, which some months ago we were on the precipice of attempting to get with a Medicare bill that could have been helpful to all Americans.

But, unfortunately, again we have quagmire of smoke and mirrors, and questions of abuse have now raised their head, investigations that are not yet finished. There is some talk of bribery that occurred. But, more importantly, procedurally we find ourselves in a very strange climate, with almost, I have now put it up to 6 hours, maybe it was a 4-hour vote open on the floor of this House in the wee, wee hours of the night, and frankly I believe that that is not the American way.

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Mr. PALLONE. We had a hearing today in the commerce committees, the Subcommittee on Health on the drug cards. And, of course, it was a hearing that was requested by the Republican majority because if we request it, they do not give us one. And I was amazed by their inability, not that I was amazed, their total inability to show the positive aspect of this discount drug card.

I mean, obviously the purpose of the hearing was to showcase that this was a great idea that seniors were going to benefit from it. They put up the Web site and showed you how to access the Web site and showed you the hotline, how to access the program. Even with that, all that effort, it was a sham. It was a farce.

These discount drug cards do not provide any savings. I had my seniors call me, first of all, most of them, many of them do not even have a computer so they can access the Web site. We tried to call the hotline yesterday, 30 minutes before you can even get on the hotline. And it is so confusing to the average senior that they have to kind of go on this Web site and see, of 70-some-odd cards, which one will offer a discount for a particular drug that they might need. But what they do not tell you, of course, is that next week the card company can change the price of the drug or they can decide to drop the drug, and that if you go to the local pharmacy, they do not have any obligation to take the card. Even if they take the card, they can charge more than the price because they may have to show a profit. So it is just unbelievable to me.

Most of my seniors cannot even figure it out by looking at the Web site. I have to be honest, not only could I not figure it out, but there was an article in last week's Washington Post where one of the reporters, a long-time health reporter, went through this whole maze, and basically said it took her 9 hours to go through the process. And at the end of it, she did not know which card she should opt for.

Again, it is what you said. This is a function of the fact that the Republicans do not want any input from the Democrats. If they had taken amendments, listened to us, tried to adopt some of the suggestions that we had, I believe that we could have come up with a good benefit. We do not even have a benefit now. It does not even go into effect until 2006, and it will cost you more out of pocket than you will benefit from. And these are, again, the result of this arrogance, this abuse of power on the part of the Republican majority.

Ms. JACKSON-LEE of Texas. It is a single thinking. Do you realize that just this past week, I think most of us got at least a slight shock, maybe it was even a larger shock, when they came to the floor of the House and did a, what would you call it, an en bloc rule with four and five bills in one rule to begin to dismantle rights that workers here in America have cherished for as long as we have had the OSHA regulations and rules that have created a safer workplace.

Certainly concepts that should have been deliberated and debated for a long period of time, frankly, that maybe again in a bipartisan way, we could have few common grounds on the concept of helping small businesses, which is what it was represented to be.

But when you shut off workers from the courthouse, when you open up opportunities to keep bad activity going in your workplace so that you do not have to respond to the OSHA citations, you can extend the time frame or not respond to them so you keep an unsafe working place under the pretense of being someone who is too economically unfeasible, if you will. All those bills passed with little sight and oversight by the American people.

And here we are now with the child tax credit. Of course, that is a policy question. Some people want to raise the deficit $202 billion more than we already have. When I say "raise it," make it go up more, so we are right in line getting $228 billion more to add to the deficit and leave 3 million working Americans off the list of a child tax credit. Again, that is a policy decision. I do not put that in the abuse of power, but I do put it in the inability to see the important aspect of us working together for better policies that serve the American public and serve our constituents across the board. That is a problem.

Mr. PALLONE. I think it is a form of arrogance, if you think about it. Here you have a situation where we are in a deficit which continues to grow, a huge deficit, one of the biggest we have ever seen; and rather than try to give some money back to working people below a certain income, I think my recollection is that if your family, and you are working and working and you are making minimum wage, you would not get any money back. You get no credit. And if you are a family that is up in the 300,000 bracket, you get a $500 credit.

So if you are buying into the theory, which I think the Republicans articulate, that somehow this tax credit will benefit the average guy so that they can go out and spend the money and that helps the economy and all, this is what they articulate on the floor, how is it that you do not give it to the guy, the working person who is making a lower salary, he probably is more likely to go out and spend the money because he does not have that much money. He has to go out and buy food or staples for the family, clothing; as opposed to somebody in the 300,000 bracket who would probably put it in the bank because they do not need to spend it.

So their theory, even their own ideology, they do not practice it. They do not practice what they preach.

Ms. JACKSON-LEE of Texas. I will just tell a story about Margaret in Houston who makes between 8 and $26,000, a student with an 8-year-old son. And she wrote an article just a year ago when we were fighting this same battle last summer.

She said it is simply a shame that she would be the one trying to make ends meet as a student, improving her life, raising an 8-year-old son, would not get the child tax credit. What is she to do with her child? How is she to pay her bills or to do as the gentleman said, to infuse the economy? They are simply left out, and we find that they are left out today.

One of the things I wanted to raise, I respect very much the first amendment, but I know that you are familiar with the question that we always raise with the media and not highlighting the substitute amendment that we worked very hard to put together. The American people should know that we are here fighting on the floor of the House, that we had an initiative, the Democrats, and it worked. It was paid for. It did not leave 3 million people behind. It gave to those making between 10,000 and $26,000; it put it to 2011 when we can possibly then see a better day, have the deficit decreased and be able to legitimately consider making it permanent. 2011 is a good and decent time frame.

This is only 2004, but yet we had to rush to making it, if you will, permanent now and do the $228 billion in deficit, and it just does not make any sense. Let me just for a moment add, if I might, some of the missing elements. I want to, and I will be happy to yield back to the gentleman, but I also just want to leave, as we are on adjournment, I think there are a lot of things left undone, particularly as it relates to the need of a strategy for Iraq. I do not think any of us know what the strategy is for Iraq. We know that every day more and more body bags are coming home. We also realize, of course, that there is a need for peace and security in Iraq, but we would like to have a strategy from this administration. We have not heard one.

We do not know whether we are going to be able to transition the government. We do not know what kind of security is in place. We do not know ultimately what is an exit strategy. It is just not functioning, and we have leadership in the Defense Department that we are concerned about, but I do want to mention items that I think are left undone.

I am concerned, for example, about Sudan, and what comments are being made by this administration. I know that we had a resolution, but there is slaughter and massacre going on there on a regular basis. There are refugees from Sudan at the border in Chad. There is a breakdown. The United Nations is struggling.

I think this administration needs to take the leadership in this area, primarily because none of us want to repeat the tragedy in Rwanda. It looks as though certainly we have cause to be wary, and I would like to make a very clear point to see some answers, not only from this administration but from this Congress.

Then, of course, we have heard some good news, at least some representations of numbers out of Haiti; but I still believe that unless you embrace all of the political parties, unless you have a schedule for democratic elections, unless you investigate what happened with respect to President Aristide and his removal from the country, I think there is work left undone, and I think it is imperative that we begin to answer those kinds of questions on the international level.

I know we are about to venture into the appropriations process, and I raise for the administration the question of how they are going to support their requests for this increased supplemental in light of what we have just done today with the $228 billion deficit and spending on tax cuts.

In fact, I do not think there is a tax cut in this House that anyone has seen that they reject. At the same time there is such an enormous need. We have still not done anything about Leave No Child Behind. And the only reason I was adding this to the gentleman's discussion is because I think it is important on adjournment to realize that we are just full of work to be done and there is lack of cohesion and lack of agreement.

So we are going to get ready to go into the appropriations process in which we are somewhat delayed, and really we are going to be, I think, on rocky ground. We passed a budget resolution that is very disturbing, and that we allegedly are operating, you said, that has large gaping holes in it. It is not able to provide for a lot of issues that we are concerned about. So I am just squarely saying, departure and adjournment but a lot of work to be done.

The international world is looking for our leadership; there are a lot of problems that are percolating around the world. I would just offer to say that

I believe I am a big supporter of Mideast peace and I just believe in engagement. And I would like to see the United States more fully engaged than singular meetings that we have had with the administration. I want to see us with a team, working, because all of us are believers of the peace in that region, and I do not see that. So I consider that work left undone by this Congress and this administration.

Mr. PALLONE. If I could just interrupt, I think the gentlewoman makes some very valid points, and I think it relates back to what we were talking about before. You can call it abuse of power. You can to call it arrogance, this arrogance that we see here in this House on the part of the Republican majority and the Bush administration which essentially says, my way or the highway. We are not really interested in your input. We do not want to hear what the Democrats have to say. We are not interested in whatever suggestions you have, we see playing out with regard to the Bush administration's foreign policy, which is essentially unilateral, the cowboy. We are not interested in other countries' views. They were not interested in other countries' views or the U.N., which is sort of a manifestation of all the other countries together because we want to do everything on our own.

So that is why we went into Iraq without having our NATO allies or the major ones supportive or without having the U.N. support it because the idea is we do not need other people. We do not need help. That is why the effort, the gentleman mentions Haiti, was pretty much the same thing. We will unilaterally decide that it is time for Aristide to go, without really thinking about what the consequences might be. And the U.N. has suffered because we do not give any credence to it.

We suggest that the U.N. is incompetent or that somehow they are not something that we favor, and so then we are forced to go it alone and not have the help of our allies. In the case of Iraq, it means that we end up mostly having our own soldiers fight the battles and our own resources being used. And then what are the consequences here? The consequences are that we go further and further into debt, and that is, of course, only multiplied by the fact that we do all these tax cuts that you and I have been talking about all evening. So we have the deficit situation. We do not have the money for domestic problems because we are spending all the money unilaterally in Iraq and other places, and we are cutting taxes at the same time, mostly for the wealthy.

So given those circumstances, there is no money to pay for education programs or for health care or for housing or for all the other priorities that are important, particularly for people at a time when the middle-class person is hurting and they probably need some help from the Federal Government for some of these things.

□ 2100

This is all part of this arrogance, this abuse of power. I think it is domestic policy, as well as the foreign policy, and it does not seem to be getting any better.

If you talk about Iraq, what countries want to help us now? The President says he wants to go to the U.N.; he wants other countries to help us, but the opposite is happening. The countries are leaving because of our arrogance and our unwillingness to get them involved, and our unwillingness to reach out and say we need your help. When does the President ever say, we need your help? I never hear him say that.

Mr. Speaker, I yield back to the gentlewoman.

Ms. JACKSON-LEE. You are absolutely right. The face that we have projected to the world needs a little bit of cleaning up, and so we need some articulated foreign policies that the world can understand.

I heard debate when we were discussing the motion to recommit here on the defense authorization bill, a very fair motion to recommit.

Just as an aside, this past week and the last couple of weeks, we denied the bill to have a substitute, the normal courtesies, and as I recall, the deans of this House who happen to be on our side of the aisle, have reflected and said they cannot remember when the Democrats were in the majority that denial of a substitute would be disallowed to the minority. It is certainly the rule of the majority, but not the tyranny of the majority, and so it is extremely disappointing.

But I recall the debate on the motion to recommit which we should state again was simply to have a select committee, a commission, to really effectively look into this issue, because a lot of people think this is pointing to Iraq.

No, this is pointing to international law, the Geneva Convention. This is saying to the world that when we sign and agree to a treaty, we really believe in it, because if the shoe is on the other foot, we are, if you will, darn sure not going to tolerate that kind of abuse of our prisoners of war.

How concerned we were when we had and we still have prisoners of war there. We still have some MIAs and prisoners of war to a certain extent, people that are missing in action right now, but people that are also, we know, prisoners of war. We still have that going on, MIAs in Vietnam, but we have people who are missing in Iraq.

The point is that you want to be sure that the convention is adhered to, and what I am saying is, there was a discussion here to reject it rather than doing it in a bipartisan way, because we are suggesting that the other people are worse than us, the other people are terrorists. And I respect the distinguished gentleman who offered opposition to the motion to recommit, but I believe that is wrong because we have an obligation to show the world that we are better than that and we adhere to the law.

May I just say one thing? I want to mention again some very fine constituents in my district and the United Nations Foundation, because through Federal Express and local leadership in Houston, Mike and Lisa out of Memphis, we are going to get, through the United Nations Foundation, books that Houston students collected to send to the children of Afghanistan.

And I want to thank the gentleman from Ohio (Mr. NEY) who was part of us working together. So I want to mention a colleague who was very helpful, working together on this very issue. But that is a positive, but what we were trying to do in that instance was to show the world a better face, or another face, and that is the face of charitableness and understanding and desire for democracy and educating children, that there is a better way and that what we do have in America is good.

That is the difference with what I am seeing here; they are not understanding, that is, the majority, that this is not a tit for tat. This is not partisanship. This is attempting to govern, and it is all right to stand and be able to throw stones, but when we govern, we should be able to govern together.

The world looks to us to govern. They do not really see Democrats and Republicans. They see Americans and say, what are you doing as Americans, as the American Congress, the American Government? That is what they are asking for.

They are asking that in the Sudan. They are asking that in Afghanistan. They are asking that in Haiti and Iraq. They are asking that in the Mideast. They are asking what America is doing, so when you stand here and view your critique and criticisms as that very question: What is America doing?

Mr. PALLONE. Mr. Speaker, I think the gentlelady makes a good point.

Again, you talked about the abuse of the prisoners in Iraq, in the prison, and the violation of the Geneva Convention, but again, I think it goes back to what I said before. If you really believe that you can act unilaterally and that everything you do is right and you do not want input from anybody else, be it here in the House from other party Members like Democrats or from other countries, then you start buying into this notion that somehow international treaties, which are not unilateral, but done with other countries, do not have to be adhered to. And if you listen to some of the comments that have been made with respect to this administration, where actually arguments were being put forth by them, some of the people that were responsible for change in tactics with prisoners or interrogations in Afghanistan and Iraq, you hear them say, well, somehow this is a little different, the notion that the terrorists do not come under the Geneva Convention in Afghanistan. But then somehow you lead from that to say, well, then, the Iraqis do not come under the Geneva Convention either.

So you start to stretch. You say, okay, terrorists are not active combatants in Afghanistan, or because they are terrorists and not under any state, but then you move that to Iraq and say, well, maybe the same thing is true of the Iraqis, even though it is a very different situation because we invaded Iraq.

Then you start to say, well, then, maybe you do not need the Geneva Convention, it does not apply to the situation. And that is the danger here; it is sort of unilateral philosophy arrogance, not willing to listen to others that gradually erodes the notion that you have treaty obligations or that you have to succumb to some sort of international agreement or international body like the U.N. And it is such a dangerous thing, it is really such a dangerous thing.

I do not usually compliment him because I think that for the most part his conduct has not been good, but I remember there were some newspaper reports that when the Secretary of State Colin Powell heard that there were some suggestions that the Geneva Convention did not have to be adhered to, he was outraged. I think that was in part because he had, as a general and as someone who had been instructed in the norms of war, realized that you could not say that the Geneva Convention did not apply in this situation in Iraq.

But I think some of the soldiers or some of the people in charge were convinced that somehow it did not apply; and that is the danger that we face. It is such a dangerous situation because once the norms of the Geneva Convention are not applied by us, then how can we expect anybody to apply them to us? The whole breakdown in any kind of legality during the war, I mean it is just an awful thing.

I yield back to the gentlewoman.

Ms. JACKSON-LEE. Mr. Speaker, let me just say that you have absolutely, if you will, clarified again or made it understandable from what happens to us. And the Secretary of State, obviously, as a general, has served in that capacity, but more importantly, a combat officer, seen combat and knows what it is to be in combat and to rely upon the ability of the convention to set the standards for treatment for anyone who becomes a prisoner of war.

That is why, if I may go back again to Iraq, why I think it is such a disservice of this House not to have an investigation to begin to reset the standards and have oversight over those who are carrying out orders.

We know that General Miller, or Colonel Miller, I am not sure of the title, that used to be over Guantanamo Bay, with certain procedures that were questionable, then transferred over to Iraq. The question is, how do you figure that out? How do you determine that you either improve that or find the basis of those actions or the basis of those actions. Why do I not correct myself and say we should be changing those actions?

So it warrants us understanding that this is not a question of who is in charge, but it is more a question of doing the right thing.

That is what we are suggesting, that we are not doing the right thing here, and frankly, it does not do us well not to be doing the right thing. And, as well, we are being seen as a body that is not either conversant with the law or desirous of adhering to the law.

You made a very good point earlier that I wanted to focus on. How interesting it is that we are now seeking the support and collaboration of the United Nations. I think we need to be more vigorous in seeking that support, but I wish we had had that support, really, way back in the fall of 2002. We might have had a much better success story.

Again, as we approach Memorial Day, I want to be very clear and I know the distinguished gentlemen's commitment to the military, that we understand who is on the front lines. We understand the mourning families who will be remembering their loved ones, fresh in their minds, lost in Afghanistan and Iraq, and those who were lost in earlier wars, and we understand the sacrifice that they have made.

We understand the wounded who are now in various hospitals or rehabilitation centers or those who are now home with their families mending. We know their lives have been altered forever.

So I certainly stand here with my colleague to pay tribute to them as we leave for this Memorial Day work recess.

This is not the question that we are debating tonight, because I hope that they fully appreciate our desire to honor them. The moment of silence today was more than appropriate and the honoring of Armed Services Day. I think that those who wear that uniform know full well that we are honoring them or they are honored more by the integrity of their service.

So I hope that that is what is understood by the distinguished gentleman's remarks tonight, as I perceive them to be, and I am grateful that he has allowed me to join with him to hopefully set some kind of tone for when we return back that we are not enemies here in this place. We should be working together for the betterment of America and for the betterment of the world. We are not enemies.

I am gratified to have been able to be part of the gentleman's discourse this evening and maybe we will come back here and get to work and establish a foreign policy and a health care policy and an energy policy that will be befitting of the Founding Fathers of this place.

Mr. PALLONE. Mr. Speaker, I do not want to add to the gentlewoman's comments because I think they are very appropriate for ending this special order tonight, and I thank the gentlewoman for being here.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment Concurrent Resolutions of the House of the following titles:

H. Con. Res. 420. Concurrent Resolution applauding the men and women who keep America moving and recognizing National Transportation Week.

H. Con. Res. 424. Concurrent Resolution honoring past and current members of the Armed Forces of the United States and encouraging Americans to wear red poppies on Memorial Day.

H. Con. Res. 432. Concurrent Resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

YES, WE ARE BETTER OFF NOW THAN WE WERE FOUR YEARS AGO

The SPEAKER pro tempore (Mr. MARIO DIAZ-BALART). Under the Speaker's announced policy of January 7, 2003, the gentleman from Kansas (Mr. TIAHRT) is recognized for 60 minutes as the designee of the majority leader.

Mr. TIAHRT. Mr. Speaker, lately, in a rare turn of events, House Democrats have adopted the old adage of Republican leaders and, in floor communications, they have posed the famous question from Reagan, Are you better off than you were 4 years ago?

Well, when the quote came, I think Democrats have found a moment of despair. We will welcome their call for comparison of today's economic, international and domestic status to that of 4 years. Yes, we are better off now.

Just look at the war on terror. The attacks on September 11 awakened the Nation to the threat of terror. Republicans have a clear strategy to keep Americans safe and to spread freedom and peace throughout the world.

In the past 3 years, we have seen great progress. Afghanistan is free, Libya is now disarmed, Saddam Hussein is no longer in power. Iraq is becoming a free country, making the heart of the Middle East more stable and America more secure.

The Republican-controlled House quickly passed legislation creating the Department of Homeland Security in 2002. All border activity has been consolidated into the Department of Homeland Security, a single agency, doing away with the fallible INS, or Immigration and Naturalization Service, that allowed the September 11 hijackers to slip through our borders, rent apartments, find employment and train in flight schools, only to have their visas approved by INS after they carried out attacks on the Twin Towers and the Pentagon.

The Department of Homeland Security is implementing background checks on 100 percent of applications for U.S. citizenship and has registered over 1.5 million travelers into the United States VISIT program.

Over 500,000 first responders have been trained in weapons of mass destruction, awareness and response since September 11, 2001.

The USA PATRIOT Act has broken down unnecessary barriers between intelligence and law enforcement officers, ensuring that the best available information about terrorist threats is provided to people who need it most.

After two rounds of across-the-board, Republican-led tax cuts in 2001 and 2003, America's economy is strong and growing stronger, and we have overcome the triple shock of terrorist attacks, corporate scandals and recession.

Americans are seeing the benefit of the Republican progrowth agenda. In the eighth straight month of growth, the economy created 288,000 jobs in April, bringing the total increase since August to more than 1.1 million jobs created.

□ 2115

The real gross domestic product has grown at its fastest rate in almost 20 years over the last three-quarters. Productivity has grown at its fastest rate in 40 years. Homeownership is at an all-time high, 68.6 percent, with substantial gains among minority homeowners. We have the highest total number of people working in the history of America. Let me repeat that. We have the highest number of workers in the entire history of America on the payroll today. Unemployment today is at its lowest rate, lower than at the average of the 1970s, 1980s, and 1990s. The average earnings by American workers is up, higher than it has ever been before. These are high-paying jobs that are coming to America. Manufacturing jobs have also increased for the first time in a long time, 1.1 million jobs in total since August.

Now, we have had some really good news on the economy, but we need to do much more; and we will talk about that later. First, let me talk about health care. Republicans have been working to see that the rising costs of health care are capped and lowered, accessibility to quality care is expanded, and jobs for more Americans are created in the process.

Millions of Americans are benefiting from lower prescription drug costs and increased access to health care. In December 2003, a prescription drug benefit was signed into law that will make Medicare prescription drug coverage available to millions of seniors and people with disabilities for the first time since Medicare's inception.

Health savings accounts were signed into law to give employees more control over their health care decisions and the opportunity to save tax-free income for future health care costs.

The number of children enrolled in the State Children's Health Insurance Program increased from 4.6 million in 2001 to 5.8 million in 2003.

Now, let us talk about education. Under President Bush and the Republican-led Congress, No Child Left Behind was signed into law to ensure that all students become proficient at reading and math and to close the achievement gap that exists between students of different socioeconomic backgrounds. Students, teachers, and parents have seen the prospective effects of accountability, challenge, and incentive.

No Child Left Behind, or NCLB, funding for K through 12 has increased by 35 percent, and title I funding has increased 41 percent, the largest investment in education to date. While only 11 States are in full compliance with previous Federal education accountability standards in January of 2001, NCLB ensured that by June 2003 all 50 States had approved accountability plans to ensure that students become proficient in reading and math. Under NCLB, math scores have increased by 9 points for fourth graders and by 5 points for eighth graders since the 2000 National Assessment of Education Progress.

Under a Democrat watch, we would not be better off. With the Democrats in the majority, 34 million working families would not have received an average of $1,549 in tax relief each year; 47 million families would not have received the $1,000 child tax credit last summer for each child; 35 million Americans would still be paying the unfair double taxation on dividend income, discouraging them from investing in our economy; the defense of our homeland would still be spread among 22 different Federal agencies; 50,000 highly trained Federal screeners would not be protecting America's airports; 24 million Iraqis would still be living in fear under Saddam Hussein's hostile regime; more than 15 million Afghan citizens would still live under the oppressive brutal regime of the Taliban; two-thirds of al Qaeda's top leaders would still be on the loose, plotting attacks, while congressional Democrats treat terrorism as a law enforcement problem; millions of seniors would not benefit from access to discounted prescription drugs, and an eventual prescription drug benefit under Medicare; and millions of American employees would not be able to save pre-tax income towards future health care costs in personal health savings accounts.

The largest number in education to date, a 42.5 percent increase in funding, would never have seen its day in American classrooms; and only 11 out of 50 States would meet acceptable accountability standards in education today.

But things are better off under Republicans this year than they were 4 years ago. Now, every day we hear about how American jobs are going overseas. We have a chart here that reflects some of the issues that are going to be coming up and that I want to start talking about. But there is a reason why jobs have been going overseas. It is not Benedict CEOs, as we have heard before. It is not the wage levels in America. The responsibility lies right here in Congress.

Over the last generation, Congress has passed laws that have come back to haunt this generation and future generations, unless we act now. Republicans have divided these barriers that prevent Americans from keeping and creating jobs into eight categories. We have already acted on two of these categories. The first one was health care security. We have voted to limit health care costs and help provide health care security in America. This week we have dealt with the cost of bureaucratic red tape in our Bureaucratic Red Tape Termination group of bills, these five bills which I will discuss later on.

In the weeks that follow, House Republicans will bring up to the floor and vote on issues that address lifelong learning, so that we can have a skilled and talented workforce that focuses on math, science, and engineering skills.

We are going to deal with trade fairness and opportunity, so that we have fair trade policies to help assure jobs here in America. We are going to deal with tax relief and simplification so we can provide tax relief and tax simplification for Americans. We are going to move forward on an energy self-sufficiency and security plan. And we are going to encourage research and development by bringing legislation to the floor for research and development innovation. And we are going to end lawsuit abuse and deal with litigation management, which is the last issue we will deal with.

This is how we will make America more competitive. This is how we are going to ensure that our children and grandchildren have a strong economy, with opportunities to get a job if they want or start a business if they choose.

This week, we focused on bureaucratic red tape, and I want to read some facts. There are 65 words in The

Lord's Prayer. There are 286 words in the Gettysburg Address. There are 1,322 words in the Declaration of Independence. And there are 26,911 words in the Federal regulation governing the sale of cabbage. This was made in a speech by FDIC Vice Chairman John M. Reich. He said this because he wanted to emphasize that bureaucratic red tape termination is vital for U.S. competitiveness in a global economy.

Bureaucratic red tape termination means less government not only by granting the freedom to allow Americans to pursue their dreams, but it also means providing space for businesses to thrive. Instead, our Federal Government has become a creeping ivy of regulations that strangle enterprise. Unrealistic, impractical, unnecessary environmental prohibitions, OSHA mandates and the like are literally driving our industries and small businesses and our health care system to a grinding halt.

How can we expect our economy to develop when bureaucracy prevents businesses from starting or expanding; when doctors cannot even keep up with the ever-changing codes, and teachers are forced to spend more time filling out paperwork than teaching in the classroom? The total compliance burden on our economy of environmental, economic, workplace, and tax compliance regulations is $850 billion; $160 billion on manufacturers alone, which is the equivalent of a 12 percent excise tax.

Of the $860 billion, we can see in the chart that it is spread between four categories: tax compliance, the total is $132 billion; workplace compliance is $84 billion; environmental regulations are $201 billion; and economic regulatory costs are $444 billion.

Now, if we compare that $860 billion to the gross domestic product of Mexico, we can see that the $860 billion is higher than the $574 billion that is the entire gross national product of Mexico. Our regulatory burden is higher than the $701 billion, which is the entire gross national product of Canada. It is a tremendous burden on our businesses.

The regulatory costs compared with individual income taxes and corporate taxes and corporate pretax profits, here again is the $860 billion of regulatory costs, the total individual income taxes that were paid last year were $949 billion, the corporate income taxes were $201 billion, and the corporate profits were $699 billion. So we can see this is a tremendous regulatory burden on our businesses, and it is keeping us from creating and holding jobs here in America.

But the Bush administration has made great strides in curbing the growth of regulations and is making a concerted effort to review existing regulations to the extent possible. They have utilized the Office of Information and Regulatory Affairs and its administrator, Dr. John Graham, more than any other administration. We must support them in our efforts and encourage them to do even more.

Congress should also do a better job of oversight. Too often my colleagues and I are overburdened with committee work and we do not have the time or the staff to completely review how agencies operate within what cumbersome and unnecessary regulations they are placing on our citizens. I hope, myself, to work with leadership and refocus the committees' efforts to take time to review what is in place as we do the work that must be done immediately.

I have come up with a bill called CARFA, that I will explain more later, but it is called the Commission on Accountability and Review of Federal Agencies. It is a base realignment-type committee, a BRAC-like effort. BRAC was used for the military to determine which bases should be closed. CARFA would be used by this commission to find out which parts of the Federal Government should be closed, but I will explain more about that later.

House Republicans are taking on these problems of regulations and overburdening of rules. Over the last generation, legislation has been passed with good intentions, but the disastrous consequences have come in the form of these regulations and policies. These regulations and policies have made it difficult to stay competitive; and Congress, the Republicans in Congress, intend to do something about it.

We divided these into eight categories, and we are going to continue for the next 6 weeks, after we return from recess, to take one issue a week in order to reach the compliance that we need. Our goal is more high-quality, high-paying jobs today and for future generations.

The Heritage Foundation asserts that regulatory costs are killing our jobs. They say that reducing the regulatory burden would do much to speed the economic recovery and create jobs as well as help consumers. There are opportunities for reform in a number of areas, ranging from the burdensome telecommunication rules that are slowing progress for the next generation of Internet technologies, to unnecessary costly environmental regulations that make economic growth difficult. It goes to outdated workplace regulations that also discourage job creation.

OMB, or the Office of Management and Budget, recently reported to Congress that the annual cost to society of major Federal regulations, just issued between 1992 and 2002, in other words for a decade, are estimated to range between $38 billion and $44 billion. Now these are dollars that are going to compliance and not towards investment. This estimate suggests that Americans spend about $1.50 in compliance costs for every dollar in tax costs devoted to regulation.

For firms employing fewer than 20 employees, the annual regulatory burden in 2000 was estimated to be $6,975 per employee, nearly 60 percent higher than the $4,463 estimated for firms with more than 500 employees. In other words, it is the most difficult for small businesses.

□ 2130

Instead of spending more on wages or health care for these employees, they have to spend nearly $7,000 per employee just complying with the paperwork that the Federal Government requires.

Over the last decade, small firms have accounted for 60 to 80 percent of the net new jobs in the U.S. economy. During and coming out of the last two recession periods, 1990 through 1992, and 2000 through 2001, small businesses created all of the new net jobs.

According to the Mercatus Center at George Mason University, the budgetary cost to taxpayers for funding regulatory agencies topped $25 billion in 2002 alone. The Code of Federal Regulations extends 19 feet. If you can imagine that, that is more than three times my height. If it was stacked from the floor up towards the ceiling, 19 feet high. From 1991 to 2000, the number of pages in the Code of Federal Regulations increased 28 percent.

This Republican Congress has made regulatory reform a priority. It started back in the 104th Congress when we passed the Federal bureaucratic reforms under the Job Creation and Wage Enhancement Act, which was part of the contract with America. That, among other things, has Federal agencies assess the risk and cost imposed by regulations.

To mark the passage of H.R. 1375, the Financial Services Regulatory Relief Act, had a myriad of bills and amendments that aimed at cutting red tape. According to the Congressional Research Service, the average number of rules issued each year, proposed and final, declined sharply during the Reagan administration, and dropped even further during the Bush administration, rose slightly during the Clinton administration, and has declined even further during the first 3 years of George W. Bush.

The average number of rules issued each year during the current Bush administration is 6,712. It is just over half as many issued, on average, each year during the Carter administration; that was 12,325. They have utilized the Office of Information Regulatory Affairs to do this through Dr. John Graham, and the U.S. Small Business Administration's Office of Advocacy has gone out of its way to stand up for small businesses and encourage fellow agencies to reduce the red tape and the regulatory burdens.

Bolstered by the President's commitment to remove regulatory barriers that can stifle entrepreneurial growth and job creation, it has incorporated the views of small businesses into hundreds of agency decisions. Those efforts have changed regulations and curbed new mandates resulting in over $31 billion of savings. Those savings have been reinvested back into the economy, and we are starting to see the improvement with a number of jobs. I support the administration's efforts and encourage them to do more.

Let me talk about competitiveness, because compliance costs can be regarded as the silent killer of manufacturing competitiveness. According to the Heritage Foundation, a global CEO survey shows six of ten company heads view regulations as a serious threat to the growth of their business, topping exchange rates, corporate governance issues, and even terrorism. Small business is leading America's economic recovery, but an overwhelming burden of Federal paperwork rules and regulations threatens their competitiveness and their ability to spur job creation.

Regulation imposes its heaviest burden on small- and medium-sized businesses because it is even harder for them to handle the necessary paperwork and overhead costs, and the attorney and the accountant fees that go along with it. Richard Vedder, an economist at the Center For the Study of American Business, finds that Federal regulations cause $1.3 trillion in economic output to be lost each year.

In order to give an idea of what a trillion dollars is, let us assume you started a business the day after Christ rose from the dead, and you made a million dollars that day and each day until today. In other words, your profit was a million dollars a day for nearly 2,000 years; by that time you would not yet have made a trillion dollars. You would only be three-quarters of the way to earning a trillion dollars.

So the cost of $1.3 trillion to economic output is a tremendous cost to our economy. This is roughly equivalent to the entire output of the Midatlantic region which includes Delaware, the District of Columbia, Maryland, New Jersey, New York, and Pennsylvania.

According to a study done by the Manufacturing Alliance, entitled "How Structural Costs Imposed on U.S. Manufacturers Harm Workers and Threaten Competitiveness," in terms of compliance, three areas of regulation are hit particularly hard: consumer safety, workplace safety and environmental protection.

The total compliance burden is the $850 billion we have been talking about. And again, for manufacturers, that is equivalent to a 12 percent excise tax. That means we are 12 percent less competitive. If we could cut that in half, we could make ourselves 6 percent more competitive worldwide.

The burden on the pollution abatement expenditures alone reduces the cost of competitiveness by 3.5 percentage points, in comparison with our nine largest trading partners.

In a recent working paper by the Mercatus Center, which surveyed 100 manufacturing companies and estimated that the total cost of complying with the 25 statutes and executive orders, just 25 statutes and executive orders that encompass workplace regulation, it was about a $32 billion cost in the year 2000. That is equivalent to a 1.6 percent excise tax on manufactured goods.

In addition to the problem of adding to the number of uninsured and employers losing work due to the inability to provide coverage, health care costs are making America uncompetitive in the global market as well. While I do not advocate socialized medicine, most foreign nations provide health care coverage through their government and this is a huge cost that our companies have to worry about, but foreign companies do not have to worry about.

The National Association of Manufacturers calculated that the benefit costs put American companies at a 5.5 percent disadvantage compared to our nine largest trading partners. Not only does the United States spend more on health care annually, but 7.7 percent of our gross domestic product is the private sector contribution to health care coverage, and that far exceeds those of our foreign competitors. If we add the public sector to that, it is 14 percent of our gross domestic product.

America has been blessed with the best health care system. However, we must keep working to make it available and affordable, and the bureaucratic red tape tied to it is driving the cost of health care up. The Kansas Hospital Association has told me that for every hour of health care they provide, there is an additional hour required for paperwork compliance. We must improve access to health care and reduce the demands on paperwork so the quality of health care does not diminish.

Now, this week we have dealt with four OSHA bills and one paperwork reduction bill and we are committed, the Republicans are committed to reduce the cost of bureaucratic red tape. Congress established OSHA in 1970. OSHA, which is the Occupational Safety and Health Administration, OSHA's mandate was to ensure for all workers safe and healthful working conditions, I am quoting from the original law which says, "by encouraging employers and employees in their efforts to reduce the number of occupational, safety and health hazards at their place of employment."

Yet, unsurprisingly, OSHA's 30-year record has been marred by failure. According to the regulatory analysis performed by the Cato Institute, while OSHA's supporters cite evidence attesting to the agency's effectiveness, the vast majority of studies have found no statistical significance in the reduction of workplace fatalities or injuries due to OSHA. Interventionists are hard pressed to maintain that OSHA meets even the minimum criteria for any government program. That criteria is, does it have any desirable effect on the problem it is supposed to solve.

OSHA's failure has been bad for business. A 1995 study by the Employment Policy Foundation found that 19 percent of the productivity slow-downs in the 1970s was directly attributable to regulations imposed by OSHA, and nearly half of those slow-downs in long-term productivity can be explained by rising governmental regulatory activity.

OSHA's poor track record even forced Vice President Gore to admit that the agency "does not work well enough." Yet despite its failures, OSHA continues to intimidate businesses with the heavy hand of regulation, and it continues to make us worse off. As with almost any form of persistent government meddling, regulation stifles the very forces that drive growth and enhance prosperity here at home.

OSHA was created to ensure a safe and healthy workplace for workers throughout our Nation. Over the past 30 years, America's workplace has become safer and more secure than any time in our history, much of it through initiatives through the private sector. But in the last 3 decades, OSHA has developed an affliction which many Federal agencies share. Those same Federal agencies, while created to do good, have become unwelcome visitors, bearing gifts such as regulation and misguided oversight. The affliction to which I am referring is an insatiable appetite for too much control of the day-to-day lives of American workers and the companies they have worked hard to build.

This is particularly true in the residential construction industry. A few months ago, OSHA seemed to unfairly target the residential industry in Sedgwick County, Kansas. In June, I was contacted by the home builders from Wichita who were terrified by the prospect of having to stop work in order to avoid fines by OSHA. OSHA had targeted three counties in Kansas and they flooded these OSHA employees into those areas.

My constituents told me that OSHA was planning to fine builders for having plastic coffee cups on the ground and workers' failure to wear ear plugs while operating a wet-vac. These fines could be as high as $50,000, and would effectively put these small businessmen out of business.

OSHA claimed these reports were exaggerated, but there is no way I can exaggerate the impact of OSHA's hostility and excessive regulation on the fragile economy in Wichita. Allow me to explain, and prevent further harm to the small business sector.

As the Air Capital of the World, nowhere else do you find so many top-name general aviation aircraft manufacturers located in such close proximity. We also manufacture structural components for large commercial airlines. It has been said that what Detroit is to the automobile and what Silicon Valley is to the computer chip, Wichita, Kansas, is to the airplane.

Wichita proudly claims as corporate residents the Boeing Company, Cessna, Raytheon, Bombardier Aerospace's Learjet division. As a result, Wichita supplies components of two-thirds of the world's commercial airlines and manufactures 60 percent of the world's general aviation aircraft.

As you are aware, the aviation industry is the first to feel the effects of an economic downturn and the last to recover from it, and that is exactly what happened after the terrorist attacks on September 11, 2001. Wichita and surrounding area lost more jobs as a percentage of the total number of jobs than any other community in the United States. That resulted in the layoff of over 12,000 aircraft manufacturing workers.

The last thing Wichita needs is a Federal agency running around harassing small business and operating as though it would rather push paper and impose fines than working with employers to create a safe and healthy work environment.

In the case of the residential construction companies, OSHA chose surprise visits, ill-conceived compliance guidelines, and an adversarial demeanor to achieve everyone's goal of a safer, more secure workplace. Many small contractors were forced to stop working in order to avoid unfair fines which could have been as much as $7,000 per infraction, no matter how insignificant the infraction was.

Under this approach, OSHA was doing more to hurt employees than to help them by threatening the ability of the men and women in the residential construction industry to make a living. The work environment was safer; it was safe because there was nobody there. They were afraid to go to the work site in fear of being find by OSHA.

The gentleman from Georgia (Mr. NORWOOD) has been a leader in the fight to keep American businesses competitive without sacrificing workplace safety and health protections. As a part of our Bureaucratic Red Tape Reduction Week, the gentleman brought to the floor this week several bills which are aimed at establishing the basic principles of fairness, reducing regulatory burdens and expediting administrative reviews that will increase business productivity among America's small businesses.

□ 2145

These four bills are H.R. 2728, the Occupational and Safety Health Small Business Day in Court Act; H.R. 2729, the Occupational Safety and Health Review Commission Efficiency Act; H.R. 2730, the Occupational Safety and Health Independent Review of OSHA Citations Act; and H.R. 2731, the Occupational Safety and Health Small Employer Access to Justice Act. I am pleased to say that the House passed all four measures despite overwhelming Democratic opposition to the measures.

As we continue to focus on Bureaucratic Red Tape Termination week, I would like to share with my colleagues legislation that I will be introducing to assist small businesses in their latest battle against Big Government. My legislation accomplishes five goals. First, the bill will streamline the amount of time businesses have to contest citations and the amount of time OSHA has to issue citations. Today, businesses have 15 days to contest citations while OSHA has 6 months to issue them. Under my bill, OSHA will have 30 days to issue citations and provide employers with 30 days to contest it.

Secondly, this legislation allows businesses the right to correct OSHA violations without immediate monetary penalty. Under my plan, safety would be improved because employers would be given the incentive to promptly correct conditions that violate OSHA standards, except in the case of willful violations where the employer had knowledge of the violation and made no reasonable effort to correct it.

This section of the bill would give employers 72 hours to correct a violation following an OSHA inspection. Once corrected, the employer must provide an abatement certification to OSHA of the correction. Upon completion of the correction and certification, OSHA would not issue a monetary penalty for the citation, although the citation would be kept on record.

Third, my bill addresses the multi-employer citation policy issue by more narrowly defining the multi-employer citation policy at OSHA.

OSHA's recent enforcement of this policy has potentially overstepped their statutory authority that was authorized by Congress in the Occupational Safety and Heath Act. The legislation that I will be proposing clarifies to whom OSHA can issue citations on work sites where multiple employers are operating and allows OSHA to issue citations for a violation only to the employer who has exposed their employee to that given condition.

Fourth, my legislation will change the criteria for issuing subsequent repeat citations by stating that "other than serious" citations cannot be used as a basis for repeat or subsequent citations.

Finally, the bill will require OSHA inspectors to provide to employers a written statement or summary at the conclusion of the inspection that lists the items which OSHA inspectors noticed during the inspection. OSHA must then use these summary items as the basis for their citations. Requiring a summary at the end of the inspection would provide employers with prompt notification of hazardous conditions on their job site, thereby improving safety on the work site by providing employers with the opportunity to correct hazardous conditions immediately.

Currently, employers are often unaware of what the inspector's concerns were until they receive the citation, sometimes up to 6 months after the inspection. The bill also includes the added benefit of providing OSHA with the incentive to ensure that their inspectors are well versed and educated on OSHA regulations prior to conducting the site inspection.

Mr. Speaker, I believe that OSHA's first approach to those who provide jobs in our communities should be cooperative and not combative. This agency should be driven to work with, and not against, America's businesses.

Since 1971, OSHA's safety guidelines have accomplished some decline in occupational injuries and illness rates, and workplace fatalities have been cut in half. And I am convinced that it is possible to continue job protection for the American worker while at the same time create a climate for more jobs and economic growth.

The fifth bill that was passed this week to reduce bureaucratic red tape and paperwork was called the Paperwork and Regulatory Improvements Act. It was H.R. 2432, and it requires the Office of Management and Budget, in concert with the Internal Revenue Service, to conduct a review and then report to Congress on possible actions to reduce tax paperwork burden imposed on small businesses. H.R. 2432 provides Congress with a needed permanent analytic capability to serve as a check and balance on the executive branch's cost-benefit estimates of its proposed and final regulations and their consistency with congressional intent. Under the current law, OMB is required to submit an annual regulatory accounting statement with the President's fiscal budget.

To date, the usefulness of these reports has been undermined since they have not been integrated with the budget. In other words, they do not permit Congress to review simultaneously the on-budget and off-budget costs associated with each Federal agency and each Federal agency program that imposes regulatory or paperwork burdens on the public. H.R. 2432 improves the utility of these reports to Congress by ensuring we have this simultaneous review.

Currently, there is no end to regulatory burdens imposed on the public including both large and small businesses, but H.R. 2432 requires the first-ever multi-agency study of regulatory budgeting to determine if agencies can better manage regulatory burdens on the public. This is a good government bill which makes incremental improvements in the existing processes governing paperwork and regulatory reviews, including strengthening tools for those of us here in Congress.

Mr. Speaker, tonight I also want to discuss another tool that I think can be used in eliminating unwanted and unneeded regulation and regulatory bodies in our Federal Government, and that is the creation of the Commission on the Accountability and Review of Federal Agencies or CARFA.

It is certainly no secret that the Federal budget is filled with examples of duplicative, inefficient, and failed Federal agencies and programs. Many of these programs and agencies share regulatory oversight which very often ties the hands of businesses and employers due to the outrageous compliance costs these businesses must bear. I have introduced legislation that I believe would eliminate much of the fraud, abuse, and unnecessary regulation that persists in our Federal Government in a politically visible manner.

It has become increasingly clear that Congress's normal procedures cannot address the spending and waste problems that persist within our Federal Government. Time and again we see congressionally authorized programs become institutionalized, ultimately becoming a permanent fixture at the expense of taxpayers. This ties up precious Federal resources that could be used towards paying down the national debt or higher congressional priorities. By cutting out unnecessary Federal programs and agencies, we will send a strong message that we are serious about exercising fiscal responsibility and controlling government spending.

A first step towards a stable financial future for this country certainly can be found in H.R. 3213, the CARFA bill, which is also known as the Commission on the Accountability and Review of Federal Agencies Act. CARFA is based on a process with an established record of successful program elimination and prioritizing of spending. The Base Realignment and Closure Commission, or BRAC as it is called, is similar only it deals strictly with military bases, whereas H.R. 3213 will establish a commission to conduct a comprehensive review of Federal agencies and programs and recommend the elimination or the realignment of duplicative, wasteful, and outdated functions.

CARFA provides for a disciplined spending review process for nondefense, nonentitlement programs. Congress will simply have to vote up or down on the commission's recommendations in their entirety. The congressional logrolling that normally bogs down the process will be short-circuited. In this way, real reform can emerge and the deficit and debt program can be brought under control. H.R. 3213 offers Congress and the administration a unique opportunity rather than simply re-fund and increase funding for every Federal program. CARFA will eliminate unproductive, duplicative, and outdated programs.

Here is how CARFA would work. The commission would consist of 12 members appointed by the President no later than 90 days after the enactment of this bill. Members would be appointed for the life of the commission and would be required to meet no later than 30 days after the date on which all the members of the commission have been appointed. CARFA's duties would then include conducting a top to bottom review of all Federal programs and agencies, excepting the Department of Defense and any agency that solely administers entitlement programs.

CARFA would seek to identify those programs or agencies that could be considered duplicative in mission, grossly wasteful or inefficient, outdated, irrelevant, or simply failed. The assessment of these programs would be based primarily on the achievement of common performance measures, financial management, and other factors determined by the President. No later than 2 years after the enactment of this act, the commission would be required to submit to the President and Congress a plan with recommendations of the agencies and programs that should be realigned or eliminated and propose legislation to implement this plan. CARFA would require congressional consideration of the review's findings under the expedited legislative rules. In short, Congress would be voting up or down to continue or stop wasteful spending.

CARFA's main focus would be to make our government smarter and more effective and also to ensure that taxpayer dollars are not used to support programs such as the Federal Tea-taster, who until 1995 headed the Board of Tea Experts, which was created by the Imported Tea Act of 1897. Until this program's elimination just 8 short years ago, the Federal Government was spending $120,000 in salary and operating expenses per year to taste tea.

Obviously, this is only one example of the type of program that CARFA would target, but I am convinced that our Federal Government is replete with programs such as this that make a mockery out of our hard-earned tax dollars and that dramatically increase the costs of doing business in this country. Other examples of government waste that CARFA would target include surplus lands owned by the Department of Energy, which if sold would save taxpayers $12 million over 5 years. In addition, eliminating four duplicative bilingual education programs at the Department of Education would save taxpayers $800 million over a 5-year period. We could save $1 million every year by simply eliminating overlapping responsibilities and reducing administrative positions at the Consumer Product Safety Commission. The examples of inefficiency and wasteful government practices that CARFA could target are far too numerous to cite in this short amount of time. However, it is clear to me that the need for CARFA is very real.

The strict time limits governing the commission which would expire shortly after submitting its findings would ensure that its costs are kept to a minimum. I believe that the savings that would occur as a result of the commission's findings will more than justify the minimal expenses the study might incur. In addition, it is worth noting that CARFA requires that all funds saved by implementation of this plan can only, only, be used for supporting other domestic programs or paying down the national debt.

H.R. 3213 offers Congress and the administration a test: Can we address a real and present problem by adopting a method that has been successful in the past? CARFA is a realistic plan that will make genuine reform possible. We welcome support of this politically-viable solution to government spending gone awry. If the CARFA commission comes to fruition, it will give Congress arms-length distance to do the right thing and vote down ridiculous, redundant, and outdated programs. Over 65 of my colleagues in the House have agreed to cosponsor this legislation, and our numbers are growing stronger. We hope to see the CARFA commission hard at work cutting wasteful spending and eliminating burdensome overregulation by this time next year if not sooner.

So in summary, Mr. Speaker, we have seen that, over the last generation, Congress through good intentions has created barriers to keeping and creating jobs in America. Republicans in the House have come up with a plan of dividing these barriers into eight issues, and over a period of 8 weeks we are going to address each one of these issues with the purpose of creating high-quality, high-paying jobs right here in America and bringing jobs home, jobs that we have lost due to the acts of Congress and the regulations and policies and rules that have followed these acts of Congress.

Again, Mr. Speaker, those eight issues are health care security, bureaucratic red tape termination, lifelong learning, trade fairness and opportunity, tax relief and simplification, energy self-sufficiency and security, spurring innovation, and ending lawsuit abuse.

□ 2200

Last week we dealt with health care security by passing health care liability reform and by passing Flexible Savings Accounts and Medical Savings Accounts.

This week we have dealt with bureaucratic red tape termination. We passed four bills relating to OSHA and the Paperwork and Regulatory Improvement Act 2030.

Next week we are in recess, so the following week we are going to deal with lifelong learning. It is our intent during that week to focus on those types of training and education that we believe will bring more jobs into America. We want to focus on math, on science, on engineering. We want to develop a system where we can teach our young men and women to be technical in their training, so they can be innovative and ready to accept the jobs that will be created by reducing these other burdens. So lifelong learning will be the week next after we are on recess.

So, Mr. Speaker, these eight issues are going to be dealt with. They are not easily overcome by businesses, small and large, because they are things they cannot control. Businesses can control wages, they can control overhead, but they cannot control their health care costs, they cannot control the bureaucratic red tape that burdens them down every day, they cannot control the trade issues and policies, they cannot control the energy policy we have and they cannot control the lawsuits that come and haunt them. So we intend to address these issues.

This is the debate that we should be having on the floor of the House now. This is how we are going to secure a future for our children and our grandchildren. We are going to, if successful, create a strong economy in the future, where they can either start a business or get a job.

For those who are in opposition to these issues, I want to ask you, why would you oppose an energy policy that would create 700,000 more jobs in America? Why would you oppose reducing red tape so we can create additional work in areas where we do not have jobs now? Why would you want to oppose lawsuit reform, because right now it is driving jobs overseas?

The Republicans in the House want to bring jobs back into America. This is our plan. It is the most aggressive and organized plan that we have ever had for bringing jobs back to America. I am very proud to head up this effort through a Jobs Action Team.

Mr. Speaker, I think we are going to be successful in bringing jobs back.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BALLANCE (at the request of Ms. PELOSI) for today on account of personal reasons.

Ms. LOFGREN (at the request of Ms. PELOSI) for today after 6:00 p.m. on account of a family commitment.

Mr. MCINTYRE (at the request of Ms. PELOSI) for today after 5:00 p.m. on account of family medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCDERMOTT) to revise and extend their remarks and include extraneous material:)

Mr. SCHIFF, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. RYAN of Ohio, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. BLUMENAUER, for 5 minutes, today.

(The following Members (at the request of Mr. KLINE) to revise and extend their remarks and include extraneous material:)

Mr. DREIER, for 5 minutes, today.

Mr. MARIO DIAZ-BALART of Florida, for 5 minutes, today.

Mr. PENCE, for 5 minutes, today.

Mr. KLINE, for 5 minutes, today.

Mr. HASTERT, for 5 minutes, today.

Mr. BACHUS, for 5 minutes, today.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 213. An act to clear title to certain real property in New Mexico associated with the Middle Rio Grande Project, and for other purposes, to the Committee on Resources.

S. 524. An act to expand the boundaries of the Fort Donelson National Battlefield to authorize the acquisition and interpretation of lands associated with the campaign that resulted in the capture of the fort in 1862, and for other purposes, to the Committee on Resources.

S. 943. An act to authorize the Secretary of the Interior to contract with the city of Cheyenne, Wyoming, for the storage of the city's water in the Kendrick Project, Wyoming, to the Committee on Resources.

S. 960. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize certain projects in the State of Hawaii and to amend the Hawaii Water Resources Act of 2000 to modify the water resources study, to the Committee on Resources.

S. 1107. An act to enhance the Recreational Fee Demonstration Program for the National Park Service, and for other purposes, to the Committee on Resources.

S. 1576. An act to revise the boundary of Harpers Ferry National Historical Park, and for other purposes, to the Committee on Resources.

S. 1577. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of Wyoming, to the Committee on Education and the Workforce.

S. 2178. An act to make technical corrections to laws relating to certain units of the National Park System and to National Park programs, to the Committee on Resources.

ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 408. An act to provide for expansion of Sleeping Bear Dunes National Lakeshore.

H.R. 708. An act to require the conveyance of certain National Forest System lands in Mendocino National Forest, California, to provide for the use of the proceeds from such conveyance for National Forest purposes, and for other purposes.

H.R. 856. An act to authorize the Secretary of the Interior to revise a repayment contract with the Tom Green County Water Control and Improvement District No. 1, San Angelo project, Texas, and for other purposes.

H.R. 1598. An act to amend the Reclamation-Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in projects within the San Diego Creek Watershed, California, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House, reports that on May 20, 2004 he presented to the President of the United States, for his approval, the following bills.

H.R. 923. To amend the Small Business Investment Act of 1958 to allow certain premier certified lenders to elect to maintain an alternative loss reserve.

H.R. 3104. To provide for the establishment of separate campaign medals to be awarded to members of the uniformed services who participate in Operation Enduring Freedom and to members of the uniformed services who participate in Operation Iraqi Freedom.

ADJOURNMENT

Mr. TIAHRT. Mr. Speaker, pursuant to House Concurrent Resolution 432, 108th Congress, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore. Pursuant to the provisions of House Concurrent Resolution 432 of the 108th Congress, the House stands adjourned until 2 p.m. Tuesday, June 1, 2004.

Thereupon (at 10 o'clock and 4 minutes p.m.), pursuant to House Concurrent Resolution 432, the House adjourned until Tuesday, June 1, 2004, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

8226. A letter from the Congressional Review Corrdinator, APHIS, Department of Agriculture, transmitting the Department's final rule—Importation of Orchids of the Genus Phalaenopsis From Taiwan in Growing Media [Docket No. 98-035-5] (RIN: 0579-AB75) received May 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8227. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule—Veterinary Diagnostic Services User Fees [Docket No. 00-024-2] (RIN: 0579-AB22) received May 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8228. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule—Pine Shoot Beetle; Additions to Quatantined Areas [Docket No. 03-102-2] received May 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8229. A letter from the Regulatory Contact, Grain Inspection, Packers and Stockyard Administration, Department of Agriculture, transmitting the Department's final rule—Fees for Official Inspection and Official Weighing Services (RIN: 0580-AA80) received May 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8230. A letter from the Congressional Review Coordinator, APHIS, Department of Homeland Security, transmitting the Department's final rule—Karnal Bunt; Compensation for Custom Harvesters in Northern Texas [Docket No. 03-052-1] received May 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8231. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Isoxadifen-ethyl; Pesticide Tolerance [OPP-2004-0093; FRL-7355-8] received May 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8232. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Indoxacarb; Time-Limited Pesticide Tolerance [OPP-2004-0130; FRL-7359-1] received May 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8233. A letter from the Secretary, Department of State, transmitting the 2003 Annual Report on United Nations voting practices, pursuant to 22 U.S.C. 2414a; to the Committee on Appropriations.

8234. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Revisions to the California State Implementation Plan, Bay Area Air Quality Management District, Monterey Bay Unified Air Pollution Control District, and Ventura County Air Pollution Control District [CA 169-0440a; FRL-7665-2] received May 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8235. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Revisions to the California and Nevada State Implementation Plans, Ventura County Air Pollution Control District and Clark County Departemnt of Air Quality Management [CA 151-0449a; FRL-7660-6] received May 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8236. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Finding of Failure to Submit Required State Implementation Plan Revision for the Metropolitan Washington, DC Ozone Nonattainment Area; Maryland [MD168-3110; FRL-7665-6] received May 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8237. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Implementation Plans; Illinois [IL221-1a; FRL-7657-8] received May 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8238. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; New Jersey; Motor Vehicle Enhanced Inspection and Maintenance Program [Region II Docket No. NJ68-275; FRL-7661-1] received May 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8239. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Indiana [IN 140-4a; FRL-7658-9] received May 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8240. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; The 2005 ROP Plan for the Pennsylvania Portion of the Philadelphia-Wilmington-Trenton Severe Area Sever 1-Hour Ozone Nonattainment Area: [PA213-4026; FRL-7663-7] received May 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8241. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Missouri Update to Materials Incorporated by Reference [MO-194-1194; FRL-7658-5] received May 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8242. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification that effective April 18, 2004, the 15% Danger Pay Allowance for Sierra Leone was terminated based on improved security conditions and the fact that warfare conditions have ceased, pursuant to 5 U.S.C. 5928; to the Committee on International Relations.

8243. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification that effective March 7, 2004, a 15% Danger Pay Allowance for Haiti has been established based on the threat of attacks on U.S. facilities endangering the lives of U.S. Governemnt civilians, pursuant to 5 U.S.C. 5928; to the Committee on International Relations.

8244. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report concerning Cuban emigration policies, pursuant to Public Law 105—277, section 2245; to the Committee on International Relations.

8245. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting Pursuant to the Anti-Economic Discrimination Act of 1994, part C of Title V, Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, as amended (Public Law 103-236), the Secretary's determination suspending prohibitions on certain sales and leases under the Anti-Economic Discrimination Act of 1994 and the accompanying Memorandum of Justification; to the Committee on International Relations.

8246. A letter from the Executive Director, Christopher Columbus Fellowship Foundation, transmitting pursuant to the Accountability of Tax Dollars Act, the Foundation's quarterly financial statement, prepared by the U.S. General Services Administration; to the Committee on Government Reform.

8247. A letter from the Acting Assistant Secretary of the Army for Financial Management and Comptroller, Department of Defense, transmitting a report on the Army's Annual Financial Statement for FY 2003; to the Committee on Government Reform.

8248. A letter from the Inspector General, Department of Homeland Security, transmitting notice that in compliance with the Accountability of Tax Dollars Act of 2002, the Office of Insepctor General has initiated the audit of the Department of Homeland Security's consolidated financial statements as of and for the year ending September 30, 2004; to the Committee on Government Reform.

8249. A letter from the Assistant Secretary for Administration and Management, Department of Labor, transmitting pursuant to Title II, Section 203, of the Notification and Federal Employee Antidiscrimination and Retaliation Act (No Fear Act), the Department's annual report; to the Committee on Government Reform.

8250. A letter from the President, Federal Financing Bank, transmitting the Annual Management Report of the Federal Financing Bank for fiscal year 2003, pursuant to 31 U.S.C. 9106; to the Committee on Government Reform.

8251. A letter from the Senior Vice President, Tennessee Valley Authority, transmitting the Authority's first annual report, pursuant to Public Law 107–174, section 203(a); to the Committee on Government Reform.

8252. A letter from the Chief Justice, Supreme Court of the United States, transmitting a copy of the Report of the Proceedings of the Judicial Conference of the United States, held in Washington D.C., on September 23, 2003, pursuant to 28 U.S.C. 331; to the Committee on the Judiciary.

8253. A letter from the Secretary to the Council, Council of the District of Columbia, transmitting a copy of Council Resolution 15-514, "Sense of the Council on Opposing a Constitutional Marriage Amendment Resolution of 2004," pursuant to D.C. Code section 1—233(c)(1); to the Committee on the Judiciary.

8254. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a Report on Denial of Visas to Confiscators of American Property, pursuant to Public Law 105–277, section 8; to the Committee on the Judiciary.

8255. A letter from the Secretary, Department of Homeland Security, transmitting as conducted by the United States Coast Guard, a report on Safety Management Code Report & Policy, pursuant to Public Law 105–383, section 306; to the Committee on Transportation and Infrastructure.

8256. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Chesapeake Bay, Hampton Roads, Elizabeth River, VA. [CGD05-04-081] (RIN: 1625-AA00) received May 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8257. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Metro North Railroad Bridge over the Norwalk River, Norwalk, Connecticut [CGD01-04-035] (RIN: 1625-AA00) received May 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8258. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security and Safety Zone; M/V Spirit of Ontario, Lake Ontario, NY [CGD09-04-012] (RIN: 1625-AA00) received May 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8259. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; McCellan-Kerr Arkansas River Mile 307 to 309.5, Fort Smith, AR [COTP Memphis-04-002] (RIN: 1625-AA00) received May 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8260. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Transit of Rig Pride Portland, Portland, Maine [CGD01-04-040] (RIN: 1625-AA00) received May 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8261. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulations; Snake River, Burbank, WA [CGD13-04-004] received May 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8262. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operating Regulation; Illinois Waterway, Joliet, IL [CGD08-04-016] (RIN: 1625-AA09) received May 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8263. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulations; Stono River, mile 11.0 at Johns Island, SC. [CGD07-04-021] (RIN: 1625-AA09) received May 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8264. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulations: Newtown Creek, Dutch Kills, English Kills, and their tributaries, NY. [CGD01-04-039] received May 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8265. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulations; Gulf Intracoastal Waterway, Galveston, TX. [CGD08-04-017] received May 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8266. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulations; Loxahatchee River, Palm Beach County, FL [CGD07-04-019] received May 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8267. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulation; Mare Island Strait, Napa River, Vallego, CA. [CGD11-03-006] (RIN: 1625-AA09) received May 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8268. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulation; Atlantic Intracoastal Waterway, miles 1062.6 and 1064.0 in Fort Lauderdale, Broward County, FL. [CGD07-03-166] (RIN: 1625-AA09) received May 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8269. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Regulated Navigation Area; USCG Station Port Huron, Port Huron, Michigan, Lake Huron [CGD09-03-287] (RIN: 1625-AA11) received May 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8270. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Coast Guard Station Fire Island, Fire Island, NY [CGD01-03-025] (RIN: 1625-AA00) received May 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8271. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Update of Rules on Aids to Navigation Affecting Buoys, Sound Signals, International Rules at Sea, Communications Procedures, and Large Navigational Buoys [USCG-2001-10714] (RIN: 1625-AA34) received May 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8272. A letter from the Secretary, Department of Veterans Affairs, transmitting the Department's Capital Asset Realignment for Enhanced Services (CARES) Decision, pursuant to Public Law 108—170, section 222; to the Committee on Veterans' Affairs.

8273. A letter from the Administrator, Environmental Protection Agency, transmitting the Agency's FY 2001 report entitled, "Implementation of the Waste Isolation Pilot Plant Land Withdrawal Act" required under Section 23(a)(2) of the Act; jointly to the Committees on Energy and Commerce and Armed Services.

8274. A letter from the Secretary, Department of Labor, transmitting the Department's report on the Office of Workers' Compensation Programs' administration of the Energy Employees Occupational Illness Compensation Program Act of 222 (EEOICPA) analyzing claims for benefits under the EEOICPA that have been either accepted or denied through December 31, 2003, pursuant to Public Law 108–136, section 3134; jointly to the Committees on the Judiciary and Education and the Workforce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HUNTER: Committee on Armed Services. Supplemental report on H.R. 4200. A bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2005, and for other purposes (Rept. 108–491 Pt. 2).

Mr. SENSENBRENNER: Committee on the Judiciary. S. 1301. An act to amend title 18, United States Code, to prohibit video voyeurism in the special maritime and territorial jurisdiction of the United States, and for other purposes; with an amendment (Rept. 108–504). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 1678. A bill to amend title 18, United States Code, with respect to false communications about certain criminal violations, and for other purposes; with an amendment (Rept. 108–505). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 2991. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Inland Empire regional recycling project and in the Cucamonga County Water District recycling project (Rept. 108–506). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 3378. A bill to assist in the conservation of marine turtles and the nesting habitats of marine turtles in foreign countries (Rept. 108–507). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 1014. A bill to require Federal land managers to support, and to communicate, coordinate, and cooperate with, designated gateway communities, to improve the ability of gateway communities to participate in Federal land management planning conducted by the Forest Service and agencies of the Department of the Interior, and to respond to the impacts of the public use of the Federal lands administered by these agencies, and for other purposes; with an amendment (Rept. 108–508 Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 3846. A bill to authorize the Secretary of Agriculture and the Secretary of the Interior to enter into an agreement or contract with Indian tribes meeting certain criteria to carry out projects to protect Indian forest land; with an amendment (Rept. 108–509 Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 3504. A bill to amend the Indian Self-Determination and Education Assistance Act to redesignate the American Indian Education Foundation as the National Fund for Excellence in American Indian Education (Rept. 108–510 Pt. 1). Ordered to be printed.

Mr. POMBO: Committee on Resources. H.R. 3874. A bill to convey for public purposes certain Federal lands in Riverside County, California, that have been identified for disposal; with an amendment (Rept. 108–512). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 2966. A bill to preserve the use and access of pack and saddle stock animals on public lands, including wilderness areas, national monuments, and other specifically designated areas, administered by the National Park Service, the Bureau of Land Management, the United States Fish and Wildlife Service, or the Forest Service where there is a historical tradition of such use, and for other purposes; with an amendment (Rept. 108–513 Pt. 1). Ordered to be printed.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII the Committee on Agriculture discharged from further consideration of H.R. 3247.

REPORTED BILL SEQUENTIALLY REFERRED

Under clause 2 of rule XII, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. POMBO: Committee on Resources. H.R. 3247. A bill to provide consistent enforcement authority to the Bureau of Land Management, the National Park Service, the United States Fish and Wildlife Service, and the Forest Service to respond to violations of regulations regarding the management, use, and protection of public lands under the jurisdiction of these agencies, the clarify the purposes for which collected fines may be used, and for other purposes, with an amendment; referred to the Committee on the Judiciary for a period ending not later than June 30, 2004, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(k), rule X (Rept. 108–511, Pt. 1). Ordered to be printed.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H.R. 2966. Referral to the Committee on Agriculture extended for a period ending not later than June 30, 2004.

H.R. 3247. Referral to the Committee on Agriculture extended for a period ending not later than May 20, 2004.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. GINGREY (for himself, Mr. Boehner, Mr. McKeon, Mr. Isakson, Mr. Tiberi, and Mr. Wilson of South Carolina):

H.R. 4409. A bill to reauthorize title II of the Higher Education Act of 1965; to the Committee on Education and the Workforce.

By Mr. WILSON of South Carolina (for himself, Mr. Boehner, Mr. McKeon, Mr. Isakson, Mr. Greenwood, Mr. Ehlers, Mr. Platts, Mr. Tiberi, Mr. Keller, Mr. Cole, Mr. Porter, Mr. Baker, Mr. Bradley of New Hampshire, Ms. Ginny Brown-Waite of Florida, Mr. Fattah, Mr. Garrett of New Jersey, Mr. Graves, Mr. Hobson, Mr. Jenkins, Ms. Eddie Bernice Johnson of Texas, Mr. Kolbe, Mr. Nunes, Mr. Shimkus, Mr. Simmons, Mr. Souder, and Mrs. Wilson of New Mexico):

H.R. 4410. A bill to increase the amount of student loans that may be forgiven for highly qualified teachers in mathematics, science, and special education and for reading specialists; to the Committee on Education and the Workforce.

By Mr. BURNS (for himself, Mr. Boehner, Mr. McKeon, Mr. Isakson, Mr. Upton, Mr. Wilson of South Carolina, and Mr. Cole):

H.R. 4411. A bill to amend title VII of the Higher Education Act of 1965 to ensure graduate opportunities in postsecondary education, and for other purposes; to the Committee on Education and the Workforce.

By Mr. SENSENBRENNER (for himself and Mr. Conyers):

H.R. 4412. A bill to amend the Clayton Act to clarify the application of the antitrust laws in the telecommunications industry; to the Committee on the Judiciary.

By Mr. TERRY (for himself, Mr. Green of Texas, Mr. Sullivan, and Mr. Nunes):

H.R. 4413. A bill to require certain terms and conditions for the siting, construction, expansion, and operation of liquefied natural gas import terminals, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MEEK of Florida (for himself, Mr. Turner of Texas, Mr. Thompson of Mississippi, Ms. Loretta Sanchez of California, Mr. Markey, Mr. Dicks, Mr. Frank of Massachusetts, Mr. Andrews, Ms. Norton, Ms. Lofgren, Ms. McCarthy of Missouri, Ms. Jackson-Lee of Texas, Mrs. Christensen, Mr. Langevin, Mr. Sandlin, Mr. Matsui, Mr. Skelton, Mr. Hastings of Florida, Mr. Green of Texas, Mrs. Capps, Mr. Nadler, Ms. Roybal-Allard, Ms. Eddie Bernice Johnson of Texas, Mrs. Maloney, Mr. Wynn, and Ms. Kilpatrick):

H.R. 4414. A bill to require designation of a senior official within the Office of Management and Budget as the Chief Privacy Officer, and for other purposes; to the Committee on Government Reform.

By Mr. HYDE:

H.R. 4415. A bill to amend the Immigration and Nationality Act to eliminate the "specialized knowledge" basis for obtaining nonimmigrant status as an intracompany transferee, to impose an annual numerical limitation on nonimmigrant visas for such transferees, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. EHLERS:

H.R. 4416. A bill to establish the Great Lakes Protection and Restoration Committee; to the Committee on Resources, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SENSENBRENNER (for himself, Mr. Conyers, Mr. Hyde, Mr. Lantos, Mr. Cox, Mr. Hostettler, and Ms. Jackson-Lee of Texas):

H.R. 4417. A bill to modify certain deadlines pertaining to machine-readable, tamper-resistant entry and exit documents; to the Committee on the Judiciary.

By Mr. CRANE (for himself, Mr. Rangel, Mr. Shaw, Mr. Levin, and Mr. Ramstad):

H.R. 4418. A bill to authorize appropriations for fiscal years 2005 and 2006 for the Bureau of Customs and Border Protection and the Bureau of Immigration and Customs Enforcement of the Department of Homeland Security, for the Office of the United States Trade Representative, for the United States International Trade Commission, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DICKS (for himself, Ms. Hooley of Oregon, Mr. Matheson, and Mr. DeFazio):

H.R. 4419. A bill making emergency supplemental appropriations for fiscal year 2004 for wildland firefighting costs; to the Committee on Appropriations.

By Mr. SMITH of New Jersey (for himself, Mr. Hyde, Mrs. Jo Ann Davis of Virginia, Mr. Alexander, Mr. Pitts, Mrs. Myrick, Mr. Souder, Mr. Burgess, Mr. Lincoln Diaz-Balart of Florida, Ms. Ros-Lehtinen, Mr. Aderholt, Mr. Tiahrt, Mr. Crane, Mr. Neugebauer, Mr. Franks of Arizona, Mr. Istook, Mr. Akin, Mr. Stearns, Mr. Renzi, Mr. Shimkus, Mr. Pence, Mr. DeMint, Mr. Collins, Mr. Brady of Texas, Mr. King of Iowa, Mr. Tancredo, Mr. Ryun of Kansas, and Mr. Toomey):

H.R. 4420. A bill to ensure that women seeking an abortion are fully informed regarding the pain experienced by their unborn child; to the Committee on Energy and Commerce.

By Mr. OBEY:

H.R. 4421. A bill making appropriations for the Environmental Protection Agency for the fiscal year ending September 30, 2005, and for other purposes; to the Committee on Appropriations, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. OBEY:

H.R. 4422. A bill making appropriations for the Departments of Agriculture, Education, Health and Human Services, and Transportation for the fiscal year ending September 30, 2005, and for other purposes; to the Committee on Appropriations, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. EDWARDS:

H.R. 4423. A bill making appropriations for the Department of Veterans Affairs for the fiscal year ending September 30, 2005, and for other purposes; to the Committee on Appropriations, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. EDWARDS:

H.R. 4424. A bill making appropriations for military construction and family housing for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes; to the Committee on Appropriations, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FILNER:

H.R. 4425. A bill to amend title 10, United States Code, to provide for the Purple Heart to be awarded to prisoners of war who die in captivity under circumstances not otherwise establishing eligibility for the Purple Heart; to the Committee on Armed Services.

By Mr. BACHUS (for himself, Mr. TANCREDO, and Ms. ROS-LEHTINEN):

H.R. 4426. A bill to prohibit certain entities from trading in capital markets in the United States; to the Committee on International Relations.

By Mr. BISHOP of New York (for himself, Mr. ISRAEL, Mr. KING of New York, Mrs. MCCARTHY of New York, Mr. ACKERMAN, Mr. MEEKS of New York, Mr. CROWLEY, Mr. NADLER, Mr. WEINER, Mr. TOWNS, Mr. OWENS, Ms. VELÁZQUEZ, Mr. FOSSELLA, Mrs. MALONEY, Mr. RANGEL, Mr. SERRANO, Mr. ENGEL, Mrs. LOWEY, Mrs. KELLY, Mr. SWEENEY, Mr. MCNULTY, Mr. HINCHEY, Mr. MCHUGH, Mr. BOEHLERT, Mr. WALSH, Mr. REYNOLDS, Mr. QUINN, Ms. SLAUGHTER, and Mr. HOUGHTON):

H.R. 4427. A bill to designate the facility of the United States Postal Service located at 73 South Euclid Avenue in Montauk, New York, as the "Perry B. Duryea, Jr. Post Office"; to the Committee on Government Reform.

By Mr. BLUNT:

H.R. 4428. A bill to extend trade benefits to certain tents imported into the United States; to the Committee on Ways and Means.

By Ms. BORDALLO:

H.R. 4429. A bill to amend subchapter IV of chapter 53 of title 5, United States Code, to provide for wage parity for prevailing rate employees in Guam; to the Committee on Government Reform.

By Mr. CHOCOLA (for himself, Mr. AKIN, Mr. BARRETT of South Carolina, Mr. BEAUPREZ, Ms. GINNY BROWN-WAITE of Florida, Mr. BURGESS, Mr. CARTER, Mr. COLE, Mrs. CUBIN, Mr. CUNNINGHAM, Mr. DEMINT, Mr. FLAKE, Mr. HENSARLING, Mr. HOEKSTRA, Mr. JONES of North Carolina, Mrs. KELLY, Mr. KING of Iowa, Mr. KLINE, Mr. LEWIS of Kentucky, Mrs. MILLER of Michigan, Mrs. MUSGRAVE, Mrs. MYRICK, Mr. NEUGEBAUER, Mrs. NORTHUP, Mr. NORWOOD, Mr. PAUL, Mr. PEARCE, Mr. PENCE, Mr. PITTS, Mr. ROGERS of Michigan, Mr. SHADEGG, Mr. SMITH of Michigan, Mr. SOUDER, Mr. SULLIVAN, Mr. TANCREDO, Mr. TOOMEY, and Mr. WELDON of Florida):

H.R. 4430. A bill to amend chapter 85 of title 28, United States Code, to provide for greater fairness in legal fees payable in civil diversity litigation after an offer of settlement; to the Committee on the Judiciary.

By Mr. COOPER (for himself, Mr. LAMPSON, Mr. CARDOZA, and Mr. DAVIS of Tennessee):

H.R. 4431. A bill to provide for competitive grants for the establishment and expansion of programs that use networks of public, private, and faith-based organizations to recruit and train foster and adoptive parents and provide support services to foster children and their families; to the Committee on Ways and Means.

By Mrs. DAVIS of California (for herself and Mr. PAUL):

H.R. 4432. A bill to amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term care needs; to the Committee on Ways and Means.

By Mr. TOM DAVIS of Virginia (for himself, Mr. WAXMAN, Mr. PLATTS, and Mr. MEEHAN):

H.R. 4433. A bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products; to the Committee on Energy and Commerce.

By Ms. DELAURO:

H.R. 4434. A bill to improve the No Child Left Behind Act of 2001, and for other purposes; to the Committee on Education and the Workforce.

By Ms. DELAURO:

H.R. 4435. A bill to amend the Internal Revenue Code of 1986 to provide for a refundable wage differential credit for activated military reservists; to the Committee on Ways and Means.

By Mr. DEUTSCH (for himself and Mr. HASTINGS of Florida):

H.R. 4436. A bill to reform and improve certain housing programs of the Department of Housing and Urban Development; to the Committee on Financial Services.

By Mr. DINGELL (for himself, Mr. RANGEL, Mr. WAXMAN, Mr. STARK, Mr. BROWN of Ohio, Ms. PELOSI, Mr. MARKEY, Mr. TOWNS, Mr. PALLONE, Mr. RUSH, Mr. STUPAK, Mr. ENGEL, Mr. WYNN, Ms. MCCARTHY of Missouri, Mr. STRICKLAND, Mrs. CAPPS, Mr. JOHN, Mr. ALLEN, Mr. DAVIS of Florida, Mr. BECERRA, Mr. MCNULTY, Mr. DOGGETT, Mr. MATSUI, Mr. SANDLIN, and Mr. DEUTSCH):

H.R. 4437. A bill to amend part D of title XVIII of the Social Security Act to provide for low-income beneficiaries in the Medicare savings programs automatic enrollment and eligibility for low-income subsidies under the Medicare transitional and permanent prescription drug programs; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. EMANUEL (for himself, Mr. EVANS, Mr. EDWARDS, Mr. STRICKLAND, Mr. PETERSON of Minnesota, Mr. FILNER, Mr. GUTIERREZ, Mrs. MCCARTHY of New York, Mr. MCGOVERN, Mr. BOSWELL, Mr. SANDLIN, Mr. MCDERMOTT, Mr. SCHIFF, Mr. BALLANCE, and Mr. RODRIGUEZ):

H.R. 4438. A bill to amend title 38, United States Code, to extend from two years to five years the eligibility of veterans who served in recent hostilities for hospital care, medical services, and nursing home care for any illness; to the Committee on Veterans' Affairs.

By Mr. FLAKE (for himself, Mr. GRIJALVA, Mr. KOLBE, Mr. PASTOR, Mr. SHADEGG, Mr. HAYWORTH, Mr. FRANKS of Arizona, and Mr. RENZI):

H.R. 4439. A bill to require the release of the reversionary interest retained by the United States in connection with the conveyance of portions of former Williams Air Force Base, Arizona, to Arizona State University and Maricopa County Community College District; to the Committee on Education and the Workforce.

By Mr. GALLEGLY (for himself, Mr. HOSTETTLER, and Mr. SMITH of Texas):

H.R. 4440. A bill to amend the Immigration and Nationality Act to render proof of possession by an alien of a consular identification card issued by a foreign mission prima facie evidence that the alien is deportable, to render inadmissible for 10 years any alien who is unlawfully present in the United States and presents such a card to satisfy a Federal identification-related requirement, and for other purposes; to the Committee on the Judiciary.

By Mr. GERLACH:

H.R. 4441. A bill to reform and improve the rental housing voucher program under section 8 of the United States Housing Act of 1937; to the Committee on Financial Services.

By Mr. GIBBONS (for himself, Mr. PORTER, and Ms. BERKLEY):

H.R. 4442. A bill to designate the facility of the United States Postal Service located at 1050 North Hills Boulevard in Reno, Nevada, as the "Guardians of Freedom Memorial Post Office Building" and to authorize the installation of a plaque at such site, and for other purposes; to the Committee on Government Reform.

By Mr. HEFLEY (for himself, Mr. SIMPSON, Mr. UDALL of Colorado, and Mr. DUNCAN):

H.R. 4443. A bill to amend the National Historic Preservation Act to extend the authorization of appropriations for the historic preservation fund; to the Committee on Resources.

By Mr. PORTER (for himself, Mr. BOEHNER, Mr. MCKEON, and Mr. TIAHRT):

H.R. 4444. A bill to amend the Workforce Investment Act of 1998 to establish a Personal Reemployment Accounts pilot grant program to assist Americans in returning to work; to the Committee on Education and the Workforce.

By Ms. EDDIE BERNICE JOHNSON of Texas (for herself, Mr. EDWARDS, Mr. CLAY, Ms. LEE, Mr. LEWIS of Georgia, Mrs. JONES of Ohio, Mr. BALLANCE, Mr. DAVIS of Illinois, Mr. SCOTT of Virginia, Ms. KILPATRICK, Mr. HASTINGS of Florida, Mr. BISHOP of Georgia, Mr. WYNN, Mr. CONYERS, Mr. RANGEL, Ms. CARSON of Indiana, and Mrs. CHRISTENSEN):

H.R. 4445. A bill to waive the time limitation specified by law for the award of certain military decorations in order to allow the posthumous award of the Congressional Medal of Honor to Doris Miller for actions while a member of the Navy during World War II; to the Committee on Armed Services.

By Ms. KAPTUR (for herself and Mr. WALSH):

H.R. 4446. A bill to amend the Farm Security and Rural Investment Act of 2002 to reform funding for the Seniors Farmers' Market Nutrition Program, and for other purposes; to the Committee on Agriculture.

By Mr. KOLBE:

H.R. 4447. A bill to revise the boundary of the Fort Bowie National Historic Site, and for other purposes; to the Committee on Resources.

By Ms. LEE:

H.R. 4448. A bill to require the President to seek the establishment of an international commission for monitoring the treatment of persons in United States custody in Iraq; to the Committee on International Relations.

By Ms. LEE (for herself, Mr. PALLONE, Mr. LEACH, Mr. LANTOS, Mr. CROWLEY, Mr. MCDERMOTT, and Mr. BROWN of Ohio):

H.R. 4449. A bill to provide assistance to combat HIV/AIDS in the Republic of India, and for other purposes; to the Committee on International Relations.

By Mr. LEVIN (for himself, Mr. GUTIERREZ, Ms. KAPTUR, Mr. MCNULTY, Mr. KNOLLENBERG, Mr. KUCINICH, Mr. OLVER, Mr. WELDON of Pennsylvania, Mr. PAYNE, Mr. KILDEE, Mr. DAVIS of Illinois, Mr. HINCHEY, and Mr. QUINN):

H.R. 4450. A bill to authorize the Government of Ukraine to establish a memorial on Federal land in the District of Columbia to honor the victims of the Ukrainian famine-genocide of 1932-1933; to the Committee on Resources.

By Mr. MCKEON:

H.R. 4451. A bill to amend the Harmonized Tariff Schedule of the United States to correct the definition of certain non-knit gloves designed for use in sports; to the Committee on Ways and Means.

By Mr. MEEKS of New York:

H.R. 4452. A bill to require funds made available to each Federal department and agency for United States development or humanitarian assistance programs to be made available to foreign countries through the activities of United States organizations or businesses that are owned or controlled by naturalized United States citizens, or aliens lawfully admitted for permanent residence, who are from those foreign countries; to the Committee on International Relations.

By Mr. MORAN of Kansas:

H.R. 4453. A bill to improve access to physicians in medically underserved areas; to the Committee on the Judiciary.

By Mr. NETHERCUTT:

H.R. 4454. A bill to amend title 18, United States Code, to protect and promote the public safety and interstate commerce by establishing Federal criminal penalties and civil remedies for certain violent, threatening, obstructive, and destructive conduct that is intended to injure, intimidate, or interfere with plant or animal enterprises, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on Ways and Means, and Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. NORTON:

H.R. 4455. A bill to prohibit discrimination on the basis of certain factors with respect to any aspect of a surety bond transaction; to the Committee on the Judiciary.

By Mr. OBEY:

H.R. 4456. A bill to require labeling of raw agricultural forms of ginseng, including the country of harvest; to the Committee on Agriculture.

By Mr. OTTER (for himself, Mr. FLAKE, Mr. DELAHUNT, Mr. NETHERCUTT, Mr. FARR, and Mr. MCGOVERN):

H.R. 4457. A bill to require congressional renewal of trade and travel restrictions on Cuba; to the Committee on International Relations, and in addition to the Committees on Rules, Ways and Means, Energy and Commerce, Financial Services, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PALLONE (for himself, Ms. PELOSI, Mr. RANGEL, Mr. DINGELL, Mr. WAXMAN, Mr. STARK, Mr. BROWN of Ohio, Mr. MENENDEZ, Mr. MATSUI, Ms. SCHAKOWSKY, Mr. MCDERMOTT, Mr. NEAL of Massachusetts, Mr. SANDLIN, Mrs. JONES of Ohio, Mr. PASCRELL, Mr. BERRY, Mr. DOGGETT, Mr. DAVIS of Florida, Mr. CARDIN, Mr. ALLEN, Mr. STUPAK, Ms. SOLIS, Mr. STRICKLAND, Mr. RUSH, Ms. MCCARTHY of Missouri, Mr. WYNN, Mrs. CAPPS, and Mr. GREEN of Texas):

H.R. 4458. A bill to require the repayment of appropriated funds that are illegally disbursed for political purposes by the Centers for Medicare & Medicaid Services; to the Committee on House Administration, and in addition to the Committees on Ways and Means, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. POMBO:

H.R. 4459. A bill to authorize the Secretary of the Interior, acting through the Bureau of Reclamation and in coordination with other Federal, State, and local government agencies, to participate in the funding and implementation of a balanced, long-term groundwater remediation program in California, and for other purposes; to the Committee on Resources.

By Mr. RENZI (for himself, Mr. UDALL of New Mexico, and Mr. MATHESON):

H.R. 4460. A bill to fulfill the United States Government's trust responsibility to serve the educational needs of the Navajo people; to the Committee on Education and the Workforce.

By Mr. RENZI:

H.R. 4461. A bill to direct the Secretary of the Interior and the Secretary of Agriculture to jointly conduct a study of certain land adjacent to the Walnut Canyon National Monument in the State of Arizona; to the Committee on Resources.

By Mr. SANDLIN (for himself and Mr. OBEY):

H.R. 4462. A bill making appropriations for homeland security programs within the Departments of Energy, Health and Human Services, and Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; to the Committee on Appropriations.

By Mr. SERRANO (for himself, Mr. CROWLEY, and Mr. ENGEL):

H.R. 4463. A bill to provide for identification of members of the Armed Forces exposed during military service to depleted uranium, to provide for health testing of such members, and for other purposes; to the Committee on Armed Services.

By Mr. SIMMONS:

H.R. 4464. A bill to improve the No Child Left Behind Act of 2001, and for other purposes; to the Committee on Education and the Workforce.

By Mr. STENHOLM:

H.R. 4465. A bill to amend the Higher Education Act of 1965 to extend loan forgiveness for certain loans to certified or licensed teachers; to the Committee on Education and the Workforce.

By Mr. TANCREDO:

H.R. 4466. A bill to amend the Endangered Species Act of 1973 to exclude the Preble's Meadow Jumping Mouse from lists of endangered species and threatened species published under that Act; to the Committee on Resources.

By Mr. THOMPSON of California (for himself, Mr. DAVIS of Tennessee, Mr. STENHOLM, Mr. HILL, Mr. BERRY, Mr. CASE, Mr. ROSS, Mr. HOLDEN, Mr. MOORE, and Mr. SCHIFF):

H.R. 4467. A bill to establish reporting requirements relating to funds made available for military operations in Iraq or for the reconstruction of Iraq, and for other purposes; to the Committee on Armed Services, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. VISCLOSKY (for himself, Mr. ACEVEDO-VILÁ, Mr. GRIJALVA, Mr. MCDERMOTT, Mr. TOWNS, Mr. LYNCH, and Mr. SANDLIN):

H.R. 4468. A bill to amend title 38, United States Code, and title 10, United States Code, to provide for an opportunity for active duty personnel to withdraw an election not to participate in the program of educational assistance under the Montgomery GI Bill; to the Committee on Veterans' Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. WOOLSEY (for herself, Mr. ABERCROMBIE, Mr. BECERRA, Mr. BERMAN, Ms. BORDALLO, Mr. CASE, Mr. CROWLEY, Mr. FARR, Mr. FILNER, Mr. GRIJALVA, Mr. GUTIERREZ, Mr. HONDA, Ms. HOOLEY of Oregon, Mr. LANTOS, Ms. LEE, Ms. LOFGREN, Mr. MATSUI, Mr. MCDERMOTT, Mrs. NAPOLITANO, Ms. PELOSI, Ms. ROYBAL-ALLARD, Mr. TOWNS, and Mr. WU):

H.R. 4469. A bill to authorize appropriations to the Secretary of the Interior for the restoration of the Angel Island Immigration Station in the State of California; to the Committee on Resources.

By Mr. DELAY:

H. Con. Res. 432. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate; considered and agreed to.

By Mr. LANTOS (for himself, Mr. CROWLEY, Mr. ACKERMAN, Mr. WILSON of South Carolina, Mr. PAYNE, Mr. MEEKS of New York, Mr. FALEOMAVAEGA, Ms. MCCARTHY of Missouri, Mr. SCHIFF, Mr. GARRETT of New Jersey, Mr. BROWN of Ohio, Mr. PALLONE, Mr. ABERCROMBIE, Ms. ROS-LEHTINEN, Mr. DOGGETT, Mr. MCDERMOTT, Ms. SOLIS, Mr. TIERNEY, Mr. BERMAN, Ms. MILLENDER-MCDONALD, Mr. MCNULTY, Ms. LEE, Mr. ENGEL, and Mr. MCCOTTER):

H. Con. Res. 433. Concurrent resolution congratulating the Republic of India on the conduct of its recent democratic national elections; to the Committee on International Relations.

By Mr. FILNER:

H. Con. Res. 434. Concurrent resolution commending the persons who were inducted for service in the United States Armed Forces during World War II; to the Committee on Armed Services.

By Mrs. LOWEY (for herself, Mr. MCNULTY, Mr. ALLEN, Mr. MORAN of Virginia, Mr. HINCHEY, Mr. LANGEVIN, Mr. MEEHAN, and Ms. MCCOLLUM):

H. Con. Res. 435. Concurrent resolution supporting the goals and ideals of National Celiac Awareness Month, and for other purposes; to the Committee on Energy and Commerce.

By Mr. PAYNE (for himself, Mr. MEEKS of New York, Mr. RANGEL, Mr. ROYCE, and Mr. LANTOS):

H. Con. Res. 436. Concurrent resolution celebrating 10 years of majority rule in the

Republic of South Africa and recognizing the momentous social and economic achievements of South Africa since the institution of democracy in that country; to the Committee on International Relations.

By Mr. **ROHRABACHER** (for himself and Mr. RYUN of Kansas):

H. Con. Res. 437. Concurrent resolution expressing the sense of the Congress that the President of the United States should request Taiwan's President Chen Shui-bian to deploy Taiwanese Marines to Iraq to join international Coalition forces in the global war on terrorism; to the Committee on International Relations.

By Mr. **VAN HOLLEN** (for himself, Mr. MURPHY, and Mrs. MALONEY):

H. Con. Res. 438. Concurrent resolution recognizing and honoring the crew of the U.S.S. Pittsburgh for their heroism in March 1945 for rendering aid and assistance to the U.S.S. Franklin and its crew; to the Committee on Armed Services.

By Mr. **HASTERT** (for himself, Mr. DELAY, and Ms. PELOSI):

H. Res. 651. A resolution expressing the gratitude of the House of Representatives to its Parliamentarian, the Honorable Charles W. Johnson, III; considered and agreed to.

By Mr. **BEREUTER** (for himself and Mr. WEXLER):

H. Res. 652. A resolution urging the Government of the Republic of Belarus to ensure a democratic, transparent, and fair election process for its parliamentary elections in the fall of 2004; to the Committee on International Relations.

By Mr. **HALL** (for himself, Mr. BURGESS, Mr. NEUGEBAUER, Mr. SESSIONS, Mr. CARTER, Mr. BRADY of Texas, Mr. HENSARLING, Ms. GRANGER, Mr. STENHOLM, Mr. BONILLA, Mr. SAM JOHNSON of Texas, and Mr. BARTON of Texas):

H. Res. 653. A resolution honoring former President George Herbert Walker Bush on the occasion of his 80th birthday; to the Committee on Government Reform.

By Mr. **MEEKS** of New York:

H. Res. 654. A resolution recognizing the 38th anniversary of the independence of Guyana and extending best wishes to Guyana for peace and further progress, development, and prosperity; to the Committee on International Relations.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

332. The SPEAKER presented a memorial of the Senate of the State of Hawaii, relative to Senate Resolution No. 123 memorializing the federal government to conduct a thorough evaluation of the condition of the 187-acre property situated in Waikane Valley that was used by the United States Marine Corps for ordnance training until 1976, plan for and coduct as thorough a clean-up and removal of ordnance as is technologically possible, conduct an environmental assessment of the potential risk to human health and safety, and return the land to the State of Hawaii; to the Committee on Armed Services.

333. Also, a memorial of the Senate of the State of Hawaii, relative to Senate Resolution No. 77 supporting the Employee Free Choice Act (S. 1925 and H.R. 3619); to the Committee on Education and the Workforce.

334. Also, a memorial of the Legislature of the State of Maine, relative to H.P. 1464, Joint Resolutoin memorializing the Congress of teh United States to support the Farm-to-Cafeteria Projects Act; to the Committee on Education and the Workforce.

335. Also, a memorial of the Senate of the State of Hawaii, relative to Senate Resolution No. 87 recognizing Native Hawaiians as traditional, indigenous knowledge holders and recognizing their collective intellectual property rights; to the Committee on Resources.

336. Also, a memorial of the Senate of the State of Hawaii, relative to Senate Resolution No. 51 memorializing the President and Congress of the United States to support the passage of H.R. 3587 into law; to the Committee on the Judiciary.

337. Also, a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to House Resolution No. 585 memorializing the United States Congress to amend 42 U.S.C. 14132(a)(1) to allow the inclusion in CODIS of DNA profiles of "other persons, whose DNA samples are collected under applicable legal authorities"; to the Committee on the Judiciary.

338. Also, a memorial of the Senate of the State of Hawaii, relative to Senate Resolution No. 114 memorializing the United States Congress to support the passage of S. 68 to improve benefits for certain Filipino veterans of World War II; to the Committee on Veterans' Affairs.

339. Also, a memorial of the Senate of the State of Hawaii, relative to Senate Resolution No. 24 memorializing the President and Congress of the United States to repeal the restriction on the government to negotiate reductions in prescription drug prices with manufacturers; jointly to the Committees on Energy and Commerce and Ways and Means.

340. Also, a memorial of the General Assembly of the State of New Jersey, relative to Assembly Resolution No. 66 memorializing the President and Congress of the United States to release first responder funds to municipalities; jointly to the Committees on Transportation and Infrastructure, the Judiciary, and Energy and Commerce.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 236: Mr. BLUMENAUER and Mr. DINGELL.

H.R. 296: Mr. MILLER of North Carolina, Mr. RUPPERSBERGER, and Mr. BACHUS.

H.R. 371: Ms. BALDWIN.

H.R. 442: Mr. CHANDLER.

H.R. 586: Mr. VAN HOLLEN.

H.R. 625: Mrs. JONES of Ohio.

H.R. 677: Mr. GRIJALVA and Mr. HUNTER.

H.R. 716: Mr. VAN HOLLEN.

H.R. 727: Mr. WEXLER.

H.R. 742: Mr. VISCLOSKY.

H.R. 745: Mr. ABERCROMBIE.

H.R. 785: Mr. MILLER of North Carolina.

H.R. 792: Mr. MENENDEZ, Mr. CAPUANO, Mr. GILCHREST, Mr. BOEHLERT, Mr. PETERSON of Minnesota, Mr. LEWIS of California, Mr. CHANDLER, Mr. BURR, Mr. FERGUSON, and Mr. BOUCHER.

H.R. 814: Mr. MILLER of North Carolina.

H.R. 823: Mr. CHANDLER.

H.R. 832: Mr. DOYLE.

H.R. 847: Mr. CHANDLER.

H.R. 852: Mr. MCGOVERN.

H.R. 857: Mr. BACHUS.

H.R. 883: Mr. OBERSTAR.

H.R. 918: Mr. EHLERS, Mr. KINGSTON, and Mr. BRADLEY of New Hampshire.

H.R. 934: Mr. CHANDLER.

H.R. 953: Mr. CHANDLER.

H.R. 1034: Mr. CARDOZA, Ms. SCHAKOWSKY, and Ms. BORDALLO.

H.R. 1160: Mr. SULLIVAN and Mr. DINGELL.

H.R. 1191: Mr. CHANDLER.

H.R. 1306: Mr. CHANDLER.

H.R. 1316: Ms. LINDA T. SÁNCHEZ of California.

H.R. 1406: Mr. SOUDER.

H.R. 1470: Mr. CHANDLER.

H.R. 1639: Mr. HOEFFEL and Mr. MICHAUD.

H.R. 1684: Mr. THOMPSON of California.

H.R. 1689: Mr. OLVER.

H.R. 1716: Mrs. DAVIS of California.

H.R. 1735: Mr. DOGGETT.

H.R. 1736: Mr. MILLER of North Carolina.

H.R. 1742: Mr. MEEHAN.

H.R. 1745: Mr. BLUMENAUER.

H.R. 1746: Mr. CHANDLER.

H.R. 1800: Mr. SABO.

H.R. 1818: Mr. DOOLITTLE, Mr. WEXLER, Mr. BACHUS, Mr. RUPPERSBERGER, Mr. TIAHRT, Mr. WICKER, Mr. MORAN of Virginia, and Mr. BOOZMAN.

H.R. 1863: Mr. CLAY and Mr. HALL.

H.R. 1919: Mr. KILDEE.

H.R. 1930: Mr. FATTAH.

H.R. 2037: Mr. CUMMINGS.

H.R. 2101: Ms. LINDA T. SÁNCHEZ of California.

H.R. 2133: Mrs. MCCARTHY of New York, Mr. RANGEL, Mr. BRADY of Texas, and Mr. BOEHLERT.

H.R. 2217: Mr. DOGGETT, Mr. MORAN of Virginia, and Mr. WYNN.

H.R. 2237: Mr. MILLER of North Carolina.

H.R. 2239: Mr. DAVIS of Florida.

H.R. 2256: Mr. KILDEE.

H.R. 2262: Mr. CHANDLER.

H.R. 2265: Mr. JEFFERSON.

H.R. 2345: Mr. CASE and Mr. SCHROCK.

H.R. 2353: Ms. BALDWIN, Mr. WALSH, Mr. MCGOVERN, Mr. FROST, Mrs. CHRISTENSEN, Mr. MARKEY, Mr. PALLONE, and Mr. OWENS.

H.R. 2387: Mr. SMITH of Texas and Mr. SERRANO.

H.R. 2394: Mr. SANDERS, Mr. GUTIERREZ, Ms. VELÁZQUEZ, Mr. MEEKS of New York, Mrs. MALONEY, Ms. WATERS, Mr. LUCAS of Kentucky, Ms. MCCARTHY of Missouri, Mr. BOSWELL, Mr. ROSS, Mr. WEINER, Mr. STARK, Mr. EVANS, Mrs. MCCARTHY of New York, Mr. BISHOP of New York, Mr. CRAMER, Mrs. NAPOLITANO, Mr. MARSHALL, Ms. WATSON, Mr. RUPPERSBERGER, Mr. HINCHEY, Mr. SCOTT of Georgia, and Mr. BRADY of Pennsylvania.

H.R. 2442: Mr. PASTOR, Ms. SOLIS, Mr. BOUCHER, and Mr. NEAL of Massachusetts.

H.R. 2490: Mr. CHANDLER.

H.R. 2497: Mr. CHANDLER.

H.R. 2598: Mr. CALVERT, Mr. DEUTSCH, Mr. BOEHLERT, Mr. GOSS, Mr. SCHIFF, Mr. VAN HOLLEN, Mr. MCDERMOTT, Mr. CRAMER, Mr. TOWNS, Mr. LAMPSON, Mr. DAVIS of Alabama, Mr. LANGEVIN, Ms. JACKSON-LEE of Texas, Mr. KUCINICH, Mr. SAXTON, Mr. PLATTS, Mr. SNYDER, Mr. SMITH of Washington, Mr. WEXLER, Ms. ROS-LEHTINEN, Mr. BISHOP of Georgia, Mr. TURNER of Texas, Mr. ENGLISH, Mr. TIBERI, Mr. SCOTT of Virginia and Mr. SMITH of New Jersey.

H.R. 2747: Mr. ROGERS of Kentucky and Mr. ENGLISH.

H.R. 2811: Mr. CHANDLER.

H.R. 2890: Mr. ROGERS of Michigan.

H.R. 2935: Mr. RANGEL.

H.R. 2950: Ms. PRYCE of Ohio and Mr. BISHOP of New York.

H.R. 2963: Mr. CARDOZA.

H.R. 2967: Mr. RUPPERSBERGER.

H.R. 2968: Mr. PETERSON of Minnesota.

H.R. 2978: Ms. HARRIS.

H.R. 3069: Mr. KINGSTON.

H.R. 3142: Mr. GIBBONS.

H.R. 3178: Mr. Ruppersberger.

H.R. 3193: Ms. Harris, Mr. Camp, Mr. Gerlach, and Mr. Gutknecht.

H.R. 3194: Mr. Simpson and Mr. Duncan.

H.R. 3250: Mr. Green of Wisconsin.

H.R. 3292: Ms. Berkley, Mr. Stark, and Mr. Schiff.

H.R. 3310: Mrs. Capito.

H.R. 3323: Mr. McGovern.

H.R. 3324: Ms. Eshoo.

H.R. 3352: Mr. Markey.

H.R. 3425: Mr. Berman.

H.R. 3441: Ms. DeGette and Mr. Davis of Tennessee.

H.R. 3446: Mrs. Lowey, Mr. Berman, Mr. Greenwood, and Mr. Platts.

H.R. 3459: Mr. Wexler and Mr. Hinchey.

H.R. 3474: Ms. Linda T. Sánchez of California and Mrs. Bono.

H.R. 3479: Mr. Rodriguez.

H.R. 3480: Mr. Berman, Mr. Doggett, Mr. Reyes, and Mr. Udall of Colorado.

H.R. 3483: Mr. Stenholm, Ms. Kilpatrick, Mr. Frost, Mr. Udall of Colorado, and Mr. Visclosky.

H.R. 3507: Mr. Stark.

H.R. 3523: Mr. Owens.

H.R. 3543: Mrs. Musgrave.

H.R. 3579: Ms. Berkley, Mr. Young of Alaska, Mr. Calvert, and Mr. Jackson of Illinois.

H.R. 3591: Mr. Bereuter.

H.R. 3602: Mr. Sullivan and Mr. Shaw.

H.R. 3619: Mr. Jefferson.

H.R. 3641: Mr. Crowley.

H.R. 3729: Mr. Cummings, Ms. McCarthy of Missouri, Mr. Weiner, and Mr. Peterson of Minnesota.

H.R. 3764: Mr. Van Hollen, Mr. Frank of Massachusetts, and Ms. Corrine Brown of Florida.

H.R. 3777: Mr. Chandler.

H.R. 3795: Mr. Grijalva and Mrs. Blackburn.

H.R. 3801: Mr. Shaw.

H.R. 3802: Mr. Miller of North Carolina, Mr. McCotter, Ms. Watson, and Mr. Gutierrez.

H.R. 3803: Mr. Allen.

H.R. 3815: Mr. Schiff and Mr. Engel.

H.R. 3831: Mr. Lynch and Mr. Rothman.

H.R. 3880: Mr. Grijalva and Mr. Udall of New Mexico.

H.R. 3929: Mr. Frost, Mr. Thompson of Mississippi, and Mr. Nethercutt.

H.R. 3933: Ms. Dunn.

H.R. 3972: Mr. Price of North Carolina.

H.R. 3982: Mr. Matheson.

H.R. 4026: Mr. Miller of Florida.

H.R. 4035: Mr. Conyers.

H.R. 4051: Mr. Brady of Pennsylvania.

H.R. 4064: Mr. Burns, Mr. Sam Johnson of Texas, and Mr. Forbes.

H.R. 4067: Mr. George Miller of California, Mr. Conyers, Mr. Grijalva, and Mr. Berman.

H.R. 4091: Mr. Akin, Mr. Frost, Mr. Hinchey, and Mr. Owens.

H.R. 4113: Mr. Cantor.

H.R. 4116: Mr. Turner of Texas, Mr. Allen, Mr. Jones of North Carolina, Mr. Berman, Ms. Baldwin, Mr. Davis of Florida, Mrs. Tauscher, Mr. Taylor of Mississippi, Mr. Wu, Ms. Corrine Brown of Florida, Mr. Andrews, Mr. Engel, Mrs. Davis of California, Ms. Hooley of Oregon, Ms. DeGette, Mr. Becerra, Mr. Rodriguez, Ms. McCollum, Mr. Menendez, Mr. Emanuel, Mr. Green of Texas, Mr. Ortiz, Mr. Pastor, Mr. Reyes, Mr. Strickland, Mr. Alexander, Mr. Boswell, Mr. Hulshof, Mr. Barton of Texas, Mr. Cunningham, Mr. Bilirakis, Mr. Baker, Mrs. Cubin, Mrs. Capito, Mr. Simmons, Mr. Hostettler, Mr. Brady of Texas, Mr. Garrett of New Jersey, Mr. King of Iowa, Mr. Bereuter, Mrs. Northup, Mr. Sensenbrenner, Mr. English, Mr. Tancredo, Mr. Ramstad, Mr. Feeney, Mr. Terry, Mr. Hyde, Mr. Hall, Mr. Bonilla, Mr. DeMint, Mr. Reynolds, Mr. LoBiondo, Mr. Peterson of Pennsylvania, and Mr. Otter.

H.R. 4117: Mr. Abercrombie, Ms. Watson, and Ms. Solis.

H.R. 4126: Mr. Barton of Texas and Mr. Marshall.

H.R. 4149: Mr. Peterson of Minnesota.

H.R. 4177: Mr. Baird.

H.R. 4182: Mr. Baird.

H.R. 4203: Mrs. Blackburn and Mr. Petri.

H.R. 4207: Mr. Cummings.

H.R. 4210: Mr. Michaud.

H.R. 4230: Mr. Davis of Alabama, Mr. Matsui, and Ms. Berkley.

H.R. 4231: Mr. Bilirakis.

H.R. 4232: Mr. Rodriguez, Mr. Hall, Mr. Sam Johnson of Texas, Mr. Hinojosa, Mr. Sessions, Mr. Ortiz, Mr. Turner of Texas, and Mr. Neugebauer.

H.R. 4249: Mr. George Miller of California, Mr. Frost, Mr. Stark, Ms. Woolsey, Mr. Berman, and Mr. Rangel.

H.R. 4256: Mr. Price of North Carolina.

H.R. 4260: Mr. Hastings of Florida and Mr. Stark.

H.R. 4278: Mr. Kildee, Mr. Holt, Mr. Langevin, Mr. Ramstad, Mr. Ballenger, Mr. Grijalva, Mr. Van Hollen, Mr. Isakson, Mr. Towns, Mr. Hoyer, Mr. Keller, Mr. Wilson of South Carolina, Mr. Burns, Ms. McCollum, Mr. Petri, Mr. Cannon, Mr. McNulty, and Ms. Kaptur.

H.R. 4313: Mr. Van Hollen.

H.R. 4316: Mr. Sanders, Mr. Brady of Pennsylvania, Mr. Rangel, and Mr. Owens.

H.R. 4325: Mr. Rangel.

H.R. 4334: Mr. English and Mr. McHugh.

H.R. 4341: Mr. Pomeroy and Mrs. Cubin.

H.R. 4345: Mr. Bilirakis.

H.R. 4346: Mr. Berry, Mr. Kennedy of Rhode Island, Ms. Eddie Bernice Johnson of Texas, Mr. Udall of New Mexico, Mr. Payne, Mr. Smith of Washington, Mr. Wexler, Ms. Hooley of Oregon, Mr. Ruppersberger, Mr. Waxman, Mr. Lantos, Mr. Rangel, Mr. Crowley, Mr. Ortiz, Mr. Price of North Carolina, Mr. Serrano, Mr. Langevin, Ms. Loretta Sanchez of California, Mr. Sabo, and Mr. Delahunt.

H.R. 4348: Mr. Sanders, Mr. Rodriguez, Mr. Serrano, Mr. Reyes, and Mrs. Napolitano.

H.R. 4349: Mr. Ackerman and Mr. King of New York.

H.R. 4356: Mr. Owens.

H.R. 4359: Mr. Boehner.

H.R. 4361: Mrs. Lowey, Ms. Kilpatrick, and Ms. Lee.

H.R. 4363: Ms. Harris, Mr. Hinojosa, Mr. Hayworth, Mr. Inslee, and Ms. Ros-Lehtinen.

H.R. 4370: Mr. Hinchey.

H.R. 4377: Mr. Udall of Colorado.

H.R. 4380: Ms. Corrine Brown of Florida, Mr. Young of Florida, Ms. Ros-Lehtinen, Mr. Miller of Florida, Ms. Harris, and Mr. Davis of Florida.

H.R. 4391: Mr. Carter, Ms. Granger, Mr. Culberson, Mr. Ryan of Wisconsin, Mr. Paul, Mr. Neugegauer, Mr. DeLay, Mr. McGovern, Mr. John, Mr. Simmons, Mrs. Biggert, and Mr. Stenholm.

H.J. Res. 72: Mr. Larsen of Washington.

H.J. Res. 95: Mr. Ford, Mr. Holt, Mr. Pence, Mr. Michaud and Mr. Levin.

H. Con. Res. 93: Mr. Jones of North Carolina.

H. Con. Res. 182: Mr. Burton of Indiana.

H. Con. Res. 197: Mr. LaHood and Mr. Oxley.

H. Con. Res. 242: Ms. McCarthy of Missouri, and Mr. Green of Wisconsin.

H. Con. Res. 252: Mr. Owens, Mr. Gutierrez, and Mr. Deutsch.

H. Con. Res. 298: Mr. Rogers of Alabama.

H. Con. Res. 310: Mr. Stenholm.

H. Con. Res. 366: Mr. Hastings of Florida.

H. Con. Res. 375: Mr. Filner, Mr. Oxley, Ms. Harman and Mr. Lewis of California.

H. Con. Res. 392: Mr. Moran of Virginia and Mrs. Maloney.

H. Con. Res. 405: Ms. Ros-Lehtinen and Ms. Pryce of Ohio.

H. Con. Res. 413: Mr. Shaw, Mr. Wexler and Mr. Berman.

H. Con. Res. 418: Mr. Crowley, Mr. Ackerman, Ms. McCarthy of Missouri, Mr. McDermot, Mr. Abercrombie, Mr. Shimkus, Mr. Pence, Mr. Bereuter, Mr. Berman and Ms. Ros-Lehtinen.

H. Res. 60: Mr. Menendez.

H. Res. 542: Ms. Ros-Lehtinen.

H. Res. 567: Mr. Upton, Mr. Rogers of Michigan, and Mr. Rehberg.

H. Res. 570: Mr. Wynn, Ms. Jackson-Lee of Texas, Mr. Sweeney, Mr. Berman, Mr. Delahunt, and Ms. Woolsey.

H. Res. 586: Ms. Eddie Bernice Johnson of Texas.

H. Res. 604: Mr. Rangel.

H. Res. 611: Mr. Kanjorski and Mr. Frost.

H. Res. 633: Mr. Van Hollen, Mr. Grijalva, Mr. Serrano, Mr. Matsui, Mr. Waxman, and Mr. Tom Davis of Virginia.

H. Res. 646: Mr. Cooper, Mr. Van Hollen, Mr. Markey, Mr. Grijalva, Mr. Kennedy of Rhode Island, Mrs. Christensen, Mr. Doggett, Mr. Tierney, Mr. Stark, and Mr. McDermott.

H. Res. 647: Mr. Porter.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3473: Mr. Holden.

PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

81. The SPEAKER presented a petition of Mr. Joe Sitting Owl White, Principal Chief, Cherokee of Lawrence County, Tennessee, relative to petitioning the United States Congress for redress of grievances; to the Committee on Resources.

82. Also, a petition of Mr. Dwight E. Walker, a Citizen of Texas, relative to an affidavit of pertinent facts; to the Committee on Ways and Means.

83. Also, a petition of the Governor of Kentucky, relative to a letter petitioning for the extension of funding for high risk pools under the Trade Act of 2002; to the Committee on Ways and Means.

EXTENSIONS OF REMARKS

A TRIBUTE IN HONOR OF 2004 STATE OF MICHIGAN VOLUNTEER LEADERSHIP AWARD WINNER DORRENE GILBERT, OF GRAND LEDGE, MI

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. SMITH of Michigan. Mr. Speaker, it is with great respect and admiration that I rise today to recognize Dorrene Gilbert, whose generosity of spirit, intelligence, responsible citizenship, and capacity for human service has earned her the 2004 State of Michigan Volunteer Award.

Dorrene is an enthusiastic and energetic promoter of Grand Ledge, especially its historic and cultural projects. For forty years, she has notably spearheaded activities for the Grand Ledge Area Historical Society, the Art Guild, Ledge's Playhouse, Ledge Craft Lane, the Garden Club, Lincoln Brick Park, Michigan Week, and her church. Dorrene is extremely creative and well known for her cultural endeavors and bringing beauty to the community.

A founder of the Art Guild, Dorrene served as its president in the 1960s. She was Artist of the Month chairman for Ledge Craft Lane, a non-profit arts and crafts center, in the 1970s and still serves there as a volunteer. Known for her talent as a writer who has been publicity or promotion chairman for many groups in town, Dorrene has written and produced plays for church and for several style shows as fundraisers for the Opera House and Historical Society.

Having always been interested in gardens and nature, Dorrene has devoted a great deal of time and effort to the Garden Club and its projects. She has served as president twice, and program chairman many times, while remaining a long time geranium sale promoter and working on the gardens at the restored Opera House in downtown Grand Ledge. Dorrene has also been involved with the Memorial Tree Trail, where over 300 crab trees have been planted on the streets and in the parks in Grand Ledge in honor of or as memorials to residents.

When Dorrene's husband passed away, she decided that she wanted to do something special in his memory. She wanted to promote recreation and historical traditions at the Lincoln Brick Park, which, at the time, was just being developed. The Brick Factory on the park's grounds had been a part of his family's heritage. Working with the park staff, she helped develop the Ashley Gilbert Memorial Historical Trail. When her son passed away, Dorrene wanted to add something educational and beautiful to Lincoln Brick Park once again. The David Gilbert Memorial Sugar Bush, with 105 maples and dogwoods, was born from memorial funds, family contributions and a grant. She has also encouraged the Garden Club to plant at Lincoln Brick Park and is a contributor and supporter of the Lincoln Brick 100 Club.

Furthermore, as a board member of the Grand Ledge Area Historical Society, Dorrene has chaired and presented several programs on the history of Grand Ledge over the years. She is currently planning a vintage clothing style show as a fundraiser for the Historical Society. Dorrene has also spearheaded Festive Tables at the Opera House during the Historical Society Annual Holiday Home Tour for several years. She has served her church as the Sunday School Superintendent, a Church Council Member, Fine Arts and Decoration Chairman, and often handles its publicity. Dorrene also wrote and produced a play on the 125 years of the church. She has served on Michigan Week Committees for nearly forty years as promotion and publicity chairman, hospitality chairman, and in recent years, on the Awards Committee. The list of her activities is vast, diverse, and always growing.

On behalf of the United States Congress, I join her many friends, admirers, fellow volunteers, and the people of Grand Ledge in extending our highest praise and congratulations to Dorrene Gilbert for winning the 2004 State of Michigan Volunteer Leadership Award. Her personal interest and active participation in her community are deeply appreciated and should serve as an example for us all.

TRIBUTE TO DR. MILLER WICKLIFFE "WICK" LAURENCE, JR.

HON. RODNEY ALEXANDER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. ALEXANDER. Mr. Speaker, I rise today to pay tribute to an outstanding individual from my district, Dr. Miller Wickliffe "Wick" Laurence, Jr., who was just inducted post-mortem into the Corney Creek Hall of Fame. Dr. Wick's tireless service and genuine commitment to his patients, family and community were truly remarkable and inspiring.

Born in 1912 and raised in Bernice, Louisiana, he was a graduate of Bernice High School and Louisiana Tech University. While he aspired to a career in dentistry, the nation was suffering through the Depression, and his career was postponed while he taught chemistry at Bernice High School. In 1934, he enrolled in the Atlanta Southern Dental College, marrying Cortez Hicks along the way. Dr. Wick and his new bride returned to Bernice upon his graduation and he set up a practice, which he maintained for 40 years.

Dr. Wick served in the United States Army Dental Corp, enlisting at Fort Walters, Texas with assignments at Camp Livingston, Louisiana; Fort Lewis, Washington; Brigham City, Utah; Camp Beale, California and Schofield Barracks, Hawaii. He was honorably discharged in 1946 with the rank of Major.

Dr. Wick was a member of the Fifth District Dental Society, the American Dental Association, the Fellowship in the Academy of General Dentistry, the Louisiana Dental Association, and the Phi Omega Dental Fraternity. He was a founding member of the Bernice Volunteer Fire Department and served as town councilman for Bernice for 24 years. An avid horseman, he held memberships in the Louisiana Quarter Horse Association, the American Hereford Association and the American Junior Quarter Horse Association. Dr. Wick was also involved with the Louisiana Farm Bureau, the Union Parish Farm Bureau, the Louisiana Forestry Association and the Louisiana Cattleman's Association.

Dr. Wick was also heavily involved and supportive of youth programs in Union Parish. As a former Boy Scout, he donated money and volunteered as a merit badge counselor to Troop 48 of Bernice and Troop 59 of Ruston. His generosity was also bestowed in time and money to the Ouachita Valley Council and the Thunderbird District. Dr. Wick strongly believed that every child who wanted an education should have one, and he provided financial assistance to many young people for college and business or technical school. He opened his office doors to dental graduates to work in his practice until they were secure enough to establish practices in neighboring towns.

Dr. Wick passed away in September of 1999 at the age of 87. He was a father and grandfather and was married to his wife Cortez for nearly 63 years. His life was rich, and he enriched the lives of others by the charitable giving of his time and money to so many community and youth organizations.

Dr. Wick deserves the honor of Congressional recognition, for his outstanding contributions to his family, our community and our state and I am proud to recognize his notable accomplishments and manifold contributions.

TRIBUTE TO MR. ROBERT DE LA VIÑA ON HIS 90TH BIRTHDAY

HON. RUBÉN HINOJOSA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. HINOJOSA. Mr. Speaker, I rise today to pay tribute to a great American and one of my constituents, Mr. Robert R. De la Viña. Mr. De la Viña's life has been one of dedication. Dedication to his country, his community, his family, and his faith. Born in Edinburg, Texas on April 9, 1914, Robert De la Viña made a name for himself early in his youth as a self taught

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

musician and award winning trumpet soloist. After high school, Mr. De la Viña received his Bachelor of Arts degree from Texas A&I College in Kingsville, Texas in 1937. It was after this period, that he returned to the Rio Grande Valley and started his long career in public education.

After teaching five years, however, his career as an educator was interrupted by the call of World War II. Mr. De la Viña was assigned to the United States Air Force and honorably served his country as a staff sergeant and mechanic for the B–26 Bomber. Later, he was assigned to B–29 squadrons participating in the Pacific Theater and was stationed in Guam and Tinian Island. After the war, he returned back to Edinburg and the familiar surroundings of the classroom. It was then soon after, Mr. De la Viña met and married a fellow educator, Miss Grace Watkins. From this loving marriage of 39 years, came one son and three grandsons.

Robert's dedication to the Edinburg public schools spans more than four decades. He served not only as a teacher, but as an Assistant Principal and Director of Special Services for the school district. After 37 years of commitment to the education and enrichment of the children from the Edinburg school district, he retired with numerous honors. Within a couple years of his retirement, Mr. De la Viña took his vision and passion for public education back to the community and ran for School Board Trustee. He served his community as Trustee for six years, giving a total of 43 years to the Edinburg School District and the community of Edinburg. His legacy and those of fellow De la Viña educators in South Texas, however, lives on, as March 23, 1986, marked the dedication of De la Viña Elementary School in Edinburg. On Robert's 85th birthday, the Mayor of Edinburg officially recognized his commitment to the city and people of Edinburg and proclaimed April 9, 1999: "Robert De la Viña Sr. Day."

Another phase of Robert De la Viña's life has been his devotion to his faith. Growing up in one of the founding family's of El Buen Pastor Methodist Church in Edinburg, Robert has helped the Church expand from the few families that assembled at his father's house to the hundreds that congregate today. Robert has actively participated in all phases of the Church's activities since his confirmation in 1926, such as Board Member, Choir and Youth Director and Sunday school teacher, a position he cherished for more than 30 years. Even to this day, Mr. De la Viña can be heard performing many of his original religious musical compositions on the piano at El Buen Pastor.

Mr. Speaker, Mr. Robert R. De la Viña, as the oldest living member of a family that was designated a "Bicentennial Family" in 1976 by the American Historical Society, has touched the lives of so many people in South Texas. On April 9th of this year, Mr. De La Viña celebrated his 90th birthday. I urge my colleagues to join me in recognizing his dedication to public education and his decades of service to South Texas and this nation.

WALNUT CANYON STUDY ACT OF 2004

HON. RICK RENZI

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. RENZI. Mr. Speaker, I rise today to introduce the Walnut Canyon Study Act of 2004.

The Walnut Canyon National Monument was originally designated by Presidential proclamation on November 30, 1915, to protect Sinaguan cliff dwellings. Since the original designation, the Walnut Canyon National Monument has been expanded to include 3,580 acres to protect additional ruins adjacent to the Monument.

In the past few years, several groups have proposed expanding the Monument with surrounding Forest Service land and designating this expanded area as a National Park. To further explore the options of the Walnut Canyon National Monument and potential inclusion of this expanded area, I have introduced the Walnut Canyon Study Act.

The Walnut Canyon Study Act of 2004 directs the Secretary of the Interior and the Secretary of Agriculture to jointly conduct a study on the management of certain land adjacent to the Walnut Canyon National Monument.

Coconino County and the City of Flagstaff have both passed resolutions supporting further review and study of the management options for the Walnut Canyon National Monument. In both resolutions, support for maintaining certain public uses in the Monument was relayed, as well as the need for the protection of the resources in the Monument.

Mr. Speaker, this legislation provides for public input into any recommendation that is forwarded by the Secretary of the Interior and the Secretary of Agriculture. Within the study, the legislation requires the Secretaries to look at the management objectives of the Forest Service and the National Park Service, as well as the opportunities for maintaining existing public uses, such as grazing, hunting and recreation. In addition, my version of this legislation ensures that any appropriation made available in this legislation will not affect the amounts made available for Forest Service or National Park Service activities in the State of Arizona.

Mr. Speaker, I urge my colleagues to support the Walnut Canyon Study Act of 2004. My intent in introducing this legislation is to help resolve the question of future management of the Walnut Canyon National Monument.

TRIBUTE TO FLOYD STEWART

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. BACA. Mr. Speaker, it is with great pride that I pay tribute today to a close, personal friend of mine, Floyd Stewart. He is a man of great integrity and character, and I join today with family and friends in honoring his remarkable achievements throughout his life.

Floyd served admirably in the armed forces during WWII and fought on the front lines of our military for 11 months. He was stationed in Normandy and Luxembourg during this time and was a member of the Combat Engineers, Unit 148. He was also a soldier in the Battle of the Bulge, the largest land battle of World War II featuring over 500,000 Americans and over 80,000 casualties.

Throughout his time serving our nation, Floyd exhibited tremendous passion, pride, and a deep resolve to fight for the freedoms that we, as Americans, have been fortunate to experience. He continues to be respected member of his community and beloved member of his family. His kind and passionate spirit are an incredible resource and blessing to those who know him.

I have had the distinct privilege of enjoying Floyd Stewart's friendship for several years now. I have played golf with him at El Rancho Verde Golf Club, where he is a member, and seen firsthand his generosity of spirit and love for his fellow man.

It gives me no greater pleasure than joining today with family and friends in paying tribute to this great man. His unselfish duty to our country should not be overlooked. He is a symbol of all that we, as Americans, strive to be and I present to him today my steadfast thanks for his service.

IN RECOGNITION OF FALLEN SOLDIERS FOR SPECIAL MEMORIAL DAY TRIBUTE

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. BERMAN. Mr. Speaker, ninety years ago this month, President Woodrow Wilson stood in the Brooklyn Navy Yard and said of America's fallen soldiers: "We are expected to put the utmost energy, of every power that we have, into the service of our fellow men, never sparing ourselves, not condescending to think of what is going to happen to ourselves, but ready, if need be, to go to the utter length of self-sacrifice."

Today, American troops are again in harm's way risking their lives in defense of freedom and democracy. In Afghanistan and Iraq, we are confronting forces opposed to these values. They represent the darkness of oppression, fanaticism and fear. But America—led by its troops—will prevail. To those brave men and women who have given their lives in this pursuit, I join my colleagues in recognizing their noble sacrifice.

A TRIBUTE IN HONOR OF THE GRAND LEDGE ISLAND RESTORATION PROJECT FOR WINNING THE 2004 STATE OF MICHIGAN COMMUNITY ACHIEVEMENT AWARD

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. SMITH of Michigan. Mr. Speaker, I rise today to congratulate the community of Grand

Ledge, Michigan for the successful completion of the Island Park Restoration Project. For the past five years, countless individuals and groups have persistently worked with patience and pride to restore the luster of the cultural, recreational, and economic gem nestled in the heart of Grand Ledge.

The Island Park is a 2.5-acre recreation facility in downtown Grand Ledge. It is an integral part of Grand Ledge's history and culture, and it serves as one of the city's main tourist attractions. Beginning in the 1870s, Grand Ledge was characterized as a charming summer resort town situated on the banks of the majestic Grand River. The principal attraction was the picturesque scenery, with intermingled cliff, river, and island views. As many as 12 trainloads of visitors from across the state would visit the city each day.

Today, the economics of tourism is just as important to Grand Ledge as it was over 125 years ago. An estimated $1 million is generated annually for the community from events held at the Island Park, such as the Color Cruise & Island Festival, the Island Art Fair, and the Mudge's Follies variety show.

The Island Restoration Project began in earnest when the city received a Clean Michigan Initiative grant from the Michigan Department of Natural Resources in 2001. Of the $666,000 needed for the project, the state provided $455,000 and Grand Ledge contributed $211,000, including $90,000 from community donations. The vast restoration, erosion control, and landscaping was done during the spring, summer, and fall of 2003. The work included adding pathways, new grass, new trees, decorative iron benches and lampposts, electrical and water conduits, gazebo restoration, and a viewing area with benches. The completed project is a culmination of five years of meticulous community planning, fantastic grant writing, creative fund raising, and extensive cooperation.

Grand Ledge Island Restoration Project Steering Committee members included Graydon Briggs, Karla Chamberlain, Rich Cissel, Steve Graszler, Susan Sasse, Tim Sattler, Kalmin Smith, Mike Stevens, Pete Stoughton, Mary Suurmeyer, Warren Wells, Cathy Wilhm, Don Willems, and Kay Wyszynski. These are extremely civic-minded individuals who also serve as members of the City Council, the Planning Commission, the Parks and Recreation Commission, the Chamber of Commerce, the Downtown Development Authority, and the Historical Society. City Administrator Jon Bayless and Parks and Recreation Commission Chairman Marv Hummel handled the day-to-day details and kept the project on track.

On behalf of the United States Congress, it is with great pleasure that I rise today to extend our highest praise and congratulations to the community of Grand Ledge, Michigan for restoring the Island Park for all to enjoy.

TRIBUTE TO DEPUTY MARSHAL DEVANIE AND DEPUTY SHERIFF SMITH

HON. RODNEY ALEXANDER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. ALEXANDER. Mr. Speaker, last week this Congress recognized the contributions and sacrifices made by law enforcement officers and we honored the fallen heroes during National Police Week. I rise today to remember two law enforcement officers from my district in Louisiana whose lives were lost in the line of duty in 2003.

The men and women of our police forces are the defenders of our families, our homes and our communities, and swear an oath to protect and serve so that we may live in peace and safety. Last week, law enforcement officers gathered with the families of officers killed in the line of duty to honor the commitment of our nation's police forces and to remember those they have lost.

Deputy Marshal Glen Devanie was responding to a call for backup from the Alexandria City Marshal's Office and was killed in an automobile accident. Deputy Sheriff Randy Smith was shot and killed while trying to apprehend a parish jail escapee in Mamou, Louisiana. The names of Deputy Marshal Devanie and Deputy Sheriff Smith were unveiled to their families and colleagues at the Candlelight Vigil at the National Law Enforcement Officers Memorial. We will never adequately express our gratitude, and our sympathies, to the sacrifice of these two officers.

I wish to extend to the families of Deputy Marshal Devanie and Deputy Sheriff Smith my sympathies for their loss and the recognition of these two men as true heroes. I express to the men and women in law enforcement our profound gratitude, for their exhibitions of bravery and the sacrifices they are called to make. As these noble men and women sacrifice for a pledge to protect and to serve, it is our duty to honor them, past, present and future, to the highest degree.

HONORING THE LIFE OF PAULINE GONZALEZ

HON. RUBÉN HINOJOSA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. HINOJOSA. Mr. Speaker, it is a great honor to stand before you to pay tribute to Pauline Gonzalez, a dedicated public servant, a loving wife and mother, and a role model for all. Pauline Gonzalez of Edinburg passed away on Monday, April 26, after a long illness. She will be remembered for her dedication to her family, her commitment to public service, and her passion for politics. She will be deeply missed by her family, friends, and colleagues.

Mrs. Gonzalez was born in Edinburg, Texas on March 16, 1927, to Francisco and Paula Garza. She was orphaned at a young age and was reared by her maternal grandmother, Gregoria Perez, her aunt, Segunda Perez, and her eldest sister, Hermencia. Her experiences as a young girl instilled the importance of family in her, and her commitment to those she loved never faltered.

In 1948, Mrs. Gonzalez married Jose Noe Gonzalez Sr. and together they had three children: Jose Noe Jr., Lucy, and Martha. Along with her dedication to family, Mrs. Gonzalez was a firm believer in the value of a good education. She attended Edinburg public schools, graduated from Edinburg High School, and despite the odds against her, pursued higher education at Edinburg Junior College. She instilled in her children the importance of education and it paid off. Her three children followed her example. Martha Salazar is Hidalgo County's purchasing agent, Lucy Canales is an Edinburg-based attorney, and Noe Gonzalez Jr. is a successful businessman.

Pauline began her career in 1945 as a deputy clerk for the Hidalgo County District Clerk's office. In 1960, after fifteen years of service, she left her position to devote more time to her family. She was very active with her church and many civic organizations, including the Hospital Auxiliary, the Hidalgo County Historical Museum and the Freddy Gonzalez American Legion Post 408 Auxiliary

In 1982, once her children were enrolled in college, she returned to the world of work and politics. Mrs. Gonzalez ran for and was elected District Clerk of Hidalgo County. Her victory made her one of the first women elected to office in the county. She broke through the barrier of a male dominated political world, but in her own special way. Her trademark high heels and lipstick were the perfect symbol for a woman whose elegance was not overshadowed by her ability to get things done. Her willingness to listen, her honesty and sincerity, and her commitment to her constituents to instill a confidence in their public officials, and she was solidly elected year after year. Mrs. Gonzalez's work ethic earned her the respect of her colleagues and the admiration of the people she dutifully served. She epitomized what every public servant should strive to be—accessible and willing to go the extra mile.

Above everything, it was Pauline's near perfect balance of determination and graciousness that made her a beloved member of her community. She was a dear friend, a lovely lady, and a devoted public servant who will be greatly missed by all. May she rest in peace.

COMPETITIVENESS AGENDA

HON. RICK RENZI

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. RENZI. Mr. Speaker, last week Republicans kicked off an eight-week Competitiveness Agenda by bringing legislation to the floor that addressed staggering health care costs faced by American businesses. This week, we voted to streamline the government compliance process and increase competitiveness in today's worldwide economy. By eliminating unnecessary government regulation, we took action, helping business owners across the nation to reduce countless hours and resources sacrificed to comply with unnecessary red tape.

Mr. Speaker, small businesses disproportionately bear the burden of government regulation costs. The U.S. Small Business Association estimates that in 2000, small businesses with 20 or fewer employees faced an annual regulatory burden of approximately $6,975 per employee. That is almost two thirds more than the $4,463 estimated for large firms. We also know that these small businesses are the Number One jobs creators in the United States accounting for 60 to 80 percent of new jobs. In other words, nearly 8 out of 10 jobs created in this economy come from the very business owners being strangled by regulation costs.

Common-sense regulatory reforms will help reduce costs to American businesses, allowing them to compete in the global market and bring careers to those bright Americans seeking them. Mr. Speaker, I thank my colleagues for voting to eliminate unnecessary bureaucratic red tape.

CONFERENCE REPORT ON S. CON. RES. 995, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2005

SPEECH OF

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. BACA. Mr. Speaker, I ask unanimous consent to revise and extend my remarks.

I rise in opposition to the Republican Budget Resolution conference report. For the first time since the Congressional Budget Act was enacted, the Republicans are bringing only a 1-year budget resolution to the floor. This 1-year conference agreement provides no plan to reduce the deficit and no commitment to provide critical resources for defense, homeland security, education, veterans, and other priorities in future years.

The budget agreement cuts funding for key priorities to help fund another round of Republican tax cuts totaling $55.2 billion. After 3 years of the Bush administration's fiscal policies, we are facing a $363 billion deficit in 2005, and that is before any new tax cuts or other policies the President is proposing. Republicans have managed to turn a project $5.6 trillion surplus into a projected $3 trillion deficit.

This budget also fails to protect Social Security. The conference agreement not only fails to attempt to restore the budget surpluses to begin to protect the Social Security trust fund, but it also spends every penny of the $1 trillion Social Security surplus over the next 5 years.

If that's not enough, the Republican budget shortchanges education and health programs. It provides $81 billion for education and training programs, which is $2.9 billion less than the Senate budget. The conference agreement provides $8.8 billion less for education than was promised in the No Child Left Behind Act. It represents the smallest increase in education spending in 9 years, cutting $1.4 billion in critical education programs, including those that improve family literacy, and provide school counselors to elementary school children.

It fails to provide any new money to help the 43 million Americans who are without health insurance. There are over 12 million Hispanic Americans without health insurance and millions more who can barely pay their premiums, yet Republicans do nothing to hold costs down.

The budget cuts spending for mandatory health programs by $905 million over 5 years. Medicaid constitutes over 90 percent of the dollars for these programs, so it is likely that disabled Americans, children and the elderly would bear the brunt of these spending cuts, if enacted. The budget also does nothing to hold down prescription drug costs. This administration and the Republican Party are failing the 2 million Hispanic seniors and all seniors on Medicare.

The budget cuts and underfunds critical housing programs. At this funding level, approximately 250,000 low-income families with children, senior citizens, and people with disabilities could lose their Section 8 vouchers.

The Republican budget leaves our veterans behind. The conference agreement provides only $31 billion for appropriated veterans programs for 2005, which is $1.3 billion less than the Veterans Affairs Committee, on a bipartisan basis, stated is needed for these vital veterans' health care programs. It shortchanges veterans' health care, raising health care costs for 1 million veterans. It makes it harder for veterans to get their disability, education, pension, housing, and employment benefits by eliminating critically needed staff that process claims for veterans' benefits. The Republicans talk about patriotism, yet how quickly they forget about the men and women who are coming back from Iraq and Afghanistan, and the over 1 million Hispanic veterans.

The conference report before us is a failure of our fiscal and moral responsibility. We should reject this conference report and ask the conferees to go back to the drawing board.

TRIBUTE TO DENA SCHECHTER

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. BERMAN. Mr. Speaker, Mr. WAXMAN and I rise today to pay tribute to Dena Schechter, a good friend and wonderful person. Dena is being honored by the University of Judaism (UJ) at its annual dinner on May 20, 2004, for her leadership in Jewish education and her many outstanding contributions to worthy causes.

The UJ is one of the leading institutions of higher education in our community. It maintains a proud tradition of academic excellence and a progressive viewpoint. Dena shares the University's intellectual and spiritual vision—maintaining Judaism's traditional beliefs and values in a way that is relevant to our increasingly complex and modern world.

In 1947, Dena's grandparents helped found the University. In the late 1950s, her grandparents endowed the University's first public lecture series. Throughout the years, Dena has continue her family's dedication and support for the UJ, serving on the Board of Directors and for the last five years as Chair. Under Dena's leadership the UJ'S College of Arts and Science, the Ziegler School of Business and the Fingerhut School of Education have seen tremendous growth and development. Dena has helped underwrite an innovative community service component to the UJ's undergraduate curriculum. In addition, she helped establish the Sid Levine Service Learning Program—a feature in UJ's College of Arts and Sciences that emphasizes the critical nature of community service.

To know Dena is to be greatly blessed. She is the sister of our good friend and former colleague, Mel Levine and we feel extremely fortunate to know her personally. We are inspired by her belief that "participation in the community is not something you choose but something you are obligated to do." In addition to her contributions to the UJ, she actively works on behalf of the Federation Family and Jewish Family Services.

A native of Los Angeles and a graduate of UCLA with a degree in Philosophy, Dena successfully balances family, a career in business and a strong commitment to community service. She is married to Irving Schechter and is the mother of four.

Mr. Speaker, distinguished colleagues, we ask you to join us in saluting Dena Schechter and congratulating her upon receiving this richly deserved honor.

SENATE—*Friday, May 21, 2004*

The Senate met at 9:30 a.m. and was called to order by the Honorable LINCOLN D. CHAFEE, a Senator from the State of Rhode Island.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

God of grace and God of glory, on Your people send Your power. You are the God of nations, the ruler of the universe. Let Your power and mercy rule those who guide us and make our laws. May our Senators feel Your presence today and receive Your wisdom as they work to safeguard our liberties. Remind them often that right defeated is better than evil that triumphs.

Look with compassion upon those who assist these leaders in their labors. Remind us all of our calling to serve You by serving others. Where our hands are closed, open. Where our hearts are shut, pry. And where our resolve is weak, prod.

Fill us with the love of truth and righteousness. We pray this in Your powerful Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable LINCOLN D. CHAFEE, a Senator from the State of Rhode Island, led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The bill clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, May 21, 2004.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable LINCOLN D. CHAFEE, a Senator from the State of Rhode Island, to perform the duties of the Chair.
>
> TED STEVENS,
> *President pro tempore.*

Mr. CHAFEE thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning we will return to consideration of the Department of Defense authorization bill. Senators WARNER and LEVIN are here to consider cleared amendments from both sides of the aisle. Also, some Members will wish to speak on the pending amendment which was offered by Senator GRAHAM of South Carolina. That amendment was offered yesterday morning. Unfortunately, we were unable to vote on that amendment during yesterday's session. I had hoped we would be able to vote on that amendment and move forward with the bill. However, that appears unlikely. Therefore, no rollcall votes will occur during today's session.

Once again, I hope we could limit amendments to the overall bill. I know the chairman has a list of Republican amendments he will begin to work through. It would be helpful if we could lock in the list on both sides of the aisle, to give managers an idea of what to anticipate, both in terms of making progress and ultimately finishing the very, very important bill.

We did make good, reasonable progress on the bill this week. I hope Members will alert their respective chairman or ranking members about their amendments so we can continue to move ahead on this bill.

When we return from our recess, I do still plan to go to class action. As I have stated on numerous occasions, starting actually a couple of months ago, I will be talking to the Democratic leadership about proceeding to that bill. We will say more at the close of business today, after we see what progress can be made on the Department of Defense authorization bill in the course of today.

This week I was pleased we were able to reach an understanding on judicial nominations, I think a very fair and balanced approach to 25 of these nominees. We will vote on these pending nominations and we will continue to press on for votes for all of the judicial nominees in addition to those 25.

We also need—and I mentioned it last week and the week before—we need to press on for nonjudicial nominations as well. There are approximately 60 nonjudicial nominations, including very critical Ambassadors, that remain pending on the calendar. I know there have been a lot of discussions back and forth about how best to proceed on these nominations. We must find a way to schedule consideration of these individuals. We need to continue to work to do that. There are 60 of them on the calendar. We need to proceed in good faith.

The fact that we made such good progress on the judicial nominations this week leaves the door open to a good way of addressing many of these nominations that are on the calendar. We need to allow the Senate to begin a process to confirm these people. When you look at the calendar itself, these nominations are page after page—14 pages of these nominations that are awaiting our action.

I look forward to bringing them to the floor at the appropriate time, with discussion with the Democratic leadership.

I yield the floor.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Democratic whip is recognized.

NOMINATIONS AND DOD

Mr. REID. Before the distinguished majority leader leaves, I would like to say a couple of things. We worked hard. You and Senator DASCHLE were able to work your way through an agreement on judges. I agree with the majority leader, I think it is fair. We will have processed within the next few weeks, I think, 198 judges. I think that is the number we will have processed.

I also say as far as the nominations for other posts that are on the calendar, we, of course, are waiting for you and Senator DASCHLE to work something out on those also. We need to move forward on some of the Democrats submitted by Senator DASCHLE to the President and which are either languishing down there or haven't moved for other reasons. We hope that can be done before we move too much further in this legislative session, when things get jammed up.

I also say while the distinguished chairman of the committee is on the floor, and the majority leader, we believe we can work through these amendments on the Defense authorization bill. Between both Democrats and Republicans at this stage there are about 100 amendments, a fairly equal number on each side we have been given at this stage. A lot of these amendments, as always happens, are not going to be offered. A lot can be accepted by the two managers of the bill.

I would say this. I think yesterday we could have made more progress than we did. We made an offer that, on the Graham amendment, we would like that put over until after the recess. That is what has happened, anyway.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

If that had been the case, Senator CANTWELL and Senator HOLLINGS would agree to a 2-hour time limit to dispose of those two amendments.

We have a number of amendments. Senator DASCHLE wants to offer his TRICARE amendment, Senator KENNEDY wants to offer an amendment that has already been seen by the majority, by the managers. It may take a little bit of time. There are some reporting requirements. But my point is we can move through this.

I know there is tremendous pressure on the majority leader to move to class action. My personal feeling is it would be more of a class act to finish the Defense authorization bill first. I think even now we have some amendments the two managers are going to clear, 12 or 15 amendments this morning.

We will work here today to lay down amendments on our side and have the pending amendments, including the Graham amendment.

We want to indicate that we are fully cooperative, and we want to move this bill. We understand the importance of it.

Mr. FRIST. Mr. President, I know the chairman is here and will respond in terms of particulars of the underlying bill. We made good progress. It is an important bill and a bill which we will finish.

My intentions are to in all likelihood move to the class action bill the week we return and address that. Then if we can come up with a reasonable way of finishing this bill—which I am confident we can—I think ultimately when people sit down and say what is important to have on this bill, we will be able to put together amendments on our side and the other side and pull those together and have an orderly way of dealing with those.

I will say that in the big picture the last 2 weeks have been very positive weeks in terms of governing in very difficult times, many of which have been overseen by the chairman of this particular bill, Senator WARNER. It is very tough oversight in terms of what is going on both in Iraq and indeed around the world in the war on terror. At the same time that has been conducted in a very professional way. This institution can be quite proud; we have done some very good things in terms of national security. Three days ago, we passed bioshield legislation. That is a national security issue, one we have worked on for 14 months. A few days ago, we passed the important education bill, the Individuals With Disabilities Education Act, which affects 6.5 million children with disabilities.

If you look at the field on jobs and taxation, 2 weeks ago we passed a bill that will impact hundreds of thousands of manufacturing workers called the JOBS bill, a Euro tax that is placed on this country which we have in the Senate effectively eliminated once the House acts. And 2 weeks ago, we passed an international tax relief bill to make sure broadband knowledge can proliferate in this country. All of that is part of governing which has taken place in 2 weeks of very difficult times. I have been very pleased over the last 2 weeks. It shows we can work together and govern—plus the judges on top of that. I think we will see that on this bill and we will see it on the class action bill. I am very optimistic about where we are going.

I am also pleased about what we have done in the last couple of weeks.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005—Resumed

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 2400, which the clerk will report.

The bill clerk read as follows:

A bill (S. 2400) to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for each fiscal year for the Armed Forces, and for other purposes.

Pending:

Graham (SC) Amendment No. 3170, to provide for the treatment by the Department of Energy of waste material.

Crapo Amendment No. 3226 (to Amendment No. 3170), of a perfecting nature.

The ACTING PRESIDENT pro tempore. The Senator from Virginia.

Mr. WARNER. Mr. President, my distinguished colleague, the senior Senator from Michigan, and I will momentarily address some of the pending amendments which have been cleared on both sides. I do, however, note the presence on the floor of two other colleagues. I would suggest to my ranking member that perhaps we could accommodate them, since he and I will be here throughout much of the morning.

Mr. LEVIN. I would be happy to do that, of course.

Mr. REID. Mr. President, while the two managers are on the floor, could I ask a question before I depart?

Mr. WARNER. Of course.

Mr. REID. We have a number of amendments we would like to lay down today and not have those amendments take precedence over the pending amendment, which is the Graham amendment. We want to be able to show the managers of the bill and leadership on the majority side that we want to move this bill. My personal feeling, as I expressed to the majority leader while he was here, is I think it is not the right thing to do to move off this bill and go to something else. I think with some determination we could start on Tuesday—which is going to be a very short day—work Wednesday, Thursday, and Friday, and I think we could finish this bill. If we work some long days, I think we could finish it. If we go to class action legislation, that is going to take up a lot of time. Cloture motions need to be filed. I do not know that. I assume so.

My point is if there is anything the two managers of the bill can do to exert their significant influence on the majority to see if we can finish this bill, I think everyone would be well served. The House passed the bill last night by a wide bipartisan margin. I hope we can whittle down some amendments. We could do it, if we work some long days. But I predict if we go off this bill we will never finish it.

Mr. WARNER. Mr. President, I hear very clearly the spoken words of my good friend and colleague. I think of years past when Senator LEVIN and I have greatly benefited by the individual leadership of the Senator from Nevada on the floor when our defense bills have sort of gotten into a rut here and there.

But I encourage my distinguished colleague from Nevada, who heard the words of the majority leader moments ago. Those are decisions that have to rest with the majority and minority leaders. Consequently, I entrust them with those decisions. I hope that pattern of sequencing legislation on the floor will be done in such a way as to meet the requirements of all Senators and proceed. I am confident it will be done. We must, because there is no alternative but to get a bill. This Nation is at war. The men and women of the Armed Forces are deserving of further recognition, which this bill has, together with their families. We send a strong signal throughout the world of America's resolve in its war on terrorism—joined by many other nations—and its resolve to keep our military strong.

I am hopeful the honest difference of views can be reconciled, but it is a matter that is left to the distinguished majority leader in consultation with the distinguished minority leader.

Mr. REID. If I could, Mr. President, I think the distinguished chairman of the committee has made the argument about why we shouldn't get off this bill.

I want everyone to understand the distinguished senior Senator from South Dakota, the Democratic leader, has had nothing to do with moving off this bill. He wants to finish this bill. He feels that is most appropriate.

This class action bill is important legislation, but it pales in comparison to the needs we authorize for these programs for our fighting men and women around the world.

The House bill includes a number of provisions. The $25 billion requested by the administration, as I understand, also legislates the number of troops we would have. If we don't authorize that along with the House, it won't happen. We will wind up going through the appropriations process and appropriating money that has not been authorized in the past.

We need this bill. I repeat, as important as the class action is, it is insignificant compared to what we are doing here. I say to everyone within the sound of my voice, we should do everything we can to finish this bill; otherwise, I think we will not have a Defense authorization bill this year.

Mr. WARNER. Mr. President, I readily acknowledge that yesterday the distinguished Senator from South Dakota was right where I am standing until the closing minutes of yesterday's deliberation. He was trying to move certain matters. But I bring to the attention of the Senator that the distinguished Senator from South Carolina had an amendment and was on the floor. I will leave it to the record. But other Senators said no way; we are going to sit here through the night and debate and debate and debate.

Therefore, I think leadership—myself, Senator LEVIN, and the majority leader—felt there was no purpose in trying to press on. I think we have pretty well covered it. I think we understand our positions.

Unless the Senator has further observations——

Mr. REID. If I could say one more thing—and I will say no more—as I said in my remarks this morning through the Chair, to the distinguished Senator from Tennessee, the majority leader, we felt the best thing to do yesterday was to move off the bill, and Senator HOLLINGS and Senator CANTWELL said when we got back we would finish this phase of the legislation within 2 hours. We agreed to do that.

For reasons that are in the minds of the managers of the bill, there was a decision not to accept it. We want to move forward. I think the Lindsey Graham amendment has been a hiccup here in the process but slowed us down all day yesterday. We think it can be completed very quickly when we get back.

Mr. LEVIN. Mr. President, I wonder if the Senator from—the committee chairman would yield for one minute.

I was kind of surprised when I walked in a few minutes late on the floor to hear we are going off this bill. I don't quite understand the logic. I missed the majority leader's statement and I apologize for that. But we have to pick up this bill at some point. I don't know why it is assumed we are going to have any more or less trouble when we get back on this bill than we do right now continuing this bill. We are going to have to resolve the Graham issue and we will. It can be done in a few hours. To just set this bill aside, I am not sure I understand what the reasoning is. It is unusual in the middle of the Defense bill to set it aside for some other less important bill. I missed the explanation of the majority leader. I am surprised.

We have troops in the field. There are many important issues. The chairman knows better than any Member in the Senate. He is the chairman, an incredibly effective chairman of this committee, and he knows what the provisions of this bill are. They include provisions not just on all of the quality of life issues, pay issues, and family issues, but they also include a very important issue on troop strength and the signal we send on that matter. At this moment it seems to me it is one of the most important issues to resolve. We are going to resolve that issue. We will figure out a way to resolve it. The chairman is fully on board with the direction in which this Congress is going. He is certainly aware and understands the importance of dealing with this.

I am really surprised. I will express that surprise. This means we are derailed for at least a week. I cannot imagine the urgency of the bill on class action suits.

I will ask our deputy minority leader as to what the estimate is for that bill. It will take, I assume, the whole week, will it not?

Mr. REID. I doubt very seriously we can finish the class action bill the week we get back. It would be a rare occasion in the annals of legislation that we could finish this very contentious bill. It may pass, but it will pass by a slim margin. I am sure there will have to be a cloture vote on it at some time. It is a bill that need not be done now.

If class action law does not change this whole year, it will be uncomfortable for some people, but it is not a life- or-death matter, as is this bill of the two managers. This class action is a convenience for businesses and lawyers.

Mr. WARNER. I thank my colleague for our colloquy this morning.

I see members of our committee on either side. I suggest, following the distinguished Senator from Colorado, the distinguished Senator from Hawaii be recognized. I make that not as a unanimous consent but as a courtesy, and the Senator from Michigan and I can proceed.

Mr. LEVIN. I wonder if the Senator from Hawaii wishes to speak this morning and whether it would be all right if we sequenced Senator AKAKA immediately after Senator ALLARD, and we will put that in the RECORD. I suggest we make that a unanimous consent.

Mr. WARNER. I make that in the form of a unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Colorado.

Mr. ALLARD. Mr. President, I thank both the chairman and the ranking member on the Armed Services Committee for their courtesy this morning.

I will take a few moments to clear up some of the debate last evening. I would very much have liked to have had a vote on the Lindsey amendment, but I understand how those things happen. I hope we can move forward.

I will address three main issues we left hanging last night. No. 1 is the proper classification of the wastesites in Hanford in Washington, the Idaho site, and also Savannah River in South Carolina. This program that has been put in place is a waste and incidental reprocessing commonly referred to as WIR in this debate.

First of all, I compliment Jesse Roberson with the Department of Energy. She was instrumental in getting Rocky Flats cleared up ahead of time. We are a little bit ahead of schedule. We are under budget. We have a huge savings in Rocky Flats because of a plan she put in place to accelerate cleanup, as much as $10 billion savings over time because of her plan she helped put in place, consulting with a lot of people in Rocky Flats. She had the capability of working with local elected officials, the employees, and with the congressional delegation to get things like that to happen.

Obviously, everyone—the employees, the local leaders from those communities around Rocky Flats—played a role, but she was the focal point that made all that come together. She is the one who has been working on this issue to enhance and speed up cleanup on these particular nuclear sites. They create some very special problems, very difficult problems. I commend her for being willing to think outside the box and for the tremendous leadership she has shown in that regard.

I will talk a little bit about the classification of waste, then about the fact that we did have hearings, then also about how we have reached out. The proper disposal plan is to leave things in place there at Hanford and Idaho, for example.

Here is the issue as I see it, regarding proper classification. We can get all tied up in terminology, but the point is, what happens to the level of radiation? All these wastes are based on the amount of nuclear radiation. The fact is the Nuclear Regulatory Commission rating is as low-level waste. This is based on good, scientific evidence.

DOE is relying on three key points in classifying the residue as low-level waste. The first point is DOE has removed the vast bulk of the mobile radionuclides that were originally in the tanks; No. 2, that it has solidified and stabilized the remaining radionuclides by using a grout that chemically binds them so as to further limit their mobility; and No. 3, that the stabilized residues meet performance standards specified by the Nuclear Regulatory Commission for disposal of low-level waste.

DOE performance assessment shows the residue will produce an annual dose of radioactivity below the Environmental Protection Agency drinking water standard and well below what a person gets from a standard X-ray machine when you go into the doctor's office and get an X-ray, and that the radioactive dose to an inadvertent intruder will be minimal. Therefore, the residues meet the NRC's low-level waste standards.

None of this relies on dilution of the residues but, rather, it relies on classifying the stabilized residues in accordance with the risks they present in a manner consistent with the NRC performance standards which the NRC has specifically identified as the key consideration in classifying this waste.

The Department of Energy has been very responsible in what they have been doing. I am very disappointed the court decision has upset this. Prior to the court decision, it has been my understanding, the State of Washington, the State of Idaho, and the State of North Carolina all agreed on a plan with the DOE for the waste and incidental reprocessing plan. The court case gets filed, they file a friend-of-the-court brief, and everything begins to fall apart.

Initially, the State of Washington, the State of Idaho, under RCRA, were working with the Department of Energy, and nationally under the Clean Water Act, the State of South Carolina was working with DOE. Now the State of South Carolina is ready to move forward. The other two States feel they cannot move forward on this issue. I think it is terrible we would tie up their plans because of problems we have in the other two States. We have to work out something that is fair. We do need to work out something that is fair to all the States.

The Senator from Washington wants to completely demolish these tanks and move them out. What she did not talk about is the risk of going down into those tanks and cleaning them out before you demolish them. As a worker, I am not sure I want to go down there. I think that is a safety hazard beyond comprehension. I do not think anybody is thinking about these aspects of it.

I think what the Department of Energy has come out with, with the grout, is going to immediately seal the leaking tanks so we are not going to have any more pollution. If things don't continue, they are going to continue to pour into the Columbia River in Washington. So I think they have come up with a commonsense solution.

We have had two public hearings in the committee. I have the transcript here. We had one public hearing on February, 25, 2004, and we had the other public hearing on March 23, 2004. We talked about the WIR issue and how to best resolve it.

I would also point out for my colleagues, there has been built at Hanford a low-level waste disposal area. So this is not new, leaving low-level waste in Hanford. I think we need to move forward in a very practical way.

I will have more to say about this when we get back into debate on the armed services bill and we have the Lindsey Graham amendment before us again. These are a few things I wanted to begin to address this morning.

Mr. President, I yield floor.

The ACTING PRESIDENT pro tempore. The Senator from Hawaii.

Mr. AKAKA. Mr. President, I ask unanimous consent to speak as in morning business for 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The remarks of Mr. AKAKA and Mr. DURBIN pertaining to the introduction of S. 2475 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

DEDICATION OF WORLD WAR II MEMORIAL

Mr. WARNER. Mr. President, before my distinguished colleague departs, a little later this morning I am going to talk about the agenda of the forthcoming ceremonies regarding the dedication of the World War II Memorial. The distinguished Senator from Hawaii, both Senators in fact, served in our military during World War II. My recollection is one Senator went to the European theater; that is, Senator INOUYE, and this distinguished Senator went to the Pacific theater. I thank him for his participation in this memorial. It was first legislated in the Congress and then through the years, when Senator Dole and others were involved in raising non-Federal funds, close to $100 million, to erect the magnificent memorial which will be dedicated a week from tomorrow. I wanted to thank him first for his service on the Armed Services Committee, his enormous interest in the men and women in the Armed Forces, and in our national security.

I have great recollections of when he and I went down with Senator Dole the other day to the memorial.

Mr. AKAKA. Mr. President, I thank the Senator from Virginia. He has been a great leader in our country for our Armed Forces. He has served our country well. He has been a Secretary of the Navy, now chairman of the Armed Services Committee. I tell him, as one member of that committee, that I respect what he is doing. He is doing a great job for the country. He has been up with the sensitive issues that our country faces and has called these hearings that have been very important in clarifying what is happening with our armed services in Iraq and around the world. I commend him highly for what he is doing. I thank him for all of that.

Mr. WARNER. I thank my colleague. The hearings, yes, they were important. We had 100-percent attendance at the three hearings; perhaps one Senator here and there for a while had to depart. It showed bipartisan, tremendous interest, assuming responsibility on behalf of the institution of the United States, our committee developing the facts. It is extremely important because it displayed to the world, particularly the Muslim and Arab world, how America works openly to address its problems to hold those responsible accountable. It is a process that has been begun by the Department of Defense, specifically the Department of the Army. I thank Senator AKAKA for his participation in those hearings.

I rose primarily to say that a week from Saturday will be an important day to both of us. My service in World War II was very modest compared to those of the others. I was simply in a training command, ready to go into the Pacific theater where the Senator from Hawaii was already present. Who knows, I might have been his replacement so he could come on home. Fortunately, the war ended for both of us. I thank the Senator.

My distinguished colleague from Michigan is on other matters. Therefore, until he joins me, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLARD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The remarks of Mr. ALLARD pertaining to the introduction of S. 2474 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. ALLARD. I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WARNER. Mr. President, my distinguished colleague and I will now propound a series of cleared amendments to the Senate.

AMENDMENT NO. 3240

Mr. WARNER. Mr. President, I offer a technical amendment that would delete a provision from the bill that would modify a portion of the Internal

Revenue Code and has raised jurisdictional concerns.

The amendment has been cleared on the other side.

The ACTING PRESIDENT pro tempore. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia (Mr. WARNER), for himself and Mr. LEVIN, proposes an amendment numbered 3240.

The amendment is as follows:

AMENDMENT NO. 3240

(Purpose: To strike an amendment to the Internal Revenue Code of 1986)

Beginning on page 105, strike line 21 and all that follows through page 106, line 2.

Mr. LEVIN. The amendment has been cleared on this side.

The ACTING PRESIDENT pro tempore. Without objection, the amendment is agreed to.

The amendment (No. 3240) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3227

Mr. WARNER. Mr. President, on behalf of Senator GRAHAM, I offer an amendment that would clarify the Reserve officers on voluntary extended active duty are not prohibited from accepting payment of any part of salary or wages that a private employer paid to the Reserve officer before his or her call or order to active duty.

The ACTING PRESIDENT pro tempore. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. GRAHAM of South Carolina, proposes an amendment numbered 3227.

The amendment is as follows:

AMENDMENT NO. 3227

(Purpose: To except from criminal offense the receipt of pay from an employer by a Reservist on active duty in connection with a contingency operation)

On page 280, after line 22, insert the following:

SEC. 1068. RECEIPT OF PAY BY RESERVES FROM CIVILIAN EMPLOYERS WHILE ON ACTIVE DUTY IN CONNECTION WITH A CONTINGENCY OPERATION.

Section 209 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(h) This section does not prohibit a member of the reserve components of the armed forces on active duty pursuant to a call or order to active duty under a provision of law referred to in section 101(a)(13) of title 10 from receiving from any person that employed such member before the call or order to active duty any payment of any part of the salary or wages that such person would have paid the member if the member's employment had not been interrupted by such call or order to active duty.".

Mr. LEVIN. The amendment has been cleared on this side, Mr. President.

Mr. WARNER. I urge adoption of the amendment.

The ACTING PRESIDENT pro tempore. Without objection, the amendment is agreed to.

The amendment (No. 3227) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3171

Mr. LEVIN. Mr. President, on behalf of Senator LANDRIEU, I offer an amendment that would authorize the veterans service organizations to participate in preseparation counseling provided to service members and to brief members of Reserve units after release from active service regarding VA benefits.

The ACTING PRESIDENT pro tempore. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Ms. LANDRIEU, proposes an amendment numbered 3171.

The amendment is as follows:

AMENDMENT NO. 3171

(Purpose: To authorize representatives of veterans service organizations to appear at preseparation counseling provided by the Department of Defense)

At the end of subtitle H of title V, insert the following:

SEC. 574. APPEARANCE OF VETERANS SERVICE ORGANIZATIONS AT PRESEPARATION COUNSELING PROVIDED BY THE DEPARTMENT OF DEFENSE.

(a) APPEARANCE TO COUNSELING FOR DISCHARGE OR RELEASE FROM ACTIVE DUTY.—Section 1142 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) APPEARANCE BY VETERANS SERVICE ORGANIZATIONS.—(1) The Secretary concerned may permit a representative of a veterans service organization to appear at and participate in any preseparation counseling provided to a member of the armed forces under this section.

"(2) For purposes of this subsection, a veterans service organization is any organization recognized by the Secretary of Veterans Affairs for the representation of veterans under section 5902 of title 38.".

(b) MEETING WITH RESERVES RELEASED FROM ACTIVE DUTY FOR FURTHER SERVICE IN THE RESERVES.—(1) A unit of a reserve component on active duty in the Armed Forces may, upon release from active duty in the Armed Forces for further service in the reserve components, meet with a veterans service organization for information and assistance relating to such release if the commander of the unit authorizes the meeting.

(2) The time of a meeting for a unit under paragraph (1) may be scheduled by the commander of the unit for such time after the release of the unit as described in that paragraph as the commander of the unit determines appropriate to maximize the benefit of the meeting to the members of the unit.

(3) For purposes of this subsection, a veterans service organization is any organization recognized by the Secretary of Veterans Affairs for the representation of veterans under section 5902 of title 38, United States Code.

Mr. WARNER. Mr. President, the amendment has been cleared on this side, and I ask to be made a cosponsor of this very important amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Without objection, the amendment is agreed to.

The amendment (No. 3171) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3228, AS MODIFIED

Mr. WARNER. Mr. President, on behalf of Senator GRAHAM of South Carolina, I offer an amendment which adds $3 million for critical infrastructure system security engineering.

The ACTING PRESIDENT pro tempore. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. GRAHAM of South Carolina, proposes an amendment numbered 3228, as modified.

The amendment is as follows:

AMENDMENT NO. 3228, AS MODIFIED

(Purpose: To increase by $3,000,000 the amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy and make the increase available for infrastructure system security engineering development, and to provide an offset)

At the end of subtitle B of title II, add the following:

SEC. 217. INFRASTRUCTURE SYSTEM SECURITY ENGINEERING DEVELOPMENT FOR THE NAVY.

(a) INCREASE IN AMOUNT FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY.—The amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation, Navy, is hereby increased by $3,000,000.

(b) AVAILABILITY OF AMOUNT FOR INFRASTRUCTURE SYSTEM SECURITY ENGINEERING DEVELOPMENT.—Of the amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation, Navy, as increased by subsection (a), $3,000,000 may be available for infrastructure system security engineering development.

(c) OFFSET.—(1) The amount authorized to be appropriated by section 101(5) for other procurement, Army, is hereby reduced by $1,000,000, with the amount of the reduction to be allocated to Buffalo Landmine Vehicles.

(2) The amount authorized to be appropriated by section 102(b) for procurement for the Marine Corps is hereby reduced by $500,000, with the amount of the reduction to be allocated to Combat Casualty Care.

(3) The amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation, Army, is hereby reduced by $1,000,000, with the amount of the reduction to the allocated to Active Coating Technology.

(4) The amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation, Defense-wide activities, is hereby reduced by $500,000, with the amount of the reduction to be allocated to Radiation Hardened Complementary Metal Oxide Semi-Conductors.

Mr. LEVIN. The amendment has been cleared on this side, Mr. President.

The ACTING PRESIDENT pro tempore. Without objection, the amendment is agreed to.

The amendment (No. 3228), as modified, was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3241

Mr. LEVIN. Mr. President, on behalf of Senator BEN NELSON of Nebraska, I offer an amendment which would increase funding for neurotoxin research.

The ACTING PRESIDENT pro tempore. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. NELSON of Nebraska, proposes an amendment numbered 3241.

The amendment is as follows:

AMENDMENT NO. 3241

(Purpose: To increase by $2,000,000 the amount authorized to be appropriated for research, development, test, and evaluation, Defense-wide activities, and make the increase available for neurotoxin mitigation research, and to provide an offset)

At the end of subtitle B of title II, add the following:

SEC. 217. NEUROTOXIN MITIGATION RESEARCH.

(a) INCREASE IN AMOUNT FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE-WIDE.—The amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation, Defense-wide activities, is hereby increased by $2,000,000.

(b) AVAILABILITY FOR NEUROTOXIN MITIGATION RESEARCH.—Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation, Defense-wide activities, as increased by subsection (a), $2,000,000 may be available in Program Element PE 62384BP for neurotoxin mitigation research.

(c) OFFSET.—The amount authorized to be appropriated by section 301(1) for operation and maintenance for the Army is hereby reduced by $2,000,000, with the amount of the reduction to be allocated to Satellite Communications Language training activity (SCOLA) at the Army Defense Language Institute.

Mr. WARNER. Mr. President, the amendment has been cleared on this side.

The ACTING PRESIDENT pro tempore. Without objection, the amendment is agreed to.

The amendment (No. 3241) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3242

Mr. WARNER. Mr. President, on behalf of Senator GRASSLEY of Iowa, I offer an amendment that improves the ability of Army industrial facilities to enter into public-private partnerships.

The ACTING PRESIDENT pro tempore. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. GRASSLEY, for himself, Mr. FITZGERALD, and Mr. SESSIONS, proposes an amendment numbered 3242.

The amendment is as follows:

AMENDMENT NO. 3242

On page 58, after line 24, insert the following:

SEC. 364. CONSOLIDATION AND IMPROVEMENT OF AUTHORITIES FOR ARMY WORKING-CAPITAL FUNDED FACILITIES TO ENGAGE IN PUBLIC-PRIVATE PARTNERSHIPS.

(a) PUBLIC-PRIVATE PARTNERSHIPS AUTHORIZED.—Chapter 433 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4544. Army industrial facilities: public-private partnerships

"(a) PUBLIC-PRIVATE PARTNERSHIPS AUTHORIZED.—A working-capital funded Army industrial facility may enter into cooperative arrangements with non-Army entities to carry out military or commercial projects with the non-Army entities. A cooperative arrangement under this section shall be known as a 'public-private partnership'.

"(b) AUTHORIZED PARTNERSHIP ACTIVITIES.—A public-private partnership entered into by an Army industrial facility may provide for any of the following activities:

"(1) The sale of articles manufactured by the facility or services performed by the facility to persons outside the Department of Defense.

"(2) The performance of—

"(A) work by a non-Army entity at the facility; or

"(B) work for a non-Army entity by the facility.

"(3) The sharing of work by the facility and one or more non-Army entities.

"(4) The leasing, or use under a facilities use contract or otherwise, of the facility (including excess capacity) or equipment (including excess equipment) of the facility by a non-Army entity.

"(5) The preparation and submission of joint offers by the facility and one or more non-Army entities for competitive procurements entered into with a department or agency of the United States.

"(c) CONDITIONS FOR PUBLIC-PRIVATE PARTNERSHIPS.—An activity described in subsection (b) may be carried out as a public-private partnership at an Army industrial facility only under the following conditions:

"(1) In the case of an article to be manufactured or services to be performed by the facility, the articles can be substantially manufactured, or the services can be substantially performed, by the facility without subcontracting for more than incidental performance.

"(2) The activity does not interfere with performance of—

"(A) work by the facility for the Department of Defense; or

"(B) a military mission of the facility.

"(3) The activity meets one of the following objectives:

"(A) Maximize utilization of the capacity of the facility.

"(B) Reduction or elimination of the cost of ownership of the facility.

"(C) Reduction in the cost of manufacturing or maintaining Department of Defense products at the facility.

"(D) Preservation of skills or equipment related to a core competency of the facility.

"(4) The non-Army entity partner or purchaser agrees to hold harmless and indemnify the United States from any liability or claim for damages or injury to any person or property arising out of the activity, including any damages or injury arising out of a decision by the Secretary of the Army or the Secretary of Defense to suspend or terminate an activity, or any portion thereof, during a war or national emergency or to require the facility to perform other work or provide other services on a priority basis, except—

"(A) in any case of willful misconduct or gross negligence; and

"(B) in the case of a claim by a purchaser of articles or services under this section that damages or injury arose from the failure of the Government to comply with quality, schedule, or cost performance requirements in the contract to carry out the activity.

"(d) METHODS OF PUBLIC-PRIVATE PARTNERSHIPS.—To conduct an activity of a public-private partnership under this section, the approval authority described in subsection (f) for an Army industrial facility may, in the exercise of good business judgment—

"(1) enter into a firm, fixed-price contract (or, if agreed to by the purchaser, a cost reimbursement contract) for a sale of articles or services or use of equipment or facilities;

"(2) enter into a multiyear partnership contract for a period not to exceed five years, unless a longer period is specifically authorized by law;

"(3) charge a partner the amounts necessary to recover the full costs of the articles or services provided, including capital improvement costs, and equipment depreciation costs associated with providing the articles, services, equipment, or facilities;

"(4) authorize a partner to use incremental funding to pay for the articles, services, or use of equipment or facilities; and

"(5) accept payment-in-kind.

"(e) DEPOSIT OF PROCEEDS.—(1) The proceeds of sales of articles and services received in connection with the use of an Army industrial facility under this section shall be credited to the appropriation or working-capital fund that incurs the variable costs of manufacturing the articles or performing the services. Notwithstanding section 3302(b) of title 31, the amount so credited with respect to an Army industrial facility shall be available, without further appropriation, as follows:

"(A) Amounts equal to the amounts of the variable costs so incurred shall be available for the same purposes as the appropriation or working-capital fund to which credited.

"(B) Amounts in excess of the amounts of the variable costs so incurred shall be available for operations, maintenance, and environmental restoration at that Army industrial facility.

"(2) Amounts credited to a working-capital fund under paragraph (1) shall remain available until expended. Amounts credited to an appropriation under paragraph (1) shall remain available for the same period as the appropriation to which credited.

"(f) APPROVAL OF SALES.—The authority of an Army industrial facility to conduct a public-private partnership under this section shall be exercised at the level of the commander of the major subordinate command of the Army that has responsibility for the facility. The commander may approve such partnership on a case basis or a class basis.

"(g) COMMERCIAL SALES.—Except in the case of work performed for the Department of Defense, for a contract of the Department of Defense, for foreign military sales, or for authorized foreign direct commercial sales (defense articles or defense services sold to a foreign government or international organization under export controls), a sale of articles or services may be made under this section only if the approval authority described in subsection (f) determines that the articles or services are not available from a commercial source located in the United States in the required quantity or quality, or within the time required.

"(h) EXCLUSION FROM DEPOT-LEVEL MAINTENANCE AND REPAIR PERCENTAGE LIMITATION.—Amounts expended for depot-level maintenance and repair workload by non-Federal personnel at an Army industrial facility shall not be counted for purposes of applying the percentage limitation in section 2466(a) of this title if the personnel are provided by a non-Army entity pursuant to a public-private partnership established under this section.

"(i) RELATIONSHIP TO OTHER LAWS.—Nothing in this section shall be construed to affect the application of—

"(1) foreign military sales and the export controls provided for in sections 30 and 38 of the Arms Export Control Act (22 U.S.C. 2770 and 2778) to activities of a public-private partnership under this section; and

"(2) section 2667 of this title to leases of non-excess property in the administration of a public-private partnership under this section.

"(j) DEFINITIONS.—In this section:

"(1) The term 'Army industrial facility' includes an ammunition plant, an arsenal, a depot, and a manufacturing plant.

"(2) The term 'non-Army entity' includes the following:

"(A) An executive agency.

"(B) An entity in industry or commercial sales.

"(C) A State or political subdivision of a State.

"(D) An institution of higher education or vocational training institution.

"(3) The term 'incremental funding' means a series of partial payments that—

"(A) are made as the work on manufacture or articles is being performed or services are being performed or equipment or facilities are used, as the case may be; and

"(B) result in full payment being completed as the required work is being completed.

"(4) The term 'full costs', with respect to articles or services provided under this section, means the variable costs and the fixed costs that are directly related to the production of the articles or the provision of the services.

"(5) The term 'variable costs' means the costs that are expected to fluctuate directly with the volume of sales or services provided or the use of equipment or facilities.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4544. Army industrial facilities: public-private partnerships.".

Mr. WARNER. Mr. President, I believe the amendment has been cleared.

Mr. LEVIN. I thank my friend. The amendment has been cleared on this side.

The ACTING PRESIDENT pro tempore. Without objection, the amendment is agreed to.

The amendment (No. 3242) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3243

Mr. LEVIN. Mr. President, on behalf of Senator FEINSTEIN, I offer an amendment which would authorize the Air Force to convey a parcel of property at March Air Force Base to the local redevelopment authority at fair market value.

The ACTING PRESIDENT pro tempore. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mrs. FEINSTEIN, proposes an amendment numbered 3243.

The amendment is as follows:

AMENDMENT NO. 3243

(Purpose: To provide for the conveyance of land at March Air Force Base, California)

On page 365, between lines 18 and 19, insert the following:

SEC. 2830. LAND CONVEYANCE, MARCH AIR FORCE BASE, CALIFORNIA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey to the March Joint Powers Authority (in this section referred to as the "MJPA") all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 15 acres located in Riverside County, California, and containing the former Defense Reutilization and Marketing Office facility for March Air Force Base, which is also known as Parcel A-6, for the purpose of economic development and revitalization.

(b) CONSIDERATION.—(1) As consideration for the conveyance of property under subsection (a), the MJPA shall pay the United States an amount equal to the fair market value, as determined by the Secretary, of the property to be conveyed under such subsection.

(2) The consideration received under this subsection shall be deposited in the special account in the Treasury established under section 572(b) of title 40, United States Code, and available in accordance with the provisions of paragraph (5)(B)(ii).

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the MJPA.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

Mr. WARNER. Mr. President, the amendment has been cleared on this side.

The ACTING PRESIDENT pro tempore. Without objection, the amendment is agreed to.

The amendment (No. 3243) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3166, AS MODIFIED

Mr. WARNER. Mr. President, on behalf of Senator SANTORUM, I offer an amendment which requires a report on the maturity and effectiveness of the global information grid network.

The ACTING PRESIDENT pro tempore. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. SANTORUM, proposes an amendment numbered 3166, as modified.

The amendment is as follows:

AMENDMENT NO. 3166, AS MODIFIED

(Purpose: To require a report on the maturity and effectiveness of the Global Information Grid-Bandwidth Expansion (GIG-BE) network)

On page 25, between lines 15 and 16, insert the following:

SEC. 142. REPORT ON MATURITY AND EFFECTIVENESS OF THE GLOBAL INFORMATION GRID BANDWIDTH EXPANSION (GIG-BE) NETWORK.

(a) REPORT REQUIRED.—Not later that 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on a test program to demonstrate the maturity and effectiveness of the Global Information Grid-Bandwidth Expansion (GIG-BE) network architecture.

(b) CONTENTS OF REPORT.—The report under subsection (a) shall—

(1) determine whether the results of the test program described in subsection (a) demonstrate compliance of the GIG-BE architecture with the overall goals of the GIG-BE program;

(2) identify—

(A) the extent to which the GIG-BE architecture does not meet the overall goals of the program; and

(B) the components that are not yet sufficiently developed to achieve the overall goals of the program;

(3) include a plan and cost estimates for achieving compliance; and

(4) document the equipment and network configuration used to demonstrate real-world scenarios within the continental United States.

Mr. LEVIN. The amendment has been cleared on this side, Mr. President.

The ACTING PRESIDENT pro tempore. Without objection, the amendment is agreed to.

The amendment (No. 3166), as modified, was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLARD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ALLARD. I ask to speak as in morning business for the purpose of my remarks only and then return to regular business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SUPPORTING THE BUSH ADMINISTRATION

Mr. ALLARD. Mr. President, I rise this morning to talk about the remarkable record of leadership and achievement we have seen from this administration over the past 3 years in keeping America prosperous, safe, and secure. During this time our Nation and our President have confronted a series of crises and challenges that I believe are unmatched during any administration in recent history. Whether the challenge has been to our economic, social, or national security, President Bush has demonstrated courage, vision, and decisiveness in addressing these threats and challenges.

At the outset of his term in office the President faced a significant threat to our economic security requiring immediate action. On January 20, 2001, the day President Bush was sworn into office, our economy was several months into a recession, what I call the "Clinton recession." Later, over the next few months, America faced extraordinary adversity from the terrorist attacks of 9/11. This devastating event, combined with the unprecedented crises in corporate governance and accountability, demanded action on numerous levels. The President acted swiftly and decisively by securing from the Congress a series of tax cuts to stimulate business investment, preserve consumer confidence, and expand today's economic recovery into lasting prosperity for all Americans.

The President's actions averted disaster. We experienced one of the shortest and shallowest recessions of modern American history. By all accounts, the economy is on very solid footing now because of the President's actions.

For example, today we see 10 consecutive quarters of strong economic growth relative to gross domestic product. In fact, our economy averaged an annualized 5.5 percent growth over the last 3 quarters, the strongest three-quarter performance in 20 years. Manufacturing activity is rebounding. Since this time last year, the United States has led all major economies of the world with the highest manufacturing output expansion. This is in addition to our service economy, which also continues to outperform every other service economy around the globe. Recent corporate earnings reports are bullish, and investor confidence is rebounding, reflected by the 35 to 50 percent gains in major market indices since the fall of 2002. This includes a $4 trillion increase in the total market capitalization of the New York Stock Exchange. Inflation remains low by historical standards, at or below a very manageable 3 percent annual rate. Business investment is rising steadily, fueled largely by double-digit growth in equipment and software spending, and by growing inventory investment. Consumer spending growth is accelerating due to real gains in wages, salaries, and in disposable personal income, boosted largely by lower taxes. And, residential construction spending remains strong, and as of March 2004, both existing and new home sales accelerated to record levels. This translates into the highest national homeownership rate in our Nation's history, a record 69 percent.

Moreover, looking at the lagging indicator of job creation, recent data from the Bureau of Labor Statistics now confirm the recovery. The payroll survey shows over a million jobs created over the past 8 months.

More importantly, the household survey, which is not often cited in the public media, shows that over 2 million new jobs have been created since November 2001, when the "Clinton" recession was finally reversed. Just in the last 2 months, more than 600,000 new jobs have been created.

The President now faces new economic challenges, this time from many Members on the other side of the aisle who believe we need to undo President Bush's tax cuts. As we move closer to the November Presidential election, the political rhetoric from the other side is trying to convince us that the economy is much worse off than the facts demonstrate. Reversing the Bush tax cuts, as the Democrats propose, will only serve to reverse the economic growth we are now experiencing and that we project through the decade. We must all support the President in fending off increased "tax-and-spend" proposals.

This President has also recognized and acted decisively to turn back significant threats to our families and our values. I believe the previous administration neglected several major challenges to the security of our seniors, our families, and our children. President Bush, on the other hand, is moving aggressively and decisively to defeat these challenges and make our families more secure.

Our senior citizens are threatened by increasing health care costs and limited access to affordable medicines they need. The President developed and enacted historic Medicare modernization and prescription drug reforms. These initiatives enable seniors to get the medicines they need at discounted prices, and expand freedom for Americans to choose among healthcare providers and plans based on their individual needs. Further, the President's action makes sure low-income seniors receive additional financial assistance so they will not have to pay more to receive better benefits than they currently do under Medicare.

Our families, more specifically the parents, are under assault by activist courts around the country undermining the sanctity of marriage. Not only are these courts overstepping their constitutional authority, but also they are trampling fundamental values and institutions held dear by the vast majority of Americans. The President stepped forward and joined several of us from the Congress to put down this assault decisively. While I do not take the amending of the constitution lightly, the proposed Constitutional amendment is our only recourse in preserving marriage in the United States as the union of only a man and a woman.

Dumbed-down educational standards and sub-par learning institutions threaten the well-being and development of our children. The President brought forward another major reform with his No Child Left Behind initiative to instill higher, modern standards for performance in reading and math. The President has increased education spending nearly 25 percent over his predecessor—an $11 billion increase. This includes an increase of more than 30 percent for disadvantaged student programs, as well as tripling resources for effective reading programs for our youth.

Moreover, the President's leadership restores to local officials the power and resources to establish programs and practices that work in their respective communities.

Again, another example of extraordinary leadership backed by resources, compassion, and commitment. The President has been nothing but visionary and steadfast in protecting our families and our way of life.

Today, the President is leading our Nation through another major crisis in the fight against Muslim extremists seeking to destroy our people, our livelihoods, and our liberties at home and abroad. We are a Nation at war—a global war on terror. This is not a war we started, but a war we will finish.

Unlike his predecessor, President Bush has demonstrated to this Nation, indeed to the world, that he has the vision, the courage, and the fortitude to lead a global coalition to fight this enemy whenever and wherever is needed. The President will not shirk his duties to guarantee the safety and security of Americans or freedom-loving peoples around the globe.

The enemy in this war did not mysteriously appear for the first time on September 11, 2001. Rather, this enemy has been consistently attacking the United States for over two decades. Unfortunately, over this period of time, our country's response to this growing threat was entirely inadequate, inconsistent, and inexcusable. Let me describe for you the evolution of our enemy in this global war on terror.

In 1979, a band of Islamic fundamentalists, led by the Ayatollah Khomeini, successfully overthrew the Shah's government of Iran as America stood by and watched. Nearly a year later, these fundamentalists stormed the U.S. Embassy and took the American staff hostage for 444 days. President Carter's response at the time: cancel Iranian travel visas and seek UN diplomatic assistance.

In 1982, Muslim extremists bombed our Embassy in Beirut. The U.S. did not respond against the extremists. Six months later, the extremists bombed the U.S. marines' barracks and 241 U.S. servicemen were killed and another 80 were seriously wounded. This time, the U.S. response came from the Democratic-controlled Congress in the form of a resolution to withdraw all troops from the area. Unfortunately, as the 1983 presidential election drew near, President Reagan acquiesced. There was, and remains, an important lesson to be learned here for all Members of this body: our enemy perceives vulnerability during U.S. presidential election years. During this time we must redouble our vigilance and resist the internal sniping for mere political expediency.

In 1985, Muslim extremists hijacked an Italian cruise ship, the *Achille Lauro*. In a specific act of defiance toward the United States, the terrorists murdered 69-year-old Leon Klinghoffer, tossing his dead body and wheelchair overboard into the sea. The terrorists were offered a deal by "our allies" for safe passage by ending the hijacking. When the hijackers were traveling to their new destination, President Reagan launched our military fighters to intercept and redirect their airliner to Sicily, Italy. After a few years in prison, the Italians set them free. The Muslim extremists then took up sanctuary with Saddam Hussein in Iraq.

In 1986, Muslim extremists affiliated with Libya's Colonel Qadhafi bombed a West Berlin nightclub frequented by American servicemen. Two American soldiers were killed. Ten days later, President Reagan authorized an air strike in Tripoli and Benghazi, Libya, from bases in England. The mission was somewhat complicated by the French denying us use of their airspace during the mission.

In 1988, Muslim extremists, again sanctioned by the Libyan government, destroyed Pan Am flight 103 over Lockerbie, Scotland. No direct action was taken by either the U.S. or British governments.

In 1990, Saddam Hussein invaded oil-rich Kuwait. President George Herbert Walker Bush moved U.S. forces quickly to block further Iraqi advances while mobilizing a large international coalition force that ultimately expelled a decimated Iraqi military from Kuwait. Most Democrats in Congress voted against this use of force. Now, many of the same are saying that we did not go far enough at that time.

One of our key allies during the 1991 Gulf War was the Kingdom of Saudi Arabia. Following hostilities, the U.S. and Saudi Arabia forged closer military, economic, and political relations. One wealthy Saudi extremist took exception to this relationship and vowed to "wage war against the American crusaders." This Saudi's name was Osama bin Laden.

From that point forward, we have been victimized by a string of direct attacks by bin Laden's al-Qaida network—both at home and abroad.

In 1993, al-Qaida exploded bombs in the garage of the World Trade Center towers, killing 5 Americans and injuring hundreds. President Clinton, at this time being advised by national security staff official Richard Clarke, did nothing in response.

Later in 1993, 18 American soldiers were killed in Somalia, and the body of one soldier was dragged through the streets of Mogadishu before a cheering band of Somalis and al-Qaida. President Clinton's immediate response was the withdrawal of all troops from Somalia. No action was taken against those responsible. ABC News reported Osama bin Laden saying that al-Qaida soldiers:

> realized more than before that the American soldier was a paper tiger and after a few blows ran in shame and disgrace.

In 1995, in Saudi Arabia, al-Qaida killed 5 and injured 30 Americans in a homicide bomb attack. A few months later, homicide car-bombers attacked U.S. military facilities at the Khobar Towers, killing 19 and injuring nearly 500 Americans. The perpetrators of these cowardly attacks all escaped. The U.S. did not respond.

In 1998, al-Qaida bombed the U.S. Embassies in Kenya and Tanzania, killing 224 people, including 12 Americans, and injuring over 5,400 in all. The U.S. did not respond.

In 2000, al-Qaida bombed the USS *Cole*, killing 17 and wounding another couple dozen of American sailors. The U.S. did not respond.

Over the course of these 7 years, al-Qaida carried out multiple attacks against the United States. As the current National Security Advisor recently testified, it was clear that "the enemy was at war with the United States." However, President Clinton, and his top counter-terrorist advisor Richard Clarke, did not go to war with the enemy.

It is reasonable to conclude that our failed history to deal promptly and decisively with al-Qaida, at any point during this period, only served to embolden Bin Laden and his criminal band of extremists.

Perhaps our failure emboldened others in the same way. During the latter part of the 1990s, Saddam Hussein began a campaign of actions increasingly more defiant of U.S. and UN imposed sanctions.

In 1996, Saddam unleashed his forces on the Kurdish city of Erbil destroying U.S.-sponsored resistance organizations and executing U.S.-backed resistance fighters. In 1997, Hussein bullied UN inspectors, preventing them from performing their mission. He also threatened to shoot down American surveillance planes aiding the inspection program.

In 1998, President Clinton threatened to bomb Iraq, but he did not follow through after the United Nations urged restraint. Later that year, Hussein kicked the UN inspectors out of Iraq all together. Over the next several years, Iraqi air defense units repeatedly shot at our military aircraft enforcing the UN sanctioned "no fly" zones.

On more than one occasion, President Clinton launched limited, and arguably ineffective, aircraft and cruise missile strikes in Iraq to no avail.

By the time President Bush took office in 2001, the determination and sophistication of our enemies were already well established. Unfortunately, our reputation of standing up to these criminal terror organizations and despots had decayed to a dangerous level.

President Bush immediately set forth new policy and strategies, scrapping the "containment" policy in favor of a more comprehensive and decisive course of action to eliminate the al-Qaida enemy completely. The horrendous events of 9/11, barely seven months into his administration, demanded urgent and unambiguous action from the President. Without hesitation, President Bush directed his cabinet to prepare a decisive response against the murderous al-Qaida organization, including terrorist affiliates, and those foreign governments that sponsor and shelter the terrorists.

As I said earlier, we didn't start this war—the global war on terror but we are going to finish it. Under President Bush's leadership over the past two-plus years, the United States has dealt a crippling blow to world terror organizations. Secretary of Defense Rumsfeld summarized it best for us earlier this year when he reported that our armed forces have overthrown two terrorist regimes, rescued two nations, and liberated some 50 million people; captured or killed close to two-thirds of known senior al-Qaida operatives; captured or killed 45 of the 55 most wanted in Iraq, including Iraq's deposed dictator, Saddam Hussein; hunted down thousands of terrorists and regime remnants in Afghanistan and Iraq; disrupted terrorist cells on most continents; and likely prevented a number of planned attacks. This is an astounding record of accomplishment for our commander-in-chief, his national security staff, and the phenomenal men and women of our military services.

I believe we are already seeing huge dividends from our actions in Operation Iraqi Freedom. We have demonstrated to the Middle East region, and indeed to the world, that the U.S. is willing to go to war over weapons of mass destruction, even at the risk of significant loss of life. This action sent an extraordinarily powerful message to all—there will be significant consequences of possessing, or attempting to acquire, weapons of mass destruction and ballistic missiles. This increased risk perception among potential adversaries, or threat of U.S. action, is now opening the door to diplomatic action to roll back illicit weapons and ballistic missile development programs.

This is evident in Libya, where Colonel Qadhafi is now voluntarily turning over his weapons and secrets to the United Kingdom and United States intelligence officers. It turns out that Egypt was a major supplier to Libya, so now Egypt is getting out of the ballistic missile trade as well. This is evident in Syria, which is now engaged with U.S. Defense and State Department officials in divesting its ballistic missile enhancement programs while secretly trying to relocate their ballistic missile inventory in neighboring countries. Further, this is evident in Iran, which has now "come clean" in reporting its military nuclear programs and is opening up to more stringent inspections.

We are seeing encouraging results with the decline of trans-national terrorism as well. Recently, the U.S. State Department released its annual report on Patterns of Global Terrorism, prepared by the Office of the Coordinator for Counter-Terrorism. The findings and conclusions are promising and further evidence that President Bush's vision and decisiveness are bringing about positive change.

For example, in 2001, during the President's first year in office, there were 346 terrorist attacks world-wide. In 2003, that number was down to 190—a 45% reduction in just two years. In 2001, there were 219 anti-U.S. attacks worldwide. In 2003, there were 82—a 62% reduction in just two years.

I believe these dramatic results are a direct result of George Bush's decision to declare war—not declare a police action or declare a negotiating strategy—but a global war against terrorists and those who harbor them. U.S.-led efforts are successfully attacking terrorists' training facilities, hideouts, weapons centers, financial institutions, and travel and logistics routes. Of course, this is in addition to our recent destruction of the two largest terrorist-sponsoring regimes in Afghanistan and Iraq.

However, we cannot rest on our laurels. The war continues. We must capture or destroy Osama bin Laden and his comrades-in-hiding. We must defeat the terror and criminal elements that continue to kill indiscriminately in Iraq. We must finish the reconstruction of the political and municipal infrastructure for both the Afghani and Iraqi people. We are on the verge of seeing new democracies take root, offering the promise of lasting peace and stability for this region that has grown accustomed to tyranny after decades of oppression and terror.

Equally important, we must continue the offensive against other Muslim extremist organizations around the globe, denying these potential killers the opportunity to plan, prepare, or execute further acts of terror. President Bush is the visionary, the proven leader, and the commander-in-chief who will see this through and keep America safe and secure.

The facts are in. The results are conclusive. We are winning the war against terror with persistence and will. We are keeping America prosperous with pro-growth tax and business policies. We are enriching our families with commonsense social and educational reforms. I believe most Americans recognize this record of extraordinary accomplishment. And I believe that Americans are extremely proud of the leadership, courage, commitment, and results of President George W. Bush.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. DOLE). The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Mr. WARNER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Madam President, the pending business is the Defense bill, but to accommodate Senators for matters that are not directly related, Senator LEVIN and I are perfectly willing to have other speakers.

I see my distinguished colleague, the Senator from North Dakota. How much time does the Senator desire?

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, let me request 10 minutes in morning business. If I see the Senator from Virginia desiring the floor, I certainly will not continue.

Mr. WARNER. Go right ahead for 10 minutes.

Whatever flexibility the Senator may desire, Senator LEVIN and I are pleased to accommodate the Senator.

The PRESIDING OFFICER. The Senator from North Dakota.

GAS PRICES

Mr. DORGAN. Madam President, this week the Congress and the White House have spent a fair amount of time talking about the subject of gasoline prices. Gas prices are now averaging over $2 a gallon across the country. It is a serious problem for American families, for American businesses, and for industries such as the airlines. I will talk a bit about that.

Elbows and wrists and hands are nearly out of joint from every side of the political spectrum pointing fingers during the last week about who is responsible for this or that or the other thing, who is responsible for high oil prices. That is counterproductive.

However, we cannot, all of us, decide that this is not happening on our watch. It is. We cannot decide that it is not of consequence. It certainly is of great consequence to our country, to our economy, and to American families.

I pulled up behind an old Chevrolet one day at a 40A stop in North Dakota some while ago. This 15- or 20-year-old Chevrolet had a bumper sticker on the back bumper, half of which was sort of tilted downward from previous beatings. The bumper sticker said "I fought the gas war and gas won."

I thought to myself, that is a prophetic bumper sticker. It is hard to fight a gas war and win when we have all of these events conspired against us. We have OPEC countries that control a substantial amount of product which have formed a cartel and they decide what they are pumping and what they will send to the oil pipelines around the world.

In addition to that, the oil companies themselves have gotten bigger and bigger and bigger, behemoth companies that control substantial amounts of product.

Then we have the consumer at the end of the line. They take the gas hose out of the socket at the gas station, they put it in the gas tank and start pumping, and there is not a thing they can do except pay the price, whatever the price is.

Why is this important, especially for rural States? I come from a rural State in this country. In rural States, we drive a lot more. We use a lot more fuel. I come from a State that is 10 times the size of Massachusetts in landmass. North Dakota is 10 Massachusetts in landmass. Yet we have 642,000 people spread out in that big old landmass. It is not much of anything to drive 50 miles or 100 miles or 200 miles to do a piece of business or to see relatives. Do that on the east coast, and they want to pack a tent in case they have trouble driving 50 miles.

But in our State we drive a lot, and we have a farming industry that uses a lot of fuel. So in the State of North Dakota, for example, per capita, we use twice as much gasoline as they would in New York per capita. That means the burden of these increased gas prices is double in a rural State such as ours what it is on other drivers in some of the more populous States where they use less and drive less.

I am not saying all Americans are not having problems pulling up to the gas pump and paying $2 a gallon, but I am saying this especially hurts rural States whose consumers per person pay a much higher amount of the gas tax because they use more gasoline.

So what do we do about all this? Well, we can do as we have done for the last week or two, and keep pointing back and forth, or we can decide to take some action. A couple obvious things we ought to do are: One, we are putting nearly 150,000 barrels of oil a day underground in Louisiana in the Strategic Petroleum Reserve that is 96-percent full. I support what is called SPR, the Strategic Petroleum Reserve. We ought to have that in case of an international problem, a national emergency. That is why we are putting that oil away. But in times of tight supplies, when the price of gasoline has gone to $2 a gallon, it makes no sense to take 150,000 barrels off the supply and put it underground in Louisiana.

Step one, I think the President ought to immediately—right now, today—stop that. That will add to supply, take some of the pressure off increasing prices. That ought to happen now—right now.

Second, there is a meeting this week in Amsterdam. The Secretary of Energy is going to Amsterdam. We need to jawbone—really jawbone—the OPEC countries and say to them: You need to increase production during this intermittent period. During this summer period, you need to increase production, get more oil into that pipeline.

The Saudis have called for that. But I must say, the Saudis have also been part of the problem in the past. When you have the amount of oil that is controlled by a few countries, which control a substantial amount of the oil in this world, and they make decisions about supply, it can have a profound impact on this country.

We ought to have, immediately, the President jawboning these OPEC countries. The Secretary of Energy ought to apply diplomatic pressure to these countries to say we need additional oil in that pipeline now.

Let me also say this. This is about the tenth wake-up call we have had on this issue of being held hostage to the OPEC countries. We get much of our oil to fuel the American economy from very troubled parts of the world. God forbid some morning we wake up and terrorists have severed the oil pipelines that send a substantial amount of oil to our country and our economy becomes flat on its back.

We need to understand this cannot work. Sixty percent of the oil we need to run this country's economy comes from off our shores, and much of it from very troubled parts of the world.

We need a project—I don't care; I call it an "Apollo" project, some call it a "Manhattan" project—we need a project that says: In the coming years we need to find a way to stop running gasoline through American carburetors. We have been driving cars for 100 years, and 100 years ago, you pulled up to a gas pump and put gasoline in your car the same way you do with a 2004 Ford or a 2002 Chevy. Nothing has changed. New cars are fueled the same way old cars were fueled. Nothing has changed in a century.

Everything about us has changed except we are still dependent, we still have this addiction to oil that comes from the OPEC countries. Why? Because we need to run it through a carburetor someplace in order to make our car go.

Well, look, hydrogen fuel cells are in our future. Do you know what you put out the tailpipe of a hydrogen fuel-cell car? Water vapor. You don't pollute the air. You put water vapor out the tailpipe. You have twice the effective power going to the wheels with hydrogen fuel cells. Why aren't we doing it? Because this country has not ratcheted up the energy and the decision to say, on a "Manhattan" project basis or an "Apollo" project basis: We are going to do this.

This ought to be equivalent to saying we are going to send a person to the moon. But somehow we are not there. So we need to take short-term steps and longer term steps, but we need to understand this is urgent, this is an emergency.

There are few things as important to this country as an energy policy that works, one that incentivizes production, one that provides for conservation, one that provides for renewable forms of energy, greater efficiency of all the things we use in our daily lives.

While I do not want to point the finger here today, I do want to say that which I have heard all week is a little disturbing. The White House spokesman comes out every day and says: Well, the problem is down there. They did not pass an energy bill. Well, everyone knows why we did not pass an energy bill. It failed by 2 votes in the Senate. We did not pass an energy bill because of a pernicious provision put in that bill, put in by the majority leader of the House, which he knew would derail that bill in the Senate, providing a retroactive waiver of liability for MTBE.

That provision was put in in a manner that he knew would cause the Energy bill to fail in the Senate. So that yoke of responsibility ought to lay where it is appropriate, in my judgment.

PARTISANSHIP

Madam President, I have been talking about gasoline and gasoline prices. We have a lot of challenges in our lives at the moment. We have a war in Iraq. We have a continuing war in Afghanistan. We have a range of both domestic and international issues that require our attention.

I was distressed yesterday to read in a newspaper a little piece that kind of describes the dilemma we have. We have this problem, and the problem is an incessant amount of partisanship around here. We have people who come to this town and say: We are going to bring people together. I see no evidence of it. The suggestion is the only way we can do business is to have one party do it, and exclude the other party.

We made some progress this week. It is interesting, the highway bill is a very important piece of legislation for our country. It should have been done last year. It was not. It is going to be done this year, I hope. Only yesterday we appointed conferees.

I want to show you what bothered me yesterday about all of that. Quoting the article, it says:

> . . . conservative leaders said the White House and the Senate leadership committed a tactical error by compromising with Daschle, which they say has undermined what had been their strategy on judges. . . .

The spokesperson, Connie Mackey, is the vice president of government affairs at the Family Research Council.

> "We don't see the point," said Mackey, who declined to discuss the specifics of the meeting. "The strategy all along has been to show the obstructionist tactics of the Democrats. [Now] we've lost that tactic."

What are we going to do? Our goal has been to be able to call somebody obstructionist, but all of a sudden we have this cooperation going on, and we have lost this ability. What are we going to do?

This describes the rancid partisanship that exists around here, and I hope it will stop.

My colleague, Senator WARNER from Virginia—I don't know that I have ever heard anyone ever call him partisan. He and my colleague from Michigan, who bring this bill to the floor of the Senate to manage, are models of what we ought to do in this Congress, in this Senate.

The Senate is almost evenly divided. So is the House. This President won by a whisker in 2000. So we have a divided Government, almost right down the middle. And those who suggest that what we ought to do, in terms of the way we run things around here, is to have the majority party decide what happens, and then say to the minority party, you do not count, you are excluded, get lost—which is what happened all of last year, by the way, in these conferences; we appoint conferees, and then we are told the Democrats are not welcome to participate in the conferences, despite the fact they were a conferee—the fact is, we need to do better than that. This country deserves the best of what all of us have to offer, the best of what both parties can offer, instead of the worst of what each will offer.

There is a lot to be gained, it seems to me, by bipartisanship, by working together, by deciding that good ideas are not the exclusive property of whatever party is in the majority at the moment. There is a lot to be gained by that. My hope is what happened yesterday is the first step of a long trail of bipartisanship and the first step in developing consensus on issues, in which we all understand we are serving the same interests.

We want what is best for our country. But there are some—there are some—who have no interest in trying to find ways to work together. They want open, partisan warfare.

I brought to the floor last week a couple of charts that showed the origin of that, charts an organization put together that said: Oh, by the way, here is the way you do this. If you have an opponent, here is what you should say about your opponent because we have tested these words. This organization, called GOPAC, said: Use words like "liar," "sick," "pathetic," "traitor," "treason," "antichild," "antifamily," "antiflag," when you describe your opponent. Be sure and use those words because we have tested them, and they work. That was the kind of rancid partisan ignorance that represented the foundation of what has been built for too long.

My hope is that perhaps we can reject all of that. Understanding that when a country is at war, when a country has energy problems, when a country has fiscal policy problems, that it makes good sense to get the best of what Republicans have to offer and the best of what Democrats have to offer and form a consensus to govern and achieve the goals that all of us aspire to. That is what the American people expect. I don't think aggressive debate at all hinders or hurts this country. In fact, I think it strengthens us. But aggressive partisanship, having as a goal not just winning but making sure the other side is destined to lose, that does hurt this country.

My hope is that yesterday, as we created a conference for a highway bill which is very important—it is important in the context of jobs and progress for the economy—I hope that was the first step in moving towards this consensus. Senator DASCHLE, Senator REID, so many others want to play a constructive role in good public policy. That has always been our goal. I believe this country deserves better than we have seen in recent months, especially in the last several years. I hope what happened yesterday might put us on that road.

I will come back at another time and talk about the specific bill we are considering, the Defense authorization bill. It is very important. We tried this week, Senator LOTT and myself, to alter some of the base-closing provisions so that we could force a responsible result in what we are going to do with overseas bases first and then make a judgment about domestic bases. We came up two votes short on that. But while we were two votes short, there were four votes missing that we expect would have voted for us. So I think there is a majority in the Senate who actually support that position.

There are some provisions in this bill that we must have an aggressive and full debate on. They have to do with the authorization of the spending of money to begin producing a new category of nuclear weapons, low-yield, bunker-buster, earth-penetrator nuclear weapons. A series of discussions need to be held, aggressive discussions around that subject. Should we begin developing new nuclear weapons with the understanding that they are just like other weapons and perfectly usable tactically? I don't believe that is the case, but some in this Chamber do believe that we just ought to have nuclear weapons available so we can drop one of them on a cave someplace, and if Osama bin Laden is holed up in the cave, we can deal with him with a nuclear weapon.

Our goal as a nuclear power needs to be to try to make certain that never again is a nuclear weapon used in anger, and our job as a leader is to stop the spread of nuclear weapons to other countries that don't now have them and try to find a way to reduce the number of nuclear weapons that exist. Some 30,000 nuclear weapons now exist. The absence of one of them, the stealing of one nuclear weapon or the access to one nuclear weapon by a terrorist would make 9/11 seem small by comparison in terms of what a nuclear weapon could do in the hands of a terrorist.

This is a provision about which I speak more. It is an important provision, one I would like to see removed in support of an amendment to be offered by one of my colleagues.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Mr. COLEMAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COLEMAN. Are we in morning business?

The PRESIDING OFFICER. We are not. We are on the bill.

Mr. COLEMAN. I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEMORIAL DAY

Mr. COLEMAN. Madam President, as we approach Memorial Day, it touches us all as an important moment. This is the first Memorial Day for hundreds of American families who have recently lost loved ones in the Middle East. For others, it is the first such day for families of veterans of World War II and other conflicts who have passed away during the last year.

My father-in-law Bob Casserly passed away a few weeks ago. He was one of four brothers. They all signed up, served in World War II, four boys. Bob was the youngest. They all made it home. He is the first of that family and that generation to pass away. How deeply significant and necessary it is for us to pause here and honor their precious gift of sacrifice for the lives we get to enjoy and they don't.

One of the poet's wrote that "God gave us memory that we might have roses in December." We remember the brave and strong young lives that were lost to give strength and courage to our own lives.

As all of my colleagues do, I travel back and forth by air from this city to my home State. I see the same sight on both ends of my trip. Arlington National Cemetery spreads out across many acres on the Potomac River near the airport. In the Twin Cities, Fort Snelling Cemetery sits near the bank of the Minnesota River. You can see it as you fly into the Minneapolis-St. Paul airport.

They are both beautiful places, but they carry a staggering message. We have paid an enormous price for liberty around the world. Each cross or monument is a person and a family and a home town. And there are thousands upon thousands of them.

I have never been there, but I am told that there is a pilgrim graveyard near Plymouth Rock in Massachusetts, where the remains of the first colonists lie. Somewhere in that cemetery there is a small sign which reads, "That which our forefathers at such a great price secured, let us not idly slip away."

That is the message of this Memorial Day to me. Freedom is precious and constantly endangered. The world is such that, as Edmund Burke said, "the only thing necessary for the triumph of evil is for good men to do nothing."

What is mind-boggling is the constant supply of good men and women willing to step forward to do something.

Addicted as most of us are to security and convenience, it is astonishing that regular folks in great numbers step forward to enter into a hostile environment and risk their lives. For fame? No. For riches? No. For vengeance? No. They do it for their country and what America stands for.

As has been said many times, America will remain the "land of the free" only so long as it is the "home of the brave."

A hundred and forty one years ago this November, Abraham Lincoln dedicated the cemetery at Gettysburg, PA. A large number of soldiers from the Minnesota First Volunteer Infantry Division, who had played a decisive role in the battle, were buried there.

Lincoln spoke the heart of the whole country, and speaks our heart today, when he concluded:

> It is for us, the living, to be dedicated here to the unfinished business which they who fought here have thus so nobly advanced. It is rather for us to be dedicated to the great task remaining before us—that from these honored dead we take increased devotion to that cause for which they gave the last full measure of devotion: that we here highly resolve that these dead shall not have died in vain; that this nation, under God, shall have a new birth of freedom; and that government of the people, by the people and for the people shall not perish from the earth.

We in Minnesota especially grieve with the families who have lost young men in the conflict in Iraq. They join a long, brave column of patriots who laid down their lives. We can never repay the debt we owe them. But we dare not forget them, or fail to recognize their extraordinary service.

Chief Warrant Officer Patrick Dorff of Elk River, on the banks of the Mississippi. He died in Iraq on January 25, 2003. He was 32 years old. He died trying to rescue a fellow soldier from a patrol boat that had capsized in the Tigris River.

He left behind a wife, a daughter, his parents and siblings in Elk River.

From an early age, he always wanted to fly. He brought his passion to his military service. He called himself a "sky cop" over Iraq. Who knows how many lives he saved by providing air support.

He was a great man. Now he is a great hero.

SSG Brian Hellerman was from Freeport, MN, home of Charlie's Café. He was 35 when he died on August 6, 2003, in Baghdad. He lost his own dad as a teenager and joined the military to honor his memory. He left behind a wife and two kids, who have also lost their dad. He wrote in an e-mail, "I am still in because I want to provide freedom for those I love and care about." He was a great man. Now he is a great hero.

PFC Edward Herrgott, age 20, was from Shakopee, MN on the Minnesota River. He died the day before Independence Day last year. He was killed by a sniper as he guarded the Iraqi National Museum from looters. He joined the military to prepare for a career in law enforcement. He was dedicated to a keeping others safe, even if it meant putting himself in danger. He was a great man. Now he is a great hero.

SSG Dale Panchot, 26, was from Northome, in Minnesota's north woods. He died on November 17, 2003 north of Baghdad in a grenade attack. He wanted to be a soldier as far back as his parents could remember. He idolized his World War II veteran grandfather, and joined the Minnesota National Guard in high school. At his funeral, the whole town came together to honor his faithful service. He was a great man. Now he is a great hero.

LCpl Levi Angell, age 20, was from Cloquet of Minnesota's Northland near Duluth. He was killed on April 8, 2004, in a rocket-propelled grenade attack. He joined the Marines after graduating from high school. He completed a tour in Kuwait and then volunteered to be redeployed to the region. He leaves behind his parents and eight brothers and sisters. He was a great man. Now he is a great hero.

Cpl Tyler Fey, aged 22, was from Eden Prairie in the Southwest area of the Twin Cities. He died on April 4, 2004, in Anbar Province, west of Baghdad. He was a combat engineer and a proud soldier who served 2 tours in Iraq. He was remembered as a kind and loveable person by his friends at Holy Angels High School in Richfield, MN. He was a great man. Now he is a great hero.

PFC Moises Langhorst, 19, of Moose Lake, died April 5 in Iraq. Moy, as he was called, aspired to a military career from a young age, wearing camo clothing and even driving a truck with a camouflage pattern. A few weeks before he died, he wrote to his church, "Between my good training and my faith in God, I have noting to worry about." He joined the Marines right out of high school with his buddy Matthew Milczark of Kettle River, just down the road. He was a great man. Now he is a great American hero.

PFC Milczark, 18, died in Kuwait on March 8, six weeks before his friend. He was the Moose Lake Homecoming King 2 years ago this month. His grandfather and three uncles have also served in the U.S. military. He was a great man. Now he is a great American hero.

SP James Holmes, of East Grand Forks, died in Germany on May 8 from injuries he sustained in Iraq. He had suffered shrapnel wounds after an improvised explosive device detonated near his military vehicle while he was on patrol in Baghdad. Holmes was 28. He grew up in Arizona. He had been living in East Grand Forks, MN, and worked for Valley Petroleum across the border in Grand Forks, ND. His best friend, Howard McDonald recalled, "He felt he had a bigger part to play and answered the call to duty without hesitation. He was doing exactly what he wanted to do, and he died with honor." He was a great man. Now he is a great American hero.

Those are 9 young men. Nine families. Nine home towns. How incredibly sad it is that the promise of their lives was snuffed out. But we take comfort in the knowledge that they were doing what they wanted to do, many of them from an early age.

"Greater love has no man than this," the Scriptures tell us, "than to lay down his life for his friends." Though we never knew them, they laid down their lives for us. They laid down their lives for a free Iraq and generations who will live free because of their sacrifice.

As we remember them and pray for them, together we hope for a new birth of freedom and a time of peace in the Middle East. Thank God for the memory of these and all our veterans. Thank God we live in a Nation of great American heroes such as these.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Madam President, it is my understanding that we are in morning business at this time.

The PRESIDING OFFICER. The Senate is considering the bill, S. 2400.

MORNING BUSINESS

Mr. WARNER. Madam President, I ask unanimous consent that the Senate go into a period of morning business for a short time to consider two resolutions, and that we then return to the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEDICATION OF THE NATIONAL WORLD WAR II MEMORIAL ON MAY 29, 2004—S. RES. 362

RECOGNIZING THE VETERANS WHO SERVED DURING WORLD WAR II—H. CON. RES. 409

Mr. WARNER. Madam President, on behalf of the Senate leadership—both the majority and minority—I am privileged to ask the Senate to act on resolutions relating to the World War II Memorial. It is coincidental that the Presiding Officer at this time is the distinguished Senator from North Carolina, whose husband has had an instrumental role in the preparation and planning of the memorial, which will be dedicated a week from tomorrow, on May 29.

At this time, I ask that the Senate proceed to the immediate consideration of S. Res. 362 and H. Con. Res. 409, en bloc.

The PRESIDING OFFICER. The clerk will state the resolutions by title.

The assistant journal clerk read as follows:

> A resolution (S. Res. 362) expressing the sense of the Senate on the dedication of the

National World War II Memorial on May 29, 2004, in recognition of the duty, sacrifices, and valor of the members of the Armed Forces of the United States who served in World War II.

A resolution (H. Con. Res. 409) recognizing with humble gratitude the more than 16,000,000 veterans who served in the United States Armed Forces during World War II and the Americans who supported the war effort on the home front and celebrating the completion of the National World War II Memorial on the National Mall in the District of Columbia.

There being no objection, the Senate proceeded to consider the resolutions.

Mr. WARNER. Madam President, I ask unanimous consent the resolutions be agreed to, the preambles be agreed to, the motions to reconsider be laid upon the table, en bloc, and that any statements relating to the resolutions be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolutions (S. Res. 362 and H. Con. Res. 409) were agreed to.

The preambles were agreed to.

The resolution (S. Res. 362), with its preamble, reads as follows:

S. RES. 362

Whereas the National World War II Memorial is being dedicated on Saturday, May 29, 2004, on the National Mall in Washington, District of Columbia;

Whereas the National World War II Memorial, a monument of granite and bronze, has a fitting location on the National Mall situated between the Washington Monument and the Lincoln Memorial and flanked by memorials dedicated to the members of the Armed Forces of the United States who served and died in the Korean War and in the Vietnam era;

Whereas the National World War II Memorial is dedicated to the more than 16,000,000 individuals from the 48 States, the District of Columbia, and the territories and possession of the United States who served in the Army, Air Force, Navy, Marine Corps, Coast Guard, and Merchant Marine in World War II;

Whereas on May 29, 2004, hundreds of thousands of veterans, and their families and friends, from across the United States will gather on the National Mall to join in the dedication of the National World War II Memorial and to pay homage to the memory of the more than 400,000 members of the Armed Forces of the United States who died while serving during World War II and the more than 10,000,000 veterans of the Armed Forces of the United States in World War II who have died since the end of World War II;

Whereas on May 29, 2004, the Nation will pay tribute to all the members of the Armed Forces of the United States who served in World War II;

Whereas on May 29, 2004, the Nation will remember the duty, sacrifices, and valor of the members of the Armed Forces of the United States who served on land and sea and in the air in the more than 89 campaigns conducted in the European and Pacific theaters of operations in World War II;

Whereas on May 29, 2004, the Nation will acknowledge that the men and women who served in the Armed Forces of the United States in World War II came from all the States, the District of Columbia, and all the territories and possessions of the United States and represented men and women of all races, religions, ethnic groups, professions, educational attainments, and backgrounds, all united in the goal of serving their Country and preserving freedom; and

Whereas construction of the National World War II Memorial would not have been possible without the donations of hundreds of thousands of individual Americans, as well as corporations, foundations, veterans groups, professional and fraternal organizations, communities, and schools, who all acknowledged that a memorial should be constructed in the National Capital to recognize and pay tribute to the duty, sacrifices, and valor of all the members of the Armed Forces of the United States who served in World War II: Now, therefore, be it

Resolved, That it is the sense of the Senate—

(1) to express the grateful thanks of the Nation to the more than 16,000,000 individuals who served in the Army, Army Air Force, Navy, Marine Corps, Coast Guard, and Merchant Marine in World War II and to the millions of Americans on the home front who contributed to the war effort during World War II; and

(2) to recognize the dedication of the National World War II Memorial on the National Mall in Washington, District of Columbia, on May 29, 2004, as an occasion to acknowledge and pay tribute to the duty, sacrifices, and valor of all the members of the Armed Forces of the United States who served in World War II, a group known collectively as the "Greatest Generation".

Mr. WARNER. Madam President, I will address briefly these resolutions. I ask unanimous consent that I be made a cosponsor of H. Con. Res. 409.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. This particular resolution and preamble, in part, states as follows:

> Recognizing with humble gratitude the more than 16,000,000 veterans who served in the United States Armed Forces during World War II and the Americans who supported the war effort on the home front and celebrating the completion of the National World War II Memorial on the National Mall in the District of Columbia.
>
> Whereas, the National World War II Memorial on the National Mall in the District of Columbia will be the first national memorial to both recognize the courage, bravery, and unselfish dedication of the members of the United States Armed Forces who served in World War II and those who served on the home front and acknowledge the commitment and achievement of the entire American people in that conflict;
>
> Whereas, World War II veteran Roger Durbin of Kerkey, Ohio, first proposed the construction of the National World War II Memorial, and Congresswoman Marcy Kaptur of Ohio introduced the legislation to establish the memorial in the District of Columbia to honor members of the Armed Forces who served in World War II and to commemorate the participation of the United States in that war;
>
> Whereas, in Public Law 103-32, approved May 25, 1993, Congress authorized the American Battle Monuments Commission, an independent Federal agency, to design and construct the memorial.

The resolution goes on in great detail and lays out the legislative history of how this magnificent memorial came into being. Of course, it will be in the RECORD. The last resolving clause is:

> *Resolved by the House of Representatives (the Senate concurring)*, That Congress recognizes with humble gratitude the more than 16,000,000 veterans who served in the United States Armed Forces during World War II and the Americans who supported the war effort on the home front and celebrates the completion of the National World War II Memorial on the National Mall in the District of Columbia.

And then action now by the Senate.

I make these remarks on behalf of those Members of the Senate who served in World War II—Senator INOUYE, Senator HOLLINGS, Senator STEVENS, Senator LAUTENBERG, Senator AKAKA, and myself, all of whom with humble pride have participated in this legislation through these many years and joined with our former distinguished colleague, Senator DOLE, who showed absolute extraordinary leadership in this entire sequence of legislative steps, and particularly raising the needed funds. I will address that momentarily.

Resolution 362 expresses the sense of the Senate on the dedication of the National World War II Memorial, May 29, 2004, in recognition of the duty, sacrifices, and valor of members of the Armed Forces of the United States who served in World War II. The resolution goes on to lay out, again, other aspects of the legislative history and the role of the Congress and others in this magnificent memorial.

AUTHORIZING USE OF THE CAPITOL GROUNDS

Mr. WARNER. Madam President, lastly, the other matter that is before the Senate is H. Con. Res. 423, a resolution authorizing the Capitol Grounds to be used for a public event providing additional space in conjunction with the dedication of the National World War II Memorial on May 29, 2004, and such other dates that the Speaker of the House and representatives of the Committee on Rules and Administration of the Senate may designate.

It is a very wise step to try to help in some way the extraordinary turnout in response of veterans who will be coming to the Nation's Capitol to be present at the memorial dedication, but for reasons of shortage of seats and other reasons, we are trying to accommodate them. I commend the Senate and the House for working on the means by which to make the Capitol Grounds available.

Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 423, which is at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 423) authorizing the use of the Capitol Grounds for activities associated with the dedication of the National World War II Memorial.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Madam President, I ask unanimous consent that the concurrent resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the concurrent resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 423) was agreed to.

Mr. WARNER. Madam President, I also ask unanimous consent to print in today's RECORD some historic information about the memorial and a partial schedule of the many events that are occurring in connection with the dedication. I hope this record, which will be printed today in the proceedings of the Senate, will serve as a useful tool to Senators as they are working with their constituents on this matter.

I would like to conclude, again reflecting on Senator Dole's role. Again, he is national chairman of the World War II Memorial campaign. I recall when he undertook this assignment, working together with Fred Smith, the cochairman of the national campaign, Senator Dole said their goal would be approximately $100 million and that they wanted to raise it from the people of the United States, individuals.

Over 600,000 individuals came forward. Also, 400 veterans groups, and over 1,400 schools took up contributions. All 50 States and Puerto Rico contributed $1 for every citizen of that State who participated during World War II. The breadth of this campaign, envisioned by Senator Dole and others and the Battle Monuments Commission, and, of course, his cochairman, Mr. Smith, was extraordinary, and the outpouring from all across America was equally extraordinary. They set a goal of around $100 million, but it is my understanding they are approaching $200 million, showing the depth and feeling and gratitude of all citizens of our Nation.

With the greatest humility I compliment Senator Dole, Mr. Smith, and others who undertook this task and achieved beyond all possible dreams. The dedication is just shaping up to be one of the great moments in the contemporary history of the United States of America.

Stop to think: It took 11 years to get the legislation through. Hostilities ceased with the surrender of Japan. It is my recollection—I was but a young sailor then in training in the United States—it was in the summer of 1945, August, is my recollection, and the surrender of Germany, I think, occurred previously in that year, if my recollection is correct, May 8 or 9.

That extraordinary chapter and struggle of mankind to preserve freedom came to a quiet and reverent conclusion with extraordinary losses. Over 400,000 Americans alone gave their lives and probably in the millions who were wounded, including our distinguished colleagues, Senator Dole and Senator Inouye.

I am at a loss for words to express the gratitude of this country. We are here today exercising the right of free speech because of those sacrifices and elsewhere in the world, exercising various levels of democracy and freedom of speech solely because of the enormity of the sacrifices of that generation referred to now as "the greatest generation."

Madam President, I, at this time, again acknowledge the participation of our former colleague, Senator Dole, and the participation of all Members of the Chamber today and those who served in the 11 years preceding who participated in the legislative steps to bring about and fulfill the role of the Congress as it relates to this magnificent chapter in American history.

Madam President, I see another colleague, a very valuable member of the Senate Armed Services Committee, seeking recognition. Having spoken briefly before, my understanding is that the Senator will be speaking on the bill; is that correct?

Mr. DAYTON. That is right, matters related to the bill.

Mr. WARNER. The Senator may speak for whatever time he wishes.

Mr. DAYTON. Fifteen minutes, if I may.

Mr. WARNER. Whatever the distinguished Senator desires.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005—Continued

Mr. WARNER. Madam President, I ask at this time that we return to the pending bill.

The PRESIDING OFFICER. The bill is the pending question.

Mr. WARNER. And that the distinguished Senator be recognized.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. I thank the distinguished chairman of the committee, Senator WARNER, and I certainly want to join in his remarks commending the husband of the Presiding Officer, the distinguished Senator Dole—both distinguished Senators DOLE—and also to recognize Chairman WARNER, who has been superb in his quest for the truth of what has happened in Iraq that has come to light in recent days.

I know it has been very difficult and there has been a high amount of pressure on him, but he and our ranking member, Senator LEVIN, have led us well on that committee, as they have throughout my 3½ years of service.

We are very fortunate that he has continued his distinguished leadership to our Senate and to our Nation throughout these years and continues to do so now.

This week we are debating the Defense Authorization Act for 2005 and will return to it after the Memorial Day recess. I thank the majority leader, Senator FRIST, for not trying to rush us through this important legislation, because it is complex, and it is also very costly.

This bill authorizes $422 billion of taxpayer money and borrowed funds for our national defense purposes in fiscal year 2005. That does not count the $25 billion supplemental that the President has requested, and it does not count the additional supplemental that we know soon after the November election will also be requested for the wars in Afghanistan and Iraq during the rest of that fiscal year, probably another $35 billion to $50 billion. That means a total of almost $500 billion authorized for military operations in the year 2005.

When I arrived 4 years ago, in fiscal year 2001, that comparable figure was $309 billion. That is an increase of over 60 percent in just 4 years.

Obviously, a lot has happened since then. There was 9/11, the war in Afghanistan, the war in Iraq, the war against terrorism, homeland security, costs most of which are not included in this bill. I have supported every defense, homeland security authorization, and appropriations bill during my 3½ years in the Senate, and I sit on both authorizing committees. I will support this bill, as I did in committee. I will support the $25 billion supplemental appropriation, as I have all of the previous supplemental requests.

I want to ask for some answers from our Commander in Chief, President Bush: In return for this $500 billion of taxpayers' money, what is your plan in Iraq? What must be accomplished, and by whom, before we declare victory? How long will that take?

I spent 5 hours in the Senate Armed Services Committee hearings this week, 1 hour yesterday with approximately 40 of my colleagues, with the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and the generals in charge of the war efforts in Afghanistan and Iraq. I did not get answers to those basic questions. I heard generalities but not answers.

General Abizaid, the excellent general in charge of that region of the war, said it is vital that we "stay the course." OK. But what course are we on? Where does it lead us? Where are you leading us, Mr. President?

I voted against the Iraq resolution in October of 2002 for three reasons. I thought it was unconstitutional for Congress to give up its constitutional responsibility to declare war and give the President that authority 6 months before he himself made his decision. Second, I was not persuaded that Iraq possessed weapons of mass destruction that threatened our national security.

Third, I believed the invasion and occupation of an Arab nation would weaken, not strengthen, our national security. I believe I was right on all three.

Now that we are there, I want us to succeed. We must succeed. The stakes are too high for failure or defeat. But what constitutes success? We have already successfully achieved our stated objectives. Our Armed Forces smashed Saddam Hussein's army and toppled his regime in 3 weeks. We won that military victory overwhelmingly. We determined that Iraq had no weapons of mass destruction to use against us or anyone else. None were used, thank God. None were found on the battlefields or in caches or in sheds or caves or anywhere else. None were even in production.

For the last year, our Armed Forces have heroically protected the country, helped to rebuild it, and trained and equipped some 200,000 Iraqis as police and militia. On June 30, some measure of authority will be transferred to an Iraqi government, selected by a representative of the United Nations, along with a blueprint for developing a national constitution and holding democratic elections. Success, success, success—a grand slam.

What else must we do? Madam President, 794 heroic Americans have given their lives to achieve that success, and I join with my colleague, Senator COLEMAN, who cited each of those Minnesotans by name. They are truly, like their fallen comrades, American heroes. Thousands more American heroes have been wounded. There are 134,000 American heroes risking their lives every day and every night over in Iraq for some indefinite period of time. And for what? For what, Mr. President?

We can do no more for the people of Iraq than give them back their country. What they decide to do with it is up to them. That is democracy. It is their country. They should administer it, patrol it, police it, and defend it—not us. If we are doing any of that, we are still running their country. We still get blamed for whatever is going wrong. Our men and women still do the fighting, the bleeding, and the dying. Yet growing numbers of Iraqi citizens and people in other Arab countries hate us, want to drive us out of Iraq, want to retaliate against our troops or against our citizens. The longer we occupy Iraq, the more that hatred will increase.

There is no such thing as a perfect war. War causes deaths and destruction on intended targets and unintended victims. The devastation, the killing and maiming is horrific on everybody—our soldiers, their soldiers, their civilians, innocent men, women, and children who live there. Remember, it is their home. The stakes are inevitable and their ill effects are cumulative.

Last week, it was Abu Ghraib. This week it is a wedding attack. Next week it will be something else. There is no subtraction. There is no better. There is either war or there is peace.

Blessed are the peacemakers for they shall be called the children of God.

Again, I call upon President Bush to explain to us, the American people and to the world, for what purpose do we now remain in Iraq? What more must we accomplish, and how long will it take? How will the Iraqis learn to run their country except by running their country? How will they learn to police it except by policing it, to defend it except by defending it? It will not be easy for them. It will not be smooth. They have not had those responsibilities for over a quarter century, but it is time they started now, step by step, stage by stage. They should do more, and we should do less.

If we must extinguish every pocket of resistance, we will be there a long time, particularly when it is resistance to our being there.

The responsibility for 5,000 insurgents should be the Iraqis'—not ours. Their police should patrol their streets, protect their property, keep their peace—not our soldiers.

In Falluja, where Marine General Tim Conway turned those responsibilities over to Iraqi command, an uprising of 2 weeks ago is reportedly quieting down. Insurgents battling against us switched sides and joined the local police force. Most of the people fighting against us there stopped fighting against their fellow Iraqis and the rest were told to leave town by other Iraqis. Surely 200,000 Iraqi police and militia can contain 5,000 insurgents without us, without our bleeding and dying.

Our decision is, do we get out of Iraq in months or do we want to stay in Iraq for years? Right now the Bush administration's intention appears to be geared for years, with the assumption that our staying longer will produce a better result, a result more to our liking, for whatever those unstated reasons are.

But what if our staying longer will make things worse, for the Iraqis and for us? More violence, more casualties, more unrest, and more instability? That is not success. The worse conditions become there, the harder it becomes for us to leave because we cannot be considered weak or lacking will. In fact, the world doesn't think we are weak. They don't question our will. They are wondering if we are wise.

Getting out of Iraq in months instead of years is wise. We do it on our stated terms, not on anyone else's. We phase ourselves out, we phase Iraqis in—quickly. First they are made to have responsibility for their cities, for patrolling, policing, establishing law and keeping order; then their highways and other infrastructure; then oilfields and refineries; then their border security. During that transition, up to one-half of our forces could depart, be stationed in a neighboring country at the ready, and the other half could transition, as this transfer occurs, to secure base camps in Iraq where we will make it clear we will not tolerate anarchy or civil war or foreign intervention. The rest of it we allow the Iraqis to work out for themselves, among themselves, by themselves. We enlist other Arab nations and the United Nations to assist with those resolutions while we ensure against catastrophe, and we make clear our intention to leave as soon as Iraq's sovereignty is secure, as soon as Iraq's new government has established law and order. That is their democracy. That is our success.

Paradoxically, in life the more you try to control events to get what you want, the more you become controlled by those events and you don't get what you want. The administration picked their favorite Iraqi-in-exile and paid him reportedly millions of dollars to do their bidding. This week, American troops raided his headquarters and arrested his cronies. We don't know who the right Iraqis are to lead their country. Iraqis may not know yet themselves. But they will have better ideas than we will.

Our challenge, and our opportunity, will be to befriend their chosen leaders rather than to make our chosen friends into their leaders, only to discover they are not friends at all.

Instead, we should focus our efforts on aiding Iraq's new leaders to succeed, to rebuild and improve their country. That will make their leaders our friends. That will make their citizens our friends. That will help make more people in the Arab world our friends. And that would strengthen our national security much more than would more war.

To date, only $3.7 billion of the $15 billion Congress provided to help rebuild Iraq has been expended. Obviously, the lack of security has limited those expenditures. But so has the lack of commitment by the Bush administration because they have eschewed nation building. They have spent even less than that for rebuilding Afghanistan, a country which has a credible leader, President Karzai, with whom I met in Kabul, Afghanistan in January of 2002. He was desperate for our help in rebuilding his destitute country. What an opportunity to show the people of Afghanistan and the people of the Arab world what American knowledge, technology, capitalism, and compassion can do to make their lives better. It is an opportunity so far squandered by the Bush administration which, as I said, scorns nation building.

Nation building is better than nation bombing—better for them, better for us, and better for the world. A better world is our best national security. People whose lives we are helping to improve, who we are teaching and aiding to improve their own lives, become our friends, not our enemies. They will not harbor our enemies or help them. They will stand with us and the rest of the civilized world in rejecting terrorism and expelling terrorists from their own countries and their havens in the world.

Paradoxically, every day we are fighting the war in Iraq we are weakening our defenses against terrorism. Every day we make peace in Iraq, help rebuild Iraq, help rebuild Afghanistan, we are strengthening our defenses against terrorism.

The war against terrorism will be won by building a peaceful world, by building a prosperous world, for the multitudes, not just the millionaires. Raising standards of living, social justice and the rule of law—all that will foster democracy; not military occupation or provisional authorities, not prisoner abuses or more armored tanks.

So, tell us your plan, Mr. President, as we approach Memorial Day. Tell us how you will bring our 134,000 troops in Iraq safely home, and when. And tell us what course we are on; military escalation or peaceful cooperation? Nation bombing or nation building? Financial bankruptcy or global prosperity?

You are asking your fellow citizens for 4 more years, Mr. President. Tell us first what course we are on.

Mr. President, I yield the floor.

Ms. SNOWE. Mr. President, I have an amendment to the National Defense Authorization Act for Fiscal Year 2005 to expand the Mentor-Protégé program to include service-disabled veteran-owned small businesses and qualified HUBZone small business concerns as eligible participants. Four years ago I worked closely with Chairman WARNER to extend the benefits of this successful program to women-owned small businesses.

As chair of the Small Business Committee, it is my responsibility to create an environment where small businesses can flourish and apply their talents to the many pressing needs facing our government. The primary issue for small business is access to the Federal marketplace and the opportunity to compete. When small businesses are denied the opportunity to participate in the Federal procurement process, the result for our government is a dramatically reduced contractor base, and the mounting lost opportunity cost of choosing among fewer innovative firms to deliver products and services at lower prices.

For the past several years, the Department of Defense has had a program in place to try to develop and maintain small disadvantaged- and women-owned vendors as a vital part of our Nation's defense industrial base. This program has also been a principal source of opportunity for these firms by offsetting some of the other Federal procurement practices, specifically contract bundling, that have squeezed small business out of contracting.

Small businesses play a critical role in our Nation's economic and homeland security. Small businesses are currently the leading job creators in our Nation's economy and are responsible for more than 75 percent of net new jobs in America.

However, millions of Americans today continue to struggle to find jobs. Hardest hit are the Nation's inner cities and depressed rural areas that face poverty year after year.

By locating in a historically underutilized business zone—HUBZone, more than 10,000 small businesses have responded to the call to make a difference in these underserved communities and to strengthen our economic security. Congress needs to do its part by making the DoD a frequent customer of these small businesses, so we can help them compete effectively in the marketplace and create more jobs.

The Federal government, including the DoD, can and should also do more to meet its commitment to small businesses owned by veterans, including service-disabled veterans. As committee chair, I am dedicated to ensuring that these individuals who have sacrificed so much to defend free competitive enterprise are provided with increased opportunities to perform Federal contracts, especially contracts for weapons, equipment, and services for our warfighters.

In the fiscal year 1991 National Defense Authorization Act, the Congress adopted a provision to help small disadvantaged firms develop the technical infrastructure necessary to perform Federal contracts effectively. This pilot program, the Mentor-Protégé program, provided for prime contractors to either be reimbursed for their added costs in providing technical assistance to certain small firms, or to receive credit for accomplishing their subcontracting plans in lieu of reimbursement. Four years ago, I sponsored legislation that now enables women-owned firms to participate in the program.

Experience under the Mentor-Protégé pilot program has been positive. Mentor firms have demonstrated that they can help train small disadvantaged- and women-owned protégé firms to develop the infrastructure, necessary to be successful in large Federal contracts. As these successful protégés graduate, mentors can open their doors to the next generation of firms eager to contract with DoD as suppliers and subcontractors.

The program clearly has contributed to the success of bringing small disadvantaged- and women-owned businesses into DoD contract work. Over the last four years the DoD has increased the volume of dollars awarded to small disadvantaged businesses by more than 180 percent and the dollars awarded to women-owned firms by nearly 100 percent.

I ask that we expand participation to businesses owned by service-disabled veterans and businesses that locate in severely economically distressed areas. In so doing, we enhance the business competitiveness of these classes of firms and strengthen our defense industrial base by generating waves of small businesses prepared to supply goods and services in defense of our Nation.

I urge my colleagues to accept this amendment.

Ms. SNOWE. Mr. President, I also have an amendment to Section 833 of the National Defense Authorization Act for Fiscal Year 2005 providing for improvements and accountability measures in the test program which permits large prime contractors to develop company- or unit-wide subcontracting plans.

This amendment is designed to ensure that the test program undergoes appropriate evaluation and monitoring in order to enable accurate assessment of the effects of the test approach on subcontracting opportunities for small business.

Currently, the Federal Acquisition Regulation and customary procurement practices require prime contractors to prepare subcontracting plans with a particular contract or potential contract in mind. The test program, which operates as an exception to this rule, was authorized in the National Defense Authorization Act for FYs 1990 and 1991. The purpose of the test program was to explore whether comprehensive subcontract planning could prove to be an adequate alternative for achieving meaningful small business subcontracting at lesser cost.

In April 2004, the General Accounting Office issued a report entitled "Contract Management: DoD Needs Measures for Small Business Contracting and Better Data on Foreign Subcontracts," GAO–04–381, where it found the test program's results inconclusive and criticized the Defense Department for failing to adopt measurement metrics to meaningfully evaluate the test program. Despite this report, the Armed Services Committee approved a five-year extension of the test program in Section 833 of the Act.

As chair of the Small Business Committee, I am deeply concerned that the program fails to live up to its purpose as a test, and I question the prudence of extending this test program without proper standards and procedures to measure its success. My amendment provides a certain deadline for the DoD to institute the needed measurement metrics and freezes the expansion of the program until these metrics are in place. The amendment also provides for oversight by the GAO.

PROCUREMENT TECHNICAL ASSISTANCE PROGRAM

Ms. SNOWE. Lastly, Mr. President, I have an amendment to the National Defense Authorization Act for Fiscal Year 2005 to strike Section 811(b) of the act, which alters disclosure requirements for subcontracting information provided to small businesses through the Procurement Technical Assistance Program of the Defense Logistics Agency.

This amendment will ensure that small businesses seeking federal subcontracting opportunities through PTAP would continue to have adequate point-of-contact information for procurements up to $1 million.

The Procurement Technical Assistance Program assists small businesses by providing training and information about federal business opportunities, both prime and subcontracts. Under the terms of this program, the DLA joins forces with State, local, and tribal governments for the purpose of delivering technical assistance services to businesses that are new to federal procurement.

Current law requires that experienced defense contractors with over $500,000 in contract awards disclose to assistance providers the contact information for their executives with authority to enter into subcontracts. These disclosures must be made only once a year. The cost of disclosures is practically non-existent. However, the disclosure requirement materially advances the purpose of the program by allowing small businesses easy access to potential subcontracts.

Nevertheless, Section 811(b) of the act seeks to exempt experienced defense contractors from these annual disclosures unless they receive over $1 million in government contracts. The need for this change is, at best, questionable. Providing a few names and phone numbers once a year is hardly a significant burden. As chair of the Small Business Committee, I am concerned that this change would needlessly obscure the procurement process for small business. I urge the Senate to retain the current PTAP disclosure requirements.

● Ms. CANTWELL. Mr. President, I wish to clarify the intent of legislation I introduced yesterday, S. 2457. Certainly, I would like to ensure that the record reflects my intention in introducing this bill.

The provisions contained in S. 2457 mirror those contained in Section 3116 of the fiscal year 2005 Department of Defense authorization bill, which pertain to the reclassification of high-level radioactive waste. Let me be clear: I oppose these provisions. I hope the majority of my colleagues will oppose these provisions as well. I introduced this legislation for the purpose of demonstrating to my colleagues that issues within the scope of the Nuclear Waste Policy Act of 1982 do not belong within the jurisdiction of the Senate Armed Services Committee. This was an issue of some debate on the floor yesterday, and I am pleased that the parliamentarian has in fact referred this legislation to the Senate Committee on Energy and Natural Resources, of which I am a member. I hope the chairman of the Senate Armed Services Committee will take note of this fact when debate resumes on Sec. 3116 of his bill after the Memorial Day Recess. A policy shift this significant requires substantial public debate within the committee of primary jurisdiction.

I would also like to respond to a few of the comments made by the distinguished Senator from Colorado, Mr. ALLARD, earlier today. First, he noted that the Armed Services Committee discussed the issue of waste incidental to reprocessing at two hearings earlier this year. Again, the Armed Services Committee is not the committee of jurisdiction for issues related to nuclear waste cleanup policy, as has now been affirmed by the Senate's parliamentarian. Second, a hearing at which the concept of "incidental" waste is discussed is not at all the same as a legislative hearing on a specific proposal. To my knowledge, the language to which I object in Sec. 3116 of the DoD authorization bill has never previously been introduced as stand-alone legislation. And if it had, it would not have been referred to the Armed Services Committee. Thus, we have had no legislative hearings on the Senator from South Carolina's proposal.

Lastly, the Senator from Colorado has misstated my position with regard to removal of Hanford's underground tanks, which contain 53 million gallons of high-level radioactive waste. As I stated clearly on the floor last evening, the cleanup plan at Hanford, as outlined in the TriParty agreement, does not include removal of these tanks from the ground. As I stated previously, I agree with the State of Washington's current thinking on this matter. Digging up these tanks would pose a number of unnecessary risks, and that is not a concept now on the table. I hope that the Senator from Colorado will take note of this fact.

I look forward resuming debate on these matters of such tremendous importance when the Senate returns from the Memorial Day Recess.●

The PRESIDING OFFICER (Mr. SMITH). The Senator from Utah.

Mr. HATCH. Mr. President, I have enjoyed listening to my colleague here today. I have been concerned with some of the things my good friend has said.

First of all, you know, I don't think anybody doubts that what we have done over there has put a tremendous dent in terrorism all over the world. Because of the fortitude of this President and this administration, we have stood up against terrorists all over the world—in Afghanistan and in Iraq, but if the truth be known, in so many other countries that are fraught with terrorism. I can't talk much about that. But I can say one thing as a member of the Senate Select Committee on Intelligence, this administration is on top of this all over the world.

Probably the two greatest experiments right now against terrorism are in Afghanistan—where we are slowly moving that country forward, and showing a commitment of the international community in a very real sense. But we are having a very difficult time locating al-Qaida, which slips across the border into the ungovernable part of Pakistan.

But probably the most important steps taken against terrorism in our world today are being exhibited right in Iraq.

In the 20th century, Iraq has been a very difficult area, with all kinds of animosity, tribal difficulties, tribal conflicts. Many of the current conflicts existed long before we had to get involved, and it is easy to understand why this is taking a bit of time to get done.

The one thing I am very concerned about—that is happening day in and day out with colleagues on the other side of the floor—is the undermining of morale, the undermining of efforts of our troops over there. What happened to the unity that we need in America to support our troops?

War is never easy, and it is never something that is pleasant. Anybody who thinks you can just walk out of Iraq and turn it over to the Iraqis at this point is not only whistling "Dixie," but you have to wonder if the confidence is really there.

By the way, having said that, I feel badly that the minority leader in the House of Representatives has chosen to use such unwise language about the President of the United States. She should be ashamed of herself. I know she is trying to do her job over there. I think having two parties is very important, and having a loyal opposition is important as well. But to call the President incompetent, and to call what he is doing incompetency undermines every soldier in Iraq and every soldier around the world. It undermines our fight against terrorism. It undermines so many things that are important for our country, for our troops overseas, and for those who are here. It undermines our young people who might believe that bunk. If you hear it enough, and the media presents it enough, people start to think that type of irresponsible talk is true. It is not only not true, it is irresponsible, mean, vindictive, and, I think, beneath the dignity of any leader in either of these bodies.

It is one thing to criticize the policies. That is what we are here to do. It is one thing to criticize a different philosophy and to try to have yours preeminent, but it is another thing to undermine the President of the United States at a time when we are in grave difficulties in Iraq and when we are in a grand experiment of trying to institute a democracy in lands that have never seen democracy.

I think it undermines our whole process for anybody to come on this floor and say we should leave now and let Iraq go to the Iraqis. What do you think we are doing? On June 30 we are going to turn it over to their Governing Council.

By the way, Mr. Bremer will be gone. He has this incredibly difficult job of trying to bring peace and stability to Iraq. He has done a terrific job. But he is going to be gone, and we are presently in the process of installing John Negroponte—one of our top foreign service officers, one of the top Ambassadors that this country has ever had, who is a wonderful family man who has been all over the world, who has served this country with distinction all over the world—to be our Ambassador in Iraq. This is evidence that Iraq is going to be turned over to the Iraqis. But the Iraqis should be the first to say we still need the stability that only the United States of America and its allies—some 30 countries—can bring about.

I am getting a little tired of people saying this is just the United States against the world. There are some 30-plus countries over there supporting us.

I would like to ask, Where are the French, where are the Germans, where are the Russians, and where are the Chinese? Aren't they concerned about stability in the Middle East? Of course not. They do not share the vision of sacrifice to improve other parts of the world.

I also would like to make a few points on what we have done over there and what we are in the process of doing, hopefully without being undermined by Members of this body or Members of the other body. This is not a grand experiment, but it is a grand approach to try to put a dent in terrorism and create at least a representative form of government in the Middle East, for the first time in history in that area in Iraq.

The U.S., in coalition with allies, has overthrown two terrorist regimes. We have rescued two nations. We have liberated 50 million people.

Some of these people who have been such big critics ought to acknowledge that.

This coalition has captured or killed almost two-thirds of these terrorist leaders around the world—two-thirds of the known senior advisers and al-Qaida operatives.

We have captured or killed 46 of the 55 most wanted in Iraq. We have disrupted terror cells on most continents. Mr. President, $200 million in terrorist assets have been seized or frozen.

Where are the compliments coming from the other side about some of these things?

The coalition persuaded Libya to eliminate its chemical- and nuclear-related programs and to accept international inspection.

That could never have happened without the President of the United States, George W. Bush; without his guts and without his ability and his foresightedness.

We have put up with Libya all these years, with their irresponsibilities in the Middle East and all over the world, and their sponsorship of terrorism.

Had it not been for what President Bush has done, Libya would never have agreed to start acting responsibly. Qadhafi would never agree, but he has finally seen the handwriting on the wall that we have some fortitude.

Al-Qaida is taking credit for getting rid of that government in Spain. They are going to try to do that to us. We had better be prepared for it.

This President has had the guts to stand up to the terrorist threat. He is certainly the leading person in the world who has had the guts to stand up against international terrorists for the first time in a long time.

I want to give all of the counterparts from the other nations credit, too, especially Tony Blair in Great Britain.

If we eliminate tyranny in the Middle East by doing what is right in Iraq, it is amazing what we can do throughout the rest of the world. It would be a crucial setback for international terror.

Just some of the things that have been accomplished over there in Iraq: The Transitional Administrative Law approved by the Iraqi Governing Council is now considered the most liberal basic governance laws in all of the Arab world. It assures freedom of religion, freedom of expression, freedom of press, and freedom of assembly. It also guarantees the fundamental rights of women for the first time.

That wouldn't have happened but for the courage of this coalition built up by our President.

Iraq's new currency is the most heavily traded currency in the Middle East now. A lot of people do not know that. Oil production and power generation are way beyond prewar levels now.

It is the United States that has done that and the coalition partners that have done that. It is a tremendous advancement.

All 22 universities and 43 technical institutes and colleges are now open in Iraq.

Can you imagine in that, in this short period of time, we have accomplished this?

The coalition forces have rehabilitated more than 2,200 schools, all 240 hospitals and more than 1,200 health clinics are now open.

Health care spending in Iraq has increased 30 times over prewar levels. There have been so many great changes over there that the Iraqi people are now starting to feel they have a chance.

If we leave now, the old regime's gangsters can come right back in, the instability can come back in. We have not finished the job of helping the police be able to run the place.

There are now 170 newspapers being published in Iraq.

As of May 4, the estimated crude oil export revenue was over $5.6 billion for this year alone. I could go on and on.

I am saying this: Why aren't we supportive of all the good things that have been done and are going on in Iraq? Why are we openly condemning this President, who had the guts to do what is right, and doing it so the whole world can see, so our young men and women are undermined and demoralized over there? Is it political advantage that some people are seeking? Some would say yes. Some might say no. Is it because it is an election year? I think many people would say yes. Is it because some people just hate George W. Bush? The answer to that is yes, too. Is it because of irresponsibility on the part of some in the Congress? Some might even say yes to that, although I personally would not take that position. But some who are saying yes may be right. It is certainly undermining our troops over there, certainly making it difficult for any President to have the guts to do what has to be done against terrorism.

I have worked on terrorist problems from the beginning around here, all 28 of my years. I was the prime sponsor of the Antiterrorism Effective Death Penalty Act in 1996—by the way, we were trying to put some of the provisions that are now in the PATRIOT Act in that bill. That was stopped by these naysayers and the people who are always talking about civil liberties. What about the civil liberties of the 3,000 people who died on September 11 because we were not prepared because we did not give law enforcement the tools to be able to stop that kind of terrible activity?

I get a little tired, to be honest with you. It is time to stand with this President, as Democrats and as Republicans, and back our soldiers over there. Yes, what happened at Abu Ghraib is not right. We know that. As far as I can see—and I went to Guantanamo Bay last week; I have been in all of the intelligence meetings as a member of the Select Committee on Intelligence—as far as I can see, it is limited to a limited number of people in Iraq who just plain got out of line and acted like goons. None of us can justify any of that. Now that we have made that clear, why do we dwell on it every day, every night, all day long, all evening long, on the news and everywhere else?

We know it is wrong and we know darned well we will have to clean it up. And we will because this is a free Nation, and we believe in the rule of law.

I have said maybe more than I should have said, but I was disappointed in the remarks of the minority leader in the House yesterday. Talk about remarks that undermine everything this President is trying to do—and coming from one of our leaders. I hope she thinks it through and does not make any more of these irresponsible comments in the future. I hope we on this side think it through, too, and are more responsible in some of the things we do. It would be wonderful if we could work together more than we are in this body. I have never seen it so partisan in the whole time I have been in the Senate.

F/A–22 RAPTOR

I will change the subject to something that is very important to me.

I stand before you today as an ardent supporter of the F/A–22 Raptor. I urge that the Senate restore the President's budget by authorizing appropriations for 24 F/A–22 Raptors.

Two weeks ago, I had the opportunity to travel to Tyndall Air Force Base to be briefed on the capabilities of this extraordinary aircraft. As a result of these meetings and discussions with the pilots who are training to fly the aircraft and the ground personnel who are learning to maintain the Raptor, I have come to the conclusion that the Raptor is absolutely vital to our national security.

Over the past 30 years, the U.S. has been able to maintain air superiority in every conflict largely due to the F–15C. However, with the great advancements in technology over the past several years, the F–15 has struggled to keep pace. For example, the F–15 is not a stealth aircraft and its computer systems are based on obsolete technology. My colleagues should remember that the F–15 first flew in the early 1970s. It has been a magnificent plane but it is starting to age. During the ensuing years, nations have been consistently developing new aircraft and missile systems to defeat this fighter.

Realizing that the F–15 would need a replacement, the Air Force developed the F/A–22 Raptor. The result is a truly remarkable aircraft.

The F/A–22 has greater stealth capabilities than the F–117 Nighthawk. This is a powerful attribute when one remembers that it was the Nighthawk's stealth characteristics that enabled that aircraft to penetrate the integrated air defenses of Baghdad during the first night of the 1991 Gulf War.

The Raptor is also equipped with super-cruise engines. These engines do not need to go to after-burner in order to achieve supersonic flight. This provides the F/A–22 with a strategic advantage by enabling supersonic speeds to be maintained for a far greater length of time. By comparison, all other fighters require their engines to go to after-burner to achieve supersonic speeds. This is not just our country but all the other countries fighters, as well. This consumes a tremendous amount of fuel and greatly limits an aircraft's range.

The F/A–22 is also the most maneuverable fighter flying today. This is of particular importance when encountering newer Russian-made aircraft which boast a highly impressive maneuver capability.

Yet a further advantage resides in the F/A–22s radar and avionics. When entering hostile airspace, one F/A–22 can energize its radar system, enabling it to detect and engage enemy fighters far before an enemy's system effective range.

However, one of the most important capabilities of Raptor is often the most misunderstood. Many critics of the program state that, since much of the design work for this aircraft was performed during the Cold War, it does not meet the requirements of the future. I believe that this criticism is misplaced. The F/A–22 is more than just a fighter it is also a bomber. In its existing configuration it is able to carry two 1,000 pound GPS-guided JDAM bombs. Shortly, it will be able to carry the small diameter bomb and in 2008 the aircraft's radar system will be enhanced with a "look-down" mode enabling the Raptor to independently hunt for targets on the ground.

All of these capabilities are necessary to fight what is quickly emerging as the threat of the future—the anti-access integrated air defense system. Integrated air defenses include both surface to air missiles and fighters deployed in such a fashion as to leverage the strengths of both systems. Such a system could pose a very real possibility of denying U.S. aircraft access to strategically important regions during future conflicts.

It should also be noted that for a comparably cheap price, an adversary can purchase the Russian SA–20 surface-to-air missile. This system has an effective range of approximately 120 nautical miles and can engage targets at greater then 100,000 feet, much higher then the service ceiling of any existing American fighter or bomber. The Russians have also developed a family of highly maneuverable fighters, the SU–27/30/35, which have been sold to such nations as China. Of further import, 59 other nations have fourth generation fighters.

It has also been widely reported in the aviation media that the F–15C, our current air superiority fighter, it not as maneuverable as newer Russian aircraft, especially the SU–35. However, the F/A–22 is designed to defeat an integrated air defense system. By utilizing its stealth capability, the F/A–22 can penetrate an enemy's airspace undetected and, when modified, independently hunt for mobile surface-to-air missile operational systems. Once detected, the F/A–22 would then be able to drop bombs on those targets.

Some correctly state that the B–2 bomber and the F–117 could handle those assignments. However, the F/A–22 offers the additional capacity of being able to engage an enemy's air superiority fighters, such as the widely proficient SU–35. Therefore, the Raptor will be able to defeat, almost simultaneously, two very different threats that until now have been handled by two different types of aircraft.

Despite the obvious advantages of this aircraft, there has been resistance to this program in the halls of Congress. As with many military procurement programs, the primary concern is, naturally, cost. This, in part, led to the planned procurement of the aircraft to be reduced from over 600 to the current planned procurement of 277.

In response, the supporters of the F/A–22 devised a new procurement strategy called "Buy to Budget." This strategy capped the total cost for the procurement of the aircraft and forced the Air Force and the Raptor's primary contractor, Lockheed Martin, to cut the cost of the plane. These efforts, so far, have been successful, and last year an additional F/A–22 was procured, solely based on savings.

Unfortunately, as with any complicated aircraft, especially one whose computer power equals that of two supercomputers, schedule delays have occurred. However, these delays have also largely been resolved. Lockheed Martin has placed the former head of its very successful F–16 production line in charge of F/A–22 production. As a result, it is believed that F/A–22 production will be back on schedule by early 2005.

Now, despite this progress, criticisms of the aircraft continue. As a result, colleagues on the Senate Armed Services Committee have reduced the number of aircraft to be purchased this year to 22. In contrast, the President's budget requested 24 aircraft—2 more.

To be fair, it sounds reasonable to see this as a modest reduction in order to ensure existing production schedules are met and possibly decrease the cost of the aircraft. However, production schedules will be met. Due to the already drastic reduction in the number of aircraft to be procured, many have developed the very real concern that there will not be enough aircraft to meet the operational needs of the Air Force, based on the proven Air Expeditionary Force model. Not having sufficient numbers of F/A–22 for some of these contingencies would be an abdication of our congressional responsibilities, especially now that we are faced with war.

However, I wish to add one final point. I have talked about the capabilities of this aircraft and how those capabilities are designed to defeat the threats of the future. But what impressed me most was the way the pilots and ground crews of Tyndall Air Force Base spoke about the F/A–22. They are truly excited about its potential. They understand that this aircraft will ensure American dominance of the skies for the next half century. These young men and women stand ready to sacrifice so much for us. We owe them the best our country has to offer. Therefore, I respectfully urge the Senate to restore the President's budget proposal on this remarkable aircraft.

PRESERVING TRADITIONAL MARRIAGE

Mr. President, I rise today to speak about preserving traditional marriage—an institution which is under attack from so many directions today.

This past week, as everyone by now undoubtedly knows, the Goodridge decision by the Massachusetts Supreme Judicial Court went into effect in Massachusetts. This 4-to-3 decision by the Massachusetts Supreme Court found a constitutional right to same-sex marriage and prohibits the State from defining marriage as between a man and a woman.

According to reports, more than 1,000 same-sex couples have been "married" pursuant to the radical change handed down by the split court.

We all know that it is the legislative branch, and not the judiciary, that makes the laws—or at least should make the laws. But there are some courts, such as the one in Massachusetts, that want to take away the public policy role that the legislatures and people have always had. Senator TALENT of Missouri and I wrote an opinion editorial on this issue that was published in Monday's Washington Times. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Times, May 17, 2004]

THE BENCH VS. PEOPLE; CAN A JUDGE'S WILL BECOME A LAW?

(By Orrin Hatch and Jim Talent)

In the debate over traditional marriage, the cultural dominoes are falling in the wrong direction. Activist judges, who specialize in taking issues away from the people and deciding those issues instead, intend to make traditional marriage a thing of the past. Their decisions, like the one that will allow Massachusetts clerks to begin issuing marriage licenses to same-sex couples this week, and the aggressive political and legal strategy driving them, make clear that protecting traditional marriage will require amending the Constitution.

America's founders believed, as James Madison put it, that the legislative branch "necessarily predominates" in a representative democracy. We all learned in civics class that the legislative branch makes the law, which means the judicial branch doesn't. Most state constitutions go beyond separating the branches, and two-thirds explicitly prohibit judges from legislating. With only the power to interpret the law, the judiciary is supposed to be, in Alexander Hamilton's words, the "least dangerous" branch.

Times have changed. Judges have become the most dangerous branch by following former Chief Justice Evans Hughes' view that the law is "whatever the judges say it is." Judges cannot change the literal words of the Constitution or a statute, so they make law by changing the meaning of those words. The obvious danger is that if the law means whatever the judges say it means, judges control the law, run the country and define the culture.

Since before the founding of the republic, legislatures enshrined the traditional view that marriage is a union of a man and a woman. Only in the last decade have judges attempted to substitute their own views, effectively amending state constitutions by judicial fiat and imposing new marriage policies. Neither the people nor their legislatures chose any such thing.

In addition to judges acting like legislatures, some rogue public officials are acting like judges. Although California law defines marriage as between a man and a woman, for example, San Francisco Mayor Gavin Newsom simply declared it unconstitutional, and same-sex couples from at least 46 states have obtained a marriage license there. Similarly, same-sex residents of more than 30 states have obtained marriage licenses in Multnomah County, Ore. Litigation is inevitable as they challenge their home states to recognize these same-sex unions.

This crisis requires a constitutional solution for at least three reasons. First, amending the Constitution is the only way of reining in the activist judges who will otherwise undermine traditional marriage. Neither judicial self-restraint nor the separation of judicial from legislative power is enough. Nor, it appears, are explicit bans on legislation by judges in state charters. The Massachusetts Supreme Judicial Court's decision that same-sex couples may wed, which goes into effect this week, is a legislative act openly defying the Massachusetts Constitution's edict that judges "shall never exercise the legislative" power.

Second, the 1996 Defense of Marriage Act (DOMA) will no longer effectively protect traditional marriage. While the Constitution requires that states give each other's judicial proceedings "full faith and credit," it also lets Congress make exceptions. Supported by 79 percent of House members, 85 percent of senators and signed by Bill Clinton, DOMA guarantees that one state need not recognize another's non-traditional union. Even so, federal and state court decisions since DOMA have made legal analysts, enthusiastically or grudgingly, concur that DOMA itself likely will not survive a court challenge before activist judges.

Third, amending the Constitution of the United States is the only way for the people of the United States to take this issue back. "We the people" established the Constitution, and only we can rightfully amend it by the single process outlined in the charter, a process that excludes the judicial branch. No amendment on any subject becomes part of the Constitution unless supported by two-thirds of Congress and three-fourths of the states. Amendments by judges, by contrast, defy the people and lack their consent.

The first right of the people is to govern themselves. Activist judges take away that right, sapping democracy's legitimacy and vitality. When courts deny the people the right to decide cultural issues for themselves, they undermine both the freedom and the opportunity to form consensus provided by self-government. Americans on both sides of the marriage debate deserve to have their voice heard and the potential to make it effective. Such civic participation in elections, through legislatures, or in amending the Constitution, is an antidote to judicial activism. Defending the people's right to govern themselves generally and protecting traditional marriage specifically require responding to this judicial activism by amending the U.S. Constitution.

Mr. HATCH. Mr. President, I will not read it, but I will say that people have the right to govern themselves. When a court forces a radical decision on the people—well before the people have had the opportunity to oppose the change—it dramatically undermines democracy's vitality and legitimacy.

Some of the comments from the first same-sex couples to take advantage of the Massachusetts court decision underscore what is wrong with deviations from our culture of traditional marriage. According to the Boston Herald, the first recipients of a Provincetown, MA, same-sex marriage license said: "the concept of forever is overrated." One gentleman in this couple added that he, as a bisexual, and his partner, who is gay, "think it's possible to love more than one person and have more than one partner. In our case, it is, so we have an open marriage." I am sorry, but this simply is not a marriage. I simply do not understand why these two men felt they needed to be declared to be married by the State. There is not even a pretense of fidelity here.

The reason that maintaining traditional marriage is so important can be summed up in one word, and that is "children." Children are simply better off with a mother and a father than with two mothers or two fathers or any other alternative arrangement. Advocates for same-sex marriage cite studies to the contrary, but, as Professor Steven Nock, a leading marriage scholar at the University of Virginia, points out, "not a single one was conducted according to generally accepted standards of scientific research." Not a single one of those studies was conducted according to generally accepted standards of scientific research.

Marriage is not about adult desires for affirmation and benefits; it is about the well-being of children. Two men being intimate are simply not the same as a husband and a wife, and alternative family forms are not just as good as traditional families. The fact is that fathers and mothers both matter to children. The science confirms this, but common sense tells us this as well.

Some advocates for same-sex marriage argue that traditional marriage will continue the same as before. Unfortunately, this has not been the experience of other countries. Some in Scandinavia, for example, witnessed a dramatic drop in traditional marriages once same-sex marriages were permitted or the equivalent thereof. The net effect was to diminish the importance of marriage altogether, and that is what will happen here if we do not maintain the traditional definition of marriage between a man and a woman.

It has become clear that we need a constitutional solution to this problem. There is simply no other means of reining in activist judges who seek to impose their will and not their judgment. Some say the Defense of Marriage Act is adequate enough, but based on decisions, such as Lawrence v. Texas, this statute will undoubtedly be struck down. People across the political spectrum, including such liberal stalwarts as Professor Lawrence Tribe, agree that this is inevitable.

Without a constitutional amendment, we are headed for a resolution by the U.S. Supreme Court. We should not and cannot wait for this to happen. We simply must protect traditional marriage now by passing a constitutional amendment.

Some suggest that it is not "conservative" to amend the Constitution over such an issue. Baloney. Traditional marriage is perhaps the most fundamental institution in our culture and history. It dates back over 5,000 years. If the only way to protect this institution is by amending the Constitution—and we know that to be the case—then we have an obligation to do so.

What is worrisome to most constitutional scholars, including myself, is that if this supreme court case of one State—a 4-to-3 decision; hotly contested, not only by the court itself but in the State legislature and among the people of Massachusetts themselves—if that is allowed to stand, then will we, under article IV of the Constitution, the original Constitution even before the Bill of Rights was added to it, will we have to give in every other State full faith and credit under the full faith and credit clause to whatever is called marriage done within the State of Massachusetts? There are many constitutional scholars who say we will have to. That does not mean that Utah will have to have same-sex marriages done within our State or any other State in the Union.

It does mean we will have to recognize as valid same-sex marriages performed in Massachusetts. Now we have people coming from all over the country to Massachusetts to be married so that under the full faith and credit clause that marriage will have to be recognized in their respective States. I cannot begin to tell you the difficulties legally that will come from that type of an approach.

We simply need to resolve this problem. We need to resolve it in accordance with the will of the vast majority of people in this country. Cultural decisions such as this that have existed for over 5,000 years should not be thrown into the wastebasket by an activist court in one very activist liberal State. Nor should an activist court in an activist conservative State impose its will on us. We should, of course, allow the elected representatives of the people to make this decision.

If you don't do that, then you have nothing but another huge, unnecessary, harmful to America culture battle, perhaps for decades. We can name the decisions by the U.S. Supreme Court that have caused us to be torn apart in America over a number of issues that, 5 to 4, 7 to 2, the Supreme Court has culturally imposed upon everybody in America.

I don't believe in discrimination of any kind. But like a number of my colleagues in this body, I draw the line when it comes to traditional marriage. Traditional marriage is one of the most important cultural concepts in any country's history but certainly our country's history. This debate needs to occur. We need to think it through. We need to have a constitutional amendment, and we need to support whatever constitutional amendment we can get to resolve this matter.

Having said that, we need to be fair to those who have a different point of view and to find some way of accommodation. Because it is a disgrace that a gay partner cannot go into an intensive care unit to care for or hold hands with or to be with his or her partner, just to mention one. We have to think this through. One way of thinking it through is to come to a conclusion that one liberal State's 4-to-3 decision by a Supreme Court should not bind everybody in America to recognize something that I believe will be absolutely catastrophically disruptive to our culture.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. CORNYN. Mr. President, I say, while the Senator from Utah is here, how much I appreciate his wise words on so many subjects that are important to our country and to our culture and to American families. He has spoken eloquently about the importance of persevering in Iraq, the importance of traditional families as the bulwark of our culture and in the best interest of children, and the importance of making sure we keep the American military the dominant force in the world by making sure we transform in particular our Air Force by the implementation of the F-22 Raptor which, not coincidentally, is built in part in the State of Texas which is important both for our national security and in terms of the jobs it creates in my State.

I say to the Senator how much I appreciate him and his wisdom and his great leadership on the Senate Judiciary Committee.

Mr. HATCH. Mr. President, if my colleague will yield, I thank my colleague for his kind remarks. My colleague from Texas served on the Texas Supreme Court. He understands these issues very well, serving in a tremendous fashion on the Senate Judiciary Committee. I feel so blessed as chairman to have him and the other freshmen Senators on that committee, each one of whom is playing a significant role in this body and on that committee. I thank my colleague.

Mr. CORNYN. I thank the Senator for those kind comments.

SYMBOLS

Mr. CORNYN. Mr. President, as we all know, symbols are important. Symbols, even more than our words, are powerful communicators of intent, of value, and of commitment. We know, for example, what the pictures that have recently come to light of the abuse of a few Iraqi prisoners in the Abu Ghraib prison have communicated in a way that mere words could not. Indeed, out of all of the terrible consequences of that criminal activity by a few, there has been a positive. I believe that positive is, No. 1, the commitment of the Department of Defense, from the Secretary of Defense, Donald Rumsfeld, all the way down to the troops in the prison themselves, to make sure we get to the facts, that we hold those guilty accountable, and that we do so in a public way which demonstrates that in a democracy we do things in a way that people can judge for themselves whether they are being handled appropriately.

I trust by the time we get through with these investigations—about six of them in all—and by the time the prosecutions of the seven who have been charged with criminal conduct, misconduct, and possibly others who will be charged as well, by the time we get through, the world will see our commitment to the rule of law and to minimum standards of human decency.

When I think about symbols, I also think about, for example, what has happened in Madrid with the attacks on the trains there which killed many of that country and which, in the eyes of some, caused Spain, because of the election, to pull their troops out of Iraq. We know there is very likely a different explanation for the outcome of that election, but I am haunted by the words of GEN John Abizaid, commander of the central command, including Iraq and that whole troubled part of the world, who said al-Qaida was emboldened as a result of the reaction that they perceived occurred by that attack. That is another example of how symbols are enormously powerful in ways that it is hard for us to articulate or explain in mere words.

I would like to also talk about another symbol that I think is very important for us, beyond the perseverance that we see, and that Senator HATCH talked about so eloquently, of our troops in the battlefield who have put themselves in harm's way to protect us and to liberate the Iraqi people. I believe there is another important symbol that we can send which will tell our enemies that we are absolutely committed to defending ourselves against terrorism. That is the legislation that has been filed today by Senator KYL of Arizona, of which I am a proud cosponsor.

This bill is one page in length. It is very short. I believe it is a powerful symbol. If we act, as I believe we should, to adopt this legislation, that would send a powerful message to our enemies that we remain committed to defending ourselves in this new and dangerous world we live in since 9/11 and that we have not lost our resolve in Iraq or Afghanistan or anywhere else where the war on terrorism rages.

This bill that has been filed would simply do this: It would take the USA PATRIOT Act, which has a sunset provision that causes a number of elements of that bill to expire at the end of next year, and it simply repeals that sunset provision, thus making the USA PATRIOT Act a permanent part of our laws.

Yesterday, we heard from FBI Director Robert Mueller, who voiced strong support for renewing the PATRIOT Act, which this would do. He said, for 2½ years the PATRIOT Act has proved extraordinarily beneficial in the war on terrorism and has changed the way the FBI does business. Many of our counterterrorism successes, in fact, are the direct result of provisions included in the act, a number of which are scheduled to sunset at the end of next year.

I strongly believe it is vital to our national security to keep each of these provisions intact. Indeed, Director Mueller is not alone. We heard bipartisan support in testimony before the 9/11 Commission, which is studying lessons learned from that terrible event in our history and the aftermath, of what it is we can do to make our country stronger and to defend ourselves from the extremists who simply want to kill us and eliminate our way of life.

One by one, from former FBI Director Louis Freeh to former Attorney General Janet Reno to Attorney General John Ashcroft—just to name a few—they touted the impact of the PATRIOT Act in reducing the wall that prevented information sharing between criminal investigators and our counterterrorism intelligence officials. They talked about how important the PATRIOT Act was in bringing down that wall that prevented information sharing at the Federal level.

As a former State law enforcement officer myself, I can tell you, since 9/11, another thing that has made America safer is not just greater information sharing at the Federal level, between Federal agencies, but indeed it has also been the information shared with State and local law enforcement officials.

Director Mueller made that point again yesterday about how important it is that we work collectively, using all of our resources at the State, Federal, and local levels to make sure we protect this country and keep our citizens safe.

I ask unanimous consent that excerpts of quotations from a number of colleagues on both sides of the aisle, which I have reduced to one sheet, be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CORNYN. Mr. President, with this background and context, you might wonder who would possibly object to this legislation that would repeal the sunset provision in the PATRIOT Act. Some might say, well, if the PATRIOT Act provisions are not set to expire until the end of next year, why now? My response is, why not?

Indeed, if we want to send a powerful message that we have maintained our resolve and commitment to defend our country against the scourge of terrorism, this would be a powerful symbol, a powerful message that this body could send that our commitment is strong, that we will maintain our resolve, and we will fight the war on terrorism and defend ourselves from those who would kill our innocent civilians in this country and elsewhere; that we will maintain that resolve and we will fight until the very end.

So I think it is very important that we pass this legislation. Let me also mention, there is a bipartisan consensus which appears throughout Washington and throughout this country about how important the PATRIOT Act has been to protect American citizens; that there are those who would use the tactic of fear to try to convince the American people—or at least some segment of the American people—that the PATRIOT Act jeopardizes their civil liberties. I must say the debate about the proper balance between civil liberties and security is not a new one. It is one that we have had since the beginning of this country, where we have attempted to strike that balance, where the Founding Fathers, when they gathered in Philadelphia, debated long and hard about how to maintain our civil liberties but at the same time provide the Federal Government enough power to do the things that only the Federal Government can do, such as protect our national security.

So it is not a new debate. I think, indeed, the debate is healthy. But it bothers me when we begin to see those who would use scare tactics to mislead the American people about their civil liberties being in jeopardy because of the existence of the PATRIOT Act.

Indeed, Senator Dianne Feinstein of California, with whom I serve on the Senate Judiciary Committee, asked the American Civil Liberties Union, ACLU, if they could document a single instance—just one—of the civil liberties of the American people being in jeopardy or being trampled upon because of the PATRIOT Act. She said it was reported back to her that they could come up with none. Zero. Zip.

That troubles me a great deal because of another thing I would like to mention, which is a solicitation I happened to receive in the mailbox at my residence from the American Civil Liberties Union, which attempted to use the PATRIOT Act as a fundraising tool by scaring the reader, saying that somehow the PATRIOT Act was jeopardizing their civil liberties, and indeed the only way the American people could protect themselves against the trampling of their civil liberties was to send money to the ACLU so they could fight against the PATRIOT Act on behalf of our civil liberties.

That solicitation troubled me a great deal. I cannot honestly say that it surprised me because we know that fear is a powerful motivator and, indeed, there are those who use fear to raise money for a variety of purposes. But I think it is important that the facts be known, and the fact is what Senator FEINSTEIN pointed out before the Senate Judiciary Committee; that when put to the test and asked to document a single instance of a violation of the civil liberties of any American citizen as a result of the passage of the PATRIOT Act, the ACLU could not come up with any.

So it is deeply disturbing but perhaps not surprising to see them take a contrary position, one designed to help them raise money and grow their membership in a mail solicitation sent to my home and, no doubt, to many other people in this country.

We also know that there are those in the political arena who would use the PATRIOT Act to scare the American people into believing that somehow President Bush, the Republican leadership in this Congress, or perhaps even Attorney General John Ashcroft who has taken a solemn oath to defend the laws of the United States, including the Constitution, indeed including the PATRIOT Act, that they would use the PATRIOT Act to scare people and to cause them to question the commitment of the leadership of this Nation of providing for the security of the American people, but at the same time question their commitment to protecting the civil liberties of the American people.

It is discouraging to see that sort of rhetoric. Ultimately, I believe the American people—they get it. If given the facts, they will make their own decision, and it will be a good decision based upon factual information. The problem is when people misstate the facts or simply mislead the American people and provide them false information, it is hard to reach the right conclusion if you do not have accurate information. That is why I sought to stand here today and talk about what the facts really are.

One last example I will give you, Mr. President, is about how much this rhetoric of fear, the scare tactics have been successful. I believe at last count, there were 317 city councils across this country, the governing body of cities across this country, that have passed resolutions condemning the USA PATRIOT Act because they fear that the existence of the act has somehow compromised the civil liberties of their constituents.

I say that because it is a grave concern when public officials use the bully pulpit that we are provided by virtue of our office to provide their constituents with false information, whether wittingly or unwittingly, and it would be my sincere hope that each of those 317 city governments would reconsider their decisions in light of the information I have shared with you this afternoon and that others would be glad to share with anyone.

The truth is, we are a diverse country. We have different experiences. We come from different regions. We have different traditions in many ways, but we are all Americans. We are all committed to our national security and the protection of our people, just as we are dedicated to the protection of the civil liberties of every American. While we may have a variety of opinions about the wisdom of this or any other legislation or any other course of action, everyone is entitled to their opinion, but no one is entitled to mislead the American people about the facts.

In conclusion, if this body were to take up this legislation quickly, as I hope it will, and were to pass this legislation that would repeal the sunset provision in the PATRIOT Act, which would otherwise cause portions of the act to cease to exist at the end of next year, if we were to pass this legislation in a consensus, bipartisan fashion, it would send a powerful message to our enemies that our determination remains strong, that we remain resolved to do whatever is necessary to protect the American people, whether it is by defending them from the terrorists who would strike us at home by breaking up terrorist cells, by getting good intelligence and other information we need in order to defeat the terrorists before they can attack, such as they did so tragically on 9/11, or whether the issue is our resolve to finish the job we have started in Iraq and to honor those who have sacrificed so much to protect our national security and to make sure that the blessings of liberty are exported beyond our borders to the people of Iraq who have previously known only oppression and tyranny at the hands of a terrible tyrant such as Saddam Hussein.

I thank the Chair for the time I have been given to talk on this important subject.

EXHIBIT 1

Senator Baucus (D–MT): "I believe the bill we passed today balances the needs of protecting the country from terrorism and protecting our rights as citizens of this great country." (Senator Baucus, Press Release, October 25, 2001)

Senator Schumer (D–NY): "If there is one key word that underscores this bill, it is 'balance.' . . . The balance between the need to update our laws given the new challenges and the need to maintain our basic freedoms which distinguish us from our enemies is real." (Senator Schumer, Congressional Record, October 25, 2001)

Senator Schumer (D–NY): "[T]he scourge of terrorism is going to be with us for a while. Law enforcement has a lot of catching up to do. There is no question about it. In this bill, at least, we give them fair and adequate tools that do not infringe on our freedoms but, at the same time, allow them to catch up lot more quickly." (Senator Schumer, Congressional Record, October 25, 2001)

Senator Levin (D–MI): '[T]he antiterrorism bill [Patriot Act] which the Senate is about to pass reflects the sentiments the American people have expressed since the events of September 11—that we must act swiftly and strongly to defend our country without sacrificing our most cherished values. The Senate antiterrorism legislation meets that test. It responds to these dangerous times by giving law enforcement agencies important new tools to use in combating terrorism without denigrating the principles of due process and fairness embedded in our Constitution." (Senator Levin, Congressional Record, October 25, 2001)

Senator Daschle (D–SD): "This reflects the balance between protection of civil liberties and privacy with the need for greater law enforcement." (Leon Bruneau, "U.S. Senate Passes Anti-Terror Bill, Sends it to Bush for Signature," Agence France-Press, October 25, 2001)

Senator Biden (D–DE): "The agreement reached has satisfied me that these provisions will not upset the balance between strong law enforcement and protection of our valued civil liberties." (Senator Biden, Congressional Record, October 25, 2001)

Senator Feinstein (D–CA): "As we look back at this massive, terrible incident on September 11, we try to ascertain whether our Government had the tools necessary to ferret out the intelligence that could have, perhaps avoided those events. The only answer all of us could come up with, after having briefing after briefing, is we did not have those tools. This bill aims to change that. This bill is a bill whose time has come. This bill is a necessary bill. And I, as a Senator from California, am happy to support it." (Senator Feinstein, Congressional Record, October 25, 2001)

Mr. CORNYN. I yield the floor.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEMORIAL DAY

Mr. BYRD. Mr. President, May 31 is Memorial Day, the day we set aside each year to remember and to honor those men and women who gave their lives in service to our Nation.

Memorial Day used to be called Decoration Day in the old South—the day that we reminisce in our memories of our past, our locking with hands or words our lives with others, our children, grandchildren, and people whose voice is forever stilled.

This year, this day has even more meaning as we once again find our men and women in uniform engaged in hostilities in Afghanistan and Iraq.

Freedom does not come cheap. It is too often paid for not only in dollars but in the lives of America's best sons and daughters.

All across the Nation out there, all across the prairies, the plains, the green valleys, the mountains, the rivers, the rust belt, the East, the North, the South, and the West—all across the Nation, families will be visiting the gravesites of their loved ones.

Long, long be our hearts of such memories filled like the vase in which roses have once been distilled. You may break, you may shatter, the vase if you will, but the scent of the roses will hang round it still.

Among rows of tombstones adorned with small American flags, they will lay wreathes and pay their respects to those who have served our country with honor and distinction in our Nation's wars.

This national tribute will provide the opportunity for mothers and fathers not only to tell their children about the sacrifices of their ancestors and relatives but also to pass on valuable lessons about history and about humanity. But even when our world is beset with the worst of human nature, the best of human nature can rise above it all.

I am reminded today of the story of the "Immortal Chaplains" of World War II, Rev. George I. Fox, Rev. Clark V. Poling, Father John P. Washington, and Rabbi Alexander D. Goode. When the U.S troopship *Dorchester* was torpedoed by a Nazi submarine, with only minutes to live, these four chaplains calmly handed out what lifejackets there were on the ship to the panicking passengers, the soldiers and sailors. When they ran out of life preservers to hand out, what did these four chaplains do?

Can you see it? Can you envision a moment like that?

They took off their own life preservers and gave them away. They gave them to others so others might live.

Then, as the *Dorchester* was sinking, what did they do? They locked arms and prayed, and sank to their watery graves. They prayed, locked arms, and went to their watery graves.

While some among us might not hesitate to take off that life preserver and give it to our spouse, certainly, our child, or a parent, how many of us would give it to a stranger, as did the immortal chaplains. Self-sacrifice, unity, and respect for each other and each other's faith were the qualities they displayed that night, and in so doing these four chaplains of four different faiths demonstrated their deep faith in God and they honored the mission of our great Nation.

These four chaplains, as I say, were of different faiths. Two were Protestant ministers, was one a Jewish rabbi, and the fourth was a Roman Catholic priest. But they were united as one in their devotion to their Maker, their love for their fellow man, and their willingness to sacrifice so that others might live. It was these convictions that inspired one of the most memorable events not just of World War II but of all time.

Memorials in their honor have been built in the country. The U.S. War Department posthumously awarded them the Distinguished Service Crosses. The U.S. Postal Service issued a special stamp to commemorate their sacrifice. Congress has honored them by authorizing the Four Chaplains Medal and with a resolution designating a Four Chaplains Day.

Think about it. Amidst all the great and important military leaders such as Generals Patton, MacArthur, and Eisenhower, amidst all the great and powerful political leaders of that war such as Franklin Roosevelt and Winston Churchill, we also remember these four humble men of God.

Yes, think about it. Amidst all of the destruction and all of the carnage of that war, destruction, and carnage in the form of an Auschwitz, Pearl Harbor, Dresden, and Hiroshima, we remember the immortal chaplains for their act of kindness and mercy.

Yes, think about it. Amidst all the misery and tragedy of that war, amidst all the hate and all the horror of that war, we still remember the four chaplains and their act of heroism and love.

Today, a half century later, we again find ourselves in a terrified world, a world that we did not seek, a terrifying world, a world that we did not want but one in which we must endure if we are to prevail. War, disease, crime, and terrorism have transformed our land into a code red world.

Every generation has its turmoil. That is, sadly, the way of the world. And this particular terrifying era of adversity and challenge in which we now find ourselves, we would do well to bear in mind those immortal chaplains, the four who refused to succumb to fear and performed selfless acts of kindness and mercy.

They truly, truly personified the greatest of men in all generations. The sacrifice of those four men endures as an inspiring act of humanity. For as Jesus said: Greater love hath no man than this, that a man lay down his life for another.

So on this Memorial Day, we will pray as we remember those American service men and women who now stand in harm's way yonder on the other side, yonder in a faraway land. We will pray for those who are serving our Nation in the dangerous climates of Iraq and Afghanistan. They are doing their duty for the families they love, and we will pray for their families and for the families who have already lost loved ones, who daily see that empty chair at the table, the chair which never again will be filled, that place at the table which will forever be empty.

And as we pray, we will recall the words of the Scriptures from Psalm 127: "Except the Lord build the house, they labor in vain that build it: except the Lord keep the city, the watchman waketh but in vain."

So I close with lines written by Joyce Kilmer.

"DULCE ET DECORUM EST"

The bugle echoes shrill and sweet,
But not of war it sings to-day.
The road is rhythmic with the feet
Of men-at-arms who come to pray.

The roses blossom white and red
On tombs where weary soldiers lie;
Flags wave above the honored dead
And martial music cleaves the sky.

Above their wreath-strewn graves we kneel,
They kept the faith and fought the fight.
Through flying lead and crimson steel
They plunged for Freedom and the Right.

May we, their grateful children, learn
Their strength, who lie beneath this sod,
Who went through fire and death to earn
At last the accolade of God.

In shining rank on rank arrayed
They march, the legions of the Lord;
He is their Captain unafraid,
The Prince of Peace . . . Who brought a sword.

Mr. President, I yield the floor.

Mr. ROCKEFELLER. Mr. President, Memorial Day is always a time for our country to gratefully remember the brave men and women and their families who risked their lives in defense of our country and our fundamental American values.

This year is a special time because we will dedicate a long awaited national memorial for the 16 million men and women who fought in World War II, including the 400,000 Americans who paid the ultimate sacrifice for their country during the war. Almost 234,000 West Virginians served in World War II. At that time, it was 36 percent of the Mountain State's male population, and that was the fourth highest participation rate in the country. They deserve this national tribute. Indeed it is long past due.

There are 4 million living World War II veterans who should be proud and honored this Memorial Day. The families of veterans who are no longer with us should take pride to remember the sacrifice of their loved ones, and share those stories with relatives and friends. Such memories are important to pass down to the next generation who can take inspiration from the ordeals and triumphs of their own family members who were part of our "Greatest Generation."

The World War II Memorial which will be formally dedicated on May 29th is the end result of an almost 20-year fight. I am honored that I was able to cast a vote to help complete it. It will be an enduring, poignant reminder of the tens of thousands of individual and collective instances of leadership and sacrifice during World War II.

Today that tradition of leadership and sacrifice continues as so many Americans, including scores of West Virginians serve in the Armed Forces, the National Guard and Army Reserves. Each member of the military, wherever they are stationed are defending our country and protecting American values, but we are especially mindful of our military personnel serving in regions of conflict like Iraq and Afghanistan. They are the new generation of West Virginia veterans who deserve our admiration and respect.

As we celebrate Memorial Day Weekend, I hope we all take some time to remember what the holiday is truly about. This is a day designed to honor all the men and women who put their lives on the line to defend and protect the American way of life, from the beaches of Normandy to the deserts of Iraq. Their sacrifice deserves our eternal gratitude and support not just on Memorial Day, but every day.

Mrs. FEINSTEIN. Mr. President, I rise today to commemorate Memorial Day and pay tribute to the brave men and women who have given their lives in defense of the freedom and liberties we cherish in this great Nation.

Throughout this country, Memorial Day, originally recognized as Decoration Day, is a day to remember those who have died in service to our Nation.

It was first widely observed on May 30, 1868, to commemorate the sacrifices of Civil War soldiers by proclamation of General John A. Logan of the Grand Army of the Republic, an organization of former sailors and soldiers. Over a century later, in 1971, Congress declared Memorial Day a national holiday to be celebrated the last Monday in May. Today, thousands of people attend Memorial Day ceremonies across the country to commemorate this special day.

This year, our observance of this national holiday is marked by the opening of the National World War II Memorial in our Nation's capital. Authorized by President Clinton in 1993, this national memorial will be the first of its kind dedicated to all who served during World War II.

It is during this Memorial Day weekend, in conjunction with the new memorial dedication, that Americans will honor the nearly 16 million who served in the Armed Forces of the United States during World War II, the more than 400,000 who died, and the millions who supported the war effort from home.

According to the Department of Defense, more citizens from California served in World War II than any other State. And an estimated 457,000 World War II veterans currently live in California. That generation, led by the Nation's Armed Forces, defended America's ideals during World War II and changed the world in the process.

At this moment, another generation faces an equally difficult challenge that will define the world for many years to come. Today, we face a new foe, terrorism, which threatens the very freedoms that World War II was fought to protect. The battleground this time is less clear. Indeed, the threat of terrorism exists all over the world—not merely in the Middle East, but also on our shores.

The war on terror is a massive effort that will require the highest level of commitment and dedication possible to enable America and her allies to prevail. Today over 1.6 million men and women serve in active duty spread throughout 67 countries. California alone provides over 182,000 military and civilian personnel.

In Afghanistan, American troops, along with a multinational coalition, have defeated the Taliban regime, striking a severe blow to al-Qaida's operation in that country. Our forces have enabled Afghans to draft a constitution, laying the groundwork for a democratic government. Women will soon have the right to vote and hold office. Girls are being educated in schools again. Nonetheless, there is still much work to be done to secure the country and ensure the basic rights of Afghan citizens.

The military success in Afghanistan has not come without sacrifice. No example drives home this point more than the death of Army Ranger Pat Tillman, killed in action a few weeks ago while on a mission in southeastern Afghanistan.

Tillman, a native of San Jose, California, was an All-American football player at Arizona State who later went on to play professionally with the NFL's Arizona Cardinals.

At the height of his career, he walked away from pro football to serve his country during wartime. On April 23, 2004, Tillman became one of 110 U.S. soldiers killed during Operation Enduring Freedom in Afghanistan. His life was a model of sacrifice.

The war in Iraq has proven to be an even more difficult task. Although our Armed Forces have removed Saddam Hussein from power and taken steps to set up a transitional democratic government run by the people of Iraq, our troops are in a very dangerous situation. It is rare that a day goes by without the report of another American who has fallen victim to the attacks of Iraqi insurgents. As of May 21, 92 Californians have lost their lives in Operation Iraqi Freedom.

One of them was Marine Lance Corporal Brad Shuder, 21, of El Dorado Hills, east of Sacramento. He enlisted a month after the September 11, 2001 terrorist attacks and fought in the invasion of Iraq last year before returning for a second tour.

Shuder, a South Korean native, was adopted at 22 months and grew up to be a gourmet cook and opera lover. He was killed on April 12 of this year.

I would also like to take a moment to name the other Californians who have given their lives in Iraq.

Specialist Marcos O. Nolasco, Chino; Private 1st Class Michael A. Mora, Arroyo Grande; Sergeant Brud J. Cronkrite, Spring Valley; Private 1st Class Brian K. Cutter, Riverside; Private 1st Class Lyndon A. Marcus Jr., Long Beach; Sergeant Marvin R. Sprayberry III, Tehachapi; Specialist Ramon C. Ojeda, Ramona; Specialist Trevor A. Wine, Orange; Specialist James L. Beckstrand, Escondido; Sergeant Adam W. Estep, Campbell; Staff Sergeant Abraham D. Penamedina, Los Angeles;

Private 1st Class Leroy Harris-Kelly, Azusa; Corporal Christopher A. Gibson, Simi Valley; Captain Richard J. Gannon II, Escondido; Sergeant Brian M. Wood, Torrance; Staff Sergeant Jimmy J. Arroyave, Woodland; Staff Sergeant Victor A. Rosaleslomeli, Westminster; 1st Lieutenant Oscar Jimenez, San Diego; Private 1st Class George D. Torres, Long Beach; Private 1st Class Eric A. Ayon, Arleta; Staff Sergeant William M. Harrell, Placentia; 1st Lieutenant Joshua M. Palmer, Banning; Lance Corporal Kyle D. Crowley, San Ramon; Staff Sergeant Allan K. Walker, Lancaster; Lance Corporal Marcus M. Cherry, Imperial; Lance Corporal Travis J. Layfield, Fremont; Specialist Casey Sheehan, Vacaville; Sergeant Michael W. Mitchell, Porterville; Lance Corporal Wiscowiche, William J. Victorville; Lance Corporal Andrew S. Dang, Foster City; Major Mark D. Taylor, Stockton; 1st Lieutenant Michael W. Vega, Lathrop; Private 1st Class Joel K. Brattain, Yorba Linda/Brea;

Specialist Christopher K. Hill, Ventura; Specialist Eric U. Ramirez, San Diego; Sergeant Patrick S. Tainsh, Oceanside; Master Sergeant Jude C. Mariano, Vallejo; Sergeant Eliu A. Miersandoval, San Clemente; Specialist Jason K. Chappell, Hemet; Sergeant Keicia M. Hines, Citrus Heights; Specialist Michael A. Diraimondo, Simi Valley; Private 1st Class Jesse D. Mizener, Auburn; Specialist Justin W. Pollard, Foothill Ranch; Specialist Michael G. Mihalakis, San Jose; Staff Sergeant Richard A. Burdick, National City; Staff Sergeant Steven H. Bridges, Tracy; Specialist Arron R. Clark, Chico; Sergeant Ryan C. Young, Corona; Staff Sergeant Stephen A. Bertolino, Orange; Chief Warrant Officer (CW2) Christopher G. Nason, Los Angeles; Staff Sergeant Eddie E. Menyweather, Los Angeles; Specialist Rel A. Ravago IV, Glendale; Sergeant 1st Class Kelly Bolor, Whittier; Specialist Genaro Acosta, Fair Oaks; Staff Sergeant Paul A. Velasquez, San Diego; Private 1st Class Karina S. Lau, Livingston; 2nd Lieutenant Todd J. Bryant, Riverside; Private 1st Class Steven Acosta, Calexico; Sergeant Michael S. Hancock, Yreka; Specialist Jose L. Mora, Bell Gardens; Corporal Sean R. Grilley, San Bernardino; Private 1st Class Jose Casanova, El Monte; Private Sean A. Silva, Roseville; Private 1st Class Pablo Manzano, Heber; Lieutenant Kylan A. Jones-Huffman, Aptos; Private 1st Class Daniel R. Parker, Lake Elsinore; Staff Sergeant David S. Perry, Bakersfield; Corporal Evan Asa Ashcraft, West Hills; Lance Corporal Cory Ryan Geurin, Santee; Lance Corporal Jason Tetrault, Moreno Valley; Specialist Paul T. Nakamura, Santa Fe Springs; Sergeant Atanasio Haro Marin Jr., Baldwin Park; Lance Corporal Jason William Moore, San Marcos; Captain Andrew David LaMont, Eureka; Corporal Douglas Jose Marencoreyes, Chino; Private 1st Class Jose F. Gonzalez Rodriguez, Norwalk; 1st Lieutenant Osbaldo Orozco, Delano; Sergeant Troy David Jenkins, Ridgecrest; Corporal Jesus A. Gonzalez, Indio; Sergeant 1st Class John W. Marshall, Los Angeles; Private Devon D. Jones, San Diego; Corporal Erik H. Silva, Chula Vista; Lance Corporal Patrick T. O'Day, Sonoma; Gunnery Sergeant Joseph Menusa, San Jose; Private 1st Class Francisco A. Martinez-Flores, Los Angeles; Lance Corporal Jesus A. Suarez del Solar, Escondido; Sergeant Michael E. Bitz, Ventura; Corporal Randal Kent Rosacker, San Diego; Corporal Jose A. Garibay, Orange; Corporal Jose A. Gonzalez, Los Angeles; Lieutenant Thomas Mullen Adams, La Mesa.

The Pentagon reports that through today, America has incurred 797 casualties in Operation Iraqi Freedom and 120 deaths in Operation Enduring Freedom. And more than 4,800 men and women have been wounded in these conflicts.

Such grim statistics underscore the fact that the current administration must do more to seek international help, especially in Iraq, during these trying times. Additionally, we must provide the equipment necessary to keep our soldiers safe. At the very least, we owe our soldiers this for their tremendous sacrifice.

In closing, I am honored to take this time to join every American in saluting those individuals who have paid the ultimate sacrifice to uphold the ideals of our democratic Nation.

On Memorial Day, we renew the commitment of this great Nation to the common defense of the country and to the broader causes of peace and freedom from tyranny throughout the world.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, today I speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On July 24, 2001, in Greeley, CO, Salvador Rivera, 24, was charged with beating his gay cousin. He was sentenced to 45 days in jail on work release and was also placed on 2 years of unsupervised probation and ordered to pay court costs and restitution.

Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

OFFSHORE OUTSOURCING OF AMERICAN JOBS

Mr. LIEBERMAN. Mr. President, today I would like to discuss a major 40-page white paper my office has now released about the outsourcing of American jobs overseas, and the larger challenge it represents to our economic future. The paper attempts to reach beyond the current debate and focus on the next wave of this challenge, which potentially could affect high end research and development jobs, as well as manufacturing and call center jobs. The implications of this trend are profound: it threatens America's competitive advantage in an era when the entire world is competing based on free enterprise economics and open trade—one of our longstanding goals.

Seen in this light, the challenge is more fundamental, and requires that we fundamentally rethink America's competitiveness strategy over the long-term. What we have thought was our nation's ultimate competitive advantage—our high end R&D prowess—may be challenged.

There has been little informed discussion of the fundamental long term challenge of offshoring high end engineering, research and development jobs. Nor have many acknowledged how our nation's irresponsible fiscal policy has undermined U.S. competitiveness. The debate needs to focus on our own needs and solutions, and not simply decry other countries and their industries for rising to challenge us in the global economy.

To meet this challenge, we have to face some hard facts. The American economy may be failing to adapt to fundamental changes and to growing competition in the global economy. We are not just losing jobs—we may be losing critical parts of our innovation infrastructure, and with them, our competitive edge in the global marketplace. The offshore outsourcing of jobs is just the tip of an economic iceberg that America is sailing towards.

Here is one measurement of the size of it. An analysis by the Institute of Business and Economic Research at UC Berkeley estimates that 14 million American jobs are at risk. If that's accurate, our economic vitality and national security are in jeopardy. As the President's Council of Advisors on Science and Technology concluded recently, "Maintenance of U.S. technical preeminence is not forever assured." Carly Fiorina put it more succinctly and memorably: "There is no job that is America's God given right anymore."

How do we reassert our world economic leadership and regain our innovation advantage in a more competitive world? And how do we do so without turning a blind eye to the very real pain that many American workers are feeling as a result of the churning in the global job market? These are the big questions we must answer together—private and public sectors, business and labor, even Democrats, Republicans, and Independents.

But first, we have to better understand what is occurring. Outsourcing is not new. It is really just a variation of the division of labor, a defining feature of capitalism. In a competitive marketplace, with its premium on efficiency, businesses naturally focus their limited resources on their most profitable operations while subcontracting—or out-sourcing—functions that can be performed more efficiently and cheaply elsewhere. Jobs shift as a result.

What is new about outsourcing today is its global reach. Technological innovations in transportation and communication have erased geographic borders. Physical proximity to the point of sale is no longer the absolute economic necessity it used to be, particularly for service jobs.

We know that manufacturing jobs have been shifting overseas for some time. But now the services sector is being hit hard by offshore outsourcing—and that hurts. The services sector provides 83 percent of America's jobs, employing 86 million people. It dominates our economy. Customer call centers and data entry facilities are being relocated to places where capable labor can be found at lower wage levels. High-speed digital technologies make a connection between Boston and Bangalore as fast as between Boston and Baltimore.

But offshoring is no longer limited to entry-level services jobs. Higher skilled professional jobs like computer chip design, programming, architecture, engineering, consulting, automotive design, and pharmaceutical research are beginning to go overseas. That is the bulk of the iceberg below the surface of the sea. The outsourcing of R&D is probably the most alarming illustration of this new problem. American companies now invest $17 billion in R&D abroad every year. IT multinationals have now established 223 R&D centers in China alone.

One study by Forrester Research estimates that over the next 15 years, 3.3 million U.S. service jobs and $136 billion in wages will move offshore. Another by McKinsey's Global Institute suggests that the number of U.S. services jobs lost to offshoring will accelerate at an annual rate of 30 to 40 percent during the next five years.

Because the government collects no official data on offshore outsourcing in the services sector, we cannot be at all certain of these figures. But we can be certain that, although the offshore outsourcing problem in the high-end services sector may not be acute at the moment, it will be in the near future if current trends continue. If a software programmer in India earning $7,000 a year can do the same work as a software programmer in the United States making $64,000 a year, it is only a matter of time before more of those jobs relocate overseas.

The Washington response to offshore outsourcing has been predictable: politicians and policy makers jump to predetermined conclusions and finger the usual suspects.

On the one hand, we have the do nothings who profess an abiding and absolute faith in laissez faire capitalism, and see any government intervention as self-defeating. In fact, they argue that jobs flowing overseas are healthy, that they are evidence that the system is working, and that we have nothing to worry about.

The problem with this view, of course, is that we do have something to worry about. Not only does rising unemployment take a real human toll, it also eats away at our ability to create new jobs. Advanced production capabilities and research and development jobs are strategic assets that have defined our nation's competitive advantage. While proximity to the point of sale is less critical, geography still matters in the innovation process. Countries and regions that cluster university and industry research, knowledge-based start-ups, capital for entrepreneurs support from larger firms, and advanced manufacturing—with the talent to support all of this capture new industries.

As we lose jobs to foreign countries, especially high-skilled services jobs, we lose critical parts of our innovation infrastructure—labor, capital, knowledge, facilities, and technology—and with them, the engine of job creation. To cash in on our crops, we are moving the farm—and with it, the promise of future economic harvests.

On the other hand, you have the do anythings who will do anything that might save some jobs today, even if it means losing more tomorrow. Protectionism is their favorite tool—raising higher and higher trade barriers on the unproven argument that it will make it harder and harder for jobs to go overseas.

In their attempts to build a tall wall to stop offshore outsourcing, the do anythings are falling into a trap. Trying to keep jobs in our own borders through protectionist measures will only keep other jobs out. It will also invite retaliation from beyond our borders that will cost us many of the millions of American jobs that are based on exports.

The bottom line is that both the do nothings and the do anythings are wrong. Neither gets to the heart of the outsourcing problem—America's failure to innovate. That's what we all need to do something—the right thing—about.

To stop offshore outsourcing and preserve American jobs, America needs to rise to the international competition and grow again through innovation. There is no other way. Leaving it all to the markets won't work. Hiding behind a wall won't work. Attempting to rig the game won't work. Only education, innovation, investment, trade, training and hard work will give us the growth and jobs we want and need.

In my white paper, I lay out a number of suggestions about how we can achieve this. Let me highlight a few.

First, we must encourage greater innovation and technology development. Basic research and development have been essential to creating the kind of technological breakthroughs that create jobs and reap profits. But the high costs and high risk associated with early stage R&D make the needed investments burdensome for many businesses. Federal funding is crucial here, but federal R&D spending as a percent of GDP has been in steady decline since the mid-1960's—it is less than half of what it was then.

We need to reinvest in R&D. And we need to reorganize our innovation ecosystem to bring on innovations much faster. Tax incentives for R&D investment are one means of doing so. We should make the R&D tax credit permanent, and restructure it to spur collaborative research.

We also need to look at the kind of R&D we do. Although the United States is overwhelmingly a service economy, our federal and corporate R&D is geared to manufacturing. Corporate R&D is now 68 percent of the total national R&D expenditures—and 62 percent of that amount is still focused on manufacturing. But much of the offshore outsourcing challenge will hit our services sector. That is why we must add a new services sector emphasis to our R&D investments. Government and industry should review their R&D portfolios and raise their investments in services research.

Second, we must recognize that no matter how much we innovate, some people are going to lose the jobs they have now. We need to shore up our safety nets to help those hurt by offshore outsourcing. We need, for example, to extend coverage of Trade Adjustment Assistance programs to support and retrain service workers who lose their jobs due to trade. We should also experiment with new concepts like wage loss insurance, offered as part of severance and paid for by a small percentage of the employer's savings from offshoring.

Third, we need to strengthen our trade policies. America will prosper by selling high value goods and services to other nations, not by shutting ourselves off from competition and markets. We need to innovate new goods and services and lower trade barriers abroad to start to reverse our trade deficits, so trade becomes a net jobs insourcer—not a net outsourcer. Overseas markets for American exports are critical to our economic well-being, already directly supporting 12 million American jobs and indirectly many, many more. We can't lose those jobs. We can and must add to them.

But pirates do prey in international economic waters, stealing American jobs by breaking trade rules or exploiting trade loopholes. We need to crackdown on cheating—and that will take strong government action. Our Federal trade agencies are oriented to negotiating trade agreements; they focus less on the difficult implementation and enforcement of those agreements. We must do both.

Foreign currency manipulation and intellectual property theft are forms of piracy that also must be fought and stopped.

To illustrate the impact of unfair trade practices on American competitiveness, and what we can do about it, let me discuss one sector I have followed over the years—semiconductors, the highest end of U.S. manufacturing. In the 1980's, America was close to losing this sector to Japan. But we battled back, and thanks to innovations that grew from a creative public-private partnership called Sematech, we secured our world semiconductor dominance. It provided a key boost to our growth rate and IT leadership in the 90's.

But now, we are at risk of losing that dominance—this time to China. The Chinese government is using straight industrial subsidies to capture semiconductors: from value-added tax subsidies—which are in violation of WTO agreements—to plant subsidies, to worker subsidies. China's currency manipulation further skews the competition.

After neglecting this issue for too long, the U.S. Trade Representative finally insisted in March on consultations with the Chinese on VAT subsidies for semiconductors. If these talks fail, we should not hesitate to bring a WTO case against China. The loss of most of our semiconductor industry will not only weaken our economy—it will threaten our national security. The U.S. Department of Defense needs to reenter the R&D field with industry and work to spur new semiconductor advances.

Fourth, our talent base is what ultimately sizes our economy, yet the number of U.S. graduates in engineering and physical science is dropping 1 percent a year. In China, 45 percent of all graduating students received their degree in engineering. In the United States, it's only 5 percent. Education reforms are no longer a policy option for us. They are a necessity, from kindergarten through university diploma.

We also need a whole new approach to job training. This century, 60 percent of the new jobs will require skills held by only 20 percent of today's workforce. That is one huge skills gap that we must fill fast if we want to remain competitive. One way to do so is to build stronger partnerships between companies and community colleges to ensure workers get the training they need. Increasing the number of graduates in science, technology, engineering and mathematics through incentive grants and special scholarships is another way to fill the skills gap.

Updating our methods of training to 21st century standards is also important. One way to do so is to train workers by using interactive internet gaming technology to foster better knowledge retention, promote continual skills updating, and even have fun. IT has transformed many sectors—it is time it got to training.

Finally, we need to get our federal fiscal house in order. Our staggering $550 billion current annual deficit, and the course we are on to add $10 trillion to the deficit in the next decade, will eventually raise interest rates. The Medicare Trustees told us last month that our unfunded liabilities are $72 trillion. That's right—$72 trillion. Meanwhile, other nations are buying our debt and are acquiring too much influence over our future. Foreign nationals hold 46 percent of the U.S. national debt. China and Japan together hold $662 billion. We must get our fiscal house in order to stay strong, independent and competitive.

To begin to act on such proposals and meet the challenges of offshore outsourcing, we first need an injection of political will—bipartisan political will—and that's not easy to find in Washington these days.

In the mid-1980's, we faced a similar political deadlock on economic policy. We were in the midst of a recession and our two political parties were driven to the opposite poles of economic policy. Republicans favored deeper and deeper tax cuts to stimulate job growth while sending the deficit through the roof. Democrats pushed for more protectionism and an industrial policy. Neither side thought it could compromise without risking the support of its political base. It sounds familiar, doesn't it?

The creation of a bipartisan commission that focused on the unemployment problem in a cool-headed, depoliticized way helped to break the deadlock. The President's Commission on Industrial Competitiveness, known as the "Young Commission," was proposed by President Reagan, supported by the Democratic Congress, and chaired by Helwett-Packard CEO John Young. It brought all sides to the table and forced each to acknowledge the hard facts that shaped the debate.

That Commission proposed the first generation of reforms that became a bipartisan competitiveness agenda. Public-private collaborations instead of industrial supports, R&D investments in information technology, became a foundation for the economic boom of the 90's.

That is exactly the kind of initiative we need today: a new Young Commission, charged with analyzing the impact of global economic changes on the American economy, including the offshore outsourcing problem, and offering nonpartisan proposals to preserve our innovation infrastructure and create more high-wage American jobs.

We face a dramatically different set of economic competitors now than in the 80's. We have a much more complex set of competitive problems. That's why we need a new generation of competitive solutions if we are going to restore our economic leadership. Some of these solutions will look similar to the kinds I am proposing in my white paper today. Some may not. But regardless, a consensus must be built that would rule out the extremes and rule in the progressive course needed to meet the new foreign competition.

At the beginning of the last century, America faced equally profound economic and social changes. In his inaugural address, President Theodore Roosevelt noted that, "Modern Life is both complex and intense. And the tremendous changes wrought by the extraordinary industrial development of the last half century are felt in every fiber of our social and political being."

He went on to say that, "There is no good reason why we should fear the future. But there is every reason why we should face it seriously—neither hiding from ourselves the gravity of the problems before us, nor fearing to approach these problems with the unbending, unflinching purpose to solve them."

To meet the challenge of offshore outsourcing, we need to summon up the same honesty, seriousness, and sense of national purpose that TR called for a century ago. If we do, I am confident we will prevail, the American economy will keep on growing, and the next generation of Americans will live better and better lives.

To conclude, I would like to submit for the record for the benefit of my colleagues a summary of the white paper, which is posted on my Senate website with the title "Offshore Outsourcing and America's Competitive Edge: Losing out in the High Technology R&D and Services Sectors," that my staff and I have worked on in the hope it will stimulate a better, broader response to the long-term implications of offshore outsourcing. I want to thank my staffers Elka Koehler, Sara Hagigh, Bill Bonvillian, and Chuck Ludlam for their work on this report.

Mr. President, I ask unanimous consent to print the white paper summary in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD as follows:

SUMMARY OF WHITE PAPER

The United States has enjoyed unparalleled technological leadership for decades. Our capacity for innovation has continued to create jobs and raise living standards despite the ongoing migration of manufacturing to foreign nations in the past decade. However, a new, potentially more dangerous migration is upon us. The rising trend of outsourcing high technology manufacturing and high-end services jobs to overseas presents a new and fundamentally different phenomenon. This new trend is far bigger and more complicated than the current debate suggests. Key components of our innovation infrastructure such as knowledge and capital have become highly mobile. If our engineering, design, and research and development (R&D) capabilities continue to follow the manufacturing and services facilities going abroad, our competitiveness will be weakened, putting our economic prosperity and national security at risk.

The offshoring of facilities, labor, capital, technology, and information not only hurts our workers, but also threatens the backbone of our knowledge-based economy. Emerging nations such as China and India have realized that technological leadership leads to economic prosperity. Their governments are committed to attracting business investments, technology transfer, and knowledge inflow into their countries through industrial policies, subsidies, and business incentives. The offshoring trend will most likely accelerate and spread as more U.S. companies figure out how to efficiently exploit these incentives, not to mention the large pools of educated low cost foreign labor. Enabled by high speed telecommunication connections, the recent migration of labor-intensive services jobs was primarily motivated by the potential of up to a 90% savings in labor costs.

The innovation structure that served us well in the face of less formidable competition is no longer sufficient in the face of this new fierce global competition. Key components of our innovation infrastructure are deteriorating as federal funding of R&D, the number of science and technology graduates, and business investments in the U.S. continue to decline. Our innovation capacity is further undermined by the massive budget deficits which threaten future federal investments in R&D and education, and increase our exposure to currency manipulation by foreign lenders. This subsequently leads to the loss of manufacturing and service jobs. Our competitiveness is further comprised by international trade agreements that are not adequately enforced when our trade partners fail to live up to their commitments.

We can no longer afford to continue in this Administration's path of denial and inaction. There are no assurances that we will remain a global leader in innovation, and maintain our jobs, our standard of living, and our global market share. If our current employment and education trends are an indication of where we are heading, we will eventually fall behind those countries that are aggressively investing in their people, education, R&D, and businesses.

It is time to begin a national debate on restoring U.S. competitiveness so that we can remain at the cutting edge of innovation. This report presents a five part strategy to addresss offshoring, including developing policies that encourage greater investments in federal and industrial R&D, K-16 education and lifelong training, commercialization and businesses, and technological infrastructures such as broadband. Concurrently, it is essential that we assist our displaced workforce by extending compensation benefits and providing rapid retraining programs. We need to confront emerging nations that are aspiring to lead by fighting for greater access to overseas markets for goods and services, enforcing fair trade practices, and vigorously defending our intellectual property rights. Lastly, we must address our nation's irresponsible fiscal policy which makes us dependent on foreign purchases of U.S. securities and facilitates currency manipulation, further exacerbating the loss of our manufacturing and services jobs. By taking these proactive steps, we can create an environment that enables Americans to invent and develop the future waves of innovations that will keep quality jobs in U.S. shores.

Following is a summary of my five-part strategy to address offshoring.

1. Improve Safety Nets to Assist Affected Workers

Extend coverage of Trade Adjustment Assistance programs to support and retrain displaced services workers

Provide 3 months notice to workers when they lose their jobs to offshoring

Encourage corporate-sponsored insurance for wage loss

Encourage proactive instead of reactive training, continuous skills updating (e.g. use of Internet gaming and other technologies)

Provide agile and rapid retraining for displaced workforce

Reform and enforce guest visa regulations

2. Encourage Greater Innovation and Technology Development

Increase federal funding in R&D, particularly early stage R&D

Encourage corporate investment in R&D (e.g. permanent and improved collaborative R&D tax credits)

Greater emphasis on services sector in R&D investments

Innovation in services (e.g. greater integration of IT advances in sectors such as healthcare, construction and education services)

Invest in broadband infrastructure

Create environment that rewards risk taken by firms (e.g. eliminate capital gains for new investments in small companies; "make it in USA" tax incentives to domestic firms; accelerate asset depreciation schedules)

3. Invest in Human Capital Through Education and Training

Revitalize workforce training and education by bridging institutional gaps between education and industry

Expand R&D tax credit to encourage industry-university collaboration on science and technology research

Stronger partnerships between companies and community colleges for worker training

Increase graduates in science, technology, engineering, mathematics through incentive grants and special scholarships

Enable retired scientists' participation in education

Improve college readiness through K-16 partnerships

4. Establish and Enforce Effective Trade Policies

Ensure greater access to world markets for U.S. exports

Link additional access to U.S. market to genuine liberalization in overseas markets in both goods and services

Bring WTO dispute settlement cases when trade violations occur

End unfair currency practices in international trade (enact S. 1592, "Fair Currency Enforcement Act of 2003")

Vigorously defend U.S. intellectual property rights to prevent foreign piracy and counterfeiting

Incorporate workers' rights and environmental protection in trade agreements

NINTH CIRCUIT JUDGESHIP AND REORGANIZATION ACT

Mr. BURNS. Mr. President, I rise today in support of a bill introduced last week by my colleague, Senator ENSIGN. I am pleased that he has taken the helm in addressing the many problems posed by an excessively large and cumbersome Ninth Circuit Court of Appeals in his bill S. 2278. I am glad to add my name as a cosponsor of this bill. Montana sits in the Ninth Circuit, whose docket has grown in recent years. In 2003, 12,872 appeals were filed at the court, up almost 1,500 from the previous year. The Ninth Circuit Judgeship and Reorganization Act of 2004 will create two new circuit courts in addition to a restructured Ninth Circuit. The new Ninth Circuit would still contain California, and also Guam, Hawaii, and the Northern Marianas Islands. The new Twelfth Circuit would include Montana, as well as Arizona, Nevada, and Idaho. The new Thirteenth Circuit would comprise the remaining states: Alaska, Oregon, and Washington. I know many in the Senate have revisited this issue every year, and I am pleased to support this current bill.

Many times the judiciary in this country is bound to make unpopular but correct decisions, but lately, the Ninth Circuit has made decisions which I believe are both unpopular and wrong. Many Montanans who hold far more conservative views than the membership of the Ninth Circuit bench sitting in San Francisco were nonetheless bound to a particularly offensive decision made last year. The court found the phrase "under God" in the Pledge of Allegiance violated the Establishment Clause of the First Amendment when it is recited in school by our youngsters. The Supreme Court has heard this argument last month, and a decision is expected in July. This case highlights the disconnect between the San Francisco-based Ninth Circuit and my State of Montana which it supposedly represents. When I walk around Washington, DC, I see the presence of our forefathers and our tradition everywhere, which includes many references to God in our hallowed halls and on our currency. Many have given their lives in the name of God and country, and this faith has sustained us as a Nation. By limiting the words our children can utter in the classroom in support of this Nation and our faith, the Ninth Circuit has taken yet another step to remove all that is sacred for Americans. Americans know the words to patriotic songs, like "God Bless America" or "America the Beautiful," but this may change if our Nation's young people are not permitted to sing them in a classroom. I find this decision extremely upsetting, because now more than ever, we need to teach our children a little more about faith in America and patriotism. There used to be a time when most young people felt compelled to serve their country, whether it be completed through military or volunteer service, but now it seems as though those numbers lessen every year. In America, we pride ourselves on the willingness of individuals to lend a helping hand, and I am saddened that the court has played an instrumental part in gradually eroding our Nation's values.

One of the other areas the Ninth Circuit has repeatedly addressed is land management, which usually has a negative effect on my State of Montana. One need only look to some of the court's recent decisions, which all share one commonality: they represent the conclusions of a bench that is thoroughly unfamiliar with land use and its implications on Montana.

It is worth noting at the outset that many cases never make their way to the Ninth Circuit docket, simply because the parties know the fate of their cause. This is especially true for the Forest Service, which has lost many battles in front of the Ninth Circuit, and Montana is certainly not better off for it.

For example, in Native Ecosystems Council v. Dombeck, the Ninth Circuit found that the Forest Service violated the National Environmental Policy Act, NEPA, as well as the Endangered Species Act. *Native Ecosystems Council* v. *Dombeck*, 304 F.3d 886, 890, 9th Cir. 2002. In this case, environmental groups challenged the validity of the Darroch- Eagle timber sale by the Forest Service. At the district court level, the Montana judge felt so strongly that the environmental groups did not have a claim that he granted summary judgment in favor of the Forest Service. This is important given the legal significance of summary judgment. Even if all of the plaintiff's claims are true, there is no legal remedy available. The Ninth Circuit turned this decision on its head, and issued an injunction against the Forest Service so they could not proceed with the sale.

In a similar situation, the Montana district court again granted summary judgment for the Forest Service in 2003, and again, the Ninth Circuit reversed. In Sierra Club, Inc. v. Austin, an unreported case, the Ninth Circuit found that the Forest Service's post-burn plan for Lolo National Forest violated NEPA. According to a front-page story carried by the Missoulian in December, 2003, the post-burn project would have permitted salvage logging of 2,322 acres and commercial thinning of 2,470, no small undertaking by any means. Even though the court found that the water-quality assessment done by the Forest Service was not arbitrary and capricious, it nonetheless concluded that the actions by the Forest Service in the environmental impact statement, EIS, did not include analysis of the logging effects on unroaded areas, and therefore violated NEPA in that sense.

Also in 2003, the Ninth Circuit found the Forest Service had potentially violated portions of the Montana Wilderness Study Act in *Montana Wilderness Ass'n* v. *U.S. Forest Serv.*, 314 F.3d 1146, 9th Cir. 2003. This act was passed by Congress in 1977 to allow the study of certain lands, to be called wilderness study areas, so that they could maintain their wilderness character and possibly be included within the National Wilderness Preservation System. Since no final designation of a wilderness area had been given, the Forest Service had been operating under temporary rules for the past 25 years. Apparently, the Ninth Circuit found that there was an issue to be resolved by allowing the trial to proceed, and remanded the case to go ahead to trial. The case has now been appealed to the Supreme Court.

These three cases highlight recent action of the Ninth Circuit. The last two years have been extremely litigious ones for the Forest Service in Montana, and I regret the time and energy that the Forest Service has had to put forward on this issue, but especially the taxpayers' money involved needed to defend against all of these claims. The Ninth Circuit's sympathy for the claims by various environmental groups has provided an attractive solution to any local Montana court decision they may not like. Unfortunately, the taxpayers end up footing this bill, and the stewards who protect our forests are being second-guessed at every turn.

The Ninth Circuit is also rendered ineffective because of the size of its bench as well as its extensive geographic coverage. There are 47 judges on the bench, and as noted legal scholar Richard A. Posner once explained that the circuit is predisposed to "judicial irresponsibility" because of its size. One Ninth Circuit judge, Andrew Kleinfeld, said the judges do not even have the time to read one another's opinions, which provides little guidance to other judges or those affected by their decisions.

The problems with the Ninth Circuit are due to many factors, whether it be the geographic size of the region, the number of judges, or the impractical decisions issued by those judges. The legislation recently introduced will address this problem, so that Montanans will benefit from a more reasonable bench, which will reflect the opinions of those in our area, rather than those located near San Francisco.

In order to best preserve the common sense that Montanans pride themselves in, I am pleased to support this bill. Let's bring a little common sense back to the judicial system. This is certainly a step in the right direction.

CHARLES F. ALBAUGH'S DEDICATION TO PATRIOTISM

Mr. KENNEDY. Mr. President, today I am proud to pay tribute to the late Charles F. Albaugh, a Vietnam era veteran from Fairhaven, MA. Mr. Albaugh passed away on April 14, 2002, but his love of his country continues to be an inspiration in southeastern Massachusetts.

Shortly after September 11, 2001, Mr. Albaugh was determined to express the emotions we all shared on that terrible day. Although confined to a wheelchair, he went to the interstate overpass running through his town of Fairhaven, MA, and placed American flags on it as a constant reminder to the thousands who passed by each day of the strength and unity of the American people.

Despite his physical limitations, he and his wife Mary Ann tended those flags every day on the Main Street overpass, no matter the weather. At its peak, this man's monument totaled 175 flags. And each night at dusk, he returned to the overpass with a lit votive candle to pray for the victims of 9/11. His presence was an inspiration to the community and soon drew volunteers to help maintain the flags.

Although Charles Albaugh has left us, his inspiration will be remembered permanently on the Main Street overpass in Fairhaven. On Memorial Day this year, a flagpole and plaque will be dedicated to his memory and to the patriotism and love of country we all share. A light will shine on the flag each night to remind us of Charles Albaugh's inspiration and dedication, and of the candle he lit in prayer each evening on that overpass.

I am pleased to join with those honoring Charles Albaugh and I know that my colleagues in the Senate join in commending their efforts to mark the difference he made in Southeastern Massachusetts.

NATIONAL SUICIDE PREVENTION WEEK

Mr. LEVIN. Mr. President, earlier this month, the Nation marked National Suicide Prevention Week. Suicide takes the lives of more than 30,000 Americans each year and is the eighth leading cause of death in the United States.

According to a 2001 Centers for Disease Control and Prevention study, suicide is the fourth-leading cause of death among children aged 7 to 17. Between 1981 and 1998, the period of the study, 20,775 people in that age group committed suicide, compared with 24,000 in that age group who died of cancer.

Suicide has long been considered an individual mental health issue, but experts are starting to view suicide as a broad public health issue. In 2001, the U.S. Surgeon General released a report citing suicide as a "national public health problem," and announced a national strategy for suicide prevention. Central to that strategy is promoting awareness that suicide is, indeed, preventable.

The same CDC study also highlighted the role of guns in both youth suicide and homicides. During the study period, youth suicides increased by 44 percent, with gun-related suicides making up 80 percent of that increase. At the same time, the number of youths who committed murder with a firearm tripled, even as the total number of murders remained constant. This shows, according to the CDC, that suicide is linked to other social ills, like gun violence.

One of the Surgeon General's recommendations for preventing suicide is to reduce access to guns or other lethal means of suicide. His national suicide prevention strategy recommends not only a public campaign to reduce gun accessibility, but also urges the gun industry to improve firearm safety design.

Suicide is a national problem that demands our attention. Congress should do its part to help prevent suicide by encouraging the manufacture of safer handguns and by closing the loopholes that allow young people easy access to handguns.

50TH ANNIVERSARY OF BROWN v. BOARD OF EDUCATION

Mr. LAUTENBERG. Mr. President, I rise to commemorate the 50th anniversary of the landmark 1954 civil rights decision of Brown v. Board of Education. In its decision, the Supreme Court held that the Equal Protection Clause of the fourteenth amendment prohibits States from maintaining racially segregated public schools.

In Brown, the Court upheld the principle that America is a land of laws, not men.

In Brown, the Court affirmed that equality, fairness, and justice are for all Americans, irrespective of race, ethnicity, color, or creed.

The Supreme Court found that the segregation of white and black children in public schools denied black children the equal protection of the laws guaranteed by the fourteenth amendment.

The Court reached this decision even if the physical facilities and other "tangible" factors of white and black schools were equal.

Of course, we all know that the facilities and resources were far from being equal.

It took courage on the part of the nine Justices of the U.S. Supreme Court to reverse the so-called "separate but equal" precedent that the Court had created in the 1896 case of Plessy v. Ferguson.

The Plessy decision concerned a 30-year-old shoemaker named Homer Plessy who had been jailed for sitting in the "White" car of the East Louisiana Railroad. Plessy was only one-eighth black and seven-eighth white, but under Louisiana law, he was considered black and therefore required to sit in the "Colored" car.

In Plessy, the Supreme Court found that laws requiring separate black and white railroad cars did not conflict with the thirteenth amendment which abolished slavery.

The Court held that "a statute which implies merely a legal distinction between the white and colored races has no tendency to destroy the legal equality of the two races." Consequently, the noxious notion of "separate but equal" took root in America.

The lone dissenter in the Plessy case, Justice John Harlan, wrote, "Our Constitution is color-blind, and neither knows nor tolerates classes among citizens. In respect of civil rights, all citizens are equal before the law." Justice Harlan was a half-century ahead of his time.

After years of arguing discrimination cases throughout the Nation, a team of NAACP lawyers, led by Thurgood Marshall, brought five case from Kansas, South Carolina, Virginia, Delaware, and Washington DC to the Supreme Court. Thurgood Marshall—one of the giants of American history—stood before the Supreme Court determined to rid this Nation of a "failure of our constitutional system."

In Brown, the Court ruled that in the United States and under the U.S. Constitution, "separate" is inherently unequal.

These words were profound then and there are equally profound today because when the Supreme Court struck down school legal segregation, it advanced the cause of human rights in America and set an example for all the world.

I just visited the "Separate and Unequal" exhibit at the Smithsonian. I was struck by how one of the displays put it: the Brown decision told Americans and the world that "the American dream of ethnic diversity and racial equality under the law is a dream of justice for all."

Although the Brown decision declared the system of legal segregation unconstitutional, the Court ordered only that the States end segregation with "all deliberate speed." One dictionary definition of "deliberate" is "leisurely or slow in manner or motion."

This ambiguity over how to enforce the ruling gave segregationists an opportunity to organize what came to be called "massive resistance." Many State officials in the South responded to the Brown decision by promising to use all legal means and resources under their command to prevent integration.

In Prince Edward County, VA, for example—one of the cases decided in the Brown decision—the school district's response was to close the public schools in Farmville for 5 years, from 1959 to 1964. White students enrolled in private schools while a generation of black children was denied access to education.

Over the 50 years since Brown, this Nation has continued to wrestle with issues of racial and ethnic equality.

As I stand here today to pay homage to the Brown decision and the civil rights struggle, I feel compelled to ask, "A half-century after Brown, how far have we come? Where we are today, and where are we headed?"

Fifty years after the Brown decision, the struggle for equality has come to include not only racial and ethnic minorities, but also women, the disabled, and gays and lesbians. That is a promising development.

We need only remember that it is only this week when the Massachusetts Supreme Court's order recognizing gay marriages is given the full effect of law.

Since the 1954 Brown decision, we have made progress in the sense that Americans overwhelmingly repudiate discrimination and segregation.

But while we no longer see the blatant vestiges of the segregationist era such as signs saying "whites only" or "colored only," our society is still plagued by inequality and injustice.

African Americans have yet to enjoy true racial equality in this Nation. And in the absence of real equality, African Americans are being denied the essence of what it means to be an American.

Statistics are the clearest barometer for measuring our progress and far too many of them reveal that African Americans continue to lag behind whites in important ways.

In April 2004, the Nation's unemployment rate was 4.9 percent for whites; for blacks, it was 9.7 percent.

In 2002, the poverty rate was 12.1 percent nationwide; for blacks, it was 22.7 percent.

In 1999, median income for white families was $51,244; for black families, it was $31,778.

Today, black men make up 41 percent of all prisoners, but only 4 percent of all college and university students.

African Americans are 13 percent of the population in my home State of New Jersey, but they constituted a staggering 63 percent of the State's prison population in 2002.

The murder rate for whites is 3.3 per 100,000 people; for blacks, it's six times as high, 20.5 per 100,000 people.

These statistics make it pretty clear that while we have come a long way from the blatant racism of "separate but equal" and the decision to close the Farmville public schools to prevent their integration, we still have a long way to go in making the dream of justice and equality for all Americans a living, breathing reality.

As we commemorate the 50th anniversary of the Brown decision, we need to rededicate ourselves to the civil rights struggle. As Teddy Roosevelt said, "This country will not be a really good place for any of us to live in if it is not a really good place for all of us to live in."

Ms. LANDRIEU. Mr President, 50 years ago, our Nation set out to give every child the chance for excellence and equality in education. In a quote from the Brown decision in 1954, the U.S. Supreme Court said, "Today education is perhaps the most important function of State and local governments . . . It is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the State has undertaken to provide it, is a right, which must be made available to all on equal terms." We have made great progress in the past 50 years but we still have a long way to go.

By fulfilling the promise of Brown, school systems have the ability to lay a great foundation for our Nation. Providing children with a high quality education, in a diverse classroom setting, gives our children the educational tools which they need to succeed. Additionally, it provides them with an environment which will equip them with the necessary tools to become true leaders. The goals of Brown were to provide to all children, excellent schools which were as diverse as possible. The greatest gift that we can give our children is to ensure that they receive nothing less.

Fifty years after Brown, its full promise remains unrealized. Public education in our country has become more and more separate. In Washington, DC, public schools, nearly all students are attending segregated, poor schools. For example, 2,455 students are attending 12th grade. Of those, 121 are white, about 1,900 are black and the rest are primarily Latino and Asian/Pacific Islander. Of the white students, 116 attend just three schools with 88 of those at just one school. This scenario is happening not only in our Nation's capital but across the Nation. In my State of Louisiana, public schools in the City of Monroe have 88 percent minority students, while the surrounding rural district has 71 percent white students.

Not only are our schools more separate, but they are also more unequal. Since 1988, the minority achievement gap in our country has continued to grow. Nationally, African American and Latino 17-year-olds demonstrate reading and math skills that are virtually indistinguishable from white 13-year-olds. In my own State of Louisiana, there is a 42.9 point gap between the performance of African American students and their white peers. These statistics can be explained by many different variables. Poor and minority students are one-third more likely to be taught by an unqualified teacher than their peers. Students of color and low-income students do not receive curriculum and instruction that is as challenging or rigorous as other students. According to the U.S. Department of Education, less than a third of students from low-wealth families were enrolled in the college prep track, while two-thirds of students from high-wealth families were in college prep. What is worse, we have put educational funding on its head. In a majority of States, the more students of color you have, the less likely you are to receive State and local funds.

The founding principle of No Child Left Behind was that all children can learn. There are hundreds of examples, many of which you will hear in commemoration of the Brown decision, to demonstrate this fact to be true. Centennial Place Elementary School in Atlanta, GA is 91 percent African American and 79 percent low-income and is in the top 10 percent of the entire State of Georgia in reading. Moreover, Centennial Place Elementary outscored 88 percent of other Georgia schools on the State's math test. In my home State of Louisiana, Claiborne

Fundamental Elementary School has an 80 percent minority student body, 60 percent of which are in poverty. Yet they finished in the 94th percentile on LEAP testing and finished in the top 10 percent in closing the achievement gap. These are only a few examples of success in schools which support the principles of No Child Left Behind. For the first time, the Federal Government has rejected the bigotry of lower expectations and has required States and local school districts to do something about the growing gap of opportunity in our schools. If we are to realize the promise of Brown we must ensure that each and every child, regardless of race or income, has an opportunity to realize their potential.

The links between all of these examples of success are accountability, full and equal funding, and teacher quality. If we can set clear, measurable goals for performance and continue to hold schools accountable for results, we can truly measure success and failure. Backlash against No Child Left Behind is in part because people are being forced to face the reality that gaps do exist. Under the old system, schools with huge gaps in the performance of their students were labeled as being successful. Nationally, 4th grade African Americans lag behind their white peers in reading, with 39 percent of white students considered proficient but only 12 percent of black students. Things are similar in 8th grade mathematics, 36 percent of white students are labeled proficient, but only 7 percent of black students fall into the same category.

While we continue to make schools accountable, we must also ensure that they are fully and equally funded. Over the past four years, Title I of No Child Left Behind has been underfunded by the President's Budget by $22.3 billion. In my State of Louisiana, that means that 135, 962 disadvantaged children, 6,029 English-learners, and 62,977 preschool children are left behind. We cannot continue to expect our schools to perform, if we do not give them the tools they need. This funding must also be equal. In 22 States, the highest poverty school districts receive less per-student funding from State and local sources than the lowest-poverty school districts. This is also true of the Nation as a whole. The top 25 percent of school districts in terms of child poverty nationwide receive less funding than the bottom 25 percent. Similarly, in 28 States the local districts with the highest percentage of minority children receive less funding than districts with the fewest minority children.

These increases in funding will go towards many different aspects of our children's education but also towards recruiting the best and the brightest teachers. The difference between an effective teacher and an ineffective teacher can be a whole grade level in school. In a recent study in Dallas, students who had the added value of a good teacher 3 years in a row were scoring in the 76th percentile; while students who had a bad teacher 3 years in a row were performing in the 27th percentile. We can help recruit and retain quality teachers by increasing their opportunity for professional development, increasing the pay for teachers who work in high challenge areas, merit pay and bonuses for good teachers, and by increasing administrative and professional support for teachers in schools.

The principles laid out in No Child Left Behind give our Nation the opportunity to fully realize the promise of Brown v. Board of Education. If we can continue to fund initiatives which encourage accountability and excellence for all students we can continue to close the achievement gap that plagues our Nation's schools. In 1960, four black 6-year-old girls were the first to integrate two white schools in my home town of New Orleans. These brave children set out as pioneers to create a school system in this country which was equal for all children regardless of race or religion. We must keep these children in our hearts as we set forth to make their dream truly a reality. On this 50th commemoration of the Brown decision, I hope that my colleagues will join with me in ensuring that every child receives access to the same high quality education.

ADDITIONAL STATEMENTS

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

NATIONAL FOSTER CARE MONTH

• Mr. DURBIN. Mr. President, today I wish to honor children across the Nation who live in foster care and the admirable adults who protect and care for them. Currently, there are over half a million children in foster care in the United States—a number that has doubled since 1987. Coming from every socioeconomic background, these innocent children cannot live at home due to troubling family situations. Luckily, 170,000 foster families have opened their hearts and homes to these disadvantaged children.

Children enter foster care for a number of reasons. For some children, the journey begins at birth. Other children come to the attention of child welfare when a teacher, a social worker, a police officer, or a neighbor reports suspected child maltreatment. Often, these children have experienced physical or sexual abuse at the hands of a loved and trusted adult or have been woefully neglected by their caregivers. On average, children stay in foster care for 33 months.

Foster parents meet a special need in our society by ensuring that foster children receive attention, love, and health and educational services. In doing so, they help to restore a sense of hope and stability in the lives of our country's youth.

In my home State of Illinois, we are doing our part to recognize the selfless contributions made by foster parents. On April 26, Governor Rod Blagojevich proclaimed May 2004 "Foster Parent Appreciation Month." The Illinois Department of Children and Family Services is the Nation's largest child welfare agency accredited by the Council on Accreditation for Children and Family Services.

Illinois DCFS is working to reduce the number of children who require foster care. Through a program called Front End Redesign, early intervention services are provided to families after their needs become apparent to prevent the need for a child to be placed in foster care. For four consecutive years, Illinois has been a national leader in adoptions. With an increasing emphasis on early intervention and adoption, the number of Illinois children in foster care has declined from 51,331 children in 1997 to 19,297 children in 2004.

We still have a great demand—not only in Illinois but in States across the Nation—for additional caring adults to open their homes to foster children. Teenagers, adolescent moms and their babies, children with special needs, and sibling groups are some of the children most in need of foster and adoptive parents.

All children can reach their greatest potential when they live in safe, stable, and nurturing families. Yet far too many children lack this fundamental foundation. Foster parents, as well as the professionals and volunteers working within state child welfare programs, deserve our gratitude and respect for the sacrifices they make every day to ensure that our children—our Nation's future—receive the support they need as they mature into adulthood.•

RECOGNITION OF DR. CHARLES IRVIN HUDSON

• Ms. LANDRIEU. Mr. President, like so many of the people who were fortunate enough to know him, I was deeply saddened to learn of the passing of a dear friend and true leader, Dr. Charles Irvin Hudson. Dr. Hudson, known to many affectionately as "Doc," died unexpectedly May 7, 2004, at Our Lady of the Lake Hospital in Baton Rouge, LA, at the age of 72.

Doc Hudson was an educator and community leader in St. Landry Parish for nearly 50 years. He demonstrated his commitment to education by serving as a high school mathematics teacher for 10 years and later as the principal of two elementary schools, for which he received numerous awards and honors.

But Doc Hudson was equally committed to public service, and served his community as an elected official for nearly 30 years. First elected to the Opelousas City Council in 1974, he was to serve for three consecutive 4-year terms before becoming deputy secretary for the Louisiana State Department of Transportation and Development from 1984–88. Doc Hudson was then elected to the Louisiana House of Representatives in 1991 where he served till his passing.

Throughout his remarkable career, Doc worked tirelessly for the people of St. Landry Parish and the State of Louisiana. He fought for both decency and accountability in our schools, worked to improve the quality of life for everyone in District 40, and developed warm, quality relationships with all who met him.

It was my privilege to have worked very closely with Doc on a number of occasions and to benefit from the wisdom of his counsel and the breadth of his understanding. I am honored to have known and learned from a man of such high moral character.

Representative Hudson will be remembered for his nearly 30 years of service in public life and 20 years as an educator, and for the great value he placed on developing relationships with people. He rooted his work in his personal experiences with the people affected by the issues. His dedication to people will stand as a legacy from which future generations will learn.

On behalf of the entire State of Louisiana, I pay tribute to this courageous statesman and convey my most respectful condolences to his family and to all who knew him.●

H-2B VISA CRISIS

● Mr. JEFFORDS. Mr. President, today I would like to discuss my disappointment with the failure to address an issue of critical importance to small businesses around the country—the need to consider legislation temporarily raising the cap on the number of H–2B visas for this fiscal year.

As many of my colleagues know after hearing from their constituents, the limit on the number of H–2B visas that could be issued this fiscal year was reached in early March. The H–2B cap was reached less than halfway through the current fiscal year and has caused critical problems around the country. This is especially true for those small businesses that rely on H–2B visas to completely fill their staffing needs over the summer months. A business may apply for a H–2B visa no sooner than 120 days before the individual is needed for employment, and the cap was reached as businesses were applying for their summer positions.

I quickly heard from many Vermont businesses expressing their concerns about not being able to obtain these needed workers, and I was pleased to join Senator KENNEDY in introducing the Save the Summer Act on March 29, 2004. This commonsense approach would raise the cap on H–2B visas for this fiscal year by 40,000. This is a simple, straightforward, easy-to-understand-and-implement solution to this problem. I was pleased that the bill had bipartisan support when it was introduced and I was hopeful that it could be considered and passed quickly in the Senate. Unfortunately, this was not to be the case.

The next day, on March 30, Senator HATCH introduced the Summer Operations and Services Relief and Reform Act that addressed the H–2B cap problem in a different manner. While I felt that this legislation addressed the problem in a less clear, more complicated way, I was very pleased that the Senate Judiciary Committee chairman, Senator HATCH, and the Judiciary Committee's Immigration Subcommittee chairman, Senator CHAMBLISS, recognized that there was a problem that had to be immediately addressed.

In the normal legislative process, the next step should have been for the two sides to sit down and try to work through the differences between the bills and then quickly pass legislation to solve this problem. However, in this case, the Republicans on the Senate Judiciary Committee were not in agreement on how to address the matter and began to negotiate among themselves. Unfortunately, they chose not to negotiate with the supporters of the Save the Summer Act until they had reached a consensus. Supposedly, more than a month after the bill was introduced, the Republicans finally reached an agreement amongst themselves.

Although the majority reached a consensus, the business community and the Department of Homeland Security raised concerns about the Republican agreement. Thus, the Republicans have gone back to the drawing board and are once again negotiating amongst themselves.

It is now the day before the Senate will take its break for the Memorial Day holiday. Many think of Memorial Day weekend as the unofficial beginning of summer. However, almost 2 months after legislation had been introduced, businesses around the country that were counting on the Congress to solve this problem still do not have an answer. Summer may have begun, but for many businesses, this summer season will not be something to celebrate.

Senator KENNEDY and I introduced a simple, easy solution to this problem on March 29 that would have allowed businesses to obtain the employees they desperately need for the summer, while giving the Congress the opportunity to address the long-term issues with the H2–B program. However, the Republican leadership will not allow the Senate to pass this legislation with an overwhelming vote.

It has been almost 2 months since legislation was introduced, almost 3 months since the problem arose, and the Republicans are still debating the issue internally. The Senate should pass the Save the Summer Act immediately and help our Nation's small businesses.●

HONORING RETIRING TEACHERS

● Mr. DURBIN. Mr. President, I am pleased to honor five outstanding women who have dedicated themselves to the teaching profession and will soon retire after spending more than 30 years each as educators. Each of these women will end their career at the close of this school year at Elm Elementary School in Burr Ridge, IL, having touched the lives of hundreds of children, parents, and colleagues.

Catherine Nufer has been teaching for 36 years and has been recognized for her achievements in teaching writing and social studies. Her students have consistently excelled in State standardized tests in these areas. Ms. Nufer has taken courses over the years to keep current on new teaching standards, always striving to bring a fresh approach to the classroom.

Virginia Bojan is retiring after 33 years of teaching. She is known for her excellence in teaching language arts and science. To her students and colleagues, Ms. Bojan will be remembered most for her pleasant demeanor and use of humor in classroom lessons. Laughter and joy have been central to her teaching style, which will surely be missed at Elm Elementary School.

Nancy Taylor has been teaching for 34 years, during which time she led district-wide curriculum development initiatives in the areas of language arts and mathematics. Under her soft-spoken, gentle approach to teaching, hundreds of students have learned and flourished. She will be remembered for always striving to care for and understand each child as an individual.

Beverly Oliveri is retiring after 34 years of teaching. She has demonstrated leadership on curriculum development committees which have advanced the way mathematics is taught in District 181. Ms. Oliveri will be remembered by students and colleagues for her unique practice of utilizing storytelling in her classroom lessons, helping students to grasp new concepts by applying them to humorous real-life situations.

Patricia Trudicks has been teaching at Elm Elementary School throughout all 36 years of her teaching career. She was instrumental in introducing technology as an instructional tool and also played a vital role in developing Elm Elementary's Media Resource Center, which offers students and teachers access to educational enrichment materials. Ms. Trudicks has constructed creative, hands-on displays in the media resource center, leaving the hundreds of students she has served with educational experiences they will never forget.

I am honored to have this opportunity to publicly recognize these five women, who have dedicated their professional lives to educating children. They have made an invaluable impact on the minds and hearts of the hundreds of students they have served, providing their students with a broad base of knowledge that has endured well beyond their elementary school years. These five teachers are fine examples of excellence in education, and I proudly salute them for their dedicated service and wish them well in their retirement.●

NATIONAL FOSTER CARE MONTH

● Ms. LANDRIEU. Mr. President, there are 542,000 reasons that we should all be involved in recognizing May as National Foster Care Month. These reasons represent the number of children currently in the foster care system, roughly 126,000 of whom are waiting to be adopted. Over 70 percent of these children entered foster care because of abuse or neglect. And, the average length of time that these children stay in foster care is almost 3 years.

For many of these children, the wait for a loving family where they are nurtured, comforted, and protected is endless. Every year, 25,000 children "age out" of foster care because they reach adulthood without ever being found a permanent home. These children are more likely to drop out of school and are more likely to be unemployed, welfare dependent, and homeless. In fact, roughly 30 percent of the Nation's homeless are former foster children.

As Senators, we cannot allow over half a million children to continue languishing in the foster care system, vulnerable to facing these negative outcomes. During this National Foster Care Month or at any other appropriate time throughout the year, I ask that you focus attention on the need to find secure and supportive families for these children.

Nurturing and stable environments can allow these children to achieve great success by helping them to overcome the challenges posed by involvement in the foster care system. One such example of the effect that a nurturing and stable environment can have on a foster child exists right in Congress's own backyard—the Mayor of Washington, DC, Anthony Williams. Mayor Williams' mother once told the story that when she visited the orphanage where she first met her son, she was told by the workers that he was not as advanced developmentally and intellectually as he should be for a child his age. These workers even indicated that little Anthony might have to be sent to an institution. And, they were right. His mother sent him off to two of the most prestigious institutions in our country—Yale University for college and Harvard University for law school.

I invite all Members to come to the Senate floor to speak about former foster children such as Mayor Williams, about foster children currently waiting for loving families, or about the significance of foster care in your own life, in your State, or in the life of a child. But, I want to ask more of you than simply sharing these stories. I would like to urge my colleagues to commit their efforts to ensuring that we institute legislative reforms for the child welfare system that will emphasize permanency for foster children, whether that be reunification with families, adoption, or teaching youth skills to be able to live self-sufficiently after emancipation. The time is now for us to reform a foster care system that does not adequately address the needs of our most vulnerable children and families.

One of the areas that will require the greatest reform is the Federal financing structure of child welfare services. Currently, the Federal financing system is structured in a way that provides the greatest financial support for a child by the Federal Government when that child is in the foster care system. In other words, it creates a funding incentive to keep children in foster care, rather than moving them towards re-unification or adoption. We must revise this system so that funding matches the Federal priorities. This means that Government should fund the programs and approaches that are actually working to provide safety and permanency to children. Decisions regarding the placement of a child should not be influenced by the type of placement that would offer the greatest resources for the child, but instead be based on the best interests of the child. Adequate resources should be available for children involved in any area of the child welfare system. Therefore, the money and resources should follow the child, whether that is in foster care, in an adoptive home, or after re-unification with the biological family. The current financing system includes a patchwork of programs, many of which are funded through discretionary spending that is vulnerable to cuts in the appropriations process. Reforms must be instituted that allow the child welfare system to encompass a more comprehensive approach that includes prevention, re-unification services, adequate foster care services, adoption resources, and post-permanency support.

The time has come to fix these problems, to focus on the solutions in order to help our most vulnerable children. The Pew Commission on Children in Foster Care released a report this week that summarizes a 1-year study of the foster care system. This study includes the feedback of advocates, State service providers, lawmakers, judges, and former foster youth around the country. I respectfully ask my colleagues to carefully look at the recommendations of not only the Pew Commission but of the hundreds of other individuals, groups, and States that have studied this system and have provided valuable ideas for reform.

Further, I hope that the leadership in the Finance Committee will hold hearings on the topic of Federal financing of the child welfare system to fully explore the problems in this system and the proposals for reform that will help to resolve these problems. I also ask all Members of Congress to make these reforms a priority during the remainder of this session and during the next session of Congress. I am personally committed to seeing reform done within this time period. And, I am hopeful that we will soon enact legislation that will help the hundreds of thousands of children in foster care in our country. Let us work together to ensure the success of our future by promoting safety and stability for our children today.●

GIFT OF TIME FOUNDATION

● Mr. TALENT. Mr. President, I rise today to recognize the efforts of an outstanding organization which has dedicated itself to aid in the development of our Nation's children. The Gift of Time Foundation is a nonprofit organization dedicated to providing community service, academic, and physical fitness programs for children between the ages of four and eighteen.

The mission of the Gift of Time Foundation is: "To provide children with resources, opportunities and assistance that help them develop high self-esteem, self confidence, socially acceptable value systems, diverse cultural appreciation and family values by providing them with structured environments for membership in mandatory participation in physical fitness, academics, and community service programs. To provide children with personal character development assistance for self expression through structured positive activities alternatives."

The Gift of Time Foundation was spearheaded by E. Douglas McFarlin. His vision was to build a youth complex in St. Louis that would provide children with the proper direction to meet the challenges of our modern society. Mr. McFarlin has worked closely with business, community, and civic leaders to launch this important project. He is hoping that the St. Louis complex will be the first of many across the country.

Mr. President, organizations such as the Gift of Time Foundation can help a community in building character and values in its children. The efforts of Mr. McFarlin and his organization are to be commended for taking this challenge head on. I ask that you join me in recognizing this fine organization and wishing Mr. McFarlin the very best on his endeavors to bring this program to the children of our nation.•

TRIBUTE TO DENNIS MARTIN

• Mr. TALENT. Mr. President, I rise today to salute Mr. Dennis Martin, a native Missourian and retiring Director for the Single Family Housing Division in the St. Louis, MO, HUD/FHA Field Office.

On March 7, 1969, Mr. Martin joined the St. Louis Area Office of the U.S. Department of Housing and Urban Development, St. Louis, MO, as a Single-family Construction Analyst.

Mr. Martin has been recognized for his outstanding contributions to the housing industry throughout his career by both private industry and the U.S. Department of Housing and Urban Development. He has received several awards, including a "Special Housing Recognition Award" for his accomplishments in the Housing Industry, the Patriotic Service Award and the Secretary's Award of Excellence.

Dennis and his wife, JoAnn, have two children, Deanna and Christopher. Deanna is a Chiropractic Doctor and is married to Dr. Jeremiah Freedman. Christopher is in law school at the University of Tulsa. Dennis and his wife are active in their church in Dardenne Prairie, MO, and he is active in a number of civic and Masonic organizations. Dennis also achieved the rank of Sergeant while serving in the U.S. Army from 1966 to 1968. His parents are Clarence H. and the late Grace Martin of Dixon, MO.

I commend Dennis for his service to the community over the past 35 years. I am honored to share his accomplishments with my colleagues, and I wish him and JoAnn the best for the future.•

TRIBUTE TO SISTER CLARITA ANNEKEN

• Mr. BUNNING. Mr. President, I wish to pay tribute to Sister Clarita Anneken of Villa Hills, KY for her 63 years devoted to educating young men and women who attended Villa Madonna Academy.

Everything that we do in the United States Senate is done with the idea in mind that we are making the world a better place for those who come after us. Indeed the entire government is dedicated to ensuring that America will continue to protect the rights to life, liberty, and the pursuit of happiness long into the future. However, let me remind the Senate that if the people of America are not educated to appreciate the sanctity of life, the glory of liberty, and the meaningfulness of pursuing happiness, that everything we do here will be wasted. No matter how wise the laws we enact, a people ignorant of these important principles will only resent wise laws, not benefit from them.

It is for this reason that I believe that the work of Sister Clarita is so crucial. Sister Clarita has dedicated her life to the education of America's future. For 63 years Sister Clarita has invested her knowledge, time, effort, patience, and understanding in the young people of Villa Madonna Academy. Her efforts have shaped the understanding of many young people who will be a part of America's future.

I believe that no good deed goes unrewarded. The reward that Sister Clarita will reap, however will be a reward reaped for many years, long after her teaching career is finished. It will be a reward which many Americans will share. It will be the reward of young, educated men and women who will be able to continue the great traditions of this country.

Sister Clarita's dedication to the young is an assurance of the brightness of America's future. And I thank Sister Clarita for this assurance and for the bright future of America.•

WALNUT, IOWA, SAYS THANK YOU TO WORLD WAR II VETERAN

• Mr. HARKIN. Mr. President, the National World War II Memorial will be dedicated here in Washington on the Saturday before Memorial Day. It is a stunningly beautiful monument, located midway between the Lincoln Memorial and Washington Monument. It is a long-overdue salute, an expression of profound gratitude, to the millions of Americans who served their country with courage, sacrifice, and selflessness in that war.

I would like to share with my Senate colleagues a remarkable story about how the small community of Walnut, IA, has expressed its gratitude to a local veteran of the Second World War, Erwin Arndt.

Mr. Arndt returned from the war to serve his community as an electrician, a volunteer firefighter, a city council member, and commander of the local AMVETS unit. Just about everybody in Walnut knows and respects Mr. Arndt. And there was much concern when he suffered a series of strokes over the past year.

All too typically, a man in Mr. Arndt's condition would have no choice but to become a dependent in a nursing home. But friends and neighbors in Walnut came to his rescue in a truly remarkable and inspiring way. They joined hands to give him the wherewithal and assistance he needed to continue living independently in his apartment.

A local restaurant helped to provide daily meals. Several citizens helped Mr. Arndt to keep his apartment clean and orderly, and take him to medical appointments. Still others organized shifts to keep him company in his apartment. Several especially kind citizens got together to purchase a motorized chair to help Mr. Arndt get around.

It was truly a community effort, an act of collective kindness that I find truly inspiring. Mr. Arndt's daughter, Karen DeWinter, is overwhelmed with gratitude for what the people of Walnut did for her father. She told me that she was especially touched that on her father's birthday, the local AMVET auxiliary held a party at a cafe, where they brought cards from local elementary and preschool children.

I want to acknowledge the people of Walnut, IA, for their extraordinary caring and kindness toward Erwin Arndt. Like millions of Americans of what Tom Brokaw has labeled "the Greatest Generation," Mr. Arndt served our Nation with dedication in both war and peace.

In their own special way, the people of Walnut have said thank you to this veteran and beloved member of the community. I would like to add my own gratitude, not just to Mr. Arndt but also to the good citizens of Walnut.•

THE OPENING OF A NEW HATFIELD-McCOY TRAIL HONORING THE FOUNDER, LEFF MOORE

• Mr. ROCKEFELLER. Mr. President, monumental achievements are the work of visionary people. On the celebratory occasion marking the opening of a new 100-mile section of the Hatfield-McCoy recreational trail in Wyoming County, it is important to take the time to honor the visionary behind this monumental accomplishment, the late O.L. "Leff" Moore. Leff Moore was one of the wisest men I have ever had the great pleasure of knowing, and I consider it an honor to call him my dear friend. I had a habit of calling him "Uncle Leff". He just had that affect on people. He had this unique way of encouraging and inspiring people to come together and do great work for their communities. It was rare to hear a negative word from Leff. He was an optimistic who truly thought ahead of his time.

Leff was a driving force in the West Virginia Democratic Party, a life-long civil servant, and a tireless advocate for the safe operation of recreational vehicles. A deep love for the Mountain State ran through everything Leff did in his life, and his commitment to public service was evidenced by the numerous boards and committees he served on. His vision and leadership were widely respected in Putnam County, and his efforts contributed greatly to the area's growth and success. In recognition for his work, Leff was the only two-time recipient of the respected Putnam County Chamber of Commerce Mayo Lester Award.

Born in 1943, the son of Orville L. Moore, Sr. and Margaret Peyton Moore, Leff graduated Winfield High School and West Virginia State College. He served as the executive director of the West Virginia Manufactured Housing Association for more than 30 years where he helped write the policies and set the laws that will govern safe housing practices in West Virginia for future generations.

When his beloved Putnam County started growing rapidly in the 1970's, Leff's vision and determination led to the establishment of Putnam General Hospital, and planning measures brought public water and sewer to aid in the county's growth.

Leff's most stunning success, though, may be the Hatfield-McCoy Regional Recreation Authority trail system in southern West Virginia, which is breathing to new life into an entire region's economy. Over a decade ago when many of us had no idea what ATV's were, Leff somehow knew how popular they would become and saw the potential of marrying ATV's to West Virginia's scenic beauty. With little more than a VHS tape of a Utah trail and his gift for articulating ideas in a way that excited people, he sold even the most skeptical on the benefits of a recreational trail that will eventually reach into Kentucky and Virginia.

Southern West Virginia has already begun to feel the impact of Leff's vision for the trail as more and more out-of-State tourist dollars flow into the mountains of Mingo, Logan and Boone counties. During the last fiscal year, trail riders bought nearly $400,000 in trail permits, and this year, the Regional Recreation Authority expects that number to rise 25 to 31 percent. The average visitor who comes to take advantage of the Hatfield-McCoy trails spends between $250 and $500 during a 3-day stay.

Even at a conservative estimate, that translates into nearly $1 million tourist dollars injected into the local economy every month. These visitors to Southern West Virginia stay in local hotels and eat at local restaurants, many of which have sprung up to feed the growing tourist trade.

Leff's plan to stimulate the Southern West Virginia economy and showcase the beauty of the Mountain State has certainly been a resounding triumph thus far, and the potential for further expansion is limitless. The addition of this new section of trail brings the total system up to 500 miles across 4 different counties. I look forward to the day when Leff's original vision of over 2,000 miles of trails over all of Appalachia becomes a reality.

Soon, I will participate in the grand opening of the Wyoming County section of the Trail, and I am very happy about what it will mean for the area. I am also proud of all the Wyoming County officials who worked so hard to make the Trail a reality, but there will be a deep sadness in my heart as I miss my friend Leff Moore. I am comforted, however, because I know that his passion and vision for the people of West Virginia will guarantee that he is never forgotten in the hearts of many communities. I know that as his vision continues to expand into a reality, the legacy of Leff Moore will live on for a long time in many positive ways for West Virginia.●

TRIBUTE TO LTG JAMES E. SHERRARD III

● Mr. CHAMBLISS. Mr. President, I rise today to pay tribute to an exceptional officer in the United States Air Force and a good friend, LTG James E. Sherrard III, upon his retirement after more than 38 years of distinguished service. Throughout his career, General Sherrard has personified the Air Force core values of integrity, selfless service, and excellence across the many missions the Air Force provides in defense of our Nation. As Chief of Air Force Reserve, many of us on Capitol Hill have enjoyed the opportunity to work with General Sherrard on a wide variety of Air Force issue and programs and it is my privilege to recognize his many accomplishments. I commend his superb service to the United States Air Force and this great Nation.

General Sherrard is a native of Tutwiler, MS, and graduated from the University of Mississippi's Reserve Officer Training Corps program in 1965. His career has spanned a variety of operational assignments and major command staff functions. The general has commanded the 910th Airlift Wing at Youngstown, OH; the 433rd Airlift Wing at San Antonio, TX; the 4th Air Force, March Air Reserve Base, CA; and 22nd Air Force, Dobbins Air Reserve Base, GA. Currently, General Sherrard serves as both the Chief of Air Force Reserve and Commander, Air Force Reserve Command. He is a command pilot with more than 5,000 hours in the T–41, T–37, T–38, C–130A/B/E/H, AC–130A, C–141B, and C–5A/B. In 1996, he received special recognition from the Air Force enlisted force with the presentation of the Order of the Sword.

General Sherrard's exceptional leadership skills have been evident to both supervisors and subordinates throughout his career as he repeatedly led and inspired those around him. He was the Chief of Air Force Reserve during the most demanding period in history for the Reserve Components. Under his tenure, the Air Force Reserve successfully experienced the largest mobilization since the Korean War. Cumulatively, more than 28,000 members of the command have been activated since September 11, 2001, with 5,300 members still on orders in support of the Global War on Terror, OPERATION ENDURING FREEDOM, OPERATION NOBLE EAGLE and OPERATION IRAQI FREEDOM.

During his term as the Chief of Air Force Reserve, General Sherrard has always maintained a "People First" philosophy. He has called on each member of his team to advance legislative strategies, readiness, and quality of life issues that are absolutely essential to maintaining both active and reserve components of our all volunteer force. The results of his efforts include a Montgomery GI Bill Kicker for the Selected Reserve and extension of eligibility from 10 to 14 years; command responsibility pay; hostile fire and imminent danger pays for Reservists on inactive duty; expanded TRICARE benefits; lodging reimbursements during leave; and commissary privileges for all reservists. General Sherrard has been the driving force on every major Air Force Reserve issue from rebalancing the force structure between the Reserve and Active components to updating Cold War era laws to more effectively employ Reserve members.

On behalf of Congress and the United States of America, I thank General Sherrard, his wife Marsha, and their entire family for the commitment, sacrifices, and contribution that they have made throughout his honorable military career. Congratulations on completing an exceptional and extremely successful career.●

MESSAGE FROM THE HOUSE

At 11:19 a.m., a message from the House of Representatives, delivered by Ms. Chiapparti, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4200. An act to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, for other purposes.

H.R. 4359. An act to amend the Internal Revenue Code of 1986 to increase the child tax credit.

The message also announced that the House has passed the following bill, without amendment:

S. 2092. An act to address the participation of Taiwan in the World Health Organization.

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar:

H.R. 4279. To amend the Internal Revenue Code of 1986 to provide for the disposition of unused health benefits in cafeteria plans and flexible spending arrangements, to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system, and to amend title I of the Employee Retirement Income Security Act of 1974 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees.

S. 2451. A bill to amend the Agricultural Marketing Act of 1946 to restore the application date for country of origin labeling.

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 4200. An act to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2005, and for other purposes.

ENROLLED BILLS SIGNED

The following enrolled bills, previously signed by the Speaker, were signed on today, May 21, 2004, by the acting President pro tempore (Mr. CHAFEE).

H.R. 408. An act to provide for expansion of Sleeping Bear Dunes National Lakeshore.

H.R. 708. An act to require the conveyance of certain National Forest System lands in Mendocino National Forest, California, to provide for the use of the proceeds from such conveyance for National Forest purposes, and for other purposes.

H.R. 856. An act to authorize the Secretary of the Interior to revise a repayment contract with the Tom Green County Water Control and Improvement District No. 1, San Angelo project, Texas, and for other purposes.

H.R. 1598. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in projects within the San Diego Creek Watershed, California, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 2273. A bill to provide increased rail transportation security (Rept. No. 108–278).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. LAUTENBERG (for himself, Mr. KENNEDY, Mr. CORZINE, Ms. STABENOW, Mrs. CLINTON, and Mr. REED):

S. 2473. A bill to require payment of appropriated funds that are illegally disbursed for political purposes by the Centers for Medicare and Medicaid Services; to the Committee on Finance.

By Mr. ALLARD (for himself, Mr. DURBIN, and Ms. LANDRIEU):

S. 2474. A bill to amend the Internal Revenue Code of 1986 to allow penalty-free withdrawals from retirement plans during the period that a military reservist or national guardsman is called to active duty for an extended period, and for other purposes; to the Committee on Finance.

By Mr. AKAKA (for himself, Mr. DURBIN, Mr. LEAHY, and Mr. SCHUMER):

S. 2475. A bill to require enhanced disclosure to consumers regarding the consequences of making only minimum required payments in the repayment of credit card debt; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. KYL (for himself, Mr. MILLER, Mr. CORNYN, Mr. SESSIONS, Mr. CHAMBLISS, Mr. GRAHAM of South Carolina, Mr. NICKLES, Mr. MCCONNELL, Mr. INHOFE , and Mr. ROBERTS):

S. 2476. A bill to amend the USA PATRIOT Act to repeal the sunsets; to the Committee on the Judiciary.

By Mr. REED (for himself, Ms. COLLINS, Mr. KENNEDY, and Mrs. MURRAY):

S. 2477. A bill to amend the Higher Education Act of 1965 to expand college access and increase college persistence, to simplify the process of applying for student assistance, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LEVIN:

S. 2478. A bill for the relief of Mohamad Derani, Maha Felo Derani, and Tarek Derani; to the Committee on the Judiciary.

By Ms. COLLINS (for herself, Mr. AKAKA, Mr. FITZGERALD, Mr. LIEBERMAN, and Mr. VOINOVICH):

S. 2479. A bill to amend chapter 84 of title 5, United States Code, to provide for Federal employees to make elections to make, modify, and terminate contributions to the Thrift Savings Fund at any time, and for other purposes; to the Committee on Governmental Affairs.

By Mr. GRASSLEY:

S. 2480. A bill to amend title 23, United States Code, to research and prevent drug impaired driving; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. CLINTON (for herself and Mr. HAGEL):

S. Con. Res. 112. A concurrent resolution supporting the goals and ideals of National Purple Heart Recognition Day; to the Committee on Armed Services.

By Mr. SMITH (for himself and Mr. DURBIN):

S. Con. Res. 113. A concurrent resolution recognizing the importance of early diagnosis, proper treatment, and enhanced public awareness of Tourette Syndrome and supporting the goals and ideals of National Tourette Syndrome Awareness Month; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 13

At the request of Mr. KYL, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 13, a bill to provide financial security to family farm and small business owners by ending the unfair practice of taxing someone at death.

S. 333

At the request of Mr. BREAUX, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 333, a bill to promote elder justice, and for other purposes.

S. 491

At the request of Mr. REID, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 491, a bill to expand research regarding inflammatory bowel disease, and for other purposes.

S. 875

At the request of Mr. KERRY, the names of the Senator from Rhode Island (Mr. CHAFEE), the Senator from California (Mrs. FEINSTEIN) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. 875, a bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes.

S. 989

At the request of Mr. ENZI, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 989, a bill to provide death and disability benefits for aerial firefighters who work on a contract basis for a public agency and suffer death or disability in the line of duty, and for other purposes.

S. 1142

At the request of Mr. BINGAMAN, the names of the Senator from California (Mrs. BOXER) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. 1142, a bill to provide disadvantaged children with access to dental services.

S. 1381

At the request of Ms. SNOWE, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 1381, a bill to amend the Internal Revenue Code of 1986 to modify certain provisions relating to the treatment of forestry activities.

S. 1411

At the request of Mr. KERRY, the names of the Senator from Connecticut (Mr. DODD) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of S. 1411, a bill to establish a National Housing Trust Fund in the Treasury of the United States to provide for the development of decent, safe, and affordable housing for low-income families, and for other purposes.

S. 1491

At the request of Ms. CANTWELL, her name was added as a cosponsor of S. 1491, a bill to amend the Internal Revenue Code of 1986 to expand workplace health incentives by equalizing the tax consequences of employee athletic facility use.

At the request of Mr. DAYTON, his name was added as a cosponsor of S. 1491, supra.

S. 1703

At the request of Mr. SMITH, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 1703, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax for expenditures for the maintenance of railroad tracks of Class II and Class III railroads.

S. 1762

At the request of Mr. CRAPO, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1762, a bill to amend title II of the Social Security Act to eliminate the five-month waiting period in the disability insurance program, and for other purposes.

S. 2104

At the request of Mrs. CLINTON, her name was added as a cosponsor of S. 2104, a bill to designate the facility of the United States Postal Service located at 2 West Main Street in Batavia, New York, as the "Barber Conable Post Office Building".

S. 2154

At the request of Mr. DORGAN, the names of the Senator from South Dakota (Mr. JOHNSON), the Senator from Indiana (Mr. LUGAR) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 2154, a bill to establish a National sex offender registration database, and for other purposes.

S. 2260

At the request of Mr. SANTORUM, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 2260, a bill to amend title XVIII of the Social Security Act to provide for fairness in the calculation of medicare disproportionate share hospital payments for hospitals in Puerto Rico.

S. 2265

At the request of Mr. ROBERTS, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 2265, a bill to require group and individual health plans to provide coverage for colorectal cancer screenings.

S. 2336

At the request of Mr. REID, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 2336, a bill to expand access to preventive health care services and education programs that help reduce unintended pregnancy, reduce infection with sexually transmitted disease, and reduce the number of abortions.

S. 2353

At the request of Mr. CRAIG, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 2353, a bill to reauthorize and amend the National Geologic Mapping Act of 1992.

S. 2363

At the request of Mr. LEAHY, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 2363, a bill to revise and extend the Boys and Girls Clubs of America.

S. 2373

At the request of Mr. DOMENICI, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 2373, a bill to modify the prohibition on recognition by United States courts of certain rights relating to certain marks, trade names, or commercial names.

S. 2413

At the request of Mr. BINGAMAN, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Delaware (Mr. CARPER) were added as cosponsors of S. 2413, a bill to amend title XVIII of the Social Security Act to provide for the automatic enrollment of medicaid beneficiaries for prescription drug benefits under part D of such title, and for other purposes.

S. 2426

At the request of Mr. NELSON of Nebraska, the names of the Senator from Vermont (Mr. JEFFORDS), the Senator from South Dakota (Mr. DASCHLE) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of S. 2426, a bill to amend title XVIII of the Social Security Act to clarify the treatment of payment under the medicare program for clinical laboratory tests furnished by critical access hospitals.

S. 2451

At the request of Mr. BINGAMAN, his name was added as a cosponsor of S. 2451, a bill to amend the Agricultural Marketing Act of 1946 to restore the application date for country of origin labeling.

S. 2463

At the request of Mr. BROWNBACK, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 2463, a bill to terminate the Internal Revenue Code of 1986.

S. 2471

At the request of Mrs. CLINTON, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 2471, a bill to regulate the transmission of personally identifiable information to foreign affiliates and subcontractors.

S. CON. RES. 74

At the request of Mrs. CLINTON, the names of the Senator from Illinois (Mr. DURBIN), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Arkansas (Mr. PRYOR) and the Senator from Utah (Mr. BENNETT) were added as cosponsors of S. Con. Res. 74, a concurrent resolution expressing the sense of the Congress that a postage stamp should be issued as a testimonial to the Nation's tireless commitment to reuniting America's missing children with their families, and to honor the memories of those children who were victims of abduction and murder.

AMENDMENT NO. 3171

At the request of Mr. WARNER, his name was added as a cosponsor of amendment No. 3171 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3234

At the request of Mr. NELSON of Florida, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of amendment No. 3234 intended to be proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LAUTENBERG (for himself, Mr. KENNEDY, Mr. CORZINE, Ms. STABENOW, Mrs. CLINTON, and Mr. REED):

S. 2473. A bill to require payment of appropriated funds that are illegally disbursed for political purposes by the Centers for Medicare and Medicaid Services; to the Committee on Finance.

Mr. LAUTENBERG. Mr. president, yesterday, the Comptroller General of the United States ruled that the Bush administration illegally spent taxpayer dollars for political propaganda in violation of two laws.

To make matters worse, these funds were taken from the Medicare Trust Fund.

In other words, money reserved for our seniors' healthcare was illegally used for political activity. It is outrageous.

The President has raised plenty of money for his campaign. Over 200 million dollars. Why does he need to use Medicare funds?

With taxpayer money, the Bush administration produced so-called "video news released" —fake news stories that hailed the new Medicare law—and distributed them to TV stations across the country.

This covert propaganda was never identified as being produced by the administration. As a result many news stations ran this story as real news and viewers had no idea it was produced by the government.

The phony news stories show scenes of the President receiving a standing ovation before signing the bill into law and even end with a sign off from a fake reporter.

The GAO has said that these materials are illegal, but the money is already spent and that money will likely never be recovered unless we pass this legislation.

My bill calls on the Bush-Cheney reelection campaign to repay this money to the Federal Government. It's the right thing to do.

I have long said that this administration's so-called "education" campaign on the new Medicare law is fraught with questionable activity.

And now we know that they have in fact acted illegally. I think somewhere along the way they confused the word "education" with "election."

This is just the most recent incident in a long line of advertising by the Bush administration that the non-partisan GAO has called misleading and political.

If the Bush-Cheney campaign wants to spend funds dollars touting the new Medicare law, that's their prerogative—but they cannot use government agencies and taxpayer funds to do it.

I am all for educating seniors, but I will always guard against any misuse of taxpayer dollars, especially those reserved for Medicare.

I am here today to tell the President: Don't use the people's money to promote your bid for reelection. It's not only unethical, it's against the law. Taxpayer money should not be used for political purposes.

I ask unanimous consent that the text of the bill and the GAO report be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2473

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Trust Fund Reimbursement Act of 2004".

SEC. 2. REPAYMENT TO THE MEDICARE TRUST FUNDS OF AMOUNTS ILLEGALLY DISBURSED FOR POLITICAL PURPOSES.

(a) IN GENERAL.—Notwithstanding any other provision of law, if the Comptroller General of the United States determines that the Centers for Medicare & Medicaid Services has violated the restriction on using appropriated funds for publicity or propaganda purposes contained in section 626 of division J of the Consolidated Appropriations Resolution, 2003 (Public Law 108–7; 117 Stat. 470) or any other provision of law, the principal campaign committee (as defined in section 301(5) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(5))) of the President of the United States shall reimburse the Federal Government for the amount used in committing such violation.

(b) REIMBURSEMENT OF MEDICARE TRUST FUNDS.—To the extent that the amount described in subsection (a) was initially appropriated to the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act or the Federal Supplementary Medical Insurance Trust Fund under section 1841 of such Act, the amount reimbursed under such subsection shall be credited to the Trust Fund to which the amount was initially appropriated.

COMPTROLLER GENERAL OF THE
UNITED STATES, UNITED STATES
GENERAL ACCOUNTING OFFICE,
Washington, DC.

DECISION

Matter of: Department of Health and Human Services, Centers for Medicare & Medicaid Services—Video News Releases.

File: B–302710.
Date: May 19, 2004.

DIGEST

1. The Centers for Medicare & Medicaid Services's (CMS) use of appropriated funds to pay for the production and distribution of story packages that were not attributed to CMS violated the restriction on using appropriated funds for publicity or propaganda purposes in the Consolidated Appropriations Resolution of 2003, Pub. L. No. 108–7, Div. J, Tit. VI, §626, 117 Stat. 11, 470 (2003).

2. CMS, in using appropriations in violation of the publicity or propaganda prohibition, incurred obligations in excess of appropriations available for that purpose. See B–300325, Dec. 13, 2002. Accordingly, CMS violated the Antideficiency Act, 31 U.S.C. §1341, and must report the violation to the Congress and President in accordance with 31 U.S.C. §1351 and Office of Management and Budget Circular No. A–11.

DECISION

In a March 10, 2004, opinion, we concluded that the Department of Health and Human Services's (HHS) use of appropriated funds to produce and distribute a flyer and print and television advertisements, as part of a campaign to inform Medicare beneficiaries about changes to Medicare under the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA), did not violate publicity or propaganda prohibitions in the Consolidated Appropriations Act of 2004, Pub. L. No. 108–199, Div. F, Tit. VI, §624, 118 Stat. 3, 356 (2004), and the Consolidated Appropriations Resolution of 2003, Pub. L. No. 108–7, Div. J, Tit. VI, §626, 117 Stat. 11, 470 (2003). B–302504, Mar. 10, 2004. During our development of that opinion, we learned that the Centers for Medicare & Medicaid Services (CMS), an agency in the Department of Health and Human Services, had prepared as part of this campaign video news releases or VNRs, including a news story for television broadcast, to provide information to the television medium. Letter from Dennis G. Smith, Director, Center for Medicaid and State Operations, to Gary L. Kepplinger, Deputy General Counsel, General Accounting Office (GAO), April 2, 2004 (Smith Letter). The VNRs consist of (1) video clips known as B-roll film, (2) introductory and concluding slates with facts about MMA, and (3) prepackaged news reports referred to as story packages with suggested lead-in anchor scripts. Importantly, the prepackaged story packages and anchor scripts did not include statements noting that they had been prepared by CMS.

Our March 10, 2004, opinion addressed only the flyer and advertisements and did not address CMS's use of appropriated funds to prepare and distribute the VNRs. This decision addresses whether CMS's use of appropriated funds to produce and distribute the VNRs violated the publicity or propaganda prohibitions enacted in the Consolidated Appropriations Resolution of 2003, cited above. CMS told us that it used fiscal year 2003 CMS program management appropriations to produce and distribute the VNRs. Smith Letter, Enclosure 1 at 8. As we explain below, we conclude that of the three parts of the VNRs, one part—the story packages with suggested scripts—violates the prohibition. In neither the story packages nor the lead-in anchor scripts did HHS or CMS identify itself to the television viewing audience as the source of the news reports. Further, in each news report, the content was attributed to an individual purporting to be a reporter but actually hired by an HHS subcontractor.

To perform our analysis, we requested information from CMS regarding the production, filming and distribution of the VNR materials. Letter from Gary L. Kepplinger, Deputy General Counsel, GAO, to Dennis G. Smith, Acting Administrator, CMS, March 17, 2004. CMS responded by letter dated April 2, 2004. Smith Letter. We met with agency officials to clarify their responses and to gain further factual information regarding the production and distribution of the VNRs at issue. In addition to the information CMS provided us, we also examined available information regarding the use of VNRs generally by the broadcast media and their current use as a public relations tool.

BACKGROUND

Use of VNRs

VNRs have become a popular public relations tool to disseminate desired information from private corporations, nonprofit organizations and government entities, in part because they provide a cheaper alternative to more traditional broadcast advertising.[1] While the practice is widespread and widely known by those in the media industry, the quality and content of materials considered to constitute a VNR can vary greatly.[2] Generally, a VNR package may contain a prepackaged news story, referred to as a story package, accompanied by a suggested script, video clips known as B-roll film, and various other promotional materials.[3] These materials are produced in the same manner in which television news organizations produce materials for their own news segments.[4] By eliminating the production effort and costs of news organizations, producers of VNRs find news organizations willing to broadcast a favorable news segment on the desired topic.[5]

Since 1990, there has been a notable rise in the distribution of VNR materials.[6] With growing use of VNRs, journalism scholars began questioning the effect of this third-party material upon the perception that news was derived from a neutral source.[7] In particular, scholars raised concerns regarding the influence of third-party sources.[8]

Given these ethical concerns, there have been a number of studies of the use of VNRs by the broadcast industry. Several journalism scholars attribute the rise in the use of VNRs to the economic circumstances of the industry.[9] In smaller broadcast markets during the early 1990s, news stations suffered significant reductions in staff and budget, and had difficulty obtaining footage of certain public interest events.[10] Footage from an outside source helped stations fill airtime with programming that would otherwise not be available and helped avoid depletion of already overextended funds.[11]

Studies also show, however, that most news organizations using VNR materials often use only a portion or edited versions of the materials provided.[12] Still, parties interested in obtaining the maximum audience for VNR materials argue that, even if the story package or scripted materials are not used in full, the production of a professionally complete news story provides a framework for the message conveyed in the

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See footnotes at end of article.

final broadcast.[13] This allows the story package producer to assert some control over the message conveyed to the target audience.

Also, the use of VNRs may be attributed to the ease with which the materials may be distributed. While some packages are distributed directly from the source to the television stations, satellite and electronic news services such as provided by CNN Newsource facilitate distribution to a number of news markets in a short period of time.[14] Broadcast stations subscribe to these services, which provide, in addition to VNR materials, journalist reports and stories, and advertising.[15] While the news services label VNRs differently than independent journalist news reports, there apparently is no industry standard as to the labeling of VNRs. In fact, when questioned about the use of the VNR materials at issue here, some news organizations indicated that they misread the label or they mistook the story package as an independent journalist news story on CNN Newsource.[16]

Professional journalism societies have noted in their codes of ethics that journalists should resist influence from outside sources, including advertisers and special interest groups.[17] Because VNRs consist of information generated by a group with a distinct perspective on an issue, the unfettered use of VNRs may run afoul of these principles.[18] Moreover, professional organizations warn against using materials that would deceive audiences.[19] VNRs that disclose the source of information to the target audience alleviate these ethical concerns.

CMS's Medicare VNRs

The CMS VNRs consist of three videotapes with corresponding scripts. CMS informed us that these videotapes represent what a news organization would receive when obtaining the VNR materials. Two of the videotapes are in English, and one is in Spanish. The two English videotapes contain three items: (1) video clips, referred to as B-roll, (2) slates containing, among other things, title cards with facts on MMA, and (3) a video segment called a "story package."[20] The B-roll provides news organizations with footage for use in developing their own news reports. The slate is a visual feed from CMS to recipient news organizations that contains some facts regarding MMA.[21] The last slate in the VNR materials directs the receiving news station to contact CMS for information on the VNR materials. The story packages are news reports prepared by CMS rather than a news organization.

The B-roll clips on each videotape are exactly the same and contain footage of President Bush, in the presence of Members of Congress and others, signing MMA into law, and a series of clips of seniors engaged in various leisure and health-related activities, including consulting with a pharmacist and being screened for blood pressure. The English videotapes also include clips of Tommy Thompson, the Secretary of the Department of Health and Human Services (HHS), and Leslie Norwalk, Acting Deputy Administrator of CMS, making statements regarding changes to Medicare under MMA. The Spanish videotape includes clips of Dr. Cristina Beato of CMS offering statements about MMA's changes to Medicare, instead of Thompson and Norwalk.

The two English VNRs contain segments entitled "story packages" that consist of self-contained news reports regarding Medicare benefits under MMA. Although the English story packages contain several of the same B-roll video clips and the same narrator, identified as Karen Ryan, the contents of the two story packages vary. With each story package, CMS included a script for a news anchor of the recipient news organization to read as a lead-in to the CMS produced news report. One story package focuses on CMS's advertising campaign regarding MMA (Story Package 1). The suggested anchor lead-in states that "the Federal Government is launching a new, nationwide campaign to educate 41 million people with Medicare about improvements to Medicare." The lead-in ends with "Karen Ryan explains." The video portion of the story package begins with an excerpt of the television advertisement with audio indicating "it's the same Medicare you've always counted on plus more benefits." Karen Ryan explains, "That's the main message Medicare's advertising campaign drives home about the law." As more clips from the advertisement appear, Karen Ryan continues her narration, indicating that the campaign helps beneficiaries answer their questions about the new law, the administration is emphasizing that seniors can keep their Medicare the same, and the campaign is part of a larger effort to educate people with Medicare about the new law. The story package ends with Karen Ryan stating: "In Washington, I'm Karen Ryan reporting."

The second English story package (Story Package 2) focuses on various provisions of the new prescription drug benefit of MMA and does not mention the advertising campaign of CMS. The anchor lead-in states: "In December, President Bush signed into law the first ever prescription drug benefit for people with Medicare." The anchor lead-in then notes, "[t]here have been a lot of questions about" MMA and its changes to Medicare and "Karen Ryan helps sort through the details." The video portion of the news report starts with footage of President Bush signing MMA. Karen Ryan's voice narration indicates that when MMA was "signed into law last month, millions of people who are covered by Medicare began asking how it will help them." Next, the segment runs footage of Tommy Thompson, in which he states that "it will be the same Medicare system but with new benefits. . . ." Karen Ryan continues her narration, stating "most of the attention has focused on the new prescription drug benefit . . . all people with Medicare will be able to get coverage that will lower their prescription drug spending . . . Medicare will offer some immediate help through a discount card." She also tells viewers that new preventive benefits will be available, low-income individuals may qualify for a $600 credit on available drug discount cards, and "Medicare officials emphasize that no one will be forced to sign up for any of the new benefits." Karen Ryan's narration leads into clips of Secretary Thompson and Leslie Norwalk explaining other beneficial provisions of MMA. Similar to Story Package 1, Story Package 2 ends with "In Washington, I'm Karen Ryan reporting."

The Spanish-language materials contain the same three items as the English language VNRs-a B-roll, slates and a story package (Story Package 3). After the B-roll segments, the story package segment appears. This segment is considerably longer than its two English counterparts. Similar to Story Package 2, Story Package 3 focuses on prescription drug benefits available under MMA. It does not mention that CMS is engaging in an advertising campaign. Here, the anchor lead-in is similar to Story Package 2, except the anchor indicates that Alberto Garcia "helps sort through the details." The video segment begins with the footage of President Bush signing MMA into law as Alberto Garcia narrates that after signing the law, millions of people who are covered by Medicare began asking how the new law will help them. The remainder of the story package contains identical footage of Dr. Beato and of seniors engaged in various activities as in the B-roll footage. During the video clips of seniors, Alberto Garcia narrates that the focus of most of the attention to MMA is on the prescription drug benefit available in 2006. He also explains that prescription drug discount cards will be available in June 2004 and that "[p]eople with Medicare may be able to choose from several different drug discount cards, offering up to 25 percent savings on certain medications."[22] Alberto Garcia concludes his report, stating: "In Washington, I'm Alberto Garcia reporting."

In response to our request for more factual information on CMS's practice of using VNRs, CMS forwarded to us a fourth videotape. This tape contains Story Package 2 and two VNRs, each of which CMS described as a "produced story segment," that HHS produced and distributed in 1999 under then-Secretary Donna Shalala of the Clinton Administration. Smith Letter at 2. These two story packages were designed to inform beneficiaries of the Clinton Administration's position on prescription drug benefits and preventive health benefits. CMS pointed out similarities between the story packages in current use and the earlier ones. Much like the story packages at issue here, the earlier story packages contain footage of seniors engaging in various activities, then-HHS Secretary Donna Shalala appearing to answer questions regarding the provisions of proposed legislation for a prescription drug benefits and preventive health benefits, and a report of the Administration's proposal. The earlier story packages end with the phrase, "Lovell Brigham, reporting."

Distribution of Medicare VNRs

CMS explained to us that HHS hired Ketchum, Inc., to disseminate information regarding the changes to Medicare under MMA. Specifically, HHS contracted with Ketchum to assist HHS and its agencies with a "full range of social marketing activities to plan, develop, produce, and deliver consumer-based communication programs, strategies, and materials." Ketchum Contract at 2. Ketchum hired Home Front Communications (HFC) to create the VNR materials. HFC is a broadcast public relations firm specializing in producing video products. Smith Letter, Enclosure 1 at 6-7. HFC wrote the VNR scripts, which were reviewed, edited, and approved by CMS and HHS. Id. at 7. HFC completed all production work, including filming, audio work and editing. The final VNR packages were reviewed and approved by CMS and HHS. Id.

The VNR materials were then distributed to television stations via satellite, electronic services provided by CNN Newsource, and/or mail. Id. at 2. CMS and HFC staff members contacted some news directors by telephone to inform the stations that the materials were available. Id. Additionally, CMS e-mailed and faxed news advisories to news stations regarding the VNR availability. Id.; see also Smith Letter, Enclosure 4. The advisory indicated the satellite coordinates to obtain the materials, how to find the materials on CNN Newsource, and bullet-point key facts regarding the new benefits available. Smith Letter, Enclosure 4. The advisory further explains what the visual elements of the VNR consisted of, including interviews, a story package, and B-roll. Id.

All stations could access satellite distribution. Smith Letter, Enclosure 1 at 6. Computers of the subscribing location stations' newsrooms could access CNN Newsource. Id. The advisory directed news stations to contact Robin Lane, an HFC employee, for more information on retrieving VNR materials. CMS also mailed videotapes of VNR materials to those television stations that requested the material. Smith Letter, Enclosure 4. CMS provided us a list of television stations that aired at least some portion of the VNRs between January 22, 2004, and February 12, 2004. This list contained 40 stations in 33 different markets. Smith Letter, Enclosure 3. CMS did not identify what parts of the VNR each station broadcasted. One of the stations that aired the story package was WBRZ, Baton Rouge, Louisiana. According to transcripts published on the World Wide Web, WBRZ broadcast Story Package 2 and used the suggested anchor lead-in script on January 22, 2004, in its entirety.[23] At least two other television stations may have aired either Story Package 1 or 2 in their entirety. A review of excerpts of transcripts from Video Monitoring Services of America show that two stations, WMBC–TV in New Jersey (Story Package 1) and WAGA–TV in Atlanta (Story Package 2), aired MMA news stories ending with Karen Ryan's by-line.[24]

DISCUSSION

This is the first occasion that we have had to review the use of appropriated funds by government entities to engage in the production of VNRs. At issue here is whether CMS's use of appropriated funds to produce VNR materials constituted a proper use of those funds. In its written response and during our informal interview, CMS contended that the production of the VNR materials constitutes a "standard practice in the news sector" and a "well-established and well-understood use of a common news and public affairs practice." Smith Letter at 2. While we recognize that the use of VNR materials, with already prepared story packages, is a common practice in the public relations industry and utilized not only by government entities but also the private and non-profit sector as well, our analysis of the proper use of appropriated funds is not based upon the norms in the public relations and media industry.

CMS told us that it used fiscal year 2003 CMS program management appropriations to produce and distribute the VNR package. Smith Letter, Enclosure 1 at 8. While CMS may have authority to use appropriated funds to disseminate information regarding the changes to Medicare pursuant to MMA,[25] this authority is subject to the publicity or propaganda prohibition appearing in the annual appropriation act.[26] Specifically, this prohibition states: "No part of any appropriation contained in this or any other Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress." Pub. L. No. 108–7, Div. J, Tit. VI, §626, 117 Stat. 11, 470 (2003).

Our March 10, 2004, opinion noted that to date we have applied the publicity or propaganda restriction to prohibit the use of appropriated funds for materials that are self-aggrandizing, purely partisan in nature, or covert as to source. See generally B–302504. Of these three types, the VNR materials on MMA raise concerns as to whether they constitute "covert" propaganda because they are misleading as to source.[27]

CMS asserts that, in keeping with the traditional practices in the media industry, CMS or the service it used to distribute the VNR materials clearly labeled the materials as VNRs. See generally Smith Letter. Because they are so labeled and easily identifiable among those in the media, CMS contends that the story packages could not be considered misleading as to source. CMS officials also assert that it was not their intent to distribute the VNR materials to the broadcast stations covertly and that the labeling of the entire VNR package clearly attributes the source of the information to HHS and CMS. Smith Letter, Enclosure 1 at 4.

The "critical element of covert propaganda is the concealment of the agency's role in sponsoring the materials." B–229257, June 10, 1988. In our case law, findings of propaganda are predicated upon the fact that the target audience could not ascertain the information source. For example, we found government-prepared editorials to be covert propaganda; although the newspapers who would have printed the suggested editorials should have been aware of the source, the reading public would not have been aware of the source. B–223098, Oct. 10, 1986. In that case, we examined materials concerning President Reagan's proposal to transfer the Small Business Administration (SBA) to the Department of Commerce. Id. In support of the Administration's proposal, SBA prepared and distributed a variety of materials, including suggested editorials. SBA prepared these editorials and provided them to newspapers around the country to run as the position of the recipient newspapers without disclosing to the readers of those editorials that SBA was the source of the information. Because the SBA-prepared editorials did not identify SBA as the source, SBA's use of appropriated funds to prepare and distribute the editorials violated the publicity or propaganda prohibition.[28]

In a 1987 case, the Department of State's Office of Public Diplomacy for Latin America violated the prohibition by paying consultants to write op-ed pieces in support of the Administration's policy on Central America for distribution to newspapers. B–229069, Sept. 30, 1987. The State Department did not advise the newspapers of its involvement in the writing of the op-ed pieces. The newspapers published these articles for distribution to an equally uninformed audience of individual readers. These materials were "propaganda" within the "common understanding" of the term, and they constituted "deceptive covert propaganda" designed to influence the media and public to support the Administration's Latin American policies. Id.

In defending its VNRs, CMS fails to distinguish among the three separate parts of its VNRs and the intended audience for each part. We do not dispute the fact that CMS labeled the entire package of VNR materials so that the receiving news organizations could identify HHS or CMS as the source of the information, whether they were received directly from CMS through the mail or retrieved by the news organizations from CNN Newsource or other satellite services.[29] However, in both B–223098 and B–229069, the readers of the printed editorials and op-ed pieces would not have been aware of the government's influence. In analyzing whether the three separate materials that make up the VNR package are covert propaganda, we do not consider the VNR as a whole, because each of the three items that comprise the VNR was prepared for a different purpose and audience.

In its written response and during our interviews, CMS indicated that the 41 million Medicare beneficiaries, who may comprise the news stations' viewing audience, and not just the television stations themselves, were the intended audience of the VNR materials. Some VNR materials, including the B-roll and the slates, could not reasonably be targeted directly to a television viewing audience. By their very nature, the B-roll and slates were designed to be incorporated in a news story of the receiving stations' own creation. CMS clearly identified itself as the source of these materials to the television stations receiving them. CMS made efforts to notify the news stations of the availability of these materials via e-mail, telephone, and facsimile and the available distribution sources identified the materials as a VNR. Smith Letter at 2, Enclosure 1 at 2. Accordingly, the B-roll and slates do not violate the publicity or propaganda prohibition.

The story packages and lead-in scripts, however, were clearly designed to be seen and heard directly by the television viewing audience and not solely by the media receiving the package. CMS and HHS officials told us that the story packages were designed so that television stations could include them in their news broadcasts exactly as CMS had produced them, without any production effort by the stations. The suggested anchor lead-in scripts facilitate the unaltered use of the story package, announcing the package as a news story by Karen Ryan or Alberto Garcia. Importantly, CMS included no statement or other reference in either the story package or the anchor lead-in script to ensure that the viewing audience would be aware that CMS is the source of the purported news story.

The story packages, similar to the SBA editorials and the State Department op-ed pieces, could be reproduced with no alteration thereby allowing the targeted audience to believe that the information came from a nongovernment source or neutral party. The story packages of the VNRs consist of a complete message that could be reproduced directly by the news organizations to be viewed by the audience of the newscasts. As such, the viewing audience does not know, for example, that Karen Ryan and Alberto Garcia were paid with HHS funds for their work.

The receiving news organization's ability to edit the story packages to produce an independent news story does not negate the fact that CMS designed the segments to broadcast as CMS had produced them. CMS's effort to identify itself to the news organizations that received the VNRs did not alert television viewers that CMS was the source of the story package. CMS has acknowledged that the television viewer was the targeted audience. Because CMS did not identify itself as the source of the news report, the story packages, including the lead-in script, violate the publicity or propaganda prohibition.[30]

In a modest but meaningful way, the publicity or propaganda restriction helps to mark the boundary between an agency making information available to the public and agencies creating news reports unbeknownst to the receiving audience. It is not the only marker Congress has placed in statute between the government and the American press, however. Consistent with the restrictions on publicity or propaganda "within the United States,"[31] Congress has prohibited the U.S. Information Agency and its succeeding agency, Board of Broadcasting Governors, created by Congress for the purpose of producing pro-U.S. government news reports and print materials for international audiences, 22 U.S.C. §1461, from broadcasting to domestic audiences, 22 U.S.C. §§1461(b), 1461–1a.[32] In limiting domestic dissemination of the U.S. government-produced news reports, Congress was reflecting concern that the availability of government news broadcasts may infringe upon the traditional freedom of the press and attempt to control public opinion. See B–118654–O.M., Feb. 12, 1979. Congress also restricted government-produced programming for domestic audiences in the law creating the Public Broadcasting Corporation. 47 U.S.C. §396. Although the mission of the Public Broadcasting Corporation includes instructional, educational and cultural purposes, the statute creating the Corporation prohibits the Corporation from directly producing any news programming. 47 U.S.C. §396(g)(3)(A) & (B).[33] While Congress authorized HHS to conduct a wide-range of informational activities, CMS was given no authority to produce and disseminate unattributed news stories.

CMS makes two other arguments in support of its use of appropriated funds to produce and distribute the story packages. Neither argument is persuasive. CMS argues that the VNR materials cannot be covert propaganda because the VNR materials were not produced as a "purported editorial, advocacy piece or commentary." Smith Letter, Enclosure 1 at 4. CMS asserts that the narration by Karen Ryan (and presumably Alberto Garcia) does not take a position on the MMA. Id. While we agree that the story packages may not be characterized as editorials, explicit advocacy is not necessary to find a violation of the prohibition.[34] As with the SBA-suggested editorials, the content of the story packages themselves would not violate the publicity or propaganda prohibition if identifying the source to the target audience were not an issue. See B–302504, Mar. 10, 2004.

Further, CMS refers to our recent opinion in B–301022, Mar. 10, 2004, regarding the Office of National Drug Control Policy's (ONDCP) open letter to state-level prosecutors opposing efforts to legalize marijuana and other controlled substances.[35] Smith Letter, Enclosure 1 at 3. The open letter contained two attachments, one of which did not identify ONDCP as the source of the information. B–301022, Mar. 10, 2004. We found that the unidentified attachment was not a violation of the publicity or propaganda prohibition because the document was part of a package that clearly identified ONDCP as the source and because there was no attempt to portray the contents of the document as the position of an individual outside the agency. Id.

This reasoning cannot be applied to the story packages at issue here. The target audience of the ONDCP letter and attachments, the state prosecutors, had access to the entire package. The television viewing audiences, however, could not view the entire MMA VNR package. Evidence shows, and CMS acknowledges, that the story package could be broadcast without edit or alteration, and actually was broadcasted unedited in some markets. Television audiences viewing the story packages were not in a position to determine the source from the other materials in the VNR packages. Unlike the ONDCP materials, the content of the message expressed in the story packages was attributed to alleged reporters, Karen Ryan and Alberto Garcia, and not to HHS or CMS. Nothing in the story packages permit the viewer to know that Karen Ryan and Alberto Garcia were paid with federal funds through a contractor to report the message in the story packages. The entire story package was developed with appropriated funds but appears to be an independent news story. The failure to identify HHS or CMS as the source within the story package is not remedied by the fact that the other materials in the VNR package identify HHS and CMS as the source of the materials or that the content of the story package did not attempt to attribute the agency's position to an individual outside the agency.[36]

HHS's misuse of appropriated funds in violation of the publicity or propaganda prohibition also constitutes a violation of the Antideficiency Act, 31 U.S.C. §1341(a). The Antideficiency Act prohibits making or authorizing an expenditure or obligation that exceeds available budget authority. See B–300325, Dec. 13, 2002. Because CMS has no appropriation available for the production and distribution of materials that violate the publicity or propaganda prohibition, CMS has violated the Antideficiency Act, 31 U.S.C. §1341(a). See B–300325, Dec. 13, 2002. CMS must report its Antideficiency Act violation to the President and the Congress. 31 U.S.C. §1351.[37] Office of Management and Budget Circular No. A–11 provides guidance to executive agencies on information to include in Antideficiency Act reports.

CONCLUSION

Although the VNR materials were labeled so that the television news stations could identify CMS as the source of the materials, part of the VNR materials—the story packages and lead-in anchor scripts—were targeted not only to the television news stations but also to the television viewing audience. Neither the story packages nor scripts identified HHS or CMS as the source to the targeted television audience, and the content of the news reports was attributed to individuals purporting to be reporters, but actually hired by an HHS subcontractor. For these reasons, the use of appropriated funds for production and distribution of the story packages and suggested scripts violated the publicity or propaganda prohibition of the Consolidated Appropriation Resolution of 2003, Pub. L. No. 108–7, Div. J, Tit. VI, §626, 117 Stat. 11, 470 (2003). Moreover, because CMS had no appropriation available to produce and distribute materials in violation of the publicity or propaganda prohibition, CMS violated the Antideficiency Act, 31 U.S.C. §1341. CMS must report the Antideficiency Act violation to the Congress and the President. 31 U.S.C. §1351.

ANTHONY H. GAMBOA,
General Counsel.

FOOTNOTES

[1] Eugene Marlowe, Sophisticated "News" Videos Gain Wide Acceptance, Pub. Rel. J. 17 (Aug./Sept. 1994).

[2] In 1991, it was reported that 78 percent of news directors polled used edited VNRs at least once a week in their broadcasts. Bob Sonenclar, The VNR Top Ten: How Much Video PR Gets On the Evening News?, Col. J. Rev. 14 (Mar. 1, 1991). In 1992, another source reported that 100 percent of polled stations admitted to using some VNR materials in their newscasts. Anne R. Owen and James A. Karrh, Video News Releases: Effects on Viewer Recall and Attitudes, 22 Pub. Rel. Rev. 369 (Winter 1996). In 2001, it was reported that approximately 800 television stations in the United States use VNRs. Mark D. Harmon and Candace White, How Television News Programs Use Video News Releases, 27 Pub. Rel. Rev. 213 (June 22, 2001).

[3] Marlowe, supra note 1, at 17.

[4] Id.

[5] Glen T. Cameron and David Blount, VNRs and Air Checks: A Content Analysis of the Use of Video News Releases in Television Newscasts, 73 Journalism and Mass Comm. Q. 890, 891 (Winter 1996) (summarizes the logistic and resource constraints of the media industry attributed to the media's decision to utilize VNR material).

[6] Sonenclar, supra note 2, noting the anticipated rise in the use of VNRs. Harmon and White, supra note 2, noting the new importance of using VNRs in the media industry in the late 1980s and into the 1990s.

[7] See generally Harmon and White, supra note 2, summarizing the various studies in the 1990s regarding the ethics of using VNRs in the journalism industry.

[8] Id.; see also Owen and Karrh, note 2, examining the credibility of news programming using messages derived from VNRs.

[9] Marlowe, supra note 1, at 17. See also Cameron and Blount, supra note 5, at 893.

[10] Owen and Karrh, supra note 2. Cameron and Blount, supra note 5, at 893.

[11] Cameron and Blount, supra note 5, at 893.

[12] Id. This study showed that most news stations, regardless of size of the market, did not use the prepackaged news stories on a wide scale basis. The study noted that, while most stations used part of the VNRs, very few stations used the prepackaged story with no alteration.

[13] Id. at 901.

[14] Harmon and White, supra note 2.

[15] Zachary Roth, Fact Check, CNN: Spinning PR into News, CJR Campaign Desk, Mar. 22, 2004, available at http://www.campaigndesk.org/archives/000318.asp.

[16] Id. The article also notes that most news directors that ran the VNRs at issue here expressed displeasure with the Administration, and some thought the distribution of the VNR took "advantage of the smaller stations' well-known lack of resources."

[17] See Code of Ethics and Professional Conduct Radio—Television News Directors Association (RTNDA), available at http://www.rtnda.org/ethics/coe.html; see also Society of Professional Journalists (SPJ) Code of Ethics, available at http://www.spi.org/ethics code-asp.

[18] SPJ Code of Ethics states: "Deny favored treatment to advertisers and special interests and resist their pressure to influence news coverage." SPJ Code of Ethics, supra note 17. RTNDA Code of Ethics states: "Gather and report news without fear or favor, and vigorously resist undue influence from any outside forces, including advertisers, sources, story subjects, powerful individuals, and special interest groups." Code of Ethics and Professional Conduct RTNDA, supra note 17.

[19] RTNDA Code of Ethics states: "Clearly disclose the origin of information and label all material provided by outsiders." (Emphasis added.) SPJ Code of Ethics states: "Identify sources whenever feasible. The public is entitled to as much information as possible on sources' reliability."

[20] In addition to these materials, one of the English-language videos contains footage of an advertisement that appeared on national television. Our legal opinion of March 10, 2004, B–302504, reviewed this material, and found that HHS's use of appropriated funds for the advertisement did not violate the publicity or propaganda prohibition.

[21] In addition to the title cards, the slates contain the visual feeds of the B-roll and the story packages. Each slate may be separated and edited for individual use by the receiving television station. For example, the receiving station could separate the slate with the B-roll footage of seniors engaged in health-related activities from the other B-roll footage and the story packages. The station could then use this slate separately from the remaining VNR materials.

[22] In Story Package 2, Leslie Norwalk, in one of her "interview" video clips, not Karen Ryan, the reporter, made this point.

[23] The transcript, available http://www.2theadvocate.com/scripts/012304/noon.htm, was accessed on April 7, 2004.

[24] The partial transcripts indicate the time each news item was broadcast, the topic discussed, some information on visual clips, and the reporter on the assignment. For example, the partial transcript for the WAGA-TV transcript indicated that the story ran for 1 minute and 22 seconds, contained video clips from the television campaign advertisements and a pharmacy checkout, an interview with Tommy Thompson, and Karen Ryan reporting from Washington. See Video Monitoring Services of America, Good Day Atlanta, February 4, 2004, available at www.nexis.com.

[25] See generally, MMA §101(a) (adding new sections to the Social Security Act and expanding HHS's authority to engage in information dissemination activities to inform Medicare beneficiaries about their benefits).

[26] We need not speculate, and this decision does not address, what type of authorization an agency must have, and how specific that authority would have to be, to prepare and distribute a "news story" absent a prohibition on publicity or propaganda.

[27] We did not criticize the flyer and advertisements under consideration in our March 10, 2004, opinion as covert propaganda because all of the materials identified HHS or CMS as the source to every audience viewing the material.

[28] We compared SBA's editorials to lobbying campaigns, attempting to manipulate the perception that public support for an issue was greater than it actually was. Id.; see also B–129874, Sept. 11, 1978 (criticizing a plan to distribute "canned editorial materials").

[29] Some news organizations reported that the use of such information was a mistake due to their own misreading of the label on the materials received or some confusion as to the labeling by CNN Newsource. Later reports indicate that CNN Newsource has changed its cataloguing and labeling of VNRs in response to these reports. See Zachary Roth, Fact Check: CNN Cracks Down—on CNN, CJR Campaign Desk, Mar. 31, 2004, available at http://www.campaigndesk.org/archives/000358.asp.

[30] As we noted in the background section of this decision, CMS forwarded to us a videotape including what CMS described as two story packages that HHS had produced and distributed during the Clinton Administration in October 1999. These two story packages were not brought to our attention at that time. Had we been aware of the use of story packages in this or other contexts, the principles discussed here would have been applicable. We note, however, that accounts of the government are settled by operation of law three years after the close of the fiscal year. 31 U.S.C. §3526(c).

[31] The prohibition restricts publicity or propaganda "within the United States." The Consolidated Appropriations Resolution of 2003, Pub. L. No. 108–7, Div. J, Tit. VI, §626, 117 Stat. 11, 470 (2003).

[32] There are some limited exceptions in which Broadcasting Board of Governors and United States Information Agency materials could be viewed by a domestic audience. 22 U.S.C. §1461(b). None of these exceptions are relevant here.

[33] The Administration and Congress have significant control over the Public Broadcasting Corporation (PBC). The President appoints and the Senate confirms the nine members of the Board of Directors. 47 U.S.C. §396(c)(2). PBC is required to report annually to Congress regarding its operations, activities, financial condition and accomplishments. 47 U.S.C. §396(i).

[34] Although the story package content may not contain strong editorial positions on the benefits of MMA, they are not strictly factual news stories as HHS contends. On balance, the contents of the story packages consist of a favorable report on effects on Medicare beneficiaries, containing the same notable omissions and weaknesses as the flyer and advertisements that we reviewed in our March 2004 opinion.

[35] The National District Attorneys Association sent the open letter and attachments with its own cover letter to the state-level prosecutors.

[36] CMS also argues that VNRs are similar to press releases as "[e]ach is designed to provide information to reporters and is crafted for the use by the media to which it is directed. Each provides quotes, facts and background that a reporter can use to write or produce a story. Each is created to provide context to the issue." Smith Letter at 1. There may, indeed, be similarities between these two public relations tools. We are familiar with the practice of preparing press releases to include information useful to reporters who then prepare and produce their own news stories for publication. With the story packages, CMS prepared news stories using alleged reporters rather than simply offering information to reporters who would prepare their own stories.

[37] We were unable to identify the amount of HHS's violation. HHS advised that the English language story packages cost $33,250, and that the Spanish language VNR cost $9,500. Smith Letter, Enclosure 1 at 8. Although requested, HHS did not provide further documentation of these costs to us. We did not audit these amounts.

By Mr. ALLARD (for himself, Mr. DURBIN, and Ms. LANDRIEU):

S. 2474. A bill to amend the Internal Revenue Code of 1986 to allow penalty-free withdrawals from retirement plans during the period that a military reservist or national guardsman is called to active duty for an extended period, and for other purposes; to the Committee on Finance.

Mr. ALLARD. Mr. President, I rise to introduce the Guardsmen and Reservists Financial Relief Act of 2004. National guardsmen and reservists are serving our country with virtue and valor in the war on terror. These brave men and women deserve recognition for the many sacrifices they make in serving and protecting this great country. Their families also deserve protection from potential financial hardships experienced at home that may result from the guardsmen or reservists being called to service.

Since September 11, 2004, many men and women have left their jobs in the private sector to fill vitally needed positions for our national defense. In playing the role of true citizen soldiers, some have taken drastic pay cuts from their civilian jobs in order to fulfill their duty to their country. This is beginning to create financial strains on their families.

The Department of Defense estimates that 3 percent of its reservists have been called up more than once since September 11, 2001. Additionally, the GAO reports that nearly 41 percent of reservists are impacted by a pay discrepancy between his or her military and civilian salary.

The Guardsmen and Reservists Financial Relief Act of 2004 will see that the families and loved ones of Guard members and reservists, who are called to service after September 11, 2001, can access retirement funds without incurring any penalties.

This important legislation will allow Guard members and reservists who are activated for more than 179 days to make penalty-free early withdrawals from their IRA or 401(k) plan.

This bill retroactively covers members of the Guard and Reserve who were called to service beginning on September 11, 2001, and extends coverage to those who may continue to be called on to serve on an active basis through September 12, 2005.

Furthermore, this bill will encourage repayment of any withdrawal from an IRA or 401(k) fund within 2 years of a guardsman or reservist ending their active duty, ensuring retirement, financial security for soldiers and their families.

It also temporarily lifts the contribution cap to equal the amount of the withdrawn funds to allow for full repayment.

National Guard members and military reservists have been imperative to the military strength of our Nation over the years. Today, almost half of our military strength is from those who serve in the National Guard and military Reserve. There are currently 169,000 National Guard members and military reservists on active duty helping fight the war on terror.

Since September 11, 2001, 373,707 total National Guard members and military reservists have been mobilized. There is no doubt we owe a great deal to our men and women in uniform who are so honorably serving their country by fighting the war on terror. Helping to ease the financial burdens of families of Guard members and reservists is a good start.

I look forward to working with my colleagues in the Senate on the Guardsmen and Reservists Financial Relief of 2004 to provide members of our National Guard and military Reserve with the financial relief they deserve for loyally serving and protecting this country.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2474

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Guardsmen and Reservists Financial Relief Act of 2004".

SEC. 2. PENALTY-FREE WITHDRAWALS FROM RETIREMENT PLANS FOR INDIVIDUALS CALLED TO ACTIVE DUTY FOR AT LEAST 179 DAYS.

(a) IN GENERAL.—Paragraph (2) of section 72(t) of the Internal Revenue Code of 1986 (relating to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end the following new subparagraph:

"(G) DISTRIBUTIONS FROM RETIREMENT PLANS TO INDIVIDUALS CALLED TO ACTIVE DUTY.—

"(i) IN GENERAL.—Any qualified reservist distribution.

"(ii) AMOUNT DISTRIBUTED MAY BE REPAID.—Any individual who receives a qualified reservist distribution may, at any time during the 2-year period beginning on the day after the end of the active duty period, make one or more contributions to an individual retirement plan of such individual in an aggregate amount not to exceed the amount of such distribution. The dollar limitations otherwise applicable to contributions to individual retirement plans shall not apply to any contribution made pursuant to the preceding sentence. No deduction shall be allowed for any contribution pursuant to this clause.

"(iii) QUALIFIED RESERVIST DISTRIBUTION.—For purposes of this subparagraph, the term 'qualified reservist distribution' means any distribution to an individual if—

"(I) such distribution is from an individual retirement plan, or from amounts attributable to employer contributions made pursuant to elective deferrals described in subparagraph (A) or (C) of section 402(g)(3) or section 501(c)(18)(D)(iii),

"(II) such individual was (by reason of being a member of a reserve component (as defined in section 101 of title 37, United States Code)), ordered or called to active duty for a period in excess of 179 days or for an indefinite period, and

"(III) such distribution is made during the period beginning on the date of such order or call and ending at the close of the active duty period.

"(iv) APPLICATION OF SUBPARAGRAPH.—This subparagraph applies to individuals ordered or called to active duty after September 11, 2001, and before September 12, 2005. In no event shall the 2-year period referred to in clause (ii) end before the date which is 2 years after the date of the enactment of this subparagraph.".

(b) CONFORMING AMENDMENTS.—

(1) Section 401(k)(2)(B)(i) of such Code is amended by striking "or" at the end of subclause (III), by striking "and" at the end of subclause (IV) and inserting "or", and by inserting after subclause (IV) the following new subclause:

"(V) the date on which a period referred to in section 72(t)(2)(G)(iii)(III) begins, and".

(2) Section 403(b)(11) of such Code is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by inserting after subparagraph (B) the following new subparagraph:

"(C) for distributions to which section 72(t)(2)(G) applies.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after September 11, 2001.

By Mr. AKAKA (for himself, Mr. DURBIN, Mr. LEAHY, and Mr. SCHUMER):

S. 2475. A bill to require enhanced disclosure to consumers regarding the consequences of making only minimum required payments in the repayment of credit card debt; to the Committee on Banking, Housing, and Urban Affairs.

Mr. AKAKA. Mr. President, I rise today to introduce the Credit Card Minimum Payment Warning Act. I greatly appreciate the significant contributions Senator DURBIN made to this bill, and I thank him very much for that. Also, I thank Senator LEAHY and Senator SCHUMER for cosponsoring this legislation.

Americans are carrying enormous amounts of debt. In 2003, consumer debt increased for the first time to more than $2 trillion, according to the Federal Reserve. This is a 28-percent increase since the year 2000. According to the Daily Bankruptcy News, consumer debt is now equal to 110 percent of disposable income. Ten years ago, it was 85 percent; and 20 years ago, it was 65 percent. A key component of household debt can be attributed to the use of credit cards. Revolving debt, mostly comprised of credit card debt, has more than doubled from $313 billion in January 1994 to $753 billion in debt in January 2004. A U.S. Public Interest Research Group and Consumer Federation of America analysis of Federal Reserve data indicates that the average household with debt carries approximately $10,000 to $12,000 in total revolving debt and has nine credit cards.

More and more working families are trying to meet growing financial obligations and are having difficulties surviving financially. When interest rates do eventually rise, consumers' increasing debt obligations will be compounded further.

As household debt has increased, bankruptcy filings have surged to record levels. In the year 2003, more than 1.6 million consumers filed for bankruptcy. This staggering amount is an increase of 5.6 percent over the previous record set in 2002. Bankruptcies disrupt the lives of consumers and limit their ability to access credit in the future. In addition, bankruptcies lead to significant financial losses for creditors. It is imperative that we make consumers more aware of the long-term effects of their financial decisions, particularly in managing their credit card debt, so that they can avoid bankruptcy.

Even as we contemplate the consequences of more and more debt, it has become easier to access credit. Preapproved credit card offers are now a routine piece of mail. Students are offered credit cards at earlier ages, especially in view of the success that credit card companies are having with their aggressive campaigns targeted towards college students. Mr. President, 55 percent of college students acquire their first credit card during their first year in college, and 83 percent of college students have at least one credit card. Forty-five percent of college students are in credit card debt, with the average debt being over $3,000.

While it is relatively easy to obtain credit, not enough is done to ensure that credit is properly managed. Currently, credit card statements fail to include all of the information necessary to allow individuals to make fully informed financial decisions. Additional disclosure is needed to ensure that individuals completely understand the implications of their credit card use.

Our legislation will provide a wakeup call for consumers. It will make it very clear what costs consumers will incur if they make only the minimum payments on their credit cards. The personalized information they will receive for each of their accounts will help them to make informed choices about the payments that they choose to make towards their balance.

This bill requires a minimum payment warning notification on monthly statements stating that making the minimum payment will increase the amount of interest that will be paid and extend the amount of time it will take to repay the outstanding balance. Consumers would have to be informed of how many years and months it will take to repay their entire balance if they make only the minimum payments. In addition, the total costs in interest and principal, if the consumer pays only the minimum payment, would have to be disclosed. These provisions will make individuals much more aware of the true costs of their credit card debts.

The bill also requires that credit card companies provide useful information so that people can develop strategies to free themselves of credit card debt. Consumers would have to be provided with the amount they need to pay to eliminate their outstanding balance within 36 months. Finally, the legislation would require that creditors establish a toll-free number so that consumers can access trustworthy credit counselors. In order to ensure that consumers are referred from the toll-free number to only trustworthy organizations, the agencies for referral would have to be approved by the Federal Trade Commission and the Federal Reserve Board as having met comprehensive quality standards. These standards are necessary because certain credit counseling agencies have abused their nonprofit, tax-exempt status and have taken advantage of people seeking assistance in managing their debts. People believe, sometimes mistakenly, that they can place blind trust in nonprofit organizations and that their fees will be lower than those of other credit counseling organizations.

Too many individuals may not realize that the credit counseling industry does deserve the trust that consumers often place in it.

The Credit Card Minimum Payment Warning Act has been endorsed by the Consumer Federation of America, Consumers Union, and U.S. Public Interest Research Group.

I ask unanimous consent that the letter of support and factsheet from these organizations be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONSUMERS UNION, CONSUMER FEDERATION OF AMERICA, U.S. PUBLIC INTEREST RESEARCH GROUP,

May 13, 2004:

DEAR SENATORS AKAKA AND DURBIN: The undersigned national consumer organizations write to strongly support the Credit Card Minimum Payment Warning Act. The act would require credit card issuers to disclose more information to consumers about the costs associated with paying their bills at ever-declining minimum payment rates. The Act provides a personalized "price tag" so consumers can understand what are the real costs of credit card debt and avoid financial problems in the future.

Undisputed evidence links the rise in bankruptcy in recent years to the increase in consumer credit outstanding. These numbers have moved in lockstep for more than 20 years. Revolving credit, for example (most of which is credit card debt) ballooned from $214 billion in January 1990 to over $750 billion currently. As a family debt increases, debt service payments on items such as interest and late fees take an ever-increasing piece of their budget. For some families, this contributes to the collapse of their budget. Bankruptcy becomes the only way out. (See the attached fact sheet for more information about the scope and impact of credit card debt.)

Credit card issuers have exacerbated the financial problems that many families have faced by lowering minimum payment amounts, from around 4 percent of the balance owed, to about 2 percent currently. This decline in the typical minimum payment is a significant reason for the rise in consumer bankruptcies in recent years. A low minimum payment often barely covers interest obligations. It convinces many borrowers that they are financially sound as long as they can meet all of their minimum payment obligations. However, those that cannot afford to make these payments often carry so much debt that bankruptcy is usually the only viable option.

This bill will provide consumers several crucial pieces of information on their monthly credit card statement:

A "minimum payment warning" that paying at the minimum rate will increase the amount of interest that is owed and the time it will take to repay the balance.

The number of years and months that it will take the consumer to pay off the balance at the minimum rate.

The total costs in interest and principal if the consumer pays at the minimum rate.

The monthly payment that would be required to pay the balance off in three years.

The bill also requires that credit card companies provide a toll-free number that consumers can call to receive information about credit counseling and debt management assistance. In order to assure that consumers are referred to honest, legitimate non-profit credit counselors, the bill requires the Federal Reserve to screen these agencies to ensure that they meet rigorous quality standards.

Our groups command you for offering this very important and long-overdue piece of legislation. It provides the kind of personalized, timely disclosure information that will help debt-choked families make informed decisions and start to work their way back to financial health.

Sincerely,

TRAVIS B. PLUNKETT,
Legislative Director, Consumer Federation of America.
ADAM GOLDBERG,
Policy Analyst, Consumers Union.
EDMUND MIERZWINSKI,
Consumer Programs Director, U.S. Public Interest Research Group.

FACTS ABOUT CREDIT CARD DEBT

Revolving debt (most of which is credit card debt) has ballooned from $54 billion in January 1980 to over $750 billion currently.

	In billions
January 1980	54
January 1984	79
January 1990	214
January 1994	313
January 2004	753

Source: http://www.federalreserve.gov/Releases/G19/his/cc his sa.html.

About one-twelfth of this debt is paid off before it incurs interest, so Americans pay interest on an annual load of about $690 billion in revolving debt.

According to the Federal Reserve, the most recent average credit card interest rate is 12.4% APR. At simple interest, with no compounding, then, consumers pay at least $85 billion annually in interest on credit card and other revolving debt.

Just about 55 percent of consumers carry debt. The rest are convenience users.

From PIRG/CFA analysis of Federal Reserve data, the average household with debt carriers approximately $10,000–12,000 in total revolving debt and has approximately nine cards.

FACTS ABOUT THE EFFECT OF MINIMUM MONTHLY PAYMENTS

A household making the monthly minimum required payments on this debt (usually the greater of 2 percent of the unpaid balance or $20) at the very low average 12.4% APR (many consumers pay much higher penalty rates than this FRB-reported average) would pay $1,175 in interest just in the first year, even if these cards are cut up and not used again.

This household would pay a total of over $9,800 in interest over a period of 25 years and three months. That fact is not disclosed.

A household or consumer who merely doubled their minimum payment and paid 4% of the amount due would fare better. A household or consumer that paid 10% of the balance each month would fare much better. Here is comparison.

Minimum Payment Warnings Would Encourage Larger Payments and Save Consumers Thousands of Dollars in High-Priced Credit Card Debt.

Credit Card Debt of $10,000 at Modest 12.4% APR	Monthly Payment (% of unpaid balance)		
	2%	4%	10%
First Year Interest	$1,175	$1,054	$775
Total Interest Owed	$9,834	$3,345	$1,129
Months To Pay Owed	303	127	52
Years to Pay	25.3	10.6	4.3

Calculations by U.S. PIRG. also see http://www.truthaboutcredit.org/lowerapr.htm for additional comparisons and amortization tables

Giving consumers a minimum payment warning on their credit card statements is the most powerful action Congress could take to increase consumer understanding of the cost of credit card debt.

FACTS ABOUT WHO OWES CREDIT CARD DEBT

Credit card debt has risen fastest among lower-income Americans. These families saw the largest increase—a 184 percent rise in their debt—but even very high-income families had 28 percent more credit card debt in 2001 than they did in 1989. Source: Demos

Thirty-nine percent of student loan borrowers now graduate with unmanageable levels of debt, meaning that their monthly payments are more than 8 percent of their monthly incomes. According to PIRG analysis of the 1999-2000 NPSAS data, in 2001, 41 percent of the graduating seniors carried a credit card balance, with an average balance of $3,071. Student loan borrowers were even more likely to carry credit card debt, with 48 percent of borrowers carrying an average credit card balance of $3,176. See "The Burden of Borrowing," 2002, Tracey King, the State PIRGs, *http://www.pirg.org/highered/BurdenofBorrowing.pdf*

While less likely to have credit cards than white families, data show that African-American and Hispanic families are more likely to carry debt.

	% With credit cards 2001	Cardholding % with debt 2001	Average credit card debt 2001
All families	76	55	$4,126
White families	82	51	4,381
Black families	59	84	2,950
Hispanic families	53	75	3,691

Demos calculation using 2001 Survey of Consumer Finance. See Borrowing To Make Ends Meet. Demos, http://www.demos-usa.org/pubs/borrowing to make ends meet.pdf.

SENIORS (OVER AGE 65)

Credit card debt among older Americans increased by 89 percent from 1992 to 2001. Average balances among indebted adults over 65 increased by 89 percent, to $4,041.

Seniors between 65 and 69 years old, presumably the newly-retired, saw the most staggering rise in credit card debt—217 percent—to an average of $5,844.

Female-headed senior households experienced a 48 percent increase between 1992 and 2001, to an average of $2,319.

Among seniors with incomes under $50,000 (70 percent of seniors), about one in five families with credit card debt is in debt hardship—spending over 40 percent of their income on debt payments, including mortgage debt.

TRANSITIONERS (AGES 55–64)

Transitioners experienced a 47 percent increase in credit card debt between 1992 and 2001, to an average of $4,088.

The average credit card-indebted family in this age group now spends 31 percent of their income on debt payments, a 10 percent increase over the decade.

Source: "Retiring in the Red: The Growth of Debt Among Older Americans"; *http://www.demos-usa.org/pub101.cfm.*

Other fact sheet sources include "Deflate Your Rate," MASSPIRG, 2002, see *http://www.truthaboutcredit.org* and other reports by Demos. See *http://www.demos-usa.org/page38.cfm.*

Mr. AKAKA. I also ask unanimous consent that the text of the Credit Card Minimum Payment Warning Act be printed in the RECORD following my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. AKAKA. Mr. President, I urge my colleagues to support this legislation that will empower consumers by providing them with detailed personalized information to assist them in making informed choices about their credit card use and repayment. This bill makes clear the adverse consequences of uninformed choices, such as making only minimum payments, and provides opportunities to locate assistance to eliminate credit card debt.

S. 2475

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Credit Card Minimum Payment Warning Act".

SEC. 2. ENHANCED CONSUMER DISCLOSURES REGARDING MINIMUM PAYMENTS.

Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

"(11)(A) Information regarding repayment of the outstanding balance of the consumer under the account, appearing in conspicuous type on the front of the first page of each such billing statement, and accompanied by an appropriate explanation, containing—

"(i) the words 'Minimum Payment Warning: Making only the minimum payment will increase the amount of interest that you pay and the time it will take to repay your outstanding balance.';

"(ii) the number of years and months (rounded to the nearest month) that it would take for the consumer to pay the entire amount of that balance, if the consumer pays only the required minimum monthly payments;

"(iii) the total cost to the consumer, shown as the sum of all principal and interest payments, and a breakdown of the total costs in interest and principal, of paying that balance in full if the consumer pays only the required minimum monthly payments, and if no further advances are made;

"(iv) the monthly payment amount that would be required for the consumer to eliminate the outstanding balance in 36 months if no further advances are made; and

"(v) a toll-free telephone number at which the consumer may receive information about accessing credit counseling and debt management services.

"(B)(i) Subject to clause (ii), in making the disclosures under subparagraph (A) the creditor shall apply the interest rate in effect on the date on which the disclosure is made.

"(ii) If the interest rate in effect on the date on which the disclosure is made is a temporary rate that will change under a contractual provision specifying a subsequent interest rate or applying an index or formula for subsequent interest rate adjustment, the creditor shall apply the interest rate in effect on the date on which the disclosure is made for as long as that interest rate will apply under that contractual provision, and then shall apply the adjusted interest rate, as specified in the contract. If the contract applies a formula that uses an index that varies over time, the value of such index on the date on which the disclosure is made shall be used in the application of the formula.".

SEC. 3. ACCESS TO CREDIT COUNSELING AND DEBT MANAGEMENT INFORMATION.

(a) GUIDELINES REQUIRED.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Board of Governors of the Federal Reserve System and the Federal Trade Commission (in this section referred to as the "Board" and the "Commission", respectively) shall jointly, by rule, regulation, or order, issue guidelines for the establishment and maintenance by creditors of a toll-free telephone number for purposes of the disclosures required under section 127(b)(11) of the Truth in Lending Act, as added by this Act.

(2) APPROVED AGENCIES.—Guidelines issued under this subsection shall ensure that referrals provided by the toll-free number include only those agencies approved by the Board and the Commission as meeting the criteria under this section.

(b) CRITERIA.—The Board and the Commission shall only approve a nonprofit budget and credit counseling agency for purposes of this section that—

(1) demonstrates that it will provide qualified counselors, maintain adequate provision for safekeeping and payment of client funds, provide adequate counseling with respect to client credit problems, and deal responsibly and effectively with other matters relating to the quality, effectiveness, and financial security of the services it provides;

(2) at a minimum—

(A) is registered as a nonprofit entity under section 501(c) of the Internal Revenue Code of 1986;

(B) has a board of directors, the majority of the members of which—

(i) are not employed by such agency; and

(ii) will not directly or indirectly benefit financially from the outcome of the counseling services provided by such agency;

(C) if a fee is charged for counseling services, charges a reasonable and fair fee, and provides services without regard to ability to pay the fee;

(D) provides for safekeeping and payment of client funds, including an annual audit of the trust accounts and appropriate employee bonding;

(E) provides full disclosures to clients, including funding sources, counselor qualifications, possible impact on credit reports, any costs of such program that will be paid by the client, and how such costs will be paid;

(F) provides adequate counseling with respect to the credit problems of the client, including an analysis of the current financial condition of the client, factors that caused such financial condition, and how such client can develop a plan to respond to the problems without incurring negative amortization of debt;

(G) provides trained counselors who—

(i) receive no commissions or bonuses based on the outcome of the counseling services provided;

(ii) have adequate experience; and

(iii) have been adequately trained to provide counseling services to individuals in financial difficulty, including the matters described in subparagraph (F);

(H) demonstrates adequate experience and background in providing credit counseling;

(I) has adequate financial resources to provide continuing support services for budgeting plans over the life of any repayment plan; and

(J) is accredited by an independent, nationally recognized accrediting organization.

Mr. DURBIN. Mr. President, I am delighted to be working with my friend the distinguished Senator from Hawaii, Senator AKAKA, to introduce a measure that provides a simple yet vital commodity to users of credit cards. The commodity I speak of: information.

The modern-day credit-reporting system has benefitted consumers by making affordable credit more widely available than ever before, and the spread of credit cards is an important part of this "credit revolution." Along with this revolution in credit availability, however, we need a revolution in consumers' ability to manage their credit. Two facts provide a quick and simple snapshot of our progress in that regard. In the fourth quarter of 2003, the number of delinquencies on regular consumer loans went down. That same quarter, the number of past-due credit card accounts hit an all-time high. Clearly, an increasing number of credit card holders need to do a better job of responsibility managing their credit exposure.

This bill is designed to help them to do just that by providing that vital commodity, information. It would require credit card statements to provide information that will help consumers understand the relationships among their total balance, the minimum payment due, and the accumulation of interest over time. Specifically, this bill would require that statements provide the following information: the amount of time it would take to pay off the total balance if just minimum payments are made each month; the total cost to the consumer that would be incurred over that time period, broken into interest and principle; the payment amount that would be necessary each month to pay off the total balance in three years; and a toll-free telephone number consumers could call to get a referral to a legitimate, accredited, non-profit credit counseling agency.

We would like to think that the credit card companies would be glad to provide whatever information their consumers needed to responsibly manage their credit. The fact of the matter is, though, that they do not provide the information I just described, and chances are they will not begin doing so on their own initiative. These numbers are not all that hard to calculate. A few lines of computer code is all it would take. And yet provision of these three simple numbers would provide a huge payback by helping credit card users quickly and easily get a clearer understanding of the size of their balance and what the consequences will be for them—in terms of time and financial cost—of carrying that balance.

Let me be extra clear about one thing: This bill will help markets for credit work better. As Adam Smith told us, the free flow of information is an absolute prerequisite of an efficient market. For markets to work, buyers must know and understand what they are buying. When our bill becomes law, credit card holders—who are simply buyers of credit in the marketplace—will have a better understanding of what exactly they are buying into, for the long term. The result can only be that the credit markets will better serve us, and that our households and our Nation will be on stronger financial footing.

I thank my friend Senator AKAKA for working with me on this important measure. I am also delighted that my friends Senator SCHUMER AND SENATOR LEAHY have joined us as original cosponsors. I urge the rest of my colleagues to join us by cosponsoring this bill.

By Mr. KYL (for himself, Mr. MILLER, Mr. CORNYN, Mr. SESSIONS, Mr. CHAMBLISS, Mr. GRAHAM of South Carolina, Mr. NICKLES, Mr. MCCONNELL, Mr. INHOFE, and Mr. ROBERTS):

S. 2476. A bill to amend the USA PATRIOT Act to repeal the sunsets; to the Committee on the Judiciary.

Mr. KYL. Mr. President, I rise today to introduce a bill that would repeal §224 of the USA Patriot Act. Section 224 provides that 16 different parts of the Patriot Act "shall cease to have effect on December 31, 2005." The authorities subject to this sunset include some of the most important provisions of the Act. They are sections 201, wiretapping in terrorism cases; 202, wiretapping in computer fraud and abuse felony case; 203(b) sharing wiretap information; 203(d), sharing foreign intelligence information; 204, Foreign Intelligence Surveillance Act (FISA) pen register/trap and trace exceptions; 206, roving FISA wiretaps; 207, duration of

FISA surveillance of non-United States persons who are agents of a foreign power; 209, seizure of voice-mail messages pursuant to warrants; 212, emergency disclosure of electronic surveillance; 214, FISA pen register/trap and trace authority; 215, FISA access to tangible items; 217, interception of computer trespasser communications; 218, purpose for FISA orders; 220, nationwide service of search warrants for electronic evidence; 223, civil liability and discipline for privacy violations; and 225, provider immunity for FISA wiretap assistance.

Rather than praise the Patriot Act myself, I would like to quote others who have done so. First, I would note that the President has called on Congress to renew all parts of the Patriot Act that are scheduled to expire next year. As he has emphasized, "to abandon the Patriot Act would deprive law enforcement and intelligence officers of needed tools in the war on terror, and demonstrate willful blindness to a continuing threat."

FBI Director Robert Mueller, in a hearing before the Judiciary Committee yesterday, also voiced strong support for renewing the Patriot Act. As he noted, "for over two and a half years, the PATRIOT Act has proved extraordinarily beneficial in the war on terrorism and has changed the way the FBI does business. Many of our counterterrorism successes, in fact, are the direct results of provisions included in the Act, a number of which are scheduled to 'sunset' at the end of next year. I strongly believe it is vital to our national security to keep each of these provisions intact."

Similarly, in an April 14 field hearing before the Judiciary Committee, Deputy Attorney General James Comey stated that the Patriot Act "has made us immeasurably safer." He also responded to the allegation, occasionally made by some critics, that the Patriot Act was passed too quickly. He replied that "the USA Patriot Act was not rushed, it actually came 10 years too late."

The importance of the Patriot Act to American security also has drawn the attention of the 9/11 Commission. Former New Jersey Governor Thomas Kean has noted that the Commission has had "witness after witness tell us that the Patriot Act has been very, very helpful, and if the Patriot Act, or portions of it, had been in place before 9/11, that would have been very helpful."

This praise has not been limited to the Republicans who have participated in the Commission's proceedings. Former Attorney General Janet Reno, for example, testified before the Commission that "everything that's been done in the Patriot Act has been helpful."

Nor is President Bush alone among the major candidates for President this year in hailing the importance of the Patriot Act. Indeed, his principal rival for the office, Senator KERRY, recently claimed that he would go even further than the President. According to an April 25 story in the Los Angeles Times, Senator KERRY's spokesman insists that "it is the challenger, not the president, who brings the most muscular view of the Patriot Act into the race." Senator KERRY's presidential campaign website even includes a "Plan to Restore American Security," which lists as its number-one priority to "improve intelligence capabilities." Senator KERRY states that he "understands that intelligence information is the key to disrupting and dismantling terrorist organizations and that we need to improve our intelligence capabilities, both domestically and internationally, in order to win the war on global terrorism."

One reform implemented by the Patriot Act that Attorney General Reno and others have particularly emphasized is its authorization for information sharing. Because this part of the Patriot Act is often praised but infrequently described in detail, I would like to quote the following accounts of pre-Patriot barriers to information sharing, and of the investigative successes that the removal of those barriers has made possible.

The FISA Court of Review decision upholding the Patriot Act's authorization for information sharing, In re: *Sealed Case*, 310 F.3d 717,

F.I.S. CT. REV. 2002, DESCRIBES THE ORIGINS OF THE PRE-PATRIOT BARRIERS:

> Apparently to avoid running afoul of the primary purpose test used by some courts, the 1995 [Attorney General] Procedures [("Procedures for Contacts Between the FBI and the Criminal Division Concerning Foreign Intelligence and Foreign Counterintelligence Investigations")] limited contacts between the FBI and the Criminal Division in cases where FISA surveillance or searches were being conducted by the FBI for foreign intelligence (FI) or foreign counterintelligence (FCI) purposes. The procedures state that "the FBI and Criminal Division should ensure that advice intended to preserve the option of a criminal prosecution does not inadvertently result in either the fact or the appearance of the Criminal Division's directing or controlling the FI or FCI investigation toward law enforcement objectives." Although these procedures provided for significant information sharing and coordination between criminal and FI or FCI investigations, based at least in part on the "directing or controlling" language, they eventually came to be narrowly interpreted within the Department of Justice, and most particularly by OIPR, as requiring OIPR to act as a "wall" to prevent the FBI intelligence officials from communicating with the Criminal Division regarding ongoing FI or FCI investigations. Thus, the focus became the nature of the underlying investigation, rather than the general purpose of the surveillance. Once prosecution of the target was being considered, the procedures, as interpreted by OIPR in light of the case law, prevented the Criminal Division from providing any meaningful advice to the FBI."

In re: *Sealed Case*, 310 F.3d at 727–28 citations omitted.

FBI Director Mueller, in his testimony yesterday, provided a concrete account of the impact that these information-sharing barriers had on intelligence investigations:

> Prior to September 11, an [FBI] Agent investigating the intelligence side of a terrorism case was barred from discussing the case with an Agent across the hall who was working the criminal side of that same investigation. For instance, if a court-ordered criminal wiretap turned up intelligence information, the criminal investigator could not share that information with the intelligence investigator—he could not even suggest that the intelligence investigator should seek a wiretap to collect the information for himself. If the criminal investigator served a grand jury subpoena to a suspect's bank, he could not divulge any information found in those bank records to the intelligence investigator. Instead, the intelligence investigator would have to issue a National Security Letter in order to procure that same information.

Chicago U.S. Attorney Patrick Fitzgerald, in an October 21, 2003 hearing before the Senate Judiciary Committee, described how these pre-Patriot information-sharing limits undercut one potentially vital terror investigation. Mr. Fitzgerald discussed the grand-jury testimony of Wadih el Hage, a key member of the Al Qaeda cell in Nairobi who, in September 1997, was apprehended while changing flights in New York City. Federal prosecutors subpoenaed el Hage from the airport to testify before a Federal grand jury in Manhattan. Mr. Fitzgerald described how el Hage:

> [P]rovided some information of potential use to the intelligence community—including potential leads as to the location of his confederate Harun and the location of Harun's files in Kenya. Unfortunately, as el Hage left the grand-jury room, we knew that * * * [because of pre-Patriot restrictions] we would not be permitted to share the grand-jury information with the intelligence community. * * * Fortunately, we found a way to address the problem that in most other cases would not work. Upon request, el Hage voluntarily agreed to be debriefed by an FBI agent outside the grand-jury room * * *. El Hage then repeated the essence of what he told the grand jury to the FBI agent, including his purported leads to on the location of Harun and his files. The FBI then lawfully shared the information with the intelligence community. In essence, we solved the problem by obtaining the consent of a since-convicted terrorist. We do not want to have to rely on the consent of al Qaeda terrorists to address the gaps in our national security.

Mr. Fitzgerald went on to describe how, in August 1998, the American Embassy in Nairobi was bombed by al Qaeda. Investigators quickly learned that el Hage's associate Harun was responsible. In this particular case, investigators had been able to work around information-sharing limits because of an al Qaeda terrorist's willingness to be interviewed by the FBI, and even with this information U.S. agents were not able to stop a terrorist attack. The pre-Patriot limits were not a decisive factor in blocking U.S. intelligence agents from preventing the Kenya bombing. But they could have been. As U.S. Attorney Fitzgerald concluded, "we should not have to wait for people to die with no explanation [other] than that interpretations of the law blocked the sharing of specific information that probably [c]ould have saved [American lives]."

As Attorney General Reno noted in her testimony before the 9/11 Commission, "these restrictions [on information sharing] have now been eliminated as part of the Patriot Act." Director Mueller, in his Judiciary Committee testimony yesterday, described the impact of this change:

> The removal of the "wall" has allowed government investigators to share information freely. Now, criminal investigative information that contains foreign intelligence or counterintelligence, including grand jury and wiretap information, can be shared with intelligence officials. This increased ability to share information has disrupted terrorist operations in their early stages—such as the successful dismantling of the "Portland Seven" terror cell—and has led to numerous arrests, prosecutions, and convictions in terrorism cases.
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> In essence, prior to September 11th, criminal and intelligence investigators were attempting to put together a complex jigsaw puzzle at separate tables. The Patriot Act has fundamentally changed the way we do business. Today, those investigators sit at the same table and work together on one team. They share leads. They fuse information. Instead of conducting parallel investigations, they are fully integrated into one joint investigation.

These Patriot Act changes can directly be credited with some important recent successes in the war on terror. For example, in February 2003, Federal prosecutors arrested and indicted Sami Al-Arian and seven other suspected terrorists. The 50-count indictment indicated that Al-Arian was the financial director and the North American leader of Palestinian Islamic Jihad, a terrorist group that has killed more than 100 people in and around Israel, including two Americans. Al-Arian wired money to groups in Israel that paid money to the families of terrorists who carried out suicide bombings. He also founded three organizations in Florida which, among other things, drafted final wills and testaments for suicide bombers.

Incredibly, through much of the 1990s, Al-Arian was secretly watched by two different sets of U.S. investigators. The FBI had been conducting a criminal probe of Al-Arian since 1995. Meanwhile, intelligence agents had monitored Al-Arian since the late 1980s. Because of pre-Patriot restrictions, the two sets of investigators were not able to share information and were not aware of the full extent of each other's investigations. It was only after the FISA Court of Review upheld Patriot Act §203's information-sharing provisions in November 2002 that intelligence officials were able to show their files to prosecutors. Several months after this Patriot provision was upheld and made effective, prosecutors arrested and indicted Al-Arian and put an end to his activities.

Of course, the provisions of the Patriot Act subject to the §224 sunset include much more than just the three provisions that facilitate information sharing. Although I will not discuss all of those provisions in detail today—some of which have never been controversial—I would like to discuss one provision that has been a particular focus of attacks on the Patriot Act.

Section 215 of the Patriot Act allows the FBI to seek an order for "the production of tangible things (including books, records, papers, documents, and other items) for an investigation to obtain foreign intelligence information." FISA defines "foreign intelligence" as information relating to foreign espionage, foreign sabotage, or international terrorism, or information respecting a foreign power that relates to U.S. national security or foreign policy. Thus §215 cannot be used to investigate ordinary crimes or even domestic terrorism. And in every case, a §215 order must be approved by a judge.

Although §215 is basically a form of subpoena authority, like that allowed for numerous other types of investigation indeed, it is more tightly restricted than other types of subpoenas because it must be pre-approved by a judge §215 has been heavily targeted by Patriot Act critics. Chief among their complaints is that §215 could be used to obtain records from bookstores or libraries. Some of these critics have even alleged that §215 would allow the FBI to investigate someone simply because of the books that he borrows from a library.

Section 215 could in fact be used to obtain library records, though neither §215 nor any other provision of the Patriot Act specifically mentions libraries or is directed at libraries. Nevertheless, §215 does authorize court orders to produce tangible records—which could include library records.

Where the critics are wrong is in suggesting that a §215 order could be obtained because of the books that someone reads or the websites that he visits. §215 allows no such thing. Instead, §215 allows an order to obtain "tangible things" as part of an investigation to "obtain foreign intelligence information"—information relating to foreign espionage or terrorism or relating to a foreign government or group and national security. By requiring a judge to approve such an order, §215 ensures that these orders will not be used for an improper purpose. And as an added protection against abuse, the Patriot Act also requires that the FBI "fully inform" the House and Senate Intelligence Committees on all use of §215 every six months. These checks and safeguards leave FBI agents little room for the types of witch hunts that Patriot Act critics conjure up.

Further, it bears mention that federal investigators already use an authority very similar to §215 the grand jury subpoena—to obtain bookstore records. As Deputy AG Comey recently emphasized in a letter that he submitted to the editor of the New York Times, "orders for records under [§215] are more closely scrutinized and more difficult to obtain than ordinary grand jury supoenas, which can require production of the very same records, but without judicial approval." Similarly, in a September 11, 2003 editorial, "Patriot (Act) Games," the Washington Post noted that investigative authority to review library records "existed prior to the Patriot Act; the law extends it to national security investigations, which isn't unreasonable."

Finally, I would emphasize that an intelligence or criminal investigation may have good and legitimate reasons for extending to library or bookstore records. For example, in a recent domestic terrorism case, Federal investigators sought to prove that a suspected bomber had built a particularly unusual detonator that had been used in several bombings. The investigators used a grand-jury subpoena to show that the suspect had purchased a book giving instructions on how to build such a detonator.

Moreover, we should not forget that terrorists and spies historically have used libraries to plan and carry out activities that threaten U.S. national security. We know, for example, that some terrorists have used computers at public libraries to use the internet and communicate by email. It would be unwise to place libraries and bookstores beyond the scope of anti-terror investigations.

Andrew McCarthy, a former federal prosecutor who led the 1995 terrorism case against Sheik Omar Abdel Rahman, recently elaborated on this point in a November 13, 2003 article in National Review Online, "Patriot Act Under Siege":

> [H]ard experience—won in the course of a string of terrorism trials since 1993—instructs us that it would be folly to preclude the government a priori from access to any broad categories of business record. Reading material, we now know, can be highly relevant in terrorism cases. People who build bombs tend to have books and pamphlets on bomb making. Terrorist leaders often possess literature announcing the animating principles of their organizations in a tone tailored to potential recruits. This type of evidence is a staple of virtually every terrorism investigation—both for what it suggests on its face and for the forensic significance of whose fingerprints may be on it. No one is convicted for having it—jurors are Americans too, and they'd not long stand for the odious notion that one should be imprisoned for the mere act of thinking.
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> When a defendant pleads "not guilty," however, he is saying: "I put the government

> to its proof on every element of the crime, including that I acted with criminal purport." Prosecutors must establish beyond a reasonable doubt not only that the terrorist engaged in acts but did so intending execrable consequences. If an accused says the precursor components he covertly amassed were for innocent use, is it not relevant that he has just borrowed a book that covers explosives manufacture? If he claims unfamiliarity with the tenets of violent jihad, should a jury be barred from learning that his paws have yellowed numerous publications on the subject? Such evidence was standard fare throughout Janet Reno's tenure as attorney general—and rightly so.

In his testimony yesterday, FBI Director Mueller also described the importance to antiterror investigations of some of the other Patriot Act authorities subject to expire under §224. For example, Director Mueller noted that:

> The PATRIOT Act gave federal judges the authority to issue search warrants that are valid outside the issuing judge's district in terrorism investigations. In the past, a court could only issue a search warrant for premises within the same judicial district—yet our investigations of terrorist networks often span multiple districts. The PATRIOT Act streamlined this process, making it possible for judges in districts where activities related to terrorism may have occurred to issue search warrants applicable outside their immediate districts.
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> In addition, the PATRIOT Act permits similar search warrants for electronic evidence such as email. In the past, for example, if an Agent in one district needed to obtain a search warrant for a subject's email account, but the Internet service provider (ISP) was located in another district, he or she would have to contact an AUSA and Agent in the second district, brief them on the details of the investigation, and ask them to appear before a judge to obtain a search warrant—simply because the ISP was physically based in another district. Thanks to the PATRIOT Act, this frustrating and time-consuming process can be averted without reducing judicial oversight. Today, a judge anywhere in the U.S. can issue a search warrant for a subject's email, no matter where the ISP is based.
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> [Further], the PATRIOT Act updated the law to match current technology, so that we no longer have to fight a 21st-century battle with antiquated weapons. Terrorists exploit modern technology such as the Internet and cell phones to conduct and conceal their activities. The PATRIOT Act leveled the playing field, allowing investigators to adapt to modern techniques. For example, the PATRIOT Act clarified our ability to use court-ordered pen registers and trap-and-trace devices to track Internet communications. The Act also enabled us to seek court-approved roving wiretaps, which allow investigators to conduct electronic surveillance on a particular suspect, not a particular telephone this allows them to continuously monitor subjects without having to return to the court.

All of the authorities described by Director Mueller obviously are critical to antiterrorism investigations—and all will expire next year unless Congress acts to repeal §224.

In responding to some of the accusations of Patriot Act critics, I do not mean to dismiss the importance of either civil liberties or of independent oversight of the federal government. I would simply emphasize that the Patriot Act is carefully crafted legislation that both guarantees protection for civil liberties and is subject to ample oversight. I would note, in this vein, that in a report filed in January 2004, Department of Justice Inspector General Glenn A. Fine—an appointee of President Clinton described the results of his investigation of all recent civil-rights and civil-liberties complaints received by the Justice Department. The Inspector General found no incidents in which the Patriot Act was used to abuse civil rights or civil liberties.

The Patriot Act's provisions for independent oversight of the new authorities created by the Act were described in detail by Deputy AG Comey in his April 14, 2004 testimony before the Judiciary Committee. Mr. Comey noted:

> First, the USA PATRIOT Act preserves the historic role of courts by ensuring that the vital role of judicial oversight is not diminished. For example, the provision for delayed notice for search warrants requires judicial approval. In addition, under the Act, investigators cannot obtain a FISA pen register unless they apply for and receive permission from federal court. The USA PATRIOT Act actually goes farther to protect privacy than that Constitution requires, as the Supreme Court has long held that law enforcement authorities are not constitutionally required to obtain court approval before installing a pen register. Furthermore, a court order is required to compel production of business records, in national security investigations.
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> Second, the USA PATRIOT Act respects important congressional oversight by placing new reporting requirements on the Department. Every six months, the Attorney General is required to report to Congress the number of times section 215 has been utilized, as well as to inform Congress concerning all electronic surveillance under the Foreign Intelligence Surveillance Act. Under section 1001 of the USA PATRIOT Act, Congress receives a semiannual report from the Department's Inspector General detailing any abuses of civil rights and civil liberties by employees or officials of the Department of Justice. It is important to point out that in the Inspector General's most recent report to Congress, he reported that his office has received no complaints alleging misconduct by Department employees related to the use of a substantive provision of the USA PATRIOT Act.
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> Finally, the USA PATRIOT Act fosters public oversight of the Department. In addition to the role of the Inspector General to review complaints alleging abuses of civil liberties and civil rights, the Act provides a cause of action for individuals aggrieved by any willful violation of Title III or certain sections of FISA. To date, no civil actions have been filed under this provision.

The United States has had some important successes in the war on terror so far. Worldwide, more than half of al Qaeda's senior leadership has been captured or killed. More than 3,000 al Qaeda operatives have been incapacitated. Within the United States, 4 different terrorist cells have been broken up—cells located in Buffalo, Detroit, Seattle, and Portland. 284 individuals have been criminally charged to date, and 149 individuals have been convicted or pleaded guilty, including: shoe bomber Richard Reid, six members of the Buffalo terrorist cell, two members of the Detroit cell, Ohio truck driver Iyman Faris, and U.S.-born Taliban John Walker Lindh.

Patriot-aided criminal prosecutions also have contributed to U.S. intelligence efforts to learn more about terrorist organizations. Facing long prison terms, some apprehended terrorist have chosen to cooperate with the U.S. government. So far, the Justice Department has obtained plea agreements from 15 individuals who are now cooperating with terror investigations. One individual has given the U.S. information about weapons stored by terrorists in the United States. Another cooperating terrorist has given U.S. investigators information about locations in the U.S. that are being scouted or cased for potential attacks by al Qaeda.

The Patriot Act has played a major role in what U.S. antiterror investigations have accomplished so far. And it is clear that we will continue to need the authorities created by the Patriot Act into the foreseeable future. For these reasons, I am pleased to introduce today with my colleagues a bill to repeal §224 and make the Patriot Act permanent.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2476

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF USA PATRIOT ACT SUNSETS.

Section 224 of the USA PATRIOT Act (18 U.S.C. 2510 note) is repealed.

By Mr. REED (for himself, Ms. COLLINS, Mr. KENNEDY, and Mrs. MURRAY):

S. 2477. A bill to amend the Higher Education Act of 1965 to expand college access and increase college persistence, to simplify the process of applying for student assistance, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. REED. Mr. President, I rise today to introduce bipartisan legislation to expand access to college. I am pleased to be joined in this effort by Senators COLLINS, KENNEDY, and MURRAY.

In a year in which we are slated to reauthorize the Higher Education Act, we have had only a few hearings on the reauthorization in the HELP Committee. In these hearings and the discussions ongoing in the other body, there has been scant mention of our insufficient investment in need-based financial aid. Instead, the discussions have been dominated by proposals that will hurt, rather than help, the neediest students.

This is troubling, particularly as more and more students are being priced out of college, which shortchanges their future and that of our nation. Economic security is a necessity not just for the wealthy, but for every American. And the key to economic security is education.

An individual's climb up the economic ladder is directly related to the amount of education he or she receives. Given the strong correlation among educational attainment, employment, and wages, the cost of not going to college is just too high.

Almost a third of the growth in employment over the next decade is expected to occur in occupations that require at least a bachelor's degree. College graduates, on average, earn 60 percent more than high school graduates, while an individual with a professional degree earns almost four times what a high school graduate earns.

And yet, too many college students are under-prepared, underfinanced, and overworked. Those who make it through are saddled by nearly insurmountable loan debt. But many more cannot afford the cost of college at all.

Even though there have been gains due to the Higher Education Act, the current approach to student aid isn't alleviating the gaps between our lowest and highest income students nor is it addressing the gaps between the aid low-income students receive and the actual cost of attendance.

Seven times as many students from high-income families 48 percent graduate from college by age 24 as students from low-income families 7 percent. Low-income, college-qualified high school graduates have an annual "unmet need" of nearly $4,000 in college expenses. Without drastic increases in need-based aid, over the next decade, according to a report by the Advisory Committee on Student Financial Assistance, 4.4 million low- and moderate-income college qualified high school graduates will not be able to pursue a four year degree full time and 2 million will not go to college at all.

A combination of factors has arisen to create this unfortunate situation, chief among them a decline in the purchasing power of the Pell Grant and sharp increases in the cost of college.

My predecessor, Senator Claiborne Pell, established what is now known as the Pell Grant in order to ensure higher education wasn't an "unachievable dream." Almost one quarter of undergraduate students from colleges and universities nationwide receive a Pell Grant. It is the single largest source of grant aid for higher education funded by the Federal government.

Unfortunately, the Pell Grant's purchasing power has plummeted due to the slow growth in funding and the rapid rise of college prices. In the late 70s, the maximum grant covered 77 percent of costs at a public four-year institution. Today, the maximum Pell Grant of $4,050 covers only 41 percent.

On top of that, an estimated 60 percent of student aid is now in the form of loans and 40 percent in grants, a reversal of the distribution 20 years ago. Indeed, the average graduate has a student loan debt of $17,000. Pell Grant recipients, who represent the lowest income sectors of students, graduate with an average of $20,000 in student loan debt.

Over the last ten years, public and private 4-year college costs, tuition and fees, rose 47 percent and 42 percent, respectively, after adjusting for inflation, which is a more rapid growth rate than consumer prices. Over the last three years, since President Bush entered office, tuition has increased by 28 percent on average, even after inflation. Students have felt the bite as states have drastically cut funding for public colleges.

There is a further convergence of economic and demographic factors. In 2008, the largest number of students in our history will graduate from high school. A high percentage of these students will be from low-income, minority families, who will need student aid. At the same time, our Nation will need replacement workers as aging, college-educated baby boomers begin to retire in increasing numbers.

This crisis calls out for action. It should be a national imperative to ensure an educated citizenry and a world class workforce. Our Nation cannot afford to lose out on the countless returns from a robust education investment.

The legislation we introduce today, the ACCESS, Accessing College through Comprehensive Early outreach, State partnerships, and Simplification, Act, seeks to set our Nation back on the course that Senator Pell sought when he authored the grants later named after him in 1972.

The ACCESS Act revitalizes the Leveraging Educational Assistance Partnership (LEAP) program, which was established over thirty years ago to encourage States to play a role in helping low-income students go to college. Without this important, although extremely modest, Federal incentive, many States would never have established need-based grant programs and many States would not continue to maintain such programs.

Recognizing that LEAP can do even more to address the barriers to college access and persistence, the ACCESS Act forges a new Federal incentive for states—via higher levels of Federal match—to spur greater investments by states, colleges, businesses, and philanthropies in need-based grants for low-income students. At a time when public higher education is bearing the brunt of the fiscal crises confronting our States, we need to do more to encourage States to help low-income students attend college.

We want States to focus their energies on enhancing coordination and cohesion among Federal, State, and local programs and efforts of colleges, philanthropies, and businesses, with the goal of generating new investments in need-based aid sufficient to provide low-income students with an access and persistence grant to fill the gap in aid they face. All too often successful middle school students give up the dream of college because they think there is no way they can ever afford college. The ACCESS Act also requires States to notify low-income students beginning in middle school of their potential eligibility for student financial aid and encourages increased participation in early intervention, mentoring, and outreach programs.

The legislation is modeled after initiatives like the Rhode Island Children's Crusade in my home state and Indiana's 21st Century Scholars Program. A Lumina Foundation evaluation found that 21st Century Scholars—low-income students who receive an early notification of assistance, early intervention and support, and scholarships equivalent to the cost of in-state college tuition—were nearly 5 times more likely than non-participants to enroll in college. Indeed, successful college access programs are those that offer early intervention and mentoring services coupled with early information about estimated financial aid awards and adequate grant funding to make the dream of higher education a reality. Students participating in such programs are more financially and academically prepared, and thus more likely to enroll in college and persist to degree completion.

Our legislation also simplifies the financial aid process for low-income students. It allows more students to qualify for an Automatic-Zero Expected Family Contribution, aligning its eligibility with the standards for other Federal means-tested programs, like free school lunch, SSI, and Food Stamps. Students and families should not have to prove over and over again that they are low-income, and asking students to fill out lengthy forms when they already meet the eligibility level for Pell Grants is a burden we should ease.

In a similar vein, the legislation establishes a short, paper FAFSA-EZ application form for students qualifying for the auto-zero along with a tailored web-based system and a free telefile system for students without Internet access.

The ACCESS Act also expands college access for low-income students, in part by prohibiting a qualified education benefit, like education savings plans, from being considered as a student asset and by reducing the work penalty. The current income protection allowance levels are unrealistically low, creating a disincentive for students who work in order to pay college costs. I look forward to receiving further information on this and other problems addressed in the legislation when the Advisory Committee on Student Financial Assistance completes work on the congressionally mandated financial aid simplification study later this year.

We must act on this legislation and others to make sure that every student who works hard and plays by the rules gets the opportunity to live the American Dream.

I was pleased to work with the Advisory Committee on Student Financial Assistance, and a host of other higher education organizations and charitable foundations, including Scholarship America, on this legislation. I am also pleased that this legislation has the support of a range of higher education and student groups, including the American Association of Community Colleges, the American Association of State Colleges and Universities, the American Council on Education, the Association of American Universities, the Association of Jesuit Colleges and Universities, the Center for Law and Social Policy, the Council for Opportunity in Education, National Association for College Admission Counseling, the National Association of Independent Colleges and Universities, National Association of State Student Grant and Aid Programs, the National Association of State Universities and Land-Grant Colleges, the National Association of Student Financial Aid Administrators, the United Negro College Fund, and the United States Student Association.

I urge my colleagues to cosponsor this important legislation and work for its inclusion in the upcoming reauthorization of the Higher Education Act.

I ask unanimous consent that the text of this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2477

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Accessing College through Comprehensive Early Outreach, State Partnerships, and Simplification Act”.

SEC. 2. GRANTS FOR ACCESS AND PERSISTENCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 415A(b) of the Higher Education Act of 1965 (20 U.S.C. 1070c(b)) is amended by striking paragraphs (1) and (2) and inserting the following:

“(1) IN GENERAL.—There are authorized to be appropriated to carry out this subpart $500,000,000 for fiscal year 2005, and such sums as may be necessary for each of the 5 succeeding fiscal years.

“(2) RESERVATION.—For any fiscal year for which the amount appropriated under paragraph (1) exceeds $30,000,000, the excess amount shall be available to carry out section 415E.”.

(b) APPLICATIONS FOR LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP PROGRAMS.—Section 415C(b) of the Higher Education Act of 1965 (20 U.S.C. 1070c–2(b)) is amended—

(1) in paragraph (2), by striking “$5,000” and inserting “$12,500”;

(2) in paragraph (9), by striking “and” after the semicolon;

(3) in paragraph (10), by striking the period at the end and inserting “; and”; and

(4) by adding at the end the following:

“(11) provides notification to eligible students that such grants are—

“(A) Leveraging Educational Assistance Partnership Grants; and

“(B) funded by the Federal Government and the State.”.

(c) GRANTS FOR ACCESS AND PERSISTENCE.—Section 415E of the Higher Education Act of 1965 (20 U.S.C. 1070c–3a) is amended to read as follows:

“SEC. 415E. GRANTS FOR ACCESS AND PERSISTENCE.

“(a) PURPOSE.—It is the purpose of this section to expand college access and increase college persistence by making allotments to States to enable the States to—

“(1) expand and enhance partnerships with institutions of higher education, early information and intervention, mentoring, or outreach programs, private corporations, philanthropic organizations, and other interested parties to carry out activities under this section and to provide coordination and cohesion among Federal, State, and local governmental and private efforts that provide financial assistance to help low-income students attend college;

“(2) provide need-based access and persistence grants to eligible low-income students;

“(3) provide early notification to low-income students of their eligibility for financial aid; and

“(4) encourage increased participation in early information and intervention, mentoring, or outreach programs.

“(b) ALLOTMENTS TO STATES.—

“(1) IN GENERAL.—

“(A) AUTHORIZATION.—From sums reserved under section 415A(b)(2) for each fiscal year, the Secretary shall make an allotment to each State that submits an application for an allotment in accordance with subsection (c) to enable the State to pay the Federal share of the cost of carrying out the activities under subsection (d).

“(B) DETERMINATION OF ALLOTMENT.—In making allotments under subparagraph (A), the Secretary shall consider the following:

“(i) CONTINUATION OF AWARD.—If a State continues to meet the specifications established in its application under subsection (c), the Secretary shall make an allotment to such State that is not less than the allotment made to such State for the previous fiscal year.

“(ii) PRIORITY.—The Secretary shall give priority in making allotments to States that meet the requirements under paragraph (2)(B)(iii).

“(2) FEDERAL SHARE.—

“(A) IN GENERAL.—The Federal share of the cost of carrying out the activities under subsection (d) for any fiscal year may not exceed 66.66 percent.

“(B) DIFFERENT PERCENTAGES.—The Federal share under this section shall be determined in accordance with the following:

“(i) If a State applies for an allotment under this section in partnership with any number of degree granting institutions of higher education in the State whose combined full-time enrollment represents less than a majority of all students attending institutions of higher education in the State, then the Federal share of the cost of carrying out the activities under subsection (d) shall be equal to 50 percent.

“(ii) If a State applies for an allotment under this section in partnership with any number of degree granting institutions of higher education in the State whose combined full-time enrollment represents less than a majority of all students attending institutions of higher education in the State, and philanthropic organizations that are located in, or who provide funding in, the State or private corporations that are located in, or who do business in, the State, then the Federal share of the cost of carrying out the activities under subsection (d) shall be equal to 57 percent.

“(iii) If a State applies for an allotment under this section in partnership with any number of degree granting institutions of higher education in the State whose combined full-time enrollment represents a majority of all students attending institutions of higher education in the State, philanthropic organizations that are located in, or who provide funding in, the State, and private corporations that are located in, or who do business in, the State, then the Federal share of the cost of carrying out the activities under subsection (d) shall be equal to 66.66 percent.

“(c) APPLICATION FOR ALLOTMENT.—

“(1) IN GENERAL.—

“(A) SUBMISSION.—A State that desires to receive an allotment under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

“(B) CONTENT.—An application submitted under subparagraph (A) shall include the following:

“(i) A description of the State's plan for using the allotted funds.

“(ii) Assurances that the State will provide matching funds, from State, institutional, philanthropic, or private funds, of not less than 33.33 percent of the cost of carrying out the activities under subsection (d). The State shall specify the methods by which matching funds will be paid and include provisions designed to ensure that funds provided under this section will be used to supplement, and not supplant, Federal and non-Federal funds available for carrying out the activities under this title. A State that uses non-Federal funds to create or expand existing partnerships with nonprofit organizations or community-based organizations in which such organizations match State funds for student scholarships, may apply such matching funds from such organizations toward fulfilling the State's matching obligation under this clause.

“(iii) Assurances that early information and intervention, mentoring, or outreach programs exist within the State or that there is a plan to make such programs widely available.

“(iv) A description of the organizational structure that the State has in place to administer the activities under subsection (d), including a description of the system the State will use to track the participation of students who receive grants under this section to degree completion.

“(v) Assurances that the State has a method in place, such as acceptance of the automatic zero expected family contribution determination described in section 479, to identify eligible low-income students and award State grant aid to such students.

“(vi) Assurances that the State will provide notification to eligible low-income students that grants under this section are—

“(I) Leveraging Educational Assistance Partnership Grants; and

“(II) funded by the Federal Government and the State.

“(2) STATE AGENCY.—The State agency that submits an application for a State under section 415C(a) shall be the same State agency that submits an application under paragraph (1) for such State.

“(3) PARTNERSHIP.—

“(A) MANDATORY PARTNERS.—In applying for an allotment under this section, the State agency shall apply for the allotment in partnership with—

“(i) not less than 1 public and 1 private degree granting institution of higher education that are located in the State; and

“(ii) new or existing early information and intervention, mentoring, or outreach programs located in the State.

“(B) PERMISSIVE PARTNERS.—In addition to applying for an allotment under this section in partnership with degree granting institutions of higher education and early information and intervention, mentoring, or outreach programs, a State agency may also apply in partnership with philanthropic organizations that are located in, or who provide funding in, the State and private corporations that are located in, or who do business in, the State.

“(C) ROLES OF PARTNERS.—

“(i) STATE AGENCY.—A State agency that is in a partnership receiving an allotment under this section—

“(I) shall—

“(aa) serve as the primary administrative unit for the partnership;

“(bb) provide or coordinate matching funds, and coordinate activities among partners;

“(cc) encourage each institution of higher education in the State to participate in the partnership;

“(dd) make determinations and early notifications of assistance as described under subsection (d)(2); and

“(ee) annually report to the Secretary on the partnership's progress in meeting the purpose of this section; and

“(II) may provide early information and intervention, mentoring, or outreach programs.

“(ii) DEGREE GRANTING INSTITUTIONS OF HIGHER EDUCATION.—A degree granting institution of higher education that is in a partnership receiving an allotment under this section—

“(I) shall—

“(aa) recruit and admit participating qualified students and provide such additional institutional grant aid to participating students as agreed to with the State agency;

“(bb) provide support services to students who receive an access and persistence grant under this section and are enrolled at such institution; and

“(cc) assist the State in the identification of eligible students and the dissemination of early notifications of assistance as agreed to with the State agency; and

“(II) may provide funding for early information and intervention, mentoring, or outreach programs or provide such services directly.

“(iii) PROGRAMS.—An early information and intervention, mentoring, or outreach program that is in a partnership receiving an allotment under this section shall provide direct services, support, and information to participating students.

“(iv) PERMISSIVE PARTNERS.—A philanthropic organization or private corporation that is in a partnership receiving an allotment under this section shall provide funds for access and persistence grants for participating students, or provide funds or support for early information and intervention, mentoring, or outreach programs.

“(d) AUTHORIZED ACTIVITIES.—

“(1) IN GENERAL.—

“(A) ESTABLISHMENT OF PARTNERSHIP.—Each State receiving an allotment under this section shall use the funds to establish a partnership to award access and persistence grants to eligible low-income students in order to increase the amount of financial assistance such students receive under this subpart for undergraduate education expenses.

“(B) AMOUNT.—

“(i) PARTNERSHIPS WITH INSTITUTIONS SERVING LESS THAN A MAJORITY OF STUDENTS IN THE STATE.—

“(I) IN GENERAL.—In the case where a State receiving an allotment under this section is in a partnership described in clause (i) or (ii) of subsection (b)(2)(B), the amount of an access and persistence grant awarded by such State shall be not less than the amount that is equal to the average undergraduate tuition and mandatory fees at 4-year public institutions of higher education in the State where the student resides (less any other Federal or State sponsored grant amount, college work study amount, and scholarship amount received by the student) and such amount shall be used toward the cost of attendance at an institution of higher education, located in the State, that is a partner in the partnership.

“(II) COST OF ATTENDANCE.—A State that has a program, apart from the partnership under this section, of providing eligible low-income students with grants that are equal to the average undergraduate tuition and mandatory fees at 4-year public institutions of higher education in the State, may increase the amount of access and persistence grants awarded by such State up to an amount that is equal to the average cost of attendance at 4-year public institutions of higher education in the State (less any other Federal or State sponsored grant amount, college work study amount, and scholarship amount received by the student).

“(ii) PARTNERSHIP WITH INSTITUTIONS SERVING THE MAJORITY OF STUDENTS IN THE STATE.—In the case where a State receiving an allotment under this section is in a partnership described in subsection (b)(2)(B)(iii), the amount of an access and persistence grant awarded by such State shall be up to an amount that is equal to the average cost of attendance at 4-year public institutions of higher education in the State where the student resides (less any other Federal or State sponsored grant amount, college work study amount, and scholarship amount received by the student) and such amount shall be used by the student to attend an institution of higher education, located in the State, that is a partner in the partnership.

“(2) EARLY NOTIFICATION.—

“(A) IN GENERAL.—Each State receiving an allotment under this section shall annually notify low-income students, such as students who are eligible to receive a free lunch under the school lunch program established under the Richard B. Russell National School Lunch Act, in grade 7 through grade 12 in the State of their potential eligibility for student financial assistance, including an access and persistence grant, to attend an institution of higher education.

“(B) CONTENT OF NOTICE.—The notification under subparagraph (A)—

“(i) shall include—

“(I) information about early information and intervention, mentoring, or outreach programs available to the student;

“(II) information that a student's candidacy for an access and persistence grant is enhanced through participation in an early information and intervention, mentoring, or outreach program;

“(III) an explanation that student and family eligibility and participation in other Federal means-tested programs may indicate eligibility for an access and persistence grant and other student aid programs;

“(IV) a nonbinding estimation of the total amount of financial aid a low-income student with a similar income level may expect to receive, including an estimation of the amount of an access and persistence grant and an estimation of the amount of grants, loans, and all other available types of aid from the major Federal and State financial aid programs;

“(V) an explanation that in order to be eligible for an access and persistence grant, at a minimum, a student shall meet the requirement under paragraph (3), graduate from secondary school, and enroll at an institution of higher education that is a partner in the partnership;

“(VI) information on any additional requirements (such as a student pledge detailing student responsibilities) that the State may impose for receipt of an access and persistence grant under this section; and

“(VII) instructions on how to apply for an access and persistence grant; and

“(ii) may include a disclaimer that access and persistence grant awards are contingent upon—

“(I) a determination of the student's financial eligibility at the time of the student's enrollment at an institution of higher education that is a partner in the partnership;

“(II) annual Federal and State appropriations; and

“(III) other aid received by the student at the time of the student's enrollment at an institution of higher education that is a partner in the partnership.

“(3) ELIGIBILITY.—In determining which students are eligible to receive access and persistence grants, the State shall ensure that each such student meets not less than 2 of the following criteria and give priority to students meeting all of the following criteria:

“(A) Has an expected family contribution equal to zero (as described in section 479) or a comparable alternative based upon the State's approved criteria in section 415C(b)(4).

“(B) Is participating in, or has participated in, a Federal, State, institutional, or community early information and intervention, mentoring, or outreach program, as recognized by the State agency administering activities under this section.

“(C) Has qualified for a free lunch, or at the State's discretion a reduced price lunch, under the school lunch program established under the Richard B. Russell National School Lunch Act.

“(D) Qualifies for the State's maximum undergraduate award, as authorized under section 415C(b).

"(E) Receives, or has received, an access and persistence grant under this section.

"(4) GRANT AWARD.—Once a student, including those who have received early notification under paragraph (2) from the State, applies for admission to an institution that is a partner in the partnership, files a Free Application for Federal Student Aid and any related existing State form, and is determined eligible by the State under paragraph (3), the State shall—

"(A) issue the student a preliminary access and persistence grant award certificate with tentative award amounts; and

"(B) inform the student that payment of the access and persistence grant award amounts is subject to certification of enrollment and award eligibility by the institution of higher education.

"(5) DURATION OF AWARD.—An eligible student that receives an access and persistence grant under this section shall receive such grant award for each year of such student's undergraduate education in which the student remains eligible for assistance under this title, including pursuant to section 484(c), and remains financially eligible as determined by the State, except that the State may impose reasonable time limits to baccalaureate degree completion.

"(e) ADMINISTRATIVE COST ALLOWANCE.—A State that receives an allotment under this section may reserve not more than 3.5 percent of the funds made available annually through the allotment for State administrative functions required to carry out this section.

"(f) STATUTORY AND REGULATORY RELIEF FOR INSTITUTIONS OF HIGHER EDUCATION.—The Secretary may grant, upon the request of an institution of higher education that is in a partnership described in subsection (b)(2)(B)(iii) and that receives an allotment under this section, a waiver for such institution from statutory or regulatory requirements that inhibit the ability of the institution to successfully and efficiently participate in the activities of the partnership.

"(g) APPLICABILITY RULE.—The provisions of this subpart which are not inconsistent with this section shall apply to the program authorized by this section.

"(h) MAINTENANCE OF EFFORT REQUIREMENT.—Each State receiving an allotment under this section for a fiscal year shall provide the Secretary an assurance that the aggregate amount expended per student or the aggregate expenditures by the State, from funds derived from non-Federal sources, for the authorized activities described in subsection (d) for the preceding fiscal year were not less than the amount expended per student or the aggregate expenditure by the State for the activities for the second preceding fiscal year.

"(i) REPORTS.—Not later than 3 years after the date of enactment of the Accessing College through Comprehensive Early Outreach, State Partnerships, and Simplification Act, and annually thereafter, the Secretary shall submit a report describing the activities and the impact of the partnerships under this section to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives.".

(d) CONTINUATION AND TRANSITION.—During the 2-year period commencing on the date of enactment of this Act, the Secretary shall continue to award grants under section 415E of the Higher Education Act of 1965 (20 U.S.C. 1070c–3a), as such section existed on the day before the date of enactment of this Act, to States that choose to apply for grants under such predecessor section.

(e) IMPLEMENTATION AND EVALUATION.—Section 491(j) of the Higher Education Act of 1965 (20 U.S.C. 1098(j)) is amended—

(1) in paragraph (4), by striking "and" after the semicolon; and

(2) by striking paragraph (5) and inserting the following:

"(5) not later than 6 months after the date of enactment of the Accessing College through Comprehensive Early Outreach, State Partnerships, and Simplification Act, advise the Secretary on means to implement the activities under section 415E, and the Advisory Committee shall continue to monitor, evaluate, and make recommendations on the progress of partnerships that receive allotments under such section; and".

SEC. 3. SIMPLIFIED NEEDS TEST AND AUTOMATIC ZERO IMPROVEMENTS.

(a) SIMPLIFIED NEEDS TEST.—Section 479 of the Higher Education Act of 1965 (20 U.S.C. 1087ss) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by striking subparagraph (A)(i) and inserting the following:

"(i) the student's parents—

"(I) file, or are eligible to file, a form described in paragraph (3);

"(II) certify that they are not required to file an income tax return;

"(III) 1 of whom is a dislocated worker; or

"(IV) or the student received benefits at some time during the previous 24-month period under a means-tested Federal benefit program as defined under subsection (d); and"; and

(ii) by striking subparagraph (B)(i) and inserting the following:

"(i) the student (and the student's spouse, if any)—

"(I) files, or is eligible to file, a form described in paragraph (3);

"(II) certifies that the student (and the student's spouse, if any) is not required to file an income tax return;

"(III) is a dislocated worker; or

"(IV) received benefits at some time during the previous 24-month period under a means-tested Federal benefit program as defined under subsection (d); and"; and

(B) in paragraph (3), by striking "A student or family files a form described in this subsection, or subsection (c), as the case may be, if the student or family, respectively, files" and inserting "In the case of an independent student, the student, or in the case of a dependent student, the family, files a form described in this subsection, or subsection (c), as the case may be, if the student or family, as appropriate, files";

(2) in subsection (c)—

(A) in paragraph (1)—

(i) by striking subparagraph (A) and inserting the following:

"(A) the student's parents—

"(i) file, or are eligible to file, a form described in subsection (b)(3);

"(ii) certify that they are not required to file an income tax return;

"(iii) 1 of whom is a dislocated worker; or

"(iv) or the student received benefits at some time during the previous 24-month period under a means-tested Federal benefit program as defined under subsection (d); and"; and

(ii) by striking subparagraph (B) and inserting the following:

"(B) the sum of the adjusted gross income of the parents is less than or equal to $25,000; or";

(B) in paragraph (2)—

(i) by striking subparagraph (A) and inserting the following:

"(A) the student (and the student's spouse, if any)—

"(i) files, or is eligible to file, a form described in subsection (b)(3);

"(ii) certifies that the student (and the student's spouse, if any) is not required to file an income tax return;

"(iii) is a dislocated worker; or

"(iv) received benefits at some time during the previous 24-month period under a means-tested Federal benefit program as defined under subsection (d); and"; and

(ii) by striking subparagraph (B) and inserting the following:

"(B) the sum of the adjusted gross income of the student and spouse (if appropriate) is less than or equal to $25,000."; and

(C) by striking the flush matter at the end and inserting the following:

"The Secretary shall annually adjust the income level necessary to qualify an applicant for the zero expected family contribution. The income level shall be adjusted according to increases in the Consumer Price Index, as defined in section 478(f)."; and

(3) by adding at the end the following:

"(d) DEFINITIONS.—In this section:

"(1) DISLOCATED WORKER.—The term 'dislocated worker' has the same meaning given the term in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801).

"(2) MEANS-TESTED FEDERAL BENEFIT PROGRAM.—The term 'means-tested Federal benefit program' means a mandatory spending program of the Federal Government in which eligibility for the program's benefits, or the amount of such benefits, or both, are determined on the basis of income or resources of the individual or family seeking the benefit, and includes the supplemental security income program under title XVI of the Social Security Act, the food stamp program under the Food Stamp Act of 1977, and the free and reduced price school lunch program established under the Richard B. Russell National School Lunch Act.".

(b) DISCRETION OF STUDENT FINANCIAL AID ADMINISTRATORS.—Section 479A(a) of the Higher Education Act of 1965 (20 U.S.C. 1087tt(a)) is amended in the third sentence by inserting "a family member who is a dislocated worker (as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801))," after "recent unemployment of a family member,".

SEC. 4. IMPROVING PAPER AND ELECTRONIC FORMS.

(a) SIMPLIFIED NEEDS TEST.—Section 479(a) of the Higher Education Act of 1965 (20 U.S.C. 1087ss(a)) is amended by adding at the end the following:

"(3) SIMPLIFIED FORMS.—The Secretary shall make special efforts to notify families meeting the requirements of subsection (c) that such families may use the FAFSA-EZ or the simplified electronic application form established under section 483(a).".

(b) COMMON FINANCIAL AID FORM DEVELOPMENT AND PROCESSING.—Section 483 of the Higher Education Act of 1965 (20 U.S.C. 1090) is amended—

(1) in subsection (a)—

(A) by striking paragraphs (1), (2), and (5);

(B) by redesignating paragraphs (3), (4), (6), and (7), as paragraphs (7), (8), (9), and (10), respectively;

(C) by inserting before paragraph (7), as redesignated by subparagraph (B), the following:

"(1) IN GENERAL.—The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall produce, distribute, and process free of charge common financial reporting forms as described in this subsection to be used for application and reapplication to determine the need and eligibility of a student for financial assistance under parts A through E (other than subpart 4 of part A). These forms shall be made available to applicants in both paper and electronic formats and shall be referred to as the 'Free Application for Federal Student Aid'.

“(2) PAPER FORMAT.—

“(A) IN GENERAL.—The Secretary shall produce, distribute, and process common forms in paper format to meet the requirements of paragraph (1). The Secretary shall develop a common paper form for applicants who do not meet the requirements of subparagraph (B).

“(B) FAFSA-EZ.—

“(i) IN GENERAL.—The Secretary shall develop and use a simplified paper application form, to be known as the 'FAFSA-EZ', to be used for applicants meeting the requirements of section 479(c).

“(ii) REDUCED DATA REQUIREMENTS.—The FAFSA-EZ shall permit an applicant to submit for financial assistance purposes, only the data elements required to make a determination of whether the applicant meets the requirements under section 479(c).

“(iii) STATE DATA.—The Secretary shall include on the FAFSA-EZ space for information that needs to be submitted from the applicant to be eligible for State financial assistance, as provided under paragraph (5), except the Secretary shall not include a State's data if that State does not permit its applicants for State assistance to use the FAFSA-EZ.

“(iv) FREE AVAILABILITY AND PROCESSING.—The provisions of paragraph (6) shall apply to the FAFSA-EZ, and the data collected by means of the FAFSA-EZ shall be available to institutions of higher education, guaranty agencies, and States in accordance with paragraph (7).

“(v) TESTING.—The Secretary shall conduct appropriate field testing on the FAFSA-EZ.

“(C) PHASING OUT THE PAPER FORM FOR STUDENTS WHO DO NOT MEET THE REQUIREMENTS OF THE AUTOMATIC ZERO EXPECTED FAMILY CONTRIBUTION.—

“(i) IN GENERAL.—The Secretary shall make all efforts to encourage all applicants to utilize the electronic forms described in paragraph (3).

“(ii) PHASEOUT OF FULL FAFSA.—Not later than award year 2009–2010, the Secretary shall phaseout the long paper form for applicants who do not qualify for the FAFSA-EZ.

“(iii) USE OF SAVINGS TO ADDRESS THE DIGITAL DIVIDE.—The Secretary shall utilize savings accrued by moving more applicants to the electronic forms to improve access to the electronic forms for applicants meeting the requirements of section 479(c).

“(3) ELECTRONIC FORMAT.—

“(A) IN GENERAL.—The Secretary shall produce, distribute, and process common forms in electronic format to meet the requirements of paragraph (1). The Secretary shall develop a common electronic form for applicants who do not meet the requirements of subparagraph (B).

“(B) SIMPLIFIED APPLICATION: FAFSA ON THE WEB.—

“(i) IN GENERAL.—The Secretary shall develop and use a simplified electronic application form to be used by applicants meeting the requirements under subsection (b) or (c) of section 479.

“(ii) REDUCED DATA REQUIREMENTS.—The simplified electronic application form shall permit an applicant to submit for financial assistance purposes, only the data elements required to make a determination of whether the applicant meets the requirements under subsection (b) or (c) of section 479.

“(iii) STATE DATA.—The Secretary shall include on the simplified electronic application form space for information that needs to be submitted from the applicant to be eligible for State financial assistance, as provided under paragraph (5), except the Secretary shall not include a State's data if that State does not permit its applicants for State assistance to use the simplified electronic application form.

“(iv) FREE AVAILABILITY AND PROCESSING.—The provisions of paragraph (6) shall apply to the simplified electronic application form, and the data collected by means of the simplified electronic application form shall be available to institutions of higher education, guaranty agencies, and States in accordance with paragraph (7).

“(v) TESTING.—The Secretary shall conduct appropriate field testing on the form developed under this subparagraph.

“(C) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit the use of the form developed by the Secretary pursuant to this paragraph by an eligible institution, eligible lender, guaranty agency, State grant agency, private computer software providers, a consortium thereof, or such other entities as the Secretary may designate.

“(D) PRIVACY.—The Secretary shall ensure that data collection under this paragraph complies with section 552a of title 5, United States Code, and that any entity using the electronic version of the forms developed by the Secretary pursuant to this paragraph shall maintain reasonable and appropriate administrative, technical, and physical safeguards to ensure the integrity and confidentiality of the information, and to protect against security threats, or unauthorized uses or disclosures of the information provided on the electronic version of the form. Data collected by such electronic version of the form shall be used only for the application, award, and administration of aid awarded under this title, State aid, or aid awarded by eligible institutions or such entities as the Secretary may designate. No data collected by such electronic version of the form shall be used for making final aid awards under this title until such data have been processed by the Secretary or a contractor or designee of the Secretary, except as may be permitted under this title.

“(E) SIGNATURE.—Notwithstanding any other provision of this Act, the Secretary may permit an electronic form to be submitted without a signature, if a signature is subsequently submitted by the applicant.

“(F) PERSONAL IDENTIFICATION NUMBERS AUTHORIZED.—The Secretary is authorized to assign to applicants personal identification numbers—

“(i) to enable the applicants to use such numbers in lieu of a signature for purposes of completing a form under this paragraph; and

“(ii) for any purpose determined by the Secretary to enable the Secretary to carry out this title.

“(4) REAPPLICATION.—

“(A) IN GENERAL.—The Secretary shall develop streamlined reapplication forms and processes, including both paper and electronic reapplication processes, consistent with the requirements of this subsection, for an applicant who applies for financial assistance under this title in the next succeeding academic year subsequent to the year in which such applicant first applied for financial assistance under this title.

“(B) UPDATED.—The Secretary shall determine, in cooperation with States, institutions of higher education, agencies and organizations involved in student financial assistance, the data elements that can be updated from the previous academic year's application.

“(C) RULE OF CONSTRUCTION.—Nothing in this title shall be construed as limiting the authority of the Secretary to reduce the number of data elements required of reapplicants.

“(D) ZERO FAMILY CONTRIBUTION.—Applicants determined to have a zero family contribution pursuant to section 479(c) shall not be required to provide any financial data in a reapplication form, except that which is necessary to determine eligibility under such section.

“(5) STATE REQUIREMENTS.—

“(A) IN GENERAL.—The Secretary shall include on the forms developed under this subsection, such State-specific nonfinancial data items as the Secretary determines are necessary to meet State requirements for need-based State aid. Such items shall be selected in consultation with States to assist in the awarding of State financial assistance in accordance with the terms of this subsection. The number of such data items shall not be less than the number included on the form on October 7, 1998, unless States notify the Secretary that they no longer require those data items for the distribution of State need-based aid.

“(B) ANNUAL REVIEW.—The Secretary shall conduct an annual review process to determine which nonfinancial data items the States require to award need-based State aid and other application requirements that the States may impose.

“(C) FEDERAL REGISTER NOTICE.—The Secretary shall publish on an annual basis a notice in the Federal Register requiring State agencies to inform the Secretary—

“(i) if they are unable to permit applicants to utilize the FAFSA-EZ or the simplified electronic application form; and

“(ii) of the State-specific nonfinancial data that the State agency requires for delivery of State need-based financial aid.

“(D) STATE NOTIFICATION TO THE SECRETARY.—

“(i) IN GENERAL.—Each State shall notify the Secretary whether it permits an applicant to file a form described in paragraph (2)(B) or (3)(B) for purposes of determining eligibility for State need-based grant aid.

“(ii) NO PERMISSION.—In the event that a State does not permit an applicant to file a form described in paragraph (2)(B) or (3)(B) for purposes of determining eligibility for State need-based grant aid—

“(I) the State shall notify the Secretary if it is not permitted to do so because of either State law or because of agency policy; and

“(II) the notification under subclause (I) shall include an estimate of the program cost to permit applicants to complete FAFSA-EZs and simplified electronic application forms.

“(iii) LACK OF NOTIFICATION BY THE STATE.—If a State does not notify the Secretary pursuant to clause (i), the Secretary shall—

“(I) permit residents of that State to complete a FAFSA-EZ or a simplified electronic application form; and

“(II) not require any resident of that State to complete any nonfinancial data previously required by that State.

“(E) RESTRICTION.—The Secretary shall not require applicants to complete any nonfinancial data or financial data that are not required by the applicant's State agency, except as may be required for applicants who use the common paper form.

"(6) CHARGES TO STUDENTS AND PARENTS FOR USE OF FORMS PROHIBITED.—The common financial reporting forms prescribed by the Secretary under this subsection shall be produced, distributed, and processed by the Secretary and no parent or student shall be charged a fee by the Secretary, a contractor, a third party servicer or private software provider, or any other public or private entity for the collection, processing, or delivery of financial aid through the use of such forms. The need and eligibility of a student for financial assistance under parts A through E (other than under subpart 4 of part A) may only be determined by using a form developed by the Secretary pursuant to this subsection. No student may receive assistance under parts A through E (other than under subpart 4 of part A), except by use of a form developed by the Secretary pursuant to this subsection. No data collected on a paper or electronic form, worksheet, or other document for which a fee is charged shall be used to complete the form prescribed under this subsection. No person, commercial entity, or other entity shall request, obtain, or utilize an applicant's Personal Identification Number for purposes of submitting an application on an applicant's behalf except State agencies that have entered into an agreement with the Secretary to streamline applications, eligible institutions, or programs under this title as permitted by the Secretary.";

(2) by striking subsection (b) and inserting the following:

"(b) EARLY NOTIFICATION OF AID ELIGIBILITY.—

"(1) IN GENERAL.—The Secretary shall make every effort to provide students with early information about potential financial aid eligibility.

"(2) AVAILABILITY OF MEANS TO DETERMINE ELIGIBILITY.—

"(A) IN GENERAL.—The Secretary shall provide, in cooperation with States, institutions of higher education, agencies, and organizations involved in student financial assistance, both through a widely disseminated printed form and the Internet or other electronic means, a system for individuals to determine easily, by entering relevant data, approximately the amount of grant, work-study, and loan assistance for which an individual would be eligible under this title upon completion and verification of form under subsection (a).

"(B) DETERMINATION OF WHETHER TO USE SIMPLIFIED APPLICATION.—The system established under this paragraph shall also permit users to determine whether or not they may apply for aid using a FAFSA-EZ or a simplified electronic application form under subsection (a).

"(3) AVAILABILITY OF MEANS TO COMMUNICATE ELIGIBILITY.—

"(A) LOWER-INCOME STUDENTS.—The Secretary shall—

"(i) make special efforts to notify students who qualify for a free or reduced price lunch under the school lunch program established under the Richard B. Russell National School Lunch Act, benefits under the food stamp program under the Food Stamp Act of 1977, or benefits under such programs as the Secretary shall determine, of such students' potential eligibility for a maximum Federal Pell Grant under subpart 1 of part A; and

"(ii) disseminate informational materials regarding the linkage between eligibility for means-tested Federal benefit programs and eligibility for a Federal Pell Grant, as determined necessary by the Secretary.

"(B) MIDDLE SCHOOL STUDENTS.—The Secretary shall, in cooperation with States, middle schools, programs under this title that serve middle school students, and other cooperating independent outreach programs, make special efforts to notify middle school students of the availability of financial assistance under this title and of the approximate amounts of grant, work-study, and loan assistance an individual would be eligible for under this title.

"(C) SECONDARY SCHOOL STUDENTS.—The Secretary shall, in cooperation with States, secondary schools, programs under this title that serve secondary school students, and cooperating independent outreach programs, make special efforts to notify students in their junior year of secondary school the approximate amounts of grant, work-study, and loan assistance an individual would be eligible for under this title upon completion and verification of an application form under subsection (a).";

(3) in subsection (c), by striking "Labor and Human Resources" and inserting "Health, Education, Labor, and Pensions";

(4) by striking subsection (d); and

(5) by redesignating subsection (e) as subsection (d).

(c) TOLL-FREE APPLICATION AND INFORMATION.—Section 479 of the Higher Education Act of 1965 (20 U.S.C. 1087ss), as amended by section 3, is further amended by adding at the end the following:

"(e) TOLL-FREE APPLICATION AND INFORMATION.—The Secretary shall contract for, or establish, and publicize a toll-free telephone service to provide an application mechanism and timely and accurate information to the general public. The information provided shall include specific instructions on completing the application form for assistance under this title. Such service shall also include a service accessible by telecommunications devices for the deaf (TDD's) and shall, in addition to the services provided for in the previous sentence, refer such students to the national clearinghouse on postsecondary education that is authorized under section 685(d)(2)(C) of the Individuals with Disabilities Education Act. Not later than 2 years after the date of enactment of the Accessing College through Comprehensive Early Outreach, State Partnerships, and Simplification Act, the Secretary shall test and implement a toll-free telephone-based application system to permit applicants to utilize the FAFSA-EZ or simplified electronic application form under section 483(a) over such system.".

(d) MASTER CALENDAR.—Section 482(a)(1)(B) of the Higher Education Act of 1965 (20 U.S.C. 1089) is amended to read as follows:

"(B) by March 1: proposed modifications and updates pursuant to sections 478 and 483(a)(5) published in the Federal Register;".

SEC. 5. ALLOWANCE FOR STATE AND OTHER TAXES.

Section 478(g) of the Higher Education Act of 1965 (20 U.S.C. 1087rr(g)) is amended to read as follows:

"(g) STATE AND OTHER TAX ALLOWANCE.—For each award year after award year 2004–2005, the Secretary shall publish in the Federal Register a revised table of State and other tax allowances for the purpose of sections 475(c)(2), 475(g)(3), 476(b)(2), and 477(b)(2). The Secretary shall develop such revised table after review of the Department of the Treasury's Statistics of Income file and determination of the percentage of income that each State's taxes represent. Updates shall be phased in proportionately over a period of time equal to the number of years since the last update.".

SEC. 6. SUPPORT FOR WORKING STUDENTS.

(a) DEPENDENT STUDENTS.—Section 475(g)(2)(D) of the Higher Education Act of 1965 (20 U.S.C. 1087oo(g)(2)(D)) is amended to read as follows:

"(D) $9,000;".

(b) INDEPENDENT STUDENTS WITHOUT DEPENDENTS OTHER THAN A SPOUSE.—Section 476(b)(1)(A)(iv) of the Higher Education Act of 1965 (20 U.S.C. 1087pp(b)(1)(A)(iv)) is amended to read as follows:

"(iv) an income protection allowance of the following amount (or a successor amount prescribed by the Secretary under section 478)—

"(I) $10,000 for single students;

"(II) $10,000 for married students where both are enrolled pursuant to subsection (a)(2); and

"(III) $13,000 for married students where 1 is enrolled pursuant to subsection (a)(2);".

(c) INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE.—Section 477(b)(4) of the Higher Education Act of 1965 (20 U.S.C. 1087qq(b)(4)) is amended to read as follows:

"(4) INCOME PROTECTION ALLOWANCE.—The income protection allowance is determined by the following table (or a successor table prescribed by the Secretary under section 478):

"Income Protection Allowance

Family Size	Number in College				
	1	2	3	4	5
2	$17,580	$15,230			
3	20,940	17,610	$16,260		
4	24,950	22,600	20,270	$17,930	
5	28,740	26,390	24,060	21,720	$19,390
6	32,950	30,610	28,280	25,940	23,610

NOTE: For each additional family member, add $3,280.
For each additional college student, subtract $2,330.".

SEC. 7. TREATMENT OF PREPAYMENT AND SAVINGS PLANS UNDER STUDENT FINANCIAL AID NEEDS ANALYSIS.

(a) Definition of Assets.—Section 480(f) of the Higher Education Act of 1965 (20 U.S.C. 1087vv(f)) is amended—

(1) in paragraph (1), by inserting "qualified education benefits (except as provided in paragraph (3))," after "tax shelters,"; and

(2) by adding at the end the following:

"(3) A qualified education benefit shall not be considered an asset of a student for purposes of section 475.

"(4) In this subsection, the term 'qualified education benefit' means—

"(A) a program that is described in clause (i) of section 529(b)(1)(A) of the Internal Revenue Code of 1986 and that meets the requirements of section 529(b)(1)(B) of such Code;

"(B) a State tuition program described in clause (ii) of section 529(b)(1)(A) of the Internal Revenue Code of 1986 that meets the requirements of section 529(b)(1)(B) of such Code; and

"(C) a Coverdell education savings account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986).".

(b) Definition of Other Financial Assistance.—Section 480(j) of the Higher Education Act of 1965 (20 U.S.C. 1087vv(j)) is amended—

(1) in the heading, by striking "; Tuition Prepayment Plans';

(2) by striking paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

(c) Effective Date.—The amendments made by this section shall apply with respect to determinations of need under part F of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087kk et seq.) for academic years beginning on or after July 1, 2005.

SEC. 8. ADVISORY COMMITTEE ON STUDENT FINANCIAL ASSISTANCE.

Section 491 of the Higher Education Act of 1965 (20 U.S.C. 1098), as amended by section 2, is further amended—

(1) in subsection (a)(2)—

(A) in subparagraph (B), by striking "and" after the semicolon;

(B) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(D) to provide knowledge and understanding of early intervention programs and make recommendations that will result in early awareness by low- and moderate-income students and families of their eligibility for assistance under this title, and, to the extent practicable, their eligibility for other forms of State and institutional need-based student assistance; and

"(E) to make recommendations that will expand and improve partnerships among the Federal Government, States, institutions, and private entities to increase the awareness and total amount of need-based student assistance available to low- and moderate-income students.";

(2) in subsection (d)—

(A) in paragraph (6), by striking ", but nothing in this section shall authorize the committee to perform such studies, surveys, or analyses";

(B) in paragraph (8), by striking "and" after the semicolon;

(C) by redesignating paragraph (9) as paragraph (10); and

(D) by inserting after paragraph (8) the following:

"(9) monitor the adequacy of total need-based aid available to low- and moderate-income students from all sources, assess the implications for access and persistence, and report those implications annually to Congress and the Secretary; and";

(3) in subsection (j), by adding at the end the following:

"(6) monitor and assess implementation of improvements called for under this title, make recommendations to the Secretary that ensure the timely design, testing, and implementation of the improvements, and report annually to Congress and the Secretary on progress made toward simplifying overall delivery, reducing data elements and questions, incorporating the latest technology, aligning Federal, State, and institutional eligibility, enhancing partnerships, and improving early awareness of total student aid eligibility for low- and moderate-income students and families."; and

(4) in subsection (k), by striking "2004" and inserting "2010".

By Ms. COLLINS (for herself, Mr. Akaka, Mr. Fitzgerald, Mr. Lieberman, and Mr. Voinovich):

S. 2479. A bill to amend chapter 84 of title 5, United States Code, to provide for Federal employees to make elections to make, modify, and terminate contributions to the Thrift Savings Fund at any time, and for other purposes; to the Committee on Governmental Affairs.

Ms. COLLINS. Mr. President, today, I am pleased to be joined by my colleagues, Senators Akaka, Fitzgerald, Lieberman, and Voinovich in introducing the Thrift Savings Plan Open Elections Act of 2004. This legislation would provide Federal employees with maximum flexibility to tailor their investment decisions by eliminating the current restrictions on when employee contributions to the Thrift Savings Plan can begin or be modified.

Since its inception in 1987, the Thrift Savings Plan has provided Federal employees with the opportunity to participate in a retirement savings plan similar to the 401(k) plans offered by many private companies. The open seasons were created to encourage Federal employees to contribute money toward their retirement. Open seasons were practical during the early years when the Thrift Savings Plan was just getting started and lacked the administrative capability to quickly enroll participants and to implement investment elections on a real-time basis. With the introduction of the automatic recordkeeping system, however, the program has outgrown its existing framework.

Under current law, newly hired employees can sign up to contribute to the Thrift Savings Plan during an initial 60-day eligibility period. If an employee chooses not to make an election, he or she must wait until an open season to do so. Further, if an employee stops contributing to the Thrift Savings Plan outside of an open season, he or she must wait until the second open season after contributions stop before contributions can resume. These restrictions can unfairly penalize employees and discourage their participation. But allowing employees to initiate, modify, or terminate contributions to the TSP in any period, provided the amount does not exceed existing limits for contributions, the legislation ensures that Federal employees' investment decisions will no longer be restricted by the open season requirement.

In testimony before the Congress, Andrew Saul, Chairman of the Federal Retirement Thrift Investment Board, stated that the Board supports the elimination of the open season requirement because it would expand participant access and simplify the administration of the Thrift Savings Plan. Jim Sauber, Chairman of the Employee Thrift Advisory Council, testified in March 2004 that eliminating the TSP open season is perhaps the single best way to reach the 13 percent of employees in the Federal Employees Retirement System who still do not make contributions to the TSP.

In addition to the support by the Federal Retirement Thrift Investment Board and the Employee Thrift Advisory Council, the legislation is supported by the American Federation of Government Employees, the National Treasury Employees Union, the National Association of Retired Federal Employees, the Federal Managers Association, and the Senior Executives Association.

I urge my colleagues to support this important legislation.

Mr. AKAKA. Mr. President. I am delighted to join with Senator Collins and other colleagues on the Governmental Affairs Committee to introduce the Thrift Savings Plan Open Elections Act of 2004. Our bill will provide participants in the Thrift Savings Plan, TSP, significant flexibility in managing their TSP accounts.

Over the years, I have successfully offered legislation which has ensured that Federal employees enrolled in the Government's retirement savings plan enjoy the same opportunities afforded to employees in the private and public sectors, such as the ability to make additional contributions to the TSP for those over the age of 50 and immediate enrollment for new employees. This new bill would eliminate open seasons, which prohibit employees who choose not to contribute to wait until for a specific amount of time if they later decide to participate.

I am especially pleased that the legislation also includes a section devoted to enhancing financial literacy for Federal employees. As my colleagues know, I have long championed the need for expanded financial literacy for Americans of all ages and background who face increasingly complex financial decisions as members of the Nation's workforce, managers of their families' resources, and voting citizens.

Our bill directs the Federal Retirement Thrift Investment Board, FRTIB, which administers the TSP, to enhance the tools available to TSP participants so that they will be better able to understand, evaluate, and compare the financial products, services, and opportunities available from the Thrift Savings Plan. The measure also requires that as part of the retirement training offered by the Office of Personnel Management, OPM, that OPM, in consultation with the board, develop a retirement financial literacy and education strategy for Federal employees. I wish to commend both the thrift board and OPM for the work that has already been undertaken to increase financial literacy among Federal employees, including the recent OPM-sponsored financial literacy fairs.

As for all Americans, financial literacy education is essential for Federal employees to develop a base of knowledge so that they can participate effectively in the modern economy. We must find opportunities to get information to individuals at the appropriate times throughout their lives as their financial situations and needs change. I believe that the provisions in this bill will give Federal employees the tools needed to empower them to make informed decisions regarding their retirement and financial security.

I strongly urge my colleagues to cosponsor this legislation.

By Mr. GRASSLEY:

S. 2480. A bill to amend title 23, United States Code, to research and prevent drug impaired driving; to the Committee on Environment and Public Works.

Mr. GRASSLEY. Mr. President, every half hour, somewhere in this country somebody is killed as a result of an alcohol related traffic accident. This is a sobering statistic. Thanks in part to a massive national response, nearly 1.5 million people are arrested and taken off the road each year for driving under the influence of alcohol, undoubtedly saving lives. But, there is an equally dangerous and potentially devastating problem lurking on our Nation's highways that is going largely undetected.

In 2002, nearly 11 million people drove under the influence of illegal drugs, according to the National Survey on Drug Use and Health Report. While the effort to reduce drunk driving is making progress, those using illegal drugs like marijuana, cocaine, methamphetamine, and opiates continue to get behind the wheel, putting each of us at risk everyday.

According to the National Highway Traffic Safety Administration, drugs are used by approximately 10 to 22 percent of all drivers involved in fatal motor vehicle crashes. In 2003, a study conducted at the Shock Trauma Center at the University of Maryland Hospital in Baltimore found that testing for alcohol alone would have identified less than 30 percent of all the substance abusing drivers admitted to the trauma unit as a result of a motor vehicle accident. Drugged driving is clearly a serious problem.

While it is illegal in all 50 States to drive a motor vehicle under the influence of alcohol or drugs, there is no consistency in the way the States approach drug impaired drivers. In fact, existing laws often hinder the prosecution of drugged drivers. Adding further difficulty, there currently is no road side test to detect the presence of a controlled substance in a driver's body.

In response to these challenges, today I am pleased to be joined by Senator FEINSTEIN in introducing legislation designed to encourage States to develop and carry out drug impaired driving traffic safety programs. By adopting a model statute, States become eligible for grants that would assist drivers in need of drug treatment, as well as grants that would enhance the training of law enforcement and prosecutors. Furthermore, in an effort to keep drug impaired drivers off the road, passage of this legislation will advance the research and development of a roadside testing mechanism.

Clearly there is a need to strengthen efforts to identify, prosecute, and treat drugged drivers. Just as the coordinated efforts to prevent drunk driving have saved lives, so too can the devastating consequences of drugged driving be prevented. I encourage my colleagues to join in support of this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2480

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Drug Impaired Driving Research and Prevention Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) driving under the influence of, or after having used, illegal drugs has become a significant problem worldwide;

(2) in 2002, over 35,000,000 persons in the United States aged 12 or older had used illegal drugs in the past year and almost 11,000,000 of these persons (5 percent of the total population of the United States aged 12 or older and 31 percent of past year illicit drug users) had driven under the influence of, or after having used, illegal drugs in the past year;

(3) research has established that abuse of a number of drugs can impair driving performance;

(4) according to the National Highway Traffic Safety Administration, illegal drugs (often in combination with alcohol) are used by approximately 10 to 22 percent of drivers involved in all motor vehicles crashes;

(5) drug impaired drivers are less frequently detected, prosecuted, or referred to treatment than drunk drivers;

(6) there is a lack of uniformity or consistency in the way the 50 States approach drug impaired drivers;

(7) too few police officers have been trained to detect drug impaired drivers, and too few prosecutors have been trained to prove drug impaired driving cases beyond a reasonable doubt;

(8) per se drug impaired driving laws, like those used for driving under the influence of alcohol, are feasible and represent a sound strategy for dealing with drug impaired drivers and can assist in the prosecution of drug impaired driving offenders; and

(9) while it is illegal in all States to drive a motor vehicle while under the influence of alcohol, drugs other than alcohol, or a combination of alcohol and other drugs, there is no consistent method across States for identifying drug impairment and the presence of drugs in the body.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to provide a model for States to implement and enforce a drug impaired driving statute;

(2) to ensure drivers in need of drug education or treatment are identified and provided with the appropriate assistance;

(3) to advance research and development of testing mechanisms and knowledge about drugged driving and its impact on traffic safety; and

(4) to enhance the training of traffic safety officers and prosecutors to detect, enforce, and prosecute drug impaired driving laws.

SEC. 4. DEFINITIONS.

In this Act, the following definitions apply:

(1) CONTROLLED SUBSTANCE.—The term "controlled substance" includes substances listed in schedules I through V of section 112(e) of the Controlled Substances Act (21 U.S.C. 812(e)).

(2) INHALANT.—The term "inhalant" means a household or commercial product that can be used by inhaling for intoxicating effect.

(3) DRUG RECOGNITION EXPERT.—The term "drug recognition expert" means an individual trained in a specific evaluation procedure that enables the person to determine whether an individual is under the influence of drugs and then to determine the type of drug causing the observable impairment.

SEC. 5. MODEL STATUTE.

(a) IN GENERAL.—Not later than one year after the date of enactment of this Act, the Secretary shall develop and provide to the States a model statute relating to drug impaired driving which incorporates the provisions described in this Act.

(b) MANDATORY PROVISIONS.—Provisions of the model statute developed by the Secretary for recommendation to the States under this section shall include, at a minimum, a provision that the crime of drug impaired driving is committed when a person operates a motor vehicle—

(1) while any detectable amount of a controlled substance is present in the person's body, as measured in the person's blood, urine, saliva, or other bodily substance; or

(2) due to the presence of a controlled substance or a controlled substance in combination with alcohol or an inhalant, or both, in the person's body, the person's mental or physical faculties are affected to a noticeable or perceptible degree.

(c) DISCRETIONARY PROVISIONS.—Provisions of the model statute developed by the Secretary for recommendation to the States under this section may include the following:

(1) Sanctions for refusing to submit to a test for the presence of a controlled substance in a person's body which are equivalent to sanctions for a positive test result.

(2) Lawful use of any controlled substance listed in schedule II, III, IV, or V of section 112(c) of the Controlled Substances Act (21 U.S.C. 812(c)) that was lawfully prescribed by a physician licensed under State law is an affirmative defense to a charge of drug impaired driving; except that the affirmative defense shall not be available if it is shown that the person's mental or physical faculties were impaired by such use to a noticeable or perceptible degree.

(3) A graduated system of penalties for repeat offenses of drug impaired driving, including, at a minimum, that a third or subsequent offense within a 10-year period shall be a felony punishable by imprisonment for more than a year.

(4) Authorization for States to suspend or revoke the license of any driver upon receiving a record of the driver's conviction of driving a motor vehicle while under the influence of a controlled substance.

(5) Provisions that require a sentence of imprisonment imposed for any drug impaired driving offense be served consecutively, not concurrently, from a sentence imposed for any other criminal act; except that a sentence imposed for the same act of impaired driving may be imposed concurrently if the additional conviction was based on an alternate theory of culpability for the same act.

(6) An appropriate system of evaluation, counseling, treatment (if required), and supervision for persons convicted of drug impaired driving.

SEC. 6. RESEARCH AND DEVELOPMENT.

Section 403(b) of title 23, United States Code, is amended by adding at the end the following:

"(5) New technology to detect drug use.

"(6) Research and development to improve testing technology, including toxicology lab resources and field test mechanisms to enable States to process toxicology evidence in a more timely manner.

"(7) Determining per se impairment levels for controlled substances and the compound effects of alcohol and controlled substances on impairment to facilitate enforcement of per se drug impaired driving laws. Research under this paragraph shall be carried out in collaboration with the National Institute on Drug Abuse of the National Institutes of Health.".

SEC. 7. GOALS FOR TRAINING.

Section 403 of title 23, United States Code, is amended by adding at the end the following:

"(g) TRAINING GOALS.—For the purpose of enhancing the States' ability to detect, enforce, and prosecute drug impaired driving laws, the Secretary shall—

"(1) establish and carry out programs to enhance police and prosecutor training efforts for enforcement of laws relating to drug impaired driving and for development of programs to improve enforcement of such laws; and

"(2) ensure that drug impaired driving enforcement training or drug recognition expert programs, or both, exist in all 50 States and the District of Columbia by December 31, 2006.".

SEC. 8. DUTIES.

The Administrator of the National Highway Traffic Safety Administration shall—

(1) advise and coordinate with other Federal agencies on how to address the problem of driving under the influence of an illegal drug; and

(2) conduct research on the prevention, detection, and prosecution of driving under the influence of an illegal drug.

SEC. 9. REPORTS.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act and annually thereafter, the Secretary shall transmit to Congress a report on the progress being made in carrying out this Act, including the amendments made by this Act.

(b) CONTENTS.—The Secretary shall include in the report an assessment of the status of drug impaired driving laws in the United States—

(1) new research and technologies in the area of drug impaired driving enforcement;

(2) a description of the extent of the problem of driving under the influence of an illegal drug in each State and any available information relating thereto, including a description of any laws relating to the problem of driving under the influence of an illegal drug; and

(3) recommendations for addressing the problem of driving under the influence of an illegal drug.

SEC. 10. FUNDING.

Out of amounts appropriated to carry out section 403 of title 23, United States Code, for fiscal years 2004 through 2009, the Secretary shall use, at a minimum, $1,200,000 per fiscal year to carry out drug impaired driving traffic safety programs, including the provisions of this section and the amendments made by this section.

SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 112—SUPPORTING THE GOALS AND IDEALS OF NATIONAL PURPLE HEART RECOGNITION DAY

Mrs. CLINTON (for herself and Mr. HAGEL) submitting the following concurrent resolution; which was referred to the Committee on Armed Services:

S. CON. RES. 112

Whereas the Purple Heart is the oldest military decoration in the world in present use;

Whereas the Purple Heart is awarded in the name of the President of the United States to members of the Armed Forces who are wounded in conflict with an enemy force or are wounded while held by an enemy force as prisoners of war, and posthumously to the next of kin of members of the Armed Forces who are killed in conflict with an enemy force or who die of a wound received in conflict with an enemy force;

Whereas the Purple Heart was established on August 7, 1782, during the Revolutionary War, when General George Washington issued an order establishing the Honorary Badge of Distinction, otherwise known as the Badge of Military Merit;

Whereas the award of the Purple Heart ceased with the end of the Revolutionary War, but was revived in 1932, the 200th anniversary of George Washington's birth, out of respect for his memory and military achievements; and

Whereas National Purple Heart Recognition Day is a fitting tribute to George Washington and to the more than 1,535,000 recipients of the Purple Heart, approximately 550,000 of whom are still living: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) supports the goals and ideals of National Purple Heart Recognition Day;

(2) encourages all people of the United States to learn about the history of the Purple Heart and to honor its recipients; and

(3) requests that the President issue a proclamation calling on the people of the United States to conduct appropriate ceremonies, activities, and programs to demonstrate support for people who have been awarded the Purple Heart.

SENATE CONCURRENT RESOLUTION 113—RECOGNIZING THE IMPORTANCE OF EARLY DIAGNOSIS, PROPER TREATMENT, AND ENHANCED PUBLIC AWARENESS OF TOURETTE SYNDROME AND SUPPORTING THE GOALS AND IDEALS OF NATIONAL TOURETTE SYNDROME AWARENESS MONTH

Mr. SMITH (for himself and Mr. DURBIN) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 113

Whereas Tourette Syndrome is an inherited neurological disorder characterized by involuntary and sudden movements or repeated vocalizations;

Whereas approximately 200,000 people in the United States have been diagnosed with Tourette Syndrome and many thousands more remain undiagnosed;

Whereas lack of public awareness has increased the social stigma attached to Tourette Syndrome;

Whereas early diagnosis and treatment of Tourette Syndrome can prevent physical and psychological harm;

Whereas there is no known cure for Tourette Syndrome and treatment involves multiple medications and therapies with costs that can be prohibitive;

Whereas the Tourette Syndrome Association is the only national nonprofit membership organization dedicated to identifying the cause, finding the cure, and controlling the effects of Tourette Syndrome; and

Whereas the Tourette Syndrome Association has designated May 15 through June 15 as National Tourette Syndrome Awareness Month, the goal of which is to educate the public about the nature and effects of Tourette Syndrome: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) recognizes the impact that Tourette Syndrome can have on people living with the disorder;

(2) recognizes the importance of an early diagnosis and proper treatment of Tourette Syndrome;

(3) recognizes the need for enhanced public awareness of Tourette Syndrome;

(4) supports the goals and ideals of National Tourette Syndrome Awareness Month, as designated by the Tourette Syndrome Association; and

(5) encourages the President to issue a proclamation calling on the people of the United States and interested organizations to observe National Tourette Syndrome Awareness Month.

Mr. SMITH. Mr. President, I rise today to submit a resolution recognizing National Tourette Syndrome Awareness Month. This resolution recognizes the importance of an early and accurate diagnosis, proper treatment for Tourette Syndrome and is intended to raise public awareness about the disorder. I am pleased to be joined today by my colleague from Illinois, Senator DURBIN, in offering this resolution.

Tourette Syndrome, or TS, is an inherited, neurobiological disorder that affects children of all racial and ethnic groups. The symptoms of TS are rapid, repeated, involuntary movements, and sounds called tics. In a large percentage of cases, TS is accompanied by other disorders, the most common of which are Obsessive-Compulsive Disorder, Attention Deficit Hyperactivity Disorder and nonverbal Learning Disabilities.

An estimated 200,000 Americans have substantially impairing TS and many more have milder symptoms of the disorder. Many endure the stigma, isolation, and psychological impact associated with this chronic disorder. There is, unfortunately, no cure for TS, although some individuals benefit from a reduction in symptoms from medication or other clinical treatments.

In my State of Oregon, approximately 600 individuals are affected by Tourette Syndrome. While the Oregon chapter of the Tourette Syndrome Association, TSA, serves as an outstanding resource for information, it constantly faces the challenge of fulfilling its mission in a large, mostly rural State. TSA of Oregon currently operates a support group in the Portland area, and it is emerging as a useful source for families and provides leadership within the community. I would like to commend TSA of Oregon and thank them for their outstanding work.

Designating the month of June as the National Tourette Syndrome Awareness Month gives everyone an opportunity to familiarize themselves with TS and to better understand the impact that TS has on people living with the disorder. Additionally, it recognizes the importance of early diagnosis and receiving proper treatment. I urge my colleagues to support this resolution.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3239. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table.

SA 3240. Mr. WARNER (for himself and Mr. LEVIN) proposed an amendment to the bill S. 2400, supra.

SA 3241. Mr. LEVIN (for Mr. NELSON, OF NEBRASKA) proposed an amendment to the bill S. 2400, supra.

SA 3242. Mr. WARNER (for Mr. GRASSLEY (for himself, Mr. FITZGERALD, and Mr. SESSIONS)) proposed an amendment to the bill S. 2400, supra.

SA 3243. Mr. LEVIN (for Mrs. FEINSTEIN) proposed an amendment to the bill S. 2400, supra.

SA 3244. Mr. BENNETT submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3245. Mr. BOND (for himself and Mrs. DOLE) submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3246. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3247. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3248. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3249. Mr. HAGEL submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3250. Mr. HAGEL submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3239. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 19, between lines 19 and 20, insert the following:

SEC. 113. FOUR-YEAR AUTHORITY FOR THE SECRETARY OF THE ARMY TO USE SALES PROCEEDS TO PROCURE CERTAIN ITEMS.

(a) EXCHANGE AND SALE AGREEMENT.—(1) The Secretary of the Army may enter into an agreement to procure M109-based command-and-control vehicles or field artillery ammunition support vehicles using the sale proceeds of long-supply M109 howitzers.

(2) Section 503 of title 40, United States Code, and the regulations issued under subsection (b) of such section, shall apply to the exercise of the authority under paragraph (1), except for the following requirements:

(A) The requirement for the exchanged items to be similar.

(B) The one-for-one item replacement requirement.

(b) PERIOD OF AUTHORITY.—The authority to enter into agreements under subsection (a) and to make purchases under any such agreement is effective for sales made during the four-year period beginning on October 1, 2004, and ending at the end of September 31, 2008.

SA 3240. Mr. WARNER (for himself and Mr. LEVIN) proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

Beginning on page 105, strike line 21 and all that follows through page 106, line 2.

SA 3241. Mr. LEVIN (for Mr. NELSON of Nebraska) proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

At the end of subtitle B of title II, add the following:

SEC. 217. NEUROTOXIN MITIGATION RESEARCH.

(a) INCREASE IN AMOUNT FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE-WIDE.—The amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation, Defense-wide activities, is hereby increased by $2,000,000.

(b) AVAILABILITY FOR NEUROTOXIN MITIGATION RESEARCH.—Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation, Defense-wide activities, as increased by subsection (a), $2,000,000 may be available in Program Element PE 62384BP for neurotoxin mitigation research.

(c) OFFSET.—The amount authorized to be appropriated by section 301(1) for operation and maintenance for the Army is hereby reduced by $2,000,000, with the amount of the reduction to be allocated to Satellite Communications Language training activity (SCOLA) at the Army Defense Language Institute.

SA 3242. Mr. WARNER (for Mr. GRASSLEY (for himself, Mr. FITZGERALD, and Mr. SESSIONS)) proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

On page 58, after line 24, insert the following:

SEC. 364. CONSOLIDATION AND IMPROVEMENT OF AUTHORITIES FOR ARMY WORKING-CAPITAL FUNDED FACILITIES TO ENGAGE IN PUBLIC-PRIVATE PARTNERSHIPS.

(a) PUBLIC-PRIVATE PARTNERSHIPS AUTHORIZED.—Chapter 433 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4544. Army industrial facilities: public-private partnerships

"(a) PUBLIC-PRIVATE PARTNERSHIPS AUTHORIZED.—A working-capital funded Army industrial facility may enter into cooperative arrangements with non-Army entities to carry out military or commercial projects with the non-Army entities. A cooperative arrangement under this section shall be known as a 'public-private partnership'.

"(b) AUTHORIZED PARTNERSHIP ACTIVITIES.—A public-private partnership entered into by an Army industrial facility may provide for any of the following activities:

"(1) The sale of articles manufactured by the facility or services performed by the facility to persons outside the Department of Defense.

"(2) The performance of—

"(A) work by a non-Army entity at the facility; or

"(B) work for a non-Army entity by the facility.

"(3) The sharing of work by the facility and one or more non-Army entities.

"(4) The leasing, or use under a facilities use contract or otherwise, of the facility (including excess capacity) or equipment (including excess equipment) of the facility by a non-Army entity.

"(5) The preparation and submission of joint offers by the facility and one or more non-Army entities for competitive procurements entered into with a department or agency of the United States.

"(c) Conditions for Public-Private Partnerships.—An activity described in subsection (b) may be carried out as a public-private partnership at an Army industrial facility only under the following conditions:

"(1) In the case of an article to be manufactured or services to be performed by the facility, the articles can be substantially manufactured, or the services can be substantially performed, by the facility without subcontracting for more than incidental performance.

"(2) The activity does not interfere with performance of—

"(A) work by the facility for the Department of Defense; or

"(B) a military mission of the facility.

"(3) The activity meets one of the following objectives:

"(A) Maximize utilization of the capacity of the facility.

"(B) Reduction or elimination of the cost of ownership of the facility.

"(C) Reduction in the cost of manufacturing or maintaining Department of Defense products at the facility.

"(D) Preservation of skills or equipment related to a core competency of the facility.

"(4) The non-Army entity partner or purchaser agrees to hold harmless and indemnify the United States from any liability or claim for damages or injury to any person or property arising out of the activity, including any damages or injury arising out of a decision by the Secretary of the Army or the Secretary of Defense to suspend or terminate an activity, or any portion thereof, during a war or national emergency or to require the facility to perform other work or provide other services on a priority basis, except—

"(A) in any case of willful misconduct or gross negligence; and

"(B) in the case of a claim by a purchaser of articles or services under this section that damages or injury arose from the failure of the Government to comply with quality, schedule, or cost performance requirements in the contract to carry out the activity.

"(d) Methods of Public-Private Partnerships.—To conduct an activity of a public-private partnership under this section, the approval authority described in subsection (f) for an Army industrial facility may, in the exercise of good business judgment—

"(1) enter into a firm, fixed-price contract (or, if agreed to by the purchaser, a cost reimbursement contract) for a sale of articles or services or use of equipment or facilities;

"(2) enter into a multiyear partnership contract for a period not to exceed five years, unless a longer period is specifically authorized by law;

"(3) charge a partner the amounts necessary to recover the full costs of the articles or services provided, including capital improvement costs, and equipment depreciation costs associated with providing the articles, services, equipment, or facilities;

"(4) authorize a partner to use incremental funding to pay for the articles, services, or use of equipment or facilities; and

"(5) accept payment-in-kind.

"(e) Deposit of Proceeds.—(1) The proceeds of sales of articles and services received in connection with the use of an Army industrial facility under this section shall be credited to the appropriation or working-capital fund that incurs the variable costs of manufacturing the articles or performing the services. Notwithstanding section 3302(b) of title 31, the amount so credited with respect to an Army industrial facility shall be available, without further appropriation, as follows:

"(A) Amounts equal to the amounts of the variable costs so incurred shall be available for the same purposes as the appropriation or working-capital fund to which credited.

"(B) Amounts in excess of the amounts of the variable costs so incurred shall be available for operations, maintenance, and environmental restoration at that Army industrial facility.

"(2) Amounts credited to a working-capital fund under paragraph (1) shall remain available until expended. Amounts credited to an appropriation under paragraph (1) shall remain available for the same period as the appropriation to which credited.

"(f) Approval of Sales.—The authority of an Army industrial facility to conduct a public-private partnership under this section shall be exercised at the level of the commander of the major subordinate command of the Army that has responsibility for the facility. The commander may approve such partnership on a case basis or a class basis.

"(g) Commercial Sales.—Except in the case of work performed for the Department of Defense, for a contract of the Department of Defense, for foreign military sales, or for authorized foreign direct commercial sales (defense articles or defense services sold to a foreign government or international organization under export controls), a sale of articles or services may be made under this section only if the approval authority described in subsection (f) determines that the articles or services are not available from a commercial source located in the United States in the required quantity or quality, or within the time required.

"(h) Exclusion From Depot-Level Maintenance and Repair Percentage Limitation.—Amounts expended for depot-level maintenance and repair workload by non-Federal personnel at an Army industrial facility shall not be counted for purposes of applying the percentage limitation in section 2466(a) of this title if the personnel are provided by a non-Army entity pursuant to a public-private partnership established under this section.

"(i) Relationship to Other Laws.—Nothing in this section shall be construed to affect the application of—

"(1) foreign military sales and the export controls provided for in sections 30 and 38 of the Arms Export Control Act (22 U.S.C. 2770 and 2778) to activities of a public-private partnership under this section; and

"(2) section 2667 of this title to leases of non-excess property in the administration of a public-private partnership under this section.

"(j) Definitions.—In this section:

"(1) The term 'Army industrial facility' includes an ammunition plant, an arsenal, a depot, and a manufacturing plant.

"(2) The term 'non-Army entity' includes the following:

"(A) An executive agency.

"(B) An entity in industry or commercial sales.

"(C) A State or political subdivision of a State.

"(D) An institution of higher education or vocational training institution.

"(3) The term 'incremental funding' means a series of partial payments that—

"(A) are made as the work on manufacture or articles is being performed or services are being performed or equipment or facilities are used, as the case may be; and

"(B) result in full payment being completed as the required work is being completed.

"(4) The term 'full costs', with respect to articles or services provided under this section, means the variable costs and the fixed costs that are directly related to the production of the articles or the provision of the services.

"(5) The term 'variable costs' means the costs that are expected to fluctuate directly with the volume of sales or services provided or the use of equipment or facilities.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4544. Army industrial facilities: public-private partnerships.".

SA 3243. Mr. LEVIN (for Mrs. FEINSTEIN) proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

On page 365, between lines 18 and 19, insert the following:

SEC. 2830. LAND CONVEYANCE, MARCH AIR FORCE BASE, CALIFORNIA.

(a) Conveyance Authorized.—The Secretary of the Air Force may convey to the March Joint Powers Authority (in this section referred to as the "MJPA") all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 15 acres located in Riverside County, California, and containing the former Defense Reutilization and Marketing Office facility for March Air Force Base, which is also known as Parcel A-6, for the purpose of economic development and revitalization.

(b) Consideration.—(1) As consideration for the conveyance of property under subsection (a), the MJPA shall pay the United States an amount equal to the fair market value, as determined by the Secretary, of the property to be conveyed under such subsection.

(2) The consideration received under this subsection shall be deposited in the special account in the Treasury established under section 572(b) of title 40, United States Code, and available in accordance with the provisions of paragraph (5)(B)(ii).

(c) Description of Property.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the MJPA.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SA 3244. Mr. BENNETT submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 411, after line 6, add the following:

SEC. 3303. PROHIBITION ON STORAGE OF MERCURY AT PRIVATELY OWNED OR OPERATED FACILITIES.

(a) PROHIBITION.—The Secretary of Defense may not store mercury from the National Defense Stockpile at any facility that is not owned and operated by the United States.

(b) NATIONAL DEFENSE STOCKPILE DEFINED.—In this section , the term "National Defense Stockpile" means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

SA 3245. Mr. BOND (for himself and Mrs. DOLE) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered tolie on the table; as follows:

On page 247, between lines 13 and 14, insert the following:

SEC. 1022. OPERATION OF THE FEDERAL VOTING ASSISTANCE PROGRAM AND THE MILITARY POSTAL SYSTEM.

(a) REQUIREMENT FOR REPORTS.—(1) The Secretary of Defense shall submit to Congress two reports on the actions that the Secretary has taken to ensure that—

(A) the Federal Voting Assistance Program functions effectively to support absentee voting by members of the Armed Forces deployed outside the United States in support of Operation Iraqi Freedom, Operation Enduring Freedom, and all other contingency operations; and

(B) the military postal system functions effectively to support the morale of the personnel described in subparagraph (A) and absentee voting by such members.

(2)(A) The first report under paragraph (1) shall be submitted not later than August 1, 2004.

(B) The second report under paragraph (1) shall be submitted not later than October 1, 2004.

(3) In this subsection, the term "Federal Voting Assistance Program" means the program referred to in section 1566(b)(1) of title 10, United States Code.

(b) IMPLEMENTATION OF RECOMMENDED POSTAL SYSTEM IMPROVEMENTS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall—

(1) implement the recommendations for improvement of the military postal system that were made in 2000 by the Military Postal Service Agency Task Force established by the Secretary of Defense and the Secretary of the Army in 1998; or

(2) submit to Congress a report setting forth the actions taken to implement those recommendations together with, in the case of each recommendation not implemented or not fully implemented before the date of report, the reasons for not implementing or not fully implementing such recommendation, as the case may be.

SA 3246. Mr. SNOWE submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, add the following:

SEC. ____. MENTOR-PROTEGE PILOT PROGRAM.

Section 831(m)(2) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 2302 note) is amended—

(1) in subparagraph (D), by striking "or" at the end;

(2) in subparagraph (E), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(F) a small business concern owned and controlled by service-disabled veterans (as defined in section 8(d)(3) of the Small Business Act); and

"(G) a qualified HUBZone small business concern (as defined in section 3(p) of the Small Business Act).".

SA 3247. Mr. SNOWE submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 166, at the beginning of line 4, insert the following:

(a) PROCESS AND STANDARDS FOR MEASURING PROGRAM EFFECTIVENESS.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Defense shall develop and implement a process and standards for measuring the effectiveness of the test program for negotiation of comprehensive small business subcontracting plans carried out under section 834 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 15 U.S.C. 637 note). The Secretary shall consult with the Comptroller General in developing the standards.

(b) NOTIFICATION OF COMPLIANCE.—Not later than 300 days after the date of the enactment of this Act, the Secretary of Defense and the Comptroller General shall notify Congress regarding whether the deadline in subsection (a) was met.

(c) LIMITATION ON ADDITIONAL PRIME CONTRACTORS AS PARTICIPANTS.—A prime contractor not participating in the test program as of the date of enactment of this Act may not participate in the test program until the Secretary of Defense develops and implements the process and standards for measuring the effectiveness of the test program required under subsection (a).

(d) MONITORING.—The Comptroller General shall monitor the administration of the test program and, not later than three years after the date of the enactment of this Act, submit to Congress a report on the effectiveness of the program.

(e) EXTENSION OF PROGRAM.—

SA 3248. Mr. SNOWE submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 811.

SA 3249. Mr. HAGEL submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1068. NATIONAL AIRBORNE DAY.

(a) FINDINGS.—The Senate makes the following findings:

(1) The airborne forces of the United States Armed Forces have a long and honorable history as units of adventuresome, hardy, and fierce warriors who, for the national security of the United States and the defense of freedom and peace, project the effective ground combat power of the United States by Air Force air transport to the far reaches of the battle area and, indeed, to the far corners of the world.

(2) August 16, 2004, marks the anniversary of the first official validation of the innovative concept of inserting United States ground combat forces behind the battle line by means of a parachute.

(3) The United States experiment of airborne infantry attack began on June 25, 1940, when the Army Parachute Test Platoon was first authorized by the United States Department of War, and was launched when 48 volunteers began training in July 1940.

(4) The Parachute Test Platoon performed the first official Army parachute jump on August 16, 1940.

(5) The success of the Parachute Test Platoon in the days immediately preceding the entry of the United States into World War II led to the formation of a formidable force of airborne units that, since then, have served with distinction and repeated success in armed hostilities.

(6) Among those units are the former 11th, 13th, and 17th Airborne Divisions, the venerable 82nd Airborne Division, the versatile

101st Airborne Division (Air Assault), and the airborne regiments and battalions (some as components of those divisions, some as separate units) that achieved distinction as the elite 75th Ranger Regiment, the 173rd Airborne Brigade, the 187th Infantry (Airborne) Regiment, the 503rd, 507th, 508th, 517th, 541st, and 542nd Parachute Infantry Regiments, the 88th Glider Infantry Regiment, the 509th, 551st, and 555th Parachute Infantry Batallions, and the 550th Airborne Infantry Battalion.

(7) The achievements of the airborne forces during World War II provided a basis of evolution into a diversified force of parachute and air assault units that, over the years, have fought in Korea, Vietnam, Grenada, Panama, the Persian Gulf Region, and Somalia, and have engaged in peacekeeping operations in Lebanon, the Sinai Peninsula, the Dominican Republic, Haiti, Bosnia, and Kosovo.

(8) The modern-day airborne force that has evolved from those World War II beginnings is an agile, powerful force that, in large part, is composed of the 82nd Airborne Division, the 101st Airborne Division (Air Assault), and the 75th Ranger Regiment which, together with other units, comprise the quick reaction force of the XVIII Airborne Corps of the Army when not operating separately under a regional combatant commander.

(9) The modern-day airborne force also includes other elite forces composed entirely of airborne trained and qualified special operations warriors, including Army Special Forces, Marine Corps Force Reconnaissance units, Navy SEALs, and Air Force combat control teams, all or most of which comprise the forces of the United States Special Operations Command.

(10) In the aftermath of the terrorist attacks on the United States on September 11, 2001, the 75th Ranger Regiment, special forces units, and units of the 82nd Airborne Division and the 101st Airborne Division (Air Assault), together with other units of the Armed Forces, have been prosecuting the war against terrorism by carrying out combat operations in Afghanistan, training operations in the Philippines, and other operations elsewhere.

(11) In the aftermath of the President's announcement of Operation Iraqi Freedom in March 2003, the 75th Ranger Regiment, special forces units, and units of the 82nd Airborne Division, the 101st Airborne Division (Air Assault), and the 173rd Airborne Brigade, together with other units of the Armed Forces, have been prosecuting the war against terrorism, carrying out combat operations, conducting civil affair missions, and assisting in establishing democracy in Iraq.

(12) The airborne forces are and will continue to be at the ready and the forefront until the Global War on Terrorism is concluded.

(13) The members and former members of the United States combat airborne forces, all have achieved distinction by earning the right to wear the airborne's "Silver Wings of Courage", thousands have achieved the distinction of making combat jumps, 69 have earned the Medal of Honor, and hundreds have earned the Distinguished-Service Cross, Silver Star, or other decorations and awards for displays of such traits as heroism, gallantry, intrepidity, and valor.

(14) The members and former members of the United States combat airborne forces are members of a proud and honorable fraternity of the profession of arms that is made exclusive by those distinctions which, together with their special skills and achievements, distinguish them as intrepid combat parachutists, special operations forces, and (in former days) glider troops.

(15) The history and achievements of the members and former members of the airborne forces of the United States Armed Forces warrant special expressions of the gratitude of the American people as the airborne community celebrates August 16, 2004, as the 64th anniversary of the first official jump by the Army Parachute Test Platoon.

(b) SENSE OF SENATE.—The Senate—

(1) designates August 16, 2004, as "National Airborne Day"; and

(2) requests that the President issue a proclamation calling on Federal, State, and local administrators and the people of the United States to observe "National Airborne Day" with appropriate programs, ceremonies, and activities.

SA 3250. Mr. HAGEL submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1068. NATIONAL AIRBORNE DAY.

(a) FINDINGS.—The Senate makes the following findings:

(1) The airborne forces of the United States Armed Forces have a long and honorable history as units of adventuresome, hardy, and fierce warriors who, for the national security of the United States and the defense of freedom and peace, project the effective ground combat power of the United States by Air Force air transport to the far reaches of the battle area and, indeed, to the far corners of the world.

(2) August 16, 2004, marks the anniversary of the first official validation of the innovative concept of inserting United States ground combat forces behind the battle line by means of a parachute.

(3) The United States experiment of airborne infantry attack began on June 25, 1940, when the Army Parachute Test Platoon was first authorized by the United States Department of War, and was launched when 48 volunteers began training in July 1940.

(4) The Parachute Test Platoon performed the first official Army parachute jump on August 16, 1940.

(5) The success of the Parachute Test Platoon in the days immediately preceding the entry of the United States into World War II led to the formation of a formidable force of airborne units that, since then, have served with distinction and repeated success in armed hostilities.

(6) Among those units are the former 11th, 13th, and 17th Airborne Divisions, the venerable 82nd Airborne Division, the versatile 101st Airborne Division (Air Assault), and the airborne regiments and battalions (some as components of those divisions, some as separate units) that achieved distinction as the elite 75th Ranger Regiment, the 173rd Airborne Brigade, the 187th Infantry (Airborne) Regiment, the 503rd, 507th, 508th, 517th, 541st, and 542nd Parachute Infantry Regiments, the 88th Glider Infantry Regiment, the 509th, 551st, and 555th Parachute Infantry Batallions, and the 550th Airborne Infantry Battalion.

(7) The achievements of the airborne forces during World War II provided a basis of evolution into a diversified force of parachute and air assault units that, over the years, have fought in Korea, Vietnam, Grenada, Panama, the Persian Gulf Region, and Somalia, and have engaged in peacekeeping operations in Lebanon, the Sinai Peninsula, the Dominican Republic, Haiti, Bosnia, and Kosovo.

(8) The modern-day airborne force that has evolved from those World War II beginnings is an agile, powerful force that, in large part, is composed of the 82nd Airborne Division, the 101st Airborne Division (Air Assault), and the 75th Ranger Regiment which, together with other units, comprise the quick reaction force of the XVIII Airborne Corps of the Army when not operating separately under a regional combatant commander.

(9) The modern-day airborne force also includes other elite forces composed entirely of airborne trained and qualified special operations warriors, including Army Special Forces, Marine Corps Force Reconnaissance units, Navy SEALs, and Air Force combat control teams, all or most of which comprise the forces of the United States Special Operations Command.

(10) In the aftermath of the terrorist attacks on the United States on September 11, 2001, the 75th Ranger Regiment, special forces units, and units of the 82nd Airborne Division and the 101st Airborne Division (Air Assault), together with other units of the Armed Forces, have been prosecuting the war against terrorism by carrying out combat operations in Afghanistan, training operations in the Philippines, and other operations elsewhere.

(11) In the aftermath of the President's announcement of Operation Iraqi Freedom in March 2003, the 75th Ranger Regiment, special forces units, and units of the 82nd Airborne Division, the 101st Airborne Division (Air Assault), and the 173rd Airborne Brigade, together with other units of the Armed Forces, have been prosecuting the war against terrorism, carrying out combat operations, conducting civil affair missions, and assisting in establishing democracy in Iraq.

(12) The airborne forces are and will continue to be at the ready and the forefront until the Global War on Terrorism is concluded.

(13) The members and former members of the United States combat airborne forces, all have achieved distinction by earning the right to wear the airborne's "Silver Wings of Courage", thousands have achieved the distinction of making combat jumps, 69 have earned the Medal of Honor, and hundreds have earned the Distinguished-Service Cross, Silver Star, or other decorations and awards for displays of such traits as heroism, gallantry, intrepidity, and valor.

(14) The members and former members of the United States combat airborne forces are members of a proud and honorable fraternity of the profession of arms that is made exclusive by those distinctions which, together with their special skills and achievements, distinguish them as intrepid combat parachutists, special operations forces, and (in former days) glider troops.

(15) The history and achievements of the members and former members of the airborne forces of the United States Armed Forces warrant special expressions of the gratitude of the American people as the airborne community celebrates August 16, 2004, as the 64th anniversary of the first official jump by the Army Parachute Test Platoon.

(b) SENSE OF SENATE.—The Senate—

(1) designates August 16, 2004, as "National Airborne Day"; and

(2) requests that the President issue a proclamation calling on Federal, State, and local administrators and the people of the United States to observe "National Airborne Day" with appropriate programs, ceremonies, and activities.

PRIVILEGE OF THE FLOOR

Mr. ALLARD. Mr. President, I ask unanimous consent that Rob Brown, a legislative fellow in my office, have floor privileges for the duration of consideration of S. 2004.

The PRESIDING OFFICER. Without objection, it is so ordered.

SAFE, ACCOUNTABLE, FLEXIBLE, AND EFFICIENT TRANSPORTATION EQUITY ACT OF 2005

On Wednesday, May 19, 2004, the Senate passed H.R. 3550, as follows:

Resolved, That the bill from the House of Representatives (H.R. 3550) entitled "An Act to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. General definitions.
Sec. 3. Definitions for title 23.

TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Funding

Sec. 1101. Authorization of appropriations.
Sec. 1102. Obligation ceiling.
Sec. 1103. Apportionments.
Sec. 1104. Equity bonus programs.
Sec. 1105. Revenue aligned budget authority.

Subtitle B—New Programs

Sec. 1201. Infrastructure performance and maintenance program.
Sec. 1202. Future of surface transportation system.
Sec. 1203. Freight transportation gateways; freight intermodal connections.
Sec. 1204. Construction of ferry boats and ferry terminal and maintenance facilities; coordination of ferry construction and maintenance.
Sec. 1205. Designation of Daniel Patrick Moynihan Interstate Highway.
Sec. 1206. State-by-State comparison of highway construction costs.

Subtitle C—Finance

Sec. 1301. Federal share.
Sec. 1302. Transfer of highway and transit funds.
Sec. 1303. Transportation Infrastructure Finance and Innovation Act Amendments.
Sec. 1304. Facilitation of international registration plans and international fuel tax agreements.
Sec. 1305. National Commission on Future Revenue Sources to Support the Highway Trust Fund and Finance the Needs of the Surface Transportation System.
Sec. 1306. State infrastructure banks.
Sec. 1307. Public-private partnerships pilot program.
Sec. 1308. Wagering.

Subtitle D—Safety

Sec. 1401. Highway safety improvement program.
Sec. 1402. Operation lifesaver.
Sec. 1403. License suspension.
Sec. 1404. Bus axle weight exemption.
Sec. 1405. Safe routes to schools program.
Sec. 1406. Purchases of equipment.
Sec. 1407. Workzone safety.
Sec. 1408. Worker injury prevention and free flow of vehicular traffic.
Sec. 1409. Identity authentication standards.
Sec. 1410. Open container requirements.

Subtitle E—Environmental Planning and Review

CHAPTER 1—TRANSPORTATION PLANNING

Sec. 1501. Integration of natural resource concerns into State and metropolitan transportation planning.
Sec. 1502. Consultation between transportation agencies and resource agencies in transportation planning.
Sec. 1503. Integration of natural resource concerns into transportation project planning.
Sec. 1504. Public involvement in transportation planning and projects.
Sec. 1505. Project mitigation.

CHAPTER 2—TRANSPORTATION PROJECT DEVELOPMENT PROCESS

Sec. 1511. Transportation project development process.
Sec. 1512. Assumption of responsibility for categorical exclusions.
Sec. 1513. Surface transportation project delivery pilot program.
Sec. 1514. Parks, recreation areas, wildlife and waterfowl refuges, and historic sites.
Sec. 1515. Regulations.

CHAPTER 3—MISCELLANEOUS

Sec. 1521. Critical real property acquisition.
Sec. 1522. Planning capacity building initiative.

Subtitle F—Environment

Sec. 1601. Environmental restoration and pollution abatement; control of invasive plant species and establishment of native species.
Sec. 1602. National scenic byways program.
Sec. 1603. Recreational trails program.
Sec. 1604. Exemption of Interstate System.
Sec. 1605. Standards.
Sec. 1606. Use of high occupancy vehicle lanes.
Sec. 1607. Bicycle transportation and pedestrian walkways.
Sec. 1608. Idling reduction facilities in Interstate rights-of-way.
Sec. 1609. Toll programs.
Sec. 1610. Federal reference method.
Sec. 1611. Addition of particulate matter areas to CMAQ.
Sec. 1612. Addition to CMAQ-eligible projects.
Sec. 1613. Improved interagency consultation.
Sec. 1614. Evaluation and assessment of CMAQ projects.
Sec. 1615. Synchronized planning and conformity timelines, requirements, and horizon.
Sec. 1616. Transition to new air quality standards.
Sec. 1617. Reduced barriers to air quality improvements.
Sec. 1618. Air quality monitoring data influenced by exceptional events.
Sec. 1619. Conforming amendments.
Sec. 1620. Highway stormwater discharge mitigation program.
Sec. 1621. Exemption from certain hazardous materials transportation requirements.
Sec. 1622. Funds for rebuilding fish stocks.

Subtitle G—Operations

Sec. 1701. Transportation systems management and operations.
Sec. 1702. Real-time system management information program.
Sec. 1703. Contracting for engineering and design services.
Sec. 1704. Off-duty time for drivers of commercial vehicles.
Sec. 1705. Designation of transportation management areas.

Subtitle H—Federal-Aid Stewardship

Sec. 1801. Future Interstate System routes.
Sec. 1802. Stewardship and oversight.
Sec. 1803. Design-build contracting.
Sec. 1804. Program efficiencies—finance.
Sec. 1805. Set-asides for interstate discretionary projects.
Sec. 1806. Federal lands highways program.
Sec. 1807. Highway bridge program.
Sec. 1808. Appalachian development highway system.
Sec. 1809. Multistate corridor program.
Sec. 1810. Border planning, operations, technology, and capacity program.
Sec. 1811. Puerto Rico highway program.
Sec. 1812. National historic covered bridge preservation.
Sec. 1813. Transportation and community and system preservation program.
Sec. 1814. Parking pilot programs.
Sec. 1815. Interstate oasis program.
Sec. 1816. Tribal-State road maintenance agreements.
Sec. 1817. National forest system roads.
Sec. 1818. Territorial highway program.
Sec. 1819. Magnetic levitation transportation technology deployment program.
Sec. 1820. Donations and credits.
Sec. 1821. Disadvantaged business enterprises.
Sec. 1822. Emergency relief.
Sec. 1823. Priority for pedestrian and bicycle facility enhancement projects.
Sec. 1824. The Delta Regional Authority.
Sec. 1825. Multistate international corridor development program.
Sec. 1826. Authorization of contract authority for States with Indian Reservations.

Subtitle I—Technical Corrections

Sec. 1901. Repeal or update of obsolete text.
Sec. 1902. Clarification of date.
Sec. 1903. Inclusion of requirements for signs identifying funding sources in title 23.
Sec. 1904. Inclusion of Buy America requirements in title 23.
Sec. 1905. Technical amendments to nondiscrimination section.

TITLE II—TRANSPORTATION RESEARCH

Subtitle A—Funding

Sec. 2001. Authorization of appropriations.
Sec. 2002. Obligation ceiling.
Sec. 2003. Notice.

Subtitle B—Research and Technology

Sec. 2101. Research and technology program.
Sec. 2102. Study of data collection and statistical analysis efforts.
Sec. 2103. Centers for surface transportation excellence.
Sec. 2104. Motorcycle crash causation study grants.
Sec. 2105. Transportation technology innovation and demonstration program

Subtitle C—Intelligent Transportation System Research

Sec. 2201. Intelligent transportation system research and technical assistance program.

TITLE III—PUBLIC TRANSPORTATION

Sec. 3001. Short title.

Sec. 3002. Amendments to title 49, United States Code; updated terminology.
Sec. 3003. Policies, findings, and purposes.
Sec. 3004. Definitions.
Sec. 3005. Metropolitan transportation planning.
Sec. 3006. Statewide transportation planning.
Sec. 3007. Transportation management areas.
Sec. 3008. Private enterprise participation.
Sec. 3009. Urbanized area formula grants.
Sec. 3010. Planning programs.
Sec. 3011. Capital investment program.
Sec. 3012. New freedom for elderly persons and persons with disabilities.
Sec. 3013. Formula grants for other than urbanized areas.
Sec. 3014. Research, development, demonstration, and deployment projects.
Sec. 3015. Transit cooperative research program.
Sec. 3016. National research programs.
Sec. 3017. National transit institute.
Sec. 3018. Bus testing facility.
Sec. 3019. Bicycle facilities.
Sec. 3020. Suspended light rail technology pilot project.
Sec. 3021. Crime prevention and security.
Sec. 3022. General provisions on assistance.
Sec. 3023. Special provisions for capital projects.
Sec. 3024. Contract requirements.
Sec. 3025. Project management oversight and review.
Sec. 3026. Project review.
Sec. 3027. Investigations of safety and security risk.
Sec. 3028. State safety oversight.
Sec. 3029. Sensitive security information.
Sec. 3030. Terrorist attacks and other acts of violence against public transportation systems.
Sec. 3031. Controlled substances and alcohol misuse testing.
Sec. 3032. Employee protective arrangements.
Sec. 3033. Administrative procedures.
Sec. 3034. Reports and audits.
Sec. 3035. Apportionments of appropriations for formula grants.
Sec. 3036. Apportionments for fixed guideway modernization.
Sec. 3037. Authorizations.
Sec. 3038. Apportionments based on growing States formula factors.
Sec. 3039. Job access and reverse commute grants.
Sec. 3040. Over-the-road bus accessibility program.
Sec. 3041. Alternative transportation in parks and public lands.
Sec. 3042. Obligation ceiling.
Sec. 3043. Adjustments for the Surface Transportation Extension Act of 2003.
Sec. 3044. Disadvantaged business enterprise.
Sec. 3045. Intermodal passenger facilities.

TITLE IV—SURFACE TRANSPORTATION SAFETY

Sec. 4001. Short title.

Subtitle A—Highway Safety

PART I—HIGHWAY SAFETY GRANT PROGRAM

Sec. 4101. Short title; amendment of title 23, United States Code.
Sec. 4102. Authorization of appropriations.
Sec. 4103. Highway safety programs.
Sec. 4104. Highway safety research and outreach programs.
Sec. 4105. National Highway Safety Advisory Committee technical correction.
Sec. 4106. Occupant protection grants.
Sec. 4107. School bus driver training.
Sec. 4108. Emergency medical services.
Sec. 4109. Repeal of authority for alcohol traffic safety programs.
Sec. 4110. Impaired driving program.
Sec. 4111. State traffic safety information system improvements.
Sec. 4112. NHTSA accountability.

PART II—SPECIFIC VEHICLE SAFETY-RELATED RULINGS

Sec. 4151. Amendment of title 49, United States Code.
Sec. 4152. Vehicle crash ejection prevention.
Sec. 4153. Vehicle backover avoidance technology study.
Sec. 4154. Vehicle backover data collection.
Sec. 4155. Aggressivity and incompatibility reduction standard.
Sec. 4156. Improved crashworthiness.
Sec. 4157. 15-passenger vans.
Sec. 4158. Additional safety performance criteria for tires.
Sec. 4159. Safety belt use reminders.
Sec. 4160. Missed deadlines reports.
Sec. 4161. Grants for improving child passenger safety programs.
Sec. 4162. Authorization of appropriations.

PART III—MISCELLANEOUS PROVISIONS

Sec. 4171. Driver licensing and education.
Sec. 4172. Amendment of Automobile Information Disclosure Act.
Sec. 4173. Child safety.
Sec. 4174. Safe intersections.
Sec. 4175. Study on increased speed limits.

Subtitle B—Motor Carrier Safety and Unified Carrier Registration

PART I—ADMINISTRATIVE MATTERS

Sec. 4201. Short title; amendment of title 49, United States Code.
Sec. 4202. Required completion of overdue reports, studies, and rulemakings.
Sec. 4203. Contract authority.

PART II—MOTOR CARRIER SAFETY

Sec. 4221. Minimum guarantee.
Sec. 4222. Authorization of appropriations.
Sec. 4223. Motor carrier safety grants.
Sec. 4224. CDL working group.
Sec. 4225. CDL learner's permit program.
Sec. 4226. Hobbs Act.
Sec. 4227. Penalty for denial of access to records.
Sec. 4228. Medical program.
Sec. 4229. Operation of commercial motor vehicles by individuals who use insulin to treat diabetes mellitus.
Sec. 4230. Financial responsibility for private motor carriers.
Sec. 4231. Increased penalties for out-of-service violations and false records.
Sec. 4232. Elimination of commodity and service exemptions.
Sec. 4233. Intrastate operations of interstate motor carriers.
Sec. 4234. Authority to stop commercial motor vehicles.
Sec. 4235. Revocation of operating authority.
Sec. 4236. Pattern of safety violations by motor carrier management.
Sec. 4237. Motor carrier research and technology program.
Sec. 4238. Review of commercial zone exemption provision.
Sec. 4239. International cooperation.
Sec. 4240. Performance and registration information system management.
Sec. 4241. Commercial vehicle information systems and networks deployment.
Sec. 4242. Outreach and education.
Sec. 4243. Operation of restricted property-carrying units on national highway system.
Sec. 4244. Operation of longer combination vehicles on national highway system.
Sec. 4245. Application of safety standards to certain foreign motor carriers.
Sec. 4246. Background checks for Mexican and Canadian drivers hauling hazardous materials.
Sec. 4247. Exemption of drivers of utility service vehicles.
Sec. 4248. Operation of commercial motor vehicles transporting agricultural commodities and farm supplies.
Sec. 4249. Safety performance history screening.
Sec. 4250. Compliance review audit.

PART III—UNIFIED CARRIER REGISTRATION

Sec. 4261. Short title.
Sec. 4262. Relationship to other laws.
Sec. 4263. Inclusion of motor private and exempt carriers.
Sec. 4264. Unified carrier registration system.
Sec. 4265. Registration of motor carriers by States.
Sec. 4266. Identification of vehicles.
Sec. 4267. Use of UCR agreement revenues as matching funds.
Sec. 4268. Clerical amendments.

Subtitle C—Household Goods Movers

Sec. 4301. Short title; amendment of title 49, United States Code.
Sec. 4302. Findings; sense of Congress.
Sec. 4303. Definitions.
Sec. 4304. Payment of rates.
Sec. 4305. Household goods carrier operations.
Sec. 4306. Liability of carriers under receipts and bills of lading.
Sec. 4307. Dispute settlement for shipments of household goods.
Sec. 4308. Enforcement of regulations related to transportation of household goods.
Sec. 4309. Working group for development of practices and procedures to enhance Federal-State relations.
Sec. 4310. Consumer handbook on DOT website.
Sec. 4311. Information about household goods transportation on carriers' websites.
Sec. 4312. Consumer complaints.
Sec. 4313. Review of liability of carriers.
Sec. 4314. Civil penalties relating to household goods brokers.
Sec. 4315. Civil and criminal penalty for failing to give up possession of household goods.
Sec. 4316. Progress report.
Sec. 4317. Additional registration requirements for motor carriers of household goods.

Subtitle D—Hazardous Materials Transportation Safety and Security

Sec. 4401. Short title.
Sec. 4402. Amendment of title 49, United States Code.

PART I—GENERAL AUTHORITIES ON TRANSPORTATION OF HAZARDOUS MATERIALS

Sec. 4421. Purpose.
Sec. 4422. Definitions.
Sec. 4423. General regulatory authority.
Sec. 4424. Limitation on issuance of hazmat licenses.
Sec. 4425. Representation and tampering.
Sec. 4426. Transporting certain highly radioactive material.
Sec. 4427. Hazmat employee training requirements and grants.
Sec. 4428. Registration.
Sec. 4429. Shipping papers and disclosure.
Sec. 4430. Rail tank cars.
Sec. 4431. Highway routing of hazardous material.
Sec. 4432. Unsatisfactory safety ratings.
Sec. 4433. Air transportation of ionizing radiation material.
Sec. 4434. Training curriculum for the public sector.
Sec. 4435. Planning and training grants; emergency preparedness fund.
Sec. 4436. Special permits and exclusions.
Sec. 4437. Uniform forms and procedures.

Sec. 4438. International uniformity of standards and requirements.
Sec. 4439. Hazardous materials transportation safety and security.
Sec. 4440. Enforcement.
Sec. 4441. Civil penalties.
Sec. 4442. Criminal penalties.
Sec. 4443. Preemption.
Sec. 4444. Relationship to other laws.
Sec. 4445. Judicial review.
Sec. 4446. Authorization of appropriations.
Sec. 4447. Additional civil and criminal penalties.

PART II—OTHER MATTERS

Sec. 4461. Administrative authority for research and special programs administration.
Sec. 4462. Mailability of hazardous materials.
Sec. 4463. Criminal matters.
Sec. 4464. Cargo inspection program.
Sec. 4465. Information on hazmat registrations.
Sec. 4466. Report on applying hazardous materials regulations to persons who reject hazardous materials.

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SEC. 2. GENERAL DEFINITIONS.

In this Act:

(1) Department.—The term "Department" means the Department of Transportation.

(2) Secretary.—The term "Secretary" means the Secretary of Transportation.

SEC. 3. DEFINITIONS FOR TITLE 23.

Section 101 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

"(a) Definitions.—In this title:

"(1) Apportionment.—The term 'apportionment' includes an unexpended apportionment made under a law enacted before the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004.

"(2) Carpool project.—

"(A) In general.—The term 'carpool project' means any project to encourage the use of carpools and vanpools.

"(B) Inclusions.—The term 'carpool project' includes a project—

"(i) to provide carpooling opportunities to the elderly and individuals with disabilities;

"(ii) to develop and implement a system for locating potential riders and informing the riders of carpool opportunities;

"(iii) to acquire vehicles for carpool use;

"(iv) to designate highway lanes as preferential carpool highway lanes;

"(v) to provide carpool-related traffic control devices; and

"(vi) to designate facilities for use for preferential parking for carpools.

"(3) Construction.—

"(A) In general.—The term 'construction' means the supervision, inspection, and actual building of, and incurring of all costs incidental to the construction or reconstruction of a highway, including bond costs and other costs relating to the issuance in accordance with section 122 of bonds or other debt financing instruments and costs incurred by the State in performing Federal-aid project related audits that directly benefit the Federal-aid highway program.

"(B) Inclusions.—The term 'construction' includes—

"(i) locating, surveying, and mapping (including the establishment of temporary and permanent geodetic markers in accordance with specifications of the National Oceanic and Atmospheric Administration);

"(ii) resurfacing, restoration, and rehabilitation;

"(iii) acquisition of rights-of-way;

"(iv) relocation assistance, acquisition of replacement housing sites, and acquisition and rehabilitation, relocation, and construction of replacement housing;

"(v) elimination of hazards of railway grade crossings;

"(vi) elimination of roadside obstacles;

"(vii) improvements that directly facilitate and control traffic flow, such as—

"(I) grade separation of intersections;

"(II) widening of lanes;

"(III) channelization of traffic;

"(IV) traffic control systems; and

"(V) passenger loading and unloading areas;

"(viii) capital improvements that directly facilitate an effective vehicle weight enforcement program, such as—

"(I) scales (fixed and portable);

"(II) scale pits;

"(III) scale installation; and

"(IV) scale houses;

"(ix) improvements directly relating to securing transportation infrastructures for detection, preparedness, response, and recovery;

"(x) operating costs relating to traffic monitoring, management, and control;

"(xi) operational improvements; and

"(xii) transportation system management and operations.

"(4) COUNTY.—The term 'county' includes—

"(A) a corresponding unit of government under any other name in a State that does not have county organizations; and

"(B) in those States in which the county government does not have jurisdiction over highways, any local government unit vested with jurisdiction over local highways.

"(5) FEDERAL-AID HIGHWAY.—

"(A) IN GENERAL.—The term 'Federal-aid highway' means a highway eligible for assistance under this chapter.

"(B) EXCLUSIONS.—The term 'Federal-aid highway' does not include a highway classified as a local road or rural minor collector.

"(6) FEDERAL-AID SYSTEM.—The term 'Federal-aid system' means any of the Federal-aid highway systems described in section 103.

"(7) FEDERAL LANDS HIGHWAY.—The term 'Federal lands highway' means—

"(A) a forest highway;

"(B) a recreation road;

"(C) a public Forest Service road;

"(D) a park road;

"(E) a parkway;

"(F) a refuge road;

"(G) an Indian reservation road; and

"(H) a public lands highway.

"(8) FOREST HIGHWAY.—The term 'forest highway' means a forest road that is—

"(A) under the jurisdiction of, and maintained by, a public authority; and

"(B) is open to public travel.

"(9) FOREST ROAD OR TRAIL.—

"(A) IN GENERAL.—The term 'forest road or trail' means a road or trail wholly or partly within, or adjacent to, and serving National Forest System land that is necessary for the protection, administration, use, and development of the resources of that land.

"(B) INCLUSIONS.—The term 'forest road or trail' includes—

"(i) a classified forest road;

"(ii) an unclassified forest road;

"(iii) a temporary forest road; and

"(iv) a public forest service road.

"(10) FREIGHT TRANSPORTATION GATEWAY.—

"(A) IN GENERAL.—The term 'freight transportation gateway' means a nationally or regionally significant transportation port of entry or hub for domestic and global trade or military mobilization.

"(B) INCLUSIONS.—The term 'freight transportation gateway' includes freight intermodal and Strategic Highway Network connections that provide access to and from a port or hub described in subparagraph (A).

"(11) HIGHWAY.—The term 'highway' includes—

"(A) a road, street, and parkway;

"(B) a right-of-way, bridge, railroad-highway crossing, tunnel, drainage structure, sign, guardrail, and protective structure, in connection with a highway; and

"(C) a portion of any interstate or international bridge or tunnel (including the approaches to the interstate or international bridge or tunnel, and such transportation facilities as may be required by the United States Customs Service and the Bureau of Citizenship and Immigration Services in connection with the operation of an international bridge or tunnel), the cost of which is assumed by a State transportation department.

"(12) HIGHWAY SAFETY IMPROVEMENT PROJECT.—The term 'highway safety improvement project' means a project that meets the requirements of section 148.

"(13) INDIAN RESERVATION ROAD.—

"(A) IN GENERAL.—The term 'Indian reservation road' means a public road that is located within or provides access to an area described in subparagraph (B) on which or in which reside Indians or Alaskan Natives that, as determined by the Secretary of the Interior, are eligible for services generally available to Indians under Federal laws specifically applicable to Indians.

"(B) AREAS.—The areas referred to in subparagraph (A) are—

"(i) an Indian reservation;

"(ii) Indian trust land or restricted Indian land that is not subject to fee title alienation without the approval of the Federal Government; and

"(iii) an Indian or Alaska Native village, group, or community.

"(14) INTERSTATE SYSTEM.—The term 'Interstate System' means the Dwight D. Eisenhower National System of Interstate and Defense Highways described in section 103(c).

"(15) MAINTENANCE.—

"(A) IN GENERAL.—The term 'maintenance' means the preservation of a highway.

"(B) INCLUSIONS.—The term 'maintenance' includes the preservation of—

"(i) the surface, shoulders, roadsides, and structures of a highway; and

"(ii) such traffic-control devices as are necessary for safe, secure, and efficient use of a highway.

"(16) MAINTENANCE AREA.—The term 'maintenance area' means an area that was designated as a nonattainment area, but was later redesignated by the Administrator of the Environmental Protection Agency as an attainment area, under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

"(17) NATIONAL FOREST SYSTEM ROAD OR TRAIL.—The term 'National Forest System road or trail' means a forest road or trail that is under the jurisdiction of the Forest Service.

"(18) NATIONAL HIGHWAY SYSTEM.—The term 'National Highway System' means the Federal-aid highway system described in section 103(b).

"(19) OPERATING COSTS FOR TRAFFIC MONITORING, MANAGEMENT, AND CONTROL.—The term 'operating costs for traffic monitoring, management, and control' includes—

"(A) labor costs;

"(B) administrative costs;

"(C) costs of utilities and rent;

"(D) costs incurred by transportation agencies for technology to monitor critical transportation infrastructure for security purposes; and

"(E) other costs associated with transportation systems management and operations and the continuous operation of traffic control, such as—

"(i) an integrated traffic control system;

"(ii) an incident management program; and

"(iii) a traffic control center.

"(20) OPERATIONAL IMPROVEMENT.—

"(A) IN GENERAL.—The term 'operational improvement' means—

"(i) a capital improvement for installation or implementation of—

"(I) a transportation system management and operations program;

"(II) traffic and transportation security surveillance and control equipment;

"(III) a computerized signal system;

"(IV) a motorist information system;

"(V) an integrated traffic control system;

"(VI) an incident management program;

"(VII) equipment and programs for transportation response to manmade and natural disasters; or

"(VIII) a transportation demand management facility, strategy, or program; and

"(ii) such other capital improvements to a public road as the Secretary may designate by regulation.

"(B) EXCLUSIONS.—The term 'operational improvement' does not include—

"(i) a resurfacing, restorative, or rehabilitative improvement;

"(ii) construction of an additional lane, interchange, or grade separation; or

"(iii) construction of a new facility on a new location.

"(21) PARK ROAD.—The term 'park road' means a public road (including a bridge built primarily for pedestrian use, but with capacity for use by emergency vehicles) that is located within, or provides access to, an area in the National Park System with title and maintenance responsibilities vested in the United States.

"(22) PARKWAY.—The term 'parkway' means a parkway authorized by an Act of Congress on land to which title is vested in the United States.

"(23) PROJECT.—The term 'project' means—

"(A)(i) an undertaking to construct a particular portion of a highway; or

"(ii) if the context so implies, a particular portion of a highway so constructed; and

"(B) any other undertaking eligible for assistance under this title.

"(24) PROJECT AGREEMENT.—The term 'project agreement' means the formal instrument to be executed by the Secretary and recipient of funds under this title.

"(25) PUBLIC AUTHORITY.—The term 'public authority' means a Federal, State, county, town, or township, Indian tribe, municipal or other local government or instrumentality with authority to finance, build, operate, or maintain toll or toll-free facilities.

"(26) PUBLIC FOREST SERVICE ROAD.—The term 'public Forest Service road' means a classified forest road—

"(A) that is open to public travel;

"(B) for which title and maintenance responsibility is vested in the Federal Government; and

"(C) that has been designated a public road by the Forest Service.

"(27) PUBLIC LANDS DEVELOPMENT ROADS AND TRAILS.—The term 'public lands development roads and trails' means roads and trails that the Secretary of the Interior determines are of primary importance for the development, protection, administration, and use of public lands and resources under the control of the Secretary of the Interior.

"(28) PUBLIC LANDS HIGHWAY.—The term 'public lands highway' means—

"(A) a forest road that is—

"(i) under the jurisdiction of, and maintained by, a public authority; and

"(ii) open to public travel; and

"(B) any highway through unappropriated or unreserved public land, nontaxable Indian land, or any other Federal reservation (including a main highway through such land or reservation that is on the Federal-aid system) that is—

"(i) under the jurisdiction of, and maintained by, a public authority; and

"(ii) open to public travel.

"(29) PUBLIC ROAD.—The term 'public road' means any road or street that is—

"(A) under the jurisdiction of, and maintained by, a public authority; and

"(B) open to public travel.

"(30) RECREATIONAL ROAD.—The term 'recreational road' means a public road—

"(A) that provides access to a museum, lake, reservoir, visitors center, gateway to a major wilderness area, public use area, or recreational or historic site; and

"(B) for which title is vested in the Federal Government.

"(31) REFUGE ROAD.—The term 'refuge road' means a public road—

"(A) that provides access to or within a unit of the National Wildlife Refuge System or a national fish hatchery; and

"(B) for which title and maintenance responsibility is vested in the United States Government.

"(32) RURAL AREA.—The term 'rural area' means an area of a State that is not included in an urban area.

"(33) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(34) STATE.—The term 'State' means—

"(A) a State;

"(B) the District of Columbia; and

"(C) the Commonwealth of Puerto Rico.

"(35) STATE FUNDS.—The term 'State funds' includes funds that are—

"(A) raised under the authority of the State (or any political or other subdivision of a State); and

"(B) made available for expenditure under the direct control of the State transportation department.

"(36) STATE TRANSPORTATION DEPARTMENT.—The term 'State transportation department' means the department, agency, commission, board, or official of any State charged by the laws of the State with the responsibility for highway construction.

"(37) TERRITORIAL HIGHWAY SYSTEM.—The term 'territorial highway system' means the system of arterial highways, collector roads, and necessary interisland connectors in American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the United States Virgin Islands that have been designated by the appropriate Governor or chief executive officer of a territory, and approved by the Secretary, in accordance with section 215.

"(38) TRANSPORTATION ENHANCEMENT ACTIVITY.—The term 'transportation enhancement activity' means, with respect to any project or the area to be served by the project, any of the following activities as the activities relate to surface transportation:

"(A) Provision of facilities for pedestrians and bicycles.

"(B) Provision of safety and educational activities for pedestrians and bicyclists.

"(C) Acquisition of scenic easements and scenic or historic sites (including historic battlefields).

"(D) Scenic or historic highway programs (including the provision of tourist and welcome center facilities).

"(E) Landscaping and other scenic beautification.

"(F) Historic preservation.

"(G) Rehabilitation and operation of historic transportation buildings, structures, or facilities (including historic railroad facilities and canals).

"(H) Preservation of abandoned railway corridors (including the conversion and use of the corridors for pedestrian or bicycle trails).

"(I) Control and removal of outdoor advertising.

"(J) Archaeological planning and research.

"(K) Environmental mitigation—

"(i) to address water pollution due to highway runoff; or

"(ii) reduce vehicle-caused wildlife mortality while maintaining habitat connectivity.

"(L) Establishment of transportation museums.

"(39) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—

"(A) IN GENERAL.—The term 'transportation systems management and operations' means an integrated program to optimize the performance of existing infrastructure through the implementation of multimodal and intermodal, cross-jurisdictional systems, services, and projects designed to preserve capacity and improve security, safety, and reliability of the transportation system.

"(B) INCLUSIONS.—The term 'transportation systems management and operations' includes—

"(i) regional operations collaboration and coordination activities between transportation and public safety agencies; and

"(ii) improvements to the transportation system such as traffic detection and surveillance, arterial management, freeway management, demand management, work zone management, emergency management, electronic toll collection, automated enforcement, traffic incident management, roadway weather management, traveler information services, commercial vehicle operations, traffic control, freight management, and coordination of highway, rail, transit, bicycle, and pedestrian operations.

"(40) URBAN AREA.—The term 'urban area' means—

"(A) an urbanized area (or, in the case of an urbanized area encompassing more than 1 State, the portion of the urbanized area in each State); and

"(B) an urban place designated by the Bureau of the Census that—

"(i) has a population of 5,000 or more;

"(ii) is not located within any urbanized area; and

"(iii) is located within boundaries that—

"(I) are fixed cooperatively by responsible State and local officials, subject to approval by the Secretary; and

"(II) encompass, at a minimum, the entire urban place designated by the Bureau of the Census (except in the case of cities in the State of Maine and in the State of New Hampshire).

"(41) URBANIZED AREA.—The term 'urbanized area' means an area that—

"(A) has a population of 50,000 or more;

"(B) is designated by the Bureau of the Census; and

"(C) is located within boundaries that—

"(i) are fixed cooperatively by responsible State and local officials, subject to approval by the Secretary; and

"(ii) encompass, at a minimum, the entire urbanized area within a State as designated by the Bureau of the Census.".

TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Funding

SEC. 1101. AUTHORIZATION OF APPROPRIATIONS.

The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) INTERSTATE MAINTENANCE PROGRAM.—For the Interstate maintenance program under section 119 of title 23, United States Code—

(A) $5,442,371,792 for fiscal year 2004;

(B) $6,425,168,342 for fiscal year 2005;

(C) $6,683,176,289 for fiscal year 2006;

(D) $6,702,365,186 for fiscal year 2007;

(E) $7,036,621,314 for fiscal year 2008; and

(F) $7,139,130,081 for fiscal year 2009.

(2) NATIONAL HIGHWAY SYSTEM.—For the National Highway System under section 103 of that title—

(A) $6,593,922,257 for fiscal year 2004;

(B) $7,815,590,130 for fiscal year 2005;

(C) $8,125,241,450 for fiscal year 2006;

(D) $8,148,531,791 for fiscal year 2007;

(E) $8,554,231,977 for fiscal year 2008; and

(F) $8,678,591,297 for fiscal year 2009.

(3) BRIDGE PROGRAM.—For the bridge program under section 144 of that title—

(A) $4,650,754,076 for fiscal year 2004;

(B) $5,507,287,150 for fiscal year 2005;

(C) $5,713,860,644 for fiscal year 2006;

(D) $5,730,266,418 for fiscal year 2007;

(E) $6,016,042,650 for fiscal year 2008; and

(F) $6,103,714,622 for fiscal year 2009.

(4) SURFACE TRANSPORTATION PROGRAM.—For the surface transportation program under section 133 of that title—

(A) $6,877,178,900 for fiscal year 2004;

(B) $8,107,950,527 for fiscal year 2005;

(C) $8,417,741,127 for fiscal year 2006;

(D) $8,441,910,349 for fiscal year 2007;

(E) $8,862,919,976 for fiscal year 2008; and

(F) $8,992,134,975 for fiscal year 2009.

(5) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program under section 149 of that title—

(A) $1,880,092,073 for fiscal year 2004;

(B) $2,192,716,180 for fiscal year 2005;

(C) $2,270,239,273 for fiscal year 2006;

(D) $2,276,757,639 for fiscal year 2007;

(E) $2,390,302,660 for fiscal year 2008; and

(F) $2,425,236,569 for fiscal year 2009.

(6) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—For the highway safety improvement program under section 148 of that title—

(A) $1,187,426,572 for fiscal year 2004;

(B) $1,325,828,388 for fiscal year 2005;

(C) $1,377,448,548 for fiscal year 2006;

(D) $1,381,403,511 for fiscal year 2007;

(E) $1,450,295,996 for fiscal year 2008; and

(F) $1,471,607,029 for fiscal year 2009.

(7) APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM PROGRAM.—For the Appalachian development highway system program under section 170 of that title, $590,000,000 for each of fiscal years 2004 through 2009.

(8) RECREATIONAL TRAILS PROGRAM.—For the recreational trails program under section 206 of that title, $60,000,000 for each of fiscal years 2004 through 2009.

(9) FEDERAL LANDS HIGHWAYS PROGRAM.—

(A) INDIAN RESERVATION ROADS.—For Indian reservation roads under section 204 of that title—

(i) $300,000,000 for fiscal year 2004;

(ii) $325,000,000 for fiscal year 2005;

(iii) $350,000,000 for fiscal year 2006;

(iv) $375,000,000 for fiscal year 2007;

(v) $400,000,000 for fiscal year 2008; and

(vi) $425,000,000 for fiscal year 2009.

(B) RECREATION ROADS.—For recreation roads under section 204 of that title, $50,000,000 for each of fiscal years 2004 through 2009.

(C) PARK ROADS AND PARKWAYS.—For park roads and parkways under section 204 of that title—

(i) $300,000,000 for fiscal year 2004;

(ii) $310,000,000 for fiscal year 2005; and

(iii) $320,000,000 for each of fiscal years 2006 through 2009.

(D) REFUGE ROADS.—For refuge roads under section 204 of that title, $30,000,000 for each of fiscal years 2004 through 2009.

(E) PUBLIC LANDS HIGHWAYS.—For Federal lands highways under section 204 of that title, $300,000,000 for each of fiscal years 2004 through 2009.

(F) SAFETY.—For safety under section 204 of that title, $40,000,000 for each of fiscal years 2004 through 2009.

(10) MULTISTATE CORRIDOR PROGRAM.—For the multistate corridor program under section 171 of that title—

(A) $112,500,000 for fiscal year 2004;

(B) $135,000,000 for fiscal year 2005;

(C) $157,500,000 for fiscal year 2006;

(D) $180,000,000 for fiscal year 2007;

(E) $202,500,000 for fiscal year 2008; and

(F) $225,000,000 for fiscal year 2009.

(11) BORDER PLANNING, OPERATIONS, AND TECHNOLOGY PROGRAM.—For the border planning, operations, and technology program under section 172 of that title—

(A) $112,500,000 for fiscal year 2004;

(B) $135,000,000 for fiscal year 2005;

(C) $157,500,000 for fiscal year 2006;

(D) $180,000,000 for fiscal year 2007;

(E) $202,500,000 for fiscal year 2008; and

(F) $225,000,000 for fiscal year 2009.

(12) NATIONAL SCENIC BYWAYS PROGRAM.—For the national scenic byways program under section 162 of that title—

(A) $34,000,000 for fiscal year 2004;

(B) $35,000,000 for fiscal year 2005;

(C) $36,000,000 for fiscal year 2006;

(D) $37,000,000 for fiscal year 2007; and

(E) $39,000,000 for each of fiscal years 2008 and 2009.

(13) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.—For carrying out the infrastructure performance and maintenance program under section 139 of that title $2,000,000,000 for fiscal year 2004.

(14) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—For construction of ferry boats and ferry terminal facilities under section 147 of that title, $60,000,000 for each of fiscal years 2004 through 2009.

(15) COMMONWEALTH OF PUERTO RICO HIGHWAY PROGRAM.—For the Commonwealth of Puerto Rico highway program under section 173 of that title—

(A) $140,000,000 for fiscal year 2004;

(B) $145,000,000 for fiscal year 2005;

(C) $149,000,000 for fiscal year 2006;

(D) $154,000,000 for fiscal year 2007;

(E) $160,000,000 for fiscal year 2008; and

(F) $163,000,000 for fiscal year 2009.

(16) PUBLIC-PRIVATE PARTNERSHIPS PILOT PROGRAM.—For the public-private partnerships pilot program under section 109(c)(3) of that title, $10,000,000 for each of fiscal years 2004 through 2009.

(17) DENALI ACCESS SYSTEM.—For the Denali Access System under section 309 of the Denali Commission Act of 1998 (42 U.S.C. 3121 note; Public Law 105–277), $30,000,000 for each of fiscal years 2004 through 2009.

(18) DELTA REGION TRANPORTATION DEVELOPMENT PROGRAM.—For planning and construction activities authorized under the Delta Regional Authority, $80,000,000 for each of fiscal years 2004 through 2009.

SEC. 1102. OBLIGATION CEILING.

(a) GENERAL LIMITATION.—Subject to subsections (g) and (h), and notwithstanding any other provision of law, the obligations for Federal-aid highway and highway safety construction programs shall not exceed—

(1) $33,643,326,300 for fiscal year 2004;

(2) $37,900,000,000 for fiscal year 2005;

(3) $39,100,000,000 for each of fiscal years 2006 and 2007;

(4) $39,400,000,000 for fiscal year 2008; and

(5) $44,400,000,000 for fiscal year 2009.

(b) EXCEPTIONS.—The limitations under subsection (a) shall not apply to obligations under or for—

(1) section 125 of title 23, United States Code;

(2) section 147 of the Surface Transportation Assistance Act of 1978 (23 U.S.C. 144 note; 92 Stat. 2714);

(3) section 9 of the Federal-Aid Highway Act of 1981 (Public Law 97–134; 95 Stat. 1701);

(4) subsections (b) and (j) of section 131 of the Surface Transportation Assistance Act of 1982 (Public Law 97–424; 96 Stat. 2119);

(5) subsections (b) and (c) of section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100–17; 101 Stat. 198);

(6) sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2027);

(7) section 157 of title 23, United States Code (as in effect on June 8, 1998);

(8) section 105 of title 23, United States Code (as in effect for fiscal years 1998 through 2003, but only in an amount equal to $639,000,000 for each of those fiscal years);

(9) Federal-aid highway programs for which obligation authority was made available under the Transportation Equity Act for the 21st Century (Public Law 105–178; 112 Stat. 107) or subsequent public laws for multiple years or to remain available until used, but only to the extent that the obligation authority has not lapsed or been used; and

(10) section 105 of title 23, United States Code (but, for each of fiscal years 2004 through 2009, only in an amount equal to $439,000,000 per fiscal year).

(c) DISTRIBUTION OF OBLIGATION AUTHORITY.—For each of fiscal years 2004 through 2009, the Secretary—

(1) shall not distribute obligation authority provided by subsection (a) for the fiscal year for—

(A) amounts authorized for administrative expenses and programs by section 104(a) of title 23, United States Code;

(B) programs funded from the administrative takedown authorized by section 104(a)(1) of title 23, United States Code; and

(C) amounts authorized for the highway use tax evasion program and the Bureau of Transportation Statistics;

(2) shall not distribute an amount of obligation authority provided by subsection (a) that is equal to the unobligated balance of amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highway and highway safety programs for previous fiscal years the funds for which are allocated by the Secretary;

(3) shall determine the ratio that—

(A) the obligation authority provided by subsection (a) for the fiscal year, less the aggregate of amounts not distributed under paragraphs (1) and (2); bears to

(B) the total of the sums authorized to be appropriated for the Federal-aid highway and highway safety construction programs (other than sums authorized to be appropriated for provisions of law described in paragraphs (1) through (9) of subsection (b) and sums authorized to be appropriated for section 105 of title 23, United States Code, equal to the amount referred to in subsection (b)(10) for the fiscal year), less the aggregate of the amounts not distributed under paragraphs (1) and (2);

(4) shall distribute the obligation authority provided by subsection (a) less the aggregate amounts not distributed under paragraphs (1) and (2), for section 14501 of title 40, United States Code, so that the amount of obligation authority available for that section is equal to the amount determined by multiplying—

(A) the ratio determined under paragraph (3); by

(B) the sums authorized to be appropriated for that section for the fiscal year;

(5) shall distribute among the States the obligation authority provided by subsection (a), less the aggregate amounts not distributed under paragraphs (1) and (2), for each of the programs that are allocated by the Secretary under this Act and title 23, United States Code (other than to programs to which paragraph (1) applies), by multiplying—

(A) the ratio determined under paragraph (3); by

(B) the amounts authorized to be appropriated for each such program for the fiscal year; and

(6) shall distribute the obligation authority provided by subsection (a), less the aggregate amounts not distributed under paragraphs (1) and (2) and the amounts distributed under paragraphs (4) and (5), for Federal-aid highway and highway safety construction programs (other than the amounts apportioned for the equity bonus program, but only to the extent that the amounts apportioned for the equity bonus program for the fiscal year are greater than $439,000,000, and the Appalachian development highway system program) that are apportioned by the Secretary under this Act and title 23, United States Code, in the ratio that—

(A) amounts authorized to be appropriated for the programs that are apportioned to each State for the fiscal year; bear to

(B) the total of the amounts authorized to be appropriated for the programs that are apportioned to all States for the fiscal year.

(d) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsection (c), the Secretary shall, after August 1 of each of fiscal years 2004 through 2009—

(1) revise a distribution of the obligation authority made available under subsection (c) if an amount distributed cannot be obligated during that fiscal year; and

(2) redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year, giving priority to those States having large unobligated balances of funds apportioned under sections 104 and 144 of title 23, United States Code.

(e) APPLICABILITY OF OBLIGATION LIMITATIONS TO TRANSPORTATION RESEARCH PROGRAMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), obligation limitations imposed by subsection (a) shall apply to contract authority for transportation research programs carried out under—

(A) chapter 5 of title 23, United States Code; and

(B) title II of this Act.

(2) EXCEPTION.—Obligation authority made available under paragraph (1) shall—

(A) remain available for a period of 3 fiscal years; and

(B) be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

(f) REDISTRIBUTION OF CERTAIN AUTHORIZED FUNDS.—

(1) IN GENERAL.—Not later than 30 days after the date of distribution of obligation authority under subsection (c) for each of fiscal years 2004 through 2009, the Secretary shall distribute to the States any funds that—

(A) are authorized to be appropriated for the fiscal year for Federal-aid highway programs; and

(B) the Secretary determines will not be allocated to the States, and will not be available for obligation, in the fiscal year due to the imposition of any obligation limitation for the fiscal year.

(2) RATIO.—Funds shall be distributed under paragraph (1) in the same ratio as the distribution of obligation authority under subsection (c)(6).

(3) AVAILABILITY.—Funds distributed under paragraph (1) shall be available for any purpose described in section 133(b) of title 23, United States Code.

(g) SPECIAL RULE.—Obligation authority distributed for a fiscal year under subsection (c)(4) for the provision specified in subsection (c)(4) shall—

(1) remain available until used for obligation of funds for that provision; and

(2) be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

(h) ADJUSTMENT IN OBLIGATION LIMIT.—

(1) IN GENERAL.—A limitation on obligations imposed by subsection (a) for a fiscal year shall be adjusted by an amount equal to the amount determined in accordance with section 251(b)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(1)(B)) for the fiscal year.

(2) DISTRIBUTION.—An adjustment under paragraph (1) shall be distributed in accordance with this section.

(i) LIMITATIONS ON OBLIGATIONS FOR ADMINISTRATIVE EXPENSES.—Notwithstanding any other provision of law, the total amount of all obligations under section 104(a) of title 23, United States Code, shall not exceed—

(1) $450,000,000 for fiscal year 2004;
(2) $465,000,000 for fiscal year 2005;
(3) $480,000,000 for fiscal year 2006;
(4) $495,000,000 for fiscal year 2007;
(5) $510,000,000 for fiscal year 2008; and
(6) $525,000,000 for fiscal year 2009.

(j) NATIONAL HIGHWAY SYSTEM COMPONENT.—Section 104(b)(1) of title 23, United States Code, is amended by striking "$36,400,000" and insert "$50,000,000".

SEC. 1103. APPORTIONMENTS.

(a) ADMINISTRATIVE EXPENSES.—

(1) IN GENERAL.—Section 104 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

"(a) ADMINISTRATIVE EXPENSES.—

"(1) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to be made available to the Secretary of Transportation for administrative expenses of the Federal Highway Administration—

"(A) $450,000,000 for fiscal year 2004;
"(B) $465,000,000 for fiscal year 2005;
"(C) $480,000,000 for fiscal year 2006;
"(D) $495,000,000 for fiscal year 2007;
"(E) $510,000,000 for fiscal year 2008; and
"(F) $525,000,000 for fiscal year 2009.

"(2) PURPOSES.—The funds authorized by this subsection shall be used—

"(A) to administer the provisions of law to be financed from appropriations for the Federal-aid highway program and programs authorized under chapter 2; and

"(B) to make transfers of such sums as the Secretary determines to be appropriate to the Appalachian Regional Commission for administrative activities associated with the Appalachian development highway system.

"(3) AVAILABILITY.—The funds made available under paragraph (1) shall remain available until expended.".

(2) CONFORMING AMENDMENTS.—Section 104 of title 23, United States Code, is amended—

(A) in the matter preceding paragraph (1) of subsection (b), by striking "the deduction authorized by subsection (a) and";

(B) in the first sentence of subsection (e)(1), by striking ", and also" and all that follows through "this section"; and

(C) in subsection (i), by striking "deducted" and inserting "made available".

(b) METROPOLITAN PLANNING.—Section 104(f) of title 23, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) SET-ASIDE.—On October 1 of each fiscal year, the Secretary shall set aside 1.5 percent of the funds authorized to be appropriated for the interstate maintenance, national highway system, surface transportation, congestion mitigation and air quality improvement, highway safety improvement, and highway bridge programs authorized under this title to carry out the requirements of section 134.";

(2) in paragraph (2), by striking "per centum" and inserting "percent";

(3) in paragraph (3)—

(A) by striking "The funds" and inserting the following:

"(A) IN GENERAL.—The funds"; and

(B) by striking "These funds" and all that follows and inserting the following:

"(B) UNUSED FUNDS.—Any funds that are not used to carry out section 134 may be made available by a metropolitan planning organization to the State to fund activities under section 135."; and

(4) by adding at the end the following:

"(6) FEDERAL SHARE.—Funds apportioned to a State under this subsection shall be matched in accordance with section 120(b) unless the Secretary determines that the interests of the Federal-aid highway program would be best served without the match.".

(c) ALASKA HIGHWAY.—Section 104(b)(1)(A) of title 23, United States Code, is amended by striking "1998 through 2002" and inserting "2004 through 2009".

SEC. 1104. EQUITY BONUS PROGRAM.

(a) IN GENERAL.—Section 105 of title 23, United States Code, is amended to read as follows:

"§ 105. Equity bonus program

"(a) PROGRAM.—

"(1) IN GENERAL.—Subject to subsections (c) and (d), for each of fiscal years 2004 through 2009, the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a percentage of the total apportionments for the fiscal year for the programs specified in paragraph (2) that is less than the percentage calculated under subsection (b).

"(2) SPECIFIC PROGRAMS.—The programs referred to in subsection (a) are—

"(A) the Interstate maintenance program under section 119;

"(B) the national highway system program under section 103;

"(C) the bridge program under section 144;

"(D) the surface transportation program under section 133;

"(E) the highway safety improvement program under section 148;

"(F) the congestion mitigation and air quality improvement program under section 149;

"(G) metropolitan planning programs under section 104(f) (other than planning programs funded by amounts provided under the equity bonus program under this section);

"(H) the infrastructure performance and maintenance program under section 139;

"(I) the equity bonus program under this section;

"(J) the Appalachian development highway system program under subtitle IV of title 40;

"(K) the recreational trails program under section 206;

"(L) the safe routes to schools program under section 150; and

"(M) the rail-highway grade crossing program under section 130.

"(b) STATE PERCENTAGE.—

"(1) IN GENERAL.—The percentage referred to in subsection (a) for each State shall be—

"(A) 95 percent of the quotient obtained by dividing—

"(i) the estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available; by

"(ii) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) for the fiscal year; or

"(B) for a State with a total population density of less than 20 persons per square mile, as reported in the decennial census conducted by the Federal Government in 2000, a total population of less than 1,000,000, as reported in that decennial census, or a median household income of less than $35,000, as reported in that decennial census, the greater of—

"(i) the percentage under paragraph (1); or

"(ii) the average percentage of the State's share of total apportionments for the period of fiscal years 1998 through 2003 for the programs specified in paragraph (2).

"(2) SPECIFIC PROGRAMS.—The programs referred to in paragraph (1)(B)(ii) are (as in effect on the day before the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004)—

"(A) the Interstate maintenance program under section 119;

"(B) the national highway system program under section 103;

"(C) the bridge program under section 144;

"(D) the surface transportation program under section 133;

"(E) the recreational trails program under section 206;

"(F) the high priority projects program under section 117;

"(G) the minimum guarantee provided under this section;

"(H) revenue aligned budget authority amounts provided under section 110;

"(I) the congestion mitigation and air quality improvement program under section 149;

"(J) the Appalachian development highway system program under subtitle IV of title 40; and

"(K) metropolitan planning programs under section 104(f).

"(c) SPECIAL RULES.—

"(1) MINIMUM COMBINED ALLOCATION.—For each fiscal year, before making the allocations under subsection (a)(1), the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a combined total of amounts allocated under subsection (a)(1), apportionments for the programs specified in subsection (a)(2), and amounts allocated under this subsection, that is less than 110 percent of the average for fiscal years 1998 through 2003 of the annual apportionments for the State for all programs specified in subsection (b)(2).

"(2) NO NEGATIVE ADJUSTMENT.—Notwithstanding subsection (d), no negative adjustment shall be made under subsection (a)(1) to the apportionment of any State.

"(3) MINIMUM SHARE OF TAX PAYMENTS.—Notwithstanding subsection (d), for each fiscal year, the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a percentage of apportionments for the fiscal year for the programs specified in subsection (a)(2) that is less than 90.5 percent of the percentage share of the State of estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available.

"(d) LIMITATION ON ADJUSTMENTS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) of subsection (c), no State shall receive, for any fiscal year, additional amounts under subsection (a)(1) if—

"(A) the total apportionments of the State for the fiscal year for the programs specified in subsection (a)(2); exceed

"(B) the percentage of the average, for the period of fiscal years 1998 through 2003, of the annual apportionments of the State for all programs specified in subsection (b)(2), as specified in paragraph (2).

"(2) PERCENTAGES.—The percentages referred to in paragraph (1)(B) are—

"(A) for fiscal year 2004, 120 percent;
"(B) for fiscal year 2005, 130 percent;
"(C) for fiscal year 2006, 134 percent;
"(D) for fiscal year 2007, 137 percent;
"(E) for fiscal year 2008, 145 percent; and
"(F) for fiscal year 2009, 250 percent.

"(e) PROGRAMMATIC DISTRIBUTION OF FUNDS.—The Secretary shall apportion the amounts made available under this section so that the amount apportioned to each State under this section for each program referred to in subparagraphs (A) through (G) of subsection (a)(2) is equal to the amount determined by multiplying the amount to be apportioned under this section by the proportion that—

"(1) the amount of funds apportioned to each State for each program referred to in subparagraphs (A) through (G) of subsection (a)(2) for a fiscal year; bears to

"(2) the total amount of funds apportioned to each State for all such programs for the fiscal year.

"(f) METRO PLANNING SET ASIDE.—Notwithstanding section 104(f), no set aside provided for *under that section shall apply to funds allocated under this section.*

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) such sums as are necessary to carry out this section for each of fiscal years 2004 through 2009.".

(b) CONFORMING AMENDMENTS.—

(1) The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 105 and inserting the following:

"105. Equity bonus program."

(2) Section 104(a)(1) of title 23, United States Code, is amended by striking "minimum guarantee" and inserting "equity bonus".

SEC. 1105. REVENUE ALIGNED BUDGET AUTHORITY.

Section 110 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraphs (1) and (2), by striking "2000" and inserting "2006";

(B) in paragraph (1), by inserting "(as in effect on September 30, 2002)" after "(2 U.S.C. 901(b)(2)(B)(ii)(I)(cc))"; and

(C) in paragraph (2)—

(i) by striking "If the amount" and inserting the following:

"(A) IN GENERAL.—Except as provided in subparagraph (B), if the amount";

(ii) by inserting "(as in effect on September 30, 2002)" after "(2 U.S.C. 901(b)(1)(B)(ii)(I)(cc)";

(iii) by striking "the succeeding" and inserting "that";

(iv) by striking "and the motor carrier safety grant program"; and

(v) by adding at the end the following:

"(B) LIMITATION.—No reduction under subparagraph (A) shall be made for a fiscal year if, as of October 1 of the fiscal year, the cash balance in the Highway Trust Fund (other than the Mass Transit Account) exceeds $6,000,000,000.";

(2) in subsection (b)(1), by striking subparagraph (A) and inserting the following:

"(A) the sums authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for each of the Federal-aid highway and highway safety construction programs (other than the equity bonus program) and for which funds are allocated from the Highway Trust Fund by the Secretary under this title and the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004; bears to";

(3) in subsection (c), by inserting "the highway safety improvement program," after "the surface transportation program,"; and

(4) by striking subsections (e), (f), and (g).

Subtitle B—New Programs

SEC. 1201. INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, is amended by inserting after section 138 the following:

"§ 139. Infrastructure performance and maintenance program

"(a) ESTABLISHMENT.—The Secretary shall establish and implement an infrastructure performance and maintenance program in accordance with this section.

"(b) ELIGIBLE PROJECTS.—A State may obligate funds allocated to the State under this section only for projects eligible under the Interstate maintenance program under section 119, the National Highway System program under section 103, the surface transportation program under section 133, the highway safety improvement program under section 148, the highway bridge program under section 144, and the congestion mitigation and air quality improvement program under section 149 that will—

"(1) preserve, maintain, or otherwise extend, in a cost-effective manner, the useful life of existing highway infrastructure elements; or

"(2) provide operational improvements (including traffic management and intelligent transportation system strategies and limited capacity enhancements) at points of recurring highway congestion.

"(c) PERIOD OF AVAILABILITY.—

"(1) OBLIGATION WITHIN 180 DAYS.—

"(A) IN GENERAL.—Funds allocated to a State under this section shall be obligated by the State not later than 180 days after the date of apportionment.

"(B) UNOBLIGATED FUNDS.—Any amounts that remain unobligated at the end of that period shall be allocated in accordance with subsection (d).

"(2) OBLIGATION BY END OF FISCAL YEAR.—

"(A) IN GENERAL.—All funds allocated or reallocated under this section shall remain available for obligation until the last day of the fiscal year for which the funds are apportioned.

"(B) UNOBLIGATED FUNDS.—Any amounts allocated that remain unobligated at the end of the fiscal year shall lapse.

"(d) REDISTRIBUTION OF ALLOCATED FUNDS AND OBLIGATION AUTHORITY.—

"(1) IN GENERAL.—On the date that is 180 days after the date of allocation, or as soon thereafter as practicable, for each fiscal year, the Secretary shall—

"(A) withdraw—

"(i) any funds allocated to a State under this section that remain unobligated; and

"(ii) an equal amount of obligation authority provided for the use of the funds in accordance with section 1101(13) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004; and

"(B) reallocate the funds and redistribute the obligation authority to those States that—

"(i) have fully obligated all amounts allocated under this section for the fiscal year; and

"(ii) demonstrate that the State is able to obligate additional amounts for projects eligible under this section before the end of the fiscal year.

"(2) EQUITY BONUS.—The calculation and distribution of funds under section 105 shall be adjusted as a result of the allocation of funds under this subsection.

"(e) FEDERAL SHARE PAYABLE.—The Federal share payable for a project funded under this section shall be determined in accordance with section 120.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by adding after the item relating to section 138 the following:

"139. Infrastructure performance and maintenance program.".

SEC. 1202. FUTURE OF SURFACE TRANSPORTATION SYSTEM.

(a) DECLARATION OF POLICY.—Section 101 of title 23, United States Code, is amended—

(1) by striking "(b) It is hereby declared to be" and inserting the following:

"(b) DECLARATION OF POLICY.—

"(1) ACCELERATION OF CONSTRUCTION OF FEDERAL-AID HIGHWAY SYSTEMS.—Congress declares that it is";

(2) in the second paragraph, by striking "It is hereby declared" and inserting the following:

"(2) COMPLETION OF INTERSTATE SYSTEM.—Congress declares"; and

(3) by striking the last paragraph and inserting the following:

"(3) TRANSPORTATION NEEDS OF 21ST CENTURY.—Congress declares that—

"(A) it is in the national interest to preserve and enhance the surface transportation system to meet the needs of the United States for the 21st Century;

"(B) the current urban and long distance personal travel and freight movement demands have surpassed the original forecasts and travel demand patterns are expected to change;

"(C) continued planning for and investment in surface transportation is critical to ensure the surface transportation system adequately meets the changing travel demands of the future;

"(D) among the foremost needs that the surface transportation system must meet to provide for a strong and vigorous national economy are safe, efficient, and reliable—

"(i) national and interregional personal mobility (including personal mobility in rural and urban areas) and reduced congestion;

"(ii) flow of interstate and international commerce and freight transportation; and

"(iii) travel movements essential for national security;

"(E) special emphasis should be devoted to providing safe and efficient access for the type and size of commercial and military vehicles that access designated National Highway System intermodal freight terminals;

"(F) it is in the national interest to seek ways to eliminate barriers to transportation investment created by the current modal structure of transportation financing;

"(G) the connection between land use and infrastructure is significant;

"(H) transportation should play a significant role in promoting economic growth, improving the environment, and sustaining the quality of life; and

"(I) the Secretary should take appropriate actions to preserve and enhance the Interstate System to meet the needs of the 21st Century.".

(b) NATIONAL SURFACE TRANSPORTATION SYSTEM STUDY.—

(1) IN GENERAL.—The Secretary shall—

(A) conduct a complete investigation and study of the current condition and future needs of the surface transportation system of the United States, including—

(i) the National Highway System;

(ii) the Interstate System;

(iii) the strategic highway network;

(iv) congressional high priority corridors;

(v) intermodal connectors;

(vi) freight facilities;

(vii) navigable waterways;

(viii) mass transportation;

(ix) freight and intercity passenger rail infrastructure and facilities; and

(x) surface access to airports; and

(B) develop a conceptual plan, with alternative approaches, for the future to ensure that the surface transportation system will continue to serve the needs of the United States, including specific recommendations regarding design and operational standards, Federal policies, and legislative changes.

(2) SPECIFIC ISSUES.—In conducting the investigation and study, the Secretary shall specifically address—

(A) the current condition and performance of the Interstate System (including the physical condition of bridges and pavements and operational characteristics and performance), relying primarily on existing data sources;

(B) the future of the Interstate System, based on a range of legislative and policy approaches for 15-, 30-, and 50-year time periods;

(C) the expected demographics and business uses that impact the surface transportation system;

(D) the expected use of the surface transportation system, including the effects of changing vehicle types, modes of transportation, fleet size and weights, and traffic volumes;

(E) desirable design policies and standards for future improvements of the surface transportation system, including additional access points;

(F) the identification of urban, rural, national, and interregional needs for the surface transportation system;

(G) the potential for expansion, upgrades, or other changes to the surface transportation system, including—

(i) deployment of advanced materials and intelligent technologies;

(ii) critical multistate, urban, and rural corridors needing capacity, safety, and operational enhancements;

(iii) improvements to intermodal linkages;

(iv) security and military deployment enhancements;

(v) strategies to enhance asset preservation; and

(vi) implementation strategies;

(H) the improvement of emergency preparedness and evacuation using the surface transportation system, including—

(i) examination of the potential use of all modes of the surface transportation system in the safe and efficient evacuation of citizens during times of emergency;

(ii) identification of the location of critical bottlenecks; and

(iii) development of strategies to improve system redundancy, especially in areas with a high potential for terrorist attacks;

(I) alternatives for addressing environmental concerns associated with the future development of the surface transportation system;

(J) the evaluation and assessment of the current and future capabilities for conducting system-wide real-time performance data collection and analysis, traffic monitoring, and transportation systems operations and management; and

(K) a range of policy and legislative alternatives for addressing future needs for the surface transportation system, including funding needs and potential approaches to provide funds.

(3) TECHNICAL ADVISORY COMMITTEE.—The Secretary shall establish a technical advisory committee, in a manner consistent with the Federal Advisory Committee Act (5 U.S.C. App.), to collect and evaluate technical input from—

(A) the Department of Defense;

(B) appropriate Federal, State, and local officials with responsibility for transportation;

(C) appropriate State and local elected officials;

(D) transportation and trade associations;

(E) emergency management officials;

(F) freight providers;

(G) the general public; and

(H) other entities and persons determined appropriate by the Secretary to ensure a diverse range of views.

(4) REPORT.—Not later than 4 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, and make readily available to the public, a report on the results of the investigation and study conducted under this subsection.

SEC. 1203. FREIGHT TRANSPORTATION GATEWAYS; FREIGHT INTERMODAL CONNECTIONS.

(a) FREIGHT TRANSPORTATION GATEWAYS.—Chapter 3 of title 23, United States Code, is amended by adding at the end the following:

"§325. Freight transportation gateways

"(a) IN GENERAL.—

"(1) ESTABLISHMENT.—The Secretary shall establish a freight transportation gateways program to improve productivity, security, and safety of freight transportation gateways, while mitigating congestion and community impacts in the area of the gateways.

"(2) PURPOSES.—The purposes of the freight transportation gateways program shall be—

"(A) to facilitate and support multimodal freight transportation initiatives at the State and local levels in order to improve freight transportation gateways and mitigate the impact of congestion on the environment in the area of the gateways;

"(B) to provide capital funding to address infrastructure and freight operational needs at freight transportation gateways;

"(C) to encourage adoption of new financing strategies to leverage State, local, and private investment in freight transportation gateways;

"(D) to facilitate access to intermodal freight transfer facilities; and

"(E) to increase economic efficiency by facilitating the movement of goods.

"(b) STATE RESPONSIBILITIES.—

"(1) PROJECT DEVELOPMENT PROCESS.—Each State, in coordination with metropolitan planning organizations, shall ensure that intermodal freight transportation, trade facilitation, and economic development needs are adequately considered and fully integrated into the project development process, including transportation planning through final design and construction of freight-related transportation projects.

"(2) FREIGHT TRANSPORTATION COORDINATOR.—

"(A) IN GENERAL.—Each State shall designate a freight transportation coordinator.

"(B) DUTIES.—The coordinator shall—

"(i) foster public and private sector collaboration needed to implement complex solutions to freight transportation and freight transportation gateway problems, including—

"(I) coordination of metropolitan and statewide transportation activities with trade and economic interests;

"(II) coordination with other States, agencies, and organizations to find regional solutions to freight transportation problems; and

"(III) coordination with local officials of the Department of Defense and the Department of Homeland Security, and with other organizations, to develop regional solutions to military and homeland security transportation needs; and

"(ii) promote programs that build professional capacity to better plan, coordinate, integrate, and understand freight transportation needs for the State.

"(c) INNOVATIVE FINANCE STRATEGIES.—

"(1) IN GENERAL.—States and localities are encouraged to adopt innovative financing strategies for freight transportation gateway improvements, including—

"(A) new user fees;

"(B) modifications to existing user fees, including trade facilitation charges;

"(C) revenue options that incorporate private sector investment; and

"(D) a blending of Federal-aid and innovative finance programs.

"(2) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to States and localities with respect to the strategies.

"(d) INTERMODAL FREIGHT TRANSPORTATION PROJECTS.—

"(1) USE OF SURFACE TRANSPORTATION PROGRAM FUNDS.—A State may obligate funds apportioned to the State under section 104(b)(3) for publicly-owned intermodal freight transportation projects that provide community and highway benefits by addressing economic, congestion, system reliability, security, safety, or environmental issues associated with freight transportation gateways.

"(2) ELIGIBLE PROJECTS.—A project eligible for funding under this section—

"(A) may include publicly-owned intermodal freight transfer facilities, access to the facilities, and operational improvements for the facilities (including capital investment for intelligent transportation systems), except that projects located within the boundaries of port terminals shall only include the surface transportation infrastructure modifications necessary to facilitate direct intermodal interchange, transfer, and access into and out of the port; and

"(B) may involve the combining of private and public funds.".

(b) ELIGIBILITY FOR SURFACE TRANSPORTATION PROGRAM FUNDS.—Section 133(b) of title 23, United States Code, is amended by inserting after paragraph (11) the following:

"(12) Intermodal freight transportation projects in accordance with section 325(d)(2).".

(c) FREIGHT INTERMODAL CONNECTIONS TO NHS.—Section 103(b) of title 23, United States Code, is amended by adding at the end the following:

"(7) FREIGHT INTERMODAL CONNECTIONS TO THE NHS.—

"(A) FUNDING SET-ASIDE.—Of the funds apportioned to a State for each fiscal year under section 104(b)(1), an amount determined in accordance with subparagraph (B) shall only be available to the State to be obligated for projects on—

"(i) National Highway System routes connecting to intermodal freight terminals identified according to criteria specified in the report to Congress entitled 'Pulling Together: The National Highway System and its Connections to Major Intermodal Terminals' dated May 24, 1996, referred to in paragraph (1), and any modifications to the connections that are consistent with paragraph (4);

"(ii) strategic highway network connectors to strategic military deployment ports; and

"(iii) projects to eliminate railroad crossings or make railroad crossing improvements.

"(B) DETERMINATION OF AMOUNT.—The amount of funds for each State for a fiscal year that shall be set aside under subparagraph (A) shall be equal to the greater of—

"(i) the product obtained by multiplying—

"(I) the total amount of funds apportioned to the State under section 104(b)(1); by

"(II) the percentage of miles that routes specified in subparagraph (A) constitute of the total miles on the National Highway System in the State; or

"(ii) 2 percent of the annual apportionment to the State of funds under 104(b)(1).

"(C) EXEMPTION FROM SET-ASIDE.—For any fiscal year, a State may obligate the funds otherwise set aside by this paragraph for any project that is eligible under paragraph (6) and is located in the State on a segment of the National Highway System specified in paragraph (2), if the State certifies and the Secretary concurs that—

"(i) the designated National Highway System intermodal connectors described in subparagraph (A) are in good condition and provide an adequate level of service for military vehicle and civilian commercial vehicle use; and

"(ii) significant needs on the designated National Highway System intermodal connectors are being met or do not exist.".

(d) FEDERAL SHARE PAYABLE.—Section 120 of title 23, United States Code, is amended by adding at the end the following:

"(m) INCREASED FEDERAL SHARE FOR CONNECTORS.—In the case of a project to support a National Highway System intermodal freight connection or strategic highway network connector to a strategic military deployment port described in section 103(b)(7), except as otherwise provided in section 120, the Federal share of the total cost of the project shall be 90 percent.".

(e) LENGTH LIMITATIONS.—Section 31111(e) of title 49, United States Code, is amended—

(1) by striking "The" and inserting the following:

"(1) IN GENERAL.—The"; and

(2) by adding at the end the following:

"(2) LENGTH LIMITATIONS.—In the interests of economic competitiveness, security, and intermodal connectivity, not later than 3 years after the date of enactment of this paragraph, States shall update the list of those qualifying highways to include—

"(A) strategic highway network connectors to strategic military deployment ports; and

"(B) National Highway System intermodal freight connections serving military and commercial truck traffic going to major intermodal terminals as described in section 103(b)(7)(A)(i).".

(f) CONFORMING AMENDMENT.—The analysis of chapter 3 of title 23, United States Code, is amended by adding at the end the following:

"325. Freight transportation gateways.".

SEC. 1204. CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL AND MAINTENANCE FACILITIES; COORDINATION OF FERRY CONSTRUCTION AND MAINTENANCE.

(a) IN GENERAL.—Section 147 of title 23, United States Code, is amended to read as follows:

"§ 147. Construction of ferry boats and ferry terminal and maintenance facilities; coordination of ferry construction and maintenance

"(a) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—

"(1) IN GENERAL.—The Secretary shall carry out a program for construction of ferry boats and ferry terminal facilities in accordance with section 129(c).

"(2) FEDERAL SHARE.—The Federal share of the cost of construction of ferry boats and ferry terminals and maintenance facilities under this subsection shall be 80 percent.

"(3) ALLOCATION OF FUNDS.—The Secretary shall give priority in the allocation of funds under this subsection to those ferry systems, and public entities responsible for developing ferries, that—

"(A) carry the greatest number of passengers and vehicles;

"(B) carry the greatest number of passengers in passenger-only service; or

"(C) provide critical access to areas that are not well-served by other modes of surface transportation.

"(b) NON-CONTRACT AUTHORITY AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $60,000,000 for each fiscal year to carry out this section.

"(2) AVAILABILITY.—Notwithstanding section 118(a), funds made available under paragraph (1) shall be available in advance of an annual appropriation.".

(b) CONFORMING AMENDMENTS.—

(1) The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 147 and inserting the following:

"147. Construction of ferry boats and ferry terminal and maintenance facilities.".

(2) Section 1064 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2005) is repealed.

SEC. 1205. DESIGNATION OF DANIEL PATRICK MOYNIHAN INTERSTATE HIGHWAY.

(a) DESIGNATION.—Interstate Highway 86 in the State of New York, extending from the Pennsylvania border near Lake Erie through Orange County, New York, shall be known and designated as the "Daniel Patrick Moynihan Interstate Highway".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the highway referred to in subsection (a) shall be deemed to be a reference to the Daniel Patrick Moynihan Interstate Highway.

SEC. 1206. STATE-BY-STATE COMPARISON OF HIGHWAY CONSTRUCTION COSTS.

(a) COLLECTION OF DATA.—

(1) IN GENERAL.—The Administrator of the Federal Highway Administration (referred to in this section as the "Administrator") shall collect from States any bid price data that is necessary to make State-by-State comparisons of highway construction costs.

(2) DATA REQUIRED.—In determining which data to collect and the procedures for collecting data, the Administrator shall take into account the data collection deficiencies identified in the report prepared by the General Accounting Office numbered GAO–04–113R.

(b) REPORT.—

(1) IN GENERAL.—The Administrator shall submit to Congress an annual report on the bid price data collected under subsection (a).

(2) INCLUSIONS.—The report shall include—

(A) State-by-State comparisons of highway construction costs for the previous fiscal year (including the cost to construct a 1-mile road segment of a standard design, as determined by the Administrator); and

(B) a description of the competitive bidding procedures used in each State; and

(C) a determination by Administrator as to whether the competitive bidding procedures described under subparagraph (B) are effective.

Subtitle C—Finance

SEC. 1301. FEDERAL SHARE.

Section 120 of title 23, United States Code, is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—Except as otherwise provided in this chapter, the Federal share payable on account of any project on the Interstate System (including a project to add high occupancy vehicle lanes and a project to add auxiliary lanes but excluding a project to add any other lanes) shall be 90 percent of the total cost of the project.";

(2) in subsection (b)—

(A) by striking "Except as otherwise" and inserting the following:

"(1) IN GENERAL.—Except as otherwise";

(B) by striking "shall be—" and all that follows and inserting "shall be 80 percent of the cost of the project."; and

(C) by adding at the end the following:

"(2) STATE-DETERMINED LOWER FEDERAL SHARE.—In the case of any project subject to this subsection, a State may determine a lower Federal share than the Federal share determined under paragraph (1).";

(3) by striking subsection (d) and inserting the following:

"(d) INCREASED FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share payable under subsection (a) or (b) may be increased for projects and activities in each State in which is located—

"(A) nontaxable Indian land;

"(B) public land (reserved or unreserved);

"(C) a national forest; or

"(D) a national park or monument.

"(2) AMOUNT.—

"(A) IN GENERAL.—The Federal share for States described in paragraph (1) shall be increased by a percentage of the remaining cost that—

"(i) is equal to the percentage that—

"(I) the area of all land described in paragraph (1) in a State; bears to

"(II) the total area of the State; but

"(ii) does not exceed 95 percent of the total cost of the project or activity for which the Federal share is provided.

"(B) ADJUSTMENT.—The Secretary shall adjust the Federal share for States under subparagraph (A) as the Secretary determines necessary, on the basis of data provided by the Federal agencies that are responsible for maintaining the data.".

SEC. 1302. TRANSFER OF HIGHWAY AND TRANSIT FUNDS.

Section 104 of title 23, United States Code, is amended by striking subsection (k) and inserting the following:

"(k) TRANSFER OF HIGHWAY AND TRANSIT FUNDS.—

"(1) TRANSFER OF HIGHWAY FUNDS FOR TRANSIT PROJECTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), funds made available for transit projects or transportation planning under this title may be transferred to and administered by the Secretary in accordance with chapter 53 of title 49.

"(B) NON-FEDERAL SHARE.—The provisions of this title relating to the non-Federal share shall apply to the transferred funds.

"(2) TRANSFER OF TRANSIT FUNDS FOR HIGHWAY PROJECTS.—Funds made available for highway projects or transportation planning under chapter 53 of title 49 may be transferred to and administered by the Secretary in accordance with this title.

"(3) TRANSFER OF HIGHWAY FUNDS TO OTHER FEDERAL AGENCIES.—

"(A) IN GENERAL.—Except as provided in clauses (i) and (ii) and subparagraph (B), funds made available under this title or any other Act that are derived from Highway Trust Fund (other than the Mass Transit account) may be transferred to another Federal agency if—

"(i)(I) an expenditure is specifically authorized in Federal-aid highway legislation or as a line item in an appropriation act; or

"(II) a State transportation department consents to the transfer of funds;

"(ii) the Secretary determines, after consultation with the State transportation department (as appropriate), that the Federal agency should carry out a project with the funds; and

"(iii) the other Federal agency agrees to accept the transfer of funds and to administer the project.

"(B) ADMINISTRATION.—

"(i) PROCEDURES.—A project carried out with funds transferred to a Federal agency under subparagraph (A) shall be administered by the Federal agency under the procedures of the Federal agency.

"(ii) APPROPRIATIONS.—Funds transferred to a Federal agency under subparagraph (A) shall not be considered an augmentation of the appropriations of the Federal agency.

"(iii) NON-FEDERAL SHARE.—The provisions of this title, or an Act described in subparagraph (A), relating to the non-Federal share shall apply to a project carried out with the transferred funds, unless the Secretary determines that it is in the best interest of the United States that the non-Federal share be waived.

"(4) TRANSFER OF FUNDS AMONG STATES OR TO FEDERAL HIGHWAY ADMINISTRATION.—

"(A) IN GENERAL.—Subject to subparagraphs (B) through (D), the Secretary may, at the request of a State, transfer funds apportioned or allocated to the State to another State, or to the Federal Highway Administration, for the purpose of funding 1 or more specific projects.

"(B) ADMINISTRATION.—The transferred funds shall be used for the same purpose and in the same manner for which the transferred funds were authorized.

"(C) APPORTIONMENT.—The transfer shall have no effect on any apportionment formula used to distribute funds to States under this section or section 105 or 144.

"(D) SURFACE TRANSPORTATION PROGRAM.—Funds that are apportioned or allocated to a

State under subsection (b)(3) and attributed to an urbanized area of a State with a population of over 200,000 individuals under section 133(d)(2) may be transferred under this paragraph only if the metropolitan planning organization designated for the area concurs, in writing, with the transfer request.

"(5) TRANSFER OF OBLIGATION AUTHORITY.—Obligation authority for funds transferred under this subsection shall be transferred in the same manner and amount as the funds for the projects are transferred under this subsection.".

SEC. 1303. TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT AMENDMENTS.

(a) DEFINITIONS.—Section 181 of title 23, United States Code, is amended—

(1) in paragraph (3), by striking "category" and "offered into the capital markets";

(2) by striking paragraph (7) and redesignating paragraphs (8) through (15) as paragraphs (7) through (14) respectively;

(3) in paragraph (8) (as redesignated by paragraph (2))—

(A) in subparagraph (B), by striking the period at the end and inserting a semicolon; and

(B) by striking subparagraph (D) and inserting the following:

"(D) a project that—

"(i)(I) is a project for—

"(aa) a public freight rail facility or a private facility providing public benefit;

"(bb) an intermodal freight transfer facility;

"(cc) a means of access to a facility described in item (aa) or (bb);

"(dd) a service improvement for a facility described in item (aa) or (bb) (including a capital investment for an intelligent transportation system); or

"(II) comprises a series of projects described in subclause (I) with the common objective of improving the flow of goods:

"(ii) may involve the combining of private and public sector funds, including investment of public funds in private sector facility improvements; and

"(iii) if located within the boundaries of a port terminal, includes only such surface transportation infrastructure modifications as are necessary to facilitate direct intermodal interchange, transfer, and access into and out of the port."; and

(4) in paragraph (10) (as redesignated by paragraph (2)) by striking "bond" and inserting "credit".

(b) DETERMINATION OF ELIGIBILITY AND PROJECT SELECTION.—Section 182 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) by striking paragraphs (1) and (2) and inserting the following:

"(1) INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.—The project shall satisfy the applicable planning and programming requirements of sections 134 and 135 at such time as an agreement to make available a Federal credit instrument is entered into under this subchapter.

"(2) APPLICATION.—A State, local government, public authority, public-private partnership, or any other legal entity undertaking the project and authorized by the Secretary shall submit a project application to the Secretary.";

(B) in paragraph (3)(A)—

(i) in clause (i), by striking "$100,000,000" and inserting "$50,000,000"; and

(ii) in clause (ii), by striking "50" and inserting "20"; and

(C) in paragraph (4)—

(i) by striking "Project financing" and inserting "The Federal credit instrument"; and

(ii) by inserting before the period at the end the following: "that also secure the project obligations"; and

(2) in subsection (b)—

(A) in paragraph (1), by striking "criteria" the second place it appears and inserting "requirements"; and

(B) in paragraph (2)(B), by inserting "(which may be the Federal credit instrument)" after "obligations".

(c) SECURED LOANS.—Section 183 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "of any project selected under section 182." at the end;

(ii) in subparagraphs (A) and (B), by inserting "of any project selected under section 182" after "costs" ; and

(iii) in subparagraph (B), by striking the semicolon at the end and inserting a period; and

(B) in paragraph (4)—

(i) by striking "funding" and inserting "execution"; and

(ii) by striking "rating," and all that follows and inserting a period;

(2) in subsection (b)—

(A) by striking paragraph (2) and inserting the following:

"(2) MAXIMUM AMOUNT.—The amount of the secured loan shall not exceed the lesser of—

"(A) 33 percent of the reasonably anticipated eligible project costs; or

"(B) the amount of the senior project obligations.";

(B) in paragraph (3)(A)(i), by inserting "that also secure the senior project obligations" after "sources"; and

(C) in paragraph (4), by striking "marketable"; and

(3) in subsection (c)—

(A) by striking paragraph (3);

(B) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively; and

(C) in paragraph (3) (as redesignated by subparagraph (B))—

(i) in subparagraph (A), by striking "during the 10 years"; and

(ii) in subparagraph (B)(ii), by striking "loan" and all that follows and inserting "loan.".

(d) LINES OF CREDIT.—Section 184 of title 23, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (3), by striking "interest, any debt service reserve fund, and any other available reserve" and inserting "interest (but not including reasonably required financing reserves)";

(B) in paragraph (4), by striking "marketable United States Treasury securities as of the date on which the line of credit is obligated" and inserting " United States Treasury securities as of the date of execution of the line of credit agreement"; and

(C) in paragraph (5)(A)(i), by inserting "that also secure the senior project obligations" after "sources"; and

(2) in subsection (c)—

(A) in paragraph (2)—

(i) by striking "scheduled";

(ii) by inserting "be scheduled to" after "shall"; and

(iii) by striking "be fully repaid, with interest," and inserting "to conclude, with full repayment of principal and interest,"; and

(B) by striking paragraph (3).

(e) PROGRAM ADMINISTRATION.—Section 185 of title 23, United States Code, is amended to read as follows:

"§185. Program administration

"(a) REQUIREMENT.—The Secretary shall establish a uniform system to service the Federal credit instruments made available under this subchapter.

"(b) FEES.—The Secretary may establish fees at a level to cover all or a portion of the costs to the Federal government of servicing the Federal credit instruments.

"(c) SERVICER.—

"(1) IN GENERAL.—The Secretary may appoint a financial entity to assist the Secretary in servicing the Federal credit instruments.

"(2) DUTIES.—The servicer shall act as the agent for the Secretary.

"(3) FEE.—The servicer shall receive a servicing fee, subject to approval by the Secretary.

"(d) ASSISTANCE FROM EXPERT FIRMS.—The Secretary may retain the services of expert firms, including counsel, in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments.".

(f) FUNDING.—Section 188 of title 23, United States Code, is amended to read as follows:

"§188. Funding

"(a) FUNDING.—

"(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subchapter $130,000,000 for each of fiscal years 2004 through 2009.

"(2) ADMINISTRATIVE COSTS.—Of amounts made available under paragraph (1), the Secretary may use for the administration of this subchapter not more than $2,000,000 for each of fiscal years 2004 through 2009.

"(3) COLLECTED FEES AND SERVICES.—In addition to funds provided under paragraph (2)—

"(A) all fees collected under this subchapter shall be made available without further appropriation to the Secretary until expended, for use in administering this subchapter; and

"(B) the Secretary may accept and use payment or services provided by transaction participants, or third parties that are paid by participants from transaction proceeds, for due diligence, legal, financial, or technical services.

"(4) AVAILABILITY.—Amounts made available under paragraph (1) shall remain available until expended.

"(b) CONTRACT AUTHORITY.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, approval by the Secretary of a Federal credit instrument that uses funds made available under this subchapter shall be deemed to be acceptance by the United States of a contractual obligation to fund the Federal credit investment.

"(2) AVAILABILITY.—Amounts authorized under this section for a fiscal year shall be available for obligation on October 1 of the fiscal year.".

(g) REPEAL.—Section 189 of title 23, United States code, is repealed.

(h) CONFORMING AMENDMENTS.—The analysis for chapter 1 of title 23, United States Code, is amended—

(1) by striking the item relating to section 185 and inserting the following:

"185. Program administration.";

and

(2) by striking the item relating to section 189.

SEC. 1304. FACILITATION OF INTERNATIONAL REGISTRATION PLANS AND INTERNATIONAL FUEL TAX AGREEMENTS.

(a) IN GENERAL.—Chapter 317 of title 49, United States Code, is amended by adding at the end the following:

"§31708. Facilitation of international registration plans and international fuel tax agreements

"The Secretary may provide assistance to any State that is participating in the International Registration Plan and International Fuel Tax Agreement, as provided in sections 31704 and 31705, respectively, and that serves as a base jurisdiction for motor carriers that are domiciled in Mexico, to assist the State with administrative costs resulting from serving as a base jurisdiction for motor carriers from Mexico.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 317 of title 49, United States Code, is amended by adding at the end the following:

"31708. Facilitation of international registration plans and international fuel tax agreements.".

SEC. 1305. NATIONAL COMMISSION ON FUTURE REVENUE SOURCES TO SUPPORT THE HIGHWAY TRUST FUND AND FINANCE THE NEEDS OF THE SURFACE TRANSPORTATION SYSTEM.

(a) Establishment.—There is established a commission to be known as the "National Commission on Future Revenue Sources to Support the Highway Trust Fund and Finance the Needs of the Surface Transportation System" (referred to in this section as the "Commission").

(b) Membership.—

(1) Composition.—The Commission shall be composed of 11 members, of whom—

(A) 3 members shall be appointed by the President;

(B) 2 members shall be appointed by the Speaker of the House of Representatives;

(C) 2 members shall be appointed by the minority leader of the House of Representatives;

(D) 2 members shall be appointed by the majority leader of the Senate; and

(E) 2 members shall be appointed by the minority leader of the Senate.

(2) Qualifications.—Members appointed under paragraph (1) shall have experience in or represent the interests of—

(A) public finance, including experience in developing State and local revenue resources;

(B) surface transportation program administration;

(C) organizations that use surface transportation facilities;

(D) academic research into related issues; or

(E) other activities that provide unique perspectives on current and future requirements for revenue sources to support the Highway Trust Fund.

(3) Date of appointments.—The appointment of a member of the Commission shall be made not later than 120 days after the date of establishment of the Commission.

(4) Terms.—A member shall be appointed for the life of the Commission.

(5) Vacancies.—A vacancy on the Commission—

(A) shall not affect the powers of the Commission; and

(B) shall be filled in the same manner as the original appointment was made.

(6) Initial meeting.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold the initial meeting of the Commission.

(7) Meetings.—The Commission shall meet at the call of the Chairperson.

(8) Quorum.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(9) Chairperson and vice chairperson.—The Commission shall select a Chairperson and Vice Chairperson from among the members of the Commission.

(c) Duties.—

(1) In general.—The Commission shall—

(A) conduct a comprehensive study of alternatives to replace or to supplement the fuel tax as the principal revenue source to support the Highway Trust Fund and suggest new or alternative sources of revenue to fund the needs of the surface transportation system over at least the next 30 years;

(B) conduct the study in a manner that builds on—

(i) findings, conclusions, and recommendations of the recent study conducted by the Transportation Research Board on alternatives to the fuel tax to support highway program financing; and

(ii) other relevant prior research;

(C) consult with the Secretary and the Secretary of the Treasury in conducting the study to ensure that the views of the Secretaries concerning essential attributes of Highway Trust Fund revenue alternatives are considered;

(D) consult with representatives of State Departments of Transportation and metropolitan planning organizations and other key interested stakeholders in conducting the study to ensure that—

(i) the views of the stakeholders on alternative revenue sources to support State transportation improvement programs are considered; and

(ii) any recommended Federal financing strategy takes into account State financial requirements; and

(E) based on the study, make specific recommendations regarding—

(i) actions that should be taken to develop alternative revenue sources to support the Highway Trust Fund; and

(ii) the time frame for taking those actions.

(2) Specific matters.—The study shall address specifically—

(A) the advantages and disadvantages of alternative revenue sources to meet anticipated Federal surface transportation financial requirements;

(B) recommendations concerning the most promising revenue sources to support long-term Federal surface transportation financing requirements;

(C) development of a broad transition strategy to move from the current tax base to new funding mechanisms, including the time frame for various components of the transition strategy;

(D) recommendations for additional research that may be needed to implement recommended alternatives; and

(E) the extent to which revenues should reflect the relative use of the highway system.

(3) Related work.—To the maximum extent practicable, the study shall build on related work that has been done by—

(A) the Secretary of Transportation;

(B) the Secretary of Energy;

(C) the Transportation Research Board; and

(D) other entities and persons.

(4) Factors.—In developing recommendations under this subsection, the Commission shall consider—

(A) the ability to generate sufficient revenues from all modes to meet anticipated long-term surface transportation financing needs;

(B) the roles of the various levels of government and the private sector in meeting future surface transportation financing needs;

(C) administrative costs (including enforcement costs) to implement each option;

(D) the expected increase in non-taxed fuels and the impact of taxing those fuels;

(E) the likely technological advances that could ease implementation of each option;

(F) the equity and economic efficiency of each option;

(G) the flexibility of different options to allow various pricing alternatives to be implemented; and

(H) potential compatibility issues with State and local tax mechanisms under each alternative.

(5) Report and recommendations.—Not later than September 30, 2007, the Commission shall submit to Congress a final report that contains—

(A) a detailed statement of the findings and conclusions of the Commission; and

(B) the recommendations of the Commission for such legislation and administrative actions as the Commission considers appropriate.

(d) Powers.—

(1) Hearings.—The Commission may hold such hearings, meet and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this section.

(2) Information from federal agencies.—

(A) In general.—The Commission may secure directly from a Federal agency such information as the Commission considers necessary to carry out this section.

(B) Provision of information.—On request of the Chairperson of the Commission, the head of the agency shall provide the information to the Commission.

(3) Postal services.—The Commission may use the United States mails in the same manner and under the same conditions as other agencies of the Federal Government.

(4) Donations.—The Commission may accept, use, and dispose of donations of services or property.

(e) Commission Personnel Matters.—

(1) Members.—A member of the Commission shall serve without pay but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(2) Contractor.—The Commission may contract with an appropriate organization, agency, or entity to conduct the study required under this section, under the strategic guidance of the Commission.

(3) Administrative support.—On the request of the Commission, the Administrator of the Federal Highway Administration shall provide to the Commission, on a reimbursable basis, the administrative support and services necessary for the Commission to carry out the duties of the Commission under this section.

(4) Detail of department personnel.—

(A) In general.—On the request of the Commission, the Secretary may detail, on a reimbursable basis, any of the personnel of the Department to the Commission to assist the Commission in carrying out the duties of the Commission under this section.

(B) Civil service status.—The detail of the employee shall be without interruption or loss of civil service status or privilege.

(5) Cooperation.—The staff of the Secretary shall cooperate with the Commission in the study required under this section, including providing such nonconfidential data and information as are necessary to conduct the study.

(f) Relationship to Other Laws.—

(1) In general.—Except as provided in paragraphs (2) and (3), funds made available to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(2) Federal share.—The Federal share of the cost of the study and the Commission under this section shall be 100 percent.

(3) Availability.—Funds made available to carry out this section shall remain available until expended.

(g) Authorization of appropriations.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $3,000,000 for fiscal year 2004.

(h) Termination.—

(1) In general.—The Commission shall terminate on the date that is 180 days after the date on which the Commission submits the report of the Commission under subsection (c)(5).

(2) Records.—Not later than the termination date for the Commission, all records and papers of the Commission shall be delivered to the Archivist of the United States for deposit in the National Archives.

SEC. 1306. STATE INFRASTRUCTURE BANKS.

Section 1511(b)(1)(A) of the Transportation Equity Act for the 21st Century (23 U.S.C. 181 note; 112 Stat. 251) is amended by striking "Missouri," and all that follows through "for the establishment" and inserting "Missouri, Rhode Island, Texas, and any other State that seeks such an agreement for the establishment".

SEC. 1307. PUBLIC-PRIVATE PARTNERSHIPS PILOT PROGRAM.

Section 109(c) of title 23, United States Code, is amended by adding at the end the following:

"(3) PUBLIC-PRIVATE PARTNERSHIPS PILOT PROGRAM.—

"(A) IN GENERAL.—The Secretary may undertake a pilot program to demonstrate the advantages of public-private partnerships for critical capital development projects, including highway, bridge, and freight intermodal connector projects authorized under this title.

"(B) PROJECTS.—In carrying out the program, the Secretary shall—

"(i) select not less than 10 qualified public-private partnership projects that are authorized under applicable State and local laws; and

"(ii) use funds made available to carry out the program to provide to sponsors of the projects assistance for development phase activities described in section 181(1)(A), to enhance project delivery and reduce overall costs.".

SEC. 1308. WAGERING.

(a) IN GENERAL.—Chapter 35 of the Internal Revenue Code of 1986 is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 4901 of the Internal Revenue Code is amended to read as follows:

"SEC. 4901. PAYMENT OF TAX.

"All special taxes shall be imposed as of on the first day of July in each year, or on commencing any trade or business on which such tax is imposed. In the former case the tax shall be reckoned for 1 year, and in the latter case it shall be reckoned proportionately, from the first day of the month in which the liability to a special tax commenced, to and including the 30th day of June following.".

(2) Section 4903 of such Code is amended by striking ", other than the tax imposed by section 4411,".

(3) Section 4905 of such Code is amended to read as follows:

"SEC. 4905. LIABILITY IN CASE OF DEATH OR CHANGE OF LOCATION.

"When any person who has paid the special tax for any trade or business dies, his spouse or child, or executors or administrators or other legal representatives, may occupy the house or premises, and in like manner carry on, for the residue of the term for which the tax is paid, the same trade or business as the deceased before carried on, in the same house and upon the same premises, without the payment of any additional tax. When any person removes from the house or premises for which any trade or business was taxed to any other place, he may carry on the trade or business specified in the register kept in the office of the official in charge of the internal revenue district at the place to which he removes, without the payment of any additional tax: Provided, That all cases of death, change, or removal, as aforesaid, with the name of the successor to any person deceased, or of the person making such change or removal, shall be registered with the Secretary, under regulations to be prescribed by the Secretary.".

(4) Section 4907 of such Code is amended by striking ", except the tax imposed by section 4411,".

(5) Section 6103(i)(8)(A) of such Code is amended—

(A) by striking ", except to the extent authorized by subsection (f) or (p)(6), disclose to any person, other than another officer or employee of such office whose official duties require such disclosure, any return or return information described in section 4424(a) in a form which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer, nor shall such officer or employee disclose any other" and inserting "disclose any", and

(B) by striking "such other officer" and inserting "such officer".

(6) Section 6103(o) of such Code is amended to read as follows:

"(o) DISCLOSURE OF RETURNS AND RETURN INFORMATION WITH RESPECT TO TAXES IMPOSED BY SUBTITLE E.—Returns and return information with respect to taxes imposed by subtitle E (relating to taxes on alcohol, tobacco, and firearms) shall be open to inspection by or disclosure to officers and employees of a Federal agency whose official duties require such inspection or disclosure.".

(7)(A) Subchapter B of chapter 65 of such Code is amended by striking section 6419 (relating to excise tax on wagering).

(B) The table of section of subchapter B of chapter 65 of such Code is amended by striking the item relating to section 6419.

(8) Section 6806 of such Code is amended by striking "under subchapter B of chapter 35, under subchapter B of chapter 36," and inserting "under subchapter B of chapter 36".

(9) Section 7012 of such Code is amended by striking paragraph (2) and by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

(10)(A) Subchapter B of chapter 75 of such Code is amended by striking section 7262 (relating to violation of occupational tax laws relating to wagering-failure to pay special tax).

(B) The table of sections of subchapter B of chapter 75 of such Code is amended by striking the item relating to section 7262.

(11) Section 7272 of such Code, as amended by section 5244 of this Act, is amended to read as follows:

"SEC. 7272. PENALTY FOR FAILURE TO REGISTER.

"Any person (other than persons required to register under subtitle E, or persons engaging in a trade or business on which a special tax is imposed by such subtitle) who fails to register with the Secretary as required by this title or by regulations issued thereunder shall be liable to a penalty of $50 ($10,000 in the case of a failure to register under section 4101).".

(12) Section 7613(a) is amended by striking "or other data in the case of" and all that follows and inserting "or other data in the case of alcohol, tobacco, and firearms taxes, see subtitle E.".

(13) The table of chapters of subtitle D of such Code is amended by striking the item relating to chapter 35.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to wagers placed after the date of the enactment of this Act.

(2) SPECIAL TAXES.—In the case of amendments made by this section relating to special taxes imposed by subchapter B of chapter 35, the amendments made by this section shall take effect on July 1, 2004.

Subtitle D—Safety

SEC. 1401. HIGHWAY SAFETY IMPROVEMENT PROGRAM.

(a) SAFETY IMPROVEMENT.—

(1) IN GENERAL.—Section 148 of title 23, United States Code, is amended to read as follows:

"§ 148. Highway safety improvement program

"(a) DEFINITIONS.—In this section:

"(1) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term 'highway safety improvement program' means the program carried out under this section.

"(2) HIGHWAY SAFETY IMPROVEMENT PROJECT.—

"(A) IN GENERAL.—The term 'highway safety improvement project' means a project described in the State strategic highway safety plan that—

"(i) corrects or improves a hazardous road location or feature; or

"(ii) addresses a highway safety problem.

"(B) INCLUSIONS.—The term 'highway safety improvement project' includes a project for—

"(i) an intersection safety improvement;

"(ii) pavement and shoulder widening (including addition of a passing lane to remedy an unsafe condition);

"(iii) installation of rumble strips or another warning device, if the rumble strips or other warning devices do not adversely affect the safety or mobility of bicyclists and pedestrians;

"(iv) installation of a skid-resistant surface at an intersection or other location with a high frequency of accidents;

"(v) an improvement for pedestrian or bicyclist safety;

"(vi)(I) construction of any project for the elimination of hazards at a railway-highway crossing that is eligible for funding under section 130, including the separation or protection of grades at railway-highway crossings;

"(II) construction of a railway-highway crossing safety feature; or

"(III) the conduct of a model traffic enforcement activity at a railway-highway crossing;

"(vii) construction of a traffic calming feature;

"(viii) elimination of a roadside obstacle;

"(ix) improvement of highway signage and pavement markings;

"(x) installation of a priority control system for emergency vehicles at signalized intersections;

"(xi) installation of a traffic control or other warning device at a location with high accident potential;

"(xii) safety-conscious planning;

"(xiii) improvement in the collection and analysis of crash data;

"(xiv) planning, integrated, interoperable emergency communications, equipment, operational activities, or traffic enforcement activities (including police assistance) relating to workzone safety;

"(xv) installation of guardrails, barriers (including barriers between construction work zones and traffic lanes for the safety of motorists and workers), and crash attenuators;

"(xvi) the addition or retrofitting of structures or other measures to eliminate or reduce accidents involving vehicles and wildlife; or

"(xvii) installation and maintenance of signs (including fluorescent, yellow-green signs) at pedestrian-bicycle crossings and in school zones.

"(3) SAFETY PROJECT UNDER ANY OTHER SECTION.—

"(A) IN GENERAL.—The term 'safety project under any other section' means a project carried out for the purpose of safety under any other section of this title.

"(B) INCLUSION.—The term 'safety project under any other section' includes a project to—

"(i) promote the awareness of the public and educate the public concerning highway safety matters; or

"(ii) enforce highway safety laws.

"(4) STATE HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term 'State highway safety improvement program' means projects or strategies included in the State strategic highway safety plan carried out as part of the State transportation improvement program under section 135(f).

"(5) STATE STRATEGIC HIGHWAY SAFETY PLAN.—The term 'State strategic highway safety plan' means a plan developed by the State transportation department that—

"(A) is developed after consultation with—

"(i) a highway safety representative of the Governor of the State;

"(ii) regional transportation planning organizations and metropolitan planning organizations, if any;

"(iii) representatives of major modes of transportation;

"(iv) State and local traffic enforcement officials;

"(v) persons responsible for administering section 130 at the State level;

"(vi) representatives conducting Operation Lifesaver;

"(vii) representatives conducting a motor carrier safety program under section 31104 or 31107 of title 49;

"(viii) motor vehicle administration agencies; and

"(ix) other major State and local safety stakeholders;

"(B) analyzes and makes effective use of State, regional, or local crash data;

"(C) addresses engineering, management, operation, education, enforcement, and emergency services elements (including integrated, interoperable emergency communications) of highway safety as key factors in evaluating highway projects;

"(D) considers safety needs of, and high-fatality segments of, public roads;

"(E) considers the results of State, regional, or local transportation and highway safety planning processes;

"(F) describes a program of projects or strategies to reduce or eliminate safety hazards;

"(G) is approved by the Governor of the State or a responsible State agency; and

"(H) is consistent with the requirements of section 135(f).

"(b) PROGRAM.—

"(1) IN GENERAL.—The Secretary shall carry out a highway safety improvement program.

"(2) PURPOSE.—The purpose of the highway safety improvement program shall be to achieve a significant reduction in traffic fatalities and serious injuries on public roads.

"(c) ELIGIBILITY.—

"(1) IN GENERAL.—To obligate funds apportioned under section 104(b)(5) to carry out this section, a State shall have in effect a State highway safety improvement program under which the State—

"(A) develops and implements a State strategic highway safety plan that identifies and analyzes highway safety problems and opportunities as provided in paragraph (2);

"(B) produces a program of projects or strategies to reduce identified safety problems;

"(C) evaluates the plan on a regular basis to ensure the accuracy of the data and priority of proposed improvements; and

"(D) submits to the Secretary an annual report that—

"(i) describes, in a clearly understandable fashion, not less than 5 percent of locations determined by the State, using criteria established in accordance with paragraph (2)(B)(ii), as exhibiting the most severe safety needs; and

"(ii) contains an assessment of—

"(I) potential remedies to hazardous locations identified;

"(II) estimated costs associated with those remedies; and

"(III) impediments to implementation other than cost associated with those remedies.

"(2) IDENTIFICATION AND ANALYSIS OF HIGHWAY SAFETY PROBLEMS AND OPPORTUNITIES.—As part of the State strategic highway safety plan, a State shall—

"(A) have in place a crash data system with the ability to perform safety problem identification and countermeasure analysis;

"(B) based on the analysis required by subparagraph (A)—

"(i) identify hazardous locations, sections, and elements (including roadside obstacles, railway-highway crossing needs, and unmarked or poorly marked roads) that constitute a danger to motorists, bicyclists, pedestrians, and other highway users; and

"(ii) using such criteria as the State determines to be appropriate, establish the relative severity of those locations, in terms of accidents, injuries, deaths, traffic volume levels, and other relevant data;

"(C) adopt strategic and performance-based goals that—

"(i) address traffic safety, including behavioral and infrastructure problems and opportunities on all public roads;

"(ii) focus resources on areas of greatest need; and

"(iii) are coordinated with other State highway safety programs;

"(D) advance the capabilities of the State for traffic records data collection, analysis, and integration with other sources of safety data (such as road inventories) in a manner that—

"(i) complements the State highway safety program under chapter 4 and the commercial vehicle safety plan under section 31102 of title 49;

"(ii) includes all public roads;

"(iii) identifies hazardous locations, sections, and elements on public roads that constitute a danger to motorists, bicyclists, pedestrians, and other highway users; and

"(iv) includes a means of identifying the relative severity of hazardous locations described in clause (iii) in terms of accidents, injuries, deaths, and traffic volume levels;

"(E)(i) determine priorities for the correction of hazardous road locations, sections, and elements (including railway-highway crossing improvements), as identified through crash data analysis;

"(ii) identify opportunities for preventing the development of such hazardous conditions; and

"(iii) establish and implement a schedule of highway safety improvement projects for hazard correction and hazard prevention; and

"(F)(i) establish an evaluation process to analyze and assess results achieved by highway safety improvement projects carried out in accordance with procedures and criteria established by this section; and

"(ii) use the information obtained under clause (i) in setting priorities for highway safety improvement projects.

"(d) ELIGIBLE PROJECTS.—

"(1) IN GENERAL.—A State may obligate funds apportioned to the State under section 104(b)(5) to carry out—

"(A) any highway safety improvement project on any public road or publicly owned bicycle or pedestrian pathway or trail; or

"(B) as provided in subsection (e), for other safety projects.

"(2) USE OF OTHER FUNDING FOR SAFETY.—

"(A) EFFECT OF SECTION.—Nothing in this section prohibits the use of funds made available under other provisions of this title for highway safety improvement projects.

"(B) USE OF OTHER FUNDS.—States are encouraged to address the full scope of their safety needs and opportunities by using funds made available under other provisions of this title (except a provision that specifically prohibits that use).

"(e) FLEXIBLE FUNDING FOR STATES WITH A STRATEGIC HIGHWAY SAFETY PLAN.—

"(1) IN GENERAL.—To further the implementation of a State strategic highway safety plan, a State may use up to 25 percent of the amount of funds made available under this section for a fiscal year to carry out safety projects under any other section as provided in the State strategic highway safety plan.

"(2) OTHER TRANSPORTATION AND HIGHWAY SAFETY PLANS.—Nothing in this subsection requires a State to revise any State process, plan, or program in effect on the date of enactment of this section.

"(f) REPORTS.—

"(1) IN GENERAL.—A State shall submit to the Secretary a report that—

"(A) describes progress being made to implement highway safety improvement projects under this section;

"(B) assesses the effectiveness of those improvements; and

"(C) describes the extent to which the improvements funded under this section contribute to the goals of—

"(i) reducing the number of fatalities on roadways;

"(ii) reducing the number of roadway-related injuries;

"(iii) reducing the occurrences of roadway-related crashes;

"(iv) mitigating the consequences of roadway-related crashes; and

"(v) reducing the occurrences of roadway-railroad grade crossing crashes.

"(2) CONTENTS; SCHEDULE.—The Secretary shall establish the content and schedule for a report under paragraph (1).

"(3) TRANSPARENCY.—The Secretary shall make reports under subsection (c)(1)(D) available to the public through—

"(A) the Internet site of the Department; and

"(B) such other means as the Secretary determines to be appropriate.

"(4) DISCOVERY AND ADMISSION INTO EVIDENCE OF CERTAIN REPORTS, SURVEYS, AND INFORMATION.—Notwithstanding any other provision of law, reports, surveys, schedules, lists, or data compiled or collected for any purpose directly relating to paragraph (1) or subsection (c)(1)(D), or published by the Secretary in accordance with paragraph (3), shall not be subject to discovery or admitted into evidence in a Federal or State court proceeding or considered for other purposes in any action for damages arising from any occurrence at a location identified or addressed in such reports, surveys, schedules, lists, or other data.

"(g) FEDERAL SHARE OF HIGHWAY SAFETY IMPROVEMENT PROJECTS.—Except as provided in sections 120 and 130, the Federal share of the cost of a highway safety improvement project carried out with funds made available under this section shall be 90 percent.

"(h) FUNDS FOR BICYCLE AND PEDESTRIAN SAFETY.—A State shall allocate for bicycle and pedestrian improvements in the State a percentage of the funds remaining after implementation of sections 130(e) and 150, in an amount that is equal to or greater than the percentage of all fatal crashes in the States involving bicyclists and pedestrians.

"(i) ROADWAY SAFETY IMPROVEMENTS FOR OLDER DRIVERS AND PEDESTRIANS.—For each of fiscal years 2004 through 2009, $25,000,000 is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for projects in all States to improve traffic signs and pavement markings in a manner consistent with the recommendations included in the publication of the Federal Highway Administration entitled 'Guidelines and Recommendations to Accommodate Older Drivers and Pedestrians (FHWA-RD-01-103)' and dated October 2001.".

(2) ALLOCATIONS OF APPORTIONED FUNDS.—Section 133(d) of title 23, United States Code, is amended—

(A) by striking paragraph (1);

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively;

(C) in paragraph (2) (as redesignated by subparagraph (B))—

(i) in the first sentence of subparagraph (A)—

(I) by striking "subparagraphs (C) and (D)" and inserting "subparagraph (C)"; and

(II) by striking "80 percent" and inserting "90 percent";

(ii) in subparagraph (B), by striking "tobe" and inserting "to be";

(iii) by striking subparagraph (C);

(iv) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively; and

(v) in subparagraph (C) (as redesignated by clause (iv)), by adding a period at the end; and

(D) in paragraph (4)(A) (as redesignated by subparagraph (B)), by striking "paragraph (2)" and inserting "paragraph (1)".

(3) ADMINISTRATION.—Section 133(e) of title 23, United States Code, is amended in each of paragraphs (3)(B)(i), (5)(A), and (5)(B) of subsection (e), by striking "(d)(2)" each place it appears and inserting "(d)(1)".

(4) CONFORMING AMENDMENTS.—

(A) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 148 and inserting the following:

"148. Highway safety improvement program.".

(B) Section 104(g) of title 23, United States Code, is amended in the first sentence by striking "sections 130, 144, and 152 of this title" and inserting "sections 130 and 144".

(C) Section 126 of title 23, United States Code, is amended—

(i) in subsection (a), by inserting "under" after "State's apportionment"; and

(ii) in subsection (b)—

(I) in the first sentence, by striking "the last sentence of section 133(d)(1) or to section 104(f) or to section 133(d)(3)" and inserting "section 104(f) or 133(d)(2)"; and

(II) in the second sentence, by striking "or 133(d)(2)".

(D) Sections 154, 164, and 409 of title 23, United States Code, are amended by striking "152" each place it appears and inserting "148".

(b) APPORTIONMENT OF HIGHWAY SAFETY IMPROVEMENT PROGRAM FUNDS.—Section 104(b) of title 23, United States Code, is amended—

(1) in the matter preceding paragraph (1), by inserting after "Improvement program," the following: "the highway safety improvement program,"; and

(2) by adding at the end the following:

"(5) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—

"(A) IN GENERAL.—For the highway safety improvement program, in accordance with the following formula:

"(i) 25 percent of the apportionments in the ratio that—

"(I) the total lane miles of Federal-aid highways in each State; bears to

"(II) the total lane miles of Federal-aid highways in all States.

"(ii) 40 percent of the apportionments in the ratio that—

"(I) the total vehicle miles traveled on lanes on Federal-aid highways in each State; bears to

"(II) the total vehicle miles traveled on lanes on Federal-aid highways in all States.

"(iii) 35 percent of the apportionments in the ratio that—

"(I) the estimated tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available; bears to

"(II) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available.

"(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.".

(c) ELIMINATION OF HAZARDS RELATING TO RAILWAY-HIGHWAY CROSSINGS.—

(1) FUNDS FOR RAILWAY-HIGHWAY CROSSINGS.—Section 130(e) of title 23, United States Code, is amended by inserting before "At least" the following: "For each fiscal year, at least $200,000,000 of the funds authorized and expended under section 148 shall be available for the elimination of hazards and the installation of protective devices at railway-highway crossings.".

(2) BIENNIAL REPORTS TO CONGRESS.—Section 130(g) of title 23, United States Code, is amended in the third sentence—

(A) by inserting "and the Committee on Commerce, Science, and Transportation," after "Public Works"; and

(B) by striking "not later than April 1 of each year" and inserting "every other year".

(3) EXPENDITURE OF FUNDS.—Section 130 of title 23, United States Code, is amended by adding at the end the following:

"(k) EXPENDITURE OF FUNDS.—Funds made available to carry out this section shall be—

"(1) available for expenditure on compilation and analysis of data in support of activities carried out under subsection (g); and

"(2) apportioned in accordance with section 104(b)(5).".

(d) TRANSITION.—

(1) IMPLEMENTATION.—Except as provided in paragraph (2), the Secretary shall approve obligations of funds apportioned under section 104(b)(5) of title 23, United States Code (as added by subsection (b)) to carry out section 148 of that title, only if, not later than October 1 of the second fiscal year after the date of enactment of this Act, a State has developed and implemented a State strategic highway safety plan as required under section 148(c) of that title.

(2) INTERIM PERIOD.—

(A) IN GENERAL.—Before October 1 of the second fiscal year after the date of enactment of this Act and until the date on which a State develops and implements a State strategic highway safety plan, the Secretary shall apportion funds to a State for the highway safety improvement program and the State may obligate funds apportioned to the State for the highway safety improvement program under section 148 for projects that were eligible for funding under sections 130 and 152 of that title, as in effect on the day before the date of enactment of this Act.

(B) NO STRATEGIC HIGHWAY SAFETY PLAN.—If a State has not developed a strategic highway safety plan by October 1 of the second fiscal year after the date of enactment of this Act, but demonstrates to the satisfaction of the Secretary that progress is being made toward developing and implementing such a plan, the Secretary shall continue to apportion funds for 1 additional fiscal year for the highway safety improvement program under section 148 of title 23, United States Code, to the State, and the State may continue to obligate funds apportioned to the State under this section for projects that were eligible for funding under sections 130 and 152 of that title, as in effect on the day before the date of enactment of this Act.

(C) PENALTY.—If a State has not adopted a strategic highway safety plan by the date that is 2 years after the date of enactment of this Act, funds made available to the State under section 1101(6) shall be redistributed to other States in accordance with section 104(b)(3) of title 23, United States Code.

SEC. 1402. OPERATION LIFESAVER.

Section 104(d)(1) of title 23, United States Code, is amended—

(1) by striking "subsection (b)(3)" and inserting "subsection (b)(5)"; and

(2) by striking "$500,000" and inserting "$600,000".

SEC. 1403. LICENSE SUSPENSION.

Section 164(a) of title 23, United States Code, is amended by striking paragraph (3) and inserting the following:

"(3) LICENSE SUSPENSION.—The term 'license suspension' means—

"(A) the suspension of all driving privileges of an individual for the duration of the suspension period; or

"(B) a combination of suspension of all driving privileges of an individual for the first 90 days of the suspension period, followed by reinstatement of limited driving privileges requiring the individual to operate only motor vehicles equipped with an ignition interlock system or other device approved by the Secretary during the remainder of the suspension period.".

SEC. 1404. BUS AXLE WEIGHT EXEMPTION.

Section 1023 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 127 note; 105 Stat. 1951) is amended by striking subsection (h) and inserting the following:

"(h) OVER-THE-ROAD BUS AND PUBLIC TRANSIT VEHICLE EXEMPTION.—

"(1) IN GENERAL.—The second sentence of section 127 of title 23, United States Code (relating to axle weight limitations for vehicles using the Dwight D. Eisenhower System of Interstate and Defense Highways), shall not apply to—

"(A) any over-the-road bus (as defined in section 301 of the Americans With Disabilities Act of 1990 (42 U.S.C. 12181)); or

"(B) any vehicle that is regularly and exclusively used as an intrastate public agency transit passenger bus.

"(2) STATE ACTION.—No State or political subdivision of a State, or any political authority of 2 or more States, shall impose any axle weight limitation on any vehicle described in paragraph (1) in any case in which such a vehicle is using the Dwight D. Eisenhower System of Interstate and Defense Highways.".

SEC. 1405. SAFE ROUTES TO SCHOOLS PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter I of title 23, United States Code, is amended by inserting after section 149 the following:

"§ 150. Safe routes to schools program

"(a) DEFINITIONS.—In this section:

"(1) PRIMARY AND SECONDARY SCHOOL.—The term 'primary and secondary school' means a school that provides education to children in any of grades kindergarten through 12.

"(2) PROGRAM.—The term 'program' means the safe routes to schools program established under subsection (b).

"(3) VICINITY OF A SCHOOL.—The term 'vicinity of a school' means the area within 2 miles of a primary or secondary school.

"(b) ESTABLISHMENT.—The Secretary shall establish and carry out a safe routes to school program for the benefit of children in primary and secondary schools in accordance with this section.

"(c) PURPOSES.—The purposes of the program shall be—

"(1) to enable and to encourage children to walk and bicycle to school;

"(2) to encourage a healthy and active lifestyle by making walking and bicycling to school safer and more appealing transportation alternatives; and

"(3) to facilitate the planning, development, and implementation of projects and activities that will improve safety in the vicinity of schools.

"(d) ELIGIBLE RECIPIENTS.—A State shall use amounts apportioned under this section to provide financial assistance to State, regional, and local agencies that demonstrate an ability to meet the requirements of this section.

"(e) ELIGIBLE PROJECTS AND ACTIVITIES.—

"(1) INFRASTRUCTURE-RELATED PROJECTS.—

"(A) IN GENERAL.—Amounts apportioned to a State under this section may be used for the planning, design, and construction of infrastructure-related projects to encourage walking and bicycling to school, including—

"(i) sidewalk improvements;

"(ii) traffic calming and speed reduction improvements;

"(iii) pedestrian and bicycle crossing improvements;

"(iv) on-street bicycle facilities;

"(v) off-street bicycle and pedestrian facilities;

"(vi) secure bicycle parking facilities;

"(vii) traffic signal improvements; and

"(viii) pedestrian-railroad grade crossing improvements.

"(B) LOCATION OF PROJECTS.—Infrastructure-related projects under subparagraph (A) may be carried out on—

"(i) any public road in the vicinity of a school; or

"(ii) any bicycle or pedestrian pathway or trail in the vicinity of a school.

"(2) BEHAVIORAL ACTIVITIES.—

"(A) IN GENERAL.—In addition to projects described in paragraph (1), amounts apportioned to a State under this section may be used for behavioral activities to encourage walking and bicycling to school, including—

"(i) public awareness campaigns and outreach to press and community leaders;

"(ii) traffic education and enforcement in the vicinity of schools; and

"(iii) student sessions on bicycle and pedestrian safety, health, and environment.

"(B) ALLOCATION.—Of the amounts apportioned to a State under this section for a fiscal year, not less than 10 percent shall be used for behavioral activities under this paragraph.

"(f) FUNDING.—

"(1) SET ASIDE.—Before apportioning amounts to carry out section 148 for a fiscal year, the Secretary shall set aside and use $70,000,000 to carry out this section.

"(2) APPORTIONMENT.—Amounts made available to carry out this section shall be apportioned to States in accordance with section 104(b)(5).

"(3) ADMINISTRATION OF AMOUNTS.—Amounts apportioned to a State under this section shall be administered by the State transportation department.

"(4) FEDERAL SHARE.—Except as provided in sections 120 and 130, the Federal share of the cost of a project or activity funded under this section shall be 90 percent.

"(5) PERIOD OF AVAILABILITY.—Notwithstanding section 118(b)(2), amounts apportioned under this section shall remain available until expended.".

(b) CONFORMING AMENDMENTS.—The analysis for subchapter I of chapter 1 of title 23, United States Code is amended by inserting after the item relating to section 149 the following:

"150. Safe routes to school program.".

SEC. 1406. PURCHASES OF EQUIPMENT.

(a) IN GENERAL.—Section 152 of title 23, United States Code is amended to read as follows:

"§ 152. Purchases of equipment

"(a) IN GENERAL.—Subject to subsection (b), a State carrying out a project under this chapter shall purchase device, tool or other equipment needed for the project only after completing and providing a written analysis demonstrating the cost savings associated with purchasing the equipment compared with renting the equipment from a qualified equipment rental provider before the project commences

"(b) APPLICABILITY.—This section shall apply to—

"(1) earth moving, road machinery, and material handling equipment, or any other item, with a purchase price in excess of $75,000; and

"(2) aerial work platforms with a purchase price in excess of $25,000.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 152 and inserting the following:

"152. Purchases of equipment.".

SEC. 1407. WORKZONE SAFETY.

Section 358(b) of the National Highway System Designation Act of 1995 (109 Stat. 625) is amended by adding at the end the following:

"(7) Recommending all federally-assisted projects in excess of $15,000,000 to enter into contracts only with work zone safety services contractors, traffic control contractors, and trench safety and shoring contractors that carry general liability insurance in an amount not less than $15,000,000.

"(8) Recommending federally-assisted projects the costs of which exceed $15,000,000 to include work zone intelligent transportation systems that are—

"(A) provided by a qualified vendor; and

"(B) monitored continuously.

"(9) Recommending federally-assisted projects to fully fund not less than 5 percent of project costs for work zone safety and temporary traffic control measures, in addition to the cost of the project, which measures shall be provided by a qualified work zone safety or traffic control provider.

"(10) Ensuring that any recommendation made under any of paragraphs (7) through (9) provides for an exemption for applicability to a State, with respect to a project or class of projects, to the extent that a State notifies the Secretary in writing that safety is not expected to be adversely affected by nonapplication of the requirement to the project or class of projects.".

SEC. 1408. WORKER INJURY PREVENTION AND FREE FLOW OF VEHICULAR TRAFFIC.

Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations—

(1) to decrease the probability of worker injury;

(2) to maintain the free flow of vehicular traffic by requiring workers whose duties place the workers on, or in close proximity to, a Federal-aid highway (as defined in section 101 of title 23, United States Code) to wear high-visibility clothing; and

(3) to require such other worker-safety measures for workers described in paragraph (2) as the Secretary determines appropriate.

SEC. 1409. IDENTITY AUTHENTICATION STANDARDS.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§ 178. Identity authentication standards

"(a) DEFINITION OF INFORMATION-BASED IDENTITY AUTHENTICATION.—In this section, the term 'information-based identity authentication' means the determination of the identity of an individual, through the comparison of information provided by a person, with other information pertaining to that individual with a system using scoring models and algorithms.

"(b) STANDARDS.—Not later than 180 days after the date of enactment of this section, the Secretary, in consultation with the Secretary of Homeland Security and the Federal Motor Carrier Safety Administration, shall promulgate regulations establishing minimum standards for State departments of motor vehicles regarding the use of information-based identity authentication to determine the identity of an applicant for a commercial driver's license, or the renewal, transfer or upgrading, of a commercial driver's license.

"(c) MINIMUM STANDARDS.—The regulations shall, at a minimum, require State departments of motor vehicles to implement, and applicants for commercial driver's licenses, (or the renewal, transfer, or upgrading of commercial driver's licenses), to comply with, reasonable procedures for operating an information-based identity authentication program before issuing, renewing, transferring, or upgrading a commercial driver's license.

"(d) KEY FACTORS.—In promulgating regulations under this section, the Secretary shall require that an information-based identity authentication program carried out under this section establish processes that—

"(1) use multiple sources of matching information;

"(2) enable the measurement of the accuracy of the determination of an applicant's identity;

"(3) support continuous auditing of compliance with applicable laws, policies, and practices governing the collection, use, and distribution of information in the operation of the program; and

"(4) incorporate industry best practices to protect significant privacy interests in the information used in the program and the appropriate safeguarding of the storage of the information.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter I of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

"178. Identity authentication standards.".

SEC. 1410. OPEN CONTAINER REQUIREMENTS.

Section 154 of title 23, United States Code, is amended by striking subsection (c) and inserting the following:

"(c) TRANSFER OF FUNDS.—

"(1) IN GENERAL.—The Secretary shall withhold the applicable percentage for the fiscal year of the amount required to be apportioned for Federal-aid highways to any State under each of paragraphs (1), (3), and (4) of section 104(b), if a State has not enacted or is not enforcing a provision described in subsection (b), as follows:

"For:	**The applicable percentage is:**
Fiscal year 2008	2 percent.
Fiscal year 2009	2 percent.
Fiscal year 2010	2 percent.
Fiscal year 2011 and each subsequent fiscal year.	2 percent.

"(2) RESTORATION.—If (during the 4-year period beginning on the date the apportionment for any State is reduced in accordance with this subsection) the Secretary determines that the State has enacted and is enforcing a provision described in subsection (b), the apportionment of the State shall be increased by an amount equal to the amount of the reduction made during the 4-year period.".

Subtitle E—Environmental Planning and Review

CHAPTER 1—TRANSPORTATION PLANNING

SEC. 1501. INTEGRATION OF NATURAL RESOURCE CONCERNS INTO STATE AND METROPOLITAN TRANSPORTATION PLANNING.

(a) METROPOLITAN PLANNING.—Section 134(f) of title 23, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (D)—

(i) by inserting after "environment" the following: "(including the protection of habitat, water quality, and agricultural and forest land, while minimizing invasive species)"; and

(ii) by inserting before the semicolon the following: "(including minimizing adverse health effects from mobile source air pollution and promoting the linkage of the transportation and development goals of the metropolitan area)"; and

(B) in subparagraph (G), by inserting "and efficient use" after "preservation";

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

"(2) SELECTION OF FACTORS.—After soliciting and considering any relevant public comments, the metropolitan planning organization shall determine which of the factors described in paragraph (1) are most appropriate for the metropolitan area to consider.".

(b) STATEWIDE PLANNING.—Section 135(c) of title 23, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (D)—

(i) by inserting after "environment" the following: "(including the protection of habitat, water quality, and agricultural and forest land, while minimizing invasive species)"; and

(ii) by inserting before the semicolon the following: "(including minimizing adverse health effects from mobile source air pollution and promoting the linkage of the transportation and development goals of the State)"; and

(B) in subparagraph (G), by inserting "and efficient use" after "preservation";

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

"(2) SELECTION OF PROJECTS AND STRATEGIES.—After soliciting and considering any relevant public comments, the State shall determine which of the projects and strategies described in paragraph (1) are most appropriate for the State to consider.".

SEC. 1502. CONSULTATION BETWEEN TRANSPORTATION AGENCIES AND RESOURCE AGENCIES IN TRANSPORTATION PLANNING.

(a) IN GENERAL.—Section 134(g) of title 23, United States Code, is amended—

(1) in paragraph (2)—

(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively; and

(B) by inserting after subparagraph (A) the following:

"(B) MITIGATION ACTIVITIES.—

"(i) IN GENERAL.—A long-range transportation plan shall include a discussion of—

"(I) types of potential habitat, hydrological, and environmental mitigation activities that may assist in compensating for loss of habitat, wetland, and other environmental functions; and

"(II) potential areas to carry out these activities, including a discussion of areas that may have the greatest potential to restore and maintain the habitat types and hydrological or environmental functions affected by the plan.

"(ii) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.";

(2) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively; and

(3) by inserting after paragraph (3) the following:

"(4) CONSULTATION.—

"(A) IN GENERAL.—In each metropolitan area, the metropolitan planning organization shall consult, as appropriate, with State and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of a long-range transportation plan.

"(B) ISSUES.—The consultation shall involve—

"(i) comparison of transportation plans with State conservation plans or with maps, if available;

"(ii) comparison of transportation plans to inventories of natural or historic resources, if available; or

"(iii) consideration of areas where wildlife crossing structures may be needed to ensure connectivity between wildlife habitat linkage areas.".

(b) IMPROVED CONSULTATION DURING STATE TRANSPORTATION PLANNING.—

(1) IN GENERAL.—Section 135(e)(2) of title 23, United States Code, is amended by adding at the end the following:

"(D) CONSULTATION, COMPARISON, AND CONSIDERATION.—

"(i) IN GENERAL.—The long-range transportation plan shall be developed, as appropriate, in consultation with State and local agencies responsible for—

"(I) land use management;

"(II) natural resources;

"(III) environmental protection;

"(IV) conservation; and

"(V) historic preservation.

"(ii) COMPARISON AND CONSIDERATION.—Consultation under clause (i) shall involve—

"(I) comparison of transportation plans to State conservation plans or maps, if available;

"(II) comparison of transportation plans to inventories of natural or historic resources, if available; or

"(III) consideration of areas where wildlife crossing structures may be needed to ensure connectivity between wildlife habitat linkage areas.".

(2) ADDITIONAL REQUIREMENTS.—Section 135(e) of title 23, United States Code, is amended—

(A) by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively; and

(B) by inserting after paragraph (3) the following:

"(4) MITIGATION ACTIVITIES.—

"(A) IN GENERAL.—A long-range transportation plan shall include a discussion of—

"(i) types of potential habitat, hydrological, and environmental mitigation activities that may assist in compensating for loss of habitat, wetlands, and other environmental functions; and

"(ii) potential areas to carry out these activities, including a discussion of areas that may have the greatest potential to restore and maintain the habitat types and hydrological or environmental functions affected by the plan.

"(B) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.

"(5) TRANSPORTATION STRATEGIES.—A long-range transportation plan shall identify transportation strategies necessary to efficiently serve the mobility needs of people.".

SEC. 1503. INTEGRATION OF NATURAL RESOURCE CONCERNS INTO TRANSPORTATION PROJECT PLANNING.

Section 109(c)(2) of title 23, United States Code, is amended—

(1) by striking "consider the results" and inserting "consider—

"(A) the results";

(2) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(B) the publication entitled 'Flexibility in Highway Design' of the Federal Highway Administration;

"(C) 'Eight Characteristics of Process to Yield Excellence and the Seven Qualities of Excellence in Transportation Design' developed by the conference held during 1998 entitled 'Thinking Beyond the Pavement National Workshop on Integrating Highway Development with Communities and the Environment while Maintaining Safety and Performance'; and

"(D) any other material that the Secretary determines to be appropriate.".

SEC. 1504. PUBLIC INVOLVEMENT IN TRANSPORTATION PLANNING AND PROJECTS.

(a) METROPOLITAN PLANNING.—

(1) PARTICIPATION BY INTERESTED PARTIES.—Section 134(g)(5) of title 23, United States Code (as redesignated by section 1502(a)(1)), is amended—

(A) by striking "Before approving" and inserting the following:

"(A) IN GENERAL.—Before approving"; and

(B) by adding at the end the following:

"(B) METHODS.—In carrying out subparagraph (A), the metropolitan planning organization shall, to the maximum extent practicable—

"(i) hold any public meetings at convenient and accessible locations and times;

"(ii) employ visualization techniques to describe plans; and

"(iii) make public information available in electronically accessible format and means, such as the World Wide Web.".

(2) PUBLICATION OF LONG-RANGE TRANSPORTATION PLANS.—Section 134(g)(6)(i) of title 23, United States Code (as redesignated by section 1502(a)(1)), is amended by inserting before the semicolon the following: ", including (to the maximum extent practicable) in electronically accessible formats and means such as the World Wide Web".

(b) STATEWIDE PLANNING.—

(1) PARTICIPATION BY INTERESTED PARTIES.—Section 135(e)(3) of title 23, United States Code, is amended by striking subparagraph (B) and inserting the following:

"(B) METHODS.—In carrying out subparagraph (A), the State shall, to the maximum extent practicable—

"(i) hold any public meetings at convenient and accessible locations and times;

"(ii) employ visualization techniques to describe plans; and

"(iii) make public information available in electronically accessible format and means, such as the World Wide Web.".

(2) PUBLICATION OF LONG-RANGE TRANSPORTATION PLANS.—Section 135(e) of title 23, United States Code (as amended by section 1502(b)(2)), is amended by adding at the end the following:

"(8) PUBLICATION OF LONG-RANGE TRANSPORTATION PLANS.—Each long-range transportation plan prepared by a State shall be published or otherwise made available, including (to the maximum extent practicable) in electronically accessible formats and means, such as the World Wide Web.".

SEC. 1505. PROJECT MITIGATION.

(a) MITIGATION FOR NATIONAL HIGHWAY SYSTEM PROJECTS.—Section 103(b)(6)(M) of title 23, United States Code, is amended—

(1) by inserting "(i)" after "(M); and

(2) by adding at the end the following:

"(ii) State habitat, streams, and wetlands mitigation efforts under section 155.".

(b) MITIGATION FOR SURFACE TRANSPORTATION PROGRAM PROJECTS.—Section 133(b)(11) of title 23, United States Code, is amended—

(1) by inserting "(A)" after "(11)"; and

(2) by adding at the end the following:

"(B) State habitat, streams, and wetlands mitigation efforts under section 155.".

(c) STATE HABITAT, STREAMS, AND WETLANDS MITIGATION FUNDS.—Section 155 of title 23, United States Code, is amended to read as follows:

"§155. State habitat, streams, and wetlands mitigation funds

"(a) ESTABLISHMENT.—A State should establish a habitat, streams, and wetlands mitigation fund (referred to in this section as a 'State fund').

"(b) PURPOSE.—The purpose of a State fund is to encourage efforts for habitat, streams, and wetlands mitigation in advance of or in conjunction with highway or transit projects to—

"(1) ensure that the best habitat, streams, and wetland mitigation sites now available are used; and

"(2) accelerate transportation project delivery by making high-quality habitat, streams, and wetland mitigation credits available when needed.

"(c) FUNDS.—A State may deposit into a State fund part of the funds apportioned to the State under—

"(1) section 104(b)(1) for the National Highway System; and

"(2) section 104(b)(3) for the surface transportation program.

"(d) USE.—

"(1) IN GENERAL.—Amounts deposited in a State fund shall be used (in a manner consistent with this section) for habitat, streams, or wetlands mitigation related to 1 or more projects funded under this title, including a project under the transportation improvement program of the State developed under section 135(f).

"(2) ENDANGERED SPECIES.—In carrying out this section, a State and cooperating agency shall give consideration to mitigation projects, on-site or off-site, that restore and preserve the best available sites to conserve biodiversity and habitat for—

"(A) Federal or State listed threatened or endangered species of plants and animals; and

"(B) plant or animal species warranting listing as threatened or endangered, as determined by the Secretary of the Interior in accordance with section 4(b)(3)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1533(b)(3)(B)).

"(3) MITIGATION IN CLOSED BASINS.—

"(A) IN GENERAL.—A State may use amounts deposited in the State fund for projects to protect existing roadways from anticipated flooding of a closed basin lake, including—

"(i) construction—

"(I) necessary for the continuation of roadway services and the impoundment of water, as the State determines to be appropriate; or

"(II) for a grade raise to permanently restore a roadway the use of which is lost or reduced, or could be lost or reduced, as a result of an actual or predicted water level that is within 3 feet of causing inundation of the roadway in a closed lake basin;

"(ii) monitoring, studies, evaluations, design, or preliminary engineering relating to construction; and

"(iii) monitoring and evaluations relating to proposed construction.

"(B) REIMBURSEMENT.—The Secretary may permit a State that expends funds under subparagraph (A) to be reimbursed for the expenditures through the use of amounts made available under section 125(c)(1).

"(e) CONSISTENCY WITH APPLICABLE REQUIREMENTS.—Contributions from the State fund to mitigation efforts may occur in advance of project construction only if the efforts are consistent with all applicable requirements of Federal law (including regulations).".

(d) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 155 and inserting the following:

"155. State habitat, streams, and wetlands mitigation funds.".

CHAPTER 2—TRANSPORTATION PROJECT DEVELOPMENT PROCESS

SEC. 1511. TRANSPORTATION PROJECT DEVELOPMENT PROCESS.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code (as amended by section 1203(a)), is amended by inserting after section 325 the following:

"§ 326. Transportation project development process

"(a) DEFINITIONS.—In this section:

"(1) AGENCY.—The term 'agency' means any agency, department, or other unit of Federal, State, local, or federally recognized tribal government.

"(2) ENVIRONMENTAL IMPACT STATEMENT.—The term 'environmental impact statement' means a detailed statement of the environmental impacts of a project required to be prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(3) ENVIRONMENTAL REVIEW PROCESS.—

"(A) IN GENERAL.—The term 'environmental review process' means the process for preparing, for a project—

"(i) an environmental impact statement; or

"(ii) any other document or analysis required to be prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)

"(B) INCLUSIONS.—The term 'environmental review process' includes the process for and completion of any environmental permit, approval, review, or study required for a project under any Federal law other than the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(4) PROJECT.—The term 'project' means any highway or transit project that requires the approval of the Secretary.

"(5) PROJECT SPONSOR.—The term 'project sponsor' means an agency or other entity (including any private or public-private entity), that seeks approval of the Secretary for a project.

"(6) STATE TRANSPORTATION DEPARTMENT.—The term 'State transportation department' means any statewide agency of a State with responsibility for transportation.

"(b) PROCESS.—

"(1) LEAD AGENCY.—

"(A) IN GENERAL.—The Department of Transportation shall be the lead Federal agency in the environmental review process for a project.

"(B) JOINT LEAD AGENCIES.—Nothing in this section precludes another agency from being a joint lead agency in accordance with regulations under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(C) CONCURRENCE OF PROJECT SPONSOR.—The lead agency may carry out the environmental review process in accordance with this section only with the concurrence of the project sponsor.

"(2) REQUEST FOR PROCESS.—

"(A) IN GENERAL.—A project sponsor may request that the lead agency carry out the environmental review process for a project or group of projects in accordance with this section.

"(B) GRANT OF REQUEST; PUBLIC NOTICE.—The lead agency shall—

"(i) grant a request under subparagraph (A); and

"(ii) provide public notice of the request.

"(3) EFFECTIVE DATE.—The environmental review process described in this section may be applied to a project only after the date on which public notice is provided under subparagraph (B)(ii).

"(c) ROLES AND RESPONSIBILITY OF LEAD AGENCY.—With respect to the environmental review process for any project, the lead agency shall have authority and responsibility to—

"(A) identify and invite cooperating agencies in accordance with subsection (d);

"(B) develop an agency coordination plan with review, schedule, and timelines in accordance with subsection (e);

"(C) determine the purpose and need for the project in accordance with subsection (f);

"(D) determine the range of alternatives to be considered in accordance with subsection (g);

"(E) convene dispute-avoidance and decision resolution meetings and related efforts in accordance with subsection (h);

"(F) take such other actions as are necessary and proper, within the authority of the lead agency, to facilitate the expeditious resolution of the environmental review process for the project; and

"(G) prepare or ensure that any required environmental impact statement or other document required to be completed under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) is completed in accordance with this section and applicable Federal law.

"(d) ROLES AND RESPONSIBILITIES OF COOPERATING AGENCIES.—

"(1) IN GENERAL.—With respect to a project, each Federal agency shall carry out any obligations of the Federal agency in the environmental review process in accordance with this section and applicable Federal law.

"(2) INVITATION.—

"(A) IN GENERAL.—The lead agency shall—

"(i) identify, as early as practicable in the environmental review process for a project, any other agencies that may have an interest in the project, including—

"(I) agencies with jurisdiction over environmentally-related matters that may affect the project or may be required by law to conduct an environmental-related independent review or analysis of the project or determine whether to issue an environmental-related permit, license, or approval for the project; and

"(II) agencies with special expertise relevant to the project;

"(ii) invite the agencies identified in clause (i) to become participating agencies in the environmental review process for that project; and

"(iii) grant requests to become cooperating agencies from agencies not originally invited.

"(B) RESPONSES.—The deadline for receipt of a response from an agency that receives an invitation under subparagraph (A)(ii)—

"(i) shall be 30 days after the date of receipt by the agency of the invitation; but

"(ii) may be extended by the lead agency for good cause.

"(3) DECLINING OF INVITATIONS.—A Federal agency that is invited by the lead agency to participate in the environmental review process for a project shall be designated as a cooperating agency by the lead agency, unless the invited agency informs the lead agency in writing, by the deadline specified in the invitation, that the invited agency—

"(A) has no jurisdiction or authority with respect to the project;

"(B) has no expertise or information relevant to the project; and

"(C) does not intend to submit comments on the project.

"(4) EFFECT OF DESIGNATION.—Designation as a cooperating agency under this subsection shall not imply that the cooperating agency—

"(A) supports a proposed project; or

"(B) has any jurisdiction over, or special expertise with respect to evaluation of, the project.

"(5) DESIGNATIONS FOR CATEGORIES OF PROJECTS.—

"(A) IN GENERAL.—The Secretary may invite other agencies to become cooperating agencies for a category of projects.

"(B) DESIGNATION.—An agency may be designated as a cooperating agency for a category of projects only with the consent of the agency.

"(6) CONCURRENT REVIEWS.—Each Federal agency shall, to the maximum extent practicable—

"(A) carry out obligations of the Federal agency under other applicable law concurrently, and in conjunction, with the review required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), unless doing so would impair the ability of the Federal agency to carry out those obligations; and

"(B) formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of the environmental review process in a timely, coordinated, and environmentally responsible manner.

"(e) DEVELOPMENT OF FLEXIBLE PROCESS AND TIMELINE.—

"(1) COORDINATION PLAN.—

"(A) IN GENERAL.—The lead agency shall establish a coordination plan, which may be incorporated into a memorandum of understanding, to coordinate agency and public participation in and comment on the environmental review process for a project or category of projects.

"(B) WORKPLAN.—

"(i) IN GENERAL.—The lead agency shall develop, as part of the coordination plan, a workplan for completing the collection, analysis, and evaluation of baseline data and future impacts modeling necessary to complete the environmental review process, including any data, analyses, and modeling necessary for related permits, approvals, reviews, or studies required for the project under other laws.

"(ii) CONSULTATION.—In developing the workplan under clause (i), the lead agency shall consult with—

"(I) each cooperating agency for the project;

"(II) the State in which the project is located; and

"(III) if the State is not the project sponsor, the project sponsor.

"(C) SCHEDULE.—

"(i) IN GENERAL.—The lead agency shall establish as part of the coordination plan, after consultation with each cooperating agency for the project and with the State in which the project is located (and, if the State is not the project sponsor, with the project sponsor), a schedule for completion of the environmental review process for the project.

"(ii) FACTORS FOR CONSIDERATION.—In establishing the schedule, the lead agency shall consider factors such as—

"(I) the responsibilities of cooperating agencies under applicable laws;

"(II) resources available to the cooperating agencies;

"(III) overall size and complexity of a project;

"(IV) the overall schedule for and cost of a project; and

"(V) the sensitivity of the natural and historic resources that could be affected by the project.

"(D) CONSISTENCY WITH OTHER TIME PERIODS.—A schedule under subparagraph (C) shall be consistent with any other relevant time periods established under Federal law.

"(E) MODIFICATION.—The lead agency may—

"(i) lengthen a schedule established under subparagraph (C) for good cause; and

"(ii) shorten a schedule only with the concurrence of the affected cooperating agencies.

"(F) DISSEMINATION.—A copy of a schedule under subparagraph (C), and of any modifications to the schedule, shall be—

"(i) provided to all cooperating agencies and to the State transportation department of the State in which the project is located (and, if the State is not the project sponsor, to the project sponsor); and

"(ii) made available to the public.

"(2) COMMENTS AND TIMELINES.—

"(A) IN GENERAL.—A schedule established under paragraph (1)(C) shall include—

"(i) opportunities for comment, deadline for receipt of any comments submitted, deadline for lead agency response to comments; and

"(ii) except as otherwise provided under paragraph (1)—

"(I) an opportunity to comment by agencies and the public on a draft or final environmental impact statement for a period of not more than 60 days longer than the minimum period required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

"(II) for all other comment periods established by the lead agency for agency or public comments in the environmental review process, a period of not more than the longer of—

"(aa) 30 days after the final day of the minimum period required under Federal law (including regulations), if available; or

"(bb) if a minimum period is not required under Federal law (including regulations), 30 days.

"(B) EXTENSION OF COMMENT PERIODS.—The lead agency may extend a period of comment established under this paragraph for good cause.

"(C) LATE COMMENTS.—A comment concerning a project submitted under this paragraph after the date of termination of the applicable comment period or extension of a comment period shall not be eligible for consideration by the lead agency unless the lead agency or project sponsor determines there was good cause for the delay or the lead agency is required to consider significant new circumstances or information in accordance with sections 1501.7 and 1502.9 of title 40, Code of Federal Regulations.

"(D) DEADLINES FOR DECISIONS UNDER OTHER LAWS.—In any case in which a decision under any Federal law relating to a project (including the issuance or denial of a permit or license) is required to be made by the later of the date that is 180 days after the date on which the Secretary made all final decisions of the lead agency with respect to the project, or 180 days after the date on which an application was submitted for the permit or license, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

"(i) as soon as practicable after the 180-day period, an initial notice of the failure of the Federal agency to make the decision; and

"(ii) every 60 day thereafter until such date as all decisions of the Federal agency relating to the project have been made by the Federal agency, an additional notice that describes the number of decisions of the Federal agency that remain outstanding as of the date of the additional notice.

"(3) INVOLVEMENT OF THE PUBLIC.—Nothing in this subsection shall reduce any time period provided for public comment in the environmental review process under existing Federal law (including a regulation).

"(f) DEVELOPMENT OF PROJECT PURPOSE AND NEED STATEMENT.—

"(1) IN GENERAL.—With respect to the environmental review process for a project, the purpose and need for the project shall be defined in accordance with this subsection.

"(2) AUTHORITY.—The lead agency shall define the purpose and need for a project, including the transportation objectives and any other objectives intended to be achieved by the project.

"(3) INVOLVEMENT OF COOPERATING AGENCIES AND THE PUBLIC.—Before determining the purpose and need for a project, the lead agency shall solicit for 30 days, and consider, any relevant comments on the draft statement of purpose and need for a proposed project received from the public and cooperating agencies.

"(4) EFFECT ON OTHER REVIEWS.—For the purpose of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any other law requiring an agency that is not the lead agency to determine or consider a project purpose or project need, such an agency acting, permitting, or approving under, or otherwise applying, Federal law with respect to a project shall adopt the determination of purpose and need for the project made by the lead agency.

"(5) SAVINGS.—Nothing in this subsection preempts or interferes with any power, jurisdiction, responsibility, or authority of an agency under applicable law (including regulations) with respect to a project.

"(6) CONTENTS.—

"(A) IN GENERAL.—The statement of purpose and need shall include a clear statement of the objectives that the proposed project is intended to achieve.

"(B) EFFECT ON EXISTING STANDARDS.—Nothing in this subsection shall alter existing standards for defining the purpose and need of a project.

"(7) FACTORS TO CONSIDER.—The lead agency may determine that any of the following factors and documents are appropriate for consideration in determining the purpose of and need for a project:

"(A) Transportation plans and related planning documents developed through the statewide and metropolitan transportation planning process under sections 134 and 135.

"(B) Land use plans adopted by units of State, local, or tribal government (or, in the case of Federal land, by the applicable Federal land management agencies).

"(C) Economic development plans adopted by—

"(i) units of State, local, or tribal government; or

"(ii) established economic development planning organizations or authorities.

"(D) Environmental protection plans, including plans for the protection or treatment of—

"(i) air quality;

"(ii) water quality and runoff;

"(iii) habitat needs of plants and animals;

"(iv) threatened and endangered species;

"(v) invasive species;

"(vi) historic properties; and

"(vii) other environmental resources.

"(E) Any publicly available plans or policies relating to the national defense, national security, or foreign policy of the United States.

"(g) DEVELOPMENT OF PROJECT ALTERNATIVES.—

"(1) IN GENERAL.—With respect to the environmental review process for a project, the alternatives shall be determined in accordance with this subsection.

"(2) AUTHORITY.—The lead agency shall determine the alternatives to be considered for a project.

"(3) INVOLVEMENT OF COOPERATING AGENCIES AND THE PUBLIC.—

"(A) IN GENERAL.—Before determining the alternatives for a project, the lead agency shall solicit for 30 days and consider any relevant comments on the proposed alternatives received from the public and cooperating agencies.

"(B) ALTERNATIVES.—The lead agency shall consider—

"(i) alternatives that meet the purpose and need of the project; and

"(ii) the alternative of no action.

"(C) EFFECT ON EXISTING STANDARDS.—Nothing in this subsection shall alter the existing standards for determining the range of alternatives.

"(4) EFFECT ON OTHER REVIEWS.—Any other agency acting under or applying Federal law with respect to a project shall consider only the alternatives determined by the lead agency.

"(5) SAVINGS.—Nothing in this subsection preempts or interferes with any power, jurisdiction, responsibility, or authority of an agency under applicable law (including regulations) with respect to a project.

"(6) FACTORS TO CONSIDER.—The lead agency may determine that any of the following factors and documents are appropriate for consideration in determining the alternatives for a project:

"(A) The overall size and complexity of the proposed action.

"(B) The sensitivity of the potentially affected resources.

"(C) The overall schedule and cost of the project.

"(D) Transportation plans and related planning documents developed through the statewide and metropolitan transportation planning process under sections 134 and 135 of title 23 of the United States Code.

"(E) Land use plans adopted by units of State, local, or tribal government (or, in the case of Federal land, by the applicable Federal land management agencies).

"(F) Economic development plans adopted by—

"(i) units of State, local, or tribal government; or

"(ii) established economic development planning organizations or authorities.

"(G) environmental protection plans, including plans for the protection or treatment of—

"(i) air quality;

"(ii) water quality and runoff;

"(iii) habitat needs of plants and animals;

"(iv) threatened and endangered species;

"(v) invasive species;

"(vi) historic properties; and

"(vii) other environmental resources.

"(H) Any publicly available plans or policies relating to the national defense, national security, or foreign policy of the United States.

"(h) PROMPT ISSUE IDENTIFICATION AND RESOLUTION PROCESS.—

"(1) IN GENERAL.—The lead agency, the project sponsor, and the cooperating agencies shall work cooperatively, in accordance with this section, to identify and resolve issues that could—

"(A) delay completion of the environmental review process; or

"(B) result in denial of any approvals required for the project under applicable laws.

"(2) LEAD AGENCY RESPONSIBILITIES.—

"(A) IN GENERAL.—The lead agency, with the assistance of the project sponsor, shall make information available to the cooperating agencies, as early as practicable in the environmental review process, regarding—

"(i) the environmental and socioeconomic resources located within the project area; and

"(ii) the general locations of the alternatives under consideration.

"(B) BASIS FOR INFORMATION.—Information about resources in the project area may be based on existing data sources, including geographic information systems mapping.

"(3) COOPERATING AGENCY RESPONSIBILITIES.—

"(A) IN GENERAL.—Based on information received from the lead agency, cooperating agencies shall promptly identify to the lead agency any major issues of concern regarding the potential environmental or socioeconomic impacts of a project.

"(B) MAJOR ISSUES OF CONCERN.—A major issue of concern referred to in subparagraph (A) may include any issue that could substantially delay or prevent an agency from granting a permit or other approval that is needed for a project, as determined by a cooperating agency.

"(4) ISSUE RESOLUTION.—On identification of a major issue of concern under paragraph (3), or at any time upon the request of a project sponsor or the Governor of a State, the lead agency shall promptly convene a meeting with representatives of each of the relevant cooperating agencies, the project sponsor, and the Governor to address and resolve the issue.

"(5) NOTIFICATION.—If a resolution of a major issue of concern under paragraph (4) cannot be achieved by the date that is 30 days after the date on which a meeting under that paragraph is convened, the lead agency shall provide notification of the failure to resolve the major issue of concern to—

"(A) the heads of all cooperating agencies;

"(B) the project sponsor;

"(C) the Governor involved;

"(D) the Committee on Environment and Public Works of the Senate; and

"(E) the Committee on Transportation and Infrastructure of the House of Representatives.

"(i) PERFORMANCE MEASUREMENT.—

"(1) PROGRESS REPORTS.—The Secretary shall establish a program to measure and report on progress toward improving and expediting the planning and environmental review process.

"(2) MINIMUM REQUIREMENTS.—The program shall include, at a minimum—

"(A) the establishment of criteria for measuring consideration of—

"(i) State and metropolitan planning, project planning, and design criteria; and

"(ii) environmental processing times and costs;

"(B) the collection of data to assess performance based on the established criteria; and

"(C) the annual reporting of the results of the performance measurement studies.

"(3) INVOLVEMENT OF THE PUBLIC AND COOPERATING AGENCIES.—

"(A) IN GENERAL.—The Secretary shall biennially conduct a survey of agencies participating in the environmental review process under this section to assess the expectations and experiences of each surveyed agency with regard to the planning and environmental review process for projects reviewed under this section.

"(B) PUBLIC PARTICIPATION.—In conducting the survey, the Secretary shall solicit comments from the public.

"(j) ASSISTANCE TO AFFECTED FEDERAL AND STATE AGENCIES.—

"(1) IN GENERAL.—The Secretary may approve a request by a State or recipient to provide funds made available under this title for a highway project, or made available under chapter 53 of title 49 for a mass transit project, to agencies participating in the coordinated environmental review process established under this section in order to provide the resources necessary to meet any time limits established under this section.

"(2) AMOUNTS.—Such requests under paragraph (1) shall be approved only—

"(A) for such additional amounts as the Secretary determines are necessary for the affected Federal and State agencies to meet the time limits for environmental review; and

"(B) if those time limits are less than the customary time necessary for that review.

"(k) JUDICIAL REVIEW AND SAVINGS CLAUSE.—

"(1) JUDICIAL REVIEW.—Nothing in this section shall affect the reviewability of any final Federal agency action in any United States district court or State court.

"(2) SAVINGS CLAUSE.—Nothing in this section shall affect—

"(A) the applicability of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or any other Federal environmental statute; or

"(B) the responsibility of any Federal officer to comply with or enforce such a statute.".

(b) CONFORMING AMENDMENTS.—

(1) The analysis for chapter 3 of title 23, United States Code, is amended by inserting after the item relating to section 325 (as added by section 1203(f)) the following:

"326. Transportation project development process.".

(2) Section 1309 of the Transportation Equity Act for the 21st Century (112 Stat. 232) is repealed.

SEC. 1512. ASSUMPTION OF RESPONSIBILITY FOR CATEGORICAL EXCLUSIONS.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code (as amended by section 1511(a)), is amended by inserting after section 326 the following:

"§327. Assumption of responsibility for categorical exclusions

"(a) CATEGORICAL EXCLUSION DETERMINATIONS.—

"(1) IN GENERAL.—The Secretary may assign, and a State may assume, responsibility for determining whether certain designated activities are included within classes of action identified in regulation by the Secretary that are categorically excluded from requirements for environmental assessments or environmental impact statements pursuant to regulations promulgated by the Council on Environmental Quality under part 1500 of title 40, Code of Federal Regulations (as in effect on October 1, 2003).

"(2) SCOPE OF AUTHORITY.—A determination described in paragraph (1) shall be made by a State in accordance with criteria established by the Secretary and only for types of activities specifically designated by the Secretary.

"(3) CRITERIA.—The criteria under paragraph (2) shall include provisions for public availability of information consistent with section 552 of title 5 and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(b) OTHER APPLICABLE FEDERAL LAWS.—

"(1) IN GENERAL.—If a State assumes responsibility under subsection (a), the Secretary may also assign and the State may assume all or part of the responsibilities of the Secretary for environmental review, consultation, or other related actions required under any Federal law applicable to activities that are classified by the Secretary as categorical exclusions, with the exception of government-to-government consultation with Indian tribes, subject to the same procedural and substantive requirements as would be required if that responsibility were carried out by the Secretary.

"(2) SOLE RESPONSIBILITY.—A State that assumes responsibility under paragraph (1) with respect to a Federal law shall be solely responsible and solely liable for complying with and carrying out that law, and the Secretary shall have no such responsibility or liability.

"(c) MEMORANDA OF UNDERSTANDING.—

"(1) IN GENERAL.—The Secretary and the State, after providing public notice and opportunity for comment, shall enter into a memorandum of understanding setting forth the responsibilities to be assigned under this section and the terms and conditions under which the assignments are made, including establishment of the circumstances under which the Secretary would reassume responsibility for categorical exclusion determinations.

"(2) TERM.—A memorandum of understanding—

"(A) shall have term of not more than 3 years; and

"(B) shall be renewable.

"(3) ACCEPTANCE OF JURISDICTION.—In a memorandum of understanding, the State shall consent to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary that the State assumes.

"(4) MONITORING.—The Secretary shall—

"(A) monitor compliance by the State with the memorandum of understanding and the provision by the State of financial resources to carry out the memorandum of understanding; and

"(B) take into account the performance by the State when considering renewal of the memorandum of understanding.

"(d) TERMINATION.—The Secretary may terminate any assumption of responsibility under a memorandum of understanding on a determination that the State is not adequately carrying out the responsibilities assigned to the State.

"(e) STATE AGENCY DEEMED TO BE FEDERAL AGENCY.—A State agency that is assigned a responsibility under a memorandum of understanding shall be deemed to be a Federal agency for the purposes of the Federal law under which the responsibility is exercised.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code (as amended by section 1511(b)), is amended by inserting after the item relating to section 326 the following:

"327. Assumption of responsibility for categorical exclusions.".

SEC. 1513. SURFACE TRANSPORTATION PROJECT DELIVERY PILOT PROGRAM.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code (as amended by section 1512(a)), is amended by inserting after section 327 the following:

"§328. Surface transportation project delivery pilot program

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary shall carry out a surface transportation project delivery pilot program (referred to in this section as the 'program').

"(2) ASSUMPTION OF RESPONSIBILITY.—

"(A) IN GENERAL.—Subject to the other provisions of this section, with the written agreement of the Secretary and a State, which may be in the form of a memorandum of understanding, the Secretary may assign, and the State may assume, the responsibilities of the Secretary with respect to 1 or more highway projects within the State under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(B) ADDITIONAL RESPONSIBILITY.—If a State assumes responsibility under subparagraph (A)—

"(i) the Secretary may assign to the State, and the State may assume, all or part of the responsibilities of the Secretary for environmental review, consultation, or other action required under any Federal environmental law pertaining to the review or approval of a specific project; but

"(ii) the Secretary may not assign—

"(I) responsibility for any conformity determination required under section 176 of the Clean Air Act (42 U.S.C. 7506); or

"(II) any responsibility imposed on the Secretary by section 134 or 135.

"(C) PROCEDURAL AND SUBSTANTIVE REQUIREMENTS.—A State shall assume responsibility under this section subject to the same procedural and substantive requirements as would apply if that responsibility were carried out by the Secretary.

"(D) FEDERAL RESPONSIBILITY.—Any responsibility of the Secretary not explicitly assumed by the State by written agreement under this section shall remain the responsibility of the Secretary.

"(E) NO EFFECT ON AUTHORITY.—Nothing in this section preempts or interferes with any power, jurisdiction, responsibility, or authority of an agency, other than the Department of Transportation, under applicable law (including regulations) with respect to a project.

"(b) STATE PARTICIPATION.—

"(1) NUMBER OF PARTICIPATING STATES.—The Secretary may permit not more than 5 States (including the State of Oklahoma) to participate in the program.

"(2) APPLICATION.—Not later than 270 days after the date of enactment of this section, the Secretary shall promulgate regulations that establish requirements relating to information required to be contained in any application of a State to participate in the program, including, at a minimum—

"(A) the projects or classes of projects for which the State anticipates exercising the authority that may be granted under the program;

"(B) verification of the financial resources necessary to carry out the authority that may be granted under the program; and

"(C) evidence of the notice and solicitation of public comment by the State relating to participation of the State in the program, including copies of comments received from that solicitation.

"(3) PUBLIC NOTICE.—

"(A) IN GENERAL.—Each State that submits an application under this subsection shall give notice of the intent of the State to participate in the program not later than 30 days before the date of submission of the application.

"(B) METHOD OF NOTICE AND SOLICITATION.—The State shall provide notice and solicit public comment under this paragraph by publishing the complete application of the State in accordance with the appropriate public notice law of the State.

"(4) SELECTION CRITERIA.—The Secretary may approve the application of a State under this section only if—

"(A) the regulatory requirements under paragraph (2) have been met;

"(B) the Secretary determines that the State has the capability, including financial and personnel, to assume the responsibility; and

"(C) the head of the State agency having primary jurisdiction over highway matters enters into a written agreement with the Secretary described in subsection (c).

"(5) OTHER FEDERAL AGENCY VIEWS.—If a State applies to assume a responsibility of the Secretary that would have required the Secretary to consult with another Federal agency, the Secretary shall solicit the views of the Federal agency before approving the application.

"(c) WRITTEN AGREEMENT.—A written agreement under this section shall—

"(1) be executed by the Governor or the top-ranking transportation official in the State who is charged with responsibility for highway construction;

"(2) be in such form as the Secretary may prescribe;

"(3) provide that the State—

"(A) agrees to assume all or part of the responsibilities of the Secretary described in subsection (a);

"(B) expressly consents, on behalf of the State, to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary assumed by the State;

"(C) certifies that State laws (including regulations) are in effect that—

"(i) authorize the State to take the actions necessary to carry out the responsibilities being assumed; and

"(ii) are comparable to section 552 of title 5, including providing that any decision regarding the public availability of a document under those State laws is reviewable by a court of competent jurisdiction; and

"(D) agrees to maintain the financial resources necessary to carry out the responsibilities being assumed.

"(d) JURISDICTION.—

"(1) IN GENERAL.—The United States district courts shall have exclusive jurisdiction over any civil action against a State for failure to carry out any responsibility of the State under this section.

"(2) LEGAL STANDARDS AND REQUIREMENTS.—A civil action under paragraph (1) shall be governed by the legal standards and requirements that would apply in such a civil action against the Secretary had the Secretary taken the actions in question.

"(3) INTERVENTION.—The Secretary shall have the right to intervene in any action described in paragraph (1).

"(e) EFFECT OF ASSUMPTION OF RESPONSIBILITY.—A State that assumes responsibility under subsection (a)(2) shall be solely responsible and solely liable for carrying out, in lieu of the Secretary, the responsibilities assumed under subsection (a)(2), until the program is terminated as provided in subsection (i).

"(f) LIMITATIONS ON AGREEMENTS.—Nothing in this section permits a State to assume any rulemaking authority of the Secretary under any Federal law.

"(g) AUDITS.—

"(1) IN GENERAL.—To ensure compliance by a State with any agreement of the State under subsection (c)(1) (including compliance by the State with all Federal laws for which responsibility is assumed under subsection (a)(2)), for each State participating in the program under this section, the Secretary shall conduct—

"(A) semiannual audits during each of the first 2 years of State participation; and

"(B) annual audits during each subsequent year of State participation.

"(2) PUBLIC AVAILABILITY AND COMMENT.—

"(A) IN GENERAL.—An audit conducted under paragraph (1) shall be provided to the public for comment.

"(B) RESPONSE.—Not later than 60 days after the date on which the period for public comment ends, the Secretary shall respond to public comments received under subparagraph (A).

"(h) REPORT TO CONGRESS.—The Secretary shall submit to Congress an annual report that describes the administration of the program.

"(i) TERMINATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the program shall terminate on the date that is 6 years after the date of enactment of this section.

"(2) TERMINATION BY SECRETARY.—The Secretary may terminate the participation of any State in the program if—

"(A) the Secretary determines that the State is not adequately carrying out the responsibilities assigned to the State;

"(B) the Secretary provides to the State—

"(i) notification of the determination of noncompliance; and

"(ii) a period of at least 30 days during which to take such corrective action as the Secretary determines is necessary to comply with the applicable agreement; and

"(C) the State, after the notification and period provided under subparagraph (B), fails to take satisfactory corrective action, as determined by Secretary.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code (as amended by section 1512(b)), is amended by inserting after the item relating to section 327 the following:

"328. Surface transportation project delivery pilot program.".

SEC. 1514. PARKS, RECREATION AREAS, WILDLIFE AND WATERFOWL REFUGES, AND HISTORIC SITES.

(a) PROGRAMS AND PROJECTS WITH DE MINIMIS IMPACTS.—

(1) TITLE 23.—Section 138 of title 23, United States Code, is amended—

(A) in the first sentence, by striking "It is hereby" and inserting the following:

"(a) DECLARATION OF POLICY.—It is"; and

(B) by adding at the end the following:

"(b) DE MINIMIS IMPACTS.—

"(1) REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this section shall be considered to be satisfied with respect to an area described in paragraph (2) or (3) if the Secretary determines, in accordance with this subsection, that a transportation program or project will have a de minimis impact on the area.

"(B) CRITERIA.—In making any determination under this subsection, the Secretary shall consider to be part of a transportation program or project any avoidance, minimization, mitigation, or enhancement measures that are required to be implemented as a condition of approval of the transportation program or project.

"(2) HISTORIC SITES.—With respect to historic sites, the Secretary may make a finding of de minimis impact only if—

"(A) the Secretary has determined, in accordance with the consultation process required under section 106 of the National Historic Preservation Act (16 U.S.C. 470f), that—

"(i) the transportation program or project will have no adverse effect on the historic site; or "(ii) there will be no historic properties affected by the transportation program or project;

"(B) the finding of the Secretary has received written concurrence from the applicable State historic preservation officer or tribal historic preservation officer (and from the Advisory Council on Historic Preservation, if participating in the consultation); and

"(C) the finding of the Secretary has been developed in consultation with parties consulting as part of the process referred to in subparagraph (A).

"(3) PARKS, RECREATION AREAS, AND WILDLIFE AND WATERFOWL REFUGES.—With respect to parks, recreation areas, and wildlife or waterfowl refuges, the Secretary may make a finding of de minimis impact only if—

"(A) the Secretary has determined, in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) (including public notice and opportunity for public review and comment), that the transportation program or project will not adversely affect the activities, features, and attributes of the park, recreation area, or wildlife or waterfowl refuge eligible for protection under this section; and

"(B) the finding of the Secretary has received concurrence from the officials with jurisdiction over the park, recreation area, or wildlife or waterfowl refuge.".

(2) TITLE 49.—Section 303 of title 49, United States Code, is amended—

(A) by striking "(c) The Secretary" and inserting the following:

"(c) APPROVAL OF PROGRAMS AND PROJECTS.—Subject to subsection (d), the Secretary"; and

(B) by adding at the end the following:

"(d) DE MINIMIS IMPACTS.—

"(1) REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this section shall be considered to be satisfied with respect to an area described in paragraph (2) or (3) if the Secretary determines, in accordance with this subsection, that a transportation program or project will have a de minimis impact on the area.

"(B) CRITERIA.—In making any determination under this subsection, the Secretary shall consider to be part of a transportation program or project any avoidance, minimization, mitigation, or enhancement measures that are required to be implemented as a condition of approval of the transportation program or project.

"(2) HISTORIC SITES.—With respect to historic sites, the Secretary may make a finding of de minimis impact only if—

"(A) the Secretary has determined, in accordance with the consultation process required under section 106 of the National Historic Preservation Act (16 U.S.C. 470f), that—

"(i) the transportation program or project will have no adverse effect on the historic site; or

"(ii) there will be no historic properties affected by the transportation program or project;

"(B) the finding of the Secretary has received written concurrence from the applicable State historic preservation officer or tribal historic preservation officer (and from the Advisory Council on Historic Preservation, if participating in the consultation); and

"(C) the finding of the Secretary has been developed in consultation with parties consulting as part of the process referred to in subparagraph (A).

"(3) PARKS, RECREATION AREAS, AND WILDLIFE AND WATERFOWL REFUGES.—With respect to parks, recreation areas, and wildlife or waterfowl refuges, the Secretary may make a finding of de minimis impact only if—

"(A) the Secretary has determined, in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) (including public notice and opportunity for public review and comment), that the transportation program or project will not adversely affect the activities, features, and attributes of the park, recreation area, or wildlife or waterfowl refuge eligible for protection under this section; and

"(B) the finding of the Secretary has received concurrence from the officials with jurisdiction over the park, recreation area, or wildlife or waterfowl refuge.".

(b) CLARIFICATION OF EXISTING STANDARDS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall (in consultation with affected agencies and interested parties) promulgate regulations that clarify the factors to be considered and the standards to be applied in determining the prudence and feasibility of alternatives under section 138 of title 23 and section 303 of title 49, United States Code.

(2) REQUIREMENTS.—The regulations—

(A) shall clarify the application of the legal standards to a variety of different types of transportation programs and projects depending on the circumstances of each case; and

(B) may include, as appropriate, examples to facilitate clear and consistent interpretation by agency decisionmakers.

(c) IMPLEMENTATION STUDY.—

(1) IN GENERAL.—The Secretary and the Transportation Research Board of the National Academy of Sciences shall jointly conduct a study on the implementation of this section and the amendments made by this section.

(2) COMPONENTS.—In conducting the study, the Secretary and the Transportation Research Board shall evaluate—

(A) the processes developed under this section and the amendments made by this section and the efficiencies that may result;

(B) the post-construction effectiveness of impact mitigation and avoidance commitments adopted as part of projects conducted under this section and the amendments made by this section; and

(C) the quantity of projects with impacts that are considered de minimis under this section and the amendments made by this section, including information on the location, size, and cost of the projects.

(3) REPORT REQUIREMENT.—The Secretary and the Transportation Research Board shall prepare—

(A) not earlier than the date that is 4 years after the date of enactment of this Act, a report on the results of the study conducted under this subsection; and

(B) not later than September 30, 2009, an update on the report required under subparagraph (A).

(4) REPORT RECIPIENTS.—The Secretary and the Transportation Research Board shall—

(A) submit the report and update required under paragraph (3) to—

(i) the appropriate committees of Congress;

(ii) the Secretary of the Interior; and

(iii) the Advisory Council on Historic Preservation; and

(B) make the report and update available to the public.

SEC. 1515. REGULATIONS.

Except as provided in section 1513, not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations necessary to implement the amendments made by chapter 1 and this chapter.

CHAPTER 3—MISCELLANEOUS

SEC. 1521. CRITICAL REAL PROPERTY ACQUISITION.

Section 108 of title 23, United States Code, is amended by adding at the end the following:

"(d) CRITICAL REAL PROPERTY ACQUISITION.—

"(1) IN GENERAL.—Subject to paragraph (2), funds apportioned to a State under this title may be used to pay the costs of acquiring any real property that is determined to be critical under paragraph (2) for a project proposed for funding under this title.

"(2) REIMBURSEMENT.—The Federal share of the costs referred to in paragraph (1) shall be eligible for reimbursement out of funds apportioned to a State under this title if, before the date of acquisition, the Secretary determines that—

"(A) the property is offered for sale on the open market;

"(B) in acquiring the property, the State will comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.); and

"(C) immediate acquisition of the property is critical because—

"(i) based on an appraisal of the property, the value of the property is increasing significantly;

"(ii) there is an imminent threat of development or redevelopment of the property; and

"(iii) the property is necessary for the implementation of the goals stated in the proposal for the project.

"(3) APPLICABLE LAW.—An acquisition of real property under this section shall be considered to be an exempt project under section 176 of the Clean Air Act (42 U.S.C. 7506).

"(4) ENVIRONMENTAL REVIEW.—

"(A) IN GENERAL.—A project proposed to be conducted under this title shall not be conducted on property acquired under paragraph (1) until all required environmental reviews for the project have been completed.

"(B) EFFECT ON CONSIDERATION OF PROJECT ALTERNATIVES.—The number of critical acquisitions of real property associated with a project shall not affect the consideration of project alternatives during the environmental review process.

"(5) PROCEEDS FROM THE SALE OR LEASE OF REAL PROPERTY.—Section 156(c) shall not apply to the sale, use, or lease of any real property acquired under paragraph (1).".

SEC. 1522. PLANNING CAPACITY BUILDING INITIATIVE.

Section 104 of title 23, United States Code, is amended by adding at the end the following:

"(m) PLANNING CAPACITY BUILDING INITIATIVE.—

"(1) IN GENERAL.—The Secretary shall carry out a planning capacity building initiative to support enhancements in transportation planning to—

"(A) strengthen the processes and products of metropolitan and statewide transportation planning under this title;

"(B) enhance tribal capacity to conduct joint transportation planning under chapter 2;

"(C) participate in the metropolitan and statewide transportation planning programs under this title; and

"(D) increase the knowledge and skill level of participants in metropolitan and statewide transportation.

"(2) PRIORITY.—The Secretary shall give priority to planning practices and processes that support—

"(A) the transportation elements of homeland security planning, including—

"(i) training and best practices relating to emergency evacuation;

"(ii) developing materials to assist areas in coordinating emergency management and transportation officials; and

"(iii) developing training on how planning organizations may examine security issues;

"(B) performance-based planning, including—

"(i) data and data analysis technologies to be shared with States, metropolitan planning organizations, local governments, and nongovernmental organizations that—

"(I) participate in transportation planning;

"(II) use the data and data analysis to engage in metropolitan, tribal, or statewide transportation planning;

"(III) involve the public in the development of transportation plans, projects, and alternative scenarios; and

"(IV) develop strategies to avoid, minimize, and mitigate the impacts of transportation facilities and projects; and

"(ii) improvement of the quality of congestion management systems, including the development of—

"(I) a measure of congestion;

"(II) a measure of transportation system reliability; and

"(III) a measure of induced demand;

"(C) safety planning, including—

"(i) development of State strategic safety plans consistent with section 148;

"(ii) incorporation of work zone safety into planning; and

"(iii) training in the development of data systems relating to highway safety;

"(D) operations planning, including—

"(i) developing training of the integration of transportation system operations and management into the transportation planning process; and

"(ii) training and best practices relating to regional concepts of operations;

"(E) freight planning, including—

"(i) modeling of freight at a regional and statewide level; and

"(ii) techniques for engaging the freight community with the planning process;

"(F) air quality planning, including—

"(i) assisting new and existing nonattainment and maintenance areas in developing the technical capacity to perform air quality conformity analysis;

"(ii) providing training on areas such as modeling and data collection to support air quality planning and analysis;

"(iii) developing concepts and techniques to assist areas in meeting air quality performance timeframes; and

"(iv) developing materials to explain air quality issues to decisionmakers and the public; and

"(G) integration of environment and planning.

"(3) USE OF FUNDS.—The Secretary shall use amounts made available under paragraph (4) to make grants to, or enter into contracts, cooperative agreements, and other transactions with, a Federal agency, State agency, local agency, federally recognized Indian tribal government or tribal consortium, authority, association, nonprofit or for-profit corporation, or institution of higher education for research, program development, information collection and dissemination, and technical assistance.

"(4) SET-ASIDE.—

"(A) IN GENERAL.—On October 1 of each fiscal year, of the funds made available under subsection (a), the Secretary shall set aside $4,000,000 to carry out this subsection.

"(B) FEDERAL SHARE.—The Federal share of the cost of an activity carried out using funds made available under subparagraph (A) shall be 100 percent.

"(C) AVAILABILITY.—Funds made available under subparagraph (A) shall remain available until expended.".

Subtitle F—Environment

SEC. 1601. ENVIRONMENTAL RESTORATION AND POLLUTION ABATEMENT; CONTROL OF INVASIVE PLANT SPECIES AND ESTABLISHMENT OF NATIVE SPECIES.

(a) MODIFICATION TO NHS/STP FOR ENVIRONMENTAL RESTORATION, POLLUTION ABATEMENT, AND INVASIVE SPECIES.—

(1) MODIFICATIONS TO NATIONAL HIGHWAY SYSTEM.—Section 103(b)(6) of title 23, United States Code, is amended by adding at the end the following:

"(Q) Environmental restoration and pollution abatement in accordance with section 165.

"(R) Control of invasive plant species and establishment of native species in accordance with section 166.".

(2) MODIFICATIONS TO SURFACE TRANSPORTATION PROGRAM.—Section 133(b) of title 23, is amended by striking paragraph (14) and inserting the following:

"(14) Environmental restoration and pollution abatement in accordance with section 165.

"(15) Control of invasive plant species and establishment of native species in accordance with section 166.".

(b) ELIGIBLE ACTIVITIES.—Subchapter I of chapter 1 of title 23, United States Code, is amended by adding at the end the following:

"§165. Eligibility for environmental restoration and pollution abatement

"(a) IN GENERAL.—Subject to subsection (b), environmental restoration and pollution abatement to minimize or mitigate the impacts of any transportation project funded under this title (including retrofitting and construction of storm water treatment systems to meet Federal and State requirements under sections 401 and 402 of the Federal Water Pollution Control Act (33 U.S.C. 1341, 1342)) may be carried out to address water pollution or environmental degradation caused wholly or partially by a transportation facility.

"(b) MAXIMUM EXPENDITURE.—In a case in which a transportation facility is undergoing reconstruction, rehabilitation, resurfacing, or restoration, the expenditure of funds under this section for environmental restoration or pollution abatement described in subsection (a) shall not exceed 20 percent of the total cost of the reconstruction, rehabilitation, resurfacing, or restoration of the facility.

"§166. Control of invasive plant species and establishment of native species

"(a) DEFINITIONS.—In this section:

"(1) INVASIVE PLANT SPECIES—The term 'invasive plant species' means a nonindigenous species the introduction of which causes or is likely to cause economic or environmental harm or harm to human health.

"(2) NATIVE PLANT SPECIES.—The term 'native plant species' means, with respect to a particular ecosystem, a species that, other than as result of an introduction, historically occurred or currently occurs in that ecosystem.

"(b) CONTROL OF SPECIES.—

"(1) IN GENERAL.—In accordance with all applicable Federal law (including regulations), funds made available to carry out this section may be used for—

"(A) participation in the control of invasive plant species; and

"(B) the establishment of native species.

"(2) INCLUDED ACTIVITIES.—The participation and establishment under paragraph (1) may include—

"(A) participation in statewide inventories of invasive plant species and desirable plant species;

"(B) regional native plant habitat conservation and mitigation;

"(C) native revegetation;

"(D) elimination of invasive species to create fuel breaks for the prevention and control of wildfires; and

"(E) training.

"(3) CONTRIBUTIONS.—

"(A) IN GENERAL.—Subject to subparagraph (B), an activity described in paragraph (1) may be carried out concurrently with, in advance of, or following the construction of a project funded under this title.

"(B) CONDITION FOR ACTIVITIES CONDUCTED IN ADVANCE OF PROJECT CONSTRUCTION.—An activity described in paragraph (1) may be carried out in advance of construction of a project only if the activity is carried out in accordance with all applicable requirements of Federal law (including regulations) and State transportation planning processes.".

(c) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1406(b)), is amended by adding at the end the following:

"165. Eligibility for environmental restoration and pollution abatement.
"166. Control of invasive plant species and establishment of native species.".

SEC. 1602. NATIONAL SCENIC BYWAYS PROGRAM.

(a) IN GENERAL.—Section 162 of title 23, United States Code, is amended—

(1) in subsection (a)(1), by striking "the roads as" and all that follows and inserting "the roads as—

"(A) National Scenic Byways;

"(B) All-American Roads; or

"(C) America's Byways.";

(2) in subsection (b)—

(A) in paragraph (1)(A), by striking "designated as" and all that follows and inserting "designated as—

"(i) National Scenic Byways;

"(ii) All-American Roads; or

"(iii) America's Byways; and";

(B) in paragraph (2)—

(i) in subparagraph (A), by striking "Byway or All-American Road" and inserting "Byway, All-American Road, or 1 of America's Byways"; and

(ii) in subparagraph (B), by striking "designation as a" and all that follows and inserting "designation as—

"(i) a National Scenic Byway;

"(ii) an All-American Road; or

"(iii) 1 of America's Byways; and"; and

(3) in subsection (c)(4), by striking "passing lane,".

(b) RESEARCH, TECHNICAL ASSISTANCE, MARKETING, AND PROMOTION.—Section 162 of title 23, United States Code, is amended—

(1) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

(2) by inserting after subsection (c) the following:

"(d) RESEARCH, TECHNICAL ASSISTANCE, MARKETING, AND PROMOTION.—

"(1) IN GENERAL.—The Secretary may carry out technical assistance, marketing, market research, and promotion with respect to State Scenic Byways, National Scenic Byways, All-American Roads, and America's Byways.

"(2) COOPERATION, GRANTS, AND CONTRACTS.—The Secretary may make grants to, or enter into contracts, cooperative agreements, and other transactions with, any Federal agency, State agency, authority, association, institution, for-profit or nonprofit corporation, organization, or person, to carry out projects and activities under this subsection.

"(3) FUNDS.—The Secretary may use not more than $2,000,000 for each fiscal year of funds made available for the National Scenic Byways Program to carry out projects and activities under this subsection.

"(4) PRIORITY.—The Secretary shall give priority under this subsection to partnerships that leverage Federal funds for research, technical assistance, marketing and promotion."; and

(3) in subsection (g) (as redesignated by paragraph (1)), by striking "80 percent" and inserting "the share applicable under section 120, as adjusted under subsection (d) of that section".

SEC. 1603. RECREATIONAL TRAILS PROGRAM.

(a) RECREATIONAL TRAILS PROGRAM FORMULA.—Section 104(h)(1) of title 23, United States Code, is amended—

(1) by striking "Whenever" and inserting the following:

"(A) IN GENERAL.—In any case in which";

(2) by striking "research and technical assistance under the recreational trails program and

for the administration of the National Recreational Trails Advisory Committee" and inserting "research, technical assistance, and training under the recreational trails program"; and

(3) by striking "The Secretary" and inserting the following:

"(B) CONTRACTS AND AGREEMENTS.—The Secretary".

(b) RECREATIONAL TRAILS PROGRAM ADMINISTRATION.—Section 206 of title 23, United States Code, is amended—

(1) in subsection (d)—

(A) by striking paragraph (2) and inserting the following:

"(2) PERMISSIBLE USES.—Permissible uses of funds apportioned to a State for a fiscal year to carry out this section include—

"(A) maintenance and restoration of recreational trails;

"(B) development and rehabilitation of trailside and trailhead facilities and trail linkages for recreational trails;

"(C) purchase and lease of recreational trail construction and maintenance equipment;

"(D) construction of new recreational trails, except that, in the case of new recreational trails crossing Federal land, construction of the trails shall be—

"(i) permissible under other law;

"(ii) necessary and recommended by a statewide comprehensive outdoor recreation plan that is—

"(I) required under the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4 et seq.); and

"(II) in effect;

"(iii) approved by the administering agency of the State designated under subsection (c)(1)(A); and

"(iv) approved by each Federal agency having jurisdiction over the affected land, under such terms and conditions as the head of the Federal agency determines to be appropriate, except that the approval shall be contingent on compliance by the Federal agency with all applicable laws, including—

"(I) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

"(II) the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.); and

"(III) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

"(E) acquisition of easements and fee simple title to property for recreational trails or recreational trail corridors;

"(F) assessment of trail conditions for accessibility and maintenance;

"(G) use of trail crews, youth conservation or service corps, or other appropriate means to carry out activities under this section;

"(H) development and dissemination of publications and operation of educational programs to promote safety and environmental protection, as those objectives relate to the use of recreational trails, supporting non-law enforcement trail safety and trail use monitoring patrol programs, and providing trail-related training, but in an amount not to exceed 5 percent of the apportionment made to the State for the fiscal year; and

"(I) payment of costs to the State incurred in administering the program, but in an amount not to exceed 7 percent of the apportionment made to the State for the fiscal year to carry out this section."; and

(B) in paragraph (3)—

(i) in subparagraph (D), by striking "(2)(F)" and inserting "(2)(I)"; and

(ii) by adding at the end the following:

"(E) USE OF YOUTH CONSERVATION OR SERVICE CORPS.—A State shall make available not less than 10 percent of the apportionments of the State to provide grants to, or to enter into cooperative agreements or contracts with, qualified youth conservation or service corps to perform recreational trails program activities.";

(2) in subsection (f)—

(A) in paragraph (1)—

(i) by inserting "and the Federal share of the administrative costs of a State" after "project"; and

(ii) by striking "not exceed 80 percent" and inserting "be determined in accordance with section 120";

(B) in paragraph (2)—

(i) in subparagraph (A), by striking "80 percent of" and inserting "the amount determined in accordance with section 120 for"; and

(ii) in subparagraph (B), by inserting "sponsoring the project" after "Federal agency";

(C) by striking paragraph (5);

(D) by redesignating paragraph (4) as paragraph (5);

(E) by inserting after paragraph (3) the following:

"(4) USE OF RECREATIONAL TRAILS PROGRAM FUNDS TO MATCH OTHER FEDERAL PROGRAM FUNDS.—Notwithstanding any other provision of law, funds made available under this section may be used to pay the non-Federal matching share for other Federal program funds that are—

"(A) expended in accordance with the requirements of the Federal program relating to activities funded and populations served; and

"(B) expended on a project that is eligible for assistance under this section."; and

(F) in paragraph (5) (as redesignated by subparagraph (D)), by striking "80 percent" and inserting "the Federal share as determined in accordance with section 120"; and

(3) in subsection (h)—

(A) in paragraph (1), by inserting after subparagraph (B) the following:

"(C) PLANNING AND ENVIRONMENTAL ASSESSMENT COSTS INCURRED PRIOR TO PROJECT APPROVAL.—A project funded under any of subparagraphs (A) through (H) of subsection (d)(2) may permit preapproval planning and environmental compliance costs incurred not more than 18 months before project approval to be credited toward the non-Federal share in accordance with subsection (f)."; and

(B) by striking paragraph (2) and inserting the following:

"(2) WAIVER OF HIGHWAY PROGRAM REQUIREMENTS.—A project funded under this section—

"(A) is intended to enhance recreational opportunity;

"(B) is not considered to be a highway project; and

"(C) is not subject to—

"(i) section 112, 114, 116, 134, 135, 138, 217, or 301 of this title; or

"(ii) section 303 of title 49.".

SEC. 1604. EXEMPTION OF INTERSTATE SYSTEM.

Subsection 103(c) of title 23, United States Code, is amended by adding at the end the following:

"(5) EXEMPTION OF INTERSTATE SYSTEM.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Interstate System shall not be considered to be a historic site under section 303 of title 49 or section 138 of this title, regardless of whether the Interstate System or portions of the Interstate System are listed on, or eligible for listing on, the National Register of Historic Places.

"(B) INDIVIDUAL ELEMENTS.—A portion of the Interstate System that possesses an independent feature of historic significance, such as a historic bridge or a highly significant engineering feature, that would qualify independently for listing on the National Register of Historic Places, shall be considered to be a historic site under section 303 of title 49 or section 138 of this title, as applicable.".

SEC. 1605. STANDARDS.

(a) IN GENERAL.—Section 109(a) of title 23, United States Code, is amended—

(1) in paragraph (1), by striking "and" at the end;

(2) in paragraph (2), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(3) consider the preservation, historic, scenic, natural environmental, and community values.".

(b) CONTEXT SENSITIVE DESIGN.—Section 109 of title 23, United States Code, is amended by striking subsection (p) and inserting the following:

"(p) CONTEXT SENSITIVE DESIGN.—

"(1) IN GENERAL.—The Secretary shall encourage States to design projects funded under this title that—

"(A) allow for the preservation of environmental, scenic, or historic values;

"(B) ensure the safe use of the facility;

"(C) provide for consideration of the context of the locality;

"(D) encourage access for other modes of transportation; and

"(E) comply with subsection (a).

"(2) APPROVAL BY SECRETARY.—Notwithstanding subsections (b) and (c), the Secretary may approve a project described in paragraph (1) for the National Highway System if the project is designed to achieve the criteria specified in that paragraph.".

SEC. 1606. USE OF HIGH OCCUPANCY VEHICLE LANES.

Section 102 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

"(a) HIGH OCCUPANCY VEHICLE LANE PASSENGER REQUIREMENTS.—

"(1) DEFINITIONS.—In this subsection:

"(A) RESPONSIBLE AGENCY.—The term 'responsible agency' means—

"(i) a State transportation department; and

"(ii) a local agency in a State that is responsible for transportation matters.

"(B) SERIOUSLY DEGRADED.—The term 'seriously degraded', with respect to a high occupancy vehicle lane, means, in the case of a high occupancy vehicle lane, the minimum average operating speed, performance threshold, and associated time period of the high occupancy vehicle lane, calculated and determined jointly by all applicable responsible agencies and based on conditions unique to the roadway, are unsatisfactory.

"(2) REQUIREMENTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), for each State, 1 or more responsible agencies shall establish the occupancy requirements of vehicles operating on high occupancy vehicle lanes.

"(B) MINIMUM NUMBER OF OCCUPANTS.—Except as provided in paragraph (3), an occupancy requirement established under subparagraph (A) shall—

"(i) require at least 2 occupants per vehicle for a vehicle operating on a high occupancy vehicle lane; and

"(ii) in the case of a high occupancy vehicle lane that traverses an adjacent State, be established in consultation with the adjacent State.

"(3) EXCEPTIONS TO HOV OCCUPANCY REQUIREMENTS.—

"(A) MOTORCYCLES.—For the purpose of this subsection, a motorcycle—

"(i) shall not be considered to be a single occupant vehicle; and

"(ii) shall be allowed to use a high occupancy vehicle lane unless a responsible agency—

"(I) certifies to the Secretary the use of a high occupancy vehicle lane by a motorcycle would create a safety hazard; and

"(II) restricts that the use of the high occupancy vehicle lane by motorcycles.

"(B) Low emission and energy-efficient vehicles.—

"(i) Definition of low emission and energy-efficient vehicle.—In this subparagraph, the term 'low emission and energy-efficient vehicle' means a vehicle that has been certified by the Administrator of the Environmental Protection Agency—

"(I)(aa) to have a 45-mile per gallon or greater fuel economy highway rating; or

"(bb) to qualify as an alternative fueled vehicle under section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211); and

"(II) as meeting Tier II emission level established in regulations promulgated by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act (42 U.S.C. 7521(i)) for that make and model year vehicle.

"(ii) Exemption for low emission and energy-efficient vehicles.—A responsible agency may permit qualifying low emission and energy-efficient vehicles that do not meet applicable occupancy requirements (as determined by the responsible agency) to use high occupancy vehicle lanes if the responsible agency—

"(I) establishes a program that addresses how those qualifying low emission and energy-efficient vehicles are selected and certified;

"(II) establishes requirements for labeling qualifying low emission and energy-efficient vehicles (including procedures for enforcing those requirements);

"(III) continuously monitors, evaluates, and reports to the Secretary on performance; and

"(IV) imposes such restrictions on the use on high occupancy vehicle lanes by vehicles that do not satisfy established occupancy requirements as are necessary to ensure that the performance of individual high occupancy vehicle lanes, and the entire high occupancy vehicle lane system, will not become seriously degraded.

"(C) Tolling of vehicles.—

"(i) In general.—A responsible agency may permit vehicles, in addition to the vehicles described in paragraphs (A), (B), and (D) that do not satisfy established occupancy requirements, to use a high occupancy vehicle lane only if the responsible agency charges those vehicles a toll.

"(ii) Applicable authority.—In imposing a toll under clause (i), a responsible agency shall—

"(I) be subject to section 129;

"(II) establish a toll program that addresses ways in which motorists may enroll and participate in the program;

"(III) develop, manage, and maintain a system that will automatically collect the tolls from covered vehicles;

"(IV) continuously monitor, evaluate, and report on performance of the system;

"(V) establish such policies and procedures as are necessary—

"(aa) to vary the toll charged in order to manage the demand for use of high occupancy vehicle lanes; and

"(bb) to enforce violations; and

"(VI) establish procedures to impose such restrictions on the use of high occupancy vehicle lanes by vehicles that do not satisfy established occupancy requirements as are necessary to ensure that the performance of individual high occupancy vehicle lanes, and the entire high occupancy vehicle lane system, will not become seriously degraded.

"(D) Designated public transportation vehicles.—

"(i) Definition of designated public transportation vehicle.—In this subparagraph, the term 'designated public transportation vehicle' means a vehicle that—

"(I) provides designated public transportation (as defined in section 221 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12141)); and

"(II)(aa) is owned or operated by a public entity; or

"(bb) is operated under a contract with a public entity.

"(ii) Use of high occupancy vehicle lanes.—A responsible agency may permit designated public transportation vehicles that do not satisfy established occupancy requirements to use high occupancy vehicle lanes if the responsible agency—

"(I) requires the clear and identifiable labeling of each designated public transportation vehicle operating under a contract with a public entity with the name of the public entity on all sides of the vehicle;

"(II) continuously monitors, evaluates, and reports on performance of those designated public transportation vehicles; and

"(III) imposes such restrictions on the use of high occupancy vehicle lanes by designated public transportation vehicles as are necessary to ensure that the performance of individual high occupancy vehicle lanes, and the entire high occupancy vehicle lane system, will not become seriously degraded.

"(E) HOV lane management, operation, and monitoring.—

"(i) In general.—A responsible agency that permits any of the exceptions specified in this paragraph shall comply with clauses (ii) and (iii).

"(ii) Performance monitoring, evaluation, and reporting.—A responsible agency described in clause (i) shall establish, manage, and support a performance monitoring, evaluation, and reporting program under which the responsible agency continuously monitors, assesses, and reports on the effects that any vehicle permitted to use a high occupancy vehicle lane under an exception under this paragraph may have on the operation of—

"(I) individual high occupancy vehicle lanes; and

"(II) the entire high occupancy vehicle lane system.

"(iii) Operation of HOV lane or system.—A responsible agency described in clause (i) shall limit use of, or cease to use, any of the exceptions specified in this paragraph if the presence of any vehicle permitted to use a high occupancy vehicle lane under an exception under this paragraph seriously degrades the operation of—

"(I) individual high occupancy vehicle lanes; and

"(II) the entire high occupancy vehicle lane system.".

SEC. 1607. BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAYS.

(a) In General.—Section 217 of title 23, United States Code, is amended—

(1) in subsection (a), by inserting "pedestrian and" after "safe";

(2) in subsection (e), by striking "bicycles" each place it appears and inserting "pedestrians or bicyclists";

(3) by striking subsection (f) and inserting the following:

"(f) Federal Share.—The Federal share of the construction of bicycle transportation facilities and pedestrian walkways, and for carrying out nonconstruction projects relating to safe pedestrian and bicycle use, shall be determined in accordance with section 120(b).";

(4) by redesignating subsection (j) as subsection (k);

(5) by inserting after subsection (i) the following:

"(j) Bicycle and Pedestrian Safety Grants.—

"(1) In general.—The Secretary shall select and make grants to a national, nonprofit organization engaged in promoting bicycle and pedestrian safety—

"(A) to operate a national bicycle and pedestrian clearinghouse;

"(B) to develop information and educational programs regarding walking and bicycling; and

"(C) to disseminate techniques and strategies for improving bicycle and pedestrian safety.

"(2) Funding.—The Secretary may use funds set aside under section 104(n) to carry out this subsection.

"(3) Applicability of title 23.—Funds authorized to be appropriated to carry out this subsection shall be available for obligation in the same manner as if the funds were apportioned under section 104, except that the funds shall remain available until expended."; and

(6) in subsection (k) (as redesignated by paragraph (4))—

(A) by redesignating paragraph (4) as paragraph (5); and

(B) by inserting after paragraph (3) the following:

"(4) Shared use path.—The term 'shared use path' means a multiuse trail or other path that is—

"(A) physically separated from motorized vehicular traffic by an open space or barrier, either within a highway right-of-way or within an independent right-of-way; and

"(B) usable for transportation purposes (including by pedestrians, bicyclists, skaters, equestrians, and other nonmotorized users).".

(b) Reservation of Funds.—Section 104 of title 23, United States Code (as amended by section 1522), is amended by adding at the end the following:

"(n) Bicycle and Pedestrian Safety Grants.—On October 1 of each of fiscal years 2004 through 2009, the Secretary, after making the deductions authorized by subsections (a) and (f), shall set aside $500,000 of the remaining funds apportioned under subsection (b)(3) for use in carrying out the bicycle and pedestrian safety grant program under section 217.".

SEC. 1608. IDLING REDUCTION FACILITIES IN INTERSTATE RIGHTS-OF-WAY.

Section 111 of title 23, United States Code, is amended by adding at the end the following:

"(d) Idling Reduction Facilities in Interstate Rights-of-Way.—

"(1) In general.—Notwithstanding subsection (a), a State may—

"(A) permit electrification or other idling reduction facilities and equipment, for use by motor vehicles used for commercial purposes, to be placed in rest and recreation areas, and in safety rest areas, constructed or located on rights-of-way of the Interstate System in the State, so long as those idling reduction measures do not—

"(i) reduce the existing number of designated truck parking spaces at any given rest or recreation area; or

"(ii) preclude the use of those spaces by trucks employing alternative idle reduction technologies; and

"(B) charge a fee, or permit the charging of a fee, for the use of those parking spaces actively providing power to a truck to reduce idling.

"(2) Purpose.—The exclusive purpose of the facilities described in paragraph (1) (or similar technologies) shall be to enable operators of motor vehicles used for commercial purposes—

"(A) to reduce idling of a truck while parked in the rest or recreation area; and

"(B) to use installed or other equipment specifically designed to reduce idling of a truck, or provide alternative power for supporting driver comfort, while parked.".

SEC. 1609. TOLL PROGRAMS.

(a) Interstate System Reconstruction and Rehabilitation Pilot Program.—Section 1216(b) of the Transportation Equity Act for the 21st Century (23 U.S.C. 129 note; 112 Stat. 212)—

(1) is amended—

(A) in paragraph (1)—

(i) by striking "The Secretary" and inserting "Notwithstanding section 301, the Secretary"; and

(ii) by striking "that could not otherwise be adequately maintained or functionally improved without the collection of tolls";

(B) in paragraph (3), by striking subparagraph (C) and inserting the following:

"(C) An analysis demonstrating that financing the reconstruction or rehabilitation of the facility with the collection of tolls under this pilot program is the most efficient, economical, or expeditious way to advance the project.";

(C) in paragraph (4)—

(i) by striking subparagraph (A) and inserting the following:

"(A) the State's analysis showing that financing the reconstruction or rehabilitation of a facility with the collection of tolls under the pilot program is the most efficient, economical, or expeditious way to advance the project;";

(ii) by striking subparagraph (B) and inserting the following:

"(B) the facility needs reconstruction or rehabilitation, including major work that may require replacing sections of the existing facility on new alignment;";

(iii) by striking subparagraph (C); and

(iv) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively;

(2) is redesignated as subsection (d) of section 129 of title 23, United States Code, and moved to appear at the end of that section; and

(3) by striking "of title 23, United States Code" each place it appears.

(b) Fast and Sensible Toll (FAST) Lanes Program.—Section 129 of title 23, United States Code (as amended by subsection (a)(2)), is amended by adding at the end the following:

"(e) Fast and Sensible Toll (FAST) Lanes Program.—

"(1) Definitions.—In this subsection:

"(A) Eligible toll facility.—The term 'eligible toll facility' includes—

"(i) a facility in existence on the date of enactment of this subsection that collects tolls;

"(ii) a facility in existence on the date of enactment of this subsection, including a facility that serves high occupancy vehicles;

"(iii) a facility modified or constructed after the date of enactment of this subsection to create additional tolled capacity (including a facility constructed by a private entity or using private funds); and

"(iv) in the case of a new lane added to a previously non-tolled facility, only the new lane.

"(B) Nonattainment area.—The term 'nonattainment area' has the meaning given the term in section 171 of the Clean Air Act (42 U.S.C. 7501).

"(2) Establishment.—Notwithstanding sections 129 and 301, the Secretary shall permit a State, public authority, or a public or private entity designated by a State, to collect a toll from motor vehicles at an eligible toll facility for any highway, bridge, or tunnel, including facilities on the Interstate System—

"(A) to manage high levels of congestion;

"(B) to reduce emissions in a nonattainment area or maintenance area; or

"(C) to finance the expansion of a highway, for the purpose of reducing traffic congestion, by constructing 1 or more additional lanes (including bridge, tunnel, support, and other structures necessary for that construction) on the Interstate System.

"(3) Limitation on use of revenues.—

"(A) Use.—

"(i) In general.—Toll revenues received under paragraph (2) shall be used by a State, public authority, or private entity designated by a State, for—

"(I) debt service for debt incurred on 1 or more highway or transit projects carried out under this title or title 49;

"(II) a reasonable return on investment of any private financing;

"(III) the costs necessary for proper operation and maintenance of any facilities under paragraph (2) (including reconstruction, resurfacing, restoration, and rehabilitation); or

"(IV) if the State, public authority, or private entity annually certifies that the tolled facility is being adequately operated and maintained, any other purpose relating to a highway or transit project carried out under this title or title 49.

"(B) Requirements.—

"(i) Variable price requirement.—A facility that charges tolls under this subsection may establish a toll that varies in price according to time of day or level of traffic, as appropriate to manage congestion or improve air quality.

"(ii) HOV variable pricing requirement.—The Secretary shall require, for each high occupancy vehicle facility that charges tolls under this subsection, that the tolls vary in price according to time of day or level of traffic, as appropriate to manage congestion or improve air quality.

"(iii) HOV passenger requirements.—In addition to the exceptions to the high occupancy vehicle passenger requirements established under section 102(a)(2), a State may permit motor vehicles with fewer than 2 occupants to operate in high occupancy vehicle lanes as part of a variable toll pricing program established under this subsection.

"(C) Agreement.—

"(i) In general.—Before the Secretary may permit a facility to charge tolls under this subsection, the Secretary and the applicable State, public authority, or private entity designated by a State shall enter into an agreement for each facility incorporating the conditions described in subparagraphs (A) and (B).

"(ii) Termination.—An agreement under clause (i) shall terminate with respect to a facility upon the decision of the State, public authority, or private entity designated by a State to discontinue the variable tolling program under this subsection for the facility.

"(iii) Debt.—

"(I) In general.—If there is any debt outstanding on a facility at the time at which the decision is made to discontinue the program under this subsection with respect to the facility, the facility may continue to charge tolls in accordance with the terms of the agreement until such time as the debt is retired.

"(II) Notice.—On retirement of the debt of a tolled facility, the applicable State, public authority, or private entity designated by a State shall provide notice to the public of that retirement.

"(D) Limitation on Federal share.—The Federal share of the cost of a project on a facility tolled under this subsection, including a project to install the toll collection facility shall be a percentage, not to exceed 80 percent, determined by the applicable State.

"(4) Eligibility.—To be eligible to participate in the program under this subsection, a State, public authority, or private entity designated by a State shall provide to the Secretary—

"(A) a description of the congestion or air quality problems sought to be addressed under the program;

"(B) a description of—

"(i) the goals sought to be achieved under the program; and

"(ii) the performance measures that would be used to gauge the success made toward reaching those goals; and

"(C) such other information as the Secretary may require.

"(5) Automation.—Fees collected from motorists using a FAST lane shall be collected only through the use of noncash electronic technology that optimizes the free flow of traffic on the tolled facility.

"(6) Interoperability.—

"(A) Rule.—

"(i) In general.—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall promulgate a final rule specifying requirements, standards, or performance specifications for automated toll collection systems implemented under this section.

"(ii) Development.—In developing that rule, which shall be designed to maximize the interoperability of electronic collection systems, the Secretary shall, to the maximum extent practicable—

"(I) seek to accelerate progress toward the national goal of achieving a nationwide interoperable electronic toll collection system;

"(II) take into account the use of noncash electronic technology currently deployed within an appropriate geographical area of travel and the noncash electronic technology likely to be in use within the next 5 years; and

"(III) seek to minimize additional costs and maximize convenience to users of toll facility and to the toll facility owner or operator.

"(B) Future modifications.—As the state of technology progresses, the Secretary shall modify the rule promulgated under subparagraph (A), as appropriate.

"(7) Reporting.—

"(A) In general.—The Secretary, in cooperation with State and local agencies and other program participants and with opportunity for public comment, shall—

"(i) develop and publish performance goals for each FAST lane project;

"(ii) establish a program for regular monitoring and reporting on the achievement of performance goals, including—

"(I) effects on travel, traffic, and air quality;

"(II) distribution of benefits and burdens;

"(III) use of alternative transportation modes; and

"(IV) use of revenues to meet transportation or impact mitigation needs.

"(B) Reports to Congress.—The Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

"(i) not later than 1 year after the date of enactment of this subsection, and annually thereafter, a report that describes in detail the uses of funds under this subsection in accordance with paragraph (8)(D); and

"(ii) not later than 3 years after the date of enactment of this subsection, and every 3 years thereafter, a report that describes any success of the program under this subsection in meeting congestion reduction and other performance goals established for FAST lane programs.

"(8) Funding.—

"(A) Authorization of appropriations.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out pre-implementation studies and post-implementation evaluations of projects planned or implemented under this subsection $11,000,000 for each of fiscal years 2004 through 2009.

"(B) Availability.—Funds allocated by the Secretary to a State under this subsection shall remain available for obligation by the State for a period of 3 years after the last day of the fiscal year for which the funds were authorized.

"(C) Contract authority.—Funds authorized to be appropriated under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under this chapter, except that the Federal share of the cost of any project carried out under this subsection and the availability of funds authorized by this paragraph shall be determined in accordance with this subsection.

"(D) PROGRAM PROMOTION.—Notwithstanding any other provision of this section, the Secretary shall use an amount not to exceed 2 percent of the funds made available under subparagraph (A)—

"(i) to make grants to promote the purposes of the program under this subsection;

"(ii) to provide technical support to State and local governments or other public or private entities involved in implementing or considering FAST lane programs; and

"(iii) to conduct research on variable pricing that will support State or local efforts to initiate those pricing requirements.

"(E) EFFECT ON OTHER APPORTIONMENTS AND ALLOCATIONS.—Revenues collected from tolls established under this subsection shall not be taken into account in determining the apportionments and allocations that any State or transportation district within a State shall be entitled to receive under or in accordance with this chapter.

"(9) COMPLIANCE.—The Secretary shall ensure that any project or activity carried out under this section complies with requirements under section 106 of this title and section 307 of title 49.

"(10) VOLUNTARY USE.—Nothing in this subsection requires any highway user to use a FAST lane.

"(11) ENVIRONMENTAL REQUIREMENTS.—Nothing in this subsection affects any environmental requirement applicable to the construction or operation of an eligible toll facility under this title or any other provision of law.".

(c) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 1012 of the Intermodal Surface Transportation Efficiency Act (23 U.S.C. 149 note; 105 Stat. 1938; 112 Stat. 211) is amended by striking subsection (b).

(2) CONTINUATION OF PROGRAM.—Notwithstanding the amendment made by paragraph (1), the Secretary shall monitor and allow any value pricing program established under a cooperative agreement in effect on the day before the date of enactment of this Act to continue.

SEC. 1610. FEDERAL REFERENCE METHOD.

(a) IN GENERAL.—Section 6102 of the Transportation Equity Act for the 21st Century (42 U.S.C. 7407 note; 112 Stat. 464) is amended by striking subsection (e) and inserting the following:

"(e) FIELD STUDY.—Not later than 2 years after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, the Administrator shall—

"(1) conduct a field study of the ability of the $PM_{2.5}$ Federal Reference Method to differentiate those particles that are larger than 2.5 micrometers in diameter;

"(2) develop a Federal reference method to measure directly particles that are larger than 2.5 micrometers in diameter without reliance on subtracting from coarse particle measurements those particles that are equal to or smaller than 2.5 micrometers in diameter;

"(3) develop a method of measuring the composition of coarse particles; and

"(4) submit a report on the study and responsibilities of the Administrator under paragraphs (1) through (3) to—

"(A) the Committee on Commerce of the House of Representatives; and

"(B) the Committee on Environment and Public Works of the Senate.".

SEC. 1611. ADDITION OF PARTICULATE MATTER AREAS TO CMAQ.

Section 104(b)(2) of title 23, United States Code, is amended—

(1) in subparagraph (B)—

(A) in the matter preceding clause (i), by striking "ozone or carbon monoxide" and inserting "ozone, carbon monoxide, or fine particulate matter ($PM_{2.5}$)";

(B) by striking clause (i) and inserting the following:

"(i) 1.0, if at the time of apportionment, the area is a maintenance area;";

(C) in clause (vi), by striking "or" after the semicolon; and

(D) in clause (vii)—

(i) by striking "area as described in section 149(b) for ozone," and inserting "area for ozone (as described in section 149(b) or for PM–2.5"; and

(ii) by striking the period at the end and inserting a semicolon;

(2) by adding at the end the following:

"(viii) 1.0 if, at the time of apportionment, any county that is not designated as a nonattainment or maintenance area under the 1-hour ozone standard is designated as nonattainment under the 8-hour ozone standard; or

"(ix) 1.2 if, at the time of apportionment, the area is not a nonattainment or maintenance area as described in section 149(b) for ozone or carbon monoxide, but is an area designated nonattainment under the PM–2.5 standard.";

(3) by striking subparagraph (C) and inserting the following:

"(C) ADDITIONAL ADJUSTMENT FOR CARBON MONOXIDE AREAS.—If, in addition to being designated as a nonattainment or maintenance area for ozone as described in section 149(b), any county within the area was also classified under subpart 3 of part D of title I of the Clean Air Act (42 U.S.C. 7512 et seq.) as a nonattainment or maintenance area described in section 149(b) for carbon monoxide, the weighted nonattainment or maintenance area population of the county, as determined under clauses (i) through (vi) or clause (viii) of subparagraph (B), shall be further multiplied by a factor of 1.2.";

(4) by redesignating subparagraph (D) and (E) as subparagraphs (E) and (F) respectively; and

(5) by inserting after subparagraph (C) the following:

"(D) ADDITIONAL ADJUSTMENT FOR PM 2.5 AREAS.—If, in addition to being designated as a nonattainment or maintenance area for ozone or carbon monoxide, or both as described in section 149(b), any county within the area was also designated under the PM–2.5 standard as a nonattainment or maintenance area, the weighted nonattainment or maintenance area population of those counties shall be further multiplied by a factor of 1.2.".

SEC. 1612. ADDITION TO CMAQ-ELIGIBLE PROJECTS.

(a) ELIGIBLE PROJECTS.—Section 149(b) of title 23, United States Code, is amended—

(1) in paragraph (4), by striking "or" at the end;

(2) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(6) if the project or program is for the purchase of alternative fuel (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)) or biodiesel; or

"(7) if the project or program involves the purchase of integrated, interoperable emergency communications equipment.".

(b) STATES RECEIVING MINIMUM APPORTIONMENT.—Section 149(c) of title 23, United States Code, is amended—

(1) in paragraph (1), by striking "for any project eligible under the surface transportation program under section 133." and inserting the following: "for any project in the State that—

"(A) would otherwise be eligible under this section as if the project were carried out in a nonattainment or maintenance area; or

"(B) is eligible under the surface transportation program under section 133."; and

(2) in paragraph (2), by striking "for any project in the State eligible under section 133." and inserting the following: "for any project in the State that—

"(A) would otherwise be eligible under this section as if the project were carried out in a nonattainment or maintenance area; or

"(B) is eligible under the surface transportation program under section 133.".

(c) RESPONSIBILITY OF STATES.—

(1) IN GENERAL.—Each State shall be responsible for ensuring that subrecipients of Federal funds within the State under section 149 of title 23, United States Code, have emission reduction strategies for fleets that are—

(A) used in construction projects located in nonattainment and maintenance areas; and

(B) funded under title 23, United States Code.

(2) EMISSION REDUCTION STRATEGIES.—The Administrator of the Environmental Protection Agency, in consultation with the Secretary, shall develop a nonbinding list of emission reduction strategies and supporting technical information for each strategy, including—

(A) contract preferences;

(B) requirements for the use of anti-idling equipment;

(C) diesel retrofits; and

(D) such other matters as the Administrator of the Environmental Protection Agency, in consultation with the Secretary, determine to be appropriate.

(3) USE OF CMAQ FUNDS.—A State may use funds made available under this title and title 23, United States Code, for the congestion mitigation and air quality program under section 149 of title 23, United States Code, to ensure the deployment of the emission reduction strategies described in paragraph (1).

SEC. 1613. IMPROVED INTERAGENCY CONSULTATION.

Section 149 of title 23, United States Code, is amended by adding at the end the following:

"(g) INTERAGENCY CONSULTATION.—The Secretary shall encourage States and metropolitan planning organizations to consult with State and local air quality agencies in nonattainment and maintenance areas on the estimated emission reductions from proposed congestion mitigation and air quality improvement programs and projects.".

SEC. 1614. EVALUATION AND ASSESSMENT OF CMAQ PROJECTS.

Section 149 of title 23, United States Code, is amended by adding at the end the following:

"(h) EVALUATION AND ASSESSMENT OF PROJECTS.—

"(1) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall evaluate and assess a representative sample of projects funded under the congestion mitigation and air quality program to—

"(A) determine the direct and indirect impact of the projects on air quality and congestion levels; and

"(B) ensure the effective implementation of the program.

"(2) DATABASE.—Using appropriate assessments of projects funded under the congestion mitigation and air quality program and results from other research, the Secretary shall maintain and disseminate a cumulative database describing the impacts of the projects.

"(3) CONSIDERATION.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall consider the recommendations and findings of the report submitted to Congress under section 1110(e) of the Transportation Equity Act for the 21st Century (112 Stat. 144), including recommendations and findings that would improve the operation and evaluation of the congestion mitigation and air quality improvement program under section 149.".

SEC. 1615. SYNCHRONIZED PLANNING AND CONFORMITY TIMELINES, REQUIREMENTS, AND HORIZON.

(a) METROPOLITAN PLANNING.—

(1) DEVELOPMENT OF LONG-RANGE TRANSPORTATION PLAN.—Section 134(g)(1) of title 23, United States Code, is amended by striking "periodically, according to a schedule that the Secretary determines to be appropriate," and inserting "every 4 years (or more frequently, in a case in which the metropolitan planning organization elects to update a transportation plan more frequently) in areas designated as nonattainment, as defined in section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)), and in areas that were nonattainment that have been redesignated to attainment in accordance with section 107(d)(3) of that Act (42 U.S.C. 7407(d)(3)), with a maintenance plan under section 175A of that Act (42 U.S.C. 7505a), or every 5 years (or more frequently, in a case in which the metropolitan planning organization elects to update a transportation plan more frequently) in areas designated as attainment (as defined in section 107(d) of that Act (42 U.S.C. 7407(d)))".

(2) METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM.—Section 134(h) of title 23, United States Code, is amended—

(A) in paragraph (1)(D), by striking "2 years" and inserting "4 years"; and

(B) in paragraph (2)(A), by striking "3-year" and inserting "4-year".

(3) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.—Section 135(f)(1)(A) of title 23, United States Code, is amended by inserting after "program" the following: "(which program shall cover a period of 4 years and be updated every 4 years)".

(4) FINAL REGULATIONS.—Not later than 18 months after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, the Secretary shall promulgate regulations that are consistent with the amendments made by this subsection.

(b) SYNCHRONIZED CONFORMITY DETERMINATION.—Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) is amended—

(1) in paragraph (2)—

(A) by striking "(2) Any transportation plan" and inserting the following:

"(2) TRANSPORTATION PLANS AND PROGRAMS.—Any transportation plan";

(B) in subparagraph (C)(iii), by striking the period at the end and inserting a semicolon;

(C) in subparagraph (D)—

(i) by striking "Any project" and inserting "any transportation project"; and

(ii) by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following:

"(E) the appropriate metropolitan planning organization shall redetermine conformity of existing transportation plans and programs not later than 2 years after the date on which the Administrator—

"(i) finds a motor vehicle emissions budget to be adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2003);

"(ii) approves an implementation plan that establishes a motor vehicle emissions budget, if that budget has not yet been used in a conformity determination prior to approval; or

"(iii) promulgates an implementation plan that establishes or revises a motor vehicle emissions budget.";

(2) in paragraph (4)(B)(ii), by striking "but in no case shall such determinations for transportation plans and programs be less frequent than every 3 years; and" and inserting "but the frequency for making conformity determinations on updated transportation plans and programs shall be every 4 years, except in a case in which—

"(I) the metropolitan planning organization elects to update a transportation plan or program more frequently; or

"(II) the metropolitan planning organization is required to determine conformity in accordance with paragraph (2)(E); and";

(3) in paragraph (4)(B)—

(A) in clause (ii), by striking "and" at the end;

(B) in clause (iii), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(iv) address the effects of the most recent population, economic, employment, travel, transit ridership, congestion, and induced travel demand information in the development and application of the latest travel and emissions models.";

(4) by adding at the end the following:

"(7) CONFORMITY HORIZON FOR TRANSPORTATION PLANS.—

"(A) IN GENERAL.—For the purposes of this section, a transportation plan in a nonattainment or maintenance area shall be considered to be a transportation plan or a portion of a transportation plan that extends for the longest of the following periods:

"(i) The first 10-year period of any such transportation plan.

"(ii) The latest year in the implementation plan applicable to the area that contains a motor vehicle emission budget.

"(iii) The year after the completion date of a regionally significant project, if the project requires approval before the subsequent conformity determination.

"(B) EXCEPTION.—In a case in which an area has a revision to an implementation plan under section 175A(b) and the Administrator has found the motor vehicle emissions budgets from that revision to be adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2003), or has approved the revision, the transportation plan shall be considered to be a transportation plan or portion of a transportation plan that extends through the last year of the implementation plan required under section 175A(b).

"(8) DEFINITIONS.—In this subsection:

"(A) REGIONALLY SIGNIFICANT PROJECT.—

"(i) IN GENERAL.—The term 'regionally significant project' means a transportation project that is on a facility that serves a regional transportation need, including—

"(I) access to and from the area outside of the region;

"(II) access to and from major planned developments, including new retail malls, sports complexes, or transportation terminals; and

"(III) most transportation terminals.

"(ii) PRINCIPAL ARTERIALS AND FIXED GUIDEWAYS.—The term 'regionally significant project' includes, at a minimum—

"(I) all principal arterial highways; and

"(II) all fixed guideway transit facilities that offer an alternative to regional highway travel.

"(iii) ADDITIONAL PROJECTS.—The interagency consultation process and procedures described in section 93.105(c) of title 40, Code of Federal Regulations (as in effect on October 1, 2003), shall be used to make determinations as to whether minor arterial highways and other transportation projects should be considered 'regionally significant projects'.

"(iv) EXCLUSIONS.—The term 'regionally significant project' does not include any project of a type listed in sections 93.126 or 127 of title 40, Code of Federal Regulations (as in effect on October 1, 2003).

"(B) SIGNIFICANT REVISION.—The term 'significant revision' means—

"(i) with respect to a regionally significant project, a significant change in design concept or scope to the project; and

"(ii) with respect to any other kind of project, a change that converts a project that is not a regionally significant project into a regionally significant project.

"(C) TRANSPORTATION PROJECT.—The term 'transportation project' includes only a project that is—

"(i) a regionally significant project; or

"(ii) a project that makes a significant revision to an existing project."; and

(5) in the matter following paragraph (3)(B), by inserting "transportation" before "project" each place it appears.

SEC. 1616. TRANSITION TO NEW AIR QUALITY STANDARDS.

Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) is amended by striking paragraph (3) and inserting the following:

"(3) METHODS OF CONFORMITY DETERMINATION BEFORE BUDGET IS AVAILABLE.—

"(A) IN GENERAL.—Until such time as a motor vehicle emission budget from an implementation plan submitted for a national ambient air quality standard is determined to be adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2003), or the submitted implementation plan is approved, conformity of such a plan, program, or project shall be demonstrated, in accordance with clauses (i) and (ii) and as selected through the consultation process required under paragraph (4)(D)(i), with—

"(i) a motor vehicle emission budget that has been found adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2003), or that has been approved, from an implementation plan for the most recent prior applicable national ambient air quality standard addressing the same pollutant; or

"(ii) other such tests as the Administrator shall determine to ensure that—

"(I) the transportation plan or program—

"(aa) is consistent with the most recent estimates of mobile source emissions;

"(bb) provides for the expeditious implementation of transportation control measures in the applicable implementation plan; and

"(cc) with respect to an ozone or carbon monoxide nonattainment area, contributes to annual emissions reductions consistent with sections 182(b)(1) and 187(a)(7); and

"(II) the transportation project—

"(aa) comes from a conforming transportation plan and program described in this subparagraph; and

"(bb) in a carbon monoxide nonattainment area, eliminates or reduces the severity and number of violations of the carbon monoxide standards in the area substantially affected by the project.

"(B) DETERMINATION FOR A TRANSPORTATION PROJECT IN A CARBON MONOXIDE NONATTAINMENT AREA.—A determination under subparagraph (A)(ii)(II)(bb) may be made as part of either the conformity determination for the transportation program or for the individual project taken as a whole during the environmental review phase of project development.".

SEC. 1617. REDUCED BARRIERS TO AIR QUALITY IMPROVEMENTS.

Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) (as amended by section 1615(b)(4)) is amended—

(1) by redesignating paragraph (8) as paragraph (9); and

(2) by inserting after paragraph (7) the following:

"(8) SUBSTITUTION FOR TRANSPORTATION CONTROL MEASURES.—

"(A) IN GENERAL.—Transportation control measures that are specified in an implementation plan may be replaced or added to the implementation plan with alternate or additional transportation control measures if—

"(i) the substitute measures achieve equivalent or greater emissions reductions than the control measure to be replaced, as demonstrated with an analysis that is consistent with the current methodology used for evaluating the replaced control measure in the implementation plan;

"(ii) the substitute control measures are implemented—

"(I) in accordance with a schedule that is consistent with the schedule provided for control measures in the implementation plan; or

"(II) if the implementation plan date for implementation of the control measure to be replaced has passed, as soon as practicable after the implementation plan date but not later than the date on which emission reductions are necessary to achieve the purpose of the implementation plan;

"(iii) the substitute and additional control measures are accompanied with evidence of adequate personnel, funding, and authority under State or local law to implement, monitor, and enforce the control measures;

"(iv) the substitute and additional control measures were developed through a collaborative process that included—

"(I) participation by representatives of all affected jurisdictions (including local air pollution control agencies, the State air pollution control agency, and State and local transportation agencies);

"(II) consultation with the Administrator; and

"(III) reasonable public notice and opportunity for comment; and

"(v) the metropolitan planning organization, State air pollution control agency, and the Administrator concur with the equivalency of the substitute or additional control measures.

"(B) ADOPTION.—After carrying out subparagraph (A), a State shall adopt the substitute or additional transportation control measure in the applicable implementation plan.

"(C) NO REQUIREMENT FOR EXPRESS PERMISSION.—The substitution or addition of a transportation control measure in accordance with this paragraph shall not be contingent on there being any provision in the implementation plan that expressly permits such a substitution or addition.

"(D) NO REQUIREMENT FOR NEW CONFORMITY DETERMINATION.—The substitution or addition of a transportation control measure in accordance with this paragraph shall not require—

"(i) a new conformity determination for the transportation plan; or

"(ii) a revision of the implementation plan.

"(E) CONTINUATION OF CONTROL MEASURE BEING REPLACED.—A control measure that is being replaced by a substitute control measure under this paragraph shall remain in effect until the substitute control measure is adopted by the State pursuant to subparagraph (B).

"(F) EFFECT OF ADOPTION.—Adoption of a substitute control measure shall constitute rescission of the previously applicable control measure.".

SEC. 1618. AIR QUALITY MONITORING DATA INFLUENCED BY EXCEPTIONAL EVENTS.

(a) IN GENERAL.—Section 319 of the Clean Air Act (42 U.S.C. 7619) is amended—

(1) by striking the section heading and all that follows through "after notice and opportunity for public hearing" and inserting the following:

"SEC. 319. AIR QUALITY MONITORING.

"(a) IN GENERAL.—After notice and opportunity for public hearing"; and

(2) by adding at the end the following:

"(b) AIR QUALITY MONITORING DATA INFLUENCED BY EXCEPTIONAL EVENTS.—

"(1) DEFINITION OF EXCEPTIONAL EVENT.—In this section:

"(A) IN GENERAL.—The term 'exceptional event' means an event that—

"(i) affects air quality;

"(ii) is not reasonably controllable or preventable;

"(iii) is—

"(I) a natural event; or

"(II) an event caused by human activity that is unlikely to recur at a particular location; and

"(iv) is determined by the Administrator through the process established in the regulations promulgated under paragraph (2) to be an exceptional event.

"(B) EXCLUSIONS.—The term 'exceptional event' does not include—

"(i) stagnation of air masses or meteorological inversions;

"(ii) a meteorological event involving high temperatures or lack of precipitation; or

"(iii) air pollution relating to source noncompliance.

"(2) REGULATIONS.—

"(A) PROPOSED REGULATIONS.—Not later than March 1, 2005, after consultation with Federal land managers and State air pollution control agencies, the Administrator shall publish in the Federal Register proposed regulations governing the review and handling of air quality monitoring data influenced by exceptional events.

"(B) FINAL REGULATIONS.—Not later than 1 year after the date on which the Administrator publishes proposed regulations under subparagraph (A), and after providing an opportunity for interested persons to make oral presentations of views, data, and arguments regarding the proposed regulations, the Administrator shall promulgate final regulations governing the review and handling or air quality monitoring data influenced by an exceptional event that are consistent with paragraph (3).

"(3) PRINCIPLES AND REQUIREMENTS.—

"(A) PRINCIPLES.—In promulgating regulations under this section, the Administrator shall follow—

"(i) the principle that protection of public health is the highest priority;

"(ii) the principle that timely information should be provided to the public in any case in which the air quality is unhealthy;

"(iii) the principle that all ambient air quality data should be included in a timely manner, an appropriate Federal air quality database that is accessible to the public;

"(iv) the principle that each State must take necessary measures to safeguard public health regardless of the source of the air pollution; and

"(v) the principle that air quality data should be carefully screened to ensure that events not likely to recur are represented accurately in all monitoring data and analyses.

"(B) REQUIREMENTS.—Regulations promulgated under this section shall, at a minimum, provide that—

"(i) the occurrence of an exceptional event must be demonstrated by reliable, accurate data that is promptly produced and provided by Federal, State, or local government agencies;

"(ii) a clear causal relationship must exist between the measured exceedances of a national ambient air quality standard and the exceptional event to demonstrate that the exceptional event caused a specific air pollution concentration at a particular air quality monitoring location;

"(iii) there is a public process for determining whether an event is exceptional; and

"(iv) there are criteria and procedures for the Governor of a State to petition the Administrator to exclude air quality monitoring data that is directly due to exceptional events from use in determinations by the Environmental Protection Agency with respect to exceedances or violations of the national ambient air quality standards.

"(4) INTERIM PROVISION.—Until the effective date of a regulation promulgated under paragraph (2), the following guidance issued by the Administrator shall continue to apply:

"(A) Guidance on the identification and use of air quality data affected by exceptional events (July 1986).

"(B) Areas affected by PM–10 natural events, May 30, 1996.

"(C) Appendices I, K, and N to part 50 of title 40, Code of Federal Regulations.".

SEC. 1619. CONFORMING AMENDMENTS.

Section 176(c)(4) of the Clean Air Act (42 U.S.C. 7506(c)(4) is amended—

(1) by redesignating subparagraphs (B) through (D) as subparagraphs (D) through (F), respectively;

(2) by striking "(4)(A) No later than one year after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate" and inserting the following:

"(4) CRITERIA AND PROCEDURES FOR DETERMINING CONFORMITY.—

"(A) IN GENERAL.—The Administrator shall promulgate, and periodically update,";

(3) in subparagraph (A)—

(A) in the second sentence, by striking "No later than one year after such date of enactment, the Administrator, with the concurrence of the Secretary of Transportation, shall promulgate" and inserting the following:

"(B) TRANSPORTATION PLANS, PROGRAMS, AND PROJECTS.—The Administrator, with the concurrence of the Secretary of Transportation, shall promulgate, and periodically update,"; and

(B) in the third sentence, by striking "A suit" and inserting the following:

"(C) CIVIL ACTION TO COMPEL PROMULGATION.—A civil action"; and

(4) by striking subparagraph (E) (as redesignated by paragraph (1)) and inserting the following:

"(E) INCLUSION OF CRITERIA AND PROCEDURES IN SIP.—Not later than 2 years after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, the procedures under subparagraph (A) shall include a requirement that each State include in the State implementation plan criteria and procedures for consultation in accordance with the Administrator's criteria and procedures for consultation required by subparagraph (D)(i).".

SEC. 1620. HIGHWAY STORMWATER DISCHARGE MITIGATION PROGRAM.

(a) HIGHWAY STORMWATER MITIGATION PROJECTS.—Section 133(d) of title 23, United States Code (as amended by section 1401(a)(2)(B)), is amended by adding at the end the following:

"(5) HIGHWAY STORMWATER DISCHARGE MITIGATION PROJECTS.—Of the amount apportioned to a State under section 104(b)(3) for a fiscal year, 2 percent shall be available only for projects and activities carried out under section 167.".

(b) HIGHWAY STORMWATER DISCHARGE MITIGATION PROGRAM.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1601(a)), is amended by adding at the end the following:

"§ 167. Highway stormwater discharge mitigation program

"(a) DEFINITIONS.—In this section:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(2) ELIGIBLE MITIGATION PROJECT.—The term 'eligible mitigation project' means a practice or technique that—

"(A) improves stormwater discharge water quality;

"(B) attains preconstruction hydrology;

"(C) promotes infiltration of stormwater into groundwater;

"(D) recharges groundwater;

"(E) minimizes stream bank erosion;

"(F) promotes natural filters;

"(G) otherwise mitigates water quality impacts of highway stormwater discharges, improves surface water quality, or enhances groundwater recharge; or

"(H) reduces flooding caused by highway stormwater discharge.

"(3) FEDERAL-AID HIGHWAY AND ASSOCIATED FACILITY.—The term 'Federal-aid highway and associated facility' means—

"(A) a Federal-aid highway; or

"(B) a facility or land owned by a State (or political subdivision of a State) that is directly associated with the Federal-aid highway.

"(4) HIGHWAY STORMWATER DISCHARGE.—The term 'highway stormwater discharge' means stormwater discharge from a Federal-aid highway, or a Federal-aid highway and associated facility, that was constructed before the date of enactment of this section.

"(5) HIGHWAY STORMWATER DISCHARGE MITIGATION.—The term 'highway stormwater discharge mitigation' means—

"(A) the reduction of water quality impacts of stormwater discharges from Federal-aid highways or Federal-aid highways and associated facilities; or

"(B) the enhancement of groundwater recharge from stormwater discharges from Federal-aid highways or Federal-aid highways and associated facilities.

"(6) PROGRAM.—The term 'program' means the highway stormwater discharge mitigation program established under subsection (b).

"(b) ESTABLISHMENT.—The Secretary shall establish a highway stormwater discharge mitigation program—

"(1) to improve the quality of stormwater discharge from Federal-aid highways or Federal-aid highways and associated facilities; and

"(2) to enhance groundwater recharge.

"(c) PRIORITY OF PROJECTS.—For projects funded from the allocation under section 133(d)(6), a State shall give priority to projects sponsored by a State or local government that assist the State or local government in complying with the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

"(d) GUIDANCE.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary, in consultation with the Administrator, shall issue guidance to assist States in carrying out this section.

"(2) REQUIREMENTS FOR GUIDANCE.—The guidance issued under paragraph (1) shall include information concerning innovative technologies and nonstructural best management practices to mitigate highway stormwater discharges.".

(c) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1601(b), is amended by inserting after the item relating to section 166 the following:

"167. Highway stormwater discharge mitigation program.".

SEC. 1621. EXEMPTION FROM CERTAIN HAZARDOUS MATERIALS TRANSPORTATION REQUIREMENTS.

(a) DEFINITION OF ELIGIBLE PERSON.—In this section, the term "eligible person" means an agricultural producer that has gross agricultural commodity sales that do not exceed $500,000.

(b) EXEMPTION.—Subject to subsection (c), part 172 of title 49, Code of Federal Regulations, shall not apply to an eligible person that transports a fertilizer, pesticide, propane, gasoline, or diesel fuel for agricultural purposes, to the extent determined by the Secretary.

(c) APPLICABILITY.—Subsection (b) applies to security plan requirements under subpart I of part 172 of title 49, Code of Federal Regulations (or a successor regulation).

SEC. 1622. FUNDS FOR REBUILDING FISH STOCKS.

Section 105 of the Miscellaneous Appropriations and Offsets Act, 2004 (Division H of the Consolidated Appropriations Act, 2004 (Public Law 108–199)) is repealed.

Subtitle G—Operations

SEC. 1701. TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.

(a) SURFACE TRANSPORTATION PROGRAM ELIGIBILITY.—Section 133(b) of title 23, United States Code (as amended by section 1601(a)(2)), is amended by adding at the end the following:

"(16) Regional transportation operations collaboration and coordination activities that are associated with regional improvements, such as traffic incident management, technology deployment, emergency management and response, traveler information, and regional congestion relief.

"(17) RUSH HOUR CONGESTION RELIEF.—

"(A) IN GENERAL.—Subject to subparagraph (B), a State may spend the funds apportioned under this section to reduce traffic delays caused by motor vehicle accidents and breakdowns on highways during peak driving times.

"(B) USE OF FUNDS.—A State, metropolitan planning organization, or local government may use the funds under subparagraph (A)—

"(i) to develop a region-wide coordinated plan to mitigate traffic delays caused by motor vehicle accidents and breakdowns;

"(ii) to purchase or lease telecommunications equipment for first responders;

"(iii) to purchase or lease towing and recovery services;

"(iv) to pay contractors for towing and recovery;

"(v) to rent vehicle storage areas adjacent to roadways;

"(vi) to fund service patrols, equipment, and operations;

"(vii) to purchase incident detection equipment;

"(viii) to carry out training.".

(b) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM ELIGIBILITY.—Section 149(b)(5) of title 23, United States Code, is amended by inserting "improve transportation systems management and operations," after "intersections,".

(c) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—

(1) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1620(b)), is amended by adding at the end the following:

"§ 168. Transportation systems management and operations

"(a) IN GENERAL.—The Secretary shall carry out a transportation systems management and operations program to—

"(1) ensure efficient and effective transportation systems management and operations on Federal-aid highways through collaboration, coordination, and real-time information sharing at a regional and Statewide level among—

"(A) managers and operators of major modes of transportation;

"(B) public safety officials; and

"(C) the general public; and

"(2) manage and operate Federal-aid highways in a coordinated manner to preserve the capacity and maximize the performance of highway and transit facilities for travelers and carriers.

"(b) AUTHORIZED ACTIVITIES.—

"(1) IN GENERAL.—In carrying out the program under subsection (a), the Secretary may carry out activities to—

"(A) encourage managers and operators of major modes of transportation, public safety officials, and transportation planners in urbanized areas that are responsible for conducting the day-to-day management, operations, public safety, and planning of transportation facilities and services to collaborate on and coordinate, on a regional level and in a continuous and sustained manner, improved transportation systems management and operations; and

"(B) encourage States to—

"(i) establish a system of basic real-time monitoring for the surface transportation system; and

"(ii) provide the means to share the data gathered under clause (i) among—

"(I) highway, transit, and public safety agencies;

"(II) jurisdictions (including States, cities, counties, and metropolitan planning organizations);

"(III) private-sector entities; and

"(IV) the general public.

"(2) ACTIVITIES.—Activities to be carried out under paragraph (1) include—

"(A) developing a regional concept of operations that defines a regional strategy shared by all transportation and public safety participants with respect to the manner in which the transportation systems of the region should be managed, operated, and measured;

"(B) the sharing of information among operators, service providers, public safety officials, and the general public; and

"(C) guiding, in a regionally-coordinated manner and in a manner consistent with and integrated into the metropolitan and statewide transportation planning processes and regional intelligent transportation system architecture, the implementation of regional transportation system management and operations initiatives, including—

"(i) emergency evacuation and response;

"(ii) traffic incident management;

"(iii) technology deployment; and

"(iv) traveler information systems delivery.

"(c) COOPERATION.—In carrying out the program under subsection (a), the Secretary may assist and cooperate with other Federal agencies, State and local governments, metropolitan planning organizations, private industry, and other interested parties to improve regional collaboration and real-time information sharing between managers and operators of major modes of transportation, public safety officials, emergency managers, and the general public to increase the security, safety, and reliability of Federal-aid highways.

"(d) GUIDANCE; REGULATIONS.—

"(1) IN GENERAL.—In carrying out the program under subsection (a), the Secretary may issue guidance or promulgate regulations for the procurement of transportation system management and operations facilities, equipment, and services, including—

"(A) equipment procured in preparation for natural disasters, disasters caused by human activity, and emergencies;

"(B) system hardware;

"(C) software; and

"(D) software integration services.

"(2) CONSIDERATIONS.—In developing the guidance or regulations under paragraph (1), the Secretary may consider innovative procurement methods that support the timely and streamlined execution of transportation system management and operations programs and projects.

"(3) FINANCIAL ASSISTANCE.—The Secretary may authorize the use of funds made available under section 104(b)(3) to provide assistance for regional operations collaboration and coordination activities that are associated with regional improvements, such as—

"(A) traffic incident management;

"(B) technology deployment;

"(C) emergency management and response;

"(D) traveler information; and

"(E) congestion relief.".

(2) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1620(c)), is amended by adding at the end:

"168. Transportation systems management and operations.".

SEC. 1702. REAL-TIME SYSTEM MANAGEMENT INFORMATION PROGRAM.

(a) In General.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1701(c)(1)), is amended by adding at the end the following:

"§ 169. Real-time system management information program

"(a) In General.—The Secretary shall carry out a real-time system management information program to—

"(1) provide a nationwide system of basic real-time information for managing and operating the surface transportation system;

"(2)(A) identify long-range real-time highway and transit monitoring needs; and

"(B) develop plans and strategies for meeting those needs;

"(3) provide the capability and means to share the basic real-time information with State and local governments and the traveling public; and

"(4) provide the nationwide capability to monitor, in real-time, the traffic and travel conditions of major highways in the United States, and to share that information with State and local governments and the traveling public, to—

"(A) improve the security of the surface transportation system;

"(B) address congestion problems;

"(C) support improved response to weather events; and

"(D) facilitate the distribution of national and regional traveler information.

"(b) Data Exchange Formats.—Not later than 1 year after the date of enactment of this section, the Secretary shall establish data exchange formats to ensure that the data provided by highway and transit monitoring systems (including statewide incident reporting systems) can readily be exchanged between jurisdictions to facilitate the nationwide availability of information on traffic and travel conditions.

"(c) Statewide Incident Reporting System.—Not later than 2 years after the date of enactment of this section, or not later than 5 years after the date of enactment of this section if the Secretary determines that adequate real-time communications capability will not be available within 2 years after the date of enactment of this section, each State shall establish a statewide incident reporting system to facilitate the real-time electronic reporting of highway and transit incidents to a central location for use in—

"(1) monitoring an incident;

"(2) providing accurate traveler information on the incident; and

"(3) responding to the incident as appropriate.

"(d) Regional ITS Architecture.—

"(1) In general.—In developing or updating regional intelligent transportation system architectures under section 940.9 of title 23, Code of Federal Regulations (or any successor regulation), States and local governments shall address—

"(A) the real-time highway and transit information needs of the State or local government, including coverage, monitoring systems, data fusion and archiving, and methods of exchanging or sharing information; and

"(B) the systems needed to meet those needs.

"(2) Data exchange formats.—In developing or updating regional intelligent transportation system architectures, States and local governments are encouraged to incorporate the data exchange formats developed by the Secretary under subsection (b) to ensure that the data provided by highway and transit monitoring systems can readily be—

"(A) exchanged between jurisdictions; and

"(B) shared with the traveling public.

"(e) Eligible Funding.—Subject to project approval by the Secretary, a State may—

"(1) use funds available to the State under section 505(a) to carry out activities relating to the planning of real-time monitoring elements; and

"(2) use funds apportioned to the State under paragraphs (1) and (3) of section 104(b) to carry out activities relating to the planning and deployment of real-time monitoring elements.".

(b) Conforming Amendment.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1701(c)(2)), is amended adding at the end the following:

"169. Real-time system management information program.".

SEC. 1703. CONTRACTING FOR ENGINEERING AND DESIGN SERVICES.

Section 112(b)(2) of title 23, United States Code, is amended—

(1) in subparagraph (A), by striking "title 40" and all that follows through the period and inserting "title 40.";

(2) by striking subparagraph (B);

(3) by redesignating subparagraphs (C) through (F) as subparagraphs (B) through (E), respectively; and

(4) by striking subparagraph (G).

SEC. 1704. OFF-DUTY TIME FOR DRIVERS OF COMMERCIAL VEHICLES.

Section 345(a)(2) of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note; 109 Stat. 613) is amended by adding at the end the following: "No additional off-duty time for a driver of such a vehicle shall be required in order for the driver to operate the vehicle.".

SEC. 1705. DESIGNATION OF TRANSPORTATION MANAGEMENT AREAS.

(a) Funding.—Section 134(d)(3)(C)(ii) of title 23, United States Code, is amended by striking subclause (II) and inserting the following:

"(II) Funding.—In addition to funds made available to the metropolitan planning organization for the Lake Tahoe Region under this title and chapter 53 of title 49, 1 percent of all funds distributed under section 202 shall be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph.".

(b) Special Designation.—Section 134(i)(1) of title 23, United States Code, is amended by adding at the end the following:

"(C) Special designation.—

"(i) In general.—The urbanized areas of Oklahoma City, Oklahoma, and Norman, Oklahoma, shall be designated as a single transportation management area.

"(ii) Allocation.—The allocation of funds to the Oklahoma City-Norman Transportation Management Area designated under clause (i) shall be based on the aggregate population of the 2 urbanized areas referred to in that clause, as determined by the Bureau of the Census.".

Subtitle H—Federal-Aid Stewardship

SEC. 1801. FUTURE INTERSTATE SYSTEM ROUTES.

Section 103(c)(4)(B) of title 23, United States Code, is amended—

(1) in clause (ii), by striking "12" and inserting "25"; and

(2) in clause (iii)—

(A) in subclause (I), by striking "in the agreement between the Secretary and the State or States"; and

(B) by adding at the end the following:

"(III) Existing agreements.—An agreement described in clause (ii) that is entered into before the date of enactment of this subparagraph shall be deemed to include the 25-year time limitation described in that clause, regardless of any earlier construction completion date in the agreement.".

SEC. 1802. STEWARDSHIP AND OVERSIGHT.

(a) In General.—Section 106 of title 23, United States Code, is amended—

(1) by striking subsection (e) and inserting the following:

"(e) Value Engineering Analysis.—

"(1) Definition of value engineering analysis.—

"(A) In general.—In this subsection, the term 'value engineering analysis' means a systematic process of review and analysis of a project, during the concept and design phases, by a multidisciplined team of persons not involved in the project, that is conducted to provide recommendations such as those described in subparagraph (B) for—

"(i) providing the needed functions safely, reliably, and at the lowest overall cost; and

"(ii) improving the value and quality of the project.

"(B) Inclusions.—The recommendations referred to in subparagraph (A) include, with respect to a project—

"(i) combining or eliminating otherwise inefficient use of costly parts of the original proposed design for the project; and

"(ii) completely redesigning the project using different technologies, materials, or methods so as to accomplish the original purpose of the project.

"(2) Analysis.—The State shall provide a value engineering analysis or other cost-reduction analysis for—

"(A) each project on the Federal-Aid System with an estimated total cost of $25,000,000 or more;

"(B) a bridge project with an estimated total cost of $20,000,000 or more; and

"(C) any other project the Secretary determines to be appropriate.

"(3) Major projects.—The Secretary may require more than 1 analysis described in paragraph (2) for a major project described in subsection (h).

"(4) Requirements.—Analyses described in paragraph (1) for a bridge project shall—

"(A) include bridge substructure requirements based on construction material; and

"(B) be evaluated—

"(i) on engineering and economic bases, taking into consideration acceptable designs for bridges; and

"(ii) using an analysis of life-cycle costs and duration of project construction."; and

(2) by striking subsections (g) and (h) and inserting the following:

"(g) Oversight Program.—

"(1) Program.—

"(A) In general.—The Secretary shall establish an oversight program to monitor the effective and efficient use of funds made available under this title.

"(B) Minimum requirements.—At a minimum, the program shall monitor and respond to all areas relating to financial integrity and project delivery.

"(2) Financial integrity.—

"(A) Financial management systems.—

"(i) In general.—The Secretary shall perform annual reviews of the financial management systems of State transportation departments that affect projects approved under subsection (a).

"(ii) Review areas.—In carrying out clause (i), the Secretary shall use risk assessment procedures to identify areas to be reviewed.

"(B) Project costs.—The Secretary shall—

"(i) develop minimum standards for estimating project costs; and

"(ii) periodically evaluate practices of the States for—

"(I) estimating project costs;

"(II) awarding contracts; and

"(III) reducing project costs.

"(C) Responsibility of the states.—

"(i) In general.—Each State shall be responsible for ensuring that subrecipients of Federal funds within the State under this section have—

"(I) sufficient accounting controls to properly manage the Federal funds; and

"(II) adequate project delivery systems for projects approved under this section.

"(ii) REVIEW BY SECRETARY.—The Secretary shall periodically review monitoring by the States of those subrecipients.

"(3) PROJECT DELIVERY.—The Secretary shall—

"(A) perform annual reviews of the project delivery system of each State, including analysis of 1 or more activities that are involved in the life cycle of a project; and

"(B) employ risk assessment procedures to identify areas to be reviewed.

"(4) SPECIFIC OVERSIGHT RESPONSIBILITIES.—Nothing in this section discharges or otherwise affects any oversight responsibility of the Secretary—

"(A) specifically provided for under this title or other Federal law; or

"(B) for the design and construction of all Appalachian development highways under section 14501 of title 40 or section 170 of this title.

"(h) MAJOR PROJECTS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, a recipient of Federal financial assistance for a project under this title with an estimated total cost of $1,000,000,000 or more, and recipients for such other projects as may be identified by the Secretary, shall submit to the Secretary for each project—

"(A) a project management plan; and

"(B) an annual financial plan.

"(2) PROJECT MANAGEMENT PLAN.—A project management plan shall document—

"(A) the procedures and processes that are in effect to provide timely information to the project decisionmakers to effectively manage the scope, costs, schedules, and quality of, and the Federal requirements applicable to, the project; and

"(B) the role of the agency leadership and management team in the delivery of the project.

"(3) FINANCIAL PLAN.—A financial plan shall—

"(A) be based on detailed estimates of the cost to complete the project; and

"(B) provide for the annual submission of updates to the Secretary that are based on reasonable assumptions, as determined by the Secretary, of future increases in the cost to complete the project.

"(i) OTHER PROJECTS.—A recipient of Federal financial assistance for a project under this title that receives $100,000,000 or more in Federal assistance for the project, and that is not covered by subsection (h), shall prepare, and make available to the Secretary at the request of the Secretary, an annual financial plan for the project.".

(b) CONFORMING AMENDMENTS.—

(1) Section 114(a) of title 23, United States Code, is amended—

(A) in the first sentence by striking "highways or portions of highways located on a Federal-aid system" and inserting "Federal-aid highway or a portion of a Federal-aid highway"; and

(B) by striking the second sentence and inserting "The Secretary shall have the right to conduct such inspections and take such corrective action as the Secretary determines to be appropriate.".

(2) Section 117 of title 23, United States Code, is amended—

(A) by striking subsection (d); and

(B) by redesignating subsections (e) through (h) as subsections (d) through (g), respectively.

(c) CONTRACTOR SUSPENSION AND DEBARMENT POLICY; SHARING FRAUD MONETARY RECOVERIES.—

(1) IN GENERAL.—Section 307 of title 49, United States Code, is amended to read as follows:

"§ 307. Contractor suspension and debarment policy; sharing fraud monetary recoveries

"(a) MANDATORY ENFORCEMENT POLICY.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary—

"(A) shall debar any contractor or subcontractor convicted of a criminal or civil offense involving fraud relating to a project receiving Federal highway or transit funds for such period as the Secretary determines to be appropriate; and

"(B) subject to approval by the Attorney General—

"(i) except as provided in paragraph (2), shall suspend any contractor or subcontractor upon indictment for criminal or civil offenses involving fraud; and

"(ii) may exclude nonaffiliated subsidiaries of a debarred business entity.

"(2) NATIONAL SECURITY EXCEPTION.—If the Secretary finds that mandatory debarment or suspension of a contractor or subcontractor under paragraph (1) would be contrary to the national security of the United States, the Secretary—

"(A) may waive the debarment or suspension; and

"(B) in the instance of each waiver, shall provide notification to Congress of the waiver with appropriate details.

"(b) SHARING OF MONETARY RECOVERIES.—

"(1) IN GENERAL.—Notwithstanding any other provision of law—

"(A) monetary judgments accruing to the Federal Government from judgments in Federal criminal prosecutions and civil judgments pertaining to fraud in highway and transit programs shall be shared with the State or local transit agency involved; and

"(B) the State or local transit agency shall use the funds for transportation infrastructure and oversight activities relating to programs authorized under title 23 and this title.

"(2) AMOUNT.—The amount of recovered funds to be shared with an affected State or local transit agency shall be—

"(A) determined by the Attorney General, in consultation with the Secretary; and

"(B) considered to be Federal funds to be used in compliance with other relevant Federal transportation laws (including regulations).

"(3) FRAUDULENT ACTIVITY.—Paragraph (1) shall not apply in any case in which a State or local transit agency is found by the Attorney General, in consultation with the Secretary, to have been involved or negligent with respect to the fraudulent activities.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 49, United States Code, is amended by striking the item relating to section 307 and inserting the following:

"307. Contractor suspension and debarment policy; sharing fraud monetary recoveries.".

SEC. 1803. DESIGN-BUILD CONTRACTING.

Section 112(b)(3) of title 23, United States Code, is amended by striking subparagraph (C) and inserting the following:

"(C) QUALIFIED PROJECTS.—A qualified project referred to in subparagraph (A) is a project under this chapter (including intermodal projects) for which the Secretary has approved the use of design-build contracting under criteria specified in regulations promulgated by the Secretary.".

SEC. 1804. PROGRAM EFFICIENCIES—FINANCE.

(a) ADVANCE CONSTRUCTION.—Section 115 of title 23, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d);

(2) by redesignating subsections (a)(2), (a)(2)(A), and (a)(2)(B) as subsections (c), (c)(1), and (c)(2), respectively, and indenting appropriately;

(3) by striking "(a) CONGESTION" and all that follows through subsection (a)(1)(B);

(4) by striking subsection (b); and

(5) by inserting after the section heading the following:

"(a) IN GENERAL.—The Secretary may authorize a State to proceed with a project authorized under this title—

"(1) without the use of Federal funds; and

"(2) in accordance with all procedures and requirements applicable to the project other than those procedures and requirements that limit the State to implementation of a project—

"(A) with the aid of Federal funds previously apportioned or allocated to the State; or

"(B) with obligation authority previously allocated to the State.

"(b) OBLIGATION OF FEDERAL SHARE.—The Secretary, on the request of a State and execution of a project agreement, may obligate all or a portion of the Federal share of the project authorized under this section from any category of funds for which the project is eligible.".

(b) OBLIGATION AND RELEASE OF FUNDS.—Section 118 of title 23, United States Code, is amended by striking subsection (d) and inserting the following:

"(d) OBLIGATION AND RELEASE OF FUNDS.—

"(1) IN GENERAL.—Funds apportioned or allocated to a State for a particular purpose for any fiscal year shall be considered to be obligated if a sum equal to the total of the funds apportioned or allocated to the State for that purpose for that fiscal year and previous fiscal years is obligated.

"(2) RELEASED FUNDS.—Any funds released by the final payment for a project, or by modifying the project agreement for a project, shall be—

"(A) credited to the same class of funds previously apportioned or allocated to the State; and

"(B) immediately available for obligation.

"(3) NET OBLIGATIONS.—Notwithstanding any other provision of law (including a regulation), obligations recorded against funds made available under this section shall be recorded and reported as net obligations.".

SEC. 1805. SET-ASIDES FOR INTERSTATE DISCRETIONARY PROJECTS.

Section 118(c)(1) of title 23, United States Code, is amended—

(1) by striking "$50,000,000" and all that follows through "2003" and inserting "$100,000,000 for each of fiscal years 2004 through 2009"; and

(2) by striking "Transportation Equity Act for the 21st Century" and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004".

SEC. 1806. FEDERAL LANDS HIGHWAYS PROGRAM.

(a) FEDERAL SHARE PAYABLE.—

(1) IN GENERAL.—Section 120(k) of title 23, United States Code, is amended—

(A) by striking "Federal-aid highway"; and

(B) by striking "section 104" and inserting "this title or chapter 53 of title 49".

(2) TECHNICAL REFERENCES.—Section 120(l) of title 23, United States Code, is amended by striking "section 104" and inserting "this title or chapter 53 of title 49".

(b) PAYMENTS TO FEDERAL AGENCIES FOR FEDERAL-AID PROJECTS.—Section 132 of title 23, United States Code, is amended—

(1) by striking the first 2 sentences and inserting the following:

"(a) IN GENERAL.—In a case in which a proposed Federal-aid project is to be undertaken by a Federal agency in accordance with an agreement between a State and the Federal agency, the State may—

"(1) direct the Secretary to transfer the funds for the Federal share of the project directly to the Federal agency; or

"(2) make such deposit with, or payment to, the Federal agency as is required to meet the obligation of the State under the agreement for the work undertaken or to be undertaken by the Federal agency.

"(b) REIMBURSEMENT.—On execution of a project agreement with a State described in subsection (a), the Secretary may reimburse the State, using any available funds, for the estimated Federal share under this title of the obligation of the State deposited or paid under subsection (a)(2)."; and

(2) in the last sentence, by striking "Any sums" and inserting the following:

"(c) RECOVERY AND CREDITING OF FUNDS.—Any sums".

(c) ALLOCATIONS.—Section 202 of title 23, United States Code, is amended—

(1) in subsection (a), by striking "(a) On October 1" and all that follows through "Such allocation" and inserting the following:

"(a) ALLOCATION BASED ON NEED.—

"(1) IN GENERAL.—On October 1 of each fiscal year, the Secretary shall allocate sums authorized to be appropriated for the fiscal year for forest development roads and trails according to the relative needs of the various national forests and grasslands.

"(2) PLANNING.—The allocation under paragraph (1)";

(2) by striking subsection (b) and inserting the following:

"(b) ALLOCATION FOR PUBLIC LANDS HIGHWAYS.—

"(1) PUBLIC LANDS HIGHWAYS.—

"(A) IN GENERAL.—On October 1 of each fiscal year, the Secretary shall allocate 33⅓ percent of the sums authorized to be appropriated for that fiscal year for public lands highways among those States having unappropriated or unreserved public lands, or nontaxable Indian lands or other Federal reservations, on the basis of need in the States, respectively, as determined by the Secretary, on application of the State transportation departments of the respective States.

"(B) PREFERENCE.—In making the allocation under subparagraph (A), the Secretary shall give preference to those projects that are significantly impacted by Federal land and resource management activities that are proposed by a State that contains at least 3 percent of the total public land in the United States.

"(2) FOREST HIGHWAYS.—

"(A) IN GENERAL.—On October 1 of each fiscal year, the Secretary shall allocate 66⅔ percent of the funds authorized to be appropriated for public lands highways for forest highways in accordance with section 134 of the Federal-Aid Highway Act of 1987 (23 U.S.C. 202 note; 101 Stat. 173).

"(B) PUBLIC ACCESS TO AND WITHIN NATIONAL FOREST SYSTEM.—In making the allocation under subparagraph (A), the Secretary shall give equal consideration to projects that provide access to and within the National Forest System, as identified by the Secretary of Agriculture through—

"(i) renewable resource and land use planning; and

"(ii) assessments of the impact of that planning on transportation facilities.";

(3) in subsection (c)—

(A) by striking "(c) On" and inserting the following:

"(c) PARK ROADS AND PARKWAYS.—

"(1) IN GENERAL.—On"; and

(B) by adding at the end the following:

"(2) PRIORITY.—

"(A) DEFINITION OF QUALIFYING NATIONAL PARK.—In this paragraph, the term "qualifying national park" means a National Park that is used more than 1,000,000 recreational visitor days per year, based on an average of the 3 most recent years of available data from the National Park Service.

"(B) PRIORITY.—Notwithstanding any other provision of law, with respect to funds authorized for park roads and parkways, the Secretary shall give priority in the allocation of funds to projects for highways that—

"(i) are located in, or provide access to, a qualifying National Park; and

"(ii) were initially constructed before 1940.

"(C) PRIORITY CONFLICTS.—If there is a conflict between projects described in subparagraph (B), the Secretary shall give highest priority to projects that—

"(i) are in, or that provide access to, parks that are adjacent to a National Park of a foreign country; or

"(ii) are located in more than 1 State;";

(4) in subsection (d)—

(A) in paragraph (1)—

(i) in the paragraph heading, by striking "1999" and inserting "2005"; and

(ii) by striking "1999" and inserting "2005";

(B) in paragraph (2)—

(i) in the paragraph heading, by striking "2000" and inserting "2005";

(ii) in subparagraphs (A), (B), and (D), by striking "2000" each place it appears and inserting "2005";

(iii) in subparagraph (B), by striking "1999" each place it appears and inserting "2004"; and

(iv) by adding at the end the following:

"(E) TRANSFERRED FUNDS.—

"(i) IN GENERAL.—Not later than 30 days after the date on which funds are made available to the Secretary of the Interior under this paragraph, the funds shall be distributed to, and available for immediate use by, the eligible Indian tribes, in accordance with the formula applicable for each fiscal year.

"(ii) FORMULA.—If the Secretary of the Interior has not promulgated final regulations for the distribution of funds under clause (i) for a fiscal year by the date on which the funds for the fiscal year are required to be distributed under that clause, the Secretary of the Interior shall distribute the funds under clause (i) in accordance with the applicable funding formula for the preceding year.

"(iii) USE OF FUNDS.—Notwithstanding any other provision of this section, funds available to Indian tribes for Indian reservation roads shall be expended on projects identified in a transportation improvement program approved by the Secretary.";

(C) in paragraph (3)—

(i) in subparagraph (A), by striking "under this title" and inserting "under this chapter and section 125(e)"; and

(ii) by adding at the end the following:

"(C) FEDERAL LANDS HIGHWAY PROGRAM DEMONSTRATION PROJECT.—

"(i) IN GENERAL.—The Secretary shall establish a demonstration project under which all funds made available under this chapter for Indian reservation roads and for highway bridges located on Indian reservation roads as provided for in subparagraph (A) shall be made available, on the request of an affected Indian tribal government, to the Indian tribal government for use in carrying out, in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.), contracts and agreements for the planning, research, engineering, and construction described in that subparagraph.

"(ii) EXCLUSION OF AGENCY PARTICIPATION.—In accordance with subparagraph (B), all funds for Indian reservation roads and for highway bridges located on Indian reservation roads to which clause (i) applies shall be paid without regard to the organizational level at which the Federal lands highway program has previously carried out the programs, functions, services, or activities involved.

"(iii) SELECTION OF PARTICIPATING TRIBES.—

"(I) PARTICIPANTS.—

"(aa) IN GENERAL.—In addition to Indian tribes or tribal organizations that, as of the date of enactment of this subparagraph, are contracting or compacting for any Indian reservation road function or program, for each fiscal year, the Secretary may select up to 15 Indian tribes from the applicant pool described in subclause (II) to participate in the demonstration project carried out under clause (i).

"(bb) CONSORTIA.—Two or more Indian tribes that are otherwise eligible to participate in a program or activity to which this title applies may form a consortium to be considered as a single Indian tribe for the purpose of becoming part of the applicant pool under subclause (II).

"(cc) FUNDING.—An Indian tribe participating in the pilot program under this subparagraph shall receive funding in an amount equal to the sum of the funding that the Indian tribe would otherwise receive in accordance with the funding formula established under the other provisions of this subsection, and an additional percentage of that amount equal to the percentage of funds withheld during the applicable fiscal year for the road program management costs of the Bureau of Indian Affairs under subsection (f)(1).

"(II) APPLICANT POOL.—The applicant pool described in this subclause shall consist of each Indian tribe (or consortium) that—

"(aa) has successfully completed the planning phase described in subclause (IV);

"(bb) has requested participation in the demonstration project under this subparagraph through the adoption of a resolution or other official action by the tribal governing body; and

"(cc) has demonstrated financial stability and financial management capability in accordance with subclause (III) during the 3-fiscal-year period immediately preceding the fiscal year for which participation under this subparagraph is being requested.

"(III) CRITERIA FOR DETERMINING FINANCIAL STABILITY AND FINANCIAL MANAGEMENT CAPACITY.—For the purpose of subclause (II), evidence that, during the 3-year period referred to in subclause (II)(cc), an Indian tribe had no uncorrected significant and material audit exceptions in the required annual audit of the Indian tribe's self-determination contracts or self-governance funding agreements with any Federal agency shall be conclusive evidence of the required stability and capability.

"(IV) PLANNING PHASE.—

"(aa) IN GENERAL.—An Indian tribe (or consortium) requesting participation in the demonstration project under this subparagraph shall complete a planning phase that shall include legal and budgetary research and internal tribal government and organization preparation.

"(bb) ELIGIBILITY.—An Indian tribe (or consortium) described in item (aa) shall be eligible to receive a grant under this subclause to plan and negotiate participation in a project described in that item.

"(V) REPORT TO CONGRESS.—Not later than September 30, 2006, the Secretary shall submit to Congress a report describing the implementation of the demonstration project and any recommendations for improving the project."; and

(D) in paragraph (4)—

(i) in subparagraph (B)—

(I) by striking "(B) RESERVATION.—Of the amounts" and all that follows through "to replace," and inserting the following:

"(B) FUNDING.—

"(i) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other funds made available for Indian reservation roads for each fiscal year, there is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $15,000,000 for each of fiscal years 2004 through 2009 to carry out planning, design, engineering, preconstruction, construction, and inspection of projects to replace,"; and

(II) by adding at the end the following:

"(ii) AVAILABILITY.—Funds made available to carry out this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1."; and

(ii) by striking subparagraph (D) and inserting the following:

"(D) APPROVAL REQUIREMENT.—

"(i) IN GENERAL.—Subject to clause (ii), on request by an Indian tribe or the Secretary of the Interior, the Secretary may make funds available under this subsection for preliminary engineering for Indian reservation road bridge projects.

"(ii) CONSTRUCTION AND CONSTRUCTION ENGINEERING.—The Secretary may make funds available under clause (i) for construction and construction engineering only after approval by the Secretary of applicable plans, specifications, and estimates."; and

(5) by adding at the end the following:

"(f) ADMINISTRATION OF INDIAN RESERVATION ROADS.—

"(1) CONTRACT AUTHORITY.—Notwithstanding any other provision of law, for any fiscal year, not more than 6 percent of the contract authority amounts made available from the Highway Trust Fund to the Bureau of Indian Affairs under this title shall be used to pay the expenses incurred by the Bureau in administering the Indian reservation roads program (including the administrative expenses relating to individual projects associated with the Indian reservation roads program).

"(2) HEALTH AND SAFETY ASSURANCES.—Notwithstanding any other provision of law, an Indian tribe or tribal organization may commence road and bridge construction under the Transportation Equity Act for the 21st Century (Public Law 105-178) or the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 that is funded through a contract or agreement under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.) if the Indian tribe or tribal organization—

"(A) provides assurances in the contract or agreement that the construction will meet or exceed applicable health and safety standards;

"(B) obtains the advance review of the plans and specifications from a licensed professional that has certified that the plans and specifications meet or exceed the applicable health and safety standards; and

"(C) provides a copy of the certification under subparagraph (B) to the Assistant Secretary for Indian Affairs.".

(d) PLANNING AND AGENCY COORDINATION.—Section 204 of title 23, United States Code, is amended—

(1) in subsection (a)(1), by inserting "refuge roads, recreation roads," after "parkways,";

(2) by striking subsection (b) and inserting the following:

"(b) USE OF FUNDS.—

"(1) IN GENERAL.—Funds available for public lands highways, recreation roads, park roads and parkways, forest highways, and Indian reservation roads shall be used by the Secretary and the Secretary of the appropriate Federal land management agency to pay the cost of transportation planning, research, engineering, operation and maintenance of transit facilities, and construction of the highways, roads, parkways, forest highways, and transit facilities located on public land, national parks, and Indian reservations.

"(2) CONTRACT.—In connection with an activity described in paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into a construction contract or other appropriate agreement with—

"(A) a State (including a political subdivision of a State); or

"(B) an Indian tribe.

"(3) INDIAN RESERVATION ROADS.—In the case of an Indian reservation road—

"(A) Indian labor may be used, in accordance with such rules and regulations as may be promulgated by the Secretary of the Interior, to carry out any construction or other activity described in paragraph (1); and

"(B) funds made available to carry out this section may be used to pay bridge preconstruction costs (including planning, design, and engineering).

"(4) FEDERAL EMPLOYMENT.—No maximum on Federal employment shall be applicable to construction or improvement of Indian reservation roads.

"(5) AVAILABILITY OF FUNDS.—Funds available under this section for each class of Federal lands highway shall be available for any kind of transportation project eligible for assistance under this title that is within or adjacent to, or that provides access to, the areas served by the particular class of Federal lands highway.

"(6) RESERVATION OF FUNDS.—The Secretary of the Interior may reserve funds from administrative funds of the Bureau of Indian Affairs that are associated with the Indian reservation road program to finance the Indian technical centers authorized under section 504(b)."; and

(3) in subsection (k)(1)—

(A) in subparagraph (B)—

(i) by striking "(2), (5)," and inserting "(2), (3), (5),"; and

(ii) by striking "and" after the semicolon;

(B) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(D) maintenance of public roads in national fish hatcheries under the jurisdiction of the United States Fish and Wildlife Service;

"(E) the non-Federal share of the cost of any project funded under this title or chapter 53 of title 49 that provides access to or within a wildlife refuge; and

"(F) maintenance and improvement of recreational trails (except that expenditures on trails under this subparagraph shall not exceed 5 percent of available funds for each fiscal year).".

(e) MAINTENANCE OF INDIAN RESERVATION ROADS.—Section 204(c) of title 23, United States Code, is amended by striking the second and third sentences and inserting the following: "Notwithstanding any other provision of this title, of the amount of funds apportioned for Indian reservation roads from the Highway Trust Fund, an Indian tribe may expend for the purpose of maintenance not more than the greater of $250,000 or 25 percent of the apportioned amount. The Bureau of Indian Affairs shall continue to retain primary responsibility, including annual funding request responsibility, for road maintenance programs on Indian reservations. The Secretary shall ensure that funding made available under this subsection for maintenance of Indian reservation roads for each fiscal year is supplementary to and not in lieu of any obligation of funds by the Bureau of Indian Affairs for road maintenance programs on Indian reservations.".

(e) SAFETY.—

(1) ALLOCATIONS.—Section 202 of title 23, United States Code (as amended by subsection (c)(5)), is amended by adding at the end the following:

"(g) SAFETY.—Subject to paragraph (2), on October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for the fiscal year for safety as follows:

"(1) 12 percent to the Bureau of Reclamation.

"(2) 18 percent to the Bureau of Indian Affairs.

"(3) 17 percent to the Bureau of Land Management.

"(4) 17 percent to the Forest Service.

"(5) 7 percent to the United States Fish and Wildlife Service.

"(6) 17 percent to the National Park Service.

"(7) 12 percent to the Corps of Engineers.".

(2) AVAILABILITY OF FUNDS.—Section 203 of title 23, United States Code, is amended by inserting "safety projects or activities," after "refuge roads," each place it appears.

(3) USE OF FUNDING.—Section 204 of title 23, United States Code, is amended by adding at the end the following:

"(l) SAFETY ACTIVITIES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, funds made available for safety under this title shall be used by the Secretary and the head of the appropriate Federal land management agency only to pay the costs of carrying out—

"(A) transportation safety improvement activities;

"(B) activities to eliminate high-accident locations;

"(C) projects to implement protective measures at, or eliminate, at-grade railway-highway crossings;

"(D) collection of safety information;

"(E) transportation planning projects or activities;

"(F) bridge inspection;

"(G) development and operation of safety management systems;

"(H) highway safety education programs; and

"(I) other eligible safety projects and activities authorized under chapter 4.

"(2) CONTRACTS.—In carrying out paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into contracts or agreements with—

"(A) a State;

"(B) a political subdivision of a State; or

"(C) an Indian tribe.

"(3) EXCEPTION.—The cost sharing requirements under the Federal Water Project Recreation Act (16 U.S.C. 460l–12 et seq.) shall not apply to funds made available to the Bureau of Reclamation under this subsection.".

(f) RECREATION ROADS.—

(1) AUTHORIZATIONS.—Section 201 of title 23, United States Code, is amended in the first sentence by inserting "recreation roads," after "public lands highways,".

(2) ALLOCATIONS.—Section 202 of title 23, United States Code (as amended by subsection (e)(1)), is amended by adding at the end the following:

"(h) RECREATION ROADS.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), on October 1 of each fiscal year, the Secretary, after completing the transfer under subsection 204(i), shall allocate the sums authorized to be appropriated for the fiscal year for recreation roads as follows:

"(A) 8 percent to the Bureau of Reclamation.

"(B) 9 percent to the Corps of Engineers.

"(C) 13 percent to the Bureau of Land Management.

"(D) 70 percent to the Forest Service.

"(2) ALLOCATION WITHIN AGENCIES.—Recreation road funds allocated to a Federal agency under paragraph (1) shall be allocated for projects and activities of the Federal agency according to the relative needs of each area served by recreation roads under the jurisdiction of the Federal agency, as indicated in the approved transportation improvement program for each Federal agency.".

(3) AVAILABILITY OF FUNDS.—Section 203 of title 23, United States Code, is amended—

(A) in the first sentence, by inserting "recreation roads," after "Indian reservation roads,"; and

(B) in the fourth sentence, by inserting ", recreation roads," after "Indian roads".

(4) Use of funding.—Section 204 of title 23, United States Code (as amended by subsection (e)(3)), is amended by adding at the end the following:

"(m) Recreation Roads.—

"(1) In general.—Notwithstanding any other provision of this title, funds made available for recreation roads under this title shall be used by the Secretary and the Secretary of the appropriate Federal land management agency only to pay the cost of—

"(A) maintenance or improvements of existing recreation roads;

"(B) maintenance and improvements of eligible projects described in paragraph (1), (2), (3), (5), or (6) of subsection (h) that are located in or adjacent to Federal land under the jurisdiction of—

"(i) the Department of Agriculture; or

"(ii) the Department of the Interior;

"(C) transportation planning and administrative activities associated with those maintenance and improvements; and

"(D) the non-Federal share of the cost of any project funded under this title or chapter 53 of title 49 that provides access to or within Federal land described in subparagraph (B).

"(2) Contracts.—In carrying out paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into contracts or agreements with—

"(A) a State;

"(B) a political subdivision of a State; or

"(C) an Indian tribe.

"(3) New roads.—No funds made available under this section shall be used to pay the cost of the design or construction of new recreation roads.

"(4) Compliance with other environmental laws.—A maintenance or improvement project that is funded under this subsection, and that is consistent with or has been identified in a land use plan for an area under the jurisdiction of a Federal agency, shall not require any additional environmental reviews or assessments under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if—

"(A) the Federal agency that promulgated the land use plan analyzed the specific proposal for the maintenance or improvement project under that Act; and

"(B) as of the date on which the funds are to be expended, there are—

"(i) no significant changes to the proposal bearing on environmental concerns; and

"(ii) no significant new information.

"(5) Exception.—The cost sharing requirements under the Federal Water Project Recreation Act (16 U.S.C. 460l–12 et seq.) shall not apply to funds made available to the Bureau of Reclamation under this subsection.".

(g) Conforming Amendments.—

(1) Sections 120(e) and 125(e) of title 23, United States Code, are amended by striking "public lands highways," each place it appears and inserting "public lands highways, recreation roads,".

(2) Sections 120(e), 125(e), 201, 202(a), and 203 of title 23, United States Code, are amended by striking "forest development roads" each place it appears and inserting "National Forest System roads".

(3) Section 202(e) of title 23, United States Code, is amended by striking "Refuge System," and inserting "Refuge System and the various national fish hatcheries,".

(4) Section 204 of title 23, United States Code, is amended—

(A) in subsection (a)(1), by striking "public lands highways," and inserting "public lands highways, recreation roads, forest highways,"; and

(B) in subsection (i), by striking "public lands highways" each place it appears and inserting "public lands highways, recreation roads, and forest highways".

(5) Section 205 of title 23, United States Code, is amended—

(A) by striking the section heading and inserting the following:

"§205. National Forest System roads and trails";

and

(B) in subsections (a) and (d), by striking "forest development roads" each place it appears and inserting "National Forest System roads".

(6) The analysis for chapter 2 of title 23, United States Code, is amended by striking the item relating to section 205 and inserting the following:

"205. National Forest System roads and trails.".

(7) Section 217(c) of title 23, United States Code, is amended by inserting "refuge roads," after "Indian reservation roads,".

SEC. 1807. HIGHWAY BRIDGE PROGRAM.

(a) In General.—Section 144 of title 23, United States Code, is amended—

(1) by striking the section heading and all that follows through subsection (a) and inserting the following:

"§ 144. Highway bridge program

"(a) Congressional Statement.—Congress finds and declares that it is in the vital interest of the United States that a highway bridge program be established to enable States to improve the condition of their bridges through replacement, rehabilitation, and systematic preventative maintenance on highway bridges over waterways, other topographical barriers, other highways, or railroads at any time at which the States and the Secretary determine that a bridge is unsafe because of structural deficiencies, physical deterioration, or functional obsolescence.";

(2) by striking subsection (d) and inserting the following:

"(d) Participation in Program.—

"(1) In general.—On application by a State to the Secretary for assistance in replacing or rehabilitating a highway bridge that has been determined to be eligible for replacement or rehabilitation under subsection (b) or (c), the Secretary may approve Federal participation in—

"(A) replacing the bridge with a comparable bridge; or

"(B) rehabilitating the bridge.

"(2) Specific kinds of rehabilitation.—On application by a State to the Secretary for assistance in painting, seismic retrofit, or preventative maintenance of, or installation of scour countermeasures or applying calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions to, the structure of a highway bridge, the Secretary may approve Federal participation in the painting, seismic retrofit, or preventative maintenance of, or installation of scour countermeasures or application of acetate or sodium acetate/formate or such anti-icing or de-icing composition to, the structure.

"(3) Eligibility.—

"(A) In general.—Except as provided in subparagraph (B), the Secretary shall determine the eligibility of highway bridges for replacement or rehabilitation for each State based on the number of unsafe highway bridges in the State.

"(B) Preventative maintenance.—A State may carry out a project for preventative maintenance on a bridge, seismic retrofit of a bridge, or installation of scour countermeasures to a bridge under this section without regard to whether the bridge is eligible for replacement or rehabilitation under this section.";

(3) in subsection (e)—

(A) in the third sentence, by striking "square footage" and inserting "area";

(B) in the fourth sentence—

(i) by striking "by the total cost of any highway bridges constructed under subsection (m) in such State, relating to replacement of destroyed bridges and ferryboat services, and,"; and

(ii) by striking "1997" and inserting "2003"; and

(C) in the seventh sentence, by striking "the Federal-aid primary system" and inserting "Federal-aid highways";

(4) by striking subsections (f) and (g) and inserting the following:

"(f) Set Asides.—

"(1) Discretionary bridge program.—

"(A) In general.—Of the amounts authorized to be appropriated to carry out the bridge program under this section for each of fiscal years 2004 through 2009, all but $150,000,000 shall be apportioned as provided in subsection (e).

"(B) Availability.—The $150,000,000 referred to in subparagraph (A) shall be available at the discretion of the Secretary, except that not to exceed $25,000,000 of that amount shall be available only for projects for the seismic retrofit of bridges.

"(C) Set asides.—For fiscal year 2004, the Secretary shall provide—

"(i) $50,000,000 to the State of Nevada for construction of a replacement of the federally-owned bridge over the Hoover Dam in the Lake Mead National Recreation Area; and

"(ii) $50,000,000 to the State of Missouri for construction of a structure over the Mississippi River to connect the city of St. Louis, Missouri, to the State of Illinois.

"(2) Off-system bridges.—

"(A) In general.—Not less than 15 percent of the amount apportioned to each State in each of fiscal years 2004 through 2009 shall be expended for projects to replace, rehabilitate, perform systematic preventative maintenance or seismic retrofit, or apply calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions or install scour countermeasures to highway bridges located on public roads, other than those on a Federal-aid highway, or to complete the Warwick Intermodal Station (including the construction of a people mover between the Station and the T.F. Green Airport).

"(B) Reduction of expenditures.—The Secretary, after consultation with State and local officials, may, with respect to the State, reduce the requirement for expenditure for bridges not on a Federal-aid highway if the Secretary determines that the State has inadequate needs to justify the expenditure.";

(5) in subsection (i)—

(A) in paragraph (3), by striking "and";

(B) in paragraph (4), by striking the period at the end and inserting "; and";

(C) by striking "Such reports" and all that follows through "to Congress."; and

(D) by adding at the end the following:

"(5) biennially submit such reports as are required under this subsection to the appropriate committees of Congress simultaneously with the report required by section 502(g).";

(6) in the first sentence of subsection (n), by striking "all standards" and inserting "all general engineering standards";

(7) in subsection (o)—

(A) in paragraph (3)—

(i) by striking "title (including this section)" and inserting "section"; and

(ii) by inserting "200 percent of" after "shall not exceed"; and

(B) in paragraph (4)(B)—

(i) in the second sentence, by inserting "200 percent of" after "not to exceed"; and

(ii) in the last sentence, by striking "title" and inserting "section";

(8) by redesignating subsections (h) through (q) as subsections (g) through (p), respectively; and

(9) by adding at the end the following:

"(q) CONTINUATION OF ANNUAL MATERIALS REPORT ON NEW BRIDGE CONSTRUCTION AND BRIDGE REHABILITATION.—Not later than 1 year after the date of enactment of this subsection, and annually thereafter, the Secretary shall publish in the Federal Register a report describing construction materials used in new Federal-aid bridge construction and bridge rehabilitation projects.

"(r) FEDERAL SHARE.—The Federal share of the cost of a project payable from funds made available to carry out this section shall be the share applicable under section 120(b), as adjusted under subsection (d) of that section.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 144 and inserting the following:

"144. Highway bridge program.".

SEC. 1808. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1702(a)), is amended by adding at the end the following:

"§ 170. Appalachian development highway system

"(a) APPORTIONMENT.—

"(1) IN GENERAL.—The Secretary shall apportion funds made available under section 1101(7) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 for fiscal years 2004 through 2009 among States based on the latest available estimate of the cost to construct highways and access roads for the Appalachian development highway system program prepared by the Appalachian Regional Commission under section 14501 of title 40.

"(2) AVAILABILITY.—Funds described in paragraph (1) shall be available to construct highways and access roads under chapter 145 of title 40.

"(b) APPLICABILITY OF TITLE.—Funds made available under section 1101(7) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 for the Appalachian development highway system shall be available for obligation in the same manner as if the funds were apportioned under this chapter, except that—

"(1) the Federal share of the cost of any project under this section shall be determined in accordance with subtitle IV of title 40; and

"(2) the funds shall remain available until expended.".

(b) CONFORMING AMENDMENTS.—

(1) USE OF TOLL CREDITS.—Section 120(j)(1) of title 23, United States Code is amended by inserting "and the Appalachian development highway system program under subtitle IV of title 40" after "(other than the emergency relief program authorized by section 125".

(2) ANALYSIS.—The analysis of chapter 1 of title 23, United States Code (as amended by section 1702(b)), is amended by adding at the end the following:

"170. Appalachian development highway system.".

SEC. 1809. MULTISTATE CORRIDOR PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by 1808(a)), is amended by adding at the end the following:

"§ 171. Multistate corridor program

"(a) ESTABLISHMENT AND PURPOSE.—The Secretary shall carry out a program to—

"(1) support and encourage multistate transportation planning and development; and

"(2) facilitate transportation decisionmaking and coordinate project delivery involving multistate corridors.

"(b) ELIGIBLE RECIPIENTS.—A State transportation department and a metropolitan planning organization may receive and administer funds provided under this section.

"(c) ELIGIBLE ACTIVITIES.—The Secretary shall make allocations under this program for multistate highway and multimodal planning studies and construction.

"(d) OTHER PROVISIONS REGARDING ELIGIBILITY.—

"(1) STUDIES.—All studies funded under this program shall be consistent with the continuing, cooperative, and comprehensive planning processes required by sections 134 and 135.

"(2) CONSTRUCTION.—All construction funded under this program shall be consistent with section 133(b)(1).

"(e) SELECTION CRITERIA.—The Secretary shall select studies and projects to be carried out under the program based on—

"(1) the existence and significance of signed and binding multijurisdictional agreements;

"(2) endorsement of the study or project by applicable elected State and local representatives;

"(3) prospects for early completion of the study or project; or

"(4) whether the projects to be studied or constructed are located on corridors identified by section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 2032).

"(f) PROGRAM PRIORITIES.—In administering the program, the Secretary shall—

"(1) encourage and enable States and other jurisdictions to work together to develop plans for multimodal and multijurisdictional transportation decisionmaking; and

"(2) give priority to studies or projects that emphasize multimodal planning, including planning for operational improvements that—

"(A) increase—

"(i) mobility;

"(ii) freight productivity;

"(iii) access to marine or inland ports;

"(iv) safety and security; and

"(v) reliability; and

"(B) enhance the environment.

"(g) FEDERAL SHARE.—Except as provided in section 120, the Federal share of the cost of a study or project carried out under the program, using funds from all Federal sources, shall be 80 percent.

"(h) APPLICABILITY.—Funds authorized to be appropriated under section 1101(10) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under this chapter.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1809(b)) is amended by adding at the end the following:

"171. Multistate corridor program.".

SEC. 1810. BORDER PLANNING, OPERATIONS, TECHNOLOGY, AND CAPACITY PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1809(a)), is amended by adding at the end the following:

"§ 172. Border planning, operations, technology, and capacity program

"(a) DEFINITIONS.—In this section:

"(1) BORDER STATE.—The term 'border State' means any of the States of Alaska, Arizona, California, Idaho, Maine, Michigan, Minnesota, Montana, New Hampshire, New Mexico, New York, North Dakota, Texas, Vermont, and Washington.

"(2) PROGRAM.—The term 'program' means the border planning, operations, technology, and capacity program established under subsection (b).

"(b) ESTABLISHMENT AND PURPOSE.—The Secretary shall establish and carry out a border planning, operations, technology, and capacity improvement program to support coordination and improvement in bi-national transportation planning, operations, efficiency, information exchange, safety, and security at the international borders of the United States with Canada and Mexico.

"(c) ELIGIBLE ACTIVITIES.—

"(1) IN GENERAL.—The Secretary shall make allocations under the program for projects to carry out eligible activities described in paragraph (2) at or near international land borders in border States.

"(2) ELIGIBLE ACTIVITIES.—A border State may obligate funds apportioned to the border State under this section for—

"(A) highway and multimodal planning or environmental studies;

"(B) cross-border port of entry and safety inspection improvements, including operational enhancements and technology applications;

"(C) technology and information exchange activities; and

"(D) right-of-way acquisition, design, and construction, as needed—

"(i) to implement the enhancements or applications described in subparagraphs (B) and (C);

"(ii) to decrease air pollution emissions from vehicles or inspection facilities at border crossings; or

"(iii) to increase highway capacity at or near international borders.

"(d) OTHER PROVISIONS REGARDING ELIGIBILITY.—

"(1) IN GENERAL.—Each project funded under the program shall be carried out in accordance with the continuing, cooperative, and comprehensive planning processes required by sections 134 and 135.

"(2) REGIONALLY SIGNIFICANT PROJECTS.—To be funded under the program, a regionally significant project shall be included on the applicable transportation plan and program required by sections 134 and 135.

"(e) PROGRAM PRIORITIES.—Border States shall give priority to projects that emphasize—

"(1) multimodal planning;

"(2) improvements in infrastructure; and

"(3) operational improvements that—

"(A) increase safety, security, freight capacity, or highway access to rail, marine, and air services; and

"(B) enhance the environment.

"(f) MANDATORY PROGRAM.—

"(1) IN GENERAL.—For each fiscal year, the Secretary shall allocate among border States, in accordance with the formula described in paragraph (2), funds to be used in accordance with subsection (d).

"(2) FORMULA.—Subject to paragraph (3), the amount allocated to a border State under this paragraph shall be determined by the Secretary, as follows:

"(A) 25 percent in the ratio that—

"(i) the average annual weight of all cargo entering the border State by commercial vehicle across the international border with Canada or Mexico, as the case may be; bears to

"(ii) the average annual weight of all cargo entering all border States by commercial vehicle across the international borders with Canada and Mexico.

"(B) 25 percent in the ratio that—

"(i) the average trade value of all cargo imported into the border State and all cargo exported from the border State by commercial vehicle across the international border with Canada or Mexico, as the case may be; bears to

"(ii) the average trade value of all cargo imported into all border States and all cargo exported from all border States by commercial vehicle across the international borders with Canada and Mexico.

"(C) 25 percent in the ratio that—

"(i) the number of commercial vehicles annually entering the border State across the international border with Canada or Mexico, as the case may be; bears to

"(ii) the number of all commercial vehicles annually entering all border States across the international borders with Canada and Mexico.

"(D) 25 percent in the ratio that—

"(i) the number of passenger vehicles annually entering the border State across the international border with Canada or Mexico, as the case may be; bears to

"(ii) the number of all passenger vehicles annually entering all border States across the international borders with Canada and Mexico.

"(3) DATA SOURCE.—

"(A) IN GENERAL.—The data used by the Secretary in making allocations under this subsection shall be based on the Bureau of Transportation Statistics Transborder Surface Freight Dataset (or other similar database).

"(B) BASIS OF CALCULATION.—All formula calculations shall be made using the average values for the most recent 5-year period for which data are available.

"(4) MINIMUM ALLOCATION.—Notwithstanding paragraph (2), for each fiscal year, each border State shall receive at least ½ of 1 percent of the funds made available for allocation under this paragraph for the fiscal year.

"(g) FEDERAL SHARE.—Except as provided in section 120, the Federal share of the cost of a project carried out under the program shall be 80 percent.

"(h) OBLIGATION.—Funds made available under section 1101(11) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 to carry out the program shall be available for obligation in the same manner as if the funds were apportioned under this chapter.

"(i) INFORMATION EXCHANGE.—No individual project the scope of work of which is limited to information exchange shall receive an allocation under the program in an amount that exceeds $500,000 for any fiscal year.

"(j) PROJECTS IN CANADA OR MEXICO.—A project in Canada or Mexico, proposed by a border State to directly and predominantly facilitate cross-border vehicle and commercial cargo movements at an international gateway or port of entry into the border region of the State, may be constructed using funds made available under the program if, before obligation of those funds, Canada or Mexico, or the political subdivision of Canada or Mexico that is responsible for the operation of the facility to be constructed, provides assurances satisfactory to the Secretary that any facility constructed under this subsection will be—

"(1) constructed in accordance with standards equivalent to applicable standards in the United States; and

"(2) properly maintained and used over the useful life of the facility for the purpose for which the Secretary allocated funds to the project.

"(k) TRANSFER OF FUNDS TO THE GENERAL SERVICES ADMINISTRATION.—

"(1) STATE FUNDS.—At the request of a border State, funds made available under the program may be transferred to the General Services Administration for the purpose of funding 1 or more specific projects if—

"(A) the Secretary determines, after consultation with the State transportation department of the border State, that the General Services Administration should carry out the project; and

"(B) the General Services Administration agrees to accept the transfer of, and to administer, those funds.

"(2) NON-FEDERAL SHARE.—

"(A) IN GENERAL.—A border State that makes a request under paragraph (1) shall provide directly to the General Services Administration, for each project covered by the request, the non-Federal share of the cost of each project described in subsection (f).

"(B) NO AUGMENTATION OF APPROPRIATIONS.—Funds provided by a border State under subparagraph (A)—

"(i) shall not be considered to be an augmentation of the appropriations made available to the General Services Administration; and

"(ii) shall be—

"(I) administered in accordance with the procedures of the General Services Administration; but

"(II) available for obligation in the same manner as if the funds were apportioned under this chapter.

"(C) OBLIGATION AUTHORITY.—Obligation authority shall be transferred to the General Services Administration in the same manner and amount as the funds provided for projects under subparagraph (A).

"(3) DIRECT TRANSFER OF AUTHORIZED FUNDS.—

"(A) IN GENERAL.—In addition to allocations to States and metropolitan planning organizations under subsection (c), the Secretary may transfer funds made available to carry out this section to the General Services Administration for construction of transportation infrastructure projects at or near the border in border States, if—

"(i) the Secretary determines that the transfer is necessary to effectively carry out the purposes of this program; and

"(ii) the General Services Administration agrees to accept the transfer of, and to administer, those funds.

"(B) NO AUGMENTATION OF APPROPRIATIONS.—Funds transferred by the Secretary under subparagraph (A)—

"(i) shall not be considered to be an augmentation of the appropriations made available to the General Services Administration; and

"(ii) shall be—

"(I) administered in accordance with the procedures of the General Services Administration; but

"(II) available for obligation in the same manner as if the funds were apportioned under this chapter.

"(C) OBLIGATION AUTHORITY.—Obligation authority shall be transferred to the General Services Administration in the same manner and amount as the funds transferred under subparagraph (A).".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1809(b)), is amended by adding at the end the following:

"172. Border planning, operations, and technology program.".

SEC. 1811. PUERTO RICO HIGHWAY PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1810(a)), is amended by adding at the end the following:

"§ 173. Puerto Rico highway program

"(a) IN GENERAL.—The Secretary shall allocate funds authorized by section 1101(15) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 for each of fiscal years 2004 through 2009 to the Commonwealth of Puerto Rico to carry out a highway program in the Commonwealth.

"(b) APPLICABILITY OF TITLE.—

"(1) IN GENERAL.—Amounts made available by section 1101(15) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 shall be available for obligation in the same manner as if such funds were apportioned under this chapter.

"(2) LIMITATION ON OBLIGATIONS.—The amounts shall be subject to any limitation on obligations for Federal-aid highway and highway safety construction programs.

"(c) TREATMENT OF FUNDS.—Amounts made available to carry out this section for a fiscal year shall be administered as follows:

"(1) APPORTIONMENT.—For the purpose of imposing any penalty under this title or title 49, the amounts shall be treated as being apportioned to Puerto Rico under sections 104(b) and 144, for each program funded under those sections in an amount determined by multiplying—

"(A) the aggregate of the amounts for the fiscal year; by

"(B) the ratio that—

"(i) the amount of funds apportioned to Puerto Rico for each such program for fiscal year 1997; bears to

"(ii) the total amount of funds apportioned to Puerto Rico for all such programs for fiscal year 1997.

"(2) PENALTY.—The amounts treated as being apportioned to Puerto Rico under each section referred to in paragraph (1) shall be deemed to be required to be apportioned to Puerto Rico under that section for purposes of the imposition of any penalty under this title and title 49.

"(3) EFFECT ON ALLOCATIONS AND APPORTIONMENTS.—Subject to paragraph (2), nothing in this section affects any allocation under section 105 and any apportionment under sections 104 and 144.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1810(b)), is amended by adding at the end the following:

"173. Puerto Rico highway program.".

SEC. 1812. NATIONAL HISTORIC COVERED BRIDGE PRESERVATION.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1811(a)), is amended by adding at the end the following:

"§ 174. National historic covered bridge preservation

"(a) DEFINITION OF HISTORIC COVERED BRIDGE.—In this section, the term 'historic covered bridge' means a covered bridge that is listed or eligible for listing on the National Register of Historic Places.

"(b) HISTORIC COVERED BRIDGE PRESERVATION.—Subject to the availability of appropriations, the Secretary shall—

"(1) collect and disseminate information on historic covered bridges;

"(2) conduct educational programs relating to the history and construction techniques of historic covered bridges;

"(3) conduct research on the history of historic covered bridges; and

"(4) conduct research on, and study techniques for, protecting historic covered bridges from rot, fire, natural disasters, or weight-related damage.

"(c) GRANTS.—

"(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall make a grant to a State that submits an application to the Secretary that demonstrates a need for assistance in carrying out 1 or more historic covered bridge projects described in paragraph (2).

"(2) ELIGIBLE PROJECTS.—A grant under paragraph (1) may be made for a project—

"(A) to rehabilitate or repair a historic covered bridge; or

"(B) to preserve a historic covered bridge, including through—

"(i) installation of a fire protection system, including a fireproofing or fire detection system and sprinklers;

"(ii) installation of a system to prevent vandalism and arson; or

"(iii) relocation of a bridge to a preservation site.

"(3) AUTHENTICITY REQUIREMENTS.—A grant under paragraph (1) may be made for a project only if—

"(A) to the maximum extent practicable, the project—

"(i) is carried out in the most historically appropriate manner; and

"(ii) preserves the existing structure of the historic covered bridge; and

"(B) the project provides for the replacement of wooden components with wooden components, unless the use of wood is impracticable for safety reasons.

"(4) FEDERAL SHARE.—Except as provided in section 120, the Federal share of the cost of a project carried out with a grant under this subsection shall be 80 percent.

"(d) FUNDING.—There is authorized to be appropriated to carry out this section $14,000,000 for each of fiscal years 2004 through 2009, to remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1811(b)), is amended by adding at the end the following:

"174. National historic covered bridge preservation.".

SEC. 1813. TRANSPORTATION AND COMMUNITY AND SYSTEM PRESERVATION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1812(a)), is amended by adding at the end the following:

"§175. Transportation and community and system preservation program

"(a) ESTABLISHMENT.—The Secretary shall establish a comprehensive program to facilitate the planning, development, and implementation of strategies by States, metropolitan planning organizations, federally-recognized Indian tribes, and local governments to integrate transportation, community, and system preservation plans and practices that address the goals described in subsection (b).

"(b) GOALS.—The goals of the program are to—

"(1) improve the efficiency of the transportation system in the United States;

"(2) reduce the impacts of transportation on the environment;

"(3) reduce the need for costly future investments in public infrastructure;

"(4) provide efficient access to jobs, services, and centers of trade; and

"(5) examine development patterns, and to identify strategies, to encourage private sector development patterns that achieve the goals identified in paragraphs (1) through (4).

"(c) ALLOCATION OF FUNDS FOR IMPLEMENTATION.—

"(1) IN GENERAL.—The Secretary shall allocate funds made available to carry out this subsection to States, metropolitan planning organizations, and local governments to carry out projects to address transportation efficiency and community and system preservation.

"(2) CRITERIA.—In allocating funds made available to carry out this subsection, the Secretary shall give priority to applicants that—

"(A) have instituted preservation or development plans and programs that—

"(i) meet the requirements of this title and chapter 53 of title 49, United States Code; and

"(ii)(I) are coordinated with State and local adopted preservation or development plans;

"(II) are intended to promote cost-effective and strategic investments in transportation infrastructure that minimize adverse impacts on the environment; or

"(III) are intended to promote innovative private sector strategies.

"(B) have instituted other policies to integrate transportation and community and system preservation practices, such as—

"(i) spending policies that direct funds to high-growth areas;

"(ii) urban growth boundaries to guide metropolitan expansion;

"(iii) 'green corridors' programs that provide access to major highway corridors for areas targeted for efficient and compact development; or

"(iv) other similar programs or policies as determined by the Secretary;

"(C) have preservation or development policies that include a mechanism for reducing potential impacts of transportation activities on the environment;

"(D) examine ways to encourage private sector investments that address the purposes of this section; and

"(E) propose projects for funding that address the purposes described in subsection (b)(2).

"(3) EQUITABLE DISTRIBUTION.—In allocating funds to carry out this subsection, the Secretary shall ensure the equitable distribution of funds to a diversity of populations and geographic regions.

"(4) USE OF ALLOCATED FUNDS.—

"(A) IN GENERAL.—An allocation of funds made available to carry out this subsection shall be used by the recipient to implement the projects proposed in the application to the Secretary.

"(B) TYPES OF PROJECTS.—The allocation of funds shall be available for obligation for—

"(i) any project eligible for funding under this title or chapter 53 of title 49, United States Code; or

"(ii) any other activity relating to transportation and community and system preservation that the Secretary determines to be appropriate, including corridor preservation activities that are necessary to implement—

"(I) transit-oriented development plans;

"(II) traffic calming measures; or

"(III) other coordinated transportation and community and system preservation practices.

"(d) FUNDING.—

"(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $50,000,000 for each of fiscal years 2004 through 2009.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under this chapter.".

(b) ELIGIBLE PROJECTS.—Section 133(b) of title 23, United States Code (as amended by section 1701(a)), is amended by adding at the end the following:

"(18) Transportation and community system preservation to facilitate the planning, development, and implementation of strategies of metropolitan planning organizations and local governments to integrate transportation, community, and system preservation plans and practices that address the following:

"(A) Improvement of the efficiency of the transportation system in the United States.

"(B) Reduction of the impacts of transportation on the environment.

"(C) Reduction of the need for costly future investments in public infrastructure.

"(D) Provision of efficient access to jobs, services, and centers of trade.

"(E) Examination of development patterns, and identification of strategies to encourage private sector development patterns, that achieve the goals identified in subparagraphs (A) through (D).

"(19) Projects relating to intersections, including intersections—

"(A) that—

"(i) have disproportionately high accident rates;

"(ii) have high levels of congestion, as evidenced by—

"(I) interrupted traffic flow at the intersection; and

"(II) a level of service rating, issued by the Transportation Research Board of the National Academy of Sciences in accordance with the Highway Capacity Manual, that is not better than 'F' during peak travel hours; and

"(iii) are directly connected to or located on a Federal-aid highway; and

"(B) improvements that are approved in the regional plan of the appropriate local metropolitan planning organization.".

(c) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1812(b)), is amended by adding at the end the following:

"175. Transportation and community and system preservation pilot program.".

SEC. 1814. PARKING PILOT PROGRAMS.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1813(a)), is amended by adding at the end the following:

"§176. Parking pilot programs

"(a) COMMERCIAL TRUCK PARKING PILOT PROGRAM.—

"(1) ESTABLISHMENT.—In cooperation with appropriate State, regional, and local governments, the Secretary shall establish a pilot program to address the shortage of long-term parking for drivers of commercial motor vehicles on the National Highway System.

"(2) ALLOCATION OF FUNDS.—

"(A) IN GENERAL.—The Secretary shall allocate funds made available under this subsection to States, metropolitan planning organizations, and local governments.

"(B) CRITERIA.—In allocating funds under this subsection, the Secretary shall give priority to an applicant that—

"(i) demonstrates a severe shortage of commercial vehicle parking capacity on the corridor to be addressed;

"(ii) consults with affected State and local governments, community groups, private providers of commercial vehicle parking, and motorist and trucking organizations; and

"(iii) demonstrates that the project proposed by the applicant is likely to have a positive effect on highway safety, traffic congestion, or air quality.

"(3) USE OF ALLOCATED FUNDS.—

"(A) IN GENERAL.—A recipient of funds allocated under this subsection shall use the funds to carry out the project proposed in the application submitted by the recipient to the Secretary.

"(B) TYPES OF PROJECTS.—Funds under this subsection shall be available for obligation for projects that serve the National Highway System, including—

"(i) construction of safety rest areas that include parking for commercial motor vehicles;

"(ii) construction of commercial motor vehicle parking facilities that are adjacent to commercial truck stops and travel plazas;

"(iii) costs associated with the opening of facilities (including inspection and weigh stations and park-and-ride facilities) to provide commercial motor vehicle parking;

"(iv) projects that promote awareness of the availability of public or private commercial motor vehicle parking on the National Highway System, including parking in connection with intelligent transportation systems and other systems;

"(v) construction of turnouts along the National Highway System for commercial motor vehicles;

"(vi) capital improvements to public commercial motor vehicle truck parking facilities closed on a seasonal basis in order to allow the facilities to remain open year-around; and

"(vii) improvements to the geometric design at interchanges on the National Highway System to improve access to commercial motor vehicle parking facilities.

"(4) Report.—Not later than 5 years after the date of enactment of this section, the Secretary shall submit to Congress a report on the results of the pilot program carried out under this subsection.

"(5) Federal share.—The Federal share of the cost of a project carried out under this subsection shall be consistent with section 120.

"(6) Funding.—

"(A) In general.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $10,000,000 for each of fiscal years 2005 through 2009.

"(B) Contract authority.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under this chapter.

"(b) Corridor and Fringe Parking Pilot Program.—

"(1) Establishment.—

"(A) In general.—In cooperation with appropriate State, regional, and local governments, the Secretary shall carry out a pilot program to provide corridor and fringe parking facilities.

"(B) Primary function.—The primary function of a corridor and fringe parking facility funded under this subsection shall be to provide parking capacity to support car pooling, van pooling, ride sharing, commuting, and high occupancy vehicle travel.

"(C) Overnight parking.—A State may permit a facility described in subparagraph (B) to be used for the overnight parking of commercial vehicles if the use does not foreclose or unduly limit the primary function of the facility described in subparagraph (B).

"(2) Allocation of funds.—

"(A) In general.—The Secretary shall allocate funds made available to carry out this subsection to States.

"(B) Criteria.—In allocating funds under this subsection, the Secretary shall give priority to a State that—

"(i) demonstrates demand for corridor and fringe parking on the corridor to be addressed;

"(ii) consults with affected metropolitan planning organizations, local governments, community groups, and providers of corridor and fringe parking; and

"(iii) demonstrates that the project proposed by the State is likely to have a positive effect on ride sharing, traffic congestion, or air quality.

"(3) Use of allocated funds.—

"(A) In general.—A recipient of funds allocated under this subsection shall use the funds to carry out the project proposed in the application submitted by the recipient to the Secretary.

"(B) Types of projects.—Funds under this subsection shall be available for obligation for projects that serve the Federal-aid system, including—

"(i) construction of corridor and fringe parking facilities;

"(ii) costs associated with the opening of facilities;

"(iii) projects that promote awareness of the availability of corridor and fringe parking through the use of signage and other means;

"(iv) capital improvements to corridor and fringe parking facilities closed on a seasonal basis in order to allow the facilities to remain open year-around; and

"(v) improvements to the geometric design on adjoining roadways to facilitate access to, and egress from, corridor and fringe parking facilities.

"(4) Report.—Not later than 5 years after the date of enactment of this section, the Secretary shall submit to Congress a report on the results of the pilot program carried out under this subsection.

"(5) Federal share.—The Federal share of the cost of a project carried out under this subsection shall be consistent with section 120.

"(6) Funding.—

"(A) In general.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $10,000,000 for each of fiscal years 2005 through 2009.

"(B) Contract authority.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under this chapter.".

(b) Conforming Amendment.—The analysis for subchapter I of chapter I of title 23, United States Code (as amended by section 1813(c)), is amended by adding at the end the following:

"176. Parking pilot programs.".

SEC. 1815. INTERSTATE OASIS PROGRAM.

(a) In General.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1814(a)), is amended by adding at the end the following:

"§ 177. Interstate oasis program

"(a) In General.—Not later than 180 days after the date of enactment of this section, in consultation with the States and other interested parties, the Secretary shall—

"(1) establish an Interstate oasis program; and

"(2) develop standards for designating, as an Interstate oasis, a facility that—

"(A) offers—

"(i) products and services to the public;

"(ii) 24-hour access to restrooms; and

"(iii) parking for automobiles and heavy trucks; and

"(B) meets other standards established by the Secretary.

"(b) Standards for Designation.—The standards for designation under subsection (a) shall include standards relating to—

"(1) the appearance of a facility; and

"(2) the proximity of the facility to the Interstate System.

"(c) Eligibility for Designation.—If a State elects to participate in the interstate oasis program, any facility meeting the standards established by the Secretary shall be eligible for designation under this section.

"(d) Logo.—The Secretary shall design a logo to be displayed by a facility designated under this section.".

(b) Conforming Amendment.—The analysis for subchapter I of chapter I of title 23, United States Code (as amended by section 1814(b)), is amended by adding at the end the following:

"177. Interstate oasis program.".

SEC. 1816. TRIBAL-STATE ROAD MAINTENANCE AGREEMENTS.

Section 204 of title 23, United States Code (as amended by section 1806(f)(4)), is amended by adding at the end the following:

"(n) Tribal-State Road Maintenance Agreements.—

"(1) In general.—Notwithstanding any other provision of law, regulation, policy, or guideline, an Indian tribe and a State may enter into a road maintenance agreement under which an Indian tribe assumes the responsibilities of the State for—

"(A) Indian reservation roads; and

"(B) roads providing access to Indian reservation roads.

"(2) Tribal-state agreements.—Agreements entered into under paragraph (1)—

"(A) shall be negotiated between the State and the Indian tribe; and

"(B) shall not require the approval of the Secretary.

"(3) Annual report.—Effective beginning with fiscal year 2004, the Secretary shall prepare and submit to Congress an annual report that identifies—

"(A) the Indian tribes and States that have entered into agreements under paragraph (1);

"(B) the number of miles of roads for which Indian tribes have assumed maintenance responsibilities; and

"(C) the amount of funding transferred to Indian tribes for the fiscal year under agreements entered into under paragraph (1).".

SEC. 1817. NATIONAL FOREST SYSTEM ROADS.

Section 205 of title 23, United States Code, is amended by adding at the end the following:

"(e) Of the amounts made available for National Forest System roads, $15,000,000 for each fiscal year shall be used by the Secretary of Agriculture to pay the costs of facilitating the passage of aquatic species beneath roads in the National Forest System, including the costs of constructing, maintaining, replacing, or removing culverts and bridges, as appropriate.".

SEC. 1818. TERRITORIAL HIGHWAY PROGRAM.

(a) In General.—Chapter 2 of title 23, United States Code, is amended by striking section 215 and inserting the following:

"§215. Territorial highway program

"(a) Definitions.—In this section:

"(1) Program.—The term 'program' means the territorial highway program established under subsection (b).

"(2) Territory.—The term 'territory' means the any of the following territories of the United States:

"(A) American Samoa.

"(B) The Commonwealth of the Northern Mariana Islands.

"(C) Guam.

"(D) The United States Virgin Islands.

"(b) Program.—

"(1) In general.—Recognizing the mutual benefits that will accrue to the territories and the United States from the improvement of highways in the territories, the Secretary may carry out a program to assist each territorial government in the construction and improvement of a system of arterial and collector highways, and necessary inter-island connectors, that is—

"(A) designated by the Governor or chief executive officer of each territory; and

"(B) approved by the Secretary.

"(2) Federal share.—The Secretary shall provide Federal financial assistance to territories under this section in accordance with section 120(h).

"(c) Technical Assistance.—

"(1) In general.—To continue a long-range highway development program, the Secretary may provide technical assistance to the governments of the territories to enable the territories to, on a continuing basis—

"(A) engage in highway planning;

"(B) conduct environmental evaluations;

"(C) administer right-of-way acquisition and relocation assistance programs; and

"(D) design, construct, operate, and maintain a system of arterial and collector highways, including necessary inter-island connectors.

"(2) Form and terms of assistance.—Technical assistance provided under paragraph (1), and the terms for the sharing of information among territories receiving the technical assistance, shall be included in the agreement required by subsection (e).

"(d) Nonapplicability of Certain Provisions.—

"(1) In general.—Except to the extent that provisions of chapter 1 are determined by the Secretary to be inconsistent with the needs of the territories and the intent of the program, chapter 1 (other than provisions of chapter 1 relating to the apportionment and allocation of funds) shall apply to funds authorized to be appropriated for the program.

"(2) Applicable provisions.—The specific sections of chapter 1 that are applicable to each territory, and the extent of the applicability of those section, shall be identified in the agreement required by subsection (e).

"(e) AGREEMENT.—

"(1) IN GENERAL.—Except as provided in paragraph (3), none of the funds made available for the program shall be available for obligation or expenditure with respect to any territory until the Governor or chief executive officer of the territory enters into a new agreement with the Secretary (which new agreement shall be entered into not later than 1 year after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004), providing that the government of the territory shall—

"(A) implement the program in accordance with applicable provisions of chapter 1 and subsection (d);

"(B) design and construct a system of arterial and collector highways, including necessary inter-island connectors, in accordance with standards that are—

"(i) appropriate for each territory; and

"(ii) approved by the Secretary;

"(C) provide for the maintenance of facilities constructed or operated under this section in a condition to adequately serve the needs of present and future traffic; and

"(D) implement standards for traffic operations and uniform traffic control devices that are approved by the Secretary.

"(2) TECHNICAL ASSISTANCE.—The new agreement required by paragraph (1) shall—

"(A) specify the kind of technical assistance to be provided under the program;

"(B) include appropriate provisions regarding information sharing among the territories; and

"(C) delineate the oversight role and responsibilities of the territories and the Secretary.

"(3) REVIEW AND REVISION OF AGREEMENT.—The new agreement entered into under paragraph (1) shall be reevaluated and, as necessary, revised, at least every 2 years.

"(4) EXISTING AGREEMENTS.—With respect to an agreement between the Secretary and the Governor or chief executive officer of a territory that is in effect as of the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004—

"(A) the agreement shall continue in force until replaced by a new agreement in accordance with paragraph (1); and

"(B) amounts made available for the program under the agreement shall be available for obligation or expenditure so long as the agreement, or a new agreement under paragraph (1), is in effect.

"(f) PERMISSIBLE USES OF FUNDS.—

"(1) IN GENERAL.—Funds made available for the program may be used only for the following projects and activities carried out in a territory:

"(A) Eligible surface transportation program projects described in section 133(b).

"(B) Cost-effective, preventive maintenance consistent with section 116.

"(C) Ferry boats, terminal facilities, and approaches, in accordance with subsections (b) and (c) of section 129.

"(D) Engineering and economic surveys and investigations for the planning, and the financing, of future highway programs.

"(E) Studies of the economy, safety, and convenience of highway use.

"(F) The regulation and equitable taxation of highway use.

"(G) Such research and development as are necessary in connection with the planning, design, and maintenance of the highway system.

"(2) PROHIBITION ON USE OF FUNDS FOR ROUTINE MAINTENANCE.—None of the funds made available for the program shall be obligated or expended for routine maintenance.

"(g) LOCATION OF PROJECTS.—Territorial highway projects (other than those described in paragraphs (1), (3), and (4) of section 133(b)) may not be undertaken on roads functionally classified as local.".

(b) CONFORMING AMENDMENTS.—

(1) ELIGIBLE PROJECTS.—Section 103(b)(6) of title 23, United States Code, is amended by striking subparagraph (P) and inserting the following:

"(P) Projects eligible for assistance under the territorial highway program under section 215.".

(2) FUNDING.—Section 104(b)(1)(A) of title 23, United States Code, is amended by striking "to the Virgin Islands, Guam, American Samoa, and the Commonwealth of Northern Mariana Islands" and inserting "for the territorial highway program authorized under section 215".

(3) ANALYSIS.—The analysis for chapter 2 of title 23, United States Code, is amended by striking the item relating to section 215 and inserting the following:

"215. Territorial highway program.".

SEC. 1819. MAGNETIC LEVITATION TRANSPORTATION TECHNOLOGY DEPLOYMENT PROGRAM.

Section 322 of title 23, United States Code, is amended—

(1) in subsection (c)—

(A) by striking "Not later than" and inserting the following:

"(1) INITIAL SOLICITATION.—Not later than"; and

(B) by adding at the end the following:

"(2) ADDITIONAL SOLICITATION.—Not later than 1 year after the date of enactment of this paragraph, the Secretary may solicit additional applications from States, or authorities designated by 1 or more States, for financial assistance authorized by subsection (b) for planning, design, and construction of eligible MAGLEV projects.";

(2) in subsection (e), by striking "Prior to soliciting applications, the Secretary" and inserting "The Secretary";

(3) in subsection (h)—

(A) in subparagraph (A), by striking clause (i) and inserting the following:

"(i) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $15,000,000 for each of fiscal years 2004 through 2009."; and

(B) in subparagraph (B), by striking clause (i) and inserting the following:

"(i) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section—

"(I) $375,000,000 for fiscal year 2004;

"(II) $400,000,000 for fiscal year 2005;

"(III) $415,000,000 for fiscal year 2006;

"(IV) $425,000,000 for fiscal year 2007;

"(V) $435,000,000 for fiscal year 2008; and

"(VI) $450,000,000 for fiscal year 2009."; and

(4) by striking subsection (i).

SEC. 1820. DONATIONS AND CREDITS.

Section 323 of title 23, United States Code, is amended—

(1) in the first sentence of subsection (c), by inserting ", or a local government from offering to donate funds, materials, or services performed by local government employees," after "services"; and

(2) striking subsection (e).

SEC. 1821. DISADVANTAGED BUSINESS ENTERPRISES.

(a) GENERAL RULE.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available for any program under titles I, II, and III of this Act shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

(b) DEFINITIONS.—In this section:

(1) SMALL BUSINESS CONCERN.—

(A) IN GENERAL.—The term "small business concern" has the meaning given the term under section 3 of the Small Business Act (15 U.S.C. 632).

(B) EXCLUSION.—The term "small business concern" does not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals that has average annual gross receipts over the preceding 3 fiscal years in excess of $17,420,000, as adjusted by the Secretary for inflation.

(2) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term "socially and economically disadvantaged individuals" has the meaning given the term under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated under that section, except that women shall be presumed to be socially and economically disadvantaged individuals for the purposes of this section.

(c) ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.—Each State shall annually survey and compile a list of the small business concerns referred to in subsection (a) and the location of such concerns in the State and notify the Secretary, in writing, of the percentage of such concerns which are controlled by women, by socially and economically disadvantaged individuals (other than women), and by individuals who are women and are otherwise socially and economically disadvantaged individuals.

(d) UNIFORM CERTIFICATION.—The Secretary shall establish minimum uniform criteria for State governments to use in certifying whether a concern qualifies for purposes of this section. Such minimum uniform criteria shall include on-site visits, personal interviews, licenses, analysis of stock ownership, listing of equipment, analysis of bonding capacity, listing of work completed, resume of principal owners, financial capacity, and type of work preferred.

(e) COMPLIANCE WITH COURT ORDERS.—Nothing in this section limits the eligibility of an entity or person to receive funds made available under titles I, III, and V of this Act, if the entity or person is prevented, in whole or in part, from complying with subsection (a) because a Federal court issues a final order in which the court finds that the requirement of subsection (a), or the program established under subsection (a), is unconstitutional.

SEC. 1822. EMERGENCY RELIEF.

Section 125(c)(1) of title 23, United States Code, is amended by striking $100,000,000" and inserting "$300,000,000".

SEC. 1823. PRIORITY FOR PEDESTRIAN AND BICYCLE FACILITY ENHANCEMENT PROJECTS.

Section 133(e)(5) of title 23, United States Code, is amended by adding at the end the following:

"(D) PRIORITY FOR PEDESTRIAN AND BICYCLE FACILITY ENHANCEMENT PROJECTS.—The Secretary shall encourage States to give priority to pedestrian and bicycle facility enhancement projects that include a coordinated physical activity or healthy lifestyles program.".

SEC. 1824. THE DELTA REGIONAL AUTHORITY.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1814(a)), is amended by adding at the end the following:

"§ 178. Delta Region transportation development program

"(a) IN GENERAL.—The Secretary shall carry out a program to—

"(1) support and encourage multistate transportation planning and corridor development;

"(2) provide for transportation project development;

"(3) facilitate transportation decisionmaking; and

"(4) support transportation construction.

"(b) ELIGIBLE RECIPIENTS.—A State transportation department or metropolitan planning organization may receive and administer funds provided under the program.

"(c) ELIGIBLE ACTIVITIES.—The Secretary shall make allocations under the program for multistate highway and transit planning, development, and construction projects.

"(d) OTHER PROVISIONS REGARDING ELIGIBILITY.—All activities funded under this program shall be consistent with the continuing, cooperative, and comprehensive planning processes required by section 134 and 135.

"(e) SELECTION CRITERIA.—The Secretary shall select projects to be carried out under the program based on—

"(1) whether the project is located—

"(A) in an area that is part of the Delta Regional Authority; and

"(B) on the Federal-aid system;

"(2) endorsement of the project by the State department of transportation; and

"(3) evidence of the ability to complete the project.

"(f) PROGRAM PRIORITIES.—In administering the program, the Secretary shall—

"(1) encourage State and local officials to work together to develop plans for multimodal and multijurisdictional transportation decisionmaking; and

"(2) give priority to projects that emphasize multimodal planning, including planning for operational improvements that—

"(A) increase the mobility of people and goods;

"(B) improve the safety of the transportation system with respect to catastrophic—

"(i) natural disasters; or

"(ii) disasters caused by human activity; and

"(C) contribute to the economic vitality of the area in which the project is being carried out.

"(g) FEDERAL SHARE.—Amounts provided by the Delta Regional Authority to carry out a project under this section shall be applied to the non-Federal share required by section 120.

"(h) AVAILABILITY OF FUNDS.—Amounts made available to carry out this section shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code (as amended by section 1814(b)), is amended by adding at the end the following:

"178. Delta Region transportation development program.".

SEC. 1825. MULTISTATE INTERNATIONAL CORRIDOR DEVELOPMENT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish a program to develop international trade corridors to facilitate the movement of freight from international ports of entry and inland ports through and to the interior of the United States.

(b) ELIGIBLE RECIPIENTS.—State transportation departments and metropolitan planning organizations shall be eligible to receive and administer funds provided under the program.

(c) ELIGIBLE ACTIVITIES.—The Secretary shall make allocations under this program for any activity eligible for funding under title 23, United States Code, including multistate highway and multistate multimodal planning and project construction.

(d) OTHER PROVISIONS REGARDING ELIGIBILITY.—All activities funded under this program shall be consistent with the continuing, cooperative, and comprehensive planning processes required by sections 134 and 135 of title 23, United States Code.

(e) SELECTION CRITERIA.—The Secretary shall only select projects for corridors—

(1) that have significant levels or increases in truck and traffic volume relating to international freight movement;

(2) connect to at least 1 international terminus or inland port;

(3) traverse at least 3 States; and

(4) are identified by section 115(c) of the Intermodal Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2032).

(f) PROGRAM PRIORITIES.—In administering the program, the Secretary shall—

(1) encourage and enable States and other jurisdictions to work together to develop plans for multimodal and multijurisdictional transportation decisionmaking; and

(2) give priority to studies that emphasize multimodal planning, including planning for operational improvements that increase mobility, freight productivity, access to marine ports, safety, and security while enhancing the environment.

(g) FEDERAL SHARE.—The Federal share required for any study carried out under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter I of title 23, United States Code.

SEC. 1826. AUTHORIZATION OF CONTRACT AUTHORITY FOR STATES WITH INDIAN RESERVATIONS.

Section 1214(d)(5)(A) of the Transportation Equity Act for the 21st Century (23 U.S.C. 202 note; 112 Stat. 206) is amended by striking "$1,500,000 for each of fiscal years 1998 through 2003" and inserting "$1,800,000 for each of fiscal years 2004 through 2009".

Subtitle I—Technical Corrections

SEC. 1901. REPEAL OR UPDATE OF OBSOLETE TEXT.

(a) LETTING OF CONTRACTS.—Section 112 of title 23, United States Code, is amended—

(1) by striking subsection (f); and

(2) by redesignating subsection (g) as subsection (f).

(b) FRINGE AND CORRIDOR PARKING FACILITIES.—Section 137(a) of title 23, United States Code, is amended in the first sentence by striking "on the Federal-aid urban system" and inserting "on a Federal-aid highway".

SEC. 1902. CLARIFICATION OF DATE.

Section 109(g) of title 23, United States Code, is amended in the first sentence by striking "The Secretary" and all that follows through "of 1970" and inserting "Not later than January 30, 1971, the Secretary shall issue".

SEC. 1903. INCLUSION OF REQUIREMENTS FOR SIGNS IDENTIFYING FUNDING SOURCES IN TITLE 23.

(a) IN GENERAL.—Section 154 of the Federal-Aid Highway Act of 1987 (23 U.S.C. 101 note; 101 Stat. 209) is—

(1) transferred to title 23, United States Code;

(2) redesignated as section 321;

(3) moved to appear after section 320 of that title; and

(4) amended by striking the section heading and inserting the following:

"§ 321. Signs identifying funding sources".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by inserting after the item relating to section 320 the following:

"321. Signs identifying funding sources.".

SEC. 1904. INCLUSION OF BUY AMERICA REQUIREMENTS IN TITLE 23.

(a) IN GENERAL.—Section 165 of the Highway Improvement Act of 1982 (23 U.S.C. 101 note; 96 Stat. 2136) is—

(1) transferred to title 23, United States Code;

(2) redesignated as section 313;

(3) moved to appear after section 312 of that title; and

(4) amended by striking the section heading and inserting the following:

"§ 313. Buy America".

(b) CONFORMING AMENDMENTS.—

(1) The analysis for chapter 3 of title 23, United States Code, is amended by inserting after the item relating to section 312 the following:

"313. Buy America.".

(2) Section 313 of title 23, United States Code (as added by subsection (a)), is amended—

(A) in subsection (a), by striking "by this Act" the first place it appears and all that follows through "of 1978" and inserting "to carry out the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or this title";

(B) in subsection (b), by redesignating paragraph (4) as paragraph (3);

(C) in subsection (d), by striking "this Act," and all that follows through "Code, which" and inserting "the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or this title that";

(D) by striking subsection (e); and

(E) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

SEC. 1905. TECHNICAL AMENDMENTS TO NONDISCRIMINATION SECTION.

Section 140 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking "subsection (a) of section 105 of this title" and inserting "section 135";

(B) in the second sentence, by striking "He" and inserting "The Secretary";

(C) in the third sentence, by striking "where he considers it necessary to assure" and inserting "if necessary to ensure"; and

(D) in the last sentence—

(i) by striking "him" and inserting "the Secretary" and

(ii) by striking "he" and inserting "the Secretary";

(2) in subsection (b)—

(A) in the first sentence, by striking "highway construction" and inserting "surface transportation"; and

(B) in the second sentence—

(i) by striking "as he may deem necessary" and inserting "as necessary"; and

(ii) by striking "not to exceed $2,500,000 for the transition quarter ending September 30, 1976, and";

(3) in the second sentence of subsection (c)—

(A) by striking "subsection 104(b)(3) of this title" and inserting "section 104(b)(3)"; and

(B) by striking "he may deem"; and

(4) in the heading of subsection (d), by striking "AND CONTRACTING".

TITLE II—TRANSPORTATION RESEARCH

Subtitle A—Funding

SEC. 2001. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) SURFACE TRANSPORTATION RESEARCH.—

(A) IN GENERAL.—For carrying out sections 502, 503, 506, 507, 508, and 511 of title 23, United States Code—

(i) $211,000,000 for each of fiscal years 2004 and 2005;

(ii) $215,000,000 for fiscal year 2006;

(iii) $218,000,000 for fiscal year 2007;

(iv) $220,000,000 for fiscal year 2008; and

(v) $223,000,000 for fiscal year 2009.

(B) SURFACE TRANSPORTATION-ENVIRONMENTAL COOPERATIVE RESEARCH PROGRAM.—For each of fiscal years 2004 through 2009, the Secretary shall set aside $20,000,000 of the funds authorized under subparagraph (A) to carry out the surface transportation-environmental cooperative research program under section 507 of title 23, United States Code.

(2) TRAINING AND EDUCATION.—For carrying out section 504 of title 23, United States Code—

(A) $27,000,000 for fiscal year 2004;

(B) $28,000,000 for fiscal year 2005;

(C) $29,000,000 for fiscal year 2006;

(D) $30,000,000 for fiscal year 2007;

(E) $31,000,000 for fiscal year 2008; and

(F) $32,000,000 for fiscal year 2009.

(3) BUREAU OF TRANSPORTATION STATISTICS.—For the Bureau of Transportation Statistics to

carry out section 111 of title 49, United States Code, $28,000,000 for each of fiscal years 2004 through 2009.

(4) ITS STANDARDS, RESEARCH, OPERATIONAL TESTS, AND DEVELOPMENT.—For carrying out sections 524, 525, 526, 527, 528, and 529 of title 23, United States Code—

(A) $120,000,000 for fiscal year 2004;
(B) $123,000,000 for fiscal year 2005;
(C) $126,000,000 for fiscal year 2006;
(D) $129,000,000 for fiscal year 2007;
(E) $132,000,000 for fiscal year 2008; and
(F) $135,000,000 for fiscal year 2009.

(5) UNIVERSITY TRANSPORTATION CENTERS.—For carrying out section 510 of title 23, United States Code—

(A) $40,000,000 for fiscal year 2004; and

(B) $45,000,000 for each of fiscal years 2005 through 2009.

(b). APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized to be appropriated by subsection (a)—

(1) shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of a project or activity carried out using the funds shall be the share applicable under section 120(b) of title 23, United States Code, as adjusted under subsection (d) of that section (unless otherwise specified or otherwise determined by the Secretary); and

(2) shall remain available until expended.

(c) ALLOCATIONS.—

(1) SURFACE TRANSPORTATION RESEARCH.—Of the amounts made available under subsection (a)(1)—

(A) $27,000,000 for each of fiscal years 2004 through 2009 shall be available to carry out advanced, high-risk, long-term research under section 502(d) of title 23, United States Code;

(B) $18,000,000 for fiscal years 2004 and 2005, $17,000,000 for fiscal year 2006, $15,000,000 for fiscal year 2007, $12,000,000 for fiscal year 2008, and $10,00,000 for fiscal year 2009 shall be available to carry out the long-term pavement performance program under section 502(e) of that title;

(C) $6,000,000 for each of fiscal years 2004 through 2009 shall be available to carry out the high-performance concrete bridge research and technology transfer program under section 502(i) of that title;

(D) $6,000,000 for each of fiscal years 2004 through 2009 shall be made available to carry out research on asphalt used in highway pavements;

(E) $6,000,000 for each of fiscal years 2004 through 2009 shall be made available to carry out research on concrete pavements;

(F) $3,000,000 for each of fiscal years 2004 through 2009 shall be made available to carry out research on aggregates used in highway pavements;

(G) $4,750,000 for each of fiscal years 2004 through 2009 shall be made available for further development and deployment of techniques to prevent and mitigate alkali silica reactivity;

(H) $2,000,000 for fiscal year 2005 shall be remain available until expended for asphalt and asphalt-related reclamation research at the South Dakota School of Mines; and

(I) $3,000,000 for each of fiscal years 2004 through 2009 shall be made available to carry out section 502(f)(3) of title 23, United States Code.

(2) TECHNOLOGY APPLICATION PROGRAM.—Of the amounts made available under subsection (a)(1), $60,000,000 for each of fiscal years 2004 through 2009 shall be available to carry out section 503 of title 23, United States Code.

(3) TRAINING AND EDUCATION.—Of the amounts made available under subsection (a)(2)—

(A) $12,000,000 for fiscal year 2004, $12,500,000 for fiscal year 2005, $13,000,000 for fiscal year 2006, $13,500,000 for fiscal year 2007, $14,000,000 for fiscal year 2008, and $14,500,000 for fiscal year 2009 shall be available to carry out section 504(a) of title 23, United States Code (relating to the National Highway Institute);

(B) $15,000,000 for each of fiscal years 2004 through 2009 shall be available to carry out section 504(b) of that title (relating to local technical assistance); and

(C) $3,000,000 for each of fiscal years 2004 through 2009 shall be available to carry out section 504(c)(2) of that title (relating to the Eisenhower Transportation Fellowship Program).

(4) INTERNATIONAL HIGHWAY TRANSPORTATION OUTREACH PROGRAM.—Of the amounts made available under subsection (a)(1), $500,000 for each of fiscal years 2004 through 2009 shall be available to carry out section 506 of title 23, United States Code.

(5) NEW STRATEGIC HIGHWAY RESEARCH PROGRAM.—For each of fiscal years 2004 through 2009, to carry out section 509 of title 23, United States Code, the Secretary shall set aside—

(A) $15,000,000 of the amounts made available to carry out the interstate maintenance program under section 119 of title 23, United States Code, for the fiscal year;

(B) $19,000,000 of the amounts made available for the National Highway System under section 101 of title 23, United States Code, for the fiscal year;

(C) $13,000,000 of the amounts made available to carry out the bridge program under section 144 of title 23, United States Code, for the fiscal year;

(D) $20,000,000 of the amounts made available to carry out the surface transportation program under section 133 of title 23, United States Code, for the fiscal year;

(E) $5,000,000 of the amounts made available to carry out the congestion mitigation and air quality improvement program under section 149 of title 23, United States Code, for the fiscal year; and

(F) $3,000,000 of the amounts made available to carry out the highway safety improvement program under section 148 of title 23, United States Code, for the fiscal year.

(6) COMMERCIAL VEHICLE INTELLIGENT TRANSPORTATION SYSTEM INFRASTRUCTURE PROGRAM.—Of the amounts made available under subsection (a)(4), not less than $30,000,000 for each of fiscal years 2004 through 2009 shall be available to carry out section 527 of title 23, United States Code.

(d) TRANSFERS OF FUNDS.—The Secretary may transfer—

(1) to an amount made available under paragraphs (1), (2), or (4) of subsection (c), not to exceed 10 percent of the amount allocated for a fiscal year under any other of those paragraphs; and

(2) to an amount made available under subparagraphs (A), (B), or (C) of subsection (c)(3), not to exceed 10 percent of the amount allocated for a fiscal year under any other of those subparagraphs.

SEC. 2002. OBLIGATION CEILING.

Notwithstanding any other provision of law, the total of all obligations from amounts made available from the Highway Trust Fund (other than the Mass Transit Account) by section 2001(a) shall not exceed—

(1) $426,200,000 for fiscal year 2004;
(2) $435,200,000 for fiscal year 2005;
(3) $443,200,000 for fiscal year 2006;
(4) $450,200,000 for fiscal year 2007;
(5) $456,200,000 for fiscal year 2008; and
(6) $463,200,000 for fiscal year 2009.

SEC. 2003. NOTICE.

(a) NOTICE OF REPROGRAMMING.—If any funds authorized for carrying out this title or the amendments made by this title are subject to a reprogramming action that requires notice to be provided to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate, notice of that action shall be concurrently provided to the Committee on Transportation and Infrastructure and the Committee on Science of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(b) NOTICE OF REORGANIZATION.—On or before the 15th day preceding the date of any major reorganization of a program, project, or activity of the Department of Transportation for which funds are authorized by this title or the amendments made by this title, the Secretary shall provide notice of the reorganization to the Committee on Transportation and Infrastructure and the Committee on Science of the House of Representatives and the Committee on Environment and Public Works of the Senate.

Subtitle B—Research and Technology

SEC. 2101. RESEARCH AND TECHNOLOGY PROGRAM.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended to read as follows:

"CHAPTER 5—RESEARCH AND TECHNOLOGY

"SUBCHAPTER I—SURFACE TRANSPORTATION

"Sec.
"501. Definitions.
"502. Surface transportation research.
"503. Technology application program.
"504. Training and education.
"505. State planning and research.
"506. International highway transportation outreach program.
"507. Surface transportation-environmental cooperative research program.
"508. Surface transportation research technology deployment and strategic planning.
"509. New strategic highway research program.
"510. University transportation centers.
"511. Multistate corridor operations and management.
"512. Transportation analysis simulation system.

"SUBCHAPTER II—INTELLIGENT TRANSPORTATION SYSTEM RESEARCH AND TECHNICAL ASSISTANCE PROGRAM

"521. Finding.
"522. Goals and purposes.
"523. Definitions.
"524. General authorities and requirements.
"525. National ITS Program Plan.
"526. National ITS architecture and standards.
"527. Commercial vehicle intelligent transportation system infrastructure program.
"528. Research and development.
"529. Use of funds.

"SUBCHAPTER I—SURFACE TRANSPORTATION

"§ 501. Definitions

"In this subchapter:

"(1) FEDERAL LABORATORY.—The term 'Federal laboratory' includes—

"(A) a Government-owned, Government-operated laboratory; and

"(B) a Government-owned, contractor-operated laboratory.

"(2) SAFETY.—The term 'safety' includes highway and traffic safety systems, research, and development relating to—

"(A) vehicle, highway, driver, passenger, bicyclist, and pedestrian characteristics;

"(B) accident investigations;

"(C) integrated, interoperable emergency communications;

"(D) emergency medical care; and

“(E) transportation of the injured.

“§502. Surface transportation research

“(a) IN GENERAL.—

“(1) RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—The Secretary may carry out research, development, and technology transfer activities with respect to—

“(A) all phases of transportation planning and development (including new technologies, construction, transportation systems management and operations development, design, maintenance, safety, security, financing, data collection and analysis, demand forecasting, multimodal assessment, and traffic conditions); and

“(B) the effect of State laws on the activities described in subparagraph (A).

“(2) TESTS AND DEVELOPMENT.—The Secretary may test, develop, or assist in testing and developing, any material, invention, patented article, or process.

“(3) COOPERATION, GRANTS, AND CONTRACTS.—

“(A) IN GENERAL.—The Secretary may carry out this section—

“(i) independently;

“(ii) in cooperation with—

“(I) any other Federal agency or instrumentality; and

“(II) any Federal laboratory; or

“(iii) by making grants to, or entering into contracts, cooperative agreements, and other transactions with—

“(I) the National Academy of Sciences;

“(II) the American Association of State Highway and Transportation Officials;

“(III) planning organizations;

“(IV) a Federal laboratory;

“(V) a State agency;

“(VI) an authority, association, institution, or organization;

“(VII) a for-profit or nonprofit corporation;

“(VIII) a foreign country; or

“(IX) any other person.

“(B) COMPETITION; REVIEW.—All parties entering into contracts, cooperative agreements or other transactions with the Secretary, or receiving grants, to perform research or provide technical assistance under this section shall be selected, to the maximum extent practicable and appropriate—

“(i) on a competitive basis; and

“(ii) on the basis of the results of peer review of proposals submitted to the Secretary.

“(4) TECHNOLOGICAL INNOVATION.—The programs and activities carried out under this section shall be consistent with the surface transportation research and technology development strategic plan developed under section 508(c).

‘(5) FUNDS.—

‘(A) SPECIAL ACCOUNT.—In addition to other funds made available to carry out this section, the Secretary shall use such funds as may be deposited by any cooperating organization or person in a special account of the Treasury established for this purpose.

“(B) USE OF FUNDS.—The Secretary shall use funds made available to carry out this section to develop, administer, communicate, and promote the use of products of research, development, and technology transfer programs under this section.

“(b) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

“(1) IN GENERAL.—To encourage innovative solutions to surface transportation problems and stimulate the deployment of new technology, the Secretary may carry out, on a cost-shared basis, collaborative research and development with—

“(A) non-Federal entities (including State and local governments, foreign governments, colleges and universities, corporations, institutions, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State); and

“(B) Federal laboratories.

“(2) AGREEMENTS.—In carrying out this subsection, the Secretary may enter into cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)).

“(3) FEDERAL SHARE.—

“(A) IN GENERAL.—The Federal share of the cost of activities carried out under a cooperative research and development agreement entered into under this subsection shall not exceed 50 percent, except that if there is substantial public interest or benefit, the Secretary may approve a greater Federal share.

“(B) NON-FEDERAL SHARE.—All costs directly incurred by the non-Federal partners, including personnel, travel, and hardware development costs, shall be credited toward the non-Federal share of the cost of the activities described in subparagraph (A).

“(4) USE OF TECHNOLOGY.—The research, development, or use of a technology under a cooperative research and development agreement entered into under this subsection, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

“(5) WAIVER OF ADVERTISING REQUIREMENTS.—Section 3709 of the Revised Statutes (41 U.S.C. 5) shall not apply to a contract or agreement entered into under this chapter.

“(c) CONTENTS OF RESEARCH PROGRAM.—The Secretary shall include as priority areas of effort within the surface transportation research program—

“(1) the development of new technologies and methods in materials, pavements, structures, design, and construction, with the objectives of—

“(A)(i) increasing to 50 years the expected life of pavements;

“(ii) increasing to 100 years the expected life of bridges; and

“(iii) significantly increasing the durability of other infrastructure;

“(B) lowering the life-cycle costs, including—

“(i) construction costs;

“(ii) maintenance costs;

“(iii) operations costs; and

“(vi) user costs.

“(2) the development, and testing for effectiveness, of nondestructive evaluation technologies for civil infrastructure using existing and new technologies;

“(3) the investigation of—

“(A) the application of current natural hazard mitigation techniques to manmade hazards; and

“(B) the continuation of hazard mitigation research combining manmade and natural hazards;

“(4) the improvement of safety—

“(A) at intersections;

“(B) with respect to accidents involving vehicles run off the road; and

“(C) on rural roads;

“(5) the reduction of work zone incursions and improvement of work zone safety;

“(6) the improvement of geometric design of roads for the purpose of safety;

“(7) the examination of data collected through the national bridge inventory conducted under section 144 using the national bridge inspection standards established under section 151, with the objectives of determining whether—

“(A) the most useful types of data are being collected; and

“(B) any improvement could be made in the types of data collected and the manner in which the data is collected, with respect to bridges in the United States;

“(8) the improvement of the infrastructure investment needs report described in subsection (g) through—

“(A) the study and implementation of new methods of collecting better quality data, particularly with respect to performance, congestion, and infrastructure conditions;

“(B) monitoring of the surface transportation system in a system-wide manner, through the use of—

“(i) intelligent transportation system technologies of traffic operations centers; and

“(ii) other new data collection technologies as sources of better quality performance data;

“(C) the determination of the critical metrics that should be used to determine the condition and performance of the surface transportation system; and

“(D) the study and implementation of new methods of statistical analysis and computer models to improve the prediction of future infrastructure investment requirements;

“(9) the development of methods to improve the determination of benefits from infrastructure improvements, including—

“(A) more accurate calculations of benefit-to-cost ratios, considering benefits and impacts throughout local and regional transportation systems;

“(B) improvements in calculating life-cycle costs; and

“(C) valuation of assets;

“(10) the improvement of planning processes to better predict outcomes of transportation projects, including the application of computer simulations in the planning process to predict outcomes of planning decisions;

“(11) the multimodal applications of Geographic Information Systems and remote sensing, including such areas of application as—

“(A) planning;

“(B) environmental decisionmaking and project delivery; and

“(C) freight movement;

“(12) the development and application of methods of providing revenues to the Highway Trust Fund with the objective of offsetting potential reductions in fuel tax receipts;

“(13) the development of tests and methods to determine the benefits and costs to communities of major transportation investments and projects;

“(14) the conduct of extreme weather research, including research to—

“(A) reduce contraction and expansion damage;

“(B) reduce or repair road damage caused by freezing and thawing;

“(C) improve deicing or snow removal techniques;

“(D) develop better methods to reduce the risk of thermal collapse, including collapse from changes in underlying permafrost;

“(E) improve concrete and asphalt installation in extreme weather conditions; and

“(F) make other improvements to protect highway infrastructure or enhance highway safety or performance;

“(15) the improvement of surface transportation planning;

“(16) environmental research;

“(17) transportation system management and operations; and

“(18) any other surface transportation research topics that the Secretary determines, in accordance with the strategic planning process under section 508, to be critical.

“(d) ADVANCED, HIGH-RISK RESEARCH.—

“(1) IN GENERAL.—The Secretary shall establish and carry out, in accordance with the surface transportation research and technology development strategic plan developed under section 508(c) and research priority areas described in subsection (c), an advanced research program that addresses longer-term, higher-risk research with potentially dramatic breakthroughs for improving the durability, efficiency, environmental impact, productivity, and safety (including bicycle and pedestrian safety) aspects of highway and intermodal transportation systems.

"(2) PARTNERSHIPS.—In carrying out the program, the Secretary shall seek to develop partnerships with the public and private sectors.

"(3) REPORT.—The Secretary shall include in the strategic plan required under section 508(c) a description of each of the projects, and the amount of funds expended for each project, carried out under this subsection during the fiscal year.

"(e) LONG-TERM PAVEMENT PERFORMANCE PROGRAM.—

"(1) AUTHORITY.—The Secretary shall continue, through September 30, 2009, the long-term pavement performance program tests, monitoring, and data analysis.

"(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary shall make grants and enter into cooperative agreements and contracts to—

"(A) monitor, material-test, and evaluate highway test sections in existence as of the date of the grant, agreement, or contract;

"(B) analyze the data obtained in carrying out subparagraph (A); and

"(C) prepare products to fulfill program objectives and meet future pavement technology needs.

"(3) CONCLUSION OF PROGRAM.—

"(A) SUMMARY REPORT.—The Secretary shall include in the strategic plan required under section 508(c) a report on the initial conclusions of the long-term pavement performance program that includes—

"(i) an analysis of any research objectives that remain to be achieved under the program;

"(ii) an analysis of other associated longer-term expenditures under the program that are in the public interest;

"(iii) a detailed plan regarding the storage, maintenance, and user support of the database, information management system, and materials reference library of the program;

"(iv) a schedule for continued implementation of the necessary data collection and analysis and project plan under the program; and

"(v) an estimate of the costs of carrying out each of the activities described in clauses (i) through (iv) for each fiscal year during which the program is carried out.

"(B) DEADLINE; USEFULNESS OF ADVANCES.—The Secretary shall, to the maximum extent practicable—

"(i) ensure that the long-term pavement performance program is concluded not later than September 30, 2009; and

"(ii) make such allowances as are necessary to ensure the usefulness of the technological advances resulting from the program.

"(f) SEISMIC RESEARCH.—The Secretary shall—

"(1) in consultation and cooperation with Federal agencies participating in the National Earthquake Hazards Reduction Program established by section 5 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704), coordinate the conduct of seismic research;

"(2) take such actions as are necessary to ensure that the coordination of the research is consistent with—

"(A) planning and coordination activities of the Director of the Federal Emergency Management Agency under section 5(b)(1) of that Act (42 U.S.C. 7704(b)(1)); and

"(B) the plan developed by the Director of the Federal Emergency Management Agency under section 8(b) of that Act (42 U.S.C. 7705b(b)); and

"(3) in cooperation with the Center for Civil Engineering Research at the University of Nevada, Reno, carry out a seismic research program—

"(A) to study the vulnerability of the Federal-aid highway system and other surface transportation systems to seismic activity;

"(B) to develop and implement cost-effective methods to reduce the vulnerability; and

"(C) to conduct seismic research and upgrade earthquake simulation facilities as necessary to carry out the program.

"(g) INFRASTRUCTURE INVESTMENT NEEDS REPORT.—

"(1) IN GENERAL.—Not later than July 31, 2004, and July 31 of every second year thereafter, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes—

"(A) estimates of the future highway and bridge needs of the United States; and

"(B) the backlog of current highway and bridge needs.

"(2) COMPARISON WITH PRIOR REPORTS.—Each report under paragraph (1) shall provide the means, including all necessary information, to relate and compare the conditions and service measures used in the previous biennial reports.

"(h) SECURITY RELATED RESEARCH AND TECHNOLOGY TRANSFER ACTIVITIES.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, the Secretary, in consultation with the Secretary of Homeland Security, with key stakeholder input (including State transportation departments) shall develop a 5-year strategic plan for research and technology transfer and deployment activities pertaining to the security aspects of highway infrastructure and operations.

"(2) COMPONENTS OF PLAN.—The plan shall include—

"(A) an identification of which agencies are responsible for the conduct of various research and technology transfer activities;

"(B) a description of the manner in which those activities will be coordinated; and

"(C) a description of the process to be used to ensure that the advances derived from relevant activities supported by the Federal Highway Administration are consistent with the operational guidelines, policies, recommendations, and regulations of the Department of Homeland Security; and

"(D) a systematic evaluation of the research that should be conducted to address, at a minimum—

"(i) vulnerabilities of, and measures that may be taken to improve, emergency response capabilities and evacuations;

"(ii) recommended upgrades of traffic management during crises;

"(iii) integrated, interoperable emergency communications among the public, the military, law enforcement, fire and emergency medical services, and transportation agencies;

"(iv) protection of critical, security-related infrastructure; and

"(v) structural reinforcement of key facilities.

"(3) SUBMISSION.—On completion of the plan under this subsection, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

"(A) a copy of the plan developed under paragraph (1); and

"(B) a copy of a memorandum of understanding specifying coordination strategies and assignment of responsibilities covered by the plan that is signed by the Secretary and the Secretary of Homeland Security.

"(i) HIGH-PERFORMANCE CONCRETE BRIDGE RESEARCH AND TECHNOLOGY TRANSFER PROGRAM.—In accordance with the objectives described in subsection (c)(1) and the requirements under sections 503(b)(4) and 504(b), the Secretary shall carry out a program to demonstrate the application of high-performance concrete in the construction and rehabilitation of bridges.

"(j) BIOBASED TRANSPORTATION RESEARCH.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) $18,000,000 for each of fiscal years 2004 through 2009 equally divided and available to carry out biobased research of national importance at the National Biodiesel Board and at research centers identified in section 9011 of Public Law 107–171.

"§503. Technology application program

"(a) TECHNOLOGY APPLICATION INITIATIVES AND PARTNERSHIPS PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary, in consultation with interested stakeholders, shall develop and administer a national technology and innovation application initiatives and partnerships program.

"(2) PURPOSE.—The purpose of the program shall be to significantly accelerate the adoption of technology and innovation by the surface transportation community.

"(3) APPLICATION GOALS.—

"(A) ESTABLISHMENT.—Not later than 180 days after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, the Secretary, in consultation with the Surface Transportation Research Technology Advisory Committee, State transportation departments, and other interested stakeholders, shall establish, as part of the surface transportation research and technology development strategic plan under section 508(c), goals to carry out paragraph (1).

"(B) DESIGN.—Each of the goals and the program developed to achieve the goals shall be designed to provide tangible benefits, with respect to transportation systems, in the areas of efficiency, safety, reliability, service life, environmental protection, and sustainability.

"(C) STRATEGIES FOR ACHIEVEMENT.—For each goal, the Secretary, in cooperation with representatives of the transportation community, such as States, local governments, the private sector, and academia, shall use domestic and international technology to develop strategies and initiatives to achieve the goal, including technical assistance in deploying technology and mechanisms for sharing information among program participants.

"(4) INTEGRATION WITH OTHER PROGRAMS.—The Secretary shall integrate activities carried out under this subsection with the efforts of the Secretary to—

"(A) disseminate the results of research sponsored by the Secretary; and

"(B) facilitate technology transfer.

"(5) LEVERAGING OF FEDERAL RESOURCES.—In selecting projects to be carried out under this subsection, the Secretary shall give preference to projects that leverage Federal funds with other significant public or private resources.

"(6) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary may make grants and enter into cooperative agreements and contracts to foster alliances and support efforts to stimulate advances in transportation technology.

"(7) REPORTS.—The results and progress of activities carried out under this section shall be published as part of the annual transportation research report prepared by the Secretary under section 508(c)(5).

"(8) ALLOCATION.—To the extent appropriate to achieve the goals established under paragraph (3), the Secretary may further allocate funds made available to carry out this section to States for use by those States.

"(b) INNOVATIVE SURFACE TRANSPORTATION INFRASTRUCTURE RESEARCH AND CONSTRUCTION PROGRAM.—

"(1) IN GENERAL.—The Secretary shall establish and carry out a program for the application of innovative material, design, and construction technologies in the construction, preservation,

and rehabilitation of elements of surface transportation infrastructure.

"(2) GOALS.—The goals of the program shall include—

"(A) the development of new, cost-effective, and innovative materials;

"(B) the reduction of maintenance costs and life-cycle costs of elements of infrastructure, including the costs of new construction, replacement, and rehabilitation;

"(C) the development of construction techniques to increase safety and reduce construction time and traffic congestion;

"(D) the development of engineering design criteria for innovative products and materials for use in surface transportation infrastructure;

"(E) the development of highway bridges and structures that will withstand natural disasters and disasters caused by human activity; and

"(F) the development of new, nondestructive technologies and techniques for the evaluation of elements of transportation infrastructure.

"(3) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—

"(A) IN GENERAL.—Under the program, the Secretary shall make grants to, and enter into cooperative agreements and contracts with—

"(i) States, other Federal agencies, universities and colleges, private sector entities, and nonprofit organizations, to pay the Federal share of the cost of research, development, and technology transfer concerning innovative materials and methods; and

"(ii) States, to pay the Federal share of the cost of repair, rehabilitation, replacement, and new construction of elements of surface transportation infrastructure that demonstrate the application of innovative materials and methods.

"(B) APPLICATIONS.—

"(i) IN GENERAL.—To receive a grant under this subsection, an entity described in subparagraph (A) shall submit to the Secretary an application in such form and containing such information as the Secretary may require.

"(ii) APPROVAL.—The Secretary shall select and approve an application based on whether the proposed project that is the subject of the application would meet the goals described in paragraph (2).

"(4) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall take such action as is necessary to—

"(A) ensure that the information and technology resulting from research conducted under paragraph (3) is made available to State and local transportation departments and other interested parties, as specified by the Secretary; and

"(B) encourage the use of the information and technology.

"(5) FEDERAL SHARE.—The Federal share of the cost of a project under this section shall be determined by the Secretary.

"§504. Training and education

"(a) NATIONAL HIGHWAY INSTITUTE.—

"(1) IN GENERAL.—The Secretary shall—

"(A) operate, in the Federal Highway Administration, a National Highway Institute (referred to in this subsection as the 'Institute'); and

"(B) administer, through the Institute, the authority vested in the Secretary by this title or by any other law for the development and conduct of education and training programs relating to highways.

"(2) DUTIES OF THE INSTITUTE.—In cooperation with State transportation departments, industries in the United States, and national or international entities, the Institute shall develop and administer education and training programs of instruction for—

"(A) Federal Highway Administration, State, and local transportation agency employees;

"(B) regional, State, and metropolitan planning organizations;

"(C) State and local police, public safety, and motor vehicle employees; and

"(D) United States citizens and foreign nationals engaged or to be engaged in surface transportation work of interest to the United States.

"(3) COURSES.—

"(A) IN GENERAL.—The Institute shall—

"(i) develop or update existing courses in asset management, including courses that include such components as—

"(I) the determination of life-cycle costs;

"(II) the valuation of assets;

"(III) benefit-to-cost ratio calculations; and

"(IV) objective decisionmaking processes for project selection; and

"(ii) continually develop courses relating to the application of emerging technologies for—

"(I) transportation infrastructure applications and asset management;

"(II) intelligent transportation systems;

"(III) operations (including security operations);

"(IV) the collection and archiving of data;

"(V) expediting the planning and development of transportation projects; and

"(VI) the intermodal movement of individuals and freight.

"(B) ADDITIONAL COURSES.—In addition to the courses developed under subparagraph (A), the Institute, in consultation with State transportation departments, metropolitan planning organizations, and the American Association of State Highway and Transportation Officials, may develop courses relating to technology, methods, techniques, engineering, construction, safety, maintenance, environmental mitigation and compliance, regulations, management, inspection, and finance.

"(C) REVISION OF COURSES OFFERED.—The Institute shall periodically—

"(i) review the course inventory of the Institute; and

"(ii) revise or cease to offer courses based on course content, applicability, and need.

"(4) ELIGIBILITY; FEDERAL SHARE.—The funds apportioned to a State under section 104(b)(3) for the surface transportation program shall be available for expenditure by the State transportation department for the payment of not to exceed 80 percent of the cost of tuition and direct educational expenses (excluding salaries) in connection with the education and training of employees of State and local transportation agencies in accordance with this subsection.

"(5) FEDERAL RESPONSIBILITY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), education and training of employees of Federal, State, and local transportation (including highway) agencies authorized under this subsection may be provided—

"(i) by the Secretary, at no cost to the States and local governments, if the Secretary determines that provision at no cost is in the public interest; or

"(ii) by the State, through grants, cooperative agreements, and contracts with public and private agencies, institutions, individuals, and the Institute.

"(B) PAYMENT OF FULL COST BY PRIVATE PERSONS.—Private agencies, international or foreign entities, and individuals shall pay the full cost of any education and training (including the cost of course development) received by the agencies, entities, and individuals, unless the Secretary determines that payment of a lesser amount of the cost is of critical importance to the public interest.

"(6) TRAINING FELLOWSHIPS; COOPERATION.—The Institute may—

"(A) engage in training activities authorized under this subsection, including the granting of training fellowships; and

"(B) exercise the authority of the Institute independently or in cooperation with any—

"(i) other Federal or State agency;

"(ii) association, authority, institution, or organization;

"(iii) for-profit or nonprofit corporation;

"(iv) national or international entity;

"(v) foreign country; or

"(vi) person.

"(7) COLLECTION OF FEES.—

"(A) IN GENERAL.—In accordance with this subsection, the Institute may assess and collect fees to defray the costs of the Institute in developing or administering education and training programs under this subsection.

"(B) PERSONS SUBJECT TO FEES.—Fees may be assessed and collected under this subsection only with respect to—

"(i) persons and entities for whom education or training programs are developed or administered under this subsection; and

"(ii) persons and entities to whom education or training is provided under this subsection.

"(C) AMOUNT OF FEES.—The fees assessed and collected under this subsection shall be established in a manner that ensures that the liability of any person or entity for a fee is reasonably based on the proportion of the costs referred to in subparagraph (A) that relate to the person or entity.

"(D) USE.—All fees collected under this subsection shall be used, without further appropriation, to defray costs associated with the development or administration of education and training programs authorized under this subsection.

"(8) RELATION TO FEES.—The funds made available to carry out this subsection may be combined with or held separate from the fees collected under—

"(A) paragraph (7);

"(B) memoranda of understanding;

"(C) regional compacts; and

"(D) other similar agreements.

"(b) LOCAL TECHNICAL ASSISTANCE PROGRAM.—

"(1) AUTHORITY.—The Secretary shall carry out a local technical assistance program that will provide access to surface transportation technology to—

"(A) highway and transportation agencies in urbanized areas;

"(B) highway and transportation agencies in rural areas;

"(C) contractors that perform work for the agencies; and

"(D) infrastructure security.

"(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—The Secretary may make grants and enter into cooperative agreements and contracts to provide education and training, technical assistance, and related support services to—

"(A) assist rural, local transportation agencies and tribal governments, and the consultants and construction personnel working for the agencies and governments, to—

"(i) develop and expand expertise in road and transportation areas (including pavement, bridge, concrete structures, intermodal connections, safety management systems, intelligent transportation systems, incident response, operations, and traffic safety countermeasures);

"(ii) improve roads and bridges;

"(iii) enhance—

"(I) programs for the movement of passengers and freight; and

"(II) intergovernmental transportation planning and project selection; and

"(iv) deal effectively with special transportation-related problems by preparing and providing training packages, manuals, guidelines, and technical resource materials;

"(B) develop technical assistance for tourism and recreational travel;

“(C) identify, package, and deliver transportation technology and traffic safety information to local jurisdictions to assist urban transportation agencies in developing and expanding their ability to deal effectively with transportation-related problems (particularly the promotion of regional cooperation);

“(D) operate, in cooperation with State transportation departments and universities—

“(i) local technical assistance program centers designated to provide transportation technology transfer services to rural areas and to urbanized areas; and

“(ii) local technical assistance program centers designated to provide transportation technical assistance to tribal governments; and

“(E) allow local transportation agencies and tribal governments, in cooperation with the private sector, to enhance new technology implementation.

“(c) RESEARCH FELLOWSHIPS.—

“(1) GENERAL AUTHORITY.—The Secretary, acting independently or in cooperation with other Federal agencies and instrumentalities, may make grants for research fellowships for any purpose for which research is authorized by this chapter.

“(2) DWIGHT DAVID EISENHOWER TRANSPORTATION FELLOWSHIP PROGRAM.—The Secretary shall establish and implement a transportation research fellowship program, to be known as the ‘Dwight David Eisenhower Transportation Fellowship Program’, for the purpose of attracting qualified students to the field of transportation.

“§505. State planning and research

“(a) IN GENERAL.—Two percent of the sums apportioned to a State for fiscal year 2004 and each fiscal year thereafter under sections 104 (other than subsections (f) and (h)) and 144 shall be available for expenditure by the State, in consultation with the Secretary, only for—

“(1) the conduct of engineering and economic surveys and investigations;

“(2) the planning of—

“(A) future highway programs and local public transportation systems; and

“(B) the financing of those programs and systems, including metropolitan and statewide planning under sections 134 and 135;

“(3) the development and implementation of management systems under section 303;

“(4) the conduct of studies on—

“(A) the economy, safety, and convenience of surface transportation systems; and

“(B) the desirable regulation and equitable taxation of those systems;

“(5) research, development, and technology transfer activities necessary in connection with the planning, design, construction, management, and maintenance of highway, public transportation, and intermodal transportation systems;

“(6) the conduct of studies, research, and training relating to the engineering standards and construction materials for surface transportation systems described in paragraph (5) (including the evaluation and accreditation of inspection and testing and the regulation of and charging for the use of the standards and materials); and

“(7) the conduct of activities relating to the planning of real-time monitoring elements.

“(b) MINIMUM EXPENDITURES ON RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—

“(1) IN GENERAL.—Subject to paragraph (2), not less than 25 percent of the funds subject to subsection (a) that are apportioned to a State for a fiscal year shall be expended by the State for research, development, and technology transfer activities that—

“(A) are described in subsection (a); and

“(B) relate to highway, public transportation, and intermodal transportation systems.

“(2) WAIVERS.—The Secretary may waive the application of paragraph (1) with respect to a State for a fiscal year if—

“(A) the State certifies to the Secretary for the fiscal year that total expenditures by the State for transportation planning under sections 134 and 135 will exceed 75 percent of the funds described in paragraph (1); and

“(B) the Secretary accepts the certification of the State.

“(3) NONAPPLICABILITY OF ASSESSMENT.—Funds expended under paragraph (1) shall not be considered to be part of the extramural budget of the agency for the purpose of section 9 of the Small Business Act (15 U.S.C. 638).

“(c) FEDERAL SHARE.—The Federal share of the cost of a project carried out using funds subject to subsection (a) shall be the share applicable under section 120(b), as adjusted under subsection (d) of that section.

“(d) ADMINISTRATION OF SUMS.—Funds subject to subsection (a) shall be—

“(1) combined and administered by the Secretary as a single fund; and

“(2) available for obligation for the period described in section 118(b)(2).

“(e) ELIGIBLE USE OF STATE PLANNING AND RESEARCH FUNDS.—A State, in coordination with the Secretary, may obligate funds made available to carry out this section for any purpose authorized under section 506(a).

“§506. International highway transportation outreach program

“(a) ESTABLISHMENT.—The Secretary may establish an international highway transportation outreach program—

“(1) to inform the United States highway community of technological innovations in foreign countries that could significantly improve highway transportation in the United States;

“(2) to promote United States highway transportation expertise, goods, and services in foreign countries; and

“(3) to increase transfers of United States highway transportation technology to foreign countries.

“(b) ACTIVITIES.—Activities carried out under the program may include—

“(1) the development, monitoring, assessment, and dissemination in the United States of information about highway transportation innovations in foreign countries that could significantly improve highway transportation in the United States;

“(2) research, development, demonstration, training, and other forms of technology transfer and exchange;

“(3) the provision to foreign countries, through participation in trade shows, seminars, expositions, and other similar activities, of information relating to the technical quality of United States highway transportation goods and services;

“(4) the offering of technical services of the Federal Highway Administration that cannot be readily obtained from private sector firms in the United States for incorporation into the proposals of those firms undertaking highway transportation projects outside the United States, if the costs of the technical services will be recovered under the terms of the project;

“(5) the conduct of studies to assess the need for, or feasibility of, highway transportation improvements in foreign countries; and

“(6) the gathering and dissemination of information on foreign transportation markets and industries.

“(c) COOPERATION.—The Secretary may carry out this section in cooperation with any appropriate—

“(1) Federal, State, or local agency;

“(2) authority, association, institution, or organization;

“(3) for-profit or nonprofit corporation;

“(4) national or international entity;

“(5) foreign country; or

“(6) person.

“(d) FUNDS.—

“(1) CONTRIBUTIONS.—Funds available to carry out this section shall include funds deposited by any cooperating organization or person into a special account of the Treasury established for this purpose.

“(2) ELIGIBLE USES OF FUNDS.—The funds deposited into the account, and other funds available to carry out this section, shall be available to cover the cost of any activity eligible under this section, including the cost of—

“(A) promotional materials;

“(B) travel;

“(C) reception and representation expenses; and

“(D) salaries and benefits.

“(3) REIMBURSEMENTS FOR SALARIES AND BENEFITS.—Reimbursements for salaries and benefits of Department of Transportation employees providing services under this section shall be credited to the account.

“(e) REPORT—For each fiscal year, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes the destinations and individual trip costs of international travel conducted in carrying out activities described in this section.

“§507. Surface transportation-environmental cooperative research program

“(a) IN GENERAL.—The Secretary shall establish and carry out a surface transportation-environmental cooperative research program.

“(b) CONTENTS.—The program carried out under this section may include research—

“(1) to develop more accurate models for evaluating transportation control measures and transportation system designs that are appropriate for use by State and local governments (including metropolitan planning organizations) in designing implementation plans to meet Federal, State, and local environmental requirements;

“(2) to improve understanding of the factors that contribute to the demand for transportation;

“(3) to develop indicators of economic, social, and environmental performance of transportation systems to facilitate analysis of potential alternatives;

“(4) to meet additional priorities as determined by the Secretary in the strategic planning process under section 508; and

“(5) to refine, through the conduct of workshops, symposia, and panels, and in consultation with stakeholders (including the Department of Energy, the Environmental Protection Agency, and other appropriate Federal and State agencies and associations) the scope and research emphases of the program.

“(c) PROGRAM ADMINISTRATION.—The Secretary shall—

“(1) administer the program established under this section; and

“(2) ensure, to the maximum extent practicable, that—

“(A) the best projects and researchers are selected to conduct research in the priority areas described in subsection (b)—

“(i) on the basis of merit of each submitted proposal; and

“(ii) through the use of open solicitations and selection by a panel of appropriate experts;

“(B) a qualified, permanent core staff with the ability and expertise to manage a large multiyear budget is used;

“(C) the stakeholders are involved in the governance of the program, at the executive, overall program, and technical levels, through the use of expert panels and committees; and

"(D) there is no duplication of research effort between the program established under this section and the new strategic highway research program established under section 509.

"(d) NATIONAL ACADEMY OF SCIENCES.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities relating to the research, technology, and technology transfer activities described in subsections (b) and (c) as the Secretary determines to be appropriate.

"§508. Surface transportation research technology deployment and strategic planning

"(a) PLANNING.—

"(1) ESTABLISHMENT.—The Secretary shall—

"(A) establish, in accordance with section 306 of title 5, a strategic planning process that—

"(i) enhances effective implementation of this section through the establishment in accordance with paragraph (2) of the Surface Transportation Research Technology Advisory Committee; and

"(ii) focuses on surface transportation research funded through paragraphs (1), (2), (4), and (5) of section 2001(a) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, taking into consideration national surface transportation system needs and intermodality requirements;

"(B) coordinate Federal surface transportation research, technology development, and deployment activities;

"(C) at such intervals as are appropriate and practicable, measure the results of those activities and the ways in which the activities affect the performance of the surface transportation systems of the United States; and

"(D) ensure, to the maximum extent practicable, that planning and reporting activities carried out under this section are coordinated with all other surface transportation planning and reporting requirements.

"(2) SURFACE TRANSPORTATION RESEARCH TECHNOLOGY ADVISORY COMMITTEE.—

"(A) ESTABLISHMENT.—Not later than 90 days after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, the Secretary shall establish a committee to be known as the 'Surface Transportation Research Technology Advisory Committee' (referred to in this section as the 'Committee').

"(B) MEMBERSHIP.—The Committee shall be composed of 12 members appointed by the Secretary—

"(i) each of which shall have expertise in a particular area relating to Federal surface transportation programs, including—

"(I) safety;

"(II) operations;

"(III) infrastructure (including pavements and structures);

"(IV) planning and environment;

"(V) policy; and

"(VI) asset management; and

"(ii) of which—

"(I) 3 members shall be individuals representing the Federal Government;

"(II) 3 members—

"(aa) shall be exceptionally qualified to serve on the Committee, as determined by the Secretary, based on education, training, and experience; and

"(bb) shall not be officers or employees of the United States;

"(III) 3 members—

"(aa) shall represent the transportation industry (including the pavement industry); and

"(bb) shall not be officers or employees of the United States; and

"(IV) 3 members shall represent State transportation departments from 3 different geographical regions of the United States.

"(C) MEETINGS.—The advisory subcommittees shall meet on a regular basis, but not less than twice each year.

"(D) DUTIES.—The Committee shall provide to the Secretary, on a continuous basis, advice and guidance relating to—

"(i) the determination of surface transportation research priorities;

"(ii) the improvement of the research planning and implementation process;

"(iii) the design and selection of research projects;

"(iv) the review of research results;

"(v) the planning and implementation of technology transfer activities and

"(vi) the formulation of the surface transportation research and technology deployment and deployment strategic plan required under subsection (c).

"(E) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this paragraph $200,000 for each fiscal year.

"(b) IMPLEMENTATION.—The Secretary shall—

"(1) provide for the integrated planning, coordination, and consultation among the operating administrations of the Department of Transportation, all other Federal agencies with responsibility for surface transportation research and technology development, State and local governments, institutions of higher education, industry, and other private and public sector organizations engaged in surface transportation-related research and development activities; and

"(2) ensure that the surface transportation research and technology development programs of the Department do not duplicate other Federal, State, or private sector research and development programs.

"(c) SURFACE TRANSPORTATION RESEARCH AND TECHNOLOGY DEPLOYMENT STRATEGIC PLAN.—

"(1) IN GENERAL.—After receiving, and based on, extensive consultation and input from stakeholders representing the transportation community and the Surface Transportation Research Advisory Committee, the Secretary shall, not later than 1 year after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, complete, and shall periodically update thereafter, a strategic plan for each of the core surface transportation research areas, including—

"(A) safety;

"(B) operations;

"(C) infrastructure (including pavements and structures);

"(D) planning and environment;

"(E) policy; and

"(F) asset management.

"(2) COMPONENTS.—The strategic plan shall specify—

"(A) surface transportation research objectives and priorities;

"(B) specific surface transportation research projects to be conducted;

"(C) recommended technology transfer activities to promote the deployment of advances resulting from the surface transportation research conducted; and

"(D) short- and long-term technology development and deployment activities.

"(3) REVIEW AND SUBMISSION OF FINDINGS.—The Secretary shall enter into a contract with the Transportation Research Board of the National Academy of Sciences, on behalf of the Research and Technology Coordinating Committee of the National Research Council, under which—

"(A) the Transportation Research Board shall—

"(i) review the research and technology planning and implementation process used by Federal Highway Administration; and

"(ii) evaluate each of the strategic plans prepared under this subsection—

"(I) to ensure that sufficient stakeholder input is being solicited and considered throughout the preparation process; and

"(II) to offer recommendations relevant to research priorities, project selection, and deployment strategies; and

"(B) the Secretary shall ensure that the Research and Technology Coordinating Committee, in a timely manner, informs the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of the findings of the review and evaluation under subparagraph (A).

"(4) RESPONSES OF SECRETARY.—Not later than 60 days after the date of completion of the strategic plan under this subsection, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives written responses to each of the recommendations of the Research and Technology Coordinating Committee under paragraph (3)(A)(ii)(II).

"(d) CONSISTENCY WITH GOVERNMENT PERFORMANCE AND RESULTS ACT OF 1993.—The plans and reports developed under this section shall be consistent with and incorporated as part of the plans developed under section 306 of title 5 and sections 1115 and 1116 of title 31.

"§509. New strategic highway research program

"(a) IN GENERAL.—The National Research Council shall establish and carry out, through fiscal year 2009, a new strategic highway research program.

"(b) BASIS; PRIORITIES.—With respect to the program established under subsection (a)—

"(1) the program shall be based on—

"(A) 'National Research Council Special Report No. 260, entitled 'Strategic Highway Research'; and

"(B) the results of the detailed planning work subsequently carried out to scope the research areas through National Cooperative Research Program Project 20–58.

"(2) the scope and research priorities of the program shall—

"(A) be refined through stakeholder input in the form of workshops, symposia, and panels; and

"(B) include an examination of—

"(i) the roles of highway infrastructure, drivers, and vehicles in fatalities on public roads;

"(ii) high-risk areas and activities associated with the greatest numbers of highway fatalities;

"(iii) the roles of various levels of government agencies and non-governmental organizations in reducing highway fatalities (including recommendations for methods of strengthening highway safety partnerships);

"(iv) measures that may save the greatest number of lives in the short- and long-term;

"(v) renewal of aging infrastructure with minimum impact on users of facilities;

"(vi) driving behavior and likely crash causal factors to support improved countermeasures;

"(vii) reduction in congestion due to nonrecurring congestion;

"(viii) planning and designing of new road capacity to meet mobility, economic, environmental, and community needs;

"(3) the program shall consider, at a minimum, the results of studies relating to the implementation of the Strategic Highway Safety Plan prepared by the American Association of State Highway and Transportation Officials; and

"(4) the research results of the program, expressed in terms of technologies, methodologies, and other appropriate categorizations, shall be disseminated to practicing engineers as soon as practicable for their use.

''(c) PROGRAM ADMINISTRATION.—In carrying out the program under this section, the National Research Council shall ensure, to the maximum extent practicable, that—

''(1) the best projects and researchers are selected to conduct research for the program and priorities described in subsection (b)—

''(A) on the basis of the merit of each submitted proposal; and

''(B) through the use of open solicitations and selection by a panel of appropriate experts;

''(2) the National Research Council acquires a qualified, permanent core staff with the ability and expertise to manage a large research program and multiyear budget;

''(3) the stakeholders are involved in the governance of the program, at the executive, overall program, and technical levels, through the use of expert panels and committees; and

''(4) there is no duplication of research effort between the program established under this section and the surface transportation-environment cooperative research program established under section 507 or any other research effort of the Department.

''(d) NATIONAL ACADEMY OF SCIENCES.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities relating to research, technology, and technology transfer described in subsections (b) and (c) as the Secretary determines to be appropriate.

''(e) REPORT ON IMPLEMENTATION OF RESULTS.—

''(1) IN GENERAL.—Not later than October 1, 2007, the Secretary shall enter into a contract with the Transportation Research Board of the National Academy of Sciences under which the Transportation Research Board shall complete a report on the strategies and administrative structure to be used for implementation of the results of new strategic highway research program.

''(2) COMPONENTS.—The report under paragraph (1) shall include, with respect to the new strategic highway research program—

''(A) an identification of the most promising results of research under the program (including the persons most likely to use the results);

''(B) a discussion of potential incentives for, impediments to, and methods of, implementing those results;

''(C) an estimate of costs that would be incurred in expediting implementation of those results; and

''(D) recommendations for the way in which implementation of the results of the program under this section should be conducted, coordinated, and supported in future years, including a discussion of the administrative structure and organization best suited to carry out those responsibilities.

''(3) CONSULTATION.—In developing the report, the Transportation Research Board shall consult with a wide variety of stakeholders, including—

''(A) the American Association of State highway Officials;

''(B) the Federal Highway Administration; and

''(C) the Surface Transportation Research Technology Advisory Committee.

''(4) SUBMISSION.—Not later than February 1, 2009, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives the report under this subsection.

“§510. University transportation centers

''(a) CENTERS.—

''(1) IN GENERAL.—During fiscal year 2004, the Secretary shall provide grants to 40 nonprofit institutions of higher learning (or consortia of institutions of higher learning) to establish centers to address transportation design, management, research, development, and technology matters, especially the education and training of greater numbers of individuals to enter into the professional field of transportation.

''(2) DISTRIBUTION OF CENTERS.—Not more than 1 university transportation center (or lead university in a consortia of institutions of higher learning), other than a center or university selected through a competitive process, may be located in any State.

''(3) IDENTIFICATION OF CENTERS.—The university transportation centers established under this section shall—

''(A) comply with applicable requirements under subsection (c); and

''(B) be located at the institutions of higher learning specified in paragraph (4).

''(4) IDENTIFICATION OF GROUPS.—For the purpose of making grants under this subsection, the following grants are identified:

''(A) GROUP A.—Group A shall consist of the 10 regional centers selected under subsection (b).

''(B) GROUP B.—Group B shall consist of the following:

''(i) [ ].
''(ii) [ ].
''(iii) [ ].
''(iv) [ ].
''(v) [ ].
''(vi) [ ].
''(vii) [ ].
''(viii) [ ]
''(ix) [ ].
''(x) [ ].
''(xi) [ ].

''(C) GROUP C.—Group C shall consist of the following:

''(i) [ ].
''(ii) [ ].
''(iii) [ ].
''(iv) [ ].
''(v) [ ].
''(vi) [ ].
''(vii) [ ].
''(viii) [ ].
''(ix) [ ].
''(x) [ ].
''(xi) [ ].

''(D) GROUP D.—Group D shall consist of the following:

''(i) [ ].
''(ii) [ ].
''(iii) [ ].
''(iv) [ ].
''(v) [ ].
''(vi) [ ].
''(vii) [ ].
''(viii) [ ].

''(b) REGIONAL CENTERS.—

''(1) IN GENERAL.—Not later than September 30, 2004, the Secretary shall provide to nonprofit institutions of higher learning (or consortia of institutions of higher learning) grants to be used during the period of fiscal years 2005 through 2009 to establish and operate 1 university transportation center in each of the 10 Federal regions that comprise the Standard Federal Regional Boundary System.

''(2) SELECTION OF REGIONAL CENTERS.—

''(A) PROPOSALS.—In order to be eligible to receive a grant under this subsection, an institution described in paragraph (1) shall submit to the Secretary a proposal, in response to any request for proposals that shall be made by the Secretary, that is in such form and contains such information as the Secretary shall prescribe.

''(B) REQUEST SCHEDULE.—The Secretary shall request proposals once for the period of fiscal years 2004 through 2006 and once for the period of fiscal years 2007 through 2009.

''(C) ELIGIBILITY.—Any institution of higher learning (or consortium of institutions of higher learning) that meets the criteria described in subsection (c) (including any institution identified in subsection (a)(4)) may apply for a grant under this subsection.

''(D) SELECTION CRITERIA.—The Secretary shall select each recipient of a grant under this subsection through a competitive process on the basis of—

''(i) the location of the center within the Federal region to be served;

''(ii) the demonstrated research capabilities and extension resources available to the recipient to carry out this section;

''(iii) the capability of the recipient to provide leadership in making national and regional contributions to the solution of immediate and long-range transportation problems;

''(iv) the demonstrated ability of the recipient to disseminate results of transportation research and education programs through a statewide or regionwide continuing education program; and

''(v) the strategic plan that the recipient proposes to carry out using funds from the grant.

''(E) SELECTION PROCESS.—In selecting the recipients of grants under this subsection, the Secretary shall consult with, and consider the advice of—

''(i) the Research and Special Programs Administration;

''(ii) the Federal Highway Administration; and

''(iii) the Federal Transit Administration.

''(c) CENTER REQUIREMENTS.—

''(1) IN GENERAL.—With respect to a university transportation center established under subsection (a) or (b), the institution or consortium that receives a grant to establish the center—

''(A) shall annually contribute at least $250,000 to the operation and maintenance of the center, except that payment by the institution or consortium of the salary required for transportation-related faculty and staff for a period greater than 90 days may not be counted against that contribution;

''(B) shall have established, as of the date of receipt of the grant, undergraduate or graduate programs in—

''(i) civil engineering;

''(ii) transportation engineering;

''(iii) transportation systems management and operations; or

''(iv) any other field significantly related to surface transportation systems, as determined by the Secretary; and

''(C) not later than 120 days after the date on which the institution or consortium receives notice of selection as a site for the establishment of a university transportation center under this section, shall submit to the Secretary a 6-year program plan for the university transportation center that includes, with respect to the center—

''(i) a description of the purposes of programs to be conducted by the center;

''(ii) a description of the undergraduate and graduate transportation education efforts to be carried out by the center;

''(iii) a description of the nature and scope of research to be conducted by the center;

''(iv) a list of personnel, including the roles and responsibilities of those personnel within the center; and

''(v) a detailed budget, including the amount of contributions by the institution or consortium to the center; and

''(D) shall establish an advisory committee that—

''(i) is composed of a representative from each of the State transportation department of the State in which the institution or consortium is located, the Department of Transportation, and the institution or consortia, as appointed by those respective entities;

''(ii) in accordance with paragraph (2), shall review and approve or disapprove the plan of

the institution or consortium under subparagraph (C); and

"(iii) shall, to the maximum extent practicable, ensure that the proposed research to be carried out by the university transportation center will contribute to the national highway research and technology agenda, as periodically updated by the Secretary, in consultation with stakeholders representing the highway community.

"(2) PEER REVIEW.—

"(A) IN GENERAL.—The Secretary shall require peer review for each report on research carried out using funds made available for this section.

"(B) PURPOSES OF PEER REVIEW.—Peer review of a report under this section shall be carried out to evaluate—

"(i) the relevance of the research described in the report with respect to the strategic plan under, and the goals of, this section;

"(ii) the research covered by the report, and to recommend modifications to individual project plans;

"(iii) the results of the research before publication of those results; and

"(iv) the overall outcomes of the research.

"(C) INTERNET AVAILABILITY.—Each report under this section that is received by the Secretary shall be published—

"(i) by the Secretary, on the Internet website of the Department of Transportation; and

"(ii) by the University Transportation Center.

"(3) APPROVAL OF PLANS—A plan of an institution or consortium described in paragraph (1)(C) shall not be submitted to the Secretary until such time as the advisory committee established under paragraph (1)(D) reviews and approves the plan.

"(4) FAILURE TO COMPLY.—If a recipient of a grant under this subsection fails to submit a program plan acceptable to the Secretary and in accordance with paragraph (1)(C)—

"(A) the recipient shall forfeit the grant and the selection of the recipient as a site for the establishment of a university transportation center; and

"(B) the Secretary shall select a replacement recipient for the forfeited grant.

"(5) APPLICABILITY.—This subsection does not apply to any research funds received in accordance with a competitive contract offered and entered into by the Federal Highway Administration.

"(d) OBJECTIVES.—Each university transportation center established under subsection (a) or (b) shall carry out—

"(1) undergraduate or graduate education programs that include—

"(A) multidisciplinary coursework; and

"(B) opportunities for students to participate in research;

"(2) basic and applied research, the results and products of which shall be judged by peers or other experts in the field so as to advance the body of knowledge in transportation; and

"(3) an ongoing program of technology transfer that makes research results available to potential users in such form as will enable the results to be implemented, used, or otherwise applied.

"(e) MAINTENANCE OF EFFORT.—To be eligible to receive a grant under this section, an applicant shall—

"(1) enter into an agreement with the Secretary to ensure that the applicant will maintain total expenditures from all other sources to establish and operate a university transportation center and related educational and research activities at a level that is at least equal to the average level of those expenditures during the 2 fiscal years before the date on which the grant is provided;

"(2) provide the annual institutional contribution required under subsection (c)(1); and

"(3) submit to the Secretary, in a timely manner, for use by the Secretary in the preparation of the annual research report under section 508(c)(5) of title 23, an annual report on the projects and activities of the university transportation center for which funds are made available under section 2001 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 that contains, at a minimum, for the fiscal year covered by the report, a description of—

"(A) the goals of the center;

"(B) the educational activities carried out by the center (including a detailed summary of the budget for those educational activities);

"(C) teaching activities of faculty at the center;

"(D) each research project carried out by the center, including—

"(i) the identity and location of each investigator working on a research project;

"(ii) the overall funding amount for each research project (including the amounts expended for the project as of the date of the report);

"(iii) the current schedule for each research project; and

"(iv) the results of each research project through the date of submission of the report, with particular emphasis on results for the fiscal year covered by the report; and

"(E) overall technology transfer and implementation efforts of the center.

"(f) PROGRAM COORDINATION.—The Secretary shall—

"(1) coordinate the research, education, training, and technology transfer activities carried out by recipients of grants under this section; and

"(2) establish and operate a clearinghouse for, and disseminate, the results of those activities.

"(g) FUNDING.—

"(1) NUMBER AND AMOUNT OF GRANTS.—The Secretary shall make the following grants under this subsection:

"(A) GROUP A.—For each of fiscal years 2004 through 2009, the Secretary shall make a grant in the amount of $20,000,000 to each of the institutions in group A (as described in subsection (a)(4)(A)).

"(B) GROUP B.—The Secretary shall make a grant to each of the institutions in group B (as described in subsection (a)(4)(B)) in the amount of—

"(i) $4,000,000 for each of fiscal years 2004 and 2005; and

"(ii) $6,000,000 for each of fiscal years 2006 and 2007.

"(C) GROUP C.—For each of fiscal years 2004 through 2007, the Secretary shall make a grant in the amount of $10,000,000 to each of the institutions in group C (as described in subsection (a)(4)(C)).

"(D) GROUP D.—For each of fiscal years 2004 through 2009, the Secretary shall make a grant in the amount of $25,000,000 to each of the institutions in group D (as described in subsection (a)(4)(D)).

"(E) LIMITED GRANTS FOR GROUPS B AND C.—For each of fiscal years 2008 and 2009, of the institutions classified in groups B and C (as described in subsection (a)(4)(B)), the Secretary shall select and make a grant in the amount of $10,000,000 to each of not more than 15 institutions.

"(2) USE OF FUNDS—

"(A) IN GENERAL.—Of the funds made available for a fiscal year to a university transportation center established under subsection (a) or (b)—

"(i) not less than $250,000 shall be used to establish and maintain new faculty positions for the teaching of undergraduate, transportation-related courses;

"(ii) not more than $500,000 for the fiscal year, or $1,000,000 in the aggregate, may be used to construct or improve transportation-related laboratory facilities; and

"(iii) not more than $300,000 for the fiscal year may be used for student internships of not more than 180 days in duration to enable students to gain experience by working on transportation projects as interns with design or construction firms.

"(B) FACILITIES AND ADMINISTRATION FEE.—Not more than 10 percent of any grant made available to a university transportation center (or any institution or consortium that establishes such a center) for a fiscal year may be used to pay to the appropriate nonprofit institution of higher learning any administration and facilities fee (or any similar overhead fee) for the fiscal year.

"(3) LIMITATION ON AVAILABILITY OF FUNDS.—Funds made available under this subsection shall remain available for obligation for a period of 2 years after September 30 of the fiscal year for which the funds are authorized.

"§511. Multistate corridor operations and management

"(a) IN GENERAL.—The Secretary shall encourage multistate cooperative agreements, coalitions, or other arrangements to promote regional cooperation, planning, and shared project implementation for programs and projects to improve transportation system management and operations.

"(b) INTERSTATE ROUTE I-95 CORRIDOR COALITION TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—

"(1) IN GENERAL.—The Secretary shall make grants under this subsection to States to continue intelligent transportation system management and operations in the Interstate Route I-95 corridor coalition region initiated under the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240).

"(2) FUNDING.—Of the amounts made available under section 2001(a)(4) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, the Secretary shall use to carry out this subsection—

"(A) $8,000,000 for fiscal year 2004;

"(B) $10,000,000 for fiscal year 2005;

"(C) $12,000,000 for fiscal year 2006;

"(D) $12,000,000 for fiscal year 2007;

"(E) $12,000,000 for fiscal year 2008; and

"(F) $12,000,000 for fiscal year 2009.

"§512. Transportation analysis simulation system

"(a) CONTINUATION OF TRANSIMS DEVELOPMENT.—

"(1) IN GENERAL.—The Secretary shall continue the deployment of the advanced transportation model known as the 'Transportation Analysis Simulation System' (referred to in this section as 'TRANSIMS') developed by the Los Alamos National Laboratory.

"(2) REQUIREMENTS AND CONSIDERATIONS.—In carrying out paragraph (1), the Secretary shall—

"(A) further improve TRANSIMS to reduce the cost and complexity of using the TRANSIMS;

"(B) continue development of TRANSIMS for applications to facilitate transportation planning, regulatory compliance, and response to natural disasters and other transportation disruptions; and

"(C) assist State transportation departments and metropolitan planning organizations, especially smaller metropolitan planning organizations, in the implementation of TRANSIMS by providing training and technical assistance.

"(b) ELIGIBLE ACTIVITIES.—The Secretary shall use funds made available to carry out this section—

"(1) to further develop TRANSIMS for additional applications, including—

"(A) congestion analyses;

"(B) major investment studies;

"(C) economic impact analyses;

"(D) alternative analyses;

"(E) freight movement studies;

"(F) emergency evacuation studies;

"(G) port studies; and

"(H) airport access studies;

"(2) provide training and technical assistance with respect to the implementation and application of TRANSIMS to States, local governments, and metropolitan planning organizations with responsibility for travel modeling;

"(3) develop methods to simulate the national transportation infrastructure as a single, integrated system for the movement of individuals and goods;

"(4) provide funding to State transportation departments and metropolitan planning organizations for implementation of TRANSIMS.

"(c) ALLOCATION OF FUNDS.—Of the funds made available to carry out this section for each fiscal year, not less than 15 percent shall be allocated for activities described in subsection (b)(3).

"(d) FUNDING.—Of the amounts made available under section 2001(a) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 for each of fiscal years 2004 through 2009, the Secretary shall use $1,000,000 to carry out this section.

"(e) AVAILABILITY OF FUNDS.—Funds made available under this section shall be available to the Secretary through the Transportation Planning, Research, and Development Account of the Office of the Secretary.".

(b) OTHER UNIVERSITY FUNDING.—No university (other than university transportation centers specified in section 510 of title 23, United States Code (as added by subsection (a)) shall receive funds made available under section 2001 to carry out research unless the university is selected to receive the funds—

(1) through a competitive process that incorporates merit-based peer review; and

(2) based on a proposal submitted to the Secretary by the university in response to a request for proposals issued by the Secretary.

(c) CONFORMING AMENDMENT.—Section 5505 of title 49, United States Code, is repealed.

SEC. 2102. STUDY OF DATA COLLECTION AND STATISTICAL ANALYSIS EFFORTS.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATION.—The term "Administration" means the Federal Highway Administration.

(2) BOARD.—The term "Board" means the Transportation Research Board of the National Academy of Sciences.

(3) BUREAU.—The term "Bureau" means the Bureau of Transportation Statistics.

(4) DEPARTMENT.—The term "Department" means the Department of Transportation.

(5) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(b) PRIORITY AREAS OF EFFORT.—

(1) STATISTICAL STANDARDS.—The Secretary shall direct the Bureau to assume the role of the lead agency in working with other agencies of the Department to establish, by not later the date that is 1 year after the date of enactment of this Act, statistical standards for the Department.

(2) STATISTICAL ANALYSIS EFFORT.—

(A) IN GENERAL.—The Bureau shall provide to the Secretary, on an annual basis, an overview of the level of effort expended on statistical analyses by each agency within the Department.

(B) DUTY OF AGENCIES.—Each agency of the Department shall provide to the Bureau such information as the Bureau may require in carrying out subparagraph (A).

(3) NATIONAL SECURITY.—The Bureau shall—

(A) conduct a study of the ways in which transportation statistics are and may be used for the purpose of national security; and

(B) submit to the Transportation Security Administration recommendations for means by which the use of transportation statistics for the purpose of national security may be improved.

(4) MODERNIZATION.—The Bureau shall develop new protocols for adapting data collection and delivery efforts in existence as of the date of enactment of this Act to deliver information in a more timely and frequent fashion.

(c) STUDY.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall provide a grant to, or enter into a cooperative agreement or contract with, the Board for the conduct of a study of the data collection and statistical analysis efforts of the Department with respect to the modes of surface transportation for which funds are made available under this Act.

(2) PURPOSE.—The purpose of the study shall be to provide to the Department information for use by agencies of the Department in providing to surface transportation agencies and individuals engaged in the surface transportation field higher quality, and more relevant and timely, data, statistical analyses, and products.

(3) CONTENT.—The study shall include—

(A) an examination and analysis of the efforts, analyses, and products (with respect to usefulness and policy relevance) of the Bureau as of the date of the study, as compared with the duties of the Bureau specified in subsections (c) through (f) of section 111 of title 49, United States Code;

(B) an examination and analysis of data collected by, methods of data collection of, and analyses performed by, agencies within the Department; and

(C) recommendations relating to—

(i) the future efforts of the Department in the area of surface transportation with respect to—

(I) types of data collected;

(II) methods of data collection;

(III) types of analyses performed; and

(IV) products made available by the Secretary to the transportation community and Congress;

(ii) the means by which the Department may cooperate with State transportation departments to provide technical assistance in the use of data collected by traffic operations centers; and

(iii) duplication of efforts within the Department, including ways in which—

(I) the duplication may be reduced or eliminated; and

(II) each agency of the Department may cooperate with, and complement the efforts of, the others.

(4) CONSULTATION.—In conducting the study, the Board shall consult with such stakeholders, agencies, and other entities as the Board considers to be appropriate.

(5) REPORT.—Not later than 1 year after the date on which a grant is provided, or a cooperative agreement or contract is entered into, for a study under paragraph (1)—

(A) the Board shall submit to the Secretary, the Committee on Environment and Public Works of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives a final report on the results of the study; and

(B) the results of the study shall be published—

(i) by the Secretary, on the Internet website of the Department; and

(ii) by the Board, on the Internet website of the Board.

(6) IMPLEMENTATION OF RESULTS.—The Bureau shall, to the maximum extent practicable, implement any recommendations made with respect to the results of the study under this subsection.

(7) COMPLIANCE.—

(A) IN GENERAL.—The Comptroller General of the United States shall conduct a review of the study under this subsection.

(B) NONCOMPLIANCE.—If the Comptroller General of the United States determines that the Bureau failed to conduct the study under this subsection, the Bureau shall be ineligible to receive funds from the Highway Trust Fund until such time as the Bureau conducts the study under this subsection.

(d) CONFORMING AMENDMENTS.—

(1) Section 111 of title 49, United States Code, is amended—

(A) by redesignating subsection (k) as subsection (m);

(B) by inserting after subsection (j) the following:

"(k) ANNUAL REPORT.—

"(1) IN GENERAL.—For fiscal year 2005 and each fiscal year thereafter, the Bureau shall prepare and submit to the Secretary an annual report that—

"(A) describes progress made in responding to study recommendations for the fiscal year; and

"(B) summarizes the activities and expenditure of funds by the Bureau for the fiscal year.

"(2) AVAILABILITY.—The Bureau shall—

"(A) make the report described in paragraph (1) available to the public; and

"(B) publish the report on the Internet website of the Bureau.

"(3) COMBINATION OF REPORTS.—The report required under paragraph (1) may be included in or combined with the Transportation Statistics Annual Report required by subsection (j).

"(l) EXPENDITURE OF FUNDS.—Funds from the Highway Trust Fund (other than the Mass Transit Account) that are authorized to be appropriated, and made available, in accordance with section 2001(a)(3) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 shall be used only for the collection and statistical analysis of information relating to surface transportation systems."; and

(C) in subsection (m) (as redesignated by subparagraph (A)), by inserting "surface transportation" after "sale of".

(2) The analysis for chapter 55 of title 49, United States Code, is amended by striking the item relating to section 5505 and inserting the following:

"5505. University transportation centers.".

SEC. 2103. CENTERS FOR SURFACE TRANSPORTATION EXCELLENCE.

(a) ESTABLISHMENT.—The Secretary shall establish the centers for surface transportation excellence described in subsection (b) to promote high-quality outcomes in support of strategic national programs and activities, including—

(1) the environment;

(2) operations;

(3) surface transportation safety;

(4) project finance; and

(5) asset management.

(b) CENTERS.—The centers for surface transportation excellence referred to in subsection (a) are—

(1) a Center for Environmental Excellence to provide technical assistance, information sharing of best practices, and training in the use of tools and decision-making processes to assist States in planning and delivering environmentally-sound surface transportation projects;

(2) a Center for Operations Excellence to provide support for an integrated and coordinated national program for implementing operations in planning and management (including standards development) for the transportation system in the United States;

(3) a Center for Excellence in Surface Transportation Safety to implement a program of support for State transportation departments, including—

(A) the maintenance of an Internet site to provide critical information on safety programs;

(B) the provision of technical assistance to support a lead State transportation department for each of the safety emphasis areas (as identified by the Secretary); and

(C) the provision of training and education to enhance knowledge of personnel of State transportation departments in support of safety highway goals;

(4) a Center for Excellence in Project Finance—

(A) to provide support to State transportation departments in the development of finance plans and project oversight tools; and

(B) to develop and offer training in state-of-the-art financing methods to advance projects and leverage funds; and

(5) a Center for Excellence in Asset Management to develop and conduct research, provide training and education, and disseminate information on the benefits and tools for asset management.

(c) PROGRAM ADMINISTRATION.—

(1) IN GENERAL.—Before funds authorized under this section for fiscal years 2005 through 2009 are obligated, the Secretary shall review and approve a multiyear strategic plan to be submitted by each of the centers.

(2) TIMING.—The plan shall be submitted before the beginning of fiscal year 2005 and, subsequently, shall be annually updated.

(3) CONTENT.—The plan shall include—

(A) a list of research and technical assistance projects and objectives; and

(B) a description of any other technology transfer activities, including a summary of training efforts.

(4) COOPERATION AND COMPETITION.—

(A) IN GENERAL.—The Secretary shall carry out this section by making grants to, or entering into contracts, cooperative agreements, and other transactions with—

(i) the National Academy of Sciences;

(ii) the American Association of State Highway and Transportation Officials;

(iii) planning organizations;

(iv) a Federal laboratory;

(v) a State agency;

(vi) an authority, association, institution, or organization; or

(vii) a for-profit or nonprofit corporation.

(B) COMPETITION; REVIEW.—All parties entering into contracts, cooperative agreements, or other transactions with the Secretary, or receiving grants, to perform research or provide technical assistance under this section shall be selected, to the maximum extent practicable—

(i) on a competitive basis; and

(ii) on the basis of the results of peer review of proposals submitted to the Secretary.

(5) NONDUPLICATION.—The Secretary shall ensure that activities conducted by each of the centers do not duplicate, and to the maximum extent practicable, are integrated and coordinated with similar activities conducted by the Federal Highway Administration, the local technical assistance program, university transportation centers, and other research efforts supported with funds authorized by this title.

(d) ALLOCATIONS.—

(1) IN GENERAL.—For each of fiscal years 2004 through 2009, of the funds made available under section 2001(a)(1)(A), the Secretary shall set aside $10,000,000 to carry out this section.

(2) ALLOCATION OF FUNDS.—Of the funds made available under paragraph (1)—

(A) 20 percent shall be allocated to the Center for Environmental Excellence established under subsection (b)(1);

(B) 30 percent shall be allocated to the Center for Operations Excellence established under subsection (b)(2);

(C) 20 percent shall be allocated to the Center for Excellence in Surface Transportation Safety established under subsection (b)(3);

(D) 10 percent shall be allocated to the Center for Excellence in Project Finance established under subsection (b)(4); and

(E) 20 percent shall be allocated to the Center for Excellence in Asset Management established under subsection (b)(5).

(3) APPLICABILITY OF TITLE 23.—Funds made available under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share shall be 100 percent.

SEC. 2104. MOTORCYCLE CRASH CAUSATION STUDY GRANTS.

(a) GRANTS.—The Secretary shall provide grants for the purpose of conducting a comprehensive, in-depth motorcycle crash causation study that employs the common international methodology for in-depth motorcycle accident investigation of the Organization for Economic Cooperation and Development.

(b) FUNDING.—Of the amounts made available under section 2001(a)(3), $1,500,000 for each of fiscal years 2004 and 2005 shall be available to carry out this section.

SEC. 2105. TRANSPORTATION TECHNOLOGY INNOVATION AND DEMONSTRATION PROGRAM.

(a) IN GENERAL.—Section 5117(b)(3) of the Transportation Equity Act for the 21st Century (112 Stat. 449; 112 Stat. 864; 115 Stat. 2330) is amended—

(1) in subparagraph (B)—

(A) in clause (i)—

(i) in the first sentence—

(I) by striking "Build an" and inserting "Build or integrate an"; and

(II) by striking "$2,000,000" and inserting "$2,500,000"; and

(ii) in the second sentence—

(I) by striking "300,000 and that" and inserting "300,000,"; and

(II) by inserting before the period at the end the following: ", and includes major transportation corridors serving that metropolitan area";

(B) in clause (ii), by striking all that follows "will be" and inserting "reinvested in the intelligent transportation infrastructure system.";

(C) by striking clause (iii); and

(D) by redesignating clauses (iv) and (v) as clauses (iii) and (iv), respectively;

(2) in subparagraph (C)(ii), by striking "July 1, 2002" and inserting "the date that is 180 days after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003";

(3) in subparagraph (E), by striking clause (ii) and inserting the following:

"(ii) The term "follow-on deployment areas" means the metropolitan areas of Albany, Atlanta, Austin, Baltimore, Birmingham, Boston, Burlington Vermont, Charlotte, Chicago, Cleveland, Columbus, Dallas/Ft. Worth, Denver, Detroit, Greensboro, Hartford, Houston, Indianapolis, Jacksonville, Kansas City, Las Vegas, Los Angeles, Louisville, Miami, Milwaukee, Minneapolis-St. Paul, Nashville, New Orleans, New York/Northern New Jersey, Norfolk, Northern Kentucky/Cincinnati, Oklahoma City, Orlando, Philadelphia, Phoenix, Pittsburgh, Portland, Providence, Raleigh, Richmond, Sacramento, Salt Lake, San Diego, San Francisco, San Jose, St. Louis, Seattle, Tampa, Tucson, Tulsa, and Washington, District of Columbia.";

(4) in subparagraph (F)—

(A) by striking "Of the amounts" and inserting the following:

"(i) THIS ACT.—Of the amounts"; and

(B) by adding at the end the following:

"(ii) SAFETEA.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) $5,000,000 for each fiscal year to carry out this paragraph.

"(iii) AVAILABILITY; NO REDUCTION OR SET-ASIDE.—Amounts made available by this subparagraph—

"(I) shall remain available until expended; and

"(II) shall not be subject to any reduction or setaside."; and

(5) by adding at the end the following:

"(H) USE OF RIGHTS-OF-WAY.—

"(i) IN GENERAL.—An intelligent transportation system project described in paragraph (3) or (6) that involves privately owned intelligent transportation system components and is carried out using funds made available from the Highway Trust Fund shall not be subject to any law (including a regulation) of a State or political subdivision of a State prohibiting or regulating commercial activities in the rights-of-way of a highway for which Federal-aid highway funds have been used for planning, design, construction, or maintenance, if the Secretary determines that such use is in the public interest.

"(ii) EFFECT OF SUBPARAGRAPH.—Nothing in this subparagraph affects the authority of a State or political subdivision of a State to regulate highway safety.".

(b) CONFORMING AMENDMENT.—Section 5204 of the Transportation Equity Act for the 21st Century (112 Stat. 453) is amended by striking subsection (k) (112 Stat. 2681–478).

Subtitle C—Intelligent Transportation System Research

SEC. 2201. INTELLIGENT TRANSPORTATION SYSTEM RESEARCH AND TECHNICAL ASSISTANCE PROGRAM.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code (as amended by section 2101), is amended by adding at the end the following:

"SUBCHAPTER II—INTELLIGENT TRANSPORTATION SYSTEM RESEARCH AND TECHNICAL ASSISTANCE PROGRAM

"§521. Finding

"Congress finds that continued investment in architecture and standards development, research, technical assistance for State and local governments, and systems integration is needed to accelerate the rate at which intelligent transportation systems—

"(1) are incorporated into the national surface transportation network; and

"(2) as a result of that incorporation, improve transportation safety and efficiency and reduce costs and negative impacts on communities and the environment.

"§522. Goals and purposes

"(a) GOALS.—The goals of the intelligent transportation system research and technical assistance program include—

"(1) enhancement of surface transportation efficiency and facilitation of intermodalism and international trade—

"(A) to meet a significant portion of future transportation needs, including public access to employment, goods, and services; and

"(B) to reduce regulatory, financial, and other transaction costs to public agencies and system users;

"(2) the acceleration of the use of intelligent transportation systems to assist in the achievement of national transportation safety goals, including the enhancement of safe operation of motor vehicles and nonmotorized vehicles, with particular emphasis on decreasing the number and severity of collisions;

"(3) protection and enhancement of the natural environment and communities affected by surface transportation, with particular emphasis on assisting State and local governments in achieving national environmental goals;

"(4) accommodation of the needs of all users of surface transportation systems, including—

"(A) operators of commercial vehicles, passenger vehicles, and motorcycles;

"(B) users of public transportation users (with respect to intelligent transportation system user services); and

"(C) individuals with disabilities; and

"(5)(A) improvement of the ability of the United States to respond to emergencies and natural disasters; and

"(B) enhancement of national security and defense mobility.

"(b) PURPOSES.—The Secretary shall carry out activities under the intelligent transportation system research and technical assistance program to, at a minimum—

"(1) assist in the development of intelligent transportation system technologies;

"(2) ensure that Federal, State, and local transportation officials have adequate knowledge of intelligent transportation systems for full consideration in the transportation planning process;

"(3) improve regional cooperation, interoperability, and operations for effective intelligent transportation system performance;

"(4) promote the innovative use of private resources;

"(5) assist State transportation departments in developing a workforce capable of developing, operating, and maintaining intelligent transportation systems;

"(6) maintain an updated national ITS architecture and consensus-based standards while ensuring an effective Federal presence in the formulation of domestic and international ITS standards;

"(7) advance commercial vehicle operations components of intelligent transportation systems—

"(A) to improve the safety and productivity of commercial vehicles and drivers; and

"(B) to reduce costs associated with commercial vehicle operations and Federal and State commercial vehicle regulatory requirements;

"(8) evaluate costs and benefits of intelligent transportation systems projects;

"(9) improve, as part of the Archived Data User Service and in cooperation with the Bureau of Transportation Statistics, the collection of surface transportation system condition and performance data through the use of intelligent transportation system technologies; and

"(10) ensure access to transportation information and services by travelers of all ages.

"§523. Definitions

"In this subchapter:

"(1) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.—The term 'commercial vehicle information systems and networks' means the information systems and communications networks that support commercial vehicle operations.

"(2) COMMERCIAL VEHICLE OPERATIONS.—

"(A) IN GENERAL.—The term 'commercial vehicle operations' means motor carrier operations and motor vehicle regulatory activities associated with the commercial movement of goods (including hazardous materials) and passengers.

"(B) INCLUSIONS.—The term 'commercial vehicle operations', with respect to the public sector, includes—

"(i) the issuance of operating credentials;

"(ii) the administration of motor vehicle and fuel taxes; and

"(iii) roadside safety and border crossing inspection and regulatory compliance operations.

"(3) INTELLIGENT TRANSPORTATION INFRASTRUCTURE.—The term 'intelligent transportation infrastructure' means fully integrated public sector intelligent transportation system components, as defined by the Secretary.

"(4) INTELLIGENT TRANSPORTATION SYSTEM.—The term 'intelligent transportation system' means electronics, communications, or information processing used singly or in combination to improve the efficiency or safety of a surface transportation system.

"(5) NATIONAL ITS ARCHITECTURE.—The term 'national ITS architecture' means the common framework for interoperability adopted by the Secretary that defines—

"(A) the functions associated with intelligent transportation system user services;

"(B) the physical entities or subsystems within which the functions reside;

"(C) the data interfaces and information flows between physical subsystems; and

"(D) the communications requirements associated with the information flows.

"(6) STANDARD.—The term 'standard' means a document that—

"(A) contains technical specifications or other precise criteria for intelligent transportation systems that are to be used consistently as rules, guidelines, or definitions of characteristics so as to ensure that materials, products, processes, and services are fit for their purposes; and

"(B) may—

"(i) support the national ITS architecture; and

"(ii) promote—

"(I) the widespread use and adoption of intelligent transportation system technology as a component of the surface transportation systems of the United States; and

"(II) interoperability among intelligent transportation system technologies implemented throughout the States.

"§524. General authorities and requirements

"(a) SCOPE.—Subject to this subchapter, the Secretary shall carry out an ongoing intelligent transportation system research program—

"(1) to research, develop, and operationally test intelligent transportation systems; and

"(2) to provide technical assistance in the nationwide application of those systems as a component of the surface transportation systems of the United States.

"(b) POLICY.—Intelligent transportation system operational tests and projects funded under this subchapter shall encourage, but not displace, public-private partnerships or private sector investment in those tests and projects.

"(c) COOPERATION WITH GOVERNMENTAL, PRIVATE, AND EDUCATIONAL ENTITIES.—The Secretary shall carry out the intelligent transportation system research and technical assistance program in cooperation with—

"(1) State and local governments and other public entities;

"(2) the private sector;

"(3) Federal laboratories (as defined in section 501); and

"(4) colleges and universities, including historically black colleges and universities and other minority institutions of higher education.

"(d) CONSULTATION WITH FEDERAL OFFICIALS.—In carrying out the intelligent transportation system research program, the Secretary, as appropriate, shall consult with—

"(1) the Secretary of Commerce;

"(2) the Secretary of the Treasury;

"(3) the Administrator of the Environmental Protection Agency;

"(4) the Director of the National Science Foundation; and

"(5) the Secretary of Homeland Security.

"(e) TECHNICAL ASSISTANCE, TRAINING, AND INFORMATION.—The Secretary may provide technical assistance, training, and information to State and local governments seeking to implement, operate, maintain, or evaluate intelligent transportation system technologies and services.

"(f) TRANSPORTATION PLANNING.—The Secretary may provide funding to support adequate consideration of transportation system management and operations (including intelligent transportation systems) within metropolitan and statewide transportation planning processes.

"(g) INFORMATION CLEARINGHOUSE.—The Secretary shall—

"(1) maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out under this subchapter; and

"(2) on request, make that information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.

"(h) ADVISORY COMMITTEES.—

"(1) IN GENERAL.—In carrying out this subchapter, the Secretary—

"(A) may use 1 or more advisory committees; and

"(B) shall designate a public-private organization, the members of which participate in ongoing research, planning, standards development, deployment, and marketing of ITS programs, products, and services, and coordinate the development and deployment of intelligent transportation systems in the United States, as the Federal advisory committee authorized by section 5204(h) of the Transportation Equity Act for the 21st Century (112 Stat. 454).

"(2) FUNDING.—Of the amount made available to carry out this subchapter, the Secretary may use $1,500,000 for each fiscal year for advisory committees described in paragraph (1).

"(3) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—Any advisory committee described in paragraph (1) shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

"(i) PROCUREMENT METHODS.—The Secretary shall develop and provide appropriate technical assistance and guidance to assist State and local agencies in evaluating and selecting appropriate methods of deployment and procurement for intelligent transportation system projects carried out using funds made available from the Highway Trust Fund, including innovative and nontraditional methods such as Information Technology Omnibus Procurement (as developed by the Secretary).

"(j) EVALUATIONS.—

"(1) GUIDELINES AND REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary shall issue revised guidelines and requirements for the evaluation of operational tests and other intelligent transportation system projects carried out under this subchapter.

"(B) OBJECTIVITY AND INDEPENDENCE.—The guidelines and requirements issued under subparagraph (A) shall include provisions to ensure the objectivity and independence of the evaluator so as to avoid any real or apparent conflict of interest or potential influence on the outcome by—

"(i) parties to any such test; or

"(ii) any other formal evaluation carried out under this subchapter.

"(C) FUNDING.—The guidelines and requirements issued under subparagraph (A) shall establish evaluation funding levels based on the size and scope of each test that ensure adequate evaluation of the results of the test or project.

"(2) SPECIAL RULE.—Any survey, questionnaire, or interview that the Secretary considers necessary to carry out the evaluation of any test or program assessment activity under this subchapter shall not be subject to chapter 35 of title 44.

"§525. National ITS Program Plan

"(a) IN GENERAL.—

"(1) UPDATES.—Not later than 1 year after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, the Secretary, in consultation with interested stakeholders (including State transportation departments) shall develop a 5-year National ITS Program Plan.

"(2) SCOPE.—The National ITS Program Plan shall—

"(A) specify the goals, objectives, and milestones for the research and deployment of intelligent transportation systems in the contexts of—

''(i) major metropolitan areas;

''(ii) smaller metropolitan and rural areas; and

''(iii) commercial vehicle operations;

''(B) specify the manner in which specific programs and projects will achieve the goals, objectives, and milestones referred to in subparagraph (A), including consideration of a 5-year timeframe for the goals and objectives;

''(C) identify activities that provide for the dynamic development, testing, and necessary revision of standards and protocols to promote and ensure interoperability in the implementation of intelligent transportation system technologies, including actions taken to establish standards; and

''(D) establish a cooperative process with State and local governments for—

''(i) determining desired surface transportation system performance levels; and

''(ii) developing plans for accelerating the incorporation of specific intelligent transportation system capabilities into surface transportation systems.

''(b) Reporting.—The National ITS Program Plan shall be transmitted and biennially updated as part of the surface transportation research and technology development strategic plan developed under section 508(c).

''§526. National ITS architecture and standards

''(a) In General.—

''(1) Development, implementation, and maintenance.—In accordance with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783), the Secretary shall develop, implement, and maintain a national ITS architecture and supporting standards and protocols to promote the widespread use and evaluation of intelligent transportation system technology as a component of the surface transportation systems of the United States.

''(2) Interoperability and efficiency.—To the maximum extent practicable, the national ITS architecture shall promote interoperability among, and efficiency of, intelligent transportation system technologies implemented throughout the United States.

''(3) Use of standards development organizations.—In carrying out this section, the Secretary shall use the services of such standards development organizations as the Secretary determines to be appropriate.

''(b) Provisional Standards.—

''(1) In general.—If the Secretary finds that the development or selection of an intelligent transportation system standard jeopardizes the timely achievement of the objectives identified in subsection (a), the Secretary may establish a provisional standard—

''(A) after consultation with affected parties; and

''(B) by using, to the maximum extent practicable, the work product of appropriate standards development organizations.

''(2) Critical standards.—If a standard identified by the Secretary as critical has not been adopted and published by the appropriate standards development organization by the date of enactment of this subchapter, the Secretary shall establish a provisional standard—

''(A) after consultation with affected parties; and

''(B) by using, to the maximum extent practicable, the work product of appropriate standards development organizations.

''(3) Period of effectiveness.—A provisional standard established under paragraph (1) or (2) shall—

''(A) be published in the Federal Register; and

''(B) remain in effect until such time as the appropriate standards development organization adopts and publishes a standard.

''(c) Waiver of Requirement To Establish Provisional Critical Standard.—

''(1) In general.—The Secretary may waive the requirement under subsection (b)(2) to establish a provisional standard if the Secretary determines that additional time would be productive in, or that establishment of a provisional standard would be counterproductive to, the timely achievement of the objectives identified in subsection (a).

''(2) Notice.—The Secretary shall publish in the Federal Register a notice that describes—

''(A) each standard for which a waiver of the provisional standard requirement is granted under paragraph (1);

''(B) the reasons for and effects of granting the waiver; and

''(C) an estimate as to the date on which the standard is expected to be adopted through a process consistent with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783).

''(3) Withdrawal of waiver.—

''(A) In general.—The Secretary may withdraw a waiver granted under paragraph (1) at any time.

''(B) Notice.—On withdrawal of a waiver, the Secretary shall publish in the Federal Register a notice that describes—

''(i) each standard for which the waiver has been withdrawn; and

''(ii) the reasons for withdrawing the waiver.

''(d) Conformity With National ITS Architecture.—

''(1) In general.—Except as provided in paragraphs (2) and (3), the Secretary shall ensure that intelligent transportation system projects carried out using funds made available from the Highway Trust Fund conform to the national ITS architecture, applicable standards or provisional standards, and protocols developed under subsection (a).

''(2) Discretion of secretary.—The Secretary may authorize exceptions to paragraph (1) for projects designed to achieve specific research objectives outlined in—

''(A) the National ITS Program Plan under section 525; or

''(B) the surface transportation research and technology development strategic plan developed under section 508(c).

''(3) Exceptions.—Paragraph (1) shall not apply to funds used for operation or maintenance of an intelligent transportation system in existence on the date of enactment of this subchapter.

''§527. Commercial vehicle information systems and networks deployment

''(a) Definitions.—In this section:

''(1) Commercial vehicle information systems and networks.—The term 'commercial vehicle information systems and networks' means the information systems and communications networks that provide the capability to—

''(A) improve the safety of commercial vehicle operations;

''(B) increase the efficiency of regulatory inspection processes to reduce administrative burdens by advancing technology to facilitate inspections and increase the effectiveness of enforcement efforts;

''(C) advance electronic processing of registration information, driver licensing information, fuel tax information, inspection and crash data, and other safety information;

''(D) enhance the safe passage of commercial vehicles across the United States and across international borders; and

''(E) promote the communication of information among the States and encourage multistate cooperation and corridor development.

''(2) Commercial vehicle operations.—

''(A) In general.—The term 'commercial vehicle operations' means motor carrier operations and motor vehicle regulatory activities associated with the commercial movement of goods (including hazardous materials) and passengers.

''(B) Inclusions.—The term 'commercial vehicle operations', with respect to the public sector, includes—

''(i) the issuance of operating credentials;

''(ii) the administration of motor vehicle and fuel taxes; and

''(iii) the administration of roadside safety and border crossing inspection and regulatory compliance operations.

''(3) Core deployment.—The term 'core deployment' means the deployment of systems in a State necessary to provide the State with—

''(A) safety information exchange to—

''(i) electronically collect and transmit commercial vehicle and driver inspection data at a majority of inspection sites;

''(ii) connect to the Safety and Fitness Electronic Records system for access to—

''(I) interstate carrier and commercial vehicle data;

''(II) summaries of past safety performance; and

''(III) commercial vehicle credentials information; and

''(iii) exchange carrier data and commercial vehicle safety and credentials information within the State and connect to Safety and Fitness Electronic Records system for access to interstate carrier and commercial vehicle data;

''(B) interstate credentials administration to—

''(i)(I) perform end-to-end (including carrier application) jurisdiction application processing, and credential issuance, of at least the International Registration Plan and International Fuel Tax Agreement credentials; and

''(II) extend the processing to other credentials, including intrastate, titling, oversize or overweight requirements, carrier registration, and hazardous materials;

''(ii) connect to the International Registration Plan and International Fuel Tax Agreement clearinghouses; and

''(iii)(I) have at least 10 percent of the transaction volume handled electronically; and

''(II) have the capability to add more carriers and to extend to branch offices where applicable; and

''(C) roadside electronic screening to electronically screen transponder-equipped commercial vehicles at a minimum of 1 fixed or mobile inspection site and to replicate the screening at other sites.

''(4) Expanded deployment.—The term 'expanded deployment' means the deployment of systems in a State that—

''(A) exceed the requirements of a core deployment of commercial vehicle information systems and networks;

''(B) improve safety and the productivity of commercial vehicle operations; and

''(C) enhance transportation security.

''(b) Program.—The Secretary shall carry out a commercial vehicle information systems and networks program to—

''(1) improve the safety and productivity of commercial vehicles and drivers; and

''(2) reduce costs associated with commercial vehicle operations and Federal and State commercial vehicle regulatory requirements.

''(c) Purpose.—It is the purpose of the program to advance the technological capability and promote the deployment of intelligent transportation system applications for commercial vehicle operations, including commercial vehicle, commercial driver, and carrier-specific information systems and networks.

''(d) Core Deployment Grants.—

''(1) In general.—The Secretary shall make grants to eligible States for the core deployment of commercial vehicle information systems and networks.

"(2) ELIGIBILITY.—To be eligible for a core deployment grant under this subsection, a State shall—

"(A) have a commercial vehicle information systems and networks program plan and a top level system design approved by the Secretary;

"(B) certify to the Secretary that the commercial vehicle information systems and networks deployment activities of the State (including hardware procurement, software and system development, and infrastructure modifications)—

"(i) are consistent with the national intelligent transportation systems and commercial vehicle information systems and networks architectures and available standards; and

"(ii) promote interoperability and efficiency, to the maximum extent practicable; and

"(C) agree to execute interoperability tests developed by the Federal Motor Carrier Safety Administration to verify that the systems of the State conform with the national intelligent transportation systems architecture, applicable standards, and protocols for commercial vehicle information systems and networks.

"(3) AMOUNT OF GRANTS.—The maximum aggregate amount a State may receive under this subsection for the core deployment of commercial vehicle information systems and networks may not exceed $2,500,000, including funds received under section 2001(a) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 for the core deployment of commercial vehicle information systems and networks.

"(4) USE OF FUNDS.—

"(A) IN GENERAL.—Subject to subparagraph (B), funds from a grant under this subsection may only be used for the core deployment of commercial vehicle information systems and networks.

"(B) REMAINING FUNDS.—An eligible State that has completed the core deployment of commercial vehicle information systems and networks, or completed the deployment before core deployment grant funds are expended, may use the remaining core deployment grant funds for the expanded deployment of commercial vehicle information systems and networks in the State.

"(e) EXPANDED DEPLOYMENT GRANTS.—

"(1) IN GENERAL.—For each fiscal year, from the funds remaining after the Secretary has made core deployment grants under subsection (d), the Secretary may make grants to each eligible State, on request, for the expanded deployment of commercial vehicle information systems and networks.

"(2) ELIGIBILITY.—Each State that has completed the core deployment of commercial vehicle information systems and networks shall be eligible for an expanded deployment grant.

"(3) AMOUNT OF GRANTS.—Each fiscal year, the Secretary may distribute funds available for expanded deployment grants equally among the eligible States in an amount that does not exceed $1,000,000 for each State.

"(4) USE OF FUNDS.—A State may use funds from a grant under this subsection only for the expanded deployment of commercial vehicle information systems and networks.

"(f) FEDERAL SHARE.—The Federal share of the cost of a project payable from funds made available to carry out this section shall be the share applicable under section 120(b), as adjusted under subsection (d) of that section.

"(g) FUNDING.—Funds authorized to be appropriated to carry out this section shall be available for obligation in the same manner and to the same extent as if the funds were apportioned under chapter 1, except that the funds shall remain available until expended.

"§528. Research and development

"(a) IN GENERAL.—The Secretary shall carry out a comprehensive program of intelligent transportation system research, development, and operational tests of intelligent vehicles and intelligent infrastructure systems, and other similar activities that are necessary to carry out this subchapter.

"(b) PRIORITY AREAS.—Under the program, the Secretary shall give priority to funding projects that—

"(1) assist in the development of an interconnected national intelligent transportation system network that—

"(A) improves the reliability of the surface transportation system;

"(B) supports national security;

"(C) reduces, by at least 20 percent, the cost of manufacturing, deploying, and operating intelligent transportation systems network components;

"(D) could assist in deployment of the Armed Forces in response to a crisis; and

"(E) improves response to, and evacuation of the public during, an emergency situation;

"(2) address traffic management, incident management, transit management, toll collection traveler information, or highway operations systems with goals of—

"(A) reducing metropolitan congestion by 5 percent by 2010;

"(B) ensuring that a national, interoperable 511 system, along with a national traffic information system that includes a user-friendly, comprehensive website, is fully implemented for use by travelers throughout the United States by September 30, 2010; and

"(C)(i) improving incident management response, particularly in rural areas, so that rural emergency response times are reduced by an average of 10 minutes; and

"(ii) subject to subsection (d), improving communication between emergency care providers and trauma centers;

"(3) address traffic management, incident management, transit management, toll collection, traveler information, or highway operations systems;

"(4) conduct operational tests of the integration of at least 3 crash-avoidance technologies in passenger vehicles;

"(5) incorporate human factors research, including the science of the driving process;

"(6) facilitate the integration of intelligent infrastructure, vehicle, and control technologies;

"(7) incorporate research on the impact of environmental, weather, and natural conditions on intelligent transportation systems, including the effects of cold climates;

"(8) as determined by the Secretary, will improve the overall safety performance of vehicles and roadways, including the use of real-time setting of speed limits through the use of speed management technology;

"(9) examine—

"(A) the application to intelligent transportation systems of appropriately modified existing technologies from other industries; and

"(B) the development of new, more robust intelligent transportation systems technologies and instrumentation;

"(10) develop and test communication technologies that—

"(A) are based on an assessment of the needs of officers participating in a motor carrier safety program funded under section 31104 of title 49;

"(B) take into account the effectiveness and adequacy of available technology;

"(C) address systems integration, connectivity, and interoperability challenges; and

"(D) provide the means for officers participating in a motor carrier safety program funded under section 31104 of title 49 to directly assess, without an intermediary, current and accurate safety and regulatory information on motor carriers, commercial motor vehicles and drivers at roadside or mobile inspection facilities;

"(11) enhance intermodal use of intelligent transportation systems for diverse groups, including for emergency and health-related services;

"(12) improve sensing and wireless communications that provide real-time information regarding congestion and incidents;

"(13) develop and test high-accuracy, lane-level, real-time accessible digital map architectures that can be used by intelligent vehicles and intelligent infrastructure elements to facilitate safety and crash avoidance (including establishment of national standards for an open-architecture digital map of all public roads that is compatible with electronic 9-1-1 services);

"(14) encourage the dual-use of intelligent transportation system technologies (such as wireless communications) for—

"(A) emergency services;

"(B) road pricing; and

"(C) local economic development; and

"(15) advance the use of intelligent transportation systems to facilitate high-performance transportation systems, such as through—

"(A) congestion-pricing;

"(B) real-time facility management;

"(C) rapid-emergency response; and

"(D) just-in-time transit.

"(c) OPERATIONAL TESTS.—Operational tests conducted under this section shall be designed for—

"(1) the collection of data to permit objective evaluation of the results of the tests;

"(2) the derivation of cost-benefit information that is useful to others contemplating deployment of similar systems; and

"(3) the development and implementation of standards.

"(d) FEDERAL SHARE.—The Federal share of the costs of operational tests under subsection (a) shall not exceed 80 percent.

"§529. Use of funds

"(a) IN GENERAL.—For each fiscal year, not more than $5,000,000 of the funds made available to carry out this subchapter shall be used for intelligent transportation system outreach, public relations, displays, tours, and brochures.

"(b) APPLICABILITY.—Subsection (a) shall not apply to intelligent transportation system training, scholarships, or the publication or distribution of research findings, technical guidance, or similar documents.".

(b) CONFORMING AMENDMENT.—Title V of the Transportation Equity Act for the 21st Century is amended by striking subtitle C (23 U.S.C. 502 note; 112 Stat. 452).

TITLE III—PUBLIC TRANSPORTATION

SEC. 3001. SHORT TITLE.

This title may be cited as the "Federal Public Transportation Act of 2004".

SEC. 3002. AMENDMENTS TO TITLE 49, UNITED STATES CODE; UPDATED TERMINOLOGY.

(a) AMENDMENTS TO TITLE 49.—Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision of law, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

(b) UPDATED TERMINOLOGY.—Except for sections 5301(f), 5302(a)(7), and 5315, chapter 53, including the chapter analysis, is amended by striking "mass transportation" each place it appears and inserting "public transportation".

SEC. 3003. POLICIES, FINDINGS, AND PURPOSES.

(a) DEVELOPMENT AND REVITALIZATION OF PUBLIC TRANSPORTATION SYSTEMS.—Section 5301(a) is amended to read as follows:

"(a) DEVELOPMENT AND REVITALIZATION OF PUBLIC TRANSPORTATION SYSTEMS.—It is in the economic interest of the United States to foster the development and revitalization of public transportation systems, which are coordinated with other modes of transportation, that maximize the efficient, secure, and safe mobility of individuals and minimize environmental impacts.".

(b) GENERAL FINDINGS.—Section 5301(b)(1) is amended—

(1) by striking "70 percent" and inserting "two-thirds"; and

(2) by striking "urban areas" and inserting "urbanized areas".

(c) PRESERVING THE ENVIRONMENT.—Section 5301(e) is amended—

(1) by striking "an urban" and inserting "a"; and

(2) by striking "under sections 5309 and 5310 of this title".

(d) GENERAL PURPOSES.—Section 5301(f) is amended—

(1) in paragraph (1)—

(A) by striking "improved mass" and inserting "improved public"; and

(B) by striking "public and private mass transportation companies" and inserting "public transportation companies and private companies engaged in public transportation";

(2) in paragraph (2)—

(A) by striking "urban mass" and inserting "public"; and

(B) by striking "public and private mass transportation companies" and inserting "public transportation companies and private companies engaged in public transportation";

(3) in paragraph (3)—

(A) by striking "urban mass" and inserting "public"; and

(B) by striking "public or private mass transportation companies" and inserting "public transportation companies or private companies engaged in public transportation"; and

(4) in paragraph (5), by striking "urban mass" and inserting "public".

SEC. 3004. DEFINITIONS.

Section 5302(a) is amended—

(1) in paragraph (1)—

(A) in subparagraph (G)(i), by inserting "including the intercity bus and intercity rail portions of such facility or mall," after "transportation mall,";

(B) in subparagraph (G)(ii), by inserting ", except for the intercity bus portion of intermodal facilities or malls," after "commercial revenue-producing facility";

(C) in subparagraph (H)—

(i) by striking "and" after "innovative" and inserting "or"; and

(ii) by striking "or" after the semicolon at the end;

(D) in subparagraph (I), by striking the period at the end and inserting a semicolon; and

(E) by adding at the end the following:

'(J) crime prevention and security, including—

"(i) projects to refine and develop security and emergency response plans; or

"(ii) projects to detect chemical or biological agents in public transportation;

"(K) conducting emergency response drills with public transportation agencies and local first response agencies or security training for public transportation employees, except for expenses relating to operations; or

"(L) establishing a debt service reserve, made up of deposits with a bondholder's trustee, to ensure the timely payment of principal and interest on bonds issued by a grant recipient to finance an eligible project under this chapter.";

(2) by striking paragraph (16);

(3) by redesignating paragraphs (8) through (15) as paragraphs (9) through (16), respectively;

(4) by striking paragraph (7) and inserting the following:

"(7) MASS TRANSPORTATION.—The term 'mass transportation' means public transportation.

"(8) MOBILITY MANAGEMENT.—The term 'mobility management' means a short-range planning or management activity or project that does not include operating public transportation services and—

"(A) improves coordination among public transportation providers, including private companies engaged in public transportation;

"(B) addresses customer needs by tailoring public transportation services to specific market niches; or

"(C) manages public transportation demand.";

(5) by amending paragraph (11), as redesignated, to read as follows:

"(11) PUBLIC TRANSPORTATION.—The term 'public transportation' means transportation by a conveyance that provides local regular and continuing general or special transportation to the public, but does not include school bus, charter bus, intercity bus or passenger rail, or sightseeing transportation.";

(6) in subparagraphs (A) and (E) of paragraph (16), as redesignated, by striking "and" each place it appears and inserting "or"; and

(7) by amending paragraph (17) to read as follows:

"(17) URBANIZED AREA.—The term 'urbanized. area' means an area encompassing a population of not less than 50,000 people that has been defined and designated in the most recent decennial census as an 'urbanized area' by the Secretary of Commerce.".

SEC. 3005. METROPOLITAN TRANSPORTATION PLANNING.

Section 5303 is amended to read as follows:

"§5303. Metropolitan transportation planning

"(a) DEFINITIONS.—As used in this section and in section 5304, the following definitions shall apply:

"(1) CONSULTATION.—A 'consultation' occurs when 1 party—

"(A) confers with another identified party in accordance with an established process;

"(B) prior to taking action, considers the views of the other identified party; and

"(C) periodically informs that party about action taken.

"(2) METROPOLITAN PLANNING AREA.—The term 'metropolitan planning area' means the geographic area determined by agreement between the metropolitan planning organization and the Governor under subsection (d).

"(3) METROPOLITAN PLANNING ORGANIZATION.—The term 'metropolitan planning organization' means the Policy Board of the organization designated under subsection (c).

"(4) NONMETROPOLITAN AREA.—The term 'nonmetropolitan area' means any geographic area outside all designated metropolitan planning areas.

"(5) NONMETROPOLITAN LOCAL OFFICIAL.—The term 'nonmetropolitan local official' means any elected or appointed official of general purpose local government located in a nonmetropolitan area who is responsible for transportation services for such local government.

"(b) GENERAL REQUIREMENTS.—

"(1) DEVELOPMENT OF PLANS AND PROGRAMS.—To accomplish the objectives described in section 5301(a), each metropolitan planning organization, in cooperation with the State and public transportation operators, shall develop transportation plans and programs for metropolitan planning areas of the State in which it is located.

"(2) CONTENTS.—The plans and programs developed under paragraph (1) for each metropolitan planning area shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan planning area and as an integral part of an intermodal transportation system for the State and the United States.

"(3) PROCESS OF DEVELOPMENT.—The process for developing the plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

"(4) PLANNING AND PROJECT DEVELOPMENT.—The metropolitan planning organization, the State Department of Transportation, and the appropriate public transportation provider shall agree upon the approaches that will be used to evaluate alternatives and identify transportation improvements that address the most complex problems and pressing transportation needs in the metropolitan area.

"(c) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

"(1) IN GENERAL.—To carry out the transportation planning process under this section, a metropolitan planning organization shall be designated for each urbanized area—

"(A) by agreement between the Governor and units of general purpose local government that combined represent not less than 75 percent of the affected population (including the incorporated city or cities named by the Bureau of the Census in designating the urbanized area); or

"(B) in accordance with procedures established by applicable State or local law.

"(2) STRUCTURE.—Each metropolitan planning organization designated under paragraph (1) that serves an area identified as a transportation management area shall consist of—

"(A) local elected officials;

"(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area; and

"(C) appropriate State officials.

"(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities—

"(A) to develop plans and programs for adoption by a metropolitan planning organization; and

"(B) to develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.

"(4) CONTINUING DESIGNATION.—The designation of a metropolitan planning organization under this subsection or any other provision of law shall remain in effect until the metropolitan planning organization is redesignated under paragraph (5).

"(5) REDESIGNATION PROCEDURES.—A metropolitan planning organization may be redesignated by agreement between the Governor and units of general purpose local government that combined represent not less than 75 percent of the existing planning area population (including the incorporated city or cities named by the Bureau of the Census in designating the urbanized area) as appropriate to carry out this section.

"(6) DESIGNATION OF MORE THAN 1 METROPOLITAN PLANNING ORGANIZATION.—More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the Governor and the existing metropolitan planning organization determine that the size and complexity of the existing metropolitan planning area make designation of more than 1 metropolitan planning organization for the area appropriate.

"(d) METROPOLITAN PLANNING AREA BOUNDARIES.—

"(1) IN GENERAL.—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the metropolitan planning organization and the Governor.

"(2) INCLUDED AREA.—Each metropolitan planning area—

"(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period for the transportation plan; and

"(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Office of Management and Budget.

"(3) IDENTIFICATION OF NEW URBANIZED AREAS WITHIN EXISTING PLANNING AREA BOUNDARIES.—The designation by the Bureau of the Census of new urbanized areas within an existing metropolitan planning area shall not require the redesignation of the existing metropolitan planning organization.

"(4) EXISTING METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—Notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the boundaries of the metropolitan planning area in existence as of the date of enactment of the Federal Public Transportation Act of 2004 shall be retained, except that the boundaries may be adjusted by agreement of the Governor and affected metropolitan planning organizations in accordance with paragraph (5).

"(5) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—If an urbanized area is designated after the date of enactment of this paragraph in a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

"(A) shall be established in accordance with subsection (c)(1);

"(B) shall encompass the areas described in paragraph (2)(A);

"(C) may encompass the areas described in paragraph (2)(B); and

"(D) may address any nonattainment identified under the Clean Air Act (42 U.S.C. 7401 et seq.) for ozone or carbon monoxide.

"(e) COORDINATION IN MULTISTATE AREAS.—

"(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

"(2) INTERSTATE COMPACTS.—States are authorized—

"(A) to enter into agreements or compacts with other States, which agreements or compacts are not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

"(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

"(3) LAKE TAHOE REGION.—

"(A) DEFINITION.—In this paragraph, the term 'Lake Tahoe region' has the meaning given the term 'region' in subdivision (a) of article II of the Tahoe Regional Planning Compact, as set forth in the first section of Public Law 96–551 (94 Stat. 3234).

"(B) TRANSPORTATION PLANNING PROCESS.—The Secretary shall—

"(i) establish with the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region a transportation planning process for the region; and

"(ii) coordinate the transportation planning process with the planning process required of State and local governments under this section and section 5304.

"(C) INTERSTATE COMPACT.—

"(i) IN GENERAL.—Subject to clause (ii) and notwithstanding subsection (c), to carry out the transportation planning process required by this section, California and Nevada may designate a metropolitan planning organization for the Lake Tahoe region, by agreement between the Governor of the State of California, the Governor of the State of Nevada, and units of general purpose local government that combined represent not less than 75 percent of the affected population (including the incorporated city or cities named by the Bureau of the Census in designating the urbanized area), or in accordance with procedures established by applicable State or local law.

"(ii) INVOLVEMENT OF FEDERAL LAND MANAGEMENT AGENCIES.—

"(I) REPRESENTATION.—The policy board of a metropolitan planning organization designated under clause (i) shall include a representative of each Federal land management agency that has jurisdiction over land in the Lake Tahoe region.

"(II) FUNDING.—In addition to funds made available to the metropolitan planning organization under other provisions of title 23 and this chapter, not more than 1 percent of the funds allocated under section 202 of title 23 may be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph.

"(D) ACTIVITIES.—Highway projects included in transportation plans developed under this paragraph—

"(i) shall be selected for funding in a manner that facilitates the participation of the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region; and

"(ii) may, in accordance with chapter 2 of title 23, be funded using funds allocated under section 202 of title 23.

"(f) COORDINATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

"(1) NONATTAINMENT AREAS.—If more than 1 metropolitan planning organization has authority within a metropolitan area or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such area and the State in the coordination of plans required by this section.

"(2) TRANSPORTATION IMPROVEMENTS LOCATED IN MULTIPLE METROPOLITAN PLANNING AREAS.—If a transportation improvement funded from the highway trust fund is located within the boundaries of more than 1 metropolitan planning area, the metropolitan planning organizations shall coordinate plans regarding the transportation improvement.

"(3) INTERREGIONAL AND INTERSTATE PROJECT IMPACTS.—Planning for National Highway System, commuter rail projects, or other projects with substantial impacts outside a single metropolitan planning area or State shall be coordinated directly with the affected, contiguous, metropolitan planning organizations and States.

"(4) COORDINATION WITH OTHER PLANNING PROCESSES.—

"(A) IN GENERAL.—The Secretary shall encourage each metropolitan planning organization to coordinate its planning process, to the maximum extent practicable, with those officials responsible for other types of planning activities that are affected by transportation, including State and local land use planning, economic development, environmental protection, airport operations, housing, and freight.

"(B) OTHER CONSIDERATIONS.—The metropolitan planning process shall develop transportation plans with due consideration of, and in coordination with, other related planning activities within the metropolitan area. This should include the design and delivery of transportation services within the metropolitan area that are provided by—

"(i) recipients of assistance under this chapter;

"(ii) governmental agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

"(iii) recipients of assistance under section 204 of title 23.

"(g) SCOPE OF PLANNING PROCESS.—

"(1) IN GENERAL.—The goals and objectives developed through the metropolitan planning process for a metropolitan planning area under this section shall address, in relation to the performance of the metropolitan area transportation systems—

"(A) supporting the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency; including through services provided by public and private operators;

"(B) increasing the safety of the transportation system for motorized and nonmotorized users;

"(C) increasing the security of the transportation system for motorized and nonmotorized users;

"(D) increasing the accessibility and mobility of people and for freight, including through services provided by public and private operators;

"(E) protecting and enhancing the environment (including the protection of habitat, water quality, and agricultural and forest land, while minimizing invasive species), promoting energy conservation, and promoting consistency between transportation improvements and State and local land use planning and economic development patterns (including minimizing adverse health effects from mobile source air pollution and promoting the linkage of the transportation and development goals of the metropolitan area);

"(F) enhancing the integration and connectivity of the transportation system, across and between modes, for people and freight, including through services provided by public and private operators;

"(G) promoting efficient system management and operation; and

"(H) emphasizing the preservation and efficient use of the existing transportation system, including services provided by public and private operators.

"(2) SELECTION OF FACTORS.—After soliciting and considering any relevant public comments, the metropolitan planning organization shall determine which of the factors described in paragraph (1) are most appropriate to consider.

"(3) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under title 23, this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a transportation improvement plan, a project or strategy, or the certification of a planning process.

"(h) DEVELOPMENT OF TRANSPORTATION PLAN.—

"(1) IN GENERAL.—

"(A) REQUIREMENT.—Each metropolitan planning organization shall develop a transportation plan for its metropolitan planning area in accordance with this subsection, and update such plan—

"(i) not less frequently than once every 4 years in areas designated as nonattainment, as defined in section 107(d) of the Clean Air Act (42

U.S.C. 7407(d)), and in areas that were nonattainment that have been redesignated as attainment, in accordance with paragraph (3) of such section, with a maintenance plan under section 175A of the Clean Air Act (42 U.S.C. 7505a); or

"(ii) not less frequently than once every 5 years in areas designated as attainment, as defined in section 107(d) of the Clean Air Act.

"(B) COORDINATION FACTORS.—In developing the transportation plan under this section, each metropolitan planning organization shall consider the factors described in subsection (f) over a 20-year forecast period.

"(C) FINANCIAL ESTIMATES.—For the purpose of developing the transportation plan, the metropolitan planning organization, transit operator, and State shall cooperatively develop estimates of funds that will be available to support plan implementation.

"(2) MITIGATION ACTIVITIES.—

"(A) IN GENERAL.—A transportation plan under this subsection shall include a discussion of—

"(i) types of potential habitat, hydrological, and environmental mitigation activities that may assist in compensating for loss of habitat, wetland, and other environmental functions; and

"(ii) potential areas to carry out these activities, including a discussion of areas that may have the greatest potential to restore and maintain the habitat types and hydrological or environmental functions affected by the plan.

"(B) CONSULTATION.—The discussion described in subparagraph (A) shall be developed in consultation with Federal and State tribal wildlife, land management, and regulatory agencies.

"(3) CONTENTS.— A transportation plan under this subsection shall be in a form that the Secretary determines to be appropriate and shall contain—

"(A) an identification of transportation facilities, including major roadways, transit, multimodal and intermodal facilities, intermodal connectors, and other relevant facilities identified by the metropolitan planning organization, which should function as an integrated metropolitan transportation system, emphasizing those facilities that serve important national and regional transportation functions;

"(B) a financial plan that—

"(i) demonstrates how the adopted transportation plan can be implemented;

"(ii) indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan;

"(iii) recommends any additional financing strategies for needed projects and programs; and

"(iv) may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if approved by the Secretary and reasonable additional resources beyond those identified in the financial plan were available;

"(C) operational and management strategies to improve the performance of existing transportation facilities to relieve vehicular congestion and maximize the safety and mobility of people and goods;

"(D) capital investment and other strategies to preserve the existing metropolitan transportation infrastructure and provide for multimodal capacity increases based on regional priorities and needs; and

"(E) proposed transportation and transit enhancement activities.

"(4) CONSULTATION.—

"(A) IN GENERAL.—In each metropolitan area, the metropolitan planning organization shall consult, as appropriate, with State and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of a long-range transportation plan.

"(B) ISSUES.—The consultation shall involve—

"(i) comparison of transportation plans with State conservation plans or with maps, if available;

"(ii) comparison of transportation plans to inventories of natural or historic resources, if available; or

"(iii) consideration of areas where wildlife crossing structures may be needed to ensure connectivity between wildlife habitat linkage areas.

"(5) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the metropolitan planning organization shall coordinate the development of a transportation plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act.

"(6) APPROVAL OF THE TRANSPORTATION PLAN.—Each transportation plan prepared by a metropolitan planning organization shall be—

"(A) approved by the metropolitan planning organization; and

"(B) submitted to the Governor for information purposes at such time and in such manner as the Secretary may reasonably require.

"(i) PARTICIPATION BY INTERESTED PARTIES.—

"(1) DEVELOPMENT OF PARTICIPATION PLAN.—Not less frequently than every 4 years, each metropolitan planning organization shall develop and adopt a plan for participation in the process for developing the metropolitan transportation plan and programs by—

"(A) citizens;

"(B) affected public agencies;

"(C) representatives of public transportation employees;

"(D) freight shippers;

"(E) providers of freight transportation services;

"(F) private providers of transportation;

"(G) representatives of users of public transit;

"(H) representatives of users of pedestrian walkways and bicycle transportation facilities; and

"(I) other interested parties.

"(2) CONTENTS OF PARTICIPATION PLAN.—The participation plan—

"(A) shall be developed in a manner the Secretary determines to be appropriate;

"(B) shall be developed in consultation with all interested parties; and

"(C) shall provide that all interested parties have reasonable opportunities to comment on—

"(i) the process for developing the transportation plan; and

"(ii) the contents of the transportation plan.

"(3) METHODS.—The participation plan shall provide that the metropolitan planning organization shall, to the maximum extent practicable—

"(A) hold any public meetings at convenient and accessible locations and times;

"(B) employ visualization techniques to describe plans; and

"(C) make public information available in electronically accessible format and means, such as the World Wide Web.

"(4) CERTIFICATION.—Before the metropolitan planning organizations approve a transportation plan or program, each metropolitan planning organization shall certify that it has complied with the requirements of the participation plan it has adopted.

"(j) TRANSPORTATION IMPROVEMENT PROGRAM.—

"(1) DEVELOPMENT AND UPDATE.—

"(A) IN GENERAL.—In cooperation with the State and affected operators of public transportation, a metropolitan planning organization designated for a metropolitan planning area shall develop a transportation improvement program for the area.

"(B) PARTICIPATION.—In developing the transportation improvement program, the metropolitan planning organization, in cooperation with the Governor and any affected operator of public transportation, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (i).

"(C) UPDATES.—The transportation improvement program shall be updated not less than once every 4 years and shall be approved by the metropolitan planning organization and the Governor.

"(D) FUNDING ESTIMATE.—In developing the transportation improvement program, the metropolitan planning organization, operators of public transportation, and the State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

"(E) PROJECT ADVANCEMENT.—Projects listed in the transportation improvement program may be selected for advancement consistent with the project selection requirements.

"(F) MAJOR AMENDMENTS.—Major amendments to the list described in subparagraph (E), including the addition, deletion, or concept and scope change of a regionally significant project, may not be advanced without—

"(i) appropriate public involvement;

"(ii) financial planning;

"(iii) transportation conformity analyses; and

"(iv) a finding by the Federal Highway Administration and Federal Transit Administration that the amended plan was produced in a manner consistent with this section.

"(2) INCLUDED PROJECTS.—

"(A) PROJECTS UNDER CHAPTER 1 OF TITLE 23 AND THIS CHAPTER.—A transportation improvement program developed under this section for a metropolitan area shall include the projects and strategies within the metropolitan area that are proposed for funding under chapter 1 of title 23 and this chapter.

"(B) PROJECTS UNDER CHAPTER 2 OF TITLE 23.—

"(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the metropolitan transportation improvement program.

"(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of title 23 that are not regionally significant shall be grouped in 1 line item or identified individually in the metropolitan transportation improvement program.

"(3) SELECTION OF PROJECTS.—

"(A) IN GENERAL.—Except as otherwise provided under subsection (k)(4), the selection of federally funded projects in metropolitan planning areas shall be carried out, from the approved transportation plan—

"(i) by the State, in the case of projects under chapter 1 of title 23 or section 5308, 5310, 5311, or 5317 of this title;

"(ii) by the designated recipient, in the case of projects under section 5307; and

"(iii) in cooperation with the metropolitan planning organization.

"(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, a project may be advanced from the transportation improvement program in place of another project in the same transportation improvement program without the approval of the Secretary.

"(4) PUBLICATION REQUIREMENTS.—

"(A) PUBLICATION OF TRANSPORTATION IMPROVEMENT PROGRAM.—A transportation improvement program involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review, including, to the

maximum extent practicable, in electronically accessible formats and means, such as the World Wide Web.

"(B) PUBLICATION OF ANNUAL LISTINGS OF PROJECTS.—An annual listing of projects, including investments in pedestrian walkways and bicycle transportation facilities, for which Federal funds have been obligated in the preceding 4 years shall be published or otherwise made available for public review by the cooperative effort of the State, transit operator, and the metropolitan planning organization. This listing shall be consistent with the funding categories identified in the transportation improvement program.

"(C) RULEMAKING.—Not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall issue regulations specifying—

"(i) the types of data to be included in the list described in subparagraph (B), including—

"(I) the name, type, purpose, and geocoded location of each project;

"(II) the Federal, State, and local identification numbers assigned to each project;

"(III) amounts obligated and expended on each project, sorted by funding source and transportation mode, and the date on which each obligation was made; and

"(IV) the status of each project; and

"(ii) the media through which the list described in subparagraph (B) will be made available to the public, including written and visual components for each of the projects listed.

"(k) TRANSPORTATION MANAGEMENT AREAS.—

"(1) REQUIRED IDENTIFICATION.—The Secretary shall identify each urbanized area with a population of more than 200,000 individuals as a transportation management area.

"(2) TRANSPORTATION PLANS AND PROGRAMS.—Transportation plans and programs for a metropolitan planning area serving a transportation management area shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and transit operators.

"(3) CONGESTION MANAGEMENT SYSTEM.—

"(A) IN GENERAL.—The transportation planning process under this section shall address congestion management through a process that provides for effective management and operation, based on a cooperatively developed and implemented metropolitan-wide strategy, of new and existing transportation facilities eligible for funding under title 23 and this chapter through the use of travel demand reduction and operational management strategies.

"(B) PHASE-IN SCHEDULE.—The Secretary shall establish a phase-in schedule that provides for full compliance with the requirements of this section not later than 1 year after the identification of transportation management areas under paragraph (1).

"(4) SELECTION OF PROJECTS.—

"(A) IN GENERAL.—All federally funded projects carried out within the boundaries of a metropolitan planning area serving a transportation management area under title 23 (except for projects carried out on the National Highway System and projects carried out under the bridge program or the interstate maintenance program) or under this chapter shall be selected for implementation from the approved transportation improvement program by the metropolitan planning organization designated for the area in consultation with the State and any affected public transit operator.

"(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects on the National Highway System carried out within the boundaries of a metropolitan planning area serving a transportation management area and projects carried out within such boundaries under the bridge program or the interstate maintenance program under title 23 shall be selected for implementation from the approved transportation improvement program by the State in cooperation with the metropolitan planning organization designated for the area.

"(5) CERTIFICATION.—

"(A) IN GENERAL.—The Secretary shall—

"(i) ensure that the metropolitan planning process of a metropolitan planning organization serving a transportation management area is being carried out in accordance with Federal law; and

"(ii) subject to subparagraph (B), certify, not less frequently than once every 4 years in nonattainment and maintenance areas (as defined under the Clean Air Act) and not less frequently than once every 5 years in attainment areas (as defined under such Act), that the requirements of this paragraph are met with respect to the metropolitan planning process.

"(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

"(i) the transportation planning process complies with the requirements of this section and all other applicable Federal law; and

"(ii) a transportation plan and a transportation improvement program for the metropolitan planning area have been approved by the metropolitan planning organization and the Governor.

"(C) PENALTY FOR FAILING TO CERTIFY.—

"(i) WITHHOLDING PROJECT FUNDS.—If the metropolitan planning process of a metropolitan planning organization serving a transportation management area is not certified, the Secretary may withhold any funds otherwise available to the metropolitan planning area for projects funded under title 23 and this chapter.

"(ii) RESTORATION OF WITHHELD FUNDS.—Any funds withheld under clause (i) shall be restored to the metropolitan planning area when the metropolitan planning process is certified by the Secretary.

"(D) REVIEW OF CERTIFICATION.—In making a certification under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.

"(l) ABBREVIATED PLANS FOR CERTAIN AREAS.—

"(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated transportation plan and transportation improvement program for the metropolitan planning area that the Secretary determines is appropriate to achieve the purposes of this section, after considering the complexity of transportation problems in the area.

"(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.).

"(m) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

"(1) IN GENERAL.—Notwithstanding any other provisions of title 23 or this chapter, Federal funds may not be advanced for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) for any highway project that will result in a significant increase in carrying capacity for single-occupant vehicles unless the project is addressed through a congestion management process.

"(2) APPLICABILITY.—This subsection applies to any nonattainment area within the metropolitan planning area boundaries determined under subsection (d).

"(n) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to confer on a metropolitan planning organization the authority to impose legal requirements on any transportation facility, provider, or project that is not eligible under title 23 or this chapter.

"(o) AVAILABILITY OF FUNDS.—Funds set aside under section 104(f) of title 23 or section 5308 of this title shall be available to carry out this section.

"(p) CONTINUATION OF CURRENT REVIEW PRACTICE.—Any decision by the Secretary concerning a plan or program described in this section shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).".

SEC. 3006. STATEWIDE TRANSPORTATION PLANNING.

Section 5304 is amended to read as follows:

"§5304. Statewide transportation planning

"(a) GENERAL REQUIREMENTS.—

"(1) DEVELOPMENT OF PLANS AND PROGRAMS.—To support the policies described in section 5301(a), each State shall develop a statewide transportation plan (referred to in this section as a "Plan") and a statewide transportation improvement program (referred to in this section as a "Program") for all areas of the State subject to section 5303.

"(2) CONTENTS.—The Plan and the Program developed for each State shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the State and an integral part of an intermodal transportation system for the United States.

"(3) PROCESS OF DEVELOPMENT.—The process for developing the Plan and the Program shall—

"(A) provide for the consideration of all modes of transportation and the policies described in section 5301(a); and

"(B) be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

"(b) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—Each State shall—

"(1) coordinate planning under this section with—

"(A) the transportation planning activities under section 5303 for metropolitan areas of the State; and

"(B) other related statewide planning activities, including trade and economic development and related multistate planning efforts; and

"(2) develop the transportation portion of the State implementation plan, as required by the Clean Air Act (42 U.S.C. 7401 et seq.).

"(c) INTERSTATE AGREEMENTS.—States may enter into agreements or compacts with other States for cooperative efforts and mutual assistance in support of activities authorized under this section related to interstate areas and localities in the States and establishing authorities the States consider desirable for making the agreements and compacts effective.

"(d) SCOPE OF PLANNING PROCESS.—

"(1) IN GENERAL.—Each State shall carry out a statewide transportation planning process that provides for the consideration of projects, strategies, and implementing projects and services that will—

"(A) support the economic vitality of the United States, the States, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;

"(B) increase the safety of the transportation system for motorized and nonmotorized users;

"(C) increase the security of the transportation system for motorized and nonmotorized users;

“(D) increase the accessibility and mobility of people and freight;

“(E) protect and enhance the environment (including the protection of habitat, water quality, and agricultural and forest land, while minimizing invasive species), promote energy conservation, promote consistency between transportation improvements and State and local land use planning and economic development patterns, and improve the quality of life (including minimizing adverse health effects from mobile source air pollution and promoting the linkage of the transportation and development goals of the State);

“(F) enhance the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight;

“(G) promote efficient system management and operation; and

“(H) emphasize the preservation and efficient use of the existing transportation system.

“(2) SELECTION OF PROJECTS AND STRATEGIES.—After soliciting and considering any relevant public comments, the State shall determine which of the projects and strategies described in paragraph (1) are most appropriate.

“(3) MITIGATION ACTIVITIES.—

“(A) IN GENERAL.—A transportation plan under this subsection shall include a discussion of—

“(i) types of potential habitat, hydrological, and environmental mitigation activities that may assist in compensating for loss of habitat, wetland, and other environmental functions; and

“(ii) potential areas to carry out these activities, including a discussion of areas that may have the greatest potential to restore and maintain the habitat types and hydrological or environmental functions affected by the plan.

“(B) CONSULTATION.—The discussion described in subparagraph (A) shall be developed in consultation with Federal and State tribal wildlife, land management, and regulatory agencies.

“(4) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor described in paragraph (1) shall not be reviewable by any court under title 23, this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a Plan, a Program, a project or strategy, or the certification of a planning process.

“(e) ADDITIONAL REQUIREMENTS.—In carrying out planning under this section, each State shall consider—

“(1) with respect to nonmetropolitan areas, the concerns of affected local officials with responsibility for transportation;

“(2) the concerns of Indian tribal governments and Federal land management agencies that have jurisdiction over land within the boundaries of the State; and

“(3) coordination of Plans, Programs, and planning activities with related planning activities being carried out outside of metropolitan planning areas and between States.

“(f) STATEWIDE TRANSPORTATION PLAN.—

“(1) DEVELOPMENT.—Each State shall develop a Plan, with a minimum 20-year forecast period for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

“(2) CONSULTATION WITH GOVERNMENTS.—

“(A) METROPOLITAN PLANNING AREAS.—The Plan shall be developed for each metropolitan planning area in the State in cooperation with the metropolitan planning organization designated for the metropolitan planning area under section 5303.

“(B) NONMETROPOLITAN AREAS.—With respect to nonmetropolitan areas, the statewide transportation plan shall be developed in consultation with affected nonmetropolitan officials with responsibility for transportation. The consultation process shall not require the review or approval of the Secretary.

“(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the Plan shall be developed in consultation with the tribal government and the Secretary of the Interior.

“(D) CONSULTATION, COMPARISON, AND CONSIDERATION.—

“(i) IN GENERAL.—The Plan shall be developed, as appropriate, in consultation with State and local agencies responsible for—

“(I) land use management;

“(II) natural resources;

“(III) environmental protection;

“(IV) conservation; and

“(V) historic preservation.

“(ii) COMPARISON AND CONSIDERATION.—Consultation under clause (i) shall involve—

“(I) comparison of transportation plans to State conservation plans or maps, if available;

“(II) comparison of transportation plans to inventories of natural or historic resources, if available; or

“(III) consideration of areas where wildlife crossing structures may be needed to ensure connectivity between wildlife habitat linkage areas.

“(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the Plan, the State shall—

“(A) provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, providers of freight transportation services, and other interested parties with a reasonable opportunity to comment on the proposed Plan; and

“(B) to the maximum extent practicable—

“(i) hold any public meetings at convenient and accessible locations and times;

“(ii) employ visualization techniques to describe plans; and

“(iii) make public information available in electronically accessible format and means, such as the World Wide Web.

“(4) MITIGATION ACTIVITIES.—

“(A) IN GENERAL.—A Plan shall include a discussion of—

“(i) types of potential habitat, hydrological, and environmental mitigation activities that may assist in compensating for loss of habitat, wetlands, and other environmental functions; and

“(ii) potential areas to carry out these activities, including a discussion of areas that may have the greatest potential to restore and maintain the habitat types and hydrological or environmental functions affected by the plan.

“(B) CONSULTATION.—The discussion described in subparagraph (A) shall be developed in consultation with Federal and State tribal wildlife, land management, and regulatory agencies.

“(5) TRANSPORTATION STRATEGIES.—A Plan shall identify transportation strategies necessary to efficiently serve the mobility needs of people.

“(6) FINANCIAL PLAN.—The Plan may include a financial plan that—

“(A) demonstrates how the adopted Plan can be implemented;

“(B) indicates resources from public and private sources that are reasonably expected to be made available to carry out the Plan;

“(C) recommends any additional financing strategies for needed projects and programs; and

“(D) may include, for illustrative purposes, additional projects that would be included in the adopted Plan if reasonable additional resources beyond those identified in the financial plan were available.

“(7) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—A State shall not be required to select any project from the illustrative list of additional projects described in paragraph (6)(D).

“(8) EXISTING SYSTEM.—The Plan should include capital, operations and management strategies, investments, procedures, and other measures to ensure the preservation and most efficient use of the existing transportation system.

“(9) PUBLICATION OF LONG-RANGE TRANSPORTATION PLANS.—Each Plan prepared by a State shall be published or otherwise made available, including, to the maximum extent practicable, in electronically accessible formats and means, such as the World Wide Web.

“(g) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.—

“(1) DEVELOPMENT.—Each State shall develop a Program for all areas of the State.

“(2) CONSULTATION WITH GOVERNMENTS.—

“(A) METROPOLITAN PLANNING AREAS.—With respect to each metropolitan planning area in the State, the Program shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan planning area under section 5303.

“(B) NONMETROPOLITAN AREAS.—With respect to each nonmetropolitan area in the State, the Program shall be developed in consultation with affected nonmetropolitan local officials with responsibility for transportation. The consultation process shall not require the review or approval of the Secretary.

“(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the Program shall be developed in consultation with the tribal government and the Secretary of the Interior.

“(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the Program, the State shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, providers of freight transportation services, representatives of users of public transit, representatives of users of pedestrian walkways and bicycle transportation facilities, and other interested parties with a reasonable opportunity to comment on the proposed Program.

“(4) INCLUDED PROJECTS.—

“(A) IN GENERAL.—A Program developed under this subsection for a State shall include federally supported surface transportation expenditures within the boundaries of the State.

“(B) LISTING OF PROJECTS.—

“(i) IN GENERAL.—The Program shall cover a minimum of 4 years, identify projects by year, be fiscally constrained by year, and be updated not less than once every 4 years.

“(ii) PUBLICATION.—An annual listing of projects for which funds have been obligated in the preceding 4 years in each metropolitan planning area shall be published or otherwise made available by the cooperative effort of the State, transit operator, and the metropolitan planning organization for public review. The listing shall be consistent with the funding categories identified in each metropolitan transportation improvement program.

“(C) INDIVIDUAL IDENTIFICATION.—

“(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the transportation improvement program.

“(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of title 23 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually.

“(D) CONSISTENCY WITH STATEWIDE TRANSPORTATION PLAN.—Each project included in the list described in subparagraph (B) shall be—

“(i) consistent with the Plan developed under this section for the State;

"(ii) identical to the project or phase of the project as described in each year of the approved metropolitan transportation improvement program; and

"(iii) in conformance with the applicable State air quality implementation plan developed under the Clean Air Act (42 U.S.C. 7401 et seq.), if the project is carried out in an area designated as nonattainment for ozone or carbon monoxide under that Act.

"(E) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The Program shall not include a project, or an identified phase of a project, unless full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

"(F) FINANCIAL PLAN.—The Program may include a financial plan that—

"(i) demonstrates how the approved Program can be implemented;

"(ii) indicates resources from public and private sources that are reasonably expected to be made available to carry out the Program;

"(iii) recommends any additional financing strategies for needed projects and programs; and

"(iv) may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

"(G) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

"(i) NO REQUIRED SELECTION.—Notwithstanding subparagraph (F), a State shall not be required to select any project from the illustrative list of additional projects described in subparagraph (F)(iv).

"(ii) REQUIRED APPROVAL BY THE SECRETARY.—A State shall not include any project from the illustrative list of additional projects described in subparagraph (F)(iv) in an approved Program without the approval of the Secretary.

"(H) PRIORITIES.—The Program shall reflect the priorities for programming and expenditures of funds, including transportation and transit enhancement activities, required by title 23 and this chapter, and transportation control measures included in the State's air quality implementation plan.

"(5) PROJECT SELECTION FOR AREAS WITH FEWER THAN 50,000 INDIVIDUALS.—

"(A) IN GENERAL.—Each State, in cooperation with the affected nonmetropolitan local officials with responsibility for transportation, shall select projects to be carried out in areas with fewer than 50,000 individuals from the approved Program (excluding projects carried out under the National Highway System, the bridge program, or the interstate maintenance program under title 23 or sections 5310 and 5311 of this title).

"(B) CERTAIN PROGRAMS.—Each State, in consultation with the affected nonmetropolitan local officials with responsibility for transportation, shall select, from the approved Program, projects to be carried out in areas with fewer than 50,000 individuals under the National Highway System, the bridge program, or the Interstate maintenance program under title 23 or under sections 5310 and 5311 of this title.

"(6) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM APPROVAL.—A Program developed under this subsection shall be reviewed and based on a current planning finding approved by the Secretary not less frequently than once every 4 years.

"(7) PLANNING FINDING.—Not less frequently than once every 4 years, the Secretary shall determine whether the transportation planning process through which Plans and Programs are developed are consistent with this section and section 5303.

"(8) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, a project included in the approved Program may be advanced in place of another project in the program without the approval of the Secretary.

"(h) FUNDING.—Funds set aside pursuant to section 104(i) of title 23 and 5308 of this title shall be available to carry out this section.

"(i) TREATMENT OF CERTAIN STATE LAWS AS CONGESTION MANAGEMENT SYSTEMS.—For purposes of this section and section 5303, State laws, rules, or regulations pertaining to congestion management systems or programs may constitute the congestion management system under section 5303(i)(3) if the Secretary determines that the State laws, rules, or regulations are consistent with, and fulfill the intent of, the purposes of section 5303.

"(j) CONTINUATION OF CURRENT REVIEW PRACTICE.—Any decision by the Secretary under this section, regarding a metropolitan or statewide transportation plan or the Program, shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).".

SEC. 3007. TRANSPORTATION MANAGEMENT AREAS.

Section 5305 is repealed.

SEC. 3008. PRIVATE ENTERPRISE PARTICIPATION.

Section 5306 is amended—

(1) in subsection (a)—

(A) by striking "5305 of this title" and inserting "5308"; and

(B) by inserting ", as determined by local policies, criteria, and decision making," after "feasible";

(2) in subsection (b) by striking "5303–5305 of this title" and inserting "5303, 5304, and 5308"; and

(3) by adding at the end the following:

"(c) REGULATIONS.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall issue regulations describing how the requirements under this chapter relating to subsection (a) shall be enforced.".

SEC. 3009. URBANIZED AREA FORMULA GRANTS.

(a) TECHNICAL AMENDMENTS.—Section 5307 is amended—

(1) by striking subsections (h), (j) and (k); and

(2) by redesignating subsections (i), (l), (m), and (n) as subsections (h), (i), (j), and (k), respectively.

(b) DEFINITIONS.—Section 5307(a) is amended—

(1) by amending paragraph (2)(A) to read as follows:

"(A) an entity designated, in accordance with the planning process under sections 5303, 5304, and 5306, by the chief executive officer of a State, responsible local officials, and publicly owned operators of public transportation, to receive and apportion amounts under sections 5336 and 5337 that are attributable to transportation management areas designated under section 5303; or"; and

(2) by adding at the end the following:

"(3) SUBRECIPIENT.—The term 'subrecipient' means a State or local governmental authority, a nonprofit organization, or a private operator of public transportation service that may receive a Federal transit program grant indirectly through a recipient, rather than directly from the Federal Government.".

(c) GENERAL AUTHORITY.—Section 5307(b) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) IN GENERAL.—The Secretary of Transportation may award grants under this section for—

"(A) capital projects, including associated capital maintenance items;

"(B) planning, including mobility management;

"(C) transit enhancements;

"(D) operating costs of equipment and facilities for use in public transportation in an urbanized area with a population of less than 200,000; and

"(E) operating costs of equipment and facilities for use in public transportation in a portion or portions of an urbanized area with a population of at least 200,000, but not more than 225,000, if—

"(i) the urbanized area includes parts of more than 1 State;

"(ii) the portion of the urbanized area includes only 1 State;

"(iii) the population of the portion of the urbanized area is less than 30,000; and

"(iv) the grants will not be used to provide public transportation outside of the portion of the urbanized area.";

(2) by amending paragraph (2) to read as follows:

"(2) SPECIAL RULE FOR FISCAL YEARS 2004 THROUGH 2006—

"(A) INCREASED FLEXIBILITY.—The Secretary may award grants under this section, from funds made available to carry out this section for each of the fiscal years 2004 through 2006, to finance the operating cost of equipment and facilities for use in mass transportation in an urbanized area with a population of at least 200,000, as determined by the 2000 decennial census of population if—

"(i) the urbanized area had a population of less than 200,000, as determined by the 1990 decennial census of population;

"(ii) a portion of the urbanized area was a separate urbanized area with a population of less than 200,000, as determined by the 1990 decennial census of population;

"(iii) the area was not designated as an urbanized area, as determined by the 1990 decennial census of population; or

"(iv) a portion of the area was not designated as an urbanized area, as determined by the 1990 decennial census, and received assistance under section 5311 in fiscal year 2002.

"(B) MAXIMUM AMOUNTS IN FISCAL YEAR 2004.—In fiscal year 2004—

"(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

"(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than the amount apportioned to the urbanized area under this section for fiscal year 2003; and

"(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less than the amount the portion of the area received under section 5311 for fiscal year 2002.

"(C) MAXIMUM AMOUNTS IN FISCAL YEAR 2005.—In fiscal year 2005—

"(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than 50 percent of the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

"(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than 50 percent of the amount apportioned to the urbanized area under this section for fiscal year 2003; and

"(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less 50 percent of the amount the portion of the area received under section 5311 for fiscal year 2002.

"(D) MAXIMUM AMOUNTS IN FISCAL YEAR 2006.—In fiscal year 2006—

"(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than 25 percent of the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

"(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than 25 percent of the amount apportioned to the urbanized area under this section for fiscal year 2003; and

"(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less than 25 percent of the amount the portion of the area received under section 5311 in fiscal year 2002."; and

(3) by striking paragraph (4).

(d) PUBLIC PARTICIPATION REQUIREMENTS.—Section 5307(c)(5) is amended by striking "section 5336" and inserting "sections 5336 and 5337".

(e) GRANT RECIPIENT REQUIREMENTS.—Section 5307(d)(1) is amended—

(1) in subparagraph (A), by inserting ", including safety and security aspects of the program" after "program";

(2) in subparagraph (E), by striking "section" and all that follows and inserting "section, the recipient will comply with sections 5323 and 5325;";

(3) in subparagraph (H), by striking "sections 5301(a) and (d), 5303-5306, and 5310(a)-(d) of this title" and inserting "subsections (a) and (d) of section 5301 and sections 5303 through 5306";

(4) in subparagraph (I) by striking "and" at the end;

(5) in subparagraph (J), by striking the period at the end and inserting "; and"; and

(6) by adding at the end the following:

"(K) if located in an urbanized area with a population of at least 200,000, will expend not less than 1 percent of the amount the recipient receives each fiscal year under this section for transit enhancement activities described in section 5302(a)(15).".

(f) GOVERNMENT'S SHARE OF COSTS.—Section 5307(e) is amended—

(1) by striking the first sentence and inserting the following:

"(1) CAPITAL PROJECTS.—A grant for a capital project under this section shall cover 80 percent of the net project cost.";

(2) by striking "A grant for operating expenses" and inserting the following:

"(2) OPERATING EXPENSES.—A grant for operating expenses";

(3) by striking the fourth sentence and inserting the following:

"(3) REMAINING COSTS.—The remainder of the net project cost shall be provided in cash from non-Federal sources or revenues derived from the sale of advertising and concessions and amounts received under a service agreement with a State or local social service agency or a private social service organization."; and

(4) by adding at the end the following: "The prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to the remainder.".

(g) UNDERTAKING PROJECTS IN ADVANCE.—Section 5307(g) is amended by striking paragraph (4).

(h) RELATIONSHIP TO OTHER LAWS.—Section 5307(k), as redesignated, is amended to read as follows:

"(k) RELATIONSHIP TO OTHER LAWS.—

"(1) APPLICABLE PROVISIONS.—Sections 5301, 5302, 5303, 5304, 5306, 5315(c), 5318, 5319, 5323, 5325, 5327, 5329, 5330, 5331, 5332, 5333 and 5335 apply to this section and to any grant made under this section.

"(2) INAPPLICABLE PROVISIONS.—

"(A) IN GENERAL.—Except as provided under this section, no other provision of this chapter applies to this section or to a grant made under this section.

"(B) TITLE 5.—The provision of assistance under this chapter shall not be construed as bringing within the application of chapter 15 of title 5, any nonsupervisory employee of a public transportation system (or any other agency or entity performing related functions) to which such chapter is otherwise inapplicable.".

SEC. 3010. PLANNING PROGRAMS.

(a) IN GENERAL.—Section 5308 is amended to read as follows:

"§5308. Planning programs

"(a) GRANTS AUTHORIZED.—Under criteria established by the Secretary, the Secretary may award grants to States, authorities of the States, metropolitan planning organizations, and local governmental authorities, make agreements with other departments, agencies, or instrumentalities of the Government, or enter into contracts with private nonprofit or for-profit entities to—

"(1) develop transportation plans and programs;

"(2) plan, engineer, design, and evaluate a public transportation project; or

"(3) conduct technical studies relating to public transportation, including—

"(A) studies related to management, planning, operations, capital requirements, and economic feasibility;

"(B) evaluations of previously financed projects;

"(C) peer reviews and exchanges of technical data, information, assistance, and related activities in support of planning and environmental analyses among metropolitan planning organizations and other transportation planners; and

"(D) other similar and related activities preliminary to, and in preparation for, constructing, acquiring, or improving the operation of facilities and equipment.

"(b) PURPOSE.—To the extent practicable, the Secretary shall ensure that amounts appropriated pursuant to section 5338 to carry out this section and sections 5303, 5304, and 5306 are used to support balanced and comprehensive transportation planning that considers the relationships among land use and all transportation modes, without regard to the programmatic source of the planning amounts.

"(c) METROPOLITAN PLANNING PROGRAM.—

"(1) ALLOCATIONS TO STATES.—

"(A) IN GENERAL.—The Secretary shall allocate 80 percent of the amount made available under subsection (g)(3)(A) to States to carry out sections 5303 and 5306 in a ratio equal to the population in urbanized areas in each State, divided by the total population in urbanized areas in all States, as shown by the latest available decennial census of population.

"(B) MINIMUM ALLOCATION.—Each State shall receive not less than 0.5 percent of the total amount allocated under this paragraph.

"(2) AVAILABILITY OF FUNDS.—A State receiving an allocation under paragraph (1) shall promptly distribute such funds to metropolitan planning organizations in the State under a formula—

"(A) developed by the State in cooperation with the metropolitan planning organizations;

"(B) approved by the Secretary of Transportation;

"(C) that considers population in urbanized areas; and

"(D) that provides an appropriate distribution for urbanized areas to carry out the cooperative processes described in this section.

"(3) SUPPLEMENTAL ALLOCATIONS.—

"(A) IN GENERAL.—The Secretary shall allocate 20 percent of the amount made available under subsection (g)(3)(A) to States to supplement allocations made under paragraph (1) for metropolitan planning organizations.

"(B) ALLOCATION FORMULA.—Amounts under this paragraph shall be allocated under a formula that reflects the additional cost of carrying out planning, programming, and project selection responsibilities in complex metropolitan planning areas under sections 5303, 5304, and 5306.

"(d) STATE PLANNING AND RESEARCH PROGRAM.—

"(1) IN GENERAL.—The Secretary shall allocate amounts made available pursuant to subsection (g)(3)(B) to States for grants and contracts to carry out sections 5304, 5306, 5315, and 5322 so that each State receives an amount equal to the ratio of the population in urbanized areas in that State, divided by the total population in urbanized areas in all States, as shown by the latest available decennial census.

"(2) MINIMUM ALLOCATION.—Each State shall receive not less than 0.5 percent of the amount allocated under this subsection.

"(3) REALLOCATION.—A State may authorize part of the amount made available under this subsection to be used to supplement amounts available under subsection (c).

"(e) PLANNING CAPACITY BUILDING PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary shall establish a Planning Capacity Building Program (referred to in this subsection as the "Program") to support and fund innovative practices and enhancements in transportation planning.

"(2) PURPOSE.—The purpose of the Program shall be to promote activities that support and strengthen the planning processes required under this section and sections 5303 and 5304.

"(3) ADMINISTRATION.—The Program shall be administered by the Federal Transit Administration in cooperation with the Federal Highway Administration.

"(4) USE OF FUNDS.—

"(A) IN GENERAL.—Appropriations authorized under subsection (g)(1) to carry out this subsection may be used—

"(i) to provide incentive grants to States, metropolitan planning organizations, and public transportation operators; and

"(ii) to conduct research, disseminate information, and provide technical assistance.

"(B) GRANTS, CONTRACTS, COOPERATIVE AGREEMENTS.—In carrying out the activities described in subparagraph (A), the Secretary may—

"(i) expend appropriated funds directly; or

"(ii) award grants to, or enter into contracts, cooperative agreements, and other transactions with, a Federal agency, State agency, local governmental authority, association, nonprofit or for-profit entity, or institution of higher education.

"(f) GOVERNMENT'S SHARE OF COSTS.—Amounts made available to carry out subsections (c), (d), and (e) may not exceed 80 percent of the costs of the activity unless the Secretary of Transportation determines that it is in the interest of the Government not to require State or local matching funds.

"(g) ALLOCATION OF FUNDS.—Of the amounts made available under section 5338(b)(2)(B) for fiscal year 2005 and each fiscal year thereafter to carry out this section—

"(1) $5,000,000 shall be allocated for the Planning Capacity Building Program established under subsection (e);

"(2) $20,000,000 shall be allocated for grants under subsection (a)(2) for alternatives analyses required by section 5309(e)(2)(A); and

"(3) of the remaining amount—

"(A) 82.72 percent shall be allocated for the metropolitan planning program described in subsection (d); and

"(B) 17.28 percent shall be allocated to carry out subsection (b).

"(h) REALLOCATIONS.—Any amount allocated under this section that has not been used 3 years after the end of the fiscal year in which the amount was allocated shall be reallocated among the States.".

(b) CONFORMING AMENDMENT.—The item relating to section 5308 in the table of sections for chapter 53 is amended to read as follows:

"5308. Planning programs.".

SEC. 3011. CAPITAL INVESTMENT PROGRAM.

(a) SECTION HEADING.—The section heading of section 5309 is amended to read as follows:

"§5309. Capital investment grants".

(b) GENERAL AUTHORITY.—Section 5309(a) is amended—

(1) in paragraph (1)—

(A) by striking "(1) The Secretary of Transportation may make grants and loans" and inserting the following:

"(1) GRANTS AUTHORIZED.—The Secretary may award grants";

(B) in subparagraph (A), by striking "alternatives analysis related to the development of systems,";

(C) by striking subparagraphs (B), (C), (D), and (G);

(D) by redesignating subparagraphs (E), (F), and (H) as subparagraphs (B), (C), and (D), respectively;

(E) in subparagraph (C), as redesignated, by striking the semicolon at the end and inserting ", including programs of bus and bus-related projects for assistance to subrecipients which are public agencies, private companies engaged in public transportation, or private nonprofit organizations; and"; and

(F) in subparagraph (D), as redesignated—

(i) by striking "to support fixed guideway systems"; and

(ii) by striking "dedicated bus and high occupancy vehicle";

(2) by amending paragraph (2) to read as follows:

"(2) GRANTEE REQUIREMENTS.—

"(A) GRANTEE IN URBANIZED AREA.—The Secretary shall require that any grants awarded under this section to a recipient or subrecipient located in an urbanized area shall be subject to all terms, conditions, requirements, and provisions that the Secretary determines to be necessary or appropriate for the purposes of this section, including requirements for the disposition of net increases in the value of real property resulting from the project assisted under this section.

"(B) GRANTEE NOT IN URBANIZED AREA.—The Secretary shall require that any grants awarded under this section to a recipient or subrecipient not located in an urbanized area shall be subject to the same terms, conditions, requirements, and provisions as a recipient or subrecipient of assistance under section 5311.

"(C) SUBRECIPIENT.—The Secretary shall require that any private, nonprofit organization that is a subrecipient of a grant awarded under this section shall be subject to the same terms, conditions, requirements, and provisions as a subrecipient of assistance under section 5310.

"(D) STATEWIDE TRANSIT PROVIDER GRANTEES.—A statewide transit provider that receives a grant under this section shall be subject to the terms, conditions, requirements, and provisions of this section or section 5311, consistent with the scope and purpose of the grant and the location of the project."; and

(3) by adding at the end the following:

"(3) CERTIFICATION.—An applicant that has submitted the certifications required under subparagraphs (A), (B), (C), and (H) of section 5307(d)(1) shall be deemed to have provided sufficient information upon which the Secretary may make the findings required under this subsection.".

(c) DEFINED TERM.—Section 5309(b) is amended to read as follows:

"(b) DEFINED TERM.—As used in this section, the term 'alternatives analysis' means a study conducted as part of the transportation planning process required under sections 5303 and 5304, which includes—

"(1) an assessment of a wide range of public transportation alternatives designed to address a transportation problem in a corridor or subarea;

"(2) sufficient information to enable the Secretary to make the findings of project justification and local financial commitment required under this section;

"(3) the selection of a locally preferred alternative; and

"(4) the adoption of the locally preferred alternative as part of the long-range transportation plan required under section 5303.".

(d) GRANT REQUIREMENTS.—Section 5309(d) is amended to read as follows:

"(d) GRANT REQUIREMENTS.—The Secretary may not approve a grant for a project under this section unless the Secretary determines that—

"(1) the project is part of an approved transportation plan and program of projects required under sections 5303, 5304, and 5306; and

"(2) the applicant has, or will have—

"(A) the legal, financial, and technical capacity to carry out the project, including safety and security aspects of the project;

"(B) satisfactory continuing control over the use of the equipment or facilities; and

"(C) the capability and willingness to maintain the equipment or facilities.".

(e) MAJOR CAPITAL INVESTMENT PROJECTS OF $75,000,000 OR MORE.—Section 5309(e) is amended to read as follows:

"(e) MAJOR CAPITAL INVESTMENT PROJECTS OF $75,000,000 OR MORE.—

"(1) FULL FUNDING GRANT AGREEMENT.—The Secretary shall enter into a full funding grant agreement, based on the evaluations and ratings required under this subsection, with each grantee receiving not less than $75,000,000 under this subsection for a new fixed guideway capital project that—

"(A) is authorized for final design and construction; and

"(B) has been rated as medium, medium-high, or high, in accordance with paragraph (5)(B).

"(2) DETERMINATIONS.—The Secretary may not award a grant under this subsection for a new fixed guideway capital project unless the Secretary determines that the proposed project is—

"(A) based on the results of an alternatives analysis and preliminary engineering;

"(B) justified based on a comprehensive review of its mobility improvements, environmental benefits, cost-effectiveness, operating efficiencies, economic development effects, and public transportation supportive land use patterns and policies; and

"(C) supported by an acceptable degree of local financial commitment, including evidence of stable and dependable financing sources to construct the project, and maintain and operate the entire public transportation system, while ensuring that the extent and quality of existing public transportation services are not degraded.

"(3) EVALUATION OF PROJECT JUSTIFICATION.—In making the determinations under paragraph (2)(B) for a major capital investment grant, the Secretary shall analyze, evaluate, and consider—

"(A) the results of the alternatives analysis and preliminary engineering for the proposed project;

"(B) the reliability of the forecasts of costs and utilization made by the recipient and the contractors to the recipient;

"(C) the direct and indirect costs of relevant alternatives;

"(D) factors such as—

"(i) congestion relief;

"(ii) improved mobility;

"(iii) air pollution;

"(iv) noise pollution;

"(v) energy consumption; and

"(vi) all associated ancillary and mitigation costs necessary to carry out each alternative analyzed;

"(E) reductions in local infrastructure costs achieved through compact land use development and positive impacts on the capacity, utilization, or longevity of other surface transportation assets and facilities;

"(F) the cost of suburban sprawl;

"(G) the degree to which the project increases the mobility of the public transportation dependent population or promotes economic development;

"(H) population density and current transit ridership in the transportation corridor;

"(I) the technical capability of the grant recipient to construct the project;

"(J) any adjustment to the project justification necessary to reflect differences in local land, construction, and operating costs; and

"(K) other factors that the Secretary determines to be appropriate to carry out this chapter.

"(4) EVALUATION OF LOCAL FINANCIAL COMMITMENT.—

"(A) IN GENERAL.—In evaluating a project under paragraph (2)(C), the Secretary shall require that—

"(i) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases;

"(ii) each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and

"(iii) local resources are available to recapitalize and operate the overall proposed public transportation system, including essential feeder bus and other services necessary to achieve the projected ridership levels, while ensuring that the extent and quality of existing public transportation services are not degraded.

"(B) EVALUATION CRITERIA.—In assessing the stability, reliability, and availability of proposed sources of local financing under paragraph (2)(C), the Secretary shall consider—

"(i) the reliability of the forecasts of costs and utilization made by the recipient and the contractors to the recipient;

"(ii) existing grant commitments;

"(iii) the degree to which financing sources are dedicated to the proposed purposes;

"(iv) any debt obligation that exists, or is proposed by the recipient, for the proposed project or other public transportation purpose; and

"(v) the extent to which the project has a local financial commitment that exceeds the required non-Federal share of the cost of the project, provided that if the Secretary gives priority to financing projects that include more than the non-Federal share required under subsection (h), the Secretary shall give equal consideration to differences in the fiscal capacity of State and local governments.

"(5) PROJECT ADVANCEMENT AND RATINGS.—

"(A) PROJECT ADVANCEMENT.—A proposed project under this subsection shall not advance from alternatives analysis to preliminary engineering or from preliminary engineering to final design and construction unless the Secretary determines that the project meets the requirements of this section and there is a reasonable likelihood that the project will continue to meet such requirements.

"(B) RATINGS.—In making a determination under subparagraph (A), the Secretary shall evaluate and rate the project on a 5-point scale (high, medium-high, medium, medium-low, or low) based on the results of the alternatives analysis, the project justification criteria, and the degree of local financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established by regulation.

"(6) APPLICABILITY.—This subsection shall not apply to projects for which the Secretary has issued a letter of intent or entered into a full funding grant agreement before the date of enactment of the Federal Public Transportation Act of 2004.

"(7) RULEMAKING.—Not later than 240 days after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall issue regulations on the manner by which the Secretary shall evaluate and rate projects based on the results of alternatives analysis, project justification, and local financial commitment, in accordance with this subsection.

"(8) POLICY GUIDANCE.—

"(A) PUBLICATION.—The Secretary shall publish policy guidance regarding the new starts project review and evaluation process—

"(i) not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2004; and

"(ii) each time significant changes are made by the Secretary to the new starts project review and evaluation process and criteria, but not less frequently than once every 2 years.

"(B) PUBLIC COMMENT AND RESPONSE.—The Secretary shall—

"(i) invite public comment to the policy guidance published under subparagraph (A); and

"(ii) publish a response to the comments received under clause (i).".

(f) MAJOR CAPITAL INVESTMENT PROJECTS OF LESS THAN $75,000,000.— Section 5309(f) is amended to read as follows:

"(f) MAJOR CAPITAL INVESTMENT PROJECTS OF LESS THAN $75,000,000.—

"(1) PROJECT CONSTRUCTION GRANT AGREEMENT.—

"(A) IN GENERAL.—The Secretary shall enter into a project construction grant agreement, based on evaluations and ratings required under this subsection, with each grantee receiving less than $75,000,000 under this subsection for a new fixed guideway or corridor improvement capital project that—

"(i) is authorized by law; and

"(ii) has been rated as medium, medium-high, or high, in accordance with paragraph (3)(B).

"(B) CONTENTS.—

"(i) IN GENERAL.—An agreement under this paragraph shall specify—

"(I) the scope of the project to be constructed;

"(II) the estimated net cost of the project;

"(III) the schedule under which the project shall be constructed;

"(IV) the maximum amount of funding to be obtained under this subsection;

"(V) the proposed schedule for obligation of future Federal grants; and

"(VI) the sources of non-Federal funding.

"(ii) ADDITIONAL FUNDING.—The agreement may include a commitment on the part of the Secretary to provide funding for the project in future fiscal years.

"(C) FULL FUNDING GRANT AGREEMENT.—An agreement under this paragraph shall be considered a full funding grant agreement for the purposes of subsection (g).

"(2) SELECTION PROCESS.—

"(A) SELECTION CRITERIA.—The Secretary may not award a grant under this subsection for a proposed project unless the Secretary determines that the project is—

"(i) based on the results of planning and alternatives analysis;

"(ii) justified based on a review of its public transportation supportive land use policies, cost effectiveness, and effect on local economic development; and

"(iii) supported by an acceptable degree of local financial commitment.

"(B) PLANNING AND ALTERNATIVES.—In evaluating a project under subparagraph (A)(i), the Secretary shall analyze and consider the results of planning and alternatives analysis for the project.

"(C) PROJECT JUSTIFICATION.—In making the determinations under subparagraph (A)(ii), the Secretary shall—

"(i) determine the degree to which local land use policies are supportive of the public transportation project and the degree to which the project is likely to achieve local developmental goals;

"(ii) determine the cost effectiveness of the project at the time of the initiation of revenue service;

"(iii) determine the degree to which the project will have a positive effect on local economic development;

"(iv) consider the reliability of the forecasts of costs and ridership associated with the project; and

"(v) consider other factors that the Secretary determines to be appropriate to carry out this subsection.

"(D) LOCAL FINANCIAL COMMITMENT.—For purposes of subparagraph (A)(iii), the Secretary shall require that each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable.

"(3) ADVANCEMENT OF PROJECT TO DEVELOPMENT AND CONSTRUCTION.—

"(A) IN GENERAL.—A proposed project under this subsection may not advance from the planning and alternatives analysis stage to project development and construction unless—

"(i) the Secretary finds that the project meets the requirements of this subsection and there is a reasonable likelihood that the project will continue to meet such requirements; and

"(ii) the metropolitan planning organization has adopted the locally preferred alternative for the project into the long-range transportation plan.

"(B) EVALUATION.—In making the findings under subparagraph (A), the Secretary shall evaluate and rate the project as high, medium-high, medium, medium-low, or low, based on the results of the analysis of the project justification criteria and the degree of local financial commitment, as required under this subsection.

"(4) IMPACT REPORT.—

"(A) IN GENERAL.—Not later than 240 days after the date of enactment of the Federal Public Transportation Act of 2004, the Federal Transit Administration shall submit a report on the methodology to be used in evaluating the land use and economic development impacts of non-fixed guideway or partial fixed guideway projects to—

"(i) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

"(ii) the Committee on Transportation and Infrastructure of the House of Representatives.

"(B) CONTENTS.—The report submitted under subparagraph (A) shall address any qualitative and quantitative differences between fixed guideway and non-fixed guideway projects with respect to land use and economic development impacts.

"(5) REGULATIONS.—Not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall issue regulations establishing an evaluation and rating process for proposed projects under this subsection that is based on the results of project justification and local financial commitment, as required under this subsection.".

(g) FULL FUNDING GRANT AGREEMENTS.—Section 5309(g)(2) is amended by adding at the end the following:

"(C) BEFORE AND AFTER STUDY.—

"(i) IN GENERAL.—Each full funding grant agreement shall require the applicant to conduct a study that—

"(I) describes and analyzes the impacts of the new start project on transit services and transit ridership;

"(II) evaluates the consistency of predicted and actual project characteristics and performance; and

"(III) identifies sources of differences between predicted and actual outcomes.

"(ii) INFORMATION COLLECTION AND ANALYSIS PLAN.—

"(I) SUBMISSION OF PLAN.—Applicants seeking a full funding grant agreement shall submit a complete plan for the collection and analysis of information to identify the impacts of the new start project and the accuracy of the forecasts prepared during the development of the project. Preparation of this plan shall be included in the full funding grant agreement as an eligible activity.

"(II) CONTENTS OF PLAN.—The plan submitted under subclause (I) shall provide for—

"(aa) the collection of data on the current transit system regarding transit service levels and ridership patterns, including origins and destinations, access modes, trip purposes, and rider characteristics;

"(bb) documentation of the predicted scope, service levels, capital costs, operating costs, and ridership of the project;

"(cc) collection of data on the transit system 2 years after the opening of the new start project, including analogous information on transit service levels and ridership patterns and information on the as-built scope and capital costs of the new start project; and

"(dd) analysis of the consistency of predicted project characteristics with the after data.

"(D) COLLECTION OF DATA ON CURRENT SYSTEM.—To be eligible for a full funding grant agreement, recipients shall have collected data on the current system, according to the plan required, before the beginning of construction of the proposed new start project. Collection of this data shall be included in the full funding grant agreement as an eligible activity.

"(E) PUBLIC PRIVATE PARTNERSHIP PILOT PROGRAM.—

"(i) AUTHORIZATION.—The Secretary may establish a pilot program to demonstrate the advantages of public-private partnerships for certain fixed guideway systems development projects.

"(ii) IDENTIFICATION OF QUALIFIED PROJECTS.—The Secretary shall identify qualified public-private partnership projects as permitted by applicable State and local enabling laws and work with project sponsors to enhance project delivery and reduce overall costs.".

(h) FEDERAL SHARE OF NET PROJECT COST.—Section 5309(h) is amended to read as follows:

"(h) FEDERAL SHARE OF ADJUSTED NET PROJECT COST.—

"(1) IN GENERAL.—The Secretary shall estimate the net project cost based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities.

"(2) ADJUSTMENT FOR COMPLETION UNDER BUDGET.—The Secretary may adjust the final net project cost of a major capital investment project evaluated under subsections (e) and (f) to include the cost of eligible activities not included in the originally defined project if the Secretary determines that the originally defined project has been completed at a cost that is significantly below the original estimate.

"(3) MAXIMUM FEDERAL SHARE.—

"(A) IN GENERAL.—A grant for the project shall be for 80 percent of the net project cost, or the net project cost as adjusted under paragraph (2), unless the grant recipient requests a lower grant percentage.

"(B) EXCEPTIONS.—The Secretary may provide a higher grant percentage than requested by the grant recipient if—

"(i) the Secretary determines that the net project cost of the project is not more than 10 percent higher than the net project cost estimated at the time the project was approved for advancement into preliminary engineering; and

"(ii) the ridership estimated for the project is not less than 90 percent of the ridership estimated for the project at the time the project was approved for advancement into preliminary engineering.

"(4) OTHER SOURCES.—The costs not funded by a grant under this section may be funded from—

"(A) an undistributed cash surplus;

"(B) a replacement or depreciation cash fund or reserve; or

"(C) new capital, including any Federal funds that are eligible to be expended for transportation.

"(5) PLANNED EXTENSION TO FIXED GUIDEWAY SYSTEM.—In addition to amounts allowed under paragraph (1), a planned extension to a fixed guideway system may include the cost of rolling stock previously purchased if the Secretary determines that only non-Federal funds were used and that the purchase was made for use on the extension. A refund or reduction of the costs not funded by a grant under this section may be made only if a refund of a proportional amount of the grant is made at the same time.

"(6) EXCEPTION.—The prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to amounts allowed under paragraph (4).".

(i) LOAN PROVISIONS AND FISCAL CAPACITY CONSIDERATIONS.—Section 5309 is amended—

(1) by striking subsections (i), (j), (k), and (l);

(2) by redesignating subsections (m) and (n) as subsections (i) and (j), respectively;

(3) by striking subsection (o) (as added by section 3009(i) of the Federal Transit Act of 1998); and

(4) by redesignating subsections (o) and (p) as subsections (k) and (l), respectively.

(j) ALLOCATING AMOUNTS.—Section 5309(i), as redesignated, is amended to read as follows:

"(i) ALLOCATING AMOUNTS.—

"(1) FISCAL YEAR 2004.—Of the amounts made available or appropriated for fiscal year 2004 under section 5338(a)(3)—

"(A) $1,315,983,615 shall be allocated for projects of not less than $75,000,000 for major capital projects for new fixed guideway systems and extensions of such systems under subsection (e) and projects for new fixed guideway or corridor improvement capital projects under subsection (f);

"(B) $1,199,387,615 shall be allocated for capital projects for fixed guideway modernization; and

"(C) $603,617,520 shall be allocated for capital projects for buses and bus-related equipment and facilities.

"(2) IN GENERAL.—Of the amounts made available or appropriated for fiscal year 2005 and each fiscal year thereafter for grants under this section pursuant to subsections (b)(4) and (c) of section 5338—

"(A) the amounts appropriated under section 5338(c) shall be allocated for major capital projects for—

"(i) new fixed guideway systems and extensions of not less than $75,000,000, in accordance with subsection (e); and

"(ii) projects for new fixed guideway or corridor improvement capital projects, in accordance with subsection (f); and

"(B) the amounts made available under section 5338(b)(4) shall be allocated for capital projects for buses and bus-related equipment and facilities.

"(3) FIXED GUIDEWAY MODERNIZATION.—The amounts made available for fixed guideway modernization under section 5338(b)(2)(K) for fiscal year 2005 and each fiscal year thereafter shall be allocated in accordance with section 5337.

"(4) PRELIMINARY ENGINEERING.—Not more that 8 percent of the allocation described in paragraphs (1)(A) and (2)(A) may be expended on preliminary engineering.

"(5) FUNDING FOR FERRY BOATS.—Of the amounts described in paragraphs (1)(A) and (2)(A), $10,400,000 shall be available in each of the fiscal years 2004 through 2009 for capital projects in Alaska and Hawaii for new fixed guideway systems and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals.

"(6) BUS AND BUS FACILITY GRANTS.—

"(A) CONSIDERATIONS.—In making grants under paragraphs (1)(C) and (2)(B), the Secretary shall consider the age and condition of buses, bus fleets, related equipment, and bus-related facilities.

"(B) PROJECTS NOT IN URBANIZED AREAS.—Of the amounts made available under paragraphs (1)(C) and (2)(B), not less than 5.5 percent shall be available in each fiscal year for projects that are not in urbanized areas.

"(C) INTERMODAL TERMINALS.—Of the amounts made available under paragraphs (1)(C) and (2)(B), not less than $75,000,000 shall be available in each fiscal year for intermodal terminal projects, including the intercity bus portion of such projects.".

(k) REPORTS.—Section 5309 is amended by inserting at the end the following:

"(m) REPORTS.—

"(1) ANNUAL REPORT ON FUNDING RECOMMENDATIONS.—

"(A) IN GENERAL.—Not later than the first Monday of February of each year, the Secretary shall submit a report on funding recommendations to—

"(i) the Committee on Transportation and Infrastructure of the House of Representatives;

"(ii) the Committee on Banking, Housing, and Urban Affairs of the Senate;

"(iii) the Subcommittee on Transportation of the Committee on Appropriations of the House of Representatives; and

"(iv) the Subcommittee on Transportation of the Committee on Appropriations of the Senate.

"(B) CONTENTS.—The report submitted under subparagraph (A) shall contain—

"(i) a proposal on the allocation of amounts to finance grants for capital investment projects among grant applicants;

"(ii) a recommendation of projects to be funded based on—

"(I) the evaluations and ratings determined under subsection (e) and (f); and

"(II) existing commitments and anticipated funding levels for the subsequent 3 fiscal years; and

"(iii) detailed ratings and evaluations on each project recommended for funding.

"(2) TRIENNIAL REPORTS ON PROJECT RATINGS.—

"(A) IN GENERAL.—Not later than the first Monday of February, the first Monday of June, and the first Monday of October of each year, the Secretary shall submit a report on project ratings to—

"(i) the Committee on Transportation and Infrastructure of the House of Representatives;

"(ii) the Committee on Banking, Housing, and Urban Affairs of the Senate;

"(iii) the Subcommittee on Transportation of the Committee on Appropriations of the House of Representatives; and

"(iv) the Subcommittee on Transportation of the Committee on Appropriations of the Senate.

"(B) CONTENTS.—Each report submitted under subparagraph (A) shall contain—

"(i) a summary of the ratings of all capital investment projects for which funding was requested under this section;

"(ii) detailed ratings and evaluations on the project of each applicant that had significant changes to the finance or project proposal or has completed alternatives analysis or preliminary engineering since the date of the latest report; and

"(iii) all relevant information supporting the evaluation and rating of each updated project, including a summary of the financial plan of each updated project.

"(3) BEFORE AND AFTER STUDY REPORTS.—Not later than the first Monday of August of each year, the Secretary shall submit a report containing a summary of the results of the studies conducted under subsection (g)(2) to—

"(A) the Committee on Transportation and Infrastructure of the House of Representatives;

"(B) the Committee on Banking, Housing, and Urban Affairs of the Senate;

"(C) the Subcommittee on Transportation of the Committee on Appropriations of the House of Representatives; and

"(D) the Subcommittee on Transportation of the Committee on Appropriations of the Senate.

"(4) CONTRACTOR PERFORMANCE ASSESSMENT REPORT.—

"(A) IN GENERAL.—Not later than 180 days after the enactment of the Federal Public Transportation Act of 2004, and each year thereafter, the Secretary shall submit a report analyzing the consistency and accuracy of cost and ridership estimates made by each contractor to public transportation agencies developing major investment projects to the committees and subcommittees listed under paragraph (3).

"(B) CONTENTS.—The report submitted under subparagraph (A) shall compare the cost and ridership estimates made at the time projects are approved for entrance into preliminary engineering with—

"(i) estimates made at the time projects are approved for entrance into final design;

"(ii) costs and ridership when the project commences revenue operation; and

"(iii) costs and ridership when the project has been in operation for 2 years.

"(5) ANNUAL GENERAL ACCOUNTING OFFICE REVIEW.—

"(A) REVIEW.—The Comptroller General of the United States shall conduct an annual review of the processes and procedures for evaluating and rating projects and recommending projects and the Secretary's implementation of such processes and procedures.

"(B) REPORT.—Not later than 90 days after the submission of each report required under paragraph (1), the Comptroller General shall submit a report to Congress that summarizes the results of the review conducted under subparagraph (A).

"(6) CONTRACTOR PERFORMANCE INCENTIVE REPORT.—Not later than 180 days after the enactment of the Federal Public Transportation Act

of 2004, the Secretary shall submit a report to the committees and subcommittees listed under paragraph (3) on the suitability of allowing contractors to public transportation agencies that undertake major capital investments under this section to receive performance incentive awards if a project is completed for less than the original estimated cost.''.

SEC. 3012. NEW FREEDOM FOR ELDERLY PERSONS AND PERSONS WITH DISABILITIES.

(a) In General.—Section 5310 is amended to read as follows:

“§5310. New freedom for elderly persons and persons with disabilities

''(a) General Authority.—

''(1) Authorization.—The Secretary may award grants to a State for capital public transportation projects that are planned, designed, and carried out to meet the needs of elderly individuals and individuals with disabilities, with priority given to the needs of these individuals to access necessary health care.

''(2) Acquisition of public transportation services.—A capital public transportation project under this section may include acquiring public transportation services as an eligible capital expense.

''(3) Administrative costs.—A State may use not more than 15 percent of the amounts received under this section to administer, plan, and provide technical assistance for a project funded under this section.

''(b) Allotments Among States.—

''(1) In general.—From amounts made available or appropriated in each fiscal year under subsections (a)(1)(C)(iv) and (b)(2)(D) of section 5338 for grants under this section, the Secretary shall allot amounts to each State under a formula based on the number of elderly individuals and individuals with disabilities in each State.

''(2) Transfer of funds.—Any funds allotted to a State under paragraph (1) may be transferred by the State to the apportionments made under sections 5311(c) and 5336 if such funds are only used for eligible projects selected under this section.

''(3) Reallocation of funds.—A State receiving a grant under this section may reallocate such grant funds to—

''(A) a private nonprofit organization;

''(B) a public transportation agency or authority; or

''(C) a governmental authority that—

''(i) has been approved by the State to coordinate services for elderly individuals and individuals with disabilities;

''(ii) certifies that nonprofit organizations are not readily available in the area that can provide the services described under this subsection; or

''(iii) will provide services to persons with disabilities that exceed those services required by the Americans with Disabilities Act.

''(c) Federal Share.—

''(1) Maximum.—

''(A) In general.—A grant for a capital project under this section may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.

''(B) Exception.—A State described in section 120(d) of title 23 shall receive an increased Federal share in accordance with the formula under that section.

''(2) Remaining costs.—The costs of a capital project under this section that are not funded through a grant under this section—

''(A) may be funded from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

''(B) may be derived from amounts appropriated to or made available to any Federal agency (other than the Department of Transportation, except for Federal Lands Highway funds) that are eligible to be expended for transportation.

''(3) Exception.—For purposes of paragraph (2), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

''(d) Grant Requirements.—

''(1) In general.—A grant recipient under this section shall be subject to the requirements of a grant recipient under section 5307 to the extent the Secretary determines to be appropriate.

''(2) Certification requirements.—

''(A) Fund transfers.—A grant recipient under this section that transfers funds to a project funded under section 5336 in accordance with subsection (b)(2) shall certify that the project for which the funds are requested has been coordinated with private nonprofit providers of services under this section.

''(B) Project selection and plan development.—Each grant recipient under this section shall certify that—

''(i) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and

''(ii) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.

''(C) Allocations to subrecipients.—Each grant recipient under this section shall certify that allocations of the grant to subrecipients, if any, are distributed on a fair and equitable basis.

''(e) State Program of Projects.—

''(1) Submission to secretary.—Each State shall annually submit a program of transportation projects to the Secretary for approval with an assurance that the program provides for maximum feasible coordination between transportation services funded under this section and transportation services assisted by other Federal sources.

''(2) Use of funds.—Each State may use amounts made available to carry out this section to provide transportation services for elderly individuals and individuals with disabilities if such services are included in an approved State program of projects.

''(f) Leasing Vehicles.—Vehicles acquired under this section may be leased to local governmental authorities to improve transportation services designed to meet the needs of elderly individuals and individuals with disabilities.

''(g) Meal Delivery for Homebound Individuals.—Public transportation service providers receiving assistance under this section or section 5311(c) may coordinate and assist in regularly providing meal delivery service for homebound individuals if the delivery service does not conflict with providing public transportation service or reduce service to public transportation passengers.

''(h) Transfers of Facilities and Equipment.—With the consent of the recipient in possession of a facility or equipment acquired with a grant under this section, a State may transfer the facility or equipment to any recipient eligible to receive assistance under this chapter if the facility or equipment will continue to be used as required under this section.

''(i) Fares Not Required.—This section does not require that elderly individuals and individuals with disabilities be charged a fare.''.

(b) Conforming Amendment.—The item relating to section 5310 in the table of sections for chapter 53 is amended to read as follows:

''5310. New freedom for elderly persons and persons with disabilities.''.

SEC. 3013. FORMULA GRANTS FOR OTHER THAN URBANIZED AREAS.

(a) Definitions.—Section 5311(a) is amended to read as follows:

''(a) Definitions.—As used in this section, the following definitions shall apply:

''(1) Recipient.—The term 'recipient' means a State or Indian tribe that receives a Federal transit program grant directly from the Federal Government.

''(2) Subrecipient.—The term 'subrecipient' means a State or local governmental authority, a nonprofit organization, or a private operator of public transportation or intercity bus service that receives Federal transit program grant funds indirectly through a recipient.''.

(b) General Authority.—Section 5311(b) is amended—

(1) by amending paragraph (1) to read as follows:

''(1) Grants authorized.—Except as provided under paragraph (2), the Secretary may award grants under this section to recipients located in areas other than urbanized areas for—

''(A) public transportation capital projects;

''(B) operating costs of equipment and facilities for use in public transportation; and

''(C) the acquisition of public transportation services.'';

(2) by redesignating paragraph (2) as paragraph (3);

(3) by inserting after paragraph (1) the following:

''(2) State program.—

''(A) In general.—A project eligible for a grant under this section shall be included in a State program for public transportation service projects, including agreements with private providers of public transportation service.

''(B) Submission to secretary.—Each State shall annually submit the program described in subparagraph (A) to the Secretary.

''(C) Approval.—The Secretary may not approve the program unless the Secretary determines that—

''(i) the program provides a fair distribution of amounts in the State; and

''(ii) the program provides the maximum feasible coordination of public transportation service assisted under this section with transportation service assisted by other Federal sources.'';

(4) in paragraph (3), as redesignated—

(A) by striking ''(3) The Secretary of Transportation'' and inserting the following:

''(3) Rural transportation assistance program.—

''(A) Establishment.—The Secretary'';

(B) by striking ''make'' and inserting ''use not more than 2 percent of the amount made available to carry out this section to award''; and

(C) by adding at the end the following:

''(B) Data Collection.—

''(i) Report.—Each grantee under this section shall submit an annual report to the Secretary containing information on capital investment, operations, and service provided with funds received under this section, including—

''(I) total annual revenue;

''(II) sources of revenue;

''(III) total annual operating costs;

''(IV) total annual capital costs;

''(V) fleet size and type, and related facilities;

''(VI) revenue vehicle miles; and

''(VII) ridership.''; and

(5) by adding after paragraph (3) the following:

''(4) Of the amount made available to carry out paragraph (3)—

''(A) not more than 15 percent may be used to carry out projects of a national scope; and

''(B) any amounts not used under subparagraph (A) shall be allocated to the States.''.

(c) Apportionments.—Section 5311(c) is amended to read as follows:

"(c) APPORTIONMENTS.—

"(1) PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS.—Of the amounts made available or appropriated for each fiscal year pursuant to subsections (a)(1)(C)(v) and (b)(2)(F) of section 5338, the following amounts shall be apportioned for grants to Indian tribes for any purpose eligible under this section, under such terms and conditions as may be established by the Secretary:

"(A) $6,000,000 for fiscal year 2005.

"(B) $8,000,000 for fiscal year 2006.

"(C) $10,000,000 for fiscal year 2007.

"(D) $12,000,000 for fiscal year 2008.

"(E) $15,000,000 for fiscal year 2009.

"(2) REMAINING AMOUNTS.—Of the amounts made available or appropriated for each fiscal year pursuant to subsections (a)(1)(C)(v) and (b)(2)(F) of section 5338 that are not apportioned under paragraph (1)—

"(A) 20 percent shall be apportioned to the States in accordance with paragraph (3); and

"(B) 80 percent shall be apportioned to the States in accordance with paragraph (4).

"(3) APPORTIONMENTS BASED ON LAND AREA IN NONURBANIZED AREAS.—

"(A) IN GENERAL.—Subject to subparagraph (B), each State shall receive an amount that is equal to the amount apportioned under paragraph (2)(A) multiplied by the ratio of the land area in areas other than urbanized areas in that State and divided by the land area in all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.

"(B) MAXIMUM APPORTIONMENT.—No State shall receive more than 5 percent of the amount apportioned under this paragraph.

"(4) APPORTIONMENTS BASED ON POPULATION IN NONURBANIZED AREAS.—Each State shall receive an amount equal to the amount apportioned under paragraph (2)(B) multiplied by the ratio of the population of areas other than urbanized areas in that State divided by the population of all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.".

(d) USE FOR ADMINISTRATIVE, PLANNING, AND TECHNICAL ASSISTANCE.—Section 5311(e) is amended—

(1) by striking "AND TECHNICAL ASSISTANCE.—(1) The Secretary of Transportation" and inserting ", PLANNING, AND TECHNICAL ASSISTANCE.—The Secretary";

(2) by striking "to a recipient"; and

(3) by striking paragraph (2).

(e) INTERCITY BUS TRANSPORTATION.—Section 5311(f) is amended—

(1) in paragraph (1)—

(A) by striking "(1)" and inserting the following:

"(1) IN GENERAL.—"; and

(B) by striking "after September 30, 1993,"; and

(2) in paragraph (2)—

(A) by striking "A State" and inserting "After consultation with affected intercity bus service providers, a State"; and

(B) by striking "of Transportation".

(f) FEDERAL SHARE OF COSTS.—Section 5311(g) is amended to read as follows:

"(g) FEDERAL SHARE OF COSTS.—

"(1) MAXIMUM FEDERAL SHARE.—

"(A) CAPITAL PROJECTS.—

"(i) IN GENERAL.—Except as provided under clause (ii), a grant awarded under this section for any purpose other than operating assistance may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.

"(ii) EXCEPTION.—A State described in section 120(d) of title 23 shall receive a Federal share of the net capital costs in accordance with the formula under that section.

"(B) OPERATING ASSISTANCE.—

"(i) IN GENERAL.—Except as provided under clause (ii), a grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

"(ii) EXCEPTION.—A State described in section 120(d) of title 23 shall receive a Federal share of the net operating costs equal to 62.5 percent of the Federal share provided for under subparagraph (A)(ii).

"(2) OTHER FUNDING SOURCES.—Funds for a project under this section that are not provided for by a grant under this section—

"(A) may be provided from—

"(i) an undistributed cash surplus;

"(ii) a replacement or depreciation cash fund or reserve;

"(iii) a service agreement with a State or local social service agency or a private social service organization; or

"(iv) new capital; and

"(B) may be derived from amounts appropriated to or made available to a Federal agency (other than the Department of Transportation, except for Federal Land Highway funds) that are eligible to be expended for transportation.

"(3) USE OF FEDERAL GRANT.—A State carrying out a program of operating assistance under this section may not limit the level or extent of use of the Federal grant for the payment of operating expenses.

"(4) EXCEPTION.—For purposes of paragraph (2)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(c)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(c)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.".

(g) WAIVER CONDITION.—Section 5311(j)(1) is amended by striking "but the Secretary of Labor may waive the application of section 5333(b)" and inserting "if the Secretary of Labor utilizes a Special Warranty that provides a fair and equitable arrangement to protect the interests of employees".

SEC. 3014. RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DEPLOYMENT PROJECTS.

(a) IN GENERAL.—Section 5312 is amended—

(1) by amending subsection (a) to read as follows:

"(a) RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROJECTS.—

"(1) IN GENERAL.—The Secretary may make grants, contracts, cooperative agreements, or other transactions (including agreements with departments, agencies, and instrumentalities of the United States Government) for research, development, demonstration or deployment projects, or evaluation of technology of national significance to public transportation that the Secretary determines will improve public transportation service or help public transportation service meet the total transportation needs at a minimum cost.

"(2) INFORMATION.—The Secretary may request and receive appropriate information from any source.

"(3) SAVINGS PROVISION.—This subsection does not limit the authority of the Secretary under any other law.";

(2) by striking subsections (b) and (c);

(3) by redesignating subsections (d) and (e) as (b) and (c), respectively.

(4) in subsection (b), as redesignated—

(A) in paragraph (2), by striking "other agreements" and inserting "other transactions"; and

(B) in paragraph (5), by striking "within the Mass Transit Account of the Highway Trust Fund"; and

(5) in subsection (c), as redesignated—

(A) in paragraph (2), by striking "public and private" and inserting "public or private"; and

(B) in paragraph (3), by striking "within the Mass Transit Account of the Highway Trust Fund" .

(b) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—The heading of section 5312 is amended to read as follows:

"§5312. Research, development, demonstration, and deployment projects".

(2) TABLE OF SECTIONS.—The item relating to section 5312 in the table of sections for chapter 53 is amended to read as follows:

"5312. Research, development, demonstration, and deployment projects.".

SEC. 3015. TRANSIT COOPERATIVE RESEARCH PROGRAM.

(a) IN GENERAL.—Section 5313 is amended—

(1) by striking subsection (b);

(2) in subsection (a)—

(A) in paragraph (1), by striking "(1) The amounts made available under paragraphs (1) and (2)C)(ii) of section 5338(c) of this title" and inserting "The amounts made available under subsections (a)(5)(C)(iii) and (b)(2)(G)(i) of section 5338"; and

(B) in paragraph (2), by striking "(2)" and inserting the following:

"(b) FEDERAL ASSISTANCE.—"; and

(3) by amending subsection (c) to read as follows:

"(c) FEDERAL SHARE.—If there would be a clear and direct financial benefit to an entity under a grant or contract financed under this section, the Secretary shall establish a Federal share consistent with such benefit.".

(b) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—The heading of section 5313 is amended to read as follows:

"§5313. Transit cooperative research program".

(2) TABLE OF SECTIONS.—The item relating to section 5313 in the table of sections for chapter 53 is amended to read as follows:

"5313. Transit cooperative research program.".

SEC. 3016. NATIONAL RESEARCH PROGRAMS.

(a) IN GENERAL.—Section 5314 is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

"(1) AVAILABILITY OF FUNDS.—The Secretary may use amounts made available under subsections (a)(5)(C)(iv) and (b)(2)(G)(iv) of section 5338 for grants, contracts, cooperative agreements, or other transactions for the purposes described in sections 5312, 5315, and 5322.";

(B) in paragraph (2), by striking "(2) Of" and inserting the following:

"(2) ADA COMPLIANCE.—From";

(C) by amending paragraph (3) to read as follows:

"(3) SPECIAL DEMONSTRATION INITIATIVES.—The Secretary may use not more than 25 percent of the amounts made available under paragraph (1) for special demonstration initiatives, subject to terms that the Secretary determines to be consistent with this chapter. For a nonrenewable grant of not more than $100,000, the Secretary shall provide expedited procedures for complying with the requirements of this chapter.";

(D) in paragraph (4)—

(i) by striking subparagraph (B); and

(ii) by redesignating subparagraph (C) as subparagraph (B); and

(E) by adding at the end the following:

"(6) MEDICAL TRANSPORTATION DEMONSTRATION GRANTS.—

"(A) GRANTS AUTHORIZED.—The Secretary may award demonstration grants, from funds made available under paragraph (1), to eligible entities to provide transportation services to individuals to access dialysis treatments and other medical treatments for renal disease.

"(B) ELIGIBLE ENTITIES.—An entity shall be eligible to receive a grant under this paragraph if the entity—

"(i) meets the conditions described in section 501(c)(3) of the Internal Revenue Code of 1986; or

"(ii) is an agency of a State or unit of local government.

"(C) USE OF FUNDS.—Grant funds received under this paragraph may be used to provide transportation services to individuals to access dialysis treatments and other medical treatments for renal disease.

"(D) APPLICATION.—

"(i) IN GENERAL.—Each eligible entity desiring a grant under this paragraph shall submit an application to the Secretary at such time, at such place, and containing such information as the Secretary may reasonably require.

"(ii) SELECTION OF GRANTEES.—In awarding grants under this paragraph, the Secretary shall give preference to eligible entities from communities with—

"(I) high incidence of renal disease; and

"(II) limited access to dialysis facilities.

"(E) RULEMAKING.—The Secretary shall issue regulations to implement and administer the grant program established under this paragraph.

"(F) REPORT.—The Secretary shall submit a report on the results of the demonstration projects funded under this paragraph to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives."; and

(2) by amending subsection (b) to read as follows:

"(b) FEDERAL SHARE.—If there would be a clear and direct financial benefit to an entity under a grant, contract, cooperative agreement, or other transaction financed under subsection (a) or section 5312, 5313, 5315, or 5322, the Secretary shall establish a Federal share consistent with such benefit.".

(c) NATIONAL TECHNICAL ASSISTANCE CENTER FOR SENIOR TRANSPORTATION; ALTERNATIVE FUELS STUDY.—Section 5314 is amended by adding at the end the following:

"(c) NATIONAL TECHNICAL ASSISTANCE CENTER FOR SENIOR TRANSPORTATION.—

"(1) ESTABLISHMENT.—The Secretary shall award grants to a national not-for-profit organization for the establishment and maintenance of a national technical assistance center.

"(2) ELIGIBILITY.—An organization shall be eligible to receive the grant under paragraph (1) if the organization—

"(A) focuses significantly on serving the needs of the elderly;

"(B) has demonstrated knowledge and expertise in senior transportation policy and planning issues;

"(C) has affiliates in a majority of the States;

"(D) has the capacity to convene local groups to consult on operation and development of senior transportation programs; and

"(E) has established close working relationships with the Federal Transit Administration and the Administration on Aging.

"(3) USE OF FUNDS.—The national technical assistance center established under this section shall—

"(A) gather best practices from throughout the country and provide such practices to local communities that are implementing senior transportation programs;

"(B) work with teams from local communities to identify how they are successfully meeting the transportation needs of senior and any gaps in services in order to create a plan for an integrated senior transportation program;

"(C) provide resources on ways to pay for senior transportation services;

"(D) create a web site to publicize and circulate information on senior transportation programs;

"(E) establish a clearinghouse for print, video, and audio resources on senior mobility; and

"(F) administer the demonstration grant program established under paragraph (4).

"(4) GRANTS AUTHORIZED.—

"(A) IN GENERAL.—The national technical assistance center established under this section, in consultation with the Federal Transit Administration, shall award senior transportation demonstration grants to—

"(i) local transportation organizations;

"(ii) State agencies;

"(iii) units of local government; and

"(iv) nonprofit organizations.

"(B) USE OF FUNDS.—Grant funds received under this paragraph may be used to—

"(i) evaluate the state of transportation services for senior citizens;

"(ii) recognize barriers to mobility that senior citizens encounter in their communities;

"(iii) establish partnerships and promote coordination among community stakeholders, including public, not-for-profit, and for-profit providers of transportation services for senior citizens;

"(iv) identify future transportation needs of senior citizens within local communities; and

"(v) establish strategies to meet the unique needs of healthy and frail senior citizens.

"(C) SELECTION OF GRANTEES.—The Secretary shall select grantees under this subsection based on a fair representation of various geographical locations throughout the United States.

"(5) ALLOCATIONS.—From the funds made available for each fiscal year under subsections (a)(5)(C)(iv) and (b)(2)(G)(iv) of section 5338, $3,000,000 shall be allocated to carry out this subsection.

"(d) ALTERNATIVE FUELS STUDY.—

"(1) STUDY.—The Secretary shall conduct a study of the actions necessary to facilitate the purchase of increased volumes of alternative fuels (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)) for use in public transit vehicles

"(2) SCOPE OF STUDY.—The study conducted under this subsection shall focus on the incentives necessary to increase the use of alternative fuels in public transit vehicles, including buses, fixed guideway vehicles, and ferries.

"(3) CONTENTS.—The study shall consider—

"(A) the environmental benefits of increased use of alternative fuels in transit vehicles;

"(B) existing opportunities available to transit system operators that encourage the purchase of alternative fuels for transit vehicle operation;

"(C) existing barriers to transit system operators that discourage the purchase of alternative fuels for transit vehicle operation, including situations where alternative fuels that do not require capital improvements to transit vehicles are disadvantaged over fuels that do require such improvements; and

"(D) the necessary levels and type of support necessary to encourage additional use of alternative fuels for transit vehicle operation.

"(4) RECOMMENDATIONS.—The study shall recommend regulatory and legislative alternatives that will result in the increased use of alternative fuels in transit vehicles.

"(5) REPORT.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall submit the study completed under this subsection to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives".

(c) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—The heading for section 5314 is amended to read as follows:

"§5314. National research programs".

(2) TABLE OF SECTIONS.—The item relating to section 5314 in the table of sections for chapter 53 is amended to read as follows:

"5314. National research programs.".

SEC. 3017. NATIONAL TRANSIT INSTITUTE.

(a) Section 5315 is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a) ESTABLISHMENT.—The Secretary shall award a grant to Rutgers University to conduct a national transit institute.

"(b) DUTIES.—

"(1) IN GENERAL.—In cooperation with the Federal Transit Administration, State transportation departments, public transportation authorities, and national and international entities, the institute established pursuant to subsection (a) shall develop and conduct training programs for Federal, State, and local transportation employees, United States citizens, and foreign nationals engaged or to be engaged in Government-aid public transportation work.

"(2) TRAINING PROGRAMS.—The training programs developed under paragraph (1) may include courses in recent developments, techniques, and procedures related to—

"(A) intermodal and public transportation planning;

"(B) management;

"(C) environmental factors;

"(D) acquisition and joint use rights of way;

"(E) engineering and architectural design;

"(F) procurement strategies for public transportation systems;

"(G) turnkey approaches to delivering public transportation systems;

"(H) new technologies;

"(I) emission reduction technologies;

"(J) ways to make public transportation accessible to individuals with disabilities;

"(K) construction, construction management, insurance, and risk management;

"(L) maintenance;

"(M) contract administration;

"(N) inspection;

"(O) innovative finance;

"(P) workplace safety; and

"(Q) public transportation security."; and

(2) in subsection (d), by striking "mass" each place it appears.

SEC. 3018. BUS TESTING FACILITY.

Section 5318 is amended—

(1) in subsection (a)—

(A) by striking "ESTABLISHMENT.—The Secretary of Transportation shall establish one facility" and inserting "IN GENERAL.—The Secretary shall maintain 1 facility"; and

(B) by striking "established by renovating" and inserting "maintained at"; and

(2) in subsection (d), by striking "section 5309(m)(1)(C) of this title" and inserting "paragraphs (1)(C) and (2)(B) of section 5309(i)".

SEC. 3019. BICYCLE FACILITIES.

Section 5319 is amended by striking "5307(k)" and inserting "5307(d)(1)(K)".

SEC. 3020. SUSPENDED LIGHT RAIL TECHNOLOGY PILOT PROJECT.

Section 5320 is repealed.

SEC. 3021. CRIME PREVENTION AND SECURITY.

Section 5321 is repealed.

SEC. 3022. GENERAL PROVISIONS ON ASSISTANCE.

Section 5323 is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

"(1) IN GENERAL.—Financial assistance provided under this chapter to a State or a local governmental authority may be used to acquire an interest in, or to buy property of, a private company engaged in public transportation, for a capital project for property acquired from a private company engaged in public transportation after July 9, 1964, or to operate a public transportation facility or equipment in competition with, or in addition to, transportation service *provided by an existing public transportation company, only if—*

"(A) the Secretary determines that such financial assistance is essential to a program of projects required under sections 5303, 5304, and 5306;

"(B) the Secretary determines that the program provides for the participation of private companies engaged in public transportation to the maximum extent feasible; and

"(C) just compensation under State or local law will be paid to the company for its franchise or property."; and

(B) in paragraph (2), by striking "(2)" and inserting the following:

"(2) LIMITATION.—";

(2) by amending subsection (b) to read as follows:

"(b) NOTICE AND PUBLIC HEARING.—

"(1) IN GENERAL.—An application for a grant under this chapter for a capital project that will substantially affect a community, or the public transportation service of a community, shall include, in the environmental record for the project, evidence that the applicant has—

"(A) provided an adequate opportunity for public review and comment on the project;

"(B) held a public hearing on the project if the project affects significant economic, social, or environmental interests;

"(C) considered the economic, social, and environmental effects of the project; and

"(D) found that the project is consistent with official plans for developing the urban area.

"(2) CONTENTS OF NOTICE.—Notice of a hearing under this subsection—

"(A) shall include a concise description of the proposed project; and

"(B) shall be published in a newspaper of general circulation in the geographic area the project will serve.";

(3) by amending subsection (c) to read as follows:

"(c) NEW TECHNOLOGY.—A grant for financial assistance under this chapter for new technology, including innovative or improved products, techniques, or methods, shall be subject to the requirements of section 5309 to the extent the Secretary determines to be appropriate.";

(4) by amending subsection (d) to read as follows:

"(d) CONDITIONS ON BUS TRANSPORTATION SERVICE.—Financial assistance under this chapter may be used to buy or operate a bus only if the recipient agrees to comply with the following conditions on bus transportation service:

"(1) CHARTER BUS SERVICE.—

"(A) IN GENERAL.—Except as provided under subparagraph (B), a recipient may provide incidental charter bus service only within its lawful service area if—

"(i) the recipient annually publishes, by electronic and other appropriate means, a notice—

"(I) indicating its intent to offer incidental charter bus service within its lawful service area; and

"(II) soliciting notices from private bus operators that wish to appear on a list of carriers offering charter bus service in that service area;

"(ii) the recipient provides private bus operators with an annual opportunity to notify the recipient of its desire to appear on a list of carriers offering charter bus service in such service area;

"(iii) upon receiving a request for charter bus service, the recipient electronically notifies the private bus operators listed as offering charter service in that service area with the name and contact information of the requestor and the nature of the charter service request; and

"(iv) the recipient does not offer to provide charter bus service unless no private bus operator indicates that it is willing and able to provide the service within a 72-hour period after the receipt of such notice.

"(B) EXCEPTION.—A recipient that operates 2,000 or fewer vehicles in fixed-route peak hour service may provide incidental charter bus transportation directly to —

"(i) local governments; and

"(ii) social service entities with limited resources.

"(C) IRREGULARLY SCHEDULED EVENTS.—Service, other than commuter service, by a recipient to irregularly scheduled events, where the service is conducted in whole or in part outside the service area of the recipient, regardless of whether the service is contracted for individually with passengers, is subject to a rebuttable presumption that such service is charter service.

"(2) VIOLATION OF AGREEMENTS.—

"(A) COMPLAINTS.—A complaint regarding the violation of a charter bus service agreement shall be submitted to the Regional Administrator of the Federal Transit Administration, who shall—

"(i) provide a reasonable opportunity for the recipient to respond to the complaint;

"(ii) provide the recipient with an opportunity for an informal hearing; and

"(iii) issue a written decision not later than 60 days after the parties have completed their submissions.

"(B) APPEALS.—

"(i) IN GENERAL.—A decision by the Regional Administrator may be appealed to a panel comprised of the Federal Transit Administrator, personnel in the Office of the Secretary of Transportation, and other persons with expertise in surface passenger transportation issues.

"(ii) STANDARD OF REVIEW.—The panel described in clause (i) shall consider the complaint de novo on all issues of fact and law.

"(iii) WRITTEN DECISION.—The appeals panel shall issue a written decision on an appeal not later than 60 days after the completion of submissions. This decision shall be the final order of the agency and subject to judicial review in district court.

"(C) CORRECTION.—If the Secretary determines that a violation of an agreement relating to the provision of charter service has occurred, the Secretary shall correct the violation under terms of the agreement.

"(D) REMEDIES.—The Secretary may issue orders to recipients to cease and desist in actions that violate the agreement, and such orders shall be binding upon the parties. In addition to any remedy spelled out in the agreement, if a recipient has failed to correct a violation within 60 days after the receipt of a notice of violation from the Secretary, the Secretary shall withhold from the recipient the lesser of—

"(i) 5 percent of the financial assistance available to the recipient under this chapter for the next fiscal year; or

"(ii) $200,000.

"(3) REGULATIONS.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall issue amended regulations that—

"(A) implement this subsection, as revised by such Act; and

"(B) impose restrictions, procedures, and remedies in connection with sightseeing service by a recipient.

"(4) PUBLIC NOTICE.—The Secretary shall make all written decisions, guidance, and other pertinent materials relating to the procedures in this subsection available to the public in electronic and other appropriate formats in a timely manner.";

(5) by striking subsection (e);

(6) by redesignating subsection (f) as subsection (e);

(7) in subsection (e), as redesignated—

(A) by striking "(1)" and inserting the following:

"(1) IN GENERAL.—";

(B) by striking paragraph (2);

(C) by striking "This subsection" and inserting the following:

"(2) EXCEPTIONS.—This subsection; and

(D) by adding at the end the following:

"(3) PENALTY.—If the Secretary determines that an applicant, governmental authority, or publicly owned operator has violated the agreement required under paragraph (1), the Secretary shall bar the applicant, authority, or operator from receiving Federal transit assistance in an amount the Secretary determines to be appropriate.";

(8) by inserting after subsection (e) the following:

"(f) BOND PROCEEDS ELIGIBLE FOR LOCAL SHARE.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, a recipient of assistance under section 5307 or 5309, may use the proceeds from the issuance of revenue bonds as part of the local matching funds for a capital project.

"(2) REIMBURSEMENT BY SECRETARY.—The Secretary may reimburse an eligible recipient for deposits of bond proceeds in a debt service reserve that the recipient established pursuant to section 5302(a)(1)(K) from amounts made available to the recipient under section 5307 or 5309.";

(9) in subsection (g)—

(A) by striking "(f)" each place it appears and inserting "(e)"; and

(B) by striking "103(e)(4) and 142 (a) or (c)" each place it appears and inserting "133 and 142";

(10) by amending subsection (h) to read as follows:

"(h) TRANSFER OF LANDS OR INTERESTS IN LANDS OWNED BY THE UNITED STATES.—

(1) REQUEST BY SECRETARY.—If the Secretary determines that any part of the lands or interests in lands owned by the United States and made available as a result of a military base closure is necessary for transit purposes eligible under this chapter, including corridor preservation, the Secretary shall submit a request to the head of the Federal agency supervising the administration of such lands or interests in lands. Such request shall include a map showing the portion of such lands or interests in lands, which is desired to be transferred for public transportation purposes.

"(2) TRANSFER OF LAND.—If 4 months after submitting a request under paragraph (1), the Secretary does not receive a response from the Federal agency described in paragraph (1) that certifies that the proposed appropriation of land is contrary to the public interest or inconsistent with the purposes for which such land has been reserved, or if the head of such agency agrees to the utilization or transfer under conditions necessary for the adequate protection and utilization of the reserve, such land or interests in land may be utilized or transferred to a State, local governmental authority, or public transportation operator for such purposes and subject to the conditions specified by such agency.

"(3) REVERSION.—If at any time the lands or interests in land utilized or transferred under paragraph (2) are no longer needed for public transportation purposes, the State, local governmental authority, or public transportation operator that received the land shall notify to the Secretary, and such lands shall immediately revert to the control of the head of the Federal agency from which the land was originally transferred.";

(11) in subsection (j)(5), by striking "Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 1914)" and inserting "Federal Public Transportation Act of 2004";

(12) by amending subsection (l) to read as follows:

"(l) RELATIONSHIP TO OTHER LAWS.—Section 1001 of title 18 applies to a certificate, submission, or statement provided under this chapter. The Secretary may terminate financial assistance under this chapter and seek reimbursement directly, or by offsetting amounts, available under this chapter, if the Secretary determines that a recipient of such financial assistance has made a false or fraudulent statement or related act in connection with a Federal transit program.";

(13) in subsection (m), by inserting at the end the following: "Requirements to perform preaward and postdelivery reviews of rolling stock purchases to ensure compliance with subsection (j) shall not apply to private nonprofit organizations or to grantees serving urbanized areas with a population of fewer than 1,000,000.";

(14) in subsection (o), by striking "the Transportation Infrastructure Finance and Innovation Act of 1998" and inserting "sections 181 through 188 of title 23"; and

(15) by adding at the end the following:

"(p) PROHIBITED USE OF FUNDS.—Grant funds received under this chapter may not be used to pay ordinary governmental or nonproject operating expenses.".

SEC. 3023. SPECIAL PROVISIONS FOR CAPITAL PROJECTS.

(a) IN GENERAL.—Section 5324 is amended to read as follows:

"§5324. Special provisions for capital projects

"(a) REAL PROPERTY AND RELOCATION SERVICES.—Whenever real property is acquired or furnished as a required contribution incident to a project, the Secretary shall not approve the application for financial assistance unless the applicant has made all payments and provided all assistance and assurances that are required of a State agency under sections 210 and 305 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4630 and 4655). The Secretary must be advised of specific references to any State law that are believed to be an exception to section 301 or 302 of such Act (42 U.S.C. 4651 and 4652).

"(b) ADVANCE REAL PROPERTY ACQUISITIONS.—

(1) IN GENERAL.—The Secretary may participate in the acquisition of real property for any project that may use the property if the Secretary determines that external market forces are jeopardizing the potential use of the property for the project and if—

"(A) there are offers on the open real estate market to convey that property for a use that is incompatible with the project under study;

"(B) there is an imminent threat of development or redevelopment of the property for a use that is incompatible with the project under study;

"(C) recent appraisals reflect a rapid increase in the fair market value of the property;

"(D) the property, because it is located near an existing transportation facility, is likely to be developed and to be needed for a future transportation improvement; or

"(E) the property owner can demonstrate that, for health, safety, or financial reasons, retaining ownership of the property poses an undue hardship on the owner in comparison to other affected property owners and requests the acquisition to alleviate that hardship.

"(2) ENVIRONMENTAL REVIEWS.—Property acquired in accordance with this subsection may not be developed in anticipation of the project until all required environmental reviews for the project have been completed.

"(3) LIMITATION.—The Secretary shall limit the size and number of properties acquired under this subsection as necessary to avoid any prejudice to the Secretary's objective evaluation of project alternatives.

"(4) EXEMPTION.—An acquisition under this section shall be considered an exempt project under section 176 of the Clean Air Act (42 U.S.C. 7506).

"(c) RAILROAD CORRIDOR PRESERVATION.—

"(1) IN GENERAL.—The Secretary may assist an applicant to acquire railroad right-of-way before the completion of the environmental reviews for any project that may use the right-of-way if the acquisition is otherwise permitted under Federal law. The Secretary may establish restrictions on such an acquisition as the Secretary determines to be necessary and appropriate.

"(2) ENVIRONMENTAL REVIEWS.—Railroad right-of-way acquired under this subsection may not be developed in anticipation of the project until all required environmental reviews for the project have been completed.

"(d) CONSIDERATION OF ECONOMIC, SOCIAL, AND ENVIRONMENTAL INTERESTS.—

"(1) IN GENERAL.—The Secretary may not approve an application for financial assistance for a capital project under this chapter unless the Secretary determines that the project has been developed in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The Secretary's findings under this paragraph shall be made a matter of public record.

"(2) COOPERATION AND CONSULTATION.—In carrying out section 5301(e), the Secretary shall cooperate and consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency on each project that may have a substantial impact on the environment.".

(b) CONFORMING AMENDMENT.—The item relating to section 5324 in the table of sections for chapter 53 is amended to read as follows:

"5324. Special provisions for capital projects.".

SEC. 3024. CONTRACT REQUIREMENTS.

(a) IN GENERAL.—Section 5325 is amended to read as follows:

"§5325. Contract requirements

"(a) COMPETITION.—Recipients of assistance under this chapter shall conduct all procurement transactions in a manner that provides full and open competition as determined by the Secretary.

"(b) ARCHITECTURAL, ENGINEERING, AND DESIGN CONTRACTS.—

"(1) IN GENERAL.—A contract or requirement for program management, architectural engineering, construction management, a feasibility study, and preliminary engineering, design, architectural, engineering, surveying, mapping, or related services for a project for which Federal assistance is provided under this chapter shall be awarded in the same manner as a contract for architectural and engineering services is negotiated under chapter 11 of title 40, or an equivalent qualifications-based requirement of a State. This subsection does not apply to the extent a State has adopted or adopts by law a formal procedure for procuring those services.

"(2) ADDITIONAL REQUIREMENTS.—When awarding a contract described in paragraph (1), recipients of assistance under this chapter shall comply with the following requirements:

"(A) Any contract or subcontract awarded under this chapter shall be performed and audited in compliance with cost principles contained in part 31 of title 48, Code of Federal Regulations (commonly known as the Federal Acquisition Regulation).

"(B) A recipient of funds under a contract or subcontract awarded under this chapter shall accept indirect cost rates established in accordance with the Federal Acquisition Regulation for 1-year applicable accounting periods by a cognizant Federal or State government agency, if such rates are not currently under dispute.

"(C) After a firm's indirect cost rates are accepted under subparagraph (B), the recipient of the funds shall apply such rates for the purposes of contract estimation, negotiation, administration, reporting, and contract payment, and shall not be limited by administrative or de facto ceilings.

"(D) A recipient requesting or using the cost and rate data described in subparagraph (C) shall notify any affected firm before such request or use. Such data shall be confidential and shall not be accessible or provided by the group of agencies sharing cost data under this subparagraph, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances.

"(c) EFFICIENT PROCUREMENT.—A recipient may award a procurement contract under this chapter to other than the lowest bidder if the award furthers an objective consistent with the purposes of this chapter, including improved long-term operating efficiency and lower long-term costs.

"(d) DESIGN-BUILD PROJECTS.—

"(1) DEFINED TERM.—As used in this subsection, the term 'design-build project'—

"(A) means a project under which a recipient enters into a contract with a seller, firm, or consortium of firms to design and build an operable segment of a public transportation system that meets specific performance criteria; and

"(B) may include an option to finance, or operate for a period of time, the system or segment or any combination of designing, building, operating, or maintaining such system or segment.

"(2) FINANCIAL ASSISTANCE FOR CAPITAL COSTS.—Federal financial assistance under this chapter may be provided for the capital costs of a design-build project after the recipient complies with Government requirements.

"(e) ROLLING STOCK.—

"(1) ACQUISITION.—A recipient of financial assistance under this chapter may enter into a contract to expend that assistance to acquire rolling stock—

"(A) with a party selected through a competitive procurement process; or

"(B) based on—

"(i) initial capital costs; or

"(ii) performance, standardization, life cycle costs, and other factors.

"(2) MULTIYEAR CONTRACTS.—A recipient procuring rolling stock with Federal financial assistance under this chapter may make a multiyear contract, including options, to buy not more than 5 years of requirements for rolling stock and replacement parts. The Secretary shall allow a recipient to act on a cooperative basis to procure rolling stock under this paragraph and in accordance with other Federal procurement requirements.

"(f) EXAMINATION OF RECORDS.—Upon request, the Secretary and the Comptroller General, or any of their representatives, shall have access to and the right to examine and inspect all records, documents, and papers, including contracts, related to a project for which a grant is made under this chapter.

"(g) GRANT PROHIBITION.—A grant awarded under this chapter may not be used to support a procurement that uses an exclusionary or discriminatory specification.

"(h) BUS DEALER REQUIREMENTS.—No State law requiring buses to be purchased through in-State dealers shall apply to vehicles purchased with a grant under this chapter.

"(i) AWARDS TO RESPONSIBLE CONTRACTORS.—

"(1) IN GENERAL.—Federal financial assistance under this chapter may be provided for contracts only if a recipient awards such contracts to responsible contractors possessing the ability to successfully perform under the terms and conditions of a proposed procurement.

"(2) CRITERIA.—Before making an award to a contractor under paragraph (1), a recipient shall consider—

"(A) the integrity of the contractor;

"(B) the contractor's compliance with public policy;

"(C) the contractor's past performance, including the performance reported in the Contractor Performance Assessment Reports required under section 5309(m)(4); and

"(D) the contractor's financial and technical resources.".

(b) CONFORMING AMENDMENTS.—Chapter 53 is amended by striking section 5326.

SEC. 3025. PROJECT MANAGEMENT OVERSIGHT AND REVIEW.

(a) PROJECT MANAGEMENT PLAN REQUIREMENTS.—Section 5327(a) is amended—

(1) in paragraph (11), by striking "and" at the end;

(2) in paragraph (12), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(13) safety and security management.".

(b) LIMITATIONS ON USE OF AVAILABLE AMOUNTS.—Section 5327(c) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) IN GENERAL.—The Secretary may not use more than 1 percent of amounts made available for a fiscal year to carry out any of sections 5307 through 5311, 5316, or 5317, or a project under the National Capital Transportation Act of 1969 (Public Law 91–143) to make a contract to oversee the construction of major projects under any of sections 5307 through 5311, 5316, or 5317 or under that Act.";

(2) in paragraph (2)—

(A) by striking "(2)" and inserting the following:

"(2) OTHER ALLOWABLE USES.—"; and

(B) by inserting "and security" after "safety"; and

(3) in paragraph (3), by striking "(3) The Government shall" and inserting the following:

"(3) FEDERAL SHARE.—Federal funds shall be used to".

SEC. 3026. PROJECT REVIEW.

Section 5328 is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "(1) When the Secretary of Transportation allows a new fixed guideway project to advance into the alternatives analysis stage of project review, the Secretary shall cooperate with the applicant" and inserting the following:

"(1) ALTERNATIVES ANALYSIS.—The Secretary shall cooperate with an applicant undertaking an alternatives analysis under subsections (e) and (f) of section 5309";

(B) in paragraph (2)—

(i) by striking "(2)" and inserting the following:

"(2) ADVANCEMENT TO PRELIMINARY ENGINEERING STAGE.—"; and

(ii) by striking "is consistent with" and inserting "meets the requirements of";

(C) in paragraph (3)—

(i) by striking "(3)" and inserting the following:

"(3) RECORD OF DECISION.—";

(ii) by striking "of construction"; and

(iii) by adding before the period at the end the following: "if the Secretary determines that the project meets the requirements of subsection (e) or (f) of section 5309"; and

(D) by striking paragraph (4); and

(2) by striking subsection (c).

SEC. 3027. INVESTIGATIONS OF SAFETY AND SECURITY RISK.

(a) IN GENERAL.—Section 5329 is amended to read as follows:

"§5329. Investigation of safety hazards and security risks

"(a) IN GENERAL.—The Secretary may conduct investigations into safety hazards and security risks associated with a condition in equipment, a facility, or an operation financed under this chapter to establish the nature and extent of the condition and how to eliminate, mitigate, or correct it.

"(b) SUBMISSION OF CORRECTIVE PLAN.—If the Secretary establishes that a safety hazard or security risk warrants further protective measures, the Secretary shall require the local governmental authority receiving amounts under this chapter to submit a plan for eliminating, mitigating, or correcting it.

"(c) WITHHOLDING OF FUNDS.—Financial assistance under this chapter, in an amount to be determined by the Secretary, may be withheld until a plan is approved and carried out.

"(d) PUBLIC TRANSPORTATION SECURITY.—

"(1) IN GENERAL.—Not later than 90 days after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall enter into a memorandum of understanding with the Secretary of Homeland Security to define and clarify the respective roles and responsibilities of the Department of Transportation and the Department of Homeland Security relating to public transportation security.

"(2) CONTENTS.—The memorandum of understanding described in paragraph (1) shall—

"(A) establish national security standards for public transportation agencies;

"(B) establish funding priorities for grants from the Department of Homeland Security to public transportation agencies;

"(C) create a method of coordination with public transportation agencies on security matters; and

"(D) address any other issues determined to be appropriate by the Secretary and the Secretary of Homeland Security.".

(b) CONFORMING AMENDMENT.—The item relating to section 5329 in the table of sections for chapter 53 is amended to read as follows:

"5329. Investigation of safety hazards and security risks.".

SEC. 3028. STATE SAFETY OVERSIGHT.

(a) IN GENERAL.—Section 5330 is amended—

(1) by amending the heading to read as follows:

"§5330. Withholding amounts for noncompliance with State safety oversight requirements";

(2) by amending subsection (a) to read as follows:

"(a) APPLICATION.—This section shall only apply to—

"(1) States that have rail fixed guideway public transportation systems that are not subject to regulation by the Federal Railroad Administration; and

"(2) States that are designing rail fixed guideway public transportation systems that will not be subjected to regulation by the Federal Railroad Administration.";

(3) in subsection (d), by striking "affected States" and inserting the following: "affected States—

"(1) shall ensure uniform safety standards and enforcement; or

"(2) may designate"; and

(4) in subsection (f), by striking "Not later than December 18, 1992, the" and inserting "The".

(b) CONFORMING AMENDMENT.—The item relating to section 5330 in the table of sections for chapter 53 is amended to read as follows:

"5330. Withholding amounts for noncompliance with State safety oversight requirements.".

SEC. 3029. SENSITIVE SECURITY INFORMATION.

Section 40119(b) is amended—

(1) in paragraph (1)(C), by inserting ", transportation facilities or infrastructure, or transportation employees" before the period at the end; and

(2) by adding at the end the following:

"(3) A State or local government may not enact, enforce, prescribe, issue, or continue in effect any law, regulation, standard, or order to the extent it is inconsistent with this section or regulations prescribed under this section.".

SEC. 3030. TERRORIST ATTACKS AND OTHER ACTS OF VIOLENCE AGAINST PUBLIC TRANSPORTATION SYSTEMS.

(a) IN GENERAL.—Section 1993 of title 18, United States Code, is amended—

(1) by striking "mass" each place it appears and inserting "public";

(2) in subsection (a)(5), by inserting "controlling," after "operating"; and

(3) in subsection (c)(5), by striking "5302(a)(7) of title 49, United States Code," and inserting "5302(a) of title 49,".

(b) CONFORMING AMENDMENT.—The table of contents for chapter 97 of title 18, United States Code is amended by amending the item related to section 1993 to read as follows:

"1993. Terrorist attacks and other acts of violence against public transportation systems.".

SEC. 3031. CONTROLLED SUBSTANCES AND ALCOHOL MISUSE TESTING.

Section 5331 is amended—

(1) in subsection (a)(3), by inserting before the period at the end the following: "or sections 2303a, 7101(i), or 7302(e) of title 46. The Secretary may also decide that a form of public transportation is covered adequately, for employee alcohol and controlled substances testing purposes, under the alcohol and controlled substance statutes or regulations of an agency within the Department of Transportation or other Federal agency"; and

(2) in subsection (f), by striking paragraph (3).

SEC. 3032. EMPLOYEE PROTECTIVE ARRANGEMENTS.

Section 5333(b) is amended—

(1) in paragraph (3), by striking the period at the end and inserting ": Provided, That—

"(A) the protective period shall not exceed 4 years; and

"(B) the separation allowance shall not exceed 12 months."; and

(2) by adding at the end the following:

"(4) An arrangement under this subsection shall not guarantee continuation of employment as a result of a change in private contractors through competitive bidding unless such continuation is otherwise required under subparagraph (A), (B), or (D) of paragraph (2).

"(5) Fair and equitable arrangements to protect the interests of employees utilized by the Secretary of Labor for assistance to purchase like-kind equipment or facilities, and amendments to existing assistance agreements, shall be certified without referral.

"(6) Nothing in this subsection shall affect the level of protection provided to freight railroad employees.".

SEC. 3033. ADMINISTRATIVE PROCEDURES.

Section 5334 is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "5309–5311 of this title" and all that follows and inserting "5309 through 5311;";

(B) in paragraph (9), by striking "and" at the end;

(C) in paragraph (10), by striking the period at the end and inserting "; and"; and

(D) by inserting at the end the following:

"(11) issue regulations as necessary to carry out the purposes of this chapter.";

(2) by redesignating subsections (b), (c), (d), (e), (f), (g), (h), (i), and (j) as subsections (c), (d), (e), (f), (g), (h), (i), (j), and (k), respectively;

(3) by adding after subsection (a) the following:

"(b) PROHIBITIONS AGAINST REGULATING OPERATIONS AND CHARGES.—

"(1) IN GENERAL.—Except as directed by the President for purposes of national defense or in the event of a national or regional emergency, the Secretary may not regulate—

"(A) the operation, routes, or schedules of a public transportation system for which a grant is made under this chapter; or

"(B) the rates, fares, tolls, rentals, or other charges prescribed by any public or private transportation provider.

"(2) COMPLIANCE WITH AGREEMENT.—Nothing in this subsection shall prevent the Secretary from requiring a recipient of funds under this chapter to comply with the terms and conditions of its Federal assistance agreement."; and

(4) in subsection (j)(1), as redesignated, by striking "carry out section 5312(a) and (b)(1) of this title" and inserting "advise and assist the Secretary in carrying out section 5312(a)".

SEC. 3034. REPORTS AND AUDITS.

Section 5335 is amended—

(1) by striking subsection (b); and

(2) in subsection (a)—

(A) in paragraph (1), by striking "(1)"; and

(B) in paragraph (2), by striking "(2) The Secretary may make a grant under section 5307 of this title" and inserting the following:

"(b) REPORTING AND UNIFORM SYSTEMS.—The Secretary may award a grant under section 5307 or 5311".

SEC. 3035. APPORTIONMENTS OF APPROPRIATIONS FOR FORMULA GRANTS.

Section 5336 is amended—

(1) by striking subsection (d);

(2) by striking subsection (h);

(3) by striking subsection (k);

(4) by redesignating subsections (a) through (c) as subsections (b) through (d), respectively;

(5) by adding before subsection (b), as redesignated, the following:

"(a) APPORTIONMENTS.—Of the amounts made available for each fiscal year under subsections (a)(1)(C)(vi) and (b)(2)(L) of section 5338—

"(1) there shall be apportioned, in fiscal year 2005 and each fiscal year thereafter, $35,000,000 to certain urbanized areas with populations of less than 200,000 in accordance with subsection (k); and

"(2) any amount not apportioned under paragraph (1) shall be apportioned to urbanized areas in accordance with subsections (b) through (d).";

(6) in subsection (b), as redesignated—

(A) by striking "Of the amount made available or appropriated under section 5338(a) of this title" and inserting "Of the amount apportioned under subsection (a)(3)"; and

(B) in paragraph (2), by striking "subsections (b) and (c) of this section" and inserting "subsections (c) and (d)";

(7) in subsection (c)(2), as redesignated, by striking "subsection (a)(2) of this section" and inserting "subsection (b)(2)";

(8) in subsection (d), as redesignated, by striking "subsection (a)(2) of this section" and inserting "subsection (b)(2)";

(9) in subsection (e)(1), by striking "subsections (a) and (h)(2) of section 5338 of this title" and inserting "subsections (a) and (b) of section 5338";

(10) in subsection (g), by striking "subsection (a)(1) of this section" each place it appears and inserting "subsection (b)(1)"; and

(11) by adding at the end the following:

"(k) SMALL TRANSIT INTENSIVE CITIES FACTORS.—The amount apportioned under subsection (a)(1) shall be apportioned to urbanized areas as follows:

"(1) The Secretary shall calculate a factor equal to the sum of revenue vehicle hours operated within urbanized areas with a population of between 200,000 and 1,000,000 divided by the sum of the population of all such urbanized areas.

"(2) The Secretary shall designate as eligible for an apportionment under this subsection all urbanized areas with a population of under 200,000 for which the number of revenue vehicle hours operated within the urbanized area divided by the population of the urbanized area exceeds the factor calculated under paragraph (1).

"(3) For each urbanized area qualifying for an apportionment under paragraph (2), the Secretary shall calculate an amount equal to the product of the population of that urbanized area and the factor calculated under paragraph (1).

"(4) For each urbanized area qualifying for an apportionment under paragraph (2), the Secretary shall calculate an amount equal to the difference between the number of revenue vehicle hours within that urbanized area less the amount calculated in paragraph (3).

"(5) Each urbanized area qualifying for an apportionment under paragraph (2) shall receive an amount equal to the amount to be apportioned under this subsection multiplied by the amount calculated for that urbanized area under paragraph (4) divided by the sum of the amounts calculated under paragraph (4) for all urbanized areas qualifying for an apportionment under paragraph (2).

"(l) STUDY ON INCENTIVES IN FORMULA PROGRAMS.—

"(1) STUDY.—The Secretary shall conduct a study to assess the feasibility and appropriateness of developing and implementing an incentive funding system under sections 5307 and 5311 for operators of public transportation.

"(2) REPORT.—

"(A) IN GENERAL.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall submit a report on the results of the study conducted under paragraph (1) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

"(B) CONTENTS.—The report submitted under subparagraph (A) shall include—

"(i) an analysis of the availability of appropriate measures to be used as a basis for the distribution of incentive payments;

"(ii) the optimal number and size of any incentive programs;

"(iii) what types of systems should compete for various incentives;

"(iv) how incentives should be distributed; and

"(v) the likely effects of the incentive funding system.".

SEC. 3036. APPORTIONMENTS FOR FIXED GUIDEWAY MODERNIZATION.

Section 5337 is amended—

(1) in subsection (a), by striking "for each of fiscal years 1998 through 2003"; and

(2) by striking "section 5336(b)(2)(A)" each place it appears and inserting "section 5336(c)(2)(A)".

SEC. 3037. AUTHORIZATIONS.

Section 5338 is amended to read as follows:

"§5338. Authorizations

"(a) FISCAL YEAR 2004.—

"(1) FORMULA GRANTS.—

"(A) TRUST FUND.—For fiscal year 2004, $3,053,079,920 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5307, 5309, 5310, and 5311 of this chapter and section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

"(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated $763,269,980 for fiscal year 2004 to carry out sections 5307, 5309, 5310, and 5311 of this chapter and section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

"(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

"(i) $4,821,335 shall be available to the Alaska Railroad for improvements to its passenger operations under section 5307;

"(ii) $6,908,995 shall be available to provide over-the-road bus accessibility grants under section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note);

"(iii) $90,117,950 shall be available to provide transportation services to elderly individuals and individuals with disabilities under section 5310;

"(iv) $239,188,058 shall be available to provide financial assistance for other than urbanized areas under section 5311;

"(v) $3,425,608,562 shall be available to provide financial assistance for urbanized areas under section 5307; and

"(vi) $49,705,000 shall be available to provide financial assistance for buses and bus facilities under section 5309..

"(2) JOB ACCESS AND REVERSE COMMUTE.—

"(A) TRUST FUND.—For fiscal year 2004, $99,410,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 3037 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5309 note).

"(B) GENERAL FUND.—In addition to the amounts made available under paragraph (A), there are authorized to be appropriated $24,852,500 for fiscal year 2004 to carry out section 3037 of the Transportation Equity Act of the 21st Century (49 U.S.C. 5309 note).

"(3) CAPITAL PROGRAM GRANTS.—

"(A) TRUST FUND.—For fiscal year 2004, $2,495,191,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5309.

"(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated $623,797,750 for fiscal year 2004 to carry out section 5309.

"(4) PLANNING.—

"(A) TRUST FUND.—For fiscal year 2004, $58,254,260 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5308.

"(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated $14,315,040 for fiscal year 2004 to carry out section 5308.

"(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

"(i) 82.72 percent shall be allocated for metropolitan planning under section 5308(c); and

"(ii) 17.28 percent shall be allocated for State planning under section 5308(d).

"(5) RESEARCH.—

"(A) TRUST FUND.—For fiscal year 2004, $41,951,020 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5311(b), 5312, 5313, 5314, 5315, and 5322.

"(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated $10,736,280 for fiscal year 2004 to carry out sections 5311(b), 5312, 5313, 5314, 5315, and 5322.

"(C) ALLOCATION OF FUNDS.—Of the funds made available or appropriated under this paragraph—

"(i) not less than $3,976,400 shall be available to carry out programs of the National Transit Institute under section 5315;

"(ii) not less than $5,219,025 shall be available to carry out section 5311(b)(2);

"(iii) not less than $8,201,325 shall be available to carry out section 5313; and

"(iv) the remainder shall be available to carry out national research and technology programs under sections 5312, 5314, and 5322.

"(6) UNIVERSITY TRANSPORTATION RESEARCH.—

"(A) TRUST FUND.—For fiscal year 2004, $4,771,680 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5505 and 5506.

"(B) GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated $1,192,920 for fiscal year 2004 to carry out sections 5505 and 5506.

"(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

"(i) $1,988,200 shall be available for grants under 5506(f)(5) to the institution identified in section 5505(j)(3)(E), as in effect on the day before the date of enactment of the Federal Public Transportation Act of 2004;

"(ii) $1,988,200 shall be available for grants under section 5505(d) to the institution identified in section 5505(j)(4)(A), as in effect on the date specified in clause (i); and

"(iii) $1,988,200 shall be available for grants under section 5505(d) to the institution identified in section 5505(j)(4)(F), as in effect on the date specified in subclause (I).

"(C) SPECIAL RULE.—Nothing in this paragraph shall be construed to limit the transportation research conducted by the centers receiving financial assistance under this section.

"(7) ADMINISTRATION.—

"(A) TRUST FUND.—For fiscal year 2004, $60,043,640 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5334.

"(B) GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated $15,010,910 for fiscal year 2004 to carry out section 5334.

"(8) GRANTS AS CONTRACTUAL OBLIGATIONS.—

"(A) GRANTS FINANCED FROM HIGHWAY TRUST FUND.—A grant or contract that is approved by the Secretary and financed with amounts made available under paragraph (1)(A), (2)(A), (3)(A), (4)(A), (5)(A), (6)(A), or (7)(A) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project.

"(B) GRANTS FINANCED FROM GENERAL FUND.—A grant or contract that is approved by the Secretary and financed with amounts appropriated in advance under paragraph (1)(B), (2)(B), (3)(B), (4)(B), (5)(B), (6)(B), or (7)(B) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project only to the extent that amounts are appropriated for such purpose by an Act of Congress.

"(9) AVAILABILITY OF AMOUNTS.—Amounts made available or appropriated under paragraphs (1) through (6) shall remain available until expended.".

"(b) FORMULA GRANTS AND RESEARCH.—

"(1) IN GENERAL.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5307, 5308, 5309, 5310 through 5316, 5322, 5335, 5340, and 5505 of this title, and sections 3037 and 3038 of the Federal Transit Act of 1998 (112 Stat. 387 et seq.)—

"(A) $6,262,600,000 for fiscal year 2005;

"(B) $6,577,629,000 for fiscal year 2006;

"(C) $6,950,400,000 for fiscal year 2007;

"(D) $7,594,760,000 for fiscal year 2008; and

"(E) $8,275,320,000 for fiscal year 2009.

"(2) ALLOCATION OF FUNDS.—Of the amounts made available under paragraph (1) for each fiscal year—

"(A) 0.092 percent shall be available for grants to the Alaska Railroad under section 5307 for improvements to its passenger operations;

"(B) 1.75 percent shall be available to carry out section 5308;

"(C) 2.05 percent shall be available to provide financial assistance for job access and reverse commute projects under section 3037 of the Federal Transit Act of 1998 (49 U.S.C. 5309 note);

"(D) 3.00 percent shall be available to provide financial assistance for services for elderly persons and persons with disabilities under section 5310;

"(E) 0.125 percent shall be available to carry out section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note);

"(F) 6.25 percent shall be available to provide financial assistance for other than urbanized areas under section 5311;

"(G) 0.89 percent shall be available to carry out transit cooperative research programs under section 5313, the National Transit Institute under section 5315, university research centers under section 5505, and national research programs under sections 5312, 5313, 5314, and 5322, of which—

"(i) 17.0 percent shall be allocated to carry out transit cooperative research programs under section 5313;

"(ii) 7.5 percent shall be allocated to carry out programs under the National Transit Institute under section 5315, including not more than $1,000,000 to carry out section 5315(a)(16);

"(iii) 11.0 percent shall be allocated to carry out the university centers program under section 5505; and

"(iv) any funds made available under this subparagraph that are not allocated under clauses (i) through (iii) shall be allocated to carry out national research programs under sections 5312, 5313, 5314, and 5322;

"(H) $25,000,000 shall be available for each of the fiscal years 2005 through 2009 to carry out section 5316;

"(I) there shall be available to carry out section 5335—

"(i) $3,700,000 in fiscal year 2005;

"(ii) $3,900,000 in fiscal year 2006;

"(iii) $4,200,000 in fiscal year 2007;

"(iv) $4,600,000 in fiscal year 2008; and

"(v) $5,000,000 in fiscal year 2009;

"(J) 6.25 percent shall be allocated in accordance with section 5340 to provide financial assistance for urbanized areas under section 5307 and other than urbanized areas under section 5311; and

"(K) 22.0 percent shall be allocated in accordance with section 5337 to provide financial assistance under section 5309(i)(3); and

"(L) any amounts not made available under subparagraphs (A) through (K) shall be allocated in accordance with section 5336 to provide financial assistance for urbanized areas under section 5307.

"(3) UNIVERSITY CENTERS PROGRAM.—

"(A) ALLOCATION.—Of the amounts allocated under paragraph (2)(G)(iii), $1,000,000 shall be available in each of the fiscal years 2005 through 2009 for Morgan State University to provide transportation research, training, and curriculum development.

"(B) REQUIREMENTS.—The university specified under subparagraph (A) shall be considered a University Transportation Center under section 510 of title 23, and shall be subject to the requirements under subsections (c), (d), (e), and (f) of such section.

"(C) REPORT.—In addition to the report required under section 510(e)(3) of title 23, the university specified under subparagraph (A) shall annually submit a report to the Secretary that describes the university's contribution to public transportation.

"(4) BUS GRANTS.—In addition to the amounts made available under paragraph (1), there shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5309(i)(2)(B)—

"(A) $839,829,000 for fiscal year 2005;

"(B) $882,075,000 for fiscal year 2006;

"(C) $932,064,000 for fiscal year 2007;

"(D) $1,018,474,000 for fiscal year 2008; and

"(E) $1,109,739,000 for fiscal year 2009.

"(c) MAJOR CAPITAL INVESTMENT GRANTS.—There are authorized to be appropriated to carry out section 5309(i)(2)(A)—

"(1) $1,461,072,000 for fiscal year 2005;

"(2) $1,534,568,000 for fiscal year 2006;

"(3) $1,621,536,000 for fiscal year 2007;

"(4) $1,771,866,000 for fiscal year 2008; and

"(5) $1,930,641,000 for fiscal year 2009.

"(d) ADMINISTRATION.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5334—

"(1) $86,500,000 for fiscal year 2005;

"(2) $90,851,000 for fiscal year 2006;

"(3) $96,000,000 for fiscal year 2007;

"(4) $104,900,000 for fiscal year 2008; and

"(5) $114,300,000 for fiscal year 2009.

"(e) GRANTS AS CONTRACTUAL OBLIGATIONS.—

"(1) MASS TRANSIT ACCOUNT FUNDS.—A grant or contract approved by the Secretary that is financed with amounts made available under subsection (b)(1) or (d) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project.

"(2) APPROPRIATED FUNDS.—A grant or contract approved by the Secretary that is financed with amounts made available under subsection (b)(2) or (c) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project only to the extent that amounts are appropriated in advance for such purpose by an Act of Congress.

"(f) AVAILABILITY OF AMOUNTS.—Amounts made available by or appropriated under subsections (b) and (c) shall remain available until expended.".

SEC. 3038. APPORTIONMENTS BASED ON GROWING STATES FORMULA FACTORS.

(a) IN GENERAL.—Chapter 53 is amended by adding at the end the following:

"§5340. Apportionments based on growing States and high density State formula factors

"(a) ALLOCATION.—Of the amounts made available for each fiscal year under section 5338(b)(2)(J), the Secretary shall apportion—

"(1) 50 percent to States and urbanized areas in accordance with subsection (b); and

"(2) 50 percent to States and urbanized areas in accordance with subsection (c).

"(b) GROWING STATE APPORTIONMENTS.—

"(1) APPORTIONMENT AMONG STATES.—The amounts apportioned under paragraph (a)(1) shall provide each State with an amount equal to the total amount apportioned multiplied by a ratio equal to the population of that State forecast for the year that is 15 years after the most recent decennial census, divided by the total population of all States forecast for the year that is 15 years after the most recent decennial census. Such forecast shall be based on the population trend for each State between the most recent decennial census and the most recent estimate of population made by the Secretary of Commerce.

"(2) APPORTIONMENTS BETWEEN URBANIZED AREAS AND OTHER THAN URBANIZED AREAS IN EACH STATE.—

"(A) IN GENERAL.—The Secretary shall apportion amounts to each State under paragraph (1) so that urbanized areas in that State receive an amount equal to the amount apportioned to that State multiplied by a ratio equal to the sum of the forecast population of all urbanized areas in that State divided by the total forecast population of that State. In making the apportionment under this subparagraph, the Secretary shall utilize any available forecasts made by the State. If no forecasts are available, the Secretary shall utilize data on urbanized areas and

total population from the most recent decennial census.

"(B) REMAINING AMOUNTS.—Amounts remaining for each State after apportionment under subparagraph (A) shall be apportioned to that State and added to the amount made available for grants under section 5311.

"(3) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to urbanized areas in each State under subsection (b)(2)(A) so that each urbanized area receives an amount equal to the amount apportioned under subsection (b)(2)(A) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.

"(c) HIGH DENSITY STATE APPORTIONMENTS.—Amounts to be apportioned under subsection (a)(2) shall be apportioned as follows:

"(1) ELIGIBLE STATES.—The Secretary shall designate as eligible for an apportionment under this subsection all States with a population density in excess of 370 persons per square mile.

"(2) STATE URBANIZED LAND FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to the product of the urban land area of urbanized areas in the State times 370 persons per square mile.

"(3) STATE APPORTIONMENT FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to the difference between the total population of the State less the amount calculated in paragraph (2).

"(4) STATE APPORTIONMENT.—Each State qualifying for an apportionment under paragraph (1) shall receive an amount equal to the amount to be apportioned under this subsection multiplied by the amount calculated for the State under paragraph (3) divided by the sum of the amounts calculated under paragraph (3) for all States qualifying for an apportionment under paragraph (1).

"(5) APPORTIONMENTS BETWEEN URBANIZED AREAS AND OTHER THAN URBANIZED AREAS IN EACH STATE.—

"(A) IN GENERAL.—The Secretary shall apportion amounts apportioned to each State under paragraph (4) so that urbanized areas in that State receive an amount equal to the amount apportioned to that State multiplied by a ratio equal to the sum of the population of all urbanized areas in that State divided by the total population of that State.

"(B) REMAINING AMOUNTS.—Amounts remaining for each State after apportionment under subparagraph (a) shall be apportioned to that State and added to the amount made available for grants under section 5311.

"(6) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to urbanized areas in each State under subsection (c)(5)(A) so that each urbanized area receives an amount equal to the amount apportioned under subsection (c)(5)(A) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 53 is amended by adding at the end the following:

"5340. Apportionments based on growing States and high density States formula factors.".

SEC. 3039. JOB ACCESS AND REVERSE COMMUTE GRANTS.

Section 3037 of the Federal Transit Act of 1998 (49 U.S.C. 5309 note) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by striking "means an individual" and inserting the following: "means—

"(A) an individual"; and

(ii) by striking the period at the end and inserting "; or

"(B) an individual who is eligible for assistance under the State program of Temporary Assistance to Needy Families funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et. seq.) in the State in which the recipient of a grant under this section is located."; and

(B) in paragraph (2), by striking "development of" each place it appears and inserting "development and provision of";

(2) in subsection (i), by amending paragraph (2) to read as follows:

"(2) COORDINATION.—

"(A) IN GENERAL.—The Secretary shall coordinate activities under this section with related activities under programs of other Federal departments and agencies.

"(B) CERTIFICATION.—A recipient of funds under this section shall certify that—

"(i) the project has been derived from a locally developed, coordinated public transit human services transportation plan; and

"(ii) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.";

(3) by amending subsection (j) to read as follows:

"(j) GRANT REQUIREMENTS.—

"(1) IN GENERAL.—

"(A) URBANIZED AREAS.—A grant awarded under this section to a public agency or private company engaged in public transportation in an urbanized area shall be subject to the all of the terms and conditions to which a grant awarded under section 5307 of title 49, United States Code, is subject, to the extent the Secretary considers appropriate.

"(B) OTHER THAN URBANIZED AREAS.—A grant awarded under this section to a public agency or a private company engaged in public transportation in an area other than urbanized areas shall be subject to all of the terms and conditions to which a grant awarded under section 5311 of title 49, United States Code, is subject, to the extent the Secretary considers appropriate.

"(C) NONPROFIT ORGANIZATIONS.—A grant awarded under this section to a private nonprofit organization shall be subject to all of the terms and conditions to which a grant made under section 5310 of title 49, United States Code, is subject, to the extent the Secretary considers appropriate.

"(2) SPECIAL WARRANTY.—

"(A) IN GENERAL.—Section 5333(b) of title 49, United States Code, shall apply to grants under this section if the Secretary of Labor utilizes a Special Warranty that provides a fair and equitable arrangement to protect the interests of employees.

"(B) WAIVER.—The Secretary may waive the applicability of the Special Warranty under subparagraph (A) for private non-profit recipients on a case-by-case basis as the Secretary considers appropriate."; and

(4) by striking subsections (k) and (l).

SEC. 3040. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.

(a) SECTION HEADING.—The section heading for section 3038 of the Federal Transit Act of 1998 (49 U.S.C. 5310 note), is amended to read as follows:

"SEC. 3038. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.".

(b) FUNDING.—Section 3038(g) of the Federal Transit Act of 1998 (49 U.S.C. 5310 note) is amended to read as follows:

"(g) FUNDING.—Of the amounts made available for each fiscal year under subsections (a)(1)(C)(iii) and (b)(2)(E) of section 5338 of title 49, United States Code—

"(1) 75 percent shall be available, and shall remain available until expended, for operators of over-the-road buses, used substantially or exclusively in intercity, fixed-route over-the-road bus service, to finance the incremental capital and training costs of the Department of Transportation's final rule regarding accessibility of over-the-road buses; and

"(2) 25 percent shall be available, and shall remain available until expended, for operators of over-the-road bus service not described in paragraph (1), to finance the incremental capital and training costs of the Department of Transportation's final rule regarding accessibility of over-the-road buses.".

(b) CONFORMING AMENDMENT.—The item relating to section 3038 in the table of contents for the Transportation Equity Act for the 21st Century (Public Law 105–178) is amended to read as follows:

"Sec. 3038. Over-the-road bus accessibility program.".

SEC. 3041. ALTERNATIVE TRANSPORTATION IN PARKS AND PUBLIC LANDS.

(a) IN GENERAL.—Chapter 53 is amended by inserting after section 5315 the following:

"§5316. Alternative transportation in parks and public lands

"(a) IN GENERAL.—

"(1) AUTHORIZATION.—

"(A) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, may award a grant or enter into a contract, cooperative agreement, interagency agreement, intraagency agreement, or other transaction to carry out a qualified project under this section to enhance the protection of America's National Parks and public lands and increase the enjoyment of those visiting the parks and public lands by ensuring access to all, including persons with disabilities, improving conservation and park and public land opportunities in urban areas through partnering with state and local governments, and improving park and public land transportation infrastructure.

"(B) CONSULTATION WITH OTHER AGENCIES.—To the extent that projects are proposed or funded in eligible areas that are not within the jurisdiction of the Department of the Interior, the Secretary of the Interior shall consult with the heads of the relevant Federal land management agencies in carrying out the responsibilities under this section.

"(2) USE OF FUNDS.—A grant, cooperative agreement, interagency agreement, intraagency agreement, or other transaction for a qualified project under this section shall be available to finance the leasing of equipment and facilities for use in public transportation, subject to any regulation that the Secretary may prescribe limiting the grant or agreement to leasing arrangements that are more cost-effective than purchase or construction.

"(b) DEFINITIONS.—As used in this section, the following definitions shall apply:

"(1) ELIGIBLE AREA.—The term 'eligible area' means any federally owned or managed park, refuge, or recreational area that is open to the general public, including—

"(A) a unit of the National Park System;

"(B) a unit of the National Wildlife Refuge System;

"(C) a recreational area managed by the Bureau of Land Management; and

"(D) a recreation area managed by the Bureau of Reclamation.

"(2) FEDERAL LAND MANAGEMENT AGENCY.—The term 'Federal land management agency' means a Federal agency that manages an eligible area.

"(3) ALTERNATIVE TRANSPORTATION.—The term 'alternative transportation' means transportation by bus, rail, or any other publicly or privately owned conveyance that provides to the public general or special service on a regular basis, including sightseeing service.

"(4) QUALIFIED PARTICIPANT.—The term 'qualified participant' means—

"(A) a Federal land management agency; or

"(B) a State, tribal, or local governmental authority with jurisdiction over land in the vicinity of an eligible area acting with the consent of the Federal land management agency, alone or in partnership with a Federal land management agency or other Governmental or nongovernmental participant.

"(5) QUALIFIED PROJECT.—The term 'qualified project' means a planning or capital project in or in the vicinity of an eligible area that—

"(A) is an activity described in section 5302, 5303, 5304, 5308, or 5309(a)(1)(A);

"(B) involves—

"(i) the purchase of rolling stock that incorporates clean fuel technology or the replacement of buses of a type in use on the date of enactment of this section with clean fuel vehicles; or

"(ii) the deployment of alternative transportation vehicles that introduce innovative technologies or methods;

"(C) relates to the capital costs of coordinating the Federal land management agency public transportation systems with other public transportation systems;

"(D) provides a nonmotorized transportation system (including the provision of facilities for pedestrians, bicycles, and nonmotorized watercraft);

"(E) provides waterborne access within or in the vicinity of an eligible area, as appropriate to and consistent with this section; or

"(F) is any other alternative transportation project that—

"(i) enhances the environment;

"(ii) prevents or mitigates an adverse impact on a natural resource;

"(iii) improves Federal land management agency resource management;

"(iv) improves visitor mobility and accessibility and the visitor experience;

"(v) reduces congestion and pollution (including noise pollution and visual pollution); or

"(vi) conserves a natural, historical, or cultural resource (excluding rehabilitation or restoration of a non-transportation facility).

"(c) FEDERAL AGENCY COOPERATIVE ARRANGEMENTS.—The Secretary shall develop cooperative arrangements with the Secretary of the Interior that provide for—

"(1) technical assistance in alternative transportation;

"(2) interagency and multidisciplinary teams to develop Federal land management agency alternative transportation policy, procedures, and coordination; and

"(3) the development of procedures and criteria relating to the planning, selection, and funding of qualified projects and the implementation and oversight of the program of projects in accordance with this section.

"(d) LIMITATION ON USE OF AVAILABLE AMOUNTS.—

"(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, may use not more than 10 percent of the amount made available for a fiscal year under section 5338(a)(2)(I) to carry out planning, research, and technical assistance under this section, including the development of technology appropriate for use in a qualified project.

"(2) ADDITIONAL AMOUNTS.—Amounts made available under this subsection are in addition to amounts otherwise available to the Secretary to carry out planning, research, and technical assistance under this title or any other provision of law.

"(3) MAXIMUM AMOUNT.—No qualified project shall receive more than 12 percent of the total amount made available to carry out this section under section 5338(a)(2)(I) for any fiscal year.

"(e) PLANNING PROCESS.—In undertaking a qualified project under this section,

"(1) if the qualified participant is a Federal land management agency—

"(A) the Secretary, in cooperation with the Secretary of the Interior, shall develop transportation planning procedures that are consistent with—

"(i) the metropolitan planning provisions under section 5303 of this title;

"(ii) the statewide planning provisions under section 5304 of this title; and

"(iii) the public participation requirements under section 5307(e); and

"(B) in the case of a qualified project that is at a unit of the National Park system, the planning process shall be consistent with the general management plans of the unit of the National Park system; and

"(2) if the qualified participant is a State or local governmental authority, or more than one State or local governmental authority in more than one State, the qualified participant shall—

"(A) comply with the metropolitan planning provisions under section 5303 of this title;

"(B) comply with the statewide planning provisions under section 5304 of this title;

"(C) comply with the public participation requirements under section 5307(e) of this title; and

"(D) consult with the appropriate Federal land management agency during the planning process.

"(f) COST SHARING.—

"(1) The Secretary, in cooperation with the Secretary of the Interior, shall establish the agency share of net project cost to be provided under this section to a qualified participant.

"(2) In establishing the agency share of net project cost to be provided under this section, the Secretary shall consider—

"(A) visitation levels and the revenue derived from user fees in the eligible area in which the qualified project is carried out;

"(B) the extent to which the qualified participant coordinates with a public transportation authority or private entity engaged in public transportation;

"(C) private investment in the qualified project, including the provision of contract services, joint development activities, and the use of innovative financing mechanisms;

"(D) the clear and direct benefit to the qualified participant; and

"(E) any other matters that the Secretary considers appropriate to carry out this section.

"(3) Notwithstanding any other provision of law, Federal funds appropriated to any Federal land management agency may be counted toward the non-agency share of the net project cost of a qualified project.

"(g) SELECTION OF QUALIFIED PROJECTS.—

"(1) The Secretary of the Interior, after consultation with and in cooperation with the Secretary, shall determine the final selection and funding of an annual program of qualified projects in accordance with this section.

"(2) In determining whether to include a project in the annual program of qualified projects, the Secretary of the Interior shall consider—

"(A) the justification for the qualified project, including the extent to which the qualified project would conserve resources, prevent or mitigate adverse impact, and enhance the environment;

"(B) the location of the qualified project, to ensure that the selected qualified projects—

"(i) are geographically diverse nationwide; and

"(ii) include qualified projects in eligible areas located in both urban areas and rural areas;

"(C) the size of the qualified project, to ensure that there is a balanced distribution;

"(D) the historical and cultural significance of a qualified project;

"(E) safety;

"(F) the extent to which the qualified project would-

"(i) enhance livable communities;

"(ii) reduce pollution (including noise pollution, air pollution, and visual pollution);

"(iii) reduce congestion; and

"(iv) improve the mobility of people in the most efficient manner; and

"(G) any other matters that the Secretary considers appropriate to carry out this section, including—

"(i) visitation levels;

"(ii) the use of innovative financing or joint development strategies; and

"(iii) coordination with gateway communities.

"(h) QUALIFIED PROJECTS CARRIED OUT IN ADVANCE.—

"(1) When a qualified participant carries out any part of a qualified project without assistance under this section in accordance with all applicable procedures and requirements, the Secretary, in consultation with the Secretary of the Interior, may pay the share of the net capital project cost of a qualified project if—

"(A) the qualified participant applies for the payment;

"(B) the Secretary approves the payment; and

"(C) before carrying out that part of the qualified project, the Secretary approves the plans and specifications in the same manner as plans and specifications are approved for other projects assisted under this section.

"(2)(A) The cost of carrying out part of a qualified project under paragraph (1) includes the amount of interest earned and payable on bonds issued by a State or local governmental authority, to the extent that proceeds of the bond are expended in carrying out that part.

"(B) The rate of interest under this paragraph may not exceed the most favorable rate reasonably available for the qualified project at the time of borrowing.

"(C) The qualified participant shall certify, in a manner satisfactory to the Secretary, that the qualified participant has exercised reasonable diligence in seeking the most favorable interest rate.

"(i) RELATIONSHIP TO OTHER LAWS.—

"(1) SECTION 5307.—A qualified participant under this section shall be subject to the requirements of sections 5307 and 5333(a) to the extent the Secretary determines to be appropriate.

"(2) OTHER REQUIREMENTS.—A qualified participant under this section is subject to any other terms, conditions, requirements, and provisions that the Secretary determines to be appropriate to carry out this section, including requirements for the distribution of proceeds on disposition of real property and equipment resulting from a qualified project assisted under this section.

"(3) PROJECT MANAGEMENT PLAN.—If the amount of assistance anticipated to be required for a qualified project under this section is not less than $25,000,000—

"(A) the qualified project shall, to the extent the Secretary considers appropriate, be carried out through a full funding grant agreement, in accordance with section 5309(g); and

"(B) the qualified participant shall prepare a project management plan in accordance with section 5327(a).

"(i) ASSET MANAGEMENT.—The Secretary, in consultation with the Secretary of the Interior, may transfer the interest of the Department of Transportation in, and control over, all facilities and equipment acquired under this section to a qualified participant for use and disposition in accordance with any property management regulations that the Secretary determines to be appropriate.

"(j) COORDINATION OF RESEARCH AND DEPLOYMENT OF NEW TECHNOLOGIES.—

"(1) The Secretary, in cooperation with the Secretary of the Interior, may undertake, or make grants, cooperative agreements, contracts (including agreements with departments, agencies, and instrumentalities of the Federal Government) or other transactions for research, development, and deployment of new technologies in eligible areas that will—

"(A) conserve resources;

"(B) prevent or mitigate adverse environmental impact;

"(C) improve visitor mobility, accessibility, and enjoyment; and

"(D) reduce pollution (including noise pollution and visual pollution).

"(2) The Secretary may request and receive appropriate information from any source.

"(3) Grants, cooperative agreements, contracts or other transactions under paragraph (1) shall be awarded from amounts allocated under subsection (c)(1).

"(k) INNOVATIVE FINANCING.—A qualified project receiving financial assistance under this section shall be eligible for funding through a state infrastructure bank or other innovative financing mechanism available to finance an eligible project under this chapter.

"(l) REPORTS.—

"(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, shall annually submit a report on the allocation of amounts made available to assist qualified projects under this section to—

"(A) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

"(B) the Committee on Transportation and Infrastructure of the House of Representatives.

"(2) ANNUAL AND SUPPLEMENTAL REPORTS.—The report required under paragraph (1) shall be included in the report submitted under section 5309(m).".

(b) CONFORMING AMENDMENTS.—The table of sections for chapter 53 is amended by inserting after the item relating to section 5315 the following:

"5316. Alternative transportation in parks and public lands.".

SEC. 3042. OBLIGATION CEILING.

Notwithstanding any other provision of law, the total of all obligations from amounts made available from the Mass Transit Account of the Highway Trust Fund by, and amounts appropriated under, subsections (a) through (c) of section 5338 of title 49, United States Code, shall not exceed—

(1) $7,265,876,900 for fiscal year 2004;

(2) $8,650,000,000 for fiscal year 2005;

(3) $9,085,123,000 for fiscal year 2006;

(4) $9,600,000,000 for fiscal year 2007;

(5) $10,490,000,000 for fiscal year 2008; and

(6) $11,430,000,000 for fiscal year 2009.

SEC. 3043. ADJUSTMENTS FOR THE SURFACE TRANSPORTATION EXTENSION ACT OF 2003.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall reduce the total apportionments and allocations made for fiscal year 2004 to each grant recipient under section 5338 of title 49, United States Code, by the amount apportioned to that recipient pursuant to section 8 of the Surface Transportation Extension Act of 2003 (117 Stat. 1121).

(b) FIXED GUIDEWAY MODERNIZATION ADJUSTMENT.—In making the apportionments described in subsection (a), the Secretary shall adjust the amount apportioned for fiscal year 2004 to each urbanized area for fixed guideway modernization to reflect the apportionment method set forth in 5337(a) of title 49, United States Code.

SEC. 3044. DISADVANTAGED BUSINESS ENTERPRISE.

Section 1101(b) of the Transportation Equity Act of the 21st Century shall apply to all funds authorized or otherwise made available under this title.

SEC. 3045. INTERMODAL PASSENGER FACILITIES.

(a) IN GENERAL.—Chapter 55 of title 49, United States Code, is amended by adding at the end the following:

"SUBCHAPTER III—INTERMODAL PASSENGER FACILITIES

§5571. Policy and purposes

"(a) DEVELOPMENT AND ENHANCEMENT OF INTERMODAL PASSENGER FACILITIES.—It is in the economic interest of the United States to improve the efficiency of public surface transportation modes by ensuring their connection with and access to intermodal passenger terminals, thereby streamlining the transfer of passengers among modes, enhancing travel options, and increasing passenger transportation operating efficiencies.

"(b) GENERAL PURPOSES.—The purposes of this subchapter are to accelerate intermodal integration among North America's passenger transportation modes through—

"(1) ensuring intercity public transportation access to intermodal passenger facilities;

"(2) encouraging the development of an integrated system of public transportation information; and

"(3) providing intercity bus intermodal passenger facility grants.

§5572. Definitions

"In this subchapter—

"(1) 'capital project' means a project for—

"(A) acquiring, constructing, improving, or renovating an intermodal facility that is related physically and functionally to intercity bus service and establishes or enhances coordination between intercity bus service and transportation, including aviation, commuter rail, intercity rail, public transportation, seaports, and the National Highway System, such as physical infrastructure associated with private bus operations at existing and new intermodal facilities, including special lanes, curb cuts, ticket kiosks and counters, baggage and package express storage, employee parking, office space, security, and signage; and

"(B) establishing or enhancing coordination between intercity bus service and transportation, including aviation, commuter rail, intercity rail, public transportation, and the National Highway System through an integrated system of public transportation information.

"(2) 'commuter service' means service designed primarily to provide daily work trips within the local commuting area.

"(3) 'intercity bus service' means regularly scheduled bus service for the general public which operates with limited stops over fixed routes connecting two or more urban areas not in close proximity, which has the capacity for transporting baggage carried by passengers, and which makes meaningful connections with scheduled intercity bus service to more distant points, if such service is available and may include package express service, if incidental to passenger transportation, but does not include air, commuter, water or rail service.

"(4) 'intermodal passenger facility' means passenger terminal that does, or can be modified to, accommodate several modes of transportation and related facilities, including some or all of the following: intercity rail, intercity bus, commuter rail, intracity rail transit and bus transportation, airport limousine service and airline ticket offices, rent-a-car facilities, taxis, private parking, and other transportation services.

"(5) 'local governmental authority' includes—

"(A) a political subdivision of a State;

"(B) an authority of at least one State or political subdivision of a State;

"(C) an Indian tribe; and

"(D) a public corporation, board, or commission established under the laws of the State.

"(6) 'owner or operator of a public transportation facility' means an owner or operator of intercity-rail, intercity-bus, commuter-rail, commuter-bus, rail-transit, bus-transit, or ferry services.

"(7) 'recipient' means a State or local governmental authority or a nonprofit organization that receives a grant to carry out this section directly from the Federal government.

"(8) 'Secretary' means the Secretary of Transportation.

"(9) 'State' means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

"(10) 'urban area' means an area that includes a municipality or other built-up place that the Secretary, after considering local patterns and trends of urban growth, decides is appropriate for a local public transportation system to serve individuals in the locality.

"§5573. Assurance of access to intermodal passenger facilities

"Intercity buses and other modes of transportation shall, to the maximum extent practicable, have access to publicly funded intermodal passenger facilities, including those passenger facilities seeking funding under section 5574.

"§5574. Intercity bus intermodal passenger facility grants

"(a) GENERAL AUTHORITY.—The Secretary of Transportation may make grants under this section to recipients in financing a capital project only if the Secretary finds that the proposed project is justified and has adequate financial commitment.

"(b) COMPETITIVE GRANT SELECTION.—The Secretary shall conduct a national solicitation for applications for grants under this section. Grantees shall be selected on a competitive basis.

"(c) SHARE OF NET PROJECT COSTS.—A grant shall not exceed 50 percent of the net project cost, as determined by the Secretary.

"(d) REGULATIONS.—The Secretary may promulgate such regulations as are necessary to carry out this section.

"§5575. Funding

"(a) HIGHWAY ACCOUNT.—

"(1) There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subchapter $10,000,000 for each of fiscal years 2005 through 2009.

"(2) The funding made available under paragraph (1) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23 and shall be subject to any obligation limitation imposed on funds for Federal-aid highways and highway safety construction programs.

"(b) PERIOD OF AVAILABILITY.—Amounts made available under subsection (a) shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 55 of title 49, United States Code, is amended by adding at the end the following:

"SUBCHAPTER III—INTERMODAL PASSENGER FACILITIES

Sec.

"5571. Policy and Purposes.

"5572. Definitions.
"5573. Assurance of access to intermodal facilities.
"5574. Intercity bus intermodal facility grants.
"5575. Funding.".

TITLE IV—SURFACE TRANSPORTATION SAFETY

SEC. 4001. SHORT TITLE.

This title may be cited as the "Surface Transportation Safety Reauthorization Act of 2004".

Subtitle A—Highway Safety

PART I—HIGHWAY SAFETY GRANT PROGRAM

SEC. 4101. SHORT TITLE; AMENDMENT OF TITLE 23, UNITED STATES CODE.

(a) SHORT TITLE.—This subpart may be cited as the "Highway Safety Grant Program Reauthorization Act of 2004".

(b) AMENDMENT OF TITLE 23, UNITED STATES CODE.—Except as otherwise expressly provided, whenever in this subpart an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 23, United States Code.

SEC. 4102. AUTHORIZATION OF APPROPRIATIONS.

(a) AMOUNTS FOR FISCAL YEARS 2004 THROUGH 2009.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to the Secretary of Transportation for the National Highway Traffic Safety Administration the following:

(1) To carry out the Highway Safety Programs under section 402 of title 23, United States Code, $170,000,000 in fiscal year 2004, $174,000,000 in fiscal year 2005, $179,000,000 in fiscal year 2006, $185,000,000 in fiscal year 2007, $204,000,000 in fiscal year 2008, and $207,000,000 in fiscal year 2009.

(2) To carry out the Highway Safety Research and Outreach Programs under section 403 of title 23, United States Code, $110,000,000 in fiscal year 2004, $112,000,000 in fiscal year 2005, $114,000,000 in fiscal year 2006, $116,000,000 in fiscal year 2007, $118,000,000 in fiscal year 2008, and $120,000,000 in fiscal year 2009.

(3) To carry out the Occupant Protection Programs under section 405 of title 23, United States Code, $120,000,000 in fiscal year 2004, $122,000,000 in fiscal year 2005, $124,000,000 in fiscal year 2006, $126,000,000 in fiscal year 2007, $128,000,000 in fiscal year 2008, and $130,000,000 in fiscal year 2009.

(4) To carry out the Emergency Medical Services Program under section 407A of title 23, United States Code, $5,000,000 in each of fiscal years 2004 through 2009.

(5) To carry out the Impaired Driving Program under section 410 of title 23, United States Code, $85,000,000 in fiscal year 2004, $89,000,000 in fiscal year 2005, $93,000,000 in fiscal year 2006, $110,000,000 in fiscal year 2007, $126,000,000 in fiscal year 2008, and $130,000,000 in fiscal year 2009.

(6) To carry out the State Traffic Safety Information System Improvements under section 412 of title 23, United States Code, $45,000,000 in each of fiscal years 2004 through 2009.

(7) To carry out chapter 303 of title 49, United States Code, $4,000,000 for each of fiscal years 2004 through 2009.

(b) PROHIBITION ON OTHER USES.—Except as otherwise provided in this subtitle, the amounts allocated from the Highway Trust Fund for programs provided for in chapter 4 of title 23, United States Code, shall only be used for such programs and may not be used by States or local governments for construction purposes.

(c) EFFECT OF REVENUE DEFICIENCY.—If revenue to the Highway Trust Fund for a given fiscal year is lower than the amounts authorized by this subpart, any subsequent reductions in the overall funding for highway and transit programs shall not affect the highway safety programs provided for in chapter 4 of title 23, United States Code.

(d) PROPORTIONAL INCREASES.—For each fiscal year from 2004 through 2009, if revenue to the Highway Trust Fund increases above the amounts for each such fiscal year set forth in the fiscal year 2004 joint budget resolution, then the amounts made available in such year for the programs in sections 402, 405, and 410 shall increase by the same percentage.

SEC. 4103. HIGHWAY SAFETY PROGRAMS.

(a) PROGRAMS TO BE INCLUDED.—

(1) MOTOR VEHICLE AIRBAGS PUBLIC AWARENESS.—Section 402(a)(2) is amended by striking "vehicles and to increase public awareness of the benefit of motor vehicles equipped with airbags" and inserting "vehicles,".

(2) AGRESSIVE DRIVING.—Section 402(a) is further amended—

(A) by redesignating clause (6) as clause (8);

(B) by inserting after "involving school buses," at the end of clause (5) the following: "(6) to reduce aggressive driving and to educate drivers about defensive driving, (7) to reduce accidents resulting from fatigued and distracted drivers, including distractions arising from the use of electronic devices in vehicles,"; and

(C) by inserting "aggressive driving, distracted driving," after "school bus accidents,".

(b) APPORTIONMENT.—

(1) TRIBAL GOVERNMENT PROGRAMS.—Section 402(c) is amended by striking "three-fourths of 1 percent" and inserting "2 percent".

(c) EXTRA FUNDING FOR OCCUPANT PROTECTION AND IMPAIRED DRIVING PROGRAMS.—Section 402 is amended by inserting after subsection (g) the following:

"(h) GRANTS.—Funds available to States under this section may be used for making grants of financial assistance for programs and initiatives authorized by sections 405 and 410 of this title.".

(d) LAW ENFORCEMENT CHASE TRAINING.—Section 402 is amended by adding at the end the following:

"(l) LIMITATION RELATING TO LAW ENFORCEMENT VEHICULAR PURSUIT TRAINING.—No State may receive any funds available for fiscal years after fiscal year 2004 for programs under this chapter until the State submits to the Secretary a written statement that the State actively encourages all relevant law enforcement agencies in that State to follow the guidelines established for police chases issued by the International Association of Chiefs of Police that are in effect on the date of enactment of the Highway Safety Grant Program Reauthorization Act of 2004, or as revised and in effect after that date as determined by the Secretary.

"(m) CONSOLIDATION OF GRANT APPLICATIONS.—The Secretary shall establish an approval process by which a State may apply for all grants included under this chapter through a single application with a single annual deadline. The Bureau of Indian Affairs shall establish a similarly simplified process for applications from Indian tribes.

"(n) ADMINISTRATIVE EXPENSES.—Funds authorized to be appropriated to carry out this section shall be subject to a deduction of not to exceed 5 percent for the necessary costs of administering the provisions of this section, section 405, section 407A, section 410, and 413 of this chapter.".

SEC. 4104. HIGHWAY SAFETY RESEARCH AND OUTREACH PROGRAMS.

(a) REVISED AUTHORITY AND REQUIREMENTS.—Section 403 is amended to read as follows:

"§403. Highway safety research and development

"(a) AUTHORITY OF THE SECRETARY.—The Secretary is authorized to use funds appropriated to carry out this section to—

"(1) conduct research on all phases of highway safety and traffic conditions, including accident causation, highway or driver characteristics, communications, and emergency care;

"(2) conduct ongoing research into driver behavior and its effect on traffic safety;

"(3) conduct research on, and launch initiatives to counter, fatigued driving by drivers of motor vehicles and distracted driving in such vehicles, including the effect that the use of electronic devices and other factors deemed relevant by the Secretary have on driving;

"(4) conduct training or education programs in cooperation with other Federal departments and agencies, States, private sector persons, highway safety personnel, and law enforcement personnel;

"(5) conduct research on, and evaluate the effectiveness of, traffic safety countermeasures, including seat belts and impaired driving initiatives; and

"(6) conduct demonstration projects.

"(b) SPECIFIC RESEARCH PROGRAMS.—

"(1) REQUIRED PROGRAMS.—The Secretary shall conduct research on the following:

"(A) EFFECTS OF USE OF CONTROLLED SUBSTANCES.—A study on the effects of the use of controlled substances on driver behavior to determine—

"(i) methodologies for measuring driver impairment resulting from use of the most common controlled substances (including the use of such substances in combination with alcohol); and

"(ii) effective and efficient methods for training law enforcement personnel to detect or measure the level of impairment of a driver who is under the influence of a controlled substance by the use of technology or otherwise.

"(B) ON-SCENE MOTOR VEHICLE COLLISION CAUSATION.—A nationally representative study to collect on-scene motor vehicle collision data, and to determine crash causation, for which the Secretary shall enter into a contract with the National Academy of Sciences to conduct a review of the research, design, methodology, and implementation of the study.

"(C) TOLL FACILITIES WORKPLACE SAFETY.—A study on the safety of highway toll collection facilities, including toll booths, conducted in cooperation with State and local highway safety organizations to determine the safety of highway toll collection facilities for the toll collectors who work in and around such facilities and to develop best practices that would be of benefit to State and local highway safety organizations. The study shall consider—

"(i) any problems resulting from design or construction of facilities that contribute to the occurrence of vehicle collisions with the facilities;

"(ii) the safety of crosswalks used by toll collectors in transit to and from toll booths;

"(iii) the extent of the enforcement of speed limits at and in the vicinity of toll facilities;

"(iv) the use of warning devices, such as vibration and rumble strips, to alert drivers approaching toll facilities;

"(v) the use of cameras to record traffic violations in the vicinity of toll facilities;

"(vi) the use of traffic control arms in the vicinity of toll facilities;

"(vii) law enforcement practices and jurisdictional issues that affect safety at and in the vicinity of toll facilities; and

"(viii) data (which shall be collected in conducting the research) regarding the incidence of accidents and injuries at and around toll booth facilities.

"(2) TIME FOR COMPLETION OF STUDIES.—The studies conducted in subparagraphs (A), (B), and (C) of paragraph (1) may be conducted in concert with other Federal departments and agencies with relevant expertise. The Secretary shall submit an annual report to the Senate

Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the progress of each study conducted under this subsection.

"(3) ONGOING STUDIES.—The studies under subparagraphs (A) and (B) of paragraph (1) shall be conducted on an ongoing basis.

"(4) REPORTS.—

"(A) ONE-TIME STUDY.—Not later than 2 years after the date of enactment of the Highway Safety Grant Program Reauthorization Act of 2004, the Secretary shall submit a final report on the study referred to in paragraph (1)(C) to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

"(B) ONGOING STUDIES.—The Secretary shall submit a report on the studies referred to in paragraph (3) to the Committees of Congress referred to in subparagraph (A) not later than December 31, 2005, and shall submit additional reports on such studies to such committees every 2 years. Such additional reports shall contain the findings, progress, remaining challenges, research objectives, and other relevant data relating to the ongoing studies.

"(5) RESEARCH ON DISTRACTED, INATTENTIVE, AND FATIGUED DRIVERS.—In conducting research under subsection (a)(3), the Secretary shall carry out not less than 5 demonstration projects to evaluate new and innovative means of combatting traffic system problems caused by distracted, inattentive, or fatigued drivers. The demonstration projects shall be in addition to any other research carried out under this subsection.

"(c) NATIONWIDE TRAFFIC SAFETY CAMPAIGNS.—

"(1) REQUIREMENT FOR CAMPAIGNS.—The Administrator of the National Highway Traffic Safety Administration shall establish and administer a program under which 3 high-visibility traffic safety law enforcement campaigns will be carried out for the purposes specified in paragraph (2) in each of years 2004 through 2009.

"(2) PURPOSE.—The purpose of each law enforcement campaign is to achieve either or both of the following objectives:

"(A) Reduce alcohol-impaired or drug-impaired operation of motor vehicles.

"(B) Increase use of seat belts by occupants of motor vehicles.

"(3) ADVERTISING.—The Administrator may use, or authorize the use of, funds available under this section to pay for the development, production, and use of broadcast and print media advertising in carrying out traffic safety law enforcement campaigns under this subsection. Consideration shall be given to advertising directed at non-English speaking populations, including those who listen, read, or watch nontraditional media.

"(4) COORDINATION WITH STATES.—The Administrator shall coordinate with the States in carrying out the traffic safety law enforcement campaigns under this subsection, including advertising funded under paragraph (3), with a view to—

"(A) relying on States to provide the law enforcement resources for the campaigns out of funding available under this section and sections 402, 405, and 410 of this title; and

"(B) providing out of National Highway Traffic Safety Administration resources most of the means necessary for national advertising and education efforts associated with the law enforcement campaigns.

"(5) ANNUAL EVALUATION.—The Secretary shall conduct an annual evaluation of the effectiveness of such initiatives.

"(6) FUNDING.—The Secretary shall use $24,000,000 in each of fiscal years 2004 through 2009 for advertising and educational initiatives to be carried out nationwide in support of the campaigns under this section.

"(d) IMPROVING OLDER DRIVER SAFETY.—

"(1) IN GENERAL.—Of the funds made available under this section, the Secretary shall allocate $2,000,000 in each of fiscal years 2004 through 2009 to conduct a comprehensive research and demonstration program to improve traffic safety pertaining to older drivers. The program shall—

"(A) provide information and guidelines to assist physicians and other related medical personnel, families, licensing agencies, enforcement officers, and various public and transit agencies in enhancing the safety and mobility of older drivers;

"(B) improve the scientific basis of medical standards and screenings strategies used in the licensing of all drivers in a non-discriminatory manner;

"(C) conduct field tests to assess the safety benefits and mobility impacts of different driver licensing strategies and driver assessment and rehabilitation methods;

"(D) assess the value and improve the safety potential of driver retraining courses of particular benefit to older drivers; and

"(E) conduct other activities to accomplish the objectives of this action.

"(2) FORMULATION OF PLAN.—After consultation with affected parties, the Secretary shall formulate an older driver traffic safety plan to guide the design and implementation of this program. The plan shall be submitted to the House of Representatives Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation within 180 days after the date of enactment of the Highway Safety Grant Program Reauthorization Act of 2004.

"(e) LAW ENFORCEMENT TRAINING.—

"(1) REQUIREMENT FOR PROGRAM.—The Administrator of the National Highway Traffic Safety Administration shall carry out a program to train law enforcement personnel of each State and political subdivision thereof in police chase techniques that are consistent with the police chase guidelines issued by the International Association of Chiefs of Police.

"(2) AMOUNT FOR PROGRAM.—Of the amount available for a fiscal year to carry out this section, $200,000 shall be available for carrying out this subsection.

"(f) INTERNATIONAL COOPERATION.—

"(1) AUTHORITY.—The Administrator of the National Highway Traffic Safety Administration may participate and cooperate in international activities to enhance highway safety.

"(2) AMOUNT FOR PROGRAM.—Of the amount available for a fiscal year to carry out this section, $200,000 may be used for activities authorized under paragraph (1).".

(b) STUDY ON REFUSAL OF INTOXICATION TESTING.—

(1) REQUIREMENT FOR STUDY.—In addition to studies under section 403 of title 23, United States Code, the Secretary of Transportation shall carry out a study of the frequency with which persons arrested for the offense of operating a motor vehicle under the influence of alcohol and persons arrested for the offense of operating a motor vehicle while intoxicated refuse to take a test to determine blood alcohol concentration levels and the effect such refusals have on the ability of States to prosecute such persons for those offenses.

(2) CONSULTATION.—In carrying out the study under this section, the Secretary shall consult with the Governors of the States, the States' Attorneys General, and the United States Sentencing Commission.

(3) REPORT.—

(A) REQUIREMENT FOR REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report on the results of the study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(B) CONTENT.—The report shall include any recommendation for legislation, including any recommended model State legislation, and any other recommendations that the Secretary considers appropriate for implementing a program designed to decrease the occurrence refusals by arrested persons to submit to a test to determine blood alcohol concentration levels.

SEC. 4105. NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE TECHNICAL CORRECTION.

Section 404(d) is amended by striking "Commerce" and inserting "Transportation".

SEC. 4106. OCCUPANT PROTECTION GRANTS.

Section 405 is amended—

(1) by striking the second sentence of subsection (a)(1);

(2) by striking "Transportation Equity Act for the 21st Century." in subsection (a)(2) and inserting "Highway Safety Grant Program Reauthorization Act of 2004.";

(3) by striking subsections (a)(3) and (4), (b), (c), and (d) and redesignating subsections (e) and (f) as subsections (d) and (e), respectively; and

(4) by inserting after subsection (a) the following:

"(b) OCCUPANT PROTECTION GRANTS.—

"(1) IN GENERAL.—In addition to the grants authorized by subsection (a), the Secretary shall make grants in accordance with this subsection.

"(2) SAFETY BELT PERFORMANCE GRANTS.—

"(A) PRIMARY SAFETY BELT USE LAW.—

"(i) For fiscal years 2004 and 2005, the Secretary shall make a grant to each State that enacted, and is enforcing, a primary safety belt use law for all passenger motor vehicles that became effective by December 31, 2002.

"(ii) For each of fiscal years 2004 through 2009, the Secretary shall, after making grants under clause (i) of this subparagraph, make a one-time grant to each State that either enacts for the first time after December 31, 2002, and has in effect a primary safety belt use law for all passenger motor vehicles, or, in the case of a State that does not have such a primary safety belt use law, has a State safety belt use rate in the preceding fiscal year of at least 90 percent, as measured under criteria determined by the Secretary.

"(iii) Of the funds authorized for grants under this subsection, $100,000,000 in each of fiscal years 2004 through 2009 shall be available for grants under this paragraph. The amount of a grant available to a State in each of fiscal years 2004 and 2005 under clause (i) of this subparagraph shall be equal to ½ of the amount of funds apportioned to the State under section 402(c) for fiscal year 2003. The amount of a grant available to a State in fiscal year 2004 or in a subsequent fiscal year under clause (ii) of this subparagraph shall be equal to 5 times the amount apportioned to the State for fiscal year 2003 under section 402(c). A State that receives a grant under clause (ii) of this subparagraph is ineligible to receive funding under subparagraph (B) for that fiscal year and the following fiscal year. The Federal share payable for grants under this subparagraph shall be 100 percent. If the total amount of grants under clause (ii) of this subparagraph for a fiscal year exceeds the amount of funds available in the fiscal year, grants shall be made to each eligible State, in the order in which its primary safety belt use law became effective or its safety belt use rate reached 90 percent, until the funds for the fiscal year are exhausted. A State that does not receive a grant for which it is eligible in a fiscal

year shall receive the grant in the succeeding fiscal year so long as its law remains in effect or its safety belt use rate remains at or above 90 percent. If the total amount of grants under this subparagraph for a fiscal year is less than the amount available in the fiscal year, the Secretary shall use any funds that exceed the total amount for grants under subparagraph (B) of this paragraph.

“(B) SAFETY BELT USE RATE.—

“(i) For each fiscal year, from 2004 through 2009, the funds authorized for a grant under this subparagraph shall be awarded to States that increase their measured safety belt use rate, as determined by the Secretary, by decreasing the proportion of non-users of safety belts by 10 percent, as compared to the proportion of non-users, in the preceding fiscal year.

“(ii) Each State that meets the requirement of clause (i) of this subparagraph shall be apportioned an amount of funds that is equal to the amount available under this subparagraph for the relevant fiscal year multiplied by the ratio that the funds apportioned to the State under section 402 for such fiscal year bear to the funds apportioned under section 402 for such fiscal year to all states that qualify for a grant for such fiscal year.

“(iii) Of the funds authorized for grants under this subsection, $20,000,000 for fiscal year 2004, $22,000,000 for fiscal year 2005, $24,000,000 for fiscal year 2006, $26,000,000 for fiscal year 2007, $28,000,000 for fiscal year 2008, and $30,000,000 for fiscal year 2009 shall be available for safety belt use rate grants under this subparagraph.

“(iv) The Federal share payable for grants under this subparagraph shall be 100 percent.

“(c) USE OF GRANTS.—A State allocated an amount for a grant under subparagraph (A) or (B) of subsection (b)(2) may use the amount for activities eligible for assistance under sections 402, 405, and 410 of this title.”.

SEC. 4107. SCHOOL BUS DRIVER TRAINING.

Section 406(c) is amended by striking the first, second, and third sentences.

SEC. 4108. EMERGENCY MEDICAL SERVICES.

(a) FEDERAL COORDINATION AND ENHANCED SUPPORT OF EMERGENCY MEDICAL SERVICES.—Chapter 4 is amended by inserting after section 407 the following:

“§407A. Federal coordination and enhanced support of emergency medical services

“(a) FEDERAL INTERAGENCY COMMITTEE ON EMERGENCY MEDICAL SERVICES.—

“(1) ESTABLISHMENT.—The Secretary of Transportation and the Secretary of Homeland Security, through the Under Secretary for Emergency Preparedness and Response, shall establish a Federal Interagency Committee on Emergency Medical Services. In establishing the Interagency Committee, the Secretary of Transportation and the Secretary of Homeland Security through the Under Secretary for Emergency Preparedness and Response shall consult with the Secretary of Health and Human Services.

“(2) MEMBERSHIP.—The Interagency Committee shall consist of the following officials, or their designees:

“(A) The Administrator, National Highway Traffic Safety Administration.

“(B) The Director, Preparedness Division, Emergency Preparedness and Response Directorate, Department of Homeland Security.

“(C) The Administrator, Health Resources and Services Administration, Department of Health and Human Services.

“(D) The Director, Centers for Disease Control and Prevention, Department of Health and Human Services.

“(E) The Administrator, United States Fire Administration, Emergency Preparedness and Response Directorate, Department of Homeland Security.

“(F) The Director, Center for Medicare and Medicaid Services, Department of Health and Human Services.

“(G) The Undersecretary of Defense for Personnel and Readiness.

“(H) The Director, Indian Health Service, Department of Health and Human Services.

“(I) The Chief, Wireless Telecom Bureau, Federal Communications Commission.

“(J) A representative of any other Federal agency identified by the Secretary of Transportation or the Secretary of Homeland Security through the Under Secretary for Emergency Preparedness and Response, in consultation with the Secretary of Health and Human Services, as having a significant role in relation to the purposes of the Interagency Committee.

“(3) PURPOSES.—The purposes of the Interagency Committee are as follows:

“(A) To ensure coordination among the Federal agencies involved with State, local, tribal, or regional emergency medical services and 9–1–1 systems.

“(B) To identify State, local, tribal, or regional emergency medical services and 9–1–1 needs.

“(C) To recommend new or expanded programs, including grant programs, for improving State, local, tribal, or regional emergency medical services and implementing improved emergency medical services communications technologies, including wireless 9–1–1.

“(D) To identify ways to streamline the process through which Federal agencies support State, local, tribal or regional emergency medical services.

“(E) To assist State, local, tribal or regional emergency medical services in setting priorities based on identified needs.

“(F) To advise, consult, and make recommendations on matters relating to the implementation of the coordinated State emergency medical services programs.

“(4) ADMINISTRATION.—The Administrator of the National Highway Traffic Safety Administration, in cooperation with the Director, Preparedness Division, Emergency Preparedness and Response Directorate, Department of Homeland Security, shall provide administrative support to the Interagency Committee, including scheduling meetings, setting agendas, keeping minutes and records, and producing reports.

“(5) LEADERSHIP.—The members of the Interagency Committee shall select a chairperson of the Committee annually.

“(6) MEETINGS.—The Interagency Committee shall meet as frequently as is determined necessary by the chairperson of the Committee.

“(7) ANNUAL REPORTS.—The Interagency Committee shall prepare an annual report to Congress on the Committee's activities, actions, and recommendations.

“(b) COORDINATED NATIONWIDE EMERGENCY MEDICAL SERVICES PROGRAM.—

“(1) PROGRAM REQUIREMENT.—The Secretary of Transportation, acting through the Administrator of the National Highway Traffic Safety Administration, shall coordinate with officials of other Federal departments and agencies, and may assist State and local governments and emergency medical services organizations (whether or not a firefighter organization), private industry, and other interested parties, to ensure the development and implementation of a coordinated nationwide emergency medical services program that is designed to strengthen transportation safety and public health and to implement improved emergency medical services communication systems, including 9–1–1.

“(2) COORDINATED STATE EMERGENCY MEDICAL SERVICES PROGRAM.—Each State shall establish a program, to be approved by the Secretary, to coordinate the emergency medical services and resources deployed throughout the State, so as to ensure—

“(A) improved emergency medical services communication systems, including 9–1–1;

“(B) utilization of established best practices in system design and operations;

“(C) implementation of quality assurance programs; and

“(D) incorporation of data collection and analysis programs that facilitate system development and data linkages with other systems and programs useful to emergency medical services.

“(3) ADMINISTRATION OF STATE PROGRAMS.—The Secretary may not approve a coordinated State emergency medical services program under this subsection unless the program—

“(A) provides that the Governor of the State is responsible for its administration through a State office of emergency medical services that has adequate powers and is suitably equipped and organized to carry out such program and coordinates such program with the highway safety office of the State; and

“(B) authorizes political subdivisions of the State to participate in and receive funds under such program, consistent with a goal of achieving statewide coordination of emergency medical services and 9–1–1 activities.

“(4) FUNDING.—

“(A) USE OF FUNDS.—Funds authorized to be appropriated to carry out this subsection shall be used to aid the States in conducting coordinated emergency medical services and 9–1–1 programs as described in paragraph (2).

“(B) APPORTIONMENT.—

“(i) APPORTIONMENT FORMULA.—The funds shall be apportioned as follows: 75 percent in the ratio that the population of each State bears to the total population of all the States, as shown by the latest available Federal census, and 25 percent in the ratio that the public road mileage in each State bears to the total public road mileage in all States. For the purpose of this subparagraph, a ‘public road’ means any road under the jurisdiction of and maintained by a public authority and open to public travel. Public road mileage as used in this subsection shall be determined as of the end of the calendar year prior to the year in which the funds are apportioned and shall be certified by the Governor of the State and subject to approval by the Secretary.

“(ii) MINIMUM APPORTIONMENT.—The annual apportionment to each State shall not be less than ½ of 1 percent of the total apportionment, except that the apportionment to the Secretary of the Interior on behalf of Indian tribes shall not be less than ¾ of 1 percent of the total apportionment, and the apportionments to the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall not be less than ¼ of 1 percent of the total apportionment.

“(5) APPLICABILITY OF CHAPTER 1.—Section 402(d) of this title shall apply in the administration of this subsection.

“(6) FEDERAL SHARE.—The Federal share of the cost of a project or program funded under this subsection shall be 80 percent.

“(7) APPLICATION IN INDIAN COUNTRY.—

“(A) USE OF TERMS.—For the purpose of application of this subsection in Indian country, the terms ‘State’ and ‘Governor of the State’ include the Secretary of the Interior and the term ‘political subdivisions of the State’ includes an Indian tribe.

“(B) INDIAN COUNTRY DEFINED.—In this subsection, the term ‘Indian country’ means—

“(i) all land within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent and including rights-of-way running through the reservation;

“(ii) all dependent Indian communities within the borders of the United States, whether within

the original or subsequently acquired territory thereof and whether within or without the limits of a State; and

"(iii) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.

"(c) STATE DEFINED.—In this section, the term 'State' means each of the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Secretary of the Interior on behalf of Indian tribes.

"(d) CONSTRUCTION WITH RESPECT TO DISTRICT OF COLUMBIA.—In the administration of this section with respect to the District of Columbia, a reference in this section to the Governor of a State shall refer to the Mayor of the District of Columbia.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 4 is amended by inserting after the item relating to section 407 the following:

"407A. Federal coordination and enhanced support of emergency medical services.".

SEC. 4109. REPEAL OF AUTHORITY FOR ALCOHOL TRAFFIC SAFETY PROGRAMS.

(a) REPEAL.—Section 408 is repealed.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 4 is amended by striking the item relating to section 408.

SEC. 4110. IMPAIRED DRIVING PROGRAM.

(a) MAINTENANCE OF EFFORT.—Section 410(a)(2) is amended by striking "the Transportation Equity Act for the 21st Century" and inserting "the Highway Safety Grant Program Reauthorization Act of 2004".

(b) REVISED GRANT AUTHORITY.—Section 410 is amended—

(1) by striking paragraph (3) of subsection (a) and redesignating paragraph (4) as paragraph (3); and

(2) by striking subsections (b) through (f) and inserting the following:

"(b) PROGRAM-RELATED ELIGIBILITY REQUIREMENTS.—To be eligible for a grant under this section, a State shall—

"(1) carry out each of the programs and activities required under subsection (c);

"(2) comply with the additional requirements set forth in subsection (d) with respect to such programs and activities; and

"(3) comply with any additional requirements of the Secretary.

"(c) REQUIRED STATE PROGRAMS AND ACTIVITIES.—For the purpose of subsection (b)(1), a State must meet the requirements of 4 of the following 6 criteria in order to receive a grant under this section:

"(1) CHECK-POINT, SATURATION PATROL PROGRAM.—

"(A) A State program to conduct of a series of high-visibility, Statewide law enforcement campaigns in which law enforcement personnel monitor for impaired driving, either through use of check-points or saturation patrols, on a nondiscriminatory, lawful basis for the purpose of determining whether the operators of the motor vehicles are driving while under the influence of alcohol or controlled substances that meets the requirements of subparagraphs (B) and (C).

"(B) A program meets the requirements of this subparagraph only if a State organizes the campaigns in cooperation with related national campaigns organized by the National Highway Traffic Safety Administration, but this subparagraph does not preclude a State from initiating high-visibility, Statewide law enforcement campaigns independently of the cooperative efforts.

"(C) A program meets the requirements of this subparagraph only if, for each fiscal year, a State demonstrates to the Secretary that the State and the political subdivisions of the State that receive funds under this section have increased, in the aggregate, the total number of impaired driving law enforcement activities, as described in subparagraph (A) (or any other similar activity approved by the Secretary), initiated in such State during the preceding fiscal year by a factor that the Secretary determines meaningful for the State over the number of such activities initiated in such State during the preceding fiscal year, which shall not be less than 5 percent.

"(2) PROSECUTION AND ADJUDICATION PROGRAM.—For grants made during fiscal years after fiscal year 2004, a State prosecution and adjudication program under which—

"(A) judges and prosecutors are actively encouraged to prosecute and adjudicate cases of defendants who repeatedly commit impaired driving offenses by reducing the use of State diversion programs, or other means that have the effect of avoiding or expunging a permanent record of impaired driving in such cases;

"(B) the courts in a majority of the judicial jurisdictions of the State are monitored on the courts' adjudication of cases of impaired driving offenses; or

"(C) annual Statewide outreach is provided for judges and prosecutors on innovative approaches to the prosecution and adjudication of cases of impaired driving offenses that have the potential for significantly improving the prosecution and adjudication of such cases.

"(3) IMPAIRED OPERATOR INFORMATION SYSTEM.—

"(A) A State impaired operator information system that—

"(i) tracks drivers who are arrested or convicted for violation of laws prohibiting impaired operation of motor vehicles;

"(ii) includes information about each case of an impaired driver beginning at the time of arrest through case disposition, including information about any trial, plea, plea agreement, conviction or other disposition, sentencing or other imposition of sanctions, and substance abuse treatment;

"(iii) provides—

"(I) accessibility to the information for law enforcement personnel Statewide and for United States law enforcement personnel; and

"(II) linkage for the sharing of the information and of the information in State traffic record systems among jurisdictions and appropriate agencies, court systems and offices of the States;

"(iv) shares information with the National Highway Traffic Safety Administration for compilation and use for the tracking of impaired operators of motor vehicles who move from State to State; and

"(v) meets the requirements of subparagraphs (B), (C), and (D) of this paragraph, as applicable.

"(B) A program meets the requirements of this subparagraph only if, during fiscal years 2004 and 2005, a State—

"(i) assesses the system used by the State for tracking drivers who are arrested or convicted for violation of laws prohibiting impaired operation of motor vehicles;

"(ii) identifies ways to improve the system, as well as to enhance the capability of the system to provide information in coordination with impaired operator information systems of other States; and

"(iii) develops a strategic plan that sets forth the actions to be taken and the resources necessary to achieve the identified improvements and to enhance the capability for coordination with the systems of other States.

"(C) A program meets the requirements of this subparagraph only if, in each of fiscal years 2006, 2007, and 2008, a State demonstrates to the Secretary that the State has made substantial and meaningful progress in improving the State's impaired operator information system, and makes public a report on the progress of the information system.

"(D) A program meets the requirements of this subparagraph only if, in fiscal year 2009, a State demonstrates to the Secretary that the State's impaired operator information system meets the basic standards for such systems as determined by the Secretary.

"(4) IMPAIRED DRIVING PERFORMANCE.—The percentage of fatally-injured drivers with 0.08 percent or greater blood alcohol concentration in the State has decreased in each of the 2 most recent calendar years.

"(5) IMPAIRED DRIVING TASK FORCE.—(A) Establishment of an impaired driving task force that involves all relevant State, tribal, and local agencies responsible for reducing alcohol impairment and impaired driving and meets the requirements of subparagraphs (B), (C), and (D). The purpose of the task force is to oversee efforts to reduce impaired driving by strengthening applicable laws, regulations, programs, and policies, and to coordinate impaired driving resources and programs among different jurisdictions. The impaired driving task force shall include State, Tribal, and local law enforcement, motor carrier safety agencies, and State alcohol and drug abuse prevention agencies, State and local court systems, State drivers licensing agencies, the State highway safety office, and State parole and probation agencies.

"(B) In fiscal year 2004 and fiscal year 2005, the State shall establish a statewide impaired driving task force to assess the State's impaired driving system, identify the opportunities for improvements in the system, and develop a strategic plan that outlines the steps and resources necessary to improve the system and enhance coordination among State and local agencies responsible for reducing impaired driving.

"(C) In each subsequent fiscal year, the State demonstrates progress in the implementation of top priorities of the strategic plan.

"(D) The State provides the Secretary a copy of the strategic plan developed under subparagraph and in subsequent years, a report detailing the progress of the strategic plan. The Secretary shall make available for public viewing each strategic plan and progress report.

"(6) IMPAIRED DRIVING COURTS.—

"(A) IN GENERAL.—A program to consolidate and coordinate impaired driving cases into courts that specialize in impaired driving cases, with the emphasis on tracking and processing offenders of impaired driving laws, (hereinafter referred to as DWI courts) that meets the requirements of this paragraph.

"(B) CHARACTERISTICS.—A DWI Court is a distinct function performed by a court system for the purpose of changing the behavior of alcohol or drug dependent offenders arrested for driving while impaired. A DWI Court can be a dedicated court with dedicated personnel, including judges, prosecutors and probation officers. A DWI court may be an existing court system that serves the following essential DWI Court functions:

"(i) A DWI Court performs an assessment of high-risk offenders utilizing a team headed by the judge and including all criminal justice stakeholders (prosecutors, defense attorneys, probations officers, law enforcement personnel and others) along with alcohol/drug treatment professionals.

"(ii) The DWI Court team recommends a specific plea agreement or contract for each offender that can include incarceration, treatment, and close community supervision. The agreement maximizes the probability of rehabilitation and minimizes the likelihood of recidivism.

"(iii) Compliance with the agreement is verified with thorough monitoring and frequent alcohol testing. Periodic status hearings assess

offender progress and allow an opportunity for modifying the sentence if necessary.

''(C) ASSESSMENT.—In the first year of operation, the States shall assess the number of court systems in its jurisdiction that are consistently performing the DWI Court functions.

''(D) PLAN.—In the second year of operation, the State shall develop a strategic plan for increasing the number of courts performing the DWI function.

''(E) PROGRESS.—In subsequent years of operation, the State shall demonstrate progress in increasing the number of DWI Courts and in increasing the number of high-risk offenders participating in and successfully completing DWI Court agreements.

''(d) USES OF GRANTS.—Grants made under this section may be used for programs and activities described in subsection (c) and to defray the following costs:

''(1) Labor costs, management costs, and equipment procurement costs for the high-visibility, Statewide law enforcement campaigns under subsection (c)(1).

''(2) The costs of the training of law enforcement personnel and the procurement of technology and equipment, such as and including video equipment and passive alcohol sensors, to counter directly impaired operation of motor vehicles.

''(3) The costs of public awareness, advertising, and educational campaigns that publicize use of sobriety check points or increased law enforcement efforts to counter impaired operation of motor vehicles.

''(4) The costs of public awareness, advertising, and educational campaigns that target impaired operation of motor vehicles by persons under 34 years of age.

''(5) The costs of the development and implementation of a State impaired operator information system described in subsection (c)(3).

''(6) The costs of operating programs that impound the vehicle of an individual arrested as an impaired operator of a motor vehicle for not less than 12 hours after the operator is arrested.

''(e) ADDITIONAL AUTHORITIES FOR CERTAIN AUTHORIZED USES.—

''(1) COMBINATION OF GRANT PROCEEDS.—Grant funds used for a campaign under subsection (d)(3) may be combined, or expended in coordination, with proceeds of grants under section 402 of this title.

''(2) COORDINATION OF USES.—Grant funds used for a campaign under paragraph (3) or (4) of subsection (d) may be expended—

''(A) in coordination with employers, schools, entities in the hospitality industry, and nonprofit traffic safety groups; and

''(B) in coordination with sporting events and concerts and other entertainment events.

''(f) FUNDING.—

''(1) IN GENERAL.—Except as provided in paragraph (2), grant funding under this section shall be allocated among eligible States on the basis of the apportionment formula that applies for apportionments under section 402(c) of this title.

''(2) HIGH FATALITY-RATE STATES.—The amount of the grant funds allocated under this subsection to each of the 10 States with the highest impaired driving-related fatality rate for the most recent fiscal year for which the data is available preceding the fiscal year of the allocation shall be twice the amount that, except for this subparagraph, would otherwise be allocated to the State under paragraph (1).

''(g) USE OF FUNDS BY HIGH FATALITY-RATE STATES.—

''(1) REQUIRED USES.—At least ½ of the amounts allocated to States under subsection (f)(2) shall be used for the program described in subsection (c)(1).

''(2) REQUIREMENT FOR PLAN.—A State receiving an allocation of grant funds under subsection (f)(2) shall expend those funds only after consulting with the Administrator of the National Highway Traffic Safety Administration regarding such expenditures.

''(h) DEFINITIONS.—In this section:

''(1) IMPAIRED OPERATOR.—The term 'impaired operator' means a person who, while operating a motor vehicle—

''(A) has a blood alcohol content of 0.08 percent or higher; or

''(B) is under the influence of a controlled substance.

''(2) IMPAIRED DRIVING-RELATED FATALITY RATE.—The term 'impaired driving-related fatality rate' means the rate of the fatal accidents that involve impaired drivers while operating motor vehicles, as calculated in accordance with regulations which the Administrator of the National Highway Traffic Safety Administration shall prescribe.''.

(c) NHTSA TO ISSUE REGULATIONS.—Not later than 12 months after the date of enactment of the Highway Safety Grant Program Reauthorization Act of 2004, the National Highway Traffic Safety Administration shall issue guidelines to the States specifying the types and formats of data that States should collect relating to drivers who are arrested or convicted for violation of laws prohibiting the impaired operation of motor vehicles.

SEC. 4111. STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.

(a) GRANT PROGRAM AUTHORITY.—Chapter 4 is amended by adding at the end the following:

''§412. State traffic safety information system improvements

''(a) GRANT AUTHORITY.—Subject to the requirements of this section, the Secretary shall make grants of financial assistance to eligible States to support the development and implementation of effective programs by such States to—

''(1) improve the timeliness, accuracy, completeness, uniformity, integration, and accessibility of the safety data of the State that is needed to identify priorities for national, State, and local highway and traffic safety programs;

''(2) evaluate the effectiveness of efforts to make such improvements;

''(3) link the State data systems, including traffic records, with other data systems within the State, such as systems that contain medical, roadway, and economic data; and

''(4) improve the compatibility and interoperability of the data systems of the State with national data systems and data systems of other States and enhance the ability of the Secretary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances.

''(b) FIRST-YEAR GRANTS.—

''(1) ELIGIBILITY.—To be eligible for a first-year grant under this section in a fiscal year, a State shall demonstrate to the satisfaction of the Secretary that the State has—

''(A) established a highway safety data and traffic records coordinating committee with a multidisciplinary membership that includes, among others, managers, collectors, and users of traffic records and public health and injury control data systems; and

''(B) developed a multiyear highway safety data and traffic records system strategic plan that addresses existing deficiencies in the State's highway safety data and traffic records system, is approved by the highway safety data and traffic records coordinating committee, and—

''(i) specifies how existing deficiencies in the State's highway safety data and traffic records system were identified;

''(ii) prioritizes, on the basis of the identified highway safety data and traffic records system deficiencies, the highway safety data and traffic records system needs and goals of the State, including the activities under subsection (a);

''(iii) identifies performance-based measures by which progress toward those goals will be determined; and

''(iv) specifies how the grant funds and any other funds of the State are to be used to address needs and goals identified in the multiyear plan.

''(2) GRANT AMOUNT.—Subject to subsection (d)(3), the amount of a first-year grant to a State for a fiscal year shall the higher of—

''(A) the amount determined by multiplying—

''(i) the amount appropriated to carry out this section for such fiscal year, by

''(ii) the ratio that the funds apportioned to the State under section 402 of this title for fiscal year 2003 bears to the funds apportioned to all States under such section for fiscal year 2003; or

''(B) $300,000.

''(c) SUCCESSIVE YEAR GRANTS.—

''(1) ELIGIBILITY.—A State shall be eligible for a grant under this subsection in a fiscal year succeeding the first fiscal year in which the State receives a grant under subsection (b) if the State, to the satisfaction of the Secretary—

''(A) submits an updated multiyear plan that meets the requirements of subsection (b)(1)(B);

''(B) certifies that its highway safety data and traffic records coordinating committee continues to operate and supports the multiyear plan;

''(C) specifies how the grant funds and any other funds of the State are to be used to address needs and goals identified in the multiyear plan;

''(D) demonstrates measurable progress toward achieving the goals and objectives identified in the multiyear plan; and

''(E) includes a current report on the progress in implementing the multiyear plan.

''(2) GRANT AMOUNT.—Subject to subsection (d)(3), the amount of a year grant made to a State for a fiscal year under this subsection shall equal the higher of—

''(A) the amount determined by multiplying—

''(i) the amount appropriated to carry out this section for such fiscal year, by

''(ii) the ratio that the funds apportioned to the State under section 402 of this title for fiscal year 2003 bears to the funds apportioned to all States under such section for fiscal year 2003; or

''(B) $500,000.

''(d) ADDITIONAL REQUIREMENTS AND LIMITATIONS.—

''(1) MODEL DATA ELEMENTS.—The Secretary, in consultation with States and other appropriate parties, shall determine the model data elements that are useful for the observation and analysis of State and national trends in occurrences, rates, outcomes, and circumstances of motor vehicle traffic accidents. In order to be eligible for a grant under this section, a State shall submit to the Secretary a certification that the State has adopted and uses such model data elements, or a certification that the State will use grant funds provided under this section toward adopting and using the maximum number of such model data elements as soon as practicable.

''(2) DATA ON USE OF ELECTRONIC DEVICES.—The model data elements required under paragraph (1) shall include data elements, as determined appropriate by the Secretary in consultation with the States and with appropriate elements of the law enforcement community, on the impact on traffic safety of the use of electronic devices while driving.

''(3) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all other sources for highway safety data programs at or above the average level of such expenditures maintained by such State in the 2 fiscal years preceding the date of enactment of the Highway

Safety Grant Program Reauthorization Act of 2003.

"(4) FEDERAL SHARE.—The Federal share of the cost of adopting and implementing in a fiscal year a State program described in subsection (a) may not exceed 80 percent.

"(5) LIMITATION ON USE OF GRANT PROCEEDS.—A State may use the proceeds of a grant received under this section only to implement the program described in subsection (a) for which the grant is made.

"(e) APPLICABILITY OF CHAPTER 1.—Section 402(d) of this title shall apply in the administration of this section.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 4 is amended by adding at the end the following:

"412. State traffic safety information system improvements.".

SEC. 4112. NHTSA ACCOUNTABILITY.

(a) IN GENERAL.—Chapter 4, as amended by section 4111, is amended by adding at the end the following:

"§413. Agency accountability

"(a) TRIENNIAL STATE MANAGEMENT REVIEWS.—At least once every 3 years the National Highway Traffic Safety Administration shall conduct a review of each State highway safety program. The review shall include a management evaluation of all grant programs partially or fully funded under this title. The Administrator shall provide review-based recommendations on how each State may improve the management and oversight of its grant activities and may provide a management and oversight plan.

"(b) RECOMMENDATIONS BEFORE SUBMISSION.—In order to provide guidance to State highway safety agencies on matters that should be addressed in the State highway safety program goals and initiatives as part of its highway safety plan before the plan is submitted for review, the Administrator shall provide non-binding data-based recommendations to each State at least 90 days before the date on which the plan is to be submitted for approval.

"(c) STATE PROGRAM REVIEW.—The Administrator shall—

"(1) conduct a program improvement review of any State that does not make substantial progress over a 3-year period in meeting its priority program goals; and

"(2) provide technical assistance and safety program recommendations to the State for any goal not achieved.

"(d) REGIONAL HARMONIZATION.—The Administration and the Inspector General of the Department of Transportation shall undertake a State grant administrative review of the practices and procedures of the management reviews and program reviews conducted by Administration regional offices and formulate a report of best practices to be completed within 180 days after the date of enactment of the Highway Safety Grant Program Reauthorization Act of 2004.

"(e) BEST PRACTICES GUIDELINES.—

"(1) UNIFORM GUIDELINES.—The Administration shall issue uniform management review and program review guidelines based on the report under subsection (d). Each regional office shall use the guidelines in executing its State administrative review duties.

"(2) PUBLICATION.—The Administration shall make the following documents available via the Internet upon their completion:

"(A) The Administration's management review and program review guidelines.

"(B) State highway safety plans.

"(C) State annual accomplishment reports.

"(D) The Administration's State management reviews.

"(E) The Administration's State program improvement plans.

"(3) REPORTS TO STATE HIGHWAY SAFETY AGENCIES.—The Administrator may not make a plan, report, or review available under paragraph (2) that is directed to a State highway safety agency until after it has been submitted to that agency.

"(f) GENERAL ACCOUNTING OFFICE REVIEW.—The General Accounting Office shall analyze the effectiveness of the National Highway Traffic Safety Administration's oversight of traffic safety grants by seeking to determine the usefulness of the Administration's advice to the States regarding grants administration and State activities, the extent to which the States incorporate the Administration's recommendation into their highway safety plans and programs, and improvements that result in a State's highway safety program that may be attributable to the Administration's recommendations. Based on this analysis, the General Accounting Office shall submit a report by not later than the end of fiscal year 2008 to the House of Representatives Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 4, as amended by section 4111, is amended by inserting after the item relating to section 412 the following:

"413. Agency accountability.".

PART II—SPECIFIC VEHICLE SAFETY-RELATED RULINGS

SEC. 4151. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise specifically provided, whenever in this subpart an amendment is expressed in terms of an amendment to a section or other provision of law, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 4152. VEHICLE CRASH EJECTION PREVENTION.

(a) IN GENERAL.—Subchapter II of chapter 301 is amended by adding at the end the following:

"§30128. Vehicle accident ejection protection

"(a) IN GENERAL.—The Secretary of Transportation shall prescribe a safety standard under this chapter or upgrade existing Federal motor vehicle safety standards to reduce complete and partial occupant ejection from motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds that are involved in accidents that present a risk of occupant ejection. In formulating the safety standard, the Secretary shall consider the ejection-mitigation capabilities of safety technologies, such as advanced side glazing, side curtains, and side impact air bags.

"(b) DOOR LOCK AND RETENTION STANDARD.—The Secretary shall upgrade Federal Motor Vehicle Safety Standard No. 206 to require manufacturers of new motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds that are distributed in commerce for sale in the United States to make such modifications to door locks, door latches, and retention components of doors in such vehicles as the Secretary determines to be necessary to reduce occupant ejection from such vehicles in motor vehicle accidents.".

(b) RULEMAKING DEADLINES.—

(1) RULEMAKING.—The Secretary of Transportation shall issue—

(A) a notice of a proposed rulemaking under section 30128 of title 49, United States Code, not later than June 30, 2006; and

(B) a final rule under that section not later than 18 months after the publication of the notice of proposed rulemaking.

(2) EFFECTIVE DATE OF REQUIREMENTS.—In the final rule, the Secretary shall set forth effective dates for the requirements contained in the rule.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $500,000 for each of fiscal years 2004 and 2005 to promulgate rules under section 30128 of title 49, United States Code.

(d) CONFORMING AMENDMENT.—The chapter analysis for chapter 301 is amended by inserting after the item relating to section 30127 the following:

"30128. Vehicle accident ejection protection.".

SEC. 4153. VEHICLE BACKOVER AVOIDANCE TECHNOLOGY STUDY.

(a) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration shall conduct a study of effective methods for reducing the incidence of injury and death outside of parked passenger motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds attributable to movement of such vehicles. The Administrator shall complete the study within 1 year after the date of enactment of this Act and report its findings to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce not later than 5 months after the date of enactment of this Act.

(b) SPECIFIC ISSUES TO BE COVERED.—The study required by subsection (a) shall—

(1) include an analysis of backover prevention technology;

(2) identify, evaluate, and compare the available technologies for detecting people or objects behind a motor vehicle with a gross vehicle weight rating of not more than 10,000 pounds for their accuracy, effectiveness, cost, and feasibility for installation; and

(3) provide an estimate of cost savings that would result from widespread use of backover prevention devices and technologies in motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds, including savings attributable to the prevention of—

(A) injuries and fatalities; and

(B) damage to bumpers and other motor vehicle parts and damage to other objects.

SEC. 4154. VEHICLE BACKOVER DATA COLLECTION.

In conjunction with the study required in section 4153, the National Highway Traffic Safety Administration may establish a method to collect and maintain data on the number and types of injuries and deaths involving motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds in non-traffic, non-accident incidents to assist in the analysis required in section 4153 of this Act regarding the inclusion of backover prevention technologies in motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds.

SEC. 4155. AGGRESSIVITY AND INCOMPATIBILITY REDUCTION STANDARD.

(a) IN GENERAL.—Subchapter II of chapter 301, as amended by section 4152, is amended by adding at the end the following:

"§30129. Vehicle incompatibility and aggressivity reduction standard

"(a) IN GENERAL.—The Secretary of Transportation shall issue motor vehicle safety standards to reduce vehicle incompatibility and aggressivity for motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds. In formulating the standards, the Secretary shall consider factors such as bumper height, weight, and any other design characteristics necessary to ensure better management of crash forces in frontal and side impact crashes among different types, sizes, and weights of motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds in order to reduce occupant deaths and injuries.

"(b) STANDARDS.—The Secretary shall develop a standard rating metric to evaluate compatibility and aggressivity among motor vehicles *with a gross vehicle weight rating of not more than 10,000 pounds.*

"(c) PUBLIC INFORMATION.—The Secretary shall create a public information program that includes vehicle ratings based on risks posed by vehicle incompatibility and aggressivity to occupants, risks posed by vehicle incompatibility and agressivity to other motorists, and combined risks posed by vehicle incompatibility and agressivity by vehicle make and model.".

(b) RULEMAKING DEADLINES.—

(1) RULEMAKING.—The Secretary of Transportation shall issue—

(A) a notice of a proposed rulemaking under section 30129 of title 49, United States Code, not later than January 31, 2007; and

(B) a final rule under that section not later than 18 months after the publication of the notice of proposed rulemaking.

(2) EFFECTIVE DATE OF REQUIREMENTS.—In the final rule, the Secretary shall set forth effective dates for the requirements contained in the rule.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 301 is amended by inserting after the item relating to section 30128 the following:

"30129. Vehicle incompatibility and aggressivity reduction standard.".

SEC. 4156. IMPROVED CRASHWORTHINESS.

(a) IMPROVED CRASHWORTHINESS.—Subchapter II of chapter 301, as amended by section 4155, is amended by adding at the end the following:

"§ 30130. Improved crashworthiness of motor vehicles

"(a) ROLLOVERS.—

"(1) IN GENERAL.—The Secretary of Transportation shall prescribe a motor vehicle safety standard under this chapter for rollover crashworthiness standards for motor vehicles with a gross weight rating of not more than 10,000 pounds. In formulating the safety standard, the Secretary shall consider the prescription of a roof strength standard based on dynamic tests that realistically duplicate the actual forces transmitted to a passenger motor vehicle during an on-roof rollover crash, and shall consider safety technologies and design improvements such as—

"(A) improved seat structure and safety belt design, including seat belt pretensioners;

"(B) side impact head protection airbags; and

"(C) roof injury protection measures.

"(2) ROLLOVER RESISTANCE STANDARD.—The Secretary shall prescribe a motor vehicle safety standard under this chapter to improve on the basic design characteristics of motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds to increase their resistance to rollover. The Secretary shall also consider additional technologies to improve the handling of motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds and thereby reduce the likelihood of vehicle instability and rollovers.

"(3) STUDY.—The Secretary shall conduct a study on electronic stability control systems and other technologies designed to improve the handling of motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds and shall report the results of that study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure by December 31, 2005.

"(b) FRONTAL IMPACT STANDARDS AND CRASH TESTS.—

"(1) IN GENERAL.—The Secretary shall prescribe a motor vehicle safety standard under this chapter or upgrade existing Federal motor vehicle safety standards to improve the protection of occupants in frontal impact crashes involving motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds.

"(2) TEST METHODOLOGY.—In determining the standard under paragraph (1), the Secretary shall—

"(A) evaluate additional test barriers and measurements of occupant head impact and neck injuries; and

"(B) review frontal impact criteria, including consideration of criteria established by the Insurance Institute for Highway Safety.

"(c) SIDE IMPACT STANDARDS AND CRASH TESTS.—

"(1) IN GENERAL.—The Secretary shall prescribe a motor vehicle safety standard under this chapter or upgrade existing Federal motor vehicle safety standards to improve the protection afforded to occupants in side impact crashes involving motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds.

"(2) TEST METHODOLOGY.—In prescribing the standard under paragraph (1), the Secretary shall—

"(A) evaluate additional test barriers and measurements of occupant head impact and neck injuries;

"(C) consider the need for additional and new crash test dummies that represent the full range of occupant sizes and weights; and

"(D) review side impact criteria, including consideration of criteria established by the Insurance Institute for Highway Safety.".

(b) RULEMAKING DEADLINES.—

(1) RULEMAKING.—The Secretary of Transportation shall—

(A) issue a notice of a proposed rulemaking under section 30130 of title 49, United States Code, not later than June 30, 2006; and

(B) issue a final rule not later than 18 months after publication of the notice of proposed rulemaking.

(2) EFFECTIVE DATE OF REQUIREMENTS.—In the final rule, the Secretary shall set forth effective dates for the requirements contained in this rule.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 301 is amended by inserting after the item relating to section 30129 the following:

"30130. Improved crashworthiness of passenger motor vehicles.".

SEC. 4157. 15-PASSENGER VANS.

(a) IN GENERAL.—The Secretary of Transportation shall initiate a rulemaking and issue a final regulation not later than September 31, 2005, to include all 15-passenger vans with a gross vehicle weight rating of not more than 10,000 pounds in the National Highway Traffic Safety Administration's dynamic rollover testing program and require such vans to comply with all existing and prospective Federal Motor Vehicle Safety Standards for occupant protection and vehicle crash avoidance that are relevant to such vehicles.

(b) NEW CAR ASSESSMENT PROGRAM.—The Secretary shall initiate a rulemaking and issue a final regulation not later than September 31, 2005, to include all 15-passenger vans with a gross vehicle weight of not more than 10,000 pounds in the Administration's New Car Assessment Program rollover resistance program.

(c) VEHICLE CONTROL TECHNOLOGY FOR 15-PASSENGER VANS.—The National Highway Traffic Safety Administration shall evaluate and test the potential of technological systems, particularly electronic stability control systems and rollover warning systems, to assist drivers in maintaining control of 15-passenger vans with a gross vehicle weight rating of not more than 10,000 pounds.

(d) CERTAIN SPECIALIZED VEHICLES EXCLUDED.—In this section, the term "15-passenger van" does not include an ambulance, tow truck, or other vehicle designed primarily for the transportation of property or special purpose equipment.

SEC. 4158. ADDITIONAL SAFETY PERFORMANCE CRITERIA FOR TIRES.

(a) STRENGTH AND ROAD HAZARD PROTECTION.—The Secretary of Transportation shall issue a final rule to upgrade Federal Motor Vehicle Safety Standard No. 139 to include strength and road hazard protection safety performance criteria for light vehicle tires, which are criteria that were not addressed in the June 2003 final rule mandated by the Transportation Recall Enhancement, Accountability, and Documentation Act of 2000.

(b) RESISTANCE TO BEAD UNSEATING AND AGING.—The Secretary of Transportation shall issue a final rule to upgrade Federal Motor Vehicle Safety Standard No. 139 to include resistance to bead unseating and aging safety performance criteria for passenger motor vehicle tires, which are criteria that were not addressed in the June, 2003, final rule mandated by the Transportation Recall Enhancement, Accountability, and Documentation Act of 2000.

(c) RULEMAKING DEADLINES.—The Secretary of Transportation shall—

(1) issue a notice of proposed rulemaking under subsection (a) not later than June 30, 2005, and under subsection(b) not later than December 31, 2005; and

(2) issue a final rule relating to subsection (a) not later than 18 months after June 30, 2005, and a final rule under subsection (b) not later than 18 months after December 31, 2005.

(d) TECHNOLOGY USE AND REPORT.—The Secretary shall reconsider the use of shearography analysis, on a sampling basis, for regulatory compliance and the Administrator of the National Highway Traffic Safety Administration shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the most cost effective methods of using such technology within 2 years after the date of enactment of the Highway Safety Grant Program Reauthorization Act of 2004.

SEC. 4159. SAFETY BELT USE REMINDERS.

(a) NOTICE OF PROPOSED RULES TO ENCOURAGE MORE SEAT BELT USE.—Not later than 12 months after the date of enactment of this Act, the Secretary of Transportation shall issue a Notice of Proposed Rulemaking to amend the Federal Motor Vehicle Safety Standard No. 208 for motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds to encourage increased seat belt usage by drivers and passengers. The proposed rulemaking shall take into account the potential safety benefits and public acceptability of alternative means to encourage increased seat belt usage, including intermittent or continuous audible or visual reminders when a driver or passenger is not wearing a seat belt, features to prevent operation of convenience or entertainment features of the vehicle when a driver or passenger is not wearing a seat belt, and shall consider technology, including but not limited to technology identified by the National Academy of Sciences in its study of the potential benefits of seat belt usage reminder technologies.

(b) FINAL RULE.—Not later than 24 months after the date of enactment of this Act, the Secretary shall issue the final rule required by subsection (a).

(c) BUZZER LAW.—

(1) IN GENERAL.—Section 30124 is amended—

(A) by striking "not" the first place it appears; and

(B) by striking "except" and inserting "including".

(2) CONFORMING AMENDMENT.—Section 30122 is amended by striking subsection (d).

SEC. 4160. MISSED DEADLINES REPORTS.

(a) IN GENERAL.—If the Secretary of Transportation fails to meet any rulemaking deadline established in this subtitle, the Secretary shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 90 days after missing the deadline—

(1) explaining why the Secretary failed to meet the deadline; and

(2) setting forth a date by which the Secretary anticipates that the rulemaking will be made.

(b) CONSIDERATION OF EFFECTS.—The Secretary of Transportation shall consider and report the potential consequences, in terms of the number of deaths and the number and severity of injuries, that may result from not meeting any such deadline.

SEC. 4161. GRANTS FOR IMPROVING CHILD PASSENGER SAFETY PROGRAMS.

(a) IN GENERAL.—Chapter 4 of title 23, United States Code, as amended by section 4112 of this Act, is amended by adding at the end the following:

"§414. Booster seat incentive grants

"(a) IN GENERAL.—The Secretary of Transportation shall make a grant under this section to any eligible State.

"(b) ELIGIBILITY REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary shall make a grant to each State that, as determined by the Secretary, enacts or has enacted, and is enforcing a law requiring that children riding in passenger motor vehicles (as defined in section 405(d)(4)) who are too large to be secured in a child safety seat be secured in a child restraint (as defined in section 7(1) of Anton's Law (49 U.S.C. 30127 note)) that meets requirements prescribed by the Secretary under section 3 of Anton's Law.

"(2) YEAR IN WHICH FIRST ELIGIBLE.—

"(A) EARLY QUALIFICATION.—A State that has enacted a law described in paragraph (1) that is in effect before October 1, 2005, is first eligible to receive a grant under subsection (a) in fiscal year 2006.

"(B) SUBSEQUENT QUALIFICATION.—A State that enacts a law described in paragraph (1) that takes effect after September 30, 2005, is first eligible to receive a grant under subsection (a) in the first fiscal year beginning after the date on which the law is enacted.

"(3) CONTINUING ELIGIBILITY.—A State that is eligible under paragraph (1) to receive a grant may receive a grant during each fiscal year listed in subsection (f) in which it is eligible.

"(4) MAXIMUM NUMBER OF GRANTS.—A State may not receive more than 4 grants under this section.

"(c) GRANT AMOUNT.—Amounts available for grants under this section in any fiscal year shall be apportioned among the eligible States on the basis of population.

"(d) USE OF GRANT AMOUNTS.—

"(1) IN GENERAL.—Of the amounts received by a State under this section for any fiscal year—

"(A) 50 percent shall be used for the enforcement of, and education to promote public awareness of, State child passenger protection laws; and

"(B) 50 percent shall be used to fund programs that purchase and distribute child booster seats, child safety seats, and other appropriate passenger motor vehicle child restraints to indigent families without charge.

"(2) REPORT.—Within 60 days after the State fiscal year in which a State receives a grant under this section, the State shall transmit to the Secretary a report documenting the manner in which grant amounts were obligated or expended and identifying the specific programs supports by grant funds. The report shall be in a form prescribed by the Secretary and may be combined with other State grant reporting requirements under this chapter.

"(e) DEFINITION OF CHILD SAFETY SEAT.—The term 'child safety seat' means any device (except safety belts (as such term is defined in section 405(d)(5)), designed for use in a motor vehicle (as such term is defined in section 405(d)(1)) to restrain, seat, or position a child who weighs 50 pounds or less.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation, out of the Highway Trust Fund—

"(1) $18,000,000 for fiscal year 2006;
"(2) $20,000,000 for fiscal year 2007;
"(3) $25,000,000 for fiscal year 2008; and
"(4) $30,000,000 for fiscal year 2009.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 4 of title 23, United States Code, is amended by inserting after the item relating to section 411 the following:

"414. Booster seat incentive grants.".

SEC. 4162. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Transportation to carry out this subtitle and chapter 301 of title 49, United States Code—

(1) $130,500,000 for fiscal year 2004;
(2) $133,500,000 for fiscal year 2005;
(3) $133,600,000 for fiscal year 2006;
(4) $134,500,000 for fiscal year 2007;
(5) $138,000,000 for fiscal year 2008; and
(6) $141,000,000 for fiscal year 2009.

PART III—MISCELLANEOUS PROVISIONS

SEC. 4171. DRIVER LICENSING AND EDUCATION.

(a) NATIONAL OFFICE OF DRIVER LICENSING AND EDUCATION.—Section 105 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(f)(1) There is a National Office of Driver Licensing and Education in the National Highway Traffic Safety Administration.

"(2) The head of the National Office of Driver Licensing and Education is the Director.

"(3) The functions of the National Office of Driver Licensing and Education are as follows:

"(A) To provide States with services for coordinating the motor vehicle driver training and licensing programs of the States.

"(B) To develop and make available to the States a recommended comprehensive model for motor vehicle driver education and graduated licensing that incorporates the best practices in driver education and graduated licensing, including best practices with respect to—

"(i) vehicle handling and crash avoidance;

"(ii) driver behavior and risk reduction;

"(iii) roadway features and associated safety implications;

"(iv) roadway interactions involving all types of vehicles and road users, such as car-truck and pedestrian-car interactions;

"(v) parent education; and

"(vi) other issues identified by the Director.

"(C) To carry out such research (pursuant to cooperative agreements or otherwise) and undertake such other activities as the Director determines appropriate to develop and, on an ongoing basis, improve the recommended comprehensive model.

"(D) To provide States with technical assistance for the implementation and deployment of the motor vehicle driver education and licensing comprehensive model recommended under subparagraph (B).

"(E) To develop and recommend to the States methods for harmonizing the presentation of motor vehicle driver education and licensing with the requirements of multistage graduated licensing systems, including systems described in section 410(c)(4) of title 23, and to demonstrate and evaluate the effectiveness of those methods in selected States.

"(F) To assist States with the development and implementation of programs to certify driver education instructors, including the development and implementation of proposed uniform certification standards.

"(G) To provide States with financial assistance under section 412 of title 23 for—

"(i) the implementation of the motor vehicle driver education and licensing comprehensive model recommended under subparagraph (B);

"(ii) the establishment or improved administration of multistage graduated licensing systems; and

"(iii) the support of other improvements in motor vehicle driver education and licensing programs.

"(H) To evaluate the effectiveness of the comprehensive model recommended under subparagraph (B).

"(I) To examine different options for delivering driver education in the States.

"(J) To perform such other functions relating to motor vehicle driver education or licensing as the Secretary may require.

"(4) Not later than 42 months after the date of the enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, the Director shall submit to Congress a report on the progress made by the National Office of Driver Licensing and Education with respect to the functions under paragraph (3).".

(b) GRANT PROGRAM FOR IMPROVEMENT OF DRIVER EDUCATION AND LICENSING.—

(1) AUTHORITY.—

(A) IN GENERAL.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following new section:

"SEC. 412. DRIVER EDUCATION AND LICENSING.

"(a) AUTHORITY.—

"(1) IN GENERAL.—The Secretary shall carry out a program to provide States, by grant, with financial assistance to support the improvement of motor vehicle driver education programs and the establishment and improved administration of graduated licensing systems, including systems described in section 410(c)(4) of this title.

"(2) ADMINISTRATIVE OFFICE.—The Secretary shall administer the program under this section through the Director of the National Office of Driver Licensing and Education.

"(b) ELIGIBILITY REQUIREMENTS.—

"(1) REGULATIONS.—The Secretary shall prescribe in regulations the eligibility requirements, application and approval procedures and standards, and authorized uses of grant proceeds for the grant program under this section. The regulations shall, at a minimum, authorize use of grant proceeds for the following activities:

"(A) Quality assurance testing, including follow-up testing to monitor the effectiveness of—

"(i) driver licensing and education programs;

"(ii) instructor certification testing; and

"(iii) other statistical research designed to evaluate the performance of driver education and licensing programs.

"(B) Improvement of motor vehicle driver education curricula.

"(C) Training of instructors for motor vehicle driver education programs.

"(D) Testing and evaluation of motor vehicle driver performance.

"(E) Public education and outreach regarding motor vehicle driver education and licensing.

"(F) Improvements with respect to State graduated licensing programs, as well as related enforcement activities.

"(2) CONSULTATION REQUIREMENT.—In prescribing the regulations, the Secretary shall consult with the following:

"(A) The Administrator of the National Highway Traffic Safety Administration.

"(B) The heads of such other departments and agencies of the United States as the Secretary considers appropriate on the basis of relevant interests or expertise.

"(C) Appropriate officials of the governments of States and political subdivisions of States.

"(D) Other relevant experts.

"(c) MAXIMUM AMOUNT OF GRANT.—The maximum amount of a grant of financial assistance for a program, project, or activity under this section may not exceed 75 percent of the total cost of such program, project, or activity.".

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"412. Driver education and licensing.".

(2) TIME FOR PROMULGATION OF REGULATIONS.—The Secretary of Transportation shall promulgate the regulations under section 412(b) of title 23, United States Code (as added by paragraph (1)), not later than October 1, 2005.

(c) GRANT PROGRAM FOR PUBLIC AWARENESS OF ORGAN DONATION THROUGH DRIVER LICENSING PROGRAMS.—

(1) AUTHORITY.—

(A) IN GENERAL.—Chapter 4 of title 23, United States Code (as amended by subsection (b)), is further amended by adding at the end the following new section:

"SEC. 413. ORGAN DONATION THROUGH DRIVER LICENSING.

"(a) AUTHORITY.—

"(1) IN GENERAL.—The Secretary shall carry out a program to provide eligible recipients, by grant, with financial assistance to carry out campaigns to increase public awareness of, and training on, authority and procedures under State law to provide for the donation of organs through a declaration recorded on a motor vehicle driver license.

"(2) ADMINISTRATIVE OFFICE.—The Secretary shall administer the program under this section through the Director of the National Office of Driver Licensing and Education.

"(b) ELIGIBILITY REQUIREMENTS.—

"(1) REGULATIONS.—The Secretary shall prescribe in regulations the eligibility requirements, application and approval procedures and standards, and authorized uses of grant proceeds for the grant program under this section.

"(2) CONSULTATION REQUIREMENT.—In prescribing the regulations, the Secretary shall consult with the following:

"(A) The Administrator of the National Highway Traffic Safety Administration.

"(B) The heads of such other departments and agencies of the United States as the Secretary considers appropriate on the basis of relevant interests or expertise.

"(C) Appropriate officials of the governments of States and political subdivisions of States.

"(D) Representatives of private sector organizations recognized for relevant expertise.".

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"413. Organ donation through driver licensing.".

(2) TIME FOR PROMULGATION OF REGULATIONS.—The Secretary of Transportation shall promulgate the regulations under section 413(b) of title 23, United States Code (as added by paragraph (1)), not later than October 1, 2005.

(d) STUDY OF NATIONAL DRIVER EDUCATION STANDARDS.—

(1) REQUIREMENT FOR STUDY.—The Secretary of Transportation shall carry out a study to determine whether the establishment and imposition of nationwide minimum standards of motor vehicle driver education would improve national highway traffic safety or the performance and legal compliance of novice drivers.

(2) TIME FOR COMPLETION OF STUDY.—The Secretary shall complete the study not later than 2 years after the date of the enactment of this Act.

(3) REPORT.—The Secretary shall publish a report on the results of the study under this section not later than 2 years after the study is completed.

(e) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts available to carry out section 403 of title 23, United States Code, for each of the fiscal years 2005 through 2010, $5,000,000 may be made available for each such fiscal year to carry out sections 412 and 413 of title 23, United States Code (as added by subsections (b) and (c), respectively).

SEC. 4172. AMENDMENT OF AUTOMOBILE INFORMATION DISCLOSURE ACT.

(a) SAFETY LABELING REQUIREMENT.—Section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232) is amended by adding at the end the following:

"(g) if one or more safety ratings for such automobile have been assigned and formally published or released by the National Highway Traffic Safety Administration under the New Car Assessment Program, information about safety ratings that—

"(1) includes a graphic depiction of the number of stars that corresponds to each such assigned safety rating displayed in a clearly differentiated fashion from stars indicating the unattained safety rating;

"(2) refers to frontal impact crash tests, side impact crash tests, and rollover resistance tests (whether or not such automobile has been assigned a safety rating for such tests), including statements that—

"(A) frontal impact crash test ratings are based on risk of head and chest injury;

"(B) side impact crash test ratings are based on risk of chest injury; and

"(C) rollover resistance ratings are based on risk of rollover in the event of a single automobile crash;

"(3) is presented in a legible, visible, and prominent fashion and covers at least—

"(A) 8 percent of the total area of the label; or

"(B) an area with a minimum length of 4 ½ inches and a minimum height of 3 ½ inches; and

"(4) contains a heading titled 'Government Safety Information' and a disclaimer including the following text: 'Star ratings for frontal impact crash tests can only be compared to other vehicles in the same weight class and those plus or minus 250 pounds. Side impact and rollover ratings can be compared across all vehicle weights and classes. For more information on safety and testing, please visit http://www.nhtsa.dot.gov'; and

"(h) if an automobile has not been tested by the National Highway Traffic Safety Administration under the New Car Assessment Program, or safety ratings for such automobile have not been assigned in one or more rating categories, a statement to that effect.".

(b) REGULATIONS.—Not later than January 1, 2005, the Secretary of Transportation shall prescribe regulations to implement the labeling requirements under subsections (g) and (h) of section 3 of such Act (as added by subsection (a)).

(c) CONFORMING AND TECHNICAL AMENDMENTS.—Section 3 of such Act is further amended—

(1) in subsection (e), by striking "and" after the semicolon; and

(2) in subsection (f)—

(A) by adding "and" at the end of paragraph (3); and

(B) by striking the period at the end and inserting a semicolon.

(d) APPLICABILITY.—The labeling requirements under subsections (g) and (h) of section 3 of such Act (as added by subsection (a)), and the regulations prescribed under subsection (b), shall apply to new automobiles delivered on or after—

(1) September 1, 2005, if the regulations under subsection (b) are prescribed not later than August 31, 2004; or

(2) September 1, 2006, if the regulations under subsection (b) are prescribed after August 31, 2004.

SEC. 4173. CHILD SAFETY.

(a) INCORPORATION OF CHILD DUMMIES IN SAFETY TESTS.—

(1) RULEMAKING REQUIRED.—Not later than 2 years after the date of the enactment of this Act, the Administrator of the National Highway Traffic Safety Administration shall conduct a rulemaking to increase utilization of child dummies, including Hybrid-III child dummies, in motor vehicle safety tests, including crash tests, conducted by the Administration.

(2) CRITERIA.—In conducting the rulemaking under subsection (a), the Administrator shall select motor vehicle safety tests in which the inclusion of child dummies will lead to—

(A) increased understanding of crash dynamics with respect to children; and

(B) measurably improved child safety.

(3) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Transportation shall publish a report regarding the implementation of this section.

(b) CHILD SAFETY IN ROLLOVER CRASHES.—

(1) CONSUMER INFORMATION PROGRAM.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Transportation shall implement a consumer information program relating to child safety in rollover crashes. The Secretary shall make information related to the program available to the public following completion of the program.

(2) CHILD DUMMY DEVELOPMENT.—

(A) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration shall initiate the development of a biofidelic child crash test dummy capable of measuring injury forces in a simulated rollover crash.

(B) REPORTS.—The Secretary shall submit to Congress a report on progress related to such development—

(i) not later than 1 year after the date of the enactment of this Act; and

(ii) not later than 3 years after the date of the enactment of this Act.

(c) REPORT ON ENHANCED VEHICLE SAFETY TECHNOLOGIES.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Transportation shall submit to Congress a report that describes, evaluates, and determines the relative effectiveness of—

(1) currently available and emerging technologies, including auto-reverse functions and child-safe window switches, that are designed to prevent and reduce the number of injuries and deaths to children left unattended inside parked motor vehicles, including injuries and deaths that result from hyperthermia or are related to power windows or power sunroofs; and

(2) currently available and emerging technologies that are designed to improve the performance of safety belts with respect to the safety of occupants aged between 4 and 8 years old.

(d) COMPLETION OF RULEMAKING REGARDING POWER WINDOWS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Transportation shall—

(1) complete the rulemaking initiated by the National Highway Traffic Safety Administration that is ongoing on the date of the enactment of this Act and relates to a requirement that window switches be designed to reduce the accidental closing by children of power windows; and

(2) issue performance-based regulations to take effect not later than September 1, 2006, requiring that window switches or related technologies be designed to prevent the accidental closing by children of power windows.

(e) DATABASE ON INJURIES AND DEATHS IN NONTRAFFIC, NONCRASH EVENTS.—

(1) IN GENERAL.—The Secretary of Transportation shall establish a new database of, and

collect data regarding, injuries and deaths in nontraffic, noncrash events involving motor vehicles. The database shall include information regarding—

(A) the number, types, and proximate causes of injuries and deaths resulting from such events;

(B) the characteristics of motor vehicles involved in such events;

(C) the characteristics of the motor vehicle operators and victims involved in such events; and

(D) the presence or absence in motor vehicles involved in such events of advanced technologies designed to prevent such injuries and deaths.

(2) RULEMAKING.—The Secretary shall conduct a rulemaking regarding how to structure and compile the database.

(3) AVAILABILITY.—The Secretary shall make the database available to the public.

SEC. 4174. SAFE INTERSECTIONS.

(a) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following:

"§39. Traffic signal preemption transmitters

"(a) OFFENSES.—

"(1) SALE.—A person who provides for sale to unauthorized users a traffic signal preemption transmitter in or affecting interstate or foreign commerce shall be fined not more than $10,000, imprisoned not more than 1 year, or both.

"(2) POSSESSION.—A person who is an unauthorized user in possession of a traffic signal preemption transmitter in or affecting interstate or foreign commerce shall be fined not more than $10,000, imprisoned not more than 6 months, or both.

"(b) DEFINITIONS.—In this section, the following definitions apply:

"(1) TRAFFIC SIGNAL PREEMPTION TRANSMITTER.—The term 'traffic signal preemption transmitter' means any device or mechanism that can change a traffic signal's phase.

"(2) UNAUTHORIZED USER.—The term 'unauthorized user' means a user of a traffic signal preemption transmitter who is not a government approved user.".

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 2 of title 18, United States Code, is amended by adding at the end the following:

"39. Traffic signal preemption transmitters.".

SEC. 4175. STUDY ON INCREASED SPEED LIMITS.

(a) STUDY.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall conduct a study to examine the effects of increased speed limits enacted by States after 1995.

(2) REQUIREMENTS.—The study shall collect empirical data regarding—

(A) increases or decreases in driving speeds on Interstate highways since 1995;

(B) correlations between changes in driving speeds and accident, injury, and fatality rates;

(C) correlations between posted speed limits and observed driving speeds;

(D) the overall impact on motor vehicle safety resulting from the repeal of the national maximum speed limit in 1995; and

(E) such other matters as the Secretary determines to be appropriate.

(b) REPORT.—Not later than 1 year after the date of completion of the study under subsection (a), the Secretary shall submit to Congress a report that describes the results of the study.

Subtitle B—Motor Carrier Safety and Unified Carrier Registration

PART I—ADMINISTRATIVE MATTERS

SEC. 4201. SHORT TITLE; AMENDMENT OF TITLE 49, UNITED STATES CODE.

(a) SHORT TITLE.—This subtitle may be cited as the "Motor Carrier Safety Reauthorization Act of 2004".

(b) AMENDMENT OF TITLE 49, UNITED STATES CODE.—Except as otherwise specifically provided, whenever in this subtitle an amendment is expressed in terms of an amendment to a section or other provision of law, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 4202. REQUIRED COMPLETION OF OVERDUE REPORTS, STUDIES, AND RULEMAKINGS.

(a) REQUIREMENT FOR COMPLETION.—By no later than 36 months after the date of enactment of this Act, the Secretary of Transportation shall complete all reports, studies, and rulemaking proceedings to issue regulations which Congress directed the Secretary to complete in previous laws and which are not yet completed, including the following:

(1) Commercial Vehicle Driver Biometric Identifier, section 9105, Truck and Bus Safety and Regulatory Reform Act of 1988.

(2) General Transportation of HAZMAT, section 8(b), Hazardous Materials Transportation Uniform Safety Act of 1990.

(3) Nationally Uniform System of Permits for Interstate Motor Carrier Transport of HAZMAT, section 22, Hazardous Materials Transportation Uniform Safety Act of 1990.

(4) Training for Entry-Level Drivers of Commercial Motor Vehicles, section 4007 (a), Intermodal Surface Transportation Efficiency Act of 1991.

(5) Minimum Training Requirements for Operators and for Training Instructors of Multiple Trailer Combination Vehicles, section 4007(b)(2), Intermodal Surface Transportation Efficiency Act of 1991.

(6) Railroad-Highway Grade Crossing Safety, section 112, Hazardous Materials Transportation Authorization Act of 1994.

(7) Safety Performance History of New Drivers, section 114, Hazardous Materials Transportation Authorization Act of 1994.

(8) Motor Carrier Replacement Information and Registration System, section 103, ICC Termination Act of 1995.

(9) General Jurisdiction Over Freight Forwarder Service, section 13531, ICC Termination Act of 1995.

(10) Waivers, Exemptions, and Pilot Programs, section 4007, Transportation Equity Act for the Twenty-First Century.

(11) Safety Performance History of New Drivers, section 4014, Transportation Equity Act for the Twenty-First Century.

(12) Performance-based CDL Testing, section 4019, Transportation Equity Act for the Twenty-First Century.

(13) Improved Flow of Driver History Pilot Program, section 4022, Transportation Equity Act for the Twenty-First Century.

(14) Employee Protections, section 4023, Transportation Equity Act for the Twenty-First Century.

(15) Improved Interstate School Bus Safety, section 4024, Transportation Equity Act for the Twenty-First Century.

(16) Federal Motor Carrier Safety Administration 2010 Strategy, section 104, Motor Carrier Safety Improvement Act of 1999.

(17) New Motor Carrier Entrant Requirements, section 210, Motor Carrier Safety Improvement Act of 1999.

(18) Certified Motor Carrier Safety Auditors, section 211, Motor Carrier Safety Improvement Act of 1999.

(19) Medical Certificate, section 215, Motor Carrier Safety Improvement Act of 1999.

(20) Report on Any Pilots Undertaken to Develop Innovative Methods of Improving Motor Carrier Compliance with Traffic Laws, section 220, Motor Carrier Safety Improvement Act of 1999.

(21) Status Report on the Implementation of Electronic Transmission of Data State-to-State on Convictions for All Motor Vehicle Control Law Violations for CDL Holders, section 221, Motor Carrier Safety Improvement Act of 1999.

(22) Assessment of Civil Penalties, section 222, Motor Carrier Safety Improvement Act of 1999.

(23) Truck Crash Causation Study, section 224, Motor Carrier Safety Improvement Act of 1999.

(24) Drug Test Results Study, section 226, Motor Carrier Safety Improvement Act of 1999.

(b) FINAL RULE REQUIRED.—Unless specifically permitted by law, rulemaking proceedings shall be considered completed for purposes of this section only when the Secretary has issued a final rule and the docket for the rulemaking proceeding is closed.

(c) SCHEDULE FOR COMPLETION.—No fewer than one-third of the reports, studies, and rulemaking proceedings in subsection (a) shall be completed every 12 months after the date of enactment of this Act. The Inspector General of the Department of Transportation shall make an annual determination as to whether this schedule has been met.

(d) FAILURE TO COMPLY.—If the Secretary fails to complete the required number of reports, studies, and rulemaking proceedings according to the schedule set forth in subsection (c) during any fiscal year, the Secretary shall allocate to the States $3,000,000 from the amount authorized by section 31104(i)(1) of title 49, United States Code, for administrative expenses of the Federal Motor Carrier Safety Administration to conduct additional compliance reviews under section 31102 of that title instead of obligating or expending such amount for those administrative expenses.

(e) AMENDMENTS TO THE LISTED REPORTS, STUDIES, AND RULEMAKING PROCEEDINGS.—In addition to completing the reports, studies and rulemaking proceedings listed in subsection (c), the Secretary shall—

(1) amend the Interim Final Rule addressing New Motor Carrier Entrant Requirements to require that a safety audit be immediately converted to a compliance review and appropriate enforcement actions be taken if the safety audit discloses acute safety violations by the new entrant; and

(2) eliminate a proposed provision in the rulemaking proceeding addressing Commercial Van Operations Transporting Nine to Fifteen Passengers which exempts commercial van operations that operate within a 75-mile radius.

(f) COMPLETION OF NEW RULEMAKING PROCEEDINGS.—Nothing in this section delays or changes the deadlines specified for new reports, studies, or rulemaking mandates contained in this title.

(g) REPORT OF OTHER AGENCY ACTIONS.—Within 12 months after the date of enactment of this Act, the Secretary shall submit to the Senate Committee on Commerce, Science, and Transportation and to the House Committee on Transportation and Infrastructure a report on the status of the following projects:

(1) Rescinding the current regulation which prohibits truck and bus drivers from viewing television and monitor screens while operating commercial vehicles.

(2) Incorporating Out-Of-Service Criteria regulations enforced by the Federal Motor Carrier Safety Administration.

(3) Revision of the safety fitness rating system of motor carriers.

(4) Amendment of Federal Motor Carrier Safety Administration rules of practice for conducting motor carrier administrative proceedings, investigations, disqualifications, and for issuing penalties.

(5) Requiring commercial drivers to have a sufficient functional speaking and reading comprehension of the English language.

(6) Inspection, repair and maintenance of intermodal container chassis and trailers.

SEC. 4203. CONTRACT AUTHORITY.

Authorizations from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subtitle shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first. Approval by the Secretary of a grant with funds made available under this title imposes upon the United States Government a contractual obligation for payment of the Government's share of costs incurred in carrying out the objectives of the grant.

PART II—MOTOR CARRIER SAFETY

SEC. 4221. MINIMUM GUARANTEE.

There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) not less than 1.21 percent of the total amounts made available in any fiscal year from the Highway Trust Fund for purposes of this part.

SEC. 4222. AUTHORIZATION OF APPROPRIATIONS.

(a) ADMINISTRATIVE EXPENSES.—Section 31104 is amended by adding at the end the following:

"(i) ADMINISTRATIVE EXPENSES.—

"(1) There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary of Transportation to pay administrative expenses of the Federal Motor Carrier Safety Administration—

"(A) $202,900,000 for fiscal year 2004;

"(B) $206,200,000 for fiscal year 2005;

"(C) $211,400,000 for fiscal year 2006;

"(D) $217,500,000 for fiscal year 2007;

"(E) $222,600,000 for fiscal year 2008; and

"(F) $228,500,000 for fiscal year 2009.

"(2) The funds authorized by this subsection shall be used for personnel costs; administrative infrastructure; rent; information technology; programs for research and technology, information management, regulatory development (including a medical review board and rules for medical examiners), performance and registration information system management, and outreach and education; other operating expenses and similar matters; and such other expenses as may from time to time become necessary to implement statutory mandates not funded from other sources.

"(3) From the funds authorized by this section, the Secretary shall ensure that compliance reviews are completed on the motor carriers that have demonstrated through performance data that they pose the highest safety risk. At a minimum, compliance reviews shall be conducted within 6 months after whenever a carrier is rated as category A or B.

"(4) The amounts made available under this section shall remain available until expended.

"(5) Of the funds authorized by paragraph (1), $6,750,000 in each of fiscal years 2004 through 2009 shall be used to carry out the medical program under section 31149.".

(b) AMENDMENT TO APPORTIONMENT PROVISION OF TITLE 23.—Section 104(a) of title 23, United States Code, is amended—

(1) by striking "exceed—" and so much of subparagraph (A) as precedes clause (i) and inserting "exceed 1⅙ percent of all sums so made available, as the Secretary determines necessary—";

(2) by redesignating clause (i) and (ii) of subparagraph (A) as subparagraphs (A) and (B), and indenting such clauses, as so redesignated, 2 em spaces; and

(3) by striking "system; and" in subparagraph (B) as so redesignated, and all that follows through "research." and inserting "system.".

(c) GRANT PROGRAMS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the following Federal Motor Carrier Safety Administration programs:

(1) Border enforcement grants under section 31107 of title 49, United States Code—

(A) $32,000,000 for fiscal year 2004;

(B) $33,000,000 for fiscal year 2005;

(C) $33,000,000 for fiscal year 2006;

(D) $34,000,000 for fiscal year 2007;

(E) $35,000,000 for fiscal year 2008; and

(F) $36,000,000 for fiscal year 2009.

(2) Performance and registration information system management grant program under 31109 of title 49, United States Code—

(A) $4,000,000 for fiscal year 2004;

(B) $4,000,000 for fiscal year 2005;

(C) $4,000,000 for fiscal year 2006;

(D) $4,000,000 for fiscal year 2007;

(E) $4,000,000 for fiscal year 2008; and

(F) $4,000,000 for fiscal year 2009.

(3) Commercial driver's license and driver improvement program grants under section 31318 of title 49, United States Code—

(A) $22,000,000 for fiscal year 2004;

(B) $22,000,000 for fiscal year 2005;

(C) $23,000,000 for fiscal year 2006;

(D) $23,000,000 for fiscal year 2007;

(E) $24,000,000 for fiscal year 2008; and

(F) $25,000,000 for fiscal year 2009.

(4) Deployment of the Commercial Vehicle Informations Systems and Networks established under section 4241 of this title, $25,000,000 for each of fiscal years 2004 through 2009.

(d) MOTOR CARRIER SAFETY ACCOUNT.—Funds made available under subsection (c) shall be administered in the account established in the Treasury entitled "Motor Carrier Safety 69–8055–0–7–401".

(e) PERIOD OF AVAILABILITY.—The amounts made available under subsection (c) of this section shall remain available until expended.

SEC. 4223. MOTOR CARRIER SAFETY GRANTS.

(a) MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.—

(1) Section 31102 is amended—

(A) by striking "activities by fiscal year 2000;" in subsection (b)(1)(A) and inserting "activities for commercial motor vehicles of passengers and freight;";

(B) by striking "years before December 18, 1991;" in subsection (b)(1)(E) and inserting "years";

(C) by striking "and" after the semicolon in subsection (b)(1)(S);

(D) by striking "personnel." in subsection (b)(1)(T) and inserting "personnel;";

(E) adding at the end of subsection (b)(1) the following:

"(U) ensures that inspections of motor carriers of passengers are conducted at stations, terminals, border crossings, or maintenance facilities, except in the case of an imminent or obvious safety hazard;

"(V) provides that the State will include in the training manual for the licensing examination to drive a non-commercial motor vehicle and a commercial motor vehicle, information on best practices for driving safely in the vicinity of commercial motor vehicles and in the vicinity of non-commercial vehicles, respectively; and

"(W) provides that the State will enforce the registration requirements of section 13902 by suspending the operation of any vehicle discovered to be operating without registration or beyond the scope of its registration."; and

(F) by striking subsection (c) and inserting the following:

"(c) USE OF GRANTS TO ENFORCE OTHER LAWS.—A State may use amounts received under a grant under subsection (a) of this section for the following activities:

"(1) If the activities are carried out in conjunction with an appropriate inspection of the commercial motor vehicle to enforce Government or State commercial motor vehicle safety regulations—

"(A) enforcement of commercial motor vehicle size and weight limitations at locations other than fixed weight facilities, at specific locations such as steep grades or mountainous terrains where the weight of a commercial motor vehicle can significantly affect the safe operation of the vehicle, or at ports where intermodal shipping containers enter and leave the United States; and

"(B) detection of the unlawful presence of a controlled substance (as defined under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)) in a commercial motor vehicle or on the person of any occupant (including the operator) of the vehicle.

"(2) Documented enforcement of State traffic laws and regulations designed to promote the safe operation of commercial motor vehicles, including documented enforcement of such laws and regulations against non-commercial motor vehicles when necessary to promote the safe operation of commercial motor vehicles.".

(2) Section 31103(b) is amended—

(A) by inserting "(1)" after "ACTIVITIES.—"; and

(B) by adding at the end the following:

"(2) NEW ENTRANT MOTOR CARRIER AUDIT FUNDS.—From the amounts designated under section 31104(f)(4), the Secretary may allocate new entrant motor carrier audit funds to States and local governments without requiring a matching contribution from such States or local governments.".

(3) Section 31104(a) is amended to read as follows:

"(a) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out section 31102:

"(1) Not more than $186,100,000 for fiscal year 2004.

"(2) Not more than $189,800,000 for fiscal year 2005.

"(3) Not more than $193,600,000 for fiscal year 2006.

"(4) Not more than $197,500,000 for fiscal year 2007.

"(5) Not more than $201,400,000 for fiscal year 2008.

"(6) Not more than $205,500,000 for fiscal year 2009.".

(4) Section 31104(f) is amended by striking paragraph (2) and inserting the following:

"(2) HIGH-PRIORITY ACTIVITIES.—The Secretary may designate up to 5 percent of amounts available for allocation under paragraph (1) for States, local governments, and organizations representing government agencies or officials for carrying out high priority activities and projects that improve commercial motor vehicle safety and compliance with commercial motor vehicle safety regulations, including activities and projects that are national in scope, increase public awareness and education, or demonstrate new technologies. The amounts designated under this paragraph shall be allocated by the Secretary to State agencies, local governments, and organizations representing government agencies or officials that use and train qualified officers and employees in coordination with State motor vehicle safety agencies. At least 80 percent of the amounts designated under this paragraph shall be awarded to State agencies and local government agencies.

"(3) SAFETY-PERFORMANCE INCENTIVE PROGRAMS.—The Secretary may designate up to 10 percent of the amounts available for allocation under paragraph (1) for safety performance incentive programs for States. The Secretary shall establish safety performance criteria to be used to distribute incentive program funds. Such criteria shall include, at a minimum, reduction in the number and rate of fatal accidents involving commercial motor vehicles. Allocations under this paragraph do not require a matching contribution from a State.

"(4) NEW ENTRANT AUDITS.—The Secretary shall designate up to $29,000,000 of the amounts available for allocation under paragraph (1) for audits of new entrant motor carriers conducted pursuant to 31144(f). The Secretary may withhold such funds from a State or local government that is unable to use government employees to conduct new entrant motor carrier audits, and may instead utilize the funds to conduct audits in those jurisdictions.".

(b) GRANTS TO STATES FOR BORDER ENFORCEMENT.—Section 31107 is amended to read as follows:

"§31107. Border enforcement grants

"(a) GENERAL AUTHORITY.—From the funds authorized by section 4222(c)(1) of the Motor Carrier Safety Reauthorization Act of 2004, the Secretary may make a grant in a fiscal year to a State that shares a border with another country for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects.

"(b) MAINTENANCE OF EXPENDITURES.—The Secretary may make a grant to a State under this section only if the State agrees that the total expenditure of amounts of the State and political subdivisions of the State, exclusive of United States Government amounts, for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects will be maintained at a level at least equal to the average level of that expenditure by the State and political subdivisions of the State for the last 2 State or Federal fiscal years before October 1, 2003.".

(c) GRANTS TO STATES FOR COMMERCIAL DRIVER'S LICENSE IMPROVEMENTS.—Chapter 313 is amended by adding at the end the following:

"§31318. Grants for commercial driver's license program improvements

"(a) GENERAL AUTHORITY.—From the funds authorized by section 4222(c)(3) of the Motor Carrier Safety Reauthorization Act of 2004, the Secretary may make a grant to a State, except as otherwise provided in subsection (e), in a fiscal year to improve its implementation of the commercial driver's license program, providing the State is in substantial compliance with the requirements of section 31311 and this section. The Secretary shall establish criteria for the distribution of grants and notify the States annually of such criteria.

"(b) CONDITIONS.—Except as otherwise provided in subsection (e), a State may use a grant under this section only for expenses directly related to its commercial driver's license program, including, but not limited to, computer hardware and software, publications, testing, personnel, training, and quality control. The grant may not be used to rent, lease, or buy land or buildings. The Secretary shall give priority to grants that will be used to achieve compliance with the requirements of the Motor Carrier Safety Improvement Act of 1999. The Secretary may allocate the funds appropriated for such grants in a fiscal year among the eligible States whose applications for grants have been approved, under criteria established by the Secretary.

"(c) MAINTENANCE OF EXPENDITURES.—Except as otherwise provided in subsection (e), the Secretary may make a grant to a State under this section only if the State agrees that the total expenditure of amounts of the State and political subdivisions of the State, exclusive of United States Government amounts, for the operation of the commercial driver's license program will be maintained at a level at least equal to the average level of that expenditure by the State and political subdivisions of the State for the last 2 fiscal years before October 1, 2003.

"(d) GOVERNMENT SHARE.—Except as otherwise provided in subsection (e), the Secretary shall reimburse a State, from a grant made under this section, an amount that is not more than 80 percent of the costs incurred by the State in a fiscal year in implementing the commercial driver's license improvements described in subsection (b). In determining those costs, the Secretary shall include in-kind contributions by the State.

"(e) HIGH-PRIORITY ACTIVITIES.—

"(1) The Secretary may make a grant to a State agency, local government, or organization representing government agencies or officials for the full cost of research, development, demonstration projects, public education, or other special activities and projects relating to commercial driver licensing and motor vehicle safety that are of benefit to all jurisdictions or designed to address national safety concerns and circumstances.

"(2) The Secretary may designate up to 10 percent of the amounts made available under section 4222(c)(3) of the Motor Carrier Safety Reauthorization Act of 2004 in a fiscal year for high-priority activities under subsection (e)(1).

"(f) EMERGING ISSUES.—The Secretary may designate up to 10 percent of the amounts made available under section 4222(c)(3) of the Motor Carrier Safety Reauthorization Act of 2004 in a fiscal year for allocation to a State agency, local government, or other person at the discretion of the Secretary to address emerging issues relating to commercial driver's license improvements.

"(g) APPORTIONMENT.—Except as otherwise provided in subsections (e) and (f), all amounts available in a fiscal year to carry out this section shall be apportioned to States according to a formula prescribed by the Secretary.

"(h) DEDUCTION FOR ADMINISTRATIVE EXPENSES.—On October 1 of each fiscal year or as soon after that date as practicable, the Secretary may deduct, from amounts made available under section 4222(c)(3) of the Motor Carrier Safety Reauthorization Act of 2004 for that fiscal year, up to 0.75 percent of those amounts for administrative expenses incurred in carrying out this section in that fiscal year.".

(d) NONCOMPLIANCE WITH CDL REQUIREMENTS.—Section 31314 is amended by striking subsections (a) and (b) and inserting the following:

"(a) FIRST FISCAL YEAR.—The Secretary of Transportation shall withhold up to 5 percent of the amount required to be apportioned to a State under section 104(b)(1), (3), and (4) of title 23 on the first day of the fiscal year after the first fiscal year beginning after September 30, 1992, throughout which the State does not comply substantially with a requirement of section 31311(a) of this title.

"(b) SECOND FISCAL YEAR.—The Secretary shall withhold up to 10 percent of the amount required to be apportioned to a State under section 104(b)(1), (3), and (4) of title 23 on the first day of each fiscal year after the second fiscal year beginning after September 30, 1992, throughout which the State does not comply substantially with a requirement of section 31311(a) of this title.".

(e) CONFORMING AMENDMENTS.—(1) The chapter analysis for chapter 311 is amended—

(A) by striking the item relating to Subchapter I, and inserting the following:

"SUBCHAPTER I—GENERAL AUTHORITY AND STATE GRANTS";

and

(B) by striking the item relating to section 31107, and inserting the following:

"31107. Border enforcement grants.".

(2) Subchapter I of chapter 311 is amended by striking the subchapter heading and inserting the following:

"SUBCHAPTER I—GENERAL AUTHORITY AND STATE GRANTS"

(3) The chapter analysis for chapter 313 is amended by inserting the following after the item relating to section 31317:

"31318. Grants for commercial driver's license program improvements.".

SEC. 4224. CDL WORKING GROUP.

(a) IN GENERAL.—The Secretary of Transportation shall convene a working group to study and address current impediments and foreseeable challenges to the commercial driver's license program's effectiveness and measures needed to realize the full safety potential of the commercial driver's license program. The working group shall address such issues as State enforcement practices, operational procedures to detect and deter fraud, needed improvements for seamless information sharing between States, effective methods for accurately sharing electronic data between States, updated technology, and timely notification from judicial bodies concerning traffic and criminal convictions of commercial driver's license holders.

(b) MEMBERSHIP.—Members of the working group should include State motor vehicle administrators, organizations representing government agencies or officials, members of the Judicial Conference, representatives of the trucking industry, representatives of labor organizations, safety advocates, and other significant stakeholders.

(c) REPORT.—Within 2 years after the date of enactment of this Act, the Secretary, on behalf of the working group, shall complete a report of the working group's findings and recommendations for legislative, regulatory, and enforcement changes to improve the commercial driver's license program. The Secretary shall promptly transmit the report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(d) FUNDING.—From the funds authorized by section 4222(c)(3) of this title, $200,000 shall be made available for each of fiscal years 2004 and 2005 to carry out this section.

SEC. 4225. CDL LEARNER'S PERMIT PROGRAM.

(a) IN GENERAL.—Chapter 313 is amended—

(1) by striking "time." in section 31302 and inserting "license, and may have only 1 learner's permit at any time.";

(2) by inserting "and learners' permits" after "licenses" the first place it appears in section 31308;

(3) by striking "licenses." in section 31308 and inserting "licenses and permits.";

(4) by redesignating paragraphs (2) and (3) of section 31308 as paragraphs (3) and (4), respectively, and inserting after paragraph (1) the following:

"(2) before a commercial driver's license learner's permit can be issued to an individual, the individual must pass a written test on the operation of a commercial motor vehicle that complies with the minimum standards prescribed by the Secretary under section 31305(a) of this title;";

(5) by inserting "or learner's permit" after "license" each place it appears in paragraphs (3) and (4), as redesignated, of section 31308; and

(6) by inserting "or learner's permit" after "license" each place it appears in section 31309(b).

(b) CONFORMING AMENDMENTS.—

*(1) Section 31302 is amended by inserting "**and learner's permits**" in the section caption.*

*(2) Sections 31308 and 31309 are each amended by inserting "**and learner's permit**" after "**license**" in the section captions.*

(3) The chapter analysis for chapter 313 is amended by striking the item relating to section 31302 and inserting the following:

"31302. Limitation on the number of driver's licenses and learner's permits.".

(4) The chapter analysis for chapter 313 is amended by striking the items relating to sections 31308 and 31309 and inserting the following:

"31308. Commercial driver's license and learner's permit.

"31309. Commercial driver's license and learner's permit information system.".

SEC. 4226. HOBBS ACT.

(a) Section 2342(3)(A) of title 28, United States Code, is amended to read as follows:

"(A) the Secretary of Transportation issued pursuant to section 2, 9, 37, or 41 of the Shipping Act, 1916 (46 U.S.C. App. 802, 803, 808, 835, 839, and 841a) or pursuant to Part B or C of subtitle IV of title 49 or pursuant to subchapter III of chapter 311, chapter 313, and chapter 315 of Part B of subtitle VI of title 49; and".

(b) Section 351(a) is amended to read as follows:

"(a) Judicial Review.—An action of the Secretary of Transportation in carrying out a duty or power transferred under the Department of Transportation Act (Public Law 89–670; 80 Stat. 931), or an action of the Administrator of the Federal Railroad Administration, Federal Motor Carrier Safety Administration, or the Federal Aviation Administration in carrying out a duty or power specifically assigned to the Administrator by that Act, may be reviewed judicially to the same extent and in the same way as if the action had been an action by the department, agency, or instrumentality of the United States Government carrying out the duty or power immediately before the transfer or assignment.".

(c) Section 352 is amended to read as follows:

"§352. Authority to carry out certain transferred duties and powers

"In carrying out a duty or power transferred under the Department of Transportation Act (Public Law 89–670; 80 Stat. 931), the Secretary of Transportation and the Administrators of the Federal Railroad Administration, the Federal Motor Carrier Safety Administration, and the Federal Aviation Administration have the same authority that was vested in the department, agency, or instrumentality of the United States Government carrying out the duty or power immediately before the transfer. An action of the Secretary or Administrator in carrying out the duty or power has the same effect as when carried out by the department, agency, or instrumentality.".

SEC. 4227. PENALTY FOR DENIAL OF ACCESS TO RECORDS.

Section 521(b)(2) is amended by adding at the end the following:

"(E) Copying of records and access to equipment, lands, and buildings.—A motor carrier subject to chapter 51 of subtitle III, a motor carrier, broker, or freight forwarder subject to part B of subtitle IV, or the owner or operator of a commercial motor vehicle subject to part B of subtitle VI of this title who fails to allow the Secretary, or an employee designated by the Secretary, promptly upon demand to inspect and copy any record or inspect and examine equipment, lands, buildings and other property in accordance with sections 504(c), 5121(c), and 14122(b) of this title shall be liable to the United States for a civil penalty not to exceed $500 for each offense, and each day the Secretary is denied the right to inspect and copy any record or inspect and examine equipment, lands, buildings and other property shall constitute a separate offense, except that the total of all civil penalties against any violator for all offenses related to a single violation shall not exceed $5,000. It shall be a defense to such penalty that the records did not exist at the time of the Secretary's request or could not be timely produced without unreasonable expense or effort. Nothing herein amends or supersedes any remedy available to the Secretary under sections 502(d), 507(c), or other provision of this title.".

SEC. 4228. MEDICAL PROGRAM.

(a) In General.—Subchapter III of chapter 311 is amended by adding at the end the following:

"§31149. Medical program

"(a) Medical Review Board.—

"(1) Establishment and function.—The Secretary of Transportation shall establish a Medical Review Board to serve as an advisory committee to provide the Federal Motor Carrier Safety Administration with medical advice and recommendations on driver qualification medical standards and guidelines, medical examiner education, and medical research.

"(2) Composition.—The Medical Review Board shall be appointed by the Secretary and shall consist of 5 members selected from medical institutions and private practice. The membership shall reflect expertise in a variety of specialties relevant to the functions of the Federal Motor Carrier Safety Administration.

"(b) Chief Medical Examiner.—The Secretary shall appoint a chief medical examiner for the Federal Motor Carrier Safety Administration.

"(c) Medical Standards and Requirements.—The Secretary, with the advice of the Medical Review Board and the chief medical examiner, shall—

"(1) establish, review, and revise—

"(A) medical standards for applicants for and holders of commercial driver's licenses that will ensure that the physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely;

"(B) requirements for periodic physical examinations of such operators performed by medical examiners who have received training in physical and medical examination standards and are listed on a national registry maintained by the Department of Transportation; and

"(C) requirements for notification of the chief medical examiner if such an applicant or holder—

"(i) fails to meet the applicable standards; or

"(ii) is found to have a physical or mental disability or impairment that would interfere with the individual's ability to operate a commercial motor vehicle safely;

"(2) require each holder of a commercial driver's license or learner's permit to have a current valid medical certificate;

"(3) issue such certificates to such holders and applicants who are found, upon examination, to be physically qualified to operate a commercial motor vehicle and to meet applicable medical standards; and

"(4) develop, as appropriate, specific courses and materials for medical examiners listed in the national registry established under this section, and require those medical examiners to complete specific training, including refresher courses, to be listed in the registry.

"(d) National Registry of Medical Examiners.—The Secretary, through the Federal Motor Carrier Safety Administration—

"(1) shall establish and maintain a current national registry of medical examiners who are qualified to perform examination, testing, inspection, and issuance of a medical certificate;

"(2) shall delegate to those examiners the authority to issue such certificates if the Medical Review Board develops a system to identify the medical examination forms uniquely and track them; and

"(3) shall remove from the registry the name of any medical examiner that fails to meet the qualifications established by the Secretary for being listed in the registry.

"(e) Consultation and Cooperation with FAA.—

"(1) In general.—The Administrator of the Federal Motor Carrier Safety Administration shall consult the Administrator of the Federal Aviation Administration with respect to examinations, the issuance of certificates, standards, and procedures under this section in order to take advantage of such aspects of the Federal Aviation Administration's airman certificate program under chapter 447 of this title as the Administrator deems appropriate for carrying out this section.

"(2) Use of FAA-qualified examiners.—The Administrator of the Federal Motor Carrier Safety Administration and the Administrator of the Federal Aviation Administration are authorized and encouraged to execute a memorandum of understanding under which individuals holding or applying for a commercial driver's license or learner's permit may be examined, for purposes of this section, by medical examiners who are qualified to administer medical examinations for airman certificates under chapter 447 of this title and the regulations thereunder—

"(A) until the national registry required by subsection (d) is fully established; and

"(B) to the extent that the Administrators determine appropriate, after that registry is established.

"(f) Regulations.—The Secretary is authorized to promulgate such regulations as may be necessary to carry out this section.".

(b) Medical Examiners.—Section 31136(a)(3) is amended to read as follows:

"(3) the physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely, and the periodic physical examinations required of such operators are performed by medical examiners who have received training in physical and medical examination standards and are listed on a national registry maintained by the Department of Transportation; and".

(c) Definition of Medical Examiner.—Section 31132 is amended—

(1) by redesignating paragraphs (6) through (10) as paragraphs (7) through (11), respectively; and

(2) by inserting after paragraph (5) the following:

"(6) 'medical examiner' means an individual licensed, certified, or registered in accordance with regulations issued by the Federal Motor Carrier Safety Administration as a medical examiner.".

(d) Conforming Amendment.—The chapter analysis for chapter 311 is amended by inserting after the item relating to section 31148 the following:

"31149. Medical program.".

(e) Effective Date.—The amendment made by subsection (a) shall take effect 1 year after the date of enactment of this Act.

SEC. 4229. OPERATION OF COMMERCIAL MOTOR VEHICLES BY INDIVIDUALS WHO USE INSULIN TO TREAT DIABETES MELLITUS.

(a) Revision of Final Rule.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall revise the final rule to allow individuals who use insulin to treat their diabetes to operate commercial motor vehicles in interstate commerce. The revised final rule shall provide for the individual assessment of applicants who use insulin to treat their diabetes and who are, except for their use of insulin, otherwise qualified under the Federal Motor Carrier Safety Regulations. The revised final rule shall be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305 note) and shall conclude the rulemaking process in the Federal Motor Carrier Safety Administration docket relating to qualifications of drivers with diabetes.

(b) No History of Driving While Using Insulin Required for Qualification.—The Secretary may not require individuals to have experience operating commercial motor vehicles while using insulin in order to qualify to operate a commercial motor vehicle in interstate commerce.

(c) History of Diabetes Control.—The Secretary may require an individual to have used

insulin for a minimum period of time and demonstrated stable control of diabetes in order to qualify to operate a commercial motor vehicle in interstate commerce. Any such requirement, including any requirement with respect to the duration of such insulin use, shall be consistent with the findings of the expert medical panel reported in July 2000 in "A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate Commercial Motor Vehicles in Interstate Commerce as Directed by the Transportation Equity Act for the 21st Century".

(d) APPLICABLE STANDARD.—The Secretary shall ensure that individuals who use insulin to treat their diabetes are not held to a higher standard than other qualified commercial drivers, except to the extent that limited operating, monitoring, or medical requirements are deemed medically necessary by experts in the field of diabetes medicine.

SEC. 4230. FINANCIAL RESPONSIBILITY FOR PRIVATE MOTOR CARRIERS.

(a) TRANSPORTATION OF PASSENGERS.—

(1) Section 31138(a) is amended to read as follows:

"(a) GENERAL REQUIREMENT.—The Secretary of Transportation shall prescribe regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts established by the Secretary covering public liability and property damage for the transportation of passengers by motor vehicle in the United States between a place in a State and—

"(1) a place in another State;

"(2) another place in the same State through a place outside of that State; or

"(3) a place outside the United States.".

(2) Section 31138(c) is amended by adding at the end the following:

"(4) The Secretary may require a person, other than a motor carrier as defined in section 13102(12) of this title, transporting passengers by motor vehicle to file with the Secretary the evidence of financial responsibility specified in subsection (c)(1) of this section in an amount not less than that required by this section, and the laws of the State or States in which the person is operating, to the extent applicable. The extent of the financial responsibility must be sufficient to pay, not more than the amount of the financial responsibility, for each final judgment against the person for bodily injury to, or death of, an individual resulting from the negligent operation, maintenance, or use of motor vehicles, or for loss or damage to property, or both.".

(b) TRANSPORTATION OF PROPERTY.—Section 31139 is amended—

(1) by striking so much of subsection (b) as precedes paragraph (2) and inserting the following:

"(b) GENERAL REQUIREMENTS AND MINIMUM AMOUNT.—

"(1) The Secretary of Transportation shall prescribe regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts established by the Secretary covering public liability, property damage, and environmental restoration for the transportation of property by motor vehicle in the United States between a place in a State and—

"(A) a place in another State;

"(B) another place in the same State through a place outside of that State; or

"(C) a place outside the United States.";

(2) by aligning the left margin of paragraph (2) of subsection (b) with the left margin of paragraph (1) of that subsection (as amended by paragraph (1) of this subsection); and

(3) by redesignating subsection (c) through (g) as subsections (d) through (h), respectively, and inserting after subsection (b) the following:

"(c) FILING OF EVIDENCE OF FINANCIAL RESPONSIBILITY.—The Secretary may require a motor private carrier, as defined in section 13102 of this title, to file with the Secretary the evidence of financial responsibility specified in subsection (b) of this section in an amount not less than that required by this section, and the laws of the State or States in which the motor private carrier is operating, to the extent applicable. The amount of the financial responsibility must be sufficient to pay, not more than the amount of the financial responsibility, for each final judgment against the motor private carrier for bodily injury to, or death of, an individual resulting from negligent operation, maintenance, or use of motor vehicles, or for loss or damage to property, or both.".

SEC. 4231. INCREASED PENALTIES FOR OUT-OF-SERVICE VIOLATIONS AND FALSE RECORDS.

(a) Section 521(b)(2)(B) is amended to read as follows:

"(B) RECORDKEEPING AND REPORTING VIOLATIONS.—A person required to make a report to the Secretary, answer a question, or make, prepare, or preserve a record under section 504 of this title or under any regulation issued by the Secretary pursuant to subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title about transportation by motor carrier, motor carrier of migrant workers, or motor private carrier, or an officer, agent, or employee of that person—

"(i) who does not make that report, does not specifically, completely, and truthfully answer that question in 30 days from the date the Secretary requires the question to be answered, or does not make, prepare, or preserve that record in the form and manner prescribed by the Secretary, shall be liable to the United States for a civil penalty in an amount not to exceed $1,000 for each offense, and each day of the violation shall constitute a separate offense, except that the total of all civil penalties assessed against any violator for all offenses related to any single violation shall not exceed $10,000; or

"(ii) who knowingly falsifies, destroys, mutilates, or changes a required report or record, knowingly files a false report with the Secretary, knowingly makes or causes or permits to be made a false or incomplete entry in that record about an operation or business fact or transaction, or knowingly makes, prepares, or preserves a record in violation of a regulation or order of the Secretary, shall be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each violation, if any such action can be shown to have misrepresented a fact that constitutes a violation other than a reporting or recordkeeping violation.".

(b) Section 31310(i)(2) is amended to read as follows:

"(2) The Secretary shall prescribe regulations establishing sanctions and penalties related to violations of out-of-service orders by individuals operating commercial motor vehicles. The regulations shall require at least that—

"(A) an operator of a commercial motor vehicle found to have committed a first violation of an out-of-service order shall be disqualified from operating such a vehicle for at least 180 days and liable for a civil penalty of at least $2,500;

"(B) an operator of a commercial motor vehicle found to have committed a second violation of an out-of-service order shall be disqualified from operating such a vehicle for at least 2 years and not more than 5 years and liable for a civil penalty of at least $5,000;

"(C) an employer that knowingly allows or requires an employee to operate a commercial motor vehicle in violation of an out-of-service order shall be liable for a civil penalty of not more than $25,000; and

"(D) an employer that knowingly and willfully allows or requires an employee to operate a commercial motor vehicle in violation of an out-of-service order shall, upon conviction, be subject for each offense to imprisonment for a term not to exceed 1 year or a fine under title 18, United States Code, or both.".

SEC. 4232. ELIMINATION OF COMMODITY AND SERVICE EXEMPTIONS.

(a) Section 13506(a) is amended—

(1) by striking paragraphs (6), (11), (12), (13), and (15);

(2) by redesignating paragraphs (7), (8), (9), (10), and (14) as paragraphs (6), (7), (8), (9) and (10), respectively;

(3) by inserting "or" after the semicolon in paragraph (9), as redesignated; and

(4) striking "13904(d); or" in paragraph (1), as redesignated, and inserting "14904(d).".

(b) Section 13507 is amended by striking "(6), (8), (11), (12), or (13)" and inserting "(6)".

SEC. 4233. INTRASTATE OPERATIONS OF INTERSTATE MOTOR CARRIERS.

(a) Subsection (a) of section 31144 is amended to read as follows:

"(a) IN GENERAL.—The Secretary shall—

"(1) determine whether an owner or operator is fit to operate safely commercial motor vehicles, utilizing among other things the accident record of an owner or operator operating in interstate commerce and the accident record and safety inspection record of such owner or operator in operations that affect interstate commerce;

"(2) periodically update such safety fitness determinations;

"(3) make such final safety fitness determinations readily available to the public; and

"(4) prescribe by regulation penalties for violations of this section consistent with section 521.".

(b) Subsection (c) of section 31144 is amended by adding at the end the following:

"(5) TRANSPORTATION AFFECTING INTERSTATE COMMERCE.—Owners or operators of commercial motor vehicles prohibited from operating in interstate commerce pursuant to paragraphs (1) through (3) of this section may not operate any commercial motor vehicle that affects interstate commerce until the Secretary determines that such owner or operator is fit.".

(c) Section 31144 is amended by redesignating subsections (d), (e), and the second subsection (c) as subsections (e), (f), and (g), respectively, and inserting after subsection (c) the following:

"(d) DETERMINATION OF UNFITNESS BY A STATE.—If a State that receives Motor Carrier Safety Assistance Program funds pursuant to section 31102 of this title determines, by applying the standards prescribed by the Secretary under subsection (b) of this section, that an owner or operator of commercial motor vehicles that has its principal place of business in that State and operates in intrastate commerce is unfit under such standards and prohibits the owner or operator from operating such vehicles in the State, the Secretary shall prohibit the owner or operator from operating such vehicles in interstate commerce until the State determines that the owner or operator is fit.".

SEC. 4234. AUTHORITY TO STOP COMMERCIAL MOTOR VEHICLES.

(a) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following:

"§38. Commercial motor vehicles required to stop for inspections

"(a) A driver of a commercial motor vehicle, as defined in section 31132(1) of title 49, shall stop and submit to inspection of the vehicle, driver, cargo, and required records when directed to do so by an authorized employee of the Federal Motor Carrier Safety Administration, Department of Transportation, at or in the vicinity of an inspection site. The driver shall not leave the inspection site until authorized to do so by an authorized employee.

"(b) A driver of a commercial motor vehicle, as defined in subsection (a), who knowingly fails to stop for inspection when directed to do so by an authorized employee of the Federal Motor Carrier Safety Administration at or in the vicinity of an inspection site, or leaves the inspection site without authorization, shall be fined under this title or imprisoned not more than 1 year, or both.".

(b) AUTHORITY OF FMCSA.—Chapter 203 of title 18, United States Code, is amended by adding at the end the following:

"§ 3064. Powers of Federal Motor Carrier Safety Administration

"Authorized employees of the Federal Motor Carrier Safety Administration may direct a driver of a commercial motor vehicle, as defined in 49 U.S.C. 31132(1), to stop for inspection of the vehicle, driver, cargo, and required records at or in the vicinity of an inspection site.".

(c) CONFORMING AMENDMENTS.—

(1) The chapter analysis for chapter 2 of title 18, United States Code, is amended by inserting after the item relating to section 37 the following:

"38. Commercial motor vehicles required to stop for inspections.".

(2) The chapter analysis for chapter 203 of title 18, United States Code, is amended by inserting after the item relating to section 3063 the following:

"3064. Powers of Federal Motor Carrier Safety Administration.".

SEC. 4235. REVOCATION OF OPERATING AUTHORITY.

Section 13905(e) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) PROTECTION OF SAFETY.—Notwithstanding subchapter II of chapter 5 of title 5, the Secretary—

"(A) may suspend the registration of a motor carrier, a freight forwarder, or a broker for failure to comply with requirements of the Secretary pursuant to section 13904(c) or 13906 of this title, or an order or regulation of the Secretary prescribed under those sections; and

"(B) shall revoke the registration of a motor carrier that has been prohibited from operating in interstate commerce for failure to comply with the safety fitness requirements of section 31144 of this title.";

(2) by striking "may suspend a registration"in paragraph (2) and inserting "shall revoke the registration"; and

(3) by striking paragraph (3) and inserting the following:

"(3) NOTICE; PERIOD OF SUSPENSION.—The Secretary may suspend or revoke under this subsection the registration only after giving notice of the suspension or revocation to the registrant. A suspension remains in effect until the registrant complies with the applicable sections or, in the case of a suspension under paragraph (2), until the Secretary revokes the suspension.".

SEC. 4236. PATTERN OF SAFETY VIOLATIONS BY MOTOR CARRIER MANAGEMENT.

(a) IN GENERAL.—Section 31135 is amended—

(1) by inserting "(a) IN GENERAL.—" before "Each"; and

(2) by adding at the end the following:

"(b) PATTERN OF NON-COMPLIANCE.—If an officer of a motor carrier engages in a pattern or practice of avoiding compliance, or masking or otherwise concealing non-compliance, with regulations on commercial motor vehicle safety prescribed under this subchapter, the Secretary may suspend, amend, or revoke any part of the motor carrier's registration under section 13905 of this title.

"(c) LIST OF PROPOSED OFFICERS.—Each person seeking registration as a motor carrier under section 13902 of this title shall submit a list of the proposed officers of the motor carrier. If the Secretary determines that any of the proposed officers has previously engaged in a pattern or practice of avoiding compliance, or masking or otherwise concealing non-compliance, with regulations on commercial motor vehicle safety prescribed under this chapter, the Secretary may deny the person's application for registration as a motor carrier under section 13902(a)(3).

"(d) REGULATIONS.—The Secretary shall by regulation establish standards to implement subsections (b) and (c).

"(e) DEFINITIONS.—In this section:

"(1) MOTOR CARRIER.—The term motor carrier has the meaning given the term in section 13102(12) of this title; and

"(2) OFFICER.—The term officer means an owner, chief executive officer, chief operating officer, chief financial officer, safety director, vehicle maintenance supervisor and driver supervisor of a motor carrier, regardless of the title attached to those functions.".

(b) REGISTRATION OF CARRIERS.—Section 13902(a)(1)(B) is amended to read as follows:

"(B) any safety regulations imposed by the Secretary, the duties of employers and employees established by the Secretary under section 31135, and the safety fitness requirements established by the Secretary under section 31144; and".

SEC. 4237. MOTOR CARRIER RESEARCH AND TECHNOLOGY PROGRAM.

(a) IN GENERAL.—Section 31108 is amended to read as follows:

"§ 31108. Motor carrier research and technology program

"(a) RESEARCH, TECHNOLOGY, AND TECHNOLOGY TRANSFER ACTIVITIES.—

"(1) The Secretary of Transportation shall establish and carry out a motor carrier and motor coach research and technology program. The Secretary may carry out research, development, technology, and technology transfer activities with respect to—

"(A) the causes of accidents, injuries and fatalities involving commercial motor vehicles; and

"(B) means of reducing the number and severity of accidents, injuries and fatalities involving commercial motor vehicles.

"(2) The Secretary may test, develop, or assist in testing and developing any material, invention, patented article, or process related to the research and technology program.

"(3) The Secretary may use the funds appropriated to carry out this section for training or education of commercial motor vehicle safety personnel, including, but not limited to, training in accident reconstruction and detection of controlled substances or other contraband, and stolen cargo or vehicles.

"(4) The Secretary may carry out this section—

"(A) independently;

"(B) in cooperation with other Federal departments, agencies, and instrumentalities and Federal laboratories; or

"(C) by making grants to, or entering into contracts, cooperative agreements, and other transactions with, any Federal laboratory, State agency, authority, association, institution, for-profit or non-profit corporation, organization, foreign country, or person.

"(5) The Secretary shall use funds made available to carry out this section to develop, administer, communicate, and promote the use of products of research, technology, and technology transfer programs under this section.

"(b) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

"(1) To advance innovative solutions to problems involving commercial motor vehicle and motor carrier safety, security, and efficiency, and to stimulate the deployment of emerging technology, the Secretary may carry out, on a cost-shared basis, collaborative research and development with—

"(A) non-Federal entities, including State and local governments, foreign governments, colleges and universities, corporations, institutions, partnerships, and sole proprietorships that are incorporated or established under the laws of any State; and

"(B) Federal laboratories.

"(2) In carrying out this subsection, the Secretary may enter into cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)).

"(3)(A) The Federal share of the cost of activities carried out under a cooperative research and development agreement entered into under this subsection shall not exceed 50 percent, except that if there is substantial public interest or benefit, the Secretary may approve a greater Federal share.

"(B) All costs directly incurred by the non-Federal partners, including personnel, travel, and hardware or software development costs, shall be credited toward the non-Federal share of the cost of the activities described in subparagraph (A).

"(4) The research, development, or use of a technology under a cooperative research and development agreement entered into under this subsection, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

"(5) Section 5 of title 41, United States Code, shall not apply to a contract or agreement entered into under this section.

"(c) AVAILABILITY OF AMOUNTS.—The amounts made available under section 4222(a) of the Motor Carrier Safety Reauthorization Act of 2004 to carry out this section shall remain available until expended.

"(d) CONTRACT AUTHORITY.—Approval by the Secretary of a grant with funds made available under section 4222(a) of the Motor Carrier Safety Reauthorization Act of 2004 to carry out this section imposes upon the United States Government a contractual obligation for payment of the Government's share of costs incurred in carrying out the objectives of the grant.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 311 is amended by striking the item relating to section 31108, and inserting the following:

"31108. Motor carrier research and technology program.".

SEC. 4238. REVIEW OF COMMERCIAL ZONE EXEMPTION PROVISION.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall complete a review of part 372 of title 49, Code of Federal Regulations, as it pertains to commercial zone exemptions (excluding border commercial zones) from Department of Transportation and Surface Transportation Board regulations governing interstate commerce. The Secretary shall determine whether such exemptions should continue to apply as written, should undergo revision, or should be revoked. The Secretary shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report of the review not later than 14 months after such date of enactment.

(b) NOTICE.—The Secretary shall publish notice of the review required by subsection (a) and provide and opportunity for the public to submit comments on the effect of continuing, revising, or revoking the commercial zone exemptions in part 372 of title 49, Code of Federal Regulations.

SEC. 4239. INTERNATIONAL COOPERATION.

(a) IN GENERAL.—Chapter 311 is amended by inserting at the end the following:

"Subchapter IV—Miscellaneous

"§31161. International cooperation

"The Secretary is authorized to use funds appropriated under section 31104(i) of this title to participate and cooperate in international activities to enhance motor carrier, commercial motor vehicle, driver, and highway safety by such means as exchanging information, conducting research, and examining needs, best practices, and new technology.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 311 is amended by adding at the end the following:

"SUBCHAPTER IV—MISCELLANEOUS

"31161. International cooperation.".

SEC. 4240. PERFORMANCE AND REGISTRATION INFORMATION SYSTEM MANAGEMENT.

(a) IN GENERAL.—Section 31106(b) is amended—

(1) by striking paragraphs (2) and (3) and inserting the following:

"(2) DESIGN.—The program shall link Federal motor carrier safety information systems with State commercial vehicle registration and licensing systems and shall be designed to enable a State to—

"(A) determine the safety fitness of a motor carrier or registrant when licensing or registering the registrant or motor carrier or while the license or registration is in effect; and

"(B) deny, suspend, or revoke the commercial motor vehicle registrations of a motor carrier or registrant that has been issued an operations out-of-service order by the Secretary.

"(3) CONDITIONS FOR PARTICIPATION.—The Secretary shall require States, as a condition of participation in the program, to—

"(A) comply with the uniform policies, procedures, and technical and operational standards prescribed by the Secretary under subsection (a)(4);

"(B) possess the authority to impose sanctions relating to commercial motor vehicle registration on the basis of a Federal safety fitness determination; and

"(C) cancel the motor vehicle registration and seize the registration plates of an employer found liable under section 31310(i)(2)(C) of this title for knowingly allowing or requiring an employee to operate a commercial motor vehicle in violation of an out-of-service order."; and

(2) by striking paragraph (4).

(b) PERFORMANCE AND REGISTRATION INFORMATION SYSTEM MANAGEMENT GRANTS.—

(1) Subchapter I of chapter 311, as amended by this title, is further amended by adding at the end the following:

"§31109. Performance and Registration Information System Management

"(a) IN GENERAL.—From the funds authorized by section 4222(c)(2) of the Motor Carrier Safety Reauthorization Act of 2004, the Secretary may make a grant in a fiscal year to a State to implement the performance and registration information system management requirements of section 31106(b).

"(b) AVAILABILITY OF AMOUNTS.—Amounts made available to a State under section 4222(c)(2) of the Motor Carrier Safety Reauthorization Act of 2004 to carry out this section shall remain available until expended.

"(c) SECRETARY'S APPROVAL.—Approval by the Secretary of a grant to a State under section 4222(c)(2) of the Motor Carrier Safety Reauthorization Act of 2004 to carry out this section is a contractual obligation of the Government for payment of the amount of the grant.".

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 311 is amended by inserting after the item relating to section 31108 the following:

"31109. Performance and Registration Information System Management.".

SEC. 4241. COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS DEPLOYMENT.

(a) IN GENERAL.—The Secretary shall carry out a commercial vehicle information systems and networks program to—

(1) improve the safety and productivity of commercial vehicles; and

(2) reduce costs associated with commercial vehicle operations and Federal and State commercial vehicle regulatory requirements.

(b) PURPOSE.—The program shall advance the technological capability and promote the deployment of intelligent transportation system applications for commercial vehicle operations, including commercial vehicle, commercial driver, and carrier-specific information systems and networks.

(c) CORE DEPLOYMENT GRANTS.—

(1) IN GENERAL.—The Secretary shall make grants to eligible States for the core deployment of commercial vehicle information systems and networks.

(2) ELIGIBILITY.—To be eligible for a core deployment grant under this section, a State—

(A) shall have a commercial vehicle information systems and networks program plan and a top level system design approved by the Secretary;

(B) shall certify to the Secretary that its commercial vehicle information systems and networks deployment activities, including hardware procurement, software and system development, and infrastructure modifications, are consistent with the national intelligent transportation systems and commercial vehicle information systems and networks architectures and available standards, and promote interoperability and efficiency to the extent practicable; and

(C) shall agree to execute interoperability tests developed by the Federal Motor Carrier Safety Administration to verify that its systems conform with the national intelligent transportation systems architecture, applicable standards, and protocols for commercial vehicle information systems and networks.

(3) AMOUNT OF GRANTS.—The maximum aggregate amount a State may receive under this section for the core deployment of commercial vehicle information systems and networks may not exceed $2,500,000.

(4) USE OF FUNDS.—Funds from a grant under this subsection may only be used for the core deployment of commercial vehicle information systems and networks. Eligible States that have either completed the core deployment of commercial vehicle information systems and networks or completed such deployment before core deployment grant funds are expended may use the remaining core deployment grant funds for the expanded deployment of commercial vehicle information systems and networks in their State.

(d) EXPANDED DEPLOYMENT GRANTS.—

(1) IN GENERAL.—For each fiscal year, from the funds remaining after the Secretary has made core deployment grants under subsection (c) of this section, the Secretary may make grants to each eligible State, upon request, for the expanded deployment of commercial vehicle information systems and networks.

(2) ELIGIBILITY.—Each State that has completed the core deployment of commercial vehicle information systems and networks is eligible for an expanded deployment grant.

(3) AMOUNT OF GRANTS.—Each fiscal year, the Secretary may distribute funds available for expanded deployment grants equally among the eligible States, but not to exceed $1,000,000 per State.

(4) USE OF FUNDS.—A State may use funds from a grant under this subsection only for the expanded deployment of commercial vehicle information systems and networks.

(e) FEDERAL SHARE.—The Federal share of the cost of a project payable from funds made available to carry out this section shall not exceed 50 percent. The total Federal share of the cost of a project payable from all eligible sources shall not exceed 80 percent.

(f) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized to be appropriated under section 4222(c)(4) shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that such funds shall remain available until expended.

(g) DEFINITIONS.—In this section:

(1) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.—The term "commercial vehicle information systems and networks" means the information systems and communications networks that provide the capability to—

(A) improve the safety of commercial vehicle operations;

(B) increase the efficiency of regulatory inspection processes to reduce administrative burdens by advancing technology to facilitate inspections and increase the effectiveness of enforcement efforts;

(C) advance electronic processing of registration information, driver licensing information, fuel tax information, inspection and crash data, and other safety information;

(D) enhance the safe passage of commercial vehicles across the United States and across international borders; and

(E) promote the communication of information among the States and encourage multistate cooperation and corridor development.

(2) COMMERCIAL VEHICLE OPERATIONS.—The term "commercial vehicle operations"—

(A) means motor carrier operations and motor vehicle regulatory activities associated with the commercial movement of goods, including hazardous materials, and passengers; and

(B) with respect to the public sector, includes the issuance of operating credentials, the administration of motor vehicle and fuel taxes, and roadside safety and border crossing inspection and regulatory compliance operations.

(3) CORE DEPLOYMENT.—The term "core deployment" means the deployment of systems in a State necessary to provide the State with the following capabilities:

(A) SAFETY INFORMATION EXCHANGE.—Safety information exchange to—

(i) electronically collect and transmit commercial vehicle and driver inspection data at a majority of inspection sites;

(ii) connect to the Safety and Fitness Electronic Records system for access to interstate carrier and commercial vehicle data, summaries of past safety performance, and commercial vehicle credentials information; and

(iii) exchange carrier data and commercial vehicle safety and credentials information within the State and connect to Safety and Fitness Electronic Records for access to interstate carrier and commercial vehicle data.

(B) INTERSTATE CREDENTIALS ADMINISTRATION.—Interstate credentials administration to—

(i) perform end-to-end processing, including carrier application, jurisdiction application processing, and credential issuance, of at least the International Registration Plan and International Fuel Tax Agreement credentials and extend this processing to other credentials, including intrastate, titling, oversize/overweight, carrier registration, and hazardous materials;

(ii) connect to the International Registration Plan and International Fuel Tax Agreement clearinghouses; and

(iii) have at least 10 percent of the transaction volume handled electronically, and have the capability to add more carriers and to extend to branch offices where applicable.

(C) ROADSIDE SCREENING.—Roadside electronic screening to electronically screen transponder-

equipped commercial vehicles at a minimum of 1 fixed or mobile inspection sites and to replicate this screening at other sites.

(4) EXPANDED DEPLOYMENT.—The term "expanded deployment" means the deployment of systems in a State that exceed the requirements of an core deployment of commercial vehicle information systems and networks, improve safety and the productivity of commercial vehicle operations, and enhance transportation security.

SEC. 4242. OUTREACH AND EDUCATION.

(a) IN GENERAL.—The Secretary of Transportation, through the National Highway Traffic Safety Administration and the Federal Motor Carrier Safety Administration, may undertake outreach and education initiatives, including the "Share the Road Safely" program, that may reduce the number of highway accidents, injuries, and fatalities involving commercial motor vehicles. The Secretary may not use funds authorized by this part for the "Safety Is Good Business" program.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for fiscal year 2004 to carry out this section—

(1) $250,000 for the Federal Motor Carrier Safety Administration; and

(2) $750,000 for the National Highway Traffic Safety Administration.

SEC. 4243. OPERATION OF RESTRICTED PROPERTY-CARRYING UNITS ON NATIONAL HIGHWAY SYSTEM.

(a) RESTRICTED PROPERTY-CARRYING UNIT DEFINED.—Section 31111(a) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following:

"(3) RESTRICTED PROPERTY-CARRYING UNIT.—The term 'restricted property-carrying unit' means any trailer, semi-trailer, container, or other property-carrying unit that is longer than 53 feet.".

(b) PROHIBITION ON OPERATION OF RESTRICTED PROPERTY-CARRYING UNITS.—

(1) IN GENERAL.—Section 31111(b)(1)(C) is amended to read as follows:

"(C) allows operation on any segment of the National Highway System, including the Interstate System, of a restricted property-carrying unit unless the operation is specified on the list published under subsection (h);".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect 270 days after the date of enactment of this subsection.

(c) LIMITATIONS.—Section 31111 is amended by adding at the end the following:

"(h) RESTRICTED PROPERTY-CARRYING UNITS.—

"(1) APPLICABILITY OF PROHIBITION.—

"(A) IN GENERAL.—Notwithstanding subsection (b)(1)(C), a restricted property-carrying unit may continue to operate on a segment of the National Highway System if the operation of such unit is specified on the list published under paragraph (2).

"(B) APPLICABILITY OF STATE LAWS AND REGULATIONS.—All operations specified on the list published under paragraph (2) shall continue to be subject to all State statutes, regulations, limitations and conditions, including routing-specific, commodity-specific, and configuration-specific designations and all other restrictions, in force on June 1, 2003.

"(C) FIRE-FIGHTING UNITS.—Subsection (b)(1)(C) shall not apply to the operation of a restricted property-carrying unit that is used exclusively for fire-fighting.

"(2) LISTING OF RESTRICTED PROPERTY-CARRYING UNITS.—

"(A) IN GENERAL.—Not later than 60 days after the date of enactment of the Motor Carrier Safety Reauthorization Act of 2004, the Secretary shall initiate a proceeding to determine and publish a list of restricted property-carrying units that were authorized by State officials pursuant to State statute or regulation on June 1, 2003, and in actual and lawful operation on a regular or periodic basis (including seasonal operations) on or before June 1, 2003.

"(B) LIMITATION.—A restricted property-carrying unit may not be included on the list published under subparagraph (A) on the basis that a State law or regulation could have authorized the operation of the unit at some prior date by permit or otherwise.

"(C) PUBLICATION OF FINAL LIST.—Not later than 270 days after the date of enactment of this subsection, the Secretary shall publish a final list of restricted property-carrying units described in subparagraph (A).

"(D) UPDATES.—The Secretary shall update the list published under subparagraph (C) as necessary to reflect new designations made to the National Highway System.

"(3) APPLICABILITY OF PROHIBITION.—The prohibition established by subsection (b)(1)(C) shall apply to any new designation made to the National Highway System and remain in effect on those portions of the National Highway System that cease to be designated as part of the National Highway System.

"(4) LIMITATION ON STATUTORY CONSTRUCTION.—This subsection does not prevent a State from further restricting in any manner or prohibiting the operation of a restricted property-carrying unit; except that such restrictions or prohibitions shall be consistent with the requirements of this section and sections 31112 through 31114.".

(d) ENFORCEMENT.—The second sentence of section 141(a) of title 23, United States Code, is amended by striking "section 31112" and inserting "sections 31111 and 31112".

SEC. 4244. OPERATION OF LONGER COMBINATION VEHICLES ON NATIONAL HIGHWAY SYSTEM.

(a) IN GENERAL.—Section 31112 is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following:

"(f) NATIONAL HIGHWAY SYSTEM.—

"(1) GENERAL RULE.—A State may not allow, on a segment of the National Highway System that is not covered under subsection (b) or (c), the operation of a commercial motor vehicle combination (except a vehicle or load that cannot be dismantled easily or divided easily and that has been issued a special permit under applicable State law) with more than 1 property-carrying unit (not including the truck tractor) whose property-carrying units are more than—

"(A) the maximum combination trailer, semitrailer, or other type of length limitation allowed by law or regulation of that State on June 1, 2003; or

"(B) the length of the property-carrying units of those commercial motor vehicle combinations, by specific configuration, in actual and lawful operation on a regular or periodic basis (including continuing seasonal operation) in that State on or before June 1, 2003.

"(2) ADDITIONAL LIMITATIONS.—

"(A) APPLICABILITY OF STATE RESTRICTIONS.—A commercial motor vehicle combination whose operation in a State is not prohibited under paragraph (1) may continue to operate in the State on highways described in paragraph (1) only in compliance with all State laws, regulations, limitations, and conditions, including routing-specific and configuration-specific designations and all other restrictions in force in the State on June 1, 2003. Subject to regulations prescribed by the Secretary under subsection (h), the State may make minor adjustments of a temporary and emergency nature to route designations and vehicle operating restrictions in effect on June 1, 2003, for specific safety purposes and road construction.

"(B) ADDITIONAL STATE RESTRICTIONS.—This subsection does not prevent a State from further restricting in any manner or prohibiting the operation of a commercial motor vehicle combination subject to this section, except that such restrictions or prohibitions shall be consistent with this section and sections 31113(a), 31113(b), and 31114.

"(C) MINOR ADJUSTMENTS.—A State making a minor adjustment of a temporary and emergency nature as authorized by subparagraph (A) or further restricting or prohibiting the operation of a commercial motor vehicle combination as authorized by subparagraph (B) shall advise the Secretary not later than 30 days after the action. The Secretary shall publish a notice of the action in the Federal Register.

"(3) LIST OF STATE LENGTH LIMITATIONS.—

"(A) STATE SUBMISSIONS.—Not later than 60 days after the date of enactment of the Motor Carrier Safety Reauthorization Act of 2004, each State shall submit to the Secretary for publication a complete list of State length limitations applicable to commercial motor vehicle combinations operating in the State on the highways described in paragraph (1). The list shall indicate the applicable State laws and regulations associated with the length limitations. If a State does not submit the information as required, the Secretary shall complete and file the information for the State.

"(B) PUBLICATION OF INTERIM LIST.—Not later than 90 days after the date of enactment of the Motor Carrier Safety Reauthorization Act of 2004, the Secretary shall publish an interim list in the Federal Register consisting of all information submitted under subparagraph (A). The Secretary shall review for accuracy all information submitted by a State under subparagraph (A) and shall solicit and consider public comment on the accuracy of the information.

"(C) LIMITATION.—A law or regulation may not be included on the list submitted by a State or published by the Secretary merely because it authorized, or could have authorized, by permit or otherwise, the operation of commercial motor vehicle combinations not in actual operation on a regular or periodic basis on or before June 1, 2003.

"(D) PUBLICATION OF FINAL LIST.—Except as revised under this subparagraph or subparagraph (E), the list shall be published as final in the Federal Register not later than 270 days after the date of enactment of the Motor Carrier Safety Reauthorization Act of 2004. In publishing the final list, the Secretary shall make any revisions necessary to correct inaccuracies identified under subparagraph (B). After publication of the final list, commercial motor vehicle combinations prohibited under paragraph (1) may not operate on a highway described in paragraph (1) except as published on the list.

"(E) INACCURACIES.—On the Secretary's own motion or on request by any person (including a State), the Secretary shall review the list published under subparagraph (D). If the Secretary decides there is reason to believe a mistake was made in the accuracy of the list, the Secretary shall begin a proceeding to decide whether a mistake was made. If the Secretary decides there was a mistake, the Secretary shall publish the correction.".

(b) CONFORMING AMENDMENTS.—Section 31112 is amended—

(1) by inserting "126(e) or" before "127(d)" in subsection (g)(1) (as redesignated by subsection (a) of this section);

(2) by inserting "(or June 1, 2003, with respect to highways described in subsection (f)(1))" after "June 2, 1991" in subsection (g)(3) (as redesignated by subsection (a) of this section); and

(3) by striking "Not later than June 15, 1992, the Secretary" in subsection (h)(2) (as redesignated by subsection (a) of this section) and inserting "The Secretary"; and

(4) by inserting "or (f)" in subsection (h)(2) (as redesignated by subsection (a) of this section) after "subsection (d)".

SEC. 4245. APPLICATION OF SAFETY STANDARDS TO CERTAIN FOREIGN MOTOR CARRIERS.

(a) APPLICATION OF SAFETY STANDARDS.—Section 30112 is amended—

(1) by striking "person" in subsection (a) and inserting "person, including a foreign motor carrier,"; and

(2) by adding at the end the following:

"(c) DEFINITIONS.—In this section:

"(1) FOREIGN MOTOR CARRIER.—The term 'foreign motor carrier' has the meaning given that term in section 13102 of this title.

"(2) IMPORT.—The term 'import' means transport by any means into the United States, on a permanent or temporary basis, including the transportation of a motor vehicle into the United States for the purpose of providing the transportation of cargo or passengers.".

(b) REQUIREMENT FOR CERTIFICATE OF COMPLIANCE.—Section 30115 is amended by adding at the end the following:

"(c) APPLICATION TO FOREIGN MOTOR CARRIERS.—

"(1) IN GENERAL.—The requirement for certification described in subsection (a) shall apply to a foreign motor carrier that imports a motor vehicle or motor vehicle equipment into the United States. Such certification shall be made to the Secretary of Transportation prior to the import of the vehicle or equipment.

"(2) DEFINITIONS.—In this subsection:

"(A) FOREIGN MOTOR CARRIER.—The term 'foreign motor carrier' has the meaning given that term in section 13102 of this title.

"(B) IMPORT.—The term 'import' has the meaning given that term in section 30112 of this title.".

(c) TIME FOR COMPLIANCE.—The amendments made by sections (a) and (b) shall take effect on September 1, 2004.

SEC. 4246. BACKGROUND CHECKS FOR MEXICAN AND CANADIAN DRIVERS HAULING HAZARDOUS MATERIALS.

(a) IN GENERAL.—No commercial motor vehicle operator registered to operate in Mexico or Canada may operate a commercial motor vehicle transporting a hazardous material in commerce in the United States until the operator has undergone a background records check similar to the background records check required for commercial motor vehicle operators licensed in the United States to transport hazardous materials in commerce.

(b) DEFINITIONS.—In this section:

(1) HAZARDOUS MATERIALS.—The term "hazardous material" means any material determined by the Secretary of Transportation to be a hazardous material for purposes of this section.

(2) COMMERCIAL MOTOR VEHICLE.—The term "commercial motor vehicle" has the meaning given that term by section 31101 of title 49, United States Code.

(c) EFFECTIVE DATE.—This section takes effect on April 1, 2004.

SEC. 4247. EXEMPTION OF DRIVERS OF UTILITY SERVICE VEHICLES.

Section 345 of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note) is amended—

(1) by striking paragraph (4) of subsection (a) and inserting the following:

"(4) DRIVERS OF UTILITY SERVICE VEHICLES.—

"(A) INAPPLICABILITY OF FEDERAL REGULATIONS.—Such regulations may not apply to a driver of a utility service vehicle.

"(B) PROHIBITION ON STATE REGULATIONS.—A State, a political subdivision of a State, an interstate agency, or other entity consisting of 2 or more States, may not enact or enforce any law, rule, regulation, or standard that imposes requirements on a driver of a utility service vehicle that are similar to the requirements contained in such regulations.";

(2) by striking "Nothing" in subsection (b) and inserting "Except as provided in subsection (a)(4), nothing"; and

(3) by striking "paragraph (2)" in the first sentence of subsection (c) and inserting "an exemption under paragraph (2) or (4)".

SEC. 4248. OPERATION OF COMMERCIAL MOTOR VEHICLES TRANSPORTING AGRICULTURAL COMMODITIES AND FARM SUPPLIES.

(a) EXEMPTION FROM HOURS-OF-SERVICE REQUIREMENTS.—

(1) IN GENERAL.—Section 345(c) of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note), as amended by section 4247(3) of this title, is amended by striking "paragraph (2) or (4)" and inserting "paragraph (1), (2), or (4) of that subsection)".

(2) APPLICABILITY.—The exemption provided by section 345(a)(1) of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note) shall apply to a person transporting agricultural commodities or farm supplies for agricultural purposes under that section on and after the date of enactment of this Act regardless of any action taken by the Secretary of Transportation under section 345(c) of that Act before the date of enactment of this Act.

(b) DEFINITION OF AGRICULTURAL COMMODITY.—Section 345(e) of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note) is amended—

(1) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (5), (6), (4), and (7), respectively, and moving the paragraphs so as to appear in numerical order; and

(2) by inserting after paragraph (2) the following:

"(3) AGRICULTURAL COMMODITY.—The term 'agricultural commodity' has the meaning given the term in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602).".

SEC. 4249. SAFETY PERFORMANCE HISTORY SCREENING.

(a) IN GENERAL.—Subchapter III of chapter 311, as amended by section 4228, is amended by adding at the end the following:

"§31150. Safety performance history screening

"(a) IN GENERAL.—The Secretary of Transportation shall provide companies conducting pre-employment screening services for the motor carrier industry electronic access to—

"(1) commercial motor vehicle accident reports,

"(2) inspection reports that contain no driver-related safety violations, and

"(3) serious driver-related safety violation inspection reports that are contained in the Motor Carrier Management Information System.

"(b) ESTABLISHMENT.—Prior to making information available to such companies under subsection (a), the Secretary shall—

"(1) ensure that any information released is done in accordance with the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) and all applicable Federal laws;

"(2) require the driver applicant's written consent as a condition of releasing the information;

"(3) ensure that the information made available to companies providing pre-employment screening services is not released to any other unauthorized company or individual, unless expressly authorized or required by law; and

"(4) provide a procedure for drivers to remedy incorrect information in a timely manner.

"(c) DESIGN.—To be eligible to have access to information under subsection (a), a company conducting pre-employment screening services for the motor carrier industry shall utilize a screening process—

"(1) that is designed to assist the motor carrier industry in assessing an individual driver's crash and serious safety violation inspection history as a pre-employment condition;

"(2) the use of which is not mandatory; and

"(3) which is used only during the pre-employment assessment of a driver-applicant.

"(d) SERIOUS DRIVER-RELATED SAFETY VIOLATIONS.—In this section, the term 'serious driver-related safety violation' means a violation listed in the North American Standard Driver Out-of-service Criteria that prohibits the continued operation of a commercial motor vehicle.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 311, as amended by section 4228, is amended by inserting after the item relating to section 31149 the following:

"31150. Safety performance history screening.".

SEC. 4250. COMPLIANCE REVIEW AUDIT.

Within 1 year after the date of enactment of this Act, the Inspector General for the Department of Transportation shall audit the compliance reviews performed by the Federal Motor Carrier Safety Administration in fiscal year 2003 and submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on—

(1) the enforcement actions taken as a result of the compliance reviews, including fines, suspension or revocation of operating authority, unsatisfactory ratings, and follow-up actions to ensure compliance with Federal motor carrier safety regulations;

(2) whether compliance reviews are or should be performed on a corporate-wide basis for all affiliates of the motor carrier selected for a compliance review as a result of its Safety Status Measurement System ranking or the submission of a complaint;

(3) whether the enforcement actions taken by the Federal Motor Carrier Safety Administration are adequate to assure future compliance of the motor carrier with Federal safety regulations and what deterrent effect those enforcement actions may have industry-wide;

(4) whether the methodology for calculating the crash rate of commercial motor vehicles in the Safety Status Measurement System would be more appropriately based on the number of vehicle miles driven by a motor carrier rather than the number of trucks operated by the carrier;

(5) whether the public access information in the Safety Status Measurement System meets the agency's requirements under the Data Quality Act; and

(6) the existing information Selection System Indicators criteria and weighting and whether the safety evaluation area containing data on accidents should receive higher priority for complaince reviews and inspection selection.

PART III—UNIFIED CARRIER REGISTRATION

SEC. 4261. SHORT TITLE.

This part may be cited as the "Unified Carrier Registration Act of 2004".

SEC. 4262. RELATIONSHIP TO OTHER LAWS.

Except as provided in section 14504 of title 49, United States Code, and sections 14504a and 14506 of title 49, United States Code, as added by this part, this part is not intended to prohibit any State or any political subdivision of any State from enacting, imposing, or enforcing any law or regulation with respect to a motor carrier, motor private carrier, broker, freight forwarder, or leasing company that is not otherwise prohibited by law.

SEC. 4263. INCLUSION OF MOTOR PRIVATE AND EXEMPT CARRIERS.

(a) PERSONS REGISTERED TO PROVIDE TRANSPORTATION OR SERVICE AS A MOTOR CARRIER OR MOTOR PRIVATE CARRIER.—Section 13905 is amended by—

(1) redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f), respectively; and

(2) inserting after subsection (a) the following:

"(b) PERSON REGISTERED WITH SECRETARY.—Any person having registered with the Secretary to provide transportation or service as a motor carrier or motor private carrier under this title, as in effect on January 1, 2002, but not having registered pursuant to section 13902(a) of this title, shall be deemed, for purposes of this part, to be registered to provide such transportation or service for purposes of sections 13908 and 14504a of this title.".

(b) SECURITY REQUIREMENT.—Section 13906(a) is amended by—

(1) redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) inserting the following:

"(2) SECURITY REQUIREMENT.—Not later than 120 days after the date of enactment of the Unified Carrier Registration Act of 2004, any person, other than a motor private carrier, registered with the Secretary to provide transportation or service as a motor carrier under section 13905(b) of this title shall file with the Secretary a bond, insurance policy, or other type of security approved by the Secretary, in an amount not less than required by sections 31138 and 31139 of this title.".

SEC. 4264. UNIFIED CARRIER REGISTRATION SYSTEM.

(a) Section 13908 is amended to read as follows:

"§ 13908. Registration and other reforms

"(a) ESTABLISHMENT OF UNIFIED CARRIER REGISTRATION SYSTEM.—The Secretary, in cooperation with the States, representatives of the motor carrier, motor private carrier, freight forwarder and broker industries, and after notice and opportunity for public comment, shall issue within 1 year after the date of enactment of the Unified Carrier Registration Act of 2004 regulations to establish, an online, Federal registration system to be named the Unified Carrier Registration System to replace—

"(1) the current Department of Transportation identification number system, the Single State Registration System under section 14504 of this title;

"(2) the registration system contained in this chapter and the financial responsibility information system under section 13906; and

"(3) the service of process agent systems under sections 503 and 13304 of this title.

"(b) ROLE AS CLEARINGHOUSE AND DEPOSITORY OF INFORMATION.—The Unified Carrier Registration System shall serve as a clearinghouse and depository of information on, and identification of, all foreign and domestic motor carriers, motor private carriers, brokers, and freight forwarders, and others required to register with the Department, including information with respect to a carrier's safety rating, compliance with required levels of financial responsibility, and compliance with the provisions of section 14504a of this title. The Secretary shall ensure that Federal agencies, States, representatives of the motor carrier industry, and the public have access to the Unified Carrier Registration System, including the records and information contained in the System.

"(c) PROCEDURES FOR CORRECTING INFORMATION.—Not later than 60 days after the effective date of this section, the Secretary shall prescribe regulations establishing procedures that enable a motor carrier to correct erroneous information contained in any part of the Unified Carrier Registration System.

"(d) FEE SYSTEM.—The Secretary shall establish, under section 9701 of title 31, a fee system for the Unified Carrier Registration System according to the following guidelines:

"(1) REGISTRATION AND FILING EVIDENCE OF FINANCIAL RESPONSIBILITY.—The fee for new registrants shall as nearly as possible cover the costs of processing the registration and conducting the safety audit or examination, if required, but shall not exceed $300.

"(2) EVIDENCE OF FINANCIAL RESPONSIBILITY.—The fee for filing evidence of financial responsibility pursuant to this section shall not exceed $10 per filing. No fee shall be charged for a filing for purposes of designating an agent for service of process or the filing of other information relating to financial responsibility.

"(3) ACCESS AND RETRIEVAL FEES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the fee system shall include a nominal fee for the access to or retrieval of information from the Unified Carrier Registration System to cover the costs of operating and upgrading the System, including the personnel costs incurred by the Department and the costs of administration of the Unified Carrier Registration Agreement.

"(B) EXCEPTIONS.—There shall be no fee charged—

"(i) to any agency of the Federal Government or a State government or any political subdivision of any such government for the access to or retrieval of information and data from the Unified Carrier Registration System for its own use; or

"(ii) to any representative of a motor carrier, motor private carrier, leasing company, broker, or freight forwarder (as each is defined in section 14504a of this title) for the access to or retrieval of the individual information related to such entity from the Unified Carrier Registration System for the individual use of such entity.".

SEC. 4265. REGISTRATION OF MOTOR CARRIERS BY STATES.

(a) TERMINATION OF REGISTRATION PROVISIONS.—Section 14504 is amended by adding at the end the following:

"(d) TERMINATION OF PROVISIONS.—Subsections (b) and (c) shall cease to be effective on the first January 1st occurring more than 12 months after the date of enactment of the Unified Carrier Registration Act of 2004.".

(b) UNIFIED CARRIER REGISTRATION SYSTEM PLAN AND AGREEMENT.—Chapter 145 is amended by inserting after section 14504 the following:

"§ 14504a. Unified carrier registration system plan and agreement

"(a) DEFINITIONS.—In this section and section 14506 of this title:

"(1) COMMERCIAL MOTOR VEHICLE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'commercial motor vehicle' has the meaning given the term in section 31101 of this title.

"(B) EXCEPTION.—With respect to motor carriers required to make any filing or pay any fee to a State with respect to the motor carrier's authority or insurance related to operation within such State, the term 'commercial motor vehicle' means any self-propelled vehicle used on the highway in commerce to transport passengers or property for compensation regardless of the gross vehicle weight rating of the vehicle or the number of passengers transported by such vehicle.

"(2) BASE-STATE.—

"(A) IN GENERAL.—The term 'Base-State' means, with respect to the Unified Carrier Registration Agreement, a State—

"(i) that is in compliance with the requirements of subsection (e); and

"(ii) in which the motor carrier, motor private carrier, broker, freight forwarder or leasing company maintains its principal place of business.

"(B) DESIGNATION OF BASE-STATE.—A motor carrier, motor private carrier, broker, freight forwarder or leasing company may designate another State in which it maintains an office or operating facility as its Base-State in the event that—

"(i) the State in which the motor carrier, motor private carrier, broker, freight forwarder or leasing company maintains its principal place of business is not in compliance with the requirements of subsection (e); or

"(ii) the motor carrier, motor private carrier, broker, freight forwarder or leasing company does not have a principal place of business in the United States.

"(3) INTRASTATE FEE.—The term 'intrastate fee' means any fee, tax, or other type of assessment, including per vehicle fees and gross receipts taxes, imposed on a motor carrier or motor private carrier for the renewal of the intrastate authority or insurance filings of such carrier with a State.

"(4) LEASING COMPANY.—The term 'leasing company' means a lessor that is engaged in the business of leasing or renting for compensation motor vehicles without drivers to a motor carrier, motor private carrier, or freight forwarder.

"(5) MOTOR CARRIER.—The term 'motor carrier' has the meaning given the term in section 13102(12) of this title, but shall include all carriers that are otherwise exempt from the provisions of part B of this title pursuant to the provisions of chapter 135 of this title or exemption actions by the former Interstate Commerce Commission under this title.

"(6) PARTICIPATING STATE.—The term 'participating state' means a State that has complied with the requirements of subsection (e) of this section.

"(7) SSRS.—The term 'SSRS' means the Single State Registration System in effect on the date of enactment of the Unified Carrier Registration Act of 2004.

"(8) UNIFIED CARRIER REGISTRATION AGREEMENT.—The terms 'Unified Carrier Registration Agreement' and 'UCR Agreement' mean the interstate agreement developed under the Unified Carrier Registration Plan governing the collection and distribution of registration and financial responsibility information provided and fees paid by motor carriers, motor private carriers, brokers, freight forwarders and leasing companies pursuant to this section.

"(9) UNIFIED CARRIER REGISTRATION PLAN.—The terms 'Unified Carrier Registration Plan' and 'UCR Plan' mean the organization of State, Federal and industry representatives responsible for developing, implementing and administering the Unified Carrier Registration Agreement.

"(10) VEHICLE REGISTRATION.—The term 'vehicle registration' means the registration of any commercial motor vehicle under the International Registration Plan or any other registration law or regulation of a jurisdiction.

"(b) APPLICABILITY OF PROVISIONS TO FREIGHT FORWARDERS.—A Freight forwarder that operates commercial motor vehicles and is not required to register as a carrier pursuant to section 13903(b) of this title shall be subject to the provisions of this section as if a motor carrier.

"(c) UNREASONABLE BURDEN.—For purposes of this section, it shall be considered an unreasonable burden upon interstate commerce for any State or any political subdivision of a State, or any political authority of 2 or more States—

"(1) to enact, impose, or enforce any requirement or standards, or levy any fee or charge on any interstate motor carrier or interstate motor private carrier in connection with—

"(A) the registration with the State of the interstate operations of a motor carrier or motor private carrier;

"(B) the filing with the State of information relating to the financial responsibility of a

motor carrier or motor private carrier pursuant to sections 31138 or 31139 of this title;

"(C) the filing with the State of the name of the local agent for service of process of a motor carrier or motor private carrier pursuant to sections 503 or 13304 of this title; or

"(D) the annual renewal of the intrastate authority, or the insurance filings, of a motor carrier or motor private carrier, or other intrastate filing requirement necessary to operate within the State, if the motor carrier or motor private carrier is—

"(i) registered in compliance with section 13902 or section 13905(b) of this title; and

"(ii) in compliance with the laws and regulations of the State authorizing the carrier to operate in the State pursuant to section 14501(c)(2)(A) of this title

except with respect to—

"(I) intrastate service provided by motor carriers of passengers that is not subject to the preemptive provisions of section 14501(a) of this title,

"(II) motor carriers of property, motor private carriers, brokers, or freight forwarders, or their services or operations, that are described in subparagraphs (B) and (C) of section 14501(c)(2) and section 14506(c)(3) or permitted pursuant to section 14506(b) of this title, and

"(III) the intrastate transportation of waste or recycables by any carrier); or

"(2) to require any interstate motor carrier or motor private carrier to pay any fee or tax, not proscribed by paragraph (1)(D) of this subsection, that a motor carrier or motor private carrier that pays a fee which is proscribed by that paragraph is not required to pay.

"(d) UNIFIED CARRIER REGISTRATION PLAN.—

"(1) BOARD OF DIRECTORS.—

"(A) GOVERNANCE OF PLAN.—The Unified Carrier Registration Plan shall be governed by a Board of Directors consisting of representatives of the Department of Transportation, Participating States, and the motor carrier industry.

"(B) NUMBER.—The Board shall consist of 15 directors.

"(C) COMPOSITION.—The Board shall be composed of directors appointed as follows:

"(i) FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION.—The Secretary shall appoint 1 director from each of the Federal Motor Carrier Safety Administration's 4 Service Areas (as those areas were defined by the Federal Motor Carrier Safety Administration on January 1, 2003), from among the chief administrative officers of the State agencies responsible for overseeing the administration of the UCR Agreement.

"(ii) STATE AGENCIES.—The Secretary shall appoint 5 directors from the professional staffs of State agencies responsible for overseeing the administration of the UCR Agreement in their respective States. Nominees for these 5 directorships shall be submitted to the Secretary by the national association of professional employees of the State agencies responsible for overseeing the administration of the UCR Agreement in their respective States.

"(iii) MOTOR CARRIER INDUSTRY.—The Secretary shall appoint 5 directors from the motor carrier industry. At least 1 of the appointees shall be an employee of the national trade association representing the general motor carrier of property industry.

"(iv) DEPARTMENT OF TRANSPORTATION.—The Secretary shall appoint the Deputy Administrator of the Federal Motor Carrier Safety Administration, or such other presidential appointee from the United States Department of Transportation, as the Secretary may designate, to serve as a director.

"(D) CHAIRPERSON AND VICE-CHAIRPERSON.—The Secretary shall designate 1 director as Chairperson and 1 director as Vice-Chairperson of the Board. The Chairperson and Vice-Chairperson shall serve in such capacity for the term of their appointment as directors.

"(E) TERM.—In appointing the initial Board, the Secretary shall designate 5 of the appointed directors for initial terms of 3 years, 5 of the appointed directors for initial terms of 2 years, and 5 of the appointed directors for initial terms of 1 year. Thereafter, all directors shall be appointed for terms of 3 years, except that the term of the Deputy Administrator or other individual designated by the Secretary under subparagraph (C)(iv) shall be at the discretion of the Secretary. A director may be appointed to succeed himself or herself. A director may continue to serve on the Board until his or her successor is appointed.

"(2) RULES AND REGULATIONS GOVERNING THE UCR AGREEMENT.—The Board of Directors shall develop the rules and regulations to govern the UCR Agreement and submit such rules and regulations to the Secretary for approval and adoption. The rules and regulations shall—

"(A) prescribe uniform forms and formats, for—

"(i) the annual submission of the information required by a Base-State of a motor carrier, motor private carrier, leasing company, broker, or freight forwarder;

"(ii) the transmission of information by a Participating State to the Unified Carrier Registration System;

"(iii) the payment of excess fees by a State to the designated depository and the distribution of fees by the depository to those States so entitled; and

"(iv) the providing of notice by a motor carrier, motor private carrier, broker, freight forwarder, or leasing company to the Board of the intent of such entity to change its Base-State, and the procedures for a State to object to such a change under subparagraph (C) of this paragraph;

"(B) provide for the administration of the Unified Carrier Registration Agreement, including procedures for amending the Agreement and obtaining clarification of any provision of the Agreement;

"(C) provide procedures for dispute resolution that provide due process for all involved parties; and

"(D) designate a depository.

"(3) COMPENSATION AND EXPENSES.—Except for the representative of the Department of Transportation appointed pursuant to paragraph 1(D), no director shall receive any compensation or other benefits from the Federal Government for serving on the Board or be considered a Federal employee as a result of such service. All Directors shall be reimbursed for expenses they incur attending duly called meetings of the Board. In addition, the Board may approve the reimbursement of expenses incurred by members of any subcommittee or task force appointed pursuant to paragraph (5). The reimbursement of expenses to directors and subcommittee and task force members shall be based on the then applicable rules of the General Service Administration governing reimbursement of expenses for travel by Federal employees.

"(4) MEETINGS.—

"(A) IN GENERAL.—The Board shall meet at least once per year. Additional meetings may be called, as needed, by the Chairperson of the Board, a majority of the directors, or the Secretary.

"(B) QUORUM.—A majority of directors shall constitute a quorum.

"(C) VOTING.—Approval of any matter before the Board shall require the approval of a majority of all directors present at the meeting.

"(D) OPEN MEETINGS.—Meetings of the Board and any subcommittees or task forces appointed pursuant to paragraph (5) of this section shall be subject to the provisions of section 552b of title 5.

"(5) SUBCOMMITTEES.—

"(A) INDUSTRY ADVISORY SUBCOMMITTEE.—The Chairperson shall appoint an Industry Advisory Subcommittee. The Industry Advisory Subcommittee shall consider any matter before the Board and make recommendations to the Board.

"(B) OTHER SUBCOMMITTEES.—The Chairperson shall appoint an Audit Subcommittee, a Dispute Resolution Subcommittee, and any additional subcommittees and task forces that the Board determines to be necessary.

"(C) MEMBERSHIP.—The chairperson of each subcommittee shall be a director. The other members of subcommittees and task forces may be directors or non-directors.

"(D) REPRESENTATION ON SUBCOMMITTEES.—Except for the Industry Advisory Subcommittee (the membership of which shall consist solely of representatives of entities subject to the fee requirements of subsection (f) of this section), each subcommittee and task force shall include representatives of the Federal Motor Carrier Safety Administration, the Participating States, and the motor carrier industry.

"(6) DELEGATION OF AUTHORITY.—The Board may contract with any private commercial or non-profit entity or any agency of a State to perform administrative functions required under the Unified Carrier Registration Agreement, but may not delegate its decision or policy-making responsibilities.

"(7) DETERMINATION OF FEES.—The Board shall determine the annual fees to be assessed carriers, leasing companies, brokers, and freight forwarders pursuant to the Unified Carrier Registration Agreement. In determining the level of fees to be assessed in the next Agreement year, the Board shall consider—

"(A) the administrative costs associated with the Unified Carrier Registration Plan and the Agreement;

"(B) whether the revenues generated in the previous year and any surplus or shortage from that or prior years enable the Participating States to achieve the revenue levels set by the Board; and

"(C) the parameters for fees set forth in subsection (f)(1).

"(8) LIABILITY PROTECTIONS FOR DIRECTORS.—No individual appointed to serve on the Board shall be liable to any other director or to any other party for harm, either economic or non-economic, caused by an act or omission of the individual arising from the individual's service on the Board if—

"(A) the individual was acting within the scope of his or her responsibilities as a director; and

"(B) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the right or safety of the party harmed by the individual.

"(9) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Unified Carrier Registration Plan or its committees.

"(10) CERTAIN FEES NOT AFFECTED.—This section does not limit the amount of money a State may charge for vehicle registration or the amount of any fuel use tax a State may impose pursuant to the International Fuel Tax Agreement.

"(e) STATE PARTICIPATION.—

"(1) STATE PLAN.—No State shall be eligible to participate in the Unified Carrier Registration Plan or to receive any revenues derived under the Agreement, unless the State submits to the Secretary, not later than 3 years after the date of enactment of the Unified Carrier Registration Act of 2004, a plan—

"(A) identifying the State agency that has or will have the legal authority, resources, and

qualified personnel necessary to administer the Unified Carrier Registration Agreement in accordance with the rules and regulations promulgated by the Board of Directors of the Unified Carrier Registration Plan; and

"(B) containing assurances that an amount at least equal to the revenue derived by the State from the Unified Carrier Registration Agreement shall be used for motor carrier safety programs, enforcement, and financial responsibility, or the administration of the UCR Plan and UCR Agreement.

"(2) AMENDED PLANS.—A State may change the agency designated in the plan submitted under this subsection by filing an amended plan with the Secretary and the Chairperson of the Unified Carrier Registration Plan.

"(3) WITHDRAWAL OF PLAN.—In the event a State withdraws, or notifies the Secretary that it is withdrawing, the plan submitted under this subsection, the State may no longer participate in the Unified Carrier Registration Agreement or receive any portion of the revenues derived under the Agreement.

"(4) TERMINATION OF ELIGIBILITY.—If a State fails to submit a plan to the Secretary as required by paragraph (1) or withdraws its plan under paragraph (3), the State shall be prohibited from subsequently submitting or resubmitting a plan or participating in the Agreement.

"(5) PROVISION OF PLAN TO CHAIRPERSON.—The Secretary shall provide a copy of each plan submitted under this subsection to the initial Chairperson of the Board of Directors of the Unified Carrier Registration Plan not later than 90 days of appointing the Chairperson.

"(f) CONTENTS OF UNIFIED CARRIER REGISTRATION AGREEMENT.—The Unified Carrier Registration Agreement shall provide the following:

"(1) DETERMINATION OF FEES.—

"(A) Fees charged motor carriers, motor private carriers, or freight forwarders in connection with the filing of proof of financial responsibility under the UCR Agreement shall be based on the number of commercial motor vehicles owned or operated by the motor carrier, motor private carrier, or freight forwarder. Brokers and leasing companies shall pay the same fees as the smallest bracket of motor carriers, motor private carriers, and freight forwarders.

"(B) The fees shall be determined by the Board with the approval of the Secretary.

"(C) The Board shall develop no more than 6 and no less than 4 ranges of carriers by size of fleet.

"(D) The fee scale shall be progressive and use different vehicle ratios for different ranges of carrier fleet size.

"(E) The Board may adjust the fees within a reasonable range on an annual basis if the revenues derived from the fees—

"(i) are insufficient to provide the revenues to which the States are entitled under this section; or

"(ii) exceed those revenues.

"(2) DETERMINATION OF OWNERSHIP OR OPERATION.—Commercial motor vehicles owned or operated by a motor carrier, motor private carrier, or freight forwarder shall mean those commercial motor vehicles registered in the name of the motor carrier, motor private carrier, or freight forwarder or controlled by the motor carrier, motor private carrier, or freight forwarder under a long term lease during a vehicle registration year.

"(3) CALCULATION OF NUMBER OF COMMERCIAL MOTOR VEHICLES OWNED OR OPERATED.—The number of commercial motor vehicles owned or operated by a motor carrier, motor private carrier, or freight forwarder for purposes of subsection (e)(1) shall be based either on the number of commercial motor vehicles the motor carrier, motor private carrier, or freight forwarder has indicated it operates on its most recently filed MCS–150 or the total number of such vehicles it owned or operated for the 12-month period ending on June 30 of the year immediately prior to the each registration year of the Unified Carrier Registration System.

"(4) PAYMENT OF FEES.—Motor carriers, motor private carriers, leasing companies, brokers, and freight forwarders shall pay all fees required under this section to their Base-State pursuant to the UCR Agreement.

"(g) PAYMENT OF FEES.—Revenues derived under the UCR Agreement shall be allocated to Participating States as follows:

"(1) A State that participated in the Single State Registration System in the last calendar year ending before the date of enactment of the Unified Carrier Registration Act of 2004 and complies with the requirements of subsection (e) of this section is entitled to receive a portion of the UCR Agreement revenues generated under the Agreement equivalent to the revenues it received under the SSRS in the last calendar year ending before the date of enactment of the Unified Carrier Registration Act of 2004, as long as the State continues to comply with the provisions of subsection (e).

"(2) A State that collected intrastate registration fees from interstate motor carriers, interstate motor private carriers, or interstate exempt carriers and complies with the requirements of subsection (e) of this section is entitled to receive an additional portion of the UCR Agreement revenues generated under the Agreement equivalent to the revenues it received from such interstate carriers in the last calendar year ending before the date of enactment of the Unified Carrier Registration Act of 2004, as long as the State continues to comply with the provisions of subsection (e).

"(3) States that comply with the requirements of subsection (e) of this section but did not participate in SSRS during the last calendar year ending before the date of enactment of the Unified Carrier Registration Act of 2004 shall be entitled to an annual allotment not to exceed $500,000 from the UCR Agreement revenues generated under the Agreement as long as the State continues to comply with the provisions of subsection (e).

"(4) The amount of UCR Agreement revenues to which a State is entitled under this section shall be calculated by the Board and approved by the Secretary.

"(h) DISTRIBUTION OF UCR AGREEMENT REVENUES.—

"(1) ELIGIBILITY.—Each State that is in compliance with the provisions of subsection (e) shall be entitled to a portion of the revenues derived from the UCR Agreement in accordance with subsection (g).

"(2) ENTITLEMENT TO REVENUES.—A State that is in compliance with the provisions of subsection (e) may retain an amount of the gross revenues it collects from motor carriers, motor private carriers, brokers, freight forwarders and leasing companies under the UCR Agreement equivalent to the portion of revenues to which the State is entitled under subsection (g). All revenues a Participating State collects in excess of the amount to which the State is so entitled shall be forwarded to the depository designated by the Board under subsection (d)(2)(D).

"(3) DISTRIBUTION OF FUNDS FROM DEPOSITORY.—The excess funds collected in the depository shall be distributed as follows:

"(A) Excess funds shall be distributed on a pro rata basis to each Participating State that did not collect revenues under the UCR Agreement equivalent to the amount such State is entitled under subsection (g), except that the sum of the gross UCR Agreement revenues collected by a Participating State and the amount distributed to it from the depository shall not exceed the amount to which the State is entitled under subsection (g).

"(B) Any excess funds held by the depository after all distributions under subparagraph (A) have been made shall be used to pay the administrative costs of the UCR Plan and the UCR Agreement.

"(C) Any excess funds held by the depository after distributions and payments under subparagraphs (A) and (B) shall be retained in the depository, and the UCR Agreement fees for motor carriers, motor private carriers, leasing companies, freight forwarders, and brokers for the next fee year shall be reduced by the Board accordingly.

"(i) ENFORCEMENT.—

"(1) CIVIL ACTIONS.—Upon request by the Secretary of Transportation, the Attorney General may bring a civil action in a court of competent jurisdiction to enforce compliance with this section and with the terms of the Unified Carrier Registration Agreement.

"(2) VENUE.—An action under this section may be brought only in the Federal court sitting in the State in which an order is required to enforce such compliance.

"(3) RELIEF.—Subject to section 1341 of title 28, the court, on a proper showing—

"(A) shall issue a temporary restraining order or a preliminary or permanent injunction; and

"(B) may issue an injunction requiring that the State or any person comply with this section.

"(4) ENFORCEMENT BY STATES.—Nothing in this section—

"(A) prohibits a Participating State from issuing citations and imposing reasonable fines and penalties pursuant to applicable State laws and regulations on any motor carrier, motor private carrier, freight forwarder, broker, or leasing company for failure to—

"(i) submit documents as required under subsection (d)(2); or

"(ii) pay the fees required under subsection (f); or

"(B) authorizes a State to require a motor carrier, motor private carrier, or freight forwarder to display as evidence of compliance any form of identification in excess of those permitted under section 14506 of this title on or in a commercial motor vehicle.

"(j) APPLICATION TO INTRASTATE CARRIERS.—Notwithstanding any other provision of this section, a State may elect to apply the provisions of the UCR Agreement to motor carriers and motor private carriers subject to its jurisdiction that operate solely in intrastate commerce within the borders of the State.".

SEC. 4266. IDENTIFICATION OF VEHICLES.

Chapter 145 is amended by adding at the end the following:

"§ 14506. Identification of vehicles

"(a) RESTRICTION ON REQUIREMENTS.—No State, political subdivision of a State, interstate agency, or other political agency of 2 or more States may enact or enforce any law, rule, regulation standard, or other provision having the force and effect of law that requires a motor carrier, motor private carrier, freight forwarder, or leasing company to display any form of identification on or in a commercial motor vehicle, other than forms of identification required by the Secretary of Transportation under section 390.21 of title 49, Code of Federal Regulations.

"(b) EXCEPTION.—Notwithstanding paragraph (a), a State may continue to require display of credentials that are required—

"(1) under the International Registration Plan under section 31704 of this title;

"(2) under the International Fuel Tax Agreement under section 31705 of this title;

"(3) in connection with Federal requirements for hazardous materials transportation under section 5103 of this title; or

"(4) in connection with the Federal vehicle inspection standards under section 31136 of this title.".

SEC. 4267. USE OF UCR AGREEMENT REVENUES AS MATCHING FUNDS.

Section 31103(a) is amended by inserting "Amounts generated by the Unified Carrier Registration Agreement, under section 14504a of this title and received by a State and used for motor carrier safety purposes may be included as part of the State's share not provided by the United States." after "United States Government.".

SEC. 4268. CLERICAL AMENDMENTS.

(a) SECTION 13906 CAPTION.—The section caption for section 13906 is amended by inserting "**motor private carriers,**" after "**motor carriers,**".

(b) TABLE OF CONTENTS.—The chapter analysis for chapter 139 is amended by striking the item relating to section 13906 and inserting the following:

"13906. Security of motor carriers, motor private carriers, brokers, and freight forwarders.".

Subtitle C—Household Goods Movers

SEC. 4301. SHORT TITLE; AMENDMENT OF TITLE 49, UNITED STATES CODE.

(a) SHORT TITLE.—This subtitle may be cited as the "Household Goods Mover Oversight Enforcement and Reform Act of 2004".

(b) AMENDMENT OF TITLE 49, UNITED STATES CODE.—Except as otherwise specifically provided, whenever in this subtitle an amendment is expressed in terms of an amendment to a section or other provision of law, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 4302. FINDINGS; SENSE OF CONGRESS.

The Congress finds the following:

(1) There are approximately 1,500,000 interstate household moves every year. While the vast majority of these interstate moves are completed successfully, consumer complaints have been increasing since the Interstate Commerce Commission was abolished in 1996 and oversight of the household goods industry was transferred to the Department of Transportation.

(2) While the overwhelming majority of household goods carriers are honest and operate within the law, there appears to be a growing criminal element that is exploiting a perceived void in Federal and State enforcement efforts. The growing criminal element tends to prey upon consumers.

(3) The movement of an individual's household goods is unique and differs from the movement of a commercial shipment. A consumer may utilize a moving company once or twice in the consumer's lifetime and entrust virtually all of the consumer's worldly goods to a mover.

(4) Federal resources are inadequate to properly police or deter, on a nationwide basis, those movers who willfully violate Federal regulations governing the household goods industry and knowingly prey on consumers who are in a vulnerable position. It is appropriate that a Federal-State partnership be created to enhance enforcement against fraudulent moving companies.

SEC. 4303. DEFINITIONS.

In this title, the terms "carrier", "household goods", "motor carrier", "Secretary", and "transportation" have the meaning given such terms in section 13102 of title 49, United States Code.

SEC. 4304. PAYMENT OF RATES.

Section 13707(b) is amended by adding at the end the following:

"(3) SHIPMENTS OF HOUSEHOLD GOODS.—

"(A) IN GENERAL.—A carrier providing transportation for a shipment of household goods shall give up possession of the household goods transported at the destination upon payment of—

"(i) 100 percent of the charges contained in a binding estimate provided by the carrier;

"(ii) not more than 110 percent of the charges contained in a nonbinding estimate provided by the carrier; or

"(iii) in the case of a partial delivery of the shipment, the prorated percentage of the charges calculated in accordance with subparagraph (B).

"(B) CALCULATION OF PRORATED CHARGES.—For purposes of subparagraph (A)(iii), the prorated percentage of the charges shall be the percentage of the total charges due to the carrier as described in clause (i) or (ii) of subparagraph (A) that is equal to the percentage of the weight of that portion of the shipment delivered to the total weight of the shipment.

"(C) POST-CONTRACT SERVICES.—Subparagraph (A) does not apply to additional services requested by a shipper after the contract of service is executed that were not included in the estimate.

"(D) IMPRACTICABLE OPERATIONS.—Subparagraph (A) does apply to impracticable operations, as defined by the applicable carrier tariff, if the shipper agrees to pay the charges for such operations within 30 days after the goods are delivered.".

SEC. 4305. HOUSEHOLD GOODS CARRIER OPERATIONS.

Section 14104 is amended—

(1) by striking paragraph (1) of subsection (b) and inserting the following:

"(1) REQUIREMENT FOR WRITTEN ESTIMATE.—A motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 shall provide to a prospective shipper a written estimate of all charges related to the transportation of the household goods, including charges for—

"(A) packing;

"(B) unpacking;

"(C) loading;

"(D) unloading; and

"(E) handling of the shipment from the point of origin to the final destination (whether that destination is storage or transit).";

(2) by redesignating paragraph (2) of such subsection as paragraph (4); and

(3) by inserting after paragraph (1), as amended by paragraph (1), the following:

"(2) OTHER INFORMATION.—At the time that a motor carrier provides the written estimate required by paragraph (1), the motor carrier shall provide the shipper a copy of the Department of Transportation publication FMCSA–ESA–03–005 (or its successor edition or publication) entitled 'Ready to Move?'. Before the execution of a contract for service, a motor carrier shall provide the shipper a copy of the Department of Transportation publication OCE 100, entitled 'Your Rights and Responsibilities When You Move' required by section 375.2 of title 49, Code of Federal Regulations (or any corresponding similar regulation).

"(3) BINDING AND NONBINDING ESTIMATES.—The written estimate required by paragraph (1) may be either binding or nonbinding. The written estimate shall be based on a visual inspection of the household goods if the household goods are located within a 50-mile radius of the location of the carrier's household goods agent preparing the estimate. The Secretary may not prohibit any such carrier from charging a prospective shipper for providing a written, binding estimate for the transportation and related services.";

(4) by redesignating subsection (c) as subsection (e); and

(5) by inserting after subsection (b), as amended by paragraphs (1) and (2), the following:

"(c) NOTIFICATION OF FINAL CHARGES.—If the final charges for a shipment of household goods exceed 100 percent of a binding estimate or 110 percent of a nonbinding estimate, the motor carrier shall provide the shipper an itemized statement of the charges. The statement shall be provided to the shipper within 24 hours prior to the delivery of the shipment unless the shipper waives this requirement or the shipper cannot be reached by fax, regular mail, or electronic mail. Such notification shall—

"(1) be delivered in writing at the motor carrier's expense; and

"(2) disclose the requirements of section 13707(b)(3) of this title regarding payment for delivery of a shipment of household goods.

"(d) REQUIREMENT FOR INVENTORY.—A motor carrier providing transportation of a shipment of household goods, as defined in section 13102(10), that is subject to jurisdiction under subchapter I of chapter 135 of this title shall, before or at the time of loading the shipment, prepare a written inventory of all articles tendered and accepted by the motor carrier for transportation. Such inventory shall—

"(1) list or otherwise reasonably identify each item tendered for transportation;

"(2) be signed by the shipper and the motor carrier, or the agent of the shipper or carrier, at the time the shipment is loaded and at the time the shipment is unloaded at the final destination;

"(3) be attached to, and considered part of, the bill of lading; and

"(4) be subject to the same requirements of the Secretary for record inspection and preservation that apply to bills of lading.".

SEC. 4306. LIABILITY OF CARRIERS UNDER RECEIPTS AND BILLS OF LADING.

Section 14706(f) is amended—

(1) by resetting the text as a paragraph indented 2 ems from the left margin and inserting "(1) IN GENERAL.—" before "A carrier"; and

(2) by adding at the end, the following:

"(2) FULL VALUE PROTECTION OBLIGATION.—Unless the carrier receives a waiver in writing under paragraph (3), a carrier's maximum liability for household goods that are lost, damaged, destroyed, or otherwise not delivered to the final destination is an amount equal to the replacement value of such goods, subject to a maximum amount equal to the declared value of the shipment, subject to rules issued by the Surface Transportation Board and applicable tariffs.

"(3) APPLICATION OF RATES.—The released rates established by the Board under paragraph (1) (commonly known as 'released rates') shall not apply to the transportation of household goods by a carrier unless the liability of the carrier for the full value of such household goods under paragraph (2) is waived in writing by the shipper.".

SEC. 4307. DISPUTE SETTLEMENT FOR SHIPMENTS OF HOUSEHOLD GOODS.

(a) IN GENERAL.—Section 14708(a) is amended—

(1) by resetting the text as a paragraph indented 2 ems from the left margin and inserting "(1) REQUIREMENT TO OFFER.—" before "As a condition"; and

(2) by striking "shippers of household goods concerning damage or loss to the household goods transported." and inserting "shippers. The carrier may not require the shipper to agree to use arbitration as a means to settle such a dispute."; and

(3) by inserting at the end, the following:

"(2) REQUIREMENTS FOR CARRIERS.—If a dispute with a carrier providing transportation of household goods involves a claim that is—

"(A) not more than $10,000 and the shipper requests arbitration, such arbitration shall be binding on the parties; or

"(B) for more than $10,000 and the shipper requests arbitration, such arbitration shall be binding on the parties only if the carrier agrees to arbitration.".

(b) ARBITRATION REQUIREMENTS.—

(1) IN GENERAL.—Section 14708(b) is amended—

(A) by striking paragraph (4) and inserting the following:

"(4) INDEPENDENCE OF ARBITRATOR.—The Secretary shall establish a system for the certification of persons authorized to arbitrate or otherwise settle a dispute between a shipper of household goods and a carrier. The Secretary shall ensure that each person so certified is—

"(A) independent of the parties to the dispute;

"(B) capable, as determined under such regulations as the Secretary may issue, to resolve such disputes fairly and expeditiously; and

"(C) authorized and able to obtain from the shipper or carrier any material and relevant information to the extent necessary to carry out a fair and expeditious decisionmaking process.";

(B) by striking paragraph (6); and

(C) by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(2) CONFORMING AMENDMENT.—Section 14708(d)(3)(A) is amended by striking "(b)(8)" and inserting "(b)(7)".

(c) ATTORNEY'S FEES TO CARRIERS.—Section 14708(e) is further amended by striking "only if" and all that follows through the period at the end and inserting "if—

"(1) the court proceeding is to enforce a decision rendered in favor of the carrier through arbitration under this section and is instituted after the shipper has a reasonable opportunity to pay any charges required by such decision; or

"(2) the shipper brought such action in bad faith—

"(A) after resolution of such dispute through arbitration under this section; or

"(B) after institution of an arbitration proceeding by the shipper to resolve such dispute under this section but before—

"(i) the period provided under subsection (b)(7) for resolution of such dispute (including, if applicable, an extension of such period under such subsection) ends; and

"(ii) a decision resolving such dispute is rendered.".

(d) REVIEW AND REPORT ON DISPUTE SETTLEMENT PROGRAMS.—

(1) REVIEW AND REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation shall complete a review of the outcomes and the effectiveness of the programs carried out under title 49, United States Code, to settle disputes between motor carriers and shippers and submit a report on the review to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure. The report shall describe—

(A) the subject of, and amounts at issue is, the disputes;

(B) patterns in disputes or settlements;

(C) the prevailing party in disputes, if identifiable; and

(D) any other matters the Secretary considers appropriate.

(2) REQUIREMENT FOR PUBLIC COMMENT.—The Secretary shall publish notice of the review required by paragraph (1) and provide an opportunity for the public to submit comments on the effectiveness of such programs. Notwithstanding any confidentiality or non-disclosure provision in a settlement agreement between a motor carrier and a shipper, it shall not be a violation of that provision for a motor carrier or shipper to submit a copy of the settlement agreement, or to provide information included in the agreement, to the Secretary for use in evaluating dispute settlement programs under this subsection. Notwithstanding anything to the contrary in section 552 of title 5, United States Code, the Secretary may not post on the Department of Transportation's electronic docket system, or make available to any requester in paper or electronic format, any information submitted to the Secretary by a motor carrier or shipper under the preceding sentence. The Secretary shall use the settlement agreements or other information submitted by a motor carrier or shipper solely to evaluate the effectiveness of dispute settlement programs and shall not include in the report required by this subsection the names or, or other identifying information concerning, motor carriers or shippers that submitted comments or information under this subsection.

SEC. 4308. ENFORCEMENT OF REGULATIONS RELATED TO TRANSPORTATION OF HOUSEHOLD GOODS.

(a) NONPREEMPTION OF INTRASTATE TRANSPORTATION OF HOUSEHOLD GOODS.—Section 14501(c)(2)(B) is amended by inserting "intrastate" before "transportation".

(b) ENFORCEMENT OF FEDERAL LAW WITH RESPECT TO INTERSTATE HOUSEHOLD GOODS CARRIERS.—

(1) IN GENERAL.—Chapter 147 is amended by adding at the end the following:

"§ 14710. Enforcement of Federal laws and regulations with respect to transportation of household goods

"(a) ENFORCEMENT BY STATES.—Notwithstanding any other provision of this title, a State authority may enforce the consumer protection provisions, as determined by the Secretary of Transportation, of this title that are related to the transportation of household goods in interstate commerce. Any fine or penalty imposed on a carrier in a proceeding under this subsection shall, notwithstanding any provision of law to the contrary, be paid to and retained by the State.

"(b) STATE AUTHORITY DEFINED.—The term 'State authority' means an agency of a State that has authority under the laws of the State to regulate the intrastate movement of household goods.

"§ 14711. Enforcement by State attorneys general

"(a) IN GENERAL.—A State, as parens patriae, may bring a civil action on behalf of its residents in an appropriate district court of the United States to enforce the consumer protection provisions, as determined by the Secretary of Transportation, of this title that are related to the transportation of household goods in interstate commerce, or regulations or orders of the Secretary or the Board thereunder, or to impose the civil penalties authorized by this part or such regulation or order, whenever the attorney general of the State has reason to believe that the interests of the residents of the State have been or are being threatened or adversely affected by a carrier or broker providing transportation subject to jurisdiction under subchapter I or III of chapter 135 of this title, or a foreign motor carrier providing transportation registered under section 13902 of this title, that is engaged in household goods transportation that violates this part or a regulation or order of the Secretary or Board, as applicable, promulgated under this part.

"(b) NOTICE.—The State shall serve written notice to the Secretary or the Board, as the case may be, of any civil action under subsection (a) prior to initiating such civil action. The notice shall include a copy of the complaint to be filed to initiate such civil action, except that if it is not feasible for the State to provide such prior notice, the State shall provide such notice immediately upon instituting such civil action.

"(c) AUTHORITY TO INTERVENE.—Upon receiving the notice required by subsection (b), the Secretary or Board may intervene in such civil action and upon intervening—

"(1) be heard on all matters arising in such civil action; and

"(2) file petitions for appeal of a decision in such civil action.

"(d) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this section shall prevent the attorney general of a State from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

"(e) VENUE; SERVICE OF PROCESS.—In a civil action brought under subsection (a)—

"(1) the venue shall be a judicial district in which—

"(A) the carrier, foreign motor carrier, or broker operates;

"(B) the carrier, foreign motor carrier, or broker was authorized to provide transportation at the time the complaint arose; or

"(C) where the defendant in the civil action is found;

"(2) process may be served without regard to the territorial limits of the district or of the State in which the civil action is instituted; and

"(3) a person who participated with a carrier or broker in an alleged violation that is being litigated in the civil action may be joined in the civil action without regard to the residence of the person.

"(f) ENFORCEMENT OF STATE LAW.—Nothing contained in this section shall prohibit an authorized State official from proceeding in State court to enforce a criminal statute of such State.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 147 is amended by inserting after the item relating to section 14709 the following:

"14710. Enforcement of Federal laws and regulations with respect to transportation of household goods.

"14711. Enforcement by State attorneys general.".

SEC. 4309. WORKING GROUP FOR DEVELOPMENT OF PRACTICES AND PROCEDURES TO ENHANCE FEDERAL-STATE RELATIONS.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall establish a working group of State attorneys general, State authorities that regulate the movement of household goods, and Federal and local law enforcement officials for the purpose of developing practices and procedures to enhance the Federal-State partnership in enforcement efforts, exchange of information, and coordination of enforcement efforts with respect to interstate transportation of household goods and making legislative and regulatory recommendations to the Secretary concerning such enforcement efforts.

(b) CONSULTATION.—In carrying out subsection (a), the working group shall consult with industries involved in the transportation of household goods, the public, and other interested parties.

SEC. 4310. CONSUMER HANDBOOK ON DOT WEBSITE.

Within 6 months after the date of enactment of this Act, the Secretary shall take such action as may be necessary to ensure that the Department of Transportation publication OCE 100, entitled "Your Rights and Responsibilities When You Move" required by section 375.2 of title 49, Code of Federal Regulations (or any corresponding similar regulation), is prominently displayed, and available in language that is readily understandable by the general public, on the website of the Department of Transportation.

SEC. 4311. INFORMATION ABOUT HOUSEHOLD GOODS TRANSPORTATION ON CARRIERS' WEBSITES.

Not later than 1 year after the date of enactment of this Act, the Secretary shall modify the regulations contained in part 375 of title 49, Code of Federal Regulations, to require a motor carrier or broker that is subject to such regulations and that establishes and maintains a website to prominently display on the website—

(1) the number assigned to the motor carrier or broker by the Department of Transportation;

(2) the OCE 100 publication referred to in section 4310; and

(3) in the case of a broker, a list of all motor carriers providing transportation of household goods used by the broker and a statement that the broker is not a motor carrier providing transportation of household goods.

SEC. 4312. CONSUMER COMPLAINTS.

(a) Requirement for Database.—Subchapter II of chapter 141 is amended by adding at the end the following:

"§ 14124. Consumer complaints

"(a) Establishment of System and Database.—The Secretary of Transportation shall—

"(1) establish a system to—

"(A) file and log a complaint made by a shipper that relates to motor carrier transportation of household goods; and

"(B) to solicit information gathered by a State regarding the number and type of complaints involving the interstate transportation of household goods;

"(2) establish a database of such complaints; and

"(3) develop a procedure—

"(A) to provide the public access to the database;

"(B) to forward a complaint, including the motor carrier bill of lading number related to the complaint to a motor carrier named in such complaint and to an appropriate State authority (as defined in section 14710(c) in the State in which the complainant resides; and

"(C) to permit a motor carrier to challenge information in the database.

"(b) Requirement for Annual Reports.—The Secretary shall issue regulations requiring a motor carrier that provides transportation of household goods to submit to the Secretary, not later than March 31st of each year, an annual report covering the 12-month period ending on the preceding March 31st that includes—

"(1) the number of interstate shipments of household goods that the motor carrier received from shippers and that were delivered to a final destination during the preceding calendar year;

"(2) the number and general category of complaints lodged against the motor carrier during the preceding calendar year;

"(3) the number of shipments described in paragraph (1) that resulted in the filing of a claim against the motor carrier for loss or damage to the shipment for an amount in excess of $500 during the preceding calendar year; and

"(4) the number of shipments described in paragraph (3) that were—

"(A) resolved during the preceding calendar year; or

"(B) pending on the last day of the preceding calendar year.

"(c) Summary to Congress.—The Secretary shall transmit a summary each year of the complaints filed and logged under subsection (a) for the preceding calendar year to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.".

(b) Conforming Amendment.—The analysis for chapter 141 is amended by inserting after the item relating to section 14123 the following:

"14124. Consumer complaints.".

SEC. 4313. REVIEW OF LIABILITY OF CARRIERS.

(a) Review.—Not later than 1 year after the date of enactment of this Act, the Surface Transportation Board shall complete a review of the current Federal regulations regarding the level of liability protection provided by motor carriers that provide transportation of household goods and revise such regulations, if necessary, to provide enhanced protection in the case of loss or damage.

(b) Determinations.—The review required by subsection (a) shall include a determination of—

(1) whether the current regulations provide adequate protection;

(2) the benefits of purchase by a shipper of insurance to supplement the carrier's limitations on liability;

(3) whether there are abuses of the current regulations that leave the shipper unprotected in the event of loss and damage to a shipment of household goods; and

(4) whether the section 14706 of title 49, United States Code, should be modified or repealed.

SEC. 4314. CIVIL PENALTIES RELATING TO HOUSEHOLD GOODS BROKERS.

Section 14901(d) is amended—

(1) by resetting the text as a paragraph indented 2 ems from the left margin and inserting "(1) In general.—" before "If a carrier"; and

(2) by adding at the end the following:

"(2) Estimate of broker without carrier agreement.—If a broker for transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title makes an estimate of the cost of transporting any such goods before entering into an agreement with a carrier to provide transportation of household goods subject to such jurisdiction, the broker is liable to the United States for a civil penalty of not less than $10,000 for each violation.

"(3) Unauthorized transportation.—If a person provides transportation of household goods subject to jurisdiction under subchapter I of chapter 135 this title or provides broker services for such transportation without being registered under chapter 139 of this title to provide such transportation or services as a motor carrier or broker, as the case may be, such person is liable to the United States for a civil penalty of not less than $25,000 for each violation.".

SEC. 4315. CIVIL AND CRIMINAL PENALTY FOR FAILING TO GIVE UP POSSESSION OF HOUSEHOLD GOODS.

(a) In General.—Chapter 149 is amended by adding at the end the following:

"§ 14915. Penalties for failure to give up possession of household goods

"(a) Civil Penalty.—Whoever is found to have failed to give up possession of household goods is liable to the United States for a civil penalty of not less than $10,000. Each day a carrier is found to have failed to give up possession of household goods may constitute a separate violation. If such person is a carrier or broker, the Secretary may suspend for a period of not less than 6 months the registration of such carrier or broker under chapter 139 of this title.

"(b) Criminal Penalty.—Whoever has been convicted of having failed to give up possession of household goods shall be fined under title 18 or imprisoned for not more than 2 years, or both.

"(c) Failure To Give Up Possession of Household Goods Defined.—For purposes of this section, the term 'failed to give up possession of household goods' means the knowing and willful failure of a motor carrier to deliver to, or unload at, the destination of a shipment of household goods that is subject to jurisdiction under subchapter I or III of chapter 135 of this title, for which charges have been estimated by the motor carrier providing transportation of such goods, and for which the shipper has tendered a payment described in clause (i), (ii), or (iii) of section 13707(b)(3)(A) of this title.".

(b) Conforming Amendment.—The analysis for such chapter is amended by adding at the end the following:

"14915. Penalties for failure to give up possession of household goods.".

SEC. 4316. PROGRESS REPORT.

Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the progress being made in implementing the provisions of this title.

SEC. 4317. ADDITIONAL REGISTRATION REQUIREMENTS FOR MOTOR CARRIERS OF HOUSEHOLD GOODS.

Section 13902(a) is amended—

(1) by striking paragraphs (2) and (3);

(2) by redesignating paragraph (4) as paragraph (5) and inserting after paragraph (1) the following:

"(2) Additional registration requirements for household goods transportation.—Notwithstanding paragraph (1), the Secretary may register a person to provide transportation of household goods (as defined in section 13102(10) of this title) only after that person—

"(A) provides evidence of participation in an arbitration program and provides a copy of the notice of that program as required by section 14708(b)(2) of this title;

"(B) identifies its tariff and provides a copy of the notice of the availability of that tariff for inspection as required by section 13702(c) of this title;

"(C) provides evidence that it has access to, has read, is familiar with, and will observe all laws relating to consumer protection, estimating, consumers' rights and responsibilities, and options for limitations of liability for loss and damage; and

"(D) discloses any relationship involving common stock, common ownership, common management, or common familial relationships between that person and any other motor carrier, freight forwarder, or broker of household goods within the past 3 years.

"(3) Consideration of evidence; findings.—The Secretary shall consider, and, to the extent applicable, make findings on any evidence demonstrating that the registrant is unable to comply with any applicable requirement of paragraph (1) or, in the case of a registrant to which paragraph (2) applies, paragraph (1) or (2).

"(4) Withholding.—If the Secretary determines that a registrant under this section does not meet, or is not able to meet, any requirement of paragraph (1) or, in the case of a registrant to which paragraph (2) applies, paragraph (1) or (2), the Secretary shall withhold registration."; and

(3) by adding at the end of paragraph (5), as redesignated, "In the case of a registration for the transportation of household goods (as defined in section 13102(10 of this title), the Secretary may also hear a complaint on the ground that the registrant fails or will fail to comply with the requirements of paragraph (2) of this subsection.".

Subtitle D—Hazardous Materials Transportation Safety and Security

SEC. 4401. SHORT TITLE.

This subtitle may be cited as the "Hazardous Material Transportation Safety and Security Reauthorization Act of 2004".

SEC. 4402. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

PART I—GENERAL AUTHORITIES ON TRANSPORTATION OF HAZARDOUS MATERIALS

SEC. 4421. PURPOSE.

The text of section 5101 is amended to read as follows:

"The purpose of this chapter is to protect against the risks to life, property, and the environment that are inherent in the transportation of hazardous material in intrastate, interstate, and foreign commerce.".

SEC. 4422. DEFINITIONS.

Section 5102 is amended as follows:

(1) COMMERCE.—Paragraph (1) is amended—

(A) by striking "or" after the semicolon in subparagraph (A);

(B) by striking the "State." in subparagraph (B) and inserting "State; or"; and

(C) by adding at the end the following:

"(C) on a United States-registered aircraft.".

(2) HAZMAT EMPLOYEE.—Paragraph (3) is amended to read as follows:

"(3) 'hazmat employee' means an individual—

"(A) who—

"(i) is employed or used by a hazmat employer; or

"(ii) is self-employed, including an owner-operator of a motor vehicle, vessel, or aircraft, transporting hazardous material in commerce; and

"(B) who performs a function regulated by the Secretary under section 5103(b)(1) of this title.".

(3) HAZMAT EMPLOYER.—Paragraph (4) is amended to read as follows:

"(4) 'hazmat employer' means a person—

"(A) who—

"(i) employs or uses at least 1 hazmat employee; or

"(ii) is self-employed, including an owner-operator of a motor vehicle, vessel, or aircraft, transporting hazardous material in commerce; and

"(B) who performs, or employs or uses at least 1 hazmat employee to perform, a function regulated by the Secretary under section 5103(b)(1) of this title.".

(4) IMMINENT HAZARD.—Paragraph (5) is amended by inserting "relating to hazardous material" after "of a condition".

(5) MOTOR CARRIER.—Paragraph (7) is amended to read as follows:

"(7) 'motor carrier'—

"(A) means a motor carrier, motor private carrier, and freight forwarder as those terms are defined in section 13102 of this title; but

"(B) does not include a freight forwarder, as so defined, if the freight forwarder is not performing a function relating to highway transportation.".

(6) NATIONAL RESPONSE TEAM.—Paragraph (8) is amended—

(A) by striking "national response team" both places it appears and inserting "National Response Team"; and

(B) by striking "national contingency plan" and inserting "National Contingency Plan".

(7) PERSON.—Paragraph (9)(A) is amended by striking "offering" and all that follows and inserting "that—

"(i) offers hazardous material for transportation in commerce;

"(ii) transports hazardous material to further a commercial enterprise; or

"(iii) manufactures, designs, inspects, tests, reconditions, marks, or repairs a packaging or packaging component that is represented as qualified for use in transporting hazardous material in commerce; but".

(8) SECRETARY OF TRANSPORTATION.—Section 5101 is further amended—

(A) by redesignating paragraphs (11), (12), and (13), as paragraphs (12), (13), and (14), respectively; and

(B) by inserting after paragraph (10) the following:

"(11) 'Secretary' means the Secretary of Transportation except as otherwise provided.".

SEC. 4423. GENERAL REGULATORY AUTHORITY.

(a) REFERENCE TO SECRETARY OF TRANSPORTATION.—Section 5103(a) is amended by striking "of Transportation".

(b) DESIGNATING MATERIAL AS HAZARDOUS.—Section 5103(a) is further amended—

(1) by striking "etiologic agent" and all that follows through "corrosive material," and inserting "infectious substance, flammable or combustible liquid, solid, or gas, toxic, oxidizing, or corrosive material,"; and

(2) by striking "decides" and inserting "determines".

(c) REGULATIONS FOR SAFE TRANSPORTATION.—Section 5103(b)(1)(A) is amended to read as follows:

"(A) apply to a person who—

"(i) transports hazardous material in commerce;

"(ii) causes hazardous material to be transported in commerce;

"(iii) manufactures, designs, inspects, tests, reconditions, marks, or repairs a packaging or packaging component that is represented as qualified for use in transporting hazardous material in commerce;

"(iv) prepares or accepts hazardous material for transportation in commerce;

"(v) is responsible for the safety of transporting hazardous material in commerce;

"(vi) certifies compliance with any requirement under this chapter;

"(vii) misrepresents whether such person is engaged in any activity under clause (i) through (vi) of this subparagraph; or

"(viii) performs any other act or function relating to the transportation of hazardous material in commerce; and".

(d) TECHNICAL AMENDMENT REGARDING CONSULTATION.—Section 5103 is amended—

(1) by striking subsection (b)(1)(C); and

(2) by adding at the end the following:

"(c) CONSULTATION.—When prescribing a security regulation or issuing a security order that affects the safety of the transportation of hazardous material, the Secretary of Homeland Security shall consult with the Secretary of Transportation.".

SEC. 4424. LIMITATION ON ISSUANCE OF HAZMAT LICENSES.

(a) REFERENCE TO SECRETARY OF TRANSPORTATION.—Section 5103a is amended by striking "of Transportation" each place it appears in subsections (a)(1), (c)(1)(B), and (d) and inserting "of Homeland Security".

(b) COVERED HAZARDOUS MATERIALS.—Section 5103a(b) is amended by striking "with respect to—" and all that follows and inserting "with respect to any material defined as hazardous material by the Secretary for which the Secretary requires placarding of a commercial motor vehicle transporting that material in commerce.".

(c) RECOMMENDATIONS ON CHEMICAL OR BIOLOGICAL MATERIALS.—Section 5103a is further amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(2) by inserting after subsection (b) the following:

"(c) RECOMMENDATIONS ON CHEMICAL AND BIOLOGICAL MATERIALS.—The Secretary of Health and Human Services shall recommend to the Secretary any chemical or biological material or agent for regulation as a hazardous material under section 5103(a) of this title if the Secretary of Health and Human Services determines that such material or agent is a threat to the national security of the United States.".

(d) CONFORMING AMENDMENT.—Section 5103a(a)(1) is amended by striking "subsection (c)(1)(B)," and inserting "subsection (d)(1)(B),".

SEC. 4425. REPRESENTATION AND TAMPERING.

(a) REPRESENTATION.—Section 5104(a) is amended—

(1) by striking "a container," and all that follows through "packaging) for" and inserting "a package, component of a package, or packaging for"; and

(2) by striking "the container" and all that follows through "packaging) meets" and inserting "the package, component of a package, or packaging meets".

(b) TAMPERING.—Section 5104(b) is amended—

(1) by inserting ", without authorization from the owner or custodian," after "may not";

(2) by striking "unlawfully"; and

(3) by inserting "component of a package, or packaging," after "package," in paragraph (2).

SEC. 4426. TRANSPORTING CERTAIN HIGHLY RADIOACTIVE MATERIAL.

(a) REPEAL OF ROUTES AND MODES STUDY.—Section 5105 is amended by striking subsection (d).

(b) REPEAL OF REQUIREMENT FOR INSPECTIONS OF CERTAIN MOTOR VEHICLES.—Section 5105 is amended by striking subsection (e).

SEC. 4427. HAZMAT EMPLOYEE TRAINING REQUIREMENTS AND GRANTS.

(a) REFERENCE TO SECRETARY OF TRANSPORTATION.—Section 5107 is amended by striking "of Transportation" each place it appears in subsections (a), (b), (c) (other than in paragraph (1)), (d), and (f).

(b) TRAINING GRANTS.—Section 5107(e) is amended—

(1) by striking "section 5127(c)(3)" and inserting "section 5128(b)(1) of this title";

(2) by inserting "and, to the extent determined appropriate by the Secretary, grants for such instructors to train hazmat employees" after "employees" in the first sentence thereof.

SEC. 4428. REGISTRATION.

(a) REFERENCE TO SECRETARY OF TRANSPORTATION.—Section 5108 is amended by striking "of Transportation" each place it appears in subsections (a), (b) (other than following "Department"), (d), (e), (f), (g), (h), and (i).

(b) PERSONS REQUIRED TO FILE.—

(1) REQUIREMENT TO FILE.—Section 5108(a)(1)(B) is amended by striking "class A or B explosive" and inserting "Division 1.1, 1.2, or 1.3 explosive material".

(2) AUTHORITY TO REQUIRE TO FILE.—Section 5108(a)(2)(B) is amended to read as follows:

"(B) a person manufacturing, designing, inspecting, testing, reconditioning, marking, or repairing a package or packaging component that is represented as qualified for use in transporting hazardous material in commerce.".

(3) NO TRANSPORTATION WITHOUT FILING.—Section 5108(a)(3) is amended by striking "fabricate," and all that follows through "package or" and inserting "design, inspect, test, recondition, mark, or repair a package, packaging component, or".

(c) FORM AND CONTENT OF FILINGS.—Section 5108(b)(1)(C) by striking "the activity." and inserting "any of the activities.".

(d) FILING.—Section 5108(c) is amended to read as follows:

"(c) FILING.—Each person required to file a registration statement under subsection (a) of this section shall file the statement in accordance with regulations prescribed by the Secretary.".

(e) FEES.—Section 5108(g)(1) is amended by striking "may establish," and inserting "shall establish,".

(f) RELATIONSHIP TO OTHER LAWS.—Section 5108(i)(2)(B) is amended by inserting "an Indian tribe," after "subdivision of a State,".

(g) REGISTRATION AND ANNUAL FEES.—

(1) REDUCTION IN CAP.—Section 5108(g)(2)(A) is amended by striking "$5,000" and inserting "$2,000".

(2) RULEMAKING.—Any rule, regulation, or order issued by the Secretary of Transportation under which the assessment, payment, or collection of fees under section 5108(g) of title 49, United States Code, was suspended or terminated before the date of enactment of this Act is declared null and void effective 30 days after such date of enactment. Beginning on the 31st day after such date of enactment, the fee schedule established by the Secretary and set forth at

65 Federal Register 7297 (as modified by the rule set forth at 67 Federal Register 58343) shall take effect and apply until such time as it may be modified by a rulemaking proceeding.

(3) Planning and Training Grants.—Notwithstanding any other provision of law to the contrary, including any limitation on the amount of grants authorized by section 5116 of title 49, United States Code, not contained in that section, the Secretary shall make grants under that section from the account established under section 5116(i) to reduce the balance in that account over the 6 fiscal year period beginning with fiscal year 2004, but in no fiscal year shall the grants distributed exceed the level authorized by section 5116 of title 49, United States Code.

SEC. 4429. SHIPPING PAPERS AND DISCLOSURE.

(a) Reference to Secretary of Transportation.—Section 5110(a) is amended by striking "of Transportation".

(b) Disclosure Considerations and Requirements.—Section 5110 is amended—

(1) by striking "under subsection (b) of this section." in subsection (a) and inserting "in regulations.";

(2) by striking subsection (b); and

(3) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively.

(c) Retention of Papers.—The first sentence of section 5110(d), as redesignated by subsection (b)(3) of this section, is amended to read as follows: "The person who provides the shipping paper, and the carrier required to keep it, under this section shall retain the paper, or an electronic format of it, for a period of 3 years after the date the shipping paper is provided to the carrier, with the paper and format to be accessible through their respective principal places of business.".

SEC. 4430. RAIL TANK CARS.

(a) Repeal of Requirements.—Section 5111 is repealed.

(b) Clerical Amendment.—The chapter analysis for chapter 51 is amended by striking the item relating to section 5111.

SEC. 4431. HIGHWAY ROUTING OF HAZARDOUS MATERIAL.

The second sentence of section 5112(a)(1) is amended by striking "However, the Secretary of Transportation" and inserting "The Secretary".

SEC. 4432. UNSATISFACTORY SAFETY RATINGS.

(a) In General.—The text of section 5113 is amended to read as follows:

"A violation of section 31144(c)(3) of this title shall be considered a violation of this chapter, and shall be subject to the penalties in sections 5123 and 5124 of this title.".

(b) Conforming Amendments.—The first subsection (c) of section 31144 is amended—

(1) by striking "sections 521(b)(5)(A) and 5113" in paragraph (1) and inserting "section 521(b)(5)(A) of this title"; and

(2) by adding at the end of paragraph (3) "A violation of this paragraph by an owner or operator transporting hazardous material shall be considered a violation of chapter 51 of this title, and shall be subject to the penalties in sections 5123 and 5124 of this title.".

SEC. 4433. AIR TRANSPORTATION OF IONIZING RADIATION MATERIAL.

Section 5114(b) is amended by striking "of Transportation".

SEC. 4434. TRAINING CURRICULUM FOR THE PUBLIC SECTOR.

(a) In General.—Section 5115(a) is amended to read as follows:

"(a) In General.—In coordination with the Director of the Federal Emergency Management Agency, the Chairman of the Nuclear Regulatory Commission, the Administrator of the Environmental Protection Agency, the Secretaries of Labor, Energy, and Health and Human Services, and the Director of the National Institute of Environmental Health Sciences, and using existing coordinating mechanisms of the National Response Team and, for radioactive material, the Federal Radiological Preparedness Coordinating Committee, the Secretary shall maintain a current curriculum of lists of courses necessary to train public sector emergency response and preparedness teams in matters relating to the transportation of hazardous material.".

(b) Requirements.—Section 5115(b) is amended—

(1) by striking "developed" in the matter preceding paragraph (1) and inserting "maintained"; and

(2) by striking "under other United States Government grant programs" in paragraph (1)(C) and all that follows and inserting "with Federal assistance; and".

(c) Training on Compliance With Legal Requirements.—Section 5115(c)(3) is amended by striking "Association." and inserting "Association or by any other voluntary organization establishing consensus-based standards that the Secretary considers appropriate.".

(d) Distribution and Publication.—Section 5115(d) is amended—

(1) by striking "national response team—." and inserting "National Response Team—"; and

(2) by striking "publish a list" in paragraph (2) and all that follows and inserting "publish and distribute the list of courses maintained under this section, and of any programs utilizing such courses.".

SEC. 4435. PLANNING AND TRAINING GRANTS; EMERGENCY PREPAREDNESS FUND.

(a) Reference to Secretary of Transportation.—Section 5116 is amended by striking "of Transportation" each place it appears in subsections (a), (b), (c), (d), (g), and (i).

(b) Government Share of Costs.—Section 5116(e) is amended by striking the second sentence.

(c) Monitoring and Technical Assistance.—Section 5116(f) is amended by striking "national response team" and inserting "National Response Team".

(d) Delegation of Authority.—Section 5116(g) is amended by striking "Government grant programs" and inserting "Federal financial assistance programs".

(e) Emergency Preparedness Fund.—

(1) Name of fund.—Section 5116(i) is amended by inserting after "an account" the following: "(to be known as the 'Emergency Preparedness Fund')".

(2) Publication of emergency response guide.—Section 5116(i) is further amended—

(A) by striking "collects under section 5108(g)(2)(A) of this title and";

(B) by striking "and" after the semicolon in paragraph (2);

(C) by redesignating paragraph (3) as paragraph (4); and

(D) by inserting after paragraph (2) the following:

"(3) to publish and distribute an emergency response guide; and".

(3) Conforming amendment.—Section 5108(g)(2)(C) is amended by striking "the account the Secretary of the Treasury establishes" and inserting "the Emergency Response Fund established".

(f) Reports.—Section 5116(k) is amended—

(1) by striking the first sentence and inserting "The Secretary shall make available to the public annually information on the allocation and uses of planning grants under subsection (a), training grants under subsection (b), and grants under subsection (j) of this section and under section 5107 of this title."; and

(2) by striking "Such report" in the second sentence and inserting "The information".

SEC. 4436. SPECIAL PERMITS AND EXCLUSIONS.

(a) Special Permits and Exclusions.—

(1) In general.—Section 5117(a)(1) is amended by striking "the Secretary of Transportation may issue" and all that follows through "in a way" and inserting "the Secretary may issue, modify, or terminate a special permit authorizing variances from this chapter, or a regulation prescribed under section 5103(b), 5104, 5110, or 5112 of this title, to a person performing a function regulated by the Secretary under section 5103(b)(1) of this title in a way".

(2) Duration.—Section 5117(a)(2) is amended to read as follows:

"(2) A special permit under this subsection—

"(A) shall be effective when first issued for not more than 2 years; and

"(B) may be renewed for successive periods of not more than 4 years each.".

(b) References to Special Permits.—Section 5117 is further amended—

(1) by striking "an exemption" each place it appears and inserting "a special permit"; and

(2) by striking "the exemption" each place it appears and inserting "the special permit".

(c) Conforming and Clerical Amendments.—

(1) Conforming amendment.—The heading of section 5117 is amended to read as follows:

"§5117. Special permits and exclusions"

(2) Clerical amendment.—The chapter analysis for chapter 51 is amended by striking the item relating to section 5117 and inserting the following:

"5117. Special permits and exclusions.".

(d) Repeal of Section 5118.—

(1) Section 5118 is repealed.

(2) The chapter analysis for chapter 51 is amended by striking the item relating to section 5118 and inserting the following:

"5118. Repealed.".

SEC. 4437. UNIFORM FORMS AND PROCEDURES.

The text of section 5119 is amended to read as follows:

"(a) In General.—The Secretary may prescribe regulations to establish uniform forms and regulations for States on the following:

"(1) To register and issue permits to persons that transport or cause to be transported hazardous material by motor vehicles in a State.

"(2) To permit the transportation of hazardous material in a State.

"(b) Uniformity in Forms and Procedures.—In prescribing regulations under subsection (a) of this section, the Secretary shall develop procedures to eliminate discrepancies among the States in carrying out the activities covered by the regulations.

"(c) Limitation.—The regulations prescribed under subsection (a) of this section may not define or limit the amount of any fees imposed or collected by a State for any activities covered by the regulations.

"(d) Effective Date.—

"(1) In general.—Except as provided in paragraph (2) of this subsection, the regulations prescribed under subsection (a) of this section shall take effect 1 year after the date on which prescribed.

"(2) Extension.—The Secretary may extend the 1-year period in subsection (a) for an additional year for good cause.

"(e) State Regulations.—After the regulations prescribed under subsection (a) of this section take effect under subsection (d) of this section, a State may establish, maintain, or enforce a requirement relating to the same subject matter only if the requirement is consistent with applicable requirements with respect to such activity in the regulations.

"(f) Interim State Programs.—Pending the prescription of regulations under subsection (a) of this section, States may participate in the program of uniform forms and procedures recommended by the Alliance for Uniform Hazmat Transportation Procedures.".

SEC. 4438. INTERNATIONAL UNIFORMITY OF STANDARDS AND REQUIREMENTS.

Section 5120 is amended by striking "of Transportation" each place it appears in subsections (a), (b), and (c)(1).

SEC. 4439. HAZARDOUS MATERIALS TRANSPORTATION SAFETY AND SECURITY.

The text of section 5121 is amended to read as follows:

"(a) GENERAL AUTHORITY.—

"(1) To carry out this chapter, the Secretary may investigate, conduct tests, make reports, issue subpoenas, conduct hearings, require the production of records and property, take depositions, and conduct research, development, demonstration, and training activities.

"(2) Except as provided in subsections (c) and (d) of this section, the Secretary shall provide notice and an opportunity for a hearing before issuing an order directing compliance with this chapter, a regulation prescribed under this chapter, or an order, special permit, or approval issued under this chapter.

"(b) RECORDS, REPORTS, PROPERTY, AND INFORMATION.—A person subject to this chapter shall—

"(1) maintain records, make reports, and provide property and information that the Secretary by regulation or order requires; and

"(2) make the records, reports, property, and information available for inspection when the Secretary undertakes an inspection or investigation.

"(c) INSPECTIONS AND INVESTIGATIONS.—

"(1) A designated officer or employee of the Secretary may—

"(A) inspect and investigate, at a reasonable time and in a reasonable way, records and property relating to a function described in section 5103(b)(1) of this title;

"(B) except for packaging immediately adjacent to the hazardous material contents, gain access to, open, and examine a package offered for or in transportation when the officer or employees has an objectively reasonable and articulable belief that the package may contain hazardous material;

"(C) remove from transportation a package or related packages in a shipment offered for or in transportation for which—

"(i) such officer or employee has an objectively reasonable and articulable belief that the package may pose an imminent hazard; and

"(ii) such officer or employee contemporaneously documents such belief in accordance with procedures set forth in regulations prescribed under subsection (e) of this section;

"(D) gather information from the offeror, carrier, packaging manufacturer or retester, or other person responsible for a package or packages to ascertain the nature and hazards of the contents of the package or packages;

"(E) as necessary under terms and conditions prescribed by the Secretary, order the offeror, carrier, or other person responsible for a package or packages to have the package or packages transported to an appropriate facility, opened, examined, and analyzed; and

"(F) when safety might otherwise be compromised, authorize properly qualified personnel to assist in activities carried out under this paragraph.

"(2) An officer or employee acting under the authority of the Secretary under this subsection shall display proper credentials when requested.

"(3) In instances when, as a result of an inspection or investigation under this subsection, an imminent hazards is not found to exist, the Secretary shall, in accordance with procedures set forth in regulations prescribed under subsection (e) of this section, assist the safe resumption of transportation of the package, packages, or transport unit concerned.

"(d) EMERGENCY ORDERS.—

"(1) If, upon inspection, investigation, testing, or research, the Secretary determines that a violation of a provision of this chapter, or a regulation prescribed under this chapter, or an unsafe condition or practice, constitutes or is causing an imminent hazard, the Secretary may issue or impose emergency restrictions, prohibitions, recalls, or out-of-service orders, without notice or an opportunity for a hearing, but only to the extent necessary to abate the imminent hazard.

"(2) The action of the Secretary under paragraph (1) of this subsection shall be in a written emergency order that—

"(A) describes the violation, condition, or practice that constitutes or is causing the imminent hazard;

"(B) states the restrictions, prohibitions, recalls, or out-of-service orders issued or imposed; and

"(C) describe the standards and procedures for obtaining relief from the order.

"(3) After taking action under paragraph (1) of this subsection, the Secretary shall provide for review of the action under section 554 of title 5 if a petition for review is filed within 20 calendar days of the issuance of the order for the action.

"(4) If a petition for review of an action is filed under paragraph (3) of this subsection and the review under that paragraph is not completed by the end of the 30-day period beginning on the date the petition is filed, the action shall cease to be effective at the end of such period unless the Secretary determines, in writing, that the imminent hazard providing a basis for the action continues to exist.

"(5) In this subsection, the term 'out-of-service order' means a requirement that an aircraft, vessel, motor vehicle, train, railcar, locomotive, other vehicle, transport unit, transport vehicle, freight container, potable tank, or other package not be moved until specified conditions have been met.

"(e) REGULATIONS.—The Secretary shall prescribe in accordance with section 553 of title 5 regulations to carry out the authority in subsections (c) and (d) of this section.

"(f) FACILITY, STAFF, AND REPORTING SYSTEM ON RISKS, EMERGENCIES, AND ACTIONS.—

"(1) The Secretary shall—

"(A) maintain a facility and technical staff sufficient to provide, within the United States Government, the capability of evaluating a risk relating to the transportation of hazardous material and material alleged to be hazardous;

"(B) maintain a central reporting system and information center capable of providing information and advice to law enforcement and firefighting personnel, and other interested individuals, and officers and employees of the United States Government and State and local governments on meeting an emergency relating to the transportation of hazardous material; and

"(C) conduct a continuous review on all aspects of transporting hazardous material to decide on and take appropriate actions to ensure safe transportation of hazardous material.

"(2) Paragraph (1) of this subsection shall not prevent the Secretary from making a contract with a private entity for use of a supplemental reporting system and information center operated and maintained by the contractor.

"(g) GRANTS, COOPERATIVE AGREEMENTS, AND OTHER TRANSACTIONS.—The Secretary may enter into grants, cooperative agreements, and other transactions with a person, agency, or instrumentality of the United States, a unit of State or local government, an Indian tribe, a foreign government (in coordination with the Department of State), an educational institution, or other appropriate entity—

"(1) to expand risk assessment and emergency response capabilities with respect to the security of transportation of hazardous material;

"(2) to conduct research, development, demonstration, risk assessment and emergency response planning and training activities; or

"(3) to otherwise carry out this chapter.

"(h) REPORTS.—

"(1) The Secretary shall, once every 2 years, submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a comprehensive report on the transportation of hazardous material during the preceding 2 calendar years. Each report shall include, for the period covered by such report—

"(A) a statistical compilation of the accidents, incidents, and casualties related to the transportation of hazardous material during such period;

"(B) a list and summary of applicable Government regulations, criteria, orders, and special permits;

"(C) a summary of the basis for each special permit issued;

"(D) an evaluation of the effectiveness of enforcement activities relating to the transportation of hazardous material during such period, and of the degree of voluntary compliance with regulations;

"(E) a summary of outstanding problems in carrying out this chapter, set forth in order of priority; and

"(F) any recommendations for legislative or administrative action that the Secretary considers appropriate.

"(2) Before December 31, 2005, and every 3 years thereafter, the Secretary, through the Bureau of Transportation Statistics and in consultation with other Federal departments and agencies, shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the transportation of hazardous material in all modes of transportation during the preceding 3 calendar years. Each report shall include, for the period covered by such report—

"(A) a summary of the hazardous material shipments, deliveries, and movements during such period, set forth by hazardous materials type, by tonnage and ton-miles, and by mode, both domestically and across United States borders; and

"(B) a summary of shipment estimates during such period as a proxy for risk.

"(i) SECURITY SENSITIVE INFORMATION.—

"(1) If the Secretary determines that particular information may reveal a vulnerability of a hazardous material to attack during transportation in commerce, or may facilitate the diversion of hazardous material during transportation in commerce for use in an attack on people or property, the Secretary may disclose such information only—

"(A) to the owner, custodian, offeror, or carrier of such hazardous material;

"(B) to an officer, employee, or agent of the United States Government, or a State or local government, including volunteer fire departments, concerned with carrying out transportation safety laws, protecting hazardous material in the course of transportation in commerce, protecting public safety or national security, or enforcing Federal law designed to protect public health or the environment; or

"(C) in an administrative or judicial proceeding brought under this chapter, under other Federal law intended to protect public health or the environment, or under other Federal law intended to address terrorist actions or threats of terrorist actions.

"(2) The Secretary may make determinations under paragraph (1) of this subsection with respect categories of information in accordance with regulations prescribed by the Secretary.

"(3) A release of information pursuant to a determination under paragraph (1) of this subsection shall not be treated as a release of such information to the public for purposes of section 552 of title 5.".

SEC. 4440. ENFORCEMENT.

(a) Reference to Secretary of Transportation.—Section 5122(a) is amended by striking "of Transportation".

(b) General.—Section 5122(a) is further amended—

(1) by striking "chapter or a regulation prescribed or order"in the first sentence and inserting "chapter, a regulation prescribed under this chapter, or an order, special permit, or approval"; and

(2) by striking the second sentence and inserting "In an action under this subsection, the court may award appropriate relief, including a temporary or permanent injunction, civil penalties under section 5123 of this title, and punitive damages.".

(c) Imminent Hazards.—Section 5122(b)(1)(B) is amended by striking "ameliorate" and inserting "mitigate".

SEC. 4441. CIVIL PENALTIES.

(a) Reference to Secretary of Transportation.—Section 5123(b) is amended by striking "of Transportation".

(b) Penalty.—Section 5123(a)(1) is amended—

(1) by striking "chapter or a regulation prescribed or order" and inserting "chapter, a regulation prescribed under this chapter, or an order, special permit, or approval"; and

(2) by striking "$25,000" and inserting "$100,000".

(c) Hearing Requirement.—Section 5123(b) is amended by striking "chapter or a regulation prescribed" and inserting "chapter, a regulation prescribed under this chapter, or an order, special permit, or approval issued".

(d) Civil Actions To Collect.—Section 5123(d) is amended by striking "section." and inserting "section and any accrued interest on the civil penalty as calculated in accordance with section 1005 of the Oil Pollution Act of 1990 (33 U.S.C. 2705). In the civil action, the amount and appropriateness of the civil penalty shall not be subject to review.".

(e) Effective Date.—(1) The amendments made by subsections (b) and (c) of this section shall take effect on the date of the enactment of this Act, and shall apply with respect to violations described in section 5123(a) of title 49, United States Code (as amended by this section), that occur on or after that date.

(2) The amendment made by subsection (d) of this section shall apply with respect to civil penalties imposed on violations described in section 5123(a) of title 49, United States Code (as amended by this section), which violations occur on or after the date of the enactment of this Act.

SEC. 4442. CRIMINAL PENALTIES.

(a) In General.—Section 5124 is amended—

(1) by inserting "(a) In General.—" before "A person"; and

(2) by striking "chapter or a regulation prescribed or order" and inserting "chapter, a regulation prescribed under this chapter, or an order, special permit, or approval".

(b) Additional Matters.—That section is further amended by adding at the end the following:

"(b) Aggravated Violations.—A person knowingly violating section 5104(b) of this title or willfully violating this chapter or a regulation prescribed, or an order, special permit, or approval issued, under this chapter, who thereby causes the release of hazardous material shall be fined under title 18, imprisoned for not more than 20 years, or both.

"(c) Separate Violations.—A separate violation occurs for each day the violation, committed by a person who transports or causes to be transported hazardous material, continues.".

SEC. 4443. PREEMPTION.

(a) Reference to Secretary of Transportation.—Section 5125(b)(2) is amended by striking "of Transportation".

(b) Purposes.—Section 5125 is amended—

(1) by redesignating subsections (a), (b), (c), (d), (e), (f), and (g) as subsections (b), (c), (d), (e), (f), (g), and (h), respectively;

(2) by inserting before subsection (b), as so redesignated, the following:

"(a) Purposes.—The Secretary shall exercise the authority in this section—

"(1) to achieve uniform regulation of the transportation of hazardous material;

"(2) to eliminate rules that are inconsistent with the regulations prescribed under this chapter; and

"(3) to otherwise promote the safe and efficient movement of hazardous material in commerce.";

(3) by striking subsection (g), as redesignated; and

(4) by redesignating subsection (h), as redesignated, as subsection (g).

(c) General Preemption.—Section 5125(b), as redesignated by subsection (b)(1) of this section, is further amended by striking "General.—Except as provided in subsection (b), (c), and (e)" and inserting "Preemption Generally.—Except as provided in subsections (c), (d), and (f)".

(d) Substantive Differences.—Section 5125(c), as so redesignated, is further amended—

(1) in the matter preceding subparagraph (A) of paragraph (1), by striking "subsection (c)" and inserting "subsection (d)";

(2) by striking subparagraph (E) of paragraph (1) and inserting the following:

"(E) the manufacturing, designing, inspecting, testing, reconditioning, or repairing of a packaging or packaging component that is represented as qualified for use in transporting hazardous material in commerce."; and

(3) by striking "prescribes after November 16, 1990. However, the" in paragraph (2) and inserting "prescribes. The".

(e) Decisions on Preemption.—Section 5125(e), as so redesignated, is further amended by striking "subsection (a), (b)(1), or (c) of this section." in the first sentence and inserting "subsection (b), (c)(1), or (d) of this section or section 5119(b) of this title.".

(f) Waiver of Preemption.—Section 5125(f), as so redesignated, is further amended by striking "subsection (a), (b)(1), or (c) of this section." and inserting "subsection (b), (c)(1), or (d) of this section or section 5119(b) of this title.".

(g) Emergency Waiver of Preemption; Additional Matters.—Section 5125 is further amended—

(1) by redesignating subsection (g), as redesignated by subsection (b)(4) of this section, as subsection (j); and

(2) by inserting after subsection (f), as redesignated by subsection (b)(1) of this section, the following:

"(g) Emergency Waiver of Preemption.—

"(1) The Secretary may, upon a finding of good cause, waive the preemption of a requirement of a State, political subdivision of a State, or Indian tribe under this section without prior notice or an opportunity for public comment thereon.

"(2) For purposes of paragraph (1) of this subsection, good cause exists when—

"(A) there is a potential threat that hazardous material being transported in commerce may be used in an attack on people or property; and

"(B) notice and an opportunity for public comment thereon are impracticable or contrary to the public interest.

"(3)(A) A waiver of preemption under paragraph (1) of this subsection shall be in effect for a period specified by the Secretary, but not more than 6 months.

"(B) If the Secretary determines before the expiration of a waiver of preemption under subparagraph (A) of this paragraph that the potential threat providing the basis for the waiver continues to exist, the Secretary may, after providing notice and an opportunity for public comment thereon, extend the duration of the waiver for such period after the expiration of the waiver under that subparagraph as the Secretary considers appropriate.

"(4) An action of the Secretary under paragraph (1) or (3) of this subsection shall be in writing and shall set forth the standards and procedures for seeking reconsideration of the action.

"(5) After taking action under paragraph (1) or (3) of this subsection, the Secretary shall provide for review of the action if a petition for review of the action is filed within 20 calendar days after the date of the action.

"(6) If a petition for review of an action is filed under paragraph (5) of this subsection and review of the action is not completed by the end of the 30-day period beginning on the date the petition is filed, the waiver under this subsection shall cease to be effective at the end of such period unless the Secretary determines, in writing, that the potential threat providing the basis for the waiver continues.

"(h) Application of Each Preemption Standard.—Each standard for preemption in subsection (b), (c)(1), or (d) of this section, and in section 5119(b) of this title, is independent in its application to a requirement of a State, political subdivision of a State, or Indian tribe.

"(i) Non-Federal Enforcement Standards.—This section does not apply to any procedure, penalty, required mental state, or other standard utilized by a State, political subdivision of a State, or Indian tribe to enforce a requirement applicable to the transportation of hazardous material.".

SEC. 4444. RELATIONSHIP TO OTHER LAWS.

Section 5126 is amended—

(1) by striking "or causes to be transported hazardous material," in subsection (a) and inserting "hazardous material, or causes hazardous material to be transported,";

(2) by striking "manufactures," and all that follows through "or sells" in subsection (a) and inserting "manufactures, designs, inspects, tests, reconditions, marks, or repairs a packaging or packaging component that is represented";

(3) by striking "must" in subsection (a) and inserting "shall";

(4) by striking "manufacturing," in subsection (a) and all that follows through "testing" and inserting "manufacturing, designing, inspecting, testing, reconditioning, marking, or repairing"; and

(5) by striking "39." in subsection (b)(2) and inserting "39, except in the case of an imminent hazard.".

SEC. 4445. JUDICIAL REVIEW.

(a) In General.—Chapter 51 is amended—

(1) by redesignating section 5127 as section 5128; and

(2) by inserting after section 5126 the following:

"§5127. Judicial review

"(a) Filing and Venue.—Except as provided in section 20114(c) of this title, a person suffering legal wrong or adversely affected or aggrieved by a final action of the Secretary under this chapter may petition for review of the final action in the United States Court of Appeals for the District of Columbia or in the court of appeals of the United States for the circuit in which the person or resides or has the principal place of business. The petition shall be filed not more than 60 days after the action of the Secretary becomes final.

"(b) PROCEDURES.—When a petition on a final action is filed under subsection (a) of this section, the clerk of the court shall immediately send a copy of the petition to the Secretary. The Secretary shall file with the court a record of any proceeding in which the final action was issued as provided in section 2112 of title 28.

"(c) AUTHORITY OF COURT.—The court in which a petition on a final action is filed under subsection (a) of this section has exclusive jurisdiction, as provided in subchapter II of chapter 5 of title 5 to affirm or set aside any part of the final action and may order the Secretary to conduct further proceedings. Findings of fact by the Secretary, if supported by substantial evidence, are conclusive.

"(d) REQUIREMENT FOR PRIOR OBJECTIONS.—In reviewing a final action under this section, the court may consider an objection to the final action only if—

"(1) the objection was made in the course of a proceeding or review conducted by the Secretary; or

"(2) there was a reasonable ground for not making the objection in the proceeding.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 51 is amended by striking the item relating to section 5127 and inserting the following:

"5127. Judicial review.

"5128. Authorization of appropriations.".

SEC. 4446. AUTHORIZATION OF APPROPRIATIONS.

Section 5128, as redesignated by section 4445 of this title, is amended to read as follows:

"§5128. Authorization of appropriations

"(a) GENERAL.—In order to carry out this chapter (except sections 5107(e), 5108(g), 5112, 5113, 5115, 5116, and 5119 of this title), the following amounts are authorized to be appropriated to the Secretary:

"(1) For fiscal year 2004, not more than $24,981,000.

"(2) For fiscal year 2005, not more than $27,000,000.

"(3) For fiscal year 2006, not more than $29,000,000.

"(4) For each of fiscal years 2007 through 2009, not more than $30,000,000.

"(b) EMERGENCY PREPAREDNESS FUND.—There shall be available from the Emergency Preparedness Fund under section 5116(i) of this title, amounts as follows:

"(1) To carry out section 5107(e) of this title, $4,000,000 for each of fiscal years 2004 through 2009.

"(2) To carry out section 5115 of this title, $200,000 for each of fiscal years 2004 through 2009.

"(3) To carry out section 5116(a) of this title, $8,000,000 for each of fiscal years 2004 through 2009.

"(4) To carry out section 5116(b) of this title, $13,800,000 for each of fiscal years 2004 through 2009.

"(5) To carry out section 5116(f) of this title, $150,000 for each of fiscal years 2004 through 2009.

"(6) To carry out section 5116(i)(4) of this title, $150,000 for each of fiscal years 2004 through 2009.

"(7) To carry out section 5116(j) of this title, $1,000,000 for each of fiscal years 2004 through 2009.

"(8) To publish and distribute an emergency response guidebook under section 5116(i)(3) of title 49, United States Code, $500,000 for each of fiscal years 2004 through 2009.

"(c) SECTION 5121 REPORTS.—There are authorized to be appropriated to the Secretary of Transportation for the use of the Bureau of Transportation Statistics such sums as may be necessary to carry out section 5121(h) of this title.".

"(d) CREDIT TO APPROPRIATIONS.—The Secretary may credit to any appropriation to carry out this chapter an amount received from a State, political subdivision of a State, Indian tribe, or other public authority or private entity for expenses the Secretary incurs in providing training to the State, political subdivision, Indian tribe, or other authority or entity.

"(e) AVAILABILITY OF AMOUNTS.—Amounts available under subsections (a) and (b) of this section shall remain available until expended.".

SEC. 4447. ADDITIONAL CIVIL AND CRIMINAL PENALTIES.

(a) TITLE 49 PENALTIES.—Section 46312 is amended—

(1) by striking "part—" in subsection (a) and inserting "part or chapter 51 of this title—"; and

(2) by inserting "or chapter 51 of this title" in subsection (b) after "under this part".

(b) TITLE 18 PENALTIES.—Section 3663(a)(1)(A) of title 18, United States Code, is amended by inserting "5124," before "46312,".

PART II—OTHER MATTERS

SEC. 4461. ADMINISTRATIVE AUTHORITY FOR RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION.

Section 112 is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

"(e) ADMINISTRATIVE AUTHORITIES.—

"(1) GRANTS, COOPERATIVE AGREEMENTS, AND OTHER TRANSACTIONS.—The Administrator may enter into grants, cooperative agreements, and other transactions with Federal agencies, State and local government agencies, other public entities, private organizations, and other persons—

"(A) to conduct research into transportation service and infrastructure assurance; and

"(B) to carry out other research activities of the Administration.

"(2) LIMITATION ON DISCLOSURE OF CERTAIN INFORMATION.—

"(A) LIMITATION.—If the Administrator determines that particular information developed in research sponsored by the Administration may reveal a systemic vulnerability of transportation service or infrastructure, such information may be disclosed only to—

"(i) a person responsible for the security of the transportation service or infrastructure; or

"(ii) a person responsible for protecting public safety; or

"(iii) an officer, employee, or agent of the Federal Government, or a State or local government, who, as determined by the Administrator, has need for such information in the performance of official duties.

"(B) TREATMENT OF RELEASE.—The release of information under subparagraph (A) shall not be treated as a release to the public for purposes of section 552 of title 5.".

SEC. 4462. MAILABILITY OF HAZARDOUS MATERIALS.

(a) NONMAILABILITY GENERALLY.—Section 3001 of title 39, United States Code, is amended—

(1) by redesignating subsection (n) as subsection (o); and

(2) by inserting after subsection (m) the following:

"(n)(1) Except as otherwise authorized by law or regulations of the Postal Service under section 3018 of this title, hazardous material is nonmailable.

"(2) In this subsection, the term 'hazardous material' means a substance or material designated by the Secretary of Transportation as hazardous material under section 5103(a) of title 49.".

(b) MAILABILITY.—

(1) IN GENERAL.—Chapter 30 of title 39, United States Code, is amended by adding at the end the following:

"§3018. Hazardous material

"(a) IN GENERAL.—The Postal Service shall prescribe regulations for the safe transportation of hazardous material in the mails.

"(b) PROHIBITIONS.—No person may—

"(1) mail or cause to be mailed hazardous material that has been declared by statute or Postal Service regulation to be nonmailable;

"(2) mail or cause to be mailed hazardous material in violation of any statute or Postal Service regulation restricting the time, place, or manner in which hazardous material may be mailed; or

"(3) manufacture, distribute, or sell any container, packaging kit, or similar device that—

"(A) is represented, marked, certified, or sold by such person for use in the mailing of hazardous material; and

"(B) fails to conform with any statute or Postal Service regulation setting forth standards for a container, packaging kit, or similar device used for the mailing of hazardous material.

"(c) CIVIL PENALTY.—

"(1) IN GENERAL.—A person who knowingly violates this section or a regulation prescribed under this section shall be liable to the Postal Service for—

"(A) a civil penalty of at least $250, but not more than $100,000, for each violation;

"(B) the costs of any clean-up associated with such violation; and

"(C) damages.

"(2) KNOWING ACTION.—A person acts knowingly for purposes of paragraph (1) when—

"(A) the person has actual knowledge of the facts giving rise to the violation; or

"(B) a reasonable person acting in the circumstances and exercising reasonable care would have had that knowledge.

"(3) KNOWLEDGE OF STATUTE OR REGULATION NOT ELEMENT OF OFFENSE.—Knowledge of the existence of a statutory provision or Postal Service regulation is not an element of an offense under this subsection.

"(4) SEPARATE VIOLATIONS.—

"(A) VIOLATIONS OVER TIME.—A separate violation under this subsection occurs for each day hazardous material, mailed or cause to be mailed in noncompliance with this section, is in the mail.

"(B) SEPARATE ITEMS.—A separate violation under this subsection occurs for each item containing hazardous material that is mailed or caused to be mailed in noncompliance with this section.

"(d) HEARINGS.—The Postal Service may determine that a person has violated this section or a regulation prescribed under this section only after notice and an opportunity for a hearing.

"(e) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty for a violation of this section, the Postal Service shall consider—

"(1) the nature, circumstances, extent, and gravity of the violation;

"(2) with respect to the person who committed the violation, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue in business;

"(3) the impact on Postal Service operations; and

"(4) any other matters that justice requires.

"(f) CIVIL ACTIONS TO COLLECT.—

"(1) IN GENERAL.—In accordance with section 4409(d) of this title, a civil action may be commenced in an appropriate district court of the United States to collect a civil penalty, clean-up costs, and damages assessed under subsection (c).

"(2) LIMITATION.—In a civil action under paragraph (1), the validity, amount, and appropriateness of the civil penalty, clean-up costs, and damages covered by the civil action shall not be subject to review.

"(3) COMPROMISE.—The Postal Service may compromise the amount a civil penalty, clean-up costs, and damages assessed under subsection (c) before commencing a civil action with respect to such civil penalty, clean-up costs, and damages under paragraph (1).

"(g) CIVIL JUDICIAL PENALTIES.—

"(1) IN GENERAL.—At the request of the Postal Service, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this section or a regulation prescribed under this section.

"(2) RELIEF.—The court in a civil action under paragraph (1) may award appropriate relief, including a temporary or permanent injunction, civil penalties as determined in accordance with this section, or punitive damages.

"(3) CONSTRUCTION.—A civil action under this subsection shall be in lieu of civil penalties for the same violation under subsection (c)(1)(A).

"(h) DEPOSIT OF AMOUNTS COLLECTED.—Amounts collected under this section shall be deposited into the Postal Service Fund under section 2003 of this title.".

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 30 of title 39, United States Code, is amended by adding at the end the following:

"3018. Hazardous material.".

(c) CONFORMING AMENDMENT.—Section 2003(b) of title 39, United States Code, is amended—

(1) by striking "and" after the semicolon in paragraph (7);

(2) by striking "purposes." in paragraph (8) and inserting "purposes; and"; and

(3) by adding at the end the following:

"(9) any amounts collected under section 3018 of this title.".

SEC. 4463. CRIMINAL MATTERS.

Section 845(a)(1) of title 18, United States Code, is amended by striking "which are regulated" and all that follows and inserting "that is subject to the authority of the Departments of Transportation and Homeland Security;".

SEC. 4464. CARGO INSPECTION PROGRAM.

(a) IN GENERAL.—The Secretary of Transportation may establish a program of random inspections of cargo at points of entry into the United States for the purpose of determining the extent to which undeclared hazardous material is being offered for transportation in commerce through such points of entry.

(b) INSPECTIONS.—Under the program under subsection (a)—

(1) an officer of the Department of Transportation who is not located at a point of entry into the United States may select at random cargo shipments at points of entry into the United States for inspection; and

(2) an officer or employee of the Department may open and inspect each cargo shipment so selected for the purpose described in subsection (a).

(c) COORDINATION.—The Secretary of Transportation shall coordinate any inspections under the program under subsection (a) with the Secretary of Homeland Security.

(d) DISPOSITION OF HAZARDOUS MATERIALS.—The Secretary of Transportation shall provide for the appropriate handling and disposition of any hazardous material discovered pursuant to inspections under the program under subsection (a).

SEC. 4465. INFORMATION ON HAZMAT REGISTRATIONS.

The Administrator of the Department of Transportation's Research and Special Programs Administration shall—

(1) transmit current hazardous material registrant information to the Federal Motor Carrier Safety Administration to cross reference the registrant's Federal motor carrier registration number; and

(2) notify the Federal Motor Carrier Safety Administration immediately, and provide a registrant's United States Department of Transportation identification number to the Administration, whenever a new registrant registers to transport hazardous materials as a motor carrier.

SEC. 4466. REPORT ON APPLYING HAZARDOUS MATERIALS REGULATIONS TO PERSONS WHO REJECT HAZARDOUS MATERIALS.

Within 6 months after the date of enactment of this Act, the Secretary of Transportation shall complete an assessment of the costs and benefits of subjecting persons who reject hazardous material for transportation in commerce to the hazardous materials laws and regulations. In completing this assessment, the Secretary shall—

(1) estimate the number of affected employers and employees;

(2) determine what actions would be required by them to comply with such laws and regulations; and

(3) consider whether and to what extent the application of Federal hazardous materials laws and regulations should be limited to—

(A) particular modes of transportation;

(B) certain categories of employees; or

(C) certain classes or categories of hazardous materials.

PART III—SANITARY FOOD TRANSPORTATION

SEC. 4481. SHORT TITLE.

This part may be cited as the "Sanitary Food Transportation Act of 2004".

SEC. 4482. RESPONSIBILITIES OF THE SECRETARY OF HEALTH AND HUMAN SERVICES.

(a) UNSANITARY TRANSPORT DEEMED ADULTERATION.—Section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342) is amended by adding at the end the following:

"(i) NONCOMPLIANCE WITH SANITARY TRANSPORTATION PRACTICES.—If the food is transported under conditions that are not in compliance with the sanitary transportation practices prescribed by the Secretary under section 416.".

(b) SANITARY TRANSPORTATION REQUIREMENTS.—Chapter IV of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341 et seq.) is amended by adding at the end the following:

"SEC. 416. SANITARY TRANSPORTATION PRACTICES.

"(a) DEFINITIONS.—In this section:

"(1) BULK VEHICLE.—The term 'bulk vehicle' includes a tank truck, hopper truck, rail tank car, hopper car, cargo tank, portable tank, freight container, or hopper bin, and any other vehicle in which food is shipped in bulk, with the food coming into direct contact with the vehicle.

"(2) TRANSPORTATION.—The term 'transportation' means any movement in commerce by motor vehicle or rail vehicle.

"(b) REGULATIONS.—The Secretary shall by regulation require shippers, carriers by motor vehicle or rail vehicle, receivers, and other persons engaged in the transportation of food to use sanitary transportation practices prescribed by the Secretary to ensure that food is not transported under conditions that may render the food adulterated.

"(c) CONTENTS.—The regulations shall—

"(1) prescribe such practices as the Secretary determines to be appropriate relating to—

"(A) sanitation;

"(B) packaging, isolation, and other protective measures;

"(C) limitations on the use of vehicles;

"(D) information to be disclosed—

"(i) to a carrier by a person arranging for the transport of food; and

"(ii) to a manufacturer or other person that—

"(I) arranges for the transportation of food by a carrier; or

"(II) furnishes a tank vehicle or bulk vehicle for the transportation of food; and

"(E) recordkeeping; and

"(2) include—

"(A) a list of nonfood products that the Secretary determines may, if shipped in a bulk vehicle, render adulterated food that is subsequently transported in the same vehicle; and

"(B) a list of nonfood products that the Secretary determines may, if shipped in a motor vehicle or rail vehicle (other than a tank vehicle or bulk vehicle), render adulterated food that is simultaneously or subsequently transported in the same vehicle.

"(d) WAIVERS.—

"(1) IN GENERAL.—The Secretary may waive any requirement under this section, with respect to any class of persons, vehicles, food, or nonfood products, if the Secretary determines that the waiver—

"(A) will not result in the transportation of food under conditions that would be unsafe for human or animal health; and

"(B) will not be contrary to the public interest.

"(2) PUBLICATION.—The Secretary shall publish in the Federal Register any waiver and the reasons for the waiver.

"(e) PREEMPTION.—

"(1) IN GENERAL.—No State or political subdivision of a State may directly or indirectly establish or continue in effect, as to any food in interstate commerce, any authority or requirement concerning transportation of food that is not identical to an authority or requirement under this section.

"(2) APPLICABILITY.—This subsection applies to transportation that occurs on or after the effective date of the regulations promulgated under subsection (b).

"(f) ASSISTANCE OF OTHER AGENCIES.—The Secretary of Transportation, the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and the heads of other Federal agencies, as appropriate, shall provide assistance on request, to the extent resources are available, to the Secretary for the purposes of carrying out this section.".

(c) INSPECTION OF TRANSPORTATION RECORDS.—

(1) REQUIREMENT.—Section 703 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 373) is amended—

(A) by striking the section heading and all that follows through "For the purpose" and inserting the following:

"SEC. 703. RECORDS.

"(a) IN GENERAL.—For the purpose"; and

(B) by adding at the end the following:

"(b) FOOD TRANSPORTATION RECORDS.—A shipper, carrier by motor vehicle or rail vehicle, receiver, or other person subject to section 416 shall, on request of an officer or employee designated by the Secretary, permit the officer or employee, at reasonable times, to have access to and to copy all records that the Secretary requires to be kept under section 416(c)(1)(E).".

(2) CONFORMING AMENDMENT.—Subsection (a) of section 703 of the Federal Food, Drug, and Cosmetic Act (as designated by paragraph (1)(A)) is amended by striking "carriers." and inserting "carriers, except as provided in subsection (b)".

(d) PROHIBITED ACTS.—

(1) RECORDS INSPECTION.—Section 301(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(e)) is amended by inserting "416," before "504," each place it appears.

(2) UNSAFE FOOD TRANSPORTATION.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended by adding at the end the following:

"(hh) NONCOMPLIANCE WITH SANITARY TRANSPORTATION PRACTICES.—The failure by a shipper, carrier by motor vehicle or rail vehicle, receiver, or any other person engaged in the transportation of food to comply with the sanitary transportation practices prescribed by the Secretary under section 416.".

SEC. 4483. DEPARTMENT OF TRANSPORTATION REQUIREMENTS.

Chapter 57, is amended to read as follows:

"CHAPTER 57—SANITARY FOOD TRANSPORTATION

"Sec.
"5701. Food transportation safety inspections.

"§5701. Food transportation safety inspections

"(a) INSPECTION PROCEDURES.—

"(1) IN GENERAL.—The Secretary of Transportation, in consultation with the Secretary of Health and Human Services and the Secretary of Agriculture, shall—

"(A) establish procedures for transportation safety inspections for the purpose of identifying suspected incidents of contamination or adulteration of—

"(i) food in violation of regulations promulgated under section 416 of the Federal Food, Drug, and Cosmetic Act; and

"(ii) meat subject to detention under section 402 of the Federal Meat Inspection Act (21 U.S.C. 672); and

"(iii) poultry products subject to detention under section 19 of the Poultry Products Inspection Act (21 U.S.C. 467a); and

"(B) train personnel of the Department of Transportation in the appropriate use of the procedures.

"(2) APPLICABILITY.—The procedures established under paragraph (1) of this subsection shall apply, at a minimum, to Department of Transportation personnel that perform commercial motor vehicle or railroad safety inspections.

"(b) NOTIFICATION OF SECRETARY OF HEALTH AND HUMAN SERVICES OR SECRETARY OF AGRICULTURE.—The Secretary of Transportation shall promptly notify the Secretary of Health and Human Services or the Secretary of Agriculture, as applicable, of any instances of potential food contamination or adulteration of a food identified during transportation safety inspections.

"(c) USE OF STATE EMPLOYEES.—The means by which the Secretary of Transportation carries out subsection (b) of this section may include inspections conducted by State employees using funds authorized to be appropriated under sections 31102 through 31104 of this title.".

SEC. 4484. EFFECTIVE DATE.

This part takes effect on October 1, 2003.

Subtitle E—Recreational Boating Safety Programs

SEC. 4501. SHORT TITLE.

This subtitle may be cited as the "Sport Fishing and Recreational Boating Safety Act".

PART I—FEDERAL AID IN SPORT FISH RESTORATION ACT AMENDMENTS

SEC. 4521. AMENDMENT OF FEDERAL AID IN FISH RESTORATION ACT.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Act entitled "An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes," approved August 9, 1950 (64 Stat. 430; 16 U.S.C. 777 et seq.).

SEC. 4522. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 3 (16 U.S.C. 777b) is amended—

(1) by striking "the succeeding fiscal year." in the third sentence and inserting "succeeding fiscal years."; and

(2) by striking "in carrying on the research program of the Fish and Wildlife Service in respect to fish of material value for sport and recreation." and inserting "to supplement the 55.3 percent of each annual appropriation to be apportioned among the States, as provided for in section 4(b) of this title.".

(b) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 3 of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777b) is amended in the first sentence—

(A) by striking "Sport Fish Restoration Account" and inserting "Sport Fish Restoration Trust Fund"; and

(B) by striking "that Account" and inserting "that Trust Fund, except as provided in section 9504(c) of the Internal Revenue Code of 1986".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) take effect on October 1, 2004.

SEC. 4523. DIVISION OF ANNUAL APPROPRIATIONS.

Section 4 (16 U.S.C. 777c) is amended—

(1) by striking subsections (a) through (d) and redesignating subsections (e), (f), and (g) as subsections (b), (c), and (d);

(2) by inserting before subsection (b), as redesignated, the following:

"(a) IN GENERAL.—For fiscal years 2004 through 2009, each annual appropriation made in accordance with the provisions of section 3 of this title shall be distributed as follows:

"(1) COASTAL WETLANDS.—18 percent to the Secretary of the Interior for distribution as provided in the Coastal Wetlands Planning, Protection, and Restoration Act (16 U.S.C. 3951 et seq.).

"(2) BOATING SAFETY.—18 percent to the Secretary of Homeland Security for State recreational boating safety programs under section 13106 of title 46, United States Code.

"(3) CLEAN VESSEL ACT.—1.9 percent to the Secretary of the Interior for qualified projects under section 5604(c) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note).

"(4) BOATING INFRASTRUCTURE.—1.9 percent to the Secretary of the Interior for obligation for qualified projects under section 7404(d) of the Sportfishing and Boating Safety Act of 1998 (16 U.S.C. 777g–1(d)).

"(5) NATIONAL OUTREACH AND COMMUNICATIONS.—1.9 percent to the Secretary of the Interior for the National Outreach and Communications Program under section 8(d) of this title. Such amounts shall remain available for 3 fiscal years, after which any portion thereof that is unobligated by the Secretary for that program may be expended by the Secretary under subsection (b) of this section.

"(6) SET-ASIDE FOR EXPENSES FOR ADMINISTRATION OF THIS CHAPTER.—

"(A) IN GENERAL.—2.1 percent to the Secretary of the Interior for expenses for administration incurred in implementation of this title, in accordance with this section, section 9, and section 14 of this title.

"(B) APPORTIONMENT OF UNOBLIGATED FUNDS.—If any portion of the amount made available to the Secretary under subparagraph (A) remains unexpended and unobligated at the end of a fiscal year, that portion shall be apportioned among the States, on the same basis and in the same manner as other amounts made available under this title are apportioned among the States under subsection (b) of this section, within 60 days after the end of that fiscal year. Any amount apportioned among the States under this subparagraph shall be in addition to any amounts otherwise available for apportionment among the States under subsection (b) for the fiscal year.";

(3) by striking "of the Interior, after the distribution, transfer, use, and deduction under subsections (a), (b), (c), and (d), respectively, and after deducting amounts used for grants under section 14, shall apportion the remainder" in subsection (b), as redesignated, and inserting "shall apportion 55.3 percent";

(4) by striking "per centum" each place it appears in subsection (b), as redesignated, and inserting "percent";

(5) by striking "subsections (a), (b)(3)(A), (b)(3)(B), and (c)" in paragraph (1) of subsection (d), as redesignated, and inserting "paragraphs (1), (3), (4), and (5) of subsection (a)"; and

(6) by adding at the end the following:

"(e) TRANSFER OF CERTAIN FUNDS.—Amounts available under paragraphs (3) and (4) of subsection (a) that are unobligated by the Secretary after 3 fiscal years shall be transferred to the Secretary of Homeland Security and shall be expended for State recreational boating safety programs under section 13106(a) of title 46, United States Code.".

SEC. 4524. MAINTENANCE OF PROJECTS.

Section 8 (16 U.S.C. 777g) is amended—

(1) by striking "in carrying out the research program of the Fish and Wildlife Service in respect to fish of material value for sport or recreation." in subsection (b)(2) and inserting "to supplement the 55.3 percent of each annual appropriation to be apportioned among the States under section 4(b) of this title."; and

(2) by striking "subsection (c) or (d) of section 4" in subsection (d)(3) and inserting "paragraph (5) or (6) of section 4(a)".

SEC. 4525. BOATING INFRASTRUCTURE.

Section 7404(d)(1) of the Sportfishing and Boating Safety Act of 1998 (16 U.S.C. 777g-1(d)(1)) is amended by striking "section 4(b)(3)(B)" and inserting "section 4(a)(4)".

SEC. 4526. REQUIREMENTS AND RESTRICTIONS CONCERNING USE OF AMOUNTS FOR EXPENSES FOR ADMINISTRATION.

Section 9 (16 U.S.C. 777h) is amended—

(1) by striking "section 4(d)(1)" in subsection (a) and inserting "section 4(a)(6)"; and

(2) by striking "section 4(d)(1)" in subsection (b)(1) and inserting "section 4(a)(6)".

SEC. 4527. PAYMENTS OF FUNDS TO AND COOPERATION WITH PUERTO RICO, THE DISTRICT OF COLUMBIA, GUAM, AMERICAN SAMOA, THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS, AND THE VIRGIN ISLANDS.

Section 12 (16 U.S.C. 777k) is amended by striking "in carrying on the research program of the Fish and Wildlife Service in respect to fish of material value for sport or recreation." and inserting "to supplement the 55.3 percent of each annual appropriation to be apportioned among the States under section 4(b) of this title.".

SEC. 4528. MULTISTATE CONSERVATION GRANT PROGRAM.

Section 14 (16 U.S.C. 777m) is amended—

(1) by striking so much of subsection (a) as precedes paragraph (2) and inserting the following:

"(a) IN GENERAL.—

"(1) AMOUNT FOR GRANTS.—For each of fiscal years 2004 through 2009, 0.9 percent of each annual appropriation made in accordance with the provisions of section 3 of this title shall be distributed to the Secretary of the Interior for making multistate conservation project grants in accordance with this section.";

(2) by striking "section 4(e)" each place it appears in subsection (a)(2)(B) and inserting "section 4(b)"; and

(3) by striking "Of the balance of each annual appropriation made under section 3 remaining

after the distribution and use under subsections (a), (b), and (c) of section 4 for each fiscal year and after deducting amounts used for grants under subsection (a)—" in subsection (e) and inserting "Of amounts made available under section 4(a)(6) for each fiscal year—".

PART II—CLEAN VESSEL ACT AMENDMENTS

SEC. 4541. GRANT PROGRAM.

Section 5604(c)(2) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note) is amended—

(1) by striking subparagraph (A); and

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

PART III—RECREATIONAL BOATING SAFETY PROGRAM AMENDMENTS

SEC. 4561. STATE MATCHING FUNDS REQUIREMENT.

Section 13103(b) of title 46, United States Code, is amended by striking "one-half" and inserting "75 percent".

SEC. 4562. AVAILABILITY OF ALLOCATIONS.

Section 13104(a) of title 46, United States Code, is amended—

(1) by striking "2 years" in paragraph (1) and inserting "3 years"; and

(2) by striking "2-year" in paragraph (2) and inserting "3-year".

SEC. 4563. AUTHORIZATION OF APPROPRIATIONS FOR STATE RECREATIONAL BOATING SAFETY PROGRAMS.

Section 13106(c) of title 46, United States Code, is amended—

(1) by striking "Secretary of Transportation under paragraphs (2) and (3) of section 4(b)" and inserting "Secretary under subsections (a)(2) and (e) of section 4"; and

(2) by inserting "a minimum of" before "$2,083,333".

SEC. 4564. MAINTENANCE OF EFFORT FOR STATE RECREATIONAL BOATING SAFETY PROGRAMS.

(a) IN GENERAL.—Chapter 131 of title 46, United States Code, is amended by inserting after section 13106 the following:

"§13107. Maintenance of effort for State recreational boating safety programs

"(a) IN GENERAL.—The amount payable to a State for a fiscal year from an allocation under section 13103 of this chapter shall be reduced if the usual amounts expended by the State for the State's recreational boating safety program, as determined under section 13105 of this chapter, for the previous fiscal year is less than the average of the total of such expenditures for the 3 fiscal years immediately preceding that previous fiscal year. The reduction shall be proportionate, as a percentage, to the amount by which the level of State expenditures for such previous fiscal year is less than the average of the total of such expenditures for the 3 fiscal years immediately preceding that previous fiscal year.

"(b) REDUCTION OF THRESHHOLD.—If the total amount available for allocation and distribution under this chapter in a fiscal year for all participating State recreational boating safety programs is less than such amount for the preceding fiscal year, the level of State expenditures required under subsection (a) of this section for the preceding fiscal year shall be decreased proportionately.

"(c) WAIVER.—

"(1) IN GENERAL.—Upon the written request of a State, the Secretary may waive the provisions of subsection (a) of this section for 1 fiscal year if the Secretary determines that a reduction in expenditures for the State's recreational boating safety program is attributable to a non- selective reduction in expenditures for the programs of all Executive branch agencies of the State government, or for other reasons if the State demonstrates to the Secretary's satisfaction that such waiver is warranted.

"(2) 30-DAY DECISION.—The Secretary shall approve or deny a request for a waiver not later than 30 days after the date the request is received.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 131 of title 46, United States Code, is amended by inserting after the item relating to section 13106 the following:

"13107. Maintenance of effort for State recreational boating safety programs.".

PART IV—MISCELLANEOUS

SEC. 4581. TECHNICAL CORRECTION TO HOMELAND SECURITY ACT.

Section 1511(e)(2) of the Homeland Security Act of 2002 (Pub. L. 107-296) is amended by striking "and to any funds provided to the Coast Guard from the Aquatic Resources Trust Fund of the Highway Trust Fund for boating safety programs." and inserting "and any funds provided to the Coast Guard from the Highway Trust Fund and transferred into the Sport Fish Restoration Account of the Aquatic Resources Trust Fund for boating safety programs.".

Subtitle F—Rail Transportation

PART I—AMTRAK

SEC. 4601. AUTHORIZATION OF APPROPRIATIONS.

The text of section 24104 of title 49, United States Code, is amended to read as follows:

"There are authorized to be appropriated to the Secretary of Transportation $2,000,000,000 for each of fiscal years 2004, 2005, 2006, 2007, 2008, and 2009 for the benefit of Amtrak for operating expenses.".

SEC. 4602. ESTABLISHMENT OF BUILD AMERICA CORPORATION.

There is established a nonprofit corporation, to be known as the "Build America Corporation". The Build America Corporation is not an agency or establishment of the United States Government. The purpose of the Corporation is to support qualified projects described in section 4603(c)(2) through the issuance of Build America bonds. The Corporation shall be subject, to the extent consistent with this section, to the laws of the State of Delaware applicable to corporations not for profit.

SEC. 4603. FEDERAL BONDS FOR TRANSPORTATION INFRASTRUCTURE.

(a) USE OF BOND PROCEEDS.—The proceeds from the sale of—

(1) any bonds authorized, issued, or guaranteed by the Federal Government that are available to fund passenger rail projects pursuant to any Federal law (enacted before, on, or after the date of the enactment of this Act), and

(2) any Build America bonds issued by the Build America Corporation as authorized by section 4602,

may be used to fund a qualified project if the Secretary of Transportation determines that the qualified project is a cost-effective alternative for efficiently maximizing mobility of individuals and goods.

(b) COMPLIANCE OF BENEFICIARIES WITH CERTAIN STANDARDS.—A recipient of proceeds of a grant, loan, Federal tax-credit bonds, or any other form of financial assistance provided under this title shall comply with the standards described in section 24312 of title 49, United States Code, as in effect on June 25, 2003, with respect to any qualified project described in subsection (c)(1) in the same manner that the National Passenger Railroad Corporation is required to comply with such standards for construction work financed under an agreement entered into under section 24308(a) of such title.

(c) QUALIFIED PROJECT DEFINED.—In this section—

(1) IN GENERAL.—Except as provided in paragraph (2), the term "qualified project" means any transportation infrastructure project of any governmental unit or other person that is proposed by a State, including a highway project, a transit system project, a railroad project, an airport project, a port project, and an inland waterways project.

(2) BUILD AMERICA CORPORATION PROJECTS.—

(A) IN GENERAL.—With respect to any Build America bonds issued by the Build America Corporation as authorized by section 4602, the term "qualified project" means any—

(i) qualified highway project,

(ii) qualified public transportation project, and

(iii) congestion relief project,

proposed by 1 or more States and approved by the Build America Corporation, which meets the requirements under clauses (i), (ii), and (iii) of subparagraph (D).

(B) QUALIFIED HIGHWAY PROJECT.—The term "qualified highway project" means a project for highway facilities or other facilities which are eligible for assistance under title 23, United States Code.

(C) QUALIFIED PUBLIC TRANSPORTATION PROJECT.—The term "qualified public transportation project" means a project for public transportation facilities or other facilities which are eligible for assistance under chapter 53 of title 49, United States Code.

(D) CONGESTION RELIEF PROJECT.—The term "congestion relief project" means an intermodal freight transfer facility, freight rail facility, freight movement corridor, intercity passenger rail or facility, intercity bus vehicle or facility, border crossing facility, or other public or private facility approved as a congestion relief project by the Secretary of Transportation. In making such approvals, the Secretary of Transportation shall—

(i) consider the economic, environmental, mobility, and national security improvements to be realized through the project, and

(ii) give preference to projects with national or regional significance, including any projects sponsored by a coalition of States or a combination of States and private sector entities, in terms of generating economic benefits, supporting international commerce, or otherwise enhancing the national transportation system.

(D) ADDITIONAL REQUIREMENTS FOR QUALIFIED PROJECTS.—For purposes of subparagraph (A)—

(i) COSTS OF QUALIFIED PROJECTS.—The requirement of this clause is met if the costs of the qualified project funded by Build America bonds only relate to capital investments in depreciable assets and do not include any costs relating to operations, maintenance, or rolling stock.

(ii) APPLICABILITY OF FEDERAL LAW.—The requirement of this clause is met if the requirements of any Federal law, including titles 23, 40, and 49 of the United States Code, which would otherwise apply to projects to which the United States is a party or to funds made available under such law and projects assisted with those funds are applied to—

(I) funds made available under Build America bonds for similar qualified projects, and

(II) similar qualified projects assisted by the Build America Corporation through the use of such funds.

(iii) UTILIZATION OF UPDATED CONSTRUCTION TECHNOLOGY FOR QUALIFIED PROJECTS.—The requirement of this clause is met if the appropriate State agency relating to the qualified project has updated its accepted construction technologies to match a list prescribed by the Secretary of Transportation and in effect on the date of the approval of the project as a qualified project.

PART II—RAILROAD TRACK MODERNIZATION

SEC. 4631. SHORT TITLE.

This part may be cited as the "Railroad Track Modernization Act of 2004".

SEC. 4632. CAPITAL GRANTS FOR RAILROAD TRACK.

(a) Authority.—Chapter 223 of title 49, United States Code, is amended to read as follows:

"CHAPTER 223—CAPITAL GRANTS FOR RAILROAD TRACK

"Sec.

"22301. Capital grants for railroad track.

"§ 22301. Capital grants for railroad track

"(a) Establishment of Program.—

"(1) Establishment.—The Secretary of Transportation shall establish a program of capital grants for the rehabilitation, preservation, or improvement of railroad track (including roadbed, bridges, and related track structures) of class II and class III railroads. Such grants shall be for rehabilitating, preserving, or improving track used primarily for freight transportation to a standard ensuring that the track can be operated safely and efficiently, including grants for rehabilitating, preserving, or improving track to handle 286,000 pound rail cars. Grants may be provided under this chapter—

"(A) directly to the class II or class III railroad; or

"(B) with the concurrence of the class II or class III railroad, to a State or local government.

"(2) State cooperation.—Class II and class III railroad applicants for a grant under this chapter are encouraged to utilize the expertise and assistance of State transportation agencies in applying for and administering such grants. State transportation agencies are encouraged to provide such expertise and assistance to such railroads.

"(3) Regulations.—

"(A) In general.—The Secretary shall prescribe regulations to carry out the program under this section.

"(B) Criteria.—In developing the regulations, the Secretary shall establish criteria that—

"(i) condition the award of a grant to a railroad on reasonable assurances by the railroad that the facilities to be rehabilitated and improved will be economically and efficiently utilized;

"(ii) ensure that the award of a grant is justified by present and probable future demand for rail services by the railroad to which the grant is to be awarded;

"(iii) ensure that consideration is given to projects that are part of a State-sponsored rail plan; and

"(iv) ensure that all such grants are awarded on a competitive basis.

"(b) Maximum Federal Share.—The maximum Federal share for carrying out a project under this section shall be 80 percent of the project cost. The non-Federal share may be provided by any non-Federal source in cash, equipment, or supplies. Other in-kind contributions may be approved by the Secretary on a case by case basis consistent with this chapter.

"(c) Project Eligibility.—For a project to be eligible for assistance under this section the track must have been operated or owned by a class II or class III railroad as of the date of the enactment of the Railroad Track Modernization Act of 2004.

"(d) Use of Funds.—Grants provided under this section shall be used to implement track capital projects as soon as possible. In no event shall grant funds be contractually obligated for a project later than the end of the third Federal fiscal year following the year in which the grant was awarded. Any funds not so obligated by the end of such fiscal year shall be returned to the Secretary for reallocation.

"(e) Additional Purpose.—In addition to making grants for projects as provided in subsection (a), the Secretary may also make grants to supplement direct loans or loan guarantees made under title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(d)), for projects described in the last sentence of section 502(d) of such title. Grants made under this subsection may be used, in whole or in part, for paying credit risk premiums, lowering rates of interest, or providing for a holiday on principal payments.

"(f) Employee Protection.—The Secretary shall require as a condition of any grant made under this section that the recipient railroad provide a fair arrangement at least as protective of the interests of employees who are affected by the project to be funded with the grant as the terms imposed under section 11326(a), as in effect on the date of the enactment of the Railroad Track Modernization Act of 2001.

"(g) Labor Standards.—

"(1) Prevailing wages.—The Secretary shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed by a grant made under this section will be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a et seq.). The Secretary shall make a grant under this section only after being assured that required labor standards will be maintained on the construction work.

"(2) Wage rates.—Wage rates in a collective bargaining agreement negotiated under the Railway Labor Act (45 U.S.C. 151 et seq.) are deemed for purposes of this subsection to comply with the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a et seq.).".

(b) Conforming Amendment.—The item relating to chapter 223 in the table of chapters of subtitle V of title 49, United States Code, is amended to read as follows:

"223. CAPITAL GRANTS FOR RAILROAD TRACK .... 22301".

SEC. 4633. REGULATIONS.

(a) Regulations.—The Secretary of Transporation shall prescribe under subsection (a)(3) of section 22301 of title 49, United States Code (as added by section 4601), interim and final regulations for the administration of the grant program under such section as follows:

(1) Interim regulations.—The Secretary shall prescribe the interim regulations to implement the program not later than December 31, 2003.

(2) Final regulations.—The Secretary shall prescribe the final regulations not later than October 1, 2004.

(b) Inapplicability of Rulemaking Procedure to Interim Regulations.—Subchapter II of chapter 5 of title 5, United States Code, shall not apply to the issuance of an interim regulation or to any amendment of such an interim regulation.

(c) Criteria.—The requirement for the establishment of criteria under subparagraph (B) of section 22301(a)(3) of title 49, United States Code, applies to the interim regulations as well as to the final regulations.

SEC. 4634. STUDY OF GRANT-FUNDED PROJECTS.

(a) Requirement for Study.—The Secretary of Transportation shall conduct a study of the projects carried out with grant assistance under section 22301 of title 49, United States Code (as added by section 4601), to determine the public interest benefits associated with the light density railroad networks in the States and their contribution to a multimodal transportation system.

(b) Report.—Not later than March 31, 2004, the Secretary shall submit to Congress a report on the results of the study under subsection (a). The report shall include any recommendations that the Secretary considers appropriate regarding the eligibility of light density rail networks for Federal infrastructure financing.

SEC. 4635. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Transportation $350,000,000 for each of fiscal years 2004, 2005, and 2006 for carrying out section 22301 of title 49, United States Code (as added by section 4601).

PART III—OTHER RAIL TRANSPORTATION-RELATED PROVISIONS

SEC. 4661. CAPITAL GRANTS FOR RAIL LINE RELOCATION PROJECTS.

(a) Establishment of Program.—

(1) Program requirements.—Chapter 201 of title 49, United States Code, is amended by adding at the end of subchapter II the following:

"§ 20154. Capital grants for rail line relocation projects

"(a) Establishment of Program.—The Secretary of Transportation shall carry out a grant program to provide financial assistance for local rail line relocation projects.

"(b) Eligibility.—A State is eligible for a grant under this section for any project for the improvement of the route or structure of a rail line passing through a municipality of the State that—

"(1) is carried out for the purpose of mitigating the adverse effects of rail traffic on safety, motor vehicle traffic flow, or economic development in the municipality;

"(2) involves a lateral or vertical relocation of any portion of the rail line within the municipality to avoid a closing of a grade crossing or the construction of a road underpass or overpass; and

"(3) meets the costs-benefits requirement set forth in subsection (c).

"(c) Costs-Benefits Requirement.—A grant may be awarded under this section for a project for the relocation of a rail line only if the benefits of the project for the period equal to the estimated economic life of the relocated rail line exceed the costs of the project for that period, as determined by the Secretary considering the following factors:

"(1) The effects of the rail line and the rail traffic on motor vehicle and pedestrian traffic, safety, and area commerce if the rail line were not so relocated.

"(2) The effects of the rail line, relocated as proposed, on motor vehicle and pedestrian traffic, safety, and area commerce.

"(3) The effects of the rail line, relocated as proposed, on the freight and passenger rail operations on the rail line.

"(d) Considerations for Approval of Grant Applications.—In addition to considering the relationship of benefits to costs in determining whether to award a grant to an eligible State under this section, the Secretary shall consider the following factors:

"(1) The capability of the State to fund the rail line relocation project without Federal grant funding.

"(2) The requirement and limitation relating to allocation of grant funds provided in subsection (e).

"(3) Equitable treatment of the various regions of the United States.

"(e) Allocation Requirements.—

"(1) Grants not greater than $20,000,000.—At least 50 percent of all grant funds awarded under this section out of funds appropriated for a fiscal year shall be provided as grant awards of not more than $20,000,000 each.

"(2) Limitation per project.—Not more than 25 percent of the total amount available for carrying out this section for a fiscal year may be provided for any 1 project in that fiscal year.

"(f) Federal Share.—The total amount of a grant awarded under this section for a rail line relocation project shall be 90 percent of the *shared costs of the project, as determined under subsection (g)(4).*

"(g) STATE SHARE.—

"(1) PERCENTAGE.—A State shall pay 10 percent of the shared costs of a project that is funded in part by a grant awarded under this section.

"(2) FORMS OF CONTRIBUTIONS.—The share required by paragraph (1) may be paid in cash or in kind.

"(3) IN-KIND CONTRIBUTIONS.—The in-kind contributions that are permitted to be counted under paragraph (2) for a project for a State are as follows:

"(A) A contribution of real property or tangible personal property (whether provided by the State or a person for the State).

"(B) A contribution of the services of employees of the State, calculated on the basis of costs incurred by the State for the pay and benefits of the employees, but excluding overhead and general administrative costs.

"(C) A payment of any costs that were incurred for the project before the filing of an application for a grant for the project under this section, and any in-kind contributions that were made for the project before the filing of the application, if and to the extent that the costs were incurred or in-kind contributions were made, as the case may be, to comply with a provision of a statute required to be satisfied in order to carry out the project.

"(4) COSTS NOT SHARED.—

"(A) IN GENERAL.—For the purposes of subsection (f) and this subsection, the shared costs of a project in a municipality do not include any cost that is defrayed with any funds or in-kind contribution that a source other than the municipality makes available for the use of the municipality without imposing at least 1 of the following conditions:

"(i) The condition that the municipality use the funds or contribution only for the project.

"(ii) The condition that the availability of the funds or contribution to the municipality is contingent on the execution of the project.

"(B) DETERMINATIONS OF THE SECRETARY.—The Secretary shall determine the amount of the costs, if any, that are not shared costs under this paragraph and the total amount of the shared costs. A determination of the Secretary shall be final.

"(h) MULTISTATE AGREEMENTS TO COMBINE AMOUNTS.—Two or more States (not including political subdivisions of States) may, pursuant to an agreement entered into by the States, combine any part of the amounts provided through grants for a project under this section if—

"(1) the project will benefit each of the States entering into the agreement; and

"(2) the agreement is not a violation of a law of any such State.

"(i) REGULATIONS.—The Secretary shall prescribe regulations for carrying out this section.

"(j) STATE DEFINED.—In this section, the term 'State' includes, except as otherwise specifically provided, a political subdivision of a State.

"(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for use in carrying out this section $350,000,000 for each of the fiscal years 2004 through 2008.".

(2) CLERICAL AMENDMENT.—The chapter analysis for such chapter is amended by adding at the end the following:

"20154. Capital grants for rail line relocation projects.".

(b) REGULATIONS.—

(1) INTERIM REGULATIONS.—Not later than October 1, 2003, the Secretary of Transportation shall issue temporary regulations to implement the grant program under section 20154 of title 49, United States Code, as added by subsection (a). Subchapter II of chapter 5 of title 5, United States Code, shall not apply to the issuance of a temporary regulation under this subsection or of any amendment of such a temporary regulation.

(2) FINAL REGULATIONS.—Not later than April 1, 2004, the Secretary shall issue final regulations implementing the program.

SEC. 4662. USE OF CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT FUNDS FOR BOSTON TO PORTLAND PASSENGER RAIL SERVICE.

Notwithstanding any other provision of law, funds authorized to be appropriated under section 1101(5) that are made available to the State of Maine may be used to support, through December 15, 2006, the operation of passenger rail service between Boston, Massachusetts, and Portland, Maine.

TITLE V—HIGHWAY REAUTHORIZATION AND EXCISE TAX SIMPLIFICATION

SEC. 5000. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This title may be cited as the "Highway Reauthorization and Excise Tax Simplification Act of 2004".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Trust Fund Reauthorization

SEC. 5001. EXTENSION OF HIGHWAY TRUST FUND AND AQUATIC RESOURCES TRUST FUND EXPENDITURE AUTHORITY AND RELATED TAXES.

(a) HIGHWAY TRUST FUND EXPENDITURE AUTHORITY.—

(1) HIGHWAY ACCOUNT.—Paragraph (1) of section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits) is amended—

(A) in the matter before subparagraph (A), by striking "March 1, 2004" and inserting "October 1, 2009",

(B) by striking "or" at the end of subparagraph (E),

(C) by striking the period at the end of subparagraph (F) and inserting ", or",

(D) by inserting after subparagraph (F), the following new subparagraph:

"(G) authorized to be paid out of the Highway Trust Fund under the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004.", and

(E) in the matter after subparagraph (G), as added by subparagraph (D), by striking "Surface Transportation Extension Act of 2003" and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004".

(2) MASS TRANSIT ACCOUNT.—Paragraph (3) of section 9503(e) (relating to establishment of Mass Transit Account) is amended—

(A) in the matter before subparagraph (A), by striking "March 1, 2004" and inserting "October 1, 2009",

(B) by striking "or" at the end of subparagraph (C),

(C) by striking the period at the end of subparagraph (D) and inserting ", or",

(D) by inserting after subparagraph (D), the following new subparagraph:

"(E) the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004,", and

(E) in the matter after subparagraph (E), as added by subparagraph (D), by striking "Surface Transportation Extension Act of 2003" and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004".

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Subparagraph (B) of section 9503(b)(5) (relating to limitation on transfers to Highway Trust Fund) is amended by striking "March 1, 2004" and inserting "October 1, 2009".

(b) AQUATIC RESOURCES TRUST FUND EXPENDITURE AUTHORITY.—

(1) SPORT FISH RESTORATION ACCOUNT.—Paragraph (2) of section 9504(b) (relating to Sport Fish Restoration Account) is amended by striking "Surface Transportation Extension Act of 2003" each place it appears and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004".

(2) BOAT SAFETY ACCOUNT.—Section 9504(c) (relating to expenditures from Boat Safety Account) is amended—

(A) by striking "March 1, 2004" and inserting "October 1, 2009", and

(B) by striking "Surface Transportation Extension Act of 2003" and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004".

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Paragraph (2) of section 9504(d) (relating to limitation on transfers to Aquatic Resources Trust Fund) is amended by striking "March 1, 2004" and inserting "October 1, 2009".

(4) TECHNICAL CORRECTION.—The last sentence of paragraph (2) of section 9504(b) is amended by striking "subparagraph (B)", and inserting "subparagraph (C)".

(c) EXTENSION OF TAXES.—

(1) IN GENERAL.—The following provisions are each amended by striking "2005" each place it appears and inserting "2009":

(A) Section 4041(a)(1)(C)(iii)(I) (relating to rate of tax on certain buses).

(B) Section 4041(a)(2)(B) (relating to rate of tax on special motor fuels).

(C) Section 4041(m)(1)(A) (relating to certain alcohol fuels produced from natural gas).

(D) Section 4051(c) (relating to termination of tax on heavy trucks and trailers).

(E) Section 4071(d) (relating to termination of tax on tires).

(F) Section 4081(d)(1) (relating to termination of tax on gasoline, diesel fuel, and kerosene).

(G) Section 4481(e) (relating to period tax in effect).

(H) Section 4482(c)(4) (relating to taxable period).

(I) Section 4482(d) (relating to special rule for taxable period in which termination date occurs).

(2) FLOOR STOCKS REFUNDS.—Section 6412(a)(1) (relating to floor stocks refunds) is amended—

(A) by striking "2005" each place it appears and inserting "2009", and

(B) by striking "2006" each place it appears and inserting "2010".

(d) EXTENSION OF CERTAIN EXEMPTIONS.—The following provisions are each amended by striking "2005" and inserting "2009":

(1) Section 4221(a) (relating to certain tax-free sales).

(2) Section 4483(g) (relating to termination of exemptions for highway use tax).

(e) EXTENSION OF DEPOSITS INTO, AND CERTAIN TRANSFERS FROM, TRUST FUND.—

(1) IN GENERAL.—Subsections (b), (c)(2), (c)(3), (c)(4)(A)(i), and (c)(5)(A) of section 9503 (relating to the Highway Trust Fund) are amended—

(A) by striking "2005" each place it appears and inserting "2009", and

(B) by striking "2006" each place it appears and inserting "2010".

(2) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–11(b)) is amended—

(A) by striking "2003" and inserting "2007", and

(B) by striking "2004" each place it appears and inserting "2008".

(f) EXTENSION OF TAX BENEFITS FOR QUALIFIED METHANOL AND ETHANOL FUEL PRODUCED FROM COAL.—Section 4041(b)(2) (relating to

qualified methanol and ethanol fuel) is amended—

(1) by striking "2007" in subparagraph (C)(ii) and inserting "2010", and

(2) by striking "October 1, 2007" in subparagraph (D) and inserting "January 1, 2011".

(g) PROHIBITION ON USE OF HIGHWAY ACCOUNT FOR RAIL PROJECTS.—Section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits) is amended by adding at the end the following new paragraph:

"(6) PROHIBITION ON USE OF HIGHWAY ACCOUNT FOR CERTAIN RAIL PROJECTS.—With respect to rail projects beginning after the date of the enactment of this paragraph, no amount shall be available from the Highway Account (as defined in subsection (e)(5)(B)) for any rail project, except for any rail project involving publicly owned rail facilities or any rail project yielding a public benefit.".

(h) HIGHWAY TRUST FUND EXPENDITURES FOR HIGHWAY USE TAX EVASION PROJECTS.—Section 9503(c), as amended by subsection (g), is amended to add at the end the following new paragraph:

"(7) HIGHWAY USE TAX EVASION PROJECTS.—From amounts available in the Highway Trust Fund, there is authorized to be expended—

"(A) for each fiscal year after 2003 to the Internal Revenue Service—

"(i) $30,000,000 for enforcement of fuel tax compliance, including the per-certification of tax-exempt users,

"(ii) $10,000,000 for Xstars, and

"(iii) $10,000,000 for xfirs, and

"(B) for each fiscal year after 2003 to the Federal Highway Administration, $50,000,000 to be allocated $1,000,000 to each State to combat fuel tax evasion on the State level.".

(i) EFFECTIVE DATE.—The amendments made by and provisions of this section shall take effect on the date of the enactment of this Act.

SEC. 5002. FULL ACCOUNTING OF FUNDS RECEIVED BY THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits), as amended by section 5001 of this Act, is amended by striking paragraph (2) and redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (2), (3), (4), (5), and (6), respectively.

(b) INTEREST ON UNEXPENDED BALANCES CREDITED TO TRUST FUND.—Section 9503 (relating to the Highway Trust Fund) is amended by striking subsection (f).

(c) CONFORMING AMENDMENTS.—

(1) Section 9503(b)(4)(D) is amended by striking "paragraph (4)(D) or (5)(B)" and inserting "paragraph (3)(D) or (4)(B)".

(2) Paragraph (2) of section 9503(c) (as redesignated by subsection (a)) is amended by adding at the end the following new sentence: "The amounts payable from the Highway Trust Fund under this paragraph shall be determined by taking into account only the portion of the taxes which are deposited into the Highway Trust Fund.".

(3) Section 9504(a)(2) is amended by striking "section 9503(c)(4), section 9503(c)(5)" and inserting "section 9503(c)(3), section 9503(c)(4)".

(4) Paragraph (2) of section 9504(b), as amended by section 5001 of this Act, is amended by striking "section 9503(c)(5)" and inserting "section 9503(c)(4)".

(5) Section 9504(e) is amended by striking "section 9503(c)(4)" and inserting "section 9503(c)(3)".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts paid for which no transfer from the Highway Trust Fund has been made before April 1, 2004.

(2) INTEREST CREDITED.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 5003. MODIFICATION OF ADJUSTMENTS OF APPORTIONMENTS.

(a) IN GENERAL.—Section 9503(d) (relating to adjustments for apportionments) is amended—

(1) by striking "24-month" in paragraph (1)(B) and inserting "48-month", and

(2) by striking "2 YEARS"' in the heading for paragraph (3) and inserting "4 YEARS"'.

(b) MEASUREMENT OF NET HIGHWAY RECEIPTS.—Section 9503(d) is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

"(6) MEASUREMENT OF NET HIGHWAY RECEIPTS.—For purposes of making any estimate under paragraph (1) of net highway receipts for periods ending after the date specified in subsection (b)(1), the Secretary shall treat—

"(A) each expiring provision of subsection (b) which is related to appropriations or transfers to the Highway Trust Fund to have been extended through the end of the 48-month period referred to in paragraph (1)(B), and

"(B) with respect to each tax imposed under the sections referred to in subsection (b)(1), the rate of such tax during the 48-month period referred to in paragraph (1)(B) to be the same as the rate of such tax as in effect on the date of such estimate.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle B—Volumetric Ethanol Excise Tax Credit

SEC. 5101. SHORT TITLE.

This subtitle may be cited as the "Volumetric Ethanol Excise Tax Credit (VEETC) Act of 2004".

SEC. 5102. ALCOHOL AND BIODIESEL EXCISE TAX CREDIT AND EXTENSION OF ALCOHOL FUELS INCOME TAX CREDIT.

(a) IN GENERAL.—Subchapter B of chapter 65 (relating to rules of special application) is amended by inserting after section 6425 the following new section:

"SEC. 6426. CREDIT FOR ALCOHOL FUEL AND BIODIESEL MIXTURES.

"(a) ALLOWANCE OF CREDITS.—There shall be allowed as a credit against the tax imposed by section 4081 an amount equal to the sum of—

"(1) the alcohol fuel mixture credit, plus

"(2) the biodiesel mixture credit.

"(b) ALCOHOL FUEL MIXTURE CREDIT.—

"(1) IN GENERAL.—For purposes of this section, the alcohol fuel mixture credit is the product of the applicable amount and the number of gallons of alcohol used by the taxpayer in producing any alcohol fuel mixture for sale or use in a trade or business of the taxpayer.

"(2) APPLICABLE AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable amount is 52 cents (51 cents in the case of any sale or use after 2004).

"(B) MIXTURES NOT CONTAINING ETHANOL.—In the case of an alcohol fuel mixture in which none of the alcohol consists of ethanol, the applicable amount is 60 cents.

"(3) ALCOHOL FUEL MIXTURE.—For purposes of this subsection, the term 'alcohol fuel mixture' means a mixture of alcohol and a taxable fuel which—

"(A) is sold by the taxpayer producing such mixture to any person for use as a fuel,

"(B) is used as a fuel by the taxpayer producing such mixture, or

"(C) is removed from the refinery by a person producing such mixture.

"(4) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) ALCOHOL.—The term 'alcohol' includes methanol and ethanol but does not include—

"(i) alcohol produced from petroleum, natural gas, or coal (including peat), or

"(ii) alcohol with a proof of less than 190 (determined without regard to any added denaturants).

Such term also includes an alcohol gallon equivalent of ethyl tertiary butyl ether or other ethers produced from such alcohol.

"(B) TAXABLE FUEL.—The term 'taxable fuel' has the meaning given such term by section 4083(a)(1).

"(5) TERMINATION.—This subsection shall not apply to any sale, use, or removal for any period after December 31, 2010.

"(c) BIODIESEL MIXTURE CREDIT.—

"(1) IN GENERAL.—For purposes of this section, the biodiesel mixture credit is the product of the applicable amount and the number of gallons of biodiesel used by the taxpayer in producing any biodiesel mixture for sale or use in a trade or business of the taxpayer.

"(2) APPLICABLE AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable amount is 50 cents.

"(B) AMOUNT FOR AGRI-BIODIESEL.—In the case of any biodiesel which is agri-biodiesel, the applicable amount is $1.00.

"(3) BIODIESEL MIXTURE.—For purposes of this section, the term 'biodiesel mixture' means a mixture of biodiesel and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene, which—

"(A) is sold by the taxpayer producing such mixture to any person for use as a fuel,

"(B) is used as a fuel by the taxpayer producing such mixture, or

"(C) is removed from the refinery by a person producing such mixture.

"(4) CERTIFICATION FOR BIODIESEL.—No credit shall be allowed under this section unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer of the biodiesel which identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

"(5) OTHER DEFINITIONS.—Any term used in this subsection which is also used in section 40A shall have the meaning given such term by section 40A.

"(6) TERMINATION.—This subsection shall not apply to any sale, use, or removal for any period after December 31, 2006.

"(d) MIXTURE NOT USED AS A FUEL, ETC.—

"(1) IMPOSITION OF TAX.—If—

"(A) any credit was determined under this section with respect to alcohol or biodiesel used in the production of any alcohol fuel mixture or biodiesel mixture, respectively, and

"(B) any person—

"(i) separates the alcohol or biodiesel from the mixture, or

"(ii) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the applicable amount and the number of gallons of such alcohol or biodiesel.

"(2) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under paragraph (1) as if such tax were imposed by section 4081 and not by this section.

"(e) COORDINATION WITH EXEMPTION FROM EXCISE TAX.—Rules similar to the rules under section 40(c) shall apply for purposes of this section.".

(b) REGISTRATION REQUIREMENT.—Section 4101(a)(1) (relating to registration), as amended by sections 5211 and 5242 of this Act, is amended

by inserting "and every person producing or importing biodiesel (as defined in section 40A(d)(1)) or alcohol (as defined in section 6426(b)(4)(A))" after "4081".

(c) ADDITIONAL AMENDMENTS.—

(1) Section 40(c) is amended by striking "subsection (b)(2), (k), or (m) of section 4041, section 4081(c), or section 4091(c)" and inserting "section 4041(b)(2), section 6426, or section 6427(e)".

(2) Paragraph (4) of section 40(d) is amended to read as follows:

"(4) VOLUME OF ALCOHOL.—For purposes of determining under subsection (a) the number of gallons of alcohol with respect to which a credit is allowable under subsection (a), the volume of alcohol shall include the volume of any denaturant (including gasoline) which is added under any formulas approved by the Secretary to the extent that such denaturants do not exceed 5 percent of the volume of such alcohol (including denaturants).".

(3) Section 40(e)(1) is amended—

(A) by striking "2007" in subparagraph (A) and inserting "2010", and

(B) by striking "2008" in subparagraph (B) and inserting "2011".

(4) Section 40(h) is amended—

(A) by striking "2007" in paragraph (1) and inserting "2010", and

(B) by striking ", 2006, or 2007" in the table contained in paragraph (2) and inserting "through 2010".

(5) Section 4041(b)(2)(B) is amended by striking "a substance other than petroleum or natural gas" and inserting "coal (including peat)".

(6) Section 4041 is amended by striking subsection (k).

(7) Section 4081 is amended by striking subsection (c).

(8) Paragraph (2) of section 4083(a) is amended to read as follows:

"(2) GASOLINE.—The term 'gasoline'—

"(A) includes any gasoline blend, other than qualified methanol or ethanol fuel (as defined in section 4041(b)(2)(B)), partially exempt methanol or ethanol fuel (as defined in section 4041(m)(2)), or a denatured alcohol, and

"(B) includes, to the extent prescribed in regulations—

"(i) any gasoline blend stock, and

"(ii) any product commonly used as an additive in gasoline (other than alcohol).

For purposes of subparagraph (B)(i), the term 'gasoline blend stock' means any petroleum product component of gasoline.".

(9) Section 6427 is amended by inserting after subsection (d) the following new subsection:

"(e) ALCOHOL OR BIODIESEL USED TO PRODUCE ALCOHOL FUEL AND BIODIESEL MIXTURES OR USED AS FUELS.—Except as provided in subsection (k)—

"(1) USED TO PRODUCE A MIXTURE.—If any person produces a mixture described in section 6426 in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the alcohol fuel mixture credit or the biodiesel mixture credit with respect to such mixture.

"(2) USED AS FUEL.—If alcohol (as defined in section 40(d)(1)) or biodiesel (as defined in section 40A(d)(1)) or agri-biodiesel (as defined in section 40A(d)(2)) which is not in a mixture described in section 6426—

"(A) is used by any person as a fuel in a trade or business, or

"(B) is sold by any person at retail to another person and placed in the fuel tank of such person's vehicle,

the Secretary shall pay (without interest) to such person an amount equal to the alcohol credit (as determined under section 40(b)(2)) or the biodiesel credit (as determined under section 40A(b)(2)) with respect to such fuel.

"(3) COORDINATION WITH OTHER REPAYMENT PROVISIONS.—No amount shall be payable under paragraph (1) with respect to any mixture with respect to which an amount is allowed as a credit under section 6426.

"(4) TERMINATION.—This subsection shall not apply with respect to—

"(A) any alcohol fuel mixture (as defined in section 6426(b)(3)) or alcohol (as so defined) sold or used after December 31, 2010, and

"(B) any biodiesel mixture (as defined in section 6426(c)(3)) or biodiesel (as so defined) or agri-biodiesel (as so defined) sold or used after December 31, 2006.".

(10) Section 6427(i)(3) is amended—

(A) by striking "subsection (f)" both places it appears in subparagraph (A) and inserting "subsection (e)(1)",

(B) by striking "gasoline, diesel fuel, or kerosene used to produce a qualified alcohol mixture (as defined in section 4081(c)(3))" in subparagraph (A) and inserting "a mixture described in section 6426",

(C) by adding at the end of subparagraph (A) the following new flush sentence:

"In the case of an electronic claim, this subparagraph shall be applied without regard to clause (i).",

(D) by striking "subsection (f)(1)" in subparagraph (B) and inserting "subsection (e)(1)",

(E) by striking "20 days of the date of the filing of such claim" in subparagraph (B) and inserting "45 days of the date of the filing of such claim (20 days in the case of an electronic claim)", and

(F) by striking "ALCOHOL MIXTURE" in the heading and inserting "ALCOHOL FUEL AND BIODIESEL MIXTURE".

(11) Section 9503(b)(1) is amended by adding at the end the following new flush sentence:

"For purposes of this paragraph, taxes received under sections 4041 and 4081 shall be determined without reduction for credits under section 6426.".

(12) Section 9503(b)(4), as amended by section 5101 of this Act, is amended—

(A) by adding "or" at the end of subparagraph (C),

(B) by striking the comma at the end of subparagraph (D)(iii) and inserting a period, and

(C) by striking subparagraphs (E) and (F).

(13) The table of sections for subchapter B of chapter 65 is amended by inserting after the item relating to section 6425 the following new item:

"Sec. 6426. Credit for alcohol fuel and biodiesel mixtures.".

(14) TARIFF SCHEDULE.—Headings 9901.00.50 and 9901.00.52 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) are each amended in the effective period column by striking "10/1/2007" each place it appears and inserting "1/1/2011".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to fuel sold or used after September 30, 2004.

(2) REGISTRATION REQUIREMENT.—The amendment made by subsection (b) shall take effect on April 1, 2005.

(3) EXTENSION OF ALCOHOL FUELS CREDIT.—The amendments made by paragraphs (3), (4), and (14) of subsection (c) shall take effect on the date of the enactment of this Act.

(4) REPEAL OF GENERAL FUND RETENTION OF CERTAIN ALCOHOL FUELS TAXES.—The amendments made by subsection (c)(12) shall apply to fuel sold or used after September 30, 2003.

(e) FORMAT FOR FILING.—The Secretary of the Treasury shall describe the electronic format for filing claims described in section 6427(i)(3)(B) of the Internal Revenue Code of 1986 (as amended by subsection (c)(10)(C)) not later than September 30, 2004.

SEC. 5103. BIODIESEL INCOME TAX CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by inserting after section 40 the following new section:

"SEC. 40A. BIODIESEL USED AS FUEL.

"(a) GENERAL RULE.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the sum of—

"(1) the biodiesel mixture credit, plus

"(2) the biodiesel credit.

"(b) DEFINITION OF BIODIESEL MIXTURE CREDIT AND BIODIESEL CREDIT.—For purposes of this section—

"(1) BIODIESEL MIXTURE CREDIT.—

"(A) IN GENERAL.—The biodiesel mixture credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel used by the taxpayer in the production of a qualified biodiesel mixture.

"(B) QUALIFIED BIODIESEL MIXTURE.—The term 'qualified biodiesel mixture' means a mixture of biodiesel and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene, which—

"(i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

"(ii) is used as a fuel by the taxpayer producing such mixture.

"(C) SALE OR USE MUST BE IN TRADE OR BUSINESS, ETC.—Biodiesel used in the production of a qualified biodiesel mixture shall be taken into account—

"(i) only if the sale or use described in subparagraph (B) is in a trade or business of the taxpayer, and

"(ii) for the taxable year in which such sale or use occurs.

"(D) CASUAL OFF-FARM PRODUCTION NOT ELIGIBLE.—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified biodiesel mixture.

"(2) BIODIESEL CREDIT.—

"(A) IN GENERAL.—The biodiesel credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel which is not in a mixture with diesel fuel and which during the taxable year—

"(i) is used by the taxpayer as a fuel in a trade or business, or

"(ii) is sold by the taxpayer at retail to a person and placed in the fuel tank of such person's vehicle.

"(B) USER CREDIT NOT TO APPLY TO BIODIESEL SOLD AT RETAIL.—No credit shall be allowed under subparagraph (A)(i) with respect to any biodiesel which was sold in a retail sale described in subparagraph (A)(ii).

"(3) CREDIT FOR AGRI-BIODIESEL.—In the case of any biodiesel which is agri-biodiesel, paragraphs (1)(A) and (2)(A) shall be applied by substituting '$1.00' for '50 cents'.

"(4) CERTIFICATION FOR BIODIESEL.—No credit shall be allowed under this section unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer or importer of the biodiesel which identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

"(c) COORDINATION WITH CREDIT AGAINST EXCISE TAX.—The amount of the credit determined under this section with respect to any biodiesel shall be properly reduced to take into account any benefit provided with respect to such biodiesel solely by reason of the application of section 6426 or 6427(e).

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) BIODIESEL.—The term 'biodiesel' means the monoalkyl esters of long chain fatty acids derived from plant or animal matter which meet—

"(A) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

"(B) the requirements of the American Society of Testing and Materials D6751.

"(2) AGRI-BIODIESEL.—The term 'agri-biodiesel' means biodiesel derived solely from virgin oils, including esters derived from virgin vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, and mustard seeds, and from animal fats.

"(3) MIXTURE OR BIODIESEL NOT USED AS A FUEL, ETC.—

"(A) MIXTURES.—If—

"(i) any credit was determined under this section with respect to biodiesel used in the production of any qualified biodiesel mixture, and

"(ii) any person—

"(I) separates the biodiesel from the mixture, or

"(II) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(1)(A) and the number of gallons of such biodiesel in such mixture.

"(B) BIODIESEL.—If—

"(i) any credit was determined under this section with respect to the retail sale of any biodiesel, and

"(ii) any person mixes such biodiesel or uses such biodiesel other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(2)(A) and the number of gallons of such biodiesel.

"(C) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) or (B) as if such tax were imposed by section 4081 and not by this chapter.

"(4) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(e) TERMINATION.—This section shall not apply to any sale or use after December 31, 2006.".

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking "plus" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting ", plus", and by adding at the end the following new paragraph:

"(16) the biodiesel fuels credit determined under section 40A(a).".

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d) is amended by adding at the end the following new paragraph:

"(11) NO CARRYBACK OF BIODIESEL FUELS CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the biodiesel fuels credit determined under section 40A may be carried back to a taxable year ending on or before September 30, 2004.".

(2)(A) Section 87 is amended to read as follows:

"SEC. 87. ALCOHOL AND BIODIESEL FUELS CREDITS.

"Gross income includes—

"(1) the amount of the alcohol fuels credit determined with respect to the taxpayer for the taxable year under section 40(a), and

"(2) the biodiesel fuels credit determined with respect to the taxpayer for the taxable year under section 40A(a).".

(B) The item relating to section 87 in the table of sections for part II of subchapter B of chapter 1 is amended by striking "fuel credit" and inserting "and biodiesel fuels credits".

(3) Section 196(c) is amended by striking "and" at the end of paragraph (9), by striking the period at the end of paragraph (10) and inserting ", and", and by adding at the end the following new paragraph:

"(11) the biodiesel fuels credit determined under section 40A(a).".

(4) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding after the item relating to section 40 the following new item:

"Sec. 40A. Biodiesel used as fuel.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel produced, and sold or used, after September 30, 2004, in taxable years ending after such date.

Subtitle C—Fuel Fraud Prevention

SEC. 5200. SHORT TITLE.

This subtitle may be cited as the "Fuel Fraud Prevention Act of 2004".

PART I—AVIATION JET FUEL

SEC. 5211. TAXATION OF AVIATION-GRADE KEROSENE.

(a) RATE OF TAX.—

(1) IN GENERAL.—Subparagraph (A) of section 4081(a)(2) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) in the case of aviation-grade kerosene, 21.8 cents per gallon.".

(2) COMMERCIAL AVIATION.—Paragraph (2) of section 4081(a) is amended by adding at the end the following new subparagraph:

"(C) TAXES IMPOSED ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene which is removed from any refinery or terminal directly into the fuel tank of an aircraft for use in commercial aviation, the rate of tax under subparagraph (A)(iv) shall be 4.3 cents per gallon.".

(3) NONTAXABLE USES.—

(A) IN GENERAL.—Section 4082 is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

"(e) AVIATION-GRADE KEROSENE.—In the case of aviation-grade kerosene which is exempt from the tax imposed by section 4041(c) (other than by reason of a prior imposition of tax) and which is removed from any refinery or terminal directly into the fuel tank of an aircraft, the rate of tax under section 4081(a)(2)(A)(iv) shall be zero.".

(B) CONFORMING AMENDMENTS.—

(i) Subsection (b) of section 4082 is amended by adding at the end the following new flush sentence: "The term 'nontaxable use' does not include the use of aviation-grade kerosene in an aircraft.".

(ii) Section 4082(d) is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively..

(4) NONAIRCRAFT USE OF AVIATION-GRADE KEROSENE.—

(A) IN GENERAL.—Subparagraph (B) of section 4041(a)(1) is amended by adding at the end the following new sentence: "This subparagraph shall not apply to aviation-grade kerosene.".

(B) CONFORMING AMENDMENT.—The heading for paragraph (1) of section 4041(a) is amended by inserting "AND KEROSENE" after "DIESEL FUEL".

(b) COMMERCIAL AVIATION.—Section 4083 is amended redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

"(b) COMMERCIAL AVIATION.—For purposes of this subpart, the term 'commercial aviation' means any use of an aircraft in a business of transporting persons or property for compensation or hire by air, unless properly allocable to any transportation exempt from the taxes imposed by section 4261 and 4271 by reason of section 4281 or 4282 or by reason of section 4261(h).".

(c) REFUNDS.—

(1) IN GENERAL.—Paragraph (4) of section 6427(l) is amended to read as follows:

"(4) REFUNDS FOR AVIATION-GRADE KEROSENE.—

"(A) NO REFUND OF CERTAIN TAXES ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene used in commercial aviation (as defined in section 4083(b)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4081 as is attributable to—

"(i) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

"(ii) so much of the rate of tax specified in section 4081(a)(2)(A)(iv) as does not exceed 4.3 cents per gallon.

"(B) PAYMENT TO ULTIMATE, REGISTERED VENDOR.—With respect to aviation-grade kerosene, if the ultimate purchaser of such kerosene waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

"(i) is registered under section 4101, and

"(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).".

(2) TIME FOR FILING CLAIMS.—Paragraph (4) of section 6427(i) is amended by striking "subsection (l)(5)" and inserting "paragraph (4)(B) or (5) of subsection (l)".

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 6427(l)(2) is amended to read as follows:

"(B) in the case of aviation-grade kerosene—

"(i) any use which is exempt from the tax imposed by section 4041(c) other than by reason of a prior imposition of tax, or

"(ii) any use in commercial aviation (within the meaning of section 4083(b)).".

(d) REPEAL OF PRIOR TAXATION OF AVIATION FUEL.—

(1) IN GENERAL.—Part III of subchapter A of chapter 32 is amended by striking subpart B and by redesignating subpart C as subpart B.

(2) CONFORMING AMENDMENTS.—

(A) Section 4041(c) is amended to read as follows:

"(c) AVIATION-GRADE KEROSENE.—

"(1) IN GENERAL.—There is hereby imposed a tax upon aviation-grade kerosene—

"(A) sold by any person to an owner, lessee, or other operator of an aircraft for use in such aircraft, or

"(B) used by any person in an aircraft unless there was a taxable sale of such fuel under subparagraph (A).

"(2) EXEMPTION FOR PREVIOUSLY TAXED FUEL.—No tax shall be imposed by this subsection on the sale or use of any aviation-grade kerosene if tax was imposed on such liquid under section 4081 and the tax thereon was not credited or refunded.

"(3) RATE OF TAX.—The rate of tax imposed by this subsection shall be the rate of tax specified in section 4081(a)(2)(A)(iv) which is in effect at the time of such sale or use.".

(B) Section 4041(d)(2) is amended by striking "section 4091" and inserting "section 4081".

(C) Section 4041 is amended by striking subsection (e).

(D) Section 4041 is amended by striking subsection (i).

(E) Section 4041(m)(1) is amended to read as follows:

"(1) IN GENERAL.—In the case of the sale or use of any partially exempt methanol or ethanol fuel, the rate of the tax imposed by subsection (a)(2) shall be—

"(A) after September 30, 1997, and before September 30, 2009—

"(i) in the case of fuel none of the alcohol in which consists of ethanol, 9.15 cents per gallon, and

"(ii) in any other case, 11.3 cents per gallon, and

"(B) after September 30, 2009—

"(i) in the case of fuel none of the alcohol in which consists of ethanol, 2.15 cents per gallon, and

"(ii) in any other case, 4.3 cents per gallon.".

(F) Sections 4101(a), 4103, 4221(a), and 6206 are each amended by striking ", 4081, or 4091" and inserting "or 4081".

(G) Section 6416(b)(2) is amended by striking "4091 or".

(H) Section 6416(b)(3) is amended by striking "or 4091" each place it appears.

(I) Section 6416(d) is amended by striking "or to the tax imposed by section 4091 in the case of refunds described in section 4091(d)".

(J) Section 6427 is amended by striking subsection (f).

(K) Section 6427(j)(1) is amended by striking ", 4081, and 4091" and inserting "and 4081".

(L)(i) Section 6427(l)(1) is amended to read as follows:

"(1) IN GENERAL.—Except as otherwise provided in this subsection and in subsection (k), if any diesel fuel or kerosene on which tax has been imposed by section 4041 or 4081 is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4041 or 4081, as the case may be, reduced by any refund paid to the ultimate vendor under paragraph (4)(B).".

(ii) Paragraph (5)(B) of section 6427(l) is amended by striking "Paragraph (1)(A) shall not apply to kerosene" and inserting "Paragraph (1) shall not apply to kerosene (other than aviation-grade kerosene)".

(M) Subparagraph (B) of section 6724(d)(1) is amended by striking clause (xv) and by redesignating the succeeding clauses accordingly.

(N) Paragraph (2) of section 6724(d) is amended by striking subparagraph (W) and by redesignating the succeeding subparagraphs accordingly.

(O) Paragraph (1) of section 9502(b) is amended by adding "and" at the end of subparagraph (B) and by striking subparagraphs (C) and (D) and inserting the following new subparagraph:

"(C) section 4081 with respect to aviation gasoline and aviation-grade kerosene, and".

(P) The last sentence of section 9502(b) is amended to read as follows:

"There shall not be taken into account under paragraph (1) so much of the taxes imposed by section 4081 as are determined at the rate specified in section 4081(a)(2)(B).".

(Q) Subsection (b) of section 9508 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(R) Section 9508(c)(2)(A) is amended by striking "sections 4081 and 4091" and inserting "section 4081".

(S) The table of subparts for part III of subchapter A of chapter 32 is amended to read as follows:

"Subpart A. Motor and aviation fuels.
"Subpart B. Special provisions applicable to fuels tax.".

(T) The heading for subpart A of part III of subchapter A of chapter 32 is amended to read as follows:

"Subpart A—Motor and Aviation Fuels".

(U) The heading for subpart B of part III of subchapter A of chapter 32 is amended to read as follows:

"Subpart B—Special Provisions Applicable to Fuels Tax".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to aviation-grade kerosene removed, entered, or sold after September 30, 2004.

(f) FLOOR STOCKS TAX.—

(1) IN GENERAL.—There is hereby imposed on aviation-grade kerosene held on October 1, 2004, by any person a tax equal to—

(A) the tax which would have been imposed before such date on such kerosene had the amendments made by this section been in effect at all times before such date, reduced by

(B) the tax imposed before such date under section 4091 of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—The person holding the kerosene on October 1, 2004, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD AND TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid at such time and in such manner as the Secretary of the Treasury shall prescribe, including the nonapplication of such tax on de minimis amounts of kerosene.

(3) TRANSFER OF FLOOR STOCK TAX REVENUES TO TRUST FUNDS.—For purposes of determining the amount transferred to any trust fund, the tax imposed by this subsection shall be treated as imposed by section 4081 of the Internal Revenue Code of 1986—

(A) at the Leaking Underground Storage Tank Trust Fund financing rate under such section to the extent of 0.1 cents per gallon, and

(B) at the rate under section 4081(a)(2)(A)(iv) to the extent of the remainder.

(4) HELD BY A PERSON.—For purposes of this section, kerosene shall be considered as held by a person if title thereto has passed to such person (whether or not delivery to the person has been made).

(5) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the tax imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock tax imposed by paragraph (1) to the same extent as if such tax were imposed by such section.

SEC. 5212. TRANSFER OF CERTAIN AMOUNTS FROM THE AIRPORT AND AIRWAY TRUST FUND TO THE HIGHWAY TRUST FUND TO REFLECT HIGHWAY USE OF JET FUEL.

(a) IN GENERAL.—Section 9502(d) is amended by adding at the end the following new paragraph:

"(7) TRANSFERS FROM THE TRUST FUND TO THE HIGHWAY TRUST FUND.—

"(A) IN GENERAL.—The Secretary shall pay annually from the Airport and Airway Trust Fund into the Highway Trust Fund an amount (as determined by him) equivalent to amounts received in the Airport and Airway Trust Fund which are attributable to fuel that is used primarily for highway transportation purposes.

"(B) AMOUNTS TRANSFERRED TO MASS TRANSIT ACCOUNT.—The Secretary shall transfer 11 percent of the amounts paid into the Highway Trust Fund under subparagraph (A) to the Mass Transit Account established under section 9503(e).".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 9503 is amended—

(A) by striking "appropriated or credited" and inserting "paid, appropriated, or credited", and

(B) by striking "or section 9602(b)" and inserting ", section 9502(d)(7), or section 9602(b)".

(2) Subsection (e)(1) of section 9503 is amended by striking "or section 9602(b)" and inserting ", section 9502(d)(7), or section 9602(b)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART II—DYED FUEL

SEC. 5221. DYE INJECTION EQUIPMENT.

(a) IN GENERAL.—Section 4082(a)(2) (relating to exemptions for diesel fuel and kerosene) is amended by inserting "by mechanical injection" after "indelibly dyed".

(b) DYE INJECTOR SECURITY.—Not later than June 30, 2004, the Secretary of the Treasury shall issue regulations regarding mechanical dye injection systems described in the amendment made by subsection (a), and such regulations shall include standards for making such systems tamper resistant.

(c) PENALTY FOR TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding after section 6715 the following new section:

"SEC. 6715A. TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.

"(a) IMPOSITION OF PENALTY—

"(1) TAMPERING.—If any person tampers with a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082, then such person shall pay a penalty in addition to the tax (if any).

"(2) FAILURE TO MAINTAIN SECURITY REQUIREMENTS.—If any operator of a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082 fails to maintain the security standards for such system as established by the Secretary, then such operator shall pay a penalty.

"(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) shall be—

"(1) for each violation described in paragraph (1), the greater of—

"(A) $25,000, or

"(B) $10 for each gallon of fuel involved, and

"(2) for each—

"(A) failure to maintain security standards described in paragraph (2), $1,000, and

"(B) failure to correct a violation described in paragraph (2), $1,000 per day for each day after which such violation was discovered or such person should have reasonably known of such violation.

"(c) JOINT AND SEVERAL LIABILITY.—

"(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

"(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.".

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by adding after the item related to section 6715 the following new item:

"Sec. 6715A. Tampering with or failing to maintain security requirements for mechanical dye injection systems.".

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (c) shall take effect 180 days after the date on which the Secretary issues the regulations described in subsection (b).

SEC. 5222. ELIMINATION OF ADMINISTRATIVE REVIEW FOR TAXABLE USE OF DYED FUEL.

(a) IN GENERAL.—Section 6715 is amended by inserting at the end the following new subsection:

"(e) NO ADMINISTRATIVE APPEAL FOR THIRD AND SUBSEQUENT VIOLATIONS.—In the case of any person who is found to be subject to the penalty under this section after a chemical analysis of such fuel and who has been penalized under this section at least twice after the date of the enactment of this subsection, no administrative appeal or review shall be allowed with respect to such finding except in the case of a claim regarding—

"(1) fraud or mistake in the chemical analysis, or

"(2) mathematical calculation of the amount of the penalty.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to penalties assessed after the date of the enactment of this Act.

SEC. 5223. PENALTY ON UNTAXED CHEMICALLY ALTERED DYED FUEL MIXTURES.

(a) IN GENERAL.—Section 6715(a) (relating to dyed fuel sold for use or used in taxable use, etc.) is amended by striking "or" in paragraph (2), by inserting "or" at the end of paragraph (3), and by inserting after paragraph (3) the following new paragraph:

"(4) any person who has knowledge that a dyed fuel which has been altered as described in paragraph (3) sells or holds for sale such fuel for any use which the person knows or has reason to know is not a nontaxable use of such fuel,".

(b) CONFORMING AMENDMENT.—Section 6715(a)(3) is amended by striking "alters, or attempts to alter," and inserting "alters, chemically or otherwise, or attempts to so alter,".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5224. TERMINATION OF DYED DIESEL USE BY INTERCITY BUSES.

(a) IN GENERAL.—Paragraph (3) of section 4082(b) (relating to nontaxable use) is amended to read as follows:

"(3) any use described in section 4041(a)(1)(C)(iii)(II).".

(b) ULTIMATE VENDOR REFUND.—Subsection (b) of section 6427 is amended by adding at the end the following new paragraph:

"(4) REFUNDS FOR USE OF DIESEL FUEL IN CERTAIN INTERCITY BUSES.—

"(A) IN GENERAL.—With respect to any fuel to which paragraph (2)(A) applies, if the ultimate purchaser of such fuel waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

"(i) is registered under section 4101, and

"(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

"(B) CREDIT CARDS.—For purposes of this paragraph, if the sale of such fuel is made by means of a credit card, the person extending credit to the ultimate purchaser shall be deemed to be the ultimate vendor.".

(c) PAYMENT OF REFUNDS.—Subparagraph (A) of section 6427(i)(4), as amended by section 5211 of this Act, is amended by inserting "subsections (b)(4) and" after "filed under".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold after September 30, 2004.

PART III—MODIFICATION OF INSPECTION OF RECORDS PROVISIONS

SEC. 5231. AUTHORITY TO INSPECT ON-SITE RECORDS.

(a) IN GENERAL.—Section 4083(d)(1)(A) (relating to administrative authority), as amended by section 5211 of this Act, is amended by striking "and" at the end of clause (i) and by inserting after clause (ii) the following new clause:

"(iii) inspecting any books and records and any shipping papers pertaining to such fuel, and".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5232. ASSESSABLE PENALTY FOR REFUSAL OF ENTRY.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5221 of this Act, is amended by adding at the end the following new section:

"SEC. 6717. REFUSAL OF ENTRY.

"(a) IN GENERAL.—In addition to any other penalty provided by law, any person who refuses to admit entry or refuses to permit any other action by the Secretary authorized by section 4083(d)(1) shall pay a penalty of $1,000 for such refusal.

"(b) JOINT AND SEVERAL LIABILITY.—

"(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

"(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

"(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(b) CONFORMING AMENDMENTS.—

(1) Section 4083(d)(3), as amended by section 5211 of this Act, is amended—

(A) by striking "ENTRY.—The penalty" and inserting: "ENTRY.—

"(A) FORFEITURE.—The penalty", and

(B) by adding at the end the following new subparagraph:

"(B) ASSESSABLE PENALTY.—For additional assessable penalty for the refusal to admit entry or other refusal to permit an action by the Secretary authorized by paragraph (1), see section 6717.".

(2) The table of sections for part I of subchapter B of chapter 68, as amended by section 5221 of this Act, is amended by adding at the end the following new item:

"Sec. 6717. Refusal of entry.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART IV—REGISTRATION AND REPORTING REQUIREMENTS

SEC. 5241. REGISTRATION OF PIPELINE OR VESSEL OPERATORS REQUIRED FOR EXEMPTION OF BULK TRANSFERS TO REGISTERED TERMINALS OR REFINERIES.

(a) IN GENERAL.—Section 4081(a)(1)(B) (relating to exemption for bulk transfers to registered terminals or refineries) is amended—

(1) by inserting "by pipeline or vessel" after "transferred in bulk", and

(2) by inserting ", the operator of such pipeline or vessel," after "the taxable fuel".

(b) CIVIL PENALTY FOR CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5232 of this Act, is amended by adding at the end the following new section:

"SEC. 6718. CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.

"(a) IMPOSITION OF PENALTY.—If any person knowingly transfers any taxable fuel (as defined in section 4083(a)(1)) in bulk pursuant to section 4081(a)(1)(B) to an unregistered, such person shall pay a penalty in addition to the tax (if any).

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amount of the penalty under subsection (a) on each act shall be an amount equal to the greater of—

"(A) $10,000, or

"(B) $1 per gallon.

"(2) MULTIPLE VIOLATIONS.—In determining the penalty under subsection (a) on any person, paragraph (1) shall be applied by increasing the amount in paragraph (1) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

"(c) JOINT AND SEVERAL LIABILITY.—

"(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

"(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

"(d) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5232 of this Act, is amended by adding at the end the following new item:

"Sec. 6718. Carrying taxable fuels by nonregistered pipelines or vessels.".

(c) PUBLICATION OF REGISTERED PERSONS.—Not later than June 30, 2004, the Secretary of the Treasury shall publish a list of persons required to be registered under section 4101 of the Internal Revenue Code of 1986.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 2004.

SEC. 5242. DISPLAY OF REGISTRATION.

(a) IN GENERAL.—Subsection (a) of section 4101 (relating to registration) is amended—

(1) by striking "Every" and inserting the following:

"(1) IN GENERAL.—Every", and

(2) by adding at the end the following new paragraph:

"(2) DISPLAY OF REGISTRATION.—Every operator of a vessel required by the Secretary to register under this section shall display proof of registration through an electronic identification device prescribed by the Secretary on each vessel used by such operator to transport any taxable fuel.".

(b) CIVIL PENALTY FOR FAILURE TO DISPLAY REGISTRATION.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5241 of this Act, is amended by adding at the end the following new section:

"SEC. 6719. FAILURE TO DISPLAY REGISTRATION OF VESSEL.

"(a) FAILURE TO DISPLAY REGISTRATION.—Every operator of a vessel who fails to display

proof of registration pursuant to section 4101(a)(2) shall pay a penalty of $500 for each such failure. With respect to any vessel, only one penalty shall be imposed by this section during any calendar month.

"(b) Multiple Violations.—In determining the penalty under subsection (a) on any person, subsection (a) shall be applied by increasing the amount in subsection (a) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

"(c) Reasonable Cause Exception.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) Clerical amendment.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5241 of this Act, is amended by adding at the end the following new item:

"Sec. 6719. Failure to display registration of vessel.".

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5243. REGISTRATION OF PERSONS WITHIN FOREIGN TRADE ZONES, ETC.

(a) In General.—Section 4101(a), as amended by section 5242 of this Act, is amended by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

"(2) Registration of persons within foreign trade zones, etc..—The Secretary shall require registration by any person which—

"(A) operates a terminal or refinery within a foreign trade zone or within a customs bonded storage facility, or

"(B) holds an inventory position with respect to a taxable fuel in such a terminal.".

(b) Effective Date.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5244. PENALTIES FOR FAILURE TO REGISTER AND FAILURE TO REPORT.

(a) Increased Penalty.—Subsection (a) of section 7272 (relating to penalty for failure to register) is amended by inserting "($10,000 in the case of a failure to register under section 4101)" after "$50".

(b) Increased Criminal Penalty.—Section 7232 (relating to failure to register under section 4101, false representations of registration status, etc.) is amended by striking "$5,000" and inserting "$10,000".

(c) Assessable Penalty for Failure to Register.—

(1) In general.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5242 of this Act, is amended by adding at the end the following new section:

"SEC. 6720. FAILURE TO REGISTER.

"(a) Failure to Register.—Every person who is required to register under section 4101 and fails to do so shall pay a penalty in addition to the tax (if any).

"(b) Amount of Penalty.—The amount of the penalty under subsection (a) shall be—

"(1) $10,000 for each initial failure to register, and

"(2) $1,000 for each day thereafter such person fails to register.

"(c) Reasonable Cause Exception.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) Clerical amendment.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5242 of this Act, is amended by adding at the end the following new item:

"Sec. 6720. Failure to register.".

(d) Assessable Penalty for Failure to Report.—

(1) In general.—Part II of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end the following new section:

"SEC. 6725. FAILURE TO REPORT INFORMATION UNDER SECTION 4101.

"(a) In General.—In the case of each failure described in subsection (b) by any person with respect to a vessel or facility, such person shall pay a penalty of $10,000 in addition to the tax (if any).

"(b) Failures Subject to Penalty.—For purposes of subsection (a), the failures described in this subsection are—

"(1) any failure to make a report under section 4101(d) on or before the date prescribed therefor, and

"(2) any failure to include all of the information required to be shown on such report or the inclusion of incorrect information.

"(c) Reasonable Cause Exception.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) Clerical amendment.—The table of sections for part II of subchapter B of chapter 68 is amended by adding at the end the following new item:

"Sec. 6725. Failure to report information under section 4101.".

(e) Effective Date.—The amendments made by this section shall apply to failures pending or occurring after September 30, 2004.

SEC. 5245. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

(a) In General.—Subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new section:

"SEC. 4104. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

"(a) In General.—The Secretary shall require any person claiming tax benefits—

"(1) under the provisions of section 34, 40, and 40A to file a return at the time such person claims such benefits (in such manner as the Secretary may prescribe), and

"(2) under the provisions of section 4041(b)(2), 6426, or 6427(e) to file a monthly return (in such manner as the Secretary may prescribe).

"(b) Contents of Return.—Any return filed under this section shall provide such information relating to such benefits and the coordination of such benefits as the Secretary may require to ensure the proper administration and use of such benefits.

"(c) Enforcement.—With respect to any person described in subsection (a) and subject to registration requirements under this title, rules similar to rules of section 4222(c) shall apply with respect to any requirement under this section.".

(b) Conforming Amendment.—The table of sections for subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new item:

"Sec. 4104. Information reporting for persons claiming certain tax benefits.".

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5246. ELECTRONIC REPORTING.

(a) In General.—Section 4101(d), as amended by section 5273 of this Act, is amended by adding at the end the following new sentence: "Any person who is required to report under this subsection and who has 25 or more reportable transactions in a month shall file such report in electronic format.".

(b) Effective Date.—The amendments made by this section shall apply on October 1, 2004.

PART V—IMPORTS

SEC. 5251. TAX AT POINT OF ENTRY WHERE IMPORTER NOT REGISTERED.

(a) Tax at Point of Entry Where Importer Not Registered.—

(1) In general.—Subpart C of part III of subchapter A of chapter 31, as amended by section 5245 of this Act, is amended by adding at the end the following new section:

"SEC. 4105. TAX AT ENTRY WHERE IMPORTER NOT REGISTERED.

"(a) In General.—Any tax imposed under this part on any person not registered under section 4101 for the entry of a fuel into the United States shall be imposed at the time and point of entry.

"(b) Enforcement of Assessment.—If any person liable for any tax described under subsection (a) has not paid the tax or posted a bond, the Secretary may—

"(1) seize the fuel on which the tax is due, or

"(2) detain any vehicle transporting such fuel,

until such tax is paid or such bond is filed.

"(c) Levy of Fuel.—If no tax has been paid or no bond has been filed within 5 days from the date the Secretary seized fuel pursuant to subsection (b), the Secretary may sell such fuel as provided under section 6336.".

(2) Conforming amendment.—The table of sections for subpart C of part III of subchapter A of chapter 31 of the Internal Revenue Code of 1986, as amended by section 5245 of this Act, is amended by adding after the last item the following new item:

"Sec. 4105. Tax at entry where importer not registered.".

(b) Denial of Entry Where Tax Not Paid.—The Secretary of Homeland Security is authorized to deny entry into the United States of any shipment of a fuel which is taxable under section 4081 of the Internal Revenue Code of 1986 if the person entering such shipment fails to pay the tax imposed under such section or post a bond in accordance with the provisions of section 4105 of such Code.

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5252. RECONCILIATION OF ON-LOADED CARGO TO ENTERED CARGO.

(a) In General.—Subsection (a) of section 343 of the Trade Act of 2002 is amended by inserting at the end the following new paragraph:

"(4) In General.—Subject to paragraphs (2) and (3), not later than 1 year after the enactment of this paragraph, the Secretary of Homeland Security, together with the Secretary of the Treasury, shall promulgate regulations providing for the transmission to the Internal Revenue Service, through an electronic data interchange system, of information pertaining to cargo of taxable fuels (as defined in section 4083 of the Internal Revenue Code of 1986) destined for importation into the United States prior to such importation.".

(b) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act.

PART VI—MISCELLANEOUS PROVISIONS

SEC. 5261. TAX ON SALE OF DIESEL FUEL WHETHER SUITABLE FOR USE OR NOT IN A DIESEL-POWERED VEHICLE OR TRAIN.

(a) In General.—Section 4083(a)(3) is amended—

(1) by striking "The term" and inserting the following:

"(A) In general.—The term", and

(2) by inserting at the end the following new subparagraph:

"(B) Liquid sold as diesel fuel.—The term 'diesel fuel' includes any liquid which is sold as

or offered for sale as a fuel in a diesel-powered highway vehicle or a diesel-powered train.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 40A(b)(1)(B), as amended by section 5103 of this Act, is amended by striking ''4083(a)(3)'' and inserting ''4083(a)(3)(A)''.

(2) Section 6426(c)(3), as added by section 5102 of this Act, is amended by striking ''4083(a)(3)'' and inserting ''4083(a)(3)(A)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5262. MODIFICATION OF ULTIMATE VENDOR REFUND CLAIMS WITH RESPECT TO FARMING.

(a) IN GENERAL.—

(1) REFUNDS.—Section 6427(l) is amended by adding at the end the following new paragraph:

''(6) REGISTERED VENDORS PERMITTED TO ADMINISTER CERTAIN CLAIMS FOR REFUND OF DIESEL FUEL AND KEROSENE SOLD TO FARMERS.—

''(A) IN GENERAL.—In the case of diesel fuel or kerosene used on a farm for farming purposes (within the meaning of section 6420(c)), paragraph (1) shall not apply to the aggregate amount of such diesel fuel or kerosene if such amount does not exceed 500 gallons (as determined under subsection (i)(5)(A)(iii)).

''(B) PAYMENT TO ULTIMATE VENDOR.—The amount which would (but for subparagraph (A)) have been paid under paragraph (1) with respect to any fuel shall be paid to the ultimate vendor of such fuel, if such vendor—

''(i) is registered under section 4101, and

''(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).''.

(2) FILING OF CLAIMS.—Section 6427(i) is amended by inserting at the end the following new paragraph:

''(5) SPECIAL RULE FOR VENDOR REFUNDS WITH RESPECT TO FARMERS.—

''(A) IN GENERAL.—A claim may be filed under subsection (l)(6) by any person with respect to fuel sold by such person for any period—

''(i) for which $200 or more ($100 or more in the case of kerosene) is payable under subsection (l)(6),

''(ii) which is not less than 1 week, and

''(iii) which is for not more than 500 gallons for each farmer for which there is a claim.

Notwithstanding subsection (l)(1), paragraph (3)(B) shall apply to claims filed under the preceding sentence.

''(B) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim.''.

(3) CONFORMING AMENDMENTS.—

(A) Section 6427(l)(5)(A) is amended to read as follows:

''(A) IN GENERAL.—Paragraph (1) shall not apply to diesel fuel or kerosene used by a State or local government.''.

(B) The heading for section 6427(l)(5) is amended by striking ''FARMERS AND''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fuels sold for nontaxable use after the date of the enactment of this Act.

SEC. 5263. TAXABLE FUEL REFUNDS FOR CERTAIN ULTIMATE VENDORS.

(a) IN GENERAL.—Paragraph (4) of section 6416(a) (relating to abatements, credits, and refunds) is amended to read as follows:

''(4) REGISTERED ULTIMATE VENDOR TO ADMINISTER CREDITS AND REFUNDS OF GASOLINE TAX.—

''(A) IN GENERAL.—For purposes of this subsection, if an ultimate vendor purchases any gasoline on which tax imposed by section 4081 has been paid and sells such gasoline to an ultimate purchaser described in subparagraph (C) or (D) of subsection (b)(2) (and such gasoline is for a use described in such subparagraph), such ultimate vendor shall be treated as the person (and the only person) who paid such tax, but only if such ultimate vendor is registered under section 4101. For purposes of this subparagraph, if the sale of gasoline is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.

''(B) TIMING OF CLAIMS.—The procedure and timing of any claim under subparagraph (A) shall be the same as for claims under section 6427(i)(4), except that the rules of section 6427(i)(3)(B) regarding electronic claims shall not apply unless the ultimate vendor has certified to the Secretary for the most recent quarter of the taxable year that all ultimate purchasers of the vendor are certified and entitled to a refund under subparagraph (C) or (D) of subsection (b)(2).''.

(b) CREDIT CARD PURCHASES OF DIESEL FUEL OR KEROSENE BY STATE AND LOCAL GOVERNMENTS.—Section 6427(l)(5)(C) (relating to nontaxable uses of diesel fuel, kerosene, and aviation fuel), as amended by section 5252 of this Act, is amended by adding at the end the following new sentence: ''For purposes of this subparagraph, if the sale of diesel fuel or kerosene is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5264. TWO-PARTY EXCHANGES.

(a) IN GENERAL.—Subpart C of part III of subchapter A of chapter 32, as amended by section 5251 of this Act, is amended by adding at the end the following new section:

''SEC. 4106. TWO-PARTY EXCHANGES.

''(a) IN GENERAL.—In a two-party exchange, the delivering person shall not be liable for the tax imposed under of section 4081(a)(1)(A)(ii).

''(b) TWO-PARTY EXCHANGE.—The term 'two-party exchange' means a transaction, other than a sale, in which taxable fuel is transferred from a delivering person registered under section 4101 as a taxable fuel registrant to a receiving person who is so registered where all of the following occur:

''(1) The transaction includes a transfer from the delivering person, who holds the inventory position for taxable fuel in the terminal as reflected in the records of the terminal operator.

''(2) The exchange transaction occurs before or contemporaneous with completion of removal across the rack from the terminal by the receiving person.

''(3) The terminal operator in its books and records treats the receiving person as the person that removes the product across the terminal rack for purposes of reporting the transaction to the Secretary.

''(4) The transaction is the subject of a written contract.''.

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 32, as amended by section 5251 of this Act, is amended by adding after the last item the following new item:

''Sec. 4106. Two-party exchanges.''.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 5265. MODIFICATIONS OF TAX ON USE OF CERTAIN VEHICLES.

(a) NO PRORATION OF TAX UNLESS VEHICLE IS DESTROYED OR STOLEN.—

(1) IN GENERAL.—Section 4481(c) (relating to proration of tax) is amended to read as follows:

''(c) PRORATION OF TAX WHERE VEHICLE SOLD, DESTROYED, OR STOLEN.—

''(1) IN GENERAL.—If in any taxable period a highway motor vehicle is sold, destroyed, or stolen before the first day of the last month in such period and not subsequently used during such taxable period, the tax shall be reckoned proportionately from the first day of the month in such period in which the first use of such highway motor vehicle occurs to and including the last day of the month in which such highway motor vehicle was sold, destroyed, or stolen.

''(2) DESTROYED.—For purposes of paragraph (1), a highway motor vehicle is destroyed if such vehicle is damaged by reason of an accident or other casualty to such an extent that it is not economic to rebuild.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 6156 (relating to installment payment of tax on use of highway motor vehicles) is repealed.

(B) The table of sections for subchapter A of chapter 62 is amended by striking the item relating to section 6156.

(b) DISPLAY OF TAX CERTIFICATE.—Paragraph (2) of section 4481(d) (relating to one tax liability for period) is amended to read as follows:

''(2) DISPLAY OF TAX CERTIFICATE.—Every taxpayer which pays the tax imposed under this section with respect to a highway motor vehicle shall, not later than 1 month after the due date of the return of tax with respect to each taxable period, receive and display on such vehicle an electronic identification device prescribed by the Secretary.''.

(c) ELECTRONIC FILING.—Section 4481, as amended by section 5001 of this Act, is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

''(e) ELECTRONIC FILING.—Any taxpayer who files a return under this section with respect to 25 or more vehicles for any taxable period shall file such return electronically.''.

(d) REPEAL OF REDUCTION IN TAX FOR CERTAIN TRUCKS.—Section 4483 of the Internal Revenue Code of 1986 is amended by striking subsection (f).

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable periods beginning after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall take effect on October 1, 2005.

SEC. 5266. DEDICATION OF REVENUES FROM CERTAIN PENALTIES TO THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—Subsection (b) of section 9503 (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes), as amended by section 5001 of this Act, is amended by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following new paragraph:

''(5) CERTAIN PENALTIES.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to the penalties assessed under sections 6715, 6715A, 6717, 6718, 6719, 6720, 6725, 7232, and 7272 (but only with regard to penalties under such section related to failure to register under section 4101).''.

(b) CONFORMING AMENDMENTS.—

(1) The heading of subsection (b) of section 9503 is amended by inserting ''AND PENALTIES'' after ''TAXES''.

(2) The heading of paragraph (1) of section 9503(b) is amended by striking ''IN GENERAL'' and inserting ''CERTAIN TAXES''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to penalties assessed after October 1, 2004.

SEC. 5267. NONAPPLICATION OF EXPORT EXEMPTION TO DELIVERY OF FUEL TO MOTOR VEHICLES REMOVED FROM UNITED STATES.

(a) IN GENERAL.—Section 4221(d)(2) (defining export) is amended by adding at the end the following new sentence: ''Such term does not include the delivery of a taxable fuel (as defined

in section 4083(a)(1)) into a fuel tank of a motor vehicle which is shipped or driven out of the United States.".

(b) Conforming Amendments.—

(1) Section 4041(g) (relating to other exemptions) is amended by adding at the end the following new sentence: "Paragraph (3) shall not apply to the sale for delivery of a liquid into a fuel tank of a motor vehicle which is shipped or driven out of the United States.".

(2) Clause (iv) of section 4081(a)(1)(A) (relating to tax on removal, entry, or sale) is amended by inserting "or at a duty-free sales enterprise (as defined in section 555(b)(8) of the Tariff Act of 1930)" after "section 4101".

(c) Effective Date.—The amendments made by this section shall apply to sales or deliveries made after the date of the enactment of this Act.

PART VII—TOTAL ACCOUNTABILITY

SEC. 5271. TOTAL ACCOUNTABILITY.

(a) Taxation of Reportable Liquids.—

(1) In general.—Section 4081(a), as amended by this Act, is amended—

(A) by inserting "or reportable liquid" after "taxable fuel" each place it appears, and

(B) by inserting "such liquid" after "such fuel" in paragraph (1)(A)(iv).

(2) Rate of tax.—Subparagraph (A) of section 4081(a)(2), as amended by section 5211 of this Act, is amended by striking "and" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", and", and by adding at the end the following new clause:

"(v) in the case of reportable liquids, the rate determined under section 4083(c)(2).".

(3) Exemption.—Section 4081(a)(1) is amended by adding at the end the following new subparagraph:

"(C) Exemption for registered transfers of reportable liquids.—The tax imposed by this paragraph shall not apply to any removal, entry, or sale of a reportable liquid if—

"(i) such removal, entry, or sale is to a registered person who certifies that such liquid will not be used as a fuel or in the production of a fuel, or

"(ii) the sale is to the ultimate purchaser of such liquid.".

(4) Reportable liquids.—Section 4083, as amended by this Act, is amended by redesignating subsections (c) and (d) (as redesignated by section 5211 of this Act) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new section:

"(c) Reportable liquid.—For purposes of this subpart—

"(1) In general.—The term 'reportable liquid' means any petroleum-based liquid other than a taxable fuel.

"(2) Taxation.—

"(A) Gasoline blend stocks and additives.—Gasoline blend stocks and additives which are reportable liquids (as defined in paragraph (1)) shall be subject to the rate of tax under clause (i) of section 4081(a)(2)(A).

"(B) Other reportable liquids.—Any reportable liquid (as defined in paragraph (1)) not described in subparagraph (A) shall be subject to the rate of tax under clause (iii) of section 4081(a)(2)(A).".

(5) Conforming amendments.—

(A) Section 4081(e) is amended by inserting "or reportable liquid" after "taxable fuel".

(B) Section 4083(d) (relating to certain use defined as removal), as redesignated by paragraph (4), is amended by inserting "or reportable liquid" after "taxable fuel".

(C) Section 4083(e)(1) (relating to administrative authority), as redesignated by paragraph (4), is amended—

(i) in subparagraph (A)—

(I) by inserting "or reportable liquid" after "taxable fuel", and

(II) by inserting "or such liquid" after "such fuel" each place it appears, and

(ii) in subparagraph (B), by inserting "or any reportable liquid" after "any taxable fuel".

(D) Section 4101(a)(2), as added by section 5243 of this Act, is amended by inserting "or a reportable liquid" after "taxable fuel".

(E) Section 4101(a)(3), as added by section 5242 of this Act and redesignated by section 5243 of this Act, is amended by inserting "or any reportable liquid" before the period at the end.

(F) Section 4102 is amended by inserting "or any reportable liquid" before the period at the end.

(G)(i) Section 6718, as added by section 5241 of this Act, is amended—

(I) in subsection (a), by inserting "or any reportable liquid (as defined in section 4083(c)(1))" after " section 4083(a)(1))", and

(II) in the heading, by inserting "or reportable liquids" after "taxable fuel".

(ii) The item relating to section 6718 in table of sections for part I of subchapter B of chapter 68, as added by section 5241 of this Act, is amended by inserting "or reportable liquids" after "taxable fuels".

(H) Section 6427(h) is amended to read as follows:

"(h) Gasoline Blend Stocks or Additives and Reportable Liquids.—Except as provided in subsection (k)—

"(1) if any gasoline blend stock or additive (within the meaning of section 4083(a)(2)) is not used by any person to produce gasoline and such person establishes that the ultimate use of such gasoline blend stock or additive is not to produce gasoline, or

"(2) if any reportable liquid (within the meaning of section 4083(c)(1)) is not used by any person to produce a taxable fuel and such person establishes that the ultimate use of such reportable liquid is not to produce a taxable fuel,

then the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of the tax imposed on such person with respect to such gasoline blend stock or additive or such reportable fuel.".

(I) Section 7232, as amended by this Act, is amended by inserting "or reportable liquid (within the meaning of section 4083(c)(1))" after "section 4083)".

(J) Section 343 of the Trade Act of 2002, as amended by section 5252 of this Act, is amended by inserting "and reportable liquids (as defined in section 4083(c)(1) of such Code)" after "Internal Revenue Code of 1986)".

(b) Dyed Diesel.—Section 4082(a) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting "and", and by inserting after paragraph (3) the following new paragraph:

"(4) which is removed, entered, or sold by a person registered under section 4101.".

(c) Effective Date.—The amendments made by this section shall apply to reportable liquids (as defined in section 4083(c) of the Internal Revenue Code) and fuel sold or used after September 30, 2004.

SEC. 5272. EXCISE TAX REPORTING.

(a) In General.—Part II of subchapter A of chapter 61 is amended by adding at the end the following new subpart:

"Subpart E—Excise Tax Reporting

"SEC. 6025. RETURNS RELATING TO FUEL TAXES.

"(a) In General.—The Secretary shall require any person liable for the tax imposed under Part III of subchapter A of chapter 32 to file a return of such tax on a monthly basis.

"(b) Information Included with Return.—The Secretary shall require any person filing a return under subsection (a) to provide information regarding any refined product (whether or not such product is taxable under this title) removed from a terminal during the period for which such return applies.".

(b) Conforming Amendment.—The table of parts for subchapter A of chapter 61 is amended by adding at the end the following new item:

"Subpart E—Excise Tax Reporting".

(c) Effective Date.—The amendments made by this section shall apply to fuel sold or used after September 30, 2004.

SEC. 5273. INFORMATION REPORTING.

(a) In General.—Section 4101(d) is amended by adding at the end the following new flush sentence:

"The Secretary shall require reporting under the previous sentence with respect to taxable fuels removed, entered, or transferred from any refinery, pipeline, or vessel which is registered under this section.".

(b) Effective Date.—The amendment made by this section shall apply on October 1, 2004.

Subtitle D—Definition of Highway Vehicle

SEC. 5301. EXEMPTION FROM CERTAIN EXCISE TAXES FOR MOBILE MACHINERY.

(a) Exemption From Tax on Heavy Trucks and Trailers Sold at Retail.—

(1) In general.—Section 4053 (relating to exemptions) is amended by adding at the end the following new paragraph:

"(8) Mobile machinery.—Any vehicle which consists of a chassis—

"(A) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,

"(B) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

"(C) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.".

(2) Effective date.—The amendment made by this subsection shall take effect on the day after the date of the enactment of this Act.

(b) Exemption From Tax on Use of Certain Vehicles.—

(1) In general.—Section 4483 (relating to exemptions) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) Exemption for Mobile Machinery.—No tax shall be imposed by section 4481 on the use of any vehicle described in section 4053(8).".

(2) Effective date.—The amendments made by this subsection shall take effect on the day after the date of the enactment of this Act.

(d) Exemption From Fuel Taxes.—

(1) In general.—Section 6421(e)(2) (defining off-highway business use) is amended by adding at the end the following new subparagraph:

"(C) Uses in mobile machinery.—

"(i) In general.—The term 'off-highway business use' shall include any use in a vehicle which meets the requirements described in clause (ii).

"(ii) Requirements for mobile machinery.—The requirements described in this clause are—

"(I) the design-based test, and

"(II) the use-based test.

"(iii) Design-based test.—For purposes of clause (ii)(I), the design-based test is met if the vehicle consists of a chassis—

"(I) to which there has been permanently mounted (by welding, bolting, riveting, or other

means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways.

"(II) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

"(III) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.

"(iv) USE-BASED TEST.—For purposes of clause (ii)(II), the use-based test is met if the use of the vehicle on public highways was less than 5,000 miles during the taxpayer's taxable year.

"(v) SPECIAL RULE FOR USE BY CERTAIN TAX-EXEMPT ORGANIZATIONS.—In the case of any use in a vehicle by an organization which is described in section 501(c) and exempt from tax under section 501(a), clause (ii) shall be applied without regard to subclause (II) thereof.".

(2) ANNUAL REFUND OF TAX PAID.—Section 6427(i)(2) (relating to exceptions) is amended by adding at the end the following new subparagraph:

"(C) NONAPPLICATION OF PARAGRAPH.—This paragraph shall not apply to any fuel used in any off-highway business use described in section 6421(e)(2)(C).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5302. MODIFICATION OF DEFINITION OF OFF-HIGHWAY VEHICLE.

(a) IN GENERAL.—Section 7701(a) (relating to definitions) is amended by adding at the end the following new paragraph:

"(48) OFF-HIGHWAY VEHICLES.—

"(A) OFF-HIGHWAY TRANSPORTATION VEHICLES.—

"(i) IN GENERAL.—A vehicle shall not be treated as a highway vehicle if such vehicle is specially designed for the primary function of transporting a particular type of load other than over the public highway and because of this special design such vehicle's capability to transport a load over the public highway is substantially limited or impaired.

"(ii) DETERMINATION OF VEHICLE'S DESIGN.—For purposes of clause (i), a vehicle's design is determined solely on the basis of its physical characteristics.

"(iii) DETERMINATION OF SUBSTANTIAL LIMITATION OR IMPAIRMENT.—For purposes of clause (i), in determining whether substantial limitation or impairment exists, account may be taken of factors such as the size of the vehicle, whether such vehicle is subject to the licensing, safety, and other requirements applicable to highway vehicles, and whether such vehicle can transport a load at a sustained speed of at least 25 miles per hour. It is immaterial that a vehicle can transport a greater load off the public highway than such vehicle is permitted to transport over the public highway.

"(B) NONTRANSPORTATION TRAILERS AND SEMITRAILERS.—A trailer or semitrailer shall not be treated as a highway vehicle if it is specially designed to function only as an enclosed stationary shelter for the carrying on of an off-highway function at an off-highway site.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall take effect on the date of the enactment of this Act.

(2) FUEL TAXES.—With respect to taxes imposed under subchapter B of chapter 31 and part III of subchapter A of chapter 32, the amendment made by this section shall apply to taxable periods beginning after the date of the enactment of this Act.

Subtitle E—Excise Tax Reform and Simplification

PART I—HIGHWAY EXCISE TAXES

SEC. 5401. DEDICATION OF GAS GUZZLER TAX TO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503(b)(1) (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes), as amended by section 5101 of this Act, is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) the following new subparagraph:

"(C) section 4064 (relating to gas guzzler tax).".

(b) UNIFORM APPLICATION OF TAX.—Subparagraph (A) of section 4064(b)(1) (defining automobile) is amended by striking the second sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5402. REPEAL CERTAIN EXCISE TAXES ON RAIL DIESEL FUEL AND INLAND WATERWAY BARGE FUELS.

(a) TAXES ON TRAINS.—

(1) IN GENERAL.—Subparagraph (A) of section 4041(a)(1) is amended by striking "or a diesel-powered train" each place it appears and by striking "or train".

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (C) of section 4041(a)(1), as amended by section 5001 of this Act, is amended by striking clause (ii) and by redesignating clause (iii) as clause (ii).

(B) Subparagraph (C) of section 4041(b)(1) is amended by striking all that follows "section 6421(e)(2)" and inserting a period.

(C) Subsection (d) of section 4041 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) DIESEL FUEL USED IN TRAINS.—There is hereby imposed a tax of 0.1 cent per gallon on any liquid other than gasoline (as defined in section 4083)—

"(A) sold by any person to an owner, lessee, or other operator of a diesel-powered train for use as a fuel in such train, or

"(B) used by any person as a fuel in a diesel-powered train unless there was a taxable sale of such fuel under subparagraph (A).

No tax shall be imposed by this paragraph on the sale or use of any liquid if tax was imposed on such liquid under section 4081.".

(D) Subsection (f) of section 4082 is amended by striking "section 4041(a)(1)" and inserting "subsections (d)(3) and (a)(1) of section 4041, respectively".

(E) Subparagraphs (A) and (B) of section 4083(a)(3), as amended by section 5261 of this Act, are amended by striking "or a diesel-powered train".

(F) Paragraph (3) of section 6421(f) is amended to read as follows:

"(3) GASOLINE USED IN TRAINS.—In the case of gasoline used as a fuel in a train, this section shall not apply with respect to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081.".

(G) Paragraph (3) of section 6427(l) is amended to read as follows:

"(3) REFUND OF CERTAIN TAXES ON FUEL USED IN DIESEL-POWERED TRAINS.—For purposes of this subsection, the term 'nontaxable use' includes fuel used in a diesel-powered train. The preceding sentence shall not apply to the tax imposed by section 4041(d) and the Leaking Underground Storage Tank Trust Fund financing rate under section 4081 except with respect to fuel sold for exclusive use by a State or any political subdivision thereof.".

(b) FUEL USED ON INLAND WATERWAYS.—

(1) IN GENERAL.—Paragraph (1) of section 4042(b) is amended by adding "and" at the end of subparagraph (A), by striking ", and" at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 4042(b) is amended by striking subparagraph (C).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART II—AQUATIC EXCISE TAXES

SEC. 5411. ELIMINATION OF AQUATIC RESOURCES TRUST FUND AND TRANSFORMATION OF SPORT FISH RESTORATION ACCOUNT.

(a) SIMPLIFICATION OF FUNDING FOR BOAT SAFETY ACCOUNT.—

(1) IN GENERAL.—Section 9503(c)(3) (relating to transfers from Trust Fund for motorboat fuel taxes), as redesignated by section 5002 of this Act, is amended—

(A) by striking "Fund—" and all that follows through "shall be transferred" in subparagraph (B) and inserting "Fund which is attributable to motorboat fuel taxes shall be transferred", and

(B) by striking subparagraph (A), and

(C) by redesignating subparagraphs (B) through (E) as subparagraphs (A) through (D), respectively.

(2) CONFORMING AMENDMENTS.—

(A) Section 9503(b)(4), as amended by section 5102 of this Act, is amended—

(i) by adding "or" at the end of subparagraph (B),

(ii) by striking the comma at the end of subparagraph (C) and inserting a period, and

(iii) by striking subparagraph (D).

(B) Subparagraph (B) of section 9503(c)(3), as redesignated by section 5002 of this Act and subsection (a)(3), is amended—

(i) by striking "ACCOUNT" in the heading and inserting "TRUST FUND",

(ii) by striking "or (B)" in clause (ii), and

(iii) by striking "Account in the Aquatic Resources".

(C) Subparagraph (C) of section 9503(c)(3), as redesignated by section 5002 of this Act and subsection (a)(3), is amended by striking ", but only to the extent such taxes are deposited into the Highway Trust Fund".

(D) Paragraph (4) of section 9503(c), as redesignated by section 5002 of this Act, is amended—

(i) by striking "Account in the Aquatic Resources" in subparagraph (A), and

(ii) by striking ", but only to the extent such taxes are deposited into the Highway Trust Fund" in subparagraph (B).

(b) MERGING OF ACCOUNTS.—

(1) IN GENERAL.—Subsection (a) of section 9504 is amended to read as follows:

"(a) CREATION OF TRUST FUND.—There is hereby established in the Treasury of the United States a trust fund to be known as the 'Sport Fish Restoration Trust Fund'. Such Trust Fund shall consist of such amounts as may be appropriated, credited, or paid to it as provided in this section, section 9503(c)(3), section 9503(c)(4), or section 9602(b).".

(2) CONFORMING AMENDMENTS.—

(A) Subsection (b) of section 9504 is amended—

(i) by striking "ACCOUNT" in the heading and inserting "TRUST FUND",

(ii) by striking "Account" both places it appears in paragraphs (1) and (2) and inserting "Trust Fund", and

(iii) by striking "ACCOUNT" both places it appears in the headings for paragraphs (1) and (2) and inserting "TRUST FUND".

(B) Subsection (d) of section 9504, as amended by section 5001 of this Act, is amended—

(i) by striking "AQUATIC RESOURCES" in the heading,

(ii) by striking "any Account in the Aquatic Resources" in paragraph (1) and inserting "the Sports Fish Restoration", and

(iii) by striking "any such Account" in paragraph (1) and inserting "such Trust Fund".

(C) Subsection (e) of section 9504, as amended by section 5002 of this Act, is amended by striking "Boat Safety Account and Sport Fish Restoration Account" and inserting "Sport Fish Restoration Trust Fund".

(D) Section 9504 is amended by striking "**AQUATIC RESOURCES**" in the heading and inserting "**SPORT FISH RESTORATION**".

(E) The item relating to section 9504 in the table of sections for subchapter A of chapter 98 is amended by striking "aquatic resources" and inserting "sport fish restoration".

(c) PHASEOUT OF BOAT SAFETY ACCOUNT.—Subsection (c) of section 9504 is amended to read as follows:

"(c) EXPENDITURES FROM BOAT SAFETY ACCOUNT.—Amounts remaining in the Boat Safety Account on October 1, 2004, and amounts thereafter credited to the Account under section 9602(b), shall be available, as provided by appropriation Acts, for making expenditures before October 1, 2009, to carry out the purposes of section 13106 of title 46, United States Code (as in effect on the date of the enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004).".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5412. EXEMPTION OF LED DEVICES FROM SONAR DEVICES SUITABLE FOR FINDING FISH.

(a) IN GENERAL.—Section 4162(b) (defining sonar device suitable for finding fish) is amended by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", or", and by adding at the end the following new paragraph:

"(5) an LED display.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 2004.

SEC. 5413. REPEAL OF HARBOR MAINTENANCE TAX ON EXPORTS.

(a) IN GENERAL.—Subsection (d) of section 4462 (relating to definitions and special rules) is amended to read as follows:

"(d) NONAPPLICABILITY OF TAX TO EXPORTS.—The tax imposed by section 4461(a) shall not apply to any port use with respect to any commercial cargo to be exported from the United States.".

(b) CONFORMING AMENDMENTS.—

(1) Section 4461(c)(1) is amended by adding "or" at the end of subparagraph (A), by striking subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

(2) Section 4461(c)(2) is amended by striking "imposed—" and all that follows through "in any other case," and inserting "imposed".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect before, on, and after the date of the enactment of this Act.

SEC. 5414. CAP ON EXCISE TAX ON CERTAIN FISHING EQUIPMENT.

(a) IN GENERAL.—Paragraph (1) of section 4161(a) (relating to sport fishing equipment) is amended to read as follows:

"(1) IMPOSITION OF TAX.—

"(A) IN GENERAL.—There is hereby imposed on the sale of any article of sport fishing equipment by the manufacturer, producer, or importer a tax equal to 10 percent of the price for which so sold.

"(B) LIMITATION ON TAX IMPOSED ON FISHING RODS AND POLES.—The tax imposed by subparagraph (A) on any fishing rod or pole shall not exceed $10.".

(b) CONFORMING AMENDMENTS.—Section 4161(a)(2) is amended by striking "paragraph (1)" both places it appears and inserting "paragraph (1)(A)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 2004.

SEC. 5415. REDUCTION IN RATE OF TAX ON PORTABLE AERATED BAIT CONTAINERS.

(a) IN GENERAL.—Section 4161(a)(2)(A) (relating to 3 percent rate of tax for electric outboard motors and sonar devices suitable for finding fish) is amended by inserting "or a portable aerated bait container" after "fish".

(b) CONFORMING AMENDMENT.—The heading of section 4161(a)(2) is amended by striking "ELECTRIC OUTBOARD MOTORS AND SONAR DEVICES SUITABLE FOR FINDING FISH" and inserting "CERTAIN SPORT FISHING EQUIPMENT".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 2004.

PART III—AERIAL EXCISE TAXES

SEC. 5421. CLARIFICATION OF EXCISE TAX EXEMPTIONS FOR AGRICULTURAL AERIAL APPLICATORS AND EXEMPTION FOR FIXED-WING AIRCRAFT ENGAGED IN FORESTRY OPERATIONS.

(a) NO WAIVER BY FARM OWNER, TENANT, OR OPERATOR NECESSARY.—Subparagraph (B) of section 6420(c)(4) (relating to certain farming use other than by owner, etc.) is amended to read as follows:

"(B) if the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes.".

(b) EXEMPTION INCLUDES FUEL USED BETWEEN AIRFIELD AND FARM.—Section 6420(c)(4), as amended by subsection (a), is amended by adding at the end the following new flush sentence: "For purposes of this paragraph, in the case of an aerial applicator, gasoline shall be treated as used on a farm for farming purposes if the gasoline is used for the direct flight between the airfield and 1 or more farms.".

(c) EXEMPTION FROM TAX ON AIR TRANSPORTATION OF PERSONS FOR FORESTRY PURPOSES EXTENDED TO FIXED-WING AIRCRAFT.—Subsection (f) of section 4261 (relating to tax on air transportation of persons) is amended to read as follows:

"(f) EXEMPTION FOR CERTAIN USES.—No tax shall be imposed under subsection (a) or (b) on air transportation—

"(1) by helicopter for the purpose of transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas, or

"(2) by helicopter or by fixed-wing aircraft for the purpose of the planting, cultivation, cutting, or transportation of, or caring for, trees (including logging operations),

but only if the helicopter or fixed-wing aircraft does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to section 44509 or 44913(b) or subchapter I of chapter 471 of title 49, United States Code, during such use. In the case of helicopter transportation described in paragraph (1), this subsection shall be applied by treating each flight segment as a distinct flight.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel use or air transportation after the date of the enactment of this Act.

SEC. 5422. MODIFICATION OF RURAL AIRPORT DEFINITION.

(a) IN GENERAL.—Section 4261(e)(1)(B) (defining rural airport) is amended—

(1) by inserting "(in the case of any airport described in clause (ii)(III), on flight segments of at least 100 miles)" after "by air" in clause (i), and

(2) by striking the period at the end of subclause (II) of clause (ii) and inserting ", or", and by adding at the end of clause (ii) the following new subclause:

"(III) is not connected by paved roads to another airport.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 2004.

SEC. 5423. EXEMPTION FROM TICKET TAXES FOR TRANSPORTATION PROVIDED BY SEAPLANES.

(a) IN GENERAL.—Section 4261 (relating to imposition of tax) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) EXEMPTION FOR SEAPLANES.—No tax shall be imposed by this section or section 4271 on any air transportation by a seaplane with respect to any segment consisting of a takeoff from, and a landing on, water, but only if the places at which such takeoff and landing occur have not received and are not receiving financial assistance from the Airport and Airways Trust Fund.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transportation beginning after March 31, 2004.

SEC. 5424. CERTAIN SIGHTSEEING FLIGHTS EXEMPT FROM TAXES ON AIR TRANSPORTATION.

(a) IN GENERAL.—Section 4281 (relating to small aircraft on nonestablished lines) is amended by adding at the end the following new sentence: "For purposes of this section, an aircraft shall not be considered as operated on an established line if such aircraft is operated on a flight the sole purpose of which is sightseeing.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to transportation beginning on or after the date of the enactment of this Act, but shall not apply to any amount paid before such date for such transportation.

PART IV—ALCOHOLIC BEVERAGE EXCISE TAXES

SEC. 5431. REPEAL OF SPECIAL OCCUPATIONAL TAXES ON PRODUCERS AND MARKETERS OF ALCOHOLIC BEVERAGES.

(a) REPEAL OF OCCUPATIONAL TAXES.—

(1) IN GENERAL.—The following provisions of part II of subchapter A of chapter 51 (relating to occupational taxes) are hereby repealed:

(A) Subpart A (relating to proprietors of distilled spirits plants, bonded wine cellars, etc.).

(B) Subpart B (relating to brewer).

(C) Subpart D (relating to wholesale dealers) (other than sections 5114 and 5116).

(D) Subpart E (relating to retail dealers) (other than section 5124).

(E) Subpart G (relating to general provisions) (other than sections 5142, 5143, 5145, and 5146).

(2) NONBEVERAGE DOMESTIC DRAWBACK.—Section 5131 is amended by striking ", on payment of a special tax per annum,".

(3) INDUSTRIAL USE OF DISTILLED SPIRITS.—Section 5276 is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1)(A) The heading for part II of subchapter A of chapter 51 and the table of subparts for such part are amended to read as follows:

"PART II—MISCELLANEOUS PROVISIONS

"Subpart A. Manufacturers of stills.

"Subpart B. Nonbeverage domestic drawback claimants.
"Subpart C. Recordkeeping by dealers.
"Subpart D. Other provisions.".

(B) The table of parts for such subchapter A is amended by striking the item relating to part II and inserting the following new item:

"Part II. Miscellaneous provisions.".

(2) Subpart C of part II of such subchapter (relating to manufacturers of stills) is redesignated as subpart A.

(3)(A) Subpart F of such part II (relating to nonbeverage domestic drawback claimants) is redesignated as subpart B and sections 5131 through 5134 are redesignated as sections 5111 through 5114, respectively.

(B) The table of sections for such subpart B, as so redesignated, is amended—

(i) by redesignating the items relating to sections 5131 through 5134 as relating to sections 5111 through 5114, respectively, and

(ii) by striking "and rate of tax" in the item relating to section 5111, as so redesignated.

(C) Section 5111, as redesignated by subparagraph (A), is amended—

(i) by striking "**AND RATE OF TAX**" in the section heading,

(ii) by striking the subsection heading for subsection (a), and

(iii) by striking subsection (b).

(4) Part II of subchapter A of chapter 51 is amended by adding after subpart B, as redesignated by paragraph (3), the following new subpart:

"Subpart C—Recordkeeping by Dealers

"Sec. 5121. Recordkeeping by wholesale dealers.
"Sec. 5122. Recordkeeping by retail dealers.
"Sec. 5123. Preservation and inspection of records, and entry of premises for inspection.".

(5)(A) Section 5114 (relating to records) is moved to subpart C of such part II and inserted after the table of sections for such subpart.

(B) Section 5114 is amended—

(i) by striking the section heading and inserting the following new heading:

"SEC. 5121. RECORDKEEPING BY WHOLESALE DEALERS.",

and

(ii) by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) WHOLESALE DEALERS.—For purposes of this part—

"(1) WHOLESALE DEALER IN LIQUORS.—The term 'wholesale dealer in liquors' means any dealer (other than a wholesale dealer in beer) who sells, or offers for sale, distilled spirits, wines, or beer, to another dealer.

"(2) WHOLESALE DEALER IN BEER.—The term 'wholesale dealer in beer' means any dealer who sells, or offers for sale, beer, but not distilled spirits or wines, to another dealer.

"(3) DEALER.—The term 'dealer' means any person who sells, or offers for sale, any distilled spirits, wines, or beer.

"(4) PRESUMPTION IN CASE OF SALE OF 20 WINE GALLONS OR MORE.—The sale, or offer for sale, of distilled spirits, wines, or beer, in quantities of 20 wine gallons or more to the same person at the same time, shall be presumptive evidence that the person making such sale, or offer for sale, is engaged in or carrying on the business of a wholesale dealer in liquors or a wholesale dealer in beer, as the case may be. Such presumption may be overcome by evidence satisfactorily showing that such sale, or offer for sale, was made to a person other than a dealer.".

(C) Paragraph (3) of section 5121(d), as so redesignated, is amended by striking "section 5146" and inserting "section 5123".

(6)(A) Section 5124 (relating to records) is moved to subpart C of part II of subchapter A of chapter 51 and inserted after section 5121.

(B) Section 5124 is amended—

(i) by striking the section heading and inserting the following new heading:

"SEC. 5122. RECORDKEEPING BY RETAIL DEALERS.",

(ii) by striking "section 5146" in subsection (c) and inserting "section 5123", and

(iii) by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

"(c) RETAIL DEALERS.—For purposes of this section—

"(1) RETAIL DEALER IN LIQUORS.—The term 'retail dealer in liquors' means any dealer (other than a retail dealer in beer or a limited retail dealer) who sells, or offers for sale, distilled spirits, wines, or beer, to any person other than a dealer.

"(2) RETAIL DEALER IN BEER.—The term 'retail dealer in beer' means any dealer (other than a limited retail dealer) who sells, or offers for sale, beer, but not distilled spirits or wines, to any person other than a dealer.

"(3) LIMITED RETAIL DEALER.—The term 'limited retail dealer' means any fraternal, civic, church, labor, charitable, benevolent, or ex-servicemen's organization making sales of distilled spirits, wine or beer on the occasion of any kind of entertainment, dance, picnic, bazaar, or festival held by it, or any person making sales of distilled spirits, wine or beer to the members, guests, or patrons of bona fide fairs, reunions, picnics, carnivals, or other similar outings, if such organization or person is not otherwise engaged in business as a dealer.

"(4) DEALER.—The term 'dealer' has the meaning given such term by section 5121(c)(3).".

(7) Section 5146 is moved to subpart C of part II of subchapter A of chapter 51, inserted after section 5122, and redesignated as section 5123.

(8) Part II of subchapter A of chapter 51 is amended by inserting after subpart C the following new subpart:

"Subpart D—Other Provisions

"Sec. 5131. Packaging distilled spirits for industrial uses.
"Sec. 5132. Prohibited purchases by dealers.".

(9) Section 5116 is moved to subpart D of part II of subchapter A of chapter 51, inserted after the table of sections, redesignated as section 5131, and amended by inserting "(as defined in section 5121(c))" after "dealer" in subsection (a).

(10) Subpart D of part II of subchapter A of chapter 51 is amended by adding at the end thereof the following new section:

"SEC. 5132. PROHIBITED PURCHASES BY DEALERS.

"(a) IN GENERAL.—Except as provided in regulations prescribed by the Secretary, it shall be unlawful for a dealer to purchase distilled spirits for resale from any person other than a wholesale dealer in liquors who is required to keep the records prescribed by section 5121.

"(b) LIMITED RETAIL DEALERS.—A limited retail dealer may lawfully purchase distilled spirits for resale from a retail dealer in liquors.

"(c) PENALTY AND FORFEITURE.—

"For penalty and forfeiture provisions applicable to violations of subsection (a), see sections 5687 and 7302.".

(11) Subsection (b) of section 5002 is amended—

(A) by striking "section 5112(a)" and inserting "section 5121(c)(3)",

(B) by striking "section 5112" and inserting "section 5121(c)",

(C) by striking "section 5122" and inserting "section 5122(c)".

(12) Subparagraph (A) of section 5010(c)(2) is amended by striking "section 5134" and inserting "section 5114".

(13) Subsection (d) of section 5052 is amended to read as follows:

"(d) BREWER.—For purposes of this chapter, the term 'brewer' means any person who brews beer or produces beer for sale. Such term shall not include any person who produces only beer exempt from tax under section 5053(e).".

(14) The text of section 5182 is amended to read as follows:

"For provisions requiring recordkeeping by wholesale liquor dealers, see section 5121, and by retail liquor dealers, see section 5122.".

(15) Subsection (b) of section 5402 is amended by striking "section 5092" and inserting "section 5052(d)".

(16) Section 5671 is amended by striking "or 5091".

(17)(A) Part V of subchapter J of chapter 51 is hereby repealed.

(B) The table of parts for such subchapter J is amended by striking the item relating to part V.

(18)(A) Sections 5142, 5143, and 5145 are moved to subchapter D of chapter 52, inserted after section 5731, redesignated as sections 5732, 5733, and 5734, respectively, and amended by striking "this part" each place it appears and inserting "this subchapter".

(B) Section 5732, as redesignated by subparagraph (A), is amended by striking "(except the tax imposed by section 5131)" each place it appears.

(C) Paragraph (2) of section 5733(c), as redesignated by subparagraph (A), is amended by striking "liquors" both places it appears and inserting "tobacco products and cigarette papers and tubes".

(D) The table of sections for subchapter D of chapter 52 is amended by adding at the end thereof the following:

"Sec. 5732. Payment of tax.
"Sec. 5733. Provisions relating to liability for occupational taxes.
"Sec. 5734. Application of State laws.".

(E) Section 5731 is amended by striking subsection (c) and by redesignating subsection (d) as subsection (c).

(19) Subsection (c) of section 6071 is amended by striking "section 5142" and inserting "section 5732".

(20) Paragraph (1) of section 7652(g) is amended—

(A) by striking "subpart F" and inserting "subpart B", and

(B) by striking "section 5131(a)" and inserting "section 5111".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2004, but shall not apply to taxes imposed for periods before such date.

SEC. 5432. SUSPENSION OF LIMITATION ON RATE OF RUM EXCISE TAX COVER OVER TO PUERTO RICO AND VIRGIN ISLANDS.

(a) IN GENERAL.—Section 7652(f)(1) (relating to limitation on cover over of tax on distilled spirits) is amended by striking "January 1, 2004" and inserting "October 1, 2004, and $13.50 in the case of distilled spirits brought into the United States after September 30, 2004, and before January 1, 2006".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to articles containing distilled spirits brought into the United States after December 31, 2003.

(2) SPECIAL RULE.—

(A) IN GENERAL.—After September 30, 2004, the treasury of Puerto Rico shall make a Conservation Trust Fund transfer within 30 days from the date of each cover over payment to such treasury under section 7652(e) of the Internal Revenue Code of 1986.

(B) CONSERVATION TRUST FUND TRANSFER.—

(i) IN GENERAL.—For purposes of this paragraph, the term "Conservation Trust Fund transfer" means a transfer to the Puerto Rico Conservation Trust Fund of an amount equal to

50 cents per proof gallon of the taxes imposed under section 5001 or section 7652 of such Code on distilled spirits that are covered over to the treasury of Puerto Rico under section 7652(e) of such Code.

(ii) TREATMENT OF TRANSFER.—Each Conservation Trust Fund transfer shall be treated as principal for an endowment, the income from which to be available for use by the Puerto Rico Conservation Trust Fund for the purposes for which the Trust Fund was established.

(iii) RESULT OF NONTRANSFER.—

(I) IN GENERAL.—Upon notification by the Secretary of the Interior that a Conservation Trust Fund transfer has not been made by the treasury of Puerto Rico, the Secretary of the Treasury shall, except as provided in subclause (II), deduct and withhold from the next cover over payment to be made to the treasury of Puerto Rico under section 7652(e) of such Code an amount equal to the appropriate Conservation Trust Fund transfer and interest thereon at the underpayment rate established under section 6621 of such Code as of the due date of such transfer. The Secretary of the Treasury shall transfer such amount deducted and withheld, and the interest thereon, directly to the Puerto Rico Conservation Trust Fund.

(II) GOOD CAUSE EXCEPTION.—If the Secretary of the Interior finds, after consultation with the Governor of Puerto Rico, that the failure by the treasury of Puerto Rico to make a required transfer was for good cause, and notifies the Secretary of the Treasury of the finding of such good cause before the due date of the next cover over payment following the notification of nontransfer, then the Secretary of the Treasury shall not deduct the amount of such nontransfer from any cover over payment.

(C) PUERTO RICO CONSERVATION TRUST FUND.—For purposes of this paragraph, the term "Puerto Rico Conservation Trust Fund" means the fund established pursuant to a Memorandum of Understanding between the United States Department of the Interior and the Commonwealth of Puerto Rico, dated December 24, 1968.

PART V—SPORT EXCISE TAXES

SEC. 5441. CUSTOM GUNSMITHS.

(a) SMALL MANUFACTURERS EXEMPT FROM FIREARMS EXCISE TAX.—Section 4182 (relating to exemptions) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) SMALL MANUFACTURERS, ETC.—

"(1) IN GENERAL.—The tax imposed by section 4181 shall not apply to any article described in such section if manufactured, produced, or imported by a person who manufactures, produces, and imports less than 50 of such articles during the calendar year.

"(2) CONTROLLED GROUPS.—All persons treated as a single employer for purposes of subsection (a) or (b) of section 52 shall be treated as one person for purposes of paragraph (1).".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer on or after the date which is the first day of the month beginning at least 2 weeks after the date of the enactment of this Act.

(2) NO INFERENCE.—Nothing in the amendments made by this section shall be construed to create any inference with respect to the proper tax treatment of any sales before the effective date of such amendments.

SEC. 5442. MODIFIED TAXATION OF IMPORTED ARCHERY PRODUCTS.

(a) BOWS.—Paragraph (1) of section 4161(b) (relating to bows) is amended to read as follows:

"(1) BOWS.—

"(A) IN GENERAL.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any bow which has a peak draw weight of 30 pounds or more, a tax equal to 11 percent of the price for which so sold.

"(B) ARCHERY EQUIPMENT.—There is hereby imposed on the sale by the manufacturer, producer, or importer—

"(i) of any part or accessory suitable for inclusion in or attachment to a bow described in subparagraph (A), and

"(ii) of any quiver or broadhead suitable for use with an arrow described in paragraph (2),

a tax equal to 11 percent of the price for which so sold.".

(b) ARROWS.—Subsection (b) of section 4161 (relating to bows and arrows, etc.) is amended by redesignating paragraph (3) as paragraph (4) and inserting after paragraph (2) the following:

"(3) ARROWS.—

"(A) IN GENERAL.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any arrow, a tax equal to 12 percent of the price for which so sold.

"(B) EXCEPTION.—In the case of any arrow of which the shaft or any other component has been previously taxed under paragraph (1) or (2)—

"(i) section 6416(b)(3) shall not apply, and

"(ii) the tax imposed by subparagraph (A) shall be an amount equal to the excess (if any) of—

"(I) the amount of tax imposed by this paragraph (determined without regard to this subparagraph), over

"(II) the amount of tax paid with respect to the tax imposed under paragraph (1) or (2) on such shaft or component.

"(C) ARROW.—For purposes of this paragraph, the term 'arrow' means any shaft described in paragraph (2) to which additional components are attached.".

(c) CONFORMING AMENDMENTS.—Section 4161(b)(2) is amended—

(1) by inserting "(other than broadheads)" after "point", and

(2) by striking "ARROWS.—" in the heading and inserting "ARROW COMPONENTS.—".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after the date of the enactment of this Act.

SEC. 5443. TREATMENT OF TRIBAL GOVERNMENTS FOR PURPOSES OF FEDERAL WAGERING EXCISE AND OCCUPATIONAL TAXES.

(a) IN GENERAL.—Subsection (a) of section 7871 (relating to Indian tribal governments treated as States for certain purposes) is amended by striking "and" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting "; and", and by adding at the end the following new paragraph:

"(8) for purposes of chapter 35 (relating to taxes on wagering).".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2004, but shall not apply to taxes imposed for periods before such date.

PART VI—OTHER PROVISIONS

SEC. 5451. INCOME TAX CREDIT FOR DISTILLED SPIRITS WHOLESALERS AND FOR DISTILLED SPIRITS IN CONTROL STATE BAILMENT WAREHOUSES FOR COSTS OF CARRYING FEDERAL EXCISE TAXES ON BOTTLED DISTILLED SPIRITS.

(a) IN GENERAL.—Subpart A of part I of subchapter A of chapter 51 (relating to gallonage and occupational taxes) is amended by adding at the end the following new section:

"SEC. 5011. INCOME TAX CREDIT FOR AVERAGE COST OF CARRYING EXCISE TAX.

"(a) IN GENERAL.—For purposes of section 38, the amount of the distilled spirits credit for any taxable year is the amount equal to the product of—

"(1) in the case of—

"(A) any eligible wholesaler—

"(i) the number of cases of bottled distilled spirits—

"(I) which were bottled in the United States, and

"(II) which are purchased by such wholesaler during the taxable year directly from the bottler of such spirits, or

"(B) any person which is subject to section 5005 and which is not an eligible wholesaler, the number of cases of bottled distilled spirits which are stored in a warehouse operated by, or on behalf of, a State, or agency or political subdivision thereof, on which title has not passed on an unconditional sale basis, and

"(2) the average tax-financing cost per case for the most recent calendar year ending before the beginning of such taxable year.

"(b) ELIGIBLE WHOLESALER.—For purposes of this section, the term 'eligible wholesaler' means any person which holds a permit under the Federal Alcohol Administration Act as a wholesaler of distilled spirits which is not a State, or agency or political subdivision thereof.

"(c) AVERAGE TAX-FINANCING COST.—

"(1) IN GENERAL.—For purposes of this section, the average tax-financing cost per case for any calendar year is the amount of interest which would accrue at the deemed financing rate during a 60-day period on an amount equal to the deemed Federal excise tax per case.

"(2) DEEMED FINANCING RATE.—For purposes of paragraph (1), the deemed financing rate for any calendar year is the average of the corporate overpayment rates under paragraph (1) of section 6621(a) (determined without regard to the last sentence of such paragraph) for calendar quarters of such year.

"(3) DEEMED FEDERAL EXCISE TAX PER CASE.—For purposes of paragraph (1), the deemed Federal excise tax per case is $25.68.

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) CASE.—The term 'case' means 12 80-proof 750 milliliter bottles.

"(2) NUMBER OF CASES IN LOT.—The number of cases in any lot of distilled spirits shall be determined by dividing the number of liters in such lot by 9.".

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by section 5103 of this Act, is amended by striking "plus" at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting ", plus", and by adding at the end the following new paragraph:

"(17) the distilled spirits credit determined under section 5011(a).".

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d), as amended by section 5103 of this Act, is amended by adding at the end the following new paragraph:

"(12) NO CARRYBACK OF SECTION 5011 CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 5011(a) may be carried back to a taxable year beginning before the date of the enactment of section 5011.".

(2) The table of sections for subpart A of part I of subchapter A of chapter 51 is amended by adding at the end the following new item:

"Sec. 5011. Income tax credit for average cost of carrying excise tax.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5452. CREDIT FOR TAXPAYERS OWNING COMMERCIAL POWER TAKEOFF VEHICLES.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following new section:

"SEC. 45G. COMMERCIAL POWER TAKEOFF VEHICLES CREDIT.

"(a) General Rule.—For purposes of section 38, the amount of the commercial power takeoff vehicles credit determined under this section for the taxable year is $250 for each qualified commercial power takeoff vehicle owned by the taxpayer as of the close of the calendar year in which or with which the taxable year of the taxpayer ends.

"(b) Definitions.—For purposes of this section—

"(1) Qualified commercial power takeoff vehicle.—The term 'qualified commercial power takeoff vehicle' means any highway vehicle described in paragraph (2) which is propelled by any fuel subject to tax under section 4041 or 4081 if such vehicle is used in a trade or business or for the production of income (and is licensed and insured for such use).

"(2) Highway vehicle described.—A highway vehicle is described in this paragraph if such vehicle is—

"(A) designed to engage in the daily collection of refuse or recyclables from homes or businesses and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a load compactor, or

"(B) designed to deliver ready mixed concrete on a daily basis and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a mixer drum to agitate and mix the product en route to the delivery site.

"(c) Exception for Vehicles Used by Governments, Etc.—No credit shall be allowed under this section for any vehicle owned by any person at the close of a calendar year if such vehicle is used at any time during such year by—

"(1) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions, or

"(2) an organization exempt from tax under section 501(a).

"(d) Termination.—This section shall not apply with respect to any calendar year after 2006.".

(b) Credit Treated as Part of General Business Credit.—Section 38(b) (relating to current year business credit), as amended by section 5451 of this Act, is amended by striking "plus" at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting ", plus", and by adding at the end the following new paragraph:

"(18) the commercial power takeoff vehicles credit under section 45G(a).".

(c) Conforming Amendments.—

(1) Section 39(d), as amended by section 5451 of this Act, is amended by adding at the end the following new paragraph:

"(13) No carryback of section 45G credit before effective date.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45G(a) may be carried back to a taxable year beginning on or before the date of the enactment of section 45G.".

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45G. Commercial power takeoff vehicles credit.".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5453. CREDIT FOR AUXILIARY POWER UNITS INSTALLED ON DIESEL-POWERED TRUCKS.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by section 5452 of this Act, is amended by adding at the end the following new section:

"SEC. 45H. AUXILIARY POWER UNIT CREDIT.

"(a) General Rule.—For purposes of section 38, the amount of the auxiliary power unit credit determined under this section for the taxable year is $250 for each qualified auxiliary power unit—

"(1) purchased by the taxpayer, and

"(2) installed or caused to be installed by the taxpayer on a qualified heavy-duty highway vehicle during such taxable year.

"(b) Definitions.—For purposes of this section—

"(1) Qualified auxiliary power unit.—The term 'qualified auxiliary power unit' means any integrated system which—

"(A) provides heat, air conditioning, engine warming, and electricity to the factory installed components on a qualified heavy-duty highway vehicle as if the main drive engine of such vehicle was in operation,

"(B) is employed to reduce long-term idling of the diesel engine on such a vehicle, and

"(C) is certified by the Environmental Protection Agency as meeting emission standards in regulations in effect on the date of the enactment of this section.

"(2) Qualified heavy-duty highway vehicle.—The term 'qualified heavy-duty highway vehicle' means any highway vehicle weighing more than 12,500 pounds and powered by a diesel engine.

"(c) Termination.—This section shall not apply with respect to any installation occurring after December 31, 2006.".

(b) Credit Treated as Part of General Business Credit.—Section 38(b) (relating to current year business credit), as amended by section 5452 of this Act, is amended by striking "plus" at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting ", plus", and by adding at the end the following new paragraph:

"(19) the auxiliary power unit credit under section 45H(a).".

(c) Conforming Amendments.—

(1) Section 39(d), as amended by section 5452 of this Act, is amended by adding at the end the following new paragraph:

"(14) No carryback of section 45H credit before effective date.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45H(a) may be carried back to a taxable year beginning on or before the date of the enactment of section 45H.".

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by section 5452 of this Act, is amended by adding at the end the following new item:

"Sec. 45H. Auxiliary power unit credit.".

(d) Effective Date.—The amendments made by this section shall apply to auxiliary power units purchased and installed for taxable years beginning after the date of the enactment of this Act.

Subtitle F—Miscellaneous Provisions

SEC. 5501. MOTOR FUEL TAX ENFORCEMENT ADVISORY COMMISSION.

(a) Establishment.—There is established a Motor Fuel Tax Enforcement Advisory Commission (in this section referred to as the "Commission").

(b) Function.—The Commission shall—

(1) review motor fuel revenue collections, historical and current;

(2) review the progress of investigations;

(3) develop and review legislative proposals with respect to motor fuel taxes;

(4) monitor the progress of administrative regulation projects relating to motor fuel taxes;

(5) review the results of Federal and State agency cooperative efforts regarding motor fuel taxes;

(6) review the results of Federal interagency cooperative efforts regarding motor fuel taxes; and

(7) evaluate and make recommendations regarding—

(A) the effectiveness of existing Federal enforcement programs regarding motor fuel taxes,

(B) enforcement personnel allocation, and

(C) proposals for regulatory projects, legislation, and funding.

(c) Membership.—

(1) Appointment.—The Commission shall be composed of the following representatives appointed by the Chairmen and the Ranking Members of the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives:

(A) At least 1 representative from each of the following Federal entities: the Department of Homeland Security, the Department of Transportation—Office of Inspector General, the Federal Highway Administration, the Department of Defense, and the Department of Justice.

(B) At least 1 representative from the Federation of State Tax Administrators.

(C) At least 1 representative from any State department of transportation.

(D) 2 representatives from the highway construction industry.

(E) 5 representatives from industries relating to fuel distribution — refiners (2 representatives), distributors (1 representative), pipelines (1 representative), and terminal operators (2 representatives).

(F) 1 representative from the retail fuel industry.

(G) 2 representatives from the staff of the Committee on Finance of the Senate and 2 representatives from the staff of the Committee on Ways and Means of the House of Representatives.

(2) Terms.—Members shall be appointed for the life of the Commission.

(3) Vacancies.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(4) Travel expenses.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(5) Chairman.—The Chairman of the Commission shall be elected by the members.

(d) Funding.—Such sums as are necessary shall be available from the Highway Trust fund for the expenses of the Commission.

(e) Consultation.—Upon request of the Commission, representatives of the Department of the Treasury and the Internal Revenue Service shall be available for consultation to assist the Commission in carrying out its duties under this section.

(f) Obtaining Data.—The Commission may secure directly from any department or agency of the United States, information (other than information required by any law to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission. The Commission shall also gather evidence through such means as it may deem appropriate, including through holding hearings and soliciting comments by means of Federal Register notices.

(g) TERMINATION.—The Commission shall terminate after September 30, 2009.

SEC. 5502. NATIONAL SURFACE TRANSPORTATION INFRASTRUCTURE FINANCING COMMISSION.

(a) ESTABLISHMENT.—There is established a National Surface Transportation Infrastructure Financing Commission (in this section referred to as the "Commission"). The Commission shall hold its first meeting within 90 days of the appointment of the eighth individual to be named to the Commission.

(b) FUNCTION.—

(1) IN GENERAL.—The Commission shall—

(A) make a thorough investigation and study of revenues flowing into the Highway Trust Fund under current law, including the individual components of the overall flow of such revenues;

(B) consider whether the amount of such revenues is likely to increase, decline, or remain unchanged, absent changes in the law, particularly by taking into account the impact of possible changes in public vehicular choice, fuel use, or travel alternatives that could be expected to reduce or increase revenues into the Highway Trust Fund;

(C) consider alternative approaches to generating revenues for the Highway Trust Fund, and the level of revenues that such alternatives would yield;

(D) consider highway and transit needs and whether additional revenues into the Highway Trust Fund, or other Federal revenues dedicated to highway and transit infrastructure, would be required in order to meet such needs; and

(E) study such other matters closely related to the subjects described in the preceding subparagraphs as it may deem appropriate.

(2) TIME FRAME OF INVESTIGATION AND STUDY.—The time frame to be considered by the Commission shall extend through the year 2015.

(3) PREPARATION OF REPORT.—Based on such investigation and study, the Commission shall develop a final report, with recommendations and the bases for those recommendations, indicating policies that should be adopted, or not adopted, to achieve various levels of annual revenue for the Highway Trust Fund and to enable the Highway Trust Fund to receive revenues sufficient to meet highway and transit needs. Such recommendations shall address, among other matters as the Commission may deem appropriate—

(A) what levels of revenue are required by the Federal Highway Trust Fund in order for it to meet needs to—

(i) maintain, and

(ii) improve the condition and performance of the Nation's highway and transit systems;

(B) what levels of revenue are required by the Federal Highway Trust Fund in order to ensure that Federal levels of investment in highways and transit do not decline in real terms; and

(C) the extent, if any, to which the Highway Trust Fund should be augmented by other mechanisms or funds as a Federal means of financing highway and transit infrastructure investments.

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members, appointed as follows:

(A) 7 members appointed by the Secretary of Transportation, in consultation with the Secretary of the Treasury.

(B) 2 members appointed by the Chairman of the Committee on Ways and Means of the House of Representatives.

(C) 2 members appointed by the Ranking Minority Member of the Committee on Ways and Means of the House of Representatives.

(D) 2 members appointed by the Chairman of the Committee on Finance of the Senate.

(E) 2 members appointed by the Ranking Minority Member of the Committee on Finance of the Senate.

(2) QUALIFICATIONS.—Members appointed pursuant to paragraph (1) shall be appointed from among individuals knowledgeable in the fields of public transportation finance or highway and transit programs, policy, and needs, and may include representatives of interested parties, such as State and local governments or other public transportation authorities or agencies, representatives of the transportation construction industry (including suppliers of technology, machinery and materials), transportation labor (including construction and providers), transportation providers, the financial community, and users of highway and transit systems.

(3) TERMS.—Members shall be appointed for the life of the Commission.

(4) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(5) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(6) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.

(d) STAFF.—The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(e) FUNDING.—Funding for the Commission shall be provided by the Secretary of the Treasury and by the Secretary of Transportation, out of funds available to those agencies for administrative and policy functions.

(f) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any department or agency of the United States may detail any of the personnel of that department or agency to the Commission to assist in carrying out its duties under this section.

(g) OBTAINING DATA.—The Commission may secure directly from any department or agency of the United States, information (other than information required by any law to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission. The Commission shall also gather evidence through such means as it may deem appropriate, including through holding hearings and soliciting comments by means of Federal Register notices.

(h) REPORT.—Not later than 2 years after the date of its first meeting, the Commission shall transmit its final report, including recommendations, to the Secretary of Transportation, the Secretary of the Treasury, and the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Environment and Public Works of the Senate, and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(i) TERMINATION.—The Commission shall terminate on the 180th day following the date of transmittal of the report under subsection (h). All records and papers of the Commission shall thereupon be delivered to the Administrator of General Services for deposit in the National Archives.

SEC. 5503. TREASURY STUDY OF FUEL TAX COMPLIANCE AND INTERAGENCY COOPERATION.

(a) IN GENERAL.—Not later than January 31, 2006, the Secretary of the Treasury shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report regarding fuel tax enforcement which shall include the information and analysis specified in subsections (b) and (c) and any other information and recommendations the Secretary of the Treasury may deem appropriate.

(b) AUDITS.—With respect to audits conducted by the Internal Revenue Service, the report required under subsection (a) shall include—

(1) the number and geographic distribution of audits conducted annually, by fiscal year, between October 1, 2001, and September 30, 2005;

(2) the total volume involved for each of the taxable fuels covered by such audits and a comparison to the annual production of such fuels;

(3) the staff hours and number of personnel devoted to the audits per year; and

(4) the results of such audits by year, including total tax collected, total penalties collected, and number of referrals for criminal prosecution.

(c) ENFORCEMENT ACTIVITIES.—With respect to enforcement activities, the report required under subsection (a) shall include—

(1) the number and geographic distribution of criminal investigations and prosecutions annually, by fiscal year, between October 1, 2001, and September 30, 2005, and the results of such investigations and prosecutions;

(2) to the extent such investigations and prosecutions involved other agencies, State or Federal, a breakdown by agency of the number of joint investigations involved;

(3) an assessment of the effectiveness of joint action and cooperation between the Department of the Treasury and other Federal and State agencies, including a discussion of the ability and need to share information across agencies for both civil and criminal Federal tax enforcement and enforcement of State or Federal laws relating to fuels;

(4) the staff hours and number of personnel devoted to criminal investigations and prosecutions per year;

(5) the staff hours and number of personnel devoted to administrative collection of fuel taxes; and

(6) the results of administrative collection efforts annually, by fiscal year, between October 1, 2001, and September 30, 2005.

SEC. 5504. EXPANSION OF HIGHWAY TRUST FUND EXPENDITURE PURPOSES TO INCLUDE FUNDING FOR STUDIES OF SUPPLEMENTAL OR ALTERNATIVE FINANCING FOR THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—From amounts available in the Highway Trust Fund, there is authorized to be expended for 2 comprehensive studies of supplemental or alternative funding sources for the Highway Trust Fund—

(1) $1,000,000 to the Western Transportation Institute of the College of Engineering at Montana State University for the study and report described in subsection (b), and

(2) $16,500,000 to the Public Policy Center of the University of Iowa for the study and report described in subsection (c).

(b) STUDY OF FUNDING MECHANISMS.—Not later than December 31, 2006, the Western Transportation Institute of the College of Engineering at Montana State University shall report to the Secretary of the Treasury and the Secretary of Transportation on a study of highway funding mechanisms of other industrialized nations, an examination of the viability of alternative funding proposals, including congestion pricing, greater reliance on tolls, privatization of facilities, and bonding for construction of added capacity, and an examination of increasing the rates of motor fuels taxes in effect on the date of the enactment of this Act, including the indexation of such rates.

(c) STUDY ON FIELD TEST OF ON-BOARD COMPUTER ASSESSMENT OF HIGHWAY USE TAXES.—Not later than December 31, 2011, the Public Policy Center of the University of Iowa shall direct, analyze, and report to the Secretary of the Treasury and the Secretary of Transportation

on a long-term field test of an approach to assessing highway use taxes based upon actual mileage driven by a specific vehicle on specific types of highways by use of an on-board computer—

(1) which is linked to satellites to calculate highway mileage traversed,

(2) which computes the appropriate highway use tax for each of the Federal, State, and local governments as the vehicle makes use of the highways, and

(3) the data from which is periodically downloaded by the vehicle owner to a collection center for an assessment of highway use taxes due in each jurisdiction traversed.The components of the field test shall include 2 years for preparation, including selection of vendors and test participants, and 3-year testing period.

SEC. 5505. TREASURY STUDY OF HIGHWAY FUELS USED BY TRUCKS FOR NON-TRANSPORTATION PURPOSES.

(a) STUDY.—The Secretary of the Treasury shall conduct a study regarding the use of highway motor fuel by trucks that is not used for the propulsion of the vehicle. As part of such study—

(1) in the case of vehicles carrying equipment that is unrelated to the transportation function of the vehicle—

(A) the Secretary of the Treasury, in consultation with the Secretary of Transportation, and with public notice and comment, shall determine the average annual amount of tax paid fuel consumed per vehicle, by type of vehicle, used by the propulsion engine to provide the power to operate the equipment attached to the highway vehicle, and

(B) the Secretary of the Treasury shall review the technical and administrative feasibility of exempting such nonpropulsive use of highway fuels for the highway motor fuels excise taxes,

(2) in the case where non-transportation equipment is run by a separate motor—

(A) the Secretary of the Treasury shall determine the annual average amount of fuel exempted from tax in the use of such equipment by equipment type, and

(B) the Secretary of the Treasury shall review issues of administration and compliance related to the present-law exemption provided for such fuel use, and

(3) the Secretary of the Treasury shall—

(A) estimate the amount of taxable fuel consumed by trucks and the emissions of various pollutants due to the long-term idling of diesel engines, and

(B) determine the cost of reducing such long-term idling through the use of plug-ins at truck stops, auxiliary power units, or other technologies.

(b) REPORT.—Not later than January 1, 2006, the Secretary of the Treasury shall report the findings of the study required under subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 5506. DELTA REGIONAL TRANSPORTATION PLAN.

(a) STUDY.—The Delta Regional Authority shall conduct a study of the transportation assets and needs in the States of Alabama, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee which comprise the Delta region.

(b) REGIONAL STRATEGIC TRANSPORTATION PLAN.—Upon completion of the study required under subsection (a), the Delta Regional Authority shall establish a regional strategic transportation plan to achieve efficient transportation systems in the Delta region. In developing the regional strategic transportation plan, the Delta Regional Authority shall consult with local planning and development districts, local and regional governments, metropolitan planning organizations, State transportation entities, and Federal transportation agencies.

(c) ELEMENTS OF STUDY AND PLAN.—The study and plan under this section shall include the following transportation modes and systems: transit, rail, highway, interstate, bridges, air, airports, waterways and ports.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Delta Regional Authority $1,000,000 to carry out the purposes of this section, to remain available until expended.

SEC. 5507. TREATMENT OF EMPLOYER-PROVIDED TRANSIT AND VAN POOLING BENEFITS.

(a) IN GENERAL.—Subparagraph (A) of section 132(f)(2) (relating to limitation on exclusion) is amended by striking "$100" and inserting "$120".

(b) INFLATION ADJUSTMENT CONFORMING AMENDMENTS.—The last sentence of section 132(f)(6)(A) (relating to inflation adjustment) is amended—

(1) by striking "2002" and inserting "2005", and

(2) by striking "2001" and inserting "2004".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 5508. STUDY OF INCENTIVES FOR PRODUCTION OF BIODIESEL.

(a) STUDY.—The General Comptroller of the United States shall conduct a study related to biodiesel fuels and the tax credit for biodiesel fuels established under this Act. Such study shall include—

(1) an assessment on whether such credit provides sufficient assistance to the producers of biodiesel fuel to establish the fuel as a viable energy alternative in the current market place,

(2) an assessment on how long such credit or similar subsidy would have to remain in effect before biodiesel fuel can compete in the market place without such assistance,

(3) a cost-benefit analysis of such credit, comparing the cost of the credit in forgone revenue to the benefits of lower fuel costs for consumers, increased profitability for the biodiesel industry, increased farm income, reduced program outlays from the Department of Agriculture, and the improved environmental conditions through the use of biodiesel fuel, and

(4) an assessment on whether such credit results in any unintended consequences for unrelated industries, including the impact, if any, on the glycerin market.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall report the findings of the study required under subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

Subtitle G—Revenue Offsets

PART I—LIMITATION ON EXPENSING CERTAIN PASSENGER AUTOMOBILES

SEC. 5601. EXPANSION OF LIMITATION ON DEPRECIATION OF CERTAIN PASSENGER AUTOMOBILES.

(a) IN GENERAL.—Section 179(b) (relating to limitations) is amended by adding at the end the following new paragraph:

"(6) LIMITATION ON COST TAKEN INTO ACCOUNT FOR CERTAIN PASSENGER VEHICLES.—

"(A) IN GENERAL.—The cost of any sport utility vehicle for any taxable year which may be taken into account under this section shall not exceed $25,000.

"(B) SPORT UTILITY VEHICLE.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The term 'sport utility vehicle' means any 4-wheeled vehicle which—

"(I) is manufactured primarily for use on public streets, roads, and highways,

"(II) is not subject to section 280F, and

"(III) is rated at not more than 14,000 pounds gross vehicle weight.

"(ii) CERTAIN VEHICLES EXCLUDED.—Such term does not include any vehicle which—

"(I) does not have the primary load carrying device or container attached,

"(II) has a seating capacity of more than 12 individuals,

"(III) is designed for more than 9 individuals in seating rearward of the driver's seat,

"(IV) is equipped with an open cargo area, or a covered box not readily accessible from the passenger compartment, of at least 72.0 inches in interior length, or

"(V) has an integral enclosure, fully enclosing the driver compartment and load carrying device, does not have seating rearward of the driver's seat, and has no body section protruding more than 30 inches ahead of the leading edge of the windshield.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after February 2, 2004.

PART II—PROVISIONS DESIGNED TO CURTAIL TAX SHELTERS

SEC. 5611. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

"(1) GENERAL RULES.—

"(A) IN GENERAL.—In any case in which a court determines that the economic substance doctrine is relevant for purposes of this title to a transaction (or series of transactions), such transaction (or series of transactions) shall have economic substance only if the requirements of this paragraph are met.

"(B) DEFINITION OF ECONOMIC SUBSTANCE.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—A transaction has economic substance only if—

"(I) the transaction changes in a meaningful way (apart from Federal tax effects) the taxpayer's economic position, and

"(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

In applying subclause (II), a purpose of achieving a financial accounting benefit shall not be taken into account in determining whether a transaction has a substantial nontax purpose if the origin of such financial accounting benefit is a reduction of income tax.

"(ii) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

"(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

"(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

"(C) TREATMENT OF FEES AND FOREIGN TAXES.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B)(ii).

"(2) SPECIAL RULES FOR TRANSACTIONS WITH TAX-INDIFFERENT PARTIES.—

"(A) SPECIAL RULES FOR FINANCING TRANSACTIONS.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to *be claimed with respect to the transaction is substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.*

"(B) ARTIFICIAL INCOME SHIFTING AND BASIS ADJUSTMENTS.—The form of a transaction with a tax-indifferent party shall not be respected if—

"(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

"(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

"(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) ECONOMIC SUBSTANCE DOCTRINE.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

"(B) TAX-INDIFFERENT PARTY.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

"(C) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

"(D) TREATMENT OF LESSORS.—In applying paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease—

"(i) the expected net tax benefits with respect to the leased property shall not include the benefits of—

"(I) depreciation,

"(II) any tax credit, or

"(III) any other deduction as provided in guidance by the Secretary, and

"(ii) subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

"(4) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations may include exemptions from the application of this subsection.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after February 2, 2004.

SEC. 5612. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

"SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORTABLE TRANSACTION INFORMATION WITH RETURN OR STATEMENT.

"(a) IMPOSITION OF PENALTY.—Any person who fails to include on any return or statement any information with respect to a reportable transaction which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

"(2) LISTED TRANSACTION.—The amount of the penalty under subsection (a) with respect to a listed transaction shall be $100,000.

"(3) INCREASE IN PENALTY FOR LARGE ENTITIES AND HIGH NET WORTH INDIVIDUALS.—

"(A) IN GENERAL.—In the case of a failure under subsection (a) by—

"(i) a large entity, or

"(ii) a high net worth individual,

the penalty under paragraph (1) or (2) shall be twice the amount determined without regard to this paragraph.

"(B) LARGE ENTITY.—For purposes of subparagraph (A), the term 'large entity' means, with respect to any taxable year, a person (other than a natural person) with gross receipts in excess of $10,000,000 for the taxable year in which the reportable transaction occurs or the preceding taxable year. Rules similar to the rules of paragraph (2) and subparagraphs (B), (C), and (D) of paragraph (3) of section 448(c) shall apply for purposes of this subparagraph.

"(C) HIGH NET WORTH INDIVIDUAL.—For purposes of subparagraph (A), the term 'high net worth individual' means, with respect to a reportable transaction, a natural person whose net worth exceeds $2,000,000 immediately before the transaction.

"(c) DEFINITIONS.—For purposes of this section—

"(1) REPORTABLE TRANSACTION.—The term 'reportable transaction' means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

"(2) LISTED TRANSACTION.—Except as provided in regulations, the term 'listed transaction' means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

"(d) AUTHORITY TO RESCIND PENALTY.—

"(1) IN GENERAL.—The Commissioner of Internal Revenue may rescind all or any portion of any penalty imposed by this section with respect to any violation if—

"(A) the violation is with respect to a reportable transaction other than a listed transaction,

"(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

"(C) it is shown that the violation is due to an unintentional mistake of fact;

"(D) imposing the penalty would be against equity and good conscience, and

"(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

"(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

"(3) NO APPEAL.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

"(4) RECORDS.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

"(A) the facts and circumstances of the transaction,

"(B) the reasons for the rescission, and

"(C) the amount of the penalty rescinded.

"(5) REPORT.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

"(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

"(B) a description of each penalty rescinded under this subsection and the reasons therefor.

"(e) PENALTY REPORTED TO SEC.—In the case of a person—

"(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

"(2) which—

"(A) is required to pay a penalty under this section with respect to a listed transaction,

"(B) is required to pay a penalty under section 6662A with respect to any reportable transaction at a rate prescribed under section 6662A(c), or

"(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction,

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

"(f) COORDINATION WITH OTHER PENALTIES.—The penalty imposed by this section is in addition to any penalty imposed under this title.".

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

"Sec. 6707A. Penalty for failure to include reportable transaction information with return or statement.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

SEC. 5613. ACCURACY-RELATED PENALTY FOR LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662 the following new section:

"SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERSTATEMENTS WITH RESPECT TO REPORTABLE TRANSACTIONS.

"(a) IMPOSITION OF PENALTY.—If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of such understatement.

"(b) REPORTABLE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

"(1) IN GENERAL.—The term 'reportable transaction understatement' means the sum of—

"(A) the product of—

"(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of such item (as shown on the taxpayer's return of tax), and

"(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

"(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer's treatment of an item to which this section applies (as shown on the taxpayer's return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

"(2) ITEMS TO WHICH SECTION APPLIES.—This section shall apply to any item which is attributable to—

"(A) any listed transaction, and

"(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

"(c) HIGHER PENALTY FOR NONDISCLOSED LISTED AND OTHER AVOIDANCE TRANSACTIONS.—

"(1) IN GENERAL.—Subsection (a) shall be applied by substituting '30 percent' for '20 percent' with respect to the portion of any reportable transaction understatement with respect to which the requirement of section 6664(d)(2)(A) is not met.

"(2) RULES APPLICABLE TO ASSERTION AND COMPROMISE OF PENALTY.—

"(A) IN GENERAL.—Only upon the approval by the Chief Counsel for the Internal Revenue Service or the Chief Counsel's delegate at the national office of the Internal Revenue Service may a penalty to which paragraph (1) applies be included in a 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals. If such a letter is provided to the taxpayer, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

"(B) APPLICABLE RULES.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of subparagraph (A).

"(d) DEFINITIONS OF REPORTABLE AND LISTED TRANSACTIONS.—For purposes of this section, the terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

"(e) SPECIAL RULES.—

"(1) COORDINATION WITH PENALTIES, ETC., ON OTHER UNDERSTATEMENTS.—In the case of an understatement (as defined in section 6662(d)(2))—

"(A) the amount of such understatement (determined without regard to this paragraph) shall be increased by the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), and

"(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the application of subparagraph (A) over the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements.

"(2) COORDINATION WITH OTHER PENALTIES.—

"(A) APPLICATION OF FRAUD PENALTY.—References to an underpayment in section 6663 shall be treated as including references to a reportable transaction understatement and a noneconomic substance transaction understatement.

"(B) NO DOUBLE PENALTY.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6662B or 6663.

"(3) SPECIAL RULE FOR AMENDED RETURNS.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction understatement or noneconomic substance transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

"(4) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this subsection, the term 'noneconomic substance transaction understatement' has the meaning given such term by section 6662B(c).

"(5) CROSS REFERENCE.—

"For reporting of section 6662A(c) penalty to the Securities and Exchange Commission, see section 6707A(e).".

(b) DETERMINATION OF OTHER UNDERSTATEMENTS.—Subparagraph (A) of section 6662(d)(2) is amended by adding at the end the following flush sentence:

"The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies and without regard to items with respect to which a penalty is imposed by section 6662B.".

(c) REASONABLE CAUSE EXCEPTION.—

(1) IN GENERAL.—Section 6664 is amended by adding at the end the following new subsection:

"(d) REASONABLE CAUSE EXCEPTION FOR REPORTABLE TRANSACTION UNDERSTATEMENTS.—

"(1) IN GENERAL.—No penalty shall be imposed under section 6662A with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

"(2) SPECIAL RULES.—Paragraph (1) shall not apply to any reportable transaction understatement unless—

"(A) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under section 6011,

"(B) there is or was substantial authority for such treatment, and

"(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the requirements of subparagraph (A) if the penalty for such failure was rescinded under section 6707A(d).

"(3) RULES RELATING TO REASONABLE BELIEF.—For purposes of paragraph (2)(C)—

"(A) IN GENERAL.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

"(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

"(ii) relates solely to the taxpayer's chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

"(B) CERTAIN OPINIONS MAY NOT BE RELIED UPON.—

"(i) IN GENERAL.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

"(I) the tax advisor is described in clause (ii), or

"(II) the opinion is described in clause (iii).

"(ii) DISQUALIFIED TAX ADVISORS.—A tax advisor is described in this clause if the tax advisor—

"(I) is a material advisor (within the meaning of section 6111(b)(1)) who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

"(II) is compensated directly or indirectly by a material advisor with respect to the transaction,

"(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained, or

"(IV) as determined under regulations prescribed by the Secretary, has a disqualifying financial interest with respect to the transaction.

"(iii) DISQUALIFIED OPINIONS.—For purposes of clause (i), an opinion is disqualified if the opinion—

"(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

"(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

"(III) does not identify and consider all relevant facts, or

"(IV) fails to meet any other requirement as the Secretary may prescribe.".

(2) CONFORMING AMENDMENT.—The heading for subsection (c) of section 6664 is amended by inserting "FOR UNDERPAYMENTS" after "EXCEPTION".

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking "(as defined in section 6662(d)(2)(C)(iii))" in subparagraph (B)(i), and

(B) by adding at the end the following new subparagraph:

"(C) TAX SHELTER.—For purposes of subparagraph (B), the term 'tax shelter' means—

"(i) a partnership or other entity,

"(ii) any investment plan or arrangement, or

"(iii) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.".

(3) Section 6662(d)(2) is amended by striking subparagraphs (C) and (D).

(4) Section 6664(c)(1) is amended by striking "this part" and inserting "section 6662 or 6663".

(5) Subsection (b) of section 7525 is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(6)(A) The heading for section 6662 is amended to read as follows:

"SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERPAYMENTS.".

(B) The table of sections for part II of subchapter A of chapter 68 is amended by striking the item relating to section 6662 and inserting the following new items:

"Sec. 6662. Imposition of accuracy-related penalty on underpayments.

"Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 5614. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662A the following new section:

"SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

"(a) IMPOSITION OF PENALTY.—If a taxpayer has an noneconomic substance transaction understatement for any taxable year, there shall be

added to the tax an amount equal to 40 percent of the amount of such understatement.

"(b) REDUCTION OF PENALTY FOR DISCLOSED TRANSACTIONS.—Subsection (a) shall be applied by substituting '20 percent' for '40 percent' with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or a statement attached to the return.

"(c) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

"(1) IN GENERAL.—The term 'noneconomic substance transaction understatement' means any amount which would be an understatement under section 6662A(b)(1) if section 6662A were applied by taking into account items attributable to noneconomic substance transactions rather than items to which section 6662A would apply without regard to this paragraph.

"(2) NONECONOMIC SUBSTANCE TRANSACTION.—The term 'noneconomic substance transaction' means any transaction if—

"(A) there is a lack of economic substance (within the meaning of section 7701(n)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(n)(2), or

"(B) the transaction fails to meet the requirements of any similar rule of law.

"(d) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

"(1) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

"(2) APPLICABLE RULES.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of paragraph (1).

"(e) COORDINATION WITH OTHER PENALTIES.—Except as otherwise provided in this part, the penalty imposed by this section shall be in addition to any other penalty imposed by this title.

"(f) CROSS REFERENCES.—

"(1) For coordination of penalty with understatements under section 6662 and other special rules, see section 6662A(e).

"(2) For reporting of penalty imposed under this section to the Securities and Exchange Commission, see section 6707A(e).".

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter A of chapter 68 is amended by inserting after the item relating to section 6662A the following new item:

"Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after February 2, 2004.

SEC. 5615. MODIFICATIONS OF SUBSTANTIAL UNDERSTATEMENT PENALTY FOR NONREPORTABLE TRANSACTIONS.

(a) SUBSTANTIAL UNDERSTATEMENT OF CORPORATIONS.—Section 6662(d)(1)(B) (relating to special rule for corporations) is amended to read as follows:

"(B) SPECIAL RULE FOR CORPORATIONS.—In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

"(i) 10 percent of the tax required to be shown on the return for the taxable year (or, if greater, $10,000), or

"(ii) $10,000,000.".

(b) REDUCTION FOR UNDERSTATEMENT OF TAXPAYER DUE TO POSITION OF TAXPAYER OR DISCLOSED ITEM.—

(1) IN GENERAL.—Section 6662(d)(2)(B)(i) (relating to substantial authority) is amended to read as follows:

"(i) the tax treatment of any item by the taxpayer if the taxpayer had reasonable belief that the tax treatment was more likely than not the proper treatment, or".

(2) CONFORMING AMENDMENT.—Section 6662(d) is amended by adding at the end the following new paragraph:

"(3) SECRETARIAL LIST.—For purposes of this subsection, section 6664(d)(2), and section 6694(a)(1), the Secretary may prescribe a list of positions for which the Secretary believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper tax treatment. Such list (and any revisions thereof) shall be published in the Federal Register or the Internal Revenue Bulletin.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5616. TAX SHELTER EXCEPTION TO CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.

(a) IN GENERAL.—Section 7525(b) (relating to section not to apply to communications regarding corporate tax shelters) is amended to read as follows:

"(b) SECTION NOT TO APPLY TO COMMUNICATIONS REGARDING TAX SHELTERS.—The privilege under subsection (a) shall not apply to any written communication which is—

"(1) between a federally authorized tax practitioner and—

"(A) any person,

"(B) any director, officer, employee, agent, or representative of the person, or

"(C) any other person holding a capital or profits interest in the person, and

"(2) in connection with the promotion of the direct or indirect participation of the person in any tax shelter (as defined in section 1274(b)(3)(C)).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to communications made on or after the date of the enactment of this Act.

SEC. 5617. DISCLOSURE OF REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

"SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.

"(a) IN GENERAL.—Each material advisor with respect to any reportable transaction shall make a return (in such form as the Secretary may prescribe) setting forth—

"(1) information identifying and describing the transaction,

"(2) information describing any potential tax benefits expected to result from the transaction, and

"(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date specified by the Secretary.

"(b) DEFINITIONS.—For purposes of this section—

"(1) MATERIAL ADVISOR.—

"(A) IN GENERAL.—The term 'material advisor' means any person—

"(i) who provides any material aid, assistance, or advice with respect to organizing, managing, promoting, selling, implementing, or carrying out any reportable transaction, and

"(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

"(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A), the threshold amount is—

"(i) $50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons, and

"(ii) $250,000 in any other case.

"(2) REPORTABLE TRANSACTION.—The term 'reportable transaction' has the meaning given to such term by section 6707A(c).

"(c) REGULATIONS.—The Secretary may prescribe regulations which provide—

"(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

"(2) exemptions from the requirements of this section, and

"(3) such rules as may be necessary or appropriate to carry out the purposes of this section.".

(b) CONFORMING AMENDMENTS.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6111. Disclosure of reportable transactions.".

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

"SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANSACTIONS MUST KEEP LISTS OF ADVISEES.

"(a) IN GENERAL.—Each material advisor (as defined in section 6111) with respect to any reportable transaction (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

"(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such transaction, and

"(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction.".

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting "written" before "request" in paragraph (1)(A), and

(ii) by striking "shall prescribe" in paragraph (2) and inserting "may prescribe".

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6112. Material advisors of reportable transactions must keep lists of advisees.".

(3)(A) The heading for section 6708 is amended to read as follows:

"SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES WITH RESPECT TO REPORTABLE TRANSACTIONS.".

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

"Sec. 6708. Failure to maintain lists of advisees with respect to reportable transactions.".

(c) REQUIRED DISCLOSURE NOT SUBJECT TO CLAIM OF CONFIDENTIALITY.—Subparagraph (A) of section 6112(b)(1), as redesignated by subsection (b)(2)(B), is amended by adding at the end the following new flush sentence:

"For purposes of this section, the identity of any person on such list shall not be privileged.".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section) is provided after the date of the enactment of this Act.

(2) NO CLAIM OF CONFIDENTIALITY AGAINST DISCLOSURE.—The amendment made by subsection (c) shall take effect as if included in the amendments made by section 142 of the Deficit Reduction Act of 1984.

SEC. 5618. MODIFICATIONS TO PENALTY FOR FAILURE TO REGISTER TAX SHELTERS.

(a) IN GENERAL.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

"SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING REPORTABLE TRANSACTIONS.

"(a) IN GENERAL.—If a person who is required to file a return under section 6111(a) with respect to any reportable transaction—

"(1) fails to file such return on or before the date prescribed therefor, or

"(2) files false or incomplete information with the Secretary with respect to such transaction, such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be $50,000.

"(2) LISTED TRANSACTIONS.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

"(A) $200,000, or

"(B) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the listed transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in subsection (a).

"(c) CERTAIN RULES TO APPLY.—The provisions of section 6707A(d) shall apply to any penalty imposed under this section.

"(d) REPORTABLE AND LISTED TRANSACTIONS.—The terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).".

(b) CLERICAL AMENDMENT.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking "tax shelters" and inserting "reportable transactions".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

SEC. 5619. MODIFICATION OF PENALTY FOR FAILURE TO MAINTAIN LISTS OF INVESTORS.

(a) IN GENERAL.—Subsection (a) of section 6708 is amended to read as follows:

"(a) IMPOSITION OF PENALTY.—

"(1) IN GENERAL.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day.

"(2) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if such failure is due to reasonable cause.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 5620. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 7408 (relating to action to enjoin promoters of abusive tax shelters, etc.) is amended by redesignating subsection (c) as subsection (d) and by striking subsections (a) and (b) and inserting the following new subsections:

"(a) AUTHORITY TO SEEK INJUNCTION.—A civil action in the name of the United States to enjoin any person from further engaging in specified conduct may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in specified conduct. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

"(b) ADJUDICATION AND DECREE.—In any action under subsection (a), if the court finds—

"(1) that the person has engaged in any specified conduct, and

"(2) that injunctive relief is appropriate to prevent recurrence of sucn conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under this title.

"(c) SPECIFIED CONDUCT.—For purposes of this section, the term 'specified conduct' means any action, or failure to take action, subject to penalty under section 6700, 6701, 6707, or 6708.".

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 7408 is amended to read as follows:

"SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.".

(2) The table of sections for subchapter A of chapter 67 is amended by striking the item relating to section 7408 and inserting the following new item:

"Sec. 7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions.".

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the day after the date of the enactment of this Act.

SEC. 5621. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY INCOME TAX RETURN PREPARER.

(a) STANDARDS CONFORMED TO TAXPAYER STANDARDS.—Section 6694(a) (relating to understatements due to unrealistic positions) is amended—

(1) by striking "realistic possibility of being sustained on its merits" in paragraph (1) and inserting "reasonable belief that the tax treatment in such position was more likely than not the proper treatment",

(2) by striking "or was frivolous" in paragraph (3) and inserting "or there was no reasonable basis for the tax treatment of such position", and

(3) by striking "UNREALISTIC" in the heading and inserting "IMPROPER".

(b) AMOUNT OF PENALTY.—Section 6694 is amended—

(1) by striking "$250" in subsection (a) and inserting "$1,000", and

(2) by striking "$1,000" in subsection (b) and inserting "$5,000".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to documents prepared after the date of the enactment of this Act.

SEC. 5622. PENALTY ON FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) IN GENERAL.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

"(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

"(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

"(B) AMOUNT OF PENALTY.—

"(i) IN GENERAL.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $5,000.

"(ii) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

"(I) such violation was due to reasonable cause, and

"(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

"(C) WILLFUL VIOLATIONS.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

"(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

"(I) $25,000, or

"(II) the amount (not exceeding $100,000) determined under subparagraph (D), and

"(ii) subparagraph (B)(ii) shall not apply.

"(D) AMOUNT.—The amount determined under this subparagraph is—

"(i) in the case of a violation involving a transaction, the amount of the transaction, or

"(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

SEC. 5623. FRIVOLOUS TAX SUBMISSIONS.

(a) CIVIL PENALTIES.—Section 6702 is amended to read as follows:

"SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

"(a) CIVIL PENALTY FOR FRIVOLOUS TAX RETURNS.—A person shall pay a penalty of $5,000 if—

"(1) such person files what purports to be a return of a tax imposed by this title but which—

"(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

"(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

"(2) the conduct referred to in paragraph (1)—

"(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(B) reflects a desire to delay or impede the administration of Federal tax laws.

"(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS.—

"(1) IMPOSITION OF PENALTY.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

"(2) SPECIFIED FRIVOLOUS SUBMISSION.—For purposes of this section—

"(A) SPECIFIED FRIVOLOUS SUBMISSION.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

"(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(ii) reflects a desire to delay or impede the administration of Federal tax laws.

"(B) SPECIFIED SUBMISSION.—The term 'specified submission' means—

"(i) a request for a hearing under—

"(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

"(II) section 6330 (relating to notice and opportunity for hearing before levy), and "(ii) an application under—

"(I) section 6159 (relating to agreements for payment of tax liability in installments),

"(II) section 7122 (relating to compromises), or

"(III) section 7811 (relating to taxpayer assistance orders).

"(3) OPPORTUNITY TO WITHDRAW SUBMISSION.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

"(c) LISTING OF FRIVOLOUS POSITIONS.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

"(d) REDUCTION OF PENALTY.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

"(e) PENALTIES IN ADDITION TO OTHER PENALTIES.—The penalties imposed by this section shall be in addition to any other penalty provided by law.".

(b) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS BEFORE LEVY.—

(1) FRIVOLOUS REQUESTS DISREGARDED.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

"(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.".

(2) PRECLUSION FROM RAISING FRIVOLOUS ISSUES AT HEARING.—Section 6330(c)(4) is amended—

(A) by striking "(A)" and inserting "(A)(i)";

(B) by striking "(B)" and inserting "(ii)";

(C) by striking the period at the end of the first sentence and inserting "; or"; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

"(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).".

(3) STATEMENT OF GROUNDS.—Section 6330(b)(1) is amended by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing".

(c) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS UPON FILING OF NOTICE OF LIEN.—Section 6320 is amended—

(1) in subsection (b)(1), by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing", and

(2) in subsection (c), by striking "and (e)" and inserting "(e), and (g)".

(d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR OFFERS-IN-COMPROMISE AND INSTALLMENT AGREEMENTS.—Section 7122 is amended by adding at the end the following new subsection:

"(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.".

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

"Sec. 6702. Frivolous tax submissions.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 5624. REGULATION OF INDIVIDUALS PRACTICING BEFORE THE DEPARTMENT OF TREASURY.

(a) CENSURE; IMPOSITION OF PENALTY.—

(1) IN GENERAL.—Section 330(b) of title 31, United States Code, is amended—

(A) by inserting ", or censure," after "Department", and

(B) by adding at the end the following new flush sentence:

"The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty shall not exceed the gross income derived (or to be derived) from the conduct giving rise to the penalty and may be in addition to, or in lieu of, any suspension, disbarment, or censure of the representative.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to actions taken after the date of the enactment of this Act.

(b) TAX SHELTER OPINIONS, ETC.—Section 330 of such title 31 is amended by adding at the end the following new subsection:

"(d) Nothing in this section or in any other provision of law shall be construed to limit the authority of the Secretary of the Treasury to impose standards applicable to the rendering of written advice with respect to any entity, transaction plan or arrangement, or other plan or arrangement, which is of a type which the Secretary determines as having a potential for tax avoidance or evasion.".

SEC. 5625. PENALTY ON PROMOTERS OF TAX SHELTERS.

(a) PENALTY ON PROMOTING ABUSIVE TAX SHELTERS.—Section 6700(a) is amended by adding at the end the following new sentence: "Notwithstanding the first sentence, if an activity with respect to which a penalty imposed under this subsection involves a statement described in paragraph (2)(A), the amount of the penalty shall be equal to 50 percent of the gross income derived (or to be derived) from such activity by the person on which the penalty is imposed.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to activities after the date of the enactment of this Act.

SEC. 5626. STATUTE OF LIMITATIONS FOR TAXABLE YEARS FOR WHICH REQUIRED LISTED TRANSACTIONS NOT REPORTED.

(a) IN GENERAL.—Section 6501(c) (relating to exceptions) is amended by adding at the end the following new paragraph:

"(10) LISTED TRANSACTIONS.—If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a listed transaction (as defined in section 6707A(c)(2)) which is required under section 6011 to be included with such return or statement, the time for assessment of any tax imposed by this title with respect to such transaction shall not expire before the date which is 1 year after the earlier of—

"(A) the date on which the Secretary is furnished the information so required; or

"(B) the date that a material advisor (as defined in section 6111) meets the requirements of section 6112 with respect to a request by the Secretary under section 6112(b) relating to such transaction with respect to such taxpayer.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years with respect to which the period for assessing a deficiency did not expire before the date of the enactment of this Act.

SEC. 5627. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONDISCLOSED REPORTABLE AND NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) IN GENERAL.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) INTEREST ON UNPAID TAXES ATTRIBUTABLE TO NONDISCLOSED REPORTABLE TRANSACTIONS AND NONECONOMIC SUBSTANCE TRANSACTIONS.—No deduction shall be allowed under this chapter for any interest paid or accrued under section 6601 on any underpayment of tax which is attributable to—

"(1) the portion of any reportable transaction understatement (as defined in section 6662A(b)) with respect to which the requirement of section 6664(d)(2)(A) is not met, or

"(2) any noneconomic substance transaction understatement (as defined in section 6662B(c)).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions in taxable years beginning after the date of the enactment of this Act.

SEC. 5628. AUTHORIZATION OF APPROPRIATIONS FOR TAX LAW ENFORCEMENT.

There is authorized to be appropriated $300,000,000 for each fiscal year beginning after September 30, 2003, for the purpose of carrying out tax law enforcement to combat tax avoidance transactions and other tax shelters, including the use of offshore financial accounts to conceal taxable income.

PART III—OTHER CORPORATE GOVERNANCE PROVISIONS

SEC. 5631. AFFIRMATION OF CONSOLIDATED RETURN REGULATION AUTHORITY.

(a) IN GENERAL.—Section 1502 (relating to consolidated return regulations) is amended by adding at the end the following new sentence: "In prescribing such regulations, the Secretary may prescribe rules applicable to corporations filing consolidated returns under section 1501 that are different from other provisions of this title that would apply if such corporations filed separate returns.".

(b) RESULT NOT OVERTURNED.—Notwithstanding subsection (a), the Internal Revenue Code of 1986 shall be construed by treating Treasury regulation §1.1502–20(c)(1)(iii) (as in effect on January 1, 2001) as being inapplicable to the type of factual situation in 255 F.3d 1357 (Fed. Cir. 2001).

(c) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

SEC. 5632. DECLARATION BY CHIEF EXECUTIVE OFFICER RELATING TO FEDERAL ANNUAL CORPORATE INCOME TAX RETURN.

(a) IN GENERAL.—The Federal tax return of a corporation with respect to income shall also include a declaration signed by the chief executive officer of such corporation (or other such officer of the corporation as the Secretary of the Treasury may designate if the corporation does not have a chief executive officer), under penalties of perjury, that the chief executive officer has established processes and procedures that ensure that such return complies with the Internal Revenue Code of 1986 and that the chief executive officer was provided reasonable assurance of the accuracy of all material aspects of such return. The preceding sentence shall not apply to any return of a regulated investment company (within the meaning of section 851 of such Code).

(b) EFFECTIVE DATE.—This section shall apply to Federal tax returns filed after the date of the enactment of this Act.

SEC. 5633. DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

(a) IN GENERAL.—Subsection (f) of section 162 (relating to trade or business expenses) is amended to read as follows:

"(f) FINES, PENALTIES, AND OTHER AMOUNTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred (whether by suit; agreement, or otherwise) to, or at the direction of, a government or entity described in paragraph (4) in relation to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law.

"(2) EXCEPTION FOR AMOUNTS CONSTITUTING RESTITUTION.—Paragraph (1) shall not apply to any amount which the taxpayer establishes constitutes restitution for damage or harm caused by the violation of any law or the potential violation of any law. This paragraph shall not apply to any amount paid or incurred as reimbursement to the government or entity for the costs of any investigation or litigation.

"(3) EXCEPTION FOR AMOUNTS PAID OR INCURRED AS THE RESULT OF CERTAIN COURT ORDERS.—Paragraph (1) shall not apply to any amount paid or incurred by order of a court in a suit in which no government or entity described in paragraph (4) is a party.

"(4) CERTAIN NONGOVERNMENTAL REGULATORY ENTITIES.—An entity is described in this paragraph if it is—

"(A) a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7)), or

"(B) to the extent provided in regulations, a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after April 27, 2003, except that such amendment shall not apply to amounts paid or incurred under any binding order or agreement entered into on or before April 27, 2003. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained on or before April 27, 2003.

SEC. 5634. DISALLOWANCE OF DEDUCTION FOR PUNITIVE DAMAGES.

(a) DISALLOWANCE OF DEDUCTION.—

(1) IN GENERAL.—Section 162(g) (relating to treble damage payments under the antitrust laws) is amended by adding at the end the following new paragraph:

"(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).".

(2) CONFORMING AMENDMENTS.—

(A) Section 162(g) is amended—

(i) by striking "If" and inserting:

"(1) TREBLE DAMAGES.—If", and

(ii) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively.

(B) The heading for section 162(g) is amended by inserting "OR PUNITIVE DAMAGES" after "LAWS".

(b) INCLUSION IN INCOME OF PUNITIVE DAMAGES PAID BY INSURER OR OTHERWISE.—

(1) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end the following new section:

"SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSURANCE OR OTHERWISE.

"Gross income shall include any amount paid to or on behalf of a taxpayer as insurance or otherwise by reason of the taxpayer's liability (or agreement) to pay punitive damages.".

(2) REPORTING REQUIREMENTS.—Section 6041 (relating to information at source) is amended by adding at the end the following new subsection:

"(f) SECTION TO APPLY TO PUNITIVE DAMAGES COMPENSATION.—This section shall apply to payments by a person to or on behalf of another person as insurance or otherwise by reason of the other person's liability (or agreement) to pay punitive damages.".

(3) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end the following new item:

"Sec. 91. Punitive damages compensated by insurance or otherwise.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to damages paid or incurred on or after the date of the enactment of this Act.

SEC. 5635. INCREASE IN CRIMINAL MONETARY PENALTY LIMITATION FOR THE UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.

(a) IN GENERAL.—Section 7206 (relating to fraud and false statements) is amended—

(1) by striking "Any person who—" and inserting "(a) IN GENERAL.—Any person who—", and

(2) by adding at the end the following new subsection:

"(b) INCREASE IN MONETARY LIMITATION FOR UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.—If any portion of any underpayment (as defined in section 6664(a)) or overpayment (as defined in section 6401(a)) of tax required to be shown on a return is attributable to fraudulent action described in subsection (a), the applicable dollar amount under subsection (a) shall in no event be less than an amount equal to such portion. A rule similar to the rule under section 6663(b) shall apply for purposes of determining the portion so attributable.".

(b) INCREASE IN PENALTIES.—

(1) ATTEMPT TO EVADE OR DEFEAT TAX.—Section 7201 is amended—

(A) by striking "$100,000" and inserting "$250,000",

(B) by striking "$500,000" and inserting "$1,000,000", and

(C) by striking "5 years" and inserting "10 years".

(2) WILLFUL FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR PAY TAX.—Section 7203 is amended—

(A) in the first sentence—

(i) by striking "misdemeanor" and inserting "felony", and

(ii) by striking "1 year" and inserting "10 years", and

(B) by striking the third sentence.

(3) FRAUD AND FALSE STATEMENTS.—Section 7206(a) (as redesignated by subsection (a)) is amended—

(A) by striking "$100,000" and inserting "$250,000",

(B) by striking "$500,000" and inserting "$1,000,000", and

(C) by striking "3 years" and inserting "5 years".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to underpayments and overpayments attributable to actions occurring after the date of the enactment of this Act.

SEC. 5636. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENTS.

(a) GENERAL RULE.—If—

(1) a taxpayer eligible to participate in—

(A) the Department of the Treasury's Offshore Voluntary Compliance Initiative, or

(B) the Department of the Treasury's voluntary disclosure initiative which applies to the taxpayer by reason of the taxpayer's underreporting of United States income tax liability through financial arrangements which rely on the use of offshore arrangements which were the subject of the initiative described in subparagraph (A), and

(2) any interest or applicable penalty is imposed with respect to any arrangement to which any initiative described in paragraph (1) applied or to any underpayment of Federal income tax attributable to items arising in connection with any arrangement described in paragraph (1),

then, notwithstanding any other provision of law, the amount of such interest or penalty shall be equal to twice that determined without regard to this section.

(b) DEFINITIONS AND RULES.—For purposes of this section—

(1) APPLICABLE PENALTY.—The term "applicable penalty" means any penalty, addition to tax, or fine imposed under chapter 68 of the Internal Revenue Code of 1986.

(2) VOLUNTARY OFFSHORE COMPLIANCE INITIATIVE.—The term "Voluntary Offshore Compliance Initiative" means the program established by the Department of the Treasury in January of 2003 under which any taxpayer was eligible to voluntarily disclose previously undisclosed income on assets placed in offshore accounts and accessed through credit card and other financial arrangements.

(3) PARTICIPATION.—A taxpayer shall be treated as having participated in the Voluntary Offshore Compliance Initiative if the taxpayer submitted the request in a timely manner and all information requested by the Secretary of the Treasury or his delegate within a reasonable period of time following the request.

(c) EFFECTIVE DATE.—The provisions of this section shall apply to interest, penalties, additions to tax, and fines with respect to any taxable year if as of the date of the enactment of this Act, the assessment of any tax, penalty, or interest with respect to such taxable year is not prevented by the operation of any law or rule of law.

PART IV—ENRON-RELATED TAX SHELTER PROVISIONS

SEC. 5641. LIMITATION ON TRANSFER OR IMPORTATION OF BUILT-IN LOSSES.

(a) IN GENERAL.—Section 362 (relating to basis to corporations) is amended by adding at the end the following new subsection:

"(e) LIMITATIONS ON BUILT-IN LOSSES.—

"(1) LIMITATION ON IMPORTATION OF BUILT-IN LOSSES.—

"(A) IN GENERAL.—If in any transaction described in subsection (a) or (b) there would (but for this subsection) be an importation of a net built-in loss, the basis of each property described in subparagraph (B) which is acquired in such transaction shall (notwithstanding subsections (a) and (b)) be its fair market value immediately after such transaction.

"(B) PROPERTY DESCRIBED.—For purposes of subparagraph (A), property is described in this subparagraph if—

"(i) gain or loss with respect to such property is not subject to tax under this subtitle in the hands of the transferor immediately before the transfer, and

"(ii) gain or loss with respect to such property is subject to such tax in the hands of the transferee immediately after such transfer.

In any case in which the transferor is a partnership, the preceding sentence shall be applied by treating each partner in such partnership as holding such partner's proportionate share of the property of such partnership.

"(C) Importation of net built-in loss.—For purposes of subparagraph (A), there is an importation of a net built-in loss in a transaction if the transferee's aggregate adjusted bases of property described in subparagraph (B) which is transferred in such transaction would (but for this paragraph) exceed the fair market value of such property immediately after such transaction.".

"(2) Limitation on transfer of built-in losses in section 351 transactions.—

"(A) In general.—If—

"(i) property is transferred by a transferor in any transaction which is described in subsection (a) and which is not described in paragraph (1) of this subsection, and

"(ii) the transferee's aggregate adjusted bases of such property so transferred would (but for this paragraph) exceed the fair market value of such property immediately after such transaction,

then, notwithstanding subsection (a), the transferee's aggregate adjusted bases of the property so transferred shall not exceed the fair market value of such property immediately after such transaction.

"(B) Allocation of basis reduction.—The aggregate reduction in basis by reason of subparagraph (A) shall be allocated among the property so transferred in proportion to their respective built-in losses immediately before the transaction.

"(C) Exception for transfers within affiliated group.—Subparagraph (A) shall not apply to any transaction if the transferor owns stock in the transferee meeting the requirements of section 1504(a)(2). In the case of property to which subparagraph (A) does not apply by reason of the preceding sentence, the transferor's basis in the stock received for such property shall not exceed its fair market value immediately after the transfer.".

(b) Comparable Treatment Where Liquidation.—Paragraph (1) of section 334(b) (relating to liquidation of subsidiary) is amended to read as follows:

"(1) In general.—If property is received by a corporate distributee in a distribution in a complete liquidation to which section 332 applies (or in a transfer described in section 337(b)(1)), the basis of such property in the hands of such distributee shall be the same as it would be in the hands of the transferor; except that the basis of such property in the hands of such distributee shall be the fair market value of the property at the time of the distribution—

"(A) in any case in which gain or loss is recognized by the liquidating corporation with respect to such property, or

"(B) in any case in which the liquidating corporation is a foreign corporation, the corporate distributee is a domestic corporation, and the corporate distributee's aggregate adjusted bases of property described in section 362(e)(1)(B) which is distributed in such liquidation would (but for this subparagraph) exceed the fair market value of such property immediately after such liquidation.".

(c) Effective Date.—The amendments made by this section shall apply to transactions after February 13, 2003.

SEC. 5642. NO REDUCTION OF BASIS UNDER SECTION 734 IN STOCK HELD BY PARTNERSHIP IN CORPORATE PARTNER.

(a) In General.—Section 755 is amended by adding at the end the following new subsection:

"(c) No Allocation of Basis Decrease to Stock of Corporate Partner.—In making an allocation under subsection (a) of any decrease in the adjusted basis of partnership property under section 734(b)—

"(1) no allocation may be made to stock in a corporation (or any person which is related (within the meaning of section 267(b) or 707(b)(1)) to such corporation) which is a partner in the partnership, and

"(2) any amount not allocable to stock by reason of paragraph (1) shall be allocated under subsection (a) to other partnership property in such manner as the Secretary may prescribe.

Gain shall be recognized to the partnership to the extent that the amount required to be allocated under paragraph (2) to other partnership property exceeds the aggregate adjusted basis of such other property immediately before the allocation required by paragraph (2).".

(b) Effective Date.—The amendment made by this section shall apply to distributions after February 13, 2003.

SEC. 5643. REPEAL OF SPECIAL RULES FOR FASITS.

(a) In General.—Part V of subchapter M of chapter 1 (relating to financial asset securitization investment trusts) is hereby repealed.

(b) Conforming Amendments.—

(1) Paragraph (6) of section 56(g) is amended by striking "REMIC, or FASIT" and inserting "or REMIC".

(2) Clause (ii) of section 382(l)(4)(B) is amended by striking "a REMIC to which part IV of subchapter M applies, or a FASIT to which part V of subchapter M applies," and inserting "or a REMIC to which part IV of subchapter M applies,".

(3) Paragraph (1) of section 582(c) is amended by striking ", and any regular interest in a FASIT,".

(4) Subparagraph (E) of section 856(c)(5) is amended by striking the last sentence.

(5)(A) Section 860G(a)(1) is amended by adding at the end the following new sentence: "An interest shall not fail to qualify as a regular interest solely because the specified principal amount of the regular interest (or the amount of interest accrued on the regular interest) can be reduced as a result of the nonoccurrence of 1 or more contingent payments with respect to any reverse mortgage loan held by the REMIC if, on the startup day for the REMIC, the sponsor reasonably believes that all principal and interest due under the regular interest will be paid at or prior to the liquidation of the REMIC.".

(B) The last sentence of section 860G(a)(3) is amended by inserting ", and any reverse mortgage loan (and each balance increase on such loan meeting the requirements of subparagraph (A)(iii)) shall be treated as an obligation secured by an interest in real property" before the period at the end.

(6) Paragraph (3) of section 860G(a) is amended by adding "and" at the end of subparagraph (B), by striking ", and" at the end of subparagraph (C) and inserting a period, and by striking subparagraph (D).

(7) Section 860G(a)(3), as amended by paragraph (6), is amended by adding at the end the following new sentence: "For purposes of subparagraph (A), if more than 50 percent of the obligations transferred to, or purchased by, the REMIC are originated by the United States or any State (or any political subdivision, agency, or instrumentality of the United States or any State) and are principally secured by an interest in real property, then each obligation transferred to, or purchased by, the REMIC shall be treated as secured by an interest in real property.".

(8)(A) Section 860G(a)(3)(A) is amended by striking "or" at the end of clause (i), by inserting "or" at the end of clause (ii), and by inserting after clause (ii) the following new clause:

"(iii) represents an increase in the principal amount under the original terms of an obligation described in clause (i) or (ii) if such increase—

"(I) is attributable to an advance made to the obligor pursuant to the original terms of the obligation,

"(II) occurs after the startup day, and

"(III) is purchased by the REMIC pursuant to a fixed price contract in effect on the startup day.".

(B) Section 860G(a)(7)(B) is amended to read as follows:

"(B) Qualified reserve fund.—For purposes of subparagraph (A), the term 'qualified reserve fund' means any reasonably required reserve to—

"(i) provide for full payment of expenses of the REMIC or amounts due on regular interests in the event of defaults on qualified mortgages or lower than expected returns on cash flow investments, or

"(ii) provide a source of funds for the purchase of obligations described in clause (ii) or (iii) of paragraph (3)(A).

The aggregate fair market value of the assets held in any such reserve shall not exceed 50 percent of the aggregate fair market value of all of the assets of the REMIC on the startup day, and the amount of any such reserve shall be promptly and appropriately reduced to the extent the amount held in such reserve is no longer reasonably required for purposes specified in clause (i) or (ii) of paragraph (3)(A).".

(9) Subparagraph (C) of section 1202(e)(4) is amended by striking "REMIC, or FASIT" and inserting "or REMIC".

(10) Clause (xi) of section 7701(a)(19)(C) is amended—

(A) by striking "and any regular interest in a FASIT,", and

(B) by striking "or FASIT" each place it appears.

(11) The table of parts for subchapter M of chapter 1 is amended by striking the item relating to part V.

(c) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall take effect on February 14, 2003.

(2) Exception for existing FASITs.—Paragraph (1) shall not apply to any FASIT in existence on the date of the enactment of this Act to the extent that regular interests issued by the FASIT before such date continue to remain outstanding in accordance with the original terms of issuance.

SEC. 5644. EXPANDED DISALLOWANCE OF DEDUCTION FOR INTEREST ON CONVERTIBLE DEBT.

(a) In General.—Paragraph (2) of section 163(l) is amended by striking "or a related party" and inserting "or equity held by the issuer (or any related party) in any other person".

(b) Capitalization Allowed With Respect to Equity of Persons Other Than Issuer and Related Parties.—Section 163(l) is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6) and by inserting after paragraph (3) the following new paragraph:

"(4) Capitalization allowed with respect to equity of persons other than issuer and related parties.—If the disqualified debt instrument of a corporation is payable in equity held by the issuer (or any related party) in any other person (other than a related party), the basis of such equity shall be increased by the *amount not allowed as a deduction by reason of paragraph (1) with respect to the instrument.''.*

(c) Exception for Certain Instruments Issued By Dealers In Securities.—Section 163(l), as amended by subsection (b), is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7) and by inserting after paragraph (4) the following new paragraph:

''(5) Exception for certain instruments issued by dealers in securities.—For purposes of this subsection, the term 'disqualified debt instrument' does not include indebtedness issued by a dealer in securities (or a related party) which is payable in, or by reference to, equity (other than equity of the issuer or a related party) held by such dealer in its capacity as a dealer in securities. For purposes of this paragraph, the term 'dealer in securities' has the meaning given such term by section 475.''.

(c) Conforming Amendments.—Paragraph (3) of section 163(l) is amended—

(1) by striking ''or a related party'' in the material preceding subparagraph (A) and inserting ''or any other person'', and

(2) by striking ''or interest'' each place it appears.

(d) Effective Date.—The amendments made by this section shall apply to debt instruments issued after February 13, 2003.

SEC. 5645. EXPANDED AUTHORITY TO DISALLOW TAX BENEFITS UNDER SECTION 269.

(a) In General.—Subsection (a) of section 269 (relating to acquisitions made to evade or avoid income tax) is amended to read as follows:

''(a) In General.—If—

''(1)(A) any person or persons acquire, directly or indirectly, control of a corporation, or

''(B) any corporation acquires, directly or indirectly, property of another corporation and the basis of such property, in the hands of the acquiring corporation, is determined by reference to the basis in the hands of the transferor corporation, and

''(2) the principal purpose for which such acquisition was made is evasion or avoidance of Federal income tax,

then the Secretary may disallow such deduction, credit, or other allowance. For purposes of paragraph (1)(A), control means the ownership of stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote or at least 50 percent of the total value of all shares of all classes of stock of the corporation.''.

(b) Effective Date.—The amendment made by this section shall apply to stock and property acquired after February 13, 2003.

SEC. 5646. MODIFICATION OF INTERACTION BETWEEN SUBPART F AND PASSIVE FOREIGN INVESTMENT COMPANY RULES.

(a) Limitation on Exception From PFIC Rules for United States Shareholders of Controlled Foreign Corporations.—Paragraph (2) of section 1297(e) (relating to passive foreign investment company) is amended by adding at the end the following flush sentence: ''Such term shall not include any period if the earning of subpart F income by such corporation during such period would result in only a remote likelihood of an inclusion in gross income under section 951(a)(1)(A)(i).''.

(b) Effective Date.—The amendment made by this section shall apply to taxable years of controlled foreign corporations beginning after February 13, 2003, and to taxable years of United States shareholders with or within which such taxable years of controlled foreign corporations end.

PART V—PROVISIONS TO DISCOURAGE EXPATRIATION

SEC. 5651. TAX TREATMENT OF INVERTED CORPORATE ENTITIES.

(a) In General.—Subchapter C of chapter 80 (relating to provisions affecting more than one subtitle) is amended by adding at the end the following new section:

''SEC. 7874. RULES RELATING TO INVERTED CORPORATE ENTITIES.

''(a) Inverted Corporations Treated as Domestic Corporations.—

''(1) In general.—If a foreign incorporated entity is treated as an inverted domestic corporation, then, notwithstanding section 7701(a)(4), such entity shall be treated for purposes of this title as a domestic corporation.

''(2) Inverted domestic corporation.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

''(A) the entity completes after March 20, 2002, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

''(B) after the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

''(i) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

''(ii) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

''(C) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

Except as provided in regulations, an acquisition of properties of a domestic corporation shall not be treated as described in subparagraph (A) if none of the corporation's stock was readily tradeable on an established securities market at any time during the 4-year period ending on the date of the acquisition.

''(b) Preservation of Domestic Tax Base in Certain Inversion Transactions to Which Subsection (a) Does Not Apply.—

''(1) In general.—If a foreign incorporated entity would be treated as an inverted domestic corporation with respect to an acquired entity if either—

''(A) subsection (a)(2)(A) were applied by substituting 'after December 31, 1996, and on or before March 20, 2002' for 'after March 20, 2002' and subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent', or

''(B) subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent',

then the rules of subsection (c) shall apply to any inversion gain of the acquired entity during the applicable period and the rules of subsection (d) shall apply to any related party transaction of the acquired entity during the applicable period. This subsection shall not apply for any taxable year if subsection (a) applies to such foreign incorporated entity for such taxable year.

''(2) Acquired entity.—For purposes of this section—

''(A) In general.—The term 'acquired entity' means the domestic corporation or partnership substantially all of the properties of which are directly or indirectly acquired in an acquisition described in subsection (a)(2)(A) to which this subsection applies.

''(B) Aggregation rules.—Any domestic person bearing a relationship described in section 267(b) or 707(b) to an acquired entity shall be treated as an acquired entity with respect to the acquisition described in subparagraph (A).

''(3) Applicable period.—For purposes of this section—

''(A) In general.—The term 'applicable period' means the period—

''(i) beginning on the first date properties are acquired as part of the acquisition described in subsection (a)(2)(A) to which this subsection applies, and

''(ii) ending on the date which is 10 years after the last date properties are acquired as part of such acquisition.

''(B) Special rule for inversions occurring before March 21, 2002.—In the case of any acquired entity to which paragraph (1)(A) applies, the applicable period shall be the 10-year period beginning on January 1, 2003.

''(c) Tax on Inversion Gains May Not Be Offset.—If subsection (b) applies—

''(1) In general.—The taxable income of an acquired entity (or any expanded affiliated group which includes such entity) for any taxable year which includes any portion of the applicable period shall in no event be less than the inversion gain of the entity for the taxable year.

''(2) Credits not allowed against tax on inversion gain.—Credits shall be allowed against the tax imposed by this chapter on an acquired entity for any taxable year described in paragraph (1) only to the extent such tax exceeds the product of—

''(A) the amount of the inversion gain for the taxable year, and

''(B) the highest rate of tax specified in section 11(b)(1).

For purposes of determining the credit allowed by section 901 inversion gain shall be treated as from sources within the United States.

''(3) Special rules for partnerships.—In the case of an acquired entity which is a partnership—

''(A) the limitations of this subsection shall apply at the partner rather than the partnership level,

''(B) the inversion gain of any partner for any taxable year shall be equal to the sum of—

''(i) the partner's distributive share of inversion gain of the partnership for such taxable year, plus

''(ii) income or gain required to be recognized for the taxable year by the partner under section 367(a), 741, or 1001, or under any other provision of chapter 1, by reason of the transfer during the applicable period of any partnership interest of the partner in such partnership to the foreign incorporated entity, and

''(C) the highest rate of tax specified in the rate schedule applicable to the partner under chapter 1 shall be substituted for the rate of tax under paragraph (2)(B).

''(4) Inversion gain.—For purposes of this section, the term 'inversion gain' means any income or gain required to be recognized under section 304, 311(b), 367, 1001, or 1248, or under any other provision of chapter 1, by reason of the transfer during the applicable period of stock or other properties by an acquired entity—

''(A) as part of the acquisition described in subsection (a)(2)(A) to which subsection (b) applies, or

''(B) after such acquisition to a foreign related person.

The Secretary may provide that income or gain from the sale of inventories or other transactions in the ordinary course of a trade or business shall not be treated as inversion gain under subparagraph (B) to the extent the Secretary determines such treatment would not be inconsistent with the purposes of this section.

''(5) Coordination with section 172 and minimum tax.—Rules similar to the rules of paragraphs (3) and (4) of section 860E(a) shall apply for purposes of this section.

"(6) STATUTE OF LIMITATIONS.—

"(A) IN GENERAL.—The statutory period for the assessment of any deficiency attributable to the inversion gain of any taxpayer for any pre-inversion year shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of the acquisition described in subsection (a)(2)(A) to which such gain relates and such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

"(B) PRE-INVERSION YEAR.—For purposes of subparagraph (A), the term 'pre-inversion year' means any taxable year if—

"(i) any portion of the applicable period is included in such taxable year, and

"(ii) such year ends before the taxable year in which the acquisition described in subsection (a)(2)(A) is completed.

"(d) SPECIAL RULES APPLICABLE TO ACQUIRED ENTITIES TO WHICH SUBSECTION (B) APPLIES.—

"(1) INCREASES IN ACCURACY-RELATED PENALTIES.—In the case of any underpayment of tax of an acquired entity to which subsection (b) applies—

"(A) section 6662(a) shall be applied with respect to such underpayment by substituting '30 percent' for '20 percent', and

"(B) if such underpayment is attributable to one or more gross valuation understatements, the increase in the rate of penalty under section 6662(h) shall be to 50 percent rather than 40 percent.

"(2) MODIFICATIONS OF LIMITATION ON INTEREST DEDUCTION.—In the case of an acquired entity to which subsection (b) applies, section 163(j) shall be applied—

"(A) without regard to paragraph (2)(A)(ii) thereof, and

"(B) by substituting '25 percent' for '50 percent' each place it appears in paragraph (2)(B) thereof.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) RULES FOR APPLICATION OF SUBSECTION (a)(2).—In applying subsection (a)(2) for purposes of subsections (a) and (b), the following rules shall apply:

"(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of subsection (a)(2)(B)—

"(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

"(ii) stock of such entity which is sold in a public offering or private placement related to the acquisition described in subsection (a)(2)(A).

"(B) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (a)(2)(B) are met with respect to such domestic corporation or partnership, such actions shall be treated as pursuant to a plan.

"(C) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

"(D) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying subsection (a)(2) to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482) shall be treated as 1 partnership.

"(E) TREATMENT OF CERTAIN RIGHTS.—The Secretary shall prescribe such regulations as may be necessary—

"(i) to treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock, and

"(ii) to treat stock as not stock.

"(2) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a) but without regard to section 1504(b)(3), except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

"(3) FOREIGN INCORPORATED ENTITY.—The term 'foreign incorporated entity' means any entity which is, or but for subsection (a)(1) would be, treated as a foreign corporation for purposes of this title.

"(4) FOREIGN RELATED PERSON.—The term 'foreign related person' means, with respect to any acquired entity, a foreign person which—

"(A) bears a relationship to such entity described in section 267(b) or 707(b), or

"(B) is under the same common control (within the meaning of section 482) as such entity.

"(5) SUBSEQUENT ACQUISITIONS BY UNRELATED DOMESTIC CORPORATIONS.—

"(A) IN GENERAL.—Subject to such conditions, limitations, and exceptions as the Secretary may prescribe, if, after an acquisition described in subsection (a)(2)(A) to which subsection (b) applies, a domestic corporation stock of which is traded on an established securities market acquires directly or indirectly any properties of one or more acquired entities in a transaction with respect to which the requirements of subparagraph (B) are met, this section shall cease to apply to any such acquired entity with respect to which such requirements are met.

"(B) REQUIREMENTS.—The requirements of the subparagraph are met with respect to a transaction involving any acquisition described in subparagraph (A) if—

"(i) before such transaction the domestic corporation did not have a relationship described in section 267(b) or 707(b), and was not under common control (within the meaning of section 482), with the acquired entity, or any member of an expanded affiliated group including such entity, and

"(ii) after such transaction, such acquired entity—

"(I) is a member of the same expanded affiliated group which includes the domestic corporation or has such a relationship or is under such common control with any member of such group, and

"(II) is not a member of, and does not have such a relationship and is not under such common control with any member of, the expanded affiliated group which before such acquisition included such entity.

"(f) REGULATIONS.—The Secretary shall provide such regulations as are necessary to carry out this section, including regulations providing for such adjustments to the application of this section as are necessary to prevent the avoidance of the purposes of this section, including the avoidance of such purposes through—

"(1) the use of related persons, pass-thru or other noncorporate entities, or other intermediaries, or

"(2) transactions designed to have persons cease to be (or not become) members of expanded affiliated groups or related persons.".

(b) INFORMATION REPORTING.—The Secretary of the Treasury shall exercise the Secretary's authority under the Internal Revenue Code of 1986 to require entities involved in transactions to which section 7874 of such Code (as added by subsection (a)) applies to report to the Secretary, shareholders, partners, and such other persons as the Secretary may prescribe such information as is necessary to ensure the proper tax treatment of such transactions.

(c) CONFORMING AMENDMENT.—The table of sections for subchapter C of chapter 80 is amended by adding at the end the following new item:

"Sec. 7874. Rules relating to inverted corporate entities.".

(d) TRANSITION RULE FOR CERTAIN REGULATED INVESTMENT COMPANIES AND UNIT INVESTMENT TRUSTS.—Notwithstanding section 7874 of the Internal Revenue Code of 1986 (as added by subsection (a)), a regulated investment company, or other pooled fund or trust specified by the Secretary of the Treasury, may elect to recognize gain by reason of section 367(a) of such Code with respect to a transaction under which a foreign incorporated entity is treated as an inverted domestic corporation under section 7874(a) of such Code by reason of an acquisition completed after March 20, 2002, and before January 1, 2004.

SEC. 5652. IMPOSITION OF MARK-TO-MARKET TAX ON INDIVIDUALS WHO EXPATRIATE.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

"SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

"(a) GENERAL RULES.—For purposes of this subtitle—

"(1) MARK TO MARKET.—Except as provided in subsections (d) and (f), all property of a covered expatriate to whom this section applies shall be treated as sold on the day before the expatriation date for its fair market value.

"(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

"(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale, and

"(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply to any such loss.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence.

"(3) EXCLUSION FOR CERTAIN GAIN.—

"(A) IN GENERAL.—The amount which, but for this paragraph, would be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

"(B) COST-OF-LIVING ADJUSTMENT.—

"(i) IN GENERAL.—In the case of an expatriation date occurring in any calendar year after 2004, the $600,000 amount under subparagraph (A) shall be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 2003' for 'calendar year 1992' in subparagraph (B) thereof.

"(ii) ROUNDING RULES.—If any amount after adjustment under clause (i) is not a multiple of $1,000, such amount shall be rounded to the next lower multiple of $1,000.

"(4) ELECTION TO CONTINUE TO BE TAXED AS UNITED STATES CITIZEN.—

"(A) IN GENERAL.—If a covered expatriate elects the application of this paragraph—

"(i) this section (other than this paragraph and subsection (i)) shall not apply to the expatriate, but

"(ii) in the case of property to which this section would apply but for such election, the expatriate shall be subject to tax under this title in the same manner as if the individual were a United States citizen.

"(B) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

"(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

"(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

"(iii) complies with such other requirements as the Secretary may prescribe.

"(C) ELECTION.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

"(b) ELECTION TO DEFER TAX.—

"(1) IN GENERAL.—If the taxpayer elects the application of this subsection with respect to any property treated as sold by reason of subsection (a), the payment of the additional tax attributable to such property shall be postponed until the due date of the return for the taxable year in which such property is disposed of (or, in the case of property disposed of in a transaction in which gain is not recognized in whole or in part, until such other date as the Secretary may prescribe).

"(2) DETERMINATION OF TAX WITH RESPECT TO PROPERTY.—For purposes of paragraph (1), the additional tax attributable to any property is an amount which bears the same ratio to the additional tax imposed by this chapter for the taxable year solely by reason of subsection (a) as the gain taken into account under subsection (a) with respect to such property bears to the total gain taken into account under subsection (a) with respect to all property to which subsection (a) applies.

"(3) TERMINATION OF POSTPONEMENT.—No tax may be postponed under this subsection later than the due date for the return of tax imposed by this chapter for the taxable year which includes the date of death of the expatriate (or, if earlier, the time that the security provided with respect to the property fails to meet the requirements of paragraph (4), unless the taxpayer corrects such failure within the time specified by the Secretary).

"(4) SECURITY.—

"(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided to the Secretary with respect to such property.

"(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

"(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2) for the property, or

"(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

"(5) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

"(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be made under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

"(7) INTEREST.—For purposes of section 6601—

"(A) the last date for the payment of tax shall be determined without regard to the election under this subsection, and

"(B) section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

"(c) COVERED EXPATRIATE.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'covered expatriate' means an expatriate.

"(2) EXCEPTIONS.—An individual shall not be treated as a covered expatriate if—

"(A) the individual—

"(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

"(ii) has not been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) during the 5 taxable years ending with the taxable year during which the expatriation date occurs, or

"(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

"(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

"(d) EXEMPT PROPERTY; SPECIAL RULES FOR PENSION PLANS.—

"(1) EXEMPT PROPERTY.—This section shall not apply to the following:

"(A) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the day before the expatriation date, meet the requirements of section 897(c)(2).

"(B) SPECIFIED PROPERTY.—Any property or interest in property not described in subparagraph (A) which the Secretary specifies in regulations.

"(2) SPECIAL RULES FOR CERTAIN RETIREMENT PLANS.—

"(A) IN GENERAL.—If a covered expatriate holds on the day before the expatriation date any interest in a retirement plan to which this paragraph applies—

"(i) such interest shall not be treated as sold for purposes of subsection (a)(1), but

"(ii) an amount equal to the present value of the expatriate's nonforfeitable accrued benefit shall be treated as having been received by such individual on such date as a distribution under the plan.

"(B) TREATMENT OF SUBSEQUENT DISTRIBUTIONS.—In the case of any distribution on or after the expatriation date to or on behalf of the covered expatriate from a plan from which the expatriate was treated as receiving a distribution under subparagraph (A), the amount otherwise includible in gross income by reason of the subsequent distribution shall be reduced by the excess of the amount includible in gross income under subparagraph (A) over any portion of such amount to which this subparagraph previously applied.

"(C) TREATMENT OF SUBSEQUENT DISTRIBUTIONS BY PLAN.—For purposes of this title, a retirement plan to which this paragraph applies, and any person acting on the plan's behalf, shall treat any subsequent distribution described in subparagraph (B) in the same manner as such distribution would be treated without regard to this paragraph.

"(D) APPLICABLE PLANS.—This paragraph shall apply to—

"(i) any qualified retirement plan (as defined in section 4974(c)),

"(ii) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A), and

"(iii) to the extent provided in regulations, any foreign pension plan or similar retirement arrangements or programs.

"(e) DEFINITIONS.—For purposes of this section—

"(1) EXPATRIATE.—The term 'expatriate' means—

"(A) any United States citizen who relinquishes citizenship, and

"(B) any long-term resident of the United States who—

"(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

"(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

"(2) EXPATRIATION DATE.—The term 'expatriation date' means—

"(A) the date an individual relinquishes United States citizenship, or

"(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

"(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing United States citizenship on the earliest of—

"(A) the date the individual renounces such individual's United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

"(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

"(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

"(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

"(4) LONG-TERM RESIDENT.—The term 'long-term resident' has the meaning given to such term by section 877(e)(2).

"(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust on the day before the expatriation date—

"(A) the individual shall not be treated as having sold such interest,

"(B) such interest shall be treated as a separate share in the trust, and

"(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

"(ii) the separate trust shall be treated as having sold its assets on the day before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

"(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii). In determining the amount of such distribution, proper adjustments shall be made for liabilities of the trust allocable to an individual's share in the trust.

"(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

"(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

"(i) paragraph (1) and subsection (a) shall not apply, and

"(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

"(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

"(i) the highest rate of tax imposed by section 1(e) for the taxable year which includes the day before the expatriation date, multiplied by the amount of the distribution, or

"(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

"(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

"(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest is an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

"(ii) INCREASE FOR INTEREST.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods, except that section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

"(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

"(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

"(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

"(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust is the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

"(E) TAX DEDUCTED AND WITHHELD.—

"(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

"(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

"(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

"(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

"(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

"(i) the tax determined under paragraph (1) as if the day before the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

"(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

"(G) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

"(i) QUALIFIED TRUST.—The term 'qualified trust' means a trust which is described in section 7701(a)(30)(E).

"(ii) VESTED INTEREST.—The term 'vested interest' means any interest which, as of the day before the expatriation date, is vested in the beneficiary.

"(iii) NONVESTED INTEREST.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

"(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

"(v) COORDINATION WITH RETIREMENT PLAN RULES.—This subsection shall not apply to an interest in a trust which is part of a retirement plan to which subsection (d)(2) applies.

"(3) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—

"(A) DETERMINATIONS UNDER PARAGRAPH (1).—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar adviser.

"(B) OTHER DETERMINATIONS.—For purposes of this section—

"(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

"(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

"(I) the methodology used to determine that taxpayer's trust interest under this section, and

"(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

"(g) TERMINATION OF DEFERRALS, ETC.—In the case of any covered expatriate, notwithstanding any other provision of this title—

"(1) any period during which recognition of income or gain is deferred shall terminate on the day before the expatriation date, and

"(2) any extension of time for payment of tax shall cease to apply on the day before the expatriation date and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

"(h) IMPOSITION OF TENTATIVE TAX.—

"(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

"(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

"(3) TREATMENT OF TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

"(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

"(i) SPECIAL LIENS FOR DEFERRED TAX AMOUNTS.—

"(1) IMPOSITION OF LIEN.—

"(A) IN GENERAL.—If a covered expatriate makes an election under subsection (a)(4) or (b) which results in the deferral of any tax imposed by reason of subsection (a), the deferred amount (including any interest, additional amount, addition to tax, assessable penalty, and costs attributable to the deferred amount) shall be a lien in favor of the United States on all property of the expatriate located in the United States (without regard to whether this section applies to the property).

"(B) DEFERRED AMOUNT.—For purposes of this subsection, the deferred amount is the amount of the increase in the covered expatriate's income tax which, but for the election under subsection (a)(4) or (b), would have occurred by reason of this section for the taxable year including the expatriation date.

"(2) PERIOD OF LIEN.—The lien imposed by this subsection shall arise on the expatriation date and continue until—

"(A) the liability for tax by reason of this section is satisfied or has become unenforceable by reason of lapse of time, or

"(B) it is established to the satisfaction of the Secretary that no further tax liability may arise by reason of this section.

"(3) CERTAIN RULES APPLY.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this subsection as if it were a lien imposed by section 6324A.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) INCLUSION IN INCOME OF GIFTS AND BEQUESTS RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS FROM EXPATRIATES.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

"(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—

"(1) IN GENERAL.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.

"(2) EXCEPTIONS FOR TRANSFERS OTHERWISE SUBJECT TO ESTATE OR GIFT TAX.—Paragraph (1) shall not apply to any property if either—

"(A) the gift, bequest, devise, or inheritance is—

"(i) shown on a timely filed return of tax imposed by chapter 12 as a taxable gift by the covered expatriate, or

"(ii) included in the gross estate of the covered expatriate for purposes of chapter 11 and shown on a timely filed return of tax imposed by chapter 11 of the estate of the covered expatriate, or

“(B) no such return was timely filed but no such return would have been required to be filed even if the covered expatriate were a citizen or long-term resident of the United States.”.

(c) Definition of Termination of United States Citizenship.—Section 7701(a) is amended by adding at the end the following new paragraph:

“(48) Termination of united states citizenship.—

“(A) In general.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).

“(B) Dual citizens.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.”.

(d) Ineligibility for Visa or Admission to United States.—

(1) In general.—Section 212(a)(10)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(E)) is amended to read as follows:

“(E) Former citizens not in compliance with expatriation revenue provisions.—Any alien who is a former citizen of the United States who relinquishes United States citizenship (within the meaning of section 877A(e)(3) of the Internal Revenue Code of 1986) and who is not in compliance with section 877A of such Code (relating to expatriation).”.

(2) Availability of information.—

(A) In general.—Section 6103(l) (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

“(19) Disclosure to deny visa or admission to certain expatriates.—Upon written request of the Attorney General or the Attorney General's delegate, the Secretary shall disclose whether an individual is in compliance with section 877A (and if not in compliance, any items of noncompliance) to officers and employees of the Federal agency responsible for administering section 212(a)(10)(E) of the Immigration and Nationality Act solely for the purpose of, and to the extent necessary in, administering such section 212(a)(10)(E).”.

(B) Safeguards.—

(i) Technical amendments.—Paragraph (4) of section 6103(p) of the Internal Revenue Code of 1986, as amended by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961), is amended by striking “or (17)” after “any other person described in subsection (l)(16)” each place it appears and inserting “or (18)”.

(ii) Conforming amendments.—Section 6103(p)(4) (relating to safeguards), as amended by clause (i), is amended by striking “or (18)” after “any other person described in subsection (l)(16)” each place it appears and inserting “(18), or (19)”.

(3) Effective dates.—

(A) In general.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to individuals who relinquish United States citizenship on or after the date of the enactment of this Act.

(B) Technical amendments.—The amendments made by paragraph (2)(B)(i) shall take effect as if included in the amendments made by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961).

(e) Conforming Amendments.—

(1) Section 877 is amended by adding at the end the following new subsection:

“(g) Application.—This section shall not apply to an expatriate (as defined in section 877A(e)) whose expatriation date (as so defined) occurs on or after February 2, 2004.”.

(2) Section 2107 is amended by adding at the end the following new subsection:

“(f) Application.—This section shall not apply to any expatriate subject to section 877A.”.

(3) Section 2501(a)(3) is amended by adding at the end the following new subparagraph:

“(F) Application.—This paragraph shall not apply to any expatriate subject to section 877A.”.

(4)(A) Paragraph (1) of section 6039G(d) is amended by inserting “or 877A” after “section 877”.

(B) The second sentence of section 6039G(e) is amended by inserting “or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))” after “877(a))”.

(C) Section 6039G(f) is amended by inserting “or 877A(e)(2)(B)” after “877(e)(1)”.

(f) Clerical Amendment.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

“Sec. 877A. Tax responsibilities of expatriation.”.

(g) Effective Date.—

(1) In general.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after February 2, 2004.

(2) Gifts and bequests.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to gifts and bequests received on or after February 2, 2004, from an individual or the estate of an individual whose expatriation date (as so defined) occurs after such date.

(3) Due date for tentative tax.—The due date under section 877A(h)(2) of the Internal Revenue Code of 1986, as added by this section, shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 5653. EXCISE TAX ON STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

(a) In General.—Subtitle D is amended by adding at the end the following new chapter:

“CHAPTER 48—STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS

“Sec. 5000A. Stock compensation of insiders in inverted corporations entities.

“SEC. 5000A. STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

“(a) Imposition of Tax.—In the case of an individual who is a disqualified individual with respect to any inverted corporation, there is hereby imposed on such person a tax equal to 20 percent of the value (determined under subsection (b)) of the specified stock compensation held (directly or indirectly) by or for the benefit of such individual or a member of such individual's family (as defined in section 267) at any time during the 12-month period beginning on the date which is 6 months before the inversion date.

“(b) Value.—For purposes of subsection (a)—

“(1) In general.—The value of specified stock compensation shall be—

“(A) in the case of a stock option (or other similar right) or any stock appreciation right, the fair value of such option or right, and

“(B) in any other case, the fair market value of such compensation.

“(2) Date for determining value.—The determination of value shall be made—

“(A) in the case of specified stock compensation held on the inversion date, on such date,

“(B) in the case of such compensation which is canceled during the 6 months before the inversion date, on the day before such cancellation, and

“(C) in the case of such compensation which is granted after the inversion date, on the date such compensation is granted.

“(c) Tax To Apply Only If Shareholder Gain Recognized.—Subsection (a) shall apply to any disqualified individual with respect to an inverted corporation only if gain (if any) on any stock in such corporation is recognized in whole or part by any shareholder by reason of the acquisition referred to in section 7874(a)(2)(A) (determined by substituting ‘July 10, 2002’ for ‘March 20, 2002’) with respect to such corporation.

“(d) Exception Where Gain Recognized on Compensation.—Subsection (a) shall not apply to—

“(1) any stock option which is exercised on the inversion date or during the 6-month period before such date and to the stock acquired in such exercise, if income is recognized under section 83 on or before the inversion date with respect to the stock acquired pursuant to such exercise, and

“(2) any specified stock compensation which is exercised, sold, exchanged, distributed, cashed out, or otherwise paid during such period in a transaction in which gain or loss is recognized in full.

“(e) Definitions.—For purposes of this section—

“(1) Disqualified individual.—The term ‘disqualified individual’ means, with respect to a corporation, any individual who, at any time during the 12-month period beginning on the date which is 6 months before the inversion date—

“(A) is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934 with respect to such corporation, or

“(B) would be subject to such requirements if such corporation were an issuer of equity securities referred to in such section.

“(2) Inverted corporation; inversion date.—

“(A) Inverted corporation.—The term ‘inverted corporation’ means any corporation to which subsection (a) or (b) of section 7874 applies determined—

“(i) by substituting ‘July 10, 2002’ for ‘March 20, 2002’ in section 7874(a)(2)(A), and

“(ii) without regard to subsection (b)(1)(A).

Such term includes any predecessor or successor of such a corporation.

“(B) Inversion date.—The term ‘inversion date’ means, with respect to a corporation, the date on which the corporation first becomes an inverted corporation.

“(3) Specified stock compensation.—

“(A) In general.—The term ‘specified stock compensation’ means payment (or right to payment) granted by the inverted corporation (or by any member of the expanded affiliated group which includes such corporation) to any person in connection with the performance of services by a disqualified individual for such corporation or member if the value of such payment or right is based on (or determined by reference to) the value (or change in value) of stock in such corporation (or any such member).

“(B) Exceptions.—Such term shall not include—

“(i) any option to which part II of subchapter D of chapter 1 applies, or

“(ii) any payment or right to payment from a plan referred to in section 280G(b)(6).

“(4) Expanded affiliated group.—The term ‘expanded affiliated group’ means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)(3)); except that section 1504(a) shall be applied by substituting ‘more than 50 percent’ for ‘at least 80 percent’ each place it appears.

“(f) Special Rules.—For purposes of this section—

"(1) CANCELLATION OF RESTRICTION.—The cancellation of a restriction which by its terms will never lapse shall be treated as a grant.

"(2) PAYMENT OR REIMBURSEMENT OF TAX BY CORPORATION TREATED AS SPECIFIED STOCK COMPENSATION.—Any payment of the tax imposed by this section directly or indirectly by the inverted corporation or by any member of the expanded affiliated group which includes such corporation—

"(A) shall be treated as specified stock compensation, and

"(B) shall not be allowed as a deduction under any provision of chapter 1.

"(3) CERTAIN RESTRICTIONS IGNORED.—Whether there is specified stock compensation, and the value thereof, shall be determined without regard to any restriction other than a restriction which by its terms will never lapse.

"(4) PROPERTY TRANSFERS.—Any transfer of property shall be treated as a payment and any right to a transfer of property shall be treated as a right to a payment.

"(5) OTHER ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) DENIAL OF DEDUCTION.—

(1) IN GENERAL.—Paragraph (6) of section 275(a) is amended by inserting "48," after "46,".

(2) $1,000,000 LIMIT ON DEDUCTIBLE COMPENSATION REDUCED BY PAYMENT OF EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—Paragraph (4) of section 162(m) is amended by adding at the end the following new subparagraph:

"(G) COORDINATION WITH EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—The dollar limitation contained in paragraph (1) with respect to any covered employee shall be reduced (but not below zero) by the amount of any payment (with respect to such employee) of the tax imposed by section 5000A directly or indirectly by the inverted corporation (as defined in such section) or by any member of the expanded affiliated group (as defined in such section) which includes such corporation.".

(c) CONFORMING AMENDMENTS.—

(1) The last sentence of section 3121(v)(2)(A) is amended by inserting before the period "or to any specified stock compensation (as defined in section 5000A) on which tax is imposed by section 5000A".

(2) The table of chapters for subtitle D is amended by adding at the end the following new item:

"Chapter 48. Stock compensation of insiders in inverted corporations.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 11, 2002; except that periods before such date shall not be taken into account in applying the periods in subsections (a) and (e)(1) of section 5000A of the Internal Revenue Code of 1986, as added by this section.

SEC. 5654. REINSURANCE OF UNITED STATES RISKS IN FOREIGN JURISDICTIONS.

(a) IN GENERAL.—Section 845(a) (relating to allocation in case of reinsurance agreement involving tax avoidance or evasion) is amended by striking "source and character" and inserting "amount, source, or character".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any risk reinsured after April 11, 2002.

Subtitle H—Additional Revenue Provisions

PART I—ADMINISTRATIVE PROVISIONS

SEC. 5671. EXTENSION OF IRS USER FEES.

(a) IN GENERAL.—Section 7528(c) (relating to termination) is amended by striking "December 31, 2004" and inserting "September 30, 2013".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests after the date of the enactment of this Act.

SEC. 5672. CLARIFICATION OF RULES FOR PAYMENT OF ESTIMATED TAX FOR CERTAIN DEEMED ASSET SALES.

(a) IN GENERAL.—Paragraph (13) of section 338(h) (relating to tax on deemed sale not taken into account for estimated tax purposes) is amended by adding at the end the following: "The preceding sentence shall not apply with respect to a qualified stock purchase for which an election is made under paragraph (10).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transactions occurring after the date of the enactment of this Act.

SEC. 5673. PARTIAL PAYMENT OF TAX LIABILITY IN INSTALLMENT AGREEMENTS.

(a) IN GENERAL.—

(1) Section 6159(a) (relating to authorization of agreements) is amended—

(A) by striking "satisfy liability for payment of" and inserting "make payment on", and

(B) by inserting "full or partial" after "facilitate".

(2) Section 6159(c) (relating to Secretary required to enter into installment agreements in certain cases) is amended in the matter preceding paragraph (1) by inserting "full" before "payment".

(b) REQUIREMENT TO REVIEW PARTIAL PAYMENT AGREEMENTS EVERY TWO YEARS.—Section 6159, as amended by this Act, is amended by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively, and inserting after subsection (c) the following new subsection:

"(d) SECRETARY REQUIRED TO REVIEW INSTALLMENT AGREEMENTS FOR PARTIAL COLLECTION EVERY TWO YEARS.—In the case of an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date of the enactment of this Act.

PART II—FINANCIAL INSTRUMENTS

SEC. 5675. TREATMENT OF STRIPPED INTERESTS IN BOND AND PREFERRED STOCK FUNDS, ETC.

(a) IN GENERAL.—Section 1286 (relating to tax treatment of stripped bonds) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) TREATMENT OF STRIPPED INTERESTS IN BOND AND PREFERRED STOCK FUNDS, ETC.—In the case of an account or entity substantially all of the assets of which consist of bonds, preferred stock, or a combination thereof, the Secretary may by regulations provide that rules similar to the rules of this section and 305(e), as appropriate, shall apply to interests in such account or entity to which (but for this subsection) this section or section 305(e), as the case may be, would not apply.".

(b) CROSS REFERENCE.—Subsection (e) of section 305 is amended by adding at the end the following new paragraph:

"(7) CROSS REFERENCE.—

"For treatment of stripped interests in certain accounts or entities holding preferred stock, see section 1286(f).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to purchases and dispositions after the date of the enactment of this Act.

SEC. 5676. APPLICATION OF EARNINGS STRIPPING RULES TO PARTNERSHIPS AND S CORPORATIONS.

(a) IN GENERAL.—Section 163(j) (relating to limitation on deduction for interest on certain indebtedness) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

"(8) APPLICATION TO PARTNERSHIPS AND S CORPORATIONS.—

"(A) IN GENERAL.—This subsection shall apply to partnerships and S corporations in the same manner as it applies to C corporations.

"(B) ALLOCATIONS TO CERTAIN CORPORATE PARTNERS.—If a C corporation is a partner in a partnership—

"(i) the corporation's allocable share of indebtedness and interest income of the partnership shall be taken into account in applying this subsection to the corporation, and

"(ii) if a deduction is not disallowed under this subsection with respect to any interest expense of the partnership, this subsection shall be applied separately in determining whether a deduction is allowable to the corporation with respect to the corporation's allocable share of such interest expense.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5677. RECOGNITION OF CANCELLATION OF INDEBTEDNESS INCOME REALIZED ON SATISFACTION OF DEBT WITH PARTNERSHIP INTEREST.

(a) IN GENERAL.—Paragraph (8) of section 108(e) (relating to general rules for discharge of indebtedness (including discharges not in title 11 cases or insolvency)) is amended to read as follows:

"(8) INDEBTEDNESS SATISFIED BY CORPORATE STOCK OR PARTNERSHIP INTEREST.—For purposes of determining income of a debtor from discharge of indebtedness, if—

"(A) a debtor corporation transfers stock, or

"(B) a debtor partnership transfers a capital or profits interest in such partnership,

to a creditor in satisfaction of its recourse or nonrecourse indebtedness, such corporation or partnership shall be treated as having satisfied the indebtedness with an amount of money equal to the fair market value of the stock or interest. In the case of any partnership, any discharge of indebtedness income recognized under this paragraph shall be included in the distributive shares of taxpayers which were the partners in the partnership immediately before such discharge.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to cancellations of indebtedness occurring on or after the date of the enactment of this Act.

SEC. 5678. MODIFICATION OF STRADDLE RULES.

(a) RULES RELATING TO IDENTIFIED STRADDLES.—

(1) IN GENERAL.—Subparagraph (A) of section 1092(a)(2) (relating to special rule for identified straddles) is amended to read as follows:

"(A) IN GENERAL.—In the case of any straddle which is an identified straddle—

"(i) paragraph (1) shall not apply with respect to identified positions comprising the identified straddle,

"(ii) if there is any loss with respect to any identified position of the identified straddle, the basis of each of the identified offsetting positions in the identified straddle shall be increased by an amount which bears the same ratio to the loss as the unrecognized gain with respect to such offsetting position bears to the aggregate unrecognized gain with respect to all such offsetting positions, and

"(iii) any loss described in clause (ii) shall not otherwise be taken into account for purposes of this title.".

(2) IDENTIFIED STRADDLE.—Section 1092(a)(2)(B) (defining identified straddle) is amended—

(A) by striking clause (ii) and inserting the following:

"(ii) to the extent provided by regulations, the value of each position of which (in the hands of the taxpayer immediately before the creation of the straddle) is not less than the basis of such position in the hands of the taxpayer at the time the straddle is created, and", and

(B) by adding at the end the following new flush sentence:

"The Secretary shall prescribe regulations which specify the proper methods for clearly identifying a straddle as an identified straddle (and the positions comprising such straddle), which specify the rules for the application of this section for a taxpayer which fails to properly identify the positions of an identified straddle, and which specify the ordering rules in cases where a taxpayer disposes of less than an entire position which is part of an identified straddle.".

(3) UNRECOGNIZED GAIN.—Section 1092(a)(3) (defining unrecognized gain) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) SPECIAL RULE FOR IDENTIFIED STRADDLES.—For purposes of paragraph (2)(A)(ii), the unrecognized gain with respect to any identified offsetting position shall be the excess of the fair market value of the position at the time of the determination over the fair market value of the position at the time the taxpayer identified the position as a position in an identified straddle."

(4) CONFORMING AMENDMENT.—Section 1092(c)(2) is amended by striking subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

(b) PHYSICALLY SETTLED POSITIONS.—Section 1092(d) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

"(8) SPECIAL RULES FOR PHYSICALLY SETTLED POSITIONS.—For purposes of subsection (a), if a taxpayer settles a position which is part of a straddle by delivering property to which the position relates (and such position, if terminated, would result in a realization of a loss), then such taxpayer shall be treated as if such taxpayer—

"(A) terminated the position for its fair market value immediately before the settlement, and

"(B) sold the property so delivered by the taxpayer at its fair market value.".

(c) REPEAL OF STOCK EXCEPTION.—

(1) IN GENERAL.—Section 1092(d)(3) is repealed.

(2) CONFORMING AMENDMENT.—Section 1258(d)(1) is amended by striking "; except that the term 'personal property' shall include stock".

(d) REPEAL OF QUALIFIED COVERED CALL EXCEPTION.—Section 1092(c)(4) is amended by adding at the end the following new subparagraph:

"(I) TERMINATION.—This paragraph shall not apply to any position established on or after the date of the enactment of this subparagraph.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to positions established on or after the date of the enactment of this Act.

SEC. 5679. DENIAL OF INSTALLMENT SALE TREATMENT FOR ALL READILY TRADEABLE DEBT.

(a) IN GENERAL.—Section 453(f)(4)(B) (relating to purchaser evidences of indebtedness payable on demand or readily tradeable) is amended by striking "is issued by a corporation or a government or political subdivision thereof and".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales occurring on or after the date of the enactment of this Act.

PART III—CORPORATIONS AND PARTNERSHIPS

SEC. 5680. MODIFICATION OF TREATMENT OF TRANSFERS TO CREDITORS IN DIVISIVE REORGANIZATIONS.

(a) IN GENERAL.—Section 361(b)(3) (relating to treatment of transfers to creditors) is amended by adding at the end the following new sentence: "In the case of a reorganization described in section 368(a)(1)(D) with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355, this paragraph shall apply only to the extent that the sum of the money and the fair market value of other property transferred to such creditors does not exceed the adjusted bases of such assets transferred.".

(b) LIABILITIES IN EXCESS OF BASIS.—Section 357(c)(1)(B) is amended by inserting "with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355" after "section 368(a)(1)(D)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers of money or other property, or liabilities assumed, in connection with a reorganization occurring on or after the date of the enactment of this Act.

SEC. 5681. CLARIFICATION OF DEFINITION OF NONQUALIFIED PREFERRED STOCK.

(a) IN GENERAL.—Section 351(g)(3)(A) is amended by adding at the end the following: "Stock shall not be treated as participating in corporate growth to any significant extent unless there is a real and meaningful likelihood of the shareholder actually participating in the earnings and growth of the corporation.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions after May 14, 2003.

SEC. 5682. MODIFICATION OF DEFINITION OF CONTROLLED GROUP OF CORPORATIONS.

(a) IN GENERAL.—Section 1563(a)(2) (relating to brother-sister controlled group) is amended by striking "possessing—" and all that follows through "(B)" and inserting "possessing".

(b) APPLICATION OF EXISTING RULES TO OTHER CODE PROVISIONS.—Section 1563(f) (relating to other definitions and rules) is amended by adding at the end the following new paragraph:

"(5) BROTHER-SISTER CONTROLLED GROUP DEFINITION FOR PROVISIONS OTHER THAN THIS PART.—

"(A) IN GENERAL.—Except as specifically provided in an applicable provision, subsection (a)(2) shall be applied to an applicable provision as if it read as follows:

'(2) BROTHER-SISTER CONTROLLED GROUP.—Two or more corporations if 5 or fewer persons who are individuals, estates, or trusts own (within the meaning of subsection (d)(2) stock possessing—

'(A) at least 80 percent of the total combined voting power of all classes of stock entitled to vote, or at least 80 percent of the total value of shares of all classes of stock, of each corporation, and

'(B) more than 50 percent of the total combined voting power of all classes of stock entitled to vote or more than 50 percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.'

"(B) APPLICABLE PROVISION.—For purposes of this paragraph, an applicable provision is any provision of law (other than this part) which incorporates the definition of controlled group of corporations under subsection (a).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5683. MANDATORY BASIS ADJUSTMENTS IN CONNECTION WITH PARTNERSHIP DISTRIBUTIONS AND TRANSFERS OF PARTNERSHIP INTERESTS.

(a) IN GENERAL.—Section 754 is repealed.

(b) ADJUSTMENT TO BASIS OF UNDISTRIBUTED PARTNERSHIP PROPERTY.—Section 734 is amended—

(1) by striking ", with respect to which the election provided in section 754 is in effect," in the matter preceding paragraph (1) of subsection (b),

(2) by striking "(as adjusted by section 732(d))" both places it appears in subsection (b),

(3) by striking the last sentence of subsection (b),

(4) by striking subsection (a) and by redesignating subsections (b) and (c) as subsections (a) and (b), respectively, and

*(5) by striking "**OPTIONAL**" in the heading.*

(c) ADJUSTMENT TO BASIS OF PARTNERSHIP PROPERTY.—Section 743 is amended—

(1) by striking "with respect to which the election provided in section 754 is in effect" in the matter preceding paragraph (1) of subsection (b),

(2) by striking subsection (a) and by redesignating subsections (b) and (c) as subsections (a) and (b), respectively,

(3) by adding at the end the following new subsection:

"(c) ELECTION TO ADJUST BASIS FOR TRANSFERS UPON DEATH OF PARTNER.—Subsection (a) shall not apply and no adjustments shall be made in the case of any transfer of an interest in a partnership upon the death of a partner unless an election to do so is made by the partnership. Such an election shall apply with respect to all such transfers of interests in the partnership. Any election under section 754 in effect on the date of the enactment of this subsection shall constitute an election made under this subsection. Such election may be revoked by the partnership, subject to such limitations as may be provided by regulations prescribed by the Secretary.", and

*(4) by striking "**OPTIONAL**" in the heading.*

(d) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 732 is repealed.

(2) Section 755(a) is amended—

(A) by striking "section 734(b) (relating to the optional adjustment" and inserting "section 734(a) (relating to the adjustment", and

(B) by striking "section 743(b) (relating to the optional adjustment" and inserting "section 743(a) (relating to the adjustment".

(3) Section 761(e)(2) is amended by striking "optional".

(4) Section 774(a) is amended by striking "743(b)" both places it appears and inserting "743(a)".

(5) The item relating to section 734 in the table of sections for subpart B of part II of subchapter K of chapter 1 is amended by striking "Optional".

(6) The item relating to section 743 in the table of sections for subpart C of part II of subchapter K of chapter 1 is amended by striking "Optional".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transfers and distributions made after the date of the enactment of this Act.

(2) REPEAL OF SECTION 732(d).—The amendments made by subsections (b)(2) and (d)(1) shall apply to—

(A) except as provided in subparagraph (B), transfers made after the date of the enactment of this Act, and

(B) in the case of any transfer made on or before such date to which section 732(d) applies, distributions made after the date which is 2 years after such date of enactment.

SEC. 5684. CLASS LIVES FOR UTILITY GRADING COSTS.

(a) GAS UTILITY PROPERTY.—Section 168(e)(3)(E) (defining 15-year property) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) initial clearing and grading land improvements with respect to gas utility property.".

(b) ELECTRIC UTILITY PROPERTY.—Section 168(e)(3) is amended by adding at the end the following new subparagraph:

"(F) 20-YEAR PROPERTY.—The term '20-year property' means initial clearing and grading land improvements with respect to any electric utility transmission and distribution plant.".

(c) CONFORMING AMENDMENTS.—The table contained in section 168(g)(3)(B) is amended—

(1) by inserting "or (E)(iv)" after "(E)(iii)", and

(2) by adding at the end the following new item:

"(F) .... 25".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 5685. CONSISTENT AMORTIZATION OF PERIODS FOR INTANGIBLES.

(a) START-UP EXPENDITURES.—

(1) ALLOWANCE OF DEDUCTION.—Paragraph (1) of section 195(b) (relating to start-up expenditures) is amended to read as follows:

"(1) ALLOWANCE OF DEDUCTION.—If a taxpayer elects the application of this subsection with respect to any start-up expenditures—

"(A) the taxpayer shall be allowed a deduction for the taxable year in which the active trade or business begins in an amount equal to the lesser of—

"(i) the amount of start-up expenditures with respect to the active trade or business, or

"(ii) $5,000, reduced (but not below zero) by the amount by which such start-up expenditures exceed $50,000, and

"(B) the remainder of such start-up expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the active trade or business begins.".

(2) CONFORMING AMENDMENT.—Subsection (b) of section 195 is amended by striking "AMORTIZE" and inserting "DEDUCT" in the heading.

(b) ORGANIZATIONAL EXPENDITURES.—Subsection (a) of section 248 (relating to organizational expenditures) is amended to read as follows:

"(a) ELECTION TO DEDUCT.—If a corporation elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenditures—

"(1) the corporation shall be allowed a deduction for the taxable year in which the corporation begins business in an amount equal to the lesser of—

"(A) the amount of organizational expenditures with respect to the taxpayer, or

"(B) $5,000, reduced (but not below zero) by the amount by which such organizational expenditures exceed $50,000, and

"(2) the remainder of such organizational expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the corporation begins business.".

(c) TREATMENT OF ORGANIZATIONAL AND SYNDICATION FEES OR PARTNERSHIPS.—

(1) IN GENERAL.—Section 709(b) (relating to amortization of organization fees) is amended by redesignating paragraph (2) as paragraph (3) and by amending paragraph (1) to read as follows:

"(1) ALLOWANCE OF DEDUCTION.—If a taxpayer elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenses—

"(A) the taxpayer shall be allowed a deduction for the taxable year in which the partnership begins business in an amount equal to the lesser of—

"(i) the amount of organizational expenses with respect to the partnership, or

"(ii) $5,000, reduced (but not below zero) by the amount by which such organizational expenses exceed $50,000, and

"(B) the remainder of such organizational expenses shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the partnership begins business.

"(2) DISPOSITIONS BEFORE CLOSE OF AMORTIZATION PERIOD.—In any case in which a partnership is liquidated before the end of the period to which paragraph (1)(B) applies, any deferred expenses attributable to the partnership which were not allowed as a deduction by reason of this section may be deducted to the extent allowable under section 165.".

(2) CONFORMING AMENDMENT.—Subsection (b) of section 709 is amended by striking "AMORTIZATION" and inserting "DEDUCTION" in the heading.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

Subtitle I—Tax-Exempt Financing of Highway Projects and Rail-Truck Transfer Facilities

SEC. 5691. TAX-EXEMPT FINANCING OF HIGHWAY PROJECTS AND RAIL-TRUCK TRANSFER FACILITIES.

(a) TREATMENT AS EXEMPT FACILITY BOND.—Subsection (a) of section 142 (relating to exempt facility bond) is amended by striking "or" at the end of paragraph (12), by striking the period at the end of paragraph (13), and by adding at the end the following:

"(14) qualified highway facilities, or

"(15) qualified surface freight transfer facilities.".

(b) QUALIFIED HIGHWAY FACILITIES AND QUALIFIED SURFACE FREIGHT TRANSFER FACILITIES.—Section 142 is amended by adding at the end the following:

"(l) QUALIFIED HIGHWAY AND SURFACE FREIGHT TRANSFER FACILITIES.—

"(1) QUALIFIED HIGHWAY FACILITIES.—For purposes of subsection (a)(14), the term 'qualified highway facilities' means—

"(A) any surface transportation project which receives Federal assistance under title 23, United States Code (as in effect on the date of the enactment of this subsection), or

"(B) any project for an international bridge or tunnel for which an international entity authorized under Federal or State law is responsible and which receives Federal assistance under such title 23.

"(2) QUALIFIED SURFACE FREIGHT TRANSFER FACILITIES.—For purposes of subsection (a)(15), the term 'qualified surface freight transfer facilities' means facilities for the transfer of freight from truck to rail or rail to truck (including any temporary storage facilities directly related to such transfers) which receives Federal assistance under either title 23 or title 49, United States Code (as in effect on the date of the enactment of this subsection).

"(3) AGGREGATE FACE AMOUNT OF TAX-EXEMPT FINANCING FOR FACILITIES.—

"(A) IN GENERAL.—An issue shall not be treated as an issue described in subsection (a)(14) or (a)(15) if the aggregate face amount of bonds issued by any State pursuant thereto (when added to the aggregate face amount of bonds previously so issued) exceeds $15,000,000,000.

"(B) ALLOCATION BY SECRETARY OF TRANSPORTATION.—The Secretary of Transportation shall allocate the amount described in subparagraph (A) among eligible projects described in subsections (a)(14) and (a)(15) in such manner as the Secretary determines appropriate.".

(c) EXEMPTION FROM GENERAL STATE VOLUME CAPS.—Paragraph (3) of section 146(g) of the Internal Revenue Code of 1986 (relating to exception for certain bonds) is amended by striking "or (13)" and all that follows through the end of the paragraph and inserting "(13), (14), or (15) of section 142(a), and".

(d) EFFECTIVE DATE.—The amendments made by this section apply to bonds issued after the date of the enactment of this Act.

SEC. 5692. ADDITION OF VACCINES AGAINST HEPATITIS A TO LIST OF TAXABLE VACCINES.

(a) IN GENERAL.—Section 4132(a)(1) (defining taxable vaccine) is amended by redesignating subparagraphs (I), (J), (K), and (L) as subparagraphs (J), (K), (L), and (M), respectively, and by inserting after subparagraph (H) the following new subparagraph:

"(I) Any vaccine against hepatitis A.".

(b) CONFORMING AMENDMENT.—Section 9510(c)(1)(A) is amended by striking "October 18, 2000" and inserting "the date of the enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004".

(c) EFFECTIVE DATE.—

(1) SALES, ETC.—The amendments made by this section shall apply to sales and uses on or after the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act.

(2) DELIVERIES.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

SEC. 5693. ADDITION OF VACCINES AGAINST INFLUENZA TO LIST OF TAXABLE VACCINES.

(a) IN GENERAL.—Section 4132(a)(1) (defining taxable vaccine), as amended by section 5692 of this Act, is amended by adding at the end the following new subparagraph:

"(N) Any trivalent vaccine against influenza.".

(b) EFFECTIVE DATE.—

(1) SALES, ETC.—The amendment made by this section shall apply to sales and uses on or after the later of—

(A) the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act, or

(B) the date on which the Secretary of Health and Human Services lists any vaccine against influenza for purposes of compensation for any vaccine-related injury or death through the Vaccine Injury Compensation Trust Fund.

(2) DELIVERIES.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

SEC. 5694. EXTENSION OF AMORTIZATION OF INTANGIBLES TO SPORTS FRANCHISES.

(a) IN GENERAL.—Section 197(e) (relating to exceptions to definition of section 197 intangible) is amended by striking paragraph (6) and by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(b) CONFORMING AMENDMENTS.—

(1)(A) Section 1056 (relating to basis limitation for player contracts transferred in connection with the sale of a franchise) is repealed.

(B) The table of sections for part IV of subchapter O of chapter 1 is amended by striking the item relating to section 1056.

(2) Section 1245(a) (relating to gain from disposition of certain depreciable property) is amended by striking paragraph (4).

(3) Section 1253 (relating to transfers of franchises, trademarks, and trade names) is amended by striking subsection (e).

(c) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to property acquired after the date of the enactment of this Act.

(2) Section 1245.—The amendment made by subsection (b)(2) shall apply to franchises acquired after the date of the enactment of this Act.

TITLE VI—TRANSPORTATION DISCRETIONARY SPENDING GUARANTEE AND BUDGET OFFSETS

SEC. 6101. SENSE OF THE SENATE ON OVERALL FEDERAL BUDGET.

It is the sense of the Senate that—

(1) comprehensive statutory budget enforcement measures, the jurisdiction of which lies with the Senate Budget Committee and Senate Governmental Affairs Committee, should—

(A) be enacted this year; and

(B) address all areas of the Federal budget, including discretionary spending, direct spending, and revenues; and

(2) special allocations for transportation or any other categories of spending should be considered in that context and be consistent with the rest of the Federal budget.

SEC. 6102. DISCRETIONARY SPENDING CATEGORIES.

(a) Definitions.—

(1) Highway category.—Section 250(c)(4)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(c)(4)(B)) is amended—

(A) by striking "Transportation Equity Act for the 21st Century" and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004"; and

(B) by adding at the end the following:

"(v) 69–8158–0–7–401 (Motor Carrier Safety Grants).

"(vi) 69–8159–0–7–401 (Motor Carrier Safety Operations and Programs).".

(2) Mass transit category.—Section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(c)(4)) is amended by striking subparagraph (C) and inserting the following:

"(C) Mass transit category.—The term 'mass transit category' means the following budget accounts, or portions of the accounts, that are subject to the obligation limitations on contract authority provided in the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 or for which appropriations are provided in accordance with authorizations contained in that Act:

"(i) 69–1120–0–1–401 (Administrative Expenses).

"(ii) 69–1134–0–1–401 (Capital Investment Grants).

"(iii) 69–8191–0–7–401 (Discretionary Grants).

"(iv) 69–1129–0–1–401 (Formula Grants).

"(v) 69–8303–0–7–401 (Formula Grants and Research).

"(vi) 69–1127–0–1–401 (Interstate Transfer Grants—Transit).

"(vii) 69–1125–0–1–401 (Job Access and Reverse Commute).

"(viii) 69–1122–0–1–401 (Miscellaneous Expired Accounts).

"(ix) 69–1139–0–1–401 (Major Capital Investment Grants).

"(x) 69–1121–0–1–401 (Research, Training and Human Resources).

"(xi) 69–8350–0–7–401 (Trust Fund Share of Expenses).

"(xii) 69–1137–0–1–401 (Transit Planning and Research).

"(xiii) 69–1136–0–1–401 (University Transportation Research).

"(xiv) 69–1128–0–1–401 (Washington Metropolitan Area Transit Authority).".

(b) Highway Funding Revenue Alignment.—Section 251(b)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(1)(B)) is amended—

(1) in clause (i)—

(A) by inserting "for each of fiscal years 2006 through 2009" after "submits the budget";

(B) by inserting "the obligation limitation and outlay limit for" after "adjustments to"; and

(C) by striking "provided in clause (ii)(I)(cc)." and inserting the following: "follows:

"(I) OMB shall take the actual level of highway receipts for the year before the current year and subtract the sum of the estimated level of highway receipts in clause (iii), plus any amount previously calculated under clauses (i)(II) and (ii) for that year.

"(II) OMB shall take the current estimate of highway receipts for the current year and subtract the estimated level of highway receipts in clause (iii) for that year.

"(III) OMB shall—

"(aa) take the sum of the amounts calculated under subclauses (I) and (II) and add that amount to the obligation limitation set forth in section 6103 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 for the highway category for the budget year, and calculate the outlay change resulting from that change in obligations relative to that amount for the budget year and each outyear using current estimates; and

"(bb) after making the calculation under item (aa), adjust the obligation limitation set forth in section 6103 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 for the budget year by adding the amount calculated under subclauses (I) and (II).";

(2) by striking clause (ii) and inserting the following:

"(ii) When the President submits the supplementary budget estimates for each of fiscal years 2006 through 2009 under section 1106 of title 31, United States Code, OMB's Mid-Session Review shall include adjustments to the obligation limitation and outlay limit for the highway category for the budget year and each outyear as follows:

"(I) OMB shall take the most recent estimate of highway receipts for the current year (based on OMB's Mid-Session Review) and subtract the estimated level of highway receipts in clause (iii) plus any amount previously calculated and included in the President's Budget under clause (i)(II) for that year.

"(II) OMB shall—

"(aa) take the amount calculated under subclause (I) and add that amount to the amount of obligations set forth in section 6103 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 for the highway category for the budget year, and calculate the outlay change resulting from that change in obligations relative to that amount for the budget year and each outyear using current estimates; and

"(bb) after making the calculation under item (aa), adjust the amount of obligations set forth in section 6103 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 for the budget year by adding the amount calculated under subclause (I)."; and

(3) by adding at the end the following:

"(iii) The estimated level of highway receipts for the purpose of this subparagraph are—

"(I) for fiscal year 2004, $29,945,938,902;

"(II) for fiscal year 2005, $36,294,778,392;

"(III) for fiscal year 2006, $37,766,517,123;

"(IV) for fiscal year 2007, $38,795,061,111;

"(V) for fiscal year 2008, $39,832,795,606; and

"(VI) for fiscal year 2009, $40,964,722,457.

"(iv) In this subparagraph, the term "highway receipts" means the governmental receipts and interest credited to the highway account of the Highway Trust Fund.".

(c) Continuation of Separate Spending Categories.—For the purpose of section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(c)), the discretionary spending limits for the highway category and the mass transit category shall be—

(1) for fiscal year 2004—

(A) $28,876,732,956 for the highway category; and

(B) $6,262,000,000 for the mass transit category;

(2) for fiscal year 2005—

(A) $31,991,246,160 for the highway category; and

(B) $6,903,000,000 for the mass transit category;

(3) for fiscal year 2006—

(A) $35,598,640,776 for the highway category; and

(B) $7,974,000,000 for the mass transit category;

(4) for fiscal year 2007—

(A) $37,871,760,938 for the highway category; and

(B) $8,658,000,000 for the mass transit category;

(5) for fiscal year 2008—

(A) $38,722,907,474 for the highway category; and

(B) $9,222,000,000 for the mass transit category; and

(6) for fiscal year 2009—

(A) $40,537,563,667 for the highway category; and

(B) $9,897,000,000 for the mass transit category.

(d) Additional Adjustments.—Section 251(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(1)) is amended—

(1) in subparagraph (C)—

(A) in clause (i), by striking "fiscal years 2000, 2001, 2002, or 2003," and inserting "each of fiscal years 2006, 2007, 2008, and 2009,"; and

(B) in clause (ii), by striking "2002 and 2003" and inserting "2008 and 2009"; and

(2) in subparagraph (D)—

(A) in clause (i)—

(i) by striking "1999" and inserting "2005";

(ii) by striking "2000 through 2003" and inserting "2006 through 2009"; and

(iii) by striking "section 8103 of the Transportation Equity Act for the 21st Century" and inserting "section 6102 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004"; and

(B) in clause (ii), by striking "2000, 2001, 2002, or 2003" and inserting "2006, 2007, 2008, and 2009".

SEC. 6103. LEVEL OF OBLIGATION LIMITATIONS.

(a) Highway Category.—For the purpose of section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)), the level of obligation limitations for the highway category is—

(1) for fiscal year 2004, $34,651,000,000;

(2) for fiscal year 2005, $38,927,000,000;

(3) for fiscal year 2006, $40,186,000,000;

(4) for fiscal year 2007, $40,229,000,000;

(5) for fiscal year 2008, $40,563,000,000; and

(6) for fiscal year 2009, $45,622,000,000.

(b) Mass Transit Category.—For the purpose of section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)), the level of obligation limitations for the mass transit category is—

(1) for fiscal year 2004, $7,265,877,000;

(2) for fiscal year 2005, $8,650,000,000;

(3) for fiscal year 2006, $9,085,123,000;

(4) for fiscal year 2007, $9,600,000,000;

(5) for fiscal year 2008, $10,490,000,000; and

(6) for fiscal year 2009, $11,430,000,000.

For the purpose of this subsection, the term "obligation limitations" means the sum of budget authority and obligation limitations.

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 7001. REIMBURSEMENT OF CERTAIN TRANSPORTATION COSTS INCURRED BY MEMBERS OF THE UNITED STATES ARMED FORCES ON REST AND RECUPERATION LEAVE.

The Secretary of Defense shall reimburse a member of the United States Armed Forces (out of funds available for the Armed Forces for operation and maintenance for the relevant fiscal year) for transportation expenses incurred by such member for 1 round trip by such member between 2 locations within the United States in connection with leave taken under the Central Command Rest and Recuperation Leave Program during the period beginning on September 25, 2003, and ending on December 18, 2003.

TITLE VIII—SOLID WASTE DISPOSAL

SEC. 8001. INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.

(a) IN GENERAL.—Subtitle F of the Solid Waste Disposal Act (42 U.S.C. 6961 et seq.) is amended by adding at the end the following:

"SEC. 6005. INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.

"(a) DEFINITIONS.—In this section:

"(1) AGENCY HEAD.—The term 'agency head' means—

"(A) the Secretary of Transportation; and

"(B) the head of each other Federal agency that on a regular basis procures, or provides Federal funds to pay or assist in paying the cost of procuring, material for cement or concrete projects.

"(2) CEMENT OR CONCRETE PROJECT.—The term 'cement or concrete project' means a project for the construction or maintenance of a highway or other transportation facility or a Federal, State, or local government building or other public facility that—

"(A) involves the procurement of cement or concrete; and

"(B) is carried out in whole or in part using Federal funds.

"(3) RECOVERED MINERAL COMPONENT.—The term 'recovered mineral component' means—

"(A) ground granulated blast furnace slag;

"(B) coal combustion fly ash; and

"(C) any other waste material or byproduct recovered or diverted from solid waste that the Administrator, in consultation with an agency head, determines should be treated as recovered mineral component under this section for use in cement or concrete projects paid for, in whole or in part, by the agency head.

"(b) IMPLEMENTATION OF REQUIREMENTS.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Administrator and each agency head shall take such actions as are necessary to implement fully all procurement requirements and incentives in effect as of the date of enactment of this section (including guidelines under section 6002) that provide for the use of cement and concrete incorporating recovered mineral component in cement or concrete projects.

"(2) PRIORITY.—In carrying out paragraph (1) an agency head shall give priority to achieving greater use of recovered mineral component in cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally.

"(3) CONFORMANCE.—The Administrator and each agency head shall carry out this subsection in accordance with section 6002.

"(c) FULL IMPLEMENTATION STUDY.—

"(1) IN GENERAL.—The Administrator, in cooperation with the Secretary of Transportation and the Secretary of Energy, shall conduct a study to determine the extent to which current procurement requirements, when fully implemented in accordance with subsection (b), may realize energy savings and environmental benefits attainable with substitution of recovered mineral component in cement used in cement or concrete projects.

"(2) MATTERS TO BE ADDRESSED.—The study shall—

"(A) quantify the extent to which recovered mineral components are being substituted for Portland cement, particularly as a result of current procurement requirements, and the energy savings and environmental benefits associated with that substitution;

"(B) identify all barriers in procurement requirements to greater realization of energy savings and environmental benefits, including barriers resulting from exceptions from current law; and

"(C)(i) identify potential mechanisms to achieve greater substitution of recovered mineral component in types of cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally;

"(ii) evaluate the feasibility of establishing guidelines or standards for optimized substitution rates of recovered mineral component in those cement or concrete projects; and

"(iii) identify any potential environmental or economic effects that may result from greater substitution of recovered mineral component in those cement or concrete projects.

"(3) REPORT.—Not later than 30 months after the date of enactment of this section, the Administrator shall submit to Congress a report on the study.

"(d) ADDITIONAL PROCUREMENT REQUIREMENTS.—Unless the study conducted under subsection (c) identifies any effects or other problems described in subsection (c)(2)(C)(iii) that warrant further review or delay, the Administrator and each agency head shall, not later than 1 year after the release of the report in accordance with subsection (c)(3), take additional actions authorized under this Act to establish procurement requirements and incentives that provide for the use of cement and concrete with increased substitution of recovered mineral component in the construction and maintenance of cement or concrete projects, so as to—

"(1) realize more fully the energy savings and environmental benefits associated with increased substitution; and

"(2) eliminate barriers identified under subsection (c).

"(e) EFFECT OF SECTION.—Nothing in this section affects the requirements of section 6002 (including the guidelines and specifications for implementing those requirements).".

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding after the item relating to section 6004 the following:

"Sec. 6005. Increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.".

SEC. 8002. USE OF GRANULAR MINE TAILINGS.

(a) IN GENERAL.—Subtitle F of the Solid Waste Disposal Act (42 U.S.C. 6961 et seq.) (as amended by section 8001(a)) is amended by adding at the end the following:

"SEC. 6006. USE OF GRANULAR MINE TAILINGS.

"(a) MINE TAILINGS.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Administrator, in consultation with the Secretary of Transportation and heads of other Federal agencies, shall establish criteria (including an evaluation of whether to establish a numerical standard for concentration of lead and other hazardous substances) for the safe and environmentally protective use of granular mine tailings from the Tar Creek, Oklahoma Mining District, known as 'chat', for—

"(A) cement or concrete projects; and

"(B) transportation construction projects (including transportation construction projects involving the use of asphalt) that are carried out, in whole or in part, using Federal funds.

"(2) REQUIREMENTS.—In establishing criteria under paragraph (1), the Administrator shall consider—

"(A) the current and previous uses of granular mine tailings as an aggregate for asphalt; and

"(B) any environmental and public health risks and benefits derived from the removal, transportation, and use in transportation projects of granular mine tailings.

"(3) PUBLIC PARTICIPATION.—In establishing the criteria under paragraph (1), the Administrator shall solicit and consider comments from the public.

"(4) APPLICABILITY OF CRITERIA.—On the establishment of the criteria under paragraph (1), any use of the granular mine tailings described in paragraph (1) in a transportation project that is carried out, in whole or in part, using Federal funds, shall meet the criteria established under paragraph (1).

"(b) EFFECT OF SECTIONS.—Nothing in this section or section 6005 affects any requirement of any law (including a regulation) in effect on the date of enactment of this section.".

(b) CONFORMING AMENDMENT.—The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) (as amended by section 8001(b)) is amended by adding after the item relating to section 6005 the following:

"Sec. 6006. Use of granular mine tailings.".

ORDER OF BUSINESS

Mr. FRIST. Mr. President, I will be making a couple statements before we wrap up for this week and for this period of 5 weeks before the recess. But I do want to speak on two issues that are important. I want to state and restate some of the events of the last several days, the last several weeks, before leaving for this recess.

COMMENDING SECRETARY RUMSFELD

Mr. FRIST. Mr. President, first of all, I want to make some comments on the issue of the Abu Ghraib abuses and the role of Secretary Rumsfeld and some of the statements that he has made, but also the tremendous leadership he has given over the last several weeks in what have been very difficult times for us as a nation, as we have witnessed, through both report and visual images, the occurrences that happened at Abu Ghraib prison.

First and foremost, I thank the Secretary for, ever since these abuses became apparent, being available to us in the Senate, the appropriate committees, and providing the appropriate resources and personnel to keep us informed of the abuses, the response to the abuses, and the many investigations that are underway.

Yesterday, Secretary Rumsfeld came to the Capitol for an all-Senators briefing on Iraq, and with him were a number of the generals and other men and women in our Armed Forces to help us better understand the events as they have unfolded over the last several weeks and months. The Secretary, as always, was forthright and direct and complete, sharing with us everything that was known, and being very clear that there is, at any point in time, a lot that is not known that will hopefully soon be known.

He addressed a whole range of issues, in particular our efforts to secure peace, to fight boldly in this war on terror, and also shared with us his views, his observations, on the Army's investigation of the Abu Ghraib abuses. He reiterated again and again his absolute commitment to thorough and complete and timely investigations. For that, we thank him.

Secretary Rumsfeld has appointed, also, an independent panel to review allegations of abuse at the DOD detention facilities. This particular panel will also review other matters related to detention operations. The panel consists of four individuals who have been involved in public service in the past. I believe all those names have been announced publicly. These experts will provide an independent and professional analysis to the Secretary, and they will make recommendations to address any problems they identify. I had the opportunity to talk to several members of this panel, and I look forward to their report and bringing together many of the other reports that are currently underway.

Secretary Rumsfeld has made it very clear that all DOD, Department of Defense, agencies and the military services will be cooperating with this panel. The panel was to begin its work on May 20 and will report its findings in early July. That report will be shared with all of us in the Senate and throughout the Defense Department.

As I said, Secretary Rumsfeld is displaying tremendous leadership. He is devoting, rightly so, a huge amount of time and resources to make sure that we, the American people, and the world get all the facts; that everything is transparent; that those people who are guilty are brought both to trial and punished appropriately. That is the American way. He made it clear that he is seeing that that is being done.

He is committed to preventing such abuses and such incidents from ever happening in the future. I know the Secretary's resolve, and he has expressed that to the Senate.

Secretary Rumsfeld has proven himself over and over again, through a long and distinguished career, to be a man of great integrity and results. We, as a nation, express our gratitude to him.

These are difficult times for all Americans. The abuses at the Abu Ghraib prison continue to shock us—the photographs, the fact that such incidents, that we would have never thought possible, actually did occur. For some, the ugly behavior of a few made them question our overall mission in Iraq and fighting this war on terror. But while all this is going on we should not lose hope, we cannot lose hope, and we must not lose sight of that big picture.

The vast majority of our troops—and, again, over 130,000 men and women are fighting for us overseas right now—the overwhelming majority of those troops are serving us each and every day with courage and with honor, of which we are all very proud. And we need to send that message to our troops. We do not say it nearly enough. And now is the time for us to do so, when the world is focused so much on the abuses, terrible abuses, caused by these very few people.

The men and women overseas, every day, are improving the lives of Iraqis, of citizens throughout that country. They are bringing freedom. They are fighting for freedom. They are sacrificing for the freedom of the Iraqi people who have lived under merciless tyranny over the last several decades. By doing all this, our troops are there defending our security so we can live in this great country, enjoying the freedoms and democracy that maybe all too often we take for granted, but in these times we simply cannot. And that gratitude we express to those men and women who are overseas right now fighting for us with boldness and courage and integrity and unselfishness.

I implied that elemental point of defending our security. Every day we see the pictures of the terrible abuses. We need to recognize that all this effort that our U.S. Government and the American people are directing is to defend our security. That is an elemental point that we need to keep coming back to. We are fighting a shadowy enemy that seeks nothing less—their goal is to have destruction of our way of life, of the freedoms that we enjoy.

They take pleasure in wanton murder. They hide behind innocents and then slaughter them. They do so without hesitation. We can see the character of our enemy in the brutal slaughter last week of Nicholas Berg.

We saw it in the slaughter of Daniel Pearl, and we saw it in the slaughter of 3,000 innocent people on September 11 in this country.

As our President reminds us, we did not ask for this conflict. The war was brought to our doorstep. The battle against terror will last for years, and we all know that. That is the new reality. It may last for decades, but fight we must. It is a war we cannot afford to lose, and it is a war that we will win.

To his credit, Secretary Rumsfeld has shown vision and resolve in preparing us against these new threats. At the very beginning of the administration, Secretary Rumsfeld resaw the need to modernize our military. From focusing at the time on what was an outdated cold war strategy to now this current era of adjusting to new threats, which are posed by terrorism, to be able to address issues as we did in the Senate this week on bioterrorism, using viruses and bacteria and microorganisms that know no boundaries or borders and can spread rapidly—this is the new reality. He recognized that not all future threats to America will come from enemy soldiers in uniform. And before he became Secretary of Defense, he chaired a commission that identified the growing danger of a missile strike against the homeland.

Secretary Rumsfeld has been a strong and innovative leader. He has done a tremendous job in preparing our military for successful operations in Iraq and Afghanistan, and we are grateful for the tremendous service he demonstrates every day. America is, indeed, fortunate to have such an exceptional Secretary of Defense in these times of crisis. Every day he is on the job, he is helping to make America safer and more secure.

LEGISLATIVE PROGRESS

Mr. FRIST. Mr. President, before closing, I want to mention several things that have occurred over the past several weeks on a different topic. We are an evenly divided body in the Senate, and people say they haven't seen more partisanship ever in their lives than over the last several years. I know that is true, but at the same time all of us, both sides of the aisle, recognize we were sent here to govern and to serve the national interest.

As we prepare to enter into our weeklong Memorial Day recess, very quickly I want to look back and share what progress we have made. Two days ago we passed Project Bioshield. It was supported by 99 Senators with a resounding yes. Project Bioshield, proposed by the President in his 2003 State of the Union Address, is comprehensive legislation that encourages research and encourages the development of new cutting-edge countermeasures to fight biological terrorism, chemical warfare, terrorism used with radiological or nuclear weapons. It is critical to our national security. This body came together and 2 days ago passed this important piece of legislation.

We also passed the JOBS bill which will protect more than 1 million high-quality manufacturing jobs in the United States. It cut taxes, a Euro tax that was going up at $40 million a month in this country on 100 American-made products.

Last week we passed, in terms of education, the Individuals with Disabilities Education Act. That special education bill refocuses our Federal law on outcomes for disabled children. It affects over 6.5 million children in this country and well over 400,000 special education teachers.

In the field of taxation and technology, we passed an Internet access tax moratorium extension which makes sure that we will be able to continue to access and promote broadband technologies. We are going to conference on the bill. We had agreement last week, actually last night, to go to the highway bill with the appointment of conferees. We have been able in the past week to come to an accommodation on the appointment of the President's judicial nominations.

We confirmed the nomination of Marcia Cooke. We confirmed John Negroponte to become American Ambassador to Iraq. The Senate has been productive, and I thank my colleagues for their hard work and cooperation.

When we return following Memorial Day we will go straight to class action reform. We will also return to the Department of Defense reauthorization.

We have a lot more to do, and I look forward to working with my colleagues in a productive, collaborative way as we move forward.

CLASS ACTION FAIRNESS ACT OF 2004—MOTION TO PROCEED

Mr. FRIST. Mr. President, earlier today the chairman and ranking member of the Armed Services Committee were here to make further progress on the Department of Defense authorization bill. We have adopted a number of amendments that have been cleared. However, we have been unable to vote on the pending amendment which was offered by Senator GRAHAM of South Carolina. In addition, Senator WARNER has been unable to secure an agreement for a filing deadline or an amendment list. We have a list of possible Republican amendments. However, there is an objection on the Democratic side of the aisle to limiting amendments.

Further, many weeks ago we scheduled the class action legislation for when the Senate returns from the upcoming recess. I would add that the class action bill does have strong bipartisan support, and we would like to finish that bill in a reasonable period of time. I believe we can, indeed, do just that. I had hoped we would have been able to proceed to that bill by consent, but again there is an objection to proceeding to the class action bill.

I want to reiterate that we are going to finish the Defense authorization bill. It is a critical bill, an important bill. It is a bill we have made progress on this week. We need to lock in an amendment list on this legislation, the Defense authorization, to allow our managers to work with Senators on their respective amendments and to make continued progress. This is a vital piece of legislation, and we will return to the bill.

My intention is to go to the class action bill and then return to the Defense authorization bill.

Thus, I now ask unanimous consent that at 2:15 on Tuesday, June 1, the Senate proceed to the consideration of Calendar No. 430, S. 2062, the class action bill.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, Mr. President, we are very disappointed that the distinguished majority leader is going to file cloture on this matter. We have said on more than one occasion we are willing to work toward completion of the Defense bill. We cooperated this week. We told the manager of the bill, both Senator LEVIN and I, let's go off of the Lindsey Graham amendment. We will agree to a 2-hour limitation of time when we come back next Tuesday to dispose of that and the Cantwell amendment that she would have offered. But that wasn't to be done. We indicated at that time that we would waste a lot of time.

We had a bipartisan amendment by Senator DASCHLE and Senator LINDSEY GRAHAM on TRICARE that would have moved forward. We had one that Senator KENNEDY had on the reporting. We were standing by with a number of amendments ready to go.

I would also say to the distinguished majority leader, we have supplied to the two managers of the bill our amendments, as Republicans have supplied amendments. There are about 100 amendments. They cleared a number this morning. They have cleared amendments in the past. I would also say that we take about 10 days on this bill normally. We don't think this bill will take that much time. We believe that when we come back, we would be in a position at that time, maybe not on Tuesday but by Wednesday, enter into an agreement as to a list of amendments. It is difficult to have our Members do this with a 10-day break because we don't know if there is going to be another Chalabi problem. We don't know if there is going to be another problem dealing with a prison. We don't know what is going to happen. Events are moving so quickly.

I say to my distinguished friend, the majority leader, we believe it is more important to go to this Defense bill. I listened to every word of the statement of the distinguished majority leader about the Secretary of Defense. We have had other speeches on the floor today about how important it is that we continue supporting our troops. We believe that.

Last night, the House passed, on a bipartisan basis, a very important Defense authorization bill, by an overwhelming margin. We need to do the same.

I also say that we are willing to go to class action when we finish the Defense bill, which will probably be, I respectfully submit to my friend, Tuesday anyway because I don't think you are going to get cloture on this motion to proceed. I have spoken to my people who are advocates of class action reform—the junior Senator from Delaware, Mr. CARPER, and the Senator from New York, Mr. SCHUMER. They believe in class action reform a lot, but they are not going to vote for cloture.

We believe we should finish the Defense bill and then go to class action. I ask my friend, the distinguished majority leader, to modify his request to provide that the Senate proceed to the consideration of the class action legislation upon disposition of the Defense authorization bill. I make that request.

Mr. FRIST. Mr. President, I object to the modification.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. I object to the request of the majority leader.

The PRESIDING OFFICER. Objection is heard.

Mr. FRIST. Mr. President, let me briefly say I have had the opportunity to talk to the manager of the bill, and we feel very strongly that it is critical that we address this bill. The best way to do it is to allow the managers to work together over the recess and see if they can come back with amendments that are identified so we have some kind of certainty as to how we are going to bring this to closure.

In the meantime, while those discussions are underway, we will hopefully be able to proceed with class action.

CLOTURE MOTION

Mr. FRIST. Mr. President, I move to proceed to the consideration of S. 2062, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 430, S. 2062.

Bill Frist, Orrin Hatch, Charles Grassley, John Sununu, Lamar Alexander, Pete Domenici, Norm Coleman, Jim Talent, Larry Craig, Mitch McConnell, Trent Lott, John Cornyn, Judd Gregg, Richard G. Lugar, Mike Crapo, Saxby Chambliss, Jon Kyl, Peter Fitzgerald.

Mr. FRIST. Mr. President, I ask unanimous consent that notwithstanding the provisions of rule XXII the vote occur at 5:15 p.m. on Tuesday, June 1, with the mandatory quorum waived.

Mr. REID. Mr. President, reserving the right to object, could the majority leader schedule that for 5:30? It is so difficult for people on the west coast—and I am one of them—coming back that day. We don't arrive, if the plane is on time, until about 4 o'clock.

Mr. FRIST. We are happy to make it 5:30, June 1. We modify the unanimous consent request to be 5:30 p.m. on Tuesday, June 1.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT REQUEST—S. 2400

Mr. FRIST. Mr. President, I ask unanimous consent that notwithstanding the adoption of the motion to proceed, the pending Department of Defense authorization bill not be placed back on the calendar, and that it remain the pending business.

Mr. REID. Mr. President, we object.

The PRESIDING OFFICER. Objection is heard.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Calendar Nos. 582, 583, 584, 618, 621, 663, 666, 668, 670, 671, 675, and 684.

I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

Mr. REID. Mr. President, I want the record to reflect that we have cleared a significant number of people today, and we have basically filled the diplomatic corps, ambassadorial vacancies, except for one, and that is in Nepal.

I was on the Senate floor about 10 days ago when we cleared another batch of ambassadors. We had the same problem then that we have now. We have not cleared the only vacant ambassadorial spot open, and that is Nepal. There is an objection by the majority. The ambassadorial appointments are all done except for Nepal. It is not our fault. It is the fault of the majority.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF TRANSPORTATION

Linda Morrison Combs, of North Carolina, to be an Assistant Secretary of Transportation.

Francis Mulvey, of Maryland, to be a Member of the Surface Transportation Board for a term expiring December 31, 2007.

W. Douglas Buttrey, of Tennessee, to be a Member of the Surface Transportation Board for a term expiring December 31, 2008.

CONSUMER PRODUCT SAFETY COMMISSION

Thomas Hill Moore, of Florida, to be a Commissioner of the Consumer Product Safety Commission for a term of seven years from October 27, 2003. (Reappointment)

DEPARTMENT OF TRANSPORTATION

Deborah Hersman, of Virginia, to be a Member of the National Transportation Safety Board for a term expiring December 31, 2008, vice John Goglia, term expired.

DEPARTMENT OF STATE

Miles T. Bivins, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Sweden.

John J. Danilovich, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federative Republic of Brazil.

Earle I. Mack, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Finland.

Jack Dyer Crouch II, of Missouri, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Romania.

Jendayi Elizabeth Frazer, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of South Africa.

Mitchell B. Reiss, of Virginia, for the rank of Ambassador during his tenure of service as Special Envoy for Northern Ireland.

Victor Henderson Ashe, of Tennessee, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Poland.

Mr. FRIST. Mr. President, indeed, we just confirmed about 12 of the 96 pending nominations on the Executive Calendar, and I do thank my colleagues for allowing us to proceed on this list. These ambassadorial appointments and other nominations are all very important. It reflects a lot of work on both sides of the aisle to make this progress. We appreciate the cooperation of those to date. Again, that is 12 of 96 nominations on the Executive Calendar that I mentioned earlier this morning.

Mr. President, thus, I now ask consent that the Senate proceed to the consideration of the following nominations, en bloc: Calendar Nos. 429, 594, 595, 610, 611, 612, 613, 614, 615, 617, 622, 623, 628, 629, 630, 631, 632, 633, 634, 635, 636, 641, 642, 643, 654, 655, 656, 658, 687, 688, 689, 690, 691, 694, 695, and 696.

Mr. REID. Reserving the right to object, Mr. President.

Mr. FRIST. I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

Mr. REID. Reserving the right to object, the reason I got a little out of sorts there, I thought I was in Nevada listening to a bingo game being called. I apologize.

I reserve the right to object, and I do it for this reason: The two leaders have worked hard to clear nominations. We got a little movement on our side today. Therefore, we cleared some 12 nominations. We need some reciprocation. I do not know what the numbers were today. I do not know exactly, it is 3 to 12, 3 to 16. We got 3; they got 12 or 16. We need some reciprocation. Let me give an example.

We have nominated and sent to the White House, and the White House has sent back to us a man by the name of Dr. Greg Jasko. Dr. Greg Jasko is to go on the Nuclear Regulatory Commission. I appeared at a hearing yesterday. This is one of the most important sensitive commissions in the entire American Government. They deal with the most sensitive issues—nuclear powerplants, the nuclear repository in Nevada, other nuclear facilities all over America. Dr. Jasko is eminently qualified. He has a Ph.D. in physics. We cannot get him cleared.

This is one of many examples of how it is not fair. I hope the distinguished majority leader will weigh in and help Dr. Jasko and others to get this roadblock cleared. It just really is not fair. We need some help on our boards and commissions. Therefore, I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

Mr. FRIST. Mr. President, indeed, I will continue to work with the Democratic leadership to search for a way to confirm the remaining nominations. For those people listening who are not familiar with this process, as they can see, it is a give-and-take process that is a real struggle, but it does involve very important positions and, just as the distinguished Senator from Nevada said, individuals who are willing, who put themselves forward for public service in very important positions.

We will continue to work on those who remain on the calendar and future nominations.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

UNANIMOUS CONSENT REQUEST—H.R. 1047

Mr. FRIST. Mr. President, I ask unanimous consent that the Chair now lay before the Senate a House message to accompany H.R. 1047, the miscellaneous tariffs bill; that the Senate disagree with the House amendment, agree to a conference with the House, and the Chair be authorized to appoint conferees with a ratio of 3 to 2.

The PRESIDING OFFICER. Is there objection?

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard.

AUTHORITY FOR COMMITTEES TO REPORT

Mr. FRIST. Mr. President, I ask unanimous consent that notwithstanding the Senate's adjournment, committees be allowed to report legislative and executive matters on Wednesday, May 26, from 10 a.m. to 12 noon.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY TO SIGN ENROLLED BILLS OR JOINT RESOLUTIONS

Mr. FRIST. Mr. President, I ask unanimous consent that during this adjournment of the Senate, the majority leader or the assistant majority leader be authorized to sign duly enrolled bills or joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY TO MAKE APPOINTMENTS

Mr. FRIST. I ask unanimous consent that notwithstanding the upcoming recess or adjournment of the Senate, the President of the Senate, the President pro tempore, and the majority and minority leaders be authorized to make appointments to commissions, committees, boards, conferences or interparliamentary conferences authorized by law, by concurrent action of the two Houses or by order of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURES PLACED ON THE CALENDAR—S. 2451 AND H.R. 1479

Mr. FRIST. I understand there are two bills at the desk due for a second reading, and I ask unanimous consent that the bills be given a second reading en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will read the bills by title for the second time.

The assistant legislative clerk read as follows:

> A bill (S. 2451) to amend the Agricultural Marketing Act of 1946 to restore the application date for country of origin labeling.
>
> A bill (H.R. 1479) to amend the Internal Revenue Code of 1986 to provide for the disposition of unused health benefits in cafeteria plans and flexible spending arrangements, to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system, and to amend title I of the Employee Retirement Income Security Act of 1974 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees.

Mr. FRIST. I object to further proceedings on the measures en bloc at this time.

The PRESIDING OFFICER. Objection is heard. The bills will be placed on the calendar.

ORDER FOR PRINTING OF H.R. 1350, AS AMENDED

Mr. FRIST. I ask unanimous consent that the text of H.R. 1350, as amended by the Senate, be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TUESDAY, JUNE 1, 2004

Mr. FRIST. I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m., Tuesday, June 1. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day and the Senate then conduct a period for morning business until 12:30 with the time equally divided between the majority leader or his designee and the Democratic leader or his designee.

I further ask that the Senate stand in recess from 12:30 until 2:15 to accommodate the weekly party luncheons. I further ask that at 2:15, the Senate resume consideration of the motion to proceed to Calendar No. 430, S. 2062, the Class Action Fairness bill, that the time until 5:30 p.m. be equally divided between the chairman and ranking member or their designees.

Mr. REID. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I say through the Chair to the distinguished majority leader, we are going to have our conference on Wednesday for obvious reasons, because there will be so much travel. This year, Monday is actually Memorial Day. We are going to have very few people here until late in the evening on Tuesday, so I ask that the distinguished majority leader allow a modification to his unanimous consent request that we be allowed a time on Wednesday to have our party caucus.

Mr. FRIST. Mr. President, it would be so modified to have their party caucus luncheon at the usual time. Is it 12:30 to 2:15 on Wednesday as well?

Mr. REID. Approximately 12:45 to 2:15.

Mr. FRIST. 12:45 to 2:15 on Wednesday.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. For the information of all Senators, the Senate will be voting on the motion to invoke cloture on the motion to proceed to the Class Action bill when we return after the Memorial Day recess.

Under a previous order, the vote will occur at 5:30 on Tuesday, June 1. That will be the first vote of the day. As I mentioned earlier, we will also need to complete the important Department of Defense authorization bill after the recess. It would be my intention to return to this bill upon completion of the class action bill.

Again, we need to assist our two managers on the Defense authorization bill by securing a list of amendments and notifying them of potential amendments to that bill.

ORDER FOR ADJOURNMENT

Mr. FRIST. If there is no further business to come before the Senate, I ask that the Senate stand in adjournment under the provisions of H. Con. Res. 432, following the remarks of Senator DOMENICI.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico.

ENERGY POLICY

Mr. DOMENICI. Mr. President, first I want to say I will be very brief. I have told the Senate, as best I could, that I would try to take the floor every day and say something about America's energy crisis. So today I want to speak again for a couple of minutes.

A week ago, some of my colleagues from the other side of the aisle were down here on the Senate floor complaining because they wanted the administration to persuade OPEC to increase its production. They acted and spoke as if our President was not doing anything about it, and that they were going to have to direct him to do it.

Instead of passing an energy bill, Senators on the other side continue to blame the President for the high price of gasoline. This administration has been part of an announcement today which I think indicates the President is doing his job well. Saudi Arabia has announced it will ask OPEC to increase its production by 2 million barrels a day.

That is the first solid good news we have had in a long time. If it happens, if they can, I think it is obvious part of that will be due to the good relations between our President and the Saudis. In a sense, the President is working hard with the tools he has to help us through this energy crisis.

But the American people are still waiting for this Senate to deliver an energy bill. I have been trying to pass the Energy bill for more than a year. Some of the same Senators who wanted the administration to persuade OPEC to increase production, as if the President were doing nothing, are the very Senators who have blocked the Energy bill for more than a year. Each of them seems to have one other reason that they will or will not vote for this energy bill. I am telling these Senators, the administration is doing everything it can to address oil prices, and they have asked us repeatedly to produce an energy bill.

If you don't like the President's suggestions, let's do something else. The Energy bill we produced was not exclusively the President's, though some on the other side continue to say they didn't like the President's and we have the President's bill here. That is not the case.

I again ask that the other side of the aisle seriously consider the proposition of sitting down with our side of the aisle and working through the Energy bill to see if we can't get together on an overwhelming portion of it so if the OPEC cartel reduces oil prices and we get some good news that it will not be temporary, it will not be a one-time event, but we can send a message to the world we are trying to solve our problem by bringing alternatives to the market in America.

If we told the world we were moving on natural gas and moving on coal and moving on nuclear and moving on wind energy and we are doing something for our electricity grid that is important and long term, they would react first in disbelief, because they wouldn't believe we could do it, and then, when it was done, there would be great relief in the world that America is doing something to help itself out of this crisis.

I commend to my colleagues an article from the June 2004 issue of the National Geographic, at page 84.

You wouldn't expect that to be the great source of this information, but it has the best article I have seen on oil today and oil in the future. It is called "The End Of Cheap Oil." It tells us what a problem we have in America if we do not solve our energy crisis.

Let me close by saying most of us think our oil and its related products all go to automobiles and transportation. If you read this article you will find only half goes to that. Half of America's use goes to a myriad of products, from plastics to all kinds of related products, including many in the semiconducting industry. That comes from oil. Fifty percent of our use is for products, for agriculture, and all kinds of things.

I suggest we ought to get on with it. Maybe we learned our lesson and we don't have to come down here and try to blame the President and make this a political issue with reference to the White House, when, if the President wanted to go to the public every day, he could make sure they understood the truth. That is, it is our fault, not his.

I yield the floor.

ADJOURNMENT UNTIL TUESDAY, JUNE 1, 2004 AT 10 A.M.

The PRESIDING OFFICER. The Senate stands adjourned until 10 a.m. on Tuesday, June 1.

Thereupon, the Senate, at 2:39 p.m., adjourned until Tuesday, June 1, 2004, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 21, 2004:

DEPARTMENT OF TRANSPORTATION

LINDA MORRISON COMBS, OF NORTH CAROLINA, TO BE AN ASSISTANT SECRETARY OF TRANSPORTATION.

FRANCIS MULVEY, OF MARYLAND, TO BE A MEMBER OF THE SURFACE TRANSPORTATION BOARD FOR A TERM EXPIRING DECEMBER 31, 2007.

W. DOUGLAS BUTTREY, OF TENNESSEE, TO BE A MEMBER OF THE SURFACE TRANSPORTATION BOARD FOR A TERM EXPIRING DECEMBER 31, 2008.

CONSUMER PRODUCT SAFETY COMMISSION

THOMAS HILL MOORE, OF FLORIDA, TO BE A COMMISSIONER OF THE CONSUMER PRODUCT SAFETY COMMISSION FOR A TERM OF SEVEN YEARS FROM OCTOBER 27, 2003.

DEPARTMENT OF TRANSPORTATION

DEBORAH HERSMAN, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR A TERM EXPIRING DECEMBER 31, 2008.

DEPARTMENT OF STATE

MILES T. BIVINS, OF TEXAS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO SWEDEN.

JOHN J. DANILOVICH, OF CALIFORNIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE FEDERATIVE REPUBLIC OF BRAZIL.

EARLE I. MACK, OF NEW YORK, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF FINLAND.

JACK DYER CROUCH II, OF MISSOURI, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ROMANIA.

JENDAYI ELIZABETH FRAZER, OF VIRGINIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SOUTH AFRICA.

MITCHELL B. REISS, OF VIRGINIA, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS SPECIAL ENVOY FOR NORTHERN IRELAND.

VICTOR HENDERSON ASHE, OF TENNESSEE, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF POLAND.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

EXTENSIONS OF REMARKS

FOSTER CARE

HON. DIANE E. WATSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Ms. WATSON. Mr. Speaker, I rise today to speak on behalf of our Nation's foster care youth during National Foster Care month.

As of January 2003, there were 33,000 children in Los Angeles County foster care, which is the highest number of dependents in any county. I represent many of these youngsters who, on average, live in five different places. I co-sponsored H.R. 1534, which strives to place children in safe, loving, and permanent homes.

But what happens when these youths turn 18 and "age out?" Only 27 percent of foster care high school graduates attend college, half the national average. Foster care youths lack the funding and supportive climate college students need to succeed. I support legislation that helps foster care students with their college admissions and financing.

This week the Committee on Government Reform will meet to determine how our current foster care structure can be strengthened.

This Congress must act to ensure the future of our foster care youth is as bright as any other child's. Thank you.

HONORING THE LIFE OF ESAU PATTERSON JR.

HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. WILSON of South Carolina. Mr. Speaker, I rise today to honor the life of Army Staff Sergeant Esau Patterson, Jr. of Ridgeland, SC, who paid the ultimate sacrifice on April 29th in Iraq while on duty defending American families in the War on Terror. is a true hero and will be remembered as a patriot.

I ask all of my colleagues to join me in expressing our deepest sympathy to his family and friends.

I ask that his obituary and an article from The Beaufort Gazette be inserted into the CONGRESSIONAL RECORD.

OBITUARY—ESAU PATTERSON JR., MAY 9, 2004

Staff Sgt. Esau Patterson Jr., 25, of Ridgeland, died Thursday, April 29, 2004, in Iraq.

The family will receive friends from 7 to 8 p.m. Sunday at Bostick Funeral Home.

Services will be at 1 p.m. Monday at Mount Carmel Baptist Center in Ridgeland, with burial in Patterson Cemetery in Ridgeland.

Mr. Patterson was born May 11, 1978, a son of Carrie Mae Osgood Patterson and Esau G. Patterson Sr.

He was a member of Mount Gilead AME Church in Columbus, Ga., where he was a Sunday school teacher. He was in the Army, SSG Battery C, 4th Battalion, 27 Field Artillery regiment 2nd Brigade, 1st Armored Division, Combined Joint Task Force 7.

Survivors include his parents of Ridgeland; his wife, Kisha R. Patterson of Columbus, Ga; two grandparents, Elizabeth Osgood and Henry Osgood of Ridgeland; a daughter, Kesauna M. Patterson of Columbus, Ga; a son, Kaven M. Scott of Columbus, Ga; six sisters, Toneka P. Nelson, Tarsha P. Myers and Jamesha P. Anderson of Ridgeland, Charvia Watkis of Beaufort, Shamone Huggins of Whitehall and Marisa Patterson of Korea.

Bostick Funeral in Ridgeland is in charge.

[From the Beaufort Gazette, May 11, 2004]

FALLEN SOLDIER LAID TO REST

FAMILY, FRIENDS REMEMBER LOCAL MAN WHO DIED SERVING HIS COUNTRY IN IRAQ

(By Michael Kerr)

RIDGELAND.—Esau Patterson Jr. would have turned 26 today.

But instead of a birthday celebration, his family, friends and loved ones gathered Monday at Mount Carmel Baptist Center in Ridgeland, the Army staff sergeant's hometown, to honor and remember a man of God who fell as a hero on the Iraqi battlefield.

Patterson was killed along with seven other members of the Army's 1st Armored Division on April 29 near Mahmudiyah, south of Baghdad. He had been clearing explosives from a key Iraqi highway when a station wagon approached and detonated a car bomb, killing the eight soldiers and wounding four others.

"E.J.," as his friends and family knew him, was the only son in a family of six daughters. He left behind his wife, Kisha, 2-year-old daughter Kesauna and 4-year-old stepson Kaven Scott.

His father, Esau Patterson Sr., spoke about a son who had always made him proud before the more than 100 people who gathered in the church

"My expectations of a man are very high," said Patterson, who retired from the Army in 1992 and settled in Ridgeland.

Over the years, Patterson said, he watched his little boy exceed those expectations and become a man.

"That made me proud, and not because he was in the military," he said. "He was a gentleman at all times. He always put other people in front of him. He always carried a smile on his face and tried to do the best."

Family members and friends recited poems, sang hymns and told stories of a wonderful son, brother, father and husband. Patterson was a kind man, friends said, a man who loved his family and his country, a man who gave everything to protect them both.

"I am so proud to say, to have said, I have a family member, a first cousin, fighting for this country," said Roger Patterson, who traveled from New York to attend his cousin's funeral. "I was so proud of that. It was the ultimate sacrifice he gave, and for that I'm proud."

Patterson was more than just a soldier, his family has said. He attended church no matter where he was stationed, taught Sunday school and was always quick to help a neighbor with chores around the house.

Another of Patterson's cousins, Clementa Pinckney, the Democratic state senator from Ridgeland, grew up just a few minutes from the fallen soldier.

"He was always a good man, always with a smile . . . just happy-go-lucky," Pinckney said, standing in the family's cemetery. "His father was a good soldier, and he wanted to be a good soldier like him."

The state Senate adopted a resolution last week sponsored by Pinckney honoring Patterson and his sacrifice.

During the service, Brig. Gen. José Riojas, assistant commander of the Army's 3rd Infantry Division based at Fort Stewart, Ga., presented Patterson's wife with the Bronze Star and Purple Heart that he earned while waging war in the desert.

Soldiers decked out in dress uniforms served as pallbearers, and later fired a three-round rifle volley to honor Patterson as the sound of taps played by a lone bugler echoed throughout the otherwise quiet cemetery.

"You couldn't ask for a better person to protect our country," Pinckney said.

HONORING HONDA MANUFACTURING OF ALABAMA

HON. MIKE ROGERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. ROGERS of Alabama. Mr. Speaker, on May 7, 2004, Honda Manufacturing of Alabama held a ceremony to recognize the beginning of production on its second line of vehicle assembly. This event highlights Honda's growing commitment to Alabama through investment, job creation and economic development. It emphasizes the jobs created by the expansion as well as the jobs created by the suppliers who have moved to the South, many of them in Alabama.

Honda opened its first assembly line in Lincoln in November 2001. One year later, Honda began construction of the second assembly line. A $425 million capital investment, coupled with the initial expenditure, brought Honda's investment in Alabama to more than $1 billion. The result is 4,300 high quality, good paying jobs and a doubling of the plant's initial production capacity to 300,000 vehicles and engines by the end of 2004. Honda's Pilot SUV will join the Odyssey as the two products manufactured at Honda Manufacturing of Alabama.

The new assembly line was built adjacent to the existing facility and will mirror the current facility's operations with synchronous body and engine assembly under one roof. Operations for stamping, plastic injection molding, die-casting and machining of engines and engine assembly have been increased at the existing facility to supply both assembly lines.

The jobs created at HMA are competitive in the industry, providing quality compensation and benefits. Honda had three objectives when it came to Alabama. First, it wanted to build a plant using the company's flexible manufacturing system. Secondly, it wanted to hire and train associates with no automotive experience. Finally, Honda wanted to employ associates using advanced technology and materials. The startup of the second assembly line at the Lincoln facility is testament to the success of these objectives in Alabama.

Congratulations to Honda and its associates for their many achievements, and thank you, Mr. Speaker, for the House's attention today on this important matter.

INTRODUCTION OF THE LIQUEFIED NATURAL GAS IMPORT TERMINAL DEVELOPMENT ACT OF 2004

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. GREEN of Texas. Mr. Speaker, to counter the negative effects of soaring natural gas prices on the economy and consumers, Representative GENE GREEN (D-Houston) and Representative LEE TERRY (R–NE) introduced legislation to simplify the siting of onshore Liquefied Natural Gas (LNG) terminals.

"In June 2003, Alan Greenspan testified before the Committee that LNG was critical for the future stability of our economy. It would be a great help to provide LNG with the same regulatory certainty we provide natural gas pipelines."

According to the National Petroleum Council, the United States is on course to pay an additional $1 trillion in natural gas costs over the next 20 years due to shortages. Along with increased domestic production and an Alaskan natural gas pipeline, LNG projects promise to help stabilize prices, but the permitting process for LNG facilities is uncertain and disputed, without clear lines between State and Federal authority.

"We need LNG, and we must make LNG terminals safe and secure. Current safety and security procedures and other proposals will be fully considered during this debate."

"Unless we get LNG right, our Nation's $454 billion chemical industry and 1 million jobs could go the way of the steel industry. Electric power and heating bills are also crunching consumers. The Nation needs to address LNG in a meaningful way, and this legislation moves us on the right track."

A summary of The Liquefied Natural Gas Import Terminal Development Act of 2004 is attached.

TALKING POINTS

Q: Why give FERC all the authority?

A: Like natural gas pipelines, LNG sites are national significant energy projects involving international and interstate commerce. FERC has stringent siting restrictions in place for LNG currently.

FERC believes they have this authority, but because interest in LNG projects have exploded, it may be necessary to spell FERC's authority out.

Q: What about state agencies that want to stop them?

A: We think they are making political plays. There are little if any air emissions or water discharges. The facilities have tough safety standards under FERC and tough security standards under the Coast Guard (Maritime Transportation Security Act).

We are saying that the states cannot question a "public interest" determination by FERC, because that is an interstate commerce determination.

Q: What about local zoning regulations?

A: FERC has tough siting standards that almost certainly preclude a site violating zoning standards. (There must be a buffer zone that is great enough so that flammable vapors will not reach beyond facility property lines. FERC also enforces DOT and National Fire Administration regulations that limit siting to appropriate areas.)

If we need language to reassure on local zoning, we are open to that. We are not trying to change LNG siting standards—we just stop states from arbitrarily blocking projects.

Q: What about security?

A: All facilities will be covered by the Maritime Transportation Security Act. In addition, there are extraordinary procedures beyond that law for security, including ship inspections, escorts and site security coordination with local law enforcement.

One proposal is using American crews on LNG tankers. We are open to adding security measures to the bill if the debate we have indicates more measures are needed.

SUMMARY OF THE TERRY-GREEN LNG LEGISLATION

WHY WE NEED TO EXPAND LNG CAPACITY

Because of its efficiency and environmental benefits, natural gas use has increased dramatically over recent years. Demand has caught up with supply, and natural gas prices are up more than 80 percent over the past four years. At the same time, U.S. natural gas production is falling at about two percent a year.

Over the next two decades, U.S. natural gas consumption is expected to rise 40 percent (and 70 percent throughout North America). It is expected that U.S. production will meet only 75 percent of the nation's demand by 2025. This is especially sobering considering that the United States consumes about 25 percent of the world's natural gas production—but holds only three percent of the world's natural gas reserves.

We must look for new options now, if we are to avoid the adverse economic implications. (According to the National Petroleum Council, the United States is on course to pay an additional $1 trillion in natural gas costs over the next 20 years due to shortages.) The Rocky Mountains, the Gulf of Mexico and Alaska will continue to be a vital part of our supply. However, expanding our liquefied natural gas (LNG) capacity is also critical, so we may bring natural gas from more ample supplies from around the world—creating a "safety value" to provide some leverage in determining natural gas availability and prices.

LNG—natural gas chilled to −260 degrees Fahrenheit—allows the safe transportation of gas from large-producing fields in places such as western Africa, the Caribbean, Malaysia, Australia, Qatar, South America, Russia, and Eastern Europe. LNG has been safely transported by ship for nearly half a century, with countries such as Japan receiving LNG shipments every 20 hours.

Currently, around 30 LNG terminals are in various stages of planning in the United States. With natural gas prices up from $1.50/thousand cubic feet pre-1995 to more than $6 today, boosting LNG's role in our energy portfolio is a sensible step.

WHAT THE TERRY-GREEN LNG LEGISLATION WOULD DO

This legislation would compliment the pending energy bill (H.R. 6) by working to add LNG to our energy portfolio. It would also provide parity between the application/review process for on-shore and offshore terminals. Specifically, this bill would:

Eliminate jurisdictional conflicts and legal ambiguities on siting and construction of LNG terminals. Jurisdictional conflicts between federal and state agencies threaten to delay or kill new LNG projects. Since the importation of LNG is a matter of foreign commerce, the Terry-Green bill would clarify that approval and siting authority for LNG facilities is most appropriately determined at the federal level, as established under the Natural Gas Act. It also clarifies that a public interest finding by the Federal Energy Regulatory Commission (FERC) regarding the siting, construction, expansion and operation of LNG terminals under the Natural Gas Act is pre-emptive, and is not subject to second-guessing under state or local law.

Create a lead agency for LNG project review and permitting. Currently, several federal departments, and some state agencies, have a role in the approval process for construction or expansion of an onshore LNG terminal. This bill clarifies that the FERC is the lead agency, to streamline environmental review and permitting. Other federal agencies—and state agencies with authority delegated by federal law—keep their independent regulatory responsibilities. However, such agencies must act in a manner consistent with the public interest determination made by the FERC under the Natural Gas Act.

Set a deadline for FERC review of LNG terminal applications. Currently, there is no time requirement for FERC review of a LNG terminal application. To ensure a prompt evaluation, this bill requires the FERC to issue its decision one year after the application has been completed. The bill also gives the FERC authority to establish deadlines for other agencies making permitting decisions, taking into account timelines established by other Federal statutes.

Remove regulatory uncertainties for those building/expanding onshore LNG terminals. This bill codifies the FERC's important "Hackberry" decision on open access requirements, giving developers the certainty they need regarding economic regulation. This policy is necessary to encourage the development of new LNG capacity, especially considering a typical onshore LNG project can cost more than $500 million.

PERSONAL EXPLANATION

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. PORTMAN. Mr. Speaker, I was unavoidably detained during the recorded votes on Rollcall Vote No. 196, the Goode Amendment, and Rollcall Vote No. 197, the Davis (CA) Amendment. Had I been present, I would have voted "aye" on the Goode Amendment and "no" on the Davis Amendment.

TO CONGRATULATE MEMBERS OF THE WESTPORT VOLUNTEER EMERGENCY MEDICAL SERVICE (WVEMS) FOR THEIR OUTSTANDING WORK

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. SHAYS. Mr. Speaker, it gives me great pleasure to congratulate the Westport Volunteer Emergency Medical Service (WVEMS) on their Quarter Century Anniversary for their outstanding work.

The men and women who dedicate their time and energy to the WVEMS are shining examples of civic duty. As volunteers, they are vital to the Westport community.

The WVEMS volunteers come from all walks of life. Some of them run their own businesses, some are students. They have busy lives, yet they make time because they feel the need to give something back. Some are seniors who worked hard all their life and deserve to sit back and simply relax, yet they go out and volunteer their time and energy for a greater cause.

Over the years, the many awards and distinctions from local, State and national organizations—the Veterans of Foreign Wars, designation as a Connecticut Treasure and National Gold Award for Volunteer Corps from EMS Publications just to name a few—illustrate the selfless dedication with which they help countless individuals in need.

For two and a half decades WVEMS has gone above and beyond the call of duty to provide exceptional service, providing over half a million volunteer hours to date. Their efforts have formed a truly remarkable tradition. Fifteen of the founding members of the WVEMS are still with the Service, regularly putting in time to help others. Each one of them has been designated an American Red Cross Unsung Hero. Today, I want to sing their praise: Edward and Elizabeth Audley; Patricia Audley; Sharon Barnett; Russel M. Blair; Susan DeWitt; Michael Feigin; Richard Frazier; Neil Harding; Thomas M. Keenan; Kathleen Todd; Alan Yoder; Isabel Blair; Alan Stolz; Nettie Skinner; and Pasquale Salvo—you are heroes!

Two other members have been with the WVEMS for a quarter century, and I would like to commend them for their dedication over the years: Jay Paretzky and April Anne Yoder.

I would also like to include all the other active members of the WVEMS: William Puterbaugh; Norman Coltin; Sandra McPherson; Jeffrey T. Lea; Andrew Dinitz; Loretta S. Harsche; Marge Costa; Christine A. Evans; Todd M. Smith; Mark A. Blake; Anthony F. Santo; Donald E. Smith III; Thomas F. Burrows; Martha M. McGorry; Elizabeth Slattery; Chris VanDeusen; Diane Salvo; Benjamin Frimmer; Barbara F. Wood; Barbara Babash; Arlene M. Healy; Amy Smith; Linda Canterbury; Albert Bassett; Mary Jane Cross; KC Duffy; Linda Green; Carole Grob; Dorothy Harris; Gordon Joseloff; Chris Sanders; Whitney Cusa; James Flint; Nicole Donovan; Toni Cribari; Mary Minard; Terrence Blake; Michele Brewster; Michael Falbo; Cheryl Jones; Michael Quan; Rico Tiberio; Sylvia Lempit; Susannah Kehl; AnnaLiisa Joseloff; James Hinckley; Nanci Jenkins; David Heinmiller; Rainy Broomfield; Ronald Carkner; Donna Patchen; Robert Redman; Olivia Weeks; Courtenay Quinn; Joseph Devermann; Linda Gale; Jean Marie Wiesen; Nancy Strong; Gregory Coghlan; Paul Resnick; Barbra Utting; Adam Sappern; Nancy Fusaro; Wendy Hill; Megan Watson; Kristin Ancona; Kathryn Min; William Min; Susan Parks; Jamie Talbot; Michael Rickard; Marc Hartog; Michael Engelskirger; Craig Kupson; Elizabeth Jennings; Glenn Eisen; Angela Chichila; Anna Dowdle; Ashley Hawley; Andrea Hoboken; Dustin Schur; Jackie Stenson; Carol Boas; Yannick Passemart; Kerry Volmar; Michael Wilmot; Danielle Faul; David Bodach; Christin Giordano; Zack Klomberg; Jordan Kunkes; Alma Loya; Whitney Riggio; Kimber Roberts; Alicia Wong; Karen Bizzak; Margaret Russell; Richard Arriaga; Carol Dixon; Gabrielle O'Halloran; Daniel Rappaport; Dora Sweet; Lois Benfield; Adele Donohue; Susan Shewchuk; Nancy Toll; Pamela Nenham; Matthew Rees; Richard Celotto; John Sommers; Caroline Andrew; James Gray; Stephanie Howson; Rebecca Kamins; Kaitlyn Mello; Elizabeth Parks; Christian Renne; Rob Stewart; Emma Trucks; Christina Voonasis; Maryanne Boyle; Robert Dowling; Yashasvi Jhangiani; Maribeth Nixon; and Steve Brothers.

Your service is outstanding!

HONORING THE 2004 PROVIDENCIA AWARD RECIPIENT, MR. PATRICK ROONEY, SR.

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. SHAW. Mr. Speaker, I rise today to bring to the attention of the House the achievements of Patrick Rooney, Sr., a constituent of mine from Palm Beach Gardens, Florida, in receiving the prestigious 2004 Providencia Award from the Palm Beach County Convention and Visitors Bureau.

May 2004, being National Tourism Month, is the perfect time to honor Pat, who owns and operates the Palm Beach Kennel Club in West Palm Beach and three Irish restaurants called "Rooney's Public House" located at the Palm Beach International Airport, West Palm Beach and Jupiter's Abacoa. I am a patron of those restaurants and can testify to the quality of food and service and to the vibrancy they bring to the surrounding communities.

The Providencia Award was named after the coconut-laden Spanish ship that sank off the shore of Palm Beach in 1878, washing ashore its cargo bringing Coconut Palms to the island and inspiring the name "Palm Beach." Each year, it is awarded to an individual or entity that has made an exceptional contribution to the County's $2 billion tourism industry. Past recipients include Burt Reynolds, Chris Evert, Jack Nicklaus, Alex Dreyfoos, The Breakers, The Boca Raton Resort and others. This year it belongs to Pat Rooney, who is being honored for his contributions.

Mr. Speaker, in my South Florida Congressional District, home of fervent Miami Dolphin fans, we forgive and overlook Pat's strong allegiance to the Pittsburgh Steelers, which his family owns. We focus rather on the tremendous impact Pat has on our community. Pat serves on the Economic Council, and the Palm Beach County Attractions Association. The Hanley Hazelden Foundation, Boys and Girls Club of Palm Beach, Greyhound Adoption League, Lynn University, and the American Red Cross have also benefitted from his generous philanthropy.

Mr. Speaker, congratulations to Mac McLaughlin and his team for selecting another great honoree this year. To Pat Rooney, congratulations on this important recognition and I wish you good health and continued success, except when it comes to the AFC Conference Championship.

H. CON. RES. 352

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Ms. McCOLLUM. Mr. Speaker, I rise today in support of H. Con. Res. 352 and to recognize the great contributions of people of Indian origin to the United States and to strengthen our bilateral relationship with the people of India.

For decades, people of Indian origin have immigrated to the United States. They have made extraordinary contributions to our Nation, from advancements in science and technology to business development, philanthropy, literature and the arts. Their contributions have helped make the United States a more diverse and prosperous country.

In Minnesota, people of Indian origin have made their presence felt throughout our communities and neighborhoods. Small and large Indian businesses have flourished in Minnesota. Groups like the India Association of Minnesota, the Asian Pacific Policy Roundtable and CAIR Minnesota have worked very hard to promote a strong, bilateral relationship between India and the United States, raising greater awareness toward human rights and regional reform. Other organizations, like the Indo-American Association of Minnesota, have taken the lead in promoting arts, cultural, spiritual and classical music as well as entertainment. Our colleges and universities have also expanded educational exchanges and opportunities between Minnesota and India, fostering new relationships and promoting greater cooperation between our two countries.

Minnesota has also seen a rise in new and exciting Indian-American leaders, including State Senator Satveer Chaudhry, elected in 2000 and representing Senate District 50 in my Congressional District. Senator Chaudhry is the highest-ranking Indian-American elected official in the country. As a friend and a former colleague, Senator Chaudhry's leadership has ensured that Indian-American families in Minnesota, as well as all the families in his district, are well represented.

Again, I support H. Con. Res. 352 and I urge passage of this important legislation. Minnesota has benefited greatly from its Indian-American community and I look forward to strengthening our relationship with our Indian friends and neighbors in the future.

CONFERENCE REPORT ON S. CON. RES. 95, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2005

SPEECH OF

HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. BLUMENAUER. Mr. Speaker, the budget resolution lays out the framework for next year's Federal Government revenues, spending and borrowing. It is clearly a roadmap for continuing fiscal mismanagement and misplaced priorities.

The budget allows for further tax cuts, which primarily benefit those least in need, while increasing the nation's debt limit to over $8 trillion. The projected $367 billion deficit for 2005 is the result of these policies and this does not include funding for ongoing operations in Iraq and Afghanistan.

A serious concern for people who care about the environment and the economy is the failure to fund even the inadequate level required by the House passed transportation reauthorization. The Republican budget resolution assumes $273 billion for transportation, $11 billion less than the $284 billion provided in House legislation and $45 billion less than the Senate-passed funding level. This is wholly inadequate and will have serious consequences for every State in America.

Tax cuts during wartime that benefit the wealthy, shifting fiscal burdens to our children, shortchanging America's priorities, risking the Social Security and Medicare funding on which retirees rely—this budget is at once shameless and shameful.

MILLER MOTION TO INSTRUCT CONFEREES ON OVERTIME

HON. JOSEPH CROWLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. CROWLEY. Mr. Speaker, I rise in support of Representative MILLER's Motion to Instruct Conferees on Overtime.

The Bush Administration recently released their final regulations on overtime pay—regulations that originally called for the elimination of overtime pay for millions of workers including America's police and firefighters.

While the final regulations omitted this group at the last possible minute—due to extreme Democratic pressure—let's remember their true intentions, that of eliminating overtime pay to the police and firefighters of America.

It is so hypocritical for the Republicans to come up here and pass resolutions celebrating the New York City fire and police departments—and then cut their pay.

No one enters law enforcement or becomes a firefighter for the money—but Republicans had the audacity to suggest that these hard-working men and women are not entitled to overtime that they and their families depend on.

While they have had the incredible vision to reconsider their original request, everyone in this chamber knows—and more threatening to the Republicans—every police officer and firefighter in America knows—or will know—that if the Bush Administration and the Congressional Republican majorities are back next year, it is a foregone conclusion that they will revisit these overtime regulations and will succeed in their initial dream of eliminating all overtime for all cops and firefighters in the U.S.

The Administration and this Congress have a sad track record of shortchanging police and firefighters, while pretending to stand with them.

And now their revised "compassionate conservative" overtime regulations eliminate overtime protections for millions of other American workers.

I received a letter from a woman in the Bronx who is a dedicated and experienced health care provider.

She, like other health care providers that support us in our times of need, is being told by the Republicans that she might not be entitled to overtime.

She writes that she is concerned that overtime work without overtime pay will not only hurt workers like her, but will also hurt patients.

How can that be construed as being supportive of American workers or as being supportive of America?

Sadly, this Administration's record does little to suggest that they understand or care about the needs of American workers.

This Administration's record on labor issues is horrific—besides working to destroy the entire concept of overtime pay, they have attacked and tried to eliminate the Davis-Bacon prevailing wage provisions for our road builders and building trades workers.

This Administration has started denying COLAs to federal civilian employees—COLAs they are more than happy to reward themselves with.

This Administration has opposed legislation to allow workers to create unions so that they get better wages and benefits that benefit themselves and their families.

The destruction of 3 million jobs, the serious attempt to eliminate overtime provisions in our country, and working to crack the Davis-Bacon law—this is an Administration that does not care for working people.

Support the Miller amendment and let the Republicans know—you are sick and tired of these overpaid, underworked people trying to cut your pay while raising theirs.

TRIBUTE TO ANTHONY HO

HON. MICHAEL K. SIMPSON

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. SIMPSON. Mr. Speaker, I rise today to commend Mr. Anthony Chung Yi Ho, Senior Officer with the Taipei Economic Council and Cultural Representative and Senior Assistant to the Honorable C.J. Chen, Taiwan's chief representative in the United States. Mr. Ho has been with the Washington, DC, office of the Taiwan Ministry of Foreign Affairs for 6 years, and his presence will be sorely missed when he returns to Taiwan later this year. Mr. Ho is a true asset to the Taiwan Ministry of Foreign Affairs. His leadership and expertise have been invaluable in working with my Washington, DC, staff and many other congressional offices as well.

Traditionally, Idaho maintains a close relationship with the Taiwan Ministry of Foreign Affairs. Idaho State University has developed a strong partnership with the Taiwan Ministry of Foreign Affairs, in large part because of ISU's English and Professional Development Program. This unique program, the only program of its kind in the United States, provides a language and cultural education program for junior diplomatic officers in the Ministry of Foreign Affairs. Over 40 students have completed the program since its inception in the early 1990s, and many of these graduates now serve their country in diplomatic postings throughout the world. The Ministry of Foreign Affairs Language and Culture Training Program at ISU is an excellent collaborative relationship that is strengthening our countries through a better understanding of each of our cultures.

While serving as a Senior Officer, Mr. Ho has worked closely with my office. Largely thanks to his efforts, I have been able to meet and work with many of Taiwan's junior diplomatic officers attending this program at Idaho State University. They are an intelligent, energetic group who are eager to serve their country. They are very interested in gaining as much knowledge and insight as possible during their stay in America and look forward to using what they have learned as they progress in their diplomatic careers.

Under Mr. Ho's guidance, our office has cultivated a valuable relationship with the Taiwan Foreign Ministry. He arranged a dinner among the junior diplomatic officers and myself in Pocatello, and he has also worked with our office to arrange the stay of a junior officer from ISU in our Washington, DC, office. For 2 years, I have had the privilege of hosting a junior officer from the ISU program in the Capitol.

Mr. Ho's excellent collaborative relationship with my office plays a critical role to strengthening relations between the United States and Taiwan through strong communication and a better understanding of each of our cultures. I commend Anthony Ho for his dedication and guidance. It has been an honor and a pleasure to work with him, and we will greatly miss him when he leaves Washington, DC.

RECOGNITION OF ASIAN/PACIFIC AMERICAN HERITAGE MONTH

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. SHIMKUS. Mr. Speaker, I rise today to recognize the designation by President Bush that the month of May be known as Asian/Pacific American Heritage Month.

The more than 13 million Americans who have Asian/Pacific heritage have worked diligently to enrich the culture of our Nation and of our lives.

Asian/Pacific Americans are a growing and welcome force in my home state of Illinois. Their continuing contributions to our communities, whether as large as Chicago, or as medium sized as my hometown of Collinsville, are immeasurable.

Asian/Pacific Americans bring with them a heritage of pride, hard work, commitment to family and faith, and a love of freedom that serves as an example and reminder for all of us.

I am proud of the President for his recognition of the Asian/Pacific American community and of their overall value to our nation's future. I salute the Asian/Pacific American community and join them in celebrating their heritage.

PERSONAL EXPLANATION

HON. TIM RYAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. RYAN of Ohio. Mr. Speaker, I would like to state for the record that my vote yesterday on the amendment to H.R. 4200 offered by SUSAN DAVIS of California was intended to be a "no" vote. I oppose this amendment.

PAYING TRIBUTE TO HINKLEY HIGH SCHOOL STUDENTS

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. TANCREDO. Mr. Speaker, it is with great pride that I rise today to highlight the accomplishments of a special group of students from Hinkley High School in Aurora, Colorado.

After learning about the devastating effects of land mines from African History teacher Chris Sundberg, students in the International Baccalaureate program worked to raise $6,000 for Colorado Adopt-A-Minefield. The Adopt-A-Minefield program is part of the United Nations Association. It works to save lives by raising funds for mine clearance and survivor assistance, and to raise awareness about the landmine problems. This donation was the single largest donation ever received by the Colorado branch of the organization. The money will be used to help clear landmines from a field in Mozambique.

Minefields are often left abandoned or improperly cleared after a regional conflict. These land mines devastate thousands of lives every year by leaving civilians, particularly children, maimed for life. The students of Hinkley High School decided to reach out across the divide of culture and distance to children from another continent and help make our world a safer place.

Mr. Speaker, these students worked tirelessly to both raise money for landmine removal efforts and to increase awareness of the devastating effects of abandoned landmines. Their commitment to helping others in this way should serve as an example to us all.

TRIBUTE TO THE PROBLEM SOLVING TEAM OF THE QUEST PROGRAM AT JOHN HOWARD, JR. SCHOOL IN EAST ORANGE, NEW JERSEY

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. PAYNE. Mr. Speaker, it is with a great deal of pleasure that I rise to acknowledge the accomplishments of the Problem Solving Team of the Quest Program at the John Howard, Jr. School in East Orange. This team was concerned about gangs in their neighborhood and decided to take action. They established themselves as PEGASUS PUSH, meaning Peers Educating Gang Awareness Stopping Unnecessary Suffering Providing Useful Strategies for Home. The Problem Solving Team has volunteered over 1000 hours towards this project by publishing a monthly Gang Awareness Newsletter, organizing a Family Fest Night, a Fun Day Fair, creating a Pegasus Website, establishing an after school PEP PICK Program, a Day at the Ball Park, a Saturday Delight Program, a Mother-Son, Father-Daughter Night, Holiday Celebrations and Puppet Shows. All of these activities were designed to engage their peers and others in constructive projects and out of gangs.These students, namely, Khalil Banner, Jordan Clarke, Estefani Ubri, Felix Torres, Markia Hutchinson, Shanice Thomas, Monique McDonald, Melina Reyes, Cameron Glover, Shaenice McKenzie, Safa Muhammad, Zasha Martinez and their coach, Ms. Christine McAdams are to be commended for their unselfish actions in trying to eliminate gangs where they live.

Mr. Speaker, I ask my colleagues here in the House of Representatives to join me in recognizing this outstanding group of fourth and fifth grade students along with their coach for placing first in New Jersey in the junior division of the Community Problem Solving Component of the International Future Problem Solving Program. As a result of this achievement, these members of PEGASUS PUSH and students at Dr. John Howard, Jr. School will represent New Jersey at the International Competition in Lexington, Kentucky on June 2–6, 2004. The contributions made and the leadership shown by the members of PEGASUS PUSH have already made them winners in the 10th Congressional District. I wish them continued success in this very worthwhile effort.

RECOGNIZING GUNNERY SERGEANT VINCENT C. SANTIAGO FOR HIS PROMOTION TO FIRST SERGEANT IN THE UNITED STATES MARINE CORPS

HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Ms. BORDALLO. Mr. Speaker, this citation is presented to Gunnery Sergeant Vincent C. Santiago, a native of Merizo, Guam, for his promotion to the rank of First Sergeant in the United States Marine Corps.

Gunnery Sergeant Santiago is the son of Joseph and Mary Santiago of Merizo, Guam. He is married to the former Selma D. Reyes, daughter of Peter and Josephine Reyes, also from Merizo. Vincent and Selma have three children, Vincent Jr., PeterJoe, and Serresa.

Sergeant Santiago entered the United States Marine Corps in September 1989, graduating from boot camp in San Diego, California, with a meritorious promotion to the rank of Private First Class. After completing his Military Occupational Specialty (MOS) training at the School of Infantry as a 0341 Mortar man, he was assigned to Marine Barracks Guam as a Marine Security Guard where he was promoted to the rank of Lance Corporal in August 1990. Seven months later, in March 1991, he was meritoriously promoted to Corporal, eventually receiving orders to 3rd Battalion 5th Marines at Camp Pendleton, California.

In 1993, Gunnery Sergeant Santiago moved to Maintenance Management, where he became the Battalion's Maintenance Management Chief and was promoted to the rank of Sergeant. After completing Drill Instructor School at the Marine Corps Recruit Depot in San Diego, California, he was assigned to Company "A", 1st Recruit Training Battalion.

Among his many accomplishments, Gunnery Sergeant Santiago has received the Navy/Marine Corps Commendation Medal, the Navy/Marine Corps Achievement Medal in lieu of third award and the Marine Corps Good Conduct Medal in lieu of fourth award. In addition, Gunnery Sergeant Santiago was also Marine of the Quarter in March 1991 while stationed at Marine Barracks, Guam, and selected as Drill Instructor of the Quarter for the 1st Recruit Training Battalion in March 1996. He is also certified in the Marine Corp Martial Arts Program as an Instructor Trainer, 1st Degree Black Belt.

Gunnery Sergeant Santiago is the Drill Master at the United States Naval Academy in Annapolis, Maryland. He will receive his promotion to First Sergeant on June 1, 2004, upon completion of his current tour of duty. He will then report to the 3rd Marine Regiment, 3rd Marine Division at Kaneohe Bay, Hawaii, for duty as Company First Sergeant where I am confident he will continue to serve with honor and distinction.

Gunnery Sergeant Santiago's career reflects the courage and determination of the Chamorro people. We are very proud of our native son. On behalf of the people of Guam, I want to congratulate Gunnery Sergeant

Santiago and his family on his accomplishments, and extend our gratitude for his service to our island and our country.

CONFERENCE REPORT ON S. CON. RES. 95, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2005

SPEECH OF

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Ms. DELAURO. Mr. Speaker, budgets should be plans for the future. They should reflect our values and provide a roadmap to the kind of country we want to be.

But this budget provides virtually no plan whatsoever. In an unprecedented sleight-of-hand, this budget only applies any semblance of fiscal responsibility—the so-called "PAYGO" rules—to the other body's budget, not this one—exempting, of course, $55 billion in tax cuts for the wealthy. It covers only a single year of budget policy, demonstrating the Republicans' utter lack of commitment to providing the critical resources for defense, homeland security, education, veterans, and other priorities. And, for all intents and purposes, it increases the debt limit for the third time in 3 years. If budgets are roadmaps, this one puts us on a road to nowhere.

Deficits do matter, Mr. Speaker. At a time when rising health care costs, and declining wages are squeezing our middle class, deficits do not make our country stronger. They lead to rising interest rates, less business investment and declining homeownership, and make it harder for families to achieve financial security. Deficits are a problem for our children and our children's children.

At a time when manufacturing employment, once the foundation of our economy, is at a 53-year low, with many of those jobs having been sent overseas, when hundreds of thousands of Americans are giving up hope looking for work every month, it is time we choose a different course for this country—a responsible course. It is time we act with a shared sense of purpose and responsibility to address the tasks before our country. That is what this budget process should be about, and that is what this budget should do.

TRIBUTE TO MR. DONALD J. KRAPOHL

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. KILDEE. Mr. Speaker, I rise before you today to pay tribute to an outstanding individual, Mr. Donald J. Krapohl. On May 23, 2004, family and friends will gather to honor Donald, as he celebrates his 75th birthday.

Donald is a longtime resident and tireless advocate of Genesee County. He held the election positions of Mt. Morris Township Trustee and Supervisor. In addition, Don served his community in many other capacities, including but not limited to the Beecher Board of Education, Genesee County Economic Development Corp., Genesee County Parks Commission, Genesee County Bicentennial coordinator, Genesee County Metropolitan Planning Commission, Mt. Morris Twp. Housing Commission, Department of Outdoor Recreation advisory committee, National Association of Counties Criminal Justice and Law Enforcement committee, Forward Development Corporation, Genesee County water and waste division advisory committee, and Chairman of the Mt. Morris Twp. Senior Citizen Board of Directors.

During his career, Don has received numerous recognitions for his outstanding community leadership. He was named an honorary Fireman by the Mt. Morris Central and Beecher Fire departments. The Mt. Morris Township Senior Citizen Center was named in his honor. To know Don is to appreciate him. He is a hard working and unselfish leader. He is an inspiration to others who are serving their community. Aside from his duties in public service, he is the coach for the Beecher Schools little league football program.

Don and his lovely wife Barbara have four wonderful children, eight grandchildren, and three great-grandchildren.

Mr. Speaker, as the Member of Congress representing Genesee County, Michigan, I ask my colleagues in the 108th Congress to please join me in not only recognizing my good friend Mr. Donald Krapohl for his outstanding citizenship and concern for the people of Genesee County, but to wish him a very happy 75th birthday, and many more to come.

PERSONAL EXPLANATION

HON. DAVID SCOTT

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. SCOTT of Georgia. Mr. Speaker, due to a death in the family I missed several votes last week. Had I been present:

Rollcall No. 162 (on motion to recommit H.R. 4279), I would have voted "yea".

Rollcall No. 163 (on passage of H.R. 4279), I would have voted "yea".

Rollcall No. 164 (on motion to suspend the rules and agree to H. Con. Res. 352), I would have voted "yea".

Rollcall No. 165 (on motion to recommit H.R. 4280), I would have voted "yea".

Rollcall No. 166 (on passage of H.R. 4280), I would have voted "yea".

Rollcall No. 167 (on motion to suspend the rules and agree, as amended to H. Con. Res. 378), I would have voted "yea".

Rollcall No. 168 (on motion to suspend the rules and agree to H. Con. Res. 409), I would have voted "yea".

Rollcall No. 169 (on agreeing to the Tanner amendment to H.R. 4275), I would have voted "yea".

Rollcall No. 170 (on passage of H.R. 4275), I would have voted "yea".

Rollcall No. 171 (on motion to instruct conferees on S. Con. Res. 95), I would have voted "yea".

Rollcall No. 172 (on agreeing to the Kind amendment to H.R. 4281), I would have voted "yea".

Rollcall No. 173 (on motion to recommit with instructions H.R. 4281), I would have voted "yea".

Rollcall No. 174 (on passage of H.R. 4281), I would have voted "nay".

Rollcall No. 175 (on motion to suspend the rules and pass H.J. Res. 91), I would have voted "yea".

Rollcall No. 176 (on agreeing to the resolution H. Con. Res. 414), I would have voted "yea".

MAY IS ASIAN PACIFIC AMERICAN HERITAGE MONTH

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. FARR. Mr. Speaker, May is Asian Pacific American Heritage Month, and I would like to commemorate the substantial achievements of Asian Pacific Americans to our nation's history. My district, comprised of Santa Cruz, Monterey and San Benito Counties in California owes a particularly large debt to the Asian Pacific community. California has benefited greatly from the contributions of Asian Pacific immigrants throughout the 19th and 20th centuries. Chinese immigrants were instrumental in building the transcontinental railroad which helped open California to settlement and brought rapid economic growth to the West and along with immigrants from Japan, helped start Monterey's commercial fishing industry.

The Central Coast of California was and still is, highly dependent on agriculture. Starting in the late 1890s, Chinese, Japanese and Filipino farm laborers were the engine behind the growth and development of the agricultural industry. Farm labor work on strawberry and peach farms was often back-breaking work; laborers rose at dawn and worked until dusk, and were generally paid very poorly. Additionally, Asian Pacific immigrants were often treated horribly and harshly discriminated against. Filipino farm workers formed the first organized group in the early history of the United Farm Workers Union. Despite these conditions and obstacles, over the last hundred years, the Asian Pacific American community has grown into a vibrant community that has made substantial contributions to California and our nation as a whole. I am proud to represent a large Filipino population in my district who are active citizens of the community.

This year's theme of Asian Pacific American Heritage Month is "Freedom for All—A Nation We Call Our Own," and exemplifies one of the best aspects of the America; that all citizens can take ownership in our society and country and work towards building a better nation. Mabuhay.

PERSONAL EXPLANATION

HON. J.D. HAYWORTH

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. HAYWORTH. Mr. Speaker, on May 19, 2004, I missed a series of rollcall votes in the House of Representatives because of a family obligation that required my presence in Arizona. Had I been present, I would have voted "yes" on rollcall votes 191, 192, 193, 194, 195, 196, 198, and 199. I would have voted "no" on rollcall vote 197.

CLARIFICATION OF ANTITRUST REMEDIES IN TELECOMMUNICATIONS ACT OF 2004

HON. F. JAMES SENSENBRENNER, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. SENSENBRENNER. Mr. Speaker, the application of the antitrust laws in the telecommunications sector has produced enormous competitive benefits. Market competition has fostered innovative technologies, greatly enhanced product and service choices, and reduced prices for millions of American telecommunications consumers. The threat of treble damages for antitrust violations has provided a powerful deterrent against anticompetitive misconduct in this marketplace.

Indeed, the primary catalyst for the structural changes that have produced the enormous competitive gains and expanded consumer choice in the telecommunications fields was the principled application of the antitrust laws. The legal basis for the elimination of Ma Bell's national telephone monopoly was rooted in the antitrust laws. While the former AT&T had operated in a highly intensive Federal and State regulatory regime for decades, the government relied on the antitrust laws to provide the robust procompetitive remedy that regulation could not, did not, and will not provide alone.

The Telecommunications Act of 1996 (the "Telecom Act"), was enacted "to promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers . . . by opening all telecommunications markets to competition." In passing the Telecom Act, Congress did not create an "antitrust free zone" in which the regulatory provisions of the Telecom Act limited the historic application of the antitrust laws in deterring and punishing monopolistic misconduct in the telecommunications field.

Rather, to reaffirm the centrality of the antitrust laws in the overall regulatory scheme created by the Telecom Act, Congress included an explicit antitrust saving clause in the legislation. In clear and forceful legislative guidance, Congress said:

> ". . . Nothing in this Act or the amendments made by this Act shall be construed to modify, impair, or supersede the applicability of any of the antitrust laws."

The inadequacy of regulation to fully deter anticompetitive misconduct is widely recognized. In fact, Federal Communications Commission Chairman Michael Powell, whose agency has authority to implement the Telecom Act, concluded in a 2001 letter to the Senate Appropriations Committee that the FCC's current fining authority for anticompetitive violations is "insufficient to punish and deter violations in many instances . . . given the vast resources of many of the nation's [incumbents.]"

Despite Congress's unmistakable resolve to preserve the vital role of the antitrust laws in this field, a record of considerable judicial confusion has developed in our nation's courts. In 2000, the Seventh Circuit issued the Goldwasser decision, ignoring the plain language of the antitrust savings clause and holding that the Telecom Act "must take precedence over the general antitrust laws."

In Law Offices of Curtis Trinko v. Verizon, the Second Circuit Court of Appeals sharply departed from Goldwasser's flawed reasoning and upheld the plain language of the Telecom Act, thus preserving an antitrust cause of action for anticompetitive misconduct in the telecommunications market in addition to the regulatory regime created by the Telecom Act.

In March of 2003, the Supreme Court granted certiorari to review the case. In November of 2003, the Committee on the Judiciary conducted an oversight hearing titled: "Saving the Savings Clause: Congressional Intent, the Trinko Case, and the Role of the Antitrust Laws in Promoting Competition in the Telecom Sector." This hearing examined the need to preserve an antitrust remedy for anticompetitive misconduct that may also violate provisions of the Telecom Act. During the committee's hearing, I stated that "judicial circumvention or erosion of the savings clause contained in the 1996 Act will necessitate a swift and decisive legislative correction from this Committee and Congress."

In January, 2004, the Supreme Court handed down its Trinko decision. While the Court upheld the antitrust savings clause on its face, the decision makes it nearly impossible to state an antitrust claim for anticompetitive conduct within the regulatory ambit of the Telecom Act.

In reaching its conclusion, the majority looked to the perceived institutional capacity of regulators to remedy anticompetitive misconduct. Specifically, the majority decision stated: "One factor of particular importance is the existence of a regulatory structure designed to deter and remedy anticompetitive harm. Where such a structure exists, the additional benefit to competition provided by antitrust enforcement will tend to be small, and it will be less plausible that the antitrust laws contemplate such additional scrutiny. . . ." The Court also stated that the "regulatory framework that exists in this case demonstrates how, in certain circumstances, 'regulations significantly diminished the likelihood of major antitrust harm.'" The Court then concluded that "against the slight benefits of antitrust intervention here, we must weigh a realistic assessment of its costs."

This is precisely the judicial analysis that the antitrust savings clause in the Telecom Act precluded. This fundamental judicial error ignores the plain meaning of the antitrust savings clause contained in the Telecom Act and the intent of Congress, and undermines remedial antitrust enforcement in a manner that threatens continued competitive gains in the telecommunications marketplace.

Last November, I stated that "judicial circumvention of the antitrust savings clause in the Telecom Act will necessitate a decisive legislative correction from this Committee and Congress." The legislation I introduce today, with the consponsorship of Ranking Member CONYERS, delivers on this commitment. This bill reiterates Congress's intent that the full force of the antitrust laws apply to the telecommunications field. The "Clarification of Antitrust Remedies in Telecommunications Act of 2004" merely provides that unlawful monopolistic behavior that may also violate the regulatory obligations of the Telecom Act may constitute an antitrust violation. The legislation provides an antitrust remedy for these violations irrespective of the existence of regulations that apply to this industry. In so doing, the legislation merely reiterates the plain meaning of the antitrust savings clause and the broad bipartisan intent of Congress to preserve the application of the antitrust laws in the telecommunications field irrespective of the existence of the Telecom Act.

To be clear, the legislation does not automatically transform violations of the 1996 Act into antitrust violations: this is not, nor has it even been, the intent of preserving application of the antitrust laws in the regulatory scheme created by the Telecom Act. The "Clarification of Antitrust Remedies in Telecom Act of 2004" merely reaffirms that violations of the Telecommunications Act may constitute an antitrust violation in appropriate circumstances: this legislation restores the result Congress intended; it does not transform the antitrust laws nor create antitrust obligations that the Telecommunications Act did not contemplate.

Over the last five decades, the Committee on the Judiciary has played a central role promoting competition in the telecommunications market. It has drafted procompetitive legislation and overseen its implementation. The committee has also diligently preserved the application of the antitrust laws in the telecommunications marketplace. The "Clarification of Antitrust Remedies in Telecommunications Act of 2004" continues this important tradition by ensuring that the antitrust laws continue to provide a catalyst to promote competition and consumer choice in this vital marketplace.

In that vein, I wish to comment briefly on a related matter. The committee continues to monitor the status of negotiations between incumbent and competitive local exchange carriers requested by the Federal Communications Commission in light of the D.C. Circuit Court of Appeals March 2, 2004, invalidation of key aspects of the most recent FCC Triennial Review Order. While the Committee on the Judiciary does not intend to prejudice the outcome of these continuing talks, it reserves the right to review these agreements to ensure that they are consistent with the antitrust laws and promote competition and consumer choice in the telecommunications marketplace.

I look forward to working with my colleagues to ensure that the antitrust laws produce the irreversibly open telecommunications markets that we all seek, and urge their support for this critical legislation.

PROVIDING FOR CONSIDERATION OF H.R. 4200, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

HON. JOHN F. TIERNEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. TIERNEY. Mr. Speaker, I rise today to oppose the Republican Majority's proposed rule that would limit debate on a matter as important as the Department of Defense Authorization bill, which purports to provide spending in excess of $400 billion for Fiscal Year 2005. At a time when Members of the United States House of Representatives claim to be supporting the extension of democracy in Afghanistan and Iraq, it is unconscionable for the leadership to limit debate in the House.

There were times in the not too distant past, where a bill of this magnitude would have been debated for at least two weeks. Members would have had the opportunity to voice their position on hundreds of amendments important to their constituents and the nation. It appears that keeping with the Republican Majority's fear that reasonable Republicans will join Democrats in actually improving the underlying bill, the Rules Committee has acceded to the Majority Leadership's pressure and only allowed 28 of 127 amendments for debate and vote. This institution—the People's House—deserves better, and the American people deserve better. Had the Rules Committee and the Leadership followed a practice from a time before the current Majority was in power, most if not all of the proposed amendments would have been made in order, including two amendments which I proposed and which, I firmly believe are in our common interest.

We should be able to agree that American defense workers are 100 percent committed to our armed forces and to ensuring that America has the best trained, best equipped, best led forces in the world. Unfortunately, these workers have seen their jobs vanish at an alarming rate without explanation or justification. Over the past 15 years, defense-related employment is said to have fallen by some 67 percent. This translates into over a million lost jobs. We need to do more to reverse this disturbing trend.

The Amendment I sought would place us standing firmly in solidarity with these workers. First, we would find out where the jobs have gone, and second, fight to keep them in this country.

We made a similar fight last year. We were partially successful. The House-passed version of the Defense Department Authorization bill established a "Defense Industrial Base Assessment Program" to collect new information about where defense contracts are being performed; to determine what percentage of the contract is being completed overseas; and to learn the business rationale for why contractors are sending contract work out of the United States. The bill then called for the Secretary of Defense to recommend a plan for getting back as much of the off-shored work as possible in future years. Unfortunately, that program was significantly weakened when the Senate version of last year's authorization bill failed to include the language, and the conference report only required the Department to use existing data to study the problem and eliminated the mandate to look at where and why these contracts are leaving this country. Some suggested that the mere existence of that program would allow us to get a better understanding of the strength and capacity of our defense base; such is not the case. A program that relies exclusively on existing data and only asks rudimentary questions will not provide the most complete assessment of our industrial base.

The Department of Defense is required by the National Defense Authorization Act of 1997 to submit, on an annual basis, a report to Congress on the amount of purchases from foreign entities for the previous fiscal year.

That, however, was inadequate, as shown when the most recent report submitted to the Armed Services Committee exposed the shortcomings with relying on 'existing data' to monitor prime contracts. The report stated, "In some instances, the exact information required by Section 827 is not available, and the Department of Defense had made assumptions to complete the report." It goes on to say that some of the other information needed to complete the report was, "not readily available in the Department of Defense database."

If we know the Pentagon's use of existing data does not fully capture our country's purchases from foreign entities, why should we have any greater confidence that it will accurately assess our country's defense industrial base? We must put the teeth back into this much-needed program—new data must be collected and the right questions must be asked.

Still, knowing what happened to this work is only the first step. We must do more than close the barn doors after the horses have left. Strategies must be implemented that restore and revitalize the defense-manufacturing base and they must be implemented right now.

My amendment also required that the Secretary, as a condition of procurement, mandate that the contractor perform substantially all, and in no event less than 65 percent, of the primary and secondary manufacturing contracts in the United States. The Secretary would be allowed to waive this requirement only in cases where products and services were not available in this country or where concerns of national security necessitated a waiver. Even when waived, the Secretary would have to notify Congress, citing the business rationale or relevant threat information for the determination. The amendment also would have required, on an annual basis, that the General Accounting Office study the number of waivers and submit a report to Congress offering recommendations on how the United States can increase capacity and further strengthen our industrial base.

It is long past time that we move beyond rhetoric about appropriately prioritizing the work to be completed in the United States and require the Secretary of Defense to work toward that goal.

Just as we in Congress continue to fulfill our patriotic promise to our men and women in uniform, we must also demonstrate an equal commitment to those men and women who build, repair, and operate the machines that sustain and strengthen our security here at home. Mr. Speaker, while I am disappointed that Congressional Republicans denied my colleagues the opportunity to vote on my important Build America amendment, I would like to commend the dedicated advocates who work tirelessly everyday to ensure American defense jobs do not go overseas. I would like to commend Armed Services Chairman DUNCAN HUNTER and Senior Democrat IKE SKELTON for inserting provisions into this bill that are intended to address the systemic problem of defense offsets. U.S. defense exports with offset agreements in excess of 100 percent are now happening regularly and it is long past time we level the playing field and ensure that our defense workers are no longer in jeopardy of losing their jobs because of their companies' offset arrangements.

The Hunter-Skelton provision is a good first step, and while it doesn't go as far as my Build America amendment does, it should, at the very least, be included within the final version of the Defense Authorization bill.

GROUND MISSILE DEFENSE

Mr. Speaker, the second amendment that I proposed, and which should have been considered today, deals with the need for operational testing and evaluation for a realistic ballistic missile defense system. The commonsense amendment would allow Members of Congress to be on record in support of operational testing before the ground-based system is hastily deployed.

As we all know, this country has already spend in excess of $130 billion chasing the "Star Wars" scheme from the Nixon Administration to the current Administration. We have disagreements about the level of funding for ballistic missile defense; about the number of interceptors that should be deployed if the system is ever proven to work; and about how this matter should be prioritized as opposed to other critical threat related defense programs. But Mr. Speaker, no system should be hastily built and recklessly deployed prior to adequate testing.

This is a matter where there should be unanimous agreement. It simply defies common sense that we would stand idle and allow the most expensive item in the Defense Department's $400 billion plus budget before it has been rigorously scrutinized and evaluated. The people of this country have a right to know what they are getting. So far, what they are going to get is a system that has not been consistently or realistically tested in a way that demonstrates it can handle even some of the simplest threats it may encounter.

My colleagues do not have to just take my word on this matter. Allow me to cite just a few of the most recent voices that have weighed in on this matter and arrived at a similar opinion.

In March, the GAO issued a report revealing that the tests that have been completed to date occurred under repetitive and scripted scenarios, fully repeating the same technical and atmospheric conditions over and over again. Critical parts of the system have yet to be flight-tested together.

That report goes on to say that, "only two flight tests under improved test conditions . . .

are planned to be conducted before September 2004." It remains unclear, however, if the Missile Defense Agency will even go ahead with these flight tests, or if they will be cancelled or replaced with simulations.

Later in the month of March, 49 generals and admirals, including former Joint Chiefs of Staff Chairman Admiral William Crowe, Retired United States Air Force General Alfred G. Hansen, and Retired United States Marine Corps General Joseph P. Hoar, wrote to the President that he "postpone operational deployment of the expensive and untested ground based missile defense system and transfer the associated funding to accelerated programs to secure the multitude of facilities containing nuclear weapons and materials to protect our ports and borders against terrorists who may attempt to smuggle weapons of mass destruction into the United States."

In plain English, these respected military authorities state some basic facts of life: (1) the system that is now proposed is not only expensive but is largely untested; (2) money being spent on building such an untested system would be better spent accelerating programs that would secure the many nuclear weapons facilities and materials around the world as well as protecting our ports and borders against terrorists who may attempt to smuggle weapons of mass destruction into the United States; and (3) essentially every threat assessment performed for us by intelligence agencies indicate that the latter threat is far more pertinent to the United States than is an attack by a continental ballistic missile.

In April, a General Accounting Office report warned that the system due to be fielded later this year would be "largely unproven" because of a lack of realistic testing.

On May 7th, 31 former government officials wrote a letter to President Bush. These officials served under Presidents Eisenhower, Kennedy, Johnson, Nixon, Carter, Reagan, George H.W. Bush, and Clinton. They had worked in the Pentagon, the Department of State, National Security Council, Office of Management and Budget, and the Arms Control and Disarmament Agencies. Their letter stated clearly that "the initial defense capability being advertised by the Missile Defense agency is a sham" and they recommended that the President "drop the 2004 deployment and commit instead to a sensible research and development schedule."

Last week, the Union of Concerned Scientists released a comprehensive report that found, "no basis for believing that the system will have any capability to defend against a real attack."

Fielding a system at this time will do little more than foster a false sense of security among the American people misleading our constituents to believe they will be appropriately protected from a ballistic missile attack when the reality is they may not be.

The amendment, quite simply, enforces a 1983 statue, which the Missile Defense Agency has seemingly decided to openly ignore. Without holding the Missile Defense Agency to some standards of independent, realistic operational testing, Congress would not be fulfilling its proper oversight duties.

Mr. Speaker, because the Republican Majority chose to close down debate on this important bill, Members of Congress are missing their opportunity to represent the people of this country in demanding that the Director of the Missile Defense Agency may not proceed with the initial deployment, or any phase thereof, of a ballistic missile defense system until: (1) the Director of Operational Testing and Evaluation of the Department of Defense approves, in writing, the plans for the operational testing to be conducted; (2) the operational testing is completed; (3) the Director analyzes the results of that testing; and (4) the Director submits a report on the results of that testing to the Secretary of Defense and to the Congressional Defense Committees.

In short, Mr. Speaker, Congress is once again abdicating its responsibilities of oversight of this Administration and marching lockstep with the Administration, wasting billions of dollars (some $10 billion in this budget alone) on a system that military and scientific experts agree is untested, unproven and a sham.

I have to add, Mr. Speaker, that upon my request the General Accounting Office requested a review of some 50 deficiencies in the testing of this ground-based missile defense system that were identified by the former Director of Operational Testing and Evaluation, Mr. Philip Coyle. I had asked the General Accounting Office to determine whether any or which of those issues had been addressed, their current status, their status as anticipated in September 2004 (when the President indicated he intends to start wastefully building this untested project), and the degree of confidence that we might have in such a system if deployed at that time. After incredible resistance in cooperation from the Department of Defense, the report was done some 18 months later. Unfortunately, in keeping with its reputation as the most secretive Administration in history, the Administration—apparently so displeased with the results and conclusions—classified the report. At my further insistence, and again after much resistance, the General Accounting Office was able to produce an unclassified version of the report. That unclassified report, Mr. Speaker, was entirely uncomplimentary of the program and clearly indicated that the program is not ready to be deployed as a working system in which this country could have confidence. The classified version, which went into much greater detail with regards to specifics, should be de-classified. All of the information in it has essentially been known for some time and been the subject of open hearings in this Congress. The information has appeared on numerous web sites at various agency and entity locations. However, the Administration, seemingly so fearful that the actual assessment of this system's sorry state would be known to the public, has actually classified the 50 items pointed out by Mr. Coyle.

Mr. Speaker, given recent history, if the classified report had been at all complimentary we can assume that the Administration would have de-classified it in a nanosecond. As it has not, we might assume the reasons are clear. It is not right that billions of dollars will be misspent at a time when this nation's needs are so great. It is not right that the American people will be presented with false confidence at a time when security concerns are so high. It is not right that so much time, money, and resources will be concentrated on an unproven, unworkable, sham of a system that does not even address what all of our intelligence sources tell us is the primary threat that faces this nation.

Mr. Speaker, from No Child Left Behind to the Sarbanes-Oxley bill concerning accounting reforms, this Congress has not been shy about requiring testing and ensuring accountability. However, it seems when it comes to spending over $10 billion, one of the most expensive items in this year's defense budget, there will be no accountability and testing.

As quoted above, "the initial defense capability being advertised by the Missile Defense Agency is a sham" and the President should "drop the 2004 deployment and commit instead to a sensible research and development schedule."

This Congress should live up to its responsibilities and insist on that.

NATIONAL TOURETTE SYNDROME AWARENESS MONTH

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. YOUNG of Florida. Mr. Speaker, earlier this week I introduced House Concurrent Resolution 430 to support the goals and ideals of a National Tourette Syndrome Awareness Month.

This resolution recognizes the importance of an early and accurate diagnosis of Tourette Syndrome, appropriate treatment, and educational outreach. In short, it would enhance public awareness of this very misunderstood and often misdiagnosed disease.

Tourette Syndrome, or TS—is an inherited neurobiological disorder that affects children and adults in all racial and ethnic groups. The symptoms of TS are manifested as "tics"—rapid, repeated, and involuntary movements and sounds. In a large percentage of cases TS is accompanied by other co-occurring disorders, the most common of which are Obsessive-Compulsive Disorder, Attention Deficit Hyperactivity Disorder and nonverbal learning disabilities.

It is estimated that as many as 200,000 Americans have what is called substantially impairing TS, and more have milder symptoms of the disorder. Many of these individuals endure the stigma, isolation, and the psychological impact of a chronic disorder on a daily basis. There is no cure for this condition, although some individuals benefit from medication and other clinical treatment. Scientific researchers have made some significant advances in recent years in trying to understand the causes of the condition, but many scientific challenges still remain.

Mr. Speaker, in January of this year, the Appropriations Committee I chair appropriated funds for a new research program by the Centers for Disease Control, as well as an educational outreach program. This effort is designed to provide intensive training for the public, physicians, allied healthcare workers and teachers about Tourette Syndrome. It is our hope that this program will begin to remove the stigma and other obstacles associated with living with this complex disorder. I personally have been inspired by meeting many children and adults with Tourette Syndrome who, despite coping with the condition, are wonderfully successful in their own endeavors and provide examples of determination, perseverance and hope to their families and to us all.

Mr. Speaker, the Tourette Syndrome Association, the only national nonprofit membership organization dedicated to identifying the cause, finding a cure, and controlling the effects of Tourette Syndrome, has designated May 15 through June 15 as National Tourette Syndrome Awareness Month. The goal of this effort is to educate the public about the nature and effects of TS.

Mr. Speaker, enactment of the legislation I have introduced to recognize National Tourette Syndrome Awareness Month would give all of us an opportunity to familiarize ourselves with the condition. It will help us better understand the impact that TS can have on people living with the disorder, as well as recognize the importance of early diagnosis and proper treatment.

FREEDOM FOR MIGUEL GALVÁN GUTIERREZ

HON. LINCOLN DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I rise today to speak about Miguel Galván Gutierrez, a prisoner of conscience in totalitarian Cuba.

Mr. Galván Gutierrez is an engineer by profession and thus a student of transforming ideas and concepts into concrete reality. As a man who studied how things work, he quickly grasped the broken and irreparable nature of Castro's infernal totalitarian regime. As a pro-democracy activist, Mr. Galván Gutierrez has committed himself to portraying the true horrors of life under the tyrant in Cuba. He has written articles for Havana Press and served as president of the College of Independent Engineers and Architects of Cuba.

As a leading advocate for freedom for every Cuban, Mr. Galván Gutierrez has been constantly harassed by Castro's thugs. According to Amnesty International, he has endured numerous interrogations and short term detentions. On March 18, 2003, Mr. Galván Gutierrez was arrested and he was subsequently "sentenced" to 26 years in the totalitarian gulag.

Mr. Galván Gutierrez is languishing in the nightmarish conditions of the totalitarian gulag because he believes in freedom for every Cuban citizen. According to Reporters Without Borders, Mr. Galván Gutierrez is suffering from abdominal and joint pain, together with an inflammation of the feet and a paralyzed arm. Reporters Without Borders has also reported that Mr. Galván Gutierrez was put in solitary confinement and deprived of water and light because he staged hunger strikes to protest the inhuman conditions in the totalitarian gulag.

Mr. Speaker, today is May 20 and on this day, 102 years ago, the Cuban people obtained their independence; the Republic of Cuba was born. Today the Cuban people, led by heroic activists such as Mr. Galván Gutierrez, continue to fight for freedom. It is my fervent hope that next year, on May 20, the Cuban people will be able to celebrate the anniversary of Cuba's independence and also celebrate the return of freedom to that long suffering island.

Mr. Speaker, we must constantly demand freedom for the Cuban people. My Colleagues, today, on Cuban Independence Day, we must demand the immediate release of Miguel Galván Gutierrez and every political prisoner in totalitarian Cuba.

HONORING WORKS OF CHATTANOOGA BAR ASSOCIATION AND CHATTANOOGA HUMAN RIGHTS COMMISSION

HON. ZACH WAMP

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. WAMP. Mr. Speaker, I arise today to honor the works of the Chattanooga Bar Association and the Chattanooga Human Rights Commission in my hometown of Chattanooga, Tennessee and join them in celebrating the CBA's upcoming Law Day Luncheon on May 24, 2004. Law Day, USA is set aside each year on May 1st by a joint resolution of Congress and Presidential proclamation as an occasion for honoring the place of law in our lives. It is not a national holiday, nor is it a "lawyer's day." Instead, Law Day is an occasion for all Americans to learn more about our law, our legal system, and our rights. It is also a day to reflect on our legal heritage, our responsibilities as citizens, and the principles of our democratic government. Law Day has been a vital part of American life for several generations. Law Day has celebrated our great heritage of liberty, justice and equality under law since it was first proclaimed in 1958 by President Eisenhower. Law Day gives us the opportunity to reflect on how the law protects and guides America's quest for equal justice and equal opportunity, just as it permits us to express our opinions, select our leaders, worship where we choose, and pursue our livelihood. Thanks to the freedoms guaranteed by our Constitution, and protected by our laws and courts, we Americans have the opportunity—unmatched anywhere in the world—to develop our capabilities to the fullest.

This year, the Chattanooga Bar Association and the Human Rights Commission will celebrate the 50th anniversary of one of the United States Supreme Court's most important cases. Brown v. Board of Education, decided on May 17, 1954, changed the civil rights landscape in America forever. Brown showed that resolute citizens, served by dedicated lawyers, can strike powerful blows against social injustice through law and courts.

On May 24th, the Chattanooga Bar Association will honor the legal community of Chattanooga, Tennessee with their annual Law Day Luncheon. The featured speaker is Cheryl Brown Henderson. Mrs. Henderson is one of the children of the late Reverend Oliver Brown, namesake of the landmark U.S. Supreme Court decision of 1954. During the luncheon, the Chattanooga Bar Association will honor James R. Mapp with the 2005 "Liberty Bell Award." This award, given to a person who is not in the legal profession, is one of the CBA's highest honors. The purpose of the "Liberty Bell Award" is to recognize community service that has strengthened the American system of freedom under law. In selecting the recipient of this award, the Chattanooga Bar Association considers activities which: (1) promote a better understanding of our Constitution and the Bill of Rights; (2) encourage a greater respect for the law and the courts; (3) stimulate a deeper sense of individual responsibility so that citizens recognize their duties as well as their rights; (4) contribute to the effective functioning of our institutions of governments; and (5) foster a better understanding and appreciation of the rule of law. I ask all Members of the House of Representatives to join me in congratulating James R. Mapp for his contributions to the Chattanooga community.

The winners of the Law Day Essay Contest, which is open to all Hamilton County, private and home school students, grades 9–12, are: 1st place winning the $2000 college scholarship is Lindsay Frost of Girls Preparatory School. The Second place winner is Stephanie Liu of Girls Preparatory School. The Law Day poetry contest is open to all Third through Fifth graders of the same demographics. Winning 1st place is Caroline Holloway of St. Peter's Episcopal School; 2nd place is Chris Cooper of St. Peter's Episcopal School. The Law Day art contest is open to all Kindergarten through Second graders of the same demographics. Winning 1st place is Sloan Lewis of St. Peter's Episcopal School; winning 2nd place is Lauren Hood of St. Peter's Episcopal School.

Mr. Speaker, I ask the United States House of Representatives to join me in thanking the Board of Governors of the Chattanooga Bar Association for their contributions and commitment to the legal profession and to the Chattanooga community. The members of the Board of Governors Executive Committee are: Lynda Minks-Hood, Executive Director; Alan L. Cates, President; Michael K. Alston, President-elect; Joseph R. White, Secretary-Treasurer; Honorable Rebecca J. Stern, Immediate Past President. Board members include: Marcia J. Eason, Steven W. Grant, James M. Haley, IV, Wade A. Hinton, Steven M. Jacoway, Jason L. Thomas and John M. Phillips.

HONORING THE MEMORY OF ABIGAIL BURKE IRWIN

HON. TIMOTHY H. BISHOP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. BISHOP of New York. Mr. Speaker, I rise today in honor of Abigail Burke Irwin. Abigail Burke Irwin has been called a fighter, an inspiration, "a one-woman community." I knew her because she was my wife's sister, the mother of my two nephews, and the wife of my friend and colleague Burke Irwin. In her short life of 46 years, Abby touched the lives of many people and made an indelible mark. But it was in her last 13 years when she struggled so valiantly against breast cancer that she truly came into her own.

She refused against all odds to give up her fight for life. But more importantly, she used the time she was given to reach out and help others who were also suffering. She packed more into her short life than most people who live to be twice her age. She started a breast cancer support group and founded a local chapter of an advocacy group for Asperger's Syndrome. She was an active and involved mother and community member. Saddled with mounting medical bills for constant chemotherapy and surgeries, she made wooden furniture to sell, and later, when she was too weak, she created jewelry and other crafts.

In the end, she willed herself to live, right up to several days before her death on April 29, 2004, when she rallied her family to a backyard picnic on one of the first warm spring days. She wore a bright red hat and coat—red was her favorite color—and she seemed so happy to be alive and in the midst of her loving family.

Breast cancer affects so many lives. It is the leading cause of cancer deaths for women worldwide. We must be determined to continue the fight for increased access to health care and prevention for all women, for continued funding of breast cancer research and for extending Medicare to cover all cancer drugs.

Abby Irwin spent much of her precious time and energy dealing with a flawed health care system, trying to keep ahead of her bills, struggling with the complexities and inadequacies of health insurance. We could not save her life, but hopefully we can save other women from having to deal with the difficulties she faced.

Abby was a fighter, but she never fought only for herself. She always reached out to help others struggling with life's difficulties. Ever the optimist, Abby never liked to report just the bad news. She always added something good. The bad news for her many friends and family members is that Abby has left us. The good news is that because of her strength and courage, her legacy—and her fight—will live on.

NEUQUA VALLEY HIGH SCHOOL MUSIC DEPARTMENT GRAMMY SIGNATURE SCHOOL AWARD WINNER

HON. JUDY BIGGERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mrs. BIGGERT. Mr. Speaker, I rise today in honor of Neuqua Valley High School's Music Department. Recently, the Neuqua team was named as one of the top high school music departments in the country by the GRAMMY Foundation's 2004 Signature Schools program.

Neuqua Valley High School was chosen out of 20,000 public high schools from across the country. The GRAMMY Foundation judged applicants on the basis of sample concert programs, repertoire, and recordings of school concerts. In recognition of its achievement, the music department will receive a $5,000 check from the GRAMMY Foundation.

Being honored for excellence in music is nothing new to Neuqua Valley High School. Although the school opened its doors only 7 years ago, this is the second straight year, and the third time overall, that its music department has been recognized by the GRAMMY Foundation as part of the Signature Schools program.

But Neuqua Valley High School's successes are not confined to its great music department. During the current school year, students have earned a number of honors for academic and athletic achievements, including the state championship for the boy's soccer team, National Scholastic Arts Competition scores for four students, National Merit Scholarship awards for two outstanding students.

Congratulations, Neuqua Valley High School, for the outstanding achievements of the boys and girls and men and women of your excellent music department and for all of your other outstanding accomplishments. You have our best wishes for continued success in all you do.

INTRODUCTION OF THE GREAT LAKES PROTECTION AND RESTORATION COMMITTEE ACT

HON. VERNON J. EHLERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. EHLERS. Mr. Speaker, I am pleased to introduce legislation that will move our Nation forward with increased environmental protection and restoration of the Great Lakes—the Great Lakes Protection and Restoration Committee Act.

The Great Lakes are a national treasure that we need to protect and restore. They contain 95 percent of our nation's surface freshwater, provide drinking water to millions of people and form the backbone for billions of dollars in shipping, trade, fishing and recreation. Progress has been made in improving environmental conditions in the Great Lakes Basin, but the lakes continue to face many threats, including pollution from contaminated sediments, stormwater and agricultural runoff, the introduction of invasive species, wetlands and coastal habitat loss, and pollutants washed into the lakes from the atmosphere.

While several federal, state, provincial and local programs have been developed to address these problems, these strategies are not well coordinated. According to an April 2003 GAO Report, "no one overarching strategy or plan unifies these strategies in the pursuit of a common goal. . . An overarching strategy for the basin is needed to establish restoration goals, outline how restoration will occur, identify the resources needed to achieve restoration, assign accountability for restoration, and provide a mechanism for measuring progress for achieving goals."

This week, President Bush signed an Executive Order that establishes a task force to improve the coordination of federal agency efforts and to reach out to state, local, and private partners to develop consistent policies and strategies for Great Lakes restoration. I strongly support the action taken by President Bush, EPA Administrator Leavitt, and Council on Environmental Quality Chairman Connaughton because it will help bring collaboration among the broad collection of existing resources and programs in the region.

Next we need comprehensive legislation to continue to move us forward. The Great Lakes Protection and Restoration Committee Act will provide a path forward by bringing together all of the stakeholders in the basin, led by the Great Lakes State governors with the aid of relevant federal agency officials, tribal representatives, scientific experts and environmental and industry stakeholders. The Committee created by the legislation will develop a specific and comprehensive strategy for the purpose of protecting, preserving and restoring the Great Lakes.

Specifically, the task force will:

Assess accomplishments from current programs over the past 10 years;

Analyze the prospects for achieving restoration goals under current programs and authorities for the next 10 years;

Prioritize restoration goals identified by the Great Lakes governors;

Develop specific, measurable benchmarks for achieving those goals;

Recommend legislative options for obtaining such additional authority and funding as are necessary to achieve those goals;

Suggest methods to improve coordination among the existing federal, state, provincial, local, and non-governmental programs operating in the Great Lakes; and

Report to Congress and the President in one year on its findings and recommendations.

My goal is that the task force will develop a comprehensive, strategic protection and restoration program to bring together and coordinate the plethora of smaller programs that we have in place now.

This serious and measured approach mirrors the steps taken in other large ecosystem restoration projects such as the Everglades and Chesapeake Bay. Due to the complexity of those restoration initiatives, which cross over many jurisdictional lines, environmental challenges and scientific disciplines, it was essential to have an overall strategic plan in place to guide activities and funding decisions over long periods of time. The Great Lakes Basin is significantly larger and the environmental challenges substantially more complex than in those ecosystems. We need an overarching strategy in place to accomplish our vision to protect and restore the lakes.

A lack of adequate funding is certainly an impediment to successful cleanup efforts, but improved program coordination and operation under a comprehensive strategic plan is an essential first step. The Great Lakes Protection and Restoration Committee Act will move Great Lakes restoration forward to help protect and clean up this global treasure. I urge all of my colleagues to support this legislation.

ADDRESS OF THE PRESIDENT OF THE STATE OF ISRAEL, MR. MOSHE KATSAV, AT THE PRESIDENT'S PALACE IN BERLIN, APRIL 28, 2004

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. CARDIN. Mr. Speaker, I recently attended the Conference on Anti-Semitism of the Organization for Security and Cooperation in Europe (OSCE) in Berlin from April 28–29, 2004. I was privileged to attend as part of the official U.S. delegation, in my capacity as the Ranking Member of the Commission on Security and Cooperation in Europe (CSCE), commonly known as the Helsinki Commission. I was pleased to give a speech at the Berlin Conference, after visiting the concentration camps in Auschwitz, on the importance of fighting intolerance and speaking out against acts of anti-Semitism. Secretary of State Colin Powell attended the Conference and spoke forcefully about the need to combat anti-Semitism. Mr. LANTOS of California, the Ranking Member of the International Relations Committee, has already introduced Secretary Powell's statement into the RECORD. The 55 Participating States of the OSCE adopted a strong action plan, the Berlin Declaration, which lays out specific steps for states to take regarding Holocaust education, data collection and monitoring of hate crimes against Jews, and improved coordination between non-governmental organizations and European law enforcement agencies.

During our Conference, on the evening of April 28, President Johannes Rau of Germany hosted a dinner for the President of the State of Israel Moshe Katsav. President Katsav spoke powerfully about the need to combat the rising tide of anti-Semitism throughout the world. Let me just highlight one section of President Katsav's remarks:

> The violence against the Jews in Europe is evidence that anti-Semitism, which we have not known since the Second World War, is on the rise. This trend of the new anti-Semitism is a result of the aggressive propaganda, made possible by modern technologies, globalization and abuse of democracy and which creates an infrastructure for developing and increasing anti-Semitism, of a kind we have not known before * * * Many times I have heard voices saying that anti-Semitism is not unique and that it is no different from other kinds of racism. Anti-Semitism should indeed receive special attention. Hatred against the Jews has existed for many generations and it is rooted in many cultures and continents through the world. However, now anti-Semitism has become an instrument for achieving political aims * * * The genocide of the Jews was the result of anti-Semitism and was not caused by a war between countries or a territorial conflict and, therefore, anti-Semitism is a special danger for world Jewry and the whole of Europe.

Let me draw my colleagues attention to a particularly important part of the Berlin Declaration, in which the OSCE participating States "declare[d] unambiguously that international development of political issues, including those in Israel or elsewhere in the Middle East, never justify anti-Semitism." Let me be clear that I am not seeking to suppress legitimate criticism of Israel, just as I would not seek to silence those who criticize the policies of the U.S. Government. However, when individuals criticize the very existence of the Jewish state, equate Zionism with racism, and compare the Israeli Government to the Nazi regime, then all of us must say together: this is anti-Semitism, and you have crossed the line.

Mr. Speaker, I ask unanimous consent that the full text of the Israeli President's remarks at the President's Palace in Berlin be placed in the RECORD, and I urge my colleagues to read President Katsav's thoughtful remarks.

ADDRESS OF THE PRESIDENT OF THE STATE OF ISRAEL, MR. MOSHE KATSAV, AT THE PRESIDENT'S PALACE IN BERLIN

Mr. President, Ministers, Distinguished Guests, Heads of Delegations:

It is very difficult and sad for me to stand here today in Berlin, 60 years after the Holocaust and to speak about anti-Semitism and the ways of fighting against it.

We, world Jewry, believed that after the terrible events of the Holocaust, it would not be necessary to struggle against anti-Semitism.

We believed that the world would not allow anti-Semitism to raise its head.

We believed that anti-Semitism belonged to the old world and to distant history.

We very much appreciate this gathering in Berlin. This step to fight anti-Semitism sends a very important message that this issue has a significant place in the European agenda, in the relations between Israel and Europe and between Europe and world Jewry. It is a sign that the security of Jews touches directly basic human values.

I am standing here as a representative of a nation which suffered a great deal during many generations of exiles, inquisition and the terrible Holocaust-Shoah.

I represent a nation which desires to live in peace without fear, without bloodshed, without incitement and without violence.

I am standing here as a citizen of a democratic and free world which is committed to the values of freedom, equality, to universal values which oppose anti-Semitism.

Anti-Semitism is a big tragedy for the Jewish people. It is a moral and historic failure for humanity. It is a failure of world leaders. It is a failure of the free world.

If humanity does not express determination and does not learn the historical lesson, the Holocaust will not remain an abstract issue for the next generation.

Among international leaders, no one in 1933 believed that the Holocaust would happen and, not even at the beginning of the war in 1939. It is very difficult to believe but the Holocaust happened in the heart of Europe, in one of the most sophisticated countries in the world, which had the best musicians, philosophers, scientists and researchers in the world.

Lately we are witnessing again the burning of synagogues and Jewish schools, the desecration of Jewish cemeteries and horrible writings.

Jews are again afraid to walk in the streets with a Star of David and a yarmulke. Jewish children are again a target of violence and the streets of Europe are again not safe for Jews, only because they are Jews.

Jews, as individuals and as a collective, are a target of physical and emotional violence.

Hostile letters, graffiti and the use of the Internet and the media are examples of instruments against the Jews.

For a long time Europe denied the rise in anti-Semitism.

The problem is not just the physical violence and damage caused to Jewish institutions. We are concerned about the hostility and incitement against the Jews and Israel in Europe.

There are some who blame the Jews for an international conspiracy and even blame them for the terrorist acts of September 11th. They accuse American Jews of cooperating with Israel in blaming Islam for these terrorist attacks.

We are witnessing a new trend by radical Muslims who are recreating the classical blood libel and who are publishing again the "Protocols of the Elders of Zion" which claim that the Jews aim to control the world.

For others, the new anti-Semitism is a way of criticizing the Jews and Israel for their treatment of the Palestinian people.

In Europe the rise in classical anti-Semitism, represents the Jews and the Jewish state as brutal devils, the source of wars and responsible for global disasters.

It is difficult for us to believe, but recently the public opinion polls which were initiated by the European Commission show that a majority of Europeans believe Israel is a danger for the stability and peace in the world.

Not the non-democratic countries which are trying to develop and achieve mass destruction weapons, not the totalitarian countries which back terrorist organizations, not the brutal bloodshed in the name of God, not poverty but we, Israel, are a danger for world peace in the eyes of some European people.

The violence against the Jews in Europe is evidence that anti-Semitism, which we have not known since the Second World War, is on the rise. This trend of the new anti-Semitism is a result of the aggressive propaganda, made possible by modern technologies, globalization and abuse of democracy and which creates an infrastructure for developing and increasing anti-Semitism, of a kind we have not known before.

Millions and millions of people are exposed to television programs and Internet sites full of blood libels.

The silence, the closing of eyes and the slow reactions in some countries permit this incitement to become deeper and stronger.

It is impossible to fight against anti-Semitism, while permitting the demonization of Israel and its leaders and denying its legitimate right to exist.

During the last decade we took historical steps towards the Palestinian people. I would like to mention the Oslo Agreement, the Camp David conference and the acceptance of the Roadmap but during the last ten years we have had not even one quiet day and we suffered from brutal and terrible bloodshed.

Sometimes we feel that Europeans are not ready to feel solidarity with us or to recognize the suffering of the Israeli people from the terrible terrorism, which has continued for many years.

The brutality of the terrorism in the Middle East is of a type that humanity has never seen before.

It is only by cooperation, with determination and with leadership that we can overcome this hatred.

We are astonished that there are still people who deny the Holocaust.

The Durban Conference in September 2001 shocked all of us. It was meant to be a conference against racism but became a meeting of racists against the Jews and the State of Israel.

The anti-Semitism in Europe is a result of the cooperation among elements who are against the West and western values, who are against globalization and against progress, as well as extremists from the left and right and from organizations of radical Muslims.

The world of Islam is very large. There are more than a billion people who are not of one mind and opinion. There are some Muslim countries which have diplomatic relations with Israel, such as Turkey, Egypt, the Hashemite Kingdom, the Muslim Republics in Central Asia, Persian Gulf countries and others. Not all Muslims are anti-Semitic and there is no conflict between Judaism and Islam. In Europe there are 20 million Muslims. Most of them are very good people who desire to live calm and normal lives. However, they are afraid to raise their voices against the extremists. I call on the moderate Muslims in Europe and on their leaders to cooperate with us in encouraging tolerance and understanding for a free and better world.

However, we must still remember that there are still Muslim countries and organizations which are calling for the destruction of the State of Israel.

Anti-Semitism is encouraged and is given inspiration by international terrorism.

Anti-Semitism is a great danger to democracy and freedom in the world.

Where synagogues are burnt, the day will come when stones will be thrown on parliament and democracy is in danger.

Fighting against anti-Semitism with determination will deliver a strong message to the international terrorist organizations and will be a message that the free world has determination to defend its values and is not prepared to tolerate anti-Semitism, hostility and racism.

Anti-Semitism has no justification, no legitimacy and should not be shown any understanding. Anti-Semitism is a great threat to freedom. It uses human morality, democracy and liberalism for its destructive aims.

Black people are not responsible for the racism against them just as the Jews are not responsible for anti-Semitism.

We had hoped that the creation of a Jewish State would help prevent anti-Semitism. We desired to be a free nation in our homeland, like all nations. The Jewish state is a national home for every Jew and we want to be sure that never again will Jews be unprotected.

We are shocked by the accusations, which compare Israel to Nazi Germany. There is a linkage between this incitement and the violence against Jews in the streets of Europe.

We do not want to prevent legitimate political criticism against Israeli government policy, but we will not tolerate incitement against world Jewry and the Jewish state.

Many times I have heard voices saying that anti-Semitism is not unique and that it is no different from other kinds of racism. Anti-Semitism should indeed receive special attention. Hatred against the Jews has existed for many generations and it is rooted in many cultures and continents throughout the world.

However, now anti-Semitism has become an instrument for achieving political aims. It is being used by Muslims as an instrument to achieve political gains.

The genocide of the Jews was the result of anti-Semitism and was not caused by a war between countries or a territorial conflict and, therefore, anti-Semitism is a special danger for world Jewry and the whole of Europe.

Can it be that the impact of the Holocaust is not strong enough to stop and prevent anti-Semitism? Can it be that the impact of the Holocaust has become weaker in the last decades?

We must focus all our efforts, energies and wisdom on educational activities and research on the Holocaust. We must transmit the lesson of the Holocaust to the young generations.

I call to continue researching and documenting all the events relating to the Holocaust.

We must teach the young generation human values.

I call on the European leaders to increase the awareness of anti-Semitic acts in their countries, to research the origin and background in each country and to evaluate anti-Semitism on a national level.

I call for a mechanism for monitoring and controlling anti-Semitic events and for ways to fight them.

I call for increased cooperation between the countries and law enforcement authorities, in fighting anti-Semitism in Europe.

I call for legislation to prevent anti-Semitism, especially in the Internet and via satellite programs.

I call for a meeting of professionals from all over the world to set up a program and take real steps against anti-Semitism.

I greatly appreciate European governments and leaders who are fighting against anti-Semitism and I very much appreciate this important gathering in Berlin.

Most European countries have close relations with the Arab countries which are responsible for producing incitement and anti-Semitic propaganda on television, in books and in newspapers which are distributed in Europe and around the world.

We must put pressure on such countries to stop the distribution of such terrible incitement against the Jews.

It is not enough to talk against anti-Semitism. We must act.

I believe that European countries wish to do as much as possible to stop anti-Semitism and give security to their Jewish citizens.

European leaders have done a lot lately but not enough. It is necessary to do more in the fields of education, public opinion, legislation and law enforcement.

At this time, we the Jews are not alone. I can see many good friends here who are standing with us. I am aware of many people, nations and leaders who are struggling against anti-Semitism, as they understand that anti-Semitism is a danger to the stability and peace in the world, to human values.

I am aware of European governments who are our partners in our efforts and concern to provide security for every Jew and they understand that Jews have the right to live without fear anywhere.

I appreciate the governments in Europe who have already appointed special ministerial committees for fighting anti-Semitism. I appreciate countries whose parliaments dedicated special sessions on the issue of anti-Semitism.

I appreciate those countries who have decided to strongly condemn anti-Semitism in international bodies.

Indeed, now at the beginning of the 21st century, the situation is very serious. There is an increase in violence and an escalation of anti-Semitism against the Jews but there is a big difference. We are not living in the thirties. We have a Jewish, sovereign and independent state and this makes a big difference.

We know what happened in the Second World War and what racism brought upon the world and, because of this I am very pleased that there is more awareness. Now leaders are more sensitive and they protect their citizens. There is legislation and law enforcement in many countries. The leaders speak out and there are many seminars and conferences against anti-Semitism. The strong position of the United States of America in this matter is remarkable. I also very much appreciate the position of the Vatican on this difficult and tragic issue.

I am very sorry that the Irish proposal to the United Nations General Assembly in December 2003, was not adopted, because of the objection of some Muslim countries. It is very sad that a special resolution which condemns anti-Semitism and attacks against Jews cannot be passed now in the United Nations.

The European Union should continue its efforts in this important initiative and in all multilateral organizations, in fighting against anti-Semitism.

We are very proud of our Jewish heritage and history. It is a source of pride for world Jewry. I hope that the Jewish people will also be a source of appreciation, understanding and respect and not a target for hatred.

I hope and pray for cooperation for development, prosperity and tolerance instead of destruction, bloodshed and hatred.

I would like to thank, you, President Rau and Foreign Minister Joschka Fischer for this important initiative. I believe that this meeting will be very constructive and that it will help us achieve our mutual goals.

I hope that the Berlin Conference will serve as a basis for continued efforts against anti-Semitism.

I wish to express my personal appreciation to President Rau for his wise and moral leadership, for his great friendship towards Israel and the Jewish people, and his personal dedication to the fight against anti-Semitism.

We have the strength and the will to create a better world, a just world for all humanity. Let us put all our efforts together to make it possible. Let us work together.

Thank you.

TRIBUTE TO GLEN DOUGLAS

HON. GEORGE R. NETHERCUTT, JR.

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. NETHERCUTT. Mr. Speaker, I rise today in recognition of Master Sergeant Glen Douglas' sacrifice and service to our nation, which spanned twenty-two years and three wars, the first of which was World War II.

Glen Douglas is one of the most decorated veterans in our region, having received the Distinguished Service Medal and seven purple hearts among other honors.

The following excerpts from the May 4th, 2004 weekly edition of the Colville Statesman Examiner are a testament to the sacrifice, courage, commitment and leadership Mr. Douglas displayed throughout the course of his service.

Douglas's service to our country first began as an infantryman in Europe with the 101st Airborne (Screaming Eagles) in 1944 and then in the occupation army with the U.S. Constabulary. Douglas then served in the Korean War with the U.S. 2nd (Indianhead) Infantry Division from 1950–1953 before he was med-evacuated after being wounded for the eighth time. In the incidents prior when he had been wounded and evacuated, he would be taken as far as Japan before he would disappear from the hospital, get clothes and take a boat back to his Infantry Division. "I would get very angry having somebody else lead the men and lose them." Douglas said, "I hardly ever lost a man when I was leading. After being wounded for the eighth time, Douglas nearly lost his legs and spent four years, four months and twenty-six days in the Fitzsimmons Army Hospital in Denver before he was released. He was told he would never walk again. But Douglas had his own ideas. "I was released December 23, 1957" Douglas remembered. By 1959, "I was jumping out of airplanes again." Douglas served two tours in Vietnam with the Special Forces (Green Beret) and then again with the highly classified Studies and Operations Group before retiring after twenty-two years of service.

I was pleased to learn that Mr. Douglas was recently selected by fellow veterans from local chapters of the American Legion, VFW, and Marine Corps League to receive an all expense paid trip to Washington D.C. in order to represent them during the upcoming dedication of the National World War II Memorial later this month.

The Memorial is a fitting tribute to the great courage and selfless dedication of soldiers who fought in the Second World War and as we approach Memorial Day, I encourage my colleagues to reflect on the great sacrifices of men like Glen Douglas.

IN HONOR OF THE MILE SQUARE DAY CARE CENTER ON ITS 25TH ANNIVERSARY

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. MENENDEZ. Mr. Speaker, I rise today to honor the Mile Square Day Care Center in celebration of its 25th anniversary. The Mile Square Day Care Center will celebrate with a 25th Anniversary Celebration Reception on Thursday, May 20, 2004, at The Lighthouse in West New York, New Jersey.

In 1977, a group of dedicated community minded people, with the help and guidance of Mayor Steve Cappiello, established a not-for-profit corporation to develop and run programs for young children. And through the hard work of the original board of directors, Hugh Kilmer, James Monaco, Dr. Frank Colon, Dr. Gerard Costa; and Charles A. Tortorella, the Mile Square Day Care Center was established in 1979.

In order to maintain the balance of community and parent involvement, the board of directors, since its inception, has consisted of an equal number of community members and parents. The original board of directors developed an environment that was nurturing and loving to the children. With the wide range of social, economic, and cultural groups, the activities in the Mile Square Day Care Center represented and continue to represent the diversity of its children and the city.

For twenty-five years, the Mile Square Day Care Center has touched the lives of over 3,000 families, providing the first preschool program in the City of Hoboken. Established in 1982 by former Executive Director Rosemary Fuocco, the Mile Square Day Care Center also began providing infant and toddler care for children ages three months to three years, and continues to provide preschool service for children three to five years of age. With a curriculum established with a hands-on approach, each child is given the opportunity to reach his or her intellectual and social potential.

Today, I ask my colleagues to join me in honoring the community leaders and dedicated parents, past and present, of the Mile Square Day Care Center, in recognition of their outstanding contributions and dedication to our children over the last twenty-five years.

TRIBUTE TO A.W. PICKEL, III, UPON THE COMPLETION OF HIS TENURE AS PRESIDENT OF THE NATIONAL ASSOCIATION OF MORTGAGE BROKERS

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. MOORE. Mr. Speaker, A.W. Pickel, III, of Lenexa, Kansas, will soon be completing a distinguished tenure as President of the National Association of Mortgage Brokers (NAMB) and the Kansas Association of Mortgage Brokers. NAMB provides invaluable services for the mortgage broker industry which originates two out of three home loans in the country. It is the voice of the mortgage broker industry, with more than 16,000 members in all 50 states.

As you know, home ownership is at an all time record rate largely due to the contributions of mortgage brokers; through his involvement in NAMB, A.W. Pickel has been instrumental in shaping housing policy in this country.

A.W. Pickel, III, was the founding president of the Kansas Association of Mortgage Brokers and still serves as an active ex-officio member of the Kansas Association of Mortgage Brokers' Board of Directors. In 1999, the Kansas Association named him Broker of the Year. He is president and CEO of Leader Mortgage Company in Lenexa, Kansas, which is in my congressional district. Leader Mortgage Company also has offices in Dallas, Texas; Des Moines; Iowa; Nashville, Tennessee; Topeka, Kansas; and Pittsburg, Kansas.

Mr. Speaker, I want to take this opportunity to commend A.W. Pickel, III for his contributions to his profession and involvement in his community and dedication to his wife Diane and daughters, Lara, Alissa, Jessica, and Rebecca. I join with the residents of the entire Third Congressional District of Kansas in applauding A.W. Pickel, III, for his successful tenure as President of NAMB and in wishing him continued success in all future endeavors.

PERSONAL EXPLANATION

HON. JIM NUSSLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. NUSSLE. Mr. Speaker, unfortunately I was detained and was not able to cast my vote on Rollcall #195, passage of H. Con. Res. 424, Honoring past and current members of the Armed Forces of the United States and encouraging Americans to wear red poppies on Memorial Day. Had I been present I would have voted "aye".

REPLANTING OF TREE MEMORIALIZING THE LATE REPRESENTATIVE JOSEPH TAGGART OF KANSAS CITY, KANSAS

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. MOORE. Mr. Speaker, I recently had the honor of working with the Architect of the Capitol to replant on the east Capitol grounds a pin oak memorializing the late U.S. Representative Joe Taggart of Kansas City, Kansas.

Representative Joe Taggart was elected three times to Congress from a House district including Kansas City, Kansas—in a 1911 special election, and then in regular elections in 1912 and 1914. Born in rural Iowa in 1867, Joe Taggart moved to Kansas during his childhood and graduated from Salina Normal University in 1890; after teaching school for two years in Bavaria, Kansas, he was admitted to the practice of law in 1893 in Salina, moving shortly thereafter to Kansas City. Taggart served as Kansas City's prosecuting attorney from 1907–1911, when he was elected as a Democrat to fill the vacancy caused by the death of Alexander Mitchell. Twice re-elected, he was defeated in 1916. During the First World War, Taggart served in the quartermaster corps of the United States Army. After the war, he resumed private law practice in Kansas City and was appointed judge of the Kansas Court of Industrial Relations in 1924. Joe Taggart died in Wadsworth, Kansas, in 1938 and is buried in Atchison.

In approximately 1916, Representative Taggart and his family planted a pin oak in his honor on the east lawn of the Capitol. The Architect of the Capitol has generously provided me with several prints of photos of that event. This tree survived, although in declining condition, until the area was leveled in order to construct the Capitol Visitors' Center. The staff of the Architect of the Capitol, led by Senior Landscape Architect and Horticulturist Matthew Evans, recently planted here on the Capitol grounds, near Independence Avenue, Southeast, a young pin oak to replace the earlier Taggart memorial tree. I also want to acknowledge the generous support of the Kansas Society of Washington, D.C.; thanks to the support of the Society's current president Heather Wingate and past presidents David Kensinger and Alan Sobba, the Kansas Society donated the cost of the new tree.

The replanting of the Joseph Taggart memorial tree serves as a small reminder of the state of Kansas on the grounds of our U.S. Capitol and I am pleased to have been a part of this event.

IN HONOR OF SAINT ANTHONY HIGH SCHOOL BOYS' BASKETBALL TEAM

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. MENENDEZ. Mr. Speaker, I rise today to call the attention of the Congress and the nation to a story of excellence so rare that it deserves the attention of all who believe the human spirit is capable of overcoming even the greatest of odds.

This story is being written at Saint Anthony High School, a small school in downtown Jersey City whose motto is "to be all that you can be." While neither the school nor its students possess great financial resources, they are both blessed with the heart of champions.

The latest chapter of this story culminated when the Saint Anthony High School boys' basketball team won this year's New Jersey state championship with a stunning 67–55 win over Bloomfield Tech to cap a remarkable undefeated (30–0) season. With this victory, Saint Anthony High School tied a national record by winning its 24th state championship.

The team's legendary coach, Bob Hurley, has now produced an undefeated team in each of his four decades of coaching (1974, 1989, 1996, 2004).

Since Saint Anthony High School does not have a gym, the boys' basketball team has been forced to practice at a rented facility. Nevertheless, in 32 years of coaching, Hurley has compiled an amazing 826–92 record against high-caliber competition—winning an incredible 90 percent of his games.

Hurley has coached dozens of players who went on to become NCAA All-Americans and NBA stars. More importantly, he has taken thousands of boys and turned them into champions, both on and off the court. In 32 years, all but one of his players went to college.

Coach Hurley has gone on record about this undefeated 2004 team—calling them the best defensive team he's ever coached. That, I assure you Mr. Speaker, is saying something.

Today, I ask my colleagues to join me in honoring Coach Bob Hurley and the State Champion 2004 Saint Anthony High School boys' basketball team in recognition of their commitment to excellence both on and off the court and for their continuing inspiration to us all.

PERSONAL EXPLANATION

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. ROGERS of Michigan. Mr. Speaker, on the legislative day of Monday, May 17, 2004, the House had votes on H. Con. Res. 420, H. Con. Res. 423 and H. Con. Res. 403. On House roll call votes #177, #178 and #179, I was unavoidably detained at the airport. Had I been present, I would have voted "yea" on each.

SMALL BUSINESS WEEK

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. BURGESS. Mr. Speaker, I rise today during National Small Business Week to recognize Dr. Sam Rainey, the founder and owner the Family Pet Clinic, a small business located in my Congressional District. Dr. Rainey runs a successful veterinary clinic in Denton, Texas that employ seven North Texans—and he plans to hire another person very soon.

It is small businesses like the Family Pet Clinic that are driving America's economy today. They create the majority of new jobs and account for half of the economy's private output. In 2002, 99.7 percent of all businesses were small businesses.

Small businesses have had an enormous impact on innovation and progress in America. Historically, the bulk of breakthrough products emerged from small businesses. Small firms produce 13 to 14 times more patents per employee than large companies.

The 108th Congress has passed a number of initiatives to bolster small businesses including the Jobs and Growth Reconciliation Act of 2003 which included a provision that tripled the amount that small businesses can immediately expense and increased bonus depreciation for the purchase of capital equipment.

In addition to fiscally helping small businesses, the House of Representatives passed Association Health Plan legislation that would enable small businesses, of similar trade and profession, to pool their employees for better health care coverage benefits. By joining together, small employers will enjoy greater bargaining power, economies of scale and administrative efficiencies.

In conclusion, as we celebrate National Small Business Week, congratulate Dr. Sam Rainey and his thriving small business and urge the U.S. Senate to show their support of America's small businesses by passing initiatives, like association health plans, that are important to small businesses and their employees.

IN HONOR OF COLONEL JOHN B. O'DOWD

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Colonel John B. O'Dowd for his outstanding work and leadership in the New York District of the United States Army Corps of Engineers. His tenure as Chief Engineer has been one of exceptional work and dedication.

Colonel O'Dowd assumed command of the New York District of the United States Army Corps of Engineers in July 2001. Since his appointment, Colonel O'Dowd has brought great leadership, focus, and passion to his position. Responsible for the water resource development, navigation, and regulatory activities in parts of New Jersey, New York, Vermont, Massachusetts, and Connecticut, Colonel O'Dowd has led by example and has worked tirelessly to achieve his objective.

Prior to his position with the Army Corps of Engineers, Colonel O'Dowd commanded and served as Executive Officer of the 30th Engineer Battalion at Fort Bragg. He also served as Executive Officer for the Engineer Brigade, 2nd Infantry Division in the Republic of Korea, and was assigned as the Operations Officer for the 20th Engineer Brigade during Operation "Uphold Democracy" in Haiti.

For his distinguished work and military service, Colonel O'Dowd has received numerous awards and citations, including the Meritorious Service Medal with four Oak Leaf Clusters, the Army Commendation Medal with Oak Leaf Cluster, the National Defense Service Medal, the Armed Forces Expeditionary Medal, and the Master Parachutist Badge.

Colonel O'Dowd received his bachelor's degree from the United States Military Academy at West Point in 1978 and a Master's Degree from John Hopkins University in Environmental Engineering in 1989. He is also a loving husband to his wife and dedicated father to his three children.

Today, I ask my colleagues to join me in honoring Colonel John B. O'Dowd for his outstanding leadership, courage, and service to this great country. He will be greatly missed as he leaves the New York District of the United States Army Corps of Engineers. It has been an honor and a pleasure to have worked with him the last three years and I wish him all the best in his new assignment in Afghanistan.

TRIBUTE TO ASSOCIATED BUILDERS AND CONTRACTORS OF SOUTHERN CALIFORNIA ON THEIR 30TH ANNIVERSARY

HON. GARY G. MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. GARY G. MILLER of California. Mr. Speaker, I rise to pay tribute to the Associated Builders and Contractors of Southern California as they celebrate their 30th Anniversary.

The Associated Builders and Contractors of Southern California was established in 1974 with 78 charter members to assist businesses large and small with the necessary skills to become a successful operation. Providing their members with management leadership skills and safety training, the Associated Builders and Contractors of Southern California have created an industry with high standards and quality employees.

Founded on the belief of the free enterprise system, the Associated Builders and Contractors of Southern California actively promote the Merit Shop Philosophy whereby contractors pay, promote and recognize their employees based on individual merit. It is this philosophy and their commitment to providing employees with adequate wages, benefits and safe working conditions that has made this association a pioneer in the construction industry.

Recognizing the valuable contributions to the industry and the community, I would like to congratulate the Associated Builders and Contractors of Southern California on their anniversary of thirty successful years.

TO CALL ATTENTION TO THE HIGH PRICE OF GAS

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. KUCINICH. Mr. Speaker, I rise today to recognize the increasing pressure rising gas prices are placing on the constituents of Ohio's tenth district, and consumers around the country.

Today, I received a petition, presented to me by WEWS Television Station in Cleveland, Ohio, from those in the Cleveland area who are being harmed by the recent spikes in gas prices. This petition, with over 14,000 signatures, is evidence of the strains placed on consumers in an already bleak economic market. To address these concerns, I, along with 67 other members of the House of Representatives, am sending a letter to President Bush expressing my concerns.

Effectively addressing high gasoline prices will take six steps—none of which are included in the energy legislation.

First, require oil companies to expand gasoline storage capacities, require them to hold significant amounts in that storage, and reserve the right to order these companies to release this stored gas to address supply and demand fluctuations.

Second, block mergers that make it easier for oil companies to manipulate gasoline supplies, and take steps, such as forcing companies to sell assets, to remedy the current highly concentrated market.

Third, re-regulate energy trading exchanges that were exploited by Enron and continue to be abused by other energy traders.

Fourth, discontinue filling the Strategic Petroleum Reserve while prices are high and conduct a study of building crude and product reserves that can be used as economic stockpiles to dampen price increases.

Fifth, reduce oil consumption by implementing strong fuel economy standards. Substantially improving CAFE standards over a ten-year period would reduce the oil used by one-third in 2020 and save consumers $16 billion at the gas pump.

Sixth, request the Federal Trade Commission conduct a study of the reasons why the market forced the closure of over 50 predominantly small and independent refiners in the past 10 years and assess how to bring fair competition back to the refinery market and thus expand capacity.

By employing all six of these strategies, substantial reductions in the price of gasoline are attainable.

Mr. Speaker and Colleagues, please join me in supporting these strategies to lower gasoline prices for consumers. I want to thank WEWS for their public service of bringing these signatures to Washington. The people of Ohio have spoken. It is time for Congress and the Administration to respond to meet the people's needs.

HONORING MICHAEL DOYLE

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. RADANOVICH. Mr. Speaker, it is my pleasure to honor Michael Doyle who was former Knight Journalism Fellow at Yale Law School and recent author of The Forestport Breaks: A Nineteenth-Century Conspiracy along the Black Forest Canal. I have had the pleasure of forming a relationship with Michael Doyle because of his continued fair and balanced Washington Politics Beat coverage in my district newspaper, the Fresno Bee. Doyle's latest literary achievement follows a string of exceptional work including numerous articles for McClatchy Papers in California's Central Valley. The Forestport Breaks: A Nineteenth-Century Conspiracy along the Black Forest Canal depicts a conspiracy to sabotage part of the Erie Canal system along the Black River Canal.

A Publisher's Weekly Review called the work "carefully researched and nimbly written . . . Doyle's account of a 19th-century conspiracy to sabotage part of the Erie Canal system is a delight to read. Completed in 1825, the Erie Canal was an engineering marvel that vastly improved commercial transportation. In 1856, canal boats carried over four million tons of goods—more that twice the load of the railroads. But by 1869, the tide had turned in favor of New York's railroads; the canal had fallen into disrepair and was subject to costly breaks that flooded the countryside. In 1895, New York voters approved $9 million in improvements—but a subsequent investigation revealed that all but $25,000 of the money had been spent, but only one third of the work was complete. The subsequent scandal made heads roll, including the governor's. After Theodore Roosevelt was elected in 1898, he appointed Colonel John N. Partridge as superintendent of public works. Aware that Forestport in Oneida County (which was along the Black River feeder canal) had acquired an unsavory reputation, Partridge hired the Pinkerton Detective Agency to investigate. The locals fought the Pinkertons as enemies of the working man, but the latter eventually uncovered a plot that involved nearly every family in Forestport (and, in the words of one prosecutor, had 'no parallel in viciousness') in which the canal was 'the plaything of the politically connected' while the working men assigned to protect it damaged it for a tiny slice of the pie. In the end, 13 men went to jail for sabotaging the canal in an effort to rob the state treasury. History and mystery fans should enjoy this well-told tale."

Again, I would like to thank Michael Doyle for his continued service to the Central Valley of California and the general public through his work in journalism and his latest example of literary excellence in The Forestport Breaks: A Nineteenth-Century Conspiracy along the Black Forest Canal, enlightening us to some of the history that marks the only time New York state officials have charged men with conspiring to destroy canal property and detailing the evolution of this important transportation waterway.

HONORING SMALL BUSINESSES

HON. ANÍBAL ACEVEDO-VILÁ

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. ACEVEDO-VILÁ. Mr Speaker, I rise today to honor small businesses, especially, the small businesses in Puerto Rico. Small businesses represent the foundation of the economies of the United States and Puerto Rico. Their success both depends on and supports a successful economy. Since arriving in Washington, I have had the pleasure and honor of sitting on the Small Business Committee. Through this committee and the leadership of our ranking member, NYDIA VELÁZQUEZ, we have fought for the success of small businesses, particularly minority owned businesses.

The Small Business Committee recently sent a joint bi-partisan letter to the Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Subcommittee requesting $79 million for the Small Business Administration's 7(a) loan guarantee program in FY 2005. I hope that my colleagues will understand how sever the situation would be without this fundamental program. The 7(a) program is highly utilized in Puerto Rico. I join my Ranking Democratic Member, NYDIA VELÁZQUEZ, and the committee Chairman, DONALD M. MANZULLO, in urging the Chairman, Congressman FRANK WOLF, and the Ranking Democratic Member, Congressman JOSE SERRANO, to provide the necessary funds to continue this highly successful and highly utilized program.

I would like to close by honoring one small business owner from my district, Evaristo Freiria-Villamil. He was chosen as the 2004 Small Business Person of the Year from the Commonwealth of Puerto Rico. I applaud his work as a small business owner and wish him continued success.

Lastly, I wish to applaud the efforts of all small business owners in Puerto Rico. Through their hard work and dedication, we will build a stronger economy for Puerto Rico.

CONGRATULATING UNITED CEREBRAL PALSY OF NORTHEASTERN PENNSYLVANIA AS IT CELEBRATES ITS 50TH ANNIVERSARY

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. KANJORSKI. Mr. Speaker, I rise today to honor United Cerebral Palsy of Northeastern Pennsylvania as it celebrates its 50th anniversary on Monday at Genetti's in Dickson City, Pennsylvania.

United Cerebral Palsy of Northeastern Pennsylvania is an agency that exists solely to serve people with disabilities.

UCP was founded in 1953 by a group of people, including parents of teenagers and young adults with cerebral palsy. For the first few years, the agency consisted of volunteers who developed recreational activities for those disabled by cerebral palsy. The organization received funding from the community contributions and special events conducted by various groups.

After becoming a member agency of the United Fund, the precursor to the United Way, and through several cooperative agreements with other local organizations, UCP began providing professional services. Government funding began in 1970, and made possible the extension of the area that the agency serves.

Government funding also expanded services and increased the eligibility for services of persons with disabilities other than cerebral palsy. In fact, while the agency specializes in serving children and adults who have cerebral palsy, more than 75 percent of its clients have other related disabilities.

The growth of the agency over these past five decades mirrors the changes that have come about in society for persons with disabilities. However, the commitment of this agency to people with disabilities is something that has not and will not change. There is no higher calling than being part of an organization that served those less fortunate, and I want to take this opportunity to thank Executive Director Sarah Drob, Director of Operations Timothy McHugh, Coordinator of Residential Services Karen Himchak, Coordinator of Children's Services Cheryl Astolfi, Coordinator of Adult Services Faith Smith, Accountant Ruta Labutis, Coordinator of Communications and Development Barbara Siarkievicz and Administrative Assistant Tessie Bauer.

Mr. Speaker, it is truly a privilege to represent this fine organization that has shown its commitment to the people of Northeastern Pennsylvania. Today I ask you and my fellow colleagues to join me in honoring United Cerebral Palsy of Northeastern Pennsylvania.

IN MEMORY OF ROBERT E. EBERLY, SR.

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. MURTHA. Mr. Speaker, I rise to pay tribute to the life of an extraordinary individual, Mr. Robert Eberly, Sr., of Uniontown, Pennsylvania.

As with all great humanitarians, it is impossible to fully assess the impact Robert Eberly's life has had on his community and our country. A true gentleman and tireless philanthropist, known for his grace and humility as well as his passion for bettering the lives of others, Robert Eberly's generosity is legendary not only in Pennsylvania but across the country.

Bob often said that others worked just as hard as he did, but were not as fortunate because of circumstances beyond their control. Guided by this basic belief, he donated tens of millions of dollars to support education and economic development.

Robert Eberly was a man of incomparable energy and was actively involved in many of the projects he funded. Though he could have resided anywhere in the world, his heart and home remained in Fayette County, Pennsylvania where his father, a coal miner, raised him on the importance of education. His desire to help the economically depressed region in the wake of the downsizing of the steel and coal industry led him to found Fay-Penn Economic Development Council to support economic development in his home county.

He believed that education is a key to economic development—that the two are intertwined. He therefore donated heavily to colleges and universities throughout Pennsylvania as well as across the United States to promote education in the sciences and to make education accessible to those who could least afford it.

Robert Eberly passed away yesterday at the age of 85. He will be remembered for the example of true character he set for everyone who knew him as well as for the profound legacy of his work. His was a life well spent in the effort to help others. He will be missed by all whose lives he touched—and we will never know all of them.

PERSONAL EXPLANATION

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. RANGEL. Mr. Speaker, on rollcall No. 182, I was not present in the House due to a medical consultation at the Howard Unviersity hospital. Had I been present, I would have voted "nay."

MEMORIALIZING ROBERT MASAHIRO YOSHIKAWA

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. HONDA. Mr. Speaker, I rise today to honor the life and contributions of Mr. Robert Masahiro Yoshikawa who recently passed away. He was a pillar of the community and a personal friend of mine. Mr. Yoshikawa made an immeasurable impact on all those around him through his career, his volunteer work, and his devotion to family. His tireless efforts improved the lives of countless people in his community.

I met Robert Yoshikawa many years ago when we were both students at San Jose State University. From that moment on he continually amazed me with his unwavering selflessness and his extraordinary dedication to the community. Throughout his life, he consistently put others before himself through volunteering and his active involvement with his church, his family activities, and his neighborhood.

For those who are unfamiliar with Mr. Yoshikawa's life, I would like to take a moment to highlight some of his extraordinary contributions. In addition to serving as President of the San Jose Buddhist Church Betsuin, Bob served on the board of directors of both the SJBC and Fuji Towers and played an integral part on many committees. Mr. Yoshikawa was also a past chairman of church ministerial affairs and Obon committees, as well as a charter member and current president of Young Japanese Adults. In 2002, Robert was presented with the Volunteer Recognition Award by the Junior League of San Jose.

In addition to his extensive volunteer work, Mr. Yoshikawa was a wonderful husband to his wife Phyllis and father to his sons, Mark and Scott. He served as an ideal role model for his sons, teaching them right from wrong, imparting to them a spirit of service, and making time to involve himself in their lives and activities. He could often be seen videotaping his sons' football games or driving them to various Boy Scouts, sporting or church activities in his Chevy Suburban. He would constantly guide his sons with sage advice from his experience and the experiences of his own father. He was a man of strong conviction, who stood behind his decisions without wavering.

Robert Yoshikawa, a second generation American, was born in Newcastle, California in 1940. Upon graduating from high school, he attended Sierra Junior College before matriculating on to San Jose State where he received a degree in mechanical engineering and met his future wife, Phyllis Osaki. The couple first lived in an apartment in Sunnyvale, but spent the past 37 years in the house in San Jose that they watched being built. It was there they raised their two boys. Robert worked at Lockheed Martin until his retirement in 2003. At Lockheed, Robert's robust engineering skills and attention to detail were instrumental in the success of several important projects. He was praised for being accurate and efficient, and his remarkable patience and experience made him a valuable mentor to the younger engineers at Lockheed.

Upon retiring from his job at Lockheed Martin after 40 years, Mr. Yoshikawa embarked on yet another chapter in his full life. Though he and Phyllis had already traveled the globe, he had even more trips planned and was enjoying his return to improving his golf game with other retired friends. Always wanting to be useful, he also agreed to volunteer at the Japanese American Museum of San Jose as just one more in his myriad of community services. It was on March 24, while volunteering at the museum, that Mr. Yoshikawa died of a heart attack. Since he was in apparent excellent health, his passing came as quite a shock to all who knew him.

Mr. Speaker, I rise today to mourn the loss of a friend and a role model. I knew Robert for 40 years and he was as inspirational to me the last time I saw him, as he was when we first met. I know that the people of the Bay Area appreciate everything that this wonderful man has done for them and I feel privileged for having known him.

FRED ELLIOT ROBB, USN RET., WORLD WAR I VETERAN AND OLDEST LIVING MARINE

HON. ROY BLUNT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. BLUNT. Mr. Speaker, I rise today to pay tribute to one of the few remaining World War I veterans living among us. Fred Elliot Robb is an American of exceptional character, having served in our Armed Services during three major conflicts of the twentieth century.

Originally enlisting in the United States Marine Corps on July 18th, 1918, Fred served as an orderly to a Captain at Quantico, Virginia. He was discharged in February of 1919 and returned home to Sarcoxie, Missouri to complete high school and to make service his vocation by becoming a Presbyterian minister.

When World War II broke out, Fred Robb once again offered his service to his country. He joined the United States Navy as a chaplain and remained in uniform through the first engagements of the War in Vietnam, retiring as a Lieutenant Commander.

Patriotism runs deep in the Robb family. Fred's brother Jacob, also a veteran of World War I, passed away on February 29th of this year at age 105. At the age of 107, Fred, along with his wife Fern, are independent, contributing citizens of the Great State of Missouri.

Throughout his remarkable life, Fred Elliot Robb has exemplified selfless devotion to duty. When his nation needed him, Fred Robb looked with resolve at the challenges facing our nation and accepted them with bravery, determination, and service. Throughout his life he has continued to live by those ideals.

Mr. Speaker, I am proud to say that Fred Robb calls Springfield, Missouri, his home. As we approach Memorial Day, we honor this oldest living Marine for his sacrifice on behalf of our nation and for the example that he sets for generations of Americans to come.

SMALL BUSINESSES ARE THE BEDROCK OF OUR ECONOMY

HON. J. GRESHAM BARRETT

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. BARRETT of South Carolina. Mr. Speaker, American small businesses are the bedrock of our economy and the heart and soul of this country. Yet these same businesses are also unfairly burdened by red tape regulations.

As our economy matures and expands, it is important that businesses are given every advantage to compete. The amount of time and money small businesses tie up in red tape compliance is exorbitant. Small business owners account for 80 percent of new jobs created in the U.S. economy—that's 8 out of 10 new jobs for Americans created by small businesses. Yet in 2000, the costs small businesses paid in annual regulatory burdens were close to two-thirds greater than that paid by large firms. So why is it, these same businesses carry significantly more responsibility for red tape costs? That just doesn't make sense.

I know first hand how father-son family businesses build up their communities and I know first hand how they are penalized for nothing more than their size. Small businesses should be educating their employees and expanding on ideas, not wasting precious man hours pushing pencils and paper trying to find their way through all the red tape.

Mr. Speaker, we need to release small businesses from excessive regulatory costs which hurts their ability to thrive. Reducing the burden on our small businesses is right for our workers, it is right for our businesses, and it is right for our economy.

LIBERATION OF GUAM: HONORING THE 5TH FIELD MARINES

HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Ms. BORDALLO. Mr. Speaker, this year is the 60th Anniversary of the Liberation of Guam in 1944 by the U. S. Armed Forces headed by United States Marines. The highlight of Guam's calendar of anniversary activities ever since has been the Liberation Day parade on Marine Drive in downtown Hagåtña, the capital of Guam.

Here in the nation's capital, the anniversary is traditionally observed with the Member of Congress from Guam placing a wreath on the Tomb of the Unknowns, accompanied by government officials, civilian and military.

This year, I had the honor of hosting this memorable event which had an added dimension. It was attended by about 100 special guests—Marine veterans of World War 11 and members of their families. Also present were sons and daughters of Guam living in the region.

As members of the 5th Field Service Depot, these veterans either participated in the liberation of Guam or served Guam during the reconstruction period following liberation. Their pride in their role in the recapture and reconstruction of Guam is a source of great inspiration to us. Their devotion to Guam, as manifested in their establishment of an academic scholarship for a Guamanian student, is one of their touching gestures—from the liberators to the liberated.

On the eve of the dedication of the National World War II Memorial, it is my privilege to enter the names of those Marines and Navy Corpsmen, present here today with their families and friends, in the CONGRESSIONAL RECORD of this, the House of the people of the United States: Al and Jo Aniello; Sue Barke; Armin and Lois Barth; Bish Bischoff, John and Josie Boertlein; Sandy and Dolores Bompiedi; Art Boston; Lisa Botteri; Bill Buckner; Connie Burrell; Mrs. Frank Carroll; Joe and Terry Ciecierski; Maury Claus; Christna Clausen; Florence Cottone; Cal Dart; Ed and Dot Demm; Frank and Irene Derose; Ed and Mimi Disch; Chuck Doss; Darrell and Evelyn Doss.

Lee Edwards; Fran Feiner; Lillian Feiner; Ken Freck; Arnie and Helen Gasparetti; Mrs. Evan Geroux; Robert and Marie Gray; Walt and Madeleine Grisevich; Barrett Hackney; Christopher Hackney; Nick and Jayne Hasenflu; Ben and Dee Heath; Don and Barb Hehir; Maury and Dorothy Henderson; Fen Holmes; Elsa House; Lewis and Annella Howlett.

Bill and Willeen Hutchins; Les and Mary Jehnke; Mrs. John King; Betty Kostman; Mrs. Robert Larson; Joe and Ruth Laur; Ernie and Lynn Lee; Frank and Helen Lindsay; Rich and Eileen Little; Roy and Barb Manis; Bill and Roman Mathews; Matty and Barb Matthews; Bob Mcowan; Budd and Ginger Melanson; Ski Nalewanski; Keith Neuman; Harry Ozenbaugh; Mike and Elain Papas; Jake and Viv Plank; Dave Resenthal; Louise Sims; Rabbit and Delna Stefanow; Marge Storing; Doc and Bev Tibbitts; Jude Tonkin; Donna Trotter; Kyle Trotter; Mrs. William Wolfe; Wally and Joan Yandel.

We on Guam know what freedom is because we also know what occupation is. We celebrate Liberation Day on Guam every year as the day of deliverance from enemy occupation and the return of freedom after 32 months of enemy subjugation. We know what it means to thank Marines, Soldiers, Sailors, Coast Guardsmen, and Airmen for their sacrifices because it was not all that long ago that we were an occupied land. On this Memorial Day, 2004, as we gather in the heart of democracy to honor the greatest generation we on Guam, fellow Americans, would like to add our humble gratitude to the veterans of the 5th Field Service Depot who have returned to help us recall the sacrifices of liberation and renew our love of freedom. God Bless America. God Bless Guam. God Bless the United States Marine Corps.

IN HONOR OF MICHAEL PALMER'S DEDICATION TO THE TEMPLE CITY UNIFIED SCHOOL DISTRICT

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. SCHIFF. Mr. Speaker, I rise today to congratulate Michael Palmer for over 14 years of dedicated service as a member of the Temple City Unified School District Board of Education.

Mike Palmer is a dedicated supporter of public education. He is recognized and respected by the community for his unique educational vision. From November 28, 1989 through April 22, 2004, he faithfully served as a member of the Temple City Unified School District Board of Education.

Mike Palmer is an admired and integral member of the Temple City community. He is strongly committed to providing a superior educational experience for students in the district. He has been elected by the residents of TCUSD to serve four terms on the Board of Education. His outstanding leadership on the board has helped guide and influence his fellow board members to make the best decisions for students and faculty in the District.

I ask all Members of Congress to join me today in congratulating Michael Palmer for a truly exemplary public service career, and for his immense commitment to the Temple City Unified School District.

MOUNT VIEW MIDDLE SCHOOL SELECTED FOR NASA EXPLORER SCHOOL PROGRAM

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. RAHALL. Mr. Speaker, as far as we can remember, we have dreamed of reaching the stars. Since its inception in 1958, NASA has helped us realize those dreams. They have taken us into space, placed Americans on the moon, and opened our eyes by exceeding feats once deemed unreachable.

Today, I want to congratulate Mount View Middle School, located in Welch, West Virginia, for being selected to participate in the NASA Explorer School Program. As the first school in West Virginia to be chosen for this prestigious and exciting educational adventure, I am pleased that many of our children in Southern West Virginia will have the opportunity to be exposed to the world of science and engineering in a new and exciting way.

We must focus attention on our future astronauts, scientists, and engineers who will take us even farther than we dare to dream today. They are our children and our students, and with them our hope rests. We must nurture them and give them the resources they need to advance their studies; enhancing their learning and expanding their opportunities so that when it is their time to shine not even the darkest day will dim their light.

The NASA Explorer School Program will help train our math and science teachers and school administrators, for it is our teachers that can provide the spark that ignites our passion, and they lay the basic foundations of education necessary for the success of our future expeditions into space. Advancing the knowledge and skills of our teachers will only improve the development of our students.

The benefits of engaging and educating children in the world of science and engineering cannot be overstated. Programs such as the NASA Explorer Schools Program enable our students to explore these important subjects at a level and intensity that they might not otherwise experience. I once again congratulate Mount View Middle School for being selected to participate in this exciting program, and I look forward to hearing about their related successes.

With the impending challenges ahead, not only today but for generations to come, can we afford not to be ready? By ensuring that our students, our future NASA scientists and engineers, are well prepared for the trials ahead, we can ensure that our future in the skies is as bright as the stars above.

The future of NASA is the future of man. And, as we look toward our future we are reminded of the words of William Faulkner when he said, "I believe that man will not merely endure. He will prevail. He is immortal, not because he alone among creatures has an inexhaustible voice, but because he has a soul, a spirit capable of compassion and sacrifice and endurance."

HONORING WILLIS A. (JACK) PANGBURN AND WARREN H. SWARTZ

HON. MARK E. SOUDER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. SOUDER. Mr. Speaker, today I would like to recognize two individuals from my district who have dedicated their lives to making our country safer. Not only have these men served our Country in World War II, but they continue to go beyond their call of duty by providing their services to military funerals and always being available to lend a helping hand for the community.

Willis A. (Jack) Pangburn, was born on September 3, 1918 in Mystic, Iowa. He served in the U.S. Army Infantry in WWII, and was wounded in action. Mr. Pangburn received both the Bronze Star and Purple Heart Medals for his valiant actions. He married Rosemary who passed away in 1985. Together, they had one son, four daughters. Mr. Pangburn is a member of the Disabled American Veterans, and American Legion Veterans of Foreign Wars, and was Post commander (2 years) of the VFW.

Mr. Pangburn is honored as this year's Memorial Day Grand Parade Marshall in Goshen, Indiana for service as Coordinator of the Military Funeral Detail from 1987 to 1997. This unit participates in all military funerals requested by deceased veteran's families in Goshen. Honorary Color Guard, Flag Presentation, Rifle Salute, and TAPS are all included in the service. As many as 12 members participate. He presently serves as a member of this unit. Since 1946 he has helped in placing 4 inch white crosses on deceased VFW Members graves, many of these years he has been in charge of this work at Oakridge Cemetery. He continues to "Ring Bells"(Santa Claus) for the Salvation Army, passes out "Buddy Poppies" on Memorial Day for the VFW, helps purchase and delivers food baskets to the needy at Christmas time, and is still ready to contribute his time and energy at 85 years of age.

Warren H. Swartz, was born on May 7, 1924 in Millersburg, Indiana. He served in the U.S. Navy in WWII as a Gunners Mate in the South Pacific and part-time Diver. He married Gerry in January, 1953. Together they had one daughter. Mr. Swartz is a member of the Veterans of Foreign Wars, American Legion, and Disabled American Veterans, and presently serving as Chaplain of the D.A.V. since 1992.

Mr. Swartz was honored as last year's Memorial Day Grand Parade Marshall in Goshen for his service as Coordinator of the Military Funeral Detail from 1997 to 2003. He still serves as a member and, as Chaplain of the D.A.V., he is called upon to present the American flag to the next of kin frequently.

He is revered by all the men of this detail, which numbers about 45, by his faithful and military presence in the fulfillment of his duties. He is willing to travel anywhere to assist a veteran in need.

A TRIBUTE IN HONOR OF 2004 LEGRAND SMITH SCHOLARSHIP WINNER, KELLI McCARRELL OF PARMA, MI

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. SMITH of Michigan. Mr. Speaker, it is with great respect for the outstanding record of excellence she has compiled in academics, leadership and community service, that I am proud to salute Kelli McCarrell, winner of the 2004 LeGrand Smith Scholarship. This award is given to young adults who have demonstrated their true commitment to playing an important role in our Nation's future.

As a winner of the LeGrand Smith Scholarship, Kelli is being honored for demonstrating the same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Kelli is an exceptional student at Western High School. Aside from being at the top of her class academically, she possesses an outstanding record of achievement in high school. She has participated in Varsity Golf and Cheerleading for four years as well as the school band. Notable among her many activities is her service as President of the Spanish Club, Treasurer of the National Honor Society, and Captain of the Math Academic Team. Kelli is also very active with her church.

On behalf of the United States Congress, I am proud to join her many admirers in extending our highest praise and congratulations to Kelli McCarrell for her selection as winner of the 2004 LeGrand Smith Scholarship. This honor not only recognizes her efforts, but is also a testament to the parents, teachers, and other individuals whose personal interest, strong support, and active participation contributed to her success. To this remarkable young woman, we extend our most heartfelt good wishes for all her future endeavors.

PAYING TRIBUTE TO DR. ROBERT DOLPHIN

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. McINNIS. Mr. Speaker, it is truly a privilege to take this opportunity to pay tribute to Dr. Bob Dolphin, a man who for over 40 years has had a distinguished career in education and public service. After 20 years of service, Bob will be stepping down from his position as President of Fort Lewis College. As Bob celebrates his retirement, I wish to join with the citizens of Colorado in acknowledging all that he has accomplished at Fort Lewis College.

Bob arrived at Fort Lewis College in 1984 as Dean of the School of Business and a Professor of Finance. In 1986, he became acting

Vice President for Business and Finance, and successfully saw the school through a major financial crisis in that same year. He began his service as President in July, 2002, and in his first year as President transitioned the school from part of the Colorado State University system into an independent college. He has also done much for the future of the college, erecting eight new buildings, completing renovations, and wiring the entire campus for high-speed Internet service. For his service to the college and community, Bob received the Citizen of the Year Award in 1999 from the Durango Area Chamber Resort Association as well as the 2002 Achievement Award from Fort Lewis College.

Bob's active participation and involvement in the community is evident through his service on numerous boards, commissions and committees. He was President of the Durango Area Chamber Resort Association in 1988, a member of the Durango City Council from 1989 to 1993, Mayor of Durango in 1993, and chair of Southwest Colorado's United Way campaign throughout the mid 1990s. He also served on the Library Advisory board, and the Board of Directors of the Bank of Durango.

Mr. Speaker, it is quite clear that Dr. Robert Dolphin is a person who has exemplified a strong commitment and dedication toward his life's pursuit of excellence in education and public service. His incredible devotion and passion for contributing towards the betterment of the Fort Lewis College and Durango community is worthy of recognition before this body of Congress and this nation. It is my distinct pleasure to honor Bob here today, and wish him and his wife Nancy all the best in their future endeavors.

A SALUTE TO MARVIN L. GILLUM

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. WOLF. Mr. Speaker, it is my pleasure today to recognize my friend and constituent, Manassas Mayor Marvin L. Gillum. After a long and distinguished career serving the city of Manassas, Marvin has announced that he will retire from the position of mayor.

Marvin entered public life in 1980 as a member of the Manassas School Board, serving as chairman from 1985 to 1995. In 1996, Marvin was elected mayor of the City of Manassas, an office which he has held ever since. In addition to his career as a public servant to his lifelong home of Manassas, Marvin practiced dentistry for 40 years and assumed a second career in investment advising in 1987.

Throughout his career, Marvin has worked tenaciously on behalf of the City of Manassas. Among Marvin's many accomplishments, he helped establish a system for improved communications with neighboring jurisdictions, promoted the extensive industrial and commercial expansion in the City of Manassas, led the celebrated revitalization of Old Town Manassas, fought for funding for the Loy E. Harris Pavilion and the Center for the Arts, and encouraged the development of the city's school system, facilitating accreditation by the Virginia Standards of Learning.

A humble and notoriously polite man, Marvin is referred to by friends and colleagues as a "leader" and a "gentleman," known for his good sense and judgment, and stabilizing influence on the city. He worked closely and cooperatively with his staff and the rest of the City Council, acquiring the deepest respect from his peers. Vice Mayor Hal Parrish commented: "Mayor Gillum is the very soul of Manassas. He has led the City Government, the School Board and the community with thought, idealism, and caring leadership . . . Speaking for all of the City Council, we will miss his insight and guidance when the decisions get difficult."

John Foote, a lawyer and personal friend of Mayor Gillum also said, "He's one of the finest men I've ever known. He's just a wonderful mayor . . . And I don't know anyone who doesn't share my emotion toward him."

Mayor Gillum is married to Mardi Gillum and they have three daughters.

It is my pleasure to honor the achievements of Mayor Marvin Gillum today as we celebrate his eminent public career. On behalf of the people of Virginia's 10th Congressional District and the residents of Manassas, I wish to thank and congratulate Mr. Gillum for his exceptional contributions to the community.

OUTSTANDING HIGH SCHOOL SENIORS

HON. HEATHER WILSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mrs. WILSON of New Mexico. Mr. Speaker, the following high school students from the First Congressional District of New Mexico have been awarded the Congressional Certificate of Merit. These students have excelled during their academic careers and proven themselves to be exceptional students and leaders with their scholastic achievements, community services, and participation in school and civic activities. It is my pleasure to be able to recognize these outstanding students for their accomplishments. Their parents, their teachers, their classmates, the people of New Mexico and I are proud of them.

CERTIFICATE OF MERIT AWARD WINNERS 2004

David Brown III, Mountainair High School; Theodore Chavez, Menaul High School; Jericha Phillips, South Valley Academy; Jordan Allen, Moreno Valley High School; Justin Montoya, Albuquerque Evening School; Luz Del Carmen Carreon, West Mesa High School; Emmaly Wiederholt, Del Norte High School; Brent Wylie, Hope Christian School; Alison Rice, Freedom High School; Amy Hopkins, Estancia High School; Joannie Suina & Veronica Budager, Bernalillo High School; Casey Thompson, Evangel Christian Academy; Kate Phelan, Albuquerque Academy; Shaili Ghimire, Middle College High School; JoJo Bailey, Moriarty High School; Alberto Belmares-Ortega, Albuquerque High School; Stephanie Cox, Sierra Alternative High School; Amanda Rubio, New Futures School; Ross Seeger, Sandia Preparatory School; Thomas Dimiduk, Eldorado High School; Anthony Rodriquez, Albuquerque Country Day School; Kristin Rae Grassham, Sandia High School; Victoria De Oreo, St. Pius X High School; Kim Sisneros, Cibola High School; Matthew Bonner, Temple Baptist Academy; and Raellen Frick, Rio Grande High School.

A TRIBUTE IN HONOR OF 2004 LEGRAND SMITH SCHOLARSHIP WINNER, BOBBY JO LUDWICK, OF BRONSON, MI

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. SMITH of Michigan. Mr. Speaker, it is with great respect for the outstanding record of excellence she has compiled in academics, leadership and community service, that I am proud to salute Bobby Jo Ludwick, winner of the 2004 LeGrand Smith Scholarship. This award is given to young adults who have demonstrated their true commitment to playing an important role in our Nation's future.

As a winner of the LeGrand Smith Scholarship, Bobby Jo is being honored for demonstrating the same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Bobby Jo is an exceptional student at Bronson High School. Aside from being at the top of her class academically, Bobby Jo possesses an outstanding record of achievement in high school. She is very active in the National Honor Society, F.F.A., 4–H, and student government. She has also devoted a great deal of her time to volunteering with a variety of different civic organizations.

On behalf of the United States Congress, I am proud to join her many admirers in extending our highest praise and congratulations to Bobby Jo Ludwick for her selection as winner of the 2004 LeGrand Smith Scholarship. This honor not only recognizes her efforts, but is also a testament to the parents, teachers, and other individuals whose personal interest, strong support, and active participation contributed to her success. To this remarkable young woman, we extend our most heartfelt good wishes for all her future endeavors.

IN CELEBRATION OF FLOOD BUILDING CENTENNIAL

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Ms. PELOSI. Mr. Speaker, it is an honor to recognize the 100th Anniversary of the Flood Building of San Francisco and to have the opportunity to express my appreciation to the Flood family for their immeasurable contributions to the City of San Francisco over four generations.

It was a great pleasure to attend the Flood Building Centennial Celebration on April 16 and to celebrate with members of the Flood family. I particularly want to thank Jim Flood and Judy Wilbur for carrying on the outstanding traditions of their distinguished family.

The Flood Building was built by James L. Flood in 1904 as a tribute to his father, James Clair Flood. Architect Albert Pissis, a master of Beaux-Arts classicism, designed the Classic Revival structure, along with many other great works throughout San Francisco. At the time it was built, the 12-story Flood Building was the largest building in San Francisco.

The building's history is one of survival. It remained standing after both the 1906 and 1989 earthquakes that devastated San Francisco. In 1950, it was scheduled to be destroyed and replaced by a three-story modern structure, but the building was saved at the last minute when the Federal government seized it through the right of eminent domain. At the time, Washington was in desperate need of a San Francisco-based office to help manage the Korean War, and the Flood Building offered an ideal solution. The Federal government returned the building to the Flood family in 1953.

Today, Jim Flood—James Clair Flood II, named after his great grandfather—owns, manages, and has his office in the building, making it San Francisco's oldest family-owned commercial building. The Flood Building has flourished under his management, undergoing a $15 million renovation to restore the building to its original style. Architecturally, it is the most significant commercial building in San Francisco, and it was named a city landmark in 1982.•

I join the Flood family and so many of my constituents in celebrating the 100th anniversary of this San Francisco treasure.

IN RECOGNITION OF ASIAN PACIFIC AMERICAN HERITAGE MONTH

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. RANGEL. Mr. Speaker, I rise to acknowledge May as Asian Pacific American Heritage Month, an important month in the Asian Pacific American community. Asian Pacific American Heritage Month commemorates the tremendous impact that the Asian culture has made on our Nation. Just as importantly it is a month that deserves more recognition than it usually receives, as it is often overshadowed.

It is very important that this month we pay homage to the Asian Pacific American contribution to the American culture and experience. Through the centuries they have embodied the American spirit and fostered the concept of community. Their adaptation to the Americas and resilience is something that we should all aim to emulate.

Asian Pacific American's have long served an intricate role in the development of the Americas. From the development of the transcontinental railroad to present day the Asian Pacific American community has and continues to make their presence evident in the medical field, arts, politics, science and engineering, entertainment, culinary arts, and military excellence.

It is important that not just during this month, but may we always recognize and continue to embrace the Asian Pacific American contribution to our culture. As a nation I hope that we will continue to all work and grow together. Today Mr. Speaker, I rise to acknowledge the Asian Pacific American contribution and commemorate Asian Pacific American Heritage Month.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

SPEECH OF

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in support of the Amendment by my colleagues Representative MURTHA and Representative WELDON that would express the sense of Congress that the Secretary of Defense should assist the Iraqi Government in destroying the Abu Ghraib prison and replacing it with a modern detention facility. This Amendment is especially relevant because it is only applicable if the Iraqi Governing Council agrees that they would like to destroy the Abu Ghraib prison and would like American help in doing so.

While I support this Amendment I do hope that this will not be the only step taken to try to undo the damage done by the Iraqi torture scandal. We may be able to erase the structure of the Abu Ghraib prison and we may be able to construct a new state-of-the-art prison facility in its place, but until we take the proper steps to bring all perpetrators to justice and correct our interrogation procedures; we will not be able to erase the image of Americans torturing prisoners that is etched in the mind of Iraqis and indeed in the mind of people worldwide. The court-martial of a few enlisted soldiers is not enough for a problem that has now proven to be endemic. There must be true accountability from the leadership in the Armed Forces. The enlisted soldiers can not be the only ones involved in this scandal, the Armed Forces have always stressed a strict chain of command and everyone in that chain must be held accountable for this multitude of despicable acts. Secretary Rumsfeld and Deputy Secretary Wolfowitz can not hide behind their office, they bear the responsibility for this scandal and so far I remain unsatisfied with their response to it.

Again, I feel that this Amendment to assist the Iraqi Government in destroying the Abu Ghraib prison and replacing it with a modern detention facility is one that is worthy of passage. This is both a symbolic and physical gesture to the Iraqi people that our troops are in Iraq to tear down the past of Saddam Hussein and rebuild a new democratic nation. We must all work to make sure that these gestures are followed by substantive actions to correct our significant missteps.

A TRIBUTE IN HONOR OF 2004 LEGRAND SMITH SCHOLARSHIP WINNER, SHEA SCOTT DOW, OF JONESVILLE, MI

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. SMITH of Michigan. Mr. Speaker, it is with great respect for the outstanding record of excellence that he has compiled in academics, leadership, and community service, that I am proud to salute Shea Scott Dow, winner of the 2004 LeGrand Smith Scholarship. This award is given to young adults who have demonstrated their true commitment to playing an important role in our Nation's future.

As a winner of the LeGrand Smith Scholarship, Shea is being honored for demonstrating the same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Shea is an exceptional student at Jonesville High School. Aside from being at the top of his class academically, Shea has an outstanding record of achievements in high school. Shea is very active in the National Honor Society, F.F.A., 4–H, student government, and band. He has also devoted a great deal of his time to volunteer with a variety of different civic organizations and is a very active member of his church.

On behalf of the United States Congress, I am proud to join his many admirers in extending our highest praise and congratulations to Shea Scott Dow for his selection as winner of the 2004 LeGrand Smith Scholarship. This honor not only recognizes his efforts, but is also a testament to the parents, teachers, and other individuals whose personal interest, strong support, and active participation contributed to his success. To this remarkable young man, we extend our most heartfelt good wishes for all his future endeavors.

AMBASSADOR TONY P. HALL HONORED BY THE CENTER FOR PUBLIC JUSTICE

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. WOLF. Mr. Speaker, I would like to call to the attention of the House the honoring of our former colleague Ambassador Tony Hall by The Center for Public Justice. Tony was recently presented with the center's 2004 Leadership Award.

After his distinguished career in the House from 1979 until 2002, Tony was named the United States ambassador to the United Nations Agencies for Food and Agriculture in Rome, Italy. In his time in office, Tony Hall was a leading advocate for fighting domestic and international hunger. He helped to create the House Select Committee on Hunger, and was a founding member of the steering committee of the Congressional Friends of Human Rights Monitors.

The Center for Public Justice is a distinguished nationwide civic organization striving to better the world through the active involvement of its citizens in the service of God. The Center for Public Justice's goal is the advancement of justice for all people in the community. The center's annual leadership award could not have been given to a more deserving person than Tony Hall. On behalf of all our colleagues, we salute you, Tony.

OUTSTANDING UNIVERSITY ATHLETES

HON. HEATHER WILSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mrs. WILSON of New Mexico. Mr. Speaker, today I commend the great athletic achievements of some of my constituents. This past March, the University of New Mexico's Ski Team became the first UNM team to ever win any NCAA championship.

They are all to be congratulated, but there are few people in particular that I would like to especially recognize. Firstly the team's coach, George Brooks. Mr. Brooks created the ski team at UNM and has been working with them since 1970. This landmark win can be attributed to Mr. Brook's hard work and great faith in the ability of his team.

A special recognition is due to the senior team captain, Jennifer Delch. Her leadership throughout the season as well as her individual gold medal, which she received for the giant slalom, greatly contributed to the team's success.

The team is furthermore to be congratulated as a whole. Most of its members came from other nations to ski for the UNM team. It was their willingness to take a risk in leaving their homelands that lead to both their personal victories and to the team's NCAA win.

Not only have these UNM students excelled in athletics, but have also remembered academics. In fact, the entire team's average GPA is an A−. This is a great achievement and speaks very well of the over-all ability of those who are on the team.

Mr. Speaker, I ask you join me and all the residents of New Mexico in honoring the UNM ski team on their success. I would also like to wish them luck in future seasons.

IN HONOR OF SUSAN T. KENNEDY

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Ms. PELOSI. Mr. Speaker, it is with deep sadness that I rise to pay tribute to the life and work of my longtime friend, Susan T. Kennedy, who passed away on April 17, 2004. Susie was a great woman and an exceptional public servant. We will miss her terribly.

Susie's life was one of service and political and community activism. Beginning with her work with the Service Employees Union, Susie was a tireless advocate of labor. At the age of 21, she was elected to the San Francisco Democratic County Central Committee—the youngest ever to serve—and was reelected for the next 25 years.

In 1962, Susie joined the staff of Democratic Assemblyman Phillip Burton. Upon his election to Congress, she became his Administrative Assistant, supervising his District Office in San Francisco. She was his trusted advisor, and he depended on her great political instincts, judgment, and understanding of the people of San Francisco.

Susie was absolutely committed to the constituents and elected officials she served. After working for both Phil and Sala Burton for 25 years, she graciously and expertly helped with my transition to Congress after I won a special election in 1987 to succeed Sala Burton. I will never forget her support and friendship. Susie later joined with the Golden Gate National Recreation Area to help create a lasting memorial to Congressman Phil Burton.

Susan Kennedy was a devoted wife, mother, sister, and friend. To her sons, Marc and Frank, and to her sisters and brothers, Dolores, Bernie, Mary, Walter, Kathleen and Tom, thank you for sharing your beloved Susie with us. Our thoughts and prayers are with all of her family at this sad time.

A TRIBUTE IN HONOR OF 2004 LEGRAND SMITH SCHOLARSHIP WINNER, HEATHER LUCEY, OF BLISSFIELD, MICHIGAN

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. SMITH of Michigan. Mr. Speaker, it is with great respect for the outstanding record of excellence she has compiled in academics, leadership and community service, that I am proud to salute Heather Lucey, winner of the 2004 LeGrand Smith Scholarship. This award is given to young adults who have demonstrated their true commitment to playing an important role in our Nation's future.

As a winner of the LeGrand Smith Scholarship, Heather is being honored for demonstrating the same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Heather is an exceptional student at Blissfield High School. Aside from being at the top of her class academically, Heather possesses an outstanding record of achievement in high school. She is a member of the National Honor Society and a peer mentor at school. Heather is also very active with her church.

On behalf of the United States Congress, I am proud to join her many admirers in extending our highest praise and congratulations to Heather Lucey for her selection as winner of the 2004 LeGrand Smith Scholarship. This honor not only recognizes her efforts, but is also a testament to the parents, teachers, and other individuals whose personal interest, strong support, and active participation contributed to her success. To this remarkable young woman, we extend our most heartfelt good wishes for all her future endeavors.

IN RECOGNITION OF PRESIDENT H. PATRICK SWYGERT

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. RANGEL. Mr. Speaker, I rise to acknowledge and submit for the CONGRESSIONAL RECORD a speech delivered by H. Patrick Swygert, the President of Howard University at a meeting called by President Enrique Iglesias of the Inter-American Development Bank to examine the challenge of social inclusion in economic development in the Western Hemisphere. President Swygert's speech points out not only the destructivity of social exclusion, more importantly he emphasizes the need for social inclusion as a means to break barriers, build bridges, and create networks as a means to achieve economic development.

I would also like to commend President Iglesias and the Inter-American Development Bank for understanding and beginning to take the necessary steps towards a more social inclusive global community, and for affording President Swygert a forum to discuss and accelerate dialog regarding this important initiative.

It is essential in the period of economic surplus that we recognize the fact that as our wealth grows, the gap between rich and poor widens. Eventually those on the lower end of the spectrum get left behind and have very few means to catch up to their counterparts. Social inclusion, as President Swygert eloquently points out, aims to intervene in the perpetual cycle of poverty that exclusion creates.

Mr. Speaker, I rise to thank President Swygert for his efforts to alert us all to the growing economic inequality that is the end result of social exclusion and for his visionary leadership in advocating social inclusion as the means to achieve the alleviation of poverty in the Western Hemisphere.

SOCIAL INCLUSION, EDUCATION HEALTH AND CULTURE: BREAKING BARRIERS, BUILDING BRIDGES AND CREATING NETWORKS

(By President H. Patrick Swygert)

The IADB President—Mr. Enrique Iglesias, Other Officials of the Bank, Distinguished Guests, Ladies and Gentleman, Greetings. First, let me congratulate the Inter-American Development Bank for this impressive effort today to accelerate the dialogue on social inclusion.

Inclusion of course, implies exclusion, its opposite. Certainly, without the recognition that the issue of exclusion is a problem and a growing one, there would not be the need for this dialogue today. I regard this meeting, therefore, as an effort to understand both sides of an issue that is destructive in the case of the one, and productive, harmonious and highly desirable in the other.

It is indeed commendable that this institution, a development bank, is leading this initiative to enhance our understanding of the importance of inclusiveness among the various human components of our societies and, conversely, that you are examining the nature of exclusion and how it thwarts the development process by relegating some people—the best resources of any society—to the fringes where they are unable to realize their ambitions as fully functioning members of the society.

This undertaking, therefore, is both significant and challenging because the issues that militate against the inclusion that we seek are centuries old and are as pervasive as they are persistent. And now, studies are showing that the process of globalization which, at one level, ironically enough, is bringing the world closer together, is at another level, fostering deeper divisions between the peoples of the world, and reinforcing the familiar and painful dichotomies of powerful and powerless, haves and havenots, and increasing the wretchedness of the wretched of the earth.

In this still brand new millennium, our failure to build a more just world and to fully harness, arguably the bulk of the human capital into the process of building better societies, better nations and a better world, remains one of the greatest failures of this civilization.

To this extent, dialogues like these are critical because they are the necessary first steps on the pathway to a greater understanding, appreciation and acceptance of our common humanity and the building of the bridges we so badly need.

For me, this is a particularly interesting time to reflect on the need for inclusion at all levels and the painful lessons that we eventually learn when we pursue policies and pathways that are exclusive and divisive.

Come May 17, this year, Howard University will join the NAACP and the NAACP Legal Defense Fund and Educational Fund in a gala event at Constitution Hall to celebrate the 50th Anniversary of Brown v. Board of Education, the landmark Supreme Court ruling that desegregated public education in America and began this nation's transformation toward a more inclusive society.

As you can imagine, the Supreme Court ruling was a great day for African Americans who made their entrance to this continent in chains and struggled for centuries against the denial of their humanity, and their exclusion from all else except the forced labor that generated wealth for the masters.

The eventual end of slavery would not be the end of the struggle for them it was soon followed by Jim Crow and the segregation that ended officially only 50 years ago. Again, the end of segregation merely heralded a new struggle—that to have the society treat them as equal in accordance with the new law of the land. It would take years of agitation among civil rights groups and activists and the sacrifices of people like Rosa Parks and Dr. Martin Luther King Jr. before the society finally began to implement changes at all levels.

The process continues today. We have made tremendous progress but we are nowhere near a fully integrated society. It is still a daily struggle for African Americans and other minorities to get others to look beyond the color of their skins and see a fellow human being rather than a stereotype.

Howard University, my alma mater, played a critical role in the successful Brown case. The University was the training ground for the attorneys who represented Brown and most of them were faculty at our school of law. And, it was one of our graduates, Thurgood Marshall, who argued the case before the Supreme Court.

Howard University is proud of this legacy. Proud of its commitment to a philosophy of equality and justice for all people. Proud of its dedication to help create an environment that affirms the value of all humanity; that uplifts everyone and oppresses no one.

Throughout this academic year, the University has hosted several events commemorating the Brown anniversary. The dialogue has been about social exclusion and inclusion, because that was at the heart of the case. African Americans in this country know about exclusion. They know it was wrong 400 years ago and it is wrong today in whatever form it comes.

It is out of this history of suffering perhaps, has come the instinctive revulsion of these kinds of artificial barriers among African Americans. They seem to know intuitively that divisions of the kind that they experienced are morally offensive; they are socially disruptive, economically unproductive and they form the breeding ground for conflict and instability in any society.

The basis of the exclusion that we speak of today is not limited to social class, but gender, sexuality, physical or emotional disabilities, ethnicity, race, skin color.

In so many countries of the world, humanity seems divided by these artificial barriers—barriers that do little except to blind us to the reality of our common bonds. With both our hearts and our intellect, we know that as citizens of the universe, we are far more alike than we are different, yet by our own attitudes or lack of action, many of us reinforce old stereotypes that ultimately become obstacles to progress and the pursuit of meaningful interactions.

Samuel L. Johnson, the great 18th century British essayist, and poet, suffered from all kinds of physical disabilities. His sight was poor. His hearing was poor. His face was scarred by a skin disease and he suffered from Tourette syndrome. You bet that he too knew the meaning of social exclusion. In a ringing appeal for acceptance, Johnson wrote. "Men, however distinguished by external accidents or intrinsic qualities, have all the same wants, the same pains, and, as far as the senses are concerned, the same pleasures. We are all prompted by the same motives, all deceived by the same fallacies, all animated by hope, obstructed by danger, entangled by desire, and seduced by pleasure."

As human beings, we cherish a common desire to satisfy our basic needs, and beyond that to pursue what we believe will bring us a sense of fulfillment. For many of us, this often means reaching out beyond ourselves in service to others and this is where many of us truly absorb that the world is bigger than the sum total of any single individual's needs.

The truth is, our fundamental desires, with little exceptions are grounded in our humanity, not in our race, religion, ethnicity or any other such variables. Yet we persist in our creation of all kinds of false dichotomies, even as many of us embrace the notion of a Fatherhood of God. Somehow, we have failed to accept that this fatherhood of God extends itself to a brotherhood and a sisterhood of humankind.

Rather than such acceptance and the equality that it implies, we have not just subdivided humanity but we have stratified it as well. People of color—non white people—are at the low end of this hierarchy. The farther one departs from the Eurocentric ideals, which tops the hierarchy of course, the less value is ascribed to one's talents, wisdoms, cultures, contributions to civilization, needs and desires—one's humanity.

This is certainly true of the Americas. Five decades after Brown, for example, many of our schools remain deeply segregated. Black and Latino children disproportionately attend schools that are in high poverty areas. These schools are under-funded, under-performing and naturally turn out graduates that are ill-equipped to move forward and help their families free themselves from the shackles of poverty.

Eighty percent of black and Latino children in segregated schools are in high poverty areas, compared to five per cent of their white counterparts in similar schools. Many schools remain segregated, or at best minimally integrated, at both the level of the student body and the staff. In states such as Illinois, New York, New Jersey, Ohio, Pennsylvania and California, the pattern is now too pronounced to ignore.

The outcome of this kind of segregation is the underperformance among the children who attend them; the high drop out rates; significantly reduced chances of post high-school success, and the eventual spiral into drugs and violence among too many children who end up with life on the streets as their vocation.

In health care, the disparities are just as obvious. According to the American Medical Association, racial disparities in healthcare in the United States, remain "chronic" with minorities benefiting the least from what it described as "marked by advances in medicine and health care." Among some of the more interesting statistics:

Thirty-one percent of minority adults, ages 18–64, do not have insurance, compared with 14 percent of white adults in the same age group.

Minority adults report more problems with receiving health care.

Forty percent say they have "a major problem with having to pay too much for care," compared to 26 percent of white adults.

Further, low-income persons, regardless of race, spend more out-of-pocket income—about 7–11 percent—on medical expenses than higher income Americans who typically only spend about 1–2 percent of their income on medical care.

The infant mortality rate in the last forty years has declined faster for whites than for blacks, with the longstanding disparity actually increasing from 1.6 times the rate for whites in 1950 to 2.2 times the rates in 1991.

Black women are twice as likely as white women to obtain late or no prenatal care; Hispanic women are three times as likely to obtain inadequate or no prenatal care as non-Hispanic white women; and American Indian women are more likely than either white or black women to obtain late or no prenatal care at all.

Overall, African Americans tend to receive lower quality healthcare than whites for everything from cancer, heart disease and HIV/AIDS to diabetes and mental health.

There is less evidence examining disparities involving Hispanics and other minority groups.

Here in America, the disparities are obvious. The availability of data and the high visibility of the society make it much easier for us to point fingers at what is happening here. And, it is true that because of the vast wealth of this country, these inequalities seem more egregious.

The truth is though, that the disadvantaged status of minority groups extends into all reaches of the Americas. Afro-Brazilians, Afro-Hondurans, Afro-Colombians, Afro-Nicaraguans, Afro-Ecuadorians, all experience the same sense of despair born from the knowledge of their marginalized status in countries where they are minorities; where their worth has been determined by their ethnicity and skin color, and their sense that nothing will change because, after all, they cannot change who they are. Whether it is the Creoles in Belize, the Gari-fun-as of Guatemala, The Arawaks of Guyana, the Caribs in St. Lucia or the Rez-a-(i)les of San Andres Islands, the same sense of hopeless and alienation characterize their existence in the Americas, though most of these populations have existed here for hundreds of years, some of them even pre-dating Christopher Columbus. While they suffer through lives of quiet desperation, they remain largely invisible to a world that barely acknowledges that they are there.

Bringing marginalized groups into the mainstream of development is an imperative for the corporate world, as it is for institutions like yours, and mine. On the surface, it may seem like a difficult and costly undertaking, but it will be less expensive than the price of conflict, malnutrition, communicable and non-communicable diseases, political instability and the absence of buying power in the market place.

Beyond the societal and economic benefits, bringing marginalized groups into mainstream society is a recognition of our acceptance of a common humanity and our embrace of such as the source of our sustenance and the basis of our quest for peace, harmony and respect for human dignity throughout the world.

In the words of Kenneth B. Clarke, the Howard University graduate, whose research supported the attorneys on the Brown Case: ". . . segregation (read, exclusion), like all other forms of cruelty and tyranny, debases all human being—those who are its victims, those who victimize, and in quite subtle ways those who are mere accessories."

Our dialogue today recognizes the veracity of those words. So, despite what seems like a painfully fractured world, we must continue to strive for the ideals of co-existence and community, and the strengthening of relationships among disparate groups in the pursuit of peace, harmony and prosperity. The struggle for these ideals is the only basis of our hope for peace, justice and freedom from oppression.

Like the IADB, my institution is dedicated to preserving and promoting the ideals of inclusion in the Americas, and to the extent that our influence reaches, beyond.

Through institutions like the Ralph J. Bunche International Affairs Center which encourages greater participation in global issues among the students and faculty; the Moorland Spingarn Research Center, the largest collection of research material on African heritage next to the Schomburg Center; the U.S.-Brazil project on Race, Development and Social Inequality and the ongoing study and preservation of art, music, dance, language, history and other characteristics of cultures, Howard continues to make a sterling contribution to an informed understanding of the benefits of an inclusive society.

Our programs in Health Sciences, meanwhile, are dedicated not just to the provision of quality care to the under-served, but to a discovery of causes and development of cures to the diseases that disproportionately affect those communities. Our Hispanic and multicultural affairs program and the International healthcare program, are significant efforts in this direction.

Finally, in all of our efforts, the fight for civil rights remains central. Howard University was founded on this very notion that all people, regardless of their race, deserve the right to life, liberty and the pursuit of happiness and the right to live with dignity and respect.

For 138 years, we have remained committed to reinforcing these principles and pursue these ideals toward the advancement of the human race.

I would like to commend the IADB for being an ally in this process and I look forward to a growing relationship as we pursue our common goals. Thank you.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

SPEECH OF

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in full support of the Amendment being offered by the leadership of the distinguished Congressional Caucus on Women's Issues. I find no reason why this bipartisan Amendment should not be wholeheartedly supported by this entire body and adopted as a part of this Defense Authorization. A similar version of this amendment has already been included in the Senate version of the Defense Authorization Bill after being developed in consultation with the Pentagon, and has bipartisan support in the Senate. This Amendment would require the Secretary of Defense to develop a comprehensive policy for the Department of Defense on the prevention of and response to sexual assaults involving members of the Armed Forces. This policy would be based on the recommendations of the Department's own Task Force on Care for Victims of Sexual Assault, which released its report and recommendations last week concerning sexual assault in the military based on its 90-day study.

Ever since the unfortunate Tailhook scandal and the ensuing weak investigation that took place in 1991, the American public has realized that sexual assault in the Armed Forces is a major problem that unfortunately has yet to be properly addressed. The sexual assault of women in the Armed Forces is not only illegal, but it is clearly bad for morale. These men and women serve in the same units, often in extremely dangerous situations, there must be trust amongst all parties that their rights will be respected and protected by the Armed Forces that they so diligently serve.

It is unfortunate that my own Amendment to help address this problem in the Armed Forces was not ruled in order by the Rules Committee. My amendment would have directed the Department of Defense to award a contract to an independent phone bank for tending to rape and sexual assault victims in a confidential manner within three months of its enactment. That phone bank would be required to have the expertise and training programs in place to allow operators to cope with unique situations arising from sexual abuse in the military context. This phone bank would be open to members of the Armed Forces and their families. I hope we all understand the devastation caused by rape and sexual assault. However, what we often fail to recognize is the fact that members of the Armed Forces and their families are in a unique situation that is not faced by other Americans. Because of this fact it is imperative members of the Armed Forces and their families have an outlet to receive counseling and advice for issues related to rape and sexual assault without the fear that their report might be sent to their superiors in the Armed Forces without their consent.

While I am dismayed that my pertinent Amendment was not ruled in order, I still feel strongly that the Amendment being brought forth by the leadership of the Congressional Caucus on Women's Issues must be agreed to by this body. A comprehensive plan to deal with sexual assault in the Armed Forces is necessary if we ever hope to achieve equal protection for all our brave fighting men and women.

A TRIBUTE IN HONOR OF 2004 LEGRAND SMITH SCHOLARSHIP WINNER, TYLER WILLIAM LOSINSKI, OF BRONSON, MI

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. SMITH of Michigan. Mr. Speaker, it is with great respect for the outstanding record of excellence he has compiled in academics, leadership and community service, that I salute Tyler William Losinski, winner of the 2004 LeGrand Smith Scholarship. This award is given to young adults who have demonstrated their true commitment to playing an important role in our Nation's future.

As a winner of the LeGrand Smith Scholarship, Tyler is being honored for demonstrating the same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Tyler is an exceptional student at Bronson High School. Aside from his academic excellence, Tyler possesses an outstanding record of achievement in high school. He has participated in F.F.A./4–H for four years and has served as both Secretary and Vice President. Notable among his many activities are his four years on both the Varsity Football and Baseball teams. Tyler also hopes to one day become a teacher.

On behalf of the United States Congress, I am proud to join his many admirers in extending our highest praise and congratulations to Tyler William Losinski for his selection as winner of the 2004 LeGrand Smith Scholarship. This honor not only recognizes his efforts, but is also a testament to the parents, teachers, and other individuals whose personal interest, strong support, and active participation contributed to his success. To this remarkable young man, we extend our most heartfelt good wishes for all his future endeavors.

CONGRATULATING PRESIDENT CHEN SHUI-BIAN OF TAIWAN

HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. DEUTSCH. Mr. Speaker, I rise today to congratulate President Chen Shui-bian of Taiwan for having narrowly won his reelection on

March 20. He will be inaugurated as the eleventh president of the Republic of China this May 20th.

As many of us know, Mr. Chen has a very interesting story. He came from a poor Taiwanese farming family. After his university days, he became an active political reformer and activist for many years and served time in prison for his beliefs. After gaining his release, he became a lawmaker and later as mayor of Taipei. He won his first presidential race in March 2000, the first time in Chinese society that an opposition party candidate was elected president. During his first term in office, he led his country toward full democratization and drastically improved Taiwan's human rights record. Today Taiwan's constitution guarantees its citizens basic civil liberties, including freedom of peaceful assembly and association, freedom of speech and press, and freedom of religion.

In the next four years, I am hopeful that Mr. Chen will continue Taiwan's political reforms and strive for better relations with China. Recently, Mr. Chen reiterated his determination to maintain peace and stability in the Taiwan Strait and good relations with the United States.

Mr. Speaker, I wish Mr. Chen the best of luck in all areas. As a beacon of democracy, Taiwan richly deserves our friendship and support.

INTRODUCTION FOR THE EQUAL SURETY BOND OPPORTUNITY ACT

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Ms. NORTON. Mr. Speaker, today I am pleased to introduce the Equal Surety Bond Opportunity Act (ESBOA). The ESBOA will help qualified women and minority-owned businesses to compete in the contracting business by helping them obtain adequate surety bonding. In addition, the ESBOA is directed against barriers that many qualified small and emerging construction firms encounter in obtaining surety bonding. I have introduced this bill before. I do so again because it is a common sense way to eliminate a serious form of discrimination without an additional enforcing bureaucracy.

A surety bond is issued by insurers for the purpose of guaranteeing that should a bonded contractor default, a construction project will be completed and the contractors employees and material suppliers will be paid. Surety bonding is mandatory for competing for all Federal construction work in excess of $25,000, all federally assisted construction projects in excess of $100,000, and most state and local public construction. However, surety bonding requirements are not restricted to government contracting. Increasingly, private construction contracts also require surety bonding. As surety bonding has become a widespread requirement, the inability to obtain surety bonding can cripple a construction firm, especially a small or a new one.

In 1992, Congress acknowledged the importance of this issue when it enacted the Small Business Credit Crunch Relief Act and included legislation to study the problem of discrimination in the surety bonding field, Public Law 102–366, that I had introduced. The survey provision required the General Accounting Office (GAO) to conduct a comprehensive survey of business firms, especially those owned by women and minorities, to determine their experiences in obtaining surety bonding from corporate surety firms.

The GAO completed the requested survey in June 1995. The survey found that of the 12,000 small construction firms surveyed, 77 percent had never obtained bonds. In addition, minority and women-owned firms were more likely to be asked for certain types of financial documentation. Further, minority-owned firms were also more likely to be asked to provide collateral and to meet additional conditions not required by others.

The ESBOA bill I am introducing today is modeled on the Equal Credit Opportunity Act of 1968, which prohibited discrimination in credit practices. The ESBOA requires the contractor notify the applicant of the action taken on his or her application within 20 days of receipt of a completed bond application. If the applicant is denied bonding, the surety would also be required, upon request, to provide a written statement of specific reasons for each denied request. Furthermore, the bill would provide civil liability in the form of damages and appropriate equitable relief should a surety company fail to comply with this notice requirement.

This legislation would help all contractors to have a better understanding of the reasons behind the denial of their bond applications. Furthermore, the importance of civil penalties cannot be understated for minority applicants who currently have no recourse when they suspect that the denial of surety bonding was based on considerations such as gender, race or religion.

The disclosure of pertinent information to rejected applicants is an equitable principle familiar throughout the federal acquisition process. This is the case when a small business is turned down for a government contract and has the opportunity to demand a negative preaward survey. With this information, the business can contest the award or use the information to be better prepared for the next award competition. The more a business knows about what is wrong with its proposal, the greater the likelihood that the next time the business will submit a better and more competitive proposal.

According to the National Association of Minority Contractors (NAMC), many minority contractors reported being turned down for a bond without an explanation. When explanations are not proffered, a perception of discrimination in the surety industry is created. This perception drives minority contractors to obtain sureties outside the mainstream, often at significant additional expense and fewer protections, placing themselves, their subcontractors, and the Government at greater risk.

Civil penalties in this bill are necessary to compel surety bond companies to provide accurate and non-discriminatory reasons for denial of surety bonding. This bill will provide the applicant with the necessary civil remedy should the surety bonding company refuse to provide this important information. In addition to providing essential information for future bond applications, a clear response will identify whether surety bonding companies are using discriminatory or fallacious criteria in making these decisions.

This legislation will create an environment in which small business firms, particularly those owned and controlled by minorities and women, can successfully obtain adequate surety bonding. This legislation will enable us to ferret out continuing biases in the industry. I urge my colleagues to support this bill and help abolish the artificial impediments to the development and survival of emerging small businesses.

TRIBUTE TO WILLIAM "DOC" SAMKO

HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. MCGOVERN. Mr. Speaker, I am honored today to pay tribute to William "Doc" Samko, in honor of his 37 wonderful years of service to Worcester Academy—my alma mater.

Doc has been the athletic trainer at Worcester Academy since the 1966–67 school year. Throughout his tenure he has been a teacher, a healer, a mentor and a friend to thousands of young students. He has guided them through injury and defeat with grace and humor.

I myself played football at Worcester Academy, although I never really got enough playing time to risk injury. I like to say I played "left bench." It's probably for the best. But I knew that if I ever got hurt, Doc Samko would be there to help.

Before his time at Worcester Academy, Doc worked at Holy Cross College in Worcester, where he helped the likes of Bob Cousy, Tommy Heinsohn, and other greats of that era. A pioneer in his field, Doc has been inducted into the Worcester Academy Hall of Fame and the National Athletic Trainers Hall of Fame.

Now in his 80's, he's still going strong. On May 22, Doc will be honored at a dinner in the Worcester Academy gymnasium, where he will be surrounded by family, friends, and admirers. I only hope the gym is big enough, because a lot of people admire and love Doc Samko.

Mr. Speaker, I know the entire House of Representatives joins me in paying tribute to Doc Samko, and we wish him and his family all the best in the years to come.

HONORING THE BOULDER CITY HOMETOWN FIDDLERS

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. PORTER. Mr. Speaker, I stand today to give honorable recognition to the Boulder City

Hometown Fiddlers. This talented youth organization is the only musical group from the state of Nevada that will be performing at the dedication of the WWII Memorial.

Mr. Speaker, these young musicians will truly be honoring our veterans and fallen heroes, including those that died in wars past, and those that have died recently in the war with Iraq. The Boulder City Hometown Fiddlers will also be paying tribute to one of Nevada's own, Corporal Matthew Commons, of Boulder City. Corporal Commons was killed while serving in Afghanistan.

They will represent the Silver State and all those within its borders who wish to pay tribute to those brave men and women who gave their lives in the name of freedom and democracy. It is with great honor that I stand here today and recognize this group of fine musicians as they convey our honor, respect, and gratitude to all those that died and risked their lives for their country.

HONORING COACH TIM MARZUOLA'S ELECTION INTO THE NATIONAL WRESTLING HALL OF FAME

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. SESSIONS. Mr. Speaker, I rise today to pay tribute to a legend in high school wrestling in Texas, Coach Tim Marzuola of Highland Park High School. Coach Marzuola has been elected as a member of the 2004 induction class for the National Wrestling Hall of Fame located in Stillwater, Oklahoma. I am proud to represent Highland Park in Congress, and I have four graduates of Highland Park High School that serve in my Dallas and Washington, D.C offices. My Washington office Chief of Staff wrestled for Coach Marzuola back when he was at Highland Park High School.

In 1999, Highland Park's wrestling team was nationally ranked and Coach Marzuola was a national high school coach of the year award-winner. The Scots won state titles in 1999, 2000, and 2003 and placed second in 2002 and 2004. Coach Marzuola has guided the Scots since 1982, and last year he was named as a coach for the tremendously successful Team Texas program. He was inducted into Texas Hall of Honor in 1994. I am very proud that he is being recognized nationally for over twenty years of diligent service to wrestling in Highland Park.

Coach Marzuola's commitment to his team on and off of the mats is exceptional, as he has set a standard for excellence within his sport. Coach Tim Marzuola has provided his athletes with exceptional leadership and inspiration, emphasizing to each student the necessary traits of individual responsibility, accountability, and working as a team to accomplish a common goal.

I thank Coach Marzuola for his tireless efforts and service to the greater Highland Park community. In addition to his duties as the Head Wresting Coach, he also is a superb Economics and United States History teacher inside the classroom. I wish him and the Highland Park wrestling program all the best for continued success and achievement.

50TH ANNIVERSARY OF RON AND SHARON ESKEW OF URBANA, ILLINOIS

HON. TIMOTHY V. JOHNSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. JOHNSON of Illinois. Mr. Speaker, I rise today to celebrate the marriage of my good friends Ron and Sharon Eskew of Urbana, Illinois. April 3, 2004, marked the 50th anniversary of the day that they exchanged wedding vows and started a long, happy life together. Ron Eskew, of Urbana, met his future wife Sharon Campbell at Urbana High School in the early 1950's. They were married in the spring of 1953. The bond created by their marriage has only grown stronger in the past 5 decades, even during Ron's active duty in the United States Army. After his service, the couple returned to their roots in Urbana, picking up right where they left off. I have known the Eskews for many years. In fact, when I was a young man working for a real estate business, I had the pleasure of selling them one of their first houses in 1969. Throughout the years, Ron and Sharon have filled that house with love and a family so caring and appreciative of the example they set that they believe the rest of our country's citizens should know their happiness as well. Ron and Sharon's children certainly admire their devotion to one another after all these years. 50 years is an important milestone few married couples are fortunate enough to experience. I salute Ron and Sharon Eskew of Urbana, Illinois on their 50 happy years together, and wish them the best for many years to come.

HONORING GINGER L. GRAHAM AND DR. WILLIAM H. RASTETTER

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. CUNNINGHAM. Mr. Speaker, I rise today to honor two leaders in the health care industry from my Congressional District who have been elected to the Board of Directors for The Pharmaceutical Research and Manufacturers of America (PhRMA). PhRMA companies are devoted to discovering and developing new medicines that will enable patients to live longer, healthier and more productive lives. In 2002 the companies invested more than $32 billion in discovering and developing new medicines, marking the 32nd straight year the industry has increased its investment in R&D. PhRMA's mission is to conduct effective advocacy for public policies that encourage discovery of important new medicines for patients by pharmaceutical biotechnology research companies.

The experience and expertise of Ms. Ginger L. Graham, and Dr. William H. Rastetter will bring San Diego's unique perspective to PhRMA, the association that represents the leading research-based pharmaceutical and biotechnology companies in the United States.

Ms. Ginger L. Graham has an impressive resume. In 1986, she received her MBA from Harvard University, which began her career at Lilly. During Ms. Graham's time at Lilly she held management positions in finance, sales, marketing, and strategic planning. In 1993, she was appointed president and CEO of Advanced Cardiovascular Systems. Ms. Graham was then a part of the team that formed Guidant, a medical technology company. After taking Guidant public in 1994, she became the president of Guidant's Vascular Intervention Group. Ms. Graham also held the position of Group Chairman, Office of the President, at Guidant. She is currently the President, CEO, and Director of Amylin Pharmaceuticals, Inc. Ms. Graham is the first female ever to be appointed to the board of directors at Phrma.

Dr. William H. Rastetter received his Ph.D. in 1975 from Harvard. Between 1975 and 1982, he held numerous faculty positions at the Massachusetts Institute of Technology. He directed the Biocatalysts and Chemical Sciences Groups at Genentech from 1982 to 1984. From 1988 to 1993, Dr. Rastetter held the position of chief financial officer of IDEC Pharmaceuticals. Then he became president and CEO of IDEC from 1986 to 2002. During this time Dr. Rastetter was appointed chairman of the IDEC board of directors. Dr. Rastetter is currently the executive chairman of Biogen Idec, Inc.

These two highly qualified individuals have devoted their careers to improving health care by bringing new pharmaceutical products through research and development and into the marketplace. I am proud that these two companies from my Congressional District will be represented on the PhRMA Board. San Diego has attained the position as the third largest life science cluster in the world, and is also renowned for being the most highly concentrated and one of the most diverse centers for life science. As the industry in San Diego grows and develops further, these two individuals are uniquely positioned to place San Diego's fingerprint on the pharmaceutical industry. As a stalwart supporter of medical research, I am dedicated to ensuring that America's healthcare system remains the best in the world and to promoting policies that encourage increased healthcare innovation. I look forward to working with Ms. Graham and Dr. Rastetter on public policy initiatives.

TRIBUTE TO TONY RANDALL

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. NADLER. Mr. Speaker, I rise today with great sadness to mourn the loss of award-winning actor and passionate social activist Tony Randall who passed away Monday night, May 17th. Though most remembered for his comedic role as Felix Unger in the T.V. series "The Odd Couple," Mr. Randall was a truly versatile performer with a career on stage and screen spanning over sixty years.

After serving four years in the army during World War II, where he rose to the rank of Lieutenant, Mr. Randall made many radio and theater appearances, garnering numerous accolades from critics. By the early 1950s, Mr. Randall made the shift to television, with his Emmy-nominated role of schoolteacher Harvey Weskit in "Mr. Peepers." Soon after, he added movies to his resume, with principal roles in films like the Doris Day-Rock Hudson comedy "Pillow Talk," earning the title from Life magazine of "the finest . . . comedian the movies have found in decades." He crowned his career with his Emmy-award winning role as the worrywart Felix Unger in the Odd Couple, a role that brought him a legion of fans.

However, Tony Randall will be remembered as more than just an actor. He was also a devoted social activist who for 30 years held the position of National Chairman of the Myasthenia Gravis Foundation, an organization dedicated to finding a cure for the terrible neuromuscular disease, Myasthenia. Whether it was his vociferous anti-smoking lobbying, his anti-Apartheid campaign, or his attempt to save the old Metropolitan Opera house, Mr. Randall worked with passion and zeal. Mr. Randall brought this same passion to the National Actors Theater, which he founded in 1991, dedicated to bringing classic works to the public for reasonable prices.

His tireless devotion to his craft and to social justice should be an example to us all. I would like to extend my deepest condolences to Mr. Randall's wife and two children. For years he has touched millions of Americans. He will be sorely missed.

HONORING 50 YEARS OF HISTORY

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to honor the Association of Retarded Citizens of Morris County, New Jersey in my Congressional District. The ARC is celebrating fifty years of providing excellence in community service.

In July of 1953, several families in Morris County formed a unit of the New Jersey Parents Group for Retarded Children. They soon began to fill the void and developed their own services; the Play Center was established as well as the Teen Club. Several years later, the first scouting program serving boys with mental retardation was added. The groups advocated with local school districts, and, out of those efforts, special classes were started for those people with retardation who were considered educable or trainable. By the close of its first decade, it recognized the critical importance of getting services to people with developmental delays at the youngest possible age, the unit established a nursery school for children with special needs.

In the 1960s the families of the Morris Unit continued to make strides to change the world for people with mental retardation. A second nursery school was opened and in 1969 a site was dedicated as Camp Sundial in Chester.

Federal legislation, which provided increased funding and mandated more stringent standards for institutions, was enacted, and more significantly, the appropriateness of institutional care "per se" began to be questioned. Advocates came together to create a service to fill this need. They raised the funds necessary to open the first Adult Activities Program, a forerunner of their Adult Training and Rehabilitation Centers. By the end of the 1970s, the Morris County Recreation Consortium was created, and the Early Childhood Enrichment programs developed, both of which would later evolve into programs that would represent a new era in community-based services.

In October 1982, they dedicated their first Adult Training Center, located in Flanders. In the 1980's and 1990's the ARC/Morris County Chapter continued to expand and diversify its programs and services and also developed many group homes that allowed for greater independent living. This organization went from a small parent support group, to a movement that changed millions of lives for the better, and along the way, countless other lives and communities have benefited and will continue to well into the future.

Mr. Speaker, I ask that you and my colleagues in the House of Representatives join with me in congratulating the Association of Retarded Citizens of Morris County, and all of the Association's outstanding staff, employees and volunteers, upon celebrating its 50th Anniversary.

RECOGNIZING LOCKHEED MARTIN-PIKE COUNTY'S 10TH ANNIVERSARY OF SERVICE TO AMERICA

HON. TERRY EVERETT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. EVERETT. Mr. Speaker, I rise today to salute a milestone in the defense of our Nation. This month, Lockheed Martin's Pike County, Alabama missile assembly facility will mark ten years of production.

This event is more than an anniversary. It represents a decade of service to America's defense preparedness by some of the finest, best trained workers in the nation.

Lockheed Martin-Pike County has become synonymous with both precision craftsmanship and on-target results. Some of the most advanced military weapon assets on the battlefield have rolled off, and continue, to roll off the assembly lines at the Pike County facility.

From the Hellfire, to the JASSM, to the Javelin, to the Predator, to the soon to be produced THAAD and LAM systems, Lockheed Martin-Pike County is the final assembly point and the guarantee that lives will be saved on the battlefield and our nation will be more secure at home.

This moment is also a source of pride for me as I have personally secured billions of dollars in missile system work for Lockheed Martin-Pike County over the last decade—work that has not only benefited the local economy but made it possible for our nation to succeed in the face of an ever elusive enemy.

Of particular note, I have personally advocated the further development of the THAAD anti-missile system which is also noting a milestone this month—the first rollout at the Lockheed Martin-Pike County plant. THAAD is an important component of our layered defense against a ballistic missile threat.

I am proud of the contributions of the 286 workers of Lockheed Martin-Pike County to keep our country safe. Job well done.

NAVAJO NATION HIGHER EDUCATION ACT OF 2004

HON. RICK RENZI

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. RENZI. Mr. Speaker, I rise today to introduce the Navajo Nation Higher Education Act of 2004.

In 1868, the United States of America signed a treaty with the Navajo Tribe of Indians to provide for the education of the citizens of the Navajo Nation. At this time, the United States government recognized the trust responsibility to serve the educational needs of the Navajo people.

In 1968, the Navajo Nation created and chartered the Navajo Community College as a wholly-owned educational entity of the Navajo Nation. In 1971, Congress affirmed this effort by the Navajo Nation and enacted the Navajo Community College Act. In 1997, the Navajo Nation officially changed the name of the Navajo Community College to Diné College.

Mr. Speaker, the Navajo Nation Higher Education Act reauthorizes the 1971 Navajo Community College Act and modernizes the statute by including the mission statement and Navajo education philosophy of Diné College. Diné College educates students by applying the principles of Diné philosophy to advance quality student learning through training of the heart and the mind.

Over the years, facilities at Diné College have deteriorated, creating serious health safety risks to students, employees and the public. This legislation provides funding to address Diné College's facility needs such as modernization, repair and rehabilitation. In addition, this important legislation requires a survey and study of Diné College's facility needs.

Finally, to ensure equitable funding for Diné College, the Navajo Nation Higher Education Act provides funding for Diné College separate from the other tribal colleges and universities.

Mr. Speaker, I urge my colleagues to support the Navajo Nation Higher Education Act of 2004. It is our government's responsibility to provide educational opportunities to the Navajo people in a safe and healthy environment.

RECOGNIZING MEGAN N. WORTHMAN OF THE FOURTH DISTRICT OF COLORADO FOR WINNING THE VETERAN OF FOREIGN WARS 2004 VOICE OF DEMOCRACY BROADCAST SCRIPTWRITING CONTEST

HON. MARILYN N. MUSGRAVE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mrs. MUSGRAVE. Mr. Speaker, I rise today to honor all of America's veterans who have served our country for the cause of freedom. The Veterans of Foreign Wars is a fine organization that deserves our praise for striving to instill an understanding of responsibility to country. This year, more than 80,000 secondary school students participated in the Voice of Democracy audio/essay competition designed to give high school students the opportunity to voice their opinion on their responsibility to our country. The Veterans of Foreign Wars of the United States and its Ladies Auxiliary selected the theme "My Commitment to America's Future" for this year's annual contest.

I am pleased to announce that Ms. Megan N. Worthman from the Fourth District of Colorado won the 2004 Voice of Democracy broadcast scriptwriting contest for this year. Her work exemplifies excellence and is worthy of recognition. It is inspiring to see such commitment to America in a young person, and I applaud her fine work.

Her essay reads as follows:

2003-2004 VFW VOICE OF DEMOCRACY SCHOLARSHIP CONTEST—"MY COMMITMENT TO AMERICA'S FUTURE"

When I was about 7 years old, my grandfather gave me his Naval uniform. I listened to him for hours recounting his journeys in the Pacific. Although he was a radio operator and never saw action, I loved that he lived in such an important time, and he was sharing his experiences with me. When he gave me his thick blue World War II uniform, I was so excited. He gave me a very important piece of him, and I was proud to wear a part of American history. That same pride reflected in his eyes as I tried it on. Of course it was way too big for me, the bottom hem brushing on the floor, the sleeves well past my fingertips, and his hat falling down over my eyes and resting on my nose. That uniform is still to big for me, but I hope to grow into it. I know I will never fit into it physically, but I will grow into its image, to become a better person, and a better American.

My commitment is to become that American who embodies the image laid out over two centuries, to become the American that so many others died for. When I was in grade school, about second or third grade, I became really interested in World War II, and the history of my country. I also started to learn about the principles that were the foundation of this country. Later on in fourth grade, I had set my sights on the Air Force Academy, or at least measure up to the high standard they have. To be one of the few who can give all they possess to their country. Now, my goal is to uphold the Constitution and teach my family and those around me the morals and values that have defined America for so long. I am, and will become a more complete person and start to fit into that uniform.

Good Americans are those who work hard for what they believe in, and respect all those trying to accomplish the same. Even today, as a young High School student, I practice the Constitutional rights entitled to myself and those around me. Everyone has an opinion and the natural right to let it be heard. Everyone also has a different background and heritage, and should be respected for it, no matter what. I will give my time and resources to others who cannot support themselves because it is my obligation. I have the privilege of family, health and happiness. Because of these gifts, I will help others find and button up their own tailored uniforms.

"We hold these truths to be self evident that all men are created equal." That is my commitment. These words echoed through Independence Hall over 200 years ago and were very important to the early framers of our nation. These words make me realize that my commitment is no small one; I will give all of me to my country and my fellow Americans.

Other Americans have set the standard, the uniform, for all of us to grow into. Other Americans have given their lives for a few words written on a piece of paper two centuries ago. The least I can do is to uphold those values and pass them on. It is my duty and my commitment to go to school and learn about the people who influenced our ideas and values of today. The people who gave their lives for life, liberty and the pursuit of happiness, and to learn about those who tried to take it away. It is my duty to learn about my neighbor and other cultures. The great thinker Voltaire said, "I might not agree with what you have to say, but I will defend to the death your right to say it." This held true many years ago, and still holds enormous value today. It is important to learn from the past, other cultures and other people. When I graduate high school and finish college, suddenly the hem on my uniform seems farther from the ground.

When I volunteer my time to my community, or help my little brother with his homework, my fingers appear at the ends of my sleeves. When I listen to both sides of the argument, my hat fits a little better. When I become a better person by reading, volunteering, teaching and learning, I start to mature and fill out the uniform. When I respect all people, when I learn about foreign cultures, my commitment begins to show and becomes a beacon for others to see.

Everyone has a different uniform. For some, it could be a military one. For others, it could be a business suit, a doctor's smock, an athletic uniform or a construction jacket. However, everyone's uniform is made of the same materials; commitment, hard work, love, respect and time. Everyone's uniform is intertwined with everyone else's, and if one of us is missing, the fabric of America cannot be whole. Everyone has an important role to play, and I intend to do my part to succeed in whatever my role may be. My commitment is a I lifelong one, and it seeded when I was 7, listening to another American recount his experiences.

INTRODUCING THE DISCHARGED COMBAT VETERANS MEDICAL CARE EXTENSION ACT

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. EMANUEL. Mr. Speaker, I rise today to introduce the Discharged Combat Veterans Medical Care Extension Act. I offer this legislation with the distinguished gentleman from Illinois, Mr. Evans, the senior Democrat on the Committee on Veterans' Affairs, and 13 other original cosponsors.

Our bill would extend from two years to five years the time in which combat veterans may receive free care from VA medical facilities without having to document that their illnesses are the result of their military service. The legislation will also allow more time for medical assessments and data analysis for the returning veterans of the wars in Iraq and Afghanistan.

The lack of scientific knowledge regarding the relationship between military deployment and long-term health often hinders the VA's ability to establish the required connection between service and health consequences. Although the current two-year period allows for the collection of some health information, symptoms resulting from deployment may remain hidden until years later, as demonstrated by illnesses related to service during the Persian Gulf War.

VA physicians have never treated many types of the severe brain injuries, facial trauma or illnesses from exposure to dangerous substances that result from service in Iraq and Afghanistan. Therefore, additional time is needed to stabilize, diagnose and treat those injuries and illnesses.

We made a promise to our veterans to care for them after they returned from war. Accordingly, our troops returning from Iraq and Afghanistan deserve open access to VA medical facilities as they heal from injuries and as their service-connected illnesses begin to appear.

As this Memorial Day approaches, Mr. Speaker, I urge my colleagues to support the Discharged Combat Veterans Medical Care Extension Act. This bill will go a long way toward helping our veterans recover and entitle them to the care they deserve for their valor and service to our nation.

INTRODUCTION OF GUAM WAGE PARITY BILL

HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Ms. BORDALLO. Mr. Speaker, today I am introducing legislation to correct an anomaly in the treatment of the Federal blue-collar workforce in Guam by providing for parity in their wage schedules and rates. These are the wage schedules issued under the Federal Wage System, the uniform pay-setting system Congress established by law in 1972 for Federal "prevailing rate employees" who are paid based upon an hourly rate (P.L. 92–392).

Administered by the Office of Personnel Management (OPM), the Federal Wage System is designed to ensure that pay rates for Federal trade, craft, and laboring employees are in line with prevailing levels of pay for comparable levels of work in the private sector within a local wage area. The system is also meant to eliminate inequities that would otherwise occur within the Federal Government and between the various agencies employing citizens in a local wage area.

OPM has designated the Department of Defense (DoD) as the lead agency for establishing the pay rates and issuing all wage schedules. OPM has currently defined 131 appropriated fund and 125 non-appropriated fund local wage areas within the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico. Schedules and rates are developed for each wage area based upon a survey conducted by DoD. OPM regulation however provides that a separate schedule shall be issued for Guam with rates identical to those used for prevailing rate employees in foreign areas. Regulation also provides that the rates for foreign areas shall be an average of all wage area rates set by OPM for the United States. Under these circumstances, the prevailing rate employees in Guam are treated no differently in terms of their pay rates than if they were working in a foreign area (outside the United States). This is a matter of concern to me which I am seeking to address with the introduction of this legislation.

Guam's unique economic conditions, given its geographical isolation and the fact that it is a high cost of living area, have placed the hard working prevailing rate employees in Guam at an unfair disadvantage when compared to those that are employed in an OPM-defined local wage area. Hawaii, Alaska, and Puerto Rico, unlike Guam, are each currently defined to be their own separate wage areas and benefit from wage schedules that take into account their economic situation and cost of living environment. Guam should be treated no differently and have a wage schedule that reflects the cost of living and the level of pay for government-wage-grade-equivalent jobs in the private sector.

Therefore I have introduced this bill to provide equitable treatment for Guam, not by directing OPM to establish a separate wage area for Guam but by simply applying the same rates used for the State of Hawaii, which sustains a similar island economy with most comparable trades and blue-collar workforces.

It is generally understood that the reason Guam has been issued a separate schedule each year by regulation and has not been defined as a separate wage area, is that the number of comparable positions in Guam's private industry may be insufficient under the current standards to warrant its own wage survey and designation as a separate wage area. In passing the National Defense Authorization Act for Fiscal Year 2002, Congress required DoD, when establishing wage schedules and rates for prevailing rate employees, to consider rates paid for comparable positions in private industry in the nearest wage area that is most similar to the wage area for which wage rates are being established when there are insufficient positions in the local industry upon which to establish wage schedules and rates (Sec. 1113 of P.L. 107–107). The legislation I am introducing today is consistent with this intent.

This bill would greatly enhance the economic viability of the prevailing rate employees in Guam, is in the public interest, and is, in my opinion, in conformance with the goal of the Federal Wage System. This is a sensible policy proposal that would ensure regional equity in wage rates. I look forward to working with OPM, DoD, the House Committee on Government Reform, and the House Committee on Armed Services, in addressing the concern over the current inequity and treatment of Guam under the Federal Wage System that this bill seeks to correct.

IN SUPPORT OF H.R. 775

HON. MARSHA BLACKBURN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mrs. BLACKBURN. Mr. Speaker, many of our immigration laws are no longer consistent with our national security and other vital interests.

The diversity visa or visa lottery system is one such example. The visa lottery was established by the Immigration Act of 1990 to offer the opportunity of immigration to individuals in countries that had been sending few immigrants to the United States.

Usually, immigrant visas are issued to foreign nationals that have an existing connection with a family member lawfully residing in the United States or with a U.S. employer. These types of relationships help ensure that immigrants entering the country have a stake in continuing America's success, and have the advanced skills necessary to contribute to the nation's economy. However, under the visa lottery program, visas are awarded to immigrants at random with no such safety precautions.

I have heard from immigrants who have legally come to the country, and they believe the visa lottery program is unfair to immigrants who comply with the United States' immigration laws. Also, the visa lottery program does not prohibit illegal aliens from applying to receive a visa through the program.

The program has many flaws. A recent report released by the Center for Immigration Studies shows that it is commonplace for foreign nationals to apply for the lottery program multiple times using different aliases and false personal information.

I support Congressman Goodlatte's bill, H.R. 775, The Security and Fairness Enhancement for America Act, which would terminate the visa lottery. This piece of legislation is an important and positive step in immigration reform and it is my hope that the House considers it in the near future.

IN RECOGNITION OF THE GIRLS SOFTBALL TEAM OF ALEXANDRIA HIGH SCHOOL

HON. MIKE ROGERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. ROGERS of Alabama. Mr. Speaker, I rise today to pay tribute to Girls Softball Team of Alexandria High School in Calhoun County, Alabama. On May 15, 2004, these young ladies won the 4–A Girls Softball State Championship.

Congratulations to Amy Brown, Whitney Burt, Stevie Smith, Hollie Henderson, Allie Barker, Anna Pitts, Lindy Baird, Whitney Hurst, Haley Henderson, Hali Lash, Jordan Brown and Alyssa Brown. Thanks to Coaches Brian Hess and Toni Duncan for their leadership and the support of Manager Sara Borders and Bookkeeper Donya Barker.

I know that Calhoun County, Alabama, and the entire Third District share with me their best wishes for this accomplishment. Only through hard work, dedication and a team effort could this be achieved. Thank you, Mr. Speaker.

COMMEMORATING THE 63RD ANNIVERSARY OF THE BATTLE OF CRETE

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mrs. MALONEY. Mr. Speaker, I rise today to mark the 63rd anniversary of the Battle of Crete. Last year, I introduced H. Res. 244 which recognizes and appreciates the historical significance of the people of Crete during World War II.

This is a historic event with direct significance to the Allies' victory of World War II. On May 20, 1941, thousands of German paratroopers and gliders began landing on Crete. Both the Allies and Nazis wanted Crete because of its strategic location. At that time the British controlled the island. It was a very strong point on the lifeline to India and protected both Palestine and Egypt.

The Nazi invasion force included the elite German paratroopers and glider troops. Hitler felt this was to be an easy victory, yet he is quoted to have said shortly after the invasion, "France fell in 8 days. Why is Crete free?"

The invasion of Crete took 11 days. It resulted in more than 6,000 German troopers listed as killed, wounded or missing in action. The losses to the elite 7th parachute division were felt so hard by the German Military it signified the end of large-scale airborne operations.

This valiant fight by the Cretan people began in the first hour of the Nazi airborne invasion, in contrast to the European underground movements that took a year or more after being invaded to activate.

Young boys, old men and women displayed breathtaking bravery in defending their Crete. German soldiers never got used to Cretan women fighting them. They would tear the dress from the shoulders of suspected women to find bruises from the recoil of the rifle. The penalty was death.

The Times (London) July 28, 1941, reported that "five hundred Cretan women have been deported to Germany for taking part in the defense of their native island."

Another surprise for the German soldiers who invaded Crete was the heroic resistance of the clergy. A priest leading his parishioners into battle was not what the Germans anticipated. At Paleochora, Father Stylianos Frantzeskis, hearing of the German airborne invasion, rushed to his church, sounded the bell, took his rifle and marched his volunteers toward Maleme to write history.

This struggle became an example for all Europe to follow in defying German occupation and aggression.

The price paid by the Cretans for their valiant resistance to Nazi forces was high. Thousands of civilians died from random executions, starvation, and imprisonment. Entire communities were burned and destroyed by the Germans as a reprisal for the Cretan resistance movement. Yet this resistance lasted for four years.

The battle of Crete was to change the final outcome of World War II. The Battle of Crete significantly contributed in delaying Hitler's plan to invade Russia. The invasion was delayed from April to June of 1941. The 2–month delay in the invasion made Hitler's forces face the Russian winter.

The Russian snowstorms and the sub zero temperatures eventually stalled the Nazi invasion before they could take Moscow or Leningrad. This was the beginning of the downfall of the Nazi reign of terror.

This significant battle and the heroic drive of the Cretan people must always be remembered and honored.

Democracy came from Greece and the Cretan heroes exemplified the courage it takes to preserve it.

Today, the courage and fortitude of the Cretan people is seen in the members of the United Cretan Associations of New York which is located in Astoria, Queens.

I urge my colleagues to join me in honoring the Cretans in the United States, Greece, and the diaspora.

INTRODUCTION OF HOMELAND SECURITY APPROPRIATIONS BILL

HON. MAX SANDLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. SANDLIN. Mr. Speaker, if we knew that there was going to be a terrorist attack sometime in the next 5 years but did not know what kind of attack it would be, who would carry it out, or where in the United States it would occur, what actions would we take to prepare and how would we allocate our human and financial resources to do so?

The tragic events of September 11, 2001 brought home to the American people the magnitude of the danger posed by terrorism on U.S. soil. Now, almost 3 years later, we as Americans must assume that terrorists will strike again, possibly using chemical, biological, radiological or even nuclear materials. The unthinkable has become thinkable

After the horrific September 11th terrorist attacks, the country pulled together and we began to take steps to make our homeland more secure. We enacted legislation to overhaul our airport security; we provided new border security measures; we created the Department of Homeland Security.

And yet, despite the steps that have been made, many believe that our Nation is in even more danger today than it was 3 years ago. In fact, Administration officials recently announced that they expect another terrorist attack here in the United States before November. They have resigned themselves to the inevitability of more terrorist attacks and are warning us—the American public—to be prepared.

Despite our awareness of the very real threat of terrorism here at home and despite renewed efforts to prepare since September 11, we remain, as a country, dangerously ill-prepared to handle another catastrophic attack on American soil.

That is simply unacceptable.

Much more needs to be done to make Americans safer and more secure than they are today. Securing our homeland must be the number-one priority of our Government. Indeed, our Nation's very charter—the Constitution—in its preamble states clearly that among the first priorities of Government is to provide for the common defense. Improving the safety of the American people at home must be undertaken as aggressively as pursuing terrorists in far-off lands.

Therefore, Mr. Speaker, I am pleased to introduce an appropriations measure that will provide the resources needed to secure our hometowns and ensure our police, fire fighters and paramedics—the Nation's first responders—are fully prepared for anything they may face.

Unfortunately, our efforts have too often been—as we say in Texas—a day late and a dollar short. In this case, however, the $3 billion shortfall contemplated by the budget passed yesterday is dangerous and unconscionable.

Accordingly, Mr. Speaker, I am pleased to introduce an appropriations measure that would meet these critical needs and would—

Improve Our Hometown Response Capabilities by providing. $3.874 billion for the Office for Domestic Preparedness; $180 million for Emergency Management Performance Grants; $800 million for Fire Grants; $60 million for Metropolitan Medical Response System grants; $515 million for Hospital Preparedness Grants (in HHS); $940 million in Bioterrorism Aid to Health Departments (in HHS); and $250 million in Rail and Transit Security Grants.

Secure Our Borders and Meet Airport Security Mandates by providing: $700 million for Federal Air Marshals; $650 million for explosive detection systems purchase and installation; $100 million for air cargo screening; $250 million for port security grants; $161 million for the Container Security Initiative; $400 million on border and port inspection and surveillance technology, including radiation portal monitors in U.S. ports; $50 million for radiation portal monitors at overseas ports (in DOE); $100 million more for border patrol and inspector staffing; $96 million for the northern border airwing expansion; and $50 million more for bus, trucking and port pilot grants.

Mr. Speaker, we have nothing less than a moral obligation to ensure that our nation is fully prepared and vigorously defended. We have troops deployed around the world fighting the war on terror, but we cannot forget our frontline defenders here at home.

I urge my colleagues in this, the People's House, to act now to provide our police; officers, our firefighters, our paramedics and all other emergency personnel the equipment and support they need to protect our hometowns. I hope the House will take up this carefully drafted piece of legislation soon and provide our Nation the security we need.

PROTECTING OUR COMMUNITIES FROM WILDFIRE

HON. JIM MATHESON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. MATHESON. Mr. Speaker, given current drought forecasts and the condition of Utah's forests, this year's fire season is expected to be very difficult and expensive. Today, I am introducing legislation, along with my colleagues Congressman DICKS and Congresswoman HOOLEY, to provide $500 million in Emergency Supplemental funding for the Forest Service and the Department of Interior to maintain our nation's wildland firefighting efforts this year.

We all know how devastating it would be if the Forest Service and Department of Interior were to stop fighting fires because of a lack of funding. Without passage of this legislation, it is likely that these agencies will quickly deplete the funds that Congress designated for this fire season. When this funding runs out, the Forest Service will be forced to choose between cutting back its firefighting efforts or taking funding away from other essential forestry programs. As a result of funding concerns, the Forest Service and the Department of Interior have employed almost 3,000 fewer firefighters this season than they did at the same time last year. The legislation I am introducing today would provide the additional funding that is needed to employ more firefighters and protect our communities from the devastating effects of wildfires.

The passage of this bill is critical to protecting the health of forests and communities in my home state of Utah. We've seen too much devastation and damage in recent years due to the extreme drought conditions in the West. I am committed to the passage of this legislation as an important step toward protecting Utah's communities from the devastating effects of forest fires.

COMMEMORATING THE 50TH ANNIVERSARY OF BROWN V. BOARD OF EDUCATION

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Ms. McCARTHY of Missouri. Mr. Speaker, I rise today to commemorate the 50th anniversary of Brown v. Board of Education, a landmark Supreme Court case that gave rise to Linda Brown's dream of equality in education in this country, a dream deferred that has become for many a broken promise.

The 1954 Brown v. Board of Education Supreme Court decision marked a turning point in our history and incited a movement to break down barriers of race that had long plagued communities across the nation. It helped pave the road toward integral measures such as the Civil Rights Act of 1964, Voting Rights Act of 1965 and Fair Housing Act of 1968 and began the movement for desegregation. Chief Justice Earl Warren felt the ruling was so historic he issued a rare public statement: "We conclude that in the field of public education, the doctrine of 'separate but equal' has no place." In declaring segregation unconstitutional, the Supreme Court mandated a focus on equality not only in education, but also in public transportation, accommodations and commerce.

The Brown v. Board of Education decision demanded that all Americans be entitled to the fundamental right to equal educational opportunities, regardless of race, and the resources to achieve their dreams. But by the time Martin Luther King, Jr. addressed America from the steps of the Lincoln Memorial in 1963, nearly ten years later, that promise remained unfulfilled. And half a century later, with the convulsing explosions of the Civil Rights Movement behind us, the future assured to Linda Brown in that historic ruling has been approached, but not yet reached. And we are left to wonder, like Langston Hughes in his poem "A Dream Deferred," whether those promises, if not fulfilled, will one day cease to exist.

Fifty years ago, Linda Brown, a third grader in Topeka, Kansas, and her father had the courage to protest the long accepted "separate but equal" principle that required her to walk for over an hour every morning because she was not permitted to attend the white-only school just blocks from her house. On May 17, 1954, the Supreme Court struck down the "badge of inferiority for African Americans" that the principle of "separate but equal" had come to signify.

This week we honor all those who fought for the dream of equality of opportunity: the valiant families who came forward in these five cases; the NAACP legal defense team, including Charles Hamilton Houston, Thurgood Marshall, Robert L. Carter, Kenneth B. Clark and Judge Constance Motley; and the community which held on to the dream through years of bitter opposition and violent protest in the South. But half a century later, urban and rural schools across America lack the funding to provide equal education opportunities for all students.

An Education Trust study released last week reveals alarming statistics about the state of education: Minority students are about three years behind other students by the time they reach eighth grade; 17-year-old African American and Latino students have reading and math skills similar to those of 13-year-old white students; and African American and Latino and American Indian youth are less likely to be enrolled in full college prep coursework.

No Child Left Behind, underfunded by $27 billion, could achieve the dream of Brown v. Board of Education if provided with the resources to dismantle unequal opportunities and enhance the quality of education for every community. Fifty years after Brown, we continue to make promises we cannot keep.

As we remember today the dream of Linda Brown and the courageous civil rights leaders to whom we owe our progress, let us remember that the most fitting tribute to them is a continued effort to fulfill their vision for our nation. Let us continue the promise of Brown by breaking down the barriers that still persist in our classrooms and giving schools the resources they need to provide a safe and productive learning environment for our children.

Mr. Speaker, I urge my colleagues to join me in recognizing this historic anniversary and renewing the effort to achieve the promise of Brown v. Board of Education: equal educational opportunities for all children. Let us not defer the dream any longer.

REFORM OUR OUTDATED IMMIGRATION LAWS AND POLICIES

HON. BRAD CARSON

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. CARSON of Oklahoma. Mr. Speaker, I rise today to urge that Congress make it a top priority to reform our outdated immigration laws and policies.

The tragic events of September 11th awakened most Americans to the fact that our immigration system is seriously flawed and overwhelmed by the massive numbers of foreign visitors and immigrants flowing through it into our country. We all saw then that immigration policy has serious national security impacts and weaknesses. Since that time, Congress and the Executive Branch have made a number of statutory, regulatory and policy changes that have addressed from a homeland security perspective some of the many systemic flaws in thus immigration process. Of course, a great deal remains to be done to ensure appropriate levels of safety for America.

We still have 12 to 15 million, or even more, foreign immigrants living and working here illegally. Fortunately, most are not security threats and are simply seeking to improve their economic status by working here where they can make much more than in their home countries. But, undoubtedly some number are here to do us harm either as terrorists, or, more likely, by engaging in criminal activities. We must continue working to identify and expel those who pose such public safety threats.

We also must address the fundamental issue of reducing the extraordinary immigration numbers that we are experiencing year after year. I believe that immigration is a good thing, and most immigrants are good people, here seeking the American Dream. However, I have no doubt that the extremely high numbers of legal and illegal immigrants we have been allowing to come here in recent years represent "too much of a good thing"—numbers matter, and simply put, our immigration numbers, two-thirds of which are due to legal admissions, are excessive. This is especially so given the changing nature of America's labor markets, where low-skilled workers find their jobs disappearing or wages stagnating. Our labor market clearly does not need the roughly 1½ million new immigrants who move to the United States every year. Inordinately high numbers of immigrants, most of whom are less educated and relatively low skilled are having real, and often adverse, impacts on American life.

Citizens and earlier immigrants, who often remain lower skilled and less educated, are suffering serious job and wage losses due to the continuing massive cheap foreign labor inflows. Such problems would be greatly lessened if we reduce both legal and illegal immigration to more moderate and sustainable levels. Congress today has the power to do so, by reviewing legal immigration policy and by genuinely enforcing a policy against illegal immigration.

We have been experiencing such a large immigrant inflow now for several decades due both to lax enforcement and more importantly to statutory changes made in the 1980s and 1990s that opened the immigration floodgates to an unprecedented degree. Congress essentially reset the immigration thermostat and forgot about it, despite the increasingly obvious and serious impacts this has been having.

Congress can no longer ignore the immigration numbers issue. In addition to ensuring better enforcement of our laws so as to radically curtail illegal inflows, we must readjust legal admission policies to ensure that legal immigration fits the reality of America's 21st century labor market. It has been recognized for years by those who have bothered to examine how our current system works that statutory changes are needed to eliminate a number of unnecessary admission categories. For example, the Immigration Reform Commission, chaired by the late Rep. Barbara Jordan, recommended repealing the visa lottery, which allows thousands of people to come here merely because their name was drawn in a lottery, and the extended family visa categories which spawn literally endless chain migration.

For starters, I believe that we need to reduce legal admission numbers by ending the visa lottery and the so-called extended family categories that fuel foreign worker inflow by chain migration. A positive first step at reforming our outdated immigration laws would be to pass H.R. 775, the Goodlatte bill that repeals the visa lottery. As a cosponsor of that bill, I urge the House Leadership and the Judiciary Committee to act to bring the bill before the full House for action, and to advance other legislation to ensure that our legal immigration policy, coupled with our blind eye toward illegal immigration, are reviewed.

RECOGNITION OF CLEAN OCEAN ACTION IN HONOR OF THEIR 20TH ANNIVERSARY

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. PALLONE. Mr. Speaker, I rise today to honor the exemplary work of Clean Ocean Action, and to recognize their significant contributions over the years, as they celebrate their 20th Anniversary this weekend. Clean Ocean Action (COA) was established in 1984, by individuals who had a deep-rooted concern for the environment, as well as a desire to help maintain the cleanliness of our oceans. Today, we can say with great certainty that the waters off the New Jersey and New York coast have benefited a great deal thanks to the efforts of COA, and its volunteers and the many citizens who have participated in COA activities.

In commemorating their 20th Anniversary, COA certainly has much to celebrate. Since its inception, this group has organized over 30,600 volunteers for bi-annual beach cleanups that have led to the removal of millions of pieces of trash and debris that typically pollute our coast. COA has compiled statistical information on the trash collected during their sweeps, which provide a very valuable tool to determine the leading source of debris pollution on our beaches and in our coastal waters. The Beach Sweeps were also chosen as a "Local Legacy," for the 200th celebration of the Library of Congress.

As a passionate supporter of our oceans and our coastline, I am mindful of the world of indebtedness that we owe to this organization. The selfless acts of groups such as the COA, and the volunteers they organize, often go without official recognition or praise. However, we all benefit and are grateful for the work that they do and it is imperative that we support their efforts. Therefore, I pause today to thank Clean Ocean Action for their tireless efforts and I ask my colleagues to do the same.

Once again, Mr. Speaker, I would like to congratulate COA on their anniversary, and offer them the highest praise for the fine and important work they have done over the past twenty years.

THE LONG TERM CARE SUPPORT AND INCENTIVE ACT OF 2004

HON. SUSAN A. DAVIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mrs. DAVIS of California. Mr. Speaker, I rise today to talk about an important issue facing our community: the affordability of long-term care. People today are living longer and healthier lives than ever before.

When the Declaration of Independence was signed, the average life expectancy was 23. In the United States today, life expectancy at birth is 80 years.

While this increased life expectancy is allowing us to live fuller lives, it is also presenting us with serious financial challenges. Half of all older Americans who live alone will "spend" themselves into poverty after only 13 weeks in a nursing home.

My own family had to make difficult emotional and financial decisions when my father needed care. My dad was a pediatrician, and always lived a full life. When he needed care, my sister and I struggled to find the perfect place for him to live.

We wanted to make sure he was happy and received high quality medical care. We searched for months to find the right place for our dad and we learned very quickly how expensive long-term care is. Fortunately, we had the financial resources to take care of him, but many families do not.

My experience with my dad renewed my commitment to improve our long-term care system. I took on this mission in Congress and I am pleased today to reintroduce the Long Term Care Support and Incentive Act. This much needed legislation will make a real difference for San Diegans caring for older family members.

First, the bill will give a $4,000 tax credit for seniors with long-term care needs and their caregivers. We know how many sacrifices families make to take care of their loved ones. They miss work, or in some cases are forced to give up their jobs. They pay for expensive medical supplies and equipment, and bare the burden of enormous medical bills. This tax credit will help ease their financial burden.

The second section of my legislation will establish a tax deduction for long-term care insurance premiums. As the long-term care needs in our community increase, we must face the reality that many seniors do not have family or friends to take care of them full time.

This is particularly important to women. Women live longer than men. Often times, women are the primary caregivers for their husbands. After their husbands pass away, there is often no one around to take care of them.

Long-Term Care Insurance can help fill this gap, but premiums can be expensive. My legislation will make long-term care insurance more affordable by allowing individuals over 65 to deduct 75 percent of the cost of their premiums and individuals under 65 to deduct 50 percent of the cost of their premiums.

In addition, I have included several important consumer protections in the bill to ensure that people are purchasing responsible insurance plans that will adequately meet their long-term care needs.

The bill requires plans to include:

Mandatory Inflation Protection.

A Lifetime Deductible Requirement that ensures policy holders must only pay their deductible one time in their lifetime.

Mandatory Interchangeability so that individuals can determine where their benefits are spent.

A Care Coordination program that ensures seniors receive assistance in planning and securing the services they need.

By encouraging people to plan ahead for the future and purchase Long-Term Care Insurance, we can ensure that seniors live dignified and independent lives. I urge all of my colleagues in Congress to work with me to pass it quickly into law.

RECOGNIZING WATER AWARENESS MONTH

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Ms. SOLIS. Mr. Speaker, I rise to recognize May as Water Awareness Month throughout California and the United States of America.

As our most precious natural resource, water sustains all life in our planet. From humans and animals to plants and trees, every living organism needs water to live. For this reason, it is important for all Americans to protect and conserve our water from contamination and careless waste.

This year marks the 29th anniversary of the Safe Drinking Water Act, which authorizes the U.S. Environmental Protection Agency to regulate public health by setting high health standards and regulating the nation's public drinking water supply. I salute all government leaders, public water providers such as the Walnut Valley Water District, and the California Water Awareness Campaign for their hard work and tireless leadership in making safe drinking water a priority and Water Awareness Month a reality.

In addition, I salute our responsible citizens, urban and agricultural water agencies, and farm bureaus in California who have made exceptional strides to improve water quality and conservation since the state's drought years of 1987–1993. Their significant work and leadership have educated communities throughout California and have set an example to other states to care for the quality of their drinkable and non-drinkable water.

Mr. Speaker, it is an honor to recognize Water Awareness Month and the people who work hard to make water safe for our daily consumption.

THE JEWISH STATE AND A PALESTINIAN STATE: MUTUALLY EXCLUSIVE OR INCLUSIVE?

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. BURTON of Indiana. Mr. Speaker, the State of Israel has for decades been an unwavering friend and ally of the United States. And Israel has stood in complete solidarity with the United States in the War on Terror. So, it is critically important that we send the message to our Israeli friends that we stand in complete solidarity with them in their fight against terrorism, because you cannot negotiate with terror or trust the promises of terrorists; you can only defeat them. And the establishment of a new terror-supporting regime on the shores of the Mediterranean seems inconsistent with the strategic goal of the U.S. and Israel to defeat terrorism and stabilize the Middle East.

I recently was presented a copy of an interesting advertisement that is running in Israeli newspapers regarding the dangers of ceding Israeli territory to terrorists. This particular ad is the ninth in a series, and it focuses on the Security Significance of Judea & Samaria Mountain Ridges. I would like to have the text of this advertisement placed into the CONGRESSIONAL RECORD following my statement.

THE JEWISH STATE AND A PALESTINIAN STATE: MUTUALLY EXCLUSIVE OR INCLUSIVE?

THE SECURITY SIGNIFICANCE OF JUDEA AND SAMARIA MOUNTAIN RIDGES

The Demise of Saddam Has Not Waived the Threat to Israel

The Mideast is the world's most violent and unpredictable region, which requires preparedness for the worst-case scenario, including an Eastern Front Assault on Israel.

In 1967 Israel crushed Egypt, Syria and Jordan, and grew over-confident that no Arab attack would be forthcoming. The 1973 War almost annihilated Israel.

Will the U.S. be able to stabilize Iraq? Will Bush retreat from Iraq? Will his successor (in 2005 or 2009) retreat from Iraq? A U.S. evacuation of Iraq could produce more terror than it intended to quell.

Judea and Samaria Mountain Ridges—Irreplaceable for Israel's Security

Missiles cause damage; they don't bring enemies to submission. There is a marked difference between a barrage of missiles on Tel Aviv, and the invasion of Arab tanks to Tel Aviv.

The centrality of ground forces suggests the centrality of ground features (Topographic edge and geographic depth).

The eastern mountain ridge of Judea & Samaria—rather than the Jordan Valley—constitutes the best tank obstacle in the world (3,000 foot steep slopes, controllable by a small force).

The western mountain ridge of Judea & Samaria (2,000 foot moderate slope overtowering Jerusalem, Tel Aviv and Haifa) constitutes an invader's dream platform. A withdrawal from Judea & Samaria would submit the Jerusalem-Tel Aviv-Haifa area (80 percent of the Israeli population) to daily terror.

The Judea & Samaria mountain ridges constitute the "Golan Heights" of Israeli's Soft Belly.

Until 1967, Israel limited Jordan's military presence in Judea & Samaria to 5,000, lest it become a lethal threat. The 40,000 armed Palestinian terrorists in Judea & Samaria amount to 4 brigades. A withdrawal from Judea & Samaria would make a 1973-style surprise Arab attack a lethal threat.

Technology Cannot Replace Ground Features

High-tech today becomes low-tech tomorrow, but high-ground today remains high-ground tomorrow.

Every high-tech system is eventually outflanked by an emerging system. The dominant mountain ridges of Judea & Samaria can never be outflanked by an emerging ground feature.

No nation alters its borders per technological developments.

HELP SENIORS RECOGNIZE THE BENEFITS OF THE DRUG DISCOUNT CARD

HON. MIKE FERGUSON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. FERGUSON. Mr. Speaker, today we are here to discuss the immediate savings that our nation's seniors realize due to the prescription drug discount cards provided by the Medicare Law that Congress wrote last year. After years of promises, this law fulfills our commitment to our nation's seniors by providing the first ever universal prescription drug benefit under Medicare.

One would think that these new benefits for seniors, coupled with the prescription drug discount card would be a cause for celebration. Rather than educate seniors on the benefits of the discount cards, the other side of aisle has continued to play politics with this issue and resorted to scare tactic towards our nation's seniors and in some cases suggest that seniors are too dumb to make decisions for themselves. There are even those who are discouraging seniors from signing up for the discount card. Perhaps because if seniors sign up, the program will be a success; that is not just wrong, it is unconscionable and shameful, and anyone who engages in that sort of behavior should be ashamed of themselves.

In my home state of New Jersey we have a very generous state pharmaceutical assistance program called PAAD. After working with our Governor and CMS, New Jersey has the opportunity to directly enroll seniors into the discount card program. Out of the 81,000 seniors and persons with disabilities who were eligible for the transition assistance provided by the discount card, only 350 opted out of the program. As a result of the discount card and our delegation's work to get this card to New Jersey's seniors, my state will save $90 million on the cost of prescription drugs. These savings can be put back into the PAAD program to provide expanded coverage for additional seniors. New Jersey is one example that I encourage more states to follow. By putting partisan politics aside, our delegation worked with CMS to provide a simple process which benefits our state and our state's seniors.

Defying logic, today and in the future, you will hear members on the other side of the aisle argue that the cost of prescription drugs will increase as a result of the discount card. For those members I would like to point to a May 14th study by CMS which shows that in the past week more cards have offered increase discounts for our nation's seniors compared to prices offered the previous week. Sponsors are now comparing their discounts to their competitors, more cards are offering favorable prices, and CMS is working with card sponsors to make sure that the best discounts are published for Medicare beneficiaries. This is what happens when competition is injected into the marketplace. That's how markets work. Some on the other side of the aisle would prefer a government run, command and control system where bureaucrats or politicians tell people what medicines they can have, how much they can have and when and where they can have it. That sounds more like the former Soviet Union to me.

Today you will also hear members who will criticize the pharmaceutical industry for charging too much for prescription drugs. Yet they will not mention the miracle drugs or treatments these companies create. Representing the scientists and researchers who live in my district of New Jersey, I would like to highlight the good work that two of the pharmaceutical companies are doing to help seniors. Once a low-income beneficiary has exhausted his or her annual $600 transitional assistance allowance, Merck and Johnson and Johnson will provide its medicines free to that beneficiary's participating discount card plan or directly to the beneficiary, through the pharmacy. Neither company will receive any fees from these programs.

In closing, I encourage all members to put aside partisan politics and help seniors recognize the benefits of the drug discount card. This can be accomplished by working with CMS to clarify any questions our seniors may have and allowing seniors to realize the discounts that are available to all seniors through the discount card.

NATIONAL SMALL BUSINESS WEEK

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, this is National Small Business Week; a time to celebrate and recognize America's small business entrepreneurs.

I honor our nation's 23 million small businesses and recognize their vital contribution to our nation. I want to especially thank my good friend, Congresswoman NYDIA VELAZQUEZ from New York and applaud my House colleagues for their hard work on behalf of small business. Additionally, I thank the many small business owners for their numerous contributions.

Small business is the backbone of our state and national economy. Unfortunately, many small businesses are suffering in these trying financial times. Government contracts and spending are a vital source of revenue, and have become even more so during this current economic slump. Small businesses lack high powered lobbyists, therefore it is imperative that all levels of government continue to pay diligent attention to small business in their purchasing and contracts. It is important that we ensure that businesses of all sizes have access to government contracts regardless of their ability to buy influence.

As Congress continues its work, I will dedicate myself to assuring that good news is on the way for small businesses. Both our federal and state government have an obligation to aid, assist and protect the interests of small businesses. The future of America depends on it. I will continue to strongly support federal programs that benefit small businesses.

OSTEOPOROSIS PREVENTION AND AWARENESS MONTH

HON. SHELLEY BERKLEY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Ms. BERKLEY. Mr. Speaker, May is Osteoporosis Prevention and Awareness Month. Osteoporosis and low bone density affects over 44 million Americans over the age of 50, many of whom were unaware of their risk for osteoporosis and were not able to take steps to prevent it. While both men and women are at-risk of developing osteoporosis, women comprise 80 percent of those who develop the disease. Even though the risk of a hip fracture for a woman is equal to her combined risk of breast, uterine, and ovarian cancer, most adult women are unaware of the risk factors for osteoporosis.

Like many Americans, I had no idea I was at risk for developing osteoporosis. I believed I simply had bad posture and was reluctant to be screened for osteoporosis. Yet, as I was running for Congress in 1998, I was diagnosed with this disease.

Fortunately, within 10 months of treatment I was able to stop my bone density loss and my bones actually began to strengthen again. Because of my personal experience with osteoporosis, I am committed to ensuring Americans are aware of the importance of strong bones, so they can reduce their chances of developing the disease.

I commend the National Osteoporosis Foundation (NOF) for their efforts to educate the public during the month of May. This month, the NOF has reached out to healthcare providers and consumers with the message, “Osteoporosis. Chances are . . . it could be you.” Throughout the year, the NOF is dedicated to promoting lifelong bone health in order to reduce the prevalence of osteoporosis and osteoporosis related fractures and they continue to work to find a cure for the disease through research, education, and advocacy. For all those who have this disease and those who may in the future, I will continue to work with and support NOF’s efforts to raise awareness of the risk factors and ways to prevent osteoporosis.

HONORING THE CREW OF THE USS “PITTSBURGH” FOR THEIR HEROISM IN WORLD WAR II

HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. VAN HOLLEN. Mr. Speaker, I am pleased to rise today to announce the introduction of a concurrent resolution recognizing and honoring the crew of the USS *Pittsburgh* for their heroism in World War II.

On March 19, 1945, the USS *Franklin*, as part of Task Force 58, launched an attack against Japan. The Japanese responded with an air attack against Task Force 58, striking the USS *Franklin*, killing 724 crew members and injuring 265 other crew members, and setting the USS *Franklin* ablaze.

The USS *Pittsburgh* was dispatched to assist the USS *Franklin*. The crew of the USS *Pittsburgh* performed outstanding feats of seamanship, including attaching a tow line to the flaming USS *Fry* and rescuing 34 of its crew members from turbulent waters. The USS *Pittsburgh* and the USS *Santa Fe* defended against two additional Japanese air attacks while towing and escorting the USS *Franklin* to safety.

As a result of their heroic actions in saving their ship, the crew of the USS *Franklin* was highly decorated, receiving awards of two Congressional Medals of Honor, five Gold Stars, 22 Silver Stars, and 250 Letters of Commendation, and becoming the most decorated crew in the history of the Navy. The crew of the USS *Santa Fe* received a Navy Unit Commendation.

However, the crew of the USS *Pittsburgh* has never been collectively honored or recognized for their heroism and bravery. Therefore, my legislation resolves that Congress recognizes and honors the crew of the USS *Pittsburgh* for their heroism on March 19, 1945, for rendering aid and assistance to the USS *Franklin* and its crew.

As we prepare to dedicate the new World War II Memorial, it is fitting that we recognize and honor the crew of the USS *Pittsburgh*. I am pleased to introduce this long overdue concurrent resolution.

INTRODUCTION OF THE NO CHILD LEFT BEHIND REFORM ACT

HON. ROB SIMMONS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. SIMMONS. Mr. Speaker, I rise before you today to introduce The No Child Left Behind Reform Act, which will make three basic changes to the No Child Left Behind Act. This bill was originally authored by my distinguished colleague from Connecticut, Senator CHRIS DODD was recently introduced in the Senate. The legislation I rise to introduce today is a House companion to this bill.

No Child Left Behind was passed in 2002 with bipartisan majorities in the House and Senate in an acknowledgement that the achievement gap among our nation’s children must be closed. Since its passage, I have made very deliberate efforts to communicate with educators who will be responsible for implementation of the law. Like most of them, I remain committed to the goals and the general strategy of the policy.

Toward this effort, I have established an Education Roundtable with whom I have met numerous times to discuss this reform. Through this Roundtable, I have met with more than 100 educators over the course of the last two years and have discovered that there are several common concerns. As a result, I am introducing this legislation in an effort to make the No Child Left Behind Act and even stronger educational tool. The legislation will meet the challenges brought to my attention by educators, administrators and parents who deal with these issues every day at the local level.

First, the No Child Left Behind Reform Act will allow schools to consider measures other than test scores when determining achievement. Currently, the law holds schools accountable for student achievement measured solely by scores on two tests administered on one day. It gives schools no credit for progress on other academic indicators, such as dropout rates, the number of students who participate in advanced placement courses, and measures of individual student improvement over time. This legislation will allow schools to be recognized for succeeding in these areas.

Second, the No Child Left Behind Reform Act will allow schools to target school choice and supplemental services to those students whose group fails to make AYP. Under implementation of the current law, if a school is in need of improvement it is expected to offer school choice and supplemental services to all students. This does not allow a school to target its resources to those who are most in need. By targeting those students in groups that fail to meet AYP, this legislation presents the most efficient way to maximize the effect of these resources.

Finally, the No Child Left Behind Reform Act provides flexibility to teachers looking to meet “highly qualified” standards. As it is, the law requires teachers to be “highly qualified” to teach every subject that they teach. This is certainly a necessary component to the law but some of the educators with whom I have met have expressed concerns. The problems arise for those teachers in the fields of math and science who are now required to become certified in various disciplines such as biology, earth science and chemistry. It also applies to teachers in rural middle schools who teach multiple subjects and are struggling to become certified in all of those subjects.

The legislation I am introducing today will allow middle grade level teachers who teach multiple subjects as well as math and science teachers to take one assessment test for all of the subjects they teach. Each state will determine what the test will consist of based on the needs of their state.

Mr. Speaker, these changes will provide significant assistance to schools in Connecticut and other states across the country currently struggling to comply with the No Child Left Behind Act. Clearly, we have encountered some unintended consequences of No Child Left Behind. If we are not able to restructure the law to address these issues we run the risk of losing the worthwhile goals that motivated the passage of this important legislation. I ask my colleagues to join me in support of the No Child Left Behind Reform Act.

TRIBUTE TO RONALD A. HELLBUSCH

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. UDALL of Colorado. Mr. Speaker, I rise today to pay tribute to Ronald A. Hellbusch, Director of Public Works and Utilities for the City of Westminster, Colorado. Ron is retiring after 32 years with the City. Combined with the 16 years as the City Manager of Brighton, Colorado, Ron has provided 48 years of dedicated service to these northern Denver communities.

Ron began his career at the City of Westminster as a seasonal laborer in the street, water, sewer and park divisions while finishing high school and college. In 1960, he was appointed as the assistant city manager for the City of Westminster and was instrumental in developing the city’s surface water supply system from its previous groundwater system when he was appointed water development coordinator by the City Council in 1963. Hellbusch left the City of Westminster in 1966 to serve as city manager for the City of Brighton, Colorado, where he served for 16 years.

He resumed his career with the City of Westminster in 1984 as the Director of Public Works and Utilities, directing the water distribution and wastewater collection systems, water and wastewater treatment, water supply acquisition, long range water supply planning and development, street operations and maintenance, street replacement and rehabilitation, and concrete replacement. The Department of Public Works and Utilities has 128 authorized employees, has an annual operating budget of more than $24 million, and a capital improvement project budget of approximately $7 million annually.

In 1996, Ron was selected as one of the American Public Works Association's 1996 Top Ten Public Works Leaders for his outstanding contributions to the public works profession. Ron also received the William E. Korbitz Award presented by the Colorado Chapter of the American Public Works Association at the 14th Annual Awards Luncheon in January 2000. He represented the city on various city and community groups including the Woman Creek Reservoir Authority Board, American Public Works Association Colorado Chapter and National Committees including the Leadership and Management Technical Committee, State Water Supply Initiative (SWSI) Roundtable Board Member, and the Colorado Water Congress serving as its president in 2003.

In the community, Ron has served the Westminster Presbyterian Church as a ruling elder and as the chairman of the Church's corporate affairs committee. Also, Ron chaired the stewardship committee over a four-year period and was a Sunday school teacher. In addition to the Westminster church activities, Ron was active during his years in Brighton, Colorado, both in the Presbyterian Church and community.

Ron's accomplishments with his Public Works and Utilities team include acquiring and developing a long-term, build-out water supply; the reclaimed water program; the completion of the Standley Lake dam renovation in collaboration with the cities of Northglenn and Thornton; employee driven quality service/competitive service program; the long-term street improvement strategy plan; utility planning and funding; developing a highly motivated and skilled employee team; encouraging innovation in membrane water treatment; use of technology in utility planning; a department-wide maintenance management program; numerous intergovernmental and regional cooperative agreements on water and public works programs; outsourcing programs such as street sweeping an annual trash pickup; and employee success in numerous national awards for programs and facilities, including recognition by the American Public Works Association, American Water Works Association, Water Environment Federation and the Denver Regional Council of Governments.

Ron has also been involved in the cleanup and closure of the former Rocky Flats nuclear weapons facility just west of Westminster. For the past couple of years he has represented the City on a number of issues associated with the cleanup of this site, protecting surrounding drinking water supplies, ensuring worker safety, and with the site's future use. He was an early and strong supporter of preserving the acres of open space and wildlife habitat that exist on this site. He was instrumental in helping win the support of the neighboring communities for the Rocky Flats National Wildlife Refuge Act so that this site could become an asset not only to the citizens of Westminster, but all of the surrounding communities.

Ron is an example of the important role that our local officials play in maintaining and enhancing the quality of life for our Nation's citizens. His dedication to his community and collaboration with neighboring communities stands as a shining example of the rewards that come from such service—not only to the community leader, but the lives touched by that service.

As Westminster City Manager Brent McFall stated, "Ron Hellbusch has had a distinguished career with the City of Westminster and in the field of public works and utilities. He is nationally recognized as a leader in public works and as a water and wastewater provider. His shoes will be very hard to fill. We appreciate Ron's efforts over all these years on behalf of Westminster. He will be missed."

I join Manager McFall in those comments. In Ron's retirement letter to City Manager Brent McFall, he indicates that "there are streams and lakes not fished, outdoors to explore, stories to write, vistas to photograph, music to enjoy, books not read and tennis games to play. . . it is time to retire." That may be true and I am envious of the opportunity he now has to enjoy those activities. But we cannot forget that Ron helped enhance the lives of people who live, work and raise a family right there in Westminster and Brighton.

I wish Ron well in his retirement and know that he will stay engaged in community affairs no matter where his retirement may take him.

CONGRATULATIONS TO BRYAN SCOTLAND, RECORD-BREAKING CHAMPION

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. PAYNE. Mr. Speaker, it is with great pride that I rise to ask my colleagues here in the U.S. House of Representatives to join me in offering congratulations to an outstanding young man from St. Benedict's Preparatory School in Newark, New Jersey, Bryan Scotland, who set a track meet record in the 1600 meter run on May 14th. During the first day of the Essex County Track and Field Championships at Woodman Field in Montclair, New Jersey, Bryan made a spectacular finish in 4:17:88. On the following day, he also won the 800 meter run.

Not only is Bryan an accomplished athlete, he is an excellent student and a young man of the highest character. He is a credit to his school, St. Benedict's Prep, which has an outstanding academic reputation under the leadership of the Headmaster, Edwin Leahy, fondly known by all as "Father Ed." Opened by Benedictine monks in 1857, the school closed for a period of time in 1972 after demographic shifts in Newark, but thankfully reopened its doors a year later and remains strongly committed to the education of our local youth.

I am proud that I chose Bryan to come to the U.S. House of Representatives to serve as a page during the summer of 2003. He distinguished himself in that position through his diligence and his dedicated service to this institution.

Mr. Speaker, I know my colleagues join me in honoring this talented and hardworking young man with such a bright future ahead of him. Let us offer our congratulations and best wishes to Bryan and his proud parents, Diane and Glen Scotland of Glen Ridge, New Jersey.

COMMEMORATING THE RETIREMENT OF RON BEATON

HON. ED WHITFIELD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. WHITFIELD. Mr. Speaker, I rise today to honor Mr. Ron Beaton of Paducah, Kentucky on the occasion of his retirement from WPSD–TV after 29 years of distinguished work and community leadership.

Ron has been a public face and trusted figure in Paducah and the surrounding area since he began working at the television station in 1975. He started out as an intern with WPSD immediately after graduating from Lone Oak High School and has been an on-air fixture ever since. After working on weekends and during the summers while attending Murray State University, Ron has served as a reporter, producer, anchorman, and managing editor.

As his colleagues and viewers readily attest, Ron has handled all types of news stories with professionalism and sensitivity. His coverage of political events, including ten Presidential and Vice-Presidential visits to the region, has garnered well-deserved accolades. In addition, Ron's dignified and caring manner has served the community well during trying times, such as the tragic shootings at Heath High School in 1999 and the deadly tornadoes that ravaged Kentucky, Illinois, and Missouri last spring.

Spending one's entire career at a single station, as Ron has done, is increasingly rare in the competitive television news business. Despite opportunities to move to larger and more lucrative markets, Ron decided to keep his career and family in the town he knows and loves. WPSD's viewers in western Kentucky, southern Illinois, southeastern Missouri, and northwest Tennessee have been fortunate to have welcomed Ron into their living rooms for so long.

My constituents have further benefitted from Beaton's service in ways that reach well beyond the television studio. Ron and his colleagues at WPSD have worked with the Lion's Club Telethon of Stars and the Easter Seals for decades to raise millions of dollars for children with disabilities. His work with the popular "Fugitive Files" news segment has led to over 200 suspects apprehended and at least as many communities made safer. Ron has been an active spiritual leader and teacher in his home church of Trinity United Methodist in Paducah and many other congregations. The financial counseling he has provided, both on the air and through the Money Matters financial planning business he will now attend to full-time, has helped many families reach goals they never thought attainable.

Finally, Mr. Speaker, I would like to commend Ron for the positive example he has been for us as an anchorman, businessman, community leader, husband, and father. Tonight, when he signs off with his trademark "Tomorrow's Friday!" for the second-to-last time, he will remind us all that despite the dour outlook that prevails in much of the news media today, there is still much to be happy about in Paducah and places like it all across America. It is with great pride that I represent Ron in Congress and enjoy having his son, Benjamin, on my staff here in Washington. I am honored to bring his accomplishments to the attention of this House.

OSCODA WWII VETERANS' RECOGNITION DAY

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. STUPAK. Mr. Speaker, as our nation prepares for the dedication of the National World War II Memorial next weekend, I rise to join my constituents in paying solemn tribute to the nearly 200 World War II veterans of Iosco County, Michigan. Each and every one of these veterans deserves our continued gratitude for their service, for their sacrifice, and for their leadership.

On May 29th, the residents of Iosco County will celebrate these members of the greatest generation with a parade, ceremony, and luncheon marking Oscoda World War II Veterans Recognition Day. This day has an added significance: together they will also be watching the dedication ceremony in Washington, DC for the National World War II Memorial. I am fortunate that I will have the honor of participating in this event, and will have the chance to thank these veterans in person for the sacrifice they made for our freedom 60 years ago.

I am especially pleased that this event is focused on those veterans that are still with us. On Memorial Day, our nation rightly honors those who made the ultimate sacrifice in the cause of preserving liberty. But we too often forget to thank those who came home to careers and family and civic leadership. By the grace of God they returned home, but this does not diminish their service and sacrifice. Indeed, their leadership and example since have put us further in their debt.

Mr. Speaker, as we all know, the World War II generation, and especially those who fought so bravely in Europe and the Pacific for the freedom we enjoy today, are deserving of our highest honor and deepest gratitude. We must never forget their sacrifice and their courage. I therefore ask that the House join me in paying tribute to that greatest generation, and especially to those who will be at the Oscoda World War II Veterans Recognition events.

HONORING LYNDA MINTER OF NUCOR STEEL-TEXAS

HON. JEB HENSARLING

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. HENSARLING. Mr. Speaker, the success of American companies is usually measured by market share, the strength of the balance sheet and the quality of goods and services that they produce. But many times, we can also look to the quality of a company's employees to find the true secret to their success.

Nucor Steel-Texas, which is located in Jewett, Texas, in the Fifth Congressional District, is a major economic driver in Leon County and the state of Texas. For almost 24 years, Lynda Minter has served Nucor Steel-Texas and will soon retire as Controller. Lynda's colleagues have told me that Nucor Steel-Texas' success is inseparable from her legacy of careful financial management and her superb relations with employees, Nucor leadership and with state and local community leaders.

Lynda has been characterized by her coworkers as a pillar of the mill's success, and those who know her best have testified that her kind manner, deep understanding of Nucor's business and fair dealing have been instrumental in Nucor Steel-Texas' continued growth and achievement. Her colleagues tell me that Lynda has offered Nucor Steel-Texas a steady hand, a keen intellect and a long-term devotion to service for over two decades.

I want to take this opportunity to recognize the contributions of Lynda Minter, and I want to wish Lynda all the best as she embarks on this new phase of her life.

NATIONAL SMALL BUSINESS WEEK

HON. JUANITA MILLENDER-McDONALD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Ms. MILLENDER-McDONALD. Mr. Speaker, I rise to recognize the Small Business Administration, its employees all over the nation and its resource partners during "National Small Business Week."

Mr. Speaker, small businesses play a vital role in our nation's economy. Many people have heard the phrase that small business is "the engine of our nation's economy," and perhaps no truer words have ever been used to describe how important the entrepreneurial spirit and dedication of the approximately 23 million small businesses are to the continued health and welfare of America.

Small businesses represent 99.7 percent of all employers, employ half of all private sector employees, generate 60 to 80 percent of net new jobs annually, and make up 97 percent of all exporting firms.

American small businesses are extremely diverse, and despite the current economic climate, some are thriving. In particular, female participation in business ownership has been climbing in recent years. Women now own around 40 percent of all small businesses and are growing at twice the rate of other small firms. In fact, the 9.1 million women-owned small businesses in this country employ 27.5 million people and add $3.6 trillion to the economy.

About 5.8 percent of small businesses are owned by Hispanic Americans, 4.4 percent by Asian Americans, and 4 percent by African Americans.

As the Ranking Member of the Subcommittee on Tax, Finance and Exports, I have long been an advocate for a level playing field for small businesses.

I have introduced legislation, HR 2374, which would allow minority small business owners participating in the Small Business Administration's 8(a) minority contracting program into teaming, leader-follow arrangements and joint ventures.

I have also authored legislation, HR 2375, that would change the IRS Code to allow small business owners to offer their employees greater savings opportunities under SIMPLE (Savings Incentive Match Plan for Employees) IRAs.

Finally, I have introduced HR 3099, legislation that would give the SBA authority to make loans to nonprofit day-care centers. This bipartisan measure helps not only non-profit small businesses, but gives parents a viable daycare option as they work during the day.

Mr. Speaker, small businesses are indeed the engine that makes our economy run smoothly, and I urge all my colleagues to take a moment this week and reflect on the hard work of our nation's entrepreneurs, the financial and regulatory hurdles they face everyday, and the measures I have proposed to make the full-time job of running a small business easier.

HONORING GUAM'S MANAMKO' DURING SENIOR CITIZENS MONTH

HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Ms. BORDALLO. Mr. Speaker, I rise today to pay tribute to the senior citizens of Guam who are celebrating a special month dedicated in their honor. I stand to commend and show appreciation for all they have contributed to our island of Guam, its people, and our Nation as a whole. I rise to pay tribute to them for teaching and imparting to our people a sense of patriotism and unwavering loyalty to this great Nation and American Democracy.

Guam's senior citizens lived through the horrific experience of World War II on the only American soil occupied by an enemy force. Through it all, the people of Guam never lost faith in America. Always defiant and proud, their solemn hymn was "Uncle Sam, won't you please come back to Guam." After the war, these proud Americans taught their children a love of democracy and freedom that carried them through battlefields in the Korean War, the Vietnam conflict, the Persian Gulf and now, the global war on terrorism.

With this deep love of freedom and country, Guam's seniors were always the pillars of our island community. Through them the beautiful Chamorro culture is passed on to younger generations. They keep our island traditions, our language, and our ways of life alive and vibrant. They have taught our children the love of nature, the love of God and the love of family and neighbor and in so doing, ensure that our heritage will survive.

Mr. Speaker, I honor the seniors of Guam, proud citizens who have participated in the growth of Guam as a showcase of American democracy in the Pacific. May every American remember and give honor to the forefathers who shaped this wonderful country and who were the architects and builders of a nation founded in the love of freedom and the inalienable rights of humanity. During this month dedicated to seniors, let us all honor these great Americans and say "thank you."

CELEBRATING THE CENTENARY OF HADDON HEIGHTS, NEW JERSEY

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. ANDREWS. Mr. Speaker, I rise today in celebration of the centenary of Haddon Heights, New Jersey. My family and I are privileged to live in Haddon Heights, a small town located in southern New Jersey just outside Camden and 7 short miles from downtown Philadelphia. While its proximity to one of the largest and most vibrant metropolitan centers in the country makes Haddon Heights a culturally diverse and enriched community, the town is also a world removed from the bustle of the city, reflecting values and a sense of community characteristic of small towns far removed from our urban centers.

Haddon Heights was first settled in 1699 when John Hinchman built a one-room brick house. However, the borough was developed primarily as farmland, divided between crops and orchards for nearly 200 years. The borough was named Haddon Heights because of its proximity to Haddonfield and its high elevation.

During the late 1890s, the town's first homes, church, rail station, and a general store were constructed, and by 1904, Haddon Heights had become large enough to incorporate as a borough. The town's residents elected Benjamin A. Lippincott as the town's first mayor.

Viewed as a resort town because of a direct rail connection to Philadelphia, its proximity to the lake, and the warmth and friendliness of its small town atmosphere, the population of Haddon Heights swelled during the summer months as vacationers escaped the cities. The rail station served as the hub of the town, and a small downtown began to emerge surrounding the railroad that brought the town's visitors.

Rail passenger service ended in 1965, but Haddon Heights retains to this day a character reflective of its roots as a rail town at the turn of the 20th century. Haddon Heights has a proud, rich heritage, which we continue to embrace and celebrate as we look to our shared future. I feel privileged to be a part of the Haddon Heights community, and I can think of no better place today, to raise a family or to be a child growing up. So in celebration of the past 100 years, and in anticipation of the many great things to come from our town in the next 100 years, please join me in honoring Haddon Heights, New Jersey, on the celebration of its centenary.

IN HONOR OF WOMEN IN THE ARMED FORCES

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mrs. MALONEY. Mr. Speaker, I am pleased to join my colleagues today to honor the thousands of courageous women of the United States Armed Forces. In particular, I am pleased to honor the 5 courageous women who were chosen to be honored by the Congressional Caucus for Women's Issues at the 7th Annual Wreath Laying Ceremony at Arlington National Cemetery. These 5 women are:

Command Sergeant Major Debra Strickland of the United States Army;

Master Chief Storekeeper Kelly D. Williams of the United States Navy;

Chief Master Sergeant Margaret C. Burgess of the United States Air Force;

Sergeant Major Barbara J. Titus of the United States Marine Corps;

Senior Chief Store Keeper Corzetta "Cozy" Calloway of the United States Coast Guard.

I join my colleagues in commending these women for their bravery and self-sacrifice.

Today, women are making great contributions to our military. There are approximately 212,000 women serving the United States in the Armed Forces, including 33 women generals. For the past 10 years, women have served in combat positions. As women become a larger presence in all areas of the United States military, like their male colleagues, they are risking their lives for our country. As of April 30, 18 United States women soldiers have died in Iraq. This is a higher number of female casualties in any war since World War II. We all owe a great debt to our servicewomen who have made the ultimate sacrifice for our country.

Today, as many women in uniform are deployed overseas, it is especially appropriate to honor them and show that their service to our country is greatly appreciated and respected. It is an honor for me to recognize the worthy accomplishments of these particular 5 outstanding military women, those servicewomen who have died in service to our country, and all of the women who currently serve or have served in the United States military.

COMMEMORATING THE 150TH ANNIVERSARY OF RELATIONS BETWEEN THE UNITED STATES OF AMERICA AND JAPAN AND THE CONTRIBUTIONS OF DR. HIRO KURASHINA

HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Ms. BORDALLO. Mr. Speaker, I rise today to commemorate the 150th anniversary of the beginning of relations between the United States of America and Japan. One hundred and fifty years ago, Commodore Perry opened the doors of a country and started a relationship that would eventually grow into an alliance between two of the largest economies in today's world. A country which had largely isolated itself from the rest of the world, Japan, in a very short span of a century and a half, now has a strong international presence as a strong ally of the United States and advocate for freedom and democracy in the world.

Today, America and Japan enjoy strong trade relations, economies that support each other, and equally as important, social and cultural ties that bridge the Pacific Ocean and span differences in languages and custom. The alliance between Japan and America is strong and stable. We both fiercely defend freedom and democracy and we both promote human rights in the world.

The friendship between America and Japan is magnified and continually strengthened by its peoples and their willingness to work with each other for the common goal of improving the quality of life for all citizens of the world. Both America and Japan freely extend helping hands to each other and to the most needy of the world. Both America and Japan use their combined economic might to cure disease, feed the hungry and explore the unknown in search of greater knowledge and resources.

In these efforts certain citizens of both of our great nations shine and become role models for all of other citizens to emulate. Dr. Hiro Kurashina is such a man. Motivated by the desire to make a better future by learning from the past, Dr. Kurashina, a native of Japan, has devoted many years to the development of the Micronesian Area Research Center, the premier archive and repository of the history of the Pacific Islands and its people. Dr. Kurashina's work has helped to ensure that the story of the islands will always be preserved and promoted among its peoples and shared with the world.

Through these efforts, Dr. Kurashina has created a strong bond between Japan and the islands of Micronesia and through his efforts, the University of Guam has become an active participant in the growth of knowledge about this region and its people. Dr. Kurashina has contributed greatly to making the University of Guam a valuable resource for Guam, Micronesia, and the world at large.

I consider it an honor to take this opportunity to praise Dr. Kurashina for his work and to thank him for all that he has done for our islands and people and all that he has done to continue the strengthening of the bonds between Japan, America and the islands of the Pacific.

PERSONAL EXPLANATION

HON. J. D. HAYWORTH

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. HAYWORTH. Mr. Speaker, on May 18, 2004, I missed a series of rollcall votes in the House of Representatives because of a family obligation that required my presence in Arizona. Had I been present, I would have voted "yes" on rollcall Vote Nos. 188, 189 and 190. I would have voted "no" on rollcall Vote No. 187.

IN OPPOSITION TO INCREASED FUNDING FOR NATIONAL MISSILE DEFENSE

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. HOLT. Mr. Speaker, last week, I joined several distinguished experts in the Union of Concerned Scientists (UCS) to commend them for the public release of their very timely, and much-needed study on the oversold and misguided National Missile Defense. It is entitled "Technical Realities: An Analysis of the 2004 Deployment of a U.S. Missile Defense System".

Sadly, Congress keeps shoveling ever greater amounts of taxpayer funds into this wasteful, dead-end program that adds nothing to our real national defense. In FY 2003, President Bush requested $7.8 billion, Congress authorized $7.78 billion and appropriated $7.62 billion. In FY 2004, the President requested $9.1 billion, Congress authorized $9.08 billion and appropriated $8.9 billion. Now, in FY 2005, the President has requested $10.2 billion. This bill authorizes that full amount, an increase of $1.1 billion or 13 percent more than the current level. It includes funding for the initial deployment of an untested national missile defense system based in Alaska and California.

To put it bluntly, our country can't afford spending upwards of $10 billion per year for a bogus missile defense program.

First of all, many of our Nation's leading physicists view midcourse defenses as absurd. They have long believed mid-course defenses are easily defeated and won't work for fundamental physics reasons.

Second, the truth is pure politics is driving this deployment. On December 11, 2002, the last intercept test of the missile defense system failed. No tests have taken place since then. Nevertheless, on December 17, 2002, President Bush announced his decision to deploy missile defenses in 2004.

Sometime after the President's announcement, the Missile Defense Agency (MDA) cancelled or postponed every test scheduled since the speech. Nine tests have been cancelled.

Despite these cancellations, the schedule for deployment has actually moved up. President Bush simply announced deployment "in 2004." Pentagon official subsequently set a deadline of September 30, 2004. The MDA has stated "as early as this summer" for initial operations. Bush Administration officials still maintain that this is an "eventdriven" program, where results of tests and simulations determine how the program progresses.

Instead, it seems to be schedule-driven. a return to the "rush to failure" approach that Lt. Gen. Larry Welch warned about during the Clinton Administration.

The current focus of the SDI Program is wrong. As we have witnessed in other national security matters, the Bush Administration appears hell-bent on deploying missile defense, regardless of whether it works. Before taking office, George W. Bush campaigned on the issue of missile defense. As has been highlighted in Richard Clarke's book and elsewhere, before the 9/11 attacks, the foreign and defense policy of the Bush Administration was focused not on terrorism, but on missile defense.

Post-9/11, while it should be clear that the real threat is terrorism, the missile defense program has only sped up, and funding has steadily increased. Regrettably, this bill is now brought to the House under a restrictive and no amendments pertaining to the SDI have been made in order to allow debate and votes to cut funding for missile defense or calling for realistic, operational testing before deploying more interceptors. Apparently, no dissenting votes will be tolerated and this Congress will do nothing to stop the Bush Administration from declaring some system operational some time this year.

Many SDI supporters argue that any missile defense is better than none. However, the current situation we face maybe worse than nothing. While the currently constituted SDI system will offer no real defense, Bush Administration officials often claim it will be highly effective and will give the President "more options." But it will not work well enough to affect our military posture and will only make potential enemies nervous and lead them to take offensive steps to overcome it. It may push Russia and China to maintain, improve and expand their nuclear arsenals.

When weighing the pros and cons of rushing to judgment on SDI deployment, we would do well to remember the advice and counsel of Richard Feynman, one of our Nation's greatest thinkers and most distinguished scientists: "For a successful technology, reality must take precedence over public relations, for Nature cannot be fooled."

IN HONOR AND MEMORY OF KELLY SHEA GALLO

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Ms. ESHOO. Mr. Speaker, I rise today to honor Kelly Shea Gallo, the beloved wife, mother and teacher who lost her young life to breast cancer on May 3, 2004. Throughout her illness she was an inspiration to others, remaining strong despite the ordeal she was undergoing. Shortly after being declared cancer free, the disease recurred and she died at a San Francisco hospital, surrounded by her family.

Kelly Shea Gallo was a sixth grade teacher, a basketball, volleyball and softball coach and a swimming teacher. As the San Mateo Times said of her, "she brought cheer into the lives of those she met. Her infectious smile brightened classrooms and endeared her to the dozens of pupils who had the honor of sharing even a moment of her brief life." The Principal of Taylor School, where she taught, remembers her as the culture and spirit of the school, a teacher who had a unique and natural rapport with her students.

Kelly Shea Gallo was born in San Francisco and was raised in South San Francisco and Millbrae. She was a graduate of Mercy High School, California State University, Chico, and earned her teaching credential from San Francisco State University.

Kelly was the loving mother of Mia, age 7, and Chloe, age 3, and the devoted wife of Mark Gallo, whom she met and married in 1995. She leaves behind her loving parents, her brothers and her sister, as well as aunts, uncles and cousins.

Mr. Speaker, I ask my colleagues to join me in extending our deepest sympathy to Kelly Shea Gallo's family. She was a treasure and a shining light and will be missed by all who knew her. Our community will long remember her as an extraordinary educator and a good and great woman.

SENATE—*Tuesday, June 1, 2004*

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Lord of time and eternity, You have presented us with the gift of another day. With wonderful fairness, You have given each of us the same number of hours and minutes. Forgive us when we abuse this gift by preoccupation with yesterday and anxiety about tomorrow. Remind us to tackle today's challenges and leave the past and the future to You.

Bless our Senators in their work. Give them understanding and courage to act on their convictions. When they are tempted to doubt, strengthen their faith. Order their lives by Your unfolding providence, and enable them to use the gift of time to work so that peace will reign in our world.

Bless our military and all who daily risk their lives for liberty. Sustain the families of these heroes and heroines and hasten the time of reunion. We pray this in Your mighty Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, the Senate returns to business today following the Memorial Day recess. I hope everyone had a safe and productive break.

Today, we will be in a period for morning business until 12:30 p.m., with the time equally divided between both sides of the aisle. At 12:30, we will recess until 2:15 p.m. for the weekly Republican policy luncheon. I understand the Democratic policy luncheon will occur tomorrow.

As a reminder, prior to the Memorial Day break, we tried to reach consent to begin consideration of the class action fairness bill. I reiterate that it has always been my hope we could finish the Defense authorization and the class action bill in a reasonable and timely way. Unfortunately, after spending a week on the Defense authorization bill we were still unable to reach an agreement for an amendment limitation.

In addition, there was an objection to proceeding to the class action fairness measure. A cloture vote is currently scheduled for 5:30 p.m. today on the motion to proceed to the class action bill. I hope it will not be necessary.

I will be talking with the Democratic leadership to see if we can find a way to finish the Defense authorization bill and begin the class action fairness bill without unnecessary delay.

We need to reach an agreement on how and when we will complete this important Defense authorization bill, and then we will begin the class action bill without the need for cloture.

I hope to announce shortly that we have reached an agreement for vitiating the 5:30 p.m. vote and that we will continue on the Defense bill with the expectation that Members will cooperate with the two managers to allow us to finish this Defense authorization bill.

I also should remind my colleagues that we will continue to work on judicial nominations as we proceed forward. I will be setting votes on those nominations each day. If we are able to vitiate the cloture vote today, we will schedule a vote on a judicial nomination today in its place as we will have a vote at 5:30 p.m. today.

Again, I will announce the voting schedule shortly.

Finally, we have 4 weeks during this legislative period. We have a lot to accomplish over that period of time. I hope we can use our time efficiently and get our work done.

DRUG DISCOUNT CARDS

Mr. FRIST. Mr. President, I also very briefly want to comment on the drug discount cards that are being made available and which take effect this month. This is June 1 and they take effect beginning today.

The discount cards, as my colleagues know, are a product of legislation signed by the President last December. The reality is that we have seniors today who are literally choosing between paying for their rent and paying for their food and obtaining prescription drugs.

One of the objectives set out in this piece of legislation and set out by the President of the United States was that we need to get help to those people who need help the most in terms of their prescription drugs. Thus, although this is a more comprehensive approach, affordable access to prescription drugs for seniors does not begin to take place for about a year and a half from now. I am delighted that just several months after passage of this bill and the signing into law by the President these prescription drug cards are available. They are available today, and they will have an impact today.

There are a couple of quick points that I would like to make: First of all, they are available to all Medicare enrollees who lack prescription drug coverage.

Second, the card itself will give a discount on average of about 17 percent. Seniors who do not have access through affordable access to prescription drugs can get these cards and on average get a discount of about 17 percent, which is a huge discount that can start literally today.

Third, and what I am most excited about, those seniors who really need it the most and who simply can't afford prescription drugs will get a value on this card in addition to the 17-percent discount of $600 for the remainder of this year, and another $600 for next year. Thus, over the next 18 months they will get $1,200 in value, like a voucher, to purchase prescription drugs.

Again, that is a huge benefit for the millions of seniors who qualify for this low-income benefit as well. There are about 4 million low-income seniors whose incomes do not exceed the $12,500 level for individuals and about the $16,800 level for couples and who can have this direct and immediate benefit with this card.

I am very excited about the fact that these cards are available. They are available today. You can call the 800 Medicare number or go on the Medicare Web site to get more information.

With that, I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business until the hour of 12:30 p.m., with the time equally divided between the majority leader, or his designee, and the Democratic leader, or his designee.

Who seeks recognition?

The Senator from Colorado.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

MEMORIAL DAY

Mr. ALLARD. Mr. President, my wife and I, during the Memorial Day break, had a wonderful, patriotic week. It is always good to get back to the regular schedule. We started out visiting Fort Carson just south of Colorado Springs, CO, and had an opportunity to welcome home the 3rd Armored Calvary Regiment of Fort Carson, the Mountain Post.

Having done that, we met with a number of constituents after flying back to Washington, DC, to meet with hundreds of Coloradans who decided to come to Washington, DC, to celebrate the Memorial Day weekend here and to celebrate the opening of the World War II Memorial, which was a long time in coming.

It was a great time. My wife and I were both caught up in the enthusiasm of both generations—the current generation fighting for freedom and security in Iraq, and the past generation, the World War II generation who fought and literally changed the world because of their efforts, dedication, and heroism during World War II. We were caught up in the enthusiasm of the World War II generation and found ourselves dancing to music of that era, having a wonderful time, meeting many wonderful Coloradans who were obviously excited about the fact they could come to Washington, DC, and celebrate the opening of the World War II Memorial.

THE 3RD ARMORED CAVALRY REGIMENT

I rise today to commend the 3rd Armored Cavalry Regiment for its long history of service to our Nation and for its more recent heroic accomplishments in Iraq.

Last week, I had the opportunity to attend a welcome home ceremony for the 3rd Armored Cavalry Regiment at Fort Carson, CO. Unlike most welcome home ceremonies, this one was steeped in tradition.

Few units in the U.S. Army can claim as distinguished history as the 3rd Armored Cavalry. And, even fewer have had so many of its soldiers awarded medals for valor on the battlefield.

The 3rd Armored Cavalry's service to our country did not begin in Iraq, or during World II. Indeed, not even in the past century. Rather, it began on May 19, 1846, by an Act of the 29th Congress of the United States. On that date, Congress authorized the creation of a regiment of mounted riflemen for the purpose of establishing military stations on the route to Oregon. Unbeknownst to Congress, this regiment would go far beyond this limited mission in its service to our country.

A year after its creation, in 1847, the 3rd Armored Cavalry Regiment, then called the Mounted Riflemen, was sent into battle in the Mexican-American War. Leading the assault on the fortress of Chapultepec, a key citadel outside Mexico City, Mounted Riflemen charged through heavy cannon fire to seize the castle and capture an enemy artillery battery.

Later in the war, the Mounted Riflemen were sent to capture another enemy artillery battery halfway to the Belen Gate outside Mexico City, and then on to capture a third battery in the assault on the gate itself. It was extraordinarily successful in all three assaults.

General Winfield Scott, the Commander of U.S. forces during the Mexican War, was so impressed with the bravery and toughness of the Mounted Riflemen that he gave this commendation:

> Brave Rifles, veterans—you have been baptized in fire and blood and come out with steel. Where bloody work was to be done, "the Rifles" was the cry, and there they were. All speak of them in terms of praise and admiration. What can I say? What shall I say? Language cannot express my feelings of gratitude for your gallant conduct in this terrible conflict . . .

Due to the bravery of their service, 11 troopers were commissioned from the enlisted ranks and 19 officers received brevet promotions for gallantry in action.

At the time of the start of the Civil War, the First Regiment of Mounted Riflemen was redesignated as the 3rd U.S. Cavalry Regiment. During the war, the 3rd Cavalry Regiment fought at the battle of Chattanooga, and in minor battles in New Mexico, Alabama, Tennessee, and Arkansas. During the campaign in New Mexico, the 3rd Cavalry Regiment fought alongside the 1st Colorado Infantry Regiment, and Colonel "Kit" Carson, who commanded the 1st New Mexico Infantry Regiment.

Following the Civil War, the 3rd Cavalry Regiment was sent to the American West to the fight in the Indian Wars. The experiences of the Indian Wars were traumatic and brutal for the troopers of the 3rd Cavalry Regiment, but they continued on. During the largest battle of the Indian Wars, the Regiment again distinguished itself. Four 3rd Cavalry troopers received the Medal of Honor for their heroism during the battle.

In 1898, the regiment's mettle was again tested in the Spanish-American War. The 3rd Cavalry regiment, along with five other regular U.S. Cavalry regiments, was given the nearly impossible mission of assaulting the hills surrounding San Juan in Cuba. In the dismounted attack, the 3rd Cavalry Regiment's U.S. Flag was the first to be raised on the point of victory.

With the turn of the century, armies began to turn to mechanized warfare. It was not until World War II, however, that the 3rd Cavalry Regiment was reorganized and redesignated as the 3rd Armored Group and sent to the European theater.

The troopers of the 3rd Cavalry group became the spearhead of General Patton's drive across German-held France. In fact, because this unit was everywhere and nowhere at the same time, it was nicknamed the "Ghosts" by the Germans. And, on November 17, 1944, the 3rd Cavalry Group became the first element of Patton's army to enter Germany.

At the war's end, the unit received high praise from its commanding general. General Patton commented with these words:

> The 3rd Cavalry has lived up to the accolade bestowed upon it at Chapultepec by General Scott. As horse cavalry you were outstanding; I have never seen a better regiment. To your performance as mechanized cavalry, the same applies. It is a distinct honor to have commanded an army in which the 3rd Cavalry served.

During the Persian Gulf war in 1991, the 3rd Armored Cavalry Regiment again distinguished itself on the field of battle. On February 22, 1991, the Regiment led the U.S. forces across the Iraqi border. One hundred hours later, the regiment had moved over 300 kilometers north and left the remnants of three Iraqi Republican Guard divisions in its wake.

The purpose of reviewing the storied past of one of Army's most famed units is for each of us to understand just how important it was to these troopers that they live up to the unit's reputation in battle during Operation Iraqi Freedom.

Unlike past conflicts, Operation Iraqi Freedom was, for the 3rd Armored Cavalry, a battle of a different kind. It was for the hearts and minds of the Iraqi people. It was securing the peace and preventing terrorist attacks. It was for rebuilding a nation devastated by war, brutality, and corruption.

The regiment was responsible for controlling about a third of Iraq, including the hostile cities of Ramadi and Fallujah and Iraq's western borders with Saudi Arabia, Jordan, and Syria. Yet, the troopers performed their mission with excellence. They were determined in the face of opposition. They overcame unforeseen challenges. They worked as never before.

They also cared deeply about the Iraqi people. In one case, the regiment helped three rural villages in rebuilding their decimated communities. The troopers worked alongside families repaired and reconstructed facilities damaged and neglected for 30 years under the former regime. Schools, medical clinics and houses were rebuilt so that children could return to school and health care could be provided to all.

In other cities, troopers from the regiment helped build sewer and water projects, rebuild schools, and provide clothes, blankets, and food to needy adults and children.

These are only a few examples of the outstanding work these troopers did in Iraq. And, now, as these troopers reflect upon their service, they can say with pride that they accomplished their mission and made a difference in the lives of the Iraqi people.

However, their service did not come without a high cost.

PFC Armando Soriano joined the Army so that he could help his parents, who had immigrated to the United States in the 1980s. His goal was to save enough money to buy his parents and his four siblings a house.

Yet, it was his love for his comrades that made him stand out, and as a result, he became one of the best young soldiers in the 3rd Armored Cavalry. At 5 feet 6 inches, PFC Soriano weighed barely more than the 100-pound artillery shells he hefted as part of his job driving a 155 mm cannon through Iraq.

But that didn't stop him. He was faster than any of his comrades in lifting these huge shells.

He was known in the unit as a soldier who would do anything for his fellow troopers. He was always positive and kept everyone going despite the tough conditions. His fellow soldiers described him as "simply the best."

Sadly, PFC Armando Soriano died on February 2, 2004, in a truck accident in Iraq.

SP Brian Penisten, one of the unit's best mechanics, loved fishing, fixing cars and woodworking. He was a devoted family man with a 4-year old son. And, he was proud that he got to wear the uniform of the United States Army.

"He could make us look forward to doing our jobs every day," according to one of his fellow soldiers. "He would be the one to make us shine and laugh and cry and everything else."

"He was always doing something to make things better," said another.

SP Brian Penisten was headed home for his wedding to his longtime girlfriend when his transport helicopter was shot down on November 2 by a guerrilla missile near the city of Fallujah.

He was buried on the day he was supposed to be married.

These are only two stories of the 49 soldiers from Colorado who have died while serving our Nation in Iraq. And, another 233 were wounded.

Despite the high cost, the 3rd Armored Cavalry Regiment embraced their mission and worked each and every day to better the lives of the Iraqi people.

Troopers like SFC Dean Lockhart have continued to demonstrate a devotion to the Army and our country despite the high price he has had to pay.

On July 23, Sergeant Lockhart was manning his Humvee machine gun when a roadside bomb demolished his Humvee. Shrapnel from the bomb pierced his back, shattering his pelvis and leg. After numerous surgeries and endless days of pain, Sergeant Lockhart is back in Colorado recovering from his injuries.

Despite the physical and psychological toll, Sergeant Lockhart has not given up. He still wants to spend 7 more years in the Army and he still believes in the U.S. mission in Iraq. He doesn't blame anyone for his injuries and has no regrets. If his unit was back in Iraq, he would return in a moment's notice.

Mr. President, I cannot begin to express to you and to the rest of my colleagues how thankful I am for the service these brave men and women from the 3rd Armored Cavalry have given to our country. Over 400 of these troopers earned medals of valor, including 200 Purple Hearts. They sacrificed much, but they never gave up. They accomplished their mission, fought with dignity and honor, and continued the heroic legacy of the 3rd Armored Cavalry.

Last week, I watched in amazement as the troopers of the 3rd Armored Cavalry Regiment were told that they had both literally and figuratively earned their spurs. Each of them are now allowed to wear those spurs in public in recognition of the unit's historic past and more, importantly, in appreciation for the unit's heroic service to our country in Iraq.

Mr. President, these are fine troopers who deserve our honor, our praise, and our admiration. I commend the 3rd Armored Cavalry Regiment for its service to our Nation, and I and the rest of the State of Colorado welcome them home.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ENZI). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I ask unanimous consent that the time consumed during the previous quorum call be divided between the two sides; provided further that the time spent in additional quorum calls during this period of morning business be equally divided, as well.

The PRESIDING OFFICER. Without objection, it is so ordered.

WORLD WAR II MEMORIAL

Mr. WARNER. Mr. President, I express a deep sense of gratitude to all those involved in this magnificent recognition of those who served in World War II, not only the 16 million men and women in uniform, but the homefront by ten times that number. Every American was involved.

This weekend was magnificent. I was privileged to have a very modest role in this event with Senator Dole and many others, joining in the feature of the weekend, the afternoon, 2 to approximately 3:30, when on The Mall over 150,000 individuals gathered to pay their respects to what is referred to as "the greatest generation" and hear from those who had taken a leading role, including Senator Dole, the American Battle Monuments Commission under the former commandant of the Marine Corps, Fred Smith, who was a key part of the team that raised the money, and, of course, we were fortunate the President of the United States came and addressed not only the crowd, not only our Nation, but addressed the world as a reminder of the human sacrifice all over the globe as a consequence of that struggle for the preservation of freedom.

Of course, we all remember the United States involvement started on December 7, 1941, with the attack on Pearl Harbor. Prior thereto, the Nazi armies had marched into Poland in late 1939, and the war in Europe was well underway. Then on September 2, 1945, the Japanese signed the official surrender aboard the Missouri in Tokyo Bay, and prior thereto, May 8 or 9, or a little later, the formal recognition of the surrender of the German forces.

So the great war to end all wars, as it was referred—as was also referred in World War I—had come to an end, with 16 million uniformed, over 400,000 of whom died, and triple that number bearing the wounds of that war.

It is interesting how this all started. On May 25, 1993, nearly 48 years after the end of the war, Public Law 103-32 was signed, authorizing the American Battle Monuments Commission to establish a World War II memorial in Washington, DC, or its environs to honor the spirit, sacrifice, and commitment of those people. And 11 years have followed after that fundraising, design, selection, and debate.

It is legitimate and important that we have voices on both sides express their views with regard to the utilization of the precious few acres between the Washington Monument and the Lincoln Memorial and, indeed, the Capitol on the other end.

Primarily under the leadership of Bob Dole and Fred Smith—Bob Dole, having been an extraordinary hero in the closing days of World War II, having suffered wounds in Italy in September of 1945 that required him to undergo many years of medical treatment and sheer mental determination to survive and to go on and provide America with his very distinguished career, including a seat he occupied as majority leader once in the Senate. The design by Friedrich St. Florian, Rhode Island architect, was chosen after reviewing approximately 400 design submissions, and Leo A. Daley, an internationally known architect who resides in Washington, DC, a very distinguished American, was selected to give overall management to the project.

I also acknowledge the name Carter Brown. He was at that time the foremost figure at the National Gallery of Art for many years as its director. He had a keen sense with regard to artistic matters. I remember calling him—I think others did, too—but prevailing him to enter the debate about the design of this memorial.

Some years before, I had again been a participant in the construction of the Vietnam Veterans Memorial, and it was a very strong and, at times, ferocious debate. In my office, as a U.S. Senator, right here in the Capitol, one time it erupted almost into fisticuffs over the design of the Vietnam Veterans Memorial. The debate on this memorial was equally serious, equally thoughtful on both sides, but, nevertheless, I have always believed that Carter Brown, through his strong hand and enormous respect, entered the fray and quelled the waters such that a design finally emerged. So we owe a debt of gratitude to so many.

Bob Dole and Fred Smith and others had raised more than $195 million from the private sector, incidentally from more than 600,000 separate contributions; that is, from individuals, some of them for a dollar, some for many dollars, but that is an extraordinary number of individuals. I also recognize that every State in the Union, all 50 States and Puerto Rico, contributed $1 for every citizen of that State who wore the uniform, male and female, in World War II. What a remarkable record of the breadth of participation across the land.

Some $16 million was provided by the Federal Government, again not necessarily for the construction and design of the memorial, but really for a lot of the infrastructure that had to be put in place. I refer to the National Defense Authorization Act for Fiscal Year 2001. On October 30, 2000, we were able to find within the Armed Services authorization bill some $6 million to be transferred to the American Battle Monuments Commission. I will put into the RECORD the technical details of how we did that and the purpose for the funds, but basically it was for infrastructure. Congress had a modest hand, but I believe the important emphasis should be put on how the private sector came forward to make possible the construction.

As I reflect on this weekend and my opportunity to observe and walk among the many veterans who were gathered there on Saturday afternoon, on a fairly warm and intense day, and the joy in their hearts—and of the 16 million, I think, somewhere between 6 or 7 million, perhaps, are still on planet Earth. So many of their colleagues, therefore, who had passed on in that period of time and since that period of time were on their minds. But there was joy in everyone's heart. It was a coming together, to use the words of Bob Dole, paralleled, really, only by the World War II period when all of America was so united strongly behind the men and women of the Armed Forces. It was a magnificent reenactment, so to speak, of that cohesion that prevailed throughout America in that critical period from 1941 to late 1945.

Those of us who were privileged to be part of it—and I was just a young sailor at the tail end of the war in training command, but, nevertheless, I remember so well how America opened its arms to the veterans of that period and how this country perhaps made its best investment, for educational purposes, the best investment in the history of the Federal Government's participation in education, which was the GI bill, from which I benefited and many others.

I have often said, standing at this very spot on the Senate floor, that I would not have been privileged to serve in the Senate had it not been for the GI bill I received for modest service in World War II and then modest service again in the second period during the Korean conflict, with service in the Marines. I mention that only in the context of the value of the GI bill to those of us who received that gift of the American people. That is why I try to work hard today with many others, particularly those on the Armed Services Committee, to do what we can for this generation of young men and women who are in the Armed Forces and their families as a means of payback for what was done for previous generations. I am proud of the record of the Armed Services Committee over the many years I have been able to participate and serve on that committee.

I will come to the phrase momentarily. Bob Dole said it I think best of all when we chatted together quietly, and I think he also said it publicly in a number of interviews he found the time to give; and that is, perhaps it is time to pass on the baton of the "greatest generation" to this generation of young men and women who are now serving in the Armed Forces of the United States because the Nation, I believe, is behind them. It is strongly behind them. There may be differences of view, honest differences of viewpoints about the war—should we have done it, should we not have done it—but we will save that debate for a later date and just look forward.

It was remarkable when we arose this morning, after a weekend of deliberations by many people in Iraq, the United Nations, Ambassador Bremer, and others, that we suddenly realize that the Iraqi Governing Council, which I think has done some very credible work in its short lifetime, has suddenly decided to dissolve, pick a President, a Prime Minister, some 20-odd ministers, and begin to lay the foundation for Iraq to govern itself. I personally am very heartened by these moves, widely reported in today's press.

But also in today's press again is the expression of many—I am not suggesting it is thoughtless, but, nevertheless, it is strongly in conflict with my own views—that we ought to establish a pullout date. Our President has steadfastly said we are going to remain until such time as the Iraqi people have enabled themselves to establish their government, hopefully to hold an election, before any dramatic withdrawal of the coalition forces in large numbers because that security system must be in place.

These are going to be critical, stressful, and difficult times after the transition on July 1. But we have to all remain steadfast in our conviction that we have to give this fledgling new Iraqi government a chance to put its roots into the ground and grow and gain strength and train their own force structure for the purposes of security.

But, nevertheless, as widely reported, a number of groups say, let's establish an arbitrary date—well, maybe not arbitrary but establish a date for pullout. To me, that would be a grave mistake. It would set a target, and targets are not a wise step in these types of situations, not at all. It is better that we go day by day, week by week, month by month, and gradually see how quickly the Iraqi government can constitute itself, establish its training programs, and eventually establish its own security forces. In the meantime, citizens of this country and other coalition nations have provided the funds for the refurbishment and, indeed, the modernization of their economic infrastructure.

So this must go forward, recognizing, again, that it is going to be a stressful and dangerous period because there are, regrettably, many engaged in open warfare to stop the evolution of a new and free Iraq.

Mr. President, I close with those remarks, saying only that I believe it was an opportune time for this memorial to be dedicated this weekend, to bring America together, to instill in America a consciousness of the sacrifice that has preceded in our own Nation. Hopefully that measure of sacrifice can be extrapolated into the challenges that face America today and the sacrifice now of over 800 young men and women who have died in the conflicts in Afghanistan and Iraq, primarily Iraq, and the many more thousands who have been wounded. Yes, that does not compare, certainly by way of numbers, with the over 400,000 in World War II, but in my heart it compares. Every soldier counts. Every sailor, every airman, every marine counts.

It is not just the total number. To the family who bereaves the loss of their loved one, it is painful, irrespective of the total. It is a big total in my judgment, a significant total, a serious total and a serious loss to the country. Each us in this Chamber deeply grieves those losses.

Coming together this weekend, focusing on the sacrifices, on where our Nation is today as the leader of the free world, I hope will better enable Americans to understand the sacrifice of these young men and women, be they killed or wounded, and the hardships to the family. It is worth it because it is all part of a long, step-by-step trek toward not only achieving freedom for other nations but maintaining our freedom here at home, freedom against terrorism and other threats throughout the world.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THOMAS. Mr. President, I ask unanimous consent that I may speak for 5 or 6 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SEASONAL WORK PERMITS

Mr. THOMAS. Mr. President, I want to take a minute this morning to talk about an issue that has been of some concern for us in Wyoming, as the Presiding Officer knows, for some time; yet we have not been able to move forward on it. It has to do with work permits that allow people to come and work for a seasonal time, for a relatively short time, in our case, generally, for the tourism around Yellowstone Park.

In that business, they have offered these jobs to anyone, of course, over the years, but they have been filled largely by people coming from other countries—mostly Mexico—for a fairly short period of time on what is called an H-2B visa. This is a category of visa that allows for seasonal and temporary nonagricultural workers to come. These workers are employed in all kinds of industries that include fisheries, timber, hotels, restaurants, and others. Even ice skating shows have been talked about recently.

Businesses must file a petition with the State department of labor to certify that no local workers are available. They have always done that, of course. Workers are certified for a specific period of time. When that time has expired, they must return to their home country. I think this program has been in place for a good long time. I think it is one of the unique ones where there has been a record of returning.

One of the problems is—and this has come up as a problem, of course, in the last several months or a year—there has been a lot of conversation about illegal immigrants in this country, and properly so. There has been a great deal of conversation about outsourcing and paying less because you can get people to come from other places. Those things are true, but they are not applicable in this particular instance because, No. 1, these people are certified to be here. They go back when the time is over.

In the past, they have been able to come back on the same permit over a period of time. It has kind of worked that way. The wages have been reasonable wages paid in these particular areas. It is a fact and it is true that the jobs are not always the kind of jobs that a lot of young people want in our country. They are working in hotels and motels; nevertheless, they are jobs that are available and reasonably paid.

I think, though, because of the situation we have had and other kinds of problems with immigrants and illegals, this has become a more realistic issue than it would have been otherwise. This year, the number of H-2Bs was capped, and the number happened to be 66,000 per year. The fact is, this is really the first time that cap has been enforced. It is the first time people have ever thought in terms of a cap. Much of it had to do with the timing. People were talking, as our folks do in Jackson, about the summer season. They had not worried too much about doing this until the spring when they have traditionally done it; and it turns out that because of the cap, those numbers had been reached in other places. Therefore, it excluded the involvement of any more H-2Bs.

This is not an issue that is unique particularly to Wyoming. Other States, such as New Hampshire, Maine, Alaska, Virginia, Ohio, and North Carolina, have specifically spoken out as we have about the problem that exists in Wyoming.

Last year, they had petitions roughly for 1,800 workers in Wyoming. About 1,600 went, as I mentioned, to Jackson Hole. So we tried to find a solution to this situation because it seemed, more than anything, to be a question of timing. If we are going to have a limit, that is fine, but the limit ought to be known so that people, if they are going to need workers in the summer, can make application at an appropriate time earlier in the year so that the timing is not an issue. That is the way it has been this year.

So for the last number of months, since we all heard about this—the first was in March before we even knew about the limit—the Senators and staff have been working to address this issue in a fair and consistent manner, to make good immigration policy. None of us are looking for illegal immigrants who are trying to extend illegal opportunities. This is a program that has been in place, has been useful, and has been legal. These are legal people who come and then they return, so the question of illegal immigration doesn't really fit in here.

So I need to make the point that this is something that we could proceed with. As a matter of fact, there have been opportunities in the Senate to move forward, and many suggestions that have been made are reasonable. I am trying to emphasize the fact that we need to move to do this and not simply write off the 2004 season. I will have to admit it is now very late and people are looking for other ways to fill these spots, and some of them can be, and that is fine.

I was in Wyoming this weekend at a place where they have similar seasons. They had set up a parking lot beside this motel where people could bring their trailers and their travel vehicles and stay there during the summer. These were older folks, pretty much retired, who wanted to work part time in the summer, and they would bring their trailer and stay. Some of the jobs can be filled that way, and they are. The fact is, businesses are going to be hurt if we don't do something. Certainly, we need to do that. There are some propositions that have been put forward on the Senate floor. We have had a couple folks objecting to them, so nothing has been done.

I think it is time. If people want to change the proposition, they can do that if they are comfortable with it. But we ought to move forward with the problem, which we can fix or require to be fixed or ask to be fixed, so that there is a reasonable opportunity for people to continue in the business of doing the same thing they have been doing, where now they are prohibited because of the timing proposition.

So I am hopeful we can continue to take a look at it. If it is too late for this year, I am sorry, but we ought to fix it now. But if we are not able to fix it this year, we will know what we are faced with for the next year. I understand the system in the Senate, but it is too bad when we have something that affects most people, and it can be held up and not allowed to even be discussed and moved forward. I think this is under the leadership of the Senator from Utah.

Mr. President, I wanted to share some thoughts on that issue instead of waiting and letting this continue to be a problem in another season. Perhaps there is still time in some cases to be of assistance in this season. It is a plan and a program that has been in place and has worked over the years. We need to continue to allow people to participate in that plan.

I urge us to move forward and address the problem and make some kind of solution and not let it just die out and impact visitors, as well as employees and employers, in places such as Jackson, WY, and other places where people come for the summer.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. As a Senator from the State of Wyoming, I ask unanimous consent that the order for the quorum call be rescinded.

Without objection, it is so ordered.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:27 p.m., recessed until 2:17 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

The PRESIDING OFFICER. In my capacity as a Senator from the State of Ohio, I observe that a quorum is not present.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLARD. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. ALLARD. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLARD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLARD. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNITED STATES AIR FORCE ACADEMY

Mr. ALLARD. Mr. President, I rise today to report to you and our colleagues on the latest Board of Visitors meeting for the U.S. Air Force Academy.

Ordinarily, I don't do this, but in light of what has been happening for the last year and several months as far as the Air Force Academy, I feel compelled to give a report to the Senate to keep it updated on how matters are progressing at the Air Force Academy.

The Board of Visitors primary responsibility is advisory at the Academy. But in the process of monitoring the administration of the Academy and to be a voice for the students at the Academy, the Board of Visitors meets in mid-May at the Academy to review the activities of the Academy, assess current programs, discuss current disciplinary issues, and address proposed congressional legislation impacting the Academy and the Board of Visitors.

First, let me say I was pleased by the attendance and contribution of the board members and welcomed involvement of the board's newest members, including Senator MARK PRYOR. It is clearly apparent that the board is united in its purpose and serious about its responsibilities.

The meeting we had here was probably the best board meeting we have had since I have had the honor to serve on the Board of Visitors at the Air Force Academy.

Let me also say that Governor Gilmore continues to provide exceptional leadership and has done an excellent job of keeping the board on track and focused.

During the meeting, Air Force and Academy leaders briefed the board on several important issues. First, the board discussed the retention rates of the Academy graduates. Based on the statistics provided by the Air Force, it appears the Academy graduates have high retention rates, including in some professions rates of nearly 50 percent. Retention rates for Academy graduates continue to be higher than ROTC and OTS graduates.

Next, we discussed recent climate surveys. The Academy is wisely surveying faculty, civilian staff, and administrative staff, as well as the cadets. The Department of Inspector General also surveyed the cadet body in April. The result of the surveys is expected in July.

The Academy did share some preliminary results which include improvements regarding respect for women, the use of alcohol, and improved response to sexual assaults.

The new officer development program currently being implemented appears to be making a difference. Under this new system, cadets are taught leadership skills each year instead of just in their first years. This new system is consistent with that being used at the West Point and the Naval Academy.

Lastly, the board discussed three legislative proposals. I plan to work with the leadership on these proposals, perhaps as amendments, sometime during the deliberations on this bill. The first proposal would require the dean of the faculty for the Air Force to have some prior military service. The second proposal would repeal the requirement that the Academy superintendent retire after serving the Academy. The Board of Visitors indicated its support for these two proposals.

The third proposal would have structured the Board of Visitors. At this time, this proposal requires additional work. I look forward to working with Chairman WARNER on refining that particular proposal.

I take a moment to compliment the superintendent of the Air Force Academy, Superintendent Rosa, and also his commandant, General Weida, who stepped in at a very difficult time at the Air Force Academy. They have shown exemplary leadership in working with the student body and charting out a new course for the Air Force Academy. It is a course that will allow oversight bodies, including members of the Armed Services Committee in both the House and the Senate, the Secretary of the Air Force, the President, and the members of the Board of Visitors, to review what is happening at the Academy. In other words, they have put a system in place that is much more accountable, which will make it easier for those who have the responsibility of oversight at the Air Force Academy to follow what is actually happening.

I thank the Congress for its concern about the welfare of the students at the Academy and for the opportunity to discuss the latest Board of Visitors meeting.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DEWINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CRAPO). Without objection, it is so ordered.

HAITI

Mr. DEWINE. Mr. President, last week, my wife and I had the opportunity to spend 3 days in the troubled country of Haiti. I want to take a couple of minutes to report to my colleagues about the situation in Haiti. I believe it is particularly of importance because the United States still has troops in Haiti, and we had the opportunity to visit with a number of these wonderful young men and women.

Our trip coincided with the horrible flooding that occurred last week in Haiti and the Dominican Republic. In fact, I had the chance to fly out with our troops to a village in Haiti, Fonds Verettes, about 35 miles east of Port-au-Prince. I saw our troops doing a tremendous job to take food and water and shelter to the Haitians who had been devastated by this flooding.

Our trip was also timely because it is during this period of time that our troops are beginning to leave Haiti, or were scheduled to begin to leave Haiti, and the U.N. troops are scheduled to start to come in. The country in this endeavor will be Brazil.

Let me make a few observations first, starting with the flooding. As I said, I went out to this village, Fonds Verettes. What I saw when I got there was just an absolutely unbelievable sight. I saw a village that was in ruins. I had the opportunity to talk to several of the victims. I talked to a man who told me he had lost four of his children. Absolutely unbelievable. He lost four of his children, and he was still in a state of shock and could barely talk above a whisper. It is hard to believe that someone could lose four kids. We talked also to a woman by the name of Luciani Joseph. She was just sitting on a box when we saw her. It was the only possession I think she had left in the world. We walked up to her and talked to her. She had lost her 6-year-old son. I know in that village there were dozens and dozens of other stories. Well over 100 people had lost their lives, and hundreds and hundreds of people lost every possession they had.

The only good news, I guess, is that U.S. troops were in the country. The only way you could reach this village was because U.S. troops were there. We had helicopters, and that is how they were able to reach the village because nobody could have reached the village any other way. I believe it is important that our troops stay in Haiti until enough food and goods and relief is delivered to these small villages that have been impacted by this flood. There is no other country that has the resources down there. Nobody has the airlift capabilities besides the United States.

Again, what an inspiration it was to talk to our young men and women who were assisting in this flood. The seriousness of the flood that hit Haiti is indicative to us and the international community as to the problems Haiti faces. We have all read, I believe, that Haiti is a country that is 97 to 98 percent deforested. This didn't come up overnight; it is something that has happened over the years. This deforestation has exacerbated the seriousness of the flooding.

I had the opportunity to talk to the village leader of this community I visited, Father Pierre Etienne Belneau. I said: Father, what happened? Have you had floods before? He said: Yes, but never as serious as this. Each time a flood comes, each time the water comes, it is more serious. He said: There is the reason. He pointed up to the hills, the mountains. He said: They keep cutting down the trees. As recently as just after President Aristide left, people—sometimes not even from our area—came up and went into the national forest and cut down more trees.

When the water comes, he says, it just goes right down the mountain; there is nothing to stop it. It washes everything down into their village. This priest in this rural village understood what has happened to Haiti—that Haiti is an ecological disaster.

So as we and the international community look to help the new Government of Haiti, if we are serious about long-term help for Haiti and the people of Haiti, reforestation of this country has to be part of that help. A sustainable agriculture is essential to the assistance of Haiti.

One of the great problems we find in Haiti is malnourishment. My wife Fran and I held children in our arms in Haiti on this past trip and previous trips, some of whom could be saved and some of whom, tragically, were not going to live. They were simply not getting nutritious food. They were not getting protein.

There are children all over Haiti who are not well fed, who are not getting enough to eat, who are not getting enough nutritious food. This is due to the fact that this country, which at one time was the crown jewel of the French empire as far as food production, today cannot produce a fraction of the food for its own people.

If we are talking about long-term assistance, what the United States and other countries have to do is help them develop a sustainable agriculture. It is one thing to give them food—and we should do that—but in the long run, what we really need to do is help them help themselves through better agricultural practices.

Now I will turn to another issue that we talked about when we were in Haiti. I had the opportunity to meet with Prime Minister Latortue. We had a very good conversation. The day I arrived the United States had just announced an additional $100 million in assistance for the new Government of Haiti. This money will assist this Government to survive.

I think it is so very important for the new Government to show results to the people. The people are looking for results. In the short term, they are looking to have the lights on. They only have the lights on in Port-au-Prince 2 hours a day. They need the lights on and the garbage picked up. The Government needs to show that people who commit serious crimes will be arrested, they will be held accountable, and they will be brought to justice.

In the long run, Haiti must have good judicial reform. The police must be trained. A new police force must be stood up. They must develop good land titling so that people will know the land they own is truly theirs. They will not have good international investment until people know that if they invest in property, invest in land, they will be able to sustain that investment.

Another issue that was talked about a lot while I was in Haiti—I was approached by many business people, many political leaders—was their support for a bill that I have introduced in the Senate and that has been introduced in the House of Representatives by Congressman CLAY SHAW, and that is the bill we call the Hero bill, a bill that would give Haiti some trade preferences, a bill that would create tens of thousands of jobs in Haiti.

I cannot tell my colleagues how many people came up to me and said: Senator, please tell your colleagues we appreciate the aid, we appreciate the assistance, but if they really want to help Haiti and the Haitian people, what we need is jobs, and the way you can help us get jobs is to pass the bill that you have introduced. The Haitian people want to work. This bill will give us the opportunity to work.

Finally, if the new Haitian Government is to succeed, it can only succeed if there is security in the country. The U.S. Armed Forces who are in Haiti today will be phasing out over the next few weeks. They will be replaced by U.N. forces. It is imperative that the U.N. forces be at least as strong in their actions as the U.S. troops have been.

The U.N. troops will be tested. They will be tested by the thugs. They will be tested by the shamirs. They will be tested by Aristide's gangs. They will be tested by the rebels. In essence, they will be tested by both sides in what would have been a civil war. Let's keep in mind that the U.S. troops that came in and have done such a wonderful job for the last several months prevented a blood bath in Haiti. They prevented a civil war. The U.N. troops will have to be equally as strong, and when the U.S. forces leave and the U.N. troops come in, the U.N. troops will be tested.

The U.N. troops will have to be equally as strong, they will have to be tough, and they will have to fire back. If they do not, then Haiti will revert to chaos. So the next several months will be a very crucial time for these U.N. troops and a very crucial time for Haiti.

The one very good piece of news forthcoming during our trip was on the AIDS front. Haiti has been for some time a country that has had the highest incidence of AIDS. The good news is there have been doctors in Haiti who have been at the forefront in the battle against AIDS. Dr. Paul Farmer in the rural area and Dr. Bill Pape in Port-au-Prince have been at the forefront in the battle against AIDS, not just in Haiti but throughout the world.

We had the opportunity to meet with Dr. Pape on our most recent visit. He shared with me a statistic. The statistic is this: The incidence of AIDS in Haiti has now been cut in half. That is an astounding figure. It has been the result of some very aggressive work by a number of people.

I will come back to the Chamber sometime in the next few weeks to talk about this issue of AIDS in more detail because I think it is of such great importance. I think Haiti can be looked at as a model for the rest of the world as to how to dramatically cut the incidence of AIDS.

This poor country that certainly has not been governed very well in the last few years still managed in spite of that to dramatically cut the incidence of AIDS. There is a lot to be learned from what has been going on in Haiti.

In addition to cutting the incidence of AIDS, we have also seen in Haiti the dramatic increase in the use of antiretroviral drugs.

So when my wife Fran and I walked into an orphanage run by the Sisters of Charity, whereas just a year ago none of the children who had AIDS were on antiretroviral drugs, this year when we came back and walked in we would see some of the children who were HIV positive, who were in need of drugs, who actually this time were on antiretroviral drugs.

We saw one little boy who we were told had come in just a few months before. He was very critically ill and he would have died but the sisters, because of Dr. Pape and because of good assistance coming in to Haiti, were able to get that child antiretroviral drugs and we saw a very healthy, chubby little boy running around this orphanage. Because of very good care from the nuns and because he has antiretroviral drugs, that boy is going to make it.

That is the type of miracle we are now beginning to see in Haiti, and I think it is something for which we can be very proud. That is what we want to see replicated around the world.

So when I come to the Senate floor and ask my colleagues to vote for more money for AIDS assistance around the world, it is that little boy I am going to be citing. It is this type of little boy who we can save around the world because if it can be done in a poor country such as Haiti, it can be done in other countries as well.

That is very good news coming out of Haiti from our last trip.

I yield the floor.

Mr. ALLARD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHAFEE). Without objection, it is so ordered.

ENERGY INDEPENDENCE

Mr. NELSON of Florida. Mr. President, I am quite troubled by what we have seen happen over the course of the weekend with the storming of the residential complex in or near Dhahran, Saudi Arabia, the eastern portion of Saudi Arabia, the oil-producing portion of Saudi Arabia. The storming of this residential complex and the taking of hostages at a residential complex that held people from many nations portends of what is to come. That is very troubling to the United States and the world community.

In today's paper, I see headlines such as "Saudis storm complex to free hostages." It says, "Saudi leaders say the recent attacks won't affect the oil supplies." Then in another piece in the same newspaper, it says, "Latest terror attack increases the doubts about the ability of Saudi Arabia to pump more oil."

Is it not interesting that we as a world community, and especially as the United States, have to be concerned about the pumping of that Saudi oil in order to feed the voracious appetite we have for energy. Is it not interesting the United States had some painful lessons we learned in the early '70s, and again in the late '70s, when the oil cartel locked down limited production and almost brought the industrialized world to its knees, and we became so much more dependent, realizing we needed that foreign oil to feed our appetite; that as a Nation, we said we are not going through this anymore; we are going to head on a path for energy independence. Then we lulled ourselves back into the seductive price of cheap oil and continued allowing our voracious appetite to go unabated, with the result that even though we have tried all kinds of alternative measures, the fact is we are importing more than half of our daily oil consumption, and that figure is moving upward to 60 percent of our daily oil consumption.

Right off the bat, that tells you that is not a good position to be in when it comes to the defensive interests of this country. Think how much of a freer hand we would have, as we conceive and develop our defense plans for this country, if we and the free industrialized world didn't have to depend on that oil coming out of that gulf region. But we are dependent. So when we see an attack by al-Qaida directly on those oil interests, we better start examining further the need for us to set energy independence as a major policy of the U.S. Government.

We know that the United States is, in fact, al-Qaida's target, but there should be no doubt now that Saudi Arabia is also the target of al-Qaida. It is a target where al-Qaida has a better chance of success because it has the desired goal of overthrowing the Royal Family of Saudi Arabia.

Saudi society presented them with many opportunities: weak institutions, an alienated population, and nearby terrorist operating bases. Al-Qaida's strategy is becoming increasingly clear. What they are doing is stoking the dissatisfaction of Saudi citizens with their government and the Royal Family by demonstrating the Royal Family's weakness by conducting their al-Qaida attacks in Saudi Arabia.

The attacks this past weekend indicate where they are now headed: to cut off Saudi Arabia's lifeline by destroying their oil facilities and diminishing their oil-producing capability. It is a strategy that has some chance of success. If the attack that happened this past weekend had interrupted the flow of Saudi oil, then the Saudi Royal Family would, indeed, have some cause for concern that they could stay in power because overnight they would lose the one tool they have to keep some of the popular discontent in their country under wraps, and that is oil money.

The Saudi rulers have not helped matters over the years by ignoring the obvious, which is the threat to their own self-interest posed by Islamic extremists. Why? Because the Saudi Royal Family has played footsy for far too long with the radicals, thinking they could buy them off and paying money to the extremist religious schools, called madrasas, hoping that Saudi money, spread around the Muslim world where the most extreme ideology and hatred is taught, was going to buy them peace. But I think the Saudi Royal Family is beginning to wake up.

The United States has tried to be Saudi Arabia's defender. We had thousands of troops based over there in the 1990s. Clearly, when Saddam Hussein in the early nineties moved on Kuwait and it was very clear that he was intent on moving into Saudi Arabia, the United States responded. But Saudi Arabia did not like us having troops on their land. We did not particularly want to be there because we were the constant source of attack, such as the Khobar Towers bombing which took 19 American lives.

The United States could not build a defensive wall around Saudi Arabia to protect them—now especially that is so—even if we wanted to, which we don't, but that is especially so because many of the threats now come right from within Saudi Arabia itself. So all we can do is impress upon Saudi Arabia the need for reform in their society as quickly as they can to isolate the extremists, to institute democratic institutions, and to diversify their economy. But those prospects are not good because if the Saudi Royal Family were to fall and if it is succeeded by an Islamic radical regime, then I fear for the rest of the Middle East and the gulf region that we would see a risk of those regimes falling like dominos. With a radical Saudi successor regime in control of all that oil, one can imagine the damage it could do by holding the West hostage economically.

That is what we are facing. Sometimes we get lost in seeing the entire forest for the particular trees, but I think we need to pull back and see that this threat of radical terrorists is now being directed not only at us in the homeland, but it is being directed at a source of energy upon which the western industrialized world has become dependent. If the attacks we have seen just a few days ago do not convince us to curtail our addiction to oil, then I do not know what will.

Why don't we do some reasonable things? I remember the junior Senator from Massachusetts offering an amendment to do something real simple, such as lower the miles per gallon for SUVs, and we got beat and beat badly. That is an easy one to do, not even to speak of shifting to alternative sources of energy, not even to speak of additional conservation efforts, not even to speak of production efforts where it is not going to harm the fragile environment where, indeed, there are the reserves, not even to speak of using our technology in a crash course such as we did when we went to the Moon in the Apollo project. We set a goal and we said we were going to achieve it. We marshaled the resources, we marshaled the will, we got the support of the American people, and within 9 years we were able to go to the Moon and return safely. And so, too, we need an Apollo-type project for energy independence to wean ourselves from that dependence on foreign oil.

We need to invest massive manpower and effort into developing alternative energy sources so that the possible collapse of unstable oil regimes in the Middle East will not hold us hostage. Lord knows, let's hope that does not happen, but we need to wake up and see the insatiable appetite we have for that foreign oil.

I believe energy independence is one of the top priorities for protecting U.S. national security. There are a lot of Senators who support that goal and yet we allow ourselves to be beat time and time again by certain special interests and lobbies that have their own interests at the forefront instead of the national interest.

The events of this past weekend make the need for energy independence a national priority. These events make it clearer than ever.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The journal clerk proceeded to call the roll.

Mr. FRIST. Madam President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER (Mrs. DOLE). Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. FRIST. Madam President, I have discussed the upcoming schedule with the Democratic leader. We currently have a cloture vote scheduled for 5:30 today on the motion to proceed to the class action fairness bill. In a moment, I will ask unanimous consent to vitiate that cloture vote.

As I mentioned earlier this morning, it has been our hope to finish both the Defense authorization bill and the class action legislation in a timely way. To expedite completion of the Defense authorization bill, we will need to limit amendments so the managers of the bill can begin to schedule amendments accordingly.

In addition, we would like to reach an agreement to begin the class action bill immediately upon the conclusion of the Defense authorization with no need for the motion to proceed. Having said that, I am prepared to ask unanimous consent but will withhold for any comment.

I now ask unanimous consent that the 5:30 cloture vote be vitiated and that the Senate begin consideration of S. 2062, the class action fairness bill, at the conclusion of the pending Defense authorization bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. FRIST. Madam President, I further ask unanimous consent that at 5:20 today the Senate proceed to executive session for the consideration of calendar No. 558, the nomination of F. Dennis Saylor, IV, to be U.S. District Judge for the District of Massachusetts; provided further that be there 10 minutes equally divided for debate prior to the vote on the confirmation of the nomination with no intervening action or debate.

Finally, I ask unanimous consent that following the vote the President be immediately notified of the Senate's action and the Senate then resume legislation session.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. FRIST. Madam President, I now ask unanimous consent that the only remaining first-degree amendments in order to the pending Department of Defense bill be limited to the list I have sent to the desk. I further ask unanimous consent that these amendments be subject to relevant second degrees.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The list is as follows:

Akaka—National Security Education, Akaka—Smart Scholarship, Alexander—Federal Assistance No. 3173, Allard—Air Force Academy, Allard—Air Force Academy, Allard—Missile Defense, Allard—Rocky Mountain Arsenal, Bayh—Advanced Manufacturing Tech., Bayh—Iraq Reporting Requirements, BAYH—Missile Defense, Bennett—Mercury Storage, Bennett—Nuclear Testing, Bennett—UT Test and Training Range, Biden—Adjust Tax Cut to pay for War, Biden—Information Operations.

Biden—Preventing Identity Theft, BIden—Relevant, Biden—Relevant, Bingaman—EEG, Bingaman—HSI Definition, Bingaman—Non-Proliferation, Bingaman—Nuclear Weapon, BIngaman—Report, Bingaman—Science Technology, Bingaman—Vaccine Health Care Center, Bond—Military Voting, Bond—Nuclear Energy Workers, Bond—Relevant, Bond—Relevant, Bond—Relevant.

Boxer—Lengthy Deployment Pay, Boxer—Missile Defense, Boxer—Rape of Women Service Members, Boxer—Relevant, Brownback—FCC Decency, BROWNBACK—S.O.S. re: Air Force No. 3232, Brownback—Taiwan No. 3222, Byrd—Industrial Commission, Byrd—Relevant, Byrd—Relevant, Byrd—Use of Force, Campbell—Korean Medals, Cantwell—Capehart, Cantwell—Extend Unemployment Compensation, Cantwell—Former Dept. Of Energy Medical Screening.

Cantwell—Global Poverty Study, Cantwell—High Level Radioactive Waste, Cantwell—High-Level Waste, Chafee—Berry Amendment No. 3177, Chambliss—Retired Pay No. 3223, Clinton—Commissaries and Schools, Clinton—Medical Tracking and Readiness (filed), Collins—Energy Savings Plan No. 3230, Collins—OMB Circular A–76 No. 3224, Collins—Outsourcing, Collins—Pilot Fees, Conrad—Relevant, Conrad—Relevant, Corzine—Relevant, COrzine—Relevant.

Corzine—Reservist Retirement, Corzine—Sovereignty, Craig—Immigration, Daschle—B–1, Daschle—Flesh Eating Parasites, Daschle—Military Reservist AG Loan Obligation, Daschle—Relevant, Daschle—Relevant to the List, Daschle—TRI CARE, Daschle—VA Health Care, Dayton—Buy American, Dayton—Operational Cost Reporting, Dodd—Federal Law Enforcement Officers, Dodd—Firefighters, Dodd—Health and Safety Equipment.

Dodd—Military Offset Contracts, Dodd—Private Military Firms, Domenici—Joint Study Center No. 3168, Domenici—Training Flights No. 3167, Dorgan—Oversight (with Wyden), Dorgan—Radio/TV Marti, Dorgan—Relevant, Dorgan—Relevant, Durbin—Dietary Supplement, Durbin—Reservists Pay, Durbin—Small Business Set Asides, Durbin—Treatment of Prisoners, Durbin—Treatment of Prisoners, Ensign—Oil for Food, Ensign—Relevant.

Enzi—Air Tankers, Feingold—FMLA Benefits, Feingold—Inspector General's Office, Feingold—Relevant, Feingold—Transition Services for Military, Feinstein—Afghanistan Anti-drug Effort, Feinstein—SoS re: Perchlorate, Fitzgerald—Veterans Health, Frist—Relevant to any on list, Frist—Relevant to any on list, Frist—Relevant to any on list, Frist—Relevant to any on list, Frist—Relevant to any on list, Graham (Florida)—Haitian Refugee Immigration Improvement Act, Graham (Florida)—Night-Vision Goggles Training.

Graham (Florida)—NSA Recruiting Program, Graham (Florida)—Relevant, Graham (Florida)—Relevant, Graham (Florida)—Relevant, Graham (Florida)—Relevant, Graham (Florida)—Relevant, Graham (Florida)—Relevant, Graham (Florida)—Relevant, Graham (South Carolina)—CIPC, Graham (South Carolina)—DOE, Graham (South Carolina)—Independency of Judiciary, Graham (South Carolina)—Relevant, Graham (South Carolina)—TRICARE, Grassley—Army Industrial Facilities No. 3153, Grassley—Counter Drug in Afghanistan.

Hagel—Increasing Troop Strength, Harkin—Armed forces media, Harkin—Code talkers, Harkin—Energy employees compensation cohort, Hollings—Land Conveyance, Hollings—Relevant, Inhofe—Foreign Military and Security Forces No. 3200, Inhofe—Iraq and Afghanistan Funding No. 3198, Inhofe—Relevant, Inhofe—Relevant, Inhofe—Relevant, Inhofe—USO Procurement No. 3199, Johnson—Hazardous Duty Pay, Kennedy—AG Jobs, Kennedy—Beryllium Screening for Worker Health and Safety.

Kennedy—Civilization of JAG Functions, Kennedy—Federal Employees, Kennedy—Impact Aid, Kennedy—Increase in "One Source" Funding for Military Families, Kennedy—Iraq Policy, Kennedy—Iraqi Prisoner

Abuse, Kennedy—Nuclear Weapons (with Feinstein), Kennedy—Relevant, Kennedy—Relevant, Kennedy—Relevant, Kennedy—Return of Military Remains, Kennedy—Russian American Observation Satellite, Landrieu—Land Conveyance, Landrieu—Preseparation Counseling, Landrieu—Survivor Benefit Plan (filed).

Lautenberg—Reimbursement for Medicare VNR's, Lautenberg—Relevant, Lautenberg—Special counsel on No-Bid Iraq Oil Contracts, Leahy—Civilian Assistance, Leahy—Data Mining Protection, Leahy—National Guard Title 32, Leahy—Relevant, Leahy—War Time Profiteering, Levin—Iraqi Lessons, Levin—Managers' Amendments, Levin—Relevant, Levin—Relevant, Levin—Relevant, Levin—Relevant to the list, Levin—Relevant to the list.

Levin—Supplemental Authorization, Lieberman—Relevant, Lieberman—Relevant, Lott—BRAC No. 3220, Lott—RDT&E for Advanced Ferrite Antenna No. 3179, Lott—S.O.S. re: Shipbuilding No. 3233, Lott—Search and Rescue No. 3221, McCain—2nd Degree Buy America, McCain—2nd Degree Buy America, McCain—GAO Study, McCain—Relevant, McCain—Relevant, McCain—Relevant, McCain—Relevant, McCain—Relevant.

McCain—Relevant, McCain—Relevant, McCain—Relevant, McCain—Service Academy Professors No. 3229, McCain—TRICARE, McConnell—Relevant, McConnell—Relevant, McConnell—Relevant, McConnell—Relevant, McConnell—Relevant, McConnell—Relevant, Mikulski—Presidential Helicopter Support Facility, Miller—Retired Warrant Officers, Murkowski—AK Natural Gas Pipelines, Murray—Benefit Improvement Guard and Reserves.

Murray—Child care Assistance Reserve Units, Murray—Overseas Facilities Restrictions, Nelson (Florida)—Relevant, Nelson (Florida)—Relevant, Nelson (Florida)—Relevant, Nelson (Florida)—Relevant, Nelson (Florida)—Relevant, Nelson (Nebraska)—DePSCOR, Pryor—Sacrifice, Reed—Military Academy, Reed—Military contractors in Iraq Oversight, Reed—Military Housing, Reed—National Missile Defense Accountability, Reed—National Missile Defense Accountability, Reed—Relevant.

Reed—Relevant, Reed—Tax Compliance by DoD Oversight, Reed—Troop Strength Increase, Reid—Concurrent Receipt, Reid—Relevant, Reid—Relevant, Reid—Relevant, Reid—Relevant, Reid—Relevant to the list, Reid—Relevant to the list, Santorum—Exchange and Sell, Sarbanes—Federal Charter Korean War, Sarbanes—Sense of the Senate Housing Privatization (Mikulski), Sarbanes—VXX Pax River, Schumer—Relevant.

Schumer—Relevant, Schumer—Relevant, Schumer—Relevant, Schumer—Relevant, Sessions—Relevant to list, Sessions—Relevant to list, Smith—Hate Crimes No. 3183, Sununu—William Billy Mitchell No. 3156, Talent—Hero Miles Act, Talent—Military Readiness, Talent—S.O.S. re: WWI Museum, Warner—Contingent Reserve Fund, Warner—Managers' Amendments, Warner—Relevant to any on list, Warner—Relevant to any on list.

Warner—Relevant to any on list, Warner—Relevant to any on list, Warner—Relevant to any on list, Wyden—Iraqi Oversight Contracts, and Wyden—Oil.

Mr. FRIST. Madam President, the amendment list I sent to the desk is a large amendment list. Some of the amendments on the list do not have anything to do with the Defense authorization. I want to make it clear that I don't believe many of the amendments are appropriate to the Defense bill. This is indeed true on both sides, both the lists submitted from this side of the aisle and on the other side of the aisle.

We are locking in this list so we don't find ourselves with twice as many amendments if we wait until later tonight or tomorrow.

Having said that, we have a limited universe of amendments. We have not agreed to consider each and every one of the amendments, but we do have this limited universe. There is no reason, I believe, that we should not be able to finish the bill either late this week or early next week.

I hope the Democratic leader agrees and will work with us to ensure the bill is completed in a reasonable time next week.

All of this agreement has been reached through conversations with the Democratic leadership and the managers on both sides of the aisle.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Madam President, I share the view expressed by the majority leader. He and I have had conversations about the scheduling. I think it is the right decision. We made some progress on the bill before the recess.

I think the excellent manager relationship we have on both sides of the aisle with regard to this particular bill will serve us well as we work through amendments. There are a lot of place holders. There are a lot of amendments where Senators simply wanted to be protected, and we respect that. But as we do with the number of bills, we will work with our managers to constructively come up with a more manageable and practical list as the next day or so unfolds. I think we can complete our work in a timely way.

As I have indicated to the majority leader, it is not our desire to oppose going to the class action bill once the work on the DOD bill has been completed. We will have a good number of amendments on that bill as well. But this sequence makes the most sense given our circumstances right now. We need to finish our work on the DOD bill given our circumstances in Iraq in particular, and I think this schedule will accommodate that need. I think we are where we need to be at this point.

I will continue to work with both of our managers to see that we finish our work on this bill as we expected we would prior to the recess.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, I wish to express my appreciation to both leaders. Senator LEVIN and I have handled this bill for many years. This list is not unlike what we have had before.

The Senate will work its will. I know some Senators think perhaps their amendments should have been on the list. But I have experienced cooperation on my side to not have several amendments on the list; I expect my colleague from Michigan did likewise; the Senate is anxious to have a lot of issues addressed. But this is a very key piece of legislation which is a must on behalf of the men and women of the Armed Forces.

I thank the leadership.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The journal clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, it is important we were able to work out the arrangements we have made to go to this most important Defense authorization bill. As Senator DASCHLE mentioned, the two managers are experienced; they have dealt with these issues for many years. This is the time to work on the Defense authorization bill, not some side issue that, important as it might be, does not compare to the importance of this Defense bill.

We had five soldiers killed yesterday in Iraq. During the months of April and May, we averaged two soldiers a day being killed. Now over 800 have been killed in Iraq. We are approaching 5,000 who have been wounded, some of whom have lost legs, eyes, and are paralyzed.

I cannot imagine we would move off this piece of legislation. It is important Members of the Senate have the opportunity to offer their views on what should be done or what should not be done with this Defense authorization bill. There are going to be a number of amendments, but this is nothing new. Even when we do not have two soldiers killed every day, we spend a lot of time on this bill. With 120 of our men and women having been killed in 60 days, they and those people who are now over there in the trenches, so to speak, deserve our full time and attention on this most important piece of legislation.

I am glad we are now able to work on this bill and not set it aside and come back at a subsequent time. We were beginning to have some momentum when there was a decision made to pull off the bill. There are amendments that will take a little bit of time, but I don't think we should worry about that. When we get to class action, we will get to class action. When we finish this bill, it will be for the good of the country, especially if there has been a full debate.

I have just returned from home, as have the other 99 Senators. There is not a single issue that we should be dealing with other than our military forces, based on the conversations I had with people at home. Whether it is talk radio, town hall meetings, or campaign events, the No. 1 issue is Iraq. We in the Senate cannot hide our heads in the sand and pretend it is not important; it is.

I look forward to the management of this legislation by our two fine committee leaders, Senator WARNER and Senator LEVIN. When the process is finished, we will truly have a bill that represents the wishes of the American people—or at least that is the way it should be.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The clerk proceeded to call the roll.

Mr. KENNEDY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF F. DENNIS SAYLOR, IV

Mr. KENNEDY. Madam President, I welcome the action of the leadership in taking up the nomination of Dennis Saylor to the United States District Court for the District of Massachusetts. I urge the Senate to confirm him.

Mr. Saylor has received impressive support from a broad spectrum of leaders of the bar. They are confident of his ability, his good judgment, and his fairness. I am confident he will be a distinguished member of the court.

Mr. Saylor has past experience in the executive branch. I am confident he understands the importance of the independence of the judicial branch.

He is currently a partner at the highly respected law firm of Goodwin Procter in Boston, where he joined as an associate after graduating from Harvard Law School in 1981. He later served as an assistant U.S. attorney in Boston. From 1990 to 1993, he served as the chief of staff of the Assistant Attorney General, Robert Mueller, in the criminal division of the Department of Justice, providing litigation and policy advice, and served as a liaison with Congress and outside organizations.

He returned to Goodwin Procter as a partner in the litigation department and currently specializes in white-collar criminal defense cases and other complex legal issues involving individuals and corporations.

His impressive background, legal expertise, and experience make him well qualified for this position and inspire confidence that he will be a judge in which Massachusetts will take pride.

The Federal district supreme court in Massachusetts is one of the most efficient and effective district courts in the country, and its judges are highly regarded and respected. It dispenses justice fairly and takes seriously its role as part of an independent branch of our government. I am sure Mr. Saylor will contribute to the distinguished work of this court. I urge the Senate to approve his nomination.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The journal clerk proceeded to call the roll.

Mr. LEVIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

NOMINATION OF F. DENNIS SAYLOR IV TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF MASSACHUSETTS

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session and proceed to the nomination of F. Dennis Saylor IV, of Massachusetts, which the clerk will report.

The journal clerk read the nomination of F. Dennis Saylor IV, of Massachusetts, to be U.S. District Judge for the District of Massachusetts.

Mr. HATCH. Mr. President, I am pleased to speak in support of F. Dennis Saylor, nominated to the United States District Court for the District of Massachusetts.

Mr. Saylor is a highly regarded litigator with a history of public service. Upon graduating from Harvard Law School, Mr. Saylor joined the law firm of Goodwin Proctor where he worked for several years before joining the United States Attorney's Office for the District of Massachusetts.

He left his Assistant U.S. Attorney position in 1990 to serve as the Special Counsel and Chief of Staff to the Assistant Attorney General here in Washington, D.C. In 1993, Mr. Saylor rejoined Goodwin Proctor as a partner where he remains to this day.

This highly respected attorney has focused much of his professional career on criminal matters, however—as his record illustrates—he has distinguished himself on the civil side as well.

Mr. Saylor will bring 20 years of legal experience and sharp acumen to the Federal bench. I urge my colleagues to join me in supporting his nomination.

Mr. LEAHY. Mr. President, today, we vote to confirm another district court nominee of President Bush, Frank Dennis Saylor, IV, to the U.S. District Court for the District of Massachusetts. Mr. Saylor is a partner at the firm of Procter Goodwin. He is supported by both of his home-State Senators, who deserve much credit for his confirmation today.

Today's confirmation will make the 77th judge confirmed this Congress and the 177th judicial nominee named by this President to be confirmed by the Senate. We confirmed 100 in the 17 months that Democrats led the Senate. We are now confirming the 77th in the other 24 months that have transpired during this most divisive presidency.

With 77 judicial confirmations this Congress, the Senate has confirmed more Federal judges than were confirmed during the entire 2 years of 1995 and 1996, when Republicans controlled the Senate and President Clinton was in the White House. It also exceeds the two-year total for the last 2 years of the Clinton administration in 1999 and 2000, when Republicans controlled the Senate. So, we have exceeded the totals for the last two Congresses leading up to presidential elections.

With 177 total confirmations for President Bush in 3½ years, the Senate has confirmed more lifetime judicial appointees of this President than were allowed to be confirmed in President Clinton's entire term from 1997 through 2000. We have already surpassed the number of judicial confirmations during President Reagan's entire term from 1981 through 1984, and he is acknowledged to have appointed more Federal judges than any other President in our history.

Democratic support for the confirmation of Mr. Saylor, an active Republican who was championed by Republican Governor Mitt Romney for the bench, is yet another example of our extraordinary cooperation. Mr. Saylor's Republican credentials are not in doubt—he was even on some short lists for Bush Administration Executive Branch positions. We take into account his experience and his career as a litigator who has served as both a Federal prosecutor and a defender of those accused of crimes.

I congratulate Mr. Saylor, his wife, Catherine Adams Fiske, who is an attorney with the Environment and Natural Resources Division of the Department of Justice, and their family on his confirmation today.

While this confirmation is another demonstration of good faith and cooperation by Democratic Senators, we, again, see partisan Republicans seeking confrontation. Last week, the President used his recess appointment powers to place Republicans on what should be bipartisan boards and commissions. A good example is the U.S. Parole Commission. While Isaac Fullwood's nomination is being bottled up by Republicans, the President proceeds to recess appoint Deborah Spagnoli. In addition, the President has yet to follow through on Democratic recommendations to longstanding vacancies on the U.S. Sentencing Commission. This week Republicans on the Judiciary Committee will end the short-lived cooperation on judicial nominations and force votes and hearings on controversial nominees, apparently in response to pressure from the right wing of the Republican Party. Republicans are insisting that the Committee break with tradition and proceed on judicial nominees opposed by home-state Senators.

Thus, while this nomination marks historic progress in Democratic Senators' cooperation with the White House, partisan Republicans refuse to take yes for an answer and insist on ignoring the progress that we have made. We have treated President Bush's judicial nominees far more fairly than Republicans treated President Clinton's. Still, no good deed we do goes unpunished.

Mr. LEVIN. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of F. Dennis Saylor IV, of Massachusetts, to be U.S. District Judge for the District of Massachusetts. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Kentucky (Mr. BUNNING), the Senator from Colorado (Mr. CAMPBELL), and the Senator from Alaska (Ms. MURKOWSKI) are necessarily absent.

I further announce that if present and voting the Senator from Kentucky (Mr. BUNNING) would vote "yea".

Mr. REID. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from New Jersey (Mr. CORZINE), the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Iowa (Mr. HARKIN), the Senator from Massachusetts (Mr. KERRY), the Senator from New Jersey (Mr. LAUTENBERG), and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

I further announce that if present and voting the Senator from Iowa (Mr. HARKIN) would vote "yea".

The PRESIDING OFFICER (Mr. ALEXANDER). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 89, nays 0, as follows:

[Rollcall Vote No. 104 Ex.]

YEAS—89

Akaka
Alexander
Allard
Allen
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Burns
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kohl
Kyl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NOT VOTING—11

Baucus
Bunning
Campbell
Corzine
Edwards
Graham (FL)
Harkin
Kerry
Lautenberg
Murkowski
Sarbanes

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the President shall be immediately notified of the Senate's action.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

• Mr. HARKIN. Mr. President, I regret that I was necessarily absent for the vote on the nomination of Dennis Saylor to the District Court for the District of Massachusetts. Had I been present I would have voted "yea" to confirm Mr. Saylor.•

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

Mr. MCCONNELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The journal clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent we proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING OUR ARMED FORCES

LANCE CORPORAL KYLE W. CODNER

Mr. HAGEL. Mr. President, I rise to express my sympathy over the loss of Kyle W. Codner of Shelton, NE, a lance corporal in the U.S. Marine Corps. Corporal Codner was killed on May 26, 2004, in the Anbar province in Iraq while performing security and stability operations. He was 19 years old. CPL Matthew Henderson of Lincoln, NE, a good friend of Codner, was killed in the same explosion.

Corporal Codner grew up on a farm east of Shelton, NE, and graduated from Shelton High School in 2003. He joined the U.S. Marine Corps in June 2003, and was deployed to Iraq in February of this year. He was assigned to 1st Combat Engineer Battalion, 1st Marine Division, 1st Marine Expeditionary Force at Camp Pendleton, CA. Codner was one of thousands of brave American service men and women serving in Iraq.

Corporal Codner is survived by his parents, Dixie and Wain Codner of Shelton; sister, Melissa; and fiancee, Megan Kirkover. Our thoughts and prayers are with them at this difficult time. America is proud of Kyle W. Codner's service and mourns his loss.

For his service, bravery, and sacrifice, I ask my colleagues to join me and all Americans in honoring Lance Corporal Codner.

HESLEY BOX, JR.

Mrs. LINCOLN. Mr. President, I rise today to pay tribute to a brave Arkansan who gave his life in the defense of his Nation. SSG Hesley Box, Jr., 24, of Nashville, AR, died on May 6, 2004, in Baghdad, Iraq, in support of Operation Iraqi Freedom. Staff Sergeant Box died when a car bomb detonated near his guard post.

Hesley, or "Tanky" as his family called him, joined the Guard in 1997. He was just 24 years old when he left for Iraq in March with the 39th Infantry Brigade. Even though he was a young soldier, Hesley was already a veteran of two other deployments in Bosnia and Saudi Arabia.

Our condolences and prayers go out to Hesley's wife, Alexia; his two sons Zacheas and TaDarius; his parents, Hesley, Sr., and Barbie Box, and his brother, Tarcus Kyron Box.

Hesly's wife Alexia recounted the impact he had on peoples' lives and the love he showed for their children. The Nation will long remember the impact this brave Arkansan has had on the safety and security of all Americans. I am honored to pay tribute to his sacrifice.

TROY MIRANDA

Mrs. LINCOLN. Mr. President, I rise today to pay tribute to one of Arkansas' finest who gave his life in the defense of his nation. SSG Troy "Leon" Miranda, 44, of Little Rock died on May 20, 2004, in Baghdad, Iraq, when a grenade was thrown near his patrol.

According to his mother Bobby, Troy graduated from Wickes High School and went on to study business at Henderson State University. He joined the Army National Guard almost 20 years ago and was assigned to the Guard's counterdrug program. For the last 10 years he worked with the Arkansas State Police in the criminal investigation division's office of investigative support.

Leon showed the kind of heroism that makes all Arkansans proud. He lost his life protecting other men in his unit. He has been awarded the Bronze

Star and Purple Heart. The Associated Press reported that Troy's brother, Phillip Miranda, also stationed with the 39th in Iraq, would accompany his brother's body home to Arkansas.

Our condolences and prayers go out to Troy's parents, Carlos and Bobby Miranda, and to his siblings.

Troy's sister-in-law said of him that, "He was the bravest person I knew." We honor the spirit of bravery that Troy exhibited while protecting his Nation from her enemies. His sacrifice will not soon be forgotten.

CORPORAL MATTHEW C. HENDERSON

Mr. HAGEL. Mr. President, I rise to express my sympathy over the loss of Matthew C. Henderson of Lincoln, NE, a corporal in the U.S. Marine Corps. Corporal Henderson was killed on May 26, 2004, in the Anbar province in Iraq while performing security and stability operations. He was 25 years old. LCpl Kyle Codner of Shelton, NE, a good friend of Henderson, was killed in the same explosion.

Corporal Henderson graduated from Palmyra High School and went on to play football at Nebraska Wesleyan for 2 years before joining the Marines. He was assigned to 1st Combat Engineer Battalion, 1st Marine Division, 1st Marine Expeditionary Force at Camp Pendleton, CA. Henderson was one of thousands of brave American service men and women serving in Iraq.

Corporal Henderson is survived by his father, Owen Henderson of Bennet; mother, Becky and sister, Kellie Henderson of Lincoln; and wife, Jaimie of Lincoln. Our thoughts and prayers are with them at this difficult time. America is proud of Matthew C. Henderson's service and mourns his loss.

For his service, bravery, and sacrifice, I ask my colleagues to join me and all Americans in honoring Corporal Henderson.

STAFF SERGEANT JOSEPH GARYANTES

Mr. CARPER. Mr. President, I would like to set aside a few moments today to reflect on the life of Army SSG Joseph Garyantes. Joe epitomized the best of our country's brave men and women who are fighting to free Iraq and to secure a new democracy in the Middle East. He exhibited unwavering courage, dutiful service to his country, and above all else, honor. In the way he lived his life—and how we remember him—Joe reminds each of us how good we can be.

Joe was born in Wilmington, DE, to Geraldine and the late James Garyantes. When he was 5 years old, his family moved to the Rehoboth Beach area. Joe attended Rehoboth Elementary School and Epworth Christian School. At Epworth, Joe was remembered was a man with a dynamic personality and a good sense of humor. He always was loyal to his fellow friends and teammates and won the most valuable player award in 10th grade for basketball. His family later moved to Florida.

When Joe was 18, he seriously considered spending life in the ministry helping people. Ultimately, though, this Delaware native enlisted in the Army and became a soldier at the young age of 20. His mission always remained the same though—helping people. When Joe was stationed in Kosovo before going to Iraq, he asked his family to send care packages. These packages were not for him. They were meant for needy kids in the area. During the holiday season, Joe would bring over single soldiers for Christmas dinners and make them feel as though they were part of the family.

Joe spent the last several years in Germany, where he lived with his wife, Monika, and their two sons, Tevin, 6, and Ryan, 4. He was killed by a sniper in Muqdadiyah, Iraq. Joe was assigned to B Company, 1st Battalion, 63rd Armor Regiment, 1st Infantry Division, Vilseck, Germany.

I rise today to commemorate Joe, to celebrate his life, and to offer his family our support and our deepest sympathy on their tragic loss. Our country is deeply grateful for his noble service to others, his idealism and for the example that he provided to all Americans by the way he led his life.

KOBY MANDELL ACT OF 2003

Mr. LEAHY. Mr. President, I am pleased to cosponsor the Koby Mandell Act of 2003. This bill is intended to ensure that all terrorists who commit violent acts against American citizens overseas are punished to the full extent of the law. I have already been working to ensure that the Koby Mandell Act is considered by the Senate and, I expect passed into law.

Three years ago, Koby Mandell was beaten to death in a cave near the Jewish settlement of Tekoa on the West Bank in Israel. Koby Mandell was 13 years old. No one was caught or charged with responsibility for this murder. This tragic story is only one among dozens in which U.S. citizens have been harmed by terrorists, and the U.S. Government has been hindered in its ability to hunt down and prosecute the criminals.

The bill would establish within the Department of Justice an office to ensure that all American citizens who are killed or injured by terrorists operating overseas receive equal treatment by the U.S. Government in its efforts to solve the crime and bring the perpetrators to justice. There would be no difference among cases based on the origin of the terrorists or where they carry out their heinous acts. The investigators and prosecutors associated with this new DOJ office could investigate each incident aggressively, whether the victim is a diplomat, a volunteer teacher like Ted Burgon of Oregon, who was killed in Indonesia in 2002, or a child like Koby Mandell.

Specifically, this bill will create the Office of Justice for Victims of Overseas Terrorism. The Office will ensure that rewards are offered for the capture of terrorists involved in attacks that harm American citizens. It will advertise such rewards and publicize the names and photos of suspects. The Office will establish a notification system to keep victims' families updated on the status of investigations and efforts to capture suspects in each case. It will seek to ensure that suspects are not able to obtain visas to travel to the U.S. In addition, the Office will seek to determine if terrorist suspects who are believed to have participated in attacks on American citizens are employed by local or national police forces. If it finds that suspects are so employed, the Office will seek to curtail any American foreign assistance to those forces. Finally, the Office will undertake a comprehensive assessment of indictments and prosecutions by the U.S. Government against suspected terrorists. It will seek to identify any patterns that would determine the reasons for the absence of indictments in certain cases or in certain countries. This assessment will be conveyed to the Attorney General with recommendations for correcting any shortcomings in attempts to pursue, capture, and prosecute suspects.

Just as we must do all we can to prevent terrorist attacks from occurring on our soil, we must take additional steps to protect our citizens from attack overseas. Where they are targeted and harmed, it is the duty of the U.S. Government to pursue each case of murder or injury vigorously until every terrorist knows that he or she will not escape justice. The Koby Mandell Act is a step toward honoring those who have been lost or harmed, and a step toward deterring future attacks. I am honored to join Senator SMITH, Senator WYDEN, and the other sponsors of this measure as a cosponsor.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that adds new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On Long Island, NY, in November 2000, Michael Ashley was charged with allegedly assaulting his roommate. Ashley believed he was gay.

Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. By passing this legislation and changing current law, we can change hearts and minds as well.

IN SUPPORT OF S. RES. 364

Mr. FEINGOLD. Mr. President, I would like to express my support as a cosponsor for S. Res. 364, a sense-of-the-Senate resolution that addresses growing concern about oil markets. Over the past few months, oil prices have skyrocketed to a high of over $40 per barrel. High gasoline prices are inextricably linked to high crude oil prices, and these high oil and gas prices hurt Americans across the Nation and from all walks of life. Farmers, teachers, and small business owners across the country and in Wisconsin in particular, are getting hit hard by these outrageous costs. This week the people in my home State of Wisconsin are seeing gas prices of over $2.00 a gallon. Making matters worse, a recent refinery breakdown in Minnesota may further reduce the supply of gasoline in the State.

I am proud to cosponsor this resolution because it sends a powerful message to the administration that it needs to directly, and aggressively, confront this oil and gasoline problem now. First, the resolution expresses the sense of the Senate that the administration should directly confront OPEC and challenge OPEC to immediately increase oil production. The eleven countries that make up the Organization of Petroleum Exporting Countries, OPEC, produce 40 percent of the world's crude oil and control three-quarters of proven reserves, including much of the spare production capacity. Ensuring access to and stable prices for imported crude oil for the United States and major allies and trading partners of the United States is vital to United States foreign and economic policy.

The 2004 OPEC production cuts have resulted in outrageous increases in oil prices. OPEC instituted its production cut in February 2004, which reduced production by 2,000,000 barrels per day. From February to March 2004, crude oil prices rose from $28 to $38 per barrel. In April, OPEC announced its commitment to further cut oil production by 1, 000,000 barrels a day, and crude oil prices now exceed $40 per barrel. We cannot allow this foreign oil cartel to wreak havoc on our economy. The administration must use its diplomatic pressure to persuade OPEC to increase production. The actions of this cartel have real consequences for Americans.

Second, the resolution states that the administration should direct the Federal Trade Commission and the Attorney General to exercise vigorous oversight over the oil markets to protect the American people from price gouging. Mega-mergers throughout the oil industry have resulted in consolidation in the market, and we have, in essence, rebuilt the Rockefeller trust through these mergers. The gasoline market in Wisconsin and at least 27 other States are now considered to be "tight oligopolies" with 4 companies controlling more than 60 percent of the gasoline supplies. In tightly concentrated markets, numerous studies have found oil company practices are driving independent wholesalers and dealers out of the market.

Investigations have also found large consolidated oil companies control not just the buying choices of local gas stations, but also the selling prices of gasoline distributors. As a result, independent stations must buy their gasoline directly from the oil company, usually at a higher price than the company's own brand-name stations pay. With these higher costs, the independent stations cannot compete. The company bases prices not on the cost of producing gasoline, but on the maximum a neighborhood will pay. The FTC and the Attorney General must keep a watchful eye on these anticompetitive practices and use all the tools available to them to protect consumers from price fixing and other practices that result in escalating gas prices.

Finally, the resolution calls upon the administration to suspend deliveries of the oil to the Strategic Petroleum Reserve and release 1,000,000 million barrels of oil a day for 30 days. History indicates that releasing oil from the SPR provides consumers with relief from high gas prices. Within hours of the first air strike against Iraq in January 1991, the first President Bush authorized a drawdown of the SPR. The day after the plan was approved, crude prices dropped by nearly $10 a barrel. During the fall of 2000, the Clinton administration decided to release oil from the SPR. The day after the oil was released from the SPR, crude prices oil prices fell from $37 a barrel to less than $ 31 a barrel. In addition, releasing the oil will not affect our security interests because the SPR is almost full. It currently holds 659 million barrels, and its capacity of the is 700 million barrels. The resolution only calls for releasing 30 million barrels. American consumers need relief from high gas prices now. I urge my colleagues to support this resolution.

CONFIRMATION OF DEBBIE HERSMAN

Mr. HOLLINGS. Mr. President, the Senate recently confirmed Debbie Hersman to become a member of the National Transportation Safety Board. She has served the Commerce Committee for 5 years, and all of us will miss her presence. We all wish her the best in her new position and know that she will serve with honor and integrity.

I ask unanimous consent that the following statements that are part of the hearing record on her nomination be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR ERNEST HOLLINGS ON THE NOMINATION OF DEBBIE HERSMAN

Mr. Chairman, I know Senator Hutchison would agree that the most important character a member of the National Transportation Safety Board can have is independent thinking. I don't want someone going to an accident, mind already made up, sharp elbows telling everybody what they are supposed to find, and everything like that.

What I want is someone who can look at all sides of the issue. Someone who can challenge people to make the right decisions. Someone who can manage the non-partisan professionals doing the work. And someone, who at the end of the day, will give a fair and unvarnished response on what happened.

I pick NTSB members like George Bush picks vice presidents. You can search the country, far and wide, but the best of the best in transportation safety, is right here in the room, everyday with us, Debbie Hersman.

She has worked for the committee for almost 5 years. I've had her focus on rail, because of the tremendous needs we have to modernize Amtrak and improve passenger and safety issues.

But she also has taken on oversight of truck and bus safety, pipeline safety, hazardous materials transportation safety. And post 9–11, I've asked her to oversee transportation security issues, insofar as air, rail, ports, and trucking. In other words, she is well-rounded in all aspects of transportation. Her experience belies her youthful appearance.

Prior to joining our staff, Debbie was the staff director for Congressman Bob Wise of West Virginia, who served on key transportation and infrastructure committees. She holds a bachelor's degree from Virginia Tech and a master's degree from George Mason.

We still have much work to do on this committee on transportation issues, and I hate to lose my right arm. She is as hard a worker, as smart as any, as competent a professional as any Senator could ask for. But I know the country is better off, if Debbie is at NTSB, and I proudly endorse her nomination.

Mr. ROCKEFELLER. Mr. President, we hold many nomination hearings in this committee, and we say many things about the nominees, usually in praise of them, but at times questioning them. This nomination is a personal one for many of us, as we have all watched Debbie work tirelessly on behalf of us and our constituents.

Before I discuss all of the reasons that Debbie is absolutely the right person for this position, I want to proudly state she is a West Virginian. Both of her parents were raised in Roane County, WV. In addition, she has many proud relatives in Spencer and Charleston, WV. I know that the people of West Virginia share my pride in all of Debbie's accomplishments.

Before coming to the Senate Commerce Committee, Debbie worked for then Congressman Wise of West Virginia in many capacities, including chief of staff. Governor Wise called me to support her nomination, and we wholeheartedly agreed that there was no better person for the job. Debbie has spent a career for the people of West Virginia, and I know the entire country will benefit from her presence on the National Transportation Safety Board.

Each of us has had to call on the National Transportation Safety Board, or watched on CNN, the work that they do in sifting through a disaster site and in dealing with family members following an aviation tragedy. We rely on their independence to provide Congress and the transportation regulatory agencies recommendations to improve safety. It is a critical role that they play, and one divorced from politics and partisanship. The National Transportation Safety Board deals with situations where tragedies affect many people and that makes it all the more important that we select someone with both the technical knowledge to contribute to the board's work and the human compassion needed in the context of these tragedies. Debbie melds these two important requirements in a particularly special manner.

Each Board member is an independent source of knowledge and information. While the Board votes on matters, and we hope that all agree on the safety recommendations, each is charged with independently making a decision based on the facts and analysis of its expert staff. A small agency, with some 429 employees, its expertise and knowledge is recognized around the world.

Debbie, who has worked on this committee for 5 years, has worked with all of us on transportation safety and regulatory issues, using her expertise and talents to push for improvements. Her primary focus has been surface transportation, but I know that she has spent a considerable amount of time on aviation safety issues, and helped with aviation security matters following 9/11. I know she worked on the highway bill while a House staff member, and that knowledge will help her in her new position.

Her talents, wit, charm and expertise will be sorely missed. I wish her the best of luck in her new position, and while none of us hope to see her about a tragedy in our states, we know that whatever the situation, the NTSB will be in good hands with Debbie there.

Mr. BREAUX. Mr. President, today we are honored by the nomination of Debbie Hersman to serve as a member of the National Transportation Safety Board. Along with Senator HOLLINGS, I have spent a great deal of time over the last 5 years working with Debbie. She has always provided me with excellent counsel and I can count on her to know the facts and understand the points of view of all sides.

Debbie's experience in all modes of transportation qualifies her well for this position. In 1999 she spent countless hours drafting legislation that ultimately resulted in the creation of the Federal Motor Carrier Safety Administration at the Department of Transportation, with the primary purposes of reducing large truck fatalities on our nation's highways. In 2001 Debbie and I worked through many legislative issues on the floor along with Senator MCCAIN and his staff to pass a pipeline safety bill. The pipeline safety legislation was prompted by several fatal accidents that were also investigated by the NTSB. We rely on the Board to provide us with independent and honest answers about accidents and what needs to be done to prevent them in the future. I know that we can count on Debbie to understand the import of the Board's work and the interplay between the Board's recommendations and the legislative and regulatory processes.

While it is hard for us to let one of our own go, I have every confidence that she possesses the professionalism, credibility, and with the necessary insight to do the job well. Debbie always sees the big picture yet she pays attention to the details. Her tenacity and ability to hold people's feet to the fire will serve her well in her new position as she sifts through the facts at accident scenes and works through staff recommendations.

It has been a pleasure to work with Debbie on a multitude of transportation issues. I have always been impressed with her diligence and professional demeanor. While I will miss her, on both a professional and personal level, I know that Debbie will serve on the NTSB with distinction. It is my hope that we can move her nomination and get her over to the NTSB quickly.

U.S. INVESTMENT IN INTERNATIONAL ENERGY EFFICIENCY

Mr. JEFFORDS. Mr. President, I address the Senate on the matter of the need for continued U.S. investment in energy efficiency projects in other countries, as well as our own. I recently submitted my view on this matter to a publication of the Alliance to Save Energy, but I feel now, particularly in these times of high gasoline prices, that I should make a few remarks to the full Senate on this issue.

Fluctuating energy prices and instability in the Middle East once again are prompting calls for energy independence for the United States. In our efforts to meet that goal, we cannot forget that the energy use of other countries directly effects both the supply and price of our energy resources here at home.

Federal efforts to ensure freedom from fluctuations in energy prices have been advocated by every President, both Republican and Democrat, since 1973 and the infamous oil boycott. As Americans we count on energy to protect our security, to fuel our cars, to provide heat, air conditioning and light for our homes, to manufacture goods, and to transport supplies. In all of these needs, we, as consumers, pay the price for fluctuations in the global energy market.

Our efforts to guarantee adequate energy supplies in the U.S. should prompt us to again take a hard look at energy efficiency not only here, but abroad. We are reminded that the international energy efficiency programs and projects run by our Federal Government protect and enhance the economies and standard of living of developing nations around the world. Given that we have a single integrated global petroleum market these efficiency programs directly benefit American consumers: by lessening demand for oil abroad, we are helping to loosen supply and hold down price pressures domestically. Quite simply, lowered oil demand in Madras helps truckers in Montpelier. Lowered oil use in Sao Paolo helps drivers in Santa Fe.

A visitor to the capital of almost any developing country, be it Bangkok, Cairo, Manila, or Mexico City, will have a common experience. These places have already seen extraordinary increases in energy use. People who last saw these places 10 or 15 years ago are struck by the massive increase in air pollution from automobiles, trucks, and factories. As development takes hold and growth accelerates, energy use increases dramatically. But in many cases developing countries do not use energy efficiently. They often require two to four times more energy than industrial countries to produce the same output. This fuel consumption speeds up the accumulation of carbon dioxide in the atmosphere, contributing to global warming. In addition, fuel combustion is often dirty and incomplete, generating local pollution.

U.S. Government-funded efforts energy-efficient programs that provide equipment and improved energy management practices can greatly reduce energy consumption. Over the last 10 to 15 years, the U.S. Agency for International Development, U.S. AID, launched a number of energy conservation projects aimed at energy use. These projects helped create an interest in energy efficiency, trained local engineers in energy management, and sponsored energy audits and demonstration investments. The projects were technically successful and had good economic rates of return, and the Alliance to Save Energy has been involved in several of these projects. In most cases, fuel savings paid for the cost of investments in a year to two. By reducing energy consumption, the measures also reduced pollution.

One of the most successful examples of a national energy conservation program has been Brazil's National Electricity Conservation Program PROCEL. With support from U.S. AID, PROCEL has developed demonstration and education programs to foster energy efficiency savings and reduce the need for new construction of costly power plants. The country has developed energy efficiency standards, regulatory measures, and joint-venture projects that have become a model for the rest of Latin America. PROCEL's energy efficiency measures have resulted in direct savings of over 1200 gigawatt-hours per year.

The need for programs such as these are overwhelming. According to the Energy Information Administration's most recent International Energy Outlook world energy consumption will rise by 54 percent from 2001 to 2025, driven by rising demand for power in China, India and other parts of the developing world.

The report, issued on April 15, 2004, says oil will remain the dominant energy source worldwide through 2025, in Asian markets as well as in the United States. Combined, Asian and U.S. consumers will account for nearly 60 percent of the increase in world oil demand, which is projected to rise from 77 million barrels per day in 2001 to 121 million barrels per day in 2025. To meet that rising demand, the world's producers would have to increase daily production by more than 44 million barrels.

And for electric power generation, coal dominates energy markets in China, India, and other developing Asian countries. EIA projects extensive increases in coal use in China and India. EIA also projects a near doubling of worldwide net electricity consumption by 2025, from 13,290 billion kilowatt hours to 23,072 billion kilowatt hours—again propelled by rising demand for electricity in the developing world.

Unfortunately, despite these successes there is an alarming and decreasing trend in funding for energy efficiency programs at U.S. AID. During the past few years these programs have received a cut in funding—with the fiscal year 2004 request ($8 million) cut to 50 percent of the fiscal year 2001, $16 million funding. And the current proposal will not reverse this trend.

In a century likely to contain many surprises and new challenges, the importance of U.S. energy security can only increase. In achieving energy security we must be mindful of a few things. We must assist developing countries in cultivating a responsible energy policy which supports sound economic and social development for the betterment of their population and the global environment. This mutually beneficial partnership will enhance our energy security while providing sorely needed revenues for health care, education, and infrastructure abroad. We also must remember that it takes continued federal investment to achieve this worthy goal.

TRIBUTE TO LIEUTENANT COMMANDER JAMES MATHIEU

Mr. GREGG. Mr. President, I congratulate and honor LCDR James Mathieu of Sanbornville, NH on the occasion of his retirement after 28 years of honorable service to the United States as a member of the United States Coast Guard.

Rising through the ranks from recruit to his current rank, LCDR Mathieu distinguished himself on numerous occasions. From his Honor Graduate status in Recruit Training, through his successful completion of various training and vocational schools, to the achievement of ever increasing rank, LCDR Mathieu has upheld the Coast Guard motto of Semper Peratus, Always Ready.

Jim's afloat assignments included Coast Guard cutters *Hamilton*, *Chase*, *Bibb*, *Unimak*, and *Vigilant*. His operational ashore and staff assignments include the Coast Guard Academy, Group Woods Hole, Group Portland, Coast Guard Headquarters, and Station Miami Beach as Commanding Officer of a 400 man detachment in Miami Beach. Tasked with search and rescue, law enforcement and environmental response, LCDR Mathieu led his team in the Coast Guard's busiest multi-mission station. With an impressive record of rescues and other successful missions, LCDR Mathieu proved that his unit was ready for countless tasks in support of the United States' maritime interests. Jim retires from the Office of Coast Guard Congressional Affairs, serving as Governmental Liaison to the United States Coast Guard.

A proud husband, father and grandfather, LCDR Mathieu is married to the former Lori Anne Dowd, herself a career Coast Guard officer. Together, they have raised a family of one son, James Michael II, and one daughter, Melissa. As a family, they were often faced with the challenges borne by so many who serve our country. They were also rewarded by the satisfaction of knowing they have participated in a noble and just cause.

Throughout his entire career, LCDR James Mathieu has set his standards high and striven to meet them in every endeavor. Through the junior ranks, leadership positions, and as a family man James Mathieu has continually distinguished himself.

Jim exemplifies the words of Daniel Webster who said:

> "God grants liberty only to those who love it, and are always ready to guard and defend it."

Because of his efforts, the liberty of this country is made more secure. On behalf of the State of New Hampshire, as he charts a new course in life, I wish him fair winds and following seas.

CONGRATULATING THE FIRM OF LEO A. DALY

Mr. HAGEL. Mr. President, today I congratulate the international architecture and engineering firm Leo A. Daly for its direction, construction and design of the National World War II Memorial. The completion of the National World War II Memorial, which was dedicated last weekend, would not have been possible without the Leo A. Daly firm. I am particularly proud of this firm since it was founded 89 years ago in my home State of Nebraska.

The National World War II Memorial acknowledges the service and sacrifice of those who served our country during World War II. According to The Commission of Fine Arts, the memorial is "an eloquent statement worthy of the subject and the site."

I congratulate and thank the Leo A. Daly employees who have honored the service of our Nation's "greatest generation" through the construction of this National World War II Memorial.

HOOSIER VETERANS VISITING OUR NATION'S CAPITAL

Mr. LUGAR. Mr. President, I rise today to share with my colleagues the names of many of the Hoosiers who made the journey from the State of Indiana to Washington, DC, to take part in the festivities this past weekend surrounding the dedication of the new World War II Memorial and in remembrance of Memorial Day.

My staff and I were pleased to have the opportunity to meet with these honorable veterans and their families and to listen to their vastly different experiences throughout World War II and henceforth. In addition, a few of these veterans were able to participate in interviews that will be submitted to the Library of Congress as part of the Veterans History Project.

Mr. President, I ask unanimous consent that the following names of my constituents who visited my office on Friday, May 28, 2004, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

J. Louis Martinez from Merrillville and his family.

Sam Slevin from Nineveh and his family.

Carl Myers from Marion and his family.

Henry Jones from Indianapolis and his family.

Warren Wilson, now from Clearwater, Florida, and his family along with William Dang, formerly from Indianapolis.

Joseph Dolezal from Michigan City and his family along with Steve Jones from LaPorte.

Carol Hany from Hoagland, Jean Boyer from Fort Wayne, and Lorraine Schubert from Fort Wayne.

Richard Rooker and his family from Warsaw.

John Mohney from Bloomington and his family.

Jim Downard from Michigantown and his wife Mary.

Joe Carey and his wife Sue, and Dick Gratham and his wife, Polly, all from Delphi.

Nelson Gray, his wife, Christine, his daughter, Janet Pflum, and grandson, Marques Pflum, all from Indianapolis.

John Davis from Indianapolis and his wife, Betty. They were joined by family members John, Molly, Kevin, Michael, Dorothy, Donna, Joe and Pam Davis.

Carl Weisheit from Fort Wayne and his wife, Doris, as well as Eric and Cris Brueggman.

Russell Sutton and his family.

The Ridenour Family from Frankfort and the Reed Family from Fort Wayne.

Jim, Patsy and Bill Perry from Winamac.

Dick, Tim and Rick Courtney from Muncie and Newburgh.

Loren, Deb, Jonathon and Chris Meyer from South Bend.

Bill Leburg from Fowler and his family.

Mary Jungemann and her family from Indianapolis.

CONGRATULATING THE WINNERS OF THE NEW HAMPSHIRE EXCELLENCE IN EDUCATION AWARDS

Mr. SUNUNU. Mr. President, I rise today to congratulate this year's winners of the New Hampshire Excellence in Education Awards. The "ED"ies are awarded to those individuals, schools and educational programs that have made significant contributions to public education and have met the highest standards of excellence. Educators and schools who are selected have demonstrated a high standard in areas such as curriculum and instruction, teaching and learning process, student achievement, leadership and decision-making, community and parental involvement, and school climate. On June 5, 2004, the leadership and achievement of these 33 individuals and 12 schools in New Hampshire will receive acknowledgment. I add my voice on behalf of the citizens I represent in similarly recognizing our appreciation and respect for these professionals who make countless sacrifices and contributions in our schools.

The "ED"ies are presented in various categories of excellence, such as math and science teaching, curriculum development, and environmental education. The specific criteria for the "ED"ies, which is developed by the board of directors for the New Hampshire Excellence in Education Awards, has been applied to elementary, middle, and secondary schools, along with teachers, administrators and other education professionals performing at each of these levels, as well as higher education. The selection committees consist of some of New Hampshire's finest educators and community leaders who have the responsibility of applying these standards and evaluating the nominees. The committees make their selections after careful review of the nominees, school applications and assessments based on on-site visitations.

The teachers recognized here have clearly had a profound impact on their students just as many of my own teachers had on me. The teachers for whom I have the fondest memories created a positive learning environment and necessary direction that were key elements to my growth as a person and as a public servant. They impressed upon me the importance of one's contribution at the community level and the important role a sound public education plays in our society. Now, as a parent, I can more fully appreciate how delicate the task of educating can be, and understand more now than ever the vital resource our schools and teachers provide to the parents in the towns and cities of New Hampshire.

The educators and community leaders chosen this year to receive "ED"ies have demonstrated superior dedication to their students, schools and communities. They deserve this prestigious honor for the important roles they play in helping our children reach their goals and succeed in school. The individuals and schools being commended this year have provided students with the tools they need to become productive and engaged citizens, and are our State's most treasured role models—setting positive examples for the children that surround them, teaching personal responsibility and hard work, and shaping the character of young minds. For these achievements, our State and our country owe them a great deal of gratitude.

Since first elected to Congress in 1996, I have made improving education a legislative priority of mine. I am cognizant of the fact that the men and women on the front lines of our classrooms tackle the toughest of challenges and enable students to reach their full potential. We, in New Hampshire, enjoy an outstanding education system that is a true model for the country. This success is due in large measure to the contributions and leadership of the many educators and schools recognized here today.

I ask unanimous consent that a list of the 2004 New Hampshire Excellence in Education Award winners be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

2004 New Hampshire Elementary School Representatives of Excellence

Canterbury Elementary School, Canterbury
Gilford Elementary School, Gilford
Elementary School Finalists: Grinnell Elementary School, Derry; James Mastricola Elementary School, Merrimack; Mast Way Elementary School, Lee; Tuftonboro Central School, Tuftonboro

NH Environmental Educators

Valerie Ford and Jon Marshall, Bartlett Elementary School, Elementary Level
Esther Cowles, NH Project Learning Tree, Nonformal Division
Scott Semmens, Hopkinton High School, Secondary Level

NH Charitable Foundation Christa McAuliffe Sabbatical

Sue S. Pribis, Bow Memorial School

NH Association of World Languages

Marie-Claire Wheeler, Con-Val High School, Peterborough

NH Recepient—Presidential Awards for Excellence in Math and Science Teaching

John G. Emerson, Conant High School, Jaffrey, Secondary Math

NH Affiliate of the International Society for Technology in Education

The Pat Keyes Technology Educator Award: Mark MacLean, Merrimack Valley High School, Penacook
Impact Award: Gerry Ryder, Belmont Elementary School; Susan Janosz, Manchester School District

Phi Delta Kappa Education Supporter Award

Alex Ray, Common Man Restaurants

NH College and University Council

John Ernest, University of New Hampshire

NH School Administrator's Association

Superintendent of the Year: Dr. Kenneth DeBenedictis, SAU #41, Hollis-Brookline
Outstanding Service Award: Allen Damren, SAU #6, Cornish

NH Association of School Principals

Marc Boyd, Maple Avenue Elementary School, Goffstown, Elementary Level
Byran Lane, Alvirne High School, Hudson, Secondary Level
Sandra McGonagle, Gilford Elementary School, Assistant Principal

NH Educational Media Association

Jeanette Lizotte, Bow High School

NH Technology Education Association

Curtis Edwards, Bow Memorial School, Technology Teacher of the Year

NH Career and Technical Administrators

Cornelius A. Moylan, Kennett Career and Technical Center, Conway

NH Association for Supervision and Curriculum Development

Nick Hardy, Executive Director, NHASCD

NH Schools of Excellence

2004 New Hampshire Middle School Representative of Excellence: North Hampton School, North Hampton
Middle School Finalists: Amherst Middle School, Amherst; The Whitefield School

NH School Boards Association

Rochester School Board, School Board of the Year

NH Partners in Education

Linda Meehan, School Volunteer of the Year, Sandown Elementary School

NH Art Educators Association

Melody R. Funk, Holderness Central School, Elementary Level
Scott P. Chatfield, Coe-Brown Northwood Academy, Secondary Level

NH School Nurses Association

Joan Paige, Milton Elementary School

NH Humanities Council

Flora Sapsin, Londonderry High School

NH Association of Teachers of English

Elizabeth Juster, Londonderry High School

NH Music Educators Association

Richard J. Maynard, West High School, Manchester

NH School Counselors Association

Naomi Drury, Conant High School, Jaffrey

NH Association for Gifted and Talented Education

Elise Racicot, SAU #40, Milford

NH Business Education Association

Lynn Davis, Hugh Gallen Vocational Center, Littleton

NH Association of School Psychologists

Michel Cronin, North Country Educational Services, Gorham

NH Department of Safety D.A.R.E. Program

Mark Nash, Holderness Central School

NH Schools of Excellence

2004 New Hampshire Secondary School Representative of Excellence: Belmont High School, Belmont

Secondary School Finalist: Dover High School, Dover

NH Teacher of the Year

Ida Dziura, South Elementary School, Londonderry

DRUG IMPAIRED DRIVING RESEARCH AND PREVENTION ACT

Mrs. FEINSTEIN. Mr. President, I rise to co-sponsor, along with my colleague Senator GRASSLEY, the Drug Impaired Driving Research and Prevention Act. This legislation will help us combat an often overlooked killer on our Nation's roads—drugged driving.

Drivers who are drugged are not as easy to catch as drivers who are drunk. We have not yet developed technology to quickly identify drivers who operate vehicles under the influence of drugs. States do not have consistent laws to punish drugged driving. And law enforcement does not have adequate training to detect and prosecute drugged drivers.

To help make our roads safer, this legislation takes a tough stance while respecting State's traditional law enforcement powers.

First, the bill directs the U.S. Department of Transportation to draft a model law to suggest to the States. That model law will make it a crime for an individual to drive with "any detectable amount" of a controlled substance in his or her system, or when drugs noticeably affect mental or physical abilities. For the worst repeat offenders, the law has tough penalties to show that we mean business—over a year in jail.

Second, the law calls for research into technology to let us detect drugged drivers quickly. Right now, there is nothing like a "breathalyzer" test for drugs.

And third, this legislation will have the Department of Transportation develop training programs so that law enforcement departments throughout the Nation can learn how to better detect drugged drivers.

Why do we need this bill? Because drugged drivers are a reckless danger to everyone else on the roads. Consider the following: In 2002, 11 million people drove while under the influence of drugs in the United States. Those numbers translate into tragedy. Illegal drugs are used by about 10 to 22 percent of drivers involved in all motor vehicle crashes.

Despite this documented risk, drugged driving is tricky to catch. We catch drugged drivers less often than we catch drunk drivers. Too few police officers have received training that would help them take drugged drivers off the streets. And in the fifty States, there is simply no consistent method to identify drugs in the bodies of drivers.

Not surprisingly, this legislation has wide support. The federal Office of National Drug Control Policy is backing it. So is the Partnership for a Drug Free America, the International Association of Chiefs of Police, the Community Anti-Drug Coalitions of America, and other groups. The House of Representatives has already voted to approve the legislation, as part of the Transportation Equity Act.

This legislation will help the states keep drugged drivers off our roads. It will do so by encouraging the States to make the laws against drugged driving uniform, by researching better technology to test for drugs, and by giving law enforcement more training.

I urge my colleagues to join us in this effort.

ADDITIONAL STATEMENTS

TRIBUTE TO VERMONT HOUSING FINANCE AGENCY

• Mr. JEFFORDS. Mr. President, today I wish to recognize the Vermont Housing Finance Agency, which on June 3rd will mark its 30-year anniversary of making affordable housing possible for Vermonters throughout the State. The Vermont Housing Finance Agency (VHFA), which is celebrating this significant milestone in my home State, has throughout its history been a consistent leader in financing safe, decent, and affordable housing for low- and moderate-income Vermonters. This is no small feat given the shortage of affordable housing options throughout the State.

The upcoming celebration gives us the opportunity to recognize the hard work and dedication of the leadership and staff of this agency. Executive Director Sarah Carpenter, Board of Commissioners' Chair Lisa Randall, and the 41 staff members and 7 commissioners work tirelessly to promote this agency's worthy goals. Over 24,000 Vermont families have directly benefited from the extraordinary assistance that VHFA has provided since its inception.

VHFA is an agency that each and every Vermonter should be very proud of. I admire the work that VHFA does and frequently look to its staff for guidance regarding affordable housing matters in Vermont. I am delighted to stand before you today in recognition of this great agency, which exceeds the standards of excellence in so many ways. I offer VHFA my deepest congratulations for its 30 years of service to the people of Vermont.•

TRIBUTE TO WILLIAM GREENBLATT

• Mr. TALENT. Mr. President, it is with honor that I recognize Mr. William Greenblatt of St. Louis, MO, in the celebration of his 50th birthday on May 9, 2004.

Mr. Greenblatt has made significant contributions to the public and the media through his photography services. His photos have appeared in many well-known newspapers, magazines and periodicals from The New York Times to Sports Illustrated to the St. Louis Post-Dispatch.

In his personal photography business, he has assisted many prominent customers and used his talents to earn the role of official photographer for public officials and popular recording artists.

Mr. Greenblatt is affiliated with numerous professional groups and serves on a variety of community boards. He is also the recipient of many awards and commendations in his professional career.

I congratulate Mr. William Greenblatt on reaching the landmark year of 50, and I wish him many future years of happiness and enjoyment in his personal and professional endeavors.•

THANKING CHIEF WILLIAM MICHAEL ROTH

• Mr. GRAHAM of South Carolina. Mr. President, I wish to recognize the accomplishments of one of my constituents, William Michael Roth, and to commend him for his tenure as Chief of Police for the Town of Lexington, South Carolina Police Department as he leaves after 29 years of service.

Chief Roth has served as a law enforcement professional for over 31 years. Under his leadership, the size of the Lexington Police Department has more than tripled and it has received many awards for its efforts in public and youth safety. Roth exhibits an innovative and hands-on approach to law enforcement that has greatly benefited the police department and the Lexington community through the establishment of new safety services and the creation of outreach programs to individuals of all ages.

Roth was instrumental in the creation of local school-based programming such as School Resource Officers and DARE classes for elementary and middle school students. Roth oversaw the creation of an "Adopt-a-Cop" Program within the Lexington Police Department that was recognized as the 2003 Public Safety Program of the Year by the Municipal Association of South Carolina and as a Model Cities Program by the National League of Cities at their annual conference. Roth was directly responsible for the establishment of an investigative division in the

Police Department that includes a Child and Elder Abuse Investigator and a full time Victim's Advocate.

Roth has been an asset to the Lexington Police Department and to the State of South Carolina. I invite you to join me in thanking Chief William Michael Roth for his service and dedication to quality law enforcement and the safety of the citizens of Sourth Carolina.•

TRIBUTE TO DR. BART BARLOGIE

• Mrs. LINCOLN. Mr. President, I rise today with my colleague Senator MARK PRYOR to honor Dr. Bart Barlogie, professor of medicine and pathology at the University of Arkansas for Medical Sciences, UAMS, the Arkansas Cancer Research Center, ACRC, and director of the Myeloma Institute for Research and Therapy, MIRT.

For his lifelong work to find innovative treatments for myeloma cancer, Dr. Barlogie received the International Myeloma Foundation's Second Robert A. Kyle Lifetime Achievement Award on May 8, 2004, in Little Rock, AR.

Throughout his career, Dr. Barlogie has been recognized as one of the most innovative, creative, and knowledgeable minds in the field of myeloma clinical research and treatment. His leadership has made Arkansas home to the foremost center for myeloma research and treatment in the world.

Innovations pioneered under Dr. Barlogie's leadership include the accepted use of bone marrow and peripheral blood stem cell transplants that have resulted in better clinical outcomes for myeloma patients. In fact, the MIRT has performed more than 4,400 bone marrow transplants, far more than anywhere else.

Dr. Barlogie's work will thalidomide as a treatment for myeloma has dramatically changed how patients are treated. His use of anti-angiogenesis as a cancer treatment is now widely accepted and used in not only myeloma but many other forms of cancer.

Over the last 10 years, Dr. Barlogie's work has led to the widespread use and acceptance of magnetic resonance imaging, MRI, and positron emission tomography, PET, scans for myeloma patients. His work is also on the forefront of the movement toward effective molecularly targeted therapies and treatments. These techniques continue to improve the means by which physicians can combat cancer.

Dr. Barlogie is totally devoted to his patients. He is continually driven to find better therapies, prolonged remission rates, a better quality of life, and, ultimately, a cure to one of the most challenging and misunderstood of all cancers.

I am proud to honor Dr. Barlogie today, and I am happy that he, his wife Kathleen, and their three children, Britta, Eva, and Bart, have made their home in Little Rock, AR. They have made significant contributions to our State and community.

I know all Arkansas join me in thanking Dr. Barlogie for making Arkansas the center of his professional and personal life. His achievements have helped make our stellar medical institutions, the University of Arkansas for Medical Sciences, the Arkansas Cancer Research Center, and the Myeloma Institute for Research and Therapy, gain worldwide prominence in the fight against cancer.•

• Mr. PRYOR. Mr. President, I rise today with my colleague, Senator BLANCHE LINCOLN, to honor Dr. Bart Barlogie.

I am pleased to have this opportunity to publicly commend Dr. Barlogie for his unyielding dedication and stalwart leadership in the field of oncology research and treatment. His hard work has led to the development of innovative and comprehensive approaches to treatment of patients with multiple myeloma, which has translated better therapies, prolonged remission rates for cancer survivors and improved the quality of life for many of his patients. Moreover, his commitment may ultimately lead to a cure for the most challenging and misunderstood of all cancers.

On May 8, 2004, Dr. Barlogie was awarded the International Myeloma Foundation's Second Robert A. Kyle Lifetime Achievement Award. This award, which is being given for only the second time, recognizes the significant and revolutionary work of his professional career. This award follows an already long and distinguished line of accomplishments.

Arkansas was well on its way to becoming the center for myeloma clinical research and treatment when Dr. Barlogie accepted the position of director of hematology/oncology, and director of research at the Arkansas Cancer Research Center, (ACRC), at the University of Arkansas for Medical Sciences, (UAMS, and founding director of the Myeloma and Transplantation Research Center, MTRC, within the ACRC. His research team has developed innovative and comprehensive approaches to the treatment of patients with multiple myeloma. Because of his leadership role in the area of myeloma research and treatment, he was named the first director of a newly established Myeloma Institute for Research and Therapy.

During Dr. Barlogie's 15-year tenure at UAMS, more myeloma patients have been treated in Arkansas than anywhere else in the world. Yet, despite his gains in this area, myeloma continues to affect thousands. This year, approximately 15,000 Americans will be diagnosed with myeloma. Looking to the future, Dr. Barlogie envisions a satellite-based intensive training program which will reach physicians worldwide so that many of these patients treated at the institute will have access to specialized medical care upon returning to their home States or countries.

Of paramount importance to Dr. Barlogie are his wife Kathleen and their three children, Britta, Eva, and Bart. He loves them dearly and credits their support for his success. They have made their home in Little Rock, AR, and have added a number of their own contributions to our community and State.

We thank Dr. Barlogie for making Arkansas the center of his professional and personal life. His past and future achievements have truly helped make the University of Arkansas for Medical Sciences, the Arkansas Cancer Research Center, and the Myeloma Institute for Research and Therapy very respectable among the premier health care institutions in the State. More importantly, through his work, Dr. Barlogie has had concrete and positive impacts on the everyday lives of thousands of his patients. His commitment to this cause is incredible: he is saving lives and providing hope for millions more.•

TRIBUTE TO ADMINISTRATIVE LAW JUDGE ALLAN RAMSAY, JR.

• Mr. VOINOVICH. Mr. President, I rise today to pay tribute to Allan Ramsay, Jr., assistant regional chief administrative law judge and Cleveland Hearing Office chief administrative law judge, who passed away on may 18, 2004.

I have always been a strong advocate of public service, and a staunch supporter of those who put service before self. Serving the citizens of the great State of Ohio for over 22 years, Judge Ramsay was one of those individuals. His dedication to his profession and to helping others reflected his compassion and devotion to his fellow citizens.

Appointed to the Cleveland Hearing Office of the Social Security Administration as an administrative law judge in 1982, Judge Ramsay worked tirelessly to improve the lives of more than 15,000 people who turned to the Social Security Administration in their times of need. From 1992 to 1997, he served as the chief administrative law judge in the Social Security Hearing Office in Columbus, OH. In 1997, he returned to Cleveland as the chief judge of that office, and in 1999 he became the assistant regional chief administrative law judge, while maintaining his leadership position in the Cleveland Hearing Office.

Throughout his distinguished career, Judge Ramsay touched the lives of countless individuals. His career is a shining example of public service of which the people of Ohio and the rest of the Nation should be proud.

Judge Ramsay held himself to a high standard and his service to our Nation reflects that. Judge Ramsay is survived by his wife, Beatrice, and his two children. In this time of great loss, my condolences go out to the entire Ramsay family. I can only hope that they will find solace in the thoughts and prayers of loved one, friends, and all those whose lives were bettered through his work.

May God bless Judge Allan Ramsay and his entire family.•

TRIBUTE TO R. PRESTON WOODRUFF, JR.

• Mrs. LINCOLN. Mr. President, I rise today to pay tribute to an Arkansan who has committed over a quarter of a century of his life creating programs that enhance access to higher education for Arkansans.

During his tenure as chairman of the board of directors and then as executive director for the Arkansas Student Loan Authority, ASLA, Mr. R. Preston Woodruff, Jr., has unselfishly shared his knowledge and talents to ensure that students are equipped with the financial resources needed to become future leaders in our State and our Nation.

Programs established under Preston's leadership include: EdLoan—a special loan for Arkansas teachers which offers incredibly low interest rates for those who choose to remain in Arkansas to teach in grades K through 12. Student Outreach Services—a program available to all Arkansas schools which provides materials and seminars to high school counselors and their students in order to promote the benefits of higher education and the means to achieve a higher education. Student Advantage Scholarships—25 scholarships awarded annually by ASLA. This program was formed as a means to create interest in the financial aid process and to provide funds to assist in gaining access to higher education. Honor Roll Student Loan Borrower Benefit Program—a program that offers the lowest student loan interest rates available to Arkansas students.

Preston was also instrumental in establishing the Education Finance Council, EFC, an association of not-for-profit State student loan secondary markets that played an important role in influencing legislation regarding the Federal Family Education Loan Program.

On June 30, 2004, Preston will officially retire from his position as executive director for ASLA. He is a living example of the many outstanding Americans who were born and educated in Arkansas, and I am privileged to recognize his tireless commitment to Arkansas students and outstanding leadership as executive director of the Arkansas Student Loan Authority.•

HONORING ERIC SIMON, GRADUATING SENIOR OF NEW PRAGUE HIGH SCHOOL, NEW PRAGUE, MN

• Mr. COLEMAN. Mr. President, today I wish to honor a fine young man, Eric Simon, who will be graduating from New Prague High School in Minnesota on Friday, June 4, 2004.

Eric Simon has earned my respect because of the extraordinary courage he has demonstrated in confronting one of life's most difficult challenges. Eric's father has AIDS, and he has lost his mother and sister to AIDS.

During the early 1980s, Eric's father, Douglas Simon, served in the Army National Guard at Fort Benning, GA and during his service he was injured and required emergency medical surgery. During surgery, Douglas Simon required a nine-unit blood transfusion. The blood he received had not been screened as it should have been, and it contained the AIDS virus.

Eric and his brother, Brian, were spared from the ravages of the disease, but they have had to shoulder adult responsibilities since they were children. Since he was a boy, Eric has handled the grocery shopping, worried about paying the bills and cared for his father.

Sometimes Eric has had to listen to some unpleasant and even mean-spirited comments from people who don't understand what his family has been through. As a young person, Eric has often been challenged to be the bigger man, and to keep from being hurt by unkind remarks. It has not been easy.

Eric has also committed himself to his education. I understand at times that has been frustrating and, like all young men, Eric has sometimes been tempted to study less and hang out more. As the occasion of his graduation attests, however, Eric has risen to the challenge and succeeded.

In closing, I would like to extend my best wishes to Eric Simon on his high school graduation from New Prague High School. His commitment to his education and family are commendable and greatly admired. I am very proud of this young man. I congratulate him on a job well done.

I call upon my colleagues to join me in honoring Eric Simon of New Prague, MN on the occasion of his high school graduation.•

HONORING DR. FRED CHOLICK

• Mr. JOHNSON. Mr. President, today I publicly congratulate Dr. Fred Cholick on a very successful career as the dean of the College of Agriculture and Biological Sciences at South Dakota State University. He has accepted the position as the new dean of agriculture at Kansas State University.

Over the years, Fred has been extraordinarily committed to South Dakota agriculture and SDSU. He is one of the most effective agriculture spokespersons the State has ever had. He speaks with compassion about the benefits of agriculture to our State's economy.

On a personal level, Fred quickly struck a close working relationship with my staff. He enjoyed working with my office when I secured a seat on the Senate Appropriations Committee and Fred experienced the same learning curve we did as we explored various ways to secure Federal funding for SDSU. Despite some setbacks, Fred always kept a positive outlook on the very precarious appropriations process and was incredibly honored that he had the opportunity to work on projects to benefit SDSU and South Dakota's agricultural community. Fred is a real ambassador for agriculture in the State and has done a very effective job at outreach to get everyone in South Dakota to understand the value of our agriculture economy.

Fred worked hard to ensure SDSU was a reputable university with respect to animal health, dairy, ruminant nutrition, biotech and other areas of research. He should be given particular credit for working with Associate Dean Kevin Kephart to develop the Sun Grant Initiative into something that may soon become a reality. His vision for the role renewable energy can play in agriculture is cutting edge. Fred has always been an effective advocate for all land grant universities, and that is why his colleagues around the country selected him as their spokesperson. So while always loyal to South Dakota, Fred could effectively speak on behalf of all land grant schools across the United States.

He has developed strong relationships with his students as a teacher, as well as the dean of agriculture. He worked hard to ensure the students in the College of Agriculture were getting personal attention and a top-notch education. He cared deeply for those graduating and would help them find employment in their respective fields.

Fred was a real champion of value-added agriculture and worked hard to get farmers in South Dakota to understand how to capture larger profits from adding value to the raw goods produced on their operations.

Losing Fred is a huge loss to South Dakota and SDSU, and I personally know that he struggled with the decision to leave SDSU for Kansas State. But, in the end, I think it is his undying commitment to agriculture that led him to decide that Kansas State was the right move. His kind of leadership and character is exactly what the agricultural community needs to evolve and survive in the future. I wish nothing but the best for him and his family. It is with great honor that I share his impressive accomplishments with my colleagues.•

TRIBUTE TO JANE HINTON HART

• Mr. MILLER. Mr. President, today I honor a fellow Georgian, Mrs. Jane Hinton Hart. Mrs. Hart is retiring after more than 30 years of service in the U.S. Government. She was raised in Thomson, GA, where she graduated from Thomson High School in 1966, and Stephen F. Austin State University in Nacogdoches, TX, in 1970. She returned to Georgia and taught school in Augusta from January 1970 to June 1973.

Mrs. Hart began her Federal Government career on the staff of former Senator Sam Nunn, where she served the people of Georgia from 1973 to 1991. During her 18 years of service in Senator Nunn's office, Mrs. Hart worked the full spectrum of positions found in a congressional office. She began as a staff assistant and became a senior legislative assistant to the Senator and the liaison between the Senator's office and the military installations in the State of Georgia.

In 1991, Mrs. Hart moved from the Hill to the Office of Legislative Affairs, Headquarters Marine Corps, where she has served four commandants, Generals Mundy, Krulak, Jones, and Hagee. As a legislative specialist, she has been responsible for reviewing and researching numerous legislative issues to determine their impact on the U.S. Marine Corps. She has provided guidance and drafted legislative proposals for inclusion in the Department of Defense omnibus legislative packages. She works closely with the Legislative Affairs Offices of the Department of the Navy and Department of Defense.

In addition to Mrs. Hart's Government service, she has been an active education advocate through various PTAs in Arlington County, VA, a volunteer in the Boy Scouts of America, a Sunday school teacher, and she reads monthly at a homeless shelter. She will complete her masters in reading education this fall and plans to return to the classroom and teach.

I wish Mrs. Hart, her husband, Jim, and their son, John, all the best. I am delighted that she came here from Georgia seeking to serve our Nation, and has done so with distinction for more than 30 years. Georgia is proud of Mrs. Hart's dedication, hard work and patriotism, and I wish for her many more years of continuing success.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE DURING ADJOURNMENT

ENROLLED BILL SIGNED

Under authority of the order of the Senate of January 7, 2003, the Secretary of the Senate, during the adjournment of the Senate, on May 24, 2004, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bill:

S. 2092. An act to address the participation of Taiwan in the World Health Organization.

The enrolled bill was subsequently signed by the President pro tempore (Mr. STEVENS) on today, June 1, 2004.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–7671. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Spring Viremia of Carp; Payment of Indemnity" (Doc. No. 02–091–1) received on May 25, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7672. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Karnal Bunt; Regulated Areas" (Doc. No. 04–038–1) received on May 25, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7673. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Extension of Tolerance for Emergency Exemptions (Multiple Chemicals)" (FRL7358–7) received on May 21, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7674. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Imidacloprid; Pesticide Tolerance" (FRL7348–1) received on May 21, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7675. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Ultramarine Blue; Exemption from the Requirement of a Tolerance" (FRL7357–6) received on May 21, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7676. A communication from the Assistant Director, Directives and Regulations Branch, Forest Service, transmitting, pursuant to law, the report of a rule entitled "Sale and Disposal of National Forest System Timber; Timber Sale Contracts, Modification of Contracts" (RIN0596–AC16) received on May 21, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7677. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation to amend the Environmental Quality Incentives Program (EQIP) in order to improve the access of this program to Native American Indian Tribes; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7678. A communication from the Acting Under Secretary of Defense, Comptroller, Department of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act relative to the Civilian Personnel Operations Center Management Agency, Aberdeen Proving Ground, Maryland, case number 04–05; to the Committee on Appropriations.

EC–7679. A communication from the Acting Under Secretary of Defense for Acquisition, Technology, and Logistics, Department of Defense, transmitting, pursuant to law, a report relative to the Future Aircraft Carrier Program; to the Committee on Armed Services.

EC–7680. A communication from the Acting Under Secretary of Defense for Acquisition, Technology, and Logistics, Department of Defense, transmitting, pursuant to law, a report relative to the adequacy of the beryllium industrial base; to the Committee on Armed Services.

EC–7681. A communication from the Acting Assistant Secretary of the Army for Financial Management and Comptroller, Department of the Army, transmitting, pursuant to law, the Army's Annual Financial Statement report for fiscal year 2003; to the Committee on Armed Services.

EC–7682. A communication from the Principal Deputy for Personnel and Readiness, Office of the Under Secretary of Defense, transmitting, pursuant to law, the report of the authorization of the wearing of the insignia of a higher grade; to the Committee on Armed Services.

EC–7683. A communication from the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the report of a retirement; to the Committee on Armed Services.

EC–7684. A communication from the Deputy Chief of Naval Operations, Department of the Navy, Department of Defense, transmitting, pursuant to law, a report relative to the Most Efficient Organization for the Public Works Center Norfolk, VA, Detachments Philadelphia and Mechanicsburg, PA, and Earle, NJ; to the Committee on Armed Services.

EC–7685. A communication from the Acting General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations; 69 FR 21973" (44 CFR Part 67) received on May 26, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–7686. A communication from the Acting General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations; 69 FR 21969" (44 CFR Part 65) received on May 26, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–7687. A communication from the Acting General Counsel, Federal Emergency Management Agency, Department of Homeland

Security, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations" (69 FR 21966) received on May 26, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–7688. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specifications and Management Measures; Inseason Adjustments; Pacific Halibut Fisheries" (ID042604D) received on May 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7689. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Closure of Alaska Plaice in the Bering Sea and Aleutian Islands Management Area (BSAI)" received on May 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7690. A communication from the Deputy Assistant Administrator, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Final Rule to Revise Port Codes in Tables 14a and 14b to 50 CFR Part 679" (RIN0648–AR07) received on May 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7691. A communication from the Regulations Officer, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators" (RIN2126–AA09) received on May 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7692. A communication from the Regulations Officer, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Minimum Training Requirements for Longer Combination Vehicle (LCV) Operators and LCV Driver-Instructor Requirements" (RIN2126–AA08) received on May 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7693. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Dassault Model Mystere Falcon 900 and Falcon 900 EX Series Airplanes; Doc. No. 2003–NM–51" (RIN2120–AA64) received on May 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7694. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: General Electric Company CF6–80C2 Series Turbofan Engines; Doc. No. 2003–NE–46" (RIN2120–AA64) received on May 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7695. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model 717–200 Airplanes; Doc. No. 2002–NM–212" (RIN2120–AA64) received on May 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7696. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Fokker Model F.28 Mark 0070 and 0100 Series Airplanes; Doc. No. 2002–NM–256" (RIN2120–AA64) received on May 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7697. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A300 B4–600 and A300 C4–600 Series Airplanes; Doc. No. 2003–NM–80" (RIN2120–AA64) received on May 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7698. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: General Electric Aircraft Engines CT7 Series Turboprop Engines; Doc. No. 99–NE–48" (RIN2120–AA64) received on May 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7699. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747–100, 100B, 100BSUD, 200B, 200C, 200F, 300, 747SE, and 747SP Series Airplanes Equipped with Pratt and Whitney JT9D–3, 7, 70, and 7R4G2 Series Engines; Doc. No. 2002–NM–207" (RIN2120–AA64) received on May 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7700. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747 Series Airplanes; Doc. No. 2003–NM–47" (RIN2120–AA64) received on May 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7701. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model DC 9 15, DC 9 13, and DC 9 32 Airplanes" (RIN2120–AA64) received on May 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7702. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Saab Model SAAB SF 340A and 340B Series Airplanes, Doc. No. 2003–NM–25" (RIN2120–AA64) received on May 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7703. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model Cl 600–2B19; Doc. No. 2003–NM157" (RIN2120–AA64) received on May 25, 2004; to the Committee on Commerce, Science, and Transportation.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. NELSON of Florida (for himself and Mrs. FEINSTEIN):

S. 2481. A bill to require that notices to consumers of health and financial services include information on the outsourcing of sensitive personal information abroad, to require relevant Federal agencies to prescribe regulations to ensure the privacy and security of sensitive personal information outsourced abroad, to establish requirements for foreign call centers, and for purposes; to the Committee on the Judiciary.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2482. A bill to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to prohibit the dumping of dredged material in certain bodies of water; to the Committee on Environment and Public Works.

By Mr. SPECTER:

S. 2483. A bill to increase, effective as of December 1, 2004, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans; to the Committee on Veterans' Affairs.

By Mr. SPECTER (by request):

S. 2484. A bill to amend title 38, United States Code, to simplify and improve pay provisions for physicians and dentists, to authorize alternate work schedules and executive pay for nurses; to the Committee on Veterans' Affairs.

By Mr. SPECTER (by request):

S. 2485. A bill to amend title 38, United States Code, to improve and enhance the authorities of the Secretary of Veterans Affairs relating to the management and disposal of real property and facilities, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. SPECTER (for himself and Ms. MURKOWSKI) (by request):

S. 2486. A bill to amend title 38, United States Code, to improve and enhance education, housing, employment, medical, and other benefits for veterans and to improve and extend certain authorities relating to the administration or benefits for veterans, and for other purposes; to the Committee on Veterans' Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ALLEN (for himself and Mr. WARNER):

S. Res. 368. A resolution commending the University of Virginia Cavaliers women's lacrosse team for winning the 2004 NCAA Division I women's lacrosse National Championship; considered and agreed to.

ADDITIONAL COSPONSORS

S. 44

At the request of Mr. FEINGOLD, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 44, a bill to amend the Internal Revenue Code of 1986 to repeal the percentage depletion allowance for certain hardrock mines, and for other purposes.

S. 875

At the request of Mr. DODD, his name was added as a cosponsor of S. 875, a bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes.

S. 985

At the request of Mr. DODD, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 985, a bill to amend the Federal Law Enforcement Pay Reform Act of 1990 to adjust the percentage differentials payable to Federal law enforcement officers in certain high-cost areas, and for other purposes.

S. 1335

At the request of Mr. GRASSLEY, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1335, a bill to amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term care needs.

S. 1358

At the request of Mr. AKAKA, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1358, a bill to amend chapter 23 of title 5, United States Code, to clarify the disclosure of information protected from prohibited personnel practices, require a statement in nondisclosure policies, forms, and agreements that such policies, forms, and agreements conform with certain disclosure protections, provide certain authority for the Special Counsel, and for other purposes.

S. 1368

At the request of Mr. LEVIN, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1368, a bill to authorize the President to award a gold medal on behalf of the Congress to Reverend Doctor Martin Luther King, Jr. (posthumously) and his widow Coretta Scott King in recognition of their contributions to the Nation on behalf of the civil rights movement.

S. 1369

At the request of Mr. AKAKA, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1369, a bill to ensure that prescription drug benefits offered to medicare eligible enrollees in the Federal Employees Health Benefits Program are at least equal to the actuarial value of the prescription drug benefits offered to enrollees under the plan generally.

S. 1380

At the request of Mr. INHOFE, his name was added as a cosponsor of S. 1380, a bill to distribute universal service support equitably throughout rural America, and for other purposes.

S. 1411

At the request of Mr. DODD, his name was withdrawn as a cosponsor of S. 1411, a bill to establish a National Housing Trust Fund in the Treasury of the United States to provide for the development of decent, safe, and affordable housing for low-income families, and for other purposes.

At the request of Mr. BREAUX, his name was added as a cosponsor of S. 1411, supra.

S. 1428

At the request of Mr. MCCONNELL, the names of the Senator from Idaho (Mr. CRAIG) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. 1428, a bill to prohibit civil liability actions from being brought or continued against food manufacturers, marketers, distributors, advertisers, sellers, and trade associations for damages or injunctive relief for claims of injury resulting from a person's weight gain, obesity, or any health condition related to weight gain or obesity.

S. 1666

At the request of Mr. COCHRAN, the names of the Senator from South Dakota (Mr. JOHNSON), the Senator from Nevada (Mr. REID) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 1666, a bill to amend the Public Health Service Act to establish comprehensive State diabetes control and prevention programs, and for other purposes.

S. 1873

At the request of Mr. JEFFORDS, his name was added as a cosponsor of S. 1873, a bill to require employees at a call center who either initiate or receive telephone calls to disclose the physical location of such employees, and for other purposes.

S. 1939

At the request of Mr. LEAHY, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1939, a bill to require the Secretary of Health and Human Services to ensure that the public is provided adequate notice and education on the effects of exposure to mercury through the development of health advisories and by requiring that such appropriate advisories be posted, or made readily available, at all businesses that sell fresh, frozen, and canned fish and seafood where the potential for mercury exposure exists.

S. 2032

At the request of Mrs. BOXER, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 2032, a bill to provide assistance and security for women and children in Afghanistan and for other purposes.

S. 2212

At the request of Mr. SANTORUM, his name was added as a cosponsor of S. 2212, a bill to amend title VII of the Tariff Act of 1930 to provide that the provisions relating to countervailing duties apply to nonmarket economy countries.

S. 2324

At the request of Mr. CHAMBLISS, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2324, a bill to extend the deadline on the use of technology standards for the passports of visa waiver participants.

S. 2351

At the request of Ms. COLLINS, the names of the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 2351, a bill to establish a Federal Interagency Committee on Emergency Medical Services and a Federal Interagency Committee on Emergency Medical Services Advisory Council, and for other purposes.

At the request of Mr. FEINGOLD, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 2351, supra.

S. 2363

At the request of Mr. HATCH, the names of the Senator from Illinois (Mr. DURBIN), the Senator from Nevada (Mr. ENSIGN) and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of S. 2363, a bill to revise and extend the Boys and Girls Clubs of America.

S. 2425

At the request of Mr. BYRD, the names of the Senator from North Dakota (Mr. CONRAD), the Senator from Iowa (Mr. HARKIN), the Senator from Louisiana (Ms. LANDRIEU) and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of S. 2425, a bill to amend the Tariff Act of 1930 to allow for improved administration of new shipper administrative reviews.

S. 2434

At the request of Mr. HATCH, the names of the Senator from Illinois (Mr. DURBIN), the Senator from Nevada (Mr. REID) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 2434, a bill to establish the Commission to Study the Potential Creation of a National Museum of the American Latino Community to develop a plan of action for the establishment and maintenance of a National Museum of the American Latino Community in Washington, DC, and for other purposes.

S. 2462

At the request of Mr. WARNER, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 2462, a bill to provide additional assistance to recipients of Federal Pell Grants who are pursuing programs of study in engineering, mathematics, science, or foreign languages.

S. 2480

At the request of Mr. GRASSLEY, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2480, a bill to amend title 23, United States Code, to research and prevent drug impaired driving.

S.J. RES. 36

At the request of Mrs. FEINSTEIN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S.J. Res. 36, a joint resolution approving the renewal of import restrictions contained in Burmese Freedom and Democracy Act of 2003.

S. CON. RES. 8

At the request of Mr. LIEBERMAN, his name was added as a cosponsor of S. Con. Res. 8, a concurrent resolution designating the second week in May each year as "National Visiting Nurse Association Week."

S. CON. RES. 81

At the request of Mrs. FEINSTEIN, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. Con. Res. 81, a concurrent resolution expressing the deep concern of Congress regarding the failure of the Islamic Republic of Iran to adhere to its obligations under a safeguards agreement with the International Atomic Energy Agency and the engagement by Iran in activities that appear to be designed to develop nuclear weapons.

S. CON. RES. 90

At the request of Mr. LEVIN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. Con. Res. 90, a concurrent resolution expressing the Sense of the Congress regarding negotiating, in the United States-Thailand Free Trade Agreement, access to the United States automobile industry.

S. CON. RES. 106

At the request of Mr. SANTORUM, his name was added as a cosponsor of S. Con. Res. 106, a concurrent resolution urging the Government of Ukraine to ensure a democratic, transparent, and fair election process for the presidential election on October 31, 2004.

S. RES. 357

At the request of Mr. SUNUNU, his name was added as a cosponsor of S. Res. 357, a resolution designating the week of August 8 through August 14, 2004, as "National Health Center Week."

S. RES. 365

At the request of Mr. BROWNBACK, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. Res. 365, a resolution expressing the sense of the Senate regarding the detention of Tibetan political prisoners by the Government of the People's Republic of China.

AMENDMENT NO. 3196

At the request of Mr. DURBIN, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of amendment No. 3196 intended to be proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NELSON of Florida (for himself and Mrs. FEINSTEIN):

S. 2481. A bill to require that notices to consumers of health and financial services include information on the outsourcing of sensitive personal information abroad, to require relevant Federal agencies to prescribe regulations to ensure the privacy and security of sensitive personal information outsourced abroad, to establish requirements for foreign call centers, and for purposes; to the Committee on the Judiciary.

Mr. NELSON of Florida. Mr. President, I rise today to express my deep concern about an issue that illustrates the continuing erosion of Americans' privacy rights. My concern is related to the practice of outsourcing. When U.S. companies outsource sensitive customer information for processing overseas, they may be outsourcing our privacy rights along with it.

We all know that recently it has become popular for American companies to send internal paperwork to be done in other countries, by foreign companies.

When a U.S. company allows a foreign company to process customer data, the foreign company may be given access to the most sensitive types of customer information. Our health records, bank account numbers, social security numbers, tax forms, and credit card numbers are now being shipped abroad—without the knowledge of the customer and beyond the reach of U.S. privacy laws.

This phenomenon means that consumers are almost powerless to stop foreign scam artists from misusing their sensitive information. What types of abuses can occur under this scenario?

In one recent shocking example, a U.S. hospital hired a medical transcriber in Pakistan through a subcontractor to work with sensitive patient health information. Later, the foreign worker claimed that she had not been paid for her work.

So, you know what she did? She threatened to post patients' medical records online unless she was paid. Luckily, she got her paycheck and doesn't seem to have posted anything online.

But this situation shows us the potential for gross violations of consumer privacy. The U.S. hospital said that it never even knew that the foreign transcriber had been hired through a subcontractor and it therefore had never bound her contractually to follow any privacy or security standards.

Another potential abuse of offshoring sensitive customer data is identity theft. The illegal theft of someone's identity is a profoundly disturbing and costly problem in this information age.

Moreover, illegal misuse of sensitive information can also have national security implications. For example, data about some of our Nation's power grids allegedly has been outsourced to companies overseas. Imagine the harm that terrorists might do if they got hold of that type of confidential information.

As our global economy expands at such a rapid pace, we simply cannot tolerate the outsourcing of Americans' privacy rights overseas. We need to be proactve on this potentially explosive issue. Make no mistake, the Pakistani transcriber incident is not the first or the last time that sensitive customer information becomes endangered in a foreign country. The time to act is now, instead of reacting only after our privacy rights are further eroded.

In light of these circumstances, today I am introducing a bill—along with Senator FEINSTEIN—that begins to address these privacy and security concerns. The bill is called the INFO Act, which is short for The Increasing Notice of Foreign Outsourcing Act.

The INFO Act is designed to help ensure that sensitive consumer information is protected and that U.S. companies can be held accountable for breakdowns in the security of customer information.

Specifically, the INFO Act that we are introducing today would require the following things: First, U.S. companies in the health care industry and the financial industry must tell their customers that their sensitive health information and financial information is being processed by companies in foreign nations, where privacy safeguards may be less stringent.

Second, U.S. companies in the health care industry and the financial industry must promise their customers that they are complying with U.S. privacy laws, which are designed to keep sensitive customer information secure even when it is outsourced.

Third, U.S. companies in the health care industry and the financial industry must make sure that each foreign company that is handling sensitive customer information has agreed by contract to meet U.S. privacy standards and to keep sensitive customer information secure.

Fourth, U.S. companies may examine the business operations of the foreign company to make sure the foreign company is meeting privacy standards and is keeping sensitive customer information secure.

Fifth, a foreign company must notify the U.S. company of any data security breach. The U.S. company must then notify the U.S. regulatory agency, which can then hold the U.S. company accountable for the actions of the foreign company.

Finally, an employee of a foreign call center must tell a U.S. customer where the employee is located, if the U.S. customer asks for this information.

I strongly believe that we need to act now, before the privacy issues raised by offshoring begin to explode.

Let me emphasize that I see this bill as both pro-consumer and pro-business. Consumers will be informed about how their sensitive information is handled and they can learn when security breaches occur. Additionally, foreign companies that handle customer data will be held accountable to the U.S. company that gives them their work. And U.S. companies will be upfront in informing their customers about offshoring sensitive data before customer backlash occurs.

With this sort of system in place, we hopefully can reduce the chances of customer data being misused, and allow U.S. companies to play on a level playing field where all interested parties know the rules of the game.

I have a history of trying to solve consumer issues in ways that are not needlessly burdensome to U.S. businesses. That is why my office, as well as Senator FEINSTEIN's office, has met several times with industry representatives during the development of this bill.

I was interested to find ways for businesses to protect consumer privacy rights without having to sharply raise prices or limit products and services. I believe that the INFO Act has achieved those goals.

Consumer privacy has always been one of my top priorities. Now, as always, I look forward to working with all interested parties to resolve this consumer privacy issue in a timely and effective manner.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2481

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Increasing Notice of Foreign Outsourcing Act".

SEC. 2. HEALTH PRIVACY.

(a) FOREIGN-BASED BUSINESS ASSOCIATE.—In this section, the term "foreign-based business associate" means a business associate, as defined under the regulations promulgated pursuant to section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note), whose operation is based outside the United States and that receives protected health information and processes such information outside the United States.

(b) NOTICES.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the "Secretary") shall revise the regulations prescribed pursuant to section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note) to require a covered entity (as defined under such regulations and referred to in this section as a "covered entity"), that outsources protected health information (as defined under such regulations and referred to in this section as "protected health information"), outside the United States to include in such entity's notice of privacy protections the following:

(A) The following information in simple language:

(i) Notification that the covered entity outsources protected health information to foreign-based business associates.

(ii) Any risks and consequences to the privacy and security of protected health information that arise as a result of the processing of such information outside the United States.

(iii) Additional measures the covered entity is taking to protect the protected health information outsourced for processing outside the United States.

(B) A certification that the covered entity has taken reasonable steps to ensure that the handling of protected health information will be done in compliance with applicable laws in all instances where protected health information is processed outside the United States, including the reasons for the certification.

(2) EFFECTIVE DATE.—A covered entity shall be required to include in such entity's notice of privacy protections the information and certification described in paragraph (1) for notices issued on or after the date on which the Secretary prescribes regulations pursuant to this section or the date that is 365 days after the date of enactment of this Act, whichever date is earlier. Nothing in this subsection shall be construed to require a covered entity to reissue notices issued before the date on which the Secretary prescribes regulations pursuant to this section or the date that is 365 days after the date of enactment of this Act, whichever date is earlier, to include in such notices the information and certification described in paragraph (1).

(c) RULEMAKING.—

(1) IN GENERAL.—

(A) REGULATORY AUTHORITY.—The Secretary shall—

(i) prescribe such regulations consistent with paragraph (2) as may be necessary to carry out this section with respect to foreign outsourcing; and

(ii) determine the appropriate penalties to impose upon a covered entity for a violation of a provision of this subsection or subsection (b).

(B) PROCEDURES AND DEADLINES.—The regulations described in subparagraph (A) shall be prescribed in accordance with all applicable legal requirements and shall be issued in final form not later than 365 days after the date of enactment of this Act.

(2) NECESSARY REGULATIONS.—The Secretary shall prescribe regulations—

(A) requiring that a contract between a covered entity and such entity's foreign-based business associate contain a provision that provides such entity with the right to audit such associate, as needed, to monitor performance under the contract; and

(B) requiring that foreign-based business associates and subcontractors of covered entities be contractually bound by Federal privacy standards and security safeguards.

(d) BREACH OF SECURITY.—

(1) BREACH OF SECURITY OF THE SYSTEM.—In this subsection, the term "breach of security of the system"—

(A) means the compromise of the security, confidentiality, or integrity of computerized data that results in, or there is a reasonable basis to conclude has resulted in, the unauthorized acquisition of and access to protected health information maintained by the covered entity, foreign-based business associate, or subcontractor; and

(B) does not include good faith acquisition of protected health information by an employee or agent of the covered entity, foreign-based business associate, or subcontractor for the purposes of the entity, associate, or subcontractor, if the protected health information is not used or subject to further unauthorized disclosure.

(2) DATABASE SECURITY.—

(A) COVERED ENTITY.—A covered entity—

(i) that owns or licenses electronic data containing protected health information shall, following the discovery of a breach of security of the system containing such data, notify the Secretary of such breach; or

(ii) that receives a notification under subparagraph (B) of a breach, shall notify the Secretary of such breach.

(B) OTHER PARTIES.—

(i) THIRD PARTY.—The Secretary shall require that a contract between a covered entity and such entity's foreign-based business associate contain a provision that if the foreign-based business associate (or any subcontractor of such associate) owns or licenses electronic data containing protected health information that was provided to the associate through the covered entity, the associate (or subcontractor) shall, following the discovery of a breach of security of the system containing such data—

(I) notify the entity from which it received the protected health information of such breach; and

(II) provide a description to the entity from which it received the protected health information of any corrective actions taken to guard against future security breaches.

(ii) NOTIFICATION PROCESS.—Each entity that receives a notification under clause (i) shall notify the entity from which it received the protected health information of such breach until the notification reaches the foreign-based business associate who shall, in turn, notify the covered entity of such breach.

(C) TIMELINESS OF NOTIFICATION.—All notifications required under subparagraphs (A) and (B) shall be made as expediently as possible and without unreasonable delay following—

(i) the discovery of a breach of security of the system; and

(ii) any measures necessary to determine the scope of the breach, prevent further disclosures, and restore the reasonable integrity of the data system.

(3) EFFECTIVE DATE.—This subsection shall take effect on the expiration of the date that is 365 days after the date of enactment of this subsection.

SEC. 3. FINANCIAL PRIVACY.

(a) FOREIGN-BASED BUSINESS.—Section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809) is amended by adding at the end the following:

"(12) FOREIGN-BASED BUSINESS.—The term 'foreign-based business' means a nonaffiliated third party whose operation is based outside the United States and that receives nonpublic personal information and processes such information outside the United States.".

(b) FINANCIAL NOTICES.—

(1) IN GENERAL.—Section 503(b) of the Gramm-Leach-Bliley Act (15 U.S.C. 6803(b)) is amended—

(A) in paragraph (3), by striking "and" after the semicolon;

(B) in paragraph (4), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(5) if the financial institution outsources nonpublic personal information outside the United States—

"(A) information informing the consumer in simple language—

"(i) that the financial institution outsources nonpublic personal information to foreign-based businesses;

"(ii) of any risks and consequences to the privacy and security of an individual's nonpublic personal information that arise as a result of the processing of such information outside the United States; and

"(iii) of the additional measures the financial institution is taking to protect the nonpublic personal information outsourced for processing outside the United States; and

"(B) a certification that the financial institution has taken reasonable steps to ensure that the handling of nonpublic personal information will be done in compliance with applicable laws in all instances where nonpublic personal information is processed outside the United States, including the reasons for the certification.".

(2) Effective date.—A financial institution shall include in such institution's disclosure the information and certification described in the amendment made by paragraph (1)(C) for disclosures provided on or after the date on which the regulatory agency that has jurisdiction over such institution pursuant to section 505 of the Gramm-Leach-Bliley Act (15 U.S.C. 6805) prescribes regulations pursuant to the amendments made by this section or the date that is 365 days after the date of enactment of this Act, whichever date is earlier. Nothing in this subsection, or the amendments made by this subsection, shall be construed to require a financial institution to reissue disclosures provided before the date on which the regulatory agency that has jurisdiction over such institution pursuant to section 505 of the Gramm-Leach-Bliley Act (15 U.S.C. 6805) prescribes regulations pursuant to the amendments made by this section or the date that is 365 days after the date of enactment of this Act, whichever date is earlier, to include in such disclosures the information and certification described in the amendment made by paragraph (1)(C).

(c) Rulemaking.—Section 504 of the Gramm-Leach-Bliley Act (15 U.S.C. 6804) is amended by adding at the end the following:

"(c) Rulemaking on Foreign Outsourcing.—

"(1) In general.—

"(A) Regulatory authority.—The Federal banking agencies, the National Credit Union Administration, the Secretary of the Treasury, the Securities and Exchange Commission, and the Federal Trade Commission (referred to in this subsection as the 'regulatory agencies') shall—

"(i) prescribe such regulations consistent with paragraph (2) as may be necessary to carry out this subtitle with respect to foreign outsourcing, with respect to the financial institutions subject to their jurisdiction under section 505; and

"(ii) determine the appropriate penalties to impose upon financial institutions for a violation of a provision of this subsection.

"(B) Coordination, consistency, and comparability.—The regulatory agencies shall consult and coordinate with each other for the purposes of assuring, to the extent possible, that the regulations prescribed by each such agency are consistent and comparable with the regulations prescribed by the other such agencies.

"(C) Procedures and deadlines.—The regulations described in subparagraph (A) shall be prescribed in accordance with all applicable legal requirements and shall be issued in final form not later than 365 days after the date of enactment of this subsection.

"(2) Necessary regulations.—The regulatory agencies shall prescribe regulations—

"(A) requiring that a contract between a financial institution and such institution's foreign-based business contain a provision that provides such institution with the right to audit such business, as needed, to monitor performance under the contract; and

"(B) requiring that foreign-based businesses and subcontractors of financial institutions be contractually bound by Federal privacy standards and security safeguards.".

(d) Breach of Security.—Section 502 of the Gramm-Leach-Bliley Act (15 U.S.C. 6802) is amended by adding at the end the following:

"(f) Breach of Security.—

"(1) Breach of security of the system.—In this subsection, the term 'breach of security of the system'—

"(A) means the compromise of the security, confidentiality, or integrity of computerized data that results in, or there is a reasonable basis to conclude has resulted in, the unauthorized acquisition of and access to nonpublic personal information maintained by the financial institution, foreign-based business, or subcontractor; and

"(B) does not include good faith acquisition of nonpublic personal information by an employee or agent of the financial institution, foreign-based business, or subcontractor for the purposes of the institution, business, or subcontractor, if the nonpublic personal information is not used or subject to further unauthorized disclosure.

"(2) Database security.—

"(A) Financial institution.—A financial institution—

"(i) that owns or licenses electronic data containing nonpublic personal information shall, following the discovery of a breach of security of the system containing such data, notify the entity under which the institution is subject to jurisdiction under section 505 of such breach; or

"(ii) that receives a notification under subparagraph (B) of a breach, shall notify the entity under which the institution is subject to jurisdiction under section 505 of such breach.

"(B) Other parties.—

"(i) In general.—The Federal banking agencies, the National Credit Union Administration, the Secretary of the Treasury, the Securities and Exchange Commission, and the Federal Trade Commission shall require, with respect to the financial institutions subject to their jurisdiction under section 505, that a contract between a financial institution and such institution's foreign-based business contain a provision that if the foreign-based business (or any subcontractor of such business) owns or licenses electronic data containing nonpublic personal information that was provided to the business through the financial institution, the business (or subcontractor) shall, following the discovery of a breach of security of the system containing such data—

"(I) notify the entity from which it received the nonpublic personal information of such breach; and

"(II) provide a description to the entity from which it received the nonpublic personal information of any corrective actions taken to guard against future security breaches.

"(ii) Notification process.—Each entity that receives a notification under clause (i) shall notify the entity from which it received the nonpublic personal information of such breach until the notification reaches the foreign-based business who shall, in turn, notify the financial institution of such breach.

"(C) Timeliness of notification.—All notifications required under subparagraphs (A) and (B) shall be made as expediently as possible and without unreasonable delay following—

"(i) the discovery of a breach of security of the system; and

"(ii) any measures necessary to determine the scope of the breach, prevent further disclosures, and restore the reasonable integrity of the data system.

"(3) Effective date.—This subsection shall take effect on the expiration of the date that is 365 days after the date of enactment of this subsection.".

SEC. 4. FOREIGN CALL CENTERS.

(a) Foreign Call Center Defined.—In this section, the term "foreign call center" means a foreign-based service provider or a foreign-based subcontractor of such provider that—

(1) is unaffiliated with the entity that utilizes such provider or subcontractor; and

(2) provides customer-based service and sales or technical assistance and expertise to individuals located in the United States via the telephone, the Internet, or other telecommunications and information technology.

(b) Requirement.—A contract between a foreign call center and an entity that utilizes such foreign call center to initiate telephone calls to, or receive telephone calls from, individuals shall include a requirement that each employee of the foreign call center disclose the physical location of such employee upon the request of such individual.

(c) Certification Requirement.—An entity described in subsection (b) shall submit an annual certification to the Federal Trade Commission on whether or not the entity and its subsidiaries, and the foreign call center employees and its subsidiaries, have complied with subsection (b). Such annual certifications shall be made available to the public.

(d) Noncompliance.—An entity described in subsection (b) or its subsidiaries that violates subsection (b) shall be subject to such civil penalties as the Federal Trade Commission prescribes under subsection (e).

(e) Regulations.—Not later than 365 days after the date of enactment of this Act, the Federal Trade Commission shall prescribe such regulations as are necessary for effective monitoring and compliance with this section. Such regulations shall include appropriate civil penalties for noncompliance with this section.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2482. A bill to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to prohibit the dumping of dredged material in certain bodies of water; to the Committee on Environment and Public Works.

Mrs. CLINTON. Mr. President, I rise today to introduce the Long Island Sound Protection Act on behalf of myself and Senator SCHUMER. This legislation, which Congressman BISHOP will be introducing in the House, would ensure that contaminated dredge materials are not dumped in Long Island Sound.

The need for this legislation is that the U.S. Environmental Protection Agency is finalizing the process of designating several sites in Long Island Sound as long term disposal sites under the Marine Protection, Research, and Sanctuaries Act. Once this designation is complete, the sites will be open to receive dredged material indefinitely.

I recognize that there has been and will continue to be a need to dredge harbors and marinas around the Sound to support commerce and navigation. But I am concerned that EPA has not looked hard enough at alternatives to dumping in the sound. While not all dredged materials are contaminated, we know that some are contaminated with heavy metals and other toxins. In my view, we should not use the Sound as a dumping ground for those materials.

We must look more thoroughly for alternatives to dumping contaminated waste in Long Island Sound. We need careful planning that involves a strong role for the State of New York in this process. That is why this legislation is so important—we cannot let short term economics overtake long term environmental concerns.

The Long Island Sound Protection Act would require the Corps of Engineers and the EPA to work with other federal agencies and the states of New York and Connecticut to develop a dredged material management plan (DMMP) that would govern dumping in the sound.

The Long Island Sound Protection Act would require the DMMP to meet a set of objectives, including: Identifying the major sources and quantities of dredge material and contamination that require disposal; determining management actions that are to be taken to reduce sediment and contaminant loading of dredged areas; thoroughly assessing alternative locations, treatment technologies and beneficial uses for dredged material; ensuring that dumping is the disposal option of the last resort after all other options have been exhausted; securing alternative methods of disposal of contaminated dredge materials, including decontamination technologies, and alternative uses of materials, including upland disposal, containment, beach nourishment, marsh restoration, habitat construction, and other beneficial reuses; and confirming the specific roles of Federal, State, and local agencies with respect to various aspects of dredged material management.

The Long Island Sound Protection Act also would stipulate that no dumping can occur in Long Island Sound, except in accordance with a DMMP that has been approved by the Governors of New York and Connecticut.

In addition, the bill would provide for public hearings in both New York and Connecticut during the development of the DMMP.

To me this is a common sense solution to the current dredge disposal problem. It would enable both New York and Connecticut to play a stronger role in determining what we put in the Sound. And it would provide for a much harder look at upland disposal and beneficial reuse as alternatives to dumping in the Sound.

I ask unanimous consent that the text of the measure be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2482

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Long Island Sound Protection Act".

SEC. 2. PROHIBITION ON DUMPING OF DREDGED MATERIAL.

Section 106 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1416) is amended by striking subsection (f) and inserting the following:

"(f) PROHIBITION ON DUMPING OF DREDGED MATERIAL.—

"(1) DEFINITIONS.—In this subsection:

"(A) COVERED BODY OF WATER.—The term 'covered body of water' means—

"(i) Long Island Sound;

"(ii) Fisher's Island Sound;

"(iii) Block Island Sound;

"(iv) Peconic Bay; and

"(v) any harbor or tributary of a body of water described in any of clauses (i) through (iv).

"(B) COVERED PROJECT.—The term 'covered project' means—

"(i) any Federal dredging project (or any project conducted for a Federal agency pursuant to Federal authorization);

"(ii) a dredging project carried out by a non-Federal entity that results in the production of more than 25,000 cubic yards of dredged material; and

"(iii) any of 2 or more dredging projects carried out by 1 or more non-Federal entities in a covered body of water, simultaneously or sequentially within a 180-day period, that result, in the aggregate, in the production of more than 25,000 cubic yards of dredged material.

"(C) PLAN.—The term 'plan' means the dredged material management plan required under paragraph (5).

"(2) PROHIBITION.—No dredged material from any covered project shall be dumped, or transported for the purpose of dumping, into any covered body of water unless and until the dredged material is determined by the Administrator—

"(A) to have, or to cause (including through bioaccumulation), concentrations of chemical constituents that are not greater than those concentrations present in the water column, sediments, and biota of areas proximate to, but unaffected by, the proposed disposal site; and

"(B) to meet all requirements under this title (including the trace contaminant provision under section 227.6 of title 40, Code of Federal Regulations (or a successor regulation), and requirements under other regulations promulgated under section 108).

"(3) DESIGNATION OF SITES.—No dredged material shall be dumped, or transported for the purpose of dumping, into any covered body of water except—

"(A) at a site designated by the Administrator in accordance with section 102(c); and

"(B) upon a determination by the Administrator, following approval of the plan required under paragraph (5)(F), that no feasible alternative to ocean disposal, including sediment remediation, beneficial reuse, and land-based alternatives, is available prior to the time of designation.

"(4) RELATIONSHIP TO OTHER LAW.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), this title applies to each covered body of water.

"(B) EXCEPTION.—No waiver under section 103(d) shall be available for the dumping of dredged material in any covered body of water.

"(5) DREDGED MATERIAL MANAGEMENT PLAN.—

"(A) IN GENERAL.—Before designation of any dredged material disposal site in a covered body of water, the Secretary and the Administrator, in consultation with the United States Fish and Wildlife Service, the National Marine Fisheries Service, the United States Coast Guard, and the States of Connecticut and New York, shall—

"(i) develop a dredged material management plan for the management of all dredged sediment in the covered bodies of water; and

"(ii) submit the plan to Congress and the Governors of the States of Connecticut and New York.

"(B) OBJECTIVES.—The objectives of the plan shall be—

"(i) to identify sources, quantities, and the extent of contamination of dredged material that requires disposal;

"(ii) to determine management actions that are to be taken to reduce sediment and contaminant loading of dredged areas;

"(iii) to thoroughly assess alternative locations, treatment technologies, and beneficial uses for dredged material;

"(iv) to ensure that dumping is the disposal option of last resort for dredged material and is used only after all other options have been exhausted;

"(v) to secure—

"(I) alternative methods of disposal of dredged materials, including decontamination technologies; and

"(II) alternative uses of materials, including upland disposal, containment, beach nourishment, marsh restoration, habitat construction, and other beneficial reuses; and

"(vi) to confirm the specific roles of Federal, State, and local agencies with respect to various aspects of dredged material management.

"(C) REQUIREMENTS.—The plan shall include environmental, economic, and other analysis required to meet the objectives listed in subparagraph (B), including—

"(i) an analysis of strategies to reduce sediment loading of harbors and navigation areas;

"(ii) an analysis of sources of sediment contamination, including recommendations for management measures to limit or reduce those contamination sources;

"(iii) an analysis of options for reducing dredging needs through modification of navigation strategies;

"(iv) an analysis of decontamination technologies, including subsequent alternative uses of decontaminated materials (such as upland disposal, containment, beach nourishment, marsh restoration, and habitat construction); and "(v) a program for use of alternative methods of disposal and use of dredged material, including alternatives to dumping or dispersal in a covered body of water.

"(D) PUBLIC INPUT.—The Secretary and the Administrator shall—

"(i) during the development of the plan, hold in the States of Connecticut and New York a series of public hearings on the plan; and

"(ii) append to the plan a summary of the public comments received.

"(E) SUPPORT.—Each of the Federal agencies referred to in subparagraph (A) shall provide such staff support and other resources as are necessary to carry out this paragraph.

"(F) APPROVAL BY CONNECTICUT AND NEW YORK.—

"(i) IN GENERAL.—Not later than 60 days after the date of receipt of the plan, the Governors of the States of Connecticut and New York shall notify the Secretary and the Administrator of whether the States approve or disapprove the plan.

"(ii) DUMPING OF DREDGED MATERIAL.—No dredged material from a covered project may be dumped, or transported for the purpose of dumping, in any covered body of water unless the dredged material—

"(I) conforms to a plan that has been approved by the Governors of the States of Connecticut and New York; and

"(II) is to be dumped in a dredged material disposal site designated by the Administrator under this title.

"(iii) FINALITY.—No dredged material disposal plan shall become final until the plan has been approved by the States of Connecticut and New York under clause (i).

"(iv) PREVIOUSLY DESIGNATED SITES.—No dredged material disposal site in any covered body of water that was designated before the date of enactment of this clause shall be used for dumping of dredged material from a covered project until the plan has been approved by the States of Connecticut and New York under clause (i).

"(G) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $5,000,000 for each of fiscal years 2005 and 2006.".

By Mr. SPECTER:

S. 2483. A bill to increase, effective as of December 1, 2004, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans; to the Committee on Veterans' Affairs.

Mr. SPECTER. Mr. President, I have sought recognition to comment on legislation I am introducing today to provide a cost-of-living, COLA, adjustment for certain veterans' benefits programs. This COLA adjustment would affect payments made to nearly 3 million Department of Veterans Affairs, VA, beneficiaries, and would be reflected in beneficiary checks that are received in January 2005, and thereafter.

An annual cost-of-living adjustment in veterans benefits is an important tool which protects veterans' cash-transfer benefits against the corrosive effects of inflation. The principal programs affected by the adjustment would be compensation paid to disabled veterans, and dependency and indemnity compensation, DIC, payments made to the surviving spouses, minor children and other dependants of persons who died in service, or who died after service as a result of service-connected injuries or diseases.

The President's budget anticipates inflation to be at a 1.3-percent level at the close of this year as measured by the consumer price index, CPI, published by the Department of Labor's Bureau of Labor Statistics. If inflation is held to the 1.3-percent level, that will be the level of COLA adjustment under this legislation since it ties the increase directly to the CPI increase as measured by the Department of Labor. Whatever the CPI increase eventually turns out to be, however, veterans' and survivors' benefits payments must be protected by being increased by a like amount. The Senate has already concurred with that judgment with passage of a budget resolution which assumes an increase equal to the CPI, and which sets aside the funds necessary to finance the COLA increase envisioned by this legislation.

I ask my colleagues to support this vital legislation.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2483

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Compensation Cost-of-Living Adjustment Act of 2004".

SEC. 2. INCREASE IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.

(a) RATE ADJUSTMENT.—The Secretary of Veterans Affairs shall, effective on December 1, 2004, increase the dollar amounts in effect for the payment of disability compensation and dependency and indemnity compensation by the Secretary, as specified in subsection (b).

(b) AMOUNTS TO BE INCREASED.—The dollar amounts to be increased pursuant to subsection (a) are the following:

(1) COMPENSATION.—Each of the dollar amounts in effect under section 1114 of title 38, United States Code.

(2) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Each of the dollar amounts in effect under sections 1115(1) of such title.

(3) CLOTHING ALLOWANCE.—The dollar amount in effect under section 1162 of such title.

(4) NEW DIC RATES.—The dollar amounts in effect under paragraphs (1) and (2) of section 1311(a) of such title.

(5) OLD DIC RATES.—Each of the dollar amounts in effect under section 1311(a)(3) of such title.

(6) ADDITIONAL DIC FOR SURVIVING SPOUSES WITH MINOR CHILDREN.—The dollar amount in effect under section 1311(b) of such title.

(7) ADDITIONAL DIC FOR DISABILITY.—The dollar amounts in effect under sections 1311(c) and 1311(d) of such title.

(8) DIC FOR DEPENDENT CHILDREN.—The dollar amounts in effect under sections 1313(a) and 1314 of such title.

(c) DETERMINATION OF INCREASE.—(1) The increase under subsection (a) shall be made in the dollar amounts specified in subsection (b) as in effect on November 30, 2004.

(2) Except as provided in paragraph (3), each such amount shall be increased by the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 2004, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(3) Each dollar amount increased pursuant to paragraph (2) shall, if not a whole dollar amount, be rounded down to the next lower whole dollar amount.

(d) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 (72 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 3. PUBLICATION OF ADJUSTED RATES.

At the same time as the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 2005, the Secretary of Veterans Affairs shall publish in the Federal Register the amounts specified in subsection (b) of section 2, as increased pursuant to that section.

By Mr. SPECTER (by request):

S. 2484. A bill to amend title 38, United States Code, to simplify and improve pay provisions for physicians and dentists, to authorize alternate work schedules and executive pay for nurses; to the Committee on Veterans' Affairs.

Mr. SPECTER. Mr. President, as Chairman of the Committee on Veterans' Affairs, I have today introduced, at the request of the Secretary of Veterans Affairs, S. 2484, a proposed bill to simplify and improve pay provisions for physicians and dentists, and to authorize alternate work schedules and executive pay for nurses. The Secretary of Veterans Affairs submitted this proposed legislation to the President of the Senate by letter dated July 18, 2003.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Committee on Veterans' Affairs. In this case, I delayed introduction of this measure so that certain provisions of the proposed legislation, which proposes extensive changes in the physician pay policies of the Department of Veterans Affairs (VA), might be reviewed by the Committee's staff, and by potentially-interested parties, prior to its introduction. I am pleased to state that many constructive ideas have been expressed, and the Committee's staff, working with the VA, the National Association of VA Physicians and Dentists, the American Federation of Government Employees, the National Federation of Federal Employees, and other representatives of VA's labor force, have identified prospective modifications to the proposed bill's text which, all appear to agree, would represent improvements over the language of the legislation forwarded to the Senate in July 2003.

Even so, the bill I introduce today is the bill which the Secretary of Veterans Affairs sent to the Committee in July 2003. I have introduced that bill so that the original "by request" legislation might be available to the Senate, and to the public, as part of the public record. As is always my policy with respect to any such "by request" legislation, I reserve the right to oppose the provisions of, as well as any amendment to, this legislation. Indeed, as I have indicated, the Committee's staff, with the assistance of VA and other interested parties, is already working on modifications to the bill as proposed by the administration.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, together with the transmittal letter and a section-by-section analysis which accompanied it.

There being no objection, the material ordered to be printed in the RECORD, as follows:

S. 2484

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Veterans Affairs Health Care Personnel Enhancement Act of 2003".

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 3. IMPROVEMENT AND SIMPLIFICATION OF PAY PROVISIONS FOR PHYSICIANS AND DENTISTS.

(a) Chapter 74 is amended—

(1) In section 7404(b)—

(A) by striking "(1)" after "(b)".

(B) by striking the list of position grades under the caption, **"PHYSICIAN AND DENTIST SCHEDULE"** and inserting in lieu thereof the following:

"Physician grade.
Dentist grade."

(C) by striking paragraph (2) in its entirety.

(2) In section 7404(c) by striking "special".

(3) By striking Subchapter III in its entirety and inserting in lieu thereof the following new sections:

Subchapter III—Pay for Physicians and Dentists

§7431. Pay authority.

(a) In order to recruit and retain highly qualified physicians and dentists in the Veterans Health Administration, the Secretary shall establish and periodically adjust the rates of pay for physicians and dentists based upon the factors specified in subsection (b). Total pay shall be benchmarked to representative salaries of non-Department physicians, dentists, and health care clinician-executives.

(b) Pay for physicians and dentists employed in the Veterans Health Administration shall have three components:

(1) Base pay.—This shall be a uniform pay band applicable nationwide. The minimum rate shall be the maximum rate for Chief grade in the Veterans Health Administration Physician and Dentist Pay Schedule in effect on the day before the date of enactment of this Act. The maximum rate may not exceed the rate of basic pay authorized by section 5316 of title 5 for Level V of the Executive Schedule. The Secretary shall adjust annually the minimum rate by the same percentage as the adjustment under section 5303 of title 5 in the rates of pay for the General Schedule, and the maximum rate in accordance with section 5318 of title 5. Administration facilities, under regulations prescribed by the Secretary, may set individual base pay anywhere within the pay band.

(2) Market pay.—This shall be a variable pay band based on geographic area, specialty, assignment, personal qualifications, and individual experience, and shall be established and adjusted locally in accordance with regulations prescribed under subsection (c). Administration facilities will set individual market pay in accordance with regulations prescribed by the Secretary. The Under Secretary for Health shall periodically review and recommend to the Secretary adjustments to the market pay band based on published healthcare workforce employment and compensation data. The Secretary may adjust the market pay band periodically based on the recommendations of the Under Secretary and in response to changing health-care labor trends.

(3) Performance pay.—

(A) There shall be a variable pay band linked to the physician's or dentist's achievement of specific corporate goals and individual performance objectives. Physicians and dentists other than those specified in subsection (f)(1) shall not be eligible for this component during the first year of appointment. The amount payable to a physician or dentist for this component may vary based on individual achievement. The performance component paid to any physician or dentist other than those specified in subsection (f)(1) will be in accordance with regulations prescribed by the Secretary and may not exceed $10,000 in a year.

(B) In accordance with regulations prescribed by the Secretary, ten percent of the benchmarked total pay for physicians and dentists specified in subsection (f)(1) shall be linked to the physician's or dentist's achievement of specific corporate goals and individual performance objectives as a performance component. Administration facilities may set the performance pay in accordance with regulations prescribed by the Secretary.

(c) Compensation paid under this subchapter shall be considered pay for all purposes, including but not limited to retirement benefits under chapters 83 and 84 of title 5, United States Code, and other benefits. Notwithstanding the preceding sentence, amounts paid for performance pay under subsection (b)(3)(A) shall not be considered pay for retirement benefits under chapters 83 and 84 of title 5, United States Code.

(d) Any decrease in pay that results from an adjustment to the market or performance component of a physician's or dentist's total compensation does not constitute an adverse action.

(e) In no case may the total amount of compensation paid to a physician or dentist under this title in any one year exceed the amount of annual compensation (excluding expenses) specified in section 102 of title 3, United States Code.

(f)(1) COVERED POSITIONS.—This subsection applies to physicians and dentists in the following positions: Chiefs of Staff or equivalent facility-level and Network-level clinical management positions (including Network Clinical Service Managers), facility and Network or Regional executive positions (including Network Service Line Coordinators and Medical Center/Health Care System Directors), Central Office executive positions, and such other positions under this title as the Secretary may determine in accordance with regulations prescribed in accordance with section 7434(a).

(2) Notwithstanding the special relationships of the Veterans Health Administration with affiliated institutions under section 7302, physicians and dentists serving in covered positions and receiving compensation under this subchapter may not receive any compensation on or after the date specified in regulations issued by the Secretary, through employment or contract with, or negotiate or accept any offer of employment from, any institution or other entity that is affiliated with the VA medical center to which they are assigned, or affiliated with a VA medical center which falls under their official responsibilities. This limitation shall include receiving compensation through or from practice groups or any other entities associated with the affiliated institution(s), or from entities under contract with the affiliated institution(s). Compensation includes anything of monetary value, including but not limited to honoraria, salary, and any fringe benefits such as: tuition waiver, insurance protection, contributions to a retirement fund, payment for books, below-market interest loans, or employee discounts. Nothing in this section precludes physicians and dentists in covered positions from holding uncompensated appointments as other than officer, director, or trustee with affiliated institutions in furtherance of section 7302.

(3) Subject to any conditions the Secretary may by regulation prescribe, the Secretary may, on a case-by-case basis, suspend or waive the limitation in paragraph (2) to an individual physician or dentist, when necessary and appropriate to carry out the purposes of section 7302, to assist communities or practice groups to meet medical needs which otherwise would not be met, or where the Secretary determines that suspension or waiver would be in the best interest of the United States. The Secretary shall make any suspension or waiver made pursuant to this paragraph in writing.

§7432. Transition to new pay system.

(a) All current special pay agreements entered into under the provisions of this subchapter in effect on the day before the date of enactment of this Act shall terminate on the date of enactment of this Act. Any physician or dentist in receipt of special pay on that date shall continue to be compensated as if such agreement were still in effect until the date specified in regulations issued by the Secretary implementing this new subchapter.

(b) Physicians and dentists appointed or reassigned on or after the date of enactment of this Act, but before implementation of this subchapter shall be compensated in accordance with sections 7404, 7405, 7433, 7434, 7435, and 7436, as applicable, in effect on the day before the date of enactment of this Act. Any such physician or dentist shall continue to be compensated at the applicable rates until such date specified in regulations issued by the Secretary implementing the new pay system. No special pay agreement will be required of any physician or dentist receiving such pay.

(c) During the period from the date of enactment of this Act through the date of implementation of this subchapter, physicians and dentists paid pursuant to this section shall be subject to paragraphs (1), (2), (4), (5), and (6) of subsection (b) of section 7438 in effect on the day before the date of enactment of this Act.

(d) The amount of pay paid under this subchapter for a physician or dentist appointed before the effective date of regulations implementing this subchapter shall be not less than the amount of base pay and special pay such physician or dentist received under this title on the day before such effective date.

(e) Special pay subject to the provisions of section 7438, as in effect before the date of enactment of this section, or subject to subsection (c), paid to Veterans Health Administration physicians and dentists appointed before the effective date of regulations implementing this subchapter and who separate after such effective date, shall be fully creditable for purposes of computing benefits under chapters 83 and 84 of title 5.

§ 7433. Pay for Under Secretary for Health

(a) Section 5314 of title 5 establishes the base pay for the Under Secretary for Health at Level III of the Executive Schedule.

(b) In addition to base pay under section 5314 of title 5, the Under Secretary for Health shall be eligible for Market Pay under section 7431(b)(2).

(c) TRANSITION. The current special pay agreement of the Under Secretary for Health entered into under the provisions of this subchapter in effect on the day before the date of enactment of this Act shall terminate on the date of enactment of this Act. The incumbent Under Secretary for Health on the date of enactment of this Act shall continue to receive special pay as if such agreement were still in effect until the date specified in regulations issued by the Secretary implementing this new subchapter. Any Under Secretary for Health appointed on or after the date of enactment of this Act, but before the date specified in regulations issued by the Secretary implementing this new subchapter, shall receive special pay in accordance with sections 7432(d)(2), 7433 and 7437(a) in effect on the day before the date of enactment of this Act.

§ 7434. Administrative provisions.

(a) After receiving the recommendations of the Under Secretary for Health, the Secretary, pursuant to the authority in section 7421(a), shall prescribe regulations implementing the physician and dentist pay system established in this new subchapter. Such regulations shall include the method for computing the pay for all physicians and dentists in the Veterans Health Administration under this title.

(b) Eighteen months after the Secretary issues regulations implementing this subchapter and annually thereafter for the next ten years, the Secretary shall provide to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the implementation of the authorities under this subchapter. Each report shall include:

(1) a description of the rates of pay in effect during the preceding fiscal year with a comparison to the rates in effect during the previous fiscal year by facility and by specialty;

(2) the number of physicians and dentists who left employment with the Veterans Health Administration during the preceding year;

(3) the number of unfilled physician and dentist positions in each specialty in the Veterans Health Administration, the average and maximum lengths of time that such positions have been unfilled, and a summary of the reasons that such positions remain unfilled; and

(4) an assessment of the impact of implementation of this subchapter on efforts to recruit and retain physicians and dentists in the Veterans Health Administration.

In addition, the first two reports following implementation of this subchapter shall also include a comparison of staffing levels, contract expenditures, and average salary of physicians and dentists by facility and specialty for the preceding and previous fiscal years.

(b) The title and list of sections for Subchapter III in the table of sections at the beginning of Chapter 74 is amended to read as follows:

Subchapter III—Pay for Physicians and Dentists

§ 7431. Pay authority.
§ 7432. Transition to new pay system.
§ 7433. Pay for Under Secretary for Health
§ 7434. Administrative provisions.

SEC. 4. ALTERNATE WORK SCHEDULES.

(a) Chapter 74 is amended by adding a new section 7456a:

§ 7456a. Alternate work schedules.

(a) COVERAGE.—This section applies to registered nurses appointed under this chapter.

(b) 36/40 WORK SCHEDULE.—

(1) Subject to paragraph (2), if the Secretary determines it be necessary in order to obtain or retain the services of registered nurses at any Department health-care facility, the Secretary may provide, in the case of nurses employed at such facility, that such nurses who work three regularly scheduled 12-hour tours of duty within a workweek shall be considered for all purposes (except computation of full-time equivalent employees for the purposes of determining compliance with personnel ceilings) to have worked a full 40-hour basic workweek.

(2)(A) Basic and additional pay for a registered nurse who is considered under paragraph (1) to have worked a full 40-hour basic workweek shall be subject to subparagraphs (B) and (C).

(B) The hourly rate of basic pay for such a nurse for service performed as part of a regularly scheduled 36-hour tour of duty within the workweek shall be derived by dividing the nurse's annual rate of basic pay by 1,872.

(C)(i) Such a nurse who performs a period of service in excess of such nurse's regularly scheduled 36-hour tour of duty within a workweek is entitled to overtime pay under section 7453(e) of this title, or other applicable law, for officially ordered or approved service performed in excess of eight hours on a day other than a day on which such nurse's regularly scheduled three 12-hour tours fall, or in excess of 12 hours for any day included in the regularly scheduled 36-hour tour of duty, or in excess of 40 hours during an administrative workweek.

(ii) Except as provided in subparagraph (i), a registered nurse to whom this subsection is applicable is not entitled to additional pay under section 7453 of this title, or other applicable law, for any period included in a regularly scheduled 12-hour tour of duty.

(3) A nurse who works a 36/40 work schedule described in this subsection who is absent on approved sick leave or annual leave during a regularly scheduled 12-hour tour of duty shall be charged for such leave at a rate of ten hours of leave for nine hours of absence.

(c) 7/7 WORK SCHEDULE.—

(1) Subject to paragraph (2), if the Secretary determines it be necessary in order to obtain or retain the services of registered nurses at any Department health-care facility, the Secretary may provide, in the case of nurses employed at such facility, that such nurses who work seven regularly scheduled 10-hour tours of duty, with seven days off duty, within a two-week pay period, shall be considered for all purposes (except computation of full-time equivalent employees for the purposes of determining compliance with personnel ceilings) to have worked a full 80 hours for the pay period.

(2)(A) Basic and additional pay for a registered nurse who is considered under paragraph (1) to have worked a full 80-hour pay period shall be subject to subparagraphs (B) and (C).

(B) The hourly rate of basic pay for such a nurse for service performed as part of a regularly scheduled 70-hour tour of duty within the pay period shall be derived by dividing the nurse's annual rate of basic pay by 1,820.

(C)(i) Such a nurse who performs a period of service in excess of such nurse's regularly scheduled 70-hour tour of duty within a pay period is entitled to overtime pay under section 7453(e) of this title, or other applicable law, for officially ordered or approved service performed in excess of eight hours on a day other than a day on which such nurse's regularly scheduled seven 10-hour tours fall, or in excess of 10 hours for any day included in the regularly scheduled 70-hour tour of duty, or in excess of 80 hours during a pay period.

(ii) Except as provided in subparagraph (i), a registered nurse to whom this subsection is applicable is not entitled to additional pay under section 7453 of this title, or other applicable law, for any period included in a regularly scheduled 10-hour tour of duty.

(3) A nurse who works a 7/7 work schedule described in this subsection who is absent on approved sick leave or annual leave during a regularly scheduled 12-hour tour of duty shall be charged for such leave at a rate of eight hours of leave for seven hours of absence.

(d) 9-MONTH WORK SCHEDULE.—The Secretary may authorize a registered nurse appointed under section 7405, with the nurse's written consent, to work full-time for nine months with three months off duty, within a fiscal year, and be paid at 75 percent of the full-time rate for such nurse's grade for each pay period of such fiscal year. Such employee shall be considered a .75 full-time equivalent employee in computing full-time equivalent employees for the purposes of determining compliance with personnel ceilings. Service on this schedule shall be considered part-time service for purposes of computing benefits under chapters 83 and 84 of title 5.

(f) The Secretary shall prescribe regulations for the implementation of this section.

(b) The title and list of sections for Subchapter IV in the table of sections at the beginning of Chapter 74 is amended to read as follows:

Subchapter IV—Pay for Nurses and Other Health-Care Personnel

7451. Nurses and Other Health-Care Personnel: competitive pay.

7452. Nurses and other health-care personnel: administration of pay.
7453. Nurses: additional pay.
7454. Physician assistants and other health care professionals: additional pay.
7455. Increases in rates of basic pay.
7456. Nurses: special rules for weekend duty.
7456a. Alternate work schedules.
7457. On-call pay.
7458. Recruitment and retention bonus pay.

SEC. 5. NURSE EXECUTIVE SPECIAL PAY.

(a) Section 7452 is amended by adding at the end thereof:

"(g)(1) In order to recruit and retain highly qualified Department nurse executives, the Secretary, in accordance with regulations the Secretary shall prescribe, shall pay special pay to the nurse executive at each Department health-care facility or at Central Office.

(2) Special pay paid under paragraph (1) shall be a minimum of $10,000 and a maximum of $25,000. The amount paid to each nurse executive shall be based on factors such as the grade of the nurse executive position, the scope and complexity of the nurse executive position, the nurse executive's personal qualifications, the characteristics of the health-care facility, e.g., tertiary, single site or multi-site, nature and number of specialty care units, demonstrated recruitment and retention difficulties, and such other factors the Secretary deems appropriate.

(3) Special pay paid under paragraph (1) shall be in addition to any other pay (including basic pay) and allowances to which the nurse executive is entitled, and shall be considered pay for all purposes, including but not limited to retirement benefits under chapters 83 and 84 of title 5, United States Code, and other benefits, but shall not be considered basic pay for purposes of adverse actions under subchapter V."

SEC. 6. EFFECTIVE DATE.

The amendments to title 38, United States Code, contained herein shall take effect on the first day of the first pay period on or after the later of April 1, 2004, or six months after the date of enactment.

SEC. 7. ADMINISTRATIVE PROVISION.

(a) Chapter 74 is amended by adding a new section 7427:

§ 7427. Functions.

The functions assigned to the Secretary and other officers of the Department of Veterans Affairs under this chapter are vested in their discretion.

THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, July 18, 2003.

Hon. RICHARD B. CHENEY,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herein a draft bill "To amend title 38, United States Code, to simplify and improve pay provisions for physicians and dentists, to authorize alternate work schedules and executive pay for nurses." We request that it be referred to the appropriate committee for prompt consideration and enactment.

The revised physician and dentist pay system and nursing provisions were included in the President's budget. They would be effective on the first day of the first pay period on or after the later of April 1, 2004, or six months after the date of enactment.

ENHANCED PHYSICIAN/DENTIST PAY

This bill will greatly enhance ability of the Department of Veterans Affairs (VA) to recruit and retain the highest quality physicians and dentists to treat the Nation's veterans. It would completely revise the VA physician and dentist pay system to allow VA to adjust physician and dentist compensation levels according to market forces. The system's simplicity and flexibility would ensure that VA physician and dentist compensation levels and practices do not become outdated over time due to statutory limits. This system also would ensure that VA pay levels do not fall drastically behind while awaiting adjustment to the statutory authority. It will be a living system that adjusts to changing forces in the healthcare labor market. Generally, amounts paid under this system will be considered pay for all purposes, including retirement benefits under chapters 83 and 84 of title 5, United States Code, and other benefits. However, amounts paid under the performance pay component will not be considered pay for retirement benefits.

VA STAFFING CHALLENGES

The VA compensation structure for physicians and dentists has not changed since 1991. The current system is extremely complex, comprising seven or eight different special pay components in addition to basic pay. The system offers insufficient flexibility to respond to the changing competitive market for many of the medical specialties, especially for the highest paid medical subspecialties. VA is no longer able to compete for these critical subspecialties. Also, although Congress increased special pay for dentists in 2000, those increases did not bring VA pay up to the levels in private dental practice. The effects of noncompetitive pay and benefits are reflected in dramatic increases in VA's scarce specialty, fee basis, and contractual expenditures.

VA is facing a critical situation. Its compensation system for physicians and dentists is unable to respond to the demands of the current market. Severe shortages of qualified physician specialists currently exist throughout the country in specialties critical to VA's health care mission, such as Anesthesiology, Radiology, Cardiology, Urology, Gastroenterology, Oncology, and Orthopedic Surgery. These shortages have driven compensation levels dramatically upward. In these shortage specialties, VA total compensation lags behind the private or academic sectors by 35 percent or more. Such compensation gaps make recruitment almost impossible and retention becomes more difficult. This legislation will enable VA to compete for physicians in the higher-paid, critical specialties and will protect other physicians' and dentists' pay. Moreover, VA will be able to offer to all physicians and dentists the prospect, now and in the future, of market-sensitive pay rates, with a portion of their compensation based on achievement of specific performance goals.

The problems with the current system are clear: special pay rates are fixed in statute, so over time their values are eroded by inflation, and VA pay eventually falls behind the market. The mechanisms available to VA to adjust physician and dentist pay are not able to respond to fluctuations in market levels of incomes for the different specialties. VA physician and dentist base salary rates increase by the amount of the annual national comparability adjustment that Federal employees generally receive; however, there is no increase in special pay amounts. Compensation for many specialties has risen significantly in the private sector, and VA pay cannot be increased to keep pace. VA is already paying the maximum authorized amounts for scarce specialists; there is no discretion under existing statute to pay more to retain employees.

Additionally, the current system does not adequately recognize disparities in pay among specialties. This results in serious pay compression and makes it difficult for VA to compete for the most highly paid specialists. For example, the difference between the average pay of non-Federal cardiologists vs. primary care practitioners is about 100 percent; in VA, the difference averages about 20 percent.

VA historically had been able to use the Federal benefits package as a major recruitment tool. To offset pay disparities with the private sector, VA publicized its benefits, such as the generous leave policies, opportunities to pursue research and education activities, and formal relationships with academic affiliates. More and more, though, the private sector offers comparable or better benefits. Some benefits widely available in the private sector exceed VA's offerings including paid relocation as a recruiting incentive, cafeteria-style benefit plans, payment for courses to acquire continuing medical education (CME) credits for license and board renewal, disability insurance, and retirement benefits.

Increased enrollment by veterans for Veterans Health Administration, VHA, services and the need for more comprehensive care to aging veteran patients will result in an increase in workload across the system over the next 5 years. Current trends indicate a steady decrease in the number of physicians and dentists VHA will be able to employ over the same period. This decrease will result from increased retirements, losses to the private sector, a shrinking dentist labor supply, and increasing difficulty in recruiting replacements. These factors will combine to create significant gaps between VHA's staffing needs and available resources for most physician specialties.

Without the flexibility to adjust pay in response to market pressures and improve its competitive position in recruiting and retaining physicians, the Department will be unable to meet the demands of its increasing workload. VHA will be forced to rely more heavily on scarce medical specialist contracts and fee basis care, which often cost more than using VHA physicians. It is critical that VHA be able to offer more competitive compensation for physicians and dentists.

PROPOSED NEW VA PHYSICIAN/DENTIST PAY SYSTEM

We propose a three-tiered system of base pay, market pay, and performance-based pay. VA would benchmark the sum of all three bands to the 50th percentile of the Association of American Medical Colleges (AAMC) Associate Professor compensation (for physicians) and 75 percent of American Dental Association (ADA) net private practice income (for dentists). The base pay component would be increased by the annual comparability adjustments to Federal pay authorized by Executive Order.

First Tier—Base Pay. A uniform base pay band will apply to all positions in VHA, without grade distinctions. The proposed range is Chief grade, step 10 of the VA Physician/Dentist Schedule to Level V of the Executive Schedule, from roughly $110,000 to $125,000. This change will dramatically simplify hiring and employment and facilitate reassignments and position changes. Placement in this band would be based on the individual's qualifications. This band would form the floor below which no individual's pay would ever go.

Second Tier—Market Pay. The second tier, the market pay band, will be determined according to geographic area, specialty, assignment, personal qualifications and individual experience. It would be indexed to the salaries of similarly qualified non-Department physicians, dentists, and health-care executives at the entry, mid-career, and senior levels. The flexibility of this tier allows VA to keep pace with the market, both on upward and downward trends. VA would link the market band for clinicians to AAMC faculty compensation. For executives at the Chief of Staff (COS) level and above, the benchmarks would be hospital and HMO executive compensation levels. For dentists, the benchmark will be American Dental Association (ADA) net private practice income.

Third Tier—Performance Pay. The third band will be linked to performance, and would be paid for discrete achievements in quality, productivity, and support of corporate goals. The measures will be flexible and generally set locally; national objectives could also be mandated. VA facilities may authorize performance pay of up to $10,000 for physicians and dentists below the Chief of Staff (COS) level. For managers at the COS level and above, ten percent of their benchmarked pay would be at risk, and would be payable to the extent that performance goals are met. This will address a concern that has been raised by the General Accounting Office and others of a disconnect between employees' performance and their pay.

The draft bill also would prohibit senior title 38 officials at the Chief of Staff level and above from receiving any compensation, whether from employment or contract, and from accepting any offers of future employment, from medical schools affiliated with their respective VAMCs. This prohibition will reduce the risk of potential conflicts of interest, and will ensure that the Department's interests in agreements with affiliated medical schools are adequately protected. It is highly desirable to have an independent senior clinical official at each facility. VA's implementation of the bill will increase executive compensation to a level that would offset any loss of outside income resulting from this provision. In limited circumstances, the Secretary could suspend or waive this prohibition.

DETAILS OF VA'S IMPLEMENTATION PLAN

Salary benchmarks will be set at the national level and communicated to networks. Local facilities would set pay levels within a range (±10 percent of the benchmark) according to local circumstances. Any decision to set pay outside the 10-percent band will require higher-level approval.

Benchmark salaries will be set for each specialty and location, at entry, mid-career, and senior levels. Increments and graduated benchmarks will be set to reflect varying levels of experience and to provide for reasonable income growth over a period of time.

VA will use ADA net private practice income to set VA dentist salary benchmarks. About 93 percent of all practicing dentists are employed in private practice, so VA's primary competition in the marketplace is private practice income.

Specific amounts of each tier and the total payable for each clinician will be set at the local level. This continues the VA practice of local pay setting based on national policy (used for physician and dentist special pay, nurse locality pay system, and special salary rates):

This proposal will greatly enhance VA's ability to compete for the full range of skilled medical and dental services at the most reasonable cost. VA will be able to offer competitive compensation to full-time, part-time, or occasional staff, or pay on contract, according to the most clinically appropriate and efficient option.

This proposed physician and dentist pay aligns with the President's budget and would be effective on the first day of the first pay period on or after the later of April 1, 2004, or six months after the date of enactment.

EXAMPLES

An example of how this system will work for Internal Medicine:

VA internist with 10 years of experience, 2003: $142,682; AAMC Associate Professor median salary, 2001–2002: $142,000; Benchmark for VA Salary (±10% of AAMC): $127,800–156,200; Targeted Increase: $0–$13,518.

An example of how this system will work for Therapeutic Radiologists:

VA radiologist with 10 years of experience, 2003: $190,682; AAMC Associate Professor median salary, 2001–2002: $248,000; Benchmark for VA Salary (±10% of AAMC): $223,200–272,800; Targeted Increase: $32,518–82,118.

An example of how this system will work for General Dentists:

VA general dentist with 10 years of experience, 2003: $131,682; ADA net private practice income (minus benefits), 2002: $134,928; Benchmark for VA Salary (±10% of ADA): $121,435–148,421; Targeted Increase $0–$16,739.

ESTIMATED COSTS/SAVINGS

VA estimates the first year costs to be $69.42 million, with ten-year costs of $1.59 billion. There are expected savings from productivity and the avoidance of costly specialty contracts resulting from more competitive pay. The net first year costs are $48.47 million, with net ten-years costs of $636.25 million. A detailed explanation is in the attached charts.

ENHANCEMENTS FOR NURSES

Over the next several years the projected increase in the number of aging veterans and increased enrollment in the VA healthcare system by veterans of all ages will increase workload across the VA healthcare system. Between 2000 and 2010, the number of veterans age 75 and above will increase from 4 million to 4.5 million and within that number, those veterans age 85 and older will triple from 422,000 to 1.3 million. Veteran enrollees in the VA healthcare system will increase from approximately 6 million in FY 2002, to approximately 7.75 million in FY 2007. This increasing and aging population of veterans will exhibit higher comorbidity and require more comprehensive care both as inpatients and as outpatients.

At the same time, national nursing leaders and healthcare organizations project a shortage of registered nurses that will be unlike any experienced in the past. Changes in healthcare delivery requiring larger numbers of professional nurses to perform increasingly complex functions in hospitals and the community has heightened the demand for professional nurses. Given the aging of the current registered nurse workforce (average age nationally, 45.2 yrs., in VA, 46 yrs.), and the decreasing number of students who choose nursing as a career, the future availability of professional, registered nurses (RN) will be insufficient to meet our national healthcare needs. Negative perceptions of nursing as a profession (i.e., perceived negative work environment and pay inequities between nurses and a wide range of alternative career options that require less education and have less responsibility) have exacerbated this situation. VA already is experiencing some staffing difficulties. VA's nurse vacancy and turnover rates have greatly increased since 1998. VA must better position itself to attract the nurses to meet current and future healthcare needs.

Nurse shortages, complex healthcare environments and growing administrative demands require highly skilled nurse executives at facility and national levels with the knowledge and experience to develop responsive care delivery models in an ever-changing healthcare environment. VA nursing leadership must be highly qualified and capable of implementing cutting edge, innovative changes. Current VA pay for nurse executives is not comparable to private sector pay and perquisites. As a result, VA often is not in a position to hire and retain nurse executives with exceptional skills. The current pay structure offers little or no incentive for current VA nurse executives and potential nurse leaders to take on progressively more responsible and complex assignments. Moreover, the current VA pay structure is generally not attractive to highly skilled and experienced non-VA nurse executives.

Approximately 55 percent of all VA Nurse Executives are eligible for retirement by 2005; 69 percent will be eligible by 2008. In addition, 35 percent of all current VA registered nurses are eligible to retire by 2005. When coupled with the national shortage, this potential loss of nurses could jeopardize VA's ability to accomplish its healthcare mission.

Thus, we propose legislation enabling VA medical centers (VAMCs) to offer flexible tours, and establishing a nurse executive special pay program.

FLEXIBLE TOURS

The proposed legislation would authorize VA to offer registered nurses the following flexible tours:

(1) three 12-hour tours (36 hours) in a workweek paid as 40 hours;

(2) 7 ten-hour days/7 days off in a pay period, with pay for 80 hours;

(3) 9 months of work with 3 months off, with pay apportioned over a 12-month period.

Inflexibility in work schedules is a major cause of dissatisfaction in nurse employment. A 2000 survey conducted by the American Organization of Nurse Executives (AONE), found that after salary, the top benefit sought by nurses was "flexible scheduling and control over shifts." Providing different options for scheduling would be a way of bringing more nurses into the workplace and retaining their services.

VAMCs across the country must compete in local employment markets that offer a variety of flexible working schedules and pay practices to professional nurses. Such options are popular among nurses because it allows them to accommodate individual lifestyles and personal obligations. The proposed changes would allow VAMCs to implement flexible pay and work-schedule options common in many job markets. The ability to offer options comparable to those offered by their competitors would enhance VAMCs' ability to remain competitive employers. These flexible nurse tour proposals align with the President's budget and would be effective on the first day of the first pay period on or after the later of April 1, 2004, or six months after the date of enactment.

NURSE EXECUTIVE SPECIAL PAY

The proposed legislation also would authorize VA to approve special pay to the nurse executive at each VA medical center or VA Central Office. The special pay would range from a minimum of $10,000 to a maximum of $25,000, based on factors such as the grade of the nurse executive, the scope and complexity of the nurse executive position, the nurse executive's personal qualifications, the characteristics of the of the healthcare facility, e.g., tertiary, single site or multisite, nature and number of specialty care units, demonstrated recruitment and retention difficulties, and such other factors as the Secretary deems appropriate.

This proposed nurse executive pay aligns with the President's budget and would be effective on the first day of the first pay period on or after the later of April 1, 2004, or six months after the date of enactment.

There are significant inadequacies in the VA nurse locality pay system (LPS) as it relates to nurse executive compensation. There are difficulties in obtaining comparative survey data on non-VA nurse executive positions to use in making an informed determination concerning locality pay. Non-VA employers often do not cooperate in the survey process. Nurse executive positions are often one-of-a-kind positions making it difficult to match VA and non-VA jobs. Non-VA employers typically do not include nurse executives in compensation surveys. With the organizational changes and scope of responsibilities changes for nurse executives occurring in both VA and non-VA healthcare facilities, lines of authority and levels of responsibilities for executive nurses are changing. Thus, job and pay matching for nurse executives at VAMCs and non-VA healthcare facilities is extremely difficult. Furthermore, nurse executives work in a national labor market, or at least a regional one. LPS compares jobs on a local basis. Another major problem is that VA nurse executives are capped at Level V of the Executive Schedule (EL–V), $125,400. There is no such cap in the non-VA healthcare industry. The EL–V rate is no longer competitive with non-VA nurse executive positions. Moreover, non-VA employers negotiate nurse executive compensation as a total compensation package, often including bonuses and other incentives in addition to base pay. VA is unable to do that.

The proposal derives from a recommendation of the VHA Future Nursing Workforce Planning Group. This group, composed of Medical Center Administrators, Nurse Executives, Network Managers and clinicians, has identified the $10,000–$25,000 range as the amount that most commonly would mirror salary and/or community based prerequisites of non-VA nurse executives, while not making VA the pay leader within the community. It is also consistent with the range of special pay currently available to VA physician executives.

Responsibilities of VA nurse executives are rapidly changing and becoming more varied and complex. VA's pay system for them must address this growing variety and complexity.

COSTS

FLEXIBLE TOURS

(1) Three 12-hour tours (36 hours) paid as 40 hours.

Assumptions: Based on a 36 hour work week/72 hours per pay period for selected RNs. 40 hours/wk (Full-time) – 36 hours/wk (Full-time requested) = 4.

Average VA RN hourly wage = $29.02 (using FY02 avg RN salary = $56,679, adjusted by 3.2% annual pay increase = $60,364, divided by 2,080).

Cost is 4 hours per week/208 hours per year per nurse.

Cost per RN per week: 4 $29.02 = $116.08; Cost per RN per year: 208 $29.02 = $6036.

Based on an estimated 25 nurses per facility, the cost would be as follows:

25 (RNs) $6036 = $150,900; 162 (VAMCs) $150,900 = $24.4 million.

FY 2004 costs would be $12,222,900 (half-year implementation).

Costs in future years increased by 3.2%.

[In millions of dollars]

FY05	$25.22
FY06	26.03
FY07	26.86
FY08	27.72
FY09	28.61
FY10	29.53
FY11	30.47
FY12	31.45
FY13	32.45
Total (over 10 years)	$270.56

(2) 9 months of work with 3 months off, with pay apportioned over a 12-month period.

This is an authorization to pay RNs who are hired under this provision less than full time pay for full time worked. RNs would work a full nine months prior to pay continuance for 3 months. Registered nurses hired under this provision would reflect the following:

1. Hired as part-time employees .75 FTE.
2. Each would work full-time (40 hr/wk) for nine months.
3. While working full time for 9 months they would agree to be paid .75 salary.
4. While not working for a period of 3 months, they would continue to be paid .75 salary.

VAMCs would determine when such appointments would begin, based on regional needs (e.g. higher winter workload in the sunbelt) and community-based competitive factors.

There are no costs associated with this proposal. It is estimated that VAMCs will derive fiscal benefits from deferring 25 percent of pay for full-time work over a 9-month period.

(3) 7 ten-hour days/7 days off, with pay for 80 hours.

Assumptions: Based on paying an RN who works 70 hours as if 80 hours are worked. Average hourly wage = $29.02 (using FY02 avg RN salary = $56,679, adjusted by 3.2% annual pay increase = $60,364, divided by 2,080).

Cost is 10 hours per pay period/260 hours per year.

Cost per RN per pay period: 10 $29.02 = $290.20; Cost per RN per year 260 $29.02 = $7,545.

Based on an estimated 15 nurses per facility, the cost would be as follows:

15 (RNs) $7,545 = $113,175; 162 (VAMCs) $113,175= $18,334,350.

FY 2004 costs would be $9,167,175 (half-year implementation).

Costs in future years increased by 3.2%.

[In millions of dollars]

FY05	$18.92
FY06	19.53
FY07	20.15
FY08	20.80
FY09	21.46
FY10	22.15
FY11	22.86
FY12	23.59
FY13	24.34
Total (over 10 years)	203.00

NURSE EXECUTIVE PAY

Assumptions: One nurse executive at each of the 162 VHA medical centers would be authorized to receive the executive special pay, [Note: the estimate below is a maximum estimate since in any given year there will be a varying number of nurse executive vacancies. On board strength is estimated to average 150 nurse executives. This number also includes 5 nurse executives in the VACO Office of Nursing Services]. The average per executive would be $17,500, $2.62 million per year for 150 executives.

Year	*Cost (millions)*
2004	$1.31
(Based on April 4, 2004 effective date):	
2005	2.62
2006	2.62
2007	2.62
2008	2.62
2009	2.62
2010	2.62
2011	2.62
2012	2.62
2013	2.62
Total	24.89

The Office of Management and Budget advises that the submission of this draft bill is in accord with the program of the President.

Sincerely yours,

ANTHONY J. PRINCIPI.

	Cost estimate	
	Direct costs for current staff	Savings from productivity
Cost for physicians	$124,488,837	$28,389,272
Cost for dentists	4,996,680	703,166
Cost for management	9,354,318	0
Total	138,839,835	29,092,438

10-YEAR PROJECTIONS

[First year cost projections assume implementation in 3rd quarter of FY 2004[1]]

	Cost	Productivity savings	Contract/fee savings[2]	Net cost
FY 2004	$69,419,917	$14,546,219	$6,405,709	$48,467,990
2005	144,254,588	30,227,043	19,217,127	94,810,419
2006	149,880,517	31,405,898	32,028,544	86,446,075
2007	155,725,857	32,630,728	44,839,962	78,255,168

10-YEAR PROJECTIONS—Continued

[First year cost projections assume implementation in 3rd quarter of FY 2004[1]]

	Cost	Productivity savings	Contract/fee savings[2]	Net cost
2008	161,799,166	33,903,326	57,651,380	70,244,460
2009	168,109,333	35,225,556	69,656,718	63,227,060
2010	174,665,597	36,599,352	80,855,976	57,210,269
2011	181,477,556	38,026,727	92,055,235	51,395,594
2012	188,555,180	39,509,769	103,254,493	45,790,918
2013	195,908,832	41,050,650	114,453,752	40,404,430
Total	1,589,796,546	333,125,267	620,418,896	636,252,382

[1] Assuming annual rate of inflation of 3.9 percent.

[2] Savings based on difference between cost of providing services in-house vs. contact and fee basis. See attached sheet for calculation of estimated total contract savings ($112 million over 10 years). Savings in contract expenditures based on realizing 10 percent of total savings per year. Savings in fee basis expenditures ($8.05 million) based on 5 percent reduction per year over 5 years.

Note: Savings in 2013 do not equal total due to crediting only half-year savings in first year.

CONTRACT SAVINGS COMPUTATION SHEET

Clinical specialty	Current active vacancies	FY 2001 contract costs	New VA pay	Estimated average contract cost per FTE[1]	Estimated contract FTE[2]	Estimated savings from contract replacement[3]
Allergy/Immunology	2.4	$393,353	$134,629	$265,724	1.48	$194,061
Anesthesiology	89.5	18,040,153	216,469	387,500	46.56	7,962,388
Cardiology	58.1	17,556,339	183,928	423,031	41.50	9,923,087
Dermatology	18.125	19,411,073	173,538	352,366	55.09	9,851,230
Emergency Medicine	20	8,322,130	174,949	216,824	38.38	1,607,245
Endocrinology	6.1	186,985	133,695	181,776	1.03	49,458
Gastroenterology	45.4	1,902,181	156,510	329,111	5.78	997,592
General Internal Medicine	191.225	113,586,127	136,250	160,058	709.66	16,895,004
General Surgery	31.25	12,232,562	194,361	277,702	44.05	3,671,108
Geriatrics	11.375	5,300,674	132,003	167,694	31.61	1,128,177
Gynecology (OB/Gyn—Other)	1.9	2,646,880	176,359	206,943	12.79	391,181
Hematology/Oncology	29.625	3,604,702	140,164	385,606	9.35	2,294,428
Infectious Diseases	18.505	597,046	135,196	199,761	2.99	192,972
Nephrology	7	4,561,735	139,617	275,311	16.57	2,248,366
Neurology	22.25	2,182,569	133,314	212,216	10.28	811,484
Neurosurgery	7.175	3,786,867	249,601	502,913	7.53	1,907,405
Ophthalmology	17.1	4,315,444	171,094	301,451	14.32	1,866,135
Orthopedic Surgery	22.875	6,600,581	242,825	444,105	14.86	2,991,556
Otolaryngology	11.55	962,887	190,567	304,389	3.16	360,058
Pathology	24.875	10,832,884	145,778	289,235	37.45	5,372,989
Physical Medicine & Rehab	20.575	969,748	142,976	234,605	4.13	378,752
Plastic Surgery	5.125	840,228	223,465	472,475	1.78	442,828
Preventive Medicine	1		145,807	N/A	N/A	N/A
Psychiatry	110.175	4,350,983	146,887	161,440	26.95	392,213
Pulmonology	16.975	1,162,023	138,667	236,298	4.92	480,114
Radiology	100.2	64,119,853	220,662	450,000	142.49	32,678,042
Rheumatology	9.4	165,564	133,563	212,183	0.78	61,347
Thoracic/Cardiovasc Surgery	10.375	15,826,215	247,602	375,385	42.16	5,387,326
Urology	34.75	3,597,512	200,690	337,144	10.67	1,456,039
Total	944.905	328,055,298				111,992,584

[1] Estimated unit FTE cost based on MGMA Physician Compensation Report, 2002 (based on 2001 data); actual contract FTE costs may be higher.

[2] Contract FTE constructed by dividing total contract expenditures by estimated unit FTE cost.

[3] Savings based on difference between contract costs per contract FTE and VA employee costs for same FTE, or actual contract expenditures, whichever is lower.

ANALYSIS OF DRAFT BILL

The first section provides a title for the bill, the "Department of Veterans Affairs Health Care Personnel Enhancement Act of 2003".

Section 2 specifies that, unless otherwise expressly provided, references throughout are to title 38, United States Code.

Section 3 establishes a new pay system for VA physicians and dentists.

Section 3(a)(1) amends section 7404(b)(1) to revise the Physician and Dentist Schedule such that there now are two grades: Physician grade and Dentist grade. It strikes paragraph (2) as a conforming amendment as the Director and Executive grades no longer exist.

Section 3(a)(2) strikes "special" before "pay" because Section 3(a)(3) repeals the special pay provisions, but the individuals concerned will still be paid under subchapter III.

Section 3(a)(3) strikes existing Subchapter III in its entirety and inserts in lieu thereof new sections 7431–7434:

Section 7431 establishes a new pay system for VHA physicians and dentists composed of three tiers, base pay, market pay, and performance pay. It additionally provides that compensation under the new system shall be considered pay for all purposes, that downward adjustments do not constitute adverse actions, and that total pay may not exceed that of the President. In order to reduce the risk of potential conflicts of interest, this section also would prohibit certain senior title 38 officials from receiving any compensation, whether from employment or contract, from medical schools affiliated with their respective VAMCs.

Section 7432 provides for transition to the new pay system: written special pay agreements are terminated, but current pay levels continue until the new provisions are implemented on a date to be specified in VA regulations. Upon conversion to the new system, incumbent employees will be paid at least as much as they were paid under the old system. All pay under the new system, except performance pay, as well as special pay under the previous system, is fully creditable in computing retirement benefits.

Section 7433 contains provisions for pay for the Under Secretary for Health. In addition to base pay at Executive Level III, the Under Secretary would be eligible for market pay under the new system. The current Under Secretary's written special pay agreements are terminated, but would continue to be paid at current pay levels until the new provisions are implemented on a date to be specified in VA regulations. If a new Under Secretary were to be appointed during the interim, he/she would be paid under current law until a date to be specified in VA regulations.

Section 7434 contains several administrative provisions: (a) the Secretary is authorized to prescribe regulations; (b) current employees will not have their pay reduced when they move to the new system; (c) beginning eighteen months after issuance of regulations implementing the new pay system and annually thereafter for the next ten years, the Secretary would be required to provide a report to the Committees on Veterans' Affairs of the Senate and House of Representatives on the implementation of the new system.

Section 3(b) makes a conforming amendment to the title and list of sections for Subchapter III in the table of sections at the beginning of Chapter 74.

Section 4 provides for alternate work schedules.

Section 4(a) amends Chapter 74 to add a new section 7456a, Alternate Work Schedules:

Section 7456(a) specifies that this section applies to chapter 74 registered nurses.

Section 7456(b)(1) authorizes the Secretary, when necessary to obtain or retain registered nurses at any Department health-care facility, to provide for such nurses to work three regularly scheduled 12-hour tours of duty within a workweek, and for such tour to be considered for all purposes (except computation of full-time equivalent employees for the purposes of determining compliance with personnel ceilings) a full 40-hour basic workweek.

Section 7456(b)(2) provides the formula for determining the hourly rate, and sets forth rules for overtime pay.

Section 7456(c)(1) authorizes the Secretary, when necessary to obtain or retain registered nurses at any Department health-care facility, to provide for such nurses to work seven regularly scheduled 10-hour tours of duty, with seven days off duty, within a two-week pay period, and for such tour to be considered for all purposes (except computation of full-time equivalent employees for the purposes of determining compliance with personnel ceilings) a full 80-hour pay period.

Section 7456(c)(2) provides the formula for determining the hourly rate, and sets forth rules for overtime pay.

Section 7456(d)(1) authorizes the Secretary to provide for nurses to work full-time for 9 months with 3 months off, and be paid at 75 percent of the full-time rate over a full 12-month period over a fiscal year, and for employees working such tours to be considered .75 full-time equivalent employees. Service on this schedule shall be considered part-time service for purposes of computing retirement benefits.

Section 7456(e) provides the formula for determining leave charges for nurses working 36/40 or 7/7 work schedules.

Section 7456(f) directs the Secretary to prescribe implementing regulations.

Section 4(b) makes a conforming amendment to the title and list of sections for Subchapter IV in the table of sections at the beginning of Chapter 74 to add new section 7456a.

Section 5 establishes special pay for VA nurse executives.

Section 5(a) adds a new subsection (f) to section 7452:

Subsection (f)(1) authorizes, when necessary to recruit or retain nurse executives, special pay for the nurse executive at each Department health-care facility or at Central Office.

Subsection (f)(2) sets the range of special pay to be a minimum of $10,000 and a maximum of $25,000, and specifies the factors in determining the amount paid to each nurse executive.

Subsection (f)(3) specifies that special pay is in addition to any other pay (including basic pay) and allowances to which the nurse executive is entitled, and that it is be considered pay for all purposes.

Section 6 sets the effective date for rates of pay established pursuant to section 7431, as added by section 3(a), and sections 4 and 5, as the first day of the first pay period on or after the later of April 1, 2004, or six months after the date of enactment. All other provisions are effective on the date of enactment.

Section 7 adds an administrative provision concerning functions under chapter 74. It provides that functions of the Secretary and other Department officers under chapter 74 are vested in their discretion. The purpose of this provision is to make clear that the exercise of those functions 5 U.S.C. 701(a)(2) exempts the exercise of those functions from judicial review under the Administrative Procedures Act.

By Mr. SPECTER (by request):

S. 2485. A bill to amend title 38, United States Code, to improve and enhance the authorities of the Secretary of Veterans Affairs relating to the management and disposal of real property and facilities, and for other purposes; to the Committee on Veterans' Affairs.

Mr. SPECTER. Mr. President, as chairman of the Committee on Veterans' Affairs, I have introduced today, at the request of the Secretary of Veterans' Affairs, S. 2485, a proposed bill to modify provisions of law relating to the administration of real property assets by the Department of Veterans' Affairs, VA. The Secretary of Veterans' Affairs submitted the elements of this proposed legislation to the President of the Senate by letters dated August 15, 2003, and October 3, 2003.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Committee on Veterans' Affairs. In this case, however, I have departed from my usual course of simply introducing administration-advanced measures as forwarded to me. Measures that the administration forwarded in August and October, 2003, relate to similar subject matter, namely the administration of VA-controlled real property assets. It is my belief that these provisions, inasmuch as they are related, might be considered in a more orderly fashion as parts of a single piece of legislation. To facilitate that, I have included sections 401–403 of the administration's August 15, 2003, request, and sections 5–6 of the administration's October 3, 2003, request, in the single bill which I have introduced today. As is always my policy with respect to any such "by request" legislation, I reserve the right to oppose the provisions of, as well as any amendment to, this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2485

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Department of Veterans Affairs Real Property and Facilities Management Improvement Act of 2004".

(b) REFERENCES TO TITLE 38 UNITED STATES CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. AUTHORITY TO USE PROJECT FUNDS TO CONSTRUCT OR RELOCATE SURFACE PARKING INCIDENTAL TO A CONSTRUCTION OR NON-RECURRING MAINTENANCE PROJECT.

Section 8109 is amended by adding at the end the following new subsection:

"(j) Funds in a construction account or capital account that are available for a construction project or non-recurring maintenance project may be used for the construction or relocation of a surface parking lot incidental to such project.".

SEC. 3. IMPROVEMENTS OF ENHANCED-USE LEASE AUTHORITIES.

(a) BUSINESS PLAN CRITERIA.—Section 8162 is amended—

(1) in subsection (a)(2)(B), by striking "the Under Secretary for Health for applying the consideration under such a lease to the provision of medical care and services" and inserting "one of the Under Secretaries for applying the consideration under such a lease to the programs and activities of the Department"; and

(2) in subsection (b)(4)(A), by striking "on the leased property".

(b) CONSIDERATION OF PROPOSALS FOR LEASES.—(1) Section 8163 is amended—

(A) in subsection (a), by striking the first sentence and inserting the following new sentence: "If the Secretary proposes to enter into an enhanced-use lease with respect to certain property, the Secretary shall conduct a public hearing before entering into the lease.";

(B) in subsection (b), by striking "of the proposed designation and of the hearing" in the matter preceding paragraph (1) and inserting "on the proposed lease and the hearing to the congressional veterans' affairs committees and to the public"; and

(C) in subsection (c)—

(i) in paragraph (1)—

(I) by striking "to designate the property involved" and inserting "to enter into an enhanced-use lease of the property involved"; and

(II) by striking "to so designate the property" and inserting "to enter into the lease";

(ii) in paragraph (2), by striking "90-day" and inserting "45-day"; and

(iii) by striking paragraph (4).

(2)(A) The heading of such section is amended to read as follows:

"§8163. Proposals for property to be leased".

(B) The table of sections at the beginning of chapter 81 is amended by striking the item relating to section 8163 and inserting the following new item:

"8163. Proposals for property to be leased.".

(c) DISPOSAL AUTHORITY.—Section 8164 is amended—

(1) in subsection (a)—

(A) by striking "by requesting the Administrator of General Services to dispose of the property pursuant to subsection (b)"; and

(B) by striking the last sentence;

(2) in subsection (b)—

(A) by striking "and the Administrator of General Services jointly determine" and inserting "determines"; and

(B) by striking "and the Administrator consider" and inserting "considers"; and

(3) in subsection (c), by striking "90 days" and inserting "45 days".

(d) USE OF PROCEEDS.—Section 8165 is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "Funds received" and inserting "Except as provided in paragraph (2), funds received";

(B) by redesignating paragraph (2) as paragraph (3);

(C) by inserting after paragraph (1) the following new paragraph (2):

"(2) Funds received by the Department under an enhanced-use lease implementing a business plan proposed by the Under Secretary for Benefits or the Under Secretary for Memorial Affairs and remaining after any deduction from such funds under subsection (b) shall be credited to applicable appropriations of the Veterans Benefits Administration or National Cemetery Administration, as the case may be."; and

(D) in paragraph (3), as so redesignated, by striking "nursing home revolving fund" and inserting "Capital Asset Fund established under section 8122A of this title";

(2) in subsection (b)—

(A) by inserting "(1)" after "(b)"

(B) in paragraph (1), as so designated, by striking "for that fiscal year"; and

(C) by adding at the end the following new paragraph:

"(2) The Secretary may also deduct from the proceeds of any enhanced-use lease an amount to reimburse applicable appropriations of the Department for any expenses incurred by the Secretary in the development of additional enhanced-use leases. Amounts so deducted shall be utilized to reimburse such appropriations."; and

(3) by striking subsection (c).

SEC. 4. DISPOSAL OF REAL PROPERTY OF THE DEPARTMENT OF VETERANS AFFAIRS.

(a) IN GENERAL.—(1) Subchapter II of chapter 81 is amended by inserting after section 8122 the following new section:

"§ 8122A. Disposal of real property

"(a) IN GENERAL.—(1) To the extent provided in advance in appropriations Acts, the Secretary may, in accordance with this section and sections 8122 and 8164 of this title, dispose of real property of the Department, including land and structures and equipment associated with such property, that is under the jurisdiction or control of the Secretary by—

"(A) transfer to or exchange with another department or agency of the Federal Government;

"(B) conveyance to or exchange with a State or a political subdivision of a State, an Indian tribe, or other public entity; or

"(C) conveyance to or exchange with any private person or entity.

"(2) The Secretary may exercise the authority in paragraph (1) notwithstanding the following provisions of law:

"(A) Sections 521, 522, and 541 through 545 of title 40.

"(B) Section 501 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411).

"(3) In any transfer, exchange, or conveyance of real property under this subsection, the Secretary shall obtain consideration in an amount equal to the fair market value of the property, as determined by the Secretary.

"(b) TREATMENT OF PROCEEDS.—Proceeds from the transfer, exchange, or conveyance of real property under subsection (a) shall be deposited in the Capital Asset Fund under subsection (c).

"(c) CAPITAL ASSET FUND.—There is established on the books of the Treasury of the United States a revolving fund known as the Capital Asset Fund (in this section referred to as the 'Fund').

"(d) ELEMENTS OF FUND.—The Fund shall consist of the following:

"(1) Amounts authorized to be appropriated to the Fund.

"(2) Proceeds from the transfer, exchange, or conveyance of real property under subsection (a) that are deposited in the Fund under subsection (b).

"(3) Funds to be deposited in the Fund under section 8165(a)(3) of this title.

"(4) Any other amounts specified for transfer to or deposit in the Fund by law.

"(e) USE OF AMOUNTS IN FUND.—Subject to the provisions of appropriations Acts, amounts in the Fund shall be available for purposes as follows and in the following order of priority:

"(1) For costs of the Department in disposing of real property, including costs associated with demolition, environmental clean-up, maintenance and repair, improvements to facilitate disposal, and associated administrative expenses.

"(2) For costs of the Department associated with proposed disposals of real property of the Department.

"(3) For costs of non-recurring capital projects of the Department.

"(f) REPORTS.—The Secretary shall include with the budget justification documents submitted to Congress each year with the budget of the President for the fiscal year beginning in such year (as submitted pursuant to section 1105 of title 31) a report setting forth the following:

"(1) A statement of each disposal of real property to be undertaken in such fiscal year that is valued in excess of the major medical facility project threshold specified in section 8104(a)(3)(A) of this title.

"(2) A description of each disposal of real property that was completed in the fiscal year ending in the year before such report is submitted.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 8122 the following new item:

"8122A. Disposal of real property.".

(b) CONFORMING AMENDMENT.—Section 8164(a) is amended in the second sentence by inserting "or 1822A" after "section 8122".

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Department of Veterans Affairs for fiscal year 2005, $10,000,000 for deposit in the Capital Asset Fund under section 1822A(c) of title 38, United States Code (as added by subsection (a)).

SEC. 5. MODIFICATION OF OTHER REAL PROPERTY DISPOSAL AUTHORITIES.

(a) GENERAL LIMITATIONS ON DISPOSAL.—Paragraph (2) of subsection (a) of section 8122 is amended to read as follows:

"(2) Except as provided in paragraph (3) of this subsection, the Secretary may not during any fiscal year dispose of real property owned by the United States and under the jurisdiction and control of the Secretary that has an estimated value in excess of the major medical facility project threshold specified in subsection 8104(a)(3)(A) of this title unless—

"(A) the disposal is described in the budget justification documents submitted to Congress each year with the budget of the President for the fiscal year beginning in such year (as submitted pursuant to section 1105 of title 31);

"(B) the Department receives consideration for the real property equal to the fair market value of the property, as determined by the Secretary; and

"(C) the net proceeds of the disposal are deposited in the Capital Asset Fund under section 8122A(c) of this title.".

(b) DISPOSAL PROCEDURES.—Subsection (d) of such section is amended—

(1) by inserting "(1)" after "(d)"; and

(2) by adding at the end the following new paragraphs:

"(2)(A) In the case of property (including land and structures and equipment associated with such property) that has an estimated value less than the major medical facility project threshold specified in section 8104(a)(3)(A) of this title, the Secretary may dispose of the property if—

"(i) the Secretary notifies the Administrator of General Services of an intent to dispose of the property; and

"(ii) a period of 30 days elapses after notice under clause (i) during which period no other department or agency of the Federal Government expresses an interest in assuming jurisdiction of the property under the condition of paying the Secretary the fair market value of the property, as determined by the Secretary, of the property.

"(B) In disposing of property under subparagraph (A), the Secretary shall publish a notice of sale in the real estate section of a local newspaper of general circulation serving the market in which the property is located.

"(3) In the case of property (including land and structures and equipment associated with such property) that has an estimated value in excess of the major medical facility project threshold specified in section 8104(a)(3)(A) of this title, the Secretary may dispose of the property if—

"(A) the Secretary complies with subsection (a)(2) with respect to the property;

"(B) the Secretary—

"(i) notifies the Administrator of General Services of an intent to dispose of the property;

"(ii) publishes in the Federal Register notice of an intent to dispose of the property; and

"(iii) notifies the committees of an intent to dispose of the property;

"(C) a period of 30 days elapses after notice under subparagraph (B)(i) during which period no other department or agency of the Federal Government expresses an interest in assuming jurisdiction of the property under the condition of paying the Secretary the fair market value of the property, as determined by the Secretary, of the property; and

"(D) a period of 60 days elapses after notice under subparagraph (B)(iii).".

SEC. 6. TERMINATION OF NURSING HOME REVOLVING FUND.

(a) TERMINATION.—(1) Section 8116 is repealed.

(2) The table of sections at the beginning of chapter 81 is amended by striking the item relating to section 8116.

(b) CONFORMING AMENDMENT.—Section 8165(a)(3), as redesignated by section 3(d)(1)(D) of this Act, is further amended by striking "nursing home revolving fund" and inserting "Capital Asset Fund under section 1822A of this title".

(c) TRANSFER OF UNOBLIGATED BALANCES TO CAPITAL ASSET FUND.—Any unobligated balances in the nursing home revolving fund under section 8116 of title 38, United States Code, as of the date of the enactment of this Act shall be deposited in the Capital Asset Fund under section 8122A of title 38, United States Code (as added by section 4(a) of this Act).

SEC. 7. INAPPLICABILITY OF LIMITATION ON USE OF ADVANCE PLANNING FUND TO AUTHORIZED MAJOR MEDICAL FACILITY PROJECTS.

Section 8104 is amended by adding at the end the following new subsection:

"(g) The limitation specified in subsection (f) shall not apply to projects for which funds have already been authorized by law in accordance with subsection (a)(2).".

SEC. 8. LEASE OF CERTAIN NATIONAL CEMETERY ADMINISTRATION PROPERTY.

(a) IN GENERAL.—Chapter 24 is amended by adding at the end the following new section:

"§ 2412. Lease of land and buildings

"(a) LEASE AUTHORIZED.—The Secretary may lease any undeveloped land and unused or underutilized buildings, or parts or parcels thereof, belonging to the United States and part of the National Cemetery Administration.

"(b) TERM.—The term of a lease under subsection (a) may not exceed 10 years.

"(c) Lease to Public or Nonprofit Organizations.—(1) A lease under subsection (a) to any public or nonprofit organization may be made without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5).

"(2) Notwithstanding section 1302 of title 40 or any other provision of law, a lease under subsection (a) to any public or nonprofit organization may provide for the maintenance, protection, or restoration of the leased property by the lessee, as a part or all of the consideration for the lease.

"(d) Notice.—Before entering into a lease under subsection (a), the Secretary shall give appropriate public notice of the intention of the Secretary to enter into the lease in a newspaper of general circulation in the community in which the lands or buildings concerned are located.

"(e) National Cemetery Administration Facilities Operation Fund.—(1) There is established on the book of the Treasury an account to be known as the 'National Cemetery Administration Facilities Operation Fund' (in this section referred to as the 'Fund').

"(2) The Fund shall consist of the following:

"(A) Amounts authorized to be appropriated to the Fund.

"(B) Proceeds from the lease of land or buildings under this section.

"(C) Proceeds of agricultural licenses of lands of the National Cemetery Administration.

"(D) Any other amounts authorized for deposit in the Fund by law.

"(3) Amounts in the Fund shall be available to cover costs incurred by the National Cemetery Administration in the operation and maintenance of property of the Administration.

"(4) Amounts in the Fund shall remain available until expended.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2412. Lease of land and buildings.".

By Mr. SPECTER (for himself and Ms. MURKOWSKI) (by request):

S. 2486. A bill to amend title 38, United States Code, to improve and enhance education, housing, employment, medical, and other benefits for veterans and to improve and extend certain authorities relating to the administration of benefits for veterans, and for other purposes; to the Committee on Veterans' Affairs.

Mr. SPECTER. Mr. President, I have sought recognition to comment on legislation which I have introduced today which would, among other things, improve the education and housing benefits of our Nation's veterans. Education and housing benefits administered by the Department of Veterans Affairs, VA, were the essence of one of the most significant pieces of legislation in the 20th Century, the 1944 GI Bill of Rights. Sixty years later, the Veterans' Benefits Improvements Act of 2004, which I introduce today, would build on that historic legacy.

Section 101 of the bill would allow for significant increases in Montgomery GI Bill, MGIB, educational assistance benefits by expanding on "buy up" legislation which I authored in 1999 and which was enacted as part of Public Law 106–419. Under the provisions of the existing "buy up" program, active duty service members can increase their monthly MGIB "pay-out" by making voluntary in-service contributions of up to $600 in addition to the $1,200 aggregate contribution which is made to secure basic eligibility for MGIB benefits. In return for this added $600 "investment," a veteran can secure an increase in his or her monthly MGIB benefit of $150 per month. Assuming the veteran completes a 36-month course of full-time study, the added benefit amount to $5,400, an effective yield of $9 for every added dollar contributed. The legislation which I have introduced today would expand the "buy-up" program by allowing service members to voluntarily contribute more—up to $2000—to the program, in return for which they could "buy" up to an additional $18,000—or $500 per month over 36 months—in potential MGIB benefits. A service member who contributes the full $2,000 could thus increase his or her aggregate MGIB entitlement to $53,460, the amount that the College Board, an association of over 4,000 colleges and other educational organizations, estimates is necessary today to finance the average cost of tuition, fees, books, room and board, transportation, and expenses for a resident student at a four-year public institution of higher learning.

Section 102 of this bill would authorize VA to carry out a 4-year pilot program under which veterans could extend, for up to 2 years, their eligibility period to use MGIB education benefits. Current law states, in summary, that a veteran is entitled to 36 months of MGIB benefit, but only during a 10-year "delimiting period" beginning on the date of discharge from service. Section 102 of my bill would allow a veteran with a "left-over" entitlement to apply for a one-time extension of the delimiting period so that he or she might gain vocational or job readiness skills necessary to obtain or maintain employment. I believe that as the workforce evolves, so too must workers in order to stay competitive. Providing veterans with some flexibility in the use of a benefit they have earned—at a point in life beyond the "delimiting period"—is a sensible approach to helping veterans obtain the skills they may need to stay competitive in a 21st Century workforce.

Section 103 of this legislation would prohibit veterans' education benefits from being considered when determining a veteran's entitlement to Federal financial aid administered by the Department of Education. Under current law, such benefits are already excluded from eligibility calculations in determining eligibility for some forms of assistance granted by Title IV of the Higher Education Act of 1965, e.g., Pell grants and subsidized Stafford loans, but not for other forms of assistance, e.g., unsubsidized Stafford loans and campus-based aid. This legislation would rectify that anomaly by excluding veterans' education benefits from all such eligibility determinations.

Section 104 of the bill would fix yet another anomaly of law applicable to Reservists who are called to active duty. Current law generally specifies that such Reservists are eligible for MGIB benefits if they have served a minimum of 2 consecutive years of active duty. Current law also requires that service members contribute $100 a month during their first 12 months of service to gain eligibility for MGIB benefits. Because the Department of Defense (DoD) activates Reservists for indefinite periods of time, it is impossible for a Reservist to know at the beginning of his or her activation period—when a decision has to be made on contributing the requisite $100 per month—whether he or she will, in fact, end up serving 2 consecutive years of active duty and, thus, whether he or she will become eligible for MGIB benefits. Due to that uncertainty, activated Reservists are, quite reasonably, hesitant to make the requisite contributions. The DoD and VA have worked around this problem; they permit Reservists who end up serving 2 consecutive years to pay the $1,200 contribution at some later point—but the law does not explicitly authorize that allowance. This legislation would update the law to authorize these "late" contributions.

Section 201 of this legislation would increase the maximum amount of the VA home loan guaranty from $60,000 to $83,425. A guaranty of $60,000 allows a veteran to purchase, without a down payment, a home with a value of four times that amount, or $240,000. In many areas of the country, the median cost of housing is over $300,000, effectively limiting the utility of this benefit. This legislation would raise the VA guaranty limit to make the effective amount of a VA loan equal to the so-called conforming loan rate in the non-VA secondary mortgage markets.

Sections 202 and 203 of this bill would expand on legislation I authored in 2002 that added a pilot adjustable rate mortgage, ARM, feature to VA's loan guaranty program. Currently, the pilot program, which expires on September 30, 2005, allows VA to guarantee only so-called "hybrid" ARMs. Even then, restrictive adjustment caps have effectively limited the program to only one type of hybrid ARM financing. This bill would give VA permanent authority to guaranty a full range of ARM financing, to include traditional 1-year ARMs and hybrid ARMs with interest rates fixed for periods of 3, 5, 7, or 10 years, consistent with the ARM provisions of the National Housing Act. I believe the housing benefit for veterans should, at the very least, equal that of benefits available for non-veterans through the FHA program.

Section 204 of this legislation resurrects legislation that was approved by the Senate during the 106th Congress, but which failed to pass the House. Current law mandates that VA collect a funding fee when veterans obtain a loan with a VA guaranty, but it also allows for a waiver of the funding fee if the veteran seeking housing assistance has suffered a service-connected disability. For the funding fee to be waived under current law, however, the veteran must already be receiving compensation, an event which can only occur after the service member has been discharged from service. Because VA has a presence at over 136 military discharge sites (where it conducts predischarge medical examinations), it is common for someone who is still in service to be adjudged disabled by VA. But because such a service member cannot yet receive veterans' compensation, VA cannot waive the funding fee even though an active-duty service can make use of his or her entitlement to a VA-guaranteed home loan while still in service. This legislation would rectify that situation by, prospectively, allowing VA to waive funding fees for active duty service members who are eligible to receive compensation as a result of a pre-discharge examinations, but who are not yet discharged from service.

Section 301 of this legislation would rectify what I perceive to be an unintended oversight of the Veterans Employment Opportunity Act of 1998. That statute granted Federal job preferences to two classes of veterans—those who are "preference eligible" due to service during wartime or because of service-connected disability, and those who served on active duty for at least three years. The statute also authorized administrative and judicial redress but, by oversight, it limited such redress to the "preference eligible" class of veterans only. This legislation would extend current remedies to all veterans who are eligible for Federal job preferences.

Section 311 of this legislation would prohibit the collection of co-payments from veterans receiving VA-provided hospice care. The requirement for copayments for hospice care is, I think, unduly burdensome in cases where the end of life is near. The Bush administration concurs; it requested this exemption in its fiscal year 2005 budget proposal. I am glad to advance this provision on behalf of the President.

Section 321 of this bill would extend three non-controversial statutory authorities that are now scheduled to expire. The first would extend, until 2009, the requirement that the VA's Advisory Committee on Former Prisoners of War submit a biennial report of its recommendations for improvements to benefits afforded to former prisoners of war. The second would make permanent VA authority to provide counseling and treatment services to veterans who have experienced sexual trauma while in service. The third would extend, until December 31, 2009, a reporting requirement imposed on VA's Special Medical Advisory Group. Finally, Section 331 of my legislation would update the definition of minority group members for purposes of the work of VA's Advisory Committee on Minority Veterans.

Mr. President, the principal thrust of this legislation is to improve and modernize aspects of VA education and housing programs which were first conceived 60 years ago. These improvements, and others contained in this bill, merit the support of the Senate. I request that support, and ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2486

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Benefits Improvements Act of 2004".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.
TITLE I—EDUCATION BENEFITS
Sec. 101. Increase in maximum amount of contribution for increased amount of basic educational assistance under Montgomery GI Bill.
Sec. 102. Pilot program on additional two-year period for use of entitlement by participants in Montgomery GI Bill for vocational or job readiness training.
Sec. 103. Exclusion of veterans education benefits in determination of eligibility or amount of Federal educational grants and loans.
Sec. 104. Collection of contributions for educational assistance under Montgomery GI Bill from Reserves called to active duty.
TITLE II—HOUSING BENEFITS
Sec. 201. Increase in maximum amount of housing loan guarantee.
Sec. 202. Permanent authority for guarantee of adjustable rate mortgages.
Sec. 203. Permanent authority for guarantee of hybrid adjustable rate mortgages and modification of guarantee authority.
Sec. 204. Termination of collection of loan fees from veterans rated eligible for compensation at pre-discharge rating examinations.
TITLE III—OTHER BENEFITS AND BENEFITS MATTERS
Subtitle A—Employment Benefits
Sec. 301. Availability of administrative and judicial redress for certain veterans denied opportunity to compete for Federal employment.
Subtitle B—Medical Benefits
Sec. 311. Prohibition on collection of copayments for hospice care.
Subtitle C—Extension of Benefits and Related Authorities
Sec. 321. Extension of various authorities relating to benefits for veterans.
Subtitle D—Other Matters
Sec. 331. Modification of definition of minority group member for purposes of Advisory Committee on Minority Veterans.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—EDUCATION BENEFITS

SEC. 101. INCREASE IN MAXIMUM AMOUNT OF CONTRIBUTION FOR INCREASED AMOUNT OF BASIC EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL.

(a) ACTIVE DUTY BENEFIT.—Section 3011(e)(3) is amended by striking "$600" and inserting "$2,000".

(b) SELECTED RESERVE BENEFIT.—Section 3012(f)(3) is amended by striking "$600" and inserting "$2,000".

SEC. 102. PILOT PROGRAM ON ADDITIONAL TWO-YEAR PERIOD FOR USE OF ENTITLEMENT BY PARTICIPANTS IN MONTGOMERY GI BILL FOR VOCATIONAL OR JOB READINESS TRAINING.

(a) IN GENERAL.—(1) Subchapter I of chapter 30 is amended by adding at the end the following new section:

"§ 3020A. Additional two-year period for use of entitlement for vocational or job readiness instruction or training: pilot program

"(a) PILOT PROGRAM REQUIRED.—(1) The Secretary shall carry out a pilot program to assess the feasibility and advisability of permitting individuals whose entitlement to basic educational assistance under this chapter expires under section 3031 of this title before their complete use of such entitlement to be entitled to an additional two-year period for their use of such entitlement.

"(2) The pilot program shall commence six months after the date of the enactment of this section, and shall terminate four years after the date of the commencement of the pilot program.

"(b) ADDITIONAL TWO-YEAR PERIOD OF ENTITLEMENT.—Notwithstanding any provision of section 3031 of this title, an individual described in subsection (c) shall, at the expiration of the 10-year period beginning on the educational assistance entitlement commencement date of such individual, be entitled to an additional two-year period for the use of entitlement to basic educational assistance under this chapter.

"(c) ELIGIBLE INDIVIDUALS.—(1) An individual described in this subsection is any individual who—

"(A) as of the end of the 10-year period beginning on the educational assistance entitlement commencement date of such individual—

"(i) would remain entitled to basic educational assistance under this chapter but for the expiration of the 10-year delimiting period applicable to such individual under section 3031 of this title; and

"(ii) has not utilized all of the entitlement of such individual to basic educational assistance under this chapter; and

"(B) at the time of the application for entitlement under this subsection (d), is accepted, enrolled, or otherwise participating (as determined by the Secretary) in instruction or training described in subsection (e).

"(2) This subsection does not apply to an individual otherwise described by paragraph (1) whose remaining entitlement to basic educational assistance under this chapter as described in subparagraph (A)(ii) of that paragraph is based on the transfer of basic educational assistance under section 3020 of this title.

"(d) APPLICATION.—(1) An individual seeking an additional two-year period for the use of entitlement under this section shall submit to the Secretary an application therefor containing such information as the Secretary may require for purposes of this section.

"(2) The Secretary may not receive applications under this subsection after the termination date of the pilot program under subsection (a)(2).

"(e) COMMENCEMENT OF ADDITIONAL PERIOD FOR USE.—The additional two-year period for the use of entitlement by an individual under this section shall commence on the date the application of the individual under subsection (d) is received by the Secretary if the Secretary determines pursuant to a review of the application that the individual is an individual described by subsection (c) for purposes of this section.

"(f) INSTRUCTION OR TRAINING COVERED BY ADDITIONAL PERIOD FOR USE.—(1) The instruction or training for which entitlement to basic educational assistance under this chapter may be used during the additional two-year period for the use of entitlement under this section is as follows:

"(A) Education leading to employment in a high technology industry for purposes of section 3014A of this title.

"(B) A full-time program of apprenticeship or other on-job training approved as provided in clause (1) or (2), as appropriate, of section 3687 of this title.

"(C) A cooperative program (as defined in section 3482(a)(2) of this title).

"(D) A licensing or certification test approved under section 3689 of this title.

"(E) Training or education leading toward a professional or vocational objective which has been approved in accordance with the provisions of subchapter I of chapter 36 of this title and is identified by the Secretary in regulations to be prescribed by the Secretary for purposes of this section.

"(2) Entitlement to basic educational assistance under this chapter may not be used during the additional two-year period for the use of entitlement under this section for the instruction or training as follows:

"(A) General education leading toward a standard college degree (as defined in section 3452(g) of this title), unless the program or training concerned will result in an associates degree that is approved by the Secretary in the manner specified in paragraph (1)(E) to be necessary to obtain a professional or vocational objective.

"(B) Preparatory courses for a test that is required or used for admission to an institution of higher education or graduate school.

"(g) COORDINATION WITH CERTAIN OTHER BENEFITS.—(1) An individual entitled to basic educational assistance under subsection (c) is entitled to educational and vocational counseling under section 3697A of this title in connection with the use of entitlement under this section.

"(2) An individual using entitlement to basic educational assistance under this chapter during the additional two-year period for the use of entitlement under this section is not entitled during the use of such entitlement to the following:

"(A) Supplemental educational assistance under subchapter III of this chapter.

"(B) A work-study allowance under section 3485 of this title.

"(h) EDUCATIONAL ASSISTANCE ENTITLEMENT COMMENCEMENT DATE DEFINED.—In this section, the term 'educational assistance entitlement commencement date', in the case of an individual described in subsection (b)(1), means the date on which begins the period during which the individual may use the individual's entitlement to educational assistance under chapter as determined under section 3031 of this title.

"(i) EFFECT OF TERMINATION OF PILOT PROGRAM.—The termination of the pilot program under subsection (a)(2) shall not effect the continuing use of entitlement under this section of any individual whose additional two-year period for the use of entitlement under this section continues after the date of the termination of the pilot program under that subsection.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3020 the following new item:

"3020A. Additional two-year period for use of entitlement for vocational or job readiness instruction or training: pilot program.".

(b) CROSS-REFERENCE AMENDMENT.—Section 3031 is amended—

(1) in subsection (a), by striking "subsections (b) through (g), and subject to subsection (h)," and inserting "subsections (b) through (h), and subject to subsection (i),";

(2) by redesignating subsection (h) as subsection (i); and

(3) by inserting after subsection (g) the following new subsection (h):

"(h) An individual whose period for the use of entitlement to basic educational assistance under this chapter would otherwise expire under this section may be eligible for an additional two-year period for the use of entitlement under section 3020A of this title.".

SEC. 103. EXCLUSION OF VETERANS EDUCATION BENEFITS IN DETERMINATION OF ELIGIBILITY OR AMOUNT OF FEDERAL EDUCATIONAL GRANTS AND LOANS.

(a) IN GENERAL.—(1) Subchapter II of chapter 36 is amended by inserting after section 3694 the following new section:

"§ 3694A. Exclusion of veterans education benefits in determination of eligibility or amount of Federal education grants and loans

"(a) EXCLUSION.—Notwithstanding any other provision of law and subject to subsection (b), education benefits shall not be considered as income, assets, or other monetary resource in determining eligibility for, or the amount of, grant or loan assistance provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

"(b) EXCEPTION.—In the case of campus-based student financial assistance, the amount of such assistance for which an individual would otherwise be eligible without taking into consideration education benefits as described in subsection (a) shall be reduced to the extent that the sum of such amount, the amount of the education benefits of the individual, and the amount of the Federal Pell Grant, if any, of the individual exceeds the cost of attendance of the individual.

"(c) DEFINITIONS.—In this section:

"(1) The term 'campus-based student financial assistance' means grant, work, or loan assistance provided under subpart 3 of part A, and parts C and E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070b et seq; 42 U.S.C. 2751 et seq.; 20 U.S.C. 1087aa et seq.).

"(2) The term 'cost of attendance' has the meaning given such term in section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087*ll*).

"(3) The term 'education benefits' means education benefits under chapters 30, 32, and 35 of this title and under chapter 1606 of title 10.

"(4) The term 'Federal Pell Grant' means a grant provided under subpart 1 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a).".

(2) The table of sections at the beginning of chapter 36 is amended by inserting after the item referring to section 3694 the following new item:

"3694A. Exclusion of veterans education benefits in determination of eligibility or amount of Federal education grants and loans.".

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to award years, as that term is defined in section 481(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)(1)), beginning on or after July 1, 2004.

SEC. 104. COLLECTION OF CONTRIBUTIONS FOR EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL FROM RESERVES CALLED TO ACTIVE DUTY.

(a) ACTIVE DUTY PROGRAM.—Section 3011(b) is amended—

(1) by striking "The basic pay" and inserting "(1) Except as provided in paragraph (2), the basic pay";

(2) by designating the second sentence as paragraph (3), indenting the left margin of such paragraph, as so designated, two ems, and, in that paragraph by striking "this chapter" and inserting "this subsection"; and

(3) by inserting after paragraph (1), as so designated, the following new paragraph:

"(2) In the case of an individual covered by paragraph (1) who is a Reserve, the Secretary shall collect from the individual an amount equal to $1,200 before the commencement by the individual of the use of entitlement to basic educational assistance under this chapter. The Secretary may collect such amount through reductions in basic pay in accordance with paragraph (1) or through such other method as the Secretary determines appropriate.".

(b) SELECTED RESERVE PROGRAM.—Section 3012(c) is amended—

(1) by striking "The basic pay" and inserting "(1) Except as provided in paragraph (2), the basic pay";

(2) by designating the second sentence as paragraph (3), indenting the left margin of such paragraph, as so designated, two ems, and, in that paragraph by striking "this chapter" and inserting "this subsection"; and

(3) by inserting after paragraph (1), as so designated, the following new paragraph:

"(2) In the case of an individual covered by paragraph (1) who is a Reserve, the Secretary shall collect from the individual an amount equal to $1,200 before the commencement by the individual of the use of entitlement to basic educational assistance under this chapter. The Secretary may collect such amount through reductions in basic pay in accordance with paragraph (1) or through such other method as the Secretary determines appropriate.".

TITLE II—HOUSING BENEFITS

SEC. 201. INCREASE IN MAXIMUM AMOUNT OF HOUSING LOAN GUARANTEE.

(a) In General.—Subparagraph (A)(i)(IV) of section 3703(a)(1) is amended by striking "$60,000" and inserting "$83,425".

(b) Conforming Amendment.—Subparagraph (B) of such section is amended by striking "$60,000" and inserting "$83,425".

SEC. 202. PERMANENT AUTHORITY FOR GUARANTEE OF ADJUSTABLE RATE MORTGAGES.

Section 3707(a) is amended by striking "The Secretary shall" and all that follows through "guaranteeing loans" and inserting "The Secretary shall guarantee loans".

SEC. 203. PERMANENT AUTHORITY FOR GUARANTEE OF HYBRID ADJUSTABLE RATE MORTGAGES AND MODIFICATION OF GUARANTEE AUTHORITY.

(a) Permanent Authority.—Subsection (a) of section 3707A is amended by striking "The Secretary shall" and all that follows through "guaranteeing loans" and inserting "The Secretary shall guarantee loans".

(b) Modification of Interest Rate Adjustment Requirements.—Subsection (c) of such section is amended—

(1) by striking paragraph (3) and inserting the following new paragraph (3):

"(3) in the case of the initial interest rate adjustment under such provisions, be limited to a maximum increase or decrease of 1 percentage point if the interest rate remained fixed for 3 or fewer years; and"; and

(2) in paragraph (4), by striking "5 percentage points" and all that follows and inserting "such number of percentage points as the Secretary shall prescribe for purposes of this section.".

(c) No Effect on Guarantee of Loans Under Hybrid Adjustable Rate Mortgage Guarantee Demonstration Project.—The amendments made by this section shall not be construed to affect the force or validity of any guarantee of a loan made by the Secretary of Veterans Affairs under the demonstration project for the guarantee of hybrid adjustable rate mortgages under section 3707A of title 38, United States Code, as in effect on the day before the date of the enactment of this Act.

SEC. 204. TERMINATION OF COLLECTION OF LOAN FEES FROM VETERANS RATED ELIGIBLE FOR COMPENSATION AT PRE-DISCHARGE RATING EXAMINATIONS.

Section 3729(c) is amended—

(1) by inserting "(1)" before "A fee"; and

(2) by adding at the end the following new paragraph:

"(2) A veteran who is rated eligible to receive compensation as a result of a pre-discharge disability examination and rating shall be treated as receiving compensation for purposes of this subsection as of the date on which the veteran is rated eligible to receive compensation as a result of the pre-discharge disability examination and rating without regard to whether an effective date of the award of compensation is established as of that date.".

TITLE III—OTHER BENEFITS AND BENEFITS MATTERS

Subtitle A—Employment Benefits

SEC. 301. AVAILABILITY OF ADMINISTRATIVE AND JUDICIAL REDRESS FOR CERTAIN VETERANS DENIED OPPORTUNITY TO COMPETE FOR FEDERAL EMPLOYMENT.

(a) Administrative Redress.—Section 3330a(a)(1) of title 5, United States Code, is amended—

(1) by inserting "(A)" after "(1)"; and

(2) by adding at the end the following new subparagraph:

"(B) A veteran described in section 3304(f)(1) who alleges that an agency has violated such section with respect to such veteran may file a complaint with the Secretary of Labor.".

(b) Judicial Redress.—Section 3330b(a)(1) of such title is amended by inserting ", or a veteran described by section 3330a(a)(1)(B) with respect to a violation described by such section," after "a preference eligible".

Subtitle B—Medical Benefits

SEC. 311. PROHIBITION ON COLLECTION OF COPAYMENTS FOR HOSPICE CARE.

Section 1710B(c)(2) is amended—

(1) in subparagraph (A), by striking "or" at the end;

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph (B):

"(B) to a veteran being furnished hospice care under this section; or".

Subtitle C—Extension of Benefits and Related Authorities

SEC. 321. EXTENSION OF VARIOUS AUTHORITIES RELATING TO BENEFITS FOR VETERANS.

(a) Six-Year Extension of Biennial Report of Advisory Committee on Former Prisoners of War.—Section 541(c)(1) is amended by striking "2003" and inserting "2009".

(b) Permanent Authority for Counseling and Treatment for Sexual Trauma.—Section 1720D(a) is amended—

(1) in paragraph (1), by striking "During the period through December 31, 2004, the Secretary" and inserting "The Secretary"; and

(2) in paragraph (2), by striking ", during the period through December 31, 2004,".

(c) Five-Year Extension of Reports by Special Medical Advisory Group.—Section 7312(d) is amended by striking "December 31, 2004" and inserting "December 31, 2009".

Subtitle D—Other Matters

SEC. 331. MODIFICATION OF DEFINITION OF MINORITY GROUP MEMBER FOR PURPOSES OF ADVISORY COMMITTEE ON MINORITY VETERANS.

Subsection (d) of section 544 is amended to read as follows:

"(d) In this section, the term 'minority group member' means an individual who is—

"(1) American Indian or Alaska Native;

"(2) Asian;

"(3) Black or African American;

"(4) Native Hawaiian or other Pacific Islander; or

"(5) of Hispanic, Latino, or Spanish origin.".

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 368—COMMENDING THE UNIVERSITY OF VIRGINIA CAVALIERS WOMEN'S LACROSSE TEAM FOR WINNING THE 2004 NCAA DIVISION I WOMEN'S LACROSSE NATIONAL CHAMPIONSHIP

Mr. ALLEN (for himself and Mr. Warner) submitted the following resolution; which was considered and agreed to:

S. Res. 368

Whereas the students, alumni, faculty, and supporters of the University of Virginia are to be congratulated for their commitment and pride in the University of Virginia Cavaliers National Champion women's lacrosse team;

Whereas in the National Collegiate Athletic Association (NCAA) championship game against the Princeton Tigers, the Cavaliers raced out to a 5 to 1 halftime lead on the strength of 8 saves by tournament Most Valuable Player Andrea Pfeiffer and 2 goals and an assist from Tyler Leachman;

Whereas the Cavaliers won the 2004 NCAA Division I women's lacrosse National Championship with an outstanding second half performance, scoring 5 goals to the Princeton Tigers' 3 goals to win by a score of 10 to 4;

Whereas the Cavaliers added the NCAA women's lacrosse title to their Atlantic Coast Conference (ACC) title to claim their second championship in 2004;

Whereas every player on the Cavalier women's lacrosse team—Amy Appelt, Caitlin Banks, Bridget Bradley, Kate Breslin, Laura Burns, Cary Chasney, Kim Connors, Ashley Dodson, Ashleigh Haas, Julie Hauser, Megan Havrilla, Carol Hotarek, Lauren Keller, Meredith Lazarus, Tyler Leachman, Nikki Leib, Chelsea Metz, Ginger Miles, Jessy Morgan, Erin Nagle, Andrea Pfeiffer, Elizabeth Pinney, Kaitlin Swagart, Erin Sweeney, Morgan Thalenberg, Molly Urlock, Jess Wasilewski, and Courtney Young—contributed to the team's success in this impressive championship season;

Whereas the Cavaliers women's lacrosse team Head Coach Julie Myers has won more than 100 games and has taken her teams to the NCAA title game 4 times, a feat only accomplished by 4 other coaches in women's lacrosse Division I history;

Whereas Coach Myers's 8 consecutive invitations to the NCAA lacrosse tournament has only been accomplished by 4 other coaches in women's lacrosse Division I history;

Whereas Coach Myers entered this season, her ninth year at the University of Virginia, as Head Coach with 2 NCAA women's lacrosse titles—1 as a player (1991) and 1 as an assistant coach (1993);

Whereas Julie Myers is the third person in NCAA women's lacrosse history to win a title as both a player and a coach, and is the first person to play for the championship both as a player and as a head coach; and

Whereas assistant coaches Heather Dow, Kateri Linville, and Colleen Shearer deserve high commendation for their strong leadership of, and superb coaching support to, the University of Virginia Cavaliers women's lacrosse team: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the University of Virginia Cavaliers women's lacrosse team for winning the 2004 NCAA Division I women's lacrosse National Championship;

(2) recognizes the achievements of all the team's players, coaches, and support staff, and invites them to the United States Capitol Building to be honored; and

(3) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to the Head Coach of the National Champion University of Virginia Cavaliers women's lacrosse team.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3251. Mr. TALENT submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table.

SA 3252. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3253. Mr. ALLARD (for himself and Mr. PRYOR) submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3254. Mr. ALLARD (for himself and Mr. PRYOR) submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3255. Mr. SARBANES (for himself and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3256. Mr. CAMPBELL submitted an amendment intended to be proposed by him to the bill S. 1955, to make technical corrections to laws relating to Native Americans, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3251. Mr. TALENT submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1068. SENSE OF CONGRESS ON AMERICA'S NATIONAL WORLD WAR I MUSEUM.

(a) FINDINGS.—Congress makes the following findings:

(1) The Liberty Memorial Museum in Kansas City, Missouri, was built in 1926 in honor of those individuals who served in World War I in defense of liberty and the Nation.

(2) The Liberty Memorial Association, a nonprofit organization which originally built the Liberty Memorial Museum, is responsible for the finances, operations, and collections management of the Liberty Memorial Museum.

(3) The Liberty Memorial Museum is the only public museum in the Nation that exists for the exclusive purpose of interpreting the experiences of the United States and its allies in the World War I years (1914–1918), both on the battlefield and on the home front.

(4) The Liberty Memorial Museum project began after the 1918 Armistice through the efforts of a large-scale, grass-roots civic and fundraising effort by the citizens and veterans of the Kansas City metropolitan area. After the conclusion of a national architectural design competition, ground was broken in 1921, construction began in 1923, and the Liberty Memorial Museum was opened to the public in 1926.

(5) In 1994, the Liberty Memorial Museum closed for a massive restoration and expansion project. The restored museum reopened to the public on Memorial Day, 2002, during a gala rededication ceremony.

(6) Exhibits prepared for the original museum buildings presaged the dramatic, underground expansion of core exhibition gallery space, with over 30,000 square feet of new interpretive and educational exhibits currently in development. The new exhibits, along with an expanded research library and archives, will more fully utilize the many thousands of historical objects, books, maps, posters, photographs, diaries, letters, and reminiscences of World War I participants that are preserved for posterity in the Liberty Memorial Museum's collections. The new core exhibition is scheduled to open on Veterans Day, 2006.

(7) The City of Kansas City, the State of Missouri, and thousands of private donors and philanthropic foundations have contributed millions of dollars to build and later to restore this national treasure. The Liberty Memorial Museum continues to receive the strong support of residents from the States of Missouri and Kansas and across the Nation.

(8) Since the restoration and rededication of 2002, the Liberty Memorial Museum has attracted thousands of visitors from across the United States and many foreign countries.

(9) There remains a need to preserve in a museum setting evidence of the honor, courage, patriotism, and sacrifice of those Americans who offered their services and who gave their lives in defense of liberty during World War I, evidence of the roles of women and African Americans during World War I, and evidence of other relevant subjects.

(10) The Liberty Memorial Museum seeks to educate a diverse group of audiences through its comprehensive collection of historical materials, emphasizing eyewitness accounts of the participants on the battlefield and the home front and the impact of World War I on individuals, then and now. The Liberty Memorial Museum continues to actively acquire and preserve such materials.

(11) A great opportunity exists to use the invaluable resources of the Liberty Memorial Museum to teach the "Lessons of Liberty" to the Nation's schoolchildren through on-site visits, classroom curriculum development, distance learning, and other educational initiatives.

(12) The Liberty Memorial Museum should always be the Nation's museum of the national experience in the World War I years (1914–1918), where people go to learn about this critical period and where the Nation's history of this monumental struggle will be preserved so that generations of the 21st century may understand the role played by the United States in the preservation and advancement of democracy, freedom, and liberty in the early 20th century.

(13) This initiative to recognize and preserve the history of the Nation's sacrifices in World War I will take on added significance as the Nation approaches the centennial observance of this event.

(14) It is fitting and proper to refer to the Liberty Memorial Museum as "America's National World War I Museum".

(b) SENSE OF CONGRESS.—Congress—

(1) recognizes the Liberty Memorial Museum in Kansas City, Missouri, including the museum's future and expanded exhibits, collections, library, archives, and educational programs, as "America's National World War I Museum";

(2) recognizes that the continuing collection, preservation, and interpretation of the historical objects and other historical materials held by the Liberty Memorial Museum enhance the knowledge and understanding of the Nation's people of the American and allied experience during the World War I years (1914–1918), both on the battlefield and on the home front;

(3) commends the ongoing development and visibility of "Lessons of Liberty" educational outreach programs for teachers and students throughout the Nation; and

(4) encourages the need for present generations to understand the magnitude of World War I, how it shaped the Nation, other countries, and later world events, and how the sacrifices made then helped preserve liberty, democracy, and other founding principles for generations to come.

SA 3252. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XXVIII, add the following:

SEC. 2844. TREATMENT OF PROCEEDS OF SALE OF REAL PROPERTY AT ROCKY MOUNTAIN ARSENAL, COLORADO, DISPOSED OF FOR COMMERCIAL, HIGHWAY, OR OTHER PUBLIC USE.

Section 5(c) of the Rocky Mountain Arsenal National Wildlife Refuge Act of 1992 (Public Law 102–402; 106 Stat. 1966; 16 U.S.C. 668dd note) is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) Any amounts realized by the United States upon the sale of property as described in paragraph (1) shall be transferred to the National Fish and Wildlife Foundation for use in constructing a visitor center and an environmental education center for the refuge.

"(3) The use by the Foundation of amounts transferred to the Foundation under paragraph (2) shall be subject to the following:

"(A) Applicable provisions of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3701 et seq.), except that such use shall not be subject to section 10(a) of such Act (16 U.S.C. 3709(a)).

"(B) Such terms and conditions as the Foundation and the United States Fish and Wildlife Service shall jointly agree upon with respect to the construction of the visitor center and the environmental education center.

"(4) If the amount transferred to the Foundation under paragraph (2) is excess to the amount required for the construction of the visitor center and the environmental education center, the Foundation shall use the amount of the excess to pay costs associated with the operation and maintenance of the centers.".

SA 3253. Mr. ALLARD (for himself and Mr. PRYOR) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 84, between the matter following line 13 and line 14, insert the following:

SEC. 535. QUALIFICATIONS FOR APPOINTMENT AS DEAN OF THE FACULTY AT THE UNITED STATES AIR FORCE ACADEMY.

Section 9335(a) of title 10, United States Code, is amended by inserting before the period at the end of the second sentence the following: ", except that, if the Dean is not an officer of the Air Force on active duty, the Dean shall be a retired officer or former officer of the Air Force, and a person may not be appointed or assigned as Dean unless that person holds the highest academic degree in that person's academic field".

SA 3254. Mr. ALLARD (for himself and Mr. PRYOR) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 84, between the matter following line 13 and line 14, insert the following:

SEC. 535. REPEAL OF REQUIREMENT FOR OFFICER TO RETIRE UPON TERMINATION OF SERVICE AS SUPERINTENDENT OF THE AIR FORCE ACADEMY.

(a) REPEALS.—Sections 8921 and 9333a of title 10, United States Code, are repealed.

(b) CLERICAL AMENDMENTS.—Subtitle D of title 10, United States Code, is amended—

(1) in the table of sections at the beginning of chapter 867, by striking the item relating to section 8921; and

(2) in the table of sections at the beginning of chapter 903, by striking the item relating to section 9333a.

SA 3255. Mr. SARBANES (for himself and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle F of title III, insert the following:

SEC. 353. SENSE OF THE SENATE REGARDING RESIDENTIAL COMMUNITIES INITIATIVE.

(a) FINDINGS.—The Senate finds the following:

(1) There are approximately 750,000 school-aged children of members of the active duty Armed Forces in the United States.

(2) Approximately 650,000 of those students are currently being served in public schools across the United States.

(3) The Department of the Army has embarked on a housing initiative, the Residential Communities Initiative, which will result in 70,770 new family housing units at 34 installations and a corresponding increase in the number of school-aged children housed at those installations.

(4) The Secretary of the Army is authorized to include new school facilities in privatized housing contracts; however, the Secretary of the Army has not been using this authority to its fullest advantage. As a result, local educational agencies are being severely impacted by increased student-age populations.

(5) Local educational agencies are struggling under increasing financial burdens as a result of State budget cuts that have reduced the rate of growth for education spending to its lowest point since the 1990–1991 recession and this burden is exacerbated by a stagnate Federal education budget that actually cuts total education funding in fiscal year 2006 through fiscal year 2009 by $5,000,000.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Department of the Army should support, through a dedicated fund, the construction of schools in local educational agencies whose student populations are severely impacted by housing developed through the Residential Communities Initiative.

SA 3256. Mr CAMPBELL submitted an amendment intended to be proposed by him to the bill S. 1955, to make technical corrections to laws relating to Native Americans, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Native American Technical Corrections Act of 2004".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definition of Secretary.

TITLE I—TECHNICAL AMENDMENTS AND OTHER PROVISIONS RELATING TO NATIVE AMERICANS

Sec. 101. National Fund for Excellence in American Indian Education.
Sec. 102. Indian Financing Act Amendments.
Sec. 103. Indian tribal justice technical and legal assistance.
Sec. 104. Tribal justice systems.
Sec. 105. Crow Tribal Trust Fund.
Sec. 106. ANCSA amendment.
Sec. 107. Washoe Tribe of Nevada and California land conveyance.

TITLE II—ASSINIBOINE AND SIOUX TRIBES OF THE FORT PECK RESERVATION

Sec. 201. Short title.
Sec. 202. Findings.
Sec. 203. Definitions.
Sec. 204. Distribution of judgment funds.
Sec. 205. Applicable law.

TITLE III—INDIAN LAND LEASING

Sec. 301. Authorization of 99-year leases.
Sec. 302. Certification of rental proceeds.
Sec. 303. Montana Indian Tribes; agreement with Dry Prairie Rural Water Association, Incorporated.
Sec. 304. Authorization of leases of restricted land for terms of 99 years.

TITLE IV—NAVAJO HEALTH CONTRACTING

Sec. 401. Navajo health contracting.

SEC. 2. DEFINITION OF SECRETARY.

In this Act, the term "Secretary" means the Secretary of the Interior.

TITLE I—TECHNICAL AMENDMENTS AND OTHER PROVISIONS RELATING TO NATIVE AMERICANS

SEC. 101. NATIONAL FUND FOR EXCELLENCE IN AMERICAN INDIAN EDUCATION.

Title V of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458bbb) is amended—

(1) by striking the title heading and inserting the following:

"TITLE V—NATIONAL FUND FOR EXCELLENCE IN AMERICAN INDIAN EDUCATION";

(2) in section 501 (25 U.S.C. 458bbb)—

(A) by striking the section heading and inserting the following:

"SEC. 501. NATIONAL FUND FOR EXCELLENCE IN AMERICAN INDIAN EDUCATION.";

and

(B) in subsection (a), by striking "the American Indian Education Foundation" and inserting "a foundation to be known as the 'National Fund for Excellence in American Indian Education' "; and

(3) in section 503(2) (25 U.S.C. 458bbb–2(2)), by striking "Foundation" the second place it appears and inserting "National Fund for Excellence in American Indian Education".

SEC. 102. INDIAN FINANCING ACT AMENDMENTS.

(a) LOAN GUARANTIES AND INSURANCE.—Section 201 of the Indian Financing Act of 1974 (25 U.S.C. 1481) is amended—

(1) by striking "the Secretary is authorized (a) to guarantee" and inserting "the Secretary may—

"(1) guarantee";

(2) by striking "Indians; and (b) in lieu of such guaranty, to insure" and inserting "Indians; or

"(2) to insure";

(3) by striking "SEC. 201. In order" and inserting the following:

"SEC. 201. LOAN GUARANTIES AND INSURANCE.

"(a) IN GENERAL.—In order"; and

(4) by adding at the end the following:

"(b) ELIGIBLE BORROWERS.—The Secretary may guarantee or insure loans under subsection (a) to both for-profit and nonprofit borrowers.".

(b) LOAN APPROVAL.—Section 204 of the Indian Financing Act of 1974 (25 U.S.C. 1484) is amended by striking "SEC. 204." and inserting the following:

"SEC. 204. LOAN APPROVAL.".

(c) LOANS INELIGIBLE FOR GUARANTY OR INSURANCE.—Section 206 of the Indian Financing Act of 1974 (25 U.S.C. 1486) is amended by striking "Internal Revenue Code of 1954, as amended," and inserting "Internal Revenue Code of 1986 (except loans made by certified Community Development Finance Institutions)".

(d) AGGREGATE LOANS OR SURETY BONDS LIMITATION.—Section 217(b) of the Indian Financing Act of 1974 (25 U.S.C. 1497(b)) is amended by striking "$500,000,000" and inserting "$1,500,000,000".

SEC. 103. INDIAN TRIBAL JUSTICE TECHNICAL AND LEGAL ASSISTANCE.

Sections 106 and 201(d) of the Indian Tribal Justice Technical and Legal Assistance Act (25 U.S.C. 3666, 3681(d)) are amended by striking "for fiscal years 2000 through 2004" and inserting "for fiscal years 2004 through 2010".

SEC. 104. TRIBAL JUSTICE SYSTEMS.

Subsections (a), (b), (c), and (d) of section 201 of the Indian Tribal Justice Act (25 U.S.C. 3621) are amended by striking "2007" and inserting "2010".

SEC. 105. CROW TRIBAL TRUST FUND.

Section 6(d) of the Crow Boundary Settlement Act of 1994 (25 U.S.C. 1776d(d)), is amended—

(1) in the subsection heading, by inserting "AND CAPITAL GAINS" after "INTEREST";

(2) in paragraph (1), by striking "Only" and inserting "Except as provided in paragraph (4), only"; and

(3) by adding at the end the following:

"(4) DISTRIBUTION OF CAPITAL GAINS.—Notwithstanding subsection (f) or any other provision of law, capital gains and any other noninterest income received on funds in the Crow Tribal Trust Fund shall be available for distribution by the Secretary to the Crow Tribe to the extent that the balance in the Crow Tribal Trust Fund (including capital gains) exceeds $85,000,000, for the same uses and subject to the same restrictions in paragraphs (1) and (3) as are applicable to distributions of interest.".

SEC. 106. ANCSA AMENDMENT.

All land and interests in land in the State of Alaska conveyed by the Federal Government under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) to a Native Corporation and reconveyed by that Native Corporation, or a successor in interest, in exchange for any other land or interest in land in the State of Alaska and located within the same region (as defined in section 9(a) of the Alaska Native Claims Settlement Act (43 U.S.C. 1608(a)), to a Native Corporation under an exchange or other conveyance, shall be deemed, notwithstanding the conveyance or exchange, to have been conveyed pursuant to that Act.

SEC. 107. WASHOE TRIBE OF NEVADA AND CALIFORNIA LAND CONVEYANCE.

Section 2 of Public Law 108–67 (117 Stat. 880) is amended by striking "the parcel" and all that follows and inserting "a portion of Lots 3 and 4, as shown on the United States and Encumbrance Map revised January 10, 1991, for the Toiyabe National Forest, Ranger District Carson −1, located in the S½ of NW¼ and N½ of SW¼ of the SE¼ of sec. 27, T. 15N, R. 18E, Mt. Diablo Base and Meridian, comprising 24.3 acres.".

TITLE II—ASSINIBOINE AND SIOUX TRIBES OF THE FORT PECK RESERVATION

SEC. 201. SHORT TITLE.

This title may be cited as the "Assiniboine and Sioux Tribes of the Fort Peck Reservation Judgment Fund Distribution Act of 2004".

SEC. 202. FINDINGS.

Congress finds that—

(1) on December 18, 1987, the Assiniboine and Sioux Tribes of the Fort Peck Reservation and 5 individual Fort Peck tribal members filed a complaint in the United States Claims Court (currently the Court of Federal Claims) in the case of Assiniboine and Sioux Tribes of the Fort Peck Reservation v. United States of America, Docket No. 773–87–L, to recover interest earned on trust funds while those funds were held in special deposit accounts and Indian Moneys–Proceeds of Labor accounts;

(2) the Court held that the United States was liable for any income derived from investment of the trust funds of the Tribe and individual members of the Tribe for the period during which those funds were held in special deposit accounts and Indian Moneys–Proceeds of Labor accounts;

(3) on December 31, 1998, the plaintiffs entered into a settlement with the United States for claims made in the case for payment by the United States of—

(A) $1,339,415.33, representing interest earned on funds while held in special deposit accounts at the Fort Peck Agency during the period August 13, 1946, through September 30, 1981;

(B) $2,749,354.41, representing—

(i) interest on the principal indebtedness for the period from August 13, 1946, through July 31, 1998; plus

(ii) $364.27 in per diem interest on the principal indebtedness for each day during the period commencing August 1, 1998, and ending on the date on which the judgment is paid; and

(C) $350,000, representing the litigation costs and attorney's fees that the Tribe incurred to prosecute the claims;

(4) the terms of the settlement were approved by the Court on January 8, 1999, and judgment was entered on January 12, 1999;

(5) on March 18, 1999, $4,522,551.84 was transferred to the Department of the Interior;

(6) that judgment amount was deposited in an escrow account established to provide—

(A) $350,000 for the payment of attorney's fees and expenses; and

(B) $4,172,551.84 for pending Court-ordered distribution to the Tribe and individual Indian trust beneficiaries;

(7) on January 31, 2001, the Court approved a joint stipulation that established procedures for—

(A) identification of the class of individual Indians having an interest in the judgment;

(B) notice to and certification of that class; and

(C) the distribution of the judgment amount to the Tribe and affected class of individual Indians;

(8)(A) on or about February 14, 2001, in accordance with the Court-approved stipulation, $643,186.73 was transferred to an account established by the Secretary for the benefit of the Tribe; and

(B) that transferred amount represents—

(i) 54.2 percent of the Tribe's estimated 26-percent share of the amount referred to in paragraph (6)(B); plus

(ii) 50 percent of the Tribe's estimated 26-percent share of interest and capital gains earned on the judgment amount from the period beginning March 18, 1999, and ending on December 31, 2000;

(9) under the Court-approved stipulation—

(A) that transferred amount is to remain available for use by the Tribe in accordance with a plan adopted under the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.);

(B) the Tribe will most likely receive additional payments from the distribution amount once the identification of all individuals eligible to share in the distribution amount is completed and the pro rata shares are calculated; and

(C) those additional payments would include—

(i) the balance of the share of the Tribe of the distribution amount and investment income earned on the distribution amount;

(ii) the portion of the distribution amount that represents income derived on funds in special deposit accounts that are not attributable to the Tribe or any individual Indian; and

(iii) the portion of the distribution amount that represents shares attributable to individual Indians that—

(I) cannot be located for purposes of accepting payment; and

(II) will not be bound by the judgment in the case referred to in paragraph (1); and

(10) under the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.), the Secretary is required to submit to Congress for approval an Indian judgment fund use or distribution plan.

SEC. 203. DEFINITIONS.

In this title:

(1) COURT.—The term "Court" means the Court of Federal Claims.

(2) DISTRIBUTION AMOUNT.—The term "distribution amount" means the amount referred to in section 202(6)(B).

(3) JUDGMENT AMOUNT.—The term "judgment amount" means the amount referred to in section 202(5).

(4) PRINCIPAL INDEBTEDNESS.—The term "principal indebtedness" means the amount referred to in section 202(3)(A).

(5) TRIBE.—The term "Tribe" means the Assiniboine and Sioux Tribes of the Fort Peck Reservation.

SEC. 204. DISTRIBUTION OF JUDGMENT FUNDS.

(a) IN GENERAL.—Notwithstanding any provision of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.), the share of the Tribe of the distribution amount, and such additional amounts as may be awarded to the Tribe by the Court with respect to the case referred to in section 202(1) (including any interest accrued on those amounts)—

(1) shall be made available for tribal health, education, housing, and social services programs of the Tribe, including—

(A) educational and youth programs;

(B) programs for improvement of facilities and housing;

(C) programs to provide equipment for public utilities;

(D) programs to provide medical assistance or dental, optical, or convalescent equipment; and

(E) programs to provide senior citizen and community services; and

(2) shall not be available for per capita distribution to any member of the Tribe.

(b) BUDGET SPECIFICATION.—The specific programs for which funds are made available under subsection (a)(1), and the amount of funds allocated to each of those programs, shall be specified in an annual budget developed by the Tribe and approved by the Secretary.

SEC. 205. APPLICABLE LAW.

Except as provided in section 204(a), all funds distributed under this title are subject to sections 7 and 8 of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1407, 1408).

TITLE III—INDIAN LAND LEASING

SEC. 301. AUTHORIZATION OF 99-YEAR LEASES.

(a) IN GENERAL.—Subsection (a) of the first section of the Act of August 9, 1955 (25 U.S.C. 415(a)), is amended in the second sentence—

(1) by inserting "the reservation of the Confederated Tribes of the Umatilla Indian Reservation," before "the Burns Paiute Reservation,";

(2) by inserting "the" before "Yavapai-Prescott";

(3) by inserting "the Muckleshoot Indian Reservation and land held in trust for the Muckleshoot Indian Tribe," after "the Cabazon Indian reservation,".

(4) by striking "Washington,," and inserting "Washington,";

(5) by inserting "lands held in trust for the Fallon Paiute Shoshone Tribes," before "lands held in trust for the Pueblo of Santa Clara"; and

(6) by inserting "land held in trust for the Yurok Tribe, land held in trust for the Hopland Band of Pomo Indians of the Hopland Rancheria," after "Pueblo of Santa Clara,".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to any lease entered into or renewed after the date of enactment of this Act.

SEC. 302. CERTIFICATION OF RENTAL PROCEEDS.

Notwithstanding any other provision of law, any actual rental proceeds from the lease of land acquired under section 1 of Public Law 91–229 (25 U.S.C. 488) certified by the Secretary of the Interior shall be deemed—

(1) to constitute the rental value of that land; and

(2) to satisfy the requirement for appraisal of that land.

SEC. 303. MONTANA INDIAN TRIBES; AGREEMENT WITH DRY PRAIRIE RURAL WATER ASSOCIATION, INCORPORATED.

(a) IN GENERAL.—The Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation (referred to in this section as the "Tribes") may, with the approval of the Secretary of the Interior, enter into a lease or other temporary conveyance of water rights recognized under the Fort Peck-Montana Compact (Montana Code Annotated 85–20–201) for the purpose of meeting the water needs of the Dry Prairie Rural Water Association, Incorporated (or any successor entity), in accordance with section 5 of the Fort Peck Reservation Rural Water System Act of 2000 (114 Stat. 1454).

(b) CONDITIONS OF LEASE.—With respect to a lease or other temporary conveyance described in subsection (a)—

(1) the term of the lease or conveyance shall not exceed 100 years; and

(2)(A) the lease or conveyance may be approved by the Secretary of the Interior without monetary compensation to the Tribes; and

(B) the Secretary of the Interior shall not be subject to liability for any claim or cause of action relating to the compensation or consideration received by the Tribes under the lease or conveyance.

(c) NO PERMANENT ALIENATION OF WATER.—Nothing in this section authorizes any permanent alienation of any water by the Tribes.

SEC. 304. AUTHORIZATION OF LEASES OF RESTRICTED LAND FOR TERMS OF 99 YEARS.

The first section of the Act of August 9, 1955 (25 U.S.C. 415) (as amended by section 3), is amended by adding at the end the following:

"(h) AUTHORIZATION OF LEASES OF TRIBALLY OWNED RESTRICTED LAND FOR TERMS OF 99 YEARS.—

"(1) IN GENERAL.—Notwithstanding subsection (a), any restricted Indian land that is owned by an Indian tribe may be leased by the tribal owner, with the approval of the Secretary of the Interior, for a term of not longer than 99 years, for—

"(A) public, religious, educational, recreational, residential, or business purposes; and

"(B) any other purpose stated in subsection (a), unless the Secretary determines that the principal purpose of the lease is for—

"(i) exploration, development, or extraction of a mineral resource; or

"(ii) storage of materials listed as high level radioactive waste (as defined in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101)).

"(2) APPROVAL BY THE SECRETARY.—To the maximum extent practicable under law, the Secretary shall approve or disapprove a lease described in subsection (a) or an amendment to such a lease not later than the date that is 270 days after the date on which an application for approval of the lease or lease amendment is submitted to the Secretary.".

TITLE IV—NAVAJO HEALTH CONTRACTING

SEC. 401. NAVAJO HEALTH CONTRACTING.

The Navajo Health Foundation/Sage Memorial Hospital in Ganado, Arizona, shall be considered to be a tribal contractor under the Indian Self-Determination and Education Assistance Act for the purposes of section 102(d) and subsections (k) and (o) of section 105 of that Act (25 U.S.C. 450f(d), 450j) provided that the Hospital remains the authorized tribal organization (as defined in section 4 of that Act (25 U.S.C. 450b)) of the Navajo Nation.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Tuesday, June 8th, 2004 at 10:00 a.m. in Room 366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to consider the nomination of Suedeen G. Kelly, to be a Member of the Federal Energy Regulatory Commission for the term expiring June 30, 2009.

For further information, please contact Judy Pensabene of the Committee staff at (202) 224–1327.

SUBCOMMITTEE ON NATIONAL PARKS

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been scheduled before the Subcommittee on National Parks of the Committee on Energy and Natural Resources:

The hearing will be held on Tuesday, June 8, 2004 at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the following bills: S. 931, to direct the Secretary of the Interior to undertake a program to reduce the risks from and mitigate the effects of avalanches on visitors to units of the National Park System and on other recreational users of public land; S. 1678, to provide for the establishment of the Uintah Research and Curatorial Center for Dinosaur National Monument in the States of Colorado and Utah, and for other purposes; S. 2140, to expand the boundary of the Mount Rainier National Park; S. 2287, to adjust the boundary of the Barataria Preserve Unit of the Jean Lafitte National Historical Park and Preserve in the State of Louisiana, and for other purposes; and S. 2469, to amend the National Historic Preservation Act to provide appropriation authorization and improve the operations of the Advisory Council on Historic Preservation.

Because of the limited time available for the hearings, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD–364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Tom Lillie at (202) 224–5161 or Sarah Creachbaum at (202) 224–6293.

COMMENDING THE UNIVERSITY OF VIRGINIA WINNING THE 2004 NCAA DIVISION I WOMEN'S LACROSSE NATIONAL CHAMPIONSHIP

Mr. MCCONNELL. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 368, which was submitted earlier today by Senators ALLEN and WARNER.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 368) commending the University of Virginia Cavaliers women's lacrosse team for winning the 2004 NCAA Division I women's lacrosse National Championship.

There being no objection, the Senate proceeded to consider the resolution.

Mr. ALLEN. Mr. President, I congratulate the University of Virginia Women's Lacrosse team for winning the 2004 NCAA Division I lacrosse championship with a 10-to-4 victory over the previously undefeated 2003 champion Princeton Tigers and introduce a resolution expressing the congratulations of the United States Senate to these outstanding young women.

As a University of Virginia graduate and father of a daughter who plays lacrosse in high school, I express the pride felt by all students, faculty and alumni of the University of Virginia at this tremendous accomplishment by the women's lacrosse team. Coach Julie Myers and her superb coaching staff: Colleen Shearer, Heather Dow and Kateri Linville, deserve much of the credit for the accomplishment of these student athletes and should also be highly commended.

The University of Virginia Cavaliers Women's Lacrosse team raced out to a 5 to 1 halftime lead on the strength of eight saves by tournament MVP Andrea Pfeiffer and two goals and an assist from Tyler Leachman. The University of Virginia went on to win the championship with an outstanding second half performance scoring five goals to the Princeton Tigers' three to win the 2004 NCAA women's lacrosse title 10 to 4.

In her distinguished career, Cavalier Head Coach Julie Myers has won over a hundred games and has taken her teams to the NCAA title game four times, a feat accomplished by only four other coaches in Division I history. Cavalier teams' eight consecutive invitations to the NCAA tournament have been accomplished by only four other coaches in Division I history. In addition to their 2004 National title, the women's team also won the ACC championship, one of the toughest conferences in the country.

The members of the 2004 University of Virginia's Women's Lacrosse team have indeed made Mr. Jefferson's University proud and should be applauded for their character and leadership, both on and off the playing field. I congratulate Amy Appelt, Caitlin Banks, Bridget Bradley, Kate Breslin, Laura Burns, Cary Chasney, Kim Connors, Ashley Dodson, Ashleigh Haas, Julie Hauser, Megan Havrilla, Carol Hotarek, Lauren Keller, Meredith Lazarus, Tyler Leachman, Nikki Leib, Chelsea Metz, Ginger Miles, Jessy Morgan, Erin Nagle, Andrea Pfeiffer, Elizabeth Pinney, Kaitlin Swagart, Erin Sweeney, Morgan Thalenberg, Molly Urlock, Jess Wasilewski, and Courtney Young.

Mr. President, I hope my colleagues will join with Senator WARNER and me to pass this resolution recognizing the National Champion University of Virginia Women's Lacrosse team.

Mr. McCONNELL. Mr. President, I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements related to this resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 368) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 368

Whereas the students, alumni, faculty, and supporters of the University of Virginia are to be congratulated for their commitment and pride in the University of Virginia Cavaliers National Champion women's lacrosse team;

Whereas in the National Collegiate Athletic Association (NCAA) championship game against the Princeton Tigers, the Cavaliers raced out to a 5 to 1 halftime lead on the strength of 8 saves by tournament Most Valuable Player Andrea Pfeiffer and 2 goals and an assist from Tyler Leachman;

Whereas the Cavaliers won the 2004 NCAA Division I women's lacrosse National Championship with an outstanding second half performance, scoring 5 goals to the Princeton Tigers' 3 goals to win by a score of 10 to 4;

Whereas the Cavaliers added the NCAA women's lacrosse title to their Atlantic Coast Conference (ACC) title to claim their second championship in 2004;

Whereas every player on the Cavalier women's lacrosse team—Amy Appelt, Caitlin Banks, Bridget Bradley, Kate Breslin, Laura Burns, Cary Chasney, Kim Connors, Ashley Dodson, Ashleigh Haas, Julie Hauser, Megan Havrilla, Carol Hotarek, Lauren Keller, Meredith Lazarus, Tyler Leachman, Nikki Leib, Chelsea Metz, Ginger Miles, Jessy Morgan, Erin Nagle, Andrea Pfeiffer, Elizabeth Pinney, Kaitlin Swagart, Erin Sweeney, Morgan Thalenberg, Molly Urlock, Jess Wasilewski, and Courtney Young—contributed to the team's success in this impressive championship season;

Whereas the Cavaliers women's lacrosse team Head Coach Julie Myers has won more than 100 games and has taken her teams to the NCAA title game 4 times, a feat only accomplished by 4 other coaches in women's lacrosse Division I history;

Whereas Coach Myers's 8 consecutive invitations to the NCAA lacrosse tournament has only been accomplished by 4 other coaches in women's lacrosse Division I history;

Whereas Coach Myers entered this season, her ninth year at the University of Virginia, as Head Coach with 2 NCAA women's lacrosse titles—1 as a player (1991) and 1 as an assistant coach (1993);

Whereas Julie Myers is the third person in NCAA women's lacrosse history to win a title as both a player and a coach, and is the first person to play for the championship both as a player and as a head coach; and

Whereas assistant coaches Heather Dow, Kateri Linville, and Colleen Shearer deserve high commendation for their strong leadership of, and superb coaching support to, the University of Virginia Cavaliers women's lacrosse team: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the University of Virginia Cavaliers women's lacrosse team for winning the 2004 NCAA Division I women's lacrosse National Championship;

(2) recognizes the achievements of all the team's players, coaches, and support staff, and invites them to the United States Capitol Building to be honored; and

(3) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to the Head Coach of the National Champion University of Virginia Cavaliers women's lacrosse team.

UNANIMOUS CONSENT AGREEMENT—S. 2400

Mr. McCONNELL. Mr. President, I ask unanimous consent the agreement reached earlier today limiting amendments to the Department of Defense authorization bill be modified so that all second-degree amendments must be relevant to the amendment to which they are offered.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR WEDNESDAY, JUNE 2, 2004

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:45 a.m. tomorrow, Wednesday, June 2. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, the Senate then begin a period of morning business for up to 60 minutes, with the Democratic leader or his designee in control of the first 30 minutes, and the majority leader or his designee in control of the final 30 minutes; provided that following morning business, the Senate resume consideration of calendar No. 503, S. 2400, the Department of Defense authorization bill.

I further ask consent that the Senate recess from 12:30 to 2:15 for the weekly party luncheons.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. McCONNELL. Tomorrow, following morning business, the Senate will resume consideration of the DOD authorization bill.

Earlier today we were able to lock in a final list of first-degree amendments to the bill. While this will help Senators WARNER and LEVIN begin working on a schedule for the consideration of amendments, I was disappointed the list included, unfortunately, 200 possible amendments. I encourage Senators on both sides of the aisle to show restraint in offering amendments. Nothing requires all 200 of those amendments, in fact, be offered. With everyone's cooperation, we should be able to finish this bill this week.

With that being said, the chairman and ranking member will be here tomorrow working through those amendments. We do expect rollcall votes throughout the day tomorrow in relation to these amendments and Senators will be notified when the first vote is scheduled.

Mr. REID. Mr. President, if my distinguished colleague will yield for me to comment.

Mr. McCONNELL. I yield.

Mr. REID. Mr. President, we are so grateful we are now moving to the Defense bill, getting off the cloture vote. This was a good move. We appreciate that very much.

Realistically, we have about 140 amendments. The majority has over 90 amendments. That is a lot of amendments. Many of the amendments, as we know, will not be offered. There are a large number of irrelevant amendments which are just a "holder" in case something comes up that is not anticipated. However, we still have scores of amendments that people will offer. A number of these amendments, the managers will work through and we will be able to dispose of one way or the other.

However, we are not going to finish the bill Thursday. There is an important trip Members are taking to commemorate the anniversary of the Normandy invasion and a number of Senators will be leaving for that sometime Thursday evening, I understand.

I further note we will not be able to work on this bill Friday. That is my understanding, at least. Certainly there will not be any votes.

We want to work to finish this bill. As I mentioned earlier today, there is not anything we can be more importantly engaged in than working on this Defense bill. Yesterday, five soldiers were killed. We have averaged two deaths a day for the last 2 months. We are approaching 5,000 of our military personnel who have been injured, many of those grievously injured.

We are going to be as cooperative as we can. This is a bill we want as much as the majority. That is why we raised this issue a week ago last Friday and did not want to move off the Defense bill to go to the important class action legislation.

This may be our only opportunity to talk about this issue this year. I hope people are not thinking we were not cooperating. We cannot finish it in 2 days. It is impossible, legislatively impossible. We should get off that and understand that.

Mr. McCONNELL. Mr. President, the assistant Democratic leader has indicated we have had some casualties this week. It is also important to point out this is the smallest number of casualties of any major war in the history of the United States by far.

We just had an opportunity this past weekend to open the World War II Memorial and remember the over 400,000 Americans who were lost in that great conflict. It is impossible to fight the war on terrorism with no casualties. We regret every single death and every single injury, but given the enormous task, we have already completed liberating over 50 million people in the last 2½ years. It has been done in an extraordinarily effective way with minimum loss of life on our side. We all agree our military forces are quite extraordinary in the task they are undertaking.

Speaking of World War II, in addition, tomorrow at 5 p.m., there will be a reception honoring Senators AKAKA, HOLLINGS, LAUTENBERG, INOUYE, STEVENS, and WARNER, all of whom served in World War II. We will devote the hour prior to the reception to speeches in the Senate honoring their service.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. McCONNELL. If there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:37 p.m., adjourned until Wednesday, June 2, 2004, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate June 1, 2004:

DEPARTMENT OF DEFENSE

PETER CYRIL WYCHE FLORY, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE, VICE JACK DYER CROUCH, II.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CARIN M. BARTH, OF TEXAS, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, VICE ANGELA ANTONELLI.

DEPARTMENT OF LABOR

VERONICA VARGAS STIDVENT, OF TEXAS, TO BE AN ASSISTANT SECRETARY OF LABOR, VICE CHRIS SPEAR, RESIGNED.

DEPARTMENT OF EDUCATION

JOHN H. HAGER, OF VIRGINIA, TO BE ASSISTANT SECRETARY FOR SPECIAL EDUCATION AND REHABILITATIVE SERVICES, DEPARTMENT OF EDUCATION, VICE ROBERT PASTERNACK.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

HERMAN BELZ, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2010, VICE LINDA LEE AAKER, TERM EXPIRED.

TAMAR JACOBY, OF NEW JERSEY, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2010, VICE PEDRO G. CASTILLO, TERM EXPIRED.

CRAIG HAFFNER, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2010, VICE MICHAEL PACK, TERM EXPIRED.

JAMES DAVIDSON HUNTER, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2010, VICE EDWARD L. AYERS, TERM EXPIRED.

HARVEY KLEHR, OF GEORGIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2010, VICE THEODORE WILLIAM STRIGGLES, TERM EXPIRED.

THOMAS K. LINDSAY, OF TEXAS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2010, VICE IRA BERLIN, TERM EXPIRED.

IRIS LOVE, OF VERMONT, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2010, VICE EVELYN EDSON, TERM EXPIRED.

THOMAS MALLON, OF CONNECTICUT, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2010. (REAPPOINTMENT)

RICARDO QUINONES, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2010, VICE AMY APFEL KASS, TERM EXPIRED.

DEPARTMENT OF JUSTICE

ROBERT CRAMER BALFE III, OF ARKANSAS, TO BE UNITED STATES ATTORNEY FOR THE WESTERN DISTRICT OF ARKANSAS FOR THE TERM OF FOUR YEARS, VICE THOMAS C. GEAN, RESIGNED.

DAVID E. NAHMIAS, OF GEORGIA, TO BE UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF GEORGIA FOR THE TERM OF FOUR YEARS, VICE WILLIAM S. DUFFEY, JR.

WILLIAM SANCHEZ, OF FLORIDA, TO BE SPECIAL COUNSEL FOR IMMIGRATION-RELATED UNFAIR EMPLOYMENT PRACTICES FOR A TERM OF FOUR YEARS, VICE JUAN CARLOS BENITEZ, RESIGNED.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS THE SURGEON GENERAL, UNITED STATES ARMY, AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 601 AND 3036:

To be lieutenant general

MAJ. GEN. KEVIN C. KILEY, 4471

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

JOSEPH P. COSTELLO, 1696

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

RALPH W. COREY III, 1892
KIRK A. FOSTER, 9265
WALTER M. FREDERICK, 0064
DAVID E. GROGAN, 9693
JEFFREY S. HORWITZ, 7844
JON E. NELSON, 5719
KENNETH J. OROURKE, 4036
JOHN K. WAITS, 2507
EDWARD S. WHITE, 8727

CONFIRMATION

Executive nomination confirmed by the Senate June 1, 2004:

THE JUDICIARY

F. DENNIS SAYLOR IV, OF MASSACHUSETTS, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MASSACHUSETTS

HOUSE OF REPRESENTATIVES—*Tuesday, June 1, 2004*

The House met at 2 p.m. and was called to order by the Speaker pro tempore (Mr. UPTON).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 1, 2004.

I hereby appoint the Honorable FRED UPTON to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Reverend John Roller, Pastor Emeritus, St. Thomas Becket Parish, Mt. Prospect, Illinois, offered the following prayer:

God and Father of us all, You are the primary cause of our joy, the reason for our hope, and the source of our peace. We believe that in You we live and move and have our being.

Filled with confidence, we bring our needs before You, for You are a shepherd who leads us and a light who guides us. Moreover, You are our God who loves us, whose hand is so discernibly present in everything we are and do.

Loving Father, we may be very good at coming to You and asking. Help us to be just as prompt in thanking You for Your gifts, many of which we receive without asking or even being aware.

Once again, in this past weekend of remembrance, we have been made so keenly aware that Your hand has always been upon us. You have blessed us with citizenship in this powerful and potentially great Nation; the call to sit in deliberation as part of this notable Congress; and the awareness that we are all Your chosen sons and daughters. Always we are the recipients of Your love which we will never fully comprehend.

For all of Your gifts, loving Father, we beg You to accept our humble and heartfelt gratitude.

Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Colorado (Mr. BEAUPREZ) come forward and lead the House in the Pledge of Allegiance.

Mr. BEAUPREZ led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate insists upon its amendment to the bill (H.R. 3550) "An Act to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. INHOFE, Mr. WARNER, Mr. BOND, Mr. VOINOVICH, Mr. GRASSLEY, Mr. HATCH, Mr. NICKLES, Mr. LOTT, Mr. SHELBY, Mr. MCCAIN, Mr. MCCONNELL, Mr. JEFFORDS, Mr. REID, Mr. GRAHAM of Florida, Mr. LIEBERMAN, Mrs. BOXER, Mr. DASCHLE, Mr. HOLLINGS, Mr. SARBANES, Mr. BAUCUS, and Mr. CONRAD, to be the conferees on the part of the Senate.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 4 of rule I, Speaker Pro Tempore THORNBERRY signed the following enrolled bill on Monday, May 24, 2004:

S. 2092, to assist the participation of Taiwan in the World Health Organization.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, May 21, 2004.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on April 21, 2004 at 1:16 p.m.:

That the Senate passed without amendment H. Con. Res. 409.

That the Senate passed without amendment H. Con. Res. 423.

With best wishes, I am

Sincerely,

JEFF TRANDAHL,
Clerk of the House.

MEDICARE-APPROVED PRESCRIPTION DRUG DISCOUNT CARDS

(Mr. BEAUPREZ asked and was given permission to address the House for 1 minute.)

Mr. BEAUPREZ. Mr. Speaker, today is a good day for America's senior citizens, as the Medicare-approved prescription drug discount cards hit the streets across the country.

From this day forward, seniors will no longer have to pay full retail price for their life-saving drugs.

Unfortunately, some of our friends on the other side of the aisle have mounted a misinformation campaign to scare and confuse America's seniors for their own political agenda. They say that prescription drug cards are too confusing and that they will not work.

Well, seniors have already decided that discount cards will work. The verdict is in, and these new discount cards will save seniors hundreds, if not thousands, of dollars.

For example, at current discount drug prices, my mother in Louisville, Colorado, will save just under $400 on her prescription drugs and my father over $900. That is about $1,300 a year for my own parents. Those are real savings, money they can take to the bank, give to the grandkids or pay their own rent.

I encourage seniors to take advantage of this program to begin realizing these savings. Call 1-800-MEDICARE or visit www.medicare.gov.

PASS A REAL MEANINGFUL MEDICARE PRESCRIPTION DRUG PLAN

(Mr. ROSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROSS. Mr. Speaker, today the new prescription drug discount cards went into effect as part of the Republicans so-called Medicare bill that passed in December. Few seniors have signed up for these so-called discount cards because they provide little, if any, significant savings.

Under the new law, beneficiaries can only sign up for one card a year, but the drug companies who offer these cards can switch the drugs they cover every week. So a senior who signs up

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☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

for one particular card just to save money on a specific drug may find that a week later that card no longer helps them, and many drug companies are starting to jack up their prices just so they can offer discounts without losing a dime in profits.

Mr. Speaker, we can do better than this by our seniors. We should and must allow the government to use the purchasing power of 41 million seniors to lower the cost of prescription drugs, but the current Medicare law prohibits this from happening.

I urge my colleagues to pass a real meaningful Medicare prescription drug plan this year.

AMERICA'S ENERGY NEEDS ARE CHANGING

(Mrs. MILLER of Michigan asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MILLER of Michigan. Mr. Speaker, America's energy needs are changing, and our current situation is certainly different than the oil shocks that we all saw in the 1970s, because there has not been a disruption in supply but an increase in demand from emerging economies such as China.

And what kind of leadership on energy issues do we get from the Democrats and their Presidential nominee, Senator JOHN KERRY? Nothing but finger-pointing and continued bowing to the radical environmentalists that will not allow America to retrieve our own energy reserves.

The result of this lack of leadership is higher prices at the gasoline pumps, higher prices for families to heat their homes, and greater dependence on foreign sources of energy.

In ANWR, we have huge supplies of oil and natural gas that if we were to retrieve would have great benefit for America: greater energy independence, lower prices at the pump, lower prices to heat our homes, and hundreds of thousands of new jobs.

These policies from the Democrats do nothing more than to lead us permanently into high prices and greater reliance on Middle Eastern oil. These are policies that our Nation simply cannot afford.

REMEMBERING AUXILIARY BISHOP BENNIE ALLISON

(Mr. DAVIS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of Illinois. Mr. Speaker, Auxiliary Bishop Bennie Allison, pastor of Corinthian Temple Church of God in Christ in Chicago, passed away last week.

Bishop Allison had a long and distinguished career as both a religious leader and a civic leader. In addition to his religious duties, he was chairman of the Garfield Organization and founder of the Allison Foundation for Better Living, which provided social services and job development opportunities for residents of the West Garfield community.

I extend condolences to his wife and family and urge them to continue his great work.

FIGHTING THE WAR ON TERROR

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, during this past week, I saw firsthand our courageous service members in action successfully fighting the global war on terror in Afghanistan, Uzbekistan, the Persian Gulf, Qatar, and Germany.

Led by Committee on House Administration chairman, the gentleman from Ohio (Mr. NEY), our delegation met with American military and coalition government officials. In every instance, my effort as a Congressman, Guard member, and parent of three service members, which was meant to encourage others, actually encouraged me.

I was particularly impressed by the courage of those wounded in the war on terror that we met at Landstuhl, Germany. I was so touched by a female soldier who had just undergone extreme surgery. We immediately bonded as fellow National Guard members, and later I found out she was a star of the Notre Dame's women's basketball team. She lives Army values.

The war on terror is not just Afghanistan and Iraq. President Bush has been courageous in protecting American families by taking the war to the terrorists overseas and not waiting for a new September 11 on the streets of our communities. I know firsthand the new greatest generation of American servicemembers has the fortitude to win the war on terror.

In conclusion, May God bless our troops; and we will never forget September 11.

DISCOUNT DRUG CARDS

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, today, the discount prescription drug cards Republicans have been touting take effect.

Over the last month, seniors faced the confusing task of shopping online between 73 discount cards for more than 60,000 prescription drugs.

The New York Times reported today that less than 1 million seniors have signed up, well off the Bush administration's prediction of 7.3 million.

Seniors should be skeptical. While the Bush administration says that these cards will cut bills by 10 to 25 percent, a new report out from Families U.S.A. shows prices on the top-selling five drugs for seniors increased 9.9 percent over the last year, wiping out any savings from the discount cards.

We cannot do anything to help seniors out with their prescription drug bills until we actually do something about the skyrocketing drug prices. Until then, these cards will not provide any meaningful relief, and the program will continue to be a failure.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken after 6:30 p.m. today.

CONGRATULATING AND SALUTING FOCUS: HOPE ON ITS 35TH ANNIVERSARY

Mrs. MILLER of Michigan. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 295) congratulating and saluting Focus: HOPE on the occasion of its 35th anniversary and for its remarkable commitment and contributions to Detroit, the State of Michigan, and the United States.

The Clerk read as follows:

H. CON. RES. 295

Whereas Focus: HOPE began as a civil and human rights organization in 1968 in the wake of the devastating Detroit riots, and was co-founded by the late Father William T. Cunningham, a Roman Catholic priest, and Eleanor M. Josaitis, a suburban housewife, who were inspired to establish Focus: HOPE by the work of Dr. Martin Luther King Jr.;

Whereas Focus: HOPE is committed to bringing together people of all races, faiths, and economic backgrounds to overcome injustice and build racial harmony, and it has grown to one of the largest nonprofit organizations in Michigan;

Whereas the Focus: HOPE mission statement states: "Recognizing the dignity and beauty of every person, we pledge intelligent and practical action to overcome racism, poverty and injustice. And to build a metropolitan community where all people may live in freedom, harmony, trust and affection. Black and white, yellow, brown and red from Detroit and its suburbs of every economic status, national origin and religious persuasion we join in this covenant.";

Whereas one of Focus: HOPE's early efforts was to support African-American and female employees in a seminal class action suit against AAA, resulting in one of the finest affirmative action commitments made by any corporation up to that time;

Whereas Focus: HOPE helped to conceive of and develop the Department of Agriculture's Commodity Supplemental Food Program which has been replicated in 32 states, and through this program Focus: HOPE helps to feed 43,000 people per month throughout Southeast Michigan;

Whereas Focus: HOPE has revitalized several city blocks in central Detroit by redeveloping obsolete industrial buildings, beautifying and landscaping Oakman Boulevard, creating pocket parks, and rehabilitating homes in the surrounding areas;

Whereas Focus: HOPE's Machinist Training Institute has been training individuals from Detroit and beyond for careers in advanced manufacturing and precision machining since 1981, and has sent forth nearly 2,500 certified graduates, providing an opportunity for primarily under-represented minority youth, women, and others to gain access to the financial mainstream and learn in-demand skills;

Whereas Focus: HOPE, with assistance from Michigan, the Department of Housing and Urban Development, and other generous private and public partners, has within the last two years invested over $10 million to complete the renovation of the industrial building housing its Machinist Training Institute;

Whereas Focus: HOPE has recognized that manufacturing and information technologies are key to the economic growth and security of Michigan and the United States, and is committed to designing programs that would contribute to the participation of under-represented urban individuals in these critical sectors;

Whereas, in 1982, Focus: HOPE began a for-profit subsidiary that was initiated for community economic development purposes and is now designated with Federal HUBZone status;

Whereas Focus: HOPE created two pioneering programs—FAST TRACK and First Step—designed to help individuals improve their reading and math competencies by a minimum of two grade levels in 4–7 weeks;

Whereas these programs have graduated over 7,000 individuals since their inception, a new offsite training facility in Detroit's Empowerment Zone in southwest Detroit has been established to reach out to individuals in other parts of the city, and the success of the programs has inspired Michigan (in its State-wide FAST BREAK program) and other States to replicate the efforts of Focus: HOPE;

Whereas, in 1987, Focus: HOPE reclaimed and renovated an abandoned building and opened it as a Center for Children, which has now served over 5,000 children of colleagues, students, and neighbors with quality child care, including latchkey, early childhood education, and other educational services;

Whereas Focus: HOPE, through an unprecedented co-operative agreement between the Departments of Defense, Commerce, Education, and Labor, established a National demonstration project—the Center for Advanced Technologies—in which candidates earn associates and bachelors degrees in either manufacturing engineering or technology, and engage in hands-on manufacturing within-real world conditions, producing parts for DaimlerChrysler, Detroit Diesel, Ford Motor Company, General Motors Corporation, the Department of Defense, and others;

Whereas Focus: HOPE has caused over $22 million to be invested in renovating a previously obsolete building to house the Center for Advanced Technologies, transforming the building into a model facility for 21st century advanced manufacturing, education, and research;

Whereas Focus: HOPE has made outstanding contributions toward increasing diversity within the traditional homogenous science, math, engineering, and technology fields, and 95 percent of currently enrolled degree candidates are African-American, representing perhaps the United States' largest producer of bachelor-degreed minority graduates in manufacturing engineering;

Whereas Focus: HOPE's unique research and development partnership with the Department of Defense has resulted in a nationally recognized demonstration project, the Mobile Parts Hospital, whose Rapid Manufacturing System has recently been deployed to Kuwait in support of the Armed Forces' current operations in Afghanistan and Iraq;

Whereas Focus: HOPE began a community arts program in 1995, presenting multicultural arts programming and gallery exhibitions designed to educate and encourage area residents, while fostering integration in a culturally diverse metropolitan community, and over 43,000 people have viewed sponsored exhibits or participated in this program;

Whereas Focus: HOPE established an Information Technologies Center in 1999, providing Detroit students with industry-certified training programs in network administration, network installation, and desktop and server administration, and has graduated nearly 475 students to date, and has initiated, in collaboration with industry and academia, the design of a new bachelors degree program to educate information management systems engineers;

Whereas Focus: HOPE's initiatives and programs have been nationally recognized for excellence and leadership by such organizations as the Government Accounting Office, the Department of Labor, the International Standards Organization, the National Science Foundation, the Cisco Networking Academy Program, Fortune Magazine, Forbes Magazine, the Aspen Institute, and many others, and former Presidents George H. W. Bush and Bill Clinton have visited Focus: HOPE's campus;

Whereas Focus: HOPE is currently led by Eleanor M. Josaitis, its co-founder and chief executive officer, and she has received honorary degrees from 11 outstanding universities and colleges, was named one of the 100 Most Influential Women in 2002 by Crain's Detroit Business, has been inducted into the Michigan Women's Hall of Fame, has received the Detroit NAACP Presidential Award, the Arab-American Institute Foundation's Kahlil Gibran Spirit of Humanity Award, as well as many other awards;

Whereas through the generous partnerships and support of individuals from all walks of life, Federal, State, and local government, and foundations and corporations across the United States, the vision of Focus: HOPE will continue to grow and inspire;

Whereas Focus: HOPE has been blessed with an active board of directors and advisory board from the senior most levels of corporate and public America, and has benefited from an annual average of 25,000 volunteers and countless colleagues;

Whereas Focus: HOPE has been a tremendous force for good in the City of Detroit, the State of Michigan, and the United States for the past 35 years;

Whereas Focus: HOPE continues to strive to eliminate racism, poverty, and injustice through the use of passion, persistence, and partnerships, and continues to seek improvement in its quality of service and program operations; and

Whereas Focus: HOPE and its colleagues will continue to identify ways in which it can lead Detroit, the State of Michigan, and the United States into the future with creative urban leadership initiatives: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress—

(1) congratulates and salutes Focus: HOPE for its remarkable commitment and contributions to Detroit, the State of Michigan, and the United States; and

(2) directs the Clerk of the House of Representatives to make available enrolled copies of this resolution to Focus: HOPE and Ms. Eleanor M. Josaitis for appropriate display.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Michigan (Mrs. MILLER) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Michigan (Mrs. MILLER).

GENERAL LEAVE

Mrs. MILLER of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 295, the concurrent resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Michigan?

There was no objection.

Mrs. MILLER of Michigan. Mr. Speaker, I yield myself as much time as I might consume.

Mr. Speaker, in the wake of the 1967 terrible Detroit riots, Father William Cunningham and Eleanor Josaitis founded Focus: HOPE as an organization to fight racism and poverty in the metropolitan Detroit area. This resolution congratulates and salutes Focus: HOPE for its remarkable commitment and contributions to Detroit, to the State of Michigan, and to the entire United States.

I commend my colleague, the gentleman from Michigan (Mr. CONYERS), for introducing this resolution. The entire Michigan delegation has cosponsored the resolution, and I am pleased that we can recognize Focus: HOPE and all of the great things that this organization has done for its surrounding communities.

Mr. Speaker, outside of the metropolitan Detroit area, Focus: HOPE may not be well known to our average citizen, but people who are familiar with this organization know how great an organization it is.

In 1971, Focus: HOPE began providing food for children, as well as pregnant and post-partum women. The program soon expanded to include senior citizens; and today, with food that is provided through the U.S. Department of Agriculture, Focus: HOPE provides food to an incredible number, 43,000 children, women and senior citizens, each month in the Detroit metropolitan area.

Focus: HOPE has provided hope to individuals and families for over 35 years. In addition to providing food for those in immediate need, the organization's revolutionary job-training and education programs provide people with the tools and the resources necessary to pull themselves and their families out of the brutal cycle of poverty.

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Mr. Speaker, Focus: HOPE opened its Machinists Training Institute in 1981. It is a 31-week program in which students receive over 1,100 contact hours. The training is very comprehensive and at a fraction of the cost of traditional job training. Along with their FAST TRACK program and First Step programs, students develop necessary skills to enter the workforce.

In 1993, Focus: HOPE developed the Center for Advanced Technologies to form a coalition of universities and corporations to design a 21st century curriculum for manufacturing engineering education. Very sadly, Father Cunningham passed away in 1997. But along with the incredible Eleanor Josaitis, who still acts as the Chief Executive Officer, their great visions and hard work has provided people with an opportunity which would not exist otherwise.

Mr. Speaker, Focus: HOPE's value to the poor and disadvantaged of the Detroit metropolitan area cannot be measured. It is a great organization run by individuals who truly care about our Nation's citizens. This resolution, 295, will bring much-deserved attention to Focus: HOPE and its dedicated employees and volunteers. The work they do is sometimes thankless and sometimes goes unnoticed, but I urge my colleagues to support House Concurrent Resolution 295 and to thank these outstanding individuals for their great work.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is often asked, what makes a person a hero? Working with others to improve one's community, I believe, is the act of a hero. In 1967, a riot left metropolitan Detroit sharply divided along racial lines. By early 1968, shock had deepened into bitterness and hostility.

Among all of this chaos and confusion, two members of the Detroit community, Father William T. Cunningham and Eleanor M. Josaitis, joined together to make a difference. Soon, Focus: HOPE was born, and out of it came a tightly-knit movement of like-minded people who are committed to intelligent and practical action to overcome racism, poverty and injustice.

Over the last 37 years, Focus: HOPE has participated in countless projects that have improved the quality of life for thousands of America's neediest people. In 1971, after gathering scientific evidence of the effects of hunger and malnutrition on the critical early development of infants, Focus: HOPE designed a supplemental food program for children up to age 6 and for pregnant and postpartum women. The program, which was later expanded to include senior citizens, was the first and remains one of the largest Commodity Supplemental Food Programs in the country. Food for this program has been provided to as many as 43,000 women, children, and senior citizens each month in the Detroit metropolitan area.

Focus: HOPE's contributions are not limited to its food program. When years of negligence turned one of Detroit's oldest neighborhoods into a canyon of vacant and dilapidated homes, Focus: HOPE took the initiative and revitalized several blocks of the once prosperous neighborhood by redeveloping outdated buildings, improving the landscape of Oakman Boulevard, developing parks and rebuilding homes. In addition, over the past 2 years alone, Focus: HOPE has helped raise $10 million to complete renovations of an old industrial building that is to house its own Machinists Training Institute.

Today, we stand united in this Chamber to pay homage to Focus: HOPE for its remarkable commitment and contributions to Detroit, the State of Michigan, and the United States. Americans who possess the vision and generosity of Eleanor M. Josaitis and the late Father William T. Cunningham are truly American heroes, and Focus: HOPE is a tribute to their legacy.

Mr. Speaker, I commend the gentleman from Michigan (Mr. CONYERS) for introducing this legislation, and I urge its support.

Mr. Speaker, I yield back the balance of my time.

Mrs. MILLER of Michigan. Mr. Speaker, I yield myself such time as I may consume to urge all Members to support the adoption of House Concurrent Resolution 295.

Mr. KNOLLENBERG. Mr. Speaker, I would like to join my Michigan colleagues in rising in support of House Concurrent Resolution 295, which congratulates and salutes Focus: HOPE on its 35th anniversary.

Focus: HOPE, located in Detroit, is the result of the vision of Father William T. Cunningham and Eleanor Josaitis, who were compelled to make a difference as the 1967 riot left metropolitan Detroit sharply divided along racial lines. Ever since, Focus: HOPE has been committed to bringing together people of all races, faiths, and economic backgrounds. In short, the accomplishments of this organization are nothing short of remarkable. For example, Focus: HOPE helped to conceive and develop the Department of Agriculture's Commodity Supplemental Food Program, which has been replicated in 32 states. Through this program, Focus: HOPE helps feed 43,000 people monthly throughout Southeast Michigan.

Additionally, Focus: HOPE has revitalized several city blocks in central Detroit by redeveloping obsolete industrial buildings, beautifying and landscaping Oakman Boulevard, creating pocket parks, and rehabilitating homes in the surrounding areas.

For these reasons, as a senior member of the House Appropriations Committee, I have been pleased to assist Focus: HOPE over the past several years. Their growing list of accomplishments fills me with pride and I will continue to support them in future years.

And so, Mr. Speaker, I ask my colleagues to join me in commemorating this pillar of the community that has achieved so much in the great state of Michigan. I am confident Focus: HOPE will continue down this path for many years to come. Their mission statement states in part: "Recognizing the dignity and beauty of every person, we pledge intelligent and practical action to overcome racism, poverty and injustice." Focus: HOPE's years of excellence have demonstrated that they do indeed stand behind their message.

Ms. KILPATRICK. Mr. Speaker, I rise today to support H. Con. Res. 295 introduced by Congressman JOHN CONYERS. This resolution congratulates and salutes Focus: HOPE on its 35th anniversary and for its remarkable commitment and contributions to the City of Detroit, the State of Michigan, and the United States.

FOCUS: HOPE was founded in 1968 by Father William Cunningham and Eleanor M. Josaitis in response to the Detroit riots that left the city in turmoil. It is a nationally recognized civil and human rights organization in Detroit, Michigan and is one of the largest nonprofit organizations in Michigan.

Since its beginning, Focus: HOPE has been committed to fighting racism, poverty, and injustice. In 1968, in response to a study by the Detroit Free Press and the Urban League, Focus: HOPE organized a search for evidence of widespread discrimination in food and prescription drug prices. From the investigation, the HOPE '68 study was published. The study was the first to offer definitive proof of systematic discrimination in food pricing.

In 1971, after gathering scientific evidence of the effects of hunger and malnutrition on the critical early development of infants, Focus: HOPE developed a supplemental food program for children up to age six, and for pregnant and post-partum women. The program, later expanded to include senior citizens, was the first and remains one of the largest Commodity Supplemental Food Programs in the country, with food provided through the Department of Agriculture to 43,000 women, children and senior citizens each month throughout Southeast Michigan.

In addition to addressing the societal needs of the community, in 1981, the organization opened its Machinist Training Institute (MTI), to provide skills development in precision machining and metalworking. The institute has graduated more than 2,300 machinists.

Focus: HOPE created two pioneering programs—FAST TRACK and First Step—designed to help individuals improve their reading and math competencies by a minimum of two grade levels in 4–7 weeks. The organization also opened a Center for Children, which has now served over 5,000 children of colleagues, students, and neighbors with quality childcare and early childhood education.

Focus: HOPE has also partnered with many businesses and schools through the years. In 1993 Focus: HOPE developed the Center for Advanced Technologies to address the shortage of manufacturing engineers with hands-on skills. The organization formed a coalition with three university partners: Lawrence Technological University, Wayne State University and the University of Detroit Mercy and several corporations to design a curriculum for manufacturing engineering education.

The volunteer effort of Focus: HOPE brings together thousands of people each year to operate various programs including preparing boxes of food that are delivered to low-income families during the holidays, neighborhood cleanup and revitalization projects and programs that concentrate on education, the arts, manufacturing, engineering, and information technology training.

Last year in October, I joined Michigan's Governor Jennifer Granholm and Senators CARL LEVIN and DEBBIE STABENOW for Focus: HOPE's Walk 2003. This annual walk through the streets of Detroit, to celebrate our rich diversity, is patterned after the nonviolent marches led by Dr. Martin Luther King, Jr. Approximately 8,000 people from metropolitan Detroit walked an eight-mile route through Highland Park and Detroit. The route includes the area where the 1967 riots broke out, the first Ford Motor Company automotive production facility, and the original Motown recording studios.

Again, I would like to thank the late Father Cunningham and Eleanor M. Josaitis for their vision. Focus: HOPE has helped thousands of people fulfill their purpose in life. Focus: HOPE's commitment to bringing together people of all races, faiths, and economic backgrounds to overcome injustice and build racial harmony is an inspiration for us all.

I also thank the leadership for allowing this resolution to be included on today's suspension calendar.

Mr. LEVIN. Mr. Speaker, I rise in strong support of House Concurrent Resolution 295, which congratulates Focus: HOPE on the occasion of its 35th anniversary. I am proud to be an original cosponsor of this measure, and urge all my colleagues to vote for it today.

Focus: HOPE was established in 1968 by the late Father William Cunningham and Eleanor Josaitis. The riots of 1967 had a deep impact on the entire Detroit metropolitan area. For all the damage the riots did to our communities, one positive and lasting impact was that they served as a catalyst for the creation of Focus: HOPE. This organization started out as a food program and grew into a broad-scale attack on poverty, racism and injustice. Today, Focus: HOPE is a vital part of Detroit and the surrounding metropolitan area, focusing its energy and innovation on practical solutions to the difficult problems of Hunger, economic disparity, joblessness, discrimination, and educational disadvantage.

I feel fortunate to have known Father Cunningham during the many years of his work with Focus: HOPE. This work continues under the guidance of my dear friend, Eleanor Josaitis, who co-founded this organization and serves as its chief operating officer.

As the resolution notes, Focus: HOPE has been a unique force for good for the past 35 years. For all of us who share Father Cunningham's dream that all people may live and work together in freedom, harmony, trust and affection, this resolution congratulates and salutes the contributions of Focus: HOPE to Detroit, the State of Michigan, and the nation.

Mr. DINGELL. Mr. Speaker, I rise today in strong support of House Concurrent Resolution 295, congratulating Focus: HOPE on its 35th anniversary. For three and a half decades, Focus: HOPE has been a leading voice for the poor and underprivileged in Southeastern Michigan. It has helped feed the poor, educate our young, and foster cultural understanding between diverse populations. Focus: HOPE deserves our recognition and gratitude for all that is has done and will continue to do.

Co-founded by Father William Cunningham and Eleanor Josaitis, Focus: HOPE is a community based organization dedicated to employing practical and intelligent action to eliminate racism, poverty, and injustice. It has the largest United States Department of Agriculture (USDA) Commodity Supplemental Food Program in the nation. Each month, more than 43,000 mothers, children under age six, and senior citizens living on meager incomes get help through the Focus: HOPE Commodity Supplemental Food Program. That alone would garner recognition and plaudits for Focus: HOPE.

Yet, this organization has made economic opportunity the primary focus, leading to the development of some of the most highly respected and innovative education and training programs in the nation. By partnering with industry, universities, and governments, Focus: HOPE has created a pipeline of programs that offer both the technical and educational knowledge critical for a 21st century workforce. Moreover, Focus: HOPE supplies the opportunity, including childcare on campus and softskills training, for its students to be successful in their chosen career. More than 3,000 individuals have graduated from Focus: HOPE's Centers of Opportunity, obtaining jobs in the manufacturing, engineering and information technology fields. Mr. Speaker, I have long supported the efforts of Focus: HOPE, and congratulate them on their 35th anniversary. I ask my colleagues to recognize the importance of this very fine organization by supporting this concurrent resolution.

Mr. CONYERS. Mr. Speaker, I rise today to congratulate Focus: HOPE, a non-profit organization inspired by the work of Dr. Martin Luther King, Jr., and founded by Father William T. Cunningham in 1968 in the city of Detroit. Focus: HOPE was founded as a civil rights organization, and now works to overcome racial and economic injustices, and has numerous other accomplishments

Focus: HOPE has played an important role in acquiring affirmative action commitments from many employers through supporting African-American and female employees in class-action lawsuits. The non-profit organization has also helped to develop a program through the Agriculture Department's Commodity Supplemental Food Program, which is now responsible for feeding more than 43,000 people per month in southeast Michigan. Additionally, it has assisted in the revitalization of several areas in central Detroit by creating parks, rehabilitating homes, and redeveloping obsolete buildings.

Additionally, Focus: HOPE has trained individuals for courses in advanced manufacturing and precision machining, which has resulted in the graduation of 2,500 people from their certification programs, thereby providing work opportunities to under-represented youth, women, and many others. Focus: HOPE has also developed two programs aimed at helping individuals improve their reading and math competencies. The organization has also enrolled candidates toward associate and bachelor degrees in engineering and technology programs, and as a result, has made contributions toward increasing diversity within these fields. Most of all, this resolution recognizes Focus: HOPE for its commitment and contributions to human rights in Detroit and the United States.

Focus: HOPE is a critically important organization that has been a tremendous asset to the city of Detroit. For this reason, I commend Focus: HOPE's work in improving the quality of life for citizens of Detroit who may not have had access to many opportunities, but who have the desire to succeed in life, and want to become contributing citizens of the economic mainstream.

Mrs. MILLER of Michigan. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. UPTON). The question is on the motion offered by the gentlewoman from Michigan (Mrs. MILLER) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 295.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mrs. MILLER of Michigan. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

RECOGNIZING AND HONORING FIREFIGHTERS, POLICE, PUBLIC SERVANTS, CIVILIANS, AND PRIVATE BUSINESSES WHO RESPONDED TO DEVASTATING FIRE IN RICHMOND, VIRGINIA, ON MARCH 26, 2004

Mrs. MILLER of Michigan. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 612) recognizing and honoring the firefighters, police, public servants, civilians, and private businesses who responded to the devastating fire in Richmond, Virginia, on March 26, 2004, as amended.

The Clerk read as follows:

H. RES. 612

Whereas fire kills more Americans than all other natural disasters combined;

Whereas all Americans must work together for the common goal of fire prevention, fire use, and fire suppression;

Whereas firefighters routinely risk their lives to save others, and some sacrifice their lives in the line of duty;

Whereas on March 26, 2004, the Carver Community of Richmond, Virginia, and Virginia Commonwealth University experienced a devastating fire resulting in the condemnation and destruction of numerous buildings and property;

Whereas strong winds quickly spread the fire through several city blocks and a section of the Virginia Commonwealth University campus;

Whereas firefighters, police, public servants, and civilians exhibited resilience and courage in combating the dangerous fire and in dealing with its aftermath;

Whereas the local firefighters who initially answered the call were later assisted by countless firefighters from fire stations throughout the region who united in a determined effort to defeat the blaze and fight the challenging wind, smoke, and heat conditions in order to save the remaining area;

Whereas public, private, and civic organizations worked as a seamless team preserving and protecting human lives, defending property, and providing food and comfort to all affected; and

Whereas all involved met their community's call to duty by providing brave and steadfast assistance and upholding the finest traditions of the Commonwealth of Virginia: Now, therefore, be it

Resolved, That the House of Representatives recognizes and honors the firefighters, police, public servants, civilians, and private businesses who responded to the devastating fire in Richmond, Virginia, on March 26, 2004, and commends them for their dedicated service to the people of the Commonwealth of Virginia.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Michigan (Mrs. MILLER) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Michigan (Mrs. MILLER).

GENERAL LEAVE

Mrs. MILLER of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Resolution 612.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Michigan?

There was no objection.

Mrs. MILLER of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 612 recognizes those who responded to the tremendous fire in downtown Richmond, Virginia, on March 26, 2004. On that day, a colossal fire ripped through Richmond and the Virginia Commonwealth University campus area as well. The wind-fueled blaze damned more than 30 buildings in the downtown Richmond area and several more buildings, and about 50 nearby homes were evacuated. Fortunately, no one was killed, and there were only a handful of reports of minor injuries. This resolution commends those citizens in the Richmond area who helped to minimize the effects of this terrible fire.

Mr. Speaker, our Nation's first responders provide an invaluable and largely thankless service, sometimes, to many of our citizens. The scene in Richmond on March 26 and the days that followed proved a stirring testament to that fact. Firefighters from Richmond and several neighboring counties rallied to extinguish the incredible fire. Law enforcement officers went door to door insisting that residents leave their homes. Many members of the downtown workforce, private organizations, and just your everyday average citizens helped to protect lives and defend property to limit the damage and the loss from the blaze.

Mr. Speaker, I want to recognize the distinguished gentleman from Virginia (Mr. CANTOR) for his work on House Resolution 612. And on behalf of the gentleman from Virginia and all the Members of this House, I want to thank the firefighters, the police, the businesses, organizations, civilians, and others who aided residents affected by the fire on March 26, 2004.

But even beyond the fine men and women from Richmond, Virginia, I want to thank all emergency responders across the country who protect every one of us every day. First responders routinely put their lives at risk to promote the general welfare of all Americans. I am pleased that the consideration of this resolution gives us a chance to praise medical services personnel, firefighters, law enforcement officials, as well as others who serve and protect all of us each and every day, and I urge support for this important resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join with my colleague from Michigan in consideration of H. Res. 612, recognizing and honoring firefighters, police, public servants, civilians, and private businesses who responded to the devastating fire in Richmond, Virginia, on March 26, 2004.

Mr. Speaker, far too often we, as Americans, overlook or take for granted the truly courageous risks that the men and women of our police and fire departments take to save the lives of others. I am pleased that we take time today to recognize and to honor the firefighters and police, as well as the public servants, civilians, and private businesses, who responded in the face of grave danger to a devastating fire in Richmond, Virginia, on March 26, 2004.

On March 26, 2004, a series of fires, fueled by strong winds, erupted in downtown Richmond. This potentially deadly blaze forced hundreds of students at Virginia Commonwealth University from their dorm rooms and prompted city officials to declare the region a disaster area. By the time the fire was extinguished, it had destroyed six buildings and had seriously damaged 12 others.

Despite the enormity of this threat, no serious injuries were reported. This was due in large part to the quick reaction of the fire and police departments, as well as local public servants, civilians, and private businesses which all worked together to control the dangerous blaze. According to the City of Richmond's Assistant Fire Marshal, the fire could have been much worse. However, the selfless actions of the police and fire department and others turned a life-threatening disaster into a miracle.

Again, Mr. Speaker, I commend all of those who joined together in this great spirit of cooperation to save not only property but countless lives. I commend the gentleman for introducing this legislation and urge its passage.

Mr. Speaker, I yield back the balance of my time.

Mrs. MILLER of Michigan. Mr. Speaker, I yield such time as he may consume to my distinguished colleague, the gentleman from the great State of Virginia (Mr. CANTOR), who authorized House Resolution 612.

Mr. CANTOR. Mr. Speaker, I thank the gentlewoman from Michigan and the gentleman from Illinois for their leadership in bringing this resolution to the floor.

Mr. Speaker, I rise today to recognize and honor the brave firefighters, police, public servants, civilians, and private businesses that responded to the devastating fire in Richmond, Virginia, on March 26, 2004.

Our brave firefighters and first responders routinely risk their lives to save others, and some sacrifice their lives in the line of duty. The history of our great Nation has been marked with the heroic efforts of valiant individuals and organizations exhibiting resilience and courage as they combat dangerous fires and deal with their scorched aftermath.

Each year, fire kills more Americans than all other natural disasters combined. In order to lessen the death toll, all Americans must work together for the common goal of fire prevention, fire use, and fire suppression. The valiant firefighters, police, public servants, and civilians who protect the Richmond region have added their story to our Nation's history of selfless acts.

On March 26 of this year, the Carver community of Richmond, the City of Richmond, and Virginia Commonwealth University experienced a devastating fire which resulted in the destruction of numerous buildings and property. During the course of the day, strong winds quickly spread the fire through several city blocks and a section of the Virginia Commonwealth University campus. The local firefighters, who initially answered the call, were later assisted by countless others from fire stations throughout the region. These units joined together to defeat the blaze and fight the challenging wind, smoke, and heat conditions. Their efforts prevented further destruction and helped protect innocent lives from being lost.

These firefighters were not alone that day, as public, private, and civic organizations worked as a seamless team preserving and protecting human lives, defending property, and providing food and comfort to all those affected. All of these organizations met their community's call to duty by providing brave and steadfast assistance to our community. They stand as a symbol to all who give of themselves in an effort to better our Nation and uphold the finest traditions of the Commonwealth of Virginia.

□ 1430

In closing, I am proud to recognize and honor the firefighters, police, public servants, civilians, and private businesses who responded to the devastating fire in Richmond on March 26, 2004, and commend them for their dedicated service to the people of the Commonwealth of Virginia and urge passage of House Resolution 612.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today in strong support of H. Res. 612, which recognizes and honors the firefighters, police, public servants, civilians, and private businesses who responded to the devastating fire in Richmond, Virginia, on March 26, 2004.

On March 26, 2004, a destructive fire swept through Virginia Commonwealth University and the Carver Community of Richmond, Virginia. The size of this blaze quickly grew out of control such that local Richmond firefighters called for assistance from fire stations throughout the region. The quick response and valiant united effort of firefighters, police, public servants, and civilians extinguished the blaze and averted further destruction of property. Additionally, public, private and civic organizations provided shelter, food and comfort to those affected by the fire. This is a further example of the amazing courage and perseverance required on a daily basis by fire and rescue personnel across the country. These citizens don the uniforms of service to protect and provide for our communities and for our Nation.

Mr. Speaker, this resolution honors the firefighters, police, public servants and private businesses who responded to this emergency with swiftness and courage, working together to protect the citizens of the Commonwealth of Virginia. I urge all of my colleagues to support this important resolution.

Mrs. MILLER of Michigan. Mr. Speaker, I urge adoption of H. Res. 612, as amended; and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. UPTON). The question is on the motion offered by the gentlewoman from Michigan (Mrs. MILLER) that the House suspend the rules and agree to the resolution, H. Res. 612, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mrs. MILLER of Michigan. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

HONORING TUSKEGEE AIRMEN AND THEIR CONTRIBUTION IN CREATING AN INTEGRATED UNITED STATES AIR FORCE

Mr. COLE. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 417) honoring the Tuskegee Airmen and their contribution in creating an integrated United States Air Force, the world's foremost Air and Space Supremacy Force.

The Clerk read as follows:

H. CON. RES. 417

Whereas the United States is currently combating terrorism around the world and is highly dependent on the global reach and presence provided by the Air Force;

Whereas these operations require the highest skill and devotion to duty from all personnel involved;

Whereas the Tuskegee Airmen proved that such skill and devotion, and not skin color, are the determining factors in aviation;

Whereas the Tuskegee Airmen served honorably in the Second World War struggle against global fascism; and

Whereas the example of the Tuskegee Airmen has encouraged millions of Americans of every race to pursue careers in air and space technology: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that the United States Air Force should continue to honor and learn from the example provided by the Tuskegee Airmen as it faces the challenges of the 21st century and the war on terror.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Oklahoma (Mr. COLE) and the gentleman from Arkansas (Mr. SNYDER) each will control 20 minutes.

The Chair recognizes the gentleman from Oklahoma (Mr. COLE).

GENERAL LEAVE

Mr. COLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Con. Res. 417.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. COLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Nevada (Mr. PORTER), the author of this resolution.

Mr. PORTER. Mr. Speaker, the storied history of our Nation's Armed Forces was written by the great men and women who served our country with honor and bravery. This past weekend, we celebrated the commemoration of a monument to World War II honoring all military veterans of the war, citizens on the home front, the Nation at large, and the high moral purpose and idealism that motivated our Nation's call to arms. In my home State of Nevada, I had the honor of spending Memorial Day at several events honoring veterans, many of whom served during World War II.

Among the most courageous of all those who served our country was a group of men who defied both fascism abroad and racism at home while establishing a record as one of the most successful fighting units in American history.

The Tuskegee Airmen were a group of dedicated and determined young men who enlisted to become America's first African American airmen. These airmen were trained at Tuskegee Army Airfield in Tuskegee, Alabama, beginning in 1941. Over the course of their service during World War II, the Tuskegee Airmen distinguished themselves over the skies of Europe.

Airmen trained at Tuskegee received two Presidential Unit citations for outstanding tactical air support and aerial combat, and they established the incredible and unprecedented record of flying more than 200 bomber escort missions without the loss of a single bomber to enemy aircraft. The outstanding record of these men was accomplished while fighting two wars, one against military forces overseas and the other against racism both at home and abroad.

Over the course of World War II, the Tuskegee Airmen returned home with some of our Nation's highest military honors, including 150 Distinguished Flying Crosses, 744 Air Medals, eight Purple Hearts, and 14 Bronze Stars. In addition, these brave pilots destroyed more than 1,000 German aircraft.

Many Americans became aware of the accomplishments of the Tuskegee Airmen from the 1995 feature film starring Lawrence Fishburn called "The Tuskegee Airmen." My first personal experience with these fine men came through a former member of my staff, Traci Scott, now serving with the Pentagon in Baghdad, whose father served with the Airmen, Captain Jesse H. Scott. After hearing his story, I wanted to do something special to honor this brave and honored group of soldiers.

Captain Scott was an original member of the Tuskegee Airmen. In fact, he was so eager to join that he lied about his age to get accepted. As he progressed through flight training, Captain Scott learned he was color blind and went on to serve on the ground crew of General Ben Davis. Captain Scott passed away in the year 2000, and he is honored being buried in Arlington Cemetery.

I am proud to offer a resolution in honor of Captain Scott and honoring the Tuskegee Airmen for their contributions to our Nation and the example they continue to offer us today.

I also had the opportunity to meet with Mr. George Sherman, another former Tuskegee Airman, who now resides in Las Vegas, Nevada. I was privileged to spend the morning with Mr. Sherman and his son as he shared with me firsthand accounts of what it was like to be a Tuskegee Airman. Mr. Sherman's memories and photos provided a small glimpse into the life of these men and how their life was led. Mr. Sherman and his son now travel to various schools sharing the story of the Tuskegee Airmen and are also actively involved in the Young Eagles program encouraging students to become more involved in aviation.

As a Tuskegee Airman, George Sherman gained a lifelong love of aviation, and today he continues to share that love as he passes his knowledge and experience to new generations.

I urge Members to join in recognizing the accomplishments of this unique group of American heroes as our Nation engages in combating terrorism around the world. We rely upon the global reach and the presence provided by our Air Force. Mr. Speaker, the example set by the Tuskegee Airmen encouraged millions of Americans of every race to pursue careers in space and air technology. The Tuskegee Airmen proved that skill and determination, not skin color, are the determining factors in aviation.

Mr. SNYDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 417, introduced by the gentleman from Nevada (Mr. PORTER). This resolution recognizes and honors the Tuskegee Airmen for their contribution in World War II that led to the creation of an integrated United States Air Force.

The Tuskegee Airmen not only faced the dangers of war but they did so in the face of prejudice and discrimination back home. Prior to 1940, African Americans were denied the opportunity to fly military aircraft. However, after pressure from civil rights organizations and others, the Army Air Force began a program to train African Americans as military pilots. The so-called "Tuskegee Experiment" began on July 19, 1941, at the Tuskegee Institute in Alabama. The institute, founded by Booker T. Washington in 1881, provided the primary flight training for the first fighter pilots and became the center of African American aviation during World War II.

The Tuskegee Airmen included not only fighter pilots but also navigators, bombardiers, maintenance and support personnel that provided support for the famed 99th Fighter Squadron and the 332nd Fighter Group.

I think of one of my constituents, Mr. Milton Crenshaw from Arkansas, who was one of the pilot instructors. In 1939, he took a bus from Little Rock to Tuskegee, a young, African American man seeking a career in car engineering at the Tuskegee Institute only to be drawn into the excitement of flight. He became one of the few African American pilot instructors in America and taught numerous Tuskegee Airmen of the 99th Fighter Wing how to fly. The 99th Fighter Squadron, led by the late General Ben Davis, was originally sent to North Africa but moved to the European continent and flew over Anzio in 1944. The 99th held the record of 200 combat missions without losing a single bomber to enemy fire.

The men and women who were part of the Tuskegee experience proved that service, duty, and country were not limited by the color of a person's skin, but that all Americans regardless of race could succeed through hard work, dedication, and commitment. While their training occurred under a segregated condition, their focus was on the goal of all pilots regardless of race: avoidance of abrupt and surprising contact with Mother Earth.

Mr. Speaker, I urge my colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. COLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is a great honor for me to request consideration of H. Con. Res. 417 because this resolution honors a remarkable group of African Americans who played a pivotal role in the military history of our country. They are not the only segregated unit to do so, of course. The 54th Massachusetts during the Civil War, the 9th and 10th Buffalo Calvary, which were honored with the name Buffalo Soldiers by their native American adversaries in the latter part of the 19th century, a group which constructed Fort Sill in my own district and won lasting fame there. And of course more recently, the 761st Tank Battalion whose exploits have been chronicled in a fine volume by Kareem Abdul-Jabbar.

But today, we are here to honor the Tuskegee Airmen who with their professionalism, their skill, and courage not only made an important contribution to fighting tyranny during the Second World War but also helped to forge the United States Air Force into the world's dominant air and space team.

On July 19, 1941, the Army Air Force began a program in Alabama at the Tuskegee Institute to train African Americans as military pilots. The primary flight training was conducted by the Division of Aeronautics at the institute founded by Booker T. Washington, and the transition to combat aircraft was conducted at nearby Tuskegee Army Airfield.

The first group of pilots completed training 9 months later in March 1942. Among that vanguard group was then-Captain Benjamin O. Davis, Jr., a future living legend in the Air Force who went on to become one of its greatest leaders. In the National Defense Authorization Act for fiscal year 1999, the Congress authorized the President to advance Lieutenant General Davis to the grade of General on the retired list of the United States Air Force.

That initial group of Tuskegee pilots was assigned to the famous 99th Fighter Squadron, which was eventually deployed on May 31, 1943, to fly P-40 Warhawks in combat missions in North Africa, Sicily, and throughout Italy. Later Tuskegee graduates were assigned to the 332nd Fighter Group and began overseas combat operations in Italy flying the P-40 and P-39 Airacobra.

Before the war ended, the Tuskegee program had graduated 992 pilots and 450 Tuskegee Airmen had flown over 15,000 combat sorties overseas. Approximately 150 men had been killed over the course of the program, with 66 killed in action. The combat record of these segregated units was superb. They destroyed or damaged 136 enemy aircraft in air-to-air combat and another 273 on the ground. They were highly decorated with over 150 Distinguished Flying Crosses being awarded to African American pilots.

The most impressive achievement of the 332nd Fighter Group was flying over 200 bomber escort missions over Central and Southern Europe without losing a single bomber to enemy aircraft. This unprecedented record was not lost on enemy fighter pilots who often elected to avoid attacking bomber formations when they realized that the fighter escort was the Red Tail fighters of the 332nd.

The challenges confronted by the Tuskegee Airmen were not limited to the wartime skies over Europe. Each of these men proudly met all challenges with skill and determination when racism and bigotry had caused lesser men to harass them and to seek their failure. There are a number of ways for men to display courage in their lives, but seldom are men confronted with as many tests of courage as were the Tuskegee Airmen; and very few men can claim as successful and enduring a legacy as they.

These combat pioneers distinguished themselves throughout their service in war and peace and over time redefined America's understanding of African Americans as warriors and leaders and set the stage for the racially integrated Air Force that achieved so much in the years to follow.

Mr. Speaker, I commend the gentleman from Nevada (Mr. PORTER) for introducing this resolution. I feel very fortunate to have had the opportunity to address the House on this issue and recognize the contributions of Tuskegee Airmen to America.

Mr. Speaker, I reserve the balance of my time.

Mr. SNYDER. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. DAVIS), formerly from Arkansas.

Mr. DAVIS of Illinois. Mr. Speaker, I thank the gentleman from Nevada (Mr. PORTER) for introducing this legislation.

It just happens that yesterday I spent part of the morning with several former, and one is never a former Tuskegee Airman, with several Tuskegee Airmen as we gathered, as we do every Memorial Day, at the Oakwood Cemetery in Chicago, to pay tribute to veterans and especially to our former mayor, Harold Washington. Of course, we got wet in the rain because these guys would never quit until they accomplished what they set out to do.

All African Americans that I know take great pride in Tuskegee Institute, the institution founded by Booker Washington; but they take even greater pride in the exploits of this group of airmen who learned to fly, many of whom had no idea as they were growing up that they would get an opportunity to sail like a bird across the sky.

□ 1445

I have been fortunate to interact with the Dodo Chapter, and one of my most prized possessions is a jacket that they gave me one year that I still have, because every year we also honor African American women who pioneered in aviation. I am also fortunate because every year I have a picnic and parade for kids to go back to school, and the Tuskegee Airmen always fly a formation across the site of our picnic. So I say thanks to them on a very personal basis.

My good friend Roy Chappell was president of the Dodo Chapter for a number of years; Mr. Rufus Hunt is their historian; and, yes, they have created and provide a great legacy; and they teach young African American children how to fly.

I have been able to send a large number of youngsters, and they take them, and they used to use Meigs Field until it was closed, and now they use the airport in Gary, Indiana, and they take these young inner-city children for their first ride in an airplane. So I salute their past exploits, but I also commend them for what they are doing today to continue this great legacy and this great tradition.

Mr. COLE. Mr. Speaker, I reserve the balance of my time.

Mr. SNYDER. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Speaker, I thank the gentleman from Arkansas (Mr. SNYDER) for yielding me time.

Mr. Speaker, today I am pleased to support this resolution honoring the Tuskegee Airmen and their valuable contribution to the United States of America.

During the Second World War, the Army Air Force, as it was then known, and now, of course, known as the United States Air Force, played a vital role in achieving allied victory, particularly in Europe. With their superior aviation skills and with courage in the face of danger, the men who flew for the Army Air Force demonstrated the true meaning of honor.

While World War II was being fought to provide human dignity and freedom to millions of people there on the European continent, here at home there were millions of people prevented on a daily basis from exercising full freedom and full equality.

The Tuskegee Airmen were the first to break that cycle in the military and to emerge as highly qualified pilots in the United States. They proved that race does not matter, they proved that where you come from does not matter, and it does not matter whether anyone else thinks you are capable. The only thing that matters is that you devote yourself to your talents and let history take it from there, and that is just what happened. As a matter of fact, the Tuskegee Airmen, in escorting bombers on to the European continent, never lost a bomber that they were escorting; and they were sought after by the bomber pilots because of their tremendous record and tremendous skill.

The Tuskegee Airmen led the way in opening doors for people from all races and all walks of life to follow their dreams of aviation and military service. Of course, I am very pleased that it was our own Missourian, Harry S. Truman, who integrated the Armed Forces in 1948 after this very positive effort by the Tuskegee Airmen during the Second World War.

As highly skilled pilots, the Tuskegee Airmen made great contributions to the fields of military air as well as space technology. The Nation owes these men a debt of gratitude for having the courage to stand up for something in which they believed and for forcing the rest of the Nation to look past its prejudices and truly appreciate the skills and loyalty with which they served our Nation. I am honored to stand here today and support this important resolution.

As a matter of fact, Mr. Speaker, on two occasions I had the honor of being with Tuskegee Airmen. The first was a dinner where I was the Speaker at an event at then Richards Gebaur Air Force Base south of Kansas City, where Tuskegee Airmen from all across the country were honored; and another time at Ramstein Air Force Base, where a leader of that group was honored at a luncheon. So it is with great pride that I am here to speak in favor of this resolution.

Mr. COLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to offer a personal observation that was actually provoked by the gentleman from Missouri.

My father was a member of the United States Army Air Force. He joined in 1940. He grew up in a time and in a place where segregation was a very common thing, and not only common in the culture, but legal, recognized by law, enforced by law, and he thought joining the United States Army Air Corps was a way out and a way up for him, and it certainly was, given his background and given his station in life.

But it did more than that. Over the course of his lifetime, it transformed his views, it widened his horizons. He often talked about the United States Air Force or the Army Air Corps and later the Air Force to me as I grew up. I actually grew up when he was still a member of that. And he reflected on the tremendous lesson it had taught him about humanity, about the wonderful diversity of America and about the equality of all men in combat and all men under the law.

He often cited, frankly, the Tuskegee Airmen as people who had begun the transformation of the South, had begun the transformation of race in this country and had contributed mightily.

So it is a particular honor again to recognize these people, who were not only so brave in defending their country and so skilled in combat that they were recognized by their enemy but who taught us Americans a far greater lesson than we could expect any group of men to do, who reminded us again of the unfulfilled ideals of our country and moved us toward the ultimate realization of those ideals.

Mr. SNYDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge the House to support this resolution that recognizes not only the contributions of the Tuskegee Airmen to World War II but also how they helped transform America.

Mr. SPRATT. Mr. Speaker, I rise in favor of H. Con. Res. 417, the Tuskegee Airmen Recognition Resolution. Books and movies both document the historic achievements of the Tuskegee Airmen. Today, I urge my colleagues to pass this resolution confirming the renown of these World War II heroes. Despite racial segregation and discrimination, the Tuskegee Airmen lived up to the words of General MacArthur, years before he spoke them: "Yours is the profession of arms, the will to win, the sure knowledge that in war there is no substitute for victory . . . the very obsession of your public service must be duty, honor, country."

The Tuskegee Airmen were dedicated young men who became America's first African-American airmen, defying the many people who thought they lacked the intelligence, skill, courage, and patriotism to fly. Training for the first aviation class began in July 1941 and ended 9 months later in May 1942 with the successful graduation of five of the 13 original cadets. From 1942 until 1946, the Tuskegee Experiment produced nearly 1,000 pilots, with 450 serving overseas in the 99th Fighter Squadron and the 332nd Fighter Group. The 332nd flew 1,578 missions which involved nearly 16,000 sorties and accumulated 111 kills (plus one destroyer sunk using a plane's machine gun).

The feats of the Tuskegee Airmen weren't limited to its aviators. For every mission flown, there were scores of men and women who performed ground-support duty as aircraft and engine mechanics, armament specialists, radio repairmen, parachute riggers, control tower operators, military policemen, and administrative clerks. Their achievements represented a true team effort. The unit was highly decorated, earning 150 Distinguished Flying Crosses, 744 Air Medals, 8 Purple Hearts and 14 Bronze Stars. But their most important achievement was never losing a single bomber to enemy aircraft—the only escort unit to earn that record.

The impact of the Tuskegee Airmen was felt well beyond the skies of Europe and North Africa. Their actions spearheaded and influenced social changes back home, and resulted in the integration of our Armed Forces. In 1948, President Harry Truman enacted Executive Order Number 9981 which directed equality of treatment and opportunity in all of the United States Armed Services. This order not only led to the end of racial segregation in the military; it was also a long step towards racial integration in the United States.

I proudly salute the Tuskegee Airmen and ask my colleagues to support this resolution.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise to support this important resolution and to send a word of thanks to Mr. PORTER of Nevada as well as to the Members of the House Committee on Armed Services for having passed it. At a time when we must deal with a human rights crisis potentially perpetrated by our own military, it is admirable that we now highlight a positive example of respect for human rights and civil rights in our Armed Forces.

In conjunction with the "Wings Over Houston Air Show" (WOHA) that took place in Houston during this past fall school semester, five members of the famed Tuskegee Airmen visited middle and high school students at M.O. Campbell Educational Center in Houston's Aldine Independent School District. Lt. Col. Lee Archer, Lt. Col. Charles McGee, Dr. Roscoe C. Brown, Jr., Lt. Col. Herbert "Gene" Carter and George Watson, Sr. visited with Leadership Officer Training Corps (LOTC) and Junior Reserve Officer Training Corps (JROTC) students to talk about their roles as pilots and ground support personnel during World War II and how their presence in the armed forces helped to break down racial barriers for those who came after them. I am proud to also acknowledge my father-in-law Philip Lee, a committed and dedicated Tuskegee Airman, his service contributed to the finest servicing their country well in time of war.

One of the things that stood out was a question that Lt. Col. Charles McGee posed before leaving the students:

> Think about this, you are going to be responsible for what happens in this country for the next 15 or so years . . . What will you contribute to it?

I highlighted this question because it is very applicable to the current situation that we face in Abu Ghraib. We must be accountable for the way we treat our brothers as well as our foreign neighbors. The human rights element of the civil rights struggle for African Americans can be used to guide our actions today in Iraq and every day. Because of the fortitude and commitment shown by the Tuskegee Airmen, our Armed Forces have the talent and skill that allow us to sleep at night knowing that we are in the most capable hands.

A program began on July 19, 1941 in Alabama to train black Americans as military pilots. Flight training was conducted by the Division of Aeronautics of Tuskegee Institute, the famed school of learning founded by Booker T. Washington in 1881. Once a cadet completed primary training at Tuskegee's Moton Field, he was sent to nearby Tuskegee Army Air Field for completion of flight training and for transition to combat type aircraft. The first classes of Tuskegee airmen were trained to be fighter pilots for the famous 99th Fighter Squadron, slated for combat duty in North Africa. Additional pilots were assigned to the 332d Fighter Group which flew combat along with the 99th Squadron from bases in Italy.

In Sept. 1943, a twin-engine training program was begun at Tuskegee to provide bomber pilots. However, World War II ended before these men were able to get into combat. By the end of the war, 992 men had graduated from pilot training at Tuskegee. 450 of these men were sent overseas for combat assignment. Approximately 150 lost their lives while in training or on combat flights. More men were trained at Tuskegee for aircrew and ground crew duties—flight engineers, gunners, mechanics, and armorers.

Mr. Speaker, as we move forward in the international fight against terrorism, the spirit and tenacity of the Tuskegee Airmen must inspire us to fight terror together as a team. The team must be comprised of all of our international neighbors. I support this resolution and am honored to share these words.

Ms. KILPATRICK. Mr. Speaker, I welcome the opportunity to speak in support of this resolution honoring the Tuskegee Airmen. It is only fitting after coming off a Memorial Day weekend where we celebrated and remembered those who served our country in World War II that we pay tribute to the contributions the Tuskegee Airmen made to the Allied victory. They did more than just help win the war. The Tuskegee Airmen had a major impact on the U.S. armed services, in general, and our air force in particular.

The men of Tuskegee overcame prejudice, racism and bigotry in order to serve their country. In many quarters, they were not wanted. Tuskegee trainees were expelled from the flight-training program for the slightest reasons, but they would not be denied the opportunity to do their duty for their country. They were determined to overcome tremendous obstacles because they had to exceed standards established for regular recruits. From them, more was expected, and to the benefit of our country, more was given. The Tuskegee pilots who survived a rigorous training program were an elite and highly motivated group.

The Tuskegee Airmen were organized in 1941 when plans were approved to establish a segregated air unit, the 99th Pursuit Squadron, and base it near Tuskegee, Alabama. They provided close air support and bomber escort missions and saw action in Italy, the Mediterranean, North Africa, and the bombing of Berlin.

In World War II, the Tuskegee Airmen compiled a record of shooting down 111 enemy aircraft and destroyed another 150 aircraft on the ground. They destroyed transport railroads, sank a Germany destroyer and 40 other boats and barges. Some 450 pilots flew combat missions. They flew 200 bomber escort missions against some of the most heavily defended targets in Hitler's Germany and never lost a bomber to the German Luftwaffe.

They played a vital role in defending our country against the Axis powers and just as importantly played a major part in breaking down racial barriers in the military and American society as a whole. They served in the most technically advanced and sophisticated branch of America's fighting forces, the Army Air Corps. When they earned their wings they engaged in one of the advanced air forces in the world, the Luftwaffe. And in doing so, they and we emerged victorious.

Being privileged to represent a good part of the City of Detroit, I am proud to say Detroit hosts the National Museum of the Tuskegee Airmen. Among the Tuskegee alumni was our own former Mayor of Detroit, Coleman Young. It was in Detroit that the Tuskegee Airmen, Incorporated was founded. This organization exists to motivate and inspire young Americans to pursue careers in aviation, aerospace, the military and to become active participants in civic affairs. We in Detroit have a close affinity with the Tuskegee Airmen, and I thank the leadership for allowing this resolution to be scheduled for today.

Mr. RANGEL. Mr. Speaker, I rise to acknowledge the Tuskegee Airmen, African-American pioneers for their courageous service to our country and lasting legacy of valor and military excellence. I strongly support H. Con. Res. 417 in honoring the Tuskegee Airmen and their contribution in creating an integrated United States Air Force, the world's foremost Air and Space Supremacy Force.

The service that the Tuskegee Airmen performed during World War II for our country was extraordinary. In a time of racial turmoil they dedicated their lives and served this country to their fullest capability. They simultaneously defied the odds and limitations set both abroad and at home. These men overcame what were seemingly insurmountable obstacles at the time and are regarded as American military pioneers.

The Tuskegee Airmen epitomize the American dream. History shows that blacks had been trying to gain entrance into the Army Air Corps since World War I. By the end of World War II the Tuskegee Airmen had received 95

Distinguished Flying Crosses, 744 Air Medals and Clusters, a Legion of Merit, completed 1,578 missions and 15,553 sorties, and graduated 993 pilots. They had gone from being barred from the Air Corps to being regarded as one of the most successful units in American history. The Tuskegee Airmen were called upon by our country and willingly accepted the challenge. They proved that skill and dedication were the determining factors of success, not race or skin color.

The Tuskegee Airmen continue to serve as role models for members of the armed forces throughout the world. Many of their combat records are unmatched today and their sacrifices must never be forgotten. These courageous men embody the spirit of America and are an integral part of our nation's history. It is only appropriate that servicemen of such valor be acknowledged.

Ms. MAJETTE. Mr. Speaker, as we stand here on the heels of Memorial Day, a time for honoring those who have fought and died to preserve our freedom, I rise to add my voice to the growing chorus of those singing the praises of the Tuskegee Airmen.

When the brave men and women of our armed services swear their enlistment oath, they pledge to defend the Constitution against enemies both foreign and domestic. And although the Tuskegee Airmen won many a battle in the skies over North Africa and Europe, it is their triumph over oppression at home that counts as their greatest victory.

From their inception at the Tuskegee Army Air Field in the summer of 1941, to their first combat in North Africa in 1943, to President Truman's desegregation order in 1948, the Tuskegee Airmen battled racism and hatred at every turn.

They represented their country when we needed them most, and, despite all hardships, they did so with class, professionalism, and excellence, earning distinction among the Army Air Corps' most decorated pilots.

The Tuskegee Airmen served with pride and honor, and returned home to find that the freedoms they had fought so hard to preserve were not extended to them. Instead of being welcomed as the heroes they were, they faced intense segregation in the very land many of them gave their lives to protect. Still, they held their heads high and continued to struggle for justice and equality, this time not in a far-of nation, but from their homes in rural Alabama.

Mr. Speaker, we are all beneficiaries of the work of these brave men both at home and abroad, and I am privileged to count several of them among my constituents.

Mr. SNYDER. Mr. Speaker, I yield back the balance of my time.

Mr. COLE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. UPTON). The question is on the motion offered by the gentleman from Oklahoma (Mr. COLE) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 417.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. COLE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

RECOGNIZING 60TH ANNIVERSARY OF ALLIED LANDING AT NORMANDY DURING WORLD WAR II

Mr. RYUN of Kansas. Mr. Speaker, I move to suspend the rules and pass the Senate joint resolution (S.J. Res. 28) recognizing the 60th anniversary of the Allied landing at Normandy during World War II.

The Clerk read as follows:

S.J. RES. 28

Whereas June 6, 2004, marks the 60th anniversary of D-Day, the first day of the Allied landing at Normandy during World War II by American, British, and Canadian troops;

Whereas the D-Day landing, known as Operation Overlord, was the most extensive amphibious operation ever to occur, involving on the first day of the operation 5,000 naval vessels, more than 11,000 sorties by Allied aircraft, and 153,000 members of the Allied Expeditionary Force;

Whereas the bravery and sacrifices of the Allied troops at 5 separate Normandy beaches and numerous paratrooper and glider landing zones began what Allied Supreme Commander Dwight D. Eisenhower called a "Crusade in Europe" to end Nazi tyranny and restore freedom and human dignity to millions of people;

Whereas that great assault by sea and air marked the beginning of the end of Hitler's ambition for world domination;

Whereas American troops suffered over 6,500 casualties on D-Day; and

Whereas the people of the United States should honor the valor and sacrifices of their fellow countrymen, both living and dead, who fought that day for liberty and the cause of freedom in Europe: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress—

(1) recognizes the 60th anniversary of the Allied landing at Normandy during World War II; and

(2) requests the President to issue a proclamation calling on the people of the United States to observe the anniversary with appropriate ceremonies and programs to honor the sacrifices of their fellow countrymen to liberate Europe.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Kansas (Mr. RYUN) and the gentleman from Arkansas (Mr. SNYDER) each will control 20 minutes.

The Chair recognizes the gentleman from Kansas (Mr. RYUN).

GENERAL LEAVE

Mr. RYUN of Kansas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S.J. Res. 28.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. RYUN of Kansas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, 60 years ago this month, on June 6, 1944, Allied airborne and seaborne forces invaded Normandy, France, at the start of Operation Overlord. On that first day, more than 150,000 Allied military personnel came ashore and over 6,500 American troops became casualties.

Leading the overall Allied effort in what he would describe as a "Crusade in Europe" was a Kansas native, General Dwight D. Eisenhower. Among the first wave of soldiers on June 6 to storm ashore into the devastating fires of the German defenses were soldiers of the 1st Infantry Division, a proud Army unit with long-standing ties to Fort Riley, Kansas, which I am privileged to represent.

By the end of the "Crusade in Europe," the 1st Division, also known as the Big Red One, had suffered more than 21,000 casualties among the nearly 44,000 men who had served in its ranks. Sixteen of its soldiers were awarded the Medal of Honor. The division's motto exemplified its service: "No mission too difficult, no sacrifice too great. Duty first."

Mr. Speaker, this resolution properly honors the valor and sacrifices of our fellow countrymen who 60 years ago answered the call to duty and fought to restore freedom and human dignity to millions of people.

This resolution should also remind us, Mr. Speaker, that today many tens of thousands of American military men and women are fighting a global war on terrorism. In the process, they are again answering the same call to duty as the men of D-Day. While the places and enemies have changed, the objective has not. They fight today to protect America and to restore freedom and human dignity to millions.

Mr. Speaker, I urge my colleagues to support this resolution. It truly is a recognition and celebration of the brave deeds by bold men who earned a rightful place in American history over 60 years ago in the landing zones, beaches and battlefields of Normandy. But as we celebrate their achievements, let us not forget that bold brave men and women continue to serve this Nation admirably around the world.

Mr. Speaker, I ask for a "yes" vote as a fitting honor for today's heroes.

Mr. SNYDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of Senate Joint Resolution 28, introduced by Senator BEN NIGHTHORSE CAMPBELL, and commend my colleague, the gentleman from New Jersey (Mr. SMITH), the chairman of the Committee on Veterans Affairs, for introducing an identical bill in the House, H.J. Res. 93.

Mr. Speaker, this resolution recognizes the 60th anniversary of one of the most important and critical military operations of World War II, the Allied landing at Normandy on June 6, 1944.

This past Saturday, we honored World War II veterans with the official dedication of the first National Memorial that honors all those who served in the Second World War. This memorial is a tribute to the band of brothers who fought to restore freedom and liberty for all across the world.

The turning point in the fight to liberate Europe from the Nazis during World War II was the successful Allied invasion of France on June 6, 1944. While officially named Operation Overlord, "D-Day" will forever be known as the day the Allied forces stormed the beaches of Normandy that fateful morning.

As the Supreme Commander, General Dwight D. Eisenhower led the largest, most aggressive air, land and sea campaign ever undertaken during World War II. On that day, the forces of liberty stared down the evils of fascism. Five thousand naval vessels, including 3,000 landing crafts, carried 153,000 Allied forces across the channel to hit the beaches of Normandy.

While Gold, Juno Sword and Utah were taken by our allies and American forces with relatively minor opposition, for American forces that fought on the sands at Omaha, D-Day will forever live in their minds and hearts.

The landing at Omaha truly captured the bravery, determination and fortitude of the American soldier. Many of them never reached the shores of Omaha, heavily fortified and defended by the Germans. Nearly 2,500 were killed or wounded in the attack.

As the sun set on June 6, 1944, over 6,000 soldiers gave their lives that extraordinary day. Their sacrifices and those of all who fought that day allowed over 100,000 men and 10,000 vehicles to come ashore that evening, the first wave of Americans that would be sent to the European continent to defeat Nazi Germany.

Mr. Speaker, I urge my colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. RYUN of Kansas. Mr. Speaker, I yield 6 minutes to the gentleman from New Jersey (Mr. SMITH), the sponsor of this resolution.

Mr. SMITH of New Jersey. Mr. Speaker, I thank my good friend for yielding me time.

Mr. Speaker, I rise to urge all of my colleagues to support S.J. Res. 28, a resolution recognizing the sixtieth anniversary of the Allied landing at Normandy.

Mr. Speaker, like many of my colleagues, this past weekend both my wife Marie and I joined with President Bush, former Senator Bob Dole and tens of thousands of veterans, many of them from the Second World War, as the new National World War II Memorial was dedicated.

As Marie and I stood on the Mall, we were reminded of the valor and sacrifice of millions of American men and women who wore our Nation's uniform during this war, including my father, a combat Army veteran who saw horrific combat that began in New Guinea and ended in the Philippines, and my wife's father, who served with honor and distinction on the USS *Canberra* in the South Pacific.

Several of our relatives saw combat during the Second World War, including Marie's uncle, Joseph Hahn, of the 29th Division, 116th Regiment, 121st Engineering Battalion, who hit the beaches on that historic day when the tides of war were turned in our favor. Corporal Hahn hit the beach on Omaha Beach on June 6, and he was part of that very courageous group of men who bravely fought their way through one of the most treacherous battlefields in history and made it to St. Lo on July 18th. Six weeks to advance about 30 miles underscores how bad that battle really was and how vociferous were the forces that were arrayed against them. But they prevailed!

□ 1500

It occurred to me at the monument dedication Saturday, Mr. Speaker, that World War II could have had a different outcome and could have turned out differently. Nowhere is this more evident than the D-Day landings on June 6 of 1944.

Many Americans look back upon D-Day and think that it was the inevitable beginning of Europe's liberation from the clutches of Nazi Germany. Yet, on June 6, 1944, failure was still possible. In fact, when we pause and consider the magnitude and the scale of such an enormously complicated military operation waged by multiple nations, it sometimes seems amazing that the operation ever succeeded.

Historian Stephen Ambrose put the significance of this operation into perspective. He said, "You can't exaggerate it. You can't overstate it. D-Day was the pivot point of the 20th century. It was the day on which the decision was made as to who was going to rule this world in the second half of the 20th century. Is it going to be Nazism, is it going to be Communism, or are the democracies going to prevail?" He goes on to say, "If we would have failed on Omaha Beach and on the other beaches on the 6th of June in 1944, the struggle for Europe would have been a struggle between Hitler and Stalin, and we would have been out of it."

Mr. Speaker, it is worth noting that even General Dwight D. Eisenhower himself was not completely confident of victory. Prior to the launch of the great amphibious assault, he scribbled a note, a brief note about what he would say to the press in the event that the invasion failed, and he kept it in his wallet. While General Eisenhower had reasonable faith in his war plan, he was also fully cognizant of just how badly things could go awry in the fog of war, even if everything else had gone perfectly and went out on schedule.

As we all know now, Mr. Speaker, as dawn broke on June 6, 1944, a great invasion force stood off the coast of Normandy awaiting the commencement of Operation Overlord. In all, there were nine battleships, 23 cruisers, 104 destroyers, and 71 large landing craft of various descriptions, as well as troop transports, mine sweepers, and merchantmen. Combined, these forces constituted nearly 5,000 ships of every type, the largest armada ever assembled. Allied air forces flew 11,000 sorties to provide air cover, bomb fortifications, and, most importantly, to pin down German tanks poised to drive any Allied beachhead back into the sea.

As Operation Overlord continued, several of the Allied beach landings went relatively smoothly and according to plan. But at the beach codenamed Omaha, many things seemed to go wrong all at once for the primarily American force. According to some estimates, barely one-third of the first wave of attackers ever reached dry land. Only sheer bravery and the monumental effort of human will posed against impossible odds carried the day at Omaha Beach. About 2,500 men were killed or wounded at Omaha Beach alone.

By the end of D-Day, the total of dead and injured topped 9,000. The American share was about 6,500. Among the American airborne divisions, about 2,500 became casualties. Canadian forces experienced about 1,100 casualties, and another 3,000 British soldiers were killed or wounded. Approximately one-third of the casualties were killed in action.

Despite the losses and the unspeakable hardship endured by so many, the invasion succeeded. More than 100,000 men and 10,000 vehicles came ashore that day, the first of millions who would join them and finally put an end to Nazi Germany.

Mr. Speaker, our Nation must never take for granted the sacrifices that were made to liberate Europe and to preserve freedom. We must never forget the veterans who scaled the cliffs and stormed the beaches of Normandy against overwhelming odds.

I urge all Members to strongly support this resolution.

Mr. SNYDER. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. EVANS), the ranking member of the House Committee on Veterans' Affairs.

Mr. EVANS. Mr. Speaker, I rise in support of this resolution, a measure to recognize the 60th anniversary of D-Day in honor of the Allied forces who participated in that battle.

I want to thank the ranking member, the gentleman from Missouri (Mr. SKELTON), and the gentleman from Arkansas (Mr. SNYDER), and the gentleman from California (Chairman HUNTER) for their leadership as well.

Mr. Speaker, the World War II era was a decisive time for this Nation and the world; and June 6, 1944 marked perhaps the most decisive moment of that time. Winston Churchill, while discussing with President Franklin Roosevelt the Allied landing on the beaches of Normandy stated, "This is much the greatest thing we have ever attempted."

The D-Day landing on the Normandy beaches was the largest air, land, and sea invasion that was ever undertaken. Operation Overlord started in the early hours of June 6, 1944, and the battle for Normandy would continue throughout the summer. Indeed, the war in Europe would wage for nearly another year, until May 8, 1945. It is clear now, however, that D-Day was the beginning of the end for the war in Europe and Hitler's forces.

The Allied forces participating in that invasion suffered nearly 10,000 casualties. American troops suffered over 6,500 casualties that day. Over 9,000 American servicemembers now rest on the hallowed grounds of the World War II Normandy-American Cemetery and Memorial, situated on a cliff overlooking Omaha Beach and the English Channel, a peaceful and lasting tribute to a generation.

Mr. Speaker, this resolution is indeed an important measure as we approach the anniversary of D-Day. Let us honor and celebrate the commitments and sacrifices of our servicemembers; their efforts that day will forever stand as a defining moment in history. I urge all Members to support the resolution.

Mr. RYUN of Kansas. Mr. Speaker, I have no further speakers; however, I reserve the balance of my time.

Mr. SNYDER. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri (Mr. SKELTON), the ranking member of the Committee on Armed Services.

Mr. SKELTON. Mr. Speaker, I thank my friend, the gentleman from Arkansas (Mr. SNYDER), for yielding me this time.

Mr. Speaker, I rise today to voice my strong support for this resolution authorizing and recognizing the 60th anniversary of the Allied landing at Normandy, France, during the Second World War. By supporting this resolution, we not only encourage Americans everywhere to honor the heroic deeds and the sacrifices made by the brave Allied troops on June 6, 1944, but we also take a moment to remember our personal debt to what is now known as the Greatest Generation.

Dedication to duty, love of freedom, these things drove these courageous men to undertake and accomplish a task that seemed impossible. Such a comprehensive operation was unheard of at the time, and these men knew the risks involved. On that day, June 6, 1944, when the beaches of Normandy were stormed in the face of intense opposition, over 6,500 American soldiers made the ultimate sacrifice so that true freedom could be restored to millions of people across the European continent.

It is interesting to note that I have two good friends who were there: Dr. Tommy McDonald from Marshfield, Missouri, a sniper on that day, a recipient of the Silver Star, wounded three times; Frank Luce, from my hometown of Lexington, who not only was at Normandy but he had three tanks shot out from under him and was the recipient of the Bronze Star and the Purple Heart.

Mr. Speaker, this last Saturday I had the opportunity to have lunch with many American Legion veterans at Higginsville, Missouri, and any number of them were at day 1, 2, 3, 4, 5, 6, 7 at Normandy beach head. It was an honor and a privilege to meet with them and to thank them for their duty.

June 6, 1944, was a pivotal day. At the time, it was almost impossible to understand the full impact it would have, but here we are. Sixty years of reflection have shown that after the success of that landing, the tide of the war swung in favor of the Allies, and Adolf Hitler began his ultimate demise. Allied victory in World War II preserved freedom and humanity for millions of people and for every generation since.

On this day, we honor one generation of heroes. But as we do so, we cannot help but take a moment to remember that there is another generation making its mark right now in the middle of the deserts in the Middle East. Hundreds of thousands of men and women are currently serving overseas with the same dedication, the same love of freedom that made the landing at Normandy such a remarkable moment in history. Whether the year is 1944 or the year 2004, these individuals deserve our respect, and they deserve our gratitude.

Mr. Speaker, I am honored to support this resolution, and I commend its authors for bringing it before us today.

Mr. RYUN of Kansas. Mr. Speaker, I yield myself such time as I might consume.

In closing, I think this is a fitting tribute to the brave men who 60 years ago stormed the sandy beaches of Normandy, risking all, so that we might enjoy the freedoms that we have become accustomed to. I urge my colleagues to vote "yes" on this resolution, a fitting honor.

Mr. Speaker, I yield back the balance of my time.

Mr. SNYDER. Mr. Speaker, I have no further speakers, and I urge the House to adopt this resolution in support of our many fine heroes that participated in D-Day on June 6, 1944.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MURPHY). The question is on the motion offered by the gentleman from Kansas (Mr. RYUN) that the House suspend the rules and pass the Senate joint resolution, S.J. Res. 28.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. RYUN of Kansas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

CHARLES WILSON DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC

Mr. MILLER of Florida. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4317) to name the Department of Veterans Affairs outpatient clinic located in Lufkin, Texas, as the "Charles Wilson Department of Veterans Affairs Outpatient Clinic".

The Clerk read as follows:

H.R. 4317

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NAME OF DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC, LUFKIN, TEXAS.

The Department of Veterans Affairs outpatient clinic located in Lufkin, Texas, shall after the date of the enactment of this Act be known and designated as the "Charles Wilson Department of Veterans Affairs Outpatient Clinic". Any reference to such outpatient clinic in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Charles Wilson Department of Veterans Affairs Outpatient Clinic.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. MILLER) and the gentleman from Texas (Mr. RODRIGUEZ) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. MILLER).

Mr. MILLER of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4317 would name the VA outpatient clinic in the city of Lufkin, Texas, for our former colleague, the honorable Charles Wilson of Texas. I did not have the opportunity to know Mr. Wilson during his time in Congress, but Members who worked with him remember Charlie Wilson for his steadfast support of our Nation's defense and intelligence operations.

Mr. Wilson's personal history is as spirited as the Lone Star State where he was born. Growing up in Lufkin in east Texas, he graduated from the United States Naval Academy at Annapolis in 1956 and thereafter served honorably in the United States Navy. After serving in the Texas House of

Representatives and the senate, Mr. Wilson was elected to Congress in 1972. Mr. WILSON represented the second congressional district of Texas for 12 terms. He retired in 1996 and has maintained a successful consulting business here in Washington and in his native Texas.

Over 20 years ago, as a Member of the House Committee on Appropriations and the Permanent Select Committee on Intelligence, Mr. Wilson focused his energy on the plight of the Afghan people, then under invasion by the old Soviet Union. Mr. Wilson's singular effort to sustain covert U.S. aid for the rebels in Afghanistan was a crucial resource for the Afghan people to drive the Soviets out of their country. Influenced by Mr. Wilson's work in Afghanistan, the U.S. Cold War operation contributed to the eventual collapse of the USSR. These events are vividly depicted in the recent book, "Charlie Wilson's War: The Extraordinary Story of the Largest Covert Operation in History."

I believe using any definition of the term, Charlie Wilson is an extraordinary man in foreign affairs and in intelligence matters. Closer to home, as an advocate for our veterans and our Armed Forces, who were his constituents in Texas, Mr. Wilson played a key role in convincing the VA to open an outpatient clinic in his hometown of Lufkin.

□ 1515

The clinic can was dedicated in 1991, and it remains an important provider of health care to veterans in East Texas. I believe that our colleague, the gentleman from Texas (Mr. TURNER), the sponsor of this bill, will speak in greater detail about our former Member Charles Wilson.

Mr. Speaker, I reserve the balance of my time.

Mr. RODRIGUEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4317, a bill to rename the Department of Veterans Affairs clinic in Lufkin, Texas, after a fellow Texan and our fellow Congressman Charles Wilson.

I appreciate the effort of my good friend, the gentleman from Texas (Congressman TURNER), for sponsoring this particular piece of legislation; and I am honored to manage the time today on behalf of the Committee on Veterans' Affairs.

Charlie Wilson has had a remarkable and noteworthy career, and it is fitting to honor him by naming the VA clinic in Lufkin after him. He began his career at the prestigious U.S. Naval Academy, and he served in the Navy from 1956 to 1960. After he left the Navy, he decided to try his hand at elected office. He did well. He won his first race in 1960 and then got elected again 18 times for various offices.

He began his distinguished career representing the people of East Texas in the Texas House of Representatives for over 6 years and in the Texas Senate for an additional 3 terms. As a former member of the Texas house myself, I know the hard work and dedication required. I know Charlie Wilson gave it his all.

On November 7, 1972, in the 2nd District of Texas, Charlie Wilson was elected to the U.S. House of Representatives. The House has not known many like him. For 24 years he represented the people of East Texas often in very colorful and unforgettable ways but always with a dedication and commitment to his constituents.

His hard work earned him a spot on the Committee on Appropriations Subcommittee on Defense. He used his position not only to help Texas and America and also his constituents but to advance the United States' effort to win the Cold War and defeat the Soviet expansion. Perhaps most notably Charlie used his influence to secure billions of dollars to counter the Soviet occupation of Afghanistan. Without a doubt, his efforts helped push the Soviets out of Afghanistan and helped end the eastern bloc communism.

The CIA recognized the special nature of his efforts by making him the only civilian to receive the CIA's Honored Colleague Award. His work is now enshrined in a well-known book that may even become a movie.

While in Congress, Charlie made constituent service a top priority; and his staff regularly won praise for their hard work on behalf of the district. As a Korean War veteran, Charlie Wilson was always a strong advocate of veterans, especially in his district. He brought more veterans affairs resources to his constituents than ever before.

It is appropriate that we name the VA clinic in Lufkin for him, a proud Texan, a proud American, an outstanding veteran.

Mr. Speaker, I reserve the balance of my time.

Mr. MILLER of Florida. Mr. Speaker, I reserve the balance of my time.

Mr. RODRIGUEZ. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. TURNER), who is the author of the legislation and also the ranking minority leader on the Select Committee on Homeland Security.

Mr. TURNER of Texas. Mr. Speaker, I thank my colleague from Texas for yielding. I want to thank all of my colleagues. I want to thank the distinguished majority leader from Texas for cosponsoring this legislation with me along with other colleagues from Texas.

This legislation, I think, does something that needs to be done, that should be done; and I think our former colleague, Congressman Charles Wilson, could think of nothing that he would rather for this Congress to do than to put his name on the veterans outpatient clinic in Lufkin, Texas, which is the largest community in our congressional district.

Charlie Wilson had a distinguished career in this body as well as in the Texas legislature. He served the public for over 36 years. He served three terms in the Texas house, three terms in the Texas Senate, and 12 terms in this body.

Charlie Wilson is, first and foremost, a soldier. In his very youngest years he dreamed of being a soldier, and he became a student of history because he loved to read about battles and about the great wars. He ended up being admitted to the Naval Academy and served both at home and abroad in the United States Navy with great distinction.

Charlie Wilson served in this body on the House Committee on Appropriations, and when he left this body he was the most senior Democrat on the Subcommittee on Foreign Operations, Export Financing and Related Programs, and a senior Democrat on the Appropriations Subcommittee on Defense. He was appointed to the Permanent Select Committee on Intelligence in the 100th Congress.

Charlie Wilson became a recognized expert on defense and intelligence matters. And as the gentleman from Florida mentioned earlier, in the book "Charlie's War," the story is recounted of Charlie's devotion, commitment, and his enthusiastic efforts to help kick the Soviets out of Afghanistan. We all know that that was the last big battle before the Soviet Union fell, and many credit our efforts against the Soviets in Afghanistan as leading to the fall of the Iron Curtain.

Charlie Wilson believed in this country. He was a fierce fighter against the Communist influence that at that time was going around the world.

Charlie Wilson was recognized for his expertise not only in defense and intelligence but in the area of international energy policy. He served on the Energy Conference Committee that is responsible for the landmark comprehensive National Energy Act of 1978.

Charlie Wilson established the outpatient clinic in Lufkin. It was something that he really believed in, because in our part of this country and the rural piney woods of East Texas we have a large number of patriotic Americans who have served in the United States military. He knew that our veterans in our part of the State were having to travel over 100 miles to get to the nearest VA hospital to receive care. Because Charlie was a veteran, because he believed in standing up for veterans and he believed that every veteran should be honored for the service they have given, he fought to establish this outpatient clinic in Lufkin; and it has served the people of our area very well.

Charlie Wilson worked hard during his career to serve the needs of all veterans and of all senior citizens, and he had in his office one of the largest caseloads of veterans work of any Member of Congress. I have been pleased, in succeeding him, to have carried on that responsibility of assisting the many veterans in deep East Texas.

Charlie Wilson was a colorful Member of Congress. One did not have to wonder where Charlie Wilson stood on the issues, and one did not have to know whether you were getting a straight story or not. Because whether Charlie was talking about an issue on the floor of the Congress or talking about something going on in his district or talking about something in his own personal life, he was always very candid with his constituents; and for that they reelected him 12 times to this body.

So I am very proud that my colleagues have joined with us in introducing this resolution honoring Charlie Wilson, and I would invite all Members to join with us in adopting it.

Mr. MILLER of Florida. Mr. Speaker, I reserve the balance of my time.

Mr. RODRIGUEZ. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. LAMPSON), who also has the distinction of representing our Missing and Exploited Children Caucus and does a tremendous job in that area.

Mr. LAMPSON. Mr. Speaker, I thank my colleague for allowing me to have a few seconds to talk about my friend Charlie Wilson.

We knew him at the beginning of his service in the Texas legislature as Timber Charlie, a tall, lanky, East Texan who, as the gentleman from Texas (Mr. TURNER) just said, always spoke as straight and as straightforward as one human being can.

What a nice gentleman. Many colorful stories obviously can and have been told about him. The people remembered him and loved him throughout all of East Texas.

I remember fondly the days he would come to all of those parades we would have through East Texas. He always had a mule that he saddled up and rode in the parade, wearing brightly colored clothes and those suspenders that were always his trademark. A wonderful, caring, human being.

Charlie Wilson probably taught me more about, and I think many of the other of his colleagues and those of the House that followed him, about the job of a Member of Congress providing constituent service. He prided himself on what he did for the people at home. And it was interesting a comment that was made in an article not long ago when he said that when the day was done, says Charlie, the working people knew I was on their side. And the blacks knew I was on their side. It is hard to explain, but there is a tolerance for human frailty that does not exist outside of East Texas.

Charlie Wilson loved his folks, still does today, and will continue; and southeast Texas will never, ever forget him. The fact that we are honoring him there with the naming of this veterans' facility is a magnificent tribute to a wonderful gentleman.

We wish you well in your retirement, Charlie Wilson. I am glad to support my colleagues in supporting this legislation.

Mr. MILLER of Florida. Mr. Speaker, I reserve the balance of our time.

Mr. RODRIGUEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to close with a little story that I read about Charlie Wilson. That was in his first campaign he talks about the fact that at one time when he came back from the Navy and was going to be running for office he thought that there was going to be a discussion about issues regarding taxes. He found out that, and according to the article, the story was that one of the biggest issues in East Texas at that time was that they were using dogs to hunt deer at that time way back in the early 1960s. And they got the impression that Charlie was against that, and they were extremely angry with him and upset. So one of the first things he talks about is going to deliver a speech among 3,000 people and bringing about five or six hounds with him.

So he was and is a very colorful individual. I take pride in being the manager for this bill, and I ask for the naming of the VA clinic in his name and in his honor.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MILLER of Florida. Mr. Speaker, this is a bipartisan bill. I urge all Members of this body to support H.R. 4317 to name the Lufkin, Texas, VA clinic the Charles Wilson Department of Veterans Affairs Outpatient Clinic.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today in support of H.R. 4317.

A fellow Texan, Charlie Wilson was educated at the U.S. Naval Academy and served overseas as well as at the Pentagon. After retiring from the Navy in 1960 with the rank of Lieutenant, he returned back to Lufkin and ran successfully for the Texas Legislature, serving in that capacity for twelve years.

In 1972, Charlie was elected as the U.S. Representative for the 2nd Congressional District of Texas and began has distinguished 24-year career in the U.S. House of Representatives.

Naming the Lufkin VA Clinic in honor of Congressman Wilson would be a fitting tribute to such a devoted public servant.

Mr. MILLER of Florida. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. MILLER) that the House suspend the rules and pass the bill, H.R. 4317.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MILLER of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4317.

The SPEAKER pro tempore (Mr. MURPHY). Is there objection to the request of the gentleman from Florida?

There was no objection.

HEALTH, SAFETY, AND SECURITY OF PEACE CORPS VOLUNTEERS ACT OF 2004

Mr. SMITH of New Jersey. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4060) to amend the Peace Corps Act to establish an Ombudsman and an Office of Safety and Security of the Peace Corps, and for other purposes.

The Clerk read as follows:

H.R. 4060

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Health, Safety, and Security of Peace Corps Volunteers Act of 2004".

SEC. 2. OMBUDSMAN OF THE PEACE CORPS.

The Peace Corps Act (22 U.S.C. 2501 et seq.) is amended by inserting after section 4 the following new section:

"SEC. 4A. OMBUDSMAN OF THE PEACE CORPS.

"(a) ESTABLISHMENT.—There is established in the Peace Corps the Office of the Ombudsman of the Peace Corps (hereinafter in this section referred to as the 'Office'). The Office shall be headed by the Ombudsman of the Peace Corps (hereinafter in this section referred to as the 'Ombudsman'), who shall be appointed by and report directly to the Director of the Peace Corps.

"(b) VOLUNTEER COMPLAINTS AND OTHER MATTERS.—The Ombudsman shall receive and, as appropriate, inquire into complaints, questions, or concerns submitted by current or former volunteers regarding services or support provided by the Peace Corps to its volunteers, including matters pertaining to—

"(1) the safety and security of volunteers;

"(2) due process, including processes relating to separation from the Peace Corps;

"(3) benefits and assistance that may be due to current or former volunteers;

"(4) medical or other health-related assistance; and

"(5) access to files and records of current or former volunteers.

"(c) EMPLOYEE COMPLAINTS AND OTHER MATTERS.—The Ombudsman shall receive and, as appropriate, inquire into complaints, questions, or concerns submitted by current or former employees of the Peace Corps on any matters of grievance.

"(d) ADDITIONAL DUTIES.—The Ombudsman shall—

"(1) recommend responses to individual matters received under subsections (b) and (c);

"(2) make recommendations for administrative or regulatory adjustments to address recurring problems or other difficulties of the Peace Corps;

"(3) identify systemic issues that relate to the practices, policies, and administrative procedures of the Peace Corps affecting volunteers and employees; and

"(4) call attention to problems not yet adequately considered by the Peace Corps.

"(e) Standards of Operation.—The Ombudsman shall carry out the duties under this section in a manner that is—

"(1) independent, impartial in the conduct of inquiries, and confidential; and

"(2) consistent with the revised Standards for the Establishment and Operation of Ombudsman Offices (August 2003) as endorsed by the American Bar Association.

"(f) Involvement in Matters Subject to Ongoing Adjudication, Litigation, or Investigation.—The Ombudsman shall refrain from any involvement in the merits of individual matters that are the subject of ongoing adjudication or litigation, or investigations related to such adjudication or litigation.

"(g) Reports.—

"(1) In general.—Not later than 180 days after the date of the enactment of this section, and semiannually thereafter, the Ombudsman shall submit to the Director of the Peace Corps, the Chair of the Peace Corps National Advisory Council, and Congress a report containing a summary of—

"(A) the complaints, questions, and concerns considered by the Ombudsman;

"(B) the inquiries completed by the Ombudsman;

"(C) recommendations for action with respect to such complaints, questions, concerns, or inquiries; and

"(D) any other matters that the Ombudsman considers relevant.

"(2) Confidentiality.—Each report submitted under paragraph (1) shall maintain confidentiality on any matter that the Ombudsman considers appropriate in accordance with subsection (e).

"(h) Definition.—In this section, the term 'employee' means an employee of the Peace Corps, an employee of the Office of Inspector General of the Peace Corps, an individual appointed or assigned under the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.) to carry out functions under this Act, or an individual subject to a personal services contract with the Peace Corps.".

SEC. 3. OFFICE OF SAFETY AND SECURITY OF THE PEACE CORPS.

The Peace Corps Act (22 U.S.C. 2501 et seq.), as amended by section 2 of this Act, is further amended by inserting after section 4A the following new section:

"SEC. 4B. OFFICE OF SAFETY AND SECURITY OF THE PEACE CORPS.

"(a) Establishment.—There is established in the Peace Corps the Office of Safety and Security of the Peace Corps (hereinafter in this section referred to as the 'Office'). The Office shall be headed by the Associate Director of Safety and Security of the Peace Corps, who shall be appointed by and report directly to the Director of the Peace Corps.

"(b) Responsibilities.—The Office established under subsection (a) shall be responsible for all safety and security activities of the Peace Corps, including background checks of volunteers and staff, safety and security of volunteers and staff (including training), safety and security of facilities, security of information technology, and other responsibilities as required by the Director.

"(c) Sense of Congress.—It is the sense of Congress that—

"(1) the Associate Director of Safety and Security of the Peace Corps, as appointed pursuant to subsection (a) of this section, should assign a Peace Corps country security coordinator for each country where the Peace Corps has a program of volunteer service for the purposes of carrying out the field responsibilities of the Office established under subsection (a); and

"(2) each country security coordinator—

"(A) should be under the supervision of the Peace Corps country director in each such country;

"(B) should report directly to the Associate Director of Safety and Security of the Peace Corps, as appointed pursuant to subsection (a) of this section, on all matters of importance as the country security coordinator considers necessary;

"(C) should be responsible for coordinating with the regional security officer of the Peace Corps responsible for the country to which such country security officer is assigned; and

"(D) should be a United States citizen who has access to information, including classified information, relating to the possible threats against Peace Corps volunteers.".

SEC. 4. OFFICE OF MEDICAL SERVICES OF THE PEACE CORPS.

(a) Report on Medical Screening and Placement Coordination.—Not later than 120 days after the date of the enactment of this Act, the Director of the Peace Corps shall submit to the appropriate congressional committees a report that—

(1) describes the medical screening procedures and guidelines used by the office responsible for medical services of the Peace Corps to determine whether an applicant for Peace Corps service has worldwide clearance, limited clearance, a deferral period, or is not medically, including psychologically, qualified to serve in the Peace Corps as a volunteer;

(2) describes the procedures and guidelines used by the Peace Corps to ensure that applicants for Peace Corps service are matched with a host country where the applicant, reasonable accommodations notwithstanding, can complete at least two years of volunteer service without interruption due to foreseeable medical conditions; and

(3) with respect to each of the fiscal years 2000 through 2003 and the first six months of fiscal year 2004, states the number of—

(A) medical screenings of applicants conducted;

(B) applicants who have received worldwide clearance, limited clearance, deferral periods, and medical disqualifications to serve;

(C) appeals to the Medical Screening Review Board of the Peace Corps and the number of times that an initial screening decision was upheld;

(D) requests to the head of the office responsible for medical services of the Peace Corps for reconsideration of a decision of the Medical Screening Review Board and the number of times that the decision of the Medical Screening Review Board was upheld by the head of such office;

(E) Peace Corps volunteers who became medically qualified to serve because of a decision of the Medical Screening Review Board and who were later evacuated or terminated their service early due to medical reasons;

(F) Peace Corps volunteers who became medically qualified to serve because of a decision of the head of the office responsible for medical services of the Peace Corps and who were later evacuated or terminated their service early due to medical reasons;

(G) Peace Corps volunteers who the agency has had to separate from service due to the discovery of undisclosed medical information; and

(H) Peace Corps volunteers who have terminated their service early due to medical, including psychological, reasons.

(b) Definition.—In subsection (a), the term "appropriate congressional committees" means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

(c) Full Time Director of Medical Services.—Section 4(c) of the Peace Corps Act (22 U.S.C. 2503(c)) is amended by adding at the end the following new paragraph:

"(5) The Director of the Peace Corps shall ensure that the head of the office responsible for medical services of the Peace Corps does not occupy any other position in the Peace Corps.".

SEC. 5. REPORTS ON THE "FIVE YEAR RULE" AND ON WORK ASSIGNMENTS OF VOLUNTEERS OF THE PEACE CORPS.

(a) Report by the Comptroller General.—

(1) In general.—Not later than one year after the date of enactment of this Act, the Comptroller General shall submit to the appropriate congressional committees a report on the effects of the limitation on the duration of employment, appointment, or assignment of officers and employees of the Peace Corps under section 7 of the Peace Corps Act (22 U.S.C. 2506) on the ability of the Peace Corps to effectively manage Peace Corps operations.

(2) Contents.—The report described in paragraph (1) shall include—

(A) a description of such limitation;

(B) a description of the history of such limitation and the purposes for which it was enacted and amended;

(C) an analysis of the impact of such limitation on the ability of the Peace Corps to recruit capable volunteers, establish productive and worthwhile assignments for volunteers, provide for the health, safety, and security of volunteers, and, as declared in section 2(a) of the Peace Corps Act (22 U.S.C. 2501(a)), "promote a better understanding of the American people on the part of the peoples served and a better understanding of other peoples on the part of the American people";

(D) an assessment of whether the application of such limitation has accomplished the objectives for which it was intended; and

(E) recommendations, if any, for legislation to amend provisions of the Peace Corps Act relating to such limitation.

(b) Report on Work Assignments of Volunteers.—

(1) In general.—Not later than 180 days after the date of the enactment of this Act, the Director of the Peace Corps shall submit to the appropriate congressional committees a report on the extent to which the work assignments of Peace Corps volunteers fulfill the commitment of the Peace Corps to ensuring that such assignments are well developed, with clear roles and expectations, and that volunteers are well-suited for their assignments.

(2) Contents.—The report described in paragraph (1) shall include—

(A) an assessment of the extent to which agreements between the Peace Corps and host countries delineate clear roles for volunteers in assisting host governments to advance their national development strategies;

(B) an assessment of the extent to which the Peace Corps recruits volunteers who have skills that correlate with the expectations cited in the country agreements and assigns such volunteers to such posts;

(C) a description of procedures for determining volunteer work assignments and minimum standards for such assignments;

(D) a volunteer survey on health, safety, and security issues as well as satisfaction surveys which will have been conducted after the date of the enactment of this Act; and

(E) an assessment of the plan of the Peace Corps to increase the number of volunteers who are assigned to projects in sub-Saharan Africa, Asia, and the Western Hemisphere, particularly among communities of African descent within countries in the Western Hemisphere, which help combat HIV/AIDS and other global infectious diseases.

(c) DEFINITION.—In this section, the term "appropriate congressional committees" means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

SEC. 6. INSPECTOR GENERAL OF THE PEACE CORPS.

(a) ESTABLISHMENT OF INDEPENDENT INSPECTOR GENERAL.—

(1) IN GENERAL.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(A) in section 8G(a)(2), by striking ", the Peace Corps";

(B) in section 9(a)(1), by adding at the end the following new subparagraph:

"(X) of the Peace Corps, the office of that agency referred to as the 'Office of Inspector General'; and"; and

(C) in section 11—

(i) in paragraph (1), by striking "or the Office of Personnel Management" and inserting "the Office of Personnel Management, or the Peace Corps"; and

(ii) in paragraph (2), by inserting ", the Peace Corps" after "the Office of Personnel Management".

(2) TECHNICAL AMENDMENT.—Section 9(a)(1)(U) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking "and" at the end.

(b) TEMPORARY APPOINTMENT.—The Director of the Peace Corps may appoint an individual to assume the powers and duties of the Inspector General of the Peace Corps under the Inspector General Act of 1978 (5 U.S.C. App.) on an interim basis until such time as a person is appointed by the President, by and with the advice and consent of the Senate, pursuant to the amendments made in this section.

(c) EXEMPTION FROM EMPLOYMENT TERM LIMITS UNDER THE PEACE CORPS ACT.—

(1) IN GENERAL.—Section 7 of the Peace Corps Act (22 U.S.C. 2506) is amended—

(A) by redesignating subsection (c) as subsection (b); and

(B) by adding at the end the following new subsection:

"(c) The provisions of this section that limit the duration of service, appointment, or assignment of individuals shall not apply to—

"(1) the Inspector General of the Peace Corps;

"(2) officers of the Office of the Inspector General of the Peace Corps;

"(3) any individual whose official duties primarily include the safety and security of Peace Corps volunteers or employees;

"(4) the head of the office responsible for medical services of the Peace Corps; or

"(5) any health care professional within the office responsible for medical services of the Peace Corps.".

(2) CONFORMING AMENDMENT.—The first proviso of section 15(d)(4) of the Peace Corps Act (22 U.S.C. 2514(d)(4)) is amended by striking "7(c)" and inserting "7(b)".

(d) COMPENSATION.—Section 7 of the Peace Corps Act (22 U.S.C. 2506), as amended by subsection (c) of this section, is further amended by adding at the end the following new subsection:

"(d) The Inspector General of the Peace Corps shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. SMITH) and the gentlewoman from California (Ms. LEE) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SMITH).

GENERAL LEAVE

Mr. SMITH of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the Health, Safety, and Security of Peace Corps Volunteers Act of 2004.

□ 1530

The members of the Committee on International Relations received testimony in March at an important oversight hearing on the Peace Corps. We heard about some of the past problems and current problems the Peace Corps faces as it expands the number of volunteers around the world while at the same time taking into account the changed circumstances for American citizens living abroad during the post-September 11 period.

I am a very strong, long-time supporter of the Peace Corps. My colleagues and I who are strong supporters of the Peace Corps admire the sacrifice and important work that these volunteers do. We want to ensure through this legislation that the Peace Corps has the necessary procedures in place to protect our Nation's sons and daughters, or parents and grandparents, who dedicate 2 years of their lives to improving the circumstances of the peoples of the developing world.

Mr. Speaker, at the March hearing we inquired into the adequacy of safety and security practices that govern volunteer assignments in more dangerous places around the world. We found that in Bolivia in 2001 the Peace Corps did not have in place the necessary management procedures to monitor or to account for a missing volunteer named Walter Poirier. We learned that the Poirier family of Lowell, Massachusetts, had to notify the Peace Corps that their son was missing. We understand from the General Accounting Office that the Peace Corps has taken important steps to remedy some of these problems, but still there is room for improvement.

H.R. 4060 is intended to prepare the Peace Corps for expansion in a more dangerous world. The bill makes a number of important changes to the Peace Corps Act.

The legislation creates the position of ombudsman to receive and inquire into complaints, questions or concerns raised by current or former volunteers or employees regarding services or support provided by the Peace Corps. The legislation statutorily creates an Office of Safety and Security within the Peace Corps to be headed by an Associate Director for Safety and Security who shall be responsible for all safety and security activities of the Peace Corps.

This bill requires a report on the medical screening procedures and guidelines used by the Peace Corps to determine whether an applicant is medically and psychologically qualified to serve in the Peace Corps as a volunteer. The legislation also requires a report by the Comptroller General on the "5-year rule" which was cited by the GAO in previous reports as one of the reasons for an unacceptably high degree of staff turnover and loss of institutional memory, especially on safety and security matters.

The legislation also creates a more independent Inspector General of the Peace Corps, exempting that individual and the staff of the I.G. from the 5-year rule, and creating more accountable oversight by this committee through increased access to information from the I.G. on all matters relating to the management of the Peace Corps.

Mr. Speaker, this legislation responds to the concerns addressed by our witnesses last week and also responds to the concerns raised by current and former volunteers who have contacted the committee to discuss their experience with the Peace Corps. I ask support for this legislation.

Mr. Speaker, I reserve the balance of my time.

Ms. LEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just say, Mr. Speaker, I rise today in strong support of this legislation; and I urge my colleagues to do so as well.

First, Mr. Speaker, I would like to thank the gentleman from Illinois (Mr. HYDE), the ranking member, the gentleman from California (Mr. LANTOS), and the gentleman from New Jersey (Mr. SMITH). I want to thank all of them for their very strong interest and support of the Peace Corps, its nearly 8,000 volunteers and the larger Peace Corps community.

Now, last year, Mr. Speaker, the House of Representatives approved the Peace Corps Expansion Act, which is designed to double the size of the Peace Corps and to increase its effectiveness overseas.

The legislation before us today builds upon this important initiative by focusing on the need to improve the safety and the security of our Peace Corps volunteers. While most Peace Corps volunteers have a safe and positive experience, the General Accounting Office testified before the committee that volunteers under-reported crimes against them in part due to the belief that the Peace Corps lacks the capacity or the willingness to help.

The GAO and the other witnesses also testified that the lack of well-developed assignments really discourages volunteers from adequately immersing themselves in their host communities and thereby benefiting from the protections afforded to members from these villages and also those towns.

Finally, the witnesses noted that the administrative impediments such as limitations on terms of employment within the Peace Corps and worrisome changes within the Office of Medical Services constrain Peace Corps employees from providing the best possible support to volunteers.

Mr. Speaker, the bill that we are considering today addresses these issues by establishing an ombudsman within the agency to listen and to attend to volunteer and employee concerns by increasing the independence of the Inspector General of the Peace Corps to strengthen his ability or her ability to act as a watchdog on behalf of volunteers, also by requiring the agency to study and to report to us on how it can improve programming for volunteers and by lifting the term limits for key offices within the agency. I strongly support all of these provisions.

Now, just as I support this bill to enhance the security and well-being of the volunteers, I also might mention support for legislation which I have introduced to create a special postage stamp through the Peace Stamp Act which calls for the creation of a stamp, the revenues from which would send money to the Peace Corps. This stamp would help provide funding, badly needed funding, for the increased Peace Corps force that President Bush has called for. This bill, H.R. 4060, which we have before us today, will help us ensure the well-being of an expanded Peace Corps.

Mr. Speaker, we must not lose sight of the fact that Peace Corps volunteers for over 40 years have been doing extraordinary jobs as our development ambassadors to the most remote centers of the world. They have truly been our very best ambassadors; and they have been doing their jobs, quite frankly, under very difficult and oftentimes very risky conditions. However, as we consider measures to improve the health, safety and security of our volunteers, we must be careful not to forge shields around our volunteers which will make it harder for them to reach the young English student, for example, in Central Asia or the Women's Cooperative in Peru and to reach and really pursue their own growth and development. So there is this very delicate balance that we must meet and we must put together, and I believe this bill does that.

I strongly support passage of this legislation and urge my colleagues to do so as well.

Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. FARR), a good friend, a great leader in this House, a former Peace Corps volunteer who served in Colombia and who knows the Peace Corps backwards and forwards and who has provided many years of service not only in this body but in many legislative bodies, and I think especially and most importantly for us today as our Peace Corps volunteer.

Mr. FARR. Mr. Speaker, I thank the gentlewoman from California (Ms. LEE) for yielding me time and for allowing me to join her on the floor today. I want to thank the gentleman from Illinois (Mr. HYDE) and members of the committee for allowing me to attend the hearing that led to the markup of this bill.

I served in the Peace Corps, and it holds a really special place in my heart, as it does for four other Members of Congress who are also return Peace Corps volunteers. Our colleagues, the gentleman from Connecticut (Mr. SHAYS), the gentleman from New York (Mr. WALSH), the gentleman from Wisconsin (Mr. PETRI), the gentleman from California (Mr. HONDA) and myself all are return Peace Corps volunteers.

In the 1960s I spent 2 years serving as a Peace Corps volunteer in Colombia, South America. My experience as a Peace Corps volunteer helped me to motivate my life to public service and I think helped shape me into the person I am today. And there are tens and tens of thousands of Americans who have served in the Peace Corps in over 130 countries throughout the world and who have had similar experiences.

The vast majority of the return Peace Corps volunteers agree with the sentiment that the Peace Corps experience was the toughest job they ever loved. Peace Corps not only benefits individual Americans, but it also helps the developing world and makes the world a bit safer one volunteer at a time. The important community-based jobs the Peace Corps volunteers perform are instrumental in helping to bring about greater peace and security in the world. Not only are PCVs helping people in developing countries overcome poverty, one of the root causes of terrorism, they are also showing the world a different, friendlier face of what Americans are really like.

Peace Corps volunteers live, eat and work amongst the people in countries from Albania to Zambia. In this type of environment, where a Peace Corps volunteer is teaching hand washing to a child or computer literacy to a brother, the realization quickly dawns on the people, regardless of their nationality, that we have more similarities than differences. This people-to-people interaction is the real recipe for creating more peace and stability in the world.

Today we are discussing the Health, Safety and Security of Peace Corps Volunteers Act of 2004, which tries to improve the safety of volunteers who can sometime serve in isolated areas of the world. H.R. 4060 addresses some important issues and tries to increase the safety and oversight of the Peace Corps.

I am very pleased that this bill does not mandate that volunteers must be paired together in communities. The best security measure for Peace Corps volunteers is for them to integrate quickly into their communities. Pairing volunteers would impede I think in this integration into the host country.

My major concern with H.R. 4060, though, is that the safety and security measures should not take away from the important existing budgetary requirements of the Peace Corps. Let me end by reminding this body that in the currently constricted budget environment we need to carefully allocate our resources. Just recently, General Abizaid, who is head of the Middle East, let our Committee on Appropriations know that he thought America would never be able to have world peace until we were able to cross the cultural divides.

I cannot think of any better investment that the United States Congress can make than to fully fund the Peace Corps as the President has requested in his State of the Union Address. What he asked was to double the size of the Peace Corps, which we have, but now we have failed to meet the President's demands on what it will take to do that. That is a very bad mistake at this time in the history of the United States.

I am glad the Congress is concerned with the safety of volunteers, but I urge each of our Members, when it comes to the appropriations process, let us meet the President's request. Let us fully fund the Peace Corps. Let us indeed teach America how to cross the cultural divide and create world peace forever.

Ms. LEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will close for our side with just these few comments. I want to thank the gentleman from California (Mr. FARR) for his comments and for his really deep and abiding commitment to the Peace Corps.

I will say that I have had the privilege since I guess about 1980 to travel and meet with Peace Corps volunteers throughout the world. What I have witnessed in terms of their level of commitment, their level of understanding of their work and their real commitment not only to their region or their community or their village where they are working but really to the entire world is really phenomenal; and I want to support the gentleman from California (Mr. FARR) in his position and his comment that we need to fully fund the Peace Corps at the levels that the administration has requested.

Having said that, let me just say how important this measure is today. Those Peace Corps volunteers who are out there, as I said earlier, representing our country, they are really our best ambassadors; and, minimally, we should provide for every bit of security and safety that they need, everything that they need to make their job not only rewarding but safe so that they can return and really share their experiences with those who have not had the opportunity to volunteer abroad and help develop even an expanded and larger Peace Corps force.

Let me thank everyone for their support of this bill for ensuring that it is a bipartisan bill.

Mr. Speaker, we have no further requests for time, and I yield back the balance of my time.

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentlewoman from California (Ms. LEE) for managing the bill for the Democrats and the gentleman from California (Mr. LANTOS) for his work in crafting this legislation. I especially want to thank the gentleman from Illinois (Mr. HYDE) for authoring this very important piece of legislation to make sure to the greatest extent possible that U.S. professionals—of all ages—who are deployed abroad as part of the Peace Corps, one of the finest U.S. initiatives ever created, get the best possible protection and security. We need to provide them protection, that is second to none, so that they can be safe and secure.

□ 1545

Obviously, when people are deployed to dangerous areas, there are risks that are associated with that commitment. Still, it is up to this Congress, the State Department, and the administration, to ensure that no stone is left unturned in trying to make sure that Peace Corps volunteers are safe and secure in that environment

No bill comes to this floor without a tremendous amount of work by very competent staff, and Peter Smith has helped to draft this legislation. I want to thank him especially for his fine work and his skill and expertise in drafting this bill, as well as Paul Oostburg for his work on it as well.

Mr. Speaker, I urge Members to support H.R. 4060.

Mr. HONDA. Mr. Speaker, I rise today in support of H.R. 4060—the Health, Safety, and Security of Peace Corps Volunteers Act of 2004.

This important measure amends the Peace Corps Act to establish the Office of the Ombudsman of the Peace Corps. This office will have the important role of addressing complaints or concerns regarding services or support provided by the Peace Corps to its Volunteers. The measure also establishes the Office of Safety and Security of the Peace Corps, which as the title of the section implies, will be responsible for safety and security activities of the Peace Corps.

The Peace Corps' mission of compassion, skill-sharing and diplomacy is more important today than ever before to our global village. As many parts of the world become an increasingly dangerous place to carry out this mission, we must do all we can to provide safety and security for our Volunteers.

Since 1961, Peace Corps Volunteers have strengthened the ties of friendship and understanding between the people of the United States and those of other countries. Some one hundred and seventy thousand volunteers have served in 137 countries over the past 43 years to make an impact on this world. We owe it to these Volunteers to create avenues for their concerns to be heard.

I am proud to say that as a young man, I served as a Volunteer in the Republic of El Salvador, building schools and health clinics, learning the language, and developing an enduring bond with the people, culture, and language. The experience instilled in me a profound connection to that country, and a dedication to improving international relations around the world.

Over the past 43 years, the Peace Corps has become an enduring symbol of our nation's commitment to progress, opportunity, and development at the grass-roots level in the developing world.

Mr. Speaker, the Peace Corps has been a part of my life for almost forty years. I have served as a Volunteer, I have supported important Peace Corps legislation and today I rise in support of the Health, Safety, and Security of Peace Corps Volunteers Act of 2004.

Mr. SMITH of New Jersey. Mr. Speaker, I yield back the balance of our time.

The SPEAKER pro tempore (Mr. MURPHY). The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 4060.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

MOUNT RAINIER NATIONAL PARK BOUNDARY ADJUSTMENT ACT OF 2003

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 265) to provide for an adjustment of the boundaries of Mount Rainier National Park, and for other purposes, as amended.

The Clerk read as follows:

H.R. 265

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mount Rainier National Park Boundary Adjustment Act of 2003".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The Carbon River watershed within Pierce County in the State of Washington has unique qualities of ecological, economic, and educational importance, including clean water, productive salmon streams, important wildlife habitat, active geologic processes, outdoor recreational opportunities, scenic beauty, educational opportunities, and diverse economic opportunities.

(2) Mount Rainier National Park is one of the premier attractions in the State of Washington, providing recreational, educational, and economic opportunities that will be enhanced by the construction of new campgrounds and visitor contact facilities in the Carbon River valley outside old-growth forest habitats and above the flood plain.

(3) Coordination of management across national forest and national park lands in this corridor will enhance the conservation of the forest ecosystem and public enjoyment of these public lands.

(4) Protection and development of historic and recreational facilities in the Carbon River valley, such as trails and visitor centers, can be facilitated by the National Park Service.

SEC. 3. MOUNT RAINIER NATIONAL PARK BOUNDARY ADJUSTMENT.

(a) BOUNDARY ADJUSTMENT.—The boundary of Mount Rainier National Park is modified to include the area within the boundary generally depicted on the map entitled "Mount Rainier National Park, Carbon River Boundary Adjustment", numbered 105/92,002B, and dated June 2003. The Secretary of the Interior shall keep the map on file in the appropriate offices of the National Park Service.

(b) LAND ACQUISITION.—The Secretary of the Interior may acquire, only with the consent of the owner, by donation, purchase with donated or appropriated funds, or exchange—

(1) land or interests in land, totaling not more than 800 acres, and improvements thereon within the boundary generally depicted on the map referred to in subsection (a) for development of camping and other recreational facilities; and

(2) land or interests in land, totaling not more than one acre, and improvements thereon in the vicinity of Wilkeson, Washington, for a facility to serve visitors to public lands along the Carbon and Mowich Corridors.

(c) ADMINISTRATION OF ACQUIRED LANDS.—Lands acquired under this section shall be administered by the Secretary of the Interior as part of Mount Rainier National Park in accordance with applicable laws and regulations.

SEC. 4. ASSOCIATED LANDS.

The Secretary of Agriculture shall manage that portion of the Mt. Baker-Snoqualmie National Forest lying adjacent to Mt. Rainier National Park, as identified on the map referred to *in section 3(a), to maintain the area's natural setting in a manner consistent with its management as of June 1, 2003.*

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nevada (Mr. GIBBONS) and the gentleman from Texas (Mr. RODRIGUEZ) each will control 20 minutes.

The Chair recognizes the gentleman from Nevada (Mr. GIBBONS).

GENERAL LEAVE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 265, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 265, introduced by the gentlewoman from Washington (Ms. DUNN) and amended by the Committee on Resources, would authorize the Secretary of the Interior to adjust the boundary of the Mount Rainier National Park by creating a new noncontiguous unit to the park. The new area would provide for improved camping opportunities near the northwest entrance of the park, while ensuring continued access for the Muckleshoot Tribe to nearby U.S. Forest Service lands.

Today, the only road leading to the current popular campgrounds in the northwestern portion of the park continues to be flooded out by the Carbon River. I believe this bill represents a commonsense solution to this ongoing problem.

Mr. Speaker, H.R. 265, as amended, is supported by both the majority and minority members of the committee, as well as the Muckleshoot Tribe and the National Park Service. I commend the gentlewoman from Washington (Ms. DUNN) for her tireless efforts to work with all parties concerned to reach the consensus that is before us on the House floor today.

That said, Mr. Speaker, I urge adoption of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. RODRIGUEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the majority has adequately explained this piece of legislation.

I would simply note that H.R. 265, as amended, represents a cooperative effort among the bill's sponsors, the Committee on Resources and the National Park Service and the Forest Service.

The bill, as amended, is a workable solution to the resource management needs in the area, and we support the adoption of this legislation by the House today.

Ms. DUNN. Mr. Speaker, H.R. 265, The Mount Rainier Boundary Adjustment Act of 2003, will allow the National Park Service to relocate a popular campground that has limited access as the result of road damage caused by years of reoccurring floods. The road to Ipsut Creek Campground in Mount Rainier National Park is now located below the level of the Carbon River in many areas. Due to frequent road washouts, it can be difficult—if not impossible—for visitors and residents to drive safely to the campground.

There have been numerous attempts to repair this road—but, unfortunately, it continues to wash out. Previous road reconstruction after flooding has cost $750,000.

The road to the campground serves as one of the most primitive and popular entrances into Mount Rainier Park and leads to a temperate rainforest within the park as well as the beautiful Carbon Glacier.

This boundary adjustment will allow for the purchase of approximately 800 acres of private land just outside the park, allowing the campground to be moved to a more secure area and providing safe travel to the site. All of the private landowners are willing sellers, and this vital project is currently included in the National Park Service Management Plan. It has the strong support of the local residents, the Muckleshoot Indian Tribe and numerous conservation organizations.

The Congressional Budget Office released a favorable estimate for this project—stating that this act will have no significant impact on the budgets of State, local, or tribal governments. In addition, the CBO found that annual maintenance spending at Mount Rainier will not notably increase, ensuring that the Park will not have to assume additional, costly responsibilities.

Mr. Speaker, H.R. 265 has broad, bi-partisan support and is a critical priority not only for ensuring safe travel to the Carbon River area of Mount Rainier Park, but for providing a permanent solution to an expensive, ongoing maintenance problem for our Park personnel.

I would like to thank Chairman RADANOVICH on the National Parks Subcommittee, as well as Chairman POMBO and Ranking Member RAHALL on the full Resources Committee for their help and support in bringing this legislation to the floor for consideration. I would also like to thank the majority and minority staff on the Resources Committee for their work.

Mr. Speaker, I urge my colleagues to support this legislation to help ensure safe travel in one of our Nation's most visited and well-loved National Parks.

Mr. RODRIGUEZ. Mr. Speaker, I have no additional speakers, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I have no additional speakers, and I yield back the balance of my time and urge a favorable vote on this measure.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nevada (Mr. GIBBONS) that the House suspend the rules and pass the bill, H.R. 265, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

REAFFIRMATION OF CERTAIN RIGHTS OF THE OSAGE TRIBE

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2912) to reaffirm the inherent sovereign rights of the Osage Tribe to determine its membership and form of government.

The Clerk read as follows:

H.R. 2912

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REAFFIRMATION OF CERTAIN RIGHTS OF THE OSAGE TRIBE.

(a) FINDINGS.—The Congress finds as follows:

(1) The Osage Tribe is a federally recognized tribe based in Pawhuska, Oklahoma.

(2) The Osage Allotment Act of June 28, 1906 (34 Stat. 539), states that the "legal membership" of the Osage Tribe includes the persons on the January 1, 1906 roll and their children, and that each "member" on that roll is entitled to a headright share in the distribution of funds from the Osage mineral estate and an allotment of the surface lands of the Osage Reservation.

(3) Today only Osage Indians who have a headright share in the mineral estate are "members" of the Osage Tribe.

(4) Adult Osage Indians without a headright interest cannot vote in Osage government elections and are not eligible to seek elective office in the Osage Tribe as a matter of Federal law.

(5) A principal goal of Federal Indian policy is to promote tribal self-sufficiency and strong tribal government.

(b) REAFFIRMATION OF CERTAIN RIGHTS OF THE OSAGE TRIBE.—

(1) MEMBERSHIP.—Congress hereby clarifies that the term "legal membership" in section 1 of the Act entitled, "An Act For the division of lands and funds of the Osage Indians in Oklahoma Territory, and for other purposes", approved June 28, 1906 (34 Stat. 539), means the persons eligible for allotments of Osage Reservation lands and a pro rata share of the Osage mineral estate as provided in that Act, not membership in the Osage Tribe for all purposes. Congress hereby reaffirms the inherent sovereign right of the Osage Tribe to determine its own membership, provided that the rights of any person to Osage mineral estate shares are not diminished thereby.

(2) GOVERNMENT.—Notwithstanding section 9 of the Act entitled, "An Act For the division of lands and funds of the Osage Indians in Oklahoma Territory, and for other purposes", approved June 28, 1906 (34 Stat. 539), Congress hereby reaffirms the inherent sovereign right of the Osage Tribe to determine its own form of government.

(3) ELECTIONS AND REFERENDA.—At the request of the Osage Tribe, the Secretary of the Interior shall assist the Osage Tribe with conducting elections and referenda to implement this section.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nevada (Mr. GIBBONS) and the gentleman from Texas (Mr. RODRIGUEZ) each will control 20 minutes.

The Chair recognizes the gentleman from Nevada (Mr. GIBBONS).

GENERAL LEAVE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2912, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2912 is sponsored by the gentleman from Oklahoma (Mr. LUCAS). This legislation would put the Osage Tribe on the same footing as every other sovereign, federally recognized tribe in the United States in terms of defining its own membership criteria and its form of government.

The Committee on Resources ordered H.R. 2912 reported by unanimous consent, and the report was filed on May 19, 2004.

The Osage Tribe is the only federally recognized tribe for which a specific act of Congress, which was passed nearly 100 years ago, mandates terms of membership in the tribe, as well as its form of government.

Under the Osage Allotment Act of 1906, as interpreted by subsequent Federal court decisions, the only legal members of the Osage Tribe are the lineal descendents of those Osage persons living before July 1, 1907, who also possess what is called a "headright share." A headright share, Mr. Speaker, is a share in the royalties from mineral development in the Osage reservation.

This has had the unfortunate result of excluding people who have a high degree of Osage blood from membership in the tribe. Even though the Osage tribal leaders want to allow such disenfranchised people to become members, the 1906 act precludes them from altering their tribe's membership criteria.

The reasons for how the 1906 act came about are complicated, and though Congress may have had its reasons for mandating membership rules for the Osage people, such reasons are no longer relevant today. Preventing the tribe from determining its membership and form of government is the exact opposite of promoting self-determination.

The Committee on Resources held a hearing within the Osage reservation on March 15, 2004. We received testimony from several witnesses with a high degree of Osage blood who are part of the Osage community in Oklahoma and whom many of the tribal members want to welcome into the tribe.

But because of the 1906 act, they are not eligible to be members of the tribe because they do not own a headright share in the Osage mineral estate. They are denied the basic benefit, as well as responsibilities, of tribal membership. Some are not eligible for certain services and benefits, such as Native American scholarships. They are prohibited by law from participating in certain rituals and ceremonial events, even though they may or might, in theory, have a higher degree of Osage blood than official members of the tribe.

It is past time to consider letting the Osage Tribe decide how to govern itself as it sees fit, providing that no one loses any property or other vested legal rights in the process. H.R. 2912 includes language to ensure that no one's interest in headright shares is touched. Headrights are private property, and there is no intent to affect them under this bill.

This bill received support from all the witnesses testifying at the hearing, including the representatives of the Osage Shareholders Association, which is comprised of individuals who have a vested interest in the mineral estate of the Osage reservation.

Again, Congress is overdue in addressing this unusual problem, and I urge passage of H.R. 2912.

Mr. Speaker, I reserve the balance of my time.

Mr. RODRIGUEZ. Mr. Speaker, I yield myself as much time as I might consume.

Mr. Speaker, the honorable gentleman from Nevada (Mr. GIBBONS) has done a beautiful job of adequately explaining the legislation.

I would simply like to add, for almost a century now the Osage Tribe of Oklahoma has lived with a cloud over their ability to determine tribal membership roles. This is a basic right afforded all Indian tribes, and I am pleased we are here to clarify the matter for the tribe.

I would also like to commend the gentleman from Oklahoma (Mr. CARSON) for his work on behalf of the legislation during its consideration by the Committee on Resources.

Mr. Speaker, I reserve the balance of my time.

Mr. GIBBONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma (Mr. LUCAS), who is the author of this bill.

Mr. LUCAS of Oklahoma. Mr. Speaker, I am here today to bring my strong support to H.R. 2912 to reaffirm the inherent sovereign rights of the Osage Tribe to determine their membership and form of government. Because of a law created in 1906 by this Congress, the Osage Tribe has not been afforded the same rights as every other federally recognized tribe. According to that law, membership in the tribe would be extended only to those who owned a share of the Osage mineral estate and their descendents. Today, there are literally thousands of Osage Indians denied the benefits of membership simply because they do not hold a share of that estate.

H.R. 2912, which I introduced in July of 2003, was designed to clarify the 98-year-old law. It is intended to put the Osage Tribe on equal footing with all other federally recognized tribes by allowing them to determine their own membership criteria and system of government, while protecting the headrights of the shareholders.

I believe most importantly it will give many Osages, many young Osages, the opportunity to take part in Indian programs that have been previously denied to them.

At a field hearing in March of this year, members of the Committee on Resources and I heard testimony from members of the Osage Tribe, as well as others involved with Indian affairs. It was clear from the warm reception that the bill received that the Osage people are prepared for the right to decide for themselves who is and who is not a tribal member.

Mr. Speaker, I am quite confident in 1906 that this body was acting in the spirit of benevolent support to protect the Osages from what was, at that time, I should say, fantastic mineral wealth within their tribal reservation. Times have changed. The oil fields are not quite what they once were. It is important, I believe, now that we allow the Osages the same rights as every other federally recognized tribe; that we allow the Osages to go forward with their tribe.

Therefore, Mr. Speaker, I urge my colleagues to vote in favor of H.R. 2912, bringing the Osage Tribe one step closer to finally receiving that right.

Mr. RODRIGUEZ. Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nevada (Mr. GIBBONS) that the House suspend the rules and pass the bill, H.R. 2912.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

NATIONAL GREAT BLACK AMERICANS COMMEMORATION ACT OF 2004

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1233) to authorize assistance for the National Great Blacks in Wax Museum and Justice Learning Center, as amended.

The Clerk read as follows:

S. 1233

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Great Black Americans Commemoration Act of 2004".

SEC. 2. FINDINGS.

Congress finds the following:

(1) Black Americans have served honorably in Congress, in senior executive branch positions, in the law, the judiciary, and other fields, yet their record of service is not well known by the public, is not included in school history lessons, and is not adequately presented in the Nation's museums.

(2) The Great Blacks in Wax Museum, Inc. in Baltimore, Maryland, a nonprofit organization, is the Nation's first wax museum presenting the history of great Black Americans, including those who have served in Congress, in senior executive branch positions, in the law, the judiciary, and other fields, as well as others who have made significant contributions to benefit the Nation.

(3) The Great Blacks in Wax Museum, Inc. plans to expand its existing facilities to establish the National Great Blacks in Wax Museum and Justice Learning Center, which is intended to serve as a national museum and center for presentation of wax figures and related interactive educational exhibits portraying the history of great Black Americans.

(4) The wax medium has long been recognized as a unique and artistic means to record human history through preservation of the faces and personages of people of prominence, and historically, wax exhibits were used to commemorate noted figures in ancient Egypt, Babylon, Greece, and Rome, in medieval Europe, and in the art of the Italian renaissance.

(5) The Great Blacks in Wax Museum, Inc. was founded in 1983 by Drs. Elmer and Joanne Martin, 2 Baltimore educators who used their personal savings to purchase wax figures, which they displayed in schools, churches, shopping malls, and festivals in the mid-Atlantic region.

(6) The goal of the Martins was to test public reaction to the idea of a Black history wax museum and so positive was the response over time that the museum has been heralded by the public and the media as a national treasure.

(7) The museum has been the subject of feature stories by CNN, the Wall Street Journal, the Baltimore Sun, the Washington Post, the New York Times, the Chicago Sun Times, the Dallas Morning News, the Los Angeles Times, USA Today, the Afro American Newspaper, Crisis, Essence Magazine, and others.

(8) More than 300,000 people from across the Nation visit the museum annually.

(9) The new museum will carry on the time honored artistic tradition of the wax medium; in particular, it will recognize the significant value of this medium to commemorate and appreciate great Black Americans whose faces and personages are not widely recognized.

(10) The museum will employ the most skilled artisans in the wax medium, use state-of-the-art interactive exhibition technologies, and consult with museum professionals throughout the Nation, and its exhibits will feature the following:

(A) Blacks who have served in the Senate and House of Representatives of the United States, including those who represented constituencies in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Virginia during the 19th century.

(B) Blacks who have served in the judiciary, in the Department of Justice, as prominent attorneys, in law enforcement, and in the struggle for equal rights under the law.

(C) Black veterans of various military engagements, including the Buffalo Soldiers and Tuskegee Airmen, and the role of Blacks in the settlement of the western United States.

(D) Blacks who have served in senior executive branch positions, including members of Presidents' Cabinets, Assistant Secretaries and Deputy Secretaries of Federal agencies, and Presidential advisers.

(E) Other Blacks whose accomplishments and contributions to human history during the last millennium and to the Nation through more than 400 years are exemplary, including Black educators, authors, scientists, inventors, athletes, clergy, and civil rights leaders.

(11) The museum plans to develop collaborative programs with other museums, serve as a clearinghouse for training, technical assistance, and other resources involving use of the wax medium, and sponsor traveling exhibits to provide enriching museum experiences for communities throughout the Nation.

(12) The museum has been recognized by the State of Maryland and the city of Baltimore as a preeminent facility for presenting and interpreting Black history, using the wax medium in its highest artistic form.

(13) The museum is located in the heart of an area designated as an empowerment zone, and is considered to be a catalyst for economic and cultural improvements in this economically disadvantaged area.

SEC. 3. ASSISTANCE FOR NATIONAL GREAT BLACKS IN WAX MUSEUM AND JUSTICE LEARNING CENTER.

(a) ASSISTANCE FOR MUSEUM.—Subject to subsection (b), the Attorney General, acting through the Office of Justice Programs of the Department of Justice, shall, from amounts made available under subsection (c), make a grant to the Great Blacks in Wax Museum, Inc. in Baltimore, Maryland, to be used only for carrying out programs relating to civil rights and juvenile justice through the National Great Blacks in Wax Museum and Justice Learning Center.

(b) GRANT REQUIREMENTS.—To receive a grant under subsection (a), the Great Blacks in Wax Museum, Inc. shall submit to the Attorney General a proposal for the use of the grant, which shall include detailed plans for the programs referred to in subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000, to remain available through the end of fiscal year 2009.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nevada (Mr. GIBBONS) and the gentleman from Texas (Mr. RODRIGUEZ) each will control 20 minutes.

The Chair recognizes the gentleman from Nevada (Mr. GIBBONS).

GENERAL LEAVE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 1233, the Senate bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

□ 1600

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Senate Bill 1233, introduced by Senator BARBARA MIKULSKI of Maryland and amended by the Committee on the Judiciary, authorizes assistance for the National Great Blacks in Wax Museum and Justice Learning Center located in Baltimore, Maryland.

Mr. Speaker, the Great Blacks in Wax Museum was founded in 1983 by Doctors Elmer and Joanne Martin, two Baltimore educators who used their personal savings to purchase wax figures which they displayed in schools, churches, shopping malls, and festivals in the mid-Atlantic region. The goal of the Martins was to test public reaction to the idea of a black history wax museum. So positive was the response over time that the museum has been heralded by the public and the media as a national treasure.

As part of a proposed expansion of the museum, which is to occur over the next several years, S. 1233 would allow the museum to receive grants from the U.S. Department of Justice to establish programs relating to civil rights and juvenile justice.

Mr. Speaker, S. 1233, as amended, is supported by the majority and minority of the Committee on Resources, and I submit for the RECORD letters from the Chairman of the Committee on Resources and the Chairman of the Committee on the Judiciary regarding this bill.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, March 25, 2004.

Hon. RICHARD POMBO,
Chairman, Committee on Resources, House of Representatives, Washington, DC.

DEAR CHAIRMAN POMBO: I am writing regarding S. 1233, the "National Great Black Americans Commemoration Act of 2003" which was referred primarily to the Committee on Resources and secondarily to the Committee on the Judiciary. The Committee on Resources reported the bill favorably on November 17, 2003. H. Rept. No. 108–372, Part I. The Committee on the Judiciary's secondary referral is currently scheduled to expire on April 2, 2004.

The spending authorized by S. 1233 would come from funds appropriated to the Office of Justice Programs within the Department of Justice. For that reason, I had concerns about the bill as reported by your Committee. My staff has had discussions with staff for the sponsor of the companion House measure, Rep. Cummings, and we have reached a mutually agreeable compromise to resolve these concerns. A copy of the compromise language is attached.

I understand that through staff discussions you have indicated your willingness to take the bill to the floor under suspension of the rules and use the attached compromise language as the manager's amendment when you do so. I also understand that you will use your best efforts to get the bill scheduled for floor consideration as soon as you are reasonably able to schedule it with the House leadership.

Based on your willingness to follow this course, I am willing to waive further consideration of the bill in the Committee on the

Judiciary so that the bill may proceed expeditiously to the floor. The Committee on the Judiciary takes this action with the understanding that the Committee's jurisdiction over the bill is in no way diminished or altered. I would appreciate your including this letter and your response in the Congressional Record during consideration of the legislation on the House floor.

I appreciate your cooperation in this matter.

Sincerely,

F. JAMES SENSENBRENNER, JR.,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, March 25, 2004.

Hon. F. JAMES SENSENBRENNER, JR.,
Chairman, Committee on the Judiciary, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter regarding S. 1233, a bill to authorize assistance for the National Great Blacks in Wax Museum and Justice Learning Center. I am delighted that you were able to negotiate a suitable source and amount of funds for the project.

The Committee on Resources will be pleased to take up your negotiated text on the Floor when S. 1233 is considered by the full House of Representatives. I also agree that I will place your letter and this response in the Congressional Record to memorialize this agreement. Finally, I agree that by allowing the Committee on the Judiciary to be discharged from further consideration of the measure, you have not waived or otherwise compromised your jurisdiction over the subject matter of S. 1233.

Thank you for your cooperation on this bill and for the good work of Joseph Gibson of your staff. I look forward to other mutually beneficial dealings in the future.

Sincerely,

RICHARD W. POMBO,
Chairman.

Mr. Speaker, I reserve the balance of my time.

Mr. RODRIGUEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Great Blacks in Wax Museum is a unique education facility, well-deserving of the enormous support that it receives. The gentleman from Maryland (Mr. CUMMINGS), chairman of the Congressional Black Caucus, a sponsor of the companion legislation here in the House, and Senator MIKULSKI are to be congratulated for their tireless efforts on behalf of this facility and this important piece of legislation.

The museum expansion plans are ambitious, and I urge my colleagues to support S. 1233 to help them on their way.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume to urge an "aye" vote on this very positive bill.

Mr. RANGEL. Mr. Speaker, I rise in support of the National Great Black Americans Commemoration Act, an important measure put forth by Hon. ELIJAH CUMMINGS which gives long overdue commemoration to the many Black Americans who have served honorably in this Nation.

By expanding the Great Blacks in Wax Museum, Inc., in Baltimore, Maryland, to establish the National Great Blacks in Wax Museum and Justice Learning Center, Congress is acknowledging the monumental contributions of African Americans who have served in the Senate and House of Representatives; the judiciary and the field of law; various military engagements, including the Buffalo Soldiers and Tuskegee Airmen; senior executive branch positions; and numerous other occupations which have advanced the goals and causes of the United States over the more than 400 year history of people of African descent in America. The museum, which is currently visited by more than 300,000 people annually, will employ the most skilled artisans in the wax medium to accurately and honorably portray those Black Americans who, with ability and perseverance, have worked tirelessly for justice, equal rights, peace, and rule of law in our great Nation.

The National Great Black Americans Commemoration Act is certainly worthy of support by this body, particularly as it is a key complement to the National Museum of African American History and Culture Act, championed by Hon. JOHN LEWIS and signed into law December 16, 2003. However, these gestures are but first steps in the directions of endowing esteemed Black Americans with the veneration that they deserve. More efforts like this Act are needed if proper homage is to be paid to those great Black pioneers who truly laid the foundation upon which this Nation has been built.

Mr. CUMMINGS. Mr. Speaker, I rise in strong support of passage of the National Great Black Americans Commemoration Act of 2003, H.R. 2424 and S. 1233, companion legislation that I introduced along with my friend Senator MUKULSKI. This bill has received bipartisan support in both committees of jurisdiction in the House, as well as bicameral support where it passed quickly to the floor out of the Senate Judiciary Committee. I urge all of my colleagues to vote in support of this measure and I urge the President to sign this important bill into law when it reaches his desk.

With valued input from Drs. Elmer and Joanne Martin, founders of the Great Blacks in Wax Museum. I introduced this bill to help bring long overdue recognition of African Americans who have served our Nation with great distinction, but who names, faces and achievements may not be well-known by the average citizen. Rest assured that this recognition can and will be accomplished and preserved through expansion of the Great Blacks in Wax Museum—a national treasure located in my district in Baltimore, Maryland.

In addition to the 200 existing figures at the museum, I am pleased to inform my colleagues that a priority will be placed on exhibits presenting the twenty-two Black Americans who served in Congress during the 19th century. Several of these 22 were born into slavery. All of these Americans proudly served their constituents and their Nation. Other members from the 1990s such as Senator Edward Brooke, Representatives Julian Dixon (D–CA), Oscar Stanton De Priest (R–IL), Louis Stokes (D–OH), Parren J. Mitchell (D–MD), J.C. Watts, Jr. (R–OK) and others will also receive special recognition. Some of the existing distinguished figures depict Collin Powell, Harriet Tubman, Martin Luther King, Jr., Mary McLeod Bethune and former Representatives Mickey Leland of Texas as well as Shirley Chisholm and Adam Clayton Powell of New York.

The expanded museum will focus on Black military veterans of various military engagements, including the Buffalo Soldiers and Tuskegee Airmen; on Black judges and prominent attorneys; and the role of Blacks in the discovery and settlement of America. It will also showcase Blacks who served in senior civilian Executive Branch positions, such as Ralph Bunche (FDR administration), E. Frederic Morrow (Eisenhower administration), Robert Weaver (Johnson administration), William Coleman (Ford administration), Patricia Harris (Carter administration), Louis Sullivan (George H.W. Bush administration), and others who have not received appropriate recognition.,

Lastly, this legislation authorizes assistance in establishing a Justice Learning Center as a component of the expanded Museum complex. The Justice Learning Center will include state-of-the art facilities and resources to educate the public, especially at-risk youth about the role of African Americans in our Nation's judicial system. It will include a special focus on the civil rights movement, on the role of African Americans as lawmakers, attorneys and in the Judiciary.

Mr. Speaker, the Great Blacks in Wax Museum was founded in 1983 by Dr. Elmer Martin and Dr. Joanne Martin, who started the museum with their own funds carrying a few figures and exhibit materials around the country in their car. The museum currently occupies part of a city block in East Baltimore, and includes more than 200 wax figures. It is America's first wax museum of Black history. The museum now receives over 200,000 visitors a year; over half of these visitors are school children. I also will mention that several members of Congress and their staff have visited and relayed to me the awesome nature of their visit—how the figures and exhibits both moved and informed. Passage of this bill will ensure that the Museum can continue its mission to preserve a great part of our Nation's history.

I would be remiss if I did not relay to you how important and inspiring this Museum is to its East Baltimore community. The Great Blacks in Wax Museum functions as more than just a museum. It is a stalwart in its community. The Martins established the Museum with the primary motivation "to use education, history and example to help mainly disadvantaged youth overcome feelings of alienation, defeatism and despair." It provides a safehaven for at-risk youth and offers opportunities for young people in the community to take part in employment, intern and volunteer programs. The Museum has enrichment programs for individuals, families, daycare centers, churches, schools and other non-profit organizations. In keeping with its commitment to community involvement, the Museum's many programs serve as a means for taking learning and cultural enrichment beyond the school walls. The Justice Learning Center will extend the outreach efforts of the Museum to homeless shelters, halfway houses, adult day care, domestic violence centers, youth residential facilities and other places to reach disadvantaged and/or at-risk youth and families.

Mr. Speaker, passage of this bill will be seen as a testament to the Martins' persistence and vision. Passage will also mean that the National Great Blacks in Wax Museum—a national treasure will receive needed Federal support to ensure that generations yet unborn will be told the story of these great Americans. The Museum will ensure that history never forgets this legacy.

Finally, I want to thank Representative SENSENBRENNER and his staffers Joseph Gibson and Katy Crooks, Representative CONYERS and his staffer Lillian German, as well as Representatives POMBO and RAHALL and their staffers, Frank Vitello, Richard Healy and David Watkins for all of their hard work in moving this legislation through their respective Committees. I would especially like to thank my staff, Kimberly Ross in seeing this legislation through to its successful end.

Mr. GIBBONS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MURPHY). The question is on the motion offered by the gentleman from Nevada (Mr. GIBBONS) that the House suspend the rules and pass the Senate bill, S. 1233, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m.

Accordingly (at 4 o'clock and 2 minutes p.m.), the House stood in recess until approximately 6:30 p.m.

□ 1830

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. TERRY) at 6 o'clock and 30 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed. Votes will be taken in the following order:

H. Con. Res. 295, by the yeas and nays;

H. Res. 612, by the yeas and nays; and

H. Con. Res. 417, by the yeas and nays.

The vote on S.J. Res. 28 will occur tomorrow.

The first and third electronic votes today will be conducted as 15-minute votes. The second vote in this series will be a 5-minute vote.

CONGRATULATING AND SALUTING FOCUS: HOPE ON ITS 35TH ANNIVERSARY

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 295.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Michigan (Mrs. MILLER) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 295 on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 374, nays 0, not voting 59, as follows:

[Roll No. 210]

YEAS—374

Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Bell
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carter
Case
Castle
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Cooper
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (CA)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
Delahunt
DeLauro
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doggett
Doyle
Dreier
Dunn
Ehlers
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Hill
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Jackson (IL)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Majette
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Pallone
Pascrell
Pastor
Paul
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Watson
Watt
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—59

Abercrombie
Bachus
Ballance
Bass
Becerra
Bereuter
Berkley
Boehner
Brady (PA)
Carson (OK)
Chabot
Collins
Conyers
Costello
Cummings
Davis (AL)
Davis (FL)
DeGette
DeMint
Deutsch
Dicks
Dooley (CA)
Doolittle
Duncan
Edwards
Emanuel
English
Gephardt
Gutierrez
Hefley
Hinchey
Hoeffel
Istook
Jackson-Lee (TX)
John
Jones (OH)
Lynch
Maloney
McCrery
Meehan
Meek (FL)
Michaud
Neal (MA)
Owens
Oxley
Payne
Platts
Rangel
Rogers (KY)
Sandlin
Souder
Sullivan
Sweeney
Tauzin
Towns
Wamp
Waters
Weiner
Woolsey

□ 1855

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Ms. JACKSON-LEE of Texas. Mr. Speaker, I was unavoidably detained by a weather condition and delayed airplane traffic and was unable to vote on H. Con. Res. 295, rollcall vote 210. Had I been present, I would have voted "yea."

RECOGNIZING AND HONORING FIREFIGHTERS, POLICE, PUBLIC SERVANTS, CIVILIANS, AND PRIVATE BUSINESSES WHO RESPONDED TO THE DEVASTATING FIRE IN RICHMOND, VIRGINIA, ON MARCH 26, 2004

The SPEAKER pro tempore (Mr. TERRY). The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 612, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Michigan (Mrs. MILLER) that the House suspend the rules and agree to the resolution, H. Res. 612, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 377, nays 0, not voting 56, as follows:

[Roll No. 211]

YEAS—377

Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Bell
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite,
Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carter
Case
Castle
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Cooper
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
Delahunt
DeLauro
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doggett
Doyle
Dreier
Dunn
Edwards
Ehlers
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Jackson (IL)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Majette
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meeks (NY)
Menendez
Mica
Millender-
McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Pallone
Pascrell
Pastor
Paul
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda
T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Watson
Watt
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—56

Abercrombie
Bachus
Ballance
Bass
Becerra
Bereuter
Berkley
Boehner
Brady (PA)
Carson (OK)
Chabot
Collins
Conyers
Costello
Davis (AL)
Davis (FL)
DeGette
DeMint
Deutsch
Dicks
Dooley (CA)
Doolittle
Duncan
Emanuel
English
Gephardt
Gutierrez
Hefley
Hoeffel
Istook
Jackson-Lee
(TX)
John
Jones (OH)
Lynch
Maloney
McCrery
Meehan
Meek (FL)
Michaud
Neal (MA)
Owens
Oxley
Payne
Platts
Rangel
Rogers (KY)
Sandlin
Souder
Sullivan
Sweeney
Tauzin
Towns
Wamp
Waters
Weiner
Woolsey

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes left in this vote.

□ 1902

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Ms. JACKSON-LEE of Texas. Mr. Speaker, I was unavoidably detained by airplane delay for rollcall vote 211 on H. Res. 612. Had I been present, I would have voted "yea."

HONORING TUSKEGEE AIRMEN AND THEIR CONTRIBUTION IN CREATING AN INTEGRATED UNITED STATES AIR FORCE

The SPEAKER pro tempore (Mr. TERRY). The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 417.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oklahoma (Mr. COLE) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 417, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 378, nays 0, not voting 55, as follows:

[Roll No. 212]

YEAS—378

Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Bell
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite,
Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carter
Case
Castle
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Cooper
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
Delahunt
DeLauro
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doggett
Doyle
Dreier
Dunn
Edwards

Ehlers
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meeks (NY)
Menendez
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Pallone
Pascrell
Pastor
Paul
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Waters
Watson
Watt
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—55

Abercrombie
Bachus
Ballance
Bass
Becerra
Bereuter
Berkley
Boehner
Brady (PA)
Carson (OK)
Chabot
Collins
Conyers
Costello
Davis (AL)
Davis (FL)
DeGette
DeMint
Deutsch
Dicks
Dooley (CA)
Doolittle
Duncan
Emanuel
Gephardt
Gutierrez
Hefley
Hoeffel
Istook
John
Johnson, E. B.
Jones (OH)
Lynch
McCrery
Meehan
Meek (FL)
Mica
Michaud
Neal (MA)
Owens
Oxley
Payne
Platts
Rangel
Rogers (KY)
Sandlin
Shaw
Smith (MI)
Souder
Sullivan
Tauzin
Towns
Wamp
Weiner
Woolsey

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1919

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. COLLINS. Mr. Speaker, I was not present for rollcall vote 210, Congratulating and saluting Focus: HOPE; rollcall vote 211, Recognizing and honoring the firefighters, police, public servants, civilians, and private businesses responding to the Richmond fire on March 26; rollcall vote 212, Honoring the Tuskegee Airmen.

Had I been present, I would have voted "yea" for rollcall votes 210, 211 and 212.

PERSONAL EXPLANATION

Mr. OXLEY. Mr. Speaker, I was absent from the House floor during today's rollcall votes on H. Con. Res. 295, H. Res. 612, and H. Con. Res. 417. Had I been present, I would have voted in favor of each of these resolutions.

PERSONAL EXPLANATION

Mr. EMANUEL. Mr. Speaker, I missed rollcall votes 210 through 212 on Tuesday, June 1, 2004. Had I been present, I would have voted "yea" on each measure.

MEDICARE PRESCRIPTION DRUG BILL

(Ms. GINNY BROWN-WAITE of Florida asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I would like to share with the Chamber an email I received from a constituent last week.

The subject line of the email was "Gratitude" and the email reads as follows:

"Dear Ginny.

"Warmest regards to you, your family and staff.

"Out of the 50-plus emails you've received so far from me, here's one you'll genuinely enjoy reading, I suspect.

"Gratitude is the subject of my email to you today. Today, I was approved by Medicare for the $600-per-year low-income credit with relation to the Medicare prescription drug bill. Thank you, the President, and the Republicans for assisting America's poor and disabled in this way.

"Others merely want your attention. We, however, need your attention. We thank you for your hard work and long hours assisting us."

Mr. Speaker, I want to point out that over 21,000 low-income seniors qualify for this $600 exemption in my district alone. This constituent's correspondence is one example of the seniors who are celebrating nationwide the ability to have this program in effect this week.

SUPPORT THE CRANE-RANGEL BILL

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute.)

Mr. BROWN of Ohio. Mr. Speaker, President Bush came to northeast Ohio to Youngstown last week again to try to defend his economic program and argue that it is working for Ohio.

Ohio, since President Bush took office, has lost one out of six manufacturing jobs and has lost 165,000 manufacturing jobs overall. In fact, during the Bush administration, there have been 200 jobs lost in Ohio every single day of the Bush administration.

The President's answer: more tax cuts for the wealthy, hoping some of it will trickle down to the Ohio community that is not working, and more trade agreements, like NAFTA, that continue to ship jobs overseas.

Mr. Speaker, the answer is not the failed Bush economic policies, but instead, the Crane-Rangel bill, which will give incentives to those Ohio and American companies that do their manufacturing in this country instead of giving big companies incentives to ship jobs overseas.

CELEBRATING THE OAK TREE

(Mr. GOODE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOODE. Mr. Speaker, it is my pleasure to announce that the National Register of Big Trees from the conservation group American Forests has formally given the crown of the Nation's largest white oak tree, a quercus alba, to the oak tree in front of Bothwick Hall in Brunswick County, Virginia. The national champion oak is

86 feet high, with a circumference of 26 feet, and a crown spread of 116 feet.

The great white oak belongs to George and Mary Robinson from Brunswick County, which I am proud to represent. Beautiful and historic Brunswick County is the birthplace of the world-famous Brunswick stew and is now home to the Nation's largest white oak tree.

I am also proud to support H.R. 1775, legislation sponsored by the gentleman from Virginia (Mr. GOODLATTE), my friend and fellow Virginian, which would designate the oak tree as the national tree of the United States.

The meaningful history of the oak and magnificent trees such as that of Mr. and Mrs. Robinson make the oak the logical choice for the national tree. Long may the great Brunswick County white oak stand.

IT IS IMPORTANT FOR CONGRESS TO WORK TOGETHER

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, today, June 1, causes me to reflect on two distinct and different occurrences.

First of all, we notice across the Nation senior citizens confused, not understanding and certainly not enrolling in the so-called prescription drug cards. We welcome our pharmaceuticals to really work with this Congress to produce a guaranteed Medicare prescription drug benefit, what the seniors have actually wanted for almost 10 years, in order for the seniors to truly get what they deserve, something they can count on and something that works.

It also causes me to reflect on the wonderful opportunity I had to visit with the troops in Bagram Air Force Base in Afghanistan and on the USS *George Washington*. It says that the political collapse that seems to be occurring in Iraq is not the fault of our soldiers, but bad political policies.

It is important for Congress to work together, to demand full investigations of the ills that are occurring in Afghanistan and Iraq in order to pay tribute to these hard-working soldiers every day on the front line. Let us not have the ills and the incompleteness of our political process undermine the tribute and the work that has been done by these fine outstanding United States military.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. MARIO DIAZ-BALART of Florida). Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

ORDER OF BUSINESS

Mr. BURTON of Indiana. Mr. Speaker, I ask unanimous consent that I take my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

THE CONNECTION BETWEEN SADDAM HUSSEIN AND OSAMA BIN LADEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, there has been a lot of concern over the past year or so about whether or not Saddam Hussein was tied in with Osama bin Laden and the terrorist network and al Qaeda.

There is an article in The Weekly Standard this week called "The Connection," and I would urge all of my colleagues to read this article. It shows a picture of Saddam Hussein, Osama bin Laden, and some other terrorists on the front page of the magazine. The article is written by a gentleman named Stephen Hayes, and it follows an article that was written in the Wall Street Journal last week, and I would like to read some information from the two articles that I think verifies without much doubt that Saddam Hussein and Osama bin Laden, al Qaeda and other terrorist organizations were working together to try to destroy the United States and Western Civilization.

Let me read from the Wall Street Journal of May 27, 2004:

"One striking bit of new evidence is that the name of Ahmed Hikmat Shakir appears on three captured rosters of officers in Saddam Fedayeen, the elite paramilitary group run by Saddam's son Uday and entrusted with doing much of the regime's dirty work. Our government sources, who have seen translations of the documents, say Shakir is listed with the rank of lieutenant colonel. This matters because if Shakir was an officer in the Fedayeen, it would establish a direct link between Iraq and the al Qaeda operatives who planned" the 9/11 attack on the World Trade Center and the Pentagon.

"Shakir was present at the January 2000 al Qaeda 'summit' in Kuala Lumpur, Malaysia, at which the 9/11 attacks were planned. The U.S. has never been sure whether he was there on behalf of the Iraqi regime or whether he was an Iraqi Islamicist who hooked up with al Qaeda on his own."

The fact is he was an officer in the elite military of Saddam. He worked with his son Uday, and he was there when they planned the attack on the World Trade Center and the Pentagon.

Further, the article goes on to say: "The CIA has confirmed that al Qaeda's number 2, Ayman al-Zawahiri, met with Iraqi intelligence in Baghdad in 1992 and 1998. There is irrefutable evidence that the Iraqi regime paid Zawahiri $300,000 in 1998, around the time his Islamic jihad was merging with al Qaeda. Four sources have confirmed the payment."

So here again is another connection.

"Since Operating Enduring Freedom, we have solid evidence Iraq and al Qaeda discussed safe haven and reciprocal non-aggression. We have solid evidence of the presence in Iraq of al Qaeda members. Through interrogations of high-level Iraqi detainees, we have evidence that al Qaeda members visited Baghdad, sought weapons and training in areas such as poisons, gases, and conventional bomb making."

Another item: "Farouk Hijazi, former Iraqi ambassador to Turkey, has admitted meeting senior al Qaeda leaders at Saddam's behest in 1994. It is believed Hijazi met with Osama bin Laden and offered him safe haven in Iraq in 1998." That is another example.

"Al Qaeda operatives held in Guantanamo have corroborated reports of a series of meetings in Khartoum, Sudan, home to al Qaeda during the mid-1990s. Abu Abdullah al-Iraqi," an al Qaeda weapons of mass destruction specialist, "was sent by Osama bin Laden to seek WMD training, and possibly weapons, from the Iraqi regime. His associates held meetings in Baghdad with Uday," Saddam's son, "in April 1998." Another example.

"Secretary of State Colin Powell's presentation to the U.N. in December 2002 detailed intelligence showing that Abu Musab Al-Zarqawi, a Jordanian jihadist and known al Qaeda associate, traveled to Baghdad for medical treatment. Among al-Zarqawi's many crimes, he is a key suspect" we just saw recently on television "in the abduction and beheading of American Nicholas Berg."

□ 1930

It is believed Saddam Hussein's nephew, Yasser al-Sabawi, and their Fedeyyen Saddam paramilitary cronies worked with Al Zarqawi and his accomplices in the abduction, transfer, and execution of Mr. Berg. That investigation is still in progress, but the linkage between Saddam and al Qaeda is reinforced by video and other evidence collected thus far. There is a high probability that Zarqawi was the masked man who beheaded Berg. Saddam's nephew is described as the ringleader of suspects in the case.

Another item: Statements by Iraqi defectors have been corroborated by new evidence seized by Coalition troops that Saddam's regime trained non-Iraqi Arab terrorists at a camp in Salman Pak, South of Baghdad. The existence of this training camp was verified by U.N. inspectors. A Boeing

707 was used at the camp to simulate terrorist hijackings.

Another item: In February, 2003, the government of the Philippines asked a senior Iraqi diplomat, Hisham al Hussein, to leave the country after establishing frequent contact with leaders of Abu Sayyaf, an al Qaeda affiliate in Southeast Asia. This Iraqi official had contact with Abu Sayyaf immediately before and after they detonated a bomb in Zamboanga city that killed two Filipinos and an American Special Forces soldier.

High ranking Czech officials have confirmed that Mohammed Atta, the lead 911 hijacker, met with Ahmed Khalil Ibrahim al Ani, an Iraqi intelligence officer, 5 months before the hijacking.

Ansar al-Islam, the Al Qaeda cell formed in Northern Iraq in June 2001, has expanded its attacks against Kurds and has joined with remnants of Saddam's regime in their insurgency against Coalition forces. It is believed that the bombing of the U.N. headquarters was a result of a joint operation between Baathists and the Al Qaeda affiliate, Ansar al-Islam.

When Osama bin Laden issued a fatwa against America in February 1998 there is evidence Saddam Hussein paid $300,000 to bin Laden's deputy Ayman al-Zawahiri.

Mr. Speaker, I submit herewith for the RECORD the article by Stephen Hayes I referred to earlier:

[From the Weekly Standard, June 7, 2004]

THE CONNECTION

(By Stephen F. Hayes)

"The president convinced the country with a mixture of documents that turned out to be forged and blatant false assertions that Saddam was in league with al Qaeda," claimed former Vice President Al Gore last Wednesday.

"There's absolutely no evidence that Iraq was supporting al Qaeda, ever," declared Richard Clarke, former counterterrorism official under George W. Bush and Bill Clinton, in an interview on March 21, 2004.

The editor of the Los Angeles Times labeled as "myth" the claim that links between Iraq and al Qaeda had been proved. A recent dispatch from Reuters simply asserted, "There is no link between Saddam Hussein and al Qaeda." 60 Minutes anchor Lesley Stahl was equally certain: "There was no connection."

And on it goes. This conventional wisdom—that our two most determined enemies were not in league, now or ever—is comforting. It is also wrong.

In late February 2004, Christopher Carney made an astonishing discovery. Carney, a political science professor from Pennsylvania on leave to work at the Pentagon, was poring over a list of officers in Saddam Hussein's much-feared security force, the Fedayeen Saddam. One name stood out: Lieutenant Colonel Ahmed Hikmat Shakir. The name was not spelled exactly as Carney has seen it before, but such discrepancies are common. Having studied the relationship between Iraq and al Qaeda for 18 months, he immediately recognized the potential significance of his find. According to a report last week in the Wall Street Journal, Shakir appears on three different lists of Fedayeen officers.

An Iraqi of that name, Carney knew, had been present at an al Qaeda summit in Kuala Lumpur, Malaysia, on January 5-8, 2000. U.S. intelligence officials believe this was a chief planning meeting for the September 11 attacks. Shakir had been nominally employed as a "greeter" by Malaysian Airlines, a job he told associates he had gotten through a contact a the Iraqi embassy. More curious, Shakir's Iraqi embassy contact controlled his schedule, telling him when to show up for work and when to take a day off.

A greeter typically meets VIPs upon arrival and accompanies them through the sometimes onerous procedures of foreign travel. Shakir was instructed to work on January 5, 2000, and on that day, he escorted one Khalid al Mihdhar from his plane to a waiting car. Rather than bid his guest farewell at that point, as a greeter typically would have, Shakir climbed into the car with al Mihdhar and accompanied him to the Kuala Lumpur condominium of Yazid Sufaat, the American-born al Qaeda terrorist who hosted the planning meeting.

The meeting lasted for three days. Khalid al Mihdhar departed Kuala Lumpur for Bangkok and eventually Los Angeles. Twenty months later, he was aboard American Airlines Flight 77 when it plunged into the Pentagon at 9:38 a.m. on September 11. So were Nawaf al Hazmi and his younger brother, Salem, both of whom were also present at the Kuala Lumpur meeting.

Six days after September 11, Shakir was captured in Doha, Qatar. He had in his possession contact information for several senior al Qaeda terrorists: Zahid Sheikh Mohammed, brother of September 11 mastermind Khalid Sheikh Mohammed; Musab Yasin, brother of Abdul Rahman Yasin, the Iraqi who helped mix the chemicals for the first World Trade Center attack and was given safe haven upon his return to Baghdad; and Mamdouh Mahmud Salim, otherwise known as Abu Hajer al Iraqi, described by one top al Qaeda detainee as Osama bin Laden's "best friend."

Despite all of this, Shakir was released. On October 21, 2001, he boarded a plane for Baghdad, via Amman, Jordan. He never made the connection. Shakir was detained by Jordanian intelligence. Immediately following his capture, according to U.S. officials familiar with the intelligence of Shakir, the Iraqi government began exerting pressure on the Jordanians to release him. Some U.S. intelligence officials—primarily at the CIA—believed that Iraq's demand for Shakir's release was pro forma, no different from the requests governments regularly make on behalf of citizens detained by foreign governments. But others, pointing to the flurry of phone calls and personal appeals from the Iraqi government to the Jordanians, disagreed. This panicked reaction, they said, reflected an interest in Shakir at the highest levels of Saddam Hussein's regime.

CIA officials who interviewed Shakir in Jordan reported that he was generally uncooperative. But even in refusing to talk, he provided some important information: The interrogators concluded that his evasive answers reflected counterinterrogation techniques so sophisticated that he had probably learned them from a government intelligence service. Shakir's Iraqi nationality, his contacts with the Iraqi embassy in Malaysia, the keen interest of Baghdad in his case, and now the appearance of his name on the rolls of Fedayeen officers—all this makes the Iraqi intelligence service the most likely source of his training.

The Jordanians, convinced that Shakir worked for Iraqi intelligence, went to the CIA with a bold proposal: Let's flip him. That is, the Jordanians would allow Shakir to return to Iraq on condition that he agree to report back on the activities of Iraqi intelligence. And, in one of the most egregious mistakes by U.S. intelligence after September 11, the CIA agreed to Shakir's release. He posted a modest bail and returned to Iraq.

He hasn't been heard from since.

The Shakir story is perhaps the government's strongest indication that Saddam and al Qaeda may have worked together on September 11. It is far from conclusive; conceivably there were two Ahmed Hikmat Shakirs. And in itself, the evidence does not show that Saddam Hussein personally had foreknowledge of the attacks. Still—like the long, on-again-off-again relationship between Iraq and al Qaeda—it cannot be dismissed.

There was a time not long ago when the conventional wisdom skewed heavily toward a Saddam-al Qaeda links. In 1998 and early 1999, the Iraq-al Qaeda connection was widely reported in the American and international media. Former intelligence officers and government officials speculated about the relationship and its dangerous implications for the world. The information in the news reports came from foreign and domestic intelligence services. It was featured in mainstream media outlets including international wire services, prominent newsweeklies, and network radio and television broadcasts.

Newsweek magazine ran an article in its January 11, 1999, issue headed "Saddam + Bin Laden?" "Here's what is known so far," it read:

Saddam Hussein, who has a long record of supporting terrorism, is trying to rebuild his intelligence network overseas—assets that would allow him to establish a terrorism network. U.S. sources say he is reaching out to Islamic terrorists, including some who may be linked to Osama bin Laden, the wealthy Saudi exile accused of masterminding the bombing of two U.S. embassies in Africa last summer.

Four days later, on January 15, 1999, ABC News reported that three intelligence agencies believed that Saddam had offered asylum to bin Laden:

Intelligence sources say bin Laden's long relationship with the Iraqis began as he helped Sudan's fundamentalist government in their efforts to acquire weapons of mass destruction. . . . ABC News has learned that in December, an Iraqi intelligence chief named Faruq Hijazi, now Iraq's ambassador to Turkey, made a secret trip to Afghanistan to meet with bin Laden. Three intelligence agencies tell ABC News they cannot be certain what was discussed, but almost certainly, they say, bin Laden has been told he would be welcome in Baghdad.

NPR reporter Mike Shuster interviewed Vincent Cannistraro, former head of the CIA's counterterrorism center, and offered this report:

Iraq's contacts with bin Laden go back some years, to at least 1994, when, according to one U.S. government source, Hijazi met him when bin Laden lived in Sudan. According to Cannistraro, Iraq invited bin Laden to live in Baghdad to be nearer to potential targets of terrorist attack in Saudi Arabia and Kuwait. . . . Some experts believe bin Laden might be tempted to live in Iraq because of his reported desire to obtain chemical or biological weapons. CIA Director George Tenet referred to that in recent testimony before the Senate Armed Services Committee when he said bin Laden was planning additional attacks on American targets.

By mid-February 1999, journalists did not even feel the need to qualify these claims of an Iraq-al Qaeda relationship. An Associated Press dispatch that ran in the Washington Post ended this way: "The Iraqi President Saddam Hussein has offered asylum to bin Laden, who openly supports Iraq against Western powers."

Where did journalists get the idea that Saddam and bin Laden might be coordinating efforts? Among other places, from high-ranking Clinton administration officials.

In the spring of 1998—well before the U.S. embassy bombings in East Africa—the Clinton administration indicted Osama bin Laden. The indictment, unsealed a few months later, prominently cited al Qaeda's agreement to collaborate with Iraq on weapons of mass destruction. The Clinton Justice Department had been concerned about negative public reaction to its potentially capturing bin Laden without "a vehicle for extradition," official paperwork charging him with a crime. It was "not an afterthought" to include the al Qaeda-Iraq connection in the indictment, says an official familiar with the deliberations. "It couldn't have gotten into the indictment unless someone was willing to testify to it under oath." The Clinton administration's indictment read unequivocally:

"Al Qaeda reached an understanding with the government of Iraq that al Qaeda would not work against that government and that on particular projects, specifically including weapons development, al Qaeda would work cooperatively with the Government of Iraq."

On August 7, 1998, al Qaeda terrorists struck almost simultaneously at U.S. embassies in Kenya and Tanzania. The blasts killed 257 people—including 12 Americans—and wounded nearly 5,000. The Clinton administration determined within five days that al Qaeda was responsible for the attacks and moved swiftly to retaliate. One of the targets would be in Afghanistan. But the Clinton national security team wanted to strike hard simultaneously, much as the terrorists had. "The decision to go to [Sudan] was an add-on," says a senior intelligence officer involved in the targeting. "They wanted a dual strike."

A small group of Clinton administration officials, led by CIA director George Tenet and national security adviser Sandy Berger, reviewed a number of al Qaeda-linked targets in Sudan. Although bin Laden had left the African nation two years earlier, U.S. officials believed that he was still deeply involved in the Sudanese government-run Military Industrial Corporation (MIC).

The United States retaliated on August 20, 1998, striking al Qaeda training camps in Afghanistan and the al Shifa pharmaceutical plant outside Khartoum. "Let me be very clear about this," said President Bill Clinton, addressing the nation after the strikes. "There is no question in my mind that the Sudanese factory was producing chemicals that are used—and can be used—in VX gas. This was a plant that was producing chemical warfare-related weapons, and we have physical evidence of that."

The physical evidence was a soil sample containing EMPTA, a precursor for VX nerve gas. Almost immediately, the decision to strike at al Shifa aroused controversy. U.S. officials expressed skepticism that the plant produced pharmaceuticals at all, but reporters on the ground in Sudan found aspirin bottles and a variety of other indications that the plant had, in fact, manufactured drugs. For journalists and many at the CIA, the case was hardly clear-cut. For one thing, the soil sample was collected from outside the plant's front gate, not within the grounds, and an internal CIA memo issued a month before the attacks had recommended gathering additional soil samples from the site before reaching any conclusions. "It caused a lot of heartburn at the agency," recalls a former top intelligence official.

The Clinton administration sought to dispel doubts about the targeting and, on August 24, 1998, made available a "senior intelligence official" to brief reporters on background. The briefer cited "strong ties between the plant and Iraq" as one of the justifications for attacking it. The next day, undersecretary of state for political affairs Thomas Pickering briefed reporters at the National Press Club. Pickering explained that the intelligence community had been monitoring the plant for "at least two years," and that the evidence was "quite clear on contacts between Sudan and Iraq." In all, at least six top Clinton administration officials have defended on the record the strikes in Sudan by citing a link to Iraq.

The Iraqis, of course denied any involvement. "The Clinton government has fabricated yet another lie to the effect that Iraq had helped Sudan produce this chemical weapon," declared the political editor of Radio Iraq. Still, even as Iraq denied helping Sudan and al Qaeda with weapons of mass destruction, the regime lauded Osama bin Laden. On August 27, 1998, 20 days after al Qaeda attacked the U.S. embassies in Africa, Babel, the government newspaper run by Saddam's son Uday Hussein, published an editorial proclaiming bin Laden "an Arab and Islamic hero."

Five months later, the same Richard Clarke who would one day claim that there was "absolutely no evidence that Iraq was supporting al Qaeda, ever," told the Washington Post that the U.S. government was "sure" that Iraq was behind the production of the chemical weapons precursor at the al Shifa plant. "Clarke said U.S. intelligence does not know how much of the substance was produced at al Shifa or what happened to it," wrote Post reporter Vernon Lieb, in an article published January 23, 1999. "But he said that intelligence exists linking bin Laden to al Shifa's current and past operators, the Iraqi nerve gas experts, and the National Islamic Front in Sudan."

Later in 1999, the Congressional Research Service published a report on the psychology of terrorism. The report created a stir in May 2002 when critics of President Bush cited it to suggest that his administration should have given more thought to suicide hijackings. On page 7 of the 178-page document was a passage about a possible al Qaeda attack on Washington, D.C., that "could take several forms." In one scenario, "suicide bombers belonging to al Qaeda's Martyrdom Battalion could crash-land an aircraft packed with high explosives (C–4 and semtex) into the Pentagon, the headquarters of the Central Intelligence Agency, or the White House."

A network anchor wondered if it was possible that the White House had somehow missed the report. A senator cited it in calling for an investigation into the 9/11 attacks. A journalist read excerpts to the secretary of defense and raised a familiar question: "What did you know and when did you know?"

But another passage of the same report has gone largely unnoticed. Two paragraphs before, also on page 7, is this: "If Iraq's Saddam Hussein decide[s] to use terrorists to attack the continental United States [he] would likely turn to bin Laden's al Qaeda. Al Qaeda is among the Islmaic groups recruiting increasingly skilled professionals," including "Iraqi chemical weapons experts and others capable of helping to develop WMD. Al Qaeda poses the most serious terrorist threat to U.S. security interests, for al Qaeda's well-trained terrorists are engaged in a terrorist jihad against U.S. interests worldwide."

CIA director George Tenet echoed these sentiments in a letter to Congress on October 7, 2002:

—Our understanding of the relationship between Iraq and Al Qaeda is evolving and is based on sources of varying reliability. Some of the information we have received comes from detainees, including some of high rank.

—We have solid reporting of senior level contacts between Iraq and Al Qaeda going back a decade.

—Credible information indicates that Iraq and Al Qaeda have discussed safe haven and reciprocal nonaggression.

—Since Operation Enduring Freedom, we have solid evidence of the presence in Iraq of Al Qaeda members, including some that have been in Baghdad.

—We have credible reporting that Al Qaeda leaders sought contacts in Iraq who could help them acquire W.M.D. capabilities. The reporting also stated that Iraq has provided training to Al Qaeda members in the areas of poisons and gases and making conventional bombs.

—Iraq's increasing support to extremist Palestinians coupled with growing indications of relationship with Al Qaeda suggest that Baghdad's links to terrorists will increase, even absent U.S. military action.

Tenet has never backed away from these assessments. Senator Mark Dayton, a Democrat from Minnesota, challenged him on the Iraq-al Qaeda connection in an exchange before the Senate Armed Services Committee on March 9, 2004. Tenet reiterated his judgment that there had been numerous "contacts" between Iraq and al Qaeda, and that in the days before the war the Iraqi regime had provided "training and safe haven" to al Qaeda associates, including Abu Musab al Zarqawi. What the U.S. intelligence community could not claim was that the Iraqi regime has "command and control" over al Qaeda terrorists. Still, said Tenet, "it was inconceivable to me that Zarqawi and two dozen [Egyptian Islamic Jihad] operatives could be operating in Baghdad without Iraq knowing."

So what should Washington do now? The first thing the Bush administration should do is create a team of intelligence experts—or preferably competing teams, each composed of terrorism experts and forensic investigators—to explore the connection between Iraq and al Qaeda. For more than a year, the 1,400-member Iraq Survey Group has investigated the nature and scope of Iraq's program to manufacture weapons of mass destruction. At various times in its brief history, a small subgroup of ISG investigators (never more than 15 people) has looked into Iraqi connections with al Qaeda. This is not enough.

Despite the lack of resources devoted to Iraq-al Qaeda connections, the Iraq Survey Group has obtained some interesting new information. In the spring of 1992, according to Iraqi Intelligence documents obtained by the ISG after the war, Osama bin Laden met with Iraqi Intelligence officials in Syria. A second document, this one captured by the Iraqi National Congress and authenticated by the Defense Intelligence Agency, then listed bin Laden as an Iraqi Intelligence "asset" who "is in good relationship with our section in Syria." A third Iraqi Intelligence document, this one an undated internal memo, discusses strategy for an upcoming meeting between Iraqi Intelligence, bin Laden, and a representative of the Taliban. On the agenda: "attacking American targets." This seems significant.

A second critical step would be to declassify as much of the Iraq-al Qaeda intelligence as possible. Those skeptical of any connection claim that any evidence of a relationship must have been "cherry picked" from much larger piles of existing intelligence that makes these Iraq-al Qaeda links less compelling. Let's see it all, or as much of it as can be disclosed without compromising sources and methods.

Among the most important items to be declassified: the Iraq Survey Group documents discussed above; any and all reporting and documentation—including photographs—pertaining to Ahmed Hikmat Shakir, the Iraqi and alleged Saddam Fedayeen officer present at the September 11 planning meeting; interview transcripts with top Iraqi intelligence officers, al Qaeda terrorists, and leaders of al Qaeda affiliate Ansar al Islam; documents recovered in postwar Iraq indicating that Abdul Rahman Yasin, the Iraqi who has admitted mixing the chemicals for the 1993 World Trade Center bombing, was given safe haven and financial support by the Iraqi regime upon returning to Baghdad two weeks after the attack; any and all reporting and documentation—including photographs—related to Mohammed Atta's visits to Prague; portions of the debriefings of Faruq Hijazi, former deputy director of Iraqi intelligence, who met personally with bin Laden at least twice, and an evaluation of his credibility.

It is of course important for the Bush administration and CIA director George Tenent to back up their assertions of an Iraq-al Qaeda connection. Similarly, declassifying intelligence from the 1990s might shed light on why top Clinton officials were adamant about an Iraq-al Qaeda connection in Sudan and why the Clinton Justice Department included the Iraq-al Qaeda relationship in its 1998 indictment of Osama bin Laden. More specifically, what intelligence did Richard Clarke see that allowed him to tell the Washington Post that the U.S. government was "sure" Iraq had provided a chemical weapons precursor to the al Qaeda-linked al Shifa facility in Sudan? What would compel former secretary of defense William Cohen to tell the September 11 Commission, under oath, that an executive from the al Qaeda-linked plant "traveled to Baghdad to meet with the father of the VX [nerve gas] program? And why did Thomas Pickering, the undersecretary of state for political affairs, tell reporters, "We see evidence that we think is quite clear on contacts between Sudan and Iraq. In fact, al Shifa officials, early in the company's history, we believe were in touch with Iraqi individuals associated with Iraq's VX program"? Other Clinton administration figures, including a "senior intelligence official" who briefed reporters on background, cited telephone intercepts between a plant manager and Emad al Ani, the father of Iraq's chemical weapons program.

We have seen important elements of the pre-September 11 intelligence available to the Bush administration; it's time for the American public to see more of the intelligence on Iraq and al Qaeda from the 1990s, especially the reporting about the August 1998 attacks in Kenya and Tanzania and the U.S. counter-strikes two weeks later.

Until this material is declassified, there will be gaps in our knowledge. Indeed, even after the full record is made public, some uncertainties will no doubt remain.

The connection between Saddam and al Qaeda isn't one of them.

100 DAYS BEFORE ASSAULT WEAPONS BAN EXPIRES

The SPEAKER pro tempore (Mr. MARIO DIAZ-BALART of Florida). Under a previous order of the House, the gentlewoman from New York (Mrs. MCCARTHY) is recognized for 5 minutes.

Mrs. MCCARTHY of New York. Mr. Speaker, as we come back from our Memorial Day break, there are less than 100 days before the assault weapons ban will expire here in this Congress. We have just 100 days to save a law that has saved so many lives. We only have 100 days before we can make sure our police officers are not put at risk. We only have 100 days before we make sure that our communities are not faced once again with assault weapons in their midst.

As we draw close to September 13, when the ban expires, law enforcement officers from all over the country are getting together to make sure that their voices are heard, to make sure that the assault weapons ban stays in place. Just last week, the Police Chief in Raleigh, North Carolina, Jane Perlov, demanded renewal of the ban. She was participating in a Million Mom March event that is going around the country and said, "Clearly a continued ban on assault weapons will make us safer without affecting our rights to possess other rifles, pistols, and shotguns for legitimate purposes."

This week, the Million Mom March's "Halt the Assault Tour" will be in St. Louis, Missouri, and rolling on to Texas. I think it is appropriate that this Saturday the tour will be in Texas, the adopted home State of President Bush. In 2000, then Governor Bush said he would sign an assault weapons ban.

During the President's first 100 days, here in Congress everybody does everything they can to make sure that they are pushing through his agenda. Well, here we are coming down to the last 100 days before the assault weapons ban expires, and I think it would be very nice if the President kept his word and actually put it into his agenda for the last 100 days before it expires.

Ten years ago, we fought very hard here in these halls to make sure the assault weapons ban was passed. Ten years ago, I sat up there as a citizen and was down here lobbying to make sure the assault weapons ban was passed. I find it so hard to believe that now I am standing here as a Congressperson again fighting to make sure assault weapons are not put back on to our streets.

These are the guns we see every single night that our men and women in the service in Iraq are using to fight for the democracy of the Iraqi people, but, unfortunately, we may be opening up the floodgates to allow criminals, drug lords, and gangs to be able to walk into any gun store and to be able to buy assault weapons and the large capacity clips. People keep forgetting about the large capacity clips, that they will be allowed back on the streets.

I am asking for the involvement of the American people. I hear constantly that they feel they are not part of the government. They have an opportunity to be part of the government, but we have to hear their voices. Are you out there? Do you actually want assault weapons back on the streets in 100 days? Your Members of Congress, your Members of the Senate, the White House needs to hear your voices. Today you can e-mail. Today you can make a phone call. Let your Member know how you feel about this. You have an opportunity to do something.

When we talk about terrorists possibly being in this Nation, and we are spending so much money on homeland security, which we should be doing, when we talk about the safety on trains, the safety on planes, we should not make it easier for the terrorists to be able to get these guns, whether it is at a gun show or a gun store. They can get false I.D. We know that. Why would we give them this opportunity to make it easier for them?

Again, it comes down to this. Why did we pass an assault weapons ban 10 years ago? Because these guns were used rampantly to kill so many of our police officers. That is why we passed the bill. Why should we go back 10 years? We know it works. I happen to think we should make the bill stronger. I think it should be made permanent so we are not having this debate every 10 years.

I happen to think that gun manufacturers have a responsibility to not make copycats of these assault weapons, which they have been doing. Think about the D.C. snipers. That was a knock-off of that type of gun. I ask the American people, Mr. Speaker, to have their voices heard. We can do this, but we need your help.

FALLEN FIREFIGHTER, 14-YEAR OLD CHRISTOPHER KANGAS, DENIED BENEFITS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. WELDON) is recognized for 5 minutes.

Mr. WELDON of Pennsylvania. Mr. Speaker, sometimes the bureaucrats in this city just do not get it. Before coming to Congress, Mr. Speaker, I was an educator, but I was also a volunteer firefighter and a fire chief in my home State of Pennsylvania. There are 32,000 fire departments across this country, and 85 percent of them are volunteers. There are 1.2 million men and women each year who risk their lives to protect the properties in their towns and that of their neighbors from the ravages of fire. Each year, 100 of them are killed in the line of duty, most of them volunteers.

Mr. Speaker, the Congress established a Public Safety Officers' Benefits Act for these brave heroes years ago. In establishing this program, the Federal Government did not set any age limitations. Rather, the Federal Government said where a firefighter is recognized by his or her State, that firefighter is eligible for public safety officer benefits.

In some States, the age for firefighters is 18. In other States, it is 16. In others, it is 14. In my State of Pennsylvania, where we have 2,600 fire departments, you can be 14-years of age to be a firefighter, a recognized firefighter in a local fire department. There are certain rules on what kind of work you can perform at the scene of a fire, but you are a legitimate firefighter, and, therefore, you are eligible for Federal public safety officer benefits.

On May 4, 2002, Mr. Speaker, 14-year-old Christopher Kangas was killed responding to a fire in Brookhaven Borough, Delaware County, Pennsylvania. His bicycle was run over by a vehicle, and he was killed at the scene, one block from the firehouse. He was a regular firefighter. He had trained, he knew what he could do and what he could not do at the scene, and he was recognized by the Borough of Brookhaven and by the Commonwealth of Pennsylvania as a firefighter.

When he passed away, and they gave full honors to him, the Borough of Brookhaven provided the full benefits to his family as a fallen firefighter. The Commonwealth of Pennsylvania recognized Chris Kangas as a fallen firefighter and gave him full honors.

Mr. Speaker, the representative of the President of the United States to the Fire Service, the U.S. Fire Administrator Dave Paulison, sent a letter of condolence to the family, recognizing Chris Kangas as a firefighter. But the bureaucrats over at the Department of Justice who administer a program that Congress enacted ruled now for the second time that Chris Kangas was not a firefighter. The bureaucrats in Washington determined that he could not be a firefighter, even though the Commonwealth of Pennsylvania and the Brookhaven Fire Department legally maintained Chris Kangas on their rolls.

Mr. Speaker, this is outrageous. Regardless of age, Chris Kangas was a firefighter; and he was killed in the line of duty. No bureaucracy, no bureaucrat in the Department of Justice should be able to determine who is a firefighter. We have had firefighters who were in their 60s and 70s directing traffic at a fire scene and were killed and were recognized by the Federal Government's Department of Justice as a fallen firefighter. So a 70-year-old can be a firefighter but a 14-year-old recognized by a legitimate State authority cannot.

Mr. Speaker, this is outrageous. It is appalling. It is a disservice to every volunteer in America. Those one million volunteers out there are joining with me in demanding that Congress change this terrible action by the Department of Justice.

Therefore, today I have introduced legislation, H.R. 4472, cosponsored by all the cochairs of the Congressional Fire and EMS Caucus, the gentleman from Maryland (Mr. HOYER), the gentleman from New York (Mr. BOEHLERT), the gentleman from New Jersey (Mr. ANDREWS), the gentleman from New Jersey (Mr. PASCRELL), and the gentleman from Michigan (Mr. SMITH). We are calling for the immediate definitional change so that everyone understands a firefighter in a State, determined by that State's laws, is a firefighter under the guidance of Federal regulations for death benefits.

No bureaucrat in Washington should be allowed to make that decision. It is a slap in the face to the Kangas family and to every firefighter across America. I urge the White House to join with us in asking for the courts to move in on this in an appeal, but I ask my colleagues to cosponsor H.R. 4472 to correct this gross action so that Chris Kangas' name can be added to the National Fallen Firefighters Memorial at Emmitsburg, to be recognized for the American hero that he was and that he is.

Mr. Speaker, I submit herewith for the RECORD an op-ed that I produced on this story.

On May 4, 2002, Christopher Kangas, a 14-year-old junior firefighter with the Brookhaven Fire Department, was struck by a car and killed while riding his bicycle in response to a fire emergency. Christopher's death struck a devastating blow to the Kangas family, the Brookhaven Fire Department and the local community. His death was a horrendous tragedy and marked the loss of a true local hero.

Make no mistake—regardless of his age Christopher Kangas was a firefighter killed in the line of duty. As a member of Congress with direct legislative oversight on homeland security and first responder issues for 18 years, founder of the Congressional Fire and EMS Caucus, a former junior member of my local department and former volunteer fire chief, it is my professional and expert opinion that Christopher Kangas met every conceivable definition of a firefighter. I am not alone in that opinion—The Brookhaven Fire Department, Brookhaven Fire Chief Rob Montella, Brookhaven Borough and the Commonwealth of Pennsylvania all agree. The Commonwealth of Pennsylvania and the Borough of Brookhaven awarded the deceased public safety officer benefits to the Kangas family, recognizing his death as occurring in the line of duty as an official member of the fire department.

This week, the Kangas family, the Brookhaven Fire Department, the local community and firefighters across the country suffered a second devastating blow when the Department of Justice (DOJ) announced its ruling denying Christopher Kangas full firefighter status under the Public Safety Officers' Benefits Act (PSOB). As a result, his family will not receive a $267,000 line-of-duty benefit. Even more damaging than the loss of monetary benefit is the fact that Christopher will not take his rightful place at the National Fallen Firefighters Memorial in Emmitsburg, Maryland, along side his fellow fallen heroes. Inexplicably, the DOJ determined that Christopher was not a "public safety officer" under the PSOB Act. In so ruling, the DOJ not only ignored the facts, but also the letter and spirit of the law.

When Congress passed the PSOB Act, it intended to provide benefits to any firefighter serving as an officially recognized member of a legally organized fire department. There is no question that the Brookhaven Fire Department is a legally organized department and that they officially recognized Christopher as a firefighter. With its ruling, the DOJ is inappropriately rewriting the law and narrowing the definition of firefighter to exclude individuals based on age.

The Act does not contain a single requirement based on age or the type of activities that must be met to entitle an individual to benefits. The Act clearly and simply states that an officially recognized firefighter killed in the line of duty is entitled to benefits. Whether a 30-year-old firefighter is killed manning a hose, a 60-year-old firefighter is killed directing traffic at the scene, or a 14-year-old firefighter is killed while mobilizing supplies, providing emergency medical supplies or performing many other duties necessary for the suppression of fire, he or she should be entitled to benefits. On May 4th, 2002, like thousands of Junior Firefighters across the country do every day. Christopher Kangas fulfilled his duty and answered the call to a fire emergency. Tragically, while answering that call, he was killed in the line of duty. As a result of DOJ's ruling an entire class of firefighters who serve, protect and die while responding to an emergency are now deemed inconsequential.

Congress never intended for the PSOB Act to make judgment calls about what roles a firefighter must perform to entitle them to benefits. Furthermore, Congress made no distinction with regards to the specific tasks that an officer must be able to perform at the scene of a fire to be considered a public safety officer. In fact, most firefighter fatalities arise from causes other than burns and asphyxiation. Every year, more public safety officers are injured or killed in motor vehicle and other incidents on the highway at the scene of an emergency or while en route or leaving the scene of an emergency than by fire or smoke. The DOJ's ruling completely ignores the every day risks that our first responders face when responding to emergencies. More disturbing, is the thoughtless message the ruling sends to Junior Firefighters across the country that they are somehow less important or meaningful to the fire service than adult firefighters.

Although not surprised by the DOJ's ruling, I am appalled by the lack of understanding displayed by the Department's myopic decision. In response, I will introduce the Christopher Kangas Fallen Firefighter Apprentice Act to retroactively prevent the DOJ from denying firefighter eligibility for PSOB status based on age. When passed, Christopher Kangas and all junior firefighters will be given the status they deserve.

Fighting fires requires preparation, dedication and above all else—teamwork. Each member of the team must perform his individual duty to the fullest extent of his or her ability and accept the inherent risk of their position. Only when each member of the team performs their assigned duty, can the entire team achieve success. The firefighter providing maintenance on the equipment, operating a hose, searching a building, providing first aid to the injured or directing traffic on the scene all assume a risk to their safety and play vital role in the team's success. Firefighters across the country understand the importance of teamwork and heroically accept the risk that their duty requires. Christopher Kangas understood this principle and bravely faced the risk of his position, let's hope his memory will force the DOJ to come to that same understanding and honor those like Christopher that have paid the ultimate sacrifice protecting our communities.

PRESCRIPTION DRUG DISCOUNT CARDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, today is the first day America's seniors and disabled Americans can use the new prescription drug discount cards created by last year's Republican Medicare law. The discount card program has not exactly been a smashing success. Nationwide, less than half a million seniors actually chose to enroll in the drug discount card program out of 40 million.

Little surprise, really, since seniors in my State of Ohio and throughout the country have found it confusing, have found it overwhelmingly bureaucratic, and have found it unreliable. With good reason. Under traditional Medicare, all benefits are accessible through just one card, but under this Rube-Goldberg, new Republican program, seniors have to choose literally from a whole deck of cards.

In my State, there are as many as 53 different cards available. One might cover blood pressure medicines but not heart medicine. Another might cover arthritis medicine but not diabetes medicine. Worse yet, the card costs $30, and it must be kept for a whole year, but the discounts published in the brochure given out might be out of date even before an individual gets to the drugstore.

The Republican bill lets the drug companies change coverage and discounts as often as once a week without notifying the cardholder, who, as I say, has to keep the card for 12 months. That is not Medicare. Medicare, real traditional Medicare is simple, reliable and universal, not this confusing privatized Medicare that the Republicans have foisted on the American public.

The new program is having such problems that even one of its most widely accepted provisions is having trouble signing people up. The new law provides annual subsidies of up to $600 on drug purchases for some low-income seniors. But that provision is not reaching its targeted audience. Secretary Thompson says he is somewhat concerned that low-income seniors are not signing up.

A lot of us here in the House are concerned, too; and we have offered a solution. The gentleman from Michigan (Mr. DINGELL), the gentleman from California (Mr. STARK), the gentleman from California (Mr. WAXMAN), and I have introduced a bill that will automatically enroll all eligible seniors in the new law's low-income subsidies program. Like Medicare itself, our proposal is simple, it is universal, and it is reliable.

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But instead of actually fixing the program as they could, fixing the problem, the Bush administration has decided to spend more tax dollars on advertising. The Republican Medicare bill has always been more about image than substance. This bill written by and for the drug companies, written by and for the insurance companies, this Medicare privatization bill written by and for the HMOs has made America's seniors even more confused, and it simply is not working.

When HHS auditors said the Republican bill would cost $134 billion more than the White House said, the Bush administration suppressed the estimate and gagged the auditor. When the initial reaction from seniors was less than enthusiastic, the Bush administration announced plans to spend $80 million of taxpayer dollars to educate America's seniors on why the bill is not really as bad as seniors think it is.

When news coverage of the program was not favorable enough, the Bush administration, undaunted, spent more money on advertising. They rolled out their own news stories complete with fake anchor, phony interview and bogus reporter. It is not about substance; it is about image.

Let us do it right. The House Republican leadership should take up the Dingell bill this week which will help low-income seniors get access to the $600 benefit. They should take up the Dingell bill this week, we could pass it and get it over to the other body in plenty of time to have it on the President's desk by next week. Just once, instead of our government always coming down on the side of the drug industry and on the side of the insurance companies, some of the President's biggest contributors, instead of the government always coming down on the side of the drug companies and the insurance companies and the HMOs, Congress just this once could do the right thing.

INTELLIGENCE GATHERING IN A CONFUSING WORLD

The SPEAKER pro tempore (Mr. MARIO DIAZ-BALART of Florida). Under a previous order of the House, the gentleman from New Mexico (Mr. PEARCE) is recognized for 5 minutes.

Mr. PEARCE. Mr. Speaker, Newsweek magazine this week had a cover story calling Mr. Chalabi of the Iraqi National Congress, the INC, our con man in Iraq. Newsweek claims the INC gave the U.S. poor information about Saddam Hussein's weapons programs despite millions in funds received from the U.S. Government, including the DIA and the Department of State. Stories say Chalabi is linked with Iran, and members of the INC have been engaged in fraud.

First of all, we need to understand some basic concepts that people who provide intelligence to the U.S. from tyrannies and dictatorships often risk their lives. They are what we would call tainted, probably unsavory. It is not as if a number of the members of the Governing Council in Iraq are not connected to Iran. The Supreme Council for the Islamic Revolution in Iraq gets $1.2 million a month from the Iranian Revolutionary Guards whose head is Abdul Aziz al-Hakim, and he is on the Governing Council. The members of the Dawa Party and the Kurds also engage in commerce with Iran and are linked to the Iranian Revolutionary Guards.

But let us look at the facts that differ from what the press tells us and what our friends on the other side of the aisle are saying. This is some of the help we have received from the INC. When we are being told that aluminum tubing was being procured that violated the sanctions, this turned out to be true. We were told that Saddam Hussein had buried much of his weapons programs or hidden them in dual-use facilities. This information from as early as 1991 and throughout the 1990s turned out to be true.

We were told Saddam Hussein had unmanned drones that could deliver bio or chemical weapons, and this turned out to be true. We are told by the INC and others that weapons were being shipped to Syria; and Dave Kay confirms that he agrees with that assessment, although the exact nature and amount of the weapons that were shipped to Syria still have to be determined.

The INC said that al Qaeda and its affiliated terrorist groups were being trained and harbored in Iraq, and this has been confirmed. We only have to review the terrorists caught recently in Jordan who admitted they fled Afghanistan to Iraq before the war to liberate Baghdad, and while in Iraq they received training and assistance in the use of poisons and bombs from Iraqi intelligence.

The chairman of the Joint Chiefs said that the INC gave U.S. and coalition forces intelligence on a daily basis that saved American lives, stopped attacks, and deactivated roadside improvised explosives.

There are examples in the past that have failed to be covered by our friends on the other side of the aisle or by the press; but I think if we take just a moment, we can see the difficult nature of providing help to other countries and to people in other countries.

First of all, the U.S. Government provided hundreds of millions of dollars to the Taliban during the late 1990s in the hopes they would turn over Osama bin Laden. What did we get for our dollars at that point, and what did the Clinton administration explain to us?

The U.S. Government and others provided between $3 billion to $5 billion to the Aristide government in Haiti, and what did we get for our money? Haiti's gross domestic product declined by one-third, and crime and murder rates hit levels not seen since the Duvalier family ruled the country. Haiti became one of the major transshipment points for illicit drugs into this country, and now Aristide has left the country after robbing the treasury of every last dime.

During this great Haitian robbery by Mr. Aristide, a former Democratic congressman received a retainer of $50,000 from the Haitian Government and Aristide to provide cover for this looting. The Haitian Parliament could not even meet during Aristide's rule for fear that he would have them killed.

Mr. Speaker, what is this fight all about? For the past 25 years, there has been serious disagreement in the U.S. Government and amongst our allies about the nature of Islamic fascism and the terrorist means we face. This problem was accentuated when the Oslo Peace Process was begun. Particularly during the Clinton administration, it was assumed that terrorism directed against the U.S., the Trade Center in 1993, the Khobar Towers in 1995, the Kenyan and Tanzanian embassies in 1998, the USS *Cole* in 2000, it was assumed those attacks were the work of a loose band of terrorists unconnected to any state sponsor or government. The Clinton administration assumed, therefore, that this was a problem of law enforcement, a point reiterated by many leading Democrats today.

The Peace Process was assumed to require the agreement of the Islamic regimes in the Middle East: Syria, Saudi Arabia, Iran, Iraq and Jordan. Mr. Speaker, these assumptions were proved incorrect. President Bush changed those assumptions into fighting the war against terror. Mr. Speaker, we need to have the facts.

The assumption was that once Israel made an adequate offer to the PLO, that the PLO in turn would reign in the terrorist groups attacking Israel.

General Zini, for example, in his latest book makes this very assumption that the PLO and Arafat were not responsible for the terrorist attacks against Israel in the first and second Intifadas. He says that once a peace deal is put on the table by Israel, Arafat will take care of the security issue.

The assumption was that none of these Islamic/Arab governments were supporting terrorism against the United States and the terrorism would stop once a deal was made between Israel and the PLO.

The Peace Process featured Secretary of State Christopher making some 70 visits with President Assad of Syria to negotiate Syria's support for the "Peace Plan".

The United States could not on the one hand be negotiating a peace deal with Syria and other Arab regimes, while at the same time holding them accountable for terrorism aimed at the United States and Israel.

President Bush fundamentally changed this paradigm.

In June 2002, the President said the PLO had to have new leadership that agreed that Israel had a right to exist as a sovereign country, something Arafat has never agreed to; just today, the Egyptian government is reportedly asking that Arafat resign and new PLO leadership be appointed.

The President also drew a strong link between states such as Iran and Iraq that support al-Qaeda and other terrorist groups.

The Wall Street Journal reported last week that new intelligence reveals that a Lt. Col. in the Iraqi intelligence service met with the pilots of the planes that crashed into the World Trade Center and Pentagon in Kuala Lampur in Malaysia in January 2000 where the 9/11 plot was begun; additional evidence connects Mohammed Atta, one of the key conspirators and pilot of one of the planes on 9/11, met with Iraqi intelligence in Prague, the Czech Republic on April 8, 2001.

If these states are training, financing and providing sanctuary, documents and weapons to these terrorist groups, then they have declared war on the United States. As National Security Adviser Rice has noted, "they are war with the United States, but we were not at war with them."

Even as we fight to protect this country, we have bureaucrats fighting an internal, Inside the Beltway battle that is distracting from the larger and more important effort.

DRUG DISCOUNT CARD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HINCHEY) is recognized for 5 minutes.

Mr. HINCHEY. Mr. Speaker, today is the first day that older Americans and the disabled can use their brand new prescription drug discount cards. Medicare beneficiaries, however, should use caution. Like everything else promised by the Bush administration and the Republican majority in this House, the prescription drug benefit is not all it was cracked up to be. Most seniors will find the benefits they already had through a State drug program, a Medigap plan, or coverage from a former employer may save them more money than the Medicare discount card.

Seniors' savings from the Medicare drug card will be negligible. Bush administration officials and Republican leaders have said that the Medicare drug cards would provide recipients with discounts of up to 25 percent on prescription drugs, but their friends in the pharmaceutical industry have corrected that. They say the savings will be no more than 17 percent.

But a more balanced study by the U.S. General Accounting Office pegged the savings even lower. The GAO found that the average savings produced by the Medicare drug cards was about $5 per prescription. GAO's results also reveal that seniors could usually find a better deal by shopping around. Why should seniors be asked to pay a $30 premium for these cards when they can get better deals by comparison shopping?

The meager benefits offered by the Medicare drug card were confirmed by another study, this one conducted by the minority staff of the House Committee on Government Reform, which demonstrated that the drug discount cards provide far less benefits to seniors than three simple alternatives: purchasing drugs in Canada, allowing the government to negotiate bulk purchases for seniors, and ordering through Internet pharmacies. The study found that drugs purchased with the Medicare drug card are an average of 72 percent more expensive than they would be if those same drugs were purchased in Canada. If the Federal Government negotiated the purchase of these drugs in bulk for Medicare beneficiaries, as it does for the Veterans Administration, prices then would be 75 percent less expensive than they would be with this Medicare drug card.

Seniors can get lower prices right now through Internet pharmacies, drugstore.com and costco.com, without signing up for a card and without paying an annual membership fee. Seniors could save 74 to 75 percent more than they will with the drug discount card without Federal Government spending any money at all. We could have legalized the reimportation of drugs from Canada, as a clear majority in this House voted to do. We could have allowed Medicare to negotiate fair prices for its 43 million beneficiaries. But instead, the Republican negotiators specifically put language in the bill that prevented that from happening, making it illegal.

Instead of enacting these fiscally responsible proposals that would be far more effective at reducing seniors' health care costs, the Bush administration and the Republican leadership of this Congress chose instead to protect and grow even larger the already enormous profit margins of the pharmaceutical industry.

While drug companies are required to cover at least one drug to treat most health conditions, they may not cover the drug that a beneficiary's doctor prescribes. It may not be possible to sign up with one plan that offers a discount for all of your prescriptions, but you can only sign up for one Medicare drug card at a time, and that has to last for 12 months. You cannot change for a year. The drug card will only be usable at certain pharmacies so seniors must research whether the card they are considering is accepted at a pharmacy nearby.

Some seniors will not have coverage outside of their home towns. There are a few national drug card plans, but most are regional. For seniors who travel frequently or spend part of the year in a different part of the country, the card they pick may not cover their prescriptions at all. Different drug cards will offer different prices on the same drug. Even with the same drug card plan, prices can vary from one pharmacy to another, and the drug card plans can change the drugs they cover and their prices, and they can do so every 7 days without notifying participants. This makes it nearly impossible for seniors to compare which plan gives them the best deal.

This program is intentionally and unnecessarily complicated in order to confuse seniors and reduce the benefits, even the small benefits that might be entailed in it. So this plan is too complicated, too complex, and far too expensive. There is a much better way of doing it, and we should get at it immediately.

Republicans rigged the system against seniors. The drug card—which should never have been necessary in the first place—leaves seniors with more uncertainty about their ability to afford medications than they have today.

Seniors shouldn't have to suffer through two years of uncertainty and meager benefits, before the real—though still completely inadequate—Medicare benefit begins.

The only reason that seniors are waiting two years is money: the GOP loaded up the bill with so many hundreds of millions of dollars in subsidies to the pharmaceutical industry that they did not leave enough money to pay for seniors' benefits.

President Bush and Republican leaders said money was the reason that the drug benefit couldn't start sooner, offer more comprehensive benefits and lower out-of-pocket costs for seniors. They said that we simply couldn't afford a more generous prescription drug bill than the $400 billion they had set aside—after the Bush tax cuts and huge increases in defense spending—to pay for Medicare reform.

The truth is that we're not spending $400 billion for drugs for seniors. Republicans gave away 61 percent of that to private corporations.

$339 million of the Medicare reform bill goes to the Administration's friends in the pharmaceutical and insurance industries.

$70 billion goes to private corporations for continuing to provide health care coverage to their retirees. These corporations were already providing retiree health coverage without any government subsidy. Now we'll be paying them to do what they were doing before without government support. And, because the subsidy comes with no strings attached, corporations can still drop retiree coverage entirely without warning.

$139 billion in overpayments to the pharmaceutical industry. This legislation will increase the drug industry's sales volume and profits dramatically. Because the bill specifically prohibits Medicare from harnessing the buying power of its 43 million beneficiaries to secure lower prices, Medicare dollars—and seniors' own out-of-pocket expenses—are being used to purchase drugs at inflated prices. Seniors who sign up for the drug benefit will be forced to pay higher prices than the VA or HMOs pay for the same drugs. Drug company profits—already the highest of any segment of our economy—are expected to increase 37 percent as a result of this bill.

$130 billion in overpayments to HMOs. Managed care options were added to Medicare because they were supposed to cost less per patient than traditional Medicare. Under the new law, we'll be paying HMOs as much as 25 percent more than health care costs under traditional Medicare. Even the GAO has confirmed that HMOs are overpaid, but that didn't stop the Republican leadership from increasing their payments again in the bill. Because HMOs tend to attract the healthiest seniors, they ought to be getting paid less, not more. Like the other corporate subsidies, HMO payments come with no strings attached—HMOs can pull in and out of communities, stranding seniors, whenever they please.

Seniors deserve better than this. They deserve a comprehensive and affordable drug benefit, one that they can count on for the length of their retirement. We could afford to give them one, but the Republican majority would rather subsidize private industry than needy seniors.

ORDER OF BUSINESS

Mr. BURGESS. Mr. Speaker, I ask unanimous consent to take my Special Order speech at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas (Mr. BURGESS)?

There was no objection.

MEDICARE PRESCRIPTION DRUG BENEFIT STARTS TODAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BURGESS) is recognized for 5 minutes.

Mr. BURGESS. Mr. Speaker, here it is June 1, and the Medicare prescription drug benefit starts today. This drug benefit is a long time in coming. In fact, it is the missing link from when Medicare was passed back in 1965. The Medicare prescription drug benefit is going to occur in two phases, and the first phase starts today and that is the Medicare prescription drug discount card which is available to any senior calling 1-800-Medicare or logging on to the Internet, www.medicare.gov.

The formal program is choice based, consumer driven and affordable. In fact, low-income seniors will receive an extra $600 subsidy this year and next year. When the full Medicare prescription drug benefit kicks in on January 1, 2006, seniors will have the choice whether or not to opt into the program. Taking the prescription drug benefit discount now in no way obligates a senior to a future Medicare prescription drug benefit in the year 2006.

The most important thing about this legislation is that for the first time it actually empowers seniors to make the best choices based on value. For the first time, a senior can call 1-800-Medicare or log onto the Web site medicare.gov, and if they know the name of their prescription drug, their dosage and their ZIP Code, they can find out which Medicare prescription drug card would be best for them, which would cover the medications they are taking, which would provide the best benefits. Whether it be a mail order pharmacy or a neighborhood pharmacy, seniors will have that information at their fingertips.

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Seniors are used to comparison shopping. They shop on line for cruises, they shop on line for clothes at various retail outlets. For the first time, they are going to have the ability to use that same consumer savvy with the purchase of their prescription drugs.

The site is far from perfect, and there will be additional improvements that occur along the way. I myself envision a day where the site will be very much like perhaps Travelocity, where you just go in and type in the drug that you need and you will come up with several options on where to purchase it for the lowest price. But, for right now, this provides for the first time a database, a consumer-driven database that consumers may access at no cost to them to find out whether or not this program will be beneficial for their particular prescription drug needs and in their particular area.

Rather than a one-size-fits-all program that almost never works, rather than having the government tell you where and when you can buy your medications, this allows seniors to be in the driver's seat.

CELEBRATING THE FORTY-THIRD ANNIVERSARY SERVICE FOR PASTOR AND MRS. JOE CHANEY, JR.

The SPEAKER pro tempore (Mr. MARIO DIAZ BALART of Florida). Under a previous order of the House, the gentlewoman from California (Ms. MILLENDER-MCDONALD) is recognized for 5 minutes.

Ms. MILLENDER-McDONALD. Mr. Speaker, I rise this evening to recognize a great community leader in my district—Reverend Joe Chaney, Jr., the organizer and founder of the Antioch Missionary Baptist Church of Long Beach, California. Last week, I was in attendance as the church celebrated its 43rd anniversary.

Antioch Missionary Baptist Church started with five members in 1961, and today has an active congregational membership of over 1600 parishioners.

Reverend Chaney has long been a tireless advocate for social change, inter-denominational understanding and fellowship in Long Beach. He has served as Director of Missions for the Long Beach Harbor Southern Baptist Association and for five years organized and directed the Long Beach Ministerial Alliance, an interdenominational alliance of local ministers.

He has served as the chaplain at St. Mary's Hospital and the Long Beach Police Department, and is currently the chaplain of the Long Beach Fire Department.

Reverend Chaney is committed to not only serving the church and the surrounding community, but to people all over California. He was selected as the first African-American on the Family Services and Child Care Board of Directors of the California Southern Baptist Convention, and has served as the President of the California Southern Baptist African-American Network.

Mr. Speaker, Rev. Joe Chaney and his wife Mrs. Maxine Moss Chaney have served as mentors to many in Long Beach, and have been widely recognized by their peers for touching the lives of many, and have dedicated their lives to improving the community by serving others.

I congratulate Rev. and Mrs. Chaney on 43 years of dedicated service to Long Beach, our State, and our Nation.

Thank you for 43 great years!

RECOGNIZING ARMED FORCES ON MEMORIAL DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. SOLIS) is recognized for 5 minutes.

Ms. SOLIS. Mr. Speaker, today I rise to recognize the many men and women who sacrifice their lives every single day in support of our Nation as members of the armed services, both in times of peace and in war.

In the last 2½ years since our Nation was attacked, the service of America's armed services has been on the front pages and news headlines across the country almost every single day. And this past weekend, we celebrated Memorial Day. We dedicated the World War II Memorial, and in towns across the country we had parades and moments of silence in honor of our armed services.

My district was no different. In the City of West Covina and Monterey Park, I had an opportunity to give special recognition to American Legion Posts 790 and 397, who served this Nation with dignity and honor, as well as recognize the living World War II veterans that still live in the district.

In El Monte, I shared Memorial Day with the Veterans of Foreign Wars Post 10218 and the Patriotic Commission on the Veterans and Homeless Commission.

In Baldwin Park, in the district I represent, my community both celebrated the World War II veterans, those that fought and returned from Iraq, while also mourning the many soldiers that have given their lives over the past several wars.

I was able to speak with Veterans of Foreign Wars and American Veterans from Post 113 during special events in the City of Irwindale and the City of South El Monte.

Each city in my community recognized these men and women who served in many, many wars. With these fine groups, my community recalled with love and gratitude the 16.1 million men and women who served in World War II and remembered the 292,000 service members killed in action. They demonstrate daily why many of them are the Greatest Generation.

Today, 5.7 million World War II veterans live in America. California alone has 475,000 of those World War II veterans that live in our communities.

Just as we celebrate in honor of the greatest generation, we must also remember those fighting today in Iraq and Afghanistan. One hundred and thirty-eight service members were killed during major combat in Operation Iraqi Freedom, and more than 662 since the end of the major combat of May 2003 have been killed.

I am sad to address to mention the names of seven fallen heroes from my own district, two who recently lost their lives just 10 days ago from our area. My heart goes out to the families and friends of Marine Corporal Jorge A. Gonzalez; Army Sergeant Atanasio Haro Marin; Army Private First Class Jose Casanova; Marine Private First Class Francisco A. Martinez Flores; Army Specialist Leroy Harris-Kelly; Marine Corporal Rudy Salas, who died 10 days ago; and Lance Corporal Benjamin Gonzalez, who died 2 days ago.

Their service to the community I represent and to the Nation will never be forgotten. During both peace and war, the service that these armed service members provide is something that we must all remember.

Just as we send our service members off to battle, we should not forget the many in our communities, families who send their loved ones, who should not be denied any, any, service. We must indeed guarantee them full health care and benefits, adequate burial and bereavement service and support for the military families.

I had several of the family members of the soldiers that I just mentioned who were not able to access services as easily as others of us who would have, because they have language barriers. They did not provide immediate interpretive services to immigrant soldiers and their families. Why is that? Why is there a double standard here? You can send your young ones to be killed to defend our country, and yet you cannot provide them the adequate attention that they so deserve.

In addition, we were lucky this past year that the President signed into law an expedited citizenship process. It now takes 2 years to become a full U.S. citizen. You can put on the uniform, but after that it takes a great deal of time for that process to occur. We still do not have the process set up so that they can go ahead and actively begin to apply. We are talking about 50,000 currently eligible military personnel and reservists who would be eligible for this program. What are we doing to help ramp that program up, as we find every single day soldiers are coming back in coffins, and many with surnames like mine.

I ask us to remember, yes, those that have defended our country, but let us keep intact those many young men and women who are currently serving us right now in our country. May God bless them and their families, and let us bring them home soon.

GROSS AND OFFENSIVE OUTRAGES REGARDING ENERGY CRISIS OF 2000 AND 2001

The SPEAKER pro tempore (Mr. FEENEY). Under a previous order of the House, the gentleman from Washington (Mr. INSLEE) is recognized for 5 minutes.

Mr. INSLEE. Mr. Speaker, there are some outrages that are so gross and offensive that even if it takes years to right them, we should do that, and one of those outrages is the energy crisis of 2000 and 2001 on the West Coast of the United States.

But in fact there are two outrages involving the energy crisis in the Western United States. The first outrage is that Enron and various other traders gouged over hundreds of millions of dollars from consumers in the western United States. But the second and perhaps equal outrage is that the Federal Government, under the Bush administration, has been wholly ineffectual in getting back the money that has been stolen from consumers in the Western United States. These are two outrages.

Today and the last few days we have now discovered over 2,000 hours of taped conversations between Enron traders and others that clearly show the way that they stole hundreds of millions of dollars from consumers in the Western United States.

Those were discovered because of the great work of a small public utility district, the Snohomish PUD in Snohomish, Washington, that finally let us know, to get a window of the horrendous theft that went on, and I just want to quote a couple of things that the Enron traders talked about as they were stealing from the consumers of the West Coast.

Here is one trader, Tim Beldon, who since pleaded guilty to criminal fraud charges, who said, "Grandmothers were taken at the tune of a million bucks or two a day." Taken. They were taken due to the outright fraud of Enron.

Another quote from an employee who can be heard asking, "Do you know when you started overscheduling and making buckets of money on that?" Well, the buckets of money that they made came right out of the pockets of consumers.

The last quote, we heard traders of Enron saying basically, "Isn't it great that we jammed grandmothers for millions of dollars?"

Well, it is not great that they "jammed" grandmothers on the West Coast of the United States, and that needs to be fixed by the Federal Government.

But the second outrage is that our Federal Government and this administration has acted essentially like the Keystone Cops in doing nothing effective to get back these millions of dollars from our consumers. In Snohomish County, Washington, we have had 50 percent increases in electrical rates as a result of this gouging, and yet the FERC, the Federal Electric Regulatory Commission, and the Bush administration has done nothing to get this money back for the consumers.

Next week, when the energy bill is on the floor of the House, I will be offering an amendment to compel FERC, to compel the Bush administration to get off the dime and get this money back that has been stolen. They have acted with all the energy of Barney Fife on this, and it is time for them to do the job and get this money back for ratepayers.

Now, why has this not happened? Why has the Bush administration sat on their hands while this theft occurred? Well, I have to tell you that we have done everything humanly possible to get the administration, the President and the Vice President, to act on this.

In fact, during this crisis in 2000 and 2001, we asked the Vice President to personally intercede. Do you know what he did? On April 17, 2001, he met with Ken Lay of Enron; and they apparently talked about the energy crisis. And what after that conversation did they do? Two days later, the Vice President came out, Mr. CHENEY came out on April 19 and said, "We think price caps simply don't work." And they did nothing effectual to solve this problem.

In fact, we had a meeting with the Vice President when this was going on, and we told the Vice President of this, at the very time there were brownouts in California, we told the Vice President of the United States that over 30 percent of the generating capacity in America was turned off. Obviously, to anyone who knew anything about energy, people were gaming this system. And we pleaded with the Vice President to help us.

After we laid out all of these facts and circumstances, these are several Members of Congress and myself to the Vice President, he looked at us in our eyes and simply said, "You know what is wrong with you? You just don't understand economics."

Well, we do understand economics. We just do not understand Enronics. We just do not understand a Vice President who wants to talk to Ken Lay but will not lift a finger to help American consumers to get these hundreds of millions of dollars back that were stolen. We do not understand a Vice President who says let those grandmothers be jammed, and we are not going to help.

We are going to have an amendment next week to solve this problem.

PROBLEMS WITH MEDICARE PRESCRIPTION DISCOUNT CARDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STRICKLAND) is recognized for 5 minutes.

Mr. STRICKLAND. Mr. Speaker, today, the seniors of this country are told that they can take advantage of the so-called Medicare discount cards which are available to them. They are being told that these cards will offer them between 10 and 25 percent savings. But there are some things that the seniors need to know as they contemplate the potential use of these cards.

First of all, it is the sponsoring company that offers the discounts or determines the size of the discounts, and that sponsoring company can change the level of discount available to the senior frequently. In fact, they can do that every 7 days, if they so choose.

The senior also needs to know that these cards only cover some drugs and not others. So if a senior takes four or six or eight prescriptions and they choose a card, and they can only choose one card, they may have one or two of their medicines included and covered by that discount card and other medications may not be covered by that discount card, and the very medicines that are covered can be changed at the whim of the companies. In fact, those medicines can be changed every 7 days.

Seniors also need to know that once they choose a card and choose to enroll with that particular company, they are locked in for one full year. So although the companies can change the level of discount frequently and they can change the drugs that are included in their discounts frequently, the senior is locked in to a particular card for one full year.

Why is that? Why is all of the advantage being given to the sponsoring companies, rather than to the individual senior citizen?

I think it is important for the seniors of this country to know that this discount card offering falls far short of what could or should be done by this government to make drugs affordable to them.

One of the things we could do would be to simply allow the reimportation of cheaper drugs from Canada. There is probably not a senior in this country that is not aware of the fact that Canada sells drugs for just a fraction of what those drugs would cost the American senior citizen, and yet this government, this administration, this President, opposes the reimportation of cheaper drugs from Canada.

□ 2015

That is one of the things that could be done, and could be done quickly and easily; and it would reduce the cost of medications that our seniors face.

Well, another thing the administration could do but refuses to do is to allow our Secretary of Health and Human Services to negotiate discounts for our senior population. Mr. Speaker, our government negotiates discounts for our veterans; and we believe that as a result, those drugs are discounted somewhere between 40 and 60 percent, and this is something that is currently being done on behalf of our veterans. Why would this President and this administration refuse to support such negotiated discounts being made available to our senior citizens? It just simply does not make sense.

Mr. Speaker, we need help, our seniors need help with the cost of prescription drugs, and what we need is a prescription benefit that is a part of traditional Medicare. Seniors like and trust Medicare. It is a program that works. It is easily understood. It is easily administered. In fact, the cost of administering Medicare is just fractional compared to the cost of administering private plans.

So why do we not just offer a prescription drug benefit that is a part of traditional Medicare? But no, that is not what the President or this administration or the leadership in this Congress wants. In fact, we all know that in this Chamber in the middle of the night, this leadership pushed through a drug plan wherein they called for the vote at 3 o'clock in the morning; and at the end of the voting period, the 15-minute voting period, the bill had lost and it had lost because it is a bad bill. We kept the vote open, and the press says they got the President out of bed at 4 o'clock in the morning so he could twist arms and make phone calls and, finally, after 3 hours, they got a couple of freshmen and they apparently pressured them to change their minds because they came walking down the aisle and, at about 5 minutes to 6 a.m., this bill passed. We are now living with the results. The senior citizens of this country know they have been taken advantage of.

Mr. Speaker, I look forward to November when the seniors will have their opportunity to respond.

THE FIRST STEP TO A BETTER MEDICARE: DISCOUNT PRESCRIPTION DRUG CARDS FOR OUR SENIORS

The SPEAKER pro tempore (Mr. FEENEY). Under the Speaker's announced policy of January 7, 2003, the gentlewoman from Connecticut (Mrs. JOHNSON) is recognized for 60 minutes as the designee of the majority leader.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise with pride and pleasure to recognize this June 1 as the first time in history that the seniors of America have had the opportunity to purchase a Medicare drug discount card as the first step, but only the first step, in reducing the cost of their prescription drugs.

My colleagues have heard a lot here tonight. We have heard some very sharp things from the speaker who just preceded me. But listen to this: this is a widow in my hometown of New Britain who takes Zithromax; and because of this discount card at a local pharmacy in New Britain, instead of paying $46.50 for her Zithromax, she will now pay $39.44. She takes Nystatin. Instead of paying $35 for Nystatin, she will now pay $15 for Nystatin. And so it goes. One of the other drugs she takes costs $40 and now will cost $11.50.

Mr. Speaker, this widow for whom every dollar is precious will save $730 on her prescription drugs every year, including this year. Now, that may not be a lot to my colleagues, but for someone spending $2,000 on drugs a year, a little over $2,000 on drugs a year, that is a lot. That is 29 percent, almost 30 percent, of her drug costs.

So this is a good day for seniors, and I and my colleagues are going to talk about a lot of the things we have been told tonight about this prescription drug program. But we are here to say, you be the judge. We are here to say, do not let nay-sayers, do not let others rob you of the hundreds of dollars of savings on the prescription drugs on which your health and well-being depend. You be the judge. You find out the facts. You be the judge. It is real simple.

But to start off tonight, let me turn to the gentleman from Pennsylvania (Mr. ENGLISH), a very good friend of mine on the Committee on Ways and Means.

Mr. ENGLISH. Mr. Speaker, I want to thank the gentlewoman. I want to rise today not only to mark this historic day for Medicare beneficiaries because today, for the first time since the program's inception, Medicare, through a discount card, will be providing real relief to seniors who struggle to pay for their prescription medicines.

I want to acknowledge that, but I also want to especially acknowledge the efforts of the gentlewoman as chairman of the Subcommittee on Health for making this legislation possible. I am very proud to have been part of the team that helped put this legislation together and see it through to the end; and I am also glad to be on the floor tonight, having heard some of the extraordinary claims from a number of Members who consistently voted against prescription drug benefits for seniors. They are now trying to run down the program that we put together, we fit into a budget, and we got passed in the House. The record shows that they did not offer a credible alternative, they did not offer a budget that they could fit it into, and they were talking a lot about seniors, but not delivering.

The discount card program that was created under the Medicare reform bill that we passed will also ultimately create a prescription drug program that will be available by 2006 for every Medicare beneficiary. But what we have done, which is so important, is offer an interim program to provide immediate relief for seniors. Because I know, as the gentlewoman found in her district in Connecticut, in my district in Pennsylvania, what seniors wanted was some help that would be available quickly. And when I brought the head of CMS into my district for a town meeting and he said it would take a couple of years to ramp up a prescription drug program, they made it very clear, that group of seniors in Mercer County, Pennsylvania, they wanted to see something quicker, and that is what we have been able to do.

These discount cards are meant to provide a transitional program, especially for the approximately 10 million Medicare beneficiaries who have no drug coverage. Seniors have been enrolling in the numerous discount cards in their area since May 3; and today, many seniors will begin to enjoy savings on their medicines. CMS, the Center For Medicare and Medicaid Services which administers the Medicare program, estimates that seniors will save between $3.8 billion and $5.1 billion over the 2-year duration of the program. This is a substantial amount of money.

For an annual enrollment fee of no more than $30, seniors will enjoy savings on drugs of up to 30 to 60 percent on generic drugs, 16 to 30 percent or more on usual retail prices, and 11.5 to 17 percent off average retail prices with significantly larger discounts available on mail order drugs. This is in real contrast with the message we have heard from some of the critics. These are real savings.

Even better, beneficiaries can choose the card that gets them the lowest prices; and if they wish, they can also get help finding low or no-fee cards, cards that include specific neighborhood pharmacies and/or cards from specific sponsors. But the important thing is, this drug card, I think appropriately, provides additional assistance to low-income seniors through a direct subsidy. This is a big benefit to seniors in my district.

Today, seniors with limited means are eligible for a $600 annual credit that goes a long way toward paying for their medication. In my home State of Pennsylvania, we have had a great program for low-income seniors called the PACE program, which provides a prescription drug benefit for low-income seniors who do not otherwise have such a benefit. This has been, I think, the hallmark of Pennsylvania State government for many years and an extraordinary success for those who are eligible.

With this new Medicare legislation, the $600 credit will go directly to PACE and allow them to automatically enroll about 150,000 low-income seniors, lower PACE's costs, and allow PACE to waive some $6 co-pays which low-income seniors would otherwise have had to pay to get their medicines.

PACE beneficiaries will continue to use the card PACE issues them to receive the benefits of the new program, and seniors enrolled in a Medicare Advantage plan like Security Blue in my district will receive a drug discount card from that plan.

Other eligible Pennsylvania seniors can choose between 43 drug cards to find the benefit that is best for them. And as I think the gentlewoman is about to point out, they have one number that they can call to get the information that they need.

Mr. Speaker, signing up for the drug discount card and getting information on the plans offered in their area could not be easier. Seniors who want help in selecting a card should call 1–800–MEDICARE or visit the Medicare Web site at www.medicare.gov; and there it is, right there. There are 3,000 customer service representatives available 24 hours a day, 7 days a week to answer these questions. To enroll in a particular card, beneficiaries should contact that card and receive an application. There is a standard enrollment form that will be accepted by all cards.

Mr. Speaker, what is interesting to me is some politicians and special interest groups with their own narrow agendas have run down the prescription drug benefit as ineffective. But I would ask them how guaranteeing savings ranging from 11 to 60 percent is ineffective, especially considering the enormous credit for low-income seniors.

After many years, and after the House of Representatives, having acted in two prior sessions, Congress has finally acted to give our seniors an affordable, flexible, and dependable Medicare program. Today, we ring in a new era of better prescription drug coverage. Tomorrow, we will broaden that benefit and work to make sure seniors continue to get the benefits they have earned.

As one of the earlier speakers noted, perhaps indeed people will remember this on Election Day. But I think as they look at this program, they are going to decide that this is a very substantial benefit. This is a remarkable accomplishment. This is a massive moving of the Medicare program in the right direction, and I think it is going to provide substantial benefits for a lot of seniors that need it.

Again, I want to thank the gentlewoman for her extraordinary efforts.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman from Pennsylvania for his comments. It is absolutely true that this was the first bill ever passed by the House that provided a discount card. Every other bill passed or proposed, whether by the Republicans or a bipartisan group or the Democrats, waited 2 years to provide any senior with any benefit. That was just too long. And while my colleague from the other side who spoke just before we took our time said some seniors will not benefit at all, he pointed to those seniors who have very good employer-provided coverage. That is about 30 percent of seniors. What he did not say was that no low-income senior, now that we are at June 1, will ever again pay more than $5 for a drug, a prescription drug. All low-income seniors in America, no more than $5 for a generic; and much less than that that many will pay, $1 per prescription.

Now, that matters to our seniors, I say to my colleagues. That is important in their lives, and I am proud that we have brought that to them.

I am very proud to have another colleague of mine from the Committee on Ways and Means, the gentleman from Arizona (Mr. HAYWORTH), join us as we talk about this prescription drug discount card now available to our seniors across America on this day, June 1.

Mr. HAYWORTH. Mr. Speaker, I thank the gentlewoman from Connecticut for reserving this hour for some straight talk with the American people, and I appreciate her efforts and the efforts of a majority of Members of this House, working with a majority of members of the other body, to have our President sign into law prescription drug benefits as a part of Medicare, now the law and now the reality.

□ 2030

And I share, I do not know the best way to describe it, Mr. Speaker, my colleagues, I guess bemusement in one sense, serious concern in another very real sense, to hear the double-talk, the deception, the incredible mischaracterization of something good for the American people and for our seniors, updating Medicare, bringing it into the 21st century, offering real results and real savings, with drug discount cards now available to seniors on Medicare.

Mr. Speaker, my colleagues, it has been amazing to look at the coverage in the last month. My friend from Connecticut pointed out the real results for a widow in her hometown of New Britain. We had our colleague from Pennsylvania, another member of the Committee on Ways and Means, talk about his constituents in one of the counties he represents welcoming real savings.

I can tell you, this is what really is amazing, Mr. Speaker, my colleagues, those who come to this Chamber time and again and purport to have the interest of the poorest seniors in mind and in their heart, these same people say to our seniors do not bother to sign up.

Mr. Speaker, my colleagues, we need to reiterate this for the American people to hear and understand in Arizona, 106,000 seniors, single seniors with incomes under $12,500, married seniors, with incomes of under $16,800, those seniors are eligible right now for $600 to pay for their drugs, to take a serious bite out of the situation where seniors have to choose between medicine and food on the table. Here is money to help them now; and yet there are Members of this House who say, well, it is just too confusing. They should not sign up for it. Nothing could be further from the truth.

We held meetings in the district. We spoke with over 1,000 seniors. My colleague has brought to the floor the telephone number, 1–800–MEDICARE. She will provide the steps necessary. Very simple: Medications you take, your zip code, the other information you can actually find out how to do this.

And something else that is very troubling, and again, ironically, we heard it from the other side, one speaker from the other side would come and talk about America's greatest generation, the generation that won World War II, the generation that put a man on the moon, the generation that helped to end racial discrimination and fight for civil rights, and now we are told that members of this generation are incapable of making decisions, are incapable of shopping, when we know, we serve these people.

They compare candidates, they go to the store, Mr. Speaker, my colleagues. When people turn 65, and my own parents will turn 72 this year, but when they turned 65 nobody showed up at their front door saying, hi, I am your federally appointed shopper, and I am going to take you to the one Federal store down the street and you are going to pick up Federal flakes for breakfast. We did not do that in any other part of our economy.

Yet the same folks who purport to be friends of the most economically challenged in our society want us to believe that our greatest generation is incapable of making decisions.

Mr. Speaker, I know it may come as a shock to the other side, but I love my parents. They will turn 72 this year. They make decisions all the time. Other seniors have the gift of health and health care and the ability to evaluate make decisions all the time. We are simply saying let us offer choices to seniors. That is what this drug discount card does. That is the opportunity we have.

My colleagues have pointed out 3,000, upwards now of 4,000, call center experts, 24 hours a day, 7 days a week, 400 new workers hired in the Phoenix area alone to deal with these calls at a call center. The seniors we met with understood the card program. They want to take advantage of the program because they understand we are talking real money.

And, again, I would point out it is interesting how this town can take a term like compassion and fold it and spindle it and mutilate it when, in fact, we have something that delivers for seniors.

The good news is we celebrate one month of a milestone today for signing up and putting this in action. The other news we point out is that the program does not go away. It continues. We encourage our seniors, Mr. Speaker, my colleagues, to take advantage of the program, to call 1–800–MEDICARE or check the Web site www.Medicare.gov, take advantage of what is available, because you can utilize savings and realize savings in some cases on generic drugs up to 60 percent discounts. That is real money.

And it may not be much to the command and control guys who believe one size fits all or have this grand vision of socializing medicine and having government as they measure compassion delineated by a dictatorial one-size-fits-all program from Washington that takes away choice, that takes away personal incentive, that robs people of the very intellect that helped take our society to such great accomplishments as mentioned earlier. Hate to think it comes down to politics, Mr. Speaker, my colleagues, but what else can you be left with? What other conclusion can we draw?

To hear speaker after speaker from the other side saying it is bad, it is complicated, it is confusing, friends, about the only thing they are confused about is the notion that people can save real money and this can have a positive impact on the lives of those who, in many cases, in the cases of 106,000 Arizonans, have a tough situation at home choosing between their prescription drugs they need, putting food on the table. This Congress, working with this administration, has offered real results.

Let the others carp and complain, Mr. Speaker, my colleagues. I would put them on notice that when you deal in deception and double-talk and disinformation, Mr. Speaker, do not be surprised if those who do so are headed for defeat in November trying to pull these political stunts, trying to offer spin to counter the facts and, ultimately, literally costing the seniors who are looking for solutions, costing them prescription drug coverage all because we deign to let those seniors have the same freedom of choice they exercise in every other sector of the economy.

Mr. Speaker, I thank my colleague from Connecticut for the time. I salute her efforts.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman from Arizona (Mr. HAYWORTH). I must say that some of the statements made by my colleagues from the other side in preceding times do need to be answered.

Mr. Speaker, let me say that it is disconcerting and unfortunate, frankly, that Members will get up and say things that are so distantly related to the bill. For instance, someone said, why do not we have a prescription drug benefit that is part of traditional Medicare? That is what we should have passed.

Folks, that is what we did pass. The bill we passed made prescription drugs a benefit under Medicare. Just like part B is a benefit under Medicare through which you get access to doctors' care in their office, to the costs of tests and things like that, MRIs, all those things, part D will give you access to prescription drugs. It is a part of Medicare. The discount card is a part of the prescription drug benefit. It is a part of Medicare.

I appreciate that the gentleman who used that phrase did not vote for the bill, but that does not excuse misleading the public about it. If Jeanne had not been a self-starter, my widow friend in New Britain, if she had not been so thoughtful, she would not now be able to pay $11.50 for a drug she used to pay $40 for.

Let me just show you here a minute how easy this is. Because this word "confusion," "confusion," "this is so hard, our seniors will not be able to follow, they will not be able to understand," you see how easy it is.

First of all, write down your zip code. Very important. Write down your zip code. Because Medicare is going to tell you the price of your drugs at various pharmacies in your area, and they can decide that through using your zip code. If you want to know about two zip code areas because you live near a border, fine, use two zip code areas. But have your zip code written down so you will be ready to say it accurately when the question is asked.

Then write down your medications. Write down the name of each drug you are taking. Write down the dose. Because you do not want to find out the price for the right drug but the wrong dose. You want to find out the discount price for the right drug, the right dose, taken so many times a day.

So get all your facts laid out: The names of all the drugs you take and the dosage of those drugs, and the cost that you pay, just so you know. When you have that information, your drugs, the dose, the cost, and your zip code, then, easy as pie, call 1–800–MEDICARE. We are going to put that back up in a minute. Call 1–800–MEDICARE; and one of the now 4,000 operators who are available 24 hours a day, 7 days a week, and, of course, remember to call in the evening, call in the early morning so you will not have to wait, call on the weekend you will not have to wait. Call Monday or Tuesday, the wait will be longer. You know that from many sales activities you have done throughout your life. Call 1–800–MEDICARE.

Or go have your daughter your son or your grandchild, if you do not feel comfortable doing it. Go to the computer and go into www.Medicare.gov. So it is easy to get to a person or to a program in the computer that will then ask you for the information I have told you about, your zip code, the names of every one of your drugs, the dosage, and then for your information also what you pay per drug. And then you should have your income. That is the next bit of information you need to have. Because by telling the operator your income that operator will know whether or not you are one of the people that qualify for this $600 credit.

Low-income seniors that do not have any readily available cash have a hard time just buying those antibiotics they may desperately need to get over an illness. We understand that. So this discount card is not just a discount card. It is a $600 cash benefit for those who need it, those below 100 percent of poverty income; and then using that cash credit and the discount, you see, they will pay a lower price and stretch out that $600 available to them.

□ 2045

So as one of the columnists that I read said, a low-income senior who has an income less than $12,500 a year for a single person or for less than 16,000, almost 17,000 for a married couple, they should not walk to the discount card. They should run to get this discount card, because they will pay no more than $1 for generics or up to $5 for prescription drugs, an extraordinary benefit for them.

Finally, look for this label on the discount card: Medicare approved. That is why it is part of Medicare, because it has gone through the process of being approved by the government and being, consequently, if it does not perform fairly, if it says it is going to charge you one thing and it charges you a lot more, the government is there enforcing the rules, penalizing them and forcing them to comply what it promised to you.

There is a lot more to this program, but I did want to run through how easy it is to sign up, how easy it is to figure out which card is for you, but I will not go into any further details because I want to hear from my colleague, the gentleman from Georgia (Mr. GINGREY), who is also a physician, who therefore has a very tangible and real understanding of the terrible hardships that patients, who cannot afford the drugs they need, face in our communities and what an important first step, only a first step, this discount card will be.

Mr. GINGREY. Mr. Speaker, I would like to thank the gentlewoman from Connecticut (Mrs. JOHNSON) for putting this time together for us tonight to make sure the Members of this body understand how important this new benefit is. And the gentlewoman's mention, of course, that I am a physician by profession, and I did that job for 30 years and certainly had lots of seniors, lots of Medicare patients and understand some of the hardships that they are going through, as she points out. She knows as well as I do, because her husband was also an OB-GYN physician for many years.

Mr. Speaker, I wanted to mention something. I could not help as I came to this Chamber hearing one of my colleagues from the other side of the aisle, the gentleman from Ohio, talking about how bad this program is and how the bill was passed in the dark of night after hours of debate. Mr. Speaker, as the gentlewoman said, I am an OB-GYN physician. I can tell you right now that my patients, they might have come in in the dark of night and delivered in the bright of day or they came in the bright of day and delivered in the dark of night. It does not matter. Just like an obstetrician, the Members of this body work 24 hours a day; and when we finally delivered a product, it was a beautiful baby. Just because it came at 5 o'clock in the morning, for the gentleman to suggest that we were trying to put something over on somebody.

And he also said, that gentleman from Ohio, talked about the pressure that the leadership on our side of the aisle put on three freshmen Members, freshmen Republicans, Mr. Speaker. I want to remind the gentleman from Ohio that there were about five freshmen on his sides of the aisle sitting in that front row just waiting until that vote changed so they could switch their no votes to a yes.

It is also important, Mr. Speaker, for the Members of this body and anybody who happens to have the opportunity to be paying attention, I hope the whole Nation is, that this bill, although in the House when it passed, December of last year, it was a close vote, absolutely a very close vote, but it was not a partisan vote. They are suggesting that this is a Republican bill. Well, certainly the Republican leadership had the guts to bring it forward, as did this President, the courage to deliver on a promise, but this was a bipartisan bill. In fact, on our side of the aisle there was some 25 Republicans who voted no.

So certainly for them to suggest and to try to play this class warfare game, it goes back in fact to the elections of 2000, the old sorry loser man crowd, weeping and gnashing their teeth over the fact that they could not get the job done.

Mr. Speaker, people talk about how much you can get done, what a group of people or an organization can get done if nobody cares who gets the credit. It would seems to me that this harping and carping that we hear constantly from the other side of the aisle would suggest that they do care about who gets the credit or discredit. They are trying to discredit this program.

Mr. Speaker, I cannot think of any reason, none whatsoever, why a senior would not sign up for this prescription drug discounts card program that is going to be available to them over the next 18 months.

In fact, when I do my town hall meetings, and I just came from Columbus, Georgia, in my district, the 11th of Georgia, this morning we had a great town hall meeting at the senior center there. I talked to my seniors and said, look, if you can think of any reason, I want you to let me know. Because I want to bring that information back to the Committee on Ways and Means, back to the gentleman from California (Mr. THOMAS) back to the Subcommittee on Health, the gentlewoman from Connecticut (Mrs. JOHNSON), and I want to tell them about it. I want to make sure we have not missed anything. But I can tell my colleagues with a straight face, Mr. Speaker, that I can think of no reason.

Now when we get to the part D, the new Medicare prescription drug insurance program, optional program under traditional, as you know it, Medicare, or the Medicare advantage, seniors have a choice of that. And there will be maybe 40, 50 percent of them who will find that they already have something that is better, whether that is Medigap insurance coverage or they have health insurance coverage with a prescription drug benefit from a previous employer that they worked for for 30 or 40 years or whether they have TRICARE for life. There will be a number of seniors who decide that they already have something that is serving them perfectly well, and they decline this optional Medicare prescription drug benefit.

But to decline this card today, as the gentlewoman from Connecticut (Mrs. JOHNSON) points out, if you are low income, and we estimate that a third of the 41 million seniors who are on Medicare will be eligible for this credit, this $600 credit plus the discount that will be affected on their medications up to 15 to 20 percent, why in the world would the other side of the aisle, the minority leader, tell her Members, go out and tell your constituents, tell your seniors not to sign up for the prescription drug card?

Well, I am going to tell you what. If they do that, let them do that. That is fine. When their constituents find out that their friends and neighbors and other seniors across this country are getting this discount, and many of them are getting the $600 credit, not just for 1 year but for 2 years, then I am telling you they are going to charge their Members with malfeasance of office is what they are going to do.

I think it is so unfair to suggest to just block something because they are so concerned about who gets the credit. I do not care who gets the credit. As I say, this was a Republican and a Democratic bill, a bipartisan bill, both in this Chamber and in the other Chamber. So let us get over that. Let us get over this sore loser man stuff and let us try to bring the benefits to the seniors. Because they have been waiting a long time. In fact, they have waiting 39 years. That is how long it has been since the original Medicare, when the first person to sign up for part B was former President Truman.

There is so much and the gentlewoman from Connecticut is so kind to give me some time, and I do not want to abuse that opportunity. I appreciate her letting me speak on this tonight. It is very, very important for people to understand that this discount card can only help you.

As the gentlewoman pointed out, you go to 1–800–Medicare, and the Secretary, Mr. THOMPSON, has hired 1,200 new people to man those phone lines, or go on line at www.Medicare.gov. It is simple as she said. You put in the zip code. And the most important thing is when you go on line or on the telephone is to know what medications you are on, know that price, know how often you take it, what the strength is. And then you see what cards are available to you and what cards give you the best discount. It is that simple.

I really appreciate the gentlewoman giving me the opportunity, Mr. Speaker, tonight to talk about this. It is so important. There are a few of us physician Members in this body. We do not have all the answers. In fact, I think the gentlewoman from Connecticut has a whole lot more answers than we do, as all the members of the Committee on Ways and Means and the Committee on Energy of Commerce, I commend them for the work they have put in to giving us this interim program as we wait for the full Medicare prescription drug benefit in 2006.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman. When you call up that 1–800–Medicare number and you tell them your zip code, your income and the drugs you take, they send you a printout. It has the pharmacy's name on it and the address and another pharmacy and that address right near you and another pharmacy and that address and the price that each of those pharmacies charges for each of the drugs that you take.

Now, then you can go on and you can get more. But you can tell them my favorite pharmacy is this. I want to know which card gives me the lowest price at my favorite pharmacy, and they will tell you that. Or you can say, I want to know where the lowest price is in all the surrounding towns; and they will tell you that.

So never have we brought the service of technology to our seniors as we have in this program, not just in advertising it but in having people there to assist seniors in deciding what card is best for them. And, of course, it is true, if you are in a program where your employer pays all of your drug costs, you will not need a discount card, but that is a very small percentage of our retired seniors. And if you are very, very poor, on Medicaid and the taxpayers are paying all of your drug costs, that is true, you will not benefit from a prescription drug discount card, although your State will. Your State will save some money, and that will help them carry the burden of other programs.

So, ironically, if you are on Medicaid, you will not feel the benefit. But in my State that has had to kill some Medicaid benefits, they are going to use the money we save them on Medicaid to strengthen another part of the Medicaid benefit for other Medicaid groups. So it is a good thing for everybody.

Now, just before we go on to some of my colleagues, I do want to say one other thing. First of all, year after year, we have failed in the House and Senate to be able to pass a bill. Year after year, seniors have waited. Year after year, seniors have begun to doubt whether we were as good as our word, whether we did care. This was the third time the House passed the bill. The first year the Senate passed the bill; the first session the Senate passed the bill. But together now we have a bill.

In the Senate, it was an extremely bipartisan vote. In the House, it was less bipartisan because of the nature of the House. But, in the end, it delivers to seniors a generous drug benefit that will result in half of America's retired seniors having no more than $1 for generic costs and $5 for brand name costs all across America. That is when the full program is implemented, the discount and the subsidy. So this is a giant step forward.

One of the gentlemen earlier talked about price, how the cards do change its price. Now, yes, it can; and we wanted them to. It is too bad really that we do not have more Members stop and remember their basic economics. There is not a senior out there that does not watch the sales. There is not a senior out there that does not go out and buy things regularly when they are on sale at whatever grocery store they are cheapest. And we know that, so we put all the discount cards out, and look what happened.

The first week they could advertise themselves. See these two cards had very high prices. For the bundle of 10 drugs that one of my colleagues from the other side defined, they were going to charge a total of $1,300 for just those 10 drugs. Well, they began to see, you see, what the other cards were going to charge; and they figured out, they figured out that even though it cost them a million dollars probably to put that card out there, they were not going to get any customers and they would lose all the money then put into developing their cards. They knew that a customer would be more likely to choose a card that was going to cost them only $930 for the same group of drugs that this card was going to charge $1,300.

There is not a senior I know that does not get it. $930 is a lot less than $1,300. You are going to sign up for this card. You are not going to sign up for these.

So what happened? Well, let us see. It only took one week, one week. Look what happened. Those cards brought their prices down to just about the same as the others. And each week there was change.

In other words, if you put a new product on the market, it costs you money. You invest in that product. And if you do not get customers to buy your product, I do not care whether it is drug card or an automobile or new shoes, you lose because nobody is buying your product. So if you want people to buy your discount cards, you better be sure you drive those discount prices low, and that is what we have been seeing happening. And I am proud of it, and we are going to see it happening more and more because this is the first time in history that prices have been out there on the Internet for everybody to see. Before that, you had to go store by store and then only you knew. Now everybody knows.

Let us turn now to my colleague, the gentleman from Texas (Mr. BURGESS), another physician in the House.

□ 2100

Mr. BURGESS. Mr. Speaker, I thank the gentlewoman for bringing this hour to the House of Representatives this evening, and I am so glad that she brought that chart because that chart really is so powerful in describing just what we are trying to do, what is available to seniors with this card, and that is by the free and full dissemination of information.

We live in the information age, and that information now being readily available on the telephone or the Internet, with the free availability of information, we have driven the cost of commonly prescribed drugs down a significant amount in the first 2 or 3 weeks that this discount program has been around.

I need to say again that the Medicare prescription drug benefit that we passed in this House last November 21 and was signed into law by the President in December will occur in two phases. The first phase begins today, begins June 1, and is a prescription discount drug card that is going to be available to every senior, but low-income seniors will receive an additional $600 benefit.

What is important about that $600 benefit, you might say. Well, gosh, we are halfway through the year, so what is going to happen if I have not used all of my $600? It rolls over until the next year. So my good friend, the gentleman from Georgia (Mr. GINGREY), who pointed out there is not one good reason not to buy or not to avail yourself of one of the Medicare prescription drug discount cards, there is even more reason to look at that card because essentially a low-income senior gets a $1,200 benefit over the next 18 months' time until the full prescription drug benefit rolls out January 1, 2006.

The card will be voluntary. The prescription drug benefit program in 2006 will be voluntary, and no one locks themselves into purchasing that part B Medicare in 2006 if they take the discount card that is available to them today; and, again, what is so powerful about taking that prescription drug discount card today is we are likely to see prices change even more over the next month, over the next year, indeed, over the next 18 months until the full prescription drug benefit kicks in.

Now, in the interest of full disclosure, I did go on the Medicare Web site, and I did log in myself and put in my own ZIP code. I am fortunate enough not to be on any medications on a regular basis, but I made some up and put them in. Indeed, you can get information about your pharmacy or your mail order pharmacy if you use one. Some of the prescription drug cards do cost money, and perhaps that would be a reason where one of the gentleman from Georgia's (Mr. GINGREY) constituents would not buy into the program because the card costs $30; but I submit to you the savings are going to be a great deal more than $30 over the course of the next 18 months' time; and even more importantly, some of those cards do not cost anything at all. They are available simply from filling out the form, and no expenditure is necessary up front at all.

So if you are not hooked onto the Internet, your child or grandchild undoubtedly is; and, again, one of the other powerful things about this program is that we may even see physicians use this program and compare prices for their patients. If their patient comes in and says I would love to be on that Fosamax so my bones do not get so brittle, but doggone, it costs so much money, I do not know that I can afford it, perhaps their physician will even take the time and trouble to go on to that Medicare Internet drug site and find the best bargain for that senior so that they can take their medicine so they are not forced to choose between a life-saving medication and food on the table.

But for the first time, seniors are going to have highly competitive pricing available and readily available at their fingertips. They can shop for what is best for them; and most importantly, they can make an informed choice, but the choice will be up to them. It will not be up to someone sitting on the other side of this House who wants to do everything for them.

If you like this system, you can stay with this system after 2006, but the program will be voluntary. The prescription drug benefit program will be voluntary, and no one locks themselves into a future benefit by taking advantage of the prescription drug benefit card this month.

I submit again that the prescription drug discount card benefit that is available in 2006 will be even better because of the work that the gentlewoman from Connecticut (Mrs. JOHNSON) has been doing on bringing the prices down by making the information free and available and readily available to anyone who cares to look it up.

I thank the gentlewoman.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank my colleague, who is also a physician, for joining us this evening; and I am pleased to yield to the gentleman from South Carolina (Mr. WILSON), my colleague, this evening as we move toward the end of our Special Order.

Mr. WILSON of South Carolina. Mr. Speaker, I appreciate the gentlewoman's leadership on this issue. She has truly in the House of Representatives, working with our President, been the leader to establish the prescription drug benefit for the people of the United States; and I have seen firsthand how this is going to be helpful to the people in the district that I represent.

I have had the opportunity to travel the district, and I have heard criticisms tonight that are confusing.

We, as Congressmen, have a duty when a new law is passed to go and explain to our constituents the law and how it can be beneficial; and as the gentlewoman has so correctly pointed out, this is a law which can be easily understood which is so beneficial to the people of our districts.

Additionally, I heard criticism that it was so confusing they could not understand, but I agree very much with the gentleman from Arizona (Mr. HAYWORTH) that, indeed, this is the generation that survived the Depression; that won World War II; that protected our country's freedom in the Cold War. We know that the people who are affected by this law are very bright, very capable. I have faith that they will see through the confusion.

Additionally, I heard criticism that you might have 53 options. Well, how wonderful. That is not negative. That is positive. The gentlewoman has really explained it so well today and tonight by using the 1–800 number, by going to the Internet and how simply by providing your ZIP code and then you receive the information by having pharmacies in your immediate area specifically on the pharmaceuticals that you need, and so this is so easily understood, and I appreciate the gentlewoman's efforts to promote the bill.

I know that personally again as a Member of Congress, with her leadership, helped prepare mass mailings. I have had district meetings. I have had Medicare forums. We will have our district open house next week to provide information.

We have had meetings with the AARP, which provides an excellent brochure. I urge everyone to see the AARP brochure. It is very easy to understand, explains the full benefit; but today, June 1, 2004, is a crucial day because the discount drug card comes into effect.

My experience in traveling the district, when I was in Bluffton, South Carolina, at Palmetto Electric Co-Op, I was pleased to be with the Healthcare Leadership Council, Darren Katz, who gave a very authoritative presentation. We had wonderful people there from Sun City. They really were terrific, asking wonderful questions, and it came out a very positive experience.

Then in Aiken, at the Aiken County Commission on Aging with the Aiken County Community Hospital. We then found worksheets from the AARP which were so easy to understand.

At Hilton Head Island, which is one of the leading and most beautiful retirement centers and communities in the whole world. I was very fortunate to be at Tidepoint Community with Thom Jones and with the Golden Rule Company for a presentation and the Cypress Retirement Community and I met people, and it was extraordinary to me. I was talking to people who would come up to me and say, I was 90 last week. They were so much fun, and they were just such a delight to be with and an inspiration to me.

Additionally, in Orangeburg, South Carolina, I was there at Orangeburg County Aging Commission with the Orangeburg County Regional Hospital. This is a lower income area, and we had a real cross-section of the community, and it was wonderful to see them understand the availability of this card and what it would mean to them.

In Columbia, the capital of South Carolina, I had the opportunity to be at the senior citizen center at Maxcy Gregg Park; and, again, we had a cross-section of community leaders who came to find out about the program, and it was very, very encouraging.

Finally, I will be at the Gilbert Community Center in Gilbert, South Carolina, next week promoting the legislation, explaining the bill with the Lexington County Recreation and Aging Commission and also the Lexington Medical Center. I know that the people of Gilbert and the people famous for the 4th of July Peach Festival will be enthusiastic to get information about this and how it means so much to the senior citizens of our community.

Another part about the confusion, it is really my point, and what I have discovered at these meetings is the AARP is so helpful. We have chapters all over the United States. If you have got a question, obviously we have got the 1–800 number, we have got the Internet connection which is easily available to everyone, but the AARP has the information. They have got wonderful and capable people who would be happy to meet with you. We know that these brochures are also at senior citizens centers throughout America. At every senior citizen center they are available, and people can find out and cut through the confusion.

I know personally that it has been my experience that when I worked with insurance and I was a real estate closing attorney for 25 years, I did not try to understand the insurance policy. I went to an agent that I trusted and I go to him or her and get the policy and I have faith in that. As a real estate closing attorney, I did not even imagine that people would understand a 20-page mortgage sometimes written in old English using English common law. You find a good attorney that you trust and you go to them; and it has been my experience, and you have referenced this earlier, and that is, go to a pharmacist that you trust. These are dear people. They really do care about their patients, their customers.

I know my next-door neighbor Bobby Perry and his daughter Roberta Vining are two of the finest pharmacists you can ever find. These pharmacists care about their patients. These are people who really make your heart warm; and so I would urge anyone, if politicians are confusing, do not get discouraged. Listen, first of all, to the gentlewoman from Connecticut (Mrs. JOHNSON), but after that, if you are confused, go to your pharmacist, talk with them, find out what they recommend.

Again, I want to thank the gentlewoman for her leadership. It has been inspiring to me as a relatively new Member of Congress, and I am just so appreciative of her persistence and her understanding of the issue and her devotion to promoting a real prescription drug benefit to the people of America.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I have served in Congress a long time; and when there is a real problem in the lives of the people you represent, I believe your job is to solve it. I believe your job is to take action, to do something; and I know that this is the most important health care bill we have passed for seniors since Medicare was founded.

It not only offers them prescription drugs. As I showed you earlier, it is absolutely voluntary. It is simple. You just use your ZIP code. You give us the pharmacist you like the best. You give us the names of your drugs, and we will tell you how much money you can save. It is not for everyone, if people already have very good coverage through their employers, but particularly important to those seniors who have no prescription drug coverage. It is real savings in their lives, and that is important to me.

When the whole bill goes into effect, we will pay 75 percent of the costs of their drugs, a gigantic step forward. Just as we pay 80 percent of the cost of their visits to the doctor, we will pay 75 percent of the cost of their drugs. In the bill I wrote, it was 80 percent. We will get it up to 80 percent, but you have to act. You have to do something, and all these nay-sayers who voted against doing anything one more year, this would have been the fourth year we would have done nothing. What a record. All those nay-sayers are now telling you do not bother, do not bother.

Listen, take a minute, bother, call 1–800–MEDICARE. Do what Jean did and find out that you can save $30 on one drug she has to buy every month, $20 on another drug. It all adds up to hundreds of dollars. That, in my estimation, is a good thing. That helps our seniors.

I am proud of the bill we passed because it brings prescription drugs to seniors; but you know what else, not a senior I know does not have chronic illnesses. Twenty percent of our seniors have five or more chronic illnesses. Medicare does not pay for chronic illness care. The rest of the world knows about it.

Many, many employer-provided plans do a lot more for people with diabetes or heart conditions. Do you understand that in this prescription drug and Medicare reform bill, for the first time we are going to provide chronic disease management for our seniors? We are going to give them the kind of state-of-the-art support that means that people with chronic disease do not have to end up in the hospital, do not have to end up on dialysis if they have diabetes, do not have to fear going to the emergency rooms. I mean, it is going to be a revolution. It is bringing preventive health care right to those who have chronic disease and are going to suffer the most serious health consequences.

So this is about prescription drugs. This is about a discount card today, about a full prescription drug card subsidy in 2006 and about Medicare offering state-of-the-art care to people with chronic illnesses in a way it never has.

I am proud to have helped write this bill. I am proud that I was the only woman on the conference committee, because I think that is important.

□ 2115

Women and men both need to be present to make our laws, and do not any one of the young people watching tonight forget that.

But this is a big step forward, and do not let naysayers rob you of the very considerable savings this discount card could bring to you. And, remember, you be the judge of your interests. You alone can make that judgment. We here in Medicare have made it very easy, and I urge you to take advantage of the Medicare prescription drug discount card, which starts today, June 1.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 444, BACK TO WORK INCENTIVE ACT OF 2003

Mr. HASTINGS of Washington (during the Special Order of Mrs. JOHNSON of Connecticut), from the Committee on Rules, submitted a privileged report (Rept. No. 108–518) on the resolution (H. Res. 656) providing for consideration of the bill (H.R. 444) to amend the Workforce Investment Act of 1998 to establish a Personal Reemployment Accounts grant program to assist Americans in returning to work, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.J. RES. 83, PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES REGARDING THE APPOINTMENT OF INDIVIDUALS TO FILL VACANCIES IN THE HOUSE OF REPRESENTATIVES

Mr. HASTINGS of Washington (during the Special Order of Mrs. JOHNSON of Connecticut), from the Committee on Rules, submitted a privileged report (Rept. No. 108–519) on the resolution (H. Res. 657) providing for consideration of the joint resolution (H.J. Res. 83) proposing an amendment to the Constitution of the United States regarding the appointment of individuals to fill vacancies in the House of Representatives, which was referred to the House Calendar and ordered to be printed.

NEW PRESCRIPTION DRUG CARD PROGRAM TOO CONFUSING FOR SENIORS

The SPEAKER pro tempore (Mr. FEENEY). Under the Speaker's announced policy of January 7, 2003, the gentleman from New Jersey (Mr. PALLONE) is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, I listened both on TV and also here in the well in person to the previous Special Order delivered by my colleagues on the Republican side of the aisle. I realize that they are well motivated and have the best of intentions in trying to put forward this prescription drug discount card program, but I have to say that I never believed it would work or accomplish anything to help seniors with their drug prices. Certainly what has happened today and the fact that so few seniors have signed up is a strong indication that it is unlikely to be effective and that it is unlikely to even be tried by most of America's seniors because they realize it is not really going to do much in terms of offering them discounts or providing lower prescription drug costs.

I think AARP was quoted in The New York Times today saying that they only had 400 seniors nationwide from the membership of their organization that had signed up for the prescription drug cards. Their card. What is that, about, I do not know, five or so per State? It is unbelievable how few. Overall, I think there was another group that said about a thousand seniors had signed up for their card. Most of the other card sponsors would not even give out numbers. But it is clear very few seniors are signing up for it.

I think it is also true that when the Republican so-called prescription drug benefit kicks in in 2 years, in 2006, we will have the same phenomena, very few people will sign up, because it really does not provide much of a benefit.

But before I get into the whole issue of the discount drug cards, I want to mention, because I think a lot of times we forget, that the Democrats in the Congress, when this prescription drug proposal was being put forward by the Republicans, basically had a very simple proposal. We recognized the fact that Medicare has not traditionally included a prescription drug benefit and that the best way to include such a benefit was simply to expand Medicare in the traditional way and provide for the prescription drug benefit.

So our alternative to the Republican proposal essentially followed the outlines of Medicare part B. I think most seniors realize that their hospitalization is covered by Medicare part A and their doctor bills are covered by Medicare part B. Medicare part B is essentially a voluntary program.

A senior pays, I do not know what it is now, say approximately $50 a month for the coverage of their doctors' bills, with a $100 deductible, a 20 percent copay, and with 80 percent of the cost provided by the Federal Government. They can go to any doctor they choose and basically have it covered, 80 percent of the cost, by Medicare.

What we proposed, as Democrats, is to do the same thing with prescription drugs. Essentially, a senior would have a $25 per month premium, with the first $100 being deductible. Starting January 1, the first $100 the individual had to put out for prescription drugs they had to pay out of pocket; and then, after that, 80 percent of the prescription drug costs would be paid for by the Federal Government and the individual would pay a 20 percent copay. There was no restriction. A senior could go to any pharmacy and buy any drug, name brand, generic, whatever was desired or whatever the doctor ordered that was necessary.

Also, we had a provision in our bill, in the Democratic bill, that said that the Secretary of Health and Human Services, the administrator of the Medicare program, would be required to negotiate lower prices. We estimate that that would result in price discounts of about 30 to 40 percent. I did not just pull that figure out of the air. That is what the Federal Government does with the Veterans' Administration. That is what they do with the military, the active as well as the retired military. They negotiate price reductions, and they get reductions of something like 30 and 40 percent.

So it sounded like a very good idea. Democrats put it forward, figured this is an opportunity to expand a very successful program like Medicare and to include prescription drug coverage.

But the Republicans said, no, we cannot do that. Frankly, I think a lot of them do not even like Medicare. But, whether they like it or not, they are very much into the ideology, at least the House Republican leadership and the President are into the ideology that everything should be privatized and that Medicare is not a good program because it is a public, government-run program and the best thing is to privatize.

So we got into this very confusing privatization of Medicare in order to provide some kind of prescription drug benefit, which does not even start until the year 2006. So I have all along said it is a very political thing to do. If you want to provide a benefit, you provide it immediately. You do not wait until after the next election, or really way beyond even the next election.

I want to talk about the discount card program, but if we look at the benefit that is supposedly to be provided beginning in the year 2006, we find that you have to put more money out of pocket into it than it is worth in terms of what a senior actually gets. There is a huge gap, some call it a donut hole, where you do not get any benefits, but you keep paying the premium. There is no designated premium, and there is no guaranteed discount.

In fact, there is a provision in the Republican-passed bill that was sponsored by the Republicans and supported by the President that says that the Secretary of Health and Human Services, the Medicare administrator, cannot negotiate prices because they do not want the Federal government negotiating prices or providing any discount. And, frankly, that is because the Republican bill was written by the drug industry; and they want to make money. They do not want to lose money by having discounts.

We can get into what is going to happen in 2006, in another couple years, because we have a lot of time. But, in the meantime, what the Republicans put in their bill was that, beginning June 1, which is today, and until the time that the so-called benefit kicks in, more than 2 years from now, that they would provide these discount cards. And that was, of course, the discussion by my Republican colleagues in the last hour and what I would like to get into tonight.

I would say just the opposite of what my Republican colleagues said earlier, that there is no benefit to these discount cards. I do not even see how anyone will get a discount because the prices of drugs have gone up way beyond whatever discount might be provided. And this system is so terribly confusing, there is really no way to even figure it out unless you have access to the Internet, which many seniors in my district do not. And when they do sit down on the Internet, seniors are going to be so confused trying to figure out which card to buy or whether to buy any card that, ultimately, they will not even bother. That is why so few seniors have signed up.

Imagine, an organization like AARP, the largest senior organization, they are offering a discount card. A lot of people signed up for their health care plans, for their medigap plans, and only 400 people nationwide signing up for their discount card. That really shows that people have a lot of skepticism, as they should, about whether or not this is something that is really beneficial to them.

Now, I just wanted to say that over the last month, in preparation for today, June 1, seniors faced the confusing tasks of shopping on line, looking on the Internet, and basically having to decide between 73 discount cards for more than 60,000 prescription drugs at more than 50,000 pharmacies around the country.

Now, this chart, to me, kind of tells it all. This is what I call mass confusion. This basically describes President Bush's drug card: Fifty steps, no promises. Fifty ways of trying to figure out which card to buy and whether you are going to get a discount and how it might help you, with no promises you are going to get any kind of discount whatsoever.

It is just unbelievable how difficult it is for seniors. There was a research firm that concluded, I think it was in today's New York Times, that the Medicare Web site was riddled with flaws that make it difficult for seniors to identify which card best fits their needs.

And for those seniors who do not have access to a computer, and there are lots of them, they are forced to rely on a 1-800 Medicare number, I think my colleagues on the Republican side mentioned that. Now, I tried that number a couple of weeks ago. I sat on the line for 30 minutes going through different menus before I actually got the chance to talk to a human being.

Does anyone think seniors should have to sit on a line for 30 minutes before they are able to even talk to someone about this or have to go on the Internet, when they may not even have a computer? The confusion is massive.

The New York Times reported today that the discount cards are off to a slow start. Fewer than one million seniors have signed up, well off the Bush administration's prediction of 7.3 million. I do not even think it is anywhere near the million, to be honest. The New York Times reported that AARP said that, "While it had received thousands of inquiries, only 400 people had signed up for its Medicare-approved discount card."

Prime Therapeutics, which manages drug services for seven Blue Cross/Blue Shield plans offering cards, said fewer than a thousand people had signed up. And several other companies refused to tell The New York Times how many people have enrolled, probably because so few have enrolled.

Now, one might ask why, are seniors not more enthused about signing up for these discount prescription drug cards? Basically, it is because there is no guarantee they are going to get any discount. Medicare discount cards are being marketed as providing a 10 to 25 percent discount, but there is no requirement in the new law that the card sponsors must offer any specific discount. The idea of a savings is simply illusory. Prescription drug costs rose 17 percent alone last year, and drug prices are reported to have increased dramatically between the beginning of the year and now. So any savings have been lost to drug cost inflation.

In today's New York Times, Thomas Dickman, President of Prime Therapeutics, a pharmacy benefits company, said in many cases the rise in retail drug prices over the last year had wiped out savings already negotiated for members of Blue Cross plans his company helps manage.

Secondly, Mr. Speaker, seniors discovered there is no guarantee that a particular card will offer discounts on all the medicines taken by seniors. Card sponsors are allowed to pick and choose which drugs will be discounted.

In addition, card sponsors may change the discounted prices on medicines weekly. The discount on a senior's medicine that was advertised when he or she enrolled may change, but that senior will not be allowed to switch to a different card for one whole year.

If I have not lost you already, Mr. Speaker, let me go on. Imagine that a card sponsor can change prices any time they want, but seniors have to stick with the card for a whole year. Over the last month, seniors have also discovered there is no guaranteed access to any particular pharmacy. Each discount card sponsor will determine which pharmacies will offer the discount advertised with the cards. A senior's usual pharmacy may not participate in the card he or she selects.

Finally, after all this confusion, the actual price paid for prescriptions will vary by pharmacy. Because pharmacies can change the prices they charge, seniors must check with each of their local participating pharmacies to find out which offers the lowest price on the drugs covered under their card.

I do not know how you could not be skeptical and wonder why so few seniors have signed up for the discount cards over the last month up to today.

□ 2130

President Bush says, and one of my colleagues from Ohio is here, but I will say just one more thing before I yield to the gentleman.

The President has said that these cards will cut bills by 10 to 25 percent. A new report out by Families U.S.A. shows prices on the five top-selling drugs for seniors increased 9.9 percent over the last year, wiping out any savings from the discount card.

We cannot do anything to help seniors out with their prescription drug bills, in my opinion, Mr. Speaker, until we actually do something about the drug prices. Democrats are fighting to lower drug costs in a straightforward way. We should allow the government to use the purchasing power of millions of seniors to negotiate lower drug costs. This is what we do with the VA. The gentleman from Ohio (Mr. STRICKLAND) has mentioned that before. This is what we do with the military, and also we should allow the safe reimportation of drugs from Canada and elsewhere.

Until we do these things and address the price issue, these cards are not going to provide any meaningful relief.

They are a sad commentary on the ruse being pulled by the Republicans and by the President on such an important issue for seniors.

Mr. Speaker, I yield to the gentleman from Ohio (Mr. STRICKLAND), who has talked about this many times.

Mr. STRICKLAND. Mr. Speaker, we are told that these drugs will provide a 10 to 25 percent discount. There is no guarantee of that, obviously. But we are told that is likely to happen. But here is what has happened. The drug companies have raised their prices already. So as someone said earlier today, it is like going to a used car lot to buy a used car, and there is a sign on the windshield which says reduced $300. And the person buying the car does not realize, although they are buying a car that has a sign reduced $300, the day before the car dealer had upped the price by $400. That is what we are seeing here.

The drug companies have dramatically increased the cost of their drugs over the last year. Even AARP has complained that drug companies have upped their price. Now these cards come along, and seniors are told you are going to get a 10 to 25 percent discount, when the prices have already gone up so far it has made any discount meaningless.

I was here earlier, and I described something that obviously made some of my friends on the other side of the aisle quite upset. My colleague from Georgia was talking about the gentleman from Ohio, and I suppose he was talking about me. The fact is I described what happened in this Chamber. They do not like to hear what happened in this Chamber, but the American people need to know. This over-700-page bill was given to us on a Friday. We began to debate that afternoon and evening, debated until 3 a.m. when most normal Americans are asleep.

Now there is nothing wrong with working late or throughout the night if it is necessary; but there was no reason for us to do it in the middle of the night, no reason at all. But at 3 a.m., we are considering what is perhaps the most important domestic piece of legislation that has come before this House in many, many years, a piece of legislation that affects senior citizens. Most senior citizens I know are not likely to be awake and paying attention at 3 in the morning. The press is not likely to be here at 3 in the morning. In fact, they are not here now. So it was done at a time when the American people were not able to pay attention and follow the debate.

And at 3 a.m. in the morning, they called the vote. We are all here. A vote usually lasts 15 minutes, sometimes 17 minutes, occasionally as long as 20 minutes, but the usual time is about 15 to 17 minutes. At the end of that time period, this bill had failed. It had failed because it was a bad bill. It did not do what America's seniors wanted, and I believe those who were pushing it were quite frankly to have it debated in the afternoon.

Mr. PALLONE. Mr. Speaker, I want to point out, at that point there were a majority who voted "no." It was not even like we were waiting around to see who was left to vote. Sometimes we wait to see because Members have not voted. It was 218, which is a majority, voted "no."

Mr. STRICKLAND. We were all here on the floor, and so the bill had failed. Boy, if the American people could have watched the shenanigans going on on the other side. Quite frankly, there were a few on our side that were stressed by this vote, as well they should have been. It was an important vote.

The reports in the media indicate that they got the President out of bed in the morning at perhaps 4 a.m. to use his influence to perhaps change some votes. One hour passed and 2 hours passed, and it was approaching 6 in the morning.

One of our colleagues indicated to the media that he had been approached. His son is running for his seat, as he is retiring; and it was indicated maybe if he would change his vote, his son would get $100,000. I do not know what that sounds like to the gentleman, but it does not sound like very good public policy practice to me. I think it would upset the American people if they fully understood what was going on here. So that kind of thing was happening on the floor of the people's House.

A bill that should have had the support of nearly all of us, if it had been a good bill, and at 6 in the morning or about 5 minutes to 6, leadership finally convinced a couple of freshmen to change their vote. When a Member changes their vote after all of the time has expired, they cannot do it electronically. The Member has to walk down to that table and take a card and sign their name to it and turn it in to the Clerk and the vote changes on the wall. That is what happened. A couple of freshmen came down the aisle and took a card and signed it; and at 5 minutes to 6 in the morning, they finally got this bill. It has turned sour on them, quite frankly.

Mr. PALLONE. Mr. Speaker, the gentleman remembers when the votes were switched and there were now 218 for it, how long did they wait to close the board?

Mr. STRICKLAND. Mr. Speaker, almost immediately. They finally were able to wring out a number of votes. And the reason it was so difficult to pass this bill is because it was not a bill that was written for the seniors; it was a bill that benefits the pharmaceutical companies and the insurance companies.

If I can just take another moment before I yield back to my friend, there are two really terrible parts of this bill, and the first part the gentleman mentioned earlier. It explicitly forbids the Secretary of HHS from negotiating with the pharmaceutical companies to get cheaper drugs for our seniors.

The Veterans Administration gets discounts for the veterans of this country. They are able to save between 40 up to 60 percent on the drugs, and yet this legislation specifically prohibits that. Why would that be? There is only one reason, and that is because the pharmaceutical companies insisted that language be in this bill.

The second really terrible part of this bill, and it has been referred to earlier, it specifically prohibits the reimportation of cheaper drugs from Canada unless the Secretary gives his approval, and he said he is not going to do that. So what do we have here? We have a discount card that provides a level of discount that does not even in most cases match the increase that has occurred over the last few months.

Seniors know what is going on. I go to senior groups in my district. And I explain to them the specific provisions of this legislation. When I talk to them about the big donut hole, the gap in coverage, when I explain to them that there is an assets test for an individual like $6,000, even a person's burial plot is included in the assets test, they audibly gasp and they gasp because they find it difficult to believe that their government, this President and the leadership of this House of Representatives, would do this. But it is the truth.

My friends on the other side of the aisle may not want to hear it, but American seniors need to hear it because it directly affects their lives.

Mr. PALLONE. Mr. Speaker, I want to follow up on two things that the gentleman mentioned with this chart. The gentleman spoke about the reimportation from Canada which is not allowed now, and the other is negotiating the prices, which the VA does. And the gentleman is a champion of the veterans; and even though the Republican Congress and the President have cut back on a lot of health care funding for veterans, they at least allow the negotiated discount, but they will not allow it for seniors.

Earlier this year, the Committee on Government Reform senior Democrat, the gentleman from California (Mr. WAXMAN), conducted a comprehensive report comparing the new Republican discount drug cards with three other sets of prices; and what the gentleman did was compare the drug card prices to those that individuals pay for the same drug in Canada; and, second, compare prices of those for drugs purchased by the Federal Government on the Federal Supply Schedule, and those are the prices that are negotiated by the Department of Veteran Affairs and are available to a number of Federal agencies, including the VA, Department of Defense, and also the Coast Guard.

Now, what this chart shows, and I just took some of the drugs, the prices are indicative of the prices available, and let me just show some examples. Some people may not know what these drugs are, so I have another little sheet which tells me what they are. The first one is Aricept. I do not know if I am pronouncing it right, which is basically for Alzheimer's. If we look across, some of the prices available through the new Medicare cards for Aricept, this drug, Pharmacy Care Alliance, $139; Walgreens, $135; RxSavings, $132. This is the Federal Supply Schedule which is the negotiated price that the VA uses, $76 which is half, approximately, of what the discount cards are quoting. If we look at Canada, $119, less also than those three.

I will just go through a few more. Celebrex which is for pain, again the discount cards, Pharmacy Care Alliance, $121; Walgreens, $81; RxSavings, $85; Federal Supply Schedule, which is negotiated with the VA, $62. So they are significantly less. Canada, $38.

Mr. STRICKLAND. Mr. Speaker, as the gentleman shares these numbers, and I see the very significant savings that would be available to seniors if we were able to negotiate these discounts for them under Medicare, and when I see the great savings that are available to the people who live in Canada, I feel real anger because I really do not believe there is any way to justify what is happening here other than the fact that the pharmaceutical industry owns this Chamber and the administration is doing everything they can to protect them.

Can the gentleman think of another explanation of why it would not be possible to have these drugs sold at these reduced rates for our seniors? If the veterans can get these prices and if the Canadians can get these prices, how can we justify a senior citizen having to pay two or three times as much as someone who lives in Canada? It just is one of those things that when I talk to my constituents and they bring up the subject, I do not have an answer for them because it is irrational. There is no rational explanation as to why this government should not protect our seniors and allow this discrimination, this unfairness in terms of pricing to continue month after month, year after year.

I really do believe that the leadership of this House, my colleagues on the other side and the President of the United States, have to answer this question to America's seniors: Why are you allowing this price discrimination to continue?

The only reason that I can think of is because the pharmaceutical companies are asking them to or demanding them to, which is not right.

Mr. PALLONE. There is no question about it. I went to a forum a couple of months ago, the Bloomberg Forum, a program on TV, and there was a professor from Princeton, and the rest of the representatives on the show were from the pharmaceuticals, and it was clear that they saw this prescription drug benefit and discount card as a way to make more money.

□ 2145

That is all it was.

I wanted to mention, I am not going to go through all these, because you can just generally see how much cheaper it is with the negotiated VA price or even lower with the Canadian price, but we keep talking about seniors because we care about seniors, and that is what this Medicare program is supposed to be all about. But I would like to remind people that these figures for Canada, that is for the public at large. That is not just for senior citizens.

In other words, we have to remember I think constantly that people who are not seniors are totally subject to whatever the price is, whereas in other countries, like Canada, these discount prices are available to the general public.

Mr. STRICKLAND. Mr. Speaker, if the gentleman will yield further, I want to thank the gentleman for reminding me and all of us of that fact.

I talk to people frequently in my district who suffer from various kinds of arthritis, osteoporosis and other kinds of chronic illnesses and diseases, and some of them are unemployed. We have lost a lot of jobs in Ohio, especially a lot of manufacturing jobs, jobs that at one time provided good health coverage for the worker and the worker's family. Many of those jobs are now gone. So these folks, who are maybe 45, 55, 60 years old, they do not even qualify for Medicare yet, and they are out of a job and have lost their health care and need these medicines.

So I want to thank the gentleman for bringing that reality to this debate tonight, because there are people who are not seniors who are terribly, terribly in need of help with their medications.

Mr. PALLONE. Mr. Speaker, reclaiming my time, the other thing I wanted to point out, and not to necessarily keep pointing to this chart, but I think it says so much, you can look on the Internet, we have made an issue, and the gentleman and I know well that a lot of seniors do not have access to an Internet, but if you do have access, what do you need the cards for?

You can look on the Internet for a Drugstore.com, Costco.com, and there are a lot of other Internet sites, where they have the same drugs for either about the same cost or slightly less.

Mr. STRICKLAND. And, if the gentleman will yield, you do not have to pay $35 for the card.

Mr. PALLONE. So one of the things that a number of my seniors told me, they said, I have finally got the Web site, and I got on it, and I compared the prices to figure out whether or not I wanted to take one of these cards; and then I went to one of the other Internet sites, and the prices were less. So why buy a card at all?

It is so absurd. I listened to my colleagues on the Republican side tonight, and I know they mean well. I am not suggesting they do not. I know they feel strongly about this issue, as we do. But it is either their ideology or allegiance to the pharmaceuticals, as the gentleman says, or something that is getting in the way of reality here, and it should not.

This is important. We have got to do something that is helpful to seniors, not worry about the ideology or whether or not you have got a prescription drug company in your district or all these other things that they seem to be concerned about.

Mr. STRICKLAND. Mr. Speaker, if the gentleman will further yield, I sometimes wonder if the leadership of this House and the President of the United States understand the pain that is being felt by people throughout this country.

I can only speak for my State and my district, but Ohio is part of the heartland of this country. It is a State that I think is a microcosm of the larger Nation. We have got large cities such as Columbus, Cleveland, Toledo, Akron, Cincinnati and Youngstown. We have the urban areas. We have large agricultural operations. We have got a huge part of Appalachia that is contained in Ohio in small towns.

What I am trying to say is, I really do believe that, because of the State and the district that I represent, that I have an understanding of the kind of pain and struggle that people are encountering today.

With regard to the loss of living-wage jobs, many of the jobs being created to replace the manufacturing jobs pay 35 percent or less than the jobs that have been lost, and these new jobs oftentimes do not provide the kind of health care coverage. So there is a lot of pain throughout this country, and I just sometimes think that the President, coming from a privileged background as he did, and I do not fault him for that, but sometimes I wonder if he actually knows what life is like for someone who has an income of $13,000 or $15,000 or $16,000 a year and is trying to pay bills and raise kids and especially if they do have medical problems. It is a huge, huge issue.

One of the reasons that I most opposed this bill that passed here in the House in the middle of the night was I see it doing nothing to really bring down the cost of prescription drugs for seniors. The way to bring down the cost is to increase the competition, and you increase the competition by allowing less costly drugs to be imported from Canada. That would bring down the prices overnight.

Another way to bring down the cost is to have Medicare be able to negotiate for the senior population. If Medicare had a prescription drug program that was part of the traditional Medicare operation, Medicare would be the largest buyer of prescription drugs probably in the entire world, so Medicare would be able to negotiate and bring down the price of these drugs.

But I see nothing in this bill, which has been passed here in the middle of the night after a lot of arm twisting, I see nothing in this bill that actually deals with what I think is the core problem, and the core problem is the cost of the drugs and the fact that they escalate 17 to 27 percent in a year's time. So you give someone a 10 percent discount, and if the drugs have gone up 17 to 27 percent, what have you accomplished?

It seems to me like we are playing games here. Why do we not just say that Medicare works? Seniors trust Medicare. They know they have hospital coverage through part A, they have physician coverage through part B. Medicare part C is for the managed care portion. Why do we not just add Medicare part D and make that a prescription drug benefit and allow the Secretary to negotiate discounts for all of the seniors? That could bring down prices immediately, and it would be easy to administer. Seniors could understand how to access the benefit.

We have created a huge bureaucracy here. My colleagues were talking earlier about the hundreds and hundreds and hundreds of new people that Secretary Thompson has had to hire just to answer the phones to try to get people a timely response.

Mr. PALLONE. The gentleman might also want to mention the cost paid for the ads. They had an initial ad campaign that was $20 million and another one subsequent, I think another $18 million, that basically promotes the prescription drug cards. In my opinion, they are not really honest about what people would get.

I guess it was the week before the break, a couple of weeks ago, the GAO came out and said it was probably illegal to spend the money because it was essentially a ruse, it was really propaganda, it was not really informational, and they should not have been spending taxpayer dollars on it.

So between the ad campaign and the extra people hired on the phone, the cost has got to be unbelievable. I do not know what the cost is, but it is huge.

Mr. STRICKLAND. If the gentleman would yield further, I keep referring to my friends on the other side of the aisle and the fact is I do think this is an honest debate and there are honest differences, but why would we have to spend tax dollars to try to convince seniors this is a good thing if in fact it is a good thing?

The General Accounting Office, as the gentleman pointed out, is the arm of the Congress that actually oversees the expenditure of tax dollars to make sure that they are spent properly and in accordance with the law. And it is true they have said, wait a minute, this is probably an illegal expenditure of funds because it was not informational in nature, it was an attempt to convince seniors that this was a good deal when in fact many of us are convinced that it is not a good deal for seniors.

I have had seniors say to me, Congressman, what should I do about this card? What card should I choose?

I have said to them, go talk to your local pharmacist, because I do think your local pharmacist may be in the best position to really advise you. But many of my local pharmacists are very upset with this. They know it is not a good deal.

As I think about this, something else just came to mind that I think the American people need to know. Many already know, but some may not have heard. When this bill was first presented to us by the President, many conservatives on the Republican side of the aisle were terribly concerned that it was going to cost too much; and they in fact apparently drew a line in the sand and said, if it costs more than $400 billion, we simply will not support it. So the President said, it will not cost more than $400 billion.

Then, after the bill passes, we find out that the chief actuary at the Department of Health and Human Services had actually determined that it was not going to cost $400 billion, but it was more likely to cost I think about $551 billion, and he indicates that he was basically told if you inform the Congress of the true cost, you lose your job.

Those kinds of actions are indefensible. I think they are shameless.

Mr. PALLONE. Reclaiming my time, there is still an investigation within the Department as to whether or not that was a violation of law, too, because the actuary is supposed to be nonpartisan and give out true figures. The fact he was told if you reveal those figures to Congress, which he is required to do, that you will lose your job, may also have been a violation of the law. We are still waiting for the result of that investigation.

Mr. STRICKLAND. If the gentleman will yield further, it was important for those of us who were faced with casting a vote to have that information but equally important that the American people deserved to know. It is their money that is being spent.

If we get to the point where we have an administration that purposefully works to keep information away from the people, then I think that is quite serious. I hope this investigation continues, and I hope whoever is responsible is held accountable. Because one of the terrible things that can grow out of a situation like this I think is people come to distrust what they hear from their government, and if this is allowed to happen without being investigated and fully exposed, and those responsible punished for such misbehavior, then I just think it does great damage to our governmental processes.

Mr. PALLONE. I do not want to belabor the point, but I just wanted to say a few more things before we conclude tonight, and that is that when we talk about the reimportation from Canada, and we are going to continue to fight to try to get that, we realize it is only a stopgap measure, that really what we should have is a comprehensive program that provides for lower cost drugs. But it certainly is something that could be done in the interim in order to create, as the gentleman said, true competition.

What we are seeing on this chart with these discount drug cards is not true competition. This is just a ruse. But, as the gentleman said, if you had reimportation from Canada, you would have true competition.

I have to say I have been a little disgusted with the way that the Bush administration has treated this issue. Because from time to time the Department of Health and Human Services gives the impression that they would maybe allow reimportation. We have even heard some of our Republican colleagues come on the Floor and suggest that Republican leadership might allow reimportation. But they always put an obstacle in the way.

The argument that they use most frequently is that it is a health or safety problem to reimport the drugs. I laugh at that. Not that I laugh, it is a serious thing. But it is not a problem. Because, as we know, the bill that we tried to pass basically said that you could only import drugs from FDA-approved facilities. These are the same facilities that are now being used to import the drugs that the name brand companies here are using.

I tried to explain this to one of my constituents the other day. When I finally explained it, they just said, how can that be?

One of the drugs that is on here, I forget which one it is, but one of the drugs on here, actually the majority of the raw material is manufactured in Ireland, something like 60 or 70 percent, and it is packaged in Ireland and sent over here for the major brand companies, and then they sell it in the United States. That is an FDA-approved facility, where the FDA goes in, inspects it, does the same type of thing they would do at a facility in the United States, and it is being used now.

So how in the world, if you say that these drugs have to come from an FDA-approved facility in Ireland or France or Italy or wherever it happens to be, that there is a safety problem? It is just absurd. We are using them now.

Mr. STRICKLAND. If the gentleman would yield further, I would like to point out to my friends that, to my knowledge, the FDA has not identified a single death that has occurred as a result of a senior or an American taking one of these drugs imported from Canada.

□ 2200

Not a single case. Now, we have had several deaths occur as a result of onions being imported from Mexico, and I do not see any attempt to block the importation of food into this country from Mexico and other countries.

It is crystal clear to me as to why this is happening. The pharmaceutical companies know that if Americans can get these drugs from Canada, pay less for them, that their profitability will be affected. I mean, it is as simple as that. So here we have citizens in Belgium and France and Germany and England and Italy and wherever, Canada, buying drugs and paying less for them than citizens in the good old United States of America; and the pharmaceutical companies say, wait a minute. If you do anything that is going to interfere with our profits, then we will not be able to put adequate resources into research, and we will not be able to bring new and better drugs on stream. And I say bull feathers, quite frankly, for a couple of reasons.

Much of the research that is used by the pharmaceutical industry to develop these new and better drugs is research that is paid for already by the American taxpayer through the NIH and other agencies of the Federal Government. So the pharmaceutical companies benefit from that taxpayer-funded research, and then they get very generous tax benefits for the research they do. So here we have a situation where the American taxpayer is paying for much of the research, the American taxpayer is providing certain very generous tax benefits to pharmaceutical companies for the research they do, and the American taxpayer is paying two or three times as much for the drugs that those companies produce, as do citizens in nearly any other country on the face of this Earth. It is gross discrimination against the American consumer. We are, in fact, as American consumers, subsidizing the pharmaceutical companies, and we are subsidizing the cost of drugs for citizens in all of these other countries. That is really a shameful set of circumstances.

Mr. Speaker, I just wish I could have the President to take him to Belpre, Ohio, or down in Lawrence County or Marietta or up in Youngstown, throughout my district, to sit down with seniors and have him try to explain to them why this is a fair system. How can it be fair when our citizens are paying the cost, much of the cost that goes into producing these drugs and, at the same time, paying more for them when they go to buy them to use them. It just does not make sense.

Mr. PALLONE. Mr. Speaker, I just wanted to say one more thing if I could in conclusion tonight. One of the things that the Republicans keep saying is that they wanted to put this 2-year program with the discount drug cards in effect first, before the larger so-called benefit, prescription drug benefit, came into effect in 2006 because they wanted to show that privatization and the kind of competition, if you will, that is created under this very confusing system was the way to go, rather than the traditional Medicare; and that was supposedly to show the public that what was to come was going to be a good thing.

I have always said, and that is why I think today, June 1, is so significant, that when the public actually sees what this benefit is that the Republicans are offering them, they are just going to talk with their feet and not participate in it. I think that today, the fact that we found out today that for AARP there were like 400 of their members who signed up and for the other one I mentioned, with Blue Cross and Blue Shield, there were less than 1,000, that that is exactly what is happening.

People have clearly looked into this. If they have a computer, they have looked on the Web site and they decided not to participate. And I think that is very telling, because what it says to me is, if the seniors are not going to participate in this program because they realize it is not worth anything, hopefully that sends a message that the larger program to come in 2006, which is no less beneficial, in my opinion, also is not going to be helping any seniors. I hope that we do not have to wait until 2006 and that we can get rid of all of this garbage, really, this experiment in confusion before then, before 2006 and actually get the political wherewithal to pass a real prescription drug benefit.

The gentleman from Ohio and I, because we are on the Committee on Commerce and we are on the Health Care Task Force, and we were part of the group that put together this alternative proposal that would just expand Medicare, and I am just going to say one more time, because it is so simple. It is just like part B. Part B is voluntary for their doctor bills, and 99.99 percent of seniors participate. Most seniors do not even know it is voluntary, because they would not think of not participating in it. In that program, you have a $100 deductible, 80 percent of the cost is paid for by the Federal Government, 20 percent co-pay, you go to any doctor you choose. We are just saying do the same thing with prescription drugs. Have a $25 month premium. If you cannot afford it, then you would not pay it, but most seniors would pay it; a $100 deductible, 80 percent paid for by the Federal Government, 20 percent co-pay and, most important, that there is a negotiated price reduction which will bring the cost down, as the gentleman said happens in the VA, 40 percent, 50 percent, sometimes even more.

I am just hoping that when the seniors see that this is worthless and they do not participate in it, that we can build some political momentum over the next few months or the next year to actually put in place a good program, because I would like to see this whole Republican plan just repealed. There is nothing to be saved here, no money to be saved and no benefit.

Mr. STRICKLAND. Mr. Speaker, I was listening to my friend on the other side earlier, and the chairwoman of the Subcommittee on Health indicated that those of us who oppose this bill wanted to do nothing. Well, that is so far from the truth. We had an alternative; we just were not allowed to present it.

Our alternative would have provided a prescription drug benefit that was a part of traditional Medicare, easily administered, easily understood, a program that seniors could trust just as they trust Medicare today; and it would have happened, but for the other side who just are so into privatization and, quite frankly, many of them do not believe in Medicare and consider it socialized medicine. It has even been referred to by some Members on the other side as a Soviet-style health care system. Well, I think most seniors in this country feel pretty comfortable with it, confident in it. They think it is a good program, and there is just simply no reason why we could not add a prescription drug benefit.

One of my fears regarding what has happened here is that I do believe that this is an attempt on the part of the Republican Party to begin the full privatization of Medicare, so that in the years to come, Medicare will no longer be a guaranteed benefit with a guaranteed premium, but seniors will be forced to face the private sector and all that that involves.

I think this is a very clear-cut choice. I do believe that this is going to be a big issue this November. As seniors go to the polls to vote, I think they are going to have to choose between those who would want to privatize Medicare and those who want to strengthen Medicare and to expand it to include a prescription drug benefit.

Mr. PALLONE. Mr. Speaker, if the gentleman would yield, he will remember that when they first proposed the Medicare bill, they had a privatization component for not only the prescription drug program but the whole of Medicare; I think it was by the year 2010. Essentially, you were going to get a voucher, and you would just be given a certain amount of money to go around, and it would be the same type of thing. You would probably go on some Internet site and you would see what kind of programs were available that you could use your voucher to buy. But if you wanted to do something that cost more than the voucher, then you had to pay out of pocket. And there was so much opposition to that, that they ended up making it just a pilot program. But under the law that was passed that includes the discount drug card, that pilot program does go into effect in 2010 in a number of, I think, 20 percent of the different regions of the country. We are not talking just about prescription drugs now; we are talking about the entire Medicare program.

Mr. STRICKLAND. Mr. Speaker, if my friend would just yield for a final comment, the seniors of this country, the senior citizens in this country need to understand that what we are dealing with here is an administration that appears to want to obliterate, to get rid of, Medicare as we know it, to make it more of a privatized system where the government no longer has the ultimate responsibility to carry out the promises to provide this defined benefit, guaranteed benefit, guaranteed premium, to all seniors, so that regardless of where the senior lives, they are going to pay the same premium; regardless of where the senior lives, they are going to be entitled to the same benefit. We could just mongrelize, if that is a word, this program so that depending on what State you lived in or what city you lived in, you may have to have a higher premium, you may be denied certain medical benefits and so on.

I do not think that is what America's seniors want, quite frankly. I think they want Medicare to be strengthened, to be expanded to include a prescription drug benefit; but they want Medicare to remain, and they do not want it privatized.

Mr. PALLONE. Mr. Speaker, I just wanted to say that we are going to be down here, and we are going to continue to fight for what we think is right on this issue. I know today is June 1, which is the first day that this discount drug program goes into effect; but it is very important to point out that it has so far failed, and the reason it has failed are the same reasons that I think that the larger program itself does not make any sense; and we need to keep fighting to make sure that the public understands.

FEDERAL SPENDING AND FISCAL RESPONSIBILITY

The SPEAKER pro tempore (Mr. FEENEY). Under the Speaker's announced policy of January 7, 2003, the gentleman from Michigan (Mr. SMITH) is recognized for 54 minutes, unless the remaining speaker does not come to claim her time, in which case he has a full 60 minutes.

Mr. SMITH of Michigan. Mr. Speaker, 54 minutes probably is very adequate. I was sitting up in my office listening, reading letters from constituents, letters that wanted more money for the AIDS program, letters that wanted more money over the approximately $29 billion that is going to our foreign support programs. They wanted more money for food stamps, letters coming in wanting more money for health care, wanting more money for NIH. I think it should be obvious, certainly it is with most of our Members, that there are many, many problems out there; and the question is how many of those problems should it be the responsibility of government to solve.

We are now faced with a situation in the United States where approximately 50 percent of the adult population only pay about 1 percent of the income tax. So as we have moved in the last 30 to 40 years from an environment that our forefathers set up in the Constitution that encouraged effort, it encouraged savings, it encouraged individuals that saved and worked hard and invested, because they would be better off than those that did not; then, over the last 35 to 40 years, we have been sort of dividing the wealth up by increasing the taxes on those that might make it or those that work harder, or those that save and invest, and distributing some of their tax money to the individuals that made less effort or were, in other words, sometimes unlucky. I think that is a danger for our future.

Mr. Speaker, this is the 195th year of Abraham Lincoln's birth; and in his famous Gettysburg Address, he sort of surmised and wondered if a nation of the people, by the people and for the people could long endure. And I think in this kind of an environment where we have both sides of the aisle now calling for more spending; and it is an advantage to get reelected, Mr. Speaker, those individuals that take home more pork barrel projects, that promise more spending to solve more of these problems, probably do get on the television a little more, maybe get a picture of cutting their pork barrel project ribbon that they have taken home to their community. But the imposition on taxpayers today and maybe more importantly the burden that we are placing on taxpayers tomorrow, our kids and our grandkids, should be considered in the decisions we are making today.

I wanted to start out, Mr. Speaker, with sort of a pie chart on how we spend our Federal dollars this year.

□ 2215

As you see, the biggest piece of pie in this chart is Social Security. Some people suggest, well, why is Social Security part of that Federal spending pie? It is really a separate account. It is a separate account. However, I think it should be noted that on two occasions the Supreme Court has said just because you pay Social Security taxes there is no entitlement to the program benefits when you retire.

Social Security is simply another tax that Congress and the President have imposed on people, and the benefits are a separate bill of benefits that can be changed any time Congress and the White House wants to change those benefits. Of course, that is what we have done over the years. Every time we need a little more money for Social Security in this, if you will, pay-as-you-go program, the taxes have been increased or benefits have been cut or a combination.

So as we go around the pie chart we have Social Security taking in 21 percent of the total Federal spending. Coming around at 7:30, 8:00, Medicare is at 12 percent. The prediction is that Medicare costs will overtake Social Security within the next 18 to 20 years.

Other entitlement programs, 10 percent; domestic discretionary 16 percent. That is outside of defense. Domestic discretionary is what this body and the Senate discuss and argue about for 6 or 7 months out of the year. The rest of it is almost on fixed type of spending.

As you see, the next item is defense spending at 20 percent. That has gone up a little over a percent because of the war in Afghanistan, the war on terror and the war in Iraq.

Interest. I want to dwell a moment in interest at 14 percent. The interest on our debt in this country, now a little over $7.3 trillion, is $300 billion a year. That is $300 billion at a time when we are looking at a future of deficits that is adding to that debt approximately $500 billion plus a year.

We are looking at relatively low interest rates today compared to the prospect of going back to much higher interest rates. So if we continue this overspending and if interest rates are going to go back up higher, which Mr. Greenspan predicted, which most of the economists are now predicting, we could well see interest on the debt within the next 20 years taking up 25 to 30 percent of the total Federal budget.

And I would just suggest, Mr. Speaker, this is, maybe a stronger word than unfair, would be unconscionable for Congress, the House and the Senate and the White House to think our problems today are so great that it justifies taking the money of our kids and our grandkids that they have not even earned that yet. They are going to have their own challenges, their own problems, and they are going to be unable to continue to increase the debt of this country to pass on to their kids and their grandkids.

I am a farmer from Michigan. Traditionally, on the farm what we try to do is pay down the mortgage so that our kids will have a little better chance of having an easier life than maybe their parents or grandparents did. In this body, Mr. Speaker, what we are doing is just the opposite. We are increasing the debt every year.

Deficit, of course, is how much we are overspending over and above the revenues coming into the Federal Government. The overspending or deficit spending this year is going to be about $560 billion, next year about $530 billion, maybe a little higher. And what we are saying is we are adding that much to the debt.

In the next 2 months we are going to have to again pass a legislation in the House and the Senate signed by the President to increase the debt limit from its current $7.3 trillion on up to cover this kind of overspending and the debt that we are passing on to our kids.

I want to emphasize two things. We are passing on this liability to our children and our grandchildren in two ways: One is the deficit spending and the increased debt and the burdens of being responsible for that debt in future years, and the other is making promises that we do not have the money to pay for. That is the next chart.

The budgeteers call this unfunded liabilities. Unfunded liabilities means passing a law for a benefit program and the funds that are going to be required over and above what is coming in to pay for those programs. The payroll tax for Social Security, Medicare, is going to be the unfunded liability, what we are going to need over and above the payroll tax coming in. $73.5 trillion is estimated by the actuaries. Medicare part A is $21.8 trillion. That is mostly the Medicare that goes to hospitals. Medicare part B is mostly what goes to the doctors. $23 trillion, Medicare part D, the new drug program that was passed last November, the unfunded liability on that program is $16.6 trillion.

And so Social Security is $12 trillion. That is more than a quarter million dollars of unfunded liability for every man, woman, and child in America; and what is happening, of course, is the demographics of individuals living longer and the birth rate declining means that there is going to be even greater burden for our kids and our grandkids.

The next chart shows if we do not do anything, if we keep just simply continuing to talk about that 16.6 percent of the spending that is discretionary spending and we do not deal with the kind of changes in the rest of the so-called entitlement programs, it is going to not only be a huge impact on the way of life and the potential success of our kids and our grandkids but it is going to be a huge imposition and strain on the economy of this country.

And let me just ask, Mr. Speaker, if anybody would like to venture a guess on what the payroll tax is in France, for example. The payroll tax to accommodate their senior programs in France is now over 50 percent of a payroll tax. Germany just when over 40 percent for their payroll tax to accommodate their senior population. If the United States continues to put off the solutions and dealing with these tough problems, then we are certainly going to see a situation where it is going to make us even more at a competitive disadvantage.

We are already increasing our taxes on our businesses approximately 18 percent over the taxes that are charged to our competitors. Our overzealous regulations, our high health care costs added to that put our business at a competitive disadvantage with many countries. But if we continue to slip and slide and not deal with the problems of the unfunded liability for Social Security and Medicare and Medicaid, then the situation is even going to be worse.

And if we have that kind of a payroll tax, one understands that that business only has a couple options. They either try to pay less wages and salary to their employees in order to be competitive, or they try to increase the price of their product to cover their cost, and that tends to make them less competitive. So one can understand the demonstrations and frustrations in countries like France and Germany.

This chart shows that just in 16 years from now we will have to take an additional 28 percent out of the general fund to accommodate those other programs, what is needed over and above the money coming in from the payroll tax. By 2030, it is going to be over 52 percent that is going to come out of the general fund. We add to that the projection of the cost of the debt, servicing that debt, that is probably going to be approaching 20 percent at least in the next 15 years.

This chart is just a quick glimpse of the short-term surpluses from the huge tax increase on Social Security on the increase in the FICA tax that was passed by the Greenspan Commission in 1983. That increased tax money to cover temporarily the increase the cost of Social Security is going to last until about 2017, and then we have a huge, big red future. The red part of this graph projects the $12 trillion unfunded liability in Social Security.

I want to spend a minute, Mr. Speaker, talking about how Social Security works and the problem with Social Security. It is a tough problem; and it is easy to understand why Members of Congress have tended to say, well, look, we are going to save Social Security but we are not going to pass the bill right now, we are going to look at it more closely. Mr. Speaker, many of my colleagues in their past campaigns said, look, we need to do something about solving the problem with Social Security.

Here is how Social Security works. Benefits are highly progressive and based on earnings. At retirement, all of a worker's wages up to the tax ceiling are indexed to present value using wage inflation. What that means is if wage inflation means a doubling of wages every 9 years, it means a job 20 years ago that, or 18 years ago, that paid $10,000 now you would be paying maybe $30,000 for that job. So when Social Security indexes your best 35 years, it adds into those 35 years what the current value of that job was, whether it was held 10 years ago or 20 years ago or 30 years ago.

The annual benefits for those retiring in 2004 is very progressive. And, very quickly, today 90 percent of the earnings up to $7,340, in other words, if you are a low-income earner and over those 35 years you averaged $7,500 in wages, the government would pay you 90 percent of your weekly or monthly take-home pay in your retirement years.

The next 32 percent of earnings between the $7,300 and the $44,000, is 32 percent of your earnings. And then as we deal with higher wage earners when they retire, everything above the $44,000 is only given 15 percent in terms of what you get back in Social Security benefits.

And I added this. Early retirees receive adjusted benefits, and SSI does not come out of the Social Security system. It comes out of the general fund.

Let us talk a little bit about how we are going to fix Social Security. One way is to get a better return on the investment, the money that is sent in by the employee and the employer. Right now, Social Security is not a good investment. The average retiree will receive 1.7 percent return above inflation on what they and their employer sent into the Social Security system.

Franklin Roosevelt, when he created the Social Security program over 6 decades ago, he wanted it to feature a private sector component to build retirement income. His suggestion that he sent to Congress is that there be personal accounts but that individual would be forced to put into that personally owned account and they would not take anything out until they reached age 65.

Looking through the archives in downtown Washington, I discovered that the Senate did pass that bill for personally owned accounts. The House passed a bill suggesting that it should be the government in control, taking all the money in and then paying out benefits when that individual reached 65. By the way, the program worked very well in those early years because the average age of death was 62. One could not collect benefits until you reached age 65. So most people paid in but never took out benefits.

It is a program that is stretched to its limits. And the reason is demographics. Seventy-eight million baby boomers are going to begin retiring in 3½ years from now. Social Security spending exceeds tax revenues in 2017, and Social Security is simply going broke, and it needs to be fixed.

It is not guessing on insolvency. I have heard suggestions from both sides of the aisle if we can get our economy strong enough, it will fix Social Security. Well, the fact is that we know how many people there are, we know when they are going to retire, we know that people will live longer in retirement. But here is what also we know: We know that if we are earning more wages now because of a stronger economy, or if more people are working now because of a stronger economy, because there is a direct relationship to how much you are earning and paying in now and how much you will get out when you retire, a stronger economy now means there is more money going into the system, but it means when these people retire there is more money going to be spent going out of the system.

□ 2230

So simply having a strong expanding economy by itself does not solve the Social Security problem.

My last blip on this chart, payroll taxes will not cover benefits starting in 2017 and the shortfalls will add up to $120 trillion between 2017 and 2075.

Here is the problem of the birth rate going down and the fact that people are living to older ages. In 1940 there were 28 people working paying in for every one retiree, so they were spreading the costs between those 28 workers on their payroll tax to finance every one senior. By the year 2000, it got down to three people working paying in and supporting one senior, so the taxes kept going up.

The projection for 2025 is there will be two individuals working for every one senior that they are trying to support in their retirement. Economic growth will not fix Social Security, Social Security benefits are indexed to wage growth; and when the economy grows, workers pay more in taxes, but also will earn more in benefits when they retire. Growth makes the numbers look better now, as we discussed, but leaves a larger hole to fill in in later years.

Mr. Speaker, I was chairman of the bipartisan Social Security Task Force, and I probably made maybe 250 speeches around the country. In those early speeches people said, well, if Congress would keep their hands off the money coming in from Social Security, if they would keep their hands off the Social Security trust fund, everything would be okay. Well, we should keep our hands off that trust fund. That money should be invested and returning real earnings back to the Social Security. But these two columns show the money that is in the trust fund, roughly $700 billion borrowed. You add interest to that, so now there are IOUs out there that represent $1.4 trillion. But here is the total column of what is required for the Social Security problem. That is $12 trillion. So we need to get back that $1.4 trillion, and it is all spent; so government has spent all the money when it came in.

So now the challenge is how do we, do we simply reduce benefits again so that we do not need as much money, do we raise taxes again on workers where already 78 percent of American workers are paying more in the payroll tax than they do the income tax?

On this chart, it probably justifies an explanation. We will need $120 trillion between 2017 and 2075 in future dollars. The $12 trillion that we talk about in unfunded liability or the total for Medicare and Medicaid added to that is $73.5 trillion. That means that money would have to be put in a savings account today accruing interest that would accommodate for inflation plus the time value of money to come up with the $120 trillion that is required until the future years to cover Social Security benefits, that much more is needed over and above what is coming in on the payroll tax now.

Social Security has a total unfunded liability of $12 trillion. Social Security trust fund contains nothing but IOUs. To keep paying promised Social Security benefits, the payroll tax will have to be increased by nearly 50 percent or benefits will have to be put by 30 percent. And with this program, with most of our seniors depending on Social Security for most of their retirement income, I think it would be very bad policy to again cut benefits. But that is what we have done in the past. That is what we did with the 1983 changes. We increased the taxes up to 12.4 percent, and we cut benefits in several ways including increasing the retirement age gradually from 65 to 67 years old.

This figure shows that Social Security is a bad investment. In fact, if you are a black male, you have a negative return on the money you pay in to Social Security because on average a black male will die at something like 63½ years old, before they reach 65 years old. The average return for the average retiree is 1.7 percent. The column to the far right represents what the market has done, and this is the Wilshire 5000 that actually earned 11.86 percent over and above inflation for the 10 years ending January 31, 2004. This, of course, included almost 2½, almost 3 years of a down equity market on the stocks. This is another way of saying, Mr. Speaker, that Social Security is a bad investment.

This chart shows how many years a retiree is going to have to live after retirement to break even on the money he and his employer, or he or she if they are self-employed, sent into Social Security. In 1995, if you retired in 1995, you have to live 16 years after retirement. By 2005 you will have to live 23 years after you retire to break even on the money you send in to Social Security. So that should bring to mind, is there a better way to invest some of this money than simply sending it to the government and letting the government write out an IOU and spend any extra money that they have and only giving the retiree an average of 1.7 percent return?

This chart I wanted to show simply because I think it indicates the danger of doing nothing and continuing to put off this decision. I would, as a footnote, I would just urge that every citizen in this election year when you go to candidate forums, when you go to Presidential forums and speak to their representatives, ask them what bill they have signed on or introduced to solve the Social Security and Medicare problem of unfunded liability, the fact that these programs are going broke. Because I think the danger is putting it off and then we simply increase taxes again.

As you see, in 1940 we had the first tax increase. We went from 1.5 percent to 2 percent, 2 percent of 3,000. In 1960 we tripled it to 60 percent of a base of 4,800. In 1980 almost doubling it again to 10.16 percent of the first 26,000. By 2000 we raised it to 12.4 percent of the first 76,000. In 2004, 12 percent of the first 87,900. And that view of history of what Congress and the administration has done probably is a danger signal to what we might do again if we do not stand up and deal with this problem.

I know it is so easy to demagogue because this is my, I introduced my first Social Security bill when I came here in 1993. And I have introduced a Social Security bill every year after that that has been scored to keep Social Security solvent. So every election, I face the challengers that are saying I want to ruin Social Security.

Now, probably after so many speeches in my 7th Congressional District of Michigan, most of my constituents understand the real problem of Social Security. So if those candidates that are replacing me, they are all very supportive that the system needs to be changed to keep it solvent and to keep this important program going and to keep our promises. Because what seniors, of course, what working people do is they look at how much revenue is going to come in from Social Security and what other kinds of savings they need to accommodate a retirement lifestyle that is going to be satisfactory. So simply telling these workers in their late forties and fifties that we are going to start reducing benefits would be terribly unfair.

This simply is a chart showing that 78 percent of workers today pay more in the Social Security tax than they do in the income tax.

The six principles that I have set up, one, protect current and future beneficiaries; two, allow freedom of choice; three, preserve the safety net. In other words, in my bills I leave at least half of the trust funds in place. Four, make Americans better off, not worse off. So have a program where savings and investment in our industry is encouraged. Five, create a fully funded system. And my last blip that I think is important is no tax increases on your payroll taxes.

Mr. Speaker, I am going to briefly run through the bill that I have just recently introduced. The Social Security trust fund continues, voluntary accounts would start at 2.5 percent of a personally owned retirement account and would reach 8 percent in future years, 2075. Investments would be safe, widely diversified, and investment providers would be subject to government oversight. The government on the last blip, the government would supplement the accounts of workers earning less than $35,000 a year. And what that does is ensure that with the magic of compound interest, adding a little bit to these low-wage workers into their privately held savings account, means that their trust funds are going to grow to a modest income workers can retire with what millionaires are getting from Social Security today. So the goal is to encourage savings and to have a system that does even better than our current Social Security system.

Actually, I think this was first suggested by President Clinton that we add some funds to low-income workers in their personal savings account to help encourage more savings and to give them the kind of retirement benefits with that larger nest egg and how it can accumulate.

My Social Security bill, as all my Social Security bills, has been scored by the Social Security Administration to restore long-term solvency to Social Security. No increase in the retirement age and no changes in the COLA, the cost of living, or no changes in the benefits for seniors or near-term seniors. Solvency is achieved through higher returns from worker accounts and slowing down the benefits for high-income retirees. I do that by adding another ben point.

You remember the ben point chart that went from 90 percent to 32 percent to 15 percent. I add another so-called ben point at 5 percent so that high-income retirees would have the effect of having their benefits, their increase in benefits slowed down. Workers' accounts, all workers' accounts would be owned by the worker and invested through pools supervised by the government. Regulations would be instituted to prevent people from taking undue risks. In other words, we start out like the Thrift Savings Account for Federal employees, and that is a limit on where you can invest the money, such as index stocks, index bonds, index cap funds and other safe investments as determined by the Secretary of Treasury. Regulations would be substituted to prevent people from taking those undue risks through that process, and workers have a choice of those three safe index funds with more options after they have a balance in their account of $2,500 or more.

What we also include in the bill is once you are able to have a permanent annuity that will guarantee you the same benefits as Social Security, then you can stop paying the 6.2 percent of your wages, of your income that you now pay into Social Security. So it gives you that kind of option if you think you can make the kind of investments and have the ability to set up that kind of insurance system just to guarantee that you are not going to later ask people to help finance your retirement if things go wrong.

□ 2245

Worker accounts. Accounts are voluntary and participants would receive benefits directly from the government, along with their accounts. Government benefits would be offset based on the money deposited into their account, not on the money earned, and workers could expect to earn more from their accounts than from the traditional Social Security. I think it is obvious that we could incorporate in this legislation a guarantee that if anybody selected the option, you can stay with the old system if you want to and not have personal retirement accounts, in my proposed legislation, but if you do go into personally-owned retirement accounts, we are guaranteeing that they are going to be at least as good in terms of what they are going to contribute towards your retirement as Social Security. So you cannot lose.

Fairness for women. This is what I have incorporated in this Social Security bill. For married couples, account contributions would be pooled and then divided equally between husband and wife. So, if one spouse is earning much more than the other spouse, you add the two earnings together, you divide by two to determine what is going to be the identical amount that is going to go into both the husband's and the wife's personal retirement savings account.

Two, it would increase surviving spouse benefits to 110 percent of the higher earning spouse's benefit. Currently, it is 100 percent. This tries to encourage people to stay in their own home a little longer rather than going to a nursing home. So we have upped the minimum amount that is going to be allowed after one spouse's death.

Then stay-at-home moms. For stay-at-home mothers with kids under 5, they would receive retirement credit. So, for those limited number of years that they stay at home with those kids under 5 years old, we give them the average of their higher earnings for those outyears to fill in that best 35 years in determining their benefits.

The additional retirement security. Trying to encourage a couple of things, encourage more savings, encourage people to stay in their own homes a little longer after they retire. So these are other provisions I have incorporated in my bill that is a bipartisan bill, signed by Democrats and Republicans.

The increased contribution limits for IRAs, 401(k)s and pension plans, we would increase that contribution limit. The second blip, a 33 percent tax credit for the purchase of long-term care insurance up to $1,000 per individual, $2,000 per couple. Low-income seniors would be eligible for a $1,000 tax credit for expenses related to living in their own homes and households caring for those dependents. So, if the kids are having one of their parents or both of their parents live with them, they would get a tax credit to encourage them to use their facility and care for their parents as opposed to maybe their parents going into a nursing home.

Nursing home care, of course, is now increasing dramatically as we pass more rules and regulations. On the average, in my area of Michigan, nursing homes cost from $40- to $55,000 a year for a senior to stay at that nursing home, and with the increased medical technology, these elderly individuals that thought they had saved enough during their working years soon find out that if they are going to live that longer period of time, then their savings is used up, and they switch and then they are eligible for Medicaid, where the government pays the cost of that nursing home care.

The promises that Congress has made. As I summarize Mr. Speaker, I would just encourage all citizens of this country to look at the overpromising and the overspending that seems popular for the moment, but in the long run, it becomes a detriment not only to our kids and our grandkids but to the kind of pressures it is going to put on economic growth in future years.

CONGRESS NEEDS TO FULFILL ITS RESPONSIBILITIES

The SPEAKER pro tempore (Mr. FEENEY). Under the Speaker's announced policy of January 7, 2003, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 60 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I appreciated the chronicling of crisis of Social Security by my colleague, and I would simply offer to say that I agree with him. This Congress needs to be able to focus its attention on domestic issues as crucial as Social Security.

I guess this evening I will pursue for my colleagues why we have not been successful in fulfilling our responsibilities in dealing with the domestic agenda, confronting some of the crises that we are now facing around the world, and particularly confronting the crises that we are facing in the Mideast, particularly in the region of Iraq and Afghanistan.

I believe that the American people have a right to expect their government to work. It is a simple premise, Mr. Speaker. The Federal Government is the umbrella during the rainy day. It is the cushion. I might say some would say it is the wind beneath our wings. Frankly, it is the big brother and big sister in a positive way. We should be able to lean on the Federal Government.

I am disappointed because I believe this Congress, and there is not an institution that I respect more in terms of government because of the great history of this body, has failed to fulfill its responsibilities. What are those responsibilities and what has it brought in terms of where we are today?

We are faced with choices that have not been brought about by the right kinds of circumstances. We failed as a body to truly provide oversight in order for this government to work. I think it is so overwhelming to the American people, it requires a chronicling of where we are and why there should be such an outrage and an outcry to demand this government to work, particularly this Congress, because the Congress above the executive and the Judiciary, is to be the truth-finder. It is to be the fixer-upper. It is the body that corrects the ills that have been created.

Frankly, I think it is quite dismal that in the last 4 years, when this body was controlled predominantly by one party, we have not seen one legitimate investigation started, completed and resolved. When I say that, I mean started, completed and the problem resolved.

We still have outstanding the exposure of a CIA operative. We still have outstanding the question of how the energy bill was designed. We have not yet completed a complete overhaul of our corporate structures so that we can prevent fraud and abuse. We certainly have not touched the surface of why we entered into a war with Iraq on the basis of weapons of mass destruction and whether or not this body, this Congress was misrepresented to.

So tonight, Mr. Speaker, I am simply going to draw our attention to why it is so important to decipher what the policies are in this government and to simply ask the question why and to ask the question what if. What is wrong with the body, what is wrong with this Congress who fails to ask the questions why and what if, who takes its responsibility of oversight as a major part of its duties, its oath of office, so the American people can know the truth and so that we can find ways to fix the problems and that we can restore this Nation to its high moral grounds?

Frankly, it is tragic to be able to suggest that seven low-ranking military personnel, privates and others, are the basis upon which this Nation's national and international standing has collapsed, and frankly, Mr. Speaker, that is fairly accurate. It does not take away from the very noble, valiant tasks that have been acted on by our military and our other government personnel who are on the front lines across the world.

I had the pleasure of being just last week in Afghanistan at Baggram Air Force Base where a multitude of our forces were there from many, many different branches of the United States military, and Mr. Speaker, I come back to say that our military is able, dedicated and committed; that the work that is being done in Afghanistan, though trying and difficult, though forgotten in some sense, led by very fine military officers, is persistent and determined. They are determined to stay and provide the kind of leadership and security necessary for the government of President Karzai to succeed and for the elections to proceed. They are engaged. They are working with the provisional reconstruction team, one of the best elements of the Defense Department, and the American people should know about it. Our military are engaged, yes, in Nation building, more effective than our foreign policy has been, and in visiting with those on the air force base, they are actually building schools and clinics. They are actually helping to educate young people in Afghanistan. They are actually seeing thousands upon thousands of girls and boys going to school.

We were very proud, as members of the Afghan Caucus, with the gentleman from Ohio (Mr. NEY), to be able to deliver 900 pounds of books that were collected by the Houston school children and the Houston Independent School District, that were stored by a small business by the name of A Rocket Storage and Moving Company, very proud of them as my constituents, and a very charitable Federal Express that helped get them here to Washington and then to the United States military that helped deliver them to those children. Yes, our books that taught about geography and science and how to read and stories and picture books and things that children in Afghanistan might have not have seen in years. That is a good thing and the good news to report.

Then, of course, in meetings with the Central Command, in listening to some of the success stories that were going on there and meeting with the some 5,000 soldiers on the USS *George Washington*, soldiers who are providing the support for the soldiers on the ground in Afghanistan and Iraq. These sailors are very proudly, many of them from Texas, working around the clock 24 hours.

That is the good news that America should know, but at the same time that they know the good news, it is important for them to understand that this Congress has failed to provide the oversight that is necessary to get us back on track. In fact, I would be prepared tonight to say that the political inadequacies and the lack of consistency in our direction in Iraq is causing the system to collapse around the military efforts. The military efforts have been, as I said, persistent and determined, but they are collapsing because the political process is uneven, misdirected and, I believe, confused.

This war has cost us, and might I just offer to those colleagues the timeline that brought us to where we are today.

On January 9, 2002, President George Bush's State-of-the-Union address labels Iraq part of the "Axis of Evil" and vows that the U.S. will not permit the most dangerous regimes to threaten us with the most destructive weapons. That is the first pronouncement that Iraq has weapons of mass destruction. We do not know if there is any truth to that, but that is what led to this whole timeline that brings us to where we are today.

We go on to a series of various pronouncements, and then finally Congress provides a resolution that says go to the United Nations. Those of us who oppose both the resolution and the doctrine of preemptive attack continue to insist that we needed to go in a multilateral approach. It was ignored. The U.N. Security Council provided a resolution imposing tough new arms inspections on Iraq.

□ 2300

But of course that resolution asked for the arms inspection process to continue. Soon thereafter, on December 31, this administration approved the deployment of U.S. troops to the Gulf region, almost unilaterally; and of course this persistence turned into what became the war against Iraq.

On May 1 of 2003, the U.S. declares an end to major combat operations, in essence a victory. On April 14, preceding that, major fighting in Iraq is declared over by the Pentagon after U.S. forces take control of Tikrit, which is Saddam Hussein's birthplace.

May 30, in a separate speech, U.S. Secretary of State Colin Powell and British Prime Minister Tony Blair denied intelligence about Iraq's weapons of mass destruction were distorted or exaggerated to justify an attack on Iraq. This was May 30, 2003.

The reason for this time line is to suggest that when we make choices to go into war then we choose war and we ignore the domestic responsibilities of this Nation. So as I proceed to discuss where we are at in terms of the cost of war, I think it should be with the backdrop of the limitations that we have been able to engage.

For example, we have not been able to focus on fixing Social Security or making sure that it is preserved. Frankly, I believe that any fix of Social Security should be to maintain it in its present state in order for it to be what it was intended under FDR and that is that it was intended to be a safety net. So any review of the Social Security System should be with the intent of its origins, a safety net. So private savings accounts and other such quick fixes are not to interfere with what most people have come to understand, that no matter what happens to them, no matter what happens to the economy at this point, they know if Social Security is in place they will have at least a minimal ability to provide and support themselves.

But we have not had time to deal with that, Mr. Speaker, and the reason is because this war has been costly. We can see now with our very eyes the extent of the cost. Frankly, we know that it is going to continue to cost. We have already spent over $150 billion in supplemental budgets alone dealing with this war in Iraq. We have a very narrow coalition of allies helping with it. In fact, we have seen over the last couple of weeks and months allies leave with all due and deliberate speed because they believe the political process is collapsing down around us. The coalition of the willing is diminishing.

Again, let me remind my colleagues that I am not discussing or indicating that the work of our military personnel is diminishing, but morale is a question, and we should not, we should not attempt to cover up with accolades and high praise and suggest that anyone who criticizes in order to shed light on the fallacies or the problems that are going on are wrong. Frankly, I think the American people need to track what is going on in Iraq and demand accountability of its government, and that is what we have not gotten.

So we are in a war that eliminates the choices that should be made to assist in the needs of the American people. As I said, we have already spent over $150 billion in supplemental budgets. We have now a request of $25 billion. Our troops are known to be spread too thin. There is question as to whether or not we have enough troops. We have a volunteer army, a volunteer military of which we can be very proud of, but no one has taken time to discuss whether or not we actually need a draft in order to address this question.

We know that our National Guard and Reserve forces are stretched thin. We know from conversations directly with our military that from the time they were first assigned some 6 months has been extended to their stay. Some are still there without knowing when they might return home. This is particularly hard on the Reservists and the National Guard because, in many instances, even though actively deployed and committed, they are leaving families and jobs and incurring expenses which they cannot meet. So the question of choices is being raised not only by this government but by the people we are impacting.

During my trip to the region, as I indicated, I could hear personal stories asking the question of how long we would have to be engaged. Mr. Speaker, my assessment from listening to these personal stories, though committed, dedicated, and patriotic personnel that they were, is that the American people have not been told the actual truth. The administration has not laid out the time line which we will have to stay in Iraq and Afghanistan.

I have given a modest prediction of 10 years. Frankly, it may be more. But no one has even bothered to categorize how long they think we might stay in Afghanistan and Iraq. And the time we might spend there will be costly. The bills will continue to mount. And the question is: Do we have the political will or is there any political process in place to even provide some sort of commitment to the American people that we will be successful?

It is a dilemma for those of us who have opposed vigorously this war. If you understand this process, you realize that, as you have opposed the war, it is also important to invest in some semblance of sanity and civility and stability in the region for our own good. Yet realizing that even though the war on terror, which began in Afghanistan and which was never completed, and in fact we are still in that process, and that was a unified effort with allies from around the world, you also know that you cannot leave either of these places. Yet we have not heard one administration official in this time line that I have read from that has indicated how long we will be in this region, how long we will be in Afghanistan or in Iraq.

So what is missing is the direct information that will allow the American people to join in their governmental process and make choices. Because all that we have gotten is that we are engaged. And what we have seen over the last couple of weeks is the tragedy of the engagement, the large numbers of lives lost not only in Iraq but in Afghanistan, and the turmoil and conflict that is occurring in a number of cities and holy places around Iraq. We have seen the changed policies of falling back to security, as opposed to aggressively going after the insurgents, the conflict of determining whether insurgents are those who are just opposed to foreigners on their land or whether they can be classified as terrorists. Those are difficult questions and those are choices that are having to be made that are falling upon the shoulders of the American people.

This past weekend we paid tribute to the Greatest Generation, and we acknowledged the generation of today, who are standing on the shores of other lands fighting for us. We have laid to rest so many young people and so many military personnel Reservists and National Guardsmen that have lost their lives in Iraq. Each life is precious. Each family that has lost one mourns one.

This past weekend we also paid tribute to the Greatest Generation, those who lived and those who lost their lives in World War II. Those were liberators, but it was an enunciated, understandable need to go into World War II. In fact, many of us who reflect on history would have wanted us to go earlier.

But that is not the case here. The war in Iraq is not a clear war. There is not clarity. There is not distinctiveness in the policy. There is not an understanding of the time frame and the time line that we will be required to stay.

For those who want to challenge again the patriotism of many who question why we are in Iraq, we also understand that Saddam Hussein is and was a despot, that lives were lost. There is no doubt. But what is not told by this administration is whether or not Saddam Hussein was easily toppable, easily able to be disposed of by Iraqis and others in the region, whether or not he was weak enough to be taken without this all-out war, which has created this wall of opportunity for terrorists. A borderless Iraq is what we have now.

□ 2310

The question is whether or not we could have handled this in a different manner. As I indicated, because we have taken this route, a war first based upon weapons of mass destruction, a preemptive unilateral attack, a declaration of an end of war when it was not over, the lack of inclusiveness of our allies, the diminishing of the willing coalition, then we are making choices and we are suffering by those choices.

Let me first start on what I have been speaking about, the military. Does anybody realize we have had to underfund the military by $12.2 billion? This past weekend, we stood and paid tribute to the military present and past and to the future. We have thanked them for their service. We have mourned those who lost their lives. We stood next to families who cried and were crying because of those who gave the ultimate sacrifice. We said our patriotic remarks and sang our patriotic songs, but what are we doing in this very Congress to support the United States military?

Mr. Speaker, we are underfunding it by $12.2 billion. In fact, the budget of the executive is sorely diminishing some of the required priorities of this military, particularly in light of its engagement. Among the priorities left out of the President's budget are funding for arms equipment necessary in light of the war in Afghanistan and Iraq.

Let me make it very clear, my interest is not in building up the defense budget. In fact, I am a supporter of the Department of Peace that I believe we should be looking at, legislation presented by the gentleman from Ohio (Mr. KUCINICH) where we begin to put fixtures in place to discuss world peace, not something to be taken likely and laughed at, but something to be seriously considered and engaged in.

If we are engaged in war and conflicts, as this administration proceeds to do, and then underfunds the very necessary armed equipment that our military needs, then they are speaking with a dual voice and are in essence making choices that are hurting those on the front lines. We are underfunding the military such that we are not providing upgrade of Air Force planes with modern identification and electronics to protect them from being shot down by friendly fire. That is a challenge that we have had to confront in the war in Afghanistan and in Iraq. It is tragic enough to lose a loved one, a family member, a friend or neighbor, yet to be told that they were brought down by friendly fire.

The administration did not give the Army $2 billion it asked for to protect the troops, including $900 million to add armor protection to Humvees and other vehicles. I have visited with personnel who specifically described Humvees that were not well armored. Of course in the last couple of months, we have provided some funds, but yet those funds were not sufficient. Go into the hospitals of the wounded, and ask them how they were wounded, and they will say they were in Humvees not armored.

Mr. Speaker, these are the choices having to be made because of this ill-directed conflict and war in Iraq. The Navy lacks $23 million needed to move intelligence information faster and to get more linguists into countries where they are most needed. As someone who has not asked for the defense budget to consume the needs of America, but recognizes that we are now in a war that has not been fully explained to the American people in terms of the long-standing commitment and price that it will cost, and the fact that this Congress winds its way through the 108th session of this body, and we have failed to investigate why we are in Iraq, why the representations of the weapons of mass destruction, why unilateral preemptive attack, why there has been no discussion as to how long we will have to be in Iraq, why there has been no explanation as to why the political process seems to be failing as we watch it. Why, why, why. Why there has been no investigations by this Congress to determine why we are where we are today. Choices have been made that now find their way winding itself amongst our lives.

Now I ask the question as well, why we have done little to explain to the American people about the Iraqi prison incident and the human rights violations in Abu Ghraib. It seems we simply want it to go away. I will argue it cannot go away. Frankly, the investigation by the military is to be appreciated, but it is not sufficient. So I have called for an independent civilian investigation bringing over large numbers of FBI agents and other civilian support, not contractors, Mr. Speaker, because this military has been too commercialized, and there are too many private contractors.

In fact, I join in a recommendation that I have recently heard that all civilian contractors and civilian personnel, who I know have put themselves in harm's way, and my comments are not to reflect upon those civilians who have gone over to the war zones like Iraq and Afghanistan at the behest of their company who are simply doing their job and being paid, it is not to comment on their desire to serve their country as well; but it is to say we have commercialized and contracted out our defense and military personnel responsibilities. It has been dangerous. The prison is a prime example of what has generated out of that contracting out.

So a recommendation that I heard just recently, I would adhere to and agree that anyone who is contracted by the Department of Defense and going into a war zone should adhere to the United States Military Code of Justice, and they should have a provision in their contract so they are under the Military Code of Justice.

I am here to say that this tragedy at the prison cannot be swept under the rugs. We cannot be told there is an investigation. Why, if you just uncover what is going on, you will find out there needs to be more than a military investigation. There are human rights violations. They are finding out a number of deaths occurred not only in Iraq but in Afghanistan. They are finding out that one of the major Baathist commanders whom they were trying to get information from died at the hands of those in our prisons.

They are finding out there are ghost detainees, that the CIA has ghost detainees, as the individuals were called by the 800th MP Brigade; and they were routinely held by the soldier guards at Abu Ghraib without accounting for them, knowing their identities, or even the reason for their detention. These phantom captives were moved around within the facility to hide them from the Red Cross teams, a tactic which is deceptive and which is contrary to Army doctrine and in violation of international law. Are we aware of that? The world is aware of that. The Arab states are aware of that, and we have not clarified and done anything to provide a sunshine on this tragedy.

Are we aware that more than 9,000 people are held by U.S. authorities overseas, and as well, some held in Guantanamo Bay where they are known as enemy combatants? But the crux of the problem is starting at the very top. It is ludicrous, Mr. Speaker, that we would allow scapegoating at the military level and fail to have a full and thorough civilian review and investigation. Why do I say that? Because the White House counsel provided a letter and commentary that certain prisoners could be treated in a certain way, the highest level in the administration.

□ 2320

This is because there has to be some question as to whether or not the Secretary of Defense, the Deputy Secretary of Defense, the military intelligence unit, the CIA and military intelligence personnel, along with contracting intelligence personnel, were at the crux of what was going on.

It does not make any sense, frankly, that we have investigations that no one knows about. That includes our own Congressional committees; briefings in secret, doors closed, the Permanent Select Committee on Intelligence not presenting any information that we can decipher.

I imagine that all committees believe that they are engaged. Frankly, Mr. Speaker, I believe this should be investigated by the Committee on the Judiciary, the Committee on International Relations, the Committee on Government Reform, the Permanent Select Committee on Intelligence, if that is occurring at this time, and certainly the Committee on Armed Services. But, Mr. Speaker, we have heard not even a peep.

We have held some hearings, but have heard of no resolution. We holding up to 8,000, I mentioned 9,000, the number changes as we speak, but no one has moved to investigate this and provide the kind of oversight that the Constitution requires of this constitutional body, the Congress of the United States.

In fact, since one party has been in power, we have had only investigations, if you will, of the other party, and that is the Democrats. I recall very well during the Clinton administration, I think there was an investigation a day, or maybe every other day; from Whitewater to the impeachment to

Travelgate, any number of investigations that bore little fruit. But yet now with the series of, more than infractions, of outright blatant undermining of the governmental process, we have found no way, no will, no stomach to investigate. While the American people suffer and while the world suffers, tragedy occurs.

If we do not find policies that will help stabilize the region, again, Mr. Speaker, we will make choices that most of us will not like. I share this chronicling of the events in Iraq because all of us wish the people of Iraq well. But as we have watched the political process, it is simply falling down around the ears and arms and legs and feet of the United States military, struggling every day to maintain security in Iraq.

There is confrontation between the Provisional Council and the United States, the choice as to who will lead; the United Nations engaged, but not engaged, trying to provide leadership; the question of whether or not there will be civil war; whether or not this has been discussed with the American people in an announced, pronounced, clear roadmap of where we will go in Iraq; how long we will stay, as I indicated; and how we will stabilize the region.

This weekend was a clear example of the political confusion that exists. This headline in the New York Daily News today, "Saudis let thugs go, survivors say." "Captives rescue staged," they say.

These are the individuals who suffered the brutality of al Qaeda terrorists that took over a compound that was housing western offices and residential areas. Large numbers of individuals killed, murdered, brutalized; a British executive dragged through the streets; one American killed, all as a result of the tumultuous times in this region.

It is questionable whether or not the commandos from the Saudi government were sent in soon enough. As far as I am concerned, this needs investigating as well. Why? Because this occurred over a day's time, 25 hours of rampage going on and commandos coming hours into the rampage, and the violence and the outrage and the brutality; survivors suggesting that dialogue occurred between terrorists who left and the Saudi commandos.

Now, I am not suggesting that there were not maybe some good intentions, as is represented by the Saudi government. They suggested that they allowed them to go because more killing was going to occur. But my concern is, why did it take this long for commandos to arrive? Why were people shot, brutalized, dragged through the streets until commandos arrived?

The region is in disarray, the terrorists are running rampant, and our efforts to coalesce around the war of terror is dismantling politically because we have made decisions in Iraq.

From the Financial Times, "OPEC tries to sooth fears over oil prices, all a result of the crisis in Saudi Arabia this weekend. Security worries following Saudi compound siege set to overshadow trading in New York and London today," June 1.

That is why it is crucial for the American people to understand that we must ask the hard questions and demand of this Congress its responsibility of telling you what the costs of this war will actually be; demanding that this administration begin to chronicle its exit strategy and how long we will be in Iraq; how we will fight the war on terror in Afghanistan and how we will provide for the security for the elections, not only in Afghanistan, but in Iraq; how we will provide for a cohesive Afghanistan; how we will bring warlords in through the efforts of the present government of Afghanistan; and, likewise, how we will prevent civil war in Iraq when the government is transitioned.

Choices. As I said, oversight. That is the responsibility of this Congress. Yet all we hear from this Congress is deadening silence; deadening silence.

This weekend, as I said, we touted and celebrated those men and women, our neighbors and friends and family members who served in the United States military. We acknowledged those living, who joined us in the celebration, those who are still on the front lines, and we acknowledged those who lost their lives.

At ceremonies in Houston, I recounted to those who gathered yesterday at the Veterans Cemetery that honor is due to all of those who lost their life; that there is no big or small war; there is no little or large conflict; that every life lost should be honored.

I also said to them that we should not forget the veterans, the veterans we made a promise to, and therefore that promise should be kept.

Those ceremonies yesterday were filled with veterans and their families, and I indicated that it is not our choice to deny them the promise that was given as they took the oath, because each military person who takes an oath is willing to accept the fact that they may have to make the ultimate sacrifice. Yet in the choices we are making, the amount of money we are spending in Iraq and Afghanistan causes us to make choices and to break those promises, and I will tell you how.

It is very difficult, Mr. Speaker, to say to a veteran that we have no mental health services for you and your family. It is very difficult, Mr. Speaker, to say to veterans who have taken certain prescription drugs in order to be in the region and find that those prescription drugs have now proven to be debilitating, in one instance, one taken for malaria called Larium, and to have to tell a veteran, someone coming in from Iraq, that we have no means of providing for you.

Now, I understand that the 150,000 or so Iraqi veterans that are coming home have been sent a letter indicating that they will be provided for. But, Mr. Speaker, let me ask the question: I do not know how they can be provided for in light of the fact that we are closing veterans hospitals; I do not know how they can be provided for in light of the fact that we have a means test for veterans to get care at the hospitals, and that is that they will not provide for veterans making $30,000 or more; and I do not know where $30,000 has gotten to be a lot of money.

So, Mr. Speaker, I believe there are some concerns for veterans in terms of health care and education, and we continue to turn a blind eye to the idea that we have to provide and have to make choices and have to keep our promise.

The Committee on Veterans' Affairs recommended that $2.5 billion more than the President's budget was needed to maintain vital health care programs for veterans.

□ 2330

Nevertheless, the House Republican budget provides only $1.3 billion less than what the committee recommended for 2005. Let me say that again. The House Republican budget provides $1.3 billion less than what the committee recommended for 2005. So frankly, I do not know how we can send a letter to the 150,000 Iraqi veterans or returning military personnel, some of whom will not be veterans, and suggest that we are going to be able to provide for them, because in actuality, we do not have enough money to provide for veterans. That is why we are closing hospitals. That is why we do not have mental health services. That is why we cannot serve those who are making $30,000.

Over the next 5 years, the money allocated to the Department of Veterans Affairs will not even be able to maintain these health programs at the current levels. In 2007, the budget is $227 million less than what the Department of Veterans Affairs needs to keep pace with inflation. Over 5 years, the Republican budget cuts $1.6 billion from the total needed to maintain services at the 2004 levels. Any of my colleagues who have encountered veterans in their districts realize the severity of the problem.

My remarks yesterday also included a challenge regarding our homeless veterans, many of them Vietnam veterans. In fact, as I came off the stage, one of the homeless veterans came up to me and thanked me. He made it out to that ceremony because he cared, because he was a veteran, because he had seen combat. But you could tell he was in need. Programs that provide for substance abuse and provide for transitional living and give them an opportunity to pick up their lives, pick up the broken pieces, are being cut.

So what are we saying to our returning soldiers from Afghanistan and Iraq? Again, it goes back to choices and the oversight of this Congress; and I am concerned that we are failing in the oversight, cutting millions of dollars, resulting in almost $2 billion in cuts from the veterans resources. And what are we saying to those almost 800 troops who have lost their lives and their families, and the more than 3,000 who have been wounded? Are we going to have the resources to be able to provide for those who are in need? Mr. Speaker, I think not. Again, it goes back to choices, and we are disappointing in the choices that we are making; and we are not providing the American people a sufficient answer in order to be able to have them understand what the real cost of war is all about.

Again, I hope that this Congress will take up its responsibility and make the choices that are necessary, particularly as it relates to not working on our domestic responsibilities. Let me chronicle for my colleagues, Mr. Speaker, what we failed to do. I was pleased to hear my colleagues, the gentleman from New Jersey (Mr. PALLONE) and the gentleman from Ohio (Mr. STRICKLAND), speak of this day from another perspective. Again, it goes to my point of choices. Today, for example, was the day of introduction of the prescription drug card, June 1, 2004. This is the result of the most undemocratic vote that I believe this House has had maybe in its history, and that was the vote on the Medicare bill in 2003, a bill that allowed the vote on the floor of the House to remain open for almost 6 hours; and the kind of chastising, cajoling, and threatening that went on to secure votes for this bill will go down in history as a day of infamy in this United States Congress. There is no way to describe it, other than to say it was a disgrace.

But out of that came these prescription drug cards. Let me clarify, because I have worked with the pharmaceutical companies, and I believe that there is merit to this process of a pharmaceutical drug card parallel of costs to what we should have done, and that is to provide a guaranteed prescription drug benefit for all seniors in America. That is what should have been introduced today, on June 1, 2004. Because what our friends are finding out on the Republican side of the aisle is that it is a program that is seemingly, or obviously, not working. There is underenrollment, seniors have not enrolled, they are disinterested, and they have not chosen to participate. Why? Because it is complex, it is confusing, it is without order, if you will. In fact, it is disorderly, because in order to make the right decision, you need to have probably the encyclopedia and the whole Internet to be able to understand what is the best choice. That confusion provides inertia. And so if we look at the numbers of enrollment, we will see that it is less than I think; 400,000, or 40,000, I am not sure of the correct number, but it is a very small number of seniors in America.

So we know that it is not working. Unfortunately, we also know that it will cost over $400 billion instead of the $300 billion that it was represented to cost, and that is the Medicare bill. And in that bill, of course, was this big surprise, the Medicare prescription drug cards. Interestingly enough, there are 73 different cards for seniors to choose from, and 39 of those are available to seniors in my own district. They have annual fees ranging from zero to $30. Each offers discounts on different drugs to different degrees.

So the reason why the drug card is not effective is because if you are a senior and your physician prescribes a number of prescription drugs that come under different pharmaceutical companies, then does that mean that you have to get 10 different cards? Yes, it does. Do you realize that you have to keep the card for over a year, or a year minimum before you can change? Probably most do not. Do you realize that there is burdensome paperwork and fees? And the final insult to injury is that even though these cards are giving a 10 to 20 percent discount on prescription drugs, the question is what are they giving it on? Choices. If a senior gets a card next week that gives them 15 percent off and prices go up 20 percent this summer, then what is the point of the card? Do you realize that the pharmaceuticals can raise their prices on those prescription drugs every single week or every single month; and when you come back with your card and you get the 15 percent discount, guess what? You are getting it on an increased price.

Mr. Speaker, this does not do well by seniors, and seniors are very knowledgeable. And although low-income seniors do get a $600 drug allotment per year through the card program, many of those seniors have been getting similar help for years from drug manufacturers through various patient assistance programs. I would hope that we are explaining to some of those seniors that they should sign up so they do not lose the benefit, but I do not know if they fully understand what they are getting into. It was unfortunate that AARP joined in this Medicare bill, rather than stand and hold out for a real prescription drug benefit, and they are getting ready to see that there is little support for this program.

Now, I am reading a number here, and I am going to offer it and I am going to check it, but I want my colleagues to see how stark and shocking it is, because I said 40,000 and 400,000. I am reading a number, for example, that says that only 400 seniors out of 43 million seniors had signed up for it; 400 seniors out of 43 million seniors. Now, those of my colleagues, we can all check those numbers together, but 400, even if it is 1,000 seniors out of 43 million, it is an outrage. We can see that the program is not working.

So many seniors are opting to skip these prescription drug cards after we had a 6-hour vote and we had press conferences and, by the way, I had my Senator and another Congressperson, the majority leader, come into my congressional district to have a press conference to talk about these prescription drug cards, talking to my inner-city seniors, many of them without the support that they need to be able to even have these prescription drug cards, because they might not even be able to pay for the fees. But I would just simply say to my friends who went into my congressional district to talk about a drug card, my Republican friends, that we would have all been able to stand there together if we were announcing a Medicare-guaranteed prescription drug benefit; we would have all been able to be there and stand together.

□ 2340

But, obviously, if you were selling something that clearly did not have much substance to it, you probably did not at the present time want a lot of company.

I would simply say to my good friends who visited my district and tried to convince my seniors that this was a good program, you try to convince the seniors of America that this is a good program if only 400 of them out of 43 million seniors have signed up. Basically, I am sure they are preferring to go to Canada to get drugs over the Internet where they are saving 50 percent.

I asked both the majority leader and my good friend the Senator, I have asked them whether or not, if you will, they would work to get a guaranteed Medicare prescription drug benefit and whether or not they would work with me to cap the cost of these pharmaceutical drugs so, in fact, we would assure the seniors that when they got the 15 percent it would be a consistent 15 percent, that it would be a 15 percent that they could realize, that it would not be a 15 percent on inflated prices. And no one can convince me or prove that that is not the case.

Choices, Mr. Speaker; and all because of how we are poised right now, the conflict and the war in Iraq and the war on terror in Afghanistan and emerging issues around the world, choices that we are disallowed in making because of the choices of the war in Iraq.

Unemployment. There is such a lot of talk about how well we are doing with respect to the economy, and I would simply say that you need to point to the large numbers of unemployed who have been unemployed for such a long period of time that they are not in the system. I would just simply suggest that I am very glad that Senator KERRY has offered a real economic policy that addresses the question of middle-class Americans in a realistic tax structure that provides for investment in their growth and opportunity. We need that kind of leadership. Because, as I started out saying, there are choices.

My colleague just discussed the Social Security crisis that he would like to solve and fix. I have indicated that we need to preserve Social Security. That is our stand as Democrats, but we cannot even discuss that, Mr. Speaker. We are not even giving the kind of airing to those issues because we are so consumed with the collapse of the political process in Iraq and the lack of support for our military that we cannot even get on to issues that we are dealing with here in the United States.

The Housing and Urban Development Department has now slashed section 8 vouchers. My community alone will be suffering. In Houston alone the cuts will lead to a $500 million shortfall in one of the most important and time-tested programs in our Federal Government. What do you do with homeless persons, Mr. Speaker? Simply leave them to their own devices and walk the streets of every highway and byway and rural hamlet and community?

I think it is an outrage that in this economy, in times when homeless veterans numbers are going up, when the military will be coming home and maybe facing their own trials and tribulations, who knows what needs they may have, let us hope that they will not wind up homeless. We do know that some military personnel are on food stamps.

But is not it ludicrous, Mr. Speaker, that we have a situation where we are cutting section 8 vouchers? Our City of Houston will be forced to either cut 700 families off from this critical support or reduce support to all families and individuals in the program. Remember, a family of four in section 8 housing already has a total income of less than $30,500 per year.

So this housing voucher program, which is being cut across the country, is another victim of the billions of dollars we are spending in Iraq, a political process that is collapsing, a lack of investigations to even determine how long we will be in Iraq and what is going on in Iraq, so we are not prepared to deal with our domestic concerns. We need to do better, Mr. Speaker.

In addition to our domestic concerns that we are not able to confront, we are not able to be as helpful as we should be in some of the other crises around the world.

I have been on this floor before, Mr. Speaker, bringing to the attention of this body two hotbed places where tragedies are occurring. The crisis in Haiti, where we are seeking to stabilize it with 2,000 military personnel, but we have still not answered the question of the removal of President Aristide, not so much for President Aristide, who we expect over the next coming months to be safe and his family safe, though for a while it was very questionable, we thank the country of Jamaica and the Caribbean nations for their leadership on this issue, but what we have failed to do as a Nation is to protect democracy.

So not one committee in this Congress has taken up the legitimate issue of what happened with the removal of President Aristide in a legitimate and investigatory way. There lies a single body of government, a Republican Senate and Republican House and a Republican government, failing to provide the oversight that is necessary.

And then with respect to Sudan and the terrible genocide, let me say that the support for remedy in finding relief for Sudan is bipartisan. We passed the resolution dealing with ending the genocide and asking the governments to come together, meaning the government and the rebels. In the last couple of days, an agreement has been signed, but the bloodshed continues.

And this government, this administration, which can provide leadership in this instance, to intervene, to really provide humanitarian relief, we are so stretched with our military personnel that we are finding it a difficult way to respond. Certainly the United Nations, which is on the ground, should definitely do more.

But the disappointment that I have, Mr. Speaker, as I began this Special Order this evening, is to challenge this Congress to answer the American people's cry why government does not work. Why, in fact, are there high gas prices at the fuel pump? Why we are facing the fright of OPEC trying to soothe fears over oil prices? Why, if the Saudis collapse and terror takes over the kingdom, we could not last for more than 3 or 4 months because most of our energy resources comes from that region. Why the region is so disrupted because of the political decisions that this administration made in a unilateral pre-emptive attack against Iraq and the complete collapse now of the political process with insurgents taking over cities while the military stands bravely fighting and following orders. Why? Because this Congress has failed its responsibility. And it leaves us, if you will, in a dilemma in housing, veterans benefits, and health care.

And might I just add, Mr. Speaker, that we have done nothing about immigration reform. As a member of the Select Committee on Homeland Security we have watched the border deteriorate because of the representation by the President that he was going to do an amnesty program and yet we have any number of immigration reform bills, mine is the Immigration Reform Fairness Act of 2004, where we talk about reuniting families and providing access to legalization and providing temporary status and providing, if you will, relief to the American workers by providing training for them and the retention of jobs, and yet we cannot get a hearing.

We had a hearing recently on thwarting the smuggling activities at the border, and we would hope that we would get a markup soon so that we could provide some order to the immigration process, but we have not had that leadership from this administration.

Choices. Consumed with one issue, that is the issue of Iraq. As this process collapses, it is imperative that this administration and this government begins to ask for accountability. This Congress has to be accountable.

And, if I might, Mr. Speaker, as I leave you with the idea of choices and the lack of decisions that are being made, I must add one other point, that there are numbers of thousands of men and women who are incarcerated in the Nation's prisons, who are non-violent offenders, who have yet because of mandatory sentencing been allowed to come out and support their families.

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But when we are consumed by international policies like the issues in Iraq, we cannot dwell on trying to find relief here in America; and so I have authored the Good Time Relief Bill of 2004 to provide those nonviolent offenders in our Federal prisons, 45 and over, the opportunity to get one day of good time for every day served so they can be released, go back to their families, help build their families and help contribute to our society.

I give this litany, this long list of "what if's" because we have not been able to function, because we have been consumed by the ills and the tragedy and travesties of Iraq, from prisons to insurgency.

I would simply say that we have to get a grip on this government, and this Congress has to begin to function as it should function. It must provide oversight, and it must question the actions of the executive, and we must investigate this long line of issues. And as we do that, Mr. Speaker, I believe that we will be able to answer the American people with the question that I started out with, What is good government?

Good government, Mr. Speaker, is the United States Congress doing its job. And I hope in the coming months we will be able to do our jobs so that lives can be saved and we can ultimately provide peace and security to the region of Afghanistan and Iraq and bring our young men and women home.

Mr. Speaker. It seems that on every important issue facing this nation, the Bush Administration and the Republican leadership in Congress are taking us on a dangerous path, in the wrong direction, wasting vast amounts of money in giveaways—to the rich, to HMOs, to the drug industry, to polluters, any of their big campaign contributors—leaving almost nothing for those who really need and deserve federal assistance—seniors, veterans, schools, and first responders to name a few. It seems that at every chance, the Administration puts politics before policy, and our most important programs are unraveling. Our troops are serving valiantly overseas, but have been sent on an ill-advised mission without proper training and equipment, and with no clear plan for success. It is no wonder we have seen breakdowns in discipline and security. We are seeing the same sorts of poor planning, misleading statements, obfuscation, and failure in many of our domestic programs as well.

I have just returned from a trip to assess the situation in Afghanistan and Iraq. I was troubled by the discrepancies between what I saw and what the administration has been telling us. I have returned to a firestorm of calls and letters from angry seniors about the Medicare Prescription Drug Cards. I see nothing on the Congressional calendar that indicates that Congress is doing its duty of oversight, or proposing creative legislation to solve the numerous problems facing the American people and our allies in the world community. I want to take this opportunity during special orders to talk about some of the most glaring issues.

MEDICARE PRESCRIPTION DRUG CARDS

An obvious example came today on the first day of the Medicare Prescription Drug Card Program. This has been a sham since day one—and it is worse today. Now we know that the Medicare Drug plan, with its lousy benefit, will cost us over $400 billion, instead of the $300 billion the Administration had us believe before the vote. But so far, all that money is buying for our seniors is confusion.

So far there are 73 different cards for seniors to choose from. 39 of those are available to seniors in my district. They have annual fees ranging from zero to $30 per year. Each offers discounts on different drugs to different degrees. Although discounts can change monthly, seniors only have one chance per year to pick the one card they are allowed to sign up for. Many seniors are mystified by whether the new cards will offer anything beyond what they got from the discount cards that have been around for years.

I am not optimistic that the Drug Card issued today will provide any meaningful relief to the millions of seniors and disabled Americans struggling with the outrageous costs of prescription drugs.

However, I am keeping an open mind. We will all need to look closely at the plans that are coming out, to make sure that the cards serve a purpose and don't just add burdensome paperwork and fees with minimal benefit. I have several concerns:

We are hearing that the cards will give discounts of 10–20 percent on prescription drugs—but 10–20 percent off of what? The prices of drugs are rising at an astronomical rate, much higher than the rate of inflation. If seniors get a card next week that gives them 15 percent off, and prices go up 20 percent in summer, what is the point of the card? It is just a waste of time—reading brochures, filling out paperwork, processing at the pharmacy, and a waste of the annual fee.

Although low-income seniors do get a $600 drug allotment per year through the card program, many of those seniors have been getting similar help for years from drug manufacturers through various patient assistance programs. I am encouraging low-income seniors to sign up immediately for a card, so that they do not lose that benefit. However, for the vast majority of seniors—I am still unsure what to advise them. They seem uncertain as well. Besides the seniors that have been automatically enrolled through their HMOs, the number of seniors signing up has been spectacularly underwhelming. For example, AARP, one of the largest senior groups in the country has issued its own card, but as of yesterday—only 400 seniors out of 43 million seniors had signed up for it. The same seems to be the case for every card on the market.

Seniors just don't know if they will save any money and be worth the fee, and the paperwork, and the hassle of carrying around yet another card every time they walk out the door.

Seniors can skip the fees and the bureaucracy and buy drugs over the internet or jump on a bus to Canada, or fly anywhere else in the world, and get a 50 percent discount today.

Our nation's seniors deserve a comprehensive health insurance plan that takes care of their needs and is easy to access. They worked for decades to make this country strong. They faithfully paid into the Social Security and Medicare systems, and our government made them a promise that we would take care of them in their senior years. Now, in return, we are making them jump through hoops, pay extra fees, join HMOs, spend hours and hours reading more confusing brochures—just to get prices that are still almost twice as high as those paid by other rich nations such as Britain, Japan, Switzerland, and Canada.

And American taxpayers are paying 100s of billions of dollars for that lousy plan.

Some people pitch this complex and cumbersome plan; saying that seniors like choices; they are Internet-savvy; accounting wizards that love crunching the numbers to find the best plans for them. There are many seniors out there that fit that bill. On the other hand, about 5 million seniors are afflicted with Alzheimer's disease and the number is rising. Five percent of adults in the United States are totally illiterate—the number that cannot read at a high enough level to comprehend stacks of health administration literature is obviously much higher. You need a Master's in Public Health to understand health insurance plans these days.

Medicare also covers the disabled, who may have other obstacles to studying Drug Card Plans. About 1 in 5 seniors is blind or visually impaired.

It is absurd to make this population struggle individually to get a decent price on the health care they need and deserve. The Secretary of Health and Human Services should be allowed to negotiate on behalf of this nation's 40 million seniors on Medicare, to get them fair prices. It is tragic that the Republican sham bill specifically prohibits such negotiation, and uses hard-earned taxpayer dollars to give massive subsidies to HMOs and the Drug Industry, instead of using it to help seniors.

I will keep fighting for a real Prescription Drug Benefit for seniors in the Medicare Plan they trust. Until we can make that happen, I will keep my mind open to every possible tool that might give some relief to our seniors. I hope that these new Drug Cards will give some benefits that aren't already available in the marketplace. Right now, all we see is confusion, and it might get worse in 2006 when the full Republican Medicare Prescription Drug plan kicks in. According to the New York Times, Brian Glassman, a senior executive at Prime Therapeutics, said the Medicare drug benefit could be even more confusing than the discount cards. He stated, "You can take this market confusion," he said, "and cube it."

VETERANS

Our brave American veterans are another group who were outraged by the President's budget and will unfortunately be disappointed with the Republican House Budget passed recently. I hear so much in this body from the majority party about the greatness of our Armed Forces, and they are right, but again it is just empty rhetoric on their part. Those brave men and women fighting on the front lines in our War Against Terror will come back home and find that the Republican Party looks at them differently once they become veterans. Almost all veterans need some form of health care, some will need drastic care for the rest of their lives because of the sacrifice they made in war, but the Republican Party continues to turn a blind eye to their needs. On a bipartisan basis, the Committee on Veterans' Affairs recommended that $2.5 billion more than the President's budget was needed to maintain vital health care programs for veterans. Nevertheless, the House Republican budget provides $1.3 billion less than what the Committee recommended for 2005.

The entire Department of Veterans' Affairs is going to suffer because of the Republican agenda. Over the next five years the money allocated to the Department of Veterans' Affairs will not even be able to maintain these programs at their current levels. In 2007, the budget is $227 million less than what the Department of Veterans' Affairs needs to keep pace with inflation. Over five years, the Republican budget cuts $1.6 billion from the total needed to maintain services at the 2004 level.

I've heard from veterans groups throughout my district in Houston and I'm sure each Member of this body has heard from groups in their own district because veterans are one group that come from all parts of this nation. These brave veterans have told me their stories of how they are suffering now with the current state of veterans affairs, I am going to have trouble telling them that not only will things continue to stay bad but if this budget passes this body, things will only continue to get worse. That is not what our returning soldiers from Iraq and Afghanistan should have to look forward to, a future where their needs are not only not provided for, but are in fact ignored.

I know that every Member of this body had our nation's active duty soldiers and veterans in their hearts yesterday. The sacrifices they and their families have made over the years are staggering, and they continue. That is especially true for the families of the more than 800 troops killed in Iraq, and the almost 3000 who have been wounded. It is time we stopped just giving speeches, and started taking care of our veterans and their families.

COST OF THE WAR

Every time we on this side of the aisle make the point that we need to make critical investments in education, or health care, or our veterans, or homeland security, or any other program, we get the same argument: budgets are tight and we can't afford it. But it is the Republicans themselves who opted to make the budget tight, when they squandered a multitrillion dollar surplus on massive tax cuts for the rich and an expensive and violent brand of foreign policy.

As they marched us into an unnecessary war in Iraq, experts—even those in the Bush Administration—were predicting that the war would cost 100s of billions of dollars and require 100s of thousands of troops, for years to come. People who made such claims were ridiculed and derided by the arrogant leaders of this Administration. But now it seems that even the highest estimates may have underestimated the cost of our actions in Iraq. We have already spent over $150 billion in supplemental budgets alone. On top of that, there is the huge amount that we have put in the Department of Defense through normal budgeting, and the billions more that we have spent in foreign aid coercing the "coalition of the willing" to join the war and stay in.

Our troops are spread too thin, and may thus in fact be incapable of successfully completing the tasks they have been given. Although we do not have a draft, our national guard and reserve forces have been forced to serve overseas for much longer than they had envisioned ever being required, for wages often lower than they usually make—and they are not given the option of refusing to re-enlist.

The Administration must be honest with the Congress and with the American people if we are ever going to match the size of our military with the needs of our forces, and provide the budget required.

During my trip to Iraq and Afghanistan last week, it became obvious that American troops have much work ahead if they are going to succeed in rebuilding and stabilizing Iraq as President Bush has promised the world, on behalf of the American people. I predict that American troops will be there for at least 10 years. We must come to grips with that reality, and start making the appropriate sacrifices, that is we should repeal some of the tax cuts given to the richest one percent, and start paying our bills.

If we don't, our children and our children's children may be paying the price of our misguided foreign policy.

UNEMPLOYMENT/THE ECONOMY

Those outrageous tax cuts were carried out in the name of making jobs, but now we have proof that such tax cuts are an almost ridiculously inefficient method of making jobs. We have run up a half-trillion dollar deficit, and created very few jobs. It seems that President Bush was so eager to be anti-Clintonesque in every possible way. Now we have an anti-Clintonesque deficit, and millions of people more out of work today than were unemployed during the 90s.

An excellent editorial in the New York Times today by Princeton economist Paul Krugman describes the Bush tax policy as reverse-Robin Hood, robbing the poor and giving to the rich. He explains how the 257,000 richest Americans got more out of the Bush tax cuts than did the bottom 60 MILLION Americans combined. A recent survey revealed that most Americans don't feel they have gotten a tax cut at all. Many of those who did get a thousand dollars or so are now realizing that they are losing all of it, or even more, as they pay more for college tuition, or property taxes, or due to cuts in the other popular government programs

We as a nation must learn from our mistakes, but should also learn from our successes. I am pleased to see that Senator JOHN KERRY has learned the lessons of the Bush and Clinton Administrations. He is surrounding himself with top Clinton Administration economists and experts associated with the brilliant and effective former Treasury Secretary Robert Rubin. I would welcome them back.

HUD SECTION 8 VOUCHERS

The deficits brought about the Republican leadership, and the budget cuts being made to compensate for them have been devastating to working poor families and lower-middle wage Americans. Just today there is yet another example in a Houston Chronicle article describing how to finance the Iraq war and the tax cuts for the rich, we have cut HUD Section 8 housing funding, now known as the Housing Choice Voucher Program.

In my hometown of Houston alone, the cuts will lead to a $5 million shortfall in one of the most important and time-tested programs in our federal government. Already there is a huge backlog in applications for federal housing support. The list will get longer.

The city will also be forced to either cut 700 families off from this critical support, or reduce benefits to all of the families and individuals in the program now. Remember that a family of four in Section 8 housing already has a total income of less than $30,500 per year. In the Houston market, that doesn't go far. As with all Republican voucher programs, it seems the Housing Choice Voucher Program leaves little choice for the people who really need it.

ABU GHRAIB, IRAQI PRISONER ABUSE

Yet again we are seeing politics driving our policy in Iraq rather than logic, and compassion, and sense of duty. H. Res. 627, a resolution regarding prisoner abuse in Iraq, put before us two weeks ago, was political damage control. This Congress has a constitutionally mandated duty of oversight over the executive branch. We and the world have seen over the past days that some horrible deeds have occurred in Iraq—deeds that truly threaten to undermine everything that we have worked toward on the international-diplomatic front for the past century. We must be thoughtful in crafting our approach to diffusing this awful situation, bringing those responsible to justice, and protecting the honor of those members of our armed services who serve so valiantly and honorably around the world.

This resolution contained several provisions, including (1) deploring and condemning the abuse of Iraqi prisoners in U.S. custody; (2) reaffirming and reinforcing the American principle that any and all individuals under the custody and care of the U.S. armed forces shall be afforded proper and humane treatment; and (3) urging the Department of Defense to conduct an investigation into any and all allegations of mistreatment or abuse of Iraqi prisoners and bring to swift justice all members of the Armed Forces who have violated the Uniform Code of Military Justice.

I agree with all of that; however, is that all the duty of this Congress is? All this resolution did was say, "We read in the paper that mistakes were made. Somebody else, find out what happened. Somebody else, tell us what you find out. Somebody else, make this problem go away." That is a dereliction of our duty.

Members in this body have extraordinary experience and expertise in these issues. We owe it to the people we represent to immediately launch full congressional investigations into Iraqi prisoner abuse. After the Defense Department report was buried and hidden from Congress, and maybe even the President, for months, it is absurd to now trust that same department to police itself and purge itself of bad actors. We are already seeing the methods by which they will approach this—blame the six-people in the pictures and maybe a couple of others, and assume that they were some sort of outliers.

We all hope that that is indeed the case, but we must make sure. Last week, I wouldn't have believed that any American soldiers were capable of such grotesque abuses. We must be objective as we delve into whether this problem goes far deeper than just a few cells at Abu Ghraib. Further missteps in the U.S. response to these atrocities could bring about a monstrous backlash in Iraq, and across the Middle East.

What message does it send to those struggling for democracy and freedom around the world, when this People's House, in the greatest democracy in the world—simply toes the majority party line?

We need bipartisan congressional investigations to be conducted immediately into these allegations of abuse, including those by U.S. civilian contractor personnel or other U.S. civilians, and into chain of command and other systemic deficiencies that contributed to such abuse. We should not only point the finger of blame. We should also be introspective—to avoid hypocrisy—to recognize and address our own short-comings. We hear the President proclaim that the abuse of prisoners and the humiliation of people are un-American. I agree that the things we have seen violate the American principles that we hold dear. But, tragically, the hatred and disregard for decency are too common in our society. I don't think anyone would be surprised if they found out that similar abuses occur in our own U.S. prisons, jails, and police stations. Hate crimes against some races and religious groups, or against gays, lesbians, and the transgender, abound. Some of the vicious, although perhaps non-violent, acts seem reminiscent of fraternity hazing rituals. If the United States is going to take the lead in promoting human rights in this world, we must lead by example and demand justice here, before we seek it overseas.

We all know that the vast majority of U.S. troops in Iraq are performing superbly. It is tragic that the behavior of a small number of American soldiers has besmirched the reputation of U.S. troops overall. The vast majority of U.S. troops in Iraq are courageously performing their duties and are living up to the highest standards of the U.S. military. They are serving our country with honor, distinction and dedication and deserve our country's deepest gratitude.

However, the grotesque abuse of Iraqi prisoners is completely unacceptable—and is against everything our country hopes to stand for. The abuse of Iraqi prisoners in the Abu Ghraib prison by U.S. soldiers that has been documented with photographs is abhorrent. On top of that, we now hear that there are at least 91 cases of possible misconduct by military personnel. Congressional investigations are critically needed in order to get to the bottom of this outrage. Among the questions that must be answered are: How widespread were these incidents of prisoner abuse? Were personnel trained adequately to do the jobs to which they were assigned? When did senior leadership of the Department of Defense learn of these allegations? Was their response timely and did it reflect the seriousness of this situation?

We owe it to the American people, to those around the world who are watching intently, and especially to our troops whose reputations have been called into question by this situation. We must put this Congress to work purging our military of those who encourage such un-American behavior, and restore the honor of our brave soldiers serving in Iraq and around the world.

Building a culture of peace for the children of the world while we face unfinished work to create stability and peace both in Iraq, and throughout the Middle East, the challenges we face there and the lessons we have learned there make it all the more compelling that we set upon the task of planting firmly the seeds of peace.

In the words of Dr. Martin Luther King, Jr., "We must concentrate not merely on the negative expulsion of war but the positive affirmation of peace. We must see that peace represents a sweeter music, a cosmic melody that is far superior to the discords of war. Somehow, we must transform the dynamics of the world power struggle . . . to a positive contest to harness humanity's creative genius for the purpose of making peace and prosperity a reality for all the nations of the world."

It is with this in mind that I am proud to introduce the exhibit "Building a Culture of Peace for the Children of the World" which is being presented in cooperation with the Congressional Children's Caucus and will be on display in the foyer of the Rayburn House Office Building on Thursday–Friday, June 3–4, 2004.

This exhibit beings together the creative ideas and examples of hundreds of people, organizations and movements and focuses on the potential of the individual to build peace and security in today's world. It seeks to promote a sense among viewers of empowerment as well as an awareness of the United Nations declaration of the years 2001–2010 as the Decade of Building a culture of Peace and Non-violence for the Children of the World.

I also want to recognize the role of Soka Gakkai International which has created this remarkable exhibit, and the work of its president, Daisaku Ikeda a widely recognized educator and peace activist, in persisting as a voice for peace during these challenging times.

I urge each of my colleagues to not only view this exhibit; but be mindful of the example we set today for the generations of tomorrow. More important for our children than model of the brave warrior, is the example of the courageous and creative peace builder. For as the noted writer James Baldwin observed: "Children have never been very good at listening to their elders, but they have never failed to imitate them. . . ."

U.S.-AFGHAN CAUCUS

Another project I have been working on extensively is the U.S.-Afghan Caucus. I especially want to thank my co-chair, Congressman BOB NEY, for his leadership on this issue. We traveled on the first post 9/11 Codel to Afghanistan together, and I know the issue of rebuilding democracy means a great deal to both of us.

It is my goal that the U.S.-Afghan Caucus will become an arena where we can learn about the issues effecting Afghanistan, and see how Congress can help come up with a solution.

Right now there is an 85 percent illiteracy rate in Afghanistan; 80 percent of schools have been damaged by war. Of existing schools, 30 to 50 percent have no water and 40 percent lack adequate sanitation. Although 3 million children returned to school last year, today only 38 percent of all Afghan boys and 3 percent of girls attend school. Over the next ten years, it is estimated that an additional 4,350 teachers and 1,385 schools must be added each year to meet demand.

While 6 out of 10 girls in Afghanistan attend school, only 1 out of 100 girls in the southern frontier regions of the country have access to education. For more than five years of Taliban rule in Afghanistan, girls were banned from attending school in over 90 percent of the country. Right now it is imperative to invest in Human Capital, particularly in women. Women need to have a voice in the emerging Democracy, and the U.S.-Afghan Caucus can begin to take steps to ensure that women are involved in the process.

Providing education to children who are traumatized by war and disaster is just one facet that the U.S.-Afghan Caucus will focus on. I have heard of so much interest in working together to establish a positive relationship that will continue to build a better country with democratic ideals in Afghanistan. We can already see evidence that something must be done to protect the children and raise them to be future leaders of a democracy, something they have never before seen in their lifetime.

WOMEN IN IRAQ

Our support of Iraq and its fledgling democracy has been vital, and we have been able to leave a positive impression on what values a democratic society should hold. Our influence needs to go one step further, and we must indicate that women play a vital role in politics and peacekeeping.

I am a proud member of the Iraqi Women's Caucus and have been to Iraq to witness, firsthand, the brave and groundbreaking work to rebuild the country by the United States, our coalition partners and Iraqi civilians. The signing of the Transitional Administrative Law, TAL, by the Iraqi Governing Council on March 8, 2004 marks an important milestone, and an appropriate time to reiterate our support of issues facing Iraq's women and children.

Many of us here have publicly advocated for equal representation of women throughout all of society, including at each level of the new government. The Iraqi Women's Caucus was recently formed to further engage all Members of Congress on these issues. The Caucus will focus on improving the lives of women in the new Iraq by working to ensure women's access to educational and professional opportunities, encouraging women's participation in a pluralistic political process, and developing partnerships between the United States and Iraq that will further enhance opportunities for women.

I have seen positive things come from women working towards peace. I have had the honor to serve as Honorary Chair for the women's partnership for peace in the Middle East. Women leaders from government, business and religion met in Oslo, Norway to develop joint efforts to begin building trust in the Middle East region. Responding to a great sense of urgency surrounding the crisis in the Middle East, the participants have decided to mobilize women leaders around the world to join the initiative for peace.

History has offered us many examples of democratic principles at work in nations once dismissed as unfit for democracy. As chair of the U.S.-Afghan Caucus, I am proud to say that the Afghans have recently adopted a constitution that establishes equal rights for men and women. Only a few years ago, this country brutalized and shunned from public view.

I believe that progress is attainable and I thank all of you who have come out today in support of this. As my colleague, HILLARY RODHAM CLINTON said, when she was the First Lady, "There cannot be true democracy unless women's voices are heard. There cannot be true democracy unless women are given the opportunity to take responsibility for their own lives. There cannot be true democracy unless all citizens are able to participate fully in the lives of their country."

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BALLANCE (at the request of Ms. PELOSI) for today on account of personal reasons.

Mr. BECERRA (at the request of Ms. PELOSI) for today on account of personal reasons.

Ms. BERKLEY (at the request of Ms. PELOSI) for today on account of a death in the family.

Mr. BORDALLO (at the request of Ms. PELOSI) for today and June 2 on account of official business in the district.

Ms. WOOLSEY (at the request of Ms. PELOSI) for today on account of personal reasons.

Mr. BEREUTER (at the request of Mr. DELAY) for today and June 2 until 4:00 p.m. on account of official business presiding at the NATO Parliamentary Assembly.

Mr. ENGLISH (at the request of Mr. DELAY) for today on account of travel delays.

Mr. PLATTS (at the request of Mr. DELAY) for today on account of personal reasons.

Mr. TAUZIN (at the request of Mr. DELAY) for today and the balance of the week on account of medical reasons.

Mr. WAMP (at the request of Mr. DELAY) for today on account of official business, a regional economic development conference.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. JACKSON-LEE of Texas) to revise and extend their remarks and include extraneous material:)

Mrs. MCCARTHY of New York, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

Mr. BLUMENAUER, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Ms. MILLENDER-MCDONALD, for 5 minutes, today.

Ms. SOLIS, for 5 minutes, today.

Mr. INSLEE, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

(The following Members (at the request of Mr. PEARCE) to revise and extend their remarks and include extraneous material:)

Mr. OSBORNE, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes, today and June 2 and 3.

Mr. MORAN of Kansas, for 5 minutes, June 2.

Mr. HENSARLING, for 5 minutes, June 2.

Mr. MARIO DIAZ-BALART of Florida, for 5 minutes, June 2.

Mr. GINGREY, for 5 minutes, June 2.

Mr. CARTER, for 5 minutes, June 2.

Mr. WELDON of Pennsylvania, for 5 minutes, today.

Mr. PEARCE, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. BURGESS, for 5 minutes, today.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2092. An act to assist the participation of Taiwan in the World Health Organization.

BILLS PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that on May 21, 2004 he presented to the President of the United States, for his approval, the following bills.

H.R. 408. To provide for expansion of Sleeping Bear Dunes National Lakeshore.

H.R. 708. To require the conveyance of certain National Forest System lands in Mendocino National Forest, California, to provide for the use of the proceeds from such conveyance for National Forest purposes, and for other purposes.

H.R. 856. To authorize the Secretary of the Interior to revise a repayment contract with the Tom Green County Water Control and Improvement District No. 1, San Angelo project, Texas, and for other purposes.

H.R. 1598. To amend the Reclamation Wastewater and Goundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in projects within the San Diego Creek Watershed, California, and for other purposes.

ADJOURNMENT

Ms. JACKSON-LEE of Texas. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 52 minutes p.m.), the House adjourned until tomorrow, Wednesday, June 2, 2004, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

8275. A letter from the Comptroller, Department of Defense, transmitting the Department's quarterly report as of March 31, 2004, entitled, "Acceptance of contributions for defense programs, projects and activities; Defense Cooperation Account," pursuant to 10 U.S.C. 2608; to the Committee on Armed Services.

8276. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule — Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance: Interim Capital Treatment of Consolidated Asset-Backed Commercial Paper Program Assets; Extension [Regulations H and Y; Docket No. R-1156] Department of the Treasury, Office of the Comptroller of the Currency [Docket No. 04-??] (RIN: 1557-AC76); Federal Deposit Insurance Corporation (RIN: 3064-AC74); Department of the Treasury, Office of Thrift Supervision [No. 2004-??] (RIN: 1550- AB79) received May 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

8277. A letter from the Chairman, Board of Governors of the Federal Reserve System, transmitting the Ninetieth Annual Report of the Board of Governors of the Federal Reserve System covering operations during calendar year 2003; to the Committee on Financial Services.

8278. A letter from the Director, Regulations Policy and Management Sta., FDA, Department of Health and Human Services, transmitting the Department's final rule — Food and Color Additives and Generally Recognized As Safe Substances; Technical Amendments [Docket No. 2004N-0076] received May 17, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8279. A letter from the Secretary, Department of Health and Human Services, transmitting as required by Section 104(b) of Pub. L. 102-471, the Prescription Drug User Fee Act of 1992 (PDUFA), as amended by the Food and Drug Administration Modernization Act of 1997 (FDAMA), a report stating the FDA's progress in achieving certain performance goals referenced in PDUFA during FY 2003; to the Committee on Energy and Commerce.

8280. A letter from the Secretary, Department of Health and Human Services, transmitting the first annual financial report to Congress required by the Medical Device User Fee and Modernization Act of 2002 (MDUFMA), covering FY 2003; to the Committee on Energy and Commerce.

8281. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's "Major" final rule — Revision of Fee Schedules; Fee Recovery for FY 2004 (RIN: 3150-AH37) received May 21, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8282. A letter from the Chairman, Nuclear Regulatory Commission, transmitting the Commission's report entitled, "Report to Congress on Abnormal Occurrences, Fiscal Year 2003," pursuant to 42 U.S.C. 5848; to the Committee on Energy and Commerce.

8283. A communication from the President of the United States, transmitting notification stating that the national emergency declared in Executive Order 13303 of May 22, 2003, as expanded in scope by Executive Order 13315 of August 28, 2003, protecting the Development Fund for Iraq and certain other property in which Iraq has an interest, is to continue in effect beyond May 22, 2004, pursuant to 50 U.S.C. 1622(d); (H. Doc. No. 108-187); to the Committee on International Relations and ordered to be printed.

8284. A letter from the Assistant Secretary For Export Administration, Department of Commerce, transmitting the Department's final rule — General Order Implementing Syria Accountability and Lebanese Sovereignty Act of 2003 [Docket No. 040108007-4007-01] (RIN: 0694-AC99) received May 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

8285. A letter from the Acting Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting a copy of the Commission's FY 2003 Performance and Accountability Report; to the Committee on Government Reform.

8286. A letter from the Attorney-Advisor, Office of the Federal Register, National Archives and Records Administration, transmitting the Administration's final rule — Address Change for Inspection of Materials Incorporated by Reference — received May 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

8287. A letter from the Deputy Archivist of the United States, National Archives and Records Administration, transmitting the Administration's final rule — Official Seals and Logos (RIN: 3095-AB19) received May 11, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

8288. A letter from the Assistant Attorney General, Department of Justice, transmitting a report of activities under the Civil

Rights of Institutionalized Persons Act during Fiscal Year 2003, pursuant to 42 U.S.C. 1997f; to the Committee on the Judiciary.

8289. A letter from the Director, Administrative Office of the U.S. Courts, transmitting the annual report on applications for court orders made to federal and state courts to permit the interception of wire, oral, or electronic communications during calendar year 2003, pursuant to 18 U.S.C. 2519(3); to the Committee on the Judiciary.

8290. A letter from the Associate Counsel, Office of General Law, U.S. Patent and Trademark Office, Department of Commerce, transmitting the Department's final rule — Rules of Practice for Trademark-Related Filings Under the Madrid Protocol Implementation Act [Docket No. 2003-T-010] (RIN: 0651-AB45) received April 27, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

8291. A letter from the Chief, Child Expoitation and Obscenity Section, Department of Justice, transmitting the Department's final rule — Designation of Agencies To Receive and Investigate Reports Required Under the Protection of Children From Sexual Predators Act, as Amended [Docket No. CRM 1001; AG Order No. 2692-2003] (RIN: 1105-AA65) received May 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

8292. A letter from the Senior Counsel, Office of Legal Policy, Department of Justice, transmitting the Department's final rule — Regulations Under the DNA Analysis Backlog Elimation Act of 2000 [OAG 101; AG Order No. 2699-2003] (RIN: 1105-AA78) received May 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

8293. A letter from the Assistant Secretary, Bureau of Indian Affairs, Department of the Interior, transmitting the Department's final rule — Distribution of Fiscal Year 2004 Indian Reservation Roads Funds (RIN: 1076-AE50) received May 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8294. A letter from the Assistant Chief Counsel, TSA, Department of Homeland Secuirty, transmitting the Department's final rule — Protection of Sensitive Security Information [Docket No. TSA-2003-15569; Amendment No. 1520-1] (RIN: 1652-AA08) received May 12, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8295. A letter from the Chief Counsel, St. Lawrence Seaway Developement Corporation Department of Transportation, transmitting the Department's final rule — Tariff of Tolls [Docket No. SLSDC 04-17202] (RIN: 2135-AA19) received April 27, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8296. A letter from the Paralegal Sepcialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directves; BURKHARDT GROB LUFT-UND RAUMFAHRT GmbH & CO KG Models G103 Twin ASTIR, G103 TWIN II, G103 TWIN II ACRO, and G103 C Twin III SL Sailplanes [Docket No. 2003-CE-61-AD; Amendment 39-13582; AD 2004-08-13] (RIN: 2120-AA64) received May 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8297. A letter from the Paralegal Speicalist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; BAE Systems (Operations) Limited (Jetstream) Model 4101 Airplanes [Docket No. 2001-NM-288-AD; Amendment 39-13580; AD 2004-08-11] (RIN: 2120-AA64) received May 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8298. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Glasflugel Models Mosquito and Club Libelle 205 Sailplanes [Docket No. 2003-CE-62-AD; Amendment 39-13583; AD 2004-08-14] (RIN: 2120-AA64) received May 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8299. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Goodrich Avionics Systems, Inc. TAWS8000 Terrain Awareness Warning System [Docket No. 2003-CE-47-AD; Amendment 39-13584; AD 2004-08-15] (RIN: 2120-AA64) received May 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8300. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Inc. Model Otter DHC-3 Airplanes [Docket No. 2000-CE-73-AD; Amendment 39-13585; AD 2004-05-01 R1] (RIN: 2120-AA64) received May 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8301. A letter from the Paralegal Speicalist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Schempp-Hirth Flugzeugbau GmbH Models Ventus-2a, Ventus-2b, Discus-2a, and Discus-2b Sailplanes [Docket No. 2003-CE-59-AD; Amendment 39-13581; AD 2004-08-12] (RIN: 2120-AA64) received May 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8302. A letter from the Secretary, Department of Transportation, transmitting a report entitled, "Fundamental Properties of Asphalts and Modified Asphalts-II" submitted in accordance with Section 6016(e) of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Pub. L. 102-240, and Section 5117(b)(5) of the Transportation Equity Act of the 21st Century (TEA-21); to the Committee on Transportation and Infrastructure.

8303. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the agency's final rule — Award of Grants and Cooperative Agreements for the Special Projects and Programs Authorized by the Agency's FY 2004 Appropriations Act — received May 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8304. A communication from the President of the United States, transmitting the eighth biennial revision (2004-2008) to the United States Arctic Research Plan, pursuant to 15 U.S.C. 4108(a); to the Committee on Science.

8305. A letter from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting the Administration's final rule — Clauses Authorized for Use in Commercial Acquisitions (RIN: 2700-AD00) received May 17, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

8306. A letter from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting the Administration's final rule — NASA Grant and Cooperative Agreement Handbook — Property Reporting. (RIN: 2700-AC79) received May 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

8307. A letter from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting the Administration's final rule — Conformance with Federal Acquisition Circular 2001-16 — received May 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

8308. A letter from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting the Administration's final rule — NASA Grant and Cooperative Agreement Handbook — Synopses Requirements (RIN: 2700-AC93) received May 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

8309. A communication from the President of the United States, transmitting Consistent with Title I of the Trade and Development Act of 2000, the 2004 Comprehensive Report on U.S. Trade and Investment Policy for Sub-Saharan Africa and Implementation of the African Growth and Opportunity Act; to the Committee on Ways and Means.

8310. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Changes in accounting periods and in methods of accounting. (Rev. Proc. 2004-34) received May 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8311. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Election of Alternative Deficit Reduction Contribution (Announcement 2004-43) received May 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8312. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Taxable Year of Inclusion (Rev. Rul. 2004-52) received May 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8313. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Guidance Regarding Affiliation [Notice 2004-37] received May 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8314. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Changes in accounting periods and methods of accounting. (Rev. Proc. 2004-31) received May 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8315. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Real Estate Mortgage Investment Conduits; Application of Section 446 With Respect to Inducement Fees [TD 9128] 9RIN: 1545-BB73) received May 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8316. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — REMIC Inducement Fees (Rev. Proc. 2004-30) received May 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8317. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule

— Rulings and determination letters. (Rev. Proc. 2004-28) received May 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8318. A letter from the Acting Under Secretary, Department of Defense, transmitting the Defense Environmental Restoration Program report for FY 2003, pursuant to 10 U.S.C. 2706(a)(1); jointly to the Committees on Armed Services and Energy and Commerce.

8319. A letter from the General Counsel, Department of Defense, transmitting the Department's legislative initiatives for inclusion in the National Defense Authorization Bill for FY 2005; jointly to the Committees on Armed Services and International Relations.

8320. A letter from the Secretary, Department of Energy, transmitting draft of proposed legislation "To enhance the effectiveness of the counterintelligence programs within the Department of Energy by consolidating them into one program under the direct supervison of the Secretary of Energy, and for other purposes"; jointly to the Committees on Energy and Commerce and Armed Services.

8321. A letter from the Inspector General, Coaltion Provisional Authority, transmitting the first quarterly report to Congress as required by Section 3001(i) of Title III of the 2004 Emergency Supplemental Appropriation for Defense and for the Reconstruction of Iraq and Afghanistan (Pub. L. 108-106), dated March 30, 2004; jointly to the Committees on International Relations and Appropriations.

8322. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting Presidential Determination 2004-28, the President has exercised the authority provided to him and has issued the required determination to waive certain restrictions on the maintenance of a Palestine Liberation Organization (PLO) Office and on the receipt and expenditure of PLO funds for a period of six months, pursuant to Public Law 108—199, section 534(d); jointly to the Committees on International Relations and Appropriations.

8323. A letter from the Assistant Attorney General, Department of Justice, transmitting a report required by the Foreign Intelligence Surveillance Act of 1978, pursuant to 50 U.S.C. 1807; jointly to the Committees on the Judiciary and Intelligence (Permanent Select).

8324. A letter from the Secretary, Department of Health and Human Services, transmitting the report on "Access to Information for Performance of Radiation Dose Reconstructions" under the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA), pursuant to Public Law 108—136; jointly to the Committees on the Judiciary and Education and the Workforce.

8325. A letter from the Administrator, Environmental Protection Agency, transmitting a draft of proposed legislation "To amend the Federal Insecticide, Fungicide, and Rodenticide Act to implement pesticide-related obligations of the United States under the international conventions or protocols known as the PIC Convention, the POPs Convention, and the LRTAP POPs Protocol"; jointly to the Committees on Agriculture, the Judiciary, and International Relations.

8326. A letter from the Chairman, Federal Election Commission, transmitting 12 recommendations for legislative action, pursuant to 2 U.S.C. 438(a)(9); jointly to the Committees on House Administration, Ways and Means, and Government Reform.

8327. A letter from the Fiscal Assistant Secretary, Department of the Treasury, transmitting the annual reports due to Congress that appearon pages 111-134 of the March 2004 Treasury Bulletin as required by 26 U.S.C. 9602(a), 42 U.S.C. 10222(e)(1), 16 U.S.C. 1606a(c)(1), 42 U.S.C. 2297g(b)(1), and 7 U.S.C. 7101 note; jointly to the Committees on Ways and Means, Energy and Commerce, Transportation and Infrastructure, Resources, Agriculture, and Education and the Workforce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BOEHNER: Committee on Education and the Workforce. H.R. 4278. A bill to amend the Assistive Technology Act of 1998 to support programs of grants to States to address the assistive technology needs of individuals with disabilities, and for other purposes; with an amendment (Rept. 108–514). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 2010. A bill to protect the voting rights of members of the Armed Services in elections for the Delegate representing American Samoa in the United States House of Representatives, and for other purposes; with an amendment (Rept. 108–515). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 3785. A bill to authorize the exchange of certain land in Everglades National Park; with an amendment (Rept. 108–516). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. S. 144. An act to require the Secretary of the Interior to establish a program to provide assistance through States to eligible weed management entities to control or eradicate harmful, nonnative weeds on public and private land; with an amendment (Rept. 108–517 Pt. 1). Ordered to be printed.

Ms. PRYCE of Ohio: Committee on Rules. House Resolution 656. Resolution providing for consideration of the bill (H.R. 444) to amend the Workforce Investment Act of 1998 to establish a Personal Reemployment Accounts grant program to assist Americans in returning to work (Rept. 108–518). Referred to the House Calendar.

Mr. HASTINGS of Washington: Committee on Rules. House Resolution 657. Resolution providing for consideration of the joint resolution (H.J. Res. 83) proposing an amendment to the Constitution of the United States regarding the appointment of individuals to fill vacancies in the House of Representatives (Rept. 108–519). Referred to the House Calendar.

DISCHARGE OF COMMITTEE

[Omitted from the Record of May 20, 2004]

Pursuant to clause 2 of rule XII the Committee on Agriculture discharged from further consideration. H.R. 1014 referred to the Committee of the Whole House on the State of the Union.

Pursuant to clause 2 of rule XII the Committee on Agriculture discharged from further consideration. H.R. 3846 referred to the Committee of the Whole House on the State of the Union.

Pursuant to clause 2 of rule XII the Committee on the Judiciary discharged from further consideration. H.R. 2120 referred to the Committee of the Whole House on the State of the Union and ordered to be printed.

[The following actions occurred on June 1, 2004]

Pursuant to clause 2 of rule XII the Committee on the Judiciary discharged from further consideration. H.R. 2179 referred to the Committee of the Whole House on the State of the Union and ordered to be printed.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

[Omitted from the Record of May 20, 2004]

H.R. 1014. Referral to the Committee on Agriculture extended for a period ending not later than May 20, 2004.

H.R. 3846. Referral to the Committee on Agriculture extended for a period ending not later than May 20, 2004.

[The following actions occurred on June 1, 2004]

H.R. 180. Referral to the Committee on Rules extended for a period ending not later than July 23, 2004.

H.R. 3358. Referral to the Committee on the Budget extended for a period ending not later than July 23, 2004.

H.R. 3800. Referral to the Committee on the Budget extended for a period ending not later than July 23, 2004.

H.R. 3925. Referral to the Committee on the Budget extended for a period ending not later than July 23, 2004.

S. 144 Referral to the Committee on Agriculture extended for a period ending not later than July 9, 2004.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. VITTER (for himself, Mr. Baker, Mr. Jefferson, and Mr. Tauzin):

H.R. 4470. A bill to amend the Federal Water Pollution Control Act to extend the authorization of appropriations for the Lake Pontchartrain Basin Restoration Program from fiscal year 2005 to 2010; to the Committee on Transportation and Infrastructure.

By Mr. RENZI (for himself and Mr. Matheson):

H.R. 4471. A bill to clarify the loan guarantee authority under title VI of the Native American Housing Assistance and Self-Determination Act of 1996; to the Committee on Financial Services.

By Mr. WELDON of Pennsylvania (for himself, Mr. Hoyer, Mr. Boehlert, Mr. Andrews, Mr. Pascrell, and Mr. Smith of Michigan):

H.R. 4472. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to expand the definition of firefighter to include apprentices and trainees, regardless of age or duty limitations; to the Committee on the Judiciary.

By Mr. OBEY (for himself, Mr. George Miller of California, Ms. Pelosi, Mr. Hoyer, Mrs. Lowey, Ms. DeLauro, Mr. JACKSON of Illinois, Mr. KENNEDY of Rhode Island, and Ms. ROYBAL-ALLARD):

H.R. 4473. A bill making appropriations for the Department of Education for the fiscal year ending September 30, 2005, and for other purposes; to the Committee on Appropriations, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FILNER:

H.R. 4474. A bill to designate the facility of the United States Postal Service located at 5505 Stevens Way in San Diego, California, as the "Earl B. Gilliam Post Office Building"; to the Committee on Government Reform.

By Mr. GRAVES:

H.R. 4475. A bill to amend the Endangered Species Act of 1973 to focus conservation efforts under that Act on the 109 species most in danger of extinction, and for other purposes; to the Committee on Resources.

By Mr. LYNCH:

H.R. 4476. A bill to provide for the security and safety of rail and rail transit transportation systems, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. COX (for himself, Ms. PELOSI, Mr. LANTOS, Mr. SMITH of New Jersey, Mr. BURTON of Indiana, Mr. MCGOVERN, Mr. PAYNE, Mr. ROHRABACHER, Mr. SOUDER, Mr. STRICKLAND, and Mr. WU):

H. Res. 655. A resolution condemning the crackdown on democracy protestors in Tiananmen Square, Beijing, in the People's Republic of China on the 15th anniversary of that tragic massacre; to the Committee on International Relations.

By Mr. GARY G. MILLER of California (for himself, Mr. OXLEY, Mr. FRANK of Massachusetts, Mr. NEY, and Ms. WATERS):

H. Res. 658. A resolution recognizing National Homeownership Month and the importance of homeownership in the United States; to the Committee on Financial Services.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

341. The SPEAKER presented a memorial of the General Assembly of the Commonwealth of Kentucky, relative to House Concurrent Resolution No. 223 memorializing the House Armed Services Committee as well as the entire United States Congress to adopt H.R. 327 awarding a Medal of Honor posthumously to First Lieutenant Garlin Murl Conner; to the Committee on Armed Services.

342. Also, a memorial of the House of Representatives of the Commonwealth of Kentucky, relative to House Resolution No. 242 memorializing the Congress of the United States of America to enact legislation establishing English as the official language of the United States of America; to the Committee on Education and the Workforce.

343. Also, a memorial of the House of Representatives of the State of Georgia, relative to House Resolution No. 1684 memorializing the Congress of the United States to provide for a domestic energy policy that will ensure an adequate supply of natural gas and develop the appropriate infrastructure; to the Committee on Energy and Commerce.

344. Also, a memorial of the General Assembly of the State of Tennessee, relative to Senate Joint Resolution No. 64 memorializing the Congress of the United States to require, where applicable, that United States government uniforms and equipment be manufactured in the United States; to the Committee on Government Reform.

345. Also, a memorial of the House of Representatives of the State of Georgia, relative to House Resolution No. 1256 memorializing the Congress of the United States to consider creating a national preserve or other similar federal property to protect land and other natural resources and promote hunting and fishing in a continuous corridor of the Ocmulgee and Altamaha Rivers in central and south Georgia; to the Committee on Resources.

346. Also, a memorial of the General Assembly of the State of Ohio, relative to House Concurrent Resolution No. 31 memorializing the Congress of the United States to reauthorize abandoned mine land fee collection authority, to disperse shares of that fee without an appropriation, to release the unappropriated balance in the Abandoned Mine Land Fund, and to consider reevaluating the administration of the Abandoned Mine Land Reclamation Program and the Fund; to the Committee on Resources.

347. Also, a memorial of the House of Representatives of the Commonwealth of Kentucky, relative to House Resolution No. 263 memorializing members of the respective chambers of the Congress of the United States to cosponsor H.R. 2327 and S. 2018 of the 108th Congress of the United States to extend the length of the Lewis and Clark National Historic Trail; to the Committee on Resources.

348. Also, a memorial of the Senate of the Commonwealth of Kentucky, relative to Senate Resolution No. 224 memorializing members of the respective chambers of the Congress of the United States to cosponsor H.R. 2327 and S. 2018 of the 108th Congress of the United States to extend the length of the Lewis and Clark National Historic Trail; to the Committee on Resources.

349. Also, a memorial of the General Assembly of the State of Georgia, relative to House Resolution No. 1343 rescinding, repealing, canceling, voiding, nullifying, and superseding any and all prior applications by the General Assembly heretofore made during any session thereof to the Congress of the United States of America to call a convention pursuant to the terms of Article V of the United States Constitution for proposing one or more amendments to that Constitution and urging the legislatures of other states to do the same; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 252: Mr. ANDREWS.

H.R. 290: Mr. EMANUEL and Ms. GRANGER.

H.R. 296: Ms. DUNN, Mr. LARSEN of Washington, Mr. PLATTS, Mr. GREENWOOD, Mr. ALLEN, and Mr. VAN HOLLEN.

H.R. 432: Mr. MCHUGH.

H.R. 504: Mr. ANDREWS.

H.R. 548: Mr. VISCLOSKY.

H.R. 584: Mr. DOOLITTLE.

H.R. 677: Mr. CALVERT, Mr. FALEOMAVAEGA, Mr. POMBO, and Mr. RANGEL.

H.R. 734: Mr. GEORGE MILLER of California.

H.R. 742: Mr. OBERSTAR, Mr. BURTON of Indiana, and Mr. DEMINT.

H.R. 995: Mr. MCGOVERN and Mr. PAUL.

H.R. 1157: Mr. WYNN.

H.R. 1160: Mr. WYNN, Mr. WELDON of Pennsylvania, and Mr. ENGEL.

H.R. 1231: Mr. MARKEY.

H.R. 1328: Mr. MCGOVERN and Mr. PAUL.

H.R. 1563: Mr. CONYERS and Ms. MCCARTHY of Missouri.

H.R. 1684: Mr. LATHAM and Mr. SIMMONS.

H.R. 1734: Mr. TURNER of Texas, Mr. KENNEDY of Rhode Island, Mr. WOLF, and Mr. NEUGEBAUER.

H.R. 1741: Mr. MCGOVERN and Mr. PAUL.

H.R. 1800: Mr. RANGEL.

H.R. 2028: Mr. HALL.

H.R. 2068: Mr. PAYNE.

H.R. 2176: Mr. MCDERMOTT.

H.R. 2198: Mr. LARSON of Connecticut and Mr. SIMMONS.

H.R. 2318: Ms. WATSON, Mr. BECERRA, Mrs. NAPOLITANO, Ms. LORETTA SANCHEZ of California, Mr. CARDOZA, Mr. FARR, Mr. FORD, Mr. SERRANO, and Mr. STENHOLM.

H.R. 2387: Mr. RAMSTAD, Ms. KAPTUR, Mr. DAVIS of Illinois, and Mr. RODRIGUEZ.

H.R. 2404: Mr. REYNOLDS.

H.R. 2413: Mr. RUPPERSBERGER and Mr. BURNS.

H.R. 2464: Mr. STENHOLM.

H.R. 2724: Mr. MEEHAN.

H.R. 2727: Mr. ANDREWS.

H.R. 2787: Mr. MICHAUD.

H.R. 2797: Mr. BURTON of Indiana.

H.R. 2933: Mr. JONES of North Carolina.

H.R. 2959: Mr. BACHUS, Mr. JENKINS, Mr. DEUTSCH, Mr. BLUMENAUER, Mr. CHANDLER, Mr. LARSON of Connecticut, Mr. FOLEY, and Mr. WAXMAN.

H.R. 2967: Mr. STUPAK and Mr. HASTINGS of Florida.

H.R. 3084: Mrs. MCCARTHY of New York.

H.R. 3201: Mr. MCDERMOTT.

H.R. 3213: Mrs. KELLY and Mr. SHAW.

H.R. 3215: Mr. BOEHLERT and Mrs. KELLY.

H.R. 3242: Mr. GILCHREST and Mr. HOYER.

H.R. 3281: Mr. BLUMENAUER.

H.R. 3323: Mr. ANDREWS and Mr. VISCLOSKY.

H.R. 3324: Mr. KILDEE, Mrs. MALONEY, and Mrs. TAUSCHER.

H.R. 3386: Ms. CARSON of Indiana.

H.R. 3459: Mr. FALEOMAVAEGA and Mr. LANTOS.

H.R. 3474: Mrs. BLACKBURN and Mr. LEWIS of Kentucky.

H.R. 3480: Mr. FILNER and Ms. MILLENDER-MCDONALD.

H.R. 3558: Mr. COX, Mr. MCKEON, and Mr. ETHERIDGE.

H.R. 3574: Mr. NUNES and Mr. NETHERCUTT.

H.R. 3619: Ms. VELÁZQUEZ, Mr. UDALL of Colorado, and Mr. MOLLOHAN.

H.R. 3676: Mr. PETRI.

H.R. 3716: Mr. SANDLIN and Mr. UPTON.

H.R. 3755: Mr. CHANDLER, Mr. BACA, Mr. MARSHALL, and Mr. MURPHY.

H.R. 3780: Ms. WATSON, Mr. WU, Mr. WEXLER, Mrs. MCCARTHY of New York, and Mr. KILDEE.

H.R. 3798: Ms. KILPATRICK.

H.R. 3831: Mr. FILNER and Mr. ACEVEDO-VILÁ.

H.R. 3847: Mr. MILLER of North Carolina.

H.R. 3860: Mr. REYNOLDS.

H.R. 3896: Mr. CARSON of Oklahoma.

H.R. 3936: Mr. RAHALL.

H.R. 3950: Mr. GILLMOR.

H.R. 3953: Mr. RUPPERSBERGER and Mr. MCHUGH.

H.R. 3965: Mr. HOLDEN.

H.R. 3968: Mr. VAN HOLLEN and Mr. GORDON.

H.R. 4010: Mr. ALLEN.

H.R. 4020: Mr. RAHALL.

H.R. 4026: Mr. GILLMOR, Mr. LARSON of Connecticut, and Mr. CASE.

H.R. 4043: Mr. Gordon.

H.R. 4048: Mr. Marshall.

H.R. 4101: Mr. Berman.

H.R. 4102: Mr. Fattah, Mr. Michaud, and Mr. Towns.

H.R. 4107: Mr. Upton, Mr. Peterson of Minnesota, Mr. Price of North Carolina, Mr. Snyder, Mr. Fossella, and Mr. Ney.

H.R. 4109: Mr. Boehner, Mr. Bass, Mr. McCotter, Mr. Vitter, and Mr. Cox.

H.R. 4126: Mr. Cannon, Mr. Kennedy of Minnesota, and Mrs. Capito.

H.R. 4147: Ms. Kaptur, Ms. Lee, and Mr. Marshall.

H.R. 4175: Mr. Rahall.

H.R. 4177: Mr. Gordon and Mr. Hoeffel.

H.R. 4217: Mr. Hastings of Washington.

H.R. 4233: Mr. Towns.

H.R. 4248: Mr. Rahall.

H.R. 4256: Mr. McGovern.

H.R. 4261: Mr. Owens, Mr. Clay, Mr. McGovern, and Mr. Towns.

H.R. 4262: Mr. Blumenauer, Mr. Emanuel, Ms. DeGette, and Mrs. Christensen.

H.R. 4278: Mr. McDermott, Mr. Owens, Mr. Price of North Carolina, Mr. Sanders, Mr. Matheson, and Mr. Frost.

H.R. 4306: Mr. Sweeney.

H.R. 4314: Mr. Moore.

H.R. 4317: Mr. Bonilla, Mr. Brady of Texas, Mr. Gonzalez, Mr. Hall, Mr. Neugebauer, Mr. Ortiz, Mr. Rodriguez, Mr. Sessions, and Mr. Thornberry.

H.R. 4334: Mr. Hinchey and Mrs. McCarthy of New York.

H.R. 4341: Mr. Moore, Mr. Evans, and Mr. Ross.

H.R. 4361: Mr. Towns, Mr. Cummings, and Mr. Fattah.

H.R. 4363: Mr. Cantor, Mr. Owens, Mr. Matheson, Mr. Chocola, Mr. Holden, Mr. Payne, Ms. Bordallo, and Mr. Murphy.

H.R. 4370: Mr. Bishop of New York and Mr. Emanuel.

H.R. 4375: Mrs. Jo Ann Davis of Virginia, Mr. Sweeney, Mr. Hinchey, and Mr. Markey.

H.R. 4384: Mr. Calvert

H.R. 4400: Ms. DeLauro and Mr. Weiner.

H.R. 4409: Ms. Ros-Lehtinen.

H.R. 4410: Mr. McCotter, Ms. Ros-Lehtinen, and Mr. Thomas.

H.R. 4411: Mr. Hoekstra.

H.R. 4416: Mr. Green of Wisconsin, Mr. Kirk, Mr. Conyers, and Mr. Upton.

H.R. 4420: Mr. Cantor, and Mrs. Northup.

H.R. 4435: Mr. Hoeffel, Mr. Kennedy of Rhode Island, Mr. Brown of Ohio, Mr. McGovern, and Mr. Delahunt.

H.R. 4444: Mr. Simmons.

H.R. 4450: Mr. Weiner, Mr. Lantos, and Mr. Hoeffel.

H.R. 4457: Mr. Berman, Mrs. Emerson, and Ms. Schakowsky.

H.R. 4468: Mr. Rangel, Ms. Majette, Mr. Frost, Mr. McGovern, Mr. Snyder, Mr. Van Hollen, Mr. Fattah, Mr. Blumenauer, Mr. Brown of Ohio, and Mr. Hoeffel.

H.J. Res. 56: Mrs. Northup.

H.J. Res. 93: Mr. Murphy.

H. Con. Res. 247: Mr. Spratt.

H. Con. Res. 252: Mr. Gordon.

H. Con. Res. 257: Mrs. Musgrave, Mr. Gutierrez, and Mr. Rangel.

H. Con. Res. 371: Mr. Reynolds and Mr. Levin.

H. Con. Res. 413: Mr. Gillmor, Ms. McCollum, Mr. Grijalva, Ms. Linda T. Sánchez of California, Mrs. Davis of California, Ms. Eshoo, Ms. Loretta Sanchez of California, Ms. Bordallo, Ms. Woolsey, Ms. Watson, Ms. Hooley of Oregon, Ms. Carson of Indiana, Mrs. Cubin, Ms. Velázquez, Ms. Dunn, Ms. Hart, Mrs. Napolitano, Ms. Granger, Mrs. Musgrave, Ms. Lee, and Mrs. Tauscher.

H. Res. 466: Mr. Hoeffel, Mr. Stenholm, and Ms. Loretta Sanchez of California.

H. Res. 550: Mr. Shays.

H. Res. 570: Mr. Shimkus, Mr. Van Hollen, Mr. Feeney, Mr. Engel, Mr. Deutsch, Ms. Watson, and Mr. Ballance.

H. Res. 575: Mr. Van Hollen.

H. Res. 586: Mr. Larsen of Washington.

H. Res. 604: Mr. Olver and Mr. Etheridge.

H. Res. 634: Mr. Portman, Mr. Turner of Ohio, Mr. Strickland, Mr. Kucinich, Mrs. Jones of Ohio, and Mr. Brown of Ohio.

H. Res. 635: Mr. Portman, Mr. Turner of Ohio, Mr. Strickland, Mr. Kucinich, Mrs. Jones of Ohio, and Mr. Brown of Ohio.

H. Res. 641: Mr. McNulty, Mr. Wolf, Mr. Ford, and Mr. Wicker.

EXTENSIONS OF REMARKS

A TRIBUTE TO MS. DOROTHY GRACE BOYAJIAN ON HER 53 YEARS OF DEDICATED SERVICE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 2004

Mr. LANTOS. Mr. Speaker, it is with great honor and pride that I pay tribute to an extraordinary teacher, Dorothy Grace Boyajian. For the past 53 years, she has been an inspiration to many of her colleagues by dedicating herself to serving the children of the San Mateo-Foster City School District.

Ms. Boyajian was born in Camden, New Jersey, and arrived in the Bay Area with her parents in 1938. She attended Turnbill Elementary School, and later returned to the same building as a teacher. She attended professional growth classes at San Francisco State University, Stanford University and University of California, Berkeley. Ms. Boyajian still lives in the home her father built in Burlingame. She supports three children through Child Care International.

Mr. Speaker, Ms. Boyajian's extraordinary teaching has received many awards. She has won the Who's Who in Teaching Award twice, was inducted into the San Mateo County Women's Hall of Fame and was once judged to be one of the top 40 teachers in the United States. The litany of awards and honors bestowed upon her are indicative of the professional respect she has achieved, but Ms. Boyajian's true legacy is her students.

Since her first days as a teacher 53 years ago, Dorothy Grace Boyajian has instilled in her students an important lesson that no matter how big the world is, they can and should play a part in it. As part of this lesson her students would write to famous dignitaries whose responses line the walls around her classroom. This led to a memorable moment when a local television show came to her classroom and showed responses from Queen Elizabeth II and the then First Lady Nancy Reagan.

After a half century dedicating her life to teaching, Ms. Boyajian's passion for teaching and her commitment to this noble profession has not wavered. Ms. Boyajian has decided to retire in order to save the jobs of two of her younger colleagues. In what is truly the epitome of selflessness, Ms Boyajian recently reflected on her retirement by saying, "I'll miss [teaching], but if it's going to help out some younger teachers, I'm willing to do it." It is a truly sad day when one of the most special teachers who has touched so many lives, has to retire due to budget cuts.

Mr. Speaker, the impact that Dorothy Grace Boyajian has made on the people of San Mateo County is immeasurable. From the dolls her students have given to her for her collection, to getting stopped on the street by former students and told how she has affected their lives, there is no doubt that Ms. Boyajian is a teacher admired by many. Other teachers who have been lucky enough to work with her have described her as a mentor, and an inspiration to those who strive to make students feel like dignitaries themselves.

Mr. Speaker, another example of Ms. Boyajian's effect on the community can be seen by the fact that the San Mateo County Board of Trustees has declared that June 4, 2004 will be Dorothy Grace Boyajian Day, and the San Mateo-Foster City School Board will rename the Sunnybrae Elementary School, where she taught over the last 20 years, the Dorothy Grace Boyajian Elementary School for the day.

Teachers like Ms. Boyajian do not come along everyday, and seeing her retire, though well deserved, will certainly be hard on the community. I hope that all those who follow the path that Ms. Boyajian embarked upon over a half century ago find the same riches that she has found, the riches that you find in the hearts and minds of children.

I urge all of my colleagues to join me in paying tribute to Dorothy Grace Boyajian, whose life has been dedicated to teaching the children of the Peninsula.

HONORING JUNE 4, 2004 AS LINC TELACU SCHOLARS DAY

HON. CIRO D. RODRIGUEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 2004

Mr. RODRIGUEZ. Mr. Speaker, on behalf of the Congressional Hispanic Caucus, I rise to recognize June 4, 2004 as LINC TELACU Scholars Day. As a leading service organization, LINC TELACU Education Foundation in partnership with numerous corporations and universities, has helped to improve Latino communities including East Los Angeles by advancing higher education opportunities for thousands of young Latino leaders.

For over two decades, the Foundation has assisted talented Latinos overcome formidable barriers to academic success by providing millions of dollars in scholarships, as well as comprehensive educational support programs which include: leadership development, college retention, internships, counseling, mentoring, tutorial assistance, computer lab, college advisement and placement assistance, and parental support programs. In addition, TELACU was selected nationally as one of only two community-based organizations nationwide to deliver the TRIO Programs—Classic Upward Bound, Veterans Upward Bound, and Talent Search—through which middle and high-school students and veterans receive preparation for post-secondary education

I would like to commend David C. Lizárraga, TELACU's President and CEO, and his executive staff for their leadership over the past year. Their dedication is helping Latino students overcome the effects of low income, inadequate support and counseling, and a lack of professional and academic role models and to become well educated community leaders.

Thanks to the successful leadership of LINC TELACU, every 2003 LINC TELACU Scholar achieved their high school diploma, college degree, or nursing degree. This year, LINC TELACU will help 600 more students accomplish their higher education goals. As the Chairman of the Congressional Hispanic Caucus, I am proud of these students for their commitment to succeed and wish them continued success.

Mr. Speaker, I ask my colleagues to recognize the many achievements and services provided by LINC TELACU. Please join me in honoring the LINC TELACU Scholars on June 4, 2004.

RECOGNIZING ERIC ADLARD FOR ACHIEVING THE RANK OF EAGLE SCOUT

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 2004

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Eric Adlard, son of Mark and Laura Adlard, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 846, and by earning the most prestigious award of Eagle Scout.

Eric has been very active with his troop, participating in numerous scout activities. Over the years Eric has been involved with scouting, he has held numerous leadership positions, serving as Troop Historian, Patrol Leader, and Senior Patrol Leader. Eric holds such special scouting honors as Arrow of Light, Faith in God, On My Honor, Order of the Arrow, Foxman in the Tribe of Mic-O-Say, and World Conservation Award. Eric holds twenty-six merit badges.

For his Eagle Scout project, Eric built three concrete pads for the baseball bleachers at Cecil Baker Memorial Field in Buckner, Missouri.

Mr. Speaker, I proudly ask you to join me in commending Eric Damon Adlard for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

FALLEN HEROES

SPEECH OF

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. SHIMKUS. Mr. Speaker, I rise today to recognize the life of Captain John Tipton who was recently killed in Iraq.

Cpt. Tipton, 32, a 1989 Granite City High School graduate, died this past Sunday in an explosion during combat in the Al Anbar Province in Iraq. The province, west of Baghdad, is where Camp Fallujah is located and is one of the most hostile regions in Iraq. Capt. Tipton was commander of Headquarters Company, 1st Battalion, 16th Infantry, 1st Brigade, 1st Infantry Division out of Fort Riley. He was stationed at Fort Riley, Kansas with his wife, Susie Tipton, of Collinsville, and their two children, Austin, 4, and Kaitlyn, 2.

I am proud of the service Cpt. Tipton has given to our country and the service he and others provide on a daily basis. Not enough can be said about the sacrifice and dedication these men and women display while serving in Iraq. It is troops like Cpt. Tipton, those risking their lives everyday, that ensure our freedom here at home and to others throughout the rest of the world. I salute him and my heart felt condolences go out to his family and all the troops continually fighting to ensure freedom and democracy.

TRIBUTE TO GLENN CUNNINGHAM A TRUE PUBLIC SERVANT

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 2004

Mr. PAYNE. Mr. Speaker, it is with sorrow that I inform my colleagues of the sudden and untimely passing of Glenn Cunningham. Mr. Cunningham was a longtime public servant. He was Mayor of Jersey City, New Jersey, a significant part of my congressional district. He also served as a member of the New Jersey State Senate. Mayor/State Senator Cunningham was the proverbial public servant. His career in the public arena spanned more than three decades. He was truly a man of the people.

Over the years, I had the privilege of working with Glenn on issues of shared interest, as our careers paralleled each other's. I was delighted when Glenn was elected to his first office as a Hudson County Freeholder in 1975, and then watched with pride as he moved forward in his career to become elected to the Jersey City Municipal Council in 1981 and reelected in 1985 and became President of the Jersey City Municipal Council. In 1996, Glen was appointed by President Clinton to become the first African American U.S. Marshall from the state of New Jersey. In 2001, Glenn was elected the first African American Mayor of Jersey City, and last year Mayor Cunningham was elected State Senator for the 31st District.

Glenn was especially proud of his military and law enforcement experience, having served with honor as a United States Marine. He also was a member of the Jersey City Police Department for more than two decades, rising to the rank of Captain. He later distinguished himself in the post of Hudson County Director of Public Safety.

Glenn was also known for his interest in Black History. I enjoyed having conversations with him about the history of Jersey City, Underground Railroad in New Jersey and other significant historical events that shaped our state and nation. I was impressed with his passion and the breadth of his knowledge of historical subjects.

Mr. Speaker, I ask you and my colleagues to join me in remembering a life long distinguished native son of Jersey City, Glenn Cunningham, who was an outstanding role model. His exemplary service will long be remembered. I express my condolences to his survivors, especially his wife, Saundra.

IN RECOGNITION OF THE NEW YORK BLOOD CENTER'S 40TH ANNIVERSARY AND WALL OF HONOR RECEPTION

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 2004

Mrs. MALONEY. Mr. Speaker, I rise to acknowledge the achievements of the New York Blood Center (NYBC). On the evening of May 19, 2004, the NYBC will unveil its Wall of Honor, which recognizes the many generous donors—both financial and medical—who make possible the Blood Center's tremendous contributions to the public good. The Wall of Honor will also commemorate the Blood Center's forty years of outstanding service to our community, our nation and our world.

The Blood Center has long been an indispensable part of the New York community. Over the last four decades, the NYBC has become one of America's largest community-based, non-profit blood centers. Each year, it provides life-saving blood products and clinical transfusion services to more than one million patients, in over two hundred New York and New Jersey hospitals. In addition, the Center's Solvent Detergent Viral Inactivation Process has improved the safety of more than twenty billion units of blood-derived products distributed worldwide.

The Blood Center has also become a nationally-recognized center for medical education. The NYBC has trained more than 100 physician professionals through its transfusion medicine fellowship, and has offered clinical training to over 400 medical students and 300 laboratory technicians. In all, more than 30 percent of New York and New Jersey blood bank directors have received specialized training from the New York Blood Center. By any measure, the foregoing statistics represent a truly astonishing record of achievement. The clinicians, staff and contributors of the NYBC should be extremely proud of these accomplishments.

As we take time to celebrate the NYBC's history, we must also acknowledge the Blood Center's efforts to meet new and often daunting challenges. As you may know, the New York region is currently facing a critical shortage of blood. The NYBC estimates that the demand for transfusions will easily exceed the Center's projected supply during the coming summer months. The Center has urged local community groups, schools and churches to organize blood drives to forestall interruptions in major medical services this summer. These difficulties make it all the more necessary for the New York community to continue to support the NYBC's noble efforts.

Mr. Speaker, I request that my colleagues join me in paying tribute to the New York Blood Center, whose forward-thinking initiatives to promote the public's health and well-being are truly worthy of celebration. To the dedicated professionals, volunteers and friends of this fine organization, I offer my continuing admiration, respect and support.

HONORING STEPHEN W. STRUMPH

HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 2004

Mr. ISRAEL. Mr. Speaker, I rise today to honor Stephen W. Strumph of Glen Cove, New York, a decorated veteran and a proud American.

Mr. Strumph began his military career in 1937, at the Reserve Officers Army Academy of Poland. At the onset of WWII he was commissioned Second Lieutenant Platoon Leader of the 6th Regiment, 22nd Mountain division in the Polish army.

On November 1, 1939 Mr. Strumph was transported to Lukenwalde and was held as a prisoner of war. He heroically escaped German custody three times, before finally being released in the spring of 1945 and heading for the United States zone.

Mr. Strumph was soon commissioned as a U.S. Army multi-lingual interpreter to interview German soldiers and Gestapo. He was then reunited with Polish troops under Colonel Brzeszczynski, and was placed in command of 125 soldiers and a U.S. Army ammunitions depot. After he was demobilized in 1947, Mr. Strumph worked for eight years at the U.S. embassy in Paris, before emigrating to the United States.

Since his arrival in New York on July 28, 1955, Mr. Strumph has been an outstanding public citizen, volunteering with veterans and fraternal organizations and was honored as "Outstanding Senior Volunteer of the Year." He and his loving wife are the proud parents of three children and eight grandchildren.

I commend Stephen Strumph for his bravery and valor during World War II and thank him for his invaluable service to the Long Island community.

INDIA'S HUMAN RIGHTS VIOLATIONS IN PUNJAB, KASHMIR SUCCESSFULLY EXPOSED

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 2004

Mr. TOWNS. Mr. Speaker, on May 12, the Subcommittee on Human Rights and Wellness conducted a hearing into human-rights violations in Kashmir and in Punjab, Khalistan. It was a very successful hearing. Witnesses travelled from Kashmir and from out of state to testify.

Those testifying included The Honorable Michael Kozak, Principal Deputy Assistant Secretary of State, Bureau of Human Rights and Labor; The Honorable Donald Camp, Deputy Assistant Secretary of State, Bureau of South Asian Affairs; Mr. T. Kumar, Advocacy Director—Asia, Amnesty International; The Honorable Robert Giuda, Deputy Majority Leader of the New Hampshire House of Representatives and Chairman, Americans for Resolution of Kashmir; Dr. Ghulam Nabi Fai, Executive Director, Kashmiri American Council; Mrs. Attiya Inayatullah, a human-rights activist from Kashmir; Selig Harrison, Director of the Asia Program, Woodrow Wilson Center for International Policy; and Dr. Gurmit Singh Aulakh, President of the Council of Khalistan.

Many witnesses talked about the atrocities that have become everyday policy in India's minority states, such as Punjab, Khalistan and Kashmir. Witnesses testified to such atrocities as extrajudicial killings, including fake encounter killings, custodial deaths throughout the country, excessive use of force by security forces, youth sexually incapacitated through torture, rapes, murders, burning villages, and others.

India claims to be democratic, but it is really a brutal tyranny, as these atrocities show. It has placed over 700,000 troops in Kashmir and another 500,000 in Punjab, Khalistan to suppress any opposition to its brutal rule. The Indian government has murdered over 250,000 Sikhs since 1984, more than 300,000 Christians since 1948, over 87,000 Muslims in Kashmir since 1988, and tens of thousands of Tamils, Assamese, Bodos, Manipuris, Dalits, and others.

Mr. Speaker, the United States of America, the beacon of freedom for the world, cannot just stand by and let these atrocities occur. We should stop aid to India until it respects human rights and we should put this Congress on record in support of self-determination for the Sikhs, Kashmiris, Nagas, and everyone who is seeking freedom from India's brutal rule.

Mr. Speaker, the Council of Khalistan issued an excellent, detailed, and informative press release on the hearing, which I would like to insert in the RECORD now.

DR. AULAKH, OTHERS EXPOSE INDIAN HUMAN RIGHTS VIOLATIONS AT CONGRESSIONAL HEARING

WASHINGTON, DC, MAY 12, 2004.—Dr. Gurmit Singh Aulakh, President of the Council of Khalistan, exposed Indian human rights violations against the Sikhs and other minorities at a Congressional hearing today entitled "Decades of Terror: Exploring Human Rights Abuses in Kashmir and the Disputed Territories." He gave a very emotional informative, strong statement. It was a very successful appearance.

"Repression is the official policy of supposedly secular and democratic India," said Dr. Aulakh. "The reality is that India is a Hindu theocracy, not the democracy it claims to be," he said. On October 7, 1987, the Sikh Nation declared its independence from India, naming its new country Khalistan. India's brutal occupation of Khalistan and other minority nations is now internationalized and brought to the attention of the world. On December 5, President Bush told Dr. Aulakh, "I am aware of the Sikh and Kashmiri problem." Dr. Aulakh made it clear to the committee that "freedom for all the minority nations of South Asia is the only way to end the repression and secure full human rights for everyone in that troubled region."

Dr. Aulakh testified that "An Army commander in Amritsar district threatened that he would murder the Sikh men, bring the women to the Army barracks, and 'produce a new generation of Sikhs.' Mr. Chairman, this is disgraceful and extremely insulting to the proud Sikhs. It is unbecoming of an army commander of a nation which claims to be the world's largest democracy." He blasted India's policy of Hindutva, the total Hinduization of every aspect of life in India. He noted that Amnesty International has not been allowed into Punjab since 1978. "Even Castro's Cuba has allowed Amnesty International into the country more recently," he said.

Subcommittee Chairman Representative Dan Burton (R–Indiana) opened the hearing with a statement. Congressman Burton said, "Just as the world is disgusted by the abuse of Iraqi prisoners by United States servicemen and women, we should be disgusted by the tactics that have been systematically employed by Indian military and paramilitary forces." He quoted the U.S. State Department report on India: "Significant human rights abuses included: Extrajudicial killings, including fake encounter killings, custodial deaths throughout the country, and excessive use of force by security forces." Chairman Burton noted "techniques like reprisal killings, burning down of whole villages, and summary executions." He said that "India's insistence on resolving a political problem by force has dragged it down into a campaign of essentially lawless state terrorism."

"We thank Chairman Burton for holding this important hearing," said Dr. Aulakh. "It has been helpful in showing the world the truth about India's claim to be a secular democracy. What India really is is one of the world's most brutal tyrannies," he said.

Other speakers included The Honorable Michael Kozak, Principal Deputy Assistant Secretary of State, Bureau of Democracy, Human Rights, and Labor; The Honorable Donald Camp, Deputy Assistant Secretary of State, Bureau of South Asian Affairs; Mr. T. Kumar, Advocacy Director—Asia, Amnesty International; The Honorable Bob Giuda, Chairman of Americans for Resolution of Kashmir and Deputy Majority Leader of the New Hampshire House of Representatives; Dr. Ghulam Nabi Fai, Executive Director of the Kashmiri American Council; Mrs. Attiya Inayatullah, a human-rights activist and aid worker; and Selig Harrison, Director of the Asia Program, Woodrow Wilson Center for International Policy. Sikhs from Maryland, Virginia, the District of Columbia, New Jersey, and Pennsylvania came to the hearing. Representatives of the Sikh Coalition were in attendance. Such Sikh youth leaders as Amardeep Singh Bhalla, Gurpreet Singh Dhillon, Mona Kaur Dhillon, and others, as well as Sikh activists Ranjit Singh, Gurbax Singh Dhillon, Karj Singh Sandhu, Kavneet Singh Pannu, and many others attended in an excellent show of Sikh strength.

The Indian government has murdered over 250,000 Sikhs since 1984, more than 300,000 Christians since 1948, over 87,000 Muslims in Kashmir since 1988, and tens of thousands of Tamils, Assamese, Bodos, Manipuris, Dalits, and others. The Indian Supreme Court called the Indian government's murders of Sikhs "worse than a genocide." Mrs. Inayatullah testified that in Kashmir, "Since 1989 and as of January 2004 the death toll stands at 87,648. The orphan count is 105,210, women ages 7–70 molested is a shameful 9,297 and another 21,286 reported widowed, with there being no record of the number of youth sexually incapacitated through torture and disabled for life." She said that "Buzz words like cross-border terrorism and fundamentalism will not cover India's guilt." Rep. Giuda noted that "Indian law immunizes its army and police from prosecution for actions committed under color of 'prevention of terrorism', enabling a hideous government-sanctioned repertoire of torture, rapes, murder, arson, and custodial killing. Pakistan allows U.N. observers and human-rights organizations unfettered access to Free Kashmir, while India denies access to substantial parts of IOK. One must ask, 'Why are no observers allowed? What is India hiding?' "

Mr. Kumar said that "torture, including rape, deaths in custody, extrajudicial killings, and 'disappearances' have been perpetrated by agents of the state with impunity." He said that "Most families of all backgrounds have experienced some form of loss—of livelihood, of a relative, or of the sense of security of life, liberty, and other fundamental human rights." Dr. Fai reported that "Killings in Kashmir have become so commonplace that they are reported like car accidents in the United States." He described rapes, torture, arbitrary arrests, and other activities. He noted that "freedom to speak, write, or organize around self-determination or criticism of the Indian government for millions of Kashmiris is chimerical." He noted that the Official Secrets Act gives the government authority to suppress criticism of its policies. He said that "India has authorized a police state reminiscent of the Gestapo."

Mr. Harrison stated that India has built "an inflated military force that has committed well-documented atrocities." Secretary Kozak said, "Our annual human-rights report documents our concern and gives examples of the abuses that take place all too frequently."

Dr. Aulakh testified that Indian police arrested human-rights activist Jaswant Singh Khalra after he exposed their policy of mass cremation of Sikhs, in which over 50,000 Sikhs have been arrested, tortured, and murdered, then their bodies were declared unidentified and secretly cremated. Khalra was murdered in police custody. His body was never given to his family. The police never released the body of former Jathedar of the Akal Takht Gurdev Singh Kaunke after SSP Swaran Singh Ghotna murdered him. Ghotna has not been brought to trial for the murder of Jathedar Kaunke. No one has been brought to justice for the kidnapping and murder of Jaswant Singh Khalra. According to a report by the Movement Against State

Repression (MASR), 52,268 Sikhs are being held as political prisoners in India without charge or trial. Some have been in illegal custody since 1984! Amnesty International recently reported at least 100 current torture cases in Punjab. A Sikh leader named Gurnihal Singh Pirzada was arrested on charges that he attended a meeting with "dissidents." Although he denies attending the meeting, he said that it would not be illegal if he did.

Dr. Aulakh noted that history shows that multinational states such as India are doomed to failure. Countries like Austria-Hungary, India's longtime friend the Soviet Union, Yugoslavia, Czechoslovakia, and others prove this point. India is not one country; it is a polyglot like those countries, thrown together for the convenience of the British colonialists. It is doomed to break up as they did. India is ruled by Hindu theocrats whose agenda is "Hindu, Hindi, Hindutva, Hindu Rashtra," or total Hindu domination of every facet of Indian life. An Indian Cabinet minister said that everyone who lives in India must be a Hindu or subservient to Hindus.

"As Professor Darshan Singh, a former Jathedar of the Akal Takht, said, 'If a Sikh is not for Khalistan, he is not a Sikh'," Dr. Aulakh noted. "We must continue to press for our God-given birthright of freedom," he said. "Without political power, religions cannot flourish and nations perish."

IN HONOR OF ROBERT RIVERS

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 2004

Mr. ENGEL. Mr. Speaker, Robert Rivers is a man of many parts who has served his community, city and country. Bobby, as he is most familiarly known, was born in Harlem and after high school joined the Air Force, serving four years and being honorably discharged.

He returned home to his family and met Hazel Pazant, who became his wife. Fortunately for the Bronx they moved here and started to raise their family of four children. Bobby became a police officer in the New York City Police Department in 1969. While a police officer, he attended and graduated Fordham University with a degree in Sociology.

Also during his years on the force, he settled in the northeast Bronx and he joined his local block association, the Seton Falls Neighborhood Association, one of the many organizations helping his community that he joined. He also joined the Guardians Association, a police organization, eventually becoming its president. He retired from the Police Department in 1997 as a Detective but remains active with the National Black Police Association.

He has engaged in many civic activities in his community, including the fight to save Seton Falls Park from becoming a landfill, and joined the 47th Precinct Review Committee, monitoring the activities of the police in the community. He is also a member of the NAACP, serving on several committees in that organization, and is chair of the Legal Redress Committee.

He also serves as Chair of the Thurgood Marshall Independent Democratic Club.

Bobby Rivers is a tireless activist for his community, willing and able to participate in any and every activity that will help his community and improve life there. I congratulate him for his great work and wish him every continued success.

RECOGNIZING JAMES PARKER SOUTHWORTH FOR ACHIEVING THE RANK OF EAGLE SCOUT

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 2004

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize James Parker Southworth, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 135, and by earning the most prestigious award of Eagle Scout.

James has been very active with his troop for the past seven years, participating in numerous Scout activities. Over the years James has been involved with scouting, he has held numerous leadership positions such as Patrol and Senior Patrol Leader, five-year camper at H. Roe Bartle Scout Reservation, and Firebuilder in the Tribe of Mic-O-Say. He has also earned thirty Merit Badges. For his Eagle Scout project, James organized a project to teach tree pruning techniques to other Scouts and Leaders and then pruned the trees around the four mile walking trail in Kearney, Missouri.

James will be serving the United States of America by enlisting in the Marine Corps and will be leaving by the end of this month for his induction.

Mr. Speaker, I proudly ask you to join me in commending James Parker Southworth for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

HONORING GLENN E. ESTESS AS ROTARY INTERNATIONAL PRESIDENT FOR 2004–2005

HON. SPENCER BACHUS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 2004

Mr. BACHUS. Mr. Speaker, I rise to recognize and honor a good friend of mine, and an outstanding citizen, the newly named president of the Rotary International Club, Mr. Glenn E. Estess Sr. Following is a resolution provided by the Rotary Club of Shades Valley, Alabama, of which Mr. Estess is a member.

Whereas, Glenn E. Estess Sr., a native of the state of Mississippi, United States of America, has devoted a significant portion of his adult life to service with Rotary clubs; and

Whereas, Glenn E. Estess Sr. became a Rotarian first in 1960 as a member of the Rotary Club of Jacksonville, Florida; and

Whereas, upon moving to Wayne, New Jersey, he affiliated with the Rotary Club of that city, becoming as he had been in Florida, a member of the club's board of directors; and

Whereas, when his business brought him to Birmingham, Alabama in 1970, he promptly affiliated with the Rotary Club of Shades Valley, Alabama; and

Whereas, Glenn E. Estess Sr. held many offices of trust and responsibility as a valuable member of the Rotary Club of Shades Valley, Alabama, including that of president of the club in 1975–1976; and

Whereas, in the year 1979–1980 Glenn E. Estess Sr. was called upon to serve in the demanding position of district governor of Rotary District 686 (later 6860); and

Whereas, Glenn E. Estess Sr. was PolioPlus National Coordinator in 1987–1988, giving leadership to a program, conducted in cooperation with various national and international health organizations, designed to eradicate polio and other scourges throughout the world by the year 2005 by initially raising more than $240 million; and

Whereas, Glenn E. Estess Sr. was a member of the Rotary International Assembly Committee for six years, served as chairman of the Rotary International Assembly, and became International Assembly moderator in 1999; and

Whereas, Glenn E. Estess Sr. has three times been a member of the influential Rotary International Council on Legislation and has also attended two additional sessions of the Council on Legislation as an official observer; and

Whereas, Glenn E. Estess Sr. served as vice president of Rotary International during 1991–1992; and

Whereas, Glenn E. Estess Sr. was a trustee of The Rotary Foundation during the years 1993–1996; and

Whereas, in 1996–1997 Glenn E. Estess Sr. and his charming wife, Mary, served as official aides to the Rotary International president and his wife; and

Whereas, Glenn E. Estess Sr. is a Rotary Foundation Major Donor, a Paul Harris Fellow, and a Benefactor of the Foundation; and

Whereas, Glenn E. Estess Sr. is the deserving recipient of The Rotary Foundation's Citation for Meritorious Service and the Foundation's Distinguished Service Award; and

Whereas, Glenn E. Estess Sr. has recently served as a member of Rotary International's vital Audit and Operations Review Committee, Rotary International's only committee with a six-year term as mandated by the 1998 Council on Legislation; and

Whereas, Glenn E. Estess Sr. is the recipient of Rotary International's coveted Service Above Self Award; and

Whereas, Glenn E. Estess Sr. is married to Mary Grantham, and they are the parents of three adult children, all of whom; along with ten additional family members, are Paul Harris Fellows; and

Whereas, Glenn E. Estess Sr. has further demonstrated his unflagging spirit of service to the community by accepting roles of importance with such prominent civic organizations as the Birmingham Baptist Health System, then an eleven-hospital system with approximately 10,000 employees, of which he was chairman of the Board of Trustees; and

Whereas, Glenn E. Estess Sr. displayed his civic consciousness while living in Florida by serving as chairman of the YMCA, the American Chemical Society, and the Arthritis Foundation; and

Whereas, Glenn E. Estess Sr. has given service as a member of the Board of Regents of the National Association of Personnel Consultants in the United States; and

Whereas, Glenn E. Estess Sr. has been a director of the Better Business Bureau of Central Alabama and a trustee for the Workman's Compensation Trust of the Business Council of Alabama; and

Whereas, Glenn E. Estess Sr. has been a faithful and involved member of Brookwood Baptist Church of Mountain Brook, a suburb of Birmingham, Alabama; and

Whereas, Glenn E. Estess Sr. will be formally installed as president of Rotary International on May 26, 2004, at the annual convention held in Osaka, Japan, to serve during the year 2004–2005; and

WHEREAS, Glena E. Estess Sr. will preside at the annual convention of Rotary Internationl Meeting in Chicago, Illinois, the birthplace of Rotary International, in its centennial year of 2005; and

Whereas, the citizens of the great state of Alabama are extremely honored and proud that Glenn E. Estess Sr. has been chosen to lead Rotary International during its centennial celebration year of 2005: Now, therefore, be it

Resolved, That the one hundred fifty six members of the Rotary Club of Shades Valley, Alabama, individually and collectively, unanimously and enthusiastically congratulate its esteemed fellow member, Glenn E. Estess Sr., upon his election to the prestigious position as president of Rotary International for the year 2004–2005; and be it

Resolved, That a copy of this resolution be suitably engrossed and framed and presented to Glenn and Mary Estess. Done this 3rd day of May 2004 by members of the Rotary Club of Shades Valley, Alabama, in meeting assembled.

FALLEN HEROES

SPEECH OF

HON. BILL SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. SHUSTER. Mr. Speaker, in the rural landscape of family farms and small towns of central Pennsylvania, the fabric of America is woven. It is a fabric of patriotic Americans who work hard, respect their neighbors, and stand proud for this nation. It is a fabric of families that heaps admiration on the fathers and mothers and the sons and daughters who serve in our Armed Forces with selfless dedication. And it is this same fabric of families who sacrifice so much for this country.

Our soldiers stand resolved to protect our families and our children from danger and attack. To these American military heroes, it is understood that we must do everything possible to win the war on terror and keep Americans safe. Failure is not an option. If freedom has a price, we hold in the highest regard these men and women who have the courage to pay it.

We mourn the loss of the following heroes in central Pennsylvania: Gunnery Sgt. Ronald E. Baum, 38, of Hollidaysburg, PA; Pfc. Bradley G. Kritzer, 19, of Irvona, PA; Spc. Clint Richard Matthews, 31, of Bedford, PA; Sgt. Timothy L. Hayslett, 26, of Newville, PA; Staff Sgt. Christopher E. Cutchall, 30, of McConnellsburg, PA; Pfc. Richard W. Hafer, 21, Seward, PA.

America's pursuit of freedom is a beacon of light in an otherwise starless sky. I continue to be immensely proud of our soldiers who are fighting this war on terror and I lament those who have made the ultimate sacrifice. They have left homes, families, and jobs to extinguish a threat, and they stand as testament to the strength of our resolve and the durability of our fabric.

America will never forget these heroes.

RECOGNIZING THE SELECTION OF BRENT BAIR AS CHAIRMAN OF THE INTELLIGENT TRANSPORTATION SOCIETY OF AMERICA BOARD OF DIRECTORS

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 2004

Mr. ROGERS of Michigan. Mr. Speaker, I rise today to recognize the accomplishment of Brent Bair for being named Chairman of the Board of Directors for the Intelligent Transportation Society of America (ITSA). ITSA is a not-for-profit organization established in 1991 to coordinate the development and deployment of transportation-related technologies in the United States.

Mr. Bair was named ITSA Board Chairman at the ITSA annual meeting in San Antonio, Texas. Previously, Bair served as vice-chairman of the board and has served as a board member since 2001. Mr. Bair has also served as chairman of the Congressional ITS Caucus Advisory Committee and is a board member and former president of the Intelligent Transportation Society of Michigan.

As an ardent supporter of Intelligent Transportation Systems, Mr. Bair brought the FAST–TRAC system to more than 600 intersections in Oakland County, Michigan. The FAST–TRAC system uses video cameras to detect vehicles approaching an intersection and computers determine, in real time, the most efficient timing for the traffic signals at that intersection. Because of Mr. Bair's vision for the future, the Road Commission for Oakland County now operates the largest system of adaptive traffic signals in the nation and the largest deployment of video imaging for traffic management in the world.

Mr. Speaker, Brent Bair has served the people of Oakland County with distinction and I am confident his abilities will serve all Americans as chairman of the Intelligent Transportation Society of America. I ask my colleagues to join me in recognizing the appointment of Mr. Bair and to thank him for his service to the people of Michigan.

HONORING ALPHA NU OMEGA CHAPTER OF ALPHA KAPPA ALPHA SORORITY, INC.

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 2004

Ms. LEE. Mr. Speaker, I rise today to honor and recognize the Alpha Nu Omega Chapter of Alpha Kappa Alpha Sorority, Inc., as it celebrates its 75th Anniversary. Since it was chartered on June 8, 1929, the Alpha Nu Omega Chapter has enriched the social and intellectual life of African American college women in Berkeley and Oakland, California and contributed to the social and economic well-being of the greater East Bay community.

Alpha Kappa Alpha Sorority, Inc., is an international society that was founded at Howard University in January 1908. First conceived as an organization to enrich the social and intellectual aspects of college life, Alpha Kappa Alpha Sorority cuts across racial, international, and social barriers to help individuals and communities develop constructive relationships with others.

Inspired by the mission and dedication of the National Sorority, young women in Oakland and Berkeley, California founded the Alpha Nu Omega Chapter 21 years later. The moving spirit in the establishment of Alpha Nu Omega Chapter was Soror Ida L. Jackson who, at that time, was an Oakland public school teacher.

Over the years, Alpha Nu Omega Chapter has undertaken a wide range of community service activities that have greatly benefited communities in the East Bay and throughout the country.

The main thrust of its work has been to aid the community through social, civic, and health programs, vocational guidance, and political awareness.

As early as 1934, the chapter began supporting health programs and projects when Soror Ida L. Jackson proposed opening a health clinic in Lexington, Mississippi. In 1964, before Head Start, the chapter organized and operated an interracial "Pre-Kindergarten Program" for children from two elementary schools in Berkeley. Since the early 1970's, the chapter has sponsored a reading experience program—"Reading is Fundamental"—in several schools in Oakland.

Political activities such as the Rumford Fair Housing Bill, passage of school financial bills affecting thousands of California students and teachers, and voter registration and education have all been part of Alpha Nu Omega's ongoing commitment to community service.

During critical periods in our history—such as the transition from segregation to integration, wartime, the post war era, sit-ins, struggles for human dignity, acts of civil disobedience—Alpha Nu Omega has held high the torch for equality and social justice. I have no doubt that they will continue to blaze new trails and provide visionary leadership in the area of community service and political action throughout the Oakland-Berkeley area.

TRIBUTE TO ROBERT AND SHERRI VINES

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 2004

Mr. BACA. Mr. Speaker, I rise to pay tribute to Robert and Sherri Vines, who are to receive this year's the Rabbi Norman F. Feldheym Award for service to our community on June 12, 2004, also marking the 113th anniversary of the founding of the Congregation Emanu El. As members of the Congregation for the past 30 years, they have embodied the characteristics of integrity, humility, and love. I join today with family and friends in honoring their remarkable achievements and expressing pride in this recognition that has been afforded to them.

Robert and Sherri have served the Congregation in numerous capacities over the years. As a teacher at the School of Jewish Living, chair of the Community Seder, and member of the Executive Committee, Sherri has continued to provide invaluable insight and unyielding effort in improving her community.

Robert has equally shared in the leadership responsibilities while serving on the United Jewish Welfare Fund of San Bernardino County as President, the Dues Adjustment Commission, and the Board of Managers for the Home of Eternity Cemetery.

In addition to these contributions, Robert is a celebrated attorney, receiving many accolades in his profession for integrity and performance. He was previously recognized in the Inland Empire Magazine as one of the top-ten attorneys in the Inland Empire.

Through their pro-active approach to leadership, Robert and Sherri have generously contributed their time, knowledge, and resources not only to their Congregation but also the entire Inland Empire community. The Rabbi Norman F. Feldheym Award is a way we can recognize these good works and pay tribute to their immense dedication over the last three decades.

I join today with their children, Jennifer, Jill, and Michael, to express our pride and admiration that they have received this well-deserved award. They are symbols of the qualities that Rabbi Feldheym exhibited and a continuing inspiration to their community.

RECOGNIZING THE ANNANDALE HIGH SCHOOL UPON ITS 50 YEAR ANNIVERSARY

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 2004

Mr. TOM DAVIS of Virginia. Mr. Speaker, I would like to take this opportunity to pay tribute to Annandale High School as it prepares to celebrate its 50th anniversary.

Since its establishment in 1954 when President Eisenhower's "Atoms for Education" program lent its name to the school's mascot, the Annandale Atoms, Annandale High School has committed itself to lofty standards of academic and extracurricular excellence. Over the years, as the Annandale area has expanded and diversified, Annandale High School has followed the community's example. The school boasts such a great diversity that it recently received national attention. During his second term, President Clinton publicly recognized Annandale as a "model school for diversity", commenting on the fact that Annandale's student body represents over 80 countries and more than 40 native languages.

To this day, Annandale High School remains a distinguished and greatly lauded school in all aspects from sports to the arts to academics. Annandale High School has won six state football championships and many other state-level recognitions. In addition, the band program, accompanied by the choral department, has won multiple awards in national competition and has performed in concerts at the Kennedy Center. This summer, a select choir will participate in the second part of an international exchange program with Germany. Furthermore, Annandale High School has taken the initiative to pioneer the International Baccalaureate program within the Fairfax County Public School System. This program, which allows students to take accelerated, honors courses that count towards an internationally recognized diploma, is one that other schools throughout the county remain reluctant to adopt due to its rigorous nature.

Annandale High School plays an instrumental role in shaping its students into kind, considerate, and generous individuals devoted to helping others and improving their community. Most recently, three sisters, all students at Annandale, founded Wash America, a car wash initiative designed to provide financial support to families of the victims of the September 11th attacks.

Mr. Speaker, in closing, I would like to thank Annandale High School faculty and staff for the immeasurable contributions that they have made to the community by shaping today's youth and tomorrow's future. I congratulate the High School on its successes over the last 50 years and I wish it more successful years in the future. I ask that my colleagues join me in applauding this outstanding and distinguished institution.

RECOGNIZING SETH THOMAS JOHNSEN FOR ACHIEVING THE RANK OF EAGLE SCOUT

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 2004

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Seth Thomas Johnsen, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 135, and by earning the most prestigious award of Eagle Scout.

Brian has been very active with his troop, participating in many Scout activities. Over the 4 years Brian has been involved with Scouting, he has earned 26 merit badges and held numerous leadership positions, serving as Patrol and Senior Patrol Leader, 4-year camper at H. Roe Bartle Scout Reservation, and as a Brave in the Tribe of Mic-O-Say.

For his Eagle Scout project, Tommy organized the Scouts and Leaders into teams for the purpose of cleaning and painting fire hydrants in the City of Kearney to the color of safety yellow.

Mr. Speaker, I proudly ask you to join me in commending Seth Thomas Johnsen for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

FALLEN HEROES

SPEECH OF

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Mr. SHIMKUS. Mr. Speaker, I rise today to recognize the life of Gary Weston, who was recently killed in Kosovo.

Gary Weston was an employee of DynCorp International, which was serving with the United Nations as international police officers. Gary and other members were fired upon by a Jordanian police officer for unknown reason. Two fellow workers were killed in the resulting firefight. Gary was flown to a hospital after receiving several gunshots. He later died from complications of the gunshot wounds, his wife Nina Weston was there by her husband's side.

Gary Weston was 52 years old and lived in Vienna, Illinois. Not enough can be said about the great sacrifice this man made for his country, the ultimate sacrifice. He is survived by wife, Nina Weston; his mother, Christine Weston of Metropolis; a son, Richard N. Weston of Granite City; two daughters, Rachel A. Weston of Honolulu, Hawaii and Elizabeth E. Weston of Vienna; five grandchildren, Trey, Derek, Heather, Dalton and Parker; two brothers, Ben and wife Jan Weston of Vienna and Ed and wife Susan Weston of Cape Girardeau; a sister, Melinda and husband Ron White of Austin, Texas; and his mother-in-law, Marilyn Whiteside of Vienna. My thoughts and prayers go out to his families and loved ones. Gary Weston gave his life in an effort to improve the lives of others. This sacrifice should never be forgotten.

HONORING THE DEDICATION OF THE NATIONAL WORLD WAR II MEMORIAL

HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 2004

Mr. ISRAEL. Mr. Speaker, I rise today in honor of the dedication of the National World War II Memorial on the National Mall on Saturday, May 29, 2004.

Dedicated almost 60 years after the end of World War II, this stunning memorial honors all military veterans of the war, citizens on the home front, the nation at large and the high moral purpose and idealism that motivated the nation's call to arms.

We must never forget the 16 million troops who served in the armed forces during World War II and the more than 400,000 who made the ultimate sacrifice. As a member of the House Armed Services Committee, I know the importance of the troops' sacrifice to protect our freedom.

I am especially pleased to welcome over 200 Long Island veterans to Washington, DC for the dedication. Serving those who have served our country has been one of my greatest honors as a Member of Congress. I am proud to have secured over $1.16 million in retroactive benefits for veterans in my district.

On this historic occasion, we must remember to honor our troops and veterans not only with memorials and red poppy lapel pins, but also in our policies and budgets. Restoring cuts to veteran's services and making VA spending mandatory, not discretionary should be a top priority. We in Congress have a duty to make America a fit country for these heroes to live in.

This memorial is a long-overdue tribute to the "Greatest Generation." They risked and gave their lives to protect our freedom, and we must ensure our debt to them is repaid.

TRIBUTE TO MRS. PAMELA LYNN WILEY

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 2004

Mr. PAYNE. Mr. Speaker, I rise today to recognize an outstanding and devoted citizen in my state, Mrs. Pamela Lynn Wiley. On Sunday, June 6, 2004, she will be honored with the Lifetime Achievement Award at St. Paul's Calvary United Church of God Usher's Annual Day.

Pamela was born on November 16, 1958 in Summit, New Jersey to the late Thomas and Gloria Peterson. She grew up in Vauxhall, New Jersey, where she attended the Union County school system and graduated from Union High School in 1977.

Pamela has been an active member of Saint Paul's Calvary United Church of God for over 40 years, ministering to its members through her service on many of the church boards and committees.

She is a member of their missionary department, as well as the Saint Paul's Calvary Young Adult Choir, The Voices of Praise. She is also an advisor to the CLC ensemble.

She is a beloved member of the usher board, having joined at a very young age, and is actively serving as their Vice President.

Pamela will be joined at this celebration by many friends and family, including her husband, Nathan Lamont Wiley, Sr.; her oldest daughter, A1C Joyita Kwamina Wiley-Jackson (U.S. Air Force); her son, CS3 Nathan Lamont Wiley, Jr. (U.S. Navy); her youngest daughter, SFC Gloria Lynette Wiley (Union High School JROTC); and her sisters, Kimm and Kiesha Peterson.

Mr. Speaker, please join me in extending my thanks to Pamela Lynn Wiley for her years of ministry and service to her congregation and to our community, and I invite my colleagues to join me in wishing her the strength and grace to continue for many years to come.

COUNCIL OF KHALISTAN CONGRATULATES INDIA'S NEW SIKH PRIME MINISTER

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 2004

Mr. TOWNS. Mr. Speaker, as you know, a Sikh, Dr. Manmohan Singh, has been named as the new Prime Minister of India. Dr. Singh is a former Finance Minister in the government of Narasimha Rao from 1991 to 1996. He is a very experienced Indian official.

I hope that this will be a step forward for good relations between the United States and India, Mr. Speaker. We all seek good relations. However, the support of India's Communists for the governing coalition makes me wonder if good relations are possible under this particular government.

Dr. Gurmit Singh Aulakh, President of the Council of Khalistan has sent a letter to Prime Minister Singh congratulating him on his new position. In the letter, Dr. Aulakh notes that it is good for the image of Sikhs worldwide that Dr. Manmohan Singh is now Prime Minister. He also notes that it was the RSS, parent organization of the ousted BJP, that assassinated Mohandas Gandhi and takes note of India's violent history, urging Prime Minister Singh to take strong measures to avoid repeating this history, such as releasing the political prisoners that India holds, punishing those responsible for atrocities, ending the taking of Punjabi water to nonriparian states without compensation, and other such policies I think we can all support. India will be a better place if Prime Minister Singh implements these policies.

According to the Movement Against State Repression (MASR), 52,268 Sikhs are being held as political prisoners. Amnesty International reports that tens of thousands of other minorities are also being held as political prisoners. A democracy should not hold political prisoners. I am sure all my colleagues will agree with me that all these political prisoners should be released immediately.

The letter also reminds Prime Minister Singh that while ending the BJP's policy of Hindutva—total Hinduization of every aspect of Indian life—will be welcome, it was the Congress Party under Dr. Singh's political patrons, the Gandhi family, that carried out the military attack on the Golden Temple, the center and seat of the Sikh religion and the massacre of Sikhs in Delhi and elsewhere in India. Dr. Aulakh urges Dr. Singh to make a complete break with these policies by punishing those responsible.

In 1987, the Sikhs declared themselves independent from India, naming their new country Khalistan. As Dr. Aulakh points out in his letter, allowing Khalistan, Kashmir, Nagaland, and the other nations seeking their freedom from India to be free is the best way to spare the subcontinent any more bloodshed.

I join in that call, Mr. Speaker. We should support a free and fair plebiscite on the question of independence for the minority nations of South Asia. And until human rights are fully observed and a complete break is made with the bloody and repressive policies of the past, the United States should stop providing aid to India. These measures will encourage India to take the steps necessary to bring peace, freedom, prosperity, and dignity to everyone in the subcontinent.

Mr. Speaker, I would like to insert the Council of Khalistan's letter to Prime Minister Singh into the RECORD at this time.

COUNCIL OF KHALISTAN,
Washington, DC, May 26, 2004.

The Hon. Dr. Manmohan Singh,
Prime Minister of India, Chanakyapouri, New Delhi, India.

DEAR PRIME MINISTER SINGH: Congratulations on becoming Prime Minister of India. You have been entrusted with a significant responsibility.

We are very pleased to see a Sikh as Prime Minister. You have reached this high office because of your intelligence and hard work and your presence in this position gives the world a strong and positive impression of Sikhs. However, remember the way that the Gandhi family used Giani Zail Singh when he was President of India. He became the figurehead for their repression of the Sikhs. Unlike Zail Singh, you are in a position of real power. Sikhs around the world will be watching what you do and hoping that you will not allow yourself to be used in a similar manner.

As a Sikh, you are in a position to understand the problems of the Sikh Nation. The Movement Against State Repression (MASR) did a report that showed the government admitted to holding 52,268 Sikh political prisoners. They have been held without charge or trial, some for as long as 20 years! If you are truly committed to secularism, one of your first acts should be to release all political prisoners. If any have died in custody, their bodies should be released to their families. These are people who have committed no crime but opposition to the government. How can there be political prisoners in a democracy?

I urge you to restore to Punjab what is rightfully Punjab's. I call on you to restore the Punjabi-speaking areas that were removed from the state of Punjab to it. Punjab was meant to be a unified Sikh state and Indian governments of the past have pursued a deliberate policy of dividing, bankrupting, and weakening it to divide and weaken the Sikhs. As a Sikh and as Prime Minister, you are in a position to put a stop to this policy. You are also in a position to restore Punjab's water rights. For years, Punjab's water has been diverted to non-riparian states with no compensation to Punjab or to the people of Punjab. Please put an end to the diversion of Punjab's water to non-riparian states and when such diversion is necessary, please make certain that the Sikh farmers of Punjab get appropriate compensation for their water. This is only fair and right, and it is a policy that will earn you greater support among the Sikhs. All other states control their water resources.

We are also pleased that the BJP is out of power. Rahul Gandhi, MP, the son of Sonia and Rajiv Gandhi and a member of your party, pointed out that the RSS, which is the parent organization of the BJP, assassinated Mahatma Gandhi. The RSS is a pro-Fascist organization and both Vajpayee and Advani are proud RSS members. The end of the policy of Hindutva will be a welcome development. Sikh support for the Congress Party is also a by-product of the corrupt Parkash Singh Badal regime in Punjab, the most corrupt government in Punjab's history. The Badal government even invented a new word for bribery: fee for service. However, it was a Congress government that attacked the Golden Temple and carried out the massacre of Sikhs in Delhi and throughout India.

As your own nephew pointed out, Sikhs can never forget the attack on the Golden Temple. Thus it is disturbing to read that you have said you intend to follow the policies of Rajiv Gandhi. His policy was the murder of at least 8,000 Sikhs in Delhi alone and over 20,000 throughout India. It is also disturbing that your party gave tickets to Jagdish Tytler and Sajjan Kumar, who are responsible for ordering the murders of thousands of Sikhs in Delhi, and that Tytler was appointed to your Cabinet. Tytler and Sajjan Kumar supplied gasoline for these murders and incited the crowd. These people belong in jail, not in the government.

I hope that you will not follow such undemocratic, anti-secularist, anti-Sikhs policies. Policies such as these have made it clear that there is no place for Sikhs in India. If you are truly committed to secularism, you cannot follow such brutal, repressive policies against Sikhs and other minorities. The brutal policies have brought about the murders of over 250,000 Sikhs since 1984, more than 87,000 Kashmiri Muslims since 1988, over 300,000 Christians in Nagaland, and tens of thousands of Assamese, Bodos, Dalits, Manipuris, and other minorities. The United States State Department exposed the fact that between 1992 and 1994, a Congress government paid out more than 41,000 cash bounties to police officers for killing Sikhs. One officer received a bonus for murdering a three-year-old boy, claiming the toddler was a "terrorist."

The time has come for India to make a clean break with its past by punishing those responsible for these actions, compensating the victims' families, and committing itself to preventing and punishing such acts in the future. This will show your commitment to secular, democratic government and not the theocratic repression of the country's past governments.

India is a very fractured country. Because of past history, no party is able to unify the people and command a majority of the support, so coalition governments are inevitable. Coalition governments are inherently unstable. For example, the support of India's three Communist parties for your coalition weakens your ability to pursue good relations with the United States and other Western countries, which could increase India's isolation from the world.

History also shows us that multinational countries are doomed to failure. Austria-Hungary, the Soviet Union, Czechoslovakia, and Yugoslavia are examples of this. India is a multinational state, not a single country, thrown together by British colonialists and with 18 official languages. How can such a country be held together except by massive repression and bloodshed? And the repression has simply created greater resentment of the central government, which also strengthens the support for the 17 independence movements throughout India. Either way, holding India together is a futile enterprise destined to fail.

Since India is a democracy, I urge you to solve this problem the democratic way. In 1947, India committed itself to a plebiscite on the status of Kashmir. The Sikhs also seek their freedom and sovereignty, as the Nagas and others also do. If India is truly the world's largest democracy, why not simply allow the people to decide their status by a free and fair vote. That is the way that you achieved power, by the people's votes. Why not let the people vote on this critical issue? The essence of democracy is the right of self-determination.

As a Sikh, you are aware that the Sikh Nation is a separate nation which was supposed to receive sovereignty at the time of India's independence. As you know, Sikhs ruled Punjab from 1710 to 1716 and from 1765 to 1849. No Sikh representative has signed the Indian Constitution to this day. Every day, Sikhs pray "Raj Kare Ga Khalsa," the Khalsa shall rule. As you know, the Sikh Nation declared its independence from India on October 7, 1987, calling their new country Khalistan. As former Jathedar of the Akal Takht Professor Darshan Singh has said, "If a Sikh is not a Khalistani, he is not a Sikh."

I know that you are a Sikh, Mr. Prime Minister. I can see your turban. I know that you are concerned about the future of the Sikh Nation. Therefore, I urge you to sit down with Sikh representatives and negotiate the boundaries of a sovereign, independent, free Khalistan. This is the best thing that you can do for the Sikh Nation, your own people, and it is the best way to ensure that India goes the way of Czechoslovakia, not that of Yugoslavia. Please spare India, Khalistan, and all the nations of South Asia any further bloodshed.

Congratulations again on your new position.

Sincerely,

DR. GURMIT SINGH AULAKH,
President, Council of Khalistan.

IN HONOR OF DAVID SABLE

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 2004

Mr. ENGEL. Mr. Speaker, the adage if you want something done ask a busy person to do it was never more true than in the case of David Sable. For more than 20 years he has been busy in marketing communications, becoming vice chair and president of Wunderman's worldwide operations.

But there is another side of Mr. Sable, one which led the Riverdale Jewish Center to honor him at their 50th anniversary celebration, a decision they said wasn't particularly difficult.

He was raised in Riverdale from early childhood, the son of the founding Rabbi of the Riverdale Jewish Center. He has served the RJC with extraordinary tenure as President and is currently the Chair of the Board of Trustees. He is, in their words, understanding of the RJC past, an integral part of its present, and a source of confidence for its future.

He also has served his community in a larger sense, as a member of New York City's Cultural Advisory Committee and a member of the steering committee for the Mail Industry Task Force of the United States Post Office.

His love for Israel is well known. With the breakout of the Yom Kippur war, he joined the Israeli Defense Force as a combat medic. He is a member of the Board of the Tzfat Foundation. He has also served the RJC as Youth Director and Vice President.

A celebration of the Riverdale Jewish Center without David Sable would not be a true celebration. I congratulate him and the RJC for all the good work both have accomplished in Riverdale and beyond.

RECOGNIZING JUSTIN MYERS FOR ACHIEVING THE RANK OF EAGLE SCOUT

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 2004

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Justin Myers, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 320, and by earning the most prestigious award of Eagle Scout.

Justin has been very active with his troop by participating in many Scout activities, earning numerous merit badges, and serving in a variety of leadership positions. He has held such positions as Patrol Leader, Assistant Patrol Leader, and Senior Patrol Leader, as well as Troup Guide. Justin has attended camp at Saukenauk Scout Reservation as well as Camp Maumee and Polar Bear Camp. He has also attended a High Adventure in Elk Horn, Colorado and a National High Adventure in the Northern Tier Bissett. Justin's dedication is quite impressive as he has been a member of four separate Councils through his career in the Scouts. For his Eagle Scout project, Justin organized the materials for him and his fellow Scouts to construct a safe and enjoyable playground area for the children of the Clay County Christian Church.

Mr. Speaker, I proudly ask you to join me in commending Justin Myers for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

TRIBUTE TO HONORABLE WARD WHARTON McFARLAND

HON. SPENCER BACHUS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 2004

Mr. BACHUS. Mr. Speaker, I rise to remember and pay tribute to one of Alabama's most esteemed citizens on the occasion of the 25th anniversary of his passing. Today a flag flies over the Capitol building to honor the man who contributed to the state of Alabama as an educator, lawyer, and as a businessman. The Honorable Ward McFarland taught at the University of Alabama in the Economics Department for two years prior to practicing law in Tuscaloosa. He served as both State Highway Director and Docks Director for the state, and participated in International Commerce on behalf of the State of Alabama in order to recruit industry. His efforts were recognized in 1979, at the time of his death, as the Alabama State Senate commended him as one of the state's most outstanding and contributing citizens.

Mr. McFarland founded a multi-million dollar real estate empire that included the construction of malls, apartment complexes, medical buildings, restaurants, hotels, and neighborhoods throughout Alabama and the South. His works were again recognized this past year as Alabama Governor Bob Riley proclaimed June

20, 2003 to be James Elisha Folsom, Sr.-Ward Wharton McFarland Day, placing him alongside the governor with whom he had worked during two administrations. Concomitant to that proclamation came the naming of a highway in Alabama the "Folsom-McFarland Highway".

His legacy reaches well beyond the borders of Alabama as well. Mr. McFarland served in the Navy during WWII, during which his vessel was bombed. Accepting Medical Discharges along with all other survivors of the incident, he came home to enlist in the U.S. Army Air Corps. His resolute patriotism during this time served as a foreshadowing of the resolve he maintained in all other enterprises in his life. Mr. McFarland has a lasting legacy in the state of Alabama, one that will continue to be echoed in the structures that he helped build, and the minds and determinations that he helped to mold in the next generations of Alabama's citizens.

Mr. Speaker, I know that the citizens of Alabama are aware of and appreciate all that Mr. McFarland has done for his state. I am now honored to recognize his accomplishments to this House of Representatives in our nation's Capitol.

CONGRATULATING BEDFORD FIRE DEPARTMENT #1, INC. ON 200TH ANNIVERSARY

HON. BILL SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 2004

Mr. SHUSTER. Mr. Speaker, I rise today to congratulate the Bedford Fire Department #1, Inc. on its 200th Anniversary and to extend my sincere gratitude for the selfless actions of so many firefighters over the years. The citizens of Bedford, Pennsylvania are undoubtedly grateful for all that they have done.

The history of firefighting in Pennsylvania can be traced back to the early 1700's. Ben Franklin, a Philadelphia resident at the time, developed a fine-tuned system of volunteer firefighters that could handily combat the threat of fire within the city limits. When referring to how this cooperative technique worked, Franklin said,

> Soon after [a fire] is seen and cried out, the place is crowded by active men of different ages, professions and titles who, as of one mind and rank, apply themselves with all vigilance and resolution, according to their abilities, to the hard work of conquering the increasing fire.

The Bedford Fire Department is one of the oldest fire departments in the United States, founded in 1804. For 200 years this entirely volunteer department, which now consists of 82 members, has successfully collaborated to provide safety and protection for over 11,000 people within an area of 210 square miles.

These volunteer firefighters deserve the highest honors for constantly putting themselves in harm's way to protect and save fellow citizens. Their unselfish valor and relentless dedication to their community make them special, and certainly worthy of praise.

The two stations built within the rural area provide the necessary resources for the firefighters to perform to the best of their ability and handle any variety of situations. The volunteers spend countless hours planning and implementing fundraising events to maintain adequate facilities, provide each firefighter with the proper equipment, and ensure the continued success of the department.

I am tremendously appreciative of the vital duties that the Bedford Fire Department performs and for the time it spends contributing to the safety of the Bedford community. Congratulations on reaching the 200 year milestone! I am proud to have the distinguished honor to represent such a reputable group of volunteers.

RECOGNIZING THE SUCCESS OF THE THIRD ANNUAL MID-MICHIGAN NATIONAL DANCE WEEK

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 2004

Mr. ROGERS of Michigan. Mr. Speaker, it is my pleasure today to recognize the outstanding success of the third Annual Mid-Michigan National Dance Week. National Dance Week is a wonderful opportunity for the children in Michigan's Eighth District as it encourages their cultural growth and promotes their physical well-being. In late April, over 450 mid-Michigan dancers representing 16 dance, gymnastics and performing arts studios delighted over 3,000 spectators who enjoyed a weekend filled with free, family-oriented entertainment.

Over the past 23 years, National Dance Week has actively encouraged the growth of dance in America. Today, National Dance Week is providing an opportunity for many young Michiganders to learn about the cultural and artistic expression of dance.

Mr. Speaker, National Dance Week is broadening the horizons and opening doors for many of mid-Michigan's most talented dancers. I ask my colleagues to join me in recognizing the success of National Dance Week 2004 and to wish continued success to National Dance Week this year and beyond.

GIRL SCOUTS OF THE U.S.A. AWARD WINNER, MOLLY GOODMAN OF ASTORIA, ILLINOIS

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 2004

Mr. EVANS. Mr. Speaker, today I would like to salute an outstanding young woman who has been honored with the Girl Scouts of the USA Gold Award by Girl Scouts of Two Rivers Council in Quincy, Illinois. She is Molly Goodman of Astoria, Illinois.

She is being honored for earning the highest achievement award in Girl Scouting. The Girl Scout Gold Award symbolizes outstanding accomplishments in the areas of leadership, community service, career planning, and personal development. The Girl Scout Gold Award can be earned by girls ages 14–17 or in grades 9–12.

Girl Scouts of the USA, an organization serving over 2.6 million girls, has awarded more than 20,000 Girl Scout Gold Awards to Senior Girl Scouts since the inception of the program in 1980. To receive the award, a Girl Scout must fulfill five requirements: earn four interest project patches, earn the Career Exploration Pin, earn the Senior Girl Scout Leadership Award, earn the Senior Girl Scout Challenge, and design and implement a Girl Scout Gold project. A plan for fulfilling the requirements of the award is created by the Senior Girl Scout and is carried out through close cooperation between the girl and an adult Girl Scout volunteer.

The earning of the Girl Scout Gold Award is a major accomplishment for Molly and I believe she should receive the public recognition due her for this significant service to her community and her country.

FALLEN HEROES

SPEECH OF

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2004

Ms. LEE. Mr. Speaker, I rise today to remember our veterans and to mourn all our losses. Our words today cannot match the eloquence or power of the moment of silence that preceded them because that silence reflects all the voices that have been stilled by war.

Each Memorial Day we pause to remember those who have fallen in the service of our country. Sadly, in the last year we have added hundreds of names to that tragic roll call.

Among those names is that of twenty-six year old Specialist Joseph Carl Norquist, of Oakland, California in my district. Specialist Norquist died in Iraq on October 9, 2003. He was serving in the 588th Engineering Battalion. He died when his convoy came under fire, and he posthumously received the Bronze Star and the Purple Heart.

Today, my thoughts and prayers go out to Specialist Norquist's family and friends and to all of those who mourn loved ones that they have lost.

This weekend, we also dedicate the World War II Memorial on the Washington Mall, to honor the service of those veterans, to recognize their tremendous sacrifice, and to shudder to think for a moment about what our world might have been like had they not served.

Mr. Speaker, on Memorial Day, we are especially aware of the terrible costs of war. Let us also then re-dedicate ourselves to the cause of peace so that we can dream of a year when we add no new names to the roster of those who have fallen in battle.

CELEBRATING THE 20TH ANNIVERSARY OF THE ADULT REHABILITATION CENTER OF THE SALVATION ARMY

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 2004

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to commemorate the 20th anniversary of the Adult Rehabilitation Center of the Salvation Army in Alexandria, Virginia.

The Adult Rehabilitation Center (ARC), is a social service organization dedicated to saving people from addiction, dysfunction, poverty, incarceration, and homelessness. It provides support to those who suffer from social and emotional needs and enables them to provide for themselves.

An impressive 600-person turnout at the dedication ceremony on January 29, 1984 revealed both a need and support for the work of the ARC in Northern Virginia.

The ARC provides adequate housing, therapy and employment in an orderly and nourishing environment. ARC focuses on the physical and spiritual needs of participants to facilitate re-entry into society through gainful employment. Frequently those who are rehabilitated experience a normal lifestyle.

ARC is also unique in that its programs are self supporting. Items such as clothing and household items are brought to the salvation centers, repaired and refurbished and then resold to the public in the Salvation Army Thrift Stores.

Finally, ARC does not discriminate based on race, color or religious belief and is open to all men with a treatable handicap. Because of these distinct and honest characteristics, the Salvation Army is very successful. Since its inception ARC has provided an invaluable asset to the Northern Virginia community. Its services are greatly appreciated.

Mr. Speaker, in closing, I would like to congratulate the Salvation Army Adult Rehabilitation Center of Alexandria on 20 years of successful service. I call upon my colleagues to join me in applauding their efforts to prepare individuals in body, mind and spirit for active useful roles in society.

TRIBUTE TO ANTHONY ACEVEDO

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 2004

Mr. BACA. Mr. Speaker, it is with great pride that I pay tribute today to Anthony Acevedo. He is a man who has exuded integrity and great character throughout his life, and it gives me no greater pleasure than joining today with family and friends in honoring this great patriot.

Anthony was born in San Bernardino, before moving to Mexico at the age of 13 where he was schooled. His overwhelming feelings of patriotism, however, brought him back to the United States where he registered for the draft and was inducted in August of 1943. As a member of the 70th Division, 275th Regiment, Company B, he was sent to Marseilles, France in December 1944 to fight on the front lines of WWII.

Anthony paid the ultimate price of being a soldier when he was captured during the Battle of the Bulge in the winter of 1944 and forced to endure unparalleled torture. Yet through it all, he remained proud, determined, and hopeful. Throughout his time serving our Nation, he always exhibited a tremendous passion and a deep resolve to fight for the freedoms that Americans experience on a daily basis. He is truly one of our American heroes.

Today, I am proud to join family and friends in paying tribute to Anthony Acevedo, a true American patriot. His unselfish duty to our country should not be overlooked. He is a symbol of all that we, as Americans, strive to be and I present to him today my steadfast thanks for his service.

RECOGNIZING ERIC G. ANDERSON FOR ACHIEVING THE RANK OF EAGLE SCOUT

HON. SAM GRAVES

OF MISSOURI

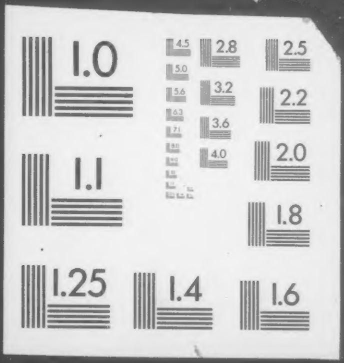
IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 1, 2004

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Eric G. Anderson, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 1024, and in earning the most prestigious award of Eagle Scout.

Eric has been very active with his troop, participating in many Scout activities and earning a number of merit badges. For his Eagle Scout project, Eric built a one-hundred fifty-foot vinyl fence at the Earnest Shepard Center in Liberty, Missouri. Eric will be graduating from Liberty High School this month and will begin his college career next fall at the Northwest Missouri State University in Maryville, Missouri.

Mr. Speaker, I proudly ask you to join me in commending Eric G. Anderson for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.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